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Title: FEDERAL REGISTER.

Volume: 63 Issues: 211-216
PAGES: 58619-62918

Date: NOVEMBER 2 - NOVEMBER 9, 1998

UMI Number: 2575.00

Note: REEL 8 OF 11

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11–2–98
Vol. 63 No. 211

federal register

Monday
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Vol. 63 No. 211
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Federal Register

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Contents

Federal Register
Vol. 63, No. 211
Monday, November 2, 1998

Agriculture Department
See Food and Nutrition Service
See Natural Resources Conservation Service

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
Halliburton Co. et al., 58770–58780
Loews Theatres et al., 58780–58785
National cooperative research notifications:
Bell Communications Research, Inc., 58785–58786
Center for Emissions Control, Inc., 58786
Center for Waste Reduction Technologies, 58786–58787
CropTech Development Corp., 58787
Digital Imaging Group, Inc., 58787–58788
Key Recovery Alliance, 58788
Mobile Information Infrastructure for Digital Video and Multimedia Applications, 58788–58789
OBI Consortium, Inc., 58789
Salutation Consortium, Inc., 58789–58790
Sarnoff Corp., 58790
South Carolina Research Authority, 58790
Southwest Research Institute, 58790

Arms Control and Disarmament Agency
NOTICES
Senior Executive Service:
Performance Review Boards; membership, 58704–58705

Army Department
NOTICES
Patent licenses; non-exclusive, exclusive, or partially exclusive:
RSI Industries & Pharmaceuticals, Inc., et al.; correction, 58811

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Census Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 58705–58706

Centers for Disease Control and Prevention
NOTICES
Meetings:
Safety and Occupational Health Study Section; NIOSH meeting, 58741 , 58741–58742

Children and Families Administration
NOTICES
Organization, functions, and authority delegations:
Child Care Bureau, 58742–58743

Coast Guard
RULES
Ports and waterways safety:
Atlantic Intracoastal Waterway, Marine Corps Base Camp Lejeune, NC; safety zone, 58635–58636
PROPOSED RULES
Drawbridge operations:
Virginia, 58676–58677
Load lines:
Unmanned dry cargo river barges on Lake Michigan routes; exemption from Great Lakes load line requirements, 58679–58685

Commerce Department
See Census Bureau
See Export Administration Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office

Commodity Futures Trading Commission
RULES
Practice and procedure:
Miscellaneous amendments Correction, 58811

Congressional Budget Office
NOTICES
Balanced Budget and Emergency Deficit Control Reaffirmation Act (Gramm-Rudman-Hollings):
Sequestration final report for 1999 FY; transmittal to Congress and OMB, 58712

Defense Department
See Army Department

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Meetings:
Nuclear Energy Research Advisory Committee, 58712

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
Connecticut, 58637–58645
Air quality implementation plans; approval and promulgation; various States:
Pennsylvania, 58637
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
Connecticut, 58678–58679
NOTICES
Agency information collection activities:
Proposed collection; comment request, 58721–58722
Water pollution; discharge of pollutants (NPDES):
Gulf of Mexico OCS operations—
Western portion; oil and gas extraction category; general permit, 58722–58738

Executive Office of the President
See Presidential Documents

Export Administration Bureau
NOTICES
Export privileges, actions affecting:
Export Materials, Inc., et al., 58706–58707
Thane-Coat, Inc., et al., 58707–58709

Federal Aviation Administration
RULES
Airworthiness directives:
Fokker, 58625–58627
Rolladen Schneider Flugzeugbau GmbH, 58622–58624
Slingsby Aviation Ltd., 58625
Class D and Class E airspace, 58627
Class E airspace, 58627–58630
Class E airspace; correction, 58811
PROPOSED RULES
Air carrier certification and operations:
Major repair data development (SFAR No. 36), 59191–19195
Airworthiness standards:
Special conditions—
Raytheon model 390 airplane, 58660–58671

Federal Communications Commission
RULES
Radio services, special:
Private land mobile services—
700 MHz band; public safety radio spectrum; priority access service requirements, 58645–58658
PROPOSED RULES
Meetings:
Federal State Joint Board on Universal Service
En banc; affordable telephone service, 58685
Radio services, special:
Private land mobile services—
700 MHz band; public safety radio spectrum; priority access service requirements, 58685–58692
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 58738
Meetings:
North American Numbering Council, 58738–58739

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 58739

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Arizona Public Service Co. et al., 58717–58719
Tampa Electric Co. et al., 58719–58721
Applications, heorings, determinations, etc.:
Algonquin Gas Transmission Co., 58712–58713
Atlantic City Electric Co. et al., 58713
Columbia Gas Transmission Corp., 58713
Gasdel Pipeline System, Inc., 58714
KN Interstate Gas Transmission Co., 58714
MIGC, Inc., 58715
Northern Border Pipeline Co., 58715–58716
Northwest Pipeline Corp., 58716
Texas Eastern Transmission Corp., 58716–58717
Williston Basin Interstate Pipeline Co., 58717

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Amador County, CA, 58808
Meetings:
Transportation infrastructure finance and innovation, 58808–58809

Federal Law Enforcement Training Center
NOTICES
Meetings:
National Center for State, Local, and International Law Enforcement Training Advisory Committee, 58809

Federal Reserve System
RULES
Membership of State banking institutions (Regulation H):
Simplification, update, and regulatory burden reduction
Technical amendments, 58620–58622
NOTICES
Banks and bank holding companies:
Formations, acquisitions, and mergers, 58739–58740
Permissible nonbanking activities, 58740

Federal Trade Commission
PROPOSED RULES
Appliances, consumer; energy consumption and water use information in labeling and advertising:
Comparability ranges—
Clothes washers, 58671–58675

Financial Management Service
See Fiscal Service

Fiscal Service
NOTICES
Coupons Under Book-Entry Safekeeping (CUBES), and Bearer Corpora Conversion System (BECCS) programs; extension of operations, 58809–58810

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Short-tailed albatross, 58692–58701

Food and Drug Administration
NOTICES
Food additive petitions:
Dover Chemical Corp., 58743
Meetings:
Biologics Evaluation and Research Center; medical device action plan, 58743–58744
Medical Devices Advisory Committee, 58744
Pharmaceutical production control; out-of-specification laboratory test results, 58744–58745
Reports and guidance documents; availability, etc.:
Advisory committees; FDA Modernization Act of 1997; Section 120 implementation, 58745–58746
FDA Modernization Act of 1997; third party programs, 58746–58747

Food and Nutrition Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 58702

Government Ethics Office
RULES
Government ethics:
Model qualified trust certificates of independence and compliance; paperwork revisions, 58619–58620

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See Health Care Financing Administration
See Substance Abuse and Mental Health Services Administration
PROPOSED RULES
Medically underserved populations and health professional shortage areas; designation process consolidation, 58679
NOTICES
Meetings:
National Bioethics Advisory Commission, 58740–58741
Vital and Health Statistics National Committee, 58741

Health Care Financing Administration
RULES
Medicare:
Physician fee schedule (1999 CY); payment policies and relative value unit adjustments, 58813–59187
NOTICES
Medicare:
Physicians' services; sustainable growth rate for 1999 FY, 59188–59190

Housing and Urban Development Department
PROPOSED RULES
Housing programs:
Uniform financial reporting standards
Intent to issue technical amendment, 58675–58676

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service
See Reclamation Bureau

Internal Revenue Service
RULES
Income taxes:
Business expenses; mileage allowances use to substantiate automobile expenses
Correction, 58811
Taxpayer Relief Act—
Qualified retirement plan benefits; section 411(d)(6) protected benefits; correction, 58811
PROPOSED RULES
Income taxes:
Foreign partnerships; information reporting requirements
Correction, 58811

International Trade Administration
NOTICES
Antidumping and countervailing duties:
Five-year (sunset) reviews; conduct policies
Initiation of reviews, 58709–58710
Overseas trade missions:
Power-GEN Reverse Trade Mission, Atlanta, GA, et al.; application opportunity, 58710–58711

International Trade Commission
NOTICES
Import investigations:
Brass fire protection products from—
Italy, 58754–58756
Carbon steel wire rod from—
Argentina, 58756–58758
Castings; iron metal, iron construction, and heavy iron construction from—
India et al., 58758–58761
Chloropicrin from—
China, 58761–58763
Greige polyester cotton printcloth from—
China, 58763–58765
Potassium permanganate from—
China and Spain, 58761–58763
Refrigeration compressors from—
Singapore, 58767–58769

Justice Department
See Antitrust Division
NOTICES
Pollution control; consent judgments:
Chevon Industries Inc., 58769
Cytec Industries, Inc., et al., 58769–58770
FMC Corp., Inc., 58770

Land Management Bureau
NOTICES
Closure of public lands:
Oregon, 58749
Environmental statements; notice of intent:
San Juan Resource Area et al., UT, 58749–58750
Public land orders:
Montana, 58750–58751
Realty actions; sales, leases, etc.:
Nevada, 58751–58752
Withdrawal and reservation of lands:
California, 58752

Legal Services Corporation
NOTICES
Meetings; Sunshine Act, 58790–58791

National Foundation on the Arts and the Humanities
NOTICES
Grants and cooperative agreements; availability, etc.:
Museum Service Office programs, 58791–58794

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Pollock, 58658
PROPOSED RULES
Endangered and threatened species:
Critical habitat designation—
Swordfish, 58701

National Park Service
NOTICES
Environmental statements; availability, etc.:
Joshua Tree National Park, CA; backcountry and wilderness management plan, 58752
Saint Croix Island International Historic Site, ME, 58753
Yellowstone National Park and Montana; bison management plan, 58753

Natural Resources Conservation Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 58702–58704
Field office technical guides; changes:
Alabama, 58704

Nuclear Regulatory Commission
NOTICES
Meetings:
Fire protection functional inspection program workshop, 58797
Applications, hearings, determinations, etc.:
Commonwealth Edison Co., 58794–58796

Patent and Trademark Office
NOTICES
Patents:
Biotechnological applications; written description requirements; guidelines; comment request, 58711
Medical devices—
T-SCAN; interim patent extension, 58711–58712

Personnel Management Office
PROPOSED RULES
Prevailing rate systems, 58659–58660

Presidential Documents
PROCLAMATIONS
Special observances:
American Indian Heritage Month, National (Proc. 7144), 59197–59200
ADMINISTRATIVE ORDERS
Terrorist-list states; waiver of requirements relating to blocked property (Presidential Determination No. 99-1 of October 21, 1998), 59201

Public Debt Bureau
See Fiscal Service

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Substance Abuse and Mental Health Services Administration

Reclamation Bureau
NOTICES
Environmental statements; notice of intent:
Central Valley Project, CA, 58753–58754

Securities and Exchange Commission
RULES
Securities:
Transfer agents; Year 2000 readiness reports, 58630–58635
NOTICES
Meetings; Sunshine Act, 58801–58802
Applications, hearings, determinations, etc.:
Public utility holding company filings, 58797–58801

Social Security Administration
NOTICES
Supplemental security income:
Aged, blind, and disabled—
Payment for medical or social services; treatment of cash received and conserved; demonstration project, 58802–58804

State Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Eastern Europe and independent states of former Soviet Union; national competitive programs administration, 58804–58807
Nairobi, Kenya, and Dar es Salaam, Tanzania; bomb attacks on U.S. Embassies; Accountability Review Boards convened, 58807

Substance Abuse and Mental Health Services Administration
NOTICES
Federal agency urine drug testing; certified laboratories meeting minimum standards, list, 58747–58749
Senior Executive Service:
Performance Review Board; membership, 58749

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
NOTICES
Aviation proceedings:
Agreements filed; weekly receipts, 58807
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 58807–58808

Treasury Department
See Federal Law Enforcement Training Center
See Fiscal Service
See Internal Revenue Service

Veterans Affairs Department
PROPOSED RULES
Medical benefits:
Advance healthcare planning; written directives and verbal and nonverbal instructions, 58677–58678

Separate Parts In This Issue

Part II
Department of Health and Human Services, Health Care Finance Administration, 58813–59190

Part III
Department of Transportation, Federal Aviation Administration, 59191–59195

Part IV
The President, 59197–59201

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
7144 59197
Administrative Orders:
Presidential Determinations:
No. 99–1 of October 21, 1998 59201

5 CFR
2634 58619
Proposed Rules:
532 58659

12 CFR
208 58620
211 58620
215 58620
225 58620
262 58620
263 58620
265 58620

14 CFR
39 (3 documents) 58622, 58624, 58625
71 (5 documents) 58627, 58628, 58629, 58811
Proposed Rules:
23 58660
121 59192
135 59192
145 59192

16 CFR
Proposed Rules:
305 58671

17 CFR
10 58811
240 58630

24 CFR
Proposed Rules:
5 58675

26 CFR
1 (2 documents) 58811
Proposed Rules:
1 58811

33 CFR
165 58635
Proposed Rules:
117 58676

38 CFR
Proposed Rules:
17 58677

40 CFR
52 (2 documents) 58637
81 58637
Proposed Rules:
52 58678
81 58678

42 CFR
405 58814
410 58814
413 58814
414 58814
415 58814
424 58814
485 58814
Proposed Rules:
5 58679
51c 58679

46 CFR
Proposed Rules:
45 58679

47 CFR
2 58645
90 58645
Proposed Rules:
54 58685
90 58685

50 CFR
679 58658
Proposed Rules:
17 58692
222 58701
227 58701

Rules and Regulations

Federal Register
Vol. 63, No. 211
Monday, November 2, 1998

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2634

RIN 3209–AA00

Paperwork Revisions to Model Qualified Trust Certificates of Independence and Compliance

AGENCY: Office of Government Ethics (OGE).

ACTION: Final rule; technical amendments.

SUMMARY: The Office of Government Ethics is revising the model qualified trust certificates of independence and compliance, as codified in appendixes to its executive branchwide financial disclosure regulations, to make certain necessary paperwork revisions and a few other minor updating changes.

EFFECTIVE DATE: November 2, 1998.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Associate General Counsel, Office of Government Ethics, telephone: 202–208–8000, extension 1110; TDD: 202–208–8025; FAX: 202–208–8037.

SUPPLEMENTARY INFORMATION: In this rulemaking, OGE is making paperwork-related revisions to appendixes A, B and C of its executive branchwide financial disclosure regulation codified at 5 CFR part 2634. Those appendixes set forth the certificates of independence and compliance for qualified blind and qualified diversified trusts under the Ethics in Government Act of 1978, 5 U.S.C. appendix. The Office of Government Ethics is adding the paperwork control number—3209–0007—assigned by the Office of Management and Budget (OMB) to the two certificates (as well as to the ten qualified trust draft documents that are not codified). In addition, OGE is removing from appendix A text reflecting an obsolete OGE approval notation that is no longer required.

Finally, OGE is revising the portion of appendix C concerning the public burden and paperwork statement, which serves for both appendixes A and B. The revisions indicate that any comments concerning the burden estimate (twenty minutes per certificate) or any other aspect of the information collections can be sent to the OGE Associate Director for Administration and add the statement now required under the 1995 amendments to the Paperwork Reduction Act that an agency may not sponsor, and no person is required to respond to, a collection of information unless it displays a currently valid OMB control number (now displayed in the notice and heading of each model certificate).

The Office of Government Ethics announced that it would make these rule changes to the appendixes in two paperwork notices published in the **Federal Register** at 63 FR 20411–20412 (April 24, 1998) and 63 FR 45817–45819 (August 27, 1998). These notices, on which no comments were received, were prepared as part of OGE's request to OMB for its approval for three-year renewal and clearance (for a new set of model blind trust communications) under the Paperwork Reduction Act for the total of twelve model qualified trust certificates and draft documents. The Office of Management and Budget recently granted the paperwork approval OGE requested.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b) and (d), as Director of the Office of Government Ethics, I find good cause exists for waiving the general notice of proposed rulemaking, opportunity for public comment, and 30-day delay in effectiveness as to these revisions. The notice, comment and delayed effective date are being waived because these technical amendments concern matters of agency organization, practice and procedure. Furthermore, as noted above, the underlying paperwork revisions were approved by OMB after OGE published two paperwork notices in the **Federal Register**, on which no comments were received. Finally, it is in the public interest that these technical revisions take effect as soon as possible.

Executive Order 12866

In promulgating these technical amendments to the appendixes to the branchwide financial disclosure regulations, OGE has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. These amendments have not been reviewed by the Office of Management and Budget under that Executive order, since they are not deemed "significant" thereunder.

Regulatory Flexibility Act

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this rulemaking will not have a significant economic impact on a substantial number of small entities because it primarily affects high-level Federal executive branch officials and their trust fiduciaries.

Paperwork Reduction Act

The certificates of independence and compliance are information collections within the scope of the Paperwork Reduction Act (44 U.S.C. chapter 35). As noted above, the Office of Management and Budget has granted its paperwork approval for a period of three years for these modified updated certificates as codified in appendixes A, B and C to 5 CFR part 2634, as they are being amended in this rulemaking document.

List of Subjects in 5 CFR Part 2634

Administrative practice and procedure, Certificates of divestiture, Conflict of interests, Financial disclosure, Government employees, Penalties, Privacy, Reporting and recordkeeping requirements, Trusts and trustees.

Approved: October 27, 1998.

Stephen D. Potts,

Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Office of Government Ethics is amending appendixes A, B and C to 5 CFR part 2634 as follows:

PART 2634—[AMENDED]

1. The authority citation for part 2634 continues to read as follows:

Authority: 5 U.S.C. App. (Ethics in Government Act of 1978); 26 U.S.C. 1043; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

2. The heading of appendix A to part 2634 is revised to read as follows:

Appendix A to Part 2634—Certificate of Independence (Form Approved: OMB Control No. 3209–0007)

3. The text of appendix A to part 2634 is amended by removing the block of text "Approved by _____ Director, Office of Government Ethics Date _____" immediately before the Note.

4. The heading of appendix B to part 2634 is revised to read as follows:

Appendix B to Part 2634—Certificate of Compliance (Form Approved: OMB Control No. 3209–0007)

5. Appendix C to part 2634 is amended by revising the subheading and text following the final paragraph, numbered (7), of the Privacy Act Statement to read as follows:

Appendix C to Part 2634—Privacy Act and Paperwork Reduction Act Notices for Appendixes A and B

* * * * *

Public Burden Information and Paperwork Reduction Act Statement

This collection of information is estimated to take an average of twenty minutes per response. You can send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Associate Director for Administration, U.S. Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005–3917. *Do not* send your completed certificate to that official; rather, send it to the Director of the Office of Government Ethics at that address as provided in the part 2634 regulation.

Pursuant to the Paperwork Reduction Act, as amended, an agency may not conduct or sponsor, and no person is required to respond to, a collection of information unless it displays a currently valid OMB control number (that number, 3209–0007, is displayed here and in the headings of the OGE model qualified trust certificates of independence and compliance, appendixes A and B to this part 2634).

[FR Doc. 98–29309 Filed 10–30–98; 8:45 am]
BILLING CODE 6345–01–P

FEDERAL RESERVE SYSTEM

12 CFR Parts 208, 211, 215, 225, 262, 263, and 265

[Regulations H, K, O, and Y; Docket No. R–1021]

Membership of State Banking Institutions in the Federal Reserve System; International Banking Operations; Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks; Bank Holding Companies and Change in Bank Control; Rules of Practice for Hearings; and Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Final rule; technical amendments.

SUMMARY: The Board published an amendment to Regulation H (Membership of State Banking Institutions in the Federal Reserve System) that appeared in the **Federal Register** on July 13, 1998. This document corrects cross references to Regulation H that appear in Regulations H, K, O, Y, the Rules of Practice for Hearings, and the Rules Regarding Delegation of Authority (Parts 208, 211, 215, 225, 262, 263, and 265).

EFFECTIVE DATE: November 2, 1998.

FOR FURTHER INFORMATION CONTACT: Jean Anderson, Staff Attorney, Legal Division (202/452–3707). For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Diane Jenkins (202/452–3544).

SUPPLEMENTARY INFORMATION:

Background

The Board published amendments to Regulation H (12 CFR part 208) in the **Federal Register** on July 13, 1998 (63 FR 37629), in order to reorganize, clarify, and reduce the burden of compliance with Subpart A of Regulation H. This document corrects cross references to Regulation H that appear in Regulations H, K, O, Y, the Rules of Practice for Hearings and the Rules Regarding Delegation of Authority (parts 208, 211, 215, 225, 262, 263, and 265).

List of Subjects

12 CFR Part 208

Accounting, Agriculture, Banks, banking, Confidential business information, Crime, Currency, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Securities.

12 CFR Part 211

Exports, Federal Reserve System, Foreign banking, Holding companies, Investments, Reporting and recordkeeping requirements.

12 CFR Part 215

Credit, Federal Reserve System, Penalties, Reporting and recordkeeping requirements.

12 CFR Part 225

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

12 CFR Part 262

Administrative practice and procedure, Federal Reserve System.

12 CFR Part 263

Administrative practice and procedure, Claims, Crime, Equal access to justice, Federal Reserve System, Lawyers, Penalties.

12 CFR Part 265

Authority delegations (Government agencies), Banks, banking, Federal Reserve System.

For the reasons set forth in the preamble, the Board is amending parts 208, 211, 215, 225, 262, 263, and 265 in chapter II of title 12 of the Code of Federal Regulations as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1.The authority citation for part 208 continues to read as follows:

Authority: 12 U.S.C. 24, 36, 92a, 93a, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1816, 1818, 1823(j), 1828(o), 1831o, 1831p–1, 1831r–1, 1835a, 1882, 2901–2907, 3105, 3310, 3331–3351, and 3906–3909; 15 U.S.C. 78b, 78l(b), 78l(g), 78l(i), 78o–4(c)(5), 78q, 78q–1, and 78w; 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104a, 4104b, 4106 and 4128.

2. In § 208.3, paragraph (c)(1)(ii) is amended by adding the acronym "CAMELS," after the word "received."

3. Section 208.3 is amended by revising the last sentence in paragraph (d)(1) to read as follows:

§ 208.3 Application and conditions for membership in the Federal Reserve System.

* * * * *

(d) * * *

(1) * * * (The Interagency Guidelines Establishing Standards for Safety and Soundness and Year 2000 Standards for Safety and Soundness prescribed pursuant to section 39 of the FDI Act (12 U.S.C. 1831p–1), as set forth in appendices D–1 and D–2 to this part, apply to all member banks.)

* * * * *

§ 208.6 [Amended]

4. In § 208.6, paragraph (c)(1)(ii) is amended by adding the acronym "CAMELS," on the third line after the word "received."

5. In Appendix A to part 208, the following amendments are made:

a. Section *III.*B.5.b. is amended by removing the reference to "(12 CFR 208.30)" and adding in its place "(12 CFR 208.40)."

b. Section *III.*B.5.d.(i) is amended by removing the reference to "(12 CFR 208.33(b))" and adding in its place "(12 CFR 208.43(b)(1))."

c. Section *III.*B.5.d.(ii) is amended by removing the reference to "(12 CFR 208.33(c))" and adding in its place "(12 CFR 208.43(c))."

6. In Appendix B to part 208, the following amendments are made:

a. Section II.d. is amended by removing the reference to "(12 CFR 208.30)" and adding in its place "(12 CFR 208.40)."

b. Section II.f.(i) is amended by removing the reference to "(12 CFR 208.33(b))" and adding in its place "(12 CFR 208.43(b)(1))."

c. Section II.f.(ii) is amended by removing the reference to "(12 CFR 208.33(c))" and adding in its place "(12 CFR 208.43(c))."

7. In Appendix C to part 208, in the paragraph immediately following the heading, footnote 5 is redesignated as footnote 1 and the new footnote 1 is amended by removing the reference to "12 CFR part 208, subpart C" and adding in its place "12 CFR part 208, subpart E."

PART 211—INTERNATIONAL BANKING OPERATIONS (REGULATION K)

1. The authority citation for part 211 continues to read as follows:

Authority: 12 U.S.C. 221 *et seq.*, 1818, 1835a, 1841 *et seq.*, 3101 *et seq.*, and 3901 *et seq.*

§ 211.2 [Amended]

2. In § 211.2, paragraph (u)(1) is amended by removing the reference to "12 CFR 208.33(b)(1)" and adding in its place "12 CFR 208.43(b)(1)."

§ 211.8 [Amended]

3. In § 211.8, the paragraph is amended by removing the reference to "§ 208.20" and adding in its place "§ 208.62" and by removing the reference to "12 CFR 208.20" and adding in its place "12 CFR 208.62."

211.22 [Amended]

4. In § 211.22, paragraph (d) is amended by removing the reference to "§ 208.28" and adding in its place "§ 208.7" and by removing the reference to "(12 CFR 208.28)" and adding in its place "(12 CFR 208.7)."

§ 211.24 [Amended]

5. In § 211.24, paragraph (f) is amended by removing the reference to "§ 208.20" and adding in its place "§ 208.62" and by removing the reference to "12 CFR 208.20" and adding in its place "12 CFR 208.62."

6. In § 211.24, paragraph (h) is amended by removing the reference to "12 CFR 208.25" and by adding in its place "12 CFR 208.37."

PART 215—LOANS TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS (REGULATION O)

1. The authority citation for part 215 continues to read as follows:

Authority: 12 U.S.C. 248(i), 375a(10), 375b(9) and (10), 1817(k)(3) and 1972(2)(G)(ii); Pub.L. 102–242, 105 Stat. 2236.

§ 215.3 [Amended]

2. In § 215.3, paragraph (a)(3) is amended by removing the reference to "§ 208.8(d) of this chapter" and by adding in its place "§ 208.24 of this chapter."

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(l), 3106, 3108, 3310, 3331–3351, 3907, and 3909.

§ 225.4 [Amended]

2. In § 225.4, paragraph (d) is amended by removing the term "municipal securities dealer" from the heading and the phrase "a municipal securities dealer," from the text; by removing the reference to "§§ 208.8(0)–(j)" and adding in its place "§§ 208.31–208.33"; and by removing the reference to "(12 CFR 208.8(f)–(j))" and adding in its place "(12 CFR 208.31–208.33)."

3. In § 225.4, paragraph (f) is amended by removing the reference to "§ 208.20" and adding in its place "§ 208.62" and by removing the reference to "(12 CFR 208.20)" and by adding in its place "(12 CFR 208.62)."

Appendix A to Part 225 [Amended]

4. In Appendix A to part 225, section III.*B.*5.b. is amended by removing the reference to "(12 CFR 208.30)" and adding in its place "(12 CFR 208.40.)"

PART 262—RULES OF PROCEDURE

1. The authority citation for part 262 continues to read as follows:

Authority: 5 U.S.C. 552, 12 U.S.C. 321 1828(c), and 1842.

§ 262.3 [Amended]

2. In § 262.3, paragraphs (b)(1)(i)(A) and (b)(1)(i)(C) are removed and paragraphs (b)(1)(i)(B), (b)(1)(i)(D), and (b)(1)(i)(E) are redesignated as paragraphs (b)(1)(i)(A) through (b)(1)(i)(C), respectively.

PART 263—RULES OF PRACTICE FOR HEARINGS

1. The authority citation for part 263 continues to read as follows:

Authority: 5 U.S.C. 504; 12 U.S.C. 248, 324, 504, 505, 1817(j), 1818, 1828(c), 1831o, 1831p–1, 1847(b), 1847(d), 1884(b), 1972(2)(F), 3105, 3107, 3108, 3907, 3909; 15 U.S.C. 21, 78o–4, 78o–5, 78u–2; and 28 U.S.C. 2461 note.

§ 263.201 [Amended]

2. In § 263.201, paragraph (a) is amended by removing the reference to "subpart B of part 208" and adding in its place "subpart D of part 208."

§ 263.203 [Amended]

3. In § 263.203, paragraph (a)(1)(i)(A) is amended by removing the reference "§ 208.33(c) of Regulation H (12 CFR 208.33(c))" and by adding in its place " 208.43(c) of Regulation H (12 CFR 208.43(c))."

§ 263.205 [Amended]

4. In § 263.205, paragraph (b)(2) is amended by removing the reference to "subpart B of Regulation H (12 CFR part 208, subpart B)" and adding in its place "subpart D of Regulation H (12 CFR part 208, subpart D)."

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

1. The authority citation for part 265 continues to read as follows:

Authority: 12 U.S.C. 248(i) and (k).

§ 265.7 [Amended]

2. In 265.7, paragraphs (f)(6)(i) and (ii) are amended by removing the reference to "§ 208.16" and adding in their place "§ 208.36."

3. Section 265.11 is amended as follows:

a. Paragraph (a)(7) is amended by removing the reference to "(12 CFR 208.11(c))" and adding in its place "(12 CFR 209.3(e))."

b. Paragraph (e)(1) is revised.

c. Paragraph (e)(3) is revised.

d. Paragraph (e)(4) introductory text is revised.

e. Paragraph (e)(5) introductory text is revised.

f. Paragraph (e)(7) is revised.

g. Paragraph (e)(8) is amended by removing the reference to "Regulation P (12 CFR 216)" and adding in its place "Regulation H (12 CFR part 208)."

h. Paragraph (e)(12) is revised.

The revisions read as follows:

§ 265.11 Functions delegated to Federal Reserve Banks.

* * * * *

(e) *Member banks*—(1) *Approval of membership applications.* To approve applications for membership in the Federal Reserve System under section 9 of the Federal Reserve Act (12 USC 321 *et seq.*) and Regulation H (12 CFR part 208) if the Reserve Bank is satisfied that approval is warranted after considering the factors set forth in 12 CFR 208.3(b).

* * * * * *

(3) *Approval of branch applications.* To approve a state member bank's establishment of a domestic branch under section 9 of the Federal Reserve Act (12 USC 321 *et seq.*) and Regulation H (12 CFR part 208) if the Reserve Bank is satisfied that approval is warranted after considering the factors set forth in 12 CFR 208.6(b).

(4) *Declaration of dividends in excess of net profits.* To permit a state member bank under section 9(6) of the Federal Reserve Act (12 USC 324 and 60) to declare dividends in excess of the amounts allowed in 12 CFR 208.5(c) if the Reserve Bank is satisfied that approval is warranted after giving consideration to:

* * * * *

(5) *Reduction of capital stock.* To permit a state member bank under section 9(11) of the Federal Reserve Act (12 USC 239) to reduce its capital stock below the amounts set forth in 12 CFR 208.5(d) if the state member bank's capitalization thereafter will be:

* * * * *

(7) *Investment in bank premises in excess of capital stock.* To permit a state member bank to invest in bank premises under section 24A of the Federal Reserve Act (12 USC 371a) in an amount in excess of that set forth in 12 CFR 208.21(a), if the Reserve Bank is satisfied that approval is warranted after giving consideration to the bank's capitalization in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior quality assets, all considered in relation to the strength of its management.

* * * * *

(12) *Public welfare investments.* To permit a state member bank to make a public welfare investment that meets the conditions of 12 CFR 208.22(b)(1)–(3), (b)(5) and (b)(7), if the Reserve Bank is satisfied that:

(i) The state member bank received at least an overall rating of "3" as of its most recent consumer compliance examination; and

(ii) The aggregate of all such investments of the state member bank does not exceed 10 percent of its capital stock and surplus as defined under 12 CFR 208.2(d).

* * * * *

By order of the Board of Governors of the Federal Reserve System, October 26, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–29097 Filed 10–30–98; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–CE–49–AD; Amendment 39–10861; AD 98–22–14]

RIN 2120–AA64

Airworthiness Directives; Rolladen Schneider Flugzeugbau GmbH Models LS 3–A, LS 4, and LS 4a Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to Rolladen Schneider Flugzeugbau GmbH (Rolladen Schneider) Models LS 3–A, LS 4, and LS 4a sailplanes. This AD requires repetitively inspecting the forward elevator mounting bracket on the vertical tail fin for looseness, and, if any loose bracket is found, modifying the area and installing a new forward elevator mounting bracket. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to detect and correct loose forward elevator mounting brackets, which could result in these brackets separating from the sailplane with consequent loss of control of the sailplane.

DATES: Effective December 14, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 14, 1998.

ADDRESSES: Service information that applies to this AD may be obtained from Rolladen-Schneider Flugzeugbau GmbH, Muhlstrasse 10, D–63329 Egelsbach, Germany. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 95–CE–49–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to Rolladen Schneider Models LS 3–A, LS 4, and LS 4a sailplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on August 14, 1998 (63 FR 43649). The NPRM proposed to require repetitively inspecting the forward elevator mounting bracket on the vertical tail fin for looseness, and, if any loose bracket is found, modifying the area and installing a new forward elevator mounting bracket. Accomplishment of the proposed inspections as specified in the NPRM would be in accordance with Rolladen Schneider Technical Bulletin No. 3043/4035, dated July 14, 1993. Accomplishment of the proposed modification and installation as specified in the NPRM would be in accordance with Rolladen Schneider BA–4 Instructions, dated July 7, 1993, as referenced in Rolladen Schneider Technical Bulletin No. 3043/4035, dated July 14, 1993.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Compliance Time of This AD

The compliance time for the inspection will initially be within 30 calendar days and thereafter every 12 calendar months. The reason for the initial calendar compliance time of 30 calendar days is to assure in a reasonable time period that all of the affected sailplanes do not have loose forward elevator mounting brackets. The repetitive compliance time of every 12 calendar months is being utilized to allow sailplane owners/operators the opportunity to schedule the inspections to coincide with regularly scheduled maintenance or annual inspections.

Cost Impact

The FAA estimates that 62 sailplanes in the U.S. registry will be affected by this AD, that it will take approximately 1 workhour per sailplane to accomplish the inspection, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the inspection on U.S. operators is estimated to be $3,720, or $60 per sailplane.

These figures do not take into account the cost of any modification or installation that will be required by this AD if the forward elevator mounting bracket is found loose during the inspection. The FAA has no way of determining how many sailplanes will have loose forward elevator mounting brackets that will require replacement.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

98–22–14 Rolladen Schneider Flugzeugbau GMBH: Amendment 39–10861; Docket No. 95–CE–49–AD.

Applicability: Models LS 3–A, LS 4, and LS 4a sailplanes, all serial numbers, certificated in any category.

Note 1: This AD applies to each sailplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For sailplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To detect and correct loose forward elevator mounting brackets, which could result in these brackets separating from the sailplane with consequent loss of control of the sailplane, accomplish the following:

(a) Within the next 30 calendar days after the effective date of this AD, and thereafter at intervals not to exceed 12 calendar months, inspect the forward elevator mounting bracket for looseness. Apply a torque of 130 inches/pounds on the elevator mounting bracket and do not apply a force to the bonded in-ball. Accomplish the inspections in accordance with the Material and Instructions section of Rolladen Schneider Technical Bulletin No. 3043/4035, dated July 14, 1993.

(b) If any loose forward elevator mounting bracket is found during any inspection required by this AD, prior to further flight, modify the area and install a new forward elevator mounting bracket in accordance with Rolladen Schneider BA–4 Instructions, dated July 7, 1993, as referenced in Rolladen Schneider Technical Bulletin No. 3043/4035, dated July 14, 1993. Continue to reinspect as specified in paragraph (a) of this AD at intervals not to exceed 12 calendar months.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the sailplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(e) Questions or technical information related to the service information contained in this AD should be directed to Rolladen-Schneider Flugzeugbau GmbH, Muhlstrasse 10, D–63329 Egelsbach, Germany. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(f) The inspections required by this AD shall be done in accordance with Rolladen Schneider Technical Bulletin No. 3043/4035, dated July 14, 1993. The modification and installation required by this AD shall be done in accordance with Rolladen Schneider BA–4 Instructions, dated July 7, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Rolladen Schneider Flugzeugbau GmbH, Muhlstrasse 10, D–63329 Egelsbach, Germany. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in German AD 93–155, dated July 21, 1993.

(g) This amendment becomes effective on December 14, 1998.

Issued in Kansas City, Missouri, on October 22, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–28967 Filed 10–30–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–67–AD; Amendment 39–10863; AD 98–22–15]

RIN 2120–AA64

Airworthiness Directives; Slingsby Aviation Limited Models Dart T.51, Dart T.51/17, and Dart T.51/17R Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Slingsby Aviation Limited (Slingsby) Models Dart T.51, Dart T.51/17, and Dart T.51/17R sailplanes that are equipped with aluminum alloy spar booms. This AD requires repetitively inspecting the aluminum alloy spar booms and the wing attach fittings for delamination or corrosion damage, and repairing any delamination or corrosion damage found. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. The actions specified by this AD are intended to prevent failure of the spar assembly and adjoining structure caused by delamination or corrosion damage to the aluminum alloy spar booms or the wing attach fittings, which could result in reduced controllability or loss of control of the sailplane.

DATES: Effective December 14, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of December 14, 1998.

ADDRESSES: Service information that applies to this AD may be obtained from Slingsby Aviation Ltd., Kirbymoorside, York Y06 6EZ England; telephone: +44(0)1751 432474; facsimile: +44(0)1751 431173. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–67–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Slingsby Models Dart T.51, Dart T.51/17, and Dart T.51/17R sailplanes that are equipped with aluminum alloy spar booms was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on July 15, 1998 (63 FR 38126). The NPRM proposed to require repetitively inspecting the aluminum alloy spar booms and the wing attach fittings for delamination or corrosion damage, and repairing any delamination or corrosion damage found. Accomplishment of the proposed action as specified in the NPRM would be in accordance with Slingsby Technical Instruction (TI) No. 109/T51, Issue No. 2, dated October 7, 1997.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Compliance Time of This AD

The unsafe condition specified by this AD is caused by corrosion. Corrosion can occur regardless of whether the aircraft is in operation or is in storage. Therefore, to assure that the unsafe condition specified in this AD does not go undetected for a long period of time, the compliance is presented in calendar time instead of hours time-in-service (TIS).

Differences Between the British AD, the Technical Instruction, and This AD

Both Slingsby TI No. 109/T51, Issue No. 2, dated October 7, 1997, and British AD 005–09–97, dated October 3, 1997, specify the initial inspection prior to further flight.

The FAA does not have justification through its regulatory process to require the initial inspection prior to further flight. To assure that no affected sailplanes are inadvertently grounded, the FAA is utilizing a compliance time of 6 calendar months for the initial inspection.

Cost Impact

The FAA estimates that 3 sailplanes in the U.S. registry will be affected by this AD, that it will take approximately 40 workhours per sailplane to accomplish the initial inspection, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the initial inspection specified in this AD on U.S. operators is estimated to be $7,200, or $2,400 per sailplane.

These figures only take into account the costs of the initial inspection and do not take into account the costs of repetitive inspections and the costs associated with any repair that will be necessary if corrosion or delamination damage is found. The FAA has no way of determining the number of repetitive inspections an owner/operator will incur over the life of the sailplane, or the number of sailplanes that will need repairs.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

98–22–15 Slingsby Aviation Limited (Type Certificate No. G5EU formerly held by Slingsby Sailplanes Ltd.): Amendment 39–10863; Docket No. 98–CE–67–AD.

Applicability: Models Dart T.51, Dart T.51/17, and Dart T.51/17R sailplanes, all serial numbers, certificated in any category, that are equipped with aluminum alloy spar booms.

Note 1: This AD applies to each sailplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For sailplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent failure of the spar assembly and adjoining structure caused by delamination or corrosion damage to the aluminum alloy spar booms or the wing attach fittings, which could result in reduced controllability or loss of control of the sailplane, accomplish the following:

(a) Within the next 6 calendar months after the effective date of this AD and thereafter at intervals not to exceed 5 years, inspect the aluminum alloy spar booms and the wing attach fittings for delamination or corrosion damage. Accomplish this inspection in accordance with Slingsby Technical Instruction (TI) No. 109/T51, Issue No. 2, dated October 7, 1997.

Note 2: Slingsby TI No. 109/T51, Issue No. 2, dated October 7, 1997, includes guidance to determine whether an affected sailplane is equipped with aluminum alloy spar booms.

(b) If any corrosion or delamination damage is found during any inspection required by paragraph (a) of this AD, prior to further flight, accomplish the following:

(1) Obtain a repair scheme from the manufacturer through the FAA, Small Airplane Directorate, at the address specified in paragraph (d) of this AD; and

(2) Incorporate this scheme and continue to repetitively inspect as required by paragraph (a) of this AD, unless specified differently in the instructions to the repair scheme.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the sailplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(e) Questions or technical information related to Slingsby TI No. 109/T51, Issue No. 2, dated October 7, 1997, should be directed to Slingsby Aviation Ltd., Kirbymoorside, York Y06 6EZ England; telephone: +44(0)1751 432474; facsimile: +44(0)1751 431173. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(f) The inspection required by this AD shall be done in accordance with Slingsby Technical Instruction No. 109/T51, Issue No. 2, dated October 7, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Slingsby Aviation Ltd., Kirbymoorside, York Y06 6EZ England. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in British AD 005–09–97, dated October 3, 1997.

(g) This amendment becomes effective on December 14, 1998.

Issued in Kansas City, Missouri, on October 22, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–28966 Filed 10–30–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–101–AD; Amendment 39–10847; AD 98–22–01]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F.28 Mark 0100 series airplanes, that requires a one-time visual inspection and a one-time eddy current and/or dye penetrant inspection of the nose landing gear (NLG) main fitting to detect cracking; and rework of the NLG main fitting, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent cracking of the NLG main fitting, which could lead to collapse of the NLG during takeoff and landing and possible injury to the flightcrew and passengers.

DATES: Effective December 7, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 7, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Services B.V., Technical Support Department, P.O. Box 75047, 1117 ZN Schiphol Airport, the Netherlands. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington

98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Fokker Model F.28 Mark 0100 series airplanes was published in the **Federal Register** on May 28, 1998 (63 FR 29157). That action proposed to require a one-time visual inspection and a one-time eddy current and/or dye penetrant inspection of the nose landing gear (NLG) main fitting to detect cracking; and rework of the NLG main fitting, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Acknowledge Inspections Accomplished Previously

Two commenters support the intent of the proposal but request that the reporting requirement of the proposed AD be revised to recognize inspections accomplished prior to the effective date of this AD. The commenters indicate that paragraph (d) of the proposed rule specifies that results of the inspections performed in accordance with paragraph (a) or (b) of the AD are to be submitted to the manufacturer within 7 days after accomplishment of the inspections. Both commenters point out that operators that have accomplished the inspections previously, but that did not submit a report of the results to the manufacturer within 7 days after accomplishment of the inspections, would be immediately out of compliance with the AD and would have to accomplish the inspections again in order to comply.

The FAA concurs with the request. Therefore, the FAA has revised paragraph (d) of the final rule to incorporate a grace period for the reporting requirement. Paragraph (d) of the final rule specifies that a report of the inspection results must be submitted to the manufacturer, "Within 7 days after accomplishing the inspection required by either paragraph (a) or (b) of this AD, or within 7 days after the effective date of this AD, whichever occurs later."

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change described previously. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 127 airplanes of U.S. registry will be affected by this AD.

It will take approximately 2 work hours per airplane to accomplish the visual inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the visual inspection required by this AD on U.S. operators is estimated to be $15,240, or $120 per airplane.

It will take approximately 2 work hours per airplane to accomplish the eddy current and/or dye penetrant inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the eddy current and/or dye penetrant inspection required by this AD on U.S. operators is estimated to be $15,240, or $120 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–22–01 Fokker Services B.V.: Amendment 39–10847. Docket No. 98–NM–101–AD.

Applicability: Model F.28 Mark 0100 series airplanes, equipped with Messier-Dowty Nose Landing Gear (NLG) having part number (P/N) 201071001 or P/N 201071002, on which the NLG main fitting has not been overhauled in accordance with Component Maintenance Manual 32–20–51; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking of the NLG main fitting, which could lead to collapse of the NLG during takeoff and landing and possible injury to the flightcrew and passengers, accomplish the following:

(a) Perform a one-time visual inspection to detect cracking of the NLG main fitting, in accordance with Fokker Service Bulletin SBF100–32–112, dated November 14, 1997, at the applicable time specified in either paragraph (a)(1) or (a)(2) of this AD. If any cracking is found, prior to further flight, accomplish the requirements of paragraph (b) of this AD.

(1) For airplanes that have accumulated fewer than 15,000 total flight cycles as of the effective date of this AD: Inspect prior to the accumulation of 8,000 total flight cycles, or within 90 days after the effective date of this AD, whichever occurs later.

(2) For airplanes that have accumulated 15,000 or more total flight cycles as of the effective date of this AD: Inspect within 30 days after the effective date of this AD.

(b) Perform a one-time eddy current and/or dye penetrant inspection to detect cracking of the NLG main fitting, in accordance with Messier-Dowty Service Bulletin F100–32–92, dated November 14, 1997, at the applicable time specified in either paragraph (b)(1) or (b)(2) of this AD. Accomplishment of the inspection required by paragraph (b) of this AD, if accomplished prior to the inspection required by paragraph (a) of this AD, terminates the inspection requirement of paragraph (a) of this AD.

(1) For airplanes that have accumulated fewer than 15,000 total flight cycles as of the effective date of this AD: Inspect prior to the accumulation of 8,000 total flight cycles, or within 180 days after the effective date of this AD, whichever occurs later.

(2) For airplanes that have accumulated 15,000 or more total flight cycles as of the effective date of this AD: Inspect within 60 days after the effective date of this AD.

(c) If any crack is detected during the inspection required by paragraph (b) of this AD, prior to further flight, rework the NLG main fitting in accordance with Messier-Dowty Service Bulletin F100–32–92, dated November 14, 1997.

(d) Within 7 days after accomplishing the inspection required by either paragraph (a) or (b) of this AD, or within 7 days after the effective date of this AD, whichever occurs later, submit a report of the inspection results (both positive and negative findings) to Fokker Services B.V., Technical Support Department, P.O. Box 75047, 1117 ZN Schiphol Airport, the Netherlands. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) Except as provided by paragraph (d) of this AD, the actions shall be done in accordance with Fokker Service Bulletin SBF100–32–112, dated November 14, 1997, and Messier-Dowty Service Bulletin F100–32–92, dated November 14, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Services B.V., Technical Support Department, P.O. Box 75047, 1117 ZN Schiphol Airport, the Netherlands. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Dutch airworthiness directive BLA 1997–116 (A), dated November 28, 1997.

(h) This amendment becomes effective on December 7, 1998.

Issued in Renton, Washington, on October 13, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–29002 Filed 10–30–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AWP–12]

Revocation of Class D and Class E Airspace, Crows Landing, CA; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date and correction.

SUMMARY: This document confirms the effective date of a direct final rule which revokes the Class D and Class E airspace areas below 1200 feet above ground level (AGL) associated with Crows Landing, CA and changes the name from Crows Landing NALF to NASA Crows Landing in the legal description of the remaining controlled airspace as published in the direct final rule. The correction adds the removal of the Class D airspace area, which was inadvertently omitted from the direct final rule; request for comments.

DATES: The direct final rule published in 63 FR 45394 is effective at 0901 UTC, December 3, 1998. This correction is effective on December 3, 1998.

FOR FURTHER INFORMATION CONTACT: Debra Trindle, Air Traffic Division, Airspace Specialist, AWP–520.10, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (310) 725–6613.

SUPPLEMENTARY INFORMATION: On August 26, 1998, the FAA published in the **Federal Register** a direct final rule; request for comments which revoked the Class D and Class E airspace areas below 1200 feet AGL associated with Crows Landing Airport, CA. (FR Document 98–22749, 63 FR 45394, Airspace Docket No. 98–AWP–12). An error was subsequently discovered in the publication of the docket. The removal of the Class D airspace area was inadvertently omitted from the direct final rule; request for comments. After review of all available information related to the subject present above, the FAA has determined that air safety and the public interest require adoption of the rule. The FAA has determined that this correction will not change the meaning of the action nor add any additional burden on the public beyond that already published. This action corrects the error and confirms the effective date of the direct final rule.

The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on December 3, 1998. No adverse comments were received, therefore this document confirms that this direct final rule will become effective on that date.

Correction

In rule FR Doc. 98–22749 published in the **Federal Register** on August 26, 1998, 63 FR 45394, make the following correction to the airspace description;

Paragraph 5000 Class D airspace.

* * * * *

AWP CAD Crows Landing NALF, CA [Removed]

* * * * *

Issued in Los Angeles, California on October 19, 1998.

Dawna J. Vicars,

Assistant Manager, Air Traffic Division, Western Pacific Region.

[FR Doc. 98–29298 Filed 10–30–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AWP–20]

Revision of Class E Airspace, San Diego, North Island NAS, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revise the Class E airspace extension at San Diego North Island NAS, (NZY), CA.

DATES: The direct final rule published in 63 FR 46166 is effective at 0901 UTC, December 3, 1998.

FOR FURTHER INFORMATION CONTACT: Debra Trindle, Air Traffic Division, Airspace Specialist, AWP–520.10, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (310) 725–6613.

SUPPLEMENTARY INFORMATION: On August 31, 1998, the FAA published in the **Federal Register** a direct final rule; request for comments, which revised the effective hours of the Class E airspace extension for San Diego, North Island Naval Air Station, (NZY) Halsey Field, CA (FR Document 98–23367, 63 FR 46166, Airspace Docket No. 98–AWP–20). In April of 1998 the U.S. Navy reduced the hours of operation of the Airport Traffic Control Tower (ATCT) at NZY. A separate airspace docket has been published in the **Federal Register** amending the effective hours of the NZY Class D airspace surface area. The Class E airspace extension operates in conjunction with the Class D airspace surface area. The reduction of the ATCT hours of operation has made this action necessary. This action does not involve a change in the dimensions or operating requirements of that airspace containing Instrument Flight Rules (IFR) operations at NZY. The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on December 3, 1998. No adverse comments were received, therefore this document confirms that this direct final rule will become effective on that date.

Issued in Los Angeles, California on October 19, 1998.

Dawna J. Vicars,

Assistant Manager, Air Traffic Division, Western Pacific Region.

[FR Doc. 98–29296 Filed 10–30–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AWP–23]

Revision to Class E Airspace; Reno, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action will revise the legal description for the E3 airspace area designated as an extension to the Class C airspace at Reno, NV. In view of the permanent decommissioning of Sparks Non-directional Radio Beacon (NDB), and the recent airport name change from Reno Cannon International Airport to Reno/Tahoe International Airport, a revision to the legal description for this airspace is necessary. This action will not alter the dimensions of the Reno E3 airspace. The rule is intended solely to make editorial changes to update the Reno Class E airspace legal description set forth in FAA Order 7400.9F.

DATES: *Effective date:* 0901 UTC January 28, 1999. Comment date: Comments for inclusion in the Rules Docket must be received on or before December 2, 1998.

ADDRESSES: Send comments on the direct final rule in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP–520, Docket No. 98–AWP–23, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Jeri Carson, Air Traffic Division Airspace Specialist, AWP–520.11, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (301) 725–6611.

SUPPLEMENTARY INFORMATION:

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the effective date of the final rule. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Communications should identify the Rule Docket number and be submitted in triplicate to the address specified under the caption ADDRESSES. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–AWP–23." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6003 Class E Airspace Designated as an Extension

* * * * *

AWP CA E3 Reno, NV [Revised]

Reno/Tahoe International Airport, NV
(Lat. 39°41'50"N, Long. 119°46'08"W)

That airspace extending upward from the surface within 1.8 miles each side of the Reno ILS localizer north course extending from the 5-mile radius of Reno/Tahoe International Airport to 13.1 miles north of the airport, and within 1.8 miles each side of the Reno localizer south course, extending from the 5-mile radius of the airport to 9.7 miles south of the airport.

* * * * *

Issued in Los Angeles, California, on October 19, 1998.

Dawna J. Vicars,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 98–29297 Filed 10–30–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AWP–22]

Establishment of Class E Airspace; Metropolitan Oakland International Airport, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action will establish a Class E airspace area consisting of airspace extending upward from the surface designated as an extension to the Class C surface area at Metropolitan Oakland International Airport, CA. The establishment of this E3 airspace is necessary in order to retain the existing instrument approach procedure known as the ILS RWY 27R at Metropolitan Oakland International Airport. Recent installation of new Runway Visual Range (RVR) equipment serving Runway 27R at Oakland has resulted in the need to revise the weather minimums for the ILS RWY 27R instrument approach procedure. In conjunction with revising those minimums, a modification to the protected airspace for the ILS RWY 27R is required in order to satisfy current terrain clearance specifications determined by Federal Aviation Administration Flight Standards Service to be essential for ensuring aviation safety.

EFFECTIVE DATE: 0901 UTC January 28, 1999. *Comment date:* Comments for inclusion in the Rules Docket must be received on or before December 2, 1998.

ADDRESSES: Send comments on the direct final rule in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP–520, Docket No. 98–AWP–22, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Jeri Carson, Air Traffic Division Airspace Specialist, AWP–520–11, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6611.

SUPPLEMENTARY INFORMATION:

The Director Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the effective date of the final rule. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Communications should identify the Rule Docket number and be submitted in triplicate to the address specified under the caption ADDRESSES. All communications

received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, an energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–AWP–22." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rules does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6003 Class E Airspace Designated as an Extension

* * * * *

AWP CA E3 Oakland, CA [New]

Metropolitan Oakland International Airport, CA

(Lat. 37°43'17", Long. 122°13'15"W)

That airspace extending upward from the surface within 2.7 miles each side of the 095° bearing from Metropolitan Oakland International Airport extending from the 5-mile radius of the airport to 8.5 miles east of the airport, excluding that airspace within the hayward, CA Class D airspace area when it is effective.

* * * * *

Issued in Los Angeles, California, on October 19, 1998.

Dawna J. Vicars,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 98–29299 Filed 10–30–98; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–40587; FR–52; File No. S7–8–98]

RIN 3235–AH42

Year 2000 Readiness Reports To Be Made by Certain Non-Bank Transfer Agents

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission ("Commission") is amending Rule 17Ad–18 under the Securities Exchange Act of 1934 ("Exchange Act") to require certain non-bank transfer agents to file with the Commission a report prepared by an independent public accountant regarding the non-bank transfer agent's process for preparing for the Year 2000. The report will provide valuable information on the existence and sufficiency of a non-bank transfer agent's process for addressing Year 2000 Problems, will provide an independent verification of the accuracy of the information contained in the non-bank transfer agent's second Form TA–Y2K, will aid the Commission in obtaining a more complete understanding of the industry's overall Year 2000 preparations, and will identify institution-specific and industry wide problems. The independent public accountant's report will be available to the public.

EFFECTIVE DATE: December 2, 1998.

FOR FURTHER INFORMATION CONTACT: Jerry W. Carpenter, Assistant Director, 202/942–4187; Thomas C. Etter, Jr., Special Counsel, 202/942–4187; Jeffrey Mooney, Special Counsel, 202/942–4187; or Gregory J. Dumark, Attorney, 202/942–4187, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 10–1, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Commission views the Year 2000 Problem [1] as a serious issue that if not addressed could disrupt the proper functioning of many of the world's computer systems. At midnight on December 31, 1999, unless the proper modifications have been made, computer systems may start to produce erroneous results because, among other things, the systems may incorrectly read the date "01/01/00" as being the year 1900 or another incorrect date. In addition, systems may fail to detect that the Year 2000 is a leap year. Problems can also arise earlier than January 1, 2000, as dates in the next millennium are entered into non-Year 2000 compliant programs. Due to the serious nature of this issue, both non-bank transfer agents and the Commission are working hard to address the industry's Year 2000 problems.

As part of the Commission's ongoing efforts relating to the Year 2000, on July 2, 1998, we adopted Rule 17Ad–18 [2] to require non-bank transfer agents [3] to file reports with us describing their efforts to address Year 2000 problems on new Form TA–Y2K.[4] Part I of Form TA–Y2K is a check-the-box Year 2000 questionnaire. Each non-bank transfer agent that is not eligible for an exemption under existing Rule 17Ad–13(d) [5] is also required to file Part II of Form TA–Y2K, which requires a narrative discussion of its efforts to address Year 2000 Problems.[6] Form TA–Y2K is required to be filed no later than August 31, 1998, reflecting the non-bank transfer agent's Year 2000 efforts as of July 15, 1998, and no later than April 30, 1999, reflecting the non-bank transfer agent's Year 2000 efforts as of March 15, 1999.

In the Adopting Release, we deferred consideration of our original proposal to require certain assertions by a non-bank transfer agent regarding its process for addressing Year 2000 Problems be attested to or verified in some manner by an independent public accountant. In a Companion Release, also issued on July 2, 1998, we solicited additional comments on the appropriate independent public accountant review, including comments on the feasibility and desirability of an agreed-upon procedures engagement in which an independent public accountant would follow certain established procedures as an independent check on a non-bank transfer-agent's assertions on the Form TA–Y2K.[7]

The Commission received 18 comment letters regarding either the appropriate independent public accountant review or the feasibility and desirability of an agreed-upon procedures engagement.[8] Fifteen of the letters responded to the proposed attestation requirement with the majority of the commenters expressing concern about the scope and workability of an attestation review. Three letters were received in response to our second solicitation of comments on the appropriate scope of the independent public accountant's review, and they were generally opposed to any additional reporting or regulatory requirements. However, three commenters indicated that an agreed-upon procedures approach mitigated some of their concerns regarding the proposed attestation review requirement. After considering the comments received, we are adopting the proposed amendments with the changes discussed below.

II. Description of the Proposed Rule Amendments

Under the original proposal, a non-bank transfer agent that did not qualify for an exemption under existing Rule 17Ad–13(d) would have been required to make certain specific assertions as part of its second Year 2000 report regarding its efforts to address Year 2000 Problems.[9] In addition to making the assertions, the non-bank transfer agent would have been required to engage an independent public accountant to attest to whether there was a reasonable basis for these assertions.

III. Discussion of Final Rule Amendments

A. Independent Public Accountant Review

The American Institute of Certified Public Accountants ("AICPA"), among other commenters, stated that the proposed attestation report would be difficult for independent public accountants to provide. The AICPA said that some of the required non-bank transfer agent assertions are not appropriate for accountant attestation because the assertions are not capable of reasonably consistent measurement against reasonable criteria. Currently, there are no uniform, well established criteria related to Year 2000 remediation efforts. The lack of established criteria would likely result in significant variation in the examination procedures performed by independent public accountants and thus would reduce the usefulness of the attestation reports. In addition, the AICPA expressed concern that the purpose and conclusions of the attestation report could be misunderstood. The AICPA was primarily concerned that uninformed users of the attestation reports would place undue reliance on them. Several other commenters also expressed concern that independent public accountants probably do not have the expertise required to properly evaluate the non-bank transfer agent's Year 2000 efforts and that requiring an attestation engagement would be burdensome.

We believe that requiring a non-bank transfer agent to file a report prepared by an independent public accountant will benefit the securities industry's and our efforts to prepare for the Year 2000 by improving the accuracy of the non-bank transfer agent's second Year 2000 report and by encouraging the non-bank transfer agent to proceed expeditiously with its efforts to address Year 2000

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[1] The Commission has defined the term "Year 2000 Problem" to include any erroneous result caused by any computer software: (i) Incorrectly reading the date "01/01/00" or any year thereafter; (ii) incorrectly identifying a date in the year 1999 or any year thereafter; (iii) failing to detect that the Year 2000 is a leap year, and (iv) any other computer error that is directly or indirectly related to (i), (ii), or (iii) above.

[2] 17 CFR 240.17Ad–18.

[3] Non-bank transfer agents are those transfer agents whose appropriate regulatory agency is the Commission. For purposes of this release and Rule 17Ad–18, transfer agents that are saving associations regulated by the Office of Thrift Supervision are considered bank transfer agents.

[4] Release No. 34–40163 (July 2, 1998), 63 FR 37688 (July 13, 1998) ("Adopting Release"). *See also* Release No. 34–39726 (March 5, 1998), 63 FR 12062 (March 12, 1998) ("Proposing Release") and Release No. 34–39859 (extending the comment period from April 13, 1998 to April 27, 1998).

[5] 17 CFR 240.17 Ad–13(d).

[6] Rule 17Ad–13(d) contains an exemption from the requirement to file an annual study and evaluation of internal accounting control for transfer agents that: (1) Perform transfer agent functions solely for their own securities, securities issued by a subsidiary in which they own 51% or more of the subsidiary's capital stock and securities issued by another corporation that owns 51% or more of the capital stock of the registered transfer agent; (2) received less than 500 items for transfer and less than 500 items for processing during the preceding six months (or in the time that it has been in business, if shorter); and (3) maintained master shareholder files that in the aggregate contained less than 1,000 shareholder accounts or was the named transfer agent for less than 1,000 shareholder accounts at all times during the preceding fiscal year (or in the time that it has been in business, if shorter).

[7] Release No. 34–40165 (July 2, 1998), 63 FR 37710 (July 13, 1998) ("Companion Release") (reopening the comment period on the appropriate scope of independent public accountant review until August 12, 1998).

[8] All comment letters are available in File No. S7–8–98 at the our Public Reference Room, 450 Fifth Street, N.W., Washington, DC 20549.

[9] Each non-bank transfer agent would have been required to assert: (1) Whether it has developed written plans for preparing and testing its computer systems for potential Year 2000 Problems; (2) whether the board of directors, or similar body, has approved these plans, and whether a member of the non-bank transfer agent's board of directors, or similar body, is responsible for executing the plans; (3) whether its Year 2000 remediation plans address all domestic and international operations, including the activities of its subsidiaries, affiliates, and divisions; (4) whether it has assigned existing employees, hired new employees, or engaged third parties to execute its Year 2000 remediation plans; and (5) whether it has conducted internal and external testing of its Year 2000 solutions and whether the results of those tests indicate that the non-bank transfer agent has modified its software to correct Year 2000 problems. Many of the issues covered by the assertions were adopted as questions in Part II of Form TA–Y2K.

Problems. We will use the reported information to obtain a more complete understanding of the industry's overall Year 2000 preparations and to identify institution-specific and industry-wide problems. Information in the reports will also help us focus Year 2000-related efforts for 1999 on particular industry segments or non-bank transfer agents that appear to pose the greatest risk of not being ready for Year 2000. In sum, the rule amendments will enable the Commission to take a more active role in reducing the Year 2000 risk to the securities industry.

However, we have modified the scope of the independent public accountant review. The rule adopted today requires each non-bank transfer agent that is required to file Part II of Form TA–Y2K, by April 30, 1999, to include with that filing a report prepared by an independent public accountant regarding the non-bank transfer agent's process for addressing Year 2000 Problems. The independent public accountant's report must be prepared in accordance with standards that have been reviewed by the Commission and that have been issued by a national organization that is responsible for promulgating authoritative accounting and auditing standards. In conjunction with adopting this reporting requirement, we have reviewed the procedures included in the Statement of Position 98–8, issued by the Auditing Standards Board.[10] An independent public accountant's report prepared in accordance with SOP 98–8 would satisfy the independent public accountant reporting requirements adopted by the Commission today.[11] Statement of Position 98–8 is discussed in more detail below.

B. Stotement of Position 98–8

The AICPA, along with other commenters, suggested that an "agreed-upon procedures" engagement, instead of an attestation engagement, would more effectively meet our objectives. Pursuant to such an engagement, a non-bank transfer agent would engage an independent public accountant to perform and report on specific procedures designed to meet the review objectives. This would eliminate the variability of examination procedures performed by independent public accountants and increase the consistency of the reports. In addition, other commenters indicated that an agreed-upon procedures engagement would be less time-consuming, less costly, and less disruptive operationally than the attestation approach.

SOP 98–8 addresses commenters' concerns regarding an attestation engagement by providing independent public accountants a list of procedures to follow when preparing its report on the non-bank transfer agent's process for addressing Year 2000 Problems. More specifically, these procedures require an independent public accountant to consider the non-bank transfer agent's plan for addressing Year 2000 problems, its efforts to repair its affected computer systems, its tests of completed repairs, and its efforts to monitor the progress of the Year 2000 project. In addition, through SOP 98–8 the independent public accountant is provided a reporting format to use when reporting the results of executing the specified procedures. Finally, SOP 98–8 provides the independent public accountant with guidance on how to execute the procedures and how to report any exceptions identified.

We believe that the procedures and reporting format contained in SOP 98–8 meet our regulatory objectives. The execution of the procedures by an independent public accountant (i) will provide valuable information on the existence and sufficiency of a non-bank transfer agent's process for addressing Year 2000 Problems; (ii) will provide an independent verification of the accuracy of the information contained in the non-bank transfer agent's second Form TA–Y2K; (iii) will aid us in obtaining a more complete understanding of the industry's overall Year 2000 preparations; and (iv) will identify institution-specific and industry-wide problems.

C. Public Availability

The proposed rules would have made the independent public accountant's attestation report available to the public. The AICPA, in addition to other commenters, expressed concerns that some users of these reports could place undue reliance on the reports and that the technical nature of the reports could confuse investors. However, we believe that the public's interest is best served by requiring full and open disclosure. Allowing the public to have access to the independent public accountant's report will assist interested persons in determining whether a non-bank transfer agent has a process for addressing Year 2000 Problems. For example, after reviewing a non-bank transfer agent's accountant's report, an issuer using the non-bank transfer agent might request additional information or assurances if the non-bank transfer agent does not appear to be taking the steps necessary to be Year 2000 compliant. In the absence of such assurances, an issuer could determine whether it wishes to continue its dealings with that non-bank transfer agent.

The rule amendments adopted by the Commission today provide that the public will have access to the independent public account's report.[12] In addition, the Commission or its staff, after reviewing Forms TA–Y2K, accompanying accountant's reports, and other pertinent information, may make findings or conclusions or compile information from filings by individual non-bank transfer agents and make non-bank transfer agent specific, aggregate, or derivative information available to the public, Congress, or other members of the securities industry.

We note, however, that the accountant's report has a specific regulatory purpose and is not intended to express an opinion or finding regarding whether a non-bank transfer agent is Y2K compliant. The following excerpts from the sample "Independent Accountant's Report on Agreed-Upon Procedures" attached to the AICPA's SOP makes clear the limitations of the accountant's role and report:

> We have performed the procedures enumerated below as specified in the American Institute of Certified Public Accountant's (AICPA's) Statement of Position 98–8 which were agreed to by ABC Transfer Agent (hereinafter referred to as the "entity") to assist the users in evaluating the entity's assertions in Parts I and II of Form TA–Y2K ("Form TA–Y2K") as of March 15, 1999, prepared and filed pursuant to requirements of SEC rule 17Ad–18. Pursuant to Securities and Exchange Commission (SEC) Release No. 40587, these agreed-upon procedures will satisfy the SEC's regulatory requirements. This report is issued solely for these regulatory purposes.
>
> This agreed-upon procedures engagement was performed in accordance with standards established by the AICPA. The sufficiency of these procedures is solely the responsibility of the specified users of the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.
>
> We were not engaged to, and did not, perform an examination, the objective of which would be the expression of an opinion on the entity's assertions included in Form TA–Y2K referred to in the introductory paragraph of this report. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you. Our procedures also do not provide assurances that the entity is or will be year 2000 ready, that its year 2000 project plans will be successful in whole or in part, or that parties with which the entity does business will be year 2000 ready.
>
> This report is intended solely for the information and use of the Board of Directors and Management of ABC Transfer Agent, and the Securities and Exchange Commission, and is not intended to be and should not be used by anyone other than these specified parties.

D. Timing

Rule 17Ad–18 adopted by the Commission in July requires all non-bank transfer agents to file at least Part I of Form TA–Y2K on August 31, 1998 and April 30, 1999. Those non-bank transfer agents that do not qualify for an exemption under Rule 17Ad–13(d) also must complete Part II of Form TA–Y2K. The rule adopted today also requires non-bank transfer agents that do not qualify for an exemption under Rule 17Ad–13(d) to file the report prepared by the independent public accountant by April 30, 1999 reflecting the non-bank transfer agent's Year 2000 efforts as of March 15, 1999.

IV. Costs and Benefits

In the Proposing Release, we requested that commenters provide analysis and data supporting the costs and benefits of the proposed rule. In a second release soliciting additional comments on the appropriate scope of the independent public accountant's review, we solicited comments on the desirability and feasibility of an agreed-upon procedures approach. Several commenters indicated that our cost estimates with regard to the attestation report were too low. However, no commenters provided detailed information or data as to the costs of the proposed amendment.

As discussed more fully in part III. A. above, the Commission is adopting a requirement that certain non-bank transfer agents file with their second Form TA–Y2K a report prepared by an independent public accountant regarding the non-bank transfer agent's process for addressing Year 2000 Problems. In addition, we have determined that an independent public accountant's report prepared in accordance with SOP 98–8 will meet our regulatory objectives. It is important to note that the independent public accountant review adopted by us today is significantly less in scope than the proposed attestation review. As a result, the aggregate cost of complying with the rule should be less.

In the Proposing Release, the Commission estimated that on average a non-bank transfer agent would spend 30 hours working with its independent public accountant and that the cost of the attestation report could range from $5,000 to $200,000 with the average cost likely to be $25,000.[13] Without providing cost figures or analysis, commenters indicated that these estimated costs were too low. Consequently, Commission staff contacted a number of accounting firms and the AICPA to obtain detailed data on the costs to non-bank transfer agents of the independent public accountant's report. However, the parties contacted would not formally submit cost data.

Therefore, despite the reduced scope of the independent public accountant review adopted by us today and based on the comments received and the efforts of its staff, we are retaining our original cost estimates. We estimate that the total cost to the industry of non-bank transfer agents obtaining and filing the independent public accountant's reports is $5,400,000. This is based on the approximately 200 non-bank transfer agents who did not qualify for any exemption spending on average 20 hours at $100 per hour working with their accountants and spending on average $25,000 in additional accounting fees. It is important to note that this is a total cost estimate and not an annual cost. Non-exempt non-bank transfer agents will only be required to file one independent public accountant's report. We further note that by limiting the requirement to those non-bank transfer agents who pose the greatest risk to customers and the market if they are not Year 2000 compliant, we have not imposed this burden on small non-bank transfer agents. For more information on the amendments effect on small non-bank transfer agents see part VI below.

No commenters specifically addressed the potential benefits of the amendments, and the Commission has not been able to quantify those benefits.[14] We are aware of the significant effort the securities industry has put forth and the progress its has made but believe that significant progress still needs to be made by the securities industry to be ready for the Year 2000.

As previously discussed in paragraph III. A. above, we believe that a regulatory requirement to file an independent public accountant's report will improve the accuracy of the non-bank transfer agent's second Year 2000 report and should encourage the non-bank transfer agent to proceed expeditiously with its efforts to prepare for the Year 2000. We will use the reported information to obtain a more complete understanding of the industry's overall Year 2000 preparations and to identify institution-specific and industry-wide problems. Information in the reports will help us focus our Year 2000-related efforts for 1999 on particular industry segments or firms that appear to pose the greatest risk of non-compliance and will enable us to take a more active role in reducing the Year 2000 risk to the securities industry. In light of the seriousness and pervasiveness of the Y2K problem and in light of the systematic risk it presents to the securities industry and investors, we believe the significant benefits that will result from the independent public accountant's report justify the cost.

V. Efficiency, Competition, and Capital Formation

Section 23(a) of the Exchange Act[15] requires the Commission, in adopting rules under the Exchange Act, to consider the impact any such rule would have on competition and to not adopt a rule that would impose a burden on competition not necessary or appropriate in furthering the purposes of the Exchange Act. Furthermore, Section 3(f) of the Exchange Act[16] provides that whenever the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, we also shall consider in addition to the

[10] The AICPA's Auditing Standards Board is responsible for the promulgation of auditing and attestation standards and procedures to be observed by members of the AICPA in accordance with the Institute's Bylaws and Code of Professinnal Conduct.

[11] In reviewing SOP 98–8, the Commission considered whether it required the independent public accountant to perform procedures regarding the non-bank transfer agent's plan for addressing Year 2000 problems, efforts to repair affected computer systems, tests of completed repairs, and efforts to monitor the progress of the non-bank transfer agent's Year 2000 project

[12] An agreed-upon procedures engagement conducted in accordance with SOP 98–8 must also comply with SSAE No. 4, Agreed-Upon Procedures Engagements. See AICPA, Professional Standards, Vol. 1, AT Sec. 600. SSAE No. 4 states, among other things, that a report on the performance of agreed-upon procedures should restrict the use of the report to parties specifically identified as users within the report. However, SSAE No. 4 does not limit who may have access to the report. While the intended users of an independent public accountant's report prepared in accordance with SOP 98–8 are limited to those parties specifically identified in the report, SSAE No. 4 does not limit who may have access to the report.

[13] This estimate has been revised to 20 hours. The Commission believes that 20 hours more accurately reflects the amount of time a non-bank transfer agent must work with its independent public accountant to prepare a report regarding the non-bank transfer agent's process for preparing for the Year 2000.

[14] One commenter expressed concern that the cost of obtaining the independent public accountant's report would outweigh its benefits. However, the commenter did not provide any specific information or analysis.

[15] 15 U.S.C. 78w (a)(2).

[16] 15 U.S.C. 78c.

protection of investors whether the action will promote efficiency, competition, and capital formation.

We have considered the amendments to Rule 17Ad–18 in light of the standards cited in Section 3 and 23 (a)(2) of the Exchange Act. In addition, we sought comments on the proposed amendments' effect on competition, efficiency, and capital formation. No commenters specifically addressed the issue of whether the proposed accountant's review would affect competition, and no comments were received regarding the proposed amendment's effect on efficiency and capital formation.

In the Proposing Release, we stated that the proposed amendments should not unduly burden competition. We have drafted the rule amendments so as to minimize their impact on competition. We have, in adopting the independent public accountant's reporting requirement, differentiated between non-bank transfer agents based upon their size, type of business, and relative risk they pose to customers and the market if they are not Year 2000 compliant. Non-bank transfer agents that qualify for an exemption under existing Rule 17Ad–13(d) are not required to file the accountant's report.[17] We believe that the proposed rule does not impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act.

We believe that the rule should increase the efficiency and effectiveness of the our efforts to prepare for the Year 2000 by enabling the us to obtain a more complete understanding of the industry's overall Year 2000 preparations and to identify institution-specific and industry-wide problems. Information in the reports will also help us focus our Year 2000-related efforts for 1999 on particular industry segments or firms that appear to pose the greatest risk of non-compliance. In addition, we believe that the rule does not adversely affect capital formation. However, failure on the part of the Commission and the securities industry to adequately prepare for the Year 2000 could adversely affect capital formation at the beginning of the next millennium.

VI. Summary of Final Regulatory Flexibility Analysis

Pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that the amendment to Rule 17Ad–18 would not, if adopted, have an economic impact on small entities. The amendment requires certain non-bank transfer agents not eligible for an exemption under existing Rule 17Ad–13(d) to file with the Commission a report prepared by an independent public accountant regarding the non-bank transfer agent's process for preparing for the Year 2000. All small non-bank transfer agents qualify for an exemption pursuant to Rule 17Ad–13(d). Accordingly, the amendment would have no economic impact on small entities.

VII. Paperwork Reduction Act

The amendments to Rule 17Ad–18 adopted by the Commission today also amend the following collection of information within the meaning of the Paperwork Reduction Act of 1995 ("PRA"): [18] Reports to be Made by Certain Transfer Agents; Rule 17Ad–18—Year 2000 Problem.[19] Accordingly, the collection of information requirements regarding the accountant's report was submitted to OMB for review [and was approved].

The Proposing Release solicited comments on the proposed collections of information. No comments were received that specifically addressed the PRA submission. However, as discussed in sections III. and IV. above, we received suggestions that would improve the accountant's report requirement. Based upon these suggestions, the collection of information has been adjusted as described in section III. above and is in accordance with Section 3507 of the PRA.[20] These adjustments include reducing the scope of accountant's review to increase the consistency, accuracy and comparability of the information collected. In addition, the adjustments will reduce the time required to summarize, track, analyze, and report the information received.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the agency displays a valid OMB control number. Non-bank transfer agents are required to comply with the collection of information pursuant to Rule 17Ad–18, and the information is necessary to provide us with a better understanding of the security industry's readiness for the Year 2000. The information collected pursuant to Rule 17Ad–18 will be public.

As previously discussed, we have reduced the scope of the independent public accountant's review. However, after carefully considering the comments received, we are retaining its original estimate of the burden hours associated with obtaining the independent public accountant's report. Thus, we estimate that under the final rule, a non-bank transfer agent will on average spend 20 hours obtaining the independent public accountant's report. This is in addition to the two hours a non-bank transfer agent will spend preparing Part I of Form TA–Y2K and 35 hours they will spend preparing Part II of Form TA–Y2K.

The total annualized burden to the securities industry is estimated to be 12,480 hours. This is based on approximately 740 respondents spending on average two hours completing Part I of Form TA–Y2K; approximately 200 respondents spending on average 35 hours preparing Part II of Form TA–Y2K and an additional 20 hours working with their independent public accountant on the independent public accountant's report.

VI. Statutory Basis

Pursuant to the Securities Exchange Act of 1934 and particularly Sections 17(a) and 23(a) thereof, 15 U.S.C. 78o(c)(3) and 78w, the Commission is adopting § 240.17Ad–18 of Title 17 of the Code of Federal Regulations in the manner set forth below.

List of Subjects in 17 CFR Part 240 and 249

Reporting and recordkeeping requirements, Securities.

Text of Final Rule

In accordance with the foregoing, Title 17, chapter II, part 240 of the Code of Federal Regulations is amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*(d), 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. Amending § 240.17Ad—18 by adding paragraph (f) to read as follows:

§ 240.17Ad–18 Reports to be made by certain non-bank transfer agents.

* * * * *

(f) *Nature and form of reports.* No later than April 30, 1999, every non-bank transfer agent required to file Part II of Form TA–Y2K (§ 249.619 of this chapter) pursuant to paragraph (b)(8) of this section shall file with its Form TA–Y2K an original and two copies of a report prepared by an independent public accountant regarding the non-bank transfer agent's process, as of March 15, 1999, for addressing Year 2000 Problems with the Commission's principal office in Washington, D.C. The independent public accountant's report shall be prepared in accordance with standards that have been reviewed by the Commission and that have been issued by a national organization that is responsible for promulgating authoritative accounting and auditing standards.

* * * * *

Dated: October 22, 1998.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[Note: This Certification to the preamble will not appear in the Code of Federal Regulations]

Regulatory Flexibility Act Certification

I, Arthur Levitt, Jr., Chairman of the U.S. Securities and Exchange Commission ("Commission"), hereby certify, pursuant to 5 U.S.C. § 605(b), that the amendment to Rule 17Ad–18 ("Rule") under the Securities Exchange Act of 1934, ("Exchange Act") [21] set forth in Securities Exchange Act Release No. 34–40587, will not, if promulgated, have a significant economic impact on a substantial number of small entities. The amendment requires certain non-bank transfer agents not eligible for an exemption under existing Rule 17Ad–13(d) [22] to file with the Commission a report prepared by an independent public accountant regarding the non-bank transfer agent's process for preparing for the Year 2000. All small entities qualify for an exemption pursuant to Rule 17Ad–13(d). Accordingly, the amendment will not, if promulgated, have a significant economic impact on a substantial number of small entities.

Dated: October 22, 1998.

Arthur Levitt, Jr.,

Chairman.

[FR Doc. 98–29116 Filed 10–30–98; 8:45 am]

BILLING CODE 8010–01–U

[17] Generally, the type of business conducted by a non-bank transfer agent that does not qualify for an exemption poses a greater risk to customers and the markets if the non-bank transfer agent is not Year 2000 compliant.

[18] 44 U.S.C. 3501 *et seq.*

[19] Office of Management and Budget ("OMB") control number 3235–0512.

[20] 44 U.S.C. 3507.

[21] 15 U.S.C. 78a *et seq.*

[22] 17 CFR 240.17Ad–13(d).

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD 05–98–038]

RIN 2115–AA97

Safety Zone: Atlantic Intracoastal Waterway, Vicinity of Marine Corps Base, Camp Lejeune, NC

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a safety zone in the Atlantic Intracoastal Waterway (AICW) adjacent to Marine Corps Base (MCB) Camp Lejeune, North Carolina, which encompasses the navigable waters of the AICW and connecting waters between Cedar Point and Bear Creek. The safety zone will improve vessel safety and permit maximum safe nonmilitary use of the AICW during times of military training involving the firing of live ammunition.

DATES: This final rule is effective on December 2, 1998.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the office of the Commanding Officer, U.S. Coast Guard Marine Safety Office Wilmington, 272 North Front Street, Suite 500, Wilmington, NC 28401–3907, between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays. The telephone number is (910) 815–4895.

FOR FURTHER INFORMATION CONTACT: LT D.C. Brown, USCG, Project Officer, c/o Commanding Officer, U.S. Coast Guard Marine Safety Office Wilmington, 272 North Front Street, Wilmington, North Carolina 28401–3907, phone: 1–(800) 325–4956 or (910) 815–4895 ext. 108.

SUPPLEMENTARY INFORMATION:

Regulatory History

On June 16, 1998, the Coast Guard Published a Notice of Proposed Rulemaking (NPRM) entitled "Safety Zone: Atlantic Intracoastal Waterway, Vicinity of Marine Corps Base Camp Lejeune, NC" in the **Federal Register** (63 FR 32781). The Coast Guard did not receive any comments on the proposed rulemaking. No public hearing was requested and none was held.

Background and Purpose

Military personnel fire live ammunition on training ranges at Marine Corps Base (MCB) Camp Lejeune. During these live firing exercises, projectiles sometimes travel across the Atlantic Intracoastal Waterway (AICW) and into the Atlantic Ocean. Firing live ammunition across the AICW creates a hazardous condition to vessels that may be near the impact area of the projectiles. Army Corps of Engineers (ACOE) regulations in 33 CFR 334.440 designate certain coastal and connecting waters in the vicinity of Camp Lejeune as either danger zones or restricted areas.

The ACOE regulations at 33 CFR 334.440(e)(2)(ii) prohibit vessels from entering the waters between the south bank of Bear Creek and the north bank of the north connecting channel between the AICW and Browns Inlet at all times. 33 CFR 334.440(e)(2)(iii) prohibits vessels from passing through the north connecting channel and the south connecting channel in the area between the AICW and Browns Inlet to the Atlantic Ocean during times of military use, including live firing and bombing. These ACOE regulations do not preclude vessels from transiting the AICW. The ACOE regulation at 33 CFR 334.440(e)(2)(i) permits vessels to proceed through the area of the AICW between Bear Creek and the Onslow Beach Bridge without stopping except in cases of extreme emergencies.

Notwithstanding the ACOE regulations in 33 CFR 334.440(e)(2)(i), however, the Coast Guard may, in the interest of public safety, restrict vessel movement through the AICW by establishing a safety zone. The Coast Guard's former method of controlling vessel traffic through the AICW during live firing exercises was by establishing temporary safety zones that restrict access to portions of the AICW during live firing exercises. This rule establishes a permanent safety zone that will enhance safety for mariners and still accommodate necessary military training. The permanent regulation will also more adequately notify mariners about the existence and location of the safety zone, which has been established in the past by frequent temporary rules of short duration.

The Marine Corps' firing range training schedule is not extensive. Generally, mariners will not experience extended periods (over 12 consecutive hours) of activity on the ranges. Firing ranges are used an average of two days every month. Encountering more than two consecutive days of range activity would be unusual. Generally, MCB Camp Lejeune provides the Coast Guard 2 or 3 weeks notice of their intent to use the range.

This regulation was developed by the Coast Guard based on discussions with the Marine Corps, local towboat operators, fishermen, and recreational

boaters. Based on those discussions, the Coast Guard believes this final rule is the best method of enhancing public safety, allowing maximum access through the AICW, and facilitating military training aboard the Marine Corps Base.

Discussion of Comments and Changes

The Coast Guard received no comments on the proposed rulemaking. Therefore, the final rule is being implemented without change.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The Coast Guard does not expect extensive activation of this safety zone. Furthermore, general permission to enter the non-hazardous parts of the safety zone may be granted, and the rest of the safety zone will be open to traffic during specified hours. Therefore, the Coast Guard expects the impact on routine navigation to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard must consider whether this final rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this final rule to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule contains no information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order 12612 and has determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under figure 2–1, paragraph (34)(g) of COMDTINST M16475.1C, this final rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A new section 165.514 is added to read as follows:

§ 165.514 Safety Zone: Atlantic Intracoastal Waterway and Connecting Waters, Vicinity of Marine Corps Base Camp Lejeune, North Carolina.

(a) *Location.* The following area is a safety zone: All waters of the Atlantic Intracoastal Waterway (AICW) and connecting waters, from Bogue Sound—New River Light 58 (LLNR 39210) at approximate position 34°37′57″ North, 077°12′18″ West, and continuing in the AICW southwest to Bogue Sound—New River Daybeacon 70 (LLNR 39290) at approximate position 34°33′07″ North, 077°20′30″ West. All coordinates reference Datum: NAD 1983.

(b) Notwithstanding the provisions of 33 CFR 334.440(e)(2)(i), no vessel may enter the safety zone described in paragraph (a) of this section while weapons firing exercises are in progress, except as provided in paragraph (c) of this section or unless permitted by the Captain of the Port (COTP) Wilmington.

(1) Red warning flags or red warning lights will be displayed on towers located at both ends of the safety zone (Bear Creek and Cedar Point) while firing exercises are in progress. The flags or lights will be displayed by 8 a.m. on days where firing exercises are scheduled, and will be removed at the end of the firing exercise.

(2) A Coast Guard or U.S. Navy vessel will patrol each end of the safety zone to ensure the public is aware that firing exercises are in progress and that the firing area is clear of vessel traffic before weapons are fired.

(c)(1) The COTP Wilmington will announce the specific times and locations of firing exercises by Broadcast Notice to Mariners and Local Notice to Mariners. Normally, weapons firing for each firing exercise is limited to a two nautical mile portion of the safety zone. The COTP may issue general permission to transit all or specified parts of the safety zone outside of the actual firing area or if firing is temporarily stopped. This general permission will be announced in a Local Notice to Mariners and Broadcast Notice to Mariners.

(2) Weapons firing will be suspended and vessels permitted to transit the specified two nautical mile firing area for a one-hour period beginning at the start of each odd-numbered hour local time (e.g., 9 a.m.; 1 p.m.). A vessel may not enter the specified firing area unless it will be able to complete its transit of the firing area before firing exercises are scheduled to re-start at the beginning of the next even-numbered hour.

(d) U.S. Navy safety vessels may be contacted on VHF marine band radio channels 13 (156.65 Mhz) and 16 (156.8 Mhz). The Captain of the Port may be contacted at the Marine Safety Office, Wilmington, NC by telephone at 1–(800) 325–4956 or (910) 815–4895.

Dated: October 19, 1998.

Roger T. Rufe, Jr.

Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 98–29243 Filed 10–30–98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 122–4078c; FRL–6182–4]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Interim Final Determination That Pennsylvania Continues To Correct the Deficiencies of its Enhanced I/M SIP Revision; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim Final Rule; extension of the comment period.

SUMMARY: In this document, EPA is reopening the comment period for a document published on September 16, 1998 (63 FR 49434). In the September 16 document, EPA made an interim final determination that the Commonwealth of Pennsylvania has corrected the deficiency under the Clean Air Act for failure to have an approved enhanced I/M SIP. EPA's September 16 interim final rule deferred the application of Clean Air Act sanctions which would otherwise have been implemented on August 29, 1998. Although that action was effective upon its publication, EPA took comments from the public until October 16, 1998. At the request of a commenter, EPA is re-opening the comment period through November 16, 1998. All comments received on or before November 16, 1998 will be entered into the public record and considered by EPA before taking final action on the interim final rule.

DATES: Comments must be received on or before November 16, 1998.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AP20, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Brian Rehn at (215) 814–2176, or Jill Webster at (215) 814–2033; at the EPA address listed above. Information may also be requested by e-mail at webster.jill@epa.gov. However, comments must be submitted in writing to the EPA address listed above.

Dated: October 22, 1998.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 98–29306 Filed 10–30–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CT051–7209a; A–1–FRL–6182–2]

Approval and Promulgation of Air Quality Implementation Plans and Designations of Areas for Air Quality Planning Purposes; State of Connecticut; Approval of Maintenance Plan, Carbon Monoxide Redesignation Plan and Emissions Inventory for the Connecticut Portion of the New York—N. New Jersey—Long Island Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a request by the Connecticut Department of Environmental Protection (CTDEP) on May 29, 1998 to redesignate the Connecticut portion of the New York—N. New Jersey—Long Island carbon monoxide nonattainment area (hereinafter the southwest Connecticut nonattainment area) from nonattainment to attainment for carbon monoxide (CO). EPA is approving this request which establishes the area as attainment for carbon monoxide and requires the State to implement their 10 year maintenance plan that will insure that the area remains in attainment. Under the Clean Air Act (CAA) as amended in 1990, designations can be revised if sufficient air quality data is available to warrant such revisions. EPA is approving the Connecticut request because it meets the redesignation requirements set forth in the CAA. In this action, EPA is also approving the 1993 periodic emission inventory for CO emissions.

DATES: This action is effective January 4, 1999, unless EPA receives adverse or critical comments by December 2, 1998. Should the Agency receive such comments, it will publish a timely withdrawal informing the public that this rule will not take effect.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203–2211. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA and the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Jeffrey S. Butensky, Environmental Planner, Air Quality Planning Unit of the Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203–2211, (617) 565–3583 or at butensky.jeff@epamail.epa.gov

SUPPLEMENTARY INFORMATION: On May 29, 1998, the State of Connecticut submitted a formal redesignation request consisting of air quality data showing that the southwest Connecticut area is attaining the standard and a maintenance plan with all applicable requirements. In addition, in December, 1996, the State of Connecticut submitted a 1993 periodic carbon monoxide inventory which is also being approved in today's action.

I. Summary of SIP Revision

A. Background

On March 31, 1978, (See 43 FR 8962), EPA published a rulemaking which set forth the attainment status for all States in relation to the National Ambient Air Quality Standards (NAAQS). The Connecticut portion of the New York—N. New Jersey-Long Island area was designated as nonattainment for carbon monoxide (CO) through this notice. This includes the municipalities in southwest Connecticut of Bethel, Bridgeport, Bridgewater, Brookfield, Danbury, Darien, Easton, Fairfield, Greenwich, Monroe, New Canaan, New Fairfield, New Milford, Newtown, Norwalk, Redding, Ridgefield, Sherman, Stamford, Stratford, Trumbull, Weston, Westport, and Wilton.

In a letter dated March 14, 1991 from the Connecticut Department of Environmental Protection to the EPA Administrator, the State recommended that the area be classified as moderate nonattainment for CO. The moderate classification was based on monitoring data measured outside the Connecticut portion of the nonattainment area. Therefore, this area is subject to the requirements of section 187 of the Clean Air Act which sets forth requirements for CO nonattainment areas. The 1990 CAA required such areas to achieve the standard by December 31, 1995 as per CAA section 186 (a)(1). Two one year extensions were granted pursuant to section 186 (a)(4), and the entire New York—N. New Jersey—Long Island Area has been attaining the NAAQS since 1997.

The southwest Connecticut area makes up a portion of the New York—N. New Jersey-Long Island CO nonattainment area. However, EPA has determined that Connecticut can

redesignate to attainment while the remaining two states remain designated as nonattainment. Specifically, the counties in New York and New Jersey will remain designated as nonattainment due to shortfalls in their respective state implementation plans (see further discussion below). However, since Connecticut has fulfilled all Clean Air Act requirements required to redesignate, the Connecticut portion of the tri-state nonattainment area can redesignate to attainment. Therefore, in an effort to comply with the CAA and to ensure continued attainment of the NAAQS, on May 29, 1998, the State of Connecticut submitted a CO redesignation request and a maintenance plan for the southwest Connecticut area. Connecticut submitted evidence that a public hearing was held on April 21, 1998.

B. Evaluation Criteria

Rationale for Redesignating the Connecticut Portion of the New York—N. New Jersey—Long Island Area

EPA has concluded that the southwest Connecticut area can redesignate to attainment even though the New York and New Jersey portions of the nonattainment area will not be redesignating at this time. The entire tri-state area has the required two years of clean air quality data needed to allow an area to redesignate. Both New York and New Jersey have not, however, fulfilled all the Clean Air Act requirements for a CO State Implementation Plan (SIP). Therefore, New York and New Jersey cannot redesignate their CO nonattainment areas until all requirements are fulfilled. Connecticut has implemented all required control measures, including an enhanced inspection and maintenance program. EPA believes it is not reasonable in this case to prevent Connecticut from redesignating because of the failure of the other two states to fulfill their SIP obligations. To do so would have the effect of penalizing the one state of the three that has most diligently met its obligations under the Act.

As a safeguard to assure that redesignating in Connecticut will not eliminate the tracking of multi-state impacts in this nonattainment area, Connecticut has agreed in this redesignation request to provide a broad, early trigger for contingency measures. Connecticut has committed to treating an exceedance of the CO standard in any of the three States as a trigger for contingency measures in Connecticut, rather than a violation in the area (further discussed in the continency measures section of this notice.) An exceedance in any part of the nonattainment area will trigger Connecticut's commitment to assess its impact on the area of exceedance and to take an appropriate response, if any, to address the exceedance.

Current data suggest that Connecticut's contribution to CO exceedances in New York and New Jersey is not substantial. To support the fact that Connecticut has a minimal impact on CO concentrations in the other two states, EPA requested that Connecticut provide data on vehicle miles traveled (VMT) for Connecticut vehicles entering New York for work purposes. Approximately 1.1 percent of the total work trips entering the seven county New York CO nonattainment area originate from Connecticut (see the Technical Support Document for more information). Statistics on work trips to New Jersey that originate in Connecticut are not available at this time but would likely show a similar trend or even less contribution than in New York. Therefore, EPA concludes that vehicle trips originating in Connecticut make only a minor contribution to CO emissions in the New York and New Jersey portions of this nonattainment area.

Section 107(d)(3)(A) of the Act provides for EPA to redesignate portions of nonattainment areas, including "any area or portion of an area within the State *or interstate area*." Given the discretion provided under the Act to act on only a portion of an interstate nonattainment area, EPA is prepared to allow Connecticut to redesignate to attainment separately from New York and New Jersey. Not to do so would penalize Connecticut for other states' failure to meet their SIP obligations. Though the entire nonattainment area now has clean air data that support redesignation, Connecticut has committed to assessing its impact on any future CO exceedances anywhere in the area if air quality should deteriorate in the future. And finally, Connecticut's contribution to VMT and CO emissions in the other states is not substantial.

Requirements for Redesignation

Section 107(d)(3)(E) of the 1990 Clean Air Act Amendments provides five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment.

1. The area must have attained the applicable NAAQS;

2. The area must have a fully approved SIP under section 110(k) of CAA;

3. The air quality improvement must be permanent and enforceable;

4. The area must have a fully approved maintenance plan pursuant to section 175A of the CAA;

5. The area must meet all applicable requirements under section 110 and Part D of the CAA.

C. Review of State Submittal

The Connecticut redesignation request for the southwest Connecticut area meets the five requirements of section 107(d)(3)(E) noted above. The following is a brief description of how the State has fulfilled each of these requirements.

1. Attainment of the CO NAAQS

Connecticut has quality-assured CO ambient air monitoring data which shows that the southwest Connecticut area has met the CO NAAQS. In addition, both New York and New Jersey have met the CO NAAQS but cannot redesignate due to shortfalls in their State implementation plans (as previously discussed). The request by Connecticut to redesignate is based on an analysis of quality-assured monitoring data which is relevant to the maintenance plan and to the redesignation request. To attain the CO NAAQS, an area must have complete quality-assured data showing no more than one exceedance of the standard over at least two consecutive years. The ambient air CO monitoring data for calendar year 1995 through calendar year 1996 relied upon by Connecticut in its redesignation request shows no violations of the CO NAAQS, and the area has had no exceedances since then. Therefore, the area has complete quality assured data showing no more than one exceedance of the standard per year over at least two consecutive years and the area has met the first statutory criterion of attainment of the CO NAAQS (40 CFR 50.9 and appendix C). Connecticut also committed to continue to monitor CO in the cities of Stamford and Bridgeport.

In addition, the State has used the MOBILE5A emission model and the CAL3QHC (version 2.0) dispersion model, and the modeling results show no violations of the CO NAAQS in the year 2010. No violations are expected throughout the maintenance period (through 2010).

2. Fully Approved SIP

Connecticut's CO SIP is fully approved by EPA as meeting all the requirements of Section 110 of the Act, including the requirement in Section 110(a)(2)(I) to meet all the applicable requirements of Part D (relating to nonattainment), which were due prior to the date of Connecticut's

redesignation request. The Southwest Connecticut CO SIP was fully approved by EPA on July 25, 1996 as meeting the CO SIP requirements in effect under the CAA. The 1990 CAA required that CO nonattainment areas achieve specific new requirements depending on the severity of the nonattainment classification. The requirements for the southwest Connecticut area include the development of an attainment demonstration, vehicle miles traveled forecasts, data providing proof that the standard has been achieved, the development of continency measures and a maintenance plan, preparation of a 1990 emission inventory with periodic updates, and adherence to the conformity rules. These requirements are discussed in greater detail below.

New Source Review: Consistent with the October 14, 1994 EPA guidance from Mary D. Nichols entitled "Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment," EPA is not requiring as a prerequisite to redesignation to attainment EPA's full approval of a part D NSR program by Connecticut. Under this guidance, nonattainment areas may be redesignated to attainment notwithstanding the lack of a fully-approved part D NSR program, so long as the program is not relied upon for maintenance. Connecticut has not relied on a NSR program for CO sources to maintain attainment. Although EPA is not treating a part D NSR program as a prerequisite for redesignation, it should be noted that EPA is in the process of taking final action on the State's revised NSR regulation. Since the southwest Connecticut area is being redesignated to attainment by this action, Connecticut's Prevention of Significant Deterioration (PSD) requirements will be applicable to new or modified sources in the southwest Connecticut area.

Emission Inventory: Under the Clean Air Act as amended, States have the responsibility to inventory emissions contributing to NAAQS nonattainment, to track these emissions over time, and to ensure that control strategies are being implemented that reduce emissions and move areas towards attainment. The inventory is designed to address actual CO emissions for the area during the peak CO season.

Section 187(a)(1) of the CAA requires that nonattainment plan provisions include a comprehensive, accurate, and current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area, and this was accomplished. Connecticut included the requisite inventory in the CO SIP, and the base year for the inventory was 1990 and used a three month CO season of November 1989 through January 1990. Stationary point sources, stationary area sources, on-road mobile sources, and non-road mobile sources of CO were included in the inventory. Available guidance for preparing emission inventories is provided in the General Preamble (57 FR 13498, April 16, 1992). In this action, EPA is approving the 1990 emissions inventory for the Connecticut portion of the New York—N. New Jersey—Long Island Area.

Connecticut submitted its 1993 periodic inventory to EPA in December, 1996, and this included estimates for CO emissions for all three previously designated CO nonattainment areas (i.e., the Hartford/ New Britain/Middletown area, the New Haven/Meriden Waterbury area, and the southwest Connecticut area). EPA is approving the 1993 CO periodic emission inventory with this redesignation request based on a technical review of the inventory. The following list presents a summary of the 1990 and 1993 CO peak season daily emissions estimates in tons per winter day (tpd) by source category for the southwest Connecticut area.

	Area	Non road	Mobile	Point	Total
1990 CO Emissions (tpd)	155.18	71.62	413.54	13.11	653.45
1993 CO Emissions (tpd)	188.93	73.54	277.29	2.64	542.40

Oxygenated fuel: On July 25, 1996, EPA approved in the **Federal Register** a SIP revision satisfying the requirements of section 211(m) of the CAA. This action approved Connecticut's oxygenated gasoline program as it applies to the southwestern control area. At this time, EPA determined that the length of the period prone to high ambient concentrations of CO for the New York-New Jersey-Connecticut CMSA to be from November 1 through the last day of February in this area. The scope of the Connecticut oxygenated gasoline program corresponds with this required control period, thereby satisfying that element of the section 211(m) requirements.

The oxygenated gasoline program is one in which all oxygenated gasoline must contain a minimum oxygen content of 2.7 percent by weight of oxygen. Under Section 211(m)(4) of the CAA, EPA also issued requirements for the labeling of gasoline pumps used to dispense oxygenated gasoline, as well as guidelines on the establishment of an appropriate control period. These labeling requirements and control period guidelines may be found at 57 FR 47849, dated October 20, 1992.

Connecticut's oxygenated gasoline regulation requires the minimum 2.7 percent oxygen content in gasoline sold in the southwestern control area. The regulation also contains the necessary labeling regulations, enforcement procedures, and oxygenate test methods.

Conformity: Under section 176(c) of the CAA, states are required to submit revisions to their SIPs that include criteria and procedures to ensure that Federal actions conform to the air quality planning goals in the applicable SIPs. The requirement to determine conformity applies to transportation plans, programs, and projects developed, funded or approved under Title 23 U.S.C. or the Federal Transit Act ("transportation conformity"), as well as all other federal actions ("general conformity"). Congress provided for the State revisions to be submitted one year after the date of promulgation of final EPA conformity regulations. EPA promulgated revised final transportation conformity regulations on August 15, 1997 (62 FR 43780) and final general conformity regulations on November 30, 1993 (58 FR 63214).

These conformity rules require that the States adopt both transportation and general conformity provisions in the SIP for areas designated nonattainment or subject to a maintenance plan approved under CAA section 175A. Pursuant to 40 CFR 51.390 of the transportation conformity rule, the State of Connecticut is required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the federal rule by August 15, 1998. Similarly, pursuant to 40 CFR 51.851 of the general conformity rule, Connecticut was required to submit a SIP revision containing general conformity criteria and procedures consistent with those established in the federal rule by December 1, 1994. Connecticut has not yet submitted either of these conformity SIP revisions.

Although Connecticut has not yet adopted and submitted conformity SIP revisions, EPA believes it is reasonable to interpret the conformity requirements as not being applicable requirements for purposes of evaluating the redesignation request under section 107(d). The rationale for this is based on two factors. First, the requirement to submit SIP revisions to comply with the conformity provisions of the Act applies to maintenance areas and thereby continues to apply after redesignation to attainment. Therefore, Connecticut remains obligated to adopt the transportation and general conformity rules even after redesignation. While redesignation of an area to attainment enables the area to avoid further compliance with most requirements of section 110 and part D, since those requirements are linked to the nonattainment status of an area, the conformity requirements apply to both nonattainment and maintenance areas.

Second, EPA's federal conformity rules require the performance of conformity analyses in the absence of state-adopted rules. Therefore, a delay in adopting state rules does not relieve an area from the obligation to implement conformity requirements. Areas are subject to the conformity requirements regardless of whether they are redesignated to attainment and must implement conformity under federal rules if state rules are not yet adopted, therefore, it is reasonable to view these requirements as not being applicable requirements for purposes of evaluating a redesignation request. Furthermore, Connecticut has continually fulfilled all of the requirements of the federal transportation conformity and general conformity rules, so it is not necessary that the State have either their transportation or general conformity rules approved in the SIP prior to redesignation to insure that Connecticut meets the substance of the conformity requirements. It should be noted that approval of Connecticut's redesignation request does not obviate the need for Connecticut to submit the required conformity SIPs to EPA, and EPA will continue to work with Connecticut to assure that State rules are promulgated.

On April 1, 1996, EPA modified its national policy regarding the interpretation of the provisions of section 107(d)(3)(E) concerning the applicable requirements for purposes of reviewing a CO redesignation request (61 FR 2918, January 30, 1996). Under this new policy, for the reasons discussed, EPA believes that the CO redesignation request may be approved notwithstanding the lack of submitted and approved state transportation and general conformity rules.

For transportation conformity purposes, the 2010 on-road emission totals outlined in the chart later in this notice is designated as the emissions budget for the southwest Connecticut CO nonattainment/ maintenance area.

3. Improvement in Air Quality Due to Permanent and Enforceable Measures

EPA approved Connecticut's CO SIP on July 25, 1996. Emission reductions achieved through the implementation of control measures contained in that SIP are enforceable. These measures were: a basic inspection and maintenance program, reformulated gasoline, the federal motor vehicle control program, and the tier 1 emissions standards for new cars and trucks (began in the 1994 model year). The air quality improvements are due to the permanent and enforceable measures contained in the CO SIP. EPA finds that the combination of certain existing EPA-approved SIP and federal measures contribute to the permanence and enforceability of reduction in ambient CO levels that have allowed the area to attain the NAAQS.

4. Fully Approved Maintenance Plan Under Section 175A

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation adequate to assure prompt correction of any air quality problems. The contingency plan includes the investigation of traffic conditions that caused any exceedance of the nine parts per million CO NAAQS threshold, the implementation of the enhanced inspection and maintenance program (which began implementation on January 1, 1998), and the low emission vehicle program (LEV). Although most of these programs are being implemented as measures to achieve the NAAQS for ground level ozone, they are not required in carbon monoxide nonattainment areas under the Clean Air Act and can therefore be used as contingency measures. In this notice, EPA is approving the State of Connecticut's maintenance plan for the southwest Connecticut area because EPA finds that Connecticut's submittal meets the requirements of section 175A. In addition, although vehicle miles traveled (VMT) may increase over the maintenance period, the decrease in emissions per vehicle will more than offset growth in VMT.

A. Attainment Emission Inventory

As previously noted, the State of Connecticut submitted a comprehensive inventory of CO emissions from the southwest Connecticut area. The inventory includes 1997 emissions from area, stationary, and mobile sources using 1993 as the base year for calculations. In addition, a conformity budget of 205 tons/day for on-road mobile sources is being established to ensure that total projected CO emission during the maintenance period do not exceed the total attainment year inventory. This budget supersedes all previous budgets and should be used for all future transportation conformity determination made by the regional planning agencies.

The 1997 inventory is considered representative of attainment conditions because the NAAQS was not violated during 1997 in the nonattainment area and the inventory was prepared in accordance with EPA guidance. Connecticut established CO emissions for the attainment year, 1997, as well as for the year 2010. The southwest Connecticut portion of the tri-state CO nonattainment area has measured compliance with the CO NAAQS since 1985. However, Connecticut is establishing the 1997 inventory as the attainment inventory because 1997 was the first year that the entire tri-state area compiled two years of violation free monitoring data necessary to redesignate to attainment. These estimates were derived from the State's 1993 emissions inventory. The State submittal contains the following data:

SOUTHWEST CONNECTICUT NONATTAINMENT AREA CO EMISSIONS INVENTORY SUMMARY

[Tons per day]

Year	Area	Non road	Mobile	Point	Total
1993	188.9	73.5	277.3	2.7	542.3
1997	189.4	73.7	216.1	2.7	481.9
2010	196.3	76.4	205.1	2.7	480.5

To fulfill the requirements of a redesignation request, a maintenance plan must extend out 10 years or more from the date of this notice. Therefore, this information had to be provided through the year 2010. This has fulfilled the 10 year requirement for maintenance plans.

B. Demonstration of Maintenance-Projected Inventories

Total CO emissions were projected from the 1993 base year out to 2010 as shown in the table in the preceding section. Connecticut projects that total CO emissions in 2010 will be less than CO emissions in the 1997 attainment year. These projected inventories were prepared in accordance with EPA guidance and included the benefits of federal motor vehicle controls, reformulated gasoline, and basic inspection and maintenance. These estimates are extremely conservative because they do not include oxygenated gasoline, enhanced inspection and maintenance, or the low emission vehicle program. Therefore, it is anticipated that the area will maintain the CO standard.

C. Verification of Continued Attainment

Continued attainment of the CO NAAQS in the southwest Connecticut area depends, in part, on the State's efforts toward tracking indicators of continued attainment during the maintenance period, and the State will submit periodic inventories of CO emissions. In addition, 8 years from today the state is required to submit another 10 year maintenance plan covering the period from 2010 through 2020.

D. Contingency Plan

The level of CO emissions in the southwest Connecticut area will largely determine its ability to stay in compliance with the CO NAAQS in the future. Despite the State's best efforts to demonstrate continued compliance with the NAAQS, the ambient air pollutant concentrations may exceed or violate the NAAQS, although highly unlikely. Also, section 175A(d) of the CAA requires that the contingency provisions include a requirement that the State implement all measures contained in the SIP prior to redesignation. Therefore, Connecticut has provided contingency measures in the event of a future CO air quality problem.

Connecticut has decided to implement contingency measures when an exceedance occurs even though they are only required if a violation occurs, therefore making the continency plan more stringent than is required. An exceedance occurs when a monitor measures CO levels above nine parts per million as a mean concentration over an eight hour period, and the NAAQS is violated if there are two or more exceedances in a given year. The State believes that an early trigger will allow Connecticut to take early measures in response to the emission problem to avoid another exceedance and/or persistence of a problem that could lead to a NAAQS violation.

Connecticut has developed a three-stage contingency plan for the southwest Connecticut area. The first stage of the plan is to investigate the local traffic conditions where the exceedance occurred. The second stage is the implementation of the enhanced inspection and maintenance program as indicated earlier in this notice. The third is the low emission vehicle program, also as indicated earlier. In order to be adequate, the maintenance plan should include at least one contingency measure that will go into effect with a triggering event. Connecticut is relying largely on these three contingency measures, the later two of which will go into effect regardless of any triggering event, thereby fulfilling this requirement.

E. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the CAA, the State has agreed to submit a revised maintenance SIP eight years after the area is redesignated to attainment. Such revised SIP will provide for maintenance for an additional ten years.

5. Meeting Applicable Requirements of Section 110 and Part D

In section C.2. of this notice, EPA has set forth the basis for its conclusion that Connecticut has a fully approved SIP which meets the applicable requirements of Section 110 and Part D of the CAA.

EPA is publishing this redesignation and approving the emissions budget for the southwest Connecticut area without prior proposal because the Agency views this as noncontroversial and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal should relevant adverse comments be filed. This action will be effective January 4, 1999, without further notice unless the Agency receives relevant adverse comments by December 2, 1998.

If the EPA receives such comments, then EPA will publish a timely withdrawal of the final rule informing the public that it will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposal. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this redesignation will be effective on January 4, 1999, and no further action will be taken on the proposal.

II. Final Action

EPA is approving the southwest Connecticut CO redesignation because the State has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation and EPA is approving the maintenance plan because it meets the requirements set forth in section 175A of the CAA.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory

action from Executive Order 12866 entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Sections 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 4, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such an action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).) EPA encourages interested parties to comment in response to the proposed redesignation rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Ozone.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: October 21, 1998.

John P. DeVillars,

Regional Administrator, Region I.

40 CFR Parts 52 and 81 are amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401—7671q.

Subpart H—Connecticut

2. Section 52.374 is amended by revising the table to read as follows:

§ 52.374 Attainment dates for national standards.

* * * * *

Air quality control region	Pollutant					
	SO_2		PM_{10}	NO_2	CO	O_3
	Primary	Secondary				
AQCR 41: Eastern Connecticut Intrastate (See 40 CFR 81.183)	(a)	(a)	(a)	[1] (a)	(a)	(d)
AQCR 42: Hartford-New Haven-Springfield Interstate Area (See 40 CFR 81.26).						
All portions except City of New Haven	(a)	(a)	(a)	(a)	(a)	(d)
City of New Haven	(a)	(a)	(c)	(a)	(a)	(d)
AQCR 43: New Jersey-New York-Connecticut Interstate Area (See 40 CFR 81.13)	(a)	(a)	(a)	(a)	(a)	(e)
AQCR 44: Northwestern Connecticut Intrastate (See 40 CFR 81.184)	(a)	(a)	(a)	(a)	(a)	(d)

a. Air quality levels presently below primary standards or area is unclassifiable.
b. Air quality levels presently below secondary standards or area is unclassifiable.
c. December 31, 1996 (two 1-year extensions granted).
d. November 15, 1999.
e. November 15, 2007.

3. Section 52.376 is amended by revising paragraphs (a) and (d) and by adding paragraphs (e) and (f) to read as follows:

§ 52.376 Control strategy: Carbon Monoxide.

(a) Approval—On January 12, 1993, the Connecticut Department of Environmental Protection submitted a revision to the carbon monoxide State Implementation Plan for the 1990 base year emission inventory. The inventory was submitted by the State of Connecticut to satisfy Federal requirements under sections 172(c)(3) and 187(a)(1) of the Clean Air Act as amended in 1990, as a revision to the carbon monoxide State Implementation Plan for the Hartford/New Britain/Middletown carbon monoxide nonattainment area, the New Haven/Meriden/Waterbury carbon monoxide nonattainment area, and the Connecticut Portion of the New York—N. New Jersey—Long Island carbon monoxide nonattainment area.

* * * * * *

(d) Approval—On January 17, 1997, the Connecticut Department of Environmental Protection submitted a request to redesignate the New Haven/Meriden/Waterbury carbon monoxide nonattainment area to attainment for carbon monoxide. As part of the redesignation request, the State submitted a maintenance plan as required by 175A of the Clean Air Act, as amended in 1990. Elements of the section 175A maintenance plan include a base year emission inventory for carbon monoxide, a demonstration of maintenance of the carbon monoxide NAAQS with projected emission inventories to the year 2008 for carbon monoxide, a plan to verify continued attainment, a contingency plan, and an obligation to submit a subsequent maintenance plan revision in 8 years as required by the Clean Air Act. If the area records a violation of the carbon monoxide NAAQS (which must be confirmed by the State), Connecticut will implement one or more appropriate contingency measure(s) which are contained in the contingency plan. The menu of contingency measure includes reformulated gasoline and the enhanced motor vehicle inspection and maintenance program. The redesignation request establishes a motor vehicle emissions budget of 229 tons per day for carbon monoxide to be used in determining transportation conformity for the New Haven/Meriden/Waterbury area. The redesignation request and maintenance plan meet the redesignation requirements in sections 107(d)(3)(E) and 175A of the Act as amended in 1990, respectively.

(e) Approval—In December, 1996, the Connecticut Department of Environmental Protection submitted a revision to the carbon monoxide State Implementation Plan for the 1993 periodic emission inventory. The inventory was submitted by the State of Connecticut to satisfy Federal requirements under section 187(a)(5) of the Clean Air Act as amended in 1990, as a revision to the carbon monoxide State Implementation Plan.

(f) Approval—On May 29, 1998, the Connecticut Department of Environmental Protection submitted a request to redesignate the Connecticut portion of the New York-N. New Jersey-Long Island carbon monoxide nonattainment area to attainment for carbon monoxide. As part of the redesignation request, the State submitted a maintenance plan as required by 175A of the Clean Air Act, as amended in 1990. Elements of the section 175A maintenance plan include a periodic emission inventory for carbon

monoxide, a demonstration of maintenance of the carbon monoxide NAAQS with projected emission inventories to the year 2010 for carbon monoxide, a plan to verify continued attainment, a contingency plan, and an obligation to submit a subsequent maintenance plan revision in 8 years as required by the Clean Air Act. If the area records an exceedance of the carbon monoxide NAAQS (which must be confirmed by the State), Connecticut will implement one or more appropriate contingency measure(s) which are contained in the contingency plan. The menu of contingency measure includes investigating local traffic conditions, the enhanced motor vehicle inspection and maintenance program, and the low emissions vehicles program (LEV). The redesignation request establishes a motor vehicle emissions budget of 205 tons per day for carbon monoxide to be used in determining transportation conformity in the Connecticut Portion of the New York—N. New Jersey—Long Island Area. The redesignation request and maintenance plan meet the redesignation requirements in sections 107(d)(3)(E) and 175A of the Act as amended in 1990, respectively.

CONNECTICUT-CARBON MONOXIDE

Designated Area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Hartford-New Britain-Middletown Area				
Hartford County (part)	1/2/96	Attainment		
Bristol City, Burlington Town, Avon Town, Bloomfield Town, Canton Town, E. Granby Town, E. Hartford Town, E. Windsor Town, Enfield Town, Farmington Town, Glastonbury Town, Granby Town, Hartford City, Manchester Town, Marlborough Town, Newington Town, Rocky Hill Town, Simsbury Town, S. Windsor Town, Suffield Town, W. Hartford Town, Wethersfield Town, Windsor Town, Windsor Locks Town, Berlin Town, New Britain City, Plainville Town, and Southington Town				
Litchfield County (part)	1/2/96	Attainment		
Plymouth Town				
Middlesex County (part)	1/2/96	Attainment		
Cromwell Town, Durham Town, E. Hampton Town, Haddam Town, Middlefield Town, Middletown City, Portland Town, E. Haddam Town				
Tolland County (part)	1/2/96	Attainment		
Andover Town, Bolton Town, Ellington Town, Hebron Town, Somers Town, Tolland Town, and Vernon Town				
New Haven—Meriden—Waterbury Area				
Fairfield County (part)	12/4/98	Attainment		
Shelton City				
Litchfield County (part)	12/4/98	Attainment		
Bethlehem Town, Thomaston Town, Watertown, Woodbury Town				
New Haven County	12/4/98	Attainment		
New York-N. New Jersey-Long Island Area				
Fairfield County (part)	1/4/99	Attainment		
All cities and townships except Shelton City				
Litchfield County (part)	1/4/99	Attainment		
Bridgewater Town, New Milford Town				
AQCR 041 Eastern Connecticut Intrastate		Unclassifiable/Attainment		
Middlesex County (part)				
All portions except cities and towns in Hartford Area				
New London County				
Tolland County (part)				
All portions except cities and towns in Harford Area				
Windham County				
AQCR 044 Northwestern Connecticut Intrastate		Unclassifiable/Attainment		

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart C—Section 107 Attainment Status Designations

2. The table in 81.307-entitled "Connecticut-Carbon Monoxide" is revised to read as follows:

§ 81.307 Connecticut.

* * * * *

CONNECTICUT-CARBON MONOXIDE—Continued

Designated Area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Hartford County (part)				
Hartland Township				
Litchfield County (part)				
All portions except cities and towns in Hartford, New Haven, and New York Areas				

[1] This date is Novemer 15, 1990, unless otherwise noted.

[FR Doc. 98–29304 Filed 10–30–98; 8:45 am]
BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PARTS 2 AND 90

[WT Docket No. 96–86; FCC 98–191]

The Development of Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010, Establishment of Rules and Requirements for Priority Access Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission (Commission) adopted a *First Report and Order* (*"First Report"*) contemporaneously with a *Third Notice of Proposed Rulemaking* that is summarized elsewhere in this edition of the Federal Register. In the *First Report*, the Commission amends its rules relating to public safety communications in the 764–806 MHz band ("700 MHz band") that the Commission previously reallocated for public safety services and in general. This action commences the process of assigning licenses for frequencies in the 700 MHz band and addresses an urgent need for additional public safety radio spectrum and the need for nationwide interoperability among local, state, and federal entities. By this action, the Commission also takes additional steps toward achieving its goals of developing a flexible regulatory framework to meet vital current and future public safety communications needs and ensuring that sufficient spectrum to accommodate efficient, effective telecommunications facilities and services will be available to satisfy public safety communications needs into the 21st century.

DATES: Effective January 4, 1999, except for §§ 90.523, 90.527, 90.545, and 90.551 which contain information collection requirements that are not effective until approved by the Office of Management and Budget. FCC will publish a document in the **Federal Register** announcing the effective date for those sections. Written comments on these revised and modified information collection requirements should be submitted on or before December 2, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments on the revised information collection requirements to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to jboley@fcc.gov., and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725–17th Street, N.W., Washington, D.C. 20503, or via the internet to fain_t@eop.gov.

FOR FURTHER INFORMATION CONTACT: Peter Daronco or Michael Pollak, at the Public Safety & Private Wireless Division, (202) 418–0680. For additional information concerning the information collections contained in this *First Report*, contact Judy Boley at (202) 418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *First Report* in WT Docket No. 96–86, adopted on August 6, 1998, and released on September 29, 1998, contemporaneously with a *Third Notice of Proposed Rulemaking* (*"Third Notice"*) in WT Docket No. 96–86 (collectively FCC 98–191). The *Third Notice* is summarized elsewhere in this edition of the **Federal Register**. The full text of the *First Report and Third Notice* is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's duplicating contractor, International Transcription Services, 1231 20th Street, NW, Washington, DC 20036, 202–857–3800. Alternative formats (computer diskette, large print, audio cassette and Braille) are available to persons with disabilities by contacting Martha Contee at (202) 418–0260, TTY (202) 418–2555, or at mcontee@fcc.gov. The complete (but unofficial) text is also available under the name "fcc98191.wp" on the Commission's Internet site at <http://www.fcc.gov/Bureaus/Wireless/Orders/1998/index.html>.

Paperwork Reduction Act

The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–0221.

Title: 90.155 Time in which station must be placed in operation.

Form No.: N/A.

Type of Review: Revision of a previously approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 2,055.

Estimated Time Per Response: 1 hours.

Total Annual Burden: 2,055 hours.

Frequency of Response: On occasion.

Total Annual Cost: No annual cost burden on respondents from either capital or start-up costs.

Needs and Uses: The information collection requirement contained in § 90.155 is needed to provide flexibility to state and local governments that would normally be unable to meet the requirement of placing their radio station in operation within 8 months or 12 months, as applicable. The information is used to evaluate if the exception to construction and operation requirement is warranted. If the information was not collected the Commission's information regarding actual loading of frequencies would be inaccurate. As a result of the record developed in response to the *Second Notice of Proposed Rulemaking*, 62 FR 60199, November 7, 1997 (*Second Notice*), the Commission decided in the *First Report* to extend the scope of the flexibility provisions of § 90.155 to state and local governmental licensees in the 700 MHz band. As this decision modifies the information collection for § 90.155 as previously approved by OMB, the Commission is now revising the total burden hours to approximately 2,055 respondents that would take an average of one hour to comply with the rules.

OMB Approval Number: 3060–0805.

Title: 90.527 Regional plan requirements, 90.523 Eligibility, & 90.545 TV/DTV interference protection criteria.

Form No.: N/A.

Type of Review: Revision of a previously approved collection.

Respondents: State or local governmental entities.

Number of Respondents: There is a potential of 65,656 respondents but it is anticipated that there will only be 26,656 responses.

Estimated Time Per Response: 24.3 hours.

Total Annual Burden: 647,675.

Frequency of Response: On occasion.

Total Annual Cost: No annual cost burden on respondents from either capital or start-up costs.

Needs and Uses: The *First Report* in WT Docket No. 96–86 amended service rules to make the spectrum available for licensing to public safety entities in accordance with the 1997 Budget Act. In order to satisfy local and regional needs and preferences, the Commission required submission of regional plans drafted by planning committees made up of representatives from the public safety community. Creation of these plans will necessarily impose some burden, both on the eligible entities that make their needs known, and on the planners who seek to accommodate them. The Commission also established a National Coordination Committee that will develop and recommend national standards for the operation and use of the spectrum allocated for nationwide interoperability. These requirements differ from those proposed in the *Second Notice*, in that the Commission established a National Coordination Committee instead of two national committees to develop national standards for the operation and use of the spectrum allocated for nationwide interoperability. To be eligible for licensing, the Commission also required nongovernmental organizations to be specifically authorized by appropriate state or local governmental agencies. Additionally, the Commission is requiring public safety applicants to select one of three methods to meet TV/DTV interference protection criteria. These changes increase the total burden hours requested at the Notice of Proposed Rulemaking stage.

Synopsis of the First Report and Order

1. In 1993, Congress directed the Commission to develop a framework to ensure that public safety communications needs are met through the year 2010. Pursuant to that directive, the Commission issued a report to Congress identifying a need to gather additional information on the present and future communications requirements of public safety agencies. In 1995, the Commission, together with the National Telecommunications and Information Administration (NTIA), established the Public Safety Wireless Advisory Committee (PSWAC), pursuant to the Federal Advisory Committee Act (FACA), to provide advice and recommendations regarding the communications needs of public safety agencies through the year 2010. Shortly thereafter, the Commission sought comment on a wide variety of public safety communications issues, *see Notice of Proposed Rule Making*, 61 FR 25185, May 20, 1996 (*First Notice*), and in September 1996 the *PSWAC Final Report* was submitted to the Commission as part of the record in this proceeding. Briefly, the *PSWAC Final Report* found that the spectrum then allocated to public safety was insufficient to support the current and projected voice and data needs of the public safety community, did not provide adequate capacity for obtaining interoperability, and was inadequate to meet future needs, based on projected population growth and demographic changes.

2. In the 1997 Budget Act, Congress directed the Commission to reallocate 24 megahertz of spectrum (recovered from TV channels 60–69 as a result of digital television implementation) for public safety services. The Commission adopted this reallocation on December 31, 1997. *See* ET Docket No. 97–157, *Report and Order*, 63 FR 6669, February 10, 1998, *(recon. denied) Memorandum Opinion and Order*, FCC 98–161 (rel. Oct. 9, 1998).

3. In the *Second Notice* in this proceeding (WT Docket 96–86), the Commission continued its inquiry into the present and future public safety communications needs and how best to use the newly reallocated 24 megahertz of spectrum in the 700 MHz band. It sought comment on a broad range of options to promote the efficient and effective use of the 700 MHz band to meet those needs. The Commission also noted that the *Second Notice* did not address all the issues raised in the *First Notice* or in the *PSWAC Final Report* and that, to the extent that important issues remain, they would be addressed in future proceedings. Fifty comments, forty reply comments, and numerous *ex parte* presentations were received in response to the *Second Notice*.

4. The *First Report* fulfills the Congressional mandate expressed in the Balanced Budget Act of 1997, Public Law 105–33, § 3004, 111 Stat. 251 (1997) (1997 Budget Act), codified at 47 U.S.C. 337(a)(1), to establish the terms and conditions that will govern use of the 24 megahertz of spectrum recently reallocated from broadcast to public safety services. The statute defines in detail the services for which Congress intends this spectrum to be used and requires the Commission to establish service rules, by September 30, 1998, that will commence the process of assigning licenses for this spectrum. The legislative history reflects that the licensing commencement date was added to the statute in light of the critical need for public safety spectrum in some markets. As such, the service rules are balanced to give effect to each provision of the statutory definition of public safety services for which the spectrum is allocated, in order to commence licensing expeditiously, and with minimal information submission requirements or similar regulatory burdens. With these aims in mind, the Commission also concluded that Congress expected it to draw on its extensive, relevant experience in allocating and licensing other Private

Land Mobile Radio (PLMR) spectrum designated for public safety-related activities.

5. The *First Report* establishes a band plan, eligibility criteria, and other service rules necessary to commence the licensing process for the new public safety spectrum in the 700 MHz band. The Commission's band plan designates approximately 10 percent of the 700 MHz public safety spectrum (a total of 2.6 megahertz) for nationwide interoperable communications. Interoperability is the ability of units from two or more government agencies to effectively interact with one another and exchange the full range of information needed for public safety entities to apply their best efforts to resolution of even the most critical situations. As a result of the interaction of numerous political, technological, financial and regulatory obstacles that work to inhibit attempts to establish universal public safety interoperability, this deficiency has persisted despite many years of efforts to eradicate it. In view of this situation, we believe that it is necessary for the Commission to dedicate sufficient spectrum to nationwide interoperability, and charter a federal advisory committee (The National Coordinating Committee [NCC]) that will develop operational and technical recommendations. The operational recommendations (*e.g.*, protocols for prioritizing user access) of the NCC will, however, be subject to Commission approval. Because the NCC or a working group to develop and recommend technical standards will be required to become American National Standards Institute-certified, the Commission will not unnecessarily disturb technical standards recommended through this open and neutral process.

6. The band plan also designates approximately 53 percent of the new 700 MHz band (a total of 12.6 megahertz of spectrum) for general (*i.e.*, local, regional or state) use. Regional Planning Committees (RPCs) will determine the specific uses of these channels, and they may begin the planning process to use these channels upon release of the *First Report*. This action is taken as part of the Commission's compliance with its mandate under the Balanced Budget Act of 1997. The *First Report* designates the remainder of the band (approximately 37 percent of the band or a total of 8.8 megahertz of spectrum) as "reserve spectrum" during the pendency of the *Third Notice*.

7. The band plan also accommodates all of the existing operational modes that we described in the *Second Notice* (voice, data, image/HSD, and video) but is also flexible enough to allow deployment of the technologies of tomorrow. As recommended by some of the commenters, the Commission divided the band into separate segments for narrowband and wideband communications. To promote efficient spectrum usage and flexibility, the Commission's band plan incorporates a "building block" channelization approach, based on the smallest practical channel sizes for narrowband and wideband public safety communications. The RPCs will be allowed to combine these minimum size standard channels, to create larger channels as needed to accommodate transitional technology, such as 12.5 kHz voice and data, or communications requiring wider bandwidths, such as 19.2 kilobits per second (kbps) data. The Commission also adopted technical specifications that enhance spectrum efficiency, promote nationwide interoperability, and minimize harmful interference.

8. By establishing a flexible regulatory framework for public safety use of the 700 MHz band, the Commission seeks to enable public safety organizations to effectively use this new allocation for a variety of operational modes (voice, data, image/high speed data (HSD), and video), to promote competition in the equipment markets through flexible technical standards, and to promote development of innovative public safety technologies. The band plan is supported by a direct outgrowth of the record and will provide some technical features common to the entire band, while allowing local public safety entities, through RPCs, the discretion to configure channels to meet their individual needs. This band plan strikes an appropriate balance between the standardization necessary to achieve nationwide interoperability, the development of competitive equipment markets, and the degree of regional flexibility necessary to allow entities the opportunity to fashion approaches tailored to meet the individual needs of diverse regional communities. The Commission also adopted technical regulations sufficient to establish a general framework for seamless nationwide interoperability, facilitate spectrum management, encourage efficient and effective spectrum use, promote competition and avoid undue delays in equipment development.

9. The First Report also establishes a three-pronged test for determining eligibility to hold a license in the 700 MHz band which follows the 1997 Budget Act definition of "public safety services." The three prongs for determining eligibility are: (a) Purpose of use; (b) identity of licensee; and (c) noncommercial *proviso*. Based on this criteria, the Commission concluded that entities eligible to be licensed in the 700 MHz band public safety spectrum are: (1) State and local governments and (2) non-governmental organizations (NGOs) expressly authorized by a state or local governmental entity whose mission is the oversight of or provision of services to protect the safety of life, health or property. In situations where a state or local governmental licensee needs to communicate by radio with a public safety service provider that is not licensed in the 700 MHz band, the licensee may permit the unlicensed provider to share the use of its system for noncommercial public safety services under 47 CFR 90.179 of the Commission's Rules.

10. Federal public safety providers may be authorized to use the public safety spectrum in the 700 MHz band pursuant to the existing NTIA/FCC process for Federal government use of non-Federal government spectrum, as set forth in part 2 of the Commission's Rules, 47 CFR 2.103. In sum, if a state or local governmental licensee desires for a Federal public safety entity to receive access to some or all of its licensed frequencies, the licensee can join in the request, under the NTIA/FCC process, to authorize Federal use of its non-government frequencies for noncommercial public safety services. The Commission adopted conforming revisions to § 2.103 to clarify the standards for this process for spectrum governed by section 337 of the Act. Federal use of the nationwide interoperability channels will be addressed in the recommendations to the Commission made by the NCC.

11. The Commission will charter the NCC in accordance with the procedural steps contained in the Federal Advisory Committee Act, 5 U.S.C., App. 2 (1988) (FACA) that will seek American National Standards Institute (ANSI) certification and provide a national structure for use of the 700 MHz band nationwide interoperability spectrum. The major responsibilities of this committee will be to: (1) Formulate and submit for Commission review and approval an operational plan to achieve national interoperability that includes a shared or priority system among users of the interoperability spectrum, for both day-to-day and emergency operations, and recommendations regarding Federal users' access to the interoperability spectrum; (2) recommend interoperability technical standards for Commission review and approval; (3) provide voluntary assistance in the development of coordinated regional

plans; and (4) provide general recommendations to the Commission on operational plans of the public safety community.

12. The regional planning process to spectrum management adopted for specific channels throughout the 700 MHz band designated as "General Use" (a total of 12.6 megahertz of spectrum) will be similar to that which governs management of public safety spectrum in the 821–824 MHz and the 866–869 MHz bands. *See, e.g.*, 47 CFR 90.16. To allow for additional flexibility, however, the Commission provides a mechanism that allows states that either are included in multi-state regions or have portions of their states included in more than one region to opt out of their current regions and to form new regions along geographical lines conforming to state boundaries. Thus, a state split among more than one RPC may opt, through consensus of the state representatives, to reform RPC boundaries so that the state participates in a single RPC. Similarly, all representatives to RPCs from the same state may, by consensus, create a new RPC that conforms to the boundaries of that state.

13. The Commission will allow all of the certified public safety frequency coordinators to provide coordination in the 700 MHz band, so that competition among coordinators will provide incentives for lower coordination fees and better quality services. The four Commission certified public safety coordinators are: Association of Public-Safety Communications Officials-International, Inc. (APCO) International Association of Fire Chiefs, Inc. (IAFC)/ International Municipal Signal Association (IMSA); Forestry Conservation Communications Association (FCCA); and American Association of State Highway and Transportation Officials (AASHTO).

14. The Commission adopted geographic separation requirements based on a 40 dB Desired-to-Undesired signal strength ratio (D/U) to protect the TV/DTV stations and public safety spectrum users from harmful interference to each other and to comply with the requirements of the 1997 Budget Act. The Commission emphasized that the necessity for public safety licensees to share this 24 megahertz of spectrum with both analog and digital TV broadcast stations until December 31, 2006 will require the utmost cooperation between the TV stations and the public safety community.

15. The Commission adopted rules requiring that licenses for public safety facilities proposed to be located within 75 miles of the U.S.-Canada border or the U.S.-Mexico border be conditioned on avoiding harmful interference to television station receivers in those countries. The Commission also noted that additional licensing conditions governing cross-border sharing between public safety and television operations may be required after final agreements with the governments of those countries are signed.

Administrative Matters

16. The *First Report* in WT Docket No. 96–86 also contained a Final Regulatory Flexibility Act Analysis pursuant to the Regulatory Flexibility Act, 5 U.S.C. 604. It is substantially as follows:

As required by the Regulatory Flexibility Act, 5 U.S.C. 603 (RFA), Initial Regulatory Flexibility Analyses (IRFA) were incorporated in the Notice of Proposed Rule Making (Public Safety Notice) and the Second Notice of Proposed Rule Making (Second Notice) in WT Docket 96–86. The Commission sought written public comments on the proposals in the Public Safety Notice and Second Notice, including on the IRFAs. The Commission's Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA, as amended by the Contract With America Advancement Act of 1996. 5 U.S.C. 604 Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is "The Small Business Regulatory Enforcement Fairness Act of 1996" (SBREFA).

Need For and Objective of the Rules

Our objective is to establish a band plan and adopt service rules for 24 megahertz of spectrum in the 746–776 MHz and 794–806 MHz bands ("700 MHz band"). The spectrum, which previously has been allocated for use by television (TV) broadcasting on TV Channels 60–69, is now being made available to meet various public safety communications needs in accordance with 47 U.S.C. 337. Additionally, with these rules, we designate 2.6 megahertz of spectrum in the 700 MHz band for interoperability purposes. This will enable different agencies to communicate across jurisdictions and with each other. With these rules, we also adopt certain technical specifications that enhance spectrum efficiency, promote nationwide interoperability, and minimize harmful interference.

We sought comments on a broad range of options to achieve these goals. The Second Notice contained a section, prompted by a Petition for Rule Making filed by the National Communications System (NCS), seeking comment on the establishment of Cellular Priority Access Service (CPAS) designed to meet the communications needs of public safety services in emergency and disaster situations. Second Notice, 12 FCC Rcd at 17,779–17,800. We have deferred action on this matter to a later notice. In the First Report and Order section of this combined First Report and Order and Third Notice of Proposed Rule Making (hereinafter First Report and Third Notice as applicable), we continue to progress toward our goal of developing a flexible regulatory framework designed to provide sufficient spectrum for public safety purposes and to ensure that efficient, effective telecommunications facilities and services will be available to satisfy public safety communications needs into the 21st century. Our actions herein also continue the process of addressing the public safety spectrum insufficiency cited by the Public Safety Wireless Advisory Committee (PSWAC) in its Final Report.

In the First Report herein, we establish a band plan and adopt service rules necessary to commence the process of assignment of licenses for public safety stations to operate in the newly reallocated spectrum at 746–776 MHz and 794–806 MHz (hereinafter "the 700 MHz band"). This new public safety spectrum allocation is the largest single allocation ever made for public safety communications and represents a significant public benefit that is derived from the upcoming evolution of television broadcasting in the United States from analog technology of the 1950s to state of the art digital technology. In the 1997 Budget Act, Congress directed the Commission to commence assignment of licenses for public safety services in the 700 MHz band no later than September 30, 1998. Balanced Budget Act of 1997, Public Law 105–33, Sec. 3004, 111 Stat. 251 (1997) (1997 Budget Act), codified at 47 U.S.C. 337(b)(1). Our action herein will allow us to fulfill that mandate. Additionally, we designate a portion of the 700 MHz band for interoperability purposes, provide for national, state, and local roles in the administration and channel coordination of the new band, adopt eligibility and licensing rules, establish fundamental technical criteria such as transmitting power limits, and adopt rules to protect the service of transitional television broadcast stations from interference.

Summary of Significant Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analyses

In the IRFA, the Commission found that the rules we proposed to adopt in this proceeding may have a significant impact on a substantial number of small businesses. The IRFA solicited comment on alternatives to our proposed rules that would minimize the impact on small entities consistent with the objectives of this proceeding. No comments were submitted directly in response to the IRFAs. However, as described below, we have taken into account the comments submitted generally by small entities.

Description and Estimate of the Small Entities Involved

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. 5 U.S.C. 603(b)(3). The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 1992, there were approximately 275,801 small organizations. "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities. Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by the proposed rules, if adopted.

Public Safety Radio Pool Licensees. As a general matter, Public Safety Radio Pool licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. Spectrum in the 700 MHz band for public safety services is governed by 47 U.S.C. 337 which includes non-Federal governmental entities as well as certain private businesses as potential licensees for this spectrum. As indicated above in this FRFA, all governmental entities with populations of less than 50,000 fall within the definition of a small entity.

Radio and Television Equipment Manufacturers. We anticipate that at least six radio equipment manufacturers will be affected by our decisions in this proceeding. According to the SBA's regulations, a radio and television broadcasting and communications equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern. Census Bureau data indicate that there are 858 U.S. firms that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would therefore be classified as small entities. We do not have information that indicates how many of the six radio equipment manufacturers associated with this proceeding are among these 778 firms. However, Motorola and Ericsson are major, nationwide radio equipment manufacturers, and, thus, we conclude that these manufacturers would not qualify as small businesses.

Television Stations. This First Report will affect full service TV station licensees (Channels 60–69), TV translator facilities, and low power TV (LPTV) stations. The Small Business Administration defines a TV broadcasting station that has no more than $10.5 million in annual receipts as a small business. TV broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by TV to the public, except cable and other pay TV services. Included in this industry are commercial, religious, educational, and other TV stations. Also included are establishments primarily engaged in TV broadcasting and which produce taped TV program materials. Separate establishments primarily engaged in producing taped TV program materials are classified under another SIC number.

There were 1,509 TV stations operating in the Nation in 1992. That number has remained fairly constant as indicated by the approximately 1,551 operating TV broadcasting stations in the Nation as of February 28, 1997. For 1992 the number of TV stations that produced less than $10.0 million in revenue was 1,155 establishments, or approximately 77 percent of the 1,509 establishments. There are currently 95 full service analog TV stations, either operating or with approved construction permits on channels 60–69. In the *DTV Proceeding*, we adopted a DTV Table which provides only 15 allotments for DTV stations on channels 60–69 in the continental United States. There are seven DTV allotments in channels 60–69 outside the continental United States. Thus, the rules will affect approximately 117 TV stations; approximately 90 of those stations may be considered small businesses. These estimates may overstate the number of small entities since the revenue figures on which they are based do not include or aggregate revenues from non-TV affiliated companies. We recognize that the rules may also impact minority-owned and women-owned stations, some of which may be small entities. In 1995, minorities owned and controlled 37 (3.0 percent) of 1,221 commercial TV stations in the United States. According to the U.S. Bureau of the Census, in 1987 women owned and controlled 27 (1.9 percent) of 1,342 commercial and non-commercial TV stations in the United States.

There are currently 4,977 TV translator stations and 1,952 LPTV stations. Approximately 1,309 low power TV and TV translator stations are on channels 60–69 which could be affected by policies in this proceeding. The Commission does not collect financial information of any broadcast facility and the Department of Commerce does not collect financial information on these broadcast facilities. We will assume for present purposes, however, that most of these broadcast facilities, including LPTV stations, could be classified as small businesses. As indicated earlier, approximately 77 percent of TV stations are designated under this analysis as potentially small businesses. Given this, LPTV and TV translator stations would not likely have revenues that exceed the SBA maximum to be designated as small businesses.

Summary of the Projected Reporting, Recordkeeping, and Other Compliance Requirements

The First Report *and Order* adopts a number of rules that will entail reporting, recordkeeping, and/or third party consultation. However, the Commission believes that these requirements are the minimum needed. The *First Report and Order* establishes a 700 MHz band plan, and establishes and requires planning committees to develop and submit to the Commission organizational and operational plans for the use of this spectrum. Accordingly, this *First Report and Order* imposes recordkeeping and reporting requirements on individuals or organizations involved in establishing

the national and regional planning processes including the nationwide interoperability plan, and on individuals and organizations that assist us in developing technical standards, and on entities such as applicants and licensees, that are subject to these plans, including small government agencies who may request extended implementation. Additionally, in accordance with 47 U.S.C. 337(f)(1)(B)(ii), nongovernmental organizations (NGO) are required to submit, along with their request to operate in the 700 MHz band, a written statement by the authorizing state or local government entity supporting the NGO's application.

Steps Taken by Agency To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

We have reduced economic burdens wherever possible. The regulatory burdens we have retained, such as filing applications on appropriate forms, are necessary in order to ensure that the public receives the benefits of innovative new services in a prompt and efficient manner.

We have incorporated technical rules that promote competition in the equipment market. We believe that the rules we adopt must be as competitively and technologically-neutral as possible to allow for competing equipment designs and to avoid hindering or precluding future innovative technological developments. We note that tighter technical specifications generally allow more intense spectrum use, but may result in higher equipment costs. Conversely, while wider tolerances may allow manufacturers to use less costly component parts in transmitting equipment, they may also result in less efficient spectrum use. With these considerations in mind, we believe the technical regulations we adopt herein provide a reasonable balance of these concerns.

Under the regional planning process, frequency coordination is now competitive. Frequency coordination is the process by which a private organization recommends to the Commission the most appropriate frequencies for private land mobile radio (PLMR) service applicants. Frequency coordinators provide a valuable service to the Commission by eliminating common application errors, thereby improving the quality of the applications, resolving potential interference problems at the source. There are currently four frequency coordinators certified to coordinate frequencies for public safety applicants. We have authorized, for the general use portion of this band, each of the four currently certified frequency coordinators to coordinate public safety spectrum, whereas in the 800 MHz National Plan, coordination is limited to APCO, the sole frequency coordinator. We continue to believe that by encouraging competition among coordinators, we will promote cost-based pricing of coordination services and provide incentives for enhancing service quality. Therefore, we will allow any of the certified public safety coordinators to provide coordination in the 700 MHz band.

To minimize any negative impact from the licensing plan we adopt for the 700 MHz band, we have offered each state and local governments the option of utilizing the existing infrastructure of the regional planning process. Of the nation's 55 public safety regional planning committees, most were designed along state boundaries. There were, however, states that were divided into different regions and states in multi-state regions; 700 MHz band committee memberships within each of these states will have the option to agree to be part of only one multistate region, or to form a region designated along state boundaries.

Report to Congress: The Commission will send a copy of this *First Report and Order and Third Notice of Proposed Rule Making*, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of this *First Report and Order and Third Notice of Proposed Rule Making*, including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

Ordering Clauses

17. Authority for issuance of this *First Report and Order and Third Notice of Proposed Rule Making* is contained in Sections 4(i), 302, 303(f) and (r), 332, and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 302, 303(f) and (r), 332, 337.

18. Accordingly, it is ordered that Part 90 of the Commission's Rules, 47 CFR Part 90, is amended effective January 4, 1999, except for §§ 90.523, 90.527, 90.545, and 90.551 which contain information collection requirements that are not effective until approved by the Office of Management and Budget. FCC will publish a document in the **Federal Register** announcing the effective date for those sections.

19. It is further ordered that the Wireless Telecommunications Bureau shall take all necessary steps, pursuant to the Federal Advisory Committee Act, 5 U.S.C., App., to establish a Public Safety National Coordination Committee, and charge the Committee with the duty, among others to be set forth in the Committee Charter, with recommending a national interoperability operational plan for review and approval by the Commission as well as the technical standards in accordance with American National Standards Institute process to apply to all public safety interoperability channel equipment.

20. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this *First Report and Order and Third Notice of Proposed Rule Making* including the Final and Initial Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 2

Communications equipment, Radio.

47 CFR Part 90

Administrative practice and procedure, Communications equipment, Radio.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 2 and 90 as follows:

PART 2—FREQUENCY ALLOCATION AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for part 2 is revised to read as follows:

Authority: 47 U.S.C. 154, 302, 303, 307, 336, and 337, unless otherwise noted.

2. Section 2.103 is revised to read as follows:

§ 2.103 Government use of non-Government frequencies.

(a) Government stations may be authorized to use non-Government frequencies in the bands above 25 MHz (except the 764–776 MHz and 794–806 MHz public safety bands) if the Commission finds that such use is necessary for coordination of Government and non-Government activities: Provided, however, that:

(1) Government operation on non-Government frequencies shall conform with the conditions agreed upon by the Commission and the National Telecommunications and Information Administration (the more important of which are contained in paragraphs (a)(2), (a)(3) and (a)(4) of this section);

(2) Such operations shall be in accordance with Commission rules governing the service to which the frequencies involved are allocated;

(3) Such operations shall not cause harmful interference to non-Government stations and, should harmful interference result, that the interfering Government operation shall immediately terminate; and

(4) Government operation has been certified as necessary by the non-Government licensees involved and this certification has been furnished, in writing, to the Government agency with which communication is required.

(b) Government stations may be authorized to use channels in the 764–776 MHz and 794–806 MHz public safety bands with non-Government entities if the Commission finds such use necessary; where:

(1) The stations are used for interoperability or part of a Government/non-Government shared or joint-use system;

(2) The Government entity obtains the approval of the non-Government (State/local government) licensee(s) or applicant(s) involved;

(3) Government operation is in accordance with the Commission's Rules governing operation of this band and conforms with any conditions agreed upon by the Commission and the National Telecommunications and Information Administration; and

(4) Interoperability, shared or joint-use systems are the subject of a mutual agreement between the Government and non-Government entities. This section does not preclude other arrangements or agreements as permitted under part 90 of the rules. *See* 47 CFR 90.179 and 90.421 of this chapter.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

3. The authority citation for Part 90 is revised to read as follows:

Authority: Secs. 4, 251–2, 303, 309, 332 and 337, 48 Stat 1066, 1082, as amended; 47 U.S.C. 154, 251–2, 303, 309 and 337, unless otherwise noted.

4. Section 90.20 is amended by adding two entries to the table in paragraph (c)(3) and by adding a new paragraph (d)(77), to read as follows:

§ 90.20 Public Safety Pool.

* * * * *

(c) * * *

(3) * * *

PUBLIC SAFETY POOL FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations	Coordinator
. . .	. . .	. .	.
764 to 776	Base, mobile	77	PX
794 to 806	Mobile	77	PX
. . .	. . .	. .	.

(d) * * *

(77) Subpart R of this part contains rules for assignment of channels in the 764–776 MHz and 794–806 MHz bands.

* * * * *

5. Section 90.205 is amended by revising paragraph (i) to read as follows:

§ 90.205 Power and antenna height limits.

* * * * *

(i) *764–776 MHz, 794–824 MHz, 851–869 MHz, 896–901 MHz and 935–940 MHz.* Power and height limitations are specified in § 90.635.

* * * * *

6. A new Subpart R is added to read as follows:

Subpart R—Regulations Governing the Licensing and Use of Frequencies in the 764–776 and 794–806 MHz Bands

Sec.

90.521 Scope.
90.523 Eligibility.
90.527 Regional plan requirements.
90.531 Band plan.
90.533 Transmitting sites near the U.S./Canada or U.S./Mexico border.
90.535 Modulation and spectrum usage efficiency requirements.
90.537 Trunking requirement.
90.539 Frequency stability.
90.541 Transmitting power limits.
90.543 Emission limitations.
90.545 TV/DTV interference protection criteria.
90.547 Interoperability channel capability requirement.
90.549 Transmitter certification.
90.551 Construction requirements.

Subpart R—Regulations Governing the Licensing and Use of Frequencies in the 764–776 and 794–806 MHz Bands

§ 90.521 Scope.

This subpart sets forth the regulations governing the licensing and operations of all systems operating in the 764–776 MHz and 794–806 MHz frequency bands. It includes eligibility, operational, planning and licensing requirements and technical standards for stations licensed in these bands. The rules in this subpart are to be read in conjunction with the applicable requirements contained elsewhere in this part; however, in case of conflict, the provisions of this subpart shall govern with respect to licensing and operation in these frequency bands.

§ 90.523 Eligibility.

This section implements the definition of public safety services contained in 47 U.S.C. § 337(f)(1). The following are eligible to hold Commission authorizations for systems operating in the 764–776 MHz and 794–806 MHz frequency bands:

(a) *State or local government entities.* Any territory, possession, state, city, county, town, or similar State or local governmental entity is eligible to hold authorizations in the 764–776 MHz and 794–806 MHz frequency bands.

(b) *Nongovernmental organizations.* A nongovernmental organization (NGO) that provides services, the sole or principal purpose of which is to protect the safety of life, health, or property, is eligible to hold an authorization for a system operating in the 764–776 MHz and 794–806 MHz frequency bands for transmission or reception of communications essential to providing such services if (and only for so long as) the NGO applicant/licensee:

(1) Has the written, ongoing support (to operate such system) of a state or local governmental entity whose mission is the oversight of or provision of services, the sole or principal purpose of which is to protect the safety of life, health, or property; and

(2) Operates such authorized system solely for transmission of communication essential to providing services the sole or principal purpose of which is to protect the safety of life, health, or property.

(c) *All NGO authorizations are conditional.* NGOs assume all risks associated with operating under conditional authority. Authorizations issued to NGOs to operate systems in the 764–776 MHz and 794–806 MHz frequency bands include the following condition: If at any time the supporting governmental entity (see paragraph (b)(1)) notifies the Commission in writing of such governmental entity's termination of its authorization of a NGO's operation of a system in the 764–776 MHz and 794–806 MHz frequency bands, the NGO's application shall be dismissed automatically or, if authorized by the Commission, the NGO's authorization shall terminate automatically.

(d) Paragraphs (a) and (b) notwithstanding, no entity is eligible to hold an authorization for a system operating in the 764–776 MHz and 794–806 MHz frequency bands on the basis of services, the sole or principal purpose of which is to protect the safety of life, health or property, that such entity makes commercially available to the public.

§ 90.527 Regional plan requirements.

Each regional planning committee must submit a regional plan for approval by the Commission.

(a) *Common elements.* Regional plans must incorporate the following common elements:

(1) Identification of the document as the regional plan for the defined region with the names, business addresses, business telephone numbers, and organizational affiliations of the chairpersons and all members of the planning committee.

(2) A summary of the major elements of the plan and an explanation of how all eligible entities within the region were given an opportunity to participate in the planning process and to have their positions heard and considered fairly.

(3) A general description of how the spectrum would be allotted among the various eligible users within the region with an explanation of how the requirements of all eligible entities within the region were considered and, to the degree possible, met.

(4) An explanation as to how needs were assigned priorities in areas where not all eligible entities could receive licenses.

(5) An explanation of how the plan had been coordinated with adjacent regions.

(6) A detailed description of how the plan put the spectrum to the best possible use by requiring system design with minimum coverage areas, by assigning frequencies so that maximum frequency reuse and offset channel use may be made, by using trunking, and by requiring small entities with minimal requirements to join together in using a single system where possible.

(7) A detailed description of the future planning process, including, but not limited to, amendment process, meeting announcements, data base maintenance, and dispute resolution.

(8) A certification by the regional planning chairperson that all planning committee meetings, including subcommittee or executive committee meetings, were open to the public.

(b) *Modification of regional plans.* Regional plans may be modified by submitting a written request, signed by the regional planning committee, to the Chief, Wireless Telecommunications Bureau. The request must contain the full text of the modification, and must certify that successful coordination of the modification with all adjacent regions has occurred and that all such regions concur with the modification.

§ 90.531 Band plan.

This section sets forth the band plan for the 764–776 MHz and 794–806 MHz public safety bands.

(a) *Base and mobile use.* The 764–776 MHz band may be used for base, mobile or fixed (repeater) transmissions. The 794–806 MHz band may be used only for mobile or fixed (control) transmissions.

(b) *Narrowband segments.* There are four band segments that are designated for use with narrowband emissions. Each of these narrowband segments is divided into 480 channels having a channel size of 6.25 kHz as follows:

Frequency range	Channel Nos.
764–767 MHz	1–480
773–776 MHz	481–960
794–797 MHz	961–1440
803–806 MHz	1441–1920

(1) *Narrowband nationwide interoperability channels.* The following narrowband channels are designated for nationwide interoperability licensing and use: 55, 56, 59, 60, 67, 68, 135, 136, 139, 140, 147, 148, 215, 216, 219, 220, 227, 228, 295, 296, 299, 300, 307, 308, 375, 376, 379, 380, 387, 388, 467, 468, 535, 536, 539, 540, 547, 548, 615, 616, 619, 620, 627, 628, 695, 696, 699, 700, 707, 708, 775, 776, 779, 780, 787, 788, 855, 856, 859, 860, 867, 868, 947, 948, 1015, 1016, 1019, 1020, 1027, 1028, 1095, 1096, 1099, 1100, 1107, 1108, 1175, 1176, 1179, 1180, 1187, 1188, 1255, 1256, 1259, 1260, 1267, 1268, 1335, 1336, 1339, 1340, 1347, 1348, 1427, 1428, 1495, 1496, 1499, 1500, 1507, 1508, 1575, 1576, 1579, 1580, 1587, 1588, 1655, 1656, 1659, 1660, 1667, 1668, 1735, 1736, 1739, 1740, 1747, 1748, 1815, 1816, 1819, 1820, 1827, 1828, 1907, 1908.

(2) *Reserved narrowband channels.* The following narrowband channels are reserved pending further Commission action in WT Docket No. 96–86 (*proceeding pending*): 53, 54, 57, 58, 61–66, 69–80, 133, 134, 137, 138, 141–146, 149–160, 213, 214, 217, 218, 221–226, 229–240, 293, 294, 297, 298, 301–306, 309–320, 373, 374, 377, 378, 381–386, 389–400, 453–466, 469–480, 533, 534, 537, 538, 541–546, 549–560, 613, 614, 617, 618, 621–626, 629–640, 693, 694, 697, 698, 701–706, 709–720, 773, 774, 777, 778, 781–786, 789–800, 853, 854, 857, 858, 861–866, 869–880, 933–946, 949–960, 1013, 1014, 1017, 1018, 1021–1026, 1029–1040, 1093, 1094, 1097, 1098, 1101–1106, 1109–1120, 1173, 1174, 1177, 1178, 1181–1186, 1189–1200, 1253, 1254, 1257, 1258, 1261–1266, 1269–1280, 1333, 1334, 1337, 1338, 1341–1346, 1349–1360, 1413–1426, 1429–1440, 1493, 1494, 1497, 1498, 1501–1506, 1509–1520, 1573, 1574, 1577, 1578, 1581–1586, 1589–1600, 1653, 1654, 1657, 1658, 1661–1666, 1669–1680, 1733, 1734, 1737, 1738, 1741–1746, 1749–1760, 1813, 1814, 1817, 1818, 1821–1826, 1829–1840, 1893–1906, 1909–1920.

(3) *Narrowband general use channels.* All narrowband channels established in paragraph (b), other than those listed in paragraphs (b)(1) and (b)(2), are designated for exclusive assignment to public safety eligibles subject to Commission-approved regional planning committee regional plans.

(c) *Wideband segments.* There are two band segments that are designated for use with wideband emissions. Each of these wideband segments is divided into 120 channels having a channel size of 50 kHz as follows:

Frequency range	Channel Nos.
767–773 MHz	1–120
797–803 MHz	121–240.

(1) *Wideband nationwide interoperability channels.* The following wideband channels are designated for nationwide interoperability licensing and use: 7–9, 34–36, 58–63, 85–87, 112–114, 127–129, 154–156, 178–183, 205–207, 232–234.

(2) *Reserved wideband channels.* The following wideband channels are reserved pending further Commission action in WT Docket No. 96–86 (*proceeding pending*): 1–6, 37–57, 64–84, 115–126, 157–177, 184–204, 235–240.

(3) *Wideband general use channels.* All wideband channels established in paragraph (c), except for those listed in paragraphs (c)(1) and (c)(2), are designated for shared assignment to public safety eligibles subject to Commission-approved regional planning committee regional plans.

(d) *Combining channels.* At the discretion of the appropriate regional planning committee, contiguous channels may be used in combination in order to accommodate requirements for larger bandwidth emissions, in accordance with this paragraph. As an exception to this general rule, channels designated for nationwide interoperability use must not be combined with channels that are not designated for nationwide interoperability use.

(1) *Narrowband.* Two or four contiguous narrowband (6.25 kHz) channels may be used in combination as 12.5 kHz or 25 kHz channels, respectively. The lower (in frequency) channel for two channel combinations must be an odd (*i.e.*, 1, 3, 5 8 * * *) numbered channel. The lowest (in frequency) channel for four channel combinations must be a channel whose number is equal to 1+(4×n), where n = any integer between 0 and 479, inclusive (*e.g.*, channel number 1, 5, * * * 1917). Channel combinations are designated by the lowest and highest channel numbers separated by a hyphen, *e.g.*, "1–2" for a two channel combination and "1–4" for a four channel combination.

(2) *Wideband.* Two or three contiguous wideband (50 kHz) channels may be used in combination as 100 kHz or 150 kHz channels, respectively. The lower (in frequency) channel for two channel combinations must be a channel whose number is equal to 1+(3×n) or 2+(3×n), where n = any integer between 0 and 79, inclusive (*e.g.*, channel number 1, 2, 5, 6, * * * 238, 239). The lowest (in frequency) channel for three channel combinations must be a channel whose number is equal to 1+(3×n), where n = any integer between 0 and 79, inclusive (*e.g.*, channel number 1, 5, * * * 238). Channel combinations are designated by the lowest and highest channel numbers separated by a hyphen, *e.g.*, "1–2" for a two channel combination and "1–3" for a three channel combination.

(e) *Channel pairing.* In general, channels must be planned and assigned in base/mobile pairs that are separated by 30 MHz. However, until December 31, 2006, channels other than those listed in paragraphs (b)(1) and (c)(1), may be planned and assigned in base/mobile pairs having a different separation, where necessary because 30 MHz base/mobile pairing is precluded by the presence of one or more co-channel or adjacent channel TV/DTV broadcast stations.

§ 90.533 Transmitting sites near the U.S./Canada or U.S./Mexico border.

This section applies to each license to operate one or more public safety transmitters in the 764–776 MHz and 794–806 MHz bands, at a location or locations North of Line A (see § 90.7) or within 120 kilometers (75 miles) of the U.S.-Mexico border, until such time as agreements between the government of the United States and the government of Canada or the government of the United States and the government of Mexico, as applicable, become effective governing border area non-broadcast use of these bands. Public safety licenses are granted subject to the following conditions:

(a) Operation of public safety transmitters must not cause harmful interference to the reception of television broadcasts transmitted by UHF TV broadcast stations located in Canada or Mexico. In addition, public safety base, control, and mobile transmitters must comply with the interference protection criteria in § 90.545 for TV/DTV stations in Canada and Mexico.

(b) Public safety facilities must accept any interference that may be caused by operations of UHF television broadcast transmitters in Canada and Mexico.

(c) Conditions may be added during the term of the license, if required by the terms of international agreements between the government of the United States and the government of Canada or the government of the United States and the government of Mexico, as applicable, regarding non-broadcast use of the 764–776 MHz and 794–806 MHz bands.

§ 90.535 Modulation and spectrum usage efficiency requirements.

Transmitters designed to operate in 764–776 MHz and 794–806 MHz frequency bands must meet the following modulation standards:

(a) All transmitters in the 764–776 MHz and 794–806 MHz frequency bands must use digital modulation. Mobile and portable transmitters may have analog modulation capability only as a secondary mode in addition to its primary digital mode.

(b) Transmitters designed to operate in the narrowband segment using digital modulation must be capable of maintaining a data throughput of not less than 4.8 kbps in a 6.25 kHz bandwidth.

(c) Transmitters designed to operate in the wideband segment using digital modulation must be capable of maintaining a data throughput of not less than 384 kbps in a 150 kHz bandwidth.

§ 90.537 Trunking requirement.

All systems using six or more narrowband channels in the 764–776 MHz and 794–806 MHz frequency bands must be trunked systems, except for those using the designated nationwide interoperability channels.

§ 90.539 Frequency stability.

Transmitters designed to operate in 764–776 MHz and 794–806 MHz frequency bands must meet the frequency stability requirements in this section.

(a) Mobile, portable and control transmitters must normally use automatic frequency control (AFC) to lock on to the base station signal.

(b) The frequency stability of base transmitters operating in the narrowband segment must be 100 parts per billion or better.

(c) The frequency stability of mobile, portable and control transmitters operating in the narrowband segment must be 400 parts per billion or better when AFC is locked to a base station, and 2.5 parts per million or better when AFC is not locked.

(d) The frequency stability of base transmitters operating in the wideband segment must be 1 part per million or better.

(e) The frequency stability of mobile, portable and control transmitters operating in the wideband segment must be 1.25 parts per million or better when AFC is locked to a base station, and 5 parts per million or better when AFC is not locked.

§ 90.541 Transmitting power limits.

The transmitting power of base, mobile, portable and control stations operating in the 764–776 MHz and 794–806 MHz frequency bands must not exceed the maximum limits in this section, and must also comply with any applicable effective radiated power limits in § 90.545.

(a) The transmitting power of base transmitters must not exceed the limits given in paragraphs (a), (b) and (c) of § 90.635.

(b) The transmitter output power of mobile and control transmitters must not exceed 30 Watts.

(c) The transmitter output power of portable (hand-held) transmitters must not exceed 3 Watts.

(d) Mobile and portable transmitters must be designed to employ automatic power control.

§ 90.543 Emission limitations.

Transmitters designed to operate in 764–776 MHz and 794–806 MHz frequency bands must meet the emission limitations in this section.

(a) The adjacent channel coupled power (ACCP) requirements for transmitters designed for various channel sizes are shown in the following tables. Mobile station requirements apply to handheld, car mounted and control station units. The tables specify a maximum value for the ACCP relative to maximum output power as a function of the displacement from the channel center frequency. In addition, the ACCP for a mobile station transmitter at the specified frequency displacement must not exceed the value shown in the tables. For transmitters that have power control, the latter ACCP requirement can be met at maximum power reduction. In the following charts, "(s)" means a swept measurement is to be used.

6.25 kHz Mobile Transmitter ACCP Requirements

Offset from Center Frequency (kHz)	Measurement Bandwidth (kHz)	Maximum ACCP Relative (dBc)	Maximum ACCP Absolute (dBm)
6.25	6.25	−40	(1)
12.5	6.25	−60	−45
18.75	6.25	−60	−45
25	6.25	−65	−50
37.5	25	−65	−50
62.5	25	−65	−50
87.5	25	−65	−50
150	100	−65	−50
250	100	−65	−50
>400 to receive band	30(s)	−75	−55
in the receive band	30(s)	−100	−70

[1] Not specified.

12.5 kHz Mobile Transmitter ACCP Requirements

Offset from center frequency (kHz)	Measurement bandwidth (kHz)	Maximum ACCP relative (dBc)	Maximum ACCP absolute (dBm)
9.375	6.25	−40	(1)
15.625	6.25	−60	−45
21.875	6.25	−60	−45
37.5	25	−65	−50
62.5	25	−65	−50
87.5	25	−65	−50
150	100	−65	−50
250	100	−65	−50
>400 to receive band	30(s)	−75	−55
in the receive band	30(s)	−100	−70

[1] Not specified.

25 kHz Mobile Transmitter ACCP Requirements

Offset from center Frequency (kHz)	Measurement Bandwidth (kHz)	Maximum ACCP Relative (dBc)	Maximum ACCP Absolute (dBm)
15.625	6.25	−40	(1)
21.875	6.25	−60	−45
37.5	25	−65	−50
62.5	25	−65	−50
87.5	25	−65	−50
150	100	−65	−50
250	100	−65	−50
> 400 to receive band	30(s)	−75	−55
in the receive band	30(s)	−100	−70

[1] Not specified.

150 kHz Mobile Transmitter ACCP Requirements

Offset from center Frequency (kHz)	Measurement Bandwidth (kHz)	Maximum ACCP Relative (dBc)	Maximum ACCP Absolute (dBm)
100	50	−40	(1)
200	50	−50	−35
300	50	−50	−35
400	50	−50	−35
600 to 1000	30(s)	−60	−45
1000 to receive band	30(s)	−70	−55

150 kHz Mobile Transmitter ACCP Requirements—Continued

Offset from center Frequency (kHz)	Measurement Bandwidth (kHz)	Maximum ACCP Relative (dBc)	Maximum ACCP Absolute (dBm)
in the receive band	30(s)	−100	−75

[1] Not specified.

6.25 kHz Base Transmitter ACCP Requirements

Offset from center frequency (kHz)	Measurement bandwidth (kHz)	Maximum ACCP (dBc)
6.25	6.25	−40
12.5	6.25	−60
18.75	6.25	−60
25	6.25	−65
37.5	25	−65
62.5	25	−65
87.5	25	−65
150	100	−65
250	100	−65
>400 to receive band	30(s)	(1)
In the receive band	30(s)	-100

[1] −80 (continues @-6dB/oct)

12.5 kHz Base Trasmitter ACCP Requirements

Offset from center Frequency (kHz)	Measurement Bandwidth (kHz)	Maximum ACCP (dBc)
9.375	6.25	−40
15.625	6.25	−60
21.875	6.25	−60
37.5	25	−60
62.5	25	−65
87.5	25	−65
150	100	−65
250	100	−65
>400 to receive band	30(s)	(1)
in the receive band	30(s)	−100

[1] −80 (continues @-6dB/oct)

25 kHz Base Transmitter ACCP Requirements

Offset from center frequency (kHz)	Measurement bandwidth (kHz)	Maximum ACCP (dBc)
15.625	6.25	−40
21.875	6.25	−60
37.5	25	−60
62.5	25	−65
87.5	25	−65
150	100	−65
250	100	−65
>400 to receive band	30(s)	(1)
In the receive band	30(s)	−100

[1] −80 (continues @-6dB/oct)

150 kHz Base Transmitter ACCP Requirements

Offset from center Frequency (kHz)	Measurement bandwidth (kHz)	Maximum ACCP (dBc)
100	50	−40
200	50	−50
300	50	−55
400	50	−60

150 kHz Base Transmitter ACCP Requirements—Continued

Offset from center Frequency (kHz)	Measurement bandwidth (kHz)	Maximum ACCP (dBc)
600 to 1000	30 (s)	−65
1000 to receive band	30 (s)	(1)
In the receive band	30 (s)	-100

[1] −75 (continues @ −6dB/oct)

(b) *ACCP measurement procedure.* The following are procedures for making transmitter measurements. For time division multiple access (TDMA) systems, the measurements are to be made under TDMA operation only during time slots when the transmitter is on. All measurements must be made at the input to the transmitter's antenna. Measurement bandwidth used below implies an instrument that measures the power in many narrow bandwidths (e.g. 300 Hz) and integrates these powers across a larger band to determine power in the measurement bandwidth.

(1) *Setting reference level.* Using a spectrum analyzer capable of ACCP measurements, set the measurement bandwidth to the channel size. For example, for a 6.25 kHz transmitter, set the measurement bandwidth to 6.25 kHz; for a 150 kHz transmitter, set the measurement bandwidth to 150 kHz. Set the frequency offset of the measurement bandwidth to zero and adjust the center frequency of the spectrum analyzer to give the power level in the measurement bandwidth. Record this power level in dBm as the "reference power level".

(2) *Measuring the power level at frequency offsets <600kHz.* Using a spectrum analyzer capable of ACCP measurements, set the measurement bandwidth as shown in the tables above. Measure the ACCP in dBm. These measurements should be made at maximum power. Calculate the coupled power by subtracting the measurements made in this step from the reference power measured in the previous step. The absolute ACCP values must be less than the values given in the table for each condition above.

(3) *Measuring the power level at frequency offsets >600kHz.* Set a spectrum analyzer to 30 kHz resolution bandwidth, 1 MHz video bandwidth and sample mode detection. Sweep ±6 MHz from the carrier frequency. Set the reference level to the RMS value of the transmitter power and note the absolute power. The response at frequencies greater than 600 kHz must be less than the values in the tables above.

(4) *Upper power limit measurement.* The absolute coupled power in dBm measured above must be compared to the table entry for each given frequency offset. For those mobile stations with power control, these measurements should be repeated with power control at maximum power reduction. The absolute ACCP at maximum power reduction must be less than the values in the tables above.

(c) *Out-of-band emission limit.* On any frequency outside of the frequency ranges covered by the ACCP tables in this section, the power of any emission must be reduced below the unmodulated carrier power (P) by at least 43 + 10 log (P) dB.

(d) *Authorized bandwidth.* Provided that the ACCP requirements of this section are met, applicants may request any authorized bandwidth that does not exceed the channel size.

§ 90.545 TV/DTV interference protection criteria.

Public safety base, control, and mobile transmitters in the 764–776 MHz and 794–806 MHz frequency bands must be operated only in accordance with the rules in this section, to reduce the potential for interference to public reception of the signals of existing TV and DTV broadcast stations transmitting on TV Channels 62, 63, 64, 65, 67, 68 or 69.

(a) *D/U ratios.* Licensees of public safety stations must choose site locations that are a sufficient distance from co-channel and adjacent channel TV and DTV stations, and/or must use reduced transmitting power or transmitting antenna height such that the following minimum desired signal to undesired signal ratios (D/U ratios) are met:

(1) The minimum D/U ratio for co-channel stations is 40 dB at the hypothetical Grade B contour (64 dBμV/m) (88.5 kilometers or 55.0 miles) of the TV station or 17 dB at the equivalent Grade B contour (41 dBμV/m) (88.5 kilometers or 55.0 miles) of the DTV station.

(2) The minimum D/U ratio for adjacent channel stations is 0 dB at the hypothetical Grade B contour (64 dBμV/m) (88.5 kilometers or 55.0 miles) of the TV station or −23 dB at the equivalent Grade B contour (41 dBμV/m) (88.5 kilometers or 55.0 miles) of the DTV station.

(b) *Maximum ERP and HAAT.* The maximum effective radiated power (ERP) and the antenna height above average terrain (HAAT) of the proposed land mobile base station, the associated control station, and the mobile transmitters shall be determined using the methods described in this section.

(1) Each base station is limited to a maximum ERP of 1000 watts.

(2) Each control station is limited to a maximum ERP of 200 watts and a maximum HAAT of 61 m. (200 ft).

(3) Each mobile station is limited to a maximum ERP of 30 watts and a maximum antenna height of 6.1 m. (20 ft.).

(4) Each portable (handheld) transmitter is limited to a maximum ERP of 3 watts.

(5) All transmitters are subject to the power reductions given in Figure B of § 90.309 of this chapter, for antenna heights higher than 152 meters (500 ft).

(c) *Methods.* The methods used to calculate TV contours and antenna heights above average terrain are given in §§ 73.683 and 73.684 of this chapter. Tables to determine the necessary minimum distance from the public safety station to the TV/DTV station, assuming that the TV/DTV station has a hypothetical or equivalent Grade B contour of 88.5 kilometers (55.0 miles), are located in § 90.309 and labeled as Tables B, D, and E. Values between those given in the tables may be determined by linear interpolation. The locations of existing and proposed TV/DTV stations during the transition period are given in Part 73 of this chapter and in the final proceedings of MM Docket No. 87–268. The DTV allotments are:

State	City	NTSC TV Ch.	DTV Ch.	ERP (kW)	HAAT (m)
California	Stockton	64	62	63.5	874
California	Los Angeles	11	65	688.7	896
California	Riverside	62	68	180.1	723
California	Concord	42	63	61.0	856
Pennsylvania	Allentown	39	62	50.0	302
Pennsylvania	Philadelphia	6	64	1000.0	332
Pennsylvania	Philadelphia	10	67	791.8	354
Puerto Rico	Aguada	50	62	50.0	343
Puerto Rico	Mayaguez	16	63	50.0	347
Puerto Rico	Naranjito	64	65	50.0	142
Puerto Rico	Aguadilla	12	69	691.8	665

The transition period is scheduled to end on December 31, 2006. After that time, unless otherwise directed by the Commission, public safety stations will no longer be required to protect reception of co-channel or adjacent channel TV/DTV stations.

(1) Licensees of stations operating within the ERP and HAAT limits of paragraph (b) must select one of three methods to meet the TV/DTV protection requirements, subject to Commission approval:

(i) utilize the geographic separation specified in the tables referenced below;

(ii) submit an engineering study justifying the proposed separations based on the actual parameters of the land mobile station and the actual parameters of the TV/DTV station(s) it is trying to protect; or,

(iii) obtain written concurrence from the applicable TV/DTV station(s). If this method is chosen, a copy of the agreement must be submitted with the application.

(2) The following is the method for geographic separations.

(i) Base stations having an antenna height (HAAT) less than 152 m. (500 ft.) shall afford protection to co-channel and adjacent channel TV/DTV stations in accordance with the values specified in Table B (co-channel frequencies based on 40 dB protection) and Table E (adjacent channel frequencies based on 0 dB protection) in § 90.309 of this part. For base stations having an antenna height (HAAT) between 152–914 meters (500–3,000 ft.) the effective radiated power must be reduced below 1 kilowatt in accordance with the values shown in the power reduction graph in Figure B in § 90.309 of this part. For heights of more than 152 m. (500 ft.) above average terrain, the distance to the radio path horizon will be calculated assuming smooth earth. If the distance so determined equals or exceeds the distance to the hypothetical or equivalent Grade B contour of a co-channel TV/DTV station (*i.e.*, it exceeds the distance from the appropriate Table in § 90.309 to the relevant TV/DTV station) an authorization will not be granted unless it can be shown in an engineering study (method 2) that actual terrain considerations are such as to provide the desired protection at the actual Grade B contour (64 dBμV/m for TV and 41 dBμV/m for DTV stations), or that the effective radiated power will be further reduced so that, assuming free space attenuation, the desired protection at the actual Grade B contour (64 dBμV/m for TV and 41 dBμV/m coverage contour for DTV stations) will be achieved. Directions for calculating powers, heights, and reduction curves are listed in § 90.309 for land mobile stations. Directions for calculating coverage contours are listed in §§ 73.683–685 for TV stations and in § 73.625 for DTV stations.

(ii) Control and mobile stations (including portables) are limited in height and power and therefore shall afford protection to co-channel and adjacent channel TV/DTV stations in accordance with the values specified in Table D (co-channel frequencies based on 40 dB protection) in § 90.309 of this part and a minimum distance of 8 kilometers (5 miles) from all adjacent channel TV/DTV station hypothetical or equivalent Grade B contours (adjacent channel frequencies based on 0 dB protection for TV stations and −23 dB for DTV stations). Since control and mobile stations may affect different TV/DTV stations than the associated base station, particular care must be taken by applicants to ensure that all the appropriate TV/DTV stations are considered (*e.g.*, a base station may be operating on TV Channel 64 and the mobiles on TV Channel 69, in which case TV Channels 63, 64, 65, 68, and 69 must be protected). Control and mobile stations shall keep a minimum distance of 96.5 kilometers (60 miles) from all adjacent channel TV/DTV stations. Since mobiles and portables are able to move and communicate with each other, licensees or coordinators must determine the areas where the mobiles can and cannot roam in order to protect the TV/DTV stations, and advise the mobile operators of these areas and their restrictions.

(iii) In order to protect certain TV/DTV stations and to ensure protection from these stations which may have extremely large contours due to unusual height situations, an additional distance factor must be used by all public safety base, control and mobile stations. For all co-channel and adjacent channel TV/DTV stations which have an HAAT between 350 and 600 meters, public safety stations must add the following DISTANCE FACTOR to the value obtained from the referenced Tables in § 90.309 and to the distance for control and mobile stations on adjacent TV/DTV channels (96.5 km).

DISTANCE FACTOR = (TV/DTV HAAT − 350) ÷ 14 in kilometers, where HAAT is the TV or DTV station antenna height above average terrain obtained from its authorized or proposed facilities, whichever is greater.

(iv) For all co-channel and adjacent channel TV/DTV stations which have an antenna height above average terrain greater than 600 meters, public safety stations must add 18 kilometers as the DISTANCE FACTOR to the value obtained from the referenced Tables in § 90.309 and to the distance for control and mobile stations on adjacent TV/DTV channels (96.5 km).

Note to § 90.545.—The 88.5 km (55.0 mi) Grade B service contour (64 dBμV/m) is based on a hypothetical TV station operating at an effective radiated power of one megawatt, a transmitting antenna height above average terrain of 610 meters (2000 feet) and the Commission's R–6602 F(50,50) curves. *See* § 73.699 of this chapter. Maximum facilities for TV stations operating in the UHF band are 5 megawatts effective radiated power at an antenna HAAT of 610 meters (2,000 feet). *See* § 73.614 of this chapter. The equivalent contour for DTV stations is based on a 41 dBμV/m signal strength and the distance to the F(50,90) curve. *See* § 73.625 of this chapter.

§ 90.547 Interoperability channel capability requirement.

Mobile and portable transmitters designed pursuant to standards adopted

by the National Coordination Committee to operate in the 764–776 MHz and 794–806 MHz frequency bands must be capable of operating on any of the designated nationwide narrowband interoperability channels approved by the Commission.

§ 90.549 Transmitter certification.

Transmitters operated in the 764–776 MHz and 794–806 MHz frequency bands must be certificated as required by § 90.203.

§ 90.551 Construction requirements.

Each station authorized under this subpart to operate in the 764–776 MHz and 794–806 MHz frequency bands must be constructed and placed into operation within 12 months from the date of grant of the authorization. However, licensees may request a longer construction period, up to but not exceeding 5 years, pursuant to § 90.155(b).

[FR Doc. 98–28975 Filed 10–30–98; 8:45 am]
BILLING CODE 6712–01–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208297–8054–02; I.D. 102798A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in the Gulf of Alaska Statistical Area 620

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for pollock for 72 hours in Statistical Area 620 in the Gulf of Alaska (GOA). This action is necessary to fully utilize the total allowable catch (TAC) of pollock in that area.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), October 27, 1998, until 1200 hours, October 30, 1998.

FOR FURTHER INFORMATION CONTACT: Nick Hindman, 907–581–2062.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(a)(5)(ii)(A), the Final 1998 Harvest Specifications for Groundfish established the allowance for the pollock TAC apportioned to Statistical Area 620 in the GOA as 50,045 metric tons (mt) (63 FR 12027, March 12, 1998). The Acting Administrator, Alaska Region, NMFS (Acting Regional Administrator), has established a directed fishing allowance of 49,945 mt, and set aside 100 mt as bycatch to support other anticipated groundfish fisheries.

The fishery for pollock in Statistical Area 620 was closed to directed fishing under § 679.20(d)(1)(iii) on October 12, 1998 (63 FR 55342, October 15, 1998), in order to reserve amounts anticipated to be needed for incidental catch in other fisheries. NMFS has determined that as of October 23, 1998, 1,867 mt remain in the directed fishing allowance. Therefore, NMFS is terminating the previous closure and is opening directed fishing for pollock in Statistical Area 620 of the GOA effective 1200 hrs, A.l.t., October 27, 1998.

In accordance with § 679.20(d)(1)(iii), the Acting Regional Administrator finds that this directed fishing allowance will soon be reached. Therefore, NMFS is prohibiting directed fishing for pollock in Statistical Area 620 at 12 noon, A.l.t., October 30, 1998.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f). All other closures remain in full force and effect.

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to provide an opportunity to harvest the directed fishing allowance for pollock in Statistical Area 620 in the GOA and to prevent overharvesting the 1998 TAC. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in loss of fishing opportunity and potential overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 27, 1998.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–29198 Filed 10–27–98; 5:07 pm]
BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 63, No. 211
Monday, November 2, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AI48

Prevailing Rate Systems; Lead Agency Responsibility

AGENCY: Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing a proposed rule that would change the lead agency responsibility for certain Federal Wage System (FWS) appropriated fund wage areas from the Department of Veterans Affairs (VA) to the Department of Defense (DOD). A lead agency under the FWS is the Federal agency designated by OPM to conduct local wage surveys and establish wage schedules for FWS employees according to local prevailing rates within a wage area. There are currently 133 FWS appropriated fund wage areas. DOD is currently the lead agency in 110 wage areas, and VA is the lead agency in 23 wage areas. VA has requested that OPM designate DOD as the lead agency in all of the wage areas where VA currently has lead agency responsibility. This change would make DOD the lead agency in all FWS wage areas and is proposed because it would make more efficient use of the resources devoted by agencies to determining FWS pay rates.

DATES: Comments must be received on or before December 2, 1998.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Assistant Director for Compensation Administration, Workforce Compensation and Performance Service, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415, or FAX: (202) 606–4264.

FOR FURTHER INFORMATION CONTACT: Mark A. Allen at (202) 606–2848, or email: maallen@opm.gov.

SUPPLEMENTARY INFORMATION: Under 5 U.S.C. 5343(a)(2), the Office of Personnel Management (OPM) is responsible for designating lead agencies in Federal Wage System (FWS) wage areas. Lead agencies are responsible for conducting surveys of private sector employers to establish wage schedules for FWS employees based on local prevailing rates. The Department of Defense (DOD) is the lead agency in 110 FWS wage areas, and the Department of Veterans Affairs (VA) is the lead agency in 23 FWS wage areas. VA is currently the lead agency in the New Haven-Hartford, Connecticut; Miami, Florida; Tampa-St. Petersburg, Florida; Champaign-Urbana, Illinois; Chicago, Illinois; Cedar Rapids-Iowa City, Iowa; Des Moines, Iowa; Augusta, Maine; Boston, Massachusetts; Southwestern Michigan; Minneapolis-St. Paul, Minnesota; New York, New York; Rochester, New York; Asheville, North Carolina; Charlotte, North Carolina; Cincinnati, Ohio; Cleveland, Ohio; Southwestern Oregon; Pittsburg, Pennsylvania; Eastern Tennessee; Houston-Galveston-Texas City, Texas; Roanoke, Virginia; and Milwaukee, Wisconsin, FWS wage areas.

VA has requested that OPM designate DOD as the lead agency in the wage areas where VA is currently designated as the lead agency. Since the establishment of the FWS in 1972, VA has played a key role in the administration of the pay program for FWS employees. However, for the past few years, VA has experienced reductions in overall employment in the human resources management areas both in field and headquarters activities. At the headquarters level, two out of three experienced specialists assigned to oversee FWS wage surveys are no longer available to work in that area because of retirements and reassignments. VA believes that a consolidation of the FWS survey function within one agency would be more efficient and would provide a consistency in the survey process that would strengthen the FWS program nationwide. DOD has expressed its willingness and indicated its ability to assume lead agency responsibility in the wage areas where VA is currently assigned lead agency responsibility.

This proposed change was reviewed by the Federal Prevailing Rate Advisory Committee (FPRAC), the national labor-management committee responsible for advising OPM on matters that affect the pay of FWS employees. The Committee recommended approval of the change by majority vote. The management members of FPRAC proposed this change because diminishing staff resources within VA headquarters have made it very difficult for VA to accomplish its wage survey work in an effective manner, and DOD has expressed its ability and willingness to assume lead agency responsibility in all FWS wage areas. All Committee members voted for the proposal except for the National Federation of Federal Employees, which abstained. The remaining labor members of FPRAC supported the proposed change with reservations, stating that although no reasonable alternative exists, they are concerned about the placement of Governmentwide FWS wage determinations within a single agency.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, the Office of Personnel Management is proposing to amend 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

2. Appendix A to subpart B is amended for the New Haven-Hartford, Connecticut; Miami, Florida; Tampa-St. Petersburg, Florida; Champaign-Urbana, Illinois; Chicago, Illinois; Cedar Rapids-Iowa City, Iowa; Des Moines, Iowa; Augusta, Maine; Boston, Massachusetts; Southwestern Michigan; Minneapolis-St. Paul, Minnesota; New York, New York; Rochester, New York; Asheville, North Carolina; Charlotte, North

Carolina; Cincinnati, Ohio; Cleveland, Ohio; Southwestern Oregon; Pittsburg, Pennsylvania; Eastern Tennessee; Houston-Galveston-Texas City, Texas; Roanoke, Virginia; and Milwaukee, Wisconsin, wage areas by revising the lead agency listings for those areas from "VA" to "DOD".

[FR Doc. 98–29190 Filed 10–30–98; 8:45 am]
BILLING CODE 6325–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE145, Notice No. 23–98–01–SC]

Special Conditions; Raytheon Model 390 Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Raytheon Aircraft Company Model 390 airplane. This new airplane will have novel and unusual design features not typically associated with normal, utility, acrobatic, and commuter category airplanes. These design features include turbofan engines, engine location, swept wings and stabilizer, and certain performance characteristics necessary for this type of airplane, for which the applicable regulations do not contain adequate or appropriate airworthiness standards. This notice contains the additional airworthiness standards that the Administrator considers necessary to establish a level of safety equivalent to that existing in the current business jet fleet and expected by the user of this class of aircraft.

DATES: Comments must be received on or before December 2, 1998.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Regional Counsel, ACE–7, Attention: Rules Docket Clerk, Docket No. CE145, Room No. 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. CE145. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Lowell Foster, Aerospace Engineer, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, Room 1544, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 426–5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking further rulemaking action on this proposal. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. CE145." The postcard will be date stamped and returned to the commenter. The proposals contained in this notice may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the rules docket for examination by interested parties. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Background

On August 1, 1995, Raytheon Aircraft Company (then Beech Aircraft Corporation), 9707 East Central, Wichita, Kansas 67201, made application for 14 CFR part 23 normal category type certification of its Model 390 airplane. The Model 390 has a composite fuselage, a metal wing with 22.8 degrees of leading-edge sweepback, and a combination composite/metal empennage in a T-tail configuration with trimmable horizontal tail with 27.3 degrees of leading-edge sweepback. The airplane will accommodate six passengers and a crew of two. The Model 390 will have a V_{MO}/M_{MO} of 320 knots/M.83, and has two turbofan engines mounted on the aft fuselage above and behind the wing.

Type Certification Basis

Type certification basis of the Model 390 airplane is as follows: 14 CFR part 23, effective February 1, 1965, through Amendment 23–52, effective July 25, 1996; 14 CFR part 36, effective December 1, 1969, through the amendment effective on the date of type certification; 14 CFR part 34; exemptions, if any; and the special conditions adopted by this rulemaking action.

Discussion

Special conditions may be issued and amended, as necessary, as part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with 14 CFR part 21, § 21.17(a)(1), do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane. Special conditions, as appropriate, are issued in accordance with 14 CFR part 11, § 11.49, after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and become part of the type certification basis as provided by part 21, § 21.17(a)(2).

Raytheon plans to incorporate certain novel and unusual design features into the Model 390 airplane for which the airworthiness regulations do not contain adequate or appropriate safety standards. These features include turbofan engines, engine location, swept wings and stabilizer, and certain performance characteristics necessary for this type of airplane.

Performance

The Raytheon Model 390 has a wing with 22.8 degrees of leading-edge sweepback and a T-tail configuration with trimmable horizontal stabilizer with 27.3 degrees of leading-edge sweepback. The Model 390 will have a V_{MO}/M_{MO} of 320 knots/M.83, and it will have two turbofan engines mounted on the aft fuselage.

Previous certification and operational experience with airplanes of like design in the transport category reveal certain unique characteristics compared to conventional aircraft certificated under part 23. These characteristics have caused safety problems in the past when pilots attempted takeoffs and landings, particularly with a large variation in temperature and altitude, using procedures and instincts developed with conventional airplanes.

One of the major distinguishing features of a swept-wing design not considered in current part 23 is a characteristically flatter lift curve without a "stall" break near the maximum coefficient of lift, as in a conventional wing. The "stall" separation point may occur at a much higher angle of attack than the point of maximum lift, and the angle of attack for maximum lift can be only recognized by precise test measurements or specific detection systems. This phenomenon is not apparent to a pilot accustomed to operating a conventional airplane where

increasing angle of attack produces increased lift to the point where the wing stalls. In a swept-wing design, if the pilot does not operate in accordance with established standards developed through a dedicated test program, increasing angle of attack may produce very little lift yet increase drag markedly to the point where flight is impossible. These adverse conditions may be further compounded by the characteristics of turbofan engines, including specified N_1/N_2 rotational speeds, temperature, and pressure limits that make its variation in thrust output with changes in temperature and altitude more complex and difficult to predict. In recognition of these characteristics, Special Civil Air Regulations No. SR–422 and follow-on regulations established weight-altitude-temperature (WAT) limitations and procedures for scheduling takeoff and landing for turbine powered transport category airplanes, so the pilot could achieve reliable and repeatable results under all expected conditions of operation. This entails specific tests such as minimum unstick speed, V_{MU}, to ensure that rotation and fly-out speeds are correct and that the airplane speed schedule will not allow the airplane to lift off in ground effect and then be unable to accelerate and continue to climb out. In conjunction with the development of takeoff and landing procedures, it was also necessary to establish required climb gradients and data for flight path determination under all approved weights, altitudes, and temperatures. This enables the pilot to determine, before takeoff, that a safe takeoff, departure, and landing at destination can be achieved.

Takeoff

Based upon the knowledge and experience gained with similar high speed, high efficiency turbojet airplanes, special conditions require performance standards for takeoff, takeoff speeds, accelerate-stop distance, takeoff path, takeoff distance, takeoff run, and takeoff flight path.

Additionally, procedures for takeoff, accelerate-stop distance, and landing are proposed as those established for operation in service and must be executable by pilots of average skill and include reasonably expected time delays.

Climb

To maintain a level of safety that is equivalent to the current business jet fleet for takeoff, takeoff speeds, takeoff path, takeoff distance, and takeoff run. it is appropriate to require specific climb gradients, airplane configurations, and consideration of atmospheric conditions that will be encountered. These special conditions include climb with one engine inoperative, balked landing climb, and general climb conditions.

Landing

Landing distance determined for the same parameters is consistent with takeoff information for the range of weights, altitudes, and temperatures approved for operation. Further, it is necessary to consider time delays to provide for in-service variation in the activation of deceleration devices such as spoilers and brakes.

Trim

Special conditions are issued to maintain a level of safety that is consistent with the use of V_{MO}/M_{MO} and the requirements established for previous part 23 jet airplanes. Current standards in part 23 did not envision this type of airplane and the associated trim considerations.

Demonstration of Static Longitudinal Stability

To maintain a level of safety consistent with existing business jet airplanes, it is appropriate to define applicable requirements for static longitudinal stability. Current standards in part 23 did not envision this type of airplane and the associated stability considerations. Special conditions will establish static longitudinal stability requirements that include a stick force versus speed specification and stability requirements applicable to high speed jet airplanes.

Consistent with the concept of V_{MO}/M_{MO} being a maximum operational speed limit, rather than a limiting speed for the demonstration of satisfactory flight characteristics, it is appropriate to extend the speed for demonstration of longitudinal stability characteristics from the V_{MO}/M_{MO} of 14 CFR part 23 to the maximum speed for stability characteristics, V_{FC}/M_{FC}, for this airplane.

Static Directional and Lateral Stability

Consistent with the concept of V_{MO}/M_{MO} being a maximum operational speed limit, rather than a limiting speed for the demonstration of satisfactory flight characteristics, it is appropriate to extend the speed for demonstration of lateral/directional stability characteristics from the V_{MO}/M_{MO} of part 23 to the maximum speed for stability characteristics, V_{FC}/M_{FC} for this airplane.

Stall Characteristics

The stall characteristics requirements are relaxed from part 23 to be equivalent to that acceptable in current business jets. These special conditions reflect a higher expected pilot proficiency level, the remote chance that a stall will be encountered in normal operation, and the requirements are relaxed as compensation for meeting the higher performance requirements in these special conditions.

Vibration and Buffeting

The Raytheon Model 390 will be operated at high altitudes where stall-Mach buffet encounters (small speed margin between stall and transonic flow buffet) are likely to occur, which is not presently addressed in part 23. The special condition will require buffet onset tests and the inclusion of information in the Airplane Flight Manual (AFM) to provide guidance to the flightcrew. This information will enable the flightcrew to plan flight operations that will maximize the maneuvering capability during high altitude cruise flight and preclude intentional operations exceeding the boundary of perceptible buffet. Buffeting is considered to be a warning to the pilot that the airplane is approaching an undesirable and eventually dangerous flight regime, that is, stall buffeting, high speed buffeting or maneuvering (load factor) buffeting. In straight flight, therefore, such buffet warning should not occur at any normal operating speed up to the maximum operating limit speed, V_{MO}/M_{MO}.

High Speed Characteristics and Maximum Operating Limit Speed

The Raytheon Model 390 will be operated at high altitude and high speeds. The proposed operating envelope includes areas in which Mach effects, which have not been considered in part 23, may be significant. The anticipated low drag of the airplane and the proposed operating envelope are representative of the conditions not envisioned by the existing part 23 regulations. These conditions may degrade the ability of the flightcrew to promptly recover from inadvertent excursions beyond maximum operating speeds. The ability to pull a positive load factor is needed to ensure, during recovery from upset, that the airplane speed does not continue to increase to a value where recovery may not be achievable by the average pilot or flightcrew.

Additionally, to allow the aircraft designer to conservatively design to higher speeds than may be operationally

required for the airplane, the concept of V_{DF}/M_{DF}, the highest demonstrated flight speed for the type design, is appropriate for this airplane. This permits V_D/M_D, the design dive speed, to be higher than the speed actually required to be demonstrated in flight. Accordingly, the special conditions allow one to determine a maximum demonstrated flight speed and to relate the speeds V_{MO}/M_{MO} and V_{DF}/M_{DF}.

Flight Flutter Tests

Flight flutter test special conditions are proposed to V_{DF}/M_{DF} rather than to V_D, in keeping with the V_{DF}/M_{DF} concept.

Out-of-Trim Characteristics

High speed airplanes have experienced a number of upset incidents involving out-of-trim conditions. This is particularly true for swept-wing airplanes and airplanes with a trimmable stabilizer. Service experience has shown that out-of-trim conditions can occur in flight for various reasons and that the control and maneuvering characteristics of the airplane may be critical in recovering from upsets. The existing part 23 regulations do not address high speed out-of-trim conditions. These special conditions test the out-of-trim flight characteristics by requiring the longitudinal trim control be displaced from the trimmed position by the amount resulting from the three-second movement of the trim system at this normal rate with no aerodynamic load, or the maximum mis-trim that the autopilot can sustain in level flight in the high speed cruise condition, whichever is greater. Special conditions require the maneuvering characteristics, including stick force per g, be explored throughout a specified maneuver load factor speed envelope. The dive recovery characteristics of the aircraft in the out-of-trim condition specified would be investigated to determine that safe recovery can be made from the demonstrated flight dive speed V_{DF}/M_{DF}.

Takeoff Warning System

Jet airplanes incorporating leading-edge sweep in the wing and horizontal tail and incorporating a trimmable horizontal tail have had accidents because of the criticality of the airplane's configuration at takeoff. Unlike simple, straight wing airplanes, an incorrect flap or horizontal tail trim setting can significantly alter the takeoff distance. Special conditions to require a takeoff warning system are proposed to maintain a level of safety appropriate for this class of aircraft.

Engine Fire Extinguishing System

The Model 390 design includes engines mounted aft on the fuselage; therefore, early visual detection of engine fires is precluded. The applicable existing regulations do not require fire extinguishing systems for engines. Aft mounted engine installations were not envisaged in the development of part 23; therefore, special conditions for a fire extinguishing system with the applicable agents, containers, and materials for the engines of the Model 390 are appropriate.

Airspeed Indicating System

To maintain a level of safety consistent with that existing in the current business jet fleet, and to be consistent with the establishment of speed schedule performance requirements, it is appropriate to establish applicable requirements for determining and providing airspeed indicating system calibration information. Additionally, it is appropriate to establish special conditions requiring protection of the pilot tube from malfunctions associated with icing conditions. Special conditions will establish airspeed indicating system calibration and pilot tube ice protection requirements applicable to transport category jet airplanes.

Static Pressure System

Special conditions are appropriate to establish applicable requirements for providing static pressure system calibration information in the AFM. Since aircraft of this type are frequently equipped with devices to correct the altimeter indication, it is also appropriate to establish requirements to ensure the continued availability of altitude information where such a device malfunctions. Current standards in part 23 did not envision this type of airplane and the associated static pressure requirements.

Minimum Flightcrew

The Raytheon Model 390 operates at high altitudes and speeds not envisioned in part 23 and must be flown in a precise speed schedule to achieve flight manual takeoff and landing distances. Therefore, it is appropriate to specify workload considerations. Special conditions will specify the items to be considered in workload determination.

Airplane Flight Manual (AFM) Information

To be consistent with the performance special conditions, it is also necessary to require that the maximum takeoff and landing weights, takeoff distances, and associated atmospheric conditions be made available to the pilot in the AFM and that the airplane be operated within its performance capabilities. Special conditions will add maximum takeoff weights, maximum landing weights, and minimum takeoff distances as limitations in the AFM. Additionally, special conditions are included to add takeoff flight path and procedures necessary to achieve the performance in the limitations section as information in the AFM.

Effects of Contamination on Natural Laminar Flow Airfoils

Airfoil configurations similar to the Raytheon Model 390 had measurable degradations of handling qualities and performance when laminar flow was lost due to airfoil contamination. Tripping of the boundary layer could be caused from flight in precipitation conditions or by the presence of contamination such as insects. If measurable effects are detected, it should be determined that the minimum flight characteristics standards continue to be met and that any degradations to performance information are identified. This may be accomplished by a combination of analysis and testing. Current standards in part 23 did not envision this type of airplane and the associated airfoil contamination considerations. Special considerations are issued since existing regulations do not require these adverse effects to be evaluated.

Conclusion

In view of the design features discussed for the Raytheon Model 390 airplane, the following special conditions are proposed. This action is not a rule of general applicability and affects only the model/series of airplane identified.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation Safety, Signs and Symbols.

Citation

The authority citation for these Special Conditions is as follows:

Authority: 49 U.S.C. 106(g); 40113, 44701, 44702, and 44704; 14 CFR 21.16 and 21.17; and 14 CFR 11.28 and 11.29(b).

The Proposed Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes the following special conditions as part of the type certification basis for the Raytheon Model 390 airplane:

SC23.45 Performance: General.

Instead of the requirements of § 23.45(g) and (h), the following apply:

(g) The following, as applicable, must be determined on a smooth, dry, hard-surfaced runway—

(1) Takeoff distance of special condition SC23.53;

(2) Accelerate-stop distance of special condition SC23.55;

(3) Takeoff distance and takeoff run of special condition SC23.59; and

(4) Landing distance of special condition SC23.75.

Note: The effect on these distances of operation on other types of surfaces (for example, grass, gravel), when dry, may be determined or derived and these surfaces listed in the Airplane Flight Manual.

(h) Unless otherwise prescribed, the applicant must select the takeoff, enroute, approach, and landing configurations for the airplane.

In addition to the requirements of § 23.45 and the paragraphs above, the following apply:

(i) The airplane configurations may vary with weight, altitude, and temperature to the extent that they are compatible with the operating procedures required by paragraph (d) of this special condition.

(j) Unless otherwise prescribed, in determining the accelerate-stop distances, takeoff flight paths, takeoff distances, and landing distances, changes in the airplane's configuration, speed, power, and thrust, must be made in accordance with procedures established by the applicant for operation in service.

(k) Procedures for the execution of balked landings and discontinued approaches associated with the conditions prescribed in special conditions SC23.77 and SC23.67(d) must be established.

(l) The procedures established under paragraphs (d) and (e) of this special condition must:

(1) Be able to be consistently executed in service by crews of average skill;

(2) Use methods or devices that are safe and reliable; and

(3) Include allowance for any time delays in the execution of the procedures that may reasonably be expected in service.

SC23.49 Stalling speed.

In § 23.49(b), change the reference from "§ 23.201" to "§ 23.201 and special condition SC23.201."

SC23.51 Takeoff speeds.

Instead of compliance with § 23.51, the following apply:

(a) V_1 must be established in relation to V_{EF}, as follows:

(1) V_{EF} is the calibrated airspeed at which the critical engine is assumed to fail. V_{EF} must be selected by the applicant, but may not be less than V_{MCG} determined under § 23.149(f) and special condition SC23.149(f).

(2) V_1, in terms of calibrated airspeed, is the takeoff decision speed selected by the applicant; however, V_1 may not be less than V_{EF} plus the speed gained with the critical engine inoperative during the time interval between the instant at which the critical engine failed and the instant at which the pilot recognizes and reacts to the engine failure, as indicated by the pilot's application of the first retarding means during the accelerate-stop test.

(b) $V_{2\ min}$, in terms of calibrated airspeed, may not be less than the following:

(1) 1.2 V_{S1}, or

(2) 1.10 times V_{MC} established under § 23.149.

(c) V_2, in terms of calibrated airspeed, must be selected by the applicant to provide at least the gradient of climb required by special condition SC23.67(b), but may not be less than the following:

(1) $V_{2\ min}$, and

(2) V_R plus the speed increment attained (in accordance with special condition SC23.57(c)(2)) before reaching a height of 35 feet above the takeoff surface.

(d) V_{MU} is the calibrated airspeed at and above which the airplane can safely lift off the ground and continue the takeoff. V_{MU} speeds must be selected by the applicant throughout the range of thrust-to-weight ratios to be certified. These speeds may be established from free-air data if these data are verified by ground takeoff tests.

(e) V_R, in terms of calibrated airspeed, must be selected in accordance with the following conditions of paragraphs (e)(1) through (e)(4) of this special condition:

(1) V_R may not be less than the following:

(i) V_1;

(ii) 105 percent of V_{MC};

(iii) The speed (determined in accordance with special condition SC23.57(c)(2)) that allows reaching V_2 before reaching a height of 35 feet above the takeoff surface; or

(iv) A speed that, if the airplane is rotated at its maximum practicable rate, will result in a V_{LOF} of not less than 110 percent of V_{MU} in the all-engines-operating condition and not less than 105 percent of V_{MU} determined at the thrust-to-weight ratio corresponding to the one-engine-inoperative condition.

(2) For any given set of conditions (such as weight, configuration, and temperature), a single value of V_R, obtained in accordance with this special condition, must be used to show compliance with both the one-engine-inoperative and the all-engines-operating takeoff provisions.

(3) It must be shown that the one-engine-inoperative takeoff distance, using a rotation speed of 5 knots less than V_R, established in accordance with paragraphs (e)(1) and (e)(2) of this special condition, does not exceed the corresponding one-engine-inoperative takeoff distance using the established V_R. The takeoff distances must be determined in accordance with special condition SC23.59(a)(1).

(4) Reasonably expecting variations in service from the established takeoff procedures for the operation of the airplane (such as over-rotation of the airplane and out-of-trim conditions) may not result in unsafe flight characteristics or in marked increases in the scheduled takeoff distances established in accordance with special condition SC23.59.

(f) V_{LOF} is the calibrated airspeed at which the airplane first becomes airborne.

SC23.53 Takeoff performance.

Instead of complying with § 23.53, the following apply:

(a) In special conditions SC23.51, SC23.55, SC23.57 and SC23.59, the takeoff speeds, the accelerate-stop distance, the takeoff path, the takeoff distance, and takeoff run described must be determined:

(1) At each weight, altitude, and ambient temperature within the operation limits selected by the applicant; and

(2) In the selected configuration for takeoff.

(b) No takeoff made to determine the data required by this section may require exceptional piloting skill or alertness.

(c) The takeoff data must be based on a smooth, dry, hard-surfaced runway.

(d) The takeoff data must include, within the established operational limits of the airplane, the following operational correction factors:

(1) Not more than 50 percent of nominal wind components along the takeoff path opposite to the direction of takeoff, and not less than 150 percent of nominal wind components along the takeoff path in the direction of takeoff; and

(2) Effective runway gradients.

SC23.55 Accelerate-stop distance.

In the absence of specific accelerate-stop distance requirements, the following apply:

(a) The accelerate-stop distance is the sum of the distances necessary to—

(1) Accelerate the airplane from a standing start to V_{EF} with all engines operating;

(2) Accelerate the airplane from V_{EF} to V_1, assuming that the critical engine fails at V_{EF}; and

(3) Come to a full stop from the point at which V_1 is reached assuming that, in the case of engine failure, the pilot has decided to stop as indicated by application of the first retarding means at the speed V_1.

(b) Means other than wheel brakes may be used to determine the accelerate-stop distance if that means—

(1) Is safe and reliable;

(2) Is used so that consistent results can be expected under normal operating conditions; and

(3) Is such that exceptional skill is not required to control the airplane.

(c) The landing gear must remain extended throughout the accelerate-stop distance.

SC23.57 Takeoff path.

In the absence of specific takeoff path requirements, the following apply:

(a) The takeoff path extends from a standing start to a point in the takeoff at which the airplane is 1,500 feet above the takeoff surface or at which the transition from the takeoff to the enroute configuration is completed and a speed is reached at which compliance with special condition SC23.67(c) is shown, whichever point is higher. In addition, the following apply:

(1) The takeoff path must be based on procedures prescribed in special condition SC23.45;

(2) The airplane must be accelerated on the ground to V_{EF}, at which point the critical engine must be made inoperative and remain inoperative for the rest of the takeoff; and

(3) After reaching V_{EF}, the airplane must be accelerated to V_2.

(b) During the acceleration to speed V_2, the nose gear may be raised off the ground at a speed not less than V_R. However, landing gear retraction may not begin until the airplane is airborne.

(c) During the takeoff path determination, in accordance with paragraphs (a) and (b) of this special condition, the following apply:

(1) The slope of the airborne part of the takeoff path must be positive at each point;

(2) The airplane must reach V_2 before it is 35 feet above the takeoff surface and must continue at a speed as close as practical to, but not less than, V_2 until it is 400 feet above the takeoff surface;

(3) At each point along the takeoff path, starting at the point at which the airplane reaches 400 feet above the takeoff surface, the available gradient of climb may not be less than 1.2 percent; and

(4) Except for gear retraction, the airplane configuration may not be changed, and no change in power or thrust that requires action by the pilot may be made, until the airplane is 400 feet above the takeoff surface.

(d) The takeoff path must be determined by a continuous demonstrated takeoff or by synthesis from segments. If the takeoff path is determined by the segmental method, the following apply:

(1) The segments must be clearly defined and must be related to the distinct changes in the configuration, speed, and power or thrust;

(2) The weight of the airplane, the configuration, and the power or thrust must be constant throughout each segment and must correspond to the most critical condition prevailing in the segment;

(3) The flight path must be based on the airplane's performance without ground effect; and

(4) The takeoff path data must be checked by continuous demonstrated takeoffs, up to the point at which the airplane is out of ground effect and its speed is stabilized, to ensure that the path is conservative relative to the continuous path.

Note: The airplane is considered to be out of the ground effect when it reaches a height equal to its wing span.

SC23.59 Takeoff distance and takeoff run.

In the absence of specific takeoff distance and takeoff run requirements, the following apply:

(a) Takeoff distance is the greater of the following:

(1) The horizontal distance along the takeoff path from the start of the takeoff to the point at which the airplane is 35 feet above the takeoff surface, determined under special condition SC23.57; or

(2) 115 percent of the horizontal distance along the takeoff path, with all engines operating, from the start of the takeoff to the point at which the airplane is 35 feet above the takeoff surface, as determined by a procedure consistent with special condition SC23.57.

(b) If the takeoff distance includes a clear way, the takeoff run is the greater of the following:

(1) The horizontal distance along the takeoff path from the start of the takeoff to a point equidistant between the point at which V_{LOF} is reached and the point at which the airplane is 35 feet above the takeoff surface, as determined under special condition SC23.57; or

(2) 115 percent of the horizontal distance along the takeoff path, with all engines operating, from the start of the takeoff to a point equidistant between the point at which V_{LOF} is reached and the point at which the airplane is 35 feet above the takeoff surface, determined by a procedure consistent with special condition SC23.57.

SC23.61 Takeoff flight path.

In the absence of specific takeoff flight path requirements, the following apply:

(a) The takeoff flight path begins 35 feet above the takeoff surface at the end of the takeoff distance determined in accordance with special condition SC23.59.

(b) The net takeoff flight path data must be determined so that they represent the actual takeoff flight paths (determined in accordance with special condition SC23.57 and with paragraph (a) of this special condition) reduced at each point by a gradient of climb equal to 0.8 percent.

(c) The prescribed reduction in climb gradient may be applied as an equivalent reduction in acceleration along that part of the takeoff flight path at which the airplane is accelerated in level flight.

SC23.63 Climb: general.

Instead of compliance with § 23.63, the following applies:

Compliance with the requirements of special conditions SC23.67 and SC23.77 must be shown at each weight, altitude, and ambient temperature within the operational limits established for the airplane and with the most unfavorable center of gravity for each configuration.

SC23.65 Climb: all engines operating.

Delete requirement of § 23.65.

SC23.66 Takeoff climb: One engine inoperative.

Delete requirement of § 23.66.

SC23.67 Climb: One engine inoperative.

Instead of compliance with § 23.67, the following apply:

(a) Takeoff; landing gear extended. In the critical takeoff configuration existing along the flight path (between the points at which the airplane reaches V_{LOF} and at which the landing gear is fully retracted) and in the configuration used in special condition SC23.57 without ground effect, unless there is a more critical power operating condition existing later along the flight path before the point at which the landing gear is fully retracted, the steady gradient of climb must be positive at V_{LOF} and with the following:

(1) The critical engine inoperative and the remaining engines at the power or thrust available when retraction of the landing gear begins in accordance with special condition SC23.57, and

(2) The weight equal to the weight existing when retraction of the landing gear begins, determined under special condition SC23.57.

(b) Takeoff; landing gear retracted. In the takeoff configuration existing at the point of the flight path at which the landing gear is fully retracted and in the configuration used in special condition SC23.57, without ground effect, the steady gradient of climb may not be less than 2.4 percent at V_2 and with the following:

(1) The critical engine inoperative, the remaining engines at the takeoff power or thrust available at the time the landing gear is fully retracted, determined under special condition SC23.57 unless there is a more critical power operating condition existing later along the flight path but before the point where the airplane reaches a height of 400 feet above the takeoff surface; and

(2) The weight equal to the weight existing when the airplane's landing gear is fully retracted, determined under special condition SC23.57.

(c) Final takeoff. In the enroute configuration at the end of the takeoff path, determined in accordance with special condition SC23.57, the steady gradient of climb may not be less than 1.2 percent at not less than 1.25 V_S and with the following:

(1) The critical engine inoperative and the remaining engines at the available maximum continuous power or thrust; and

(2) The weight equal to the weight existing at the end of the takeoff path, determined under special condition SC23.57.

(d) Approach. In the approach configuration corresponding to the normal all-engines-operating procedure in which V_S for this configuration does not exceed 110 percent of the V_S for the related landing configuration, the steady gradient of climb may not be less than 2.1 percent with the following:

(1) The critical engine inoperative, the remaining engine at the available in-flight takeoff power or thrust;

(2) The maximum landing weight; and

(3) A climb speed established in connection with normal landing procedures, but not exceeding 1.5 V_S.

SC23.73 Reference landing approach speed.

In § 23.73(b), change the reference from "§ 23.149(c)" to "special condition SC23.149."

SC23.75 Landing distance.

Instead of compliance with § 23.75, the following apply:

(a) The horizontal distance necessary to land and to come to a complete stop from a point 50 feet above the landing surface must be determined (for each weight, altitude, temperature, and wind within the operational limits established by the applicant for the airplane), as follows:

(1) The airplane must be in the landing configuration;

(2) A steady approach at a gradient of descent not greater than 5.2 percent (3 degrees), with an airspeed of not less than V_{REF}, determined in accordance with special condition SC23.73, must be maintained down to the 50-foot height;

(3) Changes in configuration, power or thrust, and speed must be made in accordance with the established procedures for service operation;

(4) The landing must be made without excessive vertical acceleration, tendency to bounce, nose over, ground loop, or porpoise;

(5) The landings may not require exceptional piloting skill or alertness; and

(6) It must be shown that a safe transition to the balked landing conditions of special condition SC23.77 can be made from the conditions that exist at the 50-foot height.

(b) The landing distance must be determined on a level, smooth, dry, hard-surfaced runway. In addition, the following apply:

(1) The brakes may not be used so as to cause excessive wear of brakes or tires; and

(2) Means other than wheel brakes may be used if that means is as follows:

(i) Is safe and reliable;

(ii) Is used so that consistent results can be expected in service; and

(iii) Is such that exceptional skill is not required to control the airplane.

(c) The landing distance data must include correction factors for not more than 50 percent of the nominal wind components along the landing path opposite to the direction of landing and not less than 150 percent of the nominal wind components along the landing path in the direction of landing.

(d) If any device is used that depends on the operation of any engine, and if the landing distance would be noticeably increased when a landing is made with that engine inoperative, the landing distance must be determined with that engine inoperative unless the use of compensating means will result in a landing distance not more than that with each engine operating.

SC23.77 Balked landing.

Instead of compliance with § 23.77, the following apply:

In the landing configuration, the steady gradient of climb may not be less than 3.2 percent with the following:

(a) The engines at the power or thrust that is available eight seconds after initiation of movement of the power or thrust controls from the minimum flight idle to the inflight takeoff position; and

(b) A climb speed of not more than V_{REF}, as defined in § 23.73(b).

SC23.145 Longitudinal control.

In § 23.145(c), change the reference from "§ 23.251" to "special condition SC23.251."

SC23.149 Minimum control speed.

In § 23.149(c), change the reference from "§ 23.75" to "special condition SC23.75."

Delete § 23.149(d).

In § 23.149(f), delete "At the option of the applicant, to comply with the requirements of § 23.51(c)(1), V_{MCG} may be determined."

SC23.153 Control during landings.

In § 23.153(c), change the reference from "§ 23.75" to "special condition SC23.75."

SC23.161 Trim.

Instead of compliance with § 23.161, the following apply:

(a) General. Each airplane must meet the trim requirements of this special condition after being trimmed, and without further pressure upon or movement of the primary controls or their corresponding trim controls by the pilot or the automatic pilot.

(b) Lateral and directional trim. The airplane must maintain lateral and directional trim with the most adverse lateral displacement of the center of gravity within the relevant operating limitations during normally expected conditions of operation (including operation at any speed from 1.4 V_{S1} to V_{MO}/M_{MO}).

(c) Longitudinal trim. The airplane must maintain longitudinal trim during the following:

(1) A climb with maximum continuous power at a speed not more than 1.4 V_{S1}, with the landing gear retracted, and the flaps in the following positions:

(i) Retracted, and

(ii) In the takeoff position.

(2) A power approach with a 3 degree angle of descent, the landing gear extended, and with the following:

(i) The wing flaps retracted and at a speed of 1.4 V_{S1}; and

(ii) The applicable airspeed and flap position used in showing compliance with special condition SC23.75.

(3) Level flight at any speed from 1.4 V_{S1} to V_{MO}/M_{MO} with the landing gear and flaps retracted, and from 1.4 V_{S1} to V_{LE} with the landing gear extended.

(d) Longitudinal, directional, and lateral trim. The airplane must maintain longitudinal, directional, and lateral trim (for the lateral trim, the angle of bank may not exceed five degrees) at 1.4 V_{S1} during climbing flight with the following:

(1) The critical engine inoperative;

(2) The remaining engine at maximum continuous power or thrust; and

(3) The landing gear and flaps retracted.

SC23.171 [Stability] General.

In § 23.171, change reference from "§§ 23.173 through 23.181" to "special conditions SC23.173, SC23.175, SC23.177, SC23.181, and § 23.181."

SC23.173 Static longitudinal stability.

Instead of compliance with § 23.173, the following apply:

Under the conditions specified in special condition SC23.175, the characteristics of the elevator control forces (including friction) must be as follows:

(a) A pull must be required to obtain and maintain speeds below the specified trim speed, and a push must be required to obtain and maintain speeds above the specified trim speed. This must be shown at any speed that can be obtained except speeds higher than the landing gear or wing flap operating limit speeds or V_{FC}/M_{FC}, whichever is appropriate, or lower than the minimum speed for steady unstalled flight.

(b) The airspeed must return to within 10 percent of the original trim speed for the climb, approach, and landing conditions specified in special condition SC23.175, paragraph (a), (c), and (d), and must return to within 7.5 percent of the original trim speed for the cruising condition specified in special condition SC23.175, paragraph (b), when the control force is slowly released from any speed within the range specified in paragraph (a) of this special condition.

(c) The average gradient of the stable slope of the stick force versus speed curve may not be less than 1 pound for each 6 knots.

(d) Within the free return speed range specified in paragraph (b) of this special condition, it is permissible for the airplane, without control forces, to stabilize on speeds above or below the desired trim speeds if exceptional attention on the part of the pilot is not required to return to and maintain the desired trim speed and altitude.

SC23.175 Demonstration of static longitudinal stability.

Instead of compliance with § 23.175, static longitudinal stability must be shown as follows:

(a) Climb. The stick force curve must have a stable slope at speeds between 85 and 115 percent of the speed at which the airplane—

(1) Is trimmed, with—

(i) Wing flaps retracted;

(ii) Landing gear retracted;

(iii) Maximum takeoff weight; and

(iv) The maximum power or thrust selected by the applicant as an operating limitation for use during climb; and

(2) Is trimmed at the speed for best rate of climb except that the speed need not be less than 1.4 V_{S1}

(b) Cruise. Static longitudinal stability must be shown in the cruise condition as follows:

(1) With the landing gear retracted at high speed, the stick force curve must have a stable slope at all speeds within a range which is the greater of 15 percent of the trim speed plus the resulting free return speed range, or 50 knots plus the resulting free return speed range, above and below the trim speed (except that the speed range need not include speeds less than 1.4 V_{S1}, nor speeds greater than V_{FC}/M_{FC}, nor speeds that require a stick force of more than 50 pounds), with—

(i) The wing flaps retracted;

(ii) The center of gravity in the most adverse position;

(iii) The most critical weight between the maximum takeoff and maximum landing weights;

(iv) The maximum cruising power selected by the applicant as an operating limitation, except that the power need not exceed that required at V_{MO}/M_{MO}; and

(v) The airplane trimmed for level flight with the power required in paragraph (b)(1)(iv) of this special condition.

(2) With the landing gear retracted at low speed, the stick force curve must have a stable slope at all speeds within a range which is the greater of 15 percent of the trim speed plus the resulting free return speed range, or 50 knots plus the resulting free return speed range, above and below the trim speed (except that the speed range need not include speeds less than 1.4 V_{S1}, nor speeds greater than the minimum speed of the applicable speed range prescribed in paragraph (b)(1), nor speeds that require a stick force of more than 50 pounds), with—

(i) Wing flaps, center of gravity position, and weight as specified in paragraph (b)(1) of this special condition;

(ii) Power required for level flight at a speed equal to $(V_{MO} + 1.4\ V_{S1})/2$; and

(iii) The airplane trimmed for level flight with the power required in paragraph (b)(2)(ii) of this special condition.

(3) With the landing gear extended, the stick force curve must have a stable slope at all speeds within a range which is the greater of 15 percent of the trim speed plus the resulting free return speed range, or 50 knots plus the resulting free return speed range, above and below the trim speed (except that the speed range need not include speeds less than 1.4 V_{S1}, nor speeds greater than V_{LE}, nor speeds that require a stick force of more than 50 pounds), with—

(i) Wing flap, center of gravity position, and weight as specified in paragraph (b)(1) of this section;

(ii) The maximum cruising power selected by the applicant as an operating limitation, except that the power need not exceed that required for level flight at V_{LE}; and

(iii) The aircraft trimmed for level flight with the power required in paragraph (b)(3)(ii) of this section.

(c) Approach. The stick force curve must have a stable slope at speeds between 1.1 V_{S1} and 1.8 V_{S1}, with—

(1) Wing flaps in the approach position;

(2) Landing gear retracted;

(3) Maximum landing weight; and

(4) The airplane trimmed at 1.4 V_{S1} with enough power to maintain level flight at this speed.

(d) Landing. The stick force curve must have a stable slope, and the stick force may not exceed 80 pounds, at speeds between 1.1 V_{S0} and 1.8 V_{S0} with—

(1) Wing flaps in the landing position;

(2) Landing gear extended;

(3) Maximum landing weight;

(4) Power or thrust off on the engines; and

(5) The airplane trimmed at 1.4 V_{S0} with power or thrust off.

SC23.177 Static directional and lateral stability.

Instead of compliance with § 23.177, the following apply:

(a) The static directional stability (as shown by the tendency to recover from a skid with the rudder free) must be positive for any landing gear and flap position, and it must be positive for any

symmetrical power condition to speeds from 1.2 V_{S1} up to V_{FE}, V_{LE}, or V_{FC}/M_{FC} (as appropriate).

(b) The static lateral stability (as shown by the tendency to raise the low wing in a sideslip with the aileron controls free and for any landing gear position and flap position, and for any symmetrical power conditions) may not be negative at any airspeed (except speeds higher than V_{FE} or V_{LE}, when appropriate) in the following airspeed ranges:

(1) From 1.2 V_{S1} to V_{MO}/M_{MO}.

(2) From V_{MO}/M_{MO} to V_{FC}/M_{FC}, unless the Administrator finds that the divergence is—

(i) Gradual;

(ii) Easily recognizable by the pilot; and

(iii) Easily controllable by the pilot.

(c) In straight, steady, sideslips (unaccelerated forward slips) the aileron and rudder control movement and forces must be substantially proportional to the angle of the sideslip. The factor of proportionality must lie between limits found necessary for safe operation throughout the range of sideslip angles appropriate to the operation of the airplane. At greater angles, up to the angle at which full rudder control is used or when a rudder pedal force of 180 pounds is obtained, the rudder pedal forces may not reverse and increased rudder deflection must produce increased angles of sideslip. Unless the airplane has a yaw indicator, there must be enough bank accompanying sideslipping to clearly indicate any departure from steady unyawed flight.

SC23.181 Dynamic stability.

In § 23.181(d), change the reference from § 23.175 to SC23.175.

SC23.201 Wings level stall.

In § 23.201 (c), change the reference from "§ 23.49" to "§ 23.49 and special condition SC23.49."

Instead of compliance with § 23.201 (d) and (e), the following apply:

(d) The roll occurring between the stall and the completion of the recovery may not exceed approximately 20 degrees.

(e) Compliance with the requirements of this section must be shown with:

(1) Power—

(i) Off; and

(ii) The thrust necessary to maintain level flight at 1.6 V_{S1} (where V_{S1} corresponds to the stalling speed with flaps in the approach position, the landing gear retracted, and maximum landing weight).

(2) Flaps and landing gear in any likely combination of positions.

(3) Trim at 1.4 V_{S1} or at the minimum trim speed, whichever is higher.

(4) Representative weights within the range for which certification is requested.

(5) The most adverse center of gravity for recovery.

SC23.203 Turning flight and accelerated turning stalls.

Instead of compliance with § 23.203(c), the following apply:

(c) Compliance with the requirements of this section must be shown with:

(1) The thrust necessary to maintain level flight at 1.6 V_{S1} (where V_{S1} corresponds to the stalling speed with flaps in the approach position, the landing gear retracted, and maximum landing weight).

(2) Flaps and landing gear in any likely combination of positions.

(3) Trim at 1.4 V_{S1} or at the minimum trim speed, whichever is higher.

(4) Representative weights within the range for which certification is requested.

(5) The most adverse center of gravity for recovery.

SC23.207 Stall warning.

Instead of compliance with § 23.207(c), the following applies:

(c) During the stall tests required by § 23.201(b) and § 23.203(a)(1), the stall warning must begin at a speed exceeding the stalling speed by seven percent or at any lesser margin if the stall warning has enough clarity, duration, distinctiveness, or similar properties.

SC23.251 Vibration and buffeting.

Instead of compliance with § 23.251, the following apply:

(a) The airplane must be designed to withstand any vibration and buffeting that might occur in any likely operating condition. This must be shown by calculations, resonance tests, or other tests found necessary by the Administrator.

(b) Each part of the airplane must be shown in flight to be free from excessive vibration, under any appropriate speed and power conditions up to V_{DF}/M_{DF}. The maximum speeds shown must be used in establishing the operating limitations of the airplane in accordance with special condition SC23.1581.

(c) Except as provided in paragraph (d) of this special condition, there may be no buffeting condition in normal flight, including configuration changes during cruise, severe enough to interfere with the control of the airplane, to cause excessive fatigue to the flightcrew, or to cause structural damage. Stall warning buffeting within these limits is allowable.

(d) There may be no perceptible buffeting condition in the cruise configuration in straight flight at any speed up to V_{MO}/M_{MO}, except that stall warning buffeting is allowable.

(e) With the airplane in the cruise configuration, the positive maneuvering load factors at which the onset of perceptible buffeting occurs must be determined for the ranges of airspeed or Mach Number, weight, and altitude for which the airplane is to be certified. The envelopes of load factor, speed, altitude, and weight must provide a sufficient range of speeds and load factors for normal operations. Probable inadvertent excursions beyond the boundaries of the buffet onset envelopes may not result in unsafe conditions.

SC23.253 High speed characteristics.

Instead of compliance with § 23.253, the following apply:

(a) Speed increase and recovery characteristics. The following speed increase and recovery characteristics must be met:

(1) Operating conditions and characteristics likely to cause inadvertent speed increases (including upsets in pitch and roll) must be simulated with the airplane trimmed at any likely cruise speed up to V_{MO}/M_{MO}. These conditions and characteristics include gust upsets, inadvertent control movements, low stick force gradient in relation to control friction, passenger movement, leveling off from climb, and descent from Mach to airspeed limit altitudes.

(2) Allowing for pilot reaction time after effective inherent or artificial speed warning occurs, it must be shown that the airplane can be recovered to a normal attitude and its speed reduced to V_{MO}/M_{MO} without the following:

(i) Exceptional piloting strength or skill;

(ii) Exceeding V_D/M_D, or V_{DF}/M_{DF}, or the structural limitations; and

(iii) Buffeting that would impair the pilot's ability to read the instruments or control the airplane for recovery.

(3) There may be no control reversal about any axis at any speed up to V_{DF}/M_{DF} with the airplane trimmed at V_{MO}/M_{MO}. Any tendency of the airplane to pitch, roll, or yaw must be mild and readily controllable, using normal piloting techniques. When the airplane is trimmed at V_{MO}/M_{MO}, the slope of the elevator control force versus speed curve need not be stable at speeds greater than V_{FC}/M_{FC}, but there must be a push force at all speeds up to V_{DF}/M_{DF} and there must be no sudden or excessive reduction of elevator control force as V_{DF}/M_{DF} is reached.

(b) Maximum speed for stability characteristics. V_{FC}/M_{FC}. V_{FC}/M_{FC} is the maximum speed at which the requirements of special conditions SC23.173, SC23.175, SC23.177, SC23.181 and § 23.181 must be met with the flaps and landing gear retracted. It may not be less than a speed midway between V_{MO}/M_{MO} and V_{DF}/M_{DF} except that, for altitudes where Mach number is the limiting factor, M_{FC} need not exceed the Mach number at which effective speed warning occurs.

SC23.255 Out-of-trim characteristics.

In the absence of specific requirements for out-of-trim characteristics, the Raytheon Model 390 must comply with the following:

(a) From an initial condition with the airplane trimmed at cruise speeds up to V_{MO}/M_{MO}, the airplane must have satisfactory maneuvering stability and controllability with the degree of out-of-trim in both the airplane nose-up and nose-down directions, which results from the greater of the following:

(1) A three-second movement of the longitudinal trim system at its normal rate for the particular flight condition with no aerodynamic load (or an equivalent degree of trim for airplanes that do not have a power-operated trim system), except as limited by stops in the trim system, including those required by § 23.655(b) for adjustable stabilizers; or

(2) The maximum mis-trim that can be sustained by the autopilot while maintaining level flight in the high speed cruising condition.

(b) In the out-of-trim condition specified in paragraph (a) of this special condition, when the normal acceleration is varied from +1 g to the positive and negative values specified in paragraph (c) of this special condition, the following apply:

(1) The stick force versus g curve must have a positive slope at any speed up to and including V_{FC}/M_{FC}; and

(2) At speeds between V_{FC}/M_{FC} and V_{DF}/M_{DF}, the direction of the primary longitudinal control force may not reverse.

(c) Except as provided in paragraph (d) and (e) of this special condition, compliance with the provisions of paragraph (a) of this special condition must be demonstrated in flight over the acceleration range as follows:

(1) -1 g to +2.5 g; or

(2) 0 g to 2.0 g, and extrapolating by an acceptable method to -1 g and +2.5 g.

(d) If the procedure set forth in paragraph (c)(2) of this special condition is used to demonstrate compliance and marginal conditions exist during flight test with regard to reversal of primary longitudinal control force, flight tests must be accomplished from the normal acceleration at which a marginal condition is found to exist to the applicable limit specified in paragraph (b)(1) of this special condition.

(e) During flight tests required by paragraph (a) of this special condition, the limit maneuvering load factors, prescribed in §§ 23.333(b) and 23.337, need not be exceeded. Also, the maneuvering load factors associated with probable inadvertent excursions beyond the boundaries of the buffet onset envelopes determined under special condition SC23.251(e), need not be exceeded. In addition, the entry speeds for flight test demonstrations at normal acceleration values less than 1g must be limited to the extent necessary to accomplish a recovery without exceeding V_{DF}/M_{DF}.

(f) In the out-of-trim condition specified in paragraph (a) of this special condition, it must be possible from an overspeed condition at V_{DF}/M_{DF} to produce at least 1.5 g for recovery by applying not more than 125 pounds of longitudinal control force using either the primary longitudinal control alone or the primary longitudinal control and the longitudinal trim system. If the longitudinal trim is used to assist in producing the required load factor, it must be shown at V_{DF}/M_{DF} that the longitudinal trim can be actuated in the airplane nose-up direction with the primary surface loaded to correspond to the least of the following airplane nose-up control forces:

(1) The maximum control forces expected in service, as specified in §§ 23.301 and 23.397.

(2) The control force required to produce 1.5 g.

(3) The control force corresponding to buffeting or other phenomena of such intensity that is a strong deterrent to further application of primary longitudinal control force.

SC23.629 Flutter.

Instead of the term/speed "V_D" in § 23.629(b), use "V_{DF}/M_{DF}."

SC23.703 Takeoff warning system.

In the absence of specific requirements for a takeoff warning system, the following apply:

Unless it can be shown that a lift or longitudinal trim device that affects the takeoff performance of the aircraft would not give an unsafe takeoff configuration when selected out of an approved takeoff position, a takeoff warning system must be installed and meet the following requirements:

(a) The system must provide to the pilots an aural warning that is automatically activated during the initial portion of the takeoff roll if the airplane is in a configuration that would not allow a safe takeoff. The warning must continue until—

(1) The configuration is changed to allow safe takeoff, or

(2) Action is taken by the pilot to abandon the takeoff roll.

(b) The means used to activate the system must function properly for all authorized takeoff power settings and procedures and throughout the ranges of takeoff weights, altitudes, and temperatures for which certification is requested.

SC23.1195 Engine Fire Extinguishing System.

(a) Fire extinguishing systems must be installed and compliance must be shown with the following:

(1) Except for combustor, turbine, and tailpipe sections of turbine-engine installations that contain lines or components carrying flammable fluids for which a fire originating in these sections can be controllable, a fire extinguisher system must serve each engine compartment.

(2) The fire extinguishing system, the quantity of the extinguishing agent, the rate of discharge, and the discharge distribution must be adequate to extinguish fires.

(3) The fire extinguishing system for a nacelle must be able to simultaneously protect each compartment of the nacelle for which protection is provided.

(b) Fire extinguishing agents must meet the following requirements:

(1) Be capable of extinguishing flames emanating from any burning of fluids or other combustible materials in the area protected by the fire extinguishing system;

(2) Have thermal stability over the temperature range likely to be experienced in the compartment in which they are stored; and

(3) If any toxic extinguishing agent is used, provisions must be made to prevent harmful concentrations of fluid or fluid vapors from entering any personnel compartment even though a defect may exist in the extinguishing system. This must be shown by test except for built-in carbon dioxide fuselage compartment fire extinguishing systems for which:

(i) Five pounds or less of carbon dioxide will be discharged, under established fire control procedures, into any fuselage compartment; or

(ii) Protective breathing equipment is available for each flight crew member on flight deck duty.

(c) Fire extinguishing agent containers must meet the following requirements:

(1) Each extinguishing agent container must have a pressure relief to prevent bursting of the container by excessive internal pressures.

(2) The discharge end of each discharge line from a pressure relief connection must be located so the discharge of the fire extinguishing agent would not damage the airplane. The line must also be located or protected to prevent clogging caused by ice or other foreign matter.

(3) A means must be provided for each fire extinguishing agent container to indicate that the container has discharged or that the charging pressure is below the established minimum necessary for proper functioning.

(4) The temperature of each container must be maintained, under intended operating conditions, to prevent the pressure in the container from falling below that necessary to provide an adequate rate of discharge, or rising high enough to cause premature discharge.

(5) If a pyrotechnic capsule is used to discharge the fire extinguishing agent, each container must be installed so that temperature conditions will not cause hazardous deterioration of the pyrotechnic capsule.

(d) Fire extinguisher system materials must meet the following requirements:

(1) No material in any fire extinguishing system may react chemically with any extinguishing agent so as to create a hazard; and

(2) Each system component in an engine compartment must be fireproof.

SC23.1323 Airspeed indicating system.

In addition to the requirements of § 23.1323, the following apply:

(a) The airspeed indicating system must be calibrated to determine the system error in flight and during the accelerate-takeoff ground run. The ground run calibration must be determined as follows:

(1) From 0.8 of the minimum value of V_1 to the maximum value of V_2, considering the approved ranges of altitude and weight; and

(2) With the flaps and power settings corresponding to the values determined in the establishment of the takeoff path under special condition SC23.57, assuming that the critical engine fails at the minimum value of V_1.

(b) The information showing the relationship between IAS and CAS, determined in accordance with paragraph (a) of this special condition, must be shown in the Airplane Flight Manual.

SC23.1325 Static pressure system.

In addition to the requirements of § 23.1325, the following apply:

(a) The altimeter system calibration required by § 23.1325(e) must be shown in the Airplane Flight Manual.

(b) If an altimeter system is fitted with a device that provides corrections to the altimeter indication, the device must be designed and installed in such manner that it can be by-passed when it malfunctions, unless an alternate altimeter system is provided. Each correction device must be fitted with a means for indicating the occurrence of reasonably probable malfunctions, including power failure, to the flightcrew. The indicating means must be effective for any cockpit lighting condition likely to occur.

SC23.1501 [Operating Limitations and Information] General.

Instead of the requirements of § 23.1501(a), the following apply:

(a) Each operating limitation specified in §§ 23.1505 through 23.1522, 23.1524 through 23.1527 and special conditions SC23.1505, SC23.1513, and SC23.1523.

SC23.1505 Airspeed limitations.

In § 23.1505(a)(2)(ii), change the reference from "§ 23.251" to "special condition SC23.251."

Instead of compliance with § 23.1505(c), the following applies: The maximum operating limit speed (V_{MO}/M_{MO} airspeed or Mach number, whichever is critical at a particular altitude) is a speed that may not be deliberately exceeded in any regime of flight (climb, cruise, or descent), unless a higher speed is authorized for flight test or pilot training operations. V_{MO}/M_{MO} must be established so that it is not greater than the design cruising speed, V_C, and so that it is sufficiently below V_D/M_D, or V_{DF}/M_{DF}, to make it highly improbable that the latter speeds will be inadvertently exceeded in operations. The speed margin between V_{MO}/M_{MO} and V_D/M_D, or V_{DF}/M_{DF}, may not be less than that determined under § 23.335(b) or found necessary during the flight tests conducted under special condition SC23.253.

SC23.1513 Minimum control speed.

In § 23.1513, change the reference from "§ 23.149" to "§ 23.149 and special condition SC23.149."

SC23.1523 Minimum flightcrew.

Instead of compliance with § 23.1523, the following apply:

The minimum flightcrew must be established so that it is sufficient for safe operation considering:

(a) The workload on individual flightcrew members and each flightcrew member workload determination must consider the following:

(1) Flight path control,

(2) Collision avoidance,

(3) Navigation,

(4) Communications,

(5) Operation and monitoring of all essential airplane systems,

(6) Command decisions, and

(7) The accessibility and ease of operation of necessary controls by the appropriate flightcrew member during all normal and emergency operations when at the flightcrew member station.

(b) The accessibility and ease of operation of necessary controls by the appropriate flightcrew member; and

(c) The kinds of operation authorized under § 23.1525.

SC23.1541 [Markings and Placards] General.

Instead of § 23.1541(a)(1), the following applies:

(a)(1) The markings and placards specified in §§ 23.1545 to 23.1567 and special condition SC23.1545; and

SC23.1545 Airspeed indicator.

In § 23.1545(d), change the reference from "§ 23.1505(c)" to "special condition SC23.1505."

SC23.1581 [Airplane Flight Manual and Approved Manual Material.] General.

In § 23.1581 replace references to § 23.1583, § 23.1585, and § 23.1587 with special conditions SC23.1583, SC23.1585, and SC23.1587, respectively.

SC23.1583 Operating limitations.

Instead of the requirements of § 23.1583, the following apply:

(a) Airspeed limitations. The following airspeed limitations and any other airspeed limitations necessary for safe operation must be furnished:

(1) The maximum operating limit speed, V_{MO}/M_{MO}, and a statement that this speed limit may not be deliberately exceeded in any regime of flight (climb, cruise, or descent) unless a higher speed is authorized for flight test or pilot training.

(2) If an airspeed limitation is based upon compressibility effects, a statement to this effect and information as to any symptoms, the probable behavior of the airplane, and the recommended recovery procedures.

(3) The maneuvering speed, V_O, and a statement that full application of rudder and aileron controls, as well as maneuvers that involve angles of attack near the stall, should be confined to speeds below this value.

(4) The maximum speed for flap extension, V_{FE}, for the takeoff, approach, and landing positions.

(5) The landing gear operating speed or speeds, V_{LO}.

(6) The landing gear extended speed, V_{LE} if greater than V_{LO}, and a statement that this is the maximum speed at which the airplane can be safely flown with the landing gear extended.

(b) Powerplant limitations. The following information must be furnished:

(1) Limitations required by § 23.1521.

(2) Explanation of the limitations, when appropriate.

(3) Information necessary for marking the instruments, required by § 23.1549 through § 23.1553.

(c) Weight and loading distribution. The weight and extreme forward and aft center of gravity limits required by §§ 23.23 and 23.25 must be furnished in the Airplane Flight Manual. In addition, all of the following information and the information required by § 23.1589 must be presented either in the Airplane Flight Manual or in a separate weight and balance control and loading document, which is incorporated by reference in the Airplane Flight Manual:

(1) The condition of the airplane and the items included in the empty weight, as defined in accordance with § 23.29.

(2) Loading instructions necessary to ensure loading of the airplane within the weight and center of gravity limits, and to maintain the loading within these limits in flight.

(d) Maneuvers. A statement that acrobatic maneuvers, including spins, are not authorized.

(e) Maneuvering flight load factors. The positive maneuvering limit load factors for which the structure is proven, described in terms of accelerations, and a statement that these accelerations limit the angle of bank in turns and limit the severity of pull-up maneuvers must be furnished.

(f) Flightcrew. The number and functions of the minimum flightcrew must be furnished.

(g) Kinds of operation. The kinds of operation (such as VFR, IFR, day, or night) and the meteorological conditions in which the airplane may or may not be used must be furnished. Any installed equipment that affects any operating limitation must be listed and identified as to operational function.

(h) Additional operating limitations must be established as follows:

(1) The maximum takeoff weights must be established as the weights at which compliance is shown with the applicable provisions of part 23 (including the takeoff climb provisions of special condition SC23.67(a) through (c) for altitudes and ambient temperatures).

(2) The maximum landing weights must be established as the weights at which compliance is shown with the applicable provisions of part 23 (including the approach climb and balked landing climb provisions of special conditions SC23.67(d) and SC23.77 for altitudes and ambient temperatures).

(3) The minimum takeoff distances must be established as the distances at which compliance is shown with the applicable provisions of part 23 (including the provisions of special conditions SC23.55 and SC23.59 for weights, altitudes, temperatures, wind components, and runway gradients).

(4) The extremes for variable factors (such as altitude, temperature, wind, and runway gradients) are those at which compliance with the applicable provision of part 23 and these special conditions is shown.

(i) Maximum operating altitude. The maximum altitude established under § 23.1527 must be furnished.

(j) Maximum passenger seating configuration. The maximum passenger seating configuration must be furnished.

(k) Maximum operating temperature. The maximum operating temperature established under § 23.1521 must be furnished.

SC23.1585 Operating procedures.

Instead of the requirements of § 23.1585, the following applies:

(a) Information and instruction regarding the peculiarities of normal operations (including starting and warming the engines, taxiing, operation of wing flaps, slats, landing gear, speed brake, and the automatic pilot) must be furnished, together with recommended procedures for the following:

(1) Engine failure (including minimum speeds, trim, operation of the remaining engine, and operation of flaps);

(2) Restarting turbine engines in flight (including the effects of altitude);

(3) Fire, decompression, and similar emergencies;

(4) Use of ice protection equipment;

(5) Operation in turbulence (including recommended turbulence penetration airspeeds, flight peculiarities, and special control instructions);

(6) Procedures for transition from landing approach to balk landing climb; and

(7) The demonstrated crosswind velocity and procedures and information pertinent to operation of the airplane in crosswinds.

(b) Information identifying each operating condition in which the fuel system independence prescribed in § 23.953 is necessary for safety must be furnished, together with instructions for placing the fuel system in a configuration used to show compliance with that section.

(c) For each airplane showing compliance with § 23.1353(g)(2) or (g)(3), the operating procedures for disconnecting the battery from its charging source must be furnished.

(d) If the unusable fuel supply in any tank exceeds 5 percent of the tank capacity, or 1 gallon, whichever is greater, information must be furnished indicating that, when the fuel quantity indicator reads "zero" in level flight, any fuel remaining in the fuel tank cannot be used safely in flight.

(e) Information on the total quantity of usable fuel for each fuel tank must be furnished.

(f) The buffet onset envelopes determined under special condition SC23.251 must be furnished. The buffet onset envelopes presented may reflect the center of gravity at which the airplane is normally loaded during cruise if corrections for the effect of different center of gravity locations are furnished.

SC23.1587 Performance information.

Instead of the requirements of § 23.1587, the following applies:

(a) Each Airplane Flight Manual must contain information to permit conversion of the indicated temperature to free air temperature if other than a free air temperature indicator is used to comply with the requirements of § 23.1303(d).

(b) Each Airplane Flight Manual must contain the performance information computed under the applicable provisions of this part for the weights, altitudes, temperatures, wind components, and runway gradients, as applicable, within the operational limits of the airplane, and must contain the following:

(1) The conditions under which the performance information was obtained, including the speeds associated with the performance information.

(2) V_S determined in accordance with special condition SC23.49.

(3) The following performance information (determined by extrapolation and computed for the range of weights between the maximum landing and maximum takeoff weights):

(i) Climb in the landing configuration.

(ii) Climb in the approach configuration.

(iii) Landing distance.

(4) Procedures established under special condition SC23.45(d), (e), and (f) that are related to the limitations and information required by special condition SC23.1583(h) and by this paragraph. These procedures must be in the form of guidance material, including any relevant limitations or information.

(5) An explanation of significant or unusual flight or ground handling characteristics of the airplane.

SC23.A Effects of contamination on natural laminar flow airfoils.

In the absence of specific requirements for airfoil contamination, airplane airfoil designs that have airfoil pressure gradient characteristics and smooth aerodynamic surfaces that may be capable of supporting natural laminar flow must comply with the following:

(a) It must be shown by tests, or analysis supported by tests, that the airplane complies with the requirements of §§ 23.141 through 23.207, 23.233, 23.251, 23.253 (and any changes made to these paragraphs by these special conditions) with any airfoil contamination that would normally be encountered in service and that would cause significant adverse effects on the handling qualities of the airplanes resulting from the loss of laminar flow.

(b) Significant performance degradations identified as resulting from the loss of laminar flow must be provided as part of the information required by special conditions SC23.1585 and SC23.1587.

Issued in Kansas City, Missouri on October 11, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–29301 Filed 10–30–98; 8:45 am]

BILLING CODE 4910–13–U

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Applicances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule")

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Trade Commission ("the Commission") proposes amending Appendix F to its Appliance Labeling Rule ("the Rule") to eliminate the "Front-Loading" and "Top-Loading" sub-categories for clothes washers.

DATES: Written comments will be accepted until December 17, 1998.

ADDRESSES: Written comments should be directed to: Secretary, Federal Trade Commission, Room H–159, Sixth St. and Pennsylvania Ave., NW, Washington, DC 20580. Comments about this proposed amendment to the Appliance Labeling Rule should be identified as: "Appliance Labeling Rule Clothes Washer Categories, 16 CFR Part 305—Comment."

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, Division of Enforcement, Rm 4616, Federal Trade Commission, Washington, DC 20580 (202–326–3035).

SUPPLEMENTARY INFORMATION:

I. Background

A. The Commission's Appliance Labeling Rule

The Commission issued the Appliance Labeling Rule on November 19, 1979, pursuant to a directive in section 324 of Title III of the Energy Policy and Conservation Act of 1975, 42 U.S.C. 6294 ("EPCA"). The Rule requires manufacturers to disclose energy information about major household appliances to enable consumers purchasing appliances to compare the energy use or efficiency of competing models. When published, the Rule applied to eight appliance categories: Refrigerators, refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners, and furnaces. Since then, the Commission has expanded the Rule's coverage five times: in 1987 (central air conditioners, heat pumps, and certain new types of furnaces, 52 FR 46888 (Dec. 10, 1987)); 1989 (fluorescent lamp ballasts, 54 FR 28031 (July 5, 1989)); 1993 (certain plumbing products, 58 FR 54955 (Oct. 25, 1993)); and twice in 1994 (certain lighting products, 59 FR 25176 (May 13, 1994)), and pool heaters and certain other types of water heaters (59 FR 49556 (Sept. 28, 1994)).

Manufacturers of all covered appliances must disclose specific energy consumption or efficiency information at the point of sale in the form of an "EnergyGuide" label affixed to the covered product. The information on the EnergyGuide also must appear in catalogs from which covered products can be ordered. Manufacturers must derive the information from standardized tests that EPCA directs the Department of Energy ("DOE") to promulgate. 42 U.S.C. 6293. Manufacturers of furnaces, central air conditioners, and heat pumps also either must provide fact sheets showing additional cost information or be listed in an industry directory that shows the cost information for their products. Required labels for appliances and required fact sheets for heating and cooling equipment must include a highlighted energy consumption or efficiency disclosure and a "range of comparability," which appears as a bar on the label below the main energy use or efficiency figure, that shows the highest and lowest energy consumption or efficiencies for all similar appliance models. Labels for clothes washers and some other appliance products also must disclose estimated annual operating cost based on a specified national average cost for the fuel the appliances use.

B. Ranges of Comparability and the Categories in Appendix F

The "range of comparability" on the EnergyGuide is intended to enable consumers to compare the energy consumption or efficiency of the other models (perhaps competing brands) in the marketplace that are similar to the labeled model they are considering. Section 305.8(b) of the Rule, 16 CFR 305.8(b), requires manufacturers to report annually (by specified dates for each product type) the estimated annual energy consumption or energy efficiency ratings for the appliances derived from the DOE test procedures. To keep the required information on labels consistent with these changes, the Commission publishes new range figures (but not more often than annually) for manufacturers to use on labels if an analysis of the reported information indicates that the upper or lower limits of the ranges have changed by more than 15%. 16 CFR 305.10. Otherwise, the Commission publishes a statement that the prior ranges remain in effect for the next year.

Each category of the products covered by the Rule is divided to some extent into sub-categories for purposes of the ranges of comparability. These subcategories, which are the same as those developed by DOE in connection with its efficiency standards program,[1] are based on fuel type, size, and/or functional features, depending on the type of product.

When the Commission published the Rule in 1979, the clothes washer category in Appendix F was divided into the sub-categories "Standard" and

[1] Section 325 of EPCA, 42 U.S.C. 6295, directs DOE to develop efficiency standards for major household appliances to achieve the maximum improvement in energy efficiency for residential appliances that is technologically feasible and economically justified. As amended, the statute itself sets the initial national standards for appliances and establishes a schedule for regular DOE review of the standards for each product category.

"Compact" only. 44 FR 66466, 66486 (Nov. 19, 1979). These sub-categories stayed in effect until 1994, when the Commission amended Appendix F in response to comments received in connection with a comprehensive review of the Rule. The amendment to Appendix F created the additional subdivisions of "Top Loading" and "Front Loading" that appear in the current Rule. In the **Federal Register** notice announcing the amendments that grew out of the review, the Commission discussed the comments on clothes washer subcategories and its reasons for the amendment to Appendix F:

> Four comments * * * suggested changing the subcategories for clothes washers by adding two further subdivisions—horizontal axis and vertical axis. In support, AHAM (the Association of Home Appliance Manufacturers, a trade association of appliance manufacturers) stated that the technologies of the two proposed subdivisions are different and that consumers interested in the horizontal axis market niche should be able to compare products within that subdivision.
>
> Horizontal axis clothes washers (which are generally front-loading) are significantly more energy-efficient than vertical axis washers (generally top-loading). Because the typical door configurations for these products are different, consumers may shop for only one configuration, and information respecting the energy usage of products having the other configuration may not be useful. For example, consumers wanting to stack a clothes dryer on top of their washer to conserve space would only be interested in a front loading washer. The Commission finds, therefore, that separate ranges of comparability for these products would benefit consumers. Accordingly, the Commission is * * * amending the sub-categories for clothes washers to reflect a further subdivision into top-loading and front-loading models. See Appendix F—Clothes Washers.
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> 59 FR 34014, 34019 (July 1, 1994).

C. CEE's Petition

The Consortium for Energy Efficiency, Inc. ("CEE")[2] has petitioned the Commission to amend the Rule by changing the clothes washer category in Appendix F to eliminate the "Front-Loading" and "Top-Loading" subdivisions of the "Standard" and "Compact" sub-categories. In its petition, CEE stated that, since 1994, it has promoted the manufacture of and consumer demand for high-efficiency clothes washers through its High-efficiency Clothes Washer Initiative. CEE asserted that, because of the recent introduction of high-efficiency products from major domestic manufacturers, it is at a critical point in its efforts to promote high-efficiency clothes washers, and its members have committed to significant expansions of their consumer-targeted campaigns to promote the purchase of these products. CEE believes that Appendix F to the Rule confuses consumers and undermines CEE's and its members' efforts to promote high-efficiency clothes washers. In its petition, CEE indicates that eliminating the "Front-Loading" and "Top-Loading" subdivisions of the "Standard" and "Compact" sub-categories will remedy these concerns.

CEE asserts that, since the Commission's 1994 statement in the **Federal Register**, the clothes washer market has changed, and front-loading washers are no longer merely a niche product. According to CEE, consumer research in the Northwest has shown that a significant proportion of consumers who were shopping for top-loading machines were also interested in, and had looked at, front-loading models, and that many were ready to pay a premium for the front-loading models. The research showed that many consumers could be persuaded to purchase front-loading washers at the point of sale, suggesting that they did not have pre-determined reasons in mind for buying a front-loading model. when they began their search.[3]

CEE explains that, because the most highly efficient clothes washers are all front-loading,[4] an EnergyGuide comparison only among front-loading models provides an incomplete picture of the efficiencies available in the clothes washer market. According to the petition, the least efficient of the high-efficiency front-loading clothes washers, will, of necessity, appear at the "Uses Most Energy" end of the comparability range on the label attached to it, even though it consumes only half the energy that the average top-loading model does. This situation, according to CEE, confuses consumers and creates the erroneous impression that these highly-efficient products (when compared to top-loading models) are high energy users.

CEE also asserts that the current front-loading and top-loading subdivisions are particularly problematical in connection with the DOE/EPA Energy Star Program.[5] Under that Program, all front-loading clothes washers produced by manufacturers participating in the Program will qualify for the Energy Star logo. This means that the label on the least energy efficient of these highly efficient products will indicate that the product "Uses Most Energy" while also bearing the Energy Star endorsement. CEE believes that this situation will create consumer confusion and undermine the credibility of both the EnergyGuide and Energy Star Programs.

In addition, CEE points out that the Canadian EnerGuide appliance labeling program (which is very similar to the EnergyGuide Program) does not distinguish between front-loading and top-loading clothes washers for range purposes. The Canadian Program divides the clothes washer category into only the "Compact" and "Standard" sub-categories.

Finally, CEE asserts that technological advances in the clothes washer industry have begun to soften the distinction between the front-loading and top-loading subdivisions. As examples, CEE cites the Maytag Neptune model, which has a basket that operates on an axis that is 15 degrees off of vertical and an opening mounted on a plane angled between the top and front of the machine (Maytag classifies this as a front-loading model), and the Staber Industries horizontal axis model that loads from the top (and is thus a top-loading model). CEE maintains that, perhaps in recognition of this incipient blurring of the distinction between the subdivisions, DOE is considering eliminating the separate classes from its testing and standards program. CEE urges that the Commission grant its petition to help achieve consistency on this issue at the federal level.

II. Discussion

A. Market Changes

The market for clothes washers has changed since the Commission promulgated the "Front-loading" and "Top-loading" subdivisions. While in 1993–94 front-loading machines may merely have been a "niche" product, as suggested by AHAM's comment (referenced in I.B., above), the availability of and technology for these products have advanced considerably since that time.[6] There are currently ten front-loading models out of the total of 228 models that were reported to the Commission in March of this year, compared to the five models offered in 1993–94. CEE's research suggests that a significant proportion of consumers now shopping for clothes washers are receptive to the idea of buying a more efficient front-loading machine—even if they began by looking for a top-loading model. This, coupled with the significant increase in availability of front-loading models, suggests that eliminating the distinction between the two subdivisions on labels could result in more purchases of the more efficient products.

There are other indications that the current "Front-loading" and "Top-loading" subdivisions may be causing confusion among consumers shopping for clothes washers. Commission staff has received two letters, dated April 27, 1998, and May 19, 1998, in support of CEE's petition from the Office of Energy of the Oregon Department of Consumer and Business Services ("Oregon Energy Office," or "OEO").[7] In the April 27 letter, the Oregon Energy Office asserts that there is no reason for or benefit from leaving the subdivisions of the clothes washer category as they are. In the May 19 letter, OEO reiterates its support, noting the specific example of the Maytag Neptune model and stating that DOE does not consider loading method in its clothes washer test procedure and is considering phasing the top-loading and front-loading subdivisions out of the energy standards for the clothes washer product category. In both letters, the Oregon Energy Office expresses concern that consumers are confused by the current subdivisions and that such confusion undermines consumer confidence in the EnergyGuide itself, which, according to OEO, has been rising steadily since the Rule was promulgated in 1979.

This consumer confusion may occur because, although the label for clothes washers states that "Only standard size, front-loading (or top-loading) clothes washers are used in this scale," not all consumers may notice the disclosure. Consumers looking at top-loading machines may not realize how much more efficient front-loading models are, and may not even consider purchasing a front-loading model simply because the energy consumption figures for front-loading machines are not included in the ranges appearing on labels for top-loading models. And, consumers shopping for front-loading machines may get the incorrect impression that some of the most efficient models (front-loading) on the market are not really highly energy efficient, only because they are being compared unfavorably to other even higher-efficiency models (also front-loading), instead of to the less efficient top-loading models. Finally, because some front-loading clothes washers that have qualified for the Energy Star logo are shown on the EnergyGuide to be at or near the "Uses Most Energy" end of the comparability bar, this may cause consumer confusion about the Energy Star Program.

On the other hand, without the subdivisions, it may be more difficult for consumers to determine the range of energy use possibilities for each type of washer. Thus, for a consumer who, because of price or some other reason, wishes to purchase a top-loading washer, the proposed amendment would make it more difficult to determine which top-loading machine achieves the highest energy efficiency possible for a top-loader. Although a given retail outlet will likely have several brands and models for comparison, and such a consumer would be able to find the most efficient top-loader in the store by comparing EnergyGuides, the consumer still would not know whether he should seek other choices, say, by going to another retailer. Consumers' search costs should not be significantly increased, however, because consumers already do not know the range of possibilities for other characteristics (such as price) of the washer, and thus already need to search various retailers.

B. The DOE Energy Conservation Standards and Possible Changes to the DOE Test Procedure

DOE has announced that it may eliminate any reference to front-loading or top-loading (or horizontal-or vertical-axis) in its standards for clothes washers. In connection with its review of the energy and water consumption standards for clothes washers, DOE published an Advance Notice of Proposed Rulemaking on November 14, 1994, in which it indicated its intention to consider only two classes for the clothes washer category—"Compact" and "Standard." 59 FR 56423, at 56425. Later in the review process, DOE issued a Draft Report on Design Options for Clothes Washers for use in a November 1996 DOE workshop in which DOE again proposed reducing the number of clothes washer categories to "Compact" and "Standard." In July 1997, DOE published a draft Clothes Washer Rulemaking Framework, which DOE staff describes as a "roadmap" for the review process. In that document, DOE stated that it "believes that there is no basis for maintaining separate classes for horizontal and vertical clothes washers."[8] Thus, when DOE completes its review of the clothes washer standards rule, it is reasonable to expect that DOE will no longer use the "Front-loading" and "Top-loading" (or "horizontal-axis" and "vertical-axis") subdivisions to describe clothes washers.

In an August 14, 1998 letter to Commission staff, DOE's Assistant Secretary for Energy Efficiency and Renewable Energy asked that the Commission consider eliminating the top-loading and front-loading subcategories for clothes washers because they are causing consumer confusion about washer efficiency and appear to be undermining the Energy Star Program's credibility. The Assistant Secretary also stated that, although the amendments to DOE's rules will not take effect for several years, DOE believes "that it is in the consumer's best interest for FTC to adopt the new classifications for labeling purposes as soon as possible." Therefore, the Commission seeks comment on whether, if the proposed amendment were adopted, it should postpone the effective date to coincide with DOE's changes, or whether the proposed amendment should be issued and effective regardless of the timing of any changes regarding clothes washer categories that DOE may make to its standards rule.

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[2] According to its Mission Statement, CEE is a non-profit, public benefit corporation that expands national markets for super-efficient technologies, using market transformation strategies. Its members include more than 40 electric and gas utilities, public interest groups, research and development organizations, and state energy offices. Major support is provided to CEE by DOE and the Environmental Protection Agency ("EPA").

[3] A summary by CEE of the results of the intercept interviews and surveys CEE cited in its petition has been placed on the public rulemaking record.

[4] There is an exception, mentioned later in CEE's petition: One manufacturer makes a horizontal-axis, highly efficient washer that loads from the top and is thus classified as a "Top Loading" model.

[5] Commission staff have been working with DOE and EPA staff to help them implement statutory directives to promote high-efficiency household appliances in the marketplace. The resulting joint effort is called the "Energy Star" Program, which defines what constitutes a high-efficiency product and identifies products that qualify for the designation. A product's qualification for the Program is indicated by the Energy Star logo, currently either on the product or a separate Energy Star label. A proposal is under consideration to permit manufacturers of qualifying appliances to place the Energy Star logo on the Appliance Labeling Rule EnergyGuides attached to the products.

[6] These products may have been considered a niche market in part because they were so much more expensive than top-loading models and because they may have been favored by consumers with limited space looking for stackable models. Although front-loading models are on average still more expensive than top-loading, the price differential is now much smaller. See "A New Spin on Clothes Washers," Consumer Reports (July 1998).

[7] These two letters have been placed on the public rulemaking record.

[8] Although the current DOE test procedure for clothes washers ("Appendix J") contains separate definitions for "front-loader," "top-loader-horizontal-axis," and "top-loader-vertical-axis" clothes washers, it does not materially distinguish between top-loading or front-loading, or horizontal axis or vertical axis, in measuring the energy consumption of clothes washers. 10 CFR part 430, subpart B, Appendix J, 1.7, 1.23, and 1.24 (1998).

C. The Canadian EnerGuide Program Does Not Distinguish Between "Top-Loading" and "Front Loading"

Over the past few years, the Commission has taken action to harmonize the Rule's labeling requirements with those of the EnerGuide Program in accordance with the North American Free Trade Agreement ("NAFTA") goals of reducing or eliminating non-tariff barriers to trade (e.g., labeling requirements). The Commission staff has worked with staff at Natural Resources Canada ("NRCan") since 1992 to harmonize the two countries" appliance labeling programs as much as possible (e.g., the Commission changed the primary energy use descriptor for most appliances from estimated annual operating cost to kiloWatt-hours per year (the descriptor used in the EnerGuide Program), and simplified the EnergyGuide by removing the cost grids, making it more similar to the EnerGuide. 59 FR 34014 (July 1, 1994)).[9]

The Canadian EnerGuide Program does not divide the "Standard" and "Compact" clothes washer sub-categories further into top-loading and front-loading (or horizontal-axis and vertical-axis) subdivisions.[10] Thus, eliminating the "Top-loading" and "Front-loading" subdivisions also would have the salutary effect of promoting international harmonization and furthering the NAFTA goal of making the standards-related measures of the treaty signatories compatible, thereby facilitating trade among the parties.

III. Request for Comment

A. General Information for Commenters

The Commission requests interested persons to submit written comments on any issue of fact, law or policy that may bear upon the proposed amendment. Although the Commission welcomes comments on any aspect of the proposed amendment, the Commission is particularly interested in comments on the questions listed below. All written comments should state clearly the question or issue that the commenter wishes to address.

The Commission requests that commenters provide representative factual data in support of their comments. Individual firms' experiences are relevant to the extent they typify industry experience in general or the experience of similar-sized firms. Comments opposing the proposed amendment should, if possible, suggest specific alternatives. Proposals for alternatives to the proposed amendment should include reasons and data that indicate why the alternatives would better serve the requirements of the Appliance Labeling Rule. Comments should be supported by a full discussion of all the relevant facts and/or be based on firsthand knowledge, personal experience, or general understanding of the particular issues addressed.

CEE's March 5, 1998 petition, its research results, the letters from the Oregon Energy Office, and written comments submitted will be available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. 552, where applicable, and Commission regulations on normal business days from 8:30 a.m. to 5 p.m. at the Federal Trade Commission, 6th St. and Pennsylvania Ave., NW., Room 130, Washington, DC 20580.

B. Questions for Comment

The Commission is particularly interested in comments addressing the following questions and issues:

1. What is the effect of the current "Top-Loading" and "Front-Loading" subdivisions of the "Standard" and "Compact" subcategories for clothes washers on consumers" ability to choose the most energy efficient model that will fill their clothes washing needs?

2. To what extent do consumers looking for a new clothes washer shop exclusively for either a top-loading or a front-loading model? To what extent do they shop without looking specifically for either type of washer?

3. What would be the economic impact on manufacturers of the proposed amendment?

4. What would be the benefits of the proposed amendment? Who would receive those benefits? What would be the costs of the proposed amendment? Who would incur those costs?

5. What would be the benefits and economic impact of the proposed amendment on small businesses?

6. If the Commission eliminates the current "Top-Loading" and "Front-Loading" subdivisions from Appendix F, should the only remaining descriptors of clothes washer capacity be "Standard" and "Compact," or should there be additional descriptors? For example, should the Commission require that the internal tub volume of clothes washers, in cubic feet or in gallons (or both), also be required on labels for clothes washers?

7. If DOE were to amend its clothes washer standards rule as discussed in II.B., above, and the Commission were to adopt the amendment proposed today, should the Commission postpone the effective date to coincide with DOE's changes, or should it issue and make effective the proposed amendment regardless of the timing of any changes in clothes washer categories that DOE may make to its standards rule?

IV. Regulatory Flexibility Act

This notice does not contain a regulatory analysis under the Regulatory Flexibility Act ("RFA"), 5 U.S.C. 603–604, because the Commission believes that the proposed amendment, if adopted, would not have "a significant economic impact on a substantial number of small entities," 5 U.S.C. 605. The proposed amendment would not impose any new requirements on manufacturers of clothes washers. Instead, it would require less information than is currently required on labels that clothes washer manufacturers already must affix to their products. The Commission, therefore, believes that the impact of the proposed amendment on all entities within the affected industry, if any, would be de minimis.

In light of the above, the Commission certifies, pursuant to section 605 of the RFA, 5 U.S.C. 605, that the proposed amendment would not, if promulgated, have a significant impact on a substantial number of small entities. To ensure that no substantial economic impact is being overlooked, however, the Commission solicits comments concerning the effects of the proposed amendment, including any benefits and burdens on manufacturers or consumers and the extent of those benefits and burdens, beyond those imposed or conferred by the current Rule, that the proposed amendment would have on manufacturers, retailers, or other sellers. The Commission is particularly interested in comments regarding the effects of the proposed amendment on small businesses. After reviewing any comments received, the Commission will determine whether it is necessary to prepare a final regulatory flexibility analysis if it determines to promulgate the amendment.

V. Paperwork Reduction Act

The Paperwork Reduction Act ("PRA"), 44 U.S.C. 3501 *et seq.*, requires government agencies, before promulgating rules or other regulations that require "collections of information" (i.e., recordkeeping, reporting, or third-party disclosure requirements), to obtain approval from the Office of Management and Budget ("OMB"), 44 U.S.C. 3502. The Commission currently has OMB clearance for the Rule's information collection requirements (OMB No. 3084–0069). The proposed amendment would not impose any new information collection requirements. To ensure that no additional burden has been overlooked, however, the Commission seeks public comment on what, if any, additional information collection burden the proposed amendment may impose.

VI. Communications by Outside Parties to Commissioners or Their Advisors

Pursuant to Rule 1.18(c) of the Commission's Rules of Practice, 16 CFR 1.18(c) (1997), communications with respect to the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor during the course of this rulemaking shall be subject to the following treatment. Written communications, including written communications from members of Congress, shall be forwarded promptly to the Secretary for placement on the public record. Oral communications, not including oral communications from members of Congress, are permitted only when such oral communications are transcribed verbatim or summarized, at the discretion of the Commissioner or Commissioner's advisor to whom such oral communications are made, and are promptly placed on the public record, together with any written communications and summaries of any oral communications relating to such oral communications. Oral communications from members of Congress shall be transcribed or summarized, at the discretion of the Commissioner or Commissioner's advisor to whom such oral communications are made, and promptly placed on the public record, together with any written communications and summaries of any oral communications relating to such oral communications.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 6294.

VII. Proposed Amendment

In consideration of the foregoing, the Commission proposes to amend title 16, chapter I, subchapter C of the Code of Federal Regulations, as follows:

PART 305—RULE CONCERNING DISCLOSURES REGARDING ENERGY CONSUMPTION AND WATER USE OF CERTAIN HOME APPLIANCE AND OTHER PRODUCTS REQUIRED UNDER THE ENERGY POLICY AND CONSERVATION ACT ("APPLIANCE LABELING RULE")

1. The authority for part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

2. Appendix F to part 305—Clothes Washers is revised to read as follows:

Appendix F To Part 305—Clothes Washers

Range Information

"Compact" includes all household clothes washers with a tub capacity of less than 1.6 cu. ft. or 13 gallons of water.

"Standard" includes all household clothes washers with a tub capacity of 1.6 cu. ft. or 13 gallons of water or more.

Capacity	Range of Estimated Annual Energy Consumption (kWh/yr.)	
	Low	High
Compact	592	607
Standard	241	1231

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 98–29287 Filed 10–30–98; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 5

[Docket No. FR–4321–N–04]

RIN 2501–AC49

Uniform Financial Reporting Standards for HUD Housing Programs; Intent To Issue Technical Amendment

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Intent to issue technical amendment.

SUMMARY: The purpose of this document is to advise the public that within the next few weeks HUD will publish a final rule to make a technical amendment to its new regulations creating uniform financial reporting standards, issued on September 1, 1998. The technical amendment will change for certain entities whose fiscal year ends December 31st, as described in the Supplementary Information section of this document, the annual report submission date from April 30, 1999 to June 30, 1999, only for the first year of compliance with these standards.

FOR FURTHER INFORMATION CONTACT: For further information contact Kenneth Hannon, Office of Housing, Department of Housing and Urban Development, 451 Seventh St., SW, Room 6274, Washington, DC 20410; telephone (202) 708–0547, ext. 2599 (this is not a toll-free number). Persons with hearing or speech impairments may access that number via TTY by calling the Federal Information Relay Service at (800) 877–8399.

SUPPLEMENTARY INFORMATION: On September 1, 1998 (63 FR 46582), HUD published a final rule that established uniform annual financial reporting standards for HUD's Public Housing, Section 8 housing, and multifamily insured housing programs. The rule provides that the financial information already required to be submitted to HUD on an annual basis under program requirements is to be submitted electronically to HUD and to be prepared in accordance with generally accepted accounting principles. The rule also established annual financial report filing dates for the covered entities.

The September 1, 1998 rule provides an April 30, 1999 annual report submission date (for the first year of compliance only) for (1) owners of housing assisted under Section 8 project-based housing assistance payments programs, described in § 5.801(a)(3) of the new rule, and owners of multifamily projects receiving direct or indirect assistance from HUD, or with mortgages insured, coinsured, or held by HUD, including but not limited to housing under certain HUD programs described in § 5.801(a)(4) of the new rule; and (2) which group of owners have fiscal years ending December 31, 1998. The April 30, 1999 date with its proximity to Federal income tax filing deadline makes conversion to the new reporting system and completion of the required report by April 30, 1999 burdensome for affected entities. The final rule that HUD plans to issue will change the April 30, 1999 date to June 30, 1999 for the first year of reporting only.

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[9] In addition, in 1996, the Commission amended the Rule to permit Canada's EnerGuide, as well as Mexico's energy label, to be placed "directly adjoining" the Rule's required "EnergyGuide" label. Previously the Rule prohibited the affixation of non-required information "on or directly adjoining" the EnergyGuide. 61 FR 33651 (June 28, 1996).

[10] According to NRCan staff, this is because the definition of "clothes washer" in the Canadian regulations encompasses both top-loading and front-loading technologies, and the rulemaking staff saw no reason for further differentiation.

Dated: October 26, 1998.

William C. Apgar,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 98–29280 Filed 10–28–98; 3:35 pm]

BILLING CODE 4210–27–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–98–090]

RIN 2115–AE47

Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, Norfolk, Virginia

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: At the request of Norfolk Southern Corporation, the Coast Guard is proposing to change the regulations that govern the operation of the Norfolk and Western Railroad drawbridge across the Eastern Branch of the Elizabeth River, mile 2.7, at Norfolk, Virginia. The proposed rule would reduce the hours when on-demand openings of the bridge are required during the boating season, and openings at all other times would require three-hours advance notice. This change is intended to reduce on-demand openings at times when there is minimal use of the bridge while still providing for the reasonable needs of navigation.

DATES: Comments must be received on or before January 4, 1999.

ADDRESSES: Comments may be mailed to Commander (Aowb), Fifth Coast Guard District, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704–5004, or may be hand delivered to the same address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398–6222. Comments will become a part of this docket and will be available for inspection and copying at the above address.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at (757) 398–6222.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested parties to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD05–98–090) and the specific section of this proposal to which each comment applies, and give the reason for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound material is requested. Persons wanting acknowledgement of receipt of comments should enclose a stamped self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Commander, Fifth Coast Guard District, at the address under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid in this proposed rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

33 CFR 117.1007(a) currently requires the Norfolk and Western Railroad Bridge, mile 2.7, across the Eastern Branch of the Elizabeth River, to open on signal from 6 a.m. to 10 p.m., seven days a week, year round. At all other times, the bridge only opens with at least a three-hour advance notice.

The Norfolk Southern Corporation has requested that the Coast Guard change the operating schedule of the Norfolk and Western Railroad bridge by reducing the hours when on-demand openings are provided during the boating season and requiring three-hours advance notice for openings outside of the boating season. Specifically, Norfolk Southern Corporation has requested that the drawbridge open on demand from April 15 to September 30, Monday through Thursday from 10 a.m. to 6 p.m., and Friday through Sunday from 6 a.m. to 11 p.m. At all other times, the drawbridge would only open with at least a three-hour advance notice.

The Norfolk Southern Corporation has based their request on data obtained from the 1996 and 1997 drawlogs. The logs revealed that from April to October during the weekdays (Monday through Thursday) from 10 a.m. to 6 p.m., and during the weekends (Friday through Sunday) from 6 a.m. to 11 p.m., the waterway traffic was at its peak. From 6 p.m. to 10 a.m. weekdays, and from 11 p.m. to 6 a.m. weekends during these same months, waterway traffic decreased sufficiently to request placing the bridge in advance-notice status. Norfolk Southern Corporation has also requested that from October to April, all bridge openings be provided only with a three-hour advance notice.

A Coast Guard review of the drawlogs revealed that waterway traffic, particularly recreational, remains active through October and November. From December to mid-April, recreational waterway traffic decreases by 80% while commercial waterway traffic remains steady. The majority of bridge openings during the weekends from April through November were a result of recreational boaters. Additional information provided by Norfolk Southern Corporation showed that during October and November 1996, the number of draw openings were 86 and 73, respectively. During October and November 1997, the number of openings were 88 and 59, respectively. During the months of June, July and August of 1996, the number of openings were 180, 106, and 137. In 1997 during the same months, the number of openings were 155, 107, and 148. Even though draw openings are lower from October through November than during the peak summer months, it is apparent the need exists to extend the boating season to the end of November to meet the needs of navigation.

Located upstream of the railroad bridge are commercial businesses that depend on this waterway for their livelihood and numerous property owners who own boats and frequent the river during the boating season. The Coast Guard's goal is to provide practical and feasible scheduled opening times for drawbridges during seasons of the year, and during times of the day, when scheduled openings would benefit users and owners of the bridge as well as users of the waterway. Even though Norfolk Southern Corporation has requested that the boating season begin in mid-April and end in September, the Coast Guard feels it is necessary to extend the boating season to the end of November based on information acquired from the drawlogs and local knowledge of the Eastern Branch of the Elizabeth River. It is also felt that, since this railroad bridge currently opens on-demand year round from 6 a.m. to 10 p.m., extending the boating season by two months is a reasonable compromise between the waterway users and the railroad. The Coast Guard believes that this proposed rule would reduce the need for providing a bridgetender for on-demand bridge openings at times of the year when there is minimal need for one while still providing for the reasonable needs of navigation.

Discussion of Proposed Amendment

The Coast Guard proposes to amend 33 CFR 117.1007(a), which governs the Norfolk and Western Railroad bridge across the Eastern Branch of the Elizabeth River, mile 2.7, at Norfolk, Virginia, by requiring on-demand openings from April 15 to November 30, Monday through Thursday from 10 a.m. to 6 p.m., and Friday through Sunday from 6 a.m. to 11 p.m. At all other times, the bridge would be required to open only upon three-hours advance notice.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard reached this conclusion based on the fact that the proposed changes will not prevent mariners from transiting the bridge, but merely require mariners to adhere to the proposed new operation procedures during transits of the bridge.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the U.S. Coast Guard must consider whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include small independently owned and operated businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3510–3520).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this proposed regulation will not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under figure 2–1, paragraph (32)(e) of Commandant Instruction M16475.1C this proposed rule is categorically excluded from further environmental documentation based on the fact that this is a promulgation of an operating regulation for a drawbridge. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); Section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. In section 117.1007, paragraph (a) is revised to read as follows:

§ 117.1007 Elizabeth River—Eastern Branch.

(a) The draw of the Norfolk and Western Railroad bridge, mile 2.7 at Norfolk, shall open on signal from April 15 to November 30, Monday through Thursday from 10 a.m. to 6 p.m., and Friday through Sunday from 6 a.m. to 11 p.m. At all other times, openings shall require three-hours advance notice.

* * * * *

Dated: October 22, 1998.

Roger T. Rufe, Jr.,

Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 98–29244 Filed 10–30–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AJ28

Medical: Advance Healthcare Planning

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the VA medical regulations to codify VA policy regarding advance healthcare planning. The proposed rule sets forth a mechanism for the use of written advance directives, i.e., a VA Living Will, a VA durable power of attorney for health care, and a state-authorized advance directive. The proposed rule also sets forth a mechanism for honoring verbal or nonverbal instructions from a patient when the patient is admitted to care when critically ill and loss of capacity may be imminent *and* the patient is not physically able to sign an advance directive form, or the appropriate form is not readily available. This is intended to help ensure that VA acts in compliance with patients' wishes concerning future healthcare.

DATES: Comments must be received on or before January 4, 1999.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulation Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN: 2900–AJ28." All written comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 AM and 4:30 PM, Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Ruth-Ann Phelps, Ph.D., Veterans Health Administration, National Center for Clinical Ethics (10AE), 810 Vermont Avenue, NW, Washington, DC 20420, at 202–273–8473 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Under the authority of 38 U.S.C. 7331 through 7333, this document proposes to amend the medical regulations (38 CFR Part 17) to codify VA policy concerning advance healthcare planning. Advance healthcare planning provides an opportunity for patients to give guidance to their caregivers regarding their treatment preferences for the future should they become incapable of participating fully in the decision-making process.

The proposed rule sets forth a mechanism for the use of written advance directives, i.e., a VA Living Will, a VA durable power of attorney for health care, and a state-authorized advance directive. The proposed rule also sets forth a mechanism for honoring verbal or nonverbal instructions from a

patient when the patient is admitted to care when critically ill and loss of capacity may be imminent *and* the patient is not physically able to sign an advance directive form, or the appropriate form is not readily available.

The proposed rule asserts that a patient's specific instructions must be followed unless contrary to VA policy. The proposed rule also states that a patient who has decision-making capacity may revoke an Advance Directive or instructions in a critical situation at any time by using any means expressing the intent to revoke.

The Secretary hereby certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The rule will affect only individuals and will not directly affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

There are no applicable Catalog of Federal Domestic Assistance program numbers.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: June 17, 1998.

Togo D. West, Jr.,

Secretary.

In consideration of the foregoing, 38 CFR part 17 is proposed to be amended as set forth below:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

2. In § 17.32, the section heading is revised, paragraph (a) is amended by adding a new definition, and paragraph (h) is added immediately following paragraph (g)(4), to read as follows:

§ 17.32 Informed consent and advance healthcare planning.

(a) * * *

Advance directive. Specific written statements made by a patient who has decision-making capacity regarding future healthcare decisions in one of the following:

(i) *VA Living Will.* A written statement made by a patient on an authorized VA form which sets forth the patient's wishes regarding the patient's healthcare treatment preferences including the withholding and withdrawal of life-sustaining treatment.

(ii) *VA Durable Power of Attorney for Health Care.* A written instruction on a VA form which designates the patient's choice of health care agent.

(iii) *State-Authorized Advance Directive.* A *Non-VA* Living Will, Durable Power of Attorney for Health Care, or other advance healthcare planning document, the validity of which is determined pursuant to the applicable state law.

* * * * *

(h) *Advance healthcare planning.* Subject to the provisions of paragraphs (h)(1) through (h)(4) of this section, VA will follow the wishes of a patient expressed in an Advance Directive when the attending physician determines and documents in the patient's medical record that the patient lacks decision-making capacity and is not expected to regain it.

(1) *Witnesses.* A VA Living Will or A VA Durable Power of Attorney for Health Care must be signed by the patient in the presence of two witnesses. Neither witness may be entitled to, or a claimant against, any portion of the patient's estate; or be financially responsible for the patient's care. Also, neither witness may be employed by the VA facility in which the patient is being treated; except that when other witnesses are not reasonably available, employees of the Chaplain Service, Psychology Service, Social Work Service, or nonclinical employees (e.g., Medical Administration Service, Voluntary Service, or Environmental Management Service) may serve as witnesses. Witnesses are attesting only to the fact that they saw the patient sign the form.

(2) *Instructions in critical situations.* VA will follow the verbal or non-verbal instructions of a patient when the patient is admitted to care when critically ill and loss of capacity may be imminent *and* the patient is not physically able to sign an advance directive form, or the appropriate form is not readily available. The patient's instructions must have been expressed to at least two members of the healthcare team. The substance of the patient's instructions must be recorded in a progress note in the patient's medical record and must be co-signed by both members of the healthcare team who were present and can attest to the wishes expressed by the patient. These instructions will be given effect only if the patient loses decision-making capacity during the presenting situation. If the patient regains decision-making capacity, these instructions will not be given effect for future treatment decisions.

(3) *Revocation.* A patient who has decision-making capacity may revoke an Advance Directive or instructions in a critical situation at any time by using any means expressing the intent to revoke.

(4) *VA Policy and Disputes.* Neither the treatment team nor surrogate may override a patient's specific instructions in an Advance Directive or in instructions in critical situations; except that those portions of an Advance Directive or instructions given in a critical situation that are not consistent with VA policy will not be given effect.

* * * * *

[FR Doc. 98–29247 Filed 10–30–98; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CT051–7209b; A–1–FRL–6182–1]

Approval and Promulgation of Air Quality Implementation Plans and Designations of Areas for Air Quality Planning Purposes; State of Connecticut; Approval of Maintenance Plan, Carbon Monoxide Redesignation Plan and Emissions Inventory for the Connecticut Portion of the New York—N. New Jersey—Long Island Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a redesignation request, maintenance plan, and emissions inventory submitted by the State of Connecticut to redesignate the Connecticut portion of the New York—N. New Jersey—Long Island Area carbon monoxide nonattainment area (hereinafter the southwest Connecticut nonattainment area) to attainment for carbon monoxide (CO). Under the Clean Air Act amendments of 1990 (CAA), designations can be revised if sufficient air quality data is available to warrant such revisions. This revision proposes to establish the area as attainment for carbon monoxide and require the state to implement their 10 year maintenance plan. In addition, EPA is proposing to approve the 1993 periodic emissions inventory for CO emissions. In the final rules portion of this **Federal Register**, EPA is approving the redesignation request as direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposal. If EPA receives adverse comments, the direct final rule will be withdrawn in a timely manner and all public comments received will be addressed in a subsequent final rule based on this proposal. EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time.

DATES: Comments must be received on or before December 2, 1998.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203–2211. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA and the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Jeffrey S. Butensky, Environmental Planner, Air Quality Planning Unit of the Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203–2211, (617) 565–3583.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the appropriate Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: October 21, 1998.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 98–29305 Filed 10–30–98; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42CFR Parts 5 and 51c

RIM 0906–AA44

Designation of Medically Underserved Populations and Health Professional Shortage Areas

AGENCY: Health Resources and Services Administration, DHHS.

ACTION: Proposed rules; extension of public comment period.

SUMMARY: This action extends for 60 days the period for public comment on the proposed rules published in the **Federal Register** (63 FR 46538–46555) on September 1, 1998, which would revise the methodology and procedures for designating medically underserved populations and health professional shortage areas. All other information remains unchanged. Because these designations affect numerous areas and providers and because the potential impact of the proposed rules is difficult to ascertain in some cases due to the technical nature of the calculations involved, the agency has decided to extend the period for public comment to enable commenters to provide more thorough and helpful comments.

DATES: Comments on these proposed rules are invited, and, to be considered, must be submitted on or before January 4, 1999.

ADDRESSES: Comments should be submitted in writing to: Office of Program and Policy Development, Bureau of Primary Health Care, 7th Floor, 4350 East-West Highway, Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT: Richard Lee, 301–594–4280.

(**Authority:** 42 U.S.C. 254c and 42 U.S.C. 2543.)

Dated: October 22, 1998.

Claude Earl Fox,

Administrator, Health Resources and Services Administration.

Approved: October 27, 1998.

Donna E. Shalala,

Secretary, Department of Health and Human Services.

[FR Doc. 98–29273 Filed 10–30–98; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 45

[USCG 1998–4623]

RIN 2115–AF38

Limited Service Domestic Voyage Load Lines for River Barges on Lake Michigan

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to allow certain unmanned dry cargo river barges to be exempt from the normal Great Lakes load line requirements to operate on Lake Michigan. Instead, these river barges would need to obtain a limited domestic service load line for two specific routes (between Chicago, Illinois and Milwaukee, Wisconsin; and between Chicago and Muskegon, Michigan). This proposed rule will allow certain non-hazardous cargoes originating at inland river ports to be directly transported as far as Milwaukee and Muskegon by river barge, thereby realizing the benefits of the relatively low cost-per-ton-mile of river barge transportation.

DATES: Comments must reach the Coast Guard on or before January 4, 1999.

ADDRESSES: You may mail comments to the Docket Management Facility, (USCG 1998–4623), U.S. Department of Transportation, Room PL–401, 400 Seventh Street SW, Washington, DC 20593–001, or deliver them to room PL–401, on the Plaza Level of the Nassif Building at the same address, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–267–1477.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and documents, as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza Level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: For questions on this proposed rule, contact Mr. Thomas Jordan, Office of Marine Safety and Environmental Protection (G–MSE–2), U.S. Coast Guard Headquarters, Room 1308, telephone 202–267–0142. For questions on viewing or submitting material to the docket, contact Dorothy Walker, Chief,

Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (USCG 1998–4623) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Docket Management Facility at the address under **ADDRESSES.** The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Before the establishment of limited service domestic voyage load line routes on Lake Michigan, barge cargoes originating at inland river ports and destined for Lake Michigan ports had to be transferred to a Great Lakes load lined vessel at Chicago (Calumet Harbor). This transshipment was necessary because the present load line regulations do not allow vessels onto the Great Lakes without a Great Lakes load line, and river barges typically do not meet all the requirements for unrestricted service on the Great Lakes.

In January 1991, the Port of Milwaukee approached the Coast Guard to explore the possibility of establishing a relaxed domestic load line that would allow river barges to operate along the western shore of Lake Michigan between Chicago and Milwaukee. Later that year, a barge company made a similar request for an eastern Lake Michigan route between Chicago and Muskegon, Michigan. The motivation for these route requests was economic. River barges offer relatively low costs per ton-mile to move cargo and can therefore deliver cargoes to the Lake ports less expensively. These routes could thereby stimulate more economic activity in the port regions as well.

Because river barges are not designed to operate in the severe weather conditions experienced on the Great Lakes, the American Bureau of Shipping (ABS), the Coast Guard, and the industry worked together to determine the appropriate operational restrictions and other requirements that would allow river barges to safely venture onto Lake Michigan. It was recognized that river barges can only operate on Lake Michigan during fair-weather periods and only on carefully selected routes. The group reviewed weather conditions and available ports of refuge along the proposed routes.

On September 21, 1992, the Coast Guard published a notice in the **Federal Register** (57 FR 43479) that established a limited service domestic load line route on western Lake Michigan between Chicago, Illinois (Calumet Harbor) and Milwaukee, Wisconsin.

On March 31, 1995, the Coast Guard published a second notice in the **Federal Register** (60 FR 16693), announcing establishment of another limited service route. This route is along the eastern side of Lake Michigan between Chicago (Calumet Harbor) and St. Joseph, Michigan (Benton Harbor). With the exception of the limiting wind conditions, the requirements are the same for both routes. The prevailing weather patterns on the new eastern route make it necessary for the requirements to be different from the western route. In addition, the second notice also imposed a new requirement for both routes. This new requirement stated that the lead barge in the tow had to be rake-ended rather than box-ended. The notice also allowed the initial load line survey of barges less than 10 years old to be conducted afloat, and it also prohibited cargo movements between ports on the two different routes without first entering the river system at Calumet Harbor.

On September 28, 1995, the Coast Guard published a third notice in the **Federal Register** (60 FR 50234) revoking the rake-ended barge requirement imposed by the second notice. This notice was in response to several comments pointing out that the restriction was not necessary.

On August 26, 1996, the Coast Guard published a fourth notice in the **Federal Register** (61 FR 43804) extending the eastern route from St. Joseph, Michigan to Muskegon, Michigan. This extension required some special considerations, principally because the ports of refuge are further apart. Accordingly, the Coast Guard, ABS, and local barge industry representatives developed some additional operational requirements for barges traveling this extended route.

Discussion of Proposed Rules

The requirements for the Chicago/Milwaukee and Chicago/Muskegon routes have already been presented and discussed in the previous **Federal Register** notices (see Background section of this notice).

Subpart E of 46 CFR part 45, "Unmanned River Service Dry Cargo Barges," already provides a load line exemption for river barges operating on Lake Michigan on the Chicago/Burns Harbor route. Therefore, this subpart is being reorganized to incorporate the new Milwaukee and Muskegon route requirements.

With four exceptions (discussed below), all of the requirements appearing in the original subpart E or the **Federal Register** notice of 61 FR 43804 of August 26, 1996 have been retained. Some parts of subpart E have been reworded and consolidated using Plain Language to make the organization of the material easier to read.

The first exception concerns the proposed wind speed limits for the Milwaukee and Muskegon routes. As published in the **Federal Register** of August 26, 1996, these were originally set at continuous wind speeds of 15 knots and 20 knots for certain wind directions. In response to the **Federal Register** notice, two comments were received which recommended revising these limits to be sustained wind speeds of 16 and 21 knots, respectively. The reason for this recommendation is that the Great Lakes Marine Weather Forecast (MAFORS) reports "sustained winds" (vice "continuous winds") in slightly different speed ranges. For example, MAFORS 1 is winds of 11 to 16 knots, and MAFORS 2 is winds of 17 to 21 knots. The commenters believe that the Federal wind speed limits should align with actual forecasts that are used by most mariners on the Lake. The Coast Guard agrees with this recommendation and has incorporated it into this proposal.

The second exception concerns the ban on having cargo originating at one Lake Michigan port from being delivered to another Lake port without first entering the river system at Calumet Harbor. The original reason behind this ban was that the Lake Michigan routes were intended to connect Milwaukee and Muskegon to inland (river) ports, not to each other. Comments have been received, however, arguing that this ban is economically based, not safety based and therefore is not an appropriate limitation. The Coast Guard concurs and the proposed regulations remove this ban; however, further comments on this issue are requested.

The third exception is that the allowable offshore distances for the different routes have been harmonized. Specifically, the original regulations for the Burns Harbor route did not specify any horsepower requirement but limited the tow to "not farther than 5 miles from a harbor of refuge." The later notices for the other routes (Milwaukee, St. Joseph, and Muskegon) specify a minimum horsepower requirement but allow the tows to be "not more than 5 nautical miles from shore," which is a more flexible standard. The proposed regulations remove the harbor-of-refuge limitation for Burns Harbor tows and allow them 5 nautical miles offshore, but also impose a minimum requirement of 1,000 HP for the towboat (same as for tows to St. Joseph).

Similarly, the fourth exception harmonizes the Burns Harbor weather restrictions with the restrictions applicable to all tows on the eastern side of Lake Michigan, (which sail past Burns Harbor). Specifically, the present regulations for the Burns Harbor route limit tows to "fair weather conditions" whereas the St. Joseph/Muskegon route weather limits are more specifically defined (wind speeds and wave heights). Tows to Burns Harbor are now subject to the same limits as the other eastern Lake routes.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This regulatory action imposes costs only on those unmanned dry cargo river barge operators who voluntarily decide to obtain this particular load line for their barges. The American Bureau of Shipping (ABS) issues U.S. load lines. ABS indicates that approximately 12 barges may obtain load line certificates each year. The principal cost of obtaining a load line under this rule results from ABS's level of effort to survey barges and review their design. The unit cost is typically less than $3,000, although costs will vary from barge to barge, depending upon its design and material condition. In return for this cost investment, the barge operator will have commercial opportunities to move certain cargoes on Lake Michigan from inland river ports to Milwaukee, Muskegon, and intermediate Lake ports. It is expected that the barge operators will not incur the load line cost unless they anticipate a satisfactory return on their investment.

The economic impact of this rulemaking on the local region is expected to be generally beneficial, since these regulations are likely to promote intermodal competition among waterborne and overland modes. It has been several years now since these barges have been permitted to operate in Milwaukee. The Coast Guard requests estimates of cargo volumes that may be shipped by barge as a result of this proposal and prospective effects on other transportation modes. The Coast Guard also requests comments on the costs, benefits, and other economic impacts of this load line program.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This new load line program proposal will be open to all river barge operators, including those that qualify as small entities. The Coast Guard believes that many of the affected operators are small entities. While compliance with these load line regulations would require an initial investment of about $3,000, the regulations are voluntary and provide flexibility and choice to small entities, as well as other affected operators.

The proposed program is expected to expand the cargo base and potential business of barges on the affected routes and increase modal and intermodal competition for certain cargoes.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment to the Docket Management Facility at the address under **ADDRESSES** explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact Mr. Thomas Jordan, Office of Marine Safety and Environmental Protection (G–MSE–2), 202–267–0142. Copies of this NPRM will also be mailed to local Small Business Development Centers.

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This proposed rule provides for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). As defined in 5 CFR 1320.3(c), "collection of information" includes reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of the respondents, and an estimate of the total annual burden follow. Included in the estimate of the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Title: Limited Service Domestic Voyage Load Lines for River Barges on Lake Michigan.

Summary of the Collection of Information: This proposal contains collection of information requirements for 46 CFR part 45.

Need for Information: This proposal extends load line provisions to unmanned dry cargo river barges operating on certain areas of Lake Michigan.

Proposed Use of Information: Information collection is necessary so that the Coast Guard may determine that the vessel complies with minimum design standards before and after certification, as well as prove noncompliance in case of delinquent vessels.

Description of the Respondents: Unmanned dry cargo river barges operating on certain areas of Lake Michigan may obtain load line certification.

Number of Respondents: The Coast Guard estimates that 12 such barges may seek certification.

Frequency of Response: Each vessel must respond once annually.

Burden of Response: The Coast Guard estimates that 9.33 hours will be spent by each vessel that chooses to gain load line certification.

Estimates Total Annual Burden: The total annual burden of extending these load line provisions to the 12 unmanned dry cargo barges operating on certain areas of Lake Michigan is 112 hours.

As required by section 3507(d) of the Paperwork Reduction Act of 1995, the Coast Guard has submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of the collection of information.

The Coast Guard solicits public comment on the proposed collection of information to (1) evaluate whether the information is necessary for the proper performance of the functions of the Coast Guard, including whether the information would have practical utility; (2) evaluate the accuracy of the Coast Guard's estimate of the burden of the collection, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the collection on those who are to respond, as by allowing the submittal of responses by electronic means or use of other forms of information technology.

Persons submitting comments on the collection of information should submit their comments both to OMB and to the Docket Management Facility where indicated under **ADDRESSES** by the date under **DATES**.

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number. Before the requirements for this collection of information become effective, the Coast Guard will publish a notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the collection.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), (Pub. L. 104–4, 109 Stat. 48), requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for proposed and final rules that contain Federal mandates. A "Federal mandate" is a new or additional enforceable duty imposed on any State, local, or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in the aggregate, $100 million or more in one year, the UMRA analysis is required. This rule does not impose Federal mandates on any State, local, or tribal governments, or the private sector.

Federalism

The Coast Guard has analyzed this proposed rule under the principles and criteria contained in Executive Order 12612 and has determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that under figure 2–1, paragraph (34)(d)(e), of Commandant Instruction M16475.1C, that it is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 46 CFR Part 45

Great Lakes, Reporting and recordkeeping requirements, Vessels.

For the reasons set out in the preamble, the Coast Guard proposes to amend 46 CFR part 45 as follows:

PART 45—GREAT LAKES LOAD LINES

1. The authority citation for part 45 continues to read as follows:

Authority: 46 U.S.C. 5115; 49 CFR 1.46.

2. Revise Subpart E to read as follows:

Subpart E—Unmanned River Barges on Lake Michigan Routes

Sec.

45.171 What is the purpose of this subpart?
45.173 Which barges are eligible for the exemptions under this subpart?
45.175 What routes does this subpart apply to?
45.177 What are the freeboard requirements?
45.179 What are the cargo limitations?
45.181 What are the exemption requirements for the Burns Harbor route?
45.183 What are the load line requirements for the Milwaukee, St. Joseph, and Muskegon routes?
45.185 What are the tow limitations?
45.187 What are the weather limitations?
45.191 What are the pre-departure requirements?
45.193 What are the towboat power requirements?
45.195 What are the additional equipment requirements for towboats on the Muskegon route?
45.197 What are the operational plan requirements for the Muskegon route?

Subpart E—Unmanned River Barges on Lake Michigan Routes

§ 45.171 What is the purpose of this subpart?

(a) This subpart defines conditions under which certain unmanned, river-service, dry-cargo barges may be exempted from the Great Lakes load line requirements of this part while operating on certain Lake Michigan routes.

(b) The requirements of this subpart are summarized in the following table:

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Table 45.171(b)
Load Line Requirements for
Dry Cargo River Barges Operating on Lake Michigan

	Voyages between Calumet Harbor (Chicago), IL and:				Comments
	Milwaukee	Burns Harbor	St Joseph	Muskegon	
Load line required:	Yes	Load line exemption	Yes	Yes	Limited service domestic voyage load line in lieu of full Great Lakes load line For Burns Harbor LL exemption, see 45.181
Where to apply:	ABS	MSO Chicago	ABS	ABS	ABS Americas, 16855 Northchase Dr., Houston, TX 77060 USCG Marine Safety Office 215 W 83rd St - Suite D, Burr Ridge, IL 60521
Freeboard requirement:	All barges: freeboard at least 24 inches (610mm). Additionally, open hopper barges: coaming height + freeboard at least 54 inches (1,372mm).				
Tow limitations:	Barges must be unmanned. Not more than 3 barges per tow. Not more than 5 nautical miles from shore.				
Cargo limitations:	Dry cargoes only. No hazardous materials.				Liquid cargoes, even in drums or tank containers, may not be carried. HazMats are defined in 46 CFR part 148 and 49 CFR chapter 1, subchapter C.
Weather limitations:	Adverse conditions that imperil tow or access to shelter.				Voyage may not begin, or must be broken off and proceed to shelter, if conditions exceed these limits.
Ice conditions:	4 feet (1.2 m)				
Wave height:					
Sustained winds:	16 kts from NE, E, SE 21 kts from N, NW, W, SW, S	16 kts from N, NW, W, SW 21 kts from NE, E, SE, S			
Pre-departure preps:	Yes	Yes	Yes	Yes	As specified in 45.191
Towboat requirements:	Sufficient to handle tow, but at least 1,000 HP.			Sufficient to handle tow, but at least 1,500 HP.	
Power:	Recommended.			Required.	As specified in 45.193
Communication system:	"			"	As specified in 45.195(a)
Cutting gear:	"			"	As specified in 45.195(b)
Operational plan:	"			"	As specified in 45.197

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§ 45.173 Which barges are eligible for the exemptions under this subpart?

The barges eligible for the exemption under this subpart are as follows:

(a) Unmanned, dry-cargo barges operating between Calumet Harbor (Chicago), IL, and Burns Harbor, IN, may be exempted from the requirements that they have a load line if they are operated in accordance with this subpart.

(b) Unmanned, dry-cargo barges operating between Calumet Harbor (Chicago), IL, and Milwaukee, WI, or between Calumet Harbor and Muskegon, MI, may be exempted from the Great Lakes load line requirement if they are issued a limited-service, domestic-voyage load line, and are operated in accordance with this subpart.

§ 45.175 What routes does this subpart apply to?

This subpart applies to the following routes on Lake Michigan, between Chicago (Calumet Harbor), IL, and—

(a) Milwaukee, WI;

(b) Burns Harbor, IN;

(c) St. Joseph, MI; and

(d) Muskegon, MI.

§ 45.177 What are the freeboard requirements?

The freeboard requirements are as follows:

(a) All barges operating under this subpart must have a minimum freeboard of 24 inches (610 mm).

(b) Additionally, open hopper barges must have a combined freeboard plus cargo-box-coaming height of at least 54 inches (1,372 mm).

§ 45.179 What are the cargo limitations?

The cargo limitations are as follows:

(a) Only dry cargoes may be carried. Liquid cargoes, even in drums or tank containers, may not be carried.

(b) Hazardous materials, as defined in part 148 of this chapter and 49 CFR chapter 1, subchapter C, may not be carried.

§ 45.181 What are the exemption requirements for the Burns Harbor route?

In order for a barge on the Burns Harbor route to be exempt from the requirements that it have a load line, the following requirements must be met:

(a) The barge must be operated only between Calumet Harbor and Burns Harbor and must be operated in accordance with this subpart.

(b) The owner of the barge must apply for this exemption in writing to the Officer in Charge, Marine Inspection (OCMI), U.S. Coast Guard Marine Safety Office, 215 W. 83rd St—Suite D, Burr Ridge, IL 60521. The application may be in any form and must be signed by the owner or an officer authorized to represent the barge's owner. No form or certificate will be returned. However, the owner's certification will be kept on file. The owner of a barge for which a load line exemption is in effect must notify the OCMI of the transfer of ownership, change of service, or other disposition of the barge.

(c) The owner and operator must agree to maintain the barge and comply with the operational requirements of this subpart.

(d) The application must include the following general information:

(1) Barge name.

(2) Type.

(3) External dimensions.

(4) Types of cargo.

(5) Official number or other classification number.

(6) Owner and operator addresses and telephone numbers.

(7) Place and date built.

(e) The application must state and certify—

(1) That the barge has been designed and built to at least the minimum scantlings of the ABS River Rules which were in effect at the time of construction; and

(2) That the applicable provisions of 46 CFR part 45, subpart E, will be complied with before and during all voyages between Chicago (Calumet Harbor), IL, and Burns Harbor, IN, and intermediate ports on Lake Michigan.

§ 45.183 What are the load line requirements for the Milwaukee, St. Joseph, and Muskegon routes?

The load line requirements for the Milwaukee, St. Joseph, and Muskegon routes are as follows:

(a) *Load line certificate:*

(1) The load line issued under this subpart must be a limited-service, domestic-voyage load line.

(2) Except as provided under paragraph (b)(2)(vi) of this section, the term of the certificate is five years.

(3) The load line certificate is valid for the Milwaukee, St. Joseph, and Muskegon routes and intermediate ports. However, operators must comply with the route-specific requirements on the certificate.

(4) The freeboard assignment, operational limitations, and towboat requirements of this subpart must appear on the certificate.

(b) *Conditions of assignment.*

(1) An initial load line survey under § 42.09–25 of this chapter and subsequent annual surveys under § 42.09–40 of this chapter are required.

(2) At the request of the barge owner, the initial load line survey may be conducted with the barge afloat if the following conditions are met:

(i) The barge is less than 10 years old.

(ii) The draft during the survey does not exceed 15 inches (380 millimeters).

(iii) The barge is empty and thoroughly cleaned of all debris, excessive rust, scale, mud, and water. All internal structure must be accessible for inspection.

(iv) Gaugings are taken to the extent necessary to verify that the scantlings are in accordance with approved drawings.

(v) The hull plating (bottom and sides) and stiffeners below the light waterline are closely examined internally. If the surveyor determines that sufficient cause exists, the surveyor may require that the barge be drydocked or hauled out and further external examination conducted.

(vi) The initial load line certificate is to be issued for a term of 5 years or until the barge reaches 10 years of age, whichever occurs first. At that time, the barge must be drydocked or hauled out and be fully examined internally and externally.

§ 45.185 What are the tow limitations?

The tow restrictions are as follows:

(a) Barges cannot be manned.

(b) No more than three barges per tow.

(c) Tows cannot be more than 5 nautical miles from shore.

§ 45.187 What are the weather limitations?

The weather restrictions are as follows:

(a) The weather limits (ice conditions, wave height, and sustained winds) are specified in § 45.171(b), table 45.171(b).

(b) If weather conditions are expected to exceed these limits at any time during the voyage, the tow may not leave harbor or, if already underway, must proceed to the nearest appropriate harbor of safe refuge.

§ 45.191 What are the pre-departure requirements?

Before beginning each voyage, the towing vessel master must conduct the following:

(a) *Weather forecast.* Determine the marine weather forecast along the planned route, and contact the dock operator at the destination port to get an update on local weather conditions.

(b) *Inspection.* Inspect each barge of the tow to ensure that each meet the following requirements:

(1) A valid load line certificate, if required, is on board.

(2) The barge is not loaded deeper than permitted.

(3) The deck and side shell plating are free of visible holes, fractures, or serious indentations, as well as damage that would be considered in excess of normal wear.

(4) The cargo box side and end coamings are watertight.

(5) All manholes are covered and secured watertight.

(6) All voids are free of excess water.

(7) Precautions have been taken to prevent shifting of cargo.

(c) *Verifications.* On voyages north of St. Joseph, the towing vessel master must contact a mooring/docking facility in St. Joseph, Holland, Grand Rapid, and Muskegon to verify that sufficient space is available to accommodate the tow. The tow cannot venture onto Lake Michigan without confirmed space available.

(d) *Log entries.* Before getting underway, the towing vessel master must note in the logbook that the pre-departure barge inspections, verification of mooring/docking space availability, and weather forecast checks were performed.

§ 45.193 What are the towboat power requirements?

The towing vessel must meet the following requirements:

(a) *General.* Have adequate horsepower to handle the tow, but not less than the amount specified for the route in this section.

(b) *Milwaukee, Burns Harbor, and St. Joseph routes.* Have a minimum of 1,000 HP.

(c) *Muskegon route.* Have a minimum of 1,000 HP to St. Joseph and a minimum of 1,500 HP from St. Joseph to Muskegon.

§ 45.195 What are the additional equipment requirements for towboats on the Muskegon route?

The additional equipment requirements for towboats on the Muskegon route that go beyond St. Joseph are as follows:

(a) *Communication equipment.* Two independent voice communication systems in operable condition, such as Very High Frequency (VHF) radio, radiotelephone, or cellular phone. At least two persons aboard the vessel must be capable of using the communication systems.

(b) *Cutting gear.* Equipment that can quickly cut the towline at the towing vessel. The cutting gear must be in operable condition and appropriate for the type of towline being used, such as wire, polypropylene, or nylon. At least two persons aboard the vessel must be capable of using the cutting gear.

§ 45.197 What are the operational plan requirements for the Muskegon route?

The towing vessel on the Muskegon Route must have aboard an operational plan that is available for ready reference by the master. The plan must include the following:

(a) The cargo limitations, the general operational requirements, and the special operational requirements of this subpart.

(b) A list of mooring and docking facilities (with phone numbers and area codes) in St. Joseph, Holland, Grand Haven, and Muskegon that can accommodate the tow.

(c) A list of towing firms (with phone numbers and area codes) that have the capability to render assistance to the tow, if required.

(d) Guidelines for possible emergency situations, such as barge handling under adverse weather conditions, and other emergency procedures.

Dated: October 20, 1998.

Joseph J. Angelo,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 98–29245 Filed 10–30–98; 8:45 am]

BILLING CODE 4910–15–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[DA 98–2112]

Federal-State Joint Board; En Banc Meeting on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; en banc meeting.

SUMMARY: The Commission has released a Public Notice that announces an en banc to discuss whether the goal of affordable telephone service is being met and whether there are policies that the Joint Board should consider recommending to continue to meet the goal of affordable service. Participants also will discuss whether federal state regulators are adequately informing consumers of the issues surrounding the new competitive marketplace and the new federal universal service support mechanisms.

DATES: Thursday, October 29, 1998, from 1:00 p.m. to 5:00 p.m.

ADDRESSES: The en banc will be held in the Commission Meeting Room (Room 856) at 1919 M Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Lori Wright at (202) 418–7391.

SUPPLEMENTARY INFORMATION: The en banc is open to the public, and seating will be available on a first come, first served basis. A transcript of the en banc will be available 10 days after the event on the FCC's Internet site. The URL address for the FCC's Internet Home Page is <http://www.fcc.gov>. The en banc will also be carried live on the Internet. Internet users may listen to the real-time audio feed of the en banc by accessing the FCC Internet Audio Broadcast Home Page. Step-by-step instructions on how to listen to the audio broadcast, as well as information regarding the equipment and software needed, are available on the FCC Internet Audio Broadcast Home Page. The URL address for this home page is http://www.fcc.gov/realaudio/. Audio and video tapes of the en banc may be purchased from Infocus, 341 Victory Drive, Herndon, VA 20170, by calling Infocus at (703) 834–0100 or by faxing infocus at (703) 834–0111.

Federal Communications Commission.

Lisa S. Gelb,

Chief, Accounting Policy Division, Common Carrier Bureau.

[FR Doc. 98–29105 Filed 10–27–98; 3:38 pm]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 96–86; FCC 98–191]

The Development of Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010, Establishment of Rules and Requirements for Priority Access Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission (Commission) adopted a *Third Notice of Proposed Rule Making* (*"Third Notice"*) contemporaneously with a *First Report and Order* (*"First Report"*) that is summarized elsewhere in this edition of the **Federal Register**. By its *Third Notice*, the Commission makes a range of proposals and seeks comment relating to public safety communications in the 746–806 MHz band ("700 MHz band") and in general. The Commission invites comment on how to license the 8.8 megahertz of 700 MHz band spectrum designated as reserved in the *First Report* and on whether to directly license each state or use a regional planning process to administer the nationwide interoperability frequencies (2.6 MHz of spectrum designated in the *First Report*) pursuant to the national interoperability plan to be established by the National

Coordination Committee. The *Third Notice* also discusses protection requirements for the Global Navigation Satellite Systems and offers proposals to facilitate use of nationwide interoperability in public safety bands below 512 MHz. Finally, because many of the automated and intelligent machines and systems on which public safety entities depend for their operations were not designed to take into account the date change that will occur on January 1, 2000, the Commission also seeks comment on how best to ascertain the extent, reach, and effectiveness of Year 2000 compliance initiatives that have been or are being undertaken by public safety entities, to better understand the nature of the Year 2000 problem and the potential risks posed to public safety communications networks.

This action addresses an urgent need for additional public safety radio spectrum and the need for nationwide interoperability among local, state, and federal entities. By this action, the Commission also takes additional steps toward achieving its goals of developing a flexible regulatory framework to meet vital current and future public safety communications needs and ensuring that sufficient spectrum to accommodate efficient, effective telecommunications facilities and services will be available to satisfy public safety communications needs into the 21st century.

DATES: Comments are due on or before January 4, 1999, and reply comments are due on or before February 1, 1999. Written comments by the public on the proposed information collections are due January 4, 1999. Written comments on the proposed information collections must be submitted by the Office of Management and Budget (OMB) on or before January 4, 1999.

ADDRESSES: Federal Communications Commission, Office of the Secretary, Room 222, Washington, D.C. 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725–17th Street, N.W., Washington, D.C. 20503, or via the internet to fain_t@eop.gov.

FOR FURTHER INFORMATION CONTACT: Peter Daronco or Michael Pollak, at the Public Safety & Private Wireless Division, (202) 418–0680. For additional information concerning the information collections contained in this *Third Notice*, contact Judy Boley at (202) 418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Third Notice in WT Docket No. 96–86, adopted on August 6, 1998, and released on September 29, 1998, contemporaneously with a *First Report* in WT Docket No. 96–86 (collectively FCC 98–191). The *First Report* is summarized elsewhere in this edition of the **Federal Register**. The full text of the *First Report and Third Notice* is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's duplicating contractor, International Transcription Services, 1231 20th Street, NW, Washington, DC 20036, 202–857–3800. Alternative formats (computer diskette, large print, audio cassette and Braille) are available to persons with disabilities by contacting Martha Contee at (202) 418–0260, TTY (202) 418–2555, or at mcontee@fcc.gov. The complete (but unofficial) text is also available under the name "fcc98191.wp" on the Commission's Internet site at <http://www.fcc.gov/Bureaus/Wireless/Orders/1998/index.html≤.

Paperwork Reduction Act

The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–0262.
Title: 90.179 Shared use of radio stations.
Form No.: N/A.
Type of Review: Revision of a previously approved collection.
Respondents: Business or other for-profit, State and local governments.
Number of Respondents: 41,000.
Estimated Time Per Response: .75 hours per respondent.
Total Annual Burden: 30,750 hours.
Total Annual Cost: No annual cost burden on respondents from either capital or setup costs.
Needs and Uses: The *Third Notice* in WT Docket No. 96–86 invites comment on how to license 8.8 megahertz of spectrum in the 700 MHz band that is allocated for public safety services. For example, comment is sought on whether to license 700 MHz band spectrum directly to each individual state; the Commission further invites comment on whether to revise § 90.179 to allow state licensees to authorize approximately 39,000 additional public safety agencies within the states and their political subdivisions to use the spectrum. We assume that the respondents would spend .75 hours to keep a written sharing agreement as part of the station records.

OMB Approval Number: 3060–XXXX.
Title: State Public Safety Regional Plans & Year 2000 Readiness.
Form No.: N/A.
Type of Review: New collection.
Respondents: State and local governments.
Number of Respondents: 100,050.
Estimated Time Per Response: 6.49 hours per respondent.
Total Annual Burden: 649,500 hours.
Total Annual Cost: No annual cost burden on respondents from either capital or setup costs.
Needs and Uses: The *Third Notice* in WT Docket No. 96–86 invites comments on how to license 8.8 megahertz of spectrum in the 700 MHz band that is allocated for public safety services. For example, comment is sought on whether to license 700 MHz band spectrum directly to each individual state and, if so, whether the state licensee should have to adhere to the same planning process as the Regional Planning Committees. We assume that the individual states would spend 10,270 hours to complete its public safety communications plan. The *Third Notice* in WT Docket No. 96–86 also invites comments on possible alternative methods of obtaining the current state of

Y2K readiness and the progress and range of compliance initiatives that have been taken in the public safety community. We assume that the individual entities would spend 1 hour to file this information with the Commission.

Synopsis of the Third Notice of Proposed Rulemaking

1. In accordance with the 1997 Budget Act, the Commission allocated 24 megahertz of spectrum in the 700 MHz band for public safety services. By its *First Report*, the Commission designated 12.6 megahertz of this new spectrum for General Use, 2.6 megahertz of this new spectrum for nationwide interoperability. The remaining frequencies (a total of 8.8 megahertz of the new spectrum) were reserved and the *Third Notice* seeks comment on how to license this 8.8 megahertz of spectrum. Specifically, we request comment on whether some or all of the reserve spectrum should be licensed by means of the regional planning committee (RPC) process or directly to each state for deployment of statewide systems. The *Third Notice* also invites commenters to suggest other proposals for licensing of the 8.8 megahertz of spectrum.

2. The Commission also seeks comment on whether the channels designated in the *First Report* for nationwide interoperability (2.6 megahertz of the 700 MHz band subject to interoperability guidelines to be recommended by the NCC and approved by the Commission) should be licensed by means of the RPC process or licensed directly to each state.

3. In response to the extensive public safety comments submitted in this record that additional interoperability spectrum is needed below 512 MHz to fully address interoperability nationwide, we examine three additional possible interoperability solutions. The Commission proposes to designate five channels in each of the existing public safety bands at 150–174 MHz and 450–512 MHz for mutual aid purposes. We also seek further comment on the need for a separate interoperability band below 512 MHz. Specifically, we seek comment on the feasibility of using the 138–144 MHz band currently used by the U.S. Department of Defense and the Federal Emergency Management Agency as a separate interoperability band. *See* Petition of the National Public Safety Telecommunications Council for Further Rulemaking to Allocate Spectrum in the 138–144 MHz Band for Public Safety (April 9, 1998). The Commission also seeks comment on our proposed reallocation of two channel pairs in the VHF 156–162 MHz band for interoperable channels of communication in 33 Economic Areas (EAs), which are now available for assignment to public safety entities. These channel pairs were formerly allocated in § 80.371 of the Commission's Rules for VHF Public Coast Stations as public correspondence channels and were also shared under § 90.283.

4. We also propose technical solutions and invite comments on how to protect certain global navigation satellite systems, particularly the Global Orbiting Navigation Satellite Systems (GLONASS) and Global Positioning System (GPS). GLONASS utilizes the Radionavigation-Satellite Service (space-to-Earth) band of 1598–1605 MHz. We are concerned that second harmonic emissions from public safety equipment operating in the 794–806 MHz band (TV channels 68 and 69) may cause harmful interference to aeronautical users of GLONASS and GPS receivers and seek further comment to supplement the record on this matter.

5. We also seek comment on how best to ascertain the extent, reach, and effectiveness of Year 2000 compliance initiatives that have been or are being undertaken by public safety entities, so that we can better understand the nature of the Year 2000 problem and the potential risks it poses to public safety communications networks.

Administrative Matters

6. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before January 4, 1999, and reply comments are due on or before February 1, 1999. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. Comments may be filed using the Commission's Electronic Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (May 1, 1998).

7. To file formally in this proceeding, parties who choose to file by paper must file an original and four copies of each filing. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 1919 M St., N.W., Room 222, Washington, D.C. 20554. Parties who choose to file by paper should also submit their comments on diskette to: Peter Daronco, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, Room 8332, 2025 M Street, N.W., Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labelled with the commenter's name, proceeding (including the lead docket number in this case, WT Docket No. 96–86), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, N.W., Washington, D.C. 20037.

8. Comments filed through the ECFS can be sent as an electronic file via the Internet to<http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

9. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. 20554. Copies of comments and reply comments are available through the Commission's duplicating contractor: International Transcription Services,

Inc. (ITS, Inc.), 1231 20th Street, N.W., Washington, D.C. 20036 (202) 857–3800.

10. The *Third Notice* in WT Docket No. 96–86 also contained an Initial Regulatory Flexibility Act Analysis pursuant to the Regulatory Flexibility Act, 5 U.S.C. § 603. It is substantially as follows:

As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the present *Third Notice of Proposed Rule Making* (*Third Notice*). *See* 5 U.S.C. § 603. The RFA, 5 U.S.C. § 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Third Notice* as provided above in the Procedural Matters section of this *First Report and Order and Third Notice of Proposed Rule Making*. The Commission will send a copy of the *Third Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. § 603(a).

Paperwork Reduction Analysis

In addition, comments on information collections contained in the *Third Notice of Proposed Rule Making* should be filed with Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, D.C. 20554, or via the Internet to jboley@fcc.gov. Furthermore, a copy of any such comments should be submitted to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 17th Street, N.W., Washington, D.C. 20503 or via the Internet at fain_t@al.eop.gov. For additional information regarding the information collections contained herein, contact Judy Boley.

Ex Parte Presentations

This *Third Notice* is a permit-but-disclose notice and comment rule making proceeding. Ex parte presentations are permitted, provided they are disclosed as provided in Commission rules. *See* generally §§ 1.1202, 1.1203, and 1.1206(a) of the Commission's Rules, 47 CFR 1.1202, 1.1203, 1.1206(a).

Need for, and Objectives of, the Proposed Rules

In the *Third Notice* herein, we are continuing our evaluation of rules applicable to existing public safety spectrum allocations as well as those in the 700 MHz band. We seek comment on whether we should license a portion of the 700 MHz band to the regional planning committees, directly to each state or in some other manner. In addition, we propose technical criteria to protect satellite-based global navigation systems from interference. We also seek comment on proposals to promote interoperability on public safety channels below 512 MHz. Additionally, we seek comments related to the Year 2000 computer date change problem.

Legal Basis

The proposed action is authorized under Sections 4(i), 302, 303(f) and (r), 332, and 337 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 302, 303(f) and (r), 332, 337.

Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

This IRFA may affect the same entities described in detail in the FRFA for the *First Report*. We hereby incorporate that analysis into this section.

Public Safety Radio Pool Licensees. As a general matter, Public Safety Radio Pool licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. Spectrum in the 700 MHz band for public safety services is governed by 47 U.S.C. § 337. Non-Federal governmental entities as well as private businesses are licensees for these services. As indicated *supra* in para. 5 of the FRFA, all governmental entities with populations of less than 50,000 fall within the definition of a small entity. *See* 5 U.S.C. § 601(5). In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. *See* 5 U.S.C. § 601(3). A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Small Business Act, 15 U.S.C. § 632 (1996). A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." 5 U.S.C. § 601(4). Nationwide, as of 1992, there were approximately 275,801 small organizations. 1992 Economic Census, U.S. Bureau of the Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration). "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." 5 U.S.C. § 601(5). As of 1992, there were approximately 85,006 such jurisdictions in the United States. *See* U.S. Dept. of Commerce, Bureau of the Census, "1992 Census of Governments." This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities. Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by the proposed rules, if adopted.

Radio and Television Equipment Manufacturers. We anticipate that at least six radio equipment manufacturers will be affected by our decisions in this proceeding. According to the SBA's regulations, a radio and television broadcasting and communications equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern. *See* 13 CFR 121.201, (SIC) Code 3663. Census Bureau data indicate that there are 858 U.S. firms that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would therefore be classified as small entities. *See* U.S. Dept. of Commerce, *1992 Census of Transportation, Communications and Utilities* (issued May 1995), SIC category 3663. We do not have information that indicates how many of the six radio equipment manufacturers associated with this proceeding are among these 778 firms. However, Motorola and Ericsson are major, nationwide radio equipment manufacturers, and, thus, we conclude that these manufacturers would *not* qualify as small businesses.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

The *Third Notice* proposes a number of rules that will entail reporting, recordkeeping, and/or third party consultation. However, the Commission believes that these requirements are the minimum needed. The *Third Notice* asks for comment on alternative licensing methods for certain portions of the 700 MHz band. The licensing methods under consideration in the Notice include the possibility of imposing recordkeeping and reporting requirements on applicants for public safety licenses who may be required to make submissions to planning committees justifying their requests for spectrum. These entities will be required to submit applications for spectrum licenses on Form 601.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

We have reduced economic burdens wherever possible. This item seeks comment on whether we should license a portion of the 700 MHz band to the regional planning committees, directly to each state or in some other manner to meet public safety needs, and contains proposals to promote interoperability on public safety channels below 512 MHz. This approach will allow the public safety community to help determine better efficiencies for all licensees subject to the new service rules, which if adopted, will provide technically advanced communications capabilities, including small entities that are often unable to fund the required infrastructure to support these modern systems.

Recognizing the budgetary constraints that public safety entities face as a matter of course, the PSWAC Steering Committee's findings and recommendations included the following: (1) more sharing and joint use should be encouraged; (2) broad based efforts, such as projects on the state and regional level, to coordinate and consolidate operations are critical to articulating and meeting the needs of public safety with cost effective, spectrally efficient radio systems; (3) more flexible licensing policies are needed to encourage the use of the most spectrally-efficient technology to meet user defined needs; and (4) the Commission should consider block allocations for public safety use.

The PSWAC Interoperability Subcommittee noted that shared systems, *i.e.*, large trunked systems which provide service to many governmental entities in a specific geographical area, offer a high greater spectrum efficiency than many smaller non-trunked systems or systems trunked on fewer channels. Shared systems also offer a high level of built-in interoperability. The most significant difficulty in establishing these types of shared systems, according to the *PSWAC Final Report*, is probably that they require individual agencies to surrender some autonomy in return for the efficiencies and better coverage of the larger system. In addition, the funding required to develop the infrastructure necessary to support some of the newer technologies is often too great to permit small public safety agencies to participate in new, sophisticated, spectrum efficient wireless radio systems. These same agencies, however, might be able to participate in a county-wide or state-wide system. The use of shared systems in the public safety community has also been hindered by the current licensing process, according to the *PSWAC Final Report*. In fact, the Commission has long encouraged public safety agencies to develop wide-area multi-agency trunked public safety radio systems. Area-wide licenses often encourage the rapid development and deployment of innovative service, facilitate interoperability and operational standards while allowing economies of scale that encourage the development of low cost equipment. *See, e.g.*, Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service, GN Docket No. 96–228, *Report and Order*, 12 FCC Rcd 10785, 10814 (1997).

With these considerations in mind, the *Third Notice* seeks comment on whether to license a portion of the 700 MHz band to the regional planning committees, directly to each state or in some other manner to meet public safety needs.

To minimize any negative impact resulting from the implementation of licensing, we have offered the option of utilizing the existing infrastructure of the Public Safety Regions. The regulatory burdens we have retained, such as filing applications on appropriate forms, are necessary in order to ensure that the public receives the benefits of innovative new services in a prompt and efficient manner.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

Ordering Clauses

11. Authority for issuance of this *First Report and Order and Third Notice of Proposed Rule Making* is contained in Sections 4(i), 302, 303(f) and (r), 332, and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 302, 303(f) and (r), 332, 337.

12. It is further ordered that the Wireless Telecommunications Bureau shall take all necessary steps, pursuant to the Federal Advisory Committee Act, 5 U.S.C., App., to establish a Public Safety National Coordination Committee, and charge the Committee with the duty, among others to be set forth in the Committee Charter, with recommending a national interoperability operational plan for review and approval by the Commission as well as the technical standards in accordance with American National Standards Institute process to apply to all public safety interoperability channel equipment.

13. Notice is hereby given and comment is sought on the proposed regulatory changes described in the *Third Notice of Proposed Rule Making*.

14. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this *First Report and Order and Third Notice of Proposed Rule Making*, including the Final and Initial Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 90

Communications equipment, Radio.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 90 as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for Part 90 continues to read as follows:

Authority: Secs. 4, 251–2, 303, 309, 332 and 337, 48 Stat 1066, 1082, as amended; 47 U.S.C. 154, 251–2, 303, 309 and 337, unless otherwise noted.

2. Section 90.1 is amended by revising paragraph (b), to read as follows:

§ 90.1 Basis and purpose.

* * * * *

(b) *Purpose.* This part states the conditions under which radio communications systems may be licensed and used in the Public Safety, Special Emergency, Industrial, Land Transportation and Radiolocation Services. These rules do not govern the licensing of radio systems belonging to and operated by the United States.

3. Section 90.20 is amended by adding "78" to the "Limitations" column for nine of the existing entries in the table in paragraph (c)(3), by adding a new paragraph (d)(78), and by adding a new paragraph (g) to read as follows:

§ 90.20 Public Safety Pool.

* * * * *

(c) * * *

(3) * * *

PUBLIC SAFETY POOL FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations	Coordinator
* * *	* * *	*	*
151.1375	Base or mobile	27, 28, 78	PH.
* * *	* * *	*	*
154.4525	Base or mobile	27, 28, 78	PF.
* * *	* * *	*	*
155.7525	Base or mobile	27, 78	PX.
* * *	* * *	*	*
158.7375	Base or mobile	27, 78	PP.
* * *	* * *	*	*
159.4725	Base or mobile	27, 78	PO.
* * *	* * *	*	*
453.20625	Base or mobile	44, 78	PX.
* * *	* * *	*	*
453.99375	Base or mobile	44, 78	PX.
* * *	* * *	*	*
458.20625	Mobile	44, 78	PX.
* * *	* * *	*	*
458.99375	Mobile	44, 78	PX.
* * *	* * *	*	*

(d) * * *

(78) These channels are designated for interoperability-only use.

* * * * *

(g) VPC interoperability frequencies.—(1) Working channels in the VHF 156–162 MHz band. The channel pairs listed in the tables below were formerly allocated in § 80.371 of this chapter for VHF Public Coast Stations as public correspondence channels numbered 25, 84, and 85 and were also shared under former § 90.283 by Industrial and Land Transportation Radio Service (I/LT) stations and grandfathered public safety stations. The 25 kHz channel pairs are available exclusively for assignment to public safety entities for interoperable channels of communication only in the Economic Areas (EAs) as shown in Table A.

(2) Service areas in the marine VHF 156–162 MHz band are VHF Public Coast areas (VPCs). As listed in Table A of this paragraph, these areas are based on, and composed of one or more of, the U.S Department of Commerce's 172 Economic Areas (EAs). See 60 FR 13114 (March 10, 1995). Maps of the EAs and VPCs are available for public inspection and copying at the Public Safety and Private Wireless Division, room 8010, 2025 M Street, NW, Washington, DC.

TABLE A.—LIST OF CHANNELS AVAILABLE BY PUBLIC COAST AREA

[VHF Public Coast Areas (VPCs)]

VPCs	EAs	Channel pairs
1. (Northern Atlantic)	1–5, 10	None.
2. (Mid-Atlantic)	9, 11–23, 25, 42, 46	None.
3. (Southern Atlantic)	24, 26–34, 37, 38, 40, 41, 174	None.
4. (Mississippi River)	34, 36, 39, 43–45, 47–53, 67–107, 113, 116–120, 122–125, 127, 130–134, 176.	None.
5. (Great Lakes)	6–8, 54–66, 108, 109	None.
6. (Southern Pacific)	160–165	None.
7. (Northern Pacific)	147, 166–170	None.
8. (Hawaii)	172, 173, 175	None.
9. (Alaska)	171	None.
10. (Grand Forks)	110	25, 84.
11. (Minot)	111	25, 84.
12. (Bismarck)	112	25, 84.
13. (Aberdeen)	114	25, 84.
14. (Rapid City)	115	25, 84.
15. (North Platte)	121	25, 84.
16. (Western Oklahoma)	126	25, 85.
17. (Abilene)	128	25, 85.

TABLE A.—LIST OF CHANNELS AVAILABLE BY PUBLIC COAST AREA—Continued

[VHF Public Coast Areas (VPCs)]

VPCs	EAs	Channel pairs
18. (San Angelo)	129	25, 85.
19. (Odessa-Midland)	135	25, 85.
20. (Hobbs)	136	25, 85.
21. (Lubbock)	137	25, 85.
22. (Amarillo)	138	25, 85.
23. (Santa Fe)	139	25, 84.
24. (Pueblo)	140	25, 84.
25. (Denver-Boulder-Greeley)	141	25, 84.
26. (Scottsbluff)	142	25, 84.
27. (Casper)	143	25, 84.
28. (Billings)	144	25, 84.
29. (Great Falls)	145	25, 84.
30. (Missoula)	146	25, 84.
31. (Idaho Falls)	148	25, 85.
32. (Twin Falls)	149	25, 85.
33. (Boise City)	150	25, 84.
34. (Reno)	151	25, 84.
35. (Salt Lake City-Ogden)	152	25, 85.
36. (Las Vegas)	153	25, 84.
37. (Flagstaff)	154	25, 84.
38. (Farmington)	155	25, 84.
39. (Albuquerque)	156	25, 84.
40. (El Paso)	157	25, 85.
41. (Phoenix-Mesa)	158	25, 84.
42. (Tucson)	159	25, 84.

TABLE B.—LIST OF CHANNEL CENTER FREQUENCIES BY CORRESPONDING CHANNEL NUMBER

Channel No.	Base station transmit center frequency in MHz	Mobile station transmit center frequency in MHz
25	161.850	157.250
84	161.825	157.225
85	161.875	157.275

(3) Public safety eligible applicants shall apply for these channel pairs only for the purpose of interoperability using the following standards and procedures:

(i) All applicants must comply with the relevant technical sections under this part unless otherwise stated in this section and provide evidence of frequency coordination in accordance with § 90.175.

(ii) Station power, as measured at the output terminals of the transmitter, must not exceed 50 Watts for base stations and 20 Watts for mobile stations, except in accordance with the provisions of paragraph (vi) of this section. Antenna height (HAAT) must not exceed 122 meters (400 feet) for base stations and 4.5 meters (15 feet) for mobile stations, except in accordance with paragraph (vi) of this section. Such base and mobile channels shall not be operated on board aircraft in flight.

(iii) Frequency protection must be provided to other stations in accordance with the following guidelines for each channel and for each area and adjacent area:

(A) Protect coast stations licensed prior to July 6, 1998, by the required separations shown in Table C.

(B) Protect I/LT stations by frequency coordination in accordance with § 90.175 of this part.

(C) Protect other public safety stations by frequency coordination and by agreement with the other public safety stations.

(D) *Where the Public Safety designated channel is not a Public Safety designated channel in an adjacent EA:* Applicants shall engineer base stations such that the maximum signal strength at the boundary of the adjacent EA does not exceed 5 dBμV/m.

(iv) The following table, along with the antenna height (HAAT) and power (ERP), must be used to determine the minimum separation required between proposed base stations and co-channel public coast stations licensed prior to July 6, 1998, under part 80 of this chapter. Applicants whose exact ERP or HAAT are not reflected in the table must use the next highest figure shown.

TABLE C.—REQUIRED SEPARATION IN KILOMETERS (MILES) OF BASE STATION FROM PUBLIC COAST STATIONS

Base Station Characteristics					
HAAT	ERP (watts)				
Meters (feet)	400	300	200	100	50
15 (50)	138 (86)	135 (84)	129 (80)	129 (80)	116 (72)

TABLE C.—REQUIRED SEPARATION IN KILOMETERS (MILES) OF BASE STATION FROM PUBLIC COAST STATIONS—Continued

Base Station Characteristics					
HAAT	ERP (watts)				
Meters (feet)	400	300	200	100	50
30 (100)	154 (96)	151 (94)	145 (90)	137 (85)	130 (81)
61 (200)	166 (103)	167 (104)	161 (100)	153 (95)	145 (90)
122 (400)	187 (116)	177 (110)	183 (114)	169 (105)	159 (99)

(v) In the event of interference, the Commission may require, without a hearing, licensees of base stations authorized under this section that are located within 241 kilometers (150 miles) of a co-channel public coast, I/LT, or grandfathered public safety station licensed prior to July 6, 1998, or an international border, to reduce power, decrease antenna height, and/or install directional antennas. Mobile stations must be operated only within radio range of their associated base station.

(vi) Applicants seeking to be licensed for stations exceeding the power/antenna height limits of the table in paragraph (iv) of this section must request a waiver of that paragraph and must submit with their application an interference analysis, based upon an appropriate, generally-accepted terrain-based propagation model, that shows that co-channel protected entities, described in paragraph (iii) of this section, would receive the same or greater interference protection than the relevant criteria outlined in paragraph (iii) of this section.

4. Section 90.179 is amended by revising paragraph (a) to read as follows:

§ 90.179 Shared use of radio stations.

* * * * *

(a) Persons may share a radio station only on frequencies for which they would be eligible for a separate authorization. Licensees under Subpart R may share the use of their systems with any entity that would be eligible for licensing under § 90.523 and Federal government entities.

* * * * *

5. A new section 90.553 is added to read as follows:

§ 90.553 GNSS protection.

In order to provide adequate protection to receivers of the Global Navigation Satellite System (GNSS) which will utilize the Radionavigation-Satellite Service (space-to-Earth) band, mobile units must meet a minimum second harmonic suppression standard in the frequency range of 1559–1605 MHz of 90 dB down from the maximum effective radiated power of the carrier and handhelds and portable units must meet a minimum second harmonic suppression standard in the frequency range of 1559–1605 MHz of 80 dB down from the maximum effective radiated power of the carrier. This standard applies only to equipment operating in the frequency range of 779.5–802.5 MHz.

[FR Doc. 98–28976 Filed 10–30–98; 8:45 am]
BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE91

Endangered and Threatened Wildlife and Plants; Proposed Rule To List the Short-Tailed Albatross as Endangered in the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: Under the authority of the Endangered Species Act (Act) of 1973, as amended, the U.S. Fish and Wildlife Service (Service) proposes to extend endangered status for the short-tailed albatross (*Phoebastria albatrus*) to include the species' range within the United States. As a result of an administrative error in the original listing, the short-tailed albatross is currently listed as endangered throughout its range except in the U.S. Short-tailed albatrosses range throughout the North Pacific Ocean and north into the Bering Sea during the non-breeding season, and breeding colonies were historically present on islands in Taiwan. Originally numbering in the millions, the worldwide population of breeding age birds is currently approximately 500 individuals and the worldwide total population is less than 1000 individuals. There are no breeding populations of short-tailed albatrosses in the U.S., but several individuals have been regularly observed during the breeding season on Midway Atoll in the Northwestern Hawaiian Islands. Current threats to the species include destruction of habitat by volcanic eruption or mud or land slides caused by monsoon rains, and demographic or genetic vulnerability due to low population size and limited breeding distribution. Longline fisheries, plastics ingestion, contaminants, and airplane strikes may also be factors affecting the species' conservation. This proposal, if made final, would implement the Federal protection and recovery provisions provided by the Act for individuals when they occur in the U.S.

DATES: Comments from all interested parties must be received by March 2, 1999. Public hearing requests must be received by December 17, 1998.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Anchorage Field Office, U.S. Fish and Wildlife Service, 605 West 4th Avenue, Room G–62, Anchorage, AK 99501 (telephone 907/271–2787). Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Greg Balogh, Endangered Species Biologist (telephone 907/271–2778).

SUPPLEMENTARY INFORMATION:

Background

Taxonomy

George Steller made the first record of the short-tailed albatross in the 1740s. The type specimen for the species was collected offshore of Kamchatka, Russia, and was described in 1769 by P.S. Pallas in Spicilegia Zoologica (AOU 1983). In the order of tube-nosed marine birds, Procellariiformes, the short-tailed albatross is classified within the family Diomedeidae. Until recently, it had been assigned to the genus *Diomedea*. Following the results of genetic studies by Nunn et al. (1996), the family Diomedeidae was arranged in four genera. The genus *Phoebastria*, North Pacific albatrosses, now includes the short-tailed albatross, the Laysan albatross (*P. immutabilis*), the black-footed albatross (*P. nigripes*), and the waved albatross (*P. irrorata*)(AOU 1997).

Description

The short-tailed albatross is a large pelagic bird with long narrow wings adapted for soaring just above the water surface. The bill is disproportionately large compared to other northern hemisphere albatrosses and is pink and hooked with a bluish tip, has external tubular nostrils, and a thin but conspicuous black line extending around the base. Adult short-tailed albatrosses are the only North Pacific albatross with an entirely white back. The white head develops a yellow-gold crown and nape over several years. Fledged juveniles are dark brown-black, but soon obtain pale bills and legs that distinguish them from black-footed and Laysan albatrosses (Tuck 1978, Roberson 1980).

Historical Distribution

The short-tailed albatross once ranged throughout most of the North Pacific Ocean and Bering Sea, with known nesting colonies on the following islands: Torishima in the Seven Islands of Izu Group in Japan; Mukojima, Nishinoshima, Yomeshima, and Kitanoshima in the Bonin Islands of Japan; Kita-daitojima, Minami-daitojima, and Okino-daitojima of the Daito group of Japan; Senkaku Retto of southern Ryukyu Islands of Japan, including Minami-kojima, Kobisho and Uotsurijima; Iwo Jima in the western Volcanic Islands (Kazan-Retto) of Japan; Agincourt Island, Taiwan; and Pescadore Islands, of Taiwan, including Byosho Island (Hasegawa 1979, King 1981). Other undocumented nesting colonies may have existed. For example, recent observations together with records from the 1930s, suggest that short-tailed albatross may have once nested on Midway Atoll, USA. No confirmed historical breeding accounts are available for this area, however.

Early naturalists, such as Turner and Chamisso, believed that short-tailed albatrosses bred in the Aleutian Islands because high numbers of birds were seen nearshore during the summer and fall months (Yesner 1976). Alaska Aleut lore referred to local breeding birds and explorer O. Von Kotzebue reported that Natives harvested short-tailed albatross eggs. However, while adult bones were found in Aleut middens, fledgling remains were not recorded in over 400 samples (Yesner 1976). Yesner (1976) believed that short-tailed albatrosses did not breed in the Aleutians but were harvested offshore during the summer, non-breeding season. Given the midwinter constraints on breeding at high latitudes and the known southerly location of winter breeding, it is highly unlikely that these birds ever bred in Alaska (Sherburne 1993).

Additional historical information on the species' range away from known breeding areas is scant. Evidence from archeological studies in middens suggests that hunters in kayaks had access to an abundant nearshore supply of short-tailed albatrosses from California north to St. Lawrence Island as early as 4000 years ago (Howard and Dodson 1933, Yesner and Aigner 1976, Murie 1959). In the 1880s and 1890s, short-tailed albatross abundance and distribution during the non-breeding season was generalized by statements such as "more or less numerous" in the vicinity of the Aleutian Islands (Yesner 1976). They were reported as highly abundant around Cape Newenham, in western Alaska, and Ventaiminov regarded them as abundant near the Pribilof Islands (DeGange 1981). In 1904, they were considered "tolerably common on both coasts of Vancouver Island, but more abundant on the west coast" (Kermode in Campbell et al., 1990).

Historical Population Status

At the beginning of the 20th century, the species declined in population numbers to near extinction, primarily as a result of hunting at the breeding colonies in Japan. Albatross were killed for their feathers and various other body parts. The feather down was used for quilts and pillows, and wing and tail feathers were used for writing quills; their bodies were processed into fertilizer and rendered into fat, and their eggs were collected for food (Austin 1949). Hattori (in Austin 1949) commented that short-tailed albatrosses were "...killed by striking them on the head with a club, and it is not difficult for a man to kill between 100 and 200 birds daily." He also noted that the birds were, "very rich in fat, each bird yielding over a pint."

Pre-exploitation worldwide population estimates of short-tailed albatrosses are not known; the total number of birds harvested may provide the best estimate, since the harvest drove the species nearly to extinction. Between approximately 1885 and 1903, an estimated 5 million short-tailed albatrosses were harvested from the breeding colony on Torishima (Yamashina in Austin 1949), and harvest continued until the early 1930s, except for a few years following the 1903 volcanic eruption. One of the residents on the island (a schoolteacher) reported 3,000 albatrosses killed in December 1932 and January 1933. Yamashina (in Austin) stated that "This last great slaughter was undoubtedly perpetrated by the inhabitants in anticipation of the island's soon becoming a bird sanctuary." By 1949, there were no short-tailed albatrosses breeding at any of the historically known breeding sites, including Torishima, and the species was thought to be extinct (Austin 1949).

The species persisted, however, and in 1950, the chief of the weather station at Torishima, Mr. M. Yamamoto, reported nesting of the short-tailed albatross (Tickell 1973, 1975). By 1954 there were 25 birds and at least 6 pairs (Ono 1955). These were presumably juvenile birds that had been wandering the North Pacific during the final several years of slaughter. Since then, as a result of habitat management projects, stringent protection, and the absence of any significant volcanic eruption events, the population has gradually increased. The average growth of the Torishima, Tsubamesaki colony, between 1950 and 1977 was 2.5 adults per year; between 1978 and 1991 the average population increase was 11 adults per year. An average annual population growth as high as 6 percent per year (Hasegawa 1982, Cochrane and Starfield in prep.) has resulted in a continuing increase in the breeding population to an estimated 388 breeding birds on Torishima in 1998 (H. Hasegawa, Toho University, Chiba, Japan pers. comm.). Torishima is under Japanese government ownership and management and is managed for the conservation of wildlife. There is no evidence that the breeding population on Torishima is nest site limited at this point; therefore, ongoing management efforts focus on maintaining high rates of breeding success.

Two primary activities have been undertaken to enhance breeding success on Torishima. First, erosion control efforts at the Tsubamesaki colony have improved nesting success. Second, an attempt to establish a second breeding colony on Torishima involved an experimental program for luring breeding birds to the opposite side of the island from the Tsubamesaki colony. Preliminary results of the experiment are promising; the first chick was produced in 1997. The expectation is that absent a volcanic eruption or some other catastrophic event, the population on Torishima will continue to grow, but that it will be many years before the breeding sites are limited (Hasegawa 1997).

In 1971, 12 adult short-tailed albatrosses were discovered on Minami-kojima in the Senkaku Islands, one of the former breeding colony sites (Hasegawa 1984). Aerial surveys in 1979 and 1980 resulted in observations of between 16 and 35 adults. In April 1988, the first confirmed chicks on Minami-kojima were observed, and in March 1991, 10 chicks were observed. In 1991, the estimate for the population on Minami-kojima was 75 birds and 15 breeding pairs (Hasegawa 1991). There is no information available on historical numbers at this breeding site.

Short-tailed albatrosses have been observed on Midway Atoll since the early 1930s (Berger 1972, Hadden 1941, Fisher in Tickell 1973, Robbins in Hasegawa and DeGange 1982). There is one unconfirmed report of a short-tailed albatross breeding on Midway Atoll in the 1960s (H. Hasegawa pers. comm., in a letter from Dr. Harvey Fischer), but no subsequent reports of successful breeding exist. In the years following the reported observation, tens of thousands of albatrosses were exterminated from Midway Atoll to construct an aircraft runway, and to provide safe conditions for aircraft landings and departures. It is possible that short-tailed albatrosses nesting on the island were killed during this process (E. Flint, U.S. Fish and Wildlife Service, Honolulu pers. comm.). Since the mid 1970s, short-tailed albatrosses have been observed during the breeding season on Midway Atoll. In March 1994, a courtship dance was observed between two short-tailed albatrosses (Richardson 1994), and at least one has occupied a nest site and laid an egg which did not hatch (K. Niethammer, U.S. Fish and Wildlife Service, Midway Atoll pers. comm.). Midway Atoll is currently managed by the U.S. Government as a National Wildlife Refuge.

Observations of individuals have also been made during the breeding season on Laysan Island, Green Island at Kure Atoll, and French Frigate Shoals, but there is no indication that these occurrences represent established breeding populations (Sekora 1977, Fefer 1989).

The dramatic decline during the turn of the century and recent increases in numbers of short-tailed albatrosses were reflected in observations from the non-breeding season. Between the 1950s and 1970, there were few records of the species away from the breeding grounds according to the AOU Handbook of North American Birds (Vol. 1, 1962) and the Red Data Book (Vol.2, Aves, International Union for the Conservation of Nature, Morges, Switzerland, 1966) (Tramontano 1970). There were 12 reported marine sightings in the 1970s and 55 sightings in the 1980s; over 250 sightings have been reported in the 1990s to date (Sanger 1972, Hasegawa and DeGange 1982, USFWS unpublished database). This observed increase in opportunistic sightings should be interpreted cautiously, however, because of the potential temporal, spatial, and numerical biases introduced by opportunistic shipboard observations. Observation effort, total number of vessels present, and location of vessels may have affected the number of observations independent of an increase in total numbers of birds present. Moreover, it is likely the reporting rate of observations has increased with implementation of outreach efforts by Federal agencies and fishing interest groups in the last few years.

At-sea sightings since the 1940s indicate that the short-tailed albatross, while very few in number today, is distributed widely throughout its historical foraging range of the temperate and subarctic North Pacific Ocean (Sanger 1972; USFWS unpublished data), and is found close to the U.S. coast. From December through April, distribution is concentrated near the breeding colonies in the Izu and Bonin Islands (McDermond and Morgan 1993), although foraging trips may extend hundreds of miles or more from the colony sites, if short-tailed albatross behavior is similar to black-footed and Laysan albatrosses. Recent satellite tracking of black-footed and Laysan albatrosses revealed that individuals of those species travel hundreds of miles from the breeding colonies during the breeding season (David Anderson, Wake Forest University, pers. comm.).

In summer (i.e., non-breeding season), individuals appear to disperse widely throughout the historical range of the temperate and subarctic North Pacific Ocean (Sanger 1972), with observations concentrated in the northern Gulf of Alaska, Aleutian Islands, and Bering Sea (McDermond and Morgan 1993, Sherburne 1993, USFWS unpublished data). Individuals have been recorded along the west coast of North America as far south as the Baja Peninsula, Mexico (Palmer 1962).

Current Population

A worldwide population total may be coarsely estimated by combining information from a variety of sources. Estimates of total numbers of breeding age adults and immature birds are obtained using a variety of different data and methods. The total estimates are rounded to the nearest hundred birds, reflecting the lack of precision in some of the data.

Breeding age population estimates come primarily from egg counts and breeding bird observations. There were 388 breeding adults present on Torishima in 1998, assuming 2 adults are present for each of the 194 eggs counted. The most recent population count on Minami-kojima revealed 30 breeding adults present in 1991. A conservative estimate for observed breeding birds is therefore 400. It has been noted that an average of approximately 25 percent of breeding adults may not return to breed each year, and this rate may vary between years as much as an additional 25 percent (Cochrane and Starfield in prep.). It is reasonable, therefore, to estimate that approximately 100 additional breeding age birds may not be observed on the breeding grounds. The total estimate of breeding age birds is therefore 500.

Estimates of immature birds are more difficult to calculate because these individuals are rarely seen between fledging and breeding at approximately 6 years of age. Two different methods were used to estimate the number of immature birds in the population: (1) using observational data of chicks fledged, and (2) using modeling information. Both methods yielded similar results. H. Hasegawa (pers. comm.) reports that 509 chicks were fledged from the Tsubamesaki colony on Torishima between 1992 and 1997. The only information on number of chicks from Minami-kojima is that 10 chicks were counted by H. Hasegawa (pers. comm.) in 1991. Over the past 6 years, therefore, assuming a stable population, an estimated minimum of 60 chicks may have fledged from Minami-kojima. Based on an average juvenile survival rate of 96 percent (H. Hasegawa pers. comm., Cochrane and Starfield in prep.), this technique yields an estimate of approximately 500 immature individuals in the population. Alternatively, modeling information indicates that immature birds comprise approximately 47 percent of the total population. Breeding age birds are estimated at 500; therefore, using this method immature birds also number approximately 500.

The total population of short-tailed albatross is likely to number somewhere around 1,000 birds. No numerical estimates of uncertainty are available for this estimate.

Demographic Information

Short-tailed albatrosses are long-lived and slow to mature; the average age at first breeding is 6 years old (H. Hasegawa pers. comm.). As many as 25 percent of breeding age adults may not return to the colony in a given year (H. Hasegawa pers. comm.; Cochrane and Starfield in prep.) Females lay a single egg each year, which is not replaced if destroyed (Austin 1949). Adult and juvenile survival rates are high (96 percent), and an average of 0.24 chicks per adult bird on the colony survives to six months of age (Cochrane and Starfield in prep.), but these rates can be severely reduced in years when catastrophic volcanic or weather events occur during the breeding season.

Breeding Biology

At Torishima, birds arrive at the breeding colony in October and begin nest building. Egg-laying begins in late October and continues through late November. The female lays a single egg, incubation involves both parents and lasts for 64–65 days, eggs hatch in late December and January, and by late May or early June, the chicks are almost full grown and the adults begin abandoning their nests (H. Hasegawa pers. comm.; Hasegawa and DeGange 1982). The chicks fledge soon after the adults leave the colony, and by mid-July, the colony is totally deserted (Austin 1949). Non-breeders and failed breeders disperse from the breeding colony in late winter through spring (Hasegawa and DeGange 1982). There is no detailed information on phenology (breeding activities) on Minami-kojima, but it is likely to be similar to that on Torishima.

Short-tailed albatrosses are monogamous and highly philopatric to nesting areas, returning to the same breeding site year after year. Chicks hatched at Torishima return there to breed. However, young birds may occasionally disperse from their natal colonies to breed, as evidenced by the appearance of adult birds on Midway Atoll that were banded as chicks on Torishima (H. Hasegawa pers. comm., Richardson 1994).

Breeding Habitat

Available evidence from historical accounts, and from current breeding sites, indicates that short-tailed albatross nesting occurs on flat or sloped sites, with sparse or full vegetation, on isolated windswept offshore islands, with restricted human access (Aronoff 1960, Sherburne 1993, DeGange 1981). Current nesting habitat on Torishima is steep sites on soils containing loose volcanic ash; the island is dominated by a grass, *Miscanthus sinensis* var. *condensatus*, but a composite, *Chrysanthemum pacificum*, and a nettle, *Boehmeria biloba*, are also present (Hasegawa 1977). The grass is likely to stabilize the soil, provide protection from weather, and minimize mutual interference between nesting pairs while allowing for safe, open take-offs and landings (Hasegawa 1978). The nest is a grass or moss-lined concave scoop about 0.75 meters (m) (2 feet (ft.)) in diameter (Tickell 1975).

Marine Habitat

The common synonym of "coastal albatross" reflects the short-tailed albatross's predilection for nearshore waters. The Service's short-tailed albatross at-sea sightings database contains many observations of short-tailed albatrosses within 6 miles of shore, and several observation of birds within 3 miles of shore (Julie Michaelson, Alaska Natural Heritage Program, Anchorage, pers. comm.). Their presence may coincide with areas of high biological productivity, such as along the west coast of North America, the Bering Sea, and offshore from the Aleutians (Hasegawa and DeGange 1982).

The North Pacific marine environment of the short-tailed albatross is characterized by coastal regions of upwelling and high productivity and expansive, deep water beyond the continental shelf. The region has a clockwise, oceanic current flow with counter clockwise currents in the Gulf of Alaska and the Bering Sea (Sherburne 1993).

Diet

The diet of short tailed albatrosses includes squid, fish, flying fish eggs, shrimp and other crustaceans (Hattori in Austin 1949, H. Hasegawa pers. comm.). There is currently no information on variation of diet by season, habitat, or environmental condition.

Legal Status

The short-tailed albatross is listed as endangered on the State of Alaska's list of endangered species (State of Alaska, Alaska Statutes, Article 4. Sec. 16.20.19). This classification was supported by a letter to Commissioner Noerenberg from J.C. Bartonek (1972, in litt.) in which he recommended endangered status because the short-tailed albatross occurs or "was likely" to occur in State waters within the 3-mile limit of State jurisdiction (Sherburne 1993). The short-tailed albatross does not appear on the State list of Hawaii's list of threatened and endangered species.

The Japanese government designated the short-tailed albatross as a protected species in 1958, as a Special National Monument in 1962 (Hasegawa and DeGange 1982), and as a Special Bird for Protection in 1972 (King 1981). Torishima was declared a National Monument in 1965 (King 1981). These designations have resulted in tight restrictions on human activities and disturbance on Torishima (H. Hasegawa pers. comm.). In 1992, the species was classified as "endangered" under the newly implemented "Species Preservation Act" in Japan which makes federal funds available for conservation programs and requires that a 10-year plan be in place which sets forth conservation goals for the species. The current Japanese "Short-tailed Albatross Conservation and Management Master Plan" outlines general goals for continuing management and monitoring of the species, and future conservation needs (Environment Agency 1996). The principal management practices used on Torishima are legal protection, habitat enhancement, and population monitoring. Since 1976, Dr. Hiroshi Hasegawa has systematically monitored the breeding success and population numbers of short-tailed albatrosses breeding on Torishima.

Previous Federal Action

Currently, the short-tailed albatross is listed as endangered under the Act, throughout its range, except in the U.S. (50 CFR 17.11), and is a Candidate species in the U.S. (September 19, 1997, Candidate Notice of Review, 62 FR 49398). The species was originally listed as endangered in accordance with the Endangered Species Conservation Act of 1969 (ESCA). Pursuant to the ESCA, two separate lists of endangered wildlife were maintained, one for foreign species and one for species native to the United States. The short-tailed albatross appeared only on the List of Endangered Foreign Wildlife (35 FR 8495; June 2, 1970). When the Act became effective on December 28, 1973, it superseded the ESCA. The native and foreign lists were combined to create one list of endangered and threatened species (39 FR 1171; January 4, 1974). When the lists were combined, prior notice of the action was not given to the governors of the affected States (Alaska, California, Hawaii, Oregon and Washington), as required by the Act because available data were interpreted as not supporting resident status for the short-tailed albatross. Thus native individuals of this species were never formally proposed for listing pursuant to the criteria and procedures of the Act.

On July 25, 1979, the Service published a notice (44 FR 43705) stating that, through an oversight in the listing of the short-tailed albatross and six other endangered species, individuals occurring in the United States were not

protected by the Act. The notice stated that it was always the intent of the Service that all populations and individuals of the seven species should be listed as endangered wherever they occurred. Therefore, the notice stated that the Service intended to take action to propose endangered status for individuals occurring in the U.S.

On July 25, 1980, the Service published a proposed rule (45 FR 49844; July 25, 1980), to list, in the United States, the short-tailed albatross and four of the other species referred to above. Since no final action was taken on the July 25, 1980 proposal, the Service is issuing this updated proposal. In 1996, the Service designated the species as a Candidate for listing in the U.S. (U.S. Fish and Wildlife Service in litt.).

Summary of Factors Affecting the Species

Section 4 of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the short-tailed albatross are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Short-tailed albatrosses face a significant threat to the primary breeding colony on Torishima due to the potential of habitat destruction from volcanic eruptions on the island. The threat is not predictable in time or in magnitude. Eruptions could be catastrophic or minor, and could occur at any time of year. A catastrophic eruption during the breeding season could result in chick or adult mortalities as well as destruction of nesting habitat. Significant loss of currently occupied breeding habitat or breeding adults at Torishima would delay the recovery of the species or jeopardize its continued existence.

Torishima is an active volcano approximately 394 m (1,300 ft) high and 2.6 kilometers (km) (1.6 miles) wide (H. Hasegawa pers. comm.) located at 30.48° N and 140.32° E (Simkin and Siebert 1994). The earliest record of a volcanic eruption at Torishima is a report of a submarine eruption in 1871 (Simkin and Siebert 1994), but there is no information on the magnitude or effects of this eruption. Since the first recorded human occupation on the island in 1887, there have been four formally recorded eruption events: (1) On August 7, 1902, an explosive eruption in the central and flank vents which resulted in lava flow, and a submarine eruption, and caused 125 human mortalities; (2) On August 17, 1939, an explosive eruption in the central vent which resulted in lava flow, and caused two human mortalities; (3) On November 13, 1965, a submarine eruption and; (4) On October 2, 1975, a submarine eruption 9 km (5.4 mi) south of Torishima (Simkin and Siebert 1994). There is also reference in the literature to an additional eruption in 1940 which resulted in lava flow that filled the island's only anchorage (Austin 1949).

Austin (1949) visited the waters around Torishima in 1949 and made the following observations "The only part of Torishima not affected by the recent volcanic activity is the steep northwest slopes where the low buildings occupied by the weather station staff are huddled. Elsewhere, except on the forbidding vertical cliffs, the entire surface of the island is now covered with stark, lifeless, black-gray lava. Where the flow thins out on the northwest slopes, a few dead, white sticks are mute remnants of the brush growth that formerly covered the island. Also on these slopes some sparse grassy vegetation is visible, but there is no sign of those thick reeds, or "makusa" which formerly sheltered the albatross colonies. The main crater is still smoking and fumes issue from cracks and fissures all over the summit of the island."

In 1965, meteorological staff stationed on the island were evacuated on an emergency basis due to a high level of seismic activity; although no eruption followed, the island has since been considered too dangerous for permanent human occupation (Tickell 1973). In late 1997, Hiroshi Hasegawa observed more steam from the volcano crater, a more pronounced bulge in the center of the crater, and more sulphur crusts around the crater than were previously present (R. Steiner, Alaska Sea Grant Program, pers. comm.).

The eruptions in 1902 and 1939 destroyed much of the original breeding colony sites. The remaining site used by albatrosses is on a sparsely vegetated steep slope of loose volcanic soil. The monsoon rains that occur on the island result in frequent mud slides and erosion of these soils, which can result in habitat loss and chick mortality. A typhoon in 1995 occurred just before the breeding season and destroyed most of the vegetation at the Tsubamezaki colony. Without the protection provided by vegetation, eggs and chicks are at greater risk of mortality from monsoon rains, sand storms and wind (H. Hasegawa pers. comm.). Breeding success at Tsubamezaki is lower in years when there are significant typhoons resulting in mud slides (H. Hasegawa pers. comm.).

In 1981, a project was supported by the Environment Agency of Japan and the Tokyo Metropolitan Government to improve nesting habitat by transplanting grass and stabilizing the loose volcanic soils (Hasegawa 1991). Breeding success at the Tsubamezaki colony has increased following habitat enhancement (H. Hasegawa pers. comm.). Current population enhancement efforts in Japan are concentrated on attracting breeding birds to an alternate, well vegetated colony site on Torishima which is less likely to be impacted by lava flow, mud slides, or erosion than the Tsubamezaki colony site (H. Hasegawa pers. comm.). Japan's "Short-tailed Albatross Conservation and Management Master Plan" (Environment Agency 1996) sets forth a long-term goal of examining the possibility of establishing additional breeding grounds away from Torishima once there are at least 1,000 birds on Torishima. Until other safe breeding sites are established, however, short-tailed albatross survival will continue to be at risk due to the possibility of significant habitat loss and mortality from unpredictable natural catastrophic volcanic eruptions and land or mud slides caused by monsoon rains.

B. *Over utilization for commercial, recreational, scientific, or educational purposes.* As previously mentioned, direct harvest of short-tailed albatrosses caused a catastrophic decline in population numbers (refer to Background); but today direct harvest of short-tailed albatrosses is considered rare. H. Hasegawa (pers. comm.) reports that some local Japanese fishermen in Izu and Ryukyuu Islands hunt seabirds and may take some short-tailed albatrosses, but the likelihood that short-tailed albatrosses are taken, or the level of such take is not known. There is no other known direct take of short-tailed albatrosses for commercial, recreational, scientific or educational purposes.

C. *Disease or predation.* There are no known diseases affecting short-tailed albatrosses on Torishima or Minami-kojima today. However, the world population is vulnerable to the effects of disease because of the small population size and extremely limited number of breeding sites. H. Hasegawa (pers. comm.) reports that he has observed a wing-disabled bird every few years on Torishima, but the cause of the disability is not known. An avian pox has been observed in chicks of albatross species on Midway Island, but it is unknown whether this pox infects short-tailed albatrosses or if it may have an effect on survivorship of any albatross species (T. Work, D.V.M., USGS, Hawaii).

Several parasites were documented historically on short-tailed albatrosses on Torishima: a blood-sucking tick that attacks its host's feet, a feather louse, and a carnivorous beetle (Austin 1949). However, current evidence suggests that there are no parasites affecting short-tailed albatrosses on Torishima, and there is no evidence that parasites caused mortality or had population level impacts in the past (H. Hasegawa pers. comm.).

Sharks may take fledgling short-tailed albatrosses as they desert the colony and take to the surrounding waters (Harrison 1979). Shark predation is well documented among other albatross species, but has not been documented for the short-tailed albatross. The crow, *Corvus* sp., is the only historically known avian predator of chicks on Torishima. Hattori (in Austin 1949) reported that one-third of the chicks on Torishima were killed by crows, but crows are not present on the island today (H. Hasegawa pers. comm.). Black or ship rats were introduced to Torishima at some point during human occupation; their effect on short-tailed albatrosses is unknown. Cats were also present, most likely introduced during the feather hunting period. They have caused damage to other seabirds on the island (Ono 1955), but there is no evidence to indicate an adverse effect to short-tailed albatrosses. Cats were present on Torishima in 1973 (Tickell 1975), but Hasegawa (1982) did not find any evidence of cats on the island.

D. *The inadequacy of existing regulatory mechanisms.* The purpose of this proposed rulemaking is to extend the protective status afforded by the Act to the short-tailed albatross throughout its range. The short-tailed albatross is currently listed under the Act as endangered outside of the U.S., or outside of the 200-mile limit from shore. The Service and the National Marine Fisheries Service have consulted under section 7 for federally managed "high seas" fisheries off of Alaska (i.e., between 3 and 200 miles from shore), but other protective mechanisms of the Act, such as prohibitions from direct taking, do not extend to albatrosses that occur within 200 miles from shore. Listing the species within the U.S. would provide more comprehensive and extensive protection for the species through sections 7, 9, and 10 of the Act, and through recovery planning.

Short-tailed albatrosses are currently protected from taking under the Migratory Bird Treaty Act of 1918, as amended (MBTA: 16 U.S.C. 703 *et seq.*), but MBTA jurisdiction extends only to 3 miles from shore.

Torishima and Minami-kojima are the only two confirmed breeding sites for short-tailed albatrosses, and both are under Japanese ownership and management. Of concern is that Minami-kojima has also been claimed by the Nationalist Republic of China and the People's Republic of China. The situation may present logistical and diplomatic problems in attempts to implement protection for the colony on the island (Tickell 1975).

On July 1, 1975, the short-tailed albatross was included in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). CITES is a treaty established to prevent international trade that may be detrimental to the survival of plants and animals. Generally, both import and export permits are required from the importing and exporting countries before an Appendix I species may be shipped, and Appendix I species may not be imported for primarily commercial purposes. CITES export permits may not be issued if the export will be detrimental to the survival of the species or if the specimens were not legally acquired. However, CITES does not itself regulate take or domestic trade.

E. *Other natural or manmade factors affecting its continued existence.* Other factors potentially represent threats to the species; however, no information is available to assess the probability of any one factor occurring in a way that will threaten the species with extinction. Nor is it possible to assess the potential extent or magnitude of the threat posed, because these will likely vary depending on the occurrence of any one threat in combination with other perturbations.

One of these factors is small population size. The worldwide breeding-age population of short-tailed albatrosses numbers approximately 500 individuals. A significant proportion of these individuals nest in the Tsubamezaki colony on Torishima. The remaining small number of breeding birds nest on Minami-kojima. Because the population size is small, and breeding is limited to two islands, a catastrophic volcanic or weather event on Torishima has the potential not only to significantly reduce the numbers of birds in the world, it also could reduce the worldwide breeding population to a level where the risk of extinction is high. Genetic diversity of the worldwide population may also be cause for concern since the species experienced a severe bottleneck during the middle of this century.

The risk of extinction caused by a catastrophic event at the breeding colony is buffered by adult and immature non-breeding birds. An average of 25 percent of breeding age adults do not return to breed each year (H. Hasegawa pers. comm.), and immature birds do not return to the colony to breed until at least 6 years after fledging (H. Hasegawa pers. comm.). As much as 50 percent of the current total worldwide population may be immature birds. If suitable habitat were still available on Torishima, these birds could recolonize in years following a catastrophic event.

Another potential threat is damage or injury related to oil contamination, which could cause physiological problems from petroleum toxicity and by interfering with the bird's ability to thermoregulate. Oil spills can occur in many parts of the short-tailed albatrosses' marine range. Oil development has been considered in the past in the vicinity of the Senkaku Islands (Hasegawa 1981, in litt.). Future industrial development would introduce the risk of local marine contamination, or pollution due to blow-outs, spills, and leaks related to oil extraction, transfer and transportation. Historically short-tailed albatrosses rafted together in the waters around Torishima (Austin 1949) and small groups of individuals have occasionally been observed at sea (USFWS unpublished data). An oil spill in an area where individuals were rafting could affect the population significantly. The species' habit of feeding at the surface of the sea makes them vulnerable to oil contamination. Dr. Hiroshi Hasegawa (pers. comm.) has observed some birds on Torishima with oil spots on their plumage.

Consumption of plastics may also be a factor affecting the species' survival. Albatrosses often consume plastics at sea, presumably mistaking the plastics for food items, or consuming marine life such as flying fish eggs that are attached to floating objects. Dr. Hiroshi Hasegawa (pers. comm.) reports that short-tailed albatrosses on Torishima commonly regurgitate large amounts of plastics debris. Plastics ingestion can result in injury or mortality to albatrosses if sharp plastic pieces cause internal injuries, or through reduction in ingested food volumes and dehydration (Sievert and Sileo in McDermond and Morgan 1993). Young birds may be particularly vulnerable to potential effects of plastic ingestion prior to

developing the ability to regurgitate (Fefer 1989, in litt.). Auman (1994) found that Laysan albatross chicks found dead in the colony had significantly greater plastics loads than chicks injured by vehicles, a sampling method presumably unrelated to plastics ingestion, and therefore representative of the population. Dr. Hiroshi Hasegawa has observed a large increase in the occurrence of plastics in birds on Torishima over the last 10 years (R. Steiner pers. comm.), but the effect on survival and population growth is not known.

Another potential threat is short-tailed albatross mortality that is incidental to longline fishing in the North Pacific and Bering Sea. Short-tailed albatross mortalities occur in longline fisheries as a result of baited longline hooks that are accessible to foraging albatrosses during line setting and hauling. Five short-tailed albatrosses are known to have been taken by longline fisheries in Alaska from 1983–1996. The Service, in consultation with the National Marine Fisheries Service, determined that the Alaskan groundfish and halibut fisheries are likely to adversely affect short-tailed albatrosses, but are not likely to result in an appreciable reduction in the likelihood of survival and recovery of the species (USFWS 1989 and amendments, USFWS 1998). Consultation under section 7 of the Act has not been conducted for the Hawaiian longline fishery; the amount and likelihood of take in this fishery is difficult to determine because of the low rate of observer coverage (5 percent of fishing time is observed). There have been no reported takes of short-tailed albatrosses. Black-footed albatrosses and Laysan albatrosses are taken in this fishery (E. Flint pers. comm.). The magnitude of impacts caused by international longline fisheries is unknown.

Hasegawa (pers. comm.) reports that 3–4 birds per year on Torishima come ashore entangled in fishing gear, some of which die as a result. He also stated that some take by Japanese handliners may occur near the nesting colonies, although no such take has been reported. There is no additional information on the potential effects of fisheries near Torishima on the species.

At the current population level and growth rate, the level of mortality resulting from longline fisheries is not thought to represent a threat to the species' continued survival. However, in the event of a major population decline as a result of a natural environmental catastrophe or an oil spill, the effects of longline fisheries on short-tailed albatrosses could be significant.

Another potential source of mortality is collision with aircraft on Midway Atoll. The current short-tailed albatross nest on Midway Atoll is located next to an active airplane runway. Black-footed and Laysan albatross mortalities occur periodically as a result of airplane strikes. It is possible, therefore, that short-tailed albatrosses could also be killed as a result of air traffic (Kevin Foster, U.S. Fish and Wildlife Service, Honolulu pers. comm.).

Summary

The worldwide population of short-tailed albatrosses continues to be in danger of extinction throughout its range due to natural environmental threats, small population size and the small number of breeding colonies. Longline fishing, plastics pollution, oil contamination, or airplane strikes are not likely to represent significant threats today, but any of these factors in combination with a catastrophic event on Torishima, could threaten future survival and recovery of the species. Most of the world's breeding population nests on Torishima in the Tsubamezaki colony. These individuals and the breeding habitat are at risk of measurable or significant population level impacts from a volcanic eruption on the island. The habitat at Tsubamezaki is further threatened by continued erosion and mud slides from monsoon rains despite the reduction of risk through habitat management. The only other known breeding location is on Minami-kojima, which is threatened by political unrest and internationally disputed ownership. Establishment of additional breeding colonies may be problematic. First, enough birds must be available to disperse to other sites. Second, colonization of Midway Island, the only recognized potential breeding site in the United States, may be compromised by take in longline fisheries and airplane strikes.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to extend the listing of the short-tailed albatross as endangered to its U.S. range. The Service is also correcting the information in the Historic Range column of the short-tailed albatross entry in the list of endangered and threatened species (50 CFR 17.11(h)). The information in this column currently indicates the species' historic range includes the North Pacific Ocean and Bering Sea, and lands and waters of Japan, China, Russia, and the United States. The Service will correct this to include Taiwan and Canada. This column is nonregulatory in nature and is provided for the information of the reader.

Critical habitat is not being proposed at this time for the short-tailed albatross for reasons discussed in the "Critical Habitat" section of this proposal.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. "Conservation" means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for the short-tailed albatross at this time. Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist: (i) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (ii) such designation of critical habitat would not be beneficial to the species.

Critical habitat is not being proposed for the short-tailed albatross based on the Service's analysis and determination that such designation would not be beneficial to the species. Habitats outside of the U.S. are not eligible for critical habitat designation. Habitat within the U.S. used by short-tailed albatrosses include coastal waters of Alaska and Hawaii, and potential nesting habitat on Midway Atoll in the Hawaiian Islands.

Short-tailed albatrosses occur and forage throughout the coastal regions of the North Pacific Ocean and Bering Sea during the non-breeding season, and throughout the Northwestern Hawaiian Islands during the breeding season. Although foraging areas are essential to the conservation of short-tailed albatrosses, there is currently no information to support a conclusion that any specific areas within U.S. jurisdiction are uniquely important. More importantly, adverse effects on the species occurring in the marine environment are a result of activities that threaten individual albatrosses rather than albatross habitat. These include incidental mortality in longline fisheries, and mortality or injury associated with plastics pollution and oil spills. These effects can be adequately addressed through the jeopardy standard of section 7 of the Act and through the section 9 prohibitions of the Act. With regard to foraging areas in U.S. waters, there would be no additional benefit or protection conferred through the destruction or adverse modification standard for critical habitat under section 7 of the Act.

The future potential for the Midway Atoll National Wildlife Refuge to serve as a geographically distinct breeding colony to recover the species is best realized through implementation of refuge system management planning. A management goal for Midway Atoll Refuge is to manage for the conservation and recovery of threatened and endangered species. Future project proposals which might adversely affect short-tailed albatrosses will be adequately addressed through the jeopardy standard of section 7 consultation and section 9 prohibitions of the Act. With regard to breeding areas and potential breeding areas within the U.S., there would be no additional benefit or protection conferred through the designation of critical habitat on the Midway Atoll Refuge over that conferred through the jeopardy standard of section 7 of the Act. Therefore, the Service finds that designation of critical habitat for the short-tailed albatross is not prudent.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State and local agencies, private organizations and individuals. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal agency actions that may require conference and/or consultation as described in the preceding paragraph include National Marine Fisheries Service Fishery Management Plans, management practices at the Midway Atoll National Wildlife Refuge, permits or authorization for oil tankering within the range of short-tailed albatrosses, and oil spill contingency plans.

The Act and its implementing regulations found at 50 CFR 17.21 set forth a series of prohibitions and exceptions that apply to all endangered species of wildlife. All prohibitions of section 9(a)(1) of the Act, implemented by 50 CFR 17.21, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States, to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt to engage in any of these), import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits for endangered wildlife are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. Information collections associated with these permits are approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget Clearance number 1018–0094.

It is the policy of the Service (59 FR 34272) to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of the listing on proposed and ongoing activities within a species' range. The only known non-federal activities which may result in incidental take of short-tailed albatrosses are State managed hook-and-line longline fisheries. Activities which are not expected to result in any take of short-tailed albatrosses include: (1) fishing activities in Alaska and Hawaii other than hook-and-line longline fishing; (2) lawfully conducted vessel operations such as transport, tankering and barging; and (3) harbor operations or improvements. Questions regarding whether other specific activities will constitute a violation of section 9 should be directed to the Field Supervisor of the Anchorage Field Office (See **ADDRESSES** section).

Public Comments Solicited

The Service requests comments on the proposed listing of the U.S. population of the short-tailed albatross on the List of Endangered and Threatened Wildlife and the clarity of this proposal, pursuant to Executive Order 12866, which requires agencies to write clear regulations.

Proposed Listing

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulations on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of this proposal. Such requests must be made in writing and addressed to the Anchorage Field Supervisor (see ADDRESSES section).

Executive Order 12866

Executive Order 12866 requires each agency to write regulations that are easy to understand. The Service invites your comments on how to make this rule easier to understand including answers to the following: (1) Are the requirements of the rule clear? (2) Is the discussion of the rule in the "Supplementary Information" section of the preamble helpful in understanding the rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW, Washington, DC 20240. You may also e-mail the comments to this address: Exsec@ios.doi.gov.

Paperwork Reduction Act

This rule does not contain any new collections of information other than those already approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance number 1018–0094. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. For additional information concerning permit and associated requirements for endangered species, see 50 CFR 17.22.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment or Environmental Impact Statement, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Listing Priority Guidance

Processing of this proposed rule conforms with the Service's Listing Priority Guidance for Fiscal Years 1998 and 1999, published on May 8, 1998 (63 FR 25502). The guidance clarifies the order in which the Service will process rulemakings giving highest priority (Tier 1) to processing emergency rules to add species to the Lists of Endangered and Threatened Wildlife and Plants (Lists); second priority (Tier 2) to processing final determinations on proposals to add species to the Lists, processing new proposals to add species to the Lists, processing administrative findings on petitions (to add species to the Lists, delist species, or reclassify listed species), and processing a limited number of proposed or final rules to delist or reclassify species; and third priority (Tier 3) to processing proposed or final rules designating critical habitat. Processing of this proposed rule is a Tier 2 action.

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Anchorage Field Office, U.S. Fish and Wildlife Service (see ADDRESSES section).

Author. The primary author of this proposed rule is Janey Fadely, Migratory Bird Management, U.S. Fish and Wildlife Service, 3000 Vintage Park Blvd., Suite 240, Juneau, Alaska 99801, (907) 586–7240.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

For the reasons set out in the preamble, the Service is proposing to amend part 17, subpart B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500, unless otherwise noted.

2. In section 17.11(h), the table entry for "Albatross, short-tailed", under BIRDS, is revised to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

SPECIES		Historic range	Verebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
.	.	.	.	.	.	.	.
BIRDS							
.	.	.	.	.	.	.	.
Albatross, short-tailed	*Phoebastria* (=Diomedia) *albatrus.*	North Pacific Ocean: Japan, Taiwan, Russia, Canada, U.S.A. (AK, CA, HI, OR, WA).	Entire	E	3,—	NA	NA
.	.	.	.	.	.	.	.

Dated: September 15, 1998.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 98–29174 Filed 10–30–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 227

[I.D. 101498D]

Listing Endangered and Threatened Species and Designating Critical Habitat: Petition To List the Swordfish as Endangered and Designate Critical Habitat Under the Endangered Species Act Throughout the North Atlantic Ocean

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of finding.

SUMMARY: NMFS has received a petition to list the swordfish (*Xiphias gladius*) as endangered and to designate critical habitat in the North Atlantic Ocean under the Endangered Species Act (ESA). NMFS finds that the petition does not present substantial scientific information indicating that the petitioned action may be warranted.

DATES: This petition finding was made on October 27, 1998.

ADDRESSES: Copies of the petition may be obtained from the Endangered Species Division, Office of Protected Resources, NMFS, 1315 East West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Terri Jordan or Marta Nammack, NMFS, Office of Protected Resources, (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3) of the ESA contains provisions concerning petitions from interested persons requesting the Secretary of Commerce (Secretary) to list species under the ESA. Section 4(b)(3)(A) requires that, to the maximum extent practicable, within 90 days after receiving such a petition, the Secretary make a finding whether the petition presents substantial scientific information indicating that the petitioned action may be warranted. Section 424.14(b)(1) of NMFS' ESA implementing regulations define "substantial information" as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted (See 50 CFR 424.14). Section 424.14(b)(2) of these regulations contains factors the Secretary considers in evaluating a petitioned action.

On July 14, 1998, the Secretary received a petition dated July 13, 1998, from Messrs. Jonah Crawford and Max Strahan of Greenworld to list swordfish as endangered and to designate critical habitat in the North Atlantic Ocean. The petitioner cites commercial over-utilization of swordfish and the inadequacy of existing regulatory mechanisms as reasons for population decline. However, the petitioner does not present substantial information with regard to these claims.

NMFS has reviewed the petition and information available in NMFS files. Although fisheries data available to NMFS provide evidence of some decline, (the North Atlantic stock is at 58 percent of its maximum sustainable yield (MSY)) no substantial evidence to indicate that the species may be threatened or endangered exists. The stock is overfished, but this only means that the current biomass cannot produce MSY on a continuing basis. Fishing quotas have been reduced in order to allow the stock to rebuild. Therefore, NMFS finds that the petition does not present substantial information indicating that listing the North Atlantic swordfish may be warranted.

Authority: The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: October 27, 1998.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 98–29278 Filed 10–28–98; 2:51 pm]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 63, No. 211

Monday, November 2, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Information Collection Associated With the Special Milk Program for Children

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the provisions of the Paperwork Reduction Act of 1995, the Food and Nutrition Service announces its intention to request the Office of Management and Budget's review and extension of the information collections related to the Special Milk Program for Children.

DATES: Written comments on this notice must be received by January 4, 1999.

ADDRESSES: *Comments are invited on:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology. Comments and requests for copies of this information collection may be sent to Mr. Terry Hallberg, Chief, Program Analysis and Monitoring Branch, Child Nutrition Division, FNS, USDA, 3101 Park Center Drive, Room 1008, Alexandria, Virginia 22302.

All responses to this Notice will be summarized and included in the request for OMB approval, and will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Hallberg, Child Nutrition Programs, at (703) 305–2590.

SUPPLEMENTARY INFORMATION:

Title: Special Milk Program for Children.

OMB Number: 0584–0005.

Expiration Date: 12/31/98.

Type of Request: Reinstatement with change of a previously approved collection for which approval has expired.

Abstract: Section 3 of the Child Nutrition Act (CNA) of 1966 (Pub. L. 89–642, as amended; 42 U.S.C. 1772) authorizes the Special Milk Program (SMP). It provides for the appropriation of such sums as may be necessary to enable the Secretary of Agriculture, under such rules and regulations as he may deem in the public interest, to encourage the consumption of fluid milk by children in the United States in (1) nonprofit schools of high school grade and under, and (2) nonprofit nursery schools, child care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children, which do not participate in a food service program authorized under the CNA or the National School Lunch Act. Section 10 of the CNA requires the Secretary of Agriculture to "prescribe such regulations as (he) may deem necessary to carry out this Act and the National School Lunch Act. . . ." Pursuant to that provision, the Secretary has issued 7 CFR part 215, which sets forth policies and procedures for the administration and operation of the SMP.

Authority: 42 U.S.C. 1772.

Estimate of Burden: The reporting burden for this collection of information is 224,625 burden hours. The recordkeeping is estimated at 605,559 burden hours. The increase in recordkeeping burden hours is due to an increase in the number of school food authorities, schools, child care institutions, and camps participating in SMP.

Respondents: The respondents are State agencies, school food authorities, schools, child care institutions, and camps.

Estimated Number of Respondents: 54 State agencies, 6,342 school food authorities, 7,964 schools, 518 child care institutions, and 1,492 camps.

Estimated Number of Responses per Respondent: 45.

Estimated Total Annual Burden on Respondents: 830,184 hours.

Dated: October 26, 1998.

Samuel Chambers, Jr.,

Acting Administrator.

[FR Doc. 98–29254 Filed 10–30–98; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Intent To Request a Revision of a Currently Approved Information Collection

AGENCY: Natural Resources Conservation Service, United States Department of Agriculture.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and the Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the Natural Resources Conservation Service's (NRCS) intention to request a revision to a currently approved information collection, Volunteer Program—Earth Team.

DATES: Comments on this notice must be received by January 4, 1999 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Marcella Graham, Agency OMB Clearance Officer, Natural Resources Conservation Service, U.S. Department of Agriculture, Natural Resources Conservation Service, P.O. Box 2890, Washington, D.C. 20013–2890, (202) 720–5699.

SUPPLEMENTARY INFORMATION:

Title: Volunteer Program—Earth Team.

OMB Number: 0578–0024.

Expiration Date of Approval: December 31, 1998.

Type of Request: To continue, with change, a currently approved collection for which approval will expire.

Abstract: The primary objective of the Natural Resources Conservation Service (NRCS) is to work in partnership with American people to conserve and sustain our natural resources. The purpose of the Volunteer Program—Earth Team is to expand NRCS services by using volunteer time, talent and energy to help accomplish the mission. Earth Team Volunteers are able to perform any job that NRCS employees perform and are provided Workman's Compensation and Tort Liability Coverage.

Information collected is used by NRCS to ensure proper documentation of volunteer time and efforts. NRCS-PER–001, Volunteer Application, NRCS-PER–003, Agreement for Sponsored Voluntary Services (for groups), serve as documents of record for personnel information used to verify participation in the Earth Team and support claims for Workers Compensation and Tort. NRCS–PER–002, Volunteer Interest and Placement Summary is an optional form, designed to determine the appropriate placement of volunteers. NRCS–PER–004, Time and Attendance, provides a simplified format for documenting actual hours of service by volunteers.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2 minutes for the NRCS–PER–001 (65 percent of new volunteers), 45 minutes for NRCS–PER–002 (1 percent of new volunteers), 45 minutes for NRCS–PER–003 (35 percent of new volunteers/10 volunteers averaged in group), and 1 minute for the NRCS–PER–004 (35 percent of total volunteers in groups) + (65 percent of total individual volunteers averaging submission 6 times per year).

Respondents: Individual and groups.

Estimated Number of Respondents: 1,100.

Estimated Total Annual Burden on Respondents: 1.2 hours.

Copies of this information collection and related instructions can be obtained without charge from Marcella Graham, the Agency OMB Clearance Officer, at (202) 720–5699.

Comments: Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agencys' estimate of burden of the proposed collection of information, including the validity of the methodology and assumptions used: (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, such as through the use of appropriate automated, electronic, mechancial, or other technologic collection techniques or other forms of information technology. Comments may be sent to: Marcella Graham, Agency OMB Clearance Officer, U.S. Department of Agriculture, Natural Resources Conservation Service, P.O. Box 2890, Washington, D.C. 20013–2890.

All responses to this notice will be summarized and included in the request for OMB approval.

All comments will also become a matter of public record.

Signed at Washington, DC on October 27, 1998.

P. Dwight Holman,

Deputy Chief for Management, Natural Resources Conservation Service.

[FR Doc. 98–29262 Filed 10–30–98; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Intent To Request a Reinstatement, With Change, of a Previously Approved Collection for Which Approval Has Expired

AGENCY: Natural Resources Conservation Service, United States Department of Agriculture.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law (P.L.) 104–13) and the Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the Natural Resources Conservation Service's (NRCS) intention to request a reinstatement, with change, of a previously approved collection, Agriculture and Urban Flood Damage Surveys, for which approval has expired.

DATES: Comments on this notice must be received by December 15, 1998 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Marcella Graham, Agency OMB Clearance Officer, Natural Resources Conservation Service, U.S. Department of Agriculture, NRCS, P.O. Box 2890, Washington, D.C. 20013–2890, (202) 720–5699.

SUPPLEMENTARY INFORMATION:

Title: Agriculture and Urban Flood Damage Surveys.

OMB Number: 0578–0007.

Expiration Date of Approval: June 6, 1997.

Type of Request: To reinstate, with change, a previously approved collection for which approval has expired.

Abstract: The primary objective of the Natural Resources Conservation Service (NRCS) is to work in partnership with the American people to conserve and sustain our natural resources. NRCS provides technical and financial assistance to flood damaged communities to control flooding. NRCS personnel collect specific data about flood damages in order to assess the cost of floods to individuals, farms, communities, governments, and others who own or control property affected by floods. The data collected is used to determine benefits associated with Federal expenditures to provide relief in a particular flood prone area. The data also help to ensure that flood control structures recommended to treat flooding are economically feasible to build.

The Agriculture and Urban Flood Damage Surveys forms are used to collect the data about the damages incurred as a result of the flooding. Information is collected directly from the landowner on a voluntary basis. If the landowner is unavailable or unwilling to provide the information, we make visual estimates and use secondary data. Agriculture and Urban Flood Damage Surveys comprise a series of survey forms suited for various types of flooded areas. NRCS-ECN–001 documents flood damage to agriculture, including crops, pasture, property, and land. NRCS-ECN–002 is used to assess residential flood damage. NRCS-ECN–003 documents flood damage to commercial or industrial buildings. NRCS-ECN–004 documents flood damage associated with transportation or utilities. NRCS-ECN–005 is strictly an irrigation questionnaire. NRCS-ECN–006 is a drainage questionnaire.

Circumstances making collection of information necessary stem from the Watershed Protection and Flood Prevention Act (P.L. 83–566). It authorizes the Secretary of Agriculture to provide technical and financial help to local organizations in planning and carrying out watershed improvements. Section 3 of the law directs the Secretary to determine whether benefits anticipated from the improvements will exceed costs. NRCS has been delegated the responsibility to carry out the intent of the law. Analytical procedures use the information collected to evaluate agricultural flood damage, reduction of crop and other agricultural damages, sediment and erosion damage reduction, irrigation and drainage intensification benefits, urban damage reduction, and residential and commercial damages. The procedures are outlined in Chapters I and II of the Economic and Environmental Principles and

Guidelines for Water and Related Land Resources Implementation Studies in accordance with Section 103 of the Water Resources Planning Act, as amended (42 U.S.C. 1962a-2) and approved by the President on February 3, 1983, in accordance with Executive Order 11744 (38 FR 30993, November 7, 1973). The Agriculture and Urban Flood Damage Surveys provide the necessary information as dictated by these Principles and Guidelines. NRCS will ask for 3-year OMB approval within 60 days of submitting the request.

Estimate of Burden: Public reporting hour burden and total annual record keeping for this collection of information is estimated to average 1.28 hours per response.

Respondents (flood victims in rural and urban areas): 768.

Estimated Total Annual Responses: 768.

Estimated Total Annual Hours Requested: 936.

Copies of this information collection and related instructions can be obtained without charge from Marcella Graham, the Agency OMB Clearance Officer, at (202) 720–5699.

Comments: Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Marcella Graham, Agency OMB Clearance Officer, U.S. Department of Agriculture, NRCS, P.O. Box 2890, Washington, D.C. 20013–2890.

All responses to this notice will be summarized and included in the request for OMB approval.

All comments will also become a matter of public record.

Signed at Washington, D.C. on October 17, 1998.

Pearlie S. Reed,

Chief.

[FR Doc. 98–29277 Filed 10–30–98; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service Notice of Proposed Change to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Alabama

AGENCY: Natural Resources Conservation Service (NRCS) in Alabama, U.S. Department of Agriculture.

ACTION: Notice of availability of proposed changes in Section IV of the FOTG of the NRCS in Alabama for review and comment.

SUMMARY: It is the intention of NRCS in Alabama to issue conservation practice standards:

Firebreak—(Code 394)
Forage Harvest Management—(Code 511)
Forest Harvest Trails and Landings—(Code 655)
Forest Site Preparation—(Code 490)
Forest Stand Improvement—(Code 666)
Irrigation System, Sprinkler—(Code 442)
Prescribed Burning—(Code 338)
Pumping Plant for Water Control—(Code 533)
Riparian Forest Buffer—(Code 391A)
Tree/Shrub Establishment—(Code 612)
Tree/Shrub Pruning—(Code 660A)
Waste Treatment Lagoon—(Code 359)

DATES: Comments will be received until December 2, 1998.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to Ronnie D. Murphy, State Conservationist, Natural Resources Conservation Service (NRCS), 3381 Skyway Drive, P.O. Box 311, Auburn, AL 36830. Copies of the practice standards will be made available upon written request.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS State technical guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days the NRCS in Alabama will receive comments relative to the proposed changes. Following that period a determination will be made by the NRCS in Alabama regarding disposition of those comments and a final determination of change will be made.

Ray Donaldson,

Assistant State Conservationist, Natural Resources Conservation Service, Auburn, Alabama.

[FR Doc. 98–28836 Filed 10–30–98; 8:45 am]

BILLING CODE 3410–16–M

ARMS CONTROL AND DISARMAMENT AGENCY

Performance Review Board; Membership

AGENCY: Arms Control and Disarmament Agency.

ACTION: Notice of membership of Performance Review Board.

SUMMARY: In accordance with 5 U.S.C. 4314(c)(4), the U.S. Arms Control and Disarmament Agency announces the appointment of Performance Review Board members.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Nancy Aderholdt, Director of Personnel, U.S. Arms Control and Disarmament Agency, Washington, DC 20451 (202) 647–2034. The following are the names and present titles of the individuals appointed to the register from which Performance Review Boards will be established by the U.S. Arms Control and Disarmament Agency during the period beginning on the effective date of this notice and ending when a new register is published and becomes effective in approximately one year. Specific Performance Review Boards will be established as needed from this register. These appointments supersede those in the announcement published in 1997.

Name	Title
Ralph Earle II	Deputy Director.
Donald Gross	Counselor.
Robert Sherman	Director, Advanced Project.
O. James Sheaks	Deputy Assistant Director, Intelligence, Verification and Information Management Bureau.
Sarah Mullen	Chief, Intelligence Technology and Analysis, Intelligence, Verification and Information Management Bureau.
Norman Wulf	Deputy Assistant Director, Nonproliferation and Regional Arms Control Bureau.
Michael Rosenthal	Chief, Nuclear Safeguards and Technology Division, Nonproliferation and Regional Arms Control Bureau.
Donald Mahley	Deputy Assistant Director, Multilateral Affairs Bureau.
Michael Guhin	Associate Assistant Director, Multilateral Affairs Bureau.
Robert Mikulak	Chief, Chemical and Biological Policy Division, Multilateral Affairs Bureau.
Pierce Corden	Chief, International Security and Nuclear Policy Division, Multilateral Affairs Bureau.
R. Lucas Fischer	Deputy Assistant Director, Strategic and Eurasian Affairs Bureau.
Karin Look	Chief, Strategic Negotiations and Implementation Division, Strategic and Eurasian Affairs Bureau.
David Wollan	Chief, Theater and Strategic Defenses Division, Strategic and Eurasian Affairs Bureau.
Cathleen Lawrence	Director of Administration, Office of Administration.
Mary Elizabeth Hoinkes	General Counsel, Office of the General Counsel.
Joerg Menzel	Principal Deputy of the On-Site Inspection Agency.
Stanley Riveles	U.S. Standing Consultative Commissioner.

Cathleen Lawrence,

Director of Administration.

[FR Doc. 98–29267 Filed 10–30–98; 8:45 am]

BILLING CODE 6820–32–M

DEPARTMENT OF COMMERCE

Bureau of the Census

Survey of Program Dynamics—1999

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before January 4, 1999.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Michael McMahon, Bureau of the Census, FOB 3, Room 3375, Washington, DC 20233–8400, (301) 457–3819.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Survey of Program Dynamics (SPD) is a household-based survey designed as a data collection vehicle that can provide the basis for an overall evaluation of how well welfare reforms are achieving the aims of the Administration and the Congress and meeting the needs of the American people.

The SPD is a large, longitudinal, nationally-representative study that measures participation in welfare programs, including both programs that are being reformed and those that remain unchanged. The SPD measures other important social, economic, demographic, and family changes that will allow analysis of the effectiveness of the welfare reforms.

With the August 22, 1996 signing of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub L. 104–193), the Census Bureau is required to conduct the SPD, using as the sample the households from the 1992 and 1993 Survey of Income and Program Participation (SIPP). The information obtained will be used to evaluate the impact of this law on a sample of previous welfare recipients and future recipients of assistance under new state programs funded under this law as well as assess the impact on other low-income families. Issues of particular attention include welfare dependency, the length of welfare spells, the causes of repeat welfare spells, educational enrollment and work training, health care utilization, out-of-wedlock births, and the status of children.

The previous wave of SPD was conducted in the spring of 1998 using a new questionnaire. A bridge survey using the CPS March questionnaire was conducted in the spring of 1997 to provide a link to baseline data for the period prior to the implementation of the welfare reform activities.

II. Method of Data Collection

The SPD is a longitudinal study of welfare-related activities with the sample respondents originally selected from 1992 and 1993 SIPP panels. Interviews were conducted in 1997 and 1998. Subsequent data collection will be conducted from 1999 to 2002.

Data will be collected using a computer-assisted personal interview (CAPI) automated questionnaire instrument from a nationally representative sample of the noninstitutionalized resident population living in the U.S. for all persons, families, and households. Persons who are at least 15 years of age at the time of the interview will be eligible to be in the survey. The 1999 SPD will ask the basic 1998 questions, plus some additional questions about the status of children will be asked of parents. The 1999 SPD will not include an adolescent self-administered questionnaire that was conducted in 1998.

A small sample of households will be selected for reinterview. The reinterview process assures that all households were properly contacted, and that the data are valid.

III. Data

OMB Number: 0607–0838.
Form Number: CAPI Automated Instrument.
Type of Review: Regular.
Affected Public: Individuals or Households.
Estimated Number of Household Respondents: 42,000.
Estimated Number of Children of Respondents: 19,000.
Estimated Number of Reinterview Respondents: 1,500.
Estimated Time Per Response: 32 minutes per respondent, 8 minutes per child, 10 minutes per reinterview.
Estimated Totol Annual Burden Hours: 25,150.
Estimated Totol Annual Costs: No costs to the respondents other than their time.
Respondent's Obligation: Voluntary.
Legal Authority: Title 13, United States Code, Section 182, and Public Law 104–193, Section 414 (signed 8/22/96), Title 42, United States Code, Section 614.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and or included in the request of OMB approval of this information collection; they also will become a matter of public record.

Dated: October 27, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–29192 Filed 10–30–98; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Export Materials, Inc Tic, Ltd

In the Matters of: Export Materials, Inc. 3727 Greenbrier Drive, No. 108 Stafford, Texas 77477, and Tic Ltd. Suite C, Regent Centre Explorers Way P.O. Box F–40775 Freeport, The Bahamas, Respondents

Decision and Order on Renewal of Temporary Denial Order

On April 29, 1998, I issued a Decision and Order on Renewal of Temporary Denial Order (hereinafter "Order" or "TDO"), renewing for 180 days a May 5, 1997 Order naming, *inter alia*, Export Materials, Inc. and Thane-Coat International, Ltd. (hereinafter collectively referred to as the "Respondents"), as persons temporarily denied all U.S. export privileges. 63 FR 25199–25200 (May 7, 1998).[1] The Order will expire on October 26, 1998.

On October 6, 1998, pursuant to Section 766.24 of the Export Administration Regulations (15 C.F.R. Parts 730–774 (1998)) (hereinafter the "Regulations"), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401–2420 (1991 & Supp. 1998)) 1997 Order naming, *inter alia*, Thane-Coat, Inc.; Jerry Vernon Ford, president, Thane-Coat, Inc.; and Preston John Engebretson, vice-president, Thane-Coat, Inc. (hereinafter referred to collectively as the "Respondents"), as persons temporarily denied all U.S. export privileges. 63 FR 25817–25819 (May 11, 1998).[1] The Order will expire on October 26, 1998.

On October 6, 1998, pursuant to Section 766.24 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730–774 (1998)) (hereinafter the "Regulations"), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401–2420 (1991 & Supp. 1998)) (hereinafter the "Act"),[2] the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (hereinafter "BXA"), requested that I renew the Order against Thane-Coat, Inc., Jerry Vernon Ford, and Preston John Engebretson for 180 days in a non-standard format, consistent with the terms agreed to by and between the parties in April 1998.

In its request, BXA stated that, as a result of an ongoing investigation, it had reason to believe that, during the period from approximately June 1994 through approximately July 1996, Thane-Coat, Inc., through Ford and Engebretson, and using its affiliated companies, TIC Ltd. and Export Materials, Inc., made approximately 100 shipments of U.S.-origin pipe coating materials, machines, and parts to the Dong Ah Consortium in Benghazi, Libya. These items were for use in coating the internal surface of prestressed concrete cylinder pipe for the Government of Libya's Great Man-Made River Project.[3] Moreover, BXA's investigation gave it reason to believe that the Respondents and the affiliated companies employed a scheme to export U.S.-origin products from the United States, through the United Kingdom, to Libya, a country subject to a comprehensive economic sanctions program, without the authorizations required under U.S. law, including the Regulations. The approximate value of the 100 shipments at issue was $35 million. In addition, the Respondents and the affiliated companies undertook several significant and affirmative actions in connection with the solicitation of business on another phase of the Great Man-Made River Project.

BXA has stated that it believes that the matters under investigation and the information obtained to date in that investigation support renewal of the TDO issued against the Respondents.[4] In that regard, in April, 1998 BXA and the Respondents reached an agreement, whereby BXA sought a renewal of the TDO in a "non-standard" format, denying all of the Respondents' U.S. export privileges to the United Kingdom, The Bahamas, Libya, Cuba, Iraq, North Korea, Iran, and any other country or countries that may be made subject in the future to a general trade embargo by proper legal authority. In return, the Respondents agreed that, among other conditions, at least 14 days in advance of any export that any of the Respondents intends to make of any item from the United States to any destination world-wide, the Respondents will provide to BXA's Dallas Field Office (i) notice of the intended export, (ii) copies of all documents reasonably related to the subject transaction, including, but not limited to, the commercial invoice and bill of lading, and (iii) the opportunity, during the 14-day notice period, to inspect physically the item at issue to ensure that the intended shipment is in compliance with the Export Administration Act, the Export Administration Regulations, or any order issued thereunder. BXA has sought renewal of the TDO in a "non-standard" format; respondents have advised me that they do not object to renewal of the TDO in the "non-standard" format.

Based on BXA's showing, I find that it is appropriate to renew the order temporarily denying the export privileges of Thane-Coat, Inc., Jerry Vernon Ford, and Preston John Engebretson in a "non-standard" format, incorporating the terms agreed to by and between the parties in April 1998. I find that such renewal is necessary in the public interest to prevent an imminent violation of the Regulations and to give notice to companies in the United States and abroad to cease dealing with these persons in any commodity, software, or technology subject to the Regulations and exported or to be exported to the United Kingdom, the Bahamas, Libya Cuba, Iraq, North Korea, Iran, and any other country or countries that may be made subject in the future to a general trade embargo by proper legal authority, or in any other activity subject to the Regulations with respect to these specific countries. Moreover, I find such renewal is in the public interest in order to reduce the substantiallikelihood that Thane-Coat, Inc., Ford and Engebretson will engage in activities which are in violation of the Regulations.

Accordingly, it is therefore ordered:

First, that Thane-Coast, Inc., and all of its successors or assigns, officers, representatives, agents, and employees when acting on its behalf; Jerry Vernon Ford, and all of his successors, or assigns, representatives, agents and employees when acting on his behalf; and Preston John Engebretson, and all of his successors, or assigns, representatives, agents, and employees when acting on his behalf (all of the foregoing parties hereinafter collectively referred to as the "denied persons"), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") subject to the Export Administration Regulations (hereinafter the "Regulations") and exported or to be exported from the United States to the United Kingdom, The Bahamas, Libya, Cuba, Iraq, North Korea, or Iran, or to any other country or countries that may be made subject in the future to a general trade embargo pursuant to proper legal authority (hereinafter the "Covered Countries"), or in any other activity subject to the Regulations with respect to the Covered Countries, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item that is subject to the Regulations and that is exported or to be exported from the United States to any of the Covered Countries, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States to any of the Covered Countries that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of any of the denied persons any item subject to the Regulations to any of the Covered Countries;

B. Take any action that facilitates the acquisition, or attempted acquisition by any of the denied persons of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States to any of the Covered Countries, including financing or other support activities related to a transaction whereby any of the denied persons acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from any of the denied persons of any item subject to the Regulations that has been exported from the United States to any of the Covered Countries;

D. Obtain from any of the denied persons in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States to any of the Covered Countries; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States to any of the Covered Countries, and which is owned, possessed or controlled by any of the denied persons, or service any item, of whatever origin, that is owned, possessed or controlled by any of the denied persons if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States to any of the Covered Countries. For purposes of this paragraph, servicing means installation, maintenance, repair, modifications or testing.

Third, that, at least 14 days in advance of any export that any of the denied persons intends to make of any item from the United States to any destination world-wide, the denied person will provide to BXA's Dallas Field Office (i) notice of the intended export, (ii) copies of all documents reasonably related to the subject transaction, including, but no limited to, the commercial invoice and bill of lading, and (iii) the opportunity, during the 14-day notice period, to inspect physically the item at issue to ensure that the intended shipment is in compliance with the Export Administration Act, the Export Administration Regulations, or any order issued thereunder.

Fourth, that, after notice and opportunity for comment, as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to any of the denied persons by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services, may also be made subject to the provisions of this Order.

Fifth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Sixth, that, in accordance with the provisions of Section 766.24(e) of the Regulations, Thane-Coat, Ford, or Engebretson may, at any time, appeal this Order by filing a full written statement in support of the appeal with the office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

Seventh, that this Order is effective immediately and shall remain in effect for 180 days.

Eighth, that, in accordance with the provisions of Section 766.24(d) of the Regulations, BXA may seek renewal of this Order by filing a written request no later than 20 days before the expiration date. Any respondent may oppose a request to renew this Order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of this Order.

A copy of this Order shall be served on each Respondent and shall be published in the **Federal Register**.

Entered this 23rd day of October, 1998.

F. Amanda DeBusk,

Assistant Secretory for Export Enforcement.

[FR Doc. 98–29268 Filed 10–30–98; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Thane-Coat, Inc.

In the Matters of: Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas 77477, Jerry Vernon Ford, President, Thane-Coat, Inc. 12725 Royal Drive, Stafford, Texas 77477 and with an address at 7707 Augustine Drive, Houston, Texas 77036, and Preston John Engebretson, Vice-President, Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas 77477 and with an address at 8903 Bonhomme Road, Houston, Texas 77074, Respondents

[1] The May 5, 1997 Order also named Thane-Coat, Inc.; Jerry Vernon Ford, president, Thane-Coat, Inc.; and Preston John Engebretson, vice-president, Thane-Coat, Inc., as persons temporarily denied all U.S. export privileges. I am issuing a separate Decision and Order today renewing the TDO against Thane-Coat, Ford, and Engebretson in a "non-standard" format.

[1] The May 5, 1997 Order also named Thane-Coat International, Ltd. and Export Materials, Inc. as persons temporarily denied all U.S. export privileges. I am issuing a separate Decision and Order today renewing the TDO against Thane-Coat International, Ltd. (under its legal name of TIC Ltd.) and Export Materials in a "standard" format.

[2] The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), and August 13, 1998 (63 *Fed. Reg.* 44121, August 17, 1998), continued the Regulations in effect under the International Emergency Economic Powers Act (currently codified at 50 U.S.C.A. §§ 1701–1706 (1991 & Supp. 1998)).

[3] BXA understands that the ultimate goal of this project is to bring fresh water from wells drilled in southeast and southwest Libya through prestressed concrete cylinder pipe to the coastal cities of Libya. This multibillion dollar, multiphase engineering endeavor is being performed by the Dong Ah Construction Company of Seoul, South Korea.

[4] On October 6, 1998, BXA requested that I renew the April 29, 1998 TDO against TIC Ltd. and Export Materials.

Decision and Order on Renewal of Temporary Denial Order

On April 29, 1998, I issued a Decision and Order on Renewal of Temporary Denial Order (hereinafter "Order" or "TDO"), renewing for 180 days, in a "non-standard" format, a May 5, 1997 Order naming, *inter alia*, Thane-Coat, Inc.; Jerry Vernon Ford, president, Thane-Coat, Inc.; and Preston John Engebretson, vice-president, Thane-Coat, Inc. (hereinafter referred to collectively as the "Respondents"), as persons temporarily denied all U.S. export privileges. 63 FR 25817–25189 (May 11, 1998).[1] The Order will expire on October 26, 1998.

On October 6, 1998, pursuant to Section 766.24 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730–774 (1998)) (hereinafter the "Regulations"), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401–2420 (1991 & Supp. 1998)) (hereinafter the "Act"),[2] the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (hereinafter "BXA"), requested that I renew the Order against Thane-Coat, Inc., Jerry Vernon Ford, and Preston John Engebretson for 180 days in a non-standard format, consistent with the terms agreed to by and between the parties in April 1998.

In its request, BXA stated that, as a result of an ongoing investigation, it had reason to believe that, during the period from approximately June 1994 through approximately July 1996, Thane-Coat, Inc., through Ford and Engebretson, and using its affiliated companies, TIC Ltd. and Export Materials, Inc., made approximately 100 shipments of U.S.-origin pipe coating materials, machines, and parts to the Dong Ah Consortium in Benghazi, Libya. These items were for use in coating the internal surface of prestressed concrete cylinder pipe for the Government of Libya's Great Man-Made River Project.[3] Moreover, BXA's investigation gave it reason to believe that the Respondents and the affiliated companies employed a scheme to export U.S.-origin products from the United States, through the United Kingdom, to Libya, a country subject to a comprehensive economic sanctions program, without the authorizations required under U.S. law, including the Regulations. The approximate value of the 100 shipments at issue was $35 million. In addition, the Respondents and the affiliated companies undertook several significant and affirmative actions in connection with the solicitation of business on another phase of the Great Man-Made River Project.

BXA has stated that it believes that the matters under investigation and the information obtained to date in that investigation support renewal of the TDO issued against the Respondents.[4] In that regard, in April, 1998 BXA and the Respondents reached an agreement, whereby BXA sought a renewal of the TDO in a "non-standard" format, denying all of the Respondents' U.S. export privileges to the United Kingdom, The Bahamas, Libya, Cuba, Iraq, North Korea, Iran, and any other country or countries that may be made subject in the future to a general trade embargo by proper legal authority. In return, the Respondents agreed that, among other conditions, at least 14 days in advance of any export that any of the Respondents intends to make of any item from the United States to any destination world-wide, the Respondents will provide to BXA's Dallas Field Office (i) notice of the intended export, (ii) copies of all documents reasonably related to the subject transaction, including, but not limited to, the commercial invoice and bill of lading, and (iii) the opportunity, during the 14-day notice period, to inspect physically the item at issue to ensure that the intended shipment is in compliance with the Export Administration Act, the Export Administration Regulations, or any order issued thereunder. BXA has sought renewal of the TDO in a "non-standard" format; respondents have advised me that they do not object to renewal of the TDO in the "non-standard" format.

Based on BXA's showing, I find that it is appropriate to renew the order temporarily denying the export privileges of Thane-Coat, Inc., Jerry Vernon Ford, Preston John Engebretson in a "non-standard" format, incorporating the terms agreed to by and between the parties in April 1998. I find that such renewal is necessary in the public interest to prevent an imminent violation of the Regulations and to give notice to companies in the United States and abroad to cease dealing with these persons in any commodity, software, or technology subject to the Regulations and exported or to be exported to the United Kingdom, the Bahamas, Libya, Cuba, Iraq, North Korea, Iran, and any other country or countries that may be made subject to the future to a general trade embargo by proper legal authority, or in any other activity subject to the Regulations with respect to these specific countries. Moreover, I find such renewal is in the public interest in order to reduce the substantial likelihood that Thane-Coat, Inc., Ford and Engebretson will engage in activities which are in violation of the Regulations.

Accordingly, it is therefore ordered:

First, that Thane-Coat, Inc., and all of its successors or assigns, officers, representatives, agents, and employees when acting on its behalf, Jerry Vernon Ford, and all of his successors, or assigns, representatives, agents and employees when acting on his behalf, and Preston John Engebretson, and all of his successors, or assigns, representatives, agents, and employees when acting on his behalf (all of the foregoing parties hereinafter collectively referred to as the "denied persons"), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") subject to the Export Administration Regulations (hereinafter the "Regulations") and exported or to be exported from the United States to the United Kingdom, The Bahamas, Libya, Cuba, Iraq, North Korea, or Iran, to any other country or countries that may be made subject in the future to a general trade embargo pursuant to proper legal authority (hereinafter the "Covered Countries"), or in any other activity subject to the Regulations with respect to the Covered Countries, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item that is subject to the Regulations and that is exported or to be exported from the United States to any of the Covered Countries, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States to any of the Covered Countries that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of any of the denied persons any item subject to the Regulations to any of the Covered Countries;

B. Take any action that facilitates the acquisition, or attempted acquisition by any of the denied persons of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States to any of the Covered Countries, including financing or other support activities related to a transaction whereby any of the denied persons acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from any of the denied persons of any item subject to the Regulations that has been exported from the United States to any of the Covered Countries;

D. Obtain from any of the denied persons in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States to any of the Covered Countries; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States to any of the Covered Countries, and which is owned, possessed or controlled by any of the denied persons, or service any item, of whatever origin, that is owned, possessed or controlled by any of the denied persons if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States to any of the Covered Countries. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, at least 14 days in advance of any export that any of the denied persons intends to make of any item from the United States to any destination world-wide, the denied person will provide to BXA's Dallas Field Office (i) notice of the intended export, (ii) copies of all documents reasonably related to the subject transaction, including, but not limited to, the commercial invoice and bill of lading, and (iii) the opportunity, during the 14-day notice period, to inspect physically the item at issue to ensure that the intended shipment is in compliance with the Export Administration Act, the Export Administration Regulations, or any order issued thereunder.

Fourth, that, after notice and opportunity for comment, as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to any of the denied persons by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services, may also be made subject to the provisions of this Order.

Fifth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Sixth, that, in accordance with the provisions of Section 766.24(e) of the Regulations, Thane-Coat, Ford, or Engebretson may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

Seventh, that this Order is effective immediately and shall remain in effect for 180 days.

Eighth, that, in accordance with the provisions of Section 766.24(d) of the Regulations, BXA may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. Any respondent may oppose a request to renew this Order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be served on each Respondent and shall be published in the **Federal Register**.

Entered this 23rd day of October, 1998.

F. Amanda DeBusk,

Assistant Secretary for Export Enforcement.

[FR Doc. 98–29269 Filed 10–30–98; 8:45 am]

BILLING CODE 3510–DT–M

[1] The May 5, 1997 Order also named Thane-Coat, International, Ltd. and Export Materials, Inc. as persons temporarily denied all U.S. export privileges. I am issuing a separate Decision and Order today renewing the TDO against Thane-Coat, International, Ltd. (under its legal name of TIC Ltd.) and Export Materials in a "standard" format.

[2] The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), and August 13, 1998 (63 *Fed. Reg.* 44121, August 17, 1998), continued the Regulations in effect under the International Emergency Economic Powers Act (currently codified at 50 U.S.C.A. §§ 1701–1706 (1991 & Supp. 1998)).

[3] BXA understands that the ultimate goal of this project is to bring fresh water from wells drilled in southeast and southwest Libya through prestressed concrete cylinder pipe to the coastal cities of Libya. This multibillion dollar, multiphase engineering endeavor is being performed by the Dong Ah Construction Company of Seoul, South Korea.

[4] On October 6, 1998, BXA requested that I renew the April 29, 1998 TDO against TIC Ltd. and Export Materials.

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Initiation of Five-Year ("Sunset") Reviews

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department of Commerce ("the Department") is automatically initiating five-year ("sunset") reviews of the antidumping and countervailing duty orders, findings, and/or suspended investigations listed below. The International Trade Commission ("the Commission") is publishing concurrently with this notice its notices of *Institution of Five-Year Reviews* covering these same orders and/or suspended investigations.

FOR FURTHER INFORMATION CONTACT: Melissa G. Skinner, Scott E. Smith, or Martha V. Douthit, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, at (202) 482–1560, (202) 482–6397 or (202) 482–3207, respectively, or Vera Libeau, Office of Investigations, U.S. International Trade Commission, at (202) 205–3176.

SUPPLEMENTARY INFORMATION:

Initiation of Reviews

In accordance with 19 CFR 351.218 (*see Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998)), we are initiating sunset reviews of the following antidumping and countervailing duty orders, findings, or suspended investigations:

DOC case No.	ITC case No.	Country	Product
A–570–101	A–101	China, PR	Griege Polyester Cotton Print Cloth.
C–357–004	C-None	Argentina	Carbon Steel Wire Rod (SA).
A–357–007	A–157	Argentina	Carbon Steel Wire Rod.
C–559–001	C-None	Singapore	Refrigeration Compressors (SA).
A–469–007	A–126	Spain	Potassium Permanganate.
A–570–001	A–125	China, PR	Potassium Permanganate.

DOC case No.	ITC case No.	Country	Product
A–570–002	A–130	China, PR	Chloropicrin.
A–533–063	C3–13	India	Iron Metal Castings.
A–122–503	A–263	Canada	Iron Construction Castings.
A–351–503	A–262	Brazil	Iron Construction Castings.
A–570–502	A–265	China, PR	Iron Construction Castings.
C–351–504	C–249	Brazil	Heavy Iron Construction Castings.
A–475–401	A–165	Italy	Brass Fire Protection Equipment.

Statute and Regulations

Pursuant to sections 751(c) and 752 of the Act, an antidumping ("AD") or countervailing duty ("CVD") order will be revoked, or the suspended investigation will be terminated, unless revocation or termination would be likely to lead to continuation or recurrence of (1) dumping or a countervailable subsidy, and (2) material injury to the domestic industry.

The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("*Sunset Regulations*"). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) ("*Sunset Policy Bulletin*").

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the *Sunset Regulations* and *Sunset Policy Bulletin*, the Department's schedule of sunset reviews, case history information (*e.g.*, previous margins, duty absorption determinations, scope language, import volumes), and service lists, available to the public on the Department's sunset internet website at the following address:

"http://www.ita.doc.gov/import_admin/records/sunset/".

All submissions in the sunset review must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303 (1998). Also, we suggest that parties check the Department's sunset website for any updates to the service list before filing any submissions. We ask that parties notify the Department in writing of any additions or corrections to the list. We also would appreciate written notification if you no longer represent a party on the service list.

Because deadlines in a sunset review are, in many instances, very short, we urge interested parties to apply for access to proprietary information under administrative protective order ("APO") immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306 (*see Antidumping and Countervailing Duty Proceedings: Administrative Protective Order Procedures; Procedures for Imposing Sanctions for Violation of a Protective Order*, 63 FR 24391 (May 4, 1998)).

Information Required From Interested Parties

Domestic interested parties (defined in 19 CFR 351.102 (1998)) wishing to participate in the sunset review must respond not later than 15 days after the date of publication in the **Federal Register** of the notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth in the *Sunset Regulations* at 19 CFR 351.218(d)(1)(ii). In accordance with the *Sunset Regulations*, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.

If we receive a notice of intent to participate from a domestic interested party, the *Sunset Regulations* provide that *all parties* wishing to participate in the sunset review must file substantive responses not later than 30 days after the date of publication in the **Federal Register** of the notice of initiation. The required contents of a substantive response are set forth in the *Sunset Regulations* at 19 CFR 351.218(d)(3). Note that certain information requirements differ for foreign and domestic parties. Also, note that the Department's information requirements are distinct from the International Trade Commission's information requirements. Please consult the *Sunset Regulations* for information regarding the Department's conduct of sunset reviews.[1] Please consult the Department's regulations at 19 CFR Part 351 (1998) for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: October 23, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–29288 Filed 10–30–98; 8:45 am]

BILLING CODE 3510–DS–P

[1] A number of parties commented that these interim-final regulations provided insufficient time for rebuttals to substantive responses to a notice of initiation (*Sunset Regulations*, 19 CFR 351.218(d)(4)). As provided in 19 CFR 351.302(b) (1998), the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

DEPARTMENT OF COMMERCE

International Trade Administration

Invitation To Participate in Overseas Trade Missions

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce invites U.S. companies to participate in the following overseas trade missions that are also explained at the following Internet website: http://www.ita.doc.gov/doctm/tmcal.html.

Power-GEN Reverse Trade Mission: Atlanta, Georgia; December 9–16, 1998; Recruitment closes on December 4, 1998.

FOR FURTHER INFORMATION CONTACT: LaWonne Cunningham at the Department of Commerce Tel: 202–482–2338 Fax: 202–482–3198 E-mail: lcunningham@cs.doc.gov.

Business Opportunities Mission: Vilnius, Lithuania; November 17–18, 1998; Recruitment closes on November 8, 1998.

FOR FURTHER INFORMATION CONTACT: Sam Kozloff at the Department of Commerce Tel: 202–482–1599 Fax: 202–482–3159 E-mail: samuel.kozloff@cs.doc.gov.

The U.S. Franchising Matchmaker Delegation: Copenhagen, Oslo, Stockholm and Helsinki; November 9–13, 1998; Recruitment closed on September 30, 1998.

FOR FURTHER INFORMATION CONTACT: Sam Dhir at the Department of Commerce Tel: 202–482–4457 Fax: 202–482–0178 E-mail: sdhir@cs.doc.gov. The Matchmaker Trade Delegation program Internet website: www.ita.doc.gov/uscs/mkrtext.html.

The Information Technology Dealmaker: Toronto, Canada; November 11–12, 1998; Recruitment closes on November 1, 1998.

FOR FURTHER INFORMATION CONTACT: Sam Kozloff at the Department of Commerce Tel: 202–482–1599 Fax: 202–482–3159 E-mail: samuel.kozloff@cs.doc.gov.

Corporate Executive Office Mission to MEDICA: Dusseldorf, Germany; November 18–21, 1998; Recruitment closes on November 10, 1998.

FOR FURTHER INFORMATION CONTACT: Deborah Sykes at the Department of Commerce Tel: 609–989–2020 Fax: 609–989–2395 E-mail:dsykes@cs.doc.gov.

Used Equipment Trade Mission: Costa Rica, Panama and Guatemala; April 18–28, 1999; Recruitment closes March 15, 1999.

FOR FURTHER INFORMATION CONTACT: John Bodson, Department of Commerce Tel: 202–482–0681 Fax: 202–482–0304, or Reginald Beckham, Department of Commerce Tel: 202–482–5478 Fax: 202–482–1999.

Dated: October 28, 1998.

Tom Nisbet,

Director, Office of Trade Promotion Coordination.

[FR Doc. 98–29271 Filed 10–30–98; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Request for Comments on Interim Guidelines for Examination of Patent Applications Under the 35 U.S.C. 112 ¶ 1 "Written Description" Requirement; Notice of Change in Public Hearings, Extension of Comment Period

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of cancellation of public hearing in San Diego, California; change of location of November 4, 1998, public hearing; and extension of request period to present oral testimony.

SUMMARY: Due to insufficient interest, the public hearing to be held in San Diego, California, on November 6, 1998, is canceled. For the same reason, the public hearing to be held in Boston, Massachusetts, on November 4, 1998, will be held in Arlington, Virginia. The period to request an opportunity to present oral testimony at the Arlington location has been extended to November 3, 1998.

ADDRESSES: The November 4, 1998, hearing will be held in the Commissioner's Conference Room located in Crystal Park Two, Room 912, 2121 Crystal Drive, Arlington, Virginia. Those interested in testifying should send their request to the attention of Mary Critharis addressed to Commissioner of Patents and Trademarks, Box 4, Patent and Trademark Office, Washington, DC 20231. Requests may also be submitted by facsimile transmission to Mary Critharis at (703) 305–8885.

FOR FURTHER INFORMATION CONTACT: Mary Critharis by telephone at (703) 305–9300, by facsimile at (703) 305–8885, by electronic mail at mary.critharis@uspto.gov, or by mail addressed to Commissioner of Patents and Trademarks, Box 4, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: On September 23, 1998, the Patent and Trademark Office (PTO) announced its intention to hold public hearings relating to the "written description" requirement under section 112 of title 35 of the United States Code. 63 FR 50,887 (1998). Interested members of the public were invited to testify on this subject at public hearings to be held in Boston, Massachusetts, on November 4, 1998 and San Diego, California, on November 6, 1998. The period to request an opportunity to present oral testimony at these hearings was set to end on October 30, 1998.

Due to insufficient interest, the public hearing in San Diego is canceled. For the same reason, the public hearing initially scheduled for Boston will instead be held in Arlington, Virginia, on November 4, 1998, starting at 9 a.m. and ending no later than 5 p.m. Those wishing to present oral testimony at the hearing must request an opportunity to do so no later than November 3, 1998.

Dated: October 28, 1998.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 98–29310 Filed 10–29–98; 10:07 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Grant of Interim Extension of the term of U.S. Patent No. 4,291,708; T–SCAN™.

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of term extension.

SUMMARY: The Patent and Trademark Office has granted an interim extension under 35 U.S.C. 156(d)(5) for one year of the term of U.S. Patent No. 4,291,708 that claims the medical device "T–SCAN™."

FOR INFORMATION CONTACT: Karin L. Tyson by telephone at (703) 305–9285; by mail marked to her attention and addressed to the Assistant Commissioner for Patents, Box DAC, Washington, DC 20231; by fax marked to her attention at (703) 308–6916, or by e-mail at karin.tyson@uspto.gov.

SUPPLEMENTARY INFORMATION: Section 156 of Title 35, United States Code, generally provides that the term of a patent may be extended for a period of up to 5 years if the patent claims a product, or a method of making or using a product, that has been subject to certain defined regulatory review. Under section 156, a patent is eligible for term extension only if regulatory review of the claimed product was completed before the original patent term expired.

On December 3, 1993, section 156 was amended by Pub. L. 103–179 to provide that if the owner of record of the patent or its agent reasonably expects the applicable regulatory review period to extend beyond the expiration of the patent, the owner or its agent may submit an application to the Commissioner of Patents and Trademarks for an interim extension of the patent term. If the Commissioner determines that, except for receipt of permission to market or use the product commercially, the patent would be eligible for a statutory extension of the patent term, the Commissioner shall issue to the applicant a certificate of interim extension for a period of not more than one year.

On September 4, 1998, patent owner Yeda Research & Development Co., filed an application under 35 U.S.C. 156(d)(5) for interim extension of the term of U.S. Patent No. 4,291,708. The patent claims the method of use of the medical device "T–SCAN™." The application indicates, and the Food and Drug Administration (FDA) has confirmed, that the medical device is currently undergoing a regulatory review before

the FDA for permission to market or use the product commercially. The original term of the patent is due to expire on November 2, 1998. Applicant requests an interim extension of one year.

Review of the application indicates that except for receipt of permission to market or use the product commercially, the subject patent would be eligible for an extension of the patent term under 35 U.S.C. 156. Since it is apparent that the regulatory review period may extend beyond the date of expiration of the patent, interim extension of the patent term under 35 U.S.C 156(d)(5) is appropriate. Accordingly, an interim extension under 35 U.S.C. 156(d)(5) of the term of U.S. Patent No. 4,291,708 has been granted for a period of one year from the original expiration date of the patent.

Dated: October 26, 1998.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 98–29253 Filed 10–30–98; 8:45 am]

BILLING CODE 3510–16–M

CONGRESSIONAL BUDGET OFFICE

Notice of Transmittal of Final Sequestration Report for Fiscal Year 1999 to Congress and the Office of Management and Budget

Pursuant to Section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 904(b)), the Congressional Budget Office hereby reports that it has submitted its Final Sequestration Report for Fiscal Year 1999 to the House of Representatives, the Senate, and the Office of Management and Budget.

David M. Delquadro,

Assistant Director, Administration and Information Division, Congressional Budget Office.

[FR Doc. 98–29259 Filed 10–30–98; 8:45 am]

BILLING CODE 1450–01–M

DEPARTMENT OF ENERGY

Nuclear Energy Research Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770), notice is hereby given of a meeting of the Nuclear Energy Research Advisory Committee.

DATES: Tuesday, November 17, 1998, 10:30 a.m. to 5:45 p.m.; and Wednesday, November, 18 1998, 8:00 a.m. to 12:30 p.m.

ADDRESSES: Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Dr. Norton Haberman, Designated Federal Officer, Nuclear Energy Research Advisory Committee, U.S. Department of Energy, NE–1, 19901 Germantown Road, Germantown, Maryland 20874–1290, Telephone Number 301–903–4321, E-mail: Norton.Haberman@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: To provide advice to the Director of the Office of Nuclear Energy, Science and Technology of the Department of Energy on the many complex planning, scientific and technical issues that arise in the development and implementation of the Nuclear Energy research program.

Tentative Agenda

Tuesday, November 17, 1998

Introduction of members and staff
Welcome remarks
Overview of DOE's nuclear energy programs
Medical isotope expert panel
Nuclear science and technology infrastructure roadmap
Future of nuclear engineering education

Wednesday, November 18, 1998

NE's research programs
Potential development areas
New business
Public comment period.

Public Participation: The day and a half meeting is open to the public on a first-come, first-serve basis because of limited seating. Written statements may be filed with the committee before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Norton Haberman at the address or telephone listed above. Requests to make oral statements must be made and received five days prior to the meeting; reasonable provision will be made to include the statement in the agenda. The Chair of the committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Reading Room. 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 9 a.m. and 4 p.m., Monday through Friday, except holidays.

Issued in Washington, D.C. on October 27, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–29284 Filed 10–30–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–51–001]

Algonquin Gas Transmission Company; Notice of Supplemental Compliance Filing

October 27, 1998.

Take notice that on October 22, 1998 Algonquin Gas Transmission Company (Algonquin) submitted for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheet to become effective November 2, 1998:

Sub Third Revised Sheet No. 662

Algonquin asserts that the above tariff sheet is being filed to supplement Algonquin's October 2, 1998 filing in Docket No. RP99–51–000 to comply with Order No. 587–H, Final Rule Adopting Standards for Intra-day Nominations and Order Establishing Implementation Date (Order No. 587–H) issued on July 15, 1998, in Docket No. RM96–1–008.

Algonquin states that, in response to a protest filed by Dynegy Marketing and Trade, the filing revises Section 23.3 of the General Terms and Conditions of Algonquin's Tariff to provide that any customer which is bumped will be provided notification of the bump in the same manner as provided for notification of OFO's in Algonquin's Tariff. Algonquin also states that this supplemental filing also corrects an unintended, potential impact on the relative priority of primary and secondary firm service that was inadvertently created by the language submitted in the October 2 Filing.

Algonquin states that copies of the filing were mailed to all affected customers of Algonquin and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission

in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–29237 Filed 10–30–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Atlantic City Electric Company, Baltimore Gas & Electronic Company, Delmarva Power & Light Company, GPU Service Corporation, PECO Energy Company, Potomac Electric Power Company, PP&L, Inc., Public Service Electric & Gas Company

[Docket Nos. ER97–3189–001, ER97–3189–002, ER97–3189–003, ER97–3189–004, ER97–3189–005, ER97–3189–006, ER97–3189–007, ER97–3189–008 (Not Consolidated)]

Notice Deferring Implementation of Settlements and Extension of the Time for Making Refunds

October 27, 1998.

On October 9, 1998, PJM Interconnection, L.L.C. (PJM) filed a motion requesting that the Commission defer the implementation of the settlements filed, or to be filed, in the above-docketed proceedings. PJM's motion also requested that the Commission extend the time for PJM to make refunds and file its compliance reports until such time as the Commission has acted upon all of the aforementioned settlements.

In its motion, PJM requests that the Commission defer implementation of all the settlements filed, or to be filed, in the above-captioned proceedings in order to avoid PJM making piecemeal recalculations of system-wide rates and multiple refunds. PJM further states that implementing the settlements individually would require PJM to engage in a complex, time-consuming refund process, whereas a single recalculation of the rates and a single refund computation upon approval of all of the settlements is more practical and far less burdensome. The motion also states that PJM's customers would not be prejudiced by deferring implementation of the settlement rates and refunds because PJM will be refunding any over-collections with interest to the date of the refunds, regardless of the date that the refunds are made.

Upon consideration, notice is hereby given that an extension of time for the implementation of the rates, terms, and conditions of all offers of settlement approved in the Letter Orders dated September 18, 1998 in *Baltimore Gas & Electric Company*, Docket No. ER97–3189–002, *Potomac Electric Power Company*, Docket No. ER97–3189–006, and *Public Service Electric & Gas Company*, Docket No. ER97–3189–008, is granted until such time as the Commission has acted upon all of the settlements in these proceedings.

An extension of time within which PJM must make refunds in Docket Nos. ER97–3189–002, ER97–3189–006 and ER97–3189–008 is granted to and including 90 days from the date of approval of all of the settlements. PJM shall file the necessary compliance reports 30 days thereafter. Finally, PJM shall file the requisite tariff sheets reflecting the settlement rates 30 days after the date of approval of all of the settlements.

The extensions of time granted herein apply only to the three proceedings in which the Commission has already issued Letter Orders, discussed above.

David P. Boergers,

Secretary.

[FR Doc. 98–29272 Filed 10–30–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–27–000]

Columbia Gas Transmission Corporation; Notice of Request Under Blanket Authorization

October 27, 1998.

Take notice that on October 20, 1998, Columbia Gas Transmission Corporation (Columbia), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030–0146, filed in Docket No. CP99–27–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) seeking Natural Gas Act Section 7 certification for an existing point of delivery to Columbia Gas of Ohio, Inc., (COH) in Harrison County, Ohio, under Columbia's blanket certificate issued in Docket No. CP83–76–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Columbia requests certification of an existing point of delivery which was originally authorized under Section 311 of the Natural Gas Policy Act for transportation service to COH. Columbia states that COH has requested approximately 5,500 Dth/Day under Columbia's Interruptible Transportation Service (ITS) Rate Schedule. Columbia also states that the existing point of delivery is being utilized to serve a new coal processing plant.

Columbia states that it constructed the existing point of delivery to COH and placed it in service on June 1, 1998. Columbia also states that interconnecting facilities installed by Columbia included a 6-inch tap and meter, filter separator and electronic measurement. Columbia states the existing point of delivery is being utilized for industrial service to serve a new coal processing plant. Columbia states the cost of constructing the point of delivery was $19,100.

Columbia states that it has complied with all of the environmental requirements of Section 157.206(d) of the Commission's Regulations during the construction of the existing point of delivery.

Columbia states that it anticipates that the services to be provided through the interconnection will be provided on an interruptible basis and therefore, no impact is expected on Columbia's existing design day and annual obligations to its customers as a result of the establishment of the new point of delivery.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–29235 Filed 10–30–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–22–000]

Gasdel Pipeline System, Inc.; Notice of Application

October 27, 1998.

Take notice that on October 19, 1998, Gasdel Pipeline System, Inc. (Applicant), 110 West Broadway, P.O. Box 909 Ardmore, Oklahoma, 73402, filed in Docket No. CP99–22–000 an abbreviated application pursuant to Section 7(b) of the Natural Gas Act, as amended, and Section 157.18 of the Federal Energy Regulatory Commission's (Commission) regulations thereunder, for permission and approval to authorize Applicant to abandon by sale its interests in twelve pipeline segments as well as seeking an order vacating the authorization in Docket No. CP96–478–000 under the blanket certificate issued in Docket No. CP83–276–000 for the acquisition of the East Cameron Block 311 Lateral on the grounds that the East Cameron Block 311 Lateral is exempt from the Commission's jurisdiction pursuant to the production and gathering exemption contained in Section 1(b) of the NGA, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant, a wholly-owned subsidiary of Energy Development Corporation (EDC), has sold, subject to receipt of the requisite regulatory approvals, its interest in twelve of its thirteen line segments to Transcontinental Gas Pipe Line Corporation (Transco). Applicant states that because some of the facilities were constructed and/or acquired under specific certificates and some under blanket certificates, Applicant is seeking Commission authorization to abandon by sale for $500,000 its interests in those facilities. Applicant further states that upon completion of this sale to Transco, the only remaining natural gas pipeline facility owned by Applicant will be its East Cameron Block 311 line. In addition to granting its request to abandon by sale its interests in the twelve line segments being sold to Transco, Applicant requests the Commission to vacate the blanket certificate authorization previously used by Applicant from the East Cameron Block 311 line as not having been necessary for the reasons stated above.

Applicant asserts that upon receipt of the abandonment authorization and the vacation of the blanket certificate authorization for the East Cameron Block 311 line, Applicant will no longer be jurisdictional because it will no longer own or operate any facilities, or conduct any operations, subject to the Commission's jurisdiction under the NGA. Therefore, Applicant requests cancellation of its FERC Gas Pipeline Tariff and vacation of the Order on Request for Waiver, 79 FERC ¶ 61,102, (1997), denying Applicant's request for a waiver of the standards relating to electronic delivery mechanisms (EDM), electronic data interchanges (EDI) and capacity release practices contained in FERC Order No. 587.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 17, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, and if the Commission on its own review of the matter finds that the abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provide for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–29231 Filed 10–30–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–26–000]

K N Interstate Gas Transmission; Notice of Request Under Blanket Authorization

October 27, 1998.

Take notice that on October 20, 1998, K N Interstate Gas Transmission Co. (KNI), PO Box 281304, Lakewood, Colorado, 80228, filed in Docket No. CP99–26–000 a request pursuant to Sections 157.205, and 157.212, of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to install and operate one new delivery tap located in Goshen County, Wyoming under KNI's blanket certificate issued in Docket No. CP83–140–000 and CP83–140–001 pursuant to Section 7 of the Natural Gas act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

The tap will be added as a delivery point under an existing transportation agreement between KNI and K N Energy Inc. (KNE). The proposed delivery point will be used by KNE to facilitate the delivery of natural gas to an end-use customer. KNI states that the quantities of gas to be delivered will be approximately 10 Mcf on a peak day and 1,500 Mcf annually and the cost is estimated at $3,850. KNI will be reimbursed for the cost of the facilities.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–29234 Filed 10–30–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–23–000]

MIGC, Inc.; Notice of Request Under Blanket Authorization

October 27, 1998.

Take notice that on October 19, 1998, MIGC, Inc. (MIGC), 12200 North Pecos Street, Denver, Colorado 80234, filed in Docket No. CP99–23–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon a dehydrator under MIGC's blanket certificate issued in Docket No. CP82–409–000,[1] pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

MIGC states that the abandonment of this dehydrator will not adversely impact capacity on the MIGC system since a larger dehydration unit has been installed at the same location to accommodate increased deliveries into MIGC's system. MIGC will remove the dehydrator for use at a new location on the MIGC system.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 98–29232 Filed 10–30–98; 8:45 am]

BILLING CODE 6717–01–M

[1] *See*, 20 FERC ¶ 62,418 (1982).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–21–000]

Northern Border Pipeline Company; Notice of Application

October 27, 1998.

Take notice that on October 16, 1998, Northern Border Pipeline Company (Northern Border), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP99–21–000 an application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act and Part 157 of the Commission's regulations for authorization to abandon and remove compression facilities and for a certificate of public convenience and necessity to construct and operate pipeline and compression facilities, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Specifically, Northern Border seeks to: (1) Abandon and remove the existing 20,000 horsepower (HP) gas turbines at Compressor Station Nos. 2 and 4; (2) install and operate 35,000 gas turbines at Compressor Station Nos. 2 and 4; (3) replace the compressor wheel and uprate the 6,500 HP electric drive compressor at Compressor Station No. 14 to a 15,000 HP electric drive compressor; (4) install and operate a 9,500 HP electric drive compressor at Compressor Station Site No. 16; (5) replace the compressor wheel and internals at Compressor Station No. 17; (6) install and operate a 5,000 HP electric drive compressor at Compressor Station Site No. 18; (7) construct and operate approximately 34.4 miles of 36-inch pipeline from Manhattan, Illinois to North Hayden, Indiana; (8) construct and operate a new meter station; and (9) other appurtenant facilities. Northern Border states that the estimated cost of the proposed facilities is $189.6 million. The proposed in-service date of the facilities is November 1, 2000.

Northern Border proposes to maintain its cost of service ratemaking methodology and roll-in to Rate Schedule T–1 (Northern Border's Part 284 firm transportation rate schedule) the cost of the new facilities with its existing system costs. Northern Border maintains that the aggregation of the proposed costs with existing facility costs will result in an increase in the unit cost under Rate Schedule T–1 that is less than the 5 percent presumption in the Commission's *Pricing Policy for New and Existing Facilities Constructed by Interstate Natural Gas Pipelines* (68 FERC ¶ 61,140 (1994)). Northern Border also asserts that its proposal will offer system-wide benefits to existing and prospective shippers.

Northern Border also requests a one-time waiver of Subsection 4.83 of Rate Schedule T–1 in Northern Border's FERC Gas Tariff, First Revised Volume No. 1, which details the calculation of an average monthly rate base. Instead of calculating the average monthly rate base using the beginning and end-of-month balances as is currently in the tariff, Northern Border seeks to use a daily weighted average balance for the in-service month of the proposed facilities.

Northern Border states that it intends to sequentially retrofit the units at Compressor Station Nos. 2 and 4 in order to minimize the impact on existing firm shippers. To minimize this impact, Northern Border intends to retrofit one of the units during the winter of 1999–2000 and then place the compressor station back into service at its full rated horsepower during construction of the second unit. After retrofitting the second unit, Northern Border intends to place it in service. Northern Border states that it will record as a regulatory asset the cost of service effect of the new compression facilities offset by the abandonments for the period such facilities are operational prior to the in-service date of the project. Northern Border specifically requests approval to operate Compressor Station Nos. 2 and 4 up to full capability once they are placed into service in order to provide an opportunity to increase interruptible throughput above the level which would have occurred absent the proposed retrofitting. Any increase in interruptible revenue attributable to such operation would be separately identified and credited to the regulatory asset.

Northern Border held an open season during November and December of 1997 and received bids for firm service for all of the project's design capacity. As part of the open season, Northern Border canvassed its existing customers for turnback capacity. One shipper, Numac Energy Inc., will permanently release 9,910 Mcf per day of firm capacity between Ventura, Iowa and Harper, Iowa. According to Northern Border, binding precedent agreements have been executed with seven shippers for the transport of 556,300 Mcf per day from several receipt points on Northern Border's system for delivery to North Hayden, Indiana.[1]

[1] There is one delivery of 8,000 Mcf per day that is proposed to be made at Ventura, Iowa.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 17, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party in any proceeding herein must file a motion to intervene in accordance with the Commission's rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonments and a grant of the certificate are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern Border to appear or to be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–29230 Filed 10–30–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–24–000]

Northwest Pipeline Corporation; Notice of Request Under Blanket Authorization

October 27, 1998.

Take notice that on October 19, 1998, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed a request with the Commission in Docket No. CP98–24–000, pursuant to Sections 157.205 and 157.216(b) of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to abandon in place, approximately 1.3 miles of the Issaquah Lateral authorized in blanket certificate issued in Docket No. CP82–433–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northwest proposes to abandon in place the portion of the Issaquah Lateral which was authorized to be abandoned by sale in Docket No. CP97–657–000. Northwest received approval to abandon by removal the first 407 feet of the Issaquah Lateral and appurtenant facilities, and to abandon only the remainder of the Issaquah Lateral (Docket No. CP98–656–000), amounting to approximately 1.3 miles of 6-inch pipeline, by sale to Puget Sound Energy, Inc. (Puget). Northwest reports that after extensive negotiations, Puget and Northwest have been unable to finalize an agreement for the sale of the lateral. Northwest further reports the lateral has been taken out of service in conjunction with the authorized removal of the first 407 feet of the Issaquah Lateral. Northwest continues that the remaining pipeline was packed with nitrogen and capped at each end in conjunction with the abandonment by removal of the first 407 feet of the lateral, and no further disturbance of ground or incurring costs would be required for the proposed abandonment in place.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the tine allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–29233 Filed 10–30–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–52–001]

Texas Eastern Transmission Corporation; Notice of Supplemental Compliance Filing

October 27, 1998.

Take notice that on October 22, 1998, Texas Eastern Transmission Corporation (Texas Eastern) submitted for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following revised tariff sheets to become effective November 2, 1998.

Sub Second Revised Sheet No. 491A
Sub First Revised Sheet No. 492

Texas Eastern asserts that the above tariff sheets are being filed to supplement Texas Eastern's October 2, 1998 filing in Docket No. RP99–52–000 (October 2 Filing) to comply with Order No. 587–H, Final Rule Adopting Standards for Intra-day Nominations and Order Establishing Implementation Date (Order No. 587–H) issued on July 15, 1998, in Docket No. RM96–1–008.

Texas Eastern states that in its October 2 filing changes were included to Section 4.1(H)(1) of the General Terms and Conditions in Texas Eastern's FERC Gas Tariff to make reference to the Intraday 2 Nomination Cycle. Texas Eastern states that Order No. 587–H confirmed that to comply with the Commission's regulations and Order No. 587–G it is necessary only to provide that firm intra-day nominations have priority over scheduled interruptible service. Also Texas Eastern states that as currently effective, Section 4.1(H)(1) applies only to firm service.

Accordingly, Texas Eastern states that the substitute tariff sheet is filed to change only the monthly references to daily. In addition, Texas Eastern states that, in response to protests filed by the Indicated Shippers and Dynegy Marketing and Trade, the filing adds Section 4.1(H)(3) to provide that any customer which is bumped will be provided notification of the bump in the same manner as provided for notification of OFO's in Texas Eastern's Tariff.

Texas Eastern states that copies of the filing were mailed to all affected customers of Texas Eastern and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–29238 Filed 10–30–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT99–3–000]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

October 27, 1998.

Take notice that on October 22, 1998, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective October 22, 1998:

Thirteenth Revised Sheet No. 825
Fifteenth Revised Sheet No. 826
Eighteenth Revised Sheet No. 827
Thirteenth Revised Sheet No. 828
Twentieth Revised Sheet No. 829
Nineteenth Revised Sheet No. 830
Twenty-seventh Revised Sheet No. 831
Twenty-sixth Revised Sheet No. 832
Twenty-fifth Revised Sheet No. 833

Williston Basin states that the revised tariff sheets are being filed simply to update its Master Delivery Point List.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–29236 Filed 10–30–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2791–000, et al.]

Arizona Public Service Company, et al.; Electric Rate and Corporate Regulation Filings

October 26, 1998.

Take notice that the following filings have been made with the Commission:

1. Arizona Public Service Company

[Docket No. ER98–2791–001]

Take notice that on October 21, 1998, Arizona Public Service Company (APS), tendered for filing a revised unexecuted service agreement for sales made through the California Power Exchange Corporation (PX), under the market based tariff of APS, in compliance to the Commission's Order issued on June 25, 1998, in Docket No. ER98–2791–000.

Copies of this filing have been served on the Arizona Corporation Commission, the, PX and APS' Merchant Group.

Comment date: November 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. The Potomac Edison Company, West Penn Power Company, Monongahela Power Company, Cleveland Electric Illuminating Company, Toledo Edison Company, Ohio Edison Company, Pennsylvania Power Company, Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric & Power Company v. Virginia Electric & Power Company

[Docket No. EL99–5–000]

Take notice that on October 20, 1998, The Potomac Edison Company, West Penn Power Company, Monongahela Power Company, Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, Savannah Electric & Power Company, The Cleveland Electric Illuminating Company, The Toledo Edison Company, Ohio Edison Company, and Pennsylvania Power Company, tendered for filing a Complaint against Virginia Electric and Power Company arising out of a dispute under the GAPP Experiment Participation Agreement and the Commission's Order Accepting For Filing GAPP Experiment Participation Agreement dated March 25, 1997 (78 FERC ¶ 61, 314).

Comment date: November 25, 1998, in accordance with Standard Paragraph E at the end of this notice. Answers to the Complaint are also due on or before November 25, 1998.

3. Braintree Electric Light Department v. Boston Edison Company

[Docket No. EL99–7–000]

Take notice that on October 22, 1998, Braintree Electric Light Department tendered for filing with the Federal Energy Regulatory Commission a Petition for Declaratory Order Disclaiming Primary Jurisdiction pursuant to Section 207 of the Commission's Rules of Practice and Procedure (18 CFR 385.207): (1) disclaiming primary jurisdiction over breach of contract, and contract amendment and termination issues, raised in Braintree's complaint in the Massachusetts Superior Court for Norfolk County (Case No. 98–01882—*Braintree Electric Light Department* v. *Boston Edison Company*); and (2) determining that the Massachusetts state court is the appropriate forum for resolving the contract dispute raised before the Commission by Boston

Edison Company (BECO) in Docket No. ER99–35–000.

Braintree requests the Commission decline primary jurisdiction over a contractual dispute implicated in both Braintree's civil complaint in Massachusetts Superior Court for Norfolk County for breach of contract, rescission and termination without liability of the Contract Demand Agreement between Braintree and BECO, and BECO's filing of contractually barred unilateral amendments to the Agreement in Docket No. ER99–35–000. Commission precedent requires disclaimer of primary jurisdiction over this dispute because (1) the Commission possesses no special expertise to resolve this contractual dispute, (2) there is no need for uniformity in the interpretation of this Contract, and (3) the issues raised in this case are distant in relation to the regulatory responsibilities of the Commission.

Comment date: November 25, 1998, in accordance with Standard Paragraph E at the end of this notice. Answers to the Complaint are also due on or before November 25, 1998.

4. Reading Municipal Light Department v. Boston Edison Company

[Docket No. EL99–8–000]

Take notice that on October 22, 1998, Reading Electric Light Department tendered for filing with the Federal Energy Regulatory Commission a Petition for Declaratory Order Disclaiming Primary Jurisdiction pursuant to Section 206 of the Federal Power Act and Section 207 of the Commission's Rules of Practice and Procedure (18 CFR 385.207): (1) disclaiming primary jurisdiction over breach of contract, and contract amendment and termination issues, raised in Reading's complaint in the Massachusetts Superior Court for Middlesex County (Case No. 98–5245F—*Reading Municipal Light Department* v. *Boston Edison Company*); and (2) determining that the Massachusetts state court is the appropriate forum for resolving the contract dispute raised before the Commission by Boston Edison Company (BECO) in Docket No. ER99–35–000.

Reading requests that the Commission decline primary jurisdiction over a contractual dispute implicated in both Reading's civil complaint in Massachusetts Superior Court for Middlesex County for breach of contract, rescission and termination without liability of the Contract Demand Agreement between Reading and BECO, and BECO's filing of contractually barred unilateral amendments to the agreement in Docket No. ER99–35–000. Commission precedent requires disclaimer of primary jurisdiction over this dispute because (1) the Commission possesses no special expertise to resolve this contractual dispute, (2) there is no need for uniformity in the interpretation of this Contract, and (3) the issues raised in this case are distant in relation to the regulatory responsibilities of the Commission.

Comment date: November 25, 1998, in accordance with Standard Paragraph E at the end of this notice. Answers to the Complaint are also due on or before November 25, 1998.

5. Carolina Power & Light Company

[Docket No. ER99–258–000]

Take notice that on October 21, 1998, Carolina Power & Light Company (CP&L), tendered for filing a Service Agreement for Short-Term Firm Point-to-Point Transmission Service with Consumers Energy Company and The Detroit Edison Company (collectively the Michigan Companies). Service to this Eligible Customer will be in accordance with the terms and conditions of Carolina Power & Light Company's Open Access Transmission Tariff.

CP&L is requesting an effective date of September 28, 1998, for this Service Agreement.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: November 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. PP&L, Inc.

[Docket No. ER99–259–000]

Take notice that on October 21, 1998, PP&L, Inc. (PP&L), tendered for filing a Service Agreement dated September 30, 1998, with Constellation Power Source, Inc. (Constellation), under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Volume No. 5. The Service Agreement adds Constellation as an eligible customer under the Tariff.

PP&L requests an effective date of October 21, 1998, for the Service Agreement.

PP&L states that copies of this filing have been supplied to Constellation and to the Pennsylvania Public Utility Commission.

Comment date: November 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Central Maine Power Company

[Docket No. ER99–260–000]

Take notice that on October 21, 1998, Central Maine Power Company (CMP), tendered for filing an executed service agreement for sale of capacity and/or energy entered into with TransCanada Power Marketing Ltd. Service will be provided pursuant to CMP's Wholesale Market Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 4.

CMP respectfully requests that the Commission accept the Service Agreement for filing and requests waiver of the Commission's notice requirements to permit service under the Agreement to become effective as of October 20, 1998.

Comment date: November 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Central Maine Power Company

[Docket No. ER99–261–000]

Take notice that on October 21, 1998, Central Maine Power Company (CMP), tendered for filing an executed service agreement for sale of capacity and/or energy entered into with Northeast Utilities Service Company (NUSCO). Service will be provided pursuant to CMP's Wholesale Market Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 4.

CMP respectfully requests that the Commission accept the Service Agreement for filing and requests waiver of the Commission's notice requirements to permit service under the Agreement to become effective as of October 20, 1998.

Comment date: November 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Maine Electric Power Company

[Docket No. ER99–262–000]

Take notice that on October 21, 1998, Maine Electric Power Co. (MEPCO), tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35, a Letter Agreement amending the term of two service agreements entered into with Bangor Hydro-Electric Company (BHE), one dated July 9, 1996, and the other dated July 24, 1996 (each as originally accepted for filing in Docket No. ER96–2634–000 and extended under ER98–22–000), under which MEPCO is providing Firm Point-to-Point Transmission Service in accordance with the MEPCO Open Access Transmission Tariff (the Tariff). The Letter Agreement extends the term of the Service Agreements to February 29, 2000.

MEPCO respectfully requests that the Commission accept the Letter Agreement for filing and establish an effective date of no later than October 31, 1998. MEPCO requests waiver of the Commission's notice requirements.

Comment date: November 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Maine Electric Power Company

[Docket No. ER99–263–000]

Take notice that on October 21, 1998, Maine Electric Power Company (MEPCO), tendered for filing a service agreement for Non-Firm Point-to-Point Transmission Service entered into with TransCanada Power Marketing, Ltd. Service will be provided pursuant to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented.

MEPCO respectfully requests that the Commission accept this Service Agreement for filing and requests waiver of the Commission's notice requirements to permit service under the agreement to become effective as of October 20, 1998.

Comment date: November 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Niagara Mohawk Power Corporation

[Docket No. OA96–194–005]

Take notice that on October 23, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing its compliance report pursuant to the Commission's order issued October 14, 1998. Copies of the filing have been served by Niagara Mohawk upon the other parties to the above-captioned proceeding.

Comment date: November 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. New England Power Company

[Docket Nos. OA97–237–004 and ER97–1327–001]

Take notice that on October 20, 1998, New England Power Company, tendered for filing its refund compliance report associated with refunds made directly to customers from revenue received by New England Power Company for Excepted Transactions under the NEPOOL Tariff.

Comment date: November 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98–29228 Filed 10–30–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–251–00, et al.]

Tampa Electric Company, et al.; Electric Rate and Corporate Regulation Filings

October 23, 1998.

Take notice that the following filings have been made with the Commission:

1. Tampa Electric Company

[Docket No. ER99–251–000]

Take notice that on October 20, 1998, Tampa Electric Company (Tampa Electric), tendered for filing a letter agreement that amends an existing letter of commitment providing for the sale of capacity and energy to the Florida Municipal Power Agency (FMPA).

Tampa Electric proposes that the letter agreement be made effective on December 19, 1998.

Copies of the filing have been served on FMPA and the Florida Public Service Commission.

Comment date: November 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Duke Energy Corporation

[Docket Nos. EL97–31–000, ER97–2095–001, ER97–2099–000, ER97–2099–001, ER97–2100–001, ER97–2211–001, ER97–2212–003, and ER97–2213–001]

Take notice that on October 19, 1998, Duke Energy Corporation (Duke) filed a compliance report in the above-referenced dockets in response to the Federal Energy Regulatory Commission's September 17, 1998 Order in those dockets. The report relates to refunds in connection with wholesale power service to the Seneca Light and Water Board, Seneca, South Carolina (Seneca) and the Commissioners of Public Works of the City of Greenwood, South Carolina (Greenwood). The report also sets forth the proposed accounting for Seneca's and Greenwood's stranded cost payments to Duke.

Comment date: November 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Sam Rayburn G&T Electric Cooperative, Inc. vs. Entergy Gulf States, Inc. Entergy Services Inc.

[Docket No. EL99–6–000]

Take notice that on October 21, 1998, Sam Rayburn G&T Electric Cooperative, Inc. tendered for filing a complaint against Entergy Gulf States, Inc., an operating company subsidiary of Entergy Corporation and Entergy Services, Inc., the Entergy Corporation subsidiary responsible for the rates, terms and conditions of transmission access for the Entergy operating companies.

Comment date: November 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. ICC Energy Corporation Wolverine Power Supply Cooperative, Inc., Eagle Gas Marketing Company, Kansas City Power & Light Co., Cook Inlet Energy Supply, J. Aron & Company, PacificCorp Power Marketing, Inc.

[Docket Nos. ER96–1819–008, ER98–411–006, ER96–1503–010, ER99–209–000, ER96–1410–011, ER95–34–017, and ER95–1096–015]

Take notice that the following informational filings have been made with the Commission and are available for public inspection and copying in the Commission's Public Reference Room:

On October 15, 1998, ICC Energy Corporation filed certain information as required by the Commission's June 26, 1996 order in Docket No. ER96–1819–000.

On October 15, 1998, Wolverine Power Supply Cooperative, Inc. filed certain information as required by the Commission's December 23, 1997 order in Docket No. ER98–411–000.

On October 15, 1998, Eagle Gas Marketing Company filed certain information as required by the Commission's May 8, 1996 order in Docket No. ER96–1503–000.

On October 15, 1998, Kansas City Power & Light Company filed certain

information as required by the Commission's April 30, 1996 order in Docket No. ER96–780–000.

On October 15, 1998, Cook Inlet Energy Supply filed certain information as required by the Commission's July 10, 1996 order in Docket No. ER96–1410–000.

On October 15, 1998, J. Aron & Company filed certain information as required by the Commission's March 1, 1995 order in Docket No. ER95–34–000.

On October 15, 1998, PacifiCorp Power Marketing, Inc. filed certain information as required by the Commission's February 14, 1996 order in Docket No. ER95–1096–000.

5. Northern States Power Company (Minnesota Company) and (Wisconsin Company)

[Docket No. ER99–239–000]

Take notice that on October 20, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively known as NSP), tendered for filing a Short-Term Market-Based Electric Service Agreement between NSP and Tenaska Power Services Co., (Customer).

NSP requests that this Short-Term Market-Based Electric Service Agreement be made effective on September 22, 1998.

Comment date: November 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Southwest Power Pool

[Docket No. ER99–252–000]

Take notice that on October 20, 1998, Southwest Power Pool (SSP), tendered for filing one executed service agreement with El Paso Power Services Company (El Paso), for non-firm point-to-point firm transmission service under the SPP Open Access Transmission Tariff (Tariff), and two executed service agreements with Constellation Power Source, Inc. (Constellation), for short-term firm point-to-point and non-firm point-to-point firm transmission service under the Tariff.

SPP requests an effective date of October 15, 1998 for the agreement with El Paso, and an effective date of September 28, 1998, for the agreements with Constellation.

Copies of this filing were served upon each of the parties to these agreements.

Comment date: November 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. PP&L, Inc.

[Docket No. ER99–253–000]

Take notice that on October 20, 1998, PP&L, Inc. (formerly known as Pennsylvania Power & Light Company) (PP&L), filed a Service Agreement dated September 29, 1998 with El Paso Energy Marketing Company (El Paso) under PP&L's Market-Based Rate, and Resale of Transmission Rights Tariff, FERC Electric Tariff, Volume No. 5. The Service Agreement adds El Paso as an eligible customer under the Tariff.

PP&L requests an effective date of October 20, 1998, for the Service Agreement.

PP&L states that copies of this filing have been supplied to El Paso and to the Pennsylvania Public Utility Commission.

Comment date: November 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

ENMAR Corporation

[Docket No. ER99–254–000]

Take notice that on October 20, 1998, ENMAR Corporation (ENMAR), petitioned the Commission for acceptance of ENMAR Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

ENMAR intends to engage in wholesale electric power and energy purchases and sales as a marketer. ENMAR is not in the business of generating or transmitting electric power. ENMAR has no affiliates.

Comment date: November 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. PacifiCorp

[Docket No. ER99–255–000]

Take notice that on October 20, 1998, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, an umbrella Service Agreement with the City of Glendale, the city of Idaho Falls and The Montana Power Trading & Marketing Company under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 12.

Copies of this filing were supplied to the Public Utility Commission of Oregon and the Washington Utilities and Transportation Commission.

Comment date: November 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. PJM Interconnection, L.L.C.

[Docket No. ER99–256–000]

Take notice that on October 20, 1998 the PJM Interconnection, L.L.C. (PJM), filed on behalf of the Members of the LLC, membership applications of American Cooperative Services, Inc., H.Q. Energy Services (U.S.) Inc., Merchant Group of Americas, Inc., PP&L EnergyPlus Company, and West Penn Power Company d/b/a Allegheny Energy.

PJM requests an effective date on the day after this Notice of Filing is filed with FERC.

Comment date: November 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Central Power and Light Company, et al.

[Docket No. ER99–257–000]

Take notice that on October 20, 1998, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company (collectively, the CSW Operating Companies), tendered for filing service agreements under which the CSW Operating Companies will provide transmission and ancillary services to Columbia Energy Power Marketing Corporation (Columbia) in accordance with the CSW Operating Companies' open access transmission service tariff.

The CSW Operating Companies state that a copy of the filing has been served on Columbia.

Comment date: November 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Orange and Rockland Utilities, Inc.

[Docket No. OA97–121–002]

Take notice that on October 19, 1998, Orange and Rockland Utilities, Inc. acting on behalf of itself and its wholly owned subsidiaries, Rockland Electric Company and Pike County Light & Power Company, (collectively referred to as the Company), in compliance with the Commission's Order on Standards of Conduct issued September 18, 1998 in Docket No. OA97–121–001, tendered for filing its revised Standards of Conduct for the separation of transmission operation functions and generation marketing functions.

Comment date: November 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Cinergy Services, Inc., et al.

[Docket No. OA97–419–002]

Take notice that on October 19, 1998, Cinergy Services, Inc., (Cinergy) on behalf of The Cincinnati Gas and Electric Company and PSI Energy, Inc. tendered for filing information to comply with the Commission's September 18, 1998 Order on Standards of Conduct in Atlantic City Electric Company, *et al.*, 84 FERC ¶61,255 (1998).

Copies of the filing were served upon all persons listed on the official service list compiled by the Office of the Secretary, representatives of customers having service agreements under the Cinergy Open Access Transmission Tariff, the Indiana Utility Regulatory Commission, the Public Utility Commission of Ohio and the Kentucky Public Service Commission.

Comment date: November 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Vermont Electric Power Company, Inc.

[Docket No. OA97–444–002]

Take notice that on October 19, 1998, Vermont Electric Power Company, Inc. (VELCO) tendered a filing in compliance with the Commission's Order of September 18, 1998 in this docket.

Copies of this filing were served on parties in this proceeding, the Vermont Department of Public Service, and the Vermont Public Service Board.

Comment date: November 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Central Illinois Light Co., QST Energy Trading Inc.

[Docket Nos. OA97–451–002 and OA97–596–003]

Take notice that on October 19, 1998, QST Energy Trading Inc. (QST Trading) and Central Illinois Light Co. made a revised filing of their Standards of Conduct as required by the Commission's Order issued September 18, 1998.

Comment date: November 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98–29229 Filed 10–30–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6183–1]

Agency Information Collection Activities Up for Renewal: Comment Request; State Program Adequacy Determination—Municipal Solid Waste Landfills (MSWLFs) and Non-municipal, Non-hazardous Waste Disposal Units that Receive Conditionally Exempt Small Quantity Generator (CESQG) Hazardous Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): State Program Adequacy Determination—Municipal Solid Waste Landfills (MSWLFs) and Non-municipal, Non-hazardous Waste Disposal Units that Receive Conditionally Exempt Small Quantity Generator (CESQG) Hazardous Waste, ICR Number 1608.02. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed continuing information collection as described below.

DATES: Comments must be submitted on or before January 4, 1999.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F–98–SIP–FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA HQ), 401 M Street, SW, Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address below. Comments also may be submitted electronically through the Internet to: <rcradocket@epamail.epa.gov>. Comments in electronic format also should be identified by the docket number F–98–SIP–FFFFF. All electronic comments must be submitted as an ASCCI file avoiding the use of special characters and any form of encryption.

Commenters should not electronically submit any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW, Washington, DC 20460.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. The index and supporting materials are available electronically.

The ICR is available on the Internet. Follow these instructions to access the information electronically:

WWW: <www.epa.gov/epaoswer/nonh-w/muncpl.landfill.htm>
FTP: ftp.epa.gov
Login: anonymous
Password: your Internet address
Files are located in </pub/epaoswer>.

The official record for this action will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official record, which will include all comments submitted in writing. EPA's response to comments, both written and electronic, will be placed in the official record. The Agency's response to major comments may also be published in a document in the "**Federal Register**." EPA will not immediately reply to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form, as discussed above.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call (703) 412–9810 or TDD (703) 412–3323.

For more detailed information on specific aspects of the rulemaking, contact Karen Rudek, Office of Solid Waste (5306W), 401 M Street, SW., Washington, DC 20460, (703) 308–1682, or <rudek.karen@epamail.epa.gov>.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are states that seek approval of permit programs for MSWLFs and for non-municipal, non-

hazardous waste disposal units that receive CESQG waste.

Title: State Program Adequacy Determination—Municipal Solid Waste Landfills (MSWLFs) and Non-municipal, Non-hazardous Waste Disposal Units that Receive Conditionally Exempt Small Quantity Generator (CESQG) Hazardous Waste, ICR Number 1608.02, renewal of ICR Number 1608.01, which expires April 30, 1999.

Abstract: Section 4010(c) of the Resource Conservation and Recovery Act (RCRA) of 1976 requires that EPA revise the landfill criteria promulgated under paragraph (1) of section 4004(a) and section 1008(a)(3). Section 4005(c) of RCRA, as amended by the Hazardous Solid Waste Amendments (HSWA) of 1984, requires states to develop and implement permit programs to ensure that MSWLFs and non-municipal, non-hazardous waste disposal units that receive household hazardous waste or CESQG hazardous waste are in compliance with the revised criteria for the design and operation of non-municipal, non-hazardous waste disposal units under 40 CFR part 257, subpart B and MSWLFs under 40 CFR part 258. (40 CFR part 257, subpart B and 40 CFR part 258 are henceforth referred to as the "revised federal criteria.") Section 4005(c) of RCRA further mandates the EPA Administrator to determine the adequacy of state permit programs to ensure owner and/or operator compliance with the revised federal criteria. A state program that is deemed adequate to ensure compliance may afford flexibility to owners or operators in the approaches they use to meet federal requirements, significantly reducing the burden associated with compliance.

In response to the statutory requirement in section 4005(c), EPA developed 40 CFR part 239, commonly referred to as the State Implementation Rule (SIR). The SIR describes the state application and EPA review procedures and defines the elements of an adequate state permit program.

The collection of information from the state during the permit program adequacy determination process allows EPA to evaluate whether a program for which approval is requested is appropriate in structure and authority to ensure owner or operator compliance with the revised federal criteria. The SIR does not require the use of a particular application form. Section 239.3 of the SIR, however, requires that all state applications contain the following five components:

(1) A transmittal letter requesting permit program approval.

(2) A narrative description of the state permit program, including a demonstration that the state's standards for non-municipal, non-hazardous waste disposal units that receive CESQG hazardous waste are technically comparable to the part 257, subpart B criteria and/or that its MSWLF standards are technically comparable to the part 258 criteria.

(3) A legal certification demonstrating that the state has the authority to carry out the program.

(4) Copies of state laws, regulations, and guidance that the state believes demonstrate program adequacy.

(5) Copies of relevant state-tribal agreements if the state has negotiated with a tribe for the implementation of a permit program for non-municipal, non-hazardous waste disposal units that receive CESQG hazardous waste and/or MSWLFs on tribal lands.

The EPA Administrator has delegated the authority to make determinations of adequacy, as contained in the statute, to the EPA Regional Administrator. The appropriate EPA Regional Office, therefore, will use the information provided by each state to determine whether the state's permit program satisfies the statutory test reflected in the requirements of 40 CFR part 239. In all cases, the information will be analyzed to determine the adequacy of the state's permit program for ensuring compliance with the federal revised criteria.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

EPA is soliciting comments to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

(3) Enhance the quality, utility, and clarity of the information to be collected.

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submission of responses).

Burden Statement: Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to enable them to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The total burden for states, territories, and the EPA regions for the collection and evaluation of information under this ICR is estimated to be about 19,500 hours and $583,000. The estimated burden includes time for reviewing instructions, searching existing data sources, gathering and maintaining necessary data, and completing and reviewing the collection of information. The ICR supporting statement describes the assumptions and information sources used to develop the burden estimate for this ICR. For a copy of the supporting statement, contact Karen Rudek at (703) 308–1682, or e-mail <rudek.karen@epamail.epa.gov>. Requests should reference the document title, "Supporting Statement for EPA Information Collection Request #1608.02." There is no recordkeeping burden associated with this ICR.

Dated: October 21, 1998.

Matthew Hale,

Acting Director, Office of Solid Waste.

[FR Doc. 98–29308 Filed 10–30–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6182–7]

Final NPDES General Permit for New and Existing Sources and New Dischargers in the Offshore Subcategory of the Oil and Gas Extraction Category for the Western Portion of the Outer Continental Shelf of the Gulf of Mexico (GMG290000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Final NPDES General Permit.

SUMMARY: EPA Region 6 today issues in part the National Pollutant Discharge Elimination System (NPDES) general permit for the Western Portion of the Outer Continental Shelf of the Gulf of Mexico (No. GMG290000) for discharges from new sources, existing sources, and new dischargers in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR part 435, subpart A). The existing permit published in the **Federal Register** at 61 FR 41609 on August 9, 1996 authorized discharges from exploration, development, and production facilities located in and discharging to Federal waters of the Gulf of Mexico seaward of the outer boundary of the territorial seas offshore off Louisiana and Texas. The discharge of produced water to that portion of the Outer Continental Shelf from Offshore Subcategory facilities located in the territorial seas off Louisiana and Texas was also authorized by that permit.

FOR FURTHER INFORMATION CONTACT: Ms. Wilma Turner, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202, Telephone: (214) 665 7516, or via EMAIL to the following address: turner.wilma@epamail.epa.gov

SUPPLEMENTAL INFORMATION:

Regulated Entities

Entities potentially regulated by this action are those which operate offshore oil and gas extraction facilities located in the Outer Continental Shelf Offshore of Louisiana and Texas.

Category	Examples of regulated entities
Industry	Offshore Oil and Gas Extraction Platforms.

This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your [facility, company, business, organization, etc.] is regulated by this action, you should carefully examine the applicability criteria in part I, section A.1. of the general permit. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Pursuant to section 402 of the Clean Water Act (CWA), 33 U.S.C. 1342, EPA proposed and solicited comments on NPDES general permit GMG290000 at 63 FR 2238 (January 14, 1998). Notice of this proposed permit was also published in the New Orleans Times Picayune on January 24, 1998. The comment period closed on March 16, 1998.

Region 6 received comments from the Offshore Operators Committee, American Petroleum Institute, Willie R. Taylor—United States Department of Interior, Shell Offshore, Inc., BP Exploration, Inc., and Exxon Company, U.S.A.

EPA Region 6 has considered all comments received. In response to those comments, the final decision to authorize the discharge of produced water is being postponed and will not be made at this time; however, all other discharges which were proposed are being authorized by the permit issued today. Due to the complexity of comments regarding produced water discharges, the Region could not adequately respond and issue the permit in a timely manner. A final decision on produced water discharges will be issued as soon as the Region can adequately respond to the related comments.

One of the comments concerning the produced water toxicity requirements raised the same issue with respect to the toxicity requirements for seawater and freshwater to which treatment chemicals have been added. That issue concerns Version 3.20 of CORMIX, the computer model which was used to calculate the proposed permit's toxicity limits. The Region is, nevertheless, authorizing in today's permit the discharge of freshwater and seawater to which treatment chemicals have been added with the limits as stated in the proposed permit. The Region has decided to go forward with the limits for discharges of freshwater and seawater to which treatment chemicals have been added for a number of reasons. First, the Region believes these limits are technically defensible and reasonable. The Region also recognizes an environmental need to issue standards for the discharge of freshwater and seawater to which treatment chemicals have been added, because such discharges are not currently authorized. Finally, if modifications to the limits are warranted after further review and analysis of the CORMIX computer model, the Region expects to make such modifications in the near future.

The Offshore Operators Committee (OOC) has indicated its support of the Region's approach, since a number of their members indicated a desire to discharge those waste streams as soon as possible. The OOC has stated they have no objection to including in today's permit of all of the proposed effluent limits for the freshwater and seawater to which treatment chemicals have been added, with the understanding that (1) when the Agency develops the second phase of the permit; i.e., authorizes the discharge of produced water, it will investigate all issues raised in OOC's comments regarding the use of the dispersion model used to derive the toxicity limits, and (2) if the Agency determines the model is inappropriate, it will modify the associated limits as a part of issuance of the second phase of the permit.

In response to other comments received, only minor changes in the permit's wording were made in the final permit. A copy of the Response to Comments may be obtained from Wilma Turner at the address listed above.

Other Legal Requirements

Ocean Discharge Criteria Evaluation

At 63 FR 2238, EPA Region 6 determined that discharges in compliance with the proposed general permit for the Western Gulf of Mexico Outer Continental Shelf general permit (GMG290000) would not cause unreasonable degradation of the marine environment. No comments have been received which disagree with that determination.

Coastal Zone Management Act

The Region found the proposed general permit consistent with approved Coastal Zone Management Plans for Louisiana and Texas and submitted those determinations to the appropriate State agencies for certification. Such certification was received from the Coastal Management Division of the Louisiana Department of Natural Resources. However, the Texas General Land Office informed EPA that this action is not subject to their consistency review, since the area covered under the permit is outside the Texas Coastal Management Program's boundary.

Marine Protection, Research, and Sanctuaries Act

The Marine Protection, Research and Sanctuaries Act (MPRSA) of 1972 regulates the dumping of all types of materials into ocean waters and establishes a permit program for ocean dumping. In addition the MPRSA establishes Marine Sanctuaries Program, implemented by the National Oceanographic and Atmospheric Administration (NOAA), which requires NOAA to designate ocean waters as marine sanctuaries for the purpose of preserving or restoring their conservation, recreational, ecological or aesthetic values. Pursuant to the Marine Protection and Sanctuaries Act, the National Oceanographic and Atmospheric Administration has designated the Flower Garden Banks, an area within the coverage of the OCS

general permit, a marine sanctuary. The OCS general permit prohibits discharges in areas of biological concern, including marine sanctuaries. No change adopted today affects that prohibition.

Endangered Species Act

As explained at 63 FR 2238, EPA has found that issuance of the General Permit for the Outer Continental for the Western Gulf of Mexico will not adversely affect any listed threatened or endangered species or designated critical habitat and requested written concurrence on that determination from the National Marine Fisheries Service. The National Marine Fisheries Service provided such concurrence on the proposed NPDES General Permit for the Western Portion of the Outer Continental Shelf of the Gulf of Mexico.

State Water Quality Standards and State Certification

Because state waters are not included in the area covered by this NPDES general permit, no state waters are affected by the discharges it authorizes. Thus, the state water quality certification provisions of CWA section 401 do not apply to this permit.

Executive Order 12866

The Office of Management and Budget (OMB) has exempted this action from the review requirements of Executive Order 12291 pursuant to section 8(b) of that order. Guidance on Executive Order 12866 contain the same exemptions on OMB review as existed under Executive Order 12291. In fact, however, EPA prepared a regulatory impact analysis in connection with its promulgation of guidelines on which a number of the permit's provisions are based and submitted it to OMB for review. See 58 FR 12494.

Paperwork Reduction Act

The information collection required by this permit has been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, in submission made for the NPDES permit program and assigned OMB control numbers 2040–0086 (NPDES permit application) and 2040–0004 (discharge monitoring reports).

Since this permit is very similar in reporting and application requirements and in discharges which are required to be monitored as the previous Western Gulf of Mexico Outer Continental Shelf (OCS) general permit (GMG290000) the paperwork burdens are expected to be nearly identical. When it issued the previous OCS general permit, EPA estimated it would take an affected facility three hours to prepare the request for coverage and 38 hours per year to prepare discharge monitoring reports. Although produced water discharges are not authorized by the permit at this time, it is estimated that the time required to prepare the request for coverage and discharge monitoring reports for the reissued permit will be approximately the same.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq*,io0 requires that EPA prepare a regulatory flexibility analysis for regulations that have a significant impact on a substantial number of small entities. As indicated below, the permit issued today is not a "rule" subject to the Regulatory Flexibility Act . EPA prepared a regulatory flexibility analysis, however, on the promulgation of the Offshore Subcategory guidelines on which many of the permit's effluent limitations are based. That analysis shows that issuance of this permit will not have a significant impact on a substantial number of small entities.

Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, generally requires Federal agencies to assess the effects of their "regulatory actions" on State, local, and tribal governments and the private sector. As stated in the **Federal Register** document for the proposed permit, this permit is not a rule which is subject to the requirements of the UMRA. The permit also would not uniquely affect small governments because compliance with the proposed permit conditions affects small governments in the same manner as any other entities seeking coverage under the permit. Additionally, EPA does not expect small governments to operate facilities authorized to discharge by this permit. No comments were received which challenge EPA's interpretation of the Unfunded Mandates Reform Act, as it applies to this permit.

National Environmental Policy Act (NEPA)

As stated in the **Federal Register** notice for the proposed permit (see 63 FR 2238, January 14, 1998) EPA determined that reissuance of this NPDES general permit will not result in any new impacts which were not subjected to NEPA analysis in either Mineral Management Service's EIS or the SEIS produced by EPA Region 6. All discharges authorized by this reissued permit were addressed in that NEPA Review. Thus EPA did not prepare a supplemental environmental impact statement for this action. No comments, on the proposed permit, were received which would suggest additional actions are required to meet the requirements of NEPA.

Authorization To Discharge Under the National Pollutant Discharge Elimination System

In compliance with the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et. seq. the "Act"), operators of lease blocks in the Oil and Gas Extraction Point Source Category which are located in Federal waters of the Western Portion of the Gulf of Mexico (defined as seaward of the outer boundary of the territorial seas off Louisiana and Texas) are authorized to discharge to the Western Portion of the Federal Waters of the Gulf of Mexico in accordance with effluent limitations, monitoring requirements, and other conditions set forth in parts I, II, and III hereof.

Operators of lease blocks located within the general permit area must submit written notification to the Regional Administrator that they intend to be covered (see part I.A.2). Unless otherwise notified in writing by the Regional Administrator after submission of the notification, owners or operators requesting coverage are authorized to discharge under this general permit. Operators of lease blocks within the general permit area who fail to notify the Regional Administrator of intent to be covered by this general permit are not authorized under this general permit to discharge pollutants from those facilities. Operators who have previously submitted a written notification of intent to be covered by a subsequent permit, as required by the previous permit, need not submit an additional notification of intent to be covered.

Facilities which adversely affect properties listed or eligible for listing in the National Register of Historic Places are not authorized to discharge under this permit.

This permit shall become effective at Midnight Central Daylight Savings Time on November 2, 1998.

This permit and the authorization to discharge shall expire at midnight,

Central Standard Time, November 3, 2003.

William B. Hathaway,

Director, Water Quality Protection Division, Region 6.

Part I. Requirements for NPDES Permits

Section A. Permit Applicability and Coverage Conditions

1. Operations Covered

This permit establishes effluent limitations, prohibitions, reporting requirements, and other conditions on discharges from oil and gas facilities engaged in production, field exploration, developmental drilling, well completion, well treatment operations, and well workover and abandonment operations.

The permit coverage area consists of lease blocks located in and discharging to Federal waters in the Gulf of Mexico seaward of the outer boundary of the territorial seas offshore of Louisiana and Texas and shall include lease blocks west of the western boundary of the outer continental shelf lease areas defined as: Mobile, Viosca Knoll (north part), Destin Dome, Desoto Canyon, Lloyd, and Henderson. In Texas, where the state has mineral rights to 3 leagues, some operators with state lease tracts are required to request coverage under this Federal NPDES general permit. This permit does not authorize discharges from facilities located in or discharging to the territorial seas of Louisiana or Texas or from facilities defined as "coastal," "onshore," or "stripper" (see 40 CFR part 435, subparts C, D, and E).

2. Notification Requirements

Written notification of intent to be covered including the legal name and address of the operator, the lease block number assigned by the Department of Interior or the state or, if none, the name commonly assigned to the lease area shall be submitted at least fourteen days prior to the commencement of discharge. If the lease block was previously covered by this or another permit, the operator shall also include the previous permit number in the notification. The notice of intent must also identify any facility which is a New Source and state the date on which the facility's protection from more stringent new source performance standards or technology based limitations ends. That date is the soonest of: ten years from the date that construction is completed, ten years from the date the source begins to discharge process or non-construction related waste water, or the end of the period of depreciation or amortization of the facility for the purposes of section 167 or 169 (or both) of the Internal Revenue code of 1954.

Additionally, if an application for an individual permit for the activity was previously submitted to EPA Region 6, the notice of intent shall include the application/permit number of that application or the permit number of any individual NPDES permit issued by EPA Region 6 for this activity.

Permittees located in lease blocks that (a) are neither in nor adjacent to MMS-defined "no activity" areas, or (b) do not require live-bottom surveys are required only to submit a notice of intent to be covered by this general permit. Permittees who are located in lease blocks that are either in or adjacent to "no activity" areas or require live bottom surveys are required to submit both a notice of intent to be covered that specifies they are located in such a lease block, and in addition are required to submit a notice of commencement of operations.

Permittees located in lease blocks either in or immediately adjacent to MMS-defined "no activity" areas, shall be responsible for determining whether a controlled discharge rate is required. The maximum discharge rate for drilling fluids is determined by the distance from the facility to the "no activity" area boundary and the discharge rate equation provided in part I.B.1.b. of this permit. The permittee shall report the distance from the permitted facility to the "no activity" area boundary and the calculated maximum discharge rate to EPA with its notice of commencement of operations.

For permittees located in lease blocks that require live-bottom surveys, the final determination of the presence or absence of live-bottom communities, the distance of the facility from identified live-bottom areas, and the calculated maximum discharge rate shall be reported with the notice of commencement of operations.

All notifications of intent to be covered and any subsequent reports under this permit shall be sent to the following address: Water Enforcement Branch (6EN-WC), Region 6, U.S. Environmental Protection Agency, P.O. Box 50625, Dallas, TX 75250. Operators who have previously submitted a written notification of intent to be covered by a subsequent permit, as required by the previous permit, need not submit an additional notification of intent to be covered.

3. Termination of Operations

Lease block operators shall notify the Regional Administrator within 60 days after the permanent termination of discharges from their facilities within the lease block.

Section B. Effluent Limitations and Monitoring Requirements

1. Drilling Fluids

The discharge of drilling fluids shall be limited and monitored by the permittee as specified in Table 2 of appendix A and as below.

Special Note: The permit prohibitions and limitations that apply to drilling fluids, also apply to fluids that adhere to drill cuttings. Any permit condition that may apply to the drilling fluid discharges, therefore, also applies to cuttings discharges.

[Exception] The discharge rate limit for drilling fluids does not apply to drill cuttings.

a. Prohibitions

Oil-Based Drilling Fluids. The discharge of oil-based drilling fluids and inverse emulsion drilling fluids is prohibited.

Oil Contaminated Drilling Fluids. The discharge of drilling fluids which contain waste engine oil, cooling oil, gear oil or any lubricants which have been previously used for purposes other than borehole lubrication, is prohibited.

Diesel Oil. Drilling fluids to which any diesel oil has been added as a lubricant may not be discharged.

b. Limitations

Mineral Oil. Mineral oil may be used only as a carrier fluid (transporter fluid), lubricity additive, or pill.

Cadmium and Mercury in Barite. There shall be no discharge of drilling fluids to which barite has been added, if such barite contains mercury in excess of 1.0 mg/kg (dry weight) or cadmium in excess of 3.0 mg/kg (dry weight). The permittee shall analyze a representative sample of all stock barite used once, prior to drilling each well, and submit the results for total mercury and cadmium in the Discharge Monitoring Report (DMR).

If more than one well is being drilled at a site, new analyses are not required for subsequent wells, provided that no new supplies of barite have been received since the previous analysis. In this case, the results of the previous analysis should be used on the DMR.

Alternatively, the permittee may provide certification, as documented by the supplier(s), that the barite being used on the well will meet the above limits. The concentration of the mercury and cadmium in the barite shall be reported on the DMR as documented by the supplier.

Analyses shall be conducted by absorption spectrophotometry (see 40

CFR part 136, flame and flameless AAS) and the results expressed in mg/kg (dry weight).

Toxicity. Discharged drilling fluids shall meet both a daily minimum and a monthly average minimum 96-hour LC50 of at least 30,000 ppm in a 9:1 seawater to drilling fluid suspended particulate phase (SPP) volumetric ratio using Mysidopsis bahia. Monitoring shall be performed at least once per month for both a daily minimum and the monthly average. In addition, an end-of-well sample is required for a daily minimum. The type of sample required is a grab sample, taken from beneath the shale shaker, or if there are no returns accross the shale shaker, the sample must be taken from a location that is characteristic of the overall mud system to be discharged. Permittees shall report pass or fail on the DMR using either the full toxicity test or the partial toxicity test as specified at 58 FR 12512; however, if the partial toxicity test shows a failure, all testing of future samples from that well shall be conducted using the full toxicity test method to determine the 96-hour LC50.

Free Oil. No free oil shall be discharged. Monitoring shall be performed using the static sheen method once per week when discharging. The number of days a sheen is observed must be recorded.

Discharge Rate. All facilities are subject to a maximum discharge rate of 1,000 barrels per hour.

For those facilities subject to the discharge rate limitation requirement because of their proximity to areas of biological concern, the discharge rate of drilling fluids shall be determined by the following equation:

$R = 10^{[3 \text{ Log } (d/15) + T_t]}$

Where:

R = discharge rate (bbl/hr)

d = distance (meters) from the boundary of a controlled discharge rate area

T_t = toxicity-based discharge rate term = [log (LC50 x 8 x 10^{-6})] / 0.3657

Drilling fluids discharges (based on a mud toxicity of 30,000 ppm) equal to or less than 544 meters from areas of biological concern shall comply with the discharge rate obtained from the equation above. Drilling fluids discharges which are shunted to the bottom as required by MMS lease stipulation are not subject to this discharge rate control requirement.

All discharged drilling fluids, including those fluids adhering to cuttings must meet the limitations of this section except that discharge rate limitations do not apply before installation of the marine riser.

C. Monitoring Requirements

Drilling Fluids Inventory. The permittee shall maintain a precise chemical inventory of all constituents and their total volume or mass added downhole for each well.

2. Drill Cuttings

The discharge of drill cuttings shall be limited and monitored by the permittee as specified in appendix A, Table 2 and as below.

a. Prohibitions

Cuttings from Oil Based Drilling Fluids. The discharge of cuttings that are generated while using an oil-based or invert emulsion mud is prohibited.

Cuttings from Oil Contaminated Drilling Fluids. The discharge of cuttings that are generated using drilling fluids which contain waste engine oil, cooling oil, gear oil or any lubricants which have been previously used for purposes other than borehole lubrication, is prohibited.

Cuttings Generated Using Drilling Fluids which Contain Diesel Oil. Drill cuttings generated using drilling fluids to which any diesel oil has been added as a lubricant may not be discharged.

Cuttings Generated Using Mineral Oil. The discharge of cuttings generated using drilling fluids which contain mineral oil is prohibited except when the mineral oil is used as a carrier fluid (transporter fluid), lubricity additive, or pill.

Cadmium and Mercury in Barite. Drill cuttings generated using drilling fluids to which barite has been added shall not be discharged if such barite contains mercury in excess of 1.0 mg/kg (dry weight) or cadmium in excess of 3.0 mg/kg (dry weight).

Toxicity. Drill cuttings generated using drilling fluids with a daily minimum or a monthly average minimum 96-hour LC50 of less than 30,000 ppm in a 9:1 seawater to drilling fluid suspended particulate phase (SPP) volumetric ratio using *Mysidopsis bahia* shall not be discharged.

b. Limitations

Free Oil. No free oil shall be discharged. Monitoring shall be performed using the static sheen test method once per week when discharging. The number of days a sheen is observed must be recorded.

3. Deck Drainage

a. Limitations

Free Oil. No free oil shall be discharged, as determined by the visual sheen method on the surface of the receiving water. Monitoring shall be performed once per day when discharging, during conditions when an observation of a visual sheen on the surface of the receiving water is possible in the vicinity of the discharge, and the facility is manned. The number of days a sheen is observed must be recorded.

4. Produced Sand

There shall be no discharge of produced sand.

5. Well Treatment Fluids, Completion Fluids, and Workover Fluids

a. Limitations

Free Oil. No free oil shall be discharged. Monitoring shall be performed using the static sheen test method once per day when discharging and the facility is manned. The number of days a sheen is observed must be recorded.

Oil and Grease. Well treatment, completion, and workover fluids must meet both a daily maximum of 42 mg/l and a monthly average of 29 mg/l limitation for oil and grease. The sample type may be either grab, or a 24-hour composite consisting of the arithmetic average of the results of 4 grab samples taken within the 24-hour period. If only one sample is taken for any one month, it must meet both the daily and monthly limits. The analytical method is that specified at 40 CFR part 136 or the alternate method described in part I.D.5 of this permit.

Priority Pollutants. For well treatment fluids, completion fluids, and workover fluids, the discharge of priority pollutants is prohibited except in trace amounts. Information on the specific chemical composition of any additives containing priority pollutants shall be recorded.

[Note] If materials added downhole as well treatment, completion, or workover fluids contain no priority pollutants, the discharge is assumed not to contain priority pollutants except possibly in trace amounts.

b. Monitoring Requirements

This discharge shall be considered produced water for monitoring purposes when commingled with produced water.

6. Sanitary Waste (Facilities Continuously Manned by 10 or More Persons)

a. Prohibitions

Solids. No floating solids may be discharged to the receiving waters. An observation must be made once per day for floating solids. Observation must be made during daylight in the vicinity of sanitary waste outfalls following either the morning or midday meal and at a time during maximum estimated discharge. The number of days solids are observed must be recorded.

b. Limitations

Residual Chlorine. Total residual chlorine is a surrogate parameter for fecal coliform. Discharge of residual chlorine must meet a minimum of 1 mg/l and shall be maintained as close to this concentration as possible. A grab sample must be taken once per month and the concentration recorded (approved method, Hach CN–66–DPD).

[Exception] Any facility which properly operates and maintains a marine sanitation device (MSD) that complies with pollution control standards and regulations under section 312 of the Act shall be deemed in compliance with permit limitations for sanitary waste. The MSD shall be tested yearly for proper operation and the test results maintained at the facility.

7. Sanitary Waste (Facilities Continuously Manned by 9 or Fewer Persons or Intermittently by Any Number)

Prohibitions

Solids. No floating solids may be discharged to the receiving waters. An observation must be made once per day for floating solids. Observation must be made during daylight in the vicinity of sanitary waste outfalls following either the morning or midday meal and at a time during maximum estimated discharge. The number of days solids are observed must be recorded.

[Exception] Any facility which properly operates and maintains a marine sanitation device (MSD) that complies with pollution control standards and regulations under section 312 of the Act shall be deemed to be in compliance with permit limitations for sanitary waste. The MSD shall be tested yearly for proper operation and the test results maintained at the facility.

8. Domestic Waste

a. Prohibitions

Solids. No floating solids or foam shall be discharged.

b. Monitoring Requirements

An observation shall be made once per day during daylight in the vicinity of domestic waste outfalls following the morning or midday meal and at a time during maximum estimated discharge. The number of days solids are observed must be recorded.

9. Miscellaneous Discharges

Desalination Unit Discharge
Diatomaceous Earth Filter Media
Blowout Preventer Fluid
Uncontaminated Ballast Water
Uncontaminated Bilge Water
Mud, Cuttings, and Cement at the Seafloor
Uncontaminated Freshwater
Uncontaminated Seawater
Boiler Blowdown
Source Water and Sand
Excess Cement Slurry

Limitations

Free Oil. No free oil shall be discharged. Discharge is limited to those times that a visual sheen observation is possible unless the operator uses the static sheen method. Monitoring shall be performed using the visual sheen method on the surface of the receiving water once per week when discharging, or by use of the static sheen method at the operator's option. The number of days a sheen is observed must be recorded.

[Exceptions] Uncontaminated seawater, uncontaminated freshwater, source water and source sand, uncontaminated bilge water, and uncontaminated ballast water may be discharged from platforms that are on automatic purge systems without monitoring for free oil when the facilities are not manned. Additionally, discharges at the seafloor of: muds and cuttings prior to installation of the marine riser, cement, and blowout preventer fluid may be discharged without monitoring with the static sheen test when conditions make observation of a visual sheen on the surface of the receiving water impossible.

10. Miscellaneous Discharges of Seawater and Freshwater Which Have Been Chemically Treated

Excess seawater which permits the continuous operation of fire control and utility lift pumps
Excess seawater from pressure maintenance and secondary recovery projects
Water released during training of personnel in fire protection
Seawater used to pressure test new piping and new pipelines
Ballast water
Once Through Non-contact cooling water
Desalinization unit discharge

a. Limitations

Treatment Chemicals. The concentration of treatment chemicals in discharged seawater or freshwater shall not exceed the most stringent of the following three constraints:

(1) The maximum concentrations and any other conditions specified in the EPA product registration labeling if the chemical is an EPA registered product.

(2) The maximum manufacturer's recommended concentration.

(3) 500 mg/l.

Free Oil. No free oil shall be discharged. Discharge is limited to those times that a visible sheen observation is possible unless the operator uses the static sheen method. Monitoring shall be performed using the visual sheen method on the surface of the receiving water once per week when discharging, or by use of the static sheen method at the operator's option. The number of days a sheen is observed must be recorded.

Toxicity. The 48-hour minimum and monthly average minimum No Observable Effect Concentration (NOEC), or if specified the 7-day average minimum and monthly average minimum NOEC, must be equal to or greater than the critical dilution concentration specified in this permit in Table 3-A for seawater discharges and 3-B for freshwater discharges. Critical dilution shall be determined using Table 3 of this permit and is based on the discharge rate, discharge pipe diameter, and water depth between the discharge pipe and the bottom. The monthly average minimum NOEC value is defined as the arithmetic average of all 48-hour average NOEC (or 7-day average minimum NOEC) values determined during the month.

b. Monitoring Requirements

Flow. Once per month, an estimate of the flow (MGD) must be recorded.

Toxicity. The required frequency of testing for continuous discharges shall be determined as follows:

Discharge rate	Toxicity testing frequency
0—499 bbl/day	Once per year.
500—4,599 bbl/day	Once per quarter.
4,600 bbl/day and above.	Once per month.

Intermittent or batch discharges shall be monitored once per discharge but are required to be monitored no more frequently than the corresponding frequencies shown above for continuous discharges.

Samples shall be collected after addition of any added substances, including seawater that is added prior to discharge, and before the flow is split for multiple discharge ports. Samples also shall be representative of the discharge. Methods to increase dilution previously described for produced water in part I.B.4.a also apply to seawater and freshwater discharges which have been chemically treated.

If the permittee has been compliant with this toxicity limit for one full year (12 consecutive months) for a continuous discharge of chemically treated seawater or freshwater, the required testing frequency shall be reduced to once per year for that discharge.

Section C. Other Discharge Limitations

1. Floating Solids or Visible Foam

There shall be no discharge of floating solids or visible foam from any source in other than trace amounts.

[Exception] For new sources, this limitation only applies to miscellaneous discharges and domestic waste discharges.

2. Halogenated Phenol Compounds

There shall be no discharge of halogenated phenol compounds as a part of any waste stream authorized in this permit.

3. Dispersants, Surfactants, and Detergents

The facility operator shall minimize the discharge of dispersants, surfactants and detergents except as necessary to comply with the safety requirements of the Occupational Safety and Health Administration and the Minerals Management Service. This restriction applies to tank cleaning and other operations which do not directly involve the safety of workers. The restriction is imposed because detergents disperse and emulsify oil, thereby increasing toxicity and making the detection of a discharge of oil more difficult.

4. Garbage

The discharge of garbage (see part II.G.32) is prohibited .

[Exception] Comminuted food waste (able to pass through a screen with a mesh no larger than 25 mm, approx. 1 inch) may be discharged when 12 nautical miles or more from land.

5. Area of Biological Concern

There shall be no discharge in Areas of Biological Concern, including marine sanctuaries. The Flower Garden Banks has been determined to be a Marine Sanctuary and is within the geographical area covered under this permit.

Section D. Other Conditions

1. Samples of Wastes

If requested, the permittee shall provide EPA with a sample of any waste in a manner specified by the Agency.

2. Drilling Fluids Toxicity Test

The approved test method for permit compliance is identified as: Drilling Fluids Toxicity Test at 40 *CFR* part 435, subpart A, appendix 2.

3. Chemically Treated Seawater and Freshwater Toxicity Testing Requirements (48-Hour Acute NOEC Marine Limits)

The approved test methods for permit compliance are identified in 40 CFR part 136.

a. The permittee shall utilize the *Mysidopsis bahia* (Mysid shrimp) acute static renewal 48-hour definitive toxicity test using EPA/600/4–90/027F.

b. *Menidia beryllina* (Inland Silverside minnow) acute static renewal 48-hour definitive toxicity test using EPA/600/4–90/027F.

c. The NOEC (No observable Effect Concentration) is defined as the greatest effluent dilution which does not result in lethality that is statistically different from the control (0% effluent) at the 95% confidence level.

d. If the effluent fails the survival endpoint at the critical dilution, the permittee shall be considered in violation of this permit limit. Also, when the testing frequency stated above is less than monthly and the effluent fails the survival endpoint at the critical dilution, the monitoring frequency for the affected species will increase to monthly until such time as compliance with the Lethal No Observed Effect Concentration (NOEC) effluent limitation is demonstrated for a period of three consecutive months, at which time the permittee may return to the testing frequency stated in part I.B.11.b of this permit. During the period the permittee is out of compliance, test results shall be reported on the DMR for that reporting period.

e. This permit may be reopened to require chemical specific effluent limits, additional testing, and/or other appropriate actions to address toxicity.

f. Test Acceptance. The permittee shall repeat a test, including the control and all effluent dilutions, if the procedures and quality assurance requirements defined in the test methods or in this permit are not satisfied, including the following additional criteria:

(1) Each toxicity test control (0% effluent) must have a survival equal to or greater than 90%.

(2) The percent coefficient of variation between replicates shall be 40% or less in the control (0% effluent) for the Mysid shrimp survival test and the Inland Silverside minnow survival test.

(3) The percent coefficient of variation between replicates shall be 40% or less in the critical dilution, *unless* significant lethal effects are exhibited for the Mysid shrimp survival test and the Inland Silverside minnow survival test.

Test failure may not be construed or reported as invalid due to a coefficient of variation value of greater than 40%. A repeat test shall be conducted within the required reporting period of any test determined to be invalid.

g. Statistical Interpretation. For the Mysid shrimp survival test and the Inland Silverside minnow survival test, the statistical analyses used to determine if there is a statistically significant difference between the control and the critical dilution shall be in accordance with the methods for determining the No Observed Effect Concentration (NOEC) as described in EPA/600/4–90/027F or the most recent update thereof.

If the conditions of Test Acceptability are met in Item 4.f above and the percent survival of the test organism is equal to or greater than 80% in the critical dilution concentration and all lower dilution concentrations, the test shall be considered to be a passing test, and the permittee shall report an NOEC of not less than the critical dilution for the DMR reporting requirements found in Item i below.

h. The permittee shall prepare a full report of the results of all tests conducted pursuant to this section in accordance with the Report Preparation section of "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms," EPA/600/4–90/027F, or the latest update thereof, for every valid or invalid toxicity test initiated whether carried to completion or not. The permittee shall retain each full report pursuant to the provisions of part II.C.3 of this permit. The permittee shall submit full reports only upon the specific request of the Agency.

i. In accordance with part II.D.4 of this permit, the permittee shall report on the DMR for the reporting period whether the lowest Whole Effluent Lethality values determined for either species passed the 30-Day Average Minimum and 48-Hour Minimum NOEC. In addition, the permittee shall report on the DMR the lowest NOEC survival value of the two species.

4. Oil and Grease Alternative Test Procedure: Interim Limited Use Approval

Proposed Method 1664 (61 FR 1730, January 23, 1996) may be used as an alternative test procedure for NPDES permit compliance monitoring purposes. This approval shall expire at the time of the publication in the **Federal Register** of the final rule governing the use of Method 1664. This approval includes all of the analytical options within Method 1664 provided the equivalency demonstration is performed and all performance specifications are met.

5. Visual Sheen Test

The visual sheen test is used to detect free oil by observing the surface of the receiving water for the presence of a sheen while discharging. The operator must conduct a visual sheen test only at times when a sheen could be observed. This restriction eliminates observations when atmospheric or surface conditions prohibit the observer from detecting a sheen (e.g., overcast skies, rough seas, etc.).

The observer must be positioned on the rig or platform, relative to both the discharge point and current flow at the time of discharge, such that the observer can detect a sheen should it surface down current from the discharge. For discharges that have been occurring for a least 15 minutes previously, observations may be made any time thereafter. For discharges of less than 15 minutes duration, observations must be made during both discharge and at 5 minutes after discharge has ceased.

6. Static Sheen Test

The approved test method for permit compliance is identified as: Static Sheen Test at 40 CFR part 435, subpart A, appendix 1.

Part II. Standard Conditions for NPDES Permits

Section A. General Conditions

1. Introduction

In accordance with the provisions of 40 CFR part 122.41, et. seq., this permit incorporates by reference ALL conditions and requirements applicable to NPDES permits set forth in the Clean Water Act, as amended, (herein-after known as the "Act") as well as ALL applicable regulations.

2. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action or for requiring a permittee to apply and obtain an individual NPDES permit.

3. Toxic Pollutants

a. Notwithstanding part II.A.4, if any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under section 307(a) of the Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition.

b. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Act for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

4. Permit Flexibility

This permit may be modified, revoked and reissued, or terminated for cause in accordance with 40 CFR 122.62–64. The filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

5. Property Rights

This permit does not convey any property rights of any sort, or any exclusive privilege.

6. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

7. Criminal and Civil Liability

Except as provided in permit conditions on "Bypassing" and "Upsets," nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of the permit, the Act, or applicable regulations, which avoids or effectively defeats the regulatory purpose of the permit may subject the permittee to criminal enforcement pursuant to 18 U.S.C. 1001.

8. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Act.

9. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State Law or regulation under authority preserved by section 510 of the Act.

10. Severability

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

Section B. Proper Operation and Maintenance

1. Need to Halt or Reduce Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. The permittee is responsible for maintaining adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failure either by means of alternate power sources, standby generators or retention of inadequately treated effluent.

2. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

3. Proper Operation and Maintenance

a. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by permittee as efficiently as possible and in a manner which will minimize upsets and discharges of excessive pollutants and will achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are

installed by a permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

b. The permittee shall provide an adequate operating staff which is duly qualified to carry out operation, maintenance and testing functions required to insure compliance with the conditions of this permit.

4. Bypass of Treatment Facilities

a. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of parts II.B.4.b and 4.c.

b. Notice.

(1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall, within 24 hours, submit notice of an unanticipated bypass as required in part II.D.7.

c. Prohibition of Bypass.

(1) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,

(c) The permittee submitted notices as required by part II.B.4.b.

(2) The Director may allow an anticipated bypass after considering its adverse effects, if the Director determines that it will meet the three conditions listed at part II.B.4.c(1).

5. Upset Conditions

a. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of part II.B.5.b. are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

b. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required by part II.D.7; and,

(4) The permittee complied with any remedial measures required by part II.B.2.

c. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

6. Removed Substances

Solids, sewage sludges, filter backwash, or other pollutants removed in the course of treatment or wastewater control shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters. Any substance specifically listed within this permit may be discharged in accordance with specified conditions, terms, or limitations.

Section C. Monitoring and Records

1. Inspection and Entry

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by the law to:

a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and

d. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

2. Representative Sampling

Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

3. Retention of Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Director at any time.

The operator shall maintain records at development and production facilities for 3 years, wherever practicable and at a specific shore-based site whenever not practicable. The operator is responsible for maintaining records at exploratory facilities while they are discharging under the operators control and at a specific shore-based site for the remainder of the 3-year retention period.

4. Record Contents

Records of monitoring information shall include:

a. The date, exact place, and time of sampling or measurements;

b. The individual(s) who performed the sampling or measurements;

c. The date(s) and time(s) analyses were performed;

d. The individual(s) who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

5. Monitoring Procedures

a. Monitoring must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in this permit or approved by the Regional Administrator.

b. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instruments at intervals frequent enough to insure accuracy of measurements and shall maintain appropriate records of such activities.

c. An adequate analytical quality control program, including the analyses of sufficient standards, spikes, and duplicate samples to insure the accuracy of all required analytical results shall be maintained by the permittee or designated commercial laboratory.

6. Flow Measurements

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to insure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than 10% from true discharge rates throughout the range of expected discharge volumes.

Section D. Reporting Requirements

1. Planned Changes

The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

(1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR part 122.29(b); or,

(2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements listed at part II.D.10.a.

2. Anticipated Noncompliance

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

3. Transfers

This permit is not transferable to any person except after notice to the Regional Administrator. The Regional Administrator may require modification or revocation and reissuance of the permit to change the name of the permittee and to incorporate such requirements as may be necessary under the Act.

4. Discharge Monitoring Reports and Other Reports

The operator of each lease block shall be responsible for submitting monitoring results for all facilities within each lease block. The monitoring results for the facilities (platform, drilling ship, or semisubmersible) within the particular lease block shall be summarized on the annual Discharge Monitoring Report for that lease block.

Monitoring results obtained during the previous 12 months shall be summarized and reported on a Discharge Monitoring Report (DMR) form (EPA No. 3320–1).

If any category of waste (discharge) is not applicable for all facilities within the lease block, due to the type of operations (e.g., drilling, production) no reporting is required; however, "no discharge" must be recorded for those categories on the DMR. Operators may list a summary of all lease blocks where there is no activity in lieu of DMRs for those lease blocks. The summary must state each lease block name and outfall number and must include the monitoring period. All pages of the DMR, or summary of no activity lease blocks, must be signed and certified as required by part II.D.11 of this permit and returned when due.

Additionally, the lease block number assigned by the Department of the Interior shall be listed on all Discharge Monitoring Reports.

5. Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report (DMR). Such increased monitoring frequency shall also be indicated on the DMR.

6. Averaging of Measurements

Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified.

7. Twenty-Four Hour Reporting

a. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. Alternatively to oral reporting, the permittee may report by EMAIL at the following address: R6GENPERMIT@epamail.epa.gov. A written submission shall be provided within 5 days of the time the permittee becomes aware of the circumstances. The report shall contain the following information:

(1) A description of the noncompliance and its cause;

(2) The period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and,

(3) Steps being taken to reduce, eliminate, and prevent recurrence of the noncomplying discharge.

b. The following shall be included as information which must be reported within 24 hours:

(1) Any unanticipated bypass which exceeds any effluent limitation in the permit;

(2) Any upset which exceeds any effluent limitation in the permit; and,

(3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in Part II of the permit to be reported within 24 hours.

c. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

8. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under parts II.D.4 and D.7 at the time monitoring reports are submitted. The reports shall contain the information listed at part II.D.7.

9. Other Information

Where the permittee becomes aware that he failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, he shall promptly submit such facts or information.

10. Signatory Requirements

All applications, reports, or information submitted to the Director shall be signed and certified.

a. All permit applications shall be signed as follows:

(1) For a corporation—by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

(a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or,

(b) The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) For a partnership or sole proprietorship—by a general partner or the proprietor, respectively.

(3) For a municipality, State, Federal, or other public agency—by either a principal executive officer or ranking elected official. For purposes of this election, a principal executive officer of a Federal agency includes:

(a) The chief executive officer of the agency, or

(b) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

b. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described above;

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or an individual occupying a named position; and,

(3) The written authorization is submitted to the Director.

c. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

11. Availability of Reports

Except for applications, effluent data, permits, and other data specified in 40 CFR 122.7, any information submitted pursuant to this permit may be claimed as confidential by the submitter. If no claim is made at the time of submission, information may be made available to the public without further notice.

Section E. Penalties for Violations of Permit Conditions

1. Criminal

a. Negligent Violations

The Act provides that any person who negligently violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less $2,500 nor more then $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

b. Knowing Violations

The Act provides that any person who knowingly violates permit conditions implementing sections 301, 302, 306, 307, 308, 318 or 405 of the Act is subject to a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

c. Knowing Endangerment

The Act provides that any person who knowingly violates permit conditions implementing sections 301, 302, 303, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than $250,000, or by imprisonment for not more than 15 years, or both.

d. False Statements

The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or by both (see section 309.c.4 of the Clean Water Act).

2. Civil Penalties

The Act provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $27,500 per day for each violation.

3. Administrative Penalties

The Act provides that any person who violates a permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

a. Class I Penalty

Not to exceed $11,000 per violation nor shall the maximum amount exceed $27,500.

b. Class II Penalty

Not to exceed $11,000 per day for each day during which the violation continues nor shall the maximum amount exceed $137,500.

Section F. Additional General Permit Conditions

1. When the Regional Administrator May Require Application for an Individual NPDES Permit

The Regional Administrator may require any person authorized by this permit to apply for and obtain an individual NPDES permit when:

a. The discharge(s) is a significant contributor of pollution;

b. The discharger is not in compliance with the conditions of this permit;

c. A change has occurred in the availability of the demonstrated technology or practices for the control or abatement of pollutants applicable to the point sources;

d. Effluent limitations guidelines are promulgated for point sources covered by this permit;

e. A Water Quality Management Plan containing requirements applicable to such point source is approved;

f. The point source(s) covered by this permit no longer:

(1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations or operating conditions;

(4) Require the same or similar monitoring; and

(5) In the opinion of the Regional Administrator, are more appropriately controlled under an individual permit than under a general permit.

g. The bioaccumulation monitoring results show concentrations of the listed pollutants in excess of levels safe for human consumption.

The Regional Administrator may require any operator authorized by this permit to apply for an individual NPDES permit only if the operator has been notified in writing that a permit application is required.

2. When an Individual NPDES Permit May be Requested

a. Any operator authorized by this permit may request to be excluded from the coverage of this general permit by applying for an individual permit.

b. When an individual NPDES permit is issued to an operator otherwise subject to this general permit, the applicability of this permit to the owner or operator is automatically terminated on the effective date of this individual permit.

c. A source excluded from coverage under this general permit solely because it already has an individual permit may request that its individual permit be revoked, and that it be covered by this general permit. Upon revocation of the individual permit, this general permit shall apply to the source.

3. Permit Reopener Clause

If applicable new or revised effluent limitations guidelines or New Source Performance Standards covering the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR part 435) are promulgated in accordance with sections 301(b), 304(b)(2), and 307(a)(2), and the new or revised effluent limitations guidelines or New Source Performance Standards are more stringent than any effluent limitations in this permit or control a pollutant not limited in this permit, the permit may, at the Director's discretion, be modified to conform to the new or revised effluent limitations guidelines.

Notwithstanding the above, if an offshore oil and gas extraction point source discharge facility is subject to the ten year protection period for new source performance standards under the Clean Water Act section 306(d), this reopener clause may not be used to modify the permit to conform to more stringent new source performance standards or technology based standards developed under section 301(b)(2) during the ten year period specified in 40 CFR part 122.29(d).

The Director may modify this permit upon meeting the conditions set forth in this reopener clause.

Section G. Definitions

All definitions contained in section 502 of the Act shall apply to this permit and are incorporated herein by references. Unless otherwise specified in this permit, additional definitions of words or phrases used in this permit are as follows:

1. "Act" means the Clean Water Act (33 U.S.C. 1251 et. seq.), as amended.

2. "Administrator" means the Administrator of the U.S. Environmental Protection Agency.

3. "Annual Average" means the average of all discharges sampled and/or measured during a calendar year in which daily discharges are sampled and/or measured, divided by the number of discharges sampled and/or measured during such year.

4. "Applicable effluent standards and limitations" means all state and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards or performance, toxic effluent standards and prohibitions, and pretreatment standards.

5. "Applicable water quality standards" means all water quality standards to which a discharge is subject under the Act.

6. "Areas of Biological Concern" means a portion of the OCS identified by EPA, in consultation with the Department of Interior as containing potentially productive or unique biological communities or as being potentially sensitive to discharges associated with oil and gas activities.

7. "Blow-Out Preventer Control Fluid" means fluid used to actuate the hydraulic equipment on the blow-out preventer or subsea production wellhead assembly.

8. "Boiler Blowdown" means discharges from boilers necessary to minimize solids build-up in the boilers, including vents from boilers and other heating systems.

9. "Bulk Discharge" any discharge of a discrete volume or mass of effluent from a pit tank or similar container that occurs on a one-time, infrequent or irregular basis.

10. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

11. "Completion Fluids" means salt solutions, weighted brines, polymers and various additives used to prevent damage to the well bore during operations which prepare the drilled well for hydrocarbon production. These fluids move into the formation and return to the surface as a slug with the produced water. Drilling muds remaining in the wellbore during logging, casing, and cementing operations or during temporary abandonment of the well are not considered completion fluids and are regulated by drilling fluids requirements.

12. "Controlled Discharge Rates Areas" means zones adjacent to areas of biological concern.

13. "Daily Discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the sampling day. Daily discharge determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the daily discharge determination of concentration shall be arithmetic average (weighted by flow value) of all samples collected during that sampling day.

14. "Daily Average" (also known as monthly average) discharge limitations means the highest allowable average of daily discharge(s) over a calendar month, calculated as the sum of all daily discharge(s) measured during a calendar month divided by the number of daily discharge(s) measured during that month. When the permit establishes daily average concentration effluent limitations or conditions, the daily average concentration means the arithmetic average (weighted by flow) of all daily discharge(s) of concentration determined during the calendar month where C = daily concentration, F = daily flow, and n = number of daily samples; daily average discharge =

$$\frac{C_1F_1 + C_2F_2 + \cdots + C_nF_n}{F_1 + F_2 + \cdots + F_n}.$$

15. "Daily Maximum" discharge limitations means the highest allowable "daily discharge" during the calendar month.

16. "Desalinization Unit Discharge" means wastewater associated with the process of creating freshwater from seawater.

17. "Deck Drainage" means any waste resulting from deck washings, spillage, rainwater, and runoff from gutters and drains including drip pans and work areas within facilities covered under this permit.

18. "Development Drilling" means the drilling of wells required to efficiently produce a hydrocarbon formation or formations.

19. "Development Facility" means any fixed or mobile structure that is engaged in the drilling of productive wells.

20. "Diatomaceous Earth Filter Media" means filter media used to filter seawater or other authorized completion fluids and subsequently washed from the filter.

21. "Diesel Oil" means the grade of distillate fuel oil, as specified in the American Society for Testing and Materials Standard Specification D975–81, that is typically used as the continuous phase in conventional oil-based drilling fluids.

22. "Director" means the U.S. Environmental Protection Agency Regional Administrator or an authorized representative.

23. "Domestic Waste" means material discharged from galleys, sinks, showers, safety showers, eye wash stations, hand washing stations, fish cleaning stations, and laundries.

24. "Drill Cuttings" means particles generated by drilling into the subsurface geological formations including cured cement carried to the surface with the drilling fluid.

25. "Drilling Fluids" means the circulating fluid (mud) used in the rotary drilling of wells to clean and condition the hole and to counterbalance formation pressure. A water-based drilling fluid is the conventional drilling mud in which water is the continuous phase and the suspending medium for solids, whether or not oil is present. An oil based drilling fluids has diesel oil, mineral oil, or some other oil as its continuous phase with water as the dispersed phase.

26. "End of well Sample" means the sample taken after the final log run is completed and prior to bulk discharge.

27. "Environmental Protection Agency" (EPA) means the U.S. Environmental Protection Agency.

28. "Excess Cement Slurry" means the excess mixed cement, including additives and wastes from equipment washdown, after a cementing operation.

29. "Exploratory Facility" means any fixed or mobile structure that is engaged in the drilling of wells to determine the nature of potential hydrocarbon reservoirs.

30. "Fecal Coliform Bacteria Sample" consists of one effluent grab portion collected during a 24-hour period at peak loads.

31. "Grab sample" means an individual sample collected in less than 15 minutes.

32. "Garbage" means all kinds of food waste, wastes generated in living areas on the facility, and operational waste, excluding fresh fish and parts thereof, generated during the normal operation of the facility and liable to be disposed of continuously or periodically, except dishwater, graywater, and those substances that are defined or listed in other Annexes to MARPOL 73/78.

33. "Graywater" means drainage from dishwater, shower, laundry, bath, and washbasin drains and does not include drainage from toilets, urinals, hospitals, and cargo spaces.

34. "Inverse Emulsion Drilling Fluids" means an oil-based drilling fluid which also contains a large amount of water.

35. "Live bottom areas" means those areas which contain biological assemblages consisting of such sessile invertebrates as seas fans, sea whips, hydroids, anemones, ascideians sponges, bryozoans, seagrasses, or corals living upon and attached to naturally occurring hard or rocky formations with fishes and other fauna.

36. "Maintenance waste" means materials collected while maintaining and operating the facility, including, but not limited to, soot, machinery deposits, scraped paint, deck sweepings, wiping wastes, and rags.

37. "Maximum Hourly Rate" means the greatest number of barrels of drilling fluids discharged within one hour, expressed as barrels per hour.

38. "Muds, Cuttings, and Cement at the Seafloor" means discharges that occur at the seafloor prior to installation of the marine riser and during marine riser disconnect, well abandonment and plugging operations.

39. "National Pollutant Discharge Elimination System" (NPDES) means the national program for issuing, modifying, revoking, and reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under section 307, 318, 402, and 405 of the Act.

40. "New Source" means any facility or activity that meets the definition of "new source" under 40 CFR 122.2 and meets the criteria for determination of new sources under 40 CFR 122.29(b) applied consistently with all of the following definitions:

a. The term "water area" as used in the term "site" in 40 CFR 122.29 and 122.2 shall mean the water area and ocean floor beneath any exploratory, development, or production facility where such facility is conducting its exploratory, development, or production activities.

b. The term "significant site preparation work" as used in 40 CFR 122.29 shall mean the process of surveying, clearing, or preparing an area of the ocean floor for the purpose of constructing or placing a development or production facility on or over the site.

41. "No Activity Zones" means those areas identified by the Minerals Management Service (MMS) where no structures, drilling rigs, or pipelines will be allowed. Those zones are identified as lease stipulations in U.S. Department of Interior, MMS, August, 1990, Environmental Impact Statement for Sales 131, 135, and 137, Western, Central, and Eastern Gulf of Mexico. Additional no activity areas may be identified by MMS during the life of this permit.

42. "Operational waste" means all cargo associated waste, maintenance waste, cargo residues, and ashes and clinkers from incinerators and coal burning boilers.

43. "Packer Fluid" means low solids fluids between the packer, production string and well casing. They are considered to be workover fluids.

44. "Priority Pollutants" means those chemicals or elements identified by EPA, pursuant to section 307 of the Clean Water Act and 40 CFR 401.15.

45. "Produced Sand" means slurried particles used in hydraulic fracturing, the accumulated formation sands, and scale particles generated during production. Produced sand also includes desander discharge from produced water waste stream and blowdown of water phase from the produced water treating system.

46. "Produced Water" means the water (brine) brought up from the hydrocarbon-bearing strata during the extraction of oil and gas, and can include formation water, injection water, and any chemicals added downhole or during the oil/water separation process.

47. "Production Facility" means any fixed or mobile structure that is either engaged in well completion or used for active recovery of hydrocarbons from producing formations.

48. "Sanitary Waste" means human body waste discharged from toilets and urinals.

49. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

50. "Sheen" means a silvery or metallic sheen, gloss, or increased reflectivity, visual color or iridescence on the water surface.

51. "Source Water and Sand" means water from non-hydrocarbon bearing formations for the purpose of pressure maintenance or secondary recovery including the entrained solids.

52. "Spotting" means the process of adding a lubricant (spot) downhole to free stuck pipe.

53. Synthetic Drilling Fluid" means a drilling fluids which has synthetic material as its continuous phase with water as the dispersed phase.

54. "Territorial Seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

55. "Trace Amounts" means that if materials added downhole as well treatment, completion, or workover fluids do not contain priority pollutants then the discharge is assumed not to contain priority pollutants, except possibly in trace amounts.

56. "Treatment Chemicals" means biocides, corrosion inhibitors, or other chemicals which are used to treat seawater or freshwater to prevent corrosion or fouling of piping or equipement.

57. "Uncontaminated Ballast/Bilge Water" means seawater added or removed to maintain proper draft.

58. "Uncontaminated Freshwater" means freshwater which is discharged without the addition of chemicals; included are (1) discharges of excess freshwater that permit the continuous operation of fire control and utility lift pumps, (2) excess freshwater from pressure maintenance and secondary recovery projects, (3) water red during training and testing of personnel in fire protection, and (4) water used to pressure test new piping.

59. "Uncontaminated Seawater" means seawater which is returned to the sea without the addition of chemicals. Included are (1) discharges of excess seawater which permit the continuous operation of fire control and utility lift pumps (2) excess seawater from pressure maintenance and secondary recovery projects (3) water red during the training and testing of personnel in fire protection (4) seawater used to pressure test piping, and (5) once through noncontact cooling water which has not been treated with biocides.

60. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

61. "Well Treatment Fluids" mean any fluid used to restore or improve productivity by chemically or physically altering hydrocarbon-bearing strata after a well has been drilled. These fluids move into the formation and return to the surface as a slug with the produced water. Stimulation fluids include substances such as acids, solvents, and propping agents.

62. "Workover Fluids" mean salt solutions, weighted brines, polymers, and other specialty additives used in a producing well to allow safe repair and maintenance or abandonment procedures. High solids drilling fluids used during workover operations are not considered workover fluids by definition and therefore must meet drilling fluid effluent limitations before discharge may occur. Packer fluids, low solids fluids between the packer, production string and well casing, are considered to be workover fluids and must meet only the effluent requirements imposed on workover fluids.

63. The term "MGD" shall mean million gallons per day.

64. The term "mg/l" shall mean milligrams per liter or parts per million (ppm).

65. The term "ug/l" shall mean micrograms per liter or parts per billion (ppb).

TABLE 1–A.—CRITICAL DILUTIONS (PERCENT EFFLUENT) FOR TOXICITY LIMITATIONS FOR SEAWATER TO WHICH TREATMENT CHEMICALS HAVE BEEN ADDED

Depth difference** (meters)	Discharge rate (bbl/day)	Pipe diameter			
		>0" to 2"	>2" to 4"	>4" to 6"	>6"
0 to 5	0 to 1,000	15.6	19.4	6.15	15.4
	>1,000 to 10,000	22.6	29.5	*10.3	56
	>10,000		31	46.3	46
>5 to 10	0 to 1,000	15.3	33	59	10.3
	>1,000 to 10,000	11.2	25	44	73.3
	>10,000		24.7	39.6	78
>10 to 20	0 to 1,000	15	32.4	56.5	*12.3
	>1,000 to 10,000	11.3	25	40	56.5
	>10,000		22.6	36.2	57
>20	0 to 1,000	16.3	33	57	*10.7
	>1,000 to 10,000	11.6	25.6	39.6	57.8
	>10,000		22.6	36.6	51

*Those critical dilutions which are followed by an asteric are required to be monitored using a chronic test.
**Depth Difference means the distance in water depth between the discharge pipe and the seafloor.

TABLE 1–B.— CRITICAL DILUTIONS (PERCENT EFFLUENT) FOR TOXICITY LIMITATIONS FOR FRESHWATER TO WHICH TREATMENT CHEMICALS HAVE BEEN ADDED

Depth difference (meters)	Discharge rate (bbl/day)	Pipe diameter			
		>0" to 2"	>2" to 4"	>4" to 6"	>6"
All	0 to 1,000	7.2	8.2	17.4	18
	>1,000 to 10,000	17	76	*11.4	*13.1
	>10,000		64	93	*18

*Those critical dilutions which are followed by an asteric are required to be monitored using a chronic test.

TABLE 2.—EFFLUENT LIMITATIONS, PROHIBITIONS AND MONITORING REQUIREMENTS

Discharge	Regulated and monitored discharged parameter	Discharge limitation/prohibition	Monitoring requirement		
			Measurement frequency	Sample type method	Recorded value(s)
Drilling Fluids	Free Oil	No free oil	Onceweek(*1)	Static sheen ..	Number of days sheen observed.
	Toxicity(*2) 96-hr LC50	30,000 ppm daily minimum ..	Once/month ...	Grab	96-hr LC50.
		30,000 ppm monthly average minimum.	Once/end well(*3).	Grab	96-hr LC50.
	Discharge Rate	1,000 barrels/hour	Once/month ...	Grab	96-hr LC50.
			Once/hour(*1)	Estimate	Max hourly rate.
	Discharge Rate for controlled discharge rate areas.	(*4)	Once/hour(*1)	Measure	Max hourly rate.
	Mercury and cadmium	No discharge of drilling fluids to which barite has been added, if such barite contains mercury in excess of 1.0 mg/kg or cadmium in excess of 3.0 mg/kg (dry weight).	Once prior to drilling each well (*6).	Absorption Spectrophotometry.	mg mercury/kg barite. mg cadmium/kg barite.
	Oil Based or Inverse Emulsion Drilling Fluids.	No discharge.			
	Oil Contaminated Drilling Fluids.	No discharge.			
	Diesel Oil	No discharge of drilling fluids to which diesel oil has been added.			
	Mineral Oil	Mineral oil may be used only as a carrier fluid (transporter fluid), lubricity additive, or pill.			
Drilling Cuttings	Free oil	No free oil	Once/week(*1)	Static sheen ..	Number of days sheen observed.
	Toxicity(*2) 96-hr LC50	No discharge of cuttings generated using drilling fluids which exhibit a toxicity of less than 30,000 ppm daily minimum or 30,000 ppm monthly avg minimum.			
	Mercury and cadmium	No discharge of cuttings generated using drilling fluids to which barite has been added, if such barite contains mercury in excess of 1.0 mg/kg or cadmium in excess of 3.0 mg/kg (dry weight).			
	Cuttings generated using Oil Based or Inverse Emulsion Drilling Fluids.	No discharge.			
	Cuttings generated using Oil Contaminated Drilling Fluids.	No discharge.			
	Cuttings generated using drilling fluids to which Diesel Oil has been added.	No discharge.			
	Cuttings generated using drilling fluids to which Mineral Oil has been added.	Mineral oil may be used only as a carrier fluid (transporter fluid), lubricity additive, or pill.			
Deck Drainage	Free Oil	No free oil	Once/day (*7)	Visual sheen	Number of days sheen observed.
Produced Sand	No Discharge.				
Well treatment fluids, completion fluids, and workover fluids (includes packer fluids) (*10).	Free oil	No free oil	Once/Day (*1)	Static sheen ..	Number of days sheen observed.

TABLE 2.—EFFLUENT LIMITATIONS, PROHIBITIONS AND MONITORING REQUIREMENTS—Continued

Discharge	Regulated and monitored discharged parameter	Discharge limitation/prohibition	Monitoring requirement		
			Measurement frequency	Sample type method	Recorded value(s)
	Oil and Grease	42 mg/l daily max., 29 mg/l monthly avg.	Once/month ...	Grab (*8)	Daily max, monthly average.
Sanitary waste (*12) continuously manned by 10 or more persons.	Residual chlorine (*13)	1 mg/l (minimum)	Once/month ...	Grab	Concentration.
	Solids	No Floating Solids	Once/Day	Observation(*15).	Number of days solids observed.
Sanitary waste (*12) continuously manned by 9 or fewer persons or intermittently by any number.	Solids	No floating solids	Once/day	Observation (*15).	Number of days solids observed.
Domestic waste (*14)	Solids	No floating solids or foam	Once/day	Observation(*15).	Number of days observed.
Miscellaneous discharges: Desalinization unit discharge; blowout pre-venter fluid; uncontaminated ballast water; uncontaminated bilge water; uncontaminated freshwater; mud, cuttings and cement at seafloor; uncontaminated seawater; boiler blow-down; source water and sand; diatomaceous earth filter media; excess cement slurry.	Free oil	No free oil	Once/week (*11).	Visual sheen	Number of days sheen observed.
Miscellaneous discharges of seawater and freshwater to which treatment chemicals have been added: excess seawater which permits the continuous operation of fire control and utility lift pumps, excess seawater from pressure maint. and secondary recovery prjcts, water red during training of personnel in fire protection, seawater used to pressure test new piping and new pipelines, ballast water, once-through non-contact cooling water, desalinization unit.	Treatment chemicals	Most stringent of: EPA label registration, maximum manufacturers recommended dose, or 500 mg/l.			
	Free oil	No free oil	1/Week	Visible sheen	Number of days sheen observed.
	Toxicity	48-hour average min NOEC and monthly avg minimum NOEC (*5).	Rate Dependent (*17).	Grab	Lowest NOEC observed for either of the two species.

*1 When discharging.
*2 Suspended particulate phase (SPP) with *Mysidopsis bahia* following approved test method. The sample shall be taken beneath the shale shaker; or if there are no returns across the shaker then the sample must be taken from a location that is characteristic of the overall mud system to be discharged.
*3 Sample shall be taken after the final log run is completed and prior to bulk discharge.
*4 See Part I.B.1.b of this permit.
*5 See Appendix A, Table 1 of this permit.
*6 Analyses shall be conducted on each new stock of barite used.
*7 When discharging and facility is manned. Monitoring shall be accomplished during times when observation of a visual sheen on the surface of the receiving water is possible in the vicinity of the discharge.
*8 May be based on the arithmetic average of four grab sample results in a 24 hr. period.
*10 No discharge of priority pollutants except in trace amounts. Information on the specific chemical composition shall be recorded but not reported unless requested by EPA.

*11 When discharging for muds, cuttings, and cement at the seafloor and blowout preventer fluid. All other miscellaneous discharges: when discharging, discharge is authorized only during times when visual sheen observation is possible, unless the static sheen method is used. Uncontaminated seawater uncontaminated freshwater, source water and source sand, uncontaminated bilge water, and uncontaminated ballast water from platforms on automatic purge systems may be discharged without monitoring from platforms which are not manned.

*12 Any facility which properly operates and maintains a marine sanitation device (MSD) that complies with pollution control standards and regulations under section 312 of the Act shall be deemed to be in compliance with permit limitations for sanitary waste. The MSD shall be tested yearly for proper operation, and test results maintained at the facility.

*13 Hach method CN–66 DPD approved. Minimum of 1 mg/l and maintained as close to this concentration as possible.

*14 The discharge of food waste is prohibited within 12 nautical miles from nearest land. Comminuted food waste able to pass through a 25 mm mesh screen (approximately 1 inch) may be discharged more than 12 nautical miles from nearest land.

*15 Monitoring shall be accomplished during daylight by visual observation of the surface of the receiving water in the vicinity of sanitary and domestic waste outfalls. Observations shall be made following either the morning or midday meals at a time of maximum estimated discharge.

*16 Once/year for discharges from 0 bbl/day to 4599 bbl/day, once/calendar quarter for discharges of 4,600 bbl/day and greater.

*17 See Part I.B.1.1b of this permit.

[FR Doc 98–29307 Filed 10–30–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

October 27, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated information techniques or other forms of information technology.

DATES: Written comments should be submitted on or before December 2, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 234, 1919 M St., NW, Washington, DC 20554 or via internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at 202–418–0217 or via internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0834.

Title: Reconsideration of Rules and Policies for the 220–222 MHz Radio Service, PR 89–552, GN 93–252, PR 93–253.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities; Individuals or households; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 3,005.

Estimated Time per Response: 0.5–1.0 hours per licensee to coordinate minor modifications of the authorizations; 12 hours per licensee to seek a waiver of Section 90.729(b)).

Frequency of Response: On occasion reporting requirements; Third party disclosure.

Total Annual Burden: 44,850 hours.

Cost to Respondents: None.

Needs and Uses: The information collected will be used by the Commission to verify licensee compliance with Commission rules and regulations and to ensure the integrity of the 220 MHz service, and to ensure that licensees continue to fulfill their statutory responsibilities in accordance with the Communications Act of 1934.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–29256 Filed 10–30–98; 8:45 am]

BILLING CODE 6712–10–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 98–2189]

Next Meeting of the North American Numbering Council

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On October 28, 1998, the Commission released a public notice announcing the November 18, and November 19, 1998, meeting and agenda of the North American Numbering Council (NANC). The intended effect of this action is to make the public aware of the NANC's next meeting and its agenda.

FOR FURTHER INFORMATION CONTACT: Linda Simms, Administrative Assistant of the NANC, at (202) 418–2330 or via the Internet at lsimms@fcc.gov or Jeannie Grimes at (202) 418–2313 or jgrimes@fcc.gov. The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, 2000 M Street, NW, Suite 235, Washington, DC 20554. The fax number is: (202) 418–7314. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: Released: October 28, 1998.

The next meeting of the North American Numbering Council (NANC) will be held on Wednesday, November 18, from 8:30 a.m., until 5:00 p.m., and on Thursday, November 19, from 8:30 a.m., until 12 noon. The meeting will be held at the Wyndam Washington, D.C. Hotel, 1400 M Street, N.W., Washington, D.C.

This meeting will be open to members of the general public. The FCC will attempt to accommodate as many people as possible. Admittance, however will be limited to the seating available. The public may submit written statements to the NANC, which must be received two business days before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Such statements will be limited to five minutes in length by any one party or entity, and requests to make an oral statement must be received two business days before each meeting. Requests to make an oral statement or provide written comments to the NANC should be sent to Jeannie Grimes at the address under **FOR FURTHER INFORMATION CONTACT**, stated above.

Proposed Agenda

Wednesday, November 18, 1998

1. Approval of meeting minutes.
2. Local Number Portability Administration (LNPA) Working Group Report.
3. Discussion of NANC's role under paragraph 41 of CC Docket 95–116, In the Matter of Telephone Number Portability, *Second Memorandum Opinion and Order on Reconsiderotion*, concerning issues relating to number portability for 500 and 900 numbers.
4. Numbering Resource Optimization (NRO) Working Group Report. Review of issues currently assigned; work plan and timelines for projects. NANC will explore future work plans and prioritize.
5. COCUS and Proposed Line Number Utilization Survey. Review matrix of agreements, disagreements and settled issues regarding integrated recommendation on possible enforcement mechanism; audits; forecasts from resellers; appeals and confidentiality issues.
6. Definition of Reserved Telephone Numbers. Discussion of consolidated view from contributions previously submitted.
7. Cost Recovery Working Group Report.
8. Review of the proposal of the North American Numbering Plan Billing and Collection Agent (NBANC) regarding nature and scope of the external auditing of the processes and operations of the NBANC

Thursday, November 19, 1998

9. North American Numbering Plan Administration (NANPA) Oversight Working Group Report.
10. Review and discussion of contributions regarding NANC response to FCC referral contained in paragraph 58, In the Matter of Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, *Memorandum Opinion and Order and Order on Reconsideration*, CC Docket No. 96–98, FCC 98–224 (rel. Sept. 28, 1998).
11. Steering Group Report.
12. Beta System concept presentation by Professor Richard Levine.
13. Other Business.

Federal Communications Commission.

Kurt A. Schroeder,

Deputy Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 98–29372 Filed 10–30–98; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Thursday, November 5, 1998, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors request that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' meetings.

Reports of actions taken pursuant to authority delegated by the Board of Directors.

Memorandum re: Third Quarter 1998 Corporation and National Liquidation Fund Investment Portfolios Status Report.

Memoraddum re: Executive Management Report.

Memorandum and resolution re: Interagency Policy Statement on Income Twx Allocation in a Holding Company Structure.

Discussion Agenda: Memorandum and resolution re: Amendments to Part 362—Activities and Investments of Insured State Banks; part 303—Applications, Requests, Submittals, Delegations of Authority, and Notices Required to be Filed by Statute or Regulation; and Section 337.4—Securities Activities of Subsidiaries of Insured State Banks: Bank Transactions with Affiliated Securities Companies.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington. DC.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416–2449 (Voice); (202) 416–2004 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: October 29, 1998.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 98–29452 Filed 10–29–98; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 27, 1998.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. ACNB Corporation, Gettysburg, Pennsylvania; to acquire 100 percent of, and thereby merge with, Farmers National Bancorp, Inc., Newville, Pennsylvania, and thereby indirectly acquire Farmers National Bank of Newville, Newville, Pennsylvania.

B. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104

Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Aliant Financial Corporation, Alexander City, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of Aliant National Corporation, Alexander City, Alabama, and thereby indirectly acquire Aliant Bank, Alexander City, Alabama.

2. InSouth Florida, Inc., Naples, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of First Western Bank, Cooper City, Florida.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Farmers Bancshares, Inc., Center, Texas; to acquire 100 percent of the voting shares of Carthage Bancshares, Inc., Carthage, Texas, and thereby indirectly acquire First National Bank, Carthage, Texas.

D. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Frontier Financial Corporation, Everett, Washington; to acquire up to 9.9 percent of the voting shares of Washington Banking Company, Oak Harbor, Washington, and thereby indirectly acquire Whidbey Island Bank, Oak Harbor, Washington.

Board of Governors of the Federal Reserve System, October 27, 1997.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–29194 Filed 10–30–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 16, 1998.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Deutsche Bank AG, Frankfurt (Main), Federal Republic of Germany; to acquire through its subsidiary, German American Capital Corporation, New York, New York, up to 100 percent of the voting shares of Boullioun Aircraft Services, Inc., Bellevue, Washington, and thereby indirectly engage in leasing, pursuant to § 225.28(b)(3) of Regulation Y; in furnishing general economic information and advice, pursuant to § 225.28(b)(3) of Regulation Y; in making, acquiring, brokering, or servicing loans, pursuant to § 225.28(b)(1) of Regulation Y; in collection of assets, pursuant to § 225.28(b)(2) of Regulation Y; and in certain asset management and financial advisory services, permissible by the by previous Board order. *See, The Dai-Ichi Kangyo Bank, Ltd.*, 79 Fed. Res. Bull. 131 (1993).

Board of Governors of the Federal Reserve System, October 27, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–29195 Filed 10–30–98; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of a Meeting of the National Bioethics Advisory Commission (NBAC)

SUMMARY: Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is given of a meeting of the National Bioethics Advisory Commission. The Commission will continue addressing (1) the protection of the rights and welfare of human subjects in research involving persons with mental disorders that may affect decisionmaking capacity and (2) the use of human biological materials in research. Some Commission members may participate by telephone conference. The meeting is open to the public and opportunities for statements by the public will be provided on November 17, 1998 from 11:30 am to 12 Noon.

Dates/ times	Location
November 17, 1998, 8 am–5 pm.	The Crystal Ballroom, Mayfair House, 3000 Florida Avenue, Coconut Grove/Miami, Florida.
November 18, 1998, 8 am–5 pm.	Same Location as Above.

SUPPLEMENTARY INFORMATION: The President established the National Bioethics Advisory Commission (NBAC) on October 3, 1995 by Executive Order 12975 as amended. The mission of the NBAC is to advise and make recommendations to the National Science and Technology Council, its Chair, the President, and other entities on bioethical issues arising from the research on human biology and behavior, and from the applications of that research.

Public Participation

The meeting is open to the public with attendance limited by the availability of space on a first come, first serve basis. Members of the public who wish to present oral statements should contact Ms. Patricia Norris by telephone, fax machine, or mail as shown below and as soon as possible at least 4 days before the meeting. The Chair will reserve time for presentations by persons requesting to speak and asks that oral statements be limited to five minutes. The order of persons wanting to make a statement will be assigned in the order in which requests are received. Individuals unable to make oral presentations can mail or fax their written comments to the NBAC staff office at least five business days prior to the meeting for distribution to the Commission and inclusion in the public record. The Commission also accepts general comments at its website at bioethics.gov. Persons needing special assistance, such as sign language interpretation or other special accommodations, should contact NBAC staff at the address or telephone number listed below as soon as possible.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Norris, National Bioethics Advisory Commission, 6100 Executive Boulevard, Suite 5B01, Rockville, Maryland 20892–7508, telephone 301–402–4242, fax number 301–480–6900.

Henrietta D. Hyatt-Knorr,

Deputy Executive Director, National Bioethics Advisory Commission.

[FR Doc. 98–29193 Filed 10–30–98; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS).

Times and Dates: 9 a.m.–5:30 p.m., November 12, 1998, 9 a.m.–3 p.m., November 13, 1998.

Place: Conference Room 505A, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

Status: Open.

Purpose: The meeting will focus on a variety of health data policy and privacy issues. Department officials will update the Committee on recent activities of the HHS Data Council and the status of HHS activities in implementing the administrative simplification provisions of Pub. L. 104–491, the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The Committee also will be briefed on data needed to support the Initiative to Eliminate Racial and Ethic Disparities in Health as well as Healthy People 2010. Presentations are scheduled on the National Academy of Sciences' new panel study on second generation internet requirements for health applications, and strategies for obtaining public health infrastructure data. In addition, Subcommittee breakout sessions are planned.

All topics are tentative and subject to change. Please check the NCVHS website, where a detailed agenda will be posted prior to the meeting.

Contact Person for More Information: Substantive information as well as summaries of NCVHS meetings and a roster of committee members may be obtained by visiting the NCVHS website (http://aspe.os.dhhs.gov/ncvhs) where an agenda for the meeting will be posted when available. Additional information may be obtained by calling James Scanlon, NCVHS Executive Staff Director, Office of the Assistant Secretary for Planning and Evaluation, DHHS, Room 440–D, Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201, telephone (202) 690–7100, or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050.

Note: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, individuals without a government identification card may need to have the guard call for an escort to the meeting room.

Dated: October 27, 1998.

James Scanlon,

Director, Division of Data Policy.

[FR Doc. 98–29197 Filed 10–30–98; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Task Group session of the Safety and Occupational Health Study Section (SOHSs), National Institute for Occupational Safety and Health (NIOSH).

Time and date: 1 p.m.–3 p.m., November 18, 1998.

Place: NIOSH/CDC Research Facility, Teleconference Room P–B229, 3040 University Avenue, Morgantown, West Virginia 26505.

Status: Open 1 p.m.–1:30 p.m. November 18, 1998. Closed 1:30 p.m.–3 p.m. November 18, 1998.

Purpose: A Task Group session of the Safety and Occupational Health Study Section will review, discuss, and evaluate grant application(s) received in response to the Institute's numbered solicitation, Request for Application Number 98030 entitled, "Occupational Radiation and Energy-Related Health Research Grants" which pertains to specific aspects of the following endeavors: (a) research to identify and investigate the relationships between health outcomes and occupational exposure to radiation and other hazardous agents; (b) epidemiological methods research relevant to energy-related occupational health research; and (c) research related to assessing occupational exposures. The focus of the proposed research should reflect the following topical areas, emphasizing field research: (1) retrospective exposure assessment; (2) radiation measurement issues; (3) non-cancer morbidity and mortality outcomes; (4) meta-analysis and combined analysis methodologies; (5) uncertainty analysis; (6) effects of measurement error on risk estimates; (7) studies of current workers; and (8) risk communication and worker outreach.

It is the intent of NIOSH to support broad-based research endeavors in keeping with the Institute's program goals which will lead to improved understanding and appreciation for the magnitude of the aggregate health burden associated with occupational injuries and illnesses, as well as to support more focused research projects which will lead to improvements in the delivery of occupational safety and health services and the prevention of work-related injury and illness. It is anticipated that research funded will promote these program goals.

Matters to be discussed: The meeting will convene in open session from 1–1:30 p.m. on November 18, 1998, to address matters related to the conduct of Study Section business. The remainder of the meeting will proceed in closed session. The purpose of the closed session is for the Task Group of the Safety and Occupational Health Study Section to consider grant applications related to the cited solicitation. This portion of the meeting will be closed to the public in accordance with provisions set forth in section 552(c) (4) and (6) title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Pub. L. 92–463.

Agenda items are subject to change as priorities dictate.

Contact person for more information: Pervis C. Major, Ph.D., Scientific Review Administrator, Office of Extramural Coordination and Special Projects, Office of the Director, NIOSH, 1095 Willowdale Road, Morgantown, West Virginia 26505. Telephone 304/285–5979.

Dated: October 27, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–29251 Filed 10–29–98; 8:45 am]

BILLING CODE 4163–19P–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Meeting; Safety and Occupational Health Study Section; NIOSH Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Task Group session of the Safety and Occupational Health Study Section (SOHSS), National Institute for Occupational Safety and Health (NIOSH).

Time and date: 1 p.m.–3 p.m., November 20, 1998.

Place: NIOSH/CDC Research Facility, Teleconference Room P–B229, 3040 University Avenue, Morgantown WV, 26505.

Status: Open 1 p.m.–1: 30 p.m., November 20, 1998. Closed 1: 30 p.m.–3 p.m., November 20, 1998.

Purpose: A Task Group session of the Safety and Occupational Health Study Section will review, discuss, and evaluate grant application(s) received in response to the Institute's numbered solicitation, Request for Application Number 98030 entitled, "Occupational Radiation and Energy-Related Health Research Grants" which pertains to specific aspects of the following endeavors:

(a) Research to identify and investigate the relationships between health outcomes and occupational exposure to radiation and other hazardous agents; (b) epidemiological methods research relevant to energy-related occupational health research; and (c) research related to assessing occupational exposures. The focus of the proposed research should reflect the following topical areas, emphasizing field research: (1) Retrospective exposure assessment; (2) radiation measurement issues; (3) non-cancer morbidity and mortality outcomes; (4) meta-analysis and combined analysis methodologies; (5) uncertainty analysis; (6) effects of measurement error on risk estimates; (7) studies of current workers; and 8) risk communication and worker outreach.

It is the intent of NIOSH to support broad-based research endeavors in keeping with the Institute's program goals which will lead to improved understanding and appreciation for the magnitude of the aggregate health burden associated with occupational injuries and illnesses, as well as to support more focused research projects which will lead to improvements in the delivery of occupational safety and health services and the prevention of work-related injury and illness. It is anticipated that research funded will promote these program goals.

Matters to be Discussed: The meeting will convene in open session from 1–1: 30 p.m. on November 20, 1998, to address matters related to the conduct of Study Section business. The remainder of the meeting will proceed in closed session. The purpose of the closed sessions is for the Task Group of the Safety and Occupational Health Study Section to consider grant applications related to the cited solicitation. This portion of the meeting will be closed to the public in accordance with provisions set forth in section 552(c)(4) and (6), title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Public Law 92–463.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Pervis C. Major, Ph.D., Scientific Review Administrator, Office of Extramural Coordination and Special Projects, Office of the Director, NIOSH, 1095 Willowdale Road, Morgantown, West Virginia 26505. Telephone 304/285–5979.

Dated: October 27, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–29252 Filed 10–30–98; 8: 45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organization, Functions, and Delegations of Authority

This notice amends Part K of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (DHHS), Administration for Children and Families (ACF) as follows: Chapter KB, Administration on Children, Youth and Families (ACYF) (63 FR 42050), as last amended, August 8, 1998. This notice reorganizes ACYF's Child Care Bureau to more efficiently and effectively administer child care activities. It also reflects changes made by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193).

Amend Chapter KB as follows:

a. Delete KB.00 Mission in its entirety and replace with the following:

KB.00 Mission. The Administration on Children, Youth and Families (ACYF) advises the Secretary, through the Assistant Secretary for Children and Families, on matters relating to the sound development of children, youth, and families by planning, developing and implementing a broad range of activities. It administers state grant programs under titles IV–B and IV–E of the Social Security Act; manages the Adoption Opportunities program and other discretionary programs for the development and provision of child welfare services; and administers discretionary grant programs providing Head Start services and facilities for runaway youth. ACYF administers the Child Abuse Prevention and Treatment Act and the Child Care and Development Block Grant and administers child care funds under section 418 of the Social Security Act. It supports and encourages services which prevent or remedy the effects of abuse and/or neglect of children and youth.

In concert with other components of ACF, the ACYF develops and implements research, demonstration and evaluation strategies for the discretionary funding of activities designed to improve and enrich the lives of children and youth and to strengthen families. It administers Child Welfare Services training and Child Welfare services research and demonstration programs authorized by title IV–B of the Social Security Act; administers the Runaway and Homeless Youth Act authorized by title III of the Juvenile Justice and Delinquency Prevention Act; and manages initiatives to involve the private and voluntary sectors in the areas of children, youth and families.

b. Delete KB.10 Organization in its entirety and replace with the following:

KB.10 Organization. The Administration on Children, Youth and Families is headed by a Commissioner, who reports directly to the Assistant Secretary for Children and Families and consists of:

Office of the Commissioner (KBA)
Office of Administration (KBA1)
Office of Grants Management (KBA2)
Head Start Bureau (KBC)
Program Operations Division (KBC1)
Program Support Division (KBC2)
Children's Bureau (KBD)
Office of Child Abuse and Neglect (KBD1)
Division of Policy (KBD2)
Division of Program Implementation (KBD3)
Division of Data, Research and Innovation (KBD4)
Division of Child Welfare Capacity Building (KBD5)
Family and Youth Services Bureau (KBE)
Child Care Bureau (KBG)
Immediate Office/Administration (KBG1)
Program Operations Division (KBG2)
Policy Division (KBG3)
Technical Assistance Division (KBG4)

c. Delete KB.20 Functions, Paragraph G, in its entirety and replace with the following:

G. Child Care Bureau serves as the principal advisor to the Commissioner on issuers regarding child care programs. It has primary responsibility for the operation child care programs authorized under the Child Care and Development Block Grant (CCDBG) Act and section 418 of the Social Security Act. It develops legislative, regulatory and budgetary proposals; presents operational planning objectives and initiatives related to child care to the Office of the Commissioner; and oversees the progress of approved activities. It provides leadership and coordination for child care within the ACF. It provides leadership and linkages with other agencies on child care issues including agencies within DHHS, relevant agencies across the federal, state, local governments and tribal governments, and non-governmental organizations at the federal, state and local levels.

1. Immediate Office/Administration is responsible for the leadership, planning, and managerial oversight of the Bureau's mission and activities. In addition, the Immediate Office is also responsible for data gathering, analysis, and dissemination; preparation of reports; budget projection, planning, execution and tracking; research development and communication of findings; and identification and utilization of new technology in managing the Bureau's workload and communicating with the Department, Regional Office, States, Territories, Tribes and the child care field. The Immediate Office also supports the unique program and planning needs of tribal grantees.

2. The Program Operations Division is responsible for Regional Liaison activities, including: communication on a regular basis with Regional Office staff; responding to questions on policy and other issues by consulting or referring to other staff; tracking progress of grantee programs in coordination with the Regions; collecting and maintaining information related to grantee program implementation, administrative data, technical assistance data, and technical assistance efforts; tracking program achievements, problems, and gaps; identifying latest trends and activities of major significance; preparing background material, fact sheets, and articles to provide information to Regional Offices, grantees and the general public; and tracking and supporting special initiatives. This unit also establishes partnerships with public and private entities to improve access to quality child care; coordinate program activities with other government and non-government agencies; and manages and oversees the Bureau's cooperative ventures with other entities.

3. The Policy Division develops, interprets and issues national policies and regulations governing Child Care and Development Fund (CCDF) programs. The Policy Division provides clarification of the statutes, regulations and policies; issues action transmittals and information memoranda; recommends and drafts legislative proposals; prepares briefing materials for hearings and testimony; updates the child care plan preprints; reviews and gives guidance to Regional Offices on CCDF plans and applications; oversees a data base of grantee plans; researches child care policy issues; coordinates policies and procedures with other Federal agencies; provides policy training, guidance and clarification to Regional Offices in carrying out policy functions; and manages controlled correspondence.

4. The Technical Assistance Division provides technical assistance to Regional Offices, States, Territories, and Tribes concerning CCDF in order to make affordable quality child care accessible to families. It provides leadership, coordination and contract management for technical assistance projects that comprise the Child Care Technical Assistance Network. This unit also oversees and supports national conferences, leadership forums, and Regional Office conferences. It oversees the development of technical assistance materials including publications.

Dated: October 20, 1998.

James Harrell,

Deputy Commissioner, Administration on Children, Youth and Families.

[FR Doc. 98–29191 Filed 10–30–98; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 98F–0593, 98F–0674, and 98F–0707]

Dover Chemical Corp.; Withdrawal of Food Additive Petitions

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of food additive petitions (FAP's 8B4614, 8B4613, and 8B4621) proposing that the food additive regulations be amended to provide for the safe use of 3,9-bis[2,4-bis(1-methyl-1-phenylethyl)phenoxy]-2,4,8,10-tetraoxa-3,9-diphosphaspiro[5.5]undecane, which may contain not more than 2 percent by weight of triisopropanolamine, as an antioxidant and/or stabilizer for polymers (specifically, polyetherimide resins), olefin polymers, or polycarbonate and polyethylene phthalate polymers intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In notices published in the **Federal Registers** of July 30, 1998 (63 FR 40720), August 19, 1998 (63 FR 44463), and August 25, 1998 (63 FR 45248), FDA announced that food additive petitions (FAP's 8B4614, 8B4613, and 8B4621) had been filed by Dover Chemical Corp., 3676 Davis Rd. NW., Dover, OH 44622. The petitions proposed to amend the food additive regulations in § 178.2010 *Antioxidants and/or stobilizers for polymers* (21 CFR 178.2010) to provide for the safe use of 3,9-bis[2,4-bis(1-methyl-1-phenyethyl)phenoxy]-2,4,8,10-tetraoxa-3,9-diphosphaspiro[5.5]undecane, which may contain not more than 2 percent by weight of triisopropanolamine, as an antioxidant and/or stabilizer for polymers (specifically, polyetherimide resins), olefin polymers, or polycarbonate and polyethylene phthalate polymers intended for use in contact with food. Dover Chemical Corp. has now withdrawn the petitions (FAP's 8B4614, 8B4613, and 8B4621) without prejudice to a future filing (21 CFR 171.7).

Dated: October 16, 1998.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Sofety and Applied Nutrition.

[FR Doc. 98–29188 Filed 10–30–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Center for Biologics Evaluation and Research Medical Device Action Plan; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

The Food and Drug Administration (FDA) is announcing the following meeting: Center for Biologics Evaluation and Research Medical Device Action Plan. FDA is inviting interested parties, including industry, health professionals, patients and their advocacy groups to present their suggestions for improvements to the Center for Biologics Evaluation and Research's (CBER's) regulation of medical devices, or reasons to maintain the current systems to protect public health.

Date and Time: The meeting will be held on Tuesday, December 1, 1998, 9 a.m. to 5 p.m.

Location: The meeting will be held at Natcher Auditorium, Balcony B, National Institutes of Health, 8800 Rockville Pike, Bethesda, MD.

Contact: Kathy A. Eberhart, Center for Biologics Evaluation and Research (HFM–43), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–1317, FAX 301–827–3079, e-mail "Eberhart@CBER.FDA.GOV".

Registration and Requests for Oral Presentations: Send or fax written material and requests to make oral presentations to the contact person by Monday, November 16, 1998, and registration information (including name, title, firm name, address, telephone, and fax number), by Monday, November 23, 1998. Registration at the site will be done on a space available basis on the day of the meeting beginning at 8:30 a.m. There is no registration fee for the meeting. Space is limited, therefore, interested parties are encouraged to register early.

If you need special accommodations due to a disability, please contact Kathy A. Eberhart at least 7 days in advance.

SUPPLEMENTARY INFORMATION: Under section 406(b) of the Food and Drug Administration Modernization Act of 1997, CBER held two meetings with our external stakeholders. The first meeting was held on August 14, 1998, in Washington, DC (63 FR 39877, July 24, 1998), and the second one on August 28, 1998, in Oakland, CA (63 FR 39877, July 24, 1998). In addition, the FDA Pacific Regional Office sponsored a grassroots meeting on September 15, 1998 (63 FR 42052, August 6, 1998), in Irvine, CA, with the biotechnology industry.

A recurring theme during these meetings was a dissatisfaction with the handling of the medical devices regulated by CBER. Some important concerns were related to CBER procedures and standards for products similar to products regulated by the Center for Devices and Radiological Health. To address these concerns, CBER is developing a "Device Action Plan" to evaluate various options to change CBER's regulatory approaches for medical devices without creating a risk to the public health.

Transcripts: Transcripts of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page. The meeting transcript will also be available on CBER's website at "http://www.fda.gov/cber/minutes/workshop-min.htm".

Dated: October 26, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–29185 Filed 10–30–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

General and Plastic Surgery Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: General and Plastic Surgery Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 17, 1998, 9 a.m. to 6 p.m.

Location: Corporate Bldg., conference room 020B, 9200 Corporate Blvd., Rockville, MD.

Contact Person: David Krause, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–3090, ext. 141, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12519. For up-to-date information on this meeting, please call the Information Line or access the Internet address at "http://www.fda.gov/cdrh".

Agenda: The committee will discuss and make recommendations on a proposal for the classification of preamendment wound dressing medical devices based on: (1) A proposed rule published in the **Federal Register** of September 19, 1989 (54 FR 38600); (2) comments received in response to the proposed rule; and (3) comments from the General and Plastic Surgery Devices Panel meeting of July 20, 1995. The committee will also discuss and make recommendations on the reclassification of preamendment class III topical oxygen devices for wound healing on extremities based on information received from a call for safety and effectiveness information under section 515(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(i)) published in the **Federal Registers** of August 14, 1995, and June 13, 1997 (60 FR 41986 and 62 FR 32355, respectively).

Procedure: On November 17, 1998, from 9:30 a.m. to 6 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by November 3, 1998. Oral presentations from the public will be scheduled between approximately 9:30 a.m. and 10 a.m., and between approximately 4 p.m. and 4:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before November 3, 1998, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On November 17, 1998, from 9 a.m. to 9:30 a.m., the meeting will be closed to the public to permit FDA to present to the committee trade secret and/or confidential commercial information (5 U.S.C. 552b(c)(4)) regarding pending issues.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 27, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–29274 Filed 10–30–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Control of Pharmaceutical Production; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing a series of three public meetings sponsored by the Office of Regulatory Affairs (ORA), Pacific Region, and participated in by representatives from the Center for Drug Evaluation and Research (CDER), ORA's Division of Field Science, and the Pacific Region. The topic to be discussed is out-of-specification (OOS) laboratory test results, how to evaluate them and appropriate actions to take.

DATES: The public meetings are scheduled as follows:

1. Monday, November 16, 1998, from 8:30 a.m. to 3:30 p.m., in Bellevue, WA.
2. Wednesday, November 18, 1998, from 8:30 a.m. to 3:30 p.m., in Irvine, CA.
3. Friday, November 20, 1998, from 8:30 a.m. to 3:30 p.m., in Oakland, CA.

ADDRESSES: The public meetings will be held at the following locations:

Bellevue—Rockwell Institute, 13218 NE. 20th St., Bellevue, WA 98005.

Irvine—Los Angeles District Office, 19900 MacArthur Blvd., suite 300, Irvine, CA 92715.

Oakland—Roybal Auditorium, Oakland Federal Bldg., 1301 Clay St., Third Floor Conference Center, Oakland, CA 94612.

FOR FURTHER INFORMATION CONTACT:

Regarding meeting content and format: Mark S. Roh, Small Business Representative, Pacific Region, Food and Drug Administration, Oakland Federal Bldg., 1301 Clay St., suite 1180N, Oakland, CA 94612, 510–637–3980, FAX 510-637-3977.

Regarding the Bellevue, WA, meeting: Jaimee Hansen, Registration Coordinator, Organization of Regulatory and Clinical Associates (ORCA), P.O. Box 3490, Redmond, WA 98073, 425–487–7179, FAX 425–487–8666.

Regarding the Irvine, CA, meeting: Judy Keast, Food and Drug Administration, Oakland Federal Bldg., 1301 Clay St., suite 1180N, Oakland, CA 94612, 510–637–3960, FAX 510–637–3976.

Regarding the Oakland, CA, meeting: Judy Keast (address above).

Those persons interested in attending the Bellevue, WA, meeting should register by faxing their name(s), title, firm name, address, telephone, and fax number to Jaimee Hansen (fax number above). This meeting is being conducted in cooperation with a local nonprofit organization, ORCA. There is limited seating, so early registration is encouraged. A registration fee of $45.00 to cover the cost of the facilities for this meeting should be paid to ORCA. Arrangements for payment should be made directly with Ms. Hansen.

Those persons interested in attending the Irvine and/or Oakland, CA, meetings should register by faxing their name(s), title, firm name, address, telephone, and fax number; and date and location of the meeting to Judy Keast (fax number above). There is no registration fee for the Irvine and Oakland meetings. However, seating is limited, so early registration is encouraged.

If you need special accommodations due to a disability, please contact Ms. Hansen (Bellevue meeting) or Ms. Keast (Irvine and Oakland meetings) at least 7 days in advance.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to continue the dialogue, begun in 1996, with members of trade, technical, and professional organizations, and other interested persons on issues associated with pharmaceutical laboratory practices and procedures. The information presented at these meetings will also be appropriate and useful for other industries performing laboratory analysis, including private laboratories and manufacturers of in vitro products.

On November 20, 1996, FDA held a public meeting to informally address and outline ways to discuss problems associated with the development and monitoring of products. The meeting explored issues of concern to the agency and industry laboratories. As a result of the meeting, industry members asked FDA to provide guidance in two control aspects of pharmaceutical production: (1) Evaluating OOS test results, and (2) system suitability requirements in measuring performance of a chromatographic system.

Interested persons who are unable to attend these meetings may submit comments on this topic as well as suggest additional laboratory training issues of interest to FDA regulated industry for future dialogue. Submit written comments to Mark Roh (address above).

Dated: October 26, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–29187 Filed 10–30–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0549]

Guidance for Industry on Advisory Committees: Implementing Section 120 of the Food and Drug Administration Modernization Act of 1997; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled "Advisory Committees: Implementing Section 120 of the Food and Drug Administration Modernization Act of 1997." This document provides guidance for industry on changes to the policies and procedures being used by the Center for Drug Evaluation and Research (CDER) and Center for Biologics Evaluation and Research (CBER) with regard to advisory committees as a result of section 120 of the Food and Drug Administration Modernization Act of 1997 (the Modernization Act).

DATES: Written comments on the guidance may be submitted by February 1, 1999. General comments on the agency guidance documents are welcome at any time.

ADDRESSES: Copies of this guidance for industry are available on the Internet at "http://www.fda.gov/cder/guidance/index.htm" or "http://www.fda.gov/cber/guidelines.htm". Submit written requests for single copies to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on this guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments are to be identified with the docket number found in brackets in the heading of this document. After the comment period, comments may be submitted to one of the centers at the address below.

FOR FURTHER INFORMATION CONTACT:

Andrea C. Masciale, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5648, or

William Freas, Center for Biologics Evaluation and Research (HFM–21), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a guidance for industry entitled "Advisory Committees: Implementing Section 120 of the Food and Drug Administration Modernization Act of 1997." Advisory committees provide independent advice and recommendations to FDA on scientific and technical matters related to the development and evaluation of products regulated by the agency. CDER and CBER request advice from advisory committees on a variety of matters, including various aspects of clinical investigations and applications for marketing approval of drug products.

Although the committees provide recommendations to the agency, final decisions are made by FDA.

On November 21, 1997, President Clinton signed the Modernization Act. Section 120 of the Modernization Act amends section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) by adding section 505(n), which pertains to advisory committees that provide scientific advice and recommendations to the agency regarding the clinical investigation of drugs and the approval for marketing of drugs. Section 505(n) of the act includes provisions for: (1) Additional members to be included in new advisory committees, (2) new conflict of interest considerations, (3) education and training for new committee members, (4) timely committee consideration of matters, and (5) timely agency notification to affected persons of decisions on matters considered by advisory committees. This guidance document explains how CDER and CBER intend to change their policies and procedures with regard to advisory committees to implement section 120 of the Modernization Act. Because CDER and CBER advisory committees are organized according to general subject (e.g., blood products, cardiovascular and renal drugs) and not according to the topic for consideration by the committee (e.g., a clinical investigation of a drug product, the content of a guidance document), CDER and CBER generally use the same policies and procedures for all advisory committees, regardless of the topic that will be considered by the committee. Therefore, unless otherwise stated, the guidance applies to CDER and CBER advisory committees regardless of the topic that will be considered by the committee. This guidance document is being issued as a level 1 guidance consistent with FDA's Good Guidance Practices (62 FR 8961, February 27, 1997). It is being implemented immediately without prior public comment because the guidance is needed to implement the Modernization Act. However, the agency wishes to solicit comments from the public and is providing a 90-day comment period and establishing a docket for the receipt of comments.

This guidance represents the agency's current thinking on the advisory committee provisions of section 120 of the Modernization Act. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may, on or before January 4, 1999, submit written comments on the guidance to the Dockets Management Branch (address above). Two copies are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–29186 Filed 10–30–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0312]

Guidance for Staff, Industry, and Third Parties: Implementation of Third Party Programs Under the FDA Modernization Act of 1997; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance entitled "Guidance for Staff, Industry, and Third Parties: Implementation of Third Party Programs Under the FDA Modernization Act of 1997." The FDA Modernization Act of 1997 (FDAMA) codified and expanded the Third Party Review Pilot Program providing for review of certain premarket notification (510(k)) submissions by private parties outside of the Center for Devices and Radiological Health (CDRH). This guidance will assist those who are interested in participating in this program, either as persons accredited to perform 510(k) reviews (Accredited Persons) or as applicants pursuing clearance of 510(k) submissions through use of Accredited Persons, as well as FDA staff responsible for implementing the program.

DATES: Written comments may be submitted at any time.

ADDRESSES: Submit written comments concerning this guidance to the contact person listed below. If you do not have access to the World Wide Web (WWW), submit written requests for single copies of the guidance entitled "Guidance for Staff, Industry, and Third Parties: Implementation of Third Party Programs Under the FDA Modernization Act of 1997" on a 3.5" disk, to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: John F. Stigi, Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–443–6597, or FAX 301–443–8818.

SUPPLEMENTARY INFORMATION:

I. Background

On August 1, 1996, FDA established the Third Party Review Pilot Program, a voluntary pilot program, to assess the feasibility of using third party reviewers to improve the efficiency of the agency's review of 510(k)'s for selected low-to-moderate risk devices. Under the pilot program, persons required to submit 510(k)'s for the eligible devices were permitted to contract with an FDA Recognized Third Party and submit a 510(k) directly to the third party for review. Persons who did not wish to participate in the pilot continued to submit 510(k)'s directly to FDA.

Under FDAMA, this pilot program has been codified and expanded and FDA is required to establish and publish criteria to accredit or deny accreditation to persons who request to perform third party reviews. Those criteria were published in the **Federal Register** of May 22, 1998 (63 FR 28388). On the same date, the agency announced the availability of a draft guidance pertaining to the third party review program (63 FR 28392). The agency received three comments on the draft guidance. FDA has reviewed the comments and has made some revisions to the guidance in response to the comments. The agency also has included additional information regarding conflicts of interest. This includes additional examples of conditions that could indicate an appearance of a conflict of interest and a statement that applications from prospective third parties should include the written policies and procedures that have been established to ensure that contract employees involved in the evaluation of 510(k)'s are also free from conflicts of interest.

FDA will begin to accept applications from prospective accredited persons beginning July 20, 1998. FDA will review those applications in 60 days and approved Accredited Persons may begin to submit reviews of 510(k)'s on November 21, 1998. Because Accredited Persons must participate in training prior to submitting recommendations, applicants who wish to attend the initial training that will be held October 14 through 16, 1998, should submit their applications at least 60 days in advance of that date.

II. Significance of Guidance

This guidance represents the agency's current thinking on implementation of the third party review program. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

The agency has adopted Good Guidance Practices, which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This guidance has been issued under the agency's procedures for a Level 1 guidance document.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may also do so using the WWW. CDRH maintains an entry on the WWW for easy access to information, including text, graphics, and files that may be downloaded to a personal computer with access to the Web. Updated on a regular basis, the CDRH home page includes "Guidance for Staff, Industry, and Third Parties: Implementation of Third Party Programs Under the FDA Modernization Act of 1997," device safety alerts, access to **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers addresses), small manufacturers assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at "http://www.fda.gov/cdrh".

A text-only version of the CDRH home page is also available from a computer or VT–100 compatible terminal by dialing 800–222–0185 (terminal settings are 8/1/N). Once the modem answers, press Enter several times and then select menu choice 1: FDA BULLETIN BOARD SERVICE. From there follow instructions for logging in, and at the BBS TOPICS PAGE, arrow down to the FDA home page (do not select the first CDRH entry). Then select Medical Devices and Radiological Health. From there select CENTER FOR DEVICES AND RADIOLOGICAL HEALTH for general information, or arrow down for specific topics.

IV. Comments

Interested persons may, at any time, submit written comments regarding this final guidance to the contact person listed above. Comments will be considered when determining whether to amend the current guidance.

Dated: October 26, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–29275 Filed 10–30–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies, and Laboratories That Have Withdrawn From the Program

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be identified as such at the end of the current list of certified laboratories, and will be omitted from the monthly listing thereafter.

This Notice is now available on the internet at the following website: http://www.health.org.

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, 5600 Fishers Lane, Rockwall 2 Building, Room 815, Rockville, Maryland 20857; Tel.: (301) 443–6014.

Special Note: Our office moved to a different building on May 18, 1998. Please use the above address for all regular mail and correspondence. For all overnight mail service use the following address: Division of Workplace Programs, 5515 Security Lane, Room 815, Rockville, Maryland 20852.

SUPPLEMENTARY INFORMATION:

Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840, (formerly: Bayshore Clinical Laboratory)

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400

Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800–541–4931 / 334–263–5745

Alliance Laboratory Services 3200 Burnet Ave., Cincinnati, OH 45229, 513–585–9000, (formerly: Jewish Hospital of Cincinnati, Inc.)

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 20151, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866 / 800–433–2750

Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801–583–2787 / 800–242–2787

Baptist Medical Center—Toxicology Laboratory 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783, (formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Cedars Medical Center, Department of Pathology, 1400 Northwest 12th Ave., Miami, FL 33136, 305–325–5784

Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215–2802, 800–445–6917

Cox Health Systems, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–269–3093, (formerly: Cox Medical Centers)
Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, P. O. Box 88–6819, Great Lakes, IL 60088–6819, 847–688–2045/847–688–4171
Diagnostic Services Inc., dba DSI, 12700 Westlinks Drive, Fort Myers, FL 33913, 941–561–8200/800–735–5416
Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31604, 912–244–4468
DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 800–898–0180/206–386–2672, (formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)
DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310
Dynacare Kasper Medical Laboratories*, 14940–123 Ave., Edmonton, Alberta, Canada T5V 1B4, 800–661–9876/403–451–3702
ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 601–236–2609
Gamma-Dynacare Medical Laboratories*, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall St., London, ON, Canada N6A 1P4, 519–679–1630
General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267
Hartford Hospital Toxicology Laboratory, 80 Seymour St., Hartford, CT 06102–5037, 860–545–6023
Info-Meth, 112 Crescent Ave., Peoria, IL 61636, 800–752–1835/309–671–5199, (formerly: Methodist Medical Center Toxicology Laboratory)
LabCorp Occupational Testing Services, Inc., 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–672–6900/800–833–3984, (formerly: CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)
LabCorp Occupational Testing Services, Inc., 4022 Willow Lake Blvd., Memphis, TN 38118, 901–795–1515/800–223–6339, (formerly: MedExpress/National Laboratory Center)
LabOne, Inc., 8915 Lenexa Dr., Overland Park, Kansas 66214, 913–888–3927/800–728–4064, (formerly: Center for Laboratory Services, a Division of LabOne, Inc.)
Laboratory Corporation of America, 888 Willow St., Reno, NV 89502, 702–334–3400, (formerly: Sierra Nevada Laboratories, Inc.)
Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 800–437–4986/908–526–2400, (formerly: Roche Biomedical Laboratories, Inc.)
Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823
Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–331–3734
MAXXAM Analytics Inc.*, 5540 McAdam Rd., Mississauga, ON, Canada L4Z 1P1, 905–890–2555, (formerly: NOVAMANN (Ontario) Inc.)
Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43614, 419–381–5213
MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 800–832–3244/612–636–7466
Methodist Hospital Toxicology Services of Clarian Health Partners, Inc., Department of Pathology and Laboratory Medicine, 1701 N. Senate Blvd., Indianapolis, IN 46202, 317–929–3587
MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–4512, 800–950–5295
Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, Minnesota 55417, 612–725–2088
National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 805–322–4250
Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800–322–3361/801–268–2431
Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–341–8092
Pacific Toxicology Laboratories, 1519 Pontius Ave., Los Angeles, CA 90025, 310–312–0056, (Formerly: Centinela Hospital Airport Toxicology Laboratory
Pathology Associates Medical Laboratories, 11604 E. Indiana, Spokane, WA 99206, 509–926–2400/800–541–7891
PharmChem Laboratories, Inc., 1505–A O'Brien Dr., Menlo Park, CA 94025, 650–328–6200/800–446–5177
PharmChem Laboratories, Inc., Texas Division, 7610 Pebble Dr., Fort Worth, TX 76118, 817–595–0294, (formerly: Harris Medical Laboratory)
Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372/800–821–3627
Poisonlab, Inc., 7272 Clairemont Mesa Blvd., San Diego, CA 92111, 619–279–2600/800–882–7272
Premier Analytical Laboratories, 15201 East I–10 Freeway, Suite 125, Channelview, TX 77530, 713–457–3784/800–888–4063, (formerly: Drug Labs of Texas)
Presbyterian Laboratory Services, 5040 Airport Center Parkway, Charlotte, NC 28208, 800–473–6640/704–943–3437
Quest Diagnostics Incorporated, 4444 Giddings Road, Auburn Hills, MI 48326, 810–373–9120 / 800–444–0106, (formerly: HealthCare/Preferred Laboratories, HealthCare/MetPath, CORNING Clinical Laboratories)
Quest Diagnostics Incorporated, National Center for Forensic Science, 1901 Sulphur Spring Rd., Baltimore, MD 21227, 410–536–1485, (formerly: Maryland Medical Laboratory, Inc., National Center for Forensic Science, CORNING National Center for Forensic Science)
Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 800–526–0947 / 972–916–3376, (formerly: Damon Clinical Laboratories, Damon/MetPath, CORNING Clinical Laboratories)
Quest Diagnostics Incorporated, 875 Greentree Rd., 4 Parkway Ctr., Pittsburgh, PA 15220–3610, 800–574–2474 / 412–920–7733, (formerly: Med-Chek Laboratories, Inc., Med-Chek/Damon, MetPath Laboratories, CORNING Clinical Laboratories)
Quest Diagnostics Incorporated, 2320 Schuetz Rd., St. Louis, MO 63146, 800–288–7293 / 314–991–1311, (formerly: Metropolitan Reference Laboratories, Inc., CORNING Clinical Laboratories, South Central Division)
Quest Diagnostics Incorporated, 7470 Mission Valley Rd., San Diego, CA 92108–4406, 800–446–4728 / 619–686–3200, (formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT), CORNING Nichols Institute, CORNING Clinical Laboratories)
Quest Diagnostics Incorporated, One Malcolm Ave., Teterboro, NJ 07608, 201–393–5590, (formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratory)
Quest Diagnostics Incorporated, 1355 Mittel Blvd., Wood Dale, IL 60191, 630–595–3888, (formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratories Inc.)
Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130
Scott & White Drug Testing Laboratory, 600 S. 31st St., Temple, TX 76504, 800–749–3788 / 254–771–8379
S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/ 800–999–5227
SmithKline Beecham Clinical Laboratories, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590, (formerly: SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214–637–7236, (formerly: SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 801 East Dixie Ave., Leesburg, FL 34748, 352–787–9006, (formerly: Doctors & Physicians Laboratory)
SmithKline Beecham Clinical Laboratories, 400 Egypt Rd., Norristown, PA 19403, 800–877–7484 / 610–631–4600, (formerly: SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 506 E. State Pkwy., Schaumburg, IL 60173, 847–447–4379/800–447–4379, (formerly: International Toxicology Laboratories)
SmithKline Beecham Clinical Laboratories, 7600 Tyrone Ave., Van Nuys, CA 91405, 818–989–2520 / 800–877–2520,
South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176
Southwest Laboratories, 2727 W. Baseline Rd., Tempe, AZ 85283, 602–438–8507
Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517–377–0520, (formerly: St. Lawrence Hospital & Healthcare System)
St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 573–882–1273
Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260
UNILAB, 18408 Oxnard St., Tarzana, CA 91356, 800–492–0800 / 818–996–7300, (formerly: MetWest-BPL Toxicology Laboratory)
Universal Toxicology Laboratories, LLC, 10210 W. Highway 80, Midland, Texas 79706, 915–561–8851/888–953–8851
UTMB Pathology-Toxicology Laboratory, University of Texas Medical Branch, Clinical Chemistry Division, 301 University Boulevard, Room 5.158, Old John Sealy, Galveston, Texas 77555–0551, 409–772–3197

• The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. DHHS, with the DHHS' National Laboratory Certification Program (NLCP) contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do. Upon finding a Canadian laboratory to be qualified, the DHHS will recommend that DOT certify the laboratory (FR, 16 July 1996) as meeting the minimum standards of the "Mandatory Guidelines for Workplace Drug Testing" (59 FR, 9 June 1994, Pages 29908–29931). After receiving the DOT certification, the laboratory will be included in the monthly list of DHHS certified laboratories and participate in the NLCP certification maintenance program.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 98–29246 Filed 10–30–98; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Substance Abuse and Mental Health Services Administration

Notice of Listing of Members of the Substance Abuse and Mental Health Services Administration's Senior Executive Service Performance Review Board (PRB)

The Substance Abuse and Mental Health Services Administration (SAMHSA) announces the persons who will serve on the Substance Abuse and Mental Health Services Administration's Performance Review Board. This action is being taken in accordance with Title 5, U.S.C., Section 4314(c)(4), which requires that members of performance review boards be appointed in a manner to ensure consistency, stability, and objectivity in performance appraisals, and requires that notice of the appointment of an individual to serve as a member be published in the **Federal Register**.

The following persons will serve on the SAMHSA Performance Review Board, which oversees the evaluation of performance appraisals of SAMHSA's Senior Executive Service (SES) members: Joseph Autry, M.D., Chairperson; Bernard S. Arons, M.D.; Ruth Sanchez-Way, Ph.D.; and William Robinson, M.D.

For further information about the SAMHSA Performance Review Board, contact the Division of Human Resources Management, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 14 C–24, Rockville, Maryland 20857, telephone (301) 443–5030 (not a toll-free number).

Dated: October 26, 1998.

Nelba Chavez,

Administrator, SAMHSA.

[FR Doc. 98–29266 Filed 10–30–98; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–110–6333–00; GP9–0016]

Closure of Public Lands; Oregon

AGENCY: Bureau of Land Management, Medford District Office, Ashland Resource Area.

ACTION: Emergency Closure of Bureau of Land Management Administered Roads—Jackson County, Oregon.

SUMMARY: Notice is hereby given that certain BLM roads in Jackson County, Oregon are hereby closed to all motorized vehicles including off-road vehicles from October 23, 1998 until notice is rescinded. The closure is made under the authority of 43 CFR 9268.3(d)(1)(ii) and 8364.1(a).

The roads and the conditions of this emergency road closure are identified as follows: Roads 41–2E–3, 41–2E–9, 41–2E–10.0, 41–2E–10.1 and connecting spur roads are hereby seasonally closed. These roads are located in Sections 2, 3, 10, 11, and 12 of T. 41 S., R. 2 E., and Sections 5, 6, and 7 of T.41S., R. 3E., Willamette Meridian, Jackson County, Oregon. In addition, the road located next to Scotch Creek in Section 1, T. 41 S., R. 2 E. (W. M.) is hereby permanently closed under this order.

Any person who fails to comply with the provisions of this closure order may be subject to the penalties provided in 43 CFR 8360.0–7, which include a fine not to exceed $1,000.00 and/or imprisonment not to exceed 12 months, as well as the penalties provided under Oregon State law.

The roads temporarily closed to motorized use under this order will be posted with signs at barricaded locations.

The purpose of this emergency temporary closure is to prevent excessive erosion, and to protect recent BLM investments in road maintenance work.

This closure is effective from October 23, 1998 until this notice is rescinded.

FOR FURTHER INFORMATION CONTACT: Joe Hoppe, Realty Specialist, at (541) 770–2200.

Dated: October 23, 1998.

Wayne M. Kuhn,

Acting District Manager.

[FR Doc. 98–29270 Filed 10–30–98; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF INTERIOR

Bureau of Land Management

[UT–069–1990–00]

San Juan and Grand Resource Management Plans; Notice of Intent

AGENCY: Bureau of Land Management, Interior.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare Environmental Impact Statement (EIS) and amend the San Juan Resource Management Plan (SJRMP)and the Grand Resource Management Plan (GRMP). Call for information on potential Areas of Critical Environmental Concern (ACEC) and Wild and Scenic Rivers (W&SR).

SUMMARY: The Bureau of Land Management (BLM) is proposing to prepare an Environmental Impact Statement to consider proposed amendments to the SJRMP and the GRMP in the Lockhart Basin Area of San Juan County, Utah.

DATES: Public comment opportunities for identification of issues for the proposed plan amendment will commence with the date of publication of this notice. Comments must be submitted on or before December 2, 1998.

FOR FURTHER INFORMATION CONTACT: Kent Walter, Monticello Field Office Manager, Bureau of Land Management, 435 North Main Street, P.O. Box 7, Monticello, Utah 84535, telephone (801) 587–1500. Comments on issues to be addressed in the proposed plan amendment should be sent to the above address.

SUPPLEMENTARY INFORMATION: On December 10, 1997, the San Juan Resource Area (SJRA) of the Moab District published in the **Federal Register**, a Notice of Intent to prepare an Environmental Assessment (EA) level plan amendment for the SJRMP. This EA level amendment was originally proposed in order to provide additional recreational guidance for portions of the SJRMP in the Indian Creek Area and Canyon Basins Special Recreation Area, citing that since the completion of the SJRMP in March 1991, significant increases in recreation use has led to degradation of sensitive resources including riparian areas, cultural sites, visual resources etc. Upon publication of the **Federal Register** Notice, a public scoping effort was intiated.

Additionally, on January 13, 1998, the Moab and Monticello Field Offices, published in the **Federal Register**, a second Notice of Intent to prepare an EA level plan amendment for the Lockhart Basin area. The preliminary issues for this amendment involved visual resources, wildlife relative to current oil and gas categorization and resulting conflicts with other sensitive resource values.

It is the determination of the Bureau of Land Management that the public scoping efforts for both of these proposed amendments have identified significant concerns that should be addressed in an EIS amendment format and should include cross jurisdictional issues between the two BLM Field Offices. Issues that have been identified to be addressed in the new EIS level amendment are as follows:

(a) Livestock re-classification and forage reallocation for bighorn sheep to enhance bighorn sheep management and reduce interspecies conflict.

(b) Potential reclassification of current oil and gas categories to enhance wildlife habitat protection and visual resource management,

(c) The implication of increased recreation use on BLM administered public lands in relation to Canyonlands National Park,

(d) The potential designation of Areas of Critical Environmental Concern, and inventory/classification of Wild and Scenic Rivers,

(e) Potential Off Highway Vehicle (OHV) closures in areas known to cause degradation of sensitive resources,

(f) Review and possible incorporation of Utah Rangeland Health Standards as appropriate,

(g) Re-evaluation of Visual Resource Management (VRM) Classes.

(h) Consideration of the need for mineral withdrawal in certain portions of the area.

(i) Special management considerations in support of long term research and monitoring.

A separate activity level (site specific) camping facilities plan for the Indian Creek area is still under preparation and will continue. This plan is considered in conformance with the current SJRMP and will be incorporated by reference into the proposed SJRMP Amendment.

This notice provides an opportunity for the public to participate in the revised EIS level plan amendment. Additional comment opportunities on the revised scope of this project will be available as the planning/NEPA process continues.

No additional planning criteria are proposed for this effort beyond those previously identified in the SJRMP or GRMP.

This notice is also to advise the public that the BLM is seeking additional public input regarding potential areas that could be considered for either ACEC designation and or W&SR study and evaluation, as well as to seek additional public input on those areas that have already been nominated within the Lockhart Basin area. The Bureau of Land Management will determine what areas, if any, should be designated as Areas of Critical Environmental Concern (ACEC). To be considered as a potential ACEC, and analyzed in a management plan alternative, an area must meet the criteria of "relevance and importance" as established and defined in 43 CFR 1610. An area meets the "relevance" criteria if it contains one of more of the following: (1) Significant historic, cultural, or scenic values, (2) fish and wildlife resource (including sensitive species, or it's relative habitat or habitat essential for maintaining species diversity), (3) natural processes or systems (including rare, endemic, relic plants or communities and riparian areas), and (4) natural hazards such as severe avalanche, flooding, seismic activity, etc.

The "importance" criteria is used to insure that a specific resource or value, process or hazard has substantial significance and values. Importance can be characterized as follows: (1) Being more than locally significant, having special worth, (2) having qualities or circumstances that make it fragile, sensitive, rare, irreplaceable, unique, endangered or threatened, meaningful or distinctive, (3) has been recognized as warranting protection in order to satisfy national priorities or to carry out the mandates of FLPMA, and (4) has qualities which warrant concern to satisfy public or management concerns regarding public welfare and safety.

All ACEC nominations will receive a preliminary evaluation by an interdisciplinary team to determine if the area meets the "relevance" and "importance" criteria. Nominations should include descriptive materials, detailed maps and evidence supporting the relevance and importance of the resource. Additionally, public nominations are also being sought for those river segments which may be eligible for inclusion into the National Wild & Scenic River System.

In order to be considered, the body of water must be free flowing. A river segment can be determined free flowing if it is a flowing body of water, estuary, or section, portion, or tributary thereof including, rivers, streams, creeks, runs, kills, rills, and small lakes. River segments can be any size and must be existing or flowing in natural conditions without major modification. All nominations should be accompanied by detailed maps and descriptions.

Dated: October 27, 1998.

Douglas M. Koza,

Acting State Director.

[FR Doc. 98–29285 Filed 10–30–98; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–924–1430–01; MTM 84004]

Public Land Order No. 7371; Opening of Land Under Section 24 of the Federal Power Act; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order opens, subject to the provisions of Section 24 of the Federal Power Act, 70 acres of National Forest System land withdrawn by a Secretarial Order which established Bureau of Land Management Powersite Reserve No. 110. This action will permit consummation of a pending Forest Service land exchange and retain the power rights to the United States. The land is temporarily closed to surface entry and mining due to a pending land exchange. The land has been and continues to be open to mineral leasing.

EFFECTIVE DATE: November 2, 1998.

FOR FURTHER INFORMATION CONTACT: Deborah Sorg, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–255–2945.

By virtue of the authority vested in the Secretary of the Interior by the Act of June 10, 1920, Section 24, as amended, 16 U.S.C. 818 (1994), and pursuant to the determination by the Federal Energy Regulatory Commission in DVMT–246, it is ordered as follows:

At 9 a.m. on November 2, 1998, the following described National Forest System land, withdrawn by Secretarial Order dated January 24, 1910, which established Powersite Reserve No. 110, will be opened to disposal by land exchange, subject to the provisions of Section 24 of the Federal Power Act as specified by the Federal Energy Regulatory Commission in determination DVMT–246, and subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law:

Principal Meridian, Montana

T. 1 S., R. 22 W.,
Sec. 26, S½N½SE¼NW¼, S½SE¼NW¼, and NE¼SW¼.

The area described contains 70 acres in Ravalli County.

Dated: October 26, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98–29255 Filed 10–30–98; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–01; N–62050]

Amendment of Sonoma-Gerlach Management Framework Plan (MFP)/ Notice of Realty Action, Direct Sale of Public Land, Pershing County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Plan Amendment/Notice of Realty Action.

SUMMARY: Notice is hereby given that the Bureau of Land Management (BLM) has amended the Sonoma-Gerlach Management Framework Plan to identify for disposal under the Federal Land Policy and Management Act 350 acres of public land described as:

Mount Diablo Meridian, Nevada

T. 27 N., R. 31 E.,
Sec. 7: E½SE¼NE¼, NE¼SW¼SE¼, S½SW¼SE¼, E½SE¼;
Sec. 8: SW¼NW¼, W½SW¼;
Sec. 18: N½NE¼, E½NE¼NW¼;
Containing 350 acres more or less.

The subject lands have been found suitable for direct sale under Sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713 and 1719), at not less than fair market value.

The above described lands are hereby classified for disposal in accordance with Executive Order 6910 and the Act of June 28, 1934, as amended.

The lands were formerly segregated from sale by publication of a Notice of Realty Action (N58101) published in the **Federal Register** on January 14, 1994, in anticipation of an R&PP lease. Upon publication of this notice in the **Federal Register**, the segregation against sale under the authority of the Federal Land Policy and Management Act is terminated and the subject lands are open to sale under the authority of the Federal Land Policy and Management Act. Upon patent issuance for the subject lands, the Recreation and Public Purposes Act Lease N–58101, issued to the Pershing County Fair and Recreation Board, shall terminate.

The lands are not required for Federal purposes. Disposal is consistent with the Bureau's planning for this area and would be in the public's interest. This land is being offered by direct sale to the Pershing County Fair and Recreation Board. It has been determined that the subject parcel contains no known mineral values.

Acceptance of a direct sale offer will constitute an application for conveyance of those mineral interests having no known value. The applicant will be required to pay a $50.00 non-refundable filing fee for conveyance of the said mineral interests. The land will not be offered for sale until at least 60 days after publication of this notice in the **Federal Register**.

Planning Protests

Any party that participated in the plan amendment and is adversely affected by the amendment may protest this action as it affects issues submitted for the record during the planning process. The protests shall be in writing and filed with the Director, Bureau of Land Management, Attn: Ms. Brenda Williams, Protests Manager (WO–210), 1849 "C" Street NW/LS–1075, Washington, DC 20240 within 30 days after the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Ken Detweiler, Realty Specialist, Bureau of Land Management, 5100 E. Winnemucca Boulevard, Winnemucca, NV 89445, telephone (702) 623–1500.

SUPPLEMENTARY INFORMATION: The public lands are being offered to the Pershing County Fair and Recreation Board for the proposed Desert Coral Golf Course. Currently, the parcel is under Recreation and Public Purposes Act Lease N–58101 by the Board for the subject golf course. Sale of the parcel to the Board would give them more flexibility in procuring financing and in management of the proposed golf course.

A patent, when issued, will contain the following reservations to the United States:

A right-of-way thereon for ditches or canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 945).

And will be subject to:

1. Those rights for highway purposes which have been granted to the Nevada Department of Transportation, by Right-of-way NEV–048800, under the Act of November 9, 1921 (23 U.S.C. Sec. 18).

2. Those rights for communication line purposes which have been granted to Bell Telephone Company of Nevada under Right-of-way N–12799, under the Act of March 4, 1911 (43 U.S.C. 961) and under Right-of-way N–61913, under the Act of October 21, 1976 (43 U.S.C. 1761).

3. Those rights for natural gas pipeline purposes which have been granted to Southwest Gas Corporation by Right-of-way NEV–058689, under the Act of February 25, 1920 (30 U.S.C. 185 Sec. 28).

4. Those rights for power transmission line purposes which have been granted to Sierra Pacific Power Company by Right-of-way N–12800, under the Act of March 4, 1911 (43 U.S.C. 961) and Right-of-way N–60884 under the Act of October 21, 1976 (43 U.S.C. 1761).

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed sale to the Field Manager, Winnemucca Field Office, Bureau of Land Management, 5100 E.

Winnemucca Boulevard, Winnemucca, NV 89445. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

Dated: October 19, 1998.

Terry Reed,

Field Manager, Winnemucca, Nevada.

[FR Doc. 98–29226 Filed 10–30–98; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–067–1050–00, CACA 39853]

Proposed Withdrawal and Opportunity for Public Meeting; Imperial County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 9,360.74 acres of public land in Imperial County to protect the archaeological and cultural resources located in the Indian Pass Area of Critical Environmental Concern and Expanded Management Area. Publication of this notice segregates the land proposed to be withdrawn, subject to valid existing rights, for a 2-year period from settlement, sale, location, or entry under the general land laws, including the mining laws. The land will remain open to the operations of the mineral leasing, geothermal leasing, and material sales laws.

DATES: Comments and request for a public meeting must be received by February 1, 1999.

ADDRESSES: Comments and meeting requests should be sent to the Field Manager, El Centro Field Office (CA–067), 1661 South 4th Street, El Centro, California 92243–4561.

FOR FURTHER INFORMATION CONTACT: Thomas Zale, BLM, El Centro Field Office, (760) 337–4420.

SUPPLEMENTARY INFORMATION: On October 26, 1998, a petition was approved allowing the Bureau of Land Management to file an application to withdraw for a 20-year period, and subject to valid existing rights, the following described public land from settlement, sale, location, or entry under the general land laws, including the mining laws, but not the mineral leasing, geothermal leasing, or the material sales laws, subject to valid existing rights:

San Bernardino Meridian

T. 13 S., R. 20 E.,
Sec. 25, E½.
T. 13 S., R. 21 E.,
Sec. 21, NE¼, E½NW¼, and SW¼;
Sec. 28, NW¼ and NW¼SW¼;
Secs. 29 to 33, inclusive.
T. 14 S., R. 20 E.,
Sec. 1, E½;
Sec. 11, E½;
Secs. 12 to 14, inclusive.
T. 14 S., R. 21 E.,
Sec. 4, lots 1 and 2 of NW¼, and NW¼SW¼;
Sec. 5, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, and S½;
Sec. 6, lots 1 and 2 of NE¼, lots 1 & 2 of NW¼, lots 1 and 2 of SW¼, and SE¼;
Sec. 7, lots 1 and 2 of NW¼, lots 1 and 2 of SW¼, and E½;
Sec. 8, N½NE¼ and W½;
Sec. 17, NW¼NW¼;
Sec. 18, lots 1 and 2 of NW¼, and NE¼.

The area described contains 9,360.74 acres in Imperial County.

The purpose of the proposed withdrawal is to protect the archaeological and cultural resources in the Indian Pass Area of Critical Environmental Concern and Expanded Management Area (collectively the "Indian Pass area"). The Indian Pass area is considered to be a sacred site by the Quechan people.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Field Manager, El Centro Field Office of the Bureau of Land Management.

Notice is hereby given that a public meeting will be held to discuss the proposed withdrawal and solicit comments from the public regarding it. A notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300. The application and case file are available for public inspection at the El Centro Field Office of the Bureau of Land Management.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. During the segregation period various studies and analyses will be conducted. No action as to the proposed withdrawal shall be taken until these studies and analyses are completed. The temporary uses which may be permitted during this segregative period are those which are compatible with the use of land, as determined by the Bureau of Land Management.

Dated: October 27, 1998.

Duane Marti,

Acting Chief, Branch of Lands.

[FR Doc. 98–29286 Filed 10–30–98; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

Supplemental Draft Environmental Impact Statement; Backcountry and Wilderness Management Plan, Joshua Tree National Park, San Bernardino and Riverside Counties, CA

SUMMARY: Pursuant to § 102(2)(C) of the National Environmental Policy Act of 1969 (P.L. 91–190 as amended), the National Park Service (NPS), Department of the Interior, has prepared a supplement to the Draft Environmental Impact Statement (DEIS) assessing alternatives for, and potential impacts of, a proposed Backcountry and Wilderness Management Plan for Joshua Tree National Park.

BACKGROUND: After an initial public review and comment phase, thorough review of all comments received, and with consideration of the Joshua Tree National Park Advisory Commission's input, the NPS has determined it necessary to issue a Supplemental Environmental Impact Statement (SEIS). The SEIS expands upon the conservation planning and impact analysis undertaken in the original DEIS, and contains: an update on the planning process; a discussion of an additional alternative, which constitutes the new proposed action; a discussion of foreseeable environmental consequences if this new alternative were to be implemented; and summary tables comparing the actions and consequences of all five alternatives.

COMMENTS: The formal review period for the SEIS document extends through December 31, 1998. Reviewers may address any aspect of the DEIS or SEIS. All written comments must be postmarked not later than December 31, 1998, and sent to: Superintendent, Joshua Tree National Park, 74485 National Park Drive, Twentynine Palms, California 92277.

Dated: October 21, 1998.

William C. Walters,

Acting Regional Director, Pacific West.

[FR Doc. 98–29241 Filed 10–30–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of the Record of Decision, Final Environmental Impact Statement for the General Management Plan, Saint Croix Island International Historic Site, Calais, ME

AGENCY: National Park Service, U.S. Department of the Interior.

INTRODUCTION: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (P.L. 91–190 as amended), and specifically to regulations promulgated by the Council of Environmental quality (40 CFR 1505.2), the Department of the Interior, National Park Service has prepared this Record of Decision following the Final Environmental Impact Statement for the general management plan for Saint Croix Island International Historic Site, Washington County, Maine. In accordance with the National Environmental Policy Act of 1969, the environmental impact statement was prepared to assess the impacts of implementing the general management plan. The purpose of the general management plan is to clearly define the site's mission, mission goals, and management direction. It provides a foundation to guide and coordinate all subsequent management decision-making.

SUMMARY: The Record of Decision is a concise statement of the decision made, the basis for the decision, and the background of the project (including the decision making process, other alternatives considered, and public involvement), along with any mitigating measures. The Record of Decision concludes compliance with the National Environmental Policy Act for decision making to approve the general management plan for Saint Croix Island International Historic Site. This compliance was initiated upon a Notice of Intent to prepare an Environmental Impact Statement which established a public scoping period and was published in the **Federal Register** on September 19, 1995. Notice of a 45-day comment period on the Draft Environmental Impact Statement was published in the **Federal Register** on September 17, 1996. Twenty written comments were received by the National Park Service. The notice also announced a public meeting in Calais, Maine. Notice of availability of the Final Environmental Impact Statement was published in the **Federal Register** on March 19, 1998. One written comment was received.

The National Park Service will now implement the proposal evaluated in the Final Environmental Impact Statement as described in the Record of Decision and set forth in the general management plan for Saint Croix Island International Historic Site.

SUPPLEMENTARY INFORMATION: Saint Croix Island International Historic Site is administered by the Superintendent of Acadia National Park in Hancock County, Maine. Administrative records are therefore not held at the historic site, but in Bar Harbor, Maine. To facilitate retrieval of information about the management of Saint Croix Island International Historic Site, related documents will be bound in a single volume which includes the Final Environmental Impact Statement, Record of Decision, General Management Plan, background information, and two implementing plans. Copies of the document are available upon request from: Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine, 04609. Telephone: 207–288–3338.

Dated: October 21, 1998.

Chysandra Walter,

Deputy Regional Director, Northeast Region (617) 223–5001.

[FR Doc. 98–29239 Filed 10–30–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Draft Environmental Impact Statement, Interagency Bison Management Plan for the State of Montana and Yellowstone National Park; Extension of Comment Period

AGENCY: National Park Service, Department of the Interior.

ACTION: Extension of Public Comment Period for Draft Environmental Impact Statement.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Park Service announced on June 18, 1998 (**Federal Register**, Volume 63, Number 177) the availability of a draft environmental impact statement (DEIS) for the Interagency Bison Management Plan for the State of Montana and Yellowstone National Park. This announcement commenced a 120-day comment period, closing on October 16, 1998. During this time, the National Park Service received several requests for extensions to the comment period. The public comment period, therefore, will be extended for 15 days and will now close on November 2, 1998.

DATES: The public comment period will now be extended from October 16, 1998 to November 2, 1998.

ADDRESSES: Comments on the DEIS should be sent to Sarah Bransom, National Park Service, DSC–RP, PO Box 25287, Denver, CO 80225–0287, Telephone: (303) 969–2310. Copies of the DEIS or the executive summary of the DEIS and a complete listing of libraries where the DEIS is available for review on the Internet at http://www.nps.gov/planning/current.htm.

SUPPLEMENTARY INFORMATION: Since 1990, management of bison in and adjacent to Yellowstone National Park Service has been covered by a series of interim management plans. In 1992, the National Park Service (lead agency), state of Montana (co-lead), United States Forest Service (co-lead), and the Animal and Plant Health Inspection Service (cooperating agency) signed a Memorandum of Understanding to prepare a long-term bison management plan/EIS.

The DEIS presents seven alternatives with a full range of management techniques for maintaining a wild, free ranging bison population while minimizing the risk of transmitting the disease Brucellosis from bison to domestic cattle on public and private lands in Montana adjacent to Yellowstone National Park. Management techniques used in various combinations to meet the plan's objectives include capturing and testing bison for Brucellosis, quarantining, slaughtering, hunting and vaccination. Impacts are analyzed on the following topics: bison population, recreation, livestock operations, socioeconomics, threatened, endangered and sensitive species, other wildlife species, human health, cultural resources, and visual resources. All review comments received on the DEIS will become part of the public record.

Dated: October 9, 1998.

John E. Cook,

Regional Director, Intermountain Region, National Park Service.

[FR Doc. 98–29240 Filed 10–30–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Long-term Contract Renewal, Central Valley Project, California

AGENCY: Bureau of Reclamation, Department of the Interior.

ACTION: Notice of intent to prepare an environmental impact statement and notice of meeting; additional meeting.

SUMMARY: The Bureau of Reclamation has added an additional scoping meeting in the city of Visalia regarding preparing an environmental impact statement for renewing existing long-term and interim contracts for the Central Valley Project, California. The written comments may be submitted in accordance with the notice published in the **Federal Register** on October 15, 1998, (63 FR 55406). The purpose of the meeting is to help determine the scope of the environmental analysis and to identify significant issues related, to this proposed action, including issues related to negotiations.

DATE: The Visalia meeting will be held at 7:00 p.m. on Tuesday, November 17, 1998.

ADDRESSES: The meeting will be held at the Holiday Inn Plaza Park (Pine Room) 9000 West Airport Drive, Visalia, California 93277, telephone: 209/651–5000.

FOR FURTHER INFORMATION CONTACT: Mr. Alan R. Candlish, Bureau of Reclamation, 2800 Cottage Way Attention: MP–120, Sacramento CA 95825, telephone: 916/978–5190 or Ms. Donna Tegelman, Bureau of Reclamation, 2800 Cottage Way Attention: MP–440, Sacramento CA 95825, telephone: 916/978–5250 (TDD 978–5608).

Dated: October 27, 1998.

Michael Jackson,

Acting Regional Director.

[FR Doc. 98–29250 Filed 10–30–98; 8:45 am]

BILLING CODE 4310–94–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–165 (Review)]

Brass Fire Protection Products From Italy

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on brass fire protection products from Italy.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on brass fire protection products from Italy would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is December 22, 1998. Comments on the adequacy of responses may be filed with the Commission by January 14, 1999.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendmer ts to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: November 2, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On March 1, 1985, the Department of Commerce issued an antidumping duty order on imports of brass fire protection products from Italy (50 F.R. 8354). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions

The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is Italy.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. For purposes of this notice, there are two Domestic Like Products, brass siamese connections and brass pressure-restricting valves for use in fire protection systems. In its original determination concerning brass fire protection products, the Commission defined seven Domestic Like Products (brass siamese connections, brass pressure-restricting valves, brass fog/straight stream nozzles, brass wedge disc hose gate valves, brass angle-type hose valves, brass pressure-regulating valves, and brass fire hose couplings); however, the Commission made affirmative findings only with respect to brass siamese connections and brass pressure-restricting valves.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. For purposes of this notice, there are two Domestic Industries, producers of brass siamese connections and producers of brass pressure-restricting valves for use in fire protection systems. In its original determination concerning brass fire protection products, the Commission defined seven Domestic Industries; however, the Commission made affirmative findings only with respect to producers of brass siamese connections and brass pressure-restricting valves.

(5) The Order Date is the date that the antidumping duty order under review became effective. In this review, the Order Date is March 1, 1985.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Review and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is December 22, 1998. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is January 14, 1999. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information to be Provided in Response to this Notice of Institution

Please provide the requested information separately for the two Domestic Like Products, defined above, and for each of the products identified by Commerce as Subject Merchandise. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. § 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1984.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1997 (report quantity data in thousands of units and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of units and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports; and

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject

Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of units and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: October 21, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–29290 Filed 10–30–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–A (Review) and 731–TA–157 (Review)]

Carbon Steel Wire Rod From Argentina

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the suspended countervailing duty investigation and the antidumping duty order on carbon steel wire rod from Argentina.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether termination of the suspended countervailing duty investigation and/or revocation of the antidumping duty order on carbon steel wire rod from Argentina would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is December 22, 1998. Comments on the adequacy of responses may be filed with the Commission by January 14, 1999.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: November 2, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On September 27, 1982, the Department of Commerce suspended a countervailing duty investigation on imports of carbon steel wire rod from Argentina (47 F.R. 42393). On November 23, 1984, the Department of Commerce issued an antidumping duty order on imports of carbon steel wire rod from Argentina (49 F.R. 46180). The Commission is conducting reviews to determine whether termination of the suspended countervailing duty investigation and/or revocation of the antidumping duty order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions

The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Country in these reviews is Argentina.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. For purposes of this notice, the Domestic Like Product is all carbon steel wire rod. In its original determination concerning the antidumping duty investigation, the Commission concluded that low-carbon and high-carbon steel wire rod were separate Domestic Like Products. Because domestic producers were not able to provide separate data for those products, however, the Commission in effect examined a single Domestic Like Product consisting of all carbon steel wire rod. There was no Commission determination concerning the suspended countervailing duty investigation.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. For purposes of this notice, the Domestic Industry is producers of all carbon steel wire rod. In its original determination concerning the antidumping duty investigation, the Commission concluded that domestic producers were unable to provide separate data for low-carbon and high-carbon steel wire rod and therefore examined a single Domestic Industry consisting of producers of all carbon steel wire rod. There was no Commission determination concerning the suspended countervailing duty investigation.

(5) The Order Dates are the dates that the countervailing duty investigation was suspended and the antidumping duty order under review became effective. In these reviews, the Order Dates are September 27, 1982, for the suspended countervailing duty investigation and November 23, 1984, for the antidumping duty order.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Reviews and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is December 22, 1998. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is January 14, 1999. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution

As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the termination of the suspended countervailing duty investigation and the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. § 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the

United States or other countries since 1982.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1997 (report quantity data in short tons and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in short tons and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports; and

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in short tons and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: October 21, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–29292 Filed 10–30–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 303–TA–13 (Review), 731–TA–262, 263 and 265 (Review), and 701–TA–249 (Review)]

Iron Metal Castings From India, Iron Construction Castings From Brazil, Canada, and China, Heavy Iron Construction Castings From Brazil; Institution of Five Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the countervailing duty orders on iron metal castings from India and heavy iron construction castings from Brazil and institution of five-year reviews concerning the antidumping duty orders on iron construction castings from Brazil, Canada, and China.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty orders on iron metal castings from India and heavy iron construction castings from Brazil and whether revocation of the antidumping duty orders on iron construction castings from Brazil, Canada, and China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is December 22, 1998. Comments on the adequacy of responses may be filed with the Commission by January 14, 1999.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: November 2, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On October 16, 1980, the Department of Commerce issued a countervailing duty order on imports of iron metal castings from India (45 F.R. 68650). The Department of Commerce issued antidumping duty orders on imports of iron construction castings from Canada on March 5, 1986 (51 F.R. 7600) and from Brazil and China on May 9, 1986 (51 F.R. 17220). On May 15, 1986, the Department of Commerce issued a countervailing duty order on imports of heavy iron construction castings from Brazil (51 F.R. 17786). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions

The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are Brazil, Canada, China, and India.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination concerning iron metal castings from India, the Commission found one Domestic Like Product consisting of manhole covers and frames, catch-basin grates and frames, and cleanout covers and frames. In its original determinations concerning iron construction castings from Brazil, Canada, and China, the Commission found two separate Domestic Like Products: "heavy" and "light" iron construction castings. One Commissioner defined the Domestic Like Products differently.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination concerning iron metal castings from India, the Commission found one Domestic Industry consisting of producers of manhole covers and frames, catch-basin grates and frames, and cleanout covers and frames with two out of the four Commissioners in the majority finding a regional market located in the Western United States. One Commissioner defined the Domestic Industry differently. In its original determinations concerning iron construction castings from Brazil, Canada, and China, the Commission found two separate Domestic Industries, one producing "heavy" and one producing "light" iron construction castings. One Commissioner defined the Domestic Industries differently.

(5) The Order Dates are the dates that the countervailing and antidumping duty orders under review became effective. In the review concerning iron metal castings from India, the Order Date is October 16, 1980. In the review concerning iron construction castings from Canada the Order Date is March 5, 1986. In the reviews of the antidumping duty orders concerning iron construction castings from Brazil and China the Order Date is May 9, 1986. In the review of the countervailing duty order concerning heavy iron construction castings from Brazil the Order Date is May 15, 1986.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Reviews and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is December 22, 1998. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is January 14, 1999. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in

accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To be Provided in Response To This Notice of Institution

Please provide the requested information separately for each Domestic Like Product, as defined by the Commission in its original determinations, and for each of the products identified by Commerce as Subject Merchandise. If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the countervailing and antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. § 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in India that currently export or have exported Subject Merchandise to the United States or other countries since 1980. A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in Brazil, Canada, and China that currently export or have exported Subject Merchandise to the United States or other countries since 1985.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Countries accounted for by your firm's(s') imports; and

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Countries.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Countries accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: October 21, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–29289 Filed 10–30–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–130 (Review)]

Chloropicrin From China

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on chloropicrin from China.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on chloropicrin from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is December 22, 1998. Comments on the adequacy of responses may be filed with the Commission by January 14, 1999.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: November 2, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On March 22, 1984, the Department of Commerce issued an antidumping duty order on imports of chloropicrin from China (49 F.R. 10691). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions

The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is China.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission defined the Domestic Like Product as chloropicrin.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the Domestic Industry as producers of chloropicrin.

(5) The Order Date is the date that the antidumping duty order under review became effective. In this review, the Order Date is March 22, 1984.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Review and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs

and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is December 22, 1998. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is January 14, 1999. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information to be Provided in Response to this Notice of Institution: As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1983.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s") production; and

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity date in thousands of pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports; and

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: October 21, 1998

Donna R. Koehnke,

Secretary.

[FR Doc. 98–29295 Filed 10–30–98; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–101 (Review)]

Greige Polyester Cotton Printcloth From China

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on greige polyester cotton printcloth from China.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on greige polyester cotton printcloth from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is December 22, 1998. Comments on the adequacy of responses may be filed with the Commission by January 14, 1999.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: November 2, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On September 16, 1983, the Department of Commerce issued an antidumping duty order on imports of greige polyester cotton printcloth from China (48 FR 41614). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions

The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is China.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission defined the Domestic Like Product as greige polyester/cotton printcloth that contains 50 percent or more of cotton by weight.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the Domestic Industry as producers of greige polyester/cotton printcloth that contains 50 percent or more of cotton by weight.

(5) The Order Date is the date that the antidumping duty order under review became effective. In this review, the Order Date is September 16, 1983.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the

same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions.

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is December 22, 1998. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is January 14, 1999. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information to be Provided in Response to this Notice of Institution

As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1982.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1997 (report quantity data in thousands of square yards and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of square yards and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports; and

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of square yards and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s'') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: October 21, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–29291 Filed 10–30–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–125–126 (Review)]

Potassium Permanganate From China and Spain

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on potassium permanganate from China and Spain.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on potassium permanganate from China and Spain would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is December 22, 1998. Comments on the adequacy of responses may be filed with the Commission by January 14, 1999.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: November 2, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On January 19, 1984, the Department of Commerce issued an antidumping duty order on imports of potassium permanganate from Spain (49 F.R. 2277). On January 31, 1984, the Department of Commerce issued an antidumping duty order on imports of potassium permanganate from China (49 F.R. 3897). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions

The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are China and Spain.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission defined the Domestic Like Product as potassium permanganate.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the Domestic Industry as producers of potassium permanganate.

(5) The Order Dates are the dates that the antidumping duty orders under review became effective. In these reviews, the Order Dates are January 19, 1984, for potassium permanganate from Spain and January 31, 1984, for potassium permanganate from China.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is December 22, 1998. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is January 14, 1999. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information to be Provided in Response to this Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. § 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Countries that currently export or have exported Subject Merchandise to the United States or other countries since 1983.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Countries accounted for by your firm's(s') imports; and

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Countries.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties).

If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Countries accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: October 21, 1998.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–29294 Filed 10–30–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–B (Review)]

Refrigeration Compressors From Singapore

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the suspended investigation on refrigeration compressors from Singapore.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act) to determine whether termination of the suspended investigation on refrigeration compressors from Singapore would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is December 22, 1998. Comments on the adequacy of responses may be filed with the Commission by January 14, 1999.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: November 2, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On November 7, 1983, the Department of Commerce suspended a countervailing duty investigation on imports of refrigeration compressors from Singapore (48 F.R. 51167). Because the investigation that Commerce suspended was conducted under former section 303 of the Act (19 U.S.C. § 1303, repealed), there was no Commission determination of material injury or threat thereof by reason of subsidized imports. The Commission is conducting a review to determine whether termination of the suspended investigation would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions

The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is Singapore.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. As stated above, there was no Commission determination concerning refrigeration compressors from Singapore. Therefore, for purposes of this notice, you should consider the Domestic Like Product to be hermetic refrigeration compressors rated not over one-quarter horsepower.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. For purposes of this notice, the Domestic Industry is the producers of the Domestic Like Product.

(5) The Order Date is the date that the investigation was suspended. In this review, the Order Date is November 7, 1983.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Review and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level,

representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is December 22, 1998. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is January 14, 1999. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution

As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the termination of the suspended investigation on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. § 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1983.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1997 (report quantity data in thousands of units and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of units and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports; and

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of units and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: October 21, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–29293 Filed 10–30–98; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act, the Emergency Planning and Community Right-to-Know Act, and the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that a consent decree was lodged in *United States* v. *Chevron Industries Inc.*, Civil Action No. C98–3966–MEJ (N.D. Cal.), on October 15, 1998, with the United States District Court for the Northern District of California.

The case, regarding Chevron's refinery in Richmond, California, is a civil action under Section 309 of the Clean Water Act ("Act"), 33 U.S.C. 1319, for violations of provisions of the Act and of National Pollution Elimination Discharge System ("NPDES") permits issued in 1987 and 1992. The United States' compliant alleges that Chevron violated the permits' 'no bypass' provisions by routing wastewater around a granular activated carbon facility ("GAC Facility"), and that Chevron violated the permits' acute toxicity limits. The complaint also alleges that Chevron failed to make certain reports and give certain notices required by the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9765 and the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 11001–11050.

The Consent Decree requires Chevron to pay a penalty of $540,000. The Consent Decree also requires Chevron to increase the design capacity of its GAC Facility to 20 million gallons ("MGD") a day, and to use that capacity to treat refinery wastewater, except for 3 MGD, which may be treated in an artificial wetland as long as the wetland effluent meets toxicity standards established in the Decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments on the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environmental and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and copied to Robert R. Klotz, Environmental Enforcement Section, U.S. Department of Justice, 301 Howard Street, Suite 870, San Francisco, CA 94105. Comments should refer to *United States* v. *Chevron Industries Inc.*, Civil No. C98–3966–MEJ and DOJ No. 90–11–3–1398.

The proposed Chevron (Richmond) consent decree may be examined at the office of the United States Attorney, Northern District of California, 450 Golden Gate Avenue, San Francisco, California 94102; and at the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library 1120 G Street, N.W. 3rd Floor, Washington, D.C. 20005. To request a copy of the consent decree in *United States* v.*Chevron Industries Inc.*, please refer to that case title, Civil No. C98–3966–MEJ, DOJ No. 90–11–3–1398, and enclose a check for the amount of $10.75 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–29202 Filed 10–30–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act Pursuant to 28 CFR 50.7

Notice is hereby given that a proposed consent decree in the case of *United States* v. *Cytec Industries, Inc., et al.*, Civil Action No. C–2–98–1020, was lodged on October 5, 1998 with the United States District Court for the Southern District of Ohio. The proposed consent decree resolves the United States' claims against Cytec Industries, Inc. ("Cytec") and R. Baker and Sons All Industrial Services, Inc. ("Baker") under Section 113(b) of the Clean Air Act, 42 U.S.C. 7413(b), for violations of Section 112(c) of the Act, 42 U.S.C. 7412(c), and the National Emission Standard for Hazardous Air Pollutants (NESHAP) for asbestos, 40 CFR Part 61, Subpart M, as

a result of an asbestos removal project at a Cytec facility located in Marietta, Ohio.

In the proposed settlement, Cytec and Baker agree to: achieve full compliance with the National Emission Standards for Hazardous Air Pollutants for asbestos (the "asbestos_NESHAP"); implement an Asbestos Control Program as provided in the consent decree; and pay civil penalties of $176,135 and $49,518, for Cytec and Baker respectively.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Cytec Industries, Inc., et al.*, No. C–2–98–1020, DOJ Ref. #90–5–2–1–2223.

The proposed consent decree may be examined at the office of the United States Attorney, 2 Nationwide Plaza, 280 N. High St., Fourth Floor, Columbus, Ohio 43215; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Wahsington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and decree and enclose a check in the amount of $6.25 (25 cents per page reproduction costs) for the consent decree.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–29203 Filed 10–30–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Resource Conservation and Recovery Act of 1976 (RCRA) as Amended, 42 U.S.C. 6928

Under 28 CFR § 50.7, notice is hereby given that on October 16, 1998, a proposed Consent Decree in *United States* v. *FMC Corporation, Inc.*, Civil Action No. 98–0406–I–BLW, was lodged with the United States District Court for the District of Idaho.

In this action, the United States sought injunctive relief and penalties for violations by FMC Corporation (FMC) of the requirements of Sections 3004, 3005, and 3008 of RCRA, 42 U.S.C. §§ 6924, 6925, and 6928, and the regulations promulgated thereunder, in particular 40 CFR parts 261, 262, 265, and 270, at its facility near Pocatello, Idaho. This facility is the world's largest producer of elemental phosphorus, which is used in detergents, beverages, foods, synthetic lubricants, and pesticides, and is located on 1,400 acres within the Shoshone-Bannock Tribe's Fort Hall Indian reservation. The Consent Decree resoled the RCRA violations alleged in the Complaint filed simultaneously with the lodging of the Consent Decree, which stem primarily from FMC's use of certain surface impoundments used to store, treat and dispose of FMC's precipitator slurry/dust, which is also known as furnace off-gas solids, and waste water from the production of elemental phosphorus, which is also called phossy water. These wastes contain phosphorus, and have been determined to be ignitable and reactive pursuant to 40 CFR § 262.21(a) and 40 CFR § 261.23(a).

The injunctive relief required under the proposed Consent Decree requires FMC to close all ponds illegally handling phosphorus bearing wastes, and operate certain interim use replacement ponds under strict limitations. FMC also must construct a wastewater treatment plant to deactivate the phosphorus bearing wastes, and implement plant upgrades to meet RCRA secondary containment requirements for all units handling ignitable or reactive wastes. FMC also will pay a civil penalty to the United States of $11,864,800, and will offset approximately $5 million in additional penalties through the implementation of fourteen Supplemental Environmental Projects (SEPs'), which will reduce air emissions substantially in advance of the anticipated requirements of a future Federal Implementation Plan governing the facility under the Clean Air Act. FMC also will undertake as a SEP an environmental and public health assessment to evaluate effects of local pollutants on biota used by the Shoshone-Bannock Tribe in cultural practices, coupled with a public health component to measure any health effects of exposure and to present the findings to tribal members.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *FMC Corporation, Inc.*, D.J. Ref. 90–7–1–889.

The Consent Decree may be examined at the Office of the United States Attorney, 877 W. Main Street, Suite 201, Boise, Idaho 83702, at U.S. EPA Region 10, 1200 Sixth Avenue, ORC–158, Seattle, Washington 98101, and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $12.50 (25 cents per page reproduction cost), with attachments a check in the amount of $20.75, payable to the Consent Decree Library.

Bruce Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–29201 Filed 10–30–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Final Judgment and Competitive Impact Statement

United States v. *Halliburton Company and Dresser Industries, Inc.*

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), that a proposed Final Judgment, Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States* v. *Halliburton Company and Dresser Industries, Inc.*, Civil Action No. 98–CV–2340. The proposed Final Judgment is subject to approval by the Court after the expiration of the statutory 60-day public comment period and compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h).

On September 29, 1998, the United States filed a Complaint seeking to enjoin a transaction in which Halliburton Company ("Halliburton") would merge with Dresser Industries, Inc. ("Dresser"). The Complaint alleges that the merger would combine two of four companies that provide logging-while-drilling ("LWD") services for oil and natural gas drilling projects. Oil and gas companies use LWD tools and services when drilling non-vertical wells, especially when drilling offshore. While the drilling ongoing, sensors in these tools send back data that allow the drillers to evaluate the formation through which the drill bit is cutting. The formation evaluation data assist the driller in locating oil and gas reserves. Because LWD tools transmit formation data during the drilling, the driller can detect changes in downhole pressure and prevent the drill bit from straying out of the zone of oil and gas, thereby reducing the time and risk of drilling. The Complaint alleges that the proposed acquisition would substantially lessen competition in the provision of LWD services in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

The proposed Final Judgment orders defendants to sell Halliburton's worldwide LWD Business, as defined in Schedule A of the Proposed Final Judgment, to a purchaser acceptable to plaintiff in its sole discretion. The Final Judgment and the stipulation and Order also impose a hold separate agreement that, in essence, requires the defendants to ensure that, until the divestiture mandated by the Final Judgment has been accomplished, the LWD Business will be held separate and apart from, and operated independently of, any of defendants' other assets and businesses. A Competitive Impact Statement filed by the United States describes the Complaint, the proposed Final Judgment, and remedies available to private litigants.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Written comments should be directed to Roger W. Fones, Chief, Transportation, Energy, and Agriculture Section, Antitrust Division, 325 Seventh Street, N.W., Suite 500, Washington, DC 20530 (telephone: (202) 307–6351).

Copies of the Complaint, Stipulation and Order, proposed Final Judgment, and Competitive Impact Statement are available for inspection in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 Seventh Street, N.W., Washington, DC 20530 (telephone: (202) 514–2481), and at the office of the Clerk of the United States District Court for the District of Columbia, 333 Constitution Avenue, N.W., Washington, DC 20001. Copies of any of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations and Merger, Enforcement, Antitrust Division.

Stipulation and Order

It is hereby *Stipulated* by and between the undersigned parties, by their respective attorneys, as follows:

1. The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States Court for the District of Columbia.

2. The parties stipulate that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedure and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

3. Defendant shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as though they were in full force and effect as an order of the Court.

4. This Stipulation shall apply with equal force and effect to any amended proposed Final judgment agreed upon in writing by the parties and submitted to the Court.

5. In the event that plaintiff withdraws its consent, as provided in paragraph 2 above, or in the event that the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any part in this or any other proceeding.

6. Defendants represent that the divestiture ordered in the proposed Final Judgment can and will be made, and that the defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained therein.

Respectfully submitted,

For Plaintiff, United States of America:

Angela L. Hughes,

Member of the Florida Bar No. 211052, Attorney, Antitrust Division, U.S. Department of Justice, 325 Seventh St., N.W., Suite 500, Washington, DC 20530, (202) 307–6410 or (202) 307–6351, Facsimile: (202) 307–2784.

Dated: September 29, 1998.

For Defendant, Halliburton Company:

Ky P. Ewing, Jr.,

District of Columbia Bar No. 41285, Vinson & Elkins L.L.P., The Willard Office Building, 1455 Pennsylvania Avenue, N.W., Washington, DC 20004–1008, (202) 639–6500.

For Defendant, Dresser Industries, Inc.:

David A. Hickerson,

District of Columbia Bar No. 414723. Weil, Gotshal & Manges L.L. P., 1615 L Street, N.W., Washington, DC 20035, (202) 682–7000.

Order

It is So Ordered, this _____ day of _____, 1998.

United States District Court Judge

Final Judgment

Whereas, plaintiff, the United States of America, filed its Complaint in this action on September 29, 1998, and plaintiff and defendants Halliburton Company ("Halliburton") and Dresser Industries, Inc. ("Dresser") by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

And Whereas, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And Whereas, the essence of this Final Judgment is prompt and certain divestiture of Halliburton's LWD Business to assure that competition is not substantially lessened;

And Whereas, plaintiff requires defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

And Whereas, defendants have represented to the plaintiff that the divestiture ordered herein can and will be made and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture requirements contained below;

Now, Therefore, before the taking of any testimony, and without trial or

adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby *Ordered, Adjudged, and Decreed* as follows:

I. Jurisdiction

This Court has jurisdiction over defendants hereto and over the subject matter of this action. The Complaint states a claim upon which relief may be granted against defendants, as hereafter defined, under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

II. Definitions

As used in this Final Judgment:

A. "Dresser" means Dresser Industries, Inc., a Delaware corporation with its headquarters and principal place of business in Dallas, Texas, and its; successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, directors, officers, managers, agents, and employees.

B. "Halliburton" means Halliburton Company, a Delaware corporation with its headquarters and principal place of business in Dallas, Texas, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, directors, officers, managers, agents, and employees.

C. "HESI" means Halliburton Energy Services, Inc., a wholly owned subsidiary of Halliburton.

D. "Intellectual Property" means intellectual property used in connection with the use, manufacture and/or sale of the transferred LWD and MWD tools and related software, including without limitation, foreign and domestic patent applications and patents; trade secrets; foreign and domestic copyrights and copyright registrations; and foreign and domestic common law and registered trademarks or service marks, and trademarks or service mark applications.

E. "LWD Services" means the services and products used to provide real-time logging-while-drilling formation evaluation data is utilized to evaluate the formation characteristics of a given geologic formation. LWD Services also include MWD Services provided in conjunction with LWD Services.

F. "LWD Business" means 'HESI's worldwide business providing LWD Services and includes the tangible and intangible assets, obligations, and understandings set forth in Schedule A.

G. "MWD Services" means the services and products used in drilling directional wells to provide real-time information about the inclination and azimuth of downhole drilling tools at the bottom of the hole.

H. "Person" means any natural person, corporation, association, firm, relationship, or other business or legal entity.

III. Applicability

A. The provisions of this Final Judgment apply to each of the defendants, their successors and assigns, their subsidiaries, directors, officers, managers, agents, and employers, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Defendants shall require, as a condition of the sale or other disposition of all or substantially all of the LWD Business, that the acquiring party agree to be bound by the provisions of this Final Judgment.

IV. Divestiture

A. Defendants are hereby ordered and directed in accordance with the terms of this Final Judgment, within one hundred and eighty (180) calendar days after this Final Judgment is filed by plaintiff or five (5) days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest the LWD Business as an ongoing business, in accordance with the terms and commitments set forth in Schedule A, to an acquirer acceptable to plaintiff in its sole discretion.

B. Defendants shall use their best efforts to accomplish the divestiture ordered by this Final Judgment as expeditiously and timely as possible. Plaintiff, in its sole discretion, may extend the time period for any divestiture for an additional period of time not to exceed thirty (30) days.

C. In accomplishing the divestiture ordered by this Final Judgment, defendants promptly shall make known, by usual and customary means, the availability for sale of the LWD Business Defendants shall inform any person making an inquiry regarding a possible purchase that the sale is being made pursuant to this Final Judgment and provide such person with a copy of the Final Judgment. Defendants shall also offer to furnish to all prospective purchasers, subject to customary confidentiality assurances, all information regarding the LWD Business customarily provided in a due diligence process except such information subject to attorney-client privilege or attorney work-product privilege. Defendants shall make available such information to plaintiff at the same time that such information is made available to any other person. Defendants shall not interfere with any negotiations by any purchaser to employ any Halliburton employee of the LWD Business.

D. Defendants shall permit prospective purchasers of the LWD Business to have reasonable access to their personnel and to make such inspection of the physical facilities and any and all of their financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. Defendants shall not take any action, direct or indirect, that will impede in any way the operation of the LWD Business.

F. Unless plaintiff otherwise consents in writing, divestiture pursuant to Section IV, or by trustee appointed pursuant to Section V of this Final Judgment, shall include all of the LWD Business, and shall be accomplished in such a way as to satisfy plaintiff, in its sole discretion, that the LWD Business can and will be used by the purchaser as part of a viable, ongoing business engaged in the provision of LWD Services. The divestiture, whether pursuant to Section IV or Section V of this Final Judgment, shall be made (1) to a purchaser who is demonstrated to plaintiff's sole satisfaction (a) to have the capability and intent of competing effectively in LWD Services, and (b) to have the managerial, operational, and financial capability to compete effectively in LWD Services, and (2) on terms none of which give defendants the ability unreasonably to raise the purchaser's costs, to lower the purchaser's efficiency, or otherwise to interfere in the ability of the purchaser to compete effectively.

G. Defendants shall not sell the LWD Business to Baker Hughes, Inc., Schlumberger Limited, or any of their affiliates or subsidiaries during the life of this decree.

V. Appointment of Trustee

A. In the event that defendants have not divested the LWD Business within the time specified in Section IV of this Final Judgment, the Court shall appoint, on application of the United States, a trustee selected by plaintiff to effect the divestiture of the LWD Business. Until such time as a trustee is appointed, defendants shall continue their efforts to effect the divestiture as specified in Section IV.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the LWD Business. The trustee shall have the power and authority to accomplish the divestiture at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Sections IV and VI of this Final Judgment, and shall have such other powers as the Court shall deem appropriate. Subject to Section V(C) of this Final Judgment, the trustee shall have the power and authority to hire at the cost and expense of defendants any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestiture, and such professionals and agents shall be accountable solely to the trustee. The trustee shall have the power and authority to accomplish the divestiture at the earliest possible time to a purchaser acceptable to plaintiff in its sole discretion, and shall have such other powers as this Court shall deem appropriate. Defendants shall not object to a sale by the trustee on any grounds other than the trustee's malfeasance. Any such objections by defendants must be conveyed in writing to plaintiff and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VI of this Final Judgment.

C. The trustee shall serve at the cost and expense of defendants, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to defendants, and the trust shall then be terminated. The compensation of such trustee and of any professionals and agents retained by the trustee shall be reasonable in light of the value of the divested business and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished.

D. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestiture, including their best efforts to effect all necessary regulatory approvals. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the business to be divested, and Defendants shall develop financial or other information relevant to the business to be divested customarily provided in a due diligence process as the trustee may reasonable request, subject to customary confidentiality assurances. Defendants shall permit bona fide prospective purchasers of the assets to have reasonable access to their personnel and to make such inspection of physical facilities and any and all financial, operational or other documents and other information as may be relevant to the divestiture required by this Final Judgment.

E. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the business to be divested, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to divest the LWD Business.

F. If the trustee has not accomplished such divestiture within six (6) months after its appointment, the trustee thereupon shall file promptly with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall enter thereafter such orders as it shall deem appropriate in order to carry out the purpose of the trust which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by plaintiff.

VI. Notification

Within two (2) business days following execution of a definitive agreement, contingent upon compliance with the terms of this Final Judgment, to effect, in whole in part, any proposed divestiture pursuant to Section IV or V of this Final Judgment, defendants or the trustee, whichever is then responsible for effecting the divestiture, shall notify plaintiff of the proposed divestiture. If the trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed transaction and list the name, address and telephone number of each person not previously identified who offered to, or expressed an interest in or a desire to, acquire any ownership interest in the business to be divested, together with full details of same. Within fifteen (15) calendar days of receipt by plaintiff of such notice, plaintiff may, in its sole discretion, request from defendants, the proposed purchaser or purchasers, or any other third party, additional information concerning the proposed divestiture and the proposed purchaser. Defendants and the trustee shall furnish any additional information requested from then within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) calendar days after receipt of the notice of within twenty (20) calendar days after plaintiff has been provided with the additional information requested from defendants, the proposed purchaser or purchasers, and any third party, whichever is later, plaintiff shall provide written notice to defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If plaintiff provides written notice to defendants and the trustee that it does not object, then the divestiture may be consummated, subject only to defendants' limited right to object to the sale under Section V(B) of this Final Judgment. Absent written notice that plaintiff does not object to the proposed purchaser or upon objection by the plaintiff, a divestiture proposed under Section IV or V may not be consummated. Upon objection by defendants under the provision in Section V(B), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter and every thirty (30) calendar days thereafter until the divestiture has been completed, whether pursuant to Section IV or Section V of this Final Judgment, defendants shall deliver to plaintiff an affidavit as to the fact and manner of compliance with Section IV or V of this Final Judgment. Each such affidavit shall include, *inter alia*, the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about

acquiring, any interest in the business to be divested, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts that defendants have taken to solicit a purchaser for the relevant business and to provide required information to prospective purchasers including the limitations, if any, on such information.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, defendants shall deliver to plaintiff an affidavit which describes in detail all actions defendants have taken and all steps defendants have implemented on an on-going basis to perserve the LWD Business pursuant to Section VIII of this Final Judgment. The affidavit also shall describe, but not be limited to, defendants' efforts to maintain and operate the LWD Business as an active competitor, maintain the management, staffing, research and development activities, sales, marketing and pricing of the LWD Business, and maintain the LWD Business in operable condition at current capacity configurations. Defendants shall deliver to plaintiff an affidavit describing any changes to the efforts and actions outlined in defendants' earlier affidavit(s) filed pursuant to this Section within fifteen (15) calendar days after the change is implemented.

C. Until one year after such divestiture has been completed, defendants shall preserve all records of all efforts made to preserve the business to be divested and effect the divestiture.

VIII. Preservation of Assets

Until the divestiture required by the Final Judgment has been accomplished:

A. Defendants shall take all steps necessary to assure that the LWD Business will be maintained as a separate and independent, economically viable, ongoing business with its assets (including Intellectual Property, management, operations, and books and records) separate, distinct, and apart from those of defendants. Defendants shall use all reasonable efforts on behalf of themselves and the LWD Business to maintain and increase sales of LWD Services, continue current plans for research, development, and testing of LWD Services, and otherwise maintain the business as a viable and active competitor. Defendants shall take no action that would jeopardize the sale of the LWD Business.

B. Defendants shall not sell, lease, assign, transfer or otherwise dispose of, or pledge as collateral for loans (except such loans as are currently outstanding or replacements or substitutes therefore), assets required to be divested pursuant to Section IV or V, except that any component of such assets as is replaced in the ordinary course of business with a newly purchased, assembled, remanufactured or manufactured component may be sold or otherwise disposed of, provided the newly purchased, assembled, remanufactured or manufactured component is so identified as a replacement component for one to be divested.

C. Defendants shall provide and maintain sufficient working capital to maintain the LWD Business as a viable, ongoing business consistent with the requirements of Section VIII(A).

D. Defendants shall preserve the assets required to be divested pursuant to Section IV or V, except those replaced with newly acquired assets in the ordinary course of business, in a state of repair equal to their state of repair as of the date this Final Judgment is filed, ordinary wear and tear excepted. Defendants shall preserve the documents, books, and records relating to the LWD Business until the date of divestiture of the LWD Business.

E. Except in the ordinary course of business, Defendants shall refrain from terminating or altering current employment, salary, or benefit agreements for any executive or managerial person whose principal responsibilities are with the LWD Business, or for any sales, manufacturing, marketing, engineering, or other technical person of the LWD Business. Defendants shall also refrain from transferring any employee so employed without the prior approval of plaintiff.

F. Defendants shall use all reasonable efforts to maintain the manufacturing activities of the LWD Business, and shall maintain at a level no less than the highest level since February 25, 1998, research and development funding, promotional, advertising, sales, technical assistance, marketing, and merchandising support for the LWD Business.

G. Defendants shall provide and maintain sufficient lines and sources of credit to maintain the LWD Business as an economically viable, ongoing business.

H. Defendants shall take all steps necessary to ensure that the facilities associated with the LWD Business are fully maintained in operable condition at no lower than their current rated capacity, and shall maintain and adhere to normal repair and maintenance schedules for the LWD Business.

I. Defendants shall maintain, in accordance with sound accounting principles, separate, true, accurate and complete financial ledgers, books and records that report, on a periodic basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues, income, profit and loss of the LWD Business.

J. Defendants shall take no action that would interfere with the ability of any trustee appointed pursuant to the Final Judgment to complete the divestiture pursuant to the Final Judgment to a suitable purchaser.

K. Until such time as the LWD Business is divested, the assets to be divested shall be managed by a person appointed by Halliburton within ten (10) business days of consummation of the merger of Halliburton and Dresser, subject to plaintiff's approval. The person so appointed shall have complete managerial responsibility for the LWD Business, subject to the provisions of this Order and the Final Judgment. In the event that the person becomes unable to perform his duties, defendants shall appoint, subject to plaintiff's approval, a replacement within ten (10) business days. Should defendants fail to appoint a replacement acceptable to plaintiff within ten (10) business days, plaintiff shall appoint a replacement.

IX. Financing

Defendants are ordered and directed not to finance all or any part of any purchase by purchaser made pursuant to Sections IV or V of this Final Judgment.

X. Compliance Inspection

For purposes of determining or securing compliance with the Final Judgment and subject to any legally recognized privilege, from time to time.

A. Duly authorized representatives of the United States Department of Justice, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants made to their principal offices, shall be permitted:

1. Access during office hours of defendants to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendants, who may have counsel present, relating to the matters contained in this Final Judgment; and

2. Subject to the reasonable convince of defendants and without restraint or interference from them, to interview, either informally or on the record, their officers, employees, and agents, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General of the Assistant Attorney General in charge of the Antitrust Division, made to defendants' principal offices, defendants shall submit such written reports, under oath if requested, with respect to any matter contained in the Final Judgment.

C. No information or documents obtained by the means provided in Sections VII or X of this Final Judgment shall be divulged by a representative of the plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course or legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to plaintiff, defendant represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material: "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) calendar days notice, if practicable, shall be given by plaintiff to defendants prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which each defendant is not a party.

XI. Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XII. Termination

Unless this Court grants an extension, this Final Judgment will expire upon the tenth anniversary of the day of its entry.

XIII. Public Interest

Entry of this Final Judgment is in the public interest.

Dated _____, 1998.

_____

United States District Judge

Schedule A

1. LWD and MWD Tools

Subject to the other provisions of this Schedule A, HESI shall transfer to purchaser all of its LWD tools and such quantity of MWD tools as will allow purchaser to operate such LWD tools. Such LWD tools shall include the following tools:

	Approximate current quantity
LWD:	
CWRGM Resistivity—GR Tool	111
DNSC Density—Neutron Tool	53
SCWR Slim Resistivity Tool	42

In order to allow purchaser to operate such LWD tools, HESI will transfer the following MWD tools to purchaser:

MWD:	
HDSM Directional Tool (positive pulse)	95
HDS1 MWD Kits (positive pulse)	17
RX4 MLWD Surface System	50

Included with such tools shall be the software required to operate such tools in their current mode of operation by HESI and a hard copy and copy of all computer tapes and discs containing any data in the possession or control of HESI (but not data owned by a customer unless the customer consents) that record the performance anywhere of those tools, together with instructions and all other materials necessary to use or interpret the data. HESI will use its best efforts to obtain the consent of customers who own such data that is in its possession or control.

2. Sonic Tools

HESI shall transfer to purchaser 50% of its CLSS Sonic Tools (approximately 23 tools), 50% of its SCLSS Sonic (slim) Tools (approximately 9 tools), and 50% of its Sonic Workstations (approximately 7 workstations). HESI will also grant to purchaser a worldwide, royalty-free, irrevocable, non-exclusive license covering HESI's Intellectual Property for the use, manufacture and sale of such Sonic Tools. Such license will not be subject to any requirement to grant back to HESI rights to any improvements made by purchaser to such tools.

Included with such tools shall be the software necessary to operate such tools in their current mode of operation by HESI and a hard copy and copy of all computer tapes and discs containing any data in the possession or control of HESI (but not data owned by a customer unless the customer consents) that record the performance anywhere of those tools, together with instructions and all other materials necessary to use or interpret the data. HESI will use its best efforts to obtain the consent of customers who own such data that is in its possession or control. HESI shall be permitted to offer Sonic LWD services worldwide using the Sonic LWD tools and workstations it retains. HESI shall be permitted to rent from purchaser sufficient other HESI LWD tools to allow it to provide sonic LWD services until such tine as HESI is able to adapt its sonic LWD tools to operate in real time with LWD tools acquired from Dresser Industries, Inc., but in any event not longer than 12 months after the merger of Halliburton Company and Dresser Industries, Inc. is consummated. To the extent and for the period that HESI retains LWD tools (other than sonic tools) for such purpose, it shall pay purchaser a reasonable rental amount for such retained tools:

3. Buildings

(a) In the United States, the LWD Business is operated from the HESI-owned Lafayette, Louisiana service center, which is a 63,400 sq. ft. facility located on a 9.8 acre site, and configured for the storage of radioactive well logging sources. HESI shall transfer to purchaser the entire Lafayette facility, including all workshop, testing, and repair equipment required for the maintenance of the tools.

(b) With respect to equipment and facilities located outside the United States which are used by HESI to conduct the LWD Business, HESI will transfer to purchaser all workshop, testing, and repair equipment used by HESI to conduct the LWD Business and such of the buildings HESI owns or leases which are used solely for purposes of conducting the LWD Business. Where HESI conducts its LWD Business from a facility that is also used by HESI for other purposes, HESI will transfer such workshop, testing and repair equipment to purchaser at a nearby facility of purchaser's selection which purchaser has acquired for such purpose. In those areas where, following the merger of Halliburton Company and Dresser Industries, Inc., a facility formerly used by one of the companies to provide LWD services will not be used by HESI to provide LWD services, purchaser will have the option to

acquire that facility from HESI as part of the LWD Business.

4. Manufacturing

(a) HESI will transfer to purchaser manufacturing, assembly, testing, calibration and other machinery and equipment, including related software, to equip a building, to be supplied by purchaser, with sufficient equipment to permit purchaser to conduct the manufacturing, assembly, testing, and calibration of LWD tools and MWD tools used in conjunction with the LWD tools currently performed by HESI (with the exception of a test well). HESI will make its current test well in Fort Worth, TX available to purchaser for a period of two years for a charge not to exceed the amount charged by AMOCO at its test well in Catoosa, OK, which is available on a rental basis to the industry. This transferred equipment shall include HESI designed automated test equipment and accelerated stress screen test equipment, and standard injection molding equipment used to "pott" circuit boards in shock resistant elastomer. Also included will be a hydraulic shake table used to perform tool chassis testing. HESI will provide purchaser with copies of all drawings, histories, manuals, lab notebooks, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, and quality assurance control procedures and other records maintained by HESI related to the tools specified in paragraphs 1 and 2.

(b) A reasonable number of employees whose qualifications are suited to conduct the management of the manufacturing, assembly, testing or calibration process will be selected by purchaser from a list HESI shall supply to purchaser of all of its skilled technical and management employees who work in the manufacturing, assembly, testing, or calibration of LWD tools and MWD tools used in conjunction with the LWD tools, which list shall include their expertise, qualifications, job descriptions, salary, date of hire, and all other information from the employee's personnel file that HESI can legally provide to purchaser. Purchaser will be responsible for offering such employees such compensation and benefit program as will induce such persons voluntarily to agree to leave HESI's employment and become employees of purchaser. HESI will use its best efforts to work with purchaser to make reasonable arrangements to cause such employees to accept such employment by purchaser.

(c) If at the time of sale there exist continuing contract obligations of HESI to sell or maintain or support LWD tools previously sold to third-parties, HESI shall identify and purchaser shall assume such obligations.

5. R&D

HESI will deliver to purchaser R&D equipment, including related software, and copies of tool histories, development records and laboratory records related to the LWD tools and MWD tools listed in paragraphs 1 and 2, including the results of unsuccessful designs. HESI will provide purchaser, at a location to be supplied by purchaser, a LWD research laboratory capable of conducting the research projects existing at any time on or after February 25, 1998 with respect to existing LWD or MWD tools or new tools that extend the technology contained in the tools listed in paragraphs 1 and 2. A reasonable number of employees whose technical qualifications are suited to conduct the types of LWD research and development purchaser wishes to conduct will be selected by purchaser from HESI's current LWD technical staff. HESI shall supply to purchaser a complete list of all its LWD technical staff members who have participated in any research projects with respect to LWD or MWD tools, including their expertise, qualifications, job descriptions, salary, date of hire, and all other information from the employee's personnel file that HESI can legally provide to purchaser. Purchaser will be responsible for offering such employees such compensation and benefit programs as will induce such persons voluntarily to agree to leave HESI's employment and become employees of purchaser. HESI will use its best efforts to work with purchaser to make reasonable arrangements to cause such employees to accept employment by purchaser.

6. Licenses

(a) HESI will grant to purchaser a worldwide, royalty-free, irrevocable, non-exclusive license covering HESI owned Intellectual Property. Purchaser shall not be granted any rights, including trademarks and service marks, associated with the use of the trade names or commercial names of Halliburton or HES; provided, however, that in the marketing of LWD services using LWD or MWD tools acquired from HESI, purchaser will possess the right following the date of the purchase of the LWD Business to identify its LWD and MWD tools as being manufactured pursuant to a license from HESI and its LWD Business as having been acquired from HESI. Such license will not be subject to any requirement that purchaser grant back to HESI rights to any improvements made by purchaser to such tools.

(b) HESI will grant to purchaser sublicenses covering the use of third-party technology and related software embodied in the transferred LWD and MWD tools and software, to the extent permitted by its licenses from such third parties. Such sublicenses will not be subject to any requirement that purchaser grant back to HESI rights to any improvements made by purchaser to such tools. To the extent that the third party licenses do not permit HESI to grant purchaser a sublicense, HESI will identify each such third party license and use its best efforts to assist purchaser in obtaining a license from the third party.

7. Contracts

(a) At the time of sale, HESI will assign to purchaser all of its contracts with customers to provide LWD services in the United States, or to the extent applicable, portions of contracts to provide LWD services in the United States that are outstanding at closing. To the extent not assignable, HESI will use its best efforts to obtain for purchaser the benefit of such contracts by designating purchaser as HESI's agent for the purposes of performing such contracts and paying to purchaser all monies due under such contracts for the performance of such LWD services.

(b) At the time of sale, HESI will assign to purchaser all of its contracts with customers to provide LWD Services outside the United States, or to the extent applicable, portions of contracts to provide LWD Services that are outstanding at closing. To the extent not assignable or to the extent that the assignment is unacceptable to the customer, in order to allow HESI to complete contracts existing at the time of sale any resulting from the award under a tender outstanding at the date of sale, HESI shall be allowed to rent from purchaser such LWD and MWD tools, and to use equipment and facilities of the LWD Business and such employees of the LWD Business as are reasonably required for HESI to complete the performance of LWD Services under such contracts. HESI shall pay to purchaser a reasonable rental amount for such tools, equipment, facilities, and employees during the period from the close of the sale of the LWD Business to the time such contracts are completed.

8. Employees

Subject to the other terms of this Schedule A, HESI and purchaser will enter into commercially reasonable arrangements for purchaser to employ such of the employees of the LWD Business as purchaser requires to operate the LWD Business.

9. Customer Lists, Credit Records, and Supplied/Vendor Lists and Supplier/Vendor Contracts

HESI will transfer to purchaser its lists of customers, customer credit records, and supplier/vendor lists and supplier/vendor contracts for its LWD Business anywhere in the world.

10. Technical Support and Training

HESI will transfer to purchaser technical support and training services employees and related assets with respect to the LWD Business. Purchaser will be responsible for offering such employees such compensation and benefit programs as will induce such persons voluntarily to agree to leave HESI's employment and become employees of purchaser. HESI shall be permitted to utilize the services of sufficient technical support and training services employees and related assets to the extent required for HESI to complete the contracts referred to in paragraph 7(b). To the extent and for the period that HESI utilizes the services of technical support and training services employees and related assets, it shall pay purchaser a reasonable fee for those services.

11. Spare Parts

HESI's inventory of spare parts and consumables relating to the LWD Business will be transferred to purchaser, provided, however, that the inventory of Sonic LWD tool parts shall be divided between HESI and purchaser in the same proportions as the Sonic tools are divided pursuant to paragraph 2. Purchase will agree to sell to HESI at reasonable prices spare parts sufficient to permit HESI to complete the contracts referred to in paragraph 7(b).

12. Continuing LWD Services

HESI agrees that after the sale of the LWD Business it will not offer LWD services, directly or indirectly, including by a licensee other than purchaser, anywhere in the world using any of the HESI tools of the type sold to purchaser, except (i) LWD services necessary to complete the contracts referred to in paragraph 7(b); (ii) LWD services using LWD tools acquired from Dresser; and (iii) sonic LWD services using sonic LWD tools of the type sold to purchaser. Further, HESI may continue to use the underlying technology licensed to purchaser in its wireline logging tools and other products and in Dresser tools.

13. No Transfer of Acquired Assets

HESI may require purchaser to agree that it will not transfer by any means any of the tangible or intangible property or assets it acquires from HESI to either Schlumberger Limited, or Baker Hughes Incorporated, or their affiliates for the life of the consent decree. This provision does not prevent purchaser from making the property or assets available to any joint venture in which it participated.

Excluded assets:

Excluded from the LWD Business are (1) all business, assets and technology of Dresser Industries, Inc. which is being acquired by Halliburton; (2) all business, assets and technology of NUMAR; and (3) Intellectual Property, except to the extent provided in paragraphs 2 and 6.

Certificate of Service

I hereby certify that I have caused a copy of the foregoing Complaint and proposed Final Judgment to be served on counsel for defendants in this matter in the manner set forth below:

By first class mail, postage prepaid, and by facsimile:

Helene D. Jaffe, Esquire, Weil, Gotshal & Manges, 767 Fifth Avenue, New York, NY 10153

Ky P. Ewing, Esquire, Vinson & Elkins, 1455 Pennsylvania Avenue, N.W., Washington, D.C. 20004–1008

Andrew K. Rosa,
Antitrust Division, U.S. Department of Justice, 325 Seventh Street, N.W., Suite 500, Washington, D.C. 20530, (202) 307–0886, (202) 616–2441 (Fax).

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. § 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On September 29, 1998, the United States filed a civil antitrust Complaint alleging that the proposed merger of Dresser Industries, Inc. ("Dresser") and Halliburton Company ("Halliburton") would violate Section 7 of the Clayton Act, 15 U.S.C. § 18. The Complaint alleges that Halliburton and Dresser are two of only four companies that provide logging-while-drilling ("LWD") services to oil and gas drilling companies and are the only sources of current and likely future innovations in new and improved LWD tools. The request for relief in the Complaint seeks: (1) a judgment that the proposed merger would violate Section 7 of the Clayton Act; (2) a permanent injunction preventing consummation of the merger agreement; (3) an award of costs to the plaintiff; and (4) such other relief as the Court may deem just and proper.

When the Complaint was filed, the United States also filed a proposed settlement that would permit the merger of Halliburton and Dresser to proceed, but require a divestiture that will preserve competition in the market for provision of LWD services. This settlement consists of a Stipulation and Order and a proposed Final Judgment. The proposed Final Judgment orders defendants to divest "the LWD business," which is described in Schedule A of the proposed Final Judgment, within one hundred and eighty (180) calendar days after the filing of the Final Judgment in this matter, or five (5) days after notice of the entry of the Final Judgment by the Court, whichever is later. The purchaser of the LWD Business must be acceptable to the Antitrust Division of the Department of Justice ("DOJ"). The LWD Business includes virtually all of Halliburton's LWD tools; sufficient measurement-while-drilling ("MWD") tools for use with the LWD tools; manufacturing equipment; workshop, testing, and repair equipment used by Halliburton to conduct the LWD Business anywhere in the world; research and development equipment; Halliburton's Lafayette, Louisiana, facility and the option to acquire facilities outside the United States previously used by Halliburton or Dresser to provide LWD services that will not continue to be used by Halliburton; the right to hire employees of the LWD Business as the purchaser requires to operate the LWD business, including a reasonable number of employees to manage the manufacture, assembly, testing or calibration of LWD tools and associated MWD tools and to conduct LWD research and development; and worldwide, royalty-free, irrevocable licenses to the intellectual property used in connection with the use, manufacture, or sale of the transferred tools.

The plaintiff and defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed final Judgment would terminate the action, except that the Court would retain jurisdiction to construe, modify, or enforce the

provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

Halliburton is a Delaware corporation, with its principal office in Dallas, Texas. It provides products and services for the exploration, development, and production of oil and natural gas. It is one of the "Big Four" oil-field service companies—along with Dresser and two other companies. In 1997, Halliburton had revenues of over $8 billion. Dresser is also a Delaware corporation headquartered in Dallas, Texas. In 1997, it reported total sales of about $7.5 billion.

On February 25, 1998, Halliburton and Dresser entered into an Agreement and Plan of Merger under which Halliburton would merge with Dresser. This transaction, which would increase concentration in the already highly concentrated market for the provision of LWD services, precipitated the government's suit.

B. The LWD Service Market

Oil and gas companies use data from LWD tools, which are placed behind the drill bit, to guide drilling operations, particularly in offshore drilling projects. The data from LWD tools, which is transmitted to the surface while the drilling is ongoing, allows the driller to evaluate the formation that the drill bit is cutting. With this data, the driller can detect changes in downhole pressure, prevent the drill bit from straying out or oil or gas deposits, and otherwise determine the optimum drilling path.

There are four types of LWD tools, each of which provide different data to evaluate the formation: (1) gamma ray, (2) resistivity, (3) neutron density, and (4) sonic. Gamma ray tools, which are the most rudimentary LWD tools, identify the type of formation (e.g., shale or sand) by measuring natural radioactivity. Data from LWD resistivity tools help detect the presence of oil, gas, and water in the formation. Data from LWD neutron density and sonic tools help determine the formation's porosity, which indicates the amount of liquid in the formation and the formation's permeability.

There are no realistic substitutes for LWD services for offshore drilling projects. Drillers can use wireline logging tools to gather similar data, but, in order to use wireline logging, they must cease drilling, remove the drill from the well, lower tools into the well by wire, collect data downhole, remove the tools, and read the data on the surface. During this entire operation, which may take as long as a day and a half, the drilling rig sits idle (costing the operator $250,000 to $300,000 per day in deepwater areas of the Gulf of Mexico), which makes wireline logging much more expensive than LWD services. A small but significant and nontransitory increase in the price of LWD services would not cause a significant number of customers drilling offshore wells to switch to wireline services, or to any other method for obtaining formation evaluation data.

C. Harm to Competition as a Consequence of the Merger

Halliburton and Dresser are two of only four firms that provide the full range of LWD services. The proposed transaction would reduce to three the number of firms providing the full range of LWD services in the United States.

Moreover, successful entry into the market for provision of LWD services would be difficult, time-consuming, and costly. Even if a new entrant invested in the research, development, and engineering programs required to produce the current generation of LWD tools, it would also have to engage in extensive testing, and, over a course of years, eventually establish a reputation for quality and reliability—particularly for customers drilling offshore for whom the costs of delay due to failure of LWD tools can be great.

Halliburton and Dresser are also two of only four firms that are engaged in the research, development, and commercialization of new LWD tools. Competition between these firms to develop new and better LWD tools is important to oil and gas companies, in order to minimize the per-barrel cost of producing oil and gas. This competition has hastened the pace of innovation and given customers a variety of solutions to their formation evaluation needs.

The Complaint alleges that the transaction would have the following effects, among others:

a. Actual and potential competition between Halliburton and Dresser will be eliminated;

b. Competition generally in the provision of LWD services will likely be substantially lessened;

c. Prices for LWD services will likely increase; and

d. Competition in the development, commercialization, and improvement of LWD tools will likely be substantially lessened.

III. Explanation of the Proposed Final Judgment

The provisions of the proposed Final Judgment are designed to eliminate the anticompetitive effects of the proposed merger of Halliburton and Dresser.

The proposed Final Judgment provides that, within one hundred and eighty (180) calendar days after the filing of the Final Judgment in this matter, or five (5) days after notice of the entry of the Final Judgment by the Court, whichever is later, defendants must divest the LWD Business to an acquirer acceptable to DOJ. If defendants fail to divest the LWD Business within this period, a trustee, selected by DOJ, will be appointed by the Court to sell the LWD Business.

The Final Judgment provides that defendants will pay all costs and expenses of the trustee. After the trustee's appointment becomes effective, the trustee will file monthly reports with the parties and the Court, setting forth the trustee's efforts to accomplish divestiture. At the end of six months, if the divestiture has not been accomplished, the trustee and the parties will have the opportunity to make recommendations to the Court, which shall enter such orders as appropriate in order to carry out the purpose of the trust, including extending the trust and the term of the trustee's appointment.

Section IV of the proposed Final Judgment requires defendants to divest "the LWD Business' as an ongoing business to a purchaser acceptable to the United States in its sole discretion. "The LWD Business" is defined as Halliburton Energy Services, Inc.'s ("HESI") worldwide business providing LWD Services and includes the tangible and intangible assets, obligations, and understandings set forth in Schedule A of the proposed Final Judgment.[1]

The assets to be divested include:

(1) HESI's resistivity tools, density-neutron tools, and slim resistivity tools;

(2) half of Halliburton's sonic tools and sonic workstations;

(3) enough MWD tools to allow the purchaser to operate these LWD tools;

[1] HESI is a wholly owned subsidiary of Halliburton. "LWD Services" means the services and products used to provide real-time logging-while-drilling formation evaluation data which is utilized to evaluate the formation characteristics of a given geologic formation. LWD Services also include MWD Services provided in conjunction with LWD Services. MWD tools are used when drilling non-vertical wells to measure and transmit data from downhole during the drilling process on the inclination and azimuth of the downhole drilling tools. When LWD tools are used, the driller also uses MWD tools, and the driller usually obtains both types of tools from the same company because the MWD tools and LWD tools must be compatible.

(4) software required to operate the tools, information about tool performance history, and spare parts;

(5) a building from which Halliburton currently supplies LWD services to U.S. offshore drilling projects;

(6) equipment necessary to allow the buyer of the LWD Business to manufacture, assemble, test, and calibrate LWD and MWD tools,[2]

(7) worldwide, royalty-free, irrevocable, non-exclusive licenses to use HESI-owned intellectual property, and sublicenses covering the use of third-party technology and related software embodied in the transferred LWD and MWD tools and software, to the extent permitted by HESI's licenses from such third parties;

(8) research and development equipment and development and laboratory records related to the LWD tools and MWD tools to be sold, including the results of unsuccessful designs;

(9) all assignable contracts to provide LWD services worldwide, as well as lists of customers, customer credit records, and supplier/vendor lists and supplier/vendor contracts; and

(10) the opportunity to hire Halliburton employees to operate the LWD Business, including employees in manufacturing, research and development, and technical support and training services.

After the sale of the LWD Business, defendants will not be able to offer LWD services using any of the tools of the type sold with the LWD Business, except for (i) LWD services necessary to complete existing contracts for which Halliburton will rent the tools from the purchaser; (ii) LWD services using LWD tools acquired from Dresser; and (iii) sonic LWD services using sonic LWD tools of the type sold to purchaser.

Although the Complaint alleges the United States as the relevant geographic market, the proposed Final Judgment requires divestiture of the assets that Halliburton has used to provide LWD Services worldwide. Divestiture of the worldwide LWD business is necessary to preserve competition in the United States LWD services market because Halliburton, Dresser, and the other two major providers of LWD Services have worldwide operations that provide them a revenue base to support LWD research and development efforts. Thus, the divestiture is designed to ensure that the new buyer is viable and to put the purchaser in Halliburton's place as an international LWD company, enabling the purchaser to continue the innovation of LWD tools, which will benefit U.S. customers.

[2] Excluded from the divestiture package is HESI's test well. The purchaser will be able, for a fee, to use HESI's test well at Fort Worth, Texas, for two years.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to entry. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**. Written comments should be submitted to: Roger W. Fones, Chief, Transportation, Energy & Agriculture Section, Antitrust Division, United States Department of Justice, 325 Seventh Street, NW., Suite 500, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against Halliburton and Dresser. The United States is satisfied that the divestiture of the described assets specified in the proposed Final Judgment will facilitate continued viable competition in the market for the provision of LWD services. The United States is satisfied that the proposed relief will prevent the merger from having anticompetitive effects in this market. The divestiture of the LWD Business will preserve the structure of the market for the provision of LWD services that existed prior to the merger and will preserve the existence of an independent competitor.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment "is in the public interest." In making that determination, the court *may* consider—

(1) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trail.

15 U.S.C. § 16(e). As the Court of Appeals for the District of Columbia Circuit held, the APPA permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft*, 56 F.3d 1448 (D.C. Cir. 1995).

In conducting this inquiry, "the Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly

settlement through the consent decree process."[3] Rather,

absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cas. ¶ 61,508, at 71,980, (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." *United States* v. *BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988), *quoting United States* v. *Bechtel Corp.*, 648 F. 2d 660, 666 (9th Cir.), *cert denied*, 454 U.S. 1083 (1981). Precedent requires that

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is *"within the reaches of the public interest."* More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[4]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' (citations omitted)."[5]

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

For Plaintiff United States of America:

Dated: October 21, 1998.

Respectfully submitted,

Angela L. Hughes,

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Certificate of Service

I hereby certify that on this 21st day of October, 1998, I have caused a copy of the foregoing Competitive Impact Statement to be served on counsel for defendants in this matter by first class mail, postage prepared, and by facsimile.

Counsel for Defendant Halliburton Company:

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[FR Doc. 98–29222 Filed 10–30–98; 8:45 am]

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[3] 119 Cong. Rec. 24598 (1973). *See also United States v. Gillette Co.*, 406 F. Supp. 713, 715 (D. Mass. 1975). A "public interest" determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. § 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. 93–1463, 93rd Cong. 2d Sess. 8–9, reprinted in (1974) U.S. Code Cong. & Ad. News 6535, 6538.

[4] *United States v. Bechtel*, 648 F.2d at 666 (internal citations omitted) (emphasis added); *see United States v. BNS, Inc.*, 858 F.2d at 463; *United States v. National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *Gillette*, 406 F. Supp. at 716. *See also United States v. American Cyanamid Co.*, 719 F.2d 558, 565 (2d Cir. 1983).

[5] *United States v. American Tel & Tel. Co.*, 552 F. Supp. 131, 150 (D.D.C. 1982), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983), *quoting Gillette*, 406 F. Supp. at 716; *United States v. Alcan Aluminium, Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985).

DEPARTMENT OF JUSTICE

Antitrust Division

Public Comments and Response of the United States

United States of America, State of New York and State of Illinois v. *Sony Corporation of America, LTM Holdings, Inc. d/b/a Loews Theatres, Cineplex Odeon Corporation, and J.E. Seagram Corp.*

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), that Public Comments and the Response of the United States have been filed with the United States District Court for the Southern District of New York in *United States of America, State of New York and State of Illinois* v. *Sony Corporation of America, LTM Holdings, Inc. d/b/a Loews Theatres, Cineplex Odeon Corporation, and J.E. Seagram Corp.*, Case No. 98–CIV–2716.

On April 16, 1998, plaintiffs United States, State of New York and State of Illinois filed a Complaint seeking to enjoin a proposed merger of LTM Holdings, Inc. ("Loews") and Cineplex are the two largest exhibitors of first-run films in Manhattan and the City of Chicago. The Complaint alleged that the proposed merger would substantially lessen competition and tend to create a monopoly in the theatrical exhibition of first-run films in both of these markets in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

Public comment was invited within the statutory 60-day comment period. Such comments, and the responses thereto, are hereby published in the **Federal Register** and filed with the Court. Copies of the Complaint, Stipulation, proposed Final Judgment, Competitive Impact Statement, Public Comments and the Response of the United States are available for inspection in Room 215 of the Antitrust Division, Department of Justice, 325 7th Street, N.W., Washington, D.C. 20530 (telephone: 202–514–2581) and at the office of the Clerk of the United States District Court for the Southern District of New York, 500 Pearl Street, New York, NY 10007.

Copies of any of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations, Antitrust Division

Response of the United States to Public Comments

Pursuant to the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h) (the "Tunney Act"), the United States responds to the public comments received regarding the proposed Final Judgment in this case.

I. Background

Plaintiffs the United States, the State of New York, and the State of Illinois filed a civil antitrust Complaint on April 16, 1998, alleging that a proposed merger of LTM Holdings, Inc. ("Loews") and Cineplex Odeon Corp. ("Cineplex") would violate Section 7 of the Clayton Act, 15 U.S.C. § 18.

At the same time the Complaint was filed, plaintiffs also filed a proposed settlement that would permit Loews to complete its merger with Cineplex, but would require divestitures that would preserve competition in the two markets where the transaction would otherwise raise significant competitive concerns: Manhattan and Chicago.

The settlement consists of a Stipulation and a proposed Final Judgment. The proposed Final Judgment orders Loews and Cineplex to divest 14 theatres in Manhattan and 11 theatres in the Chicago area to an acquirer or acquirers acceptable to the United States. Unless the United States grants a time extension, the divestitures must be completed within one-hundred and eighty calendar days after the filing of the Complaint or five days after notice of the entry of the Final Judgment by the Court, whichever is later. The proposed Final Judgment also requires that, until the divestitures have been accomplished, the defendants must maintain and operate the theatres to be divested as active competitors, maintain the management, staffing, sales, and marketing of the theatres, and maintain the theatres in operable condition at current capacity configurations. Further, the proposed Final Judgment requires defendants to give the United States prior notice regarding any future motion picture theatre acquisitions in Manhattan or Cook County, Illinois.

A Competitive Impact Statement ("CIS"), explaining the bases for both the Complaint and the proposed Final Judgment, was filed on April 17, 1998, and subsequently published for comment, along with the Stipulation and proposed Final Judgment, in the Federal Register on May 6, 1998 (63 FR 25071 through 25080), as required by the Tunney Act. Notice was also published in the *New York Times* and the *Washington Post*, as required by the Tunney Act. The CIS explains in detail the proposed merger, the provisions of the proposed Final Judgment, and the nature and purpose of this proceeding.

The parties have stipulated that the proposed Final Judgment may be entered after compliance with the Tunney Act. The United States and the defendants have now, with the exception of publishing the comments and this response in the Federal Register, completed the procedures the Tunney Act requires before the proposed Final Judgment can be entered.[1]

The United States received three comments, copies of which are attached hereto. One comment, from a resident of Manhattan, suggests that the United States should have required additional theatres be divested in Manhattan. (*See* Tab A.)

The second comment, from a labor organization, opposes the settlement on the grounds that the United States should also have required divestitures in the Washington, D.C. area. This commenter also raises a concern about vertical integration as a result of the merger, noting that Sony Pictures and Universal Studios will have a significant ownership interest in the merged company. (*See* Tab B.)

The third comment, from the New York City Human Rights Commission, takes no position on the merits of the settlement but rather places on the record the agency's belief that many of the Cineplex Odeon theatres being divested in Manhattan are not adequately accessible to disabled individuals and should be brought into compliance with applicable laws before being sold. (*See* Tab C.)

This response addresses the antitrust issues that are raised in the public comments.[2]

II. Response to Comments

A. The Proposed Divestitures Solve the Anticompetitive Problems Alleged in the Complaint

The Complaint alleges that Loews and Cineplex are the two largest exhibitors of first-run films in Manhattan and the City of Chicago. They compete against each other both to attract movie-goers and to secure first-run films from distributors.

The Complaint further alleges that movie-goers do not want to travel far from their homes to attend movies, particularly in urban areas. Thus, geographic markets for first-run movies are generally local. From the standpoint of distributors, it is vitally important that their newly released movies be released in Manhattan and Chicago. In addition to the large populations in these markets, both cities are home to influential critics whose review of a movie can substantially affect the movie's performance nationwide. The Complaint also alleges that entry into the market for first-run film exhibition in New York and Chicago is particularly difficult, time-consuming and expensive, making new entry unlikely to significantly reduce the market strength of the combined firm.

As previously stated, the proposed Final Judgment requires substantial divestiture of theatres in both the New York and Chicago markets. In Manhattan, Loews and Cineplex together account for about 67% of the box office revenues for theatres showing first-run movies. Under the proposed Final Judgment, Loews and Cineplex have agreed to divest all but one of the Cineplex first-run theatres being acquired through the merger. Given that one Cineplex theatre is not being divested (the Coronet, which has two screens and had about $1.5 million in box office revenue last year), defendants have agreed to divest the Loews 34th Street Showplace (which has 3 screens and had over $2 million in box office revenue last year). Thus, defendants have agreed to divestiture that for all practical purposes restore the status quo ante. They have agreed to divest 13 Cineplex theatres and one Loews theatre in Manhattan.

In the city of Chicago, Cineplex and Loews together account for about 77% of the box office revenues for theatres showing first-run movies. Without the divestitures, the merger would have resulted in the leading firm (Cineplex) adding 5 first-run Loews theatres with 26 screens representing about $13 million in box office revenue in 1997. Under the settlement, Loews and Cineplex will divest 9 theatres with 37 screens in the city, including all of the downtown first-run Cineplex theatres except the McClurg Court. The theatres they are selling represent slightly over $13 million in box office revenue in 1997. In addition to the theatres in the city, defendants have agreed to divest two suburban theatres close to the city limits: The Old Orchard Quad in Skokie, just north of the city limits, and the River Run in Lansing, just south of the city limits. These theatres represent 12 additional screens and almost $5 million in 1997 box office revenues. In

[1] The United States will publish the comments and this response promptly in the Federal Register. It will provide the Court with a certificate of compliance with the requirements of the Tunney Act and file a motion for entry of the Final Judgment once publication takes place.

[2] Because the New York City Civil Rights Commission does not raise any antitrust issues in its comment, we will not respond except to state that the United States does not believe that the approval process should be delayed. The fact that the Commission's comment is of record should help to assure that the theatres to be divested are brought into compliance with applicable laws, either by the present owner or by a new owner. We understand that the Commission's investigation is ongoing.

total, defendants have agreed to divest 11 theatres in Chicago and its immediate vicinity, including 8 Cineplex theatres and 3 Loews theatres.

The United States received no public comments questioning the adequacy of the divestitures in Chicago. The United States received only one comment from an individual questioning the adequacy of the divestitures in Manhattan.

B. Response to Comment of Frances J. Elfenbein

Frances J. Elfenbein, a resident of Manhattan, notes that Loews currently has under construction two large multiplex theatres in Manhattan. The commenter states that almost as many screens are being added through this new construction as are being divested, and concludes that the divestiture of 14 theatres will not be sufficient to "curb the monopolistic power" of the company post-merger.

In response, the United States notes that the comment does not address the sufficiency of the settlement as a remedy to the anticompetitive effects *flowing from the merger.* The commenter does not suggest that, following the required divestitures, the merger with Cineplex will add to Loews' market share. This is in keeping with the facts, given that Loews is divesting as much as it is acquiring through the merger. The commenter does not articulate any other anticompetitive consequences of the merger.

Section 7 of the Clayton Act prohibits mergers and acquisitions the effect of which is to substantially lessen competition or tend to create a monopoly. Section 7 does not prohibit growth through internal expansion. Such growth generally increases consumer choice and is procompetitive. (Parenthetically, we note that Loews' decision to construct these new theatres predates, and was unaffected by, the merger. Cineplex had no plans to construct new theatres in Manhattan.)

If the United States had filed suit to block the merger under Section 7, and had prevailed, Loews would still have a high percentage of the screens in Manhattan and would have been free to continue its construction of new theatres. Thus, from the perspective of Manhattan movie-goers, the settlement achieves substantially the same result as a successful trial on the merits.

As discussed more fully below, the Court's function in analyzing the proposed Final Judgment "is not to determine whether the resulting array of rights and liabilities is one that will *best* serve society, but only to confirm that the resulting settlement is within the *reaches* of the public interest." *United States* v. *Western Elec. Co.*, 993 F.2d 1572, 1576 (D.C. Cir. 1993) (emphasis in original, internal quotation and citation omitted). The United States submits that this standard is easily met with respect to the Manhattan divestitures.

C. Response to Comment of the Hotel Employees and Restaurant Employees International Union

The Hotel and Restaurant Employees International Union praises the settlement as serving the interests of movie-going consumers in Manhattan and Chicago but argues that the United States also should have required divestitures in the Washington, D.C. area. The Union expresses the further concern that Sony Pictures' and Universal Studios' significant ownership interest in Loews Cineplex Entertainment, the merged company, will harm independent exhibitors and potentially lead to a loss of choice for consumers. For these reasons, the Union urges the Court to reject the settlement, and replace it with a different one.[3]

As noted below, the critical portion of the Union's comment in inapposite—in essence, it suggests that the government should have brought a different case (i.e. a case alleging a Clayton Act violation in the Washington, D.C. geographic market). Such a criticism is not the type contemplated in a Tunney Act proceeding. *United States* v. *Microsoft Corp.*, 56 F.3d 1448, 1459 (D.C. Cir. 1995).[4]

[3] The Union, it should be noted, offers it comments on behalf of its members as movie-going consumers, not because it represents employees of Loews or Cineplex.

[4] The United States examined the effects of the merger on competition in the Washington, D.C. area and in Houston. The United States concluded that there were substantial factual and legal reasons not to bring a case charging a violation in these geographic areas. In addition, the United States also considered and determined not to allege that the change in ownership structure will result in vertical foreclosre. In any event, the divestitutres in Manhatten and Chicago will assure that competiting distributors have outlets for their movies in the markets of concern. Moreover, any future violation by Sony Pictures or Universal Studios of the *Paramount* decrees is not an issue before the Court in this proceeding. These decrees prevent distributors bound by the decrees from improperly favoring affiliated circuits. The 1938 *Paramount* litigation involved a conspiracy among the eight leading motion picture distributors who, among other things, used their market power to fix admission prices for the exhibition of first-run motion pictures in local theatres. The *Paramount* decrees which grew out of the litigation generally require that movies be licensed on a nondiscriminatory theatre-by-theatre basis. Both Sony Pictures (as a successor to Columbia Pictures) and Universal Studios are bound by the *Paramount* decrees. *See United States* v. *Loew's Inc.*, 1950–51 Trade Cas. (CCH) § 62,573 at pp. 63,681–82 (S.D.N.Y. 1050).

II. The Legal Standard Governing the Court's Public Interest Determination

Once the United States moves for entry of the proposed Final Judgment, the Tunney Act directs the Court to determine whether entry of the proposed Final Judgment "is in the public interest." 15 U.S.C. § 16(e). In making that determination, "the court's function is not to determine whether the resulting array of rights and liabilities is one that will *best* serve society, but only to confirm that the resulting settlement is within the *reaches* of the public interest." *United States* v. *Western Elec. Co.*, 993 F.2d 1572, 1576 (D.C. Cir.) *cert. denied*, 510 U.S. 984 (1993) (emphasis in original, internal quotation and citation omitted).[5] The Court should evaluate the relief set forth in the proposed Final Judgment and should enter the Judgment if it falls within the government's "rather broad discretion to settle with the defendant within the reaches of the public interest." *United States* v. *Microsoft Corp.*, 56 F.3d 1448, (D.C. Cir. 1995); *accord United States* v. *Associated Milk Producers, Inc.*, 534 F.2d 113. 117–18 (8th Cir.) *cert. denied*, 429 U.S. 940 (1976). The Court is not "to make *de novo* determination of facts and issues." *Western Elec.*, 993 F.2d at 1577. Rather, "[t]he balancing of competing social and political interests affected by a proposed antitrust decree must be left, in the first instance, to the discretion of the Attorney General." *Id.* (internal quotation and citation omitted throughout). In particular, the Court must defer to the United States' assessment of likely competitive consequences, which it may reject "only if it has exceptional confidence that adverse antitrust consequences will result—perhaps akin to the confidence that would justify a court in overturning the predictive judgments of an administrative agency." *Id.*[6]

The Court may not reject a decree simply "because a third party claims it could be better treated." *Microsoft*, 56 F.3d at 1461 n.9. The Tunney Act does not empower the Court to reject the remedies in the proposed Final Judgment based on the belief that "other remedies were preferable." *Id.* at 1460. As Judge Green has observed:

> If courts acting under the Tunney Act disapproved proposed consent decrees merely because they did not contain the exact relief which the courts would have imposed after a finding of liability, defendants would have no incentive to consent to judgment and this element of compromise would be destroyed. The consent decree would thus as a practical matter be eliminated as an antitrust enforcement tool, despite Congress' directive that it be preserved.

United States v. *American Tel. & Tel. Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982), *aff'd sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983) (Mem.).

Moreover, the entry of a governmental antitrust decree forecloses no private party from seeking and obtaining appropriate antitrust remedies. Defendants will remain liable for any illegal acts, and any private party may challenge such conduct if and when appropriate. The single issue before the Court here is whether entry of this particular proposed Final Judgment, agreed to by the parties as settlement of this case, is in the public interest.

As pointed out above, the Tunney Act does not contemplate judicial reevaluation of the wisdom of the government's determination of which violations to allege in the Complaint. The government's decision not to bring a particular case on the facts and law before it at a particular time, like any other decision not to prosecute, "involves a complicated balancing of a number of factors which are peculiarly within [the government's] expertise." *Heckler* v. *Chaney*, 470 U.S. 821, 831 (1985). Thus, the Court should not look beyond the Complaint "to evaluate claims that the government did *not* make and to inquire as to why they were not made." *Microsoft*, 56 F.3d at 1459 (emphasis in original).

The government has wide discretion within the reaches of the public interest to resolve potential litigation. *E.g.*, *Western Elec. Co.*, 993 F.2d at 1577; *AT&T*, 552 F. Supp. at 151. The Supreme Court has recognized that a government antitrust consent decree amounts to an agreement between the parties to settle their disputes and differences, *United States* v. *ITT Continental Baking Co.*, 420 U.S. 223, 235–38 (1975), and "normally embodies a compromise; in exchange for the saving of cost and elimination of risk, the parties each give up something they might have won had they proceeded with the litigation," *United States* v. *Armour & Co.*, 402 U.S. 673, 681 (1971). This judgment has the virtue of bringing the public certain benefits and protection without the uncertainty and expense of protracted litigation. *Armour*, 402 U.S. at 681.

[5] The *Western Electric* decision concerned a consensual modification of an existing antitrust decree. The Court of Appeals assumed that the Tunney Act was applicable.

[6] The Tunney Act does not give a Court authority to impose different terms upon the parties. *See, e.g., United States v. American Tel. & Tel. Co.*, 552 F. Supp. 131, 153 n.95 (D.D.C. 1982), *off'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983) (Mem); accord, H.R. Rep. No. 1463, 93rd Cong., 2d Sess. 8 (1974). Of course the Court can condition the entry of a decree to the parties' agreement to a different bargain, but if the parties do not agree to such terms, the Court's only choices are to enter the decree the parties proposed or to leave the parties to litigate.

III. Conclusion

After careful consideration of these comments, the United States concludes that entry of the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violations alleged in the Complaint and is in the public interest. In the two important markets where the merger would have made it more likely that ticket prices would increase, rental fees paid to distributors would decrease, and theatre quality would decline (New York and Chicago), the divestitures will fully restore the status quo ante. The United States will therefore move the Court to enter the proposed Final Judgment after the public comments and this response have been published in the **Federal Register**, at 15 U.S.C. § 16(d) requires.

Dated: October 14, 1998.

Respectfully submitted,

Allen P. Grunes,

(AG 4775) U.S. Department of Justice, Antitrust Division, 1401 H Street, N.W.; Suite 4000, Washington, D.C. 20530, (202) 307–0001, Attorney for Plointiff the United States.

Certificate of Service

I, Allen P. Grunes, hereby certify that on October 14, 1998, I caused the foregoing document to be served on defendants by having a copy mailed, first-class, postage prepaid, to:

Ira S. Sacks, Fried, Frank, Harris, Shriver & Jacobson, One New York Plaza, New York, NY 10004, (212) 859–8000

Attorney for defendants Sony Corporation of America and LTM Holdings, Inc.

Alan J. Weinschel, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153, (212) 310–8000

Attorney for defendant Cineplex Odeon Corporation

Kenneth R. Logan, Simpson Thacher & Bartlett, 425 Lexington Avenue, New York, NY 10017, (212) 455–2000

Attorney for defendant J. E. Seagram Corp.

Allen P. Grunes

Department of Justice

Merger Tesk Force, Antitrust Division, 1401 H Street, Suite 4000, Washington, DC 230530,

Attention: Craig W. Conrath, Chief

May 1, 1998.

Dear Mr. Conrath: The proposed final judgment of the United States District Court in the Southern District of New York requiring that SONY/LOEWS/CINEPLEX et al (the merged) divest themselves of 14 theaters (36 screens) in Manhattan is no cause for joy.

The court is requiring the divestiture to ensure competition, prevent price gouging and price fixing, and to encourage fairer distribution of first-run movies.

Give me a break.

LOEWS is currently building a 13 screen multiplex as part of the E-Walk development at 8th avenue and 42nd street. It is also in the process of destroying my residential neighborhood with a 15 screen multiplex on 2nd avenue between 30th and 32nd streets.

The divestiture will close 14 theaters for a total of 36 screens. The constructions will create 28 screens. The 55 screens that LOEWS will be left with after divesting will grow to 85 when the new multiplexes are added. Do you really think the loss of 8 screens is going to curb the monopolistic power the merged entity will have in the market, I don't. No wonder they were so agreeable.

Cordially,

Frances J. Elfenbein

Comments

The Hotel Employees and Restaurant Employees International Union, which represents nearly 300,000 individuals, many of whom are avid moviegoers, first opposed this merger in March 1998 with a letter to antitrust officials. Shortly thereafter, we met with Justice Department staff and we spoke to staff of several State Attorneys General, meanwhile encouraging other interested parties to do the same. Our opposition to this merger is grounded in our firm belief that the merger is not in the best interests of American consumers. As we have stated previously, we do not represent, nor have we recently represented, workers at the merging entities, Cineplex Odeon and Loews Theatres.

In our opinion, the proposed settlement between the U.S. Department of Justice and the merging entities known as Loews Cineplex (hereafter referred to as "the company") serves the interests of moviegoing consumers in Manhattan and Chicago well. However, on behalf of our moviegoing members throughout the United States, we remain concerned that the settlement does not address very high concentration levels in other markets. In addition, we find the inter-connectedness of leading movie producers, distributors and exhibitors—which is greatly increased as a result of this merger—very disturbing.

High Concentration Despite Divestitures

Upon completion of the merger, the company controls about 9% of the overall film exhibition market in the U.S., and enjoys very high market share in several crucial urban markets,

including New York and Chicago (in spite of the divestitures), the Washington, DC metropolitan area, and Houston, Texas.

In the Maryland suburbs of Washington, DC, Loews Cineplex controls over 49% of the screens in an already "highly concentrated" market. The increase in the Herfindahl-Hirschmann Index (HHI), a measure of market concentration, is over 1,056 points—more than 10 times the increase that the Justice Department deems "likely to create or enhance market power or facilitate its exercise." [1]

In the District of Columbia proper, Cineplex Odeon already controlled over 81% of all movie screens before the merger. And in the Virginia suburbs of Washington, the company now controls nearly 29% of all screens, pushing the classification of this market from "moderately concentrated" to "highly concentrated," as per guidelines set by the Justice Department and Federal Trade Commission. Each of these cases is a glaring example of extreme market concentration, and each is completely ignored in the proposed settlement.

Vertical Integration Neglected in Settlement

The issue of vertical integration in the movie industry also remains unmitigated by the proposed settlement. In an era of increasing corporate control and homogeneity of entertainment products available to the American public, this is especially troubling. For example, the much-hyped recent Sony picture "Godzilla" opened on 7,000 screens, or more than one out of every five movie screens in the U.S.

To refer to movies as mere "entertainment products" does not fully account for their true social value. The industry itself would be the first to admit that movies occupy a truly mythic place in the American psyche. Movies have the power to inspire and educate, entertain and inform. Is it right that control of these cultural products should be concentrated in the hands of a few giant corporations? We think not. Yet this merger represents another nail driven into the coffin of cultural diversity.

This merger could create a real life Godzilla, an enormous beast which will be virtually unstoppable if it is allowed to be born. Sony Pictures and Universal Pictures together distributed over 30% of all commercially released films in North America last year. Together, the parents of these companies and their affiliates own over 86% of Loews Cineplex's outstanding stock. Loews Cineplex will have approximately 2,700 screens in 22 states, making it the third largest exhibitor in the nation.

In addition, issues of vertical integration impact another criterion for determining whether a merger may be anti-competitive, in that vertically integrated companies are in a better position to exert market power against exhibitors through higher rental fees and stricter payment terms.

Barriers to Entry May Worsen, Preventing New Competition

Vertical integration also could have the effect of raising the barriers to entry that a potential competitor would face. After all, size does matter when it comes to leveraging a favorable contract with a distributor, or negotiating advertising rates in a local newspaper. Anecdotal evidence in the form of conversations with independent exhibitors indicates that small, local operations are an endangered species that are disappearing rapidly. And in the context of such extreme market concentration, the hope of starting up new theatre is just a pipe dream.

Barriers to entry are indeed significant in the movie industry. The trends in new theater construction are towards bigger multiplexes, with 20–30 screens per site, digital sound systems, and more spacious stadium seating, meaning fewer seats per theater. All of these mean that in order to compete, a theater must be well-stocked with capital-intensive amenities. In addition, the trend in film distribution is towards higher fees, as evidenced by Sony's headline-grabbing demand for an 80% cut of first-week "Godzilla" receipts from exhibitors (distributors' normal take is 60–70%).

We are attaching an e-mail letter we received in support of our efforts to block this merger. The writer is the daughter of a recently deceased independent exhibitor. In the letter, the writer makes the point that behemoth multinational corporations are not as sensitive to the needs and concerns of local markets as small independent businesses can be. Unfortunately, the reality of diminishing competition and consumer choice is rarely reflected in the narratives that the movie industry thrusts upon us. This merger, if it is not significantly altered, is a stark illustration of the fact that in life, Godzilla often wins.

We would like to commend Justice Department staff for their willingness to listen to our concerns, and for taking decisive action in two markets. We strongly recommend that in cases such as this one, antitrust officials take a pro-active role in educating consumers about the potential effect of high market concentration on prices and selection. Since a study of the correlation between prices/selection and market concentration could easily be based on public information, it would not be a breach of the confidentiality to which these officials are pledged. Rather, it would provide consumers the tools and information needed to fully understand the potential implications of major corporate mergers.

As consolidation continues in this industry, we believe that the effects of increasing market concentration will begin to take their toll on the quality and cost of the consumer's movie going experience. While the proposed settlement may stave off higher ticket prices and decreased selection in two cities for the time being, we suspect that the greater good of American moviegoers has not been fully served. Therefore, we urge the court to reject the proposed settlement in favor of one which would impose more extensive divestitures, especially in the Washington, D.C.-area market, and would address the increasing problem of vertical integration in the motion picture industry.

Subj: Re: Sony/Cineplex Odeon Merger
Date: 98–04–21 11:17:15 EDT
From: jennison@email.msn.com (beverly jennison)
To: LNegstad@aol.com (LNegstad)

Dear Mr. Negstad: It would be fine with me if you included my letter, or any of the information from it. I'm sure that it is an accurate reflection of what my father would have said, and I know that he would have wanted to weigh in on this issue.

Thank you for your interest in the movie industry.

Beverly Petersen Jennison,
Silver Spring, Md.

Subj: Sony/Cineplex Odeon Merger
Date: 98–04–20 11:32:36 EDT
From: jennisons@email.msn.com (beverly jennison)
To: Lnegstad@aol.com

Mr. Negstad: You recently sent a letter to my father, Paul Petersen, of the Clairidge Triple Cinema in Montclair N.J. regarding the proposed Sony/Cineplex merger. My father passed away in late March, but because he was such a strong advocate of independent theatre exhibitors, my mother asked that I send you a short reply to your letter. My father worked over 50 years in the movie industry, and for much of that time, he was an independent exhibitor. (His other experience involved working for independents and for small local chains.) He very much objected to the merger of large organizations, because they essentially forced out the little operators. In fact, as President of the National Association of Theatre Owners (N.J.), he worked very hard to ensure that distributors of pictures would recognize the independents, and funnel top films their way. At one point in his career, he sued several of the large distributors because they refused to exhibit in independent theatres, seeking out the chains instead. That matter was settled prior to the trial with the large distributors, afraid of the antitrust noises that my father was making, settling with him so that the independents would get access to the top films.

Unfortunately, the belief that my father had that independent exhibitors would be more receptive to the public sentiment in their communities is not shared by the larger chains. My father, and others like him, felt that their businesses were a part of the community, and that they not only had to be responsive in what they showed, but they had to be responsible to the community for the content of the pictures. In addition, my father and other independents have closer ties to the community, and always tried to provide support in the community for fundraisers, etc. The big chains simply do not do this.

I saw in the Washington Post over the weekend that the merger had been okayed by the Justice Department, and so I guess that it's too late to do much else about this particular merger. However, I felt that I should respond to your letter on my father's behalf, as I am sure he would have if he were still alive. Good luck to you in your endeavors.

Beverly Petersen Jennison,
13408 Bingham Court, Silver Spring, Md. 20906, jennisons@msn.com, 301–871–7949.

June 12, 1998.

Allen P. Grunes,
United States Department of Justice, Anti-Trust Division, 1401 H Street, N.W., Suite 4000, Washington, D.C. 20530

Re: United States of America et al v. Sony Corporation et al 98 Civ. 2716

Dear Mr. Grunes: The New York City Commission on Human Rights ("Commission") is the principal local civil rights law enforcement agency in New York City committed to ensuring that people with disabilities have access to and enjoy the facilities of New York City's movie theaters. The Commission has an interest in insuring that all theaters in New York City—including those covered by the above Final Judgement and Consent Decree—are accessible to disabled persons. We submit these comments accordingly and for the record.

Under New York City's Human Rights law, owners and operators of places of public accommodation may not "refuse, withhold from or deny" to a disabled person "any of the accommodations, advantages, facilities or privileges thereof." [1] "Reasonable Accommodation" to the needs of persons with disabilities is required to be made when such accommodation "shall not cause undue hardship in the covered entity's business." (Administrative Code, Title 8, Chapter 1, §§ 8–107.4(a), 8–107.15(a), 8–102.18).

In the past few years, the Commission has received complaints about inaccessible movie theaters. Most of these theaters are in Manhattan and most were owned and operated by Cineplex Odeon. In response to these complaints, we initiated an informal survey of Cineplex Odeon's movie theaters in Manhattan to ascertain whether the theaters were in compliance with the local and federal laws.[2] In November 1996, we contacted Cineplex Odeon and informed them about the complaints.[3]

In December 1996, the New York City Council published a study which confirmed that many of the city's existing movie theaters were not accessible to the disabled.[4] It was apparent to us that this was an industry-wide issue. We subsequently contacted all the major movie theater companies operating in New York City, including Sony Loews.

As a result of the recent merger between Cineplex Odeon and Sony Loews, we are aware that the newly formed corporation—Loews Cineplex—must divest itself of most of the former Cineplex Odeon Theaters in Manhattan. The theaters being divested are all sites for first-run movies in Manhattan. Moviegoers, as mentioned in the federal complaint, "do not want to travel far from their homes to attend a movie, particularly in urban areas." Moreover, moviegoers expect to view first-run movies in top quality facilities. Disabled moviegoers are no exception. However, we believe that these theaters are not in full compliance with all applicable codes. The accessibility issues include, but are not limited to, the following:

1. Inadequate number of wheelchair seats;
2. Inadequate number of companion seats;
3. Inadequate or improper wheelchair seat dispersal;
4. Barriers to access (no ramps, lifts, elevators);
5. Excessive door pressure;
6. Inaccessible or improperly designed bathrooms;
7. Inaccessible or improperly designed service counters;
8. Inaccessible or improperly designed amenities (e.g. public telephones, drinking fountains, etc.);
9. Lack of hand rails;
10. Improperly designed ticket counters.

We understand there is a time frame during which Loews Cineplex is to divest itself of most of the Manhattan theaters previously owned by Cineplex Odeon. We recommend that prior to the sale of these theaters to a third party, Loews Cineplex be required to allocate the necessary resources to bring the theaters into full compliance with the applicable local and federal codes and civil rights laws. It would be an unfortunate and unintended effect of the above consent decree if these theaters—which as a group are highly visible first-run theaters—are not given the priority and attention they deserve.

Very truly yours,

Randolph Wills,
Deputy Commissioner, Law Enforcement Bureau.

By:

Rockwell J. Chin,
Supervising Attorney, Law Enforcement Bureau, (212) 306–7455 (tel), (212) 306–7514 (fax).

[FR Doc. 98–29223 Filed 10–30–98; 8:45 am]
BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice pursuant to the National Cooperative Research and Production Act of 1993—Bell Communications Research, Inc. ("Bellcore")

Notice is hereby given that, on December 18, 1997, purusant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc. ("Bellcore") has filed written notifications on behalf of Bellcore and Siliscape, Inc. ("Siliscape") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Bell Communications Research, Inc., Morristown, NJ; and Siliscape, Inc., Palo Alto, CA. The nature and objectives of the venture are to engage in cooperative research related to virtual imaging

[1] Department of Justice and Federal Trade Commission Horizontal Merger Guidelines. April 2, 1992.

[1] It shall be an unlawful discriminary practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place or provider of public accommodation because of the . . . disability . . . of any person directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof. . . . [New York City Human Rights Law, Administrative Code, Title 8, Chapter 1, § 8–107.4(a)].

[2] In New York City, theaters must comply with the federal ADAAG Standards and the Local Law 58 of the New York City Building Code. Local Law Number 58 of 1987 was enacted to amend New York City's Administrative Code in relation to providing facilities for people having physical disabilities. (Administrative Code, Title 27, Chapter 1, § 27–123.1 et seq.). Incorporated into the New York City Building Code, Local Law 58's provisions apply to buildings constructed, altered or changed in occupancy or use since September 1, 1987. Where there are differences between ADAAG and ANSI, the Commission will adopt the stricter of the two standards. ANSI generally requires a greater number of wheelchair spaces and dispersal of those spaces for all auditoriums, regardless of capacity.

[3] We have since been working with attorneys from the Department of Justice (United States Attorney's Office, Southern District of New York) in an effort to co-ordinate federal and local law enforcement efforts regarding movie theater companies in New York City.

[4] See *Admit Some: An Examination of Movie Theater Accessibility in New York City for Persons Who Are Disabled*, a report and survey published by the Council of the City of New York, Committee on Consumer Affairs in co-operation with students from Columbia University's School of International and Public Affairs/Graduate Program in Public Policy and Administration (December 1996).

displays and technologies and applications related thereto.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–29215 Filed 10–30–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Center for Emissions Control, Inc.

Notice is hereby give that, on December 30, 1997 pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Center for Emissions Control, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the members of the Center for Emissions Control, Inc. have authorized the dissolution of the corporation. The officers of the corporation intend to file dissolution documents with the District of Columbia prior to the end of this year.

On May 13, 1991, the Center for Emissions Control, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 31, 1991 (56 FR 24843–01).

The last notification was filed with the Department on May 6, 1996. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 12, 1996 (61 FR 29768–01).

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 98–29212 Filed 10–30–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Center for Waste Reduction Technologies ("CWRT")

Notice is hereby given that, on June 11, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Center for Waste Reduction Technologies ("CWRT") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, National Renewable Energy Laboratory, a division of Midwest Research Institute, Inc., Kansas City, MO; Oak Ridge National Laboratory, Oak Ridge, TN; Owens-Corning Fiberglas Corp., Toledo, OH; Salutia, Inc., St. Louis, MO; Celanese Ltd., a subsidiary of HNA Holdings, Inc., Bridgewater, NJ; Camp Dresser & McKee Inc., Cambridge, MA; and Environmental Protection Agency, Washington, DC have been added as parties to this venture. Also, Air Products and Chemicals, Inc., Allentown, PA; AM–RE Services, Inc., Princeton, NJ: Bechtel Group, Inc., San Francisco, CA: The BOC Group, Murray Hill, NJ; Gas Research Institute, Chicago, IL; Hoechst Celanese Corporation, Bridgewater, NJ; and Mobil Research and Development Corporation, Pennington, NJ have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Center for Waste Reduction Technologies ("CWRT") intends to file additional written notification disclosing all changes in membership.

On March 14, 1995, Center for Waste Reduction Technologies ("CWRT") filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on April 24, 1995 (60 FR 20119).

The last notification was filed with the Department on April 18, 1996. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 14, 1996 (61 FR 24331).

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 98–29208 Filed 10–30–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Center for Waste Reduction Technologies ("CWRT"): Novel Reactor Design Project

Notice is hereby given that, on June 11, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Center for Waste Reduction Technologies ("CWRT"): Novel Reactor Design Project has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ARCO Chemical Co., Newton Square, PA; Saudi Basic Industries Corporation, Riyadh, SAUDI ARABIA; and Procter & Gamble Co., Cincinnati, OH have been added as parties to this venture. Also, Air Products and Chemicals, Inc., Allentown, PA; Olin Corporation, Lake Charles, LA; and Rhone Poulenc Inc., Newton Square, PA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Center for Waste Reduction Technologies ("CWRT"): Novel Reactor Design Project intends to file additional written notification disclosing all changes in membership.

On December 19, 1995, Center for Waste Reduction Technologies ("CWRT"): Novel Reactor Design Project filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 12, 1996 (61 FR 5409).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–29209 Filed 10–30–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Center for Waste Reduction Technologies ("CWRT"): Total Cost Accounting Project

Notice is hereby given that, on June 11, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Center for Waste Reduction Technologies ("CWRT"): Total Cost Accounting Project has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Bristol-Myers Squibb Co., New York, NY; Eastman Kodak Co., Rochester, NY; and Georgia Pacific Corp., Atlanta, GA have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Center for Waste Reduction Technologies ("CWRT"): Total Cost Accounting Project intends to file additional written notification disclosing all changes in membership.

On April 23, 1997, Center for Waste Reduction Technologies ("CWRT"): Total Cost Accounting Project filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 28, 1997 (62 FR 63386).

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 98–29210 Filed 10–30–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Center for Waste Reduction Technologies ("CWRT"): Biofiltration Research Project

Notice is hereby given that, on June 11, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Center for Waste Reduction Technologies ("CWRT"): Biofiltration Research Project has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Eastman Kodak Co., Rochester, NY has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Center for Waste Reduction Technologies ("CWRT"): Biofiltration Research Project intends to file additional written notification disclosing all changes in membership.

On April 28, 1997, Center for Waste Reduction Technologies ("CWRT"): Biofiltration Research Project filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 13, 1997 (62 FR 32370).

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 98–29211 Filed 10–30–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Croptech Development Corporation

Notice is hereby given that, on November 17, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), CropTech Development Corporation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identifies of the parties and (2) the nature and objective of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identifies of the parties are CropTech Development Corporation, Blacksburg, VA; and Dyax Corporation, Cambridge, MA. The nature and objectives of the venture are to develop and demonstrate "Enhanced Manufacturing Technologies for Bioactive Proteins and Peptides in Transgenic Tobacco".

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–29213 Filed 10–30–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Digital Imaging Group, Inc.

Notice is hereby given that, on June 19, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Digital Imaging Group, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Corbis Corporation, Bellevue, WA; Digital Zone International A/S, Aarhus C, DENMARK; Flashpoint Technology, Inc., San Jose, CA; In-System Design, Boise, ID; Infinite Pictures, Inc., Portland, OR; Island Graphics Corporation, Larkspur, CA; PhotoDisc, Inc., Seattle, WA; PictureMall, Inc. (formerly PictureWorks Technology, Inc.), San Jose, CA; Jiro (formerly PrintPaks, Inc.), Portland, OR; The LivePix Company, San Francisco, CA; Accusoft, Westborough, MA; BeHere Corporation, Cupertino, CA; GaiaTech Inc., Millbrae, CA; Index Stock Photography, Inc., New York, NY; Jasc Software, Inc., Minnetonka, MN; Micrografx, Inc., Richardson, TX; Photo Access Corporation, Palo Alto, CA; Thomas Public Relations, Inc., Huntington, NY; Tower Semiconductor Ltd., Migdal Haemek, ISRAEL; Foto Wire Development SA, Geneve, SWITZERLAND, Interactive Pictures Corporation, Oak Ridge, TN; Iterated Systems, Atlanta, GA; Pictra, Inc., Sunnyvale, CA; PictureVision, Inc., Herndon, VA; Samsung Electronics Co. Ltd., Suwon, Kyungki-D, SOUTH KOREA; SanDisk Corporation, Sunnyvale, CA; Microsoft Corporation, Redmond, WA; and Live Picture, Inc., Campbell, CA have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Digital Imaging Group, Inc. intends to file additional written notification disclosing all changes in membership.

On September 25, 1997, Digital Imaging Group, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 10, 1997 (62 FR 60530).

The last notification was filed with the Department on December 17, 1997. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 14, 1998 (63 FR 18225).

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 98–29214 Filed 10–30–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Key Recovery Alliance ("KRA")

Notice is hereby given that, on July 23, 1998, pursuant to Section 6(a) of the Natural Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Key Recovery Alliance ("KRA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, The Boeing Company, Seattle, WA; CygnaCom Solutions, McLean, VA; Racal Data Group, Sunrise, FL; VPNet Technologies, Inc., San Jose, CA; Bull HN Information Systems, Phoenix, AZ; Fujitsu Ltd., Kohoku-ku, Yokohama, JAPAN; and Verisign, Mountain View, CA have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Key Recovery Alliance ("KRA") intends to file additional written notification disclosing all changes in membership.

On October 20, 1997, Key Recovery Alliance ("KRA") filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 27, 1998 (62 FR 100401).

The last notification was filed with the Department on April 9, 1998. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 98–29216 Filed 10–30–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Key Recovery Alliance ("KRA")

Notice is hereby given that, on April 9, 1998, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Key Recovery Alliance ("KRA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, America Online, Vienna, VA; Candle Corp., San Mateo, CA: Entrust Technologies, Ottowa, Ontario, CANADA; Baltimore Technologies Ltd., Dublin, IRELAND; Certicom Inc., San Mateo, CA; Federal Information Exchange, Inc., Gaithersburg, MD; Gradient Technologies, Marlooro, MA; Mitsubishi Electric Corporation, Kamakura, Kanagaw, JAPAN; nCipher Corporation Ltd., Cambridge, UNITED KINGDOM; NTT Software Corporation, Naka-ku, Yokoham, JAPAN; the Santa Cruz Operation, Inc., Santa Cruz, CA; Secure Computing Corporation, Roseville, MN; Tandem, A Compaq Company, Cupertino, CA; Hewlett-Packard, Cupertino, CA; NCC Escrow International, New York, NY; NEC Corporation, Fuchu, Tokyo, JAPAN; Rainbow Technologies, Calgary, AB, CANADA; Secant Network Technologies, Research Triangle, NC; Sterling Commerce, Irving, TX; and Toshiba Corporation, Fuchu-Shi, Tokyo, JAPAN have been added as parties to this venture. Also, Golden Star Technologies and Information Resource Engineering were identified as parties in KRA's original notice, however, this identification was an error. Golden Star Technologies and Information Resource Engineering were not and never have been members of the KRA venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Key Recovery Alliance ("KRA") intends to file additional written notification disclosing all changes in membership.

On October 20, 1997, Key Recovery Alliance ("KRA") filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on February 27, 1998 (63 FR 10040).

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 98–29218 Filed 10–30–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Mobile Information Infrastructure for Digital Video and Multimedia Applications

Notice is hereby given that, on April 3, 1998, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Mobile Information Infrastructure for Digital Video and Multimedia Applications has filed written notifications simultaneously with the Attorney general and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Harris Semiconductor, Palm Bay, FL has been added as a party to this venture. Also, Lucent Technologies, Inc. has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Mobile Information Infrastructure for Digital Video and Multimedia Applications intends to file additional written notification disclosing all changes in membership.

On September 28, 1998, Mobile Information Infrastructure for Digital Video and Multimedia Applications filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 15, 1996 (61 FR 6039).

The last notification was filed with the Department on August 1, 1996. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 29, 1996 (61 FR 45458).

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 98–29207 Filed 10–30–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Notice Pursuant to the National Cooperative Research and Production Act of 1993—OBI Consortium, Inc.

Notice is hereby given that, on May 29, 1998, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), OBI Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, CompuCom, Dallas, TX; Lockheed Martin, Bethesda, MD; and Open Market, Inc., Cambridge, MA have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OBI Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On September 10, 1998, OBI Consortium, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act of November 10, 1997 (62 FR 60531).

The last notification was filed with the Department on March 3, 1998. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act of July 30, 1998 (63 FR 40742).

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 98–29217 Filed 10–30–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Salutation Consortium, Inc.

Notice is hereby given that, on April 20, 1998, pursuant to Section 6(a) of the Natural Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Salutation Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Okamura Corporation, Yokohama Kanagawa, JAPAN has been added as a party to this venture. Also, Casio Computer Co., Ltd., Hamurashi, Tokyo, JAPAN; and Whetstone Technologies, Park City, UT have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Salutation Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On March 30, 1995, Salutation Consortium, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 27, 1995 (60 FR 33233).

The last notification was filed with the Department on February 4, 1998. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–29204 Filed 10–30–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Salutation Consortium, Inc.

Notice is hereby given that, on August 21, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Salutation Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Lexmark Corporation, Lexington, KY; Novell Corporation, Provo, UT; Microware Corporation, Des Moines, IA; and Minolta Corporation, Tokyo, JAPAN have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Salutation Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On March 30, 1995, Salutation Consortium, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 27, 1995 (60 FR 33233).

The last notification was filed with the Department on April 20, 1998. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–29205 Filed 10–30–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice of Pursuant to the National Cooperative Research and Production Act of 1993—Salutation Consortium, Inc.

Notice is hereby given that, on February 4, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Salutation Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Adobe Systems, Inc., San Jose, CA has been added as a party to this venture. Also, Justsystems, Tokyo, JAPAN has been dropped as a party to this venture.

No other changes have been made in either the membership or planned

activity of the group research project. Membership in this group research project remains open, and Salutation Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On March 30, 1995, Salutation Consortium, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 27, 1995 (60 FR 33233).

The last notification was filed with the Department on July 30, 1997. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 10, 1997 (62 FR 60532).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–29206 Filed 10–30–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Sarnoff Corp.: Perceptual-Based Video Encoding and Quality Measurement

Notice is hereby given that, on August 12, 1998, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Sarnoff Corporation (formerly named the David Sarnoff Research Center): Perceptual-Based Video Encoding and Quality Measurement has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Tektronix, Inc., Beaverton, OR has been added as a party to this venture. Also, Sun Microsystems Computer Corporation, Menlo Park, CA; and Texas Instruments Incorporated, Dallas, TX have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Sarnoff Corporation: Perceptual-Based Video Encoding and Quality Measurement intends to file additional written notification disclosing all changes in membership.

On September 1, 1995, Sarnoff Corporation: Perceptual-Based Video Encoding and Quality Measurement filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 4, 1995 (60 FR 62109).

The last notification was filed with the Department on April 24, 1996. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 24, 1996 (61 FR 32464).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–29220 Filed 10–30–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The South Carolina Research Authority ("SCRA")

Notice is hereby given that, on August 13, 1998, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), The South Carolina Research Authority ("SCRA"), which manages the Healthcare Information Infrastructure ("HIIT") program, has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Kaiser Foundation Health Plan of Colorado, Denver, CO has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this project remains open, and SCRA intends to file additional written notification disclosing all changes in membership.

On September 27, 1994, The SCRA filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 15, 1995 (60 FR 8735–02).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–29219 Filed 10–30–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Southwest Research Institute ("SWRI"): Advanced Target/Threat Assessment Code Project

Notice is hereby given that, on August 24, 1998, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Southwest Research Institute ("SWRI"): Advanced Target/Threat Assessment Code Project has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Fraunhofer-Institut fur Kurzzeitdynamik-Ernst-Mach-Institut-(EMI), Munich, GERMANY has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Southwest Research Institute ("SWRI"): Advanced Target/Threat Assessment Code Project intends to file additional written notification disclosing all changes in membership.

On March 6, 1997, Southwest Research Institute ("SWRI"): Advanced Target/Threat Assessment Code Project filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 27, 1997 (62 FR 14703).

The last notification was filed with the Department on April 8, 1997. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on May 14, 1997 (62 FR 26570).

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 98–29221 Filed 10–30–98; 8:45 am]

BILLING CODE 4410–11–M

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors' 1998 Annual Performance Reviews Committee

TIME AND DATE: The Board of Directors' 1998 Annual Performance Reviews Committee will meet on November 14, 1998. The meeting will commence at 11 a.m. and continue until conclusion of the committee's agenda.

LOCATION: Legal Services Corporation, 750 First Street N.E.—11th Floor, Washington, DC 20002.

STATUS OF MEETING: Except for approval of the meeting agenda and any miscellaneous business that may come before the committee, the meeting will be closed to the public. The closing is authorized by the relevant provisions of the Government in the Sunshine Act [5 U.S.C. 552b(c)(2) & (6)] and the corresponding provisions of the Legal Services Corporation's implementing regulation [45 CFR § 1622.5(a) & (e)]. A copy of the General Counsel's Certification that the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of agenda.

Closed Session

2. Conduct a performance appraisal of the President of the Corporation.
3. Conduct a performance appraisal of the Inspector General of the Corporation.

Open Session

4. Consider and act on other business.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel and Secretary of the Corporation, at (202) 336–8810.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Shannon Nicko Adaway, at (202) 336–8810.

Dated: October 28, 1998.

Victor M. Fortuno,

General Counsel.

[FR Doc. 98–29371 Filed 10–29–98; 11:09 am]

BILLING CODE 7050–01–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Museum Service Office Programs and Office of Library Services Programs; Grant Application Availability

AGENCY: Institute of Museum and Library Services, NFAH.

ACTION: Grant application availability notice for FY 99.

SUMMARY: This grant application announcement applies to the following Office of Museum Service programs: General Operating Support (GOS), Conservation Project Support (CP), Conservation Assessment Program (CAP), Museum Assessment Program (MAP I), Museum Assessment Program (MAP II), Museum Assessment Program III (MAP III), Museum Leadership Initiative (MLI) and Professional Services Program (PSP). This announcement also applies to the following Office of Library Services programs: Native American Library Services Basic Grants, Native American Library Services Technical Assistance Grants, Native American Library Services Enhancement Grants, Native Hawaiian Library Services Grant, Grants to States (LSTA), and National Leadership Grants (NLG). All IMLS awards are under 45 CFR part 1180 for Fiscal Year 1999.

ADDRESSES: Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 http://www.imls.fed.us/.

FOR FURTHER INFORMATION CONTACT: For information on museum programs call (202) 606–8540. For information on library programs call (202) 606–5227. For the Director's office call (202) 606–8537. Or contact the agency's website at http://www.imls.fed.us/.

SUPPLEMENTARY INFORMATION: The purpose of museum awards is to ease the financial burden borne by museums as a result of their increased use by the public and to help them carry out their educational role, as well as other functions. The purpose of library grants is to improve library services and collaboration between libraries and museums.

Eligibility

Museum Programs

Museums meeting the definitions in 45 CFR 1180.3 may apply for these programs. The definition of "museum" includes (but is not limited to) the following institutions if they satisfy the other provisions of this section: Aquariums and zoological parks; botanical gardens and arboretums; nature centers; museums relating to art; history (including historic buildings); natural history; science and technology; and planetariums.

To be eligible for support from IMLS a museum must:

Be organized as a public or private nonprofit institution and exit on a permanent basis for essentially educational or aesthetic purposes; and

Exhibit tangible objects through facilities it owns or operates; and

Have at least one professional staff member or the full-time equivalent whose primary responsibility is the care, or exhibition to the public of objects owned or used by the museum; and

Be open and have provided museum services to the general public on a regular basis for at least two full years prior to the date of application to IMLS for the GOS and CP programs. Applicants to MAP, CAP, MLI, and PSP need not be open for the two year period; and

Be located in one of the fifty States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

* Applicants to the Museum Assessment Program and the Conservation Assessment Program need not be open for two years.

For Professional Services Program

To apply for this program, you must be a private, non-profit museum services organization or association which engages in activities designed to advance the well being of museum and the museum profession. Institutions eligible for the other IMLS museum grant programs are not eligible for the Professional Services Program.

Library Programs

For Grants to the States

Funding is allocated on a formula basis to State Library Administrative Agencies, which include the fifth States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, and the Republic of Palau. For the Pacific region entities, the agency administering funds is the Pacific Resources for Education and Learning (PREL) agency in Honolulu, Hawaii. The State Library Administrative Agencies then make grants to all types of libraries, including public, school, academic, research, school, and special libraries like hospital and law libraries.

For Native American Library Services Basic Grants, Technical Assistance Grants, and Enhancement Grants

Applicants must comply with the definitions set out in the Library Services and Technology Act of the Museum and Library Services Act of 1996. Indian tribes and Alaska Native villages are eligible to apply. The term "Indian tribe" means any tribe, band, nation, or other organized group or community, including any Alaska

Native village, regional corporation, or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized by the Secretary of Interior as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

For Native Hawaiian Library Services Grant

Applicants should submit evidence that they meet the criteria for Native Hawaiian organizations as defined in section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912). Such an organization is one that serves the interests of Native Hawaiians; has Native Hawaiians in substantive and policymaking positions within the organization; and is recognized by the Governor of Hawaii for the purpose of planning, conducting, or administering programs (or portions of programs) for the benefit of Native Hawaiians. Proof of recognition by the Governor of Hawaii will be an official letter or other document attesting to the organization's status and signed by the Governor of Hawaii.

For National Leadership Grants

All types of libraries may apply including public, school, academic, research (which makes publicly available library services and materials suitable for scholarly research and not otherwise available to the public and is not an integral part of an institution of higher learning), special, private (not-for-profit), archives, library agencies, and library consortia. Libraries may apply individually or in partnership.

All disciplines of museums may apply, including art, children and youth, history, natural history, anthropology, nature center, science/technology centers, zoos, aquariums, arboretums, botanical gardens, historic houses and sites, planetariums, general, specialized, museum agencies, and museum consortia. Museums may only apply in a partnership that includes at least one library partner.

Institutions of higher education including public and not-for-profit universities and colleges may apply. Graduate library and information science schools may apply as part of an institution of higher education. Institutions of higher education may apply individually or in a partnership.

IMLS recognizes the potential for valuable contributions to the overall goals of the National Leadership Grants program by other public, not-for-profit and for-profit organizations and encourages their participation in a partner application. They, however, may not be the official applicant.

Program Categories

General Operating Support (GOS)

IMLS makes awards under the GOS program to museums to maintain, increase, or improve museum services through support for basic general operating expenses.

Conservation Project Support Program (CP)

Awards are made through the CP program to assist with the conservation of museum collections, both living and non-living.

Conservation Assessment Program (CAP)

Awards are made through CAP to provide an overall assessment of the condition of a museum's environment and collections to identify conservation needs and priorities. CAP is a non-competitive, one-time funding opportunity, offered on a first-come, first-served basis. It is administered in cooperation with Heritage Preservation, Inc. See 45 CFR 1180, subpart D.

Museum Assessment Program (MAP)

The MAP I funds an overall assessment of a museum's operations. The MAP II funds an assessment of the museum's collection-related policies. The MAP III provides an assessment of the public dimension of museum operations. All of the Museum Assessment Programs are non-competitive, one-time funding opportunities, offered on a first-come, first-served basis. The Museum Assessment Programs are administered in cooperation with the American Association of Museums through a memorandum of understanding. See 45 CFR part 1180, subpart D.

Professional Services Program (PSP)

This program provides matching funds to professional museum associations for projects that serve the museum community.

Museum Leadership Initiatives (MLI)

Museum Leadership Initiative address national issues for museums. Program priorities may change annually.

Grants to States

This program provides formula grants to State Library Administrative Agencies for the purposes of creating new networks that improve the accessibility and quality of information available to all library users. Priorities for funding are based on a Five-Year Plan which has been submitted by the State and approved by IMLS. Priorities may include: paying for computer systems, telecommunications technologies, and electronic networks for libraries; creating or improving electronic links among libraries and with educational, social, or information services; encourage resource sharing; and targeting library and information services to persons having difficulty using a library and to undeserved urban and rural communities. Grants to States may be expended directly or through sub-grants or cooperative agreements.

Native American Library Services Grants

The Basic Grants provide small grants for core library operations of tribes and Alaska Native villages. Technical Assistance Grants provide technical assistance to these libraries. Enhancement Grants promote innovative practices in serving Native Americans and Alaskan Native villages.

Native Hawaiian Library Services

This program provides a single grant to an organization that primarily serves and represents Native Hawaiians for the purpose of improving library services to Native Hawaiians.

National Leadership Grants (NLG)

This program was created to enhance the quality of library services nationwide and to provide coordination between libraries and museums. Awards will be made for (1) education and training for library and information science, (2) research and demonstration projects in library and information science, (3) preservation and digitization of library materials, (4) model programs of collaboration between libraries and museums.

Deadline Date for Transmittal of Applications

Applications must be mailed or hand-delivered by the deadline date

Program	Deadline
GOS	Jan. 22, 1999.
CP	Mar. 5, 1999.
PSP	July 2, 1999.
CAP	Dec. 3, 1999.
MAP I	Apr. 30, 1999.
MAP II	Mar. 12, 1999.
MAP III	Feb. 26, 1999.
MLI	June 18, 1999.
Grants to States, Revisions to Five Year State Plans.	April 1, 1999.
Native American Library Services Basic Grants.	April 30, 1999.
Native American Library Services Technical Assistance Grants.	April 30, 1999.
Native American Library Services Enhancement Grants.	April 30, 1999.
Native Hawaiian Library Services Grant.	April 30, 1999.
NLG	Mar. 19, 1999.

For GOS, CP, MLI, and PSP

Applications that are sent by mail must be addressed to the Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW., Room 609, Washington, DC 20506.

For Native American Library Services Grants, Native Hawaiian Library Services Grants, and National Leadership Grants

Applications that are sent by mail must be addressed to the Institute of Museum and Library Services, 1100 Pennsylvania Avenue NW., Room 802, Washington, DC 20506.

An applicant must be prepared to show one of the following as proof of timely mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other dated proof of mailing acceptable to the Director of IMLS.

If any application is mailed through the U.S. Postal Service, the Director does not accept either of the following as proof of mailing: (1) A private metered postmark; or (2) a mail receipt that is not date-canceled by the U.S. Postal Service.

Applications that are *hand-delivered* must be taken to the Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. Hand-delivered applications will be accepted between 9 a.m. and 4:30 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays. An application that is hand-delivered will not be accepted after 4:30 p.m. on the deadline date.

For MAP I, MAP II, and MAP III

Applicants must apply to IMLS through the American Association of Museums (AAM). IMLS supplies the AAM with application forms and instructions. These are forwarded by AAM to applicant museums. The Director of IMLS approves applications meeting the MAP I, MAP II, and MAP III requirements on a first-come, first-served basis (i.e., in the order in which an application is received and has been determined to have met applicable requirements). Applications will be approved for awards, subject to the availability of funds. If a museum's MAP I, MAP II or MAP III application is received on or before the indicated dates, it will be processed together with other MAP I, MAP II, or MAP III applications received during that period. Applications received after the indicated dates will be processed during the subsequent MAP I, MAP II or MAP III periods. In no event will MAP applications received after April 30, 1999, MAP II applications received after March 12, 1999, or MAP III applications received after February 26, 1999 be processed for Fiscal Year 1999 awards. Applicants should contact the American Association of Museums, 1575 Eye Street, NW., Washington, DC 20005, for application packets.

For CAP

Applicants must apply to IMLS through the Heritage Preservation Inc. IMLS supplies Heritage Preservation with application forms and instructions. These are forwarded by Heritage Preservation to applicant museums. The Director of IMLS approves applications meeting the CAP requirements on a first-come, first-served basis (i.e., in the order in which an application is received and has been determined to have met applicable requirements). Applications will be approved for awards, subject to the availability of funds. Applicants must be received by December 3, 1999. Applications for FY 1999 awards which cannot be funded will not be carried over to the next fiscal year. All unfunded applicants who wish to receive an award in the subsequent year, must reapply. Interested parties should contact the Heritage Preservation, 3299 K Street, NW., Suite 403, Washington, DC 20007 for applications.

For Grants to States

Applicants must contact their State Library Administrative Agency for deadlines and application procedures.

Program Information

GOS program regulations are contained in 45 CFR ch. XI, Sec. 1180.7 (1988) and related provisions.

CP program regulations are contained in 45 CFR 1180.20 (1988) and related provisions.

CAP and MAP program regulations are contained in 45 CFR part 1180, subpart D (1988).

PSP program regulations are contained in 45 CFR part 1180, subpart E (1988).

Further program information may be found in the Application forms and accompanying instructions in the application. See paragraph on Application Forms.

Available Funds

GOS

For FY 1999, $15,610,000 is available for this program. The GOS program award is equal to 15% of the museum's operating budget to a maximum of $112,500 to be spent over a two year period. The grant amount is determined annually by the National Museum Services Board. A museum that receives an award in one fiscal year may not apply for the following year's competition. (See 45 CFR 1190.16(b)).

CPF for FY 1999, $2,310,000 is available for this program. Normally, IMLS makes matching conservation grants of no more than $50,000 in Federal funds. Unless otherwise provided by law, if the Director determines that exceptional circumstances warrant, the Director, with the advice of the Board, may award a Conservation Project Support grant which obligates in excess of $50,000 in Federal funds to a maximum of $75,000. The Director may make such a determination with respect to a category of Conservation grants by notice published in the **Federal Register**. IMLS awards Conservation Project Support grants only on a matching basis. At least 50% of the costs of a project must be met with non-federal funds. (See 45 CFR 1180.20 (f)).

CAP

For FY 1999, $820,000 is available for this program.

MAP, MAP II, MAP III

For FY 1999, $450,000 is available for this program.

PSP

For FY 1999, $600,000 was available in this program. This program provides matching funds for cooperative agreements that generally do not exceed $50,000.

MLI

For FY 1999, $600,000 is available.

Grants to States

For FY 1999, $135,367,000 is available to be allocated to State Library Administrative Agencies according to a formula which is tied to state population, added to a minimum per-state grant of $340,000 as set by the Museum and Library Services Act. (In the case of the Pacific Territories, the minimum grant is $40,000, plus an

amount based on the formula tied to population.)

Native American and Native Hawaiian Library Services Grants

For FY 1999, $2,908,000 is available for these programs.

NLG

For FY 1999, $10,565,000 is available for competitive grants in this program.

Application Forms

IMLS mails application forms and program information in General Operating Support, Conservation Project Support, Museum Leadership Initiatives, Native American and Native Hawaiian Library Services Grants, National Leadership Grants and Professional Services Program application packets to libraries, museums, and other institutions on its mailing list as appropriate. Applicants may obtain application packets by writing, emailing, or telephoning the Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW, Washington, DC 20506. For Library programs call (202) 606–5227. For museum programs call (202) 606–8540. For e-mail, write to *imlsinfo@imls.fed.us*. Application forms are available on the agency's website *http://www.imls.fed.us/*.

To receive an application for the Conservation Assessment Program contact Heritage Preservation, 3299 K Street, NW, Suite 403, Washington, DC 20007 (202) 625–1495.

To receive an application for the Museum Assessment Programs contact the American Association of Museums, 1575 Eye Street, NW, Washington, DC 20005 (202) 289–1818.

To receive an application for the Grants to States program, contact your State Library Administrative Agency.

(Catalog of Federal Domestic Assistance No. 45.301 Institute of Museum and Library Services)

(Museum and Library Services Act of 1996, Pub. L. 104–208 as amended)

Dated: October 27, 1998.

Mamie Bittner,

Director, Legislative and Public Affairs.

[FR Doc. 98–29199 Filed 10–30–98; 8:45 am]

BILLING CODE 7036–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. STN 50–456]

Commonwealth Edison Company; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Commonwealth Edison Company (ComEd, the licensee) to withdraw its August 30, 1996, application for proposed amendment to Facility Operating License No. NPF–72 for the Braidwood Station, Unit 1, located in Will County, Illinois.

The proposed amendment would revise TS ¾.4.5 to allow continued operation of Unit 1 for the remainder of Cycle 6, provided that the projected distributions of indications found in the top of the steam generators' roll transitions resulting from the reanalysis of previous non-destructive testing data results in a probability of burst less than 1×10^{-2} and predicted leakage less than the site allowable leak limit.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on September 6, 1996 (61 FR 47214). However, by letter dated May 11, 1998, ComEd withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated August 30, 1996, and the licensee's letter dated May 11, 1998, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Dated at Rockville, Maryland, this 26th day of October 1998.

For the Nuclear Regulatory Commission.

Stewart N. Bailey,

Project Manager, Project Directorate III/2, Division of Reactor Projects—III/V, Office of Nuclear Reactor Regulation.

[FR Doc. 98–29264 Filed 10–30–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–454, STN 50–455, STN 50–456, and STN 50–457]

Commonwealth Edison Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–37 and NPF–66, issued to Commonwealth Edison Company (ComEd, the licensee) for operation of Byron Station, Units 1 and 2, located in Ogle County, Illinois and Facility Operating License Nos. NPF–72 and NPF–77, issued to ComEd for operation of Braidwood Station, Units 1 and 2, located in Will County, Illinois.

This notification addresses the beyond scope bracketed items identified in the requested amendments dated December 13, 1996. The proposed amendments would revise current Technical Specifications (CTS) of each unit to conform with NUREG–1431, Revision 1, "Standard Technical Specifications—Westinghouse Plants." The following descriptions and proposed no significant hazard analyses cover only those beyond scope bracketed changes. Associated with each change are administrative/editorial changes such that the new or revised requirements would fit the format of NUREG–1431.

1. CTS Limiting Condition of Operation (LCO) 3.2.2 ensures compliance with F_Q fuel design limits by a bounding analysis that is verified in the plant by monitoring a height dependent radial peaking factor $F_{XY}(Z)$. The CTS denotes associated LCOs, Actions, and Surveillance Requirements (SRs) for the $F_{XY}(Z)$ methodology. Improved Technical Specification (ITS) LCO 3.2.1 denotes associated LCOs, Actions, and SRs for a method based on an equilibrium $F_Q(Z)$ surveillance ($F_Q(Z)W(Z)$ methodology). The proposed methodology change provides more available margin to the $F_Q(Z)$ limit than is currently available with the $F_{XY}(Z)$ surveillance methodology. The $F_{XY}(Z)$ methodology is based on a 1 dimension-2 dimension synthesis of data whereas the $F_Q(Z)W(Z)$ methodology is a more advanced 3 dimension calculation. ComEd proposes to replace the $F_{XY}(Z)$ method by the $F_Q(Z)W(Z)$ method. NUREG–1431 provides the option for either the $F_{XY}(Z)$ methodology or the $F_Q(Z)W(Z)$ methodology. The revised requirement will be stated as ITS LCO 3.2.1.

2. This beyond scope change applies to Braidwood Station only. CTS SR 4.7.7.d.3 confirms the ability of both trains of the Nonaccessible Area Exhaust Filter Plenum Ventilation System to maintain Emergency Core Cooling System (ECCS) equipment rooms at −0.25 inches (water gauge) relative to the outside atmosphere while operating at a specified flow rate per train and a specified flow rate per bank. ComEd proposes to eliminate the specified bank flow rates. The SR verifies the integrity of the ECCS pump room areas. The ability of the Nonaccessible Area Exhaust Filter Plenum Ventilation System to maintain the ECCS pump room areas at a negative pressure, with respect to potentially uncontaminated adjacent area, is periodically tested to verify proper functioning of the Nonaccessible Area Exhaust Filter Plenum Ventilation System. Verification of the train flow rates is sufficient to satisfy this SR. In addition, several of the CTS 4.7.7 SRs include operating the system at a specified flow rate per train and a specified flow rate per bank. The specified train and bank flow rates are included in ITS Specification 5.5.11.a and 5.5.11.b for surveillances performed after structural maintenance on the high-efficiency particulate air (HEPA) or charcoal adsorber housings. ITS Specifications 5.5.11.a and 5.5.11.b include only train flow rates for other periodic surveillances. The flow distribution per train (bank flow) is achieved by permanently welded baffle plates and was tested during initial construction and periodically as required by the CTS. These changes were permitted at Byron Station as described in NRC safety evaluation (SE) dated October 22, 1993. The revised requirements will be stated as ITS 3.7.12 and ITS 5.5.11.

3. CTS SR 4.8.1.1.2.a.5, 4.8.1.1.2.f.3, and 4.8.1.1.2.f.7 include requirements associated with loading the diesel generator (DG) to greater than or equal to the continuous rating of the DGs (5500 kW). Consistent with NUREG–1431, ComEd proposes to modify these SRs to include a 90 percent to 100 percent of the continuous rating of the DGs load band (4950 kW to 5500 kW). These revised requirements will be stated as ITS SR 3.8.1.3 (31 day, 60 minute run), ITS SR 3.8.1.10 (full load reject), and ITS SR 3.8.1.14 (24 hour run). In addition, the Note contained in ITS SR 3.8.1.15 (hot restart) includes this load band. Regulatory Guide 1.9, Revision 3, recommends that these tests be conducted at 90 percent to 100 percent of the DG continuous rating. The maximum expected accident load for the worst case DG is 5166 kW (Byron DG 1A—during the first 30 minutes). The footnotes associated with CTS SR 4.8.1.1.2.f.7 include an allowance to load the DG for the first 2-hours of the 24 hour test within a load band of +0 kW, −150 kW of the 2-hour rating of the DG (6050 kW). Consistent with NUREG–1431, ComEd proposes to modify this load band in ITS SR 3.8.1.12 to include a 105 percent to 110 percent of the DG continuous rating (5775 kW–6050 kW) load band. The 100 percent corresponds to the 2-hour rating, while the 105 percent corresponds to −275 kW from the 2-hour rating. In summary, these revised requirements will be stated as ITS 3.8.1.3, 3.8.1.10, 3.8.1.14, and 3.8.1.15.

4. Consistent with plant specific analyses and current procedural controls, ComEd proposes to raise the minimum steady state voltage acceptance criterion for CTS SR 4.8.1.1.2.a.4, 4.8.1.1.2.f.2, 4.8.1.1.2.f.4.b, 4.8.1.1.2.f.5, and 4.8.1.1.2.f.6.b to 3950 volts. This minimum steady state value ensures that certain low voltage sensitive components can operate properly. This revised requirement will be stated as ITS SRs 3.8.1.2, 3.8.1.7, 3.8.1.9, 3.8.1.11, 3.8.1.12, 3.8.1.15, and 3.8.1.19.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the requested amendments involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration for each of the above proposed changes. The NRC staff has reviewed ComEd's analyses against the standards of 10 CFR 50.92(c). The staff's analysis is presented below.

1. Will the changes involve a significant increase in the probability or consequences of an accident previously evaluated?

In all of the changes described above the answer is "no." The proposed changes will not affect the safety function of the subject systems. There will be no direct effect on the design or operation of any plant structures, systems, or components. No previously analyzed accidents were initiated by the functions of these systems, and the systems will continue to perform their functions in mitigating consequences of previously analyzed accidents. Therefore, the proposed changes will have no impact of the consequences of any previously evaluated accidents.

2. Will the changes create the possibility of a new or different kind of accident from any accident previously evaluated?

In all of the changes described above, the answer is "no." The proposed changes would not lead to any design or operating procedure change. Hence, no new equipment failure modes or accidents from those previously evaluated will be created.

3. Will the changes involve a significant reduction in a margin of safety?

In all of the changes described above, the answer is "no." Margin of safety is associated with confidence in the design and operation of the plant. The proposed changes to the CTS do not involve any change to plant design, operation, or analysis. Thus, the margin of safety previously analyzed and evaluated is maintained.

Based on the analysis, it appears that the three standards of 10 CFR 50.92(c) are satisfied for each of the proposed changes. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity

for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By December 2, 1998, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at: for Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603, attorney for ComEd.

Non-timely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated December 13, 1996, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at: for Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Dated at Rockville, Maryland, this 27th day of October 1998.

For the Nuclear Regulatory Commission.

Ramin R. Assa,

Project Manager, Project Directorate III–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–29265 Filed 10–30–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Fire Protection Functional Inspection (FPFI) Program Workshop

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public meeting.

SUMMARY: The Nuclear Regulatory Commission staff is holding a workshop to discuss with and obtain feedback from the nuclear industry and the public regarding the results of the recently completed four Fire Protection Functional Inspection (FPFI) Program pilot inspections. A written summary will be issued to registered participants after the meeting.

AGENDA: The workshop will be held from 8:00 a.m.—5:00 p.m. on November 10, 1998, at the Doubletree Hotel, 1750 Rockville Pike, Rockville, MD 20952 (Twinbrook Metro Stop). Presentations will be made by speakers from NRC Staff and staff contractors, NEI, and other public and industry representatives.

SUPPLEMENTARY INFORMATION: The preliminary agenda for the proposed workshop is:

7:30–8:00 Registration
8:00–8:10 Introduction and Presentation of Agenda
L.B. Marsh, Chief, Plant Systems Branch, NRR
8:10–8:25 Keynote Address
Samuel J. Collins, Director, Office of Nuclear Reactor Regulation
8:25–8:35 Introductory Remarks by an Industry Representative
Industry Speaker TBD
8:35–8:50 Focus Comparison Between Appendix R, NRC Core, and FPFI Temporary Instruction
Pat Madden, Fire Protection Engineering Section, SPLB/NRR
8:50–9:30 FPFI Pilot, Clinton, and Quad Cities Fire Protection Inspection Results; and Discussion of Safety Significant Commercial Reactor Fire Protection Issues Highlighted During the Inspections
Pat Madden, Fire Protection Engineering Section, SPLB/NRR
Ken Sullivan, Brookhaven National Laboratory
9:30–9:45 Break
9:45–10:00 Use of Risk Information for FPFI Inspection Focus, and NRC Process for Assessment of FPFI Inspection Finding Risk Significance
Rich Barrett, Chief, Probabilistic Safety Assessment Branch, NRR
10:00–11:00 Public and Industry Observations on FPFI Pilot Program Activities
Public and Industry Speakers TBD
11:00–11:30 Comparison of Pilot FPFI Program Objectives and Results
Steve West, Chief, Fire Protection Engineering Section, SPLB/NRR
11:30–12:00 Post-Pilot FPFI Program Continuation Options
L.B. Marsh, Chief, Plant Systems Branch, NRR
12:00–1:30 Lunch Break
1:30–3:30 Stakeholder Views on FPFI Continuation Options
Public and Industry Speakers TBD
3:30–4:30 Open Discussion and Question and Answer Session
NRC, Public and Industry on the dais, participants TBD
4:30–4:40 Industry Closing Remarks
Fred Emerson, Nuclear Energy Institute
4:40–4:50 NRC Closing Remarks and Adjourn
L.B. Marsh, Chief, Plant Systems Branch, NRR

FOR FURTHER INFORMATION CONTACT: Leon E. Whitney, Mail Stop O–8–D1, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone (301) 415–3081; E-mail: LEW1@NRC.GOV.

PUBLIC PARTICIPATION: Individuals wishing to make a presentation at the workshop should contact Leon Whitney directly. Individuals who wish to attend the workshop are encouraged to provide their name, organizational affiliation, address, and phone number either by FAX (415–415–2300) or by E-mail (RMC@NRC.GOV).

Dated at Rockville, Maryland this 27th day of October 1998.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Chief, Plant System Branch, Division of Systems Safety and Analysis, Office of Nuclear Reactor Regulation.

[FR Doc. 98–29263 Filed 10–30–98; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26932]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

October 23, 1998.

Notice is hereby giving that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) and any amendment is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should summit their views in writing by November 17, 1998, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarants(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or issued in the matter. After November 17, 1998, the application(s) and/or declaration(s), as filed or as amended may be granted and/or permitted to become effective.

IES Utilities, Inc. (70–9375)

IES Utilities, Inc. ("IES"), doing business as Alliant Utilities, Alliant Tower, Cedar Rapids, Iowa 52401, an electric utility subsidiary company of Interstate Energy Corporation, a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a), 10, and 12(c) of the Act and rules 42 and 54 under the Act.

IES proposed, from time to time through December 31, 2000, to: (1) issue and sell one or more series of one or a combination of the following securities—(a) trust bonds ("Trust Bonds"), (b) senior unsecured debentures ("Senior Debentures"), and (c) unsecured subordinated debt securities ("Subordinated Debentures"); and (2) enter into an agreement or agreements ("Agreement") for the issuance and sale of one or more series of tax-exempt bonds ("Tax-Exempt Bonds") for the financing or refinancing of certain air and water pollution control facilities and sewage and solid waste disposal facilities ("Facilities"). As security for IPC's obligations under the Agreement or security or credit enhancement for the Tax-Exempt Bonds, IES also proposes, through December 30, 2000, one or a combination of the following transactions: (1) issuance of a non-negotiable promissory note ("Note") to evidence a loan to IES of the proceeds of the Tax-Exempt Bonds from the issuer of the Tax-Exempt Bonds; (2) conveyance of a subordinated security interest in the Facilities or other property of IES as security for IES's obligations under the Agreement and

the Note; (3) issuance and pledge of one or more new series of Trust Bonds as collateral for the Tax-Exempt Bonds ("Tax-Exempt Collateral Bonds"); (4) acquisition of a letter of credit and execution of a reimbursement agreement to secure this letter of credit guaranteeing payment of the Tax-Exempt Bonds; (5) acquisition of an insurance policy guaranteeing the payment of the Tax-Exempt Bonds; and (6) guarantee of the payment of principal, premium, if any, and interest on the Tax-Exempt Bonds.

The aggregate principal amount of the Trust Bonds, Senior Debentures, Subordinated Debentures, and Tax-Exempt Bonds shall not exceed $200 million. This amount excludes the principal amount of the Tax-Exempt Collateral Bonds and any other forms of security or credit enhancement related to the Tax-Exempt Bonds. The aggregate principal amount of the Tax-Exempt Collateral Bonds shall not exceed an amount equal to the sum of the principal amount, plus interest, of the Tax-Exempt Bonds.

The Trust Bonds will be issued under EIS's Indenture of Mortgage and Deed of Thrust, dated September 1, 1993, to the First National Bank of Chicago, as trustee ("Trustee") as amended and supplemented and as proposed to be further supplemented for one or more new series of Trust Bonds ("1993 Indenture"). The Senior Debentures will be issued under IES's Indenture (For Senior Unsecured Debt Securities), dated August 1, 1997, to the Trustee, as amended and supplemented and as proposed to be further supplemented for one or more new series of Senior Debentures. The Subordinated Debentures will be issued under IES's Indenture (For Unsecured Subordinated Debit Securities), dated as of December 1, 1995, to the Trustee, as amended and supplemented and as proposed to be further supplemented for one or more new series of Subordinated Debentures ("1995 Indenture").

The Trust Bonds will be secured primarily by: (1) first mortgage bonds issued under IES's Indenture of Mortgage and Deed of Trust, dated August 1, 1940, as amended and supplemented ("1940 Indenture"), to The First National Bank of Chicago, as trustee, and delivered to the trustee under the 1993 Indenture; (2) first mortgage bonds issued under IES's Indenture or Deed of Trust, dated February 1, 1923, as amended and supplemented ("1923 Indenture"), to The Northern Trust Company (The First National Bank of Chicago, successor) and Harold H. Rockwell (Richard D. Manella, successor), as trustees, and delivered to the trustee under the 1993 Indenture; and (3) the lien of the 1993 Indenture on IES's properties used in the generation, purchase, transmission, distribution or sale of electric energy by IES, or in the manufacture of manufactured gas, or in the purchase, transportation, distribution or sale of steam and hot water, which lien is junior to the liens of the 1940 Indenture and the 1923 Indenture. The Senior Debentures will be unsecured obligations of IES and will rank on a parity with all other unsecured and unsubordinated debt of IES. The Subordinated Debentures will be unsecured, subordinated obligations of IES. The 1995 Indenture provides that payment of the principal of, premium, if any, and interest on Subordinated Debentures is subordinated and subject in right of payment to the prior payment in full of all senior indebtedness of IES.

Each new series of Trust Bonds and each series of Senior Debentures and Subordinated Debentures will be sold at the price, bear interest at the rate or rates, and mature on the date or dates determined at the time of sale or when the agreement to sell is entered into, as the case may be. No series of Trust Bonds will be issued at rates in excess of the lower of 15% per annum or those rates generally obtainable at the time of pricing for sales of mortgage bonds having the same reasonably similar maturities, issued by companies of the same or reasonably comparable credit quality and having reasonably similar terms, conditions and features ("Ceiling Rate"). None of any series of Senior Debentures or Subordinated Debentures will be sold if their fixed interest rate or initial adjustable interest rate exceeds the Ceiling Rate.

As to each series of Trust Bonds, Senior Debentures, and Subordinated Debentures having an adjustable interest rate, the initial interest rate will be negotiated among IES and the purchasers and will be based upon the current market rate for comparable securities. Thereafter, the interest rate on these Trust Bonds, Senior Debentures, and Subordinated Debentures will be adjusted according to a pre-established formula or method of determination (in each case, "Floating Rate Trust Bonds," "Floating Rate Senior Debentures," and "Floating Rate Subordinated Debentures," respectively), or will be that rate which, when set, would be sufficient to remarket the Trust Bonds, Senior Debentures, and Subordinated Debentures at their principal amount (in each case, "Remarketed Trust Bonds," "Remarketed Senior Debentures," and "Remarketed Subordinated Debentures," respectively). After the initial interest rate period, none of the Floating Rate Trust Bonds, Floating Rate Senior Debentures, Floating Rate Subordinated Debentures, Remarketed Trust Bonds, Remarketed Senior Debentures, or Remarketed Subordinated Debentures will bear an interest rate exceeding 15% per annum.

The price, exclusive of accrued interest, to be paid to IES for each new series of Trust Bonds, Senior Debentures, and Subordinated Debentures to be sold at competitive bidding will be within a range (to be specified by IES to prospective purchasers) of 95% to 105% of the principal amount of each series of Trust Bonds, Senior Debentures, and Subordinated Debentures. Each series of Trust Bonds, Senior Debentures, and Subordinated Debentures will mature not later than 30 years from the day of issuance.

IES anticipates that the issuance and sale of each series of Trust Bonds, Senior Debentures, and Subordinated Debentures will be by means of competitive bidding or negotiated public offering or private placement with institutional investors in order to secure the advantages of an advance marketing effort and/or the best available terms. Each sale of Trust Bonds, Senior Debentures, and Subordinated Debentures is a separate transaction not contingent upon another sale of securities.

IES proposes to use the net proceeds derived from the issuance and sale of Trust Bonds, Senior Debentures, and Subordinated Debentures for general corporate purposes, including the conduct of its business as a utility, the repayment of outstanding securities when due, or the possible redemption, acquisition, or refunding of certain outstanding securities prior to their stated maturity or due date.

IES also proposes to enter into one or more Agreements, which may be loan or installment sales agreements, relating to the issuance and sale of Tax-Exempt Bonds for the financing or refinancing of certain Facilities. Under the Agreement, IES may be loaned the proceeds of the sale of the Tax-Exempt Bonds, and IES may issue a Note, or the issuer of the Tax-Exempt Bonds will undertake to purchase and sell the Facilities to IES. While the actual amount of Tax-Exempt Bonds to be issued has not yet been determined, this amount will be based upon the cost of refunding outstanding bonds or the cost of the Facilities. The Tax-Exempt Bonds will mature not more than 30 years from the first day of the month in which they are initially issued.

In order to obtain the benefit of ratings for the Tax-Exempt Bonds equivalent to the rating of the Trust Bonds outstanding under the 1993 Indenture, which ratings IES has been advised may be attained, IES may determine to secure its obligations under the Note and the Agreement by delivering to the trustee, a series of Tax-Exempt Collateral Bonds in principal amount either (1) equal to the principal amount of the Tax-Exempt Bonds or (2) equal to the sum of the principal amount of the Tax-Exempt Bonds plus interest payments thereon for a specified period. The series Tax-Exempt Collateral Bonds will be issued under an indenture supplemental to the 1993 Indenture ("Supplemental Indenture"), will mature on the maturity date of the Tax-Exempt Bonds and will be non-transferable by the trustee. The Tax-Exempt Collateral Bonds, in the case of clause (1) above, will bear interest at a rate or rates equal to the interest rate or rates to be borne by the related Tax-Exempt Bonds and, in the case of clause (2) above, would be non-interest bearing.

The Supplemental Indenture will provide, however, that the obligation of IES to make payments with respect to the Tax-Exempt Collateral Bonds will be satisfied to the extent that payments are made under the Note or the Agreement sufficient to meet payments when due in respect of the related Tax-Exempt Bonds. The Supplemental Indenture will provide that, upon acceleration by the trustee of the principal amount of all related outstanding Tax-Exempt Bonds under the trust indenture, the trustee may demand the mandatory redemption of the related Tax-Exempt Collateral Bonds then held by it as collateral at a redemption price equal to the principal amount thereof plus accrued interest, if any, to the date fixed for redemption. The Supplemental Indenture may also provide that, upon the optional redemption of the Tax-Exempt Bonds, in whole or in part, a related principal amount of the Tax-Exempt Collateral Bonds will be redeemed at the redemption price of the Tax-Exempt Bonds.

In the case of interest bearing Tax-Exempt Collateral Bonds, because interest accrues in respect of the Tax-Exempt Collateral Bonds until satisfied by payments under the Note or the Agreement, "annual interest charges" in respect of the Tax-Exempt Collateral Bonds will be included in computing the "interest earnings requirement" of the 1993 Indenture which restricts the amount of Trust Bonds which may be issued and sold to the public in relation to IES's net earnings. In the case of non-interest bearing Tax-Exempt Collateral Bonds, since no interest would accrue in respect of the Tax-Exempt Collateral Bonds, the "interest earnings requirement" would be unaffected.

As an alternative to or in conjunction with IES's securing its obligations through the issuance of the Tax-Exempt Collateral Bonds, IES may acquire an irrevocable letter of credit or other credit facility ("Letter of Credit") of a bank or other financial institution ("Bank") and enter into a reimbursement agreement ("Reimbursement Agreement") for any payments under the Letter of Credit. Any borrowing by IES under the Reimbursement Agreement will have a term of up to ten years and bear interest at a rate not exceeding: (1) the London Interbank Offered Rate plus up to 2%, (2) the Bank's certificate of deposit rate plus up to 1¾%, or (3) a rate not to exceed the prime rate plus 1%.

As a further alternative to, or in conjunction with, securing its obligations under the Agreement and Notes, IES may acquire a policy of insurance guaranteeing the payment when due of the principal of and interest on the series of the Tax-Exempt Bonds. This insurance policy would extend for the term of the related Tax-Exempt Bonds and would be non-cancelable by the insurance company for any reason.

In the event that a Letter of Credit or an insurance policy is issued as an alternative to the issuance of the Tax-Exempt Collateral Bonds, IES may convey a subordinated security interest in the Facilities or other property of IES as further security for IES's obligations under the Agreement and the Note. This subordinated security interest would be assigned to the trustee. IES also proposes to guarantee the payment of the principal of, premium, if any, and interest on the Tax-Exempt Bonds.

Unless otherwise specifically stated in IES's proposal, any Tax-Exempt Collateral Bonds, Letter of Credit or any related subordinated security interest, coverage under any insurance policy, or guarantee acquired by or issued by IES as a security or credit enhancement for the Tax-Exempt Bonds shall be in an aggregate amount no greater than the principal amount of the Tax-Exempt Bonds plus interest and will be designed to reflect the payment terms and conditions of the Tax-Exempt Bonds.

It is contemplated that the Tax-Exempt Bonds will be sold under arrangements with one or more purchasers, placement agents or underwriters. In accordance with applicable state laws, the interest rate to be borne by the Tax-Exempt Bonds will be approved by the issuer and will be either a fixed rate, which fixed rate may be convertible to a rate which will fluctuate in accordance with a specified prime or base rate or rates or may be determined by certain remarketing or auction procedures, or a fluctuating rate, which fluctuating rate may be convertible to a fixed rate.

IES also proposes that it may enter into arrangements providing for the delayed or future delivery of Tax-Exempt Bonds to one or more purchasers or underwriters. The obligations of the purchasers or underwriters to purchase Tax-Exempt Bonds under any of these arrangements may be secured by U.S. Treasury securities, letters of credit, or other collateral. The effective cost to IES of any series of the Tax-Exempt Bonds will not exceed the yield on U.S. Treasury securities having a maturity comparable to that of the series of Tax-Exempt Bonds. This effective costs will reflect the applicable interest rate or rates and any underwriters' discount or commission.

The premium (if any) payable upon the redemption of any Tax-Exempt Bonds at the option of IES will not exceed the greater (1) 5% of the principal amount of the Tax-Exempt Bonds so to be redeemed, or (2) a percentage of the principal amount equal to the rate of interest per annum borne by the Tax-Exempt Bonds.

The purchase price payable by or on behalf of IES is respect of Tax-Exempt Bonds tendered for purchase at the option of the holders will not exceed 100% of the principal amount, plus accrued interest to the purchase date.

Interstate Power Company (70–9377)

Interstate Power Company ("IPC"), 1000 Main Street, P.O. Box 769, Dubuque, Iowa 52004–7691, an electric utility subsidiary company of Interstate Energy Corporation, a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a), 10, and 12(c) of the Act and rules 42 and 54 under the Act.

IPC proposes, from time to time through December 31, 2000, to: (1) issue and sell one or more series of one or a combination of the following securities—(a) first mortgage bonds ("First Mortgage Bonds"), (b) senior unsecured debentures ("Senior Debentures"), and (c) unsecured subordinated debt securities ("Subordinated Debentures"); and (2) enter into an agreement or agreements ("Agreement") for the issuance and sale of one or more series of tax-exempt bonds ("Tax-Exempt Bonds") for the

financing or refinancing of certain air and water pollution control facilities and sewage and solid waste disposal facilities ("Facilities"). As security for IPC's obligations under the Agreement or security or credit enhancement for the payment of the Tax-Exempt Bonds, IPC also proposes, through December 30, 2000, one or a combination of the following transactions: (1) issuance of a non-negotiable promissory note ("Note") to evidence a loan of the proceeds of the Tax-Exempt Bonds from the issuer of the Tax-Exempt Bonds to IPC; (2) conveyance of a subordinated security interest in the Facilities or other property of IPC as security for IPC's obligations under the Agreement and the Note; (3) issuance and pledge of one or more new series of First Mortgage Bonds ("Tax-Exempt Collateral Bonds") as collateral for the Tax-Exempt Bonds; (4) acquisition of a letter of credit and executive of a reimbursement agreement to secure this letter of credit to guarantee payment of the Tax-Exempt Bonds; (5) acquisition of an insurance policy to guarantee payment of the Tax-Exempt Bonds; and/or (6) guarantee the payment of principal, premium, if any, and interest on the Tax-Exempt Bonds.

The aggregate principal amount of the First Mortgage Bonds, Senior Debentures, Subordinated Debentures, and Tax-Exempt Bonds shall not exceed $80 million. This amount excludes the principal amount of the Tax-Exempt Collateral Bonds and any other forms of security and credit enhancement related to the Tax-Exempt Bonds, including letters of credit and any related subordinated security interests, guarantees and insurance policies. The aggregate principal amount of the Tax-Exempt Collateral Bonds shall not exceed an amount equal to the sum of the principal amount of the Tax-Exempt Bonds plus interest.

The new series of First Mortgage Bonds will be issued under IPC's Indenture, dated as of January 1, 1948, to The Chase Manhattan Bank and C.J. Heinzelmann, as trustees, as supplemented and as proposed to be further supplemented for one or more new series of First Mortgage Bonds ("Mortgage"). The First Mortgage Bonds would be issued on the basis of unfunded net property additions and/or previously retired bonds, as permitted and authorized by the Mortgage. The Senior Debentures will be issued under IPC's Indenture (For Senior Unsecured Debt Securities) to The First National Bank of Chicago (or to another institution), as trustee, as proposed to be supplemented for one or more new series of Senior Debentures. The Subordinated Debentures will be issued under IPC's Indebenture (For Unsecured Subordinated Debt Securities) to The First National Bank of Chicago (or to another institution), as trustee, as proposed to be supplemented for one or more new series of Subordinated Debentures.

The First Mortgage Bonds will be issued on the basis of unfunded net property additions and/or previously retired bonds, as permitted and authorized by the Mortgage. The Senior Debentures will be unsecured obligations of IPC and will rank on a parity with all other unsecured and unsubordinated debt of IPC. The Subordinated Debentures will be unsecured, subordinated obligations of IPC. The indenture for the Subordinated Debentures will provide that payment of the principal of, premium, if any, and interest on Subordinated Debentures will be subordinated and subject in right of payment to the prior payment in full of all senior indebtedness of IPC.

Each new series of First Mortgage Bonds and each series of Senior Debentures and Subordinated Debentures will be sold at the price, bear interest at the rate or rates, and mature on the date or dates determined at the time of sale or when the agreement to sell is entered into, as the case may be. No series of First Mortgage Bonds will be issued at rates in excess of the lower of 15% per annum or those rates generally obtainable at the time of pricing for sales of mortgage bonds having the same or reasonably similar maturities, issued by companies of the same or reasonably comparable credit quality and having reasonably similar terms, conditions and features ("Ceiling Rate"). None of any series of Senior Debentures or Subordinated Debentures will be sold if their fixed interest rate or initial adjustable interest rate exceeds the Ceiling Rate.

As to each series of First Mortgage Bonds, Senior Debentures, and Subordinated Debentures having an adjustable interest rate, the initial interest rate will be negotiated among IPC and the purchasers and will be based upon the current market rate for comparable securities. Thereafter, the interest rate on these First Mortgage Bonds, Senior Debentures, and Subordinated Debentures will be adjusted according to a pre-established formula or method of determination (in each case, "Floating Rate First Mortgage Bonds," "Floating Rate Senior Debentures," and "Floating Rate Subordinated Debentures," respectively) or will be that rate which, when set, would be sufficient to remarket the First Mortgage Bonds, Senior Debentures, and Subordinated Debentures at their principal amount (in each case, "Remarketed First Mortgage Bonds," "Remarketed Senior Debentures," and "Remarketed Subordinated Debentures," respectively). After the initial interest rate period, none of the Floating Rate First Mortgage Bonds, Floating Rate Senior Debentures, Floating Rate Subordinated Debentures, Remarketed First Mortgage Bonds, Remarketed Senior Debentures, or Remarketed Subordinated Debentures will bear an interest rate exceeding 15% per annum.

The price, exclusive of accrued interest, to be paid to IPC for each new series of First Mortgage Bonds, Senior Debentures, and Subordinated Debentures to be sold at competitive bidding will be within a range (to be specified by IPC to prospective purchasers) of 95% to 105% of the principal amount of each series of First Mortgage Bonds, Senior Debentures, and Subordinated Debentures. Each series of First Mortgage Bonds will mature not later than 40 years from the day of issuance. Each series of Senior Debentures and Subordinated Debentures will mature not later than 30 years from the day of issuance.

IPC anticipates that the issuance and sale of each series of First Mortgage Bonds, Senior Debentures and Subordinated Debentures will be by means of competitive bidding or negotiated public offering or private placement with institutional investors in order to secure the advantages of an advance marketing effort and/or the best available terms. Each sale of First Mortgage Bonds, Senior Debentures and Subordinated Debentures is a separate transaction not contingent upon another sale of securities.

IPC proposes to use the net proceeds derived from the issuance and sale of First Mortgage Bonds, Senior Debentures and Subordinated Debentures for general corporate purposes, including the conduct of its business as a utility, the repayment of outstanding securities when due, or the possible redemption, acquisition, or refunding of certain outstanding securities prior to their stated maturity or due date.

IPC also proposes to enter into one or more Agreements, which may be loan or installment sales agreements, relating to the issuance and sale of Tax-Exempt Bonds for the financing or refinancing of certain Facilities. Under the Agreement, IPC may be loaned the proceeds of the sale of the Tax-Exempt Bonds, the IPC may issue a Note, or the issuer of the Tax-Exempt Bonds will undertake to purchase and sell the Facilities to IPC. While the actual amount of Tax-Exempt Bonds to be issued has not yet been determined, this amount will be based upon the cost of refunding outstanding bonds or the cost of the Facilities. The Tax-Exempt Bonds will mature not more than 30 years from the first day of the month in which they are initially issued.

In order to obtain the benefit of ratings for the Tax-Exempt Bonds equivalent to the rating of the First Mortgage Bonds outstanding under the Mortgage, which ratings IPC has been advised may be attained, IPC may determine to secure its obligations under the Note and the Agreement by delivering to the trustee a series of Tax-Exempt Collateral Bonds in principal amount either (1) equal to the principal amount of the Tax-Exempt Bonds or (2) equal to the sum of the principal amount of the Tax-Exempt Bonds plus interest payments thereon for a specified period. This series of the Tax-Exempt Collateral Bonds will be issued under an indenture supplemental to the Mortgage ("Supplemental Indenture"), will mature on the maturity date of the Tax-Exempt Bonds and will be non-transferable by the trustee. The Tax-Exempt Collateral Bonds, in the case of clause (1) above, will bear interest at a rate or rates equal to the interest rate or rates to be borne by the related Tax-Exempt Bonds and, in the case of clause (2) above, would be non-interest bearing.

The Supplemental Indenture will provide, however, that the obligation of IPC to make payments with respect to the Tax-Exempt Collateral Bonds will be satisfied to the extent that payments are made under the Note or the Agreement sufficient to meet payments when due in respect of the related Tax-Exempt Bonds. The Supplemental Indenture will provide that, upon acceleration by the trustee of the principal amount of all related outstanding Tax-Exempt Bonds under the trust indenture, the trustee may demand the mandatory redemption of the related Tax-Exempt Collateral Bonds then held by it as collateral at a redemption price equal to the principal amount thereof plus accrued interest, if any, to the date fixed for redemption. The Supplemental Indenture may also provide that, upon the optional redemption of the Tax-Exempt Bonds, in whole or in part, a related principal amount of the Tax-Exempt Collateral will be redeemed at the redemption price of the Tax-Exempt Bonds.

In the case of interest bearing Tax-Exempt Collateral Bonds, because interest accrues in respect of these Tax-Exempt Collateral Bonds until satisfied by payments under the Note or the Agreement, "annual interest charges" in respect of these Tax-Exempt Collateral Bonds will be included in computing the "interest earnings requirement" of the Mortgage which restricts the amount of First Mortgage Bonds which may be issued and sold to the public in relation to IPC's net earnings. In the case of non-interest bearing Tax-Exempt Collateral Bonds, since no interest would accrue in respect of these Tax-Exempt Collateral Bonds, the "interest earnings requirement" would be unaffected.

As an alternative to on in conjunction with IPC's securing its obligation through the issuance of the Tax-Exempt Collateral Bonds, IPC may acquire an irrevocable letter of credit or other credit facility ("Letter of Credit") of a bank or other financial institution ("Bank") and enter into a reimbursement agreement ("Reimbursement Agreement") for any payments under the Letter of Credit. Any borrowing by IPC under the Reimbursement Agreement will have a term of up to ten years and bear interest at a rate not exceeding: (1) the London Interbank Offered Rate plus up to 2%, (2) the Bank's certificate of deposit rate plus up to 1–¾%, or (3) a rate not to exceed the prime rate plus 1%.

As a further alternative to, or in conjunction with, securing its obligation under the Agreement and Note, IPC may acquire a policy of insurance guaranteeing the payment when due of the principal of and interest on the series of the Tax-Exempt Bonds. This insurance policy would extent for the term of the related Tax-Exempt Bonds and would be non-cancelable by the insurance company for any reason.

In the event that a Letter of Credit or an insurance policy is issued as an alternative to the issuance of the Tax-Exempt Collateral Bonds, IPC may convey a subordinated security interest in the Facilities or other property of IPC as further security for IPC's obligations under the Agreement and the Note. This subordinated security interest would be assigned to the trustee. IPC also proposes to guarantee the payment of the principal of, premium, if any, and interest on the Tax-Exempt Bonds.

Unless otherwise specifically stated in IPC's proposal, any Tax-Exempt Collateral Bonds, Letter of Credit or any related subordinated security interest, coverage under any insurance policy, or guarantee acquired by or issued by IPC as security or credit enhancement for the Tax-Exempt Bonds shall be in an aggregate amount no greater than the principal of the Tax-Exempt Bonds plus interest and will be designed to reflect the payment terms and conditions of the Tax-Exempt Bonds.

It is contemplated that the Tax-Exempt Bonds will be sold under arrangements with one or more purchasers, placement agents or underwriters. In accordance with applicable state laws, the interest rate to be borne by the Tax-Exempt Bonds will be approved by the issuer and will be either a fixed rate, which fixed rate may be convertible to a rate which will fluctuate in accordance with a specified prime or base rate or rates or may be determined by certain remarketing or auction procedures, or a fluctuating rate, which fluctuating rate may be convertible to a fixed rate.

IPC also proposes that it may enter into arrangements providing for the delayed or future delivery of Tax-Exempt Bonds to one or more purchasers or underwriters. The obligations of the purchasers or underwriters to purchase Tax-Exempt Bonds under any of these arrangements may be secured by U.S. Treasury securities, letters of credit, or other collateral. The effective cost to IPC of any series of the Tax-Exempt Bonds will not exceed the yield on U.S. Treasury securities having a maturity comparable to that of the series of Tax-Exempt Bonds. The effective cost will reflect the applicable interest rate or rates and any underwriters' discount or commission.

The premium (if any) payable upon the redemption of any Tax-Exempt Bonds at the option of IPC will not exceed the greater of (1) 5% of the principal amount of the Tax-Exempt Bonds so to be redeemed, or (2) a percentage of the principal amount equal to the rate of interest per annum borne by the Tax-Exempt Bonds.

The purchase price payable by or on behalf of IPC in respect of Tax-Exempt Bonds tendered for purchase at the option of the holders thereof will not exceed 100% of the principal amount thereof, plus accrued interest to the purchase date.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–29200 Filed 10–30–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [To Be Published].

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: To Be Published.

CHANGE IN THE MEETING: Cancellation of Meeting.

The closed meeting scheduled for Thursday, November 5, 1998, at 11:00 a.m., has been cancelled.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary (202) 942–7070.

Dated: October 29, 1998.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–29453 Filed 10–29–98; 3:47 pm]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Supplemental Security Income for the Aged, Blind and Disabled (SSI) Program Demonstration Project; Treatment of Cash Received and Conserved To Pay for Medical or Social Services

AGENCY: Social Security Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Social Security will conduct a demonstration project to test how certain altered resources counting rules might apply in the SSI program. The SSI program is authorized by title XVI of the Social Security Act (the Act). The rules which will be tested are those that apply to the treatment of cash received and conserved to pay for medical or social services.

Cash which is received for the purposes of payment for medical or social services is not counted as income to the beneficiary when received. If cash received for medical or social services which is not a reimbursement for these services already paid for by the beneficiary is conserved, it is not counted as a resource for the calendar month following the month of receipt, so long as it remains separately identifiable from other resources of the individual. Beginning with the second calendar month following the month of receipt, cash received for the payment of medical or social services becomes a countable resource used in the determination of SSI eligibility.

The Health Care Financing Administration of the Department of Health and Human Services (DHHS) is collaborating with the States of Arkansas, Florida, New Jersey and New York and with the National Program Office at the University of Maryland's Center on Aging, the Robert Wood Johnson Foundation, the Office of the Assistant Secretary for Planning and Evaluation of the DHHS, the National Council on Aging and Mathematica Policy Research (the evaluator) on a demonstration project to provide greater autonomy to the consumers of personal assistance services. Personal assistance services are help with the basic activities of daily living, including bathing, dressing, transferring, toileting, and eating, and/or instrumental activities of daily living such as housekeeping, meal preparation, shopping, laundry, money management and medication management. Consumers of personal assistance services who participate in this demonstration will be empowered by purchasing the services they require (including medical and social services) to perform the activities of daily living. In order to accomplish the objective of the demonstration project, cash allowances and information services will be provided directly to persons with disabilities to enable them to choose and purchase services from providers which they feel would best meet their needs.

Medicaid is the predominant source of public financing for personal assistance services programs for the aged, blind and disabled. The demonstration which will permit the States of Arkansas, Florida, New Jersey and New York to waive certain requirements under title XIX of the Act to participate in this "Cash and Counseling" demonstration is within the authority granted to the Secretary of Health and Human Services (HHS) by section 1115 of the Act. Medicaid beneficiaries who participate in this demonstration will be given cash to purchase the services they need from traditional and nontraditional providers as they deem appropriate. Counseling will be available for these beneficiaries to assist them in effective use of funds allotted for personal assistance services.

Many of the Medicaid beneficiaries who participate in the Cash and Counseling demonstration will be SSI beneficiaries or belong to coverage groups using eligibility methodologies related to those of the SSI program under title XIX of the Act. The Commissioner of Social Security wishes to test the appropriateness of current SSI rules which require counting cash received for the purchase of medical or social services as resources if retained for more than one month after the month of receipt. The test will also be used to assist the Secretary of HHS in testing the possibility of providing greater autonomy to the consumers of personal assistance services by empowering them to purchase the services they require (including medical and social services) to perform their activities of daily living. In order to do so, the Commissioner will exercise his authority under section 1110(b) of the Act and waive SSI resources counting of cash received and conserved for future purchases of medical and social services. The beneficiaries for whom this waiver of resources counting rules is to apply reside in the States of Arkansas, Florida, New Jersey and New York and are participants in the Cash and Counseling demonstration project. The waiver of resources counting rules will continue to apply for the duration of their participation in that demonstration, so long as the cash provided for purchase of medical or social services is conserved in a form that is separately identifiable from other resources that may be countable or excludable under title XVI of the Act. The cash received for medical or social services and conserved towards payment for those services by SSI beneficiaries who participate in this demonstration will not be included in SSI countable resources only for so long as the individual continues to participate in the Cash and Counseling demonstration.

Existing SSI resource-counting rules will be suspended only where application of such rules would adversely affect participation by SSI beneficiaries in the Cash and Counseling demonstration. That demonstration is anticipated to begin on or before January 1, 1999. This notice is published in accordance with the requirement in 20 CFR 416.250(e).

EFFECTIVE DATES: This project will be effective for the period authorized by the Secretary of HHS for the Cash and Counseling demonstration project. The date anticipated by the Secretary for the Cash and Counseling demonstration to begin is on or before January 1, 1999. According to the demonstration's plan, beneficiaries may participate throughout the period of the demonstration, up to five years. Thus, if the demonstration begins in all four States on January 1, 1999, the anticipated ending date for all participants will be no later than December 31, 2003.

Any cash for medical or social services received after an SSI beneficiary's participation in the demonstration has ended and which has been conserved for more than one month will be counted as resources. Any cash for medical or social services that is received during participation in the demonstration and conserved subsequent to participation in the demonstration will be subject to regular SSI resources rules.

FOR FURTHER INFORMATION CONTACT: Craig Streett, Office of Program Benefits, 3–M–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–9793, or through the Internet at Craig.Streett@ssa.gov.

SUPPLEMENTARY INFORMATION: Section 1612(a) of the Act defines what is income for purposes of the SSI program; section 1612(b) of the Act specifies exclusions from income. As explained in the regulation located at 20 CFR 416.1102, income counted for the purposes of the SSI program includes anything an individual receives in cash or in kind that can be used to meet needs for food, clothing, and shelter. Regulations at 20 CFR 416.1103(a)(3) and (b)(1) explain that assistance provided in cash or in kind under a Federal, State, or local government program, whose purpose is to provide medical care or services or social services, including vocational rehabilitation, is not income. The regulations at 20 CFR 416.1103(a)(5) and (b)(3) also explain that cash provided by any nongovernmental medical care or medical services program or under a health insurance policy or by a nongovernmental social services program (except cash to cover food, clothing or shelter) is not income if it is either repayment for program-approved services for which the individual has already paid or a payment restricted to the future purchase of a program-approved service.

Section 1613 of the Act addresses the exclusions from resources for purposes of the SSI program. As explained in regulations at 20 CFR 416.1201(a), resources are cash or other liquid assets or any real or personal property that an individual (or spouse) owns and could convert to cash to be used for support and maintenance. Regulations at 20 CFR 416.1207(d) explain that items received in cash or in kind during a month are evaluated first under the income counting rules. If they are retained until the first moment of the following month, they then are subject to the rules for counting resources.

However, regulations at 20 CFR 416.1201(a)(3) also explain that except for cash reimbursement of medical or social services expenses already paid for by the beneficiary, cash received for medical or social services that is not income under 20 CFR 416.1103(a) or (b) or a retroactive cash payment which is income that is excluded from deeming under 20 CFR 416.1161(a)(16) is not a resource for the calendar month following the month of its receipt if it is separately identifiable from other resources. Cash received for medical or social services that is retained after that time is a countable resource whether or not it is separately identifiable from other resources.

SSI regulations recognize that cash payments made specifically to enable people to pay for medical or social services are not income for SSI purposes, because they are assumed not to be available for support and maintenance. Recognizing that the recipient is not always able to use the cash for payment for medical or social services in the month of receipt, SSI regulations provide for not counting as resources any cash received to pay for medical and social services which is retained one full calendar month following the month of receipt, so long as it is separately identifiable from other resources. The rule permitting not counting such cash as resources does not encompass cash received as reimbursement for medical or social service bills the individual has already paid. The rule which permits not counting cash as resources if retained into the month following the month of receipt is consistent with the purpose of the SSI program, which is to meet the current needs of beneficiaries for food, clothing and shelter.

The Cash and Counseling collaborative demonstration project is designed to provide greater autonomy to the consumers of personal assistance services by empowering them to purchase the services they require (including medical and social services) to perform their activities of daily living. In order to accomplish the objectives of the demonstration project, cash allowances and information services will be provided directly to persons with disabilities to enable them to choose and purchase services from providers which they feel would best meet their needs.

Many of the consumers of personal assistance services are SSI beneficiaries. However, under current SSI regulations, some SSI beneficiaries would not be able to participate in the Cash and Counseling demonstration project without risk to their continuing SSI eligibility due to the possibility that participants may receive cash to be conserved towards the future purchase of services. Unless the Commissioner exercises his authority under section 1110(b) of the Act to waive certain requirements, conditions, or limitations of title XVI of the Act necessary to conduct experimental, pilot or demonstration projects, the remainder of cash received for future purchases of services by SSI beneficiaries who choose to participate in the demonstration will become countable resources two months following the month of receipt.

The consent of an SSI beneficiary to participate in this demonstration project is required under section 1110(b) of the Act. Each of the four States collaborating with the Secretary in the Cash and Counseling demonstration will obtain written consent from every participant who is an SSI beneficiary, which consent provides that his or her participation is voluntary and that he or she can revoke participation at any time. Existing SSI rules for counting cash received for the purchase of medical or social services as countable resources beginning with the second calendar month following the month of receipt will be waived for an individual participating in the demonstration as explained above only where the application of existing rules would adversely affect the individual's SSI eligibility. Accordingly, an individual's participation in the Cash and Counseling project will not affect participants' eligibility for SSI or benefit amounts.

The objectives of SSA in conducting this demonstration project are to:

- Test the appropriateness of current SSI rules which require counting cash received for the purchase of medical or social services as resources if retained for more than one month after the month of receipt;
- Facilitate the ability of the Secretary, DHHS, and collaborators to engage in the Cash and Counseling demonstration project;
- Permit the Secretary, DHHS, and collaborators to determine if cost savings can be realized from the Cash and Counseling demonstration project; and
- Empower participants in the Cash and Counseling demonstration project to demonstrate greater autonomy by allowing them to purchase their own personal assistance services.

Measurements involving these objectives will be obtained for the Social Security Administration by the Secretary, DHHS and collaborators in the Cash and Counseling demonstration.

The Commissioner's demonstration project will involve no or minimal new or additional program costs to the Federal government under title XVI of the Act or to the four State participants under section 1616 of the Act. SSI beneficiaries who choose to participate in this demonstration will purchase services which would ordinarily be provided by Medicaid and other Federal

and State services programs at a potentially greater cost. If the Commissioner decided not to exercise his authority under section 1110(b) of the Act to waive certain resources rules for participants in the Cash and Counseling demonstration, SSI beneficiaries could choose not to participate in the Secretary's demonstration and continue to receive services directly, rather than through the beneficiary's purchase. Continued SSI eligibility for beneficiaries who choose to participate in the demonstration project is not a new or additional cost related to the Commissioner's demonstration project.

SSI beneficiary participation in the Cash and Counseling demonstration should not affect SSI benefit amounts even if the beneficiary employs an ineligible spouse or ineligible parent as a provider of services, unless the beneficiary is an alien who employs the sponsor to provide these services. Although the income and resources of an eligible spouse or eligible child is deemed to include a portion of the income and resources of the ineligible spouse or parent under sections 1614(f)(1) and (2) of the Act, the Commissioner has exercised his discretion permitted under those provisions to exclude from deeming the income of an ineligible spouse or ineligible parent paid under a Federal, State or local government program to provide the eligible spouse or eligible child with chore, attendant or homemaker services as described in regulations at 20 CFR 416.1161(a)(16). However, the Commissioner has no similar discretionary authority for deeming from a sponsor to an alien.

If an SSI beneficiary chooses to employ his or her ineligible spouse or ineligible parent as a provider of services, and the ineligible spouse or parent conserves all or part of those funds, the retained portion of those funds will become deemable resources to the eligible spouse or child the month after the month of receipt as described in regulations at 20 CFR 416.1202. SSA routinely explains the SSI resources limits and the rules concerning the deeming of resources to affected SSI beneficiaries. Instructions to SSA field offices in the four States collaborating in this demonstration will reinforce the need to explain to affected, participating beneficiaries how payment to the ineligible spouse or ineligible parent could lead to an increase in deemable resources.

The four States collaborating in the demonstration project will experience no or minimal new or additional costs under section 1616 of the Act for SSI beneficiaries who participate in the Cash and Counseling demonstration project. The demonstration project will not add new beneficiaries to either the SSI or State supplementary payments rolls, or artificially extend the eligibility of beneficiaries, or increase payment amounts of SSI or State supplementary payments to participants.

Statutory and Regulatory Provisions Waived: The Commissioner waives for the duration of an individual's participation in the Cash and Counseling demonstration project certain SSI resources counting rules where application of those rules would otherwise affect the eligibility of an individual for SSI. The specific statutory and regulatory provisions waived are those described in the preceding section.

Authority: Section 1110(b) of the Social Security Act.

(Catalog of Federal Domestic Assistance Programs No. 96.006–Supplemental Security Income)

Dated: October 26, 1998.

Kenneth S. Apfel,

Commissioner of Social Security.

[FR Doc. 98–29276 Filed 10–30–98; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

[Public Notice 2916]

Discretionary Grant Programs Application Notice Establishing Closing Date for Transmittal of Certain Fiscal Year 1999 Applications

AGENCY: The Department of State invites applications from national organizations with interest and expertise in conducting research and training to serve as intermediaries administering national competitive programs concerning the countries of Eastern Europe and the independent states of the former Soviet Union. The grants will be awarded through an open, national competition among applicant organizations.

Authority for this Program for Research and Training on Eastern Europe and the Independent States of the Former Soviet Union is contained in the Soviet Eastern European Research and Training Act of 1983 (22 U.S.C. 4501–4508, as amended).

SUMMARY: The purpose of this application notice is to inform potential applicant organizations of fiscal and programmatic information and closing dates for transmittal of applications for awards in Fiscal Year 1999 under a program administered by the Department of State. The program seeks to build and sustain expertise among Americans willing to make a career commitment to the study of Eastern Europe and countries of the former Soviet Union.

Organization of Notice: This notice contains three parts. Part I lists the closing date covered by this notice. Part II consists of a statement of purpose and priorities of the program. Part III provides the fiscal data for the program.

Part I

Closing Date for Transmittal of Applications

An application for an award must be mailed or hand-delivered by February 12, 1999.

Applications Delivered by Mail

An application sent by mail must be addressed to Kenneth E. Roberts, Executive Director, Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union, INR/RES, Room 6841, U.S. Department of State, 2201 C Street, NW, Washington, DC 20520–6510.

An applicant must show proof of mailing consisting of *one* of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial center.

(4) Any other proof of mailing acceptable to the Department of State.

If any application is sent through the U.S. Postal Service, the Department of State does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with the local post office.

An applicant is encouraged to use registered or at least first class mail. Late applications will not be considered and will be returned to the applicant.

Applications Delivered by Hand

An application that is hand delivered must be taken to Kenneth E. Roberts, Executive Director, Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union, INR/RES, Room 6841, 2201 C Street, NW, Washington, DC. Please phone first at (202) 736–4572 to ensure access to the building.

The Advisory Committee staff will accept hand-delivered applications between 9:00 a.m. and 4:00 p.m. EST daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:00 p.m. on the closing date.

Part II

Program Information

In the Soviet-Eastern European Research and Training Act of 1983 the Congress declared that independently verified factual knowledge about the countries of that area is "of utmost importance for the national security of the United States, for the furtherance of our national interests in the conduct of foreign relations, and for the prudent management of our domestic affairs." Congress also declared that the development and maintenance of such knowledge and expertise "depends upon the national capability for advanced research by highly trained and experienced specialists, available for service in and out of Government." The program provides financial support for advanced research, training and other related functions on the countries of the region. By strengthening and sustaining in the United States a cadre of experts on Eastern Europe and the independent states of the former Soviet Union, the program contributes to the overall objectives of the FREEDOM Support and SEED programs.

The full purpose of the Act and the eligibility requirements are set forth in Pub. L. 98164, 97 Stat. 1047–50, as amended. The countries include Albania, Armenia, Azerbaijan, Belarus, Bulgaria, Czech Republic, Estonia, Georgia, Hungary, Kazakstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Poland, Romania, Russia, Slovakia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, Bosnia and Herzegovina, Slovenia, Croatia, Serbia (including Kosovo and Montenegro), and the Former Yugoslav Republic of Macedonia.

The Act establishes an Advisory Committee to recommend grant policies and recipients. The Secretary of State, after consultation with the Advisory Committee, approves policies and makes the final determination on awards.

Applications for funding under the Act are invited from U.S. organizations prepared to conduct competitive programs on the independent states of the former Soviet Union and the countries of Eastern Europe and related fields. Applying organizations or institutions should have the capability to conduct competitive award programs that are national in scope. Programs of this nature are those that make awards which are based upon an open, nationwide competition, incorporating peer group review mechanisms. Individual end-users of these funds—those to whom the applicant organizations or institutions propose to make awards—must be at the graduate or post-doctoral level, and must have demonstrated a likely career commitment to the study of Eastern Europe and/or the independent states of the former Soviet Union.

Applications sought in this competition among organizations or institutions are those that would contribute to the development of a stable, long-term, national program of unclassified, advanced research and training on the countries of Eastern Europe and/or the independent states of the former Soviet Union by proposing:

(1) *National programs* which award contracts or grants to American institutions of higher education or not-for-profit corporations in support of post-doctoral or equivalent level research projects, such contracts or grants to contain shared-cost provisions;

(2) *National programs* which offer graduate, post-doctoral and teaching fellowships for advanced training on the countries of Eastern Europe and the independent states of the former Soviet Union, and in related studies, including training in the languages of the region, with such training to be conducted on a shared-cost basis, at American institutions of higher education;

(3) *National programs* which provide fellowships and other support for American specialists enabling them to conduct advanced research on the countries of Eastern Europe and the independent states of the former Soviet Union, and in related studies; and those which facilitate research collaboration between Government and private specialists in these areas;

(4) *National programs* which provide advanced training and research on a reciprocal basis in the countries of Eastern Europe and the independent states of the former Soviet Union by facilitating access for American specialists to research facilities and resources in those countries;

(5) *National programs* which facilitate the public dissemination of research methods, data and findings; and those which propose to strengthen the national capability for advanced research or training on the countries of Eastern Europe and the independent states of the former Soviet Union in ways not specified above.

Note: The Advisory Committee will not consider applications from individuals to further their own training or research, or from institutions or organizations whose proposals are not for competitive award programs that are national in scope as defined above. Support for specific activities will be guided by the following policies and priorities:

• *Support for Transitions.* The Advisory Committee strongly encourages support for activities which, while building expertise among U.S. specialists on the region, also 1) promote fundamental goals of U.S. assistance programs such as helping establish market economies and promoting democratic governance and civil societies, and 2) provide knowledge and context related to current US policy interests in the region, broadly defined. This includes, but is not limited to, such topics as ethnic conflict, post-Soviet economics, and political participation. Research is encouraged on Russia's regions, and on other specific geographic areas— including areas outside capital cities, on Central Asia, and on the Balkans, where gaps exist in knowledge. Historical or cultural research that promotes understanding of current events in the region also is encouraged if an explicit connection can be made to contemporary political and/or economic transitions.

• *Publications.* Funds awarded in this competition should not be used to subsidize journals, newsletters and other periodical publications except in special circumstances, in which cases the funds should be supplied through peer-review organizations with national competitive programs.

• *Conferences.* Proposals for conferences, like those for research projects and training programs, should be assessed according to their relative contribution to the advancement of knowledge and to the professional development of cadres in the fields. Therefore, requests for conference funding should be directed to one or more of the national peer-review organizations receiving program funds, with proposed conferences being evaluated competitively against research, fellowship or other proposals for achieving the purposes of the grant.

• *Library Activities.* Funds may be used for certain library activities that clearly strengthen research and training on the countries of Eastern Europe and the independent states of the former Soviet Union and benefit the fields as a whole. Such programs must make awards based upon open, nationwide competition, incorporating peer group review mechanisms. Funds may not be used for activities such as modernization, acquisition, or preservation. Modest, cost-effective proposals to facilitate research, by eliminating serious cataloging backlogs or otherwise improving access to research materials, will be considered.

• *Language Support.* The Advisory Committee encourages attention to the non-Russian languages of the independent states of the former Soviet Union and the less commonly taught languages of the East European countries. Support provided for Russian language instruction/study normally will be only for advanced level. Applicants

proposing to offer language instruction are encouraged to apply to a national program as described above that has appropriate peer group review mechanisms.

• *Support for Non-Americans.* The purpose of the program is to build and sustain U.S. expertise on the countries of Eastern Europe and the independent states of the former Soviet Union. Therefore, the Advisory Committee has determined that highest priority for support always should go to American specialists (i.e., U.S. citizens or permanent residents). Support for such activities as long-term research fellowships, i.e., nine months or longer, should be restricted solely to American scholars. Support for short-term activities also should be restricted to Americans, except in special instances where the participation of a non-American scholar has clear and demonstrable benefits to the American scholarly community. In such special instances, the applicant must justify the expenditure. Despite this restriction on support for non-Americans, collaborative projects are encouraged—where the non-American component is funded from other sources—and priority is given to institutions whose programs contain such an international component.

In making its recommendations, the Committee will seek to encourage a coherent, long-term, and stable effort directed toward developing and maintaining a national capability on the countries of Eastern Europe and the independent states of the former Soviet Union. Program proposals can be for the conduct of any of the functions enumerated, but in making its recommendations, the Committee will be concerned to develop a balanced national effort that will ensure attention to all the countries of the area. Legislation requires and this announcement indicates under *Program Information* of this section that in certain cases grantee organizations must include shared-cost provisions in their arrangements with end-users. Cost-sharing is encouraged, whenever feasible, in all programs.

Part III

Available Funds

Awards are contingent upon the availability of funds. Funding may be available at a level up to $4.8 million. The precise level of funding will not be known until legislative action is complete. In Fiscal Year 1998, the Congress appropriated to the program $4.8 million from the FREEDOM Support and Support for East European Democracies (SEED) Acts, which funded grants to 9 national organizations. The number of awards varies each year, depending on the level of funding and the quality of the applications submitted.

The Department legally cannot commit funds that may be appropriated in subsequent fiscal years. Thus multi-year projects cannot receive assured funding unless such funding is supplied out of a single year's appropriation. Grant agreements may permit the expenditure from a particular year's grant to be made up to three years after the grant's effective date.

Applications

Applications must be prepared and submitted in 20 copies in the form of a statement, the narrative part of which should not exceed 20 double-spaced pages. This must be accompanied by a one-page executive summary, a budget, and vitae of key professional staff. Proposers may append other information they consider essential, although bulky submissions are discouraged and run the risk of not being reviewed fully. The one-page summary and budget should precede the narrative in the proposal.

Proposed programs should be described fully, including benefits for the fields. All applicants should provide detailed information about their plans for advertising their programs, peer evaluation and review procedures, and estimates of the types and amount of anticipated awards.

Applicants who have received a grant from this program in the previous competition should provide detailed information on the peer evaluation and review procedures followed, and awards made, including, where applicable, names/affiliations of recipients, and amounts and types of awards. If an applicant received support prior to the last competition, a summary of those awards also should be included.

Descriptions of all competitive award programs should specify both past and anticipated applicant-to-award ratios.

Proposals from national organizations involving language instruction programs should provide, for those programs supported in the past year, information on the criteria for evaluation, including levels of instruction, degrees of intensiveness, facilities, methods for measuring language proficiency (including pre- and post-testing), instructors' qualifications, and budget information showing estimated costs per student.

A description of affirmative action policies and practices must be included in the application.

Applications should include certifications of compliance with the provisions of: (1) the Drug-Free Workplace Act (Pub. L. 100–690), in accordance with Appendix C of 22 CFR 137, Subpart F; and (2) Section 319 of the Department of the Interior and Related Agencies Appropriations Act (Pub. L. 101–121), in accordance with Appendix A of 22 CFR 138, New Restrictions on Lobbying Activities.

Budget

Since funds will be appropriated separately for East Europe (including the Baltic states) and New Independent States programs, proposals must indicate how the requested funds will be distributed by region, country (to the extent possible), and activity. Subsequently, grant recipients must report expenditures by region, country, and activity.

Applicants should familiarize themselves with Department of State grant regulations contained in 22 CFR 145, "Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," OMB Circular A–110, "Grants and Agreements with Institutions of Higher Education . . . Uniform Administrative Requirements," and OMB Circular A–133, "Audits of Institutions of Higher Learning and Other Non-Profit Institutions" and indicate or provide the following information:

(1) Whether the organization falls under OMB Circular No. A–21, "Cost Principles for Educational Institutions," or OMB Circular No. A–122, "Cost Principles for Nonprofit Organizations;"

(2) A detailed program budget indicating direct expenses by program element, by region (the independent states of the former Soviet Union or Eastern Europe), indirect costs, and the total amount requested. NB: Indirect costs are limited to 10 percent of total direct program costs. Applicants requesting funds to supplement a program having other sources of support should submit a current budget for the total program and an estimated future budget for it showing how specific lines in the budget would be affected by the allocation of requested grant funds. Other funding sources and amounts, when known, should be identified.

(3) The applicant's cost-sharing proposal, if applicable, containing appropriate details and cross references to the requested budget;

(4) The organization's most recent audit report (the most recent U.S. Government audit report if available) and the name, address, and point of contact of the audit agency. N.B.: The threshold for grants that trigger an audit requirement has been raised from $25,000 to $300,000.

(5) An indication of the proposer's priorities if funding is being requested for more than one program or activity.

All payments will be made to grant recipients through the Department of State.

Technical Review

The Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union will evaluate applications on the basis of the following criteria:

(1) Responsiveness to the substantive provisions set forth above in Program Part II, Information (45 points);

(2) The professional qualifications of the applicant's key personnel and selection committees, and their experience conducting national competitive award programs of the type the applicant proposes on the countries of Eastern Europe and the independent states of the former Soviet Union (35 points); and

(3) Budget presentation and cost effectiveness (20 points).

FOR FURTHER INFORMATION CONTACT: For further information, contact Kenneth E. Roberts, Executive Director, Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union, INR/RES, Room 6841, U.S. Department of State, 2201 C Street, NW, Washington, DC 20520–6510. Telephone: (202) 736–4572 or 736–4386, fax: (202) 736–4851 or (202) 736–4807.

Dated: October 19, 1998.

Kenneth E. Roberts,

Executive Director, Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union.

[FR Doc. 98–29224 Filed 10–30–98; 8:45 am]

BILLING CODE 4710–32–P

DEPARTMENT OF STATE

Office of the Secretary of State

[Public Notice 2905]

Notice Convening Accountability Review Boards for the Bomb Attacks on the U.S. Embassy in Nairobi, Kenya in Which Eleven U.S. Citizen Employees and one Dependent, 32 Foreign Service National Employees, and Hundreds of People Were Killed, and on the U.S. Embassy in Dar es Salaam, Tanzania, in Which Eight Foreign Service National Employees Were Killed and at Least 70 People Injured

Pursuant to section 301 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4831 *et seq.*), I have determined that the August 7, 1998 bomb attacks on the U.S. Embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania, each involved serious injury, loss of life, or significant destruction of property at or related to a U.S. mission abroad. Therefore, I am convening two Accountability Review Boards, as required by that statute, to examine the facts and circumstances of each attack and report to me such findings and recommendations as they deem appropriate, in keeping with the attached mandates.

I have appointed Admiral William J. Crowe as Chair of both Boards. He will be assisted on the Nairobi Board by former Ambassadors Philip C. Wilcox and Michael H. Armacost, Ms. Janne Nolan, Mr. Arthur W. (Mick) Donahue, and by Executive Secretary Ambassador Richard C. Brown. Admiral Crowe will be assisted on the Dar es Salaam Board by former Ambassador Terence A. Todman, Mr. David Busby, Dr. Lynn Davis, Mr. Montgomery L. Rogers, and by Executive Secretary, Mr. Kenneth R. McKune. All will bring to their deliberations distinguished backgrounds in government service and the private sector.

I have asked the Boards to submit their conclusions and recommendations to me within sixty days of their first meeting, unless the Chair determines a need for additional time. Appropriate action will be taken and reports submitted to Congress on any recommendations made by the Boards.

Anyone with information relevant to the Boards' examination of these incidents should contact the Boards promptly at (202) 647–6252 or fax them at (202) 647–6640.

Dated: October 13, 1998.

Madeleine K. Albright,

Secretary of State.

[FR Doc. 98–29225 Filed 10–30–98; 8:45 am]

BILLING CODE 4710–10–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending October 23, 1998

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–98–4607.
Date Filed: October 20, 1998.
Parties: Members of the International Air Transport Association.
Subject:
PTC31 Telex Mail Vote 965 (as amended)
Niigata, Japan-Hawaii fares (Reso 010v)
Intended effective date: December 19, 1998.

Docket Number: OST–98–4610.
Date Filed: October 20, 1998.
Parties: Members of the International Air Transport Association.
Subject:
COMP Telex Reso 033f—Hungary
Local Currency Rate Changes
Intended effective date: December 1, 1998.

Docket Number: OST–98–4636.
Date Filed: October 22, 1998.
Parties: Members of the International Air Transport Association.
Subject:
PTC12 NMS-ME 0062 dated September 28, 1998 r1–10
Mid-Atlantic-MidEast Resos-MV958, as amended in TE400
PTC12 NMS-ME 0063 dated September 28, 1998 r11–12
South Atlantic-MidEast Resos-MV959, as amended in TE401
Intended effective date: April 1, 1999.

Docket Number: OST–98–4637.
Date Filed: October 22, 1998.
Parties: Members of the International Air Transport Association.
Subject:
PTC23 Telex Mail Vote 966
Africa-Southeast Asia Resos 002uu
Intended effective date: December 1, 1998.

Docket Number: OST–98–4638.
Date Filed: October 22, 1998.
Parties: Members of the International Air Transport Association.
Subject:
PTC123 0049 dated October 20, 1998
North Atlantic Expedited Resos 002gg (r1) & 067m (r2)
Intended effective date: November 15, 1998.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 98–29282 Filed 10–30–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending October 23, 1998

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a

tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–98–4600.
Dated Filed: October 19, 1998.
Due Date for Answers, Conforming Applicotions, or Motions to Modify Scope: November 16, 1998.
Description: Application of Queen Air, Aeronaves Queen, S.A. pursuant to 49 U.S.C. 41302 and Subpart Q, applies for a foreign air carrier permit authorizing it to engage in scheduled foreign air transportation of persons, property and mail between Santo Domingo in the Dominican Republic, on the one hand, and the co-terminal points San Juan, P.R., Miami, FL and New York, NY on the other hand, and non-scheduled foreign air transportation between a point or points in the Dominican Republic and any point or points in the U.S.

Docket Number: OST–98–4605.
Date Filed: October 20, 1998.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: November 17, 1998.
Description: Application of Cargolux Airlines International S.A. pursuant to 49 U.S.C. 41302 and Subpart Q, applies to amend its foreign air carrier permit last issued by Order 97–3–10 to authorize Cargolux to provide 7th Freedom all-cargo services between the United States and any point or points. Cargolux requests this permit authority to be coextensive with the effectiveness of the U.S.-Luxembourg Air Transport Agreement in accordance with Order 97–3–10.

Docket Number: OST–95–477.
Date Filed: October 21, 1998.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: November 18, 1998.
Description: Application of L.B. Limited pursuant to 49 U.S.C. 41302 and Subpart Q applies for an amendment and re-issuance of its foreign air carrier permit issued by Order 96–6–45, to engage in scheduled air transportation of person, property and mail on the following Bahamas-U.S. scheduled combination route Freeport on the one hand, and the coterminal points Charlotte, NC and Columbus, OH on the other hand.

Docket Number: OST–98–4635.
Date Filed: October 22, 1998.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: November 19, 1998.
Description: Application of Evergreen International Airlines, Inc. pursuant to 49 U.S.C. 41120 and Subpart Q, requests issuance of a new certificate of public convenience and necessity, or an amendment to its existing international certificate, to provide scheduled foreign air transportation of property and mail between any point in the United States, on the one hand, and any point in the countries listed in Appendix A to this application, on the other. Evergreen requests authority to integrate this certificate authority with its other all-cargo certificate and exemption authority and to commingle traffic on services conducted pursuant to such authority, consistent with applicable agreements between the U.S. and foreign countries.

Dorothy W. Walker,
Federal Register Liaison.
[FR Doc. 98–29283 Filed 10–30–98; 8:45 am]
BILLING CODE 4910–62–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Amador County, CA

AGENCY: Federal Highway Administration (FHWA), DOT.
ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Amador County, California.

FOR FURTHER INFORMATION CONTACT: Mr. John R. Schultz, Chief, Program Delivery Team—North, Federal Highway Administration, California Division, 980 9th Street, Suite 400, Sacramento, California 95814–2724, Telephone: (916) 498–5041.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation (Caltrans), will prepare an Environmental Impact Statement (EIS) on a proposal to improve State Route (SR) 49 in Amador County, California. The proposed improvement would involve in the reconstruction of a roadway section of SR 49 between the junction of Route 104 (Ridge Road) to 0.3 kilometers (0.2 miles) south of Ranchia Creek Bridge. The project is approximately 7.9 kilometers (4.9 miles) in length. The improvement would correct deficiencies on the existing facility such as the narrow roadbed, short radius curves, inadequate sight distances, and excessively steep grades.

Alternatives under consideration include (1) taking no action, (2) constructing a limited access highway on new location, and (3) improve the existing route. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment.

Letters describing the proposal action and soliciting comments will be sent to appropriate Federal, State, and Local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Several public meetings will be held in Amador County between March and July 1999. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments, and suggestions are involved from all interest parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on federal programs and activities apply to this program)

Issued on: October 22, 1998.
John R. Schultz,
Chief, Program Delivery Team—North Sacramento, California.
[FR Doc. 98–29227 Filed 10–30–98; 8:45 am]
BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Transportation Infrastructure Finance and Innovation; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.
ACTION: Public meeting.

SUMMARY: The Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, 112 Stat. 107 (1998) established a new Federal credit program for surface transportation projects. The Transportation Infrastructure Finance and Innovation Act (TIFIA), Title I, Subtitle E, Chapter 1 was established to provide up to $10.6 billion of Federal assistance in the form of credit (direct loans, loan guarnatees, and standby line of credit) to major surface transportation projects of critical national importance, such as intermodal facilities, border crossing infrastructure, trade corridors and other investments generating substantial regional and national economic and other benefits.

Prior to implementation, the Federal Highway Administration (FHWA), acting on behalf of the United States Department of Transportation (USDOT) will conduct a focus group session regarding work-to-date in the development of preliminary programmatic structure for TIFIA. This notice serves to invite public officials, potential project sponsors; the financial community, and other interested parties to attend a meeting at which proposed features of the TIFIA program will be discussed and a summary of findings from a pervious TIFIA focus group session held in New York on September 14, 1998 will be presented.

DATES: The public meeting will be held on Tuesday, December 8, 1998 from 9:30 a.m. until approximately 2:00 p.m. Interested parties are requested to RSVP to the FHWA by facsimile at (202) 366–7493 by Monday, November 23, 1998.

ADDRESSES: The meeting will be held at the Center for Infrastructure Finance Studies, Copley International Conference Center, Institute of the Americas/University of California-San Diego, 10111 North Torrey Pines Road, La Jolla, California 92037.

FOR FURTHER INFORMATION CONTACT: David Seltzer at (202) 366–0397, or Bryan Grote, at (202) 366–5785, Office of Budget and Finance, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internset users may reach the Federal Register's home page at: http://www.nara.gov/fedreg and the Government Printing Office's web page at: http://www.access.gpo.gov/nara. A copy of the TEA–21 legislation and conference report containing the TIFIA program is available on the FHWA home page at http://www.fhwa.dot.gov/tea21/legis.htm.

Authority: 23 U.S.C. 181; 23 U.S.C. 315; 49 CFR 1.45(a)(1), 49 CFR 1.48.

Dated: October 27, 1998.
George S. Moore, Jr.,
Associate Administrator for Administration.
[FR Doc. 98–29302 Filed 10–30–98; 8:45 am]
BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Federal Law Enforcement Training Center; Meeting

AGENCY: Advisory Committee to the National Center for State, Local, and International Law Enforcement Training.
ACTION: Notice of meeting.

SUMMARY: The agenda for this meeting includes remarks by the Committee co-chairs, Karen Wehner, Acting Deputy Assistant Secretary (LE), Department of the Treasury, and Laurie Robinson, Assistant Attorney General, Office of Justice Programs, Department of Justice; progress reports on Small Town and Rural Training Series (STAR), International Training, and the International Law Enforcement Academy—South (ILEA-South); and presentations on collaborative programs with the National Center, which will include the Office of Community Oriented Policing Services.

DATE: November 4, 1998.
ADDRESS: Federal Law Enforcement Training Center, Glynco, Georgia.
FOR FURTHER INFORMATION CONTACT: Hobart M. Henson, Director, National Center for State, Local, and International Law Enforcement Training, Federal Law Enforcement Training Center, Glynco, Georgia 31524, 1–800–743–5382.

Dated: October 26, 1998.
Hobart M. Henson,
Director, National Center for State, Local, and International Law Enforcement Training.
[FR Doc. 98–29370 Filed 10–30–98; 11:36 am]
BILLING CODE 4810–32–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Coupons Under Book-Entry Safekeeping (CUBES) and Bearer Corpora Conversion System (BECCS); Extension of Programs

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury.
ACTION: Notice.

SUMMARY: This notice is being published to announce the extension by the Department of the Treasury of its Coupons Under Book-Entry Safekeeping (CUBES) and its Bearer Corpora Conversion System (BECCS) programs, pursuant to 31 CFR part 358. In a notice published on March 6, 1998 (63 FR 11357), the previously announced conversion window for both CUBES and BECCS ended on October 9, 1998. Due to the popularity of the BECCS conversion program, the Department is extending the operation of the conversion window beyond October 9, 1998, and will continue to accept both stripped bearer corpora and detached bearer coupons for conversion to book-entry form until further notice. The Department of the Treasury will publish a notice in the **Federal Register** not less than thirty (30) calendar days prior to the effective ending date of the CUBES and BECCS conversion window.

The extension of the CUBES window will continue to permit the conversion to book-entry of certain physical coupons detached from U.S. Treasury bearer securities. The extension of the BECCS window will continue to permit the conversion to book-entry of U. S. Treasury stripped bearer corpora to book-entry form. CUBES and BECCS securities will be held in the commercial book-entry system, or TRADES. With the extension of the conversion window for CUBES and BECCS, depository institutions holding eligible coupons and corpora will continue to have the opportunity to convert such coupons and corpora to book-entry form until further notice by the Department. Other entities wishing to convert coupons and corpora must arrange to do so through a depository institution.

FOR FURTHER INFORMATION CONTACT: Maureen Parker, Director, Division of Securities Systems, Bureau of the Public Debt (304) 480–7761; Susan Klimas, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Public Debt (304) 480–5192; Edward C. Gronseth, Deputy Chief Counsel, Office of the Chief Counsel, Bureau of the Public Debt (304) 480–5192.

SUPPLEMENTARY INFORMATION: 31 CFR part 358, Regulations governing Book-Entry Conversion of Detached Bearer Coupons and Bearer Corpora permits openings of the CUBES and BECCS windows for conversion to book-entry form of detached, physical coupons and stripped bearer corpora. Accordingly, pursuant to that authority, Treasury is extending the window for conversion under its CUBES and BECCS programs until further notice. Under the programs, depository institutions holding coupons stripped from Treasury securities and bearer corpora that have been stripped of all non-callable coupons will continue to be permitted to convert them to book-entry form. Entities other than depository institutions that hold such coupons and bearer corpora and that wish to convert them to book-entry accounts under the CUBES and BECCS programs must

arrange for conversion through a depository institution.

Detached bearer coupons and bearer corpora that are submitted within 30 days of their maturity date or, if the call provision has been invoked, within 30 days of their call date, will not be accepted for conversion.

Presentation of coupons under the CUBES and BECCS windows may be made only at the Federal Reserve Bank of New York and in compliance with the presentation procedures established by the Federal Reserve Bank of New York. Submissions of coupons are subject to the terms and conditions described in part 358.

A depository institution wishing to participate in CUBES or BECCS should contact Grace Jaiman (212) 720–8183 or Joanna Grever (212) 720–8184 of the Federal Reserve Bank of New York as soon as possible to obtain an information package and the necessary supplies required to present the stripped coupons and bearer corpora in acceptable form. The institution should inform the Federal Reserve Bank of New York of its intention to participate as soon as possible, but no later than two weeks before deposit, and should submit a completed holdings statement on the form provided in the information package.

Participants will be charged a separate conversion transaction fee of $4 for each coupon and each corpus conversion transaction processed. A corpus submitted with all associated callable coupons will be charged one conversion transaction fee. A corpus submitted minus one or more associated callable coupons will be charged a transaction fee for the conversion of the corpus and a transaction fee for each separate callable coupon converted. Each non-callable coupon submitted will be charged a conversion transaction fee. The fee for any coupon or corpus that is rejected by the Department, for whatever reason, is non-refundable.

Submitters of coupons are deemed to agree to the terms and conditions set forth in this notice, 31 CFR part 358, and any other requirements that may be prescribed by the Department of the Treasury and the Federal Reserve Bank of New York.

Dated: October 28, 1998.

R. Lee Grandy,

Acting Commissioner, Bureau of the Public Debt.

[FR Doc. 98–29279 Filed 10–28–98; 3:14 pm]

BILLING CODE 4810–39–P

Corrections

Federal Register

Vol. 63, No. 211

Monday, November 2, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 10

Rules of Practice; Final Rules

Correction

In rule document 98–27983 beginning on page 55784 in the issue of Monday, October 19, 1998, make the following corrections:

§ 10.102 [Corrected]

1. On page 55795, in the first column, in § 10.102, in the third line from the bottom, paragraph designation "(3)" should read "(e)".

Subpart I to Part 10 [Corrected]

2. On the same page, in the third column, in § 10.110, in amendatory instruction 17., the table of contents heading and the text heading, "Subpart 1" should read "Subpart I".

BILLING CODE 1505-01-D

DEPARTMENT OF DEFENSE

Department of the Army

Intent to Grant an Exclusive License to RSI Industries

Correction

In notice document 98–27931 appearing on page 55849 in the issue of Monday, October 19, 1998, the subject heading should appear as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98-ACE-40]

Amendment to Class E Airspace; Pittsburg, KS

Correction

In rule document 98–25740 beginning on page 51811 in the issue of Tuesday, September 29, 1998, make the following correction:

§ 71.1 [Corrected]

On page 51812, in §71.1, in the first column, under **ACE KS E5 Pittsburg, KS [Revised]** in the second line "(Lat. 37°26′52″N., long. 94°43′36″W.)" should read "(Lat. 37°26′52″N., long. 94°43′52″W.)".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8781]

RIN 1545–AV95

Employee Stock Ownership Plans; Section 411(d)(6) Protected Benefits (Taxpayer Relief Act of 1997); Qualified Retirement Plan Benefits

Correction

In rule document 98–23569, beginning on page 47172, in the issue of Friday, September 4, 1998, the heading is corrected to read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8784]

RIN 1545–AV89

Substantiation of Business Expenses–Use of Mileage Allowances To Substantiate Automobile Expenses

Correction

In rule document 98–26226, beginning on page 52600, in the issue of Thursday, October 1, 1998, make the following correction:

§ 1.274(d)–1 [Corrected]

On page 52601, in the first column, in amendatory instruction 4., "Section 1.274(d)-2" should read "Section 1.274(d)-1".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–118966–97]

RIN 1545–AV69

Information Reporting With Respect to Certain Foreign Partnerships

Correction

In proposed rule document 98–23881, beginning on page 48144, in the issue of Wednesday, September 9, 1998, make the following correction:

§ 1.6038–3 [Corrected]

On page 48147, in the third column, in § 1.6038–3(d), in the third line, "subchapter" should read "subchapter K".

BILLING CODE 1505-01-D

federal register

Monday
November 2, 1998

Part II

Department of Health and Human Services

Health Care Financing Administration

42 CFR Part 405, et al.

Medicare Program; Revisions to Payment Policies and Adjustments to the Relative Value Units Under the Physician Fee Schedule for Calendar Year 1999; Final Rule and Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 410, 413, 414, 415, 424, and 485

[HCFA–1006–FC]

RIN 0938–AI52

Medicare Program; Revisions to Payment Policies and Adjustments to the Relative Value Units Under the Physician Fee Schedule for Calendar Year 1999

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: This final rule makes several policy changes affecting Medicare Part B payment. The changes that relate to physicians' services include: resource-based practice expense relative value units (RVUs), medical direction rules for anesthesia services, and payment for abnormal Pap smears. Also, we are rebasing the Medicare Economic Index from a 1989 base year to a 1996 base year. Under the law, we are required to develop a resource-based system for determining practice expense RVUs. The Balanced Budget Act of 1997 (BBA) delayed, for 1 year, implementation of the resource-based practice expense RVUs until January 1, 1999. Also, BBA revised our payment policy for nonphysician practitioners, for outpatient rehabilitation services, and for drugs and biologicals not paid on a cost or prospective payment basis. In addition, BBA permits certain physicians and practitioners to opt out of Medicare and furnish covered services to Medicare beneficiaries through private contracts and permits payment for professional consultations via interactive telecommunication systems. Furthermore, we are finalizing the 1998 interim RVUs and are issuing interim RVUs for new and revised codes for 1999. This final rule also announces the calendar year 1999 Medicare physician fee schedule conversion factor under the Medicare Supplementary Medical Insurance (Part B) program as required by section 1848(d) of the Social Security Act. The 1999 Medicare physician fee schedule conversion factor is $34.7315.

DATES: *Effective date:* This rule this rule is effective January 1, 1999.

Applicability date: Part 405 subpart D is applicable for private contract affidavits signed and private contracts entered into on or after January 1, 1999.

This rule is a major rule as defined in Title 5, United States Code, section 804(2). Pursuant to 5 U.S.C. section 801(a)(1)(A), we are submitting a report to the Congress on this rule on October 30, 1998.

Comment date: We will accept comments on interim RVUs for selected procedure codes identified in Addendum C and on interim practice expense RVUs for all codes as shown in Addendum B. Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on January 4, 1999.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–1006–FC, P.O. Box 26688, Baltimore, MD 21207–0488.

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses:

Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or

Room C5–14–03, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–1006–FC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 443–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

FOR FURTHER INFORMATION CONTACT:

Roberta Epps, (410) 786–4503 (for issues related to outpatient rehabilitation services).

Stephen Heffler, (410) 786–1211 (for issues related to the Medicare Economic Index).

Anita Heygster, (410) 786–4486 (for issues related to private contracts).

Jim Menas, (410) 786–4507 (for issues related to Pap smears and medical direction for anesthesia services).

Robert Niemann, (410) 786–4569 (for issues related to the drugs and biologicals policy).

Regina Walker-Wren, (410) 786–9160 (for issues related to physician assistants, nurse practitioners, clinical nurse specialists, and certified nurse-midwives).

Craig Dobyski, (410) 786–4584 (for issues related to teleconsultations).

Stanley Weintraub, (410) 786–4498 (for issues related to practice expense relative value units and all other issues).

SUPPLEMENTARY INFORMATION:

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Please specify the date of the issue requested, and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa, Discover, or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 (or toll free at 1–888–293–6498) or by faxing to (202) 512–2250. The cost for each copy is $8. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

This **Federal Register** document is also available from the **Federal Register** online database through GPO Access, a service of the U.S. Government Printing Office. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/nara/index.html, by using local WAIS client software, or by telnet to swais.access.gpo.gov, then login as guest (no password required). Dial-in users should use communications software and modem to call 202–512–1661; type swais, then login as guest (no password required).

To assist readers in referencing sections contained in this preamble, we are providing the following table of contents. Some of the issues discussed in this preamble affect the payment policies but do not require changes to the regulations in the Code of Federal Regulations. Information on the regulation's impact appears throughout the preamble and not exclusively in part IX.

Table of Contents

I. Background
A. Legislative History
B. Published Changes to the Fee Schedule
II. Specific Proposals for Calendar Year 1998; Response to Comments
A. Resource-Based Practice Expense Relative Value Units
1. Resource-Based Practice Expense Legislation
2. Proposed Methodology for Computing Practice Expense Relative Value Units
3. Other Practice Expense Policies
4. Refinement of Practice Expense Relative Value Units
5. Reductions in Practice Expense Relative Value Units for Multiple Procedures
6. Transition
B. Medical Direction for Anesthesia Services
C. Separate Payment for a Physician's Interpretation of an Abnormal Papanicolaou Smear
D. Rebasing and Revising the Medicare Economic Index
III. Implementation of the Balanced Budget Act
A. Payment for Drugs and Biologicals
B. Private Contracting with Medicare Beneficiaries
C. Payment for Outpatient Rehabilitation Services
1. BBA 1997 Provisions Affecting Payment for Outpatient Rehabilitation Services
a. Reasonable Cost-Based Payments
b. Prospective Payment System for Outpatient Rehabilitation Services
(1) Overview
(2) Services Furnished by Skilled Nursing Facilities
(3) Services Furnished by Home Health Agencies
(4) Services Furnished by Comprehensive Outpatient Rehabilitation Facilities
(5) Site-of-Service Differential
(6) Mandatory Assignment
2. Uniform Procedure Codes for Outpatient Rehabilitation Services
3. Financial Limitation
a. Overview
b. Use of Modifiers to Track the Financial Limitation
c. Treatment of Services Exceeding the Financial Limitation
4. Qualified Therapists
5. Plan of Treatment
D. Payment for Services of Certain Nonphysician Practitioners and Services Furnished Incident to their Professional Services
E. Payment for Teleconsultations in Rural Health Professional Shortage Areas
IV. Refinement of Relative Value Units for Calendar Year 1999 and Responses to Public Comments on Interim Relative Value Units for 1998
A. Summary of Issues Discussed Related to the Adjustment of Relative Value Units
B. Process for Establishing Work Relative Value Units for the 1999 Fee Schedule
V. Physician Fee Schedule Update and Conversion Factor for Calendar Year 1999
VI. Provisions of the Final Rule
VII. Collection of Information Requirements
VIII. Regulatory Impact Analysis
A. Regulatory Flexibility Act
B. Resource-Based Practice Expense Relative Value Units
C. Medical Direction for Anesthesia Services
D. Separate Payment for a Physician's Interpretation of an Abnormal Papanicolaou Smear
E. Rebasing and Revising the Medicare Economic Index
F. Payment for Nurse Midwives' Services
G. BBA Provisions Included in This Proposed Rule
H. Impact on Beneficiaries
Addendum A—Explanation and Use of Addenda B and C
Addendum B—Relative Value Units (RVUs) and Related Information
Addendum C—Codes with Interim RVUs

In addition, because of the many organizations and terms to which we refer by acronym in this final rule, we are listing these acronyms and their corresponding terms in alphabetical order below:

AANA: American Association of Nurse Anesthetists
ABC: Activity based costing
ABN: Advance Beneficiary Notice
AHE: Average hourly earnings
AMA: American Medical Association
ANCC: American Nurses Credentialing Center
ASA: American Society of Anesthesiologists
ASOPA: American Society of Orthopedic Physician Assistants
AWP: Average wholesale price
BBA: Balanced Budget Act of 1997
BLS: Bureau of Labor Statistics
CAAHEP: Commission on Accreditation of Allied Health Education Programs
CF: Conversion factor
CFR: Code of Federal Regulations
CMSAs: Consolidated Metropolitan Statistical Areas
CORF: Comprehensive outpatient rehabilitation facility
CPEPs: Clinical Practice Expert Panels
CPI: Consumer Price Index
CPI–U: Consumer Price Index for All Urban Consumers
CPS: Current Population Survey
CPT: [Physicians'] Current Procedural Terminology
CRNA: Certified Registered Nurse Anesthetist
DME: Durable medical equipment
DMEPOS: Durable medical equipment, prosthetics, orthotics, and supplies
DRG: Diagnosis-related group
EAC: Estimated acquisition cost
ECI: Employment Cost Index
ES–202 Data: Bureau of Labor Statistics from State unemployment insurance agencies
ESRD: End-stage renal disease
FDA: Food and Drug Administration
FMR: Fair market rental
FQHC: Federally qualified health center
GAAP: Generally accepted accounting principles
GAF: Geographic adjustment factor
GPCI: Geographic practice cost index
HCFA: Health Care Financing Administration
HCPAC: Health Care Professionals Advisory Committee
HCPCS: HCFA Common Procedure Coding System
HHA: Home health agency
HHS: [Department of] Health and Human Services
HMO: Health maintenance organization
HPSA: Health professional shortage area
HRSA: Health Resources and Services Administration
HUD: [Department of] Housing and Urban Development
IPLs: Independent Physiologic Laboratories
MedPAC: Medicare Payment Advisory Commission
MEI: Medicare Economic Index
MGMA: Medical Group Management Association
MSA: Metropolitan Statistical Area
MSA: Medicare Supplemental Insurance
MVPS: Medicare volume performance standard
NAIC: National Association of Insurance Commissioners
NBCOPA: National Board on Certification for Orthopedic Physician Assistants
NCCPA: National Council on Certification of Physician Assistants
NPI: National provider identifier
OBRA: Omnibus Budget Reconciliation Act
OTIP: Occupational therapist in independent practice
PC: Professional component
PHS: Public Health Service
PMSA: Primary Metropolitan Statistical Area
PPI: Producer price index
PPS: Prospective payment system
PTIP: Physical therapist in independent practice
RBRVS: Resource Based Relative Value Scale
RHC: Rural health clinic
RUC: [AMA's Specialty Society] Relative [Value] Update Committee
RN: Registered nurse
RVU: Relative value unit
SMS: Socioeconomic Monitoring System
SNF: Skilled nursing facility
TC: Technical component
TEFRA: Tax Equity and Fiscal Responsibility Act
UPIN: Uniform provider identifier number

I. Background

A. Legislative History

Since January 1, 1992, Medicare has paid for physicians' services under section 1848 of the Social Security Act (the Act), "Payment for Physicians' Services." This section contains three major elements: (1) A fee schedule for the payment of physicians' services; (2) a sustainable growth rate for the rates of increase in Medicare expenditures for physicians' services; and (3) limits on the amounts that nonparticipating physicians can charge beneficiaries. The Act requires that payments under the fee schedule be based on national uniform relative value units (RVUs) based on the resources used in furnishing a service. Section 1848(c) of the Act requires that national RVUs be established for physician work, practice expense, and malpractice expense.

Section 1848(c)(2)(B)(ii)(II) of the Act provides that adjustments in RVUs because of changes resulting from a review of those RVUs may not cause total physician fee schedule payments to differ by more than $20 million from what they would have been had the adjustments not been made. If this tolerance is exceeded, we must make adjustments to the conversion factors (CFs) to preserve budget neutrality.

B. Published Changes to the Fee Schedule

In the June 5, 1998, proposed rule (63 FR 30820), we listed all of the final rules published through October 31, 1997 relating to the updates to the RVUs and revisions to payment policies under the physician fee schedule. In the June 5, 1998 proposed rule (63 FR 30818), we discussed several policy options affecting Medicare payment for physicians' services including resource-based practice expense RVUs, medical direction rules for anesthesia services, and payment for abnormal Pap smears. Also, we discussed the rebasing of the Medicare Economic Index from a 1989 base year to a 1996 base year. Further, based on BBA, we proposed revising our payment policy for nonphysician practitioners, for outpatient rehabilitation services, and for drugs and biologicals not paid on a cost or prospective payment basis. In addition, based on BBA, we discussed implementing new payment policies for certain physicians and practitioners who opt out of Medicare and furnish covered services to Medicare beneficiaries through private contracts. And finally, based on BBA, we discussed teleconsultation services.

This final rule affects the regulations set forth at 42 CFR part 405, which consists of regulations on Federal health insurance for the aged and disabled; part 410, which consists of regulations on supplementary medical insurance benefits; part 414, which consists of regulations on the payment for Part B medical and other health services; part 415, which pertains to services furnished by physicians in providers, supervising physicians in teaching settings, and residents in certain settings; part 424, which pertains to the conditions for Medicare payment; and part 485, which pertains to conditions of participation: specialized providers.

II. Specific Proposals for Calendar Year 1998; Response to Comments

In response to the publication of the June 5, 1998 proposed rule, we received approximately 14,000 comments. We received comments from individual physicians, health care workers, and professional associations and societies. The majority of the comments addressed the proposal related to the resource-based practice expense policy.

The proposed rule discussed policies that affect the number of RVUs on which payment for certain services would be based. Certain changes implemented through this final rule are subject to the $20 million limitation on annual adjustments contained in section 1848(c)(2)(B)(ii)(II) of the Act.

After reviewing the comments and determining the policies we will implement, we have estimated the costs and savings of these policies and added those costs and savings to the estimated costs associated with any other changes in RVUs for 1999. We discuss in detail the effects of these changes in the Regulatory Impact Analysis (section IX).

For the convenience of the reader, the headings for the policy issues in this section correspond to the headings used in the June 5, 1998 proposed rule. More detailed background information for each issue can be found in the June 5, 1998 proposed rule.

A. Resource-Based Practice Expense Relative Value Units

1. Resource-Based Practice Expense Legislation

Section 121 of the Social Security Act Amendments of 1994 (Public Law 103–432), enacted on October 31, 1994, required us to develop a methodology for determining resource-based practice expense RVUs for each physician's service that would be effective for services furnished in 1998. In developing the methodology, we were required to consider the staff, equipment, and supplies used in providing medical and surgical services in various settings.

The legislation specifically required that, in implementing the new system of practice expense RVUs, we apply the same budget-neutrality provisions that we apply to other adjustments under the physician fee schedule.

On August 5, 1997, the President signed the BBA into law. Section 4505(a) of BBA delayed the effective date of the resource-based practice expense RVU system until January 1, 1999. In addition, BBA provided for the following revisions in the requirements to change from a charge-based practice expense RVU system to a resource-based method.

Instead of paying for all services entirely under a resource-based system in 1999, section 4505(b) of BBA provided for a 4-year transition period. The practice expense RVUs for the year 1999 will be the product of 75 percent of charge-based RVUs (1998) and 25 percent of the resource-based RVUs. For the year 2000, the percentages will be 50 percent charge-based and 50 percent resource-based. For the year 2001, the percentages will be 25 percent charge-based and 75 percent resource-based. For subsequent years, the RVUs will be totally resource-based.

Section 4505(e) of BBA provided that, for 1998, the practice expense RVUs be adjusted for certain services in anticipation of the implementation of resource-based practice expenses beginning in 1999. Practice expense RVUs for office visits were increased.

For other services whose practice expense RVUs (determined for 1998) exceeded 110 percent of the work RVUs and were provided less than 75 percent of the time in an office setting, the 1998 practice expense RVUs were reduced to a number equal to 110 percent of the work RVUs. This limitation did not apply to services that had a proposed resource-based practice expense RVU in the June 5, 1998 proposed rule that was an increase from its 1997 practice expense RVU.

The total of the reductions under this provision was less than the statutory maximum of $390 million. The procedure codes affected and the final RVUs for 1998 were published in the October 31, 1997 final rule (62 FR 59103).

Section 4505(d)(2) of BBA required that the Secretary transmit a report to the Congress by March 1, 1998, including a presentation of data to be used in developing the practice expense RVUs and an explanation of the methodology. A report was submitted to the Congress in early March 1998. Section 4505(d)(3) required that a proposed rule be published by May 1, 1998, with a 90-day comment period. For the transition to begin on January 1, 1999, a final rule must be published by October 30, 1998.

BBA also required that we develop new resource-based practice expense RVUs. In developing these new practice expense RVUs, section 4505(d)(1) required us to—

- Utilize, to the maximum extent practicable, generally accepted accounting principles that recognize all staff, equipment, supplies, and expenses, not just those that can be tied to specific procedures, and use actual data on equipment utilization and other key assumptions;
- Consult with organizations representing physicians regarding the methodology and data to be used; and
- Develop a refinement process to be used during each of the four years of the transition period.

2. Proposed Methodology for Computing Practice Expense Relative Value Units

(See Addendum B in the June 5, 1998 proposed rule (63 FR 30888) for a detailed technical description of the proposed methodology.)

In the June 5, 1998 proposed rule (63 FR 30827), we proposed a methodology for computing resource-based practice expense RVUs that uses the two significant sources of actual practice expense data we have available: the Clinical Practice Expert Panel (CPEP) data and the American Medical Association's (AMA's) Socioeconomic Monitoring System (SMS) data. This methodology is based on an assumption that current aggregate specialty practice costs are a reasonable way to establish initial estimates of relative resource costs of physicians' services across specialties. It then allocates these aggregate specialty practice costs to specific procedures and, thus, can be seen as a "top-down" approach.

Practice Expense Cost Pools

We used actual practice expense data by specialty, derived from the 1995 through 1997 SMS survey data, to create six cost pools: administrative labor, clinical labor, medical supplies, medical equipment, office supplies, and all other expenses. There were three steps in the creation of the cost pools.

Step 1: We used the AMA's SMS survey of actual cost data to determine practice expenses per hour by cost category. The practice expenses per hour for each physician respondent's practice was calculated as the practice expenses for the practice divided by the total number of hours spent in patient care activities by the physicians in the practice. The practice expenses per hour for the specialty are an average of the practice expenses per hour for the respondent physicians in that specialty.

Step 2: We determined the total number of physician hours, by specialty, spent treating Medicare patients. This was calculated from physician time data for each procedure code and the Medicare claims data. The primary sources for the physician time data were surveys submitted to the AMA's Specialty Society Relative Value Update Committee (RUC) and surveys done by Harvard for the initial establishment of the work RVUs.

Step 3: We then calculated the practice expense pools by specialty and by cost category by multiplying the practice expenses per hour for each category by the total physician hours.

Cost Allocation Methodology

For each specialty, we separated the six practice expense pools into two groups and used a different allocation basis for each group.

- For group one, which includes clinical labor, medical supplies, and medical equipment, we used the CPEP data as the allocation basis. The CPEP data for clinical labor, medical supplies, and medical equipment were used to allocate the clinical labor, medical supplies, and medical equipment cost pools, respectively.
- For group two, which includes administrative labor, office expenses, and all other expenses, a combination of the group one cost allocations and the physician fee schedule work RVUs were used to allocate the cost pools.
- For procedures performed by more than one specialty, the final procedure code allocation was a weighted average of allocations for the specialties that perform the procedure, with the weights being the frequency with which each specialty performs the procedure on Medicare patients.

Other Methodological Issues

Professional and Technical Component Services

Using the methodology described above, the professional and technical components of the resource-based practice expense RVUs do not necessarily sum to the global resource-based practice expense RVUs since specialties with different practice expenses per hour provide the components of these services in different proportions. We made two adjustments to the methodology, depending on the specific HCFA Common Procedure Coding System (HCPCS) code, so that the professional and technical component practice expense RVUs for a service sum to the global practice expense RVUs.

Practice Expenses per Hour Adjustments and Specialty Crosswalks

Since many specialties identified in our claims data did not correspond exactly to the specialties included in the practice expenses tables from the SMS survey data, it was necessary to crosswalk these specialties to the most appropriate SMS specialty category. (See Table 3 in the June 5, 1998 proposed rule (63 FR 30833) for a listing of all proposed crosswalks.)

We also made the following adjustments to the practice expense per hour data:

- We set the medical materials and supplies practice expenses per hour for the specialties of "Oncology" and "Allergy and Immunology" equal to the medical materials and supplies practice expenses per hour for "All Physicians," stating that we make separate payment for the drugs furnished by these specialties.
- We based the administrative payroll, office, and other practice expenses per hour for the specialties of "Physical Therapy" and "Occupational Therapy" on data used to develop the salary equivalency guidelines for these specialties. We set the remaining practice expense per hour categories equal to the "All Physicians" practice expenses per hour from the SMS survey data.
- Due to uncertainty concerning the appropriate crosswalk and time data for the nonphysician specialty "Audiologist," we derived the resource-based practice expense RVUs for codes performed by audiologists from the practice expenses per hour of the other specialties that perform these codes.
- Because we believed that the use of the average practice expenses per hour should create the appropriate practice expense pool for radiology, we did not attempt to differentiate the practice expenses per hour for radiologists according to who owned the equipment.

Time Associated With the Work Relative Value Units

The time data resulting from the refinement of the work RVUs have been, on the average, 25 percent greater than the time data obtained by the Harvard study for the same services. We increased the Harvard time data in order to ensure consistency between these data sources.

For services such as radiology, dialysis, and physical therapy, and for many procedures performed by independent physiological laboratories and the nonphysician specialties of clinical psychologist and psychologist (independent billing), we calculated estimated total physician times for these services based on work RVUs, maximum clinical staff time for each service as shown in the CPEP data, or the judgment of our clinical staff.

We calculated the time for Current Procedural Terminology (CPT) codes 00100 through 01996 using the base and time units from the anesthesia fee schedule and the Medicare allowed claims data.

We received the following comments on our proposed methodology to calculate resource-based practice expense RVUs:

Top-Down Methodology

Comment: Most of the physician specialty societies commenting on our proposed general methodology supported the use of the top-down approach as the most reasonable methodology for developing resource-based practice expense RVUs, and the most responsive approach to the requirements of BBA. This was echoed by comments from several nonphysician organizations, the Association of American Medical Colleges, and the Medical Group Management

Association, as well as several hundred individual commenters.

These commenters supported the top-down method for a variety of reasons:

- It reflects the relative values of physicians' actual practice expenses.
- It uses the best available sources of aggregate practice expense data.
- It recognizes specialty-specific indirect costs.
- It does not rely upon arbitrary, distorting data adjustments such as "linking" and "scaling."
- It is conducive to refinement.

MedPAC also agreed that this approach is necessary, because of limitations in the CPEP process and because the top-down approach assures that all practice costs are reflected in the RVUs.

However, several organizations, mainly representing primary care physicians and supported by comments from individual physicians, opposed the use of a top-down methodology to develop practice expense RVUs. They argued that the top-down approach is not resource-based but, rather, rewards higher paid physicians who have spent more in the past, regardless of the extent to which these expenditures contributed to patient care. Thus, the commenters claimed that the top-down approach perpetuates the inequities in the current charge-based practice expense RVUs that the implementation of a resource-based practice expense system was supposed to correct.

One commenter also claimed that the top-down approach is not responsive to the requirements of BBA, as the methodology is not based on generally accepted accounting principles. Further, the commenter argued that this new proposal is not more responsive to the concerns of the medical community in general but, rather, only benefits those specialties whose income was projected to decline under the bottom-up approach.

A specialty society representing clinical oncology opposed the top-down methodology because—

- It does not actually measure appropriate input resource costs and thus pays for inefficiencies;
- It overpays hospital-based and underpays office-based services; and
- The RVUs for individual codes cannot be refined because of the use of macro-specialty per hour costs.

There were several comments that expressed concern about the more specific impacts of the methodology. A major primary care organization pointed out that, under the 1997 proposed rule, an internist would have had to provide only 15 midlevel established patient office visits to obtain the practice expense reimbursement of a single coronary triple-bypass graft, compared to 40 visits under our current proposal. One organization opposed the use of the top-down approach because of the estimated reduction in payments to radiology and radiation oncology. Another commenter, representing pathologists, expressed concern that because pathology received small gains under the bottom-up method, but a 10 percent reduction under the top-down, there are possible flaws in the top-down methodology.

A few of the above comments specifically recommended that we adopt a new bottom-up approach that is responsive to the BBA, the General Accounting Office (GAO), and the concerns of the medical community. Another organization commented that both top-down and bottom-up methodologies are inherently flawed, and that we should consider an entirely new payment algorithm using type of practice. One of the major primary care organizations concluded that the top-down methodology is only a reasonable starting point that will need to be improved during refinement in order to meet the original intent of improving practice-expense payments for undervalued primary care and other office-based services.

Response: As we stated in our proposed rule, BBA requires us to "utilize, to the maximum extent practicable, generally accepted cost accounting principles which recognize all staff, equipment, supplies, and expenses, not just those which can be tied to specific procedures****" We still believe that the top-down methodology is more responsive to this BBA requirement. By using aggregate specialty practice costs as the basis for establishing the practice expense pools, the top-down method recognizes all of a specialty's costs, not just those linked to specific procedures.

We also believe that the other reasons outlined in the proposed rule for preferring the top-down method are still valid. It answers many of the criticisms and questions from the medical community and the GAO regarding the bottom-up method's indirect practice expense allocation method, treatment of administrative costs, and use of caps and linking.

However, we agree that a possible weakness of the top-down approach is that it may perpetuate historical inequities in the current charge-based practice expense RVUs. More highly paid physicians would presumably have more revenues that could subsequently be spent on their practices. We believe this issue should be discussed during the refinement process.

Comment: One major organization commented that we will need to develop an alternative method for new and revised codes that are not included in the SMS data because having multiple methods would lead to questionable validity.

Response: It will not be necessary to develop an alternate methodology for refinement of new and revised codes. Once direct inputs are assigned to the new and revised codes, allocation to these codes will follow the same methodology used for all other services. (See Section II.A.4, Refinement of Practice Expense RVUs.)

Comment: Two major primary care organizations expressed concern that we did not consult with the physician community about our intention to abandon, rather than refine, our originally proposed bottom-up approach, since they had assumed we would only be modifying our original methodology. They commented that this is of greater concern in light of BBA's requirement that we consult with physicians regarding our methodology and of GAO's recommendation that we refine, with no mention of replacing, the bottom-up method. One of the comments stated, that as the GAO found the bottom-up method acceptable, their society would like the GAO's assurance that the new method is sound.

Response: We believe we carried out the BBA requirement to consult with physician organizations. There were extensive consultations with physicians, including the validation panels, the cross specialty panel, and the indirect cost symposium. During the course of each of these meetings, physicians and others pointed out serious problems with the bottom-up methodology. We have had two multispecialty meetings this year to explain our proposed methodology and have also had numerous meetings and discussions with many specialty societies. During all these meetings we carefully listened to all points of view and to suggestions for developing the new proposal. Following this lengthy consultation process, we published our new proposal with a 90-day comment period. This provided further opportunities for all interested groups to review and comment on this proposal.

It is true that the GAO did not recommend that we totally replace our bottom-up approach. It is our understanding that the GAO was not asked to review alternative methods. In any case, their report did not recommend against adopting a new methodology. Their report did point out several significant weaknesses in our original approach that we believed were better responded to by adopting a top-down methodology.

Comment: One organization urged that we publish the practice-expense RVUs three ways, using a top-down, a bottom-up, and a hybrid approach that uses SMS data for indirect costs and CPEP data for direct costs. The bottom-up and hybrid approaches should reflect the recommendations previously received relating to scaling, linking, and the treatment of administrative costs. This could provide a basis for developing comments that compare the interim practice expense RVUs with those derived from a modified bottom-up approach. The commenter stated that we should be open to considering arguments for a change in the interim practice expense RVUs based on a group's determination that the values under the bottom-up approach were more accurate.

Response: We believe that we proposed the methodology for developing resource-based practice expense RVUs that best responds to the requirements of the Social Security Act Amendments of 1994 and BBA. From a practical standpoint, it would be very difficult to deal with the inconsistencies between RVUs for various services that have been derived from totally different methodologies.

SMS Data

Comment: Almost all specialty society commenters, and many individual commenters, raised questions concerning shortcomings in the SMS data, though several commented that SMS is the most appropriate data source to use in developing specialty-specific practice expense RVUs. As we noted in the proposed rule, the AMA itself pointed out that the survey had not been designed to support the development of practice expense RVUs. The AMA also stated that the sample size, the response rate, and the fact that data was collected on the physician level, rather than the practice level, raised methodological issues. Many commenters echoed these concerns, and many raised what they saw as further general methodological problems:

- MedPAC expressed concern about three types of potential errors in the SMS data: the sampling error and nonresponse error originally identified in our proposed rule and measurement error. Some of this measurement error could occur because the survey measures physician-level rather than practice-level costs, as noted above. In addition, there could be measurement error by using a self-reported survey if no mechanism exists to verify the information provided.

MedPAC suggested that we could reduce these errors through additional data collection, perhaps implementing a subsample of SMS survey participants, through an analysis of nonresponse error that compares respondents with nonrespondents, through AMA's plans to do a practice-level survey every other year, and through considering methods, other than actual audits, to verify survey responses.

- Several of the smaller specialties, such as maxillofacial, pediatric, vascular and thoracic surgeons, cardiology and gynecology subspecialties, geriatricians, and pulmonologists expressed concern with the validity and reliability of SMS data for those specialty and subspecialty groups not adequately represented in the SMS survey. A commenter also stated that academic and hospital-based specialties, such as critical care and neonatology, were not appropriately represented. Many specialty societies requested that we consider practice expense data obtained by under-represented specialty and subspecialty groups.
- Several nonphysician specialties, though supporting the use of SMS data, raised the need to modify the survey to include nonphysicians in the future. A commenter stated that, because nonphysicians were not represented in the SMS survey, we have been forced to make an educated guess about which specialties they most resemble. Another commenter pointed out that the SMS data contains no information about osteopathic physicians.
- Several specialties, regardless of their overall sample size, expressed concerns about the combining together of subspecialties with differing practice costs. For example, organizations representing cardiologists commented that it is not known how many in their sample were providing evaluation and management services, as opposed to performing equipment intensive procedures that have much higher costs. Two specialty societies representing nuclear physicians, along with several hundred individual commenters, objected to the small sample of this subspecialty, with its high costs related to the use of radiopharmaceuticals, being combined with radiologists into a single practice expense pool. The comments recommended that we increase nuclear medicine's practice expense RVUs by 20 percent.

Similarly, a vascular surgery organization objected to being combined with cardiothoracic surgeons, who made up 75 percent of the sample and whose practice style differs substantially from vascular surgeons. An organization representing pediatrics expressed concern that pediatric subspecialties were grouped together with their adult counterparts, such as gastroenterology. The AMA commented on this point that it plans refinements for future surveys to enhance the utility of the data.

- Several commenters noted that the survey consisted of physician-owned practices, despite the trend toward more physicians working as employees, resulting in a possible bias toward solo or small group practices. For example, one commenter stated that the majority of emergency room physicians now work as employees or under contract. Another commenter asserted that the majority of pediatricians list their status as "employed." The AMA commented, in this regard, that a key refinement to the SMS survey will be the development of a practice-level survey to complement the current process.
- One commenter questioned our assumption that physician respondents to SMS share practice expenses equally with all other physician owners in the practice, since there is no data to show that this is the prevalent method.
- An organization representing nurses commented that issues related to changes in acuity and case mix in ambulatory care are not being addressed, particularly as they pertain to the increased professionalization of clinical staff types. The organization argued that there is a need to incorporate into the survey process a clearer distinction between the types of clinical staff that are employed based on specialty practice.
- Concerns were raised by some commenters that the SMS data did not always include the actual costs of a given specialty. Several organizations representing radiologists, radiation oncologists, and cardiologists commented that the methodology employed by the SMS survey consistently underestimated the actual costs of equipment. Organizations representing emergency room physicians, supported by the comment from the AMA, argued that the significant costs of both stand-by time and uncompensated care are not reflected in the SMS data and that these costs need to be recognized.

A gastroenterology specialty society asserted that the SMS data grossly understated actual expenses when compared to its own study. Two commenters stated that costs for home visits, such as travel expenses and insurance, are not adequately represented in the data. One organization commented that the SMS

data fails to adequately incorporate resources, including billing, nursing time, and transportation costs for audiologists utilized in settings such as skilled nursing facilities.

One commenter stated that the added costs for compliance with federal initiatives, such as anti-fraud and abuse efforts and the new evaluation and management documentation guidelines, are not yet reflected in the SMS data. These costs should be recognized during the refinement process and included in future surveys.

• On the other hand, several commenters argued that costs were included in the SMS data that should be excluded because they are paid for separately from the physician fee schedule. One commenter pointed to separately reimbursable supplies and drugs, and another to the costs of taking physician staff into the hospital, as examples of costs included in SMS that could lead to a double payment by Medicare. A society representing vascular surgeons commented that the technical component of noninvasive vascular laboratory testing falls into this "gray zone."

• A national specialty society commented that the AMA analysis of the "zero" responses by specialty by cost categories (that is, those cost categories where respondents indicated there were no costs) shows that a significant percentage of pathologists' responses for direct cost categories are zero as compared to the "zero" response rates for all physicians. The comment requested that the SMS pathology data be cleared of all "zero" responses for all cost categories, not just for the total cost category, prior to the calculation of mean costs. For the purpose of calculating practice expense per hour for pathology, the society said, we should only use data from pathologists who incur a particular cost.

• There were a number of comments concerning the SMS data on the specialty-specific physician patient care hours, which is one of the variables used to compute the practice expense per hour for each specialty:

• Many specialty societies stated their concern that in the calculation of the specialty-specific practice expense per hour, specialties working the longest hours are disadvantaged. One commenter pointed out that practice expense is not uniformly distributed over the course of a given day; there are less costs when patient care takes place after, rather than during, office hours.

Another commenter argued that our approach assumes that all of the patient care hours in the SMS survey are reflected in our claims data. However, the commenter stated, much time spent in patient care activities is not billable, such as the involvement of transplant surgeons in patient care after the initial assessments but prior to the actual transplants.

One specialty society stated that hospital-based physicians' hours of work are probably overstated, as they will include total time spent in the facility and not just hours of providing patient services. One commenter questioned both the accuracy of the SMS data on hours worked per week, as well as our assumption that the level of practice expense incurred increases proportionally with the hours spent in patient care. An organization stated that physician reports of number of hours are less reliable than the reports of costs and are prone to overstatement. For these reasons, five specialty societies recommended using a standardized work week, usually a 40-hour week, for all specialties.

• Many other specialty groups argued equally vehemently against any standardization of the patient care hours. One group commented that subjective adjustments to the SMS data, especially those which reallocate practice expenses among specialties, should be avoided. The comment added that suggestions that a standardized 40-hour work week be imposed on the data should be rejected because the proposal is driven by an arbitrary, subjective presumption that cross-specialty practice expense variations are "too large."

Another group argued that, as many physicians work more than a 40-hour week, such an adjustment would introduce additional error into the data and distort the relationship between different specialties' practice expenses per hour.

• Three organizations were concerned about the advantage given to specialties that use nonphysician practitioners who are not reimbursable. In such cases, the physician would incur practice expense costs, but the time of practitioners would not be included in the physician patient care hours in the denominator of the practice expense per hour calculation.

On the other hand, another commenter stated that we should not adjust the SMS data for midlevel practitioners, such as optometrists or audiologists, as physician practices employing midlevel practitioners are likely to be more complex than a physician-only operation.

• One specialty society commented that the demographics of the SMS survey are not clear, as there are no assurances that the sample is not biased towards one particular area of the country and does not exclude some areas.

Response: We believe that most of the above comments identified important areas for needed future improvement in our data collection efforts on aggregate specialty-specific practice expense. However, although the SMS survey was not initially intended to be used to develop practice expense RVUs, we believe it is the best available source of data on actual multispecialty practice costs that allows us to recognize all staff, equipment, supplies, and expenses, not just those that can be tied to specific procedures. Many specialties supported this.

For example, a specialty society commented, "As with any complex database, the AMA SMS database is not perfect. It is, however, the best available source of data for aggregate practice expenses." The Medical Group Management Association (MGMA) stated in its comment that, "The SMS survey data is the most appropriate and only primary data set in existence to determine specialty specific costs pools."

We also need to point out that many of the weaknesses in the SMS data could well be found in any other survey, whether undertaken by us, some other national group, or a medical specialty society. Problems with sample size and response rate have plagued other previous attempts to gather reliable data on practice expenses. Problems with measurement error may be a serious impediment for survey data that is collected with the purpose of influencing the level of a given specialty's practice expense pool. In fact, we believe one advantage of the current SMS data is that they were collected before the 1997 and 1998 proposed rules were published.

We recognize that some specialties are under-represented or not appropriately represented in the SMS data and some are not included at all. We also acknowledge that additional data may need to be obtained and some adjustments made. One of our most important tasks during the immediate refinement period will be to work with the AMA and the medical community to consider possible ways to improve the representativeness of the aggregate specialty-specific data so that sampling error is decreased. As part of the refinement, we will also need to develop strategies to eliminate as many sources of nonresponse and measurement error as possible. (For further information on our refinement efforts to improve the accuracy of our data, see Section II.A.4, Refinement of Practice Expense RVUs.)

As indicated earlier, we believe an advantage of the SMS data we used is that it was collected prior to the proposed rule. In fact, it was collected prior to the original proposal in 1997 that was delayed by BBA and that would have resulted in large redistributions among specialties.

We are very concerned, though, about the potential biases that may exist in any subsequent survey data collected by the SMS process or other surveys. We especially believe there is a problem in using data collected and submitted to us by individual specialties. We believe it is more appropriate to use data collected at the same time by an independent surveyor for a wide variety of specialties that both gain and lose under the proposal.

Further, now that it is widely known how these survey data are being used, every specialty has an incentive to ensure that their data are as high as possible in future surveys. We agree with MedPAC that it may not be possible for Medicare to audit these data and that it is essential that alternatives be established by SMS and others. Perhaps specialty data that significantly changes in a future survey should be selectively audited by SMS through an independent auditor or other appropriate entity before being considered for use by us. We will consult with physician groups and others about this during the refinement process.

Comment: One national organization suggested the use of MGMA survey data either as a supplement or alternative to SMS in the future.

Response: We do not believe that the MGMA survey could currently be used as an alternative to SMS. As we noted in our proposed rule, due to selective sampling and low response rate, this survey is not representative of the population of physicians and cannot be used to derive code-specific RVUs. This view is based on consultations with MGMA representatives. However, we do believe that this survey data can be used as one way to validate the general accuracy of the SMS data. We have analyzed the MGMA data and have concluded that, in general, it supports the relative specialty-specific ranking of the practice expense per hour data derived from the SMS survey.

Comment: One specialty society recommended using median, instead of mean, values to calculate each specialty's practice expense per hour. This comment argued that the use of medians would eliminate outliers and is statistically more appropriate.

However, three other organizations specifically commented supporting our decision to use mean SMS data rather than median data. These comments asserted that, particularly with a small sample, use of the median would obscure any major differences in practice costs within a specialty.

Response: We will continue to calculate the practice expenses per hour by using the mean values for each specialty, at least for the purposes of this final rule. This is another issue that can be revisited during the refinement period.

Comment: Organizations representing emergency room physicians, as well as several hundred individual commenters, claimed that the SMS data seriously under-represented the true practice costs of emergency care. The commenters stated that the SMS data, as noted above, did not include costs of uncompensated care, much of it mandated under the Federal Emergency Medical Treatment and Active Labor Act (Public Law 99–272), nor stand-by expenses.

In addition, the comments argued, the SMS data failed to capture a representative cross-section of their types of practice arrangements; the SMS survey focused on physician owners, but the majority of emergency room physicians work as employees or under contract. Therefore, one commenter asserted, SMS did not include the largest single expense for most emergency physicians: the costs associated with employment by practice management firms, which can total between 30–40 percent of the physician's fee.

One of the specialty societies included with its comments the results of a study it commissioned, which showed that the mean practice expense per hour for emergency physicians was $27.33, more than double the $13 per hour based on SMS, even without including uncompensated care. If we are not willing at this time to substitute this survey data for that from the SMS, the organization recommended, with support from a comment from the AMA, that we crosswalk emergency medicine to the practice expense per hour for "All Physicians," which is $67.50.

Response: Though many specialties must deal with the issue of uncompensated care, we do agree that it may pose a particular problem for emergency physicians, who are obligated under law to treat any patient regardless of the patient's ability or willingness to pay for treatment. Therefore, the amount of patient care hours spent on uncompensated care could be significantly higher for emergency medicine than for any other specialty. These issues require further examination. In the meantime, we will make an adjustment in our calculation of the practice expense per hour for emergency medicine by using the "All Physicians" practice expense per hour to calculate the administrative labor and other expenses cost pool. We will continue to calculate the clinical labor, supply, equipment, and office cost pools using the SMS-derived data, as it seems unlikely that, as a hospital-based specialty, emergency medicine's costs for these categories would approximate those of the average physician.

Comment: Many commenters argued that the reductions published in the June 5, 1998, NPRM for services without work RVUs were inappropriate. The commenters represented a wide spectrum of specialties including radiology, radiation oncology, cardiology, independent physiological and other laboratories, psychology, audiology, dermatology, and others. These comments focused on the fact that AMA does not survey some of the entities that provide these services. They argued that the CPEP data are flawed and the indirect allocation methodology is biased.

Response: Although it is true that the AMA does not survey the entities that provide some of these services, this does not necessarily mean that these services are inadequately represented in the SMS data. If these services (or in the case of technical component services, the associated global services) are provided in the practices of physician owners surveyed by the SMS in the same proportion as they are reflected in our claims data, the practice expense per hour calculations and the practice expense pools are reasonable.

If the CPEP data accurately contain the direct cost inputs for these services, then the direct practice expense pool is being allocated appropriately. With regard to the indirect allocation methodology, we are modifying it to increase the weight of the direct costs in the allocation, as discussed elsewhere.

However, the possibility exists that inaccuracies in the CPEP data for these services are causing the substantial reductions seen in the NPRM. Therefore, because we are not altering the CPEP at this time, as an interim solution until the CPEP data for these services have been validated, we have created a practice expense pool for all services without work RVUs regardless of the specialty that provides them. We allocated this practice expense pool to procedure codes using the current practice expense relative value units.

While we are not convinced by the comments that were received to date regarding a bias in the SMS survey data against these services, we acknowledge those concerns and will examine this issue during the refinement process.

Comment: The College of American Pathologists (CAP) requested that patient care time included in the SMS data that is spent in autopsies and supervision of technicians and paraprofessionals be excluded from the patient care hours used to calculate the practice expense per hour for pathology services. The commenter stated that these are Part A services for which pathologists rarely incur any direct costs. The AMA supported these adjustments and estimated the percentage of total pathology patient care hours attributable to autopsy and supervision services at 6 and 15 percent, respectively.

CAP also asked that some portion of the patient care hours category of "personally performing nonsurgical laboratory procedures including reports" be eliminated for 1999 when determining pathologists' total patient care hours, as the SMS data includes both Part A and Part B services. CAP stated that we should work with the CAP and the AMA to determine the appropriate adjustment.

Response: Since pathologists have more Part A reimbursement than any other specialty, we will decrease the number of patient care hours by 6 percent for autopsies and 15 percent for supervision services. However, until we have more information about the appropriate adjustment for "personally performing non-surgical laboratory procedures including reports," the hours for those services cannot be eliminated from our calculations. This point, as well as the general issue of nonbillable hours, should be revisited during refinement.

Comment: Many specialty societies have commented on specific problems with the SMS data that affect their own specialty and have requested that we supplement or replace the SMS data with data provided with their comments.

Response: There is not sufficient time before publication of the final rule to begin to validate either the methodology or findings of the submitted data. Since changes in any specialty's practice expense per hour would have an impact on other specialties, we do not believe it would be equitable to make any sweeping changes without the adequate review that the refinement process can achieve. In addition, we stated in our proposed rule that, for those larger specialties included in the SMS survey, "we are unlikely to make any changes in the final rule****" Therefore, we will continue to use the SMS-derived practice expense per hour for these specialties, but will ensure that all of the submitted data will be considered during the refinement process.

CPEP Data

Comment: Though one major specialty society commented that the CPEP data, in general, is relatively sound, many comments pointed out problems with the CPEP process and with the data derived from that process:

- One group commented that the CPEPs did not have adequate representation from practice managers; that there was no uniform policy dealing with issues such as duplication of time or efficiencies that might result from performing more than one task at a time; and that there was inadequate time allotted for CPEPs to meet.
- Several subspecialties pointed out that they were not included in the CPEP process and that this could have led to the undervaluing of their services.
- Several commenters recommended that we use the CPEP data as validated and refined by the validation panels.
- One organization commented that the CPEP data are flawed since only 200 codes were reviewed by validation panels.
- One primary care group argued that we should not abandon edits and modifications to raw CPEP data, as many codes are performed by more than one specialty, and inaccuracies in the CPEP data can affect several specialties.
- Two organizations commented that the CPEPs used what is now obsolete salary and benefits data, at least for sonographers and vascular technologists. One of these comments pointed out that for some codes, a different cost was computed for the same equipment. Another specialty society recommended that a review of prices and quantities for supplies and equipment be included as part of the refinement process.
- Two commenters were concerned that the CPEP data include expenses that can be billed separately. A primary care specialty society argued that we should edit out all direct inputs for services to hospital patients. The comment mentioned that since these services are paid for outside of the practice expense RVUs, failure to exclude these inputs can distort relativity across categories of services such as surgical services and office visits.
- One commenter clarified that the costs of therapy aides are a part of practice expense and should be reflected in the CPEP data, while the services of therapy assistants are included in the work RVUs.

Response: We are aware that the raw CPEP data we have used in our proposed methodology need further review. We also share many of the concerns raised by those commenting on the issue. However, we believe that the CPEP resource estimates, which were developed by practitioners representing all the major specialties, are the best procedure level data available at this time.

Under our top-down methodology, the CPEP inputs are used solely to allocate each specialty's practice expense pool to the procedures performed by that specialty. We have always believed that the relative input estimates within families of codes for each specialty's CPEP data were generally appropriate. In addition, the most contentious CPEP values were the varying estimates for the administrative staff times, and these values are not utilized in our top-down approach.

We chose not to apply the edits, caps, or linking that had originally been proposed in our 1997 proposed rule as part of our bottom-up methodology. These edits had met with severe criticism from the medical community and were questioned by the GAO. We also did not use the revised inputs from the validation panels we held in October 1997, as these panels only came to consensus on about 200 codes, and we were not convinced that all of the revised values were correct. However, we know that there is much needed improvement in the CPEP data, and the identification and correction of any CPEP errors whether in staff times, supplies, equipment, or pricing will be a major focus of our refinement process.

Comment: One specialty society commented that we erred in not incorporating increases in staff time recommended by validation panels. Partly as a result, the practice expense RVUs for gastroenterologists' out-of-office billing, scheduling, and record keeping are inadequate.

Another commenter stated that there were discrepancies in the administrative data for skilled nursing facility services, with subsequent visit codes being assigned only half of the billing time of initial visits. A third commenter requested that we standardize the administrative staff types according to the validation panels' recommendations. Three commenters stated that we do not account for the costs of maintaining an office full-time when the physician is providing services out of the office.

Response: As stated above, under our proposed methodology, CPEP administrative staff times have no effect on the practice expense RVUs calculated for any code. The costs of maintaining an office while the physician is providing services in a facility should be captured in the SMS cost data and, thus, are a part of each specialty's practice expense pool. As these would be indirect costs, they would be included in the practice expense for each service by use of our allocation methodology, which utilizes both directs costs and the physician work RVUs.

Comment: Almost 30 specialty societies submitted specific CPT code-level changes for the CPEP input data for clinical and administrative labor time, supplies, and equipment for just under 3000 CPT codes. In addition, many commenters included lists of codes with practice expense RVUs that were considered anomalous, either within a code family, or in relation to comparable codes. We also received comments from several organizations with recommendations for revised crosswalks for those codes not valued by the CPEPs, as well as recommended in-office inputs for some codes that are now being done in the office, but were only given practice expense RVUs for the facility setting.

Response: We had intended to make the CPEP revisions requested by a given specialty as part of the final rule if the recommendations appeared reasonable and if there would be no significant impact on any other specialty. However, given the huge volume of recommended revisions—over a third of the codes in the fee schedule would be affected—acceptance of the recommended changes across the board would almost certainly have a spill-over impact on many subspecialties and between sites-of-service.

We believe it would be more responsible and fair to allow the medical specialties to participate collectively in the needed revisions as part of the refinement process. The deferral of the CPEP revisions is in no way a reflection on the effort and thought that the commenters obviously expended in arriving at their recommendations. All the code-specific comments referred to above will be considered at the start of the refinement period. (See Section II.A.4, Refinement of Practice Expense RVUs)

Comment: Many organizations, representing both surgical and primary care specialties, expressed concern that we averaged CPEP data for the same procedures valued by more than one CPEP. Different rationales were offered for this concern:

- Averaging could have disturbed the relative rankings of codes within CPEPs.
- Straight averaging significantly overstated the costs of evaluation and management services.
- Averaging CPEP costs altered practice expense relationships within the evaluation and management family of services, particularly with respect to emergency department evaluation and management codes.
- The inclusion of estimates from those not performing the procedures, including nonphysicians, could have distorted the values for those services.

Likewise, different solutions were offered to answer the concerns:

- One specialty society recommended that we link the CPEP data rather than relying on straight averages.
- Two organizations recommended using frequency-weighted averages.
- Five groups recommended that the CPEP costs for redundant codes be based on the inputs from the dominant specialty's CPEP panel.

Response: As we are making no other changes in the CPEP data for this final rule, we will continue to use straight averaging for the redundant CPEP codes for the purposes of this final rule. This issue will be considered further during refinement.

Comment: Two commenters requested the inclusion in practice expense of the procedure-related supplies which are brought into a skilled nursing facility (SNF). One of these commenters made the same request for home visits.

Response: Home visits are to be paid using the non-facility RVUs. Therefore, any supplies that would be used are already included in the payment. As for the SNF setting, this is an issue for refinement. We would need more information about the supplies and why the SNF is not responsible for providing them.

Comment: The American College of Surgeons sent a list of new crosswalked codes where CPEP data had inadvertently been duplicated in our database.

Response: We thank the commenter for pointing out this discrepancy, and these duplications have been deleted.

Physician Time

Comment: One major specialty society recommended that efforts be undertaken to move toward greater consistency in physician time data. The commenter was concerned that since these data are derived from eight different sources using different methodologies, our inflation of the Harvard time data raises even more concern about consistency.

Three major organizations, two representing primary care and the other a surgical specialty, recommended that we use the unadjusted Harvard and RUC survey data. One reason given was the implication for the work RVUs of any proposed revisions to the time data. The RUC commented that, while the RUC physician time data may be greater than Harvard time data for the same codes, it may be incorrect to assume that all Harvard time data should be increased. The RUC and several other organizations requested that we provide a description of the methodology we used to make adjustments to the data in both the RUC and Harvard physician time databases so they can comment on the validity of the changes.

Response: The physician time data used for the development of the practice expense pools are based on the Harvard resource-based RVUs study and RUC survey data that were developed as part of the refinement of the work RVUs. Both sets of data were based on physician surveys. However, the RUC data, gathered in the process of refining the work values of many CPT codes, are more current and, on average, exceeded the original Harvard values by 25 percent. As a matter of consistency and fairness to those services not yet refined by the RUC, we increased the Harvard time data in proportion to the increases for related services. A detailed description of the methodology we employed to make all adjustments in physician time will be placed on the HCFA Homepage.

We still believe this adjustment is appropriate and we will continue to use the adjusted values in our calculations for this final rule. However, as the time values attributed to each procedure play an important role in the determination of each specialty's practice expense pool, we believe that ensuring the increased accuracy and consistency of physician time data should be addressed as part of the refinement of the practice expense RVUs.

Comment: Three surgical specialty societies commented that evaluation and management times have been artificially inflated due to rounding. A small increase in time would disproportionately inflate high volume procedures that take little time.

Response: In our proposed rule, we expressed concern that imprecision in the time estimates for any high volume services that have relatively little time associated with them may potentially bias the practice expense methodology in favor of the specialties that perform these services. We stated at that time that this issue should be examined as

part of the refinement of the resource-based practice expense RVUs.

Comment: There were several other comments regarding the accuracy of the physician time data:

- The RUC acknowledged that some of the RUC physician time data may not be absolutely precise.
- One specialty society, as well as the AMA, pointed out that there are some problems with the accuracy of the physician time data for psychotherapy services. For example, the times assigned to psychotherapy codes that include evaluation and management services are equal to and, in some cases, less than the psychotherapy codes that do not include these services.
- One commenter stated that the physician time data, as computed in the Harvard studies, are not current and are likely to be inappropriate for use in computing practice expense RVUs.
- The American College of Surgeons commented that physician time for pediatric surgery codes is based on erroneously low physician time data from the original Harvard study, rather than the time data from the special study of pediatric services performed by the same Harvard study team for the American Pediatric Surgical Association in 1992. The latter data were used as the basis for the work RVUs assigned to 48 pediatric surgical services.
- A surgical specialty society commented that the physician time does not compensate its members for longer hours and cited examples of nonbillable time, such as standby time for cardiac catheterization and supervision of residents and interns. The society suggested that this be considered during refinement.
- One commenter stated that travel time for home visits is not included in either the work or practice expense RVUs. The commenter suggested that travel time for house calls should be equal to the work equivalent of the lowest office service times 3, for an average of 15 minutes. Further, a modifier should be used to cover instances where travel exceeds the average.
- The American Society of Transplant Surgeons identified physician times for several services that it believes are inaccurate and recommended adjusted times for these services.

Response: As stated above, we will ensure that all identified anomalies and inaccuracies in the physician time data are considered as part of the refinement process.

Comment: The American College of Radiology commented that for our top-down approach we had used a level three office visit (99213) as a benchmark for estimating physician time for radiology codes. They suggested that it would be more appropriate to use the intravenous pyelography procedure (CPT 74400) instead of the office visit used in our methodology.

Response: Although we agree that 99213 may be an inappropriate benchmark since it is not often performed by radiologists, we are not convinced that the average work per unit time of codes on the radiology fee schedule is equivalent to CPT 74400. Instead, we are using the weighted average work per unit time for CPT 71010 and 71020 as the benchmark. These two services represent over approximately one-third of the total allowed services in the radiology fee schedule, while CPT 74400 represents less than two-tenths of one percent. We will work with the medical community to develop time estimates for radiology procedures that will make the imputation of time from the work estimates unnecessary.

Comments: The American Occupational Therapy Association commented that the practice expense pool for occupational therapy codes was understated because the time values of 15 minutes that we arbitrarily assigned were too low. They included a list of time values we should use for each code.

The American Hospital Association also objected to the reductions in times for outpatient rehabilitation codes and urged the use of the actual surveyed times for all procedure codes in the range 97001 through 97770.

Response: We believe that the time of 15 minutes we assigned to these codes is appropriate and does not lead to an underestimation of the practice expense pool for outpatient rehabilitation services. The outpatient rehabilitation codes in this range are timed codes and are billed in 15 minute increments. Also, we have been told by some physical therapy associations that at times, some of the 15 minute period time may be performed by therapy aides or assistants. (Note: We plan to review this issue during a future five-year review of work RVUs.) Finally, it is common for these timed codes to be billed in multiple units during one therapy session. Thus, any therapist's work prior to or after the visit is spread across more than one unit, rather than applied to each unit.

Crosswalk Issues

Comment: The American Academy of Maxillofacial Prosthetics (AAMP) and the American College of Prosthodontists commented that crosswalking is not valid for maxillofacial prosthetic codes since this specialty does not correspond to any other medical specialty included in the SMS data and its practice expense values are much higher than other medical specialties in the SMS survey. AAMP submitted several studies from its own organization and from the American Dental Association, as well as two studies published in professional journals that report the results of polls of prosthodontic practitioners, including information on overhead expenses. The AAMP recommended that this data be used to calculate its practice expense per hour.

Response: We agree that maxillofacial prosthetics does not correspond closely with any other medical specialty. It also is not a separately-identified specialty in either the SMS survey or the Medicare claims database.

Though the AAMP submitted survey data compiled by both its own organization and the American Dental Association, the format, definitions, and methodology of these surveys were not consistent with those of the SMS survey. For example, the 1993 AAMP survey did not survey practice expense, but rather the "percent overhead of gross collections for 1992." The American Dental Association surveys counted dentist shareholder and employee dentist income as practice expense in many tabulations.

Because of these methodological differences from the SMS data, we are not able at this time to use the information in the submitted surveys to calculate a comparable practice expense per hour for maxillofacial prosthetics.

For this final rule we will create a practice expense pool for the maxillofacial prosthetic codes (CPT 21076 through 21087) and crosswalk this pool to the practice expense per hour for "All Physicians." We had imputed physician times for these services in our proposed rule. However, we are now using the physician times utilized in calculating the work RVUs for the same services. In addition, until the CPEP data for these codes can be validated, we will allocate the practice expense pool to the specific services using the current RVUs. We hope to work with the specialty society as part of the refinement process in order to develop a reliable method of deriving accurate practice expense RVUs for maxillofacial prosthetics.

Comment: The American Optometric Association (AOA) disagreed with our crosswalk of optometry to the average practice expense per hour for "All Physicians," that results in a practice expense per hour of $67.50. The commenter stated that AOA understands that the crosswalk decision was based, at least in part, on the 1997 survey conducted by AOA which had been provided to us. This survey has been conducted regularly since 1990 and was included with the comment, along with a study commissioned by the AOA entitled "Results of the First National Census of Optometrists." Using data from this survey and study, AOA computed an $89.53 practice expense per hour for optometry, significantly higher than the average for "All Physicians."

Response: As in the above request, the data submitted by AOA are not easily comparable to the SMS data. For example, the AOA calculation used medians rather than means, and retirement and fringe benefits were not counted as median net income, but rather as practice expense. It is therefore not possible, without further information, consultation, and analysis, for us to calculate a practice expense per hour that would be comparable with that of other specialties. During the refinement period we will be working with specialties not represented in the SMS survey to identify the data needed to enable us to determine accurate practice expense RVUs for their services.

Comment: Although generally supporting the crosswalk to General Internal Medicine, the American Chiropractic Association (ACA) submitted data from the 1997 survey results of ACA's biannual survey of the chiropractic profession. This survey shows considerably lower direct patient care hours than SMS shows for General Internists. Therefore, the ACA requested that we use its data to calculate the practice expense per hour for Doctors of Chiropractic, stating that we should accept specialty societies' data over SMS data if they were collected in a comparable manner.

Response: The survey submitted by the commenter indicated that the patient care hours worked by chiropractors are significantly lower than those of general internists to whom chiropractors' practice expense per hour is crosswalked. However, the hours of direct patient care a week shown in the survey were defined more narrowly than in the SMS data. For example, the 29 hours of patient care a week calculated in the submitted survey did not include the hours spent for documentation, administration, and billing, activities that we have considered to be included in the direct patient care hours for other specialties. In addition, there are insufficient details in the survey for us to determine its comparability to the SMS data and we will maintain the crosswalk for chiropractors for this final rule. We do intend, however, to revisit this issue during the refinement process.

Comment: The American Podiatric Medical Association, Inc. (APMA) objected to its crosswalk to general surgery because it believes that there is little similarity between the two specialties based on site-of-service and types of services provided. General surgery services are typically performed in the facility setting, while the high volume podiatry services are almost entirely done in the office. In addition, the comment stated that podiatrists work fewer hours than general surgeons.

The comment also included the results from APMA's 1996 and 1998 surveys of podiatric practice, as well copies of the surveys themselves. According to the comment, these surveys show that the actual practice expense per hour for podiatry is $91.50 and APMA recommends that we use this data in place of our proposed crosswalk.

The American Academy of Orthopaedic Surgeons also disagreed with the crosswalk for podiatry, but recommended that podiatry be crosswalked to orthopaedic surgery in the short run, as 70 percent of the codes billed by podiatrists are those that are shared with orthopaedic surgery.

Response: Because of significant methodological differences between the submitted surveys and the SMS data (for example, only gross and net incomes are surveyed) we are not able at this time to calculate a practice expense per hour in total, let alone for each of the different cost pools.

However, we are persuaded that the crosswalk to general surgery is not appropriate for the reasons cited in the comment, and we are changing the crosswalk to "All Physicians." We will be working with all specialties not represented in the SMS data to ensure that we obtain comparable information to calculate their practice expenses per hour.

Comment: The Joint Council of Allergy, Asthma, and Immunology stated that, in calculating the allergists' practice expense per hour, we reduced the supply category practice expense per hour to that of "All Physicians," because we believed that we made a separate payment for the drugs used. However, this is not true for immunotherapy drugs provided by allergists, as the cost of these drugs is included in the practice expense RVUs. Therefore an adjustment needs to be made.

Response: The commenter is correct and the adjustment has been made to the medical supplies practice expense per hour.

Comment: The American Society of Clinical Oncology commented that since the SMS supply cost data for chemotherapy codes included the costs of expensive chemotherapy drugs, which are paid for separately, we used the lower supply costs for "All Physicians" for their supply cost pool. The commenter argued that this fails to recognize that, in addition to the cost of the drugs, chemotherapy administration has extra supply costs in excess of that for "All Physicians." Also, although chemotherapy drugs are generally among the costliest drugs, the cost of drugs was probably included in other specialties' supply costs as well, and all specialties should be treated in the same manner.

The Association of Community Cancer Centers, the Society of Gynecologic Oncologists, and the American Society of Hematology also disagreed with our adjustment for drug costs, as did the AMA, which called our method of correcting for the double counting of drugs inequitable and imprecise. The American Society of Hematology recommended increasing the supply per hour costs to 125 percent of the "All Physicians" level.

Response: It is true that other specialties may have some drug costs included in their SMS supply cost data, but we believe that the total costs for chemotherapy drugs are far greater than are the drug costs included for any other specialty. Failure to make an adjustment for these high drug costs would lead to a gross distortion in the supply cost pool for oncology.

We also are not convinced that the other supply costs for oncologists would necessarily exceed that of "All Physicians," and we will continue to crosswalk oncology's supply costs to that category's practice expense per hour. We do agree that during refinement we need to consider development of a methodology for removing separately billable supplies and services from the SMS data so that the Medicare program avoids making duplicate payments. We also will work with the oncology specialty to ensure that their practice expense per hour for the supply category adequately reflects the actual costs of other oncology supplies.

Comment: The American Association of Oral and Maxillofacial Surgeons objected to the crosswalk of oral surgery and maxillofacial surgery to the practice expense per hour of "All Physicians." They recommended a crosswalk to either otolaryngology or plastic surgery, as most of the medical procedures billed

by oral and maxillofacial surgeons can be crosswalked to these two specialties. The commenter argued that because of their significantly higher practice expenses, oral and maxillofacial surgery should not be in the same practice expense pool as manipulative therapists and optometrists, as this dilutes the practice expenses for these surgical services. In addition, the 1996 Harvard Study grouped oral and maxillofacial surgery under otolaryngology and plastic surgery.

Response: We do not currently have sufficient data to make such a change in our crosswalk. This is an issue that can be addressed during the refinement period.

Comment: The American College of Cardiology and the American Society of Echocardiography disagreed with the crosswalk of Independent Physiologic Laboratories (IPLs) to "All Physicians." The comment recommended that IPLs' practice expense per hour be crosswalked to cardiologists, as 60 percent of IPL billings are in the 93000 series and for the 13 highest volume IPL codes, cardiologists account for 40 percent of claims. The Society of Vascular Technology/Society of Diagnostic Medical Sonographers also expressed concern that our crosswalk of IPLs did not adequately recognize their costs and recommended that we use the figure of $176 per hour based on the studies cited in the comment.

Response: As discussed above, we will be creating a separate practice expense pool for all services without physician work, which will include those technical component services done by IPLs and by cardiologists.

Comment: The Society of Gynecologic Oncologists requested that we consider using multiple crosswalks to determine practice expense per hour for specialties that provide interdisciplinary care. The comment stated that the true reflection of practice expense per hour for a gynecologic oncologist is a hybrid of the practice expense per hour for the specialties of obstetrics and gynecology and oncology.

Response: It is not clear whether this is desirable or what data would be used to weight such a split between more than one specialty. Many physicians belong to more than one specialty or subspecialty. This is another issue that can be discussed during the refinement period.

Comment: The American Geriatrics Society disagreed with our crosswalk of geriatrics to the General Internal Medicine practice expense per hour. The comment stated that geriatricians typically have higher costs than internists because of the need for more office space and more health care professionals on staff. Since many geriatricians are family physicians, geriatrics should be cross-walked to family practice.

Response: We believe that geriatricians are typically more like internists than family practitioners, so for the final rule we will not change the crosswalk. However, we are open to receiving data that would demonstrate that a crosswalk to family practice would be more appropriate.

However, we would note that geriatrics is a relatively small specialty and the services performed by them are frequently done by other specialties. Thus, changes in the practice expense per hour data for geriatricians would not likely have a significant impact on the RVUs for services they perform.

Comment: One commenter made recommendations for revisions or additions to our proposed crosswalks for several nursing subspecialties. Another specialty society commented that under the physician fee schedule we have chosen to pay nonphysician practitioners a percentage of the physician reimbursement, and crosswalking to specialties with higher practice expense per hour rates than general internal medicine or general surgery is not logical or reasonable. Another organization also recommended that data from nurse practitioners and physician assistants be excluded from the practice expense pool calculations.

Response: We will further consider appropriate crosswalks for nursing subspecialties during the refinement period.

Comment: The American Hospital Association and the American Occupational Therapy Association recommended that we crosswalk all of the practice expense pools for outpatient rehabilitation services to the "All Physicians" practice expense category, rather than using the salary equivalency guidelines for the administrative, office, and other pool.

Response: We believe that using the "All Physicians" practice expense per hour for the administrative, office, and other pool would considerably overstate the actual practice expense for occupational therapy. We have carefully examined outpatient therapy practice costs for the development of the salary equivalency guidelines, and believe that these better approximate the actual expenses for this cost pool. We will continue to use the salary equivalency guidelines to calculate this portion of the practice expense pool for occupational therapy for this final rule.

Comment: The American Speech-Language Hearing Association commented that it is not appropriate to use the practice expense per hour data from physicians that perform audiology tests and it submitted a 1993 survey, "Audiology Services—Scale of Relative Work," as part of its comments.

Response: As we stated above, we are creating a single practice expense pool for all services, such as audiology, that have no work RVUs. This practice expense pool, created by using the average clinical staff time per procedure from the CPEP data and the "All Physicians" practice expense per hour, raises practice expense RVUs for audiology services relative to those previously proposed. However, during the refinement process we will be considering all data submitted on any of these services, including the study submitted with the above comment.

Calculation of Practice Expense Pools—Other Issues

Comment: Several organizations commented on potential problems with the Medicare claims data, which are used as one component of the specialty-specific practice expense pool calculation.

- Many commenters were concerned about reliance on Medicare claims data to determine the size of each specialty's practice expense pool. The comments claimed that to the extent that the Medicare population is not representative of the general population, there is a bias against specialties whose patient population does not match Medicare's. Several organizations, representing the gamut of medical specialties, urged us to work during the refinement period with organizations for whom we have no, or inadequate, historical claims utilization information and to acquire nationally representative claims data that include Medicare, Medicaid, and private payer data.

One of these commenters recommended that, if this is not feasible, we should conduct sensitivity analyses to explore the influence Medicare service utilization patterns may have on private payers. The specialty-specific utilization data are crucial for the final step of volume-weighted averaging that brings the individual specialty scales onto one scale, particularly when involving services performed very frequently by specialties that see relatively few Medicare patients.

For example, the comment argued, to the extent that the cost estimates for evaluation and management (E&M) services provided by obstetricians and gynecologists and pediatricians differ significantly from those of specialties that account for the bulk of E&M services provided to Medicare patients, the use of an all-payer claims database would probably yield different RVUs for E&M services.

- Several surgical specialties urged that we clean the Medicare claims data to eliminate obvious errors, such as data showing a sometimes significant number of nonsurgeons or physician assistants performing complex surgeries that can only be performed by surgical specialties. This misreporting can decrease a specialty's practice expense pool and should either be reassigned or excluded during refinement.

One of the commenters recommended that Medicare claims data be reviewed for the existence of a second listed surgical specialty identifier. In addition, physician assistants' claims should use the -AS modifier, and calculations should use only the time that is assigned to the intraoperative period.

- Three specialty organizations commented that many physicians' self-designated specialties are incorrectly classified in our claims data. For example, many cardiologists and geriatricians may bill as internists, which may affect the respective practice expense pools. Until these data become more accurate, one of the commenters recommended that the specialty practice expense pools be recalculated on an annual basis.
- An organization representing transplant surgeons commented that, as transplant surgery is not a designated specialty in the Medicare claims database, many transplant surgeons designate themselves as general surgeons, who have the lowest practice expense per hour of any surgical specialty. The comment argued that this has led to a significant underestimation of the costs associated with transplant surgery.

Response: We would be interested in receiving any reliable national utilization data on the procedure code level though, to date, we are not aware of the existence of such a data source. We plan during the refinement period to work with the medical community in order to pinpoint problems in the Medicare claims data, to develop strategies to improve their accuracy, and, if possible, to find reliable supplemental data for those specialties not appropriately represented in the Medicare database.

Comment: One organization commented that the Medicare frequency numbers for occupational therapy codes will be understated because BBA requires that all outpatient therapy services be paid under the Medicare Physician Fee Schedule beginning January 1, 1999.

Response: We disagree. We have not included estimates for frequencies of expected services of outpatient therapy services in computing the practice expense RVUs. BBA specified that we pay for these services using the physician fee schedule. BBA did not incorporate these services into the fee schedule.

Comment: Many organizations representing radiation oncology, as well as numerous individual commenters, argued that we erroneously combined the SMS radiation oncology survey data with that of radiology. The commenters argued that these two specialties should be dealt with separately, as radiation oncology utilizes different codes and has considerably higher costs than radiology.

Response: We had combined radiation oncology and radiology together into one practice expense pool because of the small sample of radiation oncologists in the SMS data. However, we now agree with the commenters that these are two different specialties with differing practice costs. Therefore, we have separated them into two separate practice expense cost pools in order to calculate the practice expense per hour for each of the specialties. For radiology, excluding radiation oncology, the total practice expense per hour is $55.90. This is comprised of $17.90 for nonphysician payroll per hour ($9.70 for clerical payroll), $12.80 for office expense, $4.50 for supply expenses, $7.70 for equipment expense, and $12.90 for other expenses. For radiation oncology, the total practice expense per hour is $68.30. This is comprised of $23.70 for nonphysician payroll per hour ($9.20 for clerical payroll), $11.30 for office expense, $6.20 for supplies expense, $11.00 for equipment expense, and $16.20 for other expenses.

Allocation of Practice Expense Pools to Codes

Comment: Several organizations commented on our use of work RVUs as part of the allocation formula for indirect practice expense costs:

- A primary care specialty group stated that we should not allocate the indirect practice expenses using the work RVUs, since there is no reason to believe that the costs of providing the service, such as the cost of utilities, would vary by the intensity, where the costs would vary by time. We should, therefore, use time rather than work in our indirect allocation.

Another primary care organization commented that using work as one allocator for indirect expenses inappropriately gives surgical procedures with higher work RVUs substantially higher administrative costs for billing activities than is given to evaluation and management services. We should develop a standardized method to address administrative staff costs.

- Five other organizations argued that allocating indirect costs based on a combination of direct costs and physician work RVUs is inappropriate and treats unfairly chemotherapy and radiation oncology services as well as other technical component services, since they typically are assigned no work RVUs. Various recommendations were made by these commenters to rectify what they see as discrimination against these technical component services:

+ Indirect costs should be based on direct costs.

+ Physician time or clinical staff time should be used instead of work.

+ We could allocate 50 percent of the indirect costs based on direct costs and 50 percent based on physician work or time.

+ As an alternative for chemotherapy services, work could be imputed by using the work to time ratio for other hematology or evaluation and management services.

One commenter recommended that we vary the indirect cost allocation methodology in recognition of the practice patterns of particular specialties.

- One accounting organization commented that the use of work REUS is arbitrary and argued for the use of total dollars actually spent to perform the procedures, not indirect splits, suggesting the use of Activity Based Costing as a preferable methodology.

Response: In this final rule, we will use an allocation method for the final rule that is basically similar to our proposed allocation method. It is widely recognized by accountants and others that there is no single best method of allocating indirect expenses to individual services. If we used physician time as an allocator of indirect expenses, we would be using the same values, whose accuracy have already been questioned by some commenters, both to create the practice expense pools and to allocate these pools to individual services. If we used only direct costs, we would be giving full weight to CPEP values that have not yet been refined. We agree that the use of physician work as an allocator is not preferable in the long term. It likely provides maximum advantage to hospital-based services in which the

physician incurs relatively few direct costs.

For this final rule, we are making a technical change to the allocation method for indirect costs by using direct costs and the work REUS scaled using the Medicare conversion factor instead of a factor calculated using the physician time data. Because of questions raised by commenters concerning the time data adjustments, we believe that it is more appropriate to convert the work REUS into dollars using the Medicare conversion factor (expressed in 1995 dollars, consistent with the AMA SMS survey data). This will give somewhat less weight to work while, at the same time, avoiding a major methodological change until it has been examined further. We intend to work with the medical community during refinement so that we ensure that our allocation methodology is both appropriate and equitable.

Comment: Many major specialty societies, both primary care and surgical, commented that we should not apply a different methodology for allocating the practice expense pools to the radiology codes than we do to all other codes. One commenter argued that multiplying the current charge-based practice expense RVUs for radiology codes by some percentage cannot yield a resource-based system.

Organizations representing urologists, pulmonologists, cardiologists, and ophthalmologists commented that the uniform reductions made in the radiology codes to maintain relative values assumed that all radiology services are done only by radiologists, when many of these procedures are performed by these other specialties. A commenter stated that decisions regarding the practice expense values for radiology codes done predominantly by other specialists should not be made by one specialty. These organizations recommended that the practice expense RVUs for their codes be established using the allocation methodology used for all other services.

One specialty society, representing diagnostic vascular testing, commented that the use of the existing radiology relatives to allocate practice expense to the code level results in significantly larger decreases in the technical component than in the professional component of their services. The commenter recommended that if we continue to use the radiology relatives, then we should reduce the professional components of the codes more than the technical components because practice expenses are greater for the technical component than for the professional component.

The AMA supported the use of the radiology relative values for actual radiology services, but recommended that this methodology should be applied only to services that are performed predominantly by radiologists.

The American College of Radiology endorsed the radiology relativity of the radiology RVUs without exception, and they would oppose the exclusion of individual radiology procedures since this is inconsistent with the concept of radiology relative values. They argued that maintaining the relativity of the radiology fee schedule—

- Is consistent with generally accepted accounting principles because it is based on surveys and physician panels;
- Is widely accepted;
- Solves rank order anomalies caused by raw CPEP data;
- Simplifies the derivation of the professional component, technical component, and global practice expense RVUs;
- Is mandated by law, as the Omnibus Budget Reconciliation Act of 1989 stated that for radiology services "the Secretary shall base the relative values on the relative values developed under section 1395m(b)(1)(A)****"; and
- They also argue that we have recognized and honored the statutory obligation to maintain the relationships in the radiology relative value scale.

Another national organization representing diagnostic imaging services also suggested keeping the radiology fee schedule as the allocator for radiology, rather than the direct costs from the CPEP data, as there would be even greater reductions on codes we allocated using the CPEP relatives.

Response: Because the majority of specialties that perform radiology services object to the use of the current practice expense RVUs for radiology services, we cannot continue to use these RVUs. However, since we are not making changes to the CPEP data for this final rule and since the American College of Radiology has not had sufficient opportunity to comment on the CPEP data because of our proposed use of the current radiology RVUs, we are using the current radiology RVUs to allocate the direct cost pools of the specialty radiology until such time as the CPEP data for radiology services have been validated. We will not use the current radiology RVUs for any other specialty.

It should be noted that radiology services or components of radiology services that lack work RVUs are handled as described in the section on services without work RVUs. This alters the impact of using the current radiology RVUs for the specialty radiology since we set the global portion of a radiology service equal to the sum of the technical and professional components.

Comment: One specialty society commented that, for one important high volume pathology service, the proposed total professional component practice expense RVU payment would be $11.37, approximately $2 short of the administrative labor costs alone. The commenter wanted more information on how our method splits administrative costs between the professional and technical components. The commenter requested that we provide a data set of the RVUs for administrative labor, office expenses, and other expenses that result from our allocation method, with a break-out of the professional and technical component RVUs for services that have both components, so that the appropriateness of the allocation method can be evaluated.

Response: Our methodology was described in the proposal, and we also provided additional detailed data files that we used to develop the proposed values. We will try to make additional data available if the request is further specified.

Comment: The American College of Cardiology expressed concern that, though it might be necessary to weight average the allocation to codes according to the practice expense per hour of the different specialties performing the service, this defeats the intent of Congress to recognize actual costs and could also lead to negative incentives. The commenter suggested that this is an issue that we and the specialties should pursue.

The American Society of Echocardiography more specifically commented that we should not include in the calculations for cardiovascular diagnostic tests the even more unrepresentative data for internists coding for these procedures. The society maintained that because of the low equipment costs for internists, this blend dilutes the RVUs allocated to these codes.

Response: The statute is very specific that Medicare is not to pay specialty differentials. Therefore, weight averaging of the CPEP inputs among specialties that do a service seems appropriate.

Other Issues

Comment: Many commenters, representing a broad spectrum of specialties, expressed concern that reductions in payment for specific services could have a negative impact on access to care. Many of these commenters recommended that we monitor access and quality of care issues that may arise as a result of the implementation of a resource-based practice expense system.

Response: Maintaining access to high quality health care for Medicare beneficiaries is, and will continue to be, a high priority, and we will monitor available relevant data. However, we do not anticipate that the implementation of resource-based practice expense RVUs should lead to any major impediments to access to care. Any impacts of this new system are being transitioned in over a 4-year period, during which we will be refining both the practice expense per hour data and the direct cost inputs. We will be working closely with the medical community during this refinement period, and we are confident that we will achieve a resource-based practice expense system that will maintain our beneficiaries' access to the best possible medical care.

Comment: One commenter was concerned about how the monthly capitated payment for end-stage renal disease (ESRD) services was handled under the top-down approach. The commenter argued that, though the "building block" process used for the work RVUs for these services does not translate perfectly for practice expense values, this approach should still be utilized to calculate the practice expense RVUs. In addition, the commenter questioned our choice of CPT 99213, a mid-level office visit, to calculate physician time for ESRD services.

Response: We allocated the practice expense pool to ESRD services using the CPEP inputs, as we did for almost all other services. We also believe that the intensity of an average evaluation and management service provides a reasonable estimate of physician time. These issues can be further analyzed during refinement.

Comment: Two commenters noted that costs associated with the supervision of diagnostic tests were not included in the technical component amounts.

Response: In separate carrier manual instructions, we are revising the level of physician supervision required for many diagnostic services. For example, we are changing the requirements for most ultrasound procedures from personal or direct supervision to general supervision. We believe the required supervision for any remaining services that are at the personal supervision level are generally already reflected in the work RVUs. Therefore, we do not believe that there are additional costs for physician supervision.

Comment: One commenter indicated that there will be a marked increase in the volume of services paid under the physician fee schedule as a result of BBA changes in payment for outpatient therapy services. The commenter maintained that this increase should not adversely affect future budget neutrality adjustments.

Response: Although payment for these outpatient therapy services are based on payment amounts contained in the physician fee schedule, these services are not included as part of the fee schedule pool for budget neutrality calculations.

Comment: One commenter argued that the budget neutrality adjustment is inappropriately applied because it does not recognize the savings provided by the elimination of the facility payments for endoscopic procedures that will move to the office setting.

Response: The statute specifies that there shall be budget neutrality for physician fee schedule services. The budget neutrality adjustment does not take into account payments to facilities.

Comment: Two commenters suggested that any fiscal adjustments made to comply with BBA should be reflected in the conversion factor, or other ratio, rather than be included in the calculation of the practice expense RVUs, so that other payer reimbursement would not be affected.

Response: We do not completely understand these comments, but we believe the request is consistent with our practice of making budget-neutrality adjustments on the conversion factor.

Comment: Several commenters requested additional impact analyses such as—

- Comparison of actual practice expense by specialty with expected practice expense payments, both by amount and by percent, for both our proposed practice expense payments and the current fee schedule practice expense RVUs;
- Comparison of impacts by geographic area, including rural and urban impacts;
- Analysis of impacts on hospital, academic, and community-based physicians;
- Analysis of total Medicare and non-Medicare impact using national claims case mix data; and
- An analysis that would demonstrate to other payers the degree to which our proposed payment rates are less than actual practice costs.

Response: We lack the data to provide some of the requested analyses. For example, we do not have national claims case mix data and are unaware of the existence of such data. With regard to rural and urban impacts, in the June 5, 1998 proposed rule we discussed the limitations of such analyses given the structure of the Medicare payment localities. We are unsure what the commenters are specifically requesting on the issue of actual costs since we have based the resource-based practice expense RVUs on the best available source of multi-specialty actual cost data: the SMS survey. Cost analyses at the individual practice level are problematic since, for example, we do not have physician cost reports, but we are open to concrete suggestions on how to perform such analyses. We also note that the Medicare public use files are an excellent source of data for commenters who wish to perform additional analyses that they believe are possible with the data sources available to us.

Comment: One commenter requested that we make clear to Medicare contractors that hospital-based pathologists who incur technical component costs for nonhospital patients can be paid for both the technical and professional components.

Response: This is a long-standing policy, and we are not aware of any general problems in this regard. However, we would be willing to discuss the issue with individual carriers if the commenter provides more specific information.

Comment: One commenter recommended that we recalibrate the allocation of RVUs to the pools for physician work, practice expense and malpractice, as this allocation has remained constant since the resource-based relative value scale was implemented in 1992.

Response: We are recalibrating the allocation this year to match the Medicare Economic Index (MEI) weights. For example, work goes from 54.2 percent of the total to 54.5 percent, the practice expense portion goes from 41.0 percent to 42.3 percent, and the malpractice portion goes from 4.8 percent to 3.2 percent. (See Section II.D, "Rebasing and Revising the Medicare Economic Index.") In order to prevent the work RVUs from changing as a result of this, we are altering only the practice expense and malpractice RVUs. The changes to the practice expense and malpractice RVUs due to this are offset by an adjustment to the conversion factor.

Comment: One commenter recommended that we should limit the magnitude of the changes in physician payments resulting from the shift to resource-based payment for practice

expenses by imposing some reasonable limit on payment increases and decreases for individual services. The commenter maintains that section 1848(c)(4) of the Act, which authorizes the Secretary of Health and Human Services to, "establish ancillary policies, as may be necessary to implement this section," provides statutory authority on which to base such a policy. The comment pointed out that we invoked this section in 1991 with reference to the transition to resource-based payment for physician work.

Response: We believe that Congress intended the transition period to be the mechanism by which we would mitigate the impacts of any changes in payment brought about by the shift to resource-based practice expense. Therefore, we believe it would be inappropriate for us to impose further limits on payment increases or decreases.

Comment: One commenter maintained that the proposal violates both the Regulatory Flexibility Act and the Paperwork Reduction Act of 1980 because the adequate filings required in both of these Acts did not accompany the proposal. Additionally, the commenter stated that we did not cite any evidence to support its contention that a Regulatory Impact Statement is not required.

Response: We had included a Paperwork Reduction Act (PRA) section in HCFA–1006-P that meets the requirements of the PRA of 1980.

One commenter stated that we do not cite any evidence in either of our proposals to support our contention that no regulatory impact statement is required. There may be some confusion about the purpose of an impact statement and the difference between a regulatory impact statement and a regulatory impact analysis (RIA). A regulatory impact statement is a brief rational on why an analysis was not conducted. An RIA is a complete analysis based on recent available data and is more extensive.

An RIA was conducted in the proposed rule of June 5, 1998 (63 FR 30866). Absent this analysis, we would be required to furnish an impact statement. Therefore, there is no violation of either the RIA or Regulatory Flexiblity Act requirements.

3. Other Practice Expense Policies

Site-of-Service Payment Differential

As part of the resource-based practice expense initiative, we are replacing the current policy that systematically reduces the practice expense RVU by 50 percent for certain procedures performed in facilities with a policy that would generally identify two different levels (facility and nonfacility) of practice expense RVUs for each procedure code depending on the site-of-service.

Some services, by the nature of their codes, are performed only in certain settings and will have only one level of practice expense RVU per code. Many of these are evaluation and management codes with code descriptions specific as to the site of service. Other services, such as most major surgical services with a 90-day global period, are performed entirely or almost entirely in the hospital, and we are generally providing a practice expense RVU only for the out-of-office or facility setting.

In the majority of cases, however, we will provide both facility and nonfacility practice expense RVUs. The higher nonfacility practice expense RVUs are generally used to calculate payments for services performed in a physician's office and for services furnished to a patient in the patient's home, or facility or institution other than a hospital, skilled nursing facility (SNF), or ambulatory surgical center (ASC). For these services, the physician typically bears the cost of resources, such as labor, medical supplies, and medical equipment associated with the physician's service.

The lower facility practice expense RVUs generally are used to calculate payments for physicians' services furnished to hospital, SNF, and ASC patients. The costs for nonphysicians' services and other items, including medical equipment and supplies, are typically borne by the hospital, by the SNF, or the ASC.

We received the following comments on our site-of-service payment differential proposal.

Comment: We received several comments concerning the appropriateness of our site-of-service proposal:

- Several specialty groups commented that they agreed with eliminating the site-of-service differential and replacing it with two levels of payment.
- A national specialty society representing gastroenterologists, as well as several hundred individual commenters, strongly opposed the elimination of the current site-of-service differential and replacement of it with the facility and nonfacility resource-based practice expense RVUs. The comments argued that we should not have established different practice expense RVUs for facility and nonfacility settings for gastrointestinal endoscopy codes 43234 through 45385 because:
  - It is unsafe to do these procedures in the office and will thus jeopardize patient safety;
  - It creates an incentive to provide care in the inappropriate office setting; and
  - It is not authorized by legislation, is against the intent of BBA to have different payment levels for different settings, and is likely to result in legal challenge.

The commenter recommended that we drop the office and out-of-office differential in practice expense payment.

- One organization commented that our site-of-service proposal will exacerbate the ability to subsidize uncompensated care and suggested exempting teaching physicians from the new site-of-service provision. It also suggested that HCFA should also monitor the effects of the site-of-service policy.
- The AMA, the American Hospital Association, and three other organizations commented that payment differentials should not provide an incentive for physicians and patients to choose one site over another. Some physician groups are concerned that the differential will accelerate the shift of some services from facility to nonfacility settings at the expense of patient safety. They asserted that claims data on changes in place of service should be made available and this issue should be one focus of refinement efforts.

Response: We believe that, to the extent that the differing RVUs for in-office and out-of-office services reflect the relative differences in practice costs for performing those services, we have not created incentives to provide services in inappropriate settings. We are required by both the Social Security Act Amendments of 1994 and BBA to develop resource-based practice expense RVUs, based on physicians' actual costs. All of our data indicate that physicians' practice expenses are higher in the office, where the physician must incur all the costs of staff, equipment, and supplies, than in a facility that provides and is paid separately for these resources. As the facility and nonfacility costs to the physician can vary by a considerable amount, we believe that adopting a single average payment for both sites would consistently underpay in-office procedures, and overpay those performed in a facility and would thus be inherently inequitable, not resource-based, and contrary to the intent of the law. Furthermore, we are not aware of any studies showing that codes 43234 through 45385 are being unsafely performed in offices. We have complete confidence that physicians will continue to exercise their best clinical judgment as to the most appropriate setting for their patients.

Comment: One specialty society stated its support for the proposed change in the site-of-service payment, as long as it does not result in nonpayment for services actually provided. For example, there are no practice expense RVUs for emergency intubation in the nonfacility setting, though this service may occasionally have to be performed in the office.

Response: If a service for which there are only facility RVUs is performed in the office, the facility rate will be paid.

Comment: The American Urological Association commented that certain codes—50590, 52234, 52235, 52240, 52276, and 52317 were inappropriately assigned nonfacility PERVUs, as it is not safe to perform these services in the office.

Response: We would need more data to demonstrate that performing these services in the office is not appropriate before we would eliminate the nonfacility RVUs: We are willing to review such information during the refinement process. Such information should be submitted to HCFA, Office of Clinical Standards and Quality.

Comment: Two societies representing pulmonologists commented that critical care is listed with facility and nonfacility practice expense RVUs, although it is nearly always performed in an inpatient setting.

One organization representing psychiatrists noted that CPT codes 90816 through 90829 are restricted to the inpatient hospital and partial hospital and residential care settings, and that CPT code 90870, electroconvulsive therapy, would not generally be performed in an office setting. The commenter recommended that the final rule list RVUs for only the facility setting.

Response: We are not deleting RVUs proposed for the nonfacility setting in this final rule, but will be considering this issue during refinement. We would note, however, that services performed in the residential care setting would be paid by using the nonfacility RVUs.

Comment: One commenter pointed out that in our proposed rule we list the services that, by nature of their codes, would only have one level of practice expense; this list includes codes 99321 through 99333 and 99341 through 99350. However, in Addendum C, both facility and nonfacility values are given and the facility values are higher than the nonfacility values for most of these codes. These inconsistencies should be corrected. Another commenter submitted a list of some codes where the facility practice expense RVUs are higher than the in-office values.

Response: We thank the commenters for pointing out these discrepancies. The instances of higher facility RVUs are an artifact of our indirect methodology and reflect the differing mix of specialties performing a service in each setting. We will look at this more closely during the refinement process.

Comment: One specialty society commented that the dual energy x-ray absorptiometry codes have the same practice expense RVUs for both the in-office and out-of-office setting. The comment recommended that the in-office RVUs be adjusted to reflect the high costs of equipment for the office-based physician.

Response: More specific data will be needed on the actual costs of the equipment so that we can address any changes to the CPEP data during the refinement process.

Comment: Three organizations representing outpatient therapy services commented that, though outpatient rehabilitation providers will be paid the nonfacility rate, there are higher costs for providing rehabilitation services in an SNF or hospital than in a doctor's office. These costs are not reflected in the CPEP data and are grossly underestimated in the practice expense RVUs. There should be a special higher site-of-service differential to be applied when outpatient therapy services are furnished in provider settings.

Response: The site-of-service differential is intended to ensure that the Medicare program avoids making duplicate payments to practitioners and facilities for the same services. BBA specified that outpatient therapy services, which prior to January 1, 1999 have been paid by Medicare using a cost reimbursement system, should be paid using the physician fee schedule effective January 1, 1999. As discussed more fully in the June 5, 1998 proposed rule, we believe it would be inappropriate, and inconsistent with how we pay for other services under the fee schedule, to pay a higher rate for these outpatient rehabilitation services when they are provided in an SNF or hospital.

Comment: One specialty organization recommended that we confirm that facility-based practice expenses exclude only those practice expenses that are actually provided and paid for by the facility. We should provide a data file summarizing which resources are deemed to be provided by facilities, so that physician organizations can identify any errors or anomalies in HCFA's assumptions. For example, vitreoretinal physicians must often provide clinical staff for out-of-office procedures, and it is essential that there is a mechanism for the physician to be reimbursed.

Response: The differential between the facility-based and office-based practice expenses is determined by the CPEP inputs for staff labor time, supplies and equipment attributed to each site and the mix of specialties providing the services in each site. We will consider further adjustments to the CPEP inputs during the refinement period.

Comment: The American Speech-Language-Hearing Association commented that the extra costs for patient acuity and travel should be added to the site of service differentual.

Response: This is an issue for which specific data is needed and that should be addressed during the refinement period.

Additional Relative Value Units for Additional Office-Based Expenses for Certain Procedure Codes

Usually office medical supplies or surgical services in the physician's office are included in the practice expense portion of the payment for the medical or surgical service to which they are incidental. The November 1991 final rule (56 FR 59522) included a policy for 44 procedure codes that allowed a practice expense RVU of 1.0 to pay for the supplies that are used incident to a physician's service but generally are not the type of routine supplies included in the practice expense RVUs for specific services. This list of procedure codes was expanded in the December 1993 final rule (58 FR 63854). Included in this list of procedures for which an additional amount may be paid for supplies if the procedure is performed in a physician's office are closing a tear duct (CPT code 68761) and billing for a permanent lacrimal duct implant (HCPCS A4263), inserting an access port (CPT code 36533) and billing for an implantable vascular access portal/catheter (A4300), and performing cystoscopy procedures and billing for a surgical tray (A4550).

We proposed to revise this policy under the resource-based practice expense system. We believe the supply costs that this policy is designed to cover were included in the supply inputs identified by the CPEPs and the AMA's SMS survey. Thus, they were included in the practice expense RVUs for each relevant procedure code. Therefore, we proposed to discontinue separate payment for supply codes A4263, A4300, A4550, and G0025.

Below are the comments we have received on this issue:

Comment: While two primary care organizations agreed with our proposal to discontinue separate payment for select supply codes, three other specialty societies opposed elimination of the current payment for these supplies. One comment argued that incident-to supplies were not counted in the CPEP process, and the other that this separate payment is a preferred method of recognizing added costs to physicians.

Response: We believe that the current practice expense RVUs include the payment for these supplies. However, we are willing to consider evidence that the CPEP inputs do not reflect the appropriate use of these supplies for any service during the refinement process.

Comment: The AMA, as well as four physician specialty organizations, recommended phasing out separate payment for supplies during the transition instead of implementing it all at once in 1999.

Response: We agree and we will be phasing out the separate payment for these supplies over the transition period.

Anesthesia Services

Although physician anesthesia services are paid under the physician fee schedule, these services do not have practice expense RVUs. Rather, payment for physician anesthesia services is determined based on the sum of allowable base and time units multiplied by a locality-specific anesthesia CF.

Since the beginning of the physician fee schedule, overall budget neutrality and work adjustments have been made to the anesthesia CF and not to the base and time units. We are following the same process and making an adjustment to the anesthesia CF to move anesthesia services under the resource-based practice expense system. The adjustment to the anesthesia CF is 3.0 percent (phased in other the transition period).

4. Refinement of Practice Expense Relative Value Units

Section 4505(d)(1)(C) of BBA requires the Secretary to develop a refinement process to be used during each of the 4 years of the transition period. In the June 5, 1998 proposed rule, we proposed keeping the practice expense RVUs as interim RVUs until at least the fall of 1999, and possibly beyond 1999, if we believe more time is needed to identify and correct errors. We also solicited recommendations for a refinement process in subsequent years.

In the June 1998 proposed rule, we did not propose a specific process for a long-term refinement process. Rather, we set out the parameters for an acceptable refinement process for practice expense RVUs. Such a refinement process would enable us to do the following:

- Review and refine practice expense and hour data.

We suggested that we would be prepared in the future to refine the practice expense and hour data of those specialties well-represented in the SMS data if we receive compelling evidence that the SMS data are incorrect. We invited comments on potential revisions to the SMS survey or alternative sources of data and on the need to confirm, through audit or other means, the survey data that would be used for long term refinement.

- Obtain and review practice expense and hour data for specialties or practitioners not included in the SMS survey.

We invited comments on the appropriateness of our crosswalks and suggested that any arguments that the practice expense and hour data should be changed would be strengthened by the submission of survey data comparable to the SMS data.

- Address anomalies, if any, in the code-specific Harvard and RUC physician time data.

We proposed that we would not revisit work RVU issues that have been already addressed as part of the 5-year review.

- Address anomalies, if any, in the code-specific CPEP data on clinical staff types and times, quantity and cost of medical supplies, and quantity and cost of medical equipment.

We proposed that the codes identified by commenters as having possible errors during the comment periods of the proposed rule and the final rule will constitute the universe of codes whose code-specific CPEP data should be reviewed, as it was not our intention to review the inputs for all the codes on an annual basis. We also proposed that we obtain the advice of practicing physicians on the appropriateness of recommended changes to the CPEP inputs. We suggested two principal options for obtaining that advice, either HCFA-convened multiple specialty panels or the RUC or new organization like the RUC that includes broad representation across all specialties and includes nonphysician practitioners. The panels would need to meet no later than the summer of 1999 to consider the comments we received on both the proposed rule and the final rule. We invited comments on these options and solicited any other recommendations.

- Refine, as needed, our process of developing practice expense RVUs for codes not addressed by the CPEP process, for example, codes that were new in 1996, 1997, and 1998.

We developed practice expense RVUs for codes that were new in 1996, 1997, and 1998 by comparing the new codes to other comparable codes for which we had actual CPEP data and we invited comments on the appropriateness of our crosswalks. Also, we solicited new code-specific data on clinical staff types and times, quantity and cost of medical supplies, and quantity and cost of medical equipment.

- Develop practice expense RVUs for codes that will be new in 1999 and beyond.

Because of time constraints, we proposed that we develop interim practice expense RVUs for new 1999 codes by preparing a crosswalk of CPEP data from existing codes. Though the practice expense values for these codes will be subject to comment, the interim values will serve as the basis of payment during 1999.

Beyond 1999, we proposed two possible options that could be used to develop practice expense RVUs for new codes. First, we could continue to crosswalk new codes to existing codes and review comments we receive with the assistance of our multiple specialty panels. Second, we could request the RUC or a RUC-like organization to provide recommended practice expense RVUs or recommended inputs before publication of the proposed rule, as we do with work RVUs. We invited comments on these options and solicited any other recommendations. Following are the comments that we have received on our proposal for refinement of the resource based practice expense RVUs:

Comment: The RUC submitted the following comments on the refinement process:

- The RUC stated its interest in reviewing any comments that we receive on the accuracy of the physician time data for specific codes.
- The RUC commented that many members of the RUC, the RUC's Advisory Committee and the Health Care Professionals Advisory Committee (HCPAC) observed or participated in the entire CPEP process. The comment stated that, based on that experience and on extensive subsequent discussion, it became clear that the RUC, through its experience in developing physician work relative value units, should also seek involvement in developing recommendations on practice expense relative values.
- The RUC comment contained the following proposal for refinement of the CPEP data:

The RUC proposed the development of a new Advisory Committee, the RUC Practice Expense Advisory Committee (PEAC) to review comments on the code-specific CPEP data (that is, clinical staff types and times, quantity and cost of medical supplies, and quantity and cost of medical equipment) during the refinement period. This committee would report to the RUC, which would make final recommendations to HCFA. The committee composition would mirror the RUC and include additional representation from the American Nurses Association, the American Academy of Physician Assistants, the Medical Group Management Association, and four other non-MD and DO organizations to encourage input from nurses and practice managers in the process.

The committee would include one representative from the following organizations:

- Chair (To be selected by the Chair of the RUC);
- American Medical Association;
- American Osteopathic Association;
- CPT Editorial Panel;
- Health Care Professionals Advisory Committee;
- Two rotating seats for the RUC Advisory Committee (currently held by Rheumatology and Child Psychiatry);
- American Academy of Dermatology;
- American Academy of Family Physicians;
- American Academy of Neurology;
- American Academy of Ophthalmology;
- American Academy of Orthopaedic Surgeons;
- American Academy of Otolaryngology—Head and Neck Surgery, Inc.;
- American Academy of Pediatrics;
- American Academy of Physician Assistants;
- American Association of Neurological Surgeons;
- American College of Cardiology;
- American College of Emergency Physicians;
- American College of Obstetricians and Gynecologists;
- American College of Physicians;
- American College of Radiology;
- American College of Surgeons;
- American Nurses Association;
- American Psychiatric Association;
- American Society of Anesthesiologists;
- American Society of Internal Medicine;
- American Society of Plastic and Reconstructive Surgeons;
- American Urological Association;
- College of American Pathologists;
- Medical Group Management Association; and
- Society of Thoracic Surgeons.

Four seats would be added to include other organizations representing nursing or practice managers, for example, National Federation of Licensed Practical Nurses or American Licensed Practical Nurses Association, American Association of Medical Assistants, Association of Surgical Technologists, Professional Association of Health Care Office Managers, and Healthcare Financial Management Association.

Also contributing to this refinement process would be 80 members of the RUC Advisory Committee, representing those specialty societies with a seat in the AMA House of Delegates who have elected to participate in the RUC process. The RUC process will also include input from the HCPAC, which represents audiologists, chiropractors, nurses, occupational therapists, optometrists, physical therapists, physician assistants, podiatrists, psychologists, social workers, and speech-language pathologists.

The RUC has not yet implemented the PEAC, pending the initial response(s) to the proposed rule. However, the RUC has authorized the RUC Chair to convene the PEAC in a timely fashion and requests that we share all comments we wish to have reviewed regarding changes to the CPEP data with the RUC soon after the conclusion of the comment period on the final rule. The RUC would assure that all members of the RUC Advisory Committee and HCPAC Advisory Committee are contacted regarding the comments and will solicit interest in bringing recommendations forward to the PEAC on these comments. Specialty societies would collect additional data and, where possible, form a consensus recommendation with other interested specialty societies or HCPAC organizations. After considering the comments and the specialty society recommendation, the PEAC would present a report with their recommendations to the RUC which would submit its recommendations to us, along with its usual submission of work relative value recommendations, at the end of May.

The RUC comment contained the following proposal for refinement of the crosswalk for 1996, 1997, 1998, and 1999 new codes. The RUC proposes that the PEAC, when constituted, also review any comments on the final rule that are forwarded by us regarding the appropriateness of crosswalks and extrapolated code-specific data for those codes that were new in 1996, 1997, 1998, and 1999. The RUC would encourage specialty societies and HCPAC organizations to collect data or evidence to support new code-specific data on clinical staff types and times, quantity and cost of medical supplies, and quantity and cost of medical equipment for each of those new services that are frequently performed.

The RUC comment also contained the following proposal for the development of practice expense RVUs for codes that will be new in 2000 and beyond. The RUC proposes that recommendations for practice expense RVUs for new codes in 2000 and beyond be developed simultaneously with the work RVU recommendations. After a new code is approved by the CPT Editorial Panel, specialty societies would conduct a survey that would include a section on physician work and a section on direct expense inputs for that service. The specialty society would then present their recommendations on both the work and practice expense RVUs, along with all of their supporting data from the survey, to the RUC to review. The RUC would review both RVUs and submit the recommendations to us in a format similar to its current submission.

The RUC comment stated that the majority of the discussion on the expense inputs would focus on the clinical staff time and, potentially, the comparison between this time and the physician time. This time information will not be available for new codes. If we were to utilize two different processes for work and practice expenses for new codes, it would be necessary to establish a process to reconcile differences in time between the two sets of recommendations. The RUC comment recommended that the RUC process represents the best choice for reviewing this relationship and providing verifiable recommendations. The comment also recommended that for new codes for services performed by nonphysicians only, the RUC HCPAC Review Board would review both work and practice expense RVUs and would submit their recommendations to us directly. Throughout the updating process of practice expense, the RUC will also seek the input of nurses, practice managers, and others who have expertise in physician practice expense.

Comment: Almost all specialty societies and individuals commenting on refinement, as well as MedPAC and the AMA, agreed that the RUC or a group like the RUC should undertake the refinement of the CPEP input data for individual procedure codes, including reviewing our crosswalks for CPT codes new in 1996 through 1999, and recommending practice expense values for codes that will be new in 2000 and beyond. Several specialty societies, while supporting the role of the RUC in handling the complex issue

of refining CPEP data, stated that the RUC would need to include nonphysicians such as practice administrators and nurses in order to accomplish this task, as staff in management roles have more expertise than practitioners on the intricacies of practice management and the details of practice expenses. The American Podiatric Medical Association commented that podiatry must have full participation on an equal basis with other physicians' specialties; membership on the HCPAC would not be sufficient. The American Academy of Audiology has also commented that they want an audiologist to be represented on any group refining RVUs and the American Occupational Therapy Association commented on the need for therapy representatives. The Society of Vascular Technology/Society of Diagnostic Sonographers commented that they would support the use of a RUC-like group only if there would be appropriate representation of technical component service providers; otherwise they would not favor the RUC handling refinement issues.

Response: As previously described, there are four key data items we used for our methodology. Three are needed to develop practice expense "pools" per specialty, and the fourth is needed to allocate these aggregate practice cost pools to individual CPT codes. The data sources we used are as follows:

Practice Cost Pools

1. AMA SMS survey data for practice costs per hour, by specialty.
2. Harvard and RUC data for length of time to perform each service
3. Medicare claims frequency data for each procedure.

Allocation to Individual CPT Codes

4. ABT CPEP resource inputs per CPT code.

Refinement requires consideration of three broad types of activities:

1. Review of broad strategy and general methodology issues. Examples of these types of activities include review of the basic methodology, formulas for allocation of indirect expenses, development of criteria for consideration of alternative data sources, survey sample size consideration, development of possible approaches to validate survey data, and other similar methodology issues.
2. Refinement of specialty level practice cost per hour data.
3. Refinement of detailed code level data (CPEP data, procedure time data).

The RUC has proposed to be involved in the refinement process by creating a subcommittee to advise it, referred to as the Practice Expense Advisory Committee (PEAC). It would consist of over 35 members (RUC specialties supplemented by other groups such as MGMA, nurses, practice managers and others). The vast majority of specialties that commented on the refinement process indicated their support for the RUC proposal or for a similar process.

Initial Refinement Process

We continue to believe that our proposed general methodology is sound and responsive to the BBA requirements. We did receive a large variety of comments about broad methodology issues, practice expense per hour data, and detailed code level data. As described elsewhere, we have made some adjustments to our original proposal for a select number of situations in which we were convinced an adjustment was appropriate at this time. We are considering other comments for possible future refinement. The values of all codes will be considered interim for 1999 and for future years during the transition period. Rather than specify a detailed refinement process at this time, we will continue to work with the professional community to further develop the refinement process. We will modify the process as necessary during the period, based on our experiences and recommendations received.

Our plans to start the initial refinement process are as follows:

1. We plan to establish a mechanism to receive independent advice for dealing with broad practice expense RVU technical and methodological issues. We are considering contractor support and/or other ways of obtaining independent advice and assessments of comments that we have already received or will receive in the future about important technical issues, especially those that result in major redistributions among specialties. We welcome continuing advice and specific recommendations from the GAO, MedPAC, and the Practicing Physicians Advisory Council. We will also continue to actively consult with physician and other groups about these issues. We are particularly interested in receiving additional comments and suggestions about methodology from organizations that have a broad range of interests and expertise in practice expense and survey issues. All comments will be considered, but we especially encourage organizations that represent a broad range of physician, practitioner, and provider groups (for example, groups that represent both "winning" and "losing" specialties) with expertise in practice costs issues to make specific recommendations regarding the following methodology issues:

- *Bias in "Top Down" methodology.* Some commenters believe the methodology we are using to establish initial practice expense RVUs is flawed. They indicate that it is inappropriate to pass through costs and that the method will perpetuate inequities among specialties because high revenue specialties have more to spend on their practices. One possible way of dealing with this issue is to further analyze the differences in practice costs per hour by specialty to determine the "reasonableness" of these differences. Edits or other adjustments in practice costs data could be established if appropriate.
- Validation of data. It is difficult to establish an unbiased method for refining and validating practice costs data. Data from the SMS survey are self-reported. There could be major incentives in the future for respondents to expand the definition and reporting of "costs" for purposes of this methodology. In addition, we would expect that individual specialties would be likely to bring undervalued practice expense RVUs to our attention, but would not have an incentive to report overvalued practice expense RVUs. We welcome comments on the following:
  + What specific methods should HCFA use to validate key components of the data used for establishing practice expense RVUs?
  + What specific approaches should be used to ensure fairness among specialties?
  + Should we, for example, require that the specialty obtain review by an independent auditor before we consider changes in the data?
- Criteria for using alternative survey data. The primary source of practice costs per hour data was the AMA's SMS survey. Some specialties have already requested that alternative, supplementary, or more recent data be used. We welcome comments on what specific criteria should be established for use of these alternative data?
- Allocation of indirect expenses. We allocated indirect expenses to individual CPT codes based on physician work and direct expenses. Some commenters suggest that indirect expenses should be allocated by alternative methods, such as physician time and direct expenses, or just direct expenses. We would welcome your recommendations.

2. RUC/PEAC. We would welcome comments from the RUC/PEAC or any other organization or individual for individual code level data—both for resource inputs and time data. The RUC and PEAC would function as an entity independent from us, much like the current RUC operates for purposes of providing comments on work RVUs. We also recognize the RUC/PEAC may wish to comment on other aspects of the process, such as methodology. We would consider such comments along with those received from others and would likely discuss them as part of the process described in paragraph 1 above. However, we wish to emphasize that, as in our dealings with the current RUC, we would retain the ultimate authority and responsibility to establish practice expense RVUs.

3. Comments on the refinement process.

We seek comments January 4, 1999 and suggestions on any aspect of the refinement process as described above.

Comment: All but one of the organizations commenting on the issue, as well as many individual commenters, recommended that we keep the practice expense RVUs as interim for the 4 years of the process. One national specialty society recommended we make the revised practice expense RVUs interim for 1 year, only extending the period based on the number of misvalued procedures identified and also ensuring that only changes based on compelling evidence are made.

Response: We stated in our proposed rule that we would keep the practice expense RVUs as interim through at least through 1999. Due to the complexity of the issues that need to be addressed during refinement, we now believe that a longer period could be needed to finalize all the RVUs. Therefore, as stated above, we will be keeping all the RVUs as interim throughout the transition period.

Comment: Many commenters recommended acceptance of information from alternative data sources during the refinement period, including data provided by specialty societies. One commenter suggested that we develop a standard survey instrument for specialties to use. Another organization commented that we should consider using MGMA's cost survey as an alternative source of information that could be used to supplement, validate, or otherwise expose further areas of refinement in the SMS, or perhaps be a substitute for SMS in the future. This comment also stated that we should remain open to challenges about current practice expense per hour calculations from all specialties, even from those larger specialties represented in the SMS survey, in both the short and long term. Many commenters also recommended that we develop a process for validating any supplemental data that we use.

Response: We believe that the refinement process that we outlined above is responsive to these concerns. One of the major purposes of the technical support and advice mentioned will be to help us to determine what additional data, whether from large or small specialties, are needed, whether submitted information is valid, and whether and how alternative sources of data, such as the MGMA survey, can be used to validate the assumptions used to create the practice expense pools.

Comment: One specialty society commented that we should conduct specialty-specific surveys for all HCFA-designated specialties during the refinement period. The comment stated that it is not reasonable for us to put the burden of "oversample" costs, which exceed $100,000 on the HCFA-designated specialties that the AMA has chosen not to include in its annual survey sample.

Response: Decisions on what surveys are needed, what the criteria should be for those surveys, who should conduct the surveys, and who should fund them will be made as we address these issues during refinement.

Comment: One organization recommended that the refinement process distinguish between intra-specialty refinement issues that can be resolved within a specialty, and inter-specialty refinement issues which change the cost pool of one specialty with respect to all other specialties.

Response: Again, we believe that our chosen refinement process addresses this concern. The intra-specialty refinement issues will, for the most part, revolve around adjustments to the CPEP data and will be referred to the PEAC for their recommendations. Those issues that affect the relative size of the practice expense pools are generally more fundamental methodological questions for which we will seek technical and methodological input as well as input from the medical community.

Comment: One national organization commented that the SMS data appears to be the best data available for the purpose of determining practice expense RVUs and that SMS data closely mirrors the specialty's own data. The comment recommended that refinement should focus on identifying the proper inputs for particular codes, rather than adjusting the current SMS data, or revamping the design of the survey, which currently does not reflect a bias towards inflating practice expenses for individual specialties.

Response: We agree that the SMS survey is, at present, the best data available for determining aggregate specialty-specific practice costs. We believe one of the purposes of refinement is to pinpoint where appropriate adjustments need to be made in the data that we use. We also agree, as mentioned above, that we will need to develop a system to validate the accuracy of data collected in the future.

Comment: One commenter recommended that we ensure that cost-saving innovations are not discouraged by the refinement process. This means that the practice expense scale should not be refined to immediately reflect the full impact of every cost-saving development, or specialties will be permanently discouraged from implementing such innovations.

Response: We are required by law to develop practice expense relative values that are resource-based. Therefore, we do not believe that we could develop an alternative approach that would only apply to cost-saving innovations. We also do not believe that the use of resource-based practice expense RVUs will have a significant effect on cost-saving innovations; on the contrary, the use of a prospectively determined payment system, in itself, offers an incentive for any individual practitioner to cut costs.

Comment: Two commenters recommended that codes for entirely new procedures and technologies have their practice expense values taken from the all-specialty practice expense pool; two organizations recommended that codes that apply to new technologies to replace current procedures come from the pertinent specialty's pool.

Response: There would be no budget neutrality adjustment for new codes that represent entirely new procedures and technologies. However, we believe that, in the majority of cases (since we would typically expect some type of substitution of new services for more established services) a budget neutrality adjustment would be appropriate. In such a case, we would spread the adjustment across all services. However, new codes that merely replace existing services would only affect the pertinent specialty's pool at the time when the practice expense pools are recalculated.

Comment: A primary care specialty group recommended that we leave undisturbed the Harvard and RUC time data during the refinement period because of the implications for the work RVUs assigned to codes, while a surgical specialty group recommended that we remain open to revising the Harvard physician time data.

Response: The physician time data plays an important role in determining the size of each specialty's practice expense pool and, for this reason, it is important that this data be as accurate as possible. Therefore, we cannot rule out the need for adjustments in the time data during the refinement period. However, according to our chosen refinement process, requests to adjust the physician time data would be initially referred to the RUC. We believe that the RUC will understand the implications that changes in physician times could have for the work RVUs.

Comment: One commenter agreed with our proposal that we address potential bias toward specialties which use more midlevel providers during the refinement period.

Response: This is one of the issues on which we will be seeking input during the refinement period.

Comment: The AMA, supported by comments from two physician specialty groups, recommended that, to avoid confusion, we publish only the blended set of values each year, but make a list of the resource-based practice expense RVUs available to interested parties. Any proposed changes in the resource-based practice expense RVUs could then be published in the spring proposed rules. Four organizations recommended that both sets of RVUs be published throughout the period.

Response: We are publishing both sets of RVUs in Addenda B and C.

5. Reductions in Practice Expense Relative Value Units for Multiple Procedures

Comment: Two commenters expressed agreement with our decision not to propose further multiple procedure reductions. Gastroenterologists stated that multiple procedure reductions should not apply to GI procedures done through different orifices.

Response: Although we have not made a specific proposal with respect to multiple procedures thus far, we may do so in the future. We continue to believe there are efficiencies when more than one service is performed during a single encounter.

6. Transition

The Proposed Rule

The transition to resource-based practice expenses, enacted in section 4505(b) of BBA, requires practice expense RVUs in 1999 to be based 75 percent on the existing charge-based practice expense system and 25 percent on the new resource-based system. In 2000, the shares are 50 percent the former and 50 percent the latter, and in 2001, the shares are 25 percent and 75 percent, respectively. Beginning in 2002, practice expense RVUs are entirely resource-based.

In our October 31, 1997 final rule (62 FR 59052), we indicated that we would use, as the first factor in the transition formula, the 1998 practice expense RVUs actually used for payment. ("The practice expense RVUs for 1999 will be based on the product of 75 percent of the previous year's practice expense RVUs (1998) and 25 percent of the resource-based practice expense RVUs.") In response to this statement, we received a comment suggesting that we consider interpreting the law to use 1997 practice expense RVUs as the starting point for the transition. This interpretation would have eliminated from the transition the 1998 changes in practice expenses enacted by section 4505 of BBA. Those commenting contended that the 1998 changes applied only to 1998 and should not be included in the first practice expense factor in the transition formula. Using 1997 RVUs would have resulted in higher payments for certain specialty procedures and lower payments for office visits during 1999, 2000, and 2001. Beginning in 2002, the starting point for the transition does not matter because the transition will be complete and practice expenses will be based entirely on the new resource-based system.

When we developed the proposed rule, we specifically considered the suggestion that we use actual 1997 practice expense RVUs as the starting point for the transition. In the proposed rule we indicated that we did not believe that we could use 1997 practice expense RVUs for several reasons. First, this approach seemed to us contrary to the statute's intent of moving toward a resource-based payment system; also, the interpretation could potentially result in a "yo-yoing" of practice expense RVUs for certain services between 1998 and future years. We pointed out that practice expense RVUs for office medical visits, explicitly increased by the Congress in 1998, could be reduced in 1999 only to be increased again when the practice expenses are fully resource-based.

We also stated that we would not use 1997 practice expense RVUs as the starting point for the transition because this result was inconsistent with our construction of similar reductions, enacted in OBRA 1993, to practice expense values for 1994, 1995, and 1996. We also indicated that we would reject the only other possibility, using 1991 practice expense RVUs; using 1991 RVUs would be unacceptable since to do so would exclude the effects of the series of reductions to practice expense RVUs mandated by the Congress between 1993 and 1998 and would instead return the system to outmoded practice expense RVUs established at the very inception of the fee schedule. We indicated that we believed this to be a poor alternative. Basing the transition on data for 1991, from which the original practice expenses were derived, would require us to retrospectively impute charge data for the many new procedure codes that had been added since the beginning of the fee schedule. It also would have been contrary to the statutory scheme, which is moving steadily toward a resource-based payment system. We indicated that adoption of 1991 data for the transition starting point would not gradually transition payments to the new resource-based system, but instead would represent an abrupt change in direction. This result is at odds with the purpose of a transition and inconsistent with other transitions in Medicare. Therefore, the June 1998 rule proposed to use the 1998 practice expense RVUs for purposes of the transition formula in 1999, 2000, and 2001.

We received comments strongly supporting the approach we took in the proposed rule, as well as strongly opposing our approach. These comments centered on section 1848(c)(2)(C)(ii) of the Act. That provision requires practice expense RVUs to be computed by multiplying "base allowed charges" by a practice expense percentage. BBA then requires that this "product" be used as the first factor in the transition formula. A cross-reference to section 1848(c)(2)(D) of the Act appears to require base allowed charges to be generated from charge data for 1991. However, we believe that a number of other factors demonstrate the irrationality of using data for 1991 as the transition starting point. Using data for 1991 would be a total aberration from the course of the past 7 years of congressional directives to decrease practice expense RVUs from which office-based and visit codes were generally excepted and would turn the clock back without any congressional direction to do so. We have analyzed both the statutory language and the context in which it is found, and we have determined that the best accommodation of the two is to use current 1998 practice expense RVUs as the basis for the transition to the resource-based practice expense system.

We have considered, among other things, that we are authorized by law to make such ancillary policies as are

necessary to implement section 1848 of the Act; that the equation, based on 1991 average allowed charges that the law seems to instruct us to use as the transition starting point, ignores consistent legislative direction since 1993, as well as our consistent implementation; that we have not used the average allowed charge provision since the establishment of practice expense RVUs in 1991, that it has no ready application to the more than 2000 codes developed since 1992, and, therefore, that using 1991 allowed charges for the transition creates a significant administrative burden, unintended by the Congress, particularly given the short time period for implementation; that the language describing the transition formula and the language describing the "product" upon which it is based are internally inconsistent; that our implementation of adjustments in accordance with section 1848(c)(2)(G) of the Act is consistent with our implementation of the OBRA 1993 3-year reductions; that the Congress is familiar with our implementation, has amended section 1848(c) of the Act since the implementation, and has not acted legislatively to alter our implementation prospectively. In addition, we note that the Physician Payment Review Commission (PPRC) studied resource-based practice expenses for a number of years, that the Congress is familiar with PPRC's data and analyses, and that the results of our transition are consistent with the results PPRC predicted. In sum, we believe that our construction of the law most appropriately resolves the tensions inherent in the practice expense transition provisions of the BBA.

We address below the specific comments we received with respect to transition issues.

Comment: Some commenters, mainly societies representing surgical specialties, opposed our proposed approach and indicated that our proposal to use the 1998 practice expense RVUs in the transition formula is in conflict with the language and intent of BBA. These commenters argued that section 1848(c)(2)(C)(ii)(I) and (II) of the Act require that the practice expense charge data relied upon in 1991 to establish the 1992 practice expense RVUs be used for the first factor in the transition formula. They also contend that the adjustments to the 1998 practice expense RVUs, required by BBA, were intended to accomplish a one-time redistribution of RVUs from specialty codes to primary care codes and that using these RVUs during the transition would perpetuate the redistribution for three more years. These commenters claimed that this transition would redistribute an estimated additional $490 million from specialists to office-based codes.

These commenters assert that the charge-based factor in the transition must be the formula in section 1848(c)(2)(C)(ii) of the Act that established practice expense RVUs as the product of (I) the base allowed charges for a service, and (II) the practice expense percentage for the service. Base allowed charges are defined in section 1848(c)(2)(D) of the Act as "with respect to a physician's service, the national average allowed charges for the service . . . for services furnished during 1991, as estimated by the Secretary using the most recent data available." (The practice expense percentage is defined in section 1848(c)(3)(C)(ii) of the Act.) Therefore, according to these commenters, the reference in the transition provision that RVUs be determined based on "such product" requires us to use 1991 average charges to compute 1999 RVUs.

Response: We disagree with these commenters. We believe that the formula in section 1848(c)(2)(C)(ii) of the Act is internally inconsistent, that it was intended for the establishment of the original practice expense RVUs, that it has no ready application to the 2,000 codes new or revised since 1991, and that it produces results inconsistent with the balance of section 1848(c)(2)(C) of the Act. The commenters' construction of the law would eviscerate the changes the Congress made to practice expense RVUs since 1993 and would require that we revert to the beginning of the program in the absence of congressional direction to do so.

First, we believe that the reference to "such product" in section 1848(c)(2)(C)(ii) of the Act supports our view that the Congress contemplated that the first factor in the transition formula would be based on RVUs and not on 1991 average allowed charges. Under the commenters' reading, the transition formula requires that in 1999 we multiply 75 percent of a product based on average allowable charges and 25 percent of the resource-based RVUs. However, "average allowed charges" are expressed as dollar figures, while the resource-based factor is expressed in RVUs. This internal inconsistency suggests that the Congress contemplated instead that both factors in the formula would be expressed in RVUs and that we would use current RVUs produced under section 1848(c)(2)(C) of the Act for the first factor in the transition.

Moreover, although the Congress has not repealed section 1848(c)(2)(C)(ii)(I) and (II) of the Act, the provisions have not been applied in the fee schedule computations since 1992 when the first practice expenses were established. The language of the provisions indicate the inappropriateness of their application here. Thus, section 1848(c)(2)(D) of the Act, incorporated by reference, provides for use of average allowed charges "as estimated by the Secretary using the most recent data available." This language would seem to require us to use 1998 data to recompute 1991 charges, surely an unintended result. In addition, in 1993, the Congress required us to compute practice expenses RVUs on a basis other than that contained in section 1848(c)(2)(C)(ii) of the Act: effective January 1, 1994, section 1848(c)(2)(E) of the Act provided for a "[r]eduction in practice expense relative value units for certain services." The Congress did not explicitly state that the amendment applied notwithstanding the existing language of section 1848(c)(2)(C)(ii) of the Act; instead, the amendment operated without recourse to that provision at all. The amendment envisioned that reductions would be made to the "relative value units [being] applied" at that time, not to charges for 1991. At the end of the period for which reductions were specified in section 1848(c)(2)(E) of the Act, practice expense RVUs did not revert to 1992 values based on 1991 charges; RVU changes produced by section 1848(c)(2)(E) of the Act were permanent and carried forward into the next year's (1997) practice expense RVUs. These more recent and more specific provisions added by the Congress in subsequent years obviously control over the original provision, and the commenters' argument, if adopted, would wipe out the effects of these intervening changes in the law. We believe that it is far more rational and consistent with congressional intent to harmonize the computation during the 4-year transition period with recent legislative changes rather than reverting back to a system from 1991 that has been unused since that time.

Section 1848(c)(2)(G) of the Act, like section 1848(c)(2)(E) of the Act, provides specified reductions for specified services for a particular year to lower excessively high practice expense RVUs; it explicitly raises low RVUs attributable to office visit codes. Section 1848(c)(2)(E) of the Act also provides that "the aggregate amount of reductions" to practice expense RVUs for services furnished in 1998 cannot exceed $390 million. We believe that the Congress intended that RVU changes resulting from application of section

1848(c)(2)(G) of the Act be treated in the same way as we had treated changes resulting from application of section 1848(c)(2)(E) of the Act, that is, that the RVU changes produced by section 1848(c)(2)(G) of the Act would be permanent and carried forward into the next year's fee schedule.

Accepting the comments advocating use of the 1991 average allowed charges in the transition formula would present other difficulties. We did not establish average allowed charge RVUs for codes new or revised since 1991. Thus, using 1991 average allowed charges in the transition would require us to retroactively impute average allowed charges for procedure codes that did not exist in 1991. This would be a significant administrative burden, particularly given the obligation to have these amendments implemented by January 1, 1999.

We believe that the Congress intended that we devote our efforts to developing the resource-based practice expense system and refining practice expense RVUs, rather than to creating a set of imputed charges for new codes to be used only for the transition. BBA explicitly requires the Secretary to develop a process to refine resource-based practice expense RVUs during each year of the transition (see section 4505(d)(1)(C) of the Act). On the other hand, there is no mention of our refining what 1991 national average allowed charges would have been for more than 2,000 new codes. It is unlikely that the Congress contemplated that we would pursue the imputation of 1991 charges in the limited time we had to retool the resource-based practice expense system, especially given that the imputed values would have no utility after 2001.

Additionally, we note that section 1848(c)(4) of the Act provides authority for us to "establish ancillary policies (with respect to the use of modifiers, local codes, and other matters) as may be necessary to implement this section." We view this situation as one appropriate for the application of the ancillary policies provision. We believe, as we have noted, that the statutory language and the context in which it appears are at odds and create an ambiguity that we must resolve based on the design of the section as a whole and the congressional policies underlying it, and we are using section 1848(c)(4) of the Act for that purpose. In order to rationally implement section 1848(c) of the Act, we will use 1998 RVUs for the first factor in the transition formula.

Comment: The surgical specialty societies argue that implementing section 1848(c)(2)(G) of the Act in the same manner as section 1848(c)(2)(E) of the Act is prohibited because the "adjustments in relative value units for 1998" are limited to $390 million and that including the reduced practice expense RVUs in the base for the transition makes reductions total more than $390 million.

Response: We do not agree with that statement. We believe that the commenters are misreading the limitation on the "aggregate" reallocation; that limitation applies only to amounts attributable to services furnished in 1998. The law requires us to "increase the practice expense relative value units for office visit procedure codes during 1998 by a uniform percentage which [HCFA] estimates will result in an aggregate increase in payments for such services equal to the aggregate decrease in payments" for the overpriced practice expenses. The provision simply contemplates that we add the increase for each service and assure that the total of all increases is equal to the total of all decreases in payments for the overpriced practice expenses. This provision does not restrict the use of the 1998 practice expense RVUs in future years. To read the law as these commenters suggest would be to reverse years of intentional redistribution of practice expense RVUs mandated by the Congress.

Comment: Primary care groups who commented on the proposed rule asserted that the 1998 "down payment" (the increased practice expense RVUs for office visit codes created by section 1848(c)(2)(G)) of the Act was a step in the direction of the ultimate resource-based system. On the other hand, a surgical group believed that we were biased because we presumed that a resource-based practice expense RVU system would lead to a reduction in most specialty codes and a corresponding increase in primary care codes.

Response: The trend in practice expense RVU redistributions under a resource-based system is clear, and section 1848(c)(2)(G) of the Act is another step in that progression, consistent with the preceding redistributions which the Congress mandated in 1993. The direction of payment changes for major categories of service—increases for medical visits and reductions for surgical procedures—has been mandated by the Congress, implemented by HCFA, and known to the public for some time. The exception of office-based services from the 1993 practice expense RVU reductions clearly indicated that the Congress intended a relative redistribution toward those services. While the Congress could not know, on a procedure-by-procedure basis, the impact of the new resource-based system, it was cognizant of the general direction of a resource-based system before it enacted section 121 of the Social Security Act Amendments of 1994, mandating resource-based practice expense RVUs.

Establishment of a resource-based system for practice expenses has been discussed for some time. In 1992, the PPRC, a statutorily established Commission that provided advice and recommendations to the Congress, issued a report titled "Practice Expenses Under the Medicare Fee Schedule: A Resource-Based Approach" (Number 92–1). That report described the Commission's research on a resource-based alternative for calculating practice expense RVUs. It showed the direction of the projected redistributions. The report showed that RVUs for the category of evaluation and management services (medical visits or primary care services) would increase and the category of surgical procedures would decrease.

In its 1993 Annual Report to the Congress, the Commission specifically recommended that the Congress enact a resource-based system for payment of practice expenses. The report, at page 147, indicated:

> The Commission has long questioned the appropriateness of these charge-based practice expense and malpractice expense relative values as part of the Medicare Fee Schedule. Since it suggested the OBRA 89 approach as an interim measure in the *Annual Report to Congress 1989*, the Commission has been working to develop methods for calculating practice expense and malpractice expense relative values that are more consistent with the reform goals of resource-based payments (PPRC 1989). This work has lead to the identification of methods for calculating these two components that the Commission thinks are more appropriate than the OBRA 89 formulas. Both the practice expense and malpractice expense methods have been described in previous reports to Congress, and each is the topic of a special research report issued by the Commission (PPRC 1992b; PPRC 1992c).

In the same report, the Commission specifically recommended:

> The Congress should revise the practice expense component of the Medicare Fee Schedule so that it will be resource-based. Practice expense relative values should be based on data about the direct costs incurred in delivering each service and an incentive-neutral formula to allocate indirect costs. A transition to new practice expense relative values should be introduced beginning in 1997. This date will allow for completion of the current fee schedule transition process and for development and refinement of the resource-based approach.

Id. This report also showed the impact of a resource-based system for four major categories of services. The Commission estimated that the total payment for evaluation and management services would increase by 12 percent, that diagnostic procedures would decrease by 19 percent, that surgical global services would decrease by 29 percent and that technical procedures would not be changed. (These impacts reflect the total Medicare payment; when measured relative to the practice expense component alone, there would be greater percentage changes.) Thus, the PPRC reports put the Congress on notice about the direction of changes under a resource-based system.

The Congress, in section 13513 of OBRA 1993, enacted reductions in the practice expense component payment to move toward resource-based practice expense RVUs. (The Congress also used these reductions to achieve savings in the Medicare program.) The Congress specifically exempted from reduction any services that were performed at least 75 percent of the time in an office setting. Therefore, the impact of the reductions fell on surgical procedures, and the largest impact occurred for those procedure codes for which the practice expense RVUs most exceeded work RVUs. The structure of section 1848(c)(2)(E) of the Act—reduction of one-quarter of the amount of excess practice expense in each of 3 years—was itself a transition to moderately reduce practice expense RVUs for non-office-based codes rather than to decrease them precipitously.

Section 121 of the Social Security Act Amendments of 1994 required us to develop and implement resource-based practice expense RVUs effective January 1, 1998. Section 4505 of the BBA postponed the change to resource-based values, but included another round of reductions for certain non-visit codes. We agree with the comment that the 1998 payment changes were simply another step in the ongoing process moving payments in the direction of the resource-based practice expense system.

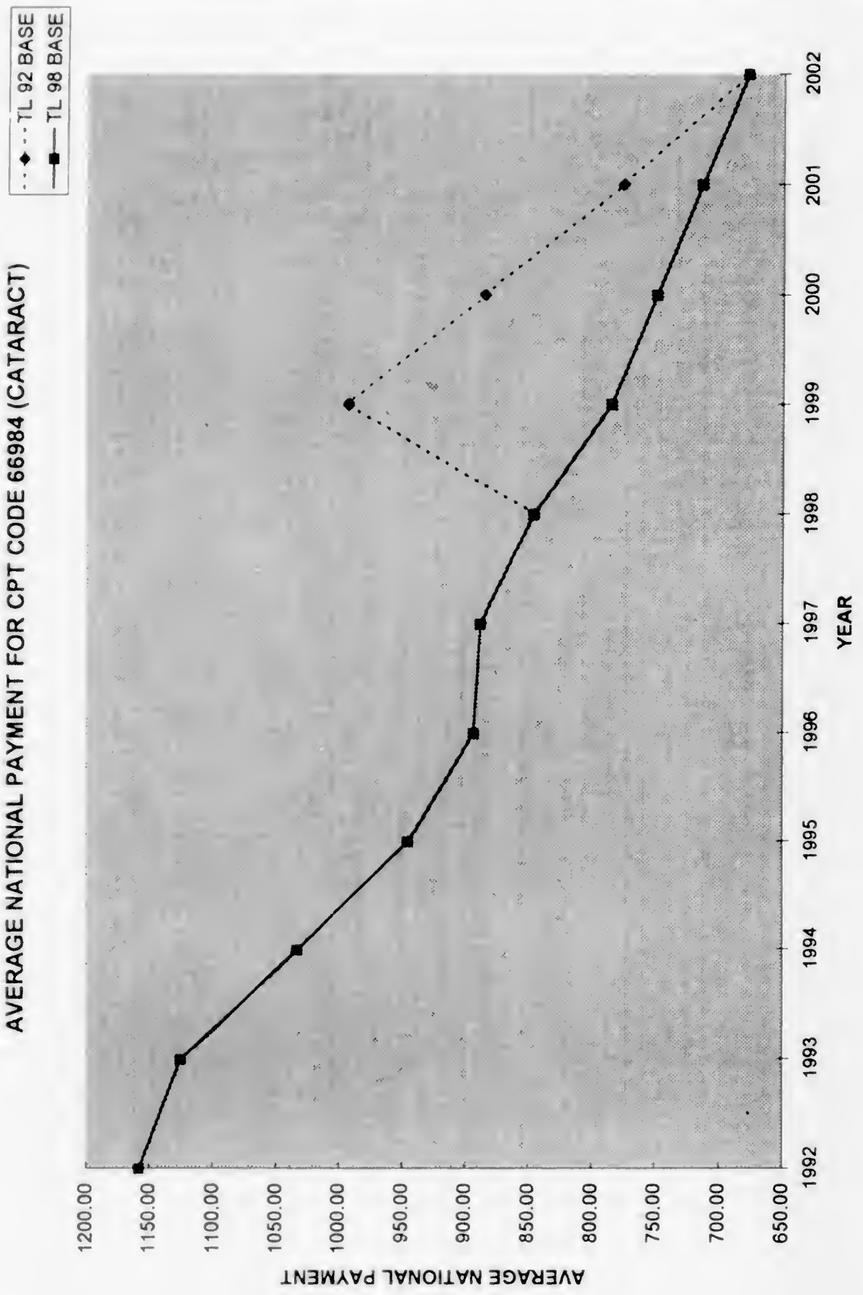
Comment: Groups representing primary care physicians supported our proposal, stating that using 1997 RVUs for the transition would cause some RVUs to "ping-pong" between 1998 practice expense RVUs and the transition years. Some commenters opposing the transition policy in the proposed rule stated that the "yo-yoing" of practice expense values around the transition was not inconsistent with the statutory scheme.

Response: We agree that it is inconsistent with the statutory scheme to create sharp reversals in practice expense RVUs. A transition in the direction of a resource-based practice expense system began in 1993, and a one-time upward spike in RVUs for surgical procedures, which ignores the changes previously made, would be inconsistent with congressional intent and with the very purpose of a transition.

In response to comments on our proposed rule, we have examined the impact of the transition more precisely for a limited set of procedures. While this example is illustrative only, it shows that using 1991 average allowed charges in the transition formula (disregarding the 1998 redistribution, the OBRA 1993 practice expense payment reductions, and all budget neutrality adjustments) would result in marked payment spikes in 1999 for procedures whose fully-implemented resource-based practice expense RVUs are lower than their 1998 practice expense RVUs.

The chart below illustrates the changes in practice expense RVUs for each year from 1992 through 1998 and the estimated practice expense RVUs for 1999, 2000, 2001, and 2002, using data for 1991 and 1998 RVUs as alternative starting points for the transition. The chart shows the figures for cataract removal and intraocular lens insertion (CPT code 66984); the practice expense RVUs for cataract surgery decreased under both the OBRA 1993 and BBA reductions. Practice expense RVUs for cataract surgery will decrease between 1998 and 2002 when the resource-based system is fully implemented. The chart shows that there would be smooth, moderate decreases between 1998 and 2002, as we understand the Congress to have intended, if the 1998 practice expense RVUs are used in the transition formula. The chart also shows that there would be large increases in 1999 practice expense RVUs (compared to 1998 and even compared to earlier years) if the transition practice expense RVUs were based on 1991 average allowed charges. There would indeed be spikes in Medicare payments unless the 1998 practice expense RVUs are used in the transition formula, as we understand the Congress to have intended, during 1999, 2000, and 2001.

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Comment: Commenters opposing the proposed policy stated that the legislative history does not indicate that the Congress shares our concern about sharp changes in the redistribution of practice expense RVUs.

Response: We believe, instead, that the shape of the reductions made by section 1848(c)(2)(G) of the Act evidences the Congress' concern on this point. That provision explicitly exempted from reduction any procedure if the in-office or out-of-office practice expense RVUs would have increased under our June 1997 proposed rule. Thus, the Congress specifically chose not to reduce RVUs for a procedure if they were subsequently to be increased under the resource-based system. In this way, the law reflects congressional intent to avoid perverse shifts in practice expense RVUs during the transition.

Comment: Commenters opposed to the proposed rule also suggested that the OBRA 1993 changes codified at section 1848(c)(2)(E) of the Act were intended by the Congress to be temporary and apply only during 1994, 1995, and 1996.

Response: We disagree; the provisions were scored legislatively as permanent reductions, and we note that we implemented the OBRA changes in that way. Moreover, the Congress has acquiesced in our implementation of section 1848(c)(2)(E) of the Act. As discussed earlier, the OBRA 1993 reductions for practice expenses were designed to achieve Medicare savings while moving the system in the direction it would ultimately move under a resource-based system, greater relative payments for office-based procedures. The Congressional Budget Office and the Administration "scored" section 13513 of OBRA as having permanent savings, from which it can be inferred that the payment reductions were permanent. Until we received this comment in response to the proposed rule, it had not been suggested that our implementation of section 1848(c)(2)(E) of the Act was contrary to congressional intent. In fact, the Congress has since amended section 1848(c) of the Act without legislatively altering our implementation of section 1848(c)(2)(E) of the Act. We believe that the Congress' failure to take contrary legislative action on our implementation of section 1848(c)(2)(E) of the Act indicates that we have implemented that provision as the Congress intended.

Comment: One specialty society commented that there should be no transition for services that are new in 1999 and beyond.

Response: The law is silent as to whether there should be a transition for new services in 1999 and beyond. However, we agree with the commenter and will not provide a transition for codes representing services that are new beginning in 1999.

Comment: One specialty society suggested that we consider asking the Congress for additional transition time due to the disruption caused by the year 2000 computer systems overhaul.

Response: For 1999, we plan to make routine provider payment updates and other BBA changes. These pose minimal risks to contractors' year 2000 (Y2K) efforts and, therefore, can be done. Routine updates between October 1, 1999 and April 1, 2000 may need to be delayed because they would occur during a critical timeframe in late 1999 and early 2000 when final Y2K testing and refinements must be accomplished. We will actively consult with interested professional groups, the Congress and other parties as we develop our plans to achieve Y2K compliance while causing minimum disruption in fee schedule updates.

Comment: A surgical group suggested that we limit the magnitude of the changes in physician payments by imposing some reasonable limit on payment increases and decreases for individual services. They argue that such an approach is advisable because of what they believe is uncertainty about the accuracy of the resource-based RVUs.

Response: We do not believe that it is appropriate to place limits on increases or decreases in payments as a result of the implementation of the new system. We believe that the Congress addressed concerns about the accuracy of new values by explicitly providing for a transition and requiring a refinement process to be used each year of the transition. We believe that, in so doing, the Congress indicated its view of the appropriate contours of relief from the effects of redistribution of practice expense RVUs.

Resolution

We have considered all of the comments on our proposal to use 1998 practice expense RVUs in the formula for the 1999, 2000, and 2001 transition to fully resource-based practice expense values. We believe that use of 1998 practice expense RVUs is most consistent with the statutory design for resource-based practice expense and that using 1991 average allowed charges for this purpose would be antithetical to this scheme and to the purpose of providing a smooth transition. Thus, we are using the current, 1998, practice expense relative values in the transition formula for 1999 through 2001.

Revisions to the Regulations

We are revising § 414.22 (Relative value units (RVUs)), paragraph (b), (Practice expense RVUs), to state that for services beginning January 1, 1999, the practice expense RVUs will be based on a blend of 75 percent of practice expense RVUs used for payment in 1998 and 25 percent of the relative practice expense resources involved in furnishing the service. For services beginning January 1, 2000, the practice expense RVUs will be based on a blend of 50 percent of the 1998 PE RVUs and 50 percent of the relative practice expense resources involved in furnishing the service. For services beginning January 1, 2001, the practice expense RVUs will be based on a blend of 25 percent of the 1998 practice expense RVUs and 75 percent of the relative practice expense resources involved in furnishing the service. For services beginning January 1, 2002, the practice expense RVUs will be based on 100 percent of the relative practice expense resources involved in furnishing the service.

There will be only one level of practice expense RVUs per code for the following categories of services: those that have only the technical component of the practice expense RVUs; only the professional component practice expense RVUs; certain evaluation and management services, such as hospital or nursing facility visits that are furnished exclusively in one setting; and major surgical services. For other services, there will be two different levels of practice expense RVUs per code. The lower practice expense RVUs will apply to services furnished to hospital or ASC or SNF patients. The higher practice expense RVUs will apply to services furnished in a physician's office or services other than visits but performed in a patient's home and services furnished to patients in a nursing facility or an institution other than a hospital, ASC, or SNF.

Result of evaluation of comments: Based on our evaluation of all comments received on our proposed resource-based practice expense methodology, we have made the following modifications:

- Creation of a separate pool for services with work RVUs equal to zero. We created a separate practice expense pool for services with work RVUs equal to zero (including the technical components of services with professional and technical components) using the top-down methodology except we used the average clinical staff time

from the CPEP data (since these codes by definition do not have physician time) and, as an interim measure, we used the current 1998 practice expense RVUs to allocate the direct cost pools (clinical labor, medical supplies, and medical equipment). For services with professional and technical components paid under the physician fee schedule, the global practice expense RVUs are set equal to the sum of the professional and technical components.

• Allocation of the indirect cost pool. In the indirect allocation methodology, we are converting the work RVUs to dollars using the Medicare conversion factor (expressed in 1995 dollars for consistency with the SMS survey years).

• SMS based practice expenses per hour. For the specialty of emergency medicine, we are using the "All Physician" practice expense per hour to create practice expense cost pools for the categories "clerical payroll" and "other expenses."

For the specialty of pathology, we are removing the supervision and autopsy hours reimbursed through Part A of the Medicare program from the practice expense per hour calculation.

For the specialty of podiatry, we are using the "All Physician" practice expenses per hour to create the practice expense cost pools.

For the specialty of allergy/immunology, we are using the "allergy/immunology" supply practice expenses per hour to create the supply practice expense pool.

We are splitting the "radiology" practice expenses per hour into "radiation oncology" practice expenses per hour and "radiology other than radiation oncology" practice expenses per hour and using these split practice expenses per hour to create practice expense cost pools for these specialties.

• Corrections to code crosswalks. We had inadvertently crosswalked some codes in settings where CPEP data existed. We have removed these crosswalks.

• Use of the current practice expense relatives for radiology services. For the specialty of radiology, we are using the current practice expense relatives for radiology services, as an interim measure, to allocate radiology's direct practice expense cost pools. For all other specialties that perform radiology services, we are using the CPEP relatives for radiology services in the allocation of that specialty's direct practice expense cost pools. Note that radiology services or components of radiology services that lack work relative value units are handled as described above under "Creation of a separate pool for services with work relative value units equal to zero."

• Physician's time for radiology codes. For radiology codes for which we lacked Harvard or RUC survey data, we calculated the physician's time using the average work per unit time of CPT codes 71010 and 71020.

• Maxillofacial prosthetics. For maxillofacial prosthetics, we are using the "All Physician" practice expenses per hour to create practice expense cost pools and, as an interim measure, allocating these pools using the current practice expense RVUs.

B. Medical Direction for Anesthesia Services

General Requirements

The conditions for payment of medical direction for anesthesia services are included in § 415.110 (Conditions for payment: Medically directed anesthesia services). Before January 1999, the regulations referred to these conditions as applying to services furnished directly or concurrently. The reference to services furnished directly is not correct. It suggests that the physician personally performing the anesthesia services only has to provide the same kind of services as the physician medically directing the anesthesia service. In fact, the physician personally performing the anesthesia service must perform the entire anesthesia service alone. This policy is included in § 414.46(c)(1)(i) (Additional rules for payment of anesthesia services, Physician personally performs the anesthesia procedure). Therefore, we are deleting the reference in § 415.110 to services furnished directly.

The December 1995 final rule (60 FR 63152) allows the physician's medical direction of a certified registered nurse anesthetist (CRNA) performing a single anesthesia service. However, this provision did not take effect until January 1, 1998. This policy was incorporated in § 414.46(d)(iii) (Additional rules for payment of anesthesia services, Anesthesia services medically directed by a physician). A program memorandum explaining this policy was issued to the Medicare carriers in January 1998.

In the June 1998 proposed rule, we proposed revising § 415.110 (Conditions for payment: Medically directed anesthesia services) so that it is consistent with § 414.46(d)(iii) by stating that medical direction can apply to the single anesthesia service furnished by a CRNA.

The law provides that the payment allowance for the physician's medical direction furnished on or after January 1, 1998, is 50 percent of the fee schedule amount that would have been paid if the anesthesia service was furnished by the physician alone.

Both the ASA and the American Association of Nurse Anesthetists (AANA) have pointed out that our medical direction requirements are outdated and too restrictive. The requirements are oriented to the administration of a general anesthetic, which was the predominant mode of practice when the regulations were originally implemented. There are other types of anesthesia, such as regional, spinal or epidural anesthesia, and monitored anesthesia care, that are becoming more common and for which the Associations argue, the current requirements are not completely appropriate. For example, in monitored anesthesia care, there is no definable emergence as there is for general anesthesia.

Also, the AANA has advised us that requiring the presence of the anesthesiologist for induction for all cases may not be appropriate and may delay the start of surgery and result in the inefficient use of operating room time. In addition, the ASA has advised us that neither the regulations nor the operating instructions explain the level of documentation required by the anesthesiologist to support the payment for the medical direction service. The ASA believes that the lack of instructions for medical documentation and the concerns about payment audits have reportedly prompted anesthesiologists to overly document anesthesia records.

The ASA and the AANA reached substantial consensus on a revised recommended set of medical direction requirements. The only area that they had a difference of opinion was with respect to the pre-anesthetic exam and evaluation. The ASA favored the requirement that the physician personally perform the examination and the AANA initially favored the requirement that the physician ensure that the examination and evaluation be performed by a qualified individual. We chose the proposed language as a compromise position. We reviewed their recommendations and proposed revising our regulations in § 415.110 (Conditions for payment: Anesthesia services) to reflect current anesthesia practice arrangements. Namely, we proposed to—

• Provide that the physician either perform the pre-anesthesia examination and evaluation or review one performed by another qualified individual;

• No longer require the physician to be present during induction and emergence on all anesthesia cases; and

• Require that the physician—

+ Monitor the course of anesthesia at intervals medically indicated by the nature of the procedure and the patient's condition;

+ Remain physically present in the facility and immediately available for diagnostic and therapeutic emergencies; and

+ Provide indicated post-anesthetic or ensure that it is provided by a qualified individual.

SUMMARY OF PROPOSED CHANGES TO MEDICAL DIRECTION REQUIREMENTS

	For each patient the physician—	
	Current regulations	Proposed regulations
(i)	Performs a pre-anesthetic examination and evaluation	Performs a pre-anesthetic examination and evaluation, or reviews one performed by another qualified individual permitted by the State to administer anesthesia.
(ii)	Prescribes the anesthesia plan.	Participates in the development of the anesthesia plan and gives final approval of the proposed plan.
(iii)	Personally participates in the most demanding procedures in the anesthesia plan including induction and emergence.	Personally participates in the most demanding aspects of the anesthesia plan.
(iv)	Ensures that any procedures in the anesthesia plan that he or she does not perform are performed by a qualified individual as defined in program operating instructions.	Ensures that any aspect of the anesthesia plan not performed by the anesthesiologist is performed by a qualified individual as specified in operating instructions.
(v)	Monitors the course of anesthesia at frequent intervals	Monitors the course of anesthesia at intervals medically indicated by the nature of the procedure and the patient's condition.
(vi)	Remains physically present and available for immediate diagnosis and treatment of emergencies.	Remains physically present in the facility and immediately available for diagnostic and therapeutic emergencies.
(vii)	Provides indicated post-anesthesia care	Provides indicated post-anesthesia care or ensures that it is provided by a qualified individual.

Comment: Almost all commenters recommended that we drop the proposed medical direction requirements and retain the current requirements. They pointed out that the proposed regulations would significantly relax the requirements for physician involvement in the provision of anesthesia care when a qualified nonphysician anesthetist is providing these services. They believe these changes would be to the detriment of patients and would diminish the current standards of care. The focus of these commenters' concerns was on the proposed requirements that the medically directing physician—(1) Could review a pre-anesthetic examination and evaluation performed by a qualified individual permitted by State law to administer anesthesia; and (2) ensure that indicated post-anesthesia care is provided by a qualified individual.

Several commenters also pointed out that the proposed requirement that the physician participate in the most demanding procedures in the anesthesia plan could be construed as meaning that the medically directing physician does not have to participate in any aspect of anesthesia care. Commenters also objected to the proposed requirement that the physician remain physically present in the facility and immediately available for diagnostic and therapeutic emergencies. The commenters pointed out that the proposed requirement is too lax and could be interpreted to mean the medically directing physician could be located anywhere in the facility.

Response: The medical direction requirements specify the activities that the medically directing physician, who is usually an anesthesiologist, must perform in order for the carrier to allow payment for a physician's service under the physician fee schedule. The medical direction requirements are not quality of care standards. As one commenter pointed out, these requirements are minimum requirements. Practicing anesthesiologists can, if they choose, furnish a level of services beyond the minimum standards.

As we noted in the proposed rule, we had decided to propose revised medical direction requirements because of concerns that the ASA and the AANA presented. We had asked the ASA and AANA to work together, to the extent practicable, to come up with a revised set of medical direction requirements. In February 1998, we met with both groups and heard their views and concerns. At that time, with the exception of the first proposed requirement that the CRNA be able to furnish the preanesthesia exam and evaluation and have the medically directing physician review it, it was our understanding that the leadership of both groups agreed to the uniform revised requirements.

However, because of concerns raised by their membership, the ASA and several State anesthesiologist societies are now requesting, for the most part, that we retain the current requirements, established in 1983.

We have decided to retain the current requirements (that is, requirements (i) and (ii), and (iv) through (vii)) in the preceding table and make only one technical revision in requirement (iii) at the present time. We will study the medical direction issue further and may propose to make a change in the future. The technical revision pertains to the requirement that the physician participate in the most demanding procedures in the anesthesia plan including, induction and emergence. We published a final rule in the **Federal Register** on March 2, 1983 (48 FR 8928) in which the current requirements for medical direction were included to implement section 108 of TEFRA of 1982. Since general anesthesia was the usual mode of practice for anesthesia services, the requirement reflected this practice. However, since 1983, other types of anesthesia care, such as regional anesthetics and monitored anesthesia care have become more common. One of our objectives was to revise the current requirement so that it is consistent with current anesthesia practices. As a result, we have decided that the medically directing physician must be present at induction and emergence for general anesthesia. That final requirement is as follows: The medically directing physician participates in the most demanding

aspects of the anesthesia plan, including, if applicable, induction and emergence.

Documentation Requirements

The current regulations do not specifically include medical record documentation requirements for medical direction. The proposed regulations state that the physician inclusively documents in the patient's medical record that the conditions set forth in paragraph (a)(1) of § 415.110 have been satisfied, specifically documenting personal participation in the most demanding aspects of the anesthesia plan.

The ASA asked initially that we include the medical documentation requirements in the regulations so that physicians, carrier staff, and other claims/medical record auditors have a clear and uniform understanding of the documentation requirements.

In addition, within the past 2 years, we have established medical documentation requirements for teaching physicians, including teaching anesthesiologists, that specify the amount of documentation needed to support the claim for the physician's service when the attending physician is involved in a medical/surgical case with a resident. We sought to establish some level of reasonable documentation for the medically directing physician considering that—(1) The teaching anesthesiologist is paid as if he or she personally performed the anesthesia service alone (that is, 100 percent of the fee); (2) the medically directing anesthesiologist is paid 50 percent of the total fee; and (3) the documentation requirements for the teaching anesthesiologist, as found at § 415.178, are that the record demonstrates the physician's presence or participation in the administration of the anesthesia. The operating instructions in MCM section 15016 specifically require that the teaching physician document in the medical records that he or she was present during the critical (or key) portions of the procedure, including induction and emergence. The teaching anesthesiologist's presence is not required during the preoperative or postoperative visits with the beneficiary.

Comment: The AANA asked that we revise the medical documentation requirements to require that the physician alone personally document the record; the Association stated that the CRNA should not have to document the physician's participation since the CRNA may not agree concerning the extent of the physician's participation in the case.

Response: We believe the proposed regulation text accomplishes this objective since it clearly says the physician must document the medical record. However, for purposes of further clarity, we will accept the commenter's recommendation.

Comment: The ASA asked us if their interpretation of the proposed medical documentation requirement is correct. ASA interprets the provision as allowing an anesthesiologist to state in the medical record that the medical direction standards have been met, without enumerating each such standard, and as requiring the anesthesiologist to specify in the record those demanding aspects of the case in which he or she personally participated.

Response: We understand the ASA's concerns about the medical direction requirements. We do not wish to make the act of medical documentation overly burdensome to the anesthesiologist. However, the medical record must include an amount of documentation to enable a medical records' auditor to conclude that the physician was sufficiently involved to support the payment of a medical direction fee.

The medical direction requirements specify certain functions or services that the physician must perform and cannot delegate to the directed qualified individual. We do not believe it is onerous to require the medically directing physician to document that he or she performed the pre-anesthetic exam and evaluation, provided indicated post-anesthesia care, and was present during the most demanding procedures, including induction and emergence where indicated. We also expect that there would be some indication in the record that the medically directing physician was present during some portion of the anesthesia monitoring.

Limited Activities Permitted During Medical Direction

The preamble to the final regulations (48 FR 8928) to implement section 108 of TEFRA of 1982 allows the medically directing physician to respond to medical emergencies and obstetrical patients in labor and also continue to furnish medical direction. The specific preamble language is as follows:

"We do not expect that a physician who is directing the administration of anesthesia to four surgical patients would be involved *routinely* in furnishing any additional services to other patients. However, addressing an emergency of short duration in the immediate area, or administering an epidural or caudal anesthetic to ease labor pain, or periodic rather than continuous monitoring of an obstetrical patient, would not substantially diminish the scope of control exercised by the physician in directing the administration of anesthesia to surgical patients. However, the carriers will review hospital records to ensure that such circumstances do not occur frequently, are of short duration, and do not constitute a diminution of the physician's involvement in the surgical procedure."

In addition, the preamble addressed the specific question of whether the medically directing physician could perform certain routine tasks, such as receiving patients entering the operating suite for the next surgery, checking on or discharging patients in the recovery room and handling scheduling matters. The preamble included the following response to this comment:

"We agree that a physician may appropriately receive patients entering the operating suite for the next surgery while directing concurrent anesthesia procedures. However, checking or discharging patients in the recovery room and handling scheduling matters is not compatible with our reimbursing the physician on a reasonable charge basis (now physician fee schedule basis) for directing concurrent anesthesia procedures. The time devoted to such activities potentially can be extensive and would diminish the degree of involvement in the concurrent care beyond levels acceptable for purposes of reasonable charge reimbursement (now physician fee schedule payment)." This continues to be our position.

Comment: Some commenters asked whether the policy of allowing certain other activities during medical direction would continue since the proposed regulation did not specifically address this matter. Also, the ASA asked whether this list of activities was exclusive or whether other similar services of short duration could be performed without violating the medical direction payment standards. The ASA did not provide examples of the kinds of services they would consider "other limited services of short duration."

Response: We believe this comment goes beyond our proposal. We will continue the policy enunciated in the preamble to the final TEFRA section 108 regulations. We will not expand or limit the current policy until we receive and have our medical staff evaluate information from the anesthesia societies on the specific services or the kinds of circumstances for which they are seeking an expansion of the policy. We invite comments on this issue.

Result of evaluation of comments: We have decided to include the following set of requirements for medical direction in § 415.110 of this final rule. For each patient, the physician—

(i) Performs a pre-anesthetic examination and evaluation;

(ii) Prescribes the anesthesia plan;

(iii) Personally participates in the most demanding aspects of the anesthesia plan, including, if applicable, induction and emergence;

(iv) Ensures that any procedures in the anesthesia plan that he or she does not perform are performed by a qualified individual as defined in program operating instructions;

(v) Monitors the course of anesthesia administration at frequent intervals;

(vi) Remains physically present and available for immediate diagnosis and treatment of emergencies; and

(vii) Provides indicated post-anesthesia care.

Also, the physician directs no more than four anesthesia services concurrently and does not perform any other services while he or she is directing the single or concurrent services so that all of the conditions for medical direction are met. The physician can attend to medical emergencies and perform other limited services as allowed by Medicare instructions and still be deemed to have medically directed anesthesia procedures.

The physician alone inclusively documents in the patient's medical record that the medical direction requirements have been met, specifically documenting that he or she performed the pre-anesthetic exam and evaluation, provided indicated post-anesthesia care, and was present during the most demanding procedures, including induction and emergence, where applicable.

C. Separate Payment for a Physician's Interpretation of an Abnormal Papanicolaou Smear

As stated in the proposed rule (63 FR 30841), with the exception of services to hospital inpatients, we do not allow separate payment for a physician's interpretation of an abnormal Pap smear. Under our proposed rule, separate payment may be allowed for a physician's interpretation of the abnormal Pap smear furnished for any patient on or after January 1, 1999.

About 10 percent of Pap smears are abnormal and are interpreted by a physician, usually a pathologist. If a physician interprets an abnormal Pap smear for a patient, other than a hospital inpatient, payment for a physician's interpretation (and the underlying test) is made under the clinical laboratory fee schedule payment for the Pap smear test. The physician negotiates with the laboratory for payment for the physician's service.

The College of American Pathologists requested that we recognize separate payment for a physician's interpretation of an abnormal Pap smear in all settings. We believe this would establish an understandable and uniform definition of physicians' services across sites. Therefore, we proposed recognizing, under the physician fee schedule, separate payment for a physician's interpretation of an abnormal Pap smear in all settings.

The Pap smear test may be furnished by a hospital or an independent laboratory. For hospital inpatients, the Pap smear test is paid to the hospital on a prospective payment basis. For other than hospital inpatients, the Pap smear test is paid under the clinical laboratory fee schedule to the hospital laboratory or independent laboratory. For services to hospital patients, the Pap smear interpretation usually is furnished by the hospital pathologist who can bill for the professional component of the service. If the independent laboratory's pathologist furnishes the Pap smear interpretation, payment can be made to the pathologist or the independent laboratory if it is an appropriate reassignee.

We received 25 comments from individuals and organizations on our proposal to recognize separate payment for a physician's interpretation of an abnormal Pap smear. All of the commenters supported our proposal.

Comment: Several commenters stated that our policy in section 15020 of the Medicare Carriers Manual that allows separate payment for a physician's interpretation of a Pap smear for a hospital inpatient only as long as there is an abnormality, is too restrictive. They pointed out that regulations implementing the Clinical Laboratory Improvement Amendments at § 493.1257(c)(1) require a pathologist to confirm all Pap smears identified by the screening personnel as showing an abnormality. This includes, by regulation, all smears thought to show "reactive or reparative changes, atypical squamous or glandular cells of undetermined significance, or to be in the premalignant (dysplasia, cervical intraepithelial neoplasia or all squamous intraepithelial lesions including human papilloma virus-associated changes) or malignant category."

Response: Our regulation will permit separate payment for a physician's interpretation of an abnormal Pap smear in all settings as long as—(1) The laboratory's screening personnel suspect an abnormality; and (2) the physician reviews and interprets the smear.

We contrast these services with other services of laboratory physicians that we considered hospital services. For example, the services of the physician that involve the review of Pap smears as part of the laboratory's quality control assurance procedures are considered hospital services and payable only to the hospital. Such services include reviewing slides that are considered normal by the cytotechnologist but are routinely reviewed by a pathologist, because of the risk status of the patient, as part of a random sample selected for quality review.

Comment: Two commenters recommended that we treat a physician's interpretation of an abnormal blood smear similar to the interpretation of an abnormal Pap smear.

Response: This comment is outside the scope of our proposal. Our proposal did not address abnormal blood smears. However, we will look into this issue next year as part of our review of physician fee schedule policies.

Comment: One commenter pointed out that the percentage of Pap smears that are abnormal or thought to be abnormal by the cytotechnologist and that require a physician's interpretation can vary considerably from geographical area to area and among laboratories within an area. The commenter wanted to point out that the fact that some laboratory-specific percentages of Pap smears that are interpreted to be abnormal are above 10 percent is not necessarily indicative of unacceptable utilization levels.

Response: We appreciate the commenter's clarification. In our proposal, we stated that "about 10 percent of Pap smears are abnormal and are interpreted by a physician." We note that the 10 percent is a national estimate and that differences among laboratories could vary from this amount based on the population that the laboratory serves.

Result of evaluation of comments: We are allowing separate payment for a physician's interpretation of a Pap smear to any patient (that is, hospital or nonhospital patient) as long as—(1) The laboratory's screening personnel suspect an abnormality; and (2) the physician reviews and interprets the Pap smear.

D. Rebasing and Revising the Medicare Economic Index

Background

The Medicare Economic Index (MEI) represents a weighted sum of the annual price changes of the inputs used to produce physicians' services. It attempts

to present an equitable measure for the changes in the costs of physician time and operating expenses. The MEI now in use was rebased and revised as stipulated in a final rule published in the **Federal Register** (57 FR 55896) on November 25, 1992.

The MEI is comprised of two broad components, which are physician net income and physician practice expenses. Physician net income is comprised of wages, salaries, and benefits. The physician practice expense portion is comprised of six major categories: (1) Nonphysician employee compensation, including the wages and salaries and benefits of nonphysician employees in physicians' offices; (2) office expenses; (3) medical materials and supplies; (4) professional liability insurance; (5) medical equipment; and (6) other professional expenses.

We believe that it is desirable to rebase and revise the index periodically, in order that the expense shares and proxies will reflect approximate current conditions. Therefore, we are rebasing the MEI to reflect 1996 physician expenses. We chose 1996 as the base year for two main reasons: (1) The 1996 data were the most recent available data for most of the data sources we are using; and (2) the 1996 data were representative of the changing distribution of physician earnings and practice expenses over time. We have selected what we believe is the most appropriate proxy for each expense category. We will continue to adjust the physician and nonphysician employee compensation for economy-wide labor productivity, to avoid accounting for both physician practice productivity and economy-wide productivity in the physician update framework.

We determined the number and composition of expense categories based on the criteria used to develop the previous MEI expenditure weights and our other input price index expenditure weights (for more information on these criteria, see the November 25, 1992 final rule (57 FR 55900)). To determine the expenditure weights, we used currently available, valid data sources on physician earnings and practice expenses.

While we consulted numerous data sources, we used five sources to determine the rebased and revised MEI expenditure weights: (1) The 1997 American Medical Association Socioeconomic Monitoring System (AMA SMS) survey (1996 data); (2) the March 1997 Bureau of Labor Statistics (BLS) Employment Cost Index; (3) the 1992 Bureau of the Census Asset and Expenditure Survey (the latest available); (4) the 1996 Bureau of the Census Current Population Survey; and (5) the *Medical Economics* continuing survey published October 1997 (1996 data). No one data source provided all of the information needed to determine expenditure weights according to our criteria.

Rebasing and Revising the Medicare Economic Index

In the June 5, 1998 **Federal Register** (63 FR 30841), we published a proposed rebased and revised MEI. In that rule, we discussed in detail the methodology and data sources used to rebase and revise the MEI. The final rebased and revised MEI will have a 1996 base year and use the same data sources we proposed in the June 5, 1998 rule. Therefore, the weights and price proxies in this final rule are the same as those we proposed and are shown in Tables 1 and 2.

TABLE 1.—REVISED MEDICARE ECONOMIC INDEX EXPENDITURE CATEGORIES, WEIGHTS, AND PRICE PROXIES

Expense category	Weights		Proposed price proxies
	1989 [1]	1996 [1 2]	
Total	100.000	100.000	
Physician Earnings [4]	54.155	54.460	
Wages and Salaries	45.342	44.197	AHE–Private [3].
Benefits [5]	8.813	10.263	ECI–Ben: Private [3].
Physician Practice Expenses	45.845	45.540	
Nonphysician Employee Compensation	16.296	16.812	
Employee Wages and Salaries	13.786	12.424	
Prof/Tech Wages	3.790	5.662	ECI–W/S: Private P&T [3].
Managers Wages	2.620	2.410	ECI–W/S: Private Admin [3].
Clerical Wages	5.074	3.830	ECI–W/S: Private Clerical [3].
Services Wages	2.233	0.522	ECI–W/S: Private Service [3].
Craft Wages	0.069	.....	
Employee Benefits [5]	2.510	4.388	ECI–Ben: Priv. White Collar [3].
Office Expenses	10.280	11.581	CPI(U)–Housing
Medical Materials and Supplies	5.251	4.516	PPI Drugs/PPI Surg. Appl/CPI(U) Med Sup.
Professional Liability Insurance	4.780	3.152	HCFA–Prof. Liab. Phys. Prem. Survey.
Medical Equipment	2.348	1.878	PPI–Medical Instruments and Equip.
Other Professional Expense	6.890	7.601	
Automobile	1.400	1.300	CPI(U)–Private Transportation.
All Other	5.490	6.301	CPI(U)–All Items less Food and Energy [1].

[1] Due to rounding, weights may not sum to 100.000 percent.
[2] Sources: Socioeconomic Monitoring System 1997 Survey of Physicians, Center for Health Policy Research, American Medical Association; Anne L. Finger, "What it costs to run a practice," *Medical Economics*, October 27, 1997; U.S. Department of Labor, Bureau of Labor Statistics; and U.S. Department of Commerce, Bureau of the Census, 1992 Asset and Expenditure Survey, and 1997 Current Population Survey.
[3] Net of change in the 10-year moving average of output per man-hour for the nonfarm business sector.
[4] Includes employee physician payroll.
[5] Includes paid leave.

TABLE 2.—PERCENT DISTRIBUTION OF NONPHYSICIAN PAYROLL EXPENSE BY OCCUPATIONAL GROUP: 1996

BLS occupational group	Expenditure shares [1]
Total	100.000
Professional and Technical Workers	45.570
Managers	19.399
Clerical Workers	30.831
Service Workers	4.199

[1] These weights were derived from the 1996 Current Population Survey, U.S. Bureau of the Census.

The time series of percent changes in the current and rebased MEI are presented and compared in Table 3.

TABLE 3.—ANNUAL PERCENT CHANGE IN THE CURRENT AND REVISED MEDICARE ECONOMIC INDEX

Years ending June 30	Current MEI 89-base percent change	Revised MEI 96-base percent change	Difference
1985	3.3	3.2	0.0
1986	3.3	3.1	−0.2
1987	3.0	2.8	−0.2
1988	3.6	3.5	−0.1
1989	3.4	3.4	0.0
1990	3.0	3.2	0.2
1991	3.2	3.3	0.1
1992	2.8	2.7	−0.1
1993	2.1	2.2	0.1
1994	2.1	2.1	0.0
1995	2.0	2.0	0.0
1996	2.0	1.8	−0.2
1997	2.2	2.2	0.0
1998	2.5	2.3	−0.2
Average: 1985–1998	2.7	2.7	0.0

The CY 1999 increase in the MEI, one of the components used to update the physician fee schedule, is 2.3 percent.

We received numerous Comments on the rebased and revised MEI. Each Comment, with a response, is provided below. The Comments are organized into four major sections: index structure, expenditure weights, price proxies, and productivity adjustment.

Index Structure

Comment: A commenter believed we should re-examine the structure of the MEI, rather than make minor changes to an index that was developed in 1972 when physicians were paid reasonable charges.

Response: The structure of the MEI consists of weights associated with each of the cost categories, price proxies for each of the cost categories, and an overall adjustment for changes in productivity. The 1996-based MEI structure is identical to the revised structure we proposed on September 9, 1991 that was based on issues discussed at a public conference on March 19, 1987, thoroughly reviewed by the industry through a public Comment period, and ultimately adopted in 1992. This commenter did not offer any specific recommendations for change, and we know of no structural change we could make to improve the MEI. Consequently, the structure of the MEI will remain the same.

Comment: A commenter suggested that we indicate in the annual physician fee schedule proposed rule what the forecasted MEI would be under the different options considered and under the agency's final recommendation. The commenter noted that forecast data generally are provided when the agency updates the hospital market basket.

Response: The physician fee schedule is updated by a statutory-specified formula equal to the MEI plus or minus an update adjustment factor. The agency does not consider various options and make an update recommendation. The MEI for a year is based on changes in prices for prior periods. The performance adjustment is based on actual data; no options are considered. Thus, the situation for physician updates is not analogous to the hospital update process where changes in hospital payments are based on forecasts of the hospital market basket increase in the upcoming Federal fiscal year. In the case of physicians, the changes in the physician payment levels are based on the most current historical and performance data available.

Comment: A commenter believed that we should establish a regular schedule for updating weights of various elements of the MEI so that the index reflects the most recent data and information available.

Response: In the past, more frequent rebasing would have resulted in little or no difference in the update factors. For this current rebasing, the 1989-based MEI and the 1996-based MEI grew at the same rate on average between 1985–1998 as shown in Table 3. We will continue to monitor changes in the structure of physician costs as they might affect the MEI and we will update and rebase as needed.

Comment: A commenter believed that the MEI should contain an adjustment reflecting the fact that different inputs are used when services are provided by a SNF.

Response: Part of the fundamental design of the Medicare fee schedule is that payment is based on the service performed without regard to the place where the service is performed. The MEI is consistent with that design and provides a single national factor to update payments under the fee schedule, regardless of the site of service or the specialty of the health professional.

Expenditure Weights

Comment: One commenter was concerned that the proposed MEI does not reflect adequately the much larger portion of practice expenses the average obstetrician-gynecologist pays for professional liability insurance as compared to other specialties. The commenter pointed out that professional liability consists of 6.88 percent of the obstetrician-gynecologist's practice expenses, but only 3.2 percent of the practice expense of all physicians.

Response: The purpose of the MEI is to recognize the aggregate "pure price" increase of providing physicians' services, regardless of specialty or site of service. Therefore, all input costs across all specialties are considered when determining the appropriate cost weights. The resulting cost weights, along with the price proxies and productivity adjustment, are used to calculate a national average percent change in the inputs used to provide physicians' services. This national average percent change is used to update the national payments under the fee schedule. We recognize that professional liability expenses as a portion of total expenses are above the average for some specialties and below the average for other specialties. However, differences in regional or specialty costs are accounted for by the GPCI or the RVU weight, respectively.

The only change to the professional liability insurance price proxy is that premiums are now collected for $1 million/$3 million of coverage on a quarterly basis, as opposed to premiums for $100,000/$300,000 of coverage on an annual basis. We continue to survey the same professional liability insurers that we surveyed for the 1989-based MEI.

Price Proxies

Comment: Several commenters suggested the price proxy for the physician earnings component should be the Employment Cost Index (ECI) for professional and technical workers, rather than the average hourly earnings (AHEs) for total nonfarm workers, for two reasons. First, the rationale for using a proxy of a highly heterogenous group no longer exists under the current payment system. Thus, our concern regarding circularity (increases in physician fees, which are tied to prevailing charges, are linked to

increases in physician payments) is no longer an issue. Second, earnings of professional workers are used as the proxy for the physician work component in the GPCI while AHEs for total nonfarm workers are used for physician earnings in the MEI. The commenter believes that we should use earnings for professional workers as the proxy in the MEI to be consistent with the GPCI.

Response: The commenters have raised issues that need to be clarified regarding the most fair and relevant price proxy to use for the physician work component of the MEI. The commenters are correct that circularity does not now exist between charge levels for individual physicians and subsequent Medicare fee levels for all physicians in the aggregate. However, paying based on a fee schedule does not override the need for us to continue to use fair and relevant price proxies.

We believe that the current price proxy, AHEs in the nonfarm business economy, is still the most appropriate proxy to use for the physician work component. AHEs continue to best meet the criteria of the 1972 Senate Finance Committee report shown in the June 5, 1998 **Federal Register** (63 FR 30844), including the criterion of "fairness to all concerned." AHEs are also the best general earnings wage variable of which we are aware for our specific purpose. As a measure of equitable payment increases, AHEs reflect the impact of supply, demand, and economy-wide productivity for the average worker in society. By using the AHEs as the price proxy for physician time, the physician wage component captures this parity in rates of increase for physicians and the average worker in society.

The ECI for professional and technical workers includes occupations like engineer, architect, mathematical and computer scientist, and other types of technicians. Excess supply or excess demand for professional and technical workers on average can cause their wages to move differently than wages are moving in the overall economy or for a specific professional and technical occupation, such as a physician. Consequently, the ECI for professional and technical workers does not necessarily provide a good normative indicator of the percent increases in general earnings. Therefore, the ECI for professional and technical workers would fail to meet the criteria of fairness in the Senate Finance Committee report.

The commenters are correct that the proxy for physician work time in the GPCI is different than the price proxy in the MEI. This design reflects the different purposes of the GPCI and the MEI. The GPCI determines how total outlays are allocated among localities based on relative input price levels for each locality, or the "pieces of the pie." Thus, the GPCI price proxy needs to validly reflect the relative levels of the specific category being proxied. The MEI, on the other hand, determines the aggregate increase in total outlays, or the "size of the pie." These different purposes require that different proxies be used. Thus, the purpose of the proxy in this case is to measure the normative change in physician earnings. Our other input price indexes (market baskets), like the prospective payment system (PPS) hospital market basket and the HHA market basket, also use different price proxies than the geographic adjustment variable for similar reasons.

We are going to carefully monitor the price proxy used for physician work time in the MEI to ensure that it continues to be the most appropriate price proxy available for that purpose.

Comment: Several commenters suggested that the nonphysician employee compensation component of the MEI should be adjusted using a price proxy that reflects the increased skill mix of staff in physicians' offices.

Response: The MEI is a Laspeyres (fixed-weight) index that measures the normative "pure price" increase associated with physicians' services. Our other input price indexes, for hospitals, home health agencies, and skilled nursing facilities, are Laspeyres indexes as well. Changes in skill mix are appropriately captured in the volume-and-intensity adjustment in the fee schedule update, as they are with similar update formulas for our other payment programs, for example, PPS hospitals. By capturing skill mix shifts in the volume-and-intensity adjustment, we are able to appropriately separate quantity and "pure price" effects in the update framework. If we included positive and negative skill mix shifts in the MEI, there would be double-counting. Therefore, we will not adjust for changes in skill mix for the nonphysician employee compensation components of the MEI.

Comment: A commenter recommended that we adjust the office expense component using a price proxy based on inflation in commercial rents rather than inflation as measured by the housing component of the CPI for urban consumers.

Response: The CPI–U for housing is a comprehensive measure of changes in the cost of housing, including rent, owners' equivalent rent, insurance, maintenance and repair services, fuels, utilities, telephones, furnishings, and housekeeping services. Note that the GPCI also uses a consumer rather than a commercial rent index. The GPCI uses an index of Fair Market Rents (FMR) published by the Department of Housing and Urban Development for use in the Section 8 rental subsidy program because a valid indicator of commercial rents was not available. This measure does not meet the criterion of timeliness to be used in an input price index as it is only available prospectively on an annual basis. It would not represent historical data or be available quarterly like the rest of the proxies in the MEI.

Comment: One commenter questioned why we proposed using wholesale price changes, as measured by producer price indices (PPI), to measure cost changes for medical supplies and equipment. The commenter believed most physician practices are small entities that are unlikely to be able to purchase supplies and equipment at wholesale prices.

Response: In revising and rebasing the MEI, we selected wage and price proxies based on relevance, reliability, fairness, timeliness, and length of time a series had been established. Relevance means that the price proxy should represent price changes for goods or services within the expense category. We believe that use of the PPI for medical instruments and equipment appropriately captures price changes for the offices of physicians. Note that movement in the PPI at any given time is followed within a few months by approximately the same movement in the CPI. If this were not true, retailers would soon be out of business as their expenses rose but their revenues did not. Movement in the PPI essentially drives movement in the CPI, albeit with a slight lag. An increase in the wholesale level for a commodity will be followed by the same approximate increase in the retail level. Over time, the PPI does not move faster or slower than does the CPI. As mentioned in our June 5, 1998 proposed rule (63 FR 30846), use of the PPI for medical instruments and equipment as the price proxy for medical equipment is consistent with the 1989-based MEI.

Productivity Adjustment

Comment: A commenter proposed the elimination of the productivity adjustments to both the physician and nonphysician personnel components. The commenter believed the validity of the proposed MEI is compromised severely by this productivity adjustment.

Response: The Medicare fee schedule is appropriately adjusted for "pure price" inflation using a price index that approximates a price change in a freely functioning, competitive market. In such a market, competitive forces lead to increased efficiencies (productivity). Therefore, a competitive output price does not rise as fast as a competitive input price, with the difference reflecting this increased efficiency (productivity). Thus, the input prices in the MEI need to be appropriately adjusted for productivity to approximate a freely functioning, competitive output price change. The PPS hospital input price index (market basket) is similarly adjusted for productivity, but the adjustment is included as a separate component of the PPS update framework.

The commenter believed that using economy-wide labor productivity to make the adjustment to the MEI input prices was inappropriate because physician productivity is lower than economy-wide productivity. While it is true that service industry productivity tends to be lower than economy-wide productivity, there is wide variation in productivity among specific sectors of the service industry. For physicians, the substantial influence they have over the volume and intensity of services provided to their patients allows them to increase output and, therefore, productivity.

The commenter provided information on the declining number of patient contacts per physician as evidence of declining productivity. To estimate productivity per physician, however, the large increase in volume and intensity of services per contact has to be accounted for. An approximation of the change in volume and intensity of physicians' services is the increase in allowed charges per enrollee in excess of the MEI increase (shown in the 1998 Annual Report of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund). The increase in allowed charges per enrollee from Table II.F3. of this report has exceeded the MEI increase by 3.1 percentage points in 1994, 5.8 percentage points in 1995, and 2.1 percentage points in 1996. These data show that volume-and-intensity increases for physicians' services are still high relative to economy-wide productivity, which has historically grown around 1 percentage point annually on a 10-year moving average basis.

Economy-wide labor productivity increases automatically result in economy-wide wage rate increases as less worker time or other inputs are needed to produce the same outputs. Thus, the AHEs wage variable implicitly includes productivity increases in the overall economy. The productivity adjustment to the MEI factors out these economy-wide productivity increases. However, an individual physician practice still benefits from its own productivity increases in excess of economy-wide productivity increases. This means each individual physician practice is allowed to reap the rewards of having high productivity. Thus, it is both technically correct and fair to both providers and payers to adjust the MEI input prices by economy-wide productivity increases.

Result of Evaluation of Comments

As proposed, we rebased the MEI to 1996. We used the same data sources (for base year weights and price proxies) and methodology as explained in the June 5, 1998 proposed rule. The percent change in the MEI for CY 1999 is 2.3 percent.

III. Implementation of the Balanced Budget Act

In addition to the resource-based practice expense relative value units, BBA provides for revisions to the payment policy for drugs and biologicals, includes a provision allowing private contracting with Medicare beneficiaries, institutes payment for outpatient rehabilitation services based on the physician fee schedule, and changes the policy for nonphysician practitioners and for teleconsultations.

A. Payment for Drugs and Biologicals

Before January 1, 1998, drugs and biologicals not paid on a cost or prospective payment basis were paid based on the lower of the estimated acquisition cost (EAC) or the national average wholesale price (AWP) as reflected in sources such as the Red Book, Blue Book, or Medispan. (For purposes of this discussion, we will use the term "drugs" to refer to both drugs and biologicals). Examples of drugs that are paid on this basis are drugs furnished incident to a physician's service, drugs furnished by pharmacies under the durable medical equipment (DME) benefit, and drugs furnished by independent dialysis facilities that are not included in the end-stage renal disease (ESRD) composite rate payment.

Section 4556 of BBA established payment for drugs not paid on a cost or prospective payment basis at the lower of the actual billed amount or 95 percent of the AWP, effective January 1, 1998. In this final rule, we are revising the current regulations at § 405.517 to conform to this statutory change. This regulation is removing the EAC and provide for payment at the lower of the actual charge on the Medicare claim or 95 percent of the AWP.

Also, we are revising the method of calculating the AWP. Our current regulations provide that, for multiple-source drugs, the AWP equals the median AWP of the generic forms of the drug. The AWP of the brand name products is ignored on the presumption the brand AWP is always higher than the generic AWPs. While this may have been true when the policy was first promulgated, it is not always true now. Therefore, the AWP for multiple-source drugs would equal the lower of the median price of the generic AWPs or the lowest brand name AWP.

Comment: We received some comments on the proposed methodology for determining the AWP in the case of multi-source drugs. Some commenters suggested we use the average AWP instead of the median AWP. Others objected to the use of the lowest brand AWP saying that in all cases all AWPs, both generic and brand, should be used. One commenter stated that the law does not distinguish brand AWP from generic AWP; therefore, we should not make this distinction.

Response: We agree that the law does not define the term "average wholesale price," and, therefore, does not distinguish brand AWP from generic AWP or average versus median price. However, we believe it is within our general authority in implementing the statute to define terms that do not have explicit statutory definitions. We believe that when there is an array of charges, the median is an appropriate measure of central tendency. This is consistent with many other areas of the program in which the median is used. With respect to distinguishing between brand and generic AWPs, as we stated in the final rule titled "Medicare Program; Fee Schedule for Physicians" Services (BPD–712–F)," published in the **Federal Register** on November 25, 1991 (56 FR 59502), when this policy was promulgated, the brand AWP was believed to be always greater than the generic AWPs (56 FR 59507). Now there is evidence from the Office of Inspector General (OIG) in its report titled "The Impact of High-Priced Generic Drugs on Medicare and Medicaid" (OEI–03–97–00510) that this is no longer true. From a series of OIG reports spanning the past 10 years, it is clear that the AWP is higher than the amount typically paid for drugs by physicians who bill the program. It is also true that when a brand AWP is lower than the median generic AWP, typically there are also other generic AWPs that are as low as or lower than this brand AWP. We believe, therefore, that the payment allowance resulting from this methodology will be adequate.

Comment: Some commenters objected to a payment allowance of less than the AWP. One commenter alleged that not all physicians can buy drugs at less than retail prices. Another commenter stated that only large physician practices can obtain bulk purchase discounts. Another commenter suggested that we monitor access to drugs. Another suggested that we study actual acquisition costs before implementing the limit of 95 percent of AWP. Two commenters stated that physicians should not be burdened with maintaining price controls or cost containment or tracking the prices of drugs. Physicians should only be responsible for choosing the best drug and not be responsible for the cost of the drug. Furthermore, if physicians are not paid sufficiently for the drugs they now inject, they will stop injecting drugs and refer patients to the hospital instead. This will cost the program much more.

Response: First, the law now requires that the Medicare program limit its payment allowance to 95 percent of the AWP. Furthermore, there are numerous reports by the OIG over the past 10 years showing that significant discounts from the AWP are common and are not related to bulk purchases. In the absence of evidence to the contrary of the OIG findings, we believe it is reasonable to set the payment limit as we have proposed. With respect to the comment that physicians will refer patients to hospitals for injections, we believe that for the reasons stated and because payment for outpatient hospital services will be changed to a prospective payment basis, this will not occur.

Comment: One commenter stated that our definition of "brand" should be "the product of the innovator company." The commenter objected to considering other manufacturers' products that are marketed under a proprietary name other than the generic chemical name of the drug as a "brand."

Response: Our definition of "brand" is any product that is marketed under a name other than the generic chemical name of the drug. If a manufacturer chooses to market its product under a proprietary name rather than the generic chemical name of the drug, we believe this is a brand. We do not limit the definition of "brand" to the innovator company product or any product manufactured under a direct license from the innovator. Furthermore, we believe that it is an unreasonable administrative burden to require our contractors to determine which of the thousands of AWPs they must look up, to also determine which of those are innovator drugs or licensed by the innovator company.

Comment: Two commenters supported our proposal stating that our proposal was consistent with the statute.

Response: We agree with this comment.

Comment: A commenter stated that radiopharmaceuticals are drugs, but because of their unique nature they do not have AWPs. Therefore, the commenter recommended that we pay for radiopharmaceutical drugs at the billed amount.

Response: We agree that radiopharmaceutical drugs do not have AWPs, and, therefore, require a different pricing methodology. However, we do not agree that these drugs should be paid at the amount billed to the program. Currently, our contractors determine an allowance for these drugs that is reasonable in light of prices paid by physicians who use them. We will continue this policy of local pricing by our contractors.

Result of evaluation of comments: We are adopting our proposal with further clarifications. The Medicare allowed charge for drugs and biologicals is the lower of 95 percent of the median generic AWP or 95 percent of the lowest brand AWP. A "brand" product is defined as a product that is marketed under a labeled name that is other than the generic chemical name of the drug or biological. The allowed charge for drugs and biologicals that do not have an AWP is determined by the local Medicare contractor considering the prices paid by physicians and suppliers who use them.

B. Private Contracting with Medicare Beneficiaries

Section 4507 of BBA 1997 amended section 1802 of the Act to permit certain physicians and practitioners to opt-out of Medicare and to provide through private contracts services that would otherwise be covered by Medicare. This rule conforms the regulations to sections 1802(b) and 1862(a)(19) of the Act. In addition, this rule contains ancillary policies that we believe are necessary to clarify what it means when a physician or practitioner "opts-out" of Medicare, and to otherwise effectuate the Congress" intent in enacting section 4507 of BBA 1997.

The private contracting provision is effective for private contracts entered into on, or after, January 1, 1998. We implemented private contracting through a series of operating instructions for Medicare carriers and information that carriers were instructed to provide to physicians and practitioners.

The Medicare claims submission and private contracting rules apply only when a physician or practitioner furnishes Part B Medicare-covered services to a beneficiary who is enrolled in Medicare Part B. The private contracting rules do not apply to individuals who have only Medicare Part A, to individuals who are age 65 or over but who do not have Medicare, or to services that Medicare does not cover.

General Issues

State of Law Before Section 4507 of the BBA

Comment: Some commenters disagreed with our view that private contracting is not valid except as specified in section 4507 of the BBA. They believed that section 1848(g) of the Act does not preclude private contacting. In addition, they believed that the claims submission requirements apply only to "services for which payment is made" under the fee schedule and, therefore, by definition, do not apply if no claim is submitted.

Response: We continue to believe that under the Act, private contracts between beneficiaries and physicians or practiticners are not enforceable unless they meet the requirements of section 4507 of the BBA. The mandatory claims submission rules of section 1848(g)(4) of the Act specify that: "For services furnished on or after September 1, 1990, within 1 year after the date of providing a service for which payment is made under this part on a reasonable charge or fee schedule basis, a physician, supplier or other person (or an employer or facility in the cases described in section 1842(b)(6)(A))—

- (i) Shall complete and submit a claim for such service on a standard claim form specified by the Secretary to the carrier on behalf of a beneficiary, and
- (ii) May not impose any charge related to completing and submitting such a form."

Because there must be a claim to Medicare before payment can be made, the meaning of the phrase ". . . for which payment is made on a reasonable charge or fee schedule *basis* . . . (emphasis added)" must be to define the universe of claims to which the mandatory claims submission rules apply as being those services for which Medicare makes payment on a fee schedule or reasonable charge basis once a claim is submitted. The only exceptions the law provides to the mandatory claims submission rules are those found in the private contracting provisions of section 1802(b) of the Act and those implied by the phrase "on behalf of the beneficiary." In addition, one cannot omit the word "basis" and argue that the claims submission requirement applies only to services for which "payment is made under this part on a reasonable charge or fee schedule." The word "basis" has meaning and was specifically included because it defines a universe of services to which the provision applies. The clear intention of the claims submission provision is to apply to all services for which payment is made under part B on a reasonable charge or fee schedule *basis*, but not to include services for which payment is made under part B on a reasonable cost basis (for example, hospital outpatient department services).

The phrase ". . . for which payment is made . . ." cannot, as commenters contend, mean that the mandatory claims submission rules apply only if payment is actually made in an instant case. That reading would mean the mandatory claims rules would never apply where no payment was made because of the absence of a submitted claim, rendering the mandatory claims provision meaningless.

Moreover, the limiting charge rules of section 1848(g)(1)(A) of the Act establish explicit limits on the charges of a nonparticipating physician or nonparticipating supplier or other person who does not accept payment on an assignment-related basis for a physician's services furnished to an individual who is enrolled in Part B. The only exception to these limits is that found in the private contracting provisions of section 1802(b) of the Act.

Comment: Commenters disagree that the limiting charge applies in the absence of a claim. They believe that if the claims submission rule can be waived by the beneficiary, then the limiting charge rule can also be waived by the beneficiary.

Response: As noted above, there is specific language in section 1848(g) of the Act that indicates that the physician, supplier, or other person must submit the claim "on behalf of the beneficiary." In contrast, there is no language included in the flat prohibition in section 1848(g)(1)(A)(i) of the Act against nonparticipating physicians, suppliers, and other persons charging more than the limiting charge. For these reasons, we believe that we have no discretion to waive the limiting charge, except when the criteria established by section 4507 of the BBA are met.

Participating physicians, suppliers, and other persons who have agreed to always take assignment on claims for Medicare covered services, and nonparticipating physicians, suppliers, and other persons who take assignment, have also implicitly agreed to submit claims because one cannot take assignment on a claim unless one submits a claim. Moreover, because taking assignment means agreeing to accept Medicare allowed amounts as payment in full for covered services, they have also voluntarily agreed not to collect more than deductibles and coinsurance from all patients they see. For these reasons, signing a participation agreement, or accepting assignment by a nonparticipating physician, precludes private contracting outside of section 4507 of the BBA.

Claims for services that are not reasonable and necessary according to Medicare standards

Comment: Commenters asked that we clarify that there is no limit on the amount physicians and practitioners may charge beneficiaries when services furnished are denied as not reasonable and necessary, and the physician or practitioner has provided the advance beneficiary notice (ABN). Some commenters also asked that we clarify that when an ABN is provided, there is no private contract. They indicated that some physicians and practitioners are refusing to furnish non-covered services to beneficiaries, because they believe that giving an ABN will compel them to opt-out of Medicare.

Response: When a physician or practitioner furnishes a service that does not meet Medicare's criteria for being reasonable and necessary, and the physician or practitioner has furnished the beneficiary with an ABN that advises the beneficiary that for this reason there is a likelihood of denial of the claim by Medicare, there are no limits on what the physician or practitioner may charge the beneficiary. An ABN that states that the physician or practitioner believes that the service will not be covered by Medicare is not a private contract. The act of providing an ABN does not then require that the physician or practitioner opt-out of Medicare so that he or she avoids being at risk of having a penalty assessed for a limiting charge violation. Hence, physicians and practitioners should not hesitate to furnish services to Medicare beneficiaries when the physician or practitioner believes that those services are in accordance with accepted standards of medical care, even when those services do not meet Medicare's particular and often unique coverage requirements.

Beneficiaries in Medicare risk HMOs and Medicare+Choice organizations

Comment: Some commenters wanted us to reaffirm that a physician or practitioner may charge without regard to the limiting charge, when he or she furnishes a service to a beneficiary who is enrolled in a Medicare risk plan and the plan will not pay for that service. In addition, we were requested to address what happens in situations in which the beneficiary appeals the denial of the service and the Medicare risk plan subsequently agrees to pay the claim. Commenters asked that we define what is meant by "covered services," for purposes of physicians and practitioners being able to charge Medicare risk plan or Medicare+Choice (M+C) organization enrollees more than the Medicare fee schedule, without having the physician or practitioner opt-out of Medicare for services not covered by the plan or the M+C organization.

Response: When a Medicare beneficiary enrolls in a Medicare risk plan (either currently under section 1876 of the Act or after January 1, 1999, under the M+C program), that beneficiary has Medicare coverage only to the extent that the services are covered under the risk plan according to the plan's rules for coverage. A risk plan may deny payment for a service if the beneficiary has not abided by the rules for coverage of care under the risk plan. (Examples of non-adherence to the plan's rules could be a beneficiary acquiring care without the required plan prior authorization, or acquiring care from a non-network physician if coverage is limited to network physicians.) In that situation there is no plan coverage of that service and the beneficiary is fully liable for the payment of the service, even when payment would have been made under original Medicare if the beneficiary were not in the risk plan. In these types of situations, the physician or practitioner may charge the beneficiary without regard to the limiting charge for the service furnished, and no claim need be submitted for the non-covered service. A private contract is not needed and the physician or practitioner need not opt-out of Medicare.

We would caution, however, that if the beneficiary seeks plan payment and the plan pays for the service, either initially or on appeal, then the physician or practitioner is entitled to receive no more than the amount he or she would have received under original Medicare. An adjustment would then have to be made to ensure that the beneficiary received a refund for any amount in excess of the Medicare allowed amount (if the physician participates in original Medicare) or the Medicare limiting charge (if the physician does not participate in original Medicare).

Application to Medicaid

Comment: A commenter wanted us to revise the final rule to specify that a physician or practitioner who opts-out of Medicare may not bill Medicaid for services he or she furnishes to individuals who are enrolled in both Medicare and Medicaid.

Response: There is nothing in section 4507 of the BBA that prohibits either dually eligible Medicare and Medicaid beneficiaries, or Medicare providers, from entering into a private contract, or that prohibits these providers from billing Medicaid for Medicaid covered services.

Excluded physicians and practitioners who opt-out

A physician or practitioner may be excluded from Medicare by the Office of Inspector General (OIG) for violations of the law according to sections 1128, 1156, and 1892 of the Act. An excluded physician or practitioner may not furnish, order, prescribe, or certify the need for Medicare-covered items and services (except as permitted in 42 CFR 1001.1901) for the term of the exclusion. A physician or practitioner must request and be granted reinstatement by the OIG before billing Medicare.

Comment: A commenter asked that we not permit excluded physicians and practitioners to opt-out. She believes that we need to clarify the relationship between opting-out and being excluded. She believes that if we permit excluded physicians and practitioners to opt-out, all the rules that apply to excluded physicians and practitioners can and should apply to physicians and practitioners who have opted-out. For example, excluded physicians cannot order covered services. Commenters also wanted us to agree that a private contract entered into by an excluded physician or practitioner would be recognized by us and the Office of the Inspector General as a notice to the beneficiary that the physician or practitioner is excluded, because the private contract must say whether the physician or practitioner is excluded.

Response: Section 1802(b)(2)(B) of the Act says, "[s]uch contract shall also clearly indicate whether the physician or practitioner is excluded from participation under the Medicare program under section 1128." We have interpreted this to mean that, although excluded physicians can enter into private contracts, they must not only indicate their excluded status through the contract, but also still abide by the terms of their sanction under section 1128 of the Act. Practically speaking, this means that excluded physicians or practitioners may file affidavits and enter into private contracts, but that all the provisions of section 1128 of the Act and regulatory requirements pertaining to section 1128 of the Act, such as per-encounter issuances of ABNs, must still apply. Further, although section 1802(b)(2)(B) of the Act specifically mentions exclusions under section 1128 of the Act, the Secretary also has authority to exclude physicians and practitioners under sections 1156 and 1892 of the Act for the reasons specified therein. We believe it was Congress's intent to require clear notice of any exclusion, regardless of the specific statutory basis for it, in the contract with the beneficiary. Therefore, we have added language to §§ 405.415 and 405.425 to require a physician or practitioner provide clear notice of any exclusion, be it under section 1128, 1156, or 1892 or any other provision of the Act. We have also added language to § 405.440 to make clear that excluded physicians and practitioners are bound by the standards in 42 CFR § 1001.1901 for obtaining Medicare payment for emergency or urgent care services.

Grandfathering of physicians and practitioners who already opted-out

Comment: Commenters requested affirmation that the physicians and practitioners who have already opted-out will not have to file either revised affidavits or revised private contracts to meet the new standards contained in these regulations.

Response: We agree. These regulations are effective for private contracts entered into on or after January 1, 1999, and for affidavits submitted to carriers on or after January 1, 1999.

The provisions of section 4507 of the BBA were effective for private contracts entered into on or after January 1, 1998. We have therefore implemented the provisions of section 4507 of the BBA through operational instructions. Specifically, we issued Medicare program memoranda to implement the law in November 1997, January 1998, April 1998, July 1998. Medicare carriers have provided the information in these documents to all physicians and practitioners as they were released throughout the year. If physicians and practitioners submit affidavits in accordance with these program memoranda before January 1, 1999, they have opted-out of Medicare for the 2-year opt-out period, and need not submit revised affidavits to comply with the regulations. Similarly, when they have entered into private contracts with Medicare beneficiaries before January 1, 1999, they need not revise the private contracts or have beneficiaries sign second private contracts.

Comment: Commenters requested that physicians and practitioners who have opted-out before the regulations take effect, be provided with an opportunity to terminate their opt-out within 90 days of the date the new rules are effective, under the terms of early termination of opt-out.

Response: We agree. We have provided a special one time 90-day early termination opportunity for physicians and practitioners who opted-out during 1998, and who are willing to terminate their opt-out by complying with the requirements of §§ 405.445(b) (3) and (4) and 405.445(c).

Charitable care

Comment: Commenters indicated that physicians and practitioners should be permitted to opt-out of Medicare to do charitable care. They believed that because currently physicians and practitioners must collect deductible and coinsurance, they can be found to have made an illegal remuneration if they do not. They believed that the deductible and coinsurance are a financial burden for beneficiaries who do not have Medicaid. In addition, they believed that physicians and practitioners should be able to privately contract on a patient-by-patient basis, when they choose to offer free services to Medicare patients in need of those services.

Response: A physician or practitioner need not opt-out of Medicare to furnish services for which they do not charge, nor need they opt-out when either the deductible or coinsurance or both are waived because of indigence. Under current law, regulations, and instructions, nothing prevents a physician or practitioner from not charging a beneficiary for medical services. Moreover, longstanding Medicare policy permits physicians and practitioners to waive Medicare deductibles and coinsurance, when the physician's or practitioner's analysis of the beneficiary's financial information leads him or her to believe that collecting either the deductible or coinsurance or both would impose a hardship on the beneficiary. This policy has long been stated in Medicare Carrier Manual section 5220, and was stated as a permitted exception to the prohibition on the waiver of the deductible and coinsurance in section 231(h) of Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191).

However, the commenter is correct that the provision of free services can become problematic in some cases, as

for example, when a charge is not made as an inducement for the beneficiary to return for covered services, or as an inducement for the beneficiary to provide referrals. The commenter is also correct that indigence is the only explicitly permitted basis for waiver of either the deductible or coinsurance or both.

Definitions (§ 405.400)

Beneficiary

Comment: Commenters wanted the definition of "beneficiary" clarified to indicate that it applies only to individuals who are enrolled in original Medicare and does not apply to individuals who are enrolled in Medicare risk plans, or, after January 1, 1999, the M+C organizations.

Response: We have not made this change. The commenters are under the mistaken impression that a physician or practitioner may opt-out of original Medicare, but continue to be paid by an M+C organization for Medicare-covered services furnished to a beneficiary who is enrolled in an M+C organization. Instead, under the law and as specified in these regulations at § 405.220, a physician or practitioner who opts-out of Medicare may not provide services for which payment is made by Medicare, including where payment is made to the physician or practitioner by an M+C organization for services to a Medicare beneficiary enrolled in such an organization.

Emergency care services

Comment: Some commenters raised the question of whether we would use the "prudent layperson" definition of emergency medical condition of § 422.2, instead of the provider agreement definition of the term at § 489.24. The commenter believed that the "prudent lay person" definition is preferable.

Response: We agree. In order to give both beneficiaries and physicians and practitioners the greatest protection and flexibility in medical decision-making, we have decided to adopt the more inclusive "prudent layperson" standard of § 422.2, which was recently published as part of the M+C regulations at 63 FR 34968.

Legal representative

Comment: Some commenters objected to permitting a beneficiary's "legal representative" signing a private contract, because the law makes no provision for this action. They believed the regulations should permit no one but the beneficiary to sign a private contract.

Response: We permit a beneficiary's legal representative to sign a private contract so that beneficiaries who have legal representatives will not be treated differently than beneficiaries who do not have legal representatives. We can foresee a situation in which the legal representative of a beneficiary believes that signing a private contract that allows the physician or practitioner to furnish care would be in the beneficiary's best interest, and, we believe that, if legal representatives have the right to do so under applicable State law, they should not be precluded from doing so by Medicare regulations.

Comment: Some commenters stated that the proposed definition of "legal representative" is too restrictive. These commenters believed that we should define a "legal representative" to be any person permitted by State law to make health care decisions on behalf of the beneficiary. They believed that we defer to State law under the M+C rules, and that there is no reason to make a different rule for private contracting.

Some commenters requested that the definition of "legal representative" be expanded to include any person who would be willing to pay the beneficiary's bill, as, for example, family members. Some commenters stated that we should not define "legal representative" or use the term. Rather we should state that the private contract must be recognized under State law as a legally binding contract on the beneficiary, thereby letting the State determine when someone other than the beneficiary may sign it.

Some commenters indicated that the definition is not clear and should be revised. They wanted the revision to reflect differences in State law, or differences in the scope of the court order that appointed the beneficiary's legal guardian, by defining "legal representative" as "the beneficiary's court-appointed surrogate (guardian, conservator or other State law terminology) who has authority to enter into a contract for health care services. Some commenters indicated that the regulation should be revised to clarify that the "legal representative" accepts responsibility for making payment from the beneficiary's financial resources or from the beneficiary's estate, but is not responsible for making payments using the legal representative's personal funds. In addition, commenters wanted the regulation to clarify that the legal representative is not personally liable for the beneficiary's bills.

Commenters also indicated that the party who can make health decisions may not be the same party who can make financial decisions. These commenters believed that private contracting involves both health and financial decisions, and, thus, that both parties should have to consult and agree before any one party enters into a private contract on behalf of a beneficiary.

Response: We believe that the question of who should be allowed to enter into a private contract should be determined in accordance with State law. Therefore, we have changed the definition of legal representative as specified in § 405.400 to be: "one or more individuals who, as determined by applicable State law, has the legal authority to enter into the contract with the physician or practitioner on behalf of the beneficiary."

Comment: One commenter requested that the regulation require that the court order or power of attorney document establishing a "legal representative" be attached to the contract.

Response: We leave this matter to the States to regulate in accord with their applicable contract and agency laws.

Physician

Comment: Some commenters wanted optometrists to be able to opt-out.

Response: Section 1802(b)(5)(B) of the Act defines a physician according to the definition given in section 1861(r)(1) of the Act, which defines a physician as a doctor of medicine or osteopathy. For the purposes of opting-out and private contracting, the Congress did not define the term physician to mean the many other types of health care professionals as listed in section 1861(r)(2) through (5) of the Act. Optometrists are included in the definition only at section 1861(r)(4) of the Act.

General Rules (§ 405.405)

Two-year opt-out period

Comment: Many commenters objected to the requirements that when a physician or practitioner opts-out of Medicare, he or she must agree to sign private contracts with all Medicare beneficiaries, for all services furnished to Medicare beneficiaries for 2 years (other than emergency and urgent care services). These commenters believed that the 2-year requirement transforms private contracting from a vehicle for maximizing patient choice and access to services, into a barrier to the acquisition of services by the patient from the physician or practitioner of the patient's choice.

Response: The statute specifies that, in order to privately contract, the physician or practitioner must file an affidavit with Medicare. In the affidavit he or she must agree to enter into private contracts with Medicare beneficiaries (except in the case of those

who require emergency or urgent services) for 2 years.

Effect of opt-out that occurs during a continuum of care

Comment: Commenters asked that we clarify the effect of private contracting when the beneficiary is in a continuum of care that overlaps the opt-out period. For example, what will happen when a beneficiary is in the midst of a course of chemotherapy and the physician chooses to opt-out?

Response: When a Medicare beneficiary is in a continuum of care such as a course of chemotherapy and the physician chooses to opt-out of Medicare, the beneficiary may either privately contract with the physician, or the beneficiary may acquire the remainder of the care from a physician who has not opted-out of Medicare. If a physician or practitioner has opted-out of Medicare by filing an affidavit with the carrier, then he or she must enter into a private contract with every beneficiary to whom he or she furnishes care, except in situations where the beneficiary requires emergency or urgent care.

Conditions for Properly Opting-Out of Medicare (§ 405.410)

Advance notice of opt-out

Comment: A commenter requested that we require that physicians and practitioners give 60 days advance notice of their intention to opt-out. For nonparticipating physicians, this would be 60 days prior to filing the affidavit. For participating physicians, this would be 60 days before the calendar quarter in which their opt-out becomes effective. The notice would be given to beneficiaries treated by the physician or practitioner within 3 years, and to new beneficiaries with pending appointments.

The commenter knew of cases where beneficiaries traveled long distances for medical services without having been informed that the physician or practitioner had opted-out. Then, after arriving for the appointment, the beneficiaries had to leave without receiving the needed medical services, because they could not afford to enter into a private contract. According to the commenter, the beneficiaries in these cases suffered anxiety, distress, expense, and a delay in receiving the needed medical services. Those negative consequences could have been avoided if the beneficiaries had been advised, at the time the appointment was made or earlier, that the physicians had opted-out of Medicare. The commenter believed that the absence of advance notice leaves beneficiaries subject to duress in the physician's or practitioner's office.

Response: We have not imposed an advance notice requirement for physicians and practitioners who opt-out. We do not believe that kind of requirement is warranted. Moreover, the 60-day advance notice the commenter requested may cause physicians and practitioners to refuse to provide services during those 60 days, possibly resulting in the delay of needed medical services.

However, we hope that organizations will encourage member physicians and practitioners who have opted-out to notify the Medicare beneficiaries to whom they provide care as soon as possible after they file the affidavit. We also hope that these physicians or practitioners require that their office staff advise beneficiaries, at the time the beneficiary makes an appointment, that the physician or practitioner has opted-out of Medicare. Advance notice would spare beneficiaries the inconvenience, anxiety, duress, and delay in receiving needed medical services that might otherwise occur if they cannot enter into the private contract.

There are also significant administrative and good will advantages to the physician or practitioner of these notices. Advance notices will prevent the beneficiary from being surprised and possibly upset or angry in the office. Moreover, they will minimize the ill will that may occur if the beneficiary is asked to enter into a private contract at the time of the appointment as a condition of seeing the physician or practitioner, without being given advance notice. In addition, an advance notice will minimize the chance that beneficiaries will leave without having received the needed services, and result in an avoidable loss of income and time for the physician or practitioner.

We also hope that beneficiary organizations will encourage beneficiaries when they make an appointment to seek out information on whether they will need to sign a private contract before seeing a physician or practitioner. Then, the beneficiary could make a thoughtful and careful decision, in an environment less stressful than the physician's or practitioner's office.

Although we hope that the physician and practitioner communities will cooperate to provide an appropriate advance notice, we are concerned about the scenarios presented by the commenter and will continue to consider whether further guidance is needed.

Notice of change in participation status

Comment: A commenter indicated that there should be a mechanism for beneficiaries who have not signed private contracts, to be notified when they receive either emergency or urgent care services from an opt-out physician or practitioner who participated in Medicare before opting-out (and cannot sign a private contract at that time), that the physician or practitioner is now a nonparticipating physician or practitioner. That notification would benefit the beneficiary because the beneficiary's financial liability for those services will rise as a result of the change in the Medicare status of the physician or practitioner.

Response: We believe that this recommendation is an impractical burden to impose on physicians and practitioners, and is of little value to the beneficiary who needs emergency or urgent care services. When a beneficiary needs emergency or urgent care services, he or she probably does not have the alternative to seek care from a participating physician.

Signage

Comment: A commenter asked that we require that physicians and practitioners who opt-out to post a sign in a conspicuous space in his or her office in 5-inch type, stating that the physician or practitioner has opted-out of Medicare. Then beneficiaries will know when they enter the office that they will be required to sign a private contract to acquire non-emergency or urgent care services.

Response: We have not adopted this suggestion. As noted earlier we hope the physician and practitioner communities will cooperate to provide an appropriate advance notice to beneficiaries. We believe that a sign such as the commenter recommends would provide little or no value to the beneficiary who has already come to the physician or practitioner's office, and is about to be asked to enter into a private contract.

Relationship of opt-out physicians and practitioners to beneficiaries who do not enter into private contracts

Comment: A commenter asked that §§ 405.410 and 410.420 be revised to include an affirmative prohibition that physicians or practitioners cannot furnish an item or service to any beneficiary who has not privately contracted. The commenter believed that it should also be a condition to properly opt-out and maintain opt-out so that, if the physician or practitioner does not privately contract, the penalties of § 405.435(b) would be invoked.

Response: We have revised § 405.435 to specify that when a physician or practitioner who has opted-out fails to enter into a private contract (except in emergency or urgent care situations), he or she has failed to maintain opt-out. Therefore, where an opt-out physician or practitioner fails to enter into a private contract (except in emergency or urgent care situations), he or she will be subject to the penalties in that section for failure to maintain opt-out. We believe that this change addresses the commenter's concerns, and that changes to §§ 405.410 and 405.420 are not useful.

Timing of opt-out by participating physicians

Comment: Some commenters believed that participating physicians should be allowed to opt-out at any time after they provide sufficient advance notice. These commenters did not believe that participating physicians should have to await the beginning of a calendar quarter to be able to opt-out. Other commenters believed that physicians should only be permitted to opt-out during the standard participating physician enrollment period. They argued that permitting participating physicians to opt-out on a quarterly basis, and permitting nonparticipating physicians to opt-out at any time, leaves beneficiaries with too little time to find another physician or practitioner if theirs chooses to opt-out.

Response: We have decided to make no changes to the conditions regarding the timing of the opt-out period, either to permit opt-out by participating physicians at will, or to permit opt-out only during the participation enrollment period. Medicare carriers must make systems changes to permit participating physicians to opt-out, and, thereby, become nonparticipating physicians in the middle of the year, in such a way that they do not reduce Medicare payments for services furnished during the part of the year that they had a participation agreement in effect.

Medicare has a longstanding policy of making systems changes no less often than on a quarterly basis. The quarterly opt-out for participating physicians is designed to accommodate that schedule, while simultaneously permitting participating physicians to opt-out without having to await the annual participation enrollment or disenrollment period. The law does not link the opt-out election to the annual participation period and, therefore, we do not preclude participating physicians from opting-out only during that period.

Whether a carrier should send a return receipt to a physician or practitioner that submitted an affidavit

Comment: A commenter wanted carriers to be required to send a return receipt verifying the accuracy and acceptance of the affidavit. The commenter believed that procedure will eliminate problems with lost mail or an incorrect affidavit, and reduce the incidence of physicians and practitioners not properly opting-out and later finding themselves in trouble for having failed to properly opt-out.

Response: Our experience with those physicians and practitioners who have opted-out, indicates that there have been no notable problems with lost mail or incorrect affidavits. Hence, we do not believe that there is sufficient justification at this time for requiring the carrier (and the Medicare program) to incur the costs associated with sending return receipts to the physician or practitioner.

Impact of changes in carrier jurisdiction

Comment: A commenter asked that we address how carrier terminations and replacements will affect the opt-out status of physicians and practitioners. Specifically, the commenter wanted to know if the physician or practitioner needs to again file the affidavit with the carrier that is taking over the jurisdiction.

Response: Physicians and practitioners who have filed affidavits opting-out of Medicare will not need to refile when a carrier is replaced by a new carrier. The information will be transferred from the existing contractor to the new contractor, as part of the systems and records transition process.

Requirement to submit affidavits to all carriers

Comment: Commenters objected to the requirement that the physician or practitioner must submit affidavits to all carriers to which he or she has submitted claims in the past 2 years. They believed that this is a burdensome requirement that will become more so as there are more M+C organizations. Commenters also believed that this requirement is particularly burdensome for physicians and practitioners in States that have a lot of "snowbirds." They asked whether the physician or practitioner must submit an affidavit to each carrier to which they would send claims. A commenter requested that there should either be a standard form that contains all addresses, or the affidavit should be submitted to us for distribution to all carriers.

Response: We do not believe that this requirement is burdensome. The submission of an affidavit is done no more than once every 2 years, and requires simply mailing it to the addresses to which the physician or practitioner ordinarily sends claims. Physicians and practitioners already know to whom they have sent claims within the past 2 years, and this is the reason we proposed this standard.

We want to reinforce the importance of mailing the affidavits to the appropriate carriers. We have received many affidavits that were sent to the Secretary, rather than being sent to the physician's or practitioner's carrier. The result of the misrouting of the affidavits has been significant delays in the processing of these misdirected affidavits by carriers. Physicians and practitioners were instructed where to send the affidavit in the November 1997 "Dear Doctor" letter. That letter was sent to all physicians and practitioners who had submitted claims to Medicare within the previous year.

Moreover, the comments reflect several misunderstandings. First, the number of M+C organizations has no relationship to the number of affidavits to be filed, because an M+C organization is not a Medicare carrier. M+C organizations will acquire information on physicians and practitioners who have opted-out through mutually agreed upon arrangements with carriers.

Also, when a physician furnishes care to a Medicare beneficiary who lives much of the time in another State, the physician files the Medicare claim with the carrier that has jurisdiction over the claims for the services furnished in the physician's or practitioner's Medicare locality. For example, when a physician in Jacksonville treats a Medicare beneficiary who resides most of the time in Detroit, the physician files the claim with the carrier who processes claims for services furnished in Jacksonville, not with the carrier who processes claims for services furnished in Detroit. Hence, the physician would file the affidavit with the carrier for Jacksonville, not with the carrier for Detroit.

We recognize that this process could be more streamlined. Therefore, we are considering ways to simplify it for physicians, practitioners, carriers, and M+C organizations, and would welcome suggestions on this subject.

Comment: A commenter asked for specific guidance in the case of physicians and practitioners who have not filed claims with Medicare in the past 2 years.

Response: The physician or practitioner should file the affidavit with the carrier that has jurisdiction over claims for the services furnished in

the Medicare localities in which the physician furnishes services.

Requirements of Private Contracts (§ 405.415)

Need for a model contract

Comment: Some commenters wanted us to develop a model contract. They believed that it would help physicians and practitioners by ensuring that they maintain their opt-out status. They believed that a model contract would increase the probability that beneficiaries will understand the effects of the private contract.

Response: We agree. We plan to create boilerplate language that may be included with any other contractual document the physician or practitioner and beneficiary create. We plan to create boilerplate language as part of the development of manual instructions, after consultation with the physician, practitioner, and beneficiary communities.

Wording of the private contract

Comment: Commenters requested that we require that the wording of the private contract be plain and simple, and not reference law, regulations, or government instructions. They believed such references cause beneficiaries to cease reading documents.

Response: We agree that the wording of private contracts should be plain and simple. At the same time, a private contract is a binding legal document. Its purpose is to waive a beneficiary's right to have his or her government-sponsored insurance coverage pay for certain health services. It is unlikely that a sensible and intelligent contract on this issue could be developed without a reference to law or regulation. Therefore, we are not prohibiting inclusion of references to law and regulations because such references may be necessary. However, contracts could have references to law or regulations and still be in plain and simple language.

Comment: Commenters requested that we require that the private contract specify that the beneficiary does not forego Medicare coverage for the services furnished by other physicians or practitioners who have not opted-out. In addition, commenters requested that the private contract specify that the beneficiary is not compelled to enter into private contracts that apply to other Medicare-covered services.

Response: We believed that these concerns were addressed in § 405.415(g) of the proposed rule. However, because of this comment, we have revised § 405.415(g), adding that the beneficiary must be advised that he or she is not compelled to enter into private contracts that apply to other Medicare-covered services furnished by other physicians or practitioners who have not opted-out. In addition, this and other terms a private contract should contain may be incorporated in boilerplate language that we plan to create after consulting with the physician, practitioner, and beneficiary communities. That boilerplate language could then be included as part of the private contract document.

Comment: Commenters requested that we require that the private contract contain wording that specifies that the private contract applies to all services by the opt-out physician or practitioner, including emergency and urgent care services, and that, therefore, Medicare will not pay for any services furnished by the opt-out physician or practitioner. Commenters indicated that this wording is needed, because many private contracts specify that the beneficiary will have to pay for certain services, wrongly implying that other services not identified in the contract will be paid by Medicare. If the beneficiary is misled by this wording, it increases the likelihood that he or she will sign the private contract without understanding the effect.

Response: We have revised § 405.415(c) to clarify that the private contract must state that the beneficiary understands that by signing the private contract, the beneficiary or his or her legal representative accepts full responsibility for payment of the physicians's or practitioner's charge for all services furnished by the physician or practitioner. We will consider the exact language to be used in the private contract as part of the development of the boilerplate private contract language.

Beneficiary's copy of the private contract

Comment: Commenters asked how far in advance must the physician or practitioner give the beneficiary a copy of the private contract as required by § 405.415(l).

Response: Under § 405.415(l), we proposed that the beneficiary receive a copy of the contract before receiving any services under the contract, but we did not require that this occur a specific duration of time before services are furnished under the contract. We only proposed that the beneficiary be in possession of the private contract, or a copy of the private contract, by the time services under the private contract are furnished. This is consistent with the policy we have in place under the interim operating instructions issued to carriers in November 1997, January 1998, April 1998, and July 1998.

Duration of retention of the private contract

Comment: Commenters requested that we require the opt-out physician and practitioner to retain the private contract for the duration of the longest statute of limitations in the relevant state jurisdiction, so it would be available to use in potential claims against the physician or practitioner. They believed that this would assist in settling disputes about whether a private contract was required.

Response: We proposed that the private contract be retained for the duration of the opt-out term to which it applies. However, we are aware that, for example, a particular physician's or practitioner's opt-out term may run from January 1, 1999 to December 31, 2001. In this example, a beneficiary could enter into a contract with that practitioner or physician in November 2001, and a dispute over the existence or validity of the contract could arise in January 2002. If the physician or practitioner disposed of the contract on December 31, 2001, the physician or practitioner would not have the contractual evidence in the subsequent dispute. However, because retention of the private contract would be to the practitioner's or physician's benefit, we believe that the contract would become part of the patient's permanent record. In addition, although the physician or practitioner might have disposed of his or her copy of the contract, the beneficiary should still have the copy of the contract the beneficiary was given when the beneficiary entered into the contract.

Private contract type size

Comment: Commenters indicated that they support the absence of specified requirements regarding size of the print in the private contract, but that the regulations should stipulate that the physician or practitioner and the beneficiary should reach mutual agreement on all aspects of the private contract.

Response: Implicit in the fact that both parties enter into a private contract is the notion that both parties have read, fully understand, and agree to the terms and provisions of the private contract.

Requirements of the Opt-Out Affidavis (§ 405.420) Reassignment Implications

Comment: Commenters wanted the proposed regulations to be revised to explicitly authorize continued reassignment of Medicare benefits for services furnished by opt-out physicians and practitioners to community mental health centers (CMHCs). They believed that opt-out physicians and practitioners should be able to opt-out of Medicare for purposes of their private practices, but be able to remain in Medicare when they furnish services in other settings like CMHCs. That would allow the physician and practitioner to continue to furnish services to low income persons for which the CMHC could bill Medicare.

Response: We disagree. Under the law, when a physician or practitioner opts-out of Medicare, he or she signs an affidavit that promises that he or she will privately contract for all Medicare-covered services he or she furnishes to Medicare beneficiaries. Hence, the opt-out decision applies to all services furnished by the physician or practitioner, including those for which a CMHC bills and is paid by Medicare under a reassignment of benefits to the CMHC, a billing agent arrangement, or through an employment relationship. Except as discussed below, no payment may be made to the physician or practitioner or to the CMHC for the services of a physician or practitioner who has opted-out of Medicare.

The only exception occurs when a clinical social worker (CSW) who is recognized by Medicare as a practitioner provides services as part of a partial hospitalization program for which Medicare is paying the CMHC. In this case, the CMHC (and not the CSW) is the provider of a partial hospitalization service (not a CSW service) and the fact that the CSW opted-out of Medicare does not preclude payment for the partial hospitalization service.

Identifying Information

Comment: Commenters objected to the quantity of information that we proposed requiring in the affidavits. They believed that we have gone beyond what the law requires for the specific identifying information that must be provided. They requested that the proposed regulations be revised to require only a name, address, phone number, and one identifying number such as either the national provider identifier, the uniform provider identification number, or the tax identification number.

Response: We are sympathetic to these commenters concerns, but we believe that we have requested the minimum practical quantity of information be provided in the affidavit that we, and carriers, need to properly and uniquely identify opt-out physicians and practitioners. Given the possibility that a large number of physicians or practitioners could opt-out of Medicare, the potential for having confusion among physician or practitioners with the same name or business address is significant. This is especially true when the additional factors such as the prevalence of the use of billing agents and reassignments are considered.

We need sufficient information to ensure that no entity is billing on behalf of an opt-out physician or practitioner. We also need sufficient information to identify persons who have never been involved in the Medicare program. In addition, and most importantly from the physician's or practitioner's standpoint, we need what some physicians and practitioners may believe to be duplicate information to ensure that we have correctly identified the opt-out physician or practitioner and have not incorrectly assumed that a physician or practitioner has opted-out.

Failure to Properly Opt-Out (§ 405.430)

Difference Between Failing to Properly Opt-Out and Failing to Maintain Opt-Out

Comment: Commenters asked that we clarify the difference between failing to properly opt-out (§ 405.430) and failing to maintain opt-out (§ 405.435).

Response: Failure to properly opt-out means failure to meet the criteria that change a physician's or practitioner's status, from a physician or practitioner who is bound by the Medicare claims filing rules and limits on charges (that is, participating or nonparticipating), to a physician or practitioner who is no longer bound by Medicare claims filing and limits on charges and must privately contract with Medicare beneficiaries (that is, an opt-out physician or practitioner). The effects of failing to properly opt-out as specified in § 405.435(b) are the same conditions that existed before the private contract provisions of section 4507 of the BBA were effective. These conditions continue to exist for all physicians and practitioners who do not properly opt-out by meeting all of the requirements of these rules. A physician or practitioner who has never filed an affidavit is bound by the rules in § 405.430(b) because he or she has not properly opted-out.

Failing to maintain opt-out means failure to continue to comply with the requirements of properly opting-out, but only after having properly opted-out. A physician or practitioner who has opted-out by meeting the requirements of § 405.410, but who fails to continue to meet one of the requirements specified in § 405.435(a), has failed to maintain opt-out and is subject to the effects of § 405.435(b).

Beneficiary rights when a physician or practitioner does not properly opt-out

Comment: Commenters asked that we specify the beneficiary's rights when the physician or practitioner fails to properly opt-out. Specifically, are beneficiaries entitled to refunds for services furnished under private contracts? If the answer is yes, are the refunds based on Medicare rules, and does the pre-opt-out or post opt-out status (participating versus nonparticipating) control the payment?

Response: Beneficiary rights when a physician or practitioner fails to properly opt-out are specified in § 405.430(b). However, we realize that the proposed rule failed to indicate that a participating physician in Part B of Medicare who has not properly opted-out may not charge more than the deductible and coinsurance that applies to the service furnished because, in the absence of the physician properly opting-out of Medicare, the participation agreement to accept assignment on all claims continues to apply. We have made the relevant change to this section.

Repeated attempts to opt-out

Comment: Commenters asked us to clarify what happens when the physician or practitioner fails to properly opt-out. Does a participating physician have to wait until the next calendar quarter to properly opt-out? Commenters wanted the regulations to specify that all attempts to properly opt-out must meet the same criteria as if no opt-out attempt had occurred.

Response: A physician or practitioner who fails to properly opt-out continues to be bound by the Medicare claims filing and charge limit rules identified in § 405.430(b). However, he or she may make an unlimited number of attempts to properly opt-out at any time. We believe that the regulations are clear that the criteria for properly opting-out as specified in § 405.410 must be met for the physician or practitioner to opt-out.

Failure to Maintain Opt-Out (§ 405.435)

Inclusion of failure to enter into a private contract as a failure to maintain opt-out

Comment: Some commenters requested that the regulations specify that the failure of a physician or practitioner who has properly opted-out to privately contract with a beneficiary to furnish services, that are not emergency or urgent care services, is a failure to maintain opt-out. In those

cases, the commenters wanted the penalties for failure to maintain opt-out to apply.

Response: We agree and have revised § 405.435(a). Failure to enter into a private contract with a beneficiary who requires services that are neither emergency nor urgent care services is now a condition that results in the physician or practitioner failing to maintain opt-out as specified in § 405.435(a)(5). Commenters have provided information about situations in which physicians and practitioners who opted-out of Medicare failed to enter into private contracts with beneficiaries who did not need emergency or urgent care services. Those beneficiaries subsequently learned that they would be wholly liable for the physician's or practitioner's charges because they had opted-out of Medicare. We believe that failing to privately contract after promising to do so in the affidavit clearly violates the intent of the law. That intent, we believe, is to ensure that beneficiaries have entered into private contracts before they assume liability for payment of furnished services without regard to charge limits.

Medicare payment when the beneficiary has not entered into a private contract

Comment: Some commenters requested that we require that when the opt-out physician or practitioner fails to enter into a private contract before furnishing services that are not emergency or urgent care services, the beneficiary be reimbursed by Medicare. In addition, the physician or practitioner would have to refund to the beneficiary any amount in excess of the limiting charge. Commenters indicated that this would parallel longstanding policy in which Medicare pays the first claim submitted by an excluded physician or practitioner.

Response: We have revised § 405.435 to add failure to enter into a private contract as a failure to maintain opt-out. Under these provisions, the physician or practitioner would be required to refund amounts in excess of the charge limits under the limited terms described in § 405.435(b). Under those terms, where a carrier notifies a physician or practitioner that he or she appears to have failed to maintain opt-out, the physician or practitioner would have 45 days to respond to the carrier with the good faith efforts that he or she has taken to resolve the problem. In cases in which the physician or practitioner did not sign private contracts, those good faith efforts would have to include refunds to those beneficiaries of amounts in excess of the charge limits (that is, the limiting charge for physicians, and deductible and coinsurance for practitioners). Where a carrier notified a physician or practitioner that there was an apparent failure to maintain opt-out and he or she did not respond within 45 days with an explanation of how the problem was or would be solved, the charge limits would apply after the 45th day, resulting in refund of excess amounts if any are collected for the remainder of the opt-out period. Where the physician or practitioner responded to the carrier notice and resolved the problem, no refunds would be required and the opt-out would continue unaffected.

In addition, we have added § 405.435(c), which specifies that payment may be made to beneficiaries in a similar manner as payment made to beneficiaries who receive services from physicians and practitioners who are excluded from Medicare by the Office of the Inspector General (OIG).

Under a longstanding exclusion provision at 42 CFR 1001.1901(c), payment may be made to a beneficiary who has not been notified of the physician's exclusion, for the first claim submitted by the enrollee. Payment to the beneficiary may also be made for services received by the beneficiary no more than 15 days after the date of the carrier's notice to the beneficiary that the physician has been excluded from Medicare. Therefore, in § 405.435(c), we have included similar provisions with respect to physicians and practitioners who have opted-out of Medicare, but failed to enter into private contracts before furnishing services that are not emergency or urgent care services.

We agree with the commenters that it is not fair to deny beneficiaries reimbursement for otherwise allowable services when they had no reason to believe that Medicare would not pay for the furnished services. We should point out, however, that as a practical matter, payment to the beneficiary will probably be made after denial of the beneficiary's claim and as part of the appeal process. In other words, the beneficiary's claim initially would be denied on the basis that the physician or practitioner opted-out. Should the beneficiary then appeal on the basis that he or she did not enter into a contract with the physician or practitioner, and should the physician or practitioner fail to produce documentation that there was a contract, the beneficiary's appeal would be allowed and the claim would be paid.

Comment: Commenters objected to any recovery of payment from the physician or practitioner when the physician or practitioner failed to maintain opt-out, because he or she failed to enter into a private contract with the beneficiary before furnishing services that were not emergency or urgent care services.

Response: As discussed above, we have revised § 405.435 to define failure of an opt-out physician or practitioner to enter into a private contract as being a failure to maintain opt-out. When a carrier notifies an opt-out physician or practitioner that he or she appears to have failed to maintain opt-out by not entering into a private contract, he or she may continue to opt-out if he or she makes good faith efforts at fixing the problem that led to the failure to maintain opt-out and notifies the carrier of these efforts within 45 days of the carrier notice. When a physician or practitioner appears to have failed to maintain opt-out by not entering into a private contract with a Medicare beneficiary (except in emergency or urgent care cases), these good faith efforts should include refunding amounts collected in excess of applicable charge limits (that is, limiting charge for physicians and deductible and coinsurance for practitioners) to beneficiaries. Where the physician or practitioner makes good faith efforts to correct the problem he or she would not be subject to the consequences of failing to maintain opt-out. However, if he or she does not make good faith efforts to fix the problem that resulted in violating the opt-out, the consequences of § 405.435(b) would apply.

Treatment of incidental failure to maintain opt-out

Comment: Some commenters indicated that the first time the carrier becomes aware that a physician or practitioner failed to enter into a private contract before furnishing services that were not emergency or urgent care services, there should be a presumption that there was an isolated error. They believed in those cases that no adverse consequences should occur to the physician or practitioner. Some commenters stated that there should be a process for dealing with physicians and practitioners who demonstrate a pattern of failing to enter into private contracts with beneficiaries, before furnishing services that are not emergency or urgent care services.

Response: We agree that, as written, an isolated error causes the physician or practitioner to fail to maintain opt-out. We also recognize that isolated errors will occur and should not result in the consequences provided in § 405.435(b). We accommodated this concern in our operating instructions to carriers. Consequently, we have revised the regulation at § 405.435(b). We have limited the effects of failing to maintain opt-out when the physician or practitioner has failed to maintain opt-out in accordance with the provisions of § 405.435(a), by failing to make a good faith effort to advise carriers regarding how they will correct violations of opt-out within 45 days of the date a carrier brings those violations to their attention. This change comports with the current operating procedures in place when a physician or practitioner submits a claim for Medicare payment in violation of the affidavit, in which he or she promised not to submit claims.

Payment to physicians and practitioners when they fail to maintain opt-out

Comment: Commenters indicated that it is unclear whether the physician or practitioner would be paid anything for the services they furnished if they fail to maintain opt-out. Commenters objected to what they view as provisions that prevent them from collecting more than the deductible and coinsurance if the physician or practitioner fails to maintain opt-out.

Response: Physicians and practitioners who have opted-out and who fail to maintain opt-out are not precluded from collecting payment from the beneficiary. But if they failed to privately contract with a beneficiary (other than in an emergency or urgent care case), they may have to refund amounts in excess of the applicable charge limits to those beneficiaries with whom they failed to privately contract in order to preserve their opt-out status.

Specifically, under § 404.435(b) when a physician or practitioner fails to maintain opt-out, he or she is given 45 days after a notice from the carrier to respond with a description of the good faith efforts that he or she has made to correct the problem that led to the failure to maintain opt-out. If the failure to maintain opt-out was caused by the physician's or practitioner's failure to privately contract with a beneficiary (other than one in need of emergency or urgent care), then the good faith efforts would include refunding to that beneficiary amounts collected in excess of the applicable charge limits (that is, the limiting charge in the case of physicians, and the deductible and coinsurance in the case of practitioners). If the physician or practitioner does not respond with a description of the good faith efforts taken to resolve the problem that led to the failure to maintain opt-out, then the provisions of § 405.435(b) apply after the 45th day after the carrier notice and the physician or practitioner become again required to submit claims and are bound by the applicable charge limits (that is, the limiting charge in the case of physicians, and the deductible and coinsurance in the case of practitioners) for the rest of the opt-out period.

Medicare inspection of private contracts

Comment: Commenters stated that a very high threshold should be met before we are allowed to inspect private contracts. Commenters wanted the regulations to specify that we would be allowed to inspect private contracts only if the request is reasonable and does not interfere with the delivery of services. Commenters wanted the regulations to require that we obtain beneficiary consent before asking to see the private contract. Otherwise, they believed it is a violation of privacy. Some commenters indicated that when it is alleged that a physician or practitioner opted-out but did not enter into private contracts before furnishing services that are not emergency or urgent care services, settlement of the case should be on a case-by-case basis by the appeal process.

Response: We anticipate that we will request to see private contracts rarely, and only in cases where a beneficiary alleges that he or she did not enter into a private contract before the service was furnished. We anticipate we will have the consent of the beneficiary, or his or her legal representative, to acquire a copy of the private contract from the physician or practitioner who alleges that one was entered into, and that the contract will be requested as part of the processing of an appeal of a denial of a claim for services.

Application of effects of failure to maintain opt-out

Comment: Commenters objected to considering the provisions of §§ 405.435(a)(2), (3), and (4) to be a failure to maintain opt-out resulting in the adverse effects of § 405.435(b). Commenters believed that the statute provides for the adverse effects in § 405.435(b) only if the physician or practitioner who has opted-out submits a claim for Medicare payment. In addition, they believed that we have exceeded what the law permits by providing adverse consequences in these other cases:

- The physician or practitioner fails to use private contracts that meet the requirements of § 405.435(a)(2).
- The physician or practitioner fails to comply with the emergency and urgent care rules as specified in § 405.435(a)(3).
- The physician or practitioner fails to keep a copy of a private contract or fails to permit us to review contracts on request as specified in § 405.435(a)(4).

In these cases, commenters believed that nothing supports applying the penalties of § 405.435(b) for failing to maintain opt-out, and they objected that we do not apply the knowing and willful test in these cases.

Response: We believe that under general rulemaking authority, we have the authority to impose the requirements we believe are necessary to implement the law in a manner that conforms with the intended effect. We believe that it would be inconsistent with the intent of the law if we could not ensure that—(1) private contracts adequately protect beneficiaries who enter into them; (2) emergency and urgent care services are provided without the patient being asked to enter into a private contract; and (3) a private contract is available for review when an appeal is based on the allegation that a contract was not entered into.

Comment: Commenters wanted the regulations to specify that when the physician or practitioner who has opted-out fails to maintain opt-out, the physician or practitioner must refund amounts collected in excess of the limiting charge for services he or she furnished before the failure to maintain opt-out occurred.

Response: We have not made this change. When a physician or practitioner has properly opted-out, he or she is not limited in what he or she can collect from the beneficiary for services furnished during the period in which he or she has properly opted-out.

As discussed previously, to avoid the consequences of failing to maintain opt-out, the physician or practitioner must respond within 45 days after the carrier notice with good faith efforts to resolve the problem (including refunding to the beneficiary amounts in excess of the charge limits where the physician or practitioner failed to enter into a private contract with a beneficiary who did not need emergency or urgent care). However, if the physician or practitioner does not respond within 45 days with good faith efforts to maintain opt-out, he or she becomes bound by the consequences of failing to maintain opt-out (including applicable charge limits), but only for services furnished in the remainder of the opt-out period—not for services furnished while he or she was in compliance with the opt-out.

Emergency and Urgent Care Services (§ 405.440)

Disagreements about emergency or urgent care services

Comment: Commenters asked what will happen if the physician or practitioner furnishes services that they believe are emergency or urgent care services, but the carrier disagrees. Will the physician or practitioner be subjected to any penalties for failure to privately contract? Commenters believed that this is particularly problematic in instances of furnishing urgent care services, when the carrier or M+C organization believes those services could wait more than 12 hours, but the physician or practitioner disagrees. There should be some protection for the physician or practitioner who believes that the proper categorization of the needed furnished services was urgent care, even if the physician or practitioner loses on appeal.

Response: We believe that changing the definition of emergency care, from the "anti-dumping" definition specified at § 489.24 to the "prudent layperson" standard specified at § 422.2, will offer more protection to physicians and practitioners who are presented with a beneficiary who believes he or she is in need of emergency or urgent care services. Therefore, we have revised the text of emergency care services to mean "services furnished to an individual for treatment of an 'emergency medical condition' as that term is defined in § 422.2 of this chapter."

Comment: Commenters asked what oversight processes we will use to ensure that physicians and practitioners that opt-out do not abuse their ability to see patients without private contracts. The commenters were concerned that beneficiaries may be left unprotected if Medicare disagrees with the physician's or practitioner's view that the services were emergency medical care or urgent care services. They were also concerned that beneficiaries who believe that they need emergency medical care or urgent care services may be coerced by physicians or practitioners to enter into private contracts. The reason for that coercion would be to protect the physician or practitioner from potential conflict with the carrier, if the physician or practitioner does not believe that the patient needs emergency medical care or urgent care services.

Response: Section 1802(b)(2)(A)(iii) of the Act is clear that a physician or practitioner cannot enter into a private contract with a beneficiary if the private contract is entered into when the beneficiary is facing an emergency or urgent health care situation. We also extend this analysis to mean that, in case of a beneficiary emergency, the beneficiary's legal representative cannot enter into a private contract on the beneficiary's behalf. Because we are adopting the prudent layperson standard the test would be whether the beneficiary is a prudent layperson, and whether a prudent layperson would have thought he or she was facing an emergency or urgent health care situation under the particular circumstances involved.

Renewal and Early Termination of Opt-Out (§ 405.445)

Early termination of opt-out

Comment: Commenters asked that we clarify whether a physician or practitioner who opted-out but then completed an early termination of opt-out, may reapply for a subsequent opt-out period. They also asked that we also identify what notice he or she must give to the beneficiary.

Response: A physician or practitioner who opted-out of Medicare and completed an early termination of opt-out may reapply for a subsequent opt-out period under the same terms, including the same beneficiary notice terms, that would apply if he or she had not opted-out and then terminated opt-out.

We would note, however, that a physician or practitioner can terminate opt-out early only once. Therefore, if a physician or practitioner opts-out, then executes an early termination of opt-out, and then submits a second affidavit opting-out again, he or she will not be permitted early termination of that or any subsequent opt-out. We expect that a single early termination of opt-out will be sufficient to meet the needs of a physician or practitioner who has opted-out and decides that it was a mistake. Moreover, permitting more than one early termination of opt-out would be very difficult for carriers' systems to accommodate and would impose a costly systems burden to them (and to Medicare).

Comment: Commenters asked what participation status applies to a physician or practitioner who completes early termination of opt-out. In addition, they asked what payment status (participating versus nonparticipating) applies to service charges for services furnished during the aborted opt-out period.

Response: When a physician or practitioner terminates opt-out early, he or she resumes the participation status that existed before he or she opted-out. That participation status would apply to the service furnished during the shortened opt-out period.

Medicare+Choice Organizations (§ 405.450)

Acquisition of information on opt-out physicians and practitioners by Medicare+Choice organizations

In § 405.455, we indicate that M+C organizations may not pay for services of physicians or practitioners who opt-out of Medicare under these rules. We also specify that M+C organizations must acquire the information needed to implement this requirement from Medicare carriers that have jurisdiction over the claims in the areas the M+C organization serves.

We recognize that this approach for acquiring this information may not be optimal and we want to streamline it. We welcome suggestions on the specific information M+C organizations need to implement these rules and the most efficient means by which they could receive it.

C. Payment for Outpatient Rehabilitation Services

The term outpatient rehabilitation therapy encompasses outpatient physical therapy (including speech-language pathology) and outpatient occupational therapy.

1. BBA 1997 Provisions Affecting Payment for Outpatient Rehabilitation Services

a. Reasonable Cost-Based Payments. Section 4541(a) of BBA 1997 added new section 1834(k) to the Act. Section 1834(k)(2) establishes a 10-percent reduction in the reasonable cost of therapy services furnished during 1998. The 10-percent reduction does not apply to outpatient therapy services furnished by hospitals. In accordance with this provision, we have revised our policy to make payment for outpatient rehabilitation services furnished during 1998 based upon the lesser of the charges imposed or the reasonable cost determined for such services, reduced by 10 percent. The 10-percent reduction does not apply to outpatient physical therapy or occupational therapy services furnished by a hospital to an outpatient or to a hospital inpatient entitled to benefits under Part A but who has exhausted benefits or is otherwise not in a covered Part A stay.

As stated in our proposed rule, the salary equivalency guidelines will remain in effect until all BBA provisions regarding a prospective payment system for outpatient rehabilitation services are implemented. The prospective payment system, which is effective for services

furnished on or after January 1, 1999, removes the need for salary equivalency guidelines because providers will no longer be paid on a reasonable cost basis for their therapy services. The salary equivalency guidelines were a tool used to determine the reasonable cost of therapy services provided by practitioners other than physicians.

Comment: We received several comments stating that the 10-percent payment reduction may cause certain small providers to cease operations or cease providing services to Medicare beneficiaries. The commenters also stated that the Congress did not adequately consider the impact of the 10-percent reduction on small providers and that the Congress was misled.

Response: The 10-percent payment reduction is required by BBA.

b. Prospective Payment System for Outpatient Rehabilitation Services.

(1) Overview

Section 4541 of BBA adds a new section 1834(k) to the Act that provides for a prospective payment system for outpatient rehabilitation services and all services provided by CORFs. The prospective payment system is effective for services furnished on or after January 1, 1999. Section 1834(k)(1)(B) of the Act provides for payment for those services to be made at 80 percent of the lesser of (1) the actual charge for the services, or (2) the applicable fee schedule. Section 1834(k)(2) defines the applicable fee schedule amount as the amount determined under the physician fee schedule, or, if there is no such fee schedule established for those services, the amount determined under the fee schedule established for comparable services as specified by the Secretary.

The physician fee schedule is currently applied to certain outpatient rehabilitation therapy services. It is now the basis of payment for outpatient rehabilitation services furnished by physical therapists in independent practice (PTIPs) and occupational therapists in independent practice (OTIPs), physicians, and certain nonphysician practitioners or incident to the services of these physicians or nonphysician practitioners. The physician fee schedule has been the method of payment for outpatient rehabilitation therapy services provided by such entities for several years. As discussed in our proposed rule, fee schedule payment will now apply when outpatient physical therapy, occupational therapy, and speech-language pathology services are furnished by rehabilitation agencies, public health agencies, clinics, SNFs, home health agencies for beneficiaries who are not eligible for home health benefits because they are not homebound or to homebound beneficiaries who are not entitled to home health benefits, hospitals (when such services are provided to an outpatient or to a hospital inpatient who is entitled to benefits under Part A but who has exhausted benefits, or is not entitled), and CORFs. The fee schedule also applies to outpatient rehabilitation services furnished under an arrangement with any of the cited entities that are to be paid on the basis of the physician fee schedule. The fee schedule will not apply to outpatient rehabilitation services furnished by critical access hospitals. Under section 1833 of the Act as amended by section 4541 of BBA, these services will be paid on a reasonable cost basis.

Comment: We received one comment in support of delaying the implementation of a prospective payment system for outpatient rehabilitation services until April 2000 because implementation of the hospital outpatient prospective payment system is being delayed. The commenter stated that a delay would provide sufficient time for HCFA to develop a site-of-service differential and, at the same time, would allow for implementation of all revisions to hospital outpatient billing. It was also noted that hospitals are faced with Year 2000 (Y2K) problems as well and that the piecemeal implementation of outpatient regulations adds to the already daunting Y2K task.

Response: We disagree that development of a site-of-service differential for outpatient rehabilitation services is a rational basis for seeking to delay implementation of a prospective payment system for outpatient rehabilitation services because as we noted in our proposed rule, we find no legislative basis for making such a payment differential. On the other hand, we are sensitive to the commenter's concerns about the Y2K system compliancy challenges confronting hospitals and their need to effectively and efficiently renovate their systems. We face similar challenges and have therefore, to delay implementation of certain BBA provisions such as the hospital outpatient PPS to which the commenter refers. However, we will not be delaying implementation of the outpatient rehabilitation PPS. Implementation of hospital outpatient PPS must be delayed by the year 2000 system renovations because it requires massive system changes. Major contractor systems will be affected and the consequence of these required changes to the basic systems will be to change the entire way fiscal intermediaries process and pay hospital outpatient and community mental health claims (These latter claims will be paid under the hospital outpatient PPS).

By contrast, implementation of the fee schedule provision for outpatient rehabilitation services does not require that we develop an entirely new system or even undertake extensive reprogramming of the existing system in order to accommodate the new entities such as CORFs and rehabilitation agencies that will bill under this system. Basically, we can implement the fee schedule provision because it involves extending billing under an existing system (the physician fee schedule) to additional practitioners and services.

However, extension of the two $1,500 outpatient financial limitations or caps on a per-beneficiary basis as proposed in our June 5, 1998 rule requires considerable new programming that we are not able to undertake concurrent with our Y2K efforts. Therefore, we are delaying *full* implementation of the caps, effective January 1, 1999. We will implement them as discussed in our proposal as soon as possible after January 1, 2000.

Effective January 1, 1999, we will begin employing a transitional approach to implementing the caps on a provider/practitioner specific basis. This approach, will require each provider/practitioner not subject to the current limitations to cap their Medicare billings at $1,500 per beneficiary. We describe this partial implementation measure elsewhere in this rule under the section on financial limitations.

(2) Services Furnished by Skilled Nursing Facilities

Section 4432(a) of BBA added a new subsection(e) to section 1888 of the Act to establish a prospective payment systems for SNFs. Under the statute, effective for cost reporting periods beginning on or after July 1, 1998, Medicare pays for covered Part A SNF stays on the basis of prospectively determined payment rates that encompass all costs of "covered SNF services" furnished to an SNF resident. The statute defines covered SNF services to include (1) post-hospital extended care services paid for under Part A, and, (2) certain services that may be paid under Part B and that are furnished to SNF residents receiving covered post-hospital extended care services. Section 1888(e)(2) provides for exclusion of specific services from the definition of covered SNF services, but the statute explicitly states that the exclusions do not encompass "any

physical, occupational or speech-language therapy services regardless of whether or not the services are furnished by, or under the supervision of, a physician or other health care professional." Thus, if an SNF resident is in a covered Part A stay, therapy services furnished to the SNF resident are encompassed in the PPS payment and Medicare does not make a separate Part B payment.

Under the new payment system for SNF inpatient services, and consistent with current policy (which applied before enactment of BBA), services furnished to SNF residents that are not covered under Part A may nevertheless be covered under Part B. Section 4432(b) of BBA amended section 1842(b)(6) of the Act to require that payment for most services furnished to an individual who is a resident of an SNF, including outpatient rehabilitation services, be made to the facility (without regard to whether the service was furnished by the facility, by others under arrangement with the facility, or under any other arrangement). When the services are not being furnished directly, the facility then pays the provider of therapy services. The consolidated billing provision was scheduled to be effective for services furnished on or after July 1, 1998. However, due to systems modification delays in implementing SNF consolidated billing, instructions in Program Memorandum (PM) AB–98–18 dated July 1998, as they apply to services and supplies furnished to residents in a Part A stay in an SNF not yet on the PPS and to the Part B stay (Part A benefits exhausted, posthospital or level of care requirements not met), are delayed until further notice. We announced this decision in a subsequent Program Memoranda, that is, PM AB–98–35 dated July 1998.

Section 4432(b)(3) of BBA added a new paragraph (9) to section 1888(e) of the Act to provide that, with respect to a service covered under Part B that is furnished to an SNF resident, the amount of payment for the service is the amount provided under the fee schedule for such item or service. This provision must be read in conjunction with the provisions of section 4541 of BBA. Section 4541 added a new section 1833(a)(8) to specify that the amounts payable for outpatient rehabilitation services furnished by an SNF will be the amounts determined under section 1834(k) of the Act. Section 1834(k) of the Act provides that payment in 1998 is to be based on the lesser of the charges imposed for these services or the adjusted reasonable costs and, in 1999 and thereafter, 80 percent of the lesser of the actual charge for the service or the physician fee schedule. Thus, as discussed in our proposed rule, we have revised our policy so that Part B services furnished to a SNF inpatient (Part A benefits exhausted, posthospital or level of care requirements not met) remain payable on a reasonable cost basis until January 1, 1999. Effective January 1, 1999, the services will be paid in accordance with the physician fee schedule.

The physician fee schedule amount applicable to services furnished in a nonfacility setting will apply to the Part B services to inpatients (Part A benefits exhausted, posthospital or level; of care requirement not met) and other outpatient rehabilitation services furnished by the SNF. The nonfacility amount applies because the consolidated billing provision requires that the SNF be directly paid for the entire therapy service (including facility costs) based on the physician fee schedule. This is in contrast to the amount applicable to physician services, excluding outpatient rehabilitation services, billed for SNF residents. In this case, the physician payment is not intended to cover the facility costs associated with the service and the fee schedule amount applicable to services furnished in a facility applies. Through PM AB–98–63 dated October 1998, we advised our fiscal intermediaries to require SNFs to bill Medicare directly for all outpatient therapy services provided to their SNF residents in a noncovered Part A stay and to the their nonresidents covered under Part B.

(3) Services Furnished by Home Health Agencies

Section 1833(a)(8)(A) applies the physician fee schedule to outpatient rehabilitation services furnished by an HHA to an individual who is not homebound. Most outpatient rehabilitation services furnished by an HHA under section 1861(s)(2)(D) of the Act is to individuals who are not homebound. The likelihood is great that most individuals who are homebound and are receiving physical therapy, speech-language pathology, or occupational therapy are entitled to home health benefits. However, there may be some individuals who are homebound and have not required a qualifying service for home health benefits but who need occupational therapy services. If provided by an HHA, these services could be provided under section 1861(s)(2)(D) of the Act. Although section 4541 of BBA did not expressly address these services, the statute allows them to be remain payable on a reasonable cost basis under section 1861(v)(1) of the Act. All other services furnished by the HHA will be paid under a prospective payment system. (Implementation of an HHA prospective payment system that was scheduled to take effect October 1, 1999 has been delayed due to our Y2K compliancy efforts.) Section 1861(v)(1) provides that the reasonable cost of any service is the cost actually incurred, excluding any costs unnecessary to the efficient delivery of needed health services.

Section 1861(v)(1) also allows, use in determining reasonable cost, to provide for the use of estimates of cost for particular items and services. In enacting section 4541 of BBA, the Congress determined that payment in the amounts dictated by the physician fee schedule represents the appropriate level of payment for outpatient rehabilitation services provided by HHAs to certain non-homebound beneficiaries who do not qualify for the HHA benefit. (Of course, pursuant to section 4541, this payment level applies to all suppliers of rehabilitation services enumerated in the provision.) The Congress has, thus, evinced its view that payment at the fee schedule level adequately compensates HHAs for their expenses for this group of services. We believe that the Congress' determination in this case forms a basis for us to find that this level of payment represents an acceptable estimate of the expenses of providing rehabilitation services to other, homebound beneficiaries receiving services from HHAs, but also not eligible for the HHA benefit. Thus, we are applying the fee schedule payment level as our estimate of the reasonable costs of these services for these beneficiaries receiving outpatient rehabilitation services and not eligible for HHA benefits. Therefore, § 413.125 is modified to provide that effective for services furnished on or after January 1, 1999, the reasonable cost of outpatient rehabilitation services furnished by an HHA to homebound patients who are not entitled to home health benefits may not exceed the amounts payable under the fee schedule.

(4) Services Furnished by Comprehensive Outpatient Rehabilitation Facilities

Section 4541(a)(1) of the BBA adds a new section 1832(a)(2)(D)(9) to the Act to provide that all services furnished by a CORF, not just outpatient rehabilitation services, will be paid the applicable fee schedule amount. In cases in which there is no physician fee schedule amount for the services, section 1834(k) of the Act specifies that the applicable fee schedule amount will be the amount established for comparable services as specified by the Secretary. Therefore, we revised our policy so that the existing fee schedules for prosthetic and orthotic devices, durable medical equipment, and supplies, and drugs and biologicals apply when these services are furnished by a CORF. We believe that these fee schedules, together with the physician fee schedule, will encompass all CORF services other than nursing services. The physician fee schedule amount applicable to services furnished in a nonfacility setting will apply to the services furnished by the CORF since no separate payment will be made for facility costs.

To establish a fee schedule amount for nursing services delivered within a CORF, we created a new HCPCS code, G0128. We have defined this code as direct face-to-face skilled nursing services delivered to a CORF patient as part of a rehabilitative plan of care. It is a timed code and can be billed for 10-minute intervals (when the initial interval is longer than 5 minutes). G0128 is to be used for services that are not included in the work or practice expense of another therapy or physician service. An example might be a nurse who spends 33 minutes instructing a patient in the proper procedure of "in and out" urethral catheterization; in this situation, 3 units of G0128 would be billed. We are setting the RVUs for this code at 0.26, based upon half the value of the lowest level physician follow-up visit, HCPCS code 99211, in the nonfacility setting. This results in a payment that is slightly more than the average wage reported by the Bureau of Labor Statistics (BLS) for registered nurses, inflated to reflect benefits and overhead (using the fringe benefit and expense factor used to establish the salary equivalency guideline).

Comment: One commenter supported the use of the nonfacility physician fee schedule for therapy services performed in an SNF and CORF; however, clarification was requested as to whether the facility or the nonfacility physician fee schedule will be used for hospital outpatient departments.

Response: The physician fee schedule payment amount applicable to outpatient rehabilitation services furnished by hospitals is the same as that for SNFs, CORFs, and other outpatient rehabilitation providers. That is, hospitals will be paid for these services under the nonfacility component of the physician fee schedule.

(5) Site-of-Service Differential

We did not propose a site-of-service differential for providers of outpatient rehabilitation services as suggested by some of the providers prior to publication of our proposed rule. That is, we did not propose a payment amount greater or lesser than that provided by the physician fee schedule for some of the types of providers or sites at which outpatient rehabilitation services are furnished.

As explained in our proposed rule, the law requires that these services be paid the amount determined "under the fee schedule established under section 1848." Furthermore, we believe higher payment amounts for certain facilities, such as CORFs or rehabilitation agencies, would create payment incentives that favor one site or setting over another. We believe the statute establishes a "level playing field" for these services. We find no directive in the statutory language or legislative history that we recognize higher costs that some providers argue might be associated with furnishing services in a provider setting. To the extent that CORFs or rehabilitation facilities provide services to patients who need additional care, CORFs or rehabilitation facilities may bill for additional, medically necessary services. For these reasons, we are not revising our policy to allow for a site of service adjustment or higher payment amount for specific settings.

Comment: One commenter believes the work RVU should be the same regardless of setting; however, the commenter contends that the practice expense component may differ among the settings. The commenter states that the impact of any unique regulatory requirements among settings on the cost of furnishing services should be determined.

Response: As stated above, we find no statutory or legislative basis for recognizing a distinct payment differential that is site specific. Therefore, we are not revising our policy to allow for a payment differential among settings.

(6) Mandatory Assignment

Section 1834(k)(6) of the Act, as added by BBA, establishes a restraint on billing for outpatient rehabilitation therapy services; that is, this provision requires that services paid under section 1834(k) of the Act are subject to mandatory assignment under the same terms applicable to practitioners under section 1842(b)(18) of the Act. Therefore, we have revised our policy in accordance with this provision to require mandatory assignment for services provided under the outpatient rehabilitation prospective payment system by hospitals, SNFs, HHAs, rehabilitation agencies, public health agencies, clinics, and CORFs. The mandatory assignment provision does not apply to therapy services furnished by a physician or "incident to" a physician's service or to services furnished by a physical therapist in private practice or an occupational therapist in private practice. However, when these services are not furnished on an assignment-related basis, the limiting charge applies.

2. Uniform Procedure Codes for Outpatient Rehabilitation Services

Section 4541(a)(2) of BBA added section 1834(k)(5) to the Act. This new statutory provision requires that claims submitted on or after April 1, 1998 for outpatient physical therapy services, including speech language pathology services and outpatient occupational therapy services, include a code under a uniform coding system that identifies the services furnished.

The uniform coding requirement is needed to ensure proper payment under the physician fee schedule. Hospitals, SNFs, HHAs (for individuals who are not eligible for home health services), CORFs, and outpatient physical therapy providers must use HCPCS codes to report outpatient rehabilitation services when furnished to their outpatients. Hospitals and SNFs that provide outpatient rehabilitation services to their inpatients who are entitled to benefits under Part A but who have exhausted their benefits for inpatient services during a spell of illness or to their inpatients who are not entitled to benefits under Part A are also required to report HCPCS codes.

In March, 1998, we issued Program Memorandum AB–98–8 which describes the coding for outpatient rehabilitation services and identifies certain HCPCS codes available for billing by CORFs that are not generally rehabilitation services, including vaccinations and nursing services. This memorandum also specifies how these codes will be reported on the UB–92. We assigned the various codes to revenue centers, that is, physical therapy, occupational therapy, and speech-language pathology, for purposes of applying the financial limitation described below. Assigning codes to revenue centers was not intended to limit the scope of practice or range of procedures that could be furnished by therapists in a particular discipline. We recognize that many therapy services, for example, physical therapy

modalities or therapy procedures as described by HCPCS codes are commonly delivered by both physical and occupational therapists. Other services may be delivered by either occupational therapists or speech-language pathologists.

Therefore, in July 1998, we issued PM A–98–24 which in effect constituted a reissuance of PM A–98–8 in its entirety. PM A–98–24 was intended, in part, to clarify PM AB–98–8 regarding the reporting of HCPCS codes for outpatient rehabilitation and CORF services and to instruct fiscal intermediaries to eliminate edits installed to match revenue centers to outpatient rehabilitation HCPCS codes in order to cap therapy services. HCFA did not intend for such edits to be installed and employed. Thus, PM A–98–24 instructed fiscal intermediaries to eliminate the edits for services furnished on or after October 1, 1998. However, in response to industry concerns, on August 6, 1998, we issued a memorandum to all fiscal intermediaries advising them to remove immediately any coding edits imposed to match outpatient rehabilitation HCPCS codes to revenue codes.

Comment: We received three comments regarding PM A–98-24 issued July 1998. The commenters stated that confusion remains regarding the effective date of the memorandum. Also, they urged that we instruct carriers to not deny claims based on the practitioners' failure to comply with coding requirements until there is a clarification regarding the manner in which the coding requirement is to be implemented. One commenter recommended that fiscal intermediaries be required to adhere to revised PM A–98–24, effective immediately. The commenter contended that claims wrongly denied based on PM AB–98–8 should be promptly paid based on the claims originally submitted by providers.

Response: We apologize for the confusion. As noted above, PM A–98–24 carried an effective date of October 1, 1998 for fiscal intermediaries to remove any edits installed to match revenue center to HCPCS coding for outpatient rehabilitation services. As also stated above, on August 6, 1998 we issued a subsequent memorandum to all intermediaries advising them to remove the edits immediately. Providers and practitioners were encouraged to resubmit any claims that were incorrectly denied due to misinterpretation of our instructions for billing outpatient rehabilitation services using HCPCS codes.

Comment: We received one comment recommending that the definition of outpatient rehabilitation services be expanded to include payment for low-vision training. The commenter stated that Medicare's failure to cover low-vision training places beneficiaries at risk for extreme out-of-pocket expenditures for transportation services, home-bound visits, and psychological counseling.

Response: We have not accepted the commenter's recommendation. Outpatient rehabilitation services are clearly defined in the statute. Low-vision training is not specifically mentioned in the statute, and we find no statutory or legislative basis for including low-vision training in the definition of outpatient rehabilitation services. Therefore, we cannot arbitrarily expand our definition of outpatient rehabilitation to encompass low-vision training.

Since the statute does not specifically identify low-vision training as a separate Medicare benefit and does not provide a basis for including it under the outpatient rehabilitation benefit, carriers have the discretion to cover these low-vision training services if they determine that they meet the statutory requirements applicable to covered services and are determined to be medically reasonable and necessary.

Comment: A commenter recommends that CPT codes 92520, 94799, and psychiatric therapeutic codes after 90804 be added to the list of outpatient rehabilitation services. The commenter stated that code 94799 is currently recognized by Blue Cross and Blue Shield of Florida. The commenter also stated that, in addition to code 90804, other psychiatric therapeutic codes should be added for assessments and community resource education, referral and advocacy, family conferences, and home assessments.

Response: The commenter asked that we add code 92520, laryngeal function studies, to our list of outpatient therapy codes. Our data show that this code is almost entirely billed by otolaryngologists. Our standard for the inclusion of diagnostic tests as outpatient rehabilitation services is as follows:

- If the primary purpose of a diagnostic test, at times performed by therapists, is to assess the appropriateness or effectiveness of outpatient therapy services or to guide additional treatment by a physical therapist, an occupational therapist or speech-language pathologist, then the test is considered to be outpatient therapy or rehabilitation services; or
- If the primary purpose of the diagnostic test is to provide information on decisions for future medical or surgical treatment or to assess the effect of previous medical or surgical treatment, then the diagnostic test is not considered to be an outpatient therapy or rehabilitation service.

Because the purpose of code 92520 is not clear to us and because our data show that it is performed overwhelmingly by otolaryngologists, we suggest that providers and practitioners who believe it meets the above criteria as an outpatient rehabilitation service provide information to their Medicare contractors and the contractors can approve it if it meets the coverage criteria of being "medically necessary." We advised our carriers and fiscal intermediaries in PM AB–98–24 that they may recognize codes other than those identified in our instruction as outpatient rehabilitation services to the extent that the codes represent services that are determined to be medically necessary and within the scope of practice of the practitioner or therapist billing the service.

The commenter asked that code 94799, unlisted pulmonary services or procedures, be added to the list of outpatient rehabilitation services. Again, we suggest that practitioners and providers that wish to use this code to describe an outpatient rehabilitation service discuss with their Medicare contractor the specific services or procedures being provided when this code is used. Before this code can be used, the Medicare contractor needs to determine whether the services are "medically necessary."

The commenter also asked that we add other psychotherapy codes from the family of codes that includes 90804 that is on our list of outpatient rehabilitation services. Clinical psychologists and clinical social workers who deliver services in CORFs can bill any of the psychotherapy codes except for the ones that involve medical evaluation and management. These services are billed under Part B and are submitted to carriers on the HCFA form 1500. Therefore, these codes will not be added to our list of outpatient rehabilitation services.

Comment: One commenter recommended adding to our final rule the statement contained in PM A–98–24 that denotes that other codes may be considered to represent outpatient rehabilitation services to the extent that the services are determined to be medically reasonable and necessary and can be billed as outpatient rehabilitation services.

Response: Although we have included the statement in the text in the regulation, we will consider other codes to be outpatient rehabilitation codes under the terms we have stated.

Comment: One commenter requested that we clarify in the final rule that Addendum F contains the codes for reporting outpatient rehabilitation services.

Response: We appreciate the suggestion. It was inaccurately reported in the proposed rule that Addendum E contains a listing of outpatient rehabilitation therapy codes. It should have read that Addendum F contains such a listing. We have made the appropriate correction in this rule.

3. Financial Limitation

a. Overview. Outpatient rehabilitation therapy services are subject to annual financial limitations or caps beginning January 1, 1999. (The amount of the current cap is $900.) There will be a $1,500 per-beneficiary annual limitation or cap on incurred expenses for outpatient physical therapy services including outpatient speech-language pathology services. A separate $1,500 per-beneficiary limitation will apply on incurred expenses for outpatient occupational therapy services. The annual limitation does not apply to services furnished directly or under arrangements by a hospital to an outpatient or to an inpatient who is not in a covered Part A stay. The limitation will apply to outpatient rehabilitation services furnished by a separately-certified hospital-based provider, such as a hospital-based SNF. The limitation also applies to outpatient rehabilitation services furnished by a physician or nonphysician practitioner, or incident to a physician's professional services or to a nonphysician practitioner's professional services.

As stated above, there is a single $1,500 limitation for outpatient physical therapy services which includes outpatient speech-language pathology services. As amended, section 1833(g) of the Act applies a single $1,500 limitation to "physical therapy services of the type described in section 1861(p)." Section 1861(p) defines outpatient physical therapy services and includes speech-language pathology services within that definition.

Outpatient rehabilitation services are subject to a 20-percent coinsurance amount. Under the outpatient prospective payment system, the beneficiary will be responsible for 20 percent of the applicable fee schedule amounts. The $1,500 limitation is on incurred expenses. If a beneficiary has already satisfied the Part B deductible, the maximum amount payable by the Medicare program is $1,200, that is, 80 percent of $1,500. Beginning January 1, 2002, the $1,500 annual limitations or caps will be increased by the percentage increase in the MEI.

In addition to outpatient physical therapy services and outpatient occupational therapy services (other than those provided by a hospital), the limitation applies to physical therapy services (including speech-language pathology services) and occupational therapy services "of such type which are furnished by a physician or as incident to a physician service." As discussed elsewhere in this document, Medicare covers under certain conditions services performed by nurse practitioners, clinical nurse specialists, and physician assistants that would be physicians' services if furnished by a physician. We are applying the financial limitation to therapy services furnished by these nonphysician practitioners because such therapy services are by definition the same type as are furnished by physicians. Similarly, we have revised our policy to apply the financial limitation to therapy services furnished incident to these nonphysician practitioner's services. We have included in Addendum D a listing of the specific services that are subject to the limitation when furnished by a physician or practitioner directly or incident to his or her services. Such outpatient rehabilitation services included in Addendum D furnished either directly or incident to the services of a physician or practitioner are always subject to the financial limitation. Other services such as casting, splinting, and strapping may be used in the treatment of conditions (for example, fractures or sprains) or as part of the postsurgical treatment or medical treatment when no other rehabilitation services are delivered. If the services are delivered by a physical or occupational therapist, speech-language pathologist, therapy assistant or therapy aide, are part of a rehabilitation plan of care, or involve services included in the aforementioned Addendum D, then the services are subject to the cap. These outpatient rehabilitation services are delineated in Addendum E and must be identified with a discipline-specific modifier. Addendum F contains a listing of commonly-utilized outpatient rehabilitation therapy codes. Other codes may be considered for payment as outpatient rehabilitation services to the extent that the services are determined to be medically reasonable and necessary and those that can be performed within the scope of practice of the therapist, physician, or nonphysician practitioner billing the code. Payment for certain HCPCS codes will be made on a basis other than the physician fee schedule in hospital outpatient departments. Other HCPCS codes represent CORF services. Further, PM AB–98–63 dated October 1998 provides additional program instructions regarding the use of HCPCS codes for outpatient rehabilitation therapy services.

With regard to "incident to" services, we note that section 4541(b) of BBA amended section 1862(a) of the Act to require that outpatient physical therapy services (including speech-language pathology services) and outpatient occupational therapy services furnished "incident to" a physician's professional services meet the standards and conditions (other than any licensing requirement specified by the Secretary) that apply to therapy services furnished by a therapist. This provision was effective January 1, 1998 and was implemented through program instructions.

The financial limitations apply only to items and services furnished by nonhospital providers and therapists under the outpatient physical therapy (including speech-language pathology) and the outpatient occupational therapy benefit (section 1861(s)(2)(D) of the Act) and therapy services furnished by physicians and nonphysician practitioners or incident to their services. The limitations do not apply to diagnostic tests covered under section 1861(s)(3) of the Act or to items furnished or covered under the durable medical equipment benefit.

Comment: Some commenters urged us to repeal the limitation.

Response: We have no authority to repeal the annual financial limitation as set forth in BBA. An annual per beneficiary limit of $1,500 will apply to all outpatient physical therapy services (including speech-language pathology services). A separate $1,500 limit will also apply to all occupational therapy services. As noted above the annual limitations do not apply to services furnished directly or under arrangements by a hospital to an outpatient or to an inpatient who is not in a covered Part A stay. This limitation applies to expenses incurred on or after January 1, 1999.

Comment: Several commenters want us to delay implementing the financial limitation while others asked that, if we proceed with implementation, we clarify how we would implement it. We received one comment suggesting that we delay the implementation of the annual limitation until we develop a

system of tracking the aggregate amount of speech-language pathology expenses incurred by a beneficiary.

Response: As previously stated, because of our efforts to become Y2K compliant, with the exception of qualified therapists in independent practice, we are not able to make the appropriate systems changes to fully implement the caps on a per-beneficiary basis at this time. Instead, we will use a transitional measure, whereby providers and practitioners (those not currently subject to the caps, for example, physicians and nonphysician practitioners) will be held accountable for tracking incurred expenses for each beneficiary to ensure they do not bill Medicare for beneficiaries that have met the annual $1,500 limitation at their facility for each separate limitation. This means that SNFs will be directly responsible for the billing of all outpatient rehabilitation services and the tracking of incurred expenses of those services when furnished to SNF residents not in a covered Part A stay and SNF nonresidents receiving outpatient rehabilitation services from the SNF.

However, the provider and the practitioner may submit bills to Medicare for the sole purpose of receiving no-pay notices to bill Medicaid or other insurers.

It is noted that the current annual per beneficiary financial limitation applied to outpatient physical therapy services including speech-language pathology services furnished by PTIPs is increased from $900 to $1,500 effective January 1, 1999 for PTPPs. In addition, the current annual per beneficiary financial limitation applied to outpatient occupational therapy services is increased from $900 to $1,500 effective January 1, 1999 for OTPPs. As cited, for these qualified therapists only, the financial limitations continue to be applied on an annual per beneficiary basis rather than on a per provider basis.

Comment: Many commenters believed there should be three separate annual financial limitations, that is, one each for physical therapy, occupational therapy, and speech-language therapy services. They argue that the Congress never intended to include speech-language pathology services within the physical therapy cap because speech therapists have never been defined as independent therapists and were never subject to the current $900 cap.

Response: As stated above, section 1861(p) of the Act defines the term outpatient physical therapy services to include speech-language pathology services. The language in BBA specifically makes provision for physical therapy services and occupational therapy services in applying the annual financial limitation and does not separately mention speech-language pathology services. It is our position that BBA does not include a separate cap for speech-language pathology services, and that there are only two financial limitations (OT and PT that includes speech-language therapy services).

Comment: Two commenters oppose the imposition of the $1,500 cap because it is not sufficient to cover the cost of physical therapy for many common diagnoses or cost of care for typical rehabilitation cases. One of the commenters noted that MedPAC found in its June 1998 report to Congress that one third of the patients receiving outpatient rehabilitation services from rehabilitation agencies and CORFs exceeded either the combined $1,500 cap on outpatient physical therapy and speech-language pathology or the $1,500 cap on outpatient occupational therapy.

Response: The commenter is correct in stating that the MedPAC's study of a 5-percent sample of Medicare outpatient rehabilitation claims for 1996 did find that about one-third of all patients receiving outpatient rehabilitation services from rehabilitation agencies and CORFs exceeded the $1,500 caps. However, the study noted that because most Medicare beneficiaries received the services in hospital outpatient departments in 1996, the percent of all patients impacted by the $1,500 caps is considerably less, that is, only 10 percent of all outpatient physical and speech therapy patients receiving services in hospital outpatient departments, rehabilitation agencies and CORFs and only 2 percent of all occupational therapy patients in those three settings.

We plan to carefully study this issue. As discussed elsewhere in this document, BBA requires that we submit a report to the Congress by January 1, 2001 that recommends viable options for replacing the current dollar caps that take into account patient diagnosis and prior use of services.

Comment: One commenter stated that the limitation should apply only to therapy services furnished by physical therapists and occupational therapists, and not to therapy services furnished by physicians. Another commenter contends that the cap applies solely to therapists and physicians furnishing outpatient rehabilitation services under a plan of care. Neither commenter believes that nonphysician practitioners should be allowed to perform therapy services. These commenters argue that only physical therapists or services provided under the supervision of a physical therapist should be reimbursed by Medicare. The commenters maintain that the definition of physical therapists as referenced in § 485.705(b) and the coverage guidelines specified in section 2210.B of the MCM and 3101.8B of the MIM are not met if the services are provided by persons other than physical therapists. In addition, the statute does not extend the cap to services furnished by practitioners other than OTIPs and PTIPs.

Response: Section 4541 of BBA provides for a prospective payment for outpatient rehabilitation services. The operative word in the statute is "services". Reference is made both to the payment for outpatient therapy services and comprehensive outpatient rehabilitation services on the basis of the physician fee schedule and to the financial limitation for all rehabilitation services. The fee schedule is applied to outpatient therapy or rehabilitation services without regard to the practitioner who furnishes the service. Physical and occupational therapy services furnished by physicians and certain other recognized practitioners are payable under the physician fee schedule. A nonphysician practitioner who provides services that would be physicians' services if furnished by a physician under a specific enumerated benefit in the statute would be considered as the physician treating the beneficiary. Thus, a nonphysician practitioner would be considered as the physician treating the beneficiary when he or she furnishes outpatient physical therapy and occupational therapy services. Nonphysician practitioners who meet this definition are physician assistants (section 1861(s)(2)(K)(I) of the Act); and nurse practitioners and clinical nurse specialists (sections 1861(s)(2)(K)(ii) and 1861(s)(2)(K)(iii) of the Act), operating within the scope of their State licenses.

B. Use of Modifiers to Track the Financial Limitation. We have established three discipline-specific modifiers for use in tracking the financial limitation or cap. They are listed below.

GN Services delivered personally by a speech-language pathologist or under an outpatient speech-language pathology plan of care;

GO Service delivered personally by an occupational therapist or under an outpatient occupational therapy plan of care; or

GP Service delivered personally by a physical therapist or under an outpatient physical therapy plan of care.

Reporting of these modifiers will also assist us in gathering data on who is providing the services, and the frequency and duration of the services. Many of the services, for example, physical modalities or therapeutic procedures as described by HCPCS codes, are commonly delivered by both physical and occupational therapists. Other services may be delivered by either occupational therapists or speech-language pathologists. For these services, we expect the claim to include a modifier that describes the type of therapist who delivered the service; if the service was not delivered by a therapist, then the type of therapy plan of care under which the service is delivered would be specified. If the type of therapy is not listed in the modifier field, the claim would be rejected and sent to the provider for resubmission.

Comment: We received one comment that supports our proposal to use modifiers that will be discipline-specific to identify whether a plan of care is for physical therapy or occupational therapy. However, the commenter also favors the addition of modifiers that will allow for the identification of physician and nonphysician services that are provided under a plan of care. Claims from physicians and nonphysicians with a modifier would be subject to one of the caps, while claims without a modifier would not be subject to any cap. Another commenter stated that the proposed policy to reject a claim and send it to the provider for resubmission if the type of therapy is not listed in the modifier field is inappropriate and should not be adopted. The commenter contends that there are legitimate cases in which the codes in Addendum D will be reported but should not be applied against the caps, for example, if the services are furnished by a nonphysician practitioner or a physician but they are not provided under a therapy plan of care. This contention is also shared by another commenter who strongly opposed our proposal to apply services against the caps for occupational therapy and physical therapy including speech-language pathology services based strictly on an arbitrary reporting of certain CPT codes. The presumption with this approach is that therapy services are furnished whenever codes listed in Addendum D are reported

Response: At this time, we have decided to only use the discipline-specific modifiers listed in the response above. These modifiers will differentiate between either the type of therapist (physical therapist, occupational therapist, speech-language pathologist) personally providing the service or the discipline plan of care (physical, occupational, and speech-language pathology). For example, if modifier GP is used, the physical therapist must deliver personally the service or the service must be delivered under a physical therapy plan of care. Therefore, in addition to the personal provision of the therapy service by the physical therapist, a physician or nonphysician practitioner can also furnish the physical therapy service. We believe that additional modifiers are not needed to delineate services provided by physicians and nonphysician practitioners under a therapy plan of care; however, we believe that the commenter's statement is valid regarding the possible use of codes listed in Addendum D for other than therapy purposes, that is, not under a therapy plan of care. We are exploring the use of an additional modifier to indicate that the service denoted by the code was not provided under a therapy plan of care. By the time that the financial limitation or cap is fully implemented, we expect to have established the additional modifier. Until that modifier is in place, claims without a discipline-specific modifier will be returned for resubmission.

Comment: A commenter stated that the cap will be difficult to track administratively and recommended that there be a clearer delineation of when services will be subject to the limit and what the controlling factors will be (including the type of professional delivering the service, whether there is a rehabilitation plan of care, and the nature of the service), a listing or examples of services and the circumstances under which they would not be included under the cap.

Response: The commenter's request for clarification is based on a full implementation of the financial limitation or cap. Because of Y2K issues, the financial limitation or cap will not be fully implemented as mandated by statute effective January 1, 1999. Therefore, it is our intention to carefully review, consider, and address the commenter's concerns as we move from the transitional implementation of the cap on a per-provider basis to the full implementation of the cap on an annual per-beneficiary basis.

Comment: One commenter stated that the mechanics of implementing the cap should be clarified. The commenter said that there are serious concerns regarding the calculation of the cap, time of billing, and timing of processing payments that would be fed into the database. The commenter is concerned about the effect of medical review, for example, whether payment will be reserved when a claim is filed in a timely manner, subjected to medical review, denied, and successfully appealed, and the claim was originally filed well before the cap is met. Several commenters were of the opinion that it is administratively difficult for all parties (beneficiaries, providers, and contractors) to track the cap even with the use of the modifiers. They want us to address specific issues regarding tracking and the use of modifiers before implementation of the cap, and to also notify beneficiaries regarding the tracking procedure. These specific issues include a clear delineation of when services are subject to the limit, what the controlling factors will be (including the type of professional delivering the service, whether there is a rehabilitation plan of care, and the nature of the service), a listing or examples of the services and the circumstances under which they would be excluded from the cap.

Response: These are issues that will be addressed prior to the full implementation of the financial limitation or cap. Because there is the distinct possibility that systems requirements will change before such full implementation, it does not seem prudent at this time to detail the mechanics of the future implementation of the cap. However, it is our current thinking that these concerns will be discussed and clarified in companion program instructions issued to the Medicare carriers and fiscal intermediaries.

Comment: A commenter stated that there should be a timely, readily accessible means (such as a query system) for beneficiaries and providers to ascertain the status of the beneficiary's outpatient therapy benefits.

Response: This question relates to the full implementation of the financial limitation or cap on an annual per-beneficiary basis. We are exploring mechanisms by which both the beneficiary and the provider can be informed in a timely and accurate manner, the amounts that have been expended by the beneficiary for outpatient physical therapy services including speech language pathology services and for outpatient occupational therapy services. These methods will be discussed in any program memorandum or other program instruction that we determine will be the vehicle for the conveyance of the beneficiary cap status information.

C. Treatment of Services Exceeding the Financial Limitation. As required by section 1833(g) of the Act, as amended by section 4541 of BBA, we revised our

policy to establish two annual per-beneficiary limits of $1,500. There will be (1) an annual per-beneficiary limit for all outpatient physical therapy services excluding hospital outpatient therapy services furnished to an outpatient or an inpatient who is not in a covered Part A stay and, (2) an annual per beneficiary limit for all outpatient occupational therapy services excluding hospital outpatient therapy services furnished to an outpatient or an inpatient who is not in a covered Part A stay. As stated previously, outpatient physical therapy services include speech-language pathology services. A provider of outpatient rehabilitation services with a provider agreement under section 1866 of the Act, as well as physicians, PTIPs and OTIPs, will be allowed to collect payment from a beneficiary for therapy services after the $1,500 limit is reached. This is consistent with current policy allowing PTIPs and OTIPs to collect payment from a beneficiary for therapy services in excess of the current $900 limit.

Required Congressional Report on Financial Limitation

We note that a report to the Congress is due from the Secretary no later than January 1, 2001. This report must include recommendations on the establishment of a revised coverage policy of outpatient physical therapy services, including speech-language pathology services and outpatient occupational therapy services. The revised policy must be based on a classification of individuals by diagnosis category and prior use of services in both inpatient and outpatient settings. The report should include recommendations on how such durational limits by diagnostic category could be implemented in a budget-neutral manner.

Comment: It was recommended by a commenter for the report to the Congress that, in addition to basing a revised policy on classification by diagnosis category and prior use of services, an individual's functional status should be a component of any system that purports to address a patient's need for rehabilitation.

Response: As we develop the report to the Congress, we will consider the feasibility of the recommendation.

4. Qualified Therapists

Section 1861(p) includes services furnished an individual by a physical therapist who meets licensing and other standards prescribed by the Secretary if the services meet the conditions relating to health and safety the Secretary finds necessary. The services must be furnished in the therapist's office or the individual's home. By regulation, we have defined therapists meeting the conditions for coverage of services under this provision as physical therapists in independent practice. The conditions for coverage are set forth in part 486, subpart D (Conditions for coverage: Outpatient Physical Therapy Services Furnished by Physical Therapists in Independent Practice) and require that the services be provided by a therapist in independent practice under § 410.60. Under § 410.60, a therapist in independent practice is one who:

- Engages in the practice of therapy on a regular basis.
- Furnishes services on his or her own responsibility without the administrative and professional control of an employer.
- Maintains at his or her own expense office space and equipment.
- Furnishes services only in the office or patient's home.
- Treats individuals who are his or her own patients and collects fees or other compensation for the services.

Under § 486.151 (Conditions for coverage: Supervision), all therapy services must be furnished under the direct supervision of a qualified therapist in independent practice. In other words, the therapist in independent practice must be on the premises whenever services are provided to Medicare beneficiaries, including services provided by a licensed physical therapist. This long-standing requirement has been controversial with therapists in independent practice. For example, a therapist in independent practice cannot have more than one office open for services at the same time since he or she could not be on both premises at once.

We are revising our policy to replace the existing "Conditions for Coverage: Outpatient Physical Therapy Services Furnished by Physical Therapists in Independent Practice" (part 486, subpart D), which requires survey and certification, with a simplified criteria for physical therapists in private practice that would use a carrier enrollment process. The impetus for this change comes from congressional statements associated with the fiscal year 1997 appropriations process. Statements in both the House and Senate committee reports accompanying HCFA's fiscal year 1997 appropriations addressed the issue of requiring that the certified physical or occupational therapist in independent practice directly supervise all services performed by his or her employees, even if those employees are fully-licensed therapists. The House committee report urged that we modify the regulations so that the certified therapist need not be on premises to supervise other licensed therapists. The Senate urged us to review this concern and recommend regulatory or instructional changes.

We are redefining those therapists who are qualified under section 1861(p) of the Act. That is, we would discontinue the focus of the regulation on their "independent" status (which is not statutory) and recognize therapists in private practice who are employed by others and, therefore, do not meet our current "independent" criteria. This would be consistent with health and safety concerns and would conform to normal private sector practice standards. The following new requirements replace the current ones for qualified therapists:

- The term "independent" is dropped and the benefit would be for an individual physical therapist or occupational therapist in private practice.

Private practice includes an "individual" whose practice is in an unincorporated solo practice, unincorporated partnership, or unincorporated group practice. Private practice also includes an "individual" who is practicing therapy as an employee of one of the above or of a professional corporation or other incorporated therapy practice. However, private practice does not include individuals when they are working as employees of a provider. A provider as defined in § 400.202 includes a hospital, CAH, SNF, HHA, hospice, CORF, CMHC, or an organization qualified under part 485, subpart H (Conditions of Participation for Clinics, Rehabilitation Agencies, and Public Health Agencies as Providers of Outpatient Physical Therapy and Speech-Language Pathology Services), as a clinic, rehabilitation agency, or public health agency.

- In implementing the statutory requirement that services be furnished to an individual in the therapist's office, or in the individual's home, "in his office" is defined as the location(s) where the practice is operated, in the State(s) where the therapist (and practice, if applicable) is legally authorized to furnish services, during the hours that the therapist engages in practice at that location.

A therapist in private practice must maintain a private office, if services always are furnished in patients' homes. However, if services are furnished in private practice office space, that space would have to be owned, leased, or rented by the practice and used for the exclusive purpose of operating the practice. For example, because of the statutory restriction on the site of services, a therapist in private practice cannot furnish covered services in an SNF. Therefore, if a therapist wished to locate his or her private office on site at a nursing facility, special care would need to be taken. The private office space could not be part of the Medicare-participating SNF's space, and the therapist's services could be furnished only within that private office space. Neither the therapist nor any assistants or aides who help furnish services could be employed by the SNF during the same hours that they are working in the private practice. Another example where special attention would be needed is space that generally serves other purposes and is only used by a therapy practice during limited hours. For example, a therapist in private practice may furnish aquatic therapy in a community center pool on Wednesday mornings. The practice would have to rent or lease the pool for those hours, and the use of the pool during that time would have to be restricted to the therapist's patients, in order to recognize the pool as part of the therapist's own private office during those hours.

In describing other services that are specifically limited to the patient's home, the statute uses qualifying language. For example, the durable medical equipment definition in section 1861(n) of the Act refers to a patient's home as "including an institution used as his home other than an institution that meets the requirements of subsection (e)(1) of this section or section 1819(a)(1)." This definition of home is codified under our regulations at § 410.38(b). The same definition always has been used in the Medicare Carriers Manual for purposes of covering therapists' services in a patient's home. We are continuing the current practice and are adopting the definition formally in this regulation.

- Assistants and aides have to be personally supervised by the therapist and employed directly by the therapist, by the partnership or group to which the therapist belongs, or by the same private practice that employs the therapist. Personal supervision requires that the therapist be in the room during the performance of the service. Levels of supervision are defined in § 410.32 of our regulations.
- The therapist must be licensed or otherwise legally authorized to engage in private practice. We understand that all States license or certify physical therapists, so no alternative personnel qualifications need to be specified.
- Each therapist enrolls "as an individual" with the carrier.

There would be no survey and no certification by HCFA. The Medicare carrier would verify that the qualifications proposed in §§ 410.59(c)(1) or 410.60(c)(1) of our regulations are met. All applicants for new enrollment would become subject to these new rules and procedures upon the effective date of the final rule. For transition purposes, we intend that independent therapists who are certified and enrolled at that time would be "grandfathered" temporarily and would become subject to the new enrollment rules and procedures at the time of their next regular periodic reenrollment.

These changes would address the concern that current rules require each independent therapist to personally supervise services performed by any other licensed therapists that he or she employs. Under our proposal, each individual therapist in a practice could qualify to separately enroll, and enrolled therapists would not be required for purposes of Medicare to be supervised by their employer. These changes also address the concern that current rules prohibit an independent therapist from being employed by any entity. Under our proposal, a variety of employment situations would be permitted.

These new requirements are established in a revised § 410.60(c) for physical therapists. To date, the statutory requirements for coverage of outpatient occupational therapy services have not been codified. We are codifying these requirements by establishing a new § 410.59 for outpatient occupational therapy services. The regulations section for outpatient occupational therapy parallels the § 410.60 requirements for outpatient physical therapy, as revised in this final rule. We are also making conforming changes in § 410.61 to include occupational therapy.

Therapists in private practice do not participate in the Medicare program in the same way that "providers of services" do. Though they must be approved as meeting certain requirements, unlike "providers of services," they do not execute a formal provider agreement with the Secretary as described in 42 CFR part 489 (Provider Agreements and Supplier Approval). Like physicians, they do have the option of accepting a beneficiary's assignment of his or her claim for Medicare Part B benefits and of becoming a Medicare-participating supplier that agrees to accept assignment in all cases.

Comment: One commenter strongly supports the carrier enrollment process for physical therapists instead of the existing conditions of coverage. However, the commenter wanted operational issues addressed such as a specification that payments will be made under the practice or corporation's tax ID number for services furnished by physical therapists in private practice who are employees of other practices or corporations. This is the same payment system used by a physician group practice, and the treating therapist's Medicare number or license number would be included on the bill. In addition, the commenter urged that the same process be used for the carrier enrollment process as for the current physician enrollment. Another commenter supported the changes for OTPPs; however, assuming that payment is made to the individual, the commenter inquired as to whether group numbers would be assigned so that payment could be issued to the group under the tax identification number of the business entity.

Response: We will use the same enrollment and billing process as is currently used for individual physicians and physician group practices. This process is delineated at section 1030.7 of the Medicare Carriers Manual, HCFA Pub. 14–Part 4. We note that payment is not made on the basis of the corporate or group practice tax identification number. This number is just one of the data elements that can be related to the Medicare individual and/or group billing number.

Comment: A commenter recommended that direct supervision of assistants and aides be required instead of personal supervision. The commenter provided that direct supervision would be consistent with state laws, the supervision requirements for nonphysician personnel performing services in a physician's office, and with the supervision requirements for aides and assistants of PTIPs.

Another commenter agreed that personal supervision over therapy aides by a qualified occupational therapist or qualified occupational therapy assistant is appropriate. However, the commenter strongly disagreed with the proposal to require personal supervision over occupational therapy assistants and instead urged the adoption of a policy for practicing occupational therapists whereby occupational therapy assistants can perform covered services under the general supervision (that is, initial direction and periodic inspection) of a qualified occupational therapist. In

addition, the commenter thought the policy should state that either a qualified occupational therapist or a qualified occupational therapy assistant must provide personal supervision when therapy aides are used to furnish services.

A commenter stated that qualified occupational therapists who are not Part B suppliers, but who are employed by a therapist who is enrolled as a Part B supplier, should not be subject to the personal supervision requirement. In addition, it was suggested that the proposed language at § 410.59(c)(2) regarding supervision of occupational therapy services should be revised as follows:

"Occupational therapy services are performed by, or under the general supervision of, the occupational therapist in private practice. Services provided by therapy aides must be performed under the personal supervision of an occupational therapist or occupational therapy assistant. All services not performed personally by the therapist in private practice must be performed by employees of the practice, under the applicable level of supervision by the therapist, and included in the fee for the therapist's services."

Response: Statements contained in the House and Senate committee reports accompanying the 1997 appropriations recommended modifications in our supervision requirements for qualified therapists. As stated, the House committee report urged a regulatory change in the requirement that certified therapists be on the premises to supervise other licensed therapists. We were also urged by the Senate to review this concern and recommend regulatory or instructional changes. We have addressed the concern expressed in the House and Senate 1997 appropriations committee reports and will allow certified therapists to be off the premises when other licensed therapists are present. However, we do not believe that we have the authority to modify the supervision requirements for therapy (physical, occupational or speech-language pathology) assistants and aides. Therefore, we are maintaining our current requirement that therapy assistants and aides have to be personally supervised by the therapist and employed directly by the therapist, by the partnership or group to which the therapist belongs. In accordance with the aforementioned policy, there is no change in the proposed language found at § 410.59(c)(2).

Comment: We received one comment on our proposed qualifications for occupational therapists. One organization recommends that we require evidence of successful completion of a national certification examination recognized by the regulatory authority in the State of practice. Reasons given for the addition of this requirement are that practice varies by jurisdiction and unsuccessful exam candidates often move from State to State obtaining temporary licenses in spite of repeatedly failing qualifying exams. The commenter adds that the particular test they recommend is required in every jurisdiction.

Response: We believe that this recommendation has merit. However, we believe that it requires further study and discussion to assess its impact before we can consider it for adoption. Therefore, we believe it would be more appropriate to consider this recommendation as a proposal for a subsequent publication rather to accept it for adoption in this final rule.

Comment: One commenter supports our proposed set of changes addressing independent practicing occupational therapist services, but adds that as Medicare moves to embrace market based competition, the focus should be on the outcomes delivered rather than the input credentialing. There should be a commitment to move beyond burdensome input criteria that add costs and restrict competition. The commenter suggests that, as part of that initiative, we establish a meaningful time horizon for moving to outcomes-based performance measures.

Response: This is a welcomed recommendation. In recent years, when revising our conditions of participation for various entities, we have emphasized outcomes-based measures. However, this is an area that requires further study in order to apply this concept to our conditions for occupational therapists practice.

Comment: One commenter stated that verification should be provided in the final rule that section 1861(p) of the Act requires a physician to have services furnished by a licensed physical therapist or under the supervision of such a therapist when billing for physical therapist services incident to the physician's professional services.

Response: Section 1861(p) of the Act does not set forth the requirements as specified by the commenter. As previously stated, section 4541(b) of the BBA 1997 amended section 1862(a) of the Act to require that outpatient physical therapy services (including speech-language pathology services) and occupational therapy services furnished "incident to" a physician's professional services meet the standards and conditions (other than any licensing requirement specified by the Secretary) that apply to therapy services furnished by a therapist. In May 1998, we issued Transmittal No. 1606 of the Medicare Carriers Manual, Part 3—Claims Process which implemented this provision that was effective January 1, 1998. Section 2218(A) of the Medicare Carriers Manual requires that physical therapy services provided by a physician or by an incident-to employee of the physician in the physician's office or the beneficiary's home must be provided by, or under the direct supervision of, a physician (a doctor of medicine or osteopathy) who is legally authorized to practice physical therapy services by the State in which he or she performs such function or action.

5. Plan of Treatment

We are proposing to revise §§ 410.61(e), 424.24(c)(4)(i), and 485.711(b), which concern the plan of treatment review requirements for outpatient rehabilitation therapy services. Section 1861(p) of the Act defines these therapy services, in part, as services furnished to an individual who is under the care of a physician and for whom a plan, prescribing the type, amount, and duration of therapy services that are to be furnished, has been established by a physician or a qualified therapist and is periodically reviewed by a physician.

Currently, providers that furnish outpatient rehabilitation therapy services are required to have a physician review the plan of treatment and recertify the need for care at least every 30 days. We proposed revising our policy to allow the physician to review and recertify the required plan of treatment within the first 62 days and at least every 31 days after the first review and recertification. The current requirement for the review of a plan of treatment for patients of physical therapists in independent practice is similar in that the physician must review the plan at least every 30 days. We proposed changing this review requirement and requiring that the physician review and recertify the plan of treatment within the first 62 days and at least every 31 days thereafter.

We recommended these changes because it was our understanding that an initial 2-month (62 day) review is consistent with the usual therapy course of treatment. It is also consistent with our current therapy requirements in the home health setting. These changes were intended to reduce the burden on providers, patients, and physicians by eliminating the current requirement for an initial review within the first 30 days. After the first 62 days, we believed that patients receiving outpatient rehabilitation services are likely to show significant progress that warrants subsequent reviews every 31 days. Changes in the patient's level of function and need for continued therapy can be expected to occur more frequently after the first 2 months of therapy. We believe this subsequent review schedule will help control potential over-utilization that results in excessive therapy to some Medicare patients.

Under our proposed policy, the therapists would be required to immediately notify the physician of any changes in the patient's condition, and physicians retain the ability to review the care at closer intervals if necessary.

Comment: We received comments from six outpatient rehabilitation associations supporting our proposal and two comments from orthopedic surgical associations strongly opposing it. The opposing orthopedic associations informed us that 62 days is not the usual course of treatment. They argued that every patient's need for therapy is unique depending on the condition. While 62 days may be appropriate for some back injuries, they contend it would be inappropriate for a hand, foot, or shoulder injury. Therapy is appropriate as long as the patient continues to make progress and should be discontinued when the patient's condition has plateaued and no further progress is being made. They stated this can best be determined by the referring physician periodically evaluating the patient's progress and recovery. They believe the current 30-day requirement is appropriate and should be maintained.

Response: After careful review of the comments received and study of the issue by our medical staff, we are retaining our current 30-day requirement and rescind our proposal. As indicated above, our intent, in part, was to establish consistency with the initial review period for HHA therapy services. However, subsequent to our proposal we further learned that HHA patients may not receive the same level of intensity of therapy services as patients receiving them under the outpatient rehabilitation benefit. Our medical staff believes that patients in the latter group are seen more often by their therapists than are HHA patients. Therefore, the rate of progression between the two patient groups may be different and warrant a 30-day rather 62-day initial plan of treatment review for beneficiaries receiving outpatient rehabilitation services.

Comment: We received several comments to allow nonphysician practioners such as nurse practitioners, physician assistants, and clinical nurse specialist to certify the therapy plan of care.

Response: Because we allow nonphysician practioners, that is, nurse practitioners, clinical nurse specialists, and physician assistants to prescribe medicine, we have also decided that nonphysician practioners who have knowledge of the therapy case may certify therapy plans of treatment.

Result of the evaluation of comments: We are adopting our proposal to pay all outpatient rehabilitation services and CORF services under the physician fee schedule. We are delaying full implementation of the financial limitations on outpatient rehabilitation services furnished by nonhospital entities due to our Y2K efforts until after January 1, 2000. We are not adopting a site-of-service differential for outpatient rehabilitation providers as recommended by commenters. Regarding proposed qualifications for therapists, we are adopting them as proposed and are not accepting the recommendation that we require occupational therapists to provide evidence of successful completion of a national certification examination. We anticipate that this issue will be further studied and discussed in a subsequent rule. We are withdrawing our proposal to extend from 30 days to 60 days the time required for physician recertification of the plan of treatment.

D. Payment for Services of Certain Nonphysician Practitioners and Services Furnished Incident to Their Professional Services

Nonphysician practitioners' services have been covered by Medicare since the inception of the program; originally the law did not provide for separate payments for these services. Coverage and payment of nonphysicians' services was primarily within the context of section 1861(s)(2)(A) of the Act as implemented by section 2050 of the Medicare Carriers Manual, for the payment of services incident to a physician's professional services. In recent years, the Congress has expanded Medicare coverage of nonphysician practitioners' services in certain settings to improve beneficiary access to medical services. Separate Part B coverage is specifically authorized for certain nonphysician practitioners' services and for services and supplies furnished as incident to those services.

For purposes of this rule as it applies to nonphysician practitioners, we define nonphysician practitioners as nurse practitioners, clinical nurse specialists, certified nurse-midwives, and physician assistants. With respect to services and supplies furnished as incident to a nonphysician practitioner's services, we are requiring that, to be covered by Medicare, the services must meet the longstanding requirements in section 2050 of the Medicare Carriers Manual applicable to services furnished as incident to the professional services of a physician. Therefore, we specify, in new §§ 410.74(b), 410.75(d), 410.76(d), and 410.77(c) that Medicare Part B covers services and supplies (including drugs and biologicals that cannot be self-administered) furnished as incident to the nonphysician's services only if these services and supplies would be covered if furnished by a physician or furnished as incident to a physician's professional services. In addition, §§ 410.74(b), 410.75(d), 410.76(d), and 410.77(c) specify the various requirements for these incidental services and supplies.

Coverage and Payment for Nurse Practitioners' Services Subsequent to BBA

Effective for services furnished on or after January 1, 1998, section 4511 of BBA authorizes nurse practitioners to bill the program directly for services furnished in any setting, regardless of whether the settings are located in rural or urban areas, but only if the facility or other providers of services do not charge or are not paid any amounts with respect to the furnishing of nurse practitioners' services. Accordingly, a new § 410.75 of this rule specifies the qualifications for nurse practitioners, lists the requirements for the professional services of a nurse practitioner and the requirements for services furnished incident to the professional services of a nurse practitioner. This new section also specifies the process that applies to the provision of nurse practitioners' services.

New §§ 405.520(a), (b), and (c) of this rule provide the general rule and requirements for nurse practitioners. A new paragraph (16) is added to § 410.150(b) to authorize payment for nurse practitioners' services when furnished in collaboration with a physician in all settings located in both rural and urban areas. A new paragraph (c) is added to § 414.56 of this rule to set forth the payment amount for nurse practitioner services.

All of the independent nurse practitioners and clinical nurse specialists commenting on the proposed rule and all of the major organizations representing these nonphysician practitioners vigorously opposed the proposed Federal guidelines for

collaboration; those provisions would apply only in States with no collaboration requirement.

Comment: The commenters that objected to the proposed guidelines for collaboration requested that we adopt a policy that strictly defers to State laws, rules, and regulations regarding collaboration. The commenters insisted that the absence of State guidelines for collaboration does not necessitate the intrusion of Federal guidelines. In fact, they claimed that where State laws or guidelines do not include a requirement for collaboration, or fail to provide specific detailed requirements for a collaborative relationship, it is not a matter of accident or simple omission, but of conscious State policy regarding professional scope of practice. In these cases, they believe that there should be *no* collaboration requirement.

Additionally, these commenters stated that they believe that there is a better understanding at the State level of the practice situations encountered and the evolving advancements in health care issues. Therefore, many States have determined that this relationship is best defined by the professionals themselves, rather than through detailed statutory legislation.

The commenters claimed that they are not aware of any substantial problems in interpreting or implementing the collaboration requirement in the 7½ years that carriers have been applying the collaboration requirement without the benefit of Federal rule. According to one commenter, currently at least 26 States have no statutory or regulatory requirement for collaboration as a condition that nurses must satisfy in order to practice, and in the 16 States that have physician collaboration or supervision practice requirements, none are as restrictive as the guidelines that we proposed.

One of the commenters that opposed the proposed collaboration guidelines stated that if more detailed provisions such as these are imposed on nurse practitioners and clinical nurse specialists, there will be a cost attached to be borne by the practitioner or consumers through cost shifting. Another commenter expanded upon this comment by posing the concern about how collaboration might affect States that authorize nurses to practice independently. The commenter stated that imposition of the collaboration requirement in "independent practice States" could create a new area for potentially fraudulent or abusive practices. For example, a physician may refuse to provide collaboration in a given area or may refuse to enter into a collaboration agreement unless the nurse pays a fee to the physician. This practice may violate the anti-kickback statute.

One commenter stated that our proposal restricted nurses to a collaboration arrangement with one physician, and that the State's nurse practice act does not restrict nurses to a collaborative practice arrangement with *one* physician. The requirement of collaboration with *one* physician raises the cost to patients, restricts access, and requires unnecessary, additional services. Additionally, this same commenter raised concerns about the phrase in the collaboration guidelines that states "or as provided by other mechanisms defined by Federal regulations," because she believes that this is the first time this wording has appeared in the definition of collaboration and it appears to give unlimited authority for regulation of practice.

One of the professional organizations representing nurse practitioners maintained that the proposed collaboration guidelines would particularly harm Medicare beneficiaries located in rural areas, where nurse practitioners may be the sole source of health care within the community. If a nurse practitioner is not able to receive payment for care due to the inability to locate a physician in that geographic area who is able to perform the functions of a collaborating physician, these areas may not be served at all.

Response: Section 6114 of OBRA 1989 established the nurse practitioner benefit as a separate benefit under the Medicare Part B program and also required that nurse practitioners collaborate with a physician in order for their services to be covered under Medicare. Therefore, nurse practitioners have always been required by Medicare law to collaborate with a physician. The collaboration requirement is a specific and distinct requirement, separate from the requirement that these nonphysician practitioners must practice within the scope of the law of the State where the services are performed.

The 1989 Omnibus Budget Reconciliation Act, adding section 1861(aa)(6) of the Act, defined the term, "collaboration" as a process in which a nurse practitioner works with a physician to deliver health care services within the scope of the practitioner's professional expertise, with medical direction and appropriate supervision as provided for in jointly developed guidelines or other mechanisms as provided by the law of the State in which the services are performed. The BBA of 1997 increased payment amounts to nurse practitioners and expanded the settings where they can receive payments, but the BBA did not change the collaboration requirement. In the absence of State law regarding the collaborative relationship that nurse practitioners must share with a physician when furnishing their services to Medicare beneficiaries, we must implement the collaboration requirement as required by law.

However, we did not intend to introduce new burdensome requirements to address situations where there is no State requirement for collaboration. Therefore we are removing the proposed definition of collaboration that applies to these situations and will require that, in the absence of State law or regulations governing collaboration relationships, we will require nurse practitioners and clinical nurse specialists to document their scope of practice and indicate the relationships that they have with physicians to deal with issues outside their scope of practice. The proposed rule was not intended to require that a nurse practitioner must furnish services in collaboration with only one physician. We fully expect that these nonphysician practitioners may have collaborative relationships with numerous physicians and will continue to do so in the future. We did not intend to introduce any new costs to the practices of nurse practitioners and clinical nurse specialists.

Comment: Five major associations and professional organizations representing physicians, medical directors, and hospitals commented in favor of the proposed collaboration guidelines and suggested alternative criteria that they believed the Medicare program should use to determine coverage and payment for the services of nurse practitioners and clinical nurse specialists.

Two of these organizations commented that "appropriateness" is the key criterion that Medicare contractors should use in determining whether services of these nonphysician practitioners should be covered under the "reasonable and necessary" provisions of section 1862(a)(1)(A) of the Act. These commenters suggested that we consider services to be appropriate if they are furnished by qualified personnel; further, the commenters believed that, in the case of psychiatry services, these nonphysician practitioners are not qualified as physicians are to perform a psychiatric diagnostic interview examination (CPT codes 90801 and 90802), nor are they qualified to furnish services represented by any of the psychotherapy CPT codes that include medical evaluation and management. Therefore, these commenters asserted, all of the pertinent sections of the regulations text should be revised to read that the nonphysician practitioners are not performing services otherwise precluded from coverage because of one of the statutory coverage exclusions listed under section 1862(a)(1)(A) of the Act.

Response: In order for any service to be covered under Medicare, it must be determined to be reasonable and necessary, and therefore, appropriate. Accordingly, we do not believe that it is necessary to revise the regulations text to specify that services furnished by these nonphysician practitioners can be covered only when they are not otherwise excluded from coverage under section 1861(a)(1)(A) of the Act. It is already stated in the proposed rule at sections 410.74(a)(2)(iii), 410.75(c)(3), and 410.76(c)(3) that services performed by any of these nonphysician practitioners are not covered if they are otherwise excluded from coverage because of a statutory exclusion. Additionally, it is our understanding that some nurse practitioners and clinical nurse specialists specialize in mental health. Therefore, if State law authorizes these nonphysician practitioners to perform mental health services and evaluation and management services that would otherwise be furnished by a physician or incident to a physician's services, psychiatric nurse practitioners and clinical nurse specialists could bill for psychiatric diagnostic interviews and any of the psychotherapy CPT codes that include medical evaluation and management.

Comment: One association representing hospitals urged us to clarify in the final rule all of the settings in which separate payment to nurse practitioners and clinical nurse specialists will not be made. Also, the commenter suggested clarification regarding whether Medicare will continue to pay hospitals for the facility component of hospital outpatient department services when separate payment is made to these nonphysician practitioners for their professional services furnished in hospital outpatient departments.

Response: Payment is made to nurse practitioners and clinical nurse specialists for their professional services furnished in all settings, with the exception of RHCs and FQHCs. (The professional services of all practitioners are bundled in these two settings, and Medicare payment is made to the facility for such services under an all-inclusive composite rate.) However, when these nonphysician practitioners furnish services in hospital outpatient departments, Medicare will continue to make payment to the hospital outpatient department for the facility component of hospital outpatient department services.

Comment: Two other organizations commented that we should require that the employer of a nurse practitioner or a clinical nurse specialist bill for his or her professional services. The commenter stated that technically, some nurses can practice without direct supervision, but not independently of the supervising physician since the physician must review all records within 2 weeks. The commenter believes that safe and high quality medical care requires that diagnosis, evaluation, treatment, and management decisions be made by physicians who directly supervise nonphysician practitioners on-site. The commenter argues that, if payment is made directly to the nurses, the physician has no way of verifying what is billed when an employer relationship does not exist. Also, because collaboration does not require that the physician be present while services are furnished, and it does not require a physician to make an independent evaluation of each patient, there is no assurance that safe, high quality services are being performed.

Response: The law no longer requires that the employers of nurse practitioners and clinical nurse specialists bill for their services, as it does for physician assistants. The law does maintain the requirement, however, that these nonphysician practitioners must furnish their services in collaboration with a physician. Nurse practitioners and clinical nurse specialists have been educated and specially trained to furnish primary care and certain other services that have traditionally been furnished by physicians. As long as the services that nonphysician practitioners furnish are medically reasonable and necessary, meet Medicare requirements, and fall within the scope of services that they are licensed to perform, the Medicare program covers the services.

Comment: Numerous nurse practitioners and clinical nurse specialists commented that §§ 410.75(d) and 410.76(d) that pertain to services and supplies furnished incident to the professional services of a nurse practitioner or clinical nurse specialist should be clarified to state that these nonphysician practitioners need not be present in the same room where the services are being provided, but may be present and available in the office suite.

Additionally, these same commenters requested the elimination of the list of examples of professional services performed by nurse practitioners and clinical nurse specialists at §§ 410.75(e)(3) and 410.76(e)(3), asserting that the list is too limited, confusing, and ultimately unnecessary.

Response: We agree that it may be more appropriate to include the list of examples of services in manual instructions to provide guidance to contractors to use in processing claims. Therefore, we are removing the listing of examples of services that can be provided by physician assistants at section 410.74(d)(3), nurse practitioners at section 410.75(e)(3), and clinical nurse specialists at section 410.76(e)(3).

Comment: One commenter suggested a language change to the requirement that "incident to" services be of a type that are commonly furnished in a physician's office, to also include a reference to the offices of other health professionals.

Response: The "incident to" requirements for nonphysician practitioners are the same requirements that apply to physicians and that have been in place since the inception of the Medicare program. The various "incident to" requirements are currently interpreted at section 2050 of the Medicare Carriers Manual. We will not amend any of the "incident to" requirements at this time.

Comment: A few nurses' associations commented that the proposed qualifications for nurse practitioners and clinical nurse specialists should be amended to clarify that these individuals must be licensed or certified by a professional association or an accrediting body that has, at a minimum, eligibility requirements that meet certain standards. One commenter stated that the accrediting body could be one that is recognized by us. These commenters explained that most organizations that certify nurses are not professional associations themselves; rather they are separately incorporated accrediting bodies. For example, the American Nurses Association does not certify nurse practitioners or clinical nurse specialists, but the American Nurses Credentialing Center (ANCC) does by utilizing standards developed by the nurse profession.

Response: Currently, the qualifications for nurse practitioners at section 2158 of the Medicare Carriers Manual require that such an individual be certified as a primary care nurse practitioner by the American Nurses' Association or by the National Board of Pediatric Nurse Practitioners and Associates. (Section 2160 of the Medicare Carriers Manual does not contain a specific certification criteria

for clinical nurse specialists.) Thus, the manual recognizes the ANCC as an appropriate certifying body for nurse practitioners.

Comment: One comment made was directed specifically toward the qualifications for nurse practitioners at § 410.75(b) of the proposed rule. One academy representing nurse practitioners stated that the intent of the law is to pay nurse practitioners who are licensed in their States to practice as such. Therefore, the qualifications for nurse practitioners should be that the individual be a registered nurse who is authorized to practice as a nurse practitioner in accordance with State law. This academy believes that the inclusion of additional requirements will exclude some fully qualified nurse practitioners who are certified by national certifying bodies that recognize grandfathering laws in the States and by States that currently use program accreditation or certification rather than national certification in their licensing processes for nurse practitioners.

Response: We agree with the commenter that the intent of the law is to pay nurse practitioners who are licensed in their States to practice as such. However, we believe that State licensure should not be the only qualification criterion that would enable nurse practitioners to bill the Medicare program directly for their professional services. Therefore, we will revise the qualification requirements to ensure that for Medicare purposes, appropriate individuals can bill the program for services furnished to Medicare beneficiaries.

Comment: One college representing nurse practitioners raised concerns about the types of services for which nurse practitioners can bill the Medicare program. The college stated that it wishes to ensure that we intend to permit a nurse practitioner to bill within a group practice setting for the services of all other licensed health care professionals and technicians in that practice. The commenter stated that, although the proposed rule does not indicate a problem with this billing arrangement, it would appreciate a specific statement from us about the arrangement.

Response: A nurse practitioner within a group practice setting would be permitted to bill the Medicare program for the services of all other licensed health care professionals and technicians within the practice, provided the services of others in the practice are furnished incident to the nurse practitioner's professional services and all the "incident to" requirements are met.

Comment: The college also stated that it is concerned that the proposed rule does not list nurse practitioners as designated providers of outpatient physical therapy and outpatient speech-pathology services. The college asks that the language of §§ 410.60 and 410.62 be amended to include nurse practitioners as nonphysician practitioners who are authorized to bill for these types of services.

Response: Nurse practitioners, clinical nurse specialists, and physician assistants may order physical therapy, occupational therapy, and speech-language pathology services in the case where the services are medically reasonable and necessary and the State in which they are practicing authorizes them to do so. Also, these nonphysician practitioners may also certify and recertify the plan of treatment for physical therapy, occupational therapy, and speech-language pathology services providing they are authorized by State law to perform such services. Accordingly, § 410.60 and 410.62 regarding physical therapy, occupational therapy, and speech-language pathology will be revised to include these nonphysician practitioners as designated providers of such services.

Result of evaluation of comments: We have determined that for purposes of Medicare Part B payment, a nurse practitioner must—

- Possess a master's degree in nursing;
- Be a registered professional nurse who is authorized by the State in which the services are furnished, to practice as a nurse practitioner in accordance with State law; and
- Be certified as a nurse practitioner by the ANCC or other recognized national certifying bodies that have established standards for nurse practitioners as stated above.

We have removed the alternate proposed definition of collaboration in §§ 410.75(c)(2)(iv) and 410.76(c)(2)(iv) of the proposed rule. For purposes of Medicare coverage, the collaboration requirement will state that nurse practitioners and clinical nurse specialists must meet the standards for a collaborative process, as established by the State in which they are practicing. In the absence of State law governing collaborative relationships, collaboration is a process in which these nonphysician practitioners have a relationship with one or more physicians to deliver health care services. Such collaboration is to be evidenced by nurse practitioners or clinical nurse specialists documenting their scope of practice and indicating the relationships that they have with physicians to deal with issues outside their scope of practice. Nurse practitioners and clinical nurse specialists must document this collaborative process with physicians. The collaborating physician does not need to be present with the nurse practitioner or clinical nurse specialist when the services are furnished or to make an independent evaluation of each patient who is seen by the nurse practitioner or clinical nurse specialist.

Also, we are deleting the proposed listing of examples of services that can be provided by physician assistants, nurse practitioners and clinical nurse specialists.

Coverage and Payment for Clinical Nurse Specialists' Services Subsequent to BBA

Effective for services furnished on or after January 1, 1998, section 4511 of BBA authorizes clinical nurse specialists to bill the program directly for services furnished in any setting, regardless of whether the settings are located in rural or urban areas, but only if the facility or other providers of services do not charge or are not paid any amounts with respect to the furnishing of nurse practitioners' services. A new § 410.76(e) of this rule sets forth this provision.

The new § 410.76(b) sets forth new qualifications for clinical nurse specialists. Section 410.76(c) describes the conditions of coverage for clinical nurse specialists' services, defines the collaboration process, and paragraph (d) lists the requirements for services furnished incident to the professional services of a clinical nurse specialist.

New § § 405.520(a), (b), and (c) of this rule provide the general rule, requirements, and civil monetary penalties for clinical nurse specialists. A new paragraph (c) is added to § 414.56 of this rule to set forth the payment amounts for clinical nurse specialists' services.

Comment: Numerous nurses associations commented specifically about the qualifications for clinical nurse specialists at § 410.76(b) of the proposed rule. They suggested that the qualifications for clinical nurse specialists be amended to require that a clinical nurse specialist be an individual who is a registered nurse currently licensed to practice as in the State in which he or she practices and have a master's degree in a defined clinical area of nursing from an accredited educational institution. The commenters emphasized that there is no need to provide for an exception as included in the proposed qualifications for clinical nurse specialists, because the nursing profession has long held consensus that clinical nurse specialists be required to have a master's degree. Additionally, they believed that the definition of a clinical nurse specialist under the BBA makes it clear that a clinical nurse specialist must hold a master's degree. Furthermore, they stated that the proposed exception requirement contains erroneous information about the educational focus of clinical nurse specialist programs that may be preparatory both for primary care and specialty care.

Response: Prior to the BBA, section 2160 of the Medicare Carriers Manual required that a clinical nurse specialist had to satisfy the applicable requirements for a clinical nurse specialist in the State in which the services are performed. In the absence of State requirements, Medicare contractors had the discretion to determine whether an individual's qualifications warranted Medicare payment for clinical nurse specialist services. However, the BBA, which established qualifications for clinical nurse specialists, defines a clinical nurse specialist as an individual who is a registered nurse and is licensed to practice nursing in the State in which the services are performed and holds a master's degree in a defined clinical area of nursing from an accredited educational institution. Therefore, we will implement the BBA qualifications for clinical nurse specialists without an exception for clinical nurse specialists who do not possess a master's degree.

Comment: One independently practicing clinical nurse specialist argued that access to psychiatric clinical nurse specialists, in particular, is being denied even though they are the only mental health providers, other than psychiatrists, whose education, experience, and legal scope of practice include the management of co-morbid medical and psychiatric illness. Psychiatric clinical nurse specialists also provide services that include patient and family education to manage symptoms of illness and medications, evaluation and management of side effects, identification of adverse reactions, and evaluation of effectiveness of medications and psychotherapy. The commenter explained that all clinical nurse specialists in psychiatric nursing hold master's or doctoral degrees; have completed 2-years post-graduate, supervised, clinical experience; have passed a national board certification exam; and are required to obtain 75 hours of continuing education credit every 5 years. The commenter concluded that psychiatric clinical nurse specialists are the only group of mental health providers whose practice is being restricted.

Response: Psychotherapy services are listed in the AMA's CPT coding book as "physician services". Nurse practitioners and clinical nurse specialists are authorized by the Medicare program to bill for services that would otherwise be furnished by a physician or incident to a physician's services. Accordingly, it is appropriate for the Medicare program to pay these nonphysician practitioners who have the specific training mentioned for psychotherapy services that are determined to be medically reasonable and necessary.

Result of evaluation of comments: We have determined that for purposes of Medicare Part B payment, a clinical nurse specialist must—

- Be a registered nurse who is currently licensed to practice in the State where he or she practices and be authorized to perform the services of a clinical nurse specialist in accordance with State law;
- Have a master's degree in a defined clinical area of nursing from an accredited educational institution; and
- Be certified as a clinical nurse specialist by the American Nurses Credentialing Center.

Coverage and Payment for Certified Nurse-Midwives' Services

Section 13554 of OBRA 1993 (Pub. L. 103–66) amended section 1861(gg)(2) of the Act to revise the definition of certified nurse-midwife. The revision eliminated a limitation on coverage and included, as covered services, those services furnished by certified nurse-midwives outside the maternity cycle. This change was made effective for services furnished on or after January 1, 1994.

A new § 410.77 of this rule lists the qualifications for certified nurse-midwives and provides the conditions for coverage of certified nurse-midwives' services. Paragraph (d) of § 410.77 lists the coverage requirements for the professional services of certified nurse-midwives, while paragraph (c) lists the requirements for services furnished incident to the professional services of a certified nurse-midwife.

The comments that we received from a major college representing certified nurse-midwives mainly addressed the proposed qualifications for these individuals.

Comment: The commenter urged that the qualifications for certified nurse-midwives be revised to read that the individual must—

(1) Be legally authorized to practice as a certified nurse-midwife under State law or regulations;

(2) Have successfully completed a program of study and clinical experience accredited by an accrediting body approved by the U.S. Department of Education; and

(3) Be currently certified as a nurse-midwife by the American College of Nurse-Midwives or by the American College of Nurse-Midwives Certification Council.

The college believed that these revised qualifications at § 410.77(a) would eliminate the possibility of individuals being able to practice as certified nurse-midwives in the Medicare program without having to take and pass appropriate certification examinations that are explicitly linked to a demonstrated mastery of the "core competencies" for basic nurse-midwife practice. These revised qualifications would, the commenter stated, also assure greater uniformity of quality and competency among certified nurse-midwives who wish to be paid by Medicare for services that they provide to Medicare patients.

Response: Section 1861(gg)(2) of the Act states that the term, "certified nurse-midwife" means a registered nurse who has successfully completed a program of study and clinical experience meeting guidelines prescribed by the Secretary, or has been certified by an organization recognized by the Secretary. Accordingly, we are implementing qualifications for certified nurse-midwives that implement these statutory requirements.

Comment: The other comment that the college representing certified nurse-midwives made was directed toward the criteria for determining payment to certified nurse-midwives for their professional services. The college stated that § 410.77(d)(1) should clarify that, while supervision of nonphysician staff by a nurse-midwife does not constitute a professional service, the service provided by the nonphysician may be paid to the certified nurse-midwife if it meets the requirements of a service incident to his or her service.

Additionally, the college suggested that § 410.77(d)(3) be revised to state that Medicare will pay a certified nurse-midwife for all services that he or she is legally authorized under State law or regulations to furnish as a certified nurse-midwife in the State, if those services are also covered services under the Medicare program. The college suggested this change because it maintains that certified nurse-midwives are qualified to perform "other services" that might not be interpreted to include

newborn care or certain primary care services, or primary care case management in a managed care context, and certain States license them to perform these "other services."

Response: The requirements pertaining to services furnished incident to the professional services of a certified nurse-midwife are listed separately at § 410.77(c) of the proposed rule. We do not want to confuse the requirements for the professional services of certified nurse-midwives with the requirements that pertain to services furnished incident to the professional services of certified nurse midwives.

Section 1861(gg)(1) defines the term, "certified nurse-midwife services" as services furnished by a certified nurse-midwife and services and supplies furnished as an incident to the nurse-midwife's service which the certified nurse-midwife is legally authorized to perform under State law as would otherwise be covered if furnished by a physician or as an incident to a physicians' service. Therefore, we agree with the statement made by the commenter that coverage of the professional services of certified nurse-midwives are not restricted to newborn care, certain primary care services, or primary care case management services if State law authorizes them to furnish "other services."

Result of Evaluation of Comments: We have determined that for purposes of Medicare Part B payment, a nurse-midwife must—

- Be a registered nurse who is legally authorized to practice as a nurse-midwife in the State where services are performed;
- Have successfully completed a program of study and clinical experience for nurse-midwives that is accredited by an accrediting body approved by the U.S. Department of Education; and
- Be certified as a nurse-midwife by the American College of Nurse-Midwives or the American College of Nurse-Midwives Certification Council. The Secretary reserves the right to determine that these accrediting bodies' standards are no longer sufficient for qualifying nurse midwives for Medicare Part B payment.

Also, a nurse-midwife may provide services that he or she is legally authorized to perform under State law as a nurse-midwife, if the services would otherwise be covered by the Medicare program when furnished by a physician or incident to a physicians' professional services.

Coverage and Payment for Physician Assistants' Services Subsequent to BBA

Effective for services furnished on or after January 1, 1998, the majority of the conditions for coverage of physician assistants' services as indicated by new §§ 410.74(a) and (b) remain unchanged with the exception of the condition for coverage of physician assistants' services furnished in certain areas and settings. Section 4512 of BBA removes the restrictions on the sites in which physician assistants may furnish their professional services, regardless of whether the settings are located in rural or urban areas. Physician assistants are authorized to furnish their professional services as independent nonphysician practitioners to practically all providers of services and suppliers of services, provided the facility or other provider of services do not charge or is not paid any amounts with respect to the furnishing of physician assistants' professional services. Accordingly, separate payment may be made for physician assistants' services in all settings, except in RHCs and FQHCs; physician assistant services are included as RHC and FQHC services for which Medicare payment is made based on an all-inclusive payment rate that the program makes to these facilities.

In new § 410.74(c), we proposed to amend the qualifications for physician assistants to recognize certification of physician assistants by the National Board of Certification of Orthopedic Physician Assistants. These qualifications would also have recognized academic programs for physician assistants that are accredited by either the Commission on Accreditation of Allied Health Education Programs or the American Society of Orthopedic Physician Assistants.

Additionally, effective January 1, 1998, physician assistants have the option of furnishing services under a different employment arrangement with a physician. They can furnish services as employees of a physician under a W–2 form employment arrangement or they can furnish services as an independent contractor to a physician and receive a 1099 form. Under either arrangement, the employer of the physician assistant must bill the program for physician assistants' services as required under § 410.150(b)(15). Moreover, when an individual furnishes services "incident to" the professional services of a physician assistant, these ancillary services must meet the requirements under § 410.74(a)(2)(vi)(B).

The Medicare payment amount for a physician assistant's professional services as of January 1, 1998, as stated in new paragraph (d) of § 414.52, remains at 80 percent of the lesser of either the actual charge or 85 percent of the physician fee schedule amount for professional services. Also, new § 405.520 provides the general rule, requirements, and civil monetary penalties for physician assistants who furnish services under the Medicare program.

We received a total of 140 comments on the proposed physician assistant qualifications. Half of all of the commenters strongly opposed the inclusion of orthopedic physician assistants (OPAs) under the qualifications for physician assistants. The others commenting on the inclusion of OPAs applauded and supported their inclusion and suggested a few minor changes to the qualifications overall.

Comment: The commenters who strongly opposed the proposed physician assistant qualifications included professional organizations, individual physician assistants, State level professional societies and academies, congressional representatives, educational institutions, hospitals, and a board of medical examiners. The commenters stated overwhelmingly that the proposed qualifications for physician assistants inappropriately included orthopedic physician assistants and that orthopedic physician assistants are not physician assistants even if the acronyms (PA and OPA) appear to be similar. The majority of commenters who opposed the inclusion of OPAs noted that they would not object, however, if the Congress implemented a Medicare benefit that recognizes orthopedic physician assistants as separate independent nonphysician practitioners, and, in that case, there should be a payment differential in the amounts of payment made to physician assistants and orthopedic physician assistants that would reflect a higher payment to PAs because they have a greater career investment, patient care responsibility, and higher malpractice insurance costs than OPAs.

The commenters stated that PAs and OPAs do not receive the same education and training, accreditation, certification, or State licensure, and their continuing medical education requirements are not similar. These commenters stated that the curricula for the physician assistant educational programs reveal that these programs emphasized primary care involving diagnosis and treatment of five major clinical disciplines (medicine, surgery, pediatrics, psychiatry, and obstetrics), as well as pharmacology. The training period for PAs lasts anywhere from 24 to 28 months. The orthopedic educational programs train technical assistants to assist orthopedic surgeons, with an emphasis on orthopedic disease and injury, management of equipment and supplies, operating room techniques, cast application and removal, office procedures, and orientation to prosthetics and orthotics. The training period for OPAs lasted for no more than 24 months.

The commenters asserted that the Commission on Accreditation of Allied Health Education Programs (CAAHEP) must accredit all physician assistant educational programs. CAAHEP is a national independent accrediting agency that is recognized by the U.S. Department of Education and sponsored by medical, allied health, and educational organizations. However, there are currently no existing OPA programs to be accredited. The AMA accredited eight orthopedic physician assistant educational programs from 1969 to 1974. Accreditation ceased in 1974 when the American Academy of Orthopedic Surgeons withdrew sponsorship of the accreditation process.

The commenters stated that PAs are required to take and pass a national examination after graduation from a physician assistant educational program that is certified by the National Council on Certification of Physician Assistants (NCCPA). The NCCPA national certification examination is open only to those individuals who have graduated from accredited physician assistant educational programs. The NCCPA, which provides the certified national examination, is an independent organization whose governing board has representatives from the American Medical Association, American Hospital Association, American Academy of Family Physicians, American Academy of Pediatrics, American College of Physicians, American College of Surgeons, National Medical Association, Association of American Medical Schools, Federation of State Medical Boards, U.S. Department of Defense, Association of Physician Assistant Programs, and the American Academy of Physician Assistants. The NCCPA also includes three public members.

OPAs who have had on-the-job training or other mid-level paraprofessionals who challenge the exam and have had on-the-job training may take the examination for OPAs that is certified by the National Board on Certification for Orthopedic Physician Assistants (NBCOPA). The NBCOPA certification examination is an open examination and is currently reached through the Professional Testing Corporation, a for-profit business that administers tests for various organizations. The NBCOPA is comprised of six members of the American Society of Orthopedic Physician Assistants (ASOPA), the orthopedic physician assistant professional society, and an unspecified number of advisory members who are presumably non-voting physicians and educators. There is no organized medical group that sponsors or oversees the national certification examination for OPAs other than ASOPA.

The commenters emphasized that all States except Mississippi license and regulate PAs. Forty-three States, the District of Columbia, and Guam have enacted laws to authorize PAs to prescribe medicine. Thirty-three States authorize PAs to write prescriptions for controlled medications. Conversely, only Tennessee specifically licenses OPAs. Tennessee's licensure of OPAs is, however, separate from its licensure of PAs. California and New York have laws referencing OPAs, but the laws refer to OPAs as distinct from PAs. California refers to OPAs who successfully completed training as OPAs from an approved California orthopedic physician assistant educational program in any year between 1971 to 1974 to perform only those orthopedic medical tasks that a physician and surgeon may delegate. New York defines the qualifications for PAs in terms broad enough to include OPAs. The New York State regulations do not limit the acceptable examination to the NCCPA certification examination. Therefore, the NBCOPA certification examination could be considered to adequately assess entry level skills for the physician assistant profession. None of the other States, however, recognize OPAs, and none of the States specifically grant OPAs prescribing privileges.

Additionally, the commenters explained that PAs are required to log 100-hours of continuing medical education over a 2-year cycle and to take a recertification exam every 6 years to maintain certification as PAs. On the other hand, OPAs are required to complete 120 hours of continuing medical education every 4-years or retake the initial NBCOPA certification examination to maintain certification as OPAs.

The professional organizations representing PAs and numerous independent PAs and congressional representatives argued that the proposed changes to the PA qualifications run counter to our twin goals of controlling costs to the Medicare program and maintaining the quality of services furnished to Medicare beneficiaries. There are approximately 49,000 surgical technologists and 3,000 registered nurse first assistants and an uncounted number of unlicensed medical school graduates (for example, from other countries). These individuals could potentially qualify as PAs under the proposed qualifications by getting the requisite orthopedic work experience and passing the orthopedic physician assistant examination that is certified by NBCOPA. Thus, the number of individuals who could qualify for payment under the PA benefit ultimately is substantial.

Additionally, these commenters argued that the proposal to include OPAs as PAs runs counter to congressional intent because the BBA, which amends coverage payment for PAs, does not include any mention of OPAs. They state that the debate on the BBA provisions for physician assistants, nurse practitioners, and clinical nurse specialists did not include any discussion of orthopedic physician assistants or any other types of physician extenders, nor did the Congressional Budget Office consider orthopedic physician assistants or other types of specialty physician extenders when projecting the costs of physician assistant services under the BBA. Furthermore, these commenters stated that the primary sponsors of the 1977 Rural Health Clinic Services Act acknowledged the educational preparation of PAs to provide a wide range of primary care services to Medicare beneficiaries living in areas experiencing a shortage of primary care physicians. While orthopedic technicians may provide valuable, specialized services in assisting orthopedic surgeons, they do not have an educational background in primary care. Consequently, they are not qualified to provide the wide range of primary care services that the Congress anticipated when it recognized the need to cover and pay for the services of PAs under Medicare.

Finally, the commenters urged us to require that, in order for an individual to qualify as a PA under Medicare, he or she must (1) possess State approval to practice as a PA, and (2) demonstrate either graduation from a physician assistant educational program accredited by CAAHEP or certification by NCCPA.

The commenters who supported the inclusion of OPAs under the physician assistant benefit were represented by a national society and academy, orthopedic surgeons, independent orthopedic physician assistants,

hospitals, universities, and organizations that provide orthopedic surgical services. The national society representing OPAs declared that our clarification of the PA qualifications does not relate to payment because orthopedic surgeons are already paid for many services provided by OPAs incident to their professional services. Rather, it believes that the clarification is about recognition of OPAs.

The national academy representing orthopedic surgeons, numerous independent orthopedic surgeons, and OPAs stated that OPAs are specially trained to assist orthopedic surgeons in surgical procedures and other services involving the total care of patients with orthopedic conditions of the anatomy and pathophysiology of the musculoskeletal organ system. Commenters state that OPAs receive extensive training that includes rotations in general medicine and surgery, history and physical assessment, and pharmacology. Additionally, they say, OPAs are trained to obtain medical histories, perform physical examinations, assist the physician in developing and implementing patient management plans, perform common laboratory, radiologic, and other routine diagnostic procedures, and provide injections, immunizations, suturing and wound care, among other services. Other services that these groups have stated that OPAs may perform include the application, fabrication and removal of casts, splints, braces and orthopedic hardware, emergent care of trauma patients, pre- and post-operative care, and serving as first and second assistants to orthopedic surgeons for all procedures. A few commenters noted that the only orthopedic experience that the primary care physician assistants have is received during a 6-week rotation within the 4-year primary care educational program.

Many orthopedic surgeons and others stated that the specialty training that OPAs receive has enabled them to become extremely valuable to their practices freeing up orthopedic surgeons to perform other tasks. Also, some commenters stated that they have found PAs and OPAs to be equally competent and in some cases, OPAs have proven to be more competent than PAs. Therefore, OPAs are very quickly becoming an integral part of their patient care teams. A professional organization commented that the inclusion of OPAs under the PA benefit should not result in exorbitant costs to the Medicare program because there are only approximately 1,000 OPAs who could meet the proposed PA qualifications. Also, when Tennessee established State licensure for OPAs, the State Comptroller's office found that there was an increase in State revenues from fees collected and a slight, but not significant, increase in State expenditures for administering the program.

The national society representing OPAs suggested specific language be added to the proposed PA qualifications to require formal education programs for OPAs.

Response: After reviewing more closely information about the distinctions between PAs and OPAs, and after reviewing the comments that we received on the proposal to include OPAs as PAs, we have determined that it would not be appropriate to treat OPAs in the same way as PAs. There are substantial differences in education and training, certification examinations, accreditation of educational programs, and State licensure and regulation of PAs and OPAs. Additionally, we believe that the 1977 Rural Health Clinic Services Act, which first recognized and paid for the services of PAs under Part B of the Medicare program, would have specifically recognized OPAs as within its scope if it intended to do so. We also believe that a significant number of individuals, exceeding the approximately 1,000 currently practicing OPAs, could qualify as PAs under the proposed rule because the national certification examination for OPAs is currently open to other mid-level nonphysician practitioners who challenge the examination and have had on-the-job training.

Comment: We did not specifically solicit public comment in the proposed rule on the BBA provision that authorized PAs to provide services under an arrangement as independent contractors, in addition to performing services as an employee of entities or individuals such as a physician, medical group, professional corporation, hospital, skilled nursing facility, or nursing facility. However, we discussed, in the background section of the proposed rule, that effective January 1, 1998, PAs have the option of furnishing services under an independent contractor arrangement. Under either arrangement, we explained that the employer of the PA must bill the program for services furnished by the PA. As a result of this discussion, one commenter stated that, generally, PAs have been under the direction of a physician, and they have not been viewed as independent contractors. Therefore, the commenter emphasized that clarification is needed about PAs performing in an independent contractor employment relationship.

Response: Regardless of whether a PA performs services under an employment relationship or under an independent contractor relationship, the Medicare statute requires that he or she furnish services under the general supervision of a physician, and the employer of the PA must always bill for the services furnished.

However, just as we adopt the Internal Revenue Service's definition of an employer/employee employment relationship, we also adopt the Internal Revenue Service's definition of an independent contractor relationship.

Some of the distinctions between an employer/employee and an independent contractor relationship are that, under an independent contractor relationship, the employer does not generally have to withhold or pay any taxes on payments to independent contractors and the employer has virtually no behavioral or financial control over the independent contractor. That is, under an independent contractor relationship, the independent contractor works autonomously without any instructions from his or her employer about when, where, and how to work. The contractor is engaged to perform services for a specific project or period of time, for which he or she is paid at the completion of the project. Independent contractors can make a profit or loss. The services that the independent contractor performs may not be a key aspect of the employer's regular business and, therefore, an independent contractor may have a significant investment in the facilities he or she uses in performing services for the employer. Additionally, the employer of an independent contractor may not provide employee-type benefits such as insurance, a pension plan, vacation pay, or sick pay.

Result of evaluation of comments: We have determined that for purposes of Medicare Part B payment, a physician assistant is an individual who—

- Has graduated from a physician assistant educational program that is accredited by the National Commission on Accreditation of Allied Health Education Programs;
- Has passed the national certification examination that is certified by the National Commission on Certification of Physician Assistants; and
- Is licensed by the State to practice as a physician assistant.

E. Payment for Teleconsultations in Rural Health Professional Shortage Areas

In section 4206 of BBA, the Congress required that, not later than January 1, 1999, Medicare Part B pay for professional consultations by a physician via interactive telecommunications systems (teleconsultations).

Under section 4206(a) of BBA, payment may be made under Part B, provided the teleconsultation service is furnished to a beneficiary who resides in a county in a rural area designated as a Health Professional Shortage Area (HPSA). This payment is notwithstanding that the individual physician or practitioner providing the professional consultation is not at the same location as the physician or practitioner furnishing the service to that beneficiary. (For the purposes of convenience, in this section the term "practitioner" is used to mean physicians and practitioners as specified.)

Section 4206(b) of BBA also required that the Secretary establish a methodology for determining the amount of payments made for a teleconsultation within the following parameters:

- The payment is to be shared between the referring practitioner and the consulting practitioner.
- The amount of the payment is not to exceed the current fee schedule amount that would be paid to the consulting practitioner.
- The payment is not to include any reimbursement for any telephone line charges or any facility fees, and a beneficiary may not be billed for these charges or fees.
- The payment is to be subject to the coinsurance and deductible requirements under section 1833 (a)(1) and (b) of the Act.
- The payment differential of section 1848(a)(3) of the Act is to be applied to services furnished by nonparticipating physicians.
- The provisions of sections 1848(g) and 1842(b)(18) of the Act are to apply.
- Further, payment for the consultation service is to be increased annually by the update factor for physicians' services determined under section 1848(d) of the Act.

In addition, the statute directs that, in establishing the methodology for determining the amount of payment, the Secretary take into account the findings of the report required by section 192 of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191), the findings of the report required by section 4206(c) of BBA, and any other findings related to clinical efficacy and cost-effectiveness of telemedicine applications.

Provisions of HCFA–1906–P

On June 22, 1998, we published a proposed rule titled "Payment for Teleconsultations in Rural Health Professional Shortage Areas" (HCFA–1906–P) (63 FR 33882) that would implement the provisions of section 4206 of the BBA addressing Medicare reimbursement for telehealth services.

Regulatory Provisions

In proposed § 410.75(a)(1), we required that as a condition for Medicare Part B payment for a teleconsultation, the referring and the consulting practitioner be any of the following:

- A physician as described in existing § 410.20.
- A physician assistant as defined in existing § 491.2.
- A nurse practitioner as defined in existing § 491.2.
- A clinical nurse specialist as described in existing § 424.11(e)(6).
- A certified registered nurse anesthetist or anesthesiologist's assistant as defined in existing § 410.69.
- A certified nurse-midwife as defined in existing § 405.2401.
- A clinical social worker as defined in section 1861(hh)(1) of the Act.
- A clinical psychologist as described in existing § 417.416(d)(2).

We required, in proposed § 410.75(a)(2), that teleconsultation services be furnished to a beneficiary residing in a rural area as defined in section 1886(d)(2)(D) of the Act that is designated as an HPSA under section 332(a)(1)(A) of the Public Health Service Act. For purposes of this requirement, the beneficiary is deemed to be residing in such an area if the teleconsultation presentation takes place in such an area.

In proposed §§ 410.75(a)(3) through 410.75(a)(5) we specified further that teleconsultations must meet the following requirements in order to be covered by Medicare Part B:

- The medical examination of the beneficiary must be under the control of the consultant practitioner.
- The consultation must involve the participation of the referring practitioner, as appropriate to the medical needs of the patient, and as needed to provide information to and at the direction of the consultant.
- The consultation results must be in a written report that is furnished to the referring practitioner.

We defined "interactive telecommunications systems" in paragraph (b) of proposed § 410.75, as multimedia communications equipment that includes, at a minimum, audio-video equipment permitting two-way, real-time consultation among the patient, consulting practitioner, and referring practitioner as appropriate to the medical needs of the patient and as needed to provide information to and at the direction of the consulting practitioner. Telephones, facsimile machines, and electronic mail systems do not meet the definition of interactive telecommunications systems.

Payment Provisions

Proposed regulatory provisions: We proposed adding § 414.62 (Payment for consultations via interactive telecommunication systems) to our regulations.

We specified, in paragraph (a) of proposed § 414.62, that Medicare total payments for a teleconsultation may not exceed the current fee schedule amount for the service when furnished by the consulting practitioner. We further specified that the payment (1) may not include any reimbursement for any telephone line charges or any facility fees, and (2) is subject to the coinsurance and deductible requirements of section 1833(a)(1) and (b) of the Act. We also specified in paragraph (b) that the payment differential of section 1848(a)(3) of the Act applies to services furnished by nonparticipating physicians.

In paragraph (c) of proposed § 414.62, we provided that payment to nonphysician practitioners is made only on an assignment-related basis. Paragraph (d) provided that only the consultant practitioner may bill for the consultation, and paragraph (e) required the consultant practitioner to provide the referring practitioner 25 percent of any payments, including any applicable deductible or coinsurance amounts, he or she received for the consultation.

Paragraph (f) specified that a practitioner may be subject to the sanctions provided for in 42 CFR chapter V, parts 1001, 1002, and 1103 if he or she (1) knowingly and willfully bills or collects for services in violation of the limitations of proposed § 414.62 on a repeated basis, or (2) fails to timely correct excess charges by reducing the actual charge billed for the service to an amount that does not exceed the limiting charge or fails to timely refund excess collections.

Analysis of and Response to Public Comments to HCFA–1906–P Eligibility Provisions

Comment: Most commenters applauded HCFA's decision to include

both partial and full county geographic HPSAs when determining eligibility. However, a few commenters believed we should not limit eligibility to rural HPSAs. One commenter stated that the proposed eligibility criteria discriminated against elderly persons living in other remote areas. Another commenter suggested that travel time or distance to the specialist, not the availability of primary care physicians in the community, are the most important criteria for elderly patients in need of specialty consultation.

Response: BBA limits eligibility for teleconsultation to rural areas as defined by section 1886(d)(2)(D) of the Act designated as an HPSA as defined by section 332(A)(1)(a) of the Public Health Service Act. This section of the Public Health Service Act defines an HPSA as an area that the Secretary determines has a shortage of health professionals and is not reasonably accessible to an adequately serviced area.

We believe that, it is likely that in an area where sources of primary care are a considerable distance and travel time away, the same would be true for specialty care. In any event, we do not have the authority to expand eligibility for teleconsultation beyond what is specified by BBA.

Comment: One commenter questioned whether psychiatric, dental, and facility HPSAs are eligible for teleconsultation.

Response: As discussed above, HPSA eligibility is limited to eligibility under section 332(a)(1)(A) of the Public Health Service Act. This section of the law references geographic HPSAs only.

Coverage Provisions

Comment: Many commenters requested that we include payment for the use of store-and-forward technology within the scope of coverage of this provision. Commenters believed that, for many specialties, store-and-forward technology provided the same information that would be provided in a live consultation.

For instance, several commenters recommended that we broaden the definition of a consultation to allow stored full-motion video exams or other representations to substitute for the presence of the patient. Other commenters recommended payment for store-and-forward applications such as dermatology photos and orthopedic digital x-rays.

Other justifications for coverage of store-and-forward technology included lack of infrastructure and scheduling difficulties. A few commenters mentioned congressional interest in providing coverage and payment for the use of store-and-forward technology in providing a consultation.

Response: We believe that a teleconsultation is a different method of delivering a consultation service. To that end, we view a teleconsultation as an interactive patient encounter that must meet the criteria for a given consultation service included in the American Medical Association's (AMA) Current Procedure Terminology.

In the proposed rule, we specified that the minimum technology necessary to deliver a consultation must include interactive audio and video equipment permitting two-way real-time communication between the beneficiary, consulting practitioner, and referring practitioner as appropriate. For Medicare payment to occur, the patient must be present, and the telecommunications technology must allow the consulting practitioner to conduct a medical examination of the patient.

The telecommunications requirements do not mandate full motion video. If the telecommunications technology permits two-way interactive audio and video communication allowing the consulting practitioner to conduct a medical exam, Medicare would make payment for a teleconsultation.

These requirements would not prohibit the use of higher end store-and-forward technology in which less than full motion video is sufficient to perform an interactive examination at the control of the consulting practitioner. When performed in real-time, with the patient present, store-and-forward may allow the consultant physician to control the examination by requesting additional, real-time pictures of the patient that are transmitted immediately to the online consultant.

Traditional store-and-forward technology in which an examination, diagnostic test, or procedure is filmed and later transmitted can be used in conjunction with the interactive (via audio-video technology) examination to facilitate the consultant's decision making. However, for Medicare payment to occur, the patient must be present in real-time.

We do not propose to make separate payment provisions for the review of medical records via telecommunications in this final rule. BBA gives payment authority for consultation via telecommunications with a physician or practitioner described in section 1842(b)(18)(C) of the Act, furnishing a service for which payment may be made under Medicare. Medicare currently does not make separate payment for the review and interpretation of medical records.

Separate payment for traditional store-and-forward applications may be appropriate for many forms of diagnostic testing including radiology, electrocardiogram, and electroencephalogram interpretations, as well as imaging studies such as magnetic resonance imaging and ultrasound. Medicare currently allows coverage and payment for medical services delivered via telecommunications systems that do not require a face-to-face "hands on" encounter. Section 2020(A) of the Medicare Carriers Manual addresses this issue and lists radiology, electrocardiogram, and electroencephalogram interpretations as examples of such services.

Review of dermatology photos would not be considered a consultation. We believe that this would be a new service for which payment could not currently be made under Medicare. BBA limits the scope of coverage to professional consultations for which payment may be made under Medicare.

Comment: Many commenters believed that we should be more stringent regarding practitioners who can be consultants. For instance, a number of commenters believed that a certified registered nurse anesthetist, anesthesiologist assistant, clinical psychologist, or clinical social worker should not be eligible to be a consulting practitioner because Medicare does not make payment for consultations provided by these practitioners. Additionally, commenters stated that consultation is beyond the scope of practice for these practitioners.

Response: In the proposed rule for teleconsultation we specified that all practitioners described in section 1842(b)(18)(C) of the Act qualify to be a consulting and a referring practitioner. These practitioners include: a physician, physician assistant, nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, anesthesiologist assistant, certified nurse midwife, clinical psychologist, and clinical social worker.

After further review of this proposal, we have determined that allowing clinical psychologists, clinical social workers, certified nurse anesthetists, and anesthesiologist assistants to provide a teleconsultation is inconsistent with the Medicare benefit.

We believe that a professional consultation delivered via telecommunications is a method of delivering a consultation service, rather than a new service. For instance, BBA section 4206(a) states that "payment shall be made for professional consultations via telecommunications systems with a physician or practitioner described in section 1842(b)(18)(C) of the Act furnishing a service for which payment may be made * * * " Moreover, section 4206(b) of BBA states "the amount of such payment shall not be greater than the current fee schedule of the consulting physician or practitioner."

Under existing Medicare policy, clinical psychologists, clinical social workers, certified registered nurse anesthetists, and anesthesiologist assistants cannot bill, nor receive payment, for consultation services under Medicare. Therefore, these particular practitioners are prohibited from billing for a teleconsultation because, under the Medicare program, no payment would be made for a consultation service provided by these practitioners.

In addition, we have reviewed our proposed policy which allowed certified registered nurse anesthetists and anesthesiologist assistants to refer Medicare beneficiaries for teleconsultation. After review, we have decided to omit these practitioners as eligible to refer patients for teleconsultation. Section 1861(bb) of the Social Security Act defines services provided by these practitioners as anesthesia services and related care. Currently, our view is that the nature of these services is such that certified registered nurse anesthetists and anesthesiologist assistants would not request a consultation as defined by the Physicians' Current Procedure Terminology. Thus, we are excluding certified registered nurse anesthetists and anesthesiologist assistants from the list of referring practitioners. We invite specific comments regarding this issue.

To implement this policy change, we are omitting clinical psychologists, clinical social workers, certified nurse anesthetists, and anesthesiologist assistants from being consulting practitioners as follows at redesignated § 410.78(a)(1):

(1) The consulting practitioner is any of the following:
(i) A physician as described in § 410.20.
(ii) A physician assistant as defined in § 410.74.
(iii) A nurse practitioner as defined in § 410.75.
(iv) A clinical nurse specialist as defined in § 410.76.
(v) A nurse-midwife as defined in § 410.77.

Additionally, a new section is added to omit certified nurse anesthetists and anesthesiologist assistants as referring practitioners as follows at redesignated § 410.78(a)(2):

(2) The referring practitioner is any of the following:
(i) A physician as described in § 410.20.
(ii) A physician assistant as defined in § 410.74.
(iii) A nurse practitioner as defined in § 410.75.
(iv) A clinical nurse specialist as defined in § 410.76.
(v) A nurse-midwife as defined in § 410.77.
(vi) A clinical psychologist as described at § 410.71.
(vii) A clinical social worker as described in section 410.73.

Comment: We received a number of comments regarding the referring practitioner participation requirements. Several commenters believed that requiring the participation of the referring practitioner as a condition of payment is unreasonable. They believed this responsibility can usually be delegated to a midlevel practitioner or, in some cases, no presenting practitioner. Commenters made the case that the referring practitioner does not travel to the consultant's office for a traditional consultation and therefore should not be required to participate in a teleconsultation.

Response: We have reviewed our proposed policy requiring the participation of the actual referring practitioner as appropriate to the medical needs of the patient. After review we have decided to amend this policy to allow all practitioners listed as referring practitioners in this rule to be eligible to present a Medicare beneficiary for teleconsultation. However, if the practitioner is not the actual referring practitioner, he or she must be an employee of the referring practitioner.

Hence, if a primary care physician determines that a specialty consultation is necessary, he or she could delegate the presentation of the beneficiary to an eligible referring practitioner (i.e., nurse practitioner, physician assistant, nurse midwife, clinical nurse specialist, clinical psychologist, or clinical social worker) who is an employee.

We clarify, that for circumstances where the condition of the patient may not medically require the participation of a presenting practitioner, we would not require the participation of a presenting practitioner as a condition of payment for the teleconsultation.

When no practitioner is present with the patient, the consultant will continue to share 25 percent of total payments with the referring practitioner. As discussed in the payment provision section of this document, the 25-percent allocation is intended to reflect the average amount of new work performed by the referring practitioner over many teleconsultations. However, because of the potential for fraud or abusive practices in these situations where the referring practitioner is not present with the patient, HCFA in consultation with the Office of the Inspector General will monitor these services in our review of the Medicare teleconsultation benefit.

To execute this policy in this final rule, proposed § 410.75(a)(5), redesignated as § 410.78(a)(5), specifies that as a condition of payment, the teleconsultation involves the participation of the referring practitioner or a practitioner described in section 1842(b)(18)(C) of the Act (other than a certified registered nurse anesthetist or anesthesiologist assistant) who is an employee of the referring practitioner, as appropriate to the medical needs of the beneficiary and to provide information to and at the direction of the consulting practitioner.

Comment: Several commenters requested clarification regarding the availability of the referring practitioner while the teleconsultation takes place.

Response: A practitioner who is eligible to be a referring practitioner, as described in redesignated § 410.78(a)(2) (formerly § 410.75(a)(2)), is required to be present in the office suite or hospital wing and available to participate in the teleconsultation as necessary. We do not mandate that a practitioner be present in the room while the teleconsultation is taking place.

As discussed earlier in this document, a presenting practitioner's participation is required as appropriate to the medical needs of the beneficiary and to provide information at the direction of the consulting practitioner. However, if the medical needs of the beneficiary require the participation of a presenting medical professional, that professional must be a practitioner described in redesignated § 410.78(a)(2).

Comment: A few commenters requested clarification regarding whether the referring practitioner may bill for other services on the same day that the teleconsultation takes place. A suggestion was made that a referring practitioner should be permitted to bill for a primary care visit on the same day as a teleconsultation if the primary care visit is the basis of the consultation or for a medical problem unrelated to the consultation.

Response: On the day the teleconsultation occurs, the referring practitioner may bill for the office, outpatient, or inpatient visit that preceded the need for a consultation. Additionally, the referring practitioner could bill for other services as ordered by the consultant, or for services unrelated to the medical problem for which a consultation was requested.

However, the referring practitioner is prohibited from billing for a second visit for his or her role in presenting the patient at the time of teleconsultation. The consulting practitioner is responsible for billing Medicare for the consultation service.

Comment: Many commenters suggested an expansion in the scope of coverage beyond consultation services including speech pathology, occupational therapy, diabetic self management, psychotherapy, office and other outpatient visits for new and established patients, nursing facility services, and patient education and diagnostic interviews. Additionally, the nature of the comments indicated a belief that consultation can only be requested for a limited number of conditions or specialties and that a consultation service can only be provided once per patient.

Response: Section 4206(a) of BBA limits the scope of coverage to professional consultation for which payment is currently made under Medicare. We believe that a consultation is a specific service that meets the criteria specified for a consultation service in the AMA 1998 Current Procedure Terminology. BBA does not give authority to cover services beyond consultation under this provision.

We clarify that a consultation can be requested by a physician or practitioner for many medical specialties including, but not limited to: cardiology, pulmonary, neurology, dermatology, gastrology, and psychiatry. Additionally, the scope of coverage for teleconsultation is not limited to the initial request for consultation from the referring practitioner. If an additional request for consultation regarding the same or new problem is received from the attending practitioner and documented in the medical records, another teleconsultation may be billed.

Comment: Two commenters requested clarification of whether a physician assistant is eligible to be a consultant under this provision.

Response: A physician assistant, as defined in existing § 410.74, is eligible to bill for a teleconsultation.

Comment: A number of commenters believed that, in many cases, a registered nurse, or other medical professional, is qualified to present the patient to the consultant. One commenter believed that patient care has never suffered when a medical professional not recognized as a Medicare practitioner is used to present the patient and only a small percentage of cases actually require a physician, nurse practitioner, or physician assistant to be present for the teleconsultation.

Response: Section 4206(a) of BBA specifies that the individual physician or practitioner providing the professional consultation does not have to be at the same location as the physician or practitioner furnishing the service to the beneficiary. We believe this language is limiting and requires that a practitioner, as recognized under section 1842(b)(18)(C) of the Act, must be present with the patient during the teleconsultation. Since the same phrase describes the medical professional at both ends of the teleconsultation, we believe that it would be difficult to interpret the phrase to have one meaning for purposes of identifying the consultant and a different meaning for purposes of identifying who may be physically with the patient. Therefore, registered nurses, and other medical professionals not recognized as practitioners under section 1842(b)(18)(C) cannot act as presenters during teleconsultations.

Comment: A few commenters believed that the range of medical professionals eligible to provide a teleconsultation should be expanded beyond what is allowed by BBA. Suggestions included physical therapists, respiratory therapists, and occupational therapists. Commenters stated that outpatient rehabilitation following a stroke or other disorder is less expensive and better than prolonged inpatient care. Other commenters suggested that nurse specialists and registered nurses be allowed to provide a consultation service. Commenters stated that nurses provide education to patients without the presence of a physician or other practitioner.

Response: BBA limits the medical professionals who may be consultants to physicians or practitioners described in section 1842(b)(18)(C) of the Act. These practitioners include a clinical nurse specialist as described in § 410.76; however, nurses who are not recognized as practitioners under section 1842(b)(18)(C) of the Act are not eligible to provide a teleconsultation. This section of the law does not include physical therapists, respiratory therapists, and occupational therapists. We have no authority to expand the statutory definition.

Comment: One commenter stated that a certain State law requires the referring practitioner to have the ultimate authority over the care of the patient. The commenter believed that this requirement conflicts with our proposed rule which specifies that the examination be at the control of the consulting practitioner.

Response: We clarify that the language at proposed § 410.75(a)(4), redesignated in this final rule as § 410.78(a)(4), "The medical examination of the beneficiary is under the control of the consultant practitioner," does not mean that the referring practitioner relinquishes the overall responsibility for a beneficiary's care. The intent of this requirement is to clarify that the consulting practitioner is conducting a real-time examination with the patient present, rather than reviewing a prior examination, diagnostic test, or procedure prepared in advance by the referring practitioner.

Payment and Billing Provisions

Comment: One commenter believed that the discussion of general Medicare payment policy is unclear. The commenter specifically questioned the applicability of coinsurance.

Response: Generally, under Medicare part B, Medicare pays 80 percent of the lower of the actual charge or appropriate fee schedule amount, presuming the beneficiary has met his or her Medicare part B deductible. Under the Medicare program and for purposes of this provision, the maximum Medicare payment for a teleconsultation provided by a participating physician would be based on 80 percent of the physician fee schedule, presuming that the deductible had been met. For all other eligible consulting practitioners, the maximum Medicare payment amount would be 80 percent of 85 percent of the physician fee schedule. The beneficiary would be responsible for 20 percent of the appropriate payment amount.

An example of this formula using $100 as the Medicare physician fee schedule amount is provided below.

Payment for a teleconsultation when a participating physician is the consultant:

- Medicare Physician Fee Schedule: $100.
- Max. Medicare Payment Amount (80% of $100): $80.
- Coinsurance (20% of $100): $20.
- Total Payment Amount: $100.

Payment for a teleconsultation when an eligible non-physician practitioner is the consultant:

- Medicare Physician Fee Schedule: $100.
- Practitioners Respective Percentage of the Physicians Fee Schedule and Resulting Non-Physician Fee Schedule Amount (85% of $100): $85.
- Max. Medicare Payment Amount (80% of $85): $68.
- Coinsurance (20% of $85): $17.
- Total Payment Amount: $85.

Comment: One commenter questioned whether Medigap, Medicaid, and other supplemental insurance will pay the 20-percent coinsurance for teleconsultations.

Response: Medicare Supplemental Insurance (MSI) will pay the 20-percent coinsurance for covered teleconsultations. MSI coverage including Medigap, Medicaid, or employer plans have been standardized across the country. All MSI plans provide what are known as "basic benefits," which are defined to include Medicare Part B coinsurance for covered services (20 percent of the Medicare-approved amount). Teleconsultation is a consultation service delivered via telecommunications systems and is covered under Medicare in rural HPSAs effective January 1, 1999.

Comment: We received a number of comments regarding the proposed payment allocation in which the consultant would receive 75 percent and the referring practitioner would receive 25 percent of the consulting practitioners fee schedule. Several recommendations were made to vary the distribution of payment based on the work performed by each practitioner. A few commenters suggested that if it is not medically necessary for a presenting practitioner to participate in the teleconsultation, the consultant should receive 100 percent of the payment. Other commenters suggested that the payment allocation be determined by the practitioners involved.

Response: We recognize that the level of involvement of the presenting practitioner will vary from case to case, and our model for payment allocation reflects this belief. In determining the payment allocation, we developed a model simulating the combined intensity level for both the referring and consulting practitioners by using relative value units (RVUs) applicable to consultation services and primary care visits (primary care visits were used as proxy for the role of a presenting practitioner during a teleconsultation).

The model reflects that some consultations will require more preparation and medical expertise from the presenting practitioner. For instance, in the first scenario we used the full primary care RVUs. In the second scenario we reduced the work component by 50 percent to reflect that some consultations will require less new work from the presenting practitioner.

The consultation service and primary care visit RVUs were calculated as a percentage of the combined total and resulted in a 75-percent payment to the consulting practitioner and 25-percent payment to the referring practitioner. This percentage allocation is intended to reflect the average level of new work performed by each practitioner over the course of various teleconsultations. It would not be practical for us to develop varying fee amounts for the referring practitioner's role in presenting the patient given our lack of program experience with teleconsultation. However, we are not eliminating the possibility of making changes to the allocation methodology if program experience demonstrates that a modification is warranted.

We considered making a single payment to the consulting practitioner without specifying the amount to be shared with the referring practitioner, however we wished to avoid raising issues of prohibitions against "fee splitting." For more information on the payment allocation see page 33886 of the June 22, 1998 proposed rule.

Comment: A few commenters believed that the regulation should specify the consequences in the event that a consultant fails to share payment in a timely fashion. A suggestion was made to amend the regulation to require the consultant to share payment within 30 days of receipt from the Medicare carrier. The commenter also requested that, in the event of untimely sharing of payment, the referring practitioner have the right to contact the consultant's Medicare carrier directly for the required percent of payment.

Response: We are not mandating or imposing time limits or dictating how sharing of payments should occur. We believe the specific details of how the payment should be shared, including the appropriate time frame, should be up to the practitioners involved. We believe that specifying a time frame in which sharing must occur, would impose an unnecessary burden on the consulting practitioner.

Comment: One commenter stated that the proposed rule is unclear regarding when the consulting practitioner should share 25 percent of the total payment with the referring practitioner. Specifically, the commenter provided two examples of how payment could possibly be shared. The first example involved sharing Medicare and coinsurance payments separately (upon the receipt by the consultant), while the second example involved sharing 25 percent of the total fee schedule amount before coinsurance was received by the consulting practitioner. The commenter believed that the amount of payment allocation changes depending on when sharing occurs.

Response: The consulting practitioner is responsible for billing Medicare for the consultation service and sharing 25 percent of total payments received with the referring practitioner. Whether the consulting practitioner shares payments as he or she receives them, waits until all payments are received, or shares the Medicare and coinsurance payments up-front, the total payment amount allocated to each practitioner remains the same. We are not imposing further guidelines on the sharing arrangement between the two practitioners.

Comment: Several commenters questioned whether our proposed payment methodology of making a single payment to the consultant and requiring him or her to share payment violates section 1877 of the Act. This section provides penalties for certain prohibited referrals. A few commenters questioned the applicability of State laws that prohibit fee splitting.

Response: The payment provisions for teleconsultation specify that the consulting practitioner must submit the claim for the consultation service and must share 25 percent of total payment with the referring practitioner. Given that we require the sharing of payments and predetermine by law the payment amount allocated to the referring practitioner, we believe that our regulation does not constitute a prohibited compensation arrangement between the consulting and referring practitioners. We do not regard the consulting practitioner as actually making a payment to the referring practitioner, but rather acting as a "conduit" to pass a portion of the Medicare payment on. Therefore, we believe that physicians and practitioners, under our payment policy, are not in violation of the Act. For more discussion regarding the bundled payment approach see page 33887 of the June 22, 1998 proposed rule.

Comment: A few commenters questioned how this payment sharing arrangement is treated for tax purposes and whether requiring the consultant to share payment is in conflict with the tax laws.

Response: HCFA does not give tax advice. However, we believe that what the commenter presents as a tax problem is merely a matter of bookkeeping. We note that the law requires the sharing of payment, and the regulation requires the consultant to give 25 percent of the payment received to the referring practitioner. We do not believe that the consultant would ever account for the portion of the Medicare payment for which he serves as a "conduit" as income of his or her own. Each practitioner should consult his or her own tax adviser for specific

information about his own bookkeeping practices.

Comment: Many commenters believed that it will be an administrative burden for the consultant to share payments with the referring practitioner. We received suggestions for two alternative billing proposals. The first alternative proposal maintained the single bill approach, but required us to issue separate checks to the consulting and referring practitioner from the same claim form. The second alternative proposal required the submission of separate claims from the consulting and referring practitioner with HCFA issuing separate checks.

Response: We understand the commenters' concern regarding the additional administrative requirements placed on the consulting practitioner. As a result of public comment, we examined the possibility of issuing two separate checks from the same claim form. Under this approach, we would pay the consultant 75 percent of the appropriate fee schedule amount and the referring practitioner would be paid 25 percent based upon the claim submitted by the consultant. However, this option could not be implemented to meet the January 1, 1999, effective date of this provision as mandated by section 4206 of BBA. For instance, the Medicare claims processing system is currently designed to accept only one "pay to" personal identification number (PIN) per claim on the electronic claim record and the HCFA–1500 paper claim fields that are used as the source for generating a check to a practitioner.

Currently there is only one scenario in which two checks can be issued from one claim form. That situation occurs when a beneficiary overpays his or her deductible and/or coinsurance on an assigned claim. In this case, one check is issued to the provider and a second check is issued to the beneficiary reflecting the amount the beneficiary overpaid. It is possible to issue two checks in this one instance because there is only one personal identification number.

Additionally, the Medicare claims processing system is designed to accommodate only one provider signature per claim. As such, if the consulting practitioner bills on behalf of the referring practitioner, we would not have a valid claim from the referring practitioner upon which to base payment and issue a check.

Another administrative difficulty concerns the possibility that the consulting and referring practitioners may be located in different carrier jurisdictions. This would make it difficult for one carrier to make separate payments to both practitioners. This option may be more feasible once national practitioner identification numbers are implemented as mandated by the Health Insurance Portability and Accountability Act of 1996.

When developing the proposed rule we considered requiring each practitioner to submit a separate claim. This alternative was rejected due to the administrative difficulties in linking claims to assure that the payment ceiling as allowed by section 4206 of BBA is not exceeded. Total payment could exceed what the consultant would have otherwise received if the presenting practitioner were to submit a claim for a consultation at a higher intensity level than the consultant. The task of linking claims becomes increasingly difficult if two carriers are involved because the practitioners' locations fall within separate carrier jurisdictions. The systems modifications necessary to accommodate separate claims could not have been implemented by the January 1, 1999, effective date as mandated by BBA.

Although the final rule requires the consulting practitioner to submit a claim for the teleconsultation and share payment with the referring practitioner, we are not foreclosing the possibility of making changes to this policy in the future.

Comment: One commenter had concerns regarding language in the proposed rule that stated that the teleconsultation transfers the patient to the consulting practitioner. The commenter believed that we should clarify that this statement was made only for administrative requirements of the physician fee schedule and that we did not intend it as a comment on the scope of medical practice.

Response: Our determination of the consultant's location as the site of service is for Medicare payment purposes only. Given that BBA allows payment up to the consultant's current fee schedule, we believe that it is appropriate to use the Geographic Practice Cost Index (GPCI) relevant to the location of the consulting practitioner, rather than the GPCI applicable to the referring practitioner. We did not intend to make a comment regarding the scope of medical practice.

Coding Provisions

Comment: The majority of commenters were strongly in favor of using a modifier to identify a consultation delivered via telecommunications systems. A few commenters suggested new codes to identify a teleconsultation. One commenter stated that modifiers are not always handled correctly by the Medicare carriers and that separate codes would offer the most reliable way of identifying services subject to their own payment rules.

Response: Using a modifier to identify a consultation delivered via telecommunications conforms with our view that a teleconsultation is a method of delivering a consultation service, rather than a new service. We considered developing a separate coding structure for teleconsultation, however, we rejected this option because we believe that new codes would be administratively cumbersome for the medical community and the Medicare program. We believe it will be easier for practitioners to use a single modifier rather than an entirely new set of codes.

Issues Not Addressed in the Proposed Rule

Comment: One commenter asked whether we plan to evaluate the impact of this rule on beneficiaries, providers, other payers, or Medicare. The commenter further stated that data has been limited from the current teleconsultation demonstration project.

Response: We believe that it would be beneficial to evaluate the impact of expanding eligibility for teleconsultation beyond the existing demonstration sites. We plan to evaluate program data resulting from this provision, such as utilization patterns, service intensity, and the type of practitioners providing a teleconsultation.

Comment: A few commenters suggested we provide clarification regarding both intra- and inter-state scope of practice and licensure issues. One commenter expressed concern that the proposed rule may unintentionally involve us in State-based scope of practice and recommended that we clarify that midlevel practitioners are prohibited from operating outside the licensed health professionals scope of practice in their State.

Response: BBA specifies that a nonphysician practitioner may refer a beneficiary for consultation. We clarify that midlevel practitioners would need to meet the governing requirements of the State in which they are licensed. Therefore, if the law of the State in which they are licensed would prohibit a midlevel practitioner (for example, a nurse practitioner or a physician assistant) from referring a patient for consultation, the practitioner could not refer a patient for teleconsultation. Likewise, if the law of the State in which the teleconsultation occurs prohibits a nonphysician from providing a consultation service, the practitioner could not provide a teleconsultation under Medicare. Moreover, if State law precludes an out-of-State practitioner from delivering a teleconsultation, Medicare would not pay for that consultation.

Comment: One commenter believed that this rule would disadvantage specialists located in a rural HPSA by drawing patients to specialists outside of the local area. The commenter stated that managed care organizations may possibly be able to negotiate a better price from consultants outside the community and believed we should develop safeguards to prohibit such possibilities.

Response: We believe this comment is beyond the scope of this provision as authorized by BBA. BBA provides for payment of teleconsultation when the requirements of this benefit are met. However, HCFA is not authorized by the law to direct physicians and other medical practitioners to a specific consultant.

Comment: A few commenters suggested that we consider guidelines regarding beneficiary consent and safeguards for confidentiality.

Response: We agree that the beneficiary should be thoroughly informed regarding the nature of a teleconsultation and that confidentiality of medical records is of great concern. However, we assume that practitioners are already cognizant of their responsibility to obtain patients' informed consent and to protect patients' medical records. Therefore, we are not establishing guidelines regarding beneficiary consent or confidentiality at this time. We invite specific comments regarding this issue.

We recognize that this rule is a first step in refining face-to-face "hands on" requirements for a medical service under Medicare to reflect a telemedicine service. We are not eliminating the possibility of the development of modifications to Medicare telemedicine coverage and payment policies as the law permits and as more program experience in this area is obtained.

To that end, we intend to explore several issues, including: (1) The use of store and forward technologies as a method for delivering medical services; (2) the use of registered nurses and other medical professionals not recognized as a practitioner under the teleconsultation provision to present the patient to the consulting practitioner; and (3) the appropriateness of current consultation codes for reporting consultations delivered via communications systems.

In a year we will send recommendations to Congress regarding these issues along with any necessary legislative changes.

Clarifications and Modifications

Teleconsultation in Rural Health Clinics

As a result of further analysis and evaluation, we have decided to clarify payment policy for teleconsultations provided in a Rural Health Clinic (RHC).

We believe that Congress did not intend to include teleconsultation, as provided for by BBA, as part of the RHC benefit. Section 4206(a) of BBA specifies that Medicare payment shall be made for a professional consultation delivered via telecommunications with a physician as defined in section 1861(r) of the Social Security Act or practitioner as defined by section 1842(b)(18)(C) of the Act. Services furnished by an RHC are treated as "RHC services" and lose their identity as physicians' services or services of other practitioners.

Moreover, section 4206(b) of BBA instructs us to create a system of payment for teleconsultation that requires that payment be shared between the referring and consulting professionals, precludes payment for any sort of capital or facility fees, and applies the mandatory claims submission and limiting charge provisions of section 1848(g) of the Social Security Act. The method of payment for teleconsultation services under this benefit is not congruent with the method of payment for services under the RHC benefit. Under the RHC benefit, payment is made on the basis of an all-inclusive rate per visit (see 42 CFR 405.2462). These provisions are another indication that we should not include teleconsultation services furnished by physicians in RHCs as RHC services for which we make payment to the RHC.

While, some argument could be made that Congress simply did not intend for teleconsultation services ever to be paid for under section 4206 if they are furnished within the confines of an RHC, this would be an unusual conclusion since section 4206 specifically provides payment for consultation services in rural areas similar to those areas serviced by RHCs that may lack sufficient specialists to provide necessary beneficiary care.

Since Congress did not address how we should treat the services of physicians and other practitioners providing teleconsultation in RHCs, we are interpreting the law to permit practitioners in RHCs to bill for teleconsultation as do other practitioners. The law and the legislative history indicate that the intent of the teleconsultation benefit was to expand services to beneficiaries in rural areas. The same intent informs the RHC benefit, so we believe it would be anomalous to read the teleconsultation benefit as being unavailable to rural beneficiaries who receive a teleconsultation in an RHC.

Section 402 of the RHC manual (HCFA Pub. 27) describes "services furnished by RHCs . . . which are not RHC/FQHC services." These services include durable medical equipment, ambulance services, diagnostic tests ("unless an interpretation of the test is provided by the RHC/FQHC physician"), prosthetic devices, braces, and artificial limbs. Thus, services created by other benefit provisions and not explicitly enumerated as part of the RHC benefit have been paid not under the RHC benefit (even if furnished in an RHC), but rather under the appropriate authority in section 1833 of the Act. We believe that it is consistent with this policy to pay for teleconsultations under the authority of section 4206 of BBA, not as an RHC service.

Therefore, consulting practitioners providing a teleconsultation in an RHC setting will be paid according to the payment methodology specified in this final rule. A teleconsultation would not generate an RHC visit and would not be paid for under the all-inclusive rate methodology. For instance, the consulting practitioner providing a teleconsultation in an RHC would bill the applicable Medicare carrier using his or her own identification number rather than the identification number of the RHC. Payment would be based on the consultant's fee schedule amount and he or she would be required to share 25 percent of total payments with the referring practitioner.

When a practitioner in an RHC refers a Medicare beneficiary for a teleconsultation, he or she will receive 25 percent of the approved Medicare consultation fee schedule. An RHC visit would not be billed by either the referring or consulting practitioner for the teleconsultation. However, the referring practitioner could bill for the initial visit which prompted the need for a consultation as an RHC visit.

Note: These requirements would also apply to Federally Qualified Health Centers located in a rural HPSA.

Result of Evaluation of Comments

• Eligibility for Teleconsultation—Medicare beneficiaries residing in rural HPSAs are eligible to receive teleconsultation services. This final rule stipulates the use of the site of presentation (patient location) as a proxy for beneficiary residence. However, if a beneficiary can

demonstrate that he or she resides in a rural HPSA, Medicare would make payment regardless of the site of consultation. Eligibility for teleconsultation includes both full and partial county HPSAs designated by section 332(a)(1)(A) of the Public Health Service Act.

• Scope of Coverage—Covered services include initial, follow-up, or confirming consultations in hospitals, outpatient facilities, or medical offices delivered via interactive audio and video telecommunications systems (CPT codes 99241–99245, 99251–99255, 99261–99263, and 99271–99275).

• Practitioners eligible to be consulting and referring practitioners—Clinical psychologists, clinical social workers, certified registered nurse anesthetists, and anesthesiologist assistants do not provide for consultation services payable under Medicare and therefore cannot provide a teleconsultation under this provision. Additionally, certified nurse anesthetists and anesthesiologist assistants are not eligible to be referring practitioners for a teleconsultation. Practitioners who may provide teleconsultations include the following: physicians, physician assistants, nurse practitioners, clinical nurse specialists, and nurse-midwives. Practitioners who may refer patients for teleconsultation include the following: physicians, physician assistants, nurse practitioners, clinical nurse specialists, nurse-midwives, clinical psychologists, and clinical social workers.

• Conditions of Payment—The patient must be present at the time of consultation, the medical examination of the patient must be under the control of the consulting practitioner, and the consultation must take place via an interactive audio and video telecommunications system. Interactive telecommunications systems must be multi-media communications that, at a minimum, include audio and video equipment permitting real-time consultation among the patient, consulting practitioner, and referring practitioner (as appropriate). Telephones, facsimile machines, and electronic mail systems do not meet the requirements of interactive telecommunications systems.

• We amended the proposed rule to allow another practitioner who can be a referring practitioner under this provision to present the patient to the consultant provided that he or she is an employee of the actual referring practitioner.

• Registered nurses and other medical professionals not included within the definition of a practitioner in section 1842(b)(18)(C) of the Act are not permitted to act as presenters during teleconsultations.

• Medicare Payment Policy—A single payment will be made to the consulting practitioner. The amount will be equal the consultant's current fee schedule payment for a face-to-face patient consultation. The statute requires that the fee be shared by the referring and consulting practitioners. This final rule implements this requirement by providing that the consulting practitioner receive 75 percent, and the referring practitioner 25 percent, of the consulting practitioner's Medicare fee. The patient continues to be responsible for the 20 percent Medicare coinsurance.

• Billing for Teleconsultation—The consulting practitioner will submit one claim for the consultation service and will provide the referring practitioner with 25 percent of any payment, including any deductible or coinsurance received for the consultation. A coding modifier will be used to identify the claim as a teleconsultation. The referring practitioner cannot submit a Medicare claim for the teleconsultation.

IV. Refinement of Relative Value Units for Calendar Year 1999 and Responses to Public Comments on Interim Relative Value Units for 1998

A. Summary of Issues Discussed Related to the Adjustment of Relative Value Units

Section IV.B. of this final rule describes the methodology used to review the comments received on the RVUs for physician work and the process used to establish RVUs for new and revised CPT codes. Changes to codes on the physician fee schedule reflected in Addendum B are effective for services furnished beginning January 1, 1999.

B. Process for Establishing Work Relative Value Units for the 1999 Physician Fee Schedule

Our October 31, 1997 final rule on the 1998 physician fee schedule (62 FR 59048) announced the final RVUs for Medicare payment for existing procedure codes under the physician fee schedule and interim RVUs for new and revised codes. The RVUs contained in the rule apply to physicians' services furnished beginning January 1, 1998. We announced that we considered the RVUs for the interim codes to be subject to public comment under the annual refinement process. In this section, we summarize the refinements to the interim work RVUs that have occurred since publication of the October 1998 final rule and our establishment of the work RVUs for new and revised codes for the 1999 physician fee schedule.

Work Relative Value Unit Refinements of Interim and Related Relative Value Units (Includes Table 4—Work Relative Value Unit Refinements of 1998 Interim and Related Relative Value Units)

Although the RVUs in the October 1997 final rule were used to calculate 1998 payment amounts, we considered the RVUs for the new or revised codes to be interim. We accepted comments for a period of 60 days. We received comments from approximately 8 specialty societies on approximately 34 CPT codes with interim RVUs. Only comments received on codes listed in Addendum C of the October 1997 final rule were considered this year.

Due to the content of the comments received, we did not convene multi-specialty refinement panels (see the November 22, 1996 final rule on the physician fee schedule (61 FR 59536) for a detailed explanation of the refinement of CPT codes with interim RVUs). Instead, determinations were made by HCFA medical officers in conjunction with our carrier medical directors.

Table 4—Work Relative Value Unit Refinements of 1998 Interim and Related Relative Value Units

Table 4 lists the interim and related codes reviewed during the 1998 refinement process described in this section. This table includes the following information:

• *CPT Code.* This is the CPT code for a service.

• *Description.* This is an abbreviated version of the narrative description of the code.

• *1998 Work RVU.* The work RVUs that appeared in the October 1997 rule are shown for each reviewed code.

• *Requested Work RVU.* This column identifies the work RVUs requested by commenters.

• *1999 Work RVU.* This column contains the final RVUs for physician work.

The new values emerged from analysis of the specialty society's written comments on the 1998 interim valued CPT codes.

TABLE 4.—WORK RELATIVE VALUE UNIT REFINEMENTS OF 1998 INTERIM AND RELATED RELATIVE VALUE UNITS

CPT	MOD	Description	1998 work RVU	Requested work RVU	1999 work RVU
11055	.....	Paring or cutting of nails	0.27	0.43	0.27
11056	.....	Paring or cutting of nails	0.39	0.61	0.39
11057	.....	Paring or cutting of nails	0.50	0.79	0.50
11719	.....	Paring or cutting of nails	0,11	0.17	0.11
17003	.....	Destruction of lesions	0.15	0.18	0.15
17004	.....	Destruction of lesions	2.79	3.05	2.79
90804	.....	Psytx, office (20–30)	1.11	1.30	1.21
90805	.....	Psytx, office (20–30) w/e&m	1.47	1.47	1.37
90806	.....	Psytx, office (45–50)	1.73	1.99	1.86
90807	.....	Psytx, office (45–50) w/e&m	2.00	2.16	2.02
90808	.....	Psytx, office (75–80)	2.76	2.99	2.79
90809	.....	Psytx, office (75–80) w/e&m	3.15	3.16	2.95
90810	.....	Intac psytx, office (20–30)	1.19	1.42	1.32
90811	.....	Intac psytx, off 20–30 w/e&m	1.58	1.59	1.48
90812	.....	Intac psytx, office (45–50)	1.86	2.11	1.97
90813	.....	Intac psytx, off 45–50 w/e&m	2.15	2.28	2.13
90814	.....	Intac psytx, office (75–80)	2.97	3.11	2.90
90815	.....	Intac psytx, off 75–80 w/e&m	3.39	3.28	3.06
90816	.....	Psytx, hosp (20–30)	1.24	1.34	1.25
90817	.....	Psytx, hosp (20–30) w/e&m	1.65	1.51	1.41
90818	.....	Psytx, hosp (45–50)	1.94	2.03	1.89
90819	.....	Psytx, hosp (45–50) w/e&m	2.24	2.20	2.05
90821	.....	Psytx, hosp (75–80)	3.09	3.03	2.83
90822	.....	Psytx, hosp (75–80) w/e&m	3.53	3.20	2.99
90823	.....	Intac psytx, hosp (20–30)	1.33	1.46	1.36
90824	.....	Intac psytx, hsp 20–30 w/e&m	1.77	1.63	1.52
90826	.....	Intac psytx, hosp (45–50)	2.08	2.15	2.01
90827	.....	Intac psytx, hsp 45–50 w/e&m	2.41	2.32	2.16
90828	.....	Intac psytx, hosp (75–80)	3.32	3.15	2.94
90829	.....	Intac psytx, hsp 75–80 w/e&m	3.80	3.32	3.10
99343	.....	Home care visits	2.27	No Rec	2.27
99345	.....	Home care visits	3.79	No Rec	3.79
99348	.....	Home care visits	1.26	No Rec	1.26
99350	.....	Home care visits	3.03	No Rec	3.03

* All CPT and descriptors copyright 1998 American Medical Association.

Paring or cutting of nails (CPT codes 11055 through 11057 and 11719)

Comment: A commenter disagreed with our decision to decrease the RUC-recommended RVUs for this family of codes. ("RUC" refers to the American Medical Association's Specialty Society Relative Value Scale Update Committee.) They believed our budget-neutral approach decreased the recommended RUC work RVUs by too large a factor. (See the section on the establishment of interim work Value Units for a brief discussion of the budget-neutral approach.)

Response: We disagree with the commenter's view that the RUC recommendations were decreased by too large a factor. CPT codes 11055 through 11057 can be performed in conjunction with CPT code 11719. The methodology that was used accounts for these combinations. Therefore, the 1998 interim work RVUs will be made final for this series of CPT codes. The final work RVUs, effective January 1, 1999, will be as follows: CPT code 11055 (0.27), CPT code 11056 (0.39), CPT code 11057 (0.50), and CPT code 11719 (0.11).

Destruction of lesions (CPT codes 17003 and 17004)

Comment: A commenter disagreed with our decision to accept the RUC recommendations for CPT codes 17003 and 17004. The commenter believed that the work RVUs associated with these codes were decreased by the RUC without any rationale.

Response: We disagree with the commenter's belief that we should not have accepted the RUC recommendation for CPT codes 17003 and 17004. The RUC determined the work RVUs for these two codes by crosswalking the utilization of existing procedure codes (which were to be deleted for CPT 1998) into these two new CPT codes for the same services. Compliance with our guidelines for budget neutrality resulted in the reduction of the society's recommended work RVUs by the RUC. Therefore, the 1998 interim RVUs for CPT codes 17003 and 17004 will be made final. The final work RVUs, effective January 1, 1999, will be as follows: CPT code 17003 (0.15) and CPT code 17004 (2.79).

Psychotherapy (CPT codes 90804 through 90829)

Comment: In May of 1997, the RUC recommended that HCFA-assigned RVUs for the 24 HCPCS psychotherapy codes be crosswalked to the 1998 CPT codes. The RUC also recommended that the work RVUs remain interim until such time as a survey is conducted by each of the professions that furnish the services.

Response: We received recommendations that were based upon the cooperative efforts of the American Academy of Child and Adolescent Psychiatry, The American Nurses Association, the American Psychiatric Association, the American Psychological Association, and the National Association of Social Workers. The RUC accepted these recommendations.

The cooperative effort by the referenced specialties used frequency estimations to maintain budget neutrality within the family of new CPT codes. Based upon actual 1997

frequencies, the recommended work RVUs are not budget-neutral. We will retain the relative relationships that were recommended but will attain budget neutrality by applying a uniform 6.7 percent reduction across all of the codes. The final 1999 work RVUs will be as follows:

TABLE 5.—PSYCHOTHERAPY (CPT CODES 90804 THROUGH 90829)

CPT code	Descriptor	1999 work RVUs
90804	Psytx, office (20–30)	1.21
90805	Psytx, office (20–30) w/e&m	1.37
90806	Psytx, office (45–50)	1.86
90807	Psytx, office (45–50) w/e&m	2.02
90808	Psytx, office (75–80)	2.79
90809	Psytx, office (75–80) w/e&m	2.95
90810	Intac psytx, office (20–30)	1.32
90811	Intac psytx, off 20–30 w/e&m	1.48
90812	Intac psytx, office (45–50)	1.97
90813	Intac psytx, off 45–50 w/e&m	2.13
90814	Intac psytx, office (75–80)	2.90
90815	Intac psytx, off 75–80 w/e&m	3.06
90816	Psytx, hosp (20–30)	1.25
90817	Psytx, hosp (20–30) w/e&m	1.41
90818	Psytx, hosp (45–50)	1.89
90819	Psytx, hosp (45–50) w/e&m	2.05
90821	Psytx, hosp (75–80)	2.83
90822	Psytx, hosp (75–80) w/e&m	2.99
90823	Intac psytx, hosp (20–30)	1.36
90824	Intac psytx, hsp 20–30 w/e&m	1.52
90826	Intac psytx, hosp (45–50)	2.01
90827	Intac psytx, hsp 45–50 w/e&m	2.16
90828	Intac psytx, hosp (75–80)	2.94
90829	Intac psytx, hsp 75–80 w/e&m	3.10

Home care visits (CPT codes 99341 through 99350)

Comment: A commenter suggested that, when we increased the RUC's work RVU recommendations by a uniform 10 percent intensity factor, we used incorrect base intra-service time. The commenter believed the RUC survey of intra-service time was more accurate than the typical time agreed to by CPT.

Response: We maintain that the correct intra-service times were used and thus will finalize these interim valued codes for home visits. Effective January 1, 1999, the final work RVUs for the home care visit codes will be as follows: CPT code 99341 (1.01), CPT code 99342 (1.52), CPT code 99343 (2.27), CPT code 99344 (3.03), CPT code 99345 (3.79), CPT code 99347 (0.76), CPT code 99348 (1.26), CPT code 99349 (2.02), and CPT code 99350 (3.03).

Establishment of Interim Work Relative Value Units for New and Revised Physicians' Current Procedural Terminology Codes and New HCFA Common Procedure Coding System Codes for 1999 Methodology (Includes Table 6—American Medical Association Specialty Society Relative Value Update Committee and Health Care Professionals Advisory Committee Recommendations and HCFA's Decisions for New and Revised 1999 CPT Codes)

One aspect of establishing work RVUs for 1999 was related to the assignment of interim work RVUs for all new and revised CPT codes. As described in our November 25, 1992 notice on the 1993 fee schedule (57 FR 55938) and in section III.B. of our November 26, 1996 final rule (61 FR 59505 through 59506), we established a process, based on recommendations received from the AMA's RUC, for establishing interim RVUs for new and revised codes.

We received work RVU recommendations for approximately 70 new and revised codes from the RUC. Physician panels consisting of carrier medical directors and our staff reviewed the RUC recommendations by comparing them to our reference set or to other comparable services on the physician fee schedule for which work RVUs had been established previously, or to both of these criteria. The panels also considered the relationships among the new and revised codes for which we received RUC recommendations. We agreed with the majority of those relationships reflected in the RUC values. In some cases, when we agreed with the RUC relationships, we revised the work RVUs recommended by the RUC to achieve work neutrality within families of codes. That is, the work RVUs have been adjusted so that the sum of the new or revised work RVUs (weighted by projected frequency of use) for a family of codes will be the same as the sum of the current work RVUs (weighted by their current frequency of use). For approximately 93 percent of the RUC recommendations, proposed work RVUs were accepted or increased, and, for approximately 7 percent, work RVUs were decreased.

We received only one recommendation from the Health Care Professionals Advisory Committee (HCPAC) for a new code for which the RUC did not provide a recommendation. This HCPAC recommendation was accepted.

There were also 10 CPT codes for which we did not receive a RUC recommendation. After review of these codes by HCFA medical officers, we established interim work RVUs for 8 of these codes and identified the remaining 2 CPT codes as carrier-priced for 1999.

Table 6 is a listing of those codes that will be new or revised in 1999 as well as their associated work RVUs. This table includes the following information:

- A "#" identifies a new code for 1999.
- *CPT code.* This is the CPT code for a service.
- *Modifier.* A "26" in this column indicates that the work RVUs are for the professional component of the code.
- *Description.* This is an abbreviated version of the narrative description of the code.
- *RUC recommendations.* This column identifies the work RVUs recommended by the RUC.
- *HCPAC recommendations.* This column identifies work RVUs recommended by the HCPAC.
- *HCFA decision.* This column indicates whether we agreed with the RUC recommendation ("agree"); we established work RVUs that are higher than the RUC recommendation ("increase"); or we established work RVUs that were less than the RUC recommendation ("decrease"). Codes for which we did not accept the RUC recommendation are discussed in greater detail following Table 6 below. An "(a)" indicates that no RUC recommendation was provided. A discussion follows the table.
- *HCFA work RVUs.* This column contains the RVUs for physician work based on our reviews of the RUC recommendations. The RVUs shown for global surgical services have not been adjusted to account for the 1998 increases for work RVUs in evaluation and management services.

1999 work RVUs. This column contains the 1999 RVUs for physician work. The RVUs shown for global surgical services have been adjusted to account for the 1998 increases for work RVUs in evaluation and management.

This table includes only those codes that were reviewed by the full RUC or for which we received a recommendation from the HCPAC.

TABLE 6.—AMERICAN MEDICAL ASSOCIATION SPECIALTY SOCIETY RELATIVE VALUE UPDATE COMMITTEE AND HEALTH CARE PROFESSIONALS ADVISORY COMMITTEE RECOMMENDATIONS AND HCFA'S DECISIONS FOR NEW AND REVISED 1999 CPT CODES

CPT* code	MOD	Description	RUC recommendation	HCPAC recommendation	HCFA decision	NCFA Work RVU	1998 Work RVU
15000		Skin graft procedure	4.00		Agree	4.00	4.00
15001#		Skin graft procedure	1.00		Agree	1.00	1.00
15100		Skin split graft procedure	9.05		Agree	9.05	9.05
15101		Skin split graft procedure	1.72		Agree	1.72	1.72
15120		Skin split graft procedure	9.83		Agree	9.83	9.83
15121		Skin split graft procedure	2.67		Agree	2.67	2.67
15350		Skin homograft procedure	4.00		Agree	4.00	4.00
15351#		Skin homograft procedure	1.00		Agree	1.00	1.00
15400		Skin heterograft procedure	4.00		Agree	4.00	4.00
15401#		Skin heterograft procedure	1.00		Agree	1.00	1.00
19364		Breast reconstruction	41.00		Agree	41.00	41.00
27347#		Excision tendon sheath	5.78		Agree	5.78	5.78
28289#		Hallux rigidus correction	7.04		Agree	7.04	7.04
31622		Bronchoscopic procedures			(a)	2.67	2.67
31623#		Bronchoscopic procedures			(a)	3.07	3.07
31624#		Bronchoscopic procedures			(a)	3.11	3.11
31643#		Bronchoscopy for brachytherapy	3.50		Agree	3.50	3.50
32001#		Bronchoscopic procedures			(a)	5.71	5.71
33975		Ventricular assist devices	21.60		Agree	21.60	21.60
33976		Ventricular assist devices	29.10		Agree	29.10	29.10
35500#		Bypass grafts			(a)	carrier	carrier
35681		Bypass grafts	3.93		Decrease	1.60	1.60
35682#		Bypass grafts	7.20		Agree	4.80	4.80
35683#		Bypass grafts	8.50		Agree	6.10	6.10
35875		Thrombectomy of grafts	10.13		Agree	10.13	10.13
35876		Thrombectomy of grafts	17.00		Agree	17.00	17.00
36823#		Arteriovenous Chemo	carrier		Agree	carrier	carrier
36831#		Thrombectomy of grafts	8.00		Agree	8.00	8.00
36832		Thrombectomy of grafts	10.50		Agree	10.50	10.50
36833#		Thrombectomy of grafts	11.95		Agree	11.95	11.95
36860		Thrombectomy of grafts	2.01		Agree	2.01	2.01
38792#		Sentinel node biopsy			(a)	carrier	carrier
45126#		Pelvic exenteration	38.39		Agree	38.39	38.39
56321#		Laparoscopic adrenalectomy	carrier		Agree	carrier	carrier
57106#		Radical vaginectomy	6.36		Agree	6.36	6.36
57107#		Radical vaginectomy	23.00		Agree	23.00	23.00
57109#		Radical vaginectomy	27.00		Agree	27.00	27.00
57110		Radical vaginectomy	14.29		Agree	14.29	14.29
57111#		Radical vaginectomy	27.00		Agree	27.00	27.00
57112#		Radical vaginectomy	29.00		Agree	29.00	29.00
67208		Destruction of choroid lesion	6.70		Agree	6.70	6.70
67210		Destruction of choroid lesion	8.82		Agree	8.82	8.82
67220#		Destruction of choroid lesion	13.13		Agree	13.13	13.13
67320		Strabimus surgery	4.33		Agree	4.33	4.33
67331		Strabimus surgery	4.06		Agree	4.06	4.06
67332		Strabimus surgery	4.49		Agree	4.49	4.49
67334		Strabimus surgery	3.98		Agree	3.98	3.98
67335		Strabimus surgery	2.49		Agree	2.49	2.49
67340		Strabimus surgery	4.93		Agree	4.93	4.93
69990#		Microsurgery			(a)	3.46	3.46
73560	26	Radiological examination, knee	0.17		Agree	0.17	0.17
73562	26	Radiological examination, knee	0.18		Agree	0.18	0.18
73564	26	Radiological examination, knee	0.22		Agree	0.22	0.22
76006#		Stress views	0.41		Agree	0.41	0.41
76977#	26	Bone density			(a)	0.22	0.22
78020#		Thyroid carcinoma metastases	0.67		Decrease	0.60	0.60
78205	26	Liver imaging	0.71		Agree	0.71	0.71
78206#	26	Liver imaging	0.96		Agree	0.96	0.96
78472	26	Cardiac blood pool imaging	0.98		Agree	0.98	0.98
78494#	26	Cardiac blood pool imaging	1.19		Agree	1.19	1.19
78496#	26	Cardiac blood pool imaging	0.50		Agree	0.50	0.50
78588#	26	Pulmonary perfusion imaging	1.09		Agree	1.09	1.09
88291#	26	Cytogenetic studies	0.52		Agree	0.52	0.52
92135#	26	Confocal Scanning	0.35		Agree	0.35	0.35
93571#	26	IV distal blood velocity measure	2.99		Decrease	1.80	1.80
93572#	26	IV distal blood velocity measure	1.70		Decrease	1.44	1.44
94014#	26	Pulmonary function	0.52		Agree	0.52	0.52

TABLE 6.—AMERICAN MEDICAL ASSOCIATION SPECIALTY SOCIETY RELATIVE VALUE UPDATE COMMITTEE AND HEALTH CARE PROFESSIONALS ADVISORY COMMITTEE RECOMMENDATIONS AND HCFA'S DECISIONS FOR NEW AND REVISED 1999 CPT CODES—Continued

CPT * code	MOD	Description	RUC recommendation	HCPAC recommendation	HCFA decision	NCFA Work RVU	1998 Work RVU
94016# ..	.....	Pulmonary function	0.52	.....	Agree	0.52	0.52
94060	26	Pulmonary function	0.31	.....	Agree	0.31	0.31
94620	26	Pulmonary function	.....	.....	(a)	0.88	0.88
94621# ..	26	Pulmonary function	.....	.....	(a)	0.88	0.88
95920	26	Neurotransmitter analysis	2.11	.....	Agree	2.11	2.11
95970# ..	.....	Neurotransmitter analysis	0.45	.....	Agree	0.45	0.45
95971# ..	.....	Neurotransmitter analysis	0.78	.....	Agree	0.78	0.78
95972# ..	.....	Neurotransmitter analysis	1.50	.....	Agree	1.50	1.50
95973# ..	.....	Neurotransmitter analysis	0.92	.....	Agree	0.92	0.92
95974# ..	.....	Neurotransmitter analysis	3.00	.....	Agree	3.00	3.00
95975# ..	.....	Neurotransmitter analysis	1.70	.....	Agree	1.70	1.70
97140# ..	.....	Manual therapy techniques	0.45	.....	Decrease	0.43	0.43
99298# ..	.....	Neonatal care	2.75	.....	Agree	2.75	2.75

* No RUC recommendation provided.
New Codes.
* All numeric HCPCS CPT Copyright 1997 American Medical Association.

Discussion of Codes for Which the RUC Recommendations Were Not Accepted

The following is a summary of our rationale for not accepting particular recommendations. It is arranged by type of service in CPT code order. This summary refers only to work RVUs. Furthermore, the RVUs in the following discussion have not been adjusted by the budget-neutrality adjustment factor.

Bypass grafts (CPT code 35681).

We received RUC recommendations for three of the four add-on codes (codes that may be billed only in conjunction with selected primary procedure codes) related to composite bypass grafts. We rejected the RUC recommendation of 3.93 work RVUs for CPT code 35681 (Bypass graft, composite, prosthetic and vein). These work RVUs were suggested during the 5-year review of work RVUs at a time when this family of composite codes had not been established. The recommendation was based on the assumption that the work could be estimated at 12 percent of an independent procedure, CPT code 35102. We believe that a more appropriate evaluation is based on the work involved in anastomosing the vein and prosthetic grafts, which we estimate at 1.60 work RVUs. Effective January 1, 1999, CPT code 35681 will be valued at 1.60 work RVUs.

Thyroid carcinoma metastases uptake (CPT code 78020)

We received a RUC recommendation of 0.67 for CPT code 78020. The survey data indicated that CPT code 78020 was previously reported with unlisted CPT code 78099. The survey estimated that CPT code 78020 will be billed approximately 15 percent of the time CPT code 78018 is billed. CPT code 78099 was only billed 61 times in 1997, while the projected utilization of CPT code 78020 for 1999 is approximately 575 claims annually. To retain budget neutrality within this family of codes, the total work RVUs that will be paid in 1999 were scaled to what would have been paid in 1999 if CPT code 78020 had not been established. This results in work RVUs of 0.60 for CPT code 78020 and 0.86 for CPT code 78018.

Intravascular distal blood flow velocity measurements (CPT code 93571 and 93572)

The RUC recommended work RVUs of 2.99 and 1.70, respectively, for CPT codes 93571 and 93572. The RUC recommendation was constructed based upon a building block approach. Our analysis of this approach raised concerns about the inclusion of certain items in the building block for each respective code. We chose to value these procedures based upon analogous CPT codes 92978 (IV ultrasound) and 92979 (IV ultrasound, each additional vessel) for which the RUC time estimates were identical. For this reason, we assigned 1.80 work RVUs to CPT code 93571 and 1.44 work RVUs to CPT code 93572.

Physical medicine and rehabilitation (CPT code 97140) CPT code 97140 (RUC-recommended work RVU=0.45 replaces CPT codes 97122, 97250, 97260, 97261, and 97265.)

To retain budget neutrality within this family of codes, the total work RVUs that will be paid in 1999 were scaled to the total work RVUs that would have been paid if CPT code 97140 had not been established. This results in work RVUs of 0.43 for CPT code 97140.

V. Physician Fee Schedule Update and Conversion Factor for Calendar Year 1999

The 1999 physician fee schedule conversion factor is $34.7315.

In accordance with section 1848(d)(1)(D) of the Act, as amended by section 4504 of the BBA 1997, the separate conversion factor for anesthesia services for a year shall be equal to 46 percent of the single conversion factor for other physicians' services, except as adjusted for changes in work, practice expense, or malpractice relative value units. This calculation yields a 1999 anesthesia conversion factor of $17.24.

The specific calculations to determine the conversion factor for physicians' services for calendar year 1999 are explained below.

Detail on Calculation of the Calendar Year 1999 Physician Fee Schedule Update and the 1999 Conversion Factor

Physician Fee Schedule Update and Conversion Factor

The conversion factor is affected by section 1848(c)(2)(B)(ii)(II) of the Act, which requires that changes to the relative value units of the Medicare physician fee schedule not cause expenditures to increase or decrease by more than $20 million from the amount of expenditures that would have been made if such adjustments had not been made. We implement this requirement through a uniform budget-neutrality adjustment to the conversion factor.

The conversion factor is also affected by the elimination of the separate 0.917 budget-neutrality adjustment to the work relative value units. This adjustment and its elimination are described in the October 31, 1997 final rule.

The conversion factor is further affected by adjustments made to the practice expense and malpractice relative value units to ensure that the percentages of fee schedule allowed charges for work, practice expense, and malpractice premiums equal the new percentages that those categories represent in the revised Medicare Economic Index (MEI) weights.

Taking all of these factors into account, as well as the percent change in the MEI and Sustainable Growth Rate (SGR) adjustments described below, the 1999 conversion factor is calculated as follows:
1998 Conversion Factor: 36.6873
1999 Update: 2.3%
Other 1999 Factors: −7.45944%
1999 Conversion Factor: 34.7315

The 2.3 percent 1999 update is calculated as follows:
MEI: 2.3%
SGR adjustment: 0.0%
1999 Update: 2.3%

The −7.45944 percent adjustment for other factors is calculated as follows:
Elimination of the separate work adjuster: −8.30%
Adjustment to match MEI weights: 1.20%
Volume and Intensity adjustment: −0.28%
Other 1999 factors: −7.45944%

Note that the elimination of the separate work adjuster and the adjustment to match the MEI weights does not affect aggregate Medicare payments because offsetting changes have been made to the practice expense and malpractice relative value units. As described earlier, the volume-and-intensity adjustment does not affect aggregate payments because our actuaries assume an offsetting increase in the volume and intensity of services provided in 1999.

The MEI and the SGR adjustments are described below.

The Percentage Change in the Medicare Economic Index

The MEI measures the weighted-average annual price change for various inputs needed to produce physicians' services. The MEI is a fixed-weight input price index, with an adjustment for the change in economy-wide labor productivity. This index, which has 1996 base weights, is comprised of two broad categories: (1) physician's own time, and (2) physician's practice expense.

The physician's own time component represents the net income portion of business receipts and primarily reflects the input of the physician's own time into the production of physicians' services in physicians' offices. This category consists of two subcomponents: wages and salaries and fringe benefits. These components are adjusted by the 10-year moving average annual percent change in output per man-hour for the nonfarm business sector to eliminate double counting for productivity growth in physicians' offices and the general economy.

The physician's practice expense category represents the rate of price growth in nonphysician inputs to the production of services in physicians' offices. This category consists of wages and salaries and fringe benefits for nonphysician staff and other nonlabor inputs. Like physician's own time, the nonphysician staff categories are adjusted for productivity using the 10-year moving average annual percent change in output per man-hour for the nonfarm business sector. The physician's practice expense component also includes the following categories of nonlabor inputs: office expense, medical materials and supplies, professional liability insurance, medical equipment, professional car, and other expense. The table below presents a listing of the MEI cost categories with associated weights and percent changes for price proxies for the 1999 update. The calendar year 1999 MEI is 2.3 percent.

INCREASE IN THE MEDICARE ECONOMIC INDEX UPDATE FOR CALENDAR YEAR 1999 [1]

	1996 weights [2]	CY 1999 percent changes
Medicare Economic Index Total	100.0	2.3
1. Physician's Own Time [3 4]	54.5	2.6
a. Wages and Salaries: Average hourly earnings private nonfarm, net of productivity	44.2	2.9
b. Fringe Benefits: Employment Cost Index, benefits, private nonfarm, net of productivity	10.3	1.2
2. Physician's Practice Expense [3]	45.5	2.1
a. Nonphysician Employee Compensation	16.8	2.4
1. Wages and Salaries: Employment Cost Index, wages and salaries, weighted by occupation, net of productivity	12.4	2.7
2. Fringe Benefits: Employment Cost Index, fringe benefits, white collar, net of productivity	4.4	1.5
b. Office Expense: Consumer Price Index for Urban Consumers (CPI–U), housing	11.6	2.3
c. Medical Materials and Supplies: Producer Price Index (PPI), ethical drugs/PPI, surgical appliances and supplies/CPI–U, medical equipment and supplies (equally weighted)	4.5	4.3
d. Professional Liability Insurance: HCFA professional liability insurance survey [5]	3.2	−0.8
e. Medical Equipment: PPI, medical instruments and equipment	1.9	−1.1
f. Other Professional Expense	7.6	1.7
1. Professional Car: CPI–U, private transportation	1.3	−1.1
2. Other: CPI-U, all items less food and energy	6.3	2.2
Addendum:		
Productivity: 10-year moving average of output per man-hour, nonfarm business sector	n/a	1.1
Physician's Own Time, not productivity adjusted	54.5	3.7
Wages and salaries, not productivity adjusted	44.2	4.0
Fringe benefits, not productivity adjusted	10.3	2.3
Nonphysician Employee Compensation, not productivity adjusted	16.8	3.5
Wages and salaries, not productivity adjusted	12.4	3.8
Fringe benefits, not productivity adjusted	4.4	2.6

[1] The rates of change are for the 12-month period ending June 30, 1998, which is the period used for computing the calendar year 1999 update. The price proxy values are based upon the latest available Bureau of Labor Statistics data as of September 15, 1998.

[2] The weights shown for the MEI components are the 1996 base-year weights, which may not sum to subtotals or totals because of rounding. The MEI is a fixed-weight, Laspeyres-type input price index whose category weights indicate the distribution of expenditures among the inputs to physicians' services for calendar year 1996. To determine the MEI level for a given year, the price proxy level for each component is multiplied by its 1996 weight. The sum of these products (weights multiplied by the price index levels) over all cost categories yields the composite MEI level for a given year. The annual percent change in the MEI levels is an estimate of price change over time for a fixed market basket of inputs to physicians' services.

[3] The Physician's Own Time and Nonphysician Employee Compensation category price measures include an adjustment for productivity. The price measure for each category is divided by the 10-year moving average of output per man-hour in the nonfarm business sector. For example, the wages and salaries component of Physician's Own Time is calculated by dividing the rate of growth in average hourly earnings by the 10-year moving average rate of growth of output per man-hour for the nonfarm business sector. Dividing one plus the decimal form of the percent change in the average hourly earnings (1+.040=1.040 by one plus the decimal form of the percent change in the 10-year moving average of labor productivity (1+.011=1.011) equals one plus the change in average hourly earnings net of the change in output per man hour (1.040/1.011=1.029). All Physician's Own Time and Nonphysician Employee Compensation categories are adjusted in this way. Due to a higher level of precision the computer calculated quotient may differ from the quotient calculated from rounded individual percent changes.

[4] The average hourly earnings proxy, the Employment Cost Index proxies, as well as the CPI–U, housing and CPI–U, private transportation are published in the Current Labor Statistics Section of the Bureau of Labor Statistics' Monthly Labor Review. The remaining CPIs and PPIs in the revised index can be obtained from the Bureau of Labor Statistics' CPI Detailed Report or Producer Price Indexes.

[5] Derived from a HCFA survey of several major insurers (the latest available historical percent change data are for calendar year 1997). This is consistent with prior computations of the professional liability insurance component of the MEI.

n/a Productivity is factored into the MEI compensation categories as an adjustment to the price variables; therefore, no explicit weight exists for productivity in the MEI.

Medicare Performance Relative to the SGR

Medicare Sustainable Growth Rate

Section 1848(f) of the Act, as amended by section 4503 of the BBA 1997, replaces the volume performance standard with a sustainable growth (SGR) standard. It specifies the formula for establishing yearly SGR targets for physicians' services under Medicare. The use of SGR targets is intended to control the actual growth in Medicare expenditures for physicians' services.

The SGR targets are not limits on expenditures. Payments for services are not withheld if the SGR target is exceeded. Rather, the appropriate fee schedule update, as specified in section 1848(d)(3)(A) of the Act, is adjusted to reflect the success or failure in meeting the SGR target.

As provided in section 4502 of the BBA 1997, the update to the conversion factor is established to match spending under the SGR. The law refers to this update as the update adjustment factor. The amended section 1848(d)(3)of the Act now states that:

> the 'update adjustment factor' for a year is equal (as estimated by the Secretary) to—(i) the difference between (I) the sum of the allowed expenditures for physicians' services (as determined under subparagraph (C)) for the period beginning April 1, 1997, and ending on March 31 of the year involved, and (II) the amount of the actual expenditures for physicians' services furnished during the period beginning April 1, 1997, and ending on March 31 of the preceding year; divided by—
>
> (ii) the actual expenditures for physicians' services for the 12-month period ending on March 31 of the preceding year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during such 12-month period.

The result is a 0.0 percent adjustment for 1999. The allowed expenditures for physicians' services are calculated based upon the 1998 and 1999 SGR derivations as detailed in the October 31, 1997 final rule and the Notice announcing the Sustainable Growth Rate found in this edition of the Federal Register, respectively.

VI. Provisions of the Final Rule

The provisions of this final rule restate the provisions of the June 5, 1998, proposed rule except as noted elsewhere in this preamble. Following is a highlight of the changes made:

For our proposal relating to the medical direction of anesthesia services (§ 415.110), we have decided to retain the current requirements (that is, requirements (i) and (ii), and (iv) through (vii)) and make only one technical revision in requirement (iii). The technical revision pertains to the requirement that the physician participate in the most demanding procedures in the anesthesia plan, including induction and emergence.

For our proposal relating to nonphysician practitioners, following is a highlight of the changes to the proposed rule:

- Proposed §§ 410.75(c) and 410.76(c) are revised to remove the alternate proposed definition of collaboration. For purposes of Medicare coverage, the collaboration requirement will state that these nonphysician practitioners must meet the standards for a collaborative relationship, as established by the State in which they are practicing. In the absence of State law or regulations governing collaborative relationships, these nonphysician practitioners must document their scope of practice and indicate the relationships that they have with physicians to deal with issues outside their expertise.
- In proposed §§ 410.74(d) and 410.75(e) we deleted the proposed listing of examples of services that can be provided by physician assistants, nurse practitioners and clinical nurse specialists.
- Proposed § 410.76(b) is revised to implement the qualifications for clinical nurse specialist as established by the BBA without the proposed exception for those clinical nurse specialist that do not possess a master's degree.
- Proposed § 410.77(a) is revised to state that a nurse-midwife must—
  + Be a registered nurse who is currently licensed to practice as a nurse-midwife in the State where services are performed;
  + Have successfully completed an accredited program of study and clinical experience for nurse-midwives as specified by the State; or
  + Be certified as a nurse-midwife by the American College of Nurse-Midwives or the American College of Nurse-Midwives Certification Council.
- Proposed § 410.74(c) is revised to state that a physician assistant is an individual who—
  + Has graduated from a physician assistant educational program that is accredited by the National Commission on Accreditation on Allied Health Education Programs;
  + Has passed the national certification examination that is certified by the National Commission on Certification of Physician Assistants; . and
  + Is licensed by the State to practice as a physician assistant.

This final rule also restates the provisions of teleconsultations in rural health professional shortage areas proposed rule published on June 22, 1998, at 63 FR 33890, that provided for payment for consultations via telecommunications systems in rural HPSAs, with changes. The changes listed below have been discussed elsewhere in this preamble. Following is a highlight of the changes to the proposed rule:

- Proposed § 410.75(a)(1) is revised to omit clinical psychologists, clinical social workers, certified nurse anesthetists, and anesthesiologist assistants from the list of practitioners who may be consulting practitioners and the section is redesignated as § 410.78(a)(1).
- The definition of referring practitioners at proposed § 410.75(a)(2) is revised to omit certified registered nurse anesthetists and anesthesiologist assistants, and is redesignated as § 410.78(a)(2).
- Proposed § 410.75(a)(5) is redesignated as § 410.78(a)(5) and specifies that as a condition of payment, the teleconsultation involves the participation of the referring practitioner or a practitioner described in section 1842(b)(18)(C) of the Act (other than a certified registered nurse anesthetist or anesthesiologist assistant) who is an employee of the referring practitioner, as appropriate to the medical needs of the beneficiary and to provide information to and at the direction of the consulting practitioner.
- The definition at proposed § 410.75(b) is revised to reflect the above changes and is redesignated as § 410.78(b).
- For clarification purposes, we are referencing different definition citations for non-physician practitioners than those provided in the proposed rule. The definitions of physician assistants, nurse practitioners, clinical nurse specialists, nurse-midwives, clinical social workers, and clinical psychologists have been reassigned to § 410.74(a)(2), § 410.75(b), § 410.76(b), § 410.77(a), § 410.73(a), and § 410.71(d), respectively.

VII. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), agencies are required to provide a 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comment on the following issues:

Whether the information collection is necessary and useful to carry out the proper functions of the agency;

The accuracy of the agency's estimate of the information collection burden;

The quality, utility, and clarity of the information to be collected; and

Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

Based on a public comment, this rule modifies a regulatory requirement creating an additional information collection requirement (ICR) which was not reflected in the proposed rule that was published on June 5, 1998, at 63 FR 30818. (The PRA package associated with the proposed rule is: OMB No. 0938–0730, HCFA–R–0234, with an expiration date of August 31, 2001.) Therefore, to ensure that all of the requirements in this rule can be implemented concurrently, we are requesting emergency OMB review of the additional ICR referenced in this final rule. In compliance with section 3506(c)(2)(A) of the PRA of 1995, we are submitting to OMB the following requirement for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits specified by OMB's regulations at 5 CFR 1320. This ensures compliance with the Balanced Budget Act of 1997 (BBA) which requires us to revise our payment policy for nonphysician practitioners, for outpatient rehabilitation services, and for drugs and biologicals not paid on a cost or prospective payment basis.

We cannot reasonably comply with normal clearance procedures in order to implement the renewal and early termination of the opt-out requirement described below. Physicians and practitioners must notify carriers of their intent to terminate opt-out in accordance with the BBA.

We are requesting OMB review and approval of this collection within 11 working days from the date of publication of this regulation, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individuals designated below within 10 working days from the date of publication of this regulation.

During this 180-day period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on this requirement. We will submit the requirement for OMB review and an extension of this emergency approval.

Therefore, we are soliciting public comment on this issue for the information collection requirement discussed below.

§ 405.445 Renewal and early termination of opt-out

Section 405.445(d) states that a physician or practitioner who has completed opt-out on or before January 1, 1999 may terminate opt-out during the 90 days following January 1, 1999 if he or she notifies all carriers to whom he or she would otherwise submit claims of the intent to terminate opt-out and complies with paragraphs (b)(3) and (4) of this section. Paragraph (c) of this section applies in those cases.

The burden associated with this requirement is time and effort for the physician or practitioner to notify all carriers to whom he or she would otherwise submit claims of the intent to terminate opt-out. There is a one-time opportunity for physicians and practitioners who opted-out in 1998 to re-enter the program. Afterwards, physicians and practitioners may re-enter the program annually. It is estimated that it will take 30 physicians or practitioners 15 minutes each to notify their carriers for a total of 8 hours. We estimate the average annualized three year burden estimate to be 11 hours. (Year 1—1998 and 1999 16 hours, Year 2—2000 8 hours, Year 3—2001 8 hours for a total of 32 hours/3 years = 11 hours per year)

We have submitted a copy of this final rule with comment to OMB for its review of the ICR described above. This requirement is not effective until they have been approved by OMB.

If you comment on any of this information collection and record keeping requirement, please mail copies directly to the following:

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850, Attn.: Louis Blank, HCFA–1006–FC.

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn.: Allison Herron Eydt, HCFA Desk Officer.

VIII. Regulatory Impact Analysis

We have examined the impacts of this final rule as required by Executive Order 12866, the Unfunded Mandates Act of 1995, and the Regulatory Flexibility Act (RFA) (Public Law 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more annually).

This final rule is expected to have varying effects on the distribution of Medicare physicians' payments and services. With few exceptions, we expect that the impact will be limited.

The Unfunded Mandates Reform Act of 1995 also requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before proposing any rule that may result in an annual expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million. This final rule will have no consequential effect on State, local, or tribal governments. We believe the private sector cost of this rule falls below these thresholds as well.

A. Regulatory Flexibility Act

Consistent with the provisions of the Regulatory Flexibility Act, we analyze options for regulatory relief for small businesses and other small entities. We prepare a Regulatory Flexibility Analysis (RFA) unless we certify that a rule would not have a significant economic impact on a substantial number of small entities. The RFA is to include a justification of why action is being taken, the kinds and number of small entities the final rule would affect, and an explanation of any considered meaningful options that achieve the objectives and would lessen any significant adverse economic impact on the small entities.

In addition, section 1102(b) of the Act requires us to prepare an RIA if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the Regulatory Flexibility Act. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

For purposes of the RFA, all physicians are considered to be small entities. There are about 700,000 physicians and other practitioners who receive Medicare payment under the physician fee schedule. Thus, we have prepared the following analysis, which, together with the rest of this preamble, meets all three assessment requirements. It explains the rationale for and purposes of the rule, details the costs and benefits of the rule, analyzes alternatives, and presents the measures we propose to minimize the burden on small entities.

B. Resource-Based Practice Expense Relative Value Units

Our methodology for implementing resource-based practice expense RVUs for each physician's service considers the staff, equipment, and supplies used in the provision of various medical and surgical services in various settings, including those that cannot be attributed to specific procedures. We are required to begin the transition to the new practice expense RVUs on January 1, 1999.

By law, the conversion to a resource-based determination for the payment of physicians' practice expenses must be budget neutral. In other words, the total Medicare expenditures for calendar year 1999 must be the same as the amount that would have been paid under the prior method of paying practice expenses.

As we indicated in the proposed rule, each year since the fee schedule has been implemented, our actuaries have determined any adjustments needed to meet this requirement. A key component of the actuarial determination of budget neutrality involves estimating any impact of changes in the volume and intensity of physicians' services provided to Medicare beneficiaries as a result of the proposed changes.

We indicated in the proposed rule that, in estimating the impacts of proposed changes under the physician fee schedule on the volume and intensity of services, the actuaries have historically used a model that assumes that 50 percent of the change in net revenue for a practice would be recouped. This does not mean that payments are reduced by 50 percent. In fact, payments have typically been reduced only a few percent or less. The actuaries also assume that there is no offsetting reduction in volume and intensity for physicians whose Medicare revenue increases.

As we indicated in the proposed rule, our actuaries have reviewed the literature and conducted data analysis of the volume-and-intensity response. In the proposed rule, we indicated that for the purpose of establishing budget neutrality for the physicians' practice expense determination, the actuaries will use a model that assumes a 30 percent volume-and-intensity response to price reductions but no reduction in volume and intensity in response to a price increase. There were some inadvertent delays in making our actuary's analysis of the volume-and-intensity response available on our homepage (www.hcfa.gov), but it is now available there.

Comment: Most commenters were pleased that the volume-and-intensity response was lowered, but opposed use of any volume-and-intensity offset. Many groups recommended that to the extent that any adjustments are necessary, they could be made within the framework of the SGR system. Some groups stated that their specialty or particular services should be exempt from the application of a volume-and-intensity adjustment.

Response: Our actuaries have reviewed the issue but believe that their review of the literature and their own analysis presents a convincing case as to the need for them to utilize a model that incorporates a volume-and-intensity response to price reductions. We cannot apply a volume-and-intensity adjustment that exempts certain procedures because the response could occur for other procedures furnished by a physician. Similarly, we cannot exempt certain specialties from application of the adjustment because physicians of all specialties have some discretion as to the nature and extent of services furnished. We do not believe that we can use the SGR mechanism alone, without the adjustment for volume and intensity for 1999, because any SGR adjustment would be in the future and the actuaries would not determine us to be in compliance with the statutory budget-neutrality requirement for 1999. To the extent that the volume-and-intensity response does not occur, the SGR system enacted as part of the BBA 1997 will return the volume-and-intensity adjustment in the form of higher future updates to the Medicare physician fee schedule conversion factor.

Using the revised actuarial model, achieving budget neutrality for the practice expense per hour method would require lowering physicians' payments in calendar year 1999 by 0.28 percent (1.12 percent cumulative from 1999 to 2002). The 0.28 percent volume-and-intensity adjustment results in a reduction in the 1999 physician fee schedule CF of $0.10.

Table 7, "Impact on Total Allowed Charges by Specialty of the Resource-Based Practice Expense Relative Value Units under the Practice Expense per Hour" shows the change in Medicare physician fees resulting from the practice expense per hour methodology discussed earlier in this final rule. In order to isolate the change in fees resulting from the resource-based methodology, this analysis assumes the same mix of services is furnished under the new and old practice expense payment systems and does not include the effects of the annual updates to the Medicare physician fee schedule conversion factor. The impact of the changes on the total revenue (Medicare and non-Medicare) for a given specialty is less than the impact displayed in Table 7 since physicians furnish services to both Medicare and non-Medicare patients.

For example, Table 7 shows that when the resource-based system is fully phased-in, general surgery will experience a 7 percent decrease in Medicare revenues relative to the current practice expense system and family practice will experience a 7 percent increase.

The magnitude of the Medicare impact depends generally on the mix of services the specialty provides and the sites where the services are performed. In general, those specialties that furnish more office-based services are expected to experience larger increases in Medicare payments than specialties that provide fewer office-based services. Table 7 also includes the impact of the volume-and-intensity adjustments to the conversion factor discussed above, but does not include the impact of the volume response on revenues.

TABLE 7.—IMPACT ON TOTAL ALLOWED CHARGES BY SPECIALTY OF THE RESOURCE-BASED PRACTICE EXPENSE RELATIVE VALUE UNITS UNDER THE PRACTICE EXPENSE PER HOUR METHOD (PERCENT CHANGE)

Specialty	Allowed charges (in billions)	Impact per year	Cumulative 4-year impact
M.D./D.O. Physicians:			
Anesthesiology	1.6	0	0
Cardiac Surgery	0.3	−3	−12
Cardiology	3.8	−2	−9
Clinics	1.6	−1	−3
Dermatology	1.0	5	20
Emergency Medicine	0.9	−3	−10
Family Practice	2.7	2	7
Gastroenterology	1.2	−4	−15
General Practice	1.0	1	4
General Surgery	2.0	−2	−7
Hematology/Oncology	0.5	2	6
Internal Medicine	6.0	0	2
Nephrology	0.9	−2	−7
Neurology	0.7	0	−1
Neurosurgery	0.3	−3	−11
Obstetrics/Gynecology	0.4	1	4
Ophthalmology	3.3	1	4
Orthopedic Surgery	2.0	0	−1
Other Physician*	1.1	0	1
Otolaryngology	0.5	2	9
Pathology	0.5	−3	−13
Plastic Surgery	0.2	1	2
Psychiatry	1.1	0	1
Pulmonary	1.0	−1	−4
Radiation Oncology	0.6	−2	−6
Radiology	2.9	−3	−10
Rheumatology	0.2	4	16
Thoracic Surgery	0.6	−3	−12
Urology	1.1	1	5
Vascular Surgery	0.3	−3	−11
Others:			
Chiropractic	0.4	−2	−8
Nonphysician Practitioner	0.8	0	2
Optometry	0.3	6	27
Podiatry	0.9	2	9
Suppliers	0.5	−2	−6

*Other physician includes allergy/immunology, oral surgery, physical medicine and rehabilitation, pediatrics, critical care, and hematology.

Table 8 below compares the impact of the resource-based practice expense methodology described in this final rule with the impacts published in the June 5, 1998 proposed rule. Differences reflect the net effect of the changes described earlier in the section "Results of the Evaluation of Comments." In general, the changes with the greatest impact were the creation of a separate pool for services with work relative value units equal to zero and the use of the Medicare conversion factor in the indirect cost pool allocation.

TABLE 8.—COMPARISON OF THE IMPACT ON TOTAL ALLOWED CHARGES BY SPECIALTY OF THE RESOURCE-BASED PRACTICE EXPENSE RELATIVE VALUE UNITS UNDER THE PRACTICE EXPENSE PER HOUR METHODOLOGY WITH THE IMPACTS FROM THE JUNE 5, 1998 PROPOSED RULE

Specialty	Proposed rule cumulative 4-year impact	Current cumulative 4-year impact
M.D./D.O. Physicians:		
Anesthesiology	2	0
Cardiac Surgery	−14	−12
Cardiology	−13	−9
Clinics	−3	−3
Dermatology	27	20
Emergency Medicine	−13	−10
Family Practice	6	7
Gastroenterology	−14	−15
General Practice	3	4
General Surgery	−6	−7
Hematology/Oncology	2	6
Internal Medicine	1	2
Nephrology	−5	−7
Neurology	0	−1
Neurosurgery	−10	−11
Obstetrics/Gynecology	5	4
Ophthalmology	11	4
Orthopedic Surgery	−1	−1
Other Physician*	0	1
Otolaryngology	6	9
Pathology	−10	−13
Plastic Surgery	5	2
Psychiatry	4	1
Pulmonary	−3	−4
Radiation Oncology	−13	−6
Radiology	−13	−10
Rheumatology	15	16
Thoracic Surgery	−13	−12
Urology	7	5
Vascular Surgery	−12	−11
Others:		
Chiropractic	−2	−8
Nonphysician Practitioner	−1	2
Optometry	36	27
Podiatry	5	9
Suppliers	−18	−6

*Other physician includes allergy/immunology, oral surgery, physical medicine and rehabilitation, pediatrics, critical care, and hematology.

For certain high volume procedures, Table 9, "Total Payment for Selected Procedures," shows the percentage change between the current 1998 payments (calculated using the 1998 relative value units, 1998 site-of-service policy, and the 1998 conversion factor) and the fully phased-in resource-based practice expense payments (calculated using the full resource-based practice expense relative value units, the 1999 work and malpractice relative value units, and the 1999 Medicare conversion factor).

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TABLE 9. - TOTAL PAYMENT FOR SELECTED PROCEDURES

Code	Mod	Description	Current Non-Facility	Resource Based Non-Facility	Non-Facility Percent Change	Current Facility	Resource Based Facility	Facility Percent Change
11721		Debride nail, 6 or more	$39.81	$37.16	-7%	$29.91	$32.65	9%
17000		Destroy benign/premal lesion	$36.69	$46.89	28%	$28.99	$30.56	5%
27130		Total hip replacement	NA	NA	NA	$1,656.80	$1,360.78	-18%
27236		Repair of thigh fracture	NA	NA	NA	$1,244.62	$1,060.70	-15%
27244		Repair of thigh fracture	NA	NA	NA	$1,230.38	$1,074.59	-13%
27447		Total knee replacement	NA	NA	NA	$1,771.16	$1,422.60	-20%
33533		CABG, arterial, single	NA	NA	NA	$2,107.91	$1,839.38	-13%
35301		Rechanneling of artery	NA	NA	NA	$1,262.70	$1,065.91	-16%
43239		Upper GI endoscopy, biopsy	$228.81	$258.40	13%	$211.20	$139.97	-34%
45385		Colonoscopy, lesion removal	$443.89	$391.77	-12%	$414.17	$277.50	-33%
66821		After cataract laser surgery	$187.65	$191.37	2%	$187.65	$181.65	-3%
66984		Remove cataract, insert lens	NA	NA	NA	$795.26	$663.72	-17%
67210		Treatment of retinal lesion	$686.27	$563.34	-18%	$520.81	$516.80	-1%
71010	26	Chest x-ray	$9.36	$8.34	-11%	$9.36	$8.34	-11%
71020		Chest x-ray	$34.55	$33.34	-3%	$34.55	$33.34	-3%
71020	26	Chest x-ray	$11.44	$10.07	-12%	$11.44	$10.07	-12%
77430		Weekly radiation therapy	$188.62	$170.88	-9%	$188.62	$170.88	-9%
78465		Heart image (3D) multiple	$514.68	$514.37	0%	$514.68	$514.37	0%
88305		Tissue exam by pathologist	$65.95	$58.35	-12%	$65.95	$58.35	-12%
88305	26	Tissue exam by pathologist	$46.14	$38.20	-17%	$46.14	$38.20	-17%
90801		Psy dx interview	$122.08	$136.15	12%	$122.08	$135.45	11%
90806		Psytx, office (45-50)	$80.95	$92.73	15%	$80.95	$91.00	12%
90807		Psytx, office (45-50) w/e&m	$90.03	$96.55	7%	$90.03	$97.60	8%
90862		Medication management	$47.37	$47.23	0%	$47.37	$46.54	-2%
90921		ESRD related services, month	$235.86	$232.70	-1%	$235.86	$232.70	-1%
90935		Hemodialysis, one evaluation	NA	NA	NA	$93.87	$66.34	-29%
92004		Eye exam, new patient	$77.83	$114.61	47%	$67.37	$82.31	22%
92012		Eye exam established pt	$39.42	$71.89	82%	$31.35	$34.38	10%
92014		Eye exam & treatment	$57.55	$83.36	45%	$47.65	$55.92	17%
92980		Insert intra coronary stent	NA	NA	NA	$1,142.75	$899.89	-21%
92982		Coronary artery dilation	NA	NA	NA	$857.33	$679.00	-21%
93000		Electrocardiogram, complete	$28.83	$25.01	-13%	$28.83	$25.01	-13%
93010		Electrocardiogram report	$11.96	$8.34	-30%	$11.96	$8.34	-30%
93015		Cardiovascular stress test	$116.95	$101.07	-14%	$116.95	$101.07	-14%
93307		Echo exam of heart	$215.85	$193.80	-10%	$215.85	$193.80	-10%
93307	26	Echo exam of heart	$70.94	$47.23	-33%	$70.94	$47.23	-33%
93510	26	Left heart catheterization	$266.37	$219.16	-18%	$266.37	$219.16	-18%
98941		Chiropractic manipulation	$32.87	$32.99	0%	$27.55	$28.83	5%
99202		Office/outpatient visit, new	$50.15	$64.95	30%	$39.69	$50.71	28%
99203		Office/outpatient visit, new	$68.93	$92.04	34%	$56.82	$73.98	30%
99204		Office/outpatient visit, new	$102.50	$129.90	27%	$84.53	$106.28	26%
99205		Office/outpatient visit, new	$128.35	$161.15	26%	$108.72	$137.88	27%
99211		Office/outpatient visit, est	$14.16	$21.88	55%	$9.94	$13.55	36%
99212		Office/outpatient visit, est	$27.61	$34.73	26%	$21.01	$26.74	27%
99213		Office/outpatient visit, est	$39.42	$45.85	16%	$30.61	$36.47	19%
99214		Office/outpatient visit, est	$59.39	$72.24	22%	$47.65	$59.04	24%
99215		Office/outpatient visit, est	$93.67	$105.24	12%	$76.06	$91.69	21%
99221		Initial hospital care	NA	NA	NA	$69.84	$68.77	-2%

TABLE 9. - TOTAL PAYMENT FOR SELECTED PROCEDURES

Code	Mod	Description	Current Non-Facility	Resource Based Non-Facility	Non-Facility Percent Change	Current Facility	Resource Based Facility	Facility Percent Change
99222		Initial hospital care	NA	NA	NA	$113.45	$109.06	-4%
99223		Initial hospital care	NA	NA	NA	$144.98	$149.35	3%
99231		Subsequent hospital care	NA	NA	NA	$36.57	$32.30	-12%
99232		Subsequent hospital care	NA	NA	NA	$53.64	$52.10	-3%
99233		Subsequent hospital care	NA	NA	NA	$74.65	$74.33	0%
99236		Observ/hosp same date	NA	NA	NA	$188.78	$209.08	11%
99238		Hospital discharge day	NA	NA	NA	$63.24	$65.30	3%
99239		Hospital discharge day	NA	NA	NA	$79.05	$86.83	10%
99241		Office consultation	$47.95	$54.18	13%	$36.21	$38.55	6%
99242		Office consultation	$74.95	$91.00	21%	$60.82	$70.50	16%
99243		Office consultation	$97.12	$115.66	19%	$79.33	$93.43	18%
99244		Office consultation	$135.96	$159.42	17%	$113.40	$134.76	19%
99245		Office consultation	$183.26	$202.14	10%	$152.26	$176.44	16%
99251		Initial inpatient consult	NA	NA	NA	$49.72	$39.94	-20%
99252		Initial inpatient consult	NA	NA	NA	$75.59	$73.28	-3%
99253		Initial inpatient consult	NA	NA	NA	$99.75	$98.98	-1%
99254		Initial inpatient consult	NA	NA	NA	$136.88	$138.58	1%
99255		Initial inpatient consult	NA	NA	NA	$185.53	$187.90	1%
99261		Follow-up inpatient consult	NA	NA	NA	$27.34	$26.74	-2%
99262		Follow-up inpatient consult	NA	NA	NA	$46.94	$48.28	3%
99263		Follow-up inpatient consult	NA	NA	NA	$68.77	$68.42	-1%
99282		Emergency dept visit	NA	NA	NA	$33.55	$26.40	-21%
99283		Emergency dept visit	NA	NA	NA	$61.16	$56.27	-8%
99284		Emergency dept visit	NA	NA	NA	$93.48	$87.52	-6%
99285		Emergency dept visit	NA	NA	NA	$147.34	$135.11	-8%
99291		Critical care, first hour	$191.07	$191.37	0%	$191.07	$189.98	-1%
99292		Critical care, addl 30 min	$91.86	$96.55	5%	$91.86	$95.51	4%
99301		Nursing facility care	NA	NA	NA	$57.98	$62.17	7%
99302		Nursing facility care	NA	NA	NA	$73.98	$81.97	11%
99303		Nursing facility care	NA	NA	NA	$105.04	$102.11	-3%
99311		Nursing facility care,subseq	NA	NA	NA	$33.76	$31.95	-5%
99312		Nursing facility care,subseq	NA	NA	NA	$49.78	$50.36	1%
99313		Nursing facility care,subseq	NA	NA	NA	$66.12	$70.85	7%
99348		Home visit, estab patient	$63.30	$66.68	5%	$63.30	$67.03	6%
99350		Home visit, estab patient	$132.39	$150.04	13%	$132.39	$146.91	11%

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Table 10 below displays the impact of the practice expense per hour methodology by Medicare payment locality, including the volume-and-intensity increase and corresponding conversion factor adjustment discussed earlier. This analysis does not include the effects of the annual updates to the Medicare physician fee schedule conversion factor.

TABLE 10.—IMPACT OF PRACTICE EXPENSE PER HOUR METHODOLOGY ON TOTAL ALLOWED CHARGES BY MEDICARE LOCALITY (PERCENT CHANGE)

Locality	State	Impact per year	Cumulative four year impact
All	Alaska	0.1	0.5
All	Alabama	−0.2	−0.8
All	Arkansas	−0.2	−0.9
All	Arizona	0.2	1.0
Anaheim/Santa Ana	California	0.6	2.5
Los Angeles	California	0.5	2.1
Marin/Napa/Solano	California	0.6	2.4
Oakland/Berkley	California	0.3	1.1
Rest of California	California	0.3	1.4
San Francisco	California	0.6	2.3
San Mateo	California	0.4	1.5
Santa Clara	California	0.2	0.8
Ventura	California	0.4	1.5
All	Colorado	0.1	0.4
All	Connecticut	0.1	0.6
All	District of Columbia	0.1	0.3
All	Delaware	0.0	0.1
Ft Lauderdale	Florida	0.6	2.6
Miami	Florida	0.1	0.5
Rest of Florida	Florida	0.1	0.5
Atlanta	Georgia	−0.1	−0.3
Rest of Georgia	Georgia	−0.1	0.5
All	Hawaii	0.6	2.4
All	Iowa	−0.2	−0.8
All	Idaho	0.0	0.1
Chicago	Illinois	−0.2	−1.0
East St Louis	Illinois	−0.1	−0.5
Rest of Illinois	Illinois	−0.2	−0.7
Suburban Chicago	Illinois	−0.1	−0.4
All	Indiana	−0.4	−1.5
All	Kansas	−0.2	−0.8
All	Kentucky	−0.3	−1.1
New Orleans	Louisiana	−0.3	−1.2
Rest of Louisiana	Louisiana	−0.3	−1.3
Boston	Massachusetts	−0.3	−1.1
Rest of Massachusetts	Massachusetts	0.1	0.6
Balto/Surr Ctys	Maryland	−0.3	−1.2
Rest of Maryland	Maryland	−0.2	−0.6
Rest of Maine	Maine	−0.1	−0.4
Southern Maine	Maine	−0.1	−0.2
Detroit	Michigan	−0.2	−0.8
Rest of Michigan	Michigan	−0.2	−0.9
All	Minnesota	−0.1	−0.4
Metro Kansas City	Missouri	−0.7	−2.7
Rest of Missouri	Missouri	−0.2	−0.8
Rest of Missouri	Missouri	0.1	0.2
St Louis	Missouri	−0.4	−1.6
All	Mississippi	−0.5	−1.8
All	Montana	0.1	0.3
All	North Carolina	−0.1	−0.3
All	North Dakota	−0.3	−1.1
All	Nebraska	−0.2	−0.8
Northern New Jersey	New Hampshire	0.0	−0.2
Rest of New Jersey	New Jersey	0.0	0.0
All	New Jersey	0.1	0.5
All	New Mexico	0.2	0.8
Manhattan	Nevada	0.0	−0.1
NYC Suburbs/LI	New York	0.4	1.5
NYC Suburbs/Poughk.	New York	0.3	1.3
Queens	New York	0.3	1.2
Rest of New York	New York	0.7	2.8
All	Ohio	−0.1	−0.2
All	Oklahoma	−0.3	−1.2
		−0.2	−0.7

TABLE 10.—IMPACT OF PRACTICE EXPENSE PER HOUR METHODOLOGY ON TOTAL ALLOWED CHARGES BY MEDICARE LOCALITY (PERCENT CHANGE)—Continued

Locality	State	Impact per year	Cumulative four year impact
Portland	Oregon	0.1	0.2
Rest of Oregon	Oregon	0.4	1.5
Philadelphia	Pennsylvania	−0.1	−0.4
Rest of Pennsylvania	Pennsylvania	−0.1	−0.3
All	Puerto Rico	1.0	3.9
All	Rhode Island	0.2	0.6
All	South Carolina	0.0	−0.2
All	South Dakota	−0.4	−1.5
All	Tennessee	−0.3	−1.3
Austin	Texas	−0.3	−1.0
Beaumont	Texas	−0.6	−2.5
Brazoria	Texas	0.4	1.7
Dallas	Texas	−0.2	−0.8
Fort Worth	Texas	0.0	0.0
Galveston	Texas	−0.4	−1.5
Houston	Texas	−0.4	−1.8
Rest of Texas	Texas	−0.1	−0.4
All	Utah	0.0	0.2
All	Virginia	0.0	−0.1
All	Virgin Islands	0.6	2.5
All	Vermont	0.2	0.9
Rest of Washington	Washington	0.3	1.2
Seattle (King Co)	Washington	0.0	0.0
All	Wisconsin	−0.2	−1.0
All	West Virginia	−0.2	−0.8
All	Wyoming	0.3	1.0

C. Medical Direction for Anesthesia Services

For our proposal relating to the medical direction of anesthesia services (§ 415.110), we have decided to retain the current requirements (that is, requirements (i) and (ii), and (iv)) and make only one technical revision in requirement (iii). The technical revision pertains to the requirement that the physician participate in the most demanding procedures in the anesthesia plan, including, induction and emergence.

D. Separate Payment for a Physician's Interpretation of an Abnormal Papanicolaou Smear

We are allowing separate payment for a physician's interpretation of a Pap smear to any patient (that is, hospital or nonhospital patient) as long as—(1) The laboratory's screening personnel suspect an abnormality; and (2) the physician reviews and interprets the pap smear. Currently, separate payment to a physician is limited to a Pap smear interpretation that is abnormal and is furnished to a hospital inpatient. We estimate that there would be a $10 million increase in payments under the physician fee schedule for this change in payment for Pap smear interpretations for FY 1999.

E. Rebasing and Revising the Medicare Economic Index

There is negligible impact on Medicare expenditures as a result of this change.

F. Payment for Nurse Midwives' Services

The provision for nurse midwives' services will place into regulations text a provision of OBRA 1993 that eliminates the limitation on coverage of services furnished outside the maternity cycle by nurse midwives. This provision has been implemented previously through program instructions; therefore, this change in the regulations text will have no impact.

G. BBA Provisions Included in This Final Rule

The following five provisions of BBA 1997 are implemented in this final rule. This final rule conforms the regulations text to BBA 1997 provisions. Table 11 below provides the cost and savings estimates (in millions of dollars) for the Medicare program for these provisions for the fiscal years shown:

TABLE 11.—COST AND SAVINGS ESTIMATES FOR BBA 1997 PROVISIONS

[In millions]

Provision section	Subject	1999	2000	2001	2002	2003
4206	Teleconsultations	20	40	55	70	90
4511	Nurse practitioners and Clinical Nurse Specialists	290	330	370	440	490
4512	Physician Assistants	60	60	70	90	100
4541	Outpatient Rehabilitation	−130	−190	−200	−230	−250
4556	Drugs	−60	−70	−70	−80	−80

Payment for Services of Certain Nonphysician Practitioners and Services Furnished Incident to Their Professional Services

Sections 4511 and 4512 of BBA 1997 provide for the expanded coverage of nurse practitioner, clinical nurse specialist, and physician assistant services. This provision is self-implementing. This final rule changes the regulations text to conform to the BBA 1997 provisions. We are clarifying the following two existing issues unrelated to the BBA 1997 provisions for nonphysician practitioners:

- Definition of physician collaboration for nurse practitioners.
- The impact of the BBA 1997 provisions is shown in Table 11 (a combination of sections 4511 and 4512 of BBA 1997). The proposals being made final in this rule will have negligible budgetary impact.

Payment for Outpatient Rehabilitation Services

Sections 4541(a)(2) and 4541(a)(3) of BBA 1997 change the payment of outpatient rehabilitation services from cost-based to a payment system based on the physician fee schedule. The regulatory changes are to conform our regulations to the provisions of the BBA 1997.

In addition to the changes directed by the statute, the following changes are being made in this rule to furnish information for identification of the outpatient rehabilitation services and for administrative purposes:

- Specifying HCPCS as the coding system for rehabilitation services since it is used by the fee schedule in section 1848 of the Act.
- Providing for discipline-specific modifiers to be used in coding services.
- Providing for a code for nursing services performed in CORFs.

These administrative changes will have a negligible impact.

Section 4541(c) of BBA 1997 applies an annual per beneficiary limit of $1,500 to all outpatient physical therapy services (including speech-language pathology services) except for services furnished by a hospital outpatient department. A separate $1,500 limit also applies to all outpatient occupational therapy services except for services furnished by hospital outpatient departments. Therapy services furnished incident to a physician's professional services are also subject to these limits. The changes in this rule conform the regulations to the BBA 1997 provisions. The delay in full implementation, however, is discussed below.

There are several different types of providers that will be affected by this BBA 1997 provision. The largest providers are SNFs, outpatient rehabilitation facilities, and hospital outpatient departments. There are about 15,000 SNFs, 2,500 outpatient rehabilitation facilities, and about 5,600 outpatient hospital facilities. We determined that the services that would be affected by these changes account for about 15 percent of Medicare Part B payments to facilities.

We estimate that these providers as well as other providers and practitioners of outpatient therapy services will experience a reduction in revenue both because of the movement from cost reimbursement to fee schedule payments and because of the $1,500 limits. The impact of the provisions on individual providers, however, cannot be estimated for a variety of reasons. First, since reimbursement has historically been based on cost for most providers, we do not have coded information on individual services per beneficiary at individual providers. Second, with respect to the impact of the $1,500 limit, the extent to which a provider will receive a payment from another source to substitute for Medicare's payment is unknown. For example, if a beneficiary reaches the $1,500 limit, Medicare will no longer pay, but payment may be received from another source, such as a Medigap insurer, a retiree health plan, or the beneficiary.

The $1,500 limits will reduce the amount of therapy services paid for by Medicare. The patients most affected are likely to be those with diagnoses such as stroke, certain fractures, and amputation, where the number of therapy visits needed by a patient may exceed those that can be reimbursed by Medicare under the statutory limits. Services not paid for by Medicare, however, may be paid for by other payers.

As explained in the preamble, the $1,500 limits will not be fully implemented until sometime in 2000 due to the necessity to devote resources to Y2K compliance activities. Until that time, the limits will be implemented partially on a per-provider basis whereby each provider will be held accountable for tracking expenses for each beneficiary and not billing Medicare for beneficiaries that have met the limit at their facility. Implementing the provision in this fashion should lessen the impact on both beneficiaries and providers until full implementation occurs.

Impact on Small Rural Hospitals

We realize that the provision to move from cost reimbursement to a fee schedule may have an impact on small rural hospitals; however, we have been unable to assess this impact because we do not have the data to make this analysis. Also, data that would identify the extent to which these services are currently being furnished in small rural hospitals to serve as the baseline for comparing the impact of the legislative changes are not available. In addition, we do not maintain data that identify services furnished under the physician fee schedule in areas where rural hospitals are located. Although there are localities designated for payment purposes, there is very little correlation between the payment localities (most of which are state-wide) and areas where small rural hospitals are located.

Payment for Drugs and Biologicals

The impact of this BBA 1997 provision is shown in Table 5. This final rule modifies the current regulatory language regarding drug payment to conform to the BBA 1997 changes. Revising the regulation on multi-source drugs to include the brand name version of the drug is not related to the BBA 1997 drug provision but will have a slight program savings.

Private Contracting with Medicare Beneficiaries

We anticipate that there would be a negligible impact on Medicare trust fund payments as a result of the regulation that implements the law. The program impact of the provision when it was assessed in the legislative process was negligible. The impact on beneficiaries, physicians, and practitioners is impossible to assess in any quantitative way.

Specifically, beneficiaries who have had difficulty in finding physicians or practitioners to furnish services because the physicians or practitioners were dissatisfied with the Medicare payment rates may find it easier to acquire care. On the other hand, beneficiaries who cannot afford to privately contract with physicians or practitioners who opt out of Medicare may have more limited access to care as they try to seek care from reduced numbers of physicians and practitioners who will accept Medicare payment rules.

Physicians and practitioners who opt out of Medicare may see increased incomes as a result of their ability to charge without regard to the Medicare limiting charge. However, to the extent that beneficiaries cease to seek treatment from them because they have opted out of Medicare, their incomes may decline. Moreover, organizations to which physicians and practitioners had reassigned Medicare benefits may cease their contracts with them if they opt out since the organizations could no longer be paid by Medicare for the physician's or practitioner's service. Managed care plans that have a contract with Medicare may cease their contractual arrangement with physicians and practitioners who opt out of Medicare since the plan cannot pay for any of their services to Medicare beneficiaries and, hence, their services no longer offer access to care under the plan. Similarly, insurance plans other than Medicare can choose to not pay for the services provided to any of their enrollees by physicians and practitioners who opt out of Medicare, causing the physicians and practitioners who opt out further loss of income.

Teleconsultations

We estimate that the cost of providing consultation services in accordance with section 4206 of BBA 1997 will be approximately $20 million in FY 1999 and approximately $90 million by FY 2003. Note that the FY 1999 estimate reflects only a partial year estimate, given the January 1, 1999 effective date for teleconsultation coverage. We estimate that teleconsultation will cost approximately $275 million for the first 5 years of coverage, as indicated below:

MEDICARE COSTS
[In millions]

FY 1999	FY 2000	FY 2001	FY 2002	FY 2003
$20	$40	$55	$70	$90

This rule would provide for payment exclusively for professional consultation with a physician and certain other practitioners via interactive telecommunication systems. Section 4206 of BBA 1997 does not provide for payment for telephone line fees or any facility fees associated with teleconsultation that may be incurred by hospitals included in the telemedicine network.

Further, this rule does not mandate that entities provide consultation services via telecommunications. Thus, this final rule does not require entities to purchase telemedicine equipment or to acquire the telecommunications infrastructure necessary to deliver consultation services via telecommunication systems. Therefore, this rule does not impose costs associated with starting and operating a telemedicine network.

The benefit changes in this final rule resulting from payment for teleconsultation services do not result in additional Medicare expenditures of $100 million or more for any single FY through FY 2003. We have determined, and we certify, that teleconsultation provisions do not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

H. Impact on Beneficiaries

Although changes in physicians' payments when the physician fee schedule was implemented in 1992 were large, we detected no problems with beneficiary access to care. Because there is a 4-year transition to the resource-based practice expense system, we anticipate a minimal impact on beneficiaries.

The benefit changes in this final rule resulting from payment for teleconsultation services do not result in additional Medicare expenditures of $100 million or more for any single FY through FY 2003. We have determined, and we certify, that teleconsultation provisions do not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

Statutory effects that are being implemented by this regulation result in specialty impacts exceeding $100 million per year. Therefore, this rule is an economically significant rule under Executive Order 12866, and a major rule under Title 5, United States Code, section 804(2).

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects

42 CFR Part 405

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 410

Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Rural areas, X-rays.

42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR Part 414

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 415

Health facilities, Health professions, Medicare and Reporting and recordkeeping requirements.

42 CFR Part 424

Emergency medical services, Health facilities, Health professions, Medicare.

42 CFR Part 485

Grant programs-health, Health facilities, Medicaid, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 42 CFR chapter IV is amended as follows:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

A. Part 405 is amended as set forth below:

1. A new subpart D, consisting of §§ 405.400, 405.405, 405.410, 405.415, 405.420, 405.425, 405.430, 405.435, 405.440, 405.445, 405.450, and 405.455 is added to read as follows:

Subpart D—Private Contracts

Secs.
405.400 Definitions.
405.405 General rules.
405.410 Conditions for properly opting-out of Medicare.
405.415 Requirements of the private contract.
405.420 Requirements of the opt-out affidavit.
405.425 Effects of opting-out of Medicare.
405.430 Failure to properly opt-out.
405.435 Failure to maintain opt-out.
405.440 Emergency and urgent care services.

405.445 Renewal and early termination of opt-out.
405.450 Appeals.
405.455 Application to Medicare+Choice contracts.

Authority: Secs. 1102, 1802, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395a, and 1395hh).

Subpart D—Private Contracts

§ 405.400 Definitions.

For purposes of this subpart, the following definitions apply:

Beneficiary means an individual who is enrolled in Part B of Medicare.

Emergency care services means services furnished to an individual for treatment of an "emergency medical condition" as that term is defined in § 422.2 of this chapter.

Legal representative means one or more individuals who, as determined by applicable State law, has the legal authority to enter into the contract with the physician or practitioner on behalf of the beneficiary.

Opt-out means the status of meeting the conditions specified in § 405.410.

Opt-out period means the 2-year period beginning on the effective date of the affidavit as specified by § 405.410(c)(1) or § 405.410(c)(2), as applicable.

Participating physician means a "physician" as defined in this section who has signed an agreement to participate in Part B of Medicare.

Physician means a doctor of medicine or a doctor of osteopathy who is currently licensed as that type of doctor in each State in which he or she furnishes services to patients.

Practitioner means a physician assistant, nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, clinical psychologist, or clinical social worker, who is currently legally authorized to practice in that capacity by each State in which he or she furnishes services to patients or clients.

Private contract means a document that meets the criteria specified in § 405.415.

Properly opt-out means to complete, without defect, the requirements for opt-out as specified in § 405.410.

Properly terminate opt-out means to complete, without defect, the requirements for terminating opt-out as specified in § 405.445.

Urgent care services means services furnished to an individual who requires services to be furnished within 12 hours in order to avoid the likely onset of an emergency medical condition.

§ 405.405 General rules.

(a) A physician or practitioner may enter into one or more private contracts with Medicare beneficiaries for the purpose of furnishing items or services that would otherwise be covered by Medicare, provided the conditions of this subpart are met.

(b) A physician or practitioner who enters into at least one private contract with a Medicare beneficiary under the conditions of this subpart, and who submits one or more affidavits in accordance with this subpart, opts-out of Medicare for a 2-year period unless the opt-out is terminated early according to § 405.445. The physician's or practitioner's opt-out may be renewed for subsequent 2-year periods.

(c) Both the private contracts described in paragraph (a) of this section and the physician's or practitioner's opt-out described in paragraph (b) of this section are null and void if the physician or practitioner fails to properly opt-out in accordance with the conditions of this subpart.

(d) Both the private contracts described in paragraph (a) of this section and the physician's or practitioner's opt-out described in paragraph (b) of this section are null and void for the remainder of the opt-out period if the physician or practitioner fails to remain in compliance with the conditions of this subpart during the opt-out period.

(e) Services furnished under private contracts meeting the requirements of this subpart are not covered services under Medicare, and no Medicare payment will be made for such services either directly or indirectly, except as permitted in accordance with § 405.435(c).

§ 405.410 Conditions for properly opting-out of Medicare.

The following conditions must be met for a physician or practitioner to properly opt-out of Medicare:

(a) Each private contract between a physician or a practitioner and a Medicare beneficiary that is entered into prior to the submission of the affidavit described in paragraph (b) of this section must meet the specifications of § 405.415.

(b) The physician or practitioner must submit an affidavit that meets the specifications of § 405.420 to each Medicare carrier with which he or she would file claims absent completion of opt-out.

(c) A nonparticipating physician or a practitioner may opt-out of Medicare at any time in accordance with the following:

(1) The 2-year opt-out period begins the date the affidavit meeting the requirements of § 405.420 is signed, provided the affidavit is filed within 10 days after he or she signs his or her first private contract with a Medicare beneficiary.

(2) If the physician or practitioner does not timely file any required affidavit, the 2-year opt-out period begins when the last such affidavit is filed. Any private contract entered into before the last required affidavit is filed becomes effective upon the filing of the last required affidavit and the furnishing of any items or services to a Medicare beneficiary under such contract before the last required affidavit is filed is subject to standard Medicare rules.

(d) A participating physician may properly opt-out of Medicare at the beginning of any calendar quarter, provided that the affidavit described in § 405.420 is submitted to the participating physician's Medicare carriers at least 30 days before the beginning of the selected calendar quarter. A private contract entered into before the beginning of the selected calendar quarter becomes effective at the beginning of the selected calendar quarter and the furnishing of any items or services to a Medicare beneficiary under such contract before the beginning of the selected calendar quarter is subject to standard Medicare rules.

§ 405.415 Requirements of the private contract.

A private contract under this subpart must:

(a) Be in writing and in print sufficiently large to ensure that the beneficiary is able to read the contract.

(b) Clearly state whether the physician or practitioner is excluded from Medicare under sections 1128, 1156, or 1892 or any other section of the Social Security Act.

(c) State that the beneficiary or his or her legal representative accepts full responsibility for payment of the physician's or practitioner's charge for all services furnished by the physician or practitioner.

(d) State that the beneficiary or his or her legal representative understands that Medicare limits do not apply to what the physician or practitioner may charge for items or services furnished by the physician or practitioner.

(e) State that the beneficiary or his or her legal representative agrees not to submit a claim to Medicare or to ask the physician or practitioner to submit a claim to Medicare.

(f) State that the beneficiary or his or her legal representative understands that Medicare payment will not be made for any items or services furnished by the physician or practitioner that would have otherwise been covered by Medicare if there was no private contract and a proper Medicare claim had been submitted.

(g) State that the beneficiary or his or her legal representative enters into this contract with the knowledge that he or she has the right to obtain Medicare-covered items and services from physicians and practitioners who have not opted-out of Medicare, and that the beneficiary is not compelled to enter into private contracts that apply to other Medicare-covered services furnished by other physicians or practitioners who have not opted-out.

(h) State the expected or known effective date and expected or known expiration date of the opt-out period.

(i) State that the beneficiary or his or her legal representative understands that Medigap plans do not, and that other supplemental plans may elect not to, make payments for items and services not paid for by Medicare.

(j) Be signed by the beneficiary or his or her legal representative and by the physician or practitioner.

(k) Not be entered into by the beneficiary or by the beneficiary's legal representative during a time when the beneficiary requires emergency care services or urgent care services. (However, a physician or practitioner may furnish emergency or urgent care services to a Medicare beneficiary in accordance with § 405.440.)

(l) Be provided (a photocopy is permissible) to the beneficiary or to his or her legal representative before items or services are furnished to the beneficiary under the terms of the contract.

(m) Be retained (original signatures of both parties required) by the physician or practitioner for the duration of the opt-out period.

(n) Be made available to HCFA upon request.

(o) Be entered into for each opt-out period.

§ 405.420 Requirements of the opt-out affidavit.

An affidavit under this subpart must:

(a) Be in writing and be signed by the physician or practitioner.

(b) Contain the physician's or practitioner's full name, address, telephone number, national provider identifier (NPI) or billing number, if one has been assigned, uniform provider identification number (UPIN) if one has been assigned, or, if neither an NPI nor a UPIN has been assigned, the physician's or practitioner's tax identification number (TIN).

(c) State that, except for emergency or urgent care services (as specified in § 405.440), during the opt-out period the physician or practitioner will provide services to Medicare beneficiaries only through private contracts that meet the criteria of paragraph § 405.415 for services that, but for their provision under a private contract, would have been Medicare-covered services.

(d) State that the physician or practitioner will not submit a claim to Medicare for any service furnished to a Medicare beneficiary during the opt-out period, nor will the physician or practitioner permit any entity acting on his or her behalf to submit a claim to Medicare for services furnished to a Medicare beneficiary, except as specified in § 405.440.

(e) State that, during the opt-out period, the physician or practitioner understands that he or she may receive no direct or indirect Medicare payment for services that he or she furnishes to Medicare beneficiaries with whom he or she has privately contracted, whether as an individual, an employee of an organization, a partner in a partnership, under a reassignment of benefits, or as payment for a service furnished to a Medicare beneficiary under a Medicare+Choice plan.

(f) State that a physician or practitioner who opts-out of Medicare acknowledges that, during the opt-out period, his or her services are not covered under Medicare and that no Medicare payment may be made to any entity for his or her services, directly or on a capitated basis.

(g) State a promise by the physician or practitioner to the effect that, during the opt-out period, the physician or practitioner agrees to be bound by the terms of both the affidavit and the private contracts that he or she has entered into.

(h) Acknowledge that the physician or practitioner recognizes that the terms of the affidavit apply to all Medicare-covered items and services furnished to Medicare beneficiaries by the physician or practitioner during the opt-out period (except for emergency or urgent care services furnished to the beneficiaries with whom he or she has not previously privately contracted) without regard to any payment arrangements the physician or practitioner may make.

(i) With respect to a physician who has signed a Part B participation agreement, acknowledge that such agreement terminates on the effective date of the affidavit.

(j) Acknowledge that the physician or practitioner understands that a beneficiary who has not entered into a private contract and who requires emergency or urgent care services may not be asked to enter into a private contract with respect to receiving such services and that the rules of § 405.440 apply if the physician furnishes such services.

§ 405.425 Effects of opting-out of Medicare.

If a physician or practitioner opts-out of Medicare in accordance with this subpart for the 2-year period for which the opt-out is effective, the following results obtain:

(a) Except as provided in § 405.440, no payment may be made directly by Medicare or by any Medicare+Choice plan to the physician or practitioner or to any entity to which the physician or practitioner reassigns his right to receive payment for services.

(b) The physician or practitioner may not furnish any item or service that would otherwise be covered by Medicare (except for emergency or urgent care services) to any Medicare beneficiary except through a private contract that meets the requirements of this subpart.

(c) The physician or practitioner is not subject to the requirement to submit a claim for items or services furnished to a Medicare beneficiary, as specified in § 424.5(a)(6) of this chapter, except as provided in § 405.440.

(d) The physician or practitioner is prohibited from submitting a claim to Medicare for items or services furnished to a Medicare beneficiary except as provided in § 405.440.

(e) In the case of a physician, he or she is not subject to the limiting charge provisions of § 414.48 of this chapter, except for services provided under § 405.440.

(f) The physician or practitioner is not subject to the prohibition-on-reassignment provisions of § 414.80 of this chapter, except for services provided under § 405.440.

(g) In the case of a practitioner, he or she is not prohibited from billing or collecting amounts from beneficiaries (as provided in 42 U.S.C. 1395u(b)(18)(B)).

(h) The death of a beneficiary who has entered into a private contract (or whose legal representative has done so) does not invoke § 424.62 or § 424.64 of this chapter with respect to the physician or practitioner with whom the beneficiary (or legal representative) has privately contracted.

(i) The physician or practitioner who has not been excluded under sections 1128, 1156, or 1892 of the Social Security Act may order, certify the need for, or refer a beneficiary for Medicare-covered items and services, provided

the physician or practitioner is not paid, directly or indirectly, for such services (except as provided in § 405.440).

(j) The physician or practitioner who is excluded under sections 1128, 1156, or 1892 of the Social Security Act may not order, prescribe, or certify the need for Medicare-covered items and services except as provided in § 1001.1901 of this title, and must otherwise comply with the terms of the exclusion in accordance with § 1001.1901 effective with the date of the exclusion.

§ 405.430 Failure to properly opt-out.

(a) A physician or practitioner fails to properly opt-out if—

(1) Any private contract between the physician or practitioner and a Medicare beneficiary, that was entered into before the affidavit described in § 405.420 was filed, does not meet the specifications of § 405.415; or

(2) He or she fails to submit the affidavit(s) in accordance with § 405.420.

(b) If a physician or practitioner fails to properly opt-out in accordance with paragraph (a) of this section, the following results obtain:

(1) The physician's or practitioner's attempt to opt-out of Medicare is nullified, and all of the private contracts between the physician or practitioner and Medicare beneficiaries for the two-year period covered by the attempted opt-out are deemed null and void.

(2) The physician or practitioner must submit claims to Medicare for all Medicare-covered items and services furnished to Medicare beneficiaries, including the items and services furnished under the nullified contracts. A nonparticipating physician is subject to the limiting charge provisions of § 414.48 of this chapter. A participating physician is subject to the limitations on charges of the participation agreement he or she signed.

(3) The practitioner may not reassign any claim except as provided in § 424.80 of this chapter.

(4) The practitioner may neither bill nor collect an amount from the beneficiary except for applicable deductible and coinsurance amounts.

(5) The physician or practitioner may make another attempt to properly opt-out at any time.

§ 405.435 Failure to maintain opt-out.

(a) A physician or practitioner fails to maintain opt-out under this subpart if, during the opt-out period—

(1) He or she knowingly and willfully—

(i) Submits a claim for Medicare payment (except as provided in § 405.440); or

(ii) Receives Medicare payment directly or indirectly for Medicare-covered services furnished to a Medicare beneficiary (except as provided in § 405.440).

(2) He or she fails to enter into private contracts with Medicare beneficiaries for the purpose of furnishing items and services that would otherwise be covered by Medicare, or enters into contracts that fail to meet the specifications of § 405.415; or

(3) He or she fails to comply with the provisions of § 405.440 regarding billing for emergency care services or urgent care services; or

(4) He or she fails to retain a copy of each private contract that he or she has entered into for the duration of the opt-out period for which the contracts are applicable or fails to permit HCFA to inspect them upon request.

(b) If a physician or practitioner fails to maintain opt-out in accordance with paragraph (a) of this section, and fails to demonstrate, within 45 days of a notice from the carrier of a violation of paragraph (a) of this section, that he or she has taken good faith efforts to maintain opt-out (including by refunding amounts in excess of the charge limits to beneficiaries with whom he or she did not sign a private contract), the following results obtain, effective 46 days after the date of the notice, but only for the remainder of the opt-out period:

(1) All of the private contracts between the physician or practitioner and Medicare beneficiaries are deemed null and void.

(2) The physician's or practitioner's opt-out of Medicare is nullified.

(3) The physician or practitioner must submit claims to Medicare for all Medicare-covered items and services furnished to Medicare beneficiaries.

(4) The physician or practitioner or beneficiary will not receive Medicare payment on Medicare claims for the remainder of the opt-out period, except as provided in paragraph (c) of this section.

(5) The physician is subject to the limiting charge provisions of § 414.48 of this chapter.

(6) The practitioner may not reassign any claim except as provided in § 424.80 of this chapter.

(7) The practitioner may neither bill nor collect any amount from the beneficiary except for applicable deductible and coinsurance amounts.

(8) The physician or practitioner may not attempt to once more meet the criteria for properly opting-out until the 2-year opt-out period expires.

(c) Medicare payment may be made for the claims submitted by a beneficiary for the services of an opt-out physician or practitioner when the physician or practitioner did not privately contract with the beneficiary for services that were not emergency care services or urgent care services and that were furnished no later than 15 days after the date of a notice by the carrier that the physician or practitioner has opted-out of Medicare.

§ 405.440 Emergency and urgent care services.

(a) A physician or practitioner who has opted-out of Medicare under this subpart need not enter into a private contract to furnish emergency care services or urgent care services to a Medicare beneficiary. Accordingly, a physician or practitioner will not be determined to have failed to maintain opt-out if he or she furnishes emergency care services or urgent care services to a Medicare beneficiary with whom the physician or practitioner has not previously entered into a private contract, provided the physician or practitioner complies with the billing requirements specified in paragraph (b) of this section.

(b) When a physician or practitioner who has not been excluded under sections 1128, 1156, or 1892 of the Social Security Act furnishes emergency care services or urgent care services to a Medicare beneficiary with whom the physician or practitioner has not previously entered into a private contract, he or she:

(1) Must submit a claim to Medicare in accordance with both 42 CFR part 424 and Medicare instructions (including but not limited to complying with proper coding of emergency or urgent care services furnished by physicians and practitioners who have opted-out of Medicare).

(2) May collect no more than—

(i) The Medicare limiting charge, in the case of a physician; or

(ii) The deductible and coinsurance, in the case of a practitioner.

(c) Emergency care services or urgent care services furnished to a Medicare beneficiary with whom the physician or practitioner has previously entered into a private contract (that is, entered into before the onset of the emergency medical condition or urgent medical condition), are furnished under the terms of the private contract.

(d) Medicare may make payment for emergency care services or urgent care services furnished by a physician or practitioner who has properly opted-out when the services are furnished and the claim for services is made in accordance with this section. A physician or practitioner who has been excluded must comply with the regulations at § 1001.1901 (Scope and effect of exclusion) of this title when he or she furnishes emergency services to beneficiaries and may not bill and be paid for urgent care services.

§ 405.445 Renewal and early termination of opt-out.

(a) A physician or practitioner may renew opt-out by filing an affidavit with each carrier with which he or she would file claims absent completion of opt-out, provided the affidavits are filed within 30 days after the current opt-out period expires.

(b) To properly terminate opt-out a physician or practitioner must:

(1) Not have previously opted out of Medicare.

(2) Notify all Medicare carriers, with which he or she filed an affidavit, of the termination of the opt-out no later than 90 days after the effective date of the opt-out period.

(3) Refund to each beneficiary with whom he or she has privately contracted all payment collected in excess of:

(i) The Medicare limiting charge (in the case of physicians); or

(ii) The deductible and coinsurance (in the case of practitioners).

(4) Notify all beneficiaries with whom the physician or practitioner entered into private contracts of the physician's or practitioner's decision to terminate opt-out and of the beneficiaries' right to have claims filed on their behalf with Medicare for the services furnished during the period between the effective date of the opt-out and the effective date of the termination of the opt-out period.

(c) When the physician or practitioner properly terminates opt-out in accordance with paragraph (b), he or she will be reinstated in Medicare as if there had been no opt-out, and the provision of § 405.425 shall not apply unless the physician or practitioner subsequently properly opts out.

(d) A physician or practitioner who has completed opt-out on or before January 1, 1999 may terminate opt-out during the 90 days following January 1, 1999 if he or she notifies all carriers to whom he or she would otherwise submit claims of the intent to terminate opt-out and complies with paragraphs (b)(3) and (4) of this section. Paragraph (c) of this section applies in these cases.

§ 405.450 Appeals.

(a) A determination by HCFA that a physician or practitioner has failed to properly opt-out, failed to maintain opt-out, failed to timely renew opt-out, failed to privately contract, or failed to properly terminate opt-out is an initial determination for purposes of § 405.803.

(b) A determination by HCFA that no payment can be made to a beneficiary for the services of a physician who has opted-out is an initial determination for purposes of § 405.803.

§ 405.455 Application to Medicare+Choice contracts.

An organization that has a contract with HCFA to provide one or more Medicare+Choice (M+C) plans to beneficiaries (part 422 of this chapter):

(a) Must acquire and maintain information from Medicare carriers on physicians and practitioners who have opted-out of Medicare.

(b) Must make no payment directly or indirectly for Medicare covered services furnished to a Medicare beneficiary by a physician or practitioner who has opted-out of Medicare.

(c) May make payment to a physician or practitioner who furnishes emergency or urgent care services to a beneficiary who has not previously entered into a private contract with the physician or practitioner in accordance with § 405.440.

Subpart E—Criteria for Determining Reasonable Charges

2. The authority citation for part 405, subpart E, continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

3. Section 405.517 is revised to read as follows:

§ 405.517 Payment for drugs and biologicals that are not paid on a cost or prospective payment basis.

(a) *Applicability.* Payment for a drug or biological that is not paid on a cost or prospective payment basis is determined by the standard methodology described in paragraph (b) of this section. Examples of when this procedure applies include a drug or biological furnished incident to a physician's service, a drug or biological furnished by an independent dialysis facility that is not included in the ESRD composite rate set forth in § 413.170(c) of this chapter, and a drug or biological furnished as part of the durable medical equipment benefit.

(b) *Methodology.* Payment for a drug or biological described in paragraph (a) of this section is based on the lower of the actual charge on the Medicare claim for benefits or 95 percent of the national average wholesale price of the drug or biological.

(c) *Multiple-source drugs.* For multiple-source drugs and biologicals, for purposes of this regulation, the average wholesale price is defined as the lesser of the median average wholesale price for all sources of the generic forms of the drug or biological or the lowest average wholesale price of the brand name forms of the drug or biological.

4. A new § 405.520 is added to read as follows:

§ 405.520 Payment for a physician assistants, nurse practitioners, and clinical nurse specialists' services and services furnished incident to their professional services.

(a) *General rule.* A physician assistants, nurse practitioners, and clinical nurse specialists' services, and services and supplies furnished incident to their professional services, are paid in accordance with the physician fee schedule. The payment for a physician assistants' services may not exceed the limits at § 414.52 of this chapter. The payment for a nurse practitioners' and clinical nurse specialists' services may not exceed the limits at § 414.56 of this chapter.

(b) *Requirements.* Medicare payment is made only if all claims for payment are made on an assignment-related basis in accordance with § 424.55 of this chapter, that sets forth, respectively, the conditions for coverage of physician assistants' services, nurse practitioners' services and clinical nurse specialists' services, and services and supplies furnished incident to their professional services.

(c) *Civil money penalties.* Any person or entity who knowingly and willingly bills a Medicare beneficiary amounts in excess of the appropriate coinsurance and deductible is subject to a civil money penalty not to exceed $2,000 for each bill or request for payment.

PART 410—SUPPLEMENTARY MEDICAL INSURANCE (SMI) BENEFITS

B. Part 410 is amended as set forth below:

1. The authority citation for part 410 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

§ 410.1 [Amended]

2. Section 410.1, paragraph (a) is amended by adding the following sentence at the end: "Section 4206 of the Balanced Budget Act of 1997 sets forth the conditions for payment for professional consultations that take place by means of telecommunications systems."

§ 410.32 [Amended]

3. In § 410.32(a)(3), the last word, "section," is removed and the word "paragraph" is added in its place.

4. A new section 410.59 is added to read as follows:

§ 410.59 Outpatient occupational therapy services: Conditions.

(a) *Basic rule.* Medicare Part B pays for outpatient occupational therapy services if they meet the following conditions:

(1) They are furnished to a beneficiary while he or she is under the care of a physician who is a doctor of medicine, osteopathy, or podiatric medicine.

(2) They are furnished under a written plan of treatment that meets the requirements of § 410.61.

(3) They are furnished—

(i) By a provider as defined in § 489.2 of this chapter, or by others under arrangements with, and under the supervision of, a provider; or

(ii) By or under the personal supervision of an occupational therapist in private practice as described in paragraph (c) of this section.

(b) *Outpatient occupational therapy services furnished to certain inpatients of a hospital or a CAH or SNF.* Medicare Part B pays for outpatient occupational therapy services furnished to an inpatient of a hospital, CAH, or SNF who requires them but who has exhausted or is otherwise ineligible for benefit days under Medicare Part A.

(c) *Special provisions for services furnished by occupational therapists in private practice.*

(1) *Basic qualifications.* In order to qualify under Medicare as a supplier of outpatient occupational therapy services, each individual occupational therapist in private practice must meet the following requirements:

(i) Be legally authorized (if applicable, licensed, certified, or registered) to engage in the private practice of occupational therapy by the State in which he or she practices, and practice only within the scope of his or her license, certification, or registration.

(ii) Engage in the private practice of occupational therapy on a regular basis as an individual, in one of the following practice types:

(A) An unincorporated solo practice.

(B) A partnership or unincorporated group practice.

(C) An unincorporated solo practice, partnership, or group practice, a professional corporation or other incorporated occupational therapy practice. Private practice does not include any individual during the time he or she is working as an employee of a provider.

(iii) Bill Medicare only for services furnished in his or her private practice office space, or in the patient's home. A therapist's private practice office space refers to the location(s) where the practice is operated, in the State(s) where the therapist (and practice, if applicable) is legally authorized to furnish services, during the hours that the therapist engages in practice at that location. When services are furnished in private practice office space, that space must be owned, leased, or rented by the practice and used for the exclusive purpose of operating the practice. A patient's home does not include any institution that is a hospital, an CAH, or a SNF.

(iv) Treat individuals who are patients of the practice and for whom the practice collects fees for the services furnished.

(2) *Supervision of occupational therapy services.* Occupational therapy services are performed by, or under the personal supervision of, the occupational therapist in private practice. All services not performed personally by the therapist must be performed by employees of the practice, personally supervised by the therapist, and included in the fee for the therapist's services.

(d) *Excluded services.* No service is included as an outpatient occupational therapy service if it would not be included as an inpatient hospital service if furnished to a hospital or CAH inpatient.

(e) *Annual limitation on incurred expenses.* (1) Amount of limitation. (i) In 1999, 2000, and 2001, no more than $1,500 of allowable charges incurred in a calendar year for outpatient occupational therapy services are recognized incurred expenses.

(ii) In 2002 and thereafter, the limitation is determined by increasing the limitation in effect in the previous calendar year by the increase in the Medicare Economic Index for the current year.

(2) For purposes of applying the limitation, outpatient occupational therapy includes:

(i) Except as provided in paragraph (e)(3) of this section, outpatient occupational therapy services furnished under this section;

(ii) Outpatient occupational therapy services furnished by a comprehensive outpatient rehabilitation facility;

(iii) Outpatient occupational therapy services furnished by a physician or incident to a physician's service;

(iv) Outpatient occupational therapy services furnished by a nurse practitioner, clinical nurse specialist, or physician assistant or incident to their services.

(3) For purposes of applying the limitation, outpatient occupational therapy services excludes services furnished by a hospital directly or under arrangements.

5. Section 410.60 is revised to read as follows:

§ 410.60 Outpatient physical therapy services: Conditions.

(a) *Basic rule.* Medicare Part B pays for outpatient physical therapy services if they meet the following conditions:

(1) They are furnished to a beneficiary while he or she is under the care of a physician who is a doctor of medicine, osteopathy, or podiatric medicine.

(2) They are furnished under a written plan of treatment that meets the requirements of § 410.61.

(3) They are furnished—

(i) By a provider as defined in § 489.2 of this chapter, or by others under arrangements with, and under the supervision of, a provider; or

(ii) By or under the personal supervision of a physical therapist in private practice as described in paragraph (c) of this section.

(b) *Outpatient physical therapy services furnished to certain inpatients of a hospital or a CAH or SNF.* Medicare Part B pays for outpatient physical therapy services furnished to an inpatient of a hospital, CAH, or SNF who requires them but who has exhausted or is otherwise +ineligible for benefit days under Medicare Part A.

(c) *Special provisions for services furnished by physical therapists in private practice.* (1) *Basic qualifications.* In order to qualify under Medicare as a supplier of outpatient physical therapy services, each individual physical therapist in private practice must meet the following requirements:

(i) Be legally authorized (if applicable, licensed, certified, or registered) to engage in the private practice of physical therapy by the State in which he or she practices, and practice only within the scope of his or her license, certification, or registration.

(ii) Engage in the private practice of physical therapy on a regular basis as an individual, in one of the following practice types:

(A) An unincorporated solo practice.

(B) An unincorporated partnership or unincorporated group practice.

(C) An unincorporated solo practice, partnership, or group practice, or a professional corporation or other incorporated physical therapy practice. Private practice does not include any individual during the time he or she is working as an employee of a provider.

(iii) Bill Medicare only for services furnished in his or her private practice office space, or in the patient's home. A therapist's private practice office space refers to the location(s) where the practice is operated, in the State(s) where the therapist (and practice, if applicable) is legally authorized to furnish services, during the hours that the therapist engages in practice at that location. When services are furnished in private practice office space, that space must be owned, leased, or rented by the practice and used for the exclusive purpose of operating the practice. A patient's home does not include any institution that is a hospital, a CAH, or a SNF.

(iv) Treat individuals who are patients of the practice and for whom the practice collects fees for the services furnished.

(2) *Supervision of physical therapy services.* Physical therapy services are performed by, or under the personal supervision of, the physical therapist in private practice. All services not performed personally by the therapist must be performed by employees of the practice, personally supervised by the therapist, and included in the fee for the therapist's services.

(d) *Excluded services.* No service is included as an outpatient physical therapy service if it would not be included as an inpatient hospital service if furnished to a hospital or CAH inpatient.

(e) *Annual limitation on incurred expenses.* (1) Amount of limitation. (i) In 1999, 2000, and 2001, no more than $1,500 of allowable charges incurred in a calendar year for outpatient physical therapy services are recognized incurred expenses.

(ii) In 2002 and thereafter, the limitation shall be determined by increasing the limitation in effect in the previous calendar year by the increase in the Medicare Economic Index for the current year.

(2) For purposes of applying the limitation, outpatient physical therapy includes:

(i) Except as provided in paragraph (e)(3) of this section, outpatient physical therapy services furnished under this section;

(ii) Except as provided in paragraph (e)(3) of this section outpatient speech-language pathology services furnished under § 410.62;

(iii) Outpatient physical therapy and speech-language pathology services furnished by a comprehensive outpatient rehabilitation facility;

(iv) Outpatient physical therapy and speech-language pathology services furnished by a physician or incident to a physician's service;

(v) Outpatient physical therapy and speech-language pathology services furnished by a nurse practitioner, clinical nurse specialist, or physician assistant or incident to their services.

(3) For purposes of applying the limitation, outpatient physical therapy excludes services furnished by a hospital or CAH directly or under arrangements.

6. In § 410.61, the section heading and paragraphs (a) through (d) are revised to read as follows:

§ 410.61 Plan of treatment requirements for outpatient rehabilitation services.

(a) *Basic requirement.* Outpatient rehabilitation services (including services furnished by a qualified physical or occupational therapist in private practice), must be furnished under a written plan of treatment that meets the requirements of paragraphs (b) through (e) of this section.

(b) *Establishment of the plan.* The plan is established before treatment is begun by one of the following:

(1) A physician.

(2) A physical therapist who furnishes the physical therapy services.

(3) A speech-language pathologist who furnishes the speech-language pathology services.

(4) An occupational therapist who furnishes the occupational therapy services.

(5) A nurse practitioner, a clinical nurse specialist, or a physician assistant.

(c) *Content of the plan.* The plan prescribes the type, amount, frequency, and duration of the physical therapy, occupational therapy, or speech-language pathology services to be furnished to the individual, and indicates the diagnosis and anticipated goals.

(d) *Changes in the plan.* Any changes in the plan—

(1) Are made in writing and signed by one of the following:

(i) The physician.

(ii) The physical therapist who furnishes the physical therapy services.

(iii) The occupational therapist who furnishes the physical therapy services.

(iv) The speech-language pathologist who furnishes the speech-language pathology services.

(v) A registered professional nurse or a staff physician, in accordance with oral orders from the physician, physical therapist, occupational therapist, or speech-language pathologist who furnishes the services.

(vi) A nurse practitioner, a clinical nurse specialist, or a physician assistant.

(2) The changes are incorporated in the plan immediately.

* * * * *

7. In § 410.62, the section heading and paragraph (a)(3) are revised and a new paragraph (d) is added to read as follows:

§ 410.62 Outpatient speech-language pathology services: Conditions and exclusions.

(a) * * *

(3) They are furnished by a provider as defined in § 489.2 of this chapter or by others under arrangements with, or under the supervision of, a provider.

* * * * *

(d) *Limitation.* After 1998, outpatient speech-language pathology services are subject to the limitation in § 410.60(e).

8. New §§ 410.74, 410.75, 410.76, 410.77, and 410.78 are added to subpart B to read as follows:

Subpart B—Medical and Other Health Services

§ 410.74 Physician assistants' services.

(a) *Basic rule.* Medicare Part B covers physician assistants' services only if the following conditions are met:

(1) The services would be covered as physicians' services if furnished by a physician (a doctor of medicine or osteopathy, as set forth in section 1861(r)(1) of the Act).

(2) The physician assistant—

(i) Meets the qualifications set forth in paragraph (c) of this section;

(ii) Is legally authorized to perform the services in the State in which they are performed;

(iii) Performs services that are not otherwise precluded from coverage because of a statutory exclusion;

(iv) Performs the services under the general supervision of a physician (The supervising physician need not be physically present when the physician assistant is performing the services unless required by State law; however, the supervising physician must be immediately available to the physician assistant for consultation.);

(v) Furnishes services that are billed by the employer of a physician assistant; and

(vi) Performs the services—

(A) In all settings in either rural and urban areas; or

(B) As an assistant at surgery.

(b) *Services and supplies furnished incident to a physician assistant's services.* Medicare covers services and supplies (including drugs and biologicals that cannot be self-administered) that are furnished incident to the physician assistant's services described in paragraph (a) of

this section. These services and supplies are covered only if they—

(1) Would be covered if furnished by a physician or as incident to the professional services of a physician;

(2) Are the type that are commonly furnished in a physician's office and are either furnished without charge or are included in the bill for the physician assistants' services;

(3) Are, although incidental, an integral part of the professional service performed by the physician;

(4) Are performed under the direct supervision of the physician assistant (that is, the physician assistant is physically present and immediately available); and

(5) Are performed by the employee of a physician assistant or an entity that employs both the physician assistant and the person providing the services.

(c) *Qualifications.* For Medicare Part B coverage of his or her services, a physician assistant must meet all of the following conditions:

(1) Have graduated from a physician assistant educational program that is accredited by the National Commission on Accreditation of Allied Health Education Programs;

(2) Have passed the national certification examination of the National Commission on Certification of Physician Assistants; and

(3) Be licensed by the State to practice as a physician assistant.

(d) *Professional services.* Physician assistants can be paid for professional services only if the services have been professionally performed by them and no facility or other provider charges for the service or is paid any amount for the furnishing of those professional services.

(1) Supervision of other nonphysician staff by a physician assistant does not constitute personal performance of a professional service by the physician assistant.

(2) The services are provided on an assignment-related basis, and the physician assistant may not charge a beneficiary for a service not payable under this provision. If a beneficiary has made payment for a service, the physician assistant must make the appropriate refund to the beneficiary.

§ 410.75 Nurse practitioners' services.

(a) *Definition.* As used in this section, the term "physician" means a doctor of medicine or osteopathy, as set forth in section 1861(r)(1) of the Act.

(b) *Qualifications.* For Medicare Part B coverage of his or her services, a nurse practitioner must—

(1) Possess a master's degree in nursing;

(2) Be a registered professional nurse who is authorized by the State in which the services are furnished, to practice as a nurse practitioner in accordance with State law; and,

(3) Be certified as a nurse practitioner by the American Nurses Credentialing Center or other recognized national certifying bodies that have established standards for nurse practitioners as defined in paragraphs (b)(1) and (2) of this section.

(c) *Services.* Medicare Part B covers nurse practitioners' services in all settings in both rural and urban areas, only if the services would be covered if furnished by a physician and the nurse practitioner—

(1) Is legally authorized to perform them in the State in which they are performed;

(2) Is not performing services that are otherwise excluded from coverage because of one of the statutory exclusions; and

(3) Performs them while working in collaboration with a physician.

(i) Collaboration is a process in which a nurse practitioner works with one or more physicians to deliver health care services within the scope of the practitioner's expertise, with medical direction and appropriate supervision as provided for in jointly developed guidelines or other mechanisms as provided by the law of the State in which the services are performed.

(ii) In the absence of State law governing collaboration, collaboration is a process in which a nurse practitioner has a relationship with one or more physicians to deliver health care services. Such collaboration is to be evidenced by nurse practitioners documenting the nurse practitioners' scope of practice and indicating the relationships that they have with physicians to deal with issues outside their scope of practice. Nurse practitioners must document this collaborative process with physicians.

(iii) The collaborating physician does not need to be present with the nurse practitioner when the services are furnished or to make an independent evaluation of each patient who is seen by the nurse practitioner.

(d) *Services and supplies incident to a nurse practitioners' services.* Medicare Part B covers services and supplies (including drugs and biologicals that cannot be self-administered) incident to a nurse practitioner's services that meet the requirements in paragraph (c) of this section. These services and supplies are covered only if they—

(1) Would be covered if furnished by a physician or as incident to the professional services of a physician;

(2) Are of the type that are commonly furnished in a physician's office and are either furnished without charge or are included in the bill for the nurse practitioner's services;

(3) Although incidental, are an integral part of the professional service performed by the nurse practitioner; and

(4) Are performed under the direct supervision of the nurse practitioner (that is, the nurse practitioner must be physically present and immediately available).

(e) *Professional services.* Nurse practitioners can be paid for professional services only when the services have been personally performed by them and no facility or other provider charges, or is paid, any amount for the furnishing of the professional services.

(1) Supervision of other nonphysician staff by a nurse practitioner does not constitute personal performance of a professional service by a nurse practitioner.

(2) The services are provided on an assignment-related basis, and a nurse practitioner may not charge a beneficiary for a service not payable under this provision. If a beneficiary has made payment for a service, the nurse practitioner must make the appropriate refund to the beneficiary.

§ 410.76 Clinical nurse specialists' services.

(a) *Definition.* As used in this section, the term "physician" means a doctor of medicine or osteopathy, as set forth in section 1861(r)(1) of the Act.

(b) *Qualifications.* For Medicare Part B coverage of his or her services, a clinical nurse specialist must—

(1) Be a registered nurse who is currently licensed to practice in the State where he or she practices and be authorized to perform the services of a clinical nurse specialist in accordance with State law;

(2) Have a master's degree in a defined clinical area of nursing from an accredited educational institution; and

(3) Be certified as a clinical nurse specialist by the American Nurses Credentialing Center.

(c) *Services.* Medicare Part B covers clinical nurse specialists' services in all settings in both rural and urban areas only if the services would be covered if furnished by a physician and the clinical nurse specialist—

(1) Is legally authorized to perform them in the State in which they are performed;

(2) Is not performing services that are otherwise excluded from coverage by one of the statutory exclusions; and

(3) Performs them while working in collaboration with a physician.

(i) Collaboration is a process in which a clinical nurse specialist works with one or more physicians to deliver health care services within the scope of the practitioner's expertise, with medical direction and appropriate supervision as provided for in jointly developed guidelines or other mechanisms as provided by the law of the State in which the services are performed.

(ii) In the absence of State law governing collaboration, collaboration is a process in which a clinical nurse specialist has a relationship with one or more physicians to deliver health care services. Such collaboration is to be evidenced by clinical nurse specialists documenting the clinical nurse specialists' scope of practice and indicating the relationships that they have with physicians to deal with issues outside their scope of practice. Clinical nurse specialists must document this collaborative process with physicians.

(iii) The collaborating physician does not need to be present with the clinical nurse specialist when the services are furnished, or to make an independent evaluation of each patient who is seen by the clinical nurse specialist.

(d) *Services and supplies furnished incident to clinical nurse specialists' services.* Medicare Part B covers services and supplies (including drugs and biologicals that cannot be self-administered) incident to a clinical nurse specialist's services that meet the requirements in paragraph (c) of this section. These services and supplies are covered only if they—

(1) Would be covered if furnished by a physician or as incident to the professional services of a physician;

(2) Are of the type that are commonly furnished in a physician's office and are either furnished without charge or are included in the bill for the clinical nurse specialist's services;

(3) Although incidental, are an integral part of the professional service performed by the clinical nurse specialist; and

(4) Are performed under the direct supervision of the clinical nurse specialist (that is, the clinical nurse specialist must be physically present and immediately available).

(e) *Professional services.* Clinical nurse specialists can be paid for professional services only when the services have been personally performed by them and no facility or other provider charges, or is paid, any amount for the furnishing of the professional services.

(1) Supervision of other nonphysician staff by clinical nurse specialists does not constitute personal performance of a professional service by clinical nurse specialists.

(2) The services are provided on an assignment-related basis, and a clinical nurse specialist may not charge a beneficiary for a service not payable under this provision. If a beneficiary has made payment for a service, the clinical nurse specialist must make the appropriate refund to the beneficiary.

§ 410.77 Certified nurse-midwives' services: Qualifications and conditions.

(a) *Qualifications.* For Medicare coverage of his or her services, a certified nurse-midwife must:

(1) Be a registered nurse who is legally authorized to practice as a nurse-midwife in the State where services are performed;

(2) Have successfully completed a program of study and clinical experience for nurse-midwives that is accredited by an accrediting body approved by the U.S. Department of Education; and

(3) Be certified as a nurse-midwife by the American College of Nurse-Midwives or the American College of Nurse-Midwives Certification Council.

(b) *Services.* A certified nurse-midwife's services are services furnished by a certified nurse-midwife and services and supplies furnished as an incident to the certified nurse-midwife's services that—

(1) Are within the scope of practice authorized by the law of the State in which they are furnished and would otherwise be covered if furnished by a physician or as an incident to a physician's service; and

(2) Unless required by State law, are provided without regard to whether the certified nurse-midwife is under the supervision of, or associated with, a physician or other health care provider.

(c) *Incident to services: Basic rule.* Medicare covers services and supplies furnished incident to the services of a certified nurse-midwife, including drugs and biologicals that cannot be self-administered, if the services and supplies meet the following conditions:

(1) They would be covered if furnished by a physician or as incident to the professional services of a physician.

(2) They are of the type that are commonly furnished in a physician's office and are either furnished without charge or are included in the bill for the certified nurse-midwife's services.

(3) Although incidental, they are an integral part of the professional service performed by the certified nurse-midwife.

(4) They are furnished under the direct supervision of a certified nurse-midwife (that is, the midwife is physically present and immediately available).

(d) *Professional services.* A nurse-midwife can be paid for professional services only when the services have been performed personally by the nurse-midwife.

(1) Supervision of other nonphysician staff by a nurse-midwife does not constitute personal performance of a professional service by the nurse-midwife.

(2) The service is provided on an assignment-related basis, and a nurse-midwife may not charge a beneficiary for a service not payable under this provision. If the beneficiary has made payment for a service, the nurse-midwife must make the appropriate refund to the beneficiary.

(3) A nurse-midwife may provide services that he or she is legally authorized to perform under State law as a nurse-midwife, if the services would otherwise be covered by the Medicare program when furnished by a physician or incident to a physicians' professional services.

§ 410.78 Consultations via telecommunications systems.

(a) *General rule.* Medicare Part B pays for professional consultations furnished by means of interactive telecommunications systems if the following conditions are met:

(1) The consulting practitioner is any of the following:

(i) A physician as described in § 410.20.

(ii) A physician assistant as defined in § 410.74.

(iii) A nurse practitioner as defined in § 410.75.

(iv) A clinical nurse specialist as described in § 410.76.

(v) A nurse-midwife as defined in § 410.77.

(2) The referring practitioner is any of the following:

(i) A physician as described in § 410.20.

(ii) A physician assistant as defined in § 410.74.

(iii) A nurse practitioner as defined in § 410.75.

(iv) A clinical nurse specialist as described in § 410.76.

(v) A nurse-midwife as defined in § 410.77.

(vi) A clinical psychologist as described at § 410.71.

(vii) A clinical social worker as defined in § 410.73.

(3) The services are furnished to a beneficiary residing in a rural area as defined in section 1886(d)(2)(D) of the Act, and the area is designated as a

health professional shortage area (HPSA) under section 332(a)(1)(A) of the Public Health Service Act (42 U.S.C. 254e(a)(1)(A)). For purposes of this requirement, the beneficiary is deemed to be residing in such an area if the teleconsultation presentation takes place in such an area.

(4) The medical examination of the beneficiary is under the control of the consulting practitioner.

(5) As a condition of payment, the teleconsultation involves the participation of the referring practitioner, or a practitioner described in section 1842(b)(18)(C) of the Act (other than a certified registered nurse anesthetist or anesthesiologist assistant) who is an employee of the referring practitioner, as appropriate to the medical needs of the patient and as needed to provide information to and at the direction of the consultant.

(6) The consultation results in a written report that is furnished to the referring practitioner.

(b) *Definition.* For purposes of this section, *interactive telecommunications systems* means multimedia communications equipment that includes, at a minimum, audio and video equipment permitting real-time consultation among the patient, consultant, and referring practitioner, or a practitioner described in section 1842(b)(18)(C) of the Act (other than a certified registered nurse anesthetist or anesthesiologist assistant) who is an employee of the referring practitioner, as appropriate to the medical needs of the patient and as needed to provide information to and at the direction of the consulting practitioner. Telephones, facsimile machines, and electronic mail systems do not meet the definition of interactive telecommunications systems.

9. In § 410.150, the introductory text to paragraph (b) is republished, and new paragraphs (b)(15) and (b)(16) are added to read as follows:

§ 410.150 To whom payment is made.

* * * * *

(b) *Specific rules.* Subject to the conditions set forth in paragraph (a) of this section, Medicare Part B pays as follows:

* * * * *

(15) To the qualified employer of a physician assistant for professional services furnished by the physician assistant and for services and supplies furnished incident to his or her services. Payment is made to the employer of a physician assistant regardless of whether the physician assistant furnishes services under a W–2, employer-employee employment relationship, or whether the physician assistant is an independent contractor who receives a 1099 reflecting the relationship. Both types of relationships must conform to the appropriate guidelines provided by the Internal Revenue Service. A qualified employer is not a group of physician assistants that incorporate to bill for their services. Payment is made only if no facility or other provider charges or is paid any amount for services furnished by a physician assistant.

(16) To a nurse practitioner or clinical nurse specialist for professional services furnished by a nurse practitioner or clinical nurse specialist in all settings in both rural and nonrural areas and for services and supplies furnished incident to those services. Payment is made only if no facility or other provider charges, or is paid, any amount for the furnishing of the professional services of the nurse practitioner or clinical nurse specialist.

* * * * *

10. In § 410.152, the headings to paragraphs (a) and (a)(1) are republished, and paragraph (a)(1)(v) is revised to read as follows:

§ 410.152 Amount of payment.

(a) *General provisions*—(1) *Exclusion from incurred expenses.* * * *

(v) In the case of expenses incurred for outpatient physical therapy services including speech-language pathology services, the expenses excluded are from the incurred expenses under § 410.60(e). In the case of expenses incurred for outpatient occupational therapy including speech-language pathology services, the expenses excluded are from the incurred expenses under § 410.59(e).

* * * * *

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES; OPTIONAL PROSPECTIVELY DETERMINED PAYMENT RATES FOR SKILLED NURSING FACILITIES

C. Part 413 is amended as set forth below.

1. The authority citation for part 413 continues to read as follows:

Authority: Secs. 1102, 1861(v)(1)(A), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x(v)(1)(A), and 1395hh).

2. Section 413.125 is amended by designating the existing text as paragraph (a) and adding paragraph (b) to read as follows:

§ 413.125 Payment for home health agency services.

* * * * *

(b) The reasonable cost of outpatient rehabilitation services furnished by a home health agency to homebound patients who are not entitled to home health benefits may not exceed the amounts payable under the physician fee schedule for comparable services effective January 1, 1999.

PART 414—PAYMENT FOR PART B MEDICAL AND OTHER HEALTH SERVICES

D. Part 414 is amended as set forth below:

1. The authority citation for part 414 continues to read as follows:

Authority: Secs. 1102, 1871, and 1881(b)(1) of the Social Security Act (42 U.S.C. 1302, 1395hh, and 1395rr(b)(1)).

2. In § 414.1, the introductory text is republished, and the following statutory authorities are added in numerical order to read as follows:

§ 414.1 Basis and scope.

This part implements the indicated provisions of the following sections of the Act:

1802—Rules for private contracts by Medicare beneficiaries.

1820—Rules for Medicare reimbursement for telehealth services.

* * * * *

3. Sections 414.20 through 414.62 are redesignated as Subpart B, and a new heading is added to read "Subpart B—Physicians and Other Practitioners".

4. In § 414.22, the introductory text to the section is revised and the heading to paragraph (b) is republished, and new paragraph (b)(5) is added to read as follows:

§ 414.22 Relative value units (RVUs).

HCFA establishes RVUs for physicians' work, practice expense, and malpractice insurance.

* * * * *

(b) *Practice expense RVUs.* * * *

(5) For services furnished beginning January 1, 1999, the practice expense RVUs are based on 75 percent of the practice expense RVUs applicable to services furnished in 1998 and 25 percent of the relative practice expense resources involved in furnishing the service. For services furnished in 2000, the practice expense RVUs are based on 50 percent of the practice expense RVUs applicable to services furnished in 1998 and 50 percent of the relative practice expense resources involved in furnishing the service. For services furnished in 2001, the practice expense RVUs are based on 25 percent of the practice expense RVUs applicable to services furnished in 1998 and 75 percent of the relative practice expense resources involved in furnishing the service. For services furnished in 2002 and subsequent years, the practice expense RVUs are based entirely on relative practice expense resources.

(i) Usually one of two levels of practice expense RVUs per code can be applied to each service. The lower practice expense RVUs apply to services furnished to hospital, skilled nursing facility, or ambulatory surgical center patients. The higher practice expense RVUs apply to services performed in a physician's office; services, other than evaluation and management services, furnished to patients in a nursing facility, in a facility or institution other than a hospital, skilled nursing facility, or ambulatory surgical center, or in the home; and other services furnished to facility patients for which the facility payment does not include physicians' practice costs.

(ii) Only one practice expense RVU per code can be applied for each of the following services: services that have only technical component practice expense RVUs or only professional component practice expense RVUs; evaluation and management services, such as hospital or nursing facility visits, that are furnished exclusively in one setting; and major surgical services.

* * * * *

5. In § 414.32, the heading and paragraph (b) are revised to read as follows:

§ 414.32 Determining payments for certain physicians' services furnished in facility settings.

* * * * *

(b) *General rule.* If physicians' services of the type routinely furnished in physicians' offices are furnished in facility settings before January 1, 1999, the physician fee schedule amount for those services is determined by reducing the practice expense RVUs for the services by 50 percent. For services furnished on or after January 1, 1999, the practice expense RVUs are determined in accordance with § 414.22(b)(5).

* * * * *

6. In § 414.34, the section heading is revised, and a new paragraph (a)(2)(iii) is added to read as follows:

§ 414.34 Payment for services and supplies incident to a physician's service.

(a) *Medical supplies.* * * *

(2) * * *

(iii) It is furnished before January 1, 1999.

* * * * *

7. In § 414.52, the section heading and introductory text are revised, and a new paragraph (d) is added to read as follows:

§ 414.52 Payment for physician assistants' services.

Allowed amounts for the services of a physician assistant furnished beginning January 1, 1992 and ending December 31, 1997, may not exceed the limits specified in paragraphs (a) through (c) of this section. Allowed amounts for the services of a physician assistant furnished beginning January 1, 1998, may not exceed the limits specified in paragraph (d) of this section.

* * * * *

(d) For services (other than assistant-at-surgery services) furnished beginning January 1, 1998, 85 percent of the physician fee schedule amount for the service. For assistant-at-surgery services, 85 percent of the physician fee schedule amount that would be allowed under the physician fee schedule if the assistant-at-surgery service were furnished by a physician.

8. Section 414.56 is revised to read as follows:

§ 414.56 Payment for nurse practitioners' and clinical nurse specialists' services.

(a) *Rural areas.* For services furnished beginning January 1, 1992 and ending December 31, 1997, allowed amounts for the services of a nurse practitioner or a clinical nurse specialist in a rural area (as described in section 1861(s)(2)(K)(iii) of the Act) may not exceed the following limits:

(1) For services furnished in a hospital (including assistant-at-surgery services), 75 percent of the physician fee schedule amount for the service.

(2) For all other services, 85 percent of the physician fee schedule amount for the service.

(b) *Non-rural areas.* For services furnished beginning January 1, 1992 and ending December 31, 1997, allowed amounts for the services of a nurse practitioner or a clinical nurse specialist in a nursing facility may not exceed 85 percent of the physician fee schedule amount for the service.

(c) *Beginning January 1, 1998.* For services (other than assistant-at-surgery services) furnished beginning January 1, 1998, allowed amounts for the services of a nurse practitioner or clinical nurse specialist may not exceed 85 percent of the physician fee schedule amount for the service. For assistant-at-surgery services, allowed amounts for the services of a nurse practitioner or clinical nurse specialist may not exceed 85 percent of the physician fee schedule amount that would be allowed under the physician fee schedule if the assistant-at-surgery service were furnished by a physician.

9. Section 414.65 is added to subpart B, to read as follows:

§ 414.65 Payment for consultations via interactive telecommunications systems.

(a) *Limitations on payment.* Medicare payment for a professional consultation conducted via interactive telecommunications systems is subject to the following limitations:

(1) The payment may not exceed the current fee schedule amount applicable to the consulting practitioner for the health care service provided.

(2) The payment may not include reimbursement for any telephone line charges or any facility fees.

(3) The payment is subject to the coinsurance and deductible requirements of sections 1833(a)(1) and (b) of the Act.

(4) The payment differential of section 1848(a)(3) of the Act applies to services furnished by nonparticipating physicians.

(b) *Prohibited billing.* The beneficiary may not be billed for any telephone line charges or any facility fees.

(c) *Assignment required for nonphysician practitioners.* Payment to nonphysician practitioners is made only on an assignment-related basis.

(d) *Who may bill for the consultation.* Only the consultant practitioner may bill for the consultation.

(e) *Sharing of payment.* The consultant practitioner must provide to the referring practitioner 25 percent of any payments he or she receives for the consultation, including any applicable deductible or coinsurance amounts.

(f) *Sanctions.* A practitioner may be subject to the applicable sanctions provided for in chapter V, parts 1001, 1002, and 1003 of this title if he or she—

(1) Knowingly and willfully bills or collects for services in violation of the limitations of this section on a repeated basis; or

(2) Fails to timely correct excess charges by reducing the actual charge billed for the service to an amount that does not exceed the limiting charge for the service or fails to timely refund excess collections.

PART 415—SERVICES FURNISHED BY PHYSICIANS IN PROVIDERS, SUPERVISING PHYSICIANS IN TEACHING SETTINGS, AND RESIDENTS IN CERTAIN SETTINGS

E. Part 415 is amended as set forth below:

1. The authority citation for part 415 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (41 U.S.C. 1302 and 1395hh).

2. Section 415.110 is revised to read as follows:

§ 415.110 Conditions for payment: Medically directed anesthesia services.

(a) *General payment rule.* Medicare pays for the physician's medical direction of anesthesia services for one service or two through four concurrent anesthesia services furnished after December 31, 1998, only if each of the services meets the condition in § 415.102(a) and the following additional conditions:

(1) For each patient, the physician—

(i) Performs a pre-anesthetic examination and evaluation;

(ii) Prescribes the anesthesia plan;

(iii) Personally participates in the most demanding aspects of the anesthesia plan including, if applicable, induction and emergence;

(iv) Ensures that any procedures in the anesthesia plan that he or she does not perform are performed by a qualified individual as defined in operating instructions;

(v) Monitors the course of anesthesia administration at frequent intervals;

(vi) Remains physically present and available for immediate diagnosis and treatment of emergencies; and

(vii) Provides indicated post-anesthesia care.

(2) The physician directs no more than four anesthesia services concurrently and does not perform any other services while he or she is directing the single or concurrent services so that one or more of the conditions in paragraph (a)(1) of this section are not violated.

(3) If the physician personally performs the anesthesia service, the payment rules in § 414.46(c) of this chapter apply (Physician personally performs the anesthesia procedure).

(b) *Medical documentation.* The physician alone inclusively documents in the patient's medical record that the conditions set forth in paragraph (a)(1) of this section have been satisfied, specifically documenting that he or she performed the pre-anesthetic exam and evaluation, provided the indicated post-anesthesia care, and was present during the most demanding procedures, including induction and emergence where applicable.

PART 424—CONDITIONS FOR MEDICARE PAYMENT

F. Part 424 is amended as set forth below:

1. The authority citation for part 424 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (41 U.S.C. 1302 and 1395hh).

2. In § 424.24, paragraphs (c) introductory text, (c)(1)(ii), (c)(1)(iii), (c)(3)(i), (c)(3)(ii), (c)(4), (f)(2), and (f)(3) are revised to read as follows:

§ 424.24 Requirements for medical and other health services furnished by providers under Medicare Part B.

* * * * *

(c) *Outpatient physical therapy and speech-language pathology services*—(1) *Content of certification.* * * *

(ii) The services were furnished while the individual was under the care of a physician, nurse practitioner, clinical nurse specialist, or physician assistant.

(iii) The services were furnished under a plan of treatment that meets the requirements of § 410.61 of this chapter.

* * * * *

(3) *Signature.* * * *

(i) If the plan of treatment is established by a physician, nurse practitioner, clinical nurse specialist, or physician assistant, the certification must be signed by that physician or nonphysician practitioner.

(ii) If the plan of treatment is established by a physical therapist or speech-language pathologist, the certification must be signed by a physician or by a nurse practitioner, clinical nurse specialist, or physician assistant who has knowledge of the case.

(4) *Recertification*—(i) *Timing.* Recertification statements are required at least every 30 days and must be signed by the physician, nurse practitioner, clinical nurse specialist, or physician assistant who reviews the plan of treatment.

(ii) *Content.* The recertification statement must indicate the continuing need for physical therapy or speech-language pathology services and an estimate of how much longer the services will be needed.

(iii) *Signature.* Recertifications must be signed by the physician, nurse practitioner, clinical nurse specialist, or physician assistant who reviews the plan of treatment.

* * * * *

(f) * * *

(2) *Signature.* The certificate must be signed by a physician, nurse practioner, clinical nurse specialist, or physician assistant who has knowledge of the case.

(3) *Timing.* The physician, nurse practioner, clinical nurse specialist, or physician assistant may provide certification at the time the services are furnished or, if services are provided on a continuing basis, either at the beginning or at the end of a series of visits.

* * * * *

PART 485—CONDITIONS OF PARTICIPATION: SPECIALIZED PROVIDERS

G. Part 485 is amended as set forth below:

1. The authority citation for part 485 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (41 U.S.C. 1302 and 1395hh).

2. Section 485.705 is revised to read as follows:

§ 485.705 Personnel qualifications.

(a) *General qualification requirements.* Except as specified in paragraphs (b) and (c) of this section, all personnel who are involved in the furnishing of outpatient physical therapy, occupational therapy, and speech-language pathology services directly by or under arrangements with an organization must be legally authorized (licensed or, if applicable, certified or registered) to practice by the State in which they perform the functions or actions, and must act only within the scope of their State license or State certification or registration.

(b) *Exception for Federally defined qualifications.* The following Federally defined qualifications must be met:

(1) For a physician, the qualifications and conditions as defined in section 1861(r) of the Act and the requirements in part 484 of this chapter.

(2) *For o speech-language pathologist,* the qualifications specified in section 1861(11)(1) of the Act and the requirements in part 484 of this chapter.

(c) *Exceptions when no State Licensing laws or State certification or registration requirements exist.* If no State licensing laws or State certification or registration requirements exist for the profession, the following requirements must be met—

(1) An *administrator* is a person who has a bachelor's degree and:

(i) Has experience or specialized training in the administration of health institutions or agencies; or

(ii) Is qualified and has experience in one of the professional health disciplines.

(2) An *occupotional therapist* must meet the requirements in part 484 of this chapter.

(3) *An occupotional therapy assistant* must meet the requirements in part 484 of this chapter.

(4) A *physical therapist* must meet the requirements in part 484 of this chapter.

(5) A *physical therapist assistant* must meet the requirements in part 484 of this chapter.

(6) A *social worker* must meet the requirements in part 484 of this chapter.

(7) A *vocational specialist* is a person who has a baccalaureate degree and—

(i) Two years experience in vocational counseling in a rehabilitation setting such as a sheltered workshop, State employment service agency, etc.; or

(ii) At least 18 semester hours in vocational rehabilitation, educational or vocational guidance, psychology, social work, special education or personnel administration, and 1 year of experience in vocational counseling in a rehabilitation setting; or

(iii) A master's degree in vocational counseling.

(8) *A nurse practitioner* is a person who must:

(i) Possess a master's degree in nursing;

(ii) Be a registered professional nurse who is authorized by the State in which the services are furnished, to practice as a nurse practitioner in accordance with State law; and,

(iii) Be certified as a nurse practitioner by the American Nurses Credentialing Center.

(9) *A clinical nurse speciolist* is a person who must:

(i) Be a registered nurse who is currently licensed to practice in the State where he or she practices and be authorized to perform the services of a clinical nurse specialist in accordance with State law;

(ii) Have a master's degree in a defined clinical area of nursing from an accredited educational institution; and,

(iii) Be certified as a clinical nurse specialist by the American Nurses Credentialing Center.

(10) *A physician assistant* is a person who:

(i) Has graduated from a physician assistant educational program that is accredited by the National Commission on Accreditation of Allied Health Education Programs; and

(ii) Has passed the national certification examination that is certified by the National Commission on Certification of Physician Assistants; and

(iii) Is licensed by the State as a physician assistant to practice as a physician assistant.

3. In § 485.711, paragraph (b)(3) is revised to read as follows:

§ 485.711 Conditions of participation: Plan of care and physician involvement.

* * * * *

(b) * * *

(3) The plan of care and results of treatment are reviewed by the physician or by the individual who established the plan at least as often as the patient's condition requires, and the indicated action is taken. (For Medicare patients, the plan must be reviewed by a physician, nurse practitioner, clinical nurse specialist, or physician assistant at least every 30 days, in accordance with § 410.61(e) of this chapter.)

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: October 20, 1998.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Dated: October 26, 1998.

Donna E. Shalala,

Secretary.

Note: These addenda will not appear in the Code of Federal Regulations.

Addendum A—Explanation and Use of Addenda B Through C

The addenda on the following pages provide various data pertaining to the Medicare fee schedule for physicians' services furnished in 1999. Addendum B contains the RVUs for work, non-facility practice expense, facility practice expense, and malpractice expense, and other information for all services included in the physician fee schedule. Addendum C provides interim RVUs and related information for codes that are subject to comment. Each code listed in Addendum C is also included in Addendum B. Further explanations of the information in these addenda are provided at the beginning of each addendum.

Addendum B—1999 Relative Value Units and Related Information Used in Determining Medicare Payments for 1999

This addendum contains the following information for each CPT code and alphanumeric HCPCS code, except for alphanumeric codes beginning with B (enteral and parenteral therapy), E (durable medical equipment), K (temporary codes for nonphysicians' services or items), or L (orthotics), and codes for anesthesiology.

1. *CPT/HCPCS code.* This is the CPT or alphanumeric HCPCS number for the service. Alphanumeric HCPCS codes are included at the end of this addendum.

2. *Modifier.* A modifier is shown if there is a technical component (modifier TC) and a professional component (PC) (modifier -26) for the service. If there is a PC and a TC for the service, Addendum B contains three entries for the code: One for the global values (both professional and technical); one for modifier -26 (PC); and one for modifier TC. The global service is not designated by a modifier, and physicians must bill using the code without a modifier if the physician furnishes both the PC and the TC of the service.

Modifier -53 is shown for a discontinued procedure. There will be RVUs for the code (CPT code 45378) with this modifier.

3. *Status indicator.* This indicator shows whether the CPT/HCPCS code is in the physician fee schedule and whether it is separately payable if the service is covered.

A=Active code. These codes are separately payable under the fee schedule if covered. There will be RVUs for codes with this status. The presence of an "A" indicator does not mean that Medicare has made a national decision regarding the coverage of the service. Carriers remain responsible for coverage decisions in the absence of a national Medicare policy.

B=Bundled code. Payment for covered services is always bundled into payment for other services not specified. If RVUs are shown, they are not used for Medicare payment. If these services are covered, payment for them is subsumed by the payment for the services to which they are incident. (An example is a telephone call from a hospital nurse regarding care of a patient.)

C=Carrier-priced code. Carriers will establish RVUs and payment amounts for these services, generally on a case-by-case basis following review of documentation, such as an operative report.

D=Deleted code. These codes are deleted effective with the beginning of the calendar year.

E=Excluded from physician fee schedule by regulation. These codes are for items or services that we chose to exclude from the physician fee schedule payment by regulation. No RVUs are shown, and no payment may be made under the physician fee schedule for these codes. Payment for them, if they are covered, continues under reasonable charge or other payment procedures.

G=Code not valid for Medicare purposes. Medicare does not recognize codes assigned this status. Medicare uses another code for reporting of, and payment for, these services.

N=Noncovered service. These codes are noncovered services. Medicare payment may not be made for these codes. If RVUs are shown, they are not used for Medicare payment.

P=Bundled or excluded code. There are no RVUs for these services. No separate payment should be made for them under the physician fee schedule.

—If the item or service is covered as incident to a physician's service and is furnished on the same day as a physician's service, payment for it is bundled into the payment for the physician's service to which it is incident (an example is an elastic bandage furnished by a physician incident to a physician's service).
—If the item or service is covered as other than incident to a physician's service, it is excluded from the physician fee schedule (for example, colostomy supplies) and is paid under the other payment provisions of the Act.

R=Restricted coverage. Special coverage instructions apply. If the service is covered and no RVUs are shown, it is carrier-priced.

T=Injections. There are RVUs for these services, but they are only paid if there are no other services payable under the physician fee schedule billed on the same date by the same provider. If any other services payable under the physician fee schedule are billed on the same date by the same provider, these services are bundled into the service(s) for which payment is made.

X=Exclusion by law. These codes represent an item or service that is not within the definition of "physicians" services" for physician fee schedule payment purposes. No RVUs are shown for these codes, and no payment may be made under the physician fee schedule. (Examples are ambulance services and clinical diagnostic laboratory services.)

4. *Description of code.* This is an abbreviated version of the narrative description of the code.

5. *Physician work RVUs.* These are the RVUs for the physician work for this service in 1999. Codes that are not used for Medicare payment are identified with a "+."

6. *Non-facility practice expense RVUs.* These are the fully implemented resource-based practice expense RVUs for non-facility settings.

7. *Transition non-facility practice expense RVUs.* Blended 1999 non-facility practice expense RVUs.

8. *Facility practice expense RVUs.* These are the fully implemented resource-based practice expense RVUs for facility settings.

9. *Transition facility practice expense RVUs.* Blended 1999 facility practice expense RVUs.

10. *Malpractice expense RVUs.* These are the RVUs for the malpractice expense for the service for 1999.

11. *Non-facility total.* This is the sum of the work, fully implemented non-facility practice expense, and malpractice expense RVUs for 1999.

12. *Transition non-facility total.* This is the sum of the work, transition non-facility practice expense, and malpractice expense RVUs for 1999.

13. *Facility total.* This is the sum of the work, fully implemented facility practice expense, and malpractice expense RVUs for 1999.

14. *Transition facility total.* This is the sum of the work, transition facility practice expense, and malpractice expense RVUs for 1999.

15. *Global period.* This indicator shows the number of days in the global period for the code (0, 10, or 90 days). An explanation of the alpha codes follows:

MMM = The code describes a service furnished in uncomplicated maternity cases including antepartum care, delivery, and postpartum care. The usual global surgical concept does not apply. See the 1998 Physicians' Current Procedural Terminology for specific definitions.

XXX = The global concept does not apply.

YYY = The global period is to be set by the carrier (for example, unlisted surgery codes).

ZZZ = The code is part of another service and falls within the global period for the other service.

BILLING CODE 4120-01-P

ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
10040		A	Acne surgery of skin abscess	1.18	1.28	0.58	0.54	0.27	0.02	2.48	1.78	1.74	1.47	010
10060		A	Drainage of skin abscess	1.17	1.18	0.65	0.58	0.33	0.03	2.36	1.85	1.78	1.53	010
10061		A	Drainage of skin abscess	2.40	1.79	0.97	1.07	0.53	0.05	4.24	3.42	3.52	2.98	010
10080		A	Drainage of pilonidal cyst	1.17	1.73	0.84	0.60	0.35	0.04	2.94	2.05	1.81	1.56	010
10081		A	Drainage of pilonidal cyst	2.45	2.32	1.48	1.27	0.77	0.13	4.90	4.06	3.85	3.35	010
10120		A	Remove foreign body	1.22	1.56	0.77	0.60	0.34	0.04	2.82	2.03	1.86	1.60	010
10121		A	Remove foreign body	2.69	2.44	1.43	1.46	0.78	0.09	5.22	4.21	4.24	3.56	010
10140		A	Drainage of hematoma/fluid	1.53	1.22	0.70	0.77	0.39	0.04	2.79	2.27	2.34	1.96	010
10160		A	Puncture drainage of lesion	1.20	1.33	0.64	0.65	0.32	0.04	2.57	1.88	1.89	1.56	010
10180		A	Complex drainage, wound	2.25	1.19	1.15	1.14	1.14	0.14	3.58	3.54	3.53	3.53	010
11000		A	Debride infected skin	0.60	0.49	0.45	0.24	0.23	0.03	1.12	1.08	0.87	0.86	000
11001		A	Debride infect skin add-on	0.30	0.28	0.28	0.12	0.14	0.02	0.58	0.60	0.44	0.46	ZZZ
11010		A	Debride skin, fx	4.20	2.07	3.74	1.87	3.69	0.51	6.78	8.45	6.58	8.40	010
11011		A	Debride skin/muscle, fx	4.95	3.26	4.66	2.49	4.48	0.60	8.81	10.21	8.04	10.01	000
11012		A	Debride skin/muscle/bone, fx	6.88	4.66	8.51	3.92	6.32	0.84	12.38	14.23	11.64	14.04	000
11040		A	Debride skin partial	0.50	0.43	0.43	0.20	0.22	0.03	0.96	0.96	0.73	0.75	000
11041		A	Debride skin full	0.82	0.59	0.61	0.32	0.31	0.05	1.46	1.48	1.19	1.18	000
11042		A	Debride skin/tissue	1.12	0.80	0.73	0.45	0.38	0.06	1.98	1.91	1.63	1.56	000
11043		A	Debride tissue/muscle	2.38	2.02	1.98	1.27	1.79	0.27	4.67	4.63	3.92	4.44	010
11044		A	Debride tissue/muscle/bone	3.06	2.68	2.97	1.70	2.72	0.38	6.12	6.41	5.14	6.16	010
11055		R	Trim skin lesion	0.27	0.32	0.29	0.11	0.13	0.02	0.61	0.58	0.40	0.42	000
11056		R	Trim 2 to 4 skin lesions	0.39	0.36	0.38	0.15	0.18	0.02	0.77	0.79	0.56	0.59	000
11057		R	Trim over 4 skin lesions	0.50	0.41	0.33	0.20	0.16	0.02	0.93	0.85	0.72	0.68	000
11100		A	Biopsy of skin lesion	0.81	1.24	0.72	0.37	0.30	0.03	2.08	1.56	1.21	1.14	000
11101		A	Biopsy, skin add-on	0.41	0.55	0.37	0.20	0.17	0.02	0.98	0.80	0.63	0.60	ZZZ
11200		A	Removal of skin tags	0.77	0.92	0.58	0.31	0.26	0.03	1.72	1.38	1.11	1.06	010
11201		A	Remove skin tags add-on	0.29	0.34	0.22	0.12	0.10	0.02	0.65	0.53	0.43	0.41	ZZZ
11300		A	Shave skin lesion	0.51	0.85	0.65	0.22	0.27	0.04	1.40	1.20	0.77	0.82	000
11301		A	Shave skin lesion	0.85	0.94	0.78	0.39	0.38	0.05	1.84	1.68	1.29	1.28	000
11302		A	Shave skin lesion	1.05	1.03	0.99	0.49	0.49	0.07	2.15	2.11	1.61	1.61	000
11303		A	Shave skin lesion	1.24	1.15	1.40	0.55	0.69	0.13	2.52	2.77	1.92	2.06	000
11305		A	Shave skin lesion	0.67	0.74	0.61	0.29	0.28	0.04	1.45	1.32	1.00	0.99	000
11306		A	Shave skin lesion	0.99	0.95	0.82	0.43	0.40	0.05	1.99	1.86	1.47	1.44	000
11307		A	Shave skin lesion	1.14	1.03	1.02	0.51	0.51	0.08	2.25	2.24	1.73	1.73	000
11308		A	Shave skin lesion	1.41	1.14	1.43	0.61	0.72	0.13	2.68	2.97	2.15	2.26	000
11310		A	Shave skin lesion	0.73	0.94	0.80	0.34	0.37	0.05	1.72	1.58	1.12	1.15	000
11311		A	Shave skin lesion	1.05	1.04	0.95	0.51	0.47	0.06	2.15	2.06	1.62	1.58	000
11312		A	Shave skin lesion	1.20	1.11	1.19	0.58	0.60	0.09	2.40	2.48	1.87	1.89	000
11313		A	Shave skin lesion	1.62	1.36	1.56	0.76	0.80	0.12	3.10	3.30	2.50	2.54	000
11400		A	Removal of skin lesion	0.91	2.00	0.94	0.64	0.38	0.04	2.95	1.89	1.59	1.33	010

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3 +indicates RVUs are not used for Medicare payment.

ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
11401		A	Removal of skin lesion	1.32	2.04	1.06	0.81	0.48	0.05	3.41	2.43	2.18	1.85	010
11402		A	Removal of skin lesion	1.61	2.13	1.26	0.89	0.59	0.07	3.81	2.94	2.57	2.27	010
11403		A	Removal of skin lesion	1.92	1.92	1.43	1.01	0.73	0.10	3.94	3.45	3.03	2.75	010
11404		A	Removal of skin lesion	2.20	2.06	1.64	1.11	0.84	0.13	4.39	3.97	3.44	3.17	010
11406		A	Removal of skin lesion	2.78	2.77	2.22	1.32	1.86	0.26	5.79	5.24	4.34	4.88	010
11420		A	Removal of skin lesion	1.06	1.71	0.85	0.71	0.39	0.04	2.81	1.95	1.81	1.49	010
11421		A	Removal of skin lesion	1.53	2.00	1.08	0.91	0.52	0.05	3.58	2.66	2.49	2.10	010
11422		A	Removal of skin lesion	1.76	2.14	1.30	0.97	0.63	0.08	3.98	3.14	2.81	2.47	010
11423		A	Removal of skin lesion	2.17	2.06	1.58	1.16	0.82	0.12	4.35	3.87	3.45	3.11	010
11424		A	Removal of skin lesion	2.62	2.21	1.69	1.32	0.90	0.13	4.96	4.44	4.07	3.65	010
11426		A	Removal of skin lesion	3.78	3.22	2.30	1.77	1.94	0.23	7.23	6.31	5.78	5.95	010
11440		A	Removal of skin lesion	1.15	2.10	1.09	0.86	0.50	0.05	3.30	2.29	2.06	1.70	010
11441		A	Removal of skin lesion	1.61	2.24	1.25	1.06	0.61	0.06	3.91	2.92	2.73	2.28	010
11442		A	Removal of skin lesion	1.87	2.33	1.50	1.16	0.75	0.09	4.29	3.46	3.12	2.71	010
11443		A	Removal of skin lesion	2.49	2.78	1.87	1.47	0.96	0.12	5.39	4.48	4.08	3.57	010
11444		A	Removal of skin lesion	3.42	2.81	1.90	1.90	1.08	0.11	6.34	5.43	5.43	4.61	010
11448		A	Removal of skin lesion	4.49	3.69	2.37	2.33	1.31	0.14	8.32	7.00	6.96	5.94	010
11450		A	Removal, sweat gland lesion	2.73	3.44	3.04	0.89	2.41	0.34	6.51	6.11	3.96	5.48	090
11451		A	Removal, sweat gland lesion	3.95	3.99	3.36	1.61	2.77	0.36	8.30	7.67	5.92	7.08	090
11462		A	Removal, sweat gland lesion	2.51	3.22	2.77	0.98	2.21	0.28	6.01	5.56	3.77	5.00	090
11463		A	Removal, sweat gland lesion	3.95	4.63	2.79	1.60	2.03	0.27	8.85	7.01	5.82	6.25	090
11470		A	Removal, sweat gland lesion	3.25	4.09	3.29	1.29	2.59	0.35	7.69	6.89	4.89	6.19	090
11471		A	Removal, sweat gland lesion	4.41	4.79	3.20	1.79	2.45	0.38	9.58	7.99	6.58	7.24	090
11600		A	Removal of skin lesion	1.41	2.17	1.47	0.89	0.69	0.08	3.66	2.96	2.38	2.18	010
11601		A	Removal of skin lesion	1.93	2.11	1.66	0.82	0.78	0.09	4.13	3.68	2.84	2.80	010
11602		A	Removal of skin lesion	2.09	2.26	2.05	1.19	1.04	0.13	4.48	4.27	3.41	3.26	010
11603		A	Removal of skin lesion	2.35	2.10	2.36	1.27	1.23	0.16	4.61	4.87	3.78	3.74	010
11604		A	Removal of skin lesion	2.58	2.24	2.67	1.34	1.39	0.20	5.02	5.45	4.12	4.17	010
11606		A	Removal of skin lesion	3.43	3.07	3.30	1.66	2.95	0.38	6.88	7.11	5.47	6.76	010
11620		A	Removal of skin lesion	1.34	2.12	1.62	0.90	0.77	0.09	3.55	3.05	2.33	2.20	010
11621		A	Removal of skin lesion	1.97	2.25	1.99	1.20	1.01	0.13	4.35	4.09	3.30	3.11	010
11622		A	Removal of skin lesion	2.34	2.41	2.40	1.35	1.24	0.15	4.90	4.89	3.84	3.73	010
11623		A	Removal of skin lesion	2.93	2.39	2.70	1.60	1.45	0.20	5.52	5.83	4.73	4.58	010
11624		A	Removal of skin lesion	3.43	2.69	3.28	1.83	1.76	0.25	6.37	6.96	5.51	5.44	010
11626		A	Removal of skin lesion	4.30	3.53	3.66	2.22	3.33	0.40	8.23	8.36	6.92	8.03	010
11640		A	Removal of skin lesion	1.53	2.18	1.89	1.05	0.94	0.12	3.83	3.54	2.70	2.59	010
11641		A	Removal of skin lesion	2.44	2.51	2.33	1.51	1.23	0.14	5.09	4.91	4.09	3.81	010
11642		A	Removal of skin lesion	2.93	2.48	2.71	1.74	1.49	0.18	5.59	5.82	4.85	4.60	010
11643		A	Removal of skin lesion	3.50	2.79	3.15	2.01	1.73	0.22	6.51	6.87	5.73	5.45	010
11644		A	Removal of skin lesion	4.55	3.40	3.71	2.54	2.07	0.26	8.21	8.52	7.35	6.88	010

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
11646		A	Removal of skin lesion	5.95	4.53	4.65	3.24	4.33	0.47	10.95	11.07	9.66	10.75	010
11719		R	Trim nail(s)	0.11	0.41	0.30	0.04	0.06	0.02	0.54	0.43	0.17	0.19	000
11720		A	Debride nail, 1-5	0.32	0.38	0.36	0.27	0.20	0.02	0.72	0.70	0.61	0.54	000
11721		A	Debride nail, 6 or more	0.54	0.49	0.57	0.36	0.32	0.04	1.07	1.15	0.94	0.90	000
11730		A	Removal of nail plate	1.13	0.69	0.54	0.57	0.33	0.03	1.85	1.70	1.73	1.49	000
11731		D	Removal of second nail plate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ
11732		A	Remove additional nail plate	0.57	0.27	0.27	0.27	0.17	0.02	0.86	0.86	0.86	0.76	ZZZ
11740		A	Drain blood from under nail	0.37	0.59	0.46	0.13	0.19	0.03	0.99	0.86	0.53	0.59	000
11750		A	Removal of nail bed	1.86	1.38	2.06	0.75	1.04	0.15	3.39	4.07	2.76	3.05	010
11752		A	Remove nail bed/finger tip	2.67	1.74	2.73	1.90	1.62	0.28	4.69	5.68	4.85	4.57	010
11755		A	Biopsy, nail unit	1.31	0.97	1.05	0.73	0.99	0.09	2.37	2.45	2.13	2.39	000
11760		A	Reconstruction of nail bed	1.58	1.37	1.10	1.37	0.73	0.07	3.02	2.75	3.02	2.38	010
11762		A	Reconstruction of nail bed	2.89	1.82	2.55	2.09	1.57	0.19	4.90	5.63	5.17	4.65	010
11765		A	Excision of nail fold, toe	0.69	0.86	0.63	0.57	0.35	0.04	1.59	1.36	1.30	1.08	010
11770		A	Removal of pilonidal lesion	2.61	2.38	2.77	1.20	2.48	0.34	5.33	5.72	4.15	5.43	010
11771		A	Removal of pilonidal lesion	5.74	4.66	4.85	3.48	4.55	0.72	11.12	11.31	9.94	11.01	090
11772		A	Removal of pilonidal lesion	6.98	5.47	5.29	3.94	4.91	0.79	13.24	13.06	11.71	12.68	090
11900		A	Injection into skin lesions	0.52	0.60	0.35	0.21	0.16	0.02	1.14	0.89	0.75	0.70	000
11901		A	Added skin lesions injection	0.80	0.72	0.51	0.33	0.25	0.02	1.54	1.33	1.15	1.07	000
11920		R	Correct skin color defects	1.61	1.81	1.41	0.84	1.17	0.18	3.60	3.20	2.63	2.96	000
11921		R	Correct skin color defects	1.93	1.99	1.64	1.02	1.40	0.22	4.14	3.79	3.17	3.55	000
11922		R	Correct skin color defects	0.49	0.32	0.37	0.26	0.36	0.05	0.86	0.91	0.80	0.90	ZZZ
11950		R	Therapy for contour defects	0.84	0.96	1.21	0.41	1.07	0.09	1.89	2.14	1.34	2.00	000
11951		R	Therapy for contour defects	1.19	1.38	1.31	0.50	1.09	0.09	2.66	2.59	1.78	2.37	000
11952		R	Therapy for contour defects	1.69	0.99	1.22	0.99	1.22	0.09	2.77	3.00	2.77	3.00	000
11954		R	Therapy for contour defects	1.85	1.44	1.33	0.96	1.21	0.09	3.38	3.27	2.90	3.15	000
11960		A	Insert tissue expander(s)	9.08	NA	NA	8.83	8.50	1.16	NA	NA	19.07	18.74	090
11970		A	Replace tissue expander	7.06	NA	NA	4.56	7.46	1.26	NA	NA	12.88	15.78	090
11971		A	Remove tissue expander(s)	2.13	4.66	3.04	2.98	2.62	0.64	7.43	5.81	5.75	5.39	090
11975		N	Insert contraceptive cap	+1.48	1.25	1.18	0.56	1.00	0.20	2.93	2.86	2.24	2.68	XXX
11976		R	Removal of contraceptive cap	1.78	1.47	1.41	0.67	1.21	0.23	3.48	3.42	2.68	3.22	XXX
11977		N	Removal/reinsert contra cap	+3.30	1.94	2.41	1.25	2.23	0.43	5.67	6.14	4.98	5.96	XXX
12001		A	Repair superficial wound(s)	1.70	2.01	0.97	0.69	0.64	0.04	3.75	2.71	2.43	2.38	010
12002		A	Repair superficial wound(s)	1.86	2.10	1.17	0.73	0.83	0.05	4.01	3.08	2.64	2.74	010
12004		A	Repair superficial wound(s)	2.24	2.24	1.49	0.85	1.14	0.08	4.56	3.81	3.17	3.46	010
12005		A	Repair superficial wound(s)	2.86	2.62	1.86	1.07	1.47	0.11	5.59	4.83	4.04	4.44	010
12006		A	Repair superficial wound(s)	3.67	3.56	2.34	1.54	1.83	0.15	7.38	6.16	5.36	5.65	010
12007		A	Repair superficial wound(s)	4.12	3.99	2.46	1.90	1.94	0.15	8.26	6.73	6.17	6.21	010
12011		A	Repair superficial wound(s)	1.76	2.09	1.12	0.69	0.77	0.05	3.90	2.93	2.50	2.58	010
12013		A	Repair superficial wound(s)	1.99	2.21	1.39	0.74	1.03	0.06	4.26	3.44	2.79	3.08	010

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
12014		A	Repair superficial wound(s)	2.46	2.50	1.59	0.92	1.20	0.08	5.04	4.13	3.46	3.74	010
12015		A	Repair superficial wound(s)	3.19	2.88	2.04	1.12	1.60	0.11	6.18	5.34	4.42	4.90	010
12016		A	Repair superficial wound(s)	3.93	3.10	2.61	1.37	2.18	0.15	7.18	6.69	5.45	6.26	010
12017		A	Repair superficial wound(s)	4.71	4.57	3.88	1.86	3.20	0.24	9.52	8.83	6.81	8.15	010
12018		A	Repair superficial wound(s)	5.53	5.38	5.54	2.50	4.82	0.38	11.29	11.45	8.41	10.73	010
12020		A	Closure of split wound	2.62	2.27	1.54	1.34	1.30	0.14	5.03	4.30	4.10	4.06	010
12021		A	Closure of split wound	1.84	1.82	0.96	1.01	0.51	0.09	3.75	2.89	2.94	2.44	010
12031		A	Layer closure of wound(s)	2.15	2.36	1.18	1.04	0.55	0.05	4.56	3.38	3.24	2.75	010
12032		A	Layer closure of wound(s)	2.47	2.39	1.45	1.12	0.71	0.08	4.94	4.00	3.67	3.26	010
12034		A	Layer closure of wound(s)	2.92	2.59	1.85	1.26	1.52	0.12	5.63	4.89	4.30	4.56	010
12035		A	Layer closure of wound(s)	3.43	2.67	2.23	1.54	1.95	0.18	6.28	5.84	5.15	5.56	010
12036		A	Layer closure of wound(s)	4.05	4.36	2.98	2.12	2.42	0.29	8.70	7.32	6.46	6.76	010
12037		A	Layer closure of wound(s)	4.67	4.78	3.71	2.41	3.12	0.38	9.83	8.76	7.46	8.17	010
12041		A	Layer closure of wound(s)	2.37	2.63	1.34	1.09	0.62	0.06	5.06	3.77	3.52	3.05	010
12042		A	Layer closure of wound(s)	2.74	2.59	1.60	1.24	0.79	0.09	5.42	4.43	4.07	3.62	010
12044		A	Layer closure of wound(s)	3.14	2.70	2.00	1.39	1.67	0.13	5.97	5.27	4.66	4.94	010
12045		A	Layer closure of wound(s)	3.64	3.08	2.50	1.69	2.16	0.18	6.90	6.32	5.51	5.98	010
12046		A	Layer closure of wound(s)	4.25	4.67	3.46	2.21	2.85	0.29	9.21	8.00	6.75	7.39	010
12047		A	Layer closure of wound(s)	4.65	5.12	4.55	2.67	3.94	0.44	10.21	9.64	7.76	9.03	010
12051		A	Layer closure of wound(s)	2.47	2.57	1.47	1.21	0.72	0.08	5.12	4.02	3.76	3.27	010
12052		A	Layer closure of wound(s)	2.77	2.52	1.83	1.17	0.89	0.11	5.40	4.71	4.05	3.77	010
12053		A	Layer closure of wound(s)	3.12	2.64	2.09	1.30	1.76	0.13	5.89	5.34	4.55	5.01	010
12054		A	Layer closure of wound(s)	3.46	2.94	2.85	1.40	2.47	0.20	6.60	6.51	5.06	6.13	010
12055		A	Layer closure of wound(s)	4.43	3.67	3.56	2.01	3.14	0.29	8.39	8.28	6.73	7.86	010
12056		A	Layer closure of wound(s)	5.24	5.14	5.14	2.75	4.54	0.41	10.79	10.79	8.40	10.19	010
12057		A	Layer closure of wound(s)	5.96	4.70	5.71	3.70	5.46	0.38	11.04	12.05	10.04	11.80	010
13100		A	Repair of wound or lesion	3.12	2.93	1.66	1.68	0.89	0.10	6.15	4.88	4.90	4.11	010
13101		A	Repair of wound or lesion	3.92	3.14	2.48	2.12	1.38	0.16	7.22	6.56	6.20	5.46	010
13120		A	Repair of wound or lesion	3.30	3.01	1.86	1.69	0.98	0.13	6.44	5.29	5.12	4.41	010
13121		A	Repair of wound or lesion	4.33	3.34	3.00	2.18	1.63	0.26	7.93	7.59	6.77	6.22	010
13131		A	Repair of wound or lesion	3.79	3.28	2.43	2.02	1.32	0.18	7.25	6.40	5.99	5.29	010
13132		A	Repair of wound or lesion	5.95	4.08	4.74	3.06	2.63	0.34	10.37	11.03	9.35	8.92	010
13150		A	Repair of wound or lesion	3.81	4.38	2.53	2.38	2.03	0.18	8.37	6.52	6.37	6.02	010
13151		A	Repair of wound or lesion	4.45	4.36	3.09	2.75	1.69	0.27	9.08	7.81	7.47	6.41	010
13152		A	Repair of wound or lesion	6.33	5.11	5.46	3.66	3.01	0.53	11.97	12.32	10.52	9.87	010
13160		A	Late closure of wound	10.48	NA	NA	5.81	4.16	0.45	NA	NA	16.74	15.09	090
13300		A	Repair of wound or lesion	5.27	3.85	5.61	2.79	5.35	0.67	9.79	11.55	8.73	11.29	010
14000		A	Skin tissue rearrangement	5.89	6.08	4.30	3.99	2.39	0.30	12.27	10.49	10.18	8.58	090
14001		A	Skin tissue rearrangement	8.47	7.33	5.70	5.28	5.18	0.59	16.39	14.76	14.34	14.24	090
14020		A	Skin tissue rearrangement	6.59	6.48	5.61	4.63	5.15	0.38	13.45	12.58	11.60	12.12	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
14021		A	Skin tissue rearrangement	10.06	7.91	7.03	6.38	6.65	0.74	18.71	17.83	17.18	17.45	090
14040		A	Skin tissue rearrangement	7.87	6.91	7.24	5.39	4.11	0.51	15.29	15.62	13.77	12.49	090
14041		A	Skin tissue rearrangement	11.49	8.56	8.55	7.22	5.02	0.80	20.85	20.84	19.51	17.31	090
14060		A	Skin tissue rearrangement	8.50	7.41	8.16	6.13	7.84	0.81	16.72	17.47	15.44	17.15	090
14061		A	Skin tissue rearrangement	12.29	9.46	10.90	7.80	6.22	0.99	22.74	24.18	21.08	19.50	090
14300		A	Skin tissue rearrangement	11.76	8.73	11.39	7.54	11.09	1.44	21.93	24.59	20.74	24.29	090
14350		A	Skin tissue rearrangement	9.61	NA	NA	5.81	6.40	0.82	NA	NA	16.24	16.83	090
15000		A	Skin graft	4.00	2.25	2.31	1.93	2.23	0.41	6.66	6.72	6.34	6.64	000
15001		A	Skin graft add-on	1.00	0.49	0.49	0.48	0.48	0.41	1.90	1.90	1.89	1.89	ZZZ
15050		A	Skin pinch graft	4.30	4.24	2.52	3.33	2.29	0.23	8.77	7.05	7.86	6.82	090
15100		A	Skin split graft	9.05	5.62	5.10	5.51	5.08	0.70	15.37	14.85	15.26	14.83	090
15101		A	Skin split graft add-on	1.72	1.12	1.58	0.76	1.49	0.26	3.10	3.56	2.74	3.47	ZZZ
15120		A	Skin split graft	9.83	7.16	6.72	6.30	6.50	0.74	17.73	17.29	16.87	17.07	090
15121		A	Skin split graft add-on	2.67	1.63	2.78	1.26	2.69	0.41	4.71	5.86	4.34	5.77	ZZZ
15200		A	Skin full graft	8.03	7.73	5.29	5.01	4.61	0.54	16.30	13.86	13.58	13.18	090
15201		A	Skin full graft add-on	1.32	0.90	1.59	0.62	1.33	0.39	2.61	3.30	2.33	3.04	ZZZ
15220		A	Skin full graft	7.87	7.81	5.89	5.31	5.27	0.66	16.34	14.42	13.84	13.80	090
15221		A	Skin full graft add-on	1.19	0.79	1.50	0.60	1.22	0.39	2.37	3.08	2.18	2.80	ZZZ
15240		A	Skin full graft	9.04	7.62	6.87	6.15	6.50	0.81	17.47	16.72	16.00	16.35	090
15241		A	Skin full graft add-on	1.86	1.26	2.25	0.95	1.90	0.45	3.57	4.56	3.26	4.21	ZZZ
15260		A	Skin full graft	10.06	7.80	8.03	6.87	7.79	0.77	18.63	18.86	17.70	18.62	090
15261		A	Skin full graft add-on	2.23	1.39	2.67	1.16	2.29	0.47	4.09	5.37	3.86	4.99	ZZZ
15350		A	Skin homograft	4.00	6.47	3.37	3.58	2.64	0.33	10.80	7.70	7.91	6.97	090
15351		A	Skin homograft add-on	1.00	0.41	0.41	0.45	0.45	0.26	1.67	1.67	1.71	1.71	ZZZ
15400		A	Skin heterograft	4.00	3.69	1.79	4.22	1.92	0.13	7.82	5.92	8.35	6.05	090
15401		A	Skin heterograft add-on	1.00	0.41	0.41	0.45	0.45	0.26	1.67	1.67	1.71	1.71	ZZZ
15570		A	Form skin pedicle flap	9.21	6.94	6.21	5.51	5.86	1.63	17.78	17.05	16.35	16.70	090
15572		A	Form skin pedicle flap	9.27	6.82	6.09	5.19	5.68	1.46	17.55	16.82	15.92	16.41	090
15574		A	Form skin pedicle flap	9.88	7.15	6.18	6.27	5.96	1.30	18.33	17.36	17.45	17.14	090
15576		A	Form skin pedicle flap	8.69	7.54	4.43	5.75	3.98	0.47	16.70	13.59	14.91	13.14	090
15580		A	Attach skin pedicle graft	9.46	NA	NA	6.43	5.12	1.02	NA	NA	16.91	15.60	090
15600		A	Skin graft	1.91	4.51	3.17	1.83	2.17	0.69	7.11	5.77	4.43	4.77	090
15610		A	Skin graft	2.42	4.02	3.30	2.16	2.71	0.63	7.07	6.35	5.21	5.76	090
15620		A	Skin graft	2.94	5.01	4.05	2.83	3.34	0.67	8.62	7.66	6.44	6.95	090
15625		A	Skin graft	1.91	NA	NA	2.12	2.24	0.61	NA	NA	4.64	4.76	090
15630		A	Skin graft	3.27	4.86	4.15	3.02	3.69	0.70	8.83	8.12	6.99	7.66	090
15650		A	Transfer skin pedicle flap	3.97	4.74	4.74	3.09	4.33	0.73	9.44	9.44	7.79	9.03	090
15732		A	Muscle-skin graft, head/neck	17.84	NA	NA	10.88	15.32	2.71	NA	NA	31.43	35.87	090
15734		A	Muscle-skin graft, trunk	17.79	NA	NA	10.40	18.07	2.53	NA	NA	30.72	38.39	090
15736		A	Muscle-skin graft, arm	16.27	NA	NA	9.84	15.65	2.36	NA	NA	28.47	34.28	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
15738		A	Muscle-skin graft, leg	17.92	NA	NA	10.40	13.09	2.57	NA	NA	30.89	33.58	090
15740		A	Island pedicle flap graft	10.25	7.47	10.33	6.45	10.07	1.27	18.99	21.85	17.97	21.59	090
15750		A	Neurovascular pedicle graft	11.41	NA	NA	7.50	11.61	1.59	NA	NA	20.50	24.61	090
15756		A	Free muscle flap, microvasc	35.23	NA	NA	20.52	29.63	4.17	NA	NA	59.92	69.03	090
15757		A	Free skin flap, microvasc	35.23	NA	NA	21.06	29.76	4.17	NA	NA	60.46	69.16	090
15758		A	Free fascial flap, microvasc	35.10	NA	NA	21.09	29.77	4.17	NA	NA	60.36	69.04	090
15760		A	Composite skin graft	8.74	7.59	7.83	6.18	7.48	0.87	17.20	17.44	15.79	17.09	090
15770		A	Derma-fat-fascia graft	7.52	NA	NA	5.57	7.47	0.74	NA	NA	13.83	15.73	090
15775		R	Hair transplant punch grafts	3.96	2.60	3.00	1.51	2.73	0.44	7.00	7.40	5.91	7.13	000
15776		R	Hair transplant punch grafts	5.54	3.34	4.11	2.89	4.00	0.62	9.50	10.27	9.05	10.16	000
15780		A	Abrasion treatment of skin	7.29	6.19	2.79	5.89	2.10	0.10	13.58	10.18	13.28	9.49	090
15781		A	Abrasion treatment of skin	4.85	4.19	4.12	4.22	2.59	0.31	9.35	9.28	9.38	7.75	090
15782		A	Abrasion treatment of skin	4.32	3.59	1.87	3.20	1.29	0.10	8.01	6.29	7.82	5.71	090
15783		A	Abrasion treatment of skin	4.29	3.79	2.46	3.68	1.68	0.15	8.23	6.90	8.12	6.12	090
15786		A	Abrasion, lesion, single	2.03	1.48	0.87	1.23	0.56	0.05	3.56	2.95	3.31	2.64	010
15787		A	Abrasion, lesions, add-on	0.33	0.22	0.24	0.17	0.14	0.02	0.57	0.59	0.52	0.49	ZZZ
15788		R	Chemical peel, face, epiderm	2.09	2.37	1.80	0.98	1.45	0.09	4.55	3.98	3.16	3.63	090
15789		R	Chemical peel, face, dermal	4.92	4.99	2.46	3.25	2.02	0.09	10.00	7.47	8.26	7.03	090
15792		R	Chemical peel, nonfacial	1.86	2.24	0.97	2.41	1.01	0.04	4.14	2.87	4.31	2.91	090
15793		A	Chemical peel, nonfacial	3.74	NA	NA	2.77	1.10	0.04	NA	NA	6.55	4.88	090
15810		A	Salabrasion	4.74	2.47	3.71	3.93	4.07	0.23	7.44	8.68	8.90	9.04	090
15811		A	Salabrasion	5.39	5.39	4.39	4.25	4.11	0.57	11.35	10.35	10.21	10.07	090
15819		A	Plastic surgery, neck	9.38	NA	NA	8.38	8.11	0.68	NA	NA	18.44	18.17	090
15820		A	Revision of lower eyelid	5.15	8.73	6.80	6.68	6.28	0.50	14.38	12.45	12.33	11.93	090
15821		A	Revision of lower eyelid	5.72	9.04	7.38	7.03	6.88	0.53	15.29	13.63	13.28	13.13	090
15822		A	Revision of upper eyelid	4.45	7.87	5.96	6.23	5.55	0.44	12.76	10.85	11.12	10.44	090
15823		A	Revision of upper eyelid	7.05	9.16	8.57	7.62	8.18	0.48	16.69	16.10	15.15	15.71	090
15824		R	Removal of forehead wrinkles	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
15825		R	Removal of neck wrinkles	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
15826		R	Removal of brow wrinkles	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
15828		R	Removal of face wrinkles	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
15829		R	Removal of skin wrinkles	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
15831		A	Excise excessive skin tissue	12.40	NA	NA	6.98	9.76	1.57	NA	NA	20.95	23.73	090
15832		A	Excise excessive skin tissue	11.59	NA	NA	6.58	8.40	1.04	NA	NA	19.21	21.03	090
15833		A	Excise excessive skin tissue	10.64	NA	NA	5.81	6.52	0.88	NA	NA	17.33	18.04	090
15834		A	Excise excessive skin tissue	10.85	NA	NA	6.71	7.52	0.95	NA	NA	18.51	19.32	090
15835		A	Excise excessive skin tissue	11.67	NA	NA	6.41	7.30	0.95	NA	NA	19.03	19.92	090
15836		A	Excise excessive skin tissue	9.34	NA	NA	5.39	6.07	0.86	NA	NA	15.59	16.27	090
15837		A	Excise excessive skin tissue	8.43	6.21	6.41	5.69	6.28	0.66	15.30	15.50	14.78	15.37	090
15838		A	Excise excessive skin tissue	7.13	NA	NA	5.38	6.13	0.57	NA	NA	13.08	13.83	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
15839		A	Excise excessive skin tissue	9.38	6.65	3.65	5.50	3.36	0.36	16.39	13.39	15.24	13.10	090
15840		A	Graft for face nerve palsy	13.26	NA	NA	9.12	14.15	1.78	NA	NA	24.16	29.19	090
15841		A	Graft for face nerve palsy	23.26	NA	NA	14.03	17.24	2.16	NA	NA	39.45	42.66	090
15842		A	Graft for face nerve palsy	37.96	NA	NA	20.06	28.62	2.10	NA	NA	60.12	68.68	090
15845		A	Skin and muscle repair, face	12.57	NA	NA	8.19	13.31	1.99	NA	NA	22.75	27.87	090
15850		B	Removal of sutures	+0.78	1.16	0.58	0.31	0.37	0.03	1.97	1.39	1.12	1.18	XXX
15851		A	Removal of sutures	0.86	1.42	0.60	0.33	0.21	0.02	2.30	1.48	1.21	1.09	000
15852		A	Dressing change,not for burn	0.86	1.37	0.70	0.37	0.27	0.05	2.28	1.61	1.28	1.18	000
15860		A	Test for blood flow in graft	1.95	1.00	1.35	0.80	1.30	0.20	3.15	3.50	2.95	3.45	000
15876		R	Suction assisted lipectomy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
15877		R	Suction assisted lipectomy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
15878		R	Suction assisted lipectomy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
15879		R	Suction assisted lipectomy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
15920		A	Removal of tail bone ulcer	7.95	NA	NA	4.84	3.61	0.49	NA	NA	13.28	12.05	090
15922		A	Removal of tail bone ulcer	9.90	NA	NA	6.48	6.49	0.93	NA	NA	17.31	17.32	090
15931		A	Remove sacrum pressure sore	9.24	NA	NA	4.93	3.62	0.43	NA	NA	14.60	13.29	090
15933		A	Remove sacrum pressure sore	10.85	NA	NA	7.13	7.42	1.12	NA	NA	19.10	19.39	090
15934		A	Remove sacrum pressure sore	12.69	NA	NA	7.56	7.97	1.17	NA	NA	21.42	21.83	090
15935		A	Remove sacrum pressure sore	14.57	NA	NA	8.89	11.37	1.78	NA	NA	25.24	27.72	090
15936		A	Remove sacrum pressure sore	12.38	NA	NA	7.96	10.35	1.60	NA	NA	21.94	24.33	090
15937		A	Remove sacrum pressure sore	14.21	NA	NA	9.12	13.25	2.09	NA	NA	25.42	29.55	090
15940		A	Removal of pressure sore	9.34	NA	NA	5.43	4.25	0.57	NA	NA	15.34	14.16	090
15941		A	Removal of pressure sore	11.43	NA	NA	8.46	7.85	1.09	NA	NA	20.98	20.37	090
15944		A	Removal of pressure sore	11.46	NA	NA	7.60	9.44	1.42	NA	NA	20.48	22.32	090
15945		A	Removal of pressure sore	12.69	NA	NA	8.26	11.13	1.64	NA	NA	22.59	25.46	090
15946		A	Removal of pressure sore	21.57	NA	NA	11.95	16.51	2.53	NA	NA	36.05	40.61	090
15950		A	Remove thigh pressure sore	7.54	NA	NA	4.30	3.53	0.45	NA	NA	12.29	11.52	090
15951		A	Remove thigh pressure sore	10.72	NA	NA	7.22	8.03	1.24	NA	NA	19.18	19.99	090
15952		A	Remove thigh pressure sore	11.39	NA	NA	6.72	7.49	1.07	NA	NA	19.18	19.95	090
15953		A	Remove thigh pressure sore	12.63	NA	NA	7.63	9.30	1.46	NA	NA	21.72	23.39	090
15956		A	Remove thigh pressure sore	15.52	NA	NA	9.45	16.26	2.65	NA	NA	27.62	34.43	090
15958		A	Remove thigh pressure sore	15.48	NA	NA	9.53	16.24	2.94	NA	NA	27.95	34.66	090
15999		C	Removal of pressure sore	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
16000		A	Initial treatment of burn(s)	0.89	0.88	0.51	0.24	0.20	0.02	1.79	1.42	1.15	1.11	000
16010		A	Treatment of burn(s)	0.87	0.96	0.50	0.32	0.22	0.02	1.85	1.39	1.21	1.11	000
16015		A	Treatment of burn(s)	2.35	1.32	1.99	0.88	1.88	0.30	3.97	4.64	3.53	4.53	000
16020		A	Treatment of burn(s)	0.80	0.99	0.53	0.25	0.21	0.02	1.81	1.35	1.07	1.03	000
16025		A	Treatment of burn(s)	1.85	1.47	0.74	0.67	0.36	0.04	3.36	2.63	2.56	2.25	000
16030		A	Treatment of burn(s)	2.08	2.34	1.01	0.89	0.64	0.06	4.48	3.15	3.03	2.78	000
16035		A	Incision of burn scab	4.82	2.74	2.22	2.01	2.03	0.27	7.83	7.31	7.10	7.12	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
16040		D	Burn wound excision	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	000
16041		D	Burn wound excision	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	000
16042		D	Burn wound excision	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	000
17000		A	Destroy benign/premal lesion	0.60	0.73	0.53	0.26	0.24	0.02	1.35	1.15	0.88	0.86	010
17003		A	Destroy 2-14 lesions	0.15	0.55	0.24	0.08	0.07	0.01	0.71	0.40	0.24	0.23	ZZZ
17004		A	Destroy 15 & more lesions	2.79	1.83	2.29	1.31	1.24	0.16	4.78	5.24	4.26	4.19	010
17106		A	Destruction of skin lesions	4.59	3.40	2.42	2.63	1.45	0.14	8.13	7.15	7.36	6.18	090
17107		A	Destruction of skin lesions	9.16	5.83	4.47	4.90	2.73	0.31	15.30	13.94	14.37	12.20	090
17108		A	Destruction of skin lesions	13.20	8.16	9.62	7.09	9.36	0.54	21.90	23.36	20.83	23.10	090
17110		A	Destruct lesion, 1-14	0.65	0.87	0.54	0.26	0.23	0.02	1.54	1.21	0.93	0.90	010
17111		A	Destruct lesion, 15 or more	0.92	1.07	0.76	0.38	0.34	0.04	2.03	1.72	1.34	1.30	010
17250		A	Chemical cautery, tissue	0.50	0.59	0.43	0.20	0.19	0.03	1.12	0.96	0.73	0.72	000
17260		A	Destruction of skin lesions	0.91	1.04	1.18	0.41	0.57	0.08	2.03	2.17	1.40	1.56	010
17261		A	Destruction of skin lesions	1.17	1.15	1.42	0.54	0.71	0.09	2.41	2.68	1.80	1.97	010
17262		A	Destruction of skin lesions	1.58	1.34	1.82	0.73	0.93	0.13	3.05	3.53	2.44	2.64	010
17263		A	Destruction of skin lesions	1.79	1.45	2.19	0.82	1.12	0.16	3.40	4.14	2.77	3.07	010
17264		A	Destruction of skin lesions	1.94	1.52	2.49	0.87	1.28	0.20	3.66	4.63	3.01	3.42	010
17266		A	Destruction of skin lesions	2.34	1.73	2.97	0.97	1.51	0.38	4.45	5.69	3.69	4.23	010
17270		A	Destruction of skin lesions	1.32	1.23	1.40	0.60	0.70	0.09	2.64	2.81	2.01	2.11	010
17271		A	Destruction of skin lesions	1.49	1.30	1.75	0.69	0.89	0.13	2.92	3.37	2.31	2.51	010
17272		A	Destruction of skin lesions	1.77	1.44	2.15	0.83	1.11	0.15	3.36	4.07	2.75	3.03	010
17273		A	Destruction of skin lesions	2.05	1.57	2.49	0.94	1.29	0.20	3.82	4.74	3.19	3.54	010
17274		A	Destruction of skin lesions	2.59	1.84	3.07	1.17	1.60	0.25	4.68	5.91	4.01	4.44	010
17276		A	Destruction of skin lesions	3.20	2.15	3.31	1.60	1.79	0.40	5.75	6.91	5.20	5.39	010
17280		A	Destruction of skin lesions	1.17	1.16	1.63	0.52	0.81	0.12	2.45	2.92	1.81	2.10	010
17281		A	Destruction of skin lesions	1.72	1.42	2.06	0.81	1.06	0.14	3.28	3.92	2.67	2.92	010
17282		A	Destruction of skin lesions	2.04	1.57	2.49	0.96	1.29	0.18	3.79	4.71	3.18	3.51	010
17283		A	Destruction of skin lesions	2.64	1.86	2.92	1.26	1.55	0.22	4.72	5.78	4.12	4.41	010
17284		A	Destruction of skin lesions	3.21	2.14	3.39	1.53	1.82	0.26	5.61	6.86	5.00	5.29	010
17286		A	Destruction of skin lesions	4.44	2.78	4.21	2.39	2.36	0.47	7.69	9.12	7.30	7.27	010
17304		A	Chemosurgery of skin lesion	7.60	6.72	4.95	4.13	2.67	0.24	14.56	12.79	11.97	10.51	000
17305		A	2nd stage chemosurgery	2.85	2.56	2.48	1.62	1.33	0.13	5.54	5.46	4.60	4.31	000
17306		A	3rd stage chemosurgery	2.85	2.56	1.78	1.62	0.98	0.09	5.50	4.72	4.56	3.92	000
17307		A	Followup skin lesion therapy	2.85	2.56	1.84	1.63	1.01	0.09	5.50	4.78	4.57	3.95	000
17310		A	Extensive skin chemosurgery	0.95	1.02	0.36	0.55	0.19	0.01	1.98	1.32	1.51	1.15	000
17340		A	Cryotherapy of skin	0.76	1.14	0.51	0.25	0.18	0.02	1.92	1.29	1.03	0.96	010
17360		A	Skin peel therapy	1.43	1.27	0.54	0.70	0.29	0.02	2.72	1.99	2.15	1.74	010
17380		R	Hair removal by electrolysis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
17999		C	Skin tissue procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
19000		A	Drainage of breast lesion	0.84	1.37	0.65	0.24	0.22	0.05	2.26	1.54	1.13	1.11	000

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
19001		A	Drain breast lesion add-on	0.42	1.05	0.46	0.12	0.13	0.04	1.51	0.92	0.58	0.59	ZZZ
19020		A	Incision of breast lesion	3.57	5.38	2.49	2.73	1.82	0.22	9.17	6.28	6.52	5.61	090
19030		A	Injection for breast x-ray	1.53	10.31	2.98	0.41	0.50	0.03	11.87	4.54	1.97	2.06	000
19100		A	Biopsy of breast	1.27	2.88	1.24	0.81	0.47	0.10	4.25	2.61	2.18	1.84	000
19101		A	Biopsy of breast	3.18	7.34	3.74	2.67	2.57	0.35	10.87	7.27	6.20	6.10	010
19110		A	Nipple exploration	4.30	6.54	3.64	3.46	2.87	0.40	11.24	8.34	8.16	7.57	090
19112		A	Excise breast duct fistula	3.67	6.93	3.64	2.51	2.53	0.27	10.87	7.58	6.45	6.47	090
19120		A	Removal of breast lesion	5.56	3.47	3.23	3.32	3.19	0.47	9.50	9.26	9.35	9.22	090
19125		A	Excision, breast lesion	6.06	3.80	3.31	3.78	3.30	0.47	10.33	9.84	10.29	9.83	090
19126		A	Excision,add'l breast lesion	2.93	NA	NA	1.26	1.49	0.24	NA	NA	4.43	4.66	ZZZ
19140		A	Removal of breast tissue	5.14	7.16	5.29	3.13	4.28	0.71	13.01	11.14	8.98	10.13	090
19160		A	Removal of breast tissue	5.99	NA	NA	3.80	4.31	0.69	NA	NA	10.48	10.99	090
19162		A	Remove breast tissue, nodes	13.53	NA	NA	7.29	9.46	1.53	NA	NA	22.35	24.52	090
19180		A	Removal of breast	8.80	NA	NA	5.31	5.90	0.92	NA	NA	15.03	15.62	090
19182		A	Removal of breast	7.73	NA	NA	4.81	6.10	0.99	NA	NA	13.33	14.82	090
19200		A	Removal of breast	15.49	NA	NA	8.40	10.42	1.68	NA	NA	25.57	27.59	090
19220		A	Removal of breast	15.72	NA	NA	8.55	10.87	1.86	NA	NA	26.13	28.45	090
19240		A	Removal of breast	16.00	NA	NA	8.19	9.73	1.56	NA	NA	25.75	27.29	090
19260		A	Removal of chest wall lesion	15.44	NA	NA	11.09	6.88	0.81	NA	NA	27.34	23.13	090
19271		A	Revision of chest wall	18.90	NA	NA	13.74	14.79	2.17	NA	NA	34.81	35.86	090
19272		A	Extensive chest wall surgery	21.55	NA	NA	14.79	13.95	2.00	NA	NA	38.34	37.50	090
19290		A	Place needle wire, breast	1.27	5.27	1.68	0.34	0.45	0.05	6.59	3.00	1.66	1.77	000
19291		A	Place needle wire, breast	0.63	1.45	0.57	0.17	0.25	0.03	2.11	1.23	0.83	0.91	ZZZ
19316		A	Suspension of breast	10.89	NA	NA	6.80	11.27	1.90	NA	NA	19.39	23.86	090
19318		A	Reduction of large breast	15.62	NA	NA	9.44	13.90	2.53	NA	NA	27.59	32.05	090
19324		A	Enlarge breast	5.85	NA	NA	3.65	3.59	0.52	NA	NA	10.02	9.96	090
19325		A	Enlarge breast with implant	8.45	NA	NA	5.81	6.23	0.88	NA	NA	15.14	15.56	090
19328		A	Removal of breast implant	5.68	NA	NA	3.99	4.06	0.57	NA	NA	10.24	10.31	090
19330		A	Removal of implant material	7.59	NA	NA	4.71	4.34	0.59	NA	NA	12.89	12.52	090
19340		A	Immediate breast prosthesis	6.33	NA	NA	3.25	6.48	1.61	NA	NA	11.19	14.42	ZZZ
19342		A	Delayed breast prosthesis	11.20	NA	NA	7.09	10.57	1.59	NA	NA	19.88	23.36	090
19350		A	Breast reconstruction	8.92	10.84	8.47	6.01	7.26	1.08	20.84	18.47	16.01	17.26	090
19355		A	Correct inverted nipple(s)	7.57	12.42	7.12	4.55	5.15	0.78	20.77	15.47	12.90	13.50	090
19357		A	Breast reconstruction	16.16	NA	NA	12.00	12.89	1.85	NA	NA	32.01	32.90	090
19361		A	Breast reconstruction	19.26	NA	NA	11.15	19.18	3.04	NA	NA	33.45	41.48	090
19364		A	Breast reconstruction	41.00	NA	NA	23.30	19.40	2.80	NA	NA	67.10	63.20	090
19366		A	Breast reconstruction	21.28	NA	NA	10.95	16.09	2.49	NA	NA	34.72	39.86	090
19367		A	Breast reconstruction	25.73	NA	NA	14.33	19.97	3.04	NA	NA	43.10	48.74	090
19368		A	Breast reconstruction	32.42	NA	NA	18.24	20.95	3.04	NA	NA	53.70	56.41	090
19369		A	Breast reconstruction	29.82	NA	NA	17.22	20.69	3.04	NA	NA	50.08	53.55	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
19370		A	Surgery of breast capsule	8.05	NA	NA	5.40	6.38	0.93	NA	NA	14.38	15.36	090
19371		A	Removal of breast capsule	9.35	NA	NA	6.35	8.02	1.20	NA	NA	16.90	18.57	090
19380		A	Revise breast reconstruction	9.14	NA	NA	6.24	8.16	1.23	NA	NA	16.61	18.53	090
19396		A	Design custom breast implant	2.17	3.90	2.25	0.82	1.48	0.24	6.31	4.66	3.23	3.89	000
19499		C	Breast surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
20000		A	Incision of abscess	2.12	1.80	1.14	1.01	0.60	0.06	3.98	3.32	3.19	2.78	010
20005		A	Incision of deep abscess	3.42	2.54	2.13	1.90	1.97	0.22	6.18	5.77	5.54	5.61	010
20100		A	Explore wound, neck	10.08	5.13	5.33	4.73	5.23	0.91	16.12	16.32	15.72	16.22	010
20101		A	Explore wound, chest	3.22	2.12	1.81	1.55	1.66	0.29	5.63	5.32	5.06	5.17	010
20102		A	Explore wound, abdomen	3.94	2.76	2.25	1.79	2.01	0.35	7.05	6.54	6.08	6.30	010
20103		A	Explore wound, extremity	5.30	3.65	3.02	2.90	2.83	0.47	9.42	8.79	8.67	8.60	010
20150		A	Excise epiphyseal bar	13.89	NA	NA	7.33	11.93	1.59	NA	NA	22.81	27.21	090
20200		A	Muscle biopsy	1.46	1.49	1.29	0.61	1.07	0.14	3.09	2.89	2.21	2.67	000
20205		A	Deep muscle biopsy	2.35	3.61	2.43	1.13	1.81	0.26	6.22	5.04	3.74	4.42	000
20206		A	Needle biopsy, muscle	0.99	2.74	1.47	0.98	1.03	0.11	3.84	2.57	2.08	2.13	000
20220		A	Bone biopsy, trocar/needle	1.27	2.93	1.80	1.82	1.52	0.07	4.27	3.14	3.16	2.86	000
20225		A	Bone biopsy, trocar/needle	1.87	0.64	2.10	1.90	2.16	0.22	2.73	4.19	3.99	4.25	000
20240		A	Bone biopsy, excisional	3.23	NA	NA	3.12	2.31	0.14	NA	NA	6.49	5.68	010
20245		A	Bone biopsy, excisional	3.95	NA	NA	3.98	3.91	0.34	NA	NA	8.27	8.20	010
20250		A	Open bone biopsy	5.03	NA	NA	3.83	5.08	0.59	NA	NA	9.45	10.70	010
20251		A	Open bone biopsy	5.56	NA	NA	4.59	5.90	0.72	NA	NA	10.87	12.18	010
20500		A	Injection of sinus tract	1.23	3.74	1.23	2.46	0.77	0.03	5.00	2.49	3.72	2.03	010
20501		A	Inject sinus tract for x-ray	0.76	12.00	3.25	0.21	0.30	0.02	12.78	4.03	0.99	1.08	000
20520		A	Removal of foreign body	1.85	3.63	1.49	2.36	0.88	0.06	5.54	3.40	4.27	2.79	010
20525		A	Removal of foreign body	3.50	4.56	2.96	3.34	2.65	0.26	8.32	6.72	7.10	6.41	010
20550		A	Inj tendon/ligament/cyst	0.88	1.48	0.68	0.18	0.20	0.03	2.37	1.57	1.07	1.09	000
20600		A	Drain/inject joint/bursa	0.68	1.06	0.65	0.26	0.26	0.04	1.76	1.35	0.96	0.96	000
20605		A	Drain/inject joint/bursa	0.68	1.30	0.69	0.26	0.25	0.04	2.02	1.41	0.98	0.97	000
20610		A	Drain/inject joint/bursa	0.79	1.61	0.77	0.44	0.30	0.04	2.44	1.60	1.27	1.13	000
20615		A	Treatment of bone cyst	2.28	3.16	1.19	2.10	0.73	0.05	5.49	3.52	4.43	3.06	010
20650		A	Insert and remove bone pin	2.23	3.49	1.75	2.51	1.51	0.11	5.83	4.09	4.85	3.85	010
20660		A	Apply,remove fixation device	2.51	NA	NA	1.39	1.62	0.16	NA	NA	4.06	4.29	000
20661		A	Application of head brace	4.89	NA	NA	5.42	4.47	0.51	NA	NA	10.82	9.87	090
20662		A	Application of pelvis brace	6.07	NA	NA	4.74	6.51	0.81	NA	NA	11.62	13.39	090
20663		A	Application of thigh brace	5.43	NA	NA	3.77	4.72	0.59	NA	NA	9.79	10.74	090
20664		A	Halo brace application	8.06	NA	NA	7.10	4.89	0.51	NA	NA	15.67	13.46	090
20665		A	Removal of fixation device	1.31	1.77	0.85	1.13	0.69	0.05	3.13	2.21	2.49	2.05	010
20670		A	Removal of support implant	1.74	4.33	1.68	2.77	0.99	0.09	6.16	3.51	4.60	2.82	010
20680		A	Removal of support implant	3.35	3.80	3.66	4.58	3.85	0.40	7.55	7.41	8.33	7.60	090
20690		A	Apply bone fixation device	3.52	NA	NA	1.96	3.47	0.45	NA	NA	5.93	7.44	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
20692		A	Apply bone fixation device	6.41	NA	NA	3.65	5.40	0.70	NA	NA	10.76	12.51	090
20693		A	Adjust bone fixation device	5.86	NA	NA	9.59	4.42	0.33	NA	NA	15.78	10.61	090
20694		A	Remove bone fixation device	4.16	6.67	3.78	5.01	3.37	0.32	11.15	8.26	9.49	7.85	090
20802		A	Replantation, arm, complete	41.15	NA	NA	24.01	36.71	4.83	NA	NA	69.99	82.69	090
20805		A	Replant forearm, complete	50.00	NA	NA	39.66	47.50	5.91	NA	NA	95.57	103.41	090
20808		A	Replantation, hand, complete	61.65	NA	NA	37.79	56.17	7.35	NA	NA	106.79	125.17	090
20816		A	Replantation digit, complete	30.94	NA	NA	39.65	32.95	3.62	NA	NA	74.21	67.51	090
20822		A	Replantation digit, complete	25.59	NA	NA	36.62	28.19	3.00	NA	NA	65.21	56.78	090
20824		A	Replantation thumb, complete	30.94	NA	NA	35.20	31.83	3.62	NA	NA	69.76	66.39	090
20827		A	Replantation thumb, complete	26.41	NA	NA	36.63	28.73	3.08	NA	NA	66.12	58.22	090
20838		A	Replantation, foot, complete	41.41	NA	NA	30.75	38.39	4.83	NA	NA	76.99	84.63	090
20900		A	Removal of bone for graft	5.58	4.88	3.50	5.21	3.58	0.35	10.81	9.43	11.14	9.51	090
20902		A	Removal of bone for graft	7.55	NA	NA	7.56	5.92	0.63	NA	NA	15.74	14.10	090
20910		A	Remove cartilage for graft	5.34	6.31	2.22	5.29	1.97	0.07	11.72	7.63	10.70	7.38	090
20912		A	Remove cartilage for graft	6.35	NA	NA	5.99	5.26	0.50	NA	NA	12.84	12.11	090
20920		A	Removal of fascia for graft	5.31	NA	NA	4.55	4.34	0.39	NA	NA	10.25	10.04	090
20922		A	Removal of fascia for graft	6.61	6.80	5.27	5.58	4.97	0.56	13.97	12.44	12.75	12.14	090
20924		A	Removal of tendon for graft	6.48	NA	NA	5.87	5.90	0.66	NA	NA	13.01	13.04	090
20926		A	Removal of tissue for graft	5.53	NA	NA	5.06	3.37	0.31	NA	NA	10.90	9.21	090
20930		B	Spinal bone allograft	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
20931		A	Spinal bone allograft	1.81	NA	NA	1.26	1.73	0.22	NA	NA	3.29	3.76	ZZZ
20936		B	Spinal bone autograft	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
20937		A	Spinal bone autograft	2.79	NA	NA	1.80	2.62	0.34	NA	NA	4.93	5.75	ZZZ
20938		A	Spinal bone autograft	3.02	NA	NA	1.90	2.82	0.37	NA	NA	5.29	6.21	ZZZ
20950		A	Record fluid pressure,muscle	1.26	NA	NA	1.66	1.30	0.13	NA	NA	3.05	2.69	000
20955		A	Fibula bone graft, microvasc	39.21	NA	NA	26.31	35.75	4.59	NA	NA	70.11	79.55	090
20956		A	Iliac bone graft, microvasc	39.27	NA	NA	26.03	28.40	4.12	NA	NA	69.42	71.79	090
20957		A	Mt bone graft, microvasc	40.65	NA	NA	19.97	27.68	4.26	NA	NA	64.88	72.59	090
20962		A	Other bone graft, microvasc	39.27	NA	NA	25.39	28.24	4.12	NA	NA	68.78	71.63	090
20969		A	Bone/skin graft, microvasc	43.92	NA	NA	28.51	39.79	5.14	NA	NA	77.57	88.85	090
20970		A	Bone/skin graft, iliac crest	43.06	NA	NA	26.61	38.65	5.04	NA	NA	74.71	86.75	090
20972		A	Bone-skin graft, metatarsal	42.99	NA	NA	19.85	37.21	5.08	NA	NA	67.92	85.28	090
20973		A	Bone-skin graft, great toe	45.76	NA	NA	26.28	40.96	5.41	NA	NA	77.45	92.13	090
20974		A	Electrical bone stimulation	0.62	0.33	2.87	0.31	1.47	0.41	1.36	3.90	1.34	2.50	000
20975		A	Electrical bone stimulation	2.60	NA	NA	1.36	2.67	0.44	NA	NA	4.40	5.71	000
20999		C	Musculoskeletal surgery	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
21010		A	Incision of jaw joint	10.14	NA	NA	7.73	10.27	0.73	NA	NA	18.60	21.14	090
21015		A	Resection of facial tumor	5.29	NA	NA	6.95	6.48	0.88	NA	NA	13.12	12.65	090
21025		A	Excision of bone, lower jaw	10.06	7.16	5.16	6.64	3.35	0.30	17.52	15.52	17.00	13.71	090
21026		A	Excision of facial bone(s)	4.85	5.18	3.85	4.73	2.47	0.22	10.25	8.92	9.80	7.54	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
21029		A	Contour of face bone lesion	7.71	6.96	8.64	5.73	4.88	0.61	15.28	16.96	14.05	13.20	090
21030		A	Removal of face bone lesion	6.46	5.32	4.06	4.59	2.51	0.23	12.01	10.75	11.28	9.20	090
21031		A	Remove exostosis, mandible	3.24	3.50	3.87	2.24	2.06	0.25	6.99	7.36	5.73	5.55	090
21032		A	Remove exostosis, maxilla	3.24	3.49	4.03	2.36	2.17	0.27	7.00	7.54	5.87	5.68	090
21034		A	Removal of face bone lesion	16.17	9.83	8.14	10.40	8.29	0.70	26.70	25.01	27.27	25.16	090
21040		A	Removal of jaw bone lesion	2.11	3.19	3.05	1.96	1.62	0.19	5.49	5.35	4.26	3.92	090
21041		A	Removal of jaw bone lesion	6.71	5.54	6.07	4.45	3.46	0.39	12.64	13.17	11.55	10.56	090
21044		A	Removal of jaw bone lesion	11.86	NA	NA	8.07	9.79	0.87	NA	NA	20.80	22.52	090
21045		A	Extensive jaw surgery	16.17	NA	NA	10.57	13.90	1.24	NA	NA	27.98	31.31	090
21050		A	Removal of jaw joint	10.77	NA	NA	11.59	12.54	0.84	NA	NA	23.20	24.15	090
21060		A	Remove jaw joint cartilage	10.23	NA	NA	9.51	11.54	0.81	NA	NA	20.55	22.58	090
21070		A	Remove coronoid process	8.20	NA	NA	6.24	7.10	0.64	NA	NA	15.08	15.94	090
21076		A	Prepare face/oral prosthesis	13.42	9.35	14.35	7.02	7.76	1.06	23.83	28.83	21.50	22.24	010
21077		A	Prepare face/oral prosthesis	33.75	23.50	36.10	17.67	19.53	2.65	59.90	72.50	54.07	55.93	090
21079		A	Prepare face/oral prosthesis	22.34	16.61	26.89	12.22	14.43	1.76	40.71	50.99	36.32	38.53	090
21080		A	Prepare face/oral prosthesis	25.10	18.67	30.21	13.74	16.21	1.97	45.74	57.28	40.81	43.28	090
21081		A	Prepare face/oral prosthesis	22.88	17.01	27.53	12.52	14.77	1.80	41.69	52.21	37.20	39.45	090
21082		A	Prepare face/oral prosthesis	20.87	14.53	22.32	10.93	12.08	1.64	37.04	44.83	33.44	34.59	090
21083		A	Prepare face/oral prosthesis	19.30	14.35	23.23	10.56	12.47	1.52	35.17	44.05	31.38	33.29	090
21084		A	Prepare face/oral prosthesis	22.51	16.73	27.09	12.32	14.53	1.78	41.02	51.38	36.61	38.82	090
21085		A	Prepare face/oral prosthesis	9.00	6.27	9.62	4.71	5.21	0.70	15.97	19.32	14.41	14.91	010
21086		A	Prepare face/oral prosthesis	24.92	18.53	29.99	13.64	16.09	1.96	45.41	56.87	40.52	42.97	090
21087		A	Prepare face/oral prosthesis	24.92	17.35	26.65	13.05	14.42	1.96	44.23	53.53	39.93	41.30	090
21088		C	Prepare face/oral prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	090
21089		C	Prepare face/oral prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	090
21100		A	Maxillofacial fixation	4.22	6.02	2.37	3.45	1.73	0.09	10.33	6.68	7.76	6.04	090
21110		A	Interdental fixation	5.21	5.07	5.77	3.94	3.24	0.36	10.64	11.34	9.51	8.81	090
21116		A	Injection, jaw joint x-ray	0.81	7.55	2.48	0.25	0.66	0.05	8.41	3.34	1.11	1.52	000
21120		A	Reconstruction of chin	4.93	8.74	5.11	6.48	4.55	0.33	14.00	10.37	11.74	9.81	090
21121		A	Reconstruction of chin	7.64	7.05	6.36	6.61	6.25	0.52	15.21	14.52	14.77	14.41	090
21122		A	Reconstruction of chin	8.52	NA	NA	8.32	7.15	0.57	NA	NA	17.41	16.24	090
21123		A	Reconstruction of chin	11.16	NA	NA	8.12	8.65	0.74	NA	NA	20.02	20.55	090
21125		A	Augmentation lower jaw bone	10.62	9.68	6.26	8.32	5.92	0.42	20.72	17.30	19.36	16.96	090
21127		A	Augmentation lower jaw bone	11.12	8.72	8.62	9.39	8.78	0.72	20.56	20.46	21.23	20.62	090
21137		A	Reduction of forehead	9.82	NA	NA	7.43	7.65	0.65	NA	NA	17.90	18.12	090
21138		A	Reduction of forehead	12.19	NA	NA	8.65	9.38	0.81	NA	NA	21.65	22.38	090
21139		A	Reduction of forehead	14.61	NA	NA	8.03	10.67	0.98	NA	NA	23.62	26.26	090
21141		A	Reconstruct midface, lefort	18.10	NA	NA	10.91	14.40	1.31	NA	NA	30.32	33.81	090
21142		A	Reconstruct midface, lefort	18.81	NA	NA	11.59	14.98	1.36	NA	NA	31.76	35.15	090
21143		A	Reconstruct midface, lefort	19.58	NA	NA	11.93	15.52	1.42	NA	NA	32.93	36.52	090

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CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
21145		A	Reconstruct midface, lefort	19.94	NA	NA	12.39	14.77	1.31	NA	NA	33.64	36.02	090
21146		A	Reconstruct midface, lefort	20.71	NA	NA	12.87	15.30	1.36	NA	NA	34.94	37.37	090
21147		A	Reconstruct midface, lefort	21.77	NA	NA	13.52	15.91	1.42	NA	NA	36.71	39.10	090
21150		A	Reconstruct midface, lefort	25.24	NA	NA	18.20	19.57	1.70	NA	NA	45.14	46.51	090
21151		A	Reconstruct midface, lefort	28.30	NA	NA	17.38	21.18	1.89	NA	NA	47.57	51.37	090
21154		A	Reconstruct midface, lefort	30.52	NA	NA	21.32	23.36	2.03	NA	NA	53.87	55.91	090
21155		A	Reconstruct midface, lefort	34.45	NA	NA	20.56	25.58	2.30	NA	NA	57.31	62.33	090
21159		A	Reconstruct midface, lefort	42.38	NA	NA	27.20	32.05	2.84	NA	NA	72.42	77.27	090
21160		A	Reconstruct midface, lefort	46.44	NA	NA	24.27	33.71	3.11	NA	NA	73.82	83.26	090
21172		A	Reconstruct orbit/forehead	27.80	NA	NA	17.94	21.01	1.85	NA	NA	47.59	50.66	090
21175		A	Reconstruct orbit/forehead	33.17	NA	NA	23.85	25.80	2.23	NA	NA	59.25	61.20	090
21179		A	Reconstruct entire forehead	22.25	NA	NA	18.42	17.82	1.49	NA	NA	42.16	41.56	090
21180		A	Reconstruct entire forehead	25.19	NA	NA	18.29	19.60	1.70	NA	NA	45.18	46.49	090
21181		A	Contour cranial bone lesion	9.90	NA	NA	7.72	7.72	0.65	NA	NA	18.27	18.27	090
21182		A	Reconstruct cranial bone	32.19	NA	NA	26.56	25.87	2.17	NA	NA	60.92	60.23	090
21183		A	Reconstruct cranial bone	35.31	NA	NA	26.47	27.66	2.37	NA	NA	64.15	65.34	090
21184		A	Reconstruct cranial bone	38.24	NA	NA	26.95	29.58	2.57	NA	NA	67.76	70.39	090
21188		A	Reconstruction of midface	22.46	NA	NA	17.19	17.51	1.49	NA	NA	41.14	41.46	090
21193		A	Reconstruct lower jaw bone	17.15	NA	NA	11.29	12.84	1.13	NA	NA	29.57	31.12	090
21194		A	Reconstruct lower jaw bone	19.84	NA	NA	14.66	15.28	1.31	NA	NA	35.81	36.43	090
21195		A	Reconstruct lower jaw bone	17.24	NA	NA	12.83	13.25	1.13	NA	NA	31.20	31.62	090
21196		A	Reconstruct lower jaw bone	18.91	NA	NA	13.98	14.57	1.24	NA	NA	34.13	34.72	090
21198		A	Reconstruct lower jaw bone	14.16	NA	NA	11.56	14.95	1.36	NA	NA	27.08	30.47	090
21206		A	Reconstruct upper jaw bone	14.10	NA	NA	10.81	10.95	0.93	NA	NA	25.84	25.98	090
21208		A	Augmentation of facial bones	10.23	8.15	11.20	9.57	11.55	0.84	19.22	22.27	20.64	22.62	090
21209		A	Reduction of facial bones	6.72	6.88	5.46	6.63	5.39	0.59	14.19	12.77	13.94	12.70	090
21210		A	Face bone graft	10.23	8.14	11.19	8.41	6.69	1.01	19.38	22.43	19.65	17.93	090
21215		A	Lower jaw bone graft	10.77	8.15	11.68	7.52	6.70	1.11	20.03	23.56	19.40	18.58	090
21230		A	Rib cartilage graft	10.77	NA	NA	10.22	10.99	1.32	NA	NA	22.31	23.08	090
21235		A	Ear cartilage graft	6.72	10.30	8.59	8.47	8.13	0.85	17.87	16.16	16.04	15.70	090
21240		A	Reconstruction of jaw joint	14.05	NA	NA	10.91	15.31	1.64	NA	NA	26.60	31.00	090
21242		A	Reconstruction of jaw joint	12.95	NA	NA	10.39	14.19	1.76	NA	NA	25.10	28.90	090
21243		A	Reconstruction of jaw joint	20.79	NA	NA	13.32	15.05	1.31	NA	NA	35.42	37.15	090
21244		A	Reconstruction of lower jaw	11.86	NA	NA	10.27	13.19	1.51	NA	NA	23.64	26.56	090
21245		A	Reconstruction of jaw	11.86	10.81	12.04	11.09	12.11	1.02	23.69	24.92	23.97	24.99	090
21246		A	Reconstruction of jaw	12.47	9.17	9.48	11.96	10.18	0.81	22.45	22.76	25.24	23.46	090
21247		A	Reconstruct lower jaw bone	22.63	NA	NA	14.83	23.97	1.78	NA	NA	39.24	48.38	090
21248		A	Reconstruction of jaw	11.48	8.36	12.37	8.10	7.17	1.37	21.21	25.22	20.95	20.02	090
21249		A	Reconstruction of jaw	17.52	10.77	18.38	10.71	10.52	2.57	30.86	38.47	30.80	30.61	090
21255		A	Reconstruct lower jaw bone	16.72	NA	NA	13.95	18.46	1.31	NA	NA	31.98	36.49	090

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CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
21256		A	Reconstruction of orbit	16.19	NA	NA	16.94	16.73	1.28	NA	NA	34.41	36.20	090
21260		A	Revise eye sockets	16.52	NA	NA	14.22	18.35	1.30	NA	NA	32.04	36.17	090
21261		A	Revise eye sockets	31.49	NA	NA	19.00	19.23	1.29	NA	NA	51.78	52.01	090
21263		A	Revise eye sockets	28.42	NA	NA	16.29	29.52	2.24	NA	NA	46.95	60.18	090
21267		A	Revise eye sockets	18.90	NA	NA	21.91	17.37	1.67	NA	NA	42.48	37.94	090
21268		A	Revise eye sockets	24.48	NA	NA	20.69	17.67	2.45	NA	NA	47.62	44.60	090
21270		A	Augmentation cheek bone	10.23	8.84	10.03	9.44	10.18	1.10	20.17	21.36	20.77	21.51	090
21275		A	Revision orbitofacial bones	11.24	NA	NA	14.13	10.82	0.99	NA	NA	26.36	23.05	090
21280		A	Revision of eyelid	6.03	NA	NA	8.74	7.59	0.48	NA	NA	15.25	14.10	090
21282		A	Revision of eyelid	3.49	NA	NA	7.23	4.94	0.62	NA	NA	11.34	9.05	090
21295		A	Revision of jaw muscle/bone	1.53	NA	NA	5.02	2.04	0.10	NA	NA	6.65	3.67	090
21296		A	Revision of jaw muscle/bone	4.25	NA	NA	5.06	4.21	0.17	NA	NA	9.48	8.63	090
21299		C	Cranio/maxillofacial surgery	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
21300		A	Treatment of skull fracture	0.72	4.17	1.79	0.24	0.71	0.09	4.98	2.60	1.05	1.52	000
21310		A	Treatment of nose fracture	0.58	3.41	1.46	0.14	0.55	0.07	4.06	2.11	0.79	1.20	000
21315		A	Treatment of nose fracture	1.51	3.88	2.44	1.07	1.62	0.16	5.55	4.11	2.74	3.29	010
21320		A	Treatment of nose fracture	1.85	3.95	2.89	1.78	2.10	0.27	6.07	5.01	3.90	4.22	010
21325		A	Repair of nose fracture	3.77	NA	NA	2.98	4.08	0.41	NA	NA	7.16	8.26	090
21330		A	Repair of nose fracture	5.38	NA	NA	7.12	6.60	0.67	NA	NA	13.17	12.65	090
21335		A	Repair of nose fracture	8.61	NA	NA	9.18	10.01	1.22	NA	NA	19.01	19.84	090
21336		A	Repair nasal septal fracture	5.72	NA	NA	6.94	5.07	0.41	NA	NA	13.07	11.20	090
21337		A	Repair nasal septal fracture	2.70	5.12	3.58	2.60	2.95	0.30	8.12	6.58	5.60	5.95	090
21338		A	Repair nasoethmoid fracture	6.46	NA	NA	7.30	5.91	0.52	NA	NA	14.28	12.89	090
21339		A	Repair nasoethmoid fracture	8.09	NA	NA	7.83	7.73	0.55	NA	NA	16.47	16.37	090
21340		A	Repair of nose fracture	10.77	NA	NA	10.45	9.87	0.81	NA	NA	22.03	21.45	090
21343		A	Repair of sinus fracture	12.95	NA	NA	10.46	10.08	0.84	NA	NA	24.25	23.87	090
21344		A	Repair of sinus fracture	19.72	NA	NA	14.81	11.17	0.84	NA	NA	35.37	31.73	090
21345		A	Repair of nose/jaw fracture	8.16	10.22	8.98	8.18	8.47	0.63	19.01	17.77	16.97	17.26	090
21346		A	Repair of nose/jaw fracture	10.61	NA	NA	10.53	10.28	0.81	NA	NA	21.95	21.70	090
21347		A	Repair of nose/jaw fracture	12.69	NA	NA	10.78	11.13	1.06	NA	NA	24.53	24.88	090
21348		A	Repair of nose/jaw fracture	16.69	NA	NA	12.32	12.31	1.74	NA	NA	30.75	30.74	090
21355		A	Repair cheek bone fracture	3.77	5.38	2.61	1.84	1.73	0.13	9.28	6.51	5.74	5.63	010
21356		A	Repair cheek bone fracture	4.15	NA	NA	5.80	5.17	0.70	NA	NA	10.65	10.02	010
21360		A	Repair cheek bone fracture	6.46	NA	NA	7.81	7.74	0.70	NA	NA	14.97	14.90	090
21365		A	Repair cheek bone fracture	14.95	NA	NA	12.50	13.18	1.28	NA	NA	28.73	29.41	090
21366		A	Repair cheek bone fracture	17.77	NA	NA	11.29	12.66	1.85	NA	NA	30.91	32.28	090
21385		A	Repair eye socket fracture	9.16	NA	NA	8.37	9.90	0.88	NA	NA	18.41	19.94	090
21386		A	Repair eye socket fracture	9.16	NA	NA	9.64	9.79	0.98	NA	NA	19.78	19.93	090
21387		A	Repair eye socket fracture	9.70	NA	NA	10.07	8.59	0.75	NA	NA	20.52	19.04	090
21390		A	Repair eye socket fracture	10.13	NA	NA	11.31	11.90	1.07	NA	NA	22.51	23.10	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
21395		A	Repair eye socket fracture	12.68	NA	NA	12.11	10.87	1.07	NA	NA	25.86	24.62	090
21400		A	Treat eye socket fracture	1.40	4.34	2.44	0.79	1.45	0.13	5.87	3.97	2.32	2.98	090
21401		A	Repair eye socket fracture	3.26	4.21	3.15	2.30	2.68	0.25	7.72	6.66	5.81	6.19	090
21406		A	Repair eye socket fracture	7.01	NA	NA	7.89	6.21	0.58	NA	NA	15.48	13.80	090
21407		A	Repair eye socket fracture	8.61	NA	NA	9.34	8.10	0.61	NA	NA	18.56	17.32	090
21408		A	Repair eye socket fracture	12.38	NA	NA	10.69	9.58	0.77	NA	NA	23.84	22.73	090
21421		A	Treat mouth roof fracture	5.14	6.64	6.66	5.88	6.07	0.49	12.27	12.29	11.51	11.70	090
21422		A	Repair mouth roof fracture	8.32	NA	NA	8.21	9.50	0.93	NA	NA	17.46	18.75	090
21423		A	Repair mouth roof fracture	10.40	NA	NA	8.72	10.16	0.93	NA	NA	20.05	21.49	090
21431		A	Treat craniofacial fracture	7.05	NA	NA	7.43	6.76	0.56	NA	NA	15.04	14.37	090
21432		A	Repair craniofacial fracture	8.61	NA	NA	6.46	7.12	0.66	NA	NA	15.73	16.39	090
21433		A	Repair craniofacial fracture	25.35	NA	NA	19.12	19.40	1.64	NA	NA	46.11	46.39	090
21435		A	Repair craniofacial fracture	17.25	NA	NA	13.66	14.20	1.47	NA	NA	32.38	32.92	090
21436		A	Repair craniofacial fracture	28.04	NA	NA	17.80	16.38	1.63	NA	NA	47.47	46.05	090
21440		A	Repair dental ridge fracture	2.70	4.93	3.73	4.11	3.44	0.22	7.85	6.65	7.03	6.36	090
21445		A	Repair dental ridge fracture	5.38	6.04	6.48	5.38	6.16	0.44	11.86	12.30	11.20	11.98	090
21450		A	Treat lower jaw fracture	2.97	4.79	3.51	4.22	3.37	0.20	7.96	6.68	7.39	6.54	090
21451		A	Treat lower jaw fracture	4.87	5.81	6.20	5.25	5.68	0.58	11.26	11.65	10.70	11.13	090
21452		A	Treat lower jaw fracture	1.98	7.45	3.00	4.48	2.25	0.13	9.56	5.11	6.59	4.36	090
21453		A	Treat lower jaw fracture	5.54	6.59	7.06	6.33	6.54	0.43	12.56	13.03	12.30	12.51	090
21454		A	Treat lower jaw fracture	6.46	NA	NA	6.35	7.38	1.11	NA	NA	13.92	14.95	090
21461		A	Repair lower jaw fracture	8.09	7.86	9.21	8.08	9.27	1.02	16.97	18.32	17.19	18.38	090
21462		A	Repair lower jaw fracture	9.79	9.10	11.04	8.66	10.93	1.05	19.94	21.88	19.50	21.77	090
21465		A	Repair lower jaw fracture	11.91	NA	NA	8.59	9.02	0.77	NA	NA	21.27	21.70	090
21470		A	Repair lower jaw fracture	15.34	NA	NA	10.74	16.42	1.36	NA	NA	27.44	33.12	090
21480		A	Reset dislocated jaw	0.61	1.99	1.14	0.18	0.59	0.07	2.67	1.82	0.86	1.27	000
21485		A	Reset dislocated jaw	3.99	3.89	2.78	2.61	1.55	0.16	8.04	6.91	6.76	5.70	090
21490		A	Repair dislocated jaw	11.86	NA	NA	8.03	7.15	0.41	NA	NA	20.30	19.42	090
21493		A	Treat hyoid bone fracture	1.27	0.48	1.36	2.42	1.75	0.10	1.85	2.73	3.79	3.12	090
21494		A	Repair hyoid bone fracture	6.28	2.38	6.72	4.31	7.20	0.49	9.15	13.49	11.08	13.97	090
21495		A	Repair hyoid bone fracture	5.69	NA	NA	5.69	5.35	0.40	NA	NA	11.78	11.44	090
21497		A	Interdental wiring	3.86	4.51	4.36	3.89	4.21	0.30	8.67	8.52	8.05	8.37	090
21499		C	Head surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
21501		A	Drain neck/chest lesion	3.81	3.55	2.37	2.81	2.19	0.20	7.56	6.38	6.82	6.20	090
21502		A	Drain chest lesion	7.12	NA	NA	11.62	6.34	0.59	NA	NA	19.33	14.05	090
21510		A	Drainage of bone lesion	5.74	NA	NA	9.38	5.46	0.39	NA	NA	15.51	11.59	090
21550		A	Biopsy of neck/chest	2.06	1.90	1.17	1.14	0.63	0.09	4.05	3.32	3.29	2.78	010
21555		A	Remove lesion neck/chest	4.35	3.71	2.23	2.36	1.90	0.20	8.26	6.78	6.91	6.45	090
21556		A	Remove lesion neck/chest	5.57	NA	NA	3.12	3.87	0.50	NA	NA	9.19	9.94	090
21557		A	Remove tumor, neck or chest	8.88	NA	NA	11.24	9.73	1.10	NA	NA	21.22	19.71	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
21600		A	Partial removal of rib	6.89	NA	NA	9.75	6.10	0.69	NA	NA	17.33	13.68	090
21610		A	Partial removal of rib	14.81	NA	NA	10.03	6.72	0.59	NA	NA	25.23	21.92	090
21615		A	Removal of rib	9.87	NA	NA	9.09	10.52	1.53	NA	NA	20.49	21.92	090
21616		A	Removal of rib and nerves	12.04	NA	NA	11.64	8.82	1.17	NA	NA	24.85	22.03	090
21620		A	Partial removal of sternum	6.79	NA	NA	8.88	7.79	0.96	NA	NA	16.63	15.54	090
21627		A	Sternal debridement	6.81	NA	NA	15.32	7.93	0.70	NA	NA	22.83	15.44	090
21630		A	Extensive sternum surgery	17.38	NA	NA	16.91	14.72	1.88	NA	NA	36.17	33.98	090
21632		A	Extensive sternum surgery	18.14	NA	NA	13.63	12.80	1.74	NA	NA	33.51	32.68	090
21700		A	Revision of neck muscle	6.19	6.03	4.89	4.77	4.58	0.39	12.61	11.47	11.35	11.16	090
21705		A	Revision of neck muscle/rib	9.60	NA	NA	12.33	7.03	0.75	NA	NA	22.68	17.38	090
21720		A	Revision of neck muscle	5.68	7.10	4.90	5.36	4.47	0.41	13.19	10.99	11.45	10.56	090
21725		A	Revision of neck muscle	6.99	NA	NA	5.91	5.42	0.58	NA	NA	13.48	12.99	090
21740		A	Reconstruction of sternum	16.50	NA	NA	15.12	11.10	1.28	NA	NA	32.90	28.88	090
21750		A	Repair of sternum separation	10.77	NA	NA	10.71	8.64	1.12	NA	NA	22.60	20.53	090
21800		A	Treatment of rib fracture	0.96	1.52	1.01	0.82	0.84	0.05	2.53	2.02	1.83	1.85	090
21805		A	Treatment of rib fracture	2.75	NA	NA	3.24	1.91	0.13	NA	NA	6.12	4.79	090
21810		A	Treatment of rib fracture(s)	6.86	NA	NA	9.28	8.28	0.48	NA	NA	16.62	15.62	090
21820		A	Treat sternum fracture	1.28	1.89	1.58	1.17	1.40	0.13	3.30	2.99	2.58	2.81	090
21825		A	Repair sternum fracture	7.41	NA	NA	8.28	7.69	0.88	NA	NA	16.57	15.98	090
21899		C	Neck/chest surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
21920		A	Biopsy soft tissue of back	2.06	1.94	1.13	0.76	0.51	0.09	4.09	3.28	2.91	2.66	010
21925		A	Biopsy soft tissue of back	4.49	8.38	3.69	3.62	2.50	0.25	13.12	8.43	8.36	7.24	090
21930		A	Remove lesion, back or flank	5.00	3.97	3.21	2.52	2.84	0.38	9.35	8.59	7.90	8.22	090
21935		A	Remove tumor of back	17.96	NA	NA	11.38	8.21	1.02	NA	NA	30.36	27.19	090
22100		A	Remove part of neck vertebra	9.73	NA	NA	7.84	8.18	0.85	NA	NA	18.42	18.76	090
22101		A	Remove part, thorax vertebra	9.81	NA	NA	8.00	8.52	1.08	NA	NA	18.89	19.41	090
22102		A	Remove part, lumbar vertebra	9.81	NA	NA	7.86	5.63	0.52	NA	NA	18.19	15.96	090
22103		A	Remove extra spine segment	2.34	NA	NA	1.43	2.17	0.29	NA	NA	4.06	4.80	ZZZ
22110		A	Remove part of neck vertebra	12.74	NA	NA	10.08	10.43	1.28	NA	NA	24.10	24.45	090
22112		A	Remove part, thorax vertebra	12.81	NA	NA	10.24	10.62	1.28	NA	NA	24.33	24.71	090
22114		A	Remove part, lumbar vertebra	12.81	NA	NA	11.28	8.72	0.92	NA	NA	25.01	22.45	090
22116		A	Remove extra spine segment	2.32	NA	NA	1.40	2.15	0.28	NA	NA	4.00	4.75	ZZZ
22210		A	Revision of neck spine	23.82	NA	NA	16.18	15.30	1.90	NA	NA	41.90	41.02	090
22212		A	Revision of thorax spine	19.42	NA	NA	14.23	17.63	2.21	NA	NA	35.86	39.26	090
22214		A	Revision of lumbar spine	19.45	NA	NA	14.47	15.92	2.10	NA	NA	36.02	37.47	090
22216		A	Revise, extra spine segment	6.04	NA	NA	3.34	4.96	0.70	NA	NA	10.08	11.70	ZZZ
22220		A	Revision of neck spine	21.37	NA	NA	14.67	17.21	2.06	NA	NA	38.10	40.64	090
22222		A	Revision of thorax spine	21.52	NA	NA	10.37	13.67	1.24	NA	NA	33.13	36.43	090
22224		A	Revision of lumbar spine	21.52	NA	NA	15.13	15.73	2.08	NA	NA	38.73	39.33	090
22226		A	Revise, extra spine segment	6.04	NA	NA	3.38	4.97	0.70	NA	NA	10.12	11.71	ZZZ

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22305		A	Treat spine process fracture	2.05	2.42	2.44	1.74	2.27	0.29	4.76	4.78	4.08	4.61	090
22310		A	Treat spine fracture	2.61	3.53	2.93	3.11	2.83	0.54	6.68	6.08	6.26	5.98	090
22315		A	Treat spine fracture	8.84	NA	NA	8.17	6.53	0.67	NA	NA	17.68	16.04	090
22325		A	Repair of spine fracture	18.30	NA	NA	13.51	10.15	1.05	NA	NA	32.86	29.50	090
22326		A	Repair neck spine fracture	19.59	NA	NA	14.52	16.60	2.14	NA	NA	36.25	38.33	090
22327		A	Repair thorax spine fracture	19.20	NA	NA	13.99	16.48	1.84	NA	NA	35.03	37.52	090
22328		A	Repair each add spine fx	4.61	NA	NA	2.55	4.22	0.56	NA	NA	7.72	9.39	ZZZ
22505		A	Manipulation of spine	1.87	2.74	1.75	1.87	1.53	0.13	4.74	3.75	3.87	3.53	010
22548		A	Neck spine fusion	25.82	NA	NA	17.43	22.87	2.99	NA	NA	46.24	51.68	090
22554		A	Neck spine fusion	18.62	NA	NA	13.12	19.41	2.75	NA	NA	34.49	40.78	090
22556		A	Thorax spine fusion	23.46	NA	NA	16.06	21.66	2.80	NA	NA	42.32	47.92	090
22558		A	Lumbar spine fusion	22.28	NA	NA	14.95	20.16	2.64	NA	NA	39.87	45.08	090
22585		A	Additional spinal fusion	5.53	NA	NA	3.06	5.16	0.73	NA	NA	9.32	11.42	ZZZ
22590		A	Spine & skull spinal fusion	20.51	NA	NA	14.63	21.22	2.69	NA	NA	37.83	44.42	090
22595		A	Neck spinal fusion	19.39	NA	NA	13.80	20.81	3.03	NA	NA	36.22	43.23	090
22600		A	Neck spine fusion	16.14	NA	NA	12.08	17.47	2.60	NA	NA	30.82	36.21	090
22610		A	Thorax spine fusion	16.02	NA	NA	12.37	17.43	2.15	NA	NA	30.54	35.60	090
22612		A	Lumbar spine fusion	21.00	NA	NA	15.04	20.53	2.61	NA	NA	38.65	44.14	090
22614		A	Spine fusion, extra segment	6.44	NA	NA	3.56	5.49	0.72	NA	NA	10.72	12.65	ZZZ
22630		A	Lumbar spine fusion	20.84	NA	NA	15.38	18.85	2.46	NA	NA	38.68	42.15	090
22632		A	Spine fusion, extra segment	5.23	NA	NA	2.91	4.79	0.64	NA	NA	8.78	10.66	ZZZ
22800		A	Fusion of spine	18.25	NA	NA	13.60	19.74	2.80	NA	NA	34.65	40.79	090
22802		A	Fusion of spine	30.88	NA	NA	20.85	28.26	3.61	NA	NA	55.34	62.75	090
22804		A	Fusion of spine	36.27	NA	NA	23.60	28.95	3.61	NA	NA	63.48	68.83	090
22808		A	Fusion of spine	26.27	NA	NA	17.93	19.47	2.46	NA	NA	46.66	48.20	090
22810		A	Fusion of spine	30.27	NA	NA	19.58	19.88	2.46	NA	NA	52.31	52.61	090
22812		A	Fusion of spine	32.70	NA	NA	20.64	26.27	3.32	NA	NA	56.66	62.29	090
22818		A	Kyphectomy, 1-2 segments	31.83	NA	NA	18.54	27.63	3.79	NA	NA	54.16	63.25	090
22819		A	Kyphectomy, 3 & more segment	36.44	NA	NA	20.66	28.16	3.79	NA	NA	60.89	68.39	090
22830		A	Exploration of spinal fusion	10.85	NA	NA	9.32	12.05	1.71	NA	NA	21.88	24.61	090
22840		A	Insert spine fixation device	12.54	NA	NA	7.90	6.84	0.77	NA	NA	21.21	20.15	ZZZ
22841		B	Insert spine fixation device	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
22842		A	Insert spine fixation device	12.58	NA	NA	7.19	7.38	0.88	NA	NA	20.65	20.84	ZZZ
22843		A	Insert spine fixation device	13.46	NA	NA	8.47	9.08	1.10	NA	NA	23.03	23.64	ZZZ
22844		A	Insert spine fixation device	16.44	NA	NA	10.22	11.06	1.34	NA	NA	28.00	28.84	ZZZ
22845		A	Insert spine fixation device	11.96	NA	NA	7.56	6.53	0.73	NA	NA	20.25	19.22	ZZZ
22846		A	Insert spine fixation device	12.42	NA	NA	7.82	8.38	1.01	NA	NA	21.25	21.81	ZZZ
22847		A	Insert spine fixation device	13.80	NA	NA	8.53	9.27	1.13	NA	NA	23.46	24.20	ZZZ
22848		A	Insert pelvic fixationdevice	6.00	NA	NA	4.58	5.80	0.74	NA	NA	11.32	12.54	ZZZ
22849		A	Reinsert spinal fixation	18.51	NA	NA	13.21	12.87	1.54	NA	NA	33.26	32.92	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
22850		A	Remove spine fixation device	9.52	NA	NA	8.08	9.48	1.17	NA	NA	18.77	20.17	090
22851		A	Apply spine prosth device	6.71	NA	NA	4.80	6.41	0.82	NA	NA	12.33	13.94	ZZZ
22852		A	Remove spine fixation device	9.01	NA	NA	7.91	9.96	1.23	NA	NA	18.15	20.20	090
22855		A	Remove spine fixation device	15.13	NA	NA	10.95	8.81	0.98	NA	NA	27.06	24.92	090
22899		C	Spine surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
22900		A	Remove abdominal wall lesion	5.80	NA	NA	4.14	3.50	0.47	NA	NA	10.41	9.77	090
22999		C	Abdomen surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
23000		A	Removal of calcium deposits	4.36	6.05	4.15	5.58	4.04	0.37	10.78	8.88	10.31	8.77	090
23020		A	Release shoulder joint	8.93	NA	NA	8.79	8.12	0.85	NA	NA	18.57	17.90	090
23030		A	Drain shoulder lesion	3.43	4.06	2.77	3.54	2.64	0.27	7.76	6.47	7.24	6.34	010
23031		A	Drain shoulder bursa	2.74	4.07	1.42	3.40	1.05	0.04	6.85	4.20	6.18	3.83	010
23035		A	Drain shoulder bone lesion	8.61	NA	NA	13.01	8.32	0.81	NA	NA	22.43	17.74	090
23040		A	Exploratory shoulder surgery	9.20	NA	NA	10.05	10.06	1.15	NA	NA	20.40	20.41	090
23044		A	Exploratory shoulder surgery	7.12	NA	NA	8.56	7.77	0.92	NA	NA	16.60	15.81	090
23065		A	Biopsy shoulder tissues	2.27	2.19	1.09	1.26	0.86	0.07	4.53	3.43	3.60	3.20	010
23066		A	Biopsy shoulder tissues	4.16	5.36	2.30	4.70	2.14	0.08	9.60	6.54	8.94	6.38	090
23075		A	Removal of shoulder lesion	2.39	3.50	2.24	2.43	1.97	0.23	6.12	4.86	5.05	4.59	010
23076		A	Removal of shoulder lesion	7.63	NA	NA	6.41	4.48	0.51	NA	NA	14.55	12.62	090
23077		A	Remove tumor of shoulder	16.09	NA	NA	11.71	8.94	1.08	NA	NA	28.88	26.11	090
23100		A	Biopsy of shoulder joint	6.03	NA	NA	7.24	7.21	0.97	NA	NA	14.24	14.21	090
23101		A	Shoulder joint surgery	5.58	NA	NA	6.80	6.70	0.95	NA	NA	13.33	13.23	090
23105		A	Remove shoulder joint lining	8.23	NA	NA	8.41	9.47	1.35	NA	NA	17.99	19.05	090
23106		A	Incision of collarbone joint	5.96	NA	NA	6.80	5.56	0.63	NA	NA	13.39	12.15	090
23107		A	Explore,treat shoulder joint	8.62	NA	NA	8.76	9.91	1.25	NA	NA	18.63	19.78	090
23120		A	Partial removal, collar bone	7.11	NA	NA	8.06	5.77	0.58	NA	NA	15.75	13.46	090
23125		A	Removal of collarbone	9.39	NA	NA	8.62	9.06	0.99	NA	NA	19.00	19.44	090
23130		A	Partial removal,shoulderbone	7.55	NA	NA	8.33	7.82	0.89	NA	NA	16.77	16.26	090
23140		A	Removal of bone lesion	6.89	NA	NA	6.33	4.97	0.57	NA	NA	13.79	12.43	090
23145		A	Removal of bone lesion	9.09	NA	NA	8.90	8.84	1.04	NA	NA	19.03	18.97	090
23146		A	Removal of bone lesion	7.83	NA	NA	8.47	6.38	0.79	NA	NA	17.09	15.00	090
23150		A	Removal of humerus lesion	8.48	NA	NA	8.07	7.43	0.79	NA	NA	17.34	16.70	090
23155		A	Removal of humerus lesion	10.35	NA	NA	9.93	9.65	1.07	NA	NA	21.35	21.07	090
23156		A	Removal of humerus lesion	8.68	NA	NA	8.44	8.33	0.98	NA	NA	18.10	17.99	090
23170		A	Remove collarbone lesion	6.86	NA	NA	7.89	5.89	0.61	NA	NA	15.36	13.36	090
23172		A	Remove shoulder blade lesion	6.90	NA	NA	8.31	6.28	0.57	NA	NA	15.78	13.75	090
23174		A	Remove humerus lesion	9.51	NA	NA	10.64	9.62	0.95	NA	NA	21.10	20.08	090
23180		A	Remove collar bone lesion	8.53	NA	NA	12.80	6.70	0.52	NA	NA	21.85	15.75	090
23182		A	Remove shoulder blade lesion	8.15	NA	NA	12.58	8.49	0.88	NA	NA	21.61	17.52	090
23184		A	Remove humerus lesion	9.38	NA	NA	13.68	10.61	1.16	NA	NA	24.22	21.15	090
23190		A	Partial removal of scapula	7.24	NA	NA	7.06	6.71	0.77	NA	NA	15.07	14.72	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
23195		A	Removal of head of humerus	9.81	NA	NA	9.05	9.52	1.13	NA	NA	19.99	20.46	090
23200		A	Removal of collar bone	12.08	NA	NA	10.97	10.21	0.99	NA	NA	24.04	23.28	090
23210		A	Removal of shoulderblade	12.49	NA	NA	11.10	10.11	1.10	NA	NA	24.69	23.70	090
23220		A	Partial removal of humerus	14.56	NA	NA	12.70	12.99	1.59	NA	NA	28.85	29.14	090
23221		A	Partial removal of humerus	17.74	NA	NA	12.71	17.94	0.93	NA	NA	31.38	36.61	090
23222		A	Partial removal of humerus	23.92	NA	NA	18.41	16.83	1.80	NA	NA	44.13	42.55	090
23330		A	Remove shoulder foreign body	1.85	3.71	1.38	2.42	0.83	0.05	5.61	3.28	4.32	2.73	010
23331		A	Remove shoulder foreign body	7.38	NA	NA	7.96	3.83	0.30	NA	NA	15.64	11.51	090
23332		A	Remove shoulder foreign body	11.62	NA	NA	10.45	10.53	1.23	NA	NA	23.30	23.38	090
23350		A	Injection for shoulder x-ray	1.00	9.98	2.92	0.27	0.49	0.04	11.02	3.96	1.31	1.53	000
23395		A	Muscle transfer,shoulder/arm	16.85	NA	NA	12.37	12.15	1.44	NA	NA	30.66	30.44	090
23397		A	Muscle transfers	16.13	NA	NA	12.64	14.53	1.83	NA	NA	30.60	32.49	090
23400		A	Fixation of shoulder blade	13.54	NA	NA	10.82	10.72	1.31	NA	NA	25.67	25.57	090
23405		A	Incision of tendon & muscle	8.37	NA	NA	7.61	8.00	0.77	NA	NA	16.75	17.14	090
23406		A	Incise tendon(s) & muscle(s)	10.79	NA	NA	9.77	10.10	1.24	NA	NA	21.80	22.13	090
23410		A	Repair of tendon(s)	12.45	NA	NA	10.83	11.61	1.37	NA	NA	24.65	25.43	090
23412		A	Repair of tendon(s)	13.31	NA	NA	11.34	13.72	1.69	NA	NA	26.34	28.72	090
23415		A	Release of shoulder ligament	9.97	NA	NA	8.69	6.39	0.65	NA	NA	19.31	17.01	090
23420		A	Repair of shoulder	13.30	NA	NA	12.04	14.92	1.83	NA	NA	27.17	30.05	090
23430		A	Repair biceps tendon	9.98	NA	NA	9.47	8.35	0.93	NA	NA	20.38	19.26	090
23440		A	Removal/transplant tendon	10.48	NA	NA	9.87	8.30	0.92	NA	NA	21.27	19.70	090
23450		A	Repair shoulder capsule	13.40	NA	NA	11.20	13.18	1.60	NA	NA	26.20	28.18	090
23455		A	Repair shoulder capsule	14.37	NA	NA	11.76	15.61	1.96	NA	NA	28.09	31.94	090
23460		A	Repair shoulder capsule	15.37	NA	NA	12.34	14.54	1.75	NA	NA	29.46	31.66	090
23462		A	Repair shoulder capsule	15.30	NA	NA	11.98	15.31	1.94	NA	NA	29.22	32.55	090
23465		A	Repair shoulder capsule	15.85	NA	NA	12.47	14.64	1.78	NA	NA	30.10	32.27	090
23466		A	Repair shoulder capsule	14.22	NA	NA	11.63	15.64	2.09	NA	NA	27.94	31.95	090
23470		A	Reconstruct shoulder joint	17.15	NA	NA	13.45	17.01	2.07	NA	NA	32.67	36.23	090
23472		A	Reconstruct shoulder joint	16.92	NA	NA	13.29	18.47	3.83	NA	NA	34.04	39.22	090
23480		A	Revision of collarbone	11.18	NA	NA	9.80	7.81	0.80	NA	NA	21.78	19.79	090
23485		A	Revision of collar bone	13.43	NA	NA	11.62	12.15	1.46	NA	NA	26.51	27.04	090
23490		A	Reinforce clavicle	11.86	NA	NA	10.52	10.75	0.63	NA	NA	23.01	23.24	090
23491		A	Reinforce shoulder bones	14.21	NA	NA	11.67	13.25	1.65	NA	NA	27.53	29.11	090
23500		A	Treat clavicle fracture	2.08	2.87	2.06	1.87	1.81	0.16	5.11	4.30	4.11	4.05	090
23505		A	Treat clavicle fracture	3.69	4.53	3.23	3.38	2.94	0.30	8.52	7.22	7.37	6.93	090
23515		A	Repair clavicle fracture	7.41	NA	NA	6.86	7.36	0.88	NA	NA	15.15	15.65	090
23520		A	Treat clavicle dislocation	2.16	2.83	1.83	2.17	1.67	0.15	5.14	4.14	4.48	3.98	090
23525		A	Treat clavicle dislocation	3.60	4.61	2.77	2.64	2.27	0.21	8.42	6.58	6.45	6.08	090
23530		A	Repair clavicle dislocation	7.31	NA	NA	6.28	6.93	0.71	NA	NA	14.30	14.95	090
23532		A	Repair clavicle dislocation	8.01	NA	NA	6.85	7.60	0.93	NA	NA	15.79	16.54	090

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CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
23540		A	Treat clavicle dislocation	2.23	3.31	2.09	1.74	1.70	0.15	5.69	4.47	4.12	4.08	090
23545		A	Treat clavicle dislocation	3.25	3.75	2.55	2.74	2.30	0.23	7.23	6.03	6.22	5.78	090
23550		A	Repair clavicle dislocation	7.24	NA	NA	6.76	8.17	1.14	NA	NA	15.14	16.55	090
23552		A	Repair clavicle dislocation	8.45	NA	NA	7.45	7.80	0.92	NA	NA	16.82	17.17	090
23570		A	Treat shoulderblade fracture	2.23	2.89	2.10	2.19	1.93	0.20	5.32	4.53	4.62	4.36	090
23575		A	Treat shoulderblade fracture	4.06	4.72	3.42	3.65	3.15	0.34	9.12	7.82	8.05	7.55	090
23585		A	Repair scapula fracture	8.96	NA	NA	7.94	8.26	1.01	NA	NA	17.91	18.23	090
23600		A	Treat humerus fracture	2.93	4.58	3.51	2.87	3.08	0.34	7.85	6.78	6.14	6.35	090
23605		A	Treat humerus fracture	4.87	6.75	5.57	5.42	5.23	0.59	12.21	11.03	10.88	10.69	090
23615		A	Repair humerus fracture	9.35	NA	NA	8.68	10.55	1.39	NA	NA	19.42	21.29	090
23616		A	Repair humerus fracture	21.27	NA	NA	14.66	21.83	2.77	NA	NA	38.70	45.87	090
23620		A	Treat humerus fracture	2.40	4.30	3.42	2.55	1.72	0.36	7.06	6.18	5.31	4.48	090
23625		A	Treat humerus fracture	3.93	6.01	4.62	4.60	4.26	0.47	10.41	9.02	9.00	8.66	090
23630		A	Repair humerus fracture	7.35	NA	NA	6.88	8.31	1.10	NA	NA	15.33	16.76	090
23650		A	Treat shoulder dislocation	3.39	4.10	2.74	2.28	2.28	0.19	7.68	6.32	5.86	5.86	090
23655		A	Treat shoulder dislocation	4.57	NA	NA	3.33	3.22	0.34	NA	NA	8.24	8.13	090
23660		A	Repair shoulder dislocation	7.49	NA	NA	6.43	8.31	1.10	NA	NA	15.02	16.90	090
23665		A	Treat dislocation/fracture	4.47	6.13	4.26	4.84	3.94	0.40	11.00	9.13	9.71	8.81	090
23670		A	Repair dislocation/fracture	7.90	NA	NA	7.40	8.92	1.45	NA	NA	16.75	18.27	090
23675		A	Treat dislocation/fracture	6.05	6.88	4.92	5.72	4.63	0.48	13.41	11.45	12.25	11.16	090
23680		A	Repair dislocation/fracture	10.06	NA	NA	8.40	11.11	1.67	NA	NA	20.13	22.84	090
23700		A	Fixation of shoulder	2.52	NA	NA	2.96	2.44	0.27	NA	NA	5.75	5.23	010
23800		A	Fusion of shoulder joint	14.16	NA	NA	12.28	15.75	2.06	NA	NA	28.50	31.97	090
23802		A	Fusion of shoulder joint	16.60	NA	NA	13.51	14.83	1.75	NA	NA	31.86	33.18	090
23900		A	Amputation of arm & girdle	19.72	NA	NA	13.16	13.52	1.88	NA	NA	34.76	35.12	090
23920		A	Amputation at shoulder joint	14.61	NA	NA	11.28	14.09	1.99	NA	NA	27.88	30.69	090
23921		A	Amputation follow-up surgery	5.49	5.99	4.97	5.82	4.93	0.58	12.06	11.04	11.89	11.00	090
23929		C	Shoulder surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
23930		A	Drainage of arm lesion	2.94	4.01	2.32	2.95	2.05	0.19	7.14	5.45	6.08	5.18	010
23931		A	Drainage of arm bursa	1.79	3.86	1.57	2.91	1.04	0.09	5.74	3.45	4.79	2.92	010
23935		A	Drain arm/elbow bone lesion	6.09	NA	NA	10.00	6.32	0.61	NA	NA	16.70	13.02	090
24000		A	Exploratory elbow surgery	5.82	NA	NA	5.41	6.57	1.13	NA	NA	12.36	13.52	090
24006		A	Release elbow joint	9.31	NA	NA	7.25	7.63	0.92	NA	NA	17.48	17.86	090
24065		A	Biopsy arm/elbow soft tissue	2.08	3.78	1.59	2.43	0.93	0.08	5.94	3.75	4.59	3.09	010
24066		A	Biopsy arm/elbow soft tissue	5.21	5.69	3.63	5.25	3.52	0.32	11.22	9.16	10.78	9.05	090
24075		A	Remove arm/elbow lesion	3.92	5.31	2.94	4.44	2.72	0.27	9.50	7.13	8.63	6.91	090
24076		A	Remove arm/elbow lesion	6.30	NA	NA	5.62	4.40	0.52	NA	NA	12.44	11.22	090
24077		A	Remove tumor of arm/elbow	11.76	NA	NA	10.32	10.55	1.46	NA	NA	23.54	23.77	090
24100		A	Biopsy elbow joint lining	4.93	NA	NA	4.70	4.62	0.54	NA	NA	10.17	10.09	090
24101		A	Explore/treat elbow joint	6.13	NA	NA	5.72	6.91	1.10	NA	NA	12.95	14.14	090

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CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
24102		A	Remove elbow joint lining	8.03	NA	NA	6.63	8.84	1.42	NA	NA	16.08	18.29	090
24105		A	Removal of elbow bursa	3.61	NA	NA	4.10	4.09	0.49	NA	NA	8.20	8.19	090
24110		A	Remove humerus lesion	7.39	NA	NA	7.81	8.22	0.95	NA	NA	16.15	16.56	090
24115		A	Remove/graft bone lesion	9.63	NA	NA	7.82	8.20	1.04	NA	NA	18.49	18.87	090
24116		A	Remove/graft bone lesion	11.81	NA	NA	10.33	10.50	1.15	NA	NA	23.29	23.46	090
24120		A	Remove elbow lesion	6.65	NA	NA	5.75	6.34	0.77	NA	NA	13.17	13.76	090
24125		A	Remove/graft bone lesion	7.89	NA	NA	5.86	6.18	0.48	NA	NA	14.23	14.55	090
24126		A	Remove/graft bone lesion	8.31	NA	NA	5.65	7.44	0.95	NA	NA	14.91	16.70	090
24130		A	Removal of head of radius	6.25	NA	NA	5.84	6.93	0.84	NA	NA	12.93	14.02	090
24134		A	Removal of arm bone lesion	9.73	NA	NA	12.33	10.16	0.97	NA	NA	23.03	20.86	090
24136		A	Remove radius bone lesion	7.99	NA	NA	5.75	8.59	0.72	NA	NA	14.46	17.30	090
24138		A	Remove elbow bone lesion	8.05	NA	NA	6.90	6.92	0.83	NA	NA	15.78	15.80	090
24140		A	Partial removal of arm bone	9.18	NA	NA	13.44	10.50	1.13	NA	NA	23.75	20.81	090
24145		A	Partial removal of radius	7.58	NA	NA	9.67	7.61	0.81	NA	NA	18.06	16.00	090
24147		A	Partial removal of elbow	7.54	NA	NA	9.47	7.75	0.84	NA	NA	17.85	16.13	090
24149		A	Radical resection of elbow	14.20	NA	NA	9.60	12.69	1.62	NA	NA	25.42	28.51	090
24150		A	Extensive humerus surgery	13.27	NA	NA	12.31	14.54	1.75	NA	NA	27.33	29.56	090
24151		A	Extensive humerus surgery	15.58	NA	NA	13.47	14.63	1.65	NA	NA	30.70	31.86	090
24152		A	Extensive radius surgery	10.06	NA	NA	7.93	7.52	0.91	NA	NA	18.90	18.49	090
24153		A	Extensive radius surgery	11.54	NA	NA	6.21	10.05	1.34	NA	NA	19.09	22.93	090
24155		A	Removal of elbow joint	11.73	NA	NA	8.36	10.84	1.35	NA	NA	21.44	23.92	090
24160		A	Remove elbow joint implant	7.83	NA	NA	6.70	5.61	0.63	NA	NA	15.16	14.07	090
24164		A	Remove radius head implant	6.23	NA	NA	5.70	5.93	0.70	NA	NA	12.63	12.86	090
24200		A	Removal of arm foreign body	1.76	3.55	1.35	2.32	0.81	0.05	5.36	3.16	4.13	2.62	010
24201		A	Removal of arm foreign body	4.56	5.87	3.96	4.91	3.72	0.38	10.81	8.90	9.85	8.66	090
24220		A	Injection for elbow x-ray	1.31	10.93	3.15	0.37	0.51	0.04	12.28	4.50	1.72	1.86	000
24301		A	Muscle/tendon transfer	10.20	NA	NA	7.87	8.40	0.96	NA	NA	19.03	19.56	090
24305		A	Arm tendon lengthening	7.45	NA	NA	6.43	4.11	0.23	NA	NA	14.11	11.79	090
24310		A	Revision of arm tendon	5.98	NA	NA	6.57	4.04	0.38	NA	NA	12.93	10.40	090
24320		A	Repair of arm tendon	10.56	NA	NA	9.26	9.80	1.01	NA	NA	20.83	21.37	090
24330		A	Revision of arm muscles	9.60	NA	NA	7.53	9.00	1.12	NA	NA	18.25	19.72	090
24331		A	Revision of arm muscles	10.65	NA	NA	8.04	9.84	1.23	NA	NA	19.92	21.72	090
24340		A	Repair of biceps tendon	7.89	NA	NA	6.75	7.39	0.88	NA	NA	15.52	16.16	090
24341		A	Repair tendon/muscle arm	7.90	NA	NA	6.56	7.33	0.89	NA	NA	15.35	16.12	090
24342		A	Repair of ruptured tendon	10.62	NA	NA	8.17	10.49	1.38	NA	NA	20.17	22.49	090
24350		A	Repair of tennis elbow	5.25	NA	NA	5.11	4.72	0.54	NA	NA	10.90	10.51	090
24351		A	Repair of tennis elbow	5.91	NA	NA	5.61	5.12	0.57	NA	NA	12.09	11.60	090
24352		A	Repair of tennis elbow	6.43	NA	NA	5.96	6.13	0.73	NA	NA	13.12	13.29	090
24354		A	Repair of tennis elbow	6.48	NA	NA	5.84	6.03	0.74	NA	NA	13.06	13.25	090
24356		A	Revision of tennis elbow	6.68	NA	NA	6.00	7.43	0.92	NA	NA	13.60	15.03	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
24360		A	Reconstruct elbow joint	12.34	NA	NA	8.77	13.24	1.93	NA	NA	23.04	27.51	090
24361		A	Reconstruct elbow joint	14.08	NA	NA	10.16	13.23	1.56	NA	NA	25.80	28.87	090
24362		A	Reconstruct elbow joint	14.99	NA	NA	8.71	7.53	0.63	NA	NA	24.33	23.15	090
24363		A	Replace elbow joint	18.49	NA	NA	12.53	19.69	3.23	NA	NA	34.25	41.41	090
24365		A	Reconstruct head of radius	8.39	NA	NA	6.82	7.83	0.93	NA	NA	16.14	17.15	090
24366		A	Reconstruct head of radius	9.13	NA	NA	7.17	9.97	1.41	NA	NA	17.71	20.51	090
24400		A	Revision of humerus	11.06	NA	NA	10.53	9.50	1.07	NA	NA	22.66	21.63	090
24410		A	Revision of humerus	14.82	NA	NA	11.20	14.23	1.61	NA	NA	27.63	30.66	090
24420		A	Revision of humerus	13.44	NA	NA	13.56	13.40	1.57	NA	NA	28.57	28.41	090
24430		A	Repair of humerus	12.81	NA	NA	11.12	14.25	1.83	NA	NA	25.76	28.89	090
24435		A	Repair humerus with graft	13.17	NA	NA	11.92	14.78	2.22	NA	NA	27.31	30.17	090
24470		A	Revision of elbow joint	8.74	NA	NA	5.34	7.79	1.02	NA	NA	15.10	17.55	090
24495		A	Decompression of forearm	8.12	NA	NA	8.36	6.77	0.86	NA	NA	17.34	15.75	090
24498		A	Reinforce humerus	11.92	NA	NA	10.64	11.10	1.27	NA	NA	23.83	24.29	090
24500		A	Treat humerus fracture	3.21	6.26	3.64	2.52	2.70	0.28	9.75	7.13	6.01	6.19	090
24505		A	Treat humerus fracture	5.17	9.29	5.98	5.65	5.07	0.56	15.02	11.71	11.38	10.80	090
24515		A	Repair humerus fracture	11.65	NA	NA	9.50	10.23	1.20	NA	NA	22.35	23.08	090
24516		A	Repair humerus fracture	11.65	NA	NA	10.27	10.42	1.20	NA	NA	23.12	23.27	090
24530		A	Treat humerus fracture	3.50	7.13	4.00	3.70	3.15	0.33	10.96	7.83	7.53	6.98	090
24535		A	Treat humerus fracture	6.87	9.49	6.32	5.80	5.40	0.81	16.97	13.80	13.28	12.88	090
24538		A	Treat humerus fracture	9.43	NA	NA	8.99	8.74	0.99	NA	NA	19.41	19.18	090
24545		A	Repair humerus fracture	10.46	NA	NA	8.83	10.32	1.24	NA	NA	20.53	22.02	090
24546		A	Repair humerus fracture	15.69	NA	NA	11.84	11.08	1.24	NA	NA	28.77	28.01	090
24560		A	Treat humerus fracture	2.80	5.94	3.24	2.17	2.30	0.23	8.97	6.27	5.20	5.33	090
24565		A	Treat humerus fracture	5.56	8.64	4.97	5.02	4.06	0.42	14.62	10.95	11.00	10.04	090
24566		A	Treat humerus fracture	7.79	NA	NA	7.89	6.91	0.75	NA	NA	16.43	15.45	090
24575		A	Repair humerus fracture	10.66	NA	NA	7.89	8.26	0.97	NA	NA	19.32	19.89	090
24576		A	Treat humerus fracture	2.86	5.92	3.24	2.60	2.41	0.26	9.04	6.36	5.72	5.53	090
24577		A	Treat humerus fracture	5.79	8.85	5.47	5.26	4.57	0.48	15.12	11.74	11.53	10.84	090
24579		A	Repair humerus fracture	11.60	NA	NA	9.73	9.24	1.06	NA	NA	22.39	21.90	090
24582		A	Treat humerus fracture	8.55	NA	NA	8.79	7.58	0.83	NA	NA	18.17	16.96	090
24586		A	Repair elbow fracture	15.21	NA	NA	9.95	14.47	1.85	NA	NA	27.01	31.53	090
24587		A	Repair elbow fracture	15.16	NA	NA	9.75	13.61	1.70	NA	NA	26.61	30.47	090
24600		A	Treat elbow dislocation	4.23	7.43	3.45	3.53	2.47	0.20	11.86	7.88	7.96	6.90	090
24605		A	Treat elbow dislocation	5.42	NA	NA	4.28	2.94	0.29	NA	NA	9.99	8.65	090
24615		A	Repair elbow dislocation	9.42	NA	NA	7.03	9.32	1.16	NA	NA	17.61	19.90	090
24620		A	Treat elbow fracture	6.98	NA	NA	5.67	4.49	0.45	NA	NA	13.10	11.92	090
24635		A	Repair elbow fracture	13.19	NA	NA	19.21	13.80	1.39	NA	NA	33.79	28.38	090
24640		A	Treat elbow dislocation	1.20	4.66	1.99	1.02	1.08	0.06	5.92	3.25	2.28	2.34	010
24650		A	Treat radius fracture	2.16	5.75	3.27	1.97	1.41	0.26	8.17	5.69	4.39	3.83	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
24655		A	Treat radius fracture	4.40	8.08	4.47	4.34	3.54	0.35	12.83	9.22	9.09	8.29	090
24665		A	Repair radius fracture	8.14	NA	NA	7.82	7.76	0.89	NA	NA	16.85	16.79	090
24666		A	Repair radius fracture	9.49	NA	NA	8.66	10.53	1.25	NA	NA	19.40	21.27	090
24670		A	Treatment of ulna fracture	2.54	5.74	3.03	2.30	2.17	0.21	8.49	5.78	5.05	4.92	090
24675		A	Treatment of ulna fracture	4.72	8.23	4.92	4.58	4.00	0.42	13.37	10.06	9.72	9.14	090
24685		A	Repair ulna fracture	8.80	NA	NA	8.15	8.88	1.05	NA	NA	18.00	18.73	090
24800		A	Fusion of elbow joint	11.20	NA	NA	8.36	10.71	1.21	NA	NA	20.77	23.12	090
24802		A	Fusion/graft of elbow joint	13.69	NA	NA	9.40	12.27	1.56	NA	NA	24.65	27.52	090
24900		A	Amputation of upper arm	9.60	NA	NA	8.60	8.40	1.09	NA	NA	19.29	19.09	090
24920		A	Amputation of upper arm	9.54	NA	NA	9.66	7.94	0.93	NA	NA	20.13	18.41	090
24925		A	Amputation follow-up surgery	7.07	NA	NA	7.20	6.90	0.59	NA	NA	14.86	14.56	090
24930		A	Amputation follow-up surgery	10.25	NA	NA	10.46	9.26	0.92	NA	NA	21.63	20.43	090
24931		A	Amputate upper arm & implant	12.72	NA	NA	9.13	11.37	1.44	NA	NA	23.29	25.53	090
24935		A	Revision of amputation	15.56	NA	NA	11.33	13.99	1.75	NA	NA	28.64	31.30	090
24940		C	Revision of upper arm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	090
24999		C	Upper arm/elbow surgery	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
25000		A	Incision of tendon sheath	3.38	NA	NA	5.98	4.53	0.49	NA	NA	9.85	8.40	090
25020		A	Decompression of forearm	5.92	NA	NA	8.99	5.79	0.60	NA	NA	15.51	12.31	090
25023		A	Decompression of forearm	12.96	NA	NA	14.71	8.10	0.74	NA	NA	28.41	21.80	090
25028		A	Drainage of forearm lesion	5.25	NA	NA	7.94	3.67	0.28	NA	NA	13.47	9.20	090
25031		A	Drainage of forearm bursa	4.14	NA	NA	7.61	2.44	0.07	NA	NA	11.82	6.65	090
25035		A	Treat forearm bone lesion	7.36	NA	NA	13.18	8.43	0.79	NA	NA	21.33	16.58	090
25040		A	Explore/treat wrist joint	7.18	NA	NA	8.00	6.64	0.70	NA	NA	15.88	14.52	090
25065		A	Biopsy forearm soft tissues	1.99	2.04	1.12	2.87	1.03	0.07	4.10	3.18	4.93	3.09	010
25066		A	Biopsy forearm soft tissues	4.13	NA	NA	6.85	2.97	0.17	NA	NA	11.15	7.27	090
25075		A	Removal of forearm lesion	3.74	NA	NA	6.01	3.29	0.29	NA	NA	10.04	7.32	090
25076		A	Removal of forearm lesion	4.92	NA	NA	9.78	5.51	0.52	NA	NA	15.22	10.95	090
25077		A	Remove tumor, forearm/wrist	9.76	NA	NA	12.65	10.06	1.31	NA	NA	23.72	21.13	090
25085		A	Incision of wrist capsule	5.50	NA	NA	9.42	6.11	0.56	NA	NA	15.48	12.17	090
25100		A	Biopsy of wrist joint	3.90	NA	NA	6.11	5.02	0.62	NA	NA	10.63	9.54	090
25101		A	Explore/treat wrist joint	4.69	NA	NA	6.43	5.81	0.77	NA	NA	11.89	11.27	090
25105		A	Remove wrist joint lining	5.85	NA	NA	8.63	7.40	0.93	NA	NA	15.41	14.18	090
25107		A	Remove wrist joint cartilage	6.43	NA	NA	9.15	6.59	0.70	NA	NA	16.28	13.72	090
25110		A	Remove wrist tendon lesion	3.92	NA	NA	6.67	3.95	0.36	NA	NA	10.95	8.23	090
25111		A	Remove wrist tendon lesion	3.39	NA	NA	5.20	3.92	0.43	NA	NA	9.02	7.74	090
25112		A	Reremove wrist tendon lesion	4.53	NA	NA	6.02	4.54	0.52	NA	NA	11.07	9.59	090
25115		A	Remove wrist/forearm lesion	8.82	NA	NA	13.40	9.16	0.96	NA	NA	23.18	18.94	090
25116		A	Remove wrist/forearm lesion	7.11	NA	NA	12.47	9.49	1.08	NA	NA	20.66	17.68	090
25118		A	Excise wrist tendon sheath	4.37	NA	NA	6.53	5.55	0.80	NA	NA	11.70	10.72	090
25119		A	Partial removal of ulna	6.04	NA	NA	9.59	7.81	1.03	NA	NA	16.66	14.88	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
25120		A	Removal of forearm lesion	6.10	NA	NA	11.58	8.21	0.89	NA	NA	18.57	15.20	090
25125		A	Remove/graft forearm lesion	7.48	NA	NA	13.58	8.96	0.81	NA	NA	21.87	17.25	090
25126		A	Remove/graft forearm lesion	7.55	NA	NA	15.59	9.43	0.88	NA	NA	24.02	17.86	090
25130		A	Removal of wrist lesion	5.26	NA	NA	6.95	5.17	0.52	NA	NA	12.73	10.95	090
25135		A	Remove & graft wrist lesion	6.89	NA	NA	7.82	6.40	0.76	NA	NA	15.47	14.05	090
25136		A	Remove & graft wrist lesion	5.97	NA	NA	6.55	5.49	0.66	NA	NA	13.18	12.12	090
25145		A	Remove forearm bone lesion	8.37	NA	NA	13.63	8.25	0.59	NA	NA	20.59	15.21	090
25150		A	Partial removal of ulna	7.09	NA	NA	9.81	7.88	0.88	NA	NA	17.78	15.85	090
25151		A	Partial removal of radius	7.39	NA	NA	12.82	7.89	0.80	NA	NA	21.01	16.08	090
25170		A	Extensive forearm surgery	11.09	NA	NA	14.29	11.54	1.18	NA	NA	26.56	23.81	090
25210		A	Removal of wrist bone	5.95	NA	NA	7.27	5.79	0.63	NA	NA	13.85	12.37	090
25215		A	Removal of wrist bones	7.89	NA	NA	10.43	9.67	1.11	NA	NA	19.43	18.67	090
25230		A	Partial removal of radius	5.23	NA	NA	6.89	6.25	0.66	NA	NA	12.78	12.14	090
25240		A	Partial removal of ulna	5.17	NA	NA	8.88	6.53	0.67	NA	NA	14.72	12.37	090
25246		A	Injection for wrist x-ray	1.45	10.02	2.91	0.39	0.50	0.04	11.51	4.40	1.88	1.99	000
25248		A	Remove forearm foreign body	5.14	NA	NA	8.22	3.83	0.29	NA	NA	13.65	9.26	090
25250		A	Removal of wrist prosthesis	6.60	NA	NA	8.19	6.63	0.71	NA	NA	15.50	13.94	090
25251		A	Removal of wrist prosthesis	9.57	NA	NA	12.11	9.74	1.09	NA	NA	22.77	20.40	090
25260		A	Repair forearm tendon/muscle	7.80	NA	NA	13.20	7.05	0.61	NA	NA	21.61	15.46	090
25263		A	Repair forearm tendon/muscle	7.82	NA	NA	13.27	8.01	0.81	NA	NA	21.90	16.64	090
25265		A	Repair forearm tendon/muscle	9.88	NA	NA	16.34	10.54	1.10	NA	NA	27.32	21.52	090
25270		A	Repair forearm tendon/muscle	6.00	NA	NA	12.21	5.79	0.43	NA	NA	18.64	12.22	090
25272		A	Repair forearm tendon/muscle	7.04	NA	NA	12.66	5.96	0.42	NA	NA	20.12	13.42	090
25274		A	Repair forearm tendon/muscle	8.75	NA	NA	13.41	8.74	0.88	NA	NA	23.04	18.37	090
25280		A	Revise wrist/forearm tendon	7.22	NA	NA	12.47	6.55	0.54	NA	NA	20.23	14.31	090
25290		A	Incise wrist/forearm tendon	5.29	NA	NA	14.15	5.55	0.32	NA	NA	19.76	11.16	090
25295		A	Release wrist/forearm tendon	6.55	NA	NA	11.96	5.47	0.41	NA	NA	18.92	12.43	090
25300		A	Fusion of tendons at wrist	8.80	NA	NA	9.96	8.48	0.93	NA	NA	19.69	18.21	090
25301		A	Fusion of tendons at wrist	8.40	NA	NA	8.26	7.58	0.92	NA	NA	17.58	16.90	090
25310		A	Transplant forearm tendon	8.14	NA	NA	13.69	9.24	0.92	NA	NA	22.75	18.30	090
25312		A	Transplant forearm tendon	9.57	NA	NA	14.86	9.93	1.02	NA	NA	25.45	20.52	090
25315		A	Revise palsy hand tendon(s)	10.20	NA	NA	14.68	10.23	1.05	NA	NA	25.93	21.48	090
25316		A	Revise palsy hand tendon(s)	12.33	NA	NA	20.03	13.62	1.39	NA	NA	33.75	27.34	090
25320		A	Repair/revise wrist joint	10.77	NA	NA	10.33	9.58	1.13	NA	NA	22.23	21.48	090
25332		A	Revise wrist joint	11.41	NA	NA	10.58	10.77	1.26	NA	NA	23.25	23.44	090
25335		A	Realignment of hand	12.88	NA	NA	12.64	12.45	1.22	NA	NA	26.74	26.55	090
25337		A	Reconstruct ulna/radioulnar	10.17	NA	NA	11.58	9.89	1.13	NA	NA	22.88	21.19	090
25350		A	Revision of radius	8.78	NA	NA	13.82	9.65	0.99	NA	NA	23.59	19.42	090
25355		A	Revision of radius	10.17	NA	NA	12.08	10.45	1.17	NA	NA	23.42	21.79	090
25360		A	Revision of ulna	8.43	NA	NA	13.46	8.59	0.77	NA	NA	22.66	17.79	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
25365		A	Revise radius & ulna	12.40	NA	NA	14.45	12.01	1.23	NA	NA	28.08	25.64	090
25370		A	Revise radius or ulna	13.36	NA	NA	10.94	12.31	1.50	NA	NA	25.80	27.17	090
25375		A	Revise radius & ulna	13.04	NA	NA	10.82	13.60	0.68	NA	NA	24.54	27.32	090
25390		A	Shorten radius/ulna	10.40	NA	NA	13.94	10.66	1.17	NA	NA	25.51	22.23	090
25391		A	Lengthen radius/ulna	13.65	NA	NA	14.98	12.90	1.51	NA	NA	30.14	28.06	090
25392		A	Shorten radius & ulna	13.95	NA	NA	14.22	13.68	1.60	NA	NA	29.77	29.23	090
25393		A	Lengthen radius & ulna	15.87	NA	NA	13.27	14.88	1.82	NA	NA	30.96	32.57	090
25400		A	Repair radius or ulna	10.92	NA	NA	15.31	12.60	1.37	NA	NA	27.60	24.89	090
25405		A	Repair/graft radius or ulna	14.38	NA	NA	17.08	14.38	1.58	NA	NA	33.04	30.34	090
25415		A	Repair radius & ulna	13.35	NA	NA	15.32	13.12	1.50	NA	NA	30.17	27.97	090
25420		A	Repair/graft radius & ulna	16.33	NA	NA	18.05	16.48	1.78	NA	NA	36.16	34.59	090
25425		A	Repair/graft radius or ulna	13.21	NA	NA	28.77	16.97	1.46	NA	NA	43.44	31.64	090
25426		A	Repair/graft radius & ulna	15.82	NA	NA	18.19	14.09	1.67	NA	NA	35.68	31.58	090
25440		A	Repair/graft wrist bone	10.44	NA	NA	9.97	9.86	1.17	NA	NA	21.58	21.47	090
25441		A	Reconstruct wrist joint	12.90	NA	NA	10.96	11.99	1.48	NA	NA	25.34	26.37	090
25442		A	Reconstruct wrist joint	10.85	NA	NA	9.76	8.19	0.95	NA	NA	21.56	19.99	090
25443		A	Reconstruct wrist joint	10.39	NA	NA	11.34	10.47	1.19	NA	NA	22.92	22.05	090
25444		A	Reconstruct wrist joint	11.15	NA	NA	11.78	11.20	1.30	NA	NA	24.23	23.65	090
25445		A	Reconstruct wrist joint	9.69	NA	NA	11.19	11.23	1.35	NA	NA	22.23	22.27	090
25446		A	Wrist replacement	16.55	NA	NA	13.39	18.17	2.73	NA	NA	32.67	37.45	090
25447		A	Repair wrist joint(s)	10.37	NA	NA	10.12	10.38	1.22	NA	NA	21.71	21.97	090
25449		A	Remove wrist joint implant	14.49	NA	NA	14.08	9.90	0.91	NA	NA	29.48	25.30	090
25450		A	Revision of wrist joint	7.87	NA	NA	5.35	7.29	0.93	NA	NA	14.15	16.09	090
25455		A	Revision of wrist joint	9.49	NA	NA	9.84	9.55	1.11	NA	NA	20.44	20.15	090
25490		A	Reinforce radius	9.54	NA	NA	13.64	10.48	1.11	NA	NA	24.29	21.13	090
25491		A	Reinforce ulna	9.96	NA	NA	13.41	10.76	1.17	NA	NA	24.54	21.89	090
25492		A	Reinforce radius and ulna	12.33	NA	NA	15.43	12.97	1.44	NA	NA	29.20	26.74	090
25500		A	Treat fracture of radius	2.45	5.36	3.24	2.01	1.46	0.23	8.04	5.92	4.69	4.14	090
25505		A	Treat fracture of radius	5.21	8.36	4.99	4.74	4.09	0.40	13.97	10.60	10.35	9.70	090
25515		A	Repair fracture of radius	9.18	NA	NA	7.29	8.03	0.95	NA	NA	17.42	18.16	090
25520		A	Repair fracture of radius	6.26	8.58	6.81	5.27	5.99	0.74	15.56	13.81	12.27	12.99	090
25525		A	Repair fracture of radius	12.24	NA	NA	9.92	11.56	1.43	NA	NA	23.59	25.23	090
25526		A	Repair fracture of radius	12.98	NA	NA	15.57	13.54	1.52	NA	NA	30.07	28.04	090
25530		A	Treat fracture of ulna	2.09	5.44	3.35	2.12	1.47	0.27	7.80	5.71	4.48	3.83	090
25535		A	Treat fracture of ulna	5.14	7.95	4.89	4.79	4.10	0.42	13.51	10.45	10.35	9.66	090
25545		A	Repair fracture of ulna	8.90	NA	NA	8.20	8.22	0.94	NA	NA	18.04	18.06	090
25560		A	Treat fracture radius & ulna	2.44	5.40	3.20	1.85	2.31	0.21	8.05	5.85	4.50	4.96	090
25565		A	Treat fracture radius & ulna	5.63	8.60	5.95	4.92	5.03	0.55	14.78	12.13	11.10	11.21	090
25574		A	Treat fracture radius & ulna	7.01	NA	NA	7.10	8.05	1.35	NA	NA	15.46	16.41	090
25575		A	Repair fracture radius/ulna	10.45	NA	NA	8.95	10.95	1.35	NA	NA	20.75	22.75	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
25600		A	Treat fracture radius/ulna	2.63	5.78	3.76	2.22	1.71	0.33	8.74	6.72	5.18	4.67	090
25605		A	Treat fracture radius/ulna	5.81	8.90	5.44	5.18	4.51	0.48	15.19	11.73	11.47	10.80	090
25611		A	Repair fracture radius/ulna	7.77	NA	NA	8.01	6.89	0.76	NA	NA	16.54	15.42	090
25620		A	Repair fracture radius/ulna	8.55	NA	NA	8.02	7.81	0.89	NA	NA	17.46	17.25	090
25622		A	Treat wrist bone fracture	2.81	5.75	3.29	2.15	1.47	0.26	8.62	6.16	5.02	4.34	090
25624		A	Treat wrist bone fracture	4.53	8.08	5.01	4.41	2.60	0.45	13.06	9.99	9.39	7.58	090
25628		A	Repair wrist bone fracture	8.43	NA	NA	7.95	7.79	0.91	NA	NA	17.29	17.13	090
25630		A	Treat wrist bone fracture	2.88	5.86	3.25	2.21	1.45	0.23	8.97	6.36	5.32	4.56	090
25635		A	Treat wrist bone fracture	4.39	8.04	4.75	4.35	2.46	0.39	12.82	9.53	9.13	7.24	090
25645		A	Repair wrist bone fracture	7.25	NA	NA	7.48	7.31	0.74	NA	NA	15.47	15.30	090
25650		A	Repair wrist bone fracture	3.05	5.72	3.60	2.25	1.85	0.28	9.05	6.93	5.58	4.98	090
25660		A	Treat wrist dislocation	4.76	NA	NA	3.99	2.48	0.20	NA	NA	8.95	7.44	090
25670		A	Repair wrist dislocation	7.92	NA	NA	7.62	7.67	0.88	NA	NA	16.42	16.47	090
25675		A	Treat wrist dislocation	4.67	7.79	3.80	3.98	2.85	0.27	12.73	8.74	8.92	7.79	090
25676		A	Repair wrist dislocation	8.04	NA	NA	7.82	7.91	0.87	NA	NA	16.73	16.82	090
25680		A	Treat wrist fracture	5.99	NA	NA	5.25	3.30	0.28	NA	NA	11.52	9.57	090
25685		A	Repair wrist fracture	9.78	NA	NA	8.42	9.26	1.13	NA	NA	19.33	20.17	090
25690		A	Treat wrist dislocation	5.50	NA	NA	5.75	5.42	0.57	NA	NA	11.82	11.49	090
25695		A	Repair wrist dislocation	8.34	NA	NA	7.73	7.66	0.92	NA	NA	16.99	16.92	090
25800		A	Fusion of wrist joint	9.76	NA	NA	9.64	11.16	1.41	NA	NA	20.81	22.33	090
25805		A	Fusion/graft of wrist joint	11.28	NA	NA	10.59	12.75	1.64	NA	NA	23.51	25.67	090
25810		A	Fusion/graft of wrist joint	10.57	NA	NA	10.13	12.00	1.61	NA	NA	22.31	24.18	090
25820		A	Fusion of hand bones	7.45	NA	NA	8.66	8.84	1.16	NA	NA	17.27	17.45	090
25825		A	Fusion hand bones with graft	9.27	NA	NA	9.80	10.75	1.56	NA	NA	20.63	21.58	090
25830		A	Fusion radioulnar jnt/ulna	10.06	NA	NA	14.42	10.60	1.13	NA	NA	25.61	21.79	090
25900		A	Amputation of forearm	9.01	NA	NA	11.63	8.67	1.02	NA	NA	21.66	18.70	090
25905		A	Amputation of forearm	9.12	NA	NA	13.20	9.09	0.90	NA	NA	23.22	19.11	090
25907		A	Amputation follow-up surgery	7.80	NA	NA	11.35	7.51	0.78	NA	NA	19.93	16.09	090
25909		A	Amputation follow-up surgery	8.96	NA	NA	11.90	7.49	0.83	NA	NA	21.69	17.28	090
25915		A	Amputation of forearm	17.08	NA	NA	16.20	16.94	2.03	NA	NA	35.31	36.05	090
25920		A	Amputate hand at wrist	8.68	NA	NA	8.22	7.76	0.94	NA	NA	17.84	17.38	090
25922		A	Amputate hand at wrist	7.42	NA	NA	7.52	6.40	0.80	NA	NA	15.74	14.62	090
25924		A	Amputation follow-up surgery	8.46	NA	NA	7.32	7.94	0.95	NA	NA	16.73	17.35	090
25927		A	Amputation of hand	8.80	NA	NA	11.16	7.91	0.95	NA	NA	20.91	17.66	090
25929		A	Amputation follow-up surgery	7.59	NA	NA	5.65	5.27	0.75	NA	NA	13.99	13.61	090
25931		A	Amputation follow-up surgery	7.81	NA	NA	14.97	7.44	0.70	NA	NA	23.48	15.95	090
25999		C	Forearm^or wrist surgery	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
26010		A	Drainage of finger abscess	1.54	3.90	1.37	2.91	0.92	0.04	5.48	2.95	4.49	2.50	010
26011		A	Drainage of finger abscess	2.19	5.41	2.61	5.06	2.52	0.19	7.79	4.99	7.44	4.90	010
26020		A	Drain hand tendon sheath	4.67	NA	NA	10.46	5.65	0.49	NA	NA	15.62	10.81	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
26025		A	Drainage of palm bursa	4.82	NA	NA	10.14	6.20	0.59	NA	NA	15.55	11.61	090
26030		A	Drainage of palm bursa(s)	5.93	NA	NA	10.98	7.41	0.77	NA	NA	17.68	14.11	090
26034		A	Treat hand bone lesion	6.23	NA	NA	12.12	6.47	0.56	NA	NA	18.91	13.26	090
26035		A	Decompress fingers/hand	9.51	NA	NA	13.85	7.67	0.67	NA	NA	24.03	17.85	090
26037		A	Decompress fingers/hand	7.25	NA	NA	10.45	7.80	0.82	NA	NA	18.52	15.87	090
26040		A	Release palm contracture	3.33	NA	NA	9.32	4.66	0.38	NA	NA	13.03	8.37	090
26045		A	Release palm contracture	5.56	NA	NA	10.57	6.57	0.63	NA	NA	16.76	12.76	090
26055		A	Incise finger tendon sheath	2.69	6.00	4.17	5.93	4.15	0.44	9.13	7.30	9.06	7.28	090
26060		A	Incision of finger tendon	2.81	NA	NA	6.47	2.54	0.13	NA	NA	9.41	5.48	090
26070		A	Explore/treat hand joint	3.69	NA	NA	8.76	3.32	0.33	NA	NA	12.78	7.34	090
26075		A	Explore/treat finger joint	3.79	NA	NA	9.67	5.49	0.49	NA	NA	13.95	9.77	090
26080		A	Explore/treat finger joint	4.24	NA	NA	10.20	5.11	0.40	NA	NA	14.84	9.75	090
26100		A	Biopsy hand joint lining	3.67	NA	NA	6.53	4.06	0.35	NA	NA	10.55	8.08	090
26105		A	Biopsy finger joint lining	3.71	NA	NA	9.97	5.89	0.52	NA	NA	14.20	10.12	090
26110		A	Biopsy finger joint lining	3.53	NA	NA	9.00	4.64	0.39	NA	NA	12.92	8.56	090
26115		A	Removal of hand lesion	3.86	5.88	3.11	6.56	3.28	0.27	10.01	7.24	10.69	7.41	090
26116		A	Removal of hand lesion	5.53	NA	NA	10.38	5.62	0.49	NA	NA	16.40	11.64	090
26117		A	Remove tumor, hand/finger	8.55	NA	NA	11.88	7.10	0.71	NA	NA	21.14	16.36	090
26121		A	Release palm contracture	7.54	NA	NA	12.16	9.79	1.26	NA	NA	20.96	18.59	090
26123		A	Release palm contracture	9.29	NA	NA	13.12	10.69	1.20	NA	NA	23.61	21.18	090
26125		A	Release palm contracture	4.61	NA	NA	2.73	2.81	0.35	NA	NA	7.69	7.77	ZZZ
26130		A	Remove wrist joint lining	5.42	NA	NA	11.96	7.07	0.67	NA	NA	18.05	13.16	090
26135		A	Revise finger joint, each	6.96	NA	NA	13.15	7.24	0.64	NA	NA	20.75	14.84	090
26140		A	Revise finger joint, each	6.17	NA	NA	12.44	6.70	0.59	NA	NA	19.20	13.46	090
26145		A	Tendon excision, palm/finger	6.32	NA	NA	12.53	6.97	0.63	NA	NA	19.48	13.92	090
26160		A	Remove tendon sheath lesion	3.15	5.66	3.31	6.15	3.43	0.31	9.12	6.77	9.61	6.89	090
26170		A	Removal of palm tendon, each	4.77	NA	NA	7.11	4.08	0.35	NA	NA	12.23	9.20	090
26180		A	Removal of finger tendon	5.18	NA	NA	7.22	5.07	0.56	NA	NA	12.96	10.81	090
26185		A	Remove finger bone	5.25	NA	NA	7.07	5.22	0.32	NA	NA	12.64	10.79	090
26200		A	Remove hand bone lesion	5.51	NA	NA	10.67	6.31	0.56	NA	NA	16.74	12.38	090
26205		A	Remove/graft bone lesion	7.70	NA	NA	12.22	8.27	0.81	NA	NA	20.73	16.78	090
26210		A	Removal of finger lesion	5.15	NA	NA	10.69	5.85	0.50	NA	NA	16.34	11.50	090
26215		A	Remove/graft finger lesion	7.10	NA	NA	11.27	7.33	0.74	NA	NA	19.11	15.17	090
26230		A	Partial removal of hand bone	6.33	NA	NA	10.30	6.04	0.54	NA	NA	17.17	12.91	090
26235		A	Partial removal, finger bone	6.19	NA	NA	10.18	5.94	0.56	NA	NA	16.93	12.69	090
26236		A	Partial removal, finger bone	5.32	NA	NA	10.06	5.66	0.52	NA	NA	15.90	11.50	090
26250		A	Extensive hand surgery	7.55	NA	NA	11.44	7.74	0.84	NA	NA	19.83	16.13	090
26255		A	Extensive hand surgery	12.43	NA	NA	14.81	10.98	1.20	NA	NA	28.44	24.61	090
26260		A	Extensive finger surgery	7.03	NA	NA	12.94	7.90	0.76	NA	NA	20.73	15.69	090
26261		A	Extensive finger surgery	9.09	NA	NA	7.85	8.23	1.02	NA	NA	17.96	18.34	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
26262		A	Partial removal of finger	5.67	NA	NA	10.91	6.59	0.59	NA	NA	17.17	12.85	090
26320		A	Removal of implant from hand	3.98	NA	NA	10.11	5.41	0.45	NA	NA	14.54	9.84	090
26350		A	Repair finger/hand tendon	5.99	NA	NA	14.59	8.32	0.77	NA	NA	21.35	15.08	090
26352		A	Repair/graft hand tendon	7.68	NA	NA	14.85	9.08	0.86	NA	NA	23.39	17.62	090
26356		A	Repair finger/hand tendon	8.07	NA	NA	16.05	9.88	0.97	NA	NA	25.09	18.92	090
26357		A	Repair finger/hand tendon	8.58	NA	NA	16.47	9.47	0.93	NA	NA	25.98	18.98	090
26358		A	Repair/graft hand tendon	9.14	NA	NA	16.24	10.08	0.99	NA	NA	26.37	20.21	090
26370		A	Repair finger/hand tendon	7.11	NA	NA	15.75	9.40	0.88	NA	NA	23.74	17.39	090
26372		A	Repair/graft hand tendon	8.76	NA	NA	16.88	9.42	0.90	NA	NA	26.54	19.08	090
26373		A	Repair finger/hand tendon	8.16	NA	NA	17.96	10.06	0.87	NA	NA	26.99	19.09	090
26390		A	Revise hand/finger tendon	9.19	NA	NA	13.45	9.84	0.96	NA	NA	23.60	19.99	090
26392		A	Repair/graft hand tendon	10.26	NA	NA	17.11	11.28	0.99	NA	NA	28.36	22.53	090
26410		A	Repair hand tendon	4.63	NA	NA	12.06	5.69	0.40	NA	NA	17.09	10.72	090
26412		A	Repair/graft hand tendon	6.31	NA	NA	13.26	8.21	0.76	NA	NA	20.33	15.28	090
26415		A	Excision, hand/finger tendon	8.34	NA	NA	11.82	8.45	0.70	NA	NA	20.86	17.49	090
26416		A	Graft hand or finger tendon	9.37	NA	NA	14.21	10.59	1.10	NA	NA	24.68	21.06	090
26418		A	Repair finger tendon	4.25	NA	NA	11.69	5.84	0.48	NA	NA	16.40	10.55	090
26420		A	Repair/graft finger tendon	6.77	NA	NA	13.24	7.93	0.75	NA	NA	20.76	15.45	090
26426		A	Repair finger/hand tendon	6.15	NA	NA	12.82	8.34	0.84	NA	NA	19.81	15.33	090
26428		A	Repair/graft finger tendon	7.21	NA	NA	13.72	7.91	0.78	NA	NA	21.71	15.90	090
26432		A	Repair finger tendon	4.02	NA	NA	10.02	3.79	0.40	NA	NA	14.44	8.21	090
26433		A	Repair finger tendon	4.56	NA	NA	10.54	5.85	0.52	NA	NA	15.62	10.93	090
26434		A	Repair/graft finger tendon	6.09	NA	NA	14.12	7.56	0.66	NA	NA	20.87	14.31	090
26437		A	Realignment of tendons	5.82	NA	NA	10.95	6.04	0.53	NA	NA	17.30	12.39	090
26440		A	Release palm/finger tendon	5.02	NA	NA	13.66	6.32	0.46	NA	NA	19.14	11.80	090
26442		A	Release palm & finger tendon	8.16	NA	NA	15.21	6.55	0.46	NA	NA	23.83	15.17	090
26445		A	Release hand/finger tendon	4.31	NA	NA	13.47	6.02	0.42	NA	NA	18.20	10.75	090
26449		A	Release forearm/hand tendon	7.00	NA	NA	15.48	8.40	0.75	NA	NA	23.23	16.15	090
26450		A	Incision of palm tendon	3.67	NA	NA	6.92	3.58	0.28	NA	NA	10.87	7.53	090
26455		A	Incision of finger tendon	3.64	NA	NA	6.67	3.21	0.28	NA	NA	10.57	7.11	090
26460		A	Incise hand/finger tendon	3.46	NA	NA	6.56	3.04	0.23	NA	NA	10.25	6.73	090
26471		A	Fusion of finger tendons	5.73	NA	NA	10.69	6.05	0.52	NA	NA	16.94	12.30	090
26474		A	Fusion of finger tendons	5.32	NA	NA	11.05	6.51	0.59	NA	NA	16.96	12.42	090
26476		A	Tendon lengthening	5.18	NA	NA	11.49	5.23	0.21	NA	NA	16.88	10.62	090
26477		A	Tendon shortening	5.15	NA	NA	10.37	5.84	0.57	NA	NA	16.09	11.56	090
26478		A	Lengthening of hand tendon	5.80	NA	NA	11.23	6.31	0.56	NA	NA	17.59	12.67	090
26479		A	Shortening of hand tendon	5.74	NA	NA	11.16	7.10	0.67	NA	NA	17.57	13.51	090
26480		A	Transplant hand tendon	6.69	NA	NA	14.92	9.05	0.87	NA	NA	22.48	16.61	090
26483		A	Transplant/graft hand tendon	8.29	NA	NA	15.45	10.78	1.10	NA	NA	24.84	20.17	090
26485		A	Transplant palm tendon	7.70	NA	NA	16.42	9.39	0.84	NA	NA	24.96	17.93	090

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26489		A	Transplant/graft palm tendon	9.55	NA	NA	12.90	5.99	0.40	NA	NA	22.85	15.94	090
26490		A	Revise thumb tendon	8.41	NA	NA	12.38	9.45	1.00	NA	NA	21.79	18.86	090
26492		A	Tendon transfer with graft	9.62	NA	NA	14.10	10.65	0.95	NA	NA	24.67	21.22	090
26494		A	Hand tendon/muscle transfer	8.47	NA	NA	12.74	9.11	0.96	NA	NA	22.17	18.54	090
26496		A	Revise thumb tendon	9.59	NA	NA	12.45	10.22	1.20	NA	NA	23.24	21.01	090
26497		A	Finger tendon transfer	9.57	NA	NA	14.97	10.27	1.08	NA	NA	25.62	20.92	090
26498		A	Finger tendon transfer	14.00	NA	NA	17.41	13.94	1.60	NA	NA	33.01	29.54	090
26499		A	Revision of finger	8.98	NA	NA	12.96	9.55	0.98	NA	NA	22.92	19.51	090
26500		A	Hand tendon reconstruction	5.96	NA	NA	11.47	5.71	0.47	NA	NA	17.90	12.14	090
26502		A	Hand tendon reconstruction	7.14	NA	NA	12.48	7.41	0.74	NA	NA	20.36	15.29	090
26504		A	Hand tendon reconstruction	7.47	NA	NA	15.79	9.42	0.87	NA	NA	24.13	17.76	090
26508		A	Release thumb contracture	6.01	NA	NA	10.98	6.12	0.56	NA	NA	17.55	12.69	090
26510		A	Thumb tendon transfer	5.43	NA	NA	11.36	6.22	0.53	NA	NA	17.32	12.18	090
26516		A	Fusion of knuckle joint	7.15	NA	NA	11.65	6.30	0.52	NA	NA	19.32	13.97	090
26517		A	Fusion of knuckle joints	8.83	NA	NA	15.19	9.55	0.96	NA	NA	24.98	19.34	090
26518		A	Fusion of knuckle joints	9.02	NA	NA	12.57	8.45	0.95	NA	NA	22.54	18.42	090
26520		A	Release knuckle contracture	5.30	NA	NA	13.68	7.07	0.56	NA	NA	19.54	12.93	090
26525		A	Release finger contracture	5.33	NA	NA	13.78	6.41	0.49	NA	NA	19.60	12.23	090
26530		A	Revise knuckle joint	6.69	NA	NA	14.50	7.83	0.66	NA	NA	21.85	15.18	090
26531		A	Revise knuckle with implant	7.91	NA	NA	16.19	9.46	0.87	NA	NA	24.97	18.24	090
26535		A	Revise finger joint	5.24	NA	NA	8.09	5.96	0.45	NA	NA	13.78	11.65	090
26536		A	Revise/implant finger joint	6.37	NA	NA	13.88	9.18	0.93	NA	NA	21.18	16.48	090
26540		A	Repair hand joint	6.43	NA	NA	11.45	8.27	0.88	NA	NA	18.76	15.58	090
26541		A	Repair hand joint with graft	8.62	NA	NA	13.06	10.54	1.15	NA	NA	22.83	20.31	090
26542		A	Repair hand joint with graft	6.78	NA	NA	11.51	7.49	0.76	NA	NA	19.05	15.03	090
26545		A	Reconstruct finger joint	6.92	NA	NA	11.83	7.25	0.74	NA	NA	19.49	14.91	090
26546		A	Repair non-union hand	8.92	NA	NA	13.37	9.94	1.04	NA	NA	23.33	19.90	090
26548		A	Reconstruct finger joint	8.03	NA	NA	12.54	7.85	0.78	NA	NA	21.35	16.66	090
26550		A	Construct thumb replacement	21.24	NA	NA	24.06	22.14	2.53	NA	NA	47.83	45.91	090
26551		A	Great toe-hand transfer	46.58	NA	NA	34.04	42.90	5.41	NA	NA	86.03	94.89	090
26553		A	Single toe-hand transfer	46.27	NA	NA	25.35	40.49	5.37	NA	NA	76.99	92.13	090
26554		A	Double toe-hand transfer	54.95	NA	NA	34.94	49.48	6.42	NA	NA	96.31	110.85	090
26555		A	Positional change of finger	16.63	NA	NA	17.60	16.94	1.97	NA	NA	36.20	35.54	090
26556		A	Toe joint transfer	47.26	NA	NA	25.72	41.16	5.47	NA	NA	78.45	93.89	090
26560		A	Repair of web finger	5.38	NA	NA	11.15	6.58	0.52	NA	NA	17.05	12.48	090
26561		A	Repair of web finger	10.92	NA	NA	15.44	11.10	1.22	NA	NA	27.58	23.24	090
26562		A	Repair of web finger	9.68	NA	NA	13.13	11.95	0.64	NA	NA	23.45	22.27	090
26565		A	Correct metacarpal flaw	6.74	NA	NA	12.11	7.77	0.66	NA	NA	19.51	15.17	090
26567		A	Correct finger deformity	6.82	NA	NA	11.51	6.36	0.52	NA	NA	18.85	13.70	090
26568		A	Lengthen metacarpal/finger	9.08	NA	NA	13.54	10.26	0.83	NA	NA	23.45	20.17	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
26580		A	Repair hand deformity	18.18	NA	NA	13.76	17.19	2.16	NA	NA	34.10	37.53	090
26585		A	Repair finger deformity	14.05	NA	NA	12.08	13.56	1.66	NA	NA	27.79	29.27	090
26587		C	Reconstruct extra finger	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	090
26590		A	Repair finger deformity	17.96	NA	NA	11.39	16.39	2.13	NA	NA	31.48	36.48	090
26591		A	Repair muscles of hand	3.25	NA	NA	10.36	4.46	0.31	NA	NA	13.92	8.02	090
26593		A	Release muscles of hand	5.31	NA	NA	10.46	5.97	0.55	NA	NA	16.32	11.83	090
26596		A	Excision constricting tissue	8.95	NA	NA	8.72	8.89	1.06	NA	NA	18.73	18.90	090
26597		A	Release of scar contracture	9.82	NA	NA	13.35	9.86	1.07	NA	NA	24.24	20.75	090
26600		A	Treat metacarpal fracture	1.96	5.39	2.60	1.91	1.11	0.17	7.52	4.73	4.04	3.24	090
26605		A	Treat metacarpal fracture	2.85	6.87	3.59	3.40	1.79	0.28	10.00	6.72	6.53	4.92	090
26607		A	Treat metacarpal fracture	5.36	NA	NA	7.07	4.66	0.45	NA	NA	12.88	10.47	090
26608		A	Treat metacarpal fracture	5.36	NA	NA	8.74	4.57	0.45	NA	NA	12.55	10.38	090
26615		A	Repair metacarpal fracture	5.33	NA	NA	6.19	5.52	0.63	NA	NA	12.15	11.48	090
26641		A	Treat thumb dislocation	3.94	7.05	2.66	3.25	1.71	0.11	11.10	6.71	7.30	5.76	090
26645		A	Treat thumb fracture	4.41	7.65	3.71	4.08	2.81	0.26	12.32	8.38	8.75	7.48	090
26650		A	Repair thumb fracture	5.72	NA	NA	6.85	4.98	0.50	NA	NA	13.07	11.20	090
26665		A	Repair thumb fracture	7.60	NA	NA	7.37	7.04	0.85	NA	NA	15.82	15.49	090
26670		A	Treat hand dislocation	3.69	7.02	2.54	3.04	1.54	0.08	10.79	6.31	6.81	5.31	090
26675		A	Treat hand dislocation	4.64	6.66	5.20	3.25	4.35	0.47	11.77	10.31	8.36	9.46	090
26676		A	Pin hand dislocation	5.52	NA	NA	6.94	5.69	0.52	NA	NA	12.98	11.73	090
26685		A	Repair hand dislocation	6.98	NA	NA	7.61	6.59	0.71	NA	NA	15.30	14.28	090
26686		A	Repair hand dislocation	7.94	NA	NA	7.43	7.00	0.81	NA	NA	16.18	15.75	090
26700		A	Treat knuckle dislocation	3.69	3.74	1.66	2.08	1.24	0.08	7.51	5.43	5.85	5.01	090
26705		A	Treat knuckle dislocation	4.19	6.78	3.14	3.42	2.30	0.21	11.18	7.54	7.82	6.70	090
26706		A	Pin knuckle dislocation	5.12	NA	NA	4.91	5.04	0.59	NA	NA	10.62	10.75	090
26715		A	Repair knuckle dislocation	5.74	NA	NA	6.47	4.98	0.52	NA	NA	12.73	11.24	090
26720		A	Treat finger fracture, each	1.66	2.26	1.46	1.31	0.78	0.12	4.04	3.24	3.09	2.56	090
26725		A	Treat finger fracture, each	3.33	4.02	2.26	2.75	1.32	0.18	7.53	5.77	6.26	4.83	090
26727		A	Treat finger fracture, each	5.23	NA	NA	6.71	3.67	0.30	NA	NA	12.24	9.20	090
26735		A	Repair finger fracture, each	5.98	NA	NA	6.33	4.62	0.48	NA	NA	12.79	11.08	090
26740		A	Treat finger fracture, each	1.94	2.78	1.64	2.14	1.01	0.13	4.85	3.71	4.21	3.08	090
26742		A	Treat finger fracture, each	3.85	7.66	3.53	4.09	2.64	0.25	11.76	7.63	8.19	6.74	090
26746		A	Repair finger fracture, each	5.81	NA	NA	6.56	5.50	0.63	NA	NA	13.00	11.94	090
26750		A	Treat finger fracture, each	1.70	2.60	1.33	1.57	1.07	0.08	4.38	3.11	3.35	2.85	090
26755		A	Treat finger fracture, each	3.10	3.83	1.84	2.41	1.48	0.12	7.05	5.06	5.63	4.70	090
26756		A	Pin finger fracture, each	4.39	NA	NA	6.26	3.11	0.26	NA	NA	10.91	7.76	090
26765		A	Repair finger fracture, each	4.17	NA	NA	5.47	3.54	0.35	NA	NA	9.99	8.06	090
26770		A	Treat finger dislocation	3.02	3.51	1.49	1.77	1.06	0.06	6.59	4.57	4.85	4.14	090
26775		A	Treat finger dislocation	3.71	6.32	2.50	2.98	1.67	0.13	10.16	6.34	6.82	5.51	090
26776		A	Pin finger dislocation	4.80	NA	NA	6.51	3.32	0.27	NA	NA	11.58	8.39	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
26785		A	Repair finger dislocation	4.21	NA	NA	5.54	3.80	0.38	NA	NA	10.13	8.39	090
26820		A	Thumb fusion with graft	8.26	NA	NA	12.88	8.64	0.82	NA	NA	21.96	17.72	090
26841		A	Fusion of thumb	7.13	NA	NA	11.95	8.01	0.78	NA	NA	19.86	15.92	090
26842		A	Thumb fusion with graft	8.24	NA	NA	13.18	10.28	1.07	NA	NA	22.49	19.59	090
26843		A	Fusion of hand joint	7.61	NA	NA	12.82	8.39	0.86	NA	NA	21.29	16.86	090
26844		A	Fusion/graft of hand joint	8.73	NA	NA	13.84	9.45	0.93	NA	NA	23.50	19.11	090
26850		A	Fusion of knuckle	6.97	NA	NA	11.54	6.65	0.59	NA	NA	19.10	14.21	090
26852		A	Fusion of knuckle with graft	8.46	NA	NA	12.65	7.82	0.78	NA	NA	21.89	17.06	090
26860		A	Fusion of finger joint	4.69	NA	NA	10.29	6.08	0.53	NA	NA	15.51	11.30	090
26861		A	Fusion of finger joint,added	1.74	NA	NA	1.20	1.85	0.34	NA	NA	3.28	3.93	ZZZ
26862		A	Fusion/graft of finger joint	7.37	NA	NA	11.97	7.19	0.66	NA	NA	20.00	15.22	090
26863		A	Fuse/graft added joint	3.90	NA	NA	2.40	3.35	0.45	NA	NA	6.75	7.70	ZZZ
26910		A	Amputate metacarpal bone	7.60	NA	NA	10.72	6.88	0.73	NA	NA	19.05	15.21	090
26951		A	Amputation of finger/thumb	4.59	NA	NA	9.67	4.75	0.38	NA	NA	14.64	9.72	090
26952		A	Amputation of finger/thumb	8.31	NA	NA	11.03	6.01	0.54	NA	NA	17.88	12.86	090
26989		C	Hand/finger surgery	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
26990		A	Drainage of pelvis lesion	7.48	NA	NA	13.33	5.85	0.40	NA	NA	21.21	13.73	090
26991		A	Drainage of pelvis bursa	6.68	8.19	3.52	7.33	3.30	0.23	15.10	10.43	14.24	10.21	090
26992		A	Drainage of bone lesion	13.02	NA	NA	17.47	9.56	0.82	NA	NA	31.31	23.40	090
27000		A	Incision of hip tendon	5.62	NA	NA	6.14	3.04	0.19	NA	NA	11.95	8.85	090
27001		A	Incision of hip tendon	6.94	NA	NA	6.93	3.64	0.30	NA	NA	14.17	10.88	090
27003		A	Incision of hip tendon	7.34	NA	NA	7.90	7.49	0.84	NA	NA	16.08	15.67	090
27005		A	Incision of hip tendon	9.66	NA	NA	9.12	5.03	0.42	NA	NA	19.20	15.11	090
27006		A	Incision of hip tendons	9.68	NA	NA	8.96	6.02	0.60	NA	NA	19.24	16.30	090
27025		A	Incision of hip/thigh fascia	11.16	NA	NA	8.88	7.20	0.80	NA	NA	20.84	19.16	090
27030		A	Drainage of hip joint	13.01	NA	NA	11.00	12.04	1.46	NA	NA	25.47	26.51	090
27033		A	Exploration of hip joint	13.39	NA	NA	10.92	12.11	1.45	NA	NA	25.76	26.95	090
27035		A	Denervation of hip joint	16.69	NA	NA	13.42	13.01	1.73	NA	NA	31.84	31.43	090
27036		A	Excision of hip joint/muscle	12.88	NA	NA	11.41	12.17	1.46	NA	NA	25.75	26.51	090
27040		A	Biopsy of soft tissues	2.87	4.17	1.63	2.99	1.33	0.09	7.13	4.59	5.95	4.29	010
27041		A	Biopsy of soft tissues	9.89	NA	NA	6.91	3.90	0.34	NA	NA	17.14	14.13	090
27047		A	Remove hip/pelvis lesion	7.45	6.86	3.25	5.74	2.97	0.25	14.56	10.95	13.44	10.67	090
27048		A	Remove hip/pelvis lesion	6.25	NA	NA	6.02	5.03	0.64	NA	NA	12.91	11.92	090
27049		A	Remove tumor, hip/pelvis	13.66	NA	NA	10.62	10.91	1.46	NA	NA	25.74	26.03	090
27050		A	Biopsy of sacroiliac joint	4.36	NA	NA	5.58	5.29	0.70	NA	NA	10.64	10.35	090
27052		A	Biopsy of hip joint	6.23	NA	NA	7.41	7.43	1.24	NA	NA	14.88	14.90	090
27054		A	Removal of hip joint lining	8.54	NA	NA	9.01	9.90	1.77	NA	NA	19.32	20.21	090
27060		A	Removal of ischial bursa	5.43	NA	NA	5.71	4.63	0.53	NA	NA	11.67	10.59	090
27062		A	Remove femur lesion/bursa	5.37	NA	NA	6.04	4.95	0.55	NA	NA	11.96	10.87	090
27065		A	Removal of hip bone lesion	5.90	NA	NA	7.14	6.34	0.70	NA	NA	13.74	12.94	090

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CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
27066		A	Removal of hip bone lesion	10.33	NA	NA	10.53	9.06	1.02	NA	NA	21.88	20.41	090
27067		A	Remove/graft hip bone lesion	13.83	NA	NA	12.72	12.65	1.51	NA	NA	28.06	27.99	090
27070		A	Partial removal of hip bone	10.72	NA	NA	16.32	10.11	0.95	NA	NA	27.99	21.78	090
27071		A	Partial removal of hip bone	11.46	NA	NA	16.83	11.12	1.13	NA	NA	29.42	23.71	090
27075		A	Extensive hip surgery	17.23	NA	NA	13.68	14.44	1.62	NA	NA	32.73	33.49	090
27076		A	Extensive hip surgery	22.12	NA	NA	17.52	17.71	2.04	NA	NA	41.68	41.87	090
27077		A	Extensive hip surgery	23.13	NA	NA	16.76	19.64	2.53	NA	NA	42.42	45.30	090
27078		A	Extensive hip surgery	13.44	NA	NA	12.57	10.83	1.31	NA	NA	27.32	25.38	090
27079		A	Extensive hip surgery	13.75	NA	NA	11.30	9.86	1.30	NA	NA	26.35	24.91	090
27080		A	Removal of tail bone	6.39	NA	NA	5.83	5.35	0.68	NA	NA	12.90	12.42	090
27086		A	Remove hip foreign body	1.87	3.83	1.43	2.96	0.98	0.05	5.75	3.35	4.88	2.90	010
27087		A	Remove hip foreign body	8.54	NA	NA	7.62	4.85	0.47	NA	NA	16.63	13.86	090
27090		A	Removal of hip prosthesis	11.15	NA	NA	10.08	9.92	1.14	NA	NA	22.37	22.21	090
27091		A	Removal of hip prosthesis	22.14	NA	NA	15.01	19.88	2.47	NA	NA	39.62	44.49	090
27093		A	Injection for hip x-ray	1.30	10.85	3.38	0.41	0.77	0.09	12.24	4.77	1.80	2.16	000
27095		A	Injection for hip x-ray	1.50	11.00	3.51	0.46	0.87	0.10	12.60	5.11	2.06	2.47	000
27097		A	Revision of hip tendon	8.80	NA	NA	8.09	8.30	0.99	NA	NA	17.88	18.09	090
27098		A	Transfer tendon to pelvis	8.83	NA	NA	8.24	8.34	0.99	NA	NA	18.06	18.18	090
27100		A	Transfer of abdominal muscle	11.08	NA	NA	10.70	8.92	1.11	NA	NA	22.89	21.11	090
27105		A	Transfer of spinal muscle	11.77	NA	NA	10.29	7.37	1.06	NA	NA	23.12	20.20	090
27110		A	Transfer of iliopsoas muscle	13.26	NA	NA	11.68	11.55	1.46	NA	NA	26.40	26.27	090
27111		A	Transfer of iliopsoas muscle	12.15	NA	NA	10.62	12.12	1.29	NA	NA	24.06	25.56	090
27120		A	Reconstruction of hip socket	18.01	NA	NA	13.17	18.02	2.31	NA	NA	33.49	38.34	090
27122		A	Reconstruction of hip socket	14.98	NA	NA	12.65	16.58	2.30	NA	NA	29.93	33.86	090
27125		A	Partial hip replacement	14.69	NA	NA	12.23	16.21	2.35	NA	NA	29.27	33.25	090
27130		A	Total hip replacement	20.12	NA	NA	15.48	21.89	3.58	NA	NA	39.18	45.59	090
27132		A	Total hip replacement	23.30	NA	NA	17.20	25.17	3.98	NA	NA	44.48	52.45	090
27134		A	Revise hip joint replacement	28.52	NA	NA	19.89	30.50	4.66	NA	NA	53.07	63.68	090
27137		A	Revise hip joint replacement	21.17	NA	NA	16.18	23.01	3.77	NA	NA	41.12	47.95	090
27138		A	Revise hip joint replacement	22.17	NA	NA	16.62	23.88	3.58	NA	NA	42.37	49.63	090
27140		A	Transplant of femur ridge	12.24	NA	NA	10.52	11.62	1.34	NA	NA	24.10	25.20	090
27146		A	Incision of hip bone	17.43	NA	NA	14.42	12.46	1.06	NA	NA	32.91	30.95	090
27147		A	Revision of hip bone	20.58	NA	NA	14.91	17.54	2.16	NA	NA	37.65	40.28	090
27151		A	Incision of hip bones	22.51	NA	NA	16.63	18.57	2.27	NA	NA	41.41	43.35	090
27156		A	Revision of hip bones	24.63	NA	NA	17.77	19.35	2.41	NA	NA	44.81	46.39	090
27158		A	Revision of pelvis	19.74	NA	NA	15.78	15.68	2.07	NA	NA	37.57	37.49	090
27161		A	Incision of neck of femur	16.71	NA	NA	13.50	15.02	1.81	NA	NA	32.02	33.54	090
27165		A	Incision/fixation of femur	17.91	NA	NA	13.51	17.02	2.06	NA	NA	33.48	36.99	090
27170		A	Repair/graft femur head/neck	16.07	NA	NA	12.78	16.55	2.07	NA	NA	30.92	34.69	090
27175		A	Treat slipped epiphysis	8.46	NA	NA	6.97	2.70	0.14	NA	NA	15.57	11.30	090

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27176		A	Treat slipped epiphysis	12.05	NA	NA	8.65	10.62	1.33	NA	NA	22.03	24.00	090
27177		A	Repair slipped epiphysis	15.08	NA	NA	10.52	12.72	1.60	NA	NA	27.20	29.40	090
27178		A	Repair slipped epiphysis	11.99	NA	NA	7.05	10.28	1.21	NA	NA	20.25	23.48	090
27179		A	Revise head/neck of femur	12.98	NA	NA	9.31	11.40	1.43	NA	NA	23.72	25.81	090
27181		A	Repair slipped epiphysis	14.68	NA	NA	9.94	13.18	1.69	NA	NA	26.31	29.55	090
27185		A	Revision of femur epiphysis	9.18	NA	NA	8.33	4.34	0.68	NA	NA	18.19	14.20	090
27187		A	Reinforce hip bones	13.54	NA	NA	11.68	15.04	2.16	NA	NA	27.38	30.74	090
27193		A	Treat pelvic ring fracture	5.56	5.89	3.44	4.77	3.16	0.31	11.76	9.31	10.64	9.03	090
27194		A	Treat pelvic ring fracture	9.65	7.91	5.15	7.06	4.94	0.39	17.95	15.19	17.10	14.98	090
27200		A	Treat tail bone fracture	1.84	2.31	1.79	1.45	1.58	0.13	4.28	3.76	3.42	3.55	090
27202		A	Repair tail bone fracture	7.04	NA	NA	20.72	10.18	0.70	NA	NA	28.46	17.92	090
27215		A	Pelvic fracture(s) treatment	10.05	NA	NA	7.93	10.98	1.82	NA	NA	19.80	22.85	090
27216		A	Treat pelvic ring fracture	15.19	NA	NA	13.11	6.78	0.52	NA	NA	28.82	22.49	090
27217		A	Treat pelvic ring fracture	14.11	NA	NA	11.19	14.64	1.82	NA	NA	27.12	30.57	090
27218		A	Treat pelvic ring fracture	20.15	NA	NA	13.82	15.30	1.82	NA	NA	35.79	37.27	090
27220		A	Treat hip socket fracture	6.18	6.22	5.02	5.13	4.75	0.50	12.90	11.70	11.81	11.43	090
27222		A	Treat hip socket fracture	12.70	NA	NA	9.72	7.61	0.81	NA	NA	23.23	21.12	090
27226		A	Treat hip wall fracture	14.91	NA	NA	7.08	14.62	1.97	NA	NA	23.96	31.50	090
27227		A	Treat hip fracture(s)	23.45	NA	NA	15.57	19.93	2.50	NA	NA	41.52	45.88	090
27228		A	Treat hip fracture(s)	27.16	NA	NA	18.13	20.77	2.50	NA	NA	47.79	50.43	090
27230		A	Treat fracture of thigh	5.50	6.03	4.19	5.06	3.95	0.32	11.85	10.01	10.88	9.77	090
27232		A	Treat fracture of thigh	10.68	NA	NA	9.18	9.61	1.14	NA	NA	21.00	21.43	090
27235		A	Repair of thigh fracture	12.16	NA	NA	10.96	13.63	2.03	NA	NA	25.15	27.82	090
27236		A	Repair of thigh fracture	15.60	NA	NA	12.82	16.97	2.12	NA	NA	30.54	34.69	090
27238		A	Treatment of thigh fracture	5.52	NA	NA	5.36	5.34	0.56	NA	NA	11.44	11.42	090
27240		A	Treatment of thigh fracture	12.50	NA	NA	10.56	10.54	1.20	NA	NA	24.26	24.24	090
27244		A	Repair of thigh fracture	15.94	NA	NA	12.95	16.51	2.05	NA	NA	30.94	34.50	090
27245		A	Repair of thigh fracture	20.31	NA	NA	15.41	17.12	2.05	NA	NA	37.77	39.48	090
27246		A	Treatment of thigh fracture	4.71	5.78	4.60	5.18	4.45	0.47	10.96	9.78	10.36	9.63	090
27248		A	Repair of thigh fracture	10.45	NA	NA	9.93	11.84	1.65	NA	NA	22.03	23.94	090
27250		A	Treat hip dislocation	6.95	NA	NA	4.49	3.72	0.35	NA	NA	11.79	11.02	090
27252		A	Treat hip dislocation	10.39	NA	NA	7.38	5.38	0.53	NA	NA	18.30	16.30	090
27253		A	Repair of hip dislocation	12.92	NA	NA	9.84	13.16	1.65	NA	NA	24.41	27.73	090
27254		A	Repair of hip dislocation	18.26	NA	NA	12.56	14.11	1.78	NA	NA	32.60	34.15	090
27256		A	Treatment of hip dislocation	4.12	NA	NA	3.30	2.36	0.24	NA	NA	7.66	6.72	010
27257		A	Treatment of hip dislocation	5.22	NA	NA	3.70	4.68	0.57	NA	NA	9.49	10.47	010
27258		A	Repair of hip dislocation	15.43	NA	NA	12.56	14.32	1.76	NA	NA	29.75	31.51	090
27259		A	Repair of hip dislocation	21.55	NA	NA	13.24	17.31	2.21	NA	NA	37.00	41.07	090
27265		A	Treatment of hip dislocation	5.05	NA	NA	4.89	4.04	0.42	NA	NA	10.36	9.51	090
27266		A	Treatment of hip dislocation	7.49	NA	NA	6.49	5.25	0.56	NA	NA	14.54	13.30	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
27275		A	Manipulation of hip joint	2.27	NA	NA	2.93	2.26	0.23	NA	NA	5.43	4.76	010
27280		A	Fusion of sacroiliac joint	13.39	NA	NA	12.87	11.41	1.38	NA	NA	27.64	26.18	090
27282		A	Fusion of pubic bones	11.34	NA	NA	10.13	9.87	1.32	NA	NA	22.79	22.53	090
27284		A	Fusion of hip joint	16.76	NA	NA	14.10	15.33	1.88	NA	NA	32.74	33.97	090
27286		A	Fusion of hip joint	16.79	NA	NA	13.42	15.73	1.77	NA	NA	31.98	34.29	090
27290		A	Amputation of leg at hip	23.28	NA	NA	14.88	24.39	3.68	NA	NA	41.82	51.35	090
27295		A	Amputation of leg at hip	18.65	NA	NA	12.59	16.61	2.31	NA	NA	33.55	37.57	090
27299		C	Pelvis/hip joint surgery	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
27301		A	Drain thigh/knee lesion	6.49	10.28	4.57	9.49	4.38	0.31	17.08	11.37	16.29	11.18	090
27303		A	Drainage of bone lesion	8.28	NA	NA	11.94	7.76	0.75	NA	NA	20.97	16.79	090
27305		A	Incise thigh tendon & fascia	5.92	NA	NA	7.10	4.87	0.53	NA	NA	13.55	11.32	090
27306		A	Incision of thigh tendon	4.62	NA	NA	5.84	3.08	0.25	NA	NA	10.71	7.95	090
27307		A	Incision of thigh tendons	5.80	NA	NA	6.43	4.06	0.38	NA	NA	12.61	10.24	090
27310		A	Exploration of knee joint	9.27	NA	NA	9.11	10.09	1.18	NA	NA	19.56	20.54	090
27315		A	Partial removal, thigh nerve	6.97	NA	NA	4.51	5.51	0.75	NA	NA	12.23	13.23	090
27320		A	Partial removal, thigh nerve	6.30	NA	NA	4.14	5.25	0.57	NA	NA	11.01	12.12	090
27323		A	Biopsy thigh soft tissues	2.28	3.93	1.73	2.64	1.04	0.10	6.31	4.11	5.02	3.42	010
27324		A	Biopsy thigh soft tissues	4.90	NA	NA	5.29	3.46	0.35	NA	NA	10.54	8.71	090
27327		A	Removal of thigh lesion	4.47	5.57	3.26	4.74	3.05	0.31	10.35	8.04	9.52	7.83	090
27328		A	Removal of thigh lesion	5.57	NA	NA	5.50	4.69	0.57	NA	NA	11.64	10.83	090
27329		A	Remove tumor, thigh/knee	14.14	NA	NA	11.60	12.42	1.67	NA	NA	27.41	28.23	090
27330		A	Biopsy knee joint lining	4.97	NA	NA	5.40	5.81	0.93	NA	NA	11.30	11.71	090
27331		A	Explore/treat knee joint	5.88	NA	NA	6.48	6.89	1.17	NA	NA	13.53	13.94	090
27332		A	Removal of knee cartilage	8.27	NA	NA	7.44	9.27	1.35	NA	NA	17.06	18.89	090
27333		A	Removal of knee cartilage	7.30	NA	NA	7.27	8.35	1.97	NA	NA	16.54	17.62	090
27334		A	Remove knee joint lining	8.70	NA	NA	8.45	9.91	1.38	NA	NA	18.53	19.99	090
27335		A	Remove knee joint lining	10.00	NA	NA	9.39	11.30	1.60	NA	NA	20.99	22.90	090
27340		A	Removal of kneecap bursa	4.18	NA	NA	4.89	4.36	0.49	NA	NA	9.56	9.03	090
27345		A	Removal of knee cyst	5.92	NA	NA	6.35	6.17	0.74	NA	NA	13.01	12.83	090
27347		A	Remove knee cyst	5.78	2.44	2.44	2.83	2.83	0.74	8.96	8.96	9.35	9.35	090
27350		A	Removal of kneecap	8.17	NA	NA	7.83	9.28	1.20	NA	NA	17.20	18.65	090
27355		A	Remove femur lesion	7.65	NA	NA	8.52	8.30	0.96	NA	NA	17.13	16.91	090
27356		A	Remove femur lesion/graft	9.48	NA	NA	9.78	9.12	1.05	NA	NA	20.31	19.65	090
27357		A	Remove femur lesion/graft	10.53	NA	NA	9.99	9.66	1.12	NA	NA	21.64	21.31	090
27358		A	Remove femur lesion/fixation	4.74	NA	NA	2.77	4.40	0.56	NA	NA	8.07	9.70	ZZZ
27360		A	Partial removal leg bone(s)	10.50	NA	NA	16.51	11.10	1.10	NA	NA	28.11	22.70	090
27365		A	Extensive leg surgery	16.27	NA	NA	12.75	14.54	1.90	NA	NA	30.92	32.71	090
27370		A	Injection for knee x-ray	0.96	10.43	3.10	0.26	0.55	0.04	11.43	4.10	1.26	1.55	000
27372		A	Removal of foreign body	5.07	5.81	4.24	5.24	4.09	0.42	11.30	9.73	10.73	9.58	090
27380		A	Repair of kneecap tendon	7.16	NA	NA	7.59	8.31	1.01	NA	NA	15.76	16.48	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
27381		A	Repair/graft kneecap tendon	10.34	NA	NA	9.16	11.46	1.42	NA	NA	20.92	23.22	090
27385		A	Repair of thigh muscle	7.76	NA	NA	7.95	8.94	1.11	NA	NA	16.82	17.81	090
27386		A	Repair/graft of thigh muscle	10.56	NA	NA	9.80	11.91	1.58	NA	NA	21.94	24.05	090
27390		A	Incision of thigh tendon	5.33	NA	NA	6.35	5.14	0.56	NA	NA	12.24	11.03	090
27391		A	Incision of thigh tendons	7.20	NA	NA	7.44	6.27	0.70	NA	NA	15.34	14.17	090
27392		A	Incision of thigh tendons	9.20	NA	NA	9.16	8.53	1.00	NA	NA	19.36	18.73	090
27393		A	Lengthening of thigh tendon	6.39	NA	NA	7.35	6.45	0.73	NA	NA	14.47	13.57	090
27394		A	Lengthening of thigh tendons	8.50	NA	NA	8.79	6.86	0.74	NA	NA	18.03	16.10	090
27395		A	Lengthening of thigh tendons	11.73	NA	NA	11.28	11.35	1.29	NA	NA	24.30	24.37	090
27396		A	Transplant of thigh tendon	7.86	NA	NA	8.63	7.90	0.87	NA	NA	17.36	16.63	090
27397		A	Transplants of thigh tendons	11.28	NA	NA	10.10	9.76	1.13	NA	NA	22.51	22.17	090
27400		A	Revise thigh muscles/tendons	9.02	NA	NA	8.46	8.54	0.97	NA	NA	18.45	18.53	090
27403		A	Repair of knee cartilage	8.33	NA	NA	7.70	9.08	1.13	NA	NA	17.16	18.54	090
27405		A	Repair of knee ligament	8.65	NA	NA	8.35	9.84	1.31	NA	NA	18.31	19.80	090
27407		A	Repair of knee ligament	10.28	NA	NA	8.91	9.45	1.11	NA	NA	20.30	20.84	090
27409		A	Repair of knee ligaments	12.90	NA	NA	10.97	14.29	1.94	NA	NA	25.81	29.13	090
27418		A	Repair degenerated kneecap	10.85	NA	NA	9.80	12.17	1.45	NA	NA	22.10	24.47	090
27420		A	Revision of unstable kneecap	9.83	NA	NA	8.80	11.00	1.36	NA	NA	19.99	22.19	090
27422		A	Revision of unstable kneecap	9.78	NA	NA	8.72	10.94	1.43	NA	NA	19.93	22.15	090
27424		A	Revision/removal of kneecap	9.81	NA	NA	8.60	10.93	1.48	NA	NA	19.89	22.22	090
27425		A	Lateral retinacular release	5.22	NA	NA	6.12	6.20	0.84	NA	NA	12.18	12.26	090
27427		A	Reconstruction, knee	9.36	NA	NA	8.22	10.44	1.76	NA	NA	19.34	21.56	090
27428		A	Reconstruction, knee	14.00	NA	NA	11.53	14.01	2.12	NA	NA	27.65	30.13	090
27429		A	Reconstruction, knee	15.52	NA	NA	11.85	12.14	1.43	NA	NA	28.80	29.09	090
27430		A	Revision of thigh muscles	9.67	NA	NA	8.49	9.74	1.17	NA	NA	19.33	20.58	090
27435		A	Incision of knee joint	9.49	NA	NA	8.33	7.81	0.88	NA	NA	18.70	18.18	090
27437		A	Revise kneecap	8.46	NA	NA	8.87	9.79	1.21	NA	NA	18.54	19.46	090
27438		A	Revise kneecap with implant	11.23	NA	NA	9.79	12.50	1.67	NA	NA	22.69	25.40	090
27440		A	Revision of knee joint	10.43	NA	NA	5.22	10.64	1.64	NA	NA	17.29	22.71	090
27441		A	Revision of knee joint	10.82	NA	NA	5.83	8.90	1.18	NA	NA	17.83	20.90	090
27442		A	Revision of knee joint	11.89	NA	NA	10.21	13.20	2.39	NA	NA	24.49	27.48	090
27443		A	Revision of knee joint	10.93	NA	NA	10.10	12.31	2.61	NA	NA	23.64	25.85	090
27445		A	Revision of knee joint	17.68	NA	NA	13.37	19.18	3.29	NA	NA	34.34	40.15	090
27446		A	Revision of knee joint	15.84	NA	NA	12.92	17.41	3.03	NA	NA	31.79	36.28	090
27447		A	Total knee replacement	21.48	NA	NA	15.61	23.13	3.87	NA	NA	40.96	48.48	090
27448		A	Incision of thigh	11.06	NA	NA	10.50	12.53	1.64	NA	NA	23.20	25.23	090
27450		A	Incision of thigh	13.98	NA	NA	12.19	15.13	1.85	NA	NA	28.02	30.96	090
27454		A	Realignment of thigh bone	17.56	NA	NA	14.11	16.31	2.21	NA	NA	33.88	36.08	090
27455		A	Realignment of knee	12.82	NA	NA	11.31	12.60	1.53	NA	NA	25.66	26.95	090
27457		A	Realignment of knee	13.45	NA	NA	10.45	13.44	1.67	NA	NA	25.57	28.56	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
27465		A	Shortening of thigh bone	13.87	NA	NA	11.89	12.93	1.56	NA	NA	27.32	28.36	090
27466		A	Lengthening of thigh bone	16.33	NA	NA	14.07	14.45	1.78	NA	NA	32.18	32.56	090
27468		A	Shorten/lengthen thighs	18.97	NA	NA	12.46	16.83	2.15	NA	NA	33.58	37.95	090
27470		A	Repair of thigh	16.07	NA	NA	13.96	17.06	2.03	NA	NA	32.06	35.16	090
27472		A	Repair/graft of thigh	17.72	NA	NA	14.75	19.55	2.47	NA	NA	34.94	39.74	090
27475		A	Surgery to stop leg growth	8.64	NA	NA	7.55	8.19	0.99	NA	NA	17.18	17.82	090
27477		A	Surgery to stop leg growth	9.85	NA	NA	8.67	10.99	2.01	NA	NA	20.53	22.85	090
27479		A	Surgery to stop leg growth	12.80	NA	NA	9.88	11.94	1.48	NA	NA	24.16	26.22	090
27485		A	Surgery to stop leg growth	8.84	NA	NA	8.49	8.56	1.02	NA	NA	18.35	18.42	090
27486		A	Revise knee joint replace	19.27	NA	NA	14.51	20.89	3.33	NA	NA	37.11	43.49	090
27487		A	Revise knee joint replace	25.27	NA	NA	17.47	26.97	4.67	NA	NA	47.41	56.91	090
27488		A	Removal of knee prosthesis	15.74	NA	NA	12.78	16.35	2.02	NA	NA	30.52	34.11	090
27495		A	Reinforce thigh	15.55	NA	NA	13.56	17.32	2.21	NA	NA	31.32	35.08	090
27496		A	Decompression of thigh/knee	6.11	NA	NA	6.26	5.26	0.58	NA	NA	12.95	11.95	090
27497		A	Decompression of thigh/knee	7.17	NA	NA	6.24	6.08	0.71	NA	NA	14.12	13.96	090
27498		A	Decompression of thigh/knee	7.99	NA	NA	7.17	6.94	0.81	NA	NA	15.97	15.74	090
27499		A	Decompression of thigh/knee	9.00	NA	NA	7.55	7.81	0.93	NA	NA	17.48	17.74	090
27500		A	Treatment of thigh fracture	5.92	12.43	7.51	5.75	5.84	0.64	18.99	14.07	12.31	12.40	090
27501		A	Treatment of thigh fracture	5.92	13.42	7.76	6.95	6.14	0.64	19.98	14.32	13.51	12.70	090
27502		A	Treatment of thigh fracture	10.58	NA	NA	9.54	8.63	0.95	NA	NA	21.07	20.16	090
27503		A	Treatment of thigh fracture	10.58	NA	NA	9.59	8.64	0.95	NA	NA	21.12	20.17	090
27506		A	Repair of thigh fracture	17.45	NA	NA	12.93	16.28	2.00	NA	NA	32.38	35.73	090
27507		A	Treatment of thigh fracture	13.99	NA	NA	11.12	15.31	2.00	NA	NA	27.11	31.30	090
27508		A	Treatment of thigh fracture	5.83	8.20	5.49	4.78	4.63	0.51	14.54	11.83	11.12	10.97	090
27509		A	Treatment of thigh fracture	7.71	NA	NA	8.20	5.49	0.51	NA	NA	16.42	13.71	090
27510		A	Treatment of thigh fracture	9.13	NA	NA	6.63	7.21	0.85	NA	NA	16.61	17.19	090
27511		A	Treatment of thigh fracture	13.64	NA	NA	12.23	15.27	2.00	NA	NA	27.87	30.91	090
27513		A	Treatment of thigh fracture	17.92	NA	NA	14.47	16.66	2.00	NA	NA	34.39	36.58	090
27514		A	Repair of thigh fracture	17.30	NA	NA	13.59	16.22	1.98	NA	NA	32.87	35.50	090
27516		A	Repair of thigh growth plate	5.37	8.60	6.07	4.75	5.11	0.56	14.53	12.00	10.68	11.04	090
27517		A	Repair of thigh growth plate	8.78	9.73	8.80	7.00	8.12	1.00	19.51	18.58	16.78	17.90	090
27519		A	Repair of thigh growth plate	15.02	NA	NA	12.62	13.48	1.60	NA	NA	29.24	30.10	090
27520		A	Treat kneecap fracture	2.86	6.57	4.12	2.84	1.95	0.35	9.78	7.33	8.05	5.16	090
27524		A	Repair of kneecap fracture	10.00	NA	NA	8.06	10.43	1.29	NA	NA	19.35	21.72	090
27530		A	Treatment of knee fracture	3.78	7.08	4.54	3.55	3.66	0.40	11.26	8.72	7.73	7.84	090
27532		A	Treatment of knee fracture	7.30	6.38	6.22	5.74	6.06	0.71	14.39	14.23	13.75	14.07	090
27535		A	Treatment of knee fracture	11.50	NA	NA	11.18	12.31	1.47	NA	NA	24.15	25.28	090
27536		A	Repair of knee fracture	15.65	NA	NA	11.14	12.30	1.47	NA	NA	28.26	29.42	090
27538		A	Treat knee fracture(s)	4.87	8.39	4.84	4.73	3.93	0.40	13.66	10.11	10.00	9.20	090
27540		A	Repair of knee fracture	13.10	NA	NA	9.52	11.29	1.36	NA	NA	23.98	25.75	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
27550		A	Treat knee dislocation	5.76	8.04	4.10	4.57	3.24	0.28	14.08	10.14	10.61	9.28	090
27552		A	Treat knee dislocation	7.90	NA	NA	6.85	4.50	0.41	NA	NA	15.16	12.81	090
27556		A	Repair of knee dislocation	14.41	NA	NA	12.95	13.39	1.53	NA	NA	28.89	29.33	090
27557		A	Repair of knee dislocation	16.77	NA	NA	14.65	15.54	1.90	NA	NA	33.32	34.21	090
27558		A	Repair of knee dislocation	17.72	NA	NA	14.31	15.46	1.90	NA	NA	33.93	35.08	090
27560		A	Treat kneecap dislocation	3.82	6.83	2.87	2.60	1.81	0.13	10.78	6.82	6.55	5.76	090
27562		A	Treat kneecap dislocation	5.79	NA	NA	4.56	5.36	0.59	NA	NA	10.94	11.74	090
27566		A	Repair kneecap dislocation	12.23	NA	NA	9.28	10.93	1.31	NA	NA	22.82	24.47	090
27570		A	Fixation of knee joint	1.74	NA	NA	2.69	2.08	0.22	NA	NA	4.65	4.04	010
27580		A	Fusion of knee	19.37	NA	NA	15.67	16.70	2.00	NA	NA	37.04	38.07	090
27590		A	Amputate leg at thigh	12.03	NA	NA	9.09	9.69	1.41	NA	NA	22.53	23.13	090
27591		A	Amputate leg at thigh	12.68	NA	NA	11.47	12.45	1.65	NA	NA	25.80	26.78	090
27592		A	Amputate leg at thigh	10.02	NA	NA	8.69	8.77	1.26	NA	NA	19.97	20.05	090
27594		A	Amputation follow-up surgery	6.92	NA	NA	6.28	4.54	0.53	NA	NA	13.73	11.99	090
27596		A	Amputation follow-up surgery	10.60	NA	NA	8.98	8.25	1.11	NA	NA	20.69	19.96	090
27598		A	Amputate lower leg at knee	10.53	NA	NA	8.79	10.37	1.39	NA	NA	20.71	22.29	090
27599		C	Leg surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
27600		A	Decompression of lower leg	5.65	NA	NA	5.19	4.06	0.50	NA	NA	11.34	10.21	090
27601		A	Decompression of lower leg	5.64	NA	NA	5.29	4.08	0.52	NA	NA	11.45	10.24	090
27602		A	Decompression of lower leg	7.35	NA	NA	5.72	4.73	0.60	NA	NA	13.67	12.68	090
27603		A	Drain lower leg lesion	4.94	10.70	4.61	6.81	3.64	0.32	15.96	9.87	12.07	8.90	090
27604		A	Drain lower leg bursa	4.47	8.47	2.95	5.83	1.88	0.11	13.05	7.53	10.41	6.46	090
27605		A	Incision of achilles tendon	2.87	9.45	3.32	3.25	1.77	0.11	12.43	6.30	6.23	4.75	010
27606		A	Incision of achilles tendon	4.14	8.73	3.91	4.28	2.80	0.27	13.14	8.32	8.69	7.21	010
27607		A	Treat lower leg bone lesion	7.97	NA	NA	11.67	7.81	0.77	NA	NA	20.41	16.55	090
27610		A	Explore/treat ankle joint	8.34	NA	NA	8.85	8.26	0.88	NA	NA	18.07	17.48	090
27612		A	Exploration of ankle joint	7.33	NA	NA	6.97	8.23	1.02	NA	NA	15.32	16.58	090
27613		A	Biopsy lower leg soft tissue	2.17	4.11	1.58	2.33	0.86	0.08	6.36	3.83	4.58	3.11	010
27614		A	Biopsy lower leg soft tissue	5.66	8.12	3.87	5.47	3.21	0.30	14.08	9.83	11.43	9.17	090
27615		A	Remove tumor, lower leg	12.56	NA	NA	12.42	9.80	1.11	NA	NA	26.09	23.47	090
27618		A	Remove lower leg lesion	5.09	8.29	3.78	5.08	2.98	0.25	13.63	9.12	10.42	8.32	090
27619		A	Remove lower leg lesion	8.40	9.49	5.73	7.12	5.14	0.52	18.41	14.65	16.04	14.06	090
27620		A	Explore, treat ankle joint	5.98	NA	NA	6.60	6.56	0.75	NA	NA	13.33	13.29	090
27625		A	Remove ankle joint lining	8.30	NA	NA	8.16	9.13	0.99	NA	NA	17.45	18.42	090
27626		A	Remove ankle joint lining	8.91	NA	NA	8.76	10.17	0.98	NA	NA	18.65	20.06	090
27630		A	Removal of tendon lesion	4.80	7.76	4.46	5.36	3.86	0.36	12.92	9.62	10.52	9.02	090
27635		A	Remove lower leg bone lesion	7.78	NA	NA	8.87	8.77	0.99	NA	NA	17.64	17.54	090
27637		A	Remove/graft leg bone lesion	9.85	NA	NA	10.44	9.50	1.10	NA	NA	21.39	20.45	090
27638		A	Remove/graft leg bone lesion	10.57	NA	NA	10.99	10.20	1.19	NA	NA	22.75	21.96	090
27640		A	Partial removal of tibia	11.37	NA	NA	14.52	11.62	1.23	NA	NA	27.12	24.22	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
27641		A	Partial removal of fibula	9.24	NA	NA	13.14	9.09	0.92	NA	NA	23.30	19.25	090
27645		A	Extensive lower leg surgery	14.17	NA	NA	14.45	13.09	1.55	NA	NA	30.17	28.81	090
27646		A	Extensive lower leg surgery	12.66	NA	NA	12.12	11.78	1.34	NA	NA	26.12	25.78	090
27647		A	Extensive ankle/heel surgery	12.24	NA	NA	9.32	10.43	1.06	NA	NA	22.62	23.73	090
27648		A	Injection for ankle x-ray	0.96	9.58	2.82	0.28	0.49	0.04	10.58	3.82	1.28	1.49	000
27650		A	Repair achilles tendon	9.69	NA	NA	8.27	9.38	1.10	NA	NA	19.06	20.17	090
27652		A	Repair/graft achilles tendon	10.33	NA	NA	8.31	10.55	1.22	NA	NA	19.86	22.10	090
27654		A	Repair of achilles tendon	10.02	NA	NA	8.57	11.04	1.29	NA	NA	19.88	22.35	090
27656		A	Repair leg fascia defect	4.57	9.41	4.94	4.74	3.77	0.42	14.40	9.93	9.73	8.76	090
27658		A	Repair of leg tendon, each	4.98	7.19	5.07	7.16	5.06	0.47	12.64	10.52	12.61	10.51	090
27659		A	Repair of leg tendon, each	6.81	6.63	6.44	7.58	6.67	0.67	14.11	13.92	15.06	14.15	090
27664		A	Repair of leg tendon, each	4.59	10.36	5.37	7.02	4.53	0.41	15.36	10.37	12.02	9.53	090
27665		A	Repair of leg tendon, each	5.40	9.70	6.45	7.47	5.90	0.59	15.69	12.44	13.46	11.89	090
27675		A	Repair lower leg tendons	7.18	NA	NA	7.32	7.04	0.74	NA	NA	15.24	14.96	090
27676		A	Repair lower leg tendons	8.42	NA	NA	7.21	7.95	0.89	NA	NA	16.52	17.26	090
27680		A	Release of lower leg tendon	5.74	NA	NA	6.29	4.93	0.48	NA	NA	12.51	11.15	090
27681		A	Release of lower leg tendons	6.82	NA	NA	7.17	6.65	0.67	NA	NA	14.66	14.14	090
27685		A	Revision of lower leg tendon	6.50	6.81	4.82	6.83	4.83	0.32	13.63	11.64	13.65	11.65	090
27686		A	Revise lower leg tendons	7.46	7.55	7.23	8.12	7.37	0.70	15.71	15.39	16.28	15.53	090
27687		A	Revision of calf tendon	6.24	NA	NA	6.66	6.10	0.59	NA	NA	13.49	12.93	090
27690		A	Revise lower leg tendon	8.71	NA	NA	7.82	7.44	0.69	NA	NA	17.22	16.84	090
27691		A	Revise lower leg tendon	9.96	NA	NA	9.34	8.76	0.96	NA	NA	20.26	19.68	090
27692		A	Revise additional leg tendon	1.87	NA	NA	1.22	1.96	0.23	NA	NA	3.32	4.06	ZZZ
27695		A	Repair of ankle ligament	6.51	NA	NA	7.52	7.71	1.03	NA	NA	15.06	15.25	090
27696		A	Repair of ankle ligaments	8.27	NA	NA	7.83	7.70	0.91	NA	NA	17.01	16.88	090
27698		A	Repair of ankle ligament	9.36	NA	NA	7.94	10.37	1.46	NA	NA	18.76	21.19	090
27700		A	Revision of ankle joint	9.29	NA	NA	6.33	9.90	1.18	NA	NA	16.80	20.37	090
27702		A	Reconstruct ankle joint	13.67	NA	NA	11.50	15.12	3.12	NA	NA	28.29	31.91	090
27703		A	Reconstruction, ankle joint	15.87	NA	NA	10.05	13.76	1.76	NA	NA	27.68	31.39	090
27704		A	Removal of ankle implant	7.62	NA	NA	6.46	6.37	0.77	NA	NA	14.85	14.76	090
27705		A	Incision of tibia	10.38	NA	NA	9.67	11.16	1.38	NA	NA	21.43	22.92	090
27707		A	Incision of fibula	4.37	NA	NA	6.50	5.49	0.62	NA	NA	11.49	10.48	090
27709		A	Incision of tibia & fibula	9.95	NA	NA	9.77	11.35	1.67	NA	NA	21.39	22.97	090
27712		A	Realignment of lower leg	14.25	NA	NA	11.69	11.87	1.28	NA	NA	27.22	27.40	090
27715		A	Revision of lower leg	14.39	NA	NA	12.93	13.50	1.47	NA	NA	28.79	29.36	090
27720		A	Repair of tibia	11.79	NA	NA	11.52	13.44	1.76	NA	NA	25.07	26.99	090
27722		A	Repair/graft of tibia	11.82	NA	NA	11.46	11.42	1.28	NA	NA	24.56	24.52	090
27724		A	Repair/graft of tibia	14.99	NA	NA	13.17	15.91	2.25	NA	NA	30.41	33.15	090
27725		A	Repair of lower leg	15.59	NA	NA	12.85	11.70	1.20	NA	NA	29.64	28.49	090
27727		A	Repair of lower leg	14.01	NA	NA	9.84	10.10	1.44	NA	NA	25.29	25.55	090

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CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
27730		A	Repair of tibia epiphysis	7.41	15.01	6.68	7.94	4.91	0.66	23.08	14.75	16.01	12.98	090
27732		A	Repair of fibula epiphysis	5.32	10.07	6.46	5.87	5.41	0.62	16.01	12.40	11.81	11.35	090
27734		A	Repair lower leg epiphyses	8.48	NA	NA	7.54	8.02	0.96	NA	NA	16.98	17.46	090
27740		A	Repair of leg epiphyses	9.30	3.51	7.68	9.33	9.14	1.06	13.87	18.04	19.69	19.50	090
27742		A	Repair of leg epiphyses	10.30	11.95	10.55	8.53	9.69	1.19	23.44	22.04	20.02	21.18	090
27745		A	Reinforce tibia	10.07	NA	NA	9.87	9.77	1.09	NA	NA	21.03	20.93	090
27750		A	Treatment of tibia fracture	3.19	6.70	4.48	3.18	3.60	0.39	10.28	8.06	6.76	7.18	090
27752		A	Treatment of tibia fracture	5.84	8.91	6.37	5.35	5.48	0.63	15.38	12.84	11.82	11.95	090
27756		A	Repair of tibia fracture	6.78	NA	NA	8.70	8.25	1.33	NA	NA	16.81	16.36	090
27758		A	Repair of tibia fracture	11.67	NA	NA	10.42	13.05	1.74	NA	NA	23.83	26.46	090
27759		A	Repair of tibia fracture	13.76	NA	NA	11.63	14.09	1.74	NA	NA	27.13	29.59	090
27760		A	Treatment of ankle fracture	3.01	6.40	3.70	2.78	1.75	0.29	9.70	7.00	6.08	5.05	090
27762		A	Treatment of ankle fracture	5.25	8.31	4.82	4.75	3.93	0.39	13.95	10.46	10.39	9.57	090
27766		A	Repair of ankle fracture	8.36	NA	NA	7.32	8.24	0.99	NA	NA	16.67	17.59	090
27780		A	Treatment of fibula fracture	2.65	4.20	2.66	2.63	1.46	0.20	7.05	5.51	5.48	4.31	090
27781		A	Treatment of fibula fracture	4.40	7.51	4.56	3.76	3.62	0.38	12.29	9.34	8.54	8.40	090
27784		A	Repair of fibula fracture	7.11	NA	NA	7.21	6.36	0.68	NA	NA	15.00	14.15	090
27786		A	Treatment of ankle fracture	2.84	6.41	3.65	2.73	1.71	0.30	9.55	6.79	5.87	4.85	090
27788		A	Treatment of ankle fracture	4.45	7.49	4.54	3.90	2.31	0.39	12.33	9.38	8.74	7.15	090
27792		A	Repair of ankle fracture	7.66	NA	NA	6.94	7.74	0.92	NA	NA	15.52	16.32	090
27808		A	Treatment of ankle fracture	2.83	7.20	4.07	3.34	3.11	0.31	10.34	7.21	6.48	6.25	090
27810		A	Treatment of ankle fracture	5.13	8.45	6.22	4.84	5.32	0.63	14.21	11.98	10.60	11.08	090
27814		A	Repair of ankle fracture	10.68	NA	NA	9.37	10.48	1.25	NA	NA	21.30	22.41	090
27816		A	Treatment of ankle fracture	2.89	6.88	4.55	3.28	3.41	0.43	10.20	7.87	6.60	6.73	090
27818		A	Treatment of ankle fracture	5.50	8.63	7.09	4.95	6.17	0.83	14.96	13.42	11.28	12.50	090
27822		A	Repair of ankle fracture	9.20	NA	NA	33.28	16.56	1.47	NA	NA	43.95	27.23	090
27823		A	Repair of ankle fracture	11.80	NA	NA	34.09	18.93	1.60	NA	NA	47.49	32.33	090
27824		A	Treat lower leg fracture	2.89	7.02	4.58	3.50	3.46	0.43	10.34	7.90	6.82	6.78	090
27825		A	Treat lower leg fracture	6.19	9.15	7.59	5.55	6.69	0.83	16.17	14.61	12.57	13.71	090
27826		A	Treat lower leg fracture	8.54	NA	NA	31.88	15.61	1.47	NA	NA	41.89	25.62	090
27827		A	Treat lower leg fracture	14.06	NA	NA	36.80	18.73	1.47	NA	NA	52.33	34.26	090
27828		A	Treat lower leg fracture	16.23	NA	NA	36.64	19.57	1.60	NA	NA	54.47	37.40	090
27829		A	Treat lower leg joint	5.49	NA	NA	24.64	11.07	1.07	NA	NA	31.20	17.63	090
27830		A	Treat lower leg dislocation	3.79	6.35	4.24	3.50	3.52	0.36	10.50	8.39	7.65	7.67	090
27831		A	Treat lower leg dislocation	4.56	NA	NA	4.39	4.34	0.46	NA	NA	9.41	9.36	090
27832		A	Repair lower leg dislocation	6.49	NA	NA	6.85	6.36	0.70	NA	NA	14.04	13.55	090
27840		A	Treat ankle dislocation	4.58	NA	NA	3.63	2.43	0.16	NA	NA	8.37	7.17	090
27842		A	Treat ankle dislocation	6.21	NA	NA	4.30	2.88	0.27	NA	NA	10.78	9.36	090
27846		A	Repair ankle dislocation	9.79	NA	NA	8.18	9.04	1.07	NA	NA	19.04	19.90	090
27848		A	Repair ankle dislocation	11.20	NA	NA	27.30	13.63	1.03	NA	NA	39.53	25.86	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
27860		A	Fixation of ankle joint	2.34	NA	NA	2.70	1.81	0.18	NA	NA	5.22	4.33	010
27870		A	Fusion of ankle joint	13.91	NA	NA	11.97	13.85	1.74	NA	NA	27.62	29.50	090
27871		A	Fusion of tibiofibular joint	9.17	NA	NA	9.14	8.62	0.95	NA	NA	19.26	18.74	090
27880		A	Amputation of lower leg	11.85	NA	NA	8.85	9.02	1.25	NA	NA	21.95	22.12	090
27881		A	Amputation of lower leg	12.34	NA	NA	10.83	11.51	1.46	NA	NA	24.63	25.31	090
27882		A	Amputation of lower leg	8.94	NA	NA	8.84	8.20	1.11	NA	NA	18.89	18.25	090
27884		A	Amputation follow-up surgery	8.21	NA	NA	7.48	4.62	0.48	NA	NA	16.17	13.31	090
27886		A	Amputation follow-up surgery	9.32	NA	NA	8.16	7.88	1.05	NA	NA	18.53	18.25	090
27888		A	Amputation of foot at ankle	9.67	NA	NA	8.95	9.96	1.29	NA	NA	19.91	20.92	090
27889		A	Amputation of foot at ankle	9.98	NA	NA	7.66	8.78	1.21	NA	NA	18.85	19.97	090
27892		A	Decompression of leg	7.39	NA	NA	6.01	4.26	0.50	NA	NA	13.90	12.15	090
27893		A	Decompression of leg	7.35	NA	NA	5.50	4.13	0.52	NA	NA	13.37	12.00	090
27894		A	Decompression of leg	10.49	NA	NA	7.38	5.15	0.60	NA	NA	18.47	16.24	090
27899		C	Leg/ankle surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
28001		A	Drainage of bursa of foot	2.73	3.92	1.40	2.64	0.87	0.04	6.69	4.17	5.41	3.64	010
28002		A	Treatment of foot infection	4.62	4.84	3.04	3.94	2.82	0.26	9.72	7.92	8.82	7.70	010
28003		A	Treatment of foot infection	8.41	7.92	4.83	8.29	3.50	0.46	16.79	13.70	17.16	12.37	090
28005		A	Treat foot bone lesion	8.68	NA	NA	8.45	5.44	0.48	NA	NA	17.61	14.60	090
28008		A	Incision of foot fascia	4.45	5.56	3.57	4.45	3.30	0.23	10.24	8.25	9.13	7.98	090
28010		A	Incision of toe tendon	2.84	4.91	4.18	3.69	2.40	0.26	8.01	7.28	6.79	5.50	090
28011		A	Incision of toe tendons	4.14	6.32	3.02	5.28	2.04	0.15	10.61	7.31	9.57	6.33	090
28020		A	Exploration of a foot joint	5.01	7.08	5.36	5.28	4.91	0.44	12.53	10.81	10.73	10.36	090
28022		A	Exploration of a foot joint	4.67	5.37	3.57	4.79	2.32	0.24	10.28	8.48	9.70	7.23	090
28024		A	Exploration of a toe joint	4.38	5.65	3.36	4.96	2.22	0.19	10.22	7.93	9.53	6.79	090
28030		A	Removal of foot nerve	6.15	NA	NA	3.28	4.02	0.33	NA	NA	9.76	10.50	090
28035		A	Decompression of tibia nerve	5.09	6.01	6.54	4.60	5.71	0.70	11.80	12.33	10.39	11.50	090
28043		A	Excision of foot lesion	3.54	5.15	2.70	4.06	2.43	0.16	8.85	6.40	7.76	6.13	090
28045		A	Excision of foot lesion	4.72	5.65	4.66	4.57	4.39	0.36	10.73	9.74	9.65	9.47	090
28046		A	Resection of tumor, foot	10.18	8.83	6.57	8.23	6.42	0.62	19.63	17.37	19.03	17.22	090
28050		A	Biopsy of foot joint lining	4.25	6.15	4.67	4.50	4.25	0.41	10.81	9.33	9.16	8.91	090
28052		A	Biopsy of foot joint lining	3.94	5.26	4.43	4.82	2.77	0.34	9.54	8.71	9.10	7.05	090
28054		A	Biopsy of toe joint lining	3.45	5.51	3.20	4.72	3.00	0.22	9.18	6.87	8.39	6.67	090
28060		A	Partial removal foot fascia	5.23	5.93	4.92	4.97	4.68	0.41	11.57	10.56	10.61	10.32	090
28062		A	Removal of foot fascia	6.52	6.47	7.36	4.92	6.98	0.67	13.66	14.55	12.11	14.17	090
28070		A	Removal of foot joint lining	5.10	5.33	4.98	4.77	4.84	0.38	10.81	10.46	10.25	10.32	090
28072		A	Removal of foot joint lining	4.58	5.42	3.97	5.37	3.95	0.33	10.33	8.88	10.28	8.86	090
28080		A	Removal of foot lesion	3.58	5.25	4.63	4.20	4.37	0.35	9.18	8.56	8.13	8.30	090
28086		A	Excise foot tendon sheath	4.78	6.61	4.20	6.19	4.09	0.36	11.75	9.34	11.33	9.23	090
28088		A	Excise foot tendon sheath	3.86	6.58	4.59	5.24	4.26	0.31	10.75	8.76	9.41	8.43	090
28090		A	Removal of foot lesion	4.41	5.51	3.84	4.39	3.56	0.23	10.15	8.48	9.03	8.20	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
28092		A	Removal of toe lesions	3.64	5.69	3.07	4.47	2.77	0.20	9.53	6.91	8.31	6.61	090
28100		A	Removal of ankle/heel lesion	5.66	8.02	5.73	6.17	5.27	0.44	14.12	11.83	12.27	11.37	090
28102		A	Remove/graft foot lesion	7.73	NA	NA	7.76	7.51	0.66	NA	NA	16.15	15.90	090
28103		A	Remove/graft foot lesion	6.50	7.16	6.36	6.38	6.16	0.54	14.20	13.40	13.42	13.20	090
28104		A	Removal of foot lesion	5.12	5.98	5.02	5.37	4.87	0.38	11.48	10.52	10.87	10.37	090
28106		A	Remove/graft foot lesion	7.16	NA	NA	5.70	6.65	0.62	NA	NA	13.48	14.43	090
28107		A	Remove/graft foot lesion	5.56	5.78	5.40	5.06	5.22	0.38	11.72	11.34	11.00	11.16	090
28108		A	Removal of toe lesions	4.16	5.05	4.68	4.12	2.74	0.30	9.51	9.14	8.58	7.20	090
28110		A	Part removal of metatarsal	4.08	5.88	4.31	5.26	4.15	0.31	10.27	8.70	9.65	8.54	090
28111		A	Part removal of metatarsal	5.01	6.43	5.71	5.69	5.53	0.51	11.95	11.23	11.21	11.05	090
28112		A	Part removal of metatarsal	4.49	6.29	4.80	5.73	4.66	0.35	11.13	9.64	10.57	9.50	090
28113		A	Part removal of metatarsal	4.79	6.22	5.17	5.37	4.96	0.38	11.39	10.34	10.54	10.13	090
28114		A	Removal of metatarsal heads	9.79	9.62	9.87	9.04	9.72	1.11	20.52	20.77	19.94	20.62	090
28116		A	Revision of foot	7.75	6.36	6.05	5.73	5.90	0.45	14.56	14.25	13.93	14.10	090
28118		A	Removal of heel bone	5.96	6.36	6.24	5.71	6.08	0.52	12.84	12.72	12.19	12.56	090
28119		A	Removal of heel spur	5.39	5.94	5.91	4.82	5.63	0.45	11.78	11.75	10.66	11.47	090
28120		A	Part removal of ankle/heel	5.40	8.32	6.18	7.53	5.99	0.52	14.24	12.10	13.45	11.91	090
28122		A	Partial removal of foot bone	7.29	7.79	5.59	7.68	5.57	0.42	15.50	13.30	15.39	13.28	090
28124		A	Partial removal of toe	4.81	6.43	4.95	6.04	3.18	0.29	11.53	10.05	11.14	8.28	090
28126		A	Partial removal of toe	3.52	5.52	4.62	5.02	2.88	0.28	9.32	8.42	8.82	6.68	090
28130		A	Removal of ankle bone	8.11	NA	NA	7.66	7.64	0.69	NA	NA	16.46	16.44	090
28140		A	Removal of metatarsal	6.91	7.29	5.84	6.06	5.53	0.49	14.69	13.24	13.46	12.93	090
28150		A	Removal of toe	4.09	5.96	4.17	5.32	4.01	0.30	10.35	8.56	9.71	8.40	090
28153		A	Partial removal of toe	3.66	5.47	4.62	4.10	2.65	0.28	9.41	8.56	8.04	6.59	090
28160		A	Partial removal of toe	3.74	5.66	4.77	5.46	3.05	0.30	9.70	8.81	9.50	7.09	090
28171		A	Extensive foot surgery	9.60	NA	NA	6.58	8.15	0.69	NA	NA	16.87	18.44	090
28173		A	Extensive foot surgery	8.80	7.42	6.53	6.90	6.40	0.58	16.80	15.91	16.28	15.78	090
28175		A	Extensive foot surgery	6.05	7.03	6.14	5.06	5.65	0.45	13.53	12.64	11.56	12.15	090
28190		A	Removal of foot foreign body	1.96	4.50	1.55	2.08	0.73	0.04	6.50	3.55	4.08	2.73	010
28192		A	Removal of foot foreign body	4.64	5.91	3.07	4.27	2.66	0.19	10.74	7.90	9.10	7.49	090
28193		A	Removal of foot foreign body	5.73	6.57	3.58	5.21	3.24	0.23	12.53	9.54	11.17	9.20	090
28200		A	Repair of foot tendon	4.60	5.64	5.53	5.12	5.40	0.39	10.63	10.52	10.11	10.39	090
28202		A	Repair/graft of foot tendon	6.84	6.28	6.31	26.55	11.38	0.60	13.72	13.75	33.99	18.82	090
28208		A	Repair of foot tendon	4.37	5.40	3.64	4.56	3.43	0.22	9.99	8.23	9.15	8.02	090
28210		A	Repair/graft of foot tendon	6.35	6.43	6.17	5.30	5.89	0.47	13.25	12.99	12.12	12.71	090
28220		A	Release of foot tendon	4.53	5.47	4.52	4.43	2.68	0.34	10.34	9.39	9.30	7.55	090
28222		A	Release of foot tendons	5.62	5.91	6.69	5.30	3.94	0.49	12.02	12.80	11.41	10.05	090
28225		A	Release of foot tendon	3.66	5.18	3.22	4.20	2.98	0.20	9.04	7.08	8.06	6.84	090
28226		A	Release of foot tendons	4.53	5.71	4.18	4.77	3.95	0.31	10.55	9.02	9.61	8.79	090
28230		A	Incision of foot tendon(s)	4.24	5.44	3.34	5.20	2.29	0.17	9.85	7.75	9.61	6.70	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
28232		A	Incision of toe tendon	3.39	5.34	2.64	4.86	1.87	0.12	8.85	6.15	8.37	5.38	090
28234		A	Incision of foot tendon	3.37	5.51	2.62	4.62	1.78	0.11	8.99	6.10	8.10	5.26	090
28238		A	Revision of foot tendon	7.73	7.17	7.68	6.13	7.42	0.66	15.56	16.07	14.52	15.81	090
28240		A	Release of big toe	4.36	5.58	3.13	5.03	2.99	0.18	10.12	7.67	9.57	7.53	090
28250		A	Revision of foot fascia	5.92	6.05	5.14	5.10	4.91	0.39	12.36	11.45	11.41	11.22	090
28260		A	Release of midfoot joint	7.96	6.71	5.29	6.17	5.15	0.38	15.05	13.63	14.51	13.49	090
28261		A	Revision of foot tendon	11.73	8.35	6.90	8.09	6.83	0.45	20.53	19.08	20.27	19.01	090
28262		A	Revision of foot and ankle	15.83	10.15	12.24	13.25	13.01	1.13	27.11	29.20	30.21	29.97	090
28264		A	Release of midfoot joint	10.35	8.03	9.79	9.80	10.24	0.92	19.30	21.06	21.07	21.51	090
28270		A	Release of foot contracture	4.76	5.94	3.62	5.39	2.42	0.18	10.88	8.56	10.33	7.36	090
28272		A	Release of toe joint, each	3.80	5.11	2.94	4.30	1.91	0.14	9.05	6.88	8.24	5.85	090
28280		A	Fusion of toes	5.19	6.64	3.47	5.60	3.21	0.23	12.06	8.89	11.02	8.63	090
28285		A	Repair of hammertoe	4.59	5.90	5.03	5.14	4.84	0.31	10.80	9.93	10.04	9.74	090
28286		A	Repair of hammertoe	4.56	5.83	4.38	4.97	4.16	0.30	10.69	9.24	9.83	9.02	090
28288		A	Partial removal of foot bone	4.74	6.09	4.58	6.33	4.64	0.34	11.17	9.66	11.41	9.72	090
28289		A	Repair hallux rigidus	7.04	2.78	2.78	3.12	3.12	0.42	10.24	10.24	10.58	10.58	090
28290		A	Correction of bunion	5.66	6.67	6.03	6.80	6.07	0.49	12.82	12.18	12.95	12.22	090
28292		A	Correction of bunion	7.04	6.87	7.46	6.40	7.34	0.58	14.49	15.08	14.02	14.96	090
28293		A	Correction of bunion	9.15	7.81	9.72	6.51	9.40	0.77	17.73	19.64	16.43	19.32	090
28294		A	Correction of bunion	8.56	7.72	9.39	6.03	8.96	0.67	16.95	18.62	15.26	18.19	090
28296		A	Correction of bunion	9.18	7.79	9.12	7.06	8.94	0.77	17.74	19.07	17.01	18.89	090
28297		A	Correction of bunion	9.18	7.56	9.23	6.47	9.46	0.82	17.56	19.23	16.47	19.46	090
28298		A	Correction of bunion	7.94	7.17	8.90	6.44	8.71	0.62	15.73	17.46	15.00	17.27	090
28299		A	Correction of bunion	8.88	7.50	9.83	6.68	9.62	0.84	17.22	19.55	16.40	19.34	090
28300		A	Incision of heel bone	9.54	12.26	8.38	8.16	7.35	0.62	22.42	18.54	18.32	17.51	090
28302		A	Incision of ankle bone	9.55	7.07	9.01	8.74	9.42	0.68	17.50	19.44	19.17	19.85	090
28304		A	Incision of midfoot bones	9.16	8.21	7.30	6.84	6.95	0.55	17.92	17.01	16.55	16.66	090
28305		A	Incise/graft midfoot bones	10.50	15.62	11.92	9.81	10.47	0.81	26.93	23.23	21.12	21.78	090
28306		A	Incision of metatarsal	5.86	5.98	5.22	5.12	5.00	0.37	12.21	11.45	11.35	11.23	090
28307		A	Incision of metatarsal	6.33	5.71	6.21	6.71	6.46	0.59	12.63	13.13	13.63	13.38	090
28308		A	Incision of metatarsal	5.29	5.46	6.02	4.21	5.70	0.39	11.14	11.70	9.89	11.38	090
28309		A	Incision of metatarsals	12.78	NA	NA	8.50	7.72	0.78	NA	NA	22.06	21.28	090
28310		A	Revision of big toe	5.43	6.16	4.94	5.31	4.73	0.33	11.92	10.70	11.07	10.49	090
28312		A	Revision of toe	4.55	5.94	5.20	5.64	5.12	0.35	10.84	10.10	10.54	10.02	090
28313		A	Repair deformity of toe	5.01	6.49	3.72	7.51	2.93	0.24	11.74	8.97	12.76	8.18	090
28315		A	Removal of sesamoid bone	4.86	5.45	4.81	4.41	4.55	0.32	10.63	9.99	9.59	9.73	090
28320		A	Repair of foot bones	9.18	NA	NA	7.69	9.00	0.81	NA	NA	17.68	18.99	090
28322		A	Repair of metatarsals	8.34	8.67	5.97	7.13	5.59	0.41	17.42	14.72	15.88	14.34	090
28340		A	Resect enlarged toe tissue	6.98	6.33	6.74	5.98	6.66	0.71	14.02	14.43	13.67	14.35	090
28341		A	Resect enlarged toe	8.41	6.89	7.96	5.89	7.71	0.75	16.05	17.12	15.05	16.87	090

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28344		A	Repair extra toe(s)	4.26	10.04	5.53	5.07	4.28	0.47	14.77	10.26	9.80	9.01	090
28345		A	Repair webbed toe(s)	5.92	6.31	5.93	5.91	5.83	0.57	12.80	12.42	12.40	12.32	090
28360		A	Reconstruct cleft foot	13.34	NA	NA	11.87	12.67	1.53	NA	NA	26.74	27.54	090
28400		A	Treatment of heel fracture	2.16	6.46	3.71	3.39	1.90	0.31	8.93	6.18	5.86	4.37	090
28405		A	Treatment of heel fracture	4.57	7.28	4.99	4.95	4.41	0.45	12.30	10.01	9.97	9.43	090
28406		A	Treatment of heel fracture	6.31	NA	NA	7.63	6.87	0.73	NA	NA	14.67	13.91	090
28415		A	Repair of heel fracture	15.97	NA	NA	34.85	16.06	1.09	NA	NA	51.91	33.12	090
28420		A	Repair/graft heel fracture	16.64	NA	NA	36.71	18.04	1.28	NA	NA	54.63	35.96	090
28430		A	Treatment of ankle fracture	2.09	5.91	3.47	2.78	1.69	0.27	8.27	5.83	5.14	4.05	090
28435		A	Treatment of ankle fracture	3.40	5.43	4.10	3.82	3.69	0.39	9.22	7.89	7.61	7.48	090
28436		A	Treatment of ankle fracture	4.71	NA	NA	6.44	5.02	0.53	NA	NA	11.68	10.26	090
28445		A	Repair of ankle fracture	9.33	NA	NA	8.84	9.37	1.10	NA	NA	19.27	19.80	090
28450		A	Treat midfoot fracture, each	1.90	5.72	2.95	2.67	1.43	0.20	7.82	5.05	4.77	3.53	090
28455		A	Treat midfoot fracture, each	3.09	5.05	3.33	3.95	2.02	0.27	8.41	6.69	7.31	5.38	090
28456		A	Repair midfoot fracture	2.68	NA	NA	4.89	3.07	0.30	NA	NA	7.87	6.05	090
28465		A	Repair midfoot fracture,each	7.01	NA	NA	19.62	9.41	0.63	NA	NA	27.26	17.05	090
28470		A	Treat metatarsal fracture	1.99	5.32	2.79	2.29	1.31	0.18	7.49	4.96	4.46	3.48	090
28475		A	Treat metatarsal fracture	2.97	5.30	3.23	3.54	1.84	0.23	8.50	6.43	6.74	5.04	090
28476		A	Repair metatarsal fracture	3.38	NA	NA	5.34	4.08	0.35	NA	NA	9.07	7.81	090
28485		A	Repair metatarsal fracture	5.71	NA	NA	19.59	8.71	0.47	NA	NA	25.77	14.89	090
28490		A	Treat big toe fracture	1.09	1.87	1.20	1.38	0.71	0.08	3.04	2.37	2.55	1.88	090
28495		A	Treat big toe fracture	1.58	2.13	1.45	1.75	0.90	0.10	3.81	3.13	3.43	2.58	090
28496		A	Repair big toe fracture	2.33	6.62	3.34	4.32	2.77	0.24	9.19	5.91	6.89	5.34	090
28505		A	Repair big toe fracture	3.81	16.01	6.43	17.95	6.92	0.34	20.16	10.58	22.10	11.07	090
28510		A	Treatment of toe fracture	1.09	1.68	1.15	1.30	0.69	0.07	2.84	2.31	2.46	1.85	090
28515		A	Treatment of toe fracture	1.46	1.89	1.39	1.59	0.86	0.09	3.44	2.94	3.14	2.41	090
28525		A	Repair of toe fracture	3.32	16.00	5.68	17.66	6.10	0.23	19.55	9.23	21.21	9.65	090
28530		A	Treat sesamoid bone fracture	1.06	3.08	1.59	1.77	0.86	0.08	4.22	2.73	2.91	2.00	090
28531		A	Treat sesamoid bone fracture	2.35	56.77	15.75	15.27	5.37	0.25	59.37	18.35	17.87	7.97	090
28540		A	Treat foot dislocation	2.04	3.68	1.41	2.57	0.89	0.05	5.77	3.50	4.66	2.98	090
28545		A	Treat foot dislocation	2.45	3.09	1.84	3.79	2.01	0.11	5.65	4.40	6.35	4.57	090
28546		A	Treat foot dislocation	3.20	8.16	4.27	4.64	3.39	0.35	11.71	7.82	8.19	6.94	090
28555		A	Repair foot dislocation	6.30	18.70	9.22	26.95	11.28	0.57	25.57	16.09	33.82	18.15	090
28570		A	Treat foot dislocation	1.66	4.93	2.53	2.77	1.35	0.13	6.72	4.32	4.56	3.14	090
28575		A	Treat foot dislocation	3.31	4.04	3.27	4.60	3.41	0.33	7.68	6.91	8.24	7.05	090
28576		A	Treat foot dislocation	4.17	5.61	3.66	5.38	3.60	0.33	10.11	8.16	9.88	8.10	090
28585		A	Repair foot dislocation	7.99	12.66	7.20	22.70	9.71	0.43	21.08	15.62	31.12	18.13	090
28600		A	Treat foot dislocation	1.89	4.67	1.72	2.87	1.00	0.06	6.62	3.67	4.82	2.95	090
28605		A	Treat foot dislocation	2.71	5.32	3.17	4.13	2.87	0.27	8.30	6.15	7.11	5.85	090
28606		A	Treat foot dislocation	4.90	10.92	5.57	5.91	4.32	0.43	16.25	10.90	11.24	9.65	090

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28615		A	Repair foot dislocation	7.77	NA	NA	23.15	9.82	0.61	NA	NA	31.53	18.20	090
28630		A	Treat toe dislocation	1.70	1.87	1.31	1.49	0.79	0.09	3.66	3.10	3.28	2.58	010
28635		A	Treat toe dislocation	1.91	2.95	1.92	2.22	1.15	0.14	5.00	3.97	4.27	3.20	010
28636		A	Treat toe dislocation	2.77	3.36	2.93	2.74	2.77	0.33	6.46	6.03	5.84	5.87	010
28645		A	Repair toe dislocation	4.22	6.94	4.38	8.40	4.74	0.30	11.46	8.90	12.92	9.28	090
28660		A	Treat toe dislocation	1.23	2.98	1.26	1.44	0.87	0.05	4.26	2.54	2.72	2.15	010
28665		A	Treat toe dislocation	1.92	2.67	1.48	2.32	0.98	0.09	4.68	3.47	4.33	2.99	010
28666		A	Treat toe dislocation	2.66	3.32	2.82	3.04	2.75	0.31	6.29	5.79	6.01	5.72	010
28675		A	Repair of toe dislocation	2.92	10.94	5.18	13.11	5.72	0.32	14.18	8.42	16.35	8.96	090
28705		A	Fusion of foot bones	15.21	NA	NA	11.50	15.18	1.84	NA	NA	28.55	32.23	090
28715		A	Fusion of foot bones	13.10	NA	NA	11.10	12.81	1.48	NA	NA	25.68	27.39	090
28725		A	Fusion of foot bones	11.81	NA	NA	9.42	10.04	1.13	NA	NA	22.16	22.78	090
28730		A	Fusion of foot bones	10.76	NA	NA	9.49	9.70	1.04	NA	NA	21.29	21.50	090
28735		A	Fusion of foot bones	10.85	NA	NA	8.94	10.18	1.07	NA	NA	20.86	22.10	090
28737		A	Revision of foot bones	9.64	NA	NA	8.63	9.38	0.88	NA	NA	19.15	19.90	090
28740		A	Fusion of foot bones	8.02	8.60	6.34	7.49	6.06	0.56	17.18	14.92	16.07	14.64	090
28750		A	Fusion of big toe joint	7.30	9.01	6.58	7.60	6.23	0.64	16.95	14.52	15.54	14.17	090
28755		A	Fusion of big toe joint	4.74	5.87	4.47	5.27	4.32	0.35	10.96	9.56	10.36	9.41	090
28760		A	Fusion of big toe joint	7.75	7.11	6.17	6.36	5.99	0.51	15.37	14.43	14.62	14.25	090
28800		A	Amputation of midfoot	8.21	NA	NA	7.08	7.19	0.93	NA	NA	16.22	16.33	090
28805		A	Amputation thru metatarsal	8.39	NA	NA	6.63	6.80	0.95	NA	NA	15.97	16.14	090
28810		A	Amputation toe & metatarsal	6.21	NA	NA	5.69	4.60	0.59	NA	NA	12.49	11.40	090
28820		A	Amputation of toe	4.41	7.22	3.91	5.14	3.39	0.36	11.99	8.68	9.91	8.16	090
28825		A	Partial amputation of toe	3.59	6.80	3.65	4.67	3.12	0.32	10.71	7.56	8.58	7.03	090
28899		C	Foot/toes surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
29000		A	Application of body cast	2.25	8.77	3.70	1.25	1.82	0.16	11.18	6.11	3.66	4.23	000
29010		A	Application of body cast	2.06	10.72	4.58	1.21	2.15	0.27	13.05	6.91	3.54	4.48	000
29015		A	Application of body cast	2.41	5.50	3.27	0.86	1.17	0.26	8.17	5.94	3.53	3.84	000
29020		A	Application of body cast	2.11	8.56	3.63	0.88	0.96	0.18	10.85	5.92	3.17	3.25	000
29025		A	Application of body cast	2.40	10.74	3.29	1.39	0.66	0.11	13.25	5.80	3.90	3.17	000
29035		A	Application of body cast	1.77	12.00	4.59	1.02	1.05	0.25	14.02	6.61	3.04	3.07	000
29040		A	Application of body cast	2.22	6.65	3.31	0.97	1.89	0.23	9.10	5.76	3.42	4.34	000
29044		A	Application of body cast	2.12	15.67	5.62	1.22	2.01	0.27	18.06	8.01	3.61	4.40	000
29046		A	Application of body cast	2.41	9.50	4.19	1.37	2.16	0.28	12.19	6.88	4.06	4.85	000
29049		A	Application of figure eight	0.89	6.07	1.86	0.43	0.28	0.05	7.01	2.80	1.37	1.22	000
29055		A	Application of shoulder cast	1.78	9.74	3.41	1.02	1.23	0.13	11.65	5.32	2.93	3.14	000
29058		A	Application of shoulder cast	1.31	6.62	2.19	0.61	0.69	0.07	8.00	3.57	1.99	2.07	000
29065		A	Application of long arm cast	0.87	4.33	1.74	0.50	0.46	0.10	5.30	2.71	1.47	1.43	000
29075		A	Application of forearm cast	0.77	3.89	1.47	0.43	0.36	0.08	4.74	2.32	1.28	1.21	000
29085		A	Apply hand/wrist cast	0.87	3.78	1.35	0.42	0.31	0.06	4.71	2.28	1.35	1.24	000

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
29105		A	Apply long arm splint	0.87	2.95	1.14	0.34	0.29	0.06	3.88	2.07	1.27	1.22	000
29125		A	Apply forearm splint	0.59	2.42	0.91	0.22	0.21	0.04	3.05	1.54	0.85	0.84	000
29126		A	Apply forearm splint	0.77	3.19	1.12	0.37	0.26	0.05	4.01	1.94	1.19	1.08	000
29130		A	Application of finger splint	0.50	0.68	0.31	0.19	0.12	0.02	1.20	0.83	0.71	0.64	000
29131		A	Application of finger splint	0.55	1.08	0.59	0.26	0.22	0.05	1.68	1.19	0.86	0.82	000
29200		A	Strapping of chest	0.65	0.92	0.45	0.21	0.17	0.02	1.59	1.12	0.88	0.84	000
29220		A	Strapping of low back	0.64	0.91	0.54	0.29	0.23	0.04	1.59	1.22	0.97	0.91	000
29240		A	Strapping of shoulder	0.71	1.01	0.47	0.24	0.28	0.02	1.74	1.20	0.97	1.01	000
29260		A	Strapping of elbow or wrist	0.55	0.85	0.40	0.20	0.15	0.02	1.42	0.97	0.77	0.72	000
29280		A	Strapping of hand or finger	0.51	0.85	0.39	0.19	0.14	0.02	1.38	0.92	0.72	0.67	000
29305		A	Application of hip cast	2.03	12.33	4.61	1.19	1.83	0.24	14.60	6.88	3.46	4.10	000
29325		A	Application of hip casts	2.32	12.57	4.73	1.35	1.92	0.22	15.11	7.27	3.89	4.46	000
29345		A	Application of long leg cast	1.40	5.38	2.18	0.79	0.62	0.13	6.91	3.71	2.32	2.15	000
29355		A	Application of long leg cast	1.53	5.81	2.35	0.86	0.67	0.13	7.47	4.01	2.52	2.33	000
29358		A	Apply long leg cast brace	1.43	6.48	2.90	0.84	0.85	0.26	8.17	4.59	2.53	2.54	000
29365		A	Application of long leg cast	1.18	4.72	1.88	0.67	0.52	0.11	6.01	3.17	1.96	1.81	000
29405		A	Apply short leg cast	0.86	4.01	1.65	0.48	0.44	0.09	4.96	2.60	1.43	1.39	000
29425		A	Apply short leg cast	1.01	3.84	1.75	0.54	0.53	0.11	4.96	2.87	1.66	1.65	000
29435		A	Apply short leg cast	1.18	6.51	2.59	0.72	0.66	0.14	7.83	3.91	2.04	1.98	000
29440		A	Addition of walker to cast	0.57	2.08	0.71	0.29	0.17	0.02	2.67	1.30	0.88	0.76	000
29445		A	Apply rigid leg cast	1.78	6.21	2.93	0.86	1.60	0.22	8.21	4.93	2.86	3.60	000
29450		A	Application of leg cast	1.02	3.45	1.18	0.52	0.29	0.03	4.50	2.23	1.57	1.34	000
29505		A	Application long leg splint	0.69	3.39	1.31	0.30	0.54	0.05	4.13	2.05	1.04	1.28	000
29515		A	Application lower leg splint	0.73	2.49	1.01	0.30	0.27	0.05	3.27	1.79	1.08	1.05	000
29520		A	Strapping of hip	0.54	0.90	0.52	0.32	0.23	0.02	1.46	1.08	0.88	0.79	000
29530		A	Strapping of knee	0.57	0.82	0.49	0.20	0.34	0.04	1.43	1.10	0.81	0.95	000
29540		A	Strapping of ankle	0.51	0.45	0.36	0.20	0.18	0.02	0.98	0.89	0.73	0.71	000
29550		A	Strapping of toes	0.47	0.41	0.33	0.21	0.17	0.02	0.90	0.82	0.70	0.66	000
29580		A	Application of paste boot	0.57	0.75	0.83	0.27	0.21	0.03	1.35	1.43	0.87	0.81	000
29590		A	Application of foot splint	0.76	0.63	0.38	0.32	0.19	0.02	1.41	1.16	1.10	0.97	000
29700		A	Removal/revision of cast	0.57	0.59	0.41	0.28	0.21	0.04	1.20	1.02	0.89	0.82	000
29705		A	Removal/revision of cast	0.76	0.81	0.49	0.36	0.23	0.04	1.61	1.29	1.16	1.03	000
29710		A	Removal/revision of cast	1.34	1.40	0.72	0.76	0.38	0.05	2.79	2.11	2.15	1.77	000
29715		A	Removal/revision of cast	0.94	6.51	2.33	0.46	0.47	0.09	7.54	3.36	1.49	1.50	000
29720		A	Repair of body cast	0.68	3.99	1.19	0.44	0.21	0.03	4.70	1.90	1.15	0.92	000
29730		A	Windowing of cast	0.75	0.77	0.40	0.36	0.20	0.03	1.55	1.18	1.14	0.98	000
29740		A	Wedging of cast	1.12	2.82	1.01	0.53	0.29	0.05	3.99	2.18	1.70	1.46	000
29750		A	Wedging of clubfoot cast	1.26	2.86	1.12	0.61	0.36	0.05	4.17	2.43	1.92	1.67	000
29799		C	Casting/strapping procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
29800		A	Jaw arthroscopy/surgery	6.43	NA	NA	8.50	5.39	0.36	NA	NA	15.29	12.18	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
29804		A	Jaw arthroscopy/surgery	8.14	NA	NA	8.47	9.40	1.14	NA	NA	17.75	18.68	090
29815		A	Shoulder arthroscopy	5.89	NA	NA	6.21	5.49	0.59	NA	NA	12.69	11.97	090
29819		A	Shoulder arthroscopy/surgery	7.62	NA	NA	8.17	8.86	1.35	NA	NA	17.14	17.83	090
29820		A	Shoulder arthroscopy/surgery	7.07	NA	NA	7.96	8.32	1.35	NA	NA	16.38	16.74	090
29821		A	Shoulder arthroscopy/surgery	7.72	NA	NA	8.41	9.01	1.67	NA	NA	17.80	18.40	090
29822		A	Shoulder arthroscopy/surgery	7.43	NA	NA	8.16	8.89	1.36	NA	NA	16.95	17.48	090
29823		A	Shoulder arthroscopy/surgery	8.17	NA	NA	8.39	9.42	1.82	NA	NA	18.38	19.41	090
29825		A	Shoulder arthroscopy/surgery	7.62	NA	NA	8.11	8.85	1.60	NA	NA	17.33	18.07	090
29826		A	Shoulder arthroscopy/surgery	8.99	NA	NA	8.94	10.28	1.81	NA	NA	19.74	21.08	090
29830		A	Elbow arthroscopy	5.76	NA	NA	5.17	5.62	0.65	NA	NA	11.58	12.03	090
29834		A	Elbow arthroscopy/surgery	6.28	NA	NA	5.91	6.23	0.75	NA	NA	12.94	13.26	090
29835		A	Elbow arthroscopy/surgery	6.48	NA	NA	5.90	6.38	0.77	NA	NA	13.15	13.63	090
29836		A	Elbow arthroscopy/surgery	7.55	NA	NA	6.76	7.41	0.90	NA	NA	15.21	15.86	090
29837		A	Elbow arthroscopy/surgery	6.87	NA	NA	6.33	6.80	0.83	NA	NA	14.03	14.50	090
29838		A	Elbow arthroscopy/surgery	7.71	NA	NA	6.56	7.38	0.89	NA	NA	15.16	15.98	090
29840		A	Wrist arthroscopy	5.54	NA	NA	7.07	4.45	0.42	NA	NA	13.03	10.41	090
29843		A	Wrist arthroscopy/surgery	6.01	NA	NA	7.33	6.39	0.71	NA	NA	14.05	13.11	090
29844		A	Wrist arthroscopy/surgery	6.37	NA	NA	7.68	6.47	0.74	NA	NA	14.79	13.58	090
29845		A	Wrist arthroscopy/surgery	7.52	NA	NA	9.12	7.98	0.90	NA	NA	17.54	16.40	090
29846		A	Wrist arthroscopy/surgery	6.75	NA	NA	9.59	8.44	1.72	NA	NA	18.06	16.91	090
29847		A	Wrist arthroscopy/surgery	7.08	NA	NA	9.93	8.00	0.76	NA	NA	17.77	15.84	090
29848		A	Wrist endoscopy/surgery	5.44	NA	NA	7.06	4.90	0.49	NA	NA	12.99	10.83	090
29850		A	Knee arthroscopy/surgery	8.19	NA	NA	6.15	5.21	1.36	NA	NA	15.70	14.76	090
29851		A	Knee arthroscopy/surgery	13.10	NA	NA	10.20	11.46	1.36	NA	NA	24.66	25.92	090
29855		A	Tibial arthroscopy/surgery	10.62	NA	NA	9.17	11.80	1.47	NA	NA	21.26	23.89	090
29856		A	Tibial arthroscopy/surgery	14.14	NA	NA	10.89	12.24	1.47	NA	NA	26.50	27.85	090
29860		A	Hip arthroscopy, dx	8.05	NA	NA	6.74	5.62	0.59	NA	NA	15.38	14.26	090
29861		A	Hip arthroscopy/surgery	9.15	NA	NA	7.71	9.56	1.35	NA	NA	18.21	20.06	090
29862		A	Hip arthroscopy/surgery	9.90	NA	NA	8.09	10.22	1.82	NA	NA	19.81	21.94	090
29863		A	Hip arthroscopy/surgery	9.90	NA	NA	8.49	9.22	1.35	NA	NA	19.74	20.47	090
29870		A	Knee arthroscopy, diagnostic	5.07	NA	NA	5.28	4.59	0.50	NA	NA	10.85	10.16	090
29871		A	Knee arthroscopy/drainage	6.55	NA	NA	6.71	7.19	0.75	NA	NA	14.01	14.49	090
29874		A	Knee arthroscopy/surgery	7.05	NA	NA	6.68	7.99	1.19	NA	NA	14.92	16.23	090
29875		A	Knee arthroscopy/surgery	6.31	NA	NA	6.41	7.25	1.26	NA	NA	13.98	14.82	090
29876		A	Knee arthroscopy/surgery	7.92	NA	NA	7.64	9.00	1.53	NA	NA	17.09	18.45	090
29877		A	Knee arthroscopy/surgery	7.35	NA	NA	6.99	8.33	1.42	NA	NA	15.76	17.10	090
29879		A	Knee arthroscopy/surgery	8.04	NA	NA	7.33	9.03	1.71	NA	NA	17.08	18.78	090
29880		A	Knee arthroscopy/surgery	8.50	NA	NA	7.60	9.51	1.74	NA	NA	17.84	19.75	090
29881		A	Knee arthroscopy/surgery	7.76	NA	NA	7.20	8.75	1.42	NA	NA	16.38	17.93	090
29882		A	Knee arthroscopy/surgery	8.65	NA	NA	7.64	9.66	1.49	NA	NA	17.78	19.80	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
29883		A	Knee arthroscopy/surgery	9.46	NA	NA	8.09	10.50	2.19	NA	NA	19.74	22.15	090
29884		A	Knee arthroscopy/surgery	7.33	NA	NA	7.46	8.43	1.22	NA	NA	16.01	16.98	090
29885		A	Knee arthroscopy/surgery	9.09	NA	NA	8.32	8.78	1.06	NA	NA	18.47	18.93	090
29886		A	Knee arthroscopy/surgery	7.54	NA	NA	7.46	7.40	0.88	NA	NA	15.88	15.82	090
29887		A	Knee arthroscopy/surgery	9.04	NA	NA	8.32	10.17	1.34	NA	NA	18.70	20.55	090
29888		A	Knee arthroscopy/surgery	13.90	NA	NA	11.05	15.21	2.49	NA	NA	27.44	31.60	090
29889		A	Knee arthroscopy/surgery	15.13	NA	NA	11.37	11.19	1.31	NA	NA	27.81	27.63	090
29891		A	Ankle arthroscopy/surgery	8.40	NA	NA	7.72	9.15	1.38	NA	NA	17.50	18.93	090
29892		A	Ankle arthroscopy/surgery	9.00	NA	NA	7.96	9.21	1.38	NA	NA	18.34	19.59	090
29893		A	Scope, plantar fasciotomy	5.22	NA	NA	4.65	5.39	0.36	NA	NA	10.23	10.97	090
29894		A	Ankle arthroscopy/surgery	7.21	NA	NA	6.96	8.20	1.15	NA	NA	15.32	16.56	090
29895		A	Ankle arthroscopy/surgery	6.99	NA	NA	6.83	7.97	1.18	NA	NA	15.00	16.14	090
29897		A	Ankle arthroscopy/surgery	7.18	NA	NA	7.29	8.25	1.38	NA	NA	15.85	16.81	090
29898		A	Ankle arthroscopy/surgery	8.32	NA	NA	7.24	9.26	1.49	NA	NA	17.05	19.07	090
29909		C	Arthroscopy of joint	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
30000		A	Drainage of nose lesion	1.43	2.06	0.99	1.58	0.64	0.04	3.53	2.46	3.05	2.11	010
30020		A	Drainage of nose lesion	1.43	2.26	1.05	1.69	0.67	0.05	3.74	2.53	3.17	2.15	010
30100		A	Intranasal biopsy	0.94	1.07	0.83	0.53	0.42	0.06	2.07	1.83	1.53	1.42	000
30110		A	Removal of nose polyp(s)	1.63	2.20	1.60	0.90	0.75	0.11	3.94	3.34	2.64	2.49	010
30115		A	Removal of nose polyp(s)	4.35	NA	NA	4.71	3.47	0.23	NA	NA	9.29	8.05	090
30117		A	Removal of intranasal lesion	3.16	3.70	3.24	3.15	3.10	0.24	7.10	6.64	6.55	6.50	090
30118		A	Removal of intranasal lesion	9.69	NA	NA	8.21	8.57	0.72	NA	NA	18.62	18.98	090
30120		A	Revision of nose	5.27	4.71	5.90	5.61	6.12	0.78	10.76	11.95	11.66	12.17	090
30124		A	Removal of nose lesion	3.10	NA	NA	3.49	1.42	0.13	NA	NA	6.72	4.65	090
30125		A	Removal of nose lesion	7.16	NA	NA	6.76	6.21	0.57	NA	NA	14.49	13.94	090
30130		A	Removal of turbinate bones	3.38	NA	NA	4.26	2.42	0.13	NA	NA	7.77	5.93	090
30140		A	Removal of turbinate bones	3.43	NA	NA	4.63	3.63	0.27	NA	NA	8.33	7.33	090
30150		A	Partial removal of nose	9.14	NA	NA	7.94	8.44	0.84	NA	NA	17.92	18.42	090
30160		A	Removal of nose	9.58	NA	NA	8.02	10.59	1.35	NA	NA	18.95	21.52	090
30200		A	Injection treatment of nose	0.78	1.08	0.57	0.44	0.26	0.03	1.89	1.38	1.25	1.07	000
30210		A	Nasal sinus therapy	1.08	1.70	0.64	0.60	0.26	0.02	2.80	1.74	1.70	1.36	010
30220		A	Insert nasal septal button	1.54	2.04	1.74	0.88	0.84	0.13	3.71	3.41	2.55	2.51	010
30300		A	Remove nasal foreign body	1.04	1.99	0.87	0.38	0.28	0.04	3.07	1.95	1.46	1.36	010
30310		A	Remove nasal foreign body	1.96	NA	NA	2.06	1.84	0.14	NA	NA	4.16	3.94	010
30320		A	Remove nasal foreign body	4.52	NA	NA	5.01	4.75	0.34	NA	NA	9.87	9.61	090
30400		R	Reconstruction of nose	9.83	NA	NA	8.39	10.21	1.06	NA	NA	19.28	21.10	090
30410		R	Reconstruction of nose	12.98	NA	NA	10.08	14.15	1.57	NA	NA	24.63	28.70	090
30420		R	Reconstruction of nose	15.88	NA	NA	11.88	17.19	1.74	NA	NA	29.50	34.81	090
30430		R	Revision of nose	7.21	NA	NA	6.95	6.70	0.52	NA	NA	14.68	14.43	090
30435		R	Revision of nose	11.71	NA	NA	9.51	10.66	0.86	NA	NA	22.08	23.23	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
30450		R	Revision of nose	18.65	NA	NA	13.23	12.46	0.71	NA	NA	32.59	31.82	090
30460		A	Revision of nose	9.96	NA	NA	8.49	9.11	0.73	NA	NA	19.18	19.80	090
30462		A	Revision of nose	19.57	NA	NA	13.40	17.32	1.46	NA	NA	34.43	38.35	090
30520		A	Repair of nasal septum	5.70	NA	NA	5.80	6.55	0.75	NA	NA	12.25	13.00	090
30540		A	Repair nasal defect	7.75	NA	NA	6.47	7.02	0.55	NA	NA	14.77	15.32	090
30545		A	Repair nasal defect	11.38	NA	NA	9.03	11.07	0.73	NA	NA	21.14	23.18	090
30560		A	Release of nasal adhesions	1.26	1.87	0.92	1.64	0.64	0.05	3.18	2.23	2.95	1.95	010
30580		A	Repair upper jaw fistula	6.69	4.21	6.13	5.45	3.91	0.45	11.35	13.27	12.59	11.05	090
30600		A	Repair mouth/nose fistula	6.02	4.06	4.08	5.06	4.33	0.28	10.36	10.38	11.36	10.63	090
30620		A	Intranasal reconstruction	5.97	NA	NA	6.18	6.89	0.86	NA	NA	13.01	13.72	090
30630		A	Repair nasal septum defect	7.12	NA	NA	6.84	6.79	0.56	NA	NA	14.52	14.47	090
30801		A	Cauterization inner nose	1.09	2.01	0.89	2.49	0.82	0.04	3.14	2.02	3.62	1.95	010
30802		A	Cauterization inner nose	2.03	2.54	1.40	3.14	1.55	0.09	4.66	3.52	5.26	3.67	010
30901		A	Control of nosebleed	1.21	1.80	0.91	0.59	0.38	0.05	3.06	2.17	1.85	1.64	000
30903		A	Control of nosebleed	1.54	2.13	1.22	0.91	0.92	0.06	3.73	2.82	2.51	2.52	000
30905		A	Control of nosebleed	1.97	3.72	2.39	1.39	1.80	0.13	5.82	4.49	3.49	3.90	000
30906		A	Repeat control of nosebleed	2.45	3.96	1.87	1.93	1.36	0.09	6.50	4.41	4.47	3.90	000
30915		A	Ligation nasal sinus artery	7.20	NA	NA	6.93	5.76	0.41	NA	NA	14.54	13.37	090
30920		A	Ligation upper jaw artery	9.83	NA	NA	8.44	9.87	1.03	NA	NA	19.30	20.73	090
30930		A	Therapy fracture of nose	1.26	NA	NA	2.55	1.22	0.06	NA	NA	3.87	2.54	010
30999		C	Nasal surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
31000		A	Irrigation maxillary sinus	1.15	1.89	0.83	0.66	0.35	0.04	3.08	2.02	1.85	1.54	010
31002		A	Irrigation sphenoid sinus	1.91	NA	NA	2.58	0.83	0.04	NA	NA	4.53	2.78	010
31020		A	Exploration maxillary sinus	2.94	3.51	3.05	3.52	3.05	0.23	6.68	6.22	6.69	6.22	090
31030		A	Exploration maxillary sinus	5.92	3.85	6.27	4.87	6.52	0.67	10.44	12.86	11.46	13.11	090
31032		A	Explore sinus,remove polyps	6.57	NA	NA	6.16	7.43	0.77	NA	NA	13.50	14.77	090
31040		A	Exploration behind upper jaw	9.42	NA	NA	6.65	8.16	0.67	NA	NA	16.74	18.25	090
31050		A	Exploration sphenoid sinus	5.28	NA	NA	5.15	6.02	0.50	NA	NA	10.93	11.80	090
31051		A	Sphenoid sinus surgery	7.11	NA	NA	6.49	7.99	0.66	NA	NA	14.26	15.76	090
31070		A	Exploration of frontal sinus	4.28	NA	NA	4.97	5.06	0.39	NA	NA	9.64	9.73	090
31075		A	Exploration of frontal sinus	9.16	NA	NA	8.07	10.22	0.86	NA	NA	18.09	20.24	090
31080		A	Removal of frontal sinus	11.42	NA	NA	8.73	9.68	0.88	NA	NA	21.03	21.98	090
31081		A	Removal of frontal sinus	12.75	NA	NA	9.76	10.84	1.02	NA	NA	23.53	24.61	090
31084		A	Removal of frontal sinus	13.51	NA	NA	10.46	14.65	1.27	NA	NA	25.24	29.43	090
31085		A	Removal of frontal sinus	14.20	NA	NA	10.44	15.32	1.38	NA	NA	26.02	30.90	090
31086		A	Removal of frontal sinus	12.86	NA	NA	10.33	11.43	0.90	NA	NA	24.09	25.19	090
31087		A	Removal of frontal sinus	13.10	NA	NA	10.33	11.04	1.04	NA	NA	24.47	25.18	090
31090		A	Exploration of sinuses	9.53	NA	NA	8.59	10.68	1.66	NA	NA	19.78	21.87	090
31200		A	Removal of ethmoid sinus	4.97	NA	NA	6.20	5.31	0.38	NA	NA	11.55	10.66	090
31201		A	Removal of ethmoid sinus	8.37	NA	NA	7.60	7.61	0.59	NA	NA	16.56	16.57	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
31205		A	Removal of ethmoid sinus	10.24	NA	NA	8.88	8.75	0.63	NA	NA	19.75	19.62	090
31225		A	Removal of upper jaw	19.23	NA	NA	16.76	20.02	1.85	NA	NA	37.84	41.10	090
31230		A	Removal of upper jaw	21.94	NA	NA	19.67	22.61	1.94	NA	NA	43.55	46.49	090
31231		A	Nasal endoscopy, dx	1.10	1.62	1.52	0.61	1.27	0.12	2.84	2.74	1.83	2.49	000
31233		A	Nasal/sinus endoscopy, dx	2.18	2.25	2.84	1.23	1.45	0.24	4.67	5.26	3.65	3.87	000
31235		A	Nasal/sinus endoscopy, dx	2.64	2.53	2.58	1.45	1.34	0.20	5.37	5.42	4.29	4.18	000
31237		A	Nasal/sinus endoscopy, surg	2.98	2.77	3.36	1.67	1.75	0.29	6.04	6.63	4.94	5.02	000
31238		A	Nasal/sinus endoscopy, surg	3.26	3.13	3.71	1.89	1.94	0.35	6.74	7.32	5.50	5.55	000
31239		A	Nasal/sinus endoscopy, surg	8.70	NA	NA	6.85	9.51	0.92	NA	NA	16.47	19.13	010
31240		A	Nasal/sinus endoscopy, surg	2.61	NA	NA	1.99	2.83	0.29	NA	NA	4.89	5.73	000
31254		A	Revision of ethmoid sinus	4.65	NA	NA	3.21	4.97	0.54	NA	NA	8.40	10.16	000
31255		A	Removal of ethmoid sinus	6.96	NA	NA	4.72	7.41	0.89	NA	NA	12.57	15.26	000
31256		A	Exploration maxillary sinus	3.29	NA	NA	2.39	3.55	0.32	NA	NA	6.00	7.16	000
31267		A	Endoscopy, maxillary sinus	5.46	NA	NA	3.61	5.16	0.63	NA	NA	9.70	11.25	000
31276		A	Sinus surgical endoscopy	8.85	NA	NA	5.69	6.89	0.57	NA	NA	15.11	16.31	000
31287		A	Nasal/sinus endoscopy, surg	3.92	NA	NA	2.75	4.20	0.51	NA	NA	7.18	8.63	000
31288		A	Nasal/sinus endoscopy, surg	4.58	NA	NA	3.10	4.88	0.61	NA	NA	8.29	10.07	000
31290		A	Nasal/sinus endoscopy, surg	17.24	NA	NA	12.01	16.41	1.41	NA	NA	30.66	35.06	010
31291		A	Nasal/sinus endoscopy, surg	18.19	NA	NA	12.28	17.16	1.47	NA	NA	31.94	36.82	010
31292		A	Nasal/sinus endoscopy, surg	14.76	NA	NA	10.55	13.53	1.13	NA	NA	26.44	29.42	010
31293		A	Nasal/sinus endoscopy, surg	16.21	NA	NA	11.77	14.86	1.24	NA	NA	29.22	32.31	010
31294		A	Nasal/sinus endoscopy, surg	19.06	NA	NA	12.77	16.81	1.43	NA	NA	33.26	37.30	010
31299		C	Sinus surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
31300		A	Removal of larynx lesion	14.29	NA	NA	17.31	13.76	1.00	NA	NA	32.60	29.05	090
31320		A	Diagnostic incision larynx	5.26	NA	NA	11.84	6.11	0.38	NA	NA	17.48	11.75	090
31360		A	Removal of larynx	17.08	NA	NA	20.26	20.36	1.71	NA	NA	39.05	39.15	090
31365		A	Removal of larynx	24.16	NA	NA	24.46	27.75	2.43	NA	NA	51.05	54.34	090
31367		A	Partial removal of larynx	21.86	NA	NA	24.25	20.08	1.47	NA	NA	47.58	43.41	090
31368		A	Partial removal of larynx	27.09	NA	NA	29.93	29.26	2.39	NA	NA	59.41	58.74	090
31370		A	Partial removal of larynx	21.38	NA	NA	23.21	19.78	1.47	NA	NA	46.06	42.63	090
31375		A	Partial removal of larynx	20.21	NA	NA	23.45	17.95	1.22	NA	NA	44.88	39.38	090
31380		A	Partial removal of larynx	20.21	NA	NA	22.70	19.73	1.47	NA	NA	44.38	41.41	090
31382		A	Partial removal of larynx	20.52	NA	NA	22.80	18.77	1.39	NA	NA	44.71	40.68	090
31390		A	Removal of larynx & pharynx	27.53	NA	NA	29.71	29.47	3.17	NA	NA	60.41	60.17	090
31395		A	Reconstruct larynx & pharynx	31.09	NA	NA	35.01	36.04	3.46	NA	NA	69.56	70.59	090
31400		A	Revision of larynx	10.31	NA	NA	15.83	10.32	0.71	NA	NA	26.85	21.34	090
31420		A	Removal of epiglottis	10.22	NA	NA	14.89	10.30	0.66	NA	NA	25.77	21.18	090
31500		A	Insert emergency airway	2.33	NA	NA	0.69	1.10	0.11	NA	NA	3.13	3.54	000
31502		A	Change of windpipe airway	0.65	1.45	0.84	0.26	0.54	0.05	2.15	1.54	0.96	1.24	000
31505		A	Diagnostic laryngoscopy	0.61	1.44	0.71	0.43	0.29	0.04	2.09	1.36	1.08	0.94	000

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
31510		A	Laryngoscopy with biopsy	1.92	2.24	1.01	0.98	0.70	0.05	4.21	2.98	2.95	2.67	000
31511		A	Remove foreign body, larynx	2.16	2.48	1.40	0.73	0.96	0.08	4.72	3.64	2.97	3.20	000
31512		A	Removal of larynx lesion	2.07	2.44	2.07	1.11	1.73	0.16	4.67	4.30	3.34	3.96	000
31513		A	Injection into vocal cord	2.10	NA	NA	1.58	2.28	0.30	NA	NA	3.98	4.68	000
31515		A	Laryngoscopy for aspiration	1.80	2.90	1.65	1.04	1.18	0.11	4.81	3.56	2.95	3.09	000
31520		A	Diagnostic laryngoscopy	2.56	NA	NA	1.60	1.74	0.14	NA	NA	4.30	4.44	000
31525		A	Diagnostic laryngoscopy	2.63	2.50	2.42	1.70	1.33	0.18	5.31	5.23	4.51	4.14	000
31526		A	Diagnostic laryngoscopy	2.57	NA	NA	1.87	2.77	0.30	NA	NA	4.74	5.64	000
31527		A	Laryngoscopy for treatment	3.27	NA	NA	2.12	2.96	0.23	NA	NA	5.62	6.46	000
31528		A	Laryngoscopy and dilatation	2.37	NA	NA	1.64	2.53	0.23	NA	NA	4.24	5.13	000
31529		A	Laryngoscopy and dilatation	2.68	NA	NA	1.90	2.48	0.20	NA	NA	4.78	5.36	000
31530		A	Operative laryngoscopy	3.39	NA	NA	1.96	3.45	0.31	NA	NA	5.66	7.15	000
31531		A	Operative laryngoscopy	3.59	NA	NA	2.52	3.85	0.47	NA	NA	6.58	7.91	000
31535		A	Operative laryngoscopy	3.16	NA	NA	2.09	3.36	0.35	NA	NA	5.60	6.87	000
31536		A	Operative laryngoscopy	3.56	NA	NA	2.50	3.81	0.46	NA	NA	6.52	7.83	000
31540		A	Operative laryngoscopy	4.13	NA	NA	2.80	4.40	0.48	NA	NA	7.41	9.01	000
31541		A	Operative laryngoscopy	4.53	NA	NA	3.08	4.48	0.59	NA	NA	8.20	9.60	000
31560		A	Operative laryngoscopy	5.46	NA	NA	3.64	4.98	0.40	NA	NA	9.50	10.84	000
31561		A	Operative laryngoscopy	6.00	NA	NA	4.09	6.12	0.84	NA	NA	10.93	12.96	000
31570		A	Laryngoscopy with injection	3.87	3.48	4.34	2.59	2.38	0.47	7.82	8.68	6.93	6.72	000
31571		A	Laryngoscopy with Injection	4.27	NA	NA	2.90	4.39	0.54	NA	NA	7.71	9.20	000
31575		A	Diagnostic laryngoscopy	1.10	1.79	1.72	0.61	0.79	0.13	3.02	2.95	1.84	2.02	000
31576		A	Laryngoscopy with biopsy	1.97	1.82	2.23	1.03	2.03	0.26	4.05	4.46	3.26	4.26	000
31577		A	Remove foreign body, larynx	2.47	2.18	2.76	1.21	2.52	0.29	4.94	5.52	3.97	5.28	000
31578		A	Removal of larynx lesion	2.84	2.41	3.15	1.61	2.95	0.38	5.63	6.37	4.83	6.17	000
31579		A	Diagnostic laryngoscopy	2.26	2.45	2.51	1.20	1.25	0.20	4.91	4.97	3.66	3.71	000
31580		A	Revision of larynx	12.38	NA	NA	17.38	15.43	1.28	NA	NA	31.04	29.09	090
31582		A	Revision of larynx	21.62	NA	NA	22.26	20.11	1.52	NA	NA	45.40	43.25	090
31584		A	Repair of larynx fracture	19.64	NA	NA	18.70	15.03	1.05	NA	NA	39.39	35.72	090
31585		A	Repair of larynx fracture	4.64	NA	NA	8.68	5.24	0.31	NA	NA	13.63	10.19	090
31586		A	Repair of larynx fracture	8.03	NA	NA	11.46	8.20	0.56	NA	NA	20.05	16.79	090
31587		A	Revision of larynx	11.99	NA	NA	15.94	9.85	0.62	NA	NA	28.55	22.46	090
31588		A	Revision of larynx	13.11	NA	NA	17.94	13.19	0.91	NA	NA	31.96	27.21	090
31590		A	Reinnervate larynx	6.97	NA	NA	11.96	7.68	0.49	NA	NA	19.42	15.14	090
31595		A	Larynx nerve surgery	8.34	NA	NA	13.65	8.98	0.58	NA	NA	22.57	17.90	090
31599		C	Larynx surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
31600		A	Incision of windpipe	3.62	NA	NA	2.28	3.81	0.51	NA	NA	6.41	7.94	000
31601		A	Incision of windpipe	4.45	NA	NA	3.28	4.81	0.52	NA	NA	8.25	9.78	000
31603		A	Incision of windpipe	4.15	NA	NA	2.56	4.08	0.52	NA	NA	7.23	8.75	000
31605		A	Incision of windpipe	3.58	NA	NA	1.84	3.67	0.39	NA	NA	5.81	7.64	000

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31610		A	Incision of windpipe	8.76	NA	NA	10.57	8.07	0.72	NA	NA	20.05	17.55	090
31611		A	Surgery/speech prosthesis	5.64	NA	NA	10.06	7.77	0.81	NA	NA	16.51	14.22	090
31612		A	Puncture/clear windpipe	0.91	1.43	1.31	0.46	0.93	0.09	2.43	2.31	1.46	1.93	000
31613		A	Repair windpipe opening	4.59	NA	NA	8.23	3.86	0.22	NA	NA	13.04	8.67	090
31614		A	Repair windpipe opening	7.12	NA	NA	11.69	8.41	0.57	NA	NA	19.38	16.10	090
31615		A	Visualization of windpipe	2.09	3.33	2.42	1.25	1.90	0.17	5.59	4.68	3.51	4.16	000
31622		A	Dx bronchoscope/wash	2.67	3.18	3.30	1.12	2.79	0.27	6.12	6.24	4.06	5.73	000
31623		A	Dx bronchoscope/brush	3.07	3.33	3.33	1.25	1.25	0.27	6.67	6.67	4.59	4.59	000
31624		A	Dx bronchoscope/lavage	3.11	3.35	3.35	1.26	1.26	0.27	6.73	6.73	4.64	4.64	000
31625		A	Bronchoscopy with biopsy	3.37	3.38	3.87	1.30	3.35	0.27	7.02	7.51	4.94	6.99	000
31628		A	Bronchoscopy with biopsy	3.81	3.24	4.22	1.40	3.76	0.30	7.35	8.33	5.51	7.87	000
31629		A	Bronchoscopy with biopsy	3.37	NA	NA	1.29	3.35	0.27	NA	NA	4.93	6.99	000
31630		A	Bronchoscopy with repair	3.82	NA	NA	2.00	3.53	0.39	NA	NA	6.21	7.74	000
31631		A	Bronchoscopy with dilation	4.37	NA	NA	2.04	3.72	0.38	NA	NA	6.79	8.47	000
31635		A	Remove foreign body, airway	3.68	NA	NA	1.73	3.73	0.41	NA	NA	5.82	7.82	000
31640		A	Bronchoscopy & remove lesion	4.94	NA	NA	2.45	4.70	0.52	NA	NA	7.91	10.16	000
31641		A	Bronchoscopy, treat blockage	5.03	NA	NA	2.15	5.04	0.66	NA	NA	7.84	10.73	000
31643		A	Dx bronchoscope/catheter	3.50	1.73	1.73	1.23	1.23	0.66	5.89	5.89	5.39	5.39	000
31645		A	Bronchoscopy, clear airways	3.16	NA	NA	1.30	3.16	0.23	NA	NA	4.69	6.55	000
31646		A	Bronchoscopy,reclear airways	2.72	NA	NA	1.19	2.73	0.21	NA	NA	4.12	5.66	000
31656		A	Bronchoscopy,inject for xray	2.17	NA	NA	0.93	2.18	0.24	NA	NA	3.34	4.59	000
31700		A	Insertion of airway catheter	1.34	2.42	1.73	0.68	1.30	0.13	3.89	3.20	2.15	2.77	000
31708		A	Instill airway contrast dye	1.41	NA	NA	0.72	0.81	0.07	NA	NA	2.20	2.29	000
31710		A	Insertion of airway catheter	1.30	NA	NA	0.72	0.92	0.09	NA	NA	2.11	2.31	000
31715		A	Injection for bronchus x-ray	1.11	NA	NA	0.62	0.55	0.03	NA	NA	1.76	1.69	000
31717		A	Bronchial brush biopsy	2.12	4.60	1.74	0.92	0.82	0.05	6.77	3.91	3.09	2.99	000
31720		A	Clearance of airways	1.06	2.01	1.10	0.56	0.74	0.07	3.14	2.23	1.69	1.87	000
31725		A	Clearance of airways	1.96	NA	NA	0.84	1.36	0.12	NA	NA	2.92	3.44	000
31730		A	Intro windpipe wire/tube	2.85	2.02	2.52	1.03	2.27	0.18	5.05	5.55	4.06	5.30	000
31750		A	Repair of windpipe	13.02	NA	NA	16.32	11.31	0.85	NA	NA	30.19	25.18	090
31755		A	Repair of windpipe	15.93	NA	NA	19.27	15.64	1.13	NA	NA	36.33	32.70	090
31760		A	Repair of windpipe	22.35	NA	NA	17.20	13.19	1.99	NA	NA	41.54	37.53	090
31766		A	Reconstruction of windpipe	30.43	NA	NA	20.55	20.12	0.88	NA	NA	51.86	51.43	090
31770		A	Repair/graft of bronchus	22.51	NA	NA	18.02	16.77	1.63	NA	NA	42.16	40.91	090
31775		A	Reconstruct bronchus	23.54	NA	NA	18.92	18.06	1.50	NA	NA	43.96	43.10	090
31780		A	Reconstruct windpipe	17.72	NA	NA	16.68	18.28	1.63	NA	NA	36.03	37.63	090
31781		A	Reconstruct windpipe	23.53	NA	NA	23.29	19.55	1.53	NA	NA	48.35	44.61	090
31785		A	Remove windpipe lesion	17.23	NA	NA	18.82	11.97	0.92	NA	NA	36.97	30.12	090
31786		A	Remove windpipe lesion	23.98	NA	NA	24.59	16.97	1.75	NA	NA	50.32	42.70	090
31800		A	Repair of windpipe injury	7.43	NA	NA	10.65	6.65	0.59	NA	NA	18.67	14.67	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
31805		A	Repair of windpipe injury	13.13	NA	NA	12.39	11.09	1.10	NA	NA	26.62	25.32	090
31820		A	Closure of windpipe lesion	4.49	7.02	4.67	8.01	4.92	0.36	11.87	9.52	12.86	9.77	090
31825		A	Repair of windpipe defect	6.81	9.82	6.53	11.15	6.86	0.45	17.08	13.79	18.41	14.12	090
31830		A	Revise windpipe scar	4.50	6.85	4.69	8.11	5.01	0.33	11.68	9.52	12.94	9.84	090
31899		C	Airways surgical procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
32000		A	Drainage of chest	1.54	3.47	1.60	0.67	0.90	0.06	5.07	3.20	2.27	2.50	000
32001		A	Total lung lavage	5.71	2.11	2.11	2.17	2.17	0.27	8.09	8.09	8.15	8.15	000
32002		A	Treatment of collapsed lung	2.19	NA	NA	0.90	1.31	0.17	NA	NA	3.26	3.67	000
32005		A	Treat lung lining chemically	2.19	NA	NA	0.95	1.12	0.12	NA	NA	3.26	3.43	000
32020		A	Insertion of chest tube	3.98	NA	NA	1.58	2.53	0.34	NA	NA	5.90	6.85	000
32035		A	Exploration of chest	8.67	NA	NA	9.34	7.84	0.98	NA	NA	18.99	17.49	090
32036		A	Exploration of chest	9.68	NA	NA	10.12	8.34	1.03	NA	NA	20.83	19.05	090
32095		A	Biopsy through chest wall	8.36	NA	NA	9.21	9.02	1.13	NA	NA	18.70	18.51	090
32100		A	Exploration/biopsy of chest	11.84	NA	NA	10.84	11.86	1.64	NA	NA	24.32	25.34	090
32110		A	Explore/repair chest	13.62	NA	NA	13.71	12.80	1.57	NA	NA	28.90	27.99	090
32120		A	Re-exploration of chest	11.54	NA	NA	10.85	10.41	1.35	NA	NA	23.74	23.30	090
32124		A	Explore chest,free adhesions	12.72	NA	NA	10.90	11.63	1.73	NA	NA	25.35	26.08	090
32140		A	Removal of lung lesion(s)	13.93	NA	NA	11.48	12.94	1.89	NA	NA	27.30	28.76	090
32141		A	Remove/treat lung lesions	14.00	NA	NA	14.10	14.45	1.98	NA	NA	30.08	30.43	090
32150		A	Removal of lung lesion(s)	14.15	NA	NA	11.67	11.33	1.57	NA	NA	27.39	27.05	090
32151		A	Remove lung foreign body	14.21	NA	NA	11.71	10.38	1.07	NA	NA	26.99	25.66	090
32160		A	Open chest heart massage	9.30	NA	NA	9.73	9.87	1.19	NA	NA	20.22	20.36	090
32200		A	Open drainage, lung lesion	15.29	NA	NA	14.35	9.20	0.73	NA	NA	30.37	25.22	090
32201		A	Percut drainage, lung lesion	4.00	NA	NA	10.61	5.12	0.27	NA	NA	14.88	9.39	000
32215		A	Treat chest lining	11.33	NA	NA	10.00	8.70	1.00	NA	NA	22.33	21.03	090
32220		A	Release of lung	19.27	NA	NA	15.70	16.80	2.35	NA	NA	37.32	38.42	090
32225		A	Partial release of lung	13.96	NA	NA	14.31	13.22	1.78	NA	NA	30.05	28.96	090
32310		A	Removal of chest lining	13.44	NA	NA	13.18	12.77	1.64	NA	NA	28.26	27.85	090
32320		A	Free/remove chest lining	20.54	NA	NA	16.05	18.74	2.66	NA	NA	39.25	41.94	090
32400		A	Needle biopsy chest lining	1.76	1.44	1.57	1.01	1.46	0.09	3.29	3.42	2.86	3.31	000
32402		A	Open biopsy chest lining	7.56	NA	NA	7.65	8.09	1.05	NA	NA	16.26	16.70	090
32405		A	Biopsy, lung or mediastinum	1.93	1.81	2.18	1.21	2.03	0.14	3.88	4.25	3.28	4.10	000
32420		A	Puncture/clear lung	2.18	NA	NA	0.89	1.45	0.10	NA	NA	3.17	3.73	000
32440		A	Removal of lung	21.02	NA	NA	15.92	19.09	2.78	NA	NA	39.72	42.89	090
32442		A	Sleeve pneumonectomy	26.24	NA	NA	19.71	19.53	2.74	NA	NA	48.69	48.51	090
32445		A	Removal of lung	25.09	NA	NA	18.72	21.33	3.04	NA	NA	46.85	49.46	090
32480		A	Partial removal of lung	18.32	NA	NA	12.09	16.98	2.53	NA	NA	32.94	37.83	090
32482		A	Bilobectomy	19.71	NA	NA	13.86	17.42	2.53	NA	NA	36.10	39.66	090
32484		A	Segmentectomy	20.69	NA	NA	14.37	17.55	2.53	NA	NA	37.59	40.77	090
32486		A	Sleeve lobectomy	23.92	NA	NA	17.44	17.82	2.53	NA	NA	43.89	44.27	090

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32488		A	Completion pneumonectomy	25.71	NA	NA	18.37	19.03	2.71	NA	NA	46.79	47.45	090
32491		R	Lung volume reduction	21.25	NA	NA	16.71	16.76	2.36	NA	NA	40.32	40.37	090
32500		A	Partial removal of lung	14.30	NA	NA	11.82	13.92	2.00	NA	NA	28.12	30.22	090
32501		A	Repair bronchus (add-on)	4.69	NA	NA	1.75	3.95	0.55	NA	NA	6.99	9.19	ZZZ
32520		A	Remove lung & revise chest	21.68	NA	NA	15.60	20.72	3.07	NA	NA	40.35	45.47	090
32522		A	Remove lung & revise chest	24.20	NA	NA	17.57	22.22	3.28	NA	NA	45.05	49.70	090
32525		A	Remove lung & revise chest	26.50	NA	NA	18.39	23.72	3.61	NA	NA	48.50	53.83	090
32540		A	Removal of lung lesion	14.64	NA	NA	14.12	13.03	1.60	NA	NA	30.36	29.27	090
32601		A	Thoracoscopy, diagnostic	5.46	NA	NA	4.67	4.00	0.45	NA	NA	10.58	9.91	000
32602		A	Thoracoscopy, diagnostic	5.96	NA	NA	4.89	4.37	0.50	NA	NA	11.35	10.83	000
32603		A	Thoracoscopy, diagnostic	7.81	NA	NA	5.15	4.12	0.45	NA	NA	13.41	12.38	000
32604		A	Thoracoscopy, diagnostic	8.78	NA	NA	5.96	4.64	0.50	NA	NA	15.24	13.92	000
32605		A	Thoracoscopy, diagnostic	6.93	NA	NA	5.59	4.23	0.45	NA	NA	12.97	11.61	000
32606		A	Thoracoscopy, diagnostic	8.40	NA	NA	5.91	4.63	0.50	NA	NA	14.81	13.53	000
32650		A	Thoracoscopy, surgical	10.75	NA	NA	10.14	8.74	1.00	NA	NA	21.89	20.49	090
32651		A	Thoracoscopy, surgical	12.91	NA	NA	11.12	12.42	1.78	NA	NA	25.81	27.11	090
32652		A	Thoracoscopy, surgical	18.66	NA	NA	14.64	16.53	2.35	NA	NA	35.65	37.54	090
32653		A	Thoracoscopy, surgical	12.87	NA	NA	11.77	11.36	1.57	NA	NA	26.21	25.80	090
32654		A	Thoracoscopy, surgical	12.44	NA	NA	12.58	12.51	1.57	NA	NA	26.59	26.52	090
32655		A	Thoracoscopy, surgical	13.10	NA	NA	12.70	14.10	1.98	NA	NA	27.78	29.18	090
32656		A	Thoracoscopy, surgical	12.91	NA	NA	10.91	13.60	1.85	NA	NA	25.67	28.36	090
32657		A	Thoracoscopy, surgical	13.65	NA	NA	11.32	13.80	2.00	NA	NA	26.97	29.45	090
32658		A	Thoracoscopy, surgical	11.63	NA	NA	10.14	12.95	1.97	NA	NA	23.74	26.55	090
32659		A	Thoracoscopy, surgical	11.59	NA	NA	10.53	13.01	2.04	NA	NA	24.16	26.64	090
32660		A	Thoracoscopy, surgical	17.43	NA	NA	14.29	19.17	2.79	NA	NA	34.51	39.39	090
32661		A	Thoracoscopy, surgical	13.25	NA	NA	11.80	10.48	1.15	NA	NA	26.20	24.88	090
32662		A	Thoracoscopy, surgical	16.44	NA	NA	11.96	14.83	2.14	NA	NA	30.54	33.41	090
32663		A	Thoracoscopy, surgical	18.47	NA	NA	13.75	17.40	2.53	NA	NA	34.75	38.40	090
32664		A	Thoracoscopy, surgical	14.20	NA	NA	10.72	11.27	1.60	NA	NA	26.52	27.07	090
32665		A	Thoracoscopy, surgical	15.54	NA	NA	11.61	14.57	2.07	NA	NA	29.22	32.18	090
32800		A	Repair lung hernia	13.69	NA	NA	11.19	9.54	1.24	NA	NA	26.12	24.47	090
32810		A	Close chest after drainage	13.05	NA	NA	11.44	8.15	0.93	NA	NA	25.42	22.13	090
32815		A	Close bronchial fistula	23.15	NA	NA	17.61	16.79	2.05	NA	NA	42.81	41.99	090
32820		A	Reconstruct injured chest	21.48	NA	NA	17.24	19.78	2.53	NA	NA	41.25	43.79	090
32850		X	Donor pneumonectomy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
32851		A	Lung transplant, single	38.63	NA	NA	22.26	26.36	3.90	NA	NA	64.79	68.89	090
32852		A	Lung transplant w/bypass	41.80	NA	NA	24.29	28.63	4.23	NA	NA	70.32	74.66	090
32853		A	Lung transplant, double	47.81	NA	NA	28.14	33.03	4.88	NA	NA	80.83	85.72	090
32854		A	Lung transplant w/bypass	50.98	NA	NA	29.25	35.07	5.22	NA	NA	85.45	91.27	090
32900		A	Removal of rib(s)	20.27	NA	NA	14.15	10.43	1.28	NA	NA	35.70	31.98	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
32905		A	Revise & repair chest wall	20.75	NA	NA	15.30	14.20	2.03	NA	NA	38.08	36.98	090
32906		A	Revise & repair chest wall	26.77	NA	NA	18.92	17.28	2.28	NA	NA	47.97	46.33	090
32940		A	Revision of lung	19.43	NA	NA	13 13	12.54	1.37	NA	NA	33.93	33.34	090
32960		A	Therapeutic pneumothorax	1.84	1 83	1.22	0.56	0 90	0 10	3.77	3 16	2.50	2.84	000
32999		C	Chest surgery procedure	0.00	0.00	0.00	0 00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
33010		A	Drainage of heart sac	2.24	NA	NA	0.97	1 50	0 11	NA	NA	3.32	3.85	000
33011		A	Repeat drainage of heart sac	2.24	NA	NA	1.12	0.73	0.09	NA	NA	3 45	3.06	000
33015		A	Incision of heart sac	6.80	NA	NA	3.97	4.46	0.49	NA	NA	11.26	11.75	090
33020		A	Incision of heart sac	12.61	NA	NA	7.73	12.73	1.97	NA	NA	22.31	27.31	090
33025		A	Incision of heart sac	12.09	NA	NA	7.46	12.69	2.04	NA	NA	21.59	26.82	090
33030		A	Partial removal of heart sac	18.71	NA	NA	15.56	20.64	3.07	NA	NA	37.34	42.42	090
33031		A	Partial removal of heart sac	21.79	NA	NA	20 72	15.97	1.96	NA	NA	44 47	39.72	090
33050		A	Removal of heart sac lesion	14.36	NA	NA	11 63	10.44	1.15	NA	NA	27.14	25.95	090
33120		A	Removal of heart lesion	24.56	NA	NA	24 92	28.22	4.04	NA	NA	53.52	56.82	090
33130		A	Removal of heart lesion	21.39	NA	NA	16.40	15.09	1.74	NA	NA	39.53	38 22	090
33200		A	Insertion of heart pacemaker	12.48	NA	NA	9 02	12.25	1.49	NA	NA	22.99	26.22	090
33201		A	Insertion of heart pacemaker	10.18	NA	NA	8 00	11.11	1.31	NA	NA	19.49	22.60	090
33206		A	Insertion of heart pacemaker	6.67	NA	NA	5 29	7.30	1.05	NA	NA	13.01	15.02	090
33207		A	Insertion of heart pacemaker	8 04	NA	NA	5 90	8.67	1.04	NA	NA	14.98	17.75	090
33208		A	Insertion of heart pacemaker	8.13	NA	NA	6 17	8 82	1.20	NA	NA	15.50	18 15	090
33210		A	Insertion of heart electrode	3.30	NA	NA	1 60	3.09	0.21	NA	NA	5.11	6.60	000
33211		A	Insertion of heart electrode	3.40	NA	NA	1 93	3.17	0.21	NA	NA	5 54	6.78	000
33212		A	Insertion of pulse generator	5.52	NA	NA	4 18	5.43	0.69	NA	NA	10.39	11.64	090
33213		A	Insertion of pulse generator	6.37	NA	NA	4 69	5.55	0.69	NA	NA	11.75	12 61	090
33214		A	Upgrade of pacemaker system	7.75	NA	NA	5 80	5.85	0.83	NA	NA	14 38	14 43	090
33216		A	Revision implanted electrode	5.39	NA	NA	4 53	5 22	0.43	NA	NA	10.35	11.04	090
33217		A	Insert/revise electrode	5.75	NA	NA	5 15	5.38	0.43	NA	NA	11 33	11.56	090
33218		A	Repair pacemaker electrodes	5.44	NA	NA	4 21	4.79	0.49	NA	NA	10.14	10.72	090
33220		A	Repair pacemaker electrode	5.52	NA	NA	4 58	4.88	0.49	NA	NA	10 59	10.89	090
33222		A	Pacemaker aicd pocket	4.96	NA	NA	3.94	5.43	0.79	NA	NA	9 69	11.18	090
33223		A	Pacemaker aicd pocket	6.46	NA	NA	5.54	6.03	0.79	NA	NA	12 79	13.28	090
33233		A	Removal of pacemaker system	3.29	NA	NA	3.40	3.00	0.04	NA	NA	6.73	6.33	090
33234		A	Removal of pacemaker system	7.82	NA	NA	5.42	3.67	0.18	NA	NA	13.42	11.67	090
33235		A	Removal pacemaker electrode	9.40	NA	NA	6.09	4.08	0.26	NA	NA	15.75	13.74	090
33236		A	Remove electrode/thoracotomy	12.60	NA	NA	9 34	5.58	0.49	NA	NA	22.43	18.67	090
33237		A	Remove electrode/thoracotomy	13.71	NA	NA	10.04	10.33	0.88	NA	NA	24.63	24.92	090
33238		A	Remove electrode/thoracotomy	15 22	NA	NA	10.73	11.06	1.57	NA	NA	27.52	27.85	090
33240		A	Insert/replace pulse gener	7.60	NA	NA	5.77	5.82	0.69	NA	NA	14.06	14.11	090
33241		A	Remove pulse generator only	3.24	NA	NA	3 62	2.66	0.34	NA	NA	7 20	6 24	090
33242		A	Repair pulse generator/leads	6.17	NA	NA	5 95	7.02	1.20	NA	NA	13.32	14 39	090

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33243		A	Remove generator/thoracotomy	22.64	NA	NA	12.97	10.59	1.20	NA	NA	36.81	34.43	090
33244		A	Remove generator	8.97	NA	NA	6.28	8.91	1.20	NA	NA	16.45	19.08	090
33245		A	Implant heart defibrillator	14.30	NA	NA	12.25	15.87	1.85	NA	NA	28.40	32.02	090
33246		A	Implant heart defibrillator	20.71	NA	NA	14.15	20.46	2.50	NA	NA	37.36	43.67	090
33247		A	Insert/replace leads	10.21	NA	NA	7.42	11.00	1.85	NA	NA	19.48	23.06	090
33249		A	Insert/replace leads/gener	13.28	NA	NA	9.33	14.23	2.50	NA	NA	25.11	30.01	090
33250		A	Ablate heart dysrhythm focus	21.85	NA	NA	22.63	15.07	0.67	NA	NA	45.15	37.59	090
33251		A	Ablate heart dysrhythm focus	24.88	NA	NA	21.83	18.82	2.51	NA	NA	49.22	46.21	090
33253		A	Reconstruct atria	31.06	NA	NA	24.67	23.92	3.33	NA	NA	59.06	58.31	090
33261		A	Ablate heart dysrhythm focus	24.88	NA	NA	25.92	17.84	2.14	NA	NA	52.94	44.86	090
33300		A	Repair of heart wound	17.92	NA	NA	15.05	15.45	2.03	NA	NA	35.00	35.40	090
33305		A	Repair of heart wound	21.44	NA	NA	19.86	19.13	2.40	NA	NA	43.70	42.97	090
33310		A	Exploratory heart surgery	18.51	NA	NA	14.53	12.81	1.51	NA	NA	34.55	32.83	090
33315		A	Exploratory heart surgery	22.37	NA	NA	19.79	16.73	2.01	NA	NA	44.17	41.11	090
33320		A	Repair major blood vessel(s)	16.79	NA	NA	15.36	15.35	1.96	NA	NA	34.11	34.10	090
33321		A	Repair major vessel	20.20	NA	NA	13.90	21.18	2.82	NA	NA	36.92	44.20	090
33322		A	Repair major blood vessel(s)	20.62	NA	NA	20.60	22.85	2.82	NA	NA	44.04	46.29	090
33330		A	Insert major vessel graft	21.43	NA	NA	18.85	15.03	1.51	NA	NA	41.79	37.97	090
33332		A	Insert major vessel graft	23.96	NA	NA	18.80	16.96	1.87	NA	NA	44.63	42.79	090
33335		A	Insert major vessel graft	30.01	NA	NA	25.29	18.59	1.87	NA	NA	57.17	50.47	090
33400		A	Repair of aortic valve	25.34	NA	NA	21.95	26.82	2.21	NA	NA	49.50	54.37	090
33401		A	Valvuloplasty, open	23.91	NA	NA	17.93	25.81	2.21	NA	NA	44.05	51.93	090
33403		A	Valvuloplasty, w/cp bypass	24.89	NA	NA	22.74	27.02	2.21	NA	NA	49.84	54.12	090
33404		A	Prepare heart-aorta conduit	28.54	NA	NA	24.84	31.64	4.37	NA	NA	57.75	64.55	090
33405		A	Replacement of aortic valve	30.61	NA	NA	25.45	31.17	4.17	NA	NA	60.23	65.95	090
33406		A	Replacement, aortic valve	32.30	NA	NA	26.83	35.63	5.83	NA	NA	64.96	73.76	090
33411		A	Replacement of aortic valve	32.47	NA	NA	27.33	35.91	5 83	NA	NA	65.63	74.21	090
33412		A	Replacement of aortic valve	34.79	NA	NA	26.29	37.72	5.83	NA	NA	66.91	78.34	090
33413		A	Replacement, aortic valve	35.24	NA	NA	31.45	39.41	5.66	NA	NA	72.35	80.31	090
33414		A	Repair, aortic valve	30.35	NA	NA	25.61	33.58	5.83	NA	NA	61.79	69.76	090
33415		A	Revision, subvalvular tissue	27.15	NA	NA	21.18	29.61	4 17	NA	NA	52.50	60.93	090
33416		A	Revise ventricle muscle	30.35	NA	NA	25.18	29.20	3.90	NA	NA	59.43	63.45	090
33417		A	Repair of aortic valve	28.53	NA	NA	23.87	31.51	4.83	NA	NA	57.23	64.87	090
33420		A	Revision of mitral valve	22.70	NA	NA	14.92	19.36	1.92	NA	NA	39.54	44.48	090
33422		A	Revision of mitral valve	25.94	NA	NA	21.78	28.67	5.05	NA	NA	52.77	59.66	090
33425		A	Repair of mitral valve	27.00	NA	NA	23.75	30.11	4.24	NA	NA	54.99	61.35	090
33426		A	Repair of mitral valve	31.03	NA	NA	26.57	32.65	4.54	NA	NA	62.14	68.22	090
33427		A	Repair of mitral valve	33.72	NA	NA	29.05	35.52	4 93	NA	NA	67.70	74.17	090
33430		A	Replacement of mitral valve	31.43	NA	NA	27.45	35.00	4 78	NA	NA	63.66	71.21	090
33460		A	Revision of tricuspid valve	23.60	NA	NA	22.29	26.70	3.70	NA	NA	49.59	54.00	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
33463		A	Valvuloplasty, tricuspid	25.62	NA	NA	22.25	28.50	4.65	NA	NA	52.52	58.77	090
33464		A	Valvuloplasty, tricuspid	27.33	NA	NA	23.56	30.36	4.65	NA	NA	55.54	62.34	090
33465		A	Replace tricuspid valve	28.79	NA	NA	24.44	31.89	4.65	NA	NA	57.88	65.33	090
33468		A	Revision of tricuspid valve	30.12	NA	NA	25.53	33.35	4.93	NA	NA	60.58	68.40	090
33470		A	Revision of pulmonary valve	20.81	NA	NA	23.93	22.12	1.92	NA	NA	46.66	44.85	090
33471		A	Valvotomy, pulmonary valve	22.25	NA	NA	16.89	24.15	2.21	NA	NA	41.35	48.61	090
33472		A	Revision of pulmonary valve	22.25	NA	NA	17.45	24.29	2.21	NA	NA	41.91	48.75	090
33474		A	Revision of pulmonary valve	23.04	NA	NA	18.61	25.28	2.21	NA	NA	43.86	50.53	090
33475		A	Replacement, pulmonary valve	28.41	NA	NA	23.36	31.27	4.78	NA	NA	56.55	64.46	090
33476		A	Revision of heart chamber	25.77	NA	NA	22.56	28.55	3.90	NA	NA	52.23	58.22	090
33478		A	Revision of heart chamber	26.74	NA	NA	20.18	28.99	4.24	NA	NA	51.16	59.97	090
33496		A	Repair, prosth valve clot	27.25	NA	NA	22.97	30.15	4.17	NA	NA	54.39	61.57	090
33500		A	Repair heart vessel fistula	25.55	NA	NA	19.26	27.70	4.07	NA	NA	48.88	57.32	090
33501		A	Repair heart vessel fistula	17.78	NA	NA	14.30	15.09	1.96	NA	NA	34.04	34.83	090
33502		A	Coronary artery correction	21.04	NA	NA	17.62	15.92	1.96	NA	NA	40.62	38.92	090
33503		A	Coronary artery graft	21.78	NA	NA	17.96	23.99	4.07	NA	NA	43.81	49.64	090
33504		A	Coronary artery graft	24.66	NA	NA	25.14	28.37	4.07	NA	NA	53.87	57.10	090
33505		A	Repair artery w/tunnel	26.84	NA	NA	26.41	30.63	4.72	NA	NA	57.97	62.19	090
33506		A	Repair artery, translocation	26.71	NA	NA	26.11	30.44	4.72	NA	NA	57.54	61.87	090
33510		A	CABG, vein, single	25.12	NA	NA	21.80	27.94	4.07	NA	NA	50.99	57.13	090
33511		A	CABG, vein, two	27.40	NA	NA	23.48	30.40	4.47	NA	NA	55.35	62.27	090
33512		A	CABG, vein, three	29.67	NA	NA	25.13	32.85	4.87	NA	NA	59.67	67.39	090
33513		A	CABG, vein, four	31.95	NA	NA	27.06	35.38	5.27	NA	NA	64.28	72.60	090
33514		A	CABG, vein, five	35.00	NA	NA	30.27	38.90	5.66	NA	NA	70.93	79.56	090
33516		A	CABG, vein, six+	37.40	NA	NA	31.61	41.39	6.06	NA	NA	75.07	84.85	090
33517		A	CABG, artery-vein, single	2.57	NA	NA	2.17	2.85	0.39	NA	NA	5.13	5.81	ZZZ
33518		A	CABG, artery-vein, two	4.85	NA	NA	3.83	5.31	0.80	NA	NA	9.48	10.96	ZZZ
33519		A	CABG, artery-vein, three	7.12	NA	NA	5.51	7.75	1.19	NA	NA	13.82	16.06	ZZZ
33521		A	CABG, artery-vein, four	9.40	NA	NA	7.23	10.22	1.59	NA	NA	18.22	21.21	ZZZ
33522		A	CABG, artery-vein, five	11.67	NA	NA	8.96	12.69	1.99	NA	NA	22.62	26.35	ZZZ
33523		A	CABG, artery-vein, six+	13.95	NA	NA	10.61	15.15	2.39	NA	NA	26.95	31.49	ZZZ
33530		A	Coronary artery, bypass/reop	5.86	NA	NA	16.38	9.35	1.71	NA	NA	23.95	16.92	ZZZ
33533		A	CABG, arterial, single	25.83	NA	NA	22.94	28.86	4.19	NA	NA	52.96	58.88	090
33534		A	CABG, arterial, two	28.82	NA	NA	25.78	32.25	4.72	NA	NA	59.32	65.79	090
33535		A	CABG, arterial, three	31.81	NA	NA	25.01	34.73	5.24	NA	NA	62.06	71.78	090
33536		A	CABG, arterial, four+	34.79	NA	NA	30.41	38.75	5.77	NA	NA	70.97	79.31	090
33542		A	Removal of heart lesion	28.85	NA	NA	26.82	31.72	4.33	NA	NA	60.00	64.90	090
33545		A	Repair of heart damage	36.78	NA	NA	32.81	36.63	4.91	NA	NA	74.50	78.32	090
33572		A	Open coronary endarterectomy	4.45	NA	NA	2.19	3.18	0.49	NA	NA	7.13	8.12	ZZZ
33600		A	Closure of valve	29.51	NA	NA	20.67	31.59	4.78	NA	NA	54.96	65.88	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
33602		A	Closure of valve	28.54	NA	NA	22.20	30.36	4.17	NA	NA	54.91	63.07	090
33606		A	Anastomosis/artery-aorta	30.74	NA	NA	26.48	34.14	5.83	NA	NA	63.05	70.71	090
33608		A	Repair anomaly w/conduit	31.09	NA	NA	24.77	34.03	5.83	NA	NA	61.69	70.95	090
33610		A	Repair by enlargement	30.61	NA	NA	21.21	32.71	5.83	NA	NA	57.65	69.15	090
33611		A	Repair double ventricle	32.30	NA	NA	24.23	34.98	5.83	NA	NA	62.36	73.11	090
33612		A	Repair double ventricle	33.26	NA	NA	25.90	36.26	5.83	NA	NA	64.99	75.35	090
33615		A	Repair (simple fontan)	32.06	NA	NA	25.66	35.13	5.83	NA	NA	63.55	73.02	090
33617		A	Repair by modified fontan	34.03	NA	NA	26.83	37.17	5.83	NA	NA	66.69	77.03	090
33619		A	Repair single ventricle	37.57	NA	NA	35.42	42.49	6.29	NA	NA	79.28	86.35	090
33641		A	Repair heart septum defect	21.39	NA	NA	18.96	23.90	3.81	NA	NA	44.16	49.10	090
33645		A	Revision of heart veins	24.82	NA	NA	20.15	27.26	3.81	NA	NA	48.78	55.89	090
33647		A	Repair heart septum defects	28.73	NA	NA	24.03	31.73	4.91	NA	NA	57.67	65.37	090
33660		A	Repair of heart defects	25.54	NA	NA	21.71	28.29	4.24	NA	NA	51.49	58.07	090
33665		A	Repair of heart defects	28.60	NA	NA	22.68	31.13	4.24	NA	NA	55.52	63.97	090
33670		A	Repair of heart chambers	32.73	NA	NA	23.56	35.19	5.83	NA	NA	62.12	73.75	090
33681		A	Repair heart septum defect	27.67	NA	NA	22.97	30.52	4.91	NA	NA	55.55	63.10	090
33684		A	Repair heart septum defect	29.65	NA	NA	21.43	31.91	4.91	NA	NA	55.99	66.47	090
33688		A	Repair heart septum defect	30.62	NA	NA	25.61	33.82	4.91	NA	NA	61.14	69.35	090
33690		A	Reinforce pulmonary artery	19.55	NA	NA	17.23	21.81	3.36	NA	NA	40.14	44.72	090
33692		A	Repair of heart defects	30.75	NA	NA	23.67	33.45	5.83	NA	NA	60.25	70.03	090
33694		A	Repair of heart defects	31.73	NA	NA	27.81	35.36	5.83	NA	NA	65.37	72.92	090
33697		A	Repair of heart defects	33.71	NA	NA	26.78	36.88	5.83	NA	NA	66.32	76.42	090
33702		A	Repair of heart defects	26.54	NA	NA	23.06	29.53	4.17	NA	NA	53.77	60.24	090
33710		A	Repair of heart defects	29.71	NA	NA	24.92	32.83	4.91	NA	NA	59.54	67.45	090
33720		A	Repair of heart defect	26.56	NA	NA	20.47	28.90	4.17	NA	NA	51.20	59.63	090
33722		A	Repair of heart defect	28.41	NA	NA	21.37	30.15	4.17	NA	NA	53.95	62.73	090
33730		A	Repair heart-vein defect(s)	31.67	NA	NA	23.84	34.32	5.83	NA	NA	61.34	71.82	090
33732		A	Repair heart-vein defect	28.16	NA	NA	22.28	30.79	4.24	NA	NA	54.68	63.19	090
33735		A	Revision of heart chamber	21.39	NA	NA	15.72	24.84	3.81	NA	NA	40.92	50.04	090
33736		A	Revision of heart chamber	23.52	NA	NA	22.66	26.58	3.81	NA	NA	49.99	53.91	090
33737		A	Revision of heart chamber	21.76	NA	NA	15.09	23.26	3.81	NA	NA	40.66	48.83	090
33750		A	Major vessel shunt	21.41	NA	NA	18.33	22.57	3.36	NA	NA	43.10	47.34	090
33755		A	Major vessel shunt	21.79	NA	NA	13.44	21.35	3.36	NA	NA	38.59	46.50	090
33762		A	Major vessel shunt	21.79	NA	NA	16.99	22.23	3.36	NA	NA	42.14	47.38	090
33764		A	Major vessel shunt & graft	21.79	NA	NA	14.40	21.59	3.36	NA	NA	39.55	46.74	090
33766		A	Major vessel shunt	22.76	NA	NA	15.77	21.93	3.36	NA	NA	41.89	48.05	090
33767		A	Major vessel shunt	24.50	NA	NA	22.55	26.55	3.81	NA	NA	50.86	54.86	090
33770		A	Repair great vessels defect	33.29	NA	NA	22.23	35.36	5.83	NA	NA	61.35	74.48	090
33771		A	Repair great vessels defect	34.65	NA	NA	28.32	38.11	5.83	NA	NA	68.80	78.59	090
33774		A	Repair great vessels defect	30.98	NA	NA	30.25	33.02	4.24	NA	NA	65.47	68.24	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
33775		A	Repair great vessels defect	32.20	NA	NA	27.01	32.21	4.24	NA	NA	63.45	68.65	090
33776		A	Repair great vessels defect	34.04	NA	NA	28.13	35.46	4.91	NA	NA	67.08	74.41	090
33777		A	Repair great vessels defect	33.46	NA	NA	27.91	32.43	4.24	NA	NA	65.61	70.13	090
33778		A	Repair great vessels defect	35.82	NA	NA	29.64	39.48	5.77	NA	NA	71.23	81.07	090
33779		A	Repair great vessels defect	36.21	NA	NA	35.24	41.23	5.77	NA	NA	77.22	83.21	090
33780		A	Repair great vessels defect	36.94	NA	NA	29.28	40.39	5.77	NA	NA	71.99	83.10	090
33781		A	Repair great vessels defect	36.45	NA	NA	29.95	40.13	5.77	NA	NA	72.17	82.35	090
33786		A	Repair arterial trunk	34.84	NA	NA	28.46	38.31	5.83	NA	NA	69.13	78.98	090
33788		A	Revision of pulmonary artery	26.62	NA	NA	22.31	29.41	4.07	NA	NA	53.00	60.10	090
33800		A	Aortic suspension	16.24	NA	NA	13.00	14.76	1.96	NA	NA	31.20	32.96	090
33802		A	Repair vessel defect	17.66	NA	NA	13.19	19.12	3.36	NA	NA	34.21	40.14	090
33803		A	Repair vessel defect	19.60	NA	NA	13.25	20.86	3.36	NA	NA	36.21	43.82	090
33813		A	Repair septal defect	20.65	NA	NA	14.59	21.63	3.36	NA	NA	38.60	45.64	090
33814		A	Repair septal defect	25.77	NA	NA	21.63	28.49	4.17	NA	NA	51.57	58.43	090
33820		A	Revise major vessel	16.29	NA	NA	11.28	17.41	3.36	NA	NA	30.93	37.06	090
33822		A	Revise major vessel	17.32	NA	NA	12.13	18.54	3.36	NA	NA	32.81	39.22	090
33824		A	Revise major vessel	19.52	NA	NA	16.92	21.71	3.36	NA	NA	39.80	44.59	090
33840		A	Remove aorta constriction	20.63	NA	NA	15.23	22.27	4.37	NA	NA	40.23	47.27	090
33845		A	Remove aorta constriction	22.12	NA	NA	15.28	23.62	4.37	NA	NA	41.77	50.11	090
33851		A	Remove aorta constriction	21.27	NA	NA	14.96	22.79	4.37	NA	NA	40.60	48.43	090
33852		A	Repair septal defect	23.71	NA	NA	20.38	26.32	4.37	NA	NA	48.46	54.40	090
33853		A	Repair septal defect	31.72	NA	NA	27.83	35.35	5.83	NA	NA	65.38	72.90	090
33860		A	Ascending aorta graft	33.96	NA	NA	27.94	35.24	4.83	NA	NA	66.73	74.03	090
33861		A	Ascending aorta graft	34.52	NA	NA	28.87	35.47	4.83	NA	NA	68.22	74.82	090
33863		A	Ascending aorta graft	36.47	NA	NA	30.38	35.85	4.83	NA	NA	71.68	77.15	090
33870		A	Transverse aortic arch graft	40.31	NA	NA	31.36	43.90	6.29	NA	NA	77.96	90.50	090
33875		A	Thoracic aorta graft	33.06	NA	NA	26.84	32.14	4.37	NA	NA	64.27	69.57	090
33877		A	Thoracoabdominal graft	42.60	NA	NA	36.40	45.00	6.56	NA	NA	85.56	94.16	090
33910		A	Remove lung artery emboli	24.59	NA	NA	22.35	17.51	2.17	NA	NA	49.11	44.27	090
33915		A	Remove lung artery emboli	21.02	NA	NA	16.68	13.95	1.74	NA	NA	39.44	36.71	090
33916		A	Surgery of great vessel	25.83	NA	NA	24.27	20.37	2.68	NA	NA	52.78	48.88	090
33917		A	Repair pulmonary artery	24.50	NA	NA	19.60	26.84	4.93	NA	NA	49.03	56.27	090
33918		A	Repair pulmonary atresia	26.45	NA	NA	18.89	28.41	4.07	NA	NA	49.41	58.93	090
33919		A	Repair pulmonary atresia	32.67	NA	NA	31.29	37.07	5.83	NA	NA	69.79	75.57	090
33920		A	Repair pulmonary atresia	31.95	NA	NA	27.31	35.44	5.83	NA	NA	65.09	73.22	090
33922		A	Transect pulmonary artery	23.52	NA	NA	22.35	26.65	2.21	NA	NA	48.08	52.38	090
33924		A	Remove pulmonary shunt	5.50	NA	NA	2.57	3.90	0.61	NA	NA	8.68	10.01	ZZZ
33930		X	Removal of donor heart/lung	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
33935		R	Transplantation, heart/lung	60.96	NA	NA	33.35	62.92	10.59	NA	NA	104.90	134.47	090
33940		X	Removal of donor heart	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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33945		R	Transplantation of heart	42.10	NA	NA	24.41	43.80	8.64	NA	NA	75.15	94.54	090
33960		A	External circulation assist	19.36	NA	NA	10.08	8.23	0.74	NA	NA	30.18	28.33	XXX
33961		A	External circulation assist	10.93	NA	NA	9.50	8.08	0.74	NA	NA	21.17	19.75	ZZZ
33970		A	Aortic circulation assist	6.75	NA	NA	6.63	7.70	0.78	NA	NA	14.16	15.23	000
33971		A	Aortic circulation assist	9.69	NA	NA	9.96	6.69	0.71	NA	NA	20.36	17.09	090
33973		A	Insert balloon device	9.76	NA	NA	4.53	7.27	0.78	NA	NA	15.07	17.81	000
33974		A	Remove intra-aortic balloon	14.41	NA	NA	13.40	7.87	0.71	NA	NA	28.52	22.99	090
33975		A	Implant ventricular device	21.60	NA	NA	31.35	19.39	2.17	NA	NA	55.12	43.16	010
33976		A	Implant ventricular device	29.10	NA	NA	33.03	23.99	2.96	NA	NA	65.09	56.05	010
33977		A	Remove ventricular device	19.29	NA	NA	16.97	14.35	1.90	NA	NA	38.16	35.54	090
33978		A	Remove ventricular device	21.73	NA	NA	17.27	15.87	2.17	NA	NA	41.17	39.77	090
33999		C	Cardiac surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
34001		A	Removal of artery clot	12.91	NA	NA	6.77	9.49	1.48	NA	NA	21.14	23.86	090
34051		A	Removal of artery clot	15.21	NA	NA	8.48	9.29	1.24	NA	NA	24.93	25.74	090
34101		A	Removal of artery clot	9.97	NA	NA	5.17	8.08	1.34	NA	NA	16.48	19.39	090
34111		A	Removal of arm artery clot	8.07	NA	NA	4.35	7.27	1.24	NA	NA	13.66	16.58	090
34151		A	Removal of artery clot	16.86	NA	NA	9.10	12.01	1.87	NA	NA	27.83	30.74	090
34201		A	Removal of artery clot	9.13	NA	NA	5.24	8.56	1.39	NA	NA	15.76	19.08	090
34203		A	Removal of leg artery clot	12.21	NA	NA	6.69	8.70	1.35	NA	NA	20.25	22.26	090
34401		A	Removal of vein clot	12.86	NA	NA	7.28	8.39	1.09	NA	NA	21.23	22.34	090
34421		A	Removal of vein clot	9.93	NA	NA	5.72	7.50	1.18	NA	NA	16.83	18.61	090
34451		A	Removal of vein clot	14.44	NA	NA	7.71	10.63	1.67	NA	NA	23.82	26.74	090
34471		A	Removal of vein clot	10.18	NA	NA	5.76	4.30	0.43	NA	NA	16.37	14.91	090
34490		A	Removal of vein clot	7.60	NA	NA	4.53	7.05	1.20	NA	NA	13.33	15.85	090
34501		A	Repair valve, femoral vein	10.93	NA	NA	7.08	7.76	0.67	NA	NA	18.68	19.36	090
34502		A	Reconstruct, vena cava	26.95	NA	NA	13.40	18.53	2.85	NA	NA	43.20	48.33	090
34510		A	Transposition of vein valve	13.25	NA	NA	8.19	9.29	0.81	NA	NA	22.25	23.35	090
34520		A	Cross-over vein graft	13.74	NA	NA	8.50	9.72	0.85	NA	NA	23.09	24.31	090
34530		A	Leg vein fusion	17.61	NA	NA	9.15	12.34	1.13	NA	NA	27.89	31.08	090
35001		A	Repair defect of artery	19.64	NA	NA	9.73	15.38	2.49	NA	NA	31.86	37.51	090
35002		A	Repair artery rupture, neck	21.00	NA	NA	10.41	12.89	1.89	NA	NA	33.30	35.78	090
35005		A	Repair defect of artery	18.12	NA	NA	8.47	10.49	1.71	NA	NA	28.30	30.32	090
35011		A	Repair defect of artery	11.65	NA	NA	6.02	11.94	2.16	NA	NA	19.83	25.75	090
35013		A	Repair artery rupture, arm	17.40	NA	NA	8.32	14.04	2.37	NA	NA	28.09	33.81	090
35021		A	Repair defect of artery	19.65	NA	NA	10.92	17.49	2.39	NA	NA	32.96	39.53	090
35022		A	Repair artery rupture, chest	23.18	NA	NA	12.71	15.21	2.19	NA	NA	38.08	40.58	090
35045		A	Repair defect of arm artery	11.26	NA	NA	6.20	11.60	1.96	NA	NA	19.42	24.82	090
35081		A	Repair defect of artery	28.01	NA	NA	13.75	20.90	3.27	NA	NA	45.03	52.18	090
35082		A	Repair artery rupture, aorta	36.35	NA	NA	16.88	22.87	3.59	NA	NA	56.82	62.81	090
35091		A	Repair defect of artery	35.40	NA	NA	17.11	22.73	3.32	NA	NA	55.83	61.45	090

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35092		A	Repair artery rupture, aorta	38.39	NA	NA	18.58	26.03	4.08	NA	NA	61.05	68.50	090
35102		A	Repair defect of artery	30.76	NA	NA	14.96	21.77	3.38	NA	NA	49.10	55.91	090
35103		A	Repair artery rupture, groin	33.57	NA	NA	16.07	25.31	4.08	NA	NA	53.72	62.96	090
35111		A	Repair defect of artery	16.43	NA	NA	9.10	16.60	2.89	NA	NA	28.42	35.92	090
35112		A	Repair artery rupture,spleen	18.69	NA	NA	9.87	10.97	1.74	NA	NA	30.30	31.40	090
35121		A	Repair defect of artery	25.99	NA	NA	12.98	18.81	2.86	NA	NA	41.83	47.66	090
35122		A	Repair artery rupture, belly	33.45	NA	NA	15.62	18.49	3.10	NA	NA	52.17	55.04	090
35131		A	Repair defect of artery	18.55	NA	NA	10.21	15.48	2.46	NA	NA	31.22	36.49	090
35132		A	Repair artery rupture, groin	21.95	NA	NA	11.52	18.08	2.80	NA	NA	36.27	42.83	090
35141		A	Repair defect of artery	14.48	NA	NA	8.03	13.97	2.25	NA	NA	24.74	30.68	090
35142		A	Repair artery rupture, thigh	15.86	NA	NA	8.41	15.21	2.53	NA	NA	26.80	33.60	090
35151		A	Repair defect of artery	17.00	NA	NA	9.51	14.91	2.30	NA	NA	28.91	34.21	090
35152		A	Repair artery rupture, knee	16.70	NA	NA	9.89	10.02	1.53	NA	NA	28.12	28.25	090
35161		A	Repair defect of artery	18.76	NA	NA	10.46	15.54	2.48	NA	NA	31.68	36.76	090
35162		A	Repair artery rupture	19.78	NA	NA	10.77	17.90	2.80	NA	NA	33.35	40.48	090
35180		A	Repair blood vessel lesion	13.62	NA	NA	7.33	7.83	1.16	NA	NA	22.11	22.61	090
35182		A	Repair blood vessel lesion	17.74	NA	NA	9.79	11.12	1.26	NA	NA	28.79	30.12	090
35184		A	Repair blood vessel lesion	12.25	NA	NA	6.95	9.66	1.53	NA	NA	20.73	23.44	090
35188		A	Repair blood vessel lesion	14.28	NA	NA	8.22	8.66	1.24	NA	NA	23.74	24.18	090
35189		A	Repair blood vessel lesion	18.43	NA	NA	9.79	11.67	1.73	NA	NA	29.95	31.83	090
35190		A	Repair blood vessel lesion	12.75	NA	NA	7.19	10.21	1.67	NA	NA	21.61	24.63	090
35201		A	Repair blood vessel lesion	9.99	NA	NA	5.64	9.61	1.52	NA	NA	17.15	21.12	090
35206		A	Repair blood vessel lesion	9.25	NA	NA	5.77	9.71	1.59	NA	NA	16.61	20.55	090
35207		A	Repair blood vessel lesion	10.15	NA	NA	8.88	11.01	1.51	NA	NA	20.54	22.67	090
35211		A	Repair blood vessel lesion	22.12	NA	NA	20.99	16.14	2.03	NA	NA	45.14	40.29	090
35216		A	Repair blood vessel lesion	18.75	NA	NA	19.38	13.54	1.63	NA	NA	39.76	33.92	090
35221		A	Repair blood vessel lesion	16.42	NA	NA	8.70	11.21	1.72	NA	NA	26.84	29.35	090
35226		A	Repair blood vessel lesion	9.06	NA	NA	6.36	9.71	1.53	NA	NA	16.95	20.30	090
35231		A	Repair blood vessel lesion	12.00	NA	NA	7.01	12.50	2.28	NA	NA	21.29	26.78	090
35236		A	Repair blood vessel lesion	10.54	NA	NA	6.44	11.05	2.00	NA	NA	18.98	23.59	090
35241		A	Repair blood vessel lesion	23.12	NA	NA	27.25	17.79	2.03	NA	NA	52.40	42.94	090
35246		A	Repair blood vessel lesion	19.84	NA	NA	20.74	18.99	1.68	NA	NA	42.26	40.51	090
35251		A	Repair blood vessel lesion	17.49	NA	NA	9.22	10.11	1.47	NA	NA	28.18	29.07	090
35256		A	Repair blood vessel lesion	11.38	NA	NA	6.95	11.83	1.87	NA	NA	20.20	25.08	090
35261		A	Repair blood vessel lesion	11.63	NA	NA	6.31	11.99	2.08	NA	NA	20.02	25.70	090
35266		A	Repair blood vessel lesion	10.30	NA	NA	6.03	10.73	1.89	NA	NA	18.22	22.92	090
35271		A	Repair blood vessel lesion	22.12	NA	NA	21.83	15.66	2.00	NA	NA	45.95	39.78	090
35276		A	Repair blood vessel lesion	18.75	NA	NA	19.53	13.72	1.77	NA	NA	40.05	34.24	090
35281		A	Repair blood vessel lesion	16.48	NA	NA	9.03	16.32	2.64	NA	NA	28.15	35.44	090
35286		A	Repair blood vessel lesion	11.87	NA	NA	7.21	11.34	1.82	NA	NA	20.90	25.03	090

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35301		A	Rechanneling of artery	18.70	NA	NA	9.79	14.22	2.20	NA	NA	30.69	35.12	090
35311		A	Rechanneling of artery	23.85	NA	NA	12.20	21.01	3.61	NA	NA	39.66	48.47	090
35321		A	Rechanneling of artery	11.97	NA	NA	5.90	12.02	2.10	NA	NA	19.97	26.09	090
35331		A	Rechanneling of artery	23.52	NA	NA	12.03	13.87	2.08	NA	NA	37.63	39.47	090
35341		A	Rechanneling of artery	25.11	NA	NA	13.11	17.42	2.76	NA	NA	40.98	45.29	090
35351		A	Rechanneling of artery	20.11	NA	NA	10.75	14.85	2.32	NA	NA	33.18	37.28	090
35355		A	Rechanneling of artery	16.09	NA	NA	9.15	14.84	2.34	NA	NA	27.58	33.27	090
35361		A	Rechanneling of artery	23.59	NA	NA	11.93	18.75	3.04	NA	NA	38.56	45.38	090
35363		A	Rechanneling of artery	24.66	NA	NA	12.62	21.69	3.44	NA	NA	40.72	49.79	090
35371		A	Rechanneling of artery	11.64	NA	NA	6.67	11.85	1.96	NA	NA	20.27	25.45	090
35372		A	Rechanneling of artery	13.56	NA	NA	7.25	10.93	1.78	NA	NA	22.59	26.27	090
35381		A	Rechanneling of artery	15.81	NA	NA	8.11	13.16	2.12	NA	NA	26.04	31.09	090
35390		A	Reoperation, carotid add-on	3.19	NA	NA	1.45	1.72	0.31	NA	NA	4.95	5.22	ZZZ
35400		A	Angioscopy	3.00	NA	NA	1.42	2.20	0.21	NA	NA	4.63	5.41	ZZZ
35450		A	Repair arterial blockage	10.07	NA	NA	5.31	10.34	1.08	NA	NA	16.46	21.49	000
35452		A	Repair arterial blockage	6.91	NA	NA	3.94	4.53	0.48	NA	NA	11.33	11.92	000
35454		A	Repair arterial blockage	6.04	NA	NA	3.36	6.25	1.20	NA	NA	10.60	13.49	000
35456		A	Repair arterial blockage	7.35	NA	NA	3.96	7.58	1.32	NA	NA	12.63	16.25	000
35458		A	Repair arterial blockage	9.49	NA	NA	4.80	9.44	1.43	NA	NA	15.72	20.36	000
35459		A	Repair arterial blockage	8.63	NA	NA	4.42	8.83	1.32	NA	NA	14.37	18.78	000
35460		A	Repair venous blockage	6.04	NA	NA	3.12	3.35	0.58	NA	NA	9.74	9.97	000
35470		A	Repair arterial blockage	8.63	NA	NA	4.82	8.93	1.32	NA	NA	14.77	18.88	000
35471		A	Repair arterial blockage	10.07	NA	NA	5.45	10.38	1.08	NA	NA	16.60	21.53	000
35472		A	Repair arterial blockage	6.91	NA	NA	4.12	3.97	0.66	NA	NA	11.69	11.54	000
35473		A	Repair arterial blockage	6.04	NA	NA	3.72	6.34	1.20	NA	NA	10.96	13.58	000
35474		A	Repair arterial blockage	7.36	NA	NA	4.09	7.62	1.32	NA	NA	12.77	16.30	000
35475		R	Repair arterial blockage	9.49	NA	NA	4.79	9.44	1.43	NA	NA	15.71	20.36	000
35476		A	Repair venous blockage	6.04	NA	NA	3.54	3.46	0.58	NA	NA	10.16	10.08	000
35480		A	Atherectomy, open	11.08	NA	NA	5.63	11.33	1.08	NA	NA	17.79	23.49	000
35481		A	Atherectomy, open	7.61	NA	NA	4.01	4.54	0.48	NA	NA	12.10	12.63	000
35482		A	Atherectomy, open	6.65	NA	NA	3.67	6.87	1.20	NA	NA	11.52	14.72	000
35483		A	Atherectomy, open	8.10	NA	NA	4.38	8.35	1.32	NA	NA	13.80	17.77	000
35484		A	Atherectomy, open	10.44	NA	NA	4.94	9.48	1.43	NA	NA	16.81	21.35	000
35485		A	Atherectomy, open	9.49	NA	NA	4.93	4.92	0.83	NA	NA	15.25	15.24	000
35490		A	Atherectomy, percutaneous	11.08	NA	NA	5.92	11.40	1.08	NA	NA	18.08	23.56	000
35491		A	Atherectomy, percutaneous	7.61	NA	NA	3.81	4.49	0.48	NA	NA	11.90	12.58	000
35492		A	Atherectomy, percutaneous	6.65	NA	NA	4.09	6.98	1.20	NA	NA	11.94	14.83	000
35493		A	Atherectomy, percutaneous	8.10	NA	NA	4.98	8.50	1.32	NA	NA	14.40	17.92	000
35494		A	Atherectomy, percutaneous	10.44	NA	NA	4.98	9.49	1.43	NA	NA	16.85	21.36	000
35495		A	Atherectomy, percutaneous	9.49	NA	NA	5.65	5.10	0.83	NA	NA	15.97	15.42	000

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35500		C	Harvest vein for bypass	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ
35501		A	Artery bypass graft	19.19	NA	NA	9.34	18.09	2.73	NA	NA	31.26	40.01	090
35506		A	Artery bypass graft	19.67	NA	NA	9.66	18.02	2.85	NA	NA	32.18	40.54	090
35507		A	Artery bypass graft	19.67	NA	NA	9.94	17.07	2.82	NA	NA	32.43	39.56	090
35508		A	Artery bypass graft	18.65	NA	NA	9.64	17.15	2.68	NA	NA	30.97	38.48	090
35509		A	Artery bypass graft	18.07	NA	NA	9.06	17.65	3.07	NA	NA	30.20	38.79	090
35511		A	Artery bypass graft	16.83	NA	NA	8.83	10.68	1.50	NA	NA	27.16	29.01	090
35515		A	Artery bypass graft	18.65	NA	NA	10.09	11.68	1.57	NA	NA	30.31	31.90	090
35516		A	Artery bypass graft	16.32	NA	NA	8.23	16.20	2.77	NA	NA	27.32	35.29	090
35518		A	Artery bypass graft	15.42	NA	NA	7.41	15.66	2.64	NA	NA	25.47	33.72	090
35521		A	Artery bypass graft	16.17	NA	NA	8.77	16.46	2.61	NA	NA	27.55	35.24	090
35526		A	Artery bypass graft	20.00	NA	NA	10.74	13.22	1.91	NA	NA	32.65	35.13	090
35531		A	Artery bypass graft	25.61	NA	NA	12.63	19.64	3.05	NA	NA	41.29	48.30	090
35533		A	Artery bypass graft	20.52	NA	NA	10.50	19.75	3.47	NA	NA	34.49	43.74	090
35536		A	Artery bypass graft	23.11	NA	NA	11.73	20.33	3.26	NA	NA	38.10	46.70	090
35541		A	Artery bypass graft	25.80	NA	NA	13.63	19.32	2.86	NA	NA	42.29	47.98	090
35546		A	Artery bypass graft	25.54	NA	NA	13.18	20.70	3.33	NA	NA	42.05	49.57	090
35548		A	Artery bypass graft	21.57	NA	NA	10.79	18.61	2.86	NA	NA	35.22	43.04	090
35549		A	Artery bypass graft	23.35	NA	NA	12.14	20.44	3.33	NA	NA	38.82	47.12	090
35551		A	Artery bypass graft	26.67	NA	NA	13.89	19.14	3.03	NA	NA	43.59	48.84	090
35556		A	Artery bypass graft	21.76	NA	NA	11.09	18.01	2.90	NA	NA	35.75	42.67	090
35558		A	Artery bypass graft	14.04	NA	NA	7.56	14.46	2.53	NA	NA	24.13	31.03	090
35560		A	Artery bypass graft	23.56	NA	NA	12.13	19.49	3.07	NA	NA	38.76	46.12	090
35563		A	Artery bypass graft	15.14	NA	NA	8.23	8.83	1.33	NA	NA	24.70	25.30	090
35565		A	Artery bypass graft	15.14	NA	NA	8.40	15.65	2.75	NA	NA	26.29	33.54	090
35566		A	Artery bypass graft	26.92	NA	NA	15.28	20.61	3.19	NA	NA	45.39	50.72	090
35571		A	Artery bypass graft	18.58	NA	NA	11.24	18.57	3.03	NA	NA	32.85	40.18	090
35582		A	Vein bypass graft	27.13	NA	NA	13.49	22.69	3.83	NA	NA	44.45	53.65	090
35583		A	Vein bypass graft	22.37	NA	NA	12.08	19.66	3.23	NA	NA	37.68	45.28	090
35585		A	Vein bypass graft	28.39	NA	NA	15.09	22.46	3.62	NA	NA	47.10	54.47	090
35587		A	Vein bypass graft	19.05	NA	NA	11.72	19.99	3.23	NA	NA	34.00	42.27	090
35601		A	Artery bypass graft	17.50	NA	NA	8.64	17.49	2.61	NA	NA	28.75	37.60	090
35606		A	Artery bypass graft	18.71	NA	NA	9.17	16.58	2.75	NA	NA	30.63	38.04	090
35612		A	Artery bypass graft	15.76	NA	NA	8.44	15.75	2.58	NA	NA	26.78	34.09	090
35618		A	Artery bypass graft	15.70	NA	NA	7.84	15.63	2.68	NA	NA	26.22	34.01	090
35621		A	Artery bypass graft	14.54	NA	NA	7.80	14.96	2.97	NA	NA	25.31	32.47	090
35623		A	Bypass graft, not vein	16.62	NA	NA	8.82	8.77	1.47	NA	NA	26.91	26.86	090
35626		A	Artery bypass graft	23.63	NA	NA	12.53	19.83	3.19	NA	NA	39.35	46.65	090
35631		A	Artery bypass graft	24.60	NA	NA	12.57	17.69	2.79	NA	NA	39.96	45.08	090
35636		A	Artery bypass graft	22.46	NA	NA	11.61	13.89	1.92	NA	NA	35.99	38.27	090

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35641		A	Artery bypass graft	24.57	NA	NA	12.74	19.92	3.19	NA	NA	40.50	47.68	090
35642		A	Artery bypass graft	17.98	NA	NA	9.17	10.70	1.72	NA	NA	28.87	30.40	090
35645		A	Artery bypass graft	17.47	NA	NA	8.22	11.13	1.60	NA	NA	27.29	30.20	090
35646		A	Artery bypass graft	25.81	NA	NA	13.23	22.67	3.70	NA	NA	42.74	52.18	090
35650		A	Artery bypass graft	14.36	NA	NA	7.40	14.71	2.79	NA	NA	24.55	31.86	090
35651		A	Artery bypass graft	25.04	NA	NA	13.43	22.96	3.67	NA	NA	42.14	51.67	090
35654		A	Artery bypass graft	18.61	NA	NA	9.77	19.11	3.46	NA	NA	31.84	41.18	090
35656		A	Artery bypass graft	19.53	NA	NA	9.56	16.82	2.82	NA	NA	31.91	39.17	090
35661		A	Artery bypass graft	13.18	NA	NA	6.97	13.55	2.58	NA	NA	22.73	29.31	090
35663		A	Artery bypass graft	14.17	NA	NA	8.13	14.72	2.97	NA	NA	25.27	31.86	090
35665		A	Artery bypass graft	15.40	NA	NA	8.67	15.95	2.79	NA	NA	26.86	34.14	090
35666		A	Artery bypass graft	19.19	NA	NA	11.88	19.30	3.13	NA	NA	34.20	41.62	090
35671		A	Artery bypass graft	14.80	NA	NA	9.70	15.12	3.19	NA	NA	27.69	33.11	090
35681		A	Composite bypass graft	1.60	NA	NA	2.05	7.73	2.75	NA	NA	6.40	12.08	ZZZ
35682		A	Composite bypass graft	7.20	2.81	2.81	2.74	2.74	2.75	12.76	12.76	12.69	12.69	ZZZ
35683		A	Composite bypass graft	8.50	3.32	3.32	3.22	3.22	2.75	14.57	14.57	14.47	14.47	ZZZ
35691		A	Arterial transposition	18.05	NA	NA	8.79	18.17	2.98	NA	NA	29.82	39.20	090
35693		A	Arterial transposition	15.36	NA	NA	7.47	9.52	1.49	NA	NA	24.32	26.37	090
35694		A	Arterial transposition	19.16	NA	NA	9.12	9.88	1.70	NA	NA	29.98	30.74	090
35695		A	Arterial transposition	19.16	NA	NA	9.04	9.86	1.70	NA	NA	29.90	30.72	090
35700		A	Reoperation, bypass graft	3.08	NA	NA	2.78	2.01	0.30	NA	NA	6.16	5.39	ZZZ
35701		A	Exploration, carotid artery	5.55	NA	NA	4.13	5.77	0.98	NA	NA	10.66	12.30	090
35721		A	Exploration, femoral artery	5.28	NA	NA	3.78	5.47	0.87	NA	NA	9.93	11.62	090
35741		A	Exploration popliteal artery	5.37	NA	NA	3.96	5.66	0.90	NA	NA	10.23	11.93	090
35761		A	Exploration of artery/vein	5.37	NA	NA	3.99	5.73	0.89	NA	NA	10.25	11.99	090
35800		A	Explore neck vessels	7.02	NA	NA	4.24	5.36	0.76	NA	NA	12.02	13.14	090
35820		A	Explore chest vessels	12.88	NA	NA	9.83	8.91	1.12	NA	NA	23.83	22.91	090
35840		A	Explore abdominal vessels	9.77	NA	NA	6.39	7.49	1.13	NA	NA	17.29	18.39	090
35860		A	Explore limb vessels	5.55	NA	NA	3.88	5.70	0.90	NA	NA	10.33	12.15	090
35870		A	Repair vessel graft defect	22.17	NA	NA	12.48	11.78	1.93	NA	NA	36.58	35.88	090
35875		A	Removal of clot in graft	10.13	NA	NA	5.87	8.15	1.29	NA	NA	17.29	19.57	090
35876		A	Removal of clot in graft	17.00	NA	NA	8.90	8.91	1.29	NA	NA	27.19	27.20	090
35901		A	Excision, graft, neck	8.19	NA	NA	5.87	7.31	1.14	NA	NA	15.20	16.64	090
35903		A	Excision, graft, extremity	9.39	NA	NA	7.77	7.79	1.14	NA	NA	18.30	18.32	090
35905		A	Excision, graft, thorax	18.19	NA	NA	20.33	10.93	1.14	NA	NA	39.66	30.26	090
35907		A	Excision, graft, abdomen	19.24	NA	NA	12.34	8.93	1.14	NA	NA	32.72	29.31	090
36000		A	Place needle in vein	0.18	0.43	0.30	0.05	0.10	0.03	0.64	0.51	0.26	0.31	XXX
36005		A	Injection, venography	0.95	16.56	4.52	0.26	0.45	0.03	17.54	5.50	1.24	1.43	000
36010		A	Place catheter in vein	2.43	NA	NA	1.54	2.10	0.24	NA	NA	4.21	4.77	XXX
36011		A	Place catheter in vein	3.14	NA	NA	1.84	2.01	0.17	NA	NA	5.15	5.32	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
36012		A	Place catheter in vein	3.52	NA	NA	2.23	2.73	0.25	NA	NA	6.00	6.50	XXX
36013		A	Place catheter in artery	2.52	NA	NA	1.40	2.07	0.24	NA	NA	4.16	4.83	XXX
36014		A	Place catheter in artery	3.02	NA	NA	1.87	2.32	0.21	NA	NA	5.10	5.55	XXX
36015		A	Place catheter in artery	3.52	NA	NA	1.99	2.67	0.25	NA	NA	5.76	6.44	XXX
36100		A	Establish access to artery	3.02	NA	NA	2.08	2.63	0.25	NA	NA	5.35	5.90	XXX
36120		A	Establish access to artery	2.01	NA	NA	1.47	2.17	0.23	NA	NA	3.71	4.41	XXX
36140		A	Establish access to artery	2.01	NA	NA	1.48	1.52	0.19	NA	NA	3.68	3.72	XXX
36145		A	Artery to vein shunt	2.01	NA	NA	1.57	2.19	0.38	NA	NA	3.96	4.58	XXX
36160		A	Establish access to aorta	2.52	NA	NA	1.73	2.32	0.27	NA	NA	4.52	5.11	XXX
36200		A	Place catheter in aorta	3.02	NA	NA	0.87	2.44	0.22	NA	NA	4.11	5.68	XXX
36215		A	Place catheter in artery	4.68	NA	NA	2.45	2.88	0.18	NA	NA	7.31	7.74	XXX
36216		A	Place catheter in artery	5.28	NA	NA	2.78	3.37	0.21	NA	NA	8.27	8.86	XXX
36217		A	Place catheter in artery	6.30	NA	NA	3.13	3.97	0.25	NA	NA	9.68	10.52	XXX
36218		A	Place catheter in artery	1.01	NA	NA	1.58	0.90	0.04	NA	NA	2.63	1.95	ZZZ
36245		A	Place catheter in artery	4.68	NA	NA	2.53	3.20	0.20	NA	NA	7.41	8.08	XXX
36246		A	Place catheter in artery	5.28	NA	NA	2.85	3.39	0.21	NA	NA	8.34	8.88	XXX
36247		A	Place catheter in artery	6.30	NA	NA	3.08	3.96	0.25	NA	NA	9.63	10.51	XXX
36248		A	Place catheter in artery	1.01	NA	NA	1.58	0.90	0.04	NA	NA	2.63	1.95	ZZZ
36260		A	Insertion of infusion pump	9.71	NA	NA	5.68	6.90	1.10	NA	NA	16.49	17.71	090
36261		A	Revision of infusion pump	5.45	NA	NA	3.71	2.74	0.33	NA	NA	9.49	8.52	090
36262		A	Removal of infusion pump	4.02	NA	NA	3.02	2.32	0.31	NA	NA	7.35	6.65	090
36299		C	Vessel injection procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
36400		A	Drawing blood	0.18	0.50	0.20	0.04	0.05	0.01	0.69	0.39	0.23	0.24	XXX
36405		A	Drawing blood	0.18	0.36	0.46	0.04	0.20	0.02	0.56	0.66	0.24	0.40	XXX
36406		A	Drawing blood	0.18	0.36	0.22	0.04	0.08	0.01	0.55	0.41	0.23	0.27	XXX
36410		A	Drawing blood	0.18	0.37	0.27	0.04	0.09	0.02	0.57	0.47	0.24	0.29	XXX
36415		I	Drawing blood	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
36420		A	Establish access to vein	1.01	NA	NA	0.38	0.51	0.04	NA	NA	1.43	1.56	XXX
36425		A	Establish access to vein	0.76	2.51	0.70	0.32	0.15	0.01	3.28	1.47	1.09	0.92	XXX
36430		A	Blood transfusion service	0.00	1.04	1.04	0.53	0.52	0.05	1.09	1.09	0.58	0.57	XXX
36440		A	Blood transfusion service	1.03	NA	NA	0.44	0.88	0.05	NA	NA	1.52	1.96	XXX
36450		A	Exchange transfusion service	2.23	NA	NA	0.89	0.99	0.14	NA	NA	3.26	3.36	XXX
36455		A	Exchange transfusion service	2.43	NA	NA	0.92	2.08	0.17	NA	NA	3.52	4.68	XXX
36460		A	Transfusion service, fetal	6.59	NA	NA	2.43	4.44	0.85	NA	NA	9.87	11.88	XXX
36468		R	Injection(s); spider veins	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
36469		R	Injection(s); spider veins	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
36470		A	Injection therapy of vein	1.09	2.31	0.80	0.40	0.21	0.03	3.43	1.92	1.52	1.33	010
36471		A	Injection therapy of veins	1.57	2.59	0.96	0.58	0.30	0.04	4.20	2.57	2.19	1.91	010
36481		A	Insertion of catheter, vein	6.99	NA	NA	2.34	4.90	0.48	NA	NA	9.81	12.37	000
36488		A	Insertion of catheter, vein	1.35	NA	NA	0.54	0.92	0.11	NA	NA	2.00	2.38	000

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CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
36489		A	Insertion of catheter, vein	1.22	3.45	1.78	0.46	1.03	0.13	4.80	3.13	1.81	2.38	000
36490		A	Insertion of catheter, vein	1.67	NA	NA	0.56	1.27	0.16	NA	NA	2.39	3.10	000
36491		A	Insertion of catheter, vein	1.43	NA	NA	0.58	1.42	0.25	NA	NA	2.26	3.10	000
36493		A	Repositioning of cvc	1.21	NA	NA	0.57	0.65	0.13	NA	NA	1.91	1.99	000
36500		A	Insertion of catheter, vein	3.52	NA	NA	1.86	0.53	0.01	NA	NA	5.39	4.06	000
36510		A	Insertion of catheter, vein	1.09	NA	NA	0.71	0.32	0.02	NA	NA	1.82	1.43	000
36520		A	Plasma and/or cell exchange	1.74	NA	NA	0.88	1.77	0.09	NA	NA	2.71	3.60	000
36522		A	Photopheresis	1.67	7.87	3.99	1.00	1.75	0.29	9.83	5.95	2.96	3.71	000
36530		R	Insertion of infusion pump	6.20	NA	NA	3.47	4.79	0.80	NA	NA	10.47	11.79	010
36531		R	Revision of infusion pump	4.87	NA	NA	3.13	4.34	0.21	NA	NA	8.21	9.42	010
36532		R	Removal of infusion pump	3.30	NA	NA	1.68	1.86	0.29	NA	NA	5.27	5.45	010
36533		A	Insertion of access port	5.32	3.20	4.30	3.11	4.27	0.66	9.18	10.28	9.09	10.25	010
36534		A	Revision of access port	2.80	NA	NA	1.54	2.89	0.16	NA	NA	4.50	5.85	010
36535		A	Removal of access port	2.27	2.16	2.01	2.21	2.02	0.30	4.73	4.58	4.78	4.59	010
36600		A	Withdrawal of arterial blood	0.32	0.30	0.30	0.08	0.25	0.02	0.64	0.64	0.42	0.59	XXX
36620		A	Insertion catheter, artery	1.15	NA	NA	0.38	0.64	0.11	NA	NA	1.64	1.90	000
36625		A	Insertion catheter, artery	2.11	NA	NA	0.60	0.85	0.14	NA	NA	2.85	3.10	000
36640		A	Insertion catheter, artery	2.10	NA	NA	1.09	2.16	0.31	NA	NA	3.50	4.57	000
36660		A	Insertion catheter, artery	1.40	NA	NA	0.76	0.59	0.03	NA	NA	2.19	2.02	000
36680		A	Insert needle, bone cavity	1.20	NA	NA	0.54	1.15	0.08	NA	NA	1.82	2.43	000
36800		A	Insertion of cannula	2.43	NA	NA	1.57	2.20	0.22	NA	NA	4.22	4.85	000
36810		A	Insertion of cannula	3.97	NA	NA	2.44	4.17	0.58	NA	NA	6.99	8.72	000
36815		A	Insertion of cannula	2.62	NA	NA	1.83	2.81	0.55	NA	NA	5.00	5.98	000
36821		A	Artery-vein fusion	8.93	NA	NA	4.87	7.11	1.14	NA	NA	14.94	17.18	090
36822		A	Insertion of cannula(s)	5.42	NA	NA	7.64	6.47	0.60	NA	NA	13.66	12.49	090
36823		C	Insertion cannula(s)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
36825		A	Artery-vein graft	9.84	NA	NA	5.49	10.18	1.73	NA	NA	17.06	21.75	090
36830		A	Artery-vein graft	12.00	NA	NA	6.14	9.64	1.85	NA	NA	19.99	23.49	090
36831		A	Av fistula excision	8.00	2.38	2.38	2.98	2.98	1.29	11.67	11.67	12.27	12.27	090
36832		A	Av fistula revision	10.50	NA	NA	5.56	7.17	1.86	NA	NA	17.92	19.53	090
36833		A	Av fistula revision	11.95	4.52	4.52	4.49	4.49	1.29	17.76	17.76	17.73	17.73	090
36834		A	Repair A-V aneurysm	9.93	NA	NA	5.04	7.61	1.30	NA	NA	16.27	18.84	090
36835		A	Artery to vein shunt	7.15	NA	NA	4.13	3.82	0.62	NA	NA	11.90	11.59	090
36860		A	External cannula declotting	2.01	2.62	2.75	2.04	2.31	0.34	4.97	5.10	4.39	4.66	000
36861		A	Cannula declotting	2.52	NA	NA	1.63	2.67	0.79	NA	NA	4.94	5.98	000
37140		A	Revision of circulation	23.60	NA	NA	10.54	15.90	2.61	NA	NA	36.75	42.11	090
37145		A	Revision of circulation	24.61	NA	NA	13.08	17.21	1.35	NA	NA	39.04	43.17	090
37160		A	Revision of circulation	21.60	NA	NA	10.53	17.07	2.97	NA	NA	35.10	41.64	090
37180		A	Revision of circulation	24.61	NA	NA	11.26	14.37	2.16	NA	NA	38.03	41.14	090
37181		A	Splice spleen/kidney veins	26.68	NA	NA	12.02	16.36	2.75	NA	NA	41.45	45.79	090

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37195		A	Thrombolytic therapy, stroke	0.00	8.37	8.34	8.37	8.34	0.42	8.79	8.76	8.79	8.76	XXX
37200		A	Transcatheter biopsy	4.56	NA	NA	3.32	2.13	0.10	NA	NA	7.98	6.79	000
37201		A	Transcatheter therapy infuse	5.00	NA	NA	2.90	5.20	0.50	NA	NA	8.40	10.70	000
37202		A	Transcatheter therapy infuse	5.68	NA	NA	3.87	4.47	0.39	NA	NA	9.94	10.54	000
37203		A	Transcatheter retrieval	5.03	NA	NA	2.87	3.83	0.35	NA	NA	8.25	9.21	000
37204		A	Transcatheter occlusion	18.14	NA	NA	7.41	13.05	1.25	NA	NA	26.80	32.44	000
37205		A	Transcatheter stent	8.28	NA	NA	4.61	5.35	0.33	NA	NA	13.22	13.96	000
37206		A	Transcatheter stent add-on	4.13	NA	NA	2.36	2.69	0.16	NA	NA	6.65	6.98	ZZZ
37207		A	Transcatheter stent	8.28	NA	NA	4.31	5.28	0.33	NA	NA	12.92	13.89	000
37208		A	Transcatheter stent add-on	4.13	NA	NA	1.91	2.58	0.16	NA	NA	6.20	6.87	ZZZ
37209		A	Exchange arterial catheter	2.27	NA	NA	1.64	1.56	0.09	NA	NA	4.00	3.92	000
37250		A	Intravascular us	2.10	NA	NA	1.74	1.37	0.10	NA	NA	3.94	3.57	ZZZ
37251		A	Intravascular us	1.60	NA	NA	1.50	1.08	0.08	NA	NA	3.18	2.76	ZZZ
37565		A	Ligation of neck vein	4.44	NA	NA	2.81	3.79	0.58	NA	NA	7.83	8.81	090
37600		A	Ligation of neck artery	4.57	NA	NA	4.03	5.06	0.63	NA	NA	9.23	10.26	090
37605		A	Ligation of neck artery	6.19	NA	NA	4.35	5.61	0.81	NA	NA	11.35	12.61	090
37606		A	Ligation of neck artery	6.28	NA	NA	5.02	6.07	0.56	NA	NA	11.86	12.91	090
37607		A	Ligation of fistula	6.16	NA	NA	3.30	3.32	0.56	NA	NA	10.02	10.04	090
37609		A	Temporal artery procedure	2.30	5.03	3.07	2.10	2.33	0.30	7.63	5.67	4.70	4.93	010
37615		A	Ligation of neck artery	5.73	NA	NA	4.28	5.65	0.87	NA	NA	10.88	12.25	090
37616		A	Ligation of chest artery	16.49	NA	NA	15.97	7.42	0.65	NA	NA	33.11	24.56	090
37617		A	Ligation of abdomen artery	15.95	NA	NA	9.15	8.80	1.20	NA	NA	26.30	25.95	090
37618		A	Ligation of extremity artery	4.84	NA	NA	3.47	4.92	0.83	NA	NA	9.14	10.59	090
37620		A	Revision of major vein	10.56	NA	NA	5.72	8.60	1.16	NA	NA	17.44	20.32	090
37650		A	Revision of major vein	5.13	NA	NA	3.50	4.15	0.41	NA	NA	9.04	9.69	090
37660		A	Revision of major vein	10.61	NA	NA	6.52	6.31	0.84	NA	NA	17.97	17.76	090
37700		A	Revise leg vein	3.73	NA	NA	2.60	3.61	0.57	NA	NA	6.90	7.91	090
37720		A	Removal of leg vein	5.66	NA	NA	3.35	5.00	0.81	NA	NA	9.82	11.47	090
37730		A	Removal of leg veins	7.33	NA	NA	4.38	6.75	1.10	NA	NA	12.81	15.18	090
37735		A	Removal of leg veins/lesion	10.53	NA	NA	6.31	8.37	1.31	NA	NA	18.15	20.21	090
37760		A	Revision of leg veins	10.47	NA	NA	6.50	7.72	1.19	NA	NA	18.16	19.38	090
37780		A	Revision of leg vein	3.84	NA	NA	2.64	2.20	0.27	NA	NA	6.75	6.31	090
37785		A	Revise secondary varicosity	3.88	5.46	2.16	3.16	1.59	0.14	9.48	6.18	7.18	5.61	090
37788		A	Revascularization, penis	22.01	NA	NA	11.46	15.19	1.16	NA	NA	34.63	38.36	090
37790		A	Penile venous occlusion	8.34	NA	NA	6.24	6.20	0.43	NA	NA	15.01	14.97	090
37799		C	Vascular surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
38100		A	Removal of spleen, total	13.01	NA	NA	6.56	8.60	1.42	NA	NA	20.99	23.03	090
38101		A	Removal of spleen, partial	13.74	NA	NA	7.24	7.50	1.18	NA	NA	22.16	22.42	090
38102		A	Removal of spleen, total	4.80	NA	NA	1.99	2.54	0.45	NA	NA	7.24	7.79	ZZZ
38115		A	Repair of ruptured spleen	14.19	NA	NA	7.02	7.97	1.17	NA	NA	22.38	23.33	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
38200		A	Injection for spleen x-ray	2.64	NA	NA	0.73	1.58	0.12	NA	NA	3.49	4.34	000
38230		R	Bone marrow collection	4.54	NA	NA	2.49	2.89	0.16	NA	NA	7.19	7.59	010
38231		R	Stem cell collection	1.50	NA	NA	0.56	1.26	0.06	NA	NA	2.12	2.82	000
38240		R	Bone marrow/stem transplant	2.24	NA	NA	1.55	2.08	0.11	NA	NA	3.90	4.43	XXX
38241		R	Bone marrow/stem transplant	2.24	NA	NA	1.51	2.04	0.10	NA	NA	3.85	4.38	XXX
38300		A	Drainage lymph node lesion	1.53	3.23	1.28	1.80	0.69	0.08	4.84	2.89	3.41	2.30	010
38305		A	Drainage lymph node lesion	4.61	8.60	3.75	4.65	2.76	0.28	13.49	8.64	9.54	7.65	090
38308		A	Incision of lymph channels	4.95	NA	NA	4.22	3.80	0.35	NA	NA	9.52	9.10	090
38380		A	Thoracic duct procedure	7.46	NA	NA	6.18	5.16	0.59	NA	NA	14.23	13.21	090
38381		A	Thoracic duct procedure	12.88	NA	NA	11.13	8.93	1.17	NA	NA	25.18	22.98	090
38382		A	Thoracic duct procedure	10.08	NA	NA	10.39	6.54	0.88	NA	NA	21.35	17.50	090
38500		A	Biopsy/removal,lymph node(s)	2.88	2.22	1.85	2.07	1.82	0.24	5.34	4.97	5.19	4.94	010
38505		A	Needle biopsy, lymph node(s)	1.14	2.59	1.56	1.14	0.74	0.13	3.86	2.83	2.41	2.01	000
38510		A	Biopsy/removal,lymph node(s)	4.14	NA	NA	3.74	3.01	0.35	NA	NA	8.23	7.50	090
38520		A	Biopsy/removal,lymph node(s)	5.12	NA	NA	3.84	3.39	0.44	NA	NA	9.40	8.95	090
38525		A	Biopsy/removal,lymph node(s)	4.66	NA	NA	3.15	2.90	0.41	NA	NA	8.22	7.97	090
38530		A	Biopsy/removal,lymph node(s)	6.13	NA	NA	4.55	3.72	0.51	NA	NA	11.19	10.36	090
38542		A	Explore deep node(s), neck	5.91	NA	NA	5.58	4.86	0.46	NA	NA	11.95	11.23	090
38550		A	Removal neck/armpit lesion	6.73	NA	NA	3.46	3.50	0.49	NA	NA	10.68	10.72	090
38555		A	Removal neck/armpit lesion	14.27	NA	NA	9.24	8.23	1.08	NA	NA	24.59	23.58	090
38562		A	Removal, pelvic lymph nodes	10.49	NA	NA	6.76	7.29	0.94	NA	NA	18.19	18.72	090
38564		A	Removal, abdomen lymph nodes	10.83	NA	NA	6.37	7.61	1.18	NA	NA	18.38	19.62	090
38700		A	Removal of lymph nodes, neck	8.24	NA	NA	13.53	10.76	1.02	NA	NA	22.79	20.02	090
38720		A	Removal of lymph nodes, neck	13.61	NA	NA	16.66	16.35	1.60	NA	NA	31.87	31.56	090
38724		A	Removal of lymph nodes, neck	14.54	NA	NA	17.00	15.94	1.56	NA	NA	33.10	32.04	090
38740		A	Remove armpit lymph nodes	6.77	NA	NA	4.03	4.85	0.78	NA	NA	11.58	12.40	090
38745		A	Remove armpits lymph nodes	8.84	NA	NA	5.74	8.18	1.38	NA	NA	15.96	18.40	090
38746		A	Remove thoracic lymph nodes	4.39	NA	NA	2.31	2.45	0.41	NA	NA	7.11	7.25	ZZZ
38747		A	Remove abdominal lymph nodes	4.89	NA	NA	2.23	2.64	0.46	NA	NA	7.58	7.99	ZZZ
38760		A	Remove groin lymph nodes	8.74	NA	NA	5.05	6.66	1.06	NA	NA	14.85	16.46	090
38765		A	Remove groin lymph nodes	16.06	NA	NA	10.02	12.82	1.89	NA	NA	27.97	30.77	090
38770		A	Remove pelvis lymph nodes	13.23	NA	NA	7.53	13.73	1.35	NA	NA	22.11	28.31	090
38780		A	Remove abdomen lymph nodes	16.59	NA	NA	10.37	15.67	2.45	NA	NA	29.41	34.71	090
38790		A	Injection for lymphatic xray	1.29	32.83	9.54	0.42	1.26	0.15	34.27	10.98	1.86	2.70	000
38792		C	Identify sentinel node	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	000
38794		A	Access thoracic lymph duct	4.45	NA	NA	1.30	2.64	0.30	NA	NA	6.05	7.39	090
38999		C	Blood/lymph system procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
39000		A	Exploration of chest	6.10	NA	NA	8.80	7.13	0.84	NA	NA	15.74	14.07	090
39010		A	Exploration of chest	11.79	NA	NA	11.53	12.21	1.63	NA	NA	24.95	25.63	090
39200		A	Removal chest lesion	13.62	NA	NA	10.83	12.14	1.67	NA	NA	26.12	27.43	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
39220		A	Removal chest lesion	17.42	NA	NA	12.44	15.27	2.21	NA	NA	32.07	34.90	090
39400		A	Visualization of chest	5.61	NA	NA	6.38	5.77	0.74	NA	NA	12.73	12.12	010
39499		C	Chest procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
39501		A	Repair diaphragm laceration	13.19	NA	NA	8.94	10.91	1.64	NA	NA	23.77	25.74	090
39502		A	Repair paraesophageal hernia	16.33	NA	NA	9.73	12.15	1.92	NA	NA	27.98	30.40	090
39503		A	Repair of diaphragm hernia	34.85	NA	NA	15.89	24.47	2.30	NA	NA	53.04	61.62	090
39520		A	Repair of diaphragm hernia	16.10	NA	NA	10.62	12.86	1.92	NA	NA	28.64	30.88	090
39530		A	Repair of diaphragm hernia	15.41	NA	NA	10.14	13.98	2.12	NA	NA	27.67	31.51	090
39531		A	Repair of diaphragm hernia	16.42	NA	NA	10.21	10.69	1.41	NA	NA	28.04	28.52	090
39540		A	Repair of diaphragm hernia	13.32	NA	NA	9.08	12.02	1.96	NA	NA	24.36	27.30	090
39541		A	Repair of diaphragm hernia	14.41	NA	NA	9.13	12.18	1.85	NA	NA	25.39	23.44	090
39545		A	Revision of diaphragm	13.37	NA	NA	9.70	8.85	1.02	NA	NA	24.09	23.24	090
39599		C	Diaphragm surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
40490		A	Biopsy of lip	1.22	1.32	0.93	0.62	0.46	0.05	2.59	2.20	1.89	1.73	000
40500		A	Partial excision of lip	4.28	4.34	4.92	5.17	5.13	0.74	9.36	9.94	10.19	10.15	090
40510		A	Partial excision of lip	4.70	5.14	5.49	5.81	5.66	0.65	10.49	10.84	11.16	11.01	090
40520		A	Partial excision of lip	4.67	5.64	5.07	5.91	5.14	0.53	10.84	10.27	11.11	10.34	090
40525		A	Reconstruct lip with flap	7.55	NA	NA	7.70	8.69	1.12	NA	NA	16.37	17.36	090
40527		A	Reconstruct lip with flap	9.13	NA	NA	8.73	10.36	1.29	NA	NA	19.15	20.78	090
40530		A	Partial removal of lip	5.40	4.77	5.34	5.51	5.53	0.58	10.75	11.32	11.49	11.51	090
40650		A	Repair lip	3.64	3.88	4.23	3.58	4.15	0.51	8.03	8.38	7.73	8.30	090
40652		A	Repair lip	4.26	5.04	5.08	5.35	5.16	0.62	9.92	9.96	10.23	10.04	090
40654		A	Repair lip	5.31	5.65	6.17	6.25	6.32	0.78	11.74	12.26	12.34	12.41	090
40700		A	Repair cleft lip/nasal	12.79	NA	NA	9.72	9.32	1.00	NA	NA	23.51	23.11	090
40701		A	Repair cleft lip/nasal	15.85	NA	NA	10.34	18.32	1.27	NA	NA	27.46	35.44	090
40702		A	Repair cleft lip/nasal	13.04	NA	NA	9.18	9.92	0.86	NA	NA	23.08	23.82	090
40720		A	Repair cleft lip/nasal	13.55	NA	NA	10.66	10.47	1.40	NA	NA	25.61	25.42	090
40761		A	Repair cleft lip/nasal	14.72	NA	NA	12.39	11.92	1.36	NA	NA	28.47	28.00	090
40799		C	Lip surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
40800		A	Drainage of mouth lesion	1.17	1.55	0.99	0.48	0.42	0.05	2.77	2.21	1.70	1.64	010
40801		A	Drainage of mouth lesion	2.53	2.06	1.90	2.14	1.23	0.13	4.72	4.56	4.80	3.89	010
40804		A	Removal foreign body, mouth	1.24	1.98	0.97	2.19	0.79	0.05	3.27	2.26	3.48	2.08	010
40805		A	Removal foreign body, mouth	2.69	2.58	2.68	3.22	2.84	0.23	5.50	5.60	6.14	5.76	010
40806		A	Incision of lip fold	0.31	0.72	0.47	0.93	0.53	0.02	1.05	0.80	1.26	0.86	000
40808		A	Biopsy of mouth lesion	0.96	1.60	1.02	2.12	0.84	0.06	2.62	2.04	3.14	1.86	010
40810		A	Excision of mouth lesion	1.31	2.13	1.49	2.40	1.08	0.09	3.53	2.89	3.80	2.48	010
40812		A	Excise/repair mouth lesion	2.31	2.38	1.82	2.96	1.36	0.11	4.80	4.24	5.38	3.78	010
40814		A	Excise/repair mouth lesion	3.42	3.32	3.46	4.37	2.41	0.25	6.99	7.13	8.04	6.08	090
40816		A	Excision of mouth lesion	3.67	3.59	3.52	4.67	2.48	0.26	7.52	7.45	8.60	6.41	090
40818		A	Excise oral mucosa for graft	2.41	3.22	2.64	4.77	3.02	0.16	5.79	5.21	7.34	5.59	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
40819		A	Excise lip or cheek fold	2.41	2.85	1.71	3.33	1.34	0.11	5.37	4.23	5.85	3.86	090
40820		A	Treatment of mouth lesion	1.28	1.86	0.90	2.30	0.79	0.05	3.19	2.23	3.63	2.12	010
40830		A	Repair mouth laceration	1.76	1.94	1.03	1.91	1.03	0.05	3.75	2.84	3.72	2.84	010
40831		A	Repair mouth laceration	2.46	2.29	2.16	2.72	2.26	0.16	4.91	4.78	5.34	4.88	010
40840		R	Reconstruction of mouth	8.73	5.50	6.49	7.28	6.94	0.57	14.80	15.79	16.58	16.24	090
40842		R	Reconstruction of mouth	8.73	5.49	6.49	6.54	6.75	0.57	14.79	15.79	15.84	16.05	090
40843		R	Reconstruction of mouth	12.10	6.56	8.80	7.73	9.10	0.81	19.47	21.71	20.64	22.01	090
40844		R	Reconstruction of mouth	16.01	8.09	11.49	8.65	11.63	1.06	25.16	28.56	25.72	28.70	090
40845		R	Reconstruction of mouth	18.58	9.83	19.09	11.31	19.46	1.51	29.92	39.18	31.40	39.55	090
40899		C	Mouth surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
41000		A	Drainage of mouth lesion	1.30	1.83	1.07	1.63	0.72	0.06	3.19	2.43	2.99	2.08	010
41005		A	Drainage of mouth lesion	1.26	1.76	0.94	1.80	0.95	0.05	3.07	2.25	3.11	2.26	010
41006		A	Drainage of mouth lesion	3.24	3.10	1.60	3.34	1.66	0.09	6.43	4.93	6.67	4.99	090
41007		A	Drainage of mouth lesion	3.10	2.92	3.09	3.01	3.12	0.23	6.25	6.42	6.34	6.45	090
41008		A	Drainage of mouth lesion	3.37	3.01	1.62	3.27	1.25	0.09	6.47	5.08	6.73	4.71	090
41009		A	Drainage of mouth lesion	3.59	2.99	3.44	3.32	3.52	0.27	6.85	7.30	7.18	7.38	090
41010		A	Incision of tongue fold	1.06	2.27	0.87	3.23	1.11	0.03	3.36	1.96	4.32	2.20	010
41015		A	Drainage of mouth lesion	3.96	3.32	1.54	3.18	1.50	0.08	7.36	5.58	7.22	5.54	090
41016		A	Drainage of mouth lesion	4.07	3.34	3.84	3.32	3.83	0.30	7.71	8.21	7.69	8.20	090
41017		A	Drainage of mouth lesion	4.07	3.33	1.97	3.28	1.96	0.11	7.51	6.15	7.46	6.14	090
41018		A	Drainage of mouth lesion	5.10	3.76	4.14	3.40	4.05	0.30	9.16	9.54	8.80	9.45	090
41100		A	Biopsy of tongue	1.63	2.11	1.18	2.56	0.97	0.06	3.80	2.87	4.25	2.66	010
41105		A	Biopsy of tongue	1.42	1.96	1.33	2.51	1.05	0.09	3.47	2.84	4.02	2.56	010
41108		A	Biopsy of floor of mouth	1.05	1.81	1.14	2.25	0.91	0.07	2.93	2.26	3.37	2.03	010
41110		A	Excision of tongue lesion	1.51	2.43	1.67	2.59	1.18	0.12	4.06	3.30	4.22	2.81	010
41112		A	Excision of tongue lesion	2.73	2.87	2.66	3.54	1.86	0.18	5.78	5.57	6.45	4.77	090
41113		A	Excision of tongue lesion	3.19	2.89	3.50	4.27	2.46	0.29	6.37	6.98	7.75	5.94	090
41114		A	Excision of tongue lesion	8.47	NA	NA	6.27	8.77	0.57	NA	NA	15.31	15.81	090
41115		A	Excision of tongue fold	1.74	2.20	2.00	2.41	2.05	0.13	4.07	3.87	4.28	3.92	010
41116		A	Excision of mouth lesion	2.44	2.71	2.70	3.42	2.88	0.21	5.36	5.35	6.07	5.53	090
41120		A	Partial removal of tongue	9.77	NA	NA	8.52	8.06	0.69	NA	NA	18.98	18.52	090
41130		A	Partial removal of tongue	11.15	NA	NA	9.46	9.74	0.89	NA	NA	21.50	21.78	090
41135		A	Tongue and neck surgery	23.09	NA	NA	16.51	19.02	2.07	NA	NA	41.67	44.18	090
41140		A	Removal of tongue	25.50	NA	NA	18.24	19.94	1.92	NA	NA	45.66	47.36	090
41145		A	Tongue removal; neck surgery	30.06	NA	NA	22.58	24.19	2.31	NA	NA	54.95	56.56	090
41150		A	Tongue, mouth, jaw surgery	23.04	NA	NA	17.19	19.73	1.92	NA	NA	42.15	44.69	090
41153		A	Tongue, mouth, neck surgery	23.77	NA	NA	17.95	24.84	2.37	NA	NA	44.09	50.98	090
41155		A	Tongue, jaw, & neck surgery	27.72	NA	NA	20.54	29.51	2.93	NA	NA	51.19	60.16	090
41250		A	Repair tongue laceration	1.91	2.14	1.41	1.73	1.30	0.09	4.14	3.41	3.73	3.30	010
41251		A	Repair tongue laceration	2.27	1.97	2.18	2.17	2.23	0.16	4.40	4.61	4.60	4.66	010

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
41252		A	Repair tongue laceration	2.97	2.87	2.63	2.67	2.58	0.20	6.04	5.80	5.84	5.75	010
41500		A	Fixation of tongue	3.71	NA	NA	3.46	3.54	0.20	NA	NA	7.37	7.45	090
41510		A	Tongue to lip surgery	3.42	NA	NA	4.21	3.12	0.35	NA	NA	7.98	6.89	090
41520		A	Reconstruction, tongue fold	2.73	2.38	2.94	3.37	3.19	0.22	5.33	5.89	6.32	6.14	090
41599		C	Tongue and mouth surgery	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
41800		A	Drainage of gum lesion	1.17	1.52	0.94	1.36	0.63	0.05	2.74	2.16	2.58	1.85	010
41805		A	Removal foreign body, gum	1.24	1.50	1.06	1.89	1.16	0.06	2.80	2.36	3.19	2.46	010
41806		A	Removal foreign body,jawbone	2.69	2.09	1.86	2.67	1.34	0.12	4.90	4.67	5.48	4.15	010
41820		R	Excision, gum, each quadrant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
41821		R	Excision of gum flap	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
41822		R	Excision of gum lesion	2.31	2.24	3.03	0.97	2.71	0.20	4.75	5.54	3.48	5.22	010
41823		R	Excision of gum lesion	3.30	2.91	3.68 [4]	3.00	3.71	0.27	6.48	7.25	6.57	7.28	090
41825		A	Excision of gum lesion	1.31	1.89	1.69	2.34	1.19	0.11	3.31	3.11	3.76	2.61	010
41826		A	Excision of gum lesion	2.31	2.20	2.24	2.52	1.48	0.14	4.65	4.69	4.97	3.93	010
41827		A	Excision of gum lesion	3.42	2.95	3.80	3.77	2.47	0.30	6.67	7.52	7.49	6.19	090
41828		R	Excision of gum lesion	3.09	2.56	3.96	2.48	3.94	0.26	5.91	7.31	5.83	7.29	010
41830		R	Removal of gum tissue	3.35	2.70	3.68	2.94	3.74	0.28	6.33	7.31	6.57	7.37	010
41850		R	Treatment of gum lesion	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
41870		R	Gum graft	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
41872		R	Repair gum	2.59	2.31	2.90	3.42	3.17	0.21	5.11	5.70	6.22	5.97	090
41874		R	Repair tooth socket	3.09	2.40	3.37	2.46	3.38	0.25	5.74	6.71	5.80	6.72	090
41899		C	Dental surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
42000		A	Drainage mouth roof lesion	1.23	1.88	0.97	1.69	0.68	0.05	3.16	2.25	2.97	1.96	010
42100		A	Biopsy roof of mouth	1.31	1.93	1.13	2.41	0.93	0.06	3.30	2.50	3.78	2.30	010
42104		A	Excision lesion, mouth roof	1.64	2.00	1.82	2.64	1.32	0.13	3.77	3.59	4.41	3.09	010
42106		A	Excision lesion, mouth roof	2.10	2.16	2.35	2.84	1.62	0.16	4.42	4.61	5.10	3.88	010
42107		A	Excision lesion, mouth roof	4.44	3.45	4.84	4.43	3.10	0.39	8.28	9.67	9.26	7.93	090
42120		A	Remove palate/lesion	6.17	NA	NA	5.93	7.01	0.79	NA	NA	12.89	13.97	090
42140		A	Excision of uvula	1.62	2.86	1.82	3.17	1.90	0.12	4.60	3.56	4.91	3.64	090
42145		A	Repair, palate,pharynx/uvula	8.05	NA	NA	7.37	9.06	1.13	NA	NA	16.55	18.24	090
42160		A	Treatment mouth roof lesion	1.80	2.26	1.81	2.70	1.30	0.13	4.19	3.74	4.63	3.23	010
42180		A	Repair palate	2.50	2.49	2.45	2.46	2.44	0.20	5.19	5.15	5.16	5.14	010
42182		A	Repair palate	3.83	2.64	3.49	3.42	3.68	0.30	6.77	7.62	7.55	7.81	010
42200		A	Reconstruct cleft palate	12.00	NA	NA	10.23	8.41	0.66	NA	NA	22.89	21.07	090
42205		A	Reconstruct cleft palate	9.59	NA	NA	6.44	10.20	0.62	NA	NA	16.65	20.41	090
42210		A	Reconstruct cleft palate	14.50	NA	NA	9.41	12.54	0.74	NA	NA	24.65	27.78	090
42215		A	Reconstruct cleft palate	8.82	NA	NA	8.12	8.28	0.67	NA	NA	17.61	17.77	090
42220		A	Reconstruct cleft palate	7.02	NA	NA	5.97	5.89	0.63	NA	NA	13.62	13.54	090
42225		A	Reconstruct cleft palate	9.54	NA	NA	8.58	7.76	0.84	NA	NA	18.96	18.14	090
42226		A	Lengthening of palate	10.01	NA	NA	9.18	8.72	0.67	NA	NA	19.86	19.40	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
42227		A	Lengthening of palate	9.52	NA	NA	7.65	7.94	0.30	NA	NA	17.47	17.76	090
42235		A	Repair palate	7.87	NA	NA	6.28	6.09	0.38	NA	NA	14.53	14.34	090
42260		A	Repair nose to lip fistula	9.80	6.11	4.77	6.34	4.83	0.34	16.25	14.91	16.48	14.97	090
42280		A	Preparation, palate mold	1.54	1.19	1.92	0.79	1.82	0.13	2.86	3.59	2.46	3.49	010
42281		A	Insertion, palate prosthesis	1.93	1.34	1.54	0.98	1.45	0.12	3.39	3.59	3.03	3.50	010
42299		C	Palate/uvula surgery	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
42300		A	Drainage of salivary gland	1.93	2.20	1.33	2.77	1.08	0.09	4.22	3.35	4.79	3.10	010
42305		A	Drainage of salivary gland	6.07	NA	NA	5.83	3.24	0.21	NA	NA	12.11	9.52	090
42310		A	Drainage of salivary gland	1.56	1.78	1.29	2.40	1.02	0.09	3.43	2.94	4.05	2.67	010
42320		A	Drainage of salivary gland	2.35	2.21	2.05	2.95	2.23	0.17	4.73	4.57	5.47	4.75	010
42325		A	Create salivary cyst drain	2.75	2.28	2.30	1.24	2.04	0.16	5.19	5.21	4.15	4.95	090
42326		A	Create salivary cyst drain	3.78	3.46	4.25	2.23	3.94	0.26	7.50	8.29	6.27	7.98	090
42330		A	Removal of salivary stone	2.21	2.30	1.47	0.87	0.67	0.09	4.60	3.77	3.17	2.97	010
42335		A	Removal of salivary stone	3.31	3.06	2.78	4.40	2.11	0.21	6.58	6.30	7.92	5.63	090
42340		A	Removal of salivary stone	4.60	3.92	4.44	5.61	3.14	0.35	8.87	9.39	10.56	8.09	090
42400		A	Biopsy of salivary gland	0.78	2.21	1.20	0.90	0.55	0.08	3.07	2.06	1.76	1.41	000
42405		A	Biopsy of salivary gland	3.29	2.89	1.98	3.87	1.60	0.15	6.33	5.42	7.31	5.04	010
42408		A	Excision of salivary cyst	4.54	3.79	3.59	5.11	3.92	0.30	8.63	8.43	9.95	8.76	090
42409		A	Drainage of salivary cyst	2.81	2.74	2.97	4.16	3.33	0.23	5.78	6.01	7.20	6.37	090
42410		A	Excise parotid gland/lesion	9.34	NA	NA	8.14	6.87	0.72	NA	NA	18.20	16.93	090
42415		A	Excise parotid gland/lesion	16.89	NA	NA	13.08	13.59	1.31	NA	NA	31.28	31.79	090
42420		A	Excise parotid gland/lesion	19.59	NA	NA	14.84	15.77	1.46	NA	NA	35.89	36.82	090
42425		A	Excise parotid gland/lesion	13.02	NA	NA	10.88	11.76	1.12	NA	NA	25.02	25.90	090
42426		A	Excise parotid gland/lesion	21.26	NA	NA	15.86	23.00	2.51	NA	NA	39.63	46.77	090
42440		A	Excision submaxillary gland	6.97	NA	NA	6.40	7.84	0.77	NA	NA	14.14	15.58	090
42450		A	Excision sublingual gland	4.62	3.99	3.78	5.25	4.10	0.27	8.88	8.67	10.14	8.99	090
42500		A	Repair salivary duct	4.30	4.02	4.76	5.33	5.08	0.39	8.71	9.45	10.02	9.77	090
42505		A	Repair salivary duct	6.18	4.78	6.73	6.21	7.09	0.67	11.63	13.58	13.06	13.94	090
42507		A	Parotid duct diversion	6.11	NA	NA	6.29	5.36	0.52	NA	NA	12.92	11.99	090
42508		A	Parotid duct diversion	9.10	NA	NA	7.95	8.18	0.74	NA	NA	17.79	18.02	090
42509		A	Parotid duct diversion	11.54	NA	NA	9.43	8.31	0.96	NA	NA	21.93	20.81	090
42510		A	Parotid duct diversion	8.15	NA	NA	5.40	7.58	0.66	NA	NA	14.21	16.39	090
42550		A	Injection for salivary x-ray	1.25	11.75	3.30	0.34	0.45	0.03	13.03	4.58	1.62	1.73	000
42600		A	Closure of salivary fistula	4.82	4.97	4.41	5.78	4.61	0.36	10.15	9.59	10.96	9.79	090
42650		A	Dilation of salivary duct	0.77	0.89	0.54	0.40	0.26	0.03	1.69	1.34	1.20	1.06	000
42660		A	Dilation of salivary duct	1.13	1.01	0.66	2.02	0.71	0.05	2.19	1.84	3.20	1.89	000
42665		A	Ligation of salivary duct	2.53	3.02	2.41	4.21	2.71	0.20	5.75	5.14	6.94	5.44	090
42699		C	Salivary surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
42700		A	Drainage of tonsil abscess	1.62	2.46	1.31	2.17	0.89	0.08	4.16	3.01	3.87	2.59	010
42720		A	Drainage of throat abscess	5.42	4.29	2.61	4.78	2.73	0.17	9.88	8.20	10.37	8.32	010

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
42725		A	Drainage of throat abscess	10.72	NA	NA	8.24	5.68	0.41	NA	NA	19.37	16.81	090
42800		A	Biopsy of throat	1.39	2.30	1.18	2.53	0.93	0.06	3.75	2.63	3.98	2.38	010
42802		A	Biopsy of throat	1.54	2.40	1.43	2.59	1.48	0.09	4.03	3.06	4.22	3.11	010
42804		A	Biopsy of upper nose/throat	1.24	2.23	1.44	2.50	1.51	0.10	3.57	2.78	3.84	2.85	010
42806		A	Biopsy of upper nose/throat	1.58	2.60	1.79	2.82	1.85	0.13	4.31	3.50	4.53	3.56	010
42808		A	Excise pharynx lesion	2.30	3.53	2.93	3.24	2.86	0.23	6.06	5.46	5.77	5.39	010
42809		A	Remove pharynx foreign body	1.81	2.68	1.34	1.83	1.13	0.06	4.55	3.21	3.70	3.00	010
42810		A	Excision of neck cyst	3.33	4.18	3.60	4.09	3.58	0.37	7.86	7.30	7.79	7.28	090
42815		A	Excision of neck cyst	7.23	NA	NA	6.59	8.12	0.88	NA	NA	14.70	16.23	090
42820		A	Remove tonsils and adenoids	3.91	NA	NA	2.45	3.18	0.25	NA	NA	6.61	7.34	090
42821		A	Remove tonsils and adenoids	4.29	NA	NA	4.28	4.27	0.36	NA	NA	8.93	8.92	090
42825		A	Removal of tonsils	3.42	NA	NA	3.70	3.08	0.26	NA	NA	7.38	6.76	090
42826		A	Removal of tonsils	3.38	NA	NA	3.79	3.98	0.34	NA	NA	7.51	7.70	090
42830		A	Removal of adenoids	2.57	NA	NA	2.77	2.21	0.21	NA	NA	5.55	4.99	090
42831		A	Removal of adenoids	2.71	NA	NA	2.89	2.64	0.20	NA	NA	5.80	5.55	090
42835		A	Removal of adenoids	2.30	NA	NA	2.60	2.22	0.08	NA	NA	5.18	4.60	090
42836		A	Removal of adenoids	3.18	NA	NA	3.66	3.19	0.24	NA	NA	7.08	6.61	090
42842		A	Extensive surgery of throat	8.76	NA	NA	7.80	7.40	0.57	NA	NA	17.13	16.73	090
42844		A	Extensive surgery of throat	14.31	NA	NA	11.09	11.81	0.99	NA	NA	26.39	26.91	090
42845		A	Extensive surgery of throat	24.29	NA	NA	17.79	19.61	1.74	NA	NA	43.82	45.64	090
42860		A	Excision of tonsil tags	2.22	NA	NA	2.99	2.29	0.16	NA	NA	5.37	4.67	090
42870		A	Excision of lingual tonsil	5.40	NA	NA	6.04	3.40	0.20	NA	NA	11.64	9.00	090
42890		A	Partial removal of pharynx	12.94	NA	NA	11.14	10.11	0.81	NA	NA	24.89	23.86	090
42892		A	Revision of pharyngeal walls	15.83	NA	NA	12.53	12.02	0.99	NA	NA	29.35	28.84	090
42894		A	Revision of pharyngeal walls	22.88	NA	NA	17.04	17.33	1.43	NA	NA	41.35	41.64	090
42900		A	Repair throat wound	5.25	NA	NA	4.48	4.59	0.38	NA	NA	10.11	10.22	010
42950		A	Reconstruction of throat	8.10	NA	NA	7.48	9.12	0.86	NA	NA	16.44	18.08	090
42953		A	Repair throat, esophagus	8.96	NA	NA	8.75	7.35	0.73	NA	NA	18.44	17.04	090
42955		A	Surgical opening of throat	7.39	NA	NA	6.62	4.36	0.34	NA	NA	14.35	12.09	090
42960		A	Control throat bleeding	2.33	NA	NA	2.49	1.50	0.09	NA	NA	4.91	3.92	010
42961		A	Control throat bleeding	5.59	NA	NA	5.14	2.71	0.15	NA	NA	10.88	8.45	090
42962		A	Control throat bleeding	7.14	NA	NA	6.14	6.40	0.53	NA	NA	13.81	14.07	090
42970		A	Control nose/throat bleeding	5.43	NA	NA	3.85	1.80	0.08	NA	NA	9.36	7.31	090
42971		A	Control nose/throat bleeding	6.21	NA	NA	5.84	3.82	0.27	NA	NA	12.32	10.30	090
42972		A	Control nose/throat bleeding	7.20	NA	NA	5.83	5.16	0.57	NA	NA	13.60	12.93	090
42999		C	Throat surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
43020		A	Incision of esophagus	8.09	NA	NA	5.91	6.83	0.56	NA	NA	14.56	15.48	090
43030		A	Throat muscle surgery	7.69	NA	NA	6.80	8.59	0.95	NA	NA	15.44	17.23	090
43045		A	Incision of esophagus	20.12	NA	NA	12.93	13.37	1.85	NA	NA	34.90	35.34	090
43100		A	Excision of esophagus lesion	9.19	NA	NA	9.37	7.38	0.74	NA	NA	19.30	17.31	090

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43101		A	Excision of esophagus lesion	16.24	NA	NA	10.21	10.27	1.47	NA	NA	27.92	27.98	090
43107		A	Removal of esophagus	28.79	NA	NA	17.20	22.62	3.46	NA	NA	49.45	54.87	090
43108		A	Removal of esophagus	34.19	NA	NA	19.05	25.33	3.73	NA	NA	56.97	63.25	090
43112		A	Removal of esophagus	31.22	NA	NA	18.65	22.29	3.30	NA	NA	53.17	56.81	090
43113		A	Removal of esophagus	35.27	NA	NA	20.03	25.57	3.73	NA	NA	59.03	64.57	090
43116		A	Partial removal of esophagus	31.22	NA	NA	24.37	26.66	3.73	NA	NA	59.32	61.61	090
43117		A	Partial removal of esophagus	30.02	NA	NA	17.96	25.06	3.73	NA	NA	51.71	58.81	090
43118		A	Partial removal of esophagus	33.20	NA	NA	18.17	25.11	3.73	NA	NA	55.10	62.04	090
43121		A	Partial removal of esophagus	29.19	NA	NA	17.30	21.71	3.28	NA	NA	49.77	54.18	090
43122		A	Partial removal of esophagus	29.11	NA	NA	16.62	21.54	3.28	NA	NA	49.01	53.93	090
43123		A	Partial removal of esophagus	33.20	NA	NA	18.33	25.15	3.73	NA	NA	55.26	62.08	090
43124		A	Removal of esophagus	27.32	NA	NA	17.45	22.68	3.46	NA	NA	48.23	53.46	090
43130		A	Removal of esophagus pouch	11.75	NA	NA	10.67	11.23	1.25	NA	NA	23.67	24.23	090
43135		A	Removal of esophagus pouch	16.10	NA	NA	11.10	12.32	1.70	NA	NA	28.90	30.12	090
43200		A	Esophagus endoscopy	1.59	5.41	3.01	1.02	1.68	0.20	7.20	4.80	2.81	3.47	000
43202		A	Esophagus endoscopy, biopsy	1.89	4.50	3.09	0.95	1.93	0.24	6.63	5.22	3.08	4.06	000
43204		A	Esophagus endoscopy & inject	3.77	NA	NA	1.44	3.74	0.28	NA	NA	5.49	7.79	000
43205		A	Esophagus endoscopy/ligation	3.79	NA	NA	1.47	2.57	0.14	NA	NA	5.40	6.50	000
43215		A	Esophagus endoscopy	2.60	NA	NA	1.13	2.61	0.36	NA	NA	4.09	5.57	000
43216		A	Esophagus endoscopy/lesion	2.40	NA	NA	1.02	2.41	0.29	NA	NA	3.71	5.10	000
43217		A	Esophagus endoscopy	2.90	NA	NA	1.16	2.89	0.29	NA	NA	4.35	6.08	000
43219		A	Esophagus endoscopy	2.80	NA	NA	1.20	2.81	0.27	NA	NA	4.27	5.88	000
43220		A	Esophagus endoscopy,dilation	2.10	NA	NA	0.92	2.11	0.21	NA	NA	3.23	4.42	000
43226		A	Esophagus endoscopy,dilation	2.34	NA	NA	0.96	2.33	0.20	NA	NA	3.50	4.87	000
43227		A	Esophagus endoscopy, repair	3.60	NA	NA	1.38	3.57	0.27	NA	NA	5.25	7.44	000
43228		A	Esophagus endoscopy,ablation	3.77	NA	NA	1.49	3.75	0.30	NA	NA	5.56	7.82	000
43234		A	Upper GI endoscopy, exam	2.01	2.62	2.75	0.87	2.02	0.23	4.86	4.99	3.11	4.26	000
43235		A	Upper gi endoscopy,diagnosis	2.39	4.46	3.61	0.98	2.38	0.23	7.08	6.23	3.60	5.00	000
43239		A	Upper GI endoscopy, biopsy	2.69	4.49	3.92	1.08	2.68	0.26	7.44	6.87	4.03	5.63	000
43241		A	Upper GI endoscopy with tube	2.59	NA	NA	1.03	2.58	0.30	NA	NA	3.92	5.47	000
43243		A	Upper GI endoscopy & inject.	4.57	NA	NA	1.70	4.52	0.31	NA	NA	6.58	9.40	000
43244		A	Upper GI endoscopy/ligation	4.59	NA	NA	1.71	3.26	0.32	NA	NA	6.62	8.17	000
43245		A	Operative upper GI endoscopy	3.39	NA	NA	1.31	3.37	0.31	NA	NA	5.01	7.07	000
43246		A	Place gastrostomy tube	4.33	NA	NA	1.61	4.28	0.40	NA	NA	6.34	9.01	000
43247		A	Operative upper GI endoscopy	3.39	NA	NA	1.31	3.37	0.30	NA	NA	5.00	7.06	000
43248		A	Upper GI endoscopy/guidewire	3.15	NA	NA	1.23	3.14	0.27	NA	NA	4.65	6.56	000
43249		A	Esophagus endoscopy,dilation	2.90	NA	NA	1.15	2.88	0.23	NA	NA	4.28	6.01	000
43250		A	Upper GI endoscopy/tumor	3.20	NA	NA	1.25	3.18	0.34	NA	NA	4.79	6.72	000
43251		A	Operative upper GI endoscopy	3.70	NA	NA	1.42	3.67	0.34	NA	NA	5.46	7.71	000
43255		A	Operative upper GI endoscopy	4.40	NA	NA	1.59	4.34	0.30	NA	NA	6.29	9.04	000

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43258		A	Operative upper GI endoscopy	4.55	NA	NA	1.70	4.51	0.30	NA	NA	6.55	9.36	000
43259		A	Endoscopic ultrasound exam	4.89	NA	NA	1.85	3.73	0.27	NA	NA	7.01	8.89	000
43260		A	Endoscopy,bile duct/pancreas	5.96	NA	NA	2.17	5.41	0.31	NA	NA	8.44	11.68	000
43261		A	Endoscopy,bile duct/pancreas	6.27	NA	NA	2.28	5.44	0.31	NA	NA	8.86	12.02	000
43262		A	Endoscopy,bile duct/pancreas	7.39	NA	NA	2.67	7.28	0.45	NA	NA	10.51	15.12	000
43263		A	Endoscopy,bile duct/pancreas	6.19	NA	NA	2.25	5.31	0.30	NA	NA	8.74	11.80	000
43264		A	Endoscopy,bile duct/pancreas	8.90	NA	NA	3.17	8.05	0.48	NA	NA	12.55	17.43	000
43265		A	Endoscopy,bile duct/pancreas	8.90	NA	NA	3.17	8.34	0.38	NA	NA	12.45	15.62	000
43267		A	Endoscopy,bile duct/pancreas	7.39	NA	NA	2.65	6.69	0.38	NA	NA	10.42	14.46	000
43268		A	Endoscopy,bile duct/pancreas	7.39	NA	NA	2.67	7.28	0.44	NA	NA	10.50	15.11	000
43269		A	Endoscopy,bile duct/pancreas	6.04	NA	NA	2.20	5.96	0.40	NA	NA	8.64	12.40	000
43271		A	Endoscopy,bile duct/pancreas	7.39	NA	NA	2.65	6.87	0.39	NA	NA	10.43	14.65	000
43272		A	Endoscopy,bile duct/pancreas	7.39	NA	NA	2.63	5.22	0.33	NA	NA	10.35	12.94	000
43300		A	Repair of esophagus	9.14	NA	NA	7.11	9.96	1.33	NA	NA	17.58	20.43	090
43305		A	Repair esophagus and fistula	17.15	NA	NA	17.58	15.56	1.39	NA	NA	36.12	34.10	090
43310		A	Repair of esophagus	25.39	NA	NA	16.86	18.05	2.53	NA	NA	44.78	45.97	090
43312		A	Repair esophagus and fistula	28.42	NA	NA	22.45	16.78	1.80	NA	NA	52.67	47.00	090
43320		A	Fuse esophagus & stomach	16.07	NA	NA	10.73	12.19	1.60	NA	NA	28.40	29.86	090
43324		A	Revise esophagus & stomach	16.58	NA	NA	9.71	12.10	1.98	NA	NA	28.27	30.66	090
43325		A	Revise esophagus & stomach	16.17	NA	NA	10.67	12.12	1.79	NA	NA	28.63	30.08	090
43326		A	Revise esophagus & stomach	15.91	NA	NA	11.16	8.91	1.37	NA	NA	28.44	26.19	090
43330		A	Repair of esophagus	15.94	NA	NA	10.38	11.84	1.87	NA	NA	28.19	29.65	090
43331		A	Repair of esophagus	16.23	NA	NA	11.04	14.42	2.07	NA	NA	29.34	32.72	090
43340		A	Fuse esophagus & intestine	15.81	NA	NA	11.35	12.96	1.97	NA	NA	29.13	30.74	090
43341		A	Fuse esophagus & intestine	16.81	NA	NA	12.92	11.29	1.22	NA	NA	30.95	29.32	090
43350		A	Surgical opening, esophagus	12.72	NA	NA	9.75	8.85	0.90	NA	NA	23.37	22.47	090
43351		A	Surgical opening, esophagus	14.79	NA	NA	10.46	9.76	1.20	NA	NA	26.45	25.75	090
43352		A	Surgical opening, esophagus	12.30	NA	NA	9.80	9.67	1.15	NA	NA	23.25	23.12	090
43360		A	Gastrointestinal repair	28.78	NA	NA	15.74	21.32	3.28	NA	NA	47.80	53.38	090
43361		A	Gastrointestinal repair	32.65	NA	NA	17.78	25.01	3.73	NA	NA	54.16	61.39	090
43400		A	Ligate esophagus veins	17.09	NA	NA	10.64	11.47	1.28	NA	NA	29.01	29.84	090
43401		A	Esophagus surgery for veins	17.81	NA	NA	11.89	10.78	1.51	NA	NA	31.21	30.10	090
43405		A	Ligate/staple esophagus	16.13	NA	NA	10.57	14.31	2.07	NA	NA	28.77	32.51	090
43410		A	Repair esophagus wound	10.86	NA	NA	8.87	9.46	1.20	NA	NA	20.93	21.52	090
43415		A	Repair esophagus wound	17.06	NA	NA	11.09	13.15	1.97	NA	NA	30.12	32.18	090
43420		A	Repair esophagus opening	11.57	NA	NA	9.21	7.09	0.61	NA	NA	21.39	19.27	090
43425		A	Repair esophagus opening	16.95	NA	NA	10.58	10.74	1.34	NA	NA	28.87	29.03	090
43450		A	Dilate esophagus	1.38	0.99	0.80	0.54	0.69	0.04	2.41	2.22	1.96	2.11	000
43453		A	Dilate esophagus	1.51	NA	NA	0.58	1.38	0.09	NA	NA	2.18	2.98	000
43456		A	Dilate esophagus	2.57	NA	NA	0.95	2.25	0.19	NA	NA	3.71	5.01	000

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
43458		A	Dilation of esophagus	3.06	NA	NA	1.12	1.52	0.21	NA	NA	4.39	4.79	000
43460		A	Pressure treatment esophagus	3.80	NA	NA	1.81	1.81	0.12	NA	NA	5.73	5.73	000
43496		C	Free jejunum flap, microvasc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	090
43499		C	Esophagus surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
43500		A	Surgical opening of stomach	8.44	NA	NA	4.55	6.13	0.94	NA	NA	13.93	15.51	090
43501		A	Surgical repair of stomach	15.31	NA	NA	7.60	8.88	1.43	NA	NA	24.34	25.62	090
43502		A	Surgical repair of stomach	17.67	NA	NA	8.48	9.10	1.43	NA	NA	27.58	28.20	090
43510		A	Surgical opening of stomach	9.99	NA	NA	6.18	8.30	0.74	NA	NA	16.91	19.03	090
43520		A	Incision of pyloric muscle	7.63	NA	NA	4.71	4.82	0.68	NA	NA	13.02	13.13	090
43600		A	Biopsy of stomach	1.91	NA	NA	0.81	0.61	0.04	NA	NA	2.76	2.56	000
43605		A	Biopsy of stomach	9.15	NA	NA	4.80	6.01	1.01	NA	NA	14.96	16.17	090
43610		A	Excision of stomach lesion	11.15	NA	NA	6.08	8.17	1.34	NA	NA	18.57	20.66	090
43611		A	Excision of stomach lesion	13.63	NA	NA	7.03	8.41	1.34	NA	NA	22.00	23.38	090
43620		A	Removal of stomach	22.54	NA	NA	11.36	15.36	2.50	NA	NA	36.40	40.40	090
43621		A	Removal of stomach	23.06	NA	NA	11.54	15.40	2.50	NA	NA	37.10	40.96	090
43622		A	Removal of stomach	24.41	NA	NA	12.14	15.55	2.50	NA	NA	39.05	42.46	090
43631		A	Removal of stomach, partial	19.66	NA	NA	9.60	12.51	2.08	NA	NA	31.34	34.25	090
43632		A	Removal stomach, partial	19.66	NA	NA	9.64	12.52	2.08	NA	NA	31.38	34.26	090
43633		A	Removal stomach, partial	20.10	NA	NA	10.01	12.61	2.08	NA	NA	32.19	34.79	090
43634		A	Removal stomach, partial	21.86	NA	NA	10.89	19.68	3.58	NA	NA	36.33	45.12	090
43635		A	Partial removal of stomach	2.06	NA	NA	0.88	1.10	0.20	NA	NA	3.14	3.36	ZZZ
43638		A	Partial removal of stomach	21.76	NA	NA	10.40	12.98	2.14	NA	NA	34.30	36.88	090
43639		A	Removal stomach, partial	22.25	NA	NA	10.74	13.07	2.14	NA	NA	35.13	37.46	090
43640		A	Vagotomy & pylorus repair	14.81	NA	NA	7.46	10.28	1.71	NA	NA	23.98	26.80	090
43641		A	Vagotomy & pylorus repair	15.03	NA	NA	7.48	10.29	1.71	NA	NA	24.22	27.03	090
43750		A	Place gastrostomy tube	4.49	NA	NA	2.41	4.14	0.44	NA	NA	7.34	9.07	010
43760		A	Change gastrostomy tube	1.10	0.97	0.81	0.54	0.70	0.07	2.14	1.98	1.71	1.87	000
43761		A	Reposition gastrostomy tube	2.01	NA	NA	0.64	1.02	0.20	NA	NA	2.85	3.23	000
43800		A	Reconstruction of pylorus	10.46	NA	NA	5.69	7.00	1.15	NA	NA	17.30	18.61	090
43810		A	Fusion of stomach and bowel	11.19	NA	NA	6.12	7.75	1.20	NA	NA	18.51	20.14	090
43820		A	Fusion of stomach and bowel	11.74	NA	NA	6.21	8.30	1.37	NA	NA	19.32	21.41	090
43825		A	Fusion of stomach and bowel	14.68	NA	NA	7.42	10.87	1.80	NA	NA	23.90	27.35	090
43830		A	Place gastrostomy tube	7.28	NA	NA	4.36	6.13	0.93	NA	NA	12.57	14.34	090
43831		A	Place gastrostomy tube	7.33	NA	NA	4.21	5.28	0.73	NA	NA	12.27	13.34	090
43832		A	Place gastrostomy tube	11.92	NA	NA	6.51	8.10	1.06	NA	NA	19.49	21.08	090
43840		A	Repair of stomach lesion	11.89	NA	NA	6.20	7.93	1.30	NA	NA	19.39	21.12	090
43842		A	Gastroplasty for obesity	14.71	NA	NA	8.86	13.38	2.29	NA	NA	25.86	30.38	090
43843		A	Gastroplasty for obesity	14.85	NA	NA	8.53	13.30	2.29	NA	NA	25.67	30.44	090
43846		A	Gastric bypass for obesity	19.15	NA	NA	10.88	14.77	2.58	NA	NA	32.61	36.50	090
43847		A	Gastric bypass for obesity	21.44	NA	NA	13.09	15.32	2.58	NA	NA	37.11	39.34	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
43848		A	Revision gastroplasty	23.41	NA	NA	13.37	15.39	2.58	NA	NA	39.36	41.38	090
43850		A	Revise stomach-bowel fusion	19.69	NA	NA	9.33	11.81	1.76	NA	NA	30.78	33.26	090
43855		A	Revise stomach-bowel fusion	20.83	NA	NA	10.46	11.11	1.78	NA	NA	33.07	33.72	090
43860		A	Revise stomach-bowel fusion	19.91	NA	NA	9.60	11.73	1.96	NA	NA	31.47	33.60	090
43865		A	Revise stomach-bowel fusion	21.12	NA	NA	10.15	13.44	2.33	NA	NA	33.60	36.89	090
43870		A	Repair stomach opening	7.40	NA	NA	4.35	5.78	0.89	NA	NA	12.64	14.07	090
43880		A	Repair stomach-bowel fistula	19.63	NA	NA	10.10	9.24	1.38	NA	NA	31.11	30.25	090
43999		C	Stomach surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
44005		A	Freeing of bowel adhesion	13.84	NA	NA	7.01	8.50	1.37	NA	NA	22.22	23.71	090
44010		A	Incision of small bowel	10.68	NA	NA	6.17	7.17	1.11	NA	NA	17.96	18.96	090
44015		A	Insert needle catheter,bowel	2.62	NA	NA	1.06	2.61	0.35	NA	NA	4.03	5.58	ZZZ
44020		A	Exploration of small bowel	11.93	NA	NA	6.24	7.92	1.29	NA	NA	19.46	21.14	090
44021		A	Decompress small bowel	12.01	NA	NA	6.59	7.35	1.16	NA	NA	19.76	20.52	090
44025		A	Incision of large bowel	12.18	NA	NA	6.19	7.85	1.26	NA	NA	19.63	21.29	090
44050		A	Reduce bowel obstruction	11.40	NA	NA	6.01	7.83	1.28	NA	NA	18.69	20.51	090
44055		A	Correct malrotation of bowel	13.14	NA	NA	6.76	7.92	1.25	NA	NA	21.15	22.31	090
44100		A	Biopsy of bowel	2.01	NA	NA	0.88	1.35	0.10	NA	NA	2.99	3.46	000
44110		A	Excision of bowel lesion(s)	10.07	NA	NA	5.64	7.85	1.24	NA	NA	16.95	18.96	090
44111		A	Excision of bowel lesion(s)	12.19	NA	NA	7.00	9.62	1.67	NA	NA	20.86	23.48	090
44120		A	Removal of small intestine	14.50	NA	NA	7.31	9.53	1.58	NA	NA	23.39	25.61	090
44121		A	Removal of small intestine	4.45	NA	NA	1.96	2.38	0.42	NA	NA	6.83	7.25	ZZZ
44125		A	Removal of small intestine	14.96	NA	NA	7.52	10.63	1.78	NA	NA	24.26	27.37	090
44130		A	Bowel to bowel fusion	12.36	NA	NA	6.50	8.68	1.46	NA	NA	20.32	22.50	090
44139		A	Mobilization of colon	2.23	NA	NA	0.97	1.20	0.21	NA	NA	3.41	3.64	ZZZ
44140		A	Partial removal of colon	18.35	NA	NA	9.05	11.52	1.88	NA	NA	29.28	31.75	090
44141		A	Partial removal of colon	19.51	NA	NA	12.26	12.72	1.99	NA	NA	33.76	34.22	090
44143		A	Partial removal of colon	20.17	NA	NA	12.64	13.14	2.05	NA	NA	34.86	35.36	090
44144		A	Partial removal of colon	18.89	NA	NA	11.38	12.66	1.98	NA	NA	32.25	33.53	090
44145		A	Partial removal of colon	23.18	NA	NA	11.60	13.69	2.17	NA	NA	36.95	39.04	090
44146		A	Partial removal of colon	24.16	NA	NA	14.25	15.76	2.46	NA	NA	40.87	42.38	090
44147		A	Partial removal of colon	18.17	NA	NA	9.82	14.94	2.58	NA	NA	30.57	35.69	090
44150		A	Removal of colon	21.01	NA	NA	12.97	15.33	2.48	NA	NA	36.46	38.82	090
44151		A	Removal of colon/ileostomy	20.04	NA	NA	13.40	11.66	1.74	NA	NA	35.18	33.44	090
44152		A	Removal of colon/ileostomy	24.41	NA	NA	16.00	16.57	2.63	NA	NA	43.04	43.61	090
44153		A	Removal of colon/ileostomy	26.83	NA	NA	15.96	19.74	2.84	NA	NA	45.63	49.41	090
44155		A	Removal of colon	24.44	NA	NA	14.25	17.12	2.74	NA	NA	41.43	44.30	090
44156		A	Removal of colon/ileostomy	23.01	NA	NA	14.57	12.92	1.97	NA	NA	39.55	37.90	090
44160		A	Removal of colon	15.88	NA	NA	8.08	12.15	2.10	NA	NA	26.06	30.13	090
44300		A	Open bowel to skin	8.88	NA	NA	5.71	6.33	1.01	NA	NA	15.60	16.22	090
44310		A	Ileostomy/jejunostomy	11.70	NA	NA	8.35	8.50	1.30	NA	NA	21.35	21.50	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
44312		A	Revision of ileostomy	5.88	NA	NA	4.39	3.60	0.35	NA	NA	10.62	9.83	090
44314		A	Revision of ileostomy	11.04	NA	NA	8.68	7.61	0.95	NA	NA	20.67	19.60	090
44316		A	Devise bowel pouch	15.47	NA	NA	12.02	10.85	1.12	NA	NA	28.61	27.44	090
44320		A	Colostomy	12.94	NA	NA	9.79	8.52	1.23	NA	NA	23.96	22.69	090
44322		A	Colostomy with biopsies	11.98	NA	NA	9.82	9.84	1.47	NA	NA	23.27	23.29	090
44340		A	Revision of colostomy	5.66	NA	NA	4.07	2.38	0.27	NA	NA	10.00	8.31	090
44345		A	Revision of colostomy	11.32	NA	NA	7.28	5.76	0.81	NA	NA	19.41	17.89	090
44346		A	Revision of colostomy	12.46	NA	NA	7.79	7.36	1.08	NA	NA	21.33	20.90	090
44360		A	Small bowel endoscopy	2.92	NA	NA	1.20	2.91	0.25	NA	NA	4.37	6.08	000
44361		A	Small bowel endoscopy,biopsy	3.23	NA	NA	1.29	3.21	0.27	NA	NA	4.79	6.71	000
44363		A	Small bowel endoscopy	3.94	NA	NA	1.52	2.81	0.28	NA	NA	5.74	7.03	000
44364		A	Small bowel endoscopy	4.22	NA	NA	1.66	4.20	0.56	NA	NA	6.44	8.98	000
44365		A	Small bowel endoscopy	3.73	NA	NA	1.50	3.71	0.56	NA	NA	5.79	8.00	000
44366		A	Small bowel endoscopy	4.97	NA	NA	1.89	4.93	0.35	NA	NA	7.21	10.25	000
44369		A	Small bowel endoscopy	5.09	NA	NA	1.94	5.05	0.39	NA	NA	7.42	10.53	000
44372		A	Small bowel endoscopy	4.97	NA	NA	1.93	4.94	0.52	NA	NA	7.42	10.43	000
44373		A	Small bowel endoscopy	3.94	NA	NA	1.55	3.91	0.39	NA	NA	5.88	8.24	000
44376		A	Small bowel endoscopy	5.69	NA	NA	2.15	3.84	0.20	NA	NA	8.04	9.73	000
44377		A	Small bowel endoscopy	5.98	NA	NA	2.24	4.03	0.22	NA	NA	8.44	10.23	000
44378		A	Small bowel endoscopy	7.71	NA	NA	2.85	5.00	0.27	NA	NA	10.83	12.98	000
44380		A	Small bowel endoscopy	1.51	NA	NA	0.71	1.53	0.17	NA	NA	2.39	3.21	000
44382		A	Small bowel endoscopy	1.82	NA	NA	0.83	1.84	0.23	NA	NA	2.88	3.89	000
44385		A	Endoscopy of bowel pouch	1.82	3.13	2.68	0.92	1.86	0.27	5.22	4.77	3.01	3.95	000
44386		A	Endoscopy,bowel pouch,biopsy	2.12	4.46	2.37	1.03	1.51	0.12	6.70	4.61	3.27	3.75	000
44388		A	Colon endoscopy	2.82	4.16	3.98	1.33	2.85	0.39	7.37	7.19	4.54	6.06	000
44389		A	Colonoscopy with biopsy	3.13	4.59	4.40	1.45	3.16	0.35	8.07	7.88	4.93	6.64	000
44390		A	Colonoscopy for foreign body	3.83	3.62	3.04	1.69	2.56	0.22	7.67	7.09	5.74	6.61	000
44391		A	Colonoscopy for bleeding	4.32	3.01	5.04	1.83	4.32	0.41	7.74	9.77	6.56	9.05	000
44392		A	Colonoscopy & polypectomy	3.82	4.83	5.41	1.69	3.84	0.55	9.20	9.78	6.06	8.21	000
44393		A	Colonoscopy, lesion removal	4.84	4.73	5.59	2.04	4.84	0.55	10.12	10.98	7.43	10.23	000
44394		A	Colonoscopy w/snare	4.43	4.97	5.44	1.92	4.45	0.55	9.95	10.42	6.90	9.43	000
44500		A	Intro, gastrointestinal tube	0.49	NA	NA	0.25	0.36	0.02	NA	NA	0.76	0.87	000
44602		A	Suture, small intestine	10.61	NA	NA	5.88	7.70	1.27	NA	NA	17.76	19.58	090
44603		A	Suture, small intestine	14.00	NA	NA	7.44	9.26	1.53	NA	NA	22.97	24.79	090
44604		A	Suture, large intestine	14.28	NA	NA	7.56	8.30	1.31	NA	NA	23.15	23.89	090
44605		A	Repair of bowel lesion	15.37	NA	NA	8.19	9.68	1.58	NA	NA	25.14	26.63	090
44615		A	Intestinal stricturoplasty	14.19	NA	NA	7.54	7.37	1.23	NA	NA	22.96	22.79	090
44620		A	Repair bowel opening	10.87	NA	NA	5.85	6.32	0.99	NA	NA	17.71	18.18	090
44625		A	Repair bowel opening	13.41	NA	NA	6.89	9.52	1.59	NA	NA	21.89	24.52	090
44626		A	Repair bowel opening	22.59	NA	NA	10.31	11.83	1.88	NA	NA	34.78	36.30	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
44640		A	Repair bowel-skin fistula	14.83	NA	NA	8.14	7.36	1.06	NA	NA	24.03	23.25	090
44650		A	Repair bowel fistula	15.25	NA	NA	8.36	8.05	1.14	NA	NA	24.75	24.44	090
44660		A	Repair bowel-bladder fistula	14.63	NA	NA	7.99	8.79	0.95	NA	NA	23.57	24.37	090
44661		A	Repair bowel-bladder fistula	16.99	NA	NA	8.86	13.56	1.97	NA	NA	27.82	32.52	090
44680		A	Surgical revision, intestine	13.72	NA	NA	7.68	9.83	1.67	NA	NA	23.07	25.22	090
44700		A	Suspend bowel w/prosthesis	14.35	NA	NA	7.99	11.25	1.88	NA	NA	24.22	27.48	090
44799		C	Intestine surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
44800		A	Excision of bowel pouch	11.23	NA	NA	5.86	5.73	0.84	NA	NA	17.93	17.80	090
44820		A	Excision of mesentery lesion	10.31	NA	NA	5.57	6.11	0.95	NA	NA	16.83	17.37	090
44850		A	Repair of mesentery	9.57	NA	NA	5.45	5.92	0.92	NA	NA	15.94	16.41	090
44899		C	Bowel surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
44900		A	Drain, app abscess, open	8.82	NA	NA	5.44	4.84	0.69	NA	NA	14.95	14.35	090
44901		A	Drain, app abscess, perc	3.38	NA	NA	3.46	2.95	0.23	NA	NA	7.07	6.56	000
44950		A	Appendectomy	8.70	NA	NA	4.61	5.14	0.79	NA	NA	14.10	14.63	090
44955		A	Appendectomy add-on	1.53	NA	NA	0.67	1.53	0.47	NA	NA	2.67	3.53	ZZZ
44960		A	Appendectomy	10.74	NA	NA	5.95	6.28	0.97	NA	NA	17.66	17.99	090
45000		A	Drainage of pelvic abscess	4.52	NA	NA	3.52	2.18	0.19	NA	NA	8.23	6.89	090
45005		A	Drainage of rectal abscess	1.99	3.51	1.93	1.36	1.39	0.16	5.66	4.08	3.51	3.54	010
45020		A	Drainage of rectal abscess	4.72	NA	NA	3.37	2.97	0.40	NA	NA	8.49	8.09	090
45100		A	Biopsy of rectum	3.68	3.95	2.52	1.95	2.02	0.27	7.90	6.47	5.90	5.97	090
45108		A	Removal of anorectal lesion	4.76	5.06	3.43	2.65	2.83	0.41	10.23	8.60	7.82	8.00	090
45110		A	Removal of rectum	23.80	NA	NA	11.99	16.28	2.68	NA	NA	38.47	42.76	090
45111		A	Partial removal of rectum	16.48	NA	NA	9.18	11.87	1.95	NA	NA	27.61	30.30	090
45112		A	Removal of rectum	25.96	NA	NA	12.74	16.26	2.63	NA	NA	41.33	44.85	090
45113		A	Partial proctectomy	25.99	NA	NA	12.23	16.13	2.63	NA	NA	40.85	44.75	090
45114		A	Partial removal of rectum	23.22	NA	NA	11.81	15.48	2.53	NA	NA	37.56	41.23	090
45116		A	Partial removal of rectum	20.89	NA	NA	10.32	11.35	1.83	NA	NA	33.04	34.07	090
45119		A	Remove, rectum w/reservoir	26.21	NA	NA	12.83	16.28	2.63	NA	NA	41.67	45.12	090
45120		A	Removal of rectum	24.60	NA	NA	12.33	16.43	2.77	NA	NA	39.70	43.80	090
45121		A	Removal of rectum and colon	27.04	NA	NA	13.46	12.15	1.57	NA	NA	42.07	40.76	090
45123		A	Partial proctectomy	14.20	NA	NA	7.75	11.52	1.95	NA	NA	23.90	27.67	090
45126		A	Pelvic exenteration	38.39	13.90	13.90	13.63	13.63	4.81	57.10	57.10	56.83	56.83	090
45130		A	Excision of rectal prolapse	13.97	NA	NA	7.09	9.03	1.40	NA	NA	22.46	24.40	090
45135		A	Excision of rectal prolapse	16.39	NA	NA	8.42	15.09	2.74	NA	NA	27.55	34.22	090
45150		A	Excision of rectal stricture	5.67	4.49	3.88	2.88	3.47	0.49	10.65	10.04	9.04	9.63	090
45160		A	Excision of rectal lesion	13.02	NA	NA	6.77	7.77	1.22	NA	NA	21.01	22.01	090
45170		A	Excision of rectal lesion	9.77	NA	NA	4.95	5.00	0.75	NA	NA	15.47	15.52	090
45190		A	Destruction, rectal tumor	8.28	NA	NA	4.33	5.22	0.83	NA	NA	13.44	14.33	090
45300		A	Proctosigmoidoscopy	0.70	3.32	1.28	0.30	0.30	0.05	4.07	2.03	1.05	1.05	000
45303		A	Proctosigmoidoscopy	0.80	4.30	1.59	0.34	0.35	0.09	5.19	2.48	1.23	1.24	000

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
45305		A	Proctosigmoidoscopy; biopsy	1.01	3.21	1.49	0.41	0.45	0.11	4.33	2.61	1.53	1.57	000
45307		A	Proctosigmoidoscopy	1.71	5.02	2.29	0.65	1.20	0.14	6.87	4.14	2.50	3.05	000
45308		A	Proctosigmoidoscopy	1.51	2.51	1.55	0.60	0.62	0.16	4.18	3.22	2.27	2.29	000
45309		A	Proctosigmoidoscopy	2.01	3.63	1.83	0.77	0.66	0.16	5.80	4.00	2.94	2.83	000
45315		A	Proctosigmoidoscopy	2.54	4.34	2.05	0.97	1.21	0.14	7.02	4.73	3.65	3.89	000
45317		A	Proctosigmoidoscopy	2.73	2.99	1.78	1.03	1.29	0.15	5.87	4.66	3.91	4.17	000
45320		A	Proctosigmoidoscopy	2.88	3.23	2.33	1.08	1.79	0.27	6.38	5.48	4.23	4.94	000
45321		A	Proctosigmoidoscopy	2.12	NA	NA	0.82	1.41	0.21	NA	NA	3.15	3.74	000
45330		A	Sigmoidoscopy, diagnostic	0.96	4.27	2.07	0.38	0.53	0.09	5.32	3.12	1.43	1.58	000
45331		A	Sigmoidoscopy and biopsy	1.26	4.28	2.38	0.49	1.26	0.12	5.66	3.76	1.87	2.64	000
45332		A	Sigmoidoscopy	1.96	5.54	2.82	0.73	1.62	0.13	7.63	4.91	2.82	3.71	000
45333		A	Sigmoidoscopy & polypectomy	1.96	4.51	2.95	0.73	1.94	0.20	6.67	5.11	2.89	4.10	000
45334		A	Sigmoidoscopy for bleeding	2.99	NA	NA	1.08	2.48	0.18	NA	NA	4.25	5.65	000
45337		A	Sigmoidoscopy, decompression	2.36	NA	NA	0.88	2.34	0.30	NA	NA	3.54	5.00	000
45338		A	Sigmoidoscopy	2.57	5.07	3.09	0.95	2.06	0.20	7.84	5.86	3.72	4.83	000
45339		A	Sigmoidoscopy	3.14	4.17	3.68	1.14	2.93	0.24	7.55	7.06	4.52	6.31	000
45355		A	Surgical colonoscopy	3.52	NA	NA	1.73	1.39	0.08	NA	NA	5.33	4.99	000
45378		A	Diagnostic colonoscopy	3.70	4.99	4.61	1.69	3.74	0.31	9.00	8.62	5.70	7.75	000
45378	53	A	Diagnostic colonoscopy	0.96	0.79	1.20	0.62	1.02	0.09	1.84	2.25	1.67	2.07	000
45379		A	Colonoscopy	4.72	5.37	5.68	2.08	4.74	0.35	10.44	10.75	7.15	9.81	000
45380		A	Colonoscopy and biopsy	4.01	4.96	5.14	1.76	4.03	0.31	9.28	9.46	6.08	8.35	000
45382		A	Colonoscopy,control bleeding	5.73	5.78	6.22	2.33	5.36	0.32	11.83	12.27	8.38	11.41	000
45383		A	Colonoscopy, lesion removal	5.87	5.86	6.28	2.43	5.42	0.39	12.12	12.54	8.69	11.68	000
45384		A	Colonoscopy	4.70	5.31	5.54	2.04	4.72	0.45	10.46	10.69	7.19	9.87	000
45385		A	Colonoscopy, lesion removal	5.31	5.52	6.80	2.23	5.31	0.45	11.28	12.56	7.99	11.07	000
45500		A	Repair of rectum	7.29	NA	NA	4.11	5.87	0.95	NA	NA	12.35	14.11	090
45505		A	Repair of rectum	6.02	NA	NA	3.11	5.90	0.96	NA	NA	10.09	12.88	090
45520		A	Treatment of rectal prolapse	0.55	0.52	0.63	0.19	0.30	0.08	1.15	1.26	0.82	0.93	000
45540		A	Correct rectal prolapse	12.92	NA	NA	6.93	9.78	1.64	NA	NA	21.49	24.34	090
45541		A	Correct rectal prolapse	10.64	NA	NA	5.75	9.72	1.60	NA	NA	17.99	21.96	090
45550		A	Repair rectum;remove sigmoid	18.26	NA	NA	9.07	11.62	1.86	NA	NA	29.19	31.74	090
45560		A	Repair of rectocele	8.40	NA	NA	4.90	5.13	0.77	NA	NA	14.07	14.30	090
45562		A	Exploration/repair of rectum	12.21	NA	NA	6.17	8.13	1.24	NA	NA	19.62	21.58	090
45563		A	Exploration/repair of rectum	18.63	NA	NA	9.49	12.77	1.95	NA	NA	30.07	33.35	090
45800		A	Repair rectumbladder fistula	14.11	NA	NA	7.12	9.78	1.13	NA	NA	22.36	25.02	090
45805		A	Repair fistula; colostomy	16.50	NA	NA	8.71	12.21	1.87	NA	NA	27.08	30.58	090
45820		A	Repair rectourethral fistula	14.67	NA	NA	6.93	9.05	0.96	NA	NA	22.56	24.68	090
45825		A	Repair fistula; colostomy	18.87	NA	NA	9.42	10.39	1.30	NA	NA	27.59	28.56	090
45900		A	Reduction of rectal prolapse	1.83	NA	NA	1.04	0.73	0.09	NA	NA	2.96	2.65	010
45905		A	Dilation of anal sphincter	1.61	2.18	1.12	0.79	0.78	0.09	3.88	2.82	2.49	2.48	010

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45910		A	Dilation of rectal narrowing	1.96	2.74	1.39	0.94	0.94	0.10	4.80	3.45	3.00	3.00	010
45915		A	Remove rectal obstruction	2.20	3.22	1.44	1.09	0.91	0.07	5.49	3.71	3.36	3.18	010
45999		C	Rectum surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
46030		A	Removal of rectal marker	1.23	1.85	0.79	1.06	0.59	0.05	3.13	2.07	2.34	1.87	010
46040		A	Incision of rectal abscess	4.96	4.11	2.40	2.74	2.06	0.27	9.34	7.63	7.97	7.29	090
46045		A	Incision of rectal abscess	4.32	NA	NA	2.47	2.13	0.30	NA	NA	7.09	6.75	090
46050		A	Incision of anal abscess	1.19	2.53	1.12	1.06	0.51	0.09	3.81	2.40	2.34	1.79	010
46060		A	Incision of rectal abscess	5.69	NA	NA	3.24	5.17	0.88	NA	NA	9.81	11.74	090
46070		A	Incision of anal septum	2.71	NA	NA	2.41	1.72	0.26	NA	NA	5.38	4.69	090
46080		A	Incision of anal sphincter	2.49	2.40	2.33	1.52	2.11	0.34	5.23	5.16	4.35	4.94	010
46083		A	Incise external hemorrhoid	1.40	3.59	1.41	1.13	0.54	0.06	5.05	2.87	2.59	2.00	010
46200		A	Removal of anal fissure	3.42	2.77	3.37	2.09	3.20	0.52	6.71	7.31	6.03	7.14	090
46210		A	Removal of anal crypt	2.67	3.88	1.60	1.89	1.10	0.11	6.66	4.38	4.67	3.88	090
46211		A	Removal of anal crypts	4.25	4.42	2.65	2.85	2.26	0.30	8.97	7.20	7.40	6.81	090
46220		A	Removal of anal tab	1.56	1.09	0.78	0.58	0.66	0.09	2.74	2.43	2.23	2.31	010
46221		A	Ligation of hemorrhoid(s)	1.43	2.10	1.07	0.53	0.40	0.11	3.64	2.61	2.07	1.94	010
46230		A	Removal of anal tabs	2.57	3.33	1.51	1.57	0.73	0.09	5.99	4.17	4.23	3.39	010
46250		A	Hemorrhoidectomy	4.53	4.25	3.37	2.59	2.96	0.41	9.19	8.31	7.53	7.90	090
46255		A	Hemorrhoidectomy	5.36	4.51	4.97	2.93	4.57	0.66	10.53	10.99	8.95	10.59	090
46257		A	Remove hemorrhoids & fissure	6.28	NA	NA	3.24	5.07	0.84	NA	NA	10.36	12.19	090
46258		A	Remove hemorrhoids & fistula	6.67	NA	NA	3.45	5.64	0.95	NA	NA	11.07	13.26	090
46260		A	Hemorrhoidectomy	7.42	NA	NA	3.89	5.92	0.98	NA	NA	12.29	14.32	090
46261		A	Remove hemorrhoids & fissure	8.24	NA	NA	4.13	6.42	1.05	NA	NA	13.42	15.71	090
46262		A	Remove hemorrhoids & fistula	8.73	NA	NA	4.44	6.58	1.09	NA	NA	14.26	16.40	090
46270		A	Removal of anal fistula	3.72	3.75	2.46	2.25	2.09	0.29	7.76	6.47	6.26	6.10	090
46275		A	Removal of anal fistula	4.56	3.66	5.00	2.53	4.72	0.88	9.10	10.44	7.97	10.16	090
46280		A	Removal of anal fistula	5.98	NA	NA	3.35	5.79	0.97	NA	NA	10.30	12.74	090
46285		A	Removal of anal fistula	4.09	3.16	2.64	2.32	2.43	0.34	7.59	7.07	6.75	6.86	090
46288		A	Repair anal fistula	7.13	NA	NA	3.87	3.87	0.65	NA	NA	11.65	11.65	090
46320		A	Removal of hemorrhoid clot	1.61	2.87	1.29	1.19	0.58	0.09	4.57	2.99	2.89	2.28	010
46500		A	Injection into hemorrhoids	1.61	1.81	0.72	0.58	0.28	0.05	3.47	2.38	2.24	1.94	010
46600		A	Diagnostic anoscopy	0.50	0.66	0.39	0.14	0.15	0.02	1.18	0.91	0.66	0.67	000
46604		A	Anoscopy and dilation	1.31	0.82	0.51	0.48	0.28	0.05	2.18	1.87	1.84	1.64	000
46606		A	Anoscopy and biopsy	0.81	0.73	0.48	0.30	0.23	0.05	1.59	1.34	1.16	1.09	000
46608		A	Anoscopy;remove foreign body	1.51	1.56	1.26	0.46	0.99	0.09	3.16	2.86	2.06	2.59	000
46610		A	Anoscopy; remove lesion	1.32	1.27	1.01	0.49	0.81	0.12	2.71	2.45	1.93	2.25	000
46611		A	Anoscopy	1.81	1.63	1.10	0.66	0.51	0.12	3.56	3.03	2.59	2.44	000
46612		A	Anoscopy; remove lesions	2.34	1.78	1.58	0.85	1.35	0.16	4.28	4.08	3.35	3.85	000
46614		A	Anoscopy; control bleeding	2.01	1.38	1.61	0.70	0.81	0.20	3.59	3.82	2.91	3.02	000
46615		A	Anoscopy	2.68	1.67	1.68	0.99	0.88	0.20	4.55	4.56	3.87	3.76	000

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46700		A	Repair of anal stricture	7.25	NA	NA	3.78	5.94	0.97	NA	NA	12.00	14.16	090
46705		A	Repair of anal stricture	7.17	NA	NA	4.80	4.13	0.60	NA	NA	12.57	11.90	090
46715		A	Repair of anovaginal fistula	7.46	NA	NA	4.42	3.96	0.64	NA	NA	12.52	12.06	090
46716		A	Repair of anovaginal fistula	12.15	NA	NA	6.61	6.58	1.10	NA	NA	19.86	19.83	090
46730		A	Construction of absent anus	21.57	NA	NA	11.22	11.55	1.96	NA	NA	34.75	35.08	090
46735		A	Construction of absent anus	25.94	NA	NA	14.58	14.26	2.38	NA	NA	42.90	42.58	090
46740		A	Construction of absent anus	23.11	NA	NA	11.06	12.16	2.10	NA	NA	36.27	37.37	090
46742		A	Repair, imperforated anus	29.67	NA	NA	16.14	20.11	1.51	NA	NA	47.32	51.29	090
46744		A	Repair, cloacal anomaly	33.21	NA	NA	17.84	22.51	1.70	NA	NA	52.75	57.42	090
46746		A	Repair, cloacal anomaly	36.74	NA	NA	18.80	24.45	1.85	NA	NA	57.39	63.04	090
46748		A	Repair, cloacal anomaly	40.52	NA	NA	19.20	26.80	2.07	NA	NA	61.79	69.39	090
46750		A	Repair of anal sphincter	8.14	NA	NA	4.71	6.06	0.95	NA	NA	13.80	15.15	090
46751		A	Repair of anal sphincter	8.56	NA	NA	5.51	4.69	0.74	NA	NA	14.81	13.99	090
46753		A	Reconstruction of anus	6.58	NA	NA	3.32	4.81	0.80	NA	NA	10.70	12.19	090
46754		A	Removal of suture from anus	1.54	3.77	2.15	1.03	1.47	0.23	5.54	3.92	2.80	3.24	010
46760		A	Repair of anal sphincter	11.46	NA	NA	6.57	7.18	1.10	NA	NA	19.13	19.74	090
46761		A	Repair of anal sphincter	10.99	NA	NA	5.64	6.97	1.06	NA	NA	17.69	19.02	090
46762		A	Implant artificial sphincter	10.09	NA	NA	5.02	5.91	0.95	NA	NA	16.06	16.95	090
46900		A	Destruction, anal lesion(s)	1.91	2.55	0.95	0.77	0.35	0.05	4.51	2.91	2.73	2.31	010
46910		A	Destruction, anal lesion(s)	1.86	2.61	1.17	1.36	0.60	0.06	4.53	3.09	3.28	2.52	010
46916		A	Cryosurgery, anal lesion(s)	1.86	2.48	1.17	1.48	0.65	0.05	4.39	3.08	3.39	2.56	010
46917		A	Laser surgery,anal lesion(s)	1.86	3.32	2.41	1.40	1.15	0.24	5.42	4.51	3.50	3.25	010
46922		A	Excision of anal lesion(s)	1.86	2.88	1.76	1.38	1.39	0.18	4.92	3.80	3.42	3.43	010
46924		A	Destruction, anal lesion(s)	2.76	3.78	3.03	1.76	2.53	0.36	6.90	6.15	4.88	5.65	010
46934		A	Destruction of hemorrhoids	4.08	4.14	2.00	2.81	1.19	0.13	8.35	6.21	7.02	5.40	090
46935		A	Destruction of hemorrhoids	2.43	2.99	2.07	0.88	0.88	0.17	5.59	4.67	3.48	3.48	010
46936		A	Destruction of hemorrhoids	4.30	3.77	2.81	2.81	1.64	0.19	8.26	7.30	7.30	6.13	090
46937		A	Cryotherapy of rectal lesion	2.69	3.14	2.70	1.56	2.30	0.35	6.18	5.74	4.60	5.34	010
46938		A	Cryotherapy of rectal lesion	4.66	3.24	2.84	2.92	2.76	0.41	8.31	7.91	7.99	7.83	090
46940		A	Treatment of anal fissure	2.32	2.23	0.97	0.84	0.42	0.07	4.62	3.36	3.23	2.81	010
46942		A	Treatment of anal fissure	2.04	1.82	0.83	0.71	0.37	0.06	3.92	2.93	2.81	2.47	010
46945		A	Ligation of hemorrhoids	2.14	2.91	1.24	1.70	0.68	0.09	5.14	3.47	3.93	2.91	090
46946		A	Ligation of hemorrhoids	3.00	3.46	1.63	2.06	0.90	0.13	6.59	4.76	5.19	4.03	090
46999		C	Anus surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
47000		A	Needle biopsy of liver	1.90	7.16	2.93	1.15	1.43	0.10	9.16	4.93	3.15	3.43	000
47001		A	Needle biopsy, liver add-on	1.90	NA	NA	0.82	1.35	0.10	NA	NA	2.82	3.35	ZZZ
47010		A	Open drainage, liver lesion	10.28	NA	NA	7.89	7.47	0.88	NA	NA	19.05	18.63	090
47011		A	Percut drain, liver lesion	3.70	NA	NA	5.97	3.77	0.26	NA	NA	9.93	7.73	000
47015		A	Inject/aspirate liver cyst	9.70	NA	NA	6.35	7.09	0.88	NA	NA	16.93	17.67	090
47100		A	Wedge biopsy of liver	7.49	NA	NA	4.89	3.90	0.52	NA	NA	12.90	11.91	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
47120		A	Partial removal of liver	22.79	NA	NA	12.75	12.95	1.94	NA	NA	37.48	37.88	090
47122		A	Extensive removal of liver	35.39	NA	NA	18.93	19.04	2.81	NA	NA	57.13	57.24	090
47125		A	Partial removal of liver	31.58	NA	NA	16.71	18.37	2.82	NA	NA	51.11	52.77	090
47130		A	Partial removal of liver	34.25	NA	NA	17.67	20.04	3.04	NA	NA	54.96	57.33	090
47133		X	Removal of donor liver	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
47134		R	Partial removal, donor liver	39.15	NA	NA	17.41	21.03	3.73	NA	NA	60.29	63.91	XXX
47135		R	Transplantation of liver	81.52	NA	NA	43.66	55.26	6.64	NA	NA	131.82	143.42	090
47136		R	Transplantation of liver	68.60	NA	NA	46.15	38.81	6.09	NA	NA	120.84	113.50	090
47300		A	Surgery for liver lesion	9.68	NA	NA	8.27	7.81	1.24	NA	NA	17.19	18.73	090
47350		A	Repair liver wound	12.56	NA	NA	7.03	7.83	1.17	NA	NA	20.76	21.56	090
47360		A	Repair liver wound	17.28	NA	NA	10.08	11.42	1.71	NA	NA	29.07	30.41	090
47361		A	Repair liver wound	30.25	NA	NA	14.91	15.65	2.67	NA	NA	47.83	48.57	090
47362		A	Repair liver wound	11.88	NA	NA	7.82	6.22	0.95	NA	NA	20.65	19.05	090
47399		C	Liver surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
47400		A	Incision of liver duct	20.86	NA	NA	11.63	9.85	1.06	NA	NA	33.55	31.77	090
47420		A	Incision of bile duct	16.72	NA	NA	8.89	9.94	1.56	NA	NA	27.17	28.22	090
47425		A	Incision of bile duct	16.68	NA	NA	9.38	11.88	1.92	NA	NA	27.98	30.48	090
47460		A	Incise bile duct sphincter	15.17	NA	NA	8.50	14.77	1.42	NA	NA	25.09	31.36	090
47480		A	Incision of gallbladder	9.10	NA	NA	6.30	7.76	1.24	NA	NA	16.64	18.10	090
47490		A	Incision of gallbladder	7.23	NA	NA	7.09	4.68	0.30	NA	NA	14.62	12.21	090
47500		A	Injection for liver x-rays	1.96	NA	NA	0.53	1.36	0.11	NA	NA	2.60	3.43	000
47505		A	Injection for liver x-rays	0.76	13.85	4.26	0.21	0.74	0.11	14.72	5.13	1.08	1.61	000
47510		A	Insert catheter, bile duct	7.83	NA	NA	27.01	9.09	0.20	NA	NA	35.04	17.12	090
47511		A	Insert bile duct drain	10.50	NA	NA	28.03	9.34	0.20	NA	NA	38.73	20.04	090
47525		A	Change bile duct catheter	5.55	NA	NA	3.10	2.07	0.13	NA	NA	8.78	7.75	010
47530		A	Revise, reinsert bile tube	5.85	NA	NA	4.78	2.43	0.15	NA	NA	10.78	8.43	090
47550		A	Bile duct endoscopy add-on	3.02	NA	NA	1.23	1.58	0.27	NA	NA	4.52	4.87	ZZZ
47552		A	Biliary endoscopy, thru skin	6.04	NA	NA	2.22	1.67	0.16	NA	NA	8.42	7.87	000
47553		A	Biliary endoscopy, thru skin	6.35	NA	NA	2.00	3.59	0.49	NA	NA	8.84	10.43	000
47554		A	Biliary endoscopy, thru skin	9.06	NA	NA	3.27	4.02	0.52	NA	NA	12.85	13.60	000
47555		A	Biliary endoscopy, thru skin	7.56	NA	NA	2.30	2.71	0.23	NA	NA	10.09	10.50	000
47556		A	Biliary endoscopy, thru skin	8.56	NA	NA	2.57	2.78	0.23	NA	NA	11.36	11.57	000
47600		A	Removal of gallbladder	11.42	NA	NA	6.25	7.69	1.24	NA	NA	18.91	20.35	090
47605		A	Removal of gallbladder	12.36	NA	NA	6.65	8.29	1.37	NA	NA	20.38	22.02	090
47610		A	Removal of gallbladder	15.83	NA	NA	8.36	9.72	1.56	NA	NA	25.75	27.11	090
47612		A	Removal of gallbladder	15.80	NA	NA	8.46	13.70	2.39	NA	NA	26.65	31.89	090
47620		A	Removal of gallbladder	17.36	NA	NA	9.21	11.45	1.85	NA	NA	28.42	30.66	090
47630		A	Remove bile duct stone	9.11	NA	NA	2.88	3.77	0.31	NA	NA	12.30	13.19	090
47700		A	Exploration of bile ducts	14.93	NA	NA	8.53	8.34	1.24	NA	NA	24.70	24.51	090
47701		A	Bile duct revision	27.81	NA	NA	16.73	10.87	1.49	NA	NA	46.03	40.17	090

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CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
47711		A	Excision of bile duct tumor	19.37	NA	NA	10.47	12.44	1.92	NA	NA	31.76	33.73	090
47712		A	Excision of bile duct tumor	25.44	NA	NA	13.53	13.20	1.92	NA	NA	40.89	40.56	090
47715		A	Excision of bile duct cyst	15.81	NA	NA	8.89	8.91	1.34	NA	NA	26.04	26.06	090
47716		A	Fusion of bile duct cyst	13.83	NA	NA	8.10	7.37	1.20	NA	NA	23.13	22.40	090
47720		A	Fuse gallbladder & bowel	13.38	NA	NA	7.69	9.38	1.51	NA	NA	22.58	24.27	090
47721		A	Fuse upper gi structures	16.08	NA	NA	8.88	11.51	1.93	NA	NA	26.89	29.52	090
47740		A	Fuse gallbladder & bowel	15.54	NA	NA	8.67	10.48	1.67	NA	NA	25.88	27.69	090
47741		A	Fuse gallbladder & bowel	17.95	NA	NA	9.83	14.14	2.36	NA	NA	30.14	34.45	090
47760		A	Fuse bile ducts and bowel	21.74	NA	NA	11.04	12.21	1.98	NA	NA	34.76	35.93	090
47765		A	Fuse liver ducts & bowel	20.93	NA	NA	11.94	14.88	2.32	NA	NA	35.19	38.13	090
47780		A	Fuse bile ducts and bowel	22.29	NA	NA	11.57	13.53	2.14	NA	NA	36.00	37.96	090
47785		A	Fuse bile ducts and bowel	26.23	NA	NA	14.21	14.19	2.14	NA	NA	42.58	42.56	090
47800		A	Reconstruction of bile ducts	19.60	NA	NA	10.44	13.37	1.90	NA	NA	31.94	34.87	090
47801		A	Placement, bile duct support	12.76	NA	NA	8.19	6.51	0.63	NA	NA	21.58	19.90	090
47802		A	Fuse liver duct & intestine	18.13	NA	NA	10.75	11.05	1.37	NA	NA	30.25	30.55	090
47900		A	Suture bile duct injury	16.74	NA	NA	9.00	13.01	1.90	NA	NA	27.64	31.65	090
47999		C	Bile tract surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
48000		A	Drainage of abdomen	14.91	NA	NA	9.56	8.13	1.10	NA	NA	25.57	24.14	090
48001		A	Placement of drain, pancreas	18.83	NA	NA	10.89	9.34	1.48	NA	NA	31.20	29.65	090
48005		A	Resect/debride pancreas	22.40	NA	NA	11.80	10.43	1.67	NA	NA	35.87	34.50	090
48020		A	Removal of pancreatic stone	14.22	NA	NA	8.12	7.55	1.23	NA	NA	23.57	23.00	090
48100		A	Biopsy of pancreas	11.08	NA	NA	6.33	5.01	0.62	NA	NA	18.03	16.71	090
48102		A	Needle biopsy, pancreas	4.68	6.69	3.64	2.68	2.64	0.20	11.57	8.52	7.56	7.52	010
48120		A	Removal of pancreas lesion	14.36	NA	NA	7.63	9.82	1.62	NA	NA	23.61	25.80	090
48140		A	Partial removal of pancreas	20.78	NA	NA	10.53	13.45	2.21	NA	NA	33.52	36.44	090
48145		A	Partial removal of pancreas	21.76	NA	NA	11.17	15.58	2.47	NA	NA	35.40	39.81	090
48146		A	Pancreatectomy	23.91	NA	NA	13.50	16.80	1.50	NA	NA	38.91	42.21	090
48148		A	Removal of pancreatic duct	15.71	NA	NA	8.65	8.86	1.31	NA	NA	25.67	25.88	090
48150		A	Partial removal of pancreas	43.48	NA	NA	22.33	23.93	3.72	NA	NA	69.53	71.13	090
48152		A	Pancreatectomy	39.63	NA	NA	22.14	23.88	3.72	NA	NA	65.49	67.23	090
48153		A	Pancreatectomy	43.38	NA	NA	22.20	23.90	3.72	NA	NA	69.30	71.00	090
48154		A	Pancreatectomy	39.95	NA	NA	20.87	23.56	3.72	NA	NA	64.54	67.23	090
48155		A	Removal of pancreas	22.32	NA	NA	14.07	20.12	3.33	NA	NA	39.72	45.77	090
48160		N	Pancreas removal, transplant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
48180		A	Fuse pancreas and bowel	22.39	NA	NA	11.53	13.14	2.06	NA	NA	35.98	37.59	090
48400		A	Injection, intraop add-on	1.95	NA	NA	0.70	1.02	0.19	NA	NA	2.84	3.16	ZZZ
48500		A	Surgery of pancreas cyst	13.84	NA	NA	7.66	8.86	1.30	NA	NA	22.80	24.00	090
48510		A	Drain pancreatic pseudocyst	12.96	NA	NA	7.56	8.03	1.13	NA	NA	21.65	22.12	090
48511		A	Drain pancreatic pseudocyst	4.00	NA	NA	4.68	3.64	0.27	NA	NA	8.95	7.91	000
48520		A	Fuse pancreas cyst and bowel	14.12	NA	NA	7.54	11.08	1.90	NA	NA	23.56	27.10	090

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48540		A	Fuse pancreas cyst and bowel	17.86	NA	NA	9.01	12.56	2.07	NA	NA	28.94	32.49	090
48545		A	Pancreatorrhaphy	16.47	NA	NA	8.90	8.46	1.40	NA	NA	26.77	26.33	090
48547		A	Duodenal exclusion	23.40	NA	NA	11.51	11.89	2.02	NA	NA	36.93	37.31	090
48550		N	Donor pancreatectomy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
48554		N	Transplantallograft pancreas	+34.17	NA	NA	17.42	18.90	3.25	NA	NA	54.84	56.32	XXX
48556		A	Removal, allograft pancreas	15.71	NA	NA	9.52	8.29	1.32	NA	NA	26.55	25.32	090
48999		C	Pancreas surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
49000		A	Exploration of abdomen	11.68	NA	NA	6.00	7.03	1.10	NA	NA	18.78	19.81	090
49002		A	Reopening of abdomen	10.49	NA	NA	6.14	6.46	0.95	NA	NA	17.58	17.90	090
49010		A	Exploration behind abdomen	12.28	NA	NA	6.66	7.32	1.02	NA	NA	19.96	20.62	090
49020		A	Drain abdominal abscess	16.79	NA	NA	9.54	6.31	0.71	NA	NA	27.04	23.81	090
49021		A	Drain abdominal abscess	3.38	NA	NA	5.58	4.43	0.71	NA	NA	9.67	8.52	000
49040		A	Open drainage abdom abscess	9.94	NA	NA	7.39	7.17	0.99	NA	NA	18.32	18.10	090
49041		A	Percut drain abdom abscess	4.00	NA	NA	5.50	3.84	0.27	NA	NA	9.77	8.11	000
49060		A	Open drain retroper abscess	11.66	NA	NA	7.89	6.48	0.79	NA	NA	20.34	18.93	090
49061		A	Percutdrain retroper abscess	3.70	NA	NA	5.53	3.66	0.26	NA	NA	9.49	7.62	000
49062		A	Drain to peritoneal cavity	11.36	NA	NA	6.90	8.30	0.62	NA	NA	18.88	20.28	090
49080		A	Puncture, peritoneal cavity	1.35	2.96	1.45	0.66	0.87	0.06	4.37	2.86	2.07	2.28	000
49081		A	Removal of abdominal fluid	1.26	3.15	1.40	0.62	0.76	0.05	4.46	2.71	1.93	2.07	000
49085		A	Remove abdomen foreign body	8.93	NA	NA	5.22	4.12	0.52	NA	NA	14.67	13.57	090
49180		A	Biopsy, abdominal mass	1.73	5.68	2.91	1.36	1.83	0.16	7.57	4.80	3.25	3.72	000
49200		A	Removal of abdominal lesion	10.25	NA	NA	6.25	8.38	1.33	NA	NA	17.83	19.96	090
49201		A	Removal of abdominal lesion	14.84	NA	NA	9.04	12.11	1.96	NA	NA	25.84	28.91	090
49215		A	Excise sacral spine tumor	22.36	NA	NA	11.04	9.68	1.24	NA	NA	34.64	33.28	090
49220		A	Multiple surgery, abdomen	14.88	NA	NA	8.02	12.02	1.98	NA	NA	24.88	28.88	090
49250		A	Excision of umbilicus	8.35	NA	NA	4.65	4.85	0.75	NA	NA	13.75	13.95	090
49255		A	Removal of omentum	11.14	NA	NA	6.64	5.86	0.90	NA	NA	18.68	17.90	090
49400		A	Air injection into abdomen	1.88	NA	NA	0.83	1.12	0.13	NA	NA	2.84	3.13	000
49420		A	Insert abdominal drain	2.22	NA	NA	1.23	1.59	0.16	NA	NA	3.61	3.97	000
49421		A	Insert abdominal drain	5.54	NA	NA	3.72	4.30	0.63	NA	NA	9.89	10.47	090
49422		A	Remove perm cannula/catheter	6.25	NA	NA	3.06	4.13	0.63	NA	NA	9.94	11.01	010
49423		A	Exchange drainage cath	1.46	NA	NA	0.79	1.09	0.10	NA	NA	2.35	2.65	000
49424		A	Assess cyst, contrast inj	0.76	NA	NA	0.52	0.60	0.05	NA	NA	1.33	1.41	000
49425		A	Insert abdomen-venous drain	11.37	NA	NA	6.27	8.47	1.39	NA	NA	19.03	21.23	090
49426		A	Revise abdomen-venous shunt	9.63	NA	NA	5.64	5.80	0.84	NA	NA	16.11	16.27	090
49427		A	Injection, abdominal shunt	0.89	NA	NA	0.57	0.54	0.02	NA	NA	1.48	1.45	000
49428		A	Ligation of shunt	2.38	NA	NA	1.47	1.22	0.19	NA	NA	4.04	3.79	010
49429		A	Removal of shunt	7.40	NA	NA	4.21	3.75	0.60	NA	NA	12.21	11.75	010
49495		A	Repair inguinal hernia, init	5.89	NA	NA	3.20	4.85	0.74	NA	NA	9.83	11.48	090
49496		A	Repair inguinal hernia, init	8.79	NA	NA	5.66	5.52	0.84	NA	NA	15.29	15.15	090

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49500		A	Repair inguinal hernia	4.68	NA	NA	2.81	4.75	0.74	NA	NA	8.23	10.17	090
49501		A	Repair inguinal hernia, init	7.58	NA	NA	3.93	5.09	0.84	NA	NA	12.35	13.51	090
49505		A	Repair inguinal hernia	6.49	3.43	4.53	3.46	4.53	0.74	10.66	11.76	10.69	11.76	090
49507		A	Repair, inguinal hernia	8.17	NA	NA	5.09	5.38	0.84	NA	NA	14.10	14.39	090
49520		A	Rerepair inguinal hernia	8.22	NA	NA	4.59	5.40	0.87	NA	NA	13.68	14.49	090
49521		A	Repair inguinal hernia, rec	10.22	NA	NA	5.26	5.42	0.84	NA	NA	16.32	16.48	090
49525		A	Repair inguinal hernia	7.32	NA	NA	4.10	5.54	0.91	NA	NA	12.33	13.77	090
49540		A	Repair lumbar hernia	8.87	NA	NA	4.80	5.43	0.88	NA	NA	14.55	15.18	090
49550		A	Repair femoral hernia	7.37	NA	NA	3.81	4.70	0.76	NA	NA	11.94	12.83	090
49553		A	Repair femoral hernia, init	8.06	NA	NA	4.47	4.87	0.76	NA	NA	13.29	13.69	090
49555		A	Repair femoral hernia	7.71	NA	NA	4.44	6.05	0.99	NA	NA	13.14	14.75	090
49557		A	Repair femoral hernia, recur	9.52	NA	NA	4.99	6.19	0.99	NA	NA	15.50	16.70	090
49560		A	Repair abdominal hernia	9.88	NA	NA	5.22	5.90	0.93	NA	NA	16.03	16.71	090
49561		A	Repair incisional hernia	12.17	NA	NA	6.07	6.12	0.93	NA	NA	19.17	19.22	090
49565		A	Rerepair abdominal hernia	9.88	NA	NA	5.53	6.60	1.06	NA	NA	16.47	17.54	090
49566		A	Repair incisional hernia	12.30	NA	NA	6.17	6.76	1.06	NA	NA	19.53	20.12	090
49568		A	Hernia repair w/mesh	4.89	NA	NA	2.04	2.60	0.46	NA	NA	7.39	7.95	ZZZ
49570		A	Repair epigastric hernia	4.86	NA	NA	2.91	4.29	0.71	NA	NA	8.48	9.86	090
49572		A	Repair, epigastric hernia	5.75	NA	NA	3.65	5.47	0.92	NA	NA	10.32	12.14	090
49580		A	Repair umbilical hernia	3.51	NA	NA	2.44	3.75	0.74	NA	NA	6.69	8.00	090
49582		A	Repair umbilical hernia	5.68	NA	NA	3.85	4.71	0.74	NA	NA	10.27	11.13	090
49585		A	Repair umbilical hernia	5.32	NA	NA	3.33	4.43	0.71	NA	NA	9.36	10.46	090
49587		A	Repair umbilical hernia	6.46	NA	NA	3.82	4.55	0.71	NA	NA	10.99	11.72	090
49590		A	Repair abdominal hernia	7.29	NA	NA	4.05	5.60	0.95	NA	NA	12.29	13.84	090
49600		A	Repair umbilical lesion	10.35	NA	NA	5.43	5.64	0.60	NA	NA	16.38	16.59	090
49605		A	Repair umbilical lesion	22.66	NA	NA	11.51	9.85	1.38	NA	NA	35.55	33.89	090
49606		A	Repair umbilical lesion	18.60	NA	NA	10.33	9.35	0.75	NA	NA	29.68	28.70	090
49610		A	Repair umbilical lesion	10.50	NA	NA	7.86	6.43	0.99	NA	NA	19.35	17.92	090
49611		A	Repair umbilical lesion	8.92	NA	NA	7.99	9.33	0.45	NA	NA	17.36	18.70	090
49900		A	Repair of abdominal wall	12.28	NA	NA	6.82	4.68	0.59	NA	NA	19.69	17.55	090
49905		A	Omental flap	6.55	NA	NA	3.03	3.54	0.63	NA	NA	10.21	10.72	ZZZ
49906		C	Free omental flap, microvasc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	090
49999		C	Abdomen surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
50010		A	Exploration of kidney	10.98	NA	NA	6.17	9.31	0.88	NA	NA	18.03	21.17	090
50020		A	Open drain renal abscess	14.66	NA	NA	10.41	8.14	0.66	NA	NA	25.73	23.46	090
50021		A	Percut drain renal abscess	3.38	NA	NA	7.22	3.89	0.23	NA	NA	10.83	7.50	000
50040		A	Drainage of kidney	14.94	NA	NA	9.67	8.26	0.49	NA	NA	25.10	23.69	090
50045		A	Exploration of kidney	15.46	NA	NA	7.66	9.90	0.70	NA	NA	23.82	26.06	090
50060		A	Removal of kidney stone	19.30	NA	NA	8.94	12.20	0.95	NA	NA	29.19	32.45	090
50065		A	Incision of kidney	20.79	NA	NA	9.90	13.82	1.06	NA	NA	31.75	35.67	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
50070		A	Incision of kidney	20.32	NA	NA	9.42	12.83	1.06	NA	NA	30.80	34.21	090
50075		A	Removal of kidney stone	25.34	NA	NA	11.33	16.57	1.27	NA	NA	37.94	43.18	090
50080		A	Removal of kidney stone	14.71	NA	NA	9.38	12.28	0.90	NA	NA	24.99	27.89	090
50081		A	Removal of kidney stone	21.80	NA	NA	11.72	15.11	1.13	NA	NA	34.65	38.04	090
50100		A	Revise kidney blood vessels	16.09	NA	NA	9.14	10.70	1.06	NA	NA	26.29	27.85	090
50120		A	Exploration of kidney	15.91	NA	NA	7.89	10.85	0.97	NA	NA	24.77	27.73	090
50125		A	Explore and drain kidney	16.52	NA	NA	8.05	10.92	0.83	NA	NA	25.40	28.27	090
50130		A	Removal of kidney stone	17.29	NA	NA	8.31	12.50	0.99	NA	NA	26.59	30.78	090
50135		A	Exploration of kidney	19.18	NA	NA	9.07	18.14	1.28	NA	NA	29.53	36.60	090
50200		A	Biopsy of kidney	2.63	NA	NA	1.24	2.43	0.17	NA	NA	4.04	5.23	000
50205		A	Biopsy of kidney	11.31	NA	NA	5.98	6.09	0.54	NA	NA	17.83	17.94	090
50220		A	Removal of kidney	17.15	NA	NA	8.34	12.92	1.12	NA	NA	26.61	31.19	090
50225		A	Removal of kidney	20.23	NA	NA	9.35	15.79	1.33	NA	NA	30.91	37.35	090
50230		A	Removal of kidney	22.07	NA	NA	9.96	17.47	1.44	NA	NA	33.47	40.98	090
50234		A	Removal of kidney & ureter	22.40	NA	NA	10.09	16.08	1.29	NA	NA	33.78	39.77	090
50236		A	Removal of kidney & ureter	24.86	NA	NA	12.73	17.62	1.36	NA	NA	38.95	43.84	090
50240		A	Partial removal of kidney	22.00	NA	NA	11.77	15.96	1.33	NA	NA	35.10	39.29	090
50280		A	Removal of kidney lesion	15.67	NA	NA	7.82	10.80	0.91	NA	NA	24.40	27.38	090
50290		A	Removal of kidney lesion	14.73	NA	NA	7.35	9.06	0.93	NA	NA	23.01	24.72	090
50300		X	Removal of donor kidney	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
50320		A	Removal of donor kidney	22.21	NA	NA	9.48	15.80	1.88	NA	NA	33.57	39.89	090
50340		A	Removal of kidney	12.15	NA	NA	8.31	12.24	1.75	NA	NA	22.21	26.14	090
50360		A	Transplantation of kidney	31.53	NA	NA	17.38	24.24	3.32	NA	NA	52.23	59.09	090
50365		A	Transplantation of kidney	36.81	NA	NA	21.04	30.26	3.04	NA	NA	60.89	70.11	090
50370		A	Remove transplanted kidney	13.72	NA	NA	8.35	11.10	1.50	NA	NA	23.57	26.32	090
50380		A	Reimplantation of kidney	20.76	NA	NA	12.20	11.29	1.34	NA	NA	34.30	33.39	090
50390		A	Drainage of kidney lesion	1.96	NA	NA	1.15	1.66	0.12	NA	NA	3.23	3.74	000
50392		A	Insert kidney drain	3.38	NA	NA	1.53	2.30	0.16	NA	NA	5.07	5.84	000
50393		A	Insert ureteral tube	4.16	NA	NA	1.73	2.89	0.20	NA	NA	6.09	7.25	000
50394		A	Injection for kidney x-ray	0.76	14.48	4.07	0.21	0.50	0.04	15.28	4.87	1.01	1.30	000
50395		A	Create passage to kidney	3.38	NA	NA	1.52	3.09	0.23	NA	NA	5.13	6.70	000
50396		A	Measure kidney pressure	2.09	NA	NA	0.67	0.57	0.04	NA	NA	2.80	2.70	000
50398		A	Change kidney tube	1.46	0.80	0.64	1.06	0.70	0.04	2.30	2.14	2.56	2.20	000
50400		A	Revision of kidney/ureter	19.50	NA	NA	9.05	13.38	1.06	NA	NA	29.61	33.94	090
50405		A	Revision of kidney/ureter	23.93	NA	NA	12.03	17.08	1.36	NA	NA	37.32	42.37	090
50500		A	Repair of kidney wound	19.57	NA	NA	10.21	12.69	1.28	NA	NA	31.06	33.54	090
50520		A	Close kidney-skin fistula	17.23	NA	NA	9.60	10.82	1.17	NA	NA	28.00	29.22	090
50525		A	Repair renal-abdomen fistula	22.27	NA	NA	11.38	13.11	1.56	NA	NA	35.21	36.94	090
50526		A	Repair renal-abdomen fistula	24.02	NA	NA	12.20	9.07	1.82	NA	NA	38.04	34.91	090
50540		A	Revision of horseshoe kidney	19.93	NA	NA	9.24	13.22	1.20	NA	NA	30.37	34.35	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
50551		A	Kidney endoscopy	5.60	4.19	2.83	2.14	2.32	0.16	9.95	8.59	7.90	8.08	000
50553		A	Kidney endoscopy	5.99	16.08	5.37	2.28	1.92	0.13	22.20	11.49	8.40	8.04	000
50555		A	Kidney endoscopy & biopsy	6.53	67.72	20.76	2.44	4.44	0.35	74.60	27.64	9.32	11.32	000
50557		A	Kidney endoscopy & treatment	6.62	10.19	6.38	2.46	4.45	0.38	17.19	13.38	9.46	11.45	000
50559		A	Renal endoscopy; radiotracer	6.78	NA	NA	2.55	1.73	0.11	NA	NA	9.44	8.62	000
50561		A	Kidney endoscopy & treatment	7.59	13.85	7.63	2.77	4.86	0.38	21.82	15.60	10.74	12.83	000
50570		A	Kidney endoscopy	9.54	NA	NA	3.44	2.04	0.11	NA	NA	13.09	11.69	000
50572		A	Kidney endoscopy	10.35	NA	NA	3.65	6.82	0.59	NA	NA	14.59	17.76	000
50574		A	Kidney endoscopy & biopsy	11.02	NA	NA	3.94	6.75	0.50	NA	NA	15.46	18.27	000
50575		A	Kidney endoscopy	13.98	NA	NA	4.92	9.32	0.76	NA	NA	19.66	24.06	000
50576		A	Kidney endoscopy & treatment	10.99	NA	NA	3.97	8.07	0.60	NA	NA	15.56	19.66	000
50578		A	Renal endoscopy; radiotracer	11.35	NA	NA	4.11	4.11	0.93	NA	NA	16.39	16.39	000
50580		A	Kidney endoscopy & treatment	11.86	NA	NA	4.19	3.97	0.27	NA	NA	16.32	16.10	000
50590		A	Fragmenting of kidney stone	9.09	5.08	9.41	4.67	9.31	0.76	14.93	19.26	14.52	19.16	090
50600		A	Exploration of ureter	15.84	NA	NA	7.83	9.85	0.79	NA	NA	24.46	26.48	090
50605		A	Insert ureteral support	15.46	NA	NA	7.72	6.90	0.47	NA	NA	23.65	22.83	090
50610		A	Removal of ureter stone	15.92	NA	NA	8.02	11.58	0.92	NA	NA	24.86	28.42	090
50620		A	Removal of ureter stone	15.16	NA	NA	7.53	11.24	0.91	NA	NA	23.60	27.31	090
50630		A	Removal of ureter stone	14.94	NA	NA	7.50	12.22	0.98	NA	NA	23.42	28.14	090
50650		A	Removal of ureter	17.41	NA	NA	8.58	11.97	0.95	NA	NA	26.94	30.33	090
50660		A	Removal of ureter	19.55	NA	NA	9.32	12.49	1.20	NA	NA	30.07	33.24	090
50684		A	Injection for ureter x-ray	0.76	14.98	4.14	0.24	0.46	0.04	15.78	4.94	1.04	1.26	000
50686		A	Measure ureter pressure	1.51	4.20	1.35	0.53	0.43	0.03	5.74	2.89	2.07	1.97	000
50688		A	Change of ureter tube	1.17	NA	NA	1.74	0.75	0.03	NA	NA	2.94	1.95	010
50690		A	Injection for ureter x-ray	1.16	15.63	4.17	0.33	0.35	0.02	16.81	5.35	1.51	1.53	000
50700		A	Revision of ureter	15.21	NA	NA	7.75	12.17	1.01	NA	NA	23.97	28.39	090
50715		A	Release of ureter	18.90	NA	NA	10.36	11.74	1.17	NA	NA	30.43	31.81	090
50722		A	Release of ureter	16.35	NA	NA	8.76	10.59	1.54	NA	NA	26.65	28.48	090
50725		A	Release/revise ureter	18.49	NA	NA	9.72	12.24	1.37	NA	NA	29.58	32.10	090
50727		A	Revise ureter	8.18	NA	NA	5.59	5.77	0.40	NA	NA	14.17	14.35	090
50728		A	Revise ureter	12.02	NA	NA	6.95	8.17	0.60	NA	NA	19.57	20.79	090
50740		A	Fusion of ureter & kidney	18.42	NA	NA	8.66	12.77	1.47	NA	NA	28.55	32.66	090
50750		A	Fusion of ureter & kidney	19.51	NA	NA	9.97	13.92	0.99	NA	NA	30.47	34.42	090
50760		A	Fusion of ureters	18.42	NA	NA	8.93	13.20	1.16	NA	NA	28.51	32.78	090
50770		A	Splicing of ureters	19.51	NA	NA	9.43	14.76	1.20	NA	NA	30.14	35.47	090
50780		A	Reimplant ureter in bladder	18.36	NA	NA	8.89	13.44	1.14	NA	NA	28.39	32.94	090
50782		A	Reimplant ureter in bladder	19.54	NA	NA	9.75	13.65	1.14	NA	NA	30.43	34.33	090
50783		A	Reimplant ureter in bladder	20.55	NA	NA	9.83	13.67	1.14	NA	NA	31.52	35.36	090
50785		A	Reimplant ureter in bladder	20.52	NA	NA	9.68	14.97	1.41	NA	NA	31.61	36.90	090
50800		A	Implant ureter in bowel	14.52	NA	NA	8.40	14.04	1.18	NA	NA	24.10	29.74	090

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50810		A	Fusion of ureter & bowel	20.05	NA	NA	10.84	12.94	1.37	NA	NA	32.26	34.36	090
50815		A	Urine shunt to bowel	19.93	NA	NA	10.35	18.67	2.15	NA	NA	32.43	40.75	090
50820		A	Construct bowel bladder	21.89	NA	NA	10.89	18.17	1.96	NA	NA	34.74	42.02	090
50825		A	Construct bowel bladder	28.18	NA	NA	13.42	28.21	2.61	NA	NA	44.21	59.00	090
50830		A	Revise urine flow	31.28	NA	NA	14.44	20.64	1.78	NA	NA	47.50	53.70	090
50840		A	Replace ureter by bowel	20.00	NA	NA	10.28	13.42	1.06	NA	NA	31.34	34.48	090
50845		A	Appendico-vesicostomy	20.89	NA	NA	10.57	13.93	1.06	NA	NA	32.52	35.88	090
50860		A	Transplant ureter to skin	15.36	NA	NA	7.83	10.85	0.91	NA	NA	24.10	27.12	090
50900		A	Repair of ureter	13.62	NA	NA	7.07	9.89	0.90	NA	NA	21.59	24.41	090
50920		A	Closure ureter/skin fistula	14.33	NA	NA	7.29	9.57	0.77	NA	NA	22.39	24.67	090
50930		A	Closure ureter/bowel fistula	18.72	NA	NA	8.83	12.39	0.95	NA	NA	28.50	32.06	090
50940		A	Release of ureter	14.51	NA	NA	7.38	9.90	0.74	NA	NA	22.63	25.15	090
50951		A	Endoscopy of ureter	5.84	4.47	2.48	2.21	1.91	0.13	10.44	8.45	8.18	7.88	000
50953		A	Endoscopy of ureter	6.24	15.75	5.29	2.36	1.94	0.13	22.12	11.66	8.73	8.31	000
50955		A	Ureter endoscopy & biopsy	6.75	13.99	5.58	2.51	2.71	0.20	20.94	12.53	9.46	9.66	000
50957		A	Ureter endoscopy & treatment	6.79	8.12	4.06	2.52	2.66	0.20	15.11	11.05	9.51	9.65	000
50959		A	Ureter endoscopy & tracer	4.40	NA	NA	1.78	3.20	0.23	NA	NA	6.41	7.83	000
50961		A	Ureter endoscopy & treatment	6.05	21.03	7.39	2.28	2.70	0.20	27.28	13.64	8.53	8.95	000
50970		A	Ureter endoscopy	7.14	NA	NA	2.63	4.87	0.41	NA	NA	10.18	12.42	000
50972		A	Ureter endoscopy & catheter	6.89	NA	NA	2.58	1.90	0.13	NA	NA	9.60	8.92	000
50974		A	Ureter endoscopy & biopsy	9.17	NA	NA	3.31	6.54	0.51	NA	NA	12.99	16.22	000
50976		A	Ureter endoscopy & treatment	9.04	NA	NA	3.27	6.04	0.49	NA	NA	12.80	15.57	000
50978		A	Ureter endoscopy & tracer	5.10	NA	NA	2.26	3.87	0.38	NA	NA	7.74	9.35	000
50980		A	Ureter endoscopy & treatment	6.85	NA	NA	2.55	3.19	0.23	NA	NA	9.63	10.27	000
51000		A	Drainage of bladder	0.78	1.51	0.77	0.59	0.54	0.04	2.33	1.59	1.41	1.36	000
51005		A	Drainage of bladder	1.02	2.50	1.00	0.66	0.54	0.03	3.55	2.05	1.71	1.59	000
51010		A	Drainage of bladder	3.53	6.04	2.30	1.98	1.28	0.09	9.66	5.92	5.60	4.90	010
51020		A	Incise & treat bladder	6.71	NA	NA	4.80	6.77	0.56	NA	NA	12.07	14.04	090
51030		A	Incise & treat bladder	6.77	NA	NA	4.75	4.88	0.34	NA	NA	11.86	11.99	090
51040		A	Incise & drain bladder	4.40	NA	NA	3.67	4.86	0.59	NA	NA	8.66	9.85	090
51045		A	Incise bladder, drain ureter	6.77	NA	NA	4.82	5.24	0.39	NA	NA	11.98	12.40	090
51050		A	Removal of bladder stone	6.92	NA	NA	4.49	6.92	0.55	NA	NA	11.96	14.39	090
51060		A	Removal of ureter stone	8.85	NA	NA	5.42	9.28	0.93	NA	NA	15.20	19.06	090
51065		A	Removal of ureter stone	8.85	NA	NA	5.42	7.12	0.56	NA	NA	14.83	16.53	090
51080		A	Drainage of bladder abscess	5.96	NA	NA	4.41	5.32	0.45	NA	NA	10.82	11.73	090
51500		A	Removal of bladder cyst	10.14	NA	NA	5.59	6.98	0.95	NA	NA	16.68	18.07	090
51520		A	Removal of bladder lesion	9.29	NA	NA	5.68	8.37	0.68	NA	NA	15.65	18.34	090
51525		A	Removal of bladder lesion	13.97	NA	NA	7.15	10.47	0.83	NA	NA	21.95	25.27	090
51530		A	Removal of bladder lesion	12.38	NA	NA	6.65	9.19	0.80	NA	NA	19.83	22.37	090
51535		A	Repair of ureter lesion	12.57	NA	NA	7.12	8.03	0.89	NA	NA	20.58	21.49	090

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51550		A	Partial removal of bladder	15.66	NA	NA	7.72	10.65	0.92	NA	NA	24.30	27.23	090
51555		A	Partial removal of bladder	21.23	NA	NA	9.84	12.44	1.02	NA	NA	32.09	34.69	090
51565		A	Revise bladder & ureter(s)	21.62	NA	NA	10.30	15.47	1.31	NA	NA	33.23	38.40	090
51570		A	Removal of bladder	24.24	NA	NA	11.37	15.59	1.27	NA	NA	36.88	41.10	090
51575		A	Removal of bladder & nodes	30.45	NA	NA	13.86	22.08	1.76	NA	NA	46.07	54.29	090
51580		A	Remove bladder; revise tract	31.08	NA	NA	14.34	19.82	1.60	NA	NA	47.02	52.50	090
51585		A	Removal of bladder & nodes	35.23	NA	NA	15.93	24.43	1.89	NA	NA	53.05	61.55	090
51590		A	Remove bladder; revise tract	32.66	NA	NA	14.57	23.60	2.00	NA	NA	49.23	58.26	090
51595		A	Remove bladder; revise tract	37.14	NA	NA	16.03	31.52	2.61	NA	NA	55.78	71.27	090
51596		A	Remove bladder, create pouch	39.52	NA	NA	17.18	32.69	2.70	NA	NA	59.40	74.91	090
51597		A	Removal of pelvic structures	38.35	NA	NA	16.88	29.15	3.37	NA	NA	58.60	70.87	090
51600		A	Injection for bladder x-ray	0.88	15.72	4.16	0.25	0.29	0.02	16.62	5.06	1.15	1.19	000
51605		A	Preparation for bladder xray	0.64	15.52	4.13	0.20	0.30	0.02	16.18	4.79	0.86	0.96	000
51610		A	Injection for bladder x-ray	1.05	29.00	7.47	0.31	0.30	0.02	30.07	8.54	1.38	1.37	000
51700		A	Irrigation of bladder	0.88	3.35	1.02	0.31	0.17	0.02	4.25	1.92	1.21	1.07	000
51705		A	Change of bladder tube	1.02	2.18	0.85	1.33	0.49	0.03	3.23	1.90	2.38	1.54	010
51710		A	Change of bladder tube	1.49	4.19	1.51	1.55	0.62	0.05	5.73	3.05	3.09	2.16	010
51715		A	Endoscopic injection/implant	3.74	3.61	3.06	1.52	2.54	0.21	7.56	7.01	5.47	6.49	000
51720		A	Treatment of bladder lesion	1.96	3.48	1.24	0.98	0.43	0.04	5.48	3.24	2.98	2.43	000
51725		A	Simple cystometrogram	1.51	0.93	1.05	0.93	1.05	0.08	2.52	2.64	2.52	2.64	000
51725	26	A	Simple cystometrogram	1.51	0.52	0.64	0.52	0.64	0.05	2.08	2.20	2.08	2.20	000
51725	TC	A	Simple cystometrogram	0.00	0.41	0.41	0.41	0.41	0.03	0.44	0.44	0.44	0.44	000
51726		A	Complex cystometrogram	1.71	1.10	1.33	1.10	1.33	0.10	2.91	3.14	2.91	3.14	000
51726	26	A	Complex cystometrogram	1.71	0.58	0.81	0.58	0.81	0.06	2.35	2.58	2.35	2.58	000
51726	TC	A	Complex cystometrogram	0.00	0.52	0.52	0.52	0.52	0.04	0.56	0.56	0.56	0.56	000
51736		A	Urine flow measurement	0.61	0.36	0.42	0.36	0.42	0.03	1.00	1.06	1.00	1.06	000
51736	26	A	Urine flow measurement	0.61	0.21	0.26	0.21	0.26	0.02	0.84	0.89	0.84	0.89	000
51736	TC	A	Urine flow measurement	0.00	0.15	0.16	0.15	0.16	0.01	0.16	0.17	0.16	0.17	000
51741		A	Electro-uroflowmetry, first	1.14	0.61	0.61	0.61	0.61	0.05	1.80	1.80	1.80	1.80	000
51741	26	A	Electro-uroflowmetry, first	1.14	0.38	0.38	0.38	0.38	0.03	1.55	1.55	1.55	1.55	000
51741	TC	A	Electro-uroflowmetry, first	0.00	0.23	0.23	0.23	0.23	0.02	0.25	0.25	0.25	0.25	000
51772		A	Urethra pressure profile	1.61	1.01	1.02	1.01	1.02	0.09	2.71	2.72	2.71	2.72	000
51772	26	A	Urethra pressure profile	1.61	0.56	0.56	0.56	0.56	0.05	2.22	2.22	2.22	2.22	000
51772	TC	A	Urethra pressure profile	0.00	0.45	0.46	0.45	0.46	0.04	0.49	0.50	0.49	0.50	000
51784		A	Anal/urinary muscle study	1.53	0.95	1.08	0.95	1.08	0.08	2.56	2.69	2.56	2.69	000
51784	26	A	Anal/urinary muscle study	1.53	0.52	0.66	0.52	0.66	0.05	2.10	2.24	2.10	2.24	000
51784	TC	A	Anal/urinary muscle study	0.00	0.43	0.42	0.43	0.42	0.03	0.46	0.45	0.46	0.45	000
51785		A	Anal/urinary muscle study	1.53	0.95	1.08	0.95	1.08	0.08	2.56	2.69	2.56	2.69	000
51785	26	A	Anal/urinary muscle study	1.53	0.52	0.66	0.52	0.66	0.05	2.10	2.24	2.10	2.24	000
51785	TC	A	Anal/urinary muscle study	0.00	0.43	0.42	0.43	0.42	0.03	0.46	0.45	0.46	0.45	000

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
51792		A	Urinary reflex study	1.10	1.87	2.03	1.87	2.03	0.18	3.13	3.29	3.13	3.29	000
51792	26	A	Urinary reflex study	1.10	0.41	0.58	0.41	0.58	0.05	1.56	1.73	1.56	1.73	000
51792	TC	A	Urinary reflex study	0.00	1.46	1.45	1.46	1.45	0.11	1.57	1.56	1.57	1.56	000
51795		A	Urine voiding pressure study	1.53	1.47	1.54	1.47	1.54	0.13	3.13	3.20	3.13	3.20	000
51795	26	A	Urine voiding pressure study	1.53	0.52	0.60	0.52	0.60	0.05	2.10	2.18	2.10	2.18	000
51795	TC	A	Urine voiding pressure study	0.00	0.95	0.94	0.95	0.94	0.08	1.03	1.02	1.03	1.02	000
51797		A	Intraabdominal pressure test	1.60	1.04	1.04	1.04	1.04	0.08	2.72	2.72	2.72	2.72	000
51797	26	A	Intraabdominal pressure test	1.60	0.55	0.55	0.55	0.55	0.04	2.19	2.19	2.19	2.19	000
51797	TC	A	Intraabdominal pressure test	0.00	0.49	0.49	0.49	0.49	0.04	0.53	0.53	0.53	0.53	000
51800		A	Revision of bladder/urethra	17.42	NA	NA	8.47	11.90	1.15	NA	NA	27.04	30.47	090
51820		A	Revision of urinary tract	17.89	NA	NA	9.66	8.43	1.03	NA	NA	28.58	27.35	090
51840		A	Attach bladder/urethra	10.71	NA	NA	6.04	9.02	0.99	NA	NA	17.74	20.72	090
51841		A	Attach bladder/urethra	13.03	NA	NA	7.32	10.79	1.16	NA	NA	21.51	24.98	090
51845		A	Repair bladder neck	9.73	NA	NA	5.84	10.17	0.85	NA	NA	16.42	20.75	090
51860		A	Repair of bladder wound	12.02	NA	NA	6.71	7.88	0.71	NA	NA	19.44	20.61	090
51865		A	Repair of bladder wound	15.04	NA	NA	7.85	10.88	0.99	NA	NA	23.88	26.91	090
51880		A	Repair of bladder opening	7.66	NA	NA	4.84	5.25	0.41	NA	NA	12.91	13.32	090
51900		A	Repair bladder/vagina lesion	12.97	NA	NA	7.37	11.32	1.10	NA	NA	21.44	25.39	090
51920		A	Close bladder-uterus fistula	11.81	NA	NA	6.29	7.69	0.57	NA	NA	18.67	20.07	090
51925		A	Hysterectomy/bladder repair	15.58	NA	NA	8.71	10.38	1.82	NA	NA	26.11	27.78	090
51940		A	Correction of bladder defect	26.81	NA	NA	14.16	18.97	1.74	NA	NA	42.71	47.52	090
51960		A	Revision of bladder & bowel	23.01	NA	NA	11.62	20.32	1.78	NA	NA	36.41	45.11	090
51980		A	Construct bladder opening	11.36	NA	NA	6.38	7.67	0.59	NA	NA	18.33	19.62	090
52000		A	Cystoscopy	2.01	2.78	1.78	0.93	0.77	0.11	4.90	3.90	3.05	2.89	000
52005		A	Cystoscopy & ureter catheter	2.37	4.39	2.89	1.04	2.05	0.17	6.93	5.43	3.58	4.59	000
52007		A	Cystoscopy and biopsy	3.02	NA	NA	1.26	2.61	0.22	NA	NA	4.50	5.85	000
52010		A	Cystoscopy & duct catheter	3.02	4.67	2.71	1.29	1.10	0.16	7.85	5.89	4.47	4.28	000
52204		A	Cystoscopy	2.37	5.09	3.21	1.04	2.20	0.19	7.65	5.77	3.60	4.76	000
52214		A	Cystoscopy and treatment	3.71	5.46	3.65	1.49	2.65	0.22	9.39	7.58	5.42	6.58	000
52224		A	Cystoscopy and treatment	3.14	5.33	3.70	1.30	2.69	0.23	8.70	7.07	4.67	6.06	000
52234		A	Cystoscopy and treatment	4.63	6.16	5.37	1.80	4.28	0.35	11.14	10.35	6.78	9.26	000
52235		A	Cystoscopy and treatment	5.45	6.43	6.49	2.07	5.40	0.63	12.51	12.57	8.15	11.48	000
52240		A	Cystoscopy and treatment	9.72	7.85	10.63	3.49	9.54	0.81	18.38	21.16	14.02	20.07	000
52250		A	Cystoscopy & radiotracer	4.50	NA	NA	1.76	2.77	0.23	NA	NA	6.49	7.50	000
52260		A	Cystoscopy & treatment	3.92	NA	NA	1.64	2.13	0.17	NA	NA	5.73	6.22	000
52265		A	Cystoscopy & treatment	2.94	3.15	1.89	1.24	0.87	0.11	6.20	4.94	4.29	3.92	000
52270		A	Cystoscopy & revise urethra	3.37	5.66	4.24	1.42	3.18	0.27	9.30	7.88	5.06	6.82	000
52275		A	Cystoscopy & revise urethra	4.70	6.26	4.35	1.86	3.25	0.27	11.23	9.32	6.83	8.22	000
52276		A	Cystoscopy and treatment	5.00	6.37	5.32	1.96	4.22	0.35	11.72	10.67	7.31	9.57	000
52277		A	Cystoscopy and treatment	6.17	NA	NA	2.33	4.51	0.37	NA	NA	8.87	11.05	000

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
52281		A	Cystoscopy and treatment	2.80	3.14	2.67	1.19	1.24	0.18	6.12	5.65	4.17	4.22	000
52282		A	Cystoscopy, implant stent	6.40	6.62	5.38	2.39	4.33	0.35	13.37	12.13	9.14	11.08	000
52283		A	Cystoscopy and treatment	3.74	5.70	2.66	1.51	1.61	0.12	9.56	6.52	5.37	5.47	000
52285		A	Cystoscopy and treatment	3.61	5.89	3.87	1.46	1.57	0.23	9.73	7.71	5.30	5.41	000
52290		A	Cystoscopy and treatment	4.59	NA	NA	1.79	2.35	0.19	NA	NA	6.57	7.13	000
52300		A	Cystoscopy and treatment	5.31	NA	NA	2.02	3.33	0.28	NA	NA	7.61	8.92	000
52301		A	Cystoscopy and treatment	5.51	NA	NA	2.15	3.37	0.28	NA	NA	7.94	9.16	000
52305		A	Cystoscopy and treatment	5.31	NA	NA	2.02	3.36	0.27	NA	NA	7.60	8.94	000
52310		A	Cystoscopy and treatment	2.81	13.05	5.69	1.19	2.73	0.23	16.09	8.73	4.23	5.77	000
52315		A	Cystoscopy and treatment	5.21	14.01	6.82	1.99	3.81	0.31	19.53	12.34	7.51	9.33	000
52317		A	Remove bladder stone	6.72	20.54	10.18	2.50	5.67	0.46	27.72	17.36	9.68	12.85	000
52318		A	Remove bladder stone	9.19	NA	NA	3.32	7.24	0.60	NA	NA	13.11	17.03	000
52320		A	Cystoscopy and treatment	4.70	NA	NA	1.80	4.40	0.37	NA	NA	6.87	9.47	000
52325		A	Cystoscopy, stone removal	6.16	NA	NA	2.30	6.10	0.53	NA	NA	8.99	12.79	000
52327		A	Cystoscopy, inject material	5.19	NA	NA	1.98	3.50	0.28	NA	NA	7.45	8.97	000
52330		A	Cystoscopy and treatment	5.04	17.57	7.22	1.93	3.31	0.27	22.88	12.53	7.24	8.62	000
52332		A	Cystoscopy and treatment	2.83	25.55	9.00	1.20	2.84	0.25	28.63	12.08	4.28	5.92	000
52334		A	Create passage to kidney	4.83	NA	NA	1.87	3.18	0.27	NA	NA	6.97	8.28	000
52335		A	Endoscopy of urinary tract	5.86	NA	NA	2.21	4.37	0.35	NA	NA	8.42	10.58	000
52336		A	Cystoscopy, stone removal	6.88	NA	NA	2.55	6.80	0.77	NA	NA	10.20	14.45	000
52337		A	Cystoscopy, stone removal	7.97	NA	NA	2.91	7.87	0.84	NA	NA	11.72	16.68	000
52338		A	Cystoscopy and treatment	7.34	NA	NA	2.70	5.49	0.45	NA	NA	10.49	13.28	000
52339		A	Cystoscopy and treatment	8.82	NA	NA	3.17	5.61	0.45	NA	NA	12.44	14.88	000
52340		A	Cystoscopy and treatment	9.68	NA	NA	5.03	5.45	0.39	NA	NA	15.10	15.52	090
52450		A	Incision of prostate	7.64	NA	NA	5.64	5.48	0.38	NA	NA	13.66	13.50	090
52500		A	Revision of bladder neck	8.47	NA	NA	5.92	7.53	0.56	NA	NA	14.95	16.56	090
52510		A	Dilation prostatic urethra	6.72	NA	NA	5.03	7.27	0.58	NA	NA	12.33	14.57	090
52601		A	Prostatectomy (TURP)	12.37	NA	NA	7.21	11.46	0.91	NA	NA	20.49	24.74	090
52606		A	Control postop bleeding	8.13	NA	NA	5.17	3.99	0.26	NA	NA	13.56	12.38	090
52612		A	Prostatectomy, first stage	7.98	NA	NA	5.53	8.53	0.77	NA	NA	14.28	17.28	090
52614		A	Prostatectomy, second stage	6.84	NA	NA	5.38	7.11	0.53	NA	NA	12.75	14.48	090
52620		A	Remove residual prostate	6.61	NA	NA	5.30	5.66	0.40	NA	NA	12.31	12.67	090
52630		A	Remove prostate regrowth	7.26	NA	NA	5.52	7.88	0.88	NA	NA	13.66	16.02	090
52640		A	Relieve bladder contracture	6.62	NA	NA	4.99	6.48	0.49	NA	NA	12.10	13.59	090
52647		A	Laser surgery of prostate	10.36	NA	NA	6.56	10.92	0.91	NA	NA	17.83	22.19	090
52648		A	Laser surgery of prostate	11.21	NA	NA	6.82	11.37	0.91	NA	NA	18.94	23.49	090
52700		A	Drainage of prostate abscess	6.80	NA	NA	5.36	4.03	0.27	NA	NA	12.43	11.10	090
53000		A	Incision of urethra	2.28	5.71	2.86	2.22	1.99	0.13	8.12	5.27	4.63	4.40	010
53010		A	Incision of urethra	3.64	NA	NA	3.53	3.75	0.29	NA	NA	7.46	7.68	090
53020		A	Incision of urethra	1.77	3.59	1.57	0.63	0.83	0.07	5.43	3.41	2.47	2.67	000

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53025		A	Incision of urethra	1.13	2.67	1.32	0.41	0.76	0.06	3.86	2.51	1.60	1.95	000
53040		A	Drainage of urethra abscess	8.40	7.88	3.48	9.73	3.94	0.15	14.43	10.03	16.28	10.49	090
53060		A	Drainage of urethra abscess	2.63	5.39	1.76	2.21	0.97	0.05	8.07	4.44	4.89	3.65	010
53080		A	Drainage of urinary leakage	6.29	NA	NA	7.30	5.07	0.35	NA	NA	13.94	11.71	090
53085		A	Drainage of urinary leakage	10.27	NA	NA	8.50	7.62	0.55	NA	NA	19.32	18.44	090
53200		A	Biopsy of urethra	2.59	4.53	2.03	0.91	1.12	0.09	7.21	4.71	3.59	3.80	000
53210		A	Removal of urethra	12.57	NA	NA	7.09	7.18	0.52	NA	NA	20.18	20.27	090
53215		A	Removal of urethra	15.58	NA	NA	7.81	10.09	0.75	NA	NA	24.14	26.42	090
53220		A	Treatment of urethra lesion	7.00	NA	NA	4.70	5.06	0.38	NA	NA	12.08	12.44	090
53230		A	Removal of urethra lesion	9.58	NA	NA	5.57	7.85	0.62	NA	NA	15.77	18.05	090
53235		A	Removal of urethra lesion	10.14	NA	NA	5.77	5.53	0.38	NA	NA	16.29	16.05	090
53240		A	Surgery for urethra pouch	6.45	NA	NA	4.52	4.66	0.35	NA	NA	11.32	11.46	090
53250		A	Removal of urethra gland	5.89	NA	NA	3.87	4.27	0.31	NA	NA	10.07	10.47	090
53260		A	Treatment of urethra lesion	2.98	5.01	2.17	2.00	1.42	0.13	8.12	5.28	5.11	4.53	010
53265		A	Treatment of urethra lesion	3.12	5.43	2.89	1.99	2.03	0.17	8.72	6.18	5.28	5.32	010
53270		A	Removal of urethra gland	3.09	5.15	1.97	2.12	0.88	0.14	8.38	5.20	5.35	4.11	010
53275		A	Repair of urethra defect	4.53	NA	NA	3.12	2.71	0.20	NA	NA	7.85	7.44	010
53400		A	Revise urethra, 1st stage	12.77	NA	NA	6.86	7.80	0.59	NA	NA	20.22	21.16	090
53405		A	Revise urethra, 2nd stage	14.48	NA	NA	7.27	10.26	0.95	NA	NA	22.70	25.69	090
53410		A	Reconstruction of urethra	16.44	NA	NA	8.13	9.00	0.66	NA	NA	25.23	26.10	090
53415		A	Reconstruction of urethra	19.41	NA	NA	6.89	11.38	0.90	NA	NA	27.20	31.69	090
53420		A	Reconstruct urethra, stage 1	14.08	NA	NA	7.47	10.73	0.82	NA	NA	22.37	25.63	090
53425		A	Reconstruct urethra, stage 2	15.98	NA	NA	8.06	9.55	0.69	NA	NA	24.73	26.22	090
53430		A	Reconstruction of urethra	16.34	NA	NA	8.21	7.88	0.59	NA	NA	25.14	24.81	090
53440		A	Correct bladder function	12.34	NA	NA	6.91	12.42	1.09	NA	NA	20.34	25.85	090
53442		A	Remove perineal prosthesis	8.27	NA	NA	5.09	6.03	0.52	NA	NA	13.88	14.82	090
53443		A	Reconstruction of urethra	19.89	NA	NA	9.02	10.42	0.84	NA	NA	29.75	31.15	090
53445		A	Correct urine flow control	14.06	NA	NA	7.53	14.48	1.59	NA	NA	23.18	30.13	090
53447		A	Remove artificial sphincter	13.17	NA	NA	6.99	9.20	0.70	NA	NA	20.86	23.07	090
53449		A	Correct artificial sphincter	9.70	NA	NA	5.72	8.28	0.64	NA	NA	16.06	18.62	090
53450		A	Revision of urethra	6.14	NA	NA	4.27	3.30	0.21	NA	NA	10.62	9.65	090
53460		A	Revision of urethra	7.12	NA	NA	4.68	3.16	0.20	NA	NA	12.00	10.48	090
53502		A	Repair of urethra injury	7.63	NA	NA	5.02	5.30	0.44	NA	NA	13.09	13.37	090
53505		A	Repair of urethra injury	7.63	NA	NA	4.82	5.42	0.40	NA	NA	12.85	13.45	090
53510		A	Repair of urethra injury	10.11	NA	NA	6.00	7.19	0.52	NA	NA	16.63	17.82	090
53515		A	Repair of urethra injury	13.31	NA	NA	6.79	9.05	0.69	NA	NA	20.79	23.05	090
53520		A	Repair of urethra defect	8.68	NA	NA	5.20	6.09	0.44	NA	NA	14.32	15.21	090
53600		A	Dilate urethra stricture	1.21	3.52	1.15	0.46	0.25	0.02	4.75	2.38	1.69	1.48	000
53601		A	Dilate urethra stricture	0.98	3.45	1.10	0.39	0.22	0.02	4.45	2.10	1.39	1.22	000
53605		A	Dilate urethra stricture	1.28	NA	NA	0.68	0.55	0.04	NA	NA	2.00	1.87	000

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
53620		A	Dilate urethra stricture	1.62	5.24	1.69	0.80	0.40	0.04	6.90	3.35	2.46	2.06	000
53621		A	Dilate urethra stricture	1.35	5.22	1.61	0.70	0.33	0.03	6.60	2.99	2.08	1.71	000
53660		A	Dilation of urethra	0.71	3.27	1.04	0.30	0.19	0.02	4.00	1.77	1.03	0.92	000
53661		A	Dilation of urethra	0.72	3.35	1.04	0.24	0.17	0.02	4.09	1.78	0.98	0.91	000
53665		A	Dilation of urethra	0.76	NA	NA	0.58	0.44	0.03	NA	NA	1.37	1.23	000
53670		A	Insert urinary catheter	0.50	3.17	0.97	0.17	0.13	0.02	3.69	1.49	0.69	0.65	000
53675		A	Insert urinary catheter	1.47	4.22	1.44	0.74	0.57	0.04	5.73	2.95	2.25	2.08	000
53850		A	Prostatic microwave thermotx	9.45	NA	NA	6.24	7.02	0.52	NA	NA	16.21	16.99	090
53852		A	Prostatic rf thermotx	9.88	NA	NA	6.38	7.30	0.54	NA	NA	16.80	17.72	090
53899		C	Urology surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
54000		A	Slitting of prepuce	1.54	4.81	1.71	1.30	0.84	0.05	6.40	3.30	2.89	2.43	010
54001		A	Slitting of prepuce	2.19	5.19	1.98	1.79	1.13	0.07	7.45	4.24	4.05	3.39	010
54015		A	Drain penis lesion	5.32	6.07	2.19	2.88	1.40	0.07	11.46	7.58	8.27	6.79	010
54050		A	Destruction, penis lesion(s)	1.24	1.90	0.78	0.52	0.29	0.02	3.16	2.04	1.78	1.55	010
54055		A	Destruction, penis lesion(s)	1.22	5.08	1.77	1.22	0.55	0.05	6.35	3.04	2.49	1.82	010
54056		A	Cryosurgery, penis lesion(s)	1.24	2.17	0.98	0.54	0.35	0.03	3.44	2.25	1.81	1.62	010
54057		A	Laser surg, penis lesion(s)	1.24	2.01	1.74	1.21	1.41	0.16	3.41	3.14	2.61	2.81	010
54060		A	Excision of penis lesion(s)	1.93	4.30	2.03	1.44	1.31	0.09	6.32	4.05	3.46	3.33	010
54065		A	Destruction, penis lesion(s)	2.42	4.28	3.08	1.85	1.47	0.20	6.90	5.70	4.47	4.09	010
54100		A	Biopsy of penis	1.90	2.91	1.26	0.70	0.71	0.05	4.86	3.21	2.65	2.66	000
54105		A	Biopsy of penis	3.50	5.42	2.18	1.97	1.32	0.09	9.01	5.77	5.56	4.91	010
54110		A	Treatment of penis lesion	10.13	NA	NA	7.21	6.71	0.48	NA	NA	17.82	17.32	090
54111		A	Treat penis lesion, graft	13.57	NA	NA	8.40	9.57	0.76	NA	NA	22.73	23.90	090
54112		A	Treat penis lesion, graft	15.86	NA	NA	9.47	11.19	0.89	NA	NA	26.22	27.94	090
54115		A	Treatment of penis lesion	6.15	9.67	5.82	5.96	4.90	0.34	16.16	12.31	12.45	11.39	090
54120		A	Partial removal of penis	9.97	NA	NA	7.27	7.08	0.49	NA	NA	17.73	17.54	090
54125		A	Removal of penis	13.53	NA	NA	8.39	11.51	0.92	NA	NA	22.84	25.96	090
54130		A	Remove penis & nodes	20.14	NA	NA	10.86	14.65	1.03	NA	NA	32.03	35.82	090
54135		A	Remove penis & nodes	26.36	NA	NA	12.95	17.68	1.36	NA	NA	40.67	45.40	090
54150		A	Circumcision	1.81	4.62	1.60	1.62	0.85	0.04	6.47	3.45	3.47	2.70	010
54152		A	Circumcision	2.31	NA	NA	1.55	1.87	0.16	NA	NA	4.02	4.34	010
54160		A	Circumcision	2.48	4.45	2.46	1.62	1.76	0.16	7.09	5.10	4.26	4.40	010
54161		A	Circumcision	3.27	NA	NA	1.88	2.24	0.18	NA	NA	5.33	5.69	010
54200		A	Treatment of penis lesion	1.06	2.09	0.79	0.37	0.23	0.02	3.17	1.87	1.45	1.31	010
54205		A	Treatment of penis lesion	7.93	NA	NA	6.08	5.68	0.39	NA	NA	14.40	14.00	090
54220		A	Treatment of penis lesion	2.42	1.81	1.74	0.93	1.52	0.13	4.36	4.29	3.48	4.07	000
54230		A	Prepare penis study	1.34	NA	NA	0.44	0.66	0.10	NA	NA	1.88	2.10	000
54231		A	Dynamic cavernosometry	2.04	1.68	1.59	0.75	1.36	0.11	3.83	3.74	2.90	3.51	000
54235		A	Penile injection	1.19	0.91	0.58	0.39	0.28	0.03	2.13	1.80	1.61	1.50	000
54240		A	Penis study	1.31	0.96	1.04	0.96	1.04	0.10	2.37	2.45	2.37	2.45	000

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
54240	26	A	Penis study	1.31	0.44	0.52	0.44	0.52	0.05	1.80	1.88	1.80	1.88	000
54240	TC	A	Penis study	0.00	0.52	0.52	0.52	0.52	0.05	0.57	0.57	0.57	0.57	000
54250		A	Penis study	2.22	1.06	0.92	1.06	0.92	0.06	3.34	3.20	3.34	3.20	000
54250	26	A	Penis study	2.22	0.73	0.59	0.73	0.59	0.04	2.99	2.85	2.99	2.85	000
54250	TC	A	Penis study	0.00	0.33	0.33	0.33	0.33	0.02	0.35	0.35	0.35	0.35	000
54300		A	Revision of penis	10.41	NA	NA	7.73	7.54	0.68	NA	NA	18.82	18.63	090
54304		A	Revision of penis	12.49	NA	NA	8.90	9.28	0.70	NA	NA	22.09	22.47	090
54308		A	Reconstruction of urethra	11.83	NA	NA	10.63	7.41	0.58	NA	NA	23.04	19.82	090
54312		A	Reconstruction of urethra	13.57	NA	NA	10.29	10.29	0.71	NA	NA	24.91	24.57	090
54316		A	Reconstruction of urethra	16.82	NA	NA	10.51	11.86	0.88	NA	NA	28.21	29.56	090
54318		A	Reconstruction of urethra	11.25	NA	NA	8.40	8.23	0.87	NA	NA	20.52	20.35	090
54322		A	Reconstruction of urethra	13.01	NA	NA	8.21	8.25	0.58	NA	NA	21.80	21.84	090
54324		A	Reconstruction of urethra	16.31	NA	NA	10.50	11.57	0.84	NA	NA	27.65	28.72	090
54326		A	Reconstruction of urethra	15.72	NA	NA	10.51	11.19	0.81	NA	NA	27.04	27.72	090
54328		A	Revise penis, urethra	15.65	NA	NA	9.82	11.18	0.97	NA	NA	26.44	27.80	090
54332		A	Revise penis, urethra	17.08	NA	NA	10.14	12.73	0.88	NA	NA	28.10	30.69	090
54336		A	Revise penis, urethra	20.04	NA	NA	13.09	18.57	1.10	NA	NA	34.23	39.71	090
54340		A	Secondary urethral surgery	8.91	NA	NA	6.69	6.62	0.46	NA	NA	16.06	15.99	090
54344		A	Secondary urethral surgery	15.94	NA	NA	10.28	16.09	0.86	NA	NA	27.08	32.89	090
54348		A	Secondary urethral surgery	17.15	NA	NA	11.15	12.25	0.89	NA	NA	29.19	30.29	090
54352		A	Reconstruct urethra, penis	24.74	NA	NA	13.38	16.52	1.17	NA	NA	39.29	42.43	090
54360		A	Penis plastic surgery	11.93	NA	NA	7.99	7.71	0.57	NA	NA	20.49	20.21	090
54380		A	Repair penis	13.18	NA	NA	8.17	9.71	0.59	NA	NA	21.94	23.48	090
54385		A	Repair penis	15.39	NA	NA	9.08	10.78	0.70	NA	NA	25.17	26.87	090
54390		A	Repair penis and bladder	21.61	NA	NA	12.31	14.13	1.24	NA	NA	35.16	36.98	090
54400		A	Insert semi-rigid prosthesis	8.99	NA	NA	5.66	9.46	0.99	NA	NA	15.64	19.44	090
54401		A	Insert self-contd prosthesis	10.28	NA	NA	6.30	10.78	1.35	NA	NA	17.93	22.41	090
54402		A	Remove penis prosthesis	9.21	NA	NA	5.61	6.29	0.45	NA	NA	15.27	15.95	090
54405		A	Insert multi-comp prosthesis	13.43	NA	NA	7.29	13.85	1.64	NA	NA	22.36	28.92	090
54407		A	Remove multi-comp prosthesis	13.34	NA	NA	7.01	10.89	0.86	NA	NA	21.21	25.09	090
54409		A	Revise penis prosthesis	12.20	NA	NA	6.59	8.95	0.68	NA	NA	19.47	21.83	090
54420		A	Revision of penis	11.42	NA	NA	7.68	8.22	0.68	NA	NA	19.78	20.32	090
54430		A	Revision of penis	10.15	NA	NA	7.22	7.50	0.54	NA	NA	17.91	18.19	090
54435		A	Revision of penis	6.12	NA	NA	5.59	4.77	0.31	NA	NA	12.02	11.20	090
54440		C	Repair of penis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	090
54450		A	Preputial stretching	1.12	0.91	0.78	0.43	0.66	0.05	2.08	1.95	1.60	1.83	000
54500		A	Biopsy of testis	1.31	5.40	1.71	0.73	0.54	0.04	6.75	3.06	2.08	1.89	000
54505		A	Biopsy of testis	3.46	NA	NA	2.44	2.13	0.17	NA	NA	6.07	5.76	010
54510		A	Removal of testis lesion	5.45	NA	NA	3.24	3.28	0.30	NA	NA	8.99	9.03	090
54520		A	Removal of testis	5.23	NA	NA	3.33	5.15	0.41	NA	NA	8.97	10.79	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
54530		A	Removal of testis	8.58	NA	NA	4.86	7.17	0.60	NA	NA	14.04	16.35	090
54535		A	Extensive testis surgery	12.16	NA	NA	6.43	8.56	0.80	NA	NA	19.39	21.52	090
54550		A	Exploration for testis	7.78	NA	NA	4.45	5.39	0.48	NA	NA	12.71	13.65	090
54560		A	Exploration for testis	11.13	NA	NA	6.04	7.40	0.63	NA	NA	17.80	19.16	090
54600		A	Reduce testis torsion	7.01	NA	NA	3.98	4.75	0.38	NA	NA	11.37	12.14	090
54620		A	Suspension of testis	4.90	NA	NA	2.93	3.43	0.26	NA	NA	8.09	8.59	010
54640		A	Suspension of testis	6.90	NA	NA	3.98	7.18	0.71	NA	NA	11.59	14.79	090
54650		A	Orchiopexy (Fowler-Stephens)	11.45	NA	NA	6.31	7.95	0.71	NA	NA	18.47	20.11	090
54660		A	Revision of testis	5.11	NA	NA	3.16	3.56	0.27	NA	NA	8.54	8.94	090
54670		A	Repair testis injury	6.41	NA	NA	3.98	4.50	0.34	NA	NA	10.73	11.25	090
54680		A	Relocation of testis(es)	12.65	NA	NA	6.47	8.29	0.63	NA	NA	19.75	21.57	090
54700		A	Drainage of scrotum	3.43	7.68	2.66	3.08	1.51	0.09	11.20	6.18	6.60	5.03	010
54800		A	Biopsy of epididymis	2.33	4.45	2.72	1.03	1.86	0.15	6.93	5.20	3.51	4.34	000
54820		A	Exploration of epididymis	5.14	NA	NA	3.30	2.96	0.23	NA	NA	8.67	8.33	090
54830		A	Remove epididymis lesion	5.38	NA	NA	3.40	3.71	0.31	NA	NA	9.09	9.40	090
54840		A	Remove epididymis lesion	5.20	NA	NA	3.39	4.79	0.38	NA	NA	8.97	10.37	090
54860		A	Removal of epididymis	6.32	NA	NA	3.90	5.18	0.39	NA	NA	10.61	11.89	090
54861		A	Removal of epididymis	8.90	NA	NA	4.83	7.15	0.56	NA	NA	14.29	16.61	090
54900		A	Fusion of spermatic ducts	13.20	NA	NA	6.55	8.92	0.68	NA	NA	20.43	22.80	090
54901		A	Fusion of spermatic ducts	17.94	NA	NA	8.73	12.19	0.94	NA	NA	27.61	31.07	090
55000		A	Drainage of hydrocele	1.43	1.52	0.70	0.76	0.36	0.03	2.98	2.16	2.22	1.82	000
55040		A	Removal of hydrocele	5.36	NA	NA	3.22	4.78	0.43	NA	NA	9.01	10.57	090
55041		A	Removal of hydroceles	7.74	NA	NA	4.27	7.15	0.63	NA	NA	12.64	15.52	090
55060		A	Repair of hydrocele	5.52	NA	NA	3.28	4.18	0.39	NA	NA	9.19	10.09	090
55100		A	Drainage of scrotum abscess	2.13	8.96	2.75	3.16	1.30	0.05	11.14	4.93	5.34	3.48	010
55110		A	Explore scrotum	5.70	NA	NA	3.37	3.68	0.29	NA	NA	9.36	9.67	090
55120		A	Removal of scrotum lesion	5.09	NA	NA	3.17	2.25	0.16	NA	NA	8.42	7.50	090
55150		A	Removal of scrotum	7.22	NA	NA	4.28	5.50	0.45	NA	NA	11.95	13.17	090
55175		A	Revision of scrotum	5.24	NA	NA	3.40	4.50	0.38	NA	NA	9.02	10.12	090
55180		A	Revision of scrotum	10.72	NA	NA	6.09	7.08	0.64	NA	NA	17.45	18.44	090
55200		A	Incision of sperm duct	4.24	NA	NA	2.87	2.32	0.16	NA	NA	7.27	6.72	090
55250		A	Removal of sperm duct(s)	3.29	8.19	4.19	2.78	1.77	0.22	11.70	7.70	6.29	5.28	090
55300		A	Preparation,sperm duct x-ray	3.51	NA	NA	1.54	2.59	0.21	NA	NA	5.26	6.31	000
55400		A	Repair of sperm duct	8.49	NA	NA	5.45	6.70	0.49	NA	NA	14.43	15.68	090
55450		A	Ligation of sperm duct	4.12	3.97	3.12	2.29	2.70	0.25	8.34	7.49	6.66	7.07	010
55500		A	Removal of hydrocele	5.59	NA	NA	3.38	4.36	0.39	NA	NA	9.36	10.34	090
55520		A	Removal of sperm cord lesion	6.03	NA	NA	3.38	3.39	0.40	NA	NA	9.81	9.82	090
55530		A	Revise spermatic cord veins	5.66	NA	NA	3.49	5.10	0.47	NA	NA	9.62	11.23	090
55535		A	Revise spermatic cord veins	6.56	NA	NA	4.00	4.59	0.35	NA	NA	10.91	11.50	090
55540		A	Revise hernia & sperm veins	7.67	NA	NA	4.01	4.70	0.71	NA	NA	12.39	13.08	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
55600		A	Incise sperm duct pouch	6.38	NA	NA	4.03	4.52	0.43	NA	NA	10.84	11.33	090
55605		A	Incise sperm duct pouch	7.96	NA	NA	4.80	5.76	0.46	NA	NA	13.22	14.18	090
55650		A	Remove sperm duct pouch	11.80	NA	NA	5.99	7.38	0.59	NA	NA	18.38	19.77	090
55680		A	Remove sperm pouch lesion	5.19	NA	NA	3.43	4.47	0.30	NA	NA	8.92	9.96	090
55700		A	Biopsy of prostate	1.57	3.15	2.01	0.81	0.82	0.12	4.84	3.70	2.50	2.51	000
55705		A	Biopsy of prostate	4.57	NA	NA	3.34	3.58	0.27	NA	NA	8.18	8.42	010
55720		A	Drainage of prostate abscess	7.64	NA	NA	5.06	4.12	0.29	NA	NA	12.99	12.05	090
55725		A	Drainage of prostate abscess	8.68	NA	NA	5.47	5.94	0.42	NA	NA	14.57	15.04	090
55801		A	Removal of prostate	17.80	NA	NA	8.59	12.54	1.13	NA	NA	27.52	31.47	090
55810		A	Extensive prostate surgery	22.58	NA	NA	10.56	17.19	1.38	NA	NA	34.52	41.15	090
55812		A	Extensive prostate surgery	27.51	NA	NA	12.44	17.50	1.52	NA	NA	41.47	46.53	090
55815		A	Extensive prostate surgery	30.46	NA	NA	13.50	23.89	1.89	NA	NA	45.85	56.24	090
55821		A	Removal of prostate	14.25	NA	NA	7.25	12.88	1.06	NA	NA	22.56	28.19	090
55831		A	Removal of prostate	15.62	NA	NA	7.72	13.78	1.13	NA	NA	24.47	30.53	090
55840		A	Extensive prostate surgery	22.69	NA	NA	11.05	16.28	1.26	NA	NA	35.00	40.23	090
55842		A	Extensive prostate surgery	24.38	NA	NA	11.67	18.51	1.47	NA	NA	37.52	44.36	090
55845		A	Extensive prostate surgery	28.55	NA	NA	12.88	23.65	1.91	NA	NA	43.34	54.11	090
55859		A	Percut/needle insert, pros	12.52	NA	NA	7.39	6.64	0.45	NA	NA	20.36	19.61	090
55860		A	Surgical exposure, prostate	14.45	NA	NA	7.54	7.69	0.55	NA	NA	22.54	22.69	090
55862		A	Extensive prostate surgery	18.39	NA	NA	8.71	11.70	0.94	NA	NA	28.04	31.03	090
55865		A	Extensive prostate surgery	22.87	NA	NA	10.34	22.54	1.87	NA	NA	35.08	47.28	090
55870		A	Electroejaculation	2.58	1.61	1.90	0.93	1.73	0.14	4.33	4.62	3.65	4.45	000
55899		C	Genital surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
55970		N	Sex transformation, M to F	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
55980		N	Sex transformation, F to M	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
56300		A	Laparoscopy; diagnostic	5.10	NA	NA	2.93	4.36	0.73	NA	NA	8.76	10.19	010
56301		A	Laparoscopy; tubal cautery	5.60	NA	NA	3.53	4.72	1.00	NA	NA	10.13	11.32	010
56302		A	Laparoscopy; tubal block	5.60	NA	NA	3.54	5.17	1.03	NA	NA	10.17	11.80	010
56303		A	Laparoscopy; excise lesions	11.79	NA	NA	5.45	5.86	0.91	NA	NA	18.15	18.56	090
56304		A	Laparoscopy; lysis	11.29	NA	NA	5.24	5.87	0.94	NA	NA	17.47	18.10	090
56305		A	Laparoscopy; biopsy	5.40	NA	NA	2.93	4.72	0.62	NA	NA	8.95	10.74	010
56306		A	Laparoscopy; aspiration	5.70	NA	NA	3.34	4.80	0.92	NA	NA	9.96	11.42	010
56307		A	Laparoscopy; remove adnexa	11.05	NA	NA	4.91	7.06	1.25	NA	NA	17.21	19.36	010
56308		A	Laparoscopy; hysterectomy	14.19	NA	NA	6.31	9.22	1.62	NA	NA	22.12	25.03	010
56309		A	Laparoscopy; remove myoma	14.21	NA	NA	6.30	5.45	0.81	NA	NA	21.32	20.47	010
56310		A	Laparoscopic enterolysis	14.44	NA	NA	7.24	8.55	1.37	NA	NA	23.05	24.36	090
56311		A	Laparoscopic lymph node biop	9.25	NA	NA	4.65	6.35	1.15	NA	NA	15.05	16.75	010
56312		A	Laparoscopic lymphadenectomy	12.38	NA	NA	5.73	8.40	0.66	NA	NA	18.77	21.44	010
56313		A	Laparoscopic lymphadenectomy	14.32	NA	NA	6.97	9.89	1.81	NA	NA	23.10	26.02	010
56314		A	Lapar; drain lymphocele	9.48	NA	NA	4.76	6.67	0.52	NA	NA	14.76	16.67	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
56315		A	Laparoscopic appendectomy	8.70	NA	NA	4.36	5.07	0.79	NA	NA	13.85	14.56	090
56316		A	Laparoscopic hernia repair	6.27	NA	NA	3.35	4.51	0.74	NA	NA	10.36	11.52	090
56317		A	Laparoscopic hernia repair	8.24	NA	NA	4.37	5.35	0.87	NA	NA	13.48	14.46	090
56318		A	Laparoscopic orchiectomy	10.96	NA	NA	6.38	7.48	0.63	NA	NA	17.97	19.07	090
56320		A	Laparoscopy, spermatic veins	6.57	NA	NA	3.37	4.43	0.35	NA	NA	10.29	11.35	090
56321		C	Laparoscopy; adrenalectomy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
56322		A	Laparoscopy, vagus nerves	10.15	NA	NA	4.97	5.37	0.92	NA	NA	16.04	16.44	090
56323		A	Laparoscopy, vagus nerves	12.15	NA	NA	6.57	6.60	1.10	NA	NA	19.82	19.85	090
56324		A	Laparoscopy, cholecystoenter	12.58	NA	NA	6.40	9.06	1.51	NA	NA	20.49	23.15	090
56340		A	Laparoscopic cholecystectomy	11.09	NA	NA	5.33	7.84	1.36	NA	NA	17.78	20.29	090
56341		A	Laparoscopic cholecystectomy	11.94	NA	NA	5.78	8.31	1.44	NA	NA	19.16	21.69	090
56342		A	Laparoscopic cholecystectomy	14.23	NA	NA	7.21	9.43	1.56	NA	NA	23.00	25.22	090
56343		A	Laparoscopic salpingostomy	13.74	NA	NA	6.53	5.93	0.87	NA	NA	21.14	20.54	090
56344		A	Laparoscopic fimbrioplasty	12.88	NA	NA	6.16	5.70	0.93	NA	NA	19.97	19.51	090
56345		C	Laparoscopic splenectomy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
56346		A	Laparoscopic gastrostomy	7.73	NA	NA	4.52	6.17	0.93	NA	NA	13.18	14.83	090
56347		C	Laparoscopic jejunostomy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
56348		A	Laparo; resect intestine	22.04	NA	NA	10.41	13.39	2.17	NA	NA	34.62	37.60	090
56349		A	Laparoscopy; fundoplasty	17.25	NA	NA	9.96	12.16	1.98	NA	NA	29.19	31.39	090
56350		A	Hysteroscopy; diagnostic	3.33	2.76	2.31	1.34	1.96	0.34	6.43	5.98	5.01	5.63	000
56351		A	Hysteroscopy; biopsy	4.75	3.30	2.45	1.88	2.09	0.34	8.39	7.54	6.97	7.18	000
56352		A	Hysteroscopy; lysis	6.17	NA	NA	2.41	3.67	0.66	NA	NA	9.24	10.50	000
56353		A	Hysteroscopy; resect septum	7.00	NA	NA	2.74	3.75	0.66	NA	NA	10.40	11.41	000
56354		A	Hysteroscopy; remove myoma	10.00	NA	NA	3.88	4.98	1.02	NA	NA	14.90	16.00	000
56355		A	Hysteroscopy; remove impact	5.21	NA	NA	2.01	2.12	0.34	NA	NA	7.56	7.67	000
56356		A	Hysteroscopy; ablation	6.17	NA	NA	2.43	4.18	1.17	NA	NA	9.77	11.52	000
56362		A	Laparoscopy w/cholangio	4.89	NA	NA	2.32	2.84	0.15	NA	NA	7.36	7.88	000
56363		A	Laparoscopy w/biopsy	5.18	NA	NA	2.65	3.87	0.35	NA	NA	8.18	9.40	000
56399		C	Laparoscopy procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
56405		A	I & D of vulva/perineum	1.44	2.14	1.15	1.14	0.59	0.12	3.70	2.71	2.70	2.15	010
56420		A	Drainage of gland abscess	1.39	2.12	1.18	1.05	0.59	0.10	3.61	2.67	2.54	2.08	010
56440		A	Surgery for vulva lesion	2.84	3.22	2.94	2.15	2.68	0.41	6.47	6.19	5.40	5.93	010
56441		A	Lysis of labial lesion(s)	1.97	2.40	1.94	1.96	1.83	0.23	4.60	4.14	4.16	4.03	010
56501		A	Destruction, vulva lesion(s)	1.53	2.10	0.97	1.28	0.55	0.09	3.72	2.59	2.90	2.17	010
56515		A	Destruction, vulva lesion(s)	1.88	2.44	2.53	1.76	2.13	0.52	4.84	4.93	4.16	4.53	010
56605		A	Biopsy of vulva/perineum	1.10	1.63	0.96	0.44	0.39	0.12	2.85	2.18	1.66	1.61	000
56606		A	Biopsy of vulva/perineum	0.55	1.43	0.64	0.24	0.20	0.06	2.04	1.25	0.85	0.81	ZZZ
56620		A	Partial removal of vulva	7.47	NA	NA	4.51	6.39	1.10	NA	NA	13.08	14.96	090
56625		A	Complete removal of vulva	8.40	NA	NA	5.37	8.87	1.67	NA	NA	15.44	18.94	090
56630		A	Extensive vulva surgery	12.36	NA	NA	7.15	12.75	2.57	NA	NA	22.08	27.68	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
56631		A	Extensive vulva surgery	16.20	NA	NA	9.56	16.90	3.53	NA	NA	29.29	36.63	090
56632		A	Extensive vulva surgery	20.29	NA	NA	11.12	20.14	3.53	NA	NA	34.94	43.96	090
56633		A	Extensive vulva surgery	16.47	NA	NA	8.73	15.18	2.57	NA	NA	27.77	34.22	090
56634		A	Extensive vulva surgery	17.88	NA	NA	10.26	18.58	3.53	NA	NA	31.67	39.99	090
56637		A	Extensive vulva surgery	21.97	NA	NA	11.69	20.36	3.53	NA	NA	37.19	45.86	090
56640		A	Extensive vulva surgery	22.17	NA	NA	11.28	19.06	3.41	NA	NA	36.86	44.64	090
56700		A	Partial removal of hymen	2.52	2.73	2.17	1.98	1.98	0.27	5.52	4.96	4.77	4.77	010
56720		A	Incision of hymen	0.68	1.49	0.76	0.67	0.56	0.09	2.26	1.53	1.44	1.33	000
56740		A	Remove vagina gland lesion	3.76	3.05	3.10	2.45	2.95	0.43	7.24	7.29	6.64	7.14	010
56800		A	Repair of vagina	3.89	NA	NA	2.68	3.05	0.45	NA	NA	7.02	7.39	010
56805		A	Repair clitoris	18.86	NA	NA	8.24	11.62	1.07	NA	NA	28.17	31.55	090
56810		A	Repair of perineum	4.13	NA	NA	2.62	2.79	0.40	NA	NA	7.15	7.32	010
57000		A	Exploration of vagina	2.97	NA	NA	2.26	2.22	0.27	NA	NA	5.50	5.46	010
57010		A	Drainage of pelvic abscess	6.03	NA	NA	3.59	3.06	0.40	NA	NA	10.02	9.49	090
57020		A	Drainage of pelvic fluid	1.50	1.42	0.89	0.57	0.68	0.11	3.03	2.50	2.18	2.29	000
57061		A	Destruction vagina lesion(s)	1.25	2.04	1.18	1.18	0.63	0.13	3.42	2.56	2.56	2.01	010
57065		A	Destruction vagina lesion(s)	2.61	2.64	2.99	2.16	2.87	0.58	5.83	6.18	5.35	6.06	010
57100		A	Biopsy of vagina	0.97	1.31	0.83	0.38	0.35	0.10	2.38	1.90	1.45	1.42	000
57105		A	Biopsy of vagina	1.69	2.27	1.84	1.78	1.72	0.26	4.22	3.79	3.73	3.67	010
57106		A	Remove vagina wall, partial	6.36	2.45	2.45	2.37	2.37	0.86	9.67	9.67	9.59	9.59	090
57107		A	Remove vagina tissue/partial	23.00	8.71	8.71	8.53	8.53	0.86	32.57	32.57	32.39	32.39	090
57108		D	Partial removal of vagina	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	090
57109		A	Vaginectomy partial w/nodes	27.00	9.80	9.80	9.36	9.36	3.03	39.83	39.83	39.39	39.39	090
57110		A	Remove vagina wall, complete	14.29	NA	NA	6.81	8.12	1.38	NA	NA	22.48	23.79	090
57111		A	Remove vagina tissue/compl	27.00	9.43	9.43	10.12	10.12	3.03	39.46	39.46	40.15	40.15	090
57112		A	Vaginectomy complete w/nodes	29.00	10.00	10.00	9.96	9.96	3.03	42.03	42.03	41.99	41.99	090
57120		A	Closure of vagina	7.41	NA	NA	4.42	6.80	1.18	NA	NA	13.01	15.39	090
57130		A	Remove vagina lesion	2.43	NA	NA	2.00	2.63	0.43	NA	NA	4.86	5.49	010
57135		A	Remove vagina lesion	2.67	2.62	2.22	2.10	2.09	0.30	5.59	5.19	5.07	5.06	010
57150		A	Treat vagina infection	0.55	0.92	0.39	0.21	0.14	0.03	1.50	0.97	0.79	0.72	000
57160		A	Insertion of pessary/device	0.89	1.20	0.50	0.33	0.19	0.04	2.13	1.43	1.26	1.12	000
57170		A	Fitting of diaphragm/cap	0.91	1.21	0.57	0.32	0.22	0.05	2.17	1.53	1.28	1.18	000
57180		A	Treat vaginal bleeding	1.58	2.04	0.96	1.32	0.56	0.09	3.71	2.63	2.99	2.23	010
57200		A	Repair of vagina	3.94	NA	NA	2.82	2.91	0.47	NA	NA	7.23	7.32	090
57210		A	Repair vagina/perineum	5.17	NA	NA	3.28	3.48	0.51	NA	NA	8.96	9.16	090
57220		A	Revision of urethra	4.31	NA	NA	3.25	4.43	0.63	NA	NA	8.19	9.37	090
57230		A	Repair of urethral lesion	5.64	NA	NA	3.83	4.09	0.50	NA	NA	9.97	10.23	090
57240		A	Repair bladder & vagina	6.07	NA	NA	4.08	6.46	1.25	NA	NA	11.40	13.78	090
57250		A	Repair rectum & vagina	5.53	NA	NA	3.66	5.87	1.32	NA	NA	10.51	12.72	090
57260		A	Repair of vagina	8.27	NA	NA	4.69	8.22	1.47	NA	NA	14.43	17.96	090

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CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
57265		A	Extensive repair of vagina	11.34	NA	NA	6.32	9.25	1.65	NA	NA	19.31	22.24	090
57268		A	Repair of bowel bulge	6.76	NA	NA	4.10	6.74	1.17	NA	NA	12.03	14.67	090
57270		A	Repair of bowel pouch	12.11	NA	NA	5.99	7.06	1.13	NA	NA	19.23	20.30	090
57280		A	Suspension of vagina	15.04	NA	NA	7.10	8.72	1.45	NA	NA	23.59	25.21	090
57282		A	Repair of vaginal prolapse	8.86	NA	NA	4.94	8.33	1.48	NA	NA	15.28	18.67	090
57284		A	Repair paravaginal defect	12.70	NA	NA	6.62	8.65	0.66	NA	NA	19.98	22.01	090
57288		A	Repair bladder defect	13.02	NA	NA	6.58	10.37	1.06	NA	NA	20.66	24.45	090
57289		A	Repair bladder & vagina	11.58	NA	NA	6.23	8.23	0.88	NA	NA	18.69	20.69	090
57291		A	Construction of vagina	7.95	NA	NA	4.88	5.58	0.93	NA	NA	13.76	14.46	090
57292		A	Construct vagina with graft	13.09	NA	NA	6.96	7.07	1.08	NA	NA	21.13	21.24	090
57300		A	Repair rectum-vagina fistula	7.61	NA	NA	4.46	7.55	1.30	NA	NA	13.37	16.46	090
57305		A	Repair rectum-vagina fistula	13.77	NA	NA	7.23	7.95	1.22	NA	NA	22.22	22.94	090
57307		A	Fistula repair & colostomy	15.93	NA	NA	8.27	7.04	1.00	NA	NA	25.20	23.97	090
57308		A	Fistula repair, transperine	9.94	NA	NA	4.56	7.03	1.10	NA	NA	15.60	18.07	090
57310		A	Repair urethrovaginal lesion	6.78	NA	NA	4.38	4.61	0.38	NA	NA	11.54	11.77	090
57311		A	Repair urethrovaginal lesion	7.98	NA	NA	4.64	5.71	0.32	NA	NA	12.94	14.01	090
57320		A	Repair bladder-vagina lesion	8.01	NA	NA	4.88	8.39	1.06	NA	NA	13.95	17.46	090
57330		A	Repair bladder-vagina lesion	12.35	NA	NA	6.52	8.38	0.63	NA	NA	19.50	21.36	090
57335		A	Repair vagina	18.73	NA	NA	8.75	7.81	0.63	NA	NA	28.11	27.17	090
57400		A	Dilation of vagina	2.27	NA	NA	1.44	0.63	0.05	NA	NA	3.76	2.95	000
57410		A	Pelvic examination	1.75	2.40	0.89	1.13	0.58	0.04	4.19	2.68	2.92	2.37	000
57415		A	Removal vaginal foreign body	2.17	3.13	1.08	1.95	0.78	0.04	5.34	3.29	4.16	2.99	010
57452		A	Examination of vagina	0.99	1.51	0.91	0.35	0.36	0.11	2.61	2.01	1.45	1.46	000
57454		A	Vagina examination & biopsy	1.27	1.59	1.38	0.46	0.61	0.20	3.06	2.85	1.93	2.08	000
57460		A	Cervix excision	2.83	1.88	2.11	1.06	1.09	0.36	5.07	5.30	4.25	4.28	000
57500		A	Biopsy of cervix	0.97	1.31	0.79	0.39	0.33	0.09	2.37	1.85	1.45	1.39	000
57505		A	Endocervical curettage	1.14	1.76	0.95	1.19	0.55	0.10	3.00	2.19	2.43	1.79	010
57510		A	Cauterization of cervix	1.90	2.78	1.12	1.48	0.58	0.07	4.75	3.09	3.45	2.55	010
57511		A	Cryocautery of cervix	1.90	2.19	1.24	0.70	0.52	0.13	4.22	3.27	2.73	2.55	010
57513		A	Laser surgery of cervix	1.90	2.32	2.28	1.43	2.06	0.52	4.74	4.70	3.85	4.48	010
57520		A	Conization of cervix	4.04	3.80	3.76	2.65	3.47	0.57	8.41	8.37	7.26	8.08	090
57522		A	Conization of cervix	3.36	3.45	3.67	2.40	3.41	0.57	7.38	7.60	6.33	7.34	090
57530		A	Removal of cervix	4.79	NA	NA	3.38	3.79	0.61	NA	NA	8.78	9.19	090
57531		A	Removal of cervix, radical	28.00	NA	NA	12.15	17.51	3.03	NA	NA	43.18	48.54	090
57540		A	Removal of residual cervix	12.22	NA	NA	5.88	6.95	1.18	NA	NA	19.28	20.35	090
57545		A	Remove cervix, repair pelvis	13.03	NA	NA	6.31	5.31	0.81	NA	NA	20.15	19.15	090
57550		A	Removal of residual cervix	5.53	NA	NA	3.65	5.86	1.20	NA	NA	10.38	12.59	090
57555		A	Remove cervix, repair vagina	8.95	NA	NA	5.15	9.31	1.70	NA	NA	15.80	19.96	090
57556		A	Remove cervix, repair bowel	8.37	NA	NA	4.70	8.68	1.50	NA	NA	14.57	18.55	090
57700		A	Revision of cervix	3.55	NA	NA	2.44	2.55	0.27	NA	NA	6.26	6.37	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
57720		A	Revision of cervix	4.13	NA	NA	3.15	3.04	0.39	NA	NA	7.67	7.56	090
57800		A	Dilation of cervical canal	0.77	1.11	0.87	0.31	0.27	0.08	1.96	1.52	1.16	1.12	000
57820		A	D&c of residual cervix	1.67	2.21	2.25	2.11	2.22	0.36	4.24	4.28	4.14	4.25	010
58100		A	Biopsy of uterus lining	0.71	1.04	0.80	0.27	0.34	0.11	1.86	1.62	1.09	1.16	000
58120		A	Dilation and curettage (D&C)	3.27	3.41	3.05	2.31	2.78	0.44	7.12	6.76	6.02	6.49	010
58140		A	Removal of uterus lesion	14.60	NA	NA	6.70	8.46	1.34	NA	NA	22.64	24.40	090
58145		A	Removal of uterus lesion	8.04	NA	NA	4.66	7.87	1.20	NA	NA	13.90	17.11	090
58150		A	Total hysterectomy	15.24	NA	NA	7.16	9.58	1.63	NA	NA	24.03	26.45	090
58152		A	Total hysterectomy	15.09	NA	NA	7.13	11.54	2.03	NA	NA	24.25	28.66	090
58180		A	Partial hysterectomy	15.29	NA	NA	7.12	9.72	1.65	NA	NA	24.06	26.66	090
58200		A	Extensive hysterectomy	21.59	NA	NA	10.61	13.22	2.19	NA	NA	34.39	37.00	090
58210		A	Extensive hysterectomy	28.85	NA	NA	13.35	17.81	3.03	NA	NA	45.23	49.69	090
58240		A	Removal of pelvis contents	38.39	NA	NA	17.62	27.79	4.81	NA	NA	60.82	70.99	090
58260		A	Vaginal hysterectomy	12.20	NA	NA	5.66	9.06	1.62	NA	NA	19.48	22.88	090
58262		A	Vaginal hysterectomy	13.99	NA	NA	6.35	9.23	1.62	NA	NA	21.96	24.84	090
58263		A	Vaginal hysterectomy	15.28	NA	NA	6.84	10.11	1.74	NA	NA	23.86	27.13	090
58267		A	Hysterectomy & vagina repair	15.00	NA	NA	6.72	11.06	1.92	NA	NA	23.64	27.98	090
58270		A	Hysterectomy & vagina repair	13.48	NA	NA	6.15	9.94	1.74	NA	NA	21.37	25.16	090
58275		A	Hysterectomy, revise vagina	14.98	NA	NA	6.64	10.63	1.82	NA	NA	23.44	27.43	090
58280		A	Hysterectomy, revise vagina	15.41	NA	NA	6.82	10.26	1.80	NA	NA	24.03	27.47	090
58285		A	Extensive hysterectomy	18.57	NA	NA	9.45	11.81	2.11	NA	NA	30.13	32.49	090
58300		N	Insert intrauterine device	+1.01	1.09	0.90	0.38	0.73	0.10	2.20	2.01	1.49	1.84	XXX
58301		A	Remove intrauterine device	1.27	1.34	0.70	0.46	0.30	0.06	2.67	2.03	1.79	1.63	000
58321		A	Artificial insemination	0.92	0.89	0.80	0.35	0.67	0.12	1.93	1.84	1.39	1.71	000
58322		A	Artificial insemination	1.10	0.97	0.82	0.41	0.68	0.12	2.19	2.04	1.63	1.90	000
58323		A	Sperm washing	0.23	0.43	0.24	0.09	0.15	0.03	0.69	0.50	0.35	0.41	000
58340		A	Catheter for hysterography	0.88	13.60	3.87	0.27	0.53	0.06	14.54	4.81	1.21	1.47	000
58345		A	Reopen fallopian tube	4.66	NA	NA	1.49	3.22	0.32	NA	NA	6.47	8.20	010
58350		A	Reopen fallopian tube	1.01	1.79	1.01	1.06	0.83	0.13	2.93	2.15	2.20	1.97	010
58400		A	Suspension of uterus	6.36	NA	NA	3.80	5.54	0.91	NA	NA	11.07	12.81	090
58410		A	Suspension of uterus	12.73	NA	NA	5.83	5.96	0.66	NA	NA	19.22	19.35	090
58520		A	Repair of ruptured uterus	11.92	NA	NA	5.80	4.90	0.77	NA	NA	18.49	17.59	090
58540		A	Revision of uterus	14.64	NA	NA	7.03	6.75	1.11	NA	NA	22.78	22.50	090
58600		A	Division of fallopian tube	3.84	NA	NA	2.52	4.07	1.08	NA	NA	7.44	8.99	090
58605		A	Division of fallopian tube	3.34	NA	NA	2.38	3.58	0.79	NA	NA	6.51	7.71	090
58611		A	Ligate oviduct(s) add-on	0.63	NA	NA	0.41	0.49	0.08	NA	NA	1.12	1.20	ZZZ
58615		A	Occlude fallopian tube(s)	3.90	NA	NA	2.50	3.00	0.27	NA	NA	6.67	7.17	010
58700		A	Removal of fallopian tube	6.49	NA	NA	3.50	6.03	1.02	NA	NA	11.01	13.54	090
58720		A	Removal of ovary/tube(s)	11.36	NA	NA	5.55	7.49	1.28	NA	NA	18.19	20.13	090
58740		A	Revise fallopian tube(s)	5.83	NA	NA	3.56	6.11	1.47	NA	NA	10.86	13.41	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
58750		A	Repair oviduct	14.84	NA	NA	7.27	6.96	1.14	NA	NA	23.25	22.94	090
58752		A	Revise ovarian tube(s)	14.84	NA	NA	7.02	7.24	0.73	NA	NA	22.59	22.81	090
58760		A	Remove tubal obstruction	13.13	NA	NA	6.43	5.77	0.93	NA	NA	20.49	19.83	090
58770		A	Create new tubal opening	13.97	NA	NA	6.61	5.95	0.87	NA	NA	21.45	20.79	090
58800		A	Drainage of ovarian cyst(s)	4.14	3.81	3.14	3.58	3.08	0.41	8.36	7.69	8.13	7.63	090
58805		A	Drainage of ovarian cyst(s)	5.88	NA	NA	3.26	6.01	1.06	NA	NA	10.20	12.95	090
58820		A	Open drain ovary abscess	4.22	NA	NA	2.95	2.99	0.38	NA	NA	7.55	7.59	090
58822		A	Percut drain ovary abscess	10.13	NA	NA	4.60	4.04	0.63	NA	NA	15.36	14.80	090
58823		A	Percut drain pelvic abscess	3.38	NA	NA	2.52	2.72	0.23	NA	NA	6.13	6.33	000
58825		A	Transposition, ovary(s)	6.13	NA	NA	3.62	4.18	0.73	NA	NA	10.48	11.04	090
58900		A	Biopsy of ovary(s)	5.99	NA	NA	3.39	5.07	0.84	NA	NA	10.22	11.90	090
58920		A	Partial removal of ovary(s)	6.78	NA	NA	3.85	6.48	1.10	NA	NA	11.73	14.36	090
58925		A	Removal of ovarian cyst(s)	11.36	NA	NA	5.42	6.70	1.08	NA	NA	17.86	19.14	090
58940		A	Removal of ovary(s)	7.29	NA	NA	3.83	6.24	1.04	NA	NA	12.16	14.57	090
58943		A	Removal of ovary(s)	18.43	NA	NA	9.13	12.14	2.06	NA	NA	29.62	32.63	090
58950		A	Resect ovarian malignancy	15.27	NA	NA	8.05	11.16	1.86	NA	NA	25.18	28.29	090
58951		A	Resect ovarian malignancy	21.81	NA	NA	10.60	17.38	3.07	NA	NA	35.48	42.46	090
58952		A	Resect ovarian malignancy	25.01	NA	NA	11.84	17.70	3.07	NA	NA	39.92	45.78	090
58960		A	Exploration of abdomen	14.65	NA	NA	7.80	12.52	2.31	NA	NA	24.76	29.48	090
58970		A	Retrieval of oocyte	3.53	6.95	3.79	1.30	2.37	0.45	10.93	7.77	5.28	6.35	000
58974		C	Transfer of embryo	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	000
58976		A	Transfer of embryo	3.83	2.02	2.73	1.86	2.69	0.49	6.34	7.05	6.18	7.01	000
58999		C	Genital surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
59000		A	Amniocentesis	1.30	1.51	1.17	0.49	0.91	0.14	2.95	2.61	1.93	2.35	000
59012		A	Fetal cord puncture,prenatal	3.45	NA	NA	1.50	2.51	0.24	NA	NA	5.19	6.20	000
59015		A	Chorion biopsy	2.20	1.24	1.29	0.84	1.19	0.08	3.52	3.57	3.12	3.47	000
59020		A	Fetal contract stress test	0.66	0.80	1.20	0.80	1.20	0.23	1.69	2.09	1.69	2.09	000
59020	26	A	Fetal contract stress test	0.66	NA	NA	0.25	0.66	0.15	NA	NA	1.06	1.47	000
59020	TC	A	Fetal contract stress test	0.00	0.55	0.54	0.55	0.54	0.08	0.63	0.62	0.63	0.62	000
59025		A	Fetal non-stress test	0.53	0.44	0.61	0.44	0.61	0.09	1.06	1.23	1.06	1.23	000
59025	26	A	Fetal non-stress test	0.53	NA	NA	0.20	0.37	0.06	NA	NA	0.79	0.96	000
59025	TC	A	Fetal non-stress test	0.00	0.24	0.24	0.24	0.24	0.03	0.27	0.27	0.27	0.27	000
59030		A	Fetal scalp blood sample	1.99	NA	NA	0.93	1.52	0.16	NA	NA	3.08	3.67	000
59050		A	Fetal monitor w/report	0.89	NA	NA	0.33	0.74	0.12	NA	NA	1.34	1.75	XXX
59051		A	Fetal monitor/interpret only	0.74	NA	NA	0.28	0.73	0.12	NA	NA	1.14	1.59	XXX
59100		A	Remove uterus lesion	12.35	NA	NA	5.87	4.84	0.75	NA	NA	18.97	17.94	090
59120		A	Treat ectopic pregnancy	11.49	NA	NA	5.70	7.82	1.17	NA	NA	18.36	20.48	090
59121		A	Treat ectopic pregnancy	11.67	NA	NA	5.88	5.85	0.84	NA	NA	18.39	18.36	090
59130		A	Treat ectopic pregnancy	14.22	NA	NA	5.01	6.11	0.55	NA	NA	19.78	20.88	090
59135		A	Treat ectopic pregnancy	13.88	NA	NA	6.45	9.63	0.90	NA	NA	21.23	24.41	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
59136		A	Treat ectopic pregnancy	13.18	NA	NA	6.18	6.61	1.13	NA	NA	20.49	20.92	090
59140		A	Treat ectopic pregnancy	5.46	NA	NA	3.23	4.60	0.23	NA	NA	8.92	10.29	090
59150		A	Treat ectopic pregnancy	6.89	NA	NA	4.48	4.81	0.82	NA	NA	12.19	12.52	090
59151		A	Treat ectopic pregnancy	7.86	NA	NA	4.02	8.01	0.50	NA	NA	12.38	16.37	090
59160		A	D&C after delivery	2.71	3.09	3.18	2.11	2.91	0.41	6.21	6.28	5.23	6.03	010
59200		A	Insert cervical dilator	0.79	1.17	0.74	0.28	0.30	0.09	2.05	1.62	1.16	1.18	000
59300		A	Episiotomy or vaginal repair	2.41	1.66	1.22	0.90	0.63	0.08	4.15	3.71	3.39	3.12	000
59320		A	Revision of cervix	2.48	NA	NA	1.35	1.79	0.32	NA	NA	4.15	4.59	000
59325		A	Revision of cervix	4.07	NA	NA	2.31	2.93	0.23	NA	NA	6.61	7.23	000
59350		A	Repair of uterus	4.95	NA	NA	1.83	3.34	0.64	NA	NA	7.42	8.93	000
59400		A	Obstetrical care	23.06	NA	NA	13.04	15.46	2.71	NA	NA	38.81	41.23	MMM
59409		A	Obstetrical care	13.50	NA	NA	5.09	8.99	1.72	NA	NA	20.31	24.21	MMM
59410		A	Obstetrical care	14.78	NA	NA	6.28	9.96	1.87	NA	NA	22.93	26.61	MMM
59412		A	Antepartum manipulation	1.71	1.32	1.32	0.66	1.16	0.23	3.26	3.26	2.60	3.10	MMM
59414		A	Deliver placenta	1.61	NA	NA	1.09	1.21	0.21	NA	NA	2.91	3.03	MMM
59425		A	Antepartum care only	4.81	4.36	3.44	4.33	2.26	0.52	9.69	8.77	9.66	7.59	MMM
59426		A	Antepartum care only	8.28	7.43	5.88	7.49	3.88	0.89	16.60	15.05	16.66	13.05	MMM
59430		A	Care after delivery	2.13	1.09	0.58	1.12	0.44	0.05	3.27	2.76	3.30	2.62	MMM
59510		A	Cesarean delivery	26.22	NA	NA	15.01	17.51	3.07	NA	NA	44.30	46.80	MMM
59514		A	Cesarean delivery only	15.97	NA	NA	5.98	10.44	1.99	NA	NA	23.94	28.40	MMM
59515		A	Cesarean delivery	17.37	NA	NA	7.58	11.52	2.14	NA	NA	27.09	31.03	MMM
59525		A	Remove uterus after cesarean	8.54	NA	NA	3.38	3.94	0.69	NA	NA	12.61	13.17	ZZZ
59610		A	Vbac delivery	24.62	NA	NA	9.16	14.49	2.71	NA	NA	36.49	41.82	MMM
59612		A	Vbac delivery only	15.06	NA	NA	5.68	9.14	1.72	NA	NA	22.46	25.92	MMM
59614		A	Vbac care after delivery	16.34	NA	NA	6.13	9.93	1.87	NA	NA	24.34	28.14	MMM
59618		A	Attempted vbac delivery	27.78	NA	NA	10.57	16.40	3.07	NA	NA	41.42	47.25	MMM
59620		A	Attempted vbac delivery only	17.53	NA	NA	6.57	10.59	1.99	NA	NA	26.09	30.11	MMM
59622		A	Attempted vbac after care	18.93	NA	NA	7.23	11.43	2.14	NA	NA	28.30	32.50	MMM
59812		A	Treatment of miscarriage	3.25	4.12	3.97	2.28	3.49	0.60	7.97	7.82	6.13	7.34	090
59820		A	Care of miscarriage	4.01	4.41	4.16	2.54	3.69	0.60	9.02	8.77	7.15	8.30	090
59821		A	Treatment of miscarriage	4.47	4.59	3.36	2.72	2.89	0.49	9.55	8.32	7.68	7.85	090
59830		A	Treat uterus infection	6.11	NA	NA	3.67	4.61	0.41	NA	NA	10.19	11.13	090
59840		A	Abortion	3.01	4.50	3.74	2.16	3.16	0.54	8.05	7.29	5.71	6.71	010
59841		A	Abortion	5.24	5.89	4.53	3.37	3.90	0.59	11.72	10.36	9.20	9.73	010
59850		A	Abortion	5.91	NA	NA	2.65	3.92	0.66	NA	NA	9.22	10.49	090
59851		A	Abortion	5.93	NA	NA	3.02	4.24	0.69	NA	NA	9.64	10.86	090
59852		A	Abortion	8.24	NA	NA	4.25	5.55	0.99	NA	NA	13.48	14.78	090
59855		A	Abortion	6.12	NA	NA	3.01	4.12	0.75	NA	NA	9.88	10.99	090
59856		A	Abortion	7.48	NA	NA	3.64	5.07	0.93	NA	NA	12.05	13.48	090
59857		A	Abortion	9.29	NA	NA	4.16	6.10	1.13	NA	NA	14.58	16.52	090

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59866		A	Abortion	4.00	NA	NA	1.85	2.79	0.52	NA	NA	6.37	7.31	000
59870		A	Evacuate mole of uterus	4.28	NA	NA	3.04	3.13	0.52	NA	NA	7.84	7.93	090
59871		A	Remove cerclage suture	2.13	1.66	1.86	0.83	1.66	0.32	4.11	4.31	3.28	4.11	000
59899		C	Maternity care procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
60000		A	Drain thyroid/tongue cyst	1.76	1.95	0.98	1.94	0.73	0.07	3.78	2.81	3.77	2.56	010
60001		A	Aspirate/inject thyriod cyst	0.97	1.84	1.32	0.32	0.94	0.09	2.90	2.38	1.38	2.00	000
60100		A	Biopsy of thyroid	0.97	2.29	1.43	0.75	0.62	0.09	3.35	2.49	1.81	1.68	000
60200		A	Remove thyroid lesion	9.55	NA	NA	6.58	6.54	0.81	NA	NA	16.94	16.90	090
60210		A	Partial excision thyroid	10.88	NA	NA	6.62	8.72	1.29	NA	NA	18.79	20.89	090
60212		A	Partial thyroid excision	16.03	NA	NA	8.41	9.46	1.36	NA	NA	25.80	26.85	090
60220		A	Partial removal of thyroid	10.53	NA	NA	6.66	8.62	1.26	NA	NA	18.45	20.41	090
60225		A	Partial removal of thyroid	14.19	NA	NA	8.36	10.63	1.50	NA	NA	24.05	26.32	090
60240		A	Removal of thyroid	16.06	NA	NA	9.51	10.99	1.53	NA	NA	27.10	28.58	090
60252		A	Removal of thyroid	18.20	NA	NA	11.10	13.88	1.99	NA	NA	31.29	34.07	090
60254		A	Extensive thyroid surgery	23.88	NA	NA	15.46	19.50	2.41	NA	NA	41.75	45.79	090
60260		A	Repeat thyroid surgery	15.46	NA	NA	9.87	5.03	0.27	NA	NA	25.60	20.76	090
60270		A	Removal of thyroid	17.94	NA	NA	11.23	14.18	1.99	NA	NA	31.16	34.11	090
60271		A	Removal of thyroid	14.89	NA	NA	9.35	12.22	1.76	NA	NA	26.00	28.87	090
60280		A	Remove thyroid duct lesion	6.08	NA	NA	5.57	6.84	0.87	NA	NA	12.52	13.79	090
60281		A	Remove thyroid duct lesion	8.53	NA	NA	5.86	5.57	0.74	NA	NA	15.13	14.84	090
60500		A	Explore parathyroid glands	16.23	NA	NA	8.35	11.34	1.81	NA	NA	26.39	29.38	090
60502		A	Re-explore parathyroids	20.35	NA	NA	10.28	11.84	1.82	NA	NA	32.45	34.01	090
60505		A	Explore parathyroid glands	21.49	NA	NA	12.45	13.81	2.00	NA	NA	35.94	37.30	090
60512		A	Autotransplant, parathyroid	4.45	NA	NA	1.94	2.38	0.42	NA	NA	6.81	7.25	ZZZ
60520		A	Removal of thymus gland	16.81	NA	NA	9.53	13.40	1.92	NA	NA	28.26	32.13	090
60521		A	Removal thymus gland	18.87	NA	NA	11.83	13.98	1.92	NA	NA	32.62	34.77	090
60522		A	Removal of thymus gland	23.09	NA	NA	13.42	14.37	1.92	NA	NA	38.43	39.38	090
60540		A	Explore adrenal gland	17.03	NA	NA	8.46	11.93	1.63	NA	NA	27.12	30.59	090
60545		A	Explore adrenal gland	19.88	NA	NA	9.98	14.11	1.83	NA	NA	31.69	35.82	090
60600		A	Remove carotid body lesion	17.93	NA	NA	13.08	12.60	1.47	NA	NA	32.48	32.00	090
60605		A	Remove carotid body lesion	20.24	NA	NA	18.35	13.30	1.73	NA	NA	40.32	35.27	090
60699		C	Endocrine surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
61000		A	Remove cranial cavity fluid	1.58	1.38	1.22	1.34	1.21	0.13	3.09	2.93	3.05	2.92	000
61001		A	Remove cranial cavity fluid	1.49	1.32	1.05	1.23	0.67	0.13	2.94	2.67	2.85	2.29	000
61020		A	Remove brain cavity fluid	1.51	1.70	1.45	1.33	1.36	0.16	3.37	3.12	3.00	3.03	000
61026		A	Injection into brain canal	1.69	1.85	1.98	1.42	1.87	0.17	3.71	3.84	3.28	3.73	000
61050		A	Remove brain canal fluid	1.51	NA	NA	1.37	1.34	0.12	NA	NA	3.00	2.97	000
61055		A	Injection into brain canal	2.10	NA	NA	1.51	1.91	0.15	NA	NA	3.76	4.16	000
61070		A	Brain canal shunt procedure	0.89	6.41	2.00	0.94	0.44	0.02	7.32	2.91	1.85	1.35	000
61105		A	Twist drill hole	5.14	NA	NA	3.65	5.51	0.97	NA	NA	9.76	11.62	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
61106		D	Drill skull for exam/surgery	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ
61107		A	Drill skull for implantation	5.00	NA	NA	3.17	5.27	0.99	NA	NA	9.16	11.26	000
61108		A	Drill skull for drainage	10.19	NA	NA	6.98	10.87	1.74	NA	NA	18.91	22.80	090
61120		A	Burr hole for puncture	8.76	NA	NA	5.85	6.31	0.84	NA	NA	15.45	15.91	090
61130		D	Pierce skull, exam/surgery	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ
61140		A	Pierce skull for biopsy	15.90	NA	NA	10.30	14.07	2.00	NA	NA	28.20	31.97	090
61150		A	Pierce skull for drainage	17.57	NA	NA	11.03	14.68	2.06	NA	NA	30.66	34.31	090
61151		A	Pierce skull for drainage	12.42	NA	NA	8.14	3.77	0.29	NA	NA	20.85	16.48	090
61154		A	Pierce skull, remove clot	14.99	NA	NA	9.69	15.85	2.56	NA	NA	27.24	33.40	090
61156		A	Pierce skull for drainage	16.32	NA	NA	10.43	15.79	2.39	NA	NA	29.14	34.50	090
61210		A	Pierce skull; implant device	5.84	NA	NA	3.72	5.84	1.20	NA	NA	10.76	12.88	000
61215		A	Insert brain-fluid device	4.89	NA	NA	4.19	5.43	1.28	NA	NA	10.36	11.60	090
61250		A	Pierce skull & explore	10.42	NA	NA	6.80	8.23	1.13	NA	NA	18.35	19.78	090
61253		A	Pierce skull & explore	12.36	NA	NA	8.37	9.92	1.32	NA	NA	22.05	23.60	090
61304		A	Open skull for exploration	21.96	NA	NA	13.54	23.05	3.74	NA	NA	39.24	48.75	090
61305		A	Open skull for exploration	26.61	NA	NA	15.84	27.65	3.95	NA	NA	46.40	58.21	090
61312		A	Open skull for drainage	24.57	NA	NA	14.94	23.38	3.49	NA	NA	43.00	51.44	090
61313		A	Open skull for drainage	24.93	NA	NA	15.59	23.47	3.43	NA	NA	43.95	51.83	090
61314		A	Open skull for drainage	24.23	NA	NA	15.10	24.63	3.66	NA	NA	42.99	52.52	090
61315		A	Open skull for drainage	27.68	NA	NA	17.24	24.18	3.50	NA	NA	48.42	55.36	090
61320		A	Open skull for drainage	25.62	NA	NA	16.02	19.22	2.67	NA	NA	44.31	47.51	090
61321		A	Open skull for drainage	28.50	NA	NA	16.94	20.38	2.77	NA	NA	48.21	51.65	090
61330		A	Decompress eye socket	23.32	NA	NA	19.60	15.46	0.95	NA	NA	43.87	39.73	090
61332		A	Explore/biopsy eye socket	27.28	NA	NA	20.38	21.96	2.16	NA	NA	49.82	51.40	090
61333		A	Explore orbit; remove lesion	27.95	NA	NA	19.33	21.48	2.55	NA	NA	49.83	51.98	090
61334		A	Explore orbit; remove object	18.27	NA	NA	12.02	14.93	1.42	NA	NA	31.71	34.62	090
61340		A	Relieve cranial pressure	18.66	NA	NA	11.82	15.00	1.99	NA	NA	32.47	35.65	090
61343		A	Incise skull,pressure relief	29.77	NA	NA	19.06	29.22	4.13	NA	NA	52.96	63.12	090
61345		A	Relieve cranial pressure	27.20	NA	NA	17.13	19.90	2.70	NA	NA	47.03	49.80	090
61440		A	Incise skull for surgery	26.63	NA	NA	15.09	20.66	2.35	NA	NA	44.07	49.64	090
61450		A	Incise skull for surgery	25.95	NA	NA	16.19	20.68	2.68	NA	NA	44.82	49.31	090
61458		A	Incise skull for brain wound	27.29	NA	NA	17.00	26.46	3.81	NA	NA	48.10	57.56	090
61460		A	Incise skull for surgery	28.39	NA	NA	18.40	24.99	3.11	NA	NA	49.90	56.49	090
61470		A	Incise skull for surgery	26.06	NA	NA	15.21	15.08	1.98	NA	NA	43.25	43.12	090
61480		A	Incise skull for surgery	26.49	NA	NA	12.67	15.43	1.39	NA	NA	40.55	43.31	090
61490		A	Incise skull for surgery	25.66	NA	NA	15.32	13.37	1.69	NA	NA	42.67	40.72	090
61500		A	Removal of skull lesion	17.92	NA	NA	11.84	19.00	2.80	NA	NA	32.56	39.72	090
61501		A	Remove infected skull bone	14.84	NA	NA	10.15	15.82	2.61	NA	NA	27.60	33.27	090
61510		A	Removal of brain lesion	28.45	NA	NA	17.77	26.46	3.83	NA	NA	50.05	58.74	090
61512		A	Remove brain lining lesion	35.09	NA	NA	21.50	28.99	4.13	NA	NA	60.72	68.21	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
61514		A	Removal of brain abscess	25.26	NA	NA	15.51	24.65	3.71	NA	NA	44.48	53.62	090
61516		A	Removal of brain lesion	24.61	NA	NA	15.50	25.43	3.58	NA	NA	43.69	53.62	090
61518		A	Removal of brain lesion	37.32	NA	NA	23.55	30.32	4.27	NA	NA	65.14	71.91	090
61519		A	Remove brain lining lesion	41.39	NA	NA	25.69	31.83	4.51	NA	NA	71.59	77.73	090
61520		A	Removal of brain lesion	54.84	NA	NA	33.91	36.03	4.61	NA	NA	93.36	95.48	090
61521		A	Removal of brain lesion	44.48	NA	NA	27.36	33.68	4.58	NA	NA	76.42	82.74	090
61522		A	Removal of brain abscess	29.45	NA	NA	18.45	20.86	2.97	NA	NA	50.87	53.28	090
61524		A	Removal of brain lesion	27.86	NA	NA	17.42	26.70	4.03	NA	NA	49.31	58.59	090
61526		A	Removal of brain lesion	52.17	NA	NA	33.53	36.07	3.75	NA	NA	89.45	91.99	090
61530		A	Removal of brain lesion	43.86	NA	NA	29.79	35.13	3.75	NA	NA	77.40	82.74	090
61531		A	Implant brain electrodes	14.63	NA	NA	9.79	14.64	1.37	NA	NA	25.79	30.64	090
61533		A	Implant brain electrodes	19.71	NA	NA	12.89	17.08	2.61	NA	NA	35.21	39.40	090
61534		A	Removal of brain lesion	20.97	NA	NA	13.36	8.53	1.57	NA	NA	35.90	31.07	090
61535		A	Remove brain electrodes	11.63	NA	NA	8.35	8.32	0.98	NA	NA	20.96	20.93	090
61536		A	Removal of brain lesion	35.52	NA	NA	22.56	23.51	3.12	NA	NA	61.20	62.15	090
61538		A	Removal of brain tissue	26.81	NA	NA	17.53	28.05	3.89	NA	NA	48.23	58.75	090
61539		A	Removal of brain tissue	32.08	NA	NA	19.96	23.68	3.18	NA	NA	55.22	58.94	090
61541		A	Incision of brain tissue	28.85	NA	NA	17.84	20.58	2.96	NA	NA	49.65	52.39	090
61542		A	Removal of brain tissue	31.02	NA	NA	17.79	20.66	3.05	NA	NA	51.86	54.73	090
61543		A	Removal of brain tissue	29.22	NA	NA	18.12	18.56	1.95	NA	NA	49.29	49.73	090
61544		A	Remove & treat brain lesion	25.50	NA	NA	13.55	26.22	1.65	NA	NA	40.70	53.37	090
61545		A	Excision of brain tumor	43.80	NA	NA	26.42	27.49	3.76	NA	NA	73.98	75.05	090
61546		A	Removal of pituitary gland	31.30	NA	NA	19.80	26.93	3.74	NA	NA	54.84	61.97	090
61548		A	Removal of pituitary gland	21.53	NA	NA	14.66	22.94	3.15	NA	NA	39.34	47.62	090
61550		A	Release of skull seams	14.65	NA	NA	7.24	11.43	0.87	NA	NA	22.76	26.95	090
61552		A	Release of skull seams	19.56	NA	NA	9.57	13.65	2.11	NA	NA	31.24	35.32	090
61556		A	Incise skull/sutures	22.26	NA	NA	12.74	15.82	2.38	NA	NA	37.38	40.46	090
61557		A	Incise skull/sutures	22.38	NA	NA	14.68	16.38	2.39	NA	NA	39.45	41.15	090
61558		A	Excision of skull/sutures	25.58	NA	NA	15.20	18.24	2.71	NA	NA	43.49	46.53	090
61559		A	Excision of skull/sutures	32.79	NA	NA	18.50	23.35	3.52	NA	NA	54.81	59.66	090
61563		A	Excision of skull tumor	26.83	NA	NA	17.01	19.56	2.88	NA	NA	46.72	49.27	090
61564		A	Excision of skull tumor	33.83	NA	NA	21.48	24.68	3.63	NA	NA	58.94	62.14	090
61570		A	Remove brain foreign body	24.60	NA	NA	14.80	17.13	2.39	NA	NA	41.79	44.12	090
61571		A	Incise skull for brain wound	26.39	NA	NA	16.14	18.95	2.51	NA	NA	45.04	47.85	090
61575		A	Skull base/brainstem surgery	34.36	NA	NA	23.10	32.63	3.95	NA	NA	61.41	70.94	090
61576		A	Skull base/brainstem surgery	52.43	NA	NA	33.10	31.26	3.06	NA	NA	88.59	86.75	090
61580		A	Craniofacial approach, skull	30.35	NA	NA	19.75	22.04	3.21	NA	NA	53.31	55.60	090
61581		A	Craniofacial approach, skull	34.60	NA	NA	11.52	22.28	3.65	NA	NA	49.77	60.53	090
61582		A	Craniofacial approach, skull	31.66	NA	NA	19.85	22.59	3.30	NA	NA	54.81	57.55	090
61583		A	Craniofacial approach, skull	36.21	NA	NA	22.91	25.84	3.78	NA	NA	62.90	65.83	090

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CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
61584		A	Orbitocranial approach/skull	34.65	NA	NA	21.33	24.80	3.66	NA	NA	59.64	63.11	090
61585		A	Orbitocranial approach/skull	38.61	NA	NA	23.04	27.53	4.09	NA	NA	65.74	70.23	090
61586		A	Resect nasopharynx, skull	25.10	NA	NA	17.75	21.84	1.82	NA	NA	44.67	48.76	090
61590		A	Infratemporal approach/skull	41.78	NA	NA	27.88	30.66	4.44	NA	NA	74.10	76.88	090
61591		A	Infratemporal approach/skull	43.68	NA	NA	27.07	31.61	4.66	NA	NA	75.41	79.95	090
61592		A	Orbitocranial approach/skull	39.64	NA	NA	24.95	28.77	4.23	NA	NA	68.82	72.64	090
61595		A	Transtemporal approach/skull	29.57	NA	NA	21.09	21.91	3.13	NA	NA	53.79	54.61	090
61596		A	Transcochlear approach/skull	35.63	NA	NA	24.64	26.38	3.80	NA	NA	64.07	65.81	090
61597		A	Transcondylar approach/skull	37.96	NA	NA	19.09	26.15	4.01	NA	NA	61.06	68.12	090
61598		A	Transpetrosal approach/skull	33.41	NA	NA	22.29	24.40	3.54	NA	NA	59.24	61.35	090
61600		A	Resect/excise cranial lesion	25.85	NA	NA	17.12	18.72	2.71	NA	NA	45.68	47.28	090
61601		A	Resect/excise cranial lesion	27.89	NA	NA	17.75	19.93	2.91	NA	NA	48.55	50.73	090
61605		A	Resect/excise cranial lesion	29.33	NA	NA	19.46	21.22	3.07	NA	NA	51.86	53.62	090
61606		A	Resect/excise cranial lesion	38.83	NA	NA	23.73	27.83	4.11	NA	NA	66.67	70.77	090
61607		A	Resect/excise cranial lesion	36.27	NA	NA	23.09	26.23	3.84	NA	NA	63.20	66.34	090
61608		A	Resect/excise cranial lesion	42.10	NA	NA	25.46	30.16	4.47	NA	NA	72.03	76.73	090
61609		A	Transect, artery, sinus	9.89	NA	NA	5.55	7.24	1.10	NA	NA	16.54	18.23	ZZZ
61610		A	Transect, artery, sinus	29.67	NA	NA	12.97	20.80	3.29	NA	NA	45.93	53.76	ZZZ
61611		A	Transect, artery, sinus	7.42	NA	NA	3.47	5.26	0.83	NA	NA	11.72	13.51	ZZZ
61612		A	Transect, artery, sinus	27.88	NA	NA	13.09	19.77	3.10	NA	NA	44.07	50.75	ZZZ
61613		A	Remove aneurysm, sinus	40.86	NA	NA	24.94	29.57	4.39	NA	NA	70.19	74.82	090
61615		A	Resect/excise lesion, skull	32.07	NA	NA	22.03	23.47	3.37	NA	NA	57.47	58.91	090
61616		A	Resect/excise lesion, skull	43.33	NA	NA	27.31	31.27	4.58	NA	NA	75.22	79.18	090
61618		A	Repair dura	16.99	NA	NA	11.89	12.21	1.74	NA	NA	30.62	30.94	090
61619		A	Repair dura	20.71	NA	NA	13.91	15.03	2.17	NA	NA	36.79	37.91	090
61624		A	Occlusion/embolization cath	20.15	NA	NA	12.02	15.44	1.40	NA	NA	33.57	36.99	000
61626		A	Occlusion/embolization cath	16.62	NA	NA	9.21	12.56	1.15	NA	NA	26.98	30.33	000
61680		A	Intracranial vessel surgery	30.71	NA	NA	19.04	30.04	4.53	NA	NA	54.28	65.28	090
61682		A	Intracranial vessel surgery	61.57	NA	NA	35.60	37.64	4.98	NA	NA	102.15	104.19	090
61684		A	Intracranial vessel surgery	39.81	NA	NA	24.60	30.38	2.71	NA	NA	67.12	72.90	090
61686		A	Intracranial vessel surgery	64.49	NA	NA	37.57	38.68	3.29	NA	NA	105.35	106.46	090
61690		A	Intracranial vessel surgery	29.31	NA	NA	18.30	26.93	3.20	NA	NA	50.81	59.44	090
61692		A	Intracranial vessel surgery	51.87	NA	NA	28.56	30.57	2.63	NA	NA	83.06	85.07	090
61700		A	Inner skull vessel surgery	50.52	NA	NA	29.26	33.11	4.44	NA	NA	84.22	88.07	090
61702		A	Inner skull vessel surgery	48.41	NA	NA	28.28	36.63	5.17	NA	NA	81.86	90.21	090
61703		A	Clamp neck artery	17.47	NA	NA	11.21	12.74	1.75	NA	NA	30.43	31.96	090
61705		A	Revise circulation to head	36.20	NA	NA	20.37	29.84	4.11	NA	NA	60.68	70.15	090
61708		A	Revise circulation to head	35.30	NA	NA	15.31	24.34	1.82	NA	NA	52.43	61.46	090
61710		A	Revise circulation to head	29.67	NA	NA	15.02	17.29	1.37	NA	NA	46.06	48.33	090
61711		A	Fusion of skull arteries	36.33	NA	NA	21.93	32.38	4.85	NA	NA	63.11	73.56	090

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CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
61712		D	Skull or spine microsurgery	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ
61720		A	Incise skull/brain surgery	16.77	NA	NA	10.93	17.75	3.17	NA	NA	30.87	37.69	090
61735		A	Incise skull/brain surgery	20.43	NA	NA	13.16	13.84	1.18	NA	NA	34.77	35.45	090
61750		A	Incise skull; brain biopsy	18.20	NA	NA	11.59	13.92	3.37	NA	NA	33.16	35.49	090
61751		A	Brain biopsy with cat scan	17.62	NA	NA	10.98	18.52	3.47	NA	NA	32.07	39.61	090
61760		A	Implant brain electrodes	22.27	NA	NA	13.48	15.57	1.37	NA	NA	37.12	39.21	090
61770		A	Incise skull for treatment	21.44	NA	NA	13.24	19.08	2.68	NA	NA	37.36	43.20	090
61790		A	Treat trigeminal nerve	10.86	NA	NA	5.81	11.18	2.37	NA	NA	19.04	24.41	090
61791		A	Treat trigeminal tract	14.61	NA	NA	9.61	10.35	2.47	NA	NA	26.69	27.43	090
61793		A	Focus radiation beam	17.24	NA	NA	11.70	18.36	1.53	NA	NA	30.47	37.13	090
61795		A	Brain surgery using computer	4.04	NA	NA	2.71	4.29	1.21	NA	NA	7.96	9.54	ZZZ
61850		A	Implant neuroelectrodes	12.39	NA	NA	8.28	11.54	1.77	NA	NA	22.44	25.70	090
61855		A	Implant neuroelectrodes	13.39	NA	NA	9.32	10.79	1.15	NA	NA	23.86	25.33	090
61860		A	Implant neuroelectrodes	20.87	NA	NA	12.89	9.85	1.24	NA	NA	35.00	31.96	090
61865		A	Implant neuroelectrodes	22.97	NA	NA	14.16	16.39	2.42	NA	NA	39.55	41.78	090
61870		A	Implant neuroelectrodes	14.94	NA	NA	9.37	5.76	0.64	NA	NA	24.95	21.34	090
61875		A	Implant neuroelectrodes	15.06	NA	NA	8.34	7.53	1.02	NA	NA	24.42	23.61	090
61880		A	Revise/remove neuroelectrode	6.29	NA	NA	5.14	5.19	0.52	NA	NA	11.95	12.00	090
61885		A	Implant neuroreceiver	5.85	NA	NA	4.74	2.78	0.23	NA	NA	10.82	8.86	090
61888		A	Revise/remove neuroreceiver	5.07	NA	NA	3.83	2.79	0.34	NA	NA	9.24	8.20	010
62000		A	Repair of skull fracture	12.53	NA	NA	5.81	6.12	0.74	NA	NA	19.08	19.39	090
62005		A	Repair of skull fracture	16.17	NA	NA	9.77	11.46	1.54	NA	NA	27.48	29.17	090
62010		A	Treatment of head injury	19.81	NA	NA	12.53	18.76	2.65	NA	NA	34.99	41.22	090
62100		A	Repair brain fluid leakage	22.03	NA	NA	14.59	21.24	2.91	NA	NA	39.53	46.18	090
62115		A	Reduction of skull defect	21.66	NA	NA	13.47	15.99	1.42	NA	NA	36.55	39.07	090
62116		A	Reduction of skull defect	23.59	NA	NA	14.69	17.50	1.56	NA	NA	39.84	42.65	090
62117		A	Reduction of skull defect	26.60	NA	NA	15.94	19.62	1.76	NA	NA	44.30	47.98	090
62120		A	Repair skull cavity lesion	23.35	NA	NA	15.51	17.63	1.55	NA	NA	40.41	42.53	090
62121		A	Incise skull repair	21.58	NA	NA	14.70	17.93	2.67	NA	NA	38.95	42.18	090
62140		A	Repair of skull defect	13.51	NA	NA	9.26	13.25	1.87	NA	NA	24.64	28.63	090
62141		A	Repair of skull defect	14.91	NA	NA	10.19	15.90	2.57	NA	NA	27.67	33.38	090
62142		A	Remove skull plate/flap	10.79	NA	NA	7.51	11.54	2.07	NA	NA	20.37	24.40	090
62143		A	Replace skull plate/flap	13.05	NA	NA	8.85	9.68	1.29	NA	NA	23.19	24.02	090
62145		A	Repair of skull & brain	18.82	NA	NA	12.57	13.85	1.79	NA	NA	33.18	34.46	090
62146		A	Repair of skull with graft	16.12	NA	NA	10.68	11.62	1.68	NA	NA	28.48	29.42	090
62147		A	Repair of skull with graft	19.34	NA	NA	12.77	13.91	2.01	NA	NA	34.12	35.26	090
62180		A	Establish brain cavity shunt	21.06	NA	NA	13.61	14.97	2.11	NA	NA	36.78	38.14	090
62190		A	Establish brain cavity shunt	11.07	NA	NA	8.13	11.95	2.51	NA	NA	21.71	25.53	090
62192		A	Establish brain cavity shunt	12.25	NA	NA	8.53	13.11	2.14	NA	NA	22.92	27.50	090
62194		A	Replace/irrigate catheter	5.03	NA	NA	2.53	2.16	0.23	NA	NA	7.79	7.42	010

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
62200		A	Establish brain cavity shunt	18.32	NA	NA	12.21	16.85	2.42	NA	NA	32.95	37.59	090
62201		A	Establish brain cavity shunt	14.86	NA	NA	10.05	9.66	1.35	NA	NA	26.26	25.87	090
62220		A	Establish brain cavity shunt	13.00	NA	NA	8.55	13.78	2.44	NA	NA	23.99	29.22	090
62223		A	Establish brain cavity shunt	12.87	NA	NA	8.63	13.69	2.36	NA	NA	23.86	28.92	090
62225		A	Replace/irrigate catheter	5.41	NA	NA	4.12	4.94	0.45	NA	NA	9.98	10.80	090
62230		A	Replace/revise brain shunt	10.54	NA	NA	7.03	9.76	1.42	NA	NA	18.99	21.72	090
62256		A	Remove brain cavity shunt	6.60	NA	NA	5.19	6.49	0.92	NA	NA	12.71	14.01	090
62258		A	Replace brain cavity shunt	14.54	NA	NA	9.35	14.37	1.99	NA	NA	25.88	30.90	090
62268		A	Drain spinal cord cyst	4.74	NA	NA	2.80	3.12	0.28	NA	NA	7.82	8.14	000
62269		A	Needle biopsy spinal cord	5.02	NA	NA	2.28	2.00	0.22	NA	NA	7.52	7.24	000
62270		A	Spinal fluid tap, diagnostic	1.13	0.67	0.75	0.39	0.68	0.05	1.85	1.93	1.57	1.86	000
62272		A	Drain spinal fluid	1.35	0.81	1.03	0.56	0.97	0.09	2.25	2.47	2.00	2.41	000
62273		A	Treat lumbar spine lesion	2.15	1.24	1.23	0.89	1.14	0.20	3.59	3.58	3.24	3.49	000
62274		A	Inject spinal anesthetic	1.78	2.73	1.28	1.33	0.93	0.13	4.64	3.19	3.24	2.84	000
62275		A	Inject spinal anesthetic	1.79	2.42	1.09	1.33	0.81	0.15	4.36	3.03	3.27	2.75	000
62276		A	Inject spinal anesthetic	2.04	2.65	1.66	1.56	1.39	0.18	4.87	3.88	3.78	3.61	000
62277		A	Inject spinal anesthetic	2.15	3.00	1.43	1.33	1.02	0.18	5.33	3.76	3.66	3.35	000
62278		A	Inject spinal anesthetic	1.51	1.74	1.23	1.36	1.14	0.20	3.45	2.94	3.07	2.85	000
62279		A	Inject spinal anesthetic	1.58	1.90	1.14	1.23	0.98	0.19	3.67	2.91	3.00	2.75	000
62280		A	Treat spinal cord lesion	2.63	3.82	1.48	1.65	0.99	0.11	6.36	4.22	4.39	3.73	010
62281		A	Treat spinal cord lesion	2.66	2.69	1.38	1.45	1.07	0.22	5.57	4.26	4.33	3.95	010
62282		A	Treat spinal canal lesion	2.33	4.09	2.40	1.52	1.76	0.31	6.73	5.04	4.16	4.40	010
62284		A	Injection for myelogram	1.54	3.42	2.47	0.72	1.55	0.27	5.23	4.28	2.53	3.36	000
62287		A	Percutaneous diskectomy	8.08	NA	NA	4.83	6.87	2.07	NA	NA	14.98	17.02	090
62288		A	Injection into spinal canal	1.74	2.87	1.63	1.47	1.28	0.19	4.80	3.56	3.40	3.21	000
62289		A	Injection into spinal canal	1.64	2.82	1.58	1.29	1.19	0.23	4.69	3.45	3.16	3.06	000
62290		A	Inject for spine disk x-ray	3.00	3.79	2.46	1.42	1.87	0.19	6.98	5.65	4.61	5.06	000
62291		A	Inject for spine disk x-ray	2.91	3.82	2.40	1.19	1.75	0.31	7.04	5.62	4.41	4.97	000
62292		A	Injection into disk lesion	7.86	NA	NA	4.69	8.22	1.67	NA	NA	14.22	17.75	090
62294		A	Injection into spinal artery	11.83	NA	NA	6.19	6.30	0.53	NA	NA	18.55	18.66	090
62298		A	Injection into spinal canal	2.20	2.50	1.47	1.33	1.18	0.10	4.80	3.77	3.63	3.48	000
62350		A	Implant spinal catheter	6.87	NA	NA	3.58	3.74	0.80	NA	NA	11.25	11.41	090
62351		A	Implant spinal catheter	10.00	NA	NA	6.90	5.93	1.17	NA	NA	18.07	17.10	090
62355		A	Remove spinal canal catheter	5.45	NA	NA	2.33	3.43	0.53	NA	NA	8.31	9.41	090
62360		A	Insert spine infusion device	2.62	NA	NA	2.27	1.48	0.26	NA	NA	5.15	4.36	090
62361		A	Implant spine infusion pump	5.42	NA	NA	3.11	2.96	0.61	NA	NA	9.14	8.99	090
62362		A	Implant spine infusion pump	7.04	NA	NA	4.17	3.90	0.80	NA	NA	12.01	11.74	090
62365		A	Remove spine infusion device	5.42	NA	NA	3.03	3.59	0.53	NA	NA	8.98	9.54	090
62367		C	Analyze spine infusion pump	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
62367	26	A	Analyze spine infusion pump	0.48	0.12	0.32	0.12	0.32	0.05	0.65	0.85	0.65	0.85	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
62367	TC	C	Analyze spine infusion pump	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
62368		C	Analyze spine infusion pump	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
62368	26	A	Analyze spine infusion pump	0.75	0.17	0.49	0.17	0.49	0.09	1.01	1.33	1.01	1.33	XXX
62368	TC	C	Analyze spine infusion pump	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
63001		A	Removal of spinal lamina	15.82	NA	NA	10.65	16.82	2.68	NA	NA	29.15	35.32	090
63003		A	Removal of spinal lamina	15.95	NA	NA	11.35	17.13	2.53	NA	NA	29.83	35.61	090
63005		A	Removal of spinal lamina	14.92	NA	NA	10.90	16.08	2.43	NA	NA	28.25	33.43	090
63011		A	Removal of spinal lamina	14.52	NA	NA	7.74	10.07	1.46	NA	NA	23.72	26.05	090
63012		A	Removal of spinal lamina	15.40	NA	NA	10.76	16.48	2.46	NA	NA	28.62	34.34	090
63015		A	Removal of spinal lamina	19.35	NA	NA	13.10	20.56	3.27	NA	NA	35.72	43.18	090
63016		A	Removal of spinal lamina	19.20	NA	NA	13.16	20.48	3.22	NA	NA	35.58	42.90	090
63017		A	Removal of spinal lamina	15.94	NA	NA	11.37	17.11	3.13	NA	NA	30.44	36.18	090
63020		A	Neck spine disk surgery	14.81	NA	NA	10.67	15.73	2.64	NA	NA	28.12	33.18	090
63030		A	Low back disk surgery	12.00	NA	NA	9.18	13.04	2.20	NA	NA	23.38	27.24	090
63035		A	Spinal disk surgery add-on	3.15	NA	NA	2.16	3.37	0.59	NA	NA	5.90	7.11	ZZZ
63040		A	Neck spine disk surgery	18.81	NA	NA	12.84	20.05	3.36	NA	NA	35.01	42.22	090
63042		A	Low back disk surgery	17.47	NA	NA	12.34	18.73	3.43	NA	NA	33.24	39.63	090
63045		A	Removal of spinal lamina	16.50	NA	NA	11.59	17.67	3.43	NA	NA	31.52	37.60	090
63046		A	Removal of spinal lamina	15.80	NA	NA	11.25	16.96	3.58	NA	NA	30.63	36.34	090
63047		A	Removal of spinal lamina	14.61	NA	NA	10.82	15.79	3.50	NA	NA	28.93	33.90	090
63048		A	Remove spinal lamina add-on	3.26	NA	NA	2.26	3.49	0.81	NA	NA	6.33	7.56	ZZZ
63055		A	Decompress spinal cord	21.99	NA	NA	14.88	23.03	3.27	NA	NA	40.14	48.29	090
63056		A	Decompress spinal cord	20.36	NA	NA	13.97	21.27	2.94	NA	NA	37.27	44.57	090
63057		A	Decompress spine cord add-on	5.26	NA	NA	3.27	3.95	0.66	NA	NA	9.19	9.87	ZZZ
63064		A	Decompress spinal cord	24.61	NA	NA	16.46	23.51	3.20	NA	NA	44.27	51.32	090
63066		A	Decompress spine cord add-on	3.26	NA	NA	2.28	2.59	0.35	NA	NA	5.89	6.20	ZZZ
63075		A	Neck spine disk surgery	19.41	NA	NA	13.21	17.61	2.51	NA	NA	35.13	39.53	090
63076		A	Neck spine disk surgery	4.05	NA	NA	2.80	4.33	0.76	NA	NA	7.61	9.14	ZZZ
63077		A	Spine disk surgery, thorax	21.44	NA	NA	14.75	18.68	2.48	NA	NA	38.67	42.60	090
63078		A	Spine disk surgery, thorax	3.28	NA	NA	2.25	2.69	0.35	NA	NA	5.88	6.32	ZZZ
63081		A	Removal of vertebral body	23.73	NA	NA	16.08	25.27	3.52	NA	NA	43.33	52.52	090
63082		A	Remove vertebral body add-on	4.37	NA	NA	2.99	4.66	0.95	NA	NA	8.31	9.98	ZZZ
63085		A	Removal of vertebral body	26.92	NA	NA	17.73	26.73	3.67	NA	NA	48.32	57.32	090
63086		A	Remove vertebral body add-on	3.19	NA	NA	2.21	3.41	0.84	NA	NA	6.24	7.44	ZZZ
63087		A	Removal of vertebral body	35.57	NA	NA	19.95	27.98	3.79	NA	NA	59.31	67.34	090
63088		A	Remove vertebral body add-on	4.33	NA	NA	2.91	4.61	0.92	NA	NA	8.16	9.86	ZZZ
63090		A	Removal of vertebral body	28.16	NA	NA	18.18	28.33	3.85	NA	NA	50.19	60.34	090
63091		A	Remove vertebral body add-on	3.03	NA	NA	2.06	2.74	0.36	NA	NA	5.45	6.13	ZZZ
63170		A	Incise spinal cord tract(s)	19.83	NA	NA	13.58	18.76	2.57	NA	NA	35.98	41.16	090
63172		A	Drainage of spinal cyst	17.66	NA	NA	12.70	18.99	3.33	NA	NA	33.69	39.98	090

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CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
63173		A	Drainage of spinal cyst	21.99	NA	NA	14.94	16.33	1.42	NA	NA	38.35	39.74	090
63180		A	Revise spinal cord ligaments	18.27	NA	NA	11.01	12.20	1.60	NA	NA	30.88	32.07	090
63182		A	Revise spinal cord ligaments	20.50	NA	NA	12.30	16.46	1.73	NA	NA	34.53	38.69	090
63185		A	Incise spinal column/nerves	15.04	NA	NA	9.85	15.12	2.29	NA	NA	27.18	32.45	090
63190		A	Incise spinal column/nerves	17.45	NA	NA	11.81	18.58	3.06	NA	NA	32.32	39.09	090
63191		A	Incise spinal column/nerves	17.54	NA	NA	11.52	13.49	1.73	NA	NA	30.79	32.76	090
63194		A	Incise spinal column & cord	19.19	NA	NA	11.95	13.59	1.82	NA	NA	32.96	34.60	090
63195		A	Incise spinal column & cord	18.84	NA	NA	12.29	14.35	1.65	NA	NA	32.78	34.84	090
63196		A	Incise spinal column & cord	22.30	NA	NA	11.57	15.58	1.43	NA	NA	35.30	39.31	090
63197		A	Incise spinal column & cord	21.11	NA	NA	13.83	15.14	2.05	NA	NA	36.99	38.30	090
63198		A	Incise spinal column & cord	25.38	NA	NA	13.15	16.57	2.50	NA	NA	41.03	44.45	090
63199		A	Incise spinal column & cord	26.89	NA	NA	15.39	21.26	2.04	NA	NA	44.32	50.19	090
63200		A	Release of spinal cord	19.18	NA	NA	12.25	13.23	1.43	NA	NA	32.86	33.84	090
63250		A	Revise spinal cord vessels	40.76	NA	NA	18.89	27.51	4.08	NA	NA	63.73	72.35	090
63251		A	Revise spinal cord vessels	41.20	NA	NA	24.40	24.61	3.38	NA	NA	68.98	69.19	090
63252		A	Revise spinal cord vessels	41.19	NA	NA	24.70	29.17	4.32	NA	NA	70.21	74.68	090
63265		A	Excise intraspinal lesion	21.56	NA	NA	14.22	21.47	3.05	NA	NA	38.83	46.08	090
63266		A	Excise intraspinal lesion	22.30	NA	NA	14.63	23.62	3.47	NA	NA	40.40	49.39	090
63267		A	Excise intraspinal lesion	17.95	NA	NA	12.22	19.13	3.29	NA	NA	33.46	40.37	090
63268		A	Excise intraspinal lesion	18.52	NA	NA	11.98	13.22	1.92	NA	NA	32.42	33.66	090
63270		A	Excise intraspinal lesion	26.80	NA	NA	17.16	19.06	2.68	NA	NA	46.64	48.54	090
63271		A	Excise intraspinal lesion	26.92	NA	NA	17.35	25.99	3.75	NA	NA	48.02	56.66	090
63272		A	Excise intraspinal lesion	25.32	NA	NA	16.20	22.89	3.33	NA	NA	44.85	51.54	090
63273		A	Excise intraspinal lesion	24.29	NA	NA	15.38	18.14	2.44	NA	NA	42.11	44.87	090
63275		A	Biopsy/excise spinal tumor	23.68	NA	NA	15.10	24.98	3.98	NA	NA	42.76	52.64	090
63276		A	Biopsy/excise spinal tumor	23.45	NA	NA	14.95	24.34	3.61	NA	NA	42.01	51.40	090
63277		A	Biopsy/excise spinal tumor	20.83	NA	NA	13.65	22.06	3.32	NA	NA	37.80	46.21	090
63278		A	Biopsy/excise spinal tumor	20.56	NA	NA	13.48	21.78	3.38	NA	NA	37.42	45.72	090
63280		A	Biopsy/excise spinal tumor	28.35	NA	NA	18.06	27.37	3.90	NA	NA	50.31	59.62	090
63281		A	Biopsy/excise spinal tumor	28.05	NA	NA	17.98	27.02	3.88	NA	NA	49.91	58.95	090
63282		A	Biopsy/excise spinal tumor	26.39	NA	NA	16.77	23.82	3.47	NA	NA	46.63	53.68	090
63283		A	Biopsy/excise spinal tumor	25.00	NA	NA	16.39	19.38	2.69	NA	NA	44.08	47.07	090
63285		A	Biopsy/excise spinal tumor	36.00	NA	NA	22.00	25.44	3.51	NA	NA	61.51	64.95	090
63286		A	Biopsy/excise spinal tumor	35.63	NA	NA	22.34	28.99	3.85	NA	NA	61.82	68.47	090
63287		A	Biopsy/excise spinal tumor	36.70	NA	NA	22.57	26.58	3.54	NA	NA	62.81	66.82	090
63290		A	Biopsy/excise spinal tumor	37.38	NA	NA	22.00	27.61	3.64	NA	NA	63.02	68.63	090
63300		A	Removal of vertebral body	24.43	NA	NA	15.69	17.98	1.58	NA	NA	41.70	43.99	090
63301		A	Removal of vertebral body	27.60	NA	NA	17.35	19.35	2.80	NA	NA	47.75	49.75	090
63302		A	Removal of vertebral body	27.81	NA	NA	17.15	21.67	2.36	NA	NA	47.32	51.84	090
63303		A	Removal of vertebral body	30.50	NA	NA	18.59	19.71	2.65	NA	NA	51.74	52.86	090

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CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
63304		A	Removal of vertebral body	30.33	NA	NA	18.74	22.03	1.95	NA	NA	51.02	54.31	090
63305		A	Removal of vertebral body	32.03	NA	NA	19.52	23.19	2.93	NA	NA	54.48	58.15	090
63306		A	Removal of vertebral body	32.22	NA	NA	19.04	23.29	2.07	NA	NA	53.33	57.58	090
63307		A	Removal of vertebral body	31.63	NA	NA	17.92	24.36	2.33	NA	NA	51.88	58.32	090
63308		A	Remove vertebral body add-on	5.25	NA	NA	3.08	4.07	0.57	NA	NA	8.90	9.89	ZZZ
63600		A	Remove spinal cord lesion	14.02	NA	NA	6.05	10.22	2.06	NA	NA	22.13	26.30	090
63610		A	Stimulation of spinal cord	8.73	NA	NA	3.13	6.26	1.61	NA	NA	13.47	16.60	000
63615		A	Remove lesion of spinal cord	16.28	NA	NA	10.91	12.13	1.59	NA	NA	28.78	30.00	090
63650		A	Implant neuroelectrodes	6.74	NA	NA	2.56	6.67	1.67	NA	NA	10.97	15.08	090
63655		A	Implant neuroelectrodes	10.29	NA	NA	7.62	11.12	2.85	NA	NA	20.76	24.26	090
63660		A	Revise/remove neuroelectrode	6.16	NA	NA	3.36	6.36	1.22	NA	NA	10.74	13.74	090
63685		A	Implant neuroreceiver	7.04	NA	NA	3.98	7.02	1.14	NA	NA	12.16	15.20	090
63688		A	Revise/remove neuroreceiver	5.39	NA	NA	3.39	5.68	0.99	NA	NA	9.77	12.06	090
63690		D	Analysis of neuroreceiver	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
63691		D	Analysis of neuroreceiver	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
63700		A	Repair of spinal herniation	16.53	NA	NA	10.97	11.98	1.74	NA	NA	29.24	30.25	090
63702		A	Repair of spinal herniation	18.48	NA	NA	12.49	13.53	1.95	NA	NA	32.92	33.96	090
63704		A	Repair of spinal herniation	21.18	NA	NA	13.69	14.97	2.17	NA	NA	37.04	38.32	090
63706		A	Repair of spinal herniation	24.11	NA	NA	11.41	16.14	2.49	NA	NA	38.01	42.74	090
63707		A	Repair spinal fluid leakage	11.26	NA	NA	8.18	12.13	2.00	NA	NA	21.44	25.39	090
63709		A	Repair spinal fluid leakage	14.32	NA	NA	10.32	15.40	2.58	NA	NA	27.22	32.30	090
63710		A	Graft repair of spine defect	14.07	NA	NA	9.97	10.43	1.24	NA	NA	25.28	25.74	090
63740		A	Install spinal shunt	11.36	NA	NA	8.36	12.27	2.34	NA	NA	22.06	25.97	090
63741		A	Install spinal shunt	8.25	NA	NA	5.50	8.76	1.87	NA	NA	15.62	18.88	090
63744		A	Revision of spinal shunt	8.10	NA	NA	5.36	7.97	1.31	NA	NA	14.77	17.38	090
63746		A	Removal of spinal shunt	6.43	NA	NA	3.21	5.30	0.84	NA	NA	10.48	12.57	090
64400		A	Injection for nerve block	1.11	1.63	0.80	1.16	0.49	0.04	2.78	1.95	2.31	1.64	000
64402		A	Injection for nerve block	1.25	3.53	1.39	1.36	0.84	0.07	4.85	2.71	2.68	2.16	000
64405		A	Injection for nerve block	1.32	1.71	0.95	1.06	0.53	0.05	3.08	2.32	2.43	1.90	000
64408		A	Injection for nerve block	1.41	2.12	1.38	1.54	0.81	0.09	3.62	2.88	3.04	2.31	000
64410		A	Injection for nerve block	1.43	1.91	1.06	1.28	0.90	0.12	3.46	2.61	2.83	2.45	000
64412		A	Injection for nerve block	1.18	1.90	0.98	1.11	0.53	0.06	3.14	2.22	2.35	1.77	000
64413		A	Injection for nerve block	1.40	2.01	1.10	1.31	0.63	0.06	3.47	2.56	2.77	2.09	000
64415		A	Injection for nerve block	1.48	1.88	0.68	1.24	0.52	0.05	3.41	2.21	2.77	2.05	000
64417		A	Injection for nerve block	1.44	1.97	1.00	1.13	0.79	0.12	3.53	2.56	2.69	2.35	000
64418		A	Injection for nerve block	1.32	1.64	1.10	1.06	0.61	0.08	3.04	2.50	2.46	2.01	000
64420		A	Injection for nerve block	1.18	1.64	0.93	1.05	0.78	0.05	2.87	2.16	2.28	2.01	000
64421		A	Injection for nerve block	1.68	1.82	1.13	1.25	0.99	0.13	3.63	2.94	3.06	2.80	000
64425		A	Injection for nerve block	1.75	1.56	0.86	1.15	0.75	0.08	3.39	2.69	2.98	2.58	000
64430		A	Injection for nerve block	1.46	2.29	1.14	1.21	0.87	0.09	3.84	2.69	2.76	2.42	000

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CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
64435		A	Injection for nerve block	1.45	2.62	1.04	1.73	0.63	0.07	4.14	2.56	3.25	2.15	000
64440		A	Injection for nerve block	1.34	2.51	1.27	1.34	0.66	0.07	3.92	2.68	2.75	2.07	000
64441		A	Injection for nerve block	1.79	2.77	1.52	1.38	0.76	0.09	4.65	3.40	3.26	2.64	000
64442		A	Injection for nerve block	1.41	2.76	1.66	1.43	1.33	0.13	4.30	3.20	2.97	2.87	000
64443		A	Inject, nerve block add-on	0.98	2.50	1.14	1.48	0.88	0.09	3.57	2.21	2.55	1.95	ZZZ
64445		A	Injection for nerve block	1.48	2.34	0.98	1.33	0.54	0.05	3.87	2.51	2.86	2.07	000
64450		A	Injection for nerve block	1.27	1.31	0.76	1.16	0.51	0.04	2.62	2.07	2.47	1.82	000
64505		A	Injection for nerve block	1.36	1.82	0.96	1.28	0.58	0.05	3.23	2.37	2.69	1.99	000
64508		A	Injection for nerve block	1.12	1.47	1.22	1.46	0.79	0.06	2.65	2.40	2.64	1.97	000
64510		A	Injection for nerve block	1.22	1.59	0.98	1.16	0.87	0.14	2.95	2.34	2.52	2.23	000
64520		A	Injection for nerve block	1.35	2.78	1.28	1.21	0.89	0.13	4.26	2.76	2.69	2.37	000
64530		A	Injection for nerve block	1.58	2.40	1.55	1.42	1.31	0.22	4.20	3.35	3.22	3.11	000
64550		A	Apply neurostimulator	0.18	0.32	0.44	0.05	0.19	0.03	0.53	0.65	0.26	0.40	000
64553		A	Implant neuroelectrodes	2.31	1.34	1.17	1.36	0.76	0.08	3.73	3.56	3.75	3.15	010
64555		A	Implant neuroelectrodes	2.27	1.86	0.81	0.45	0.29	0.08	4.21	3.16	2.80	2.64	010
64560		A	Implant neuroelectrodes	2.36	1.87	1.65	0.48	0.71	0.19	4.42	4.20	3.03	3.26	010
64565		A	Implant neuroelectrodes	1.76	2.09	1.14	0.71	0.49	0.06	3.91	2.96	2.53	2.31	010
64573		A	Implant neuroelectrodes	4.43	NA	NA	3.65	3.49	0.48	NA	NA	8.56	8.40	090
64575		A	Implant neuroelectrodes	4.35	NA	NA	3.56	3.39	0.31	NA	NA	8.22	8.05	090
64577		A	Implant neuroelectrodes	4.62	NA	NA	3.31	3.08	0.35	NA	NA	8.28	8.05	090
64580		A	Implant neuroelectrodes	4.12	NA	NA	2.76	3.06	0.16	NA	NA	7.04	7.34	090
64585		A	Revise/remove neuroelectrode	2.06	1.36	1.13	1.77	1.23	0.07	3.49	3.26	3.90	3.36	010
64590		A	Implant neuroreceiver	2.40	NA	NA	2.33	2.08	0.27	NA	NA	5.00	4.75	010
64595		A	Revise/remove neuroreceiver	1.73	NA	NA	1.36	1.26	0.16	NA	NA	3.25	3.15	010
64600		A	Injection treatment of nerve	3.45	2.29	1.95	1.80	1.82	0.13	5.87	5.53	5.38	5.40	010
64605		A	Injection treatment of nerve	5.61	2.45	1.88	2.10	1.79	0.26	8.32	7.75	7.97	7.66	010
64610		A	Injection treatment of nerve	7.16	NA	NA	4.50	7.04	1.06	NA	NA	12.72	15.26	010
64612		A	Destroy nerve, face muscle	1.96	2.51	1.81	2.14	1.13	0.13	4.60	3.90	4.23	3.22	010
64613		A	Destroy nerve, spine muscle	1.96	1.28	1.50	1.29	0.92	0.13	3.37	3.59	3.38	3.01	010
64620		A	Injection treatment of nerve	2.84	2.02	1.32	1.57	1.21	0.15	5.01	4.31	4.56	4.20	010
64622		A	Injection treatment of nerve	3.00	2.91	2.21	1.65	1.90	0.27	6.18	5.48	4.92	5.17	010
64623		A	Inject, tx of nerve add-on	0.99	2.02	1.20	1.27	1.01	0.13	3.14	2.32	2.39	2.13	ZZZ
64630		A	Injection treatment of nerve	3.00	2.73	2.10	1.61	1.82	0.30	6.03	5.40	4.91	5.12	010
64640		A	Injection treatment of nerve	2.76	3.08	1.52	2.27	1.32	0.07	5.91	4.35	5.10	4.15	010
64680		A	Injection treatment of nerve	2.62	2.00	1.76	1.79	1.71	0.32	4.94	4.70	4.73	4.65	010
64702		A	Revise finger/toe nerve	4.23	NA	NA	3.66	4.35	0.55	NA	NA	8.44	9.13	090
64704		A	Revise hand/foot nerve	4.57	NA	NA	3.03	4.85	0.58	NA	NA	8.18	10.00	090
64708		A	Revise arm/leg nerve	6.12	NA	NA	4.87	6.69	0.99	NA	NA	11.98	13.80	090
64712		A	Revision of sciatic nerve	7.75	NA	NA	4.52	8.08	1.31	NA	NA	13.58	17.14	090
64713		A	Revision of arm nerve(s)	11.00	NA	NA	5.72	9.08	1.35	NA	NA	18.07	21.43	090

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64714		A	Revise low back nerve(s)	10.33	NA	NA	4.03	6.00	1.10	NA	NA	15.46	17.43	090
64716		A	Revision of cranial nerve	6.31	NA	NA	5.10	5.21	0.52	NA	NA	11.93	12.04	090
64718		A	Revise ulnar nerve at elbow	5.99	NA	NA	5.01	6.62	0.88	NA	NA	11.88	13.49	090
64719		A	Revise ulnar nerve at wrist	4.85	NA	NA	4.33	5.11	0.66	NA	NA	9.84	10.62	090
64721		A	Carpal tunnel surgery	4.29	5.14	5.13	5.12	5.12	0.65	10.08	10.07	10.06	10.06	090
64722		A	Relieve pressure on nerve(s)	4.70	NA	NA	2.83	4.92	0.87	NA	NA	8.40	10.49	090
64726		A	Release foot/toe nerve	4.18	NA	NA	2.44	1.20	0.05	NA	NA	6.67	5.43	090
64727		A	Internal nerve revision	3.10	NA	NA	1.83	3.10	0.43	NA	NA	5.36	6.63	ZZZ
64732		A	Incision of brow nerve	4.41	NA	NA	3.19	4.31	0.56	NA	NA	8.16	9.28	090
64734		A	Incision of cheek nerve	4.92	NA	NA	3.44	4.61	0.52	NA	NA	8.88	10.05	090
64736		A	Incision of chin nerve	4.60	NA	NA	2.71	4.31	0.33	NA	NA	7.64	9.24	090
64738		A	Incision of jaw nerve	5.73	NA	NA	3.48	5.00	0.48	NA	NA	9.69	11.21	090
64740		A	Incision of tongue nerve	5.59	NA	NA	3.39	5.06	0.49	NA	NA	9.47	11.14	090
64742		A	Incision of facial nerve	6.22	NA	NA	4.77	5.27	0.34	NA	NA	11.33	11.83	090
64744		A	Incise nerve, back of head	5.24	NA	NA	3.70	5.61	0.86	NA	NA	9.80	11.71	090
64746		A	Incise diaphragm nerve	5.93	NA	NA	3.81	4.02	0.60	NA	NA	10.34	10.55	090
64752		A	Incision of vagus nerve	7.06	NA	NA	4.39	4.30	0.66	NA	NA	12.11	12.02	090
64755		A	Incision of stomach nerves	13.52	NA	NA	6.64	10.18	1.78	NA	NA	21.94	25.48	090
64760		A	Incision of vagus nerve	6.96	NA	NA	4.00	6.42	1.17	NA	NA	12.13	14.55	090
64761		A	Incision of pelvis nerve	6.41	NA	NA	3.57	4.69	0.39	NA	NA	10.37	11.49	090
64763		A	Incise hip/thigh nerve	6.93	NA	NA	6.31	5.49	0.72	NA	NA	13.96	13.14	090
64766		A	Incise hip/thigh nerve	8.67	NA	NA	6.22	6.99	0.94	NA	NA	15.83	16.60	090
64771		A	Sever cranial nerve	7.35	NA	NA	5.71	6.66	0.57	NA	NA	13.63	14.58	090
64772		A	Incision of spinal nerve	7.21	NA	NA	4.61	6.67	1.02	NA	NA	12.84	14.90	090
64774		A	Remove skin nerve lesion	5.17	NA	NA	3.38	3.07	0.35	NA	NA	8.90	8.59	090
64776		A	Remove digit nerve lesion	5.12	NA	NA	3.21	3.07	0.32	NA	NA	8.65	8.51	090
64778		A	Digit nerve surgery add-on	3.11	NA	NA	1.77	2.66	0.34	NA	NA	5.22	6.11	ZZZ
64782		A	Remove limb nerve lesion	6.23	NA	NA	3.55	4.71	0.36	NA	NA	10.14	11.30	090
64783		A	Limb nerve surgery add-on	3.72	NA	NA	2.23	3.21	0.37	NA	NA	6.32	7.30	ZZZ
64784		A	Remove nerve lesion	9.82	NA	NA	6.43	6.20	0.75	NA	NA	17.00	16.77	090
64786		A	Remove sciatic nerve lesion	15.46	NA	NA	10.07	12.82	1.67	NA	NA	27.20	29.95	090
64787		A	Implant nerve end	4.30	NA	NA	2.24	3.39	0.47	NA	NA	7.01	8.16	ZZZ
64788		A	Remove skin nerve lesion	4.61	NA	NA	3.41	3.81	0.39	NA	NA	8.41	8.81	090
64790		A	Removal of nerve lesion	11.31	NA	NA	7.60	7.69	0.95	NA	NA	19.86	19.95	090
64792		A	Removal of nerve lesion	14.92	NA	NA	9.40	9.67	1.30	NA	NA	25.62	25.89	090
64795		A	Biopsy of nerve	3.01	NA	NA	1.74	2.37	0.31	NA	NA	5.06	5.69	000
64802		A	Remove sympathetic nerves	9.15	NA	NA	4.90	5.62	0.86	NA	NA	14.91	15.63	090
64804		A	Remove sympathetic nerves	14.64	NA	NA	7.44	12.26	1.91	NA	NA	23.99	28.81	090
64809		A	Remove sympathetic nerves	13.67	NA	NA	6.63	10.25	1.60	NA	NA	21.90	25.52	090
64818		A	Remove sympathetic nerves	10.30	NA	NA	5.68	8.40	1.35	NA	NA	17.33	20.05	090

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64820		A	Remove sympathetic nerves	10.37	NA	NA	7.65	7.83	1.11	NA	NA	19.13	19.31	090
64830		D	Microrepair of nerve	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ
64831		A	Repair of digit nerve	9.44	NA	NA	6.84	4.46	0.44	NA	NA	16.72	14.34	090
64832		A	Repair nerve add-on	5.66	NA	NA	3.38	1.99	0.19	NA	NA	9.23	7.84	ZZZ
64834		A	Repair of hand or foot nerve	10.19	NA	NA	6.86	4.57	0.44	NA	NA	17.49	15.20	090
64835		A	Repair of hand or foot nerve	10.94	NA	NA	7.49	6.73	0.81	NA	NA	19.24	18.48	090
64836		A	Repair of hand or foot nerve	10.94	NA	NA	7.70	7.38	0.95	NA	NA	19.59	19.27	090
64837		A	Repair nerve add-on	6.26	NA	NA	3.69	4.55	0.66	NA	NA	10.61	11.47	ZZZ
64840		A	Repair of leg nerve	13.02	NA	NA	8.57	10.57	0.41	NA	NA	22.00	24.00	090
64856		A	Repair/transpose nerve	13.80	NA	NA	9.61	9.09	1.14	NA	NA	24.55	24.03	090
64857		A	Repair arm/leg nerve	14.49	NA	NA	10.11	10.28	1.20	NA	NA	25.80	25.97	090
64858		A	Repair sciatic nerve	16.49	NA	NA	10.79	11.64	1.65	NA	NA	28.93	29.78	090
64859		A	Nerve surgery	4.26	NA	NA	2.60	3.50	0.45	NA	NA	7.31	8.21	ZZZ
64861		A	Repair of arm nerves	19.24	NA	NA	12.54	14.06	1.08	NA	NA	32.86	34.38	090
64862		A	Repair of low back nerves	19.44	NA	NA	12.38	20.65	1.26	NA	NA	33.08	41.35	090
64864		A	Repair of facial nerve	12.55	NA	NA	8.86	8.61	0.91	NA	NA	22.32	22.07	090
64865		A	Repair of facial nerve	15.24	NA	NA	10.37	12.64	1.17	NA	NA	26.78	29.05	090
64866		A	Fusion of facial/other nerve	15.74	NA	NA	10.67	11.77	1.44	NA	NA	27.85	28.95	090
64868		A	Fusion of facial/other nerve	14.04	NA	NA	9.40	11.46	1.15	NA	NA	24.59	26.65	090
64870		A	Fusion of facial/other nerve	15.99	NA	NA	9.61	13.73	1.33	NA	NA	26.93	31.05	090
64872		A	Subsequent repair of nerve	1.99	NA	NA	1.22	1.48	0.23	NA	NA	3.44	3.70	ZZZ
64874		A	Repair & revise nerve add-on	2.98	NA	NA	1.73	2.20	0.34	NA	NA	5.05	5.52	ZZZ
64876		A	Repair nerve; shorten bone	3.38	NA	NA	1.56	2.39	0.38	NA	NA	5.32	6.15	ZZZ
64885		A	Nerve graft, head or neck	17.53	NA	NA	11.98	13.32	1.16	NA	NA	30.67	32.01	090
64886		A	Nerve graft, head or neck	20.75	NA	NA	13.99	15.81	1.38	NA	NA	36.12	37.94	090
64890		A	Nerve graft, hand or foot	15.15	NA	NA	10.72	12.66	1.66	NA	NA	27.53	29.47	090
64891		A	Nerve graft, hand or foot	16.14	NA	NA	7.96	10.47	1.35	NA	NA	25.45	27.96	090
64892		A	Nerve graft, arm or leg	14.65	NA	NA	9.53	11.37	1.32	NA	NA	25.50	27.34	090
64893		A	Nerve graft, arm or leg	15.60	NA	NA	8.85	13.55	1.78	NA	NA	26.23	30.93	090
64895		A	Nerve graft, hand or foot	19.25	NA	NA	11.23	13.52	1.99	NA	NA	32.47	34.76	090
64896		A	Nerve graft, hand or foot	20.49	NA	NA	13.14	17.55	1.49	NA	NA	35.12	39.53	090
64897		A	Nerve graft, arm or leg	18.24	NA	NA	11.58	13.18	1.93	NA	NA	31.75	33.35	090
64898		A	Nerve graft, arm or leg	19.50	NA	NA	13.38	15.07	1.84	NA	NA	34.72	36.41	090
64901		A	Nerve graft add-on	10.22	NA	NA	6.12	9.80	0.68	NA	NA	17.02	20.70	ZZZ
64902		A	Nerve graft add-on	11.83	NA	NA	7.54	11.59	0.77	NA	NA	20.14	24.19	ZZZ
64905 [3]		A	Nerve pedicle transfer	14.02	NA	NA	7.99	9.65	0.55	NA	NA	22.56	24.22	090
64907		A	Nerve pedicle transfer	18.83	NA	NA	11.95	13.59	1.99	NA	NA	32.77	34.41	090
64999		C	Nervous system surgery	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
65091		A	Revise eye	6.46	NA	NA	8.81	7.99	0.35	NA	NA	15.62	14.80	090
65093		A	Revise eye with implant	6.87	NA	NA	9.70	8.58	0.41	NA	NA	16.98	15.86	090

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65101		A	Removal of eye	7.03	NA	NA	9.81	8.75	0.37	NA	NA	17.21	16.15	090
65103		A	Remove eye/insert implant	7.57	NA	NA	10.02	9.29	0.39	NA	NA	17.98	17.25	090
65105		A	Remove eye/attach implant	8.49	NA	NA	10.77	10.30	0.43	NA	NA	19.69	19.22	090
65110		A	Removal of eye	13.95	NA	NA	14.00	16.00	0.89	NA	NA	28.84	30.84	090
65112		A	Remove eye, revise socket	16.38	NA	NA	16.60	14.05	0.85	NA	NA	33.83	31.28	090
65114		A	Remove eye, revise socket	17.53	NA	NA	16.53	14.77	1.29	NA	NA	35.35	33.59	090
65125		A	Revise ocular implant	3.12	4.11	3.04	1.57	2.40	0.10	7.33	6.26	4.79	5.62	090
65130		A	Insert ocular implant	7.15	NA	NA	9.42	8.76	0.39	NA	NA	16.96	16.30	090
65135		A	Insert ocular implant	7.33	NA	NA	9.64	6.82	0.27	NA	NA	17.24	14.42	090
65140		A	Attach ocular implant	8.02	NA	NA	9.87	7.53	0.26	NA	NA	18.15	15.81	090
65150		A	Revise ocular implant	6.26	NA	NA	8.87	7.83	0.44	NA	NA	15.57	14.53	090
65155		A	Reinsert ocular implant	8.66	NA	NA	10.55	10.39	0.70	NA	NA	19.91	19.75	090
65175		A	Removal of ocular implant	6.28	NA	NA	8.72	7.81	0.31	NA	NA	15.31	14.40	090
65205		A	Remove foreign body from eye	0.71	3.70	1.23	0.29	0.22	0.02	4.43	1.96	1.02	0.95	000
65210		A	Remove foreign body from eye	0.84	3.65	1.29	0.29	0.26	0.02	4.51	2.15	1.15	1.12	000
65220		A	Remove foreign body from eye	0.71	5.70	1.85	0.27	0.28	0.03	6.44	2.59	1.01	1.02	000
65222		A	Remove foreign body from eye	0.93	3.64	1.38	0.28	0.30	0.02	4.59	2.33	1.23	1.25	000
65235		A	Remove foreign body from eye	7.57	NA	NA	7.11	6.35	0.23	NA	NA	14.91	14.15	090
65260		A	Remove foreign body from eye	10.96	NA	NA	11.67	9.95	0.35	NA	NA	22.98	21.26	090
65265		A	Remove foreign body from eye	12.59	NA	NA	13.22	11.48	0.40	NA	NA	26.21	24.47	090
65270		A	Repair of eye wound	1.90	3.06	1.72	2.38	1.55	0.05	5.01	3.67	4.33	3.50	010
65272		A	Repair of eye wound	3.82	4.34	2.42	4.17	2.38	0.08	8.24	6.32	8.07	6.28	090
65273		A	Repair of eye wound	4.36	NA	NA	4.39	3.72	0.16	NA	NA	8.91	8.24	090
65275		A	Repair of eye wound	5.34	4.51	1.67	4.69	1.71	0.03	9.88	7.04	10.06	7.08	090
65280		A	Repair of eye wound	7.66	NA	NA	8.22	8.92	0.38	NA	NA	16.26	16.96	090
65285		A	Repair of eye wound	12.90	NA	NA	14.26	13.55	0.50	NA	NA	27.66	26.95	090
65286		A	Repair of eye wound	5.51	6.82	5.61	6.46	3.57	0.20	12.53	11.32	12.17	9.28	090
65290		A	Repair of eye socket wound	5.41	NA	NA	6.82	6.55	0.29	NA	NA	12.52	12.25	090
65400		A	Removal of eye lesion	6.06	7.66	7.17	7.19	7.06	0.27	13.99	13.50	13.52	13.39	090
65410		A	Biopsy of cornea	1.47	1.54	1.68	1.18	1.59	0.09	3.10	3.24	2.74	3.15	000
65420		A	Removal of eye lesion	4.17	6.04	4.99	5.77	4.92	0.18	10.39	9.34	10.12	9.27	090
65426		A	Removal of eye lesion	5.25	7.12	6.48	6.77	6.40	0.30	12.67	12.03	12.32	11.95	090
65430		A	Corneal smear	1.47	4.09	1.47	0.96	0.47	0.02	5.58	2.96	2.45	1.96	000
65435		A	Curette/treat cornea	0.92	1.19	0.93	0.43	0.42	0.03	2.14	1.88	1.38	1.37	000
65436		A	Curette/treat cornea	4.19	4.60	2.40	4.29	1.70	0.06	8.85	6.65	8.54	5.95	090
65450		A	Treatment of corneal lesion	3.27	5.68	4.09	5.33	4.00	0.13	9.08	7.49	8.73	7.40	090
65600		A	Revision of cornea	3.40	4.17	3.17	1.42	1.42	0.11	7.68	6.68	4.93	4.93	090
65710		A	Corneal transplant	12.35	NA	NA	13.68	13.55	0.88	NA	NA	26.91	26.78	090
65730		A	Corneal transplant	14.25	NA	NA	14.34	15.91	1.01	NA	NA	29.60	31.17	090
65750		A	Corneal transplant	15.00	NA	NA	14.91	16.83	1.04	NA	NA	30.95	32.87	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
65755		A	Corneal transplant	14.89	NA	NA	14.68	16.77	1.09	NA	NA	30.66	32.75	090
65760		N	Revision of cornea	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
65765		N	Revision of cornea	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
65767		N	Corneal tissue transplant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
65770		A	Revise cornea with implant	17.56	NA	NA	16.57	15.39	0.56	NA	NA	34.69	33.51	090
65771		N	Radial keratotomy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
65772		A	Correction of astigmatism	4.29	5.42	5.20	5.11	3.20	0.24	9.95	9.73	9.64	7.73	090
65775		A	Correction of astigmatism	5.79	NA	NA	8.14	7.22	0.39	NA	NA	14.32	13.40	090
65800		A	Drainage of eye	1.91	1.99	1.90	1.69	1.83	0.08	3.98	3.89	3.68	3.82	000
65805		A	Drainage of eye	1.91	2.00	1.97	1.69	1.16	0.08	3.99	3.96	3.68	3.15	000
65810		A	Drainage of eye	4.87	NA	NA	6.89	6.09	0.23	NA	NA	11.99	11.19	090
65815		A	Drainage of eye	5.05	6.96	5.39	6.58	5.30	0.19	12.20	10.63	11.82	10.54	090
65820		A	Relieve inner eye pressure	8.13	NA	NA	9.06	10.03	0.40	NA	NA	17.59	18.56	090
65850		A	Incision of eye	10.52	NA	NA	10.14	11.96	0.54	NA	NA	21.20	23.02	090
65855		A	Laser surgery of eye	4.30	4.67	6.06	3.82	3.40	0.41	9.38	10.77	8.53	8.11	090
65860		A	Incise inner eye adhesions	3.55	3.56	4.07	2.82	2.30	0.29	7.40	7.91	6.66	6.14	090
65865		A	Incise inner eye adhesions	5.60	NA	NA	6.84	6.73	0.32	NA	NA	12.76	12.65	090
65870		A	Incise inner eye adhesions	6.27	NA	NA	7.17	6.56	0.24	NA	NA	13.68	13.07	090
65875		A	Incise inner eye adhesions	6.54	NA	NA	7.30	6.94	0.27	NA	NA	14.11	13.75	090
65880		A	Incise inner eye adhesions	7.09	NA	NA	7.64	7.48	0.29	NA	NA	15.02	14.86	090
65900		A	Remove eye lesion	10.93	NA	NA	12.69	9.61	0.72	NA	NA	24.34	21.26	090
65920		A	Remove implant from eye	8.40	NA	NA	8.41	8.91	0.34	NA	NA	17.15	17.65	090
65930		A	Remove blood clot from eye	7.44	NA	NA	8.59	8.40	0.32	NA	NA	16.35	16.16	090
66020		A	Injection treatment of eye	1.59	2.04	1.94	1.74	1.86	0.11	3.74	3.64	3.44	3.56	010
66030		A	Injection treatment of eye	1.25	1.85	0.91	1.54	0.61	0.02	3.12	2.18	2.81	1.88	010
66130		A	Remove eye lesion	7.69	6.34	5.88	6.01	5.80	0.22	14.25	13.79	13.92	13.71	090
66150		A	Glaucoma surgery	8.30	NA	NA	9.18	9.73	0.46	NA	NA	17.94	18.49	090
66155		A	Glaucoma surgery	8.29	NA	NA	9.06	9.69	0.39	NA	NA	17.74	18.37	090
66160		A	Glaucoma surgery	10.17	NA	NA	10.01	11.27	0.43	NA	NA	20.61	21.87	090
66165		A	Glaucoma surgery	8.01	NA	NA	9.01	9.42	0.45	NA	NA	17.47	17.88	090
66170		A	Glaucoma surgery	12.16	10.71	12.57	11.10	12.67	0.49	23.36	25.22	23.75	25.32	090
66172		A	Incision of eye	15.04	NA	NA	12.62	13.05	0.49	NA	NA	28.15	28.58	090
66180		A	Implant eye shunt	14.55	NA	NA	12.79	16.23	0.81	NA	NA	28.15	31.59	090
66185		A	Revise eye shunt	8.14	NA	NA	9.15	9.57	0.45	NA	NA	17.74	18.16	090
66220		A	Repair eye lesion	7.77	NA	NA	9.49	7.22	0.27	NA	NA	17.53	15.26	090
66225		A	Repair/graft eye lesion	11.05	NA	NA	10.37	12.49	0.67	NA	NA	22.09	24.21	090
66250		A	Follow-up surgery of eye	5.98	7.64	7.27	7.14	7.14	0.30	13.92	13.55	13.42	13.42	090
66500		A	Incision of iris	3.71	NA	NA	4.08	4.34	0.21	NA	NA	8.00	8.26	090
66505		A	Incision of iris	4.08	NA	NA	4.16	3.70	0.13	NA	NA	8.37	7.91	090
66600		A	Remove iris and lesion	8.68	NA	NA	8.78	9.82	0.40	NA	NA	17.86	18.90	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
66605		A	Removal of iris	12.79	NA	NA	13.64	13.07	0.52	NA	NA	26.95	26.38	090
66625		A	Removal of iris	5.13	6.95	6.33	6.62	6.25	0.38	12.46	11.84	12.13	11.76	090
66630		A	Removal of iris	6.16	NA	NA	7.54	7.41	0.35	NA	NA	14.05	13.92	090
66635		A	Removal of iris	6.25	NA	NA	7.20	7.40	0.38	NA	NA	13.83	14.03	090
66680		A	Repair iris & ciliary body	5.44	NA	NA	6.87	6.59	0.27	NA	NA	12.58	12.30	090
66682		A	Repair iris and ciliary body	6.21	NA	NA	7.59	7.46	0.30	NA	NA	14.10	13.97	090
66700		A	Destruction, ciliary body	4.78	6.76	5.97	6.09	5.81	0.27	11.81	11.02	11.14	10.86	090
66710		A	Destruction, ciliary body	4.78	6.64	5.94	6.08	5.80	0.32	11.74	11.04	11.18	10.90	090
66720		A	Destruction, ciliary body	4.78	6.35	5.87	6.03	5.79	0.30	11.43	10.95	11.11	10.87	090
66740		A	Destruction, ciliary body	4.78	NA	NA	6.61	5.94	0.31	NA	NA	11.70	11.03	090
66761		A	Revision of iris	4.07	3.80	4.60	3.07	2.59	0.37	8.24	9.04	7.51	7.03	090
66762		A	Revision of iris	4.58	4.05	5.12	3.30	2.88	0.43	9.06	10.13	8.31	7.89	090
66770		A	Removal of inner eye lesion	5.18	4.29	5.72	3.57	3.22	0.35	9.82	11.25	9.10	8.75	090
66820		A	Incision, secondary cataract	3.89	NA	NA	6.38	5.08	0.23	NA	NA	10.50	9.20	090
66821		A	After cataract laser surgery	2.35	2.87	2.83	2.59	2.76	0.29	5.51	5.47	5.23	5.40	090
66825		A	Reposition intraocular lens	8.23	NA	NA	8.56	8.10	0.30	NA	NA	17.09	16.63	090
66830		A	Removal of lens lesion	8.20	8.77	8.43	9.02	8.50	0.31	17.28	16.94	17.53	17.01	090
66840		A	Removal of lens material	7.91	NA	NA	8.03	9.09	0.42	NA	NA	16.36	17.42	090
66850		A	Removal of lens material	9.11	NA	NA	8.51	10.28	0.55	NA	NA	18.17	19.94	090
66852		A	Removal of lens material	9.97	NA	NA	9.07	11.20	0.70	NA	NA	19.74	21.87	090
66920		A	Extraction of lens	8.86	NA	NA	8.41	10.04	0.47	NA	NA	17.74	19.37	090
66930		A	Extraction of lens	10.18	NA	NA	9.06	10.80	0.45	NA	NA	19.69	21.43	090
66940		A	Extraction of lens	8.93	NA	NA	8.43	10.10	0.49	NA	NA	17.85	19.52	090
66983		A	Remove cataract, insert lens	8.99	NA	NA	5.67	9.47	0.74	NA	NA	15.40	19.20	090
66984		A	Remove cataract, insert lens	10.28	NA	NA	8.09	11.23	0.74	NA	NA	19.11	22.25	090
66985		A	Insert lens prosthesis	8.39	NA	NA	7.03	9.27	0.49	NA	NA	15.91	18.15	090
66986		A	Exchange lens prosthesis	12.28	NA	NA	10.16	12.47	0.49	NA	NA	22.93	25.24	090
66999		C	Eye surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
67005		A	Partial removal of eye fluid	5.70	NA	NA	3.05	5.86	0.88	NA	NA	9.63	12.44	090
67010		A	Partial removal of eye fluid	6.87	NA	NA	3.94	7.14	0.81	NA	NA	11.62	14.82	090
67015		A	Release of eye fluid	6.92	NA	NA	7.63	7.16	0.27	NA	NA	14.82	14.35	090
67025		A	Replace eye fluid	6.84	11.53	8.38	7.02	7.25	0.28	18.65	15.50	14.14	14.37	090
67027		A	Implant eye drug system	10.85	12.98	10.60	6.40	8.96	0.37	24.20	21.82	17.62	20.18	090
67028		A	Injection eye drug	2.52	5.78	4.06	1.56	2.65	0.14	8.44	6.72	4.22	5.31	000
67030		A	Incise inner eye strands	4.84	NA	NA	6.18	5.87	0.39	NA	NA	11.41	11.10	090
67031		A	Laser surgery, eye strands	3.67	3.63	4.19	2.87	2.36	0.59	7.89	8.45	7.13	6.62	090
67036		A	Removal of inner eye fluid	11.89	NA	NA	9.57	13.04	1.17	NA	NA	22.63	26.10	090
67038		A	Strip retinal membrane	21.24	NA	NA	16.94	23.25	1.41	NA	NA	39.59	45.90	090
67039		A	Laser treatment of retina	14.52	NA	NA	12.23	16.06	1.31	NA	NA	28.06	31.89	090
67040		A	Laser treatment of retina	17.23	NA	NA	14.16	18.97	1.37	NA	NA	32.76	37.57	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
67101		A	Repair, detached retina	7.53	9.44	9.10	8.89	5.60	0.52	17.49	17.15	16.94	13.65	090
67105		A	Repair, detached retina	7.41	7.12	9.22	5.37	5.06	0.63	15.16	17.26	13.41	13.10	090
67107		A	Repair detached retina	14.84	NA	NA	13.42	16.64	0.86	NA	NA	29.12	32.34	090
67108		A	Repair detached retina	20.82	NA	NA	18.21	23.19	1.38	NA	NA	40.41	45.39	090
67110		A	Repair detached retina	8.81	14.64	11.55	10.14	10.43	0.76	24.21	21.12	19.71	20.00	090
67112		A	Re-repair detached retina	16.86	NA	NA	15.58	17.34	0.67	NA	NA	33.11	34.87	090
67115		A	Release, encircling material	4.99	NA	NA	6.15	6.01	0.34	NA	NA	11.48	11.34	090
67120		A	Remove eye implant material	5.98	11.00	8.11	6.62	7.01	0.30	17.28	14.39	12.90	13.29	090
67121		A	Remove eye implant material	10.67	NA	NA	11.62	10.57	0.38	NA	NA	22.67	21.62	090
67141		A	Treatment of retina	5.20	6.68	6.33	6.34	3.92	0.38	12.26	11.91	11.92	9.50	090
67145		A	Treatment of retina	5.37	4.95	6.53	4.00	3.65	0.38	10.70	12.28	9.75	9.40	090
67208		A	Treatment of retinal lesion	6.70	7.17	7.79	6.81	4.70	0.41	14.28	14.90	13.92	11.81	090
67210		A	Treatment of retinal lesion	8.82	7.03	9.10	5.69	5.10	0.37	16.22	18.29	14.88	14.29	090
67218		A	Treatment of retinal lesion	13.52	NA	NA	13.49	14.20	0.55	NA	NA	27.56	28.27	090
67220		A	Treat choroid lesion	13.13	6.61	6.61	6.54	6.54	0.37	20.11	20.11	20.04	20.04	090
67227		A	Treatment of retinal lesion	6.58	7.44	7.76	7.01	7.65	0.40	14.42	14.74	13.99	14.63	090
67228		A	Treatment of retinal lesion	12.74	9.58	10.04	7.39	5.67	0.38	22.70	23.16	20.51	18.79	090
67250		A	Reinforce eye wall	8.66	NA	NA	10.20	8.24	0.31	NA	NA	19.17	17.21	090
67255		A	Reinforce/graft eye wall	8.90	NA	NA	10.20	10.52	0.68	NA	NA	19.78	20.10	090
67299		C	Eye surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
67311		A	Revise eye muscle	6.65	NA	NA	7.05	7.72	0.37	NA	NA	14.07	14.74	090
67312		A	Revise two eye muscles	8.54	NA	NA	8.22	9.70	0.41	NA	NA	17.17	18.65	090
67314		A	Revise eye muscle	7.52	NA	NA	7.48	8.61	0.45	NA	NA	15.45	16.58	090
67316		A	Revise two eye muscles	9.66	NA	NA	8.69	10.54	0.52	NA	NA	18.87	20.72	090
67318		A	Revise eye muscle(s)	7.85	NA	NA	7.97	7.05	0.26	NA	NA	16.08	15.16	090
67320		A	Revise eye muscle(s) add-on	4.33	NA	NA	7.49	9.63	0.28	NA	NA	12.10	14.24	ZZZ
67331		A	Eye surgery follow-up add-on	4.06	NA	NA	5.90	8.74	0.22	NA	NA	10.18	13.02	ZZZ
67332		A	Rerevise eye muscles add-on	4.49	NA	NA	6.95	9.79	0.24	NA	NA	11.68	14.52	ZZZ
67334		A	Revise eye muscle w/suture	3.98	NA	NA	6.07	6.65	0.13	NA	NA	10.18	10.76	ZZZ
67335		A	Eye suture during surgery	2.49	NA	NA	3.39	3.08	0.34	NA	NA	6.22	5.91	ZZZ
67340		A	Revise eye muscle add-on	4.93	NA	NA	7.64	8.32	0.16	NA	NA	12.73	13.41	ZZZ
67343		A	Release eye tissue	7.35	NA	NA	7.84	6.71	0.24	NA	NA	15.43	14.30	090
67345		A	Destroy nerve of eye muscle	2.96	3.36	2.65	1.44	1.27	0.20	6.52	5.81	4.60	4.43	010
67350		A	Biopsy eye muscle	2.87	NA	NA	3.31	2.77	0.10	NA	NA	6.28	5.74	000
67399		C	Eye muscle surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
67400		A	Explore/biopsy eye socket	9.76	NA	NA	11.16	11.54	0.49	NA	NA	21.41	21.79	090
67405		A	Explore/drain eye socket	7.93	NA	NA	10.58	9.74	0.52	NA	NA	19.03	18.19	090
67412		A	Explore/treat eye socket	9.50	NA	NA	13.22	11.81	0.52	NA	NA	23.24	21.83	090
67413		A	Explore/treat eye socket	10.00	NA	NA	11.78	9.53	0.45	NA	NA	22.23	19.98	090
67414		A	Explore/decompress eye socke	11.13	NA	NA	14.33	10.42	0.34	NA	NA	25.80	21.89	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
67415		A	Aspiration orbital contents	1.76	NA	NA	1.48	1.95	0.09	NA	NA	3.33	3.80	000
67420		A	Explore/treat eye socket	20.06	NA	NA	19.32	18.49	0.87	NA	NA	40.25	39.42	090
67430		A	Explore/treat eye socket	13.39	NA	NA	14.75	12.36	0.42	NA	NA	28.56	26.17	090
67440		A	Explore/drain eye socket	13.09	NA	NA	14.78	15.42	0.76	NA	NA	28.63	29.27	090
67445		A	Explore/decompress eye socke	14.42	NA	NA	15.95	13.05	0.45	NA	NA	30.82	27.92	090
67450		A	Explore/biopsy eye socket	13.51	NA	NA	15.43	15.96	0.68	NA	NA	29.62	30.15	090
67500		A	Inject/treat eye socket	0.79	13.67	4.01	0.96	0.83	0.05	14.51	4.85	1.80	1.67	000
67505		A	Inject/treat eye socket	0.82	3.70	1.77	0.35	0.46	0.05	4.57	2.64	1.22	1.33	000
67515		A	Inject/treat eye socket	0.61	3.54	1.34	0.55	0.37	0.02	4.17	1.97	1.18	1.00	000
67550		A	Insert eye socket implant	10.19	NA	NA	11.15	10.62	0.55	NA	NA	21.89	21.36	090
67560		A	Revise eye socket implant	10.60	NA	NA	10.98	9.50	0.38	NA	NA	21.96	20.48	090
67570		A	Decompress optic nerve	13.58	NA	NA	15.30	9.98	0.31	NA	NA	29.19	23.87	090
67599		C	Orbit surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
67700		A	Drainage of eyelid abscess	1.35	5.00	1.65	0.60	0.35	0.02	6.37	3.02	1.97	1.72	010
67710		A	Incision of eyelid	1.02	5.03	2.08	1.70	0.84	0.05	6.10	3.15	2.77	1.91	010
67715		A	Incision of eyelid fold	1.22	NA	NA	1.85	1.55	0.07	NA	NA	3.14	2.84	010
67800		A	Remove eyelid lesion	1.38	5.12	2.05	0.69	0.56	0.04	6.54	3.47	2.11	1.98	010
67801		A	Remove eyelid lesions	1.88	3.15	1.92	2.38	1.17	0.06	5.09	3.86	4.32	3.11	010
67805		A	Remove eyelid lesions	2.22	7.03	2.88	2.69	1.24	0.06	9.31	5.16	4.97	3.52	010
67808		A	Remove eyelid lesion(s)	3.80	NA	NA	4.21	2.79	0.10	NA	NA	8.11	6.69	090
67810		A	Biopsy of eyelid	1.48	4.57	1.80	0.73	0.51	0.04	6.09	3.32	2.25	2.03	000
67820		A	Revise eyelashes	0.89	3.73	1.24	0.40	0.26	0.02	4.64	2.15	1.31	1.17	000
67825		A	Revise eyelashes	1.38	4.98	1.98	1.85	0.83	0.04	6.40	3.40	3.27	2.25	010
67830		A	Revise eyelashes	1.70	5.96	3.22	2.24	2.08	0.13	7.79	5.05	4.07	3.91	010
67835		A	Revise eyelashes	5.56	NA	NA	5.06	6.25	0.35	NA	NA	10.97	12.16	090
67840		A	Remove eyelid lesion	2.04	6.66	2.66	2.99	1.24	0.05	8.75	4.75	5.08	3.33	010
67850		A	Treat eyelid lesion	1.69	5.43	2.03	2.20	0.89	0.04	7.16	3.76	3.93	2.62	010
67875		A	Closure of eyelid by suture	1.35	6.52	3.03	2.76	1.91	0.10	7.97	4.48	4.21	3.36	000
67880		A	Revision of eyelid	3.80	7.72	5.14	3.89	4.18	0.18	11.70	9.12	7.87	8.16	090
67882		A	Revision of eyelid	5.07	9.38	6.89	4.82	5.75	0.29	14.74	12.25	10.18	11.11	090
67900		A	Repair brow defect	6.14	8.75	5.26	6.98	4.82	0.16	15.05	11.56	13.28	11.12	090
67901		A	Repair eyelid defect	6.97	NA	NA	7.24	8.05	0.50	NA	NA	14.71	15.52	090
67902		A	Repair eyelid defect	7.03	NA	NA	7.49	8.17	0.56	NA	NA	15.08	15.76	090
67903		A	Repair eyelid defect	6.37	10.25	8.27	7.15	7.50	0.57	17.19	15.21	14.09	14.44	090
67904		A	Repair eyelid defect	6.26	11.03	8.37	8.11	7.64	0.56	17.85	15.19	14.93	14.46	090
67906		A	Repair eyelid defect	6.79	8.22	6.50	6.99	6.20	0.28	15.29	13.57	14.06	13.27	090
67908		A	Repair eyelid defect	5.13	7.74	6.53	6.47	6.21	0.42	13.29	12.08	12.02	11.76	090
67909		A	Revise eyelid defect	5.40	7.99	6.84	6.69	6.51	0.38	13.77	12.62	12.47	12.29	090
67911		A	Revise eyelid defect	5.27	NA	NA	6.76	6.41	0.62	NA	NA	12.65	12.30	090
67914		A	Repair eyelid defect	3.68	8.07	5.32	4.18	4.35	0.31	12.06	9.31	8.17	8.34	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
67915		A	Repair eyelid defect	3.18	6.31	2.60	1.60	0.91	0.05	9.54	5.83	4.83	4.14	090
67916		A	Repair eyelid defect	5.31	9.94	7.24	5.32	6.09	0.30	15.55	12.85	10.93	11.70	090
67917		A	Repair eyelid defect	6.02	8.50	7.51	7.12	7.17	0.37	14.89	13.90	13.51	13.56	090
67921		A	Repair eyelid defect	3.40	7.77	4.99	3.97	4.04	0.16	11.33	8.55	7.53	7.60	090
67922		A	Repair eyelid defect	3.06	6.29	2.54	3.09	1.26	0.05	9.40	5.65	6.20	4.37	090
67923		A	Repair eyelid defect	5.88	10.06	7.78	5.59	6.66	0.30	16.24	13.96	11.77	12.84	090
67924		A	Repair eyelid defect	5.79	8.06	7.20	6.63	6.84	0.34	14.19	13.33	12.76	12.97	090
67930		A	Repair eyelid wound	3.61	8.06	3.05	3.78	1.46	0.06	11.73	6.72	7.45	5.13	010
67935		A	Repair eyelid wound	6.22	10.08	5.60	5.47	4.45	0.19	16.49	12.01	11.88	10.86	090
67938		A	Remove eyelid foreign body	1.33	4.86	1.64	0.52	0.34	0.02	6.21	2.99	1.87	1.69	010
67950		A	Revision of eyelid	5.82	6.77	6.91	7.13	7.00	0.35	12.94	13.08	13.30	13.17	090
67961		A	Revision of eyelid	5.69	6.62	6.75	6.49	6.72	0.39	12.70	12.83	12.57	12.80	090
67966		A	Revision of eyelid	6.57	7.06	7.65	6.53	7.52	0.52	14.15	14.74	13.62	14.61	090
67971		A	Reconstruction of eyelid	9.79	NA	NA	8.79	10.89	0.50	NA	NA	19.08	21.18	090
67973		A	Reconstruction of eyelid	12.87	NA	NA	10.52	13.65	0.71	NA	NA	24.10	27.23	090
67974		A	Reconstruction of eyelid	12.84	NA	NA	10.27	14.02	0.68	NA	NA	23.79	27.54	090
67975		A	Reconstruction of eyelid	9.13	NA	NA	8.22	5.43	0.19	NA	NA	17.54	14.75	090
67999		C	Revision of eyelid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
68020		A	Incise/drain eyelid lining	1.37	5.01	1.67	0.67	0.38	0.02	6.40	3.06	2.06	1.77	010
68040		A	Treatment of eyelid lesions	0.85	4.02	1.37	0.40	0.29	0.02	4.89	2.24	1.27	1.16	000
68100		A	Biopsy of eyelid lining	1.35	4.69	1.98	1.05	0.67	0.05	6.09	3.38	2.45	2.07	000
68110		A	Remove eyelid lining lesion	1.77	5.33	2.35	2.06	1.03	0.05	7.15	4.17	3.88	2.85	010
68115		A	Remove eyelid lining lesion	2.36	6.30	3.14	2.56	2.21	0.09	8.75	5.59	5.01	4.66	010
68130		A	Remove eyelid lining lesion	4.93	NA	NA	5.90	4.81	0.17	NA	NA	11.00	9.91	090
68135		A	Remove eyelid lining lesion	1.84	5.32	1.93	2.09	0.82	0.03	7.19	3.80	3.96	2.69	010
68200		A	Treat eyelid by injection	0.49	3.49	1.29	0.49	0.33	0.02	4.00	1.80	1.00	0.84	000
68320		A	Revise/graft eyelid lining	5.37	4.82	6.01	5.90	6.28	0.33	10.52	11.71	11.60	11.98	090
68325		A	Revise/graft eyelid lining	7.36	NA	NA	6.89	8.32	0.49	NA	NA	14.74	16.17	090
68326		A	Revise/graft eyelid lining	7.15	NA	NA	6.85	8.12	0.38	NA	NA	14.38	15.65	090
68328		A	Revise/graft eyelid lining	8.18	NA	NA	7.32	9.16	0.64	NA	NA	16.14	17.98	090
68330		A	Revise eyelid lining	4.83	6.36	5.91	5.89	5.79	0.27	11.46	11.01	10.99	10.89	090
68335		A	Revise/graft eyelid lining	7.19	NA	NA	5.44	7.80	0.53	NA	NA	13.16	15.52	090
68340		A	Separate eyelid adhesions	4.17	8.81	4.76	4.36	3.65	0.13	13.11	9.06	8.66	7.95	090
68360		A	Revise eyelid lining	4.37	6.04	5.43	5.57	5.31	0.26	10.67	10.06	10.20	9.94	090
68362		A	Revise eyelid lining	7.34	NA	NA	7.89	8.49	0.33	NA	NA	15.56	16.16	090
68399		C	Eyelid lining surgery	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
68400		A	Incise/drain tear gland	1.69	6.71	2.50	2.75	1.10	0.05	8.45	4.24	4.49	2.84	010
68420		A	Incise/drain tear sac	2.30	7.07	2.60	3.14	1.21	0.05	9.42	4.95	5.49	3.56	010
68440		A	Incise tear duct opening	0.94	4.95	1.85	1.64	0.72	0.03	5.92	2.82	2.61	1.69	010
68500		A	Removal of tear gland	11.02	NA	NA	9.74	8.63	0.59	NA	NA	21.35	20.24	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
68505		A	Partial removal tear gland	10.94	NA	NA	10.66	9.74	0.38	NA	NA	21.98	21.06	090
68510		A	Biopsy of tear gland	4.61	7.45	4.86	3.12	3.78	0.22	12.28	9.69	7.95	8.61	000
68520		A	Removal of tear sac	7.51	NA	NA	7.45	8.58	0.40	NA	NA	15.36	16.49	090
68525		A	Biopsy of tear sac	4.43	NA	NA	3.05	3.76	0.18	NA	NA	7.66	8.37	000
68530		A	Clearance of tear duct	3.66	8.10	4.34	3.40	2.01	0.13	11.89	8.13	7.19	5.80	010
68540		A	Remove tear gland lesion	10.60	NA	NA	9.54	9.15	0.39	NA	NA	20.53	20.14	090
68550		A	Remove tear gland lesion	13.26	NA	NA	10.83	11.94	0.58	NA	NA	24.67	25.78	090
68700		A	Repair tear ducts	6.60	NA	NA	6.87	3.91	0.12	NA	NA	13.59	10.63	090
68705		A	Revise tear duct opening	2.06	5.55	2.22	2.21	0.97	0.04	7.65	4.32	4.31	3.07	010
68720		A	Create tear sac drain	8.96	NA	NA	8.40	10.11	0.58	NA	NA	17.94	19.65	090
68745		A	Create tear duct drain	8.63	NA	NA	8.00	7.34	0.35	NA	NA	16.98	16.32	090
68750		A	Create tear duct drain	8.66	NA	NA	8.49	9.88	0.65	NA	NA	17.80	19.19	090
68760		A	Close tear duct opening	1.73	5.22	2.06	0.87	0.59	0.03	6.98	3.82	2.63	2.35	010
68761		A	Close tear duct opening	1.36	3.74	1.69	0.61	0.53	0.03	5.13	3.08	2.00	1.92	010
68770		A	Close tear system fistula	7.02	10.67	6.12	6.07	3.24	0.18	17.87	13.32	13.27	10.44	090
68801		A	Dilate tear duct opening	0.94	4.56	1.49	0.45	0.29	0.02	5.52	2.45	1.41	1.25	010
68810		A	Probe nasolacrimal duct	1.90	6.03	1.96	2.27	0.79	0.02	7.95	3.88	4.19	2.71	010
68811		A	Probe nasolacrimal duct	2.35	NA	NA	2.56	1.86	0.07	NA	NA	4.98	4.28	010
68815		A	Probe nasolacrimal duct	3.20	6.30	3.14	3.19	1.59	0.08	9.58	6.42	6.47	4.87	010
68840		A	Explore/irrigate tear ducts	1.25	5.03	1.66	0.61	0.36	0.02	6.30	2.93	1.88	1.63	010
68850		A	Injection for tear sac x-ray	0.80	11.05	3.18	0.28	0.48	0.03	11.88	4.01	1.11	1.31	000
68899		C	Tear duct system surgery	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
69000		A	Drain external ear lesion	1.45	1.59	0.68	0.55	0.28	0.02	3.06	2.15	2.02	1.75	010
69005		A	Drain external ear lesion	2.11	2.05	1.46	1.40	0.82	0.10	4.26	3.67	3.61	3.03	010
69020		A	Drain outer ear canal lesion	1.48	1.71	0.80	0.70	0.36	0.03	3.22	2.31	2.21	1.87	010
69090		N	Pierce earlobes	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
69100		A	Biopsy of external ear	0.81	1.21	0.84	0.40	0.37	0.05	2.07	1.70	1.26	1.23	000
69105		A	Biopsy of external ear canal	0.85	1.15	0.94	0.80	0.53	0.07	2.07	1.86	1.72	1.45	000
69110		A	Partial removal external ear	3.44	2.83	2.85	2.36	2.73	0.29	6.56	6.58	6.09	6.46	090
69120		A	Removal of external ear	4.05	NA	NA	5.28	1.96	0.05	NA	NA	9.38	6.06	090
69140		A	Remove ear canal lesion(s)	7.97	NA	NA	8.60	8.66	0.69	NA	NA	17.26	17.32	090
69145		A	Remove ear canal lesion(s)	2.62	2.75	2.73	2.11	2.57	0.22	5.59	5.57	4.95	5.41	090
69150		A	Extensive ear canal surgery	13.43	NA	NA	11.86	11.48	0.98	NA	NA	26.27	25.89	090
69155		A	Extensive ear/neck surgery	20.80	NA	NA	15.46	16.83	1.26	NA	NA	37.52	38.89	090
69200		A	Clear outer ear canal	0.77	1.08	0.62	0.43	0.28	0.03	1.88	1.42	1.23	1.08	000
69205		A	Clear outer ear canal	1.20	NA	NA	1.17	1.16	0.09	NA	NA	2.46	2.45	010
69210		A	Remove impacted ear wax	0.61	0.96	0.43	0.24	0.16	0.02	1.59	1.06	0.87	0.79	000
69220		A	Clean out mastoid cavity	0.83	1.16	0.70	0.48	0.32	0.04	2.03	1.57	1.35	1.19	000
69222		A	Clean out mastoid cavity	1.40	1.73	1.03	1.33	0.63	0.06	3.19	2.49	2.79	2.09	010
69300		R	Revise external ear	6.36	NA	NA	5.95	5.80	0.22	NA	NA	12.53	12.38	YYY

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69310		A	Rebuild outer ear canal	10 79	NA	NA	10.47	10.63	0 84	NA	NA	22.10	22.26	090
69320		A	Rebuild outer ear canal	16.96	NA	NA	14.47	15.54	1 30	NA	NA	32 73	33 80	090
69399		C	Outer ear surgery procedure	0 00	0 00	0.00	0 00	0 00	0 00	0 00	0 00	0 00	0 00	YYY
69400		A	Inflate middle ear canal	0 83	1 16	0 66	0 28	0 26	0 04	2 03	1 53	1 15	1 13	000
69401		A	Inflate middle ear canal	0 63	1 05	0 47	0 37	0 20	0 02	1 70	1 12	1 02	0 85	000
69405		A	Catheterize middle ear canal	2 63	2 51	1 02	1.55	0 58	0 03	5 17	3 68	4 21	3 24	010
69410		A	Inset middle ear baffle	0 33	0 93	0 72	0 18	0 29	0 05	1 31	1 10	0 56	0 67	000
69420		A	Incision of eardrum	1 33	1 75	1.00	0 72	0 47	0 06	3 14	2.39	2 11	1 86	010
69421		A	Incision of eardrum	1.73	1 96	1 42	1.53	1 31	0 10	3.79	3 25	3 36	3 14	010
69424		A	Remove ventilating tube	0 85	1 24	0.80	0 67	0 42	0 05	2 14	1 70	1 57	1 32	000
69433		A	Create eardrum opening	1 52	1 80	1 53	0 87	0 76	0 12	3 44	3 17	2 51	2 40	010
69436		A	Create eardrum opening	1.96	NA	NA	1 67	2 15	0.18	NA	NA	3 81	4 29	010
69440		A	Exploration of middle ear	7 57	NA	NA	8.24	8 84	0 73	NA	NA	16 54	17.14	090
69450		A	Eardrum revision	5 57	NA	NA	7.02	6 74	0.90	NA	NA	13 49	13 21	090
69501		A	Mastoidectomy	9 07	NA	NA	8 98	10 37	0.92	NA	NA	18 97	20 36	090
69502		A	Mastoidectomy	12 38	NA	NA	11 39	13 72	1.13	NA	NA	24 90	27 23	090
69505		A	Remove mastoid structures	12 99	NA	NA	11 72	14 56	1 40	NA	NA	26.11	28 95	090
69511		A	Extensive mastoid surgery	13 52	NA	NA	11 99	15.10	1.44	NA	NA	26 95	30 06	090
69530		A	Extensive mastoid surgery	19 19	NA	NA	15 01	17.35	1.35	NA	NA	35 55	37 89	090
69535		A	Remove part of temporal bone	36 14	NA	NA	24 97	26 81	2 23	NA	NA	63 34	65.18	090
69540		A	Remove ear lesion	1.20	1 66	1.45	1.19	0 82	0 11	2 97	2 76	2 50	2.13	010
69550		A	Remove ear lesion	10 99	NA	NA	10.37	12 43	1.56	NA	NA	22 92	24 98	090
69552		A	Remove ear lesion	19 46	NA	NA	14 49	17 24	1 46	NA	NA	35.41	38 16	090
69554		A	Remove ear lesion	33 16	NA	NA	21 87	24 08	2 06	NA	NA	57 09	59 30	090
69601		A	Mastoid surgery revision	13 24	NA	NA	12 38	14 51	1.21	NA	NA	26 83	28 96	090
69602		A	Mastoid surgery revision	13 58	NA	NA	12 26	15.22	1.37	NA	NA	27 21	30.17	090
69603		A	Mastoid surgery revision	14.02	NA	NA	12 26	15.61	1.47	NA	NA	27 75	31.10	090
69604		A	Mastoid surgery revision	14 02	NA	NA	12.41	15.65	2 11	NA	NA	28 54	31.78	090
69605		A	Mastoid surgery revision	18 49	NA	NA	14 82	15.87	1.46	NA	NA	34 77	35.82	090
69610		A	Repair of eardrum	4 43	3.62	1 66	3 07	1 15	0 08	8 13	6.17	7 58	5 66	010
69620		A	Repair of eardrum	5.89	5.63	6.68	3 43	6 13	0.91	12.43	13 48	10 23	12 93	090
69631		A	Repair eardrum structures	9 86	NA	NA	9.66	11.25	1.26	NA	NA	20 78	22 37	090
69632		A	Rebuild eardrum structures	12.75	NA	NA	12 07	14.44	1 35	NA	NA	26 17	28 54	090
69633		A	Rebuild eardrum structures	12 10	NA	NA	11.70	13.76	1.39	NA	NA	25 19	27.25	090
69635		A	Repair eardrum structures	13 33	NA	NA	12.00	14.93	1.49	NA	NA	26.82	29 75	090
69636		A	Rebuild eardrum structures	15.22	NA	NA	13.49	17 00	1 65	NA	NA	30 36	33.87	090
69637		A	Rebuild eardrum structures	15.11	NA	NA	13.46	16.90	1.74	NA	NA	30.31	33 75	090
69641		A	Revise middle ear & mastoid	12 71	NA	NA	11.67	14 30	1.46	NA	NA	25.84	28 47	090
69642		A	Revise middle ear & mastoid	16.84	NA	NA	14 38	18 67	1.73	NA	NA	32 95	37 24	090
69643		A	Revise middle ear & mastoid	15.32	NA	NA	13.52	17.10	1.96	NA	NA	30 80	34 38	090

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
69644		A	Revise middle ear & mastoid	16.97	NA	NA	14.55	18.83	2.11	NA	NA	33.63	37.91	090
69645		A	Revise middle ear & mastoid	16.38	NA	NA	14.17	18.21	1.96	NA	NA	32.51	36.55	090
69646		A	Revise middle ear & mastoid	17.99	NA	NA	15.05	19.87	1.88	NA	NA	34.92	39.74	090
69650		A	Release middle ear bone	9.66	NA	NA	9.47	11.02	1.04	NA	NA	20.17	21.72	090
69660		A	Revise middle ear bone	11.90	NA	NA	10.64	13.32	1.42	NA	NA	23.96	26.64	090
69661		A	Revise middle ear bone	15.74	NA	NA	13.21	17.40	1.51	NA	NA	30.46	34.65	090
69662		A	Revise middle ear bone	15.44	NA	NA	13.14	17.11	1.52	NA	NA	30.10	34.07	090
69666		A	Repair middle ear structures	9.75	NA	NA	9.54	11.12	1.38	NA	NA	20.67	22.25	090
69667		A	Repair middle ear structures	9.76	NA	NA	9.52	11.13	1.30	NA	NA	20.58	22.19	090
69670		A	Remove mastoid air cells	11.51	NA	NA	10.98	11.03	0.84	NA	NA	23.33	23.38	090
69676		A	Remove middle ear nerve	9.52	NA	NA	9.70	9.37	0.67	NA	NA	19.89	19.56	090
69700		A	Close mastoid fistula	8.23	NA	NA	5.21	7.70	0.66	NA	NA	14.10	16.59	090
69710		N	Implant/replace hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
69711		A	Remove/repair hearing aid	10.44	NA	NA	10.35	9.46	0.34	NA	NA	21.13	20.24	090
69720		A	Release facial nerve	14.38	NA	NA	12.79	16.08	1.78	NA	NA	28.95	32.24	090
69725		A	Release facial nerve	25.38	NA	NA	16.91	16.15	1.18	NA	NA	43.47	42.71	090
69740		A	Repair facial nerve	15.96	NA	NA	12.38	12.73	1.32	NA	NA	29.66	30.01	090
69745		A	Repair facial nerve	16.69	NA	NA	12.78	16.18	1.20	NA	NA	30.67	34.07	090
69799		C	Middle ear surgery procedure	0.00	0.00	0.00	0 00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
69801		A	Incise inner ear	8.56	NA	NA	8.76	9.86	1.44	NA	NA	18.76	19.86	090
69802		A	Incise inner ear	13.10	NA	NA	11.69	12.07	0.95	NA	NA	25.74	26.12	090
69805		A	Explore inner ear	13.82	NA	NA	11.91	13.67	1.56	NA	NA	27.29	29.05	090
69806		A	Explore inner ear	12.35	NA	NA	11.48	13.93	1.99	NA	NA	25.82	28.27	090
69820		A	Establish inner ear window	10.34	NA	NA	11.20	10.00	0.78	NA	NA	22.32	21.12	090
69840		A	Revise inner ear window	10.26	NA	NA	12.19	9.96	0.40	NA	NA	22.85	20.62	090
69905		A	Remove inner ear	11.10	NA	NA	10.41	12.54	1.62	NA	NA	23.13	25.26	090
69910		A	Remove inner ear & mastoid	13.63	NA	NA	12.03	15.21	1.83	NA	NA	27.49	30.67	090
69915		A	Incise inner ear nerve	21.23	NA	NA	16.60	18.57	1.58	NA	NA	39.41	41.38	090
69930		A	Implant cochlear device	16.81	NA	NA	13.53	18.44	2.61	NA	NA	32.95	37.86	090
69949		C	Inner ear surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
69950		A	Incise inner ear nerve	25.64	NA	NA	17.98	19.14	1.81	NA	NA	45.43	46.59	090
69955		A	Release facial nerve	27.04	NA	NA	18.88	21.23	1.76	NA	NA	47.68	50.03	090
69960		A	Release inner ear canal	27.04	NA	NA	18.93	19.26	1.51	NA	NA	47.48	47.81	090
69970		A	Remove inner ear lesion	30.04	NA	NA	21.07	21.30	1.77	NA	NA	52.88	53.11	090
69979		C	Temporal bone surgery	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
69990		R	Microsurgery add-on	3.46	1.83	1.83	1.83	1.83	0.73	6.02	6.02	6.02	6.02	ZZZ
70010		A	Contrast x-ray of brain	1.19	4.83	4.99	4.83	4.99	0.26	6.28	6.44	6.28	6.44	XXX
70010	26	A	Contrast x-ray of brain	1.19	0.34	0.51	0.34	0.51	0.06	1.59	1.76	1.59	1.76	XXX
70010	TC	A	Contrast x-ray of brain	0.00	4.49	4.48	4.49	4.48	0.20	4.69	4.68	4.69	4.68	XXX
70015		A	Contrast x-ray of brain	1.19	1.73	1.90	1.73	1.90	0.13	3.05	3.22	3.05	3.22	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
70015	26	A	Contrast x-ray of brain	1.19	0.33	0.50	0.33	0.50	0.06	1.58	1.75	1.58	1.75	XXX
70015	TC	A	Contrast x-ray of brain	0.00	1.40	1.40	1.40	1.40	0.07	1.47	1.47	1.47	1.47	XXX
70030		A	X-ray eye for foreign body	0.17	0.48	0.51	0.48	0.51	0.03	0.68	0.71	0.68	0.71	XXX
70030	26	A	X-ray eye for foreign body	0.17	0.04	0.08	0.04	0.08	0.01	0.22	0.26	0.22	0.26	XXX
70030	TC	A	X-ray eye for foreign body	0.00	0.44	0.43	0.44	0.43	0.02	0.46	0.45	0.46	0.45	XXX
70100		A	X-ray exam of jaw	0.18	0.60	0.63	0.60	0.63	0.03	0.81	0.84	0.81	0.84	XXX
70100	26	A	X-ray exam of jaw	0.18	0.05	0.09	0.05	0.09	0.01	0.24	0.28	0.24	0.28	XXX
70100	TC	A	X-ray exam of jaw	0.00	0.55	0.54	0.55	0.54	0.02	0.57	0.56	0.57	0.56	XXX
70110		A	X-ray exam of jaw	0.25	0.70	0.75	0.70	0.75	0.05	1.00	1.05	1.00	1.05	XXX
70110	26	A	X-ray exam of jaw	0.25	0.06	0.11	0.06	0.11	0.02	0.33	0.38	0.33	0.38	XXX
70110	TC	A	X-ray exam of jaw	0.00	0.64	0.64	0.64	0.64	0.03	0.67	0.67	0.67	0.67	XXX
70120		A	X-ray exam of mastoids	0.18	0.69	0.73	0.69	0.73	0.04	0.91	0.95	0.91	0.95	XXX
70120	26	A	X-ray exam of mastoids	0.18	0.05	0.09	0.05	0.09	0.01	0.24	0.28	0.24	0.28	XXX
70120	TC	A	X-ray exam of mastoids	0.00	0.64	0.64	0.64	0.64	0.03	0.67	0.67	0.67	0.67	XXX
70130		A	X-ray exam of mastoids	0.34	0.91	0.96	0.91	0.96	0.06	1.31	1.36	1.31	1.36	XXX
70130	26	A	X-ray exam of mastoids	0.34	0.09	0.15	0.09	0.15	0.02	0.45	0.51	0.45	0.51	XXX
70130	TC	A	X-ray exam of mastoids	0.00	0.82	0.81	0.82	0.81	0.04	0.86	0.85	0.88	0.85	XXX
70134		A	X-ray exam of middle ear	0.34	0.84	0.91	0.84	0.91	0.06	1.24	1.31	1.24	1.31	XXX
70134	26	A	X-ray exam of middle ear	0.34	0.09	0.15	0.09	0.15	0.02	0.45	0.51	0.45	0.51	XXX
70134	TC	A	X-ray exam of middle ear	0.00	0.75	0.76	0.75	0.76	0.04	0.79	0.80	0.79	0.80	XXX
70140		A	X-ray exam of facial bones	0.19	0.69	0.73	0.69	0.73	0.04	0.92	0.96	0.92	0.96	XXX
70140	26	A	X-ray exam of facial bones	0.19	0.05	0.09	0.05	0.09	0.01	0.25	0.29	0.25	0.29	XXX
70140	TC	A	X-ray exam of facial bones	0.00	0.64	0.64	0.64	0.64	0.03	0.67	0.67	0.67	0.67	XXX
70150		A	X-ray exam of facial bones	0.26	0.89	0.93	0.89	0.93	0.06	1.21	1.25	1.21	1.25	XXX
70150	26	A	X-ray exam of facial bones	0.26	0.07	0.12	0.07	0.12	0.02	0.35	0.40	0.35	0.40	XXX
70150	TC	A	X-ray exam of facial bones	0.00	0.82	0.81	0.82	0.81	0.04	0.86	0.85	0.86	0.85	XXX
70160		A	X-ray exam of nasal bones	0.17	0.59	0.62	0.59	0.62	0.03	0.79	0.82	0.79	0.82	XXX
70160	26	A	X-ray exam of nasal bones	0.17	0.04	0.08	0.04	0.08	0.01	0.22	0.26	0.22	0.26	XXX
70160	TC	A	X-ray exam of nasal bones	0.00	0.55	0.54	0.55	0.54	0.02	0.57	0.56	0.57	0.56	XXX
70170		A	X-ray exam of tear duct	0.30	1.06	1.11	1.06	1.11	0.07	1.43	1.48	1.43	1.48	XXX
70170	26	A	X-ray exam of tear duct	0.30	0.08	0.13	0.08	0.13	0.02	0.40	0.45	0.40	0.45	XXX
70170	TC	A	X-ray exam of tear duct	0.00	0.98	0.98	0.98	0.98	0.05	1.03	1.03	1.03	1.03	XXX
70190		A	X-ray exam of eye sockets	0.21	0.69	0.74	0.69	0.74	0.04	0.94	0.99	0.94	0.99	XXX
70190	26	A	X-ray exam of eye sockets	0.21	0.05	0.10	0.05	0.10	0.01	0.27	0.32	0.27	0.32	XXX
70190	TC	A	X-ray exam of eye sockets	0.00	0.64	0.64	0.64	0.64	0.03	0.67	0.67	0.67	0.67	XXX
70200		A	X-ray exam of eye sockets	0.28	0.89	0.93	0.89	0.93	0.06	1.23	1.27	1.23	1.27	XXX
70200	26	A	X-ray exam of eye sockets	0.28	0.07	0.12	0.07	0.12	0.02	0.37	0.42	0.37	0.42	XXX
70200	TC	A	X-ray exam of eye sockets	0.00	0.82	0.81	0.82	0.81	0.04	0.86	0.85	0.86	0.85	XXX
70210		A	X-ray exam of sinuses	0.17	0.68	0.72	0.68	0.72	0.04	0.89	0.93	0.89	0.93	XXX
70210	26	A	X-ray exam of sinuses	0.17	0.04	0.08	0.04	0.08	0.01	0.22	0.26	0.22	0.26	XXX

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70210	TC	A	X-ray exam of sinuses	0.00	0.64	0.64	0.64	0.64	0.03	0.67	0.67	0.67	0.67	XXX
70220		A	X-ray exam of sinuses	0.25	0.88	0.92	0.88	0.92	0.06	1.19	1.23	1.19	1.23	XXX
70220	26	A	X-ray exam of sinuses	0.25	0.06	0.11	0.06	0.11	0.02	0.33	0.38	0.33	0.38	XXX
70220	TC	A	X-ray exam of sinuses	0.00	0.82	0.81	0.82	0.81	0.04	0.86	0.85	0.86	0.85	XXX
70240		A	X-ray exam pituitary saddle	0.19	0.49	0.52	0.49	0.52	0.03	0.71	0.74	0.71	0.74	XXX
70240	26	A	X-ray exam pituitary saddle	0.19	0.05	0.09	0.05	0.09	0.01	0.25	0.29	0.25	0.29	XXX
70240	TC	A	X-ray exam pituitary saddle	0.00	0.44	0.43	0.44	0.43	0.02	0.46	0.45	0.46	0.45	XXX
70250		A	X-ray exam of skull	0.24	0.70	0.75	0.70	0.75	0.05	0.99	1.04	0.99	1.04	XXX
70250	26	A	X-ray exam of skull	0.24	0.06	0.11	0.06	0.11	0.02	0.32	0.37	0.32	0.37	XXX
70250	TC	A	X-ray exam of skull	0.00	0.64	0.64	0.64	0.64	0.03	0.67	0.67	0.67	0.67	XXX
70260		A	X-ray exam of skull	0.34	1.02	1.07	1.02	1.07	0.07	1.43	1.48	1.43	1.48	XXX
70260	26	A	X-ray exam of skull	0.34	0.09	0.15	0.09	0.15	0.02	0.45	0.51	0.45	0.51	XXX
70260	TC	A	X-ray exam of skull	0.00	0.93	0.92	0.93	0.92	0.05	0.98	0.97	0.98	0.97	XXX
70300		A	X-ray exam of teeth	0.10	0.30	0.32	0.30	0.32	0.03	0.43	0.45	0.43	0.45	XXX
70300	26	A	X-ray exam of teeth	0.10	0.03	0.05	0.03	0.05	0.01	0.14	0.16	0.14	0.16	XXX
70300	TC	A	X-ray exam of teeth	0.00	0.27	0.27	0.27	0.27	0.02	0.29	0.29	0.29	0.29	XXX
70310		A	X-ray exam of teeth	0.16	0.49	0.50	0.49	0.50	0.03	0.68	0.69	0.68	0.69	XXX
70310	26	A	X-ray exam of teeth	0.16	0.05	0.07	0.05	0.07	0.01	0.22	0.24	0.22	0.24	XXX
70310	TC	A	X-ray exam of teeth	0.00	0.44	0.43	0.44	0.43	0.02	0.46	0.45	0.46	0.45	XXX
70320		A	Full mouth x-ray of teeth	0.22	0.88	0.91	0.88	0.91	0.06	1.16	1.19	1.16	1.19	XXX
70320	26	A	Full mouth x-ray of teeth	0.22	0.06	0.10	0.06	0.10	0.02	0.30	0.34	0.30	0.34	XXX
70320	TC	A	Full mouth x-ray of teeth	0.00	0.82	0.81	0.82	0.81	0.04	0.86	0.85	0.86	0.85	XXX
70328		A	X-ray exam of jaw joint	0.18	0.56	0.60	0.56	0.60	0.03	0.77	0.81	0.77	0.81	XXX
70328	26	A	X-ray exam of jaw joint	0.18	0.05	0.09	0.05	0.09	0.01	0.24	0.28	0.24	0.28	XXX
70328	TC	A	X-ray exam of jaw joint	0.00	0.51	0.51	0.51	0.51	0.02	0.53	0.53	0.53	0.53	XXX
70330		A	X-ray exam of jaw joints	0.24	0.93	0.98	0.93	0.98	0.06	1.23	1.28	1.23	1.28	XXX
70330	26	A	X-ray exam of jaw joints	0.24	0.06	0.11	0.06	0.11	0.02	0.32	0.37	0.32	0.37	XXX
70330	TC	A	X-ray exam of jaw joints	0.00	0.87	0.87	0.87	0.87	0.04	0.91	0.91	0.91	0.91	XXX
70332		A	X-ray exam of jaw joint	0.54	2.33	2.41	2.33	2.41	0.13	3.00	3.08	3.00	3.08	XXX
70332	26	A	X-ray exam of jaw joint	0.54	0.15	0.24	0.15	0.24	0.03	0.72	0.81	0.72	0.81	XXX
70332	TC	A	X-ray exam of jaw joint	0.00	2.18	2.17	2.18	2.17	0.10	2.28	2.27	2.28	2.27	XXX
70336		A	Magnetic image jaw joint	1.48	12.02	12.05	12.02	12.05	0.57	14.07	14.10	14.07	14.10	XXX
70336	26	A	Magnetic image jaw joint	1.48	0.39	0.45	0.39	0.45	0.05	1.92	1.98	1.92	1.98	XXX
70336	TC	A	Magnetic image jaw joint	0.00	11.63	11.60	11.63	11.60	0.52	12.15	12.12	12.15	12.12	XXX
70350		A	X-ray head for orthodontia	0.17	0.44	0.47	0.44	0.47	0.03	0.64	0.67	0.64	0.67	XXX
70350	26	A	X-ray head for orthodontia	0.17	0.05	0.08	0.05	0.08	0.01	0.23	0.26	0.23	0.26	XXX
70350	TC	A	X-ray head for orthodontia	0.00	0.39	0.39	0.39	0.39	0.02	0.41	0.41	0.41	0.41	XXX
70355		A	Panoramic x-ray of jaws	0.20	0.65	0.68	0.65	0.68	0.04	0.89	0.92	0.89	0.92	XXX
70355	26	A	Panoramic x-ray of jaws	0.20	0.06	0.09	0.06	0.09	0.01	0.27	0.30	0.27	0.30	XXX
70355	TC	A	Panoramic x-ray of jaws	0.00	0.59	0.59	0.59	0.59	0.03	0.62	0.62	0.62	0.62	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
70360		A	X-ray exam of neck	0.17	0.48	0.51	0.48	0.51	0.03	0.68	0.71	0.68	0.71	XXX
70360	26	A	X-ray exam of neck	0.17	0.04	0.08	0.04	0.08	0.01	0.22	0.26	0.22	0.26	XXX
70360	TC	A	X-ray exam of neck	0.00	0.44	0.43	0.44	0.43	0.02	0.46	0.45	0.46	0.45	XXX
70370		A	Throat x-ray & fluoroscopy	0.32	1.42	1.49	1.42	1.49	0.08	1.82	1.89	1.82	1.89	XXX
70370	26	A	Throat x-ray & fluoroscopy	0.32	0.08	0.14	0.08	0.14	0.02	0.42	0.48	0.42	0.48	XXX
70370	TC	A	Throat x-ray & fluoroscopy	0.00	1.34	1.35	1.34	1.35	0.06	1.40	1.41	1.40	1.41	XXX
70371		A	Speech evaluation, complex	0.84	2.41	2.54	2.41	2.54	0.15	3.40	3.53	3.40	3.53	XXX
70371	26	A	Speech evaluation, complex	0.84	0.23	0.37	0.23	0.37	0.05	1.12	1.26	1.12	1.26	XXX
70371	TC	A	Speech evaluation, complex	0.00	2.18	2.17	2.18	2.17	0.10	2.28	2.27	2.28	2.27	XXX
70373		A	Contrast x-ray of larynx	0.44	1.96	2.03	1.96	2.03	0.11	2.51	2.58	2.51	2.58	XXX
70373	26	A	Contrast x-ray of larynx	0.44	0.11	0.19	0.11	0.19	0.02	0.57	0.65	0.57	0.65	XXX
70373	TC	A	Contrast x-ray of larynx	0.00	1.85	1.84	1.85	1.84	0.09	1.94	1.93	1.94	1.93	XXX
70380		A	X-ray exam of salivary gland	0.17	0.74	0.77	0.74	0.77	0.04	0.95	0.98	0.95	0.98	XXX
70380	26	A	X-ray exam of salivary gland	0.17	0.04	0.08	0.04	0.08	0.01	0.22	0.26	0.22	0.26	XXX
70380	TC	A	X-ray exam of salivary gland	0.00	0.70	0.69	0.70	0.69	0.03	0.73	0.72	0.73	0.72	XXX
70390		A	X-ray exam of salivary duct	0.38	1.95	2.00	1.95	2.00	0.11	2.44	2.49	2.44	2.49	XXX
70390	26	A	X-ray exam of salivary duct	0.38	0.10	0.16	0.10	0.16	0.02	0.50	0.56	0.50	0.56	XXX
70390	TC	A	X-ray exam of salivary duct	0.00	1.85	1.84	1.85	1.84	0.09	1.94	1.93	1.94	1.93	XXX
70450		A	CAT scan of head or brain	0.85	5.13	5.26	5.13	5.26	0.28	6.26	6.39	6.26	6.39	XXX
70450	26	A	CAT scan of head or brain	0.85	0.23	0.37	0.23	0.37	0.05	1.13	1.27	1.13	1.27	XXX
70450	TC	A	CAT scan of head or brain	0.00	4.90	4.89	4.90	4.89	0.23	5.13	5.12	5.13	5.12	XXX
70460		A	Contrast CAT scan of head	1.13	6.18	6.34	6.18	6.34	0.33	7.64	7.80	7.64	7.80	XXX
70460	26	A	Contrast CAT scan of head	1.13	0.31	0.48	0.31	0.48	0.06	1.50	1.67	1.50	1.67	XXX
70460	TC	A	Contrast CAT scan of head	0.00	5.87	5.86	5.87	5.86	0.27	6.14	6.13	6.14	6.13	XXX
70470		A	Contrast CAT scans of head	1.27	7.67	7.86	7.67	7.86	0.41	9.35	9.54	9.35	9.54	XXX
70470	26	A	Contrast CAT scans of head	1.27	0.34	0.54	0.34	0.54	0.07	1.68	1.88	1.68	1.88	XXX
70470	TC	A	Contrast CAT scans of head	0.00	7.33	7.32	7.33	7.32	0.34	7.67	7.66	7.67	7.66	XXX
70480		A	CAT scan of skull	1.28	5.24	5.44	5.24	5.44	0.30	6.82	7.02	6.82	7.02	XXX
70480	26	A	CAT scan of skull	1.28	0.34	0.55	0.34	0.55	0.07	1.69	1.90	1.69	1.90	XXX
70480	TC	A	CAT scan of skull	0.00	4.90	4.89	4.90	4.89	0.23	5.13	5.12	5.13	5.12	XXX
70481		A	Contrast CAT scan of skull	1.38	6.24	6.45	6.24	6.45	0.34	7.96	8.17	7.96	8.17	XXX
70481	26	A	Contrast CAT scan of skull	1.38	0.37	0.59	0.37	0.59	0.07	1.82	2.04	1.82	2.04	XXX
70481	TC	A	Contrast CAT scan of skull	0.00	5.87	5.86	5.87	5.86	0.27	6.14	6.13	6.14	6.13	XXX
70482		A	Contrast CAT scans of skull	1.45	7.72	7.94	7.72	7.94	0.42	9.59	9.81	9.59	9.81	XXX
70482	26	A	Contrast CAT scans of skull	1.45	0.39	0.62	0.39	0.62	0.08	1.92	2.15	1.92	2.15	XXX
70482	TC	A	Contrast CAT scans of skull	0.00	7.33	7.32	7.33	7.32	0.34	7.67	7.66	7.67	7.66	XXX
70486		A	CAT scan of face, jaw	1.14	5.20	5.37	5.20	5.37	0.29	6.63	6.80	6.63	6.80	XXX
70486	26	A	CAT scan of face, jaw	1.14	0.30	0.48	0.30	0.48	0.06	1.50	1.68	1.50	1.68	XXX
70486	TC	A	CAT scan of face, jaw	0.00	4.90	4.89	4.90	4.89	0.23	5.13	5.12	5.13	5.12	XXX
70487		A	Contrast CAT scan, face/jaw	1.30	6.22	6.41	6.22	6.41	0.34	7.86	8.05	7.86	8.05	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
70487	26	A	Contrast CAT scan, face/jaw	1.30	0.35	0.55	0.35	0.55	0.07	1.72	1.92	1.72	1.92	XXX
70487	TC	A	Contrast CAT scan, face/jaw	0.00	5.87	5.86	5.87	5.86	0.27	6.14	6.13	6.14	6.13	XXX
70488		A	Contrast CAT scans face/jaw	1.42	7.71	7.93	7.71	7.93	0.42	9.55	9.77	9.55	9.77	XXX
70488	26	A	Contrast CAT scans face/jaw	1.42	0.38	0.61	0.38	0.61	0.08	1.88	2.11	1.88	2.11	XXX
70488	TC	A	Contrast CAT scans face/jaw	0.00	7.33	7.32	7.33	7.32	0.34	7.67	7.66	7.67	7.66	XXX
70490		A	CAT scan of neck tissue	1.28	5.24	5.44	5.24	5.44	0.30	6.82	7.02	6.82	7.02	XXX
70490	26	A	CAT scan of neck tissue	1.28	0.34	0.55	0.34	0.55	0.07	1.69	1.90	1.69	1.90	XXX
70490	TC	A	CAT scan of neck tissue	0.00	4.90	4.89	4.90	4.89	0.23	5.13	5.12	5.13	5.12	XXX
70491		A	Contrast CAT of neck tissue	1.38	6.24	6.45	6.24	6.45	0.34	7.96	8.17	7.96	8.17	XXX
70491	26	A	Contrast CAT of neck tissue	1.38	0.37	0.59	0.37	0.59	0.07	1.82	2.04	1.82	2.04	XXX
70491	TC	A	Contrast CAT of neck tissue	0.00	5.87	5.86	5.87	5.86	0.27	6.14	6.13	6.14	6.13	XXX
70492		A	Contrast CAT of neck tissue	1.45	7.71	7.93	7.71	7.93	0.42	9.58	9.80	9.58	9.80	XXX
70492	26	A	Contrast CAT of neck tissue	1.45	0.38	0.61	0.38	0.61	0.08	1.91	2.14	1.91	2.14	XXX
70492	TC	A	Contrast CAT of neck tissue	0.00	7.33	7.32	7.33	7.32	0.34	7.67	7.66	7.67	7.66	XXX
70540		A	Magnetic image, face, neck	1.48	12.02	12.24	12.02	12.24	0.60	14.10	14.32	14.10	14.32	XXX
70540	26	A	Magnetic image, face, neck	1.48	0.39	0.64	0.39	0.64	0.08	1.95	2.20	1.95	2.20	XXX
70540	TC	A	Magnetic image, face, neck	0.00	11.63	11.60	11.63	11.60	0.52	12.15	12.12	12.15	12.12	XXX
70541		R	Magnetic image, head (MRA)	1.81	12.12	12.26	12.12	12.26	0.60	14.53	14.67	14.53	14.67	XXX
70541	26	R	Magnetic image, head (MRA)	1.81	0.49	0.66	0.49	0.66	0.08	2.38	2.55	2.38	2.55	XXX
70541	TC	R	Magnetic image, head (MRA)	0.00	11.63	11.60	11.63	11.60	0.52	12.15	12.12	12.15	12.12	XXX
70551		A	Magnetic image, brain (MRI)	1.48	12.03	12.24	12.03	12.24	0.60	14.11	14.32	14.11	14.32	XXX
70551	26	A	Magnetic image, brain (MRI)	1.48	0.40	0.64	0.40	0.64	0.08	1.96	2.20	1.96	2.20	XXX
70551	TC	A	Magnetic image, brain (MRI)	0.00	11.63	11.60	11.63	11.60	0.52	12.15	12.12	12.15	12.12	XXX
70552		A	Magnetic image, brain (MRI)	1.78	14.45	14.69	14.45	14.69	0.72	16.95	17.19	16.95	17.19	XXX
70552	26	A	Magnetic image, brain (MRI)	1.78	0.50	0.78	0.50	0.78	0.09	2.37	2.65	2.37	2.65	XXX
70552	TC	A	Magnetic image, brain (MRI)	0.00	13.95	13.91	13.95	13.91	0.63	14.58	14.54	14.58	14.54	XXX
70553		A	Magnetic image, brain	2.36	26.46	26.79	26.46	26.79	1.30	30.12	30.45	30.12	30.45	XXX
70553	26	A	Magnetic image, brain	2.36	0.63	1.03	0.63	1.03	0.13	3.12	3.52	3.12	3.52	XXX
70553	TC	A	Magnetic image, brain	0.00	25.83	25.76	25.83	25.76	1.17	27.00	26.93	27.00	26.93	XXX
71010		A	Chest x-ray	0.18	0.54	0.57	0.54	0.57	0.03	0.75	0.78	0.75	0.78	XXX
71010	26	A	Chest x-ray	0.18	0.05	0.08	0.05	0.08	0.01	0.24	0.27	0.24	0.27	XXX
71010	TC	A	Chest x-ray	0.00	0.49	0.49	0.49	0.49	0.02	0.51	0.51	0.51	0.51	XXX
71015		A	X-ray exam of chest	0.21	0.61	0.64	0.61	0.64	0.03	0.85	0.88	0.85	0.88	XXX
71015	26	A	X-ray exam of chest	0.21	0.06	0.10	0.06	0.10	0.01	0.28	0.32	0.28	0.32	XXX
71015	TC	A	X-ray exam of chest	0.00	0.55	0.54	0.55	0.54	0.02	0.57	0.56	0.57	0.56	XXX
71020		A	Chest x-ray	0.22	0.70	0.74	0.70	0.74	0.04	0.96	1.00	0.96	1.00	XXX
71020	26	A	Chest x-ray	0.22	0.06	0.10	0.06	0.10	0.01	0.29	0.33	0.29	0.33	XXX
71020	TC	A	Chest x-ray	0.00	0.64	0.64	0.64	0.64	0.03	0.67	0.67	0.67	0.67	XXX
71021		A	Chest x-ray	0.27	0.82	0.88	0.82	0.88	0.06	1.15	1.21	1.15	1.21	XXX
71021	26	A	Chest x-ray	0.27	0.07	0.12	0.07	0.12	0.02	0.36	0.41	0.36	0.41	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
71021	TC	A	Chest x-ray	0.00	0.75	0.76	0.75	0.76	0.04	0.79	0.80	0.79	0.80	XXX
71022		A	Chest x-ray	0.31	0.83	0.89	0.83	0.89	0.06	1.20	1.26	1.20	1.26	XXX
71022	26	A	Chest x-ray	0.31	0.08	0.13	0.08	0.13	0.02	0.41	0.46	0.41	0.46	XXX
71022	TC	A	Chest x-ray	0.00	0.75	0.76	0.75	0.76	0.04	0.79	0.80	0.79	0.80	XXX
71023		A	Chest x-ray and fluoroscopy	0.38	0.94	0.98	0.94	0.98	0.06	1.38	1.42	1.38	1.42	XXX
71023	26	A	Chest x-ray and fluoroscopy	0.38	0.12	0.17	0.12	0.17	0.02	0.52	0.57	0.52	0.57	XXX
71023	TC	A	Chest x-ray and fluoroscopy	0.00	0.82	0.81	0.82	0.81	0.04	0.86	0.85	0.86	0.85	XXX
71030		A	Chest x-ray	0.31	0.90	0.94	0.90	0.94	0.06	1.27	1.31	1.27	1.31	XXX
71030	26	A	Chest x-ray	0.31	0.08	0.13	0.08	0.13	0.02	0.41	0.46	0.41	0.46	XXX
71030	TC	A	Chest x-ray	0.00	0.82	0.81	0.82	0.81	0.04	0.86	0.85	0.86	0.85	XXX
71034		A	Chest x-ray & fluoroscopy	0.46	1.63	1.70	1.63	1.70	0.09	2.18	2.25	2.18	2.25	XXX
71034	26	A	Chest x-ray & fluoroscopy	0.46	0.14	0.21	0.14	0.21	0.02	0.62	0.69	0.62	0.69	XXX
71034	TC	A	Chest x-ray & fluoroscopy	0.00	1.49	1.49	1.49	1.49	0.07	1.56	1.56	1.56	1.56	XXX
71035		A	Chest x-ray	0.18	0.60	0.62	0.60	0.62	0.03	0.81	0.83	0.81	0.83	XXX
71035	26	A	Chest x-ray	0.18	0.05	0.08	0.05	0.08	0.01	0.24	0.27	0.24	0.27	XXX
71035	TC	A	Chest x-ray	0.00	0.55	0.54	0.55	0.54	0.02	0.57	0.56	0.57	0.56	XXX
71036		A	X-ray guidance for biopsy	0.54	1.77	1.87	1.77	1.87	0.11	2.42	2.52	2.42	2.52	XXX
71036	26	A	X-ray guidance for biopsy	0.54	0.14	0.24	0.14	0.24	0.03	0.71	0.81	0.71	0.81	XXX
71036	TC	A	X-ray guidance for biopsy	0.00	1.63	1.63	1.63	1.63	0.08	1.71	1.71	1.71	1.71	XXX
71038		D	X-ray guidance for biopsy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
71038	26	D	X-ray guidance for biopsy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
71038	TC	D	X-ray guidance for biopsy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
71040		A	Contrast x-ray of bronchi	0.58	1.67	1.77	1.67	1.77	0.10	2.35	2.45	2.35	2.45	XXX
71040	26	A	Contrast x-ray of bronchi	0.58	0.15	0.26	0.15	0.26	0.03	0.76	0.87	0.76	0.87	XXX
71040	TC	A	Contrast x-ray of bronchi	0.00	1.52	1.51	1.52	1.51	0.07	1.59	1.58	1.59	1.58	XXX
71060		A	Contrast x-ray of bronchi	0.74	2.48	2.61	2.48	2.61	0.15	3.37	3.50	3.37	3.50	XXX
71060	26	A	Contrast x-ray of bronchi	0.74	0.20	0.33	0.20	0.33	0.04	0.98	1.11	0.98	1.11	XXX
71060	TC	A	Contrast x-ray of bronchi	0.00	2.28	2.28	2.28	2.28	0.11	2.39	2.39	2.39	2.39	XXX
71090		A	X-ray & pacemaker insertion	0.54	1.96	2.00	1.96	2.00	0.12	2.62	2.66	2.62	2.66	XXX
71090	26	A	X-ray & pacemaker insertion	0.54	0.22	0.26	0.22	0.26	0.03	0.79	0.83	0.79	0.83	XXX
71090	TC	A	X-ray & pacemaker insertion	0.00	1.74	1.74	1.74	1.74	0.09	1.83	1.83	1.83	1.83	XXX
71100		A	X-ray exam of ribs	0.22	0.65	0.69	0.65	0.69	0.05	0.92	0.96	0.92	0.96	XXX
71100	26	A	X-ray exam of ribs	0.22	0.06	0.10	0.06	0.10	0.02	0.30	0.34	0.30	0.34	XXX
71100	TC	A	X-ray exam of ribs	0.00	0.59	0.59	0.59	0.59	0.03	0.62	0.62	0.62	0.62	XXX
71101		A	X-ray exam of ribs, chest	0.27	0.77	0.81	0.77	0.81	0.05	1.09	1.13	1.09	1.13	XXX
71101	26	A	X-ray exam of ribs, chest	0.27	0.07	0.12	0.07	0.12	0.02	0.36	0.41	0.36	0.41	XXX
71101	TC	A	X-ray exam of ribs, chest	0.00	0.70	0.69	0.70	0.69	0.03	0.73	0.72	0.73	0.72	XXX
71110		A	X-ray exam of ribs	0.27	0.89	0.93	0.89	0.93	0.06	1.22	1.26	1.22	1.26	XXX
71110	26	A	X-ray exam of ribs	0.27	0.07	0.12	0.07	0.12	0.02	0.36	0.41	0.36	0.41	XXX
71110	TC	A	X-ray exam of ribs	0.00	0.82	0.81	0.82	0.81	0.04	0.86	0.85	0.86	0.85	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
71111		A	X-ray exam of ribs, chest	0.32	1.01	1.06	1.01	1.06	0.07	1.40	1.45	1.40	1.45	XXX
71111	26	A	X-ray exam of ribs, chest	0.32	0.08	0.14	0.08	0.14	0.02	0.42	0.48	0.42	0.48	XXX
71111	TC	A	X-ray exam of ribs, chest	0.00	0.93	0.92	0.93	0.92	0.05	0.98	0.97	0.98	0.97	XXX
71120		A	X-ray exam of breastbone	0.20	0.73	0.76	0.73	0.76	0.04	0.97	1.00	0.97	1.00	XXX
71120	26	A	X-ray exam of breastbone	0.20	0.05	0.09	0.05	0.09	0.01	0.26	0.30	0.26	0.30	XXX
71120	TC	A	X-ray exam of breastbone	0.00	0.68	0.67	0.68	0.67	0.03	0.71	0.70	0.71	0.70	XXX
71130		A	X-ray exam of breastbone	0.22	0.79	0.83	0.79	0.83	0.04	1.05	1.09	1.05	1.09	XXX
71130	26	A	X-ray exam of breastbone	0.22	0.06	0.10	0.06	0.10	0.01	0.29	0.33	0.29	0.33	XXX
71130	TC	A	X-ray exam of breastbone	0.00	0.73	0.73	0.73	0.73	0.03	0.76	0.76	0.76	0.76	XXX
71250		A	Cat scan of chest	1.16	6.44	6.61	6.44	6.61	0.34	7.94	8.11	7.94	8.11	XXX
71250	26	A	Cat scan of chest	1.16	0.31	0.49	0.31	0.49	0.06	1.53	1.71	1.53	1.71	XXX
71250	TC	A	Cat scan of chest	0.00	6.13	6.12	6.13	6.12	0.28	6.41	6.40	6.41	6.40	XXX
71260		A	Contrast CAT scan of chest	1.24	7.66	7.85	7.66	7.85	0.40	9.30	9.49	9.30	9.49	XXX
71260	26	A	Contrast CAT scan of chest	1.24	0.33	0.53	0.33	0.53	0.06	1.63	1.83	1.63	1.83	XXX
71260	TC	A	Contrast CAT scan of chest	0.00	7.33	7.32	7.33	7.32	0.34	7.67	7.66	7.67	7.66	XXX
71270		A	Contrast CAT scans of chest	1.38	9.54	9.75	9.54	9.75	0.48	11.40	11.61	11.40	11.61	XXX
71270	26	A	Contrast CAT scans of chest	1.38	0.37	0.59	0.37	0.59	0.07	1.82	2.04	1.82	2.04	XXX
71270	TC	A	Contrast CAT scans of chest	0.00	9.17	9.16	9.17	9.16	0.41	9.58	9.57	9.58	9.57	XXX
71550		A	Magnetic image, chest	1.60	12.06	12.29	12.06	12.29	0.61	14.27	14.50	14.27	14.50	XXX
71550	26	A	Magnetic image, chest	1.60	0.43	0.69	0.43	0.69	0.09	2.12	2.38	2.12	2.38	XXX
71550	TC	A	Magnetic image, chest	0.00	11.63	11.60	11.63	11.60	0.52	12.15	12.12	12.15	12.12	XXX
71555		R	Magnetic imaging/chest (MRA)	1.81	12.31	12.36	12.31	12.36	0.61	14.73	14.78	14.73	14.78	XXX
71555	26	R	Magnetic imaging/chest (MRA)	1.81	0.68	0.76	0.68	0.76	0.09	2.58	2.66	2.58	2.66	XXX
71555	TC	R	Magnetic imaging/chest (MRA)	0.00	11.63	11.60	11.63	11.60	0.52	12.15	12.12	12.15	12.12	XXX
72010		A	X-ray exam of spine	0.45	1.18	1.26	1.18	1.26	0.07	1.70	1.78	1.70	1.78	XXX
72010	26	A	X-ray exam of spine	0.45	0.12	0.20	0.12	0.20	0.02	0.59	0.67	0.59	0.67	XXX
72010	TC	A	X-ray exam of spine	0.00	1.06	1.06	1.06	1.06	0.05	1.11	1.11	1.11	1.11	XXX
72020		A	X-ray exam of spine	0.15	0.48	0.50	0.48	0.50	0.03	0.66	0.68	0.66	0.68	XXX
72020	26	A	X-ray exam of spine	0.15	0.04	0.07	0.04	0.07	0.01	0.20	0.23	0.20	0.23	XXX
72020	TC	A	X-ray exam of spine	0.00	0.44	0.43	0.44	0.43	0.02	0.46	0.45	0.46	0.45	XXX
72040		A	X-ray exam of neck spine	0.22	0.68	0.72	0.68	0.72	0.04	0.94	0.98	0.94	0.98	XXX
72040	26	A	X-ray exam of neck spine	0.22	0.06	0.10	0.06	0.10	0.01	0.29	0.33	0.29	0.33	XXX
72040	TC	A	X-ray exam of neck spine	0.00	0.62	0.62	0.62	0.62	0.03	0.65	0.65	0.65	0.65	XXX
72050		A	X-ray exam of neck spine	0.31	1.01	1.05	1.01	1.05	0.07	1.39	1.43	1.39	1.43	XXX
72050	26	A	X-ray exam of neck spine	0.31	0.08	0.13	0.08	0.13	0.02	0.41	0.46	0.41	0.46	XXX
72050	TC	A	X-ray exam of neck spine	0.00	0.93	0.92	0.93	0.92	0.05	0.98	0.97	0.98	0.97	XXX
72052		A	X-ray exam of neck spine	0.36	1.27	1.33	1.27	1.33	0.07	1.70	1.76	1.70	1.76	XXX
72052	26	A	X-ray exam of neck spine	0.36	0.09	0.16	0.09	0.16	0.02	0.47	0.54	0.47	0.54	XXX
72052	TC	A	X-ray exam of neck spine	0.00	1.18	1.17	1.18	1.17	0.05	1.23	1.22	1.23	1.22	XXX
72069		A	X-ray exam of trunk spine	0.22	0.57	0.61	0.57	0.61	0.03	0.82	0.86	0.82	0.86	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
72069	26	A	X-ray exam of trunk spine	0.22	0.06	0.10	0.06	0.10	0.01	0.29	0.33	0.29	0.33	XXX
72069	TC	A	X-ray exam of trunk spine	0.00	0.51	0.51	0.51	0.51	0.02	0.53	0.53	0.53	0.53	XXX
72070		A	X-ray exam of thorax spine	0.22	0.74	0.77	0.74	0.77	0.04	1.00	1.03	1.00	1.03	XXX
72070	26	A	X-ray exam of thorax spine	0.22	0.06	0.10	0.06	0.10	0.01	0.29	0.33	0.29	0.33	XXX
72070	TC	A	X-ray exam of thorax spine	0.00	0.68	0.67	0.68	0.67	0.03	0.71	0.70	0.71	0.70	XXX
72072		A	X-ray exam of thoracic spine	0.22	0.81	0.86	0.81	0.86	0.05	1.08	1.13	1.08	1.13	XXX
72072	26	A	X-ray exam of thoracic spine	0.22	0.06	0.10	0.06	0.10	0.01	0.29	0.33	0.29	0.33	XXX
72072	TC	A	X-ray exam of thoracic spine	0.00	0.75	0.76	0.75	0.76	0.04	0.79	0.80	0.79	0.80	XXX
72074		A	X-ray exam of thoracic spine	0.22	1.01	1.04	1.01	1.04	0.06	1.29	1.32	1.29	1.32	XXX
72074	26	A	X-ray exam of thoracic spine	0.22	0.06	0.10	0.06	0.10	0.01	0.29	0.33	0.29	0.33	XXX
72074	TC	A	X-ray exam of thoracic spine	0.00	0.95	0.94	0.95	0.94	0.05	1.00	0.99	1.00	0.99	XXX
72080		A	X-ray exam of trunk spine	0.22	0.76	0.79	0.76	0.79	0.04	1.02	1.05	1.02	1.05	XXX
72080	26	A	X-ray exam of trunk spine	0.22	0.06	0.10	0.06	0.10	0.01	0.29	0.33	0.29	0.33	XXX
72080	TC	A	X-ray exam of trunk spine	0.00	0.70	0.69	0.70	0.69	0.03	0.73	0.72	0.73	0.72	XXX
72090		A	X-ray exam of trunk spine	0.28	0.78	0.82	0.78	0.82	0.05	1.11	1.15	1.11	1.15	XXX
72090	26	A	X-ray exam of trunk spine	0.28	0.08	0.13	0.08	0.13	0.02	0.38	0.43	0.38	0.43	XXX
72090	TC	A	X-ray exam of trunk spine	0.00	0.70	0.69	0.70	0.69	0.03	0.73	0.72	0.73	0.72	XXX
72100		A	X-ray exam of lower spine	0.22	0.76	0.79	0.76	0.79	0.04	1.02	1.05	1.02	1.05	XXX
72100	26	A	X-ray exam of lower spine	0.22	0.06	0.10	0.06	0.10	0.01	0.29	0.33	0.29	0.33	XXX
72100	TC	A	X-ray exam of lower spine	0.00	0.70	0.69	0.70	0.69	0.03	0.73	0.72	0.73	0.72	XXX
72110		A	X-ray exam of lower spine	0.31	1.03	1.07	1.03	1.07	0.07	1.41	1.45	1.41	1.45	XXX
72110	26	A	X-ray exam of lower spine	0.31	0.08	0.13	0.08	0.13	0.02	0.41	0.48	0.41	0.46	XXX
72110	TC	A	X-ray exam of lower spine	0.00	0.95	0.94	0.95	0.94	0.05	1.00	0.99	1.00	0.99	XXX
72114		A	X-ray exam of lower spine	0.36	1.32	1.39	1.32	1.39	0.07	1.75	1.82	1.75	1.82	XXX
72114	26	A	X-ray exam of lower spine	0.36	0.09	0.16	0.09	0.16	0.02	0.47	0.54	0.47	0.54	XXX
72114	TC	A	X-ray exam of lower spine	0.00	1.23	1.23	1.23	1.23	0.05	1.28	1.28	1.28	1.28	XXX
72120		A	X-ray exam of lower spine	0.22	0.99	1.02	0.99	1.02	0.06	1.27	1.30	1.27	1.30	XXX
72120	26	A	X-ray exam of lower spine	0.22	0.06	0.10	0.06	0.10	0.01	0.29	0.33	0.29	0.33	XXX
72120	TC	A	X-ray exam of lower spine	0.00	0.93	0.92	0.93	0.92	0.05	0.98	0.97	0.98	0.97	XXX
72125		A	CAT scan of neck spine	1.16	6.44	6.61	6.44	6.61	0.34	7.94	8.11	7.94	8.11	XXX
72125	26	A	CAT scan of neck spine	1.16	0.31	0.49	0.31	0.49	0.06	1.53	1.71	1.53	1.71	XXX
72125	TC	A	CAT scan of neck spine	0.00	6.13	6.12	6.13	6.12	0.28	6.41	6.40	6.41	6.40	XXX
72126		A	Contrast CAT scan of neck	1.22	7.65	7.84	7.65	7.84	0.40	9.27	9.46	9.27	9.46	XXX
72126	26	A	Contrast CAT scan of neck	1.22	0.32	0.52	0.32	0.52	0.06	1.60	1.80	1.60	1.80	XXX
72126	TC	A	Contrast CAT scan of neck	0.00	7.33	7.32	7.33	7.32	0.34	7.67	7.66	7.67	7.66	XXX
72127		A	Contrast CAT scans of neck	1.27	9.51	9.70	9.51	9.70	0.48	11.26	11.45	11.26	11.45	XXX
72127	26	A	Contrast CAT scans of neck	1.27	0.34	0.54	0.34	0.54	0.07	1.68	1.88	1.68	1.88	XXX
72127	TC	A	Contrast CAT scans of neck	0.00	9.17	9.16	9.17	9.16	0.41	9.58	9.57	9.58	9.57	XXX
72128		A	CAT scan of thorax spine	1.16	6.44	6.61	6.44	6.61	0.34	7.94	8.11	7.94	8.11	XXX
72128	26	A	CAT scan of thorax spine	1.16	0.31	0.49	0.31	0.49	0.06	1.53	1.71	1.53	1.71	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
72128	TC	A	CAT scan of thorax spine	0.00	6.13	6.12	6.13	6.12	0.28	6.41	6.40	6.41	6.40	XXX
72129		A	Contrast CAT scan of thorax	1.22	7.65	7.84	7.65	7.84	0.40	9.27	9.46	9.27	9.46	XXX
72129	26	A	Contrast CAT scan of thorax	1.22	0.32	0.52	0.32	0.52	0.06	1.60	1.80	1.60	1.80	XXX
72129	TC	A	Contrast CAT scan of thorax	0.00	7.33	7.32	7.33	7.32	0.34	7.67	7.66	7.67	7.66	XXX
72130		A	Contrast CAT scans of thorax	1.27	9.51	9.70	9.51	9.70	0.48	11.26	11.45	11.26	11.45	XXX
72130	26	A	Contrast CAT scans of thorax	1.27	0.34	0.54	0.34	0.54	0.07	1.68	1.88	1.68	1.88	XXX
72130	TC	A	Contrast CAT scans of thorax	0.00	9.17	9.16	9.17	9.16	0.41	9.58	9.57	9.58	9.57	XXX
72131		A	CAT scan of lower spine	1.16	6.44	6.61	6.44	6.61	0.34	7.94	8.11	7.94	8.11	XXX
72131	26	A	CAT scan of lower spine	1.16	0.31	0.49	0.31	0.49	0.06	1.53	1.71	1.53	1.71	XXX
72131	TC	A	CAT scan of lower spine	0.00	6.13	6.12	6.13	6.12	0.28	6.41	6.40	6.41	6.40	XXX
72132		A	Contrast CAT of lower spine	1.22	7.66	7.84	7.66	7.84	0.40	9.28	9.46	9.28	9.46	XXX
72132	26	A	Contrast CAT of lower spine	1.22	0.33	0.52	0.33	0.52	0.06	1.61	1.80	1.61	1.80	XXX
72132	TC	A	Contrast CAT of lower spine	0.00	7.33	7.32	7.33	7.32	0.34	7.67	7.66	7.67	7.66	XXX
72133		A	Contrast CAT scans,low spine	1.27	9.51	9.70	9.51	9.70	0.48	11.26	11.45	11.26	11.45	XXX
72133	26	A	Contrast CAT scans,low spine	1.27	0.34	0.54	0.34	0.54	0.07	1.68	1.88	1.68	1.88	XXX
72133	TC	A	Contrast CAT scans,low spine	0.00	9.17	9.16	9.17	9.16	0.41	9.58	9.57	9.58	9.57	XXX
72141		A	Magnetic image, neck spine	1.60	12.06	12.29	12.06	12.29	0.61	14.27	14.50	14.27	14.50	XXX
72141	26	A	Magnetic image, neck spine	1.60	0.43	0.69	0.43	0.69	0.09	2.12	2.38	2.12	2.38	XXX
72141	TC	A	Magnetic image, neck spine	0.00	11.63	11.60	11.63	11.60	0.52	12.15	12.12	12.15	12.12	XXX
72142		A	Magnetic image, neck spine	1.92	14.49	14.74	14.49	14.74	0.73	17.14	17.39	17.14	17.39	XXX
72142	26	A	Magnetic image, neck spine	1.92	0.54	0.83	0.54	0.83	0.10	2.56	2.85	2.56	2.85	XXX
72142	TC	A	Magnetic image, neck spine	0.00	13.95	13.91	13.95	13.91	0.63	14.58	14.54	14.58	14.54	XXX
72146		A	Magnetic image, chest spine	1.60	13.33	13.57	13.33	13.57	0.67	15.60	15.84	15.60	15.84	XXX
72146	26	A	Magnetic image, chest spine	1.60	0.43	0.69	0.43	0.69	0.09	2.12	2.38	2.12	2.38	XXX
72146	TC	A	Magnetic image, chest spine	0.00	12.90	12.88	12.90	12.88	0.58	13.48	13.46	13.48	13.46	XXX
72147		A	Magnetic image, chest spine	1.92	14.48	14.74	14.48	14.74	0.73	17.13	17.39	17.13	17.39	XXX
72147	26	A	Magnetic image, chest spine	1.92	0.53	0.83	0.53	0.83	0.10	2.55	2.85	2.55	2.85	XXX
72147	TC	A	Magnetic image, chest spine	0.00	13.95	13.91	13.95	13.91	0.63	14.58	14.54	14.58	14.54	XXX
72148		A	Magnetic image, lumbar spine	1.48	13.30	13.52	13.30	13.52	0.66	15.44	15.66	15.44	15.66	XXX
72148	26	A	Magnetic image, lumbar spine	1.48	0.40	0.64	0.40	0.64	0.08	1.96	2.20	1.96	2.20	XXX
72148	TC	A	Magnetic image, lumbar spine	0.00	12.90	12.88	12.90	12.88	0.58	13.48	13.46	13.48	13.46	XXX
72149		A	Magnetic image, lumbar spine	1.78	14.44	14.69	14.44	14.69	0.72	16.94	17.19	16.94	17.19	XXX
72149	26	A	Magnetic image, lumbar spine	1.78	0.49	0.78	0.49	0.78	0.09	2.36	2.65	2.36	2.65	XXX
72149	TC	A	Magnetic image, lumbar spine	0.00	13.95	13.91	13.95	13.91	0.63	14.58	14.54	14.58	14.54	XXX
72156		A	Magnetic image, neck spine	2.57	26.52	26.87	26.52	26.87	1.30	30.39	30.74	30.39	30.74	XXX
72156	26	A	Magnetic image, neck spine	2.57	0.69	1.11	0.69	1.11	0.13	3.39	3.81	3.39	3.81	XXX
72156	TC	A	Magnetic image, neck spine	0.00	25.83	25.76	25.83	25.76	1.17	27.00	26.93	27.00	26.93	XXX
72157		A	Magnetic image, chest spine	2.57	26.52	26.87	26.52	26.87	1.30	30.39	30.74	30.39	30.74	XXX
72157	26	A	Magnetic image, chest spine	2.57	0.69	1.11	0.69	1.11	0.13	3.39	3.81	3.39	3.81	XXX
72157	TC	A	Magnetic image, chest spine	0.00	25.83	25.76	25.83	25.76	1.17	27.00	26.93	27.00	26.93	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
72158		A	Magnetic image, lumbar spine	2.36	26.46	26.79	26.46	26.79	1.30	30.12	30.45	30.12	30.45	XXX
72158	26	A	Magnetic image, lumbar spine	2.36	0.63	1.03	0.63	1.03	0.13	3.12	3.52	3.12	3.52	XXX
72158	TC	A	Magnetic image, lumbar spine	0.00	25.83	25.76	25.83	25.76	1.17	27.00	26.93	27.00	26.93	XXX
72159		N	Magnetic imaging/spine (MRA)	+1.80	13.58	13.59	13.58	13.59	0.66	16.04	16.05	16.04	16.05	XXX
72159	26	N	Magnetic imaging/spine (MRA)	+1.80	0.68	0.71	0.68	0.71	0.08	2.56	2.59	2.56	2.59	XXX
72159	TC	N	Magnetic imaging/spine (MRA)	+0.00	12.90	12.88	12.90	12.88	0.58	13.48	13.46	13.48	13.46	XXX
72170		A	X-ray exam of pelvis	0.17	0.59	0.61	0.59	0.61	0.03	0.79	0.81	0.79	0.81	XXX
72170	26	A	X-ray exam of pelvis	0.17	0.04	0.07	0.04	0.07	0.01	0.22	0.25	0.22	0.25	XXX
72170	TC	A	X-ray exam of pelvis	0.00	0.55	0.54	0.55	0.54	0.02	0.57	0.56	0.57	0.56	XXX
72190		A	X-ray exam of pelvis	0.21	0.76	0.79	0.76	0.79	0.04	1.01	1.04	1.01	1.04	XXX
72190	26	A	X-ray exam of pelvis	0.21	0.06	0.10	0.06	0.10	0.01	0.28	0.32	0.28	0.32	XXX
72190	TC	A	X-ray exam of pelvis	0.00	0.70	0.69	0.70	0.69	0.03	0.73	0.72	0.73	0.72	XXX
72192		A	CAT scan of pelvis	1.09	6.42	6.58	6.42	6.58	0.33	7.84	8.00	7.84	8.00	XXX
72192	26	A	CAT scan of pelvis	1.09	0.29	0.46	0.29	0.46	0.05	1.43	1.60	1.43	1.60	XXX
72192	TC	A	CAT scan of pelvis	0.00	6.13	6.12	6.13	6.12	0.28	6.41	6.40	6.41	6.40	XXX
72193		A	Contrast CAT scan of pelvis	1.16	7.41	7.58	7.41	7.58	0.38	8.95	9.12	8.95	9.12	XXX
72193	26	A	Contrast CAT scan of pelvis	1.16	0.31	0.49	0.31	0.49	0.06	1.53	1.71	1.53	1.71	XXX
72193	TC	A	Contrast CAT scan of pelvis	0.00	7.10	7.09	7.10	7.09	0.32	7.42	7.41	7.42	7.41	XXX
72194		A	Contrast CAT scans of pelvis	1.22	9.12	9.31	9.12	9.31	0.45	10.79	10.98	10.79	10.98	XXX
72194	26	A	Contrast CAT scans of pelvis	1.22	0.32	0.52	0.32	0.52	0.06	1.60	1.80	1.60	1.80	XXX
72194	TC	A	Contrast CAT scans of pelvis	0.00	8.80	8.79	8.80	8.79	0.39	9.19	9.18	9.19	9.18	XXX
72196		A	Magnetic image, pelvis	1.60	12.05	12.29	12.05	12.29	0.61	14.26	14.50	14.26	14.50	XXX
72196	26	A	Magnetic image, pelvis	1.60	0.42	0.69	0.42	0.69	0.09	2.11	2.38	2.11	2.38	XXX
72196	TC	A	Magnetic image, pelvis	0.00	11.63	11.60	11.63	11.60	0.52	12.15	12.12	12.15	12.12	XXX
72198		N	Magnetic imaging/pelvis(MRA)	+1.80	12.31	12.36	12.31	12.36	0.61	14.72	14.77	14.72	14.77	XXX
72198	26	N	Magnetic imaging/pelvis(MRA)	+1.80	0.68	0.76	0.68	0.76	0.09	2.57	2.65	2.57	2.65	XXX
72198	TC	N	Magnetic imaging/pelvis(MRA)	+0.00	11.63	11.60	11.63	11.60	0.52	12.15	12.12	12.15	12.12	XXX
72200		A	X-ray exam sacroiliac joints	0.17	0.59	0.62	0.59	0.62	0.03	0.79	0.82	0.79	0.82	XXX
72200	26	A	X-ray exam sacroiliac joints	0.17	0.04	0.08	0.04	0.08	0.01	0.22	0.26	0.22	0.26	XXX
72200	TC	A	X-ray exam sacroiliac joints	0.00	0.55	0.54	0.55	0.54	0.02	0.57	0.56	0.57	0.56	XXX
72202		A	X-ray exam sacroiliac joints	0.19	0.69	0.73	0.69	0.73	0.04	0.92	0.96	0.92	0.96	XXX
72202	26	A	X-ray exam sacroiliac joints	0.19	0.05	0.09	0.05	0.09	0.01	0.25	0.29	0.25	0.29	XXX
72202	TC	A	X-ray exam sacroiliac joints	0.00	0.64	0.64	0.64	0.64	0.03	0.67	0.67	0.67	0.67	XXX
72220		A	X-ray exam of tailbone	0.17	0.63	0.67	0.63	0.67	0.04	0.84	0.88	0.84	0.88	XXX
72220	26	A	X-ray exam of tailbone	0.17	0.04	0.08	0.04	0.08	0.01	0.22	0.26	0.22	0.26	XXX
72220	TC	A	X-ray exam of tailbone	0.00	0.59	0.59	0.59	0.59	0.03	0.62	0.62	0.62	0.62	XXX
72240		A	Contrast x-ray of neck spine	0.91	5.16	5.30	5.16	5.30	0.28	6.35	6.49	6.35	6.49	XXX
72240	26	A	Contrast x-ray of neck spine	0.91	0.24	0.39	0.24	0.39	0.05	1.20	1.35	1.20	1.35	XXX
72240	TC	A	Contrast x-ray of neck spine	0.00	4.92	4.91	4.92	4.91	0.23	5.15	5.14	5.15	5.14	XXX
72255		A	Contrast x-ray thorax spine	0.91	4.72	4.87	4.72	4.87	0.25	5.88	6.03	5.88	6.03	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
72255	26	A	Contrast x-ray thorax spine	0.91	0.23	0.39	0.23	0.39	0.05	1.19	1.35	1.19	1.35	XXX
72255	TC	A	Contrast x-ray thorax spine	0.00	4.49	4.48	4.49	4.48	0.20	4.69	4.68	4.69	4.68	XXX
72265		A	Contrast x-ray lower spine	0.83	4.43	4.57	4.43	4.57	0.25	5.51	5.65	5.51	5.65	XXX
72265	26	A	Contrast x-ray lower spine	0.83	0.21	0.36	0.21	0.36	0.05	1.09	1.24	1.09	1.24	XXX
72265	TC	A	Contrast x-ray lower spine	0.00	4.22	4.21	4.22	4.21	0.20	4.42	4.41	4.42	4.41	XXX
72270		A	Contrast x-ray of spine	1.33	6.68	6.89	6.68	6.89	0.36	8.37	8.58	8.37	8.58	XXX
72270	26	A	Contrast x-ray of spine	1.33	0.35	0.57	0.35	0.57	0.07	1.75	1.97	1.75	1.97	XXX
72270	TC	A	Contrast x-ray of spine	0.00	6.33	6.32	6.33	6.32	0.29	6.62	6.61	6.62	6.61	XXX
72285		A	X-ray of neck spine disk	0.83	8.90	9.04	8.90	9.04	0.44	10.17	10.31	10.17	10.31	XXX
72285	26	A	X-ray of neck spine disk	0.83	0.20	0.36	0.20	0.36	0.05	1.08	1.24	1.08	1.24	XXX
72285	TC	A	X-ray of neck spine disk	0.00	8.70	8.68	8.70	8.68	0.39	9.09	9.07	9.09	9.07	XXX
72295		A	X-ray of lower spine disk	0.83	8.39	8.51	8.39	8.51	0.41	9.63	9.75	9.63	9.75	XXX
72295	26	A	X-ray of lower spine disk	0.83	0.23	0.37	0.23	0.37	0.05	1.11	1.25	1.11	1.25	XXX
72295	TC	A	X-ray of lower spine disk	0.00	8.16	8.14	8.16	8.14	0.36	8.52	8.50	8.52	8.50	XXX
73000		A	X-ray exam of collarbone	0.16	0.59	0.61	0.59	0.61	0.03	0.78	0.80	0.78	0.80	XXX
73000	26	A	X-ray exam of collarbone	0.16	0.04	0.07	0.04	0.07	0.01	0.21	0.24	0.21	0.24	XXX
73000	TC	A	X-ray exam of collarbone	0.00	0.55	0.54	0.55	0.54	0.02	0.57	0.56	0.57	0.56	XXX
73010		A	X-ray exam of shoulder blade	0.17	0.59	0.62	0.59	0.62	0.03	0.79	0.82	0.79	0.82	XXX
73010	26	A	X-ray exam of shoulder blade	0.17	0.04	0.08	0.04	0.08	0.01	0.22	0.26	0.22	0.26	XXX
73010	TC	A	X-ray exam of shoulder blade	0.00	0.55	0.54	0.55	0.54	0.02	0.57	0.56	0.57	0.56	XXX
73020		A	X-ray exam of shoulder	0.15	0.53	0.56	0.53	0.56	0.03	0.71	0.74	0.71	0.74	XXX
73020	26	A	X-ray exam of shoulder	0.15	0.04	0.07	0.04	0.07	0.01	0.20	0.23	0.20	0.23	XXX
73020	TC	A	X-ray exam of shoulder	0.00	0.49	0.49	0.49	0.49	0.02	0.51	0.51	0.51	0.51	XXX
73030		A	X-ray exam of shoulder	0.18	0.64	0.67	0.64	0.67	0.04	0.86	0.89	0.86	0.89	XXX
73030	26	A	X-ray exam of shoulder	0.18	0.05	0.08	0.05	0.08	0.01	0.24	0.27	0.24	0.27	XXX
73030	TC	A	X-ray exam of shoulder	0.00	0.59	0.59	0.59	0.59	0.03	0.62	0.62	0.62	0.62	XXX
73040		A	Contrast x-ray of shoulder	0.54	2.32	2.41	2.32	2.41	0.13	2.99	3.08	2.99	3.08	XXX
73040	26	A	Contrast x-ray of shoulder	0.54	0.14	0.24	0.14	0.24	0.03	0.71	0.81	0.71	0.81	XXX
73040	TC	A	Contrast x-ray of shoulder	0.00	2.18	2.17	2.18	2.17	0.10	2.28	2.27	2.28	2.27	XXX
73050		A	X-ray exam of shoulders	0.20	0.75	0.78	0.75	0.78	0.04	0.99	1.02	0.99	1.02	XXX
73050	26	A	X-ray exam of shoulders	0.20	0.05	0.09	0.05	0.09	0.01	0.26	0.30	0.26	0.30	XXX
73050	TC	A	X-ray exam of shoulders	0.00	0.70	0.69	0.70	0.69	0.03	0.73	0.72	0.73	0.72	XXX
73060		A	X-ray exam of humerus	0.17	0.63	0.67	0.63	0.67	0.04	0.84	0.88	0.84	0.88	XXX
73060	26	A	X-ray exam of humerus	0.17	0.04	0.08	0.04	0.08	0.01	0.22	0.26	0.22	0.26	XXX
73060	TC	A	X-ray exam of humerus	0.00	0.59	0.59	0.59	0.59	0.03	0.62	0.62	0.62	0.62	XXX
73070		A	X-ray exam of elbow	0.15	0.59	0.61	0.59	0.61	0.03	0.77	0.79	0.77	0.79	XXX
73070	26	A	X-ray exam of elbow	0.15	0.04	0.07	0.04	0.07	0.01	0.20	0.23	0.20	0.23	XXX
73070	TC	A	X-ray exam of elbow	0.00	0.55	0.54	0.55	0.54	0.02	0.57	0.56	0.57	0.56	XXX
73080		A	X-ray exam of elbow	0.17	0.63	0.67	0.63	0.67	0.04	0.84	0.88	0.84	0.88	XXX
73080	26	A	X-ray exam of elbow	0.17	0.04	0.08	0.04	0.08	0.01	0.22	0.26	0.22	0.26	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
73080	TC	A	X-ray exam of elbow	0.00	0.59	0.59	0.59	0.59	0.03	0.62	0.62	0.62	0.62	XXX
73085		A	Contrast x-ray of elbow	0.54	2.33	2.41	2.33	2.41	0.13	3.00	3.08	3.00	3.08	XXX
73085	26	A	Contrast x-ray of elbow	0.54	0.15	0.24	0.15	0.24	0.03	0.72	0.81	0.72	0.81	XXX
73085	TC	A	Contrast x-ray of elbow	0.00	2.18	2.17	2.18	2.17	0.10	2.28	2.27	2.28	2.27	XXX
73090		A	X-ray exam of forearm	0.16	0.59	0.61	0.59	0.61	0.03	0.78	0.80	0.78	0.80	XXX
73090	26	A	X-ray exam of forearm	0.16	0.04	0.07	0.04	0.07	0.01	0.21	0.24	0.21	0.24	XXX
73090	TC	A	X-ray exam of forearm	0.00	0.55	0.54	0.55	0.54	0.02	0.57	0.56	0.57	0.56	XXX
73092		A	X-ray exam of arm, infant	0.16	0.55	0.58	0.55	0.58	0.03	0.74	0.77	0.74	0.77	XXX
73092	26	A	X-ray exam of arm, infant	0.16	0.04	0.07	0.04	0.07	0.01	0.21	0.24	0.21	0.24	XXX
73092	TC	A	X-ray exam of arm, infant	0.00	0.51	0.51	0.51	0.51	0.02	0.53	0.53	0.53	0.53	XXX
73100		A	X-ray exam of wrist	0.16	0.55	0.58	0.55	0.58	0.03	0.74	0.77	0.74	0.77	XXX
73100	26	A	X-ray exam of wrist	0.16	0.04	0.07	0.04	0.07	0.01	0.21	0.24	0.21	0.24	XXX
73100	TC	A	X-ray exam of wrist	0.00	0.51	0.51	0.51	0.51	0.02	0.53	0.53	0.53	0.53	XXX
73110		A	X-ray exam of wrist	0.17	0.60	0.63	0.60	0.63	0.03	0.80	0.83	0.80	0.83	XXX
73110	26	A	X-ray exam of wrist	0.17	0.04	0.08	0.04	0.08	0.01	0.22	0.26	0.22	0.26	XXX
73110	TC	A	X-ray exam of wrist	0.00	0.56	0.55	0.56	0.55	0.02	0.58	0.57	0.58	0.57	XXX
73115		A	Contrast x-ray of wrist	0.54	1.78	1.87	1.78	1.87	0.11	2.43	2.52	2.43	2.52	XXX
73115	26	A	Contrast x-ray of wrist	0.54	0.15	0.24	0.15	0.24	0.03	0.72	0.81	0.72	0.81	XXX
73115	TC	A	Contrast x-ray of wrist	0.00	1.63	1.63	1.63	1.63	0.08	1.71	1.71	1.71	1.71	XXX
73120		A	X-ray exam of hand	0.16	0.55	0.58	0.55	0.58	0.03	0.74	0.77	0.74	0.77	XXX
73120	26	A	X-ray exam of hand	0.16	0.04	0.07	0.04	0.07	0.01	0.21	0.24	0.21	0.24	XXX
73120	TC	A	X-ray exam of hand	0.00	0.51	0.51	0.51	0.51	0.02	0.53	0.53	0.53	0.53	XXX
73130		A	X-ray exam of hand	0.17	0.60	0.63	0.60	0.63	0.03	0.80	0.83	0.80	0.83	XXX
73130	26	A	X-ray exam of hand	0.17	0.04	0.08	0.04	0.08	0.01	0.22	0.26	0.22	0.26	XXX
73130	TC	A	X-ray exam of hand	0.00	0.56	0.55	0.56	0.55	0.02	0.58	0.57	0.58	0.57	XXX
73140		A	X-ray exam of finger(s)	0.13	0.47	0.49	0.47	0.49	0.03	0.63	0.65	0.63	0.65	XXX
73140	26	A	X-ray exam of finger(s)	0.13	0.03	0.06	0.03	0.06	0.01	0.17	0.20	0.17	0.20	XXX
73140	TC	A	X-ray exam of finger(s)	0.00	0.44	0.43	0.44	0.43	0.02	0.46	0.45	0.46	0.45	XXX
73200		A	CAT scan of arm	1.09	5.44	5.60	5.44	5.60	0.28	6.81	6.97	6.81	6.97	XXX
73200	26	A	CAT scan of arm	1.09	0.29	0.46	0.29	0.46	0.05	1.43	1.60	1.43	1.60	XXX
73200	TC	A	CAT scan of arm	0.00	5.15	5.14	5.15	5.14	0.23	5.38	5.37	5.38	5.37	XXX
73201		A	Contrast CAT scan of arm	1.16	6.44	6.61	6.44	6.61	0.34	7.94	8.11	7.94	8.11	XXX
73201	26	A	Contrast CAT scan of arm	1.16	0.31	0.49	0.31	0.49	0.06	1.53	1.71	1.53	1.71	XXX
73201	TC	A	Contrast CAT scan of arm	0.00	6.13	6.12	6.13	6.12	0.28	6.41	6.40	6.41	6.40	XXX
73202		A	Contrast CAT scans of arm	1.22	8.04	8.21	8.04	8.21	0.41	9.67	9.84	9.67	9.84	XXX
73202	26	A	Contrast CAT scans of arm	1.22	0.33	0.52	0.33	0.52	0.06	1.61	1.80	1.61	1.80	XXX
73202	TC	A	Contrast CAT scans of arm	0.00	7.71	7.69	7.71	7.69	0.35	8.06	8.04	8.06	8.04	XXX
73220		A	Magnetic image, arm, hand	1.48	12.03	12.24	12.03	12.24	0.60	14.11	14.32	14.11	14.32	XXX
73220	26	A	Magnetic image, arm, hand	1.48	0.40	0.64	0.40	0.64	0.08	1.96	2.20	1.96	2.20	XXX
73220	TC	A	Magnetic image, arm, hand	0.00	11.63	11.60	11.63	11.60	0.52	12.15	12.12	12.15	12.12	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
73221		A	Magnetic image, joint of arm	1.48	12.03	12.05	12.03	12.05	0.57	14.08	14.10	14.08	14.10	XXX
73221	26	A	Magnetic image, joint of arm	1.48	0.40	0.45	0.40	0.45	0.05	1.93	1.98	1.93	1.98	XXX
73221	TC	A	Magnetic image, joint of arm	0.00	11.63	11.60	11.63	11.60	0.52	12.15	12.12	12.15	12.12	XXX
73225		N	Magnetic imaging/upper (MRA)	+1.73	12.28	12.30	12.28	12.30	0.60	14.61	14.63	14.61	14.63	XXX
73225	26	N	Magnetic imaging/upper (MRA)	+1.73	0.65	0.70	0.65	0.70	0.08	2.46	2.51	2.46	2.51	XXX
73225	TC	N	Magnetic imaging/upper (MRA)	+0.00	11.63	11.60	11.63	11.60	0.52	12.15	12.12	12.15	12.12	XXX
73500		A	X-ray exam of hip	0.17	0.53	0.57	0.53	0.57	0.03	0.73	0.77	0.73	0.77	XXX
73500	26	A	X-ray exam of hip	0.17	0.04	0.08	0.04	0.08	0.01	0.22	0.26	0.22	0.26	XXX
73500	TC	A	X-ray exam of hip	0.00	0.49	0.49	0.49	0.49	0.02	0.51	0.51	0.51	0.51	XXX
73510		A	X-ray exam of hip	0.21	0.65	0.69	0.65	0.69	0.04	0.90	0.94	0.90	0.94	XXX
73510	26	A	X-ray exam of hip	0.21	0.06	0.10	0.06	0.10	0.01	0.28	0.32	0.28	0.32	XXX
73510	TC	A	X-ray exam of hip	0.00	0.59	0.59	0.59	0.59	0.03	0.62	0.62	0.62	0.62	XXX
73520		A	X-ray exam of hips	0.26	0.77	0.81	0.77	0.81	0.05	1.08	1.12	1.08	1.12	XXX
73520	26	A	X-ray exam of hips	0.26	0.07	0.12	0.07	0.12	0.02	0.35	0.40	0.35	0.40	XXX
73520	TC	A	X-ray exam of hips	0.00	0.70	0.69	0.70	0.69	0.03	0.73	0.72	0.73	0.72	XXX
73525		A	Contrast x-ray of hip	0.54	2.32	2.41	2.32	2.41	0.13	2.99	3.08	2.99	3.08	XXX
73525	26	A	Contrast x-ray of hip	0.54	0.14	0.24	0.14	0.24	0.03	0.71	0.81	0.71	0.81	XXX
73525	TC	A	Contrast x-ray of hip	0.00	2.18	2.17	2.18	2.17	0.10	2.28	2.27	2.28	2.27	XXX
73530		A	X-ray exam of hip	0.29	0.63	0.67	0.63	0.67	0.04	0.96	1.00	0.96	1.00	XXX
73530	26	A	X-ray exam of hip	0.29	0.08	0.13	0.08	0.13	0.02	0.39	0.44	0.39	0.44	XXX
73530	TC	A	X-ray exam of hip	0.00	0.55	0.54	0.55	0.54	0.02	0.57	0.56	0.57	0.56	XXX
73540		A	X-ray exam of pelvis & hips	0.20	0.64	0.69	0.64	0.69	0.04	0.88	0.93	0.88	0.93	XXX
73540	26	A	X-ray exam of pelvis & hips	0.20	0.05	0.10	0.05	0.10	0.01	0.26	0.31	0.26	0.31	XXX
73540	TC	A	X-ray exam of pelvis & hips	0.00	0.59	0.59	0.59	0.59	0.03	0.62	0.62	0.62	0.62	XXX
73550		A	X-ray exam of thigh	0.17	0.63	0.67	0.63	0.67	0.04	0.84	0.88	0.84	0.88	XXX
73550	26	A	X-ray exam of thigh	0.17	0.04	0.08	0.04	0.08	0.01	0.22	0.26	0.22	0.26	XXX
73550	TC	A	X-ray exam of thigh	0.00	0.59	0.59	0.59	0.59	0.03	0.62	0.62	0.62	0.62	XXX
73560		A	X-ray exam of knee, 1 or 2	0.17	0.60	0.61	0.60	0.61	0.03	0.80	0.81	0.80	0.81	XXX
73560	26	A	X-ray exam of knee, 1 or 2	0.17	0.05	0.07	0.05	0.07	0.01	0.23	0.25	0.23	0.25	XXX
73560	TC	A	X-ray exam of knee, 1 or 2	0.00	0.55	0.54	0.55	0.54	0.02	0.57	0.56	0.57	0.56	XXX
73562		A	X-ray exam of knee, 3	0.18	0.64	0.68	0.64	0.68	0.04	0.86	0.90	0.86	0.90	XXX
73562	26	A	X-ray exam of knee, 3	0.18	0.05	0.09	0.05	0.09	0.01	0.24	0.28	0.24	0.28	XXX
73562	TC	A	X-ray exam of knee, 3	0.00	0.59	0.59	0.59	0.59	0.03	0.62	0.62	0.62	0.62	XXX
73564		A	X-ray exam of knee, 4+	0.22	0.70	0.74	0.70	0.74	0.05	0.97	1.01	0.97	1.01	XXX
73564	26	A	X-ray exam of knee, 4+	0.22	0.06	0.10	0.06	0.10	0.02	0.30	0.34	0.30	0.34	XXX
73564	TC	A	X-ray exam of knee, 4+	0.00	0.64	0.64	0.64	0.64	0.03	0.67	0.67	0.67	0.67	XXX
73565		A	X-ray exam of knee	0.17	0.56	0.58	0.56	0.58	0.03	0.76	0.78	0.76	0.78	XXX
73565	26	A	X-ray exam of knee	0.17	0.05	0.07	0.05	0.07	0.01	0.23	0.25	0.23	0.25	XXX
73565	TC	A	X-ray exam of knee	0.00	0.51	0.51	0.51	0.51	0.02	0.53	0.53	0.53	0.53	XXX
73580		A	Contrast x-ray of knee joint	0.54	2.87	2.96	2.87	2.96	0.16	3.57	3.66	3.57	3.66	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
73580	26	A	Contrast x-ray of knee joint	0.54	0.14	0.24	0.14	0.24	0.03	0.71	0.81	0.71	0.81	XXX
73580	TC	A	Contrast x-ray of knee joint	0.00	2.73	2.72	2.73	2.72	0.13	2.86	2.85	2.86	2.85	XXX
73590		A	X-ray exam of lower leg	0.17	0.59	0.61	0.59	0.61	0.03	0.79	0.81	0.79	0.81	XXX
73590	26	A	X-ray exam of lower leg	0.17	0.04	0.07	0.04	0.07	0.01	0.22	0.25	0.22	0.25	XXX
73590	TC	A	X-ray exam of lower leg	0.00	0.55	0.54	0.55	0.54	0.02	0.57	0.56	0.57	0.56	XXX
73592		A	X-ray exam of leg, infant	0.16	0.55	0.58	0.55	0.58	0.03	0.74	0.77	0.74	0.77	XXX
73592	26	A	X-ray exam of leg, infant	0.16	0.04	0.07	0.04	0.07	0.01	0.21	0.24	0.21	0.24	XXX
73592	TC	A	X-ray exam of leg, infant	0.00	0.51	0.51	0.51	0.51	0.02	0.53	0.53	0.53	0.53	XXX
73600		A	X-ray exam of ankle	0.16	0.55	0.58	0.55	0.58	0.03	0.74	0.77	0.74	0.77	XXX
73600	26	A	X-ray exam of ankle	0.16	0.04	0.07	0.04	0.07	0.01	0.21	0.24	0.21	0.24	XXX
73600	TC	A	X-ray exam of ankle	0.00	0.51	0.51	0.51	0.51	0.02	0.53	0.53	0.53	0.53	XXX
73610		A	X-ray exam of ankle	0.17	0.60	0.63	0.60	0.63	0.03	0.80	0.83	0.80	0.83	XXX
73610	26	A	X-ray exam of ankle	0.17	0.04	0.08	0.04	0.08	0.01	0.22	0.26	0.22	0.26	XXX
73610	TC	A	X-ray exam of ankle	0.00	0.56	0.55	0.56	0.55	0.02	0.58	0.57	0.58	0.57	XXX
73615		A	Contrast x-ray of ankle	0.54	2.35	2.42	2.35	2.42	0.13	3.02	3.09	3.02	3.09	XXX
73615	26	A	Contrast x-ray of ankle	0.54	0.17	0.25	0.17	0.25	0.03	0.74	0.82	0.74	0.82	XXX
73615	TC	A	Contrast x-ray of ankle	0.00	2.18	2.17	2.18	2.17	0.10	2.28	2.27	2.28	2.27	XXX
73620		A	X-ray exam of foot	0.16	0.55	0.58	0.55	0.58	0.03	0.74	0.77	0.74	0.77	XXX
73620	26	A	X-ray exam of foot	0.16	0.04	0.07	0.04	0.07	0.01	0.21	0.24	0.21	0.24	XXX
73620	TC	A	X-ray exam of foot	0.00	0.51	0.51	0.51	0.51	0.02	0.53	0.53	0.53	0.53	XXX
73630		A	X-ray exam of foot	0.17	0.60	0.63	0.60	0.63	0.03	0.80	0.83	0.80	0.83	XXX
73630	26	A	X-ray exam of foot	0.17	0.04	0.08	0.04	0.08	0.01	0.22	0.26	0.22	0.26	XXX
73630	TC	A	X-ray exam of foot	0.00	0.56	0.55	0.56	0.55	0.02	0.58	0.57	0.58	0.57	XXX
73650		A	X-ray exam of heel	0.16	0.53	0.56	0.53	0.56	0.03	0.72	0.75	0.72	0.75	XXX
73650	26	A	X-ray exam of heel	0.16	0.04	0.07	0.04	0.07	0.01	0.21	0.24	0.21	0.24	XXX
73650	TC	A	X-ray exam of heel	0.00	0.49	0.49	0.49	0.49	0.02	0.51	0.51	0.51	0.51	XXX
73660		A	X-ray exam of toe(s)	0.13	0.47	0.49	0.47	0.49	0.03	0.63	0.65	0.63	0.65	XXX
73660	26	A	X-ray exam of toe(s)	0.13	0.03	0.06	0.03	0.06	0.01	0.17	0.20	0.17	0.20	XXX
73660	TC	A	X-ray exam of toe(s)	0.00	0.44	0.43	0.44	0.43	0.02	0.46	0.45	0.46	0.45	XXX
73700		A	CAT scan of leg	1.09	5.44	5.60	5.44	5.60	0.28	6.81	6.97	6.81	6.97	XXX
73700	26	A	CAT scan of leg	1.09	0.29	0.46	0.29	0.46	0.05	1.43	1.60	1.43	1.60	XXX
73700	TC	A	CAT scan of leg	0.00	5.15	5.14	5.15	5.14	0.23	5.38	5.37	5.38	5.37	XXX
73701		A	Contrast CAT scan of leg	1.16	6.44	6.61	6.44	6.61	0.34	7.94	8.11	7.94	8.11	XXX
73701	26	A	Contrast CAT scan of leg	1.16	0.31	0.49	0.31	0.49	0.06	1.53	1.71	1.53	1.71	XXX
73701	TC	A	Contrast CAT scan of leg	0.00	6.13	6.12	6.13	6.12	0.28	6.41	6.40	6.41	6.40	XXX
73702		A	Contrast CAT scans of leg	1.22	8.04	8.21	8.04	8.21	0.41	9.67	9.84	9.67	9.84	XXX
73702	26	A	Contrast CAT scans of leg	1.22	0.33	0.52	0.33	0.52	0.06	1.61	1.80	1.61	1.80	XXX
73702	TC	A	Contrast CAT scans of leg	0.00	7.71	7.69	7.71	7.69	0.35	8.06	8.04	8.06	8.04	XXX
73720		A	Magnetic image, leg, foot	1.48	12.02	12.24	12.02	12.24	0.60	14.10	14.32	14.10	14.32	XXX
73720	26	A	Magnetic image, leg, foot	1.48	0.39	0.64	0.39	0.64	0.08	1.95	2.20	1.95	2.20	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
73720	TC	A	Magnetic image, leg, foot	0.00	11.63	11.60	11.63	11.60	0.52	12.15	12.12	12.15	12.12	XXX
73721		A	Magnetic image, joint of leg	1.48	12.03	12.05	12.03	12.05	0.57	14.08	14.10	14.08	14.10	XXX
73721	26	A	Magnetic image, joint of leg	1.48	0.40	0.45	0.40	0.45	0.05	1.93	1.98	1.93	1.98	XXX
73721	TC	A	Magnetic image, joint of leg	0.00	11.63	11.60	11.63	11.60	0.52	12.15	12.12	12.15	12.12	XXX
73725		R	Magnetic imaging/lower (MRA)	1.82	12.12	12.26	12.12	12.26	0.60	14.54	14.68	14.54	14.68	XXX
73725	26	R	Magnetic imaging/lower (MRA)	1.82	0.49	0.66	0.49	0.66	0.08	2.39	2.56	2.39	2.56	XXX
73725	TC	R	Magnetic imaging/lower (MRA)	0.00	11.63	11.60	11.63	11.60	0.52	12.15	12.12	12.15	12.12	XXX
74000		A	X-ray exam of abdomen	0.18	0.60	0.62	0.60	0.62	0.03	0.81	0.83	0.81	0.83	XXX
74000	26	A	X-ray exam of abdomen	0.18	0.05	0.08	0.05	0.08	0.01	0.24	0.27	0.24	0.27	XXX
74000	TC	A	X-ray exam of abdomen	0.00	0.55	0.54	0.55	0.54	0.02	0.57	0.56	0.57	0.56	XXX
74010		A	X-ray exam of abdomen	0.23	0.65	0.70	0.65	0.70	0.05	0.93	0.98	0.93	0.98	XXX
74010	26	A	X-ray exam of abdomen	0.23	0.06	0.11	0.06	0.11	0.02	0.31	0.36	0.31	0.36	XXX
74010	TC	A	X-ray exam of abdomen	0.00	0.59	0.59	0.59	0.59	0.03	0.62	0.62	0.62	0.62	XXX
74020		A	X-ray exam of abdomen	0.27	0.71	0.76	0.71	0.76	0.05	1.03	1.08	1.03	1.08	XXX
74020	26	A	X-ray exam of abdomen	0.27	0.07	0.12	0.07	0.12	0.02	0.36	0.41	0.36	0.41	XXX
74020	TC	A	X-ray exam of abdomen	0.00	0.64	0.64	0.64	0.64	0.03	0.67	0.67	0.67	0.67	XXX
74022		A	X-ray exam series, abdomen	0.32	0.83	0.90	0.83	0.90	0.06	1.21	1.28	1.21	1.28	XXX
74022	26	A	X-ray exam series, abdomen	0.32	0.08	0.14	0.08	0.14	0.02	0.42	0.48	0.42	0.48	XXX
74022	TC	A	X-ray exam series, abdomen	0.00	0.75	0.76	0.75	0.76	0.04	0.79	0.80	0.79	0.80	XXX
74150		A	CAT scan of abdomen	1.19	6.19	6.36	6.19	6.36	0.33	7.71	7.88	7.71	7.88	XXX
74150	26	A	CAT scan of abdomen	1.19	0.32	0.50	0.32	0.50	0.06	1.57	1.75	1.57	1.75	XXX
74150	TC	A	CAT scan of abdomen	0.00	5.87	5.86	5.87	5.86	0.27	6.14	6.13	6.14	6.13	XXX
74160		A	Contrast CAT scan of abdomen	1.27	7.44	7.63	7.44	7.63	0.39	9.10	9.29	9.10	9.29	XXX
74160	26	A	Contrast CAT scan of abdomen	1.27	0.34	0.54	0.34	0.54	0.07	1.68	1.88	1.68	1.88	XXX
74160	TC	A	Contrast CAT scan of abdomen	0.00	7.10	7.09	7.10	7.09	0.32	7.42	7.41	7.42	7.41	XXX
74170		A	Contrast CAT scans, abdomen	1.40	9.17	9.39	9.17	9.39	0.47	11.04	11.26	11.04	11.26	XXX
74170	26	A	Contrast CAT scans, abdomen	1.40	0.37	0.60	0.37	0.60	0.08	1.85	2.08	1.85	2.08	XXX
74170	TC	A	Contrast CAT scans, abdomen	0.00	8.80	8.79	8.80	8.79	0.39	9.19	9.18	9.19	9.18	XXX
74181		A	Magnetic image,abdomen (MRI)	1.60	12.06	12.29	12.06	12.29	0.61	14.27	14.50	14.27	14.50	XXX
74181	26	A	Magnetic image,abdomen (MRI)	1.60	0.43	0.69	0.43	0.69	0.09	2.12	2.38	2.12	2.38	XXX
74181	TC	A	Magnetic image,abdomen (MRI)	0.00	11.63	11.60	11.63	11.60	0.52	12.15	12.12	12.15	12.12	XXX
74185		R	Magnetic image/abdomen (MRA)	1.80	12.31	12.36	12.31	12.36	0.61	14.72	14.77	14.72	14.77	XXX
74185	26	R	Magnetic image/abdomen (MRA)	1.80	0.68	0.76	0.68	0.76	0.09	2.57	2.65	2.57	2.65	XXX
74185	TC	R	Magnetic image/abdomen (MRA)	0.00	11.63	11.60	11.63	11.60	0.52	12.15	12.12	12.15	12.12	XXX
74190		A	X-ray exam of peritoneum	0.48	1.48	1.49	1.46	1.49	0.08	2.02	2.05	2.02	2.05	XXX
74190	26	A	X-ray exam of peritoneum	0.48	0.12	0.14	0.12	0.14	0.02	0.62	0.64	0.62	0.64	XXX
74190	TC	A	X-ray exam of peritoneum	0.00	1.34	1.35	1.34	1.35	0.06	1.40	1.41	1.40	1.41	XXX
74210		A	Contrast xray exam of throat	0.36	1.32	1.38	1.32	1.38	0.07	1.75	1.81	1.75	1.81	XXX
74210	26	A	Contrast xray exam of throat	0.36	0.09	0.15	0.09	0.15	0.02	0.47	0.53	0.47	0.53	XXX
74210	TC	A	Contrast xray exam of throat	0.00	1.23	1.23	1.23	1.23	0.05	1.28	1.28	1.28	1.28	XXX

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74220		A	Contrast xray exam,esophagus	0.46	1.35	1.43	1.35	1.43	0.07	1.88	1.96	1.88	1.96	XXX
74220	26	A	Contrast xray exam,esophagus	0.46	0.12	0.20	0.12	0.20	0.02	0.60	0.68	0.60	0.68	XXX
74220	TC	A	Contrast xray exam,esophagus	0.00	1.23	1.23	1.23	1.23	0.05	1.28	1.28	1.28	1.28	XXX
74230		A	Cinema xray throat/esophagus	0.53	1.48	1.59	1.48	1.59	0.09	2.10	2.21	2.10	2.21	XXX
74230	26	A	Cinema xray throat/esophagus	0.53	0.14	0.24	0.14	0.24	0.03	0.70	0.80	0.70	0.80	XXX
74230	TC	A	Cinema xray throat/esophagus	0.00	1.34	1.35	1.34	1.35	0.06	1.40	1.41	1.40	1.41	XXX
74235		A	Remove esophagus obstruction	1.19	3.08	3.23	3.08	3.23	0.19	4.46	4.61	4.46	4.61	XXX
74235	26	A	Remove esophagus obstruction	1.19	0.35	0.51	0.35	0.51	0.08	1.60	1.76	1.60	1.76	XXX
74235	TC	A	Remove esophagus obstruction	0.00	2.73	2.72	2.73	2.72	0.13	2.86	2.85	2.86	2.85	XXX
74240		A	X-ray exam upper GI tract	0.69	1.71	1.82	1.71	1.82	0.11	2.51	2.62	2.51	2.62	XXX
74240	26	A	X-ray exam upper GI tract	0.69	0.19	0.31	0.19	0.31	0.04	0.92	1.04	0.92	1.04	XXX
74240	TC	A	X-ray exam upper GI tract	0.00	1.52	1.51	1.52	1.51	0.07	1.59	1.58	1.59	1.58	XXX
74241		A	X-ray exam upper GI tract	0.69	1.74	1.85	1.74	1.85	0.11	2.54	2.65	2.54	2.65	XXX
74241	26	A	X-ray exam upper GI tract	0.69	0.19	0.31	0.19	0.31	0.04	0.92	1.04	0.92	1.04	XXX
74241	TC	A	X-ray exam upper GI tract	0.00	1.55	1.54	1.55	1.54	0.07	1.62	1.61	1.62	1.61	XXX
74245		A	X-ray exam upper GI tract	0.91	2.72	2.86	2.72	2.86	0.17	3.80	3.94	3.80	3.94	XXX
74245	26	A	X-ray exam upper GI tract	0.91	0.24	0.39	0.24	0.39	0.05	1.20	1.35	1.20	1.35	XXX
74245	TC	A	X-ray exam upper GI tract	0.00	2.48	2.47	2.48	2.47	0.12	2.60	2.59	2.60	2.59	XXX
74246		A	Contrast xray upper GI tract	0.69	1.89	2.01	1.89	2.01	0.12	2.70	2.82	2.70	2.82	XXX
74246	26	A	Contrast xray upper GI tract	0.69	0.19	0.31	0.19	0.31	0.04	0.92	1.04	0.92	1.04	XXX
74246	TC	A	Contrast xray upper GI tract	0.00	1.70	1.70	1.70	1.70	0.08	1.78	1.78	1.78	1.78	XXX
74247		A	Contrast xray upper GI tract	0.69	1.93	2.05	1.93	2.05	0.13	2.75	2.87	2.75	2.87	XXX
74247	26	A	Contrast xray upper GI tract	0.69	0.19	0.31	0.19	0.31	0.04	0.92	1.04	0.92	1.04	XXX
74247	TC	A	Contrast xray upper GI tract	0.00	1.74	1.74	1.74	1.74	0.09	1.83	1.83	1.83	1.83	XXX
74249		A	Contrast xray upper GI tract	0.91	2.91	3.05	2.91	3.05	0.18	4.00	4.14	4.00	4.14	XXX
74249	26	A	Contrast xray upper GI tract	0.91	0.24	0.39	0.24	0.39	0.05	1.20	1.35	1.20	1.35	XXX
74249	TC	A	Contrast xray upper GI tract	0.00	2.67	2.66	2.67	2.66	0.13	2.80	2.79	2.80	2.79	XXX
74250		A	X-ray exam of small bowel	0.47	1.48	1.55	1.46	1.55	0.08	2.01	2.10	2.01	2.10	XXX
74250	26	A	X-ray exam of small bowel	0.47	0.12	0.20	0.12	0.20	0.02	0.61	0.69	0.61	0.69	XXX
74250	TC	A	X-ray exam of small bowel	0.00	1.34	1.35	1.34	1.35	0.06	1.40	1.41	1.40	1.41	XXX
74251		A	X-ray exam of small bowel	0.69	1.53	1.57	1.53	1.57	0.08	2.30	2.34	2.30	2.34	XXX
74251	26	A	X-ray exam of small bowel	0.69	0.19	0.22	0.19	0.22	0.02	0.90	0.93	0.90	0.93	XXX
74251	TC	A	X-ray exam of small bowel	0.00	1.34	1.35	1.34	1.35	0.06	1.40	1.41	1.40	1.41	XXX
74260		A	X-ray exam of small bowel	0.50	1.68	1.78	1.68	1.76	0.09	2.27	2.35	2.27	2.35	XXX
74260	26	A	X-ray exam of small bowel	0.50	0.13	0.22	0.13	0.22	0.02	0.65	0.74	0.65	0.74	XXX
74260	TC	A	X-ray exam of small bowel	0.00	1.55	1.54	1.55	1.54	0.07	1.62	1.61	1.62	1.61	XXX
74270		A	Contrast x-ray exam of colon	0.69	1.96	2.07	1.96	2.07	0.13	2.78	2.89	2.78	2.89	XXX
74270	26	A	Contrast x-ray exam of colon	0.69	0.19	0.31	0.19	0.31	0.04	0.92	1.04	0.92	1.04	XXX
74270	TC	A	Contrast x-ray exam of colon	0.00	1.77	1.76	1.77	1.76	0.09	1.86	1.85	1.86	1.85	XXX
74280		A	Contrast x-ray exam of colon	0.99	2.58	2.75	2.58	2.75	0.16	3.73	3.90	3.73	3.90	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
74280	26	A	Contrast x-ray exam of colon	0.99	0.27	0.44	0.27	0.44	0.05	1.31	1.48	1.31	1.48	XXX
74280	TC	A	Contrast x-ray exam of colon	0.00	2.31	2.31	2.31	2.31	0.11	2.42	2.42	2.42	2.42	XXX
74283		A	Contrast x-ray exam of colon	2.02	3.19	3.52	3.19	3.52	0.24	5.45	5.78	5.45	5.78	XXX
74283	26	A	Contrast x-ray exam of colon	2.02	0.54	0.87	0.54	0.87	0.11	2.67	3.00	2.67	3.00	XXX
74283	TC	A	Contrast x-ray exam of colon	0.00	2.65	2.65	2.65	2.65	0.13	2.78	2.78	2.78	2.78	XXX
74290		A	Contrast x-ray, gallbladder	0.32	0.83	0.90	0.83	0.90	0.06	1.21	1.28	1.21	1.28	XXX
74290	26	A	Contrast x-ray, gallbladder	0.32	0.08	0.14	0.08	0.14	0.02	0.42	0.48	0.42	0.48	XXX
74290	TC	A	Contrast x-ray, gallbladder	0.00	0.75	0.76	0.75	0.76	0.04	0.79	0.80	0.79	0.80	XXX
74291		A	Contrast x-rays, gallbladder	0.20	0.49	0.52	0.49	0.52	0.03	0.72	0.75	0.72	0.75	XXX
74291	26	A	Contrast x-rays, gallbladder	0.20	0.05	0.09	0.05	0.09	0.01	0.26	0.30	0.26	0.30	XXX
74291	TC	A	Contrast x-rays, gallbladder	0.00	0.44	0.43	0.44	0.43	0.02	0.46	0.45	0.46	0.45	XXX
74300		C	X-ray bile ducts, pancreas	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
74300	26	A	X-ray bile ducts, pancreas	0.36	0.09	0.16	0.09	0.16	0.02	0.47	0.54	0.47	0.54	XXX
74300	TC	C	X-ray bile ducts, pancreas	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
74301		C	X-rays at surgery add-on	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ
74301	26	A	X-rays at surgery add-on	0.21	0.05	0.10	0.05	0.10	0.01	0.27	0.32	0.27	0.32	ZZZ
74301	TC	C	X-rays at surgery add-on	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ
74305		A	X-ray bile ducts, pancreas	0.42	0.93	1.00	0.93	1.00	0.06	1.41	1.48	1.41	1.48	XXX
74305	26	A	X-ray bile ducts, pancreas	0.42	0.11	0.19	0.11	0.19	0.02	0.55	0.63	0.55	0.63	XXX
74305	TC	A	X-ray bile ducts, pancreas	0.00	0.82	0.81	0.82	0.81	0.04	0.86	0.85	0.86	0.85	XXX
74320		A	Contrast x-ray of bile ducts	0.54	3.40	3.50	3.40	3.50	0.18	4.12	4.22	4.12	4.22	XXX
74320	26	A	Contrast x-ray of bile ducts	0.54	0.14	0.24	0.14	0.24	0.03	0.71	0.81	0.71	0.81	XXX
74320	TC	A	Contrast x-ray of bile ducts	0.00	3.26	3.26	3.26	3.26	0.15	3.41	3.41	3.41	3.41	XXX
74327		A	X-ray for bile stone removal	0.70	2.02	2.13	2.02	2.13	0.13	2.85	2.96	2.85	2.96	XXX
74327	26	A	X-ray for bile stone removal	0.70	-0.19	0.31	0.19	0.31	0.04	0.93	1.05	0.93	1.05	XXX
74327	TC	A	X-ray for bile stone removal	0.00	1.83	1.82	1.83	1.82	0.09	1.92	1.91	1.92	1.91	XXX
74328		A	Xray for bile duct endoscopy	0.70	3.45	3.57	3.45	3.57	0.19	4.34	4.46	4.34	4.46	XXX
74328	26	A	Xray for bile duct endoscopy	0.70	0.19	0.31	0.19	0.31	0.04	0.93	1.05	0.93	1.05	XXX
74328	TC	A	Xray for bile duct endoscopy	0.00	3.26	3.26	3.26	3.26	0.15	3.41	3.41	3.41	3.41	XXX
74329		A	X-ray for pancreas endoscopy	0.70	3.45	3.57	3.45	3.57	0.19	4.34	4.46	4.34	4.46	XXX
74329	26	A	X-ray for pancreas endoscopy	0.70	0.19	0.31	0.19	0.31	0.04	0.93	1.05	0.93	1.05	XXX
74329	TC	A	X-ray for pancreas endoscopy	0.00	3.26	3.26	3.26	3.26	0.15	3.41	3.41	3.41	3.41	XXX
74330		A	Xray,bile/pancreas endoscopy	0.90	3.50	3.58	3.50	3.58	0.19	4.59	4.67	4.59	4.67	XXX
74330	26	A	Xray,bile/pancreas endoscopy	0.90	0.24	0.32	0.24	0.32	0.04	1.18	1.26	1.18	1.26	XXX
74330	TC	A	Xray,bile/pancreas endoscopy	0.00	3.26	3.26	3.26	3.26	0.15	3.41	3.41	3.41	3.41	XXX
74340		A	X-ray guide for GI tube	0.54	2.87	2.96	2.87	2.96	0.16	3.57	3.66	3.57	3.66	XXX
74340	26	A	X-ray guide for GI tube	0.54	0.14	0.24	0.14	0.24	0.03	0.71	0.81	0.71	0.81	XXX
74340	TC	A	X-ray guide for GI tube	0.00	2.73	2.72	2.73	2.72	0.13	2.86	2.85	2.86	2.85	XXX
74350		A	X-ray guide, stomach tube	0.76	3.47	3.60	3.47	3.60	0.19	4.42	4.55	4.42	4.55	XXX
74350	26	A	X-ray guide, stomach tube	0.76	0.21	0.34	0.21	0.34	0.04	1.01	1.14	1.01	1.14	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
74350	TC	A	X-ray guide, stomach tube	0.00	3.26	3.26	3.26	3.26	0.15	3.41	3.41	3.41	3.41	XXX
74355		A	X-ray guide, intestinal tube	0.76	2.94	3.06	2.94	3.06	0.17	3.87	3.99	3.87	3.99	XXX
74355	26	A	X-ray guide, intestinal tube	0.76	0.21	0.34	0.21	0.34	0.04	1.01	1.14	1.01	1.14	XXX
74355	TC	A	X-ray guide, intestinal tube	0.00	2.73	2.72	2.73	2.72	0.13	2.86	2.85	2.86	2.85	XXX
74360		A	X-ray guide, GI dilation	0.54	3.44	3.51	3.44	3.51	0.18	4.16	4.23	4.16	4.23	XXX
74360	26	A	X-ray guide, GI dilation	0.54	0.18	0.25	0.18	0.25	0.03	0.75	0.82	0.75	0.82	XXX
74360	TC	A	X-ray guide, GI dilation	0.00	3.26	3.26	3.26	3.26	0.15	3.41	3.41	3.41	3.41	XXX
74363		A	X-ray, bile duct dilation	0.88	6.57	6.70	6.57	6.70	0.34	7.79	7.92	7.79	7.92	XXX
74363	26	A	X-ray, bile duct dilation	0.88	0.24	0.38	0.24	0.38	0.05	1.17	1.31	1.17	1.31	XXX
74363	TC	A	X-ray, bile duct dilation	0.00	6.33	6.32	6.33	6.32	0.29	6.62	6.61	6.62	6.61	XXX
74400		A	Contrast x-ray urinary tract	0.49	1.87	1.95	1.87	1.95	0.11	2.47	2.55	2.47	2.55	XXX
74400	26	A	Contrast x-ray urinary tract	0.49	0.13	0.21	0.13	0.21	0.02	0.64	0.72	0.64	0.72	XXX
74400	TC	A	Contrast x-ray urinary tract	0.00	1.74	1.74	1.74	1.74	0.09	1.83	1.83	1.83	1.83	XXX
74405		D	Contrast x-ray urinary tract	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
74405	26	D	Contrast x-ray urinary tract	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
74405	TC	D	Contrast x-ray urinary tract	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
74410		A	Contrast x-ray urinary tract	0.49	2.15	2.23	2.15	2.23	0.11	2.75	2.83	2.75	2.83	XXX
74410	26	A	Contrast x-ray urinary tract	0.49	0.13	0.21	0.13	0.21	0.02	0.64	0.72	0.64	0.72	XXX
74410	TC	A	Contrast x-ray urinary tract	0.00	2.02	2.02	2.02	2.02	0.09	2.11	2.11	2.11	2.11	XXX
74415		A	Contrast x-ray urinary tract	0.49	2.33	2.40	2.33	2.40	0.12	2.94	3.01	2.94	3.01	XXX
74415	26	A	Contrast x-ray urinary tract	0.49	0.13	0.21	0.13	0.21	0.02	0.64	0.72	0.64	0.72	XXX
74415	TC	A	Contrast x-ray urinary tract	0.00	2.20	2.19	2.20	2.19	0.10	2.30	2.29	2.30	2.29	XXX
74420		A	Contrast x-ray urinary tract	0.36	2.83	2.87	2.83	2.87	0.15	3.34	3.38	3.34	3.38	XXX
74420	26	A	Contrast x-ray urinary tract	0.36	0.10	0.15	0.10	0.15	0.02	0.48	0.53	0.48	0.53	XXX
74420	TC	A	Contrast x-ray urinary tract	0.00	2.73	2.72	2.73	2.72	0.13	2.86	2.85	2.86	2.85	XXX
74425		A	Contrast x-ray urinary tract	0.36	1.43	1.50	1.43	1.50	0.08	1.87	1.94	1.87	1.94	XXX
74425	26	A	Contrast x-ray urinary tract	0.36	0.09	0.15	0.09	0.15	0.02	0.47	0.53	0.47	0.53	XXX
74425	TC	A	Contrast x-ray urinary tract	0.00	1.34	1.35	1.34	1.35	0.06	1.40	1.41	1.40	1.41	XXX
74430		A	Contrast x-ray of bladder	0.32	1.16	1.23	1.16	1.23	0.07	1.55	1.62	1.55	1.62	XXX
74430	26	A	Contrast x-ray of bladder	0.32	0.08	0.14	0.08	0.14	0.02	0.42	0.48	0.42	0.48	XXX
74430	TC	A	Contrast x-ray of bladder	0.00	1.08	1.09	1.08	1.09	0.05	1.13	1.14	1.13	1.14	XXX
74440		A	Xray exam male genital tract	0.38	1.28	1.33	1.28	1.33	0.07	1.73	1.78	1.73	1.78	XXX
74440	26	A	Xray exam male genital tract	0.38	0.10	0.16	0.10	0.16	0.02	0.50	0.56	0.50	0.56	XXX
74440	TC	A	Xray exam male genital tract	0.00	1.18	1.17	1.18	1.17	0.05	1.23	1.22	1.23	1.22	XXX
74445		A	X-ray exam of penis	1.14	1.52	1.66	1.52	1.66	0.11	2.77	2.91	2.77	2.91	XXX
74445	26	A	X-ray exam of penis	1.14	0.34	0.49	0.34	0.49	0.06	1.54	1.69	1.54	1.69	XXX
74445	TC	A	X-ray exam of penis	0.00	1.18	1.17	1.18	1.17	0.05	1.23	1.22	1.23	1.22	XXX
74450		A	X-ray exam urethra/bladder	0.33	1.61	1.65	1.61	1.65	0.09	2.03	2.07	2.03	2.07	XXX
74450	26	A	X-ray exam urethra/bladder	0.33	0.09	0.14	0.09	0.14	0.02	0.44	0.49	0.44	0.49	XXX
74450	TC	A	X-ray exam urethra/bladder	0.00	1.52	1.51	1.52	1.51	0.07	1.59	1.58	1.59	1.58	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
74455		A	X-ray exam urethra/bladder	0.33	1.72	1.77	1.72	1.77	0.10	2.15	2.20	2.15	2.20	XXX
74455	26	A	X-ray exam urethra/bladder	0.33	0.09	0.14	0.09	0.14	0.02	0.44	0.49	0.44	0.49	XXX
74455	TC	A	X-ray exam urethra/bladder	0.00	1.63	1.63	1.63	1.63	0.08	1.71	1.71	1.71	1.71	XXX
74470		A	X-ray exam of kidney lesion	0.54	1.44	1.53	1.44	1.53	0.09	2.07	2.16	2.07	2.16	XXX
74470	26	A	X-ray exam of kidney lesion	0.54	0.14	0.24	0.14	0.24	0.03	0.71	0.81	0.71	0.81	XXX
74470	TC	A	X-ray exam of kidney lesion	0.00	1.30	1.29	1.30	1.29	0.06	1.36	1.35	1.36	1.35	XXX
74475		A	Xray control catheter insert	0.54	4.36	4.45	4.36	4.45	0.23	5.13	5.22	5.13	5.22	XXX
74475	26	A	Xray control catheter insert	0.54	0.14	0.24	0.14	0.24	0.03	0.71	0.81	0.71	0.81	XXX
74475	TC	A	Xray control catheter insert	0.00	4.22	4.21	4.22	4.21	0.20	4.42	4.41	4.42	4.41	XXX
74480		A	Xray control catheter insert	0.54	4.36	4.45	4.36	4.45	0.23	5.13	5.22	5.13	5.22	XXX
74480	26	A	Xray control catheter insert	0.54	0.14	0.24	0.14	0.24	0.03	0.71	0.81	0.71	0.81	XXX
74480	TC	A	Xray control catheter insert	0.00	4.22	4.21	4.22	4.21	0.20	4.42	4.41	4.42	4.41	XXX
74485		A	X-ray guide, GU dilation	0.54	3.40	3.50	3.40	3.50	0.18	4.12	4.22	4.12	4.22	XXX
74485	26	A	X-ray guide, GU dilation	0.54	0.14	0.24	0.14	0.24	0.03	0.71	0.81	0.71	0.81	XXX
74485	TC	A	X-ray guide, GU dilation	0.00	3.26	3.26	3.26	3.26	0.15	3.41	3.41	3.41	3.41	XXX
74710		A	X-ray measurement of pelvis	0.34	1.17	1.24	1.17	1.24	0.07	1.58	1.65	1.58	1.65	XXX
74710	26	A	X-ray measurement of pelvis	0.34	0.09	0.15	0.09	0.15	0.02	0.45	0.51	0.45	0.51	XXX
74710	TC	A	X-ray measurement of pelvis	0.00	1.08	1.09	1.08	1.09	0.05	1.13	1.14	1.13	1.14	XXX
74740		A	X-ray female genital tract	0.38	1.44	1.51	1.44	1.51	0.08	1.90	1.97	1.90	1.97	XXX
74740	26	A	X-ray female genital tract	0.38	0.10	0.16	0.10	0.16	0.02	0.50	0.56	0.50	0.56	XXX
74740	TC	A	X-ray female genital tract	0.00	1.34	1.35	1.34	1.35	0.06	1.40	1.41	1.40	1.41	XXX
74742		A	X-ray fallopian tube	0.61	3.43	3.51	3.43	3.51	0.18	4.22	4.30	4.22	4.30	XXX
74742	26	A	X-ray fallopian tube	0.61	0.17	0.25	0.17	0.25	0.03	0.81	0.89	0.81	0.89	XXX
74742	TC	A	X-ray fallopian tube	0.00	3.26	3.26	3.26	3.26	0.15	3.41	3.41	3.41	3.41	XXX
74775		A	X-ray exam of perineum	0.62	1.70	1.79	1.70	1.79	0.10	2.42	2.51	2.42	2.51	XXX
74775	26	A	X-ray exam of perineum	0.62	0.18	0.28	0.18	0.28	0.03	0.83	0.93	0.83	0.93	XXX
74775	TC	A	X-ray exam of perineum	0.00	1.52	1.51	1.52	1.51	0.07	1.59	1.58	1.59	1.58	XXX
75552		A	Magnetic image, myocardium	1.60	12.07	12.30	12.07	12.30	0.61	14.28	14.51	14.28	14.51	XXX
75552	26	A	Magnetic image, myocardium	1.60	0.44	0.70	0.44	0.70	0.09	2.13	2.39	2.13	2.39	XXX
75552	TC	A	Magnetic image, myocardium	0.00	11.63	11.60	11.63	11.60	0.52	12.15	12.12	12.15	12.12	XXX
75553		A	Magnetic image, myocardium	2.00	12.16	12.32	12.16	12.32	0.61	14.77	14.93	14.77	14.93	XXX
75553	26	A	Magnetic image, myocardium	2.00	0.53	0.72	0.53	0.72	0.09	2.62	2.81	2.62	2.81	XXX
75553	TC	A	Magnetic image, myocardium	0.00	11.63	11.60	11.63	11.60	0.52	12.15	12.12	12.15	12.12	XXX
75554		A	Cardiac MRI/function	1.83	12.21	12.33	12.21	12.33	0.61	14.65	14.77	14.65	14.77	XXX
75554	26	A	Cardiac MRI/function	1.83	0.58	0.73	0.58	0.73	0.09	2.50	2.65	2.50	2.65	XXX
75554	TC	A	Cardiac MRI/function	0.00	11.63	11.60	11.63	11.60	0.52	12.15	12.12	12.15	12.12	XXX
75555		A	Cardiac MRI/limited study	1.74	12.28	12.35	12.28	12.35	0.61	14.63	14.70	14.63	14.70	XXX
75555	26	A	Cardiac MRI/limited study	1.74	0.65	0.75	0.65	0.75	0.09	2.48	2.58	2.48	2.58	XXX
75555	TC	A	Cardiac MRI/limited study	0.00	11.63	11.60	11.63	11.60	0.52	12.15	12.12	12.15	12.12	XXX
75556		N	Cardiac MRI/flow mapping	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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75600		A	Contrast x-ray exam of aorta	0.49	13.28	13.27	13.28	13.27	0.61	14.38	14.37	14.38	14.37	XXX
75600	26	A	Contrast x-ray exam of aorta	0.49	0.20	0.23	0.20	0.23	0.02	0.71	0.74	0.71	0.74	XXX
75600	TC	A	Contrast x-ray exam of aorta	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75605		A	Contrast x-ray exam of aorta	1.14	13.44	13.54	13.44	13.54	0.65	15.23	15.33	15.23	15.33	XXX
75605	26	A	Contrast x-ray exam of aorta	1.14	0.36	0.50	0.36	0.50	0.06	1.56	1.70	1.56	1.70	XXX
75605	TC	A	Contrast x-ray exam of aorta	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75625		A	Contrast x-ray exam of aorta	1.14	13.40	13.53	13.40	13.53	0.65	15.19	15.32	15.19	15.32	XXX
75625	26	A	Contrast x-ray exam of aorta	1.14	0.32	0.49	0.32	0.49	0.06	1.52	1.69	1.52	1.69	XXX
75625	TC	A	Contrast x-ray exam of aorta	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75630		A	X-ray aorta, leg arteries	1.79	14.14	14.20	14.14	14.20	0.69	16.62	16.68	16.62	16.68	XXX
75630	26	A	X-ray aorta, leg arteries	1.79	0.53	0.61	0.53	0.61	0.07	2.39	2.47	2.39	2.47	XXX
75630	TC	A	X-ray aorta, leg arteries	0.00	13.61	13.59	13.61	13.59	0.62	14.23	14.21	14.23	14.21	XXX
75650		A	Artery x-rays, head & neck	1.49	13.48	13.68	13.48	13.68	0.67	15.64	15.84	15.64	15.84	XXX
75650	26	A	Artery x-rays, head & neck	1.49	0.40	0.64	0.40	0.64	0.08	1.97	2.21	1.97	2.21	XXX
75650	TC	A	Artery x-rays, head & neck	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75658		A	X-ray exam of arm arteries	1.31	13.56	13.63	13.56	13.63	0.66	15.53	15.60	15.53	15.60	XXX
75658	26	A	X-ray exam of arm arteries	1.31	0.48	0.59	0.48	0.59	0.07	1.86	1.97	1.86	1.97	XXX
75658	TC	A	X-ray exam of arm arteries	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75660		A	Artery x-rays, head & neck	1.31	13.46	13.61	13.46	13.61	0.66	15.43	15.58	15.43	15.58	XXX
75660	26	A	Artery x-rays, head & neck	1.31	0.38	0.57	0.38	0.57	0.07	1.76	1.95	1.76	1.95	XXX
75660	TC	A	Artery x-rays, head & neck	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75662		A	Artery x-rays, head & neck	1.66	13.61	13.77	13.61	13.77	0.68	15.95	16.11	15.95	16.11	XXX
75662	26	A	Artery x-rays, head & neck	1.66	0.53	0.73	0.53	0.73	0.09	2.28	2.48	2.28	2.48	XXX
75662	TC	A	Artery x-rays, head & neck	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75665		A	Artery x-rays, head & neck	1.31	13.45	13.61	13.45	13.61	0.66	15.42	15.58	15.42	15.58	XXX
75665	26	A	Artery x-rays, head & neck	1.31	0.37	0.57	0.37	0.57	0.07	1.75	1.95	1.75	1.95	XXX
75665	TC	A	Artery x-rays, head & neck	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75671		A	Artery x-rays, head & neck	1.66	13.53	13.75	13.53	13.75	0.68	15.87	16.09	15.87	16.09	XXX
75671	26	A	Artery x-rays, head & neck	1.66	0.45	0.71	0.45	0.71	0.09	2.20	2.46	2.20	2.46	XXX
75671	TC	A	Artery x-rays, head & neck	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75676		A	Artery x-rays, neck	1.31	13.46	13.61	13.46	13.61	0.66	15.43	15.58	15.43	15.58	XXX
75676	26	A	Artery x-rays, neck	1.31	0.38	0.57	0.38	0.57	0.07	1.76	1.95	1.76	1.95	XXX
75676	TC	A	Artery x-rays, neck	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75680		A	Artery x-rays, neck	1.66	13.53	13.75	13.53	13.75	0.68	15.87	16.09	15.87	16.09	XXX
75680	26	A	Artery x-rays, neck	1.66	0.45	0.71	0.45	0.71	0.09	2.20	2.46	2.20	2.46	XXX
75680	TC	A	Artery x-rays, neck	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75685		A	Artery x-rays, spine	1.31	13.44	13.60	13.44	13.60	0.66	15.41	15.57	15.41	15.57	XXX
75685	26	A	Artery x-rays, spine	1.31	0.36	0.56	0.36	0.56	0.07	1.74	1.94	1.74	1.94	XXX
75685	TC	A	Artery x-rays, spine	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75705		A	Artery x-rays, spine	2.18	13.70	13.99	13.70	13.99	0.71	16.59	16.88	16.59	16.88	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
75705	26	A	Artery x-rays, spine	2.18	0.62	0.95	0.62	0.95	0.12	2.92	3.25	2.92	3.25	XXX
75705	TC	A	Artery x-rays, spine	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75710		A	Artery x-rays, arm/leg	1.14	13.41	13.53	13.41	13.53	0.65	15.20	15.32	15.20	15.32	XXX
75710	26	A	Artery x-rays, arm/leg	1.14	0.33	0.49	0.33	0.49	0.06	1.53	1.69	1.53	1.69	XXX
75710	TC	A	Artery x-rays, arm/leg	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75716		A	Artery x-rays, arms/legs	1.31	13.44	13.60	13.44	13.60	0.66	15.41	15.57	15.41	15.57	XXX
75716	26	A	Artery x-rays, arms/legs	1.31	0.36	0.56	0.36	0.56	0.07	1.74	1.94	1.74	1.94	XXX
75716	TC	A	Artery x-rays, arms/legs	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75722		A	Artery x-rays, kidney	1.14	13.43	13.53	13.43	13.53	0.65	15.22	15.32	15.22	15.32	XXX
75722	26	A	Artery x-rays, kidney	1.14	0.35	0.49	0.35	0.49	0.06	1.55	1.69	1.55	1.69	XXX
75722	TC	A	Artery x-rays, kidney	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75724		A	Artery x-rays, kidneys	1.49	13.62	13.72	13.62	13.72	0.67	15.78	15.88	15.78	15.88	XXX
75724	26	A	Artery x-rays, kidneys	1.49	0.54	0.68	0.54	0.68	0.08	2.11	2.25	2.11	2.25	XXX
75724	TC	A	Artery x-rays, kidneys	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75726		A	Artery x-rays, abdomen	1.14	13.39	13.52	13.39	13.52	0.65	15.18	15.31	15.18	15.31	XXX
75726	26	A	Artery x-rays, abdomen	1.14	0.31	0.48	0.31	0.48	0.06	1.51	1.68	1.51	1.68	XXX
75726	TC	A	Artery x-rays, abdomen	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75731		A	Artery x-rays, adrenal gland	1.14	13.38	13.52	13.38	13.52	0.65	15.17	15.31	15.17	15.31	XXX
75731	26	A	Artery x-rays, adrenal gland	1.14	0.30	0.48	0.30	0.48	0.06	1.50	1.68	1.50	1.68	XXX
75731	TC	A	Artery x-rays, adrenal gland	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75733		A	Artery x-rays,adrenal glands	1.31	13.44	13.60	13.44	13.60	0.66	15.41	15.57	15.41	15.57	XXX
75733	26	A	Artery x-rays,adrenal glands	1.31	0.36	0.56	0.36	0.56	0.07	1.74	1.94	1.74	1.94	XXX
75733	TC	A	Artery x-rays,adrenal glands	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75736		A	Artery x-rays, pelvis	1.14	13.39	13.52	13.39	13.52	0.65	15.18	15.31	15.18	15.31	XXX
75736	26	A	Artery x-rays, pelvis	1.14	0.31	0.48	0.31	0.48	0.06	1.51	1.68	1.51	1.68	XXX
75736	TC	A	Artery x-rays, pelvis	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75741		A	Artery x-rays, lung	1.31	13.44	13.60	13.44	13.60	0.66	15.41	15.57	15.41	15.57	XXX
75741	26	A	Artery x-rays, lung	1.31	0.36	0.56	0.36	0.56	0.07	1.74	1.94	1.74	1.94	XXX
75741	TC	A	Artery x-rays, lung	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75743		A	Artery x-rays, lungs	1.66	13.53	13.75	13.53	13.75	0.68	15.87	16.09	15.87	16.09	XXX
75743	26	A	Artery x-rays, lungs	1.66	0.45	0.71	0.45	0.71	0.09	2.20	2.46	2.20	2.46	XXX
75743	TC	A	Artery x-rays, lungs	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75746		A	Artery x-rays, lung	1.14	13.41	13.53	13.41	13.53	0.65	15.20	15.32	15.20	15.32	XXX
75746	26	A	Artery x-rays, lung	1.14	0.33	0.49	0.33	0.49	0.06	1.53	1.69	1.53	1.69	XXX
75746	TC	A	Artery x-rays, lung	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75756		A	Artery x-rays, chest	1.14	13.56	13.57	13.56	13.57	0.65	15.35	15.36	15.35	15.36	XXX
75756	26	A	Artery x-rays, chest	1.14	0.48	0.53	0.48	0.53	0.06	1.68	1.73	1.68	1.73	XXX
75756	TC	A	Artery x-rays, chest	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75774		A	Artery x-ray, each vessel	0.36	13.18	13.19	13.18	13.19	0.61	14.15	14.16	14.15	14.16	ZZZ
75774	26	A	Artery x-ray, each vessel	0.36	0.10	0.15	0.10	0.15	0.02	0.48	0.53	0.48	0.53	ZZZ

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
75774	TC	A	Artery x-ray, each vessel	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	ZZZ
75790		A	Visualize A-V shunt	1.84	1.90	2.20	1.90	2.20	0.16	3.90	4.20	3.90	4.20	XXX
75790	26	A	Visualize A-V shunt	1.84	0.50	0.80	0.50	0.80	0.09	2.43	2.73	2.43	2.73	XXX
75790	TC	A	Visualize A-V shunt	0.00	1.40	1.40	1.40	1.40	0.07	1.47	1.47	1.47	1.47	XXX
75801		A	Lymph vessel x-ray, arm/leg	0.81	5.85	5.97	5.85	5.97	0.30	6.96	7.08	6.96	7.08	XXX
75801	26	A	Lymph vessel x-ray, arm/leg	0.81	0.23	0.36	0.23	0.36	0.04	1.08	1.21	1.08	1.21	XXX
75801	TC	A	Lymph vessel x-ray, arm/leg	0.00	5.62	5.81	5.62	5.61	0.26	5.88	5.87	5.88	5.87	XXX
75803		A	Lymph vessel x-ray,arms/legs	1.17	5.93	6.10	5.93	6.10	0.32	7.42	7.59	7.42	7.59	XXX
75803	26	A	Lymph vessel x-ray,arms/legs	1.17	0.31	0.49	0.31	0.49	0.06	1.54	1.72	1.54	1.72	XXX
75803	TC	A	Lymph vessel x-ray,arms/legs	0.00	5.62	5.61	5.62	5.61	0.26	5.88	5.87	5.88	5.87	XXX
75805		A	Lymph vessel x-ray, trunk	0.81	6.55	6.68	6.55	6.68	0.33	7.69	7.82	7.69	7.82	XXX
75805	26	A	Lymph vessel x-ray, trunk	0.81	0.22	0.36	0.22	0.36	0.04	1.07	1.21	1.07	1.21	XXX
75805	TC	A	Lymph vessel x-ray, trunk	0.00	6.33	6.32	6.33	6.32	0.29	6.62	6.61	6.62	6.61	XXX
75807		A	Lymph vessel x-ray, trunk	1.17	6.64	6.81	6.64	6.81	0.35	8.16	8.33	8.16	8.33	XXX
75807	26	A	Lymph vessel x-ray, trunk	1.17	0.31	0.49	0.31	0.49	0.06	1.54	1.72	1.54	1.72	XXX
75807	TC	A	Lymph vessel x-ray, trunk	0.00	6.33	6.32	6.33	6.32	0.29	6.62	6.61	6.62	6.61	XXX
75809		A	Nonvascular shunt, x-ray	0.47	0.94	1.00	0.94	1.00	0.06	1.47	1.53	1.47	1.53	XXX
75809	26	A	Nonvascular shunt, x-ray	0.47	0.12	0.19	0.12	0.19	0.02	0.61	0.68	0.61	0.68	XXX
75809	TC	A	Nonvascular shunt, x-ray	0.00	0.82	0.81	0.82	0.81	0.04	0.86	0.85	0.86	0.85	XXX
75810		A	Vein x-ray, spleen/liver	1.14	13.38	13.52	13.38	13.52	0.65	15.17	15.31	15.17	15.31	XXX
75810	26	A	Vein x-ray, spleen/liver	1.14	0.30	0.48	0.30	0.48	0.06	1.50	1.68	1.50	1.68	XXX
75810	TC	A	Vein x-ray, spleen/liver	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75820		A	Vein x-ray, arm/leg	0.70	1.17	1.29	1.17	1.29	0.09	1.96	2.08	1.96	2.08	XXX
75820	26	A	Vein x-ray, arm/leg	0.70	0.19	0.31	0.19	0.31	0.04	0.93	1.05	0.93	1.05	XXX
75820	TC	A	Vein x-ray, arm/leg	0.00	0.98	0.98	0.98	0.98	0.05	1.03	1.03	1.03	1.03	XXX
75822		A	Vein x-ray, arms/legs	1.06	1.83	1.99	1.83	1.99	0.12	3.01	3.17	3.01	3.17	XXX
75822	26	A	Vein x-ray, arms/legs	1.06	0.29	0.46	0.29	0.46	0.05	1.40	1.57	1.40	1.57	XXX
75822	TC	A	Vein x-ray, arms/legs	0.00	1.54	1.53	1.54	1.53	0.07	1.61	1.60	1.61	1.60	XXX
75825		A	Vein x-ray, trunk	1.14	13.39	13.52	13.39	13.52	0.65	15.18	15.31	15.18	15.31	XXX
75825	26	A	Vein x-ray, trunk	1.14	0.31	0.48	0.31	0.48	0.06	1.51	1.68	1.51	1.68	XXX
75825	TC	A	Vein x-ray, trunk	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75827		A	Vein x-ray, chest	1.14	13.39	13.52	13.39	13.52	0.65	15.18	15.31	15.18	15.31	XXX
75827	26	A	Vein x-ray, chest	1.14	0.31	0.48	0.31	0.48	0.06	1.51	1.68	1.51	1.68	XXX
75827	TC	A	Vein x-ray, chest	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75831		A	Vein x-ray, kidney	1.14	13.38	13.52	13.38	13.52	0.65	15.17	15.31	15.17	15.31	XXX
75831	26	A	Vein x-ray, kidney	1.14	0.30	0.48	0.30	0.48	0.06	1.50	1.68	1.50	1.68	XXX
75831	TC	A	Vein x-ray, kidney	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75833		A	Vein x-ray, kidneys	1.49	13.49	13.68	13.49	13.68	0.67	15.65	15.84	15.65	15.84	XXX
75833	26	A	Vein x-ray, kidneys	1.49	0.41	0.64	0.41	0.64	0.08	1.98	2.21	1.98	2.21	XXX
75833	TC	A	Vein x-ray, kidneys	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
75840		A	Vein x-ray, adrenal gland	1.14	13.42	13.53	13.42	13.53	0.65	15.21	15.32	15.21	15.32	XXX
75840	26	A	Vein x-ray, adrenal gland	1.14	0.34	0.49	0.34	0.49	0.06	1.54	1.69	1.54	1.69	XXX
75840	TC	A	Vein x-ray, adrenal gland	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75842		A	Vein x-ray, adrenal glands	1.49	13.47	13.68	13.47	13.68	0.67	15.63	15.84	15.63	15.84	XXX
75842	26	A	Vein x-ray, adrenal glands	1.49	0.39	0.64	0.39	0.64	0.08	1.96	2.21	1.96	2.21	XXX
75842	TC	A	Vein x-ray, adrenal glands	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75860		A	Vein x-ray, neck	1.14	13.39	13.52	13.39	13.52	0.65	15.18	15.31	15.18	15.31	XXX
75860	26	A	Vein x-ray, neck	1.14	0.31	0.48	0.31	0.48	0.06	1.51	1.68	1.51	1.68	XXX
75860	TC	A	Vein x-ray, neck	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75870		A	Vein x-ray, skull	1.14	13.40	13.53	13.40	13.53	0.65	15.19	15.32	15.19	15.32	XXX
75870	26	A	Vein x-ray, skull	1.14	0.32	0.49	0.32	0.49	0.06	1.52	1.69	1.52	1.69	XXX
75870	TC	A	Vein x-ray, skull	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75872		A	Vein x-ray, skull	1.14	13.39	13.52	13.39	13.52	0.65	15.18	15.31	15.18	15.31	XXX
75872	26	A	Vein x-ray, skull	1.14	0.31	0.48	0.31	0.48	0.06	1.51	1.68	1.51	1.68	XXX
75872	TC	A	Vein x-ray, skull	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75880		A	Vein x-ray, eye socket	0.70	1.17	1.29	1.17	1.29	0.09	1.96	2.08	1.96	2.08	XXX
75880	26	A	Vein x-ray, eye socket	0.70	0.19	0.31	0.19	0.31	0.04	0.93	1.05	0.93	1.05	XXX
75880	TC	A	Vein x-ray, eye socket	0.00	0.98	0.98	0.98	0.98	0.05	1.03	1.03	1.03	1.03	XXX
75885		A	Vein x-ray, liver	1.44	13.46	13.65	13.46	13.65	0.67	15.57	15.76	15.57	15.76	XXX
75885	26	A	Vein x-ray, liver	1.44	0.38	0.61	0.38	0.61	0.08	1.90	2.13	1.90	2.13	XXX
75885	TC	A	Vein x-ray, liver	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75887		A	Vein x-ray, liver	1.44	13.46	13.65	13.46	13.65	0.67	15.57	15.76	15.57	15.76	XXX
75887	26	A	Vein x-ray, liver	1.44	0.38	0.61	0.38	0.61	0.08	1.90	2.13	1.90	2.13	XXX
75887	TC	A	Vein x-ray, liver	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75889		A	Vein x-ray, liver	1.14	13.38	13.52	13.38	13.52	0.65	15.17	15.31	15.17	15.31	XXX
75889	26	A	Vein x-ray, liver	1.14	0.30	0.48	0.30	0.48	0.06	1.50	1.68	1.50	1.68	XXX
75889	TC	A	Vein x-ray, liver	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75891		A	Vein x-ray, liver	1.14	13.39	13.52	13.39	13.52	0.65	15.18	15.31	15.18	15.31	XXX
75891	26	A	Vein x-ray, liver	1.14	0.31	0.48	0.31	0.48	0.06	1.51	1.68	1.51	1.68	XXX
75891	TC	A	Vein x-ray, liver	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75893		A	Venous sampling by catheter	0.54	13.22	13.28	13.22	13.28	0.62	14.38	14.44	14.38	14.44	XXX
75893	26	A	Venous sampling by catheter	0.54	0.14	0.24	0.14	0.24	0.03	0.71	0.81	0.71	0.81	XXX
75893	TC	A	Venous sampling by catheter	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75894		A	Xrays, transcatheter therapy	1.31	25.41	25.55	25.41	25.55	1.20	27.92	28.06	27.92	28.06	XXX
75894	26	A	Xrays, transcatheter therapy	1.31	0.37	0.57	0.37	0.57	0.07	1.75	1.95	1.75	1.95	XXX
75894	TC	A	Xrays, transcatheter therapy	0.00	25.04	24.98	25.04	24.98	1.13	26.17	26.11	26.17	26.11	XXX
75896		A	Xrays, transcatheter therapy	1.31	22.19	22.31	22.19	22.31	1.05	24.55	24.67	24.55	24.67	XXX
75896	26	A	Xrays, transcatheter therapy	1.31	0.41	0.58	0.41	0.58	0.07	1.79	1.96	1.79	1.96	XXX
75896	TC	A	Xrays, transcatheter therapy	0.00	21.78	21.73	21.78	21.73	0.98	22.76	22.71	22.76	22.71	XXX
75898		A	Follow-up angiogram	1.65	1.56	1.81	1.56	1.81	0.14	3.35	3.60	3.35	3.60	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
75898	26	A	Follow-up angiogram	1.65	0.48	0.72	0.48	0.72	0.09	2.22	2.46	2.22	2.46	XXX
75898	TC	A	Follow-up angiogram	0.00	1.08	1.09	1.08	1.09	0.05	1.13	1.14	1.13	1.14	XXX
75900		A	Arterial catheter exchange	0.49	21.90	21.93	21.90	21.93	1.01	23.40	23.43	23.40	23.43	XXX
75900	26	A	Arterial catheter exchange	0.49	0.13	0.22	0.13	0.22	0.02	0.64	0.73	0.64	0.73	XXX
75900	TC	A	Arterial catheter exchange	0.00	21.77	21.71	21.77	21.71	0.99	22.76	22.70	22.76	22.70	XXX
75940		A	X-ray placement, vein filter	0.54	13.23	13.28	13.23	13.28	0.62	14.39	14.44	14.39	14.44	XXX
75940	26	A	X-ray placement, vein filter	0.54	0.15	0.24	0.15	0.24	0.03	0.72	0.81	0.72	0.81	XXX
75940	TC	A	X-ray placement, vein filter	0.00	13.08	13.04	13.08	13.04	0.59	13.67	13.63	13.67	13.63	XXX
75945		A	Intravascular us	0.40	NA	NA	4.87	4.94	0.24	NA	NA	5.51	5.58	XXX
75945	26	A	Intravascular us	0.40	NA	NA	0.14	0.22	0.02	NA	NA	0.56	0.64	XXX
75945	TC	A	Intravascular us	0.00	NA	NA	4.73	4.72	0.22	NA	NA	4.95	4.94	XXX
75946		A	Intravascular us add-on	0.40	NA	NA	2.53	2.59	0.13	NA	NA	3.06	3.12	ZZZ
75946	26	A	Intravascular us add-on	0.40	NA	NA	0.15	0.22	0.02	NA	NA	0.57	0.64	ZZZ
75948	TC	A	Intravascular us add-on	0.00	NA	NA	2.38	2.37	0.11	NA	NA	2.49	2.48	ZZZ
75960		A	Transcatheter intro, stent	0.82	15.72	15.79	15.72	15.79	0.74	17.28	17.35	17.28	17.35	XXX
75960	26	A	Transcatheter intro, stent	0.82	0.26	0.37	0.26	0.37	0.05	1.13	1.24	1.13	1.24	XXX
75960	TC	A	Transcatheter intro, stent	0.00	15.46	15.42	15.46	15.42	0.69	16.15	16.11	16.15	16.11	XXX
75961		A	Retrieval, broken catheter	4.25	12.06	12.71	12.06	12.71	0.71	17.02	17.67	17.02	17.67	XXX
75961	26	A	Retrieval, broken catheter	4.25	1.16	1.84	1.16	1.84	0.22	5.63	6.31	5.63	6.31	XXX
75961	TC	A	Retrieval, broken catheter	0.00	10.90	10.87	10.90	10.87	0.49	11.39	11.36	11.39	11.36	XXX
75962		A	Repair arterial blockage	0.54	16.50	16.54	16.50	16.54	0.77	17.81	17.85	17.81	17.85	XXX
75962	26	A	Repair arterial blockage	0.54	0.17	0.25	0.17	0.25	0.03	0.74	0.82	0.74	0.82	XXX
75962	TC	A	Repair arterial blockage	0.00	16.33	16.29	16.33	16.29	0.74	17.07	17.03	17.07	17.03	XXX
75964		A	Repair artery blockage, each	0.36	8.82	8.85	8.82	8.85	0.41	9.59	9.62	9.59	9.62	ZZZ
75964	26	A	Repair artery blockage, each	0.36	0.11	0.16	0.11	0.16	0.02	0.49	0.54	0.49	0.54	ZZZ
75964	TC	A	Repair artery blockage, each	0.00	8.71	8.69	8.71	8.69	0.39	9.10	9.08	9.10	9.08	ZZZ
75966		A	Repair arterial blockage	1.31	16.75	16.87	16.75	16.87	0.81	18.87	18.99	18.87	18.99	XXX
75966	26	A	Repair arterial blockage	1.31	0.42	0.58	0.42	0.58	0.07	1.80	1.96	1.80	1.96	XXX
75966	TC	A	Repair arterial blockage	0.00	16.33	16.29	16.33	16.29	0.74	17.07	17.03	17.07	17.03	XXX
75968		A	Repair artery blockage, each	0.36	8.82	8.85	8.82	8.85	0.41	9.59	9.62	9.59	9.62	ZZZ
75968	26	A	Repair artery blockage, each	0.36	0.11	0.16	0.11	0.16	0.02	0.49	0.54	0.49	0.54	ZZZ
75968	TC	A	Repair artery blockage, each	0.00	8.71	8.69	8.71	8.69	0.39	9.10	9.08	9.10	9.08	ZZZ
75970		A	Vascular biopsy	0.83	12.23	12.32	12.23	12.32	0.59	13.65	13.74	13.65	13.74	XXX
75970	26	A	Vascular biopsy	0.83	0.25	0.37	0.25	0.37	0.05	1.13	1.25	1.13	1.25	XXX
75970	TC	A	Vascular biopsy	0.00	11.98	11.95	11.98	11.95	0.54	12.52	12.49	12.52	12.49	XXX
75978		A	Repair venous blockage	0.54	16.47	16.72	16.47	16.72	0.77	17.78	18.03	17.78	18.03	XXX
75978	26	A	Repair venous blockage	0.54	0.14	0.43	0.14	0.43	0.03	0.71	1.00	0.71	1.00	XXX
75978	TC	A	Repair venous blockage	0.00	16.33	16.29	16.33	16.29	0.74	17.07	17.03	17.07	17.03	XXX
75980		A	Contrast xray exam bile duct	1.44	6.00	6.22	6.00	6.22	0.34	7.78	8.00	7.78	8.00	XXX
75980	26	A	Contrast xray exam bile duct	1.44	0.38	0.61	0.38	0.61	0.08	1.90	2.13	1.90	2.13	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
75980	TC	A	Contrast xray exam bile duct	0.00	5.62	5.61	5.62	5.61	0.26	5.88	5.87	5.88	5.87	XXX
75982		A	Contrast xray exam bile duct	1.44	6.71	6.93	6.71	6.93	0.37	8.52	8.74	8.52	8.74	XXX
75982	26	A	Contrast xray exam bile duct	1.44	0.38	0.61	0.38	0.61	0.08	1.90	2.13	1.90	2.13	XXX
75982	TC	A	Contrast xray exam bile duct	0.00	6.33	6.32	6.33	6.32	0.29	6.62	6.61	6.62	6.61	XXX
75984		A	Xray control catheter change	0.72	2.22	2.34	2.22	2.34	0.13	3.07	3.19	3.07	3.19	XXX
75984	26	A	Xray control catheter change	0.72	0.20	0.32	0.20	0.32	0.04	0.96	1.08	0.96	1.08	XXX
75984	TC	A	Xray control catheter change	0.00	2.02	2.02	2.02	2.02	0.09	2.11	2.11	2.11	2.11	XXX
75989		A	Abscess drainage under x-ray	1.19	3.58	3.76	3.58	3.76	0.21	4.98	5.16	4.98	5.16	XXX
75989	26	A	Abscess drainage under x-ray	1.19	0.32	0.50	0.32	0.50	0.06	1.57	1.75	1.57	1.75	XXX
75989	TC	A	Abscess drainage under x-ray	0.00	3.26	3.26	3.26	3.26	0.15	3.41	3.41	3.41	3.41	XXX
75992		A	Atherectomy, x-ray exam	0.54	16.51	16.54	16.51	16.54	0.77	17.82	17.85	17.82	17.85	XXX
75992	26	A	Atherectomy, x-ray exam	0.54	0.18	0.25	0.18	0.25	0.03	0.75	0.82	0.75	0.82	XXX
75992	TC	A	Atherectomy, x-ray exam	0.00	16.33	16.29	16.33	16.29	0.74	17.07	17.03	17.07	17.03	XXX
75993		A	Atherectomy, x-ray exam	0.36	8.84	8.85	8.84	8.85	0.41	9.61	9.62	9.61	9.62	ZZZ
75993	26	A	Atherectomy, x-ray exam	0.36	0.13	0.16	0.13	0.16	0.02	0.51	0.54	0.51	0.54	ZZZ
75993	TC	A	Atherectomy, x-ray exam	0.00	8.71	8.69	8.71	8.69	0.39	9.10	9.08	9.10	9.08	ZZZ
75994		A	Atherectomy, x-ray exam	1.31	16.77	16.87	16.77	16.87	0.81	18.89	18.99	18.89	18.99	XXX
75994	26	A	Atherectomy, x-ray exam	1.31	0.44	0.58	0.44	0.58	0.07	1.82	1.96	1.82	1.96	XXX
75994	TC	A	Atherectomy, x-ray exam	0.00	16.33	16.29	16.33	16.29	0.74	17.07	17.03	17.07	17.03	XXX
75995		A	Atherectomy, x-ray exam	1.31	16.85	16.89	16.85	16.89	0.81	18.97	19.01	18.97	19.01	XXX
75995	26	A	Atherectomy, x-ray exam	1.31	0.52	0.60	0.52	0.60	0.07	1.90	1.98	1.90	1.98	XXX
75995	TC	A	Atherectomy, x-ray exam	0.00	16.33	16.29	16.33	16.29	0.74	17.07	17.03	17.07	17.03	XXX
75996		A	Atherectomy, x-ray exam	0.36	8.82	8.85	8.82	8.85	0.41	9.59	9.62	9.59	9.62	ZZZ
75996	26	A	Atherectomy, x-ray exam	0.36	0.11	0.16	0.11	0.16	0.02	0.49	0.54	0.49	0.54	ZZZ
75996	TC	A	Atherectomy, x-ray exam	0.00	8.71	8.69	8.71	8.69	0.39	9.10	9.08	9.10	9.08	ZZZ
76000		A	Fluoroscope examination	0.17	1.38	1.42	1.38	1.42	0.07	1.62	1.66	1.62	1.66	XXX
76000	26	A	Fluoroscope examination	0.17	0.04	0.07	0.04	0.07	0.01	0.22	0.25	0.22	0.25	XXX
76000	TC	A	Fluoroscope examination	0.00	1.34	1.35	1.34	1.35	0.06	1.40	1.41	1.40	1.41	XXX
76001		A	Fluoroscope exam, extensive	0.67	2.92	3.02	2.92	3.02	0.17	3.76	3.86	3.76	3.86	XXX
76001	26	A	Fluoroscope exam, extensive	0.67	0.19	0.30	0.19	0.30	0.04	0.90	1.01	0.90	1.01	XXX
76001	TC	A	Fluoroscope exam, extensive	0.00	2.73	2.72	2.73	2.72	0.13	2.86	2.85	2.86	2.85	XXX
76003		A	Needle localization by x-ray	0.54	1.48	1.59	1.48	1.59	0.09	2.11	2.22	2.11	2.22	XXX
76003	26	A	Needle localization by x-ray	0.54	0.14	0.24	0.14	0.24	0.03	0.71	0.81	0.71	0.81	XXX
76003	TC	A	Needle localization by x-ray	0.00	1.34	1.35	1.34	1.35	0.06	1.40	1.41	1.40	1.41	XXX
76006		A	X-ray stress view	0.41	0.11	0.11	0.11	0.11	0.03	0.55	0.55	0.55	0.55	XXX
76010		A	X-ray, nose to rectum	0.18	0.60	0.62	0.60	0.62	0.03	0.81	0.83	0.81	0.83	XXX
76010	26	A	X-ray, nose to rectum	0.18	0.05	0.08	0.05	0.08	0.01	0.24	0.27	0.24	0.27	XXX
76010	TC	A	X-ray, nose to rectum	0.00	0.55	0.54	0.55	0.54	0.02	0.57	0.56	0.57	0.56	XXX
76020		A	X-rays for bone age	0.19	0.60	0.63	0.60	0.63	0.03	0.82	0.85	0.82	0.85	XXX
76020	26	A	X-rays for bone age	0.19	0.05	0.09	0.05	0.09	0.01	0.25	0.29	0.25	0.29	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
76020	TC	A	X-rays for bone age	0.00	0.55	0.54	0.55	0.54	0.02	0.57	0.56	0.57	0.56	XXX
76040		A	X-rays, bone evaluation	0.27	0.89	0.93	0.89	0.93	0.06	1.22	1.26	1.22	1.26	XXX
76040	26	A	X-rays, bone evaluation	0.27	0.07	0.12	0.07	0.12	0.02	0.36	0.41	0.36	0.41	XXX
76040	TC	A	X-rays, bone evaluation	0.00	0.82	0.81	0.82	0.81	0.04	0.86	0.85	0.86	0.85	XXX
76061		A	X-rays, bone survey	0.45	1.15	1.23	1.15	1.23	0.07	1.67	1.75	1.67	1.75	XXX
76061	26	A	X-rays, bone survey	0.45	0.12	0.20	0.12	0.20	0.02	0.59	0.67	0.59	0.67	XXX
76061	TC	A	X-rays, bone survey	0.00	1.03	1.03	1.03	1.03	0.05	1.08	1.08	1.08	1.08	XXX
76062		A	X-rays, bone survey	0.54	1.63	1.73	1.63	1.73	0.10	2.27	2.37	2.27	2.37	XXX
76062	26	A	X-rays, bone survey	0.54	0.14	0.24	0.14	0.24	0.03	0.71	0.81	0.71	0.81	XXX
76062	TC	A	X-rays, bone survey	0.00	1.49	1.49	1.49	1.49	0.07	1.56	1.56	1.56	1.56	XXX
76065		A	X-rays, bone evaluation	0.28	0.82	0.88	0.82	0.88	0.06	1.16	1.22	1.16	1.22	XXX
76065	26	A	X-rays, bone evaluation	0.28	0.07	0.12	0.07	0.12	0.02	0.37	0.42	0.37	0.42	XXX
76065	TC	A	X-rays, bone evaluation	0.00	0.75	0.76	0.75	0.76	0.04	0.79	0.80	0.79	0.80	XXX
76066		A	Joint(s) survey, single film	0.31	1.25	1.29	1.25	1.29	0.07	1.63	1.67	1.63	1.67	XXX
76066	26	A	Joint(s) survey, single film	0.31	0.09	0.14	0.09	0.14	0.02	0.42	0.47	0.42	0.47	XXX
76066	TC	A	Joint(s) survey, single film	0.00	1.16	1.15	1.16	1.15	0.05	1.21	1.20	1.21	1.20	XXX
76070		I	CT scan, bone density study	+0.25	3.15	3.17	3.15	3.17	0.16	3.56	3.58	3.56	3.58	XXX
76070	26	I	CT scan, bone density study	+0.25	0.09	0.12	0.09	0.12	0.02	0.36	0.39	0.36	0.39	XXX
76070	TC	I	CT scan, bone density study	+0.00	3.06	3.05	3.06	3.05	0.14	3.20	3.19	3.20	3.19	XXX
76075		A	Dual energy x-ray study	0.30	3.30	3.32	3.30	3.32	0.17	3.77	3.79	3.77	3.79	XXX
76075	26	A	Dual energy x-ray study	0.30	0.09	0.12	0.09	0.12	0.02	0.41	0.44	0.41	0.44	XXX
76075	TC	A	Dual energy x-ray study	0.00	3.21	3.20	3.21	3.20	0.15	3.36	3.35	3.36	3.35	XXX
76076		A	Dual energy x-ray study	0.22	0.87	0.88	0.87	0.88	0.06	1.15	1.16	1.15	1.16	XXX
76076	26	A	Dual energy x-ray study	0.22	0.08	0.10	0.08	0.10	0.02	0.32	0.34	0.32	0.34	XXX
76076	TC	A	Dual energy x-ray study	0.00	0.79	0.78	0.79	0.78	0.04	0.83	0.82	0.83	0.82	XXX
76078		A	Photodensitometry	0.20	0.86	0.88	0.86	0.88	0.06	1.12	1.14	1.12	1.14	XXX
76078	26	A	Photodensitometry	0.20	0.07	0.10	0.07	0.10	0.02	0.29	0.32	0.29	0.32	XXX
76078	TC	A	Photodensitometry	0.00	0.79	0.78	0.79	0.78	0.04	0.83	0.82	0.83	0.82	XXX
76080		A	X-ray exam of fistula	0.54	1.22	1.33	1.22	1.33	0.08	1.84	1.95	1.84	1.95	XXX
76080	26	A	X-ray exam of fistula	0.54	0.14	0.24	0.14	0.24	0.03	0.71	0.81	0.71	0.81	XXX
76080	TC	A	X-ray exam of fistula	0.00	1.08	1.09	1.08	1.09	0.05	1.13	1.14	1.13	1.14	XXX
76086		A	X-ray of mammary duct	0.36	2.82	2.88	2.82	2.88	0.15	3.33	3.39	3.33	3.39	XXX
76086	26	A	X-ray of mammary duct	0.36	0.09	0.16	0.09	0.16	0.02	0.47	0.54	0.47	0.54	XXX
76086	TC	A	X-ray of mammary duct	0.00	2.73	2.72	2.73	2.72	0.13	2.86	2.85	2.86	2.85	XXX
76088		A	X-ray of mammary ducts	0.45	3.92	3.99	3.92	3.99	0.19	4.56	4.63	4.56	4.63	XXX
76088	26	A	X-ray of mammary ducts	0.45	0.12	0.20	0.12	0.20	0.02	0.59	0.67	0.59	0.67	XXX
76088	TC	A	X-ray of mammary ducts	0.00	3.80	3.79	3.80	3.79	0.17	3.97	3.96	3.97	3.96	XXX
76090		A	Mammogram, one breast	0.58	1.23	1.23	1.23	1.23	0.07	1.88	1.88	1.88	1.88	XXX
76090	26	A	Mammogram, one breast	0.58	0.15	0.14	0.15	0.14	0.02	0.75	0.74	0.75	0.74	XXX
76090	TC	A	Mammogram, one breast	0.00	1.08	1.09	1.08	1.09	0.05	1.13	1.14	1.13	1.14	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
76091		A	Mammogram, both breasts	0.69	1.53	1.55	1.53	1.55	0.08	2.30	2.32	2.30	2.32	XXX
76091	26	A	Mammogram, both breasts	0.69	0.19	0.20	0.19	0.20	0.02	0.90	0.91	0.90	0.91	XXX
76091	TC	A	Mammogram, both breasts	0.00	1.34	1.35	1.34	1.35	0.06	1.40	1.41	1.40	1.41	XXX
76092		X	Mamm0gram, screening	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
76093		A	Magnetic image, breast	1.63	18.71	18.93	18.71	18.93	0.91	21.25	21.47	21.25	21.47	XXX
76093	26	A	Magnetic image, breast	1.63	0.43	0.69	0.43	0.69	0.09	2.15	2.41	2.15	2.41	XXX
76093	TC	A	Magnetic image, breast	0.00	18.28	18.24	18.28	18.24	0.82	19.10	19.06	19.10	19.06	XXX
76094		A	Magnetic image, both breasts	1.63	25.23	25.44	25.23	25.44	1.20	28.06	28.27	28.06	28.27	XXX
76094	26	A	Magnetic image, both breasts	1.63	0.43	0.69	0.43	0.69	0.09	2.15	2.41	2.15	2.41	XXX
76094	TC	A	Magnetic image, both breasts	0.00	24.80	24.75	24.80	24.75	1.11	25.91	25.86	25.91	25.86	XXX
76095		A	Stereotactic breast biopsy	1.59	7.89	8.11	7.89	8.11	0.43	9.91	10.13	9.91	10.13	XXX
76095	26	A	Stereotactic breast biopsy	1.59	0.45	0.69	0.45	0.69	0.09	2.13	2.37	2.13	2.37	XXX
76095	TC	A	Stereotactic breast biopsy	0.00	7.44	7.42	7.44	7.42	0.34	7.78	7.76	7.78	7.76	XXX
76096		A	X-ray of needle wire, breast	0.56	1.48	1.60	1.48	1.60	0.09	2.13	2.25	2.13	2.25	XXX
76096	26	A	X-ray of needle wire, breast	0.56	0.14	0.25	0.14	0.25	0.03	0.73	0.84	0.73	0.84	XXX
76096	TC	A	X-ray of needle wire, breast	0.00	1.34	1.35	1.34	1.35	0.06	1.40	1.41	1.40	1.41	XXX
76098		A	X-ray exam, breast specimen	0.16	0.48	0.50	0.48	0.50	0.03	0.67	0.69	0.67	0.69	XXX
76098	26	A	X-ray exam, breast specimen	0.16	0.04	0.07	0.04	0.07	0.01	0.21	0.24	0.21	0.24	XXX
76098	TC	A	X-ray exam, breast specimen	0.00	0.44	0.43	0.44	0.43	0.02	0.46	0.45	0.46	0.45	XXX
76100		A	X-ray exam of body section	0.58	1.45	1.55	1.45	1.55	0.09	2.12	2.22	2.12	2.22	XXX
76100	26	A	X-ray exam of body section	0.58	0.15	0.26	0.15	0.26	0.03	0.76	0.87	0.76	0.87	XXX
76100	TC	A	X-ray exam of body section	0.00	1.30	1.29	1.30	1.29	0.06	1.36	1.35	1.36	1.35	XXX
76101		A	Complex body section x-ray	0.58	1.62	1.73	1.62	1.73	0.10	2.30	2.41	2.30	2.41	XXX
76101	26	A	Complex body section x-ray	0.58	0.15	0.26	0.15	0.26	0.03	0.76	0.87	0.76	0.87	XXX
76101	TC	A	Complex body section x-ray	0.00	1.47	1.47	1.47	1.47	0.07	1.54	1.54	1.54	1.54	XXX
76102		A	Complex body section x-rays	0.58	1.95	2.05	1.95	2.05	0.12	2.65	2.75	2.65	2.75	XXX
76102	26	A	Complex body section x-rays	0.58	0.15	0.26	0.15	0.26	0.03	0.76	0.87	0.76	0.87	XXX
76102	TC	A	Complex body section x-rays	0.00	1.80	1.79	1.80	1.79	0.09	1.89	1.88	1.89	1.88	XXX
76120		A	Cinematic x-rays	0.38	1.21	1.26	1.21	1.26	0.07	1.66	1.71	1.66	1.71	XXX
76120	26	A	Cinematic x-rays	0.38	0.13	0.17	0.13	0.17	0.02	0.53	0.57	0.53	0.57	XXX
76120	TC	A	Cinematic x-rays	0.00	1.08	1.09	1.08	1.09	0.05	1.13	1.14	1.13	1.14	XXX
76125		A	Cinematic x-rays add-on	0.27	0.90	0.93	0.90	0.93	0.06	1.23	1.26	1.23	1.26	ZZZ
76125	26	A	Cinematic x-rays add-on	0.27	0.08	0.12	0.08	0.12	0.02	0.37	0.41	0.37	0.41	ZZZ
76125	TC	A	Cinematic x-rays add-on	0.00	0.82	0.81	0.82	0.81	0.04	0.86	0.85	0.86	0.85	ZZZ
76140		I	X-ray consultation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
76150		A	X-ray exam, dry process	0.00	0.44	0.43	0.44	0.43	0.02	0.46	0.45	0.46	0.45	XXX
76350		C	Special x-ray contrast study	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
76355		A	CAT scan for localization	1.21	8.89	9.07	8.89	9.07	0.44	10.54	10.72	10.54	10.72	XXX
76355	26	A	CAT scan for localization	1.21	0.33	0.52	0.33	0.52	0.06	1.60	1.79	1.60	1.79	XXX
76355	TC	A	CAT scan for localization	0.00	8.56	8.55	8.56	8.55	0.38	8.94	8.93	8.94	8.93	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
76360		A	CAT scan for needle biopsy	1.16	8.87	9.03	8.87	9.03	0.44	10.47	10.63	10.47	10.63	XXX
76360	26	A	CAT scan for needle biopsy	1.16	0.31	0.48	0.31	0.48	0.06	1.53	1.70	1.53	1.70	XXX
76360	TC	A	CAT scan for needle biopsy	0.00	8.56	8.55	8.56	8.55	0.38	8.94	8.93	8.94	8.93	XXX
76365		A	CAT scan for cyst aspiration	1.16	8.87	9.03	8.87	9.03	0.44	10.47	10.63	10.47	10.63	XXX
76365	26	A	CAT scan for cyst aspiration	1.16	0.31	0.48	0.31	0.48	0.06	1.53	1.70	1.53	1.70	XXX
76365	TC	A	CAT scan for cyst aspiration	0.00	8.56	8.55	8.56	8.55	0.38	8.94	8.93	8.94	8.93	XXX
76370		A	CAT scan for therapy guide	0.85	3.29	3.42	3.29	3.42	0.19	4.33	4.46	4.33	4.46	XXX
76370	26	A	CAT scan for therapy guide	0.85	0.23	0.37	0.23	0.37	0.05	1.13	1.27	1.13	1.27	XXX
76370	TC	A	CAT scan for therapy guide	0.00	3.06	3.05	3.06	3.05	0.14	3.20	3.19	3.20	3.19	XXX
76375		A	3d/holograph reconstr add-on	0.16	3.72	3.74	3.72	3.74	0.17	4.05	4.07	4.05	4.07	XXX
76375	26	A	3d/holograph reconstr add-on	0.16	0.04	0.07	0.04	0.07	0.01	0.21	0.24	0.21	0.24	XXX
76375	TC	A	3d/holograph reconstr add-on	0.00	3.68	3.67	3.68	3.67	0.16	3.84	3.83	3.84	3.83	XXX
76380		A	CAT scan follow-up study	0.98	3.90	4.06	3.90	4.06	0.21	5.09	5.25	5.09	5.25	XXX
76380	26	A	CAT scan follow-up study	0.98	0.26	0.43	0.26	0.43	0.05	1.29	1.46	1.29	1.46	XXX
76380	TC	A	CAT scan follow-up study	0.00	3.64	3.63	3.64	3.63	0.16	3.80	3.79	3.80	3.79	XXX
76390		A	Mr spectroscopy	1.40	12.16	12.27	12.16	12.27	0.60	14.16	14.27	14.16	14.27	XXX
76390	26	A	Mr spectroscopy	1.40	0.53	0.67	0.53	0.67	0.08	2.01	2.15	2.01	2.15	XXX
76390	TC	A	Mr spectroscopy	0.00	11.63	11.60	11.63	11.60	0.52	12.15	12.12	12.15	12.12	XXX
76400		A	Magnetic image, bone marrow	1.60	12.05	12.29	12.05	12.29	0.61	14.26	14.50	14.26	14.50	XXX
76400	26	A	Magnetic image, bone marrow	1.60	0.42	0.69	0.42	0.69	0.09	2.11	2.38	2.11	2.38	XXX
76400	TC	A	Magnetic image, bone marrow	0.00	11.63	11.60	11.63	11.60	0.52	12.15	12.12	12.15	12.12	XXX
76499		C	Radiographic procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
76499	26	C	Radiographic procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
76499	TC	C	Radiographic procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
76506		A	Echo exam of head	0.63	1.69	1.76	1.69	1.76	0.10	2.42	2.49	2.42	2.49	XXX
76506	26	A	Echo exam of head	0.63	0.22	0.29	0.22	0.29	0.03	0.88	0.95	0.88	0.95	XXX
76506	TC	A	Echo exam of head	0.00	1.47	1.47	1.47	1.47	0.07	1.54	1.54	1.54	1.54	XXX
76511		A	Echo exam of eye	0.94	1.70	1.59	1.70	1.59	0.09	2.73	2.62	2.73	2.62	XXX
76511	26	A	Echo exam of eye	0.94	0.40	0.30	0.40	0.30	0.03	1.37	1.27	1.37	1.27	XXX
76511	TC	A	Echo exam of eye	0.00	1.30	1.29	1.30	1.29	0.06	1.36	1.35	1.36	1.35	XXX
76512		A	Echo exam of eye	0.66	1.90	1.90	1.90	1.90	0.12	2.68	2.68	2.68	2.68	XXX
76512	26	A	Echo exam of eye	0.66	0.32	0.33	0.32	0.33	0.04	1.02	1.03	1.02	1.03	XXX
76512	TC	A	Echo exam of eye	0.00	1.58	1.57	1.58	1.57	0.08	1.66	1.65	1.66	1.65	XXX
76513		A	Echo exam of eye, water bath	0.66	1.89	1.90	1.89	1.90	0.12	2.67	2.68	2.67	2.68	XXX
76513	26	A	Echo exam of eye, water bath	0.66	0.31	0.33	0.31	0.33	0.04	1.01	1.03	1.01	1.03	XXX
76513	TC	A	Echo exam of eye, water bath	0.00	1.58	1.57	1.58	1.57	0.08	1.66	1.65	1.66	1.65	XXX
76516		A	Echo exam of eye	0.54	1.56	1.56	1.56	1.56	0.09	2.19	2.19	2.19	2.19	XXX
76516	26	A	Echo exam of eye	0.54	0.26	0.27	0.26	0.27	0.03	0.83	0.84	0.83	0.84	XXX
76516	TC	A	Echo exam of eye	0.00	1.30	1.29	1.30	1.29	0.06	1.36	1.35	1.36	1.35	XXX
76519		A	Echo exam of eye	0.54	1.57	1.56	1.57	1.56	0.09	2.20	2.19	2.20	2.19	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
76519	26	A	Echo exam of eye	0.54	0.27	0.27	0.27	0.27	0.03	0.84	0.84	0.84	0.84	XXX
76519	TC	A	Echo exam of eye	0.00	1.30	1.29	1.30	1.29	0.06	1.36	1.35	1.36	1.35	XXX
76529		A	Echo exam of eye	0.57	1.67	1.68	1.67	1.68	0.10	2.34	2.35	2.34	2.35	XXX
76529	26	A	Echo exam of eye	0.57	0.25	0.27	0.25	0.27	0.03	0.85	0.87	0.85	0.87	XXX
76529	TC	A	Echo exam of eye	0.00	1.42	1.41	1.42	1.41	0.07	1.49	1.48	1.49	1.48	XXX
76536		A	Echo exam of head and neck	0.56	1.62	1.72	1.62	1.72	0.10	2.28	2.38	2.28	2.38	XXX
76536	26	A	Echo exam of head and neck	0.56	0.15	0.25	0.15	0.25	0.03	0.74	0.84	0.74	0.84	XXX
76536	TC	A	Echo exam of head and neck	0.00	1.47	1.47	1.47	1.47	0.07	1.54	1.54	1.54	1.54	XXX
76604		A	Echo exam of chest	0.55	1.49	1.60	1.49	1.60	0.09	2.13	2.24	2.13	2.24	XXX
76604	26	A	Echo exam of chest	0.55	0.15	0.25	0.15	0.25	0.03	0.73	0.83	0.73	0.83	XXX
76604	TC	A	Echo exam of chest	0.00	1.34	1.35	1.34	1.35	0.06	1.40	1.41	1.40	1.41	XXX
76645		A	Echo exam of breast	0.54	1.22	1.33	1.22	1.33	0.08	1.84	1.95	1.84	1.95	XXX
76645	26	A	Echo exam of breast	0.54	0.14	0.24	0.14	0.24	0.03	0.71	0.81	0.71	0.81	XXX
76645	TC	A	Echo exam of breast	0.00	1.08	1.09	1.08	1.09	0.05	1.13	1.14	1.13	1.14	XXX
76700		A	Echo exam of abdomen	0.81	2.27	2.40	2.27	2.40	0.13	3.21	3.34	3.21	3.34	XXX
76700	26	A	Echo exam of abdomen	0.81	0.22	0.36	0.22	0.36	0.04	1.07	1.21	1.07	1.21	XXX
76700	TC	A	Echo exam of abdomen	0.00	2.05	2.04	2.05	2.04	0.09	2.14	2.13	2.14	2.13	XXX
76705		A	Echo exam of abdomen	0.59	1.62	1.73	1.62	1.73	0.10	2.31	2.42	2.31	2.42	XXX
76705	26	A	Echo exam of abdomen	0.59	0.15	0.26	0.15	0.26	0.03	0.77	0.88	0.77	0.88	XXX
76705	TC	A	Echo exam of abdomen	0.00	1.47	1.47	1.47	1.47	0.07	1.54	1.54	1.54	1.54	XXX
76770		A	Echo exam abdomen back wall	0.74	2.25	2.37	2.25	2.37	0.13	3.12	3.24	3.12	3.24	XXX
76770	26	A	Echo exam abdomen back wall	0.74	0.20	0.33	0.20	0.33	0.04	0.98	1.11	0.98	1.11	XXX
76770	TC	A	Echo exam abdomen back wall	0.00	2.05	2.04	2.05	2.04	0.09	2.14	2.13	2.14	2.13	XXX
76775		A	Echo exam abdomen back wall	0.58	1.62	1.73	1.62	1.73	0.10	2.30	2.41	2.30	2.41	XXX
76775	26	A	Echo exam abdomen back wall	0.58	0.15	0.26	0.15	0.26	0.03	0.76	0.87	0.76	0.87	XXX
76775	TC	A	Echo exam abdomen back wall	0.00	1.47	1.47	1.47	1.47	0.07	1.54	1.54	1.54	1.54	XXX
76778		A	Echo exam kidney transplant	0.74	2.25	2.37	2.25	2.37	0.13	3.12	3.24	3.12	3.24	XXX
76778	26	A	Echo exam kidney transplant	0.74	0.20	0.33	0.20	0.33	0.04	0.98	1.11	0.98	1.11	XXX
76778	TC	A	Echo exam kidney transplant	0.00	2.05	2.04	2.05	2.04	0.09	2.14	2.13	2.14	2.13	XXX
76800		A	Echo exam spinal canal	1.13	1.79	1.96	1.79	1.96	0.13	3.05	3.22	3.05	3.22	XXX
76800	26	A	Echo exam spinal canal	1.13	0.32	0.49	0.32	0.49	0.06	1.51	1.68	1.51	1.68	XXX
76800	TC	A	Echo exam spinal canal	0.00	1.47	1.47	1.47	1.47	0.07	1.54	1.54	1.54	1.54	XXX
76805		A	Echo exam of pregnant uterus	0.99	2.47	2.61	2.47	2.61	0.15	3.61	3.75	3.61	3.75	XXX
76805	26	A	Echo exam of pregnant uterus	0.99	0.29	0.44	0.29	0.44	0.05	1.33	1.48	1.33	1.48	XXX
76805	TC	A	Echo exam of pregnant uterus	0.00	2.18	2.17	2.18	2.17	0.10	2.28	2.27	2.28	2.27	XXX
76810		A	Echo exam of pregnant uterus	1.97	4.94	5.21	4.94	5.21	0.30	7.21	7.48	7.21	7.48	XXX
76810	26	A	Echo exam of pregnant uterus	1.97	0.59	0.87	0.59	0.87	0.10	2.66	2.94	2.66	2.94	XXX
76810	TC	A	Echo exam of pregnant uterus	0.00	4.35	4.34	4.35	4.34	0.20	4.55	4.54	4.55	4.54	XXX
76815		A	Echo exam of pregnant uterus	0.65	1.67	1.77	1.67	1.77	0.10	2.42	2.52	2.42	2.52	XXX
76815	26	A	Echo exam of pregnant uterus	0.65	0.20	0.30	0.20	0.30	0.03	0.88	0.98	0.88	0.98	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
76815	TC	A	Echo exam of pregnant uterus	0.00	1.47	1.47	1.47	1.47	0.07	1.54	1.54	1.54	1.54	XXX
76816		A	Echo exam followup or repeat	0.57	1.35	1.41	1.35	1.41	0.08	2.00	2.06	2.00	2.06	XXX
76816	26	A	Echo exam followup or repeat	0.57	0.19	0.26	0.19	0.26	0.03	0.79	0.86	0.79	0.86	XXX
76816	TC	A	Echo exam followup or repeat	0.00	1.16	1.15	1.16	1.15	0.05	1.21	1.20	1.21	1.20	XXX
76818		A	Fetal biophysical profile	0.77	1.93	2.02	1.93	2.02	0.12	2.82	2.91	2.82	2.91	XXX
76818	26	A	Fetal biophysical profile	0.77	0.26	0.35	0.26	0.35	0.04	1.07	1.16	1.07	1.16	XXX
76818	TC	A	Fetal biophysical profile	0.00	1.67	1.67	1.67	1.67	0.08	1.75	1.75	1.75	1.75	XXX
76825		A	Echo exam of fetal heart	1.67	2.64	2.47	2.64	2.47	0.13	4.44	4.27	4.44	4.27	XXX
76825	26	A	Echo exam of fetal heart	1.67	0.59	0.43	0.59	0.43	0.04	2.30	2.14	2.30	2.14	XXX
76825	TC	A	Echo exam of fetal heart	0.00	2.05	2.04	2.05	2.04	0.09	2.14	2.13	2.14	2.13	XXX
76826		A	Echo exam of fetal heart	0.83	1.00	1.35	1.00	1.35	0.08	1.91	2.26	1.91	2.26	XXX
76826	26	A	Echo exam of fetal heart	0.83	0.27	0.62	0.27	0.62	0.04	1.14	1.49	1.14	1.49	XXX
76826	TC	A	Echo exam of fetal heart	0.00	0.73	0.73	0.73	0.73	0.04	0.77	0.77	0.77	0.77	XXX
76827		A	Echo exam of fetal heart	0.58	2.00	2.35	2.00	2.35	0.14	2.72	3.07	2.72	3.07	XXX
76827	26	A	Echo exam of fetal heart	0.58	0.21	0.57	0.21	0.57	0.04	0.83	1.19	0.83	1.19	XXX
76827	TC	A	Echo exam of fetal heart	0.00	1.79	1.78	1.79	1.78	0.10	1.89	1.88	1.89	1.88	XXX
76828		A	Echo exam of fetal heart	0.56	1.37	1.43	1.37	1.43	0.09	2.02	2.08	2.02	2.08	XXX
76828	26	A	Echo exam of fetal heart	0.56	0.21	0.28	0.21	0.28	0.02	0.79	0.86	0.79	0.86	XXX
76828	TC	A	Echo exam of fetal heart	0.00	1.16	1.15	1.16	1.15	0.07	1.23	1.22	1.23	1.22	XXX
76830		A	Echo exam, transvaginal	0.69	1.77	1.88	1.77	1.88	0.12	2.58	2.69	2.58	2.69	XXX
76830	26	A	Echo exam, transvaginal	0.69	0.19	0.31	0.19	0.31	0.04	0.92	1.04	0.92	1.04	XXX
76830	TC	A	Echo exam, transvaginal	0.00	1.58	1.57	1.58	1.57	0.08	1.66	1.65	1.66	1.65	XXX
76831		A	Echo exam, uterus	0.72	1.78	1.88	1.78	1.88	0.12	2.62	2.72	2.62	2.72	XXX
76831	26	A	Echo exam, uterus	0.72	0.20	0.31	0.20	0.31	0.04	0.96	1.07	0.96	1.07	XXX
76831	TC	A	Echo exam, uterus	0.00	1.58	1.57	1.58	1.57	0.08	1.66	1.65	1.66	1.65	XXX
76856		A	Echo exam of pelvis	0.69	1.77	1.88	1.77	1.88	0.12	2.58	2.69	2.58	2.69	XXX
76856	26	A	Echo exam of pelvis	0.69	0.19	0.31	0.19	0.31	0.04	0.92	1.04	0.92	1.04	XXX
76856	TC	A	Echo exam of pelvis	0.00	1.58	1.57	1.58	1.57	0.08	1.66	1.65	1.66	1.65	XXX
76857		A	Echo exam of pelvis	0.38	1.19	1.25	1.19	1.25	0.07	1.64	1.70	1.64	1.70	XXX
76857	26	A	Echo exam of pelvis	0.38	0.11	0.16	0.11	0.16	0.02	0.51	0.56	0.51	0.56	XXX
76857	TC	A	Echo exam of pelvis	0.00	1.08	1.09	1.08	1.09	0.05	1.13	1.14	1.13	1.14	XXX
76870		A	Echo exam of scrotum	0.64	1.76	1.85	1.76	1.85	0.11	2.51	2.60	2.51	2.60	XXX
76870	26	A	Echo exam of scrotum	0.64	0.18	0.28	0.18	0.28	0.03	0.85	0.95	0.85	0.95	XXX
76870	TC	A	Echo exam of scrotum	0.00	1.58	1.57	1.58	1.57	0.08	1.66	1.65	1.66	1.65	XXX
76872		A	Echo exam, transrectal	0.69	1.79	1.89	1.79	1.89	0.12	2.60	2.70	2.60	2.70	XXX
76872	26	A	Echo exam, transrectal	0.69	0.21	0.32	0.21	0.32	0.04	0.94	1.05	0.94	1.05	XXX
76872	TC	A	Echo exam, transrectal	0.00	1.58	1.57	1.58	1.57	0.08	1.66	1.65	1.66	1.65	XXX
76880		A	Echo exam of extremity	0.59	1.64	1.73	1.64	1.73	0.10	2.33	2.42	2.33	2.42	XXX
76880	26	A	Echo exam of extremity	0.59	0.17	0.26	0.17	0.26	0.03	0.79	0.88	0.79	0.88	XXX
76880	TC	A	Echo exam of extremity	0.00	1.47	1.47	1.47	1.47	0.07	1.54	1.54	1.54	1.54	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
76885		A	Echo exam, infant hips	0.74	1.78	1.88	1.78	1.88	0.12	2.64	2.74	2.64	2.74	XXX
76885	26	A	Echo exam, infant hips	0.74	0.20	0.31	0.20	0.31	0.04	0.98	1.09	0.98	1.09	XXX
76885	TC	A	Echo exam, infant hips	0.00	1.58	1.57	1.58	1.57	0.08	1.66	1.65	1.66	1.65	XXX
76886		A	Echo exam, infant hips	0.62	1.64	1.73	1.64	1.73	0.10	2.36	2.45	2.36	2.45	XXX
76886	26	A	Echo exam, infant hips	0.62	0.17	0.26	0.17	0.26	0.03	0.82	0.91	0.82	0.91	XXX
76886	TC	A	Echo exam, infant hips	0.00	1.47	1.47	1.47	1.47	0.07	1.54	1.54	1.54	1.54	XXX
76930		A	Echo guide for heart sac tap	0.67	1.83	1.89	1.83	1.89	0.12	2.62	2.68	2.62	2.68	XXX
76930	26	A	Echo guide for heart sac tap	0.67	0.25	0.32	0.25	0.32	0.04	0.96	1.03	0.96	1.03	XXX
76930	TC	A	Echo guide for heart sac tap	0.00	1.58	1.57	1.58	1.57	0.08	1.66	1.65	1.66	1.65	XXX
76932		A	Echo guide for heart biopsy	0.67	1.84	1.89	1.84	1.89	0.12	2.63	2.68	2.63	2.68	XXX
76932	26	A	Echo guide for heart biopsy	0.67	0.26	0.32	0.26	0.32	0.04	0.97	1.03	0.97	1.03	XXX
76932	TC	A	Echo guide for heart biopsy	0.00	1.58	1.57	1.58	1.57	0.08	1.66	1.65	1.66	1.65	XXX
76934		A	Echo guide for chest tap	0.67	1.76	1.87	1.76	1.87	0.12	2.55	2.66	2.55	2.66	XXX
76934	26	A	Echo guide for chest tap	0.67	0.18	0.30	0.18	0.30	0.04	0.89	1.01	0.89	1.01	XXX
76934	TC	A	Echo guide for chest tap	0.00	1.58	1.57	1.58	1.57	0.08	1.66	1.65	1.66	1.65	XXX
76936		A	Echo guide for artery repair	1.99	7.12	7.68	7.12	7.68	0.38	9.49	10.05	9.49	10.05	XXX
76936	26	A	Echo guide for artery repair	1.99	0.59	1.16	0.59	1.16	0.08	2.66	3.23	2.66	3.23	XXX
76936	TC	A	Echo guide for artery repair	0.00	6.53	6.52	6.53	6.52	0.30	6.83	6.82	6.83	6.82	XXX
76938		A	Echo exam for drainage	0.67	1.76	1.87	1.76	1.87	0.12	2.55	2.66	2.55	2.66	XXX
76938	26	A	Echo exam for drainage	0.67	0.18	0.30	0.18	0.30	0.04	0.89	1.01	0.89	1.01	XXX
76938	TC	A	Echo exam for drainage	0.00	1.58	1.57	1.58	1.57	0.08	1.66	1.65	1.66	1.65	XXX
76941		A	Echo guide for transfusion	1.34	1.98	2.17	1.98	2.17	0.15	3.47	3.66	3.47	3.66	XXX
76941	26	A	Echo guide for transfusion	1.34	0.39	0.59	0.39	0.59	0.08	1.81	2.01	1.81	2.01	XXX
76941	TC	A	Echo guide for transfusion	0.00	1.59	1.58	1.59	1.58	0.07	1.66	1.65	1.66	1.65	XXX
76942		A	Echo guide for biopsy	0.67	1.78	1.88	1.78	1.88	0.12	2.57	2.67	2.57	2.67	XXX
76942	26	A	Echo guide for biopsy	0.67	0.20	0.31	0.20	0.31	0.04	0.91	1.02	0.91	1.02	XXX
76942	TC	A	Echo guide for biopsy	0.00	1.58	1.57	1.58	1.57	0.08	1.66	1.65	1.66	1.65	XXX
76945		A	Echo guide, villus sampling	0.67	1.78	2.12	1.78	2.12	0.15	2.60	2.94	2.60	2.94	XXX
76945	26	A	Echo guide, villus sampling	0.67	0.19	0.54	0.19	0.54	0.08	0.94	1.29	0.94	1.29	XXX
76945	TC	A	Echo guide, villus sampling	0.00	1.59	1.58	1.59	1.58	0.07	1.66	1.65	1.66	1.65	XXX
76946		A	Echo guide for amniocentesis	0.38	1.70	1.74	1.70	1.74	0.10	2.18	2.22	2.18	2.22	XXX
76946	26	A	Echo guide for amniocentesis	0.38	0.12	0.17	0.12	0.17	0.02	0.52	0.57	0.52	0.57	XXX
76946	TC	A	Echo guide for amniocentesis	0.00	1.58	1.57	1.58	1.57	0.08	1.66	1.65	1.66	1.65	XXX
76948		A	Echo guide, ova aspiration	0.38	1.69	1.73	1.69	1.73	0.10	2.17	2.21	2.17	2.21	XXX
76948	26	A	Echo guide, ova aspiration	0.38	0.11	0.16	0.11	0.16	0.02	0.51	0.56	0.51	0.56	XXX
76948	TC	A	Echo guide, ova aspiration	0.00	1.58	1.57	1.58	1.57	0.08	1.66	1.65	1.66	1.65	XXX
76950		A	Echo guidance radiotherapy	0.58	1.52	1.61	1.52	1.61	0.09	2.19	2.28	2.19	2.28	XXX
76950	26	A	Echo guidance radiotherapy	0.58	0.18	0.26	0.18	0.26	0.03	0.79	0.87	0.79	0.87	XXX
76950	TC	A	Echo guidance radiotherapy	0.00	1.34	1.35	1.34	1.35	0.06	1.40	1.41	1.40	1.41	XXX
76960		A	Echo guidance radiotherapy	0.58	1.52	1.61	1.52	1.61	0.09	2.19	2.28	2.19	2.28	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
76960	26	A	Echo guidance radiotherapy	0.58	0.18	0.26	0.18	0.26	0.03	0.79	0.87	0.79	0.87	XXX
76960	TC	A	Echo guidance radiotherapy	0.00	1.34	1.35	1.34	1.35	0.06	1.40	1.41	1.40	1.41	XXX
76965		A	Echo guidance radiotherapy	1.34	6.20	7.08	6.20	7.08	0.41	7.95	8.83	7.95	8.83	XXX
76965	26	A	Echo guidance radiotherapy	1.34	0.42	1.31	0.42	1.31	0.15	1.91	2.80	1.91	2.80	XXX
76965	TC	A	Echo guidance radiotherapy	0.00	5.78	5.77	5.78	5.77	0.26	6.04	6.03	6.04	6.03	XXX
76970		A	Ultrasound exam follow-up	0.40	1.19	1.27	1.19	1.27	0.07	1.66	1.74	1.66	1.74	XXX
76970	26	A	Ultrasound exam follow-up	0.40	0.11	0.18	0.11	0.18	0.02	0.53	0.60	0.53	0.60	XXX
76970	TC	A	Ultrasound exam follow-up	0.00	1.08	1.09	1.08	1.09	0.05	1.13	1.14	1.13	1.14	XXX
76975		A	GI endoscopic ultrasound	0.81	1.84	1.91	1.84	1.91	0.12	2.77	2.84	2.77	2.84	XXX
76975	26	A	GI endoscopic ultrasound	0.81	0.26	0.34	0.26	0.34	0.04	1.11	1.19	1.11	1.19	XXX
76975	TC	A	GI endoscopic ultrasound	0.00	1.58	1.57	1.58	1.57	0.08	1.66	1.65	1.66	1.65	XXX
76977		R	Us bone density measure	0.22	0.94	0.94	0.94	0.94	0.06	1.22	1.22	1.22	1.22	XXX
76977	26	R	Us bone density measure	0.22	0.08	0.08	0.08	0.08	0.02	0.32	0.32	0.32	0.32	XXX
76977	TC	R	Us bone density measure	0.00	0.86	0.86	0.86	0.86	0.04	0.90	0.90	0.90	0.90	XXX
76986		A	Echo exam at surgery	1.20	3.09	3.25	3.09	3.25	0.19	4.48	4.64	4.48	4.64	XXX
76986	26	A	Echo exam at surgery	1.20	0.36	0.53	0.36	0.53	0.06	1.62	1.79	1.62	1.79	XXX
76986	TC	A	Echo exam at surgery	0.00	2.73	2.72	2.73	2.72	0.13	2.86	2.85	2.86	2.85	XXX
76999		C	Echo examination procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
76999	26	C	Echo examination procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
76999	TC	C	Echo examination procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77261		A	Radiation therapy planning	1.39	0.45	0.62	0.45	0.62	0.07	1.91	2.08	1.91	2.08	XXX
77262		A	Radiation therapy planning	2.11	0.68	0.94	0.68	0.94	0.11	2.90	3.16	2.90	3.16	XXX
77263		A	Radiation therapy planning	3.14	0.99	1.39	0.99	1.39	0.16	4.29	4.69	4.29	4.69	XXX
77280		A	Set radiation therapy field	0.70	3.81	3.91	3.81	3.91	0.20	4.71	4.81	4.71	4.81	XXX
77280	26	A	Set radiation therapy field	0.70	0.20	0.31	0.20	0.31	0.04	0.94	1.05	0.94	1.05	XXX
77280	TC	A	Set radiation therapy field	0.00	3.61	3.60	3.61	3.60	0.16	3.77	3.76	3.77	3.76	XXX
77285		A	Set radiation therapy field	1.05	6.07	6.22	6.07	6.22	0.32	7.44	7.59	7.44	7.59	XXX
77285	26	A	Set radiation therapy field	1.05	0.29	0.45	0.29	0.45	0.05	1.39	1.55	1.39	1.55	XXX
77285	TC	A	Set radiation therapy field	0.00	5.78	5.77	5.78	5.77	0.27	6.05	6.04	6.05	6.04	XXX
77290		A	Set radiation therapy field	1.56	7.18	7.42	7.18	7.42	0.40	9.14	9.38	9.14	9.38	XXX
77290	26	A	Set radiation therapy field	1.56	0.43	0.68	0.43	0.68	0.09	2.08	2.33	2.08	2.33	XXX
77290	TC	A	Set radiation therapy field	0.00	6.75	6.74	6.75	6.74	0.31	7.06	7.05	7.06	7.05	XXX
77295		A	Set radiation therapy field	4.57	30.25	30.91	30.25	30.91	1.51	36.33	36.99	36.33	36.99	XXX
77295	26	A	Set radiation therapy field	4.57	1.27	2.00	1.27	2.00	0.18	6.02	6.75	6.02	6.75	XXX
77295	TC	A	Set radiation therapy field	0.00	28.98	28.91	28.98	28.91	1.33	30.31	30.24	30.31	30.24	XXX
77299		C	Radiation therapy planning	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77299	26	C	Radiation therapy planning	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77299	TC	C	Radiation therapy planning	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77300		A	Radiation therapy dose plan	0.62	1.57	1.66	1.57	1.66	0.09	2.28	2.37	2.28	2.37	XXX
77300	26	A	Radiation therapy dose plan	0.62	0.18	0.27	0.18	0.27	0.03	0.83	0.92	0.83	0.92	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
77300	TC	A	Radiation therapy dose plan	0.00	1.39	1.39	1.39	1.39	0.06	1.45	1.45	1.45	1.45	XXX
77305		A	Radiation therapy dose plan	0.70	2.13	2.23	2.13	2.23	0.13	2.96	3.06	2.96	3.06	XXX
77305	26	A	Radiation therapy dose plan	0.70	0.20	0.31	0.20	0.31	0.04	0.94	1.05	0.94	1.05	XXX
77305	TC	A	Radiation therapy dose plan	0.00	1.93	1.92	1.93	1.92	0.09	2.02	2.01	2.02	2.01	XXX
77310		A	Radiation therapy dose plan	1.05	2.71	2.86	2.71	2.86	0.17	3.93	4.08	3.93	4.08	XXX
77310	26	A	Radiation therapy dose plan	1.05	0.29	0.45	0.29	0.45	0.05	1.39	1.55	1.39	1.55	XXX
77310	TC	A	Radiation therapy dose plan	0.00	2.42	2.41	2.42	2.41	0.12	2.54	2.53	2.54	2.53	XXX
77315		A	Radiation therapy dose plan	1.56	3.19	3.43	3.19	3.43	0.22	4.97	5.21	4.97	5.21	XXX
77315	26	A	Radiation therapy dose plan	1.56	0.43	0.68	0.43	0.68	0.09	2.08	2.33	2.08	2.33	XXX
77315	TC	A	Radiation therapy dose plan	0.00	2.76	2.75	2.76	2.75	0.13	2.89	2.88	2.89	2.88	XXX
77321		A	Radiation therapy port plan	0.95	4.46	4.60	4.46	4.60	0.24	5.65	5.79	5.65	5.79	XXX
77321	26	A	Radiation therapy port plan	0.95	0.27	0.42	0.27	0.42	0.05	1.27	1.42	1.27	1.42	XXX
77321	TC	A	Radiation therapy port plan	0.00	4.19	4.18	4.19	4.18	0.19	4.38	4.37	4.38	4.37	XXX
77326		A	Radiation therapy dose plan	0.93	2.71	2.85	2.71	2.85	0.17	3.81	3.95	3.81	3.95	XXX
77326	26	A	Radiation therapy dose plan	0.93	0.26	0.41	0.26	0.41	0.05	1.24	1.39	1.24	1.39	XXX
77326	TC	A	Radiation therapy dose plan	0.00	2.45	2.44	2.45	2.44	0.12	2.57	2.56	2.57	2.56	XXX
77327		A	Radiation therapy dose plan	1.39	3.99	4.20	3.99	4.20	0.23	5.61	5.82	5.61	5.82	XXX
77327	26	A	Radiation therapy dose plan	1.39	0.38	0.60	0.38	0.60	0.07	1.84	2.06	1.84	2.06	XXX
77327	TC	A	Radiation therapy dose plan	0.00	3.61	3.60	3.61	3.60	0.16	3.77	3.76	3.77	3.76	XXX
77328		A	Radiation therapy dose plan	2.09	5.73	6.04	5.73	6.04	0.34	8.16	8.47	8.16	8.47	XXX
77328	26	A	Radiation therapy dose plan	2.09	0.58	0.90	0.58	0.90	0.11	2.78	3.10	2.78	3.10	XXX
77328	TC	A	Radiation therapy dose plan	0.00	5.15	5.14	5.15	5.14	0.23	5.38	5.37	5.38	5.37	XXX
77331		A	Special radiation dosimetry	0.87	0.76	0.90	0.76	0.90	0.07	1.70	1.84	1.70	1.84	XXX
77331	26	A	Special radiation dosimetry	0.87	0.24	0.38	0.24	0.38	0.05	1.16	1.30	1.16	1.30	XXX
77331	TC	A	Special radiation dosimetry	0.00	0.52	0.52	0.52	0.52	0.02	0.54	0.54	0.54	0.54	XXX
77332		A	Radiation treatment aid(s)	0.54	1.54	1.63	1.54	1.63	0.09	2.17	2.26	2.17	2.26	XXX
77332	26	A	Radiation treatment aid(s)	0.54	0.15	0.24	0.15	0.24	0.03	0.72	0.81	0.72	0.81	XXX
77332	TC	A	Radiation treatment aid(s)	0.00	1.39	1.39	1.39	1.39	0.06	1.45	1.45	1.45	1.45	XXX
77333		A	Radiation treatment aid(s)	0.84	2.20	2.33	2.20	2.33	0.14	3.18	3.31	3.18	3.31	XXX
77333	26	A	Radiation treatment aid(s)	0.84	0.24	0.37	0.24	0.37	0.05	1.13	1.26	1.13	1.26	XXX
77333	TC	A	Radiation treatment aid(s)	0.00	1.96	1.96	1.96	1.96	0.09	2.05	2.05	2.05	2.05	XXX
77334		A	Radiation treatment aid(s)	1.24	3.72	3.90	3.72	3.90	0.21	5.17	5.35	5.17	5.35	XXX
77334	26	A	Radiation treatment aid(s)	1.24	0.34	0.53	0.34	0.53	0.06	1.64	1.83	1.64	1.83	XXX
77334	TC	A	Radiation treatment aid(s)	0.00	3.38	3.37	3.38	3.37	0.15	3.53	3.52	3.53	3.52	XXX
77336		A	Radiation physics consult	0.00	3.10	3.09	3.10	3.09	0.14	3.24	3.23	3.24	3.23	XXX
77370		A	Radiation physics consult	0.00	3.63	3.62	3.63	3.62	0.16	3.79	3.78	3.79	3.78	XXX
77380		C	Proton beam delivery	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77380	26	C	Proton beam delivery	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77380	TC	C	Proton beam delivery	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77381		C	Proton beam treatment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
77381	26	C	Proton beam treatment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77381	TC	C	Proton beam treatment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77399		C	External radiation dosimetry	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77399	26	C	External radiation dosimetry	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77399	TC	C	External radiation dosimetry	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77401		A	Radiation treatment delivery	0.00	1.84	1.83	1.84	1.83	0.09	1.93	1.92	1.93	1.92	XXX
77402		A	Radiation treatment delivery	0.00	1.84	1.83	1.84	1.83	0.09	1.93	1.92	1.93	1.92	XXX
77403		A	Radiation treatment delivery	0.00	1.84	1.83	1.84	1.83	0.09	1.93	1.92	1.93	1.92	XXX
77404		A	Radiation treatment delivery	0.00	1.84	1.83	1.84	1.83	0.09	1.93	1.92	1.93	1.92	XXX
77406		A	Radiation treatment delivery	0.00	1.84	1.83	1.84	1.83	0.09	1.93	1.92	1.93	1.92	XXX
77407		A	Radiation treatment delivery	0.00	2.17	2.16	2.17	2.16	0.10	2.27	2.26	2.27	2.26	XXX
77408		A	Radiation treatment delivery	0.00	2.17	2.16	2.17	2.16	0.10	2.27	2.26	2.27	2.26	XXX
77409		A	Radiation treatment delivery	0.00	2.17	2.16	2.17	2.16	0.10	2.27	2.26	2.27	2.26	XXX
77411		A	Radiation treatment delivery	0.00	2.17	2.16	2.17	2.16	0.10	2.27	2.26	2.27	2.26	XXX
77412		A	Radiation treatment delivery	0.00	2.42	2.41	2.42	2.41	0.12	2.54	2.53	2.54	2.53	XXX
77413		A	Radiation treatment delivery	0.00	2.42	2.41	2.42	2.41	0.12	2.54	2.53	2.54	2.53	XXX
77414		A	Radiation treatment delivery	0.00	2.42	2.41	2.42	2.41	0.12	2.54	2.53	2.54	2.53	XXX
77416		A	Radiation treatment delivery	0.00	2.42	2.41	2.42	2.41	0.12	2.54	2.53	2.54	2.53	XXX
77417		A	Radiology port film(s)	0.00	0.61	0.61	0.61	0.61	0.03	0.64	0.64	0.64	0.64	XXX
77419		A	Weekly radiation therapy	3.60	1.14	1.60	1.14	1.60	0.18	4.92	5.38	4.92	5.38	XXX
77420		A	Weekly radiation therapy	1.61	0.54	0.72	0.54	0.72	0.09	2.24	2.42	2.24	2.42	XXX
77425		A	Weekly radiation therapy	2.44	0.79	1.09	0.79	1.09	0.13	3.36	3.66	3.36	3.66	XXX
77430		A	Weekly radiation therapy	3.60	1.14	1.60	1.14	1.60	0.18	4.92	5.38	4.92	5.38	XXX
77431		A	Radiation therapy management	1.81	0.62	0.82	0.62	0.82	0.09	2.52	2.72	2.52	2.72	XXX
77432		A	Stereotactic radiation trmt	7.93	2.56	4.66	2.56	4.66	0.31	10.80	12.90	10.80	12.90	XXX
77470		A	Special radiation treatment	2.09	12.14	12.44	12.14	12.44	0.63	14.86	15.16	14.86	15.16	XXX
77470	26	A	Special radiation treatment	2.09	0.58	0.90	0.58	0.90	0.11	2.78	3.10	2.78	3.10	XXX
77470	TC	A	Special radiation treatment	0.00	11.56	11.54	11.56	11.54	0.52	12.08	12.06	12.08	12.06	XXX
77499		C	Radiation therapy management	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77499	26	C	Radiation therapy management	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77499	TC	C	Radiation therapy management	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77600		R	Hyperthermia treatment	1.56	3.58	3.83	3.58	3.83	0.23	5.37	5.62	5.37	5.62	090
77600	26	R	Hyperthermia treatment	1.56	0.43	0.68	0.43	0.68	0.09	2.08	2.33	2.08	2.33	090
77600	TC	R	Hyperthermia treatment	0.00	3.15	3.15	3.15	3.15	0.14	3.29	3.29	3.29	3.29	090
77605		R	Hyperthermia treatment	2.09	4.79	5.10	4.79	5.10	0.31	7.19	7.50	7.19	7.50	090
77605	26	R	Hyperthermia treatment	2.09	0.58	0.90	0.58	0.90	0.11	2.78	3.10	2.78	3.10	090
77605	TC	R	Hyperthermia treatment	0.00	4.21	4.20	4.21	4.20	0.20	4.41	4.40	4.41	4.40	090
77610		R	Hyperthermia treatment	1.56	3.64	3.84	3.64	3.84	0.23	5.43	5.63	5.43	5.63	090
77610	26	R	Hyperthermia treatment	1.56	0.49	0.69	0.49	0.69	0.09	2.14	2.34	2.14	2.34	090
77610	TC	R	Hyperthermia treatment	0.00	3.15	3.15	3.15	3.15	0.14	3.29	3.29	3.29	3.29	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
77615		R	Hyperthermia treatment	2.09	4.78	5.10	4.78	5.10	0.31	7.18	7.50	7.18	7.50	090
77615	26	R	Hyperthermia treatment	2.09	0.57	0.90	0.57	0.90	0.11	2.77	3.10	2.77	3.10	090
77615	TC	R	Hyperthermia treatment	0.00	4.21	4.20	4.21	4.20	0.20	4.41	4.40	4.41	4.40	090
77620		R	Hyperthermia treatment	1.56	3.66	3.85	3.66	3.85	0.23	5.45	5.64	5.45	5.64	090
77620	26	R	Hyperthermia treatment	1.56	0.51	0.70	0.51	0.70	0.09	2.16	2.35	2.16	2.35	090
77620	TC	R	Hyperthermia treatment	0.00	3.15	3.15	3.15	3.15	0.14	3.29	3.29	3.29	3.29	090
77750		A	Infuse radioactive materials	4.91	2.74	3.39	2.74	3.39	0.29	7.94	8.59	7.94	8.59	090
77750	26	A	Infuse radioactive materials	4.91	1.37	2.01	1.37	2.01	0.23	6.51	7.15	6.51	7.15	090
77750	TC	A	Infuse radioactive materials	0.00	1.37	1.38	1.37	1.38	0.06	1.43	1.44	1.43	1.44	090
77761		A	Radioelement application	3.81	3.57	4.13	3.57	4.13	0.31	7.69	8.25	7.69	8.25	090
77761	26	A	Radioelement application	3.81	0.97	1.54	0.97	1.54	0.18	4.96	5.53	4.96	5.53	090
77761	TC	A	Radioelement application	0.00	2.60	2.59	2.60	2.59	0.13	2.73	2.72	2.73	2.72	090
77762		A	Radioelement application	5.72	5.30	6.06	5.30	6.06	0.44	11.46	12.22	11.46	12.22	090
77762	26	A	Radioelement application	5.72	1.56	2.33	1.56	2.33	0.27	7.55	8.32	7.55	8.32	090
77762	TC	A	Radioelement application	0.00	3.74	3.73	3.74	3.73	0.17	3.91	3.90	3.91	3.90	090
77763		A	Radioelement application	8.57	6.94	8.14	6.94	8.14	0.60	16.11	17.31	16.11	17.31	090
77763	26	A	Radioelement application	8.57	2.28	3.49	2.28	3.49	0.39	11.24	12.45	11.24	12.45	090
77763	TC	A	Radioelement application	0.00	4.66	4.65	4.66	4.65	0.21	4.87	4.86	4.87	4.86	090
77776		A	Radioelement application	4.66	3.44	4.25	3.44	4.25	0.35	8.45	9.26	8.45	9.26	XXX
77776	26	A	Radioelement application	4.66	1.19	2.00	1.19	2.00	0.24	6.09	6.90	6.09	6.90	XXX
77776	TC	A	Radioelement application	0.00	2.25	2.25	2.25	2.25	0.11	2.36	2.36	2.36	2.36	XXX
77777		A	Radioelement application	7.48	6.61	7.49	6.61	7.49	0.55	14.64	15.52	14.64	15.52	090
77777	26	A	Radioelement application	7.48	2.21	3.10	2.21	3.10	0.35	10.04	10.93	10.04	10.93	090
77777	TC	A	Radioelement application	0.00	4.40	4.39	4.40	4.39	0.20	4.60	4.59	4.60	4.59	090
77778		A	Radioelement application	11.19	8.48	9.92	8.48	9.92	0.76	20.43	21.87	20.43	21.87	090
77778	26	A	Radioelement application	11.19	3.16	4.61	3.16	4.61	0.52	14.87	16.32	14.87	16.32	090
77778	TC	A	Radioelement application	0.00	5.32	5.31	5.32	5.31	0.24	5.56	5.55	5.56	5.55	090
77781		A	High intensity brachytherapy	1.66	21.55	21.71	21.55	21.71	1.04	24.25	24.41	24.25	24.41	090
77781	26	A	High intensity brachytherapy	1.66	0.49	0.69	0.49	0.69	0.09	2.24	2.44	2.24	2.44	090
77781	TC	A	High intensity brachytherapy	0.00	21.06	21.02	21.06	21.02	0.95	22.01	21.97	22.01	21.97	090
77782		A	High intensity brachytherapy	2.49	21.76	22.05	21.76	22.05	1.08	25.33	25.62	25.33	25.62	090
77782	26	A	High intensity brachytherapy	2.49	0.70	1.03	0.70	1.03	0.13	3.32	3.65	3.32	3.65	090
77782	TC	A	High intensity brachytherapy	0.00	21.06	21.02	21.06	21.02	0.95	22.01	21.97	22.01	21.97	090
77783		A	High intensity brachytherapy	3.73	22.09	22.54	22.09	22.54	1.13	26.95	27.40	26.95	27.40	090
77783	26	A	High intensity brachytherapy	3.73	1.03	1.52	1.03	1.52	0.18	4.94	5.43	4.94	5.43	090
77783	TC	A	High intensity brachytherapy	0.00	21.06	21.02	21.06	21.02	0.95	22.01	21.97	22.01	21.97	090
77784		A	High intensity brachytherapy	5.61	22.63	23.32	22.63	23.32	1.22	29.46	30.15	29.46	30.15	090
77784	26	A	High intensity brachytherapy	5.61	1.57	2.30	1.57	2.30	0.27	7.45	8.18	7.45	8.18	090
77784	TC	A	High intensity brachytherapy	0.00	21.06	21.02	21.06	21.02	0.95	22.01	21.97	22.01	21.97	090
77789		A	Radioelement application	1.12	0.78	0.93	0.78	0.93	0.07	1.97	2.12	1.97	2.12	090

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
77789	26	A	Radioelement application	1.12	0.32	0.46	0.32	0.46	0.05	1.49	1.63	1.49	1.63	090
77789	TC	A	Radioelement application	0.00	0.46	0.47	0.46	0.47	0.02	0.48	0.49	0.48	0.49	090
77790		A	Radioelement handling	1.05	0.81	0.97	0.81	0.97	0.07	1.93	2.09	1.93	2.09	XXX
77790	26	A	Radioelement handling	1.05	0.29	0.45	0.29	0.45	0.05	1.39	1.55	1.39	1.55	XXX
77790	TC	A	Radioelement handling	0.00	0.52	0.52	0.52	0.52	0.02	0.54	0.54	0.54	0.54	XXX
77799		C	Radium/radioisotope therapy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77799	26	C	Radium/radioisotope therapy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77799	TC	C	Radium/radioisotope therapy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78000		A	Thyroid, single uptake	0.19	1.05	1.09	1.05	1.09	0.06	1.30	1.34	1.30	1.34	XXX
78000	26	A	Thyroid, single uptake	0.19	0.05	0.09	0.05	0.09	0.01	0.25	0.29	0.25	0.29	XXX
78000	TC	A	Thyroid, single uptake	0.00	1.00	1.00	1.00	1.00	0.05	1.05	1.05	1.05	1.05	XXX
78001		A	Thyroid, multiple uptakes	0.26	1.41	1.47	1.41	1.47	0.08	1.75	1.81	1.75	1.81	XXX
78001	26	A	Thyroid, multiple uptakes	0.26	0.07	0.12	0.07	0.12	0.02	0.35	0.40	0.35	0.40	XXX
78001	TC	A	Thyroid, multiple uptakes	0.00	1.34	1.35	1.34	1.35	0.06	1.40	1.41	1.40	1.41	XXX
78003		A	Thyroid suppress/stimul	0.33	1.09	1.14	1.09	1.14	0.07	1.49	1.54	1.49	1.54	XXX
78003	26	A	Thyroid suppress/stimul	0.33	0.09	0.14	0.09	0.14	0.02	0.44	0.49	0.44	0.49	XXX
78003	TC	A	Thyroid suppress/stimul	0.00	1.00	1.00	1.00	1.00	0.05	1.05	1.05	1.05	1.05	XXX
78006		A	Thyroid,imaging with uptake	0.49	2.61	2.68	2.61	2.68	0.14	3.24	3.31	3.24	3.31	XXX
78006	26	A	Thyroid,imaging with uptake	0.49	0.13	0.21	0.13	0.21	0.02	0.64	0.72	0.64	0.72	XXX
78006	TC	A	Thyroid,imaging with uptake	0.00	2.48	2.47	2.48	2.47	0.12	2.60	2.59	2.60	2.59	XXX
78007		A	Thyroid, image, mult uptakes	0.50	2.80	2.88	2.80	2.88	0.15	3.45	3.53	3.45	3.53	XXX
78007	26	A	Thyroid, image, mult uptakes	0.50	0.13	0.22	0.13	0.22	0.02	0.65	0.74	0.65	0.74	XXX
78007	TC	A	Thyroid, image, mult uptakes	0.00	2.87	2.66	2.67	2.66	0.13	2.80	2.79	2.80	2.79	XXX
78010		A	Thyroid imaging	0.39	1.99	2.04	1.99	2.04	0.11	2.49	2.54	2.49	2.54	XXX
78010	26	A	Thyroid imaging	0.39	0.10	0.16	0.10	0.16	0.02	0.51	0.57	0.51	0.57	XXX
78010	TC	A	Thyroid imaging	0.00	1.89	1.88	1.89	1.88	0.09	1.98	1.97	1.98	1.97	XXX
78011		A	Thyroid imaging with flow	0.45	2.62	2.69	2.62	2.69	0.14	3.21	3.28	3.21	3.28	XXX
78011	26	A	Thyroid imaging with flow	0.45	0.12	0.20	0.12	0.20	0.02	0.59	0.67	0.59	0.67	XXX
78011	TC	A	Thyroid imaging with flow	0.00	2.50	2.49	2.50	2.49	0.12	2.62	2.61	2.62	2.61	XXX
78015		A	Thyroid met imaging	0.67	2.86	2.96	2.86	2.96	0.17	3.70	3.80	3.70	3.80	XXX
78015	26	A	Thyroid met imaging	0.67	0.19	0.30	0.19	0.30	0.04	0.90	1.01	0.90	1.01	XXX
78015	TC	A	Thyroid met imaging	0.00	2.67	2.66	2.67	2.66	0.13	2.80	2.79	2.80	2.79	XXX
78016		A	Thyroid met imaging/studies	0.82	3.85	3.98	3.85	3.98	0.21	4.88	5.01	4.88	5.01	XXX
78016	26	A	Thyroid met imaging/studies	0.82	0.23	0.37	0.23	0.37	0.05	1.10	1.24	1.10	1.24	XXX
78016	TC	A	Thyroid met imaging/studies	0.00	3.62	3.61	3.62	3.61	0.16	3.78	3.77	3.78	3.77	XXX
78017		D	Thyroid met imaging, mult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78017	26	D	Thyroid met imaging, mult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78017	TC	D	Thyroid met imaging, mult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78018		A	Thyroid, met imaging, body	0.86	5.88	6.04	5.88	6.04	0.31	7.05	7.21	7.05	7.21	XXX
78018	26	A	Thyroid, met imaging, body	0.86	0.25	0.42	0.25	0.42	0.05	1.16	1.33	1.16	1.33	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
78018	TC	A	Thyroid, met imaging, body	0.00	5.63	5.62	5.63	5.62	0.26	5.89	5.88	5.89	5.88	XXX
78020		A	Thyroid met uptake	0.60	0.17	0.17	0.17	0.17	0.08	0.85	0.85	0.85	0.85	ZZZ
78070		A	Parathyroid nuclear imaging	0.82	2.12	2.13	2.12	2.13	0.12	3.06	3.07	3.06	3.07	XXX
78070	26	A	Parathyroid nuclear imaging	0.82	0.23	0.25	0.23	0.25	0.03	1.08	1.10	1.08	1.10	XXX
78070	TC	A	Parathyroid nuclear imaging	0.00	1.89	1.88	1.89	1.88	0.09	1.98	1.97	1.98	1.97	XXX
78075		A	Adrenal nuclear imaging	0.74	5.84	5.95	5.84	5.95	0.30	6.88	6.99	6.88	6.99	XXX
78075	26	A	Adrenal nuclear imaging	0.74	0.21	0.33	0.21	0.33	0.04	0.99	1.11	0.99	1.11	XXX
78075	TC	A	Adrenal nuclear imaging	0.00	5.63	5.62	5.63	5.62	0.26	5.89	5.88	5.89	5.88	XXX
78099		C	Endocrine nuclear procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78099	26	C	Endocrine nuclear procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78099	TC	C	Endocrine nuclear procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78102		A	Bone marrow imaging, ltd	0.55	2.27	2.35	2.27	2.35	0.13	2.95	3.03	2.95	3.03	XXX
78102	26	A	Bone marrow imaging, ltd	0.55	0.15	0.24	0.15	0.24	0.03	0.73	0.82	0.73	0.82	XXX
78102	TC	A	Bone marrow imaging, ltd	0.00	2.12	2.11	2.12	2.11	0.10	2.22	2.21	2.22	2.21	XXX
78103		A	Bone marrow imaging, mult	0.75	3.49	3.61	3.49	3.61	0.19	4.43	4.55	4.43	4.55	XXX
78103	26	A	Bone marrow imaging, mult	0.75	0.21	0.33	0.21	0.33	0.04	1.00	1.12	1.00	1.12	XXX
78103	TC	A	Bone marrow imaging, mult	0.00	3.28	3.28	3.28	3.28	0.15	3.43	3.43	3.43	3.43	XXX
78104		A	Bone marrow imaging, body	0.80	4.44	4.57	4.44	4.57	0.24	5.48	5.61	5.48	5.61	XXX
78104	26	A	Bone marrow imaging, body	0.80	0.22	0.36	0.22	0.36	0.04	1.06	1.20	1.06	1.20	XXX
78104	TC	A	Bone marrow imaging, body	0.00	4.22	4.21	4.22	4.21	0.20	4.42	4.41	4.42	4.41	XXX
78110		A	Plasma volume, single	0.19	1.03	1.07	1.03	1.07	0.06	1.28	1.32	1.28	1.32	XXX
78110	26	A	Plasma volume, single	0.19	0.05	0.09	0.05	0.09	0.01	0.25	0.29	0.25	0.29	XXX
78110	TC	A	Plasma volume, single	0.00	0.98	0.98	0.98	0.98	0.05	1.03	1.03	1.03	1.03	XXX
78111		A	Plasma volume, multiple	0.22	2.73	2.76	2.73	2.76	0.15	3.10	3.13	3.10	3.13	XXX
78111	26	A	Plasma volume, multiple	0.22	0.06	0.10	0.06	0.10	0.02	0.30	0.34	0.30	0.34	XXX
78111	TC	A	Plasma volume, multiple	0.00	2.67	2.66	2.67	2.66	0.13	2.80	2.79	2.80	2.79	XXX
78120		A	Red cell mass, single	0.23	1.86	1.90	1.86	1.90	0.11	2.20	2.24	2.20	2.24	XXX
78120	26	A	Red cell mass, single	0.23	0.06	0.11	0.06	0.11	0.02	0.31	0.36	0.31	0.36	XXX
78120	TC	A	Red cell mass, single	0.00	1.80	1.79	1.80	1.79	0.09	1.89	1.88	1.89	1.88	XXX
78121		A	Red cell mass, multiple	0.32	3.11	3.15	3.11	3.15	0.15	3.58	3.62	3.58	3.62	XXX
78121	26	A	Red cell mass, multiple	0.32	0.09	0.14	0.09	0.14	0.02	0.43	0.48	0.43	0.48	XXX
78121	TC	A	Red cell mass, multiple	0.00	3.02	3.01	3.02	3.01	0.13	3.15	3.14	3.15	3.14	XXX
78122		A	Blood volume	0.45	4.90	4.97	4.90	4.97	0.24	5.59	5.66	5.59	5.66	XXX
78122	26	A	Blood volume	0.45	0.12	0.20	0.12	0.20	0.02	0.59	0.67	0.59	0.67	XXX
78122	TC	A	Blood volume	0.00	4.78	4.77	4.78	4.77	0.22	5.00	4.99	5.00	4.99	XXX
78130		A	Red cell survival study	0.61	3.14	3.22	3.14	3.22	0.16	3.91	3.99	3.91	3.99	XXX
78130	26	A	Red cell survival study	0.61	0.18	0.27	0.18	0.27	0.03	0.82	0.91	0.82	0.91	XXX
78130	TC	A	Red cell survival study	0.00	2.96	2.95	2.96	2.95	0.13	3.09	3.08	3.09	3.08	XXX
78135		A	Red cell survival kinetics	0.64	5.23	5.32	5.23	5.32	0.26	6.13	6.22	6.13	6.22	XXX
78135	26	A	Red cell survival kinetics	0.64	0.18	0.28	0.18	0.28	0.03	0.85	0.95	0.85	0.95	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
78135	TC	A	Red cell survival kinetics	0.00	5.05	5.04	5.05	5.04	0.23	5.28	5.27	5.28	5.27	XXX
78140		A	Red cell sequestration	0.61	4.26	4.34	4.26	4.34	0.22	5.09	5.17	5.09	5.17	XXX
78140	26	A	Red cell sequestration	0.61	0.18	0.27	0.18	0.27	0.03	0.82	0.91	0.82	0.91	XXX
78140	TC	A	Red cell sequestration	0.00	4.08	4.07	4.08	4.07	0.19	4.27	4.26	4.27	4.26	XXX
78160		A	Plasma iron turnover	0.33	3.92	3.94	3.92	3.94	0.19	4.44	4.46	4.44	4.46	XXX
78160	26	A	Plasma iron turnover	0.33	0.12	0.15	0.12	0.15	0.02	0.47	0.50	0.47	0.50	XXX
78160	TC	A	Plasma iron turnover	0.00	3.80	3.79	3.80	3.79	0.17	3.97	3.96	3.97	3.96	XXX
78162		A	Iron absorption exam	0.45	3.52	3.53	3.52	3.53	0.17	4.14	4.15	4.14	4.15	XXX
78162	26	A	Iron absorption exam	0.45	0.19	0.21	0.19	0.21	0.02	0.66	0.68	0.66	0.68	XXX
78162	TC	A	Iron absorption exam	0.00	3.33	3.32	3.33	3.32	0.15	3.48	3.47	3.48	3.47	XXX
78170		A	Red cell iron utilization	0.41	5.62	5.68	5.62	5.68	0.27	6.30	6.36	6.30	6.36	XXX
78170	26	A	Red cell iron utilization	0.41	0.11	0.18	0.11	0.18	0.02	0.54	0.61	0.54	0.61	XXX
78170	TC	A	Red cell iron utilization	0.00	5.51	5.50	5.51	5.50	0.25	5.76	5.75	5.76	5.75	XXX
78172		C	Total body iron estimation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78172	26	A	Total body iron estimation	0.53	0.15	0.24	0.15	0.24	0.03	0.71	0.80	0.71	0.80	XXX
78172	TC	C	Total body iron estimation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78185		A	Spleen imaging	0.40	2.56	2.62	2.56	2.62	0.14	3.10	3.16	3.10	3.16	XXX
78185	26	A	Spleen imaging	0.40	0.11	0.18	0.11	0.18	0.02	0.53	0.60	0.53	0.60	XXX
78185	TC	A	Spleen imaging	0.00	2.45	2.44	2.45	2.44	0.12	2.57	2.56	2.57	2.56	XXX
78190		A	Platelet survival, kinetics	1.09	6.25	6.39	6.25	6.39	0.32	7.66	7.80	7.66	7.80	XXX
78190	26	A	Platelet survival, kinetics	1.09	0.32	0.47	0.32	0.47	0.05	1.46	1.61	1.46	1.61	XXX
78190	TC	A	Platelet survival, kinetics	0.00	5.93	5.92	5.93	5.92	0.27	6.20	6.19	6.20	6.19	XXX
78191		A	Platelet survival	0.61	7.78	7.86	7.78	7.86	0.37	8.76	8.84	8.76	8.84	XXX
78191	26	A	Platelet survival	0.61	0.18	0.27	0.18	0.27	0.03	0.82	0.91	0.82	0.91	XXX
78191	TC	A	Platelet survival	0.00	7.60	7.59	7.60	7.59	0.34	7.94	7.93	7.94	7.93	XXX
78195		A	Lymph system imaging	1.20	4.56	4.56	4.56	4.56	0.24	6.00	6.00	6.00	6.00	XXX
78195	26	A	Lymph system imaging	1.20	0.34	0.35	0.34	0.35	0.04	1.58	1.59	1.58	1.59	XXX
78195	TC	A	Lymph system imaging	0.00	4.22	4.21	4.22	4.21	0.20	4.42	4.41	4.42	4.41	XXX
78199		C	Blood/lymph nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78199	26	C	Blood/lymph nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78199	TC	C	Blood/lymph nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78201		A	Liver imaging	0.44	2.57	2.63	2.57	2.63	0.14	3.15	3.21	3.15	3.21	XXX
78201	26	A	Liver imaging	0.44	0.12	0.19	0.12	0.19	0.02	0.58	0.65	0.58	0.65	XXX
78201	TC	A	Liver imaging	0.00	2.45	2.44	2.45	2.44	0.12	2.57	2.56	2.57	2.56	XXX
78202		A	Liver imaging with flow	0.51	3.13	3.21	3.13	3.21	0.16	3.80	3.88	3.80	3.88	XXX
78202	26	A	Liver imaging with flow	0.51	0.13	0.22	0.13	0.22	0.03	0.67	0.76	0.67	0.76	XXX
78202	TC	A	Liver imaging with flow	0.00	3.00	2.99	3.00	2.99	0.13	3.13	3.12	3.13	3.12	XXX
78205		A	Liver imaging (3D)	0.71	6.33	6.44	6.33	6.44	0.32	7.36	7.47	7.36	7.47	XXX
78205	26	A	Liver imaging (3D)	0.71	0.20	0.32	0.20	0.32	0.04	0.95	1.07	0.95	1.07	XXX
78205	TC	A	Liver imaging (3D)	0.00	6.13	6.12	6.13	6.12	0.28	6.41	6.40	6.41	6.40	XXX

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78206		A	Liver image (3-d) w/flow	0.96	6.41	6.41	6.41	6.41	0.12	7.49	7.49	7.49	7.49	XXX
78206	26	A	Liver image (3-d) w/flow	0.96	0.28	0.28	0.28	0.28	0.03	1.27	1.27	1.27	1.27	XXX
78206	TC	A	Liver image (3-d) w/flow	0.00	6.13	6.13	6.13	6.13	0.09	6.22	6.22	6.22	6.22	XXX
78215		A	Liver and spleen imaging	0.49	3.18	3.25	3.18	3.25	0.15	3.82	3.89	3.82	3.89	XXX
78215	26	A	Liver and spleen imaging	0.49	0.13	0.21	0.13	0.21	0.02	0.64	0.72	0.64	0.72	XXX
78215	TC	A	Liver and spleen imaging	0.00	3.05	3.04	3.05	3.04	0.13	3.18	3.17	3.18	3.17	XXX
78216		A	Liver & spleen image, flow	0.57	3.77	3.86	3.77	3.86	0.19	4.53	4.62	4.53	4.62	XXX
78216	26	A	Liver & spleen image, flow	0.57	0.15	0.25	0.15	0.25	0.03	0.75	0.85	0.75	0.85	XXX
78216	TC	A	Liver & spleen image, flow	0.00	3.62	3.61	3.62	3.61	0.16	3.78	3.77	3.78	3.77	XXX
78220		A	Liver function study	0.49	3.99	4.06	3.99	4.06	0.19	4.67	4.74	4.67	4.74	XXX
78220	26	A	Liver function study	0.49	0.13	0.21	0.13	0.21	0.02	0.64	0.72	0.64	0.72	XXX
78220	TC	A	Liver function study	0.00	3.86	3.85	3.86	3.85	0.17	4.03	4.02	4.03	4.02	XXX
78223		A	Hepatobiliary imaging	0.84	4.03	4.18	4.03	4.16	0.22	5.09	5.22	5.09	5.22	XXX
78223	26	A	Hepatobiliary imaging	0.84	0.23	0.37	0.23	0.37	0.05	1.12	1.26	1.12	1.26	XXX
78223	TC	A	Hepatobiliary imaging	0.00	3.80	3.79	3.80	3.79	0.17	3.97	3.96	3.97	3.96	XXX
78230		A	Salivary gland imaging	0.45	2.37	2.45	2.37	2.45	0.13	2.95	3.03	2.95	3.03	XXX
78230	26	A	Salivary gland imaging	0.45	0.12	0.20	0.12	0.20	0.02	0.59	0.67	0.59	0.67	XXX
78230	TC	A	Salivary gland imaging	0.00	2.25	2.25	2.25	2.25	0.11	2.36	2.36	2.36	2.36	XXX
78231		A	Serial salivary imaging	0.52	3.42	3.51	3.42	3.51	0.18	4.12	4.21	4.12	4.21	XXX
78231	26	A	Serial salivary imaging	0.52	0.14	0.23	0.14	0.23	0.03	0.69	0.78	0.69	0.78	XXX
78231	TC	A	Serial salivary imaging	0.00	3.28	3.28	3.28	3.28	0.15	3.43	3.43	3.43	3.43	XXX
78232		A	Salivary gland function exam	0.47	3.81	3.88	3.81	3.88	0.18	4.46	4.53	4.46	4.53	XXX
78232	26	A	Salivary gland function exam	0.47	0.13	0.21	0.13	0.21	0.02	0.62	0.70	0.62	0.70	XXX
78232	TC	A	Salivary gland function exam	0.00	3.68	3.67	3.68	3.67	0.16	3.84	3.83	3.84	3.83	XXX
78258		A	Esophageal motility study	0.74	3.21	3.32	3.21	3.32	0.17	4.12	4.23	4.12	4.23	XXX
78258	26	A	Esophageal motility study	0.74	0.21	0.33	0.21	0.33	0.04	0.99	1.11	0.99	1.11	XXX
78258	TC	A	Esophageal motility study	0.00	3.00	2.99	3.00	2.99	0.13	3.13	3.12	3.13	3.12	XXX
78261		A	Gastric mucosa imaging	0.69	4.45	4.56	4.45	4.56	0.24	5.38	5.49	5.38	5.49	XXX
78261	26	A	Gastric mucosa imaging	0.69	0.19	0.31	0.19	0.31	0.04	0.92	1.04	0.92	1.04	XXX
78261	TC	A	Gastric mucosa imaging	0.00	4.26	4.25	4.26	4.25	0.20	4.46	4.45	4.46	4.45	XXX
78262		A	Gastroesophageal reflux exam	0.68	4.61	4.71	4.61	4.71	0.24	5.53	5.63	5.53	5.63	XXX
78262	26	A	Gastroesophageal reflux exam	0.68	0.20	0.31	0.20	0.31	0.04	0.92	1.03	0.92	1.03	XXX
78262	TC	A	Gastroesophageal reflux exam	0.00	4.41	4.40	4.41	4.40	0.20	4.61	4.60	4.61	4.60	XXX
78264		A	Gastric emptying study	0.78	4.51	4.63	4.51	4.63	0.24	5.53	5.65	5.53	5.65	XXX
78264	26	A	Gastric emptying study	0.78	0.22	0.35	0.22	0.35	0.04	1.04	1.17	1.04	1.17	XXX
78264	TC	A	Gastric emptying study	0.00	4.29	4.28	4.29	4.28	0.20	4.49	4.48	4.49	4.48	XXX
78270		A	Vit B-12 absorption exam	0.20	1.66	1.70	1.66	1.70	0.09	1.95	1.99	1.95	1.99	XXX
78270	26	A	Vit B-12 absorption exam	0.20	0.06	0.10	0.06	0.10	0.01	0.27	0.31	0.27	0.31	XXX
78270	TC	A	Vit B-12 absorption exam	0.00	1.60	1.60	1.60	1.60	0.08	1.68	1.68	1.68	1.68	XXX
78271		A	Vit B-12 absorp exam, IF	0.20	1.76	1.80	1.76	1.80	0.09	2.05	2.09	2.05	2.09	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
78271	26	A	Vit B-12 absorp exam, IF	0.20	0.06	0.10	0.06	0.10	0.01	0.27	0.31	0.27	0.31	XXX
78271	TC	A	Vit B-12 absorp exam, IF	0.00	1.70	1.70	1.70	1.70	0.08	1.78	1.78	1.78	1.78	XXX
78272		A	Vit B-12 absorp, combined	0.27	2.48	2.52	2.48	2.52	0.14	2.89	2.93	2.89	2.93	XXX
78272	26	A	Vit B-12 absorp, combined	0.27	0.07	0.12	0.07	0.12	0.02	0.36	0.41	0.36	0.41	XXX
78272	TC	A	Vit B-12 absorp, combined	0.00	2.41	2.40	2.41	2.40	0.12	2.53	2.52	2.53	2.52	XXX
78278		A	Acute GI blood loss imaging	0.99	5.32	5.48	5.32	5.48	0.28	6.59	6.75	6.59	6.75	XXX
78278	26	A	Acute GI blood loss imaging	0.99	0.27	0.44	0.27	0.44	0.05	1.31	1.48	1.31	1.48	XXX
78278	TC	A	Acute GI blood loss imaging	0.00	5.05	5.04	5.05	5.04	0.23	5.28	5.27	5.28	5.27	XXX
78282		C	GI protein loss exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78282	26	A	GI protein loss exam	0.38	0.11	0.16	0.11	0.16	0.02	0.51	0.56	0.51	0.56	XXX
78282	TC	C	GI protein loss exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78290		A	Meckel's divert exam	0.68	3.34	3.45	3.34	3.45	0.18	4.20	4.31	4.20	4.31	XXX
78290	26	A	Meckel's divert exam	0.68	0.19	0.30	0.19	0.30	0.04	0.91	1.02	0.91	1.02	XXX
78290	TC	A	Meckel's divert exam	0.00	3.15	3.15	3.15	3.15	0.14	3.29	3.29	3.29	3.29	XXX
78291		A	Leveen/shunt patency exam	0.88	3.41	3.55	3.41	3.55	0.19	4.48	4.62	4.48	4.62	XXX
78291	26	A	Leveen/shunt patency exam	0.88	0.24	0.38	0.24	0.38	0.05	1.17	1.31	1.17	1.31	XXX
78291	TC	A	Leveen/shunt patency exam	0.00	3.17	3.17	3.17	3.17	0.14	3.31	3.31	3.31	3.31	XXX
78299		C	GI nuclear procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78299	26	C	GI nuclear procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78299	TC	C	GI nuclear procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78300		A	Bone imaging, limited area	0.62	2.74	2.85	2.74	2.85	0.16	3.52	3.63	3.52	3.63	XXX
78300	26	A	Bone imaging, limited area	0.62	0.17	0.28	0.17	0.28	0.03	0.82	0.93	0.82	0.93	XXX
78300	TC	A	Bone imaging, limited area	0.00	2.57	2.57	2.57	2.57	0.13	2.70	2.70	2.70	2.70	XXX
78305		A	Bone imaging, multiple areas	0.83	4.03	4.16	4.03	4.16	0.22	5.08	5.21	5.08	5.21	XXX
78305	26	A	Bone imaging, multiple areas	0.83	0.23	0.37	0.23	0.37	0.05	1.11	1.25	1.11	1.25	XXX
78305	TC	A	Bone imaging, multiple areas	0.00	3.80	3.79	3.80	3.79	0.17	3.97	3.96	3.97	3.96	XXX
78306		A	Bone imaging, whole body	0.86	4.67	4.80	4.67	4.80	0.25	5.78	5.91	5.78	5.91	XXX
78306	26	A	Bone imaging, whole body	0.86	0.24	0.38	0.24	0.38	0.05	1.15	1.29	1.15	1.29	XXX
78306	TC	A	Bone imaging, whole body	0.00	4.43	4.42	4.43	4.42	0.20	4.63	4.62	4.63	4.62	XXX
78315		A	Bone imaging, 3 phase	1.02	5.23	5.38	5.23	5.38	0.28	6.53	6.68	6.53	6.68	XXX
78315	26	A	Bone imaging, 3 phase	1.02	0.28	0.44	0.28	0.44	0.05	1.35	1.51	1.35	1.51	XXX
78315	TC	A	Bone imaging, 3 phase	0.00	4.95	4.94	4.95	4.94	0.23	5.18	5.17	5.18	5.17	XXX
78320		A	Bone imaging (3D)	1.04	6.43	6.57	6.43	6.57	0.33	7.80	7.94	7.80	7.94	XXX
78320	26	A	Bone imaging (3D)	1.04	0.30	0.45	0.30	0.45	0.05	1.39	1.54	1.39	1.54	XXX
78320	TC	A	Bone imaging (3D)	0.00	6.13	6.12	6.13	6.12	0.28	6.41	6.40	6.41	6.40	XXX
78350		A	Bone mineral, single photon	0.22	0.87	0.88	0.87	0.88	0.06	1.15	1.16	1.15	1.16	XXX
78350	26	A	Bone mineral, single photon	0.22	0.08	0.10	0.08	0.10	0.02	0.32	0.34	0.32	0.34	XXX
78350	TC	A	Bone mineral, single photon	0.00	0.79	0.78	0.79	0.78	0.04	0.83	0.82	0.83	0.82	XXX
78351		N	Bone mineral, dual photon	+0.30	1.24	0.47	0.11	0.19	0.02	1.56	0.79	0.43	0.51	XXX
78399		C	Musculoskeletal nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
78399	26	C	Musculoskeletal nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78399	TC	C	Musculoskeletal nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78414		C	Non-imaging heart function	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78414	26	A	Non-imaging heart function	0.45	0.14	0.20	0.14	0.20	0.02	0.61	0.67	0.61	0.67	XXX
78414	TC	C	Non-imaging heart function	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78428		A	Cardiac shunt imaging	0.78	2.61	2.69	2.61	2.69	0.15	3.54	3.62	3.54	3.62	XXX
78428	26	A	Cardiac shunt imaging	0.78	0.28	0.36	0.28	0.36	0.04	1.10	1.18	1.10	1.18	XXX
78428	TC	A	Cardiac shunt imaging	0.00	2.33	2.33	2.33	2.33	0.11	2.44	2.44	2.44	2.44	XXX
78445		A	Vascular flow imaging	0.49	2.07	2.15	2.07	2.15	0.12	2.68	2.76	2.68	2.76	XXX
78445	26	A	Vascular flow imaging	0.49	0.14	0.23	0.14	0.23	0.03	0.66	0.75	0.66	0.75	XXX
78445	TC	A	Vascular flow imaging	0.00	1.93	1.92	1.93	1.92	0.09	2.02	2.01	2.02	2.01	XXX
78455		A	Venous thrombosis study	0.73	4.33	4.44	4.33	4.44	0.23	5.29	5.40	5.29	5.40	XXX
78455	26	A	Venous thrombosis study	0.73	0.20	0.32	0.20	0.32	0.04	0.97	1.09	0.97	1.09	XXX
78455	TC	A	Venous thrombosis study	0.00	4.13	4.12	4.13	4.12	0.19	4.32	4.31	4.32	4.31	XXX
78457		A	Venous thrombosis imaging	0.77	2.98	3.09	2.98	3.09	0.17	3.92	4.03	3.92	4.03	XXX
78457	26	A	Venous thrombosis imaging	0.77	0.22	0.34	0.22	0.34	0.04	1.03	1.15	1.03	1.15	XXX
78457	TC	A	Venous thrombosis imaging	0.00	2.76	2.75	2.76	2.75	0.13	2.89	2.88	2.89	2.88	XXX
78458		A	Ven thrombosis images, bilat	0.90	4.44	4.55	4.44	4.55	0.24	5.58	5.69	5.58	5.69	XXX
78458	26	A	Ven thrombosis images, bilat	0.90	0.27	0.39	0.27	0.39	0.05	1.22	1.34	1.22	1.34	XXX
78458	TC	A	Ven thrombosis images, bilat	0.00	4.17	4.16	4.17	4.16	0.19	4.36	4.35	4.36	4.35	XXX
78459		I	Heart muscle imaging (PET)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78459	26	I	Heart muscle imaging (PET)	+1.88	0.71	1.27	0.71	1.27	0.08	2.67	3.23	2.67	3.23	XXX
78459	TC	I	Heart muscle imaging (PET)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78460		A	Heart muscle blood single	0.86	2.71	2.82	2.71	2.82	0.17	3.74	3.85	3.74	3.85	XXX
78460	26	A	Heart muscle blood single	0.86	0.26	0.38	0.26	0.38	0.05	1.17	1.29	1.17	1.29	XXX
78460	TC	A	Heart muscle blood single	0.00	2.45	2.44	2.45	2.44	0.12	2.57	2.56	2.57	2.56	XXX
78461		A	Heart muscle blood multiple	1.23	5.29	5.43	5.29	5.43	0.29	6.81	6.95	6.81	6.95	XXX
78461	26	A	Heart muscle blood multiple	1.23	0.39	0.54	0.39	0.54	0.06	1.68	1.83	1.68	1.83	XXX
78461	TC	A	Heart muscle blood multiple	0.00	4.90	4.89	4.90	4.89	0.23	5.13	5.12	5.13	5.12	XXX
78464		A	Heart image (3D) single	1.09	7.66	7.79	7.66	7.79	0.39	9.14	9.27	9.14	9.27	XXX
78464	26	A	Heart image (3D) single	1.09	0.33	0.47	0.33	0.47	0.05	1.47	1.61	1.47	1.61	XXX
78464	TC	A	Heart image (3D) single	0.00	7.33	7.32	7.33	7.32	0.34	7.67	7.66	7.67	7.66	XXX
78465		A	Heart image (3D) multiple	1.46	12.72	12.86	12.72	12.86	0.63	14.81	14.95	14.81	14.95	XXX
78465	26	A	Heart image (3D) multiple	1.46	0.48	0.65	0.48	0.65	0.08	2.02	2.19	2.02	2.19	XXX
78465	TC	A	Heart image (3D) multiple	0.00	12.24	12.21	12.24	12.21	0.55	12.79	12.76	12.79	12.76	XXX
78466		A	Heart infarct image	0.69	2.93	3.03	2.93	3.03	0.17	3.79	3.89	3.79	3.89	XXX
78466	26	A	Heart infarct image	0.69	0.20	0.31	0.20	0.31	0.04	0.93	1.04	0.93	1.04	XXX
78466	TC	A	Heart infarct image	0.00	2.73	2.72	2.73	2.72	0.13	2.86	2.85	2.86	2.85	XXX
78468		A	Heart infarct image, EF	0.80	4.04	4.14	4.04	4.14	0.21	5.05	5.15	5.05	5.15	XXX
78468	26	A	Heart infarct image, EF	0.80	0.24	0.35	0.24	0.35	0.04	1.08	1.19	1.08	1.19	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
78468	TC	A	Heart infarct image, EF	0.00	3.80	3.79	3.80	3.79	0.17	3.97	3.96	3.97	3.96	XXX
78469		A	Heart infarct image (3D)	0.92	5.70	5.81	5.70	5.81	0.30	6.92	7.03	6.92	7.03	XXX
78469	26	A	Heart infarct image (3D)	0.92	0.28	0.40	0.28	0.40	0.05	1.25	1.37	1.25	1.37	XXX
78469	TC	A	Heart infarct image (3D)	0.00	5.42	5.41	5.42	5.41	0.25	5.67	5.66	5.67	5.66	XXX
78472		A	Gated heart, planar single	0.98	6.02	6.15	6.02	6.15	0.32	7.32	7.45	7.32	7.45	XXX
78472	26	A	Gated heart, planar single	0.98	0.30	0.44	0.30	0.44	0.05	1.33	1.47	1.33	1.47	XXX
78472	TC	A	Gated heart, planar single	0.00	5.72	5.71	5.72	5.71	0.27	5.99	5.98	5.99	5.98	XXX
78473		A	Gated heart, multiple	1.47	9.01	9.20	9.01	9.20	0.46	10.94	11.13	10.94	11.13	XXX
78473	26	A	Gated heart, multiple	1.47	0.45	0.65	0.45	0.65	0.08	2.00	2.20	2.00	2.20	XXX
78473	TC	A	Gated heart, multiple	0.00	8.56	8.55	8.56	8.55	0.38	8.94	8.93	8.94	8.93	XXX
78478		A	Heart wall motion add-on	0.62	1.82	1.89	1.82	1.89	0.11	2.55	2.62	2.55	2.62	ZZZ
78478	26	A	Heart wall motion add-on	0.62	0.21	0.28	0.21	0.28	0.03	0.86	0.93	0.86	0.93	ZZZ
78478	TC	A	Heart wall motion add-on	0.00	1.61	1.61	1.61	1.61	0.08	1.69	1.69	1.69	1.69	ZZZ
78480		A	Heart function add-on	0.62	1.82	1.89	1.82	1.89	0.11	2.55	2.62	2.55	2.62	ZZZ
78480	26	A	Heart function add-on	0.62	0.21	0.28	0.21	0.28	0.03	0.86	0.93	0.86	0.93	ZZZ
78480	TC	A	Heart function add-on	0.00	1.61	1.61	1.61	1.61	0.08	1.69	1.69	1.69	1.69	ZZZ
78481		A	Heart first pass single	0.98	5.75	5.85	5.75	5.85	0.30	7.03	7.13	7.03	7.13	XXX
78481	26	A	Heart first pass single	0.98	0.33	0.44	0.33	0.44	0.05	1.36	1.47	1.36	1.47	XXX
78481	TC	A	Heart first pass single	0.00	5.42	5.41	5.42	5.41	0.25	5.67	5.66	5.67	5.66	XXX
78483		A	Heart first pass multiple	1.47	8.69	8.82	8.69	8.82	0.45	10.61	10.74	10.61	10.74	XXX
78483	26	A	Heart first pass multiple	1.47	0.53	0.67	0.53	0.67	0.08	2.08	2.22	2.08	2.22	XXX
78483	TC	A	Heart first pass multiple	0.00	8.16	8.15	8.16	8.15	0.37	8.53	8.52	8.53	8.52	XXX
78491		I	Heart image (pet) single	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78491	26	I	Heart image (pet) single	+1.50	0.57	1.23	0.57	1.23	0.08	2.15	2.81	2.15	2.81	XXX
78491	TC	I	Heart image (pet) single	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78492		I	Heart image (pet) multiple	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78492	26	I	Heart image (pet) multiple	+1.87	0.70	1.26	0.70	1.26	0.08	2.65	3.21	2.65	3.21	XXX
78492	TC	I	Heart image (pet) multiple	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78494		A	Heart image, spect	1.19	6.07	6.07	6.07	6.07	0.32	7.58	7.58	7.58	7.58	XXX
78494	26	A	Heart image, spect	1.19	0.36	0.36	0.36	0.36	0.05	1.60	1.60	1.60	1.60	XXX
78494	TC	A	Heart image, spect	0.00	5.71	5.71	5.71	5.71	0.27	5.98	5.98	5.98	5.98	XXX
78496		A	Heart first pass add-on	0.50	1.80	1.80	1.80	1.80	0.32	2.62	2.62	2.62	2.62	ZZZ
78496	26	A	Heart first pass add-on	0.50	0.19	0.19	0.19	0.19	0.05	0.74	0.74	0.74	0.74	ZZZ
78496	TC	A	Heart first pass add-on	0.00	1.61	1.61	1.61	1.61	0.27	1.88	1.88	1.88	1.88	ZZZ
78499		C	Cardiovascular nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78499	26	C	Cardiovascular nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78499	TC	C	Cardiovascular nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78580		A	Lung perfusion imaging	0.74	3.77	3.88	3.77	3.88	0.20	4.71	4.82	4.71	4.82	XXX
78580	26	A	Lung perfusion imaging	0.74	0.21	0.33	0.21	0.33	0.04	0.99	1.11	0.99	1.11	XXX
78580	TC	A	Lung perfusion imaging	0.00	3.56	3.55	3.56	3.55	0.16	3.72	3.71	3.72	3.71	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
78584		A	Lung V/Q image single breath	0.99	3.60	3.76	3.60	3.76	0.20	4.79	4.95	4.79	4.95	XXX
78584	26	A	Lung V/Q image single breath	0.99	0.27	0.44	0.27	0.44	0.05	1.31	1.48	1.31	1.48	XXX
78584	TC	A	Lung V/Q image single breath	0.00	3.33	3.32	3.33	3.32	0.15	3.48	3.47	3.48	3.47	XXX
78585		A	Lung V/Q imaging	1.09	6.14	6.30	6.14	6.30	0.32	7.55	7.71	7.55	7.71	XXX
78585	26	A	Lung V/Q imaging	1.09	0.29	0.46	0.29	0.46	0.05	1.43	1.60	1.43	1.60	XXX
78585	TC	A	Lung V/Q imaging	0.00	5.85	5.84	5.85	5.84	0.27	6.12	6.11	6.12	6.11	XXX
78586		A	Aerosol lung image, single	0.40	2.79	2.86	2.79	2.86	0.15	3.34	3.41	3.34	3.41	XXX
78586	26	A	Aerosol lung image, single	0.40	0.10	0.18	0.10	0.18	0.02	0.52	0.60	0.52	0.60	XXX
78586	TC	A	Aerosol lung image, single	0.00	2.69	2.68	2.69	2.68	0.13	2.82	2.81	2.82	2.81	XXX
78587		A	Aerosol lung image, multiple	0.49	3.03	3.11	3.03	3.11	0.15	3.67	3.75	3.67	3.75	XXX
78587	26	A	Aerosol lung image, multiple	0.49	0.13	0.21	0.13	0.21	0.02	0.64	0.72	0.64	0.72	XXX
78587	TC	A	Aerosol lung image, multiple	0.00	2.90	2.90	2.90	2.90	0.13	3.03	3.03	3.03	3.03	XXX
78588		A	Perfusion lung image	1.09	3.86	3.86	3.86	3.86	0.20	5.15	5.15	5.15	5.15	XXX
78588	26	A	Perfusion lung image	1.09	0.30	0.30	0.30	0.30	0.04	1.43	1.43	1.43	1.43	XXX
78588	TC	A	Perfusion lung image	0.00	3.56	3.56	3.56	3.56	0.16	3.72	3.72	3.72	3.72	XXX
78591		A	Vent image, 1 breath, 1 proj	0.40	3.07	3.13	3.07	3.13	0.15	3.62	3.68	3.62	3.68	XXX
78591	26	A	Vent image, 1 breath, 1 proj	0.40	0.11	0.18	0.11	0.18	0.02	0.53	0.60	0.53	0.60	XXX
78591	TC	A	Vent image, 1 breath, 1 proj	0.00	2.96	2.95	2.96	2.95	0.13	3.09	3.08	3.09	3.08	XXX
78593		A	Vent image, 1 proj, gas	0.49	3.71	3.78	3.71	3.78	0.18	4.38	4.45	4.38	4.45	XXX
78593	26	A	Vent image, 1 proj, gas	0.49	0.13	0.21	0.13	0.21	0.02	0.64	0.72	0.64	0.72	XXX
78593	TC	A	Vent image, 1 proj, gas	0.00	3.58	3.57	3.58	3.57	0.16	3.74	3.73	3.74	3.73	XXX
78594		A	Vent image, mult proj, gas	0.53	5.32	5.40	5.32	5.40	0.26	6.11	6.19	6.11	6.19	XXX
78594	26	A	Vent image, mult proj, gas	0.53	0.14	0.24	0.14	0.24	0.03	0.70	0.80	0.70	0.80	XXX
78594	TC	A	Vent image, mult proj, gas	0.00	5.18	5.16	5.18	5.16	0.23	5.41	5.39	5.41	5.39	XXX
78596		A	Lung differential function	1.27	7.68	7.87	7.68	7.87	0.41	9.36	9.55	9.36	9.55	XXX
78596	26	A	Lung differential function	1.27	0.35	0.55	0.35	0.55	0.07	1.69	1.89	1.69	1.89	XXX
78596	TC	A	Lung differential function	0.00	7.33	7.32	7.33	7.32	0.34	7.67	7.66	7.67	7.66	XXX
78599		C	Respiratory nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78599	26	C	Respiratory nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78599	TC	C	Respiratory nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78600		A	Brain imaging, ltd static	0.44	3.12	3.19	3.12	3.19	0.15	3.71	3.78	3.71	3.78	XXX
78600	26	A	Brain imaging, ltd static	0.44	0.12	0.20	0.12	0.20	0.02	0.58	0.66	0.58	0.66	XXX
78600	TC	A	Brain imaging, ltd static	0.00	3.00	2.99	3.00	2.99	0.13	3.13	3.12	3.13	3.12	XXX
78601		A	Brain ltd imaging & flow	0.51	3.66	3.75	3.66	3.75	0.19	4.36	4.45	4.36	4.45	XXX
78601	26	A	Brain ltd imaging & flow	0.51	0.14	0.23	0.14	0.23	0.03	0.68	0.77	0.68	0.77	XXX
78601	TC	A	Brain ltd imaging & flow	0.00	3.52	3.52	3.52	3.52	0.16	3.68	3.68	3.68	3.68	XXX
78605		A	Brain imaging, complete	0.53	3.67	3.76	3.67	3.76	0.19	4.39	4.48	4.39	4.48	XXX
78605	26	A	Brain imaging, complete	0.53	0.15	0.24	0.15	0.24	0.03	0.71	0.80	0.71	0.80	XXX
78605	TC	A	Brain imaging, complete	0.00	3.52	3.52	3.52	3.52	0.16	3.68	3.68	3.68	3.68	XXX
78606		A	Brain imaging comp & flow	0.64	4.19	4.28	4.19	4.28	0.21	5.04	5.13	5.04	5.13	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
78606	26	A	Brain imaging comp & flow	0.64	0.18	0.28	0.18	0.28	0.03	0.85	0.95	0.85	0.95	XXX
78606	TC	A	Brain imaging comp & flow	0.00	4.01	4.00	4.01	4.00	0.18	4.19	4.18	4.19	4.18	XXX
78607		A	Brain imaging (3D)	1.23	7.16	7.32	7.16	7.32	0.37	8.76	8.92	8.76	8.92	XXX
78607	26	A	Brain imaging (3D)	1.23	0.35	0.53	0.35	0.53	0.06	1.64	1.82	1.64	1.82	XXX
78607	TC	A	Brain imaging (3D)	0.00	6.81	6.79	6.81	6.79	0.31	7.12	7.10	7.12	7.10	XXX
78608		N	Brain imaging (PET)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78609		N	Brain imaging (PET)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78610		A	Brain flow imaging only	0.30	1.72	1.77	1.72	1.77	0.10	2.12	2.17	2.12	2.17	XXX
78610	26	A	Brain flow imaging only	0.30	0.09	0.14	0.09	0.14	0.02	0.41	0.46	0.41	0.46	XXX
78610	TC	A	Brain flow imaging only	0.00	1.63	1.63	1.63	1.63	0.08	1.71	1.71	1.71	1.71	XXX
78615		A	Cerebral blood flow imaging	0.42	4.13	4.18	4.13	4.18	0.20	4.75	4.80	4.75	4.80	XXX
78615	26	A	Cerebral blood flow imaging	0.42	0.13	0.19	0.13	0.19	0.02	0.57	0.63	0.57	0.63	XXX
78615	TC	A	Cerebral blood flow imaging	0.00	4.00	3.99	4.00	3.99	0.18	4.18	4.17	4.18	4.17	XXX
78630		A	Cerebrospinal fluid scan	0.68	5.41	5.51	5.41	5.51	0.28	6.37	6.47	6.37	6.47	XXX
78630	26	A	Cerebrospinal fluid scan	0.68	0.19	0.30	0.19	0.30	0.04	0.91	1.02	0.91	1.02	XXX
78630	TC	A	Cerebrospinal fluid scan	0.00	5.22	5.21	5.22	5.21	0.24	5.46	5.45	5.46	5.45	XXX
78635		A	CSF ventriculography	0.61	2.86	2.91	2.86	2.91	0.16	3.63	3.68	3.63	3.68	XXX
78635	26	A	CSF ventriculography	0.61	0.23	0.28	0.23	0.28	0.03	0.87	0.92	0.87	0.92	XXX
78635	TC	A	CSF ventriculography	0.00	2.63	2.63	2.63	2.63	0.13	2.76	2.76	2.76	2.76	XXX
78645		A	CSF shunt evaluation	0.57	3.71	3.80	3.71	3.80	0.19	4.47	4.56	4.47	4.56	XXX
78645	26	A	CSF shunt evaluation	0.57	0.15	0.25	0.15	0.25	0.03	0.75	0.85	0.75	0.85	XXX
78645	TC	A	CSF shunt evaluation	0.00	3.56	3.55	3.56	3.55	0.16	3.72	3.71	3.72	3.71	XXX
78647		A	Cerebrospinal fluid scan	0.90	6.39	6.52	6.39	6.52	0.33	7.62	7.75	7.62	7.75	XXX
78647	26	A	Cerebrospinal fluid scan	0.90	0.26	0.40	0.26	0.40	0.05	1.21	1.35	1.21	1.35	XXX
78647	TC	A	Cerebrospinal fluid scan	0.00	6.13	6.12	6.13	6.12	0.28	6.41	6.40	6.41	6.40	XXX
78650		A	CSF leakage imaging	0.61	4.99	5.07	4.99	5.07	0.25	5.85	5.93	5.85	5.93	XXX
78650	26	A	CSF leakage imaging	0.61	0.18	0.27	0.18	0.27	0.03	0.82	0.91	0.82	0.91	XXX
78650	TC	A	CSF leakage imaging	0.00	4.81	4.80	4.81	4.80	0.22	5.03	5.02	5.03	5.02	XXX
78660		A	Nuclear exam of tear flow	0.53	2.34	2.43	2.34	2.43	0.13	3.00	3.09	3.00	3.09	XXX
78660	26	A	Nuclear exam of tear flow	0.53	0.14	0.24	0.14	0.24	0.03	0.70	0.80	0.70	0.80	XXX
78660	TC	A	Nuclear exam of tear flow	0.00	2.20	2.19	2.20	2.19	0.10	2.30	2.29	2.30	2.29	XXX
78699		C	Nervous system nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78699	26	C	Nervous system nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78699	TC	C	Nervous system nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78700		A	Kidney imaging, static	0.45	3.27	3.35	3.27	3.35	0.16	3.88	3.96	3.88	3.96	XXX
78700	26	A	Kidney imaging, static	0.45	0.12	0.20	0.12	0.20	0.02	0.59	0.67	0.59	0.67	XXX
78700	TC	A	Kidney imaging, static	0.00	3.15	3.15	3.15	3.15	0.14	3.29	3.29	3.29	3.29	XXX
78701		A	Kidney imaging with flow	0.49	3.83	3.90	3.83	3.90	0.18	4.50	4.57	4.50	4.57	XXX
78701	26	A	Kidney imaging with flow	0.49	0.13	0.21	0.13	0.21	0.02	0.64	0.72	0.64	0.72	XXX
78701	TC	A	Kidney imaging with flow	0.00	3.70	3.69	3.70	3.69	0.16	3.86	3.85	3.86	3.85	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
78704		A	Imaging renogram	0.74	4.30	4.42	4.30	4.42	0.23	5.27	5.39	5.27	5.39	XXX
78704	26	A	Imaging renogram	0.74	0.20	0.33	0.20	0.33	0.04	0.98	1.11	0.98	1.11	XXX
78704	TC	A	Imaging renogram	0.00	4.10	4.09	4.10	4.09	0.19	4.29	4.28	4.29	4.28	XXX
78707		A	Kidney flow & function image	0.96	4.90	5.04	4.90	5.04	0.26	6.12	6.26	6.12	6.26	XXX
78707	26	A	Kidney flow & function image	0.96	0.26	0.41	0.26	0.41	0.05	1.27	1.42	1.27	1.42	XXX
78707	TC	A	Kidney flow & function image	0.00	4.64	4.63	4.64	4.63	0.21	4.85	4.84	4.85	4.84	XXX
78708		A	Kidney flow & function image	1.21	4.97	5.06	4.97	5.06	0.26	6.44	6.53	6.44	6.53	XXX
78708	26	A	Kidney flow & function image	1.21	0.33	0.43	0.33	0.43	0.05	1.59	1.69	1.59	1.69	XXX
78708	TC	A	Kidney flow & function image	0.00	4.64	4.63	4.64	4.63	0.21	4.85	4.84	4.85	4.84	XXX
78709		A	Kidney flow & function image	1.41	5.02	5.07	5.02	5.07	0.26	6.69	6.74	6.69	6.74	XXX
78709	26	A	Kidney flow & function image	1.41	0.38	0.44	0.38	0.44	0.05	1.84	1.90	1.84	1.90	XXX
78709	TC	A	Kidney flow & function image	0.00	4.64	4.63	4.64	4.63	0.21	4.85	4.84	4.85	4.84	XXX
78710		A	Kidney imaging (3D)	0.66	6.32	6.42	6.32	6.42	0.32	7.30	7.40	7.30	7.40	XXX
78710	26	A	Kidney imaging (3D)	0.66	0.19	0.30	0.19	0.30	0.04	0.89	1.00	0.89	1.00	XXX
78710	TC	A	Kidney imaging (3D)	0.00	6.13	6.12	6.13	6.12	0.28	6.41	6.40	6.41	6.40	XXX
78715		A	Renal vascular flow exam	0.30	1.72	1.77	1.72	1.77	0.10	2.12	2.17	2.12	2.17	XXX
78715	26	A	Renal vascular flow exam	0.30	0.09	0.14	0.09	0.14	0.02	0.41	0.46	0.41	0.46	XXX
78715	TC	A	Renal vascular flow exam	0.00	1.63	1.63	1.63	1.63	0.08	1.71	1.71	1.71	1.71	XXX
78725		A	Kidney function study	0.38	1.95	2.00	1.95	2.00	0.11	2.44	2.49	2.44	2.49	XXX
78725	26	A	Kidney function study	0.38	0.10	0.16	0.10	0.16	0.02	0.50	0.56	0.50	0.56	XXX
78725	TC	A	Kidney function study	0.00	1.85	1.84	1.85	1.84	0.09	1.94	1.93	1.94	1.93	XXX
78730		A	Urinary bladder retention	0.36	1.63	1.67	1.63	1.67	0.09	2.08	2.12	2.08	2.12	XXX
78730	26	A	Urinary bladder retention	0.36	0.11	0.16	0.11	0.16	0.02	0.49	0.54	0.49	0.54	XXX
78730	TC	A	Urinary bladder retention	0.00	1.52	1.51	1.52	1.51	0.07	1.59	1.58	1.59	1.58	XXX
78740		A	Ureteral reflux study	0.57	2.35	2.44	2.35	2.44	0.13	3.05	3.14	3.05	3.14	XXX
78740	26	A	Ureteral reflux study	0.57	0.15	0.25	0.15	0.25	0.03	0.75	0.85	0.75	0.85	XXX
78740	TC	A	Ureteral reflux study	0.00	2.20	2.19	2.20	2.19	0.10	2.30	2.29	2.30	2.29	XXX
78760		A	Testicular imaging	0.66	2.96	3.06	2.96	3.06	0.16	3.78	3.88	3.78	3.88	XXX
78760	26	A	Testicular imaging	0.66	0.18	0.29	0.18	0.29	0.03	0.87	0.98	0.87	0.98	XXX
78760	TC	A	Testicular imaging	0.00	2.78	2.77	2.78	2.77	0.13	2.91	2.90	2.91	2.90	XXX
78761		A	Testicular imaging & flow	0.71	3.53	3.64	3.53	3.64	0.19	4.43	4.54	4.43	4.54	XXX
78761	26	A	Testicular imaging & flow	0.71	0.20	0.32	0.20	0.32	0.04	0.95	1.07	0.95	1.07	XXX
78761	TC	A	Testicular imaging & flow	0.00	3.33	3.32	3.33	3.32	0.15	3.48	3.47	3.48	3.47	XXX
78799		C	Genitourinary nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78799	26	C	Genitourinary nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78799	TC	C	Genitourinary nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78800		A	Tumor imaging, limited area	0.66	3.71	3.82	3.71	3.82	0.19	4.56	4.67	4.56	4.67	XXX
78800	26	A	Tumor imaging, limited area	0.66	0.19	0.30	0.19	0.30	0.03	0.88	0.99	0.88	0.99	XXX
78800	TC	A	Tumor imaging, limited area	0.00	3.52	3.52	3.52	3.52	0.16	3.68	3.68	3.68	3.68	XXX
78801		A	Tumor imaging, mult areas	0.79	4.60	4.72	4.60	4.72	0.24	5.63	5.75	5.63	5.75	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
78801	26	A	Tumor imaging, mult areas	0.79	0.22	0.35	0.22	0.35	0.04	1.05	1.18	1.05	1.18	XXX
78801	TC	A	Tumor imaging, mult areas	0.00	4.38	4.37	4.38	4.37	0.20	4.58	4.57	4.58	4.57	XXX
78802		A	Tumor imaging, whole body	0.86	5.98	6.11	5.98	6.11	0.32	7.16	7.29	7.16	7.29	XXX
78802	26	A	Tumor imaging, whole body	0.86	0.24	0.38	0.24	0.38	0.05	1.15	1.29	1.15	1.29	XXX
78802	TC	A	Tumor imaging, whole body	0.00	5.74	5.73	5.74	5.73	0.27	6.01	6.00	6.01	6.00	XXX
78803		A	Tumor imaging (3D)	1.09	7.13	7.26	7.13	7.26	0.36	8.58	8.71	8.58	8.71	XXX
78803	26	A	Tumor imaging (3D)	1.09	0.32	0.47	0.32	0.47	0.05	1.46	1.61	1.46	1.61	XXX
78803	TC	A	Tumor imaging (3D)	0.00	6.81	6.79	6.81	6.79	0.31	7.12	7.10	7.12	7.10	XXX
78805		A	Abscess imaging, ltd area	0.73	3.73	3.84	3.73	3.84	0.20	4.66	4.77	4.66	4.77	XXX
78805	26	A	Abscess imaging, ltd area	0.73	0.21	0.32	0.21	0.32	0.04	0.98	1.09	0.98	1.09	XXX
78805	TC	A	Abscess imaging, ltd area	0.00	3.52	3.52	3.52	3.52	0.16	3.68	3.68	3.68	3.68	XXX
78806		A	Abscess imaging, whole body	0.86	6.91	7.03	6.91	7.03	0.36	8.13	8.25	8.13	8.25	XXX
78806	26	A	Abscess imaging, whole body	0.86	0.24	0.37	0.24	0.37	0.05	1.15	1.28	1.15	1.28	XXX
78806	TC	A	Abscess imaging, whole body	0.00	6.67	6.66	6.67	6.66	0.31	6.98	6.97	6.98	6.97	XXX
78807		A	Nuclear localization/abscess	1.09	7.12	7.26	7.12	7.26	0.36	8.57	8.71	8.57	8.71	XXX
78807	26	A	Nuclear localization/abscess	1.09	0.31	0.47	0.31	0.47	0.05	1.45	1.61	1.45	1.61	XXX
78807	TC	A	Nuclear localization/abscess	0.00	6.81	6.79	6.81	6.79	0.31	7.12	7.10	7.12	7.10	XXX
78810		N	Tumor imaging (PET)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78810	26	N	Tumor imaging (PET)	+1.93	0.73	1.30	0.73	1.30	0.08	2.74	3.31	2.74	3.31	XXX
78810	TC	N	Tumor imaging (PET)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78890		B	Nuclear medicine data proc	+0.05	1.36	1.37	1.36	1.37	0.06	1.47	1.48	1.47	1.48	XXX
78890	26	B	Nuclear medicine data proc	+0.05	0.02	0.02	0.02	0.02	0.00	0.07	0.07	0.07	0.07	XXX
78890	TC	B	Nuclear medicine data proc	+0.00	1.34	1.35	1.34	1.35	0.06	1.40	1.41	1.40	1.41	XXX
78891		B	Nuclear med data proc	+0.10	2.77	2.77	2.77	2.77	0.14	3.01	3.01	3.01	3.01	XXX
78891	26	B	Nuclear med data proc	+0.10	0.04	0.05	0.04	0.05	0.01	0.15	0.16	0.15	0.16	XXX
78891	TC	B	Nuclear med data proc	+0.00	2.73	2.72	2.73	2.72	0.13	2.86	2.85	2.86	2.85	XXX
78990		I	Provide diag radionuclide(s)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78999		C	Nuclear diagnostic exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78999	26	C	Nuclear diagnostic exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78999	TC	C	Nuclear diagnostic exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
79000		A	Intial hyperthyroid therapy	1.80	3.24	3.51	3.24	3.51	0.22	5.26	5.53	5.26	5.53	XXX
79000	26	A	Intial hyperthyroid therapy	1.80	0.51	0.79	0.51	0.79	0.09	2.40	2.68	2.40	2.68	XXX
79000	TC	A	Intial hyperthyroid therapy	0.00	2.73	2.72	2.73	2.72	0.13	2.86	2.85	2.86	2.85	XXX
79001		A	Repeat hyperthyroid therapy	1.05	1.64	1.80	1.64	1.80	0.11	2.80	2.96	2.80	2.96	XXX
79001	26	A	Repeat hyperthyroid therapy	1.05	0.30	0.45	0.30	0.45	0.05	1.40	1.55	1.40	1.55	XXX
79001	TC	A	Repeat hyperthyroid therapy	0.00	1.34	1.35	1.34	1.35	0.06	1.40	1.41	1.40	1.41	XXX
79020		A	Thyroid ablation	1.81	3.22	3.50	3.22	3.50	0.22	5.25	5.53	5.25	5.53	XXX
79020	26	A	Thyroid ablation	1.81	0.49	0.78	0.49	0.78	0.09	2.39	2.68	2.39	2.68	XXX
79020	TC	A	Thyroid ablation	0.00	2.73	2.72	2.73	2.72	0.13	2.86	2.85	2.86	2.85	XXX
79030		A	Thyroid ablation, carcinoma	2.10	3.32	3.63	3.32	3.63	0.24	5.66	5.97	5.66	5.97	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
79030	26	A	Thyroid ablation, carcinoma	2.10	0.59	0.91	0.59	0.91	0.11	2.80	3.12	2.80	3.12	XXX
79030	TC	A	Thyroid ablation, carcinoma	0.00	2.73	2.72	2.73	2.72	0.13	2.86	2.85	2.86	2.85	XXX
79035		A	Thyroid metastatic therapy	2.52	3.45	3.82	3.45	3.82	0.26	6.23	6.60	6.23	6.60	XXX
79035	26	A	Thyroid metastatic therapy	2.52	0.72	1.10	0.72	1.10	0.13	3.37	3.75	3.37	3.75	XXX
79035	TC	A	Thyroid metastatic therapy	0.00	2.73	2.72	2.73	2.72	0.13	2.86	2.85	2.86	2.85	XXX
79100		A	Hematopoetic nuclear therapy	1.32	3.11	3.29	3.11	3.29	0.20	4.63	4.81	4.63	4.81	XXX
79100	26	A	Hematopoetic nuclear therapy	1.32	0.38	0.57	0.38	0.57	0.07	1.77	1.96	1.77	1.96	XXX
79100	TC	A	Hematopoetic nuclear therapy	0.00	2.73	2.72	2.73	2.72	0.13	2.86	2.85	2.86	2.85	XXX
79200		A	Intracavitary nuc treatment	1.99	3.33	3.60	3.33	3.60	0.24	5.56	5.83	5.56	5.83	XXX
79200	26	A	Intracavitary nuc treatment	1.99	0.60	0.88	0.60	0.88	0.11	2.70	2.98	2.70	2.98	XXX
79200	TC	A	Intracavitary nuc treatment	0.00	2.73	2.72	2.73	2.72	0.13	2.86	2.85	2.86	2.85	XXX
79300		C	Interstitial nuclear therapy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
79300	26	A	Interstitial nuclear therapy	1.60	0.42	0.68	0.42	0.68	0.09	2.11	2.37	2.11	2.37	XXX
79300	TC	C	Interstitial nuclear therapy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
79400		A	Nonhemato nuclear therapy	1.96	3.29	3.57	3.29	3.57	0.23	5.48	5.76	5.48	5.76	XXX
79400	26	A	Nonhemato nuclear therapy	1.96	0.56	0.85	0.56	0.85	0.10	2.62	2.91	2.62	2.91	XXX
79400	TC	A	Nonhemato nuclear therapy	0.00	2.73	2.72	2.73	2.72	0.13	2.86	2.85	2.86	2.85	XXX
79420		C	Intravascular nuc therapy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
79420	26	A	Intravascular nuc therapy	1.51	0.41	0.65	0.41	0.65	0.08	2.00	2.24	2.00	2.24	XXX
79420	TC	C	Intravascular nuc therapy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
79440		A	Nuclear joint therapy	1.99	3.29	3.59	3.29	3.59	0.24	5.52	5.82	5.52	5.82	XXX
79440	26	A	Nuclear joint therapy	1.99	0.56	0.87	0.56	0.87	0.11	2.66	2.97	2.66	2.97	XXX
79440	TC	A	Nuclear joint therapy	0.00	2.73	2.72	2.73	2.72	0.13	2.86	2.85	2.86	2.85	XXX
79900		C	Provide ther radiopharm(s)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
79999		C	Nuclear medicine therapy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
79999	26	C	Nuclear medicine therapy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
79999	TC	C	Nuclear medicine therapy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80049		X	Metabolic panel, basic	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80050		N	General health panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80051		X	Electrolyte panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80054		X	Comprehen metabolic panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80055		I	Obstetric panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80058		X	Hepatic function panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80059		X	Hepatitis panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80061		X	Lipid panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80072		X	Arthritis panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80090		X	Torch antibody panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80091		X	Thyroid panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80092		X	Thyroid panel w/TSH	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80100		X	Drug screen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
80101		X	Drug screen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80102		X	Drug confirmation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80103		X	Drug analysis, tissue prep	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80150		X	Assay of amikacin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80152		X	Assay of amitriptyline	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80154		X	Assay of benzodiazepines	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80156		X	Assay carbamazepine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80158		X	Assay of cyclosporine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80160		X	Assay of desipramine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80162		X	Assay for digoxin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80164		X	Assay, dipropylacetic acid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80166		X	Assay of doxepin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80168		X	Assay of ethosuximide	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80170		X	Gentamicin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80172		X	Assay for gold	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80174		X	Assay of imipramine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80176		X	Assay for lidocaine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80178		X	Assay for lithium	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80182		X	Assay for nortriptyline	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80184		X	Assay for phenobarbital	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80185		X	Assay for phenytoin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80186		X	Assay for phenytoin, free	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80188		X	Assay for primidone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80190		X	Assay for procainamide	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80192		X	Assay for procainamide	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80194		X	Assay for quinidine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80196		X	Assay for salicylate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80197		X	Assay for tacrolimus	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80198		X	Assay for theophylline	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80200		X	Assay for tobramycin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80201		X	Assay for topiramate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80202		X	Assay for vancomycin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80299		X	Quantitative assay, drug	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80400		X	Acth stimulation panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80402		X	Acth stimulation panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80406		X	Acth stimulation panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80408		X	Aldosterone suppression eval	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80410		X	Calcitonin stimul panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80412		X	CRH stimulation panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80414		X	Testosterone response	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
80415		X	Estradiol response panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80416		X	Renin stimulation panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80417		X	Renin stimulation panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80418		X	Pituitary evaluation panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80420		X	Dexamethasone panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80422		X	Glucagon tolerance panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80424		X	Glucagon tolerance panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80426		X	Gonadotropin hormone panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80428		X	Growth hormone panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80430		X	Growth hormone panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80432		X	Insulin suppression panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80434		X	Insulin tolerance panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80435		X	Insulin tolerance panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80436		X	Metyrapone panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80438		X	TRH stimulation panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80439		X	TRH stimulation panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80440		X	TRH stimulation panel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80500		A	Lab pathology consultation	0.37	0.20	0.22	0.15	0.20	0.01	0.58	0.60	0.53	0.58	XXX
80502		A	Lab pathology consultation	1.33	0.58	0.42	0.55	0.41	0.02	1.93	1.77	1.90	1.76	XXX
81000		X	Urinalysis, nonauto, w/scope	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
81001		X	Urinalysis, auto, w/scope	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
81002		X	Urinalysis nonauto w/o scope	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
81003		X	Urinalysis, auto, w/o scope	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
81005		X	Urinalysis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
81007		X	Urine screen for bacteria	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
81015		X	Microscopic exam of urine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
81020		X	Urinalysis, glass test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
81025		X	Urine pregnancy test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
81050		X	Urinalysis, volume measure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
81099		X	Urinalysis test procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82000		X	Assay blood acetaldehyde	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82003		X	Assay acetaminophen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82009		X	Test for acetone/ketones	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82010		X	Acetone assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82013		X	Acetylcholinesterase assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82016		X	Acylcarnitines, qual	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82017		X	Acylcarnitines, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82024		X	ACTH	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82030		X	ADP & AMP	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82040		X	Assay serum albumin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
82042		X	Assay urine albumin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82043		X	Microalbumin, quantitative	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82044		X	Microalbumin, semiquant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82055		X	Assay ethanol	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82075		X	Assay breath ethanol	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82085		X	Assay of aldolase	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82088		X	Aldosterone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82101		X	Assay of urine alkaloids	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82103		X	Alpha-1-antitrypsin, total	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82104		X	Alpha-1-antitrypsin, pheno	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82105		X	Alpha-fetoprotein, serum	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82106		X	Alpha-fetoprotein; amniotic	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82108		X	Assay, aluminum	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82127		X	Amino acid, single qual	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82128		X	Amino acids, mult qual	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82130		D	Amino acids analysis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82131		X	Amino acids, single quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82135		X	Assay, aminolevulinic acid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82136		X	Amino acids, 2-5 quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82139		X	Amino acids, 6+ quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82140		X	Assay of ammonia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82143		X	Amniotic fluid scan	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82145		X	Assay of amphetamines	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82150		X	Assay of amylase	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82154		X	Androstanediol glucuronide	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82157		X	Assay of androstenedione	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82160		X	Androsterone assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82163		X	Assay of angiotensin II	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82164		X	Angiotensin I enzyme test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82172		X	Apolipoprotein	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82175		X	Assay of arsenic	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82180		X	Assay of ascorbic acid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82190		X	Atomic absorption	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82205		X	Assay of barbiturates	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82232		X	Beta-2 protein	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82239		X	Bile acids, total	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82240		X	Bile acids, cholylglycine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82247		X	Bilirubin total	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82248		X	Bilirubin direct	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82250		D	Assay bilirubin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
82251		I	Assay bilirubin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82252		X	Fecal bilirubin test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82261		X	Assay biotinidase	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82270		X	Test feces for blood	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82273		X	Test for blood, other source	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82286		X	Assay of bradykinin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82300		X	Assay cadmium	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82306		X	Assay of vitamin D	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82307		X	Assay of vitamin D	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82308		X	Assay of calcitonin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82310		X	Assay calcium	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82330		X	Assay calcium	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82331		X	Calcium infusion test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82340		X	Assay calcium in urine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82355		X	Calculus (stone) analysis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82360		X	Calculus (stone) assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82365		X	Calculus (stone) assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82370		X	X-ray assay,calculus (stone)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82374		X	Assay blood carbon dioxide	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82375		X	Assay blood carbon monoxide	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82376		X	Test for carbon monoxide	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82378		X	Carcinoembryonic antigen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82379		X	Assay carnitine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82380		X	Assay carotene	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82382		X	Assay urine catecholamines	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82383		X	Assay blood catecholamines	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82384		X	Assay three catecholamines	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82387		X	Cathepsin-D	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82390		X	Assay ceruloplasmin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82397		X	Chemiluminescent assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82415		X	Assay chloramphenicol	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82435		X	Assay blood chloride	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82436		X	Assay urine chloride	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82438		X	Assay other fluid chlorides	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82441		X	Test for chlorohydrocarbons	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82465		X	Assay serum cholesterol	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82480		X	Assay serum cholinesterase	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82482		X	Assay rbc cholinesterase	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82485		X	Assay chondroitin sulfate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82486		X	Gas/liquid chromatography	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
82487		X	Paper chromatography	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82488		X	Paper chromatography	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82489		X	Thin layer chromatography	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82491		X	Chromotography, quantitative	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82492		X	Chromotography, quant, mult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82495		X	Assay chromium	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82507		X	Assay citrate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82520		X	Assay for cocaine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82523		X	Collagen crosslinks	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82525		X	Assay copper	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82526		X	Assay corticosterone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82530		X	Cortisol, free	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82533		X	Total cortisol	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82540		X	Assay creatine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82541		X	Column chromotography qual	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82542		X	Column chromotography quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82543		X	Column chromotograph/isotope	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82544		X	Column chromotography quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82550		X	Assay CK (CPK)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82552		X	Assay CPK in blood	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82553		X	Creatine, MB fraction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82554		X	Creatine, isoforms	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82565		X	Assay creatinine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82570		X	Assay urine creatinine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82575		X	Creatinine clearance test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82585		X	Assay cryofibrinogen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82595		X	Assay cryoglobulin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82600		X	Assay cyanide	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82607		X	Vitamin B-12	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82608		X	B-12 binding capacity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82615		X	Test for urine cystines	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82626		X	Dehydroepiandrosterone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82627		X	Dehydroepiandrosterone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82633		X	Desoxycorticosterone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82634		X	Deoxycortisol	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82638		X	Assay dibucaine number	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82646		X	Assay of dihydrocodeinone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82649		X	Assay of dihydromorphinone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82651		X	Dihydrotestosterone assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82652		X	Assay, dihydroxyvitamin D	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
82654		X	Assay of dimethadione	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82657		X	Enzyme cell activity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82658		X	Enzyme cell activity ra	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82664		X	Electrophoretic test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82666		X	Epiandrosterone assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82668		X	Erythropoietin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82670		X	Estradiol	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82671		X	Estrogens assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82672		X	Estrogen assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82677		X	Estriol	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82679		X	Estrone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82690		X	Ethchlorvynol	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82693		X	Ethylene glycol	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82696		X	Etiocholanolone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82705		X	Fats/lipids,feces,qualitativ	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82710		X	Fats/lipids,feces,quantitati	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82715		X	Fecal fat assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82725		X	Assay blood fatty acids	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82726		X	Long chain fatty acids	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82728		X	Assay ferritin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82731		X	Fetal fibronectin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82735		X	Assay fluoride	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82742		X	Assay of flurazepam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82746		X	Blood folic acid serum	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82747		X	Folic acid, RBC	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82757		X	Assay semen fructose	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82759		X	RBC galactokinase assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82760		X	Assay galactose	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82775		X	Assay galactose transferase	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82776		X	Galactose transferase test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82784		X	Assay gammaglobulin IgM	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82785		X	Assay, gammaglobulin IgE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82787		X	IgG1, 2, 3 and 4	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82800		X	Blood pH	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82803		X	Blood gases: pH, pO2 & pCO2	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82805		X	Blood gases W/02 saturation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82810		X	Blood gases, O2 sat only	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82820		X	Hemoglobin-oxygen affinity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82926		X	Assay gastric acid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82928		X	Assay gastric acid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
82938		X	Gastrin test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82941		X	Assay of gastrin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82943		X	Assay of glucagon	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82946		X	Glucagon tolerance test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82947		X	Assay quantitative, glucose	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82948		X	Reagent strip/blood glucose	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82950		X	Glucose test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82951		X	Glucose tolerance test (GTT)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82952		X	GTT-added samples	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82953		X	Glucose-tolbutamide test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82955		X	Assay G6PD enzyme	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82960		X	Test for G6PD enzyme	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82962		X	Glucose blood test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82963		X	Glucosidase assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82965		X	Assay GDH enzyme	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82975		X	Assay glutamine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82977		X	Assay of GGT	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82978		X	Glutathione assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82979		X	Assay RBC glutathione enzyme	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82980		X	Assay of glutethimide	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82985		X	Glycated protein	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83001		X	Gonadotropin (FSH)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83002		X	Gonadotropin (LH)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83003		X	Assay growth hormone (HGH)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83008		X	Assay guanosine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83010		X	Quant assay haptoglobin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83012		X	Assay haptoglobins	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83013		X	H pylori breath test anal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83014		X	H pylori drug admin/collect	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83015		X	Heavy metal screen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83018		X	Quantitative screen, metals	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83019		D	Breath isotope test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83020		X	Hemoglobin electrophoresis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83020	26	A	Hemoglobin electrophoresis	0.37	0.15	0.20	0.15	0.20	0.01	0.53	0.58	0.53	0.58	XXX
83021		X	Hemoglobin chromotography	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83026		X	Hemoglobin, copper sulfate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83030		X	Fetal hemoglobin assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83033		X	Fetal fecal hemoglobin assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83036		X	Glycated hemoglobin test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83045		X	Blood methemoglobin test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
83050		X	Blood methemoglobin assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83051		X	Assay plasma hemoglobin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83055		X	Blood sulfhemoglobin test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83060		X	Blood sulfhemoglobin assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83065		X	Hemoglobin heat assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83068		X	Hemoglobin stability screen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83069		X	Assay urine hemoglobin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83070		X	Qualt assay hemosiderin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83071		X	Quant assay of hemosiderin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83080		X	B hexosaminidase assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83088		X	Assay histamine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83150		X	Assay for HVA	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83491		X	Assay of corticosteroids	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83497		X	Assay 5-HIAA	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83498		X	Assay of progesterone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83499		X	Assay of progesterone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83500		X	Assay free hydroxyproline	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83505		X	Assay total hydroxyproline	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83516		X	Immunoassay, non antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83518		X	Immunoassay, dipstick	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83519		X	Immunoassay nonantibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83520		X	Immunoassay, RIA	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83525		X	Assay of insulin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83527		X	Assay of insulin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83528		X	Assay intrinsic factor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83540		X	Assay iron	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83550		X	Iron binding test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83570		X	Assay IDH enzyme	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83582		X	Assay ketogenic steroids	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83586		X	Assay 17-(17-KS)ketosteroids	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83593		X	Fractionation ketosteroids	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83605		X	Lactic acid assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83615		X	Lactate (LD) (LDH) enzyme	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83625		X	Assay LDH enzymes	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83632		X	Placental lactogen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83633		X	Test urine for lactose	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83634		X	Assay urine for lactose	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83655		X	Assay for lead	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83661		X	Assay L/S ratio	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83662		X	L/S ratio, foam stability	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
83670		X	Assay LAP enzyme	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83690		X	Assay lipase	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83715		X	Assay blood lipoproteins	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83716		X	Assay blood lipoproteins	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83717		D	Assay blood lipoproteins	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83718		X	Blood lipoprotein assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83719		X	Blood lipoprotein assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83721		X	Blood lipoprotein assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83727		X	LRH hormone assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83735		X	Assay magnesium	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83775		X	Assay of md enzyme	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83785		X	Assay of manganese	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83788		X	Mass spectrometry qual	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83789		X	Mass spectrometry quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83805		X	Assay of meprobamate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83825		X	Assay mercury	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83835		X	Assay metanephrines	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83840		X	Assay methadone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83857		X	Assay methemalbumin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83858		X	Assay methsuximide	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83864		X	Mucopolysaccharides	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83866		X	Mucopolysaccharides screen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83872		X	Assay synovial fluid mucin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83873		X	Assay, CSF protein	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83874		X	Myoglobin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83883		X	Nephelometry, not specified	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83885		X	Assay for nickel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83887		X	Assay nicotine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83890		X	Molecule isolate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83891		X	Molecule isolate nucleic	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83892		X	Molecular diagnostics	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83893		X	Molecule dot/slot/blot	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83894		X	Molecule gel electrophor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83896		X	Molecular diagnostics	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83897		X	Molecule nucleic transfer	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83898		X	Molecule nucleic amp	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83901		X	Molecule nucleic amp	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83902		X	Molecular diagnostics	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83903		X	Molecule mutation scan	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83904		X	Molecule mutation identify	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
83905		X	Molecule mutation identify	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83906		X	Molecule mutation identify	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83912		X	Genetic examination	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83912	26	A	Genetic examination	0.37	0.13	0.20	0.15	0.20	0.01	0.51	0.58	0.53	0.58	XXX
83915		X	Assay nucleotidase	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83916		X	Oligoclonal bands	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83918		X	Assay organic acids quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83919		X	Assay organic acids qual	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83925		X	Opiates	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83930		X	Assay blood osmolality	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83935		X	Assay urine osmolality	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83937		X	Assay for osteocalcin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83945		X	Assay oxalate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83970		X	Assay of parathormone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83986		X	Assay body fluid acidity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83992		X	Assay for phencyclidine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84022		X	Assay of phenothiazine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84030		X	Assay blood PKU	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84035		X	Assay phenylketones	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84060		X	Assay acid phosphatase	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84061		X	Phosphatase, forensic exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84066		X	Assay prostate phosphatase	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84075		X	Assay alkaline phosphatase	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84078		X	Assay alkaline phosphatase	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84080		X	Assay alkaline phosphatases	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84081		X	Amniotic fluid enzyme test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84085		X	Assay RBC PG6D enzyme	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84087		X	Assay phosphohexose enzymes	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84100		X	Assay phosphorus	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84105		X	Assay urine phosphorus	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84106		X	Test for porphobilinogen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84110		X	Assay porphobilinogen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84119		X	Test urine for porphyrins	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84120		X	Assay urine porphyrins	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84126		X	Assay feces porphyrins	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84127		X	Porphyrins, feces	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84132		X	Assay serum potassium	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84133		X	Assay urine potassium	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84134		X	Prealbumin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84135		X	Assay pregnanediol	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
84138		X	Assay pregnanetriol	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84140		X	Assay for pregnenolone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84143		X	Assay/17-hydroxypregnenolone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84144		X	Assay progesterone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84146		X	Assay for prolactin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84150		X	Assay of prostaglandin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84153		X	Psa total	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84154		X	Psa free	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84155		X	Assay protein	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84160		X	Assay serum protein	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84165		X	Assay serum proteins	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84165	26	A	Assay serum proteins	0.37	0.15	0.20	0.15	0.20	0.01	0.53	0.58	0.53	0.58	XXX
84181		X	Western blot test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84181	26	A	Western blot test	0.37	0.14	0.20	0.15	0.20	0.01	0.52	0.58	0.53	0.58	XXX
84182		X	Protein, western blot test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84182	26	A	Protein, western blot test	0.37	0.14	0.20	0.15	0.20	0.01	0.52	0.58	0.53	0.58	XXX
84202		X	Assay RBC protoporphyrin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84203		X	Test RBC protoporphyrin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84206		X	Assay of proinsulin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84207		X	Assay vitamin B-6	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84210		X	Assay pyruvate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84220		X	Assay pyruvate kinase	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84228		X	Assay quinine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84233		X	Assay estrogen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84234		X	Assay progesterone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84235		X	Assay endocrine hormone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84238		X	Assay non-endocrine receptor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84244		X	Assay of renin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84252		X	Assay vitamin B-2	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84255		X	Assay selenium	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84260		X	Assay serotonin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84270		X	Sex hormone globulin (SHBG)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84275		X	Assay sialic acid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84285		X	Assay silica	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84295		X	Assay serum sodium	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84300		X	Assay urine sodium	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84305		X	Somatomedin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84307		X	Somatostatin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84311		X	Spectrophotometry	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84315		X	Body fluid specific gravity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
84375		X	Chromatogram assay, sugars	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84376		X	Sugars single qual	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84377		X	Sugars multiple qual	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84378		X	Sugars single quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84379		X	Sugars multiple quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84392		X	Assay urine sulfate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84402		X	Testosterone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84403		X	Assay total testosterone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84425		X	Assay vitamin B-1	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84430		X	Assay thiocyanate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84432		X	Thyroglobulin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84436		X	Assay, total thyroxine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84437		X	Assay neonatal thyroxine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84439		X	Assay, free thyroxine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84442		X	Thyroid activity (TBG) assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84443		X	Assay thyroid stim hormone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84445		X	Thyroid immunoglobulins TSI	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84446		X	Assay vitamin E	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84449		X	Assay for transcortin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84450		X	Transferase (AST) (SGOT)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84460		X	Alanine amino (ALT) (SGPT)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84466		X	Transferrin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84478		X	Assay triglycerides	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84479		X	Assay thyroid (t-3 or t-4)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84480		X	Assay triiodothyronine (t-3)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84481		X	Free assay (FT-3)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84482		X	T3 reverse	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84484		X	Troponin, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84485		X	Assay duodenal fluid trypsin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84488		X	Test feces for trypsin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84490		X	Assay feces for trypsin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84510		X	Assay tyrosine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84512		X	Troponin, qual	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84520		X	Assay urea nitrogen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84525		X	Urea nitrogen semi-quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84540		X	Assay urine urea-N	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84545		X	Urea-N clearance test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84550		X	Assay blood uric acid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84560		X	Assay urine uric acid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84577		X	Assay feces urobilinogen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
84578		X	Test urine urobilinogen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84580		X	Assay urine urobilinogen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84583		X	Assay urine urobilinogen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84585		X	Assay urine VMA	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84586		X	VIP assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84588		X	Assay vasopressin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84590		X	Assay vitamin-A	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84597		X	Assay vitamin-K	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84600		X	Assay for volatiles	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84620		X	Xylose tolerance test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84630		X	Assay zinc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84681		X	Assay C-peptide	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84702		X	Chorionic gonadotropin test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84703		X	Chorionic gonadotropin assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84830		X	Ovulation tests	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84999		X	Clinical chemistry test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85002		X	Bleeding time test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85007		X	Differential WBC count	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85008		X	Nondifferential WBC count	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85009		X	Differential WBC count	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85013		X	Hematocrit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85014		X	Hematocrit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85018		X	Hemoglobin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85021		X	Automated hemogram	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85022		X	Automated hemogram	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85023		X	Automated hemogram	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85024		X	Automated hemogram	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85025		X	Automated hemogram	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85027		X	Automated hemogram	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85029		D	Automated hemogram	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85030		D	Automated hemogram	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85031		X	Manual hemogram,complete cbc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85041		X	Red blood cell (RBC) count	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85044		X	Reticulocyte count	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85045		X	Reticulocyte count	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85046		X	Reticyte, hgb concentrate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85048		X	White blood cell (WBC) count	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85060		A	Blood smear interpretation	0.45	0.67	0.35	0.19	0.23	0.02	1.14	0.82	0.66	0.70	XXX
85095		A	Bone marrow aspiration	1.08	4.16	1.59	0.49	0.67	0.04	5.28	2.71	1.61	1.79	XXX
85097		A	Bone marrow interpretation	0.94	2.61	1.04	0.38	0.49	0.03	3.58	2.01	1.35	1.46	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
85102		A	Bone marrow biopsy	1.37	4.28	1.72	0.60	0.80	0.04	5.69	3.13	2.01	2.21	XXX
85130		X	Chromogenic substrate assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85170		X	Blood clot retraction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85175		X	Blood clot lysis time	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85210		X	Blood clot factor II test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85220		X	Blood clot factor V test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85230		X	Blood clot factor VII test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85240		X	Blood clot factor VIII test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85244		X	Blood clot factor VIII test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85245		X	Blood clot factor VIII test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85246		X	Blood clot factor VIII test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85247		X	Blood clot factor VIII test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85250		X	Blood clot factor IX test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85260		X	Blood clot factor X test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85270		X	Blood clot factor XI test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85280		X	Blood clot factor XII test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85290		X	Blood clot factor XIII test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85291		X	Blood clot factor XIII test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85292		X	Blood clot factor assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85293		X	Blood clot factor assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85300		X	Antithrombin III test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85301		X	Antithrombin III test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85302		X	Blood clot inhibitor antigen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85303		X	Blood clot inhibitor test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85305		X	Blood clot inhibitor assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85306		X	Blood clot inhibitor test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85335		X	Factor inhibitor test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85337		X	Thrombomodulin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85345		X	Coagulation time	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85347		X	Coagulation time	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85348		X	Coagulation time	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85360		X	Euglobulin lysis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85362		X	Fibrin degradation products	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85366		X	Fibrinogen test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85370		X	Fibrinogen test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85378		X	Fibrin degradation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85379		X	Fibrin degradation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85384		X	Fibrinogen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85385		X	Fibrinogen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85390		X	Fibrinolysins screen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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85390	26	A	Fibrinolysins screen	0.37	0.14	0.20	0.14	0.20	0.01	0.52	0.58	0.52	0.58	XXX
85400		X	Fibrinolytic plasmin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85410		X	Fibrinolytic antiplasmin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85415		X	Fibrinolytic plasminogen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85420		X	Fibrinolytic plasminogen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85421		X	Fibrinolytic plasminogen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85441		X	Heinz bodies; direct	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85445		X	Heinz bodies; induced	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85460		X	Hemoglobin, fetal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85461		X	Hemoglobin, fetal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85475		X	Hemolysin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85520		X	Heparin assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85525		X	Heparin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85530		X	Heparin-protamine tolerance	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85535		X	Iron stain, blood cells	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85540		X	Wbc alkaline phosphatase	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85547		X	RBC mechanical fragility	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85549		X	Muramidase	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85555		X	RBC osmotic fragility	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85557		X	RBC osmotic fragility	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85576		X	Blood platelet aggregation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85576	26	A	Blood platelet aggregation	0.37	0.15	0.20	0.15	0.20	0.01	0.53	0.58	0.53	0.58	XXX
85585		X	Blood platelet estimation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85590		X	Platelet manual count	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85595		X	Platelet count, automated	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85597		X	Platelet neutralization	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85610		X	Prothrombin time	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85611		X	Prothrombin test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85612		X	Viper venom prothrombin time	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85613		X	Russell viper venom, diluted	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85635		X	Reptilase test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85651		X	Rbc sed rate, nonauto	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85652		X	Rbc sed rate, auto	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85660		X	RBC sickle cell test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85670		X	Thrombin time, plasma	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85675		X	Thrombin time, titer	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85705		X	Thromboplastin inhibition	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85730		X	Thromboplastin time, partial	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85732		X	Thromboplastin time, partial	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85810		X	Blood viscosity examination	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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85999		X	Hematology procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86000		X	Agglutinins; febrile	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86003		X	Allergen specific IgE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86005		X	Allergen specific IgE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86021		X	WBC antibody identification	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86022		X	Platelet antibodies	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86023		X	Immunoglobulin assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86038		X	Antinuclear antibodies	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86039		X	Antinuclear antibodies (ANA)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86060		X	Antistreptolysin O titer	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86063		X	Antistreptolysin O screen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86077		A	Physician blood bank service	0.94	0.46	0.36	0.38	0.34	0.02	1.42	1.32	1.34	1.30	XXX
86078		A	Physician blood bank service	0.94	0.51	0.41	0.39	0.38	0.02	1.47	1.37	1.35	1.34	XXX
86079		A	Physician blood bank service	0.94	0.50	0.40	0.39	0.37	0.02	1.46	1.36	1.35	1.33	XXX
86140		X	C-reactive protein	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86147		X	Cardiolipin antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86148		X	Phospholipid antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86155		X	Chemotaxis assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86156		X	Cold agglutinin screen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86157		X	Cold agglutinin, titer	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86160		X	Complement, antigen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86161		X	Complement/function activity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86162		X	Complement, total (CH50)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86171		X	Complement fixation, each	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86185		X	Counterimmunoelectrophoresis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86215		X	Deoxyribonuclease, antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86225		X	DNA antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86226		X	DNA antibody, single strand	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86235		X	Nuclear antigen antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86243		X	Fc receptor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86255		X	Fluorescent antibody; screen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86255	26	A	Fluorescent antibody; screen	0.37	0.17	0.21	0.15	0.20	0.01	0.55	0.59	0.53	0.58	XXX
86256		X	Fluorescent antibody; titer	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86256	26	A	Fluorescent antibody; titer	0.37	0.15	0.20	0.15	0.20	0.01	0.53	0.58	0.53	0.58	XXX
86277		X	Growth hormone antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86280		X	Hemagglutination inhibition	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86308		X	Heterophile antibodies	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86309		X	Heterophile antibodies	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86310		X	Heterophile antibodies	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86316		X	Immunoassay, tumor antigen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
86317		X	Immunoassay,infectious agent	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86318		X	Immunoassay,infectious agent	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86320		X	Serum immunoelectrophoresis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86320	26	A	Serum immunoelectrophoresis	0.37	0.17	0.21	0.15	0.20	0.01	0.55	0.59	0.53	0.58	XXX
86325		X	Other immunoelectrophoresis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86325	26	A	Other immunoelectrophoresis	0.37	0.15	0.20	0.15	0.20	0.01	0.53	0.58	0.53	0.58	XXX
86327		X	Immunoelectrophoresis assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86327	26	A	Immunoelectrophoresis assay	0.42	0.15	0.20	0.18	0.21	0.01	0.58	0.63	0.61	0.64	XXX
86329		X	Immunodiffusion	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86331		X	Immunodiffusion ouchterlony	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86332		X	Immune complex assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86334		X	Immunofixation procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86334	26	A	Immunofixation procedure	0.37	0.14	0.20	0.15	0.20	0.01	0.52	0.58	0.53	0.58	XXX
86337		X	Insulin antibodies	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86340		X	Intrinsic factor antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86341		X	Islet cell antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86343		X	Leukocyte histamine release	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86344		X	Leukocyte phagocytosis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86353		X	Lymphocyte transformation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86359		X	T cells, total count	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86360		X	T cell absolute count/ratio	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86361		X	T cell absolute count	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86376		X	Microsomal antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86378		X	Migration inhibitory factor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86382		X	Neutralization test, viral	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86384		X	Nitroblue tetrazolium dye	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86403		X	Particle agglutination test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86406		X	Particle agglutination test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86430		X	Rheumatoid factor test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86431		X	Rheumatoid factor, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86485		C	Skin test, candida	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86490		A	Coccidioidomycosis skin test	0.00	0.31	0.30	0.31	0.30	0.02	0.33	0.32	0.33	0.32	XXX
86510		A	Histoplasmosis skin test	0.00	0.33	0.33	0.33	0.33	0.02	0.35	0.35	0.35	0.35	XXX
86580		A	TB intradermal test	0.00	0.26	0.26	0.26	0.26	0.02	0.28	0.28	0.28	0.28	XXX
86585		A	TB tine test	0.00	0.21	0.21	0.21	0.21	0.01	0.22	0.22	0.22	0.22	XXX
86586		C	Skin test, unlisted	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86588		X	Streptocollus, direct screen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86590		X	Streptokinase, antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86592		X	Blood serology, qualitative	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86593		X	Blood serology, quantitative	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
86602		X	Antinomyces antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86603		X	Adenovirus, antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86606		X	Aspergillus antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86609		X	Bacterium, antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86612		X	Blastomyces, antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86615		X	Bordetella antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86617		X	Lyme disease antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86618		X	Lyme disease antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86619		X	Borrelia antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86622		X	Brucella, antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86625		X	Campylobacter, antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86628		X	Candida, antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86631		X	Chlamydia, antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86632		X	Chlamydia, IgM, antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86635		X	Coccidioides, antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86638		X	Q fever antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86641		X	Cryptococcus antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86644		X	CMV antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86645		X	CMV antibody, IgM	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86648		X	Diphtheria antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86651		X	Encephalitis antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86652		X	Encephalitis antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86653		X	Encephalitis, antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86654		X	Encephalitis, antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86658		X	Enterovirus, antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86663		X	Epstein-barr antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86664		X	Epstein-barr antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86665		X	Epstein-barr, antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86668		X	Francisella tularensis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86671		X	Fungus, antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86674		X	Giardia lamblia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86677		X	Helicobacter pylori	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86682		X	Helminth, antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86684		X	Hemophilus influenza	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86687		X	HTLV I	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86688		X	HTLV-II	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86689		X	HTLV/HIV confirmatory test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86692		X	Hepatitis, delta agent	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86694		X	Herpes simplex test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86695		X	Herpes simplex test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
86698		X	Histoplasma	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86701		X	HIV-1	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86702		X	HIV-2	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86703		X	HIV-1/HIV-2, single assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86704		X	Hep b core ab test, igg & m	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86705		X	Hep b core ab test, igm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86706		X	Hepatitis b surface ab test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86707		X	Hepatitis be ab test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86708		X	Hep a ab test, igg & m	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86709		X	Hep a ab test, igm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86710		X	Influenza virus	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86713		X	Legionella	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86717		X	Leishmania	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86720		X	Leptospira	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86723		X	Listeria monocytogenes	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86727		X	Lymph choriomeningitis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86729		X	Lympho venereum	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86732		X	Mucormycosis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86735		X	Mumps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86738		X	Mycoplasma	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86741		X	Neisseria meningitidis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86744		X	Nocardia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86747		X	Parvovirus	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86750		X	Malaria	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86753		X	Protozoa, not elsewhere	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86756		X	Respiratory virus	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86759		X	Rotavirus	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86762		X	Rubella	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86765		X	Rubeola	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86768		X	Salmonella	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86771		X	Shigella	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86774		X	Tetanus	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86777		X	Toxoplasma	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86778		X	Toxoplasma, IgM	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86781		X	Treponema pallidum confirm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86784		X	Trichinella	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86787		X	Varicella-zoster	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86790		X	Virus, not specified	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86793		X	Yersinia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86800		X	Thyroglobulin antibody	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
86803		X	Hepatitis c ab test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86804		X	Hep c ab test, confirm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86805		X	Lymphocytotoxicity assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86806		X	Lymphocytotoxicity assay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86807		X	Cytotoxic antibody screening	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86808		X	Cytotoxic antibody screening	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86812		X	HLA typing, A, B, or C	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86813		X	HLA typing, A, B, or C	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86816		X	HLA typing, DR/DQ	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86817		X	HLA typing, DR/DQ	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88821		X	Lymphocyte culture, mixed	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86822		X	Lymphocyte culture, primed	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86849		X	Immunology procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86850		X	RBC antibody screen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86860		X	RBC antibody elution	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86870		X	RBC antibody identification	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86880		X	Coombs test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86885		X	Coombs test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86886		X	Coombs test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86890		X	Autologous blood process	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86891		X	Autologous blood, op salvage	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86900		X	Blood typing, ABO	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86901		X	Blood typing, Rh (D)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86903		X	Blood typing, antigen screen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86904		X	Blood typing, patient serum	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86905		X	Blood typing, RBC antigens	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86906		X	Blood typing, Rh phenotype	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86910		N	Blood typing, paternity test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86911		N	Blood typing, antigen system	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86915		X	Bone marrow	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86920		X	Compatibility test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86921		X	Compatibility test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86922		X	Compatibility test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86927		X	Plasma, fresh frozen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86930		X	Frozen blood prep	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86931		X	Frozen blood thaw	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86932		X	Frozen blood, freeze/thaw	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86940		X	Hemolysins/agglutinins auto	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86941		X	Hemolysins/agglutinins	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86945		X	Blood product/irradiation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
86950		X	Leukacyte transfusion	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86965		X	Pooling blood platelets	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86970		X	RBC pretreatment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86971		X	RBC pretreatment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86972		X	RBC pretreatment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86975		X	RBC pretreatment, serum	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86976		X	RBC pretreatment, serum	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86977		X	RBC pretreatment, serum	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86978		X	RBC pretreatment, serum	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86985		X	Split blood or products	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86999		X	Transfusion procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87001		X	Small animal inoculation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87003		X	Small animal inoculation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87015		X	Specimen concentration	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87040		X	Blood culture for bacteria	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87045		X	Stool culture for bacteria	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87060		X	Nose/throat culture,bacteria	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87070		X	Culture specimen, bacteria	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87072		X	Culture of specimen by kit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87075		X	Culture specimen, bacteria	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87076		X	Bacteria identification	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87081		X	Bacteria culture screen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87082		X	Culture of specimen by kit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87083		X	Culture of specimen by kit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87084		X	Culture of specimen by kit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87085		X	Culture of specimen by kit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87086		X	Urine culture, colony count	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87087		X	Urine bacteria culture	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87088		X	Urine bacteria culture	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87101		X	Skin fungus culture	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87102		X	Fungus isolation culture	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87103		X	Blood fungus culture	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87106		X	Fungus identification	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87109		X	Mycoplasma culture	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87110		X	Culture, chlamydia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87116		X	Mycobacteria culture	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87117		X	Mycobacteria culture	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87118		X	Mycobacteria identification	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87140		X	Culture typing, fluorescent	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87143		X	Culture typing, GLC method	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
87145		X	Culture typing, phage method	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87147		X	Culture typing, serologic	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87151		X	Culture typing, serologic	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87155		X	Culture typing, precipitin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87158		X	Culture typing, added method	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87163		X	Special microbiology culture	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87164		X	Dark field examination	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87164	26	A	Dark field examination	0.37	0.11	0.19	0.14	0.20	0.01	0.49	0.57	0.52	0.58	XXX
87166		X	Dark field examination	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87174		X	Endotoxin, bacterial	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87175		X	Assay, endotoxin, bacterial	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87176		X	Endotoxin, bacterial	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87177		X	Ova and parasites smears	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87181		X	Antibiotic sensitivity, each	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87184		X	Antibiotic sensitivity, each	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87186		X	Antibiotic sensitivity, MIC	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87187		X	Antibiotic sensitivity, MBC	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87188		X	Antibiotic sensitivity, each	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87190		X	TB antibiotic sensitivity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87192		X	Antibiotic sensitivity, each	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87197		X	Bactericidal level, serum	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87205		X	Smear, stain & interpret	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87206		X	Smear, stain & interpret	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87207		X	Smear, stain & interpret	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87207	26	A	Smear, stain & interpret	0.37	0.17	0.21	0.15	0.20	0.01	0.55	0.59	0.53	0.58	XXX
87208		X	Smear, stain & interpret	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87210		X	Smear, stain & interpret	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87211		X	Smear, stain & interpret	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87220		X	Tissue exam for fungi	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87230		X	Assay, toxin or antitoxin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87250		X	Virus inoculation for test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87252		X	Virus inoculation for test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87253		X	Virus inoculation for test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87260		X	Adenovirus ag, dfa	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87265		X	Pertussis ag, dfa	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87270		X	Chylmd trach ag, dfa	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87272		X	Cryptosporidum ag, dfa	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87274		X	Herpes simplex ag, dfa	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87276		X	Influenza ag, dfa	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87278		X	Legion pneumo ag, dfa	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
87280		X	Resp syncytial ag, dfa	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87285		X	Trepon pallidum ag, dfa	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87290		X	Varicella ag, dfa	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87299		X	Ag detection nos, dfa	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87301		X	Adenovirus ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87320		X	Chylmd trach ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87324		X	Clostridium ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87328		X	Cryptospor ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87332		X	Cytomegalovirus ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87335		X	E coli 0157 ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87340		X	Hepatitis b surface ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87350		X	Hepatitis b ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87380		X	Hepatitis delta ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87385		X	Histoplasma capsul ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87390		X	Hiv-1 ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87391		X	Hiv-2 ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87420		X	Resp syncytial ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87425		X	Rotavirus ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87430		X	Strep a ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87449		X	Ag detect nos, eia, mult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87450		X	Ag detect nos, eia, single	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87470		X	Bartonella, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87471		X	Bartonella, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87472		X	Bartonella, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87475		X	Lyme dis, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87476		X	Lyme dis, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87477		X	Lyme dis, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87480		X	Candida, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87481		X	Candida, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87482		X	Candida, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87485		X	Chylmd pneum, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87486		X	Chylmd pneum, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87487		X	Chylmd pneum, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87490		X	Chylmd trach, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87491		X	Chylmd trach, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87492		X	Chylmd trach, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87495		X	Cytomeg, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87496		X	Cytomeg, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87497		X	Cytomeg, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87510		X	Gardner vag, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
87511		X	Gardner vag, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87512		X	Gardner vag, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87515		X	Hepatitis b, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87516		X	Hepatitis b , dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87517		X	Hepatitis b , dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87520		X	Hepatitis c , rna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87521		X	Hepatitis c , rna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87522		X	Hepatitis c, rna, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87525		X	Hepatitis g , dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87526		X	Hepatitis g, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87527		X	Hepatitis g, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87528		X	Hsv, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87529		X	Hsv, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87530		X	Hsv, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87531		X	Hhv-6, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87532		X	Hhv-6, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87533		X	Hhv-6, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87534		X	Hiv-1, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87535		X	Hiv-1, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87536		X	Hiv-1, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87537		X	Hiv-2, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87538		X	Hiv-2, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87539		X	Hiv-2, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87540		X	Legion pneumo, dna, dir prob	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87541		X	Legion pneumo, dna, amp prob	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87542		X	Legion pneumo, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87550		X	Mycobacteria, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87551		X	Mycobacteria, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87552		X	Mycobacteria, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87555		X	M.tuberculo, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87556		X	M.tuberculo, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87557		X	M.tuberculo, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87560		X	M.avium-intra, dna, dir prob	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87561		X	M.avium-intra, dna, amp prob	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87562		X	M.avium-intra, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87580		X	M.pneumon, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87581		X	M.pneumon, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87582		X	M.pneumon, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87590		X	N.gonorrhoeae, dna, dir prob	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87591		X	N.gonorrhoeae, dna, amp prob	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
87592		X	N.gonorrhoeae, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87620		X	Hpv, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87621		X	Hpv, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87622		X	Hpv, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87650		X	Strep a, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87651		X	Strep a, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87652		X	Strep a, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87797		X	Detect agent nos, dna, dir	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87798		X	Detect agent nos, dna, amp	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87799		X	Detect agent nos, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87810		X	Chylmd trach assay w/optic	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87850		X	N. gonorrhoeae assay w/optic	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87880		X	Strep a assay w/optic	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87899		X	Agent nos assay w/optic	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87999		X	Microbiology procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88000		N	Autopsy (necropsy), gross	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88005		N	Autopsy (necropsy), gross	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88007		N	Autopsy (necropsy), gross	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88012		N	Autopsy (necropsy), gross	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88014		N	Autopsy (necropsy), gross	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88016		N	Autopsy (necropsy), gross	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88020		N	Autopsy (necropsy), complete	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88025		N	Autopsy (necropsy), complete	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88027		N	Autopsy (necropsy), complete	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88028		N	Autopsy (necropsy), complete	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88029		N	Autopsy (necropsy), complete	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88036		N	Limited autopsy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88037		N	Limited autopsy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88040		N	Forensic autopsy (necropsy)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88045		N	Coroner's autopsy (necropsy)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88099		N	Necropsy (autopsy) procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88104		A	Cytopathology, fluids	0.56	0.46	0.48	0.46	0.48	0.04	1.06	1.08	1.06	1.08	XXX
88104	26	A	Cytopathology, fluids	0.56	0.23	0.25	0.23	0.25	0.02	0.81	0.83	0.81	0.83	XXX
88104	TC	A	Cytopathology, fluids	0.00	0.23	0.23	0.23	0.23	0.02	0.25	0.25	0.25	0.25	XXX
88106		A	Cytopathology, fluids	0.56	0.43	0.41	0.43	0.41	0.03	1.02	1.00	1.02	1.00	XXX
88106	26	A	Cytopathology, fluids	0.56	0.24	0.23	0.24	0.23	0.01	0.81	0.80	0.81	0.80	XXX
88106	TC	A	Cytopathology, fluids	0.00	0.19	0.18	0.19	0.18	0.02	0.21	0.20	0.21	0.20	XXX
88107		A	Cytopathology, fluids	0.76	0.57	0.53	0.57	0.53	0.04	1.37	1.33	1.37	1.33	XXX
88107	26	A	Cytopathology, fluids	0.76	0.32	0.28	0.32	0.28	0.02	1.10	1.06	1.10	1.06	XXX
88107	TC	A	Cytopathology, fluids	0.00	0.25	0.25	0.25	0.25	0.02	0.27	0.27	0.27	0.27	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
88108		A	Cytopath, concentrate tech	0.56	0.49	0.51	0.49	0.51	0.04	1.09	1.11	1.09	1.11	XXX
88108	26	A	Cytopath, concentrate tech	0.56	0.24	0.26	0.24	0.26	0.02	0.82	0.84	0.82	0.84	XXX
88108	TC	A	Cytopath, concentrate tech	0.00	0.25	0.25	0.25	0.25	0.02	0.27	0.27	0.27	0.27	XXX
88125		A	Forensic cytopathology	0.26	0.14	0.13	0.14	0.13	0.00	0.40	0.39	0.40	0.39	XXX
88125	26	A	Forensic cytopathology	0.26	0.10	0.09	0.10	0.09	0.00	0.36	0.35	0.36	0.35	XXX
88125	TC	A	Forensic cytopathology	0.00	0.04	0.04	0.04	0.04	0.00	0.04	0.04	0.04	0.04	XXX
88130		X	Sex chromatin identification	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88140		X	Sex chromatin identification	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88141		A	Cytpath c/vag interpret	0.42	1.17	0.56	0.18	0.31	0.03	1.62	1.01	0.63	0.76	ZZZ
88142		X	Cytpath c/vag t/layer	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88143		X	Cytpath c/vag t/layer redo	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88144		X	Cytpathc/vagt/layerauto redo	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88145		X	Cytpath c/vag t/layer select	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88147		X	Cytpath c/vag automated	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88148		X	Cytpath c/vag auto rescreen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88150		X	Cytpath c/vag manuel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88152		X	Cytpath c/vag auto redo	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88153		X	Cytpath c/vag redo	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88154		X	Cytpath c/vag select	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88155		X	Cytpath c/vag index add-on	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ
88156		D	Cytopath cerv/vag tbs	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88158		D	Cytopath cerv/vag tbs auto	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88160		A	Cytopath smear, other source	0.50	0.38	0.36	0.38	0.36	0.03	0.91	0.89	0.91	0.89	XXX
88160	26	A	Cytopath smear, other source	0.50	0.21	0.19	0.21	0.19	0.01	0.72	0.70	0.72	0.70	XXX
88160	TC	A	Cytopath smear, other source	0.00	0.17	0.17	0.17	0.17	0.02	0.19	0.19	0.19	0.19	XXX
88161		A	Cytopath smear, other source	0.50	0.42	0.43	0.42	0.43	0.03	0.95	0.96	0.95	0.96	XXX
88161	26	A	Cytopath smear, other source	0.50	0.21	0.22	0.21	0.22	0.01	0.72	0.73	0.72	0.73	XXX
88161	TC	A	Cytopath smear, other source	0.00	0.21	0.21	0.21	0.21	0.02	0.23	0.23	0.23	0.23	XXX
88162		A	Cytopath smear, other source	0.78	0.73	0.82	0.73	0.82	0.04	1.53	1.62	1.53	1.62	XXX
88162	26	A	Cytopath smear, other source	0.76	0.32	0.41	0.32	0.41	0.02	1.10	1.19	1.10	1.19	XXX
88162	TC	A	Cytopath smear, other source	0.00	0.41	0.41	0.41	0.41	0.02	0.43	0.43	0.43	0.43	XXX
88164		X	Cytpath tbs c/vag manual	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88165		X	Cytpath tbs c/vag redo	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88166		X	Cytpath tbs c/vag auto redo	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88167		X	Cytpath tbs c/vag select	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88170		A	Fine needle aspiration	1.27	1.03	1.06	1.03	1.06	0.07	2.37	2.40	2.37	2.40	XXX
88170	26	A	Fine needle aspiration	1.27	0.52	0.55	0.52	0.55	0.04	1.83	1.86	1.83	1.86	XXX
88170	TC	A	Fine needle aspiration	0.00	0.51	0.51	0.51	0.51	0.03	0.54	0.54	0.54	0.54	XXX
88171		A	Fine needle aspiration	1.27	1.13	1.38	1.13	1.38	0.07	2.47	2.72	2.47	2.72	XXX
88171	26	A	Fine needle aspiration	1.27	0.43	0.69	0.43	0.69	0.04	1.74	2.00	1.74	2.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
88171	TC	A	Fine needle aspiration	0.00	0.70	0.69	0.70	0.69	0.03	0.73	0.72	0.73	0.72	XXX
88172		A	Evaluation of smear	0.60	0.63	0.74	0.63	0.74	0.04	1.27	1.38	1.27	1.38	XXX
88172	26	A	Evaluation of smear	0.60	0.25	0.36	0.25	0.36	0.02	0.87	0.98	0.87	0.98	XXX
88172	TC	A	Evaluation of smear	0.00	0.38	0.38	0.38	0.38	0.02	0.40	0.40	0.40	0.40	XXX
88173		A	Interpretation of smear	1.39	1.03	0.97	1.03	0.97	0.04	2.46	2.40	2.46	2.40	XXX
88173	26	A	Interpretation of smear	1.39	0.58	0.51	0.58	0.51	0.02	1.99	1.92	1.99	1.92	XXX
88173	TC	A	Interpretation of smear	0.00	0.45	0.46	0.45	0.46	0.02	0.47	0.48	0.47	0.48	XXX
88180		A	Cell marker study	0.36	0.31	0.34	0.31	0.34	0.03	0.70	0.73	0.70	0.73	XXX
88180	26	A	Cell marker study	0.36	0.14	0.17	0.14	0.17	0.01	0.51	0.54	0.51	0.54	XXX
88180	TC	A	Cell marker study	0.00	0.17	0.17	0.17	0.17	0.02	0.19	0.19	0.19	0.19	XXX
88182		A	Cell marker study	0.77	0.80	0.93	0.80	0.93	0.05	1.62	1.75	1.62	1.75	XXX
88182	26	A	Cell marker study	0.77	0.32	0.45	0.32	0.45	0.02	1.11	1.24	1.11	1.24	XXX
88182	TC	A	Cell marker study	0.00	0.48	0.48	0.48	0.48	0.03	0.51	0.51	0.51	0.51	XXX
88199		C	Cytopathology procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88199	26	C	Cytopathology procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88199	TC	C	Cytopathology procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88230		X	Tissue culture, lymphocyte	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88233		X	Tissue culture, skin/biopsy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88235		X	Tissue culture, placenta	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88237		X	Tissue culture, bone marrow	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88239		X	Tissue culture, tumor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88240		X	Cell cryopreserve/storage	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88241		X	Frozen cell preparation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88245		X	Chromosome analysis, 20-25	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88248		X	Chromosome analysis, 50-100	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88249		X	Chromosome analysis, 100	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88250		D	Chromosome analysis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88260		D	Chromosome analysis: 5 cells	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88261		X	Chromosome analysis, 5	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88262		X	Chromosome analysis, 15-20	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88263		X	Chromosome analysis, 45	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88264		X	Chromosome analysis, 20-25	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88267		X	Chromosome analysis:placenta	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88269		X	Chromosome analysis:amniotic	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88271		X	Cytogenetics, dna probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88272		X	Cytogenetics, 3-5	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88273		X	Cytogenetics, 10-30	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88274		X	Cytogenetics, 25-99	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88275		X	Cytogenetics, 100-300	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88280		X	Chromosome karyotype study	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
88283		X	Chromosome banding study	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88285		X	Chromosome count: additional	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88289		X	Chromosome study: additional	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88291		A	Cyto/molecular report	0.52	0.21	0.21	0.21	0.21	0.01	0.74	0.74	0.74	0.74	XXX
88299		C	Cytogenetic study	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88300		A	Surg path, gross	0.08	0.14	0.20	0.14	0.20	0.01	0.23	0.29	0.23	0.29	XXX
88300	26	A	Surg path, gross	0.08	0.03	0.09	0.03	0.09	0.01	0.12	0.18	0.12	0.18	XXX
88300	TC	A	Surg path, gross	0.00	0.11	0.11	0.11	0.11	0.00	0.11	0.11	0.11	0.11	XXX
88302		A	Tissue exam by pathologist	0.13	0.30	0.40	0.30	0.40	0.04	0.47	0.57	0.47	0.57	XXX
88302	26	A	Tissue exam by pathologist	0.13	0.05	0.15	0.05	0.15	0.02	0.20	0.30	0.20	0.30	XXX
88302	TC	A	Tissue exam by pathologist	0.00	0.25	0.25	0.25	0.25	0.02	0.27	0.27	0.27	0.27	XXX
88304		A	Tissue exam by pathologist	0.22	0.45	0.58	0.45	0.58	0.04	0.71	0.84	0.71	0.84	XXX
88304	26	A	Tissue exam by pathologist	0.22	0.09	0.22	0.09	0.22	0.02	0.33	0.46	0.33	0.46	XXX
88304	TC	A	Tissue exam by pathologist	0.00	0.36	0.36	0.36	0.36	0.02	0.38	0.38	0.38	0.38	XXX
88305		A	Tissue exam by pathologist	0.75	0.87	1.06	0.87	1.06	0.06	1.68	1.87	1.68	1.87	XXX
88305	26	A	Tissue exam by pathologist	0.75	0.32	0.52	0.32	0.52	0.03	1.10	1.30	1.10	1.30	XXX
88305	TC	A	Tissue exam by pathologist	0.00	0.55	0.54	0.55	0.54	0.03	0.58	0.57	0.58	0.57	XXX
88307		A	Tissue exam by pathologist	1.59	1.47	1.60	1.47	1.60	0.10	3.16	3.29	3.16	3.29	XXX
88307	26	A	Tissue exam by pathologist	1.59	0.66	0.80	0.66	0.80	0.05	2.30	2.44	2.30	2.44	XXX
88307	TC	A	Tissue exam by pathologist	0.00	0.81	0.80	0.81	0.80	0.05	0.86	0.85	0.86	0.85	XXX
88309		A	Tissue exam by pathologist	2.28	1.95	2.05	1.95	2.05	0.10	4.33	4.43	4.33	4.43	XXX
88309	26	A	Tissue exam by pathologist	2.28	0.94	1.04	0.94	1.04	0.05	3.27	3.37	3.27	3.37	XXX
88309	TC	A	Tissue exam by pathologist	0.00	1.01	1.01	1.01	1.01	0.05	1.06	1.06	1.06	1.06	XXX
88311		A	Decalcify tissue	0.24	0.21	0.23	0.21	0.23	0.01	0.46	0.48	0.46	0.48	XXX
88311	26	A	Decalcify tissue	0.24	0.10	0.12	0.10	0.12	0.01	0.35	0.37	0.35	0.37	XXX
88311	TC	A	Decalcify tissue	0.00	0.11	0.11	0.11	0.11	0.00	0.11	0.11	0.11	0.11	XXX
88312		A	Special stains	0.54	0.36	0.30	0.36	0.30	0.01	0.91	0.85	0.91	0.85	XXX
88312	26	A	Special stains	0.54	0.23	0.17	0.23	0.17	0.01	0.78	0.72	0.78	0.72	XXX
88312	TC	A	Special stains	0.00	0.13	0.13	0.13	0.13	0.00	0.13	0.13	0.13	0.13	XXX
88313		A	Special stains	0.24	0.21	0.23	0.21	0.23	0.01	0.46	0.48	0.46	0.48	XXX
88313	26	A	Special stains	0.24	0.10	0.12	0.10	0.12	0.01	0.35	0.37	0.35	0.37	XXX
88313	TC	A	Special stains	0.00	0.11	0.11	0.11	0.11	0.00	0.11	0.11	0.11	0.11	XXX
88314		A	Histochemical stain	0.45	0.48	0.62	0.48	0.62	0.04	0.97	1.11	0.97	1.11	XXX
88314	26	A	Histochemical stain	0.45	0.19	0.33	0.19	0.33	0.02	0.66	0.80	0.66	0.80	XXX
88314	TC	A	Histochemical stain	0.00	0.29	0.29	0.29	0.29	0.02	0.31	0.31	0.31	0.31	XXX
88318		A	Chemical histochemistry	0.42	0.31	0.27	0.31	0.27	0.01	0.74	0.70	0.74	0.70	XXX
88318	26	A	Chemical histochemistry	0.42	0.18	0.14	0.18	0.14	0.01	0.61	0.57	0.61	0.57	XXX
88318	TC	A	Chemical histochemistry	0.00	0.13	0.13	0.13	0.13	0.00	0.13	0.13	0.13	0.13	XXX
88319		A	Enzyme histochemistry	0.53	0.47	0.52	0.47	0.52	0.04	1.04	1.09	1.04	1.09	XXX
88319	26	A	Enzyme histochemistry	0.53	0.22	0.27	0.22	0.27	0.02	0.77	0.82	0.77	0.82	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
88319	TC	A	Enzyme histochemistry	0.00	0.25	0.25	0.25	0.25	0.02	0.27	0.27	0.27	0.27	XXX
88321		A	Microslide consultation	1.30	0.95	0.57	0.54	0.47	0.02	2.27	1.89	1.86	1.79	XXX
88323		A	Microslide consultation	1.35	0.93	0.82	0.93	0.82	0.04	2.32	2.21	2.32	2.21	XXX
88323	26	A	Microslide consultation	1.35	0.57	0.46	0.57	0.46	0.02	1.94	1.83	1.94	1.83	XXX
88323	TC	A	Microslide consultation	0.00	0.36	0.36	0.36	0.36	0.02	0.38	0.38	0.38	0.38	XXX
88325		A	Comprehensive review of data	2.22	1.21	0.69	0.91	0.61	0.03	3.46	2.94	3.16	2.86	XXX
88329		A	Pathology consult in surgery	0.67	0.37	0.39	0.28	0.37	0.02	1.06	1.08	0.97	1.06	XXX
88331		A	Pathology consult in surgery	1.19	1.09	1.17	1.09	1.17	0.06	2.34	2.42	2.34	2.42	XXX
88331	26	A	Pathology consult in surgery	1.19	0.50	0.58	0.50	0.58	0.03	1.72	1.80	1.72	1.80	XXX
88331	TC	A	Pathology consult in surgery	0.00	0.59	0.59	0.59	0.59	0.03	0.62	0.62	0.62	0.62	XXX
88332		A	Pathology consult in surgery	0.59	0.54	0.59	0.54	0.59	0.04	1.17	1.22	1.17	1.22	XXX
88332	26	A	Pathology consult in surgery	0.59	0.25	0.30	0.25	0.30	0.02	0.86	0.91	0.86	0.91	XXX
88332	TC	A	Pathology consult in surgery	0.00	0.29	0.29	0.29	0.29	0.02	0.31	0.31	0.31	0.31	XXX
88342		A	Immunocytochemistry	0.85	0.69	0.70	0.69	0.70	0.04	1.58	1.59	1.58	1.59	XXX
88342	26	A	Immunocytochemistry	0.85	0.35	0.36	0.35	0.36	0.02	1.22	1.23	1.22	1.23	XXX
88342	TC	A	Immunocytochemistry	0.00	0.34	0.34	0.34	0.34	0.02	0.36	0.36	0.36	0.36	XXX
88346		A	Immunofluorescent study	0.86	0.64	0.63	0.64	0.63	0.04	1.54	1.53	1.54	1.53	XXX
88346	26	A	Immunofluorescent study	0.86	0.35	0.34	0.35	0.34	0.02	1.23	1.22	1.23	1.22	XXX
88346	TC	A	Immunofluorescent study	0.00	0.29	0.29	0.29	0.29	0.02	0.31	0.31	0.31	0.31	XXX
88347		A	Immunofluorescent study	0.86	0.63	0.50	0.63	0.50	0.04	1.53	1.40	1.53	1.40	XXX
88347	26	A	Immunofluorescent study	0.86	0.34	0.21	0.34	0.21	0.02	1.22	1.09	1.22	1.09	XXX
88347	TC	A	Immunofluorescent study	0.00	0.29	0.29	0.29	0.29	0.02	0.31	0.31	0.31	0.31	XXX
88348		A	Electron microscopy	1.51	1.81	2.30	1.81	2.30	0.12	3.44	3.93	3.44	3.93	XXX
88348	26	A	Electron microscopy	1.51	0.62	1.12	0.62	1.12	0.06	2.19	2.69	2.19	2.69	XXX
88348	TC	A	Electron microscopy	0.00	1.19	1.18	1.19	1.18	0.06	1.25	1.24	1.25	1.24	XXX
88349		A	Scanning electron microscopy	0.76	1.15	1.55	1.15	1.55	0.10	2.01	2.41	2.01	2.41	XXX
88349	26	A	Scanning electron microscopy	0.76	0.32	0.73	0.32	0.73	0.05	1.13	1.54	1.13	1.54	XXX
88349	TC	A	Scanning electron microscopy	0.00	0.83	0.82	0.83	0.82	0.05	0.88	0.87	0.88	0.87	XXX
88355		A	Analysis, skeletal muscle	1.85	1.62	1.82	1.62	1.82	0.10	3.57	3.77	3.57	3.77	XXX
88355	26	A	Analysis, skeletal muscle	1.85	0.73	0.93	0.73	0.93	0.05	2.63	2.83	2.63	2.83	XXX
88355	TC	A	Analysis, skeletal muscle	0.00	0.89	0.89	0.89	0.89	0.05	0.94	0.94	0.94	0.94	XXX
88356		A	Analysis, nerve	3.02	2.56	2.81	2.56	2.81	0.14	5.72	5.97	5.72	5.97	XXX
88356	26	A	Analysis, nerve	3.02	1.19	1.43	1.19	1.43	0.08	4.29	4.53	4.29	4.53	XXX
88356	TC	A	Analysis, nerve	0.00	1.37	1.38	1.37	1.38	0.06	1.43	1.44	1.43	1.44	XXX
88358		A	Analysis, tumor	2.82	2.43	2.50	2.43	2.50	0.12	5.37	5.44	5.37	5.44	XXX
88358	26	A	Analysis, tumor	2.82	1.17	1.24	1.17	1.24	0.06	4.05	4.12	4.05	4.12	XXX
88358	TC	A	Analysis, tumor	0.00	1.26	1.26	1.26	1.26	0.06	1.32	1.32	1.32	1.32	XXX
88362		A	Nerve teasing preparations	2.17	1.92	2.09	1.92	2.09	0.10	4.19	4.36	4.19	4.36	XXX
88362	26	A	Nerve teasing preparations	2.17	0.87	1.04	0.87	1.04	0.05	3.09	3.26	3.09	3.26	XXX
88362	TC	A	Nerve teasing preparations	0.00	1.05	1.05	1.05	1.05	0.05	1.10	1.10	1.10	1.10	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
88365		A	Tissue hybridization	0.93	0.78	0.80	0.78	0.80	0.04	1.75	1.77	1.75	1.77	XXX
88365	26	A	Tissue hybridization	0.93	0.38	0.40	0.38	0.40	0.02	1.33	1.35	1.33	1.35	XXX
88365	TC	A	Tissue hybridization	0.00	0.40	0.40	0.40	0.40	0.02	0.42	0.42	0.42	0.42	XXX
88371		X	Protein, western blot tissue	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88371	26	A	Protein, western blot tissue	0.37	0.11	0.19	0.14	0.20	0.01	0.49	0.57	0.52	0.58	XXX
88372		X	Protein analysis w/probe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88372	26	A	Protein analysis w/probe	0.37	0.14	0.20	0.15	0.20	0.01	0.52	0.58	0.53	0.58	XXX
88399		C	Surgical pathology procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88399	26	C	Surgical pathology procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88399	TC	C	Surgical pathology procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89050		X	Body fluid cell count	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89051		X	Body fluid cell count	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89060		X	Exam,synovial fluid crystals	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89060	26	A	Exam,synovial fluid crystals	0.37	0.17	0.21	0.15	0.20	0.01	0.55	0.59	0.53	0.58	XXX
89100		A	Sample intestinal contents	0.60	0.97	0.59	0.28	0.42	0.02	1.59	1.21	0.90	1.04	XXX
89105		A	Sample intestinal contents	0.50	2.79	1.01	0.23	0.37	0.02	3.31	1.53	0.75	0.89	XXX
89125		X	Specimen fat stain	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89130		A	Sample stomach contents	0.45	1.37	0.67	0.25	0.39	0.02	1.84	1.14	0.72	0.86	XXX
89132		A	Sample stomach contents	0.19	1.43	0.52	0.12	0.19	0.02	1.64	0.73	0.33	0.40	XXX
89135		A	Sample stomach contents	0.79	0.80	0.67	0.31	0.55	0.03	1.62	1.49	1.13	1.37	XXX
89136		A	Sample stomach contents	0.21	1.51	0.56	0.15	0.22	0.02	1.74	0.79	0.38	0.45	XXX
89140		A	Sample stomach contents	0.94	1.32	0.99	0.37	0.75	0.05	2.31	1.98	1.36	1.74	XXX
89141		A	Sample stomach contents	0.85	1.78	1.04	0.35	0.68	0.05	2.68	1.94	1.25	1.58	XXX
89160		X	Exam feces for meat fibers	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89190		X	Nasal smear for eosinophils	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89250		X	Fertilization of oocyte	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89251		X	Culture oocyte w/embryos	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89252		X	Assist oocyte fertilization	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89253		X	Embryo hatching	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89254		X	Oocyte identification	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89255		X	Prepare embryo for transfer	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89256		X	Prepare cryopreserved embryo	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89257		X	Sperm identification	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89258		X	Cryopreservation, embryo	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89259		X	Cryopreservation, sperm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89260		X	Sperm isolation, simple	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89261		X	Sperm isolation, complex	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89264		X	Sperm tissue identify	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89300		X	Semen analysis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89310		X	Semen analysis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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89320		X	Semen analysis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89325		X	Sperm antibody test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89329		X	Sperm evaluation test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89330		X	Evaluation, cervical mucus	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89350		A	Sputum specimen collection	0.00	0.43	0.42	0.43	0.42	0.02	0.45	0.44	0.45	0.44	XXX
89355		X	Exam feces for starch	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89360		A	Collect sweat for test	0.00	0.46	0.47	0.46	0.47	0.02	0.48	0.49	0.48	0.49	XXX
89365		X	Water load test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89399		C	Pathology lab procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89399	26	C	Pathology lab procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89399	TC	C	Pathology lab procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90281		I	Human ig, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90283		I	Human ig, iv	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90287		I	Botulinum antitoxin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90288		I	Botulism ig, iv	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90291		I	Cmv ig, iv	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90296		E	Diphtheria antitoxin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90371		X	Hepb ig, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90375		E	Rabies ig, im/sc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90376		E	Rabies ig, heat treated	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90379		E	Rsv ig, iv	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90384		I	Rh ig, full-dose, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90385		E	Rh ig, minidose, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90386		I	Rh ig, iv	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90389		E	Tetanus ig, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90393		E	Vaccina ig, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90396		E	Varicella-zoster ig, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90399		I	Immune globulin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90471		E	Immunization admin, single	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90472		E	Immunization admin, 2+	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90476		E	Adenovirus vaccine, type 4	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90477		E	Adenovirus vaccine, type 7	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90581		E	Anthrax vaccine, sc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90585		E	Bcg vaccine, percut	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90586		E	Bcg vaccine, intravesical	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90592		E	Cholera vaccine, oral	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90632		E	Hepa vaccine adult im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90633		E	Hepa vaccine ped/adol-2 dose	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90634		E	Hepa vaccine ped/adol-3 dose	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90636		E	Hepa/hepb vaccine adult im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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90645		E	Hib vaccine, hboc, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90646		E	Hib vaccine, prp-d, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90647		E	Hib vaccine, prp-omp, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90648		E	Hib vaccine, prp-t, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90657		X	Flu vaccine, 6-35 mo, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90658		X	Flu vaccine, 3 yrs, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90659		X	Flu vaccine, whole, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90660		X	Flu vaccine, nasal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90665		E	Lyme disease vaccine, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90669		X	Pneumococcal vaccine, ped	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90675		E	Rabies vaccine, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90676		E	Rabies vaccine, id	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90680		E	Rotovirus vaccine, oral	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90690		E	Typhoid vaccine, oral	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90691		E	Typhoid vaccine, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90692		E	Typhoid vaccine, h-p, sc/id	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90693		E	Typhoid vaccine, akd, sc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90700		E	Dtap vaccine, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90701		E	Dtp vaccine, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90702		E	Dt vaccine, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90703		E	Tetanus vaccine, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90704		E	Mumps vaccine, sc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90705		E	Measles vaccine, sc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90706		E	Rubella vaccine, sc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90707		E	Mmr vaccine, sc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90708		E	Measles-rubella vaccine sc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90709		E	Rubella & mumps vaccine sc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90710		E	Mmrv vaccine, sc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90711		D	Combined vaccine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90712		E	Oral poliovirus vaccine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90713		E	Poliovirus, ipv, sc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90714		D	Typhoid immunization	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90716		E	Chicken pox vaccine, sc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90717		E	Yellow fever vaccine, sc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90718		E	Td vaccine, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90719		E	Diphtheria vaccine, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90720		E	Dtp/hib vaccine, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90721		E	Dtap/hib vaccine, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90724		D	Influenza immunization	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90725		E	Cholera vaccine, injectable	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
90726		D	Rabies immunization	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90727		E	Plague vaccine, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90728		D	BCG immunization	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90730		D	Hepatitis A vaccine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90732		X	Pneumococcal vaccine, adult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90733		E	Meningococcal vaccine, sc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90735		E	Encephalitis vaccine, sc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90737		D	Influenza B immunization	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90741		D	Passive immunization, ISG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90742		D	Special passive immunization	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90744		X	Hepb vaccine, ped/adol, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90745		X	Hepb vaccine, adol/risk, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90746		X	Hepb vaccine, adult, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90747		X	Hepb vaccine, ill pat, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90748		E	Hepb/hib vaccine, im	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90749		E	Vaccine toxoid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90780		A	IV infusion therapy, 1 hour	0.00	1.18	1.15	1.16	1.15	0.06	1.22	1.21	1.22	1.21	XXX
90781		A	IV infusion, additional hour	0.00	0.58	0.58	0.58	0.58	0.03	0.61	0.61	0.61	0.61	ZZZ
90782		T	Injection (SC)/(IM)	0.00	0.11	0.11	0.11	0.11	0.01	0.12	0.12	0.12	0.12	XXX
90783		T	Injection (IA)	0.00	0.43	0.42	0.43	0.42	0.02	0.45	0.44	0.45	0.44	XXX
90784		T	Injection (IV)	0.00	0.49	0.49	0.49	0.49	0.03	0.52	0.52	0.52	0.52	XXX
90788		T	Injection of antibiotic	0.00	0.12	0.12	0.12	0.12	0.01	0.13	0.13	0.13	0.13	XXX
90799		C	Therapeutic/diag injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90801		A	Psy dx interview	2.80	1.05	0.81	1.03	0.81	0.07	3.92	3.68	3.90	3.68	XXX
90802		A	Intac psy dx interview	3.01	1.17	0.60	1.12	0.59	0.04	4.22	3.65	4.17	3.64	XXX
90804		A	Psytx, office (20-30)	1.21	0.50	0.41	0.45	0.40	0.04	1.75	1.66	1.70	1.65	XXX
90805		A	Psytx, office (20-30) w/e&m	1.37	0.51	0.41	0.51	0.41	0.04	1.92	1.82	1.92	1.82	XXX
90806		A	Psytx, office (45-50)	1.86	0.75	0.63	0.70	0.62	0.06	2.67	2.55	2.62	2.54	XXX
90807		A	Psytx, office (45-50) w/e&m	2.02	0.70	0.62	0.73	0.63	0.06	2.78	2.70	2.81	2.71	XXX
90808		A	Psytx, office (75-80)	2.79	1.09	1.13	0.99	1.10	0.12	4.00	4.04	3.90	4.01	XXX
90809		A	Psytx, office (75-80) w/e&m	2.95	1.01	1.11	1.03	1.11	0.12	4.08	4.18	4.10	4.18	XXX
90810		A	Intac psytx, office (20-30)	1.32	0.53	0.61	0.50	0.61	0.07	1.92	2.00	1.89	2.00	XXX
90811		A	Intac psytx, off 20-30 w/e&m	1.48	0.54	0.62	0.52	0.61	0.07	2.09	2.17	2.07	2.16	XXX
90812		A	Intac psytx, office (45-50)	1.97	0.83	0.69	0.71	0.66	0.07	2.87	2.73	2.75	2.70	XXX
90813		A	Intac psytx, off 45-50 w/e&m	2.13	0.74	0.67	0.73	0.66	0.07	2.94	2.87	2.93	2.86	XXX
90814		A	Intac psytx, office (75-80)	2.90	1.17	0.77	1.14	0.77	0.07	4.14	3.74	4.11	3.74	XXX
90815		A	Intac psytx, off 75-80 w/e&m	3.06	1.08	0.75	1.11	0.76	0.07	4.21	3.88	4.24	3.89	XXX
90816		A	Psytx, hosp (20-30)	1.25	0.56	0.43	0.52	0.42	0.04	1.85	1.72	1.81	1.71	XXX
90817		A	Psytx, hosp (20-30) w/e&m	1.41	0.54	0.42	0.51	0.41	0.04	1.99	1.87	1.96	1.86	XXX
90818		A	Psytx, hosp (45-50)	1.89	0.79	0.64	0.73	0.63	0.06	2.74	2.59	2.68	2.58	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
90819		A	Psytx, hosp (45-50) w/e&m	2.05	0.77	0.64	0.69	0.62	0.06	2.88	2.75	2.80	2.73	XXX
90821		A	Psytx, hosp (75-80)	2.83	1.14	1.14	1.02	1.11	0.12	4.09	4.09	3.97	4.06	XXX
90822		A	Psytx, hosp (75-80) w/e&m	2.99	1.07	1.12	0.99	1.10	0.12	4.18	4.23	4.10	4.21	XXX
90823		A	Intac psytx, hosp (20-30)	1.36	0.64	0.64	0.56	0.62	0.07	2.07	2.07	1.99	2.05	XXX
90824		A	Intac psytx, hsp 20-30 w/e&m	1.52	0.59	0.63	0.56	0.62	0.07	2.18	2.22	2.15	2.21	XXX
90826		A	Intac psytx, hosp (45-50)	2.01	0.86	0.70	0.80	0.68	0.07	2.96	2.78	2.88	2.76	XXX
90827		A	Intac psytx, hsp 45-50 w/e&m	2.16	0.80	0.68	0.75	0.67	0.07	3.03	2.91	2.98	2.90	XXX
90828		A	Intac psytx, hosp (75-80)	2.94	1.26	0.80	1.09	0.75	0.07	4.27	3.81	4.10	3.76	XXX
90829		A	Intac psytx, hsp 75-80 w/e&m	3.10	1.08	0.75	1.05	0.74	0.07	4.25	3.92	4.22	3.91	XXX
90845		A	Psychoanalysis	1.79	0.64	0.49	0.58	0.48	0.04	2.47	2.32	2.41	2.31	XXX
90846		R	Family psytx w/o patient	1.83	0.72	0.68	0.66	0.67	0.06	2.61	2.57	2.55	2.56	XXX
90847		R	Family psytx w/patient	2.21	0.83	0.68	0.79	0.67	0.06	3.10	2.95	3.06	2.94	XXX
90849		R	Multiple family group psytx	0.59	0.33	0.29	0.31	0.29	0.02	0.94	0.90	0.92	0.90	XXX
90853		A	Group psychotherapy	0.59	0.31	0.29	0.29	0.28	0.02	0.92	0.90	0.90	0.89	XXX
90857		A	Intac group psytx	0.63	0.32	0.20	0.32	0.20	0.02	0.97	0.85	0.97	0.85	XXX
90862		A	Medication management	0.95	0.37	0.39	0.35	0.39	0.04	1.36	1.38	1.34	1.38	XXX
90865		A	Narcosynthesis	2.84	4.43	1.51	0.86	0.62	0.05	7.32	4.40	3.75	3.51	XXX
90870		A	Electroconvulsive therapy	1.86	0.65	0.61	0.64	0.61	0.06	2.59	2.55	2.58	2.55	000
90871		A	Electroconvulsive therapy	2.72	NA	NA	0.90	0.90	0.10	NA	NA	3.72	3.72	000
90875		N	Psychophysiological therapy	+1.20	0.70	0.70	0.63	0.63	0.04	1.94	1.94	1.87	1.87	XXX
90876		N	Psychophysiological therapy	+1.90	0.97	0.97	0.90	0.90	0.06	2.93	2.93	2.86	2.86	XXX
90880		A	Hypnotherapy	2.19	0.84	0.73	0.73	0.70	0.05	3.08	2.97	2.97	2.94	XXX
90882		N	Environmental manipulation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90885		B	Psy evaluation of records	+0.97	0.37	0.35	0.37	0.35	0.03	1.37	1.35	1.37	1.35	XXX
90887		B	Consultation with family	+1.46	0.70	0.45	0.66	0.44	0.03	2.21	1.96	2.17	1.95	XXX
90889		B	Preparation of report	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90899		C	Psychiatric service/therapy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90901		A	Biofeedback, any method	0.41	0.63	0.95	0.65	0.95	0.05	1.09	1.41	1.11	1.41	000
90911		A	Biofeedback peri/uro/rectal	0.89	0.65	1.09	0.68	1.09	0.21	1.75	2.19	1.78	2.19	000
90918		A	ESRD related services, month	11.18	4.65	2.95	4.65	2.95	0.11	15.94	14.24	15.94	14.24	XXX
90919		A	ESRD related services, month	8.54	3.69	2.71	3.69	2.71	0.11	12.34	11.36	12.34	11.36	XXX
90920		A	ESRD related services, month	7.27	3.12	2.57	3.12	2.57	0.11	10.50	9.95	10.50	9.95	XXX
90921		A	ESRD related services, month	4.47	2.12	2.32	2.12	2.32	0.11	6.70	6.90	6.70	6.90	XXX
90922		A	ESRD related services, day	0.37	0.13	0.09	0.13	0.09	0.01	0.51	0.47	0.51	0.47	XXX
90923		A	Esrd related services, day	0.28	0.12	0.09	0.12	0.09	0.01	0.41	0.38	0.41	0.38	XXX
90924		A	Esrd related services, day	0.24	0.10	0.09	0.10	0.09	0.01	0.35	0.34	0.35	0.34	XXX
90925		A	Esrd related services, day	0.15	0.07	0.08	0.07	0.08	0.01	0.23	0.24	0.23	0.24	XXX
90935		A	Hemodialysis, one evaluation	1.22	NA	NA	0.61	1.24	0.08	NA	NA	1.91	2.54	000
90937		A	Hemodialysis, repeated eval.	2.11	NA	NA	0.88	2.11	0.14	NA	NA	3.13	4.36	000
90945		A	Dialysis, one evaluation	1.28	NA	NA	0.63	1.19	0.06	NA	NA	1.97	2.53	000

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90947		A	Dialysis, repeated eval.	2.16	NA	NA	0.90	1.93	0.11	NA	NA	3.17	4.20	000
90989		X	Dialysis training/complete	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90993		X	Dialysis training/incomplete	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90997		A	Hemoperfusion	1.84	NA	NA	0.85	1.86	0.13	NA	NA	2.82	3.83	000
90999		C	Dialysis procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
91000		A	Esophageal intubation	0.73	0.33	0.62	0.33	0.62	0.05	1.11	1.40	1.11	1.40	000
91000	26	A	Esophageal intubation	0.73	0.25	0.54	0.25	0.54	0.04	1.02	1.31	1.02	1.31	000
91000	TC	A	Esophageal intubation	0.00	0.08	0.08	0.08	0.08	0.01	0.09	0.09	0.09	0.09	000
91010		A	Esophagus motility study	1.25	1.27	2.08	1.27	2.08	0.14	2.66	3.47	2.66	3.47	000
91010	26	A	Esophagus motility study	1.25	0.42	1.23	0.42	1.23	0.09	1.76	2.57	1.76	2.57	000
91010	TC	A	Esophagus motility study	0.00	0.85	0.85	0.85	0.85	0.05	0.90	0.90	0.90	0.90	000
91011		A	Esophagus motility study	1.50	1.58	2.53	1.58	2.53	0.14	3.22	4.17	3.22	4.17	000
91011	26	A	Esophagus motility study	1.50	0.52	1.47	0.52	1.47	0.09	2.11	3.06	2.11	3.06	000
91011	TC	A	Esophagus motility study	0.00	1.06	1.06	1.06	1.06	0.05	1.11	1.11	1.11	1.11	000
91012		A	Esophagus motility study	1.46	1.71	2.63	1.71	2.63	0.18	3.35	4.27	3.35	4.27	000
91012	26	A	Esophagus motility study	1.46	0.51	1.44	0.51	1.44	0.12	2.09	3.02	2.09	3.02	000
91012	TC	A	Esophagus motility study	0.00	1.20	1.19	1.20	1.19	0.06	1.26	1.25	1.26	1.25	000
91020		A	Gastric motility	1.44	1.28	2.19	1.28	2.19	0.14	2.86	3.77	2.86	3.77	000
91020	26	A	Gastric motility	1.44	0.48	1.40	0.48	1.40	0.09	2.01	2.93	2.01	2.93	000
91020	TC	A	Gastric motility	0.00	0.80	0.79	0.80	0.79	0.05	0.85	0.84	0.85	0.84	000
91030		A	Acid perfusion of esophagus	0.91	0.54	0.59	0.54	0.59	0.04	1.49	1.54	1.49	1.54	000
91030	26	A	Acid perfusion of esophagus	0.91	0.31	0.36	0.31	0.36	0.02	1.24	1.29	1.24	1.29	000
91030	TC	A	Acid perfusion of esophagus	0.00	0.23	0.23	0.23	0.23	0.02	0.25	0.25	0.25	0.25	000
91032		A	Esophagus, acid reflux test	1.21	1.17	1.89	1.17	1.89	0.13	2.51	3.23	2.51	3.23	000
91032	26	A	Esophagus, acid reflux test	1.21	0.41	1.12	0.41	1.12	0.08	1.70	2.41	1.70	2.41	000
91032	TC	A	Esophagus, acid reflux test	0.00	0.76	0.77	0.76	0.77	0.05	0.81	0.82	0.81	0.82	000
91033		A	Prolonged acid reflux test	1.30	1.83	2.66	1.83	2.66	0.20	3.33	4.16	3.33	4.16	000
91033	26	A	Prolonged acid reflux test	1.30	0.44	1.27	0.44	1.27	0.11	1.85	2.68	1.85	2.68	000
91033	TC	A	Prolonged acid reflux test	0.00	1.39	1.39	1.39	1.39	0.09	1.48	1.48	1.48	1.48	000
91052		A	Gastric analysis test	0.79	0.62	0.82	0.62	0.82	0.05	1.46	1.66	1.46	1.66	000
91052	26	A	Gastric analysis test	0.79	0.27	0.47	0.27	0.47	0.03	1.09	1.29	1.09	1.29	000
91052	TC	A	Gastric analysis test	0.00	0.35	0.35	0.35	0.35	0.02	0.37	0.37	0.37	0.37	000
91055		A	Gastric intubation for smear	0.94	0.59	0.79	0.59	0.79	0.05	1.58	1.78	1.58	1.78	000
91055	26	A	Gastric intubation for smear	0.94	0.27	0.48	0.27	0.48	0.03	1.24	1.45	1.24	1.45	000
91055	TC	A	Gastric intubation for smear	0.00	0.32	0.31	0.32	0.31	0.02	0.34	0.33	0.34	0.33	000
91060		A	Gastric saline load test	0.45	0.36	0.67	0.36	0.67	0.05	0.86	1.17	0.86	1.17	000
91060	26	A	Gastric saline load test	0.45	0.13	0.44	0.13	0.44	0.03	0.61	0.92	0.61	0.92	000
91060	TC	A	Gastric saline load test	0.00	0.23	0.23	0.23	0.23	0.02	0.25	0.25	0.25	0.25	000
91065		A	Breath hydrogen test	0.20	0.44	0.57	0.44	0.57	0.04	0.68	0.81	0.68	0.81	000
91065	26	A	Breath hydrogen test	0.20	0.07	0.20	0.07	0.20	0.02	0.29	0.42	0.29	0.42	000

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91065	TC	A	Breath hydrogen test	0.00	0.37	0.37	0.37	0.37	0.02	0.39	0.39	0.39	0.39	000
91100		A	Pass intestine bleeding tube	1.08	NA	NA	0.34	0.54	0.04	NA	NA	1.46	1.66	000
91105		A	Gastric intubation treatment	0.37	NA	NA	0.13	0.36	0.03	NA	NA	0.53	0.76	000
91122		A	Anal pressure record	1.77	1.35	1.75	1.35	1.75	0.17	3.29	3.69	3.29	3.69	000
91122	26	A	Anal pressure record	1.77	0.62	1.02	0.62	1.02	0.10	2.49	2.89	2.49	2.89	000
91122	TC	A	Anal pressure record	0.00	0.73	0.73	0.73	0.73	0.07	0.80	0.80	0.80	0.80	000
91299		C	Gastroenterology procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
91299	26	C	Gastroenterology procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
91299	TC	C	Gastroenterology procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92002		A	Eye exam, new patient	0.88	1.02	0.65	0.34	0.29	0.02	1.92	1.55	1.24	1.19	XXX
92004		A	Eye exam, new patient	1.67	1.61	0.87	0.68	0.40	0.02	3.30	2.56	2.37	2.09	XXX
92012		A	Eye exam established pt	0.67	1.38	0.71	0.30	0.26	0.02	2.07	1.40	0.99	0.95	XXX
92014		A	Eye exam & treatment	1.10	1.28	0.76	0.49	0.35	0.02	2.40	1.88	1.61	1.47	XXX
92015		N	Refraction	+0.38	1.23	0.57	0.14	0.30	0.02	1.63	0.97	0.54	0.70	XXX
92018		A	New eye exam & treatment	1.51	NA	NA	1.11	0.66	0.02	NA	NA	2.64	2.19	XXX
92019		A	Eye exam & treatment	1.31	NA	NA	0.86	0.41	0.02	NA	NA	2.19	1.74	XXX
92020		A	Special eye evaluation	0.37	0.54	0.37	0.18	0.17	0.01	0.92	0.75	0.56	0.55	XXX
92060		A	Special eye evaluation	0.69	0.50	0.45	0.50	0.45	0.02	1.21	1.16	1.21	1.16	XXX
92060	26	A	Special eye evaluation	0.69	0.30	0.25	0.30	0.25	0.01	1.00	0.95	1.00	0.95	XXX
92060	TC	A	Special eye evaluation	0.00	0.20	0.20	0.20	0.20	0.01	0.21	0.21	0.21	0.21	XXX
92065		A	Orthoptic/pleoptic training	0.37	0.36	0.38	0.36	0.38	0.01	0.74	0.76	0.74	0.76	XXX
92065	26	A	Orthoptic/pleoptic training	0.37	0.19	0.21	0.19	0.21	0.01	0.57	0.59	0.57	0.59	XXX
92065	TC	A	Orthoptic/pleoptic training	0.00	0.17	0.17	0.17	0.17	0.00	0.17	0.17	0.17	0.17	XXX
92070		A	Fitting of contact lens	0.70	0.90	1.20	0.35	0.58	0.05	1.65	1.95	1.10	1.33	XXX
92081		A	Visual field examination(s)	0.36	0.32	0.34	0.32	0.34	0.01	0.69	0.71	0.69	0.71	XXX
92081	26	A	Visual field examination(s)	0.36	0.17	0.18	0.17	0.18	0.01	0.54	0.55	0.54	0.55	XXX
92081	TC	A	Visual field examination(s)	0.00	0.15	0.16	0.15	0.16	0.00	0.15	0.16	0.15	0.16	XXX
92082		A	Visual field examination(s)	0.44	0.42	0.51	0.42	0.51	0.02	0.88	0.97	0.88	0.97	XXX
92082	26	A	Visual field examination(s)	0.44	0.21	0.30	0.21	0.30	0.01	0.66	0.75	0.66	0.75	XXX
92082	TC	A	Visual field examination(s)	0.00	0.21	0.21	0.21	0.21	0.01	0.22	0.22	0.22	0.22	XXX
92083		A	Visual field examination(s)	0.50	0.56	0.81	0.56	0.81	0.03	1.09	1.34	1.09	1.34	XXX
92083	26	A	Visual field examination(s)	0.50	0.25	0.51	0.25	0.51	0.02	0.77	1.03	0.77	1.03	XXX
92083	TC	A	Visual field examination(s)	0.00	0.31	0.30	0.31	0.30	0.01	0.32	0.31	0.32	0.31	XXX
92100		A	Serial tonometry exam(s)	0.92	0.71	0.38	0.33	0.19	0.01	1.64	1.31	1.26	1.12	XXX
92120		A	Tonography & eye evaluation	0.81	0.71	0.43	0.35	0.22	0.02	1.54	1.26	1.18	1.05	XXX
92130		A	Water provocation tonography	0.81	0.81	0.60	0.41	0.31	0.02	1.64	1.43	1.24	1.14	XXX
92135		A	Opthalmic dx imaging	0.35	0.49	0.49	0.49	0.49	0.03	0.87	0.87	0.87	0.87	XXX
92135	26	A	Opthalmic dx imaging	0.35	0.18	0.18	0.18	0.18	0.02	0.55	0.55	0.55	0.55	XXX
92135	TC	A	Opthalmic dx imaging	0.00	0.31	0.31	0.31	0.31	0.01	0.32	0.32	0.32	0.32	XXX
92140		A	Glaucoma provocative tests	0.50	0.81	0.45	0.24	0.19	0.01	1.32	0.96	0.75	0.70	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
92225		A	Special eye exam, initial	0.38	1.12	0.65	0.15	0.23	0.02	1.52	1.05	0.55	0.63	XXX
92226		A	Special eye exam, subsequent	0.33	1.17	0.62	0.15	0.20	0.02	1.52	0.97	0.50	0.55	XXX
92230		A	Eye exam with photos	0.60	2.10	1.09	0.22	0.34	0.03	2.73	1.72	0.85	0.97	XXX
92235		A	Eye exam with photos	0.81	1.47	1.65	1.47	1.65	0.07	2.35	2.53	2.35	2.53	XXX
92235	26	A	Eye exam with photos	0.81	0.40	0.58	0.40	0.58	0.02	1.23	1.41	1.23	1.41	XXX
92235	TC	A	Eye exam with photos	0.00	1.07	1.07	1.07	1.07	0.05	1.12	1.12	1.12	1.12	XXX
92240		A	Icg angiography	1.10	1.62	1.69	1.62	1.69	0.07	2.79	2.86	2.79	2.86	XXX
92240	26	A	Icg angiography	1.10	0.55	0.62	0.55	0.82	0.02	1.67	1.74	1.67	1.74	XXX
92240	TC	A	Icg angiography	0.00	1.07	1.07	1.07	1.07	0.05	1.12	1.12	1.12	1.12	XXX
92250		A	Eye exam with photos	0.44	0.41	0.44	0.41	0.44	0.02	0.87	0.90	0.87	0.90	XXX
92250	26	A	Eye exam with photos	0.44	0.22	0.26	0.22	0.26	0.01	0.67	0.71	0.67	0.71	XXX
92250	TC	A	Eye exam with photos	0.00	0.19	0.18	0.19	0.18	0.01	0.20	0.19	0.20	0.19	XXX
92260		A	Ophthalmoscopy/dynamometry	0.20	0.19	0.49	0.08	0.25	0.02	0.41	0.71	0.30	0.47	XXX
92265		A	Eye muscle evaluation	0.81	0.49	0.36	0.49	0.36	0.02	1.32	1.19	1.32	1.19	XXX
92265	26	A	Eye muscle evaluation	0.81	0.25	0.12	0.25	0.12	0.00	1.06	0.93	1.06	0.93	XXX
92265	TC	A	Eye muscle evaluation	0.00	0.24	0.24	0.24	0.24	0.02	0.26	0.26	0.26	0.26	XXX
92270		A	Electro-oculography	0.81	0.65	0.71	0.65	0.71	0.04	1.50	1.56	1.50	1.56	XXX
92270	26	A	Electro-oculography	0.81	0.32	0.38	0.32	0.38	0.02	1.15	1.21	1.15	1.21	XXX
92270	TC	A	Electro-oculography	0.00	0.33	0.33	0.33	0.33	0.02	0.35	0.35	0.35	0.35	XXX
92275		A	Electroretinography	1.01	0.86	0.94	0.86	0.94	0.04	1.91	1.99	1.91	1.99	XXX
92275	26	A	Electroretinography	1.01	0.43	0.52	0.43	0.52	0.02	1.46	1.55	1.46	1.55	XXX
92275	TC	A	Electroretinography	0.00	0.43	0.42	0.43	0.42	0.02	0.45	0.44	0.45	0.44	XXX
92283		A	Color vision examination	0.17	0.20	0.28	0.20	0.28	0.01	0.38	0.46	0.38	0.46	XXX
92283	26	A	Color vision examination	0.17	0.07	0.15	0.07	0.15	0.01	0.25	0.33	0.25	0.33	XXX
92283	TC	A	Color vision examination	0.00	0.13	0.13	0.13	0.13	0.00	0.13	0.13	0.13	0.13	XXX
92284		A	Dark adaptation eye exam	0.24	0.26	0.42	0.26	0.42	0.02	0.52	0.68	0.52	0.68	XXX
92284	26	A	Dark adaptation eye exam	0.24	0.07	0.24	0.07	0.24	0.01	0.32	0.49	0.32	0.49	XXX
92284	TC	A	Dark adaptation eye exam	0.00	0.19	0.18	0.19	0.18	0.01	0.20	0.19	0.20	0.19	XXX
92285		A	Eye photography	0.20	0.21	0.29	0.21	0.29	0.01	0.42	0.50	0.42	0.50	XXX
92285	26	A	Eye photography	0.20	0.09	0.17	0.09	0.17	0.01	0.30	0.38	0.30	0.38	XXX
92285	TC	A	Eye photography	0.00	0.12	0.12	0.12	0.12	0.00	0.12	0.12	0.12	0.12	XXX
92286		A	Internal eye photography	0.66	0.74	1.17	0.74	1.17	0.06	1.46	1.89	1.46	1.89	XXX
92286	26	A	Internal eye photography	0.66	0.31	0.75	0.31	0.75	0.04	1.01	1.45	1.01	1.45	XXX
92286	TC	A	Internal eye photography	0.00	0.43	0.42	0.43	0.42	0.02	0.45	0.44	0.45	0.44	XXX
92287		A	Internal eye photography	0.81	3.03	2.00	0.32	0.70	0.06	3.90	2.87	1.19	1.57	XXX
92310		N	Contact lens fitting	+1.17	0.86	1.27	0.44	1.16	0.00	2.03	2.44	1.61	2.33	XXX
92311		A	Contact lens fitting	1.08	0.95	0.97	0.40	0.47	0.02	2.05	2.07	1.50	1.57	XXX
92312		A	Contact lens fitting	1.26	0.93	1.18	0.58	0.62	0.02	2.21	2.46	1.86	1.90	XXX
92313		A	Contact lens fitting	0.92	0.85	0.93	0.27	0.43	0.02	1.79	1.87	1.21	1.37	XXX
92314		N	Prescription of contact lens	+0.69	0.68	0.79	0.26	0.68	0.00	1.37	1.48	0.95	1.37	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
92315		A	Prescription of contact lens	0.45	0.66	0.71	0.15	0.31	0.02	1.13	1.18	0.62	0.78	XXX
92316		A	Prescription of contact lens	0.68	0.74	0.96	0.34	0.48	0.03	1.45	1.67	1.05	1.19	XXX
92317		A	Prescription of contact lens	0.45	0.80	0.52	0.17	0.20	0.02	1.27	0.99	0.64	0.67	XXX
92325		A	Modification of contact lens	0.00	0.41	0.41	0.41	0.41	0.01	0.42	0.42	0.42	0.42	XXX
92326		A	Replacement of contact lens	0.00	1.69	1.69	1.69	1.69	0.05	1.74	1.74	1.74	1.74	XXX
92330		A	Fitting of artificial eye	1.08	0.82	1.13	0.37	0.56	0.07	1.97	2.28	1.52	1.71	XXX
92335		A	Fitting of artificial eye	0.45	0.74	1.79	0.15	0.84	0.09	1.28	2.33	0.69	1.38	XXX
92340		N	Fitting of spectacles	+0.37	0.50	0.47	0.14	0.37	0.00	0.87	0.84	0.51	0.74	XXX
92341		N	Fitting of spectacles	+0.47	0.54	0.57	0.18	0.47	0.00	1.01	1.04	0.65	0.94	XXX
92342		N	Fitting of spectacles	+0.53	0.56	0.63	0.20	0.52	0.00	1.09	1.16	0.73	1.05	XXX
92352		B	Special spectacles fitting	+0.37	0.50	0.37	0.14	0.28	0.01	0.88	0.75	0.52	0.66	XXX
92353		B	Special spectacles fitting	+0.50	0.55	0.46	0.19	0.37	0.01	1.06	0.97	0.70	0.88	XXX
92354		B	Special spectacles fitting	+0.00	9.18	9.17	9.18	9.17	0.08	9.26	9.25	9.26	9.25	XXX
92355		B	Special spectacles fitting	+0.00	4.49	4.48	4.49	4.48	0.01	4.50	4.49	4.50	4.49	XXX
92358		B	Eye prosthesis service	+0.00	1.00	1.00	1.00	1.00	0.04	1.04	1.04	1.04	1.04	XXX
92370		N	Repair & adjust spectacles	+0.32	0.37	0.39	0.12	0.32	0.00	0.69	0.71	0.44	0.64	XXX
92371		B	Repair & adjust spectacles	+0.00	0.64	0.64	0.64	0.64	0.02	0.66	0.66	0.66	0.66	XXX
92390		N	Supply of spectacles	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92391		N	Supply of contact lenses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92392		I	Supply of low vision aids	+0.00	4.19	4.18	4.19	4.18	0.02	4.21	4.20	4.21	4.20	XXX
92393		I	Supply of artificial eye	+0.00	13.02	12.99	13.02	12.99	0.52	13.54	13.51	13.54	13.51	XXX
92395		I	Supply of spectacles	+0.00	1.43	1.42	1.43	1.42	0.08	1.51	1.50	1.51	1.50	XXX
92396		I	Supply of contact lenses	+0.00	2.39	2.38	2.39	2.38	0.06	2.45	2.44	2.45	2.44	XXX
92499		C	Eye service or procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92499	26	C	Eye service or procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92499	TC	C	Eye service or procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92502		A	Ear and throat examination	1.51	NA	NA	1.17	1.21	0.09	NA	NA	2.77	2.81	000
92504		A	Ear microscopy examination	0.18	0.74	0.40	0.09	0.13	0.02	0.94	0.60	0.29	0.33	XXX
92506		A	Speech & hearing evaluation	0.86	1.00	0.67	0.83	0.42	0.04	1.90	1.57	1.73	1.32	XXX
92507		A	Speech/hearing therapy	0.52	0.87	0.49	0.80	0.34	0.02	1.41	1.03	1.34	0.88	XXX
92508		A	Speech/hearing therapy	0.26	0.62	0.31	0.85	0.29	0.02	0.90	0.59	1.13	0.57	XXX
92510		A	Rehab for ear implant	1.50	1.49	1.48	1.51	0.93	0.12	3.11	3.10	3.13	2.55	XXX
92511		A	Nasopharyngoscopy	0.84	0.93	0.92	0.43	0.45	0.07	1.84	1.83	1.34	1.36	000
92512		A	Nasal function studies	0.55	0.86	0.60	0.17	0.24	0.04	1.45	1.19	0.76	0.83	XXX
92516		A	Facial nerve function test	0.43	0.69	0.49	0.20	0.21	0.03	1.15	0.95	0.66	0.67	XXX
92520		A	Laryngeal function studies	0.76	0.54	0.57	0.48	0.34	0.04	1.34	1.37	1.28	1.14	XXX
92525		A	Oral function evaluation	1.50	1.24	1.14	1.32	0.75	0.09	2.83	2.73	2.91	2.34	XXX
92526		A	Oral function therapy	0.55	1.01	0.64	0.69	0.37	0.04	1.60	1.23	1.28	0.96	XXX
92531		B	Spontaneous nystagmus study	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92532		B	Positional nystagmus study	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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92533		B	Caloric vestibular test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92534		B	Optokinetic nystagmus	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92541		A	Spontaneous nystagmus test	0.40	0.43	0.66	0.43	0.66	0.06	0.89	1.12	0.89	1.12	XXX
92541	26	A	Spontaneous nystagmus test	0.40	0.19	0.42	0.19	0.42	0.04	0.63	0.86	0.63	0.86	XXX
92541	TC	A	Spontaneous nystagmus test	0.00	0.24	0.24	0.24	0.24	0.02	0.26	0.26	0.26	0.26	XXX
92542		A	Positional nystagmus test	0.33	0.42	0.60	0.42	0.60	0.05	0.80	0.98	0.80	0.98	XXX
92542	26	A	Positional nystagmus test	0.33	0.15	0.33	0.15	0.33	0.03	0.51	0.69	0.51	0.69	XXX
92542	TC	A	Positional nystagmus test	0.00	0.27	0.27	0.27	0.27	0.02	0.29	0.29	0.29	0.29	XXX
92543		A	Caloric vestibular test	0.10	0.16	0.21	0.16	0.21	0.02	0.28	0.33	0.28	0.33	XXX
92543	26	A	Caloric vestibular test	0.10	0.05	0.10	0.05	0.10	0.01	0.16	0.21	0.16	0.21	XXX
92543	TC	A	Caloric vestibular test	0.00	0.11	0.11	0.11	0.11	0.01	0.12	0.12	0.12	0.12	XXX
92544		A	Optokinetic nystagmus test	0.26	0.34	0.47	0.34	0.47	0.04	0.64	0.77	0.64	0.77	XXX
92544	26	A	Optokinetic nystagmus test	0.26	0.12	0.25	0.12	0.25	0.02	0.40	0.53	0.40	0.53	XXX
92544	TC	A	Optokinetic nystagmus test	0.00	0.22	0.22	0.22	0.22	0.02	0.24	0.24	0.24	0.24	XXX
92545		A	Oscillating tracking test	0.23	0.33	0.41	0.33	0.41	0.04	0.60	0.68	0.60	0.68	XXX
92545	26	A	Oscillating tracking test	0.23	0.11	0.19	0.11	0.19	0.02	0.36	0.44	0.36	0.44	XXX
92545	TC	A	Oscillating tracking test	0.00	0.22	0.22	0.22	0.22	0.02	0.24	0.24	0.24	0.24	XXX
92546		A	Sinusoidal rotational test	0.29	0.37	0.53	0.37	0.53	0.04	0.70	0.86	0.70	0.86	XXX
92546	26	A	Sinusoidal rotational test	0.29	0.12	0.28	0.12	0.28	0.02	0.43	0.59	0.43	0.59	XXX
92546	TC	A	Sinusoidal rotational test	0.00	0.25	0.25	0.25	0.25	0.02	0.27	0.27	0.27	0.27	XXX
92547		A	Supplemental electrical test	0.00	0.58	0.58	0.58	0.58	0.05	0.63	0.63	0.63	0.63	ZZZ
92548		A	Posturography	0.50	1.80	1.96	1.80	1.96	0.15	2.45	2.61	2.45	2.61	XXX
92548	26	A	Posturography	0.50	0.27	0.44	0.27	0.44	0.04	0.81	0.98	0.81	0.98	XXX
92548	TC	A	Posturography	0.00	1.53	1.52	1.53	1.52	0.11	1.64	1.63	1.64	1.63	XXX
92551		N	Pure tone hearing test, air	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92552		A	Pure tone audiometry, air	0.00	0.45	0.46	0.45	0.46	0.03	0.48	0.49	0.48	0.49	XXX
92553		A	Audiometry, air & bone	0.00	0.69	0.68	0.69	0.68	0.05	0.74	0.73	0.74	0.73	XXX
92555		A	Speech threshold audiometry	0.00	0.39	0.39	0.39	0.39	0.03	0.42	0.42	0.42	0.42	XXX
92556		A	Speech audiometry, complete	0.00	0.59	0.59	0.59	0.59	0.05	0.64	0.64	0.64	0.64	XXX
92557		A	Comprehensive hearing test	0.00	1.23	1.23	1.23	1.23	0.10	1.33	1.33	1.33	1.33	XXX
92559		N	Group audiometric testing	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92560		N	Bekesy audiometry, screen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92561		A	Bekesy audiometry, diagnosis	0.00	0.74	0.74	0.74	0.74	0.05	0.79	0.79	0.79	0.79	XXX
92562		A	Loudness balance test	0.00	0.43	0.42	0.43	0.42	0.03	0.46	0.45	0.46	0.45	XXX
92563		A	Tone decay hearing test	0.00	0.39	0.39	0.39	0.39	0.03	0.42	0.42	0.42	0.42	XXX
92564		A	Sisi hearing test	0.00	0.49	0.49	0.49	0.49	0.04	0.53	0.53	0.53	0.53	XXX
92565		A	Stenger test, pure tone	0.00	0.41	0.41	0.41	0.26	0.03	0.44	0.44	0.44	0.29	XXX
92567		A	Tympanometry	0.00	0.55	0.54	0.55	0.54	0.05	0.60	0.59	0.60	0.59	XXX
92568		A	Acoustic reflex testing	0.00	0.39	0.39	0.39	0.39	0.03	0.42	0.42	0.42	0.42	XXX
92569		A	Acoustic reflex decay test	0.00	0.43	0.42	0.43	0.42	0.03	0.46	0.45	0.46	0.45	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
92571		A	Filtered speech hearing test	0.00	0.40	0.40	0.40	0.25	0.03	0.43	0.43	0.43	0.28	XXX
92572		A	Staggered spondaic word test	0.00	0.09	0.09	0.09	0.09	0.01	0.10	0.10	0.10	0.10	XXX
92573		A	Lombard test	0.00	0.36	0.36	0.36	0.36	0.03	0.39	0.39	0.39	0.39	XXX
92575		A	Sensorineural acuity test	0.00	0.32	0.31	0.32	0.20	0.02	0.34	0.33	0.34	0.22	XXX
92576		A	Synthetic sentence test	0.00	0.45	0.46	0.45	0.29	0.04	0.49	0.50	0.49	0.33	XXX
92577		A	Stenger test, speech	0.00	0.73	0.74	0.73	0.46	0.06	0.79	0.80	0.79	0.52	XXX
92579		A	Visual audiometry (vra)	0.00	0.74	0.75	0.74	0.75	0.05	0.79	0.80	0.79	0.80	XXX
92582		A	Conditioning play audiometry	0.00	0.73	0.75	0.73	0.47	0.05	0.78	0.80	0.78	0.52	XXX
92583		A	Select picture audiometry	0.00	0.93	0.92	0.93	0.92	0.07	1.00	0.99	1.00	0.99	XXX
92584		A	Electrocochleography	0.00	2.56	2.56	2.56	2.56	0.20	2.76	2.76	2.76	2.76	XXX
92585		A	Auditory evoked potential	0.50	2.13	3.18	2.13	3.18	0.24	2.87	3.92	2.87	3.92	XXX
92585	26	A	Auditory evoked potential	0.50	0.21	1.27	0.21	1.27	0.11	0.82	1.88	0.82	1.88	XXX
92585	TC	A	Auditory evoked potential	0.00	1.92	1.91	1.92	1.91	0.13	2.05	2.04	2.05	2.04	XXX
92587		A	Evoked auditory test	0.13	1.41	1.46	1.41	1.46	0.10	1.64	1.69	1.64	1.69	XXX
92587	26	A	Evoked auditory test	0.13	0.07	0.11	0.07	0.11	0.01	0.21	0.25	0.21	0.25	XXX
92587	TC	A	Evoked auditory test	0.00	1.34	1.35	1.34	1.35	0.09	1.43	1.44	1.43	1.44	XXX
92588		A	Evoked auditory test	0.38	1.70	1.81	1.70	1.81	0.13	2.19	2.30	2.19	2.30	XXX
92588	26	A	Evoked auditory test	0.38	0.17	0.29	0.17	0.29	0.02	0.55	0.67	0.55	0.67	XXX
92588	TC	A	Evoked auditory test	0.00	1.53	1.52	1.53	1.52	0.11	1.64	1.63	1.64	1.63	XXX
92589		A	Auditory function test(s)	0.00	0.56	0.55	0.56	0.55	0.05	0.61	0.60	0.61	0.60	XXX
92590		N	Hearing aid exam, one ear	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92591		N	Hearing aid exam, both ears	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92592		N	Hearing aid check, one ear	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92593		N	Hearing aid check, both ears	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92594		N	Electro hearing aid test,one	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92595		N	Electro hearingaid test,both	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92596		A	Ear protector evaluation	0.00	0.61	0.61	0.61	0.61	0.05	0.66	0.66	0.66	0.66	XXX
92597		A	Oral speech device eval	1.35	1.39	1.17	1.40	1.18	0.09	2.83	2.61	2.84	2.62	XXX
92598		A	Modify oral speech device	0.99	0.97	0.78	0.56	0.68	0.05	2.01	1.82	1.60	1.72	XXX
92599		C	ENT procedure/service	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92599	26	C	ENT procedure/service	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92599	TC	C	ENT procedure/service	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92950		A	Heart/lung resuscitation(CPR	3.80	1.53	2.23	1.12	2.13	0.13	5.46	6.16	5.05	6.06	000
92953		A	Temporary external pacing	0.23	NA	NA	0.21	0.26	0.12	NA	NA	0.56	0.61	000
92960		A	Heart electroconversion	2.25	1.70	1.96	1.61	1.93	0.13	4.08	4.34	3.99	4.31	000
92970		A	Cardioassist, internal	3.52	NA	NA	2.90	3.55	0.32	NA	NA	6.74	7.39	000
92971		A	Cardioassist, external	1.77	NA	NA	0.94	1.14	0.06	NA	NA	2.77	2.97	000
92975		A	Dissolve clot, heart vessel	7.25	NA	NA	8.11	6.68	0.33	NA	NA	15.69	14.26	000
92977		A	Dissolve clot, heart vessel	0.00	NA	NA	8.37	8.34	0.42	NA	NA	8.79	8.76	XXX
92978		A	Intravas us, heart add-on	1.80	NA	NA	5.48	5.77	0.28	NA	NA	7.56	7.85	ZZZ

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
92978	26	A	Intravas us, heart add-on	1.80	NA	NA	0.75	1.05	0.06	NA	NA	2.61	2.91	ZZZ
92978	TC	A	Intravas us, heart add-on	0.00	NA	NA	4.73	4.72	0.22	NA	NA	4.95	4.94	ZZZ
92979		A	Intravas us, heart (add-on)	1.44	NA	NA	2.99	3.21	0.16	NA	NA	4.59	4.81	ZZZ
92979	26	A	Intravas us, heart (add-on)	1.44	NA	NA	0.61	0.84	0.05	NA	NA	2.10	2.33	ZZZ
92979	TC	A	Intravas us, heart (add-on)	0.00	NA	NA	2.38	2.37	0.11	NA	NA	2.49	2.48	ZZZ
92980		A	Insert intracoronary stent	14.84	NA	NA	10.12	15.81	0.95	NA	NA	25.91	31.60	000
92981		A	Insert intracoronary stent	4.17	NA	NA	1.94	4.22	0.34	NA	NA	6.45	8.73	ZZZ
92982		A	Coronary artery dilation	10.98	NA	NA	7.62	11.74	0.95	NA	NA	19.55	23.67	000
92984		A	Coronary artery dilation	2.97	NA	NA	1.45	3.03	0.34	NA	NA	4.76	6.34	ZZZ
92986		A	Revision of aortic valve	21.80	NA	NA	11.28	12.62	0.70	NA	NA	33.78	35.12	090
92987		A	Revision of mitral valve	22.70	NA	NA	11.59	12.83	0.71	NA	NA	35.00	36.24	090
92990		A	Revision of pulmonary valve	17.34	NA	NA	9.06	10.07	0.56	NA	NA	26.96	27.97	090
92992		C	Revision of heart chamber	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	090
92993		C	Revision of heart chamber	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	090
92995		A	Coronary atherectomy	12.09	NA	NA	8.23	12.88	0.95	NA	NA	21.27	25.92	000
92996		A	Coronary atherectomy add-on	3.26	NA	NA	1.47	3.29	0.34	NA	NA	5.07	6.89	ZZZ
92997		A	Pul art balloon repair, perc	12.00	NA	NA	8.77	12.44	0.95	NA	NA	19.72	25.39	000
92998		A	Pul art balloon repair, perc	8.00	NA	NA	2.34	3.68	0.34	NA	NA	8.68	10.02	ZZZ
93000		A	Electrocardiogram, complete	0.17	0.52	0.61	0.52	0.61	0.03	0.72	0.81	0.72	0.81	XXX
93005		A	Electrocardiogram, tracing	0.00	0.46	0.47	0.46	0.47	0.02	0.48	0.49	0.48	0.49	XXX
93010		A	Electrocardiogram report	0.17	0.06	0.14	0.06	0.14	0.01	0.24	0.32	0.24	0.32	XXX
93012		A	Transmission of ecg	0.00	2.45	2.44	2.45	2.44	0.17	2.62	2.61	2.62	2.61	XXX
93014		A	Report on transmitted ecg	0.52	0.20	0.37	0.20	0.37	0.04	0.76	0.93	0.76	0.93	XXX
93015		A	Cardiovascular stress test	0.75	2.03	2.40	2.03	2.40	0.13	2.91	3.28	2.91	3.28	XXX
93016		A	Cardiovascular stress test	0.45	0.18	0.36	0.18	0.36	0.02	0.65	0.83	0.65	0.83	XXX
93017		A	Cardiovascular stress test	0.00	1.74	1.74	1.74	1.74	0.09	1.83	1.83	1.83	1.83	XXX
93018		A	Cardiovascular stress test	0.30	0.11	0.30	0.11	0.30	0.02	0.43	0.62	0.43	0.62	XXX
93024		A	Cardiac drug stress test	1.17	1.65	2.33	1.65	2.33	0.18	3.00	3.68	3.00	3.68	XXX
93024	26	A	Cardiac drug stress test	1.17	0.48	1.17	0.48	1.17	0.11	1.76	2.45	1.76	2.45	XXX
93024	TC	A	Cardiac drug stress test	0.00	1.17	1.16	1.17	1.16	0.07	1.24	1.23	1.24	1.23	XXX
93040		A	Rhythm ECG with report	0.16	0.19	0.26	0.19	0.26	0.02	0.37	0.44	0.37	0.44	XXX
93041		A	Rhythm ECG, tracing	0.00	0.14	0.15	0.14	0.15	0.01	0.15	0.16	0.15	0.16	XXX
93042		A	Rhythm ECG, report	0.16	0.05	0.11	0.05	0.11	0.01	0.22	0.28	0.22	0.28	XXX
93224		A	ECG monitor/report, 24 hrs	0.52	3.75	4.06	3.75	4.06	0.25	4.52	4.83	4.52	4.83	XXX
93225		A	ECG monitor/record, 24 hrs	0.00	1.29	1.28	1.29	1.28	0.07	1.36	1.35	1.36	1.35	XXX
93226		A	ECG monitor/report, 24 hrs	0.00	2.26	2.26	2.26	2.26	0.13	2.39	2.39	2.39	2.39	XXX
93227		A	ECG monitor/review, 24 hrs	0.52	0.20	0.52	0.20	0.52	0.05	0.77	1.09	0.77	1.09	XXX
93230		A	ECG monitor/report, 24 hrs	0.52	4.03	4.34	4.03	4.34	0.27	4.82	5.13	4.82	5.13	XXX
93231		A	Ecg monitor/record, 24 hrs	0.00	1.58	1.57	1.58	1.57	0.09	1.67	1.66	1.67	1.66	XXX
93232		A	ECG monitor/report, 24 hrs	0.00	2.25	2.25	2.25	2.25	0.12	2.37	2.37	2.37	2.37	XXX

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93233		A	ECG monitor/review, 24 hrs	0.52	0.20	0.52	0.20	0.52	0.06	0.78	1.10	0.78	1.10	XXX
93235		A	ECG monitor/report, 24 hrs	0.45	2.91	3.17	2.91	3.17	0.18	3.54	3.80	3.54	3.80	XXX
93236		A	ECG monitor/report, 24 hrs	0.00	2.73	2.72	2.73	2.72	0.13	2.86	2.85	2.86	2.85	XXX
93237		A	ECG monitor/review, 24 hrs	0.45	0.18	0.45	0.18	0.45	0.05	0.68	0.95	0.68	0.95	XXX
93268		A	ECG record/review	0.52	0.70	3.30	0.70	3.30	0.28	1.50	4.10	1.50	4.10	XXX
93270		A	ECG recording	0.00	1.29	1.28	1.29	1.28	0.07	1.36	1.35	1.36	1.35	XXX
93271		A	Ecg/monitoring and anaylysis	0.00	2.45	2.44	2.45	2.44	0.17	2.62	2.61	2.62	2.61	XXX
93272		A	Ecg/review,interpret only	0.52	0.20	0.37	0.20	0.37	0.04	0.76	0.93	0.76	0.93	XXX
93278		A	ECG/signal-averaged	0.25	1.30	1.44	1.30	1.44	0.14	1.69	1.83	1.69	1.83	XXX
93278	26	A	ECG/signal-averaged	0.25	0.10	0.25	0.10	0.25	0.05	0.40	0.55	0.40	0.55	XXX
93278	TC	A	ECG/signal-averaged	0.00	1.20	1.19	1.20	1.19	0.09	1.29	1.28	1.29	1.28	XXX
93303		A	Echo transthoracic	1.30	4.53	4.95	4.53	4.95	0.28	6.11	6.53	6.11	6.53	XXX
93303	26	A	Echo transthoracic	1.30	0.52	0.95	0.52	0.95	0.07	1.89	2.32	1.89	2.32	XXX
93303	TC	A	Echo transthoracic	0.00	4.01	4.00	4.01	4.00	0.21	4.22	4.21	4.22	4.21	XXX
93304		A	Echo transthoracic	0.75	2.31	2.64	2.31	2.64	0.15	3.21	3.54	3.21	3.54	XXX
93304	26	A	Echo transthoracic	0.75	0.30	0.63	0.30	0.63	0.04	1.09	1.42	1.09	1.42	XXX
93304	TC	A	Echo transthoracic	0.00	2.01	2.01	2.01	2.01	0.11	2.12	2.12	2.12	2.12	XXX
93307		A	Echo exam of heart	0.92	4.38	4.91	4.38	4.91	0.28	5.58	6.11	5.58	6.11	XXX
93307	26	A	Echo exam of heart	0.92	0.37	0.91	0.37	0.91	0.07	1.36	1.90	1.36	1.90	XXX
93307	TC	A	Echo exam of heart	0.00	4.01	4.00	4.01	4.00	0.21	4.22	4.21	4.22	4.21	XXX
93308		A	Echo exam of heart	0.53	2.22	2.54	2.22	2.54	0.15	2.90	3.22	2.90	3.22	XXX
93308	26	A	Echo exam of heart	0.53	0.21	0.53	0.21	0.53	0.04	0.78	1.10	0.78	1.10	XXX
93308	TC	A	Echo exam of heart	0.00	2.01	2.01	2.01	2.01	0.11	2.12	2.12	2.12	2.12	XXX
93312		A	Echo transesophageal	2.20	4.68	5.21	4.68	5.21	0.35	7.23	7.76	7.23	7.76	XXX
93312	26	A	Echo transesophageal	2.20	0.75	1.29	0.75	1.29	0.09	3.04	3.58	3.04	3.58	XXX
93312	TC	A	Echo transesophageal	0.00	3.93	3.92	3.93	3.92	0.26	4.19	4.18	4.19	4.18	XXX
93313		A	Echo transesophageal	0.95	5.72	4.98	0.36	0.64	0.05	6.72	2.98	1.36	1.64	XXX
93314		A	Echo transesophageal	1.25	4.42	4.59	4.42	4.59	0.31	5.98	6.15	5.98	6.15	XXX
93314	26	A	Echo transesophageal	1.25	0.49	0.67	0.49	0.67	0.05	1.79	1.97	1.79	1.97	XXX
93314	TC	A	Echo transesophageal	0.00	3.93	3.92	3.93	3.92	0.26	4.19	4.18	4.19	4.18	XXX
93315		A	Echo transesophageal	2.78	4.93	5.27	4.93	5.27	0.35	8.06	8.40	8.06	8.40	XXX
93315	26	A	Echo transesophageal	2.78	1.00	1.35	1.00	1.35	0.09	3.87	4.22	3.87	4.22	XXX
93315	TC	A	Echo transesophageal	0.00	3.93	3.92	3.93	3.92	0.26	4.19	4.18	4.19	4.18	XXX
93316		A	Echo transesophageal	0.95	0.94	0.78	0.35	0.64	0.05	1.94	1.78	1.35	1.64	XXX
93317		A	Echo transesophageal	1.83	4.56	4.63	4.56	4.63	0.31	6.70	6.77	6.70	6.77	XXX
93317	26	A	Echo transesophageal	1.83	0.63	0.71	0.63	0.71	0.05	2.51	2.59	2.51	2.59	XXX
93317	TC	A	Echo transesophageal	0.00	3.93	3.92	3.93	3.92	0.26	4.19	4.18	4.19	4.18	XXX
93320		A	Doppler echo exam, heart	0.38	1.93	2.15	1.93	2.15	0.14	2.45	2.67	2.45	2.67	ZZZ
93320	26	A	Doppler echo exam, heart	0.38	0.15	0.38	0.15	0.38	0.04	0.57	0.80	0.57	0.80	ZZZ
93320	TC	A	Doppler echo exam, heart	0.00	1.78	1.77	1.78	1.77	0.10	1.88	1.87	1.88	1.87	ZZZ

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
93321		A	Doppler echo exam, heart	0.15	1.22	1.30	1.22	1.30	0.09	1.46	1.54	1.46	1.54	ZZZ
93321	26	A	Doppler echo exam, heart	0.15	0.06	0.15	0.06	0.15	0.02	0.23	0.32	0.23	0.32	ZZZ
93321	TC	A	Doppler echo exam, heart	0.00	1.16	1.15	1.16	1.15	0.07	1.23	1.22	1.23	1.22	ZZZ
93325		A	Doppler color flow add-on	0.07	3.04	3.04	3.04	3.04	0.20	3.31	3.31	3.31	3.31	ZZZ
93325	26	A	Doppler color flow add-on	0.07	0.03	0.04	0.03	0.04	0.01	0.11	0.12	0.11	0.12	ZZZ
93325	TC	A	Doppler color flow add-on	0.00	3.01	3.00	3.01	3.00	0.19	3.20	3.19	3.20	3.19	ZZZ
93350		A	Echo transthoracic	0.78	2.14	2.60	2.14	2.60	0.19	3.11	3.57	3.11	3.57	XXX
93350	26	A	Echo transthoracic	0.78	0.31	0.78	0.31	0.78	0.08	1.17	1.64	1.17	1.64	XXX
93350	TC	A	Echo transthoracic	0.00	1.83	1.82	1.83	1.82	0.11	1.94	1.93	1.94	1.93	XXX
93501		A	Right heart catheterization	3.02	18.30	20.39	18.30	20.39	1.21	22.53	24.62	22.53	24.62	000
93501	26	A	Right heart catheterization	3.02	1.20	3.00	1.20	3.00	0.27	4.49	6.29	4.49	6.29	000
93501	TC	A	Right heart catheterization	0.00	17.10	17.39	17.10	17.39	0.94	18.04	18.33	18.04	18.33	000
93503		A	Insert/place heart catheter	2.91	1.06	2.19	0.67	2.10	0.28	4.25	5.38	3.86	5.29	000
93505		A	Biopsy of heart lining	4.38	3.80	4.96	3.80	4.96	0.36	8.54	9.70	8.54	9.70	000
93505	26	A	Biopsy of heart lining	4.38	1.80	2.92	1.80	2.92	0.22	6.40	7.52	6.40	7.52	000
93505	TC	A	Biopsy of heart lining	0.00	2.00	2.04	2.00	2.04	0.14	2.14	2.18	2.14	2.18	000
93508		A	Cath placement, angiography	4.10	14.30	15.61	14.30	15.61	0.77	19.17	20.48	19.17	20.48	000
93508	26	A	Cath placement, angiography	4.10	1.55	2.65	1.55	2.65	0.18	5.83	6.93	5.83	6.93	000
93508	TC	A	Cath placement, angiography	0.00	12.75	12.96	12.75	12.96	0.59	13.34	13.55	13.34	13.55	000
93510		A	Left heart catheterization	4.33	39.16	40.95	39.16	40.95	2.24	45.73	47.52	45.73	47.52	000
93510	26	A	Left heart catheterization	4.33	1.80	2.94	1.80	2.94	0.18	6.31	7.45	6.31	7.45	000
93510	TC	A	Left heart catheterization	0.00	37.36	38.01	37.36	38.01	2.06	39.42	40.07	39.42	40.07	000
93511		A	Left heart catheterization	5.03	38.46	39.65	38.46	39.65	2.16	45.65	46.84	45.65	46.84	000
93511	26	A	Left heart catheterization	5.03	2.09	2.65	2.09	2.65	0.16	7.28	7.84	7.28	7.84	000
93511	TC	A	Left heart catheterization	0.00	36.37	37.00	36.37	37.00	2.00	38.37	39.00	38.37	39.00	000
93514		A	Left heart catheterization	7.05	39.33	41.45	39.33	41.45	2.30	48.68	50.80	48.68	50.80	000
93514	26	A	Left heart catheterization	7.05	2.96	4.45	2.96	4.45	0.30	10.31	11.80	10.31	11.80	000
93514	TC	A	Left heart catheterization	0.00	36.37	37.00	36.37	37.00	2.00	38.37	39.00	38.37	39.00	000
93524		A	Left heart catheterization	6.95	50.42	52.86	50.42	52.86	2.89	60.26	62.70	60.26	62.70	000
93524	26	A	Left heart catheterization	6.95	2.90	4.51	2.90	4.51	0.27	10.12	11.73	10.12	11.73	000
93524	TC	A	Left heart catheterization	0.00	47.52	48.35	47.52	48.35	2.62	50.14	50.97	50.14	50.97	000
93526		A	Rt & Lt heart catheters	5.99	51.30	54.72	51.30	54.72	3.00	60.29	63.71	60.29	63.71	000
93526	26	A	Rt & Lt heart catheters	5.99	2.47	5.05	2.47	5.05	0.31	8.77	11.35	8.77	11.35	000
93526	TC	A	Rt & Lt heart catheters	0.00	48.83	49.67	48.83	49.67	2.69	51.52	52.36	51.52	52.36	000
93527		A	Rt & Lt heart catheters	7.28	50.53	54.92	50.53	54.92	3.01	60.82	65.21	60.82	65.21	000
93527	26	A	Rt & Lt heart catheters	7.28	3.01	6.57	3.01	6.57	0.39	10.68	14.24	10.68	14.24	000
93527	TC	A	Rt & Lt heart catheters	0.00	47.52	48.35	47.52	48.35	2.62	50.14	50.97	50.14	50.97	000
93528		A	Rt & Lt heart catheters	9.00	51.28	52.90	51.28	52.90	2.88	63.16	64.78	63.16	64.78	000
93528	26	A	Rt & Lt heart catheters	9.00	3.76	4.55	3.76	4.55	0.26	13.02	13.81	13.02	13.81	000
93528	TC	A	Rt & Lt heart catheters	0.00	47.52	48.35	47.52	48.35	2.62	50.14	50.97	50.14	50.97	000

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
93529		A	Rt, Lt heart catheterization	4.80	49.44	51.22	49.44	51.22	2.79	57.03	58.81	57.03	58.81	000
93529	26	A	Rt, Lt heart catheterization	4.80	1.92	2.87	1.92	2.87	0.17	6.89	7.84	6.89	7.84	000
93529	TC	A	Rt, Lt heart catheterization	0.00	47.52	48.35	47.52	48.35	2.62	50.14	50.97	50.14	50.97	000
93530		A	Rt heart cath, congenital	4.23	18.78	20.75	18.78	20.75	1.21	24.22	26.19	24.22	26.19	000
93530	26	A	Rt heart cath, congenital	4.23	1.68	3.36	1.68	3.36	0.27	6.18	7.86	6.18	7.86	000
93530	TC	A	Rt heart cath, congenital	0.00	17.10	17.39	17.10	17.39	0.94	18.04	18.33	18.04	18.33	000
93531		A	R & I heart cath, congenital	8.35	52.27	54.96	52.27	54.96	3.00	63.62	66.31	63.62	66.31	000
93531	26	A	R & I heart cath, congenital	8.35	3.44	5.29	3.44	5.29	0.31	12.10	13.95	12.10	13.95	000
93531	TC	A	R & I heart cath, congenital	0.00	48.83	49.67	48.83	49.67	2.69	51.52	52.36	51.52	52.36	000
93532		A	R & I heart cath, congenital	10.00	51.49	55.16	51.49	55.16	3.01	64.50	68.17	64.50	68.17	000
93532	26	A	R & I heart cath, congenital	10.00	3.97	6.81	3.97	6.81	0.39	14.36	17.20	14.36	17.20	000
93532	TC	A	R & I heart cath, congenital	0.00	47.52	48.35	47.52	48.35	2.62	50.14	50.97	50.14	50.97	000
93533		A	R & I heart cath, congenital	6.70	50.07	51.37	50.07	51.37	2.79	59.56	60.86	59.56	60.86	000
93533	26	A	R & I heart cath, congenital	6.70	2.55	3.02	2.55	3.02	0.17	9.42	9.89	9.42	9.89	000
93533	TC	A	R & I heart cath, congenital	0.00	47.52	48.35	47.52	48.35	2.62	50.14	50.97	50.14	50.97	000
93536		A	Insert circulation assi	4.65	NA	NA	3.20	5.15	0.56	NA	NA	8.61	10.56	000
93539		A	Injection, cardiac cath	0.40	0.58	0.87	0.57	0.50	0.16	1.14	1.43	1.13	1.06	000
93540		A	Injection, cardiac cath	0.43	0.59	0.87	0.59	0.53	0.16	1.18	1.46	1.18	1.12	000
93541		A	Injection for lung angiogram	0.29	NA	NA	0.22	0.32	0.13	NA	NA	0.64	0.74	000
93542		A	Injection for heart x-rays	0.29	NA	NA	0.37	0.36	0.13	NA	NA	0.79	0.78	000
93543		A	Injection for heart x-rays	0.29	0.38	0.56	0.37	0.36	0.09	0.76	0.94	0.75	0.74	000
93544		A	Injection for aortography	0.25	0.36	0.56	0.35	0.31	0.09	0.70	0.90	0.69	0.65	000
93545		A	Injection for coronary xrays	0.40	0.58	0.51	0.57	0.50	0.19	1.17	1.10	1.16	1.09	000
93555		A	Imaging, cardiac cath	0.81	6.67	6.75	6.67	6.75	0.33	7.81	7.89	7.81	7.89	XXX
93555	26	A	Imaging, cardiac cath	0.81	0.33	0.30	0.33	0.30	0.03	1.17	1.14	1.17	1.14	XXX
93555	TC	A	Imaging, cardiac cath	0.00	6.34	6.45	6.34	6.45	0.30	6.64	6.75	6.64	6.75	XXX
93556		A	Imaging, cardiac cath	0.83	10.34	10.62	10.34	10.62	0.50	11.67	11.95	11.67	11.95	XXX
93556	26	A	Imaging, cardiac cath	0.83	0.34	0.45	0.34	0.45	0.05	1.22	1.33	1.22	1.33	XXX
93556	TC	A	Imaging, cardiac cath	0.00	10.00	10.17	10.00	10.17	0.45	10.45	10.62	10.45	10.62	XXX
93561		A	Cardiac output measurement	0.50	0.71	1.03	0.71	1.03	0.12	1.33	1.65	1.33	1.65	000
93561	26	A	Cardiac output measurement	0.50	0.17	0.49	0.17	0.49	0.07	0.74	1.06	0.74	1.06	000
93561	TC	A	Cardiac output measurement	0.00	0.54	0.54	0.54	0.54	0.05	0.59	0.59	0.59	0.59	000
93562		A	Cardiac output measurement	0.16	0.37	0.49	0.37	0.49	0.08	0.61	0.73	0.61	0.73	000
93562	26	A	Cardiac output measurement	0.16	0.05	0.16	0.05	0.16	0.05	0.26	0.37	0.26	0.37	000
93562	TC	A	Cardiac output measurement	0.00	0.32	0.33	0.32	0.33	0.03	0.35	0.36	0.35	0.36	000
93571		A	Heart flow reserve measure	1.80	5.41	5.41	5.41	5.41	0.28	7.49	7.49	7.49	7.49	ZZZ
93571	26	A	Heart flow reserve measure	1.80	0.68	0.68	0.68	0.68	0.06	2.54	2.54	2.54	2.54	ZZZ
93571	TC	A	Heart flow reserve measure	0.00	4.73	4.73	4.73	4.73	0.22	4.95	4.95	4.95	4.95	ZZZ
93572		A	Heart flow reserve measure	1.44	5.28	5.28	5.28	5.28	0.16	6.88	6.88	6.88	6.88	ZZZ
93572	26	A	Heart flow reserve measure	1.44	0.55	0.55	0.55	0.55	0.05	2.04	2.04	2.04	2.04	ZZZ

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
93572	TC	A	Heart flow reserve measure	0.00	4.73	4.73	4.73	4.73	0.11	4.84	4.84	4.84	4.84	ZZZ
93600		A	Bundle of His recording	2.12	2.90	4.14	2.90	4.14	0.30	5.32	6.56	5.32	6.56	000
93600	26	A	Bundle of His recording	2.12	0.88	2.12	0.88	2.12	0.19	3.19	4.43	3.19	4.43	000
93600	TC	A	Bundle of His recording	0.00	2.02	2.02	2.02	2.02	0.11	2.13	2.13	2.13	2.13	000
93602		A	Intra-atrial recording	2.12	2.04	2.81	2.04	2.81	0.17	4.33	5.10	4.33	5.10	000
93602	26	A	Intra-atrial recording	2.12	0.88	1.66	0.88	1.66	0.11	3.11	3.89	3.11	3.89	000
93602	TC	A	Intra-atrial recording	0.00	1.16	1.15	1.16	1.15	0.06	1.22	1.21	1.22	1.21	000
93603		A	Right ventricular recording	2.12	2.62	3.75	2.62	3.75	0.22	4.96	6.09	4.96	6.09	000
93603	26	A	Right ventricular recording	2.12	0.88	2.01	0.88	2.01	0.13	3.13	4.26	3.13	4.26	000
93603	TC	A	Right ventricular recording	0.00	1.74	1.74	1.74	1.74	0.09	1.83	1.83	1.83	1.83	000
93607		A	Right ventricular recording	3.26	2.92	3.68	2.92	3.68	0.22	6.40	7.16	6.40	7.16	000
93607	26	A	Right ventricular recording	3.26	1.37	2.14	1.37	2.14	0.13	4.76	5.53	4.76	5.53	000
93607	TC	A	Right ventricular recording	0.00	1.55	1.54	1.55	1.54	0.09	1.64	1.63	1.64	1.63	000
93609		A	Mapping of tachycardia	10.07	6.98	6.98	6.98	6.98	0.37	17.42	17.42	17.42	17.42	000
93609	26	A	Mapping of tachycardia	10.07	4.16	4.17	4.16	4.17	0.22	14.45	14.46	14.45	14.46	000
93609	TC	A	Mapping of tachycardia	0.00	2.82	2.81	2.82	2.81	0.15	2.97	2.96	2.97	2.96	000
93610		A	Intra-atrial pacing	3.02	2.64	3.59	2.64	3.59	0.21	5.87	6.82	5.87	6.82	000
93610	26	A	Intra-atrial pacing	3.02	1.24	2.19	1.24	2.19	0.13	4.39	5.34	4.39	5.34	000
93610	TC	A	Intra-atrial pacing	0.00	1.40	1.40	1.40	1.40	0.08	1.48	1.48	1.48	1.48	000
93612		A	Intraventricular pacing	3.02	2.91	3.89	2.91	3.89	0.22	6.15	7.13	6.15	7.13	000
93612	26	A	Intraventricular pacing	3.02	1.24	2.22	1.24	2.22	0.13	4.39	5.37	4.39	5.37	000
93612	TC	A	Intraventricular pacing	0.00	1.67	1.67	1.67	1.67	0.09	1.76	1.76	1.76	1.76	000
93615		A	Esophageal recording	0.99	0.54	0.67	0.54	0.67	0.04	1.57	1.70	1.57	1.70	000
93615	26	A	Esophageal recording	0.99	0.21	0.34	0.21	0.34	0.02	1.22	1.35	1.22	1.35	000
93615	TC	A	Esophageal recording	0.00	0.33	0.33	0.33	0.33	0.02	0.35	0.35	0.35	0.35	000
93616		A	Esophageal recording	1.49	0.72	1.54	0.72	1.54	0.08	2.29	3.11	2.29	3.11	000
93616	26	A	Esophageal recording	1.49	0.39	1.21	0.39	1.21	0.06	1.94	2.76	1.94	2.76	000
93616	TC	A	Esophageal recording	0.00	0.33	0.33	0.33	0.33	0.02	0.35	0.35	0.35	0.35	000
93618		A	Heart rhythm pacing	4.26	5.89	8.36	5.89	8.36	0.56	10.71	13.18	10.71	13.18	000
93618	26	A	Heart rhythm pacing	4.26	1.78	4.26	1.78	4.26	0.34	6.38	8.86	6.38	8.86	000
93618	TC	A	Heart rhythm pacing	0.00	4.11	4.10	4.11	4.10	0.22	4.33	4.32	4.33	4.32	000
93619		A	Electrophysiology evaluation	7.32	11.01	15.29	11.01	15.29	1.09	19.42	23.70	19.42	23.70	000
93619	26	A	Electrophysiology evaluation	7.32	3.02	7.31	3.02	7.31	0.67	11.01	15.30	11.01	15.30	000
93619	TC	A	Electrophysiology evaluation	0.00	7.99	7.98	7.99	7.98	0.42	8.41	8.40	8.41	8.40	000
93620		A	Electrophysiology evaluation	11.59	14.08	20.86	14.08	20.86	1.21	26.88	33.66	26.88	33.66	000
93620	26	A	Electrophysiology evaluation	11.59	4.78	11.58	4.78	11.58	0.74	17.11	23.91	17.11	23.91	000
93620	TC	A	Electrophysiology evaluation	0.00	9.30	9.28	9.30	9.28	0.47	9.77	9.75	9.77	9.75	000
93621		C	Electrophysiology evaluation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	000
93621	26	A	Electrophysiology evaluation	12.66	5.26	12.66	5.26	12.66	0.87	18.79	26.19	18.79	26.19	000
93621	TC	C	Electrophysiology evaluation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	000

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
93622		C	Electrophysiology evaluation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	000
93622	26	A	Electrophysiology evaluation	12.74	5.25	12.71	5.25	12.71	0.84	18.83	26.29	18.83	26.29	000
93622	TC	C	Electrophysiology evaluation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	000
93623		C	Stimulation, pacing heart	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ
93623	26	A	Stimulation, pacing heart	2.85	1.18	2.56	1.18	2.56	0.16	4.19	5.57	4.19	5.57	ZZZ
93623	TC	C	Stimulation, pacing heart	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ
93624		A	Electrophysiologic study	4.81	3.99	4.96	3.99	4.96	0.27	9.07	10.04	9.07	10.04	000
93624	26	A	Electrophysiologic study	4.81	1.93	2.91	1.93	2.91	0.16	6.90	7.88	6.90	7.88	000
93624	TC	A	Electrophysiologic study	0.00	2.06	2.05	2.06	2.05	0.11	2.17	2.16	2.17	2.16	000
93631		A	Heart pacing, mapping	7.60	9.55	11.84	9.55	11.84	1.07	18.22	20.51	18.22	20.51	000
93631	26	A	Heart pacing, mapping	7.60	3.18	5.48	3.18	5.48	0.52	11.30	13.60	11.30	13.60	000
93631	TC	A	Heart pacing, mapping	0.00	6.37	6.36	6.37	6.36	0.55	6.92	6.91	6.92	6.91	000
93640		A	Evaluation heart device	3.52	8.93	10.95	8.93	10.95	0.86	13.31	15.33	13.31	15.33	000
93640	26	A	Evaluation heart device	3.52	1.48	3.52	1.48	3.52	0.48	5.48	7.52	5.48	7.52	000
93640	TC	A	Evaluation heart device	0.00	7.45	7.43	7.45	7.43	0.38	7.83	7.81	7.83	7.81	000
93641		A	Electrophysiology evaluation	5.93	9.90	13.35	9.90	13.35	0.86	16.69	20.14	16.69	20.14	000
93641	26	A	Electrophysiology evaluation	5.93	2.45	5.92	2.45	5.92	0.48	8.86	12.33	8.86	12.33	000
93641	TC	A	Electrophysiology evaluation	0.00	7.45	7.43	7.45	7.43	0.38	7.83	7.81	7.83	7.81	000
93642		A	Electrophysiology evaluation	4.89	9.47	12.32	9.47	12.32	0.86	15.22	18.07	15.22	18.07	000
93642	26	A	Electrophysiology evaluation	4.89	2.02	4.89	2.02	4.89	0.48	7.39	10.26	7.39	10.26	000
93642	TC	A	Electrophysiology evaluation	0.00	7.45	7.43	7.45	7.43	0.38	7.83	7.81	7.83	7.81	000
93650		A	Ablate heart dysrhythm focus	10.51	NA	NA	6.25	10.98	1.05	NA	NA	17.81	22.54	000
93651		A	Ablate heart dysrhythm focus	16.25	NA	NA	10.57	17.16	1.05	NA	NA	27.87	34.46	000
93652		A	Ablate heart dysrhythm focus	17.68	NA	NA	11.09	17.29	1.05	NA	NA	29.82	36.02	000
93660		C	Tilt table evaluation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	000
93660	26	A	Tilt table evaluation	1.89	0.77	1.36	0.77	1.36	0.13	2.79	3.38	2.79	3.38	000
93660	TC	C	Tilt table evaluation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	000
93720		A	Total body plethysmography	0.17	0.77	0.92	0.77	0.63	0.07	1.01	1.16	1.01	0.87	XXX
93721		A	Plethysmography tracing	0.00	0.72	0.73	0.72	0.46	0.05	0.77	0.78	0.77	0.51	XXX
93722		A	Plethysmography report	0.17	0.05	0.19	0.05	0.17	0.02	0.24	0.38	0.24	0.36	XXX
93724		A	Analyze pacemaker system	4.89	6.15	6.96	6.15	6.96	0.39	11.43	12.24	11.43	12.24	000
93724	26	A	Analyze pacemaker system	4.89	2.04	2.86	2.04	2.86	0.17	7.10	7.92	7.10	7.92	000
93724	TC	A	Analyze pacemaker system	0.00	4.11	4.10	4.11	4.10	0.22	4.33	4.32	4.33	4.32	000
93731		A	Analyze pacemaker system	0.45	0.70	0.82	0.70	0.82	0.05	1.20	1.32	1.20	1.32	XXX
93731	26	A	Analyze pacemaker system	0.45	0.19	0.31	0.19	0.31	0.02	0.66	0.78	0.66	0.78	XXX
93731	TC	A	Analyze pacemaker system	0.00	0.51	0.51	0.51	0.51	0.03	0.54	0.54	0.54	0.54	XXX
93732		A	Analyze pacemaker system	0.92	0.90	0.97	0.90	0.97	0.06	1.88	1.95	1.88	1.95	XXX
93732	26	A	Analyze pacemaker system	0.92	0.37	0.44	0.37	0.44	0.03	1.32	1.39	1.32	1.39	XXX
93732	TC	A	Analyze pacemaker system	0.00	0.53	0.53	0.53	0.53	0.03	0.56	0.56	0.56	0.56	XXX
93733		A	Telephone analysis,pacemaker	0.17	0.81	0.93	0.81	0.93	0.07	1.05	1.17	1.05	1.17	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
93733	26	A	Telephone analysis,pacemaker	0.17	0.07	0.18	0.07	0.18	0.02	0.26	0.37	0.26	0.37	XXX
93733	TC	A	Telephone analysis,pacemaker	0.00	0.74	0.75	0.74	0.75	0.05	0.79	0.80	0.79	0.80	XXX
93734		A	Analyze pacemaker system	0.38	0.51	0.65	0.51	0.65	0.04	0.93	1.07	0.93	1.07	XXX
93734	26	A	Analyze pacemaker system	0.38	0.15	0.29	0.15	0.29	0.02	0.55	0.69	0.55	0.69	XXX
93734	TC	A	Analyze pacemaker system	0.00	0.36	0.36	0.36	0.36	0.02	0.38	0.38	0.38	0.38	XXX
93735		A	Analyze pacemaker system	0.74	0.75	0.89	0.75	0.89	0.06	1.55	1.69	1.55	1.69	XXX
93735	26	A	Analyze pacemaker system	0.74	0.30	0.43	0.30	0.43	0.03	1.07	1.20	1.07	1.20	XXX
93735	TC	A	Analyze pacemaker system	0.00	0.45	0.46	0.45	0.46	0.03	0.48	0.49	0.48	0.49	XXX
93736		A	Telephone analysis,pacemaker	0.15	0.71	0.80	0.71	0.80	0.07	0.93	1.02	0.93	1.02	XXX
93736	26	A	Telephone analysis,pacemaker	0.15	0.06	0.15	0.06	0.15	0.02	0.23	0.32	0.23	0.32	XXX
93736	TC	A	Telephone analysis,pacemaker	0.00	0.65	0.65	0.65	0.65	0.05	0.70	0.70	0.70	0.70	XXX
93737		A	Analyze cardio/defibrillator	0.45	0.70	0.78	0.70	0.78	0.05	1.20	1.28	1.20	1.28	XXX
93737	26	A	Analyze cardio/defibrillator	0.45	0.19	0.27	0.19	0.27	0.02	0.66	0.74	0.66	0.74	XXX
93737	TC	A	Analyze cardio/defibrillator	0.00	0.51	0.51	0.51	0.51	0.03	0.54	0.54	0.54	0.54	XXX
93738		A	Analyze cardio/defibrillator	0.92	0.90	0.94	0.90	0.94	0.05	1.87	1.91	1.87	1.91	XXX
93738	26	A	Analyze cardio/defibrillator	0.92	0.37	0.41	0.37	0.41	0.02	1.31	1.35	1.31	1.35	XXX
93738	TC	A	Analyze cardio/defibrillator	0.00	0.53	0.53	0.53	0.53	0.03	0.56	0.56	0.56	0.56	XXX
93740		A	Temperature gradient studies	0.16	0.19	0.42	0.19	0.42	0.03	0.38	0.61	0.38	0.61	XXX
93740	26	A	Temperature gradient studies	0.16	0.04	0.26	0.04	0.26	0.02	0.22	0.44	0.22	0.44	XXX
93740	TC	A	Temperature gradient studies	0.00	0.15	0.16	0.15	0.16	0.01	0.16	0.17	0.16	0.17	XXX
93760		N	Cephalic thermogram	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
93762		N	Peripheral thermogram	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
93770		A	Measure venous pressure	0.16	0.08	0.18	0.08	0.18	0.02	0.26	0.36	0.26	0.36	XXX
93770	26	A	Measure venous pressure	0.16	0.05	0.15	0.05	0.15	0.02	0.23	0.33	0.23	0.33	XXX
93770	TC	A	Measure venous pressure	0.00	0.03	0.03	0.03	0.03	0.00	0.03	0.03	0.03	0.03	XXX
93784		N	Ambulatory BP monitoring	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
93786		N	Ambulatory BP recording	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
93788		N	Ambulatory BP analysis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
93790		N	Review/report BP recording	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
93797		A	Cardiac rehab	0.16	0.30	0.24	0.07	0.10	0.02	0.50	0.44	0.27	0.30	000
93798		A	Cardiac rehab/monitor	0.28	0.35	0.47	0.11	0.22	0.03	0.66	0.78	0.42	0.53	000
93799		C	Cardiovascular procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
93799	26	C	Cardiovascular procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
93799	TC	C	Cardiovascular procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
93875		A	Extracranial study	0.22	1.22	1.35	1.22	1.35	0.14	1.58	1.71	1.58	1.71	XXX
93875	26	A	Extracranial study	0.22	0.07	0.21	0.07	0.21	0.05	0.34	0.48	0.34	0.48	XXX
93875	TC	A	Extracranial study	0.00	1.15	1.14	1.15	1.14	0.09	1.24	1.23	1.24	1.23	XXX
93880		A	Extracranial study	0.60	4.05	4.21	4.05	4.21	0.34	4.99	5.15	4.99	5.15	XXX
93880	26	A	Extracranial study	0.60	0.19	0.36	0.19	0.36	0.03	0.82	0.99	0.82	0.99	XXX
93880	TC	A	Extracranial study	0.00	3.86	3.85	3.86	3.85	0.31	4.17	4.16	4.17	4.16	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
93882		A	Extracranial study	0.40	2.69	2.80	2.69	2.80	0.22	3.31	3.42	3.31	3.42	XXX
93882	26	A	Extracranial study	0.40	0.13	0.24	0.13	0.24	0.02	0.55	0.66	0.55	0.66	XXX
93882	TC	A	Extracranial study	0.00	2.56	2.56	2.56	2.56	0.20	2.76	2.76	2.76	2.76	XXX
93886		A	Intracranial study	0.94	4.72	4.79	4.72	4.79	0.39	6.05	6.12	6.05	6.12	XXX
93886	26	A	Intracranial study	0.94	0.35	0.43	0.35	0.43	0.04	1.33	1.41	1.33	1.41	XXX
93886	TC	A	Intracranial study	0.00	4.37	4.36	4.37	4.36	0.35	4.72	4.71	4.72	4.71	XXX
93888		A	Intracranial study	0.62	3.14	3.19	3.14	3.19	0.26	4.02	4.07	4.02	4.07	XXX
93888	26	A	Intracranial study	0.62	0.23	0.28	0.23	0.28	0.02	0.87	0.92	0.87	0.92	XXX
93888	TC	A	Intracranial study	0.00	2.91	2.91	2.91	2.91	0.24	3.15	3.15	3.15	3.15	XXX
93922		A	Extremity study	0.25	1.29	1.44	1.29	1.44	0.15	1.69	1.84	1.69	1.84	XXX
93922	26	A	Extremity study	0.25	0.09	0.25	0.09	0.25	0.04	0.38	0.54	0.38	0.54	XXX
93922	TC	A	Extremity study	0.00	1.20	1.19	1.20	1.19	0.11	1.31	1.30	1.31	1.30	XXX
93923		A	Extremity study	0.45	2.41	2.70	2.41	2.70	0.27	3.13	3.42	3.13	3.42	XXX
93923	26	A	Extremity study	0.45	0.15	0.44	0.15	0.44	0.07	0.67	0.96	0.67	0.96	XXX
93923	TC	A	Extremity study	0.00	2.26	2.26	2.26	2.26	0.20	2.46	2.46	2.46	2.46	XXX
93924		A	Extremity study	0.50	2.64	2.95	2.64	2.95	0.31	3.45	3.76	3.45	3.76	XXX
93924	26	A	Extremity study	0.50	0.18	0.50	0.18	0.50	0.08	0.76	1.08	0.76	1.08	XXX
93924	TC	A	Extremity study	0.00	2.46	2.45	2.46	2.45	0.23	2.69	2.68	2.69	2.68	XXX
93925		A	Lower extremity study	0.58	4.07	4.23	4.07	4.23	0.34	4.99	5.15	4.99	5.15	XXX
93925	26	A	Lower extremity study	0.58	0.19	0.36	0.19	0.36	0.03	0.80	0.97	0.80	0.97	XXX
93925	TC	A	Lower extremity study	0.00	3.88	3.87	3.88	3.87	0.31	4.19	4.18	4.19	4.18	XXX
93926		A	Lower extremity study	0.39	2.71	2.82	2.71	2.82	0.23	3.33	3.44	3.33	3.44	XXX
93926	26	A	Lower extremity study	0.39	0.12	0.24	0.12	0.24	0.02	0.53	0.65	0.53	0.65	XXX
93926	TC	A	Lower extremity study	0.00	2.59	2.58	2.59	2.58	0.21	2.80	2.79	2.80	2.79	XXX
93930		A	Upper extremity study	0.46	4.27	4.46	4.27	4.46	0.37	5.10	5.29	5.10	5.29	XXX
93930	26	A	Upper extremity study	0.46	0.15	0.35	0.15	0.35	0.04	0.65	0.85	0.65	0.85	XXX
93930	TC	A	Upper extremity study	0.00	4.12	4.11	4.12	4.11	0.33	4.45	4.44	4.45	4.44	XXX
93931		A	Upper extremity study	0.31	2.85	2.98	2.85	2.98	0.24	3.40	3.53	3.40	3.53	XXX
93931	26	A	Upper extremity study	0.31	0.10	0.24	0.10	0.24	0.02	0.43	0.57	0.43	0.57	XXX
93931	TC	A	Upper extremity study	0.00	2.75	2.74	2.75	2.74	0.22	2.97	2.96	2.97	2.96	XXX
93965		A	Extremity study	0.35	1.24	1.47	1.24	1.47	0.15	1.74	1.97	1.74	1.97	XXX
93965	26	A	Extremity study	0.35	0.11	0.34	0.11	0.34	0.05	0.51	0.74	0.51	0.74	XXX
93965	TC	A	Extremity study	0.00	1.13	1.13	1.13	1.13	0.10	1.23	1.23	1.23	1.23	XXX
93970		A	Extremity study	0.68	4.51	4.66	4.51	4.66	0.40	5.59	5.74	5.59	5.74	XXX
93970	26	A	Extremity study	0.68	0.22	0.38	0.22	0.38	0.04	0.94	1.10	0.94	1.10	XXX
93970	TC	A	Extremity study	0.00	4.29	4.28	4.29	4.28	0.36	4.65	4.64	4.65	4.64	XXX
93971		A	Extremity study	0.45	2.98	3.09	2.98	3.09	0.26	3.69	3.80	3.69	3.80	XXX
93971	26	A	Extremity study	0.45	0.13	0.25	0.13	0.25	0.02	0.60	0.72	0.60	0.72	XXX
93971	TC	A	Extremity study	0.00	2.85	2.84	2.85	2.84	0.24	3.09	3.08	3.09	3.08	XXX
93975		A	Vascular study	1.80	5.42	5.35	5.42	5.35	0.43	7.65	7.58	7.65	7.58	XXX

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93975	26	A	Vascular study	1.80	0.53	0.48	0.53	0.48	0.04	2.37	2.32	2.37	2.32	XXX
93975	TC	A	Vascular study	0.00	4.89	4.87	4.89	4.87	0.39	5.28	5.26	5.28	5.26	XXX
93976		A	Vascular study	1.21	3.59	3.55	3.59	3.55	0.29	5.09	5.05	5.09	5.05	XXX
93976	26	A	Vascular study	1.21	0.34	0.31	0.34	0.31	0.02	1.57	1.54	1.57	1.54	XXX
93976	TC	A	Vascular study	0.00	3.25	3.24	3.25	3.24	0.27	3.52	3.51	3.52	3.51	XXX
93978		A	Vascular study	0.65	4.22	4.36	4.22	4.36	0.37	5.24	5.38	5.24	5.38	XXX
93978	26	A	Vascular study	0.65	0.22	0.37	0.22	0.37	0.04	0.91	1.06	0.91	1.06	XXX
93978	TC	A	Vascular study	0.00	4.00	3.99	4.00	3.99	0.33	4.33	4.32	4.33	4.32	XXX
93979		A	Vascular study	0.44	2.80	2.90	2.80	2.90	0.24	3.48	3.58	3.48	3.58	XXX
93979	26	A	Vascular study	0.44	0.15	0.25	0.15	0.25	0.02	0.61	0.71	0.61	0.71	XXX
93979	TC	A	Vascular study	0.00	2.65	2.65	2.65	2.65	0.22	2.87	2.87	2.87	2.87	XXX
93980		A	Penile vascular study	1.25	4.03	4.39	4.03	4.39	0.35	5.63	5.99	5.63	5.99	XXX
93980	26	A	Penile vascular study	1.25	0.40	0.77	0.40	0.77	0.05	1.70	2.07	1.70	2.07	XXX
93980	TC	A	Penile vascular study	0.00	3.63	3.62	3.63	3.62	0.30	3.93	3.92	3.93	3.92	XXX
93981		A	Penile vascular study	0.44	3.48	3.70	3.48	3.70	0.30	4.22	4.44	4.22	4.44	XXX
93981	26	A	Penile vascular study	0.44	0.13	0.36	0.13	0.36	0.02	0.59	0.82	0.59	0.82	XXX
93981	TC	A	Penile vascular study	0.00	3.35	3.34	3.35	3.34	0.28	3.63	3.62	3.63	3.62	XXX
93990		A	Doppler flow testing	0.25	2.69	2.78	2.69	2.78	0.23	3.17	3.24	3.17	3.24	XXX
93990	26	A	Doppler flow testing	0.25	0.10	0.18	0.10	0.18	0.02	0.37	0.45	0.37	0.45	XXX
93990	TC	A	Doppler flow testing	0.00	2.59	2.58	2.59	2.58	0.21	2.80	2.79	2.80	2.79	XXX
94010		A	Breathing capacity test	0.17	0.49	0.67	0.49	0.67	0.04	0.70	0.88	0.70	0.88	XXX
94010	26	A	Breathing capacity test	0.17	0.05	0.24	0.05	0.24	0.02	0.24	0.43	0.24	0.43	XXX
94010	TC	A	Breathing capacity test	0.00	0.44	0.43	0.44	0.43	0.02	0.46	0.45	0.46	0.45	XXX
94014		A	Patient recorded spirometry	0.52	0.63	0.63	0.63	0.63	0.04	1.19	1.19	1.19	1.19	XXX
94014	26	A	Patient recorded spirometry	0.52	0.20	0.20	0.20	0.20	0.02	0.74	0.74	0.74	0.74	XXX
94014	TC	A	Patient recorded spirometry	0.00	0.43	0.43	0.43	0.43	0.02	0.45	0.45	0.45	0.45	XXX
94015		B	Patient recorded spirometry	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
94015	26	B	Patient recorded spirometry	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
94015	TC	B	Patient recorded spirometry	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
94016		A	Review patient spirometry	0.52	0.20	0.20	0.20	0.20	0.04	0.76	0.76	0.76	0.76	XXX
94060		A	Evaluation of wheezing	0.31	1.06	1.27	1.06	1.27	0.07	1.44	1.65	1.44	1.65	XXX
94060	26	A	Evaluation of wheezing	0.31	0.09	0.30	0.09	0.30	0.02	0.42	0.63	0.42	0.63	XXX
94060	TC	A	Evaluation of wheezing	0.00	0.97	0.97	0.97	0.97	0.05	1.02	1.02	1.02	1.02	XXX
94070		A	Evaluation of wheezing	0.60	1.70	1.86	1.70	1.86	0.10	2.40	2.56	2.40	2.56	XXX
94070	26	A	Evaluation of wheezing	0.60	0.18	0.35	0.18	0.35	0.02	0.80	0.97	0.80	0.97	XXX
94070	TC	A	Evaluation of wheezing	0.00	1.52	1.51	1.52	1.51	0.08	1.60	1.59	1.60	1.59	XXX
94150		B	Vital capacity test	+0.07	0.12	0.17	0.12	0.17	0.02	0.21	0.26	0.21	0.26	XXX
94150	26	B	Vital capacity test	+0.07	0.03	0.08	0.03	0.08	0.01	0.11	0.16	0.11	0.16	XXX
94150	TC	B	Vital capacity test	+0.00	0.09	0.09	0.09	0.09	0.01	0.10	0.10	0.10	0.10	XXX
94200		A	Lung function test (MBC/MVV)	0.11	0.29	0.37	0.29	0.37	0.03	0.43	0.51	0.43	0.51	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
94200	26	A	Lung function test (MBC/MVV)	0.11	0.03	0.11	0.03	0.11	0.01	0.15	0.23	0.15	0.23	XXX
94200	TC	A	Lung function test (MBC/MVV)	0.00	0.26	0.26	0.26	0.26	0.02	0.28	0.28	0.28	0.28	XXX
94240		A	Residual lung capacity	0.26	0.78	0.92	0.78	0.92	0.06	1.10	1.24	1.10	1.24	XXX
94240	26	A	Residual lung capacity	0.26	0.07	0.21	0.07	0.21	0.02	0.35	0.49	0.35	0.49	XXX
94240	TC	A	Residual lung capacity	0.00	0.71	0.71	0.71	0.71	0.04	0.75	0.75	0.75	0.75	XXX
94250		A	Expired gas collection	0.11	0.17	0.25	0.17	0.25	0.02	0.30	0.38	0.30	0.38	XXX
94250	26	A	Expired gas collection	0.11	0.03	0.11	0.03	0.11	0.01	0.15	0.23	0.15	0.23	XXX
94250	TC	A	Expired gas collection	0.00	0.14	0.14	0.14	0.14	0.01	0.15	0.15	0.15	0.15	XXX
94260		A	Thoracic gas volume	0.13	0.61	0.68	0.61	0.68	0.05	0.79	0.86	0.79	0.86	XXX
94260	26	A	Thoracic gas volume	0.13	0.04	0.12	0.04	0.12	0.02	0.19	0.27	0.19	0.27	XXX
94260	TC	A	Thoracic gas volume	0.00	0.57	0.56	0.57	0.56	0.03	0.60	0.59	0.60	0.59	XXX
94350		A	Lung nitrogen washout curve	0.26	0.64	0.75	0.64	0.75	0.04	0.94	1.05	0.94	1.05	XXX
94350	26	A	Lung nitrogen washout curve	0.26	0.07	0.19	0.07	0.19	0.01	0.34	0.46	0.34	0.46	XXX
94350	TC	A	Lung nitrogen washout curve	0.00	0.57	0.56	0.57	0.56	0.03	0.60	0.59	0.60	0.59	XXX
94360		A	Measure airflow resistance	0.26	1.07	1.18	1.07	1.18	0.06	1.39	1.50	1.39	1.50	XXX
94360	26	A	Measure airflow resistance	0.26	0.07	0.18	0.07	0.18	0.01	0.34	0.45	0.34	0.45	XXX
94360	TC	A	Measure airflow resistance	0.00	1.00	1.00	1.00	1.00	0.05	1.05	1.05	1.05	1.05	XXX
94370		A	Breath airway closing volume	0.26	0.35	0.41	0.35	0.41	0.03	0.64	0.70	0.64	0.70	XXX
94370	26	A	Breath airway closing volume	0.26	0.07	0.13	0.07	0.13	0.01	0.34	0.40	0.34	0.40	XXX
94370	TC	A	Breath airway closing volume	0.00	0.28	0.28	0.28	0.28	0.02	0.30	0.30	0.30	0.30	XXX
94375		A	Respiratory flow volume loop	0.31	0.59	0.70	0.59	0.70	0.03	0.93	1.04	0.93	1.04	XXX
94375	26	A	Respiratory flow volume loop	0.31	0.09	0.20	0.09	0.20	0.01	0.41	0.52	0.41	0.52	XXX
94375	TC	A	Respiratory flow volume loop	0.00	0.50	0.50	0.50	0.50	0.02	0.52	0.52	0.52	0.52	XXX
94400		A	CO2 breathing response curve	0.40	0.44	0.74	0.44	0.74	0.15	0.99	1.29	0.99	1.29	XXX
94400	26	A	CO2 breathing response curve	0.40	0.11	0.41	0.11	0.41	0.10	0.61	0.91	0.61	0.91	XXX
94400	TC	A	CO2 breathing response curve	0.00	0.33	0.33	0.33	0.33	0.05	0.38	0.38	0.38	0.38	XXX
94450		A	Hypoxia response curve	0.40	0.52	0.63	0.52	0.63	0.04	0.96	1.07	0.96	1.07	XXX
94450	26	A	Hypoxia response curve	0.40	0.12	0.23	0.12	0.23	0.02	0.54	0.65	0.54	0.65	XXX
94450	TC	A	Hypoxia response curve	0.00	0.40	0.40	0.40	0.40	0.02	0.42	0.42	0.42	0.42	XXX
94620		A	Pulmonary stress test/simple	0.88	1.74	2.11	1.74	2.11	0.12	2.74	3.11	2.74	3.11	XXX
94620	26	A	Pulmonary stress test/simple	0.88	0.27	0.64	0.27	0.64	0.04	1.19	1.56	1.19	1.56	XXX
94620	TC	A	Pulmonary stress test/simple	0.00	1.47	1.47	1.47	1.47	0.08	1.55	1.55	1.55	1.55	XXX
94621		A	Pulm stress test/complex	0.88	1.74	1.74	1.74	1.74	0.12	2.74	2.74	2.74	2.74	XXX
94621	26	A	Pulm stress test/complex	0.88	0.27	0.27	0.27	0.27	0.04	1.19	1.19	1.19	1.19	XXX
94621	TC	A	Pulm stress test/complex	0.00	1.47	1.47	1.47	1.47	0.08	1.55	1.55	1.55	1.55	XXX
94640		A	Airway inhalation treatment	0.00	0.43	0.42	0.43	0.42	0.02	0.45	0.44	0.45	0.44	XXX
94642		C	Aerosol inhalation treatment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
94650		A	Pressure breathing (IPPB)	0.00	0.40	0.40	0.40	0.40	0.02	0.42	0.42	0.42	0.42	XXX
94651		A	Pressure breathing (IPPB)	0.00	0.39	0.39	0.39	0.39	0.02	0.41	0.41	0.41	0.41	XXX
94652		A	Pressure breathing (IPPB)	0.00	NA	NA	0.44	0.44	0.06	NA	NA	0.50	0.50	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
94656		A	Initial ventilator mgmt	1.22	NA	NA	0.36	1.01	0.09	NA	NA	1.67	2.32	XXX
94657		A	Cont. ventilator	0.83	NA	NA	0.30	0.58	0.04	NA	NA	1.17	1.45	XXX
94660		A	Pos airway pressure, CPAP	0.78	0.48	0.70	0.28	0.65	0.05	1.29	1.51	1.09	1.46	XXX
94662		A	Neg pressure ventilation,cnp	0.76	NA	NA	0.28	0.32	0.02	NA	NA	1.06	1.10	XXX
94664		A	Aerosol or vapor inhalations	0.00	0.55	0.54	0.55	0.54	0.03	0.58	0.57	0.58	0.57	XXX
94665		A	Aerosol or vapor inhalations	0.00	0.50	0.50	0.50	0.50	0.04	0.54	0.54	0.54	0.54	XXX
94667		A	Chest wall manipulation	0.00	0.60	0.60	0.60	0.60	0.04	0.64	0.64	0.64	0.64	XXX
94668		A	Chest wall manipulation	0.00	0.37	0.37	0.37	0.37	0.02	0.39	0.39	0.39	0.39	XXX
94680		A	Exhaled air analysis: O2	0.26	0.61	0.78	0.61	0.78	0.07	0.94	1.11	0.94	1.11	XXX
94680	26	A	Exhaled air analysis: O2	0.26	0.08	0.25	0.08	0.25	0.02	0.36	0.53	0.36	0.53	XXX
94680	TC	A	Exhaled air analysis: O2	0.00	0.53	0.53	0.53	0.53	0.05	0.58	0.58	0.58	0.58	XXX
94681		A	Exhaled air analysis: O2,CO2	0.20	1.50	1.63	1.50	1.63	0.13	1.83	1.96	1.83	1.96	XXX
94681	26	A	Exhaled air analysis: O2,CO2	0.20	0.06	0.20	0.06	0.20	0.03	0.29	0.43	0.29	0.43	XXX
94681	TC	A	Exhaled air analysis: O2,CO2	0.00	1.44	1.43	1.44	1.43	0.10	1.54	1.53	1.54	1.53	XXX
94690		A	Exhaled air analysis	0.07	0.58	0.59	0.58	0.59	0.03	0.68	0.69	0.68	0.69	XXX
94690	26	A	Exhaled air analysis	0.07	0.02	0.04	0.02	0.04	0.00	0.09	0.11	0.09	0.11	XXX
94690	TC	A	Exhaled air analysis	0.00	0.56	0.55	0.56	0.55	0.03	0.59	0.58	0.59	0.58	XXX
94720		A	Monoxide diffusing capacity	0.26	0.94	1.08	0.94	1.08	0.07	1.27	1.41	1.27	1.41	XXX
94720	26	A	Monoxide diffusing capacity	0.26	0.07	0.21	0.07	0.21	0.02	0.35	0.49	0.35	0.49	XXX
94720	TC	A	Monoxide diffusing capacity	0.00	0.87	0.87	0.87	0.87	0.05	0.92	0.92	0.92	0.92	XXX
94725		A	Membrane diffusion capacity	0.26	1.89	1.97	1.89	1.97	0.11	2.26	2.34	2.26	2.34	XXX
94725	26	A	Membrane diffusion capacity	0.26	0.08	0.17	0.08	0.17	0.01	0.35	0.44	0.35	0.44	XXX
94725	TC	A	Membrane diffusion capacity	0.00	1.81	1.80	1.81	1.80	0.10	1.91	1.90	1.91	1.90	XXX
94750		A	Pulmonary compliance study	0.23	0.67	0.82	0.67	0.82	0.05	0.95	1.10	0.95	1.10	XXX
94750	26	A	Pulmonary compliance study	0.23	0.07	0.22	0.07	0.22	0.02	0.32	0.47	0.32	0.47	XXX
94750	TC	A	Pulmonary compliance study	0.00	0.60	0.60	0.60	0.60	0.03	0.63	0.63	0.63	0.63	XXX
94760		A	Measure blood oxygen level	0.00	0.27	0.27	0.27	0.27	0.02	0.29	0.29	0.29	0.29	XXX
94761		A	Measure blood oxygen level	0.00	0.70	0.69	0.70	0.69	0.05	0.75	0.74	0.75	0.74	XXX
94762		A	Measure blood oxygen level	0.00	1.18	1.17	1.18	1.17	0.08	1.26	1.25	1.26	1.25	XXX
94770		A	Exhaled carbon dioxide test	0.15	0.36	0.41	0.36	0.41	0.08	0.59	0.64	0.59	0.64	XXX
94770	26	A	Exhaled carbon dioxide test	0.15	0.04	0.10	0.04	0.10	0.02	0.21	0.27	0.21	0.27	XXX
94770	TC	A	Exhaled carbon dioxide test	0.00	0.32	0.31	0.32	0.31	0.06	0.38	0.37	0.38	0.37	XXX
94772		C	Breath recording, infant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
94772	26	C	Breath recording, infant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
94772	TC	C	Breath recording, infant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
94799		C	Pulmonary service/procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
94799	26	C	Pulmonary service/procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
94799	TC	C	Pulmonary service/procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
95004		A	Allergy skin tests	0.00	0.10	0.10	0.10	0.10	0.01	0.11	0.11	0.11	0.11	XXX
95010		A	Sensitivity skin tests	0.15	0.33	0.17	0.06	0.06	0.01	0.49	0.33	0.22	0.22	XXX

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95015		A	Sensitivity skin tests	0.15	0.39	0.19	0.06	0.06	0.01	0.55	0.35	0.22	0.22	XXX
95024		A	Allergy skin tests	0.00	0.14	0.15	0.14	0.15	0.01	0.15	0.16	0.15	0.16	XXX
95027		A	Skin end point titration	0.00	0.14	0.15	0.14	0.15	0.01	0.15	0.16	0.15	0.16	XXX
95028		A	Allergy skin tests	0.00	0.24	0.24	0.24	0.24	0.01	0.25	0.25	0.25	0.25	XXX
95044		A	Allergy patch tests	0.00	0.21	0.21	0.21	0.21	0.01	0.22	0.22	0.22	0.22	XXX
95052		A	Photo patch test	0.00	0.26	0.26	0.26	0.26	0.01	0.27	0.27	0.27	0.27	XXX
95056		A	Photosensitivity tests	0.00	0.19	0.18	0.10	0.09	0.01	0.20	0.19	0.11	0.10	XXX
95060		A	Eye allergy tests	0.00	0.36	0.36	0.36	0.36	0.02	0.38	0.38	0.38	0.38	XXX
95065		A	Nose allergy test	0.00	0.21	0.21	0.21	0.14	0.01	0.22	0.22	0.22	0.15	XXX
95070		A	Bronchial allergy tests	0.00	2.37	2.36	2.37	2.36	0.02	2.39	2.38	2.39	2.38	XXX
95071		A	Bronchial allergy tests	0.00	3.03	3.02	3.03	3.02	0.02	3.05	3.04	3.05	3.04	XXX
95075		A	Ingestion challenge test	0.95	0.68	1.78	0.38	0.90	0.02	1.65	2.75	1.35	1.87	XXX
95078		A	Provocative testing	0.00	0.26	0.26	0.26	0.26	0.02	0.28	0.28	0.28	0.28	XXX
95115		A	Immunotherapy, one injection	0.00	0.40	0.40	0.40	0.40	0.02	0.42	0.42	0.42	0.42	000
95117		A	Immunotherapy injections	0.00	0.52	0.52	0.52	0.52	0.02	0.54	0.54	0.54	0.54	000
95120		I	Immunotherapy, one injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
95125		I	Immunotherapy, many antigens	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
95130		I	Immunotherapy, insect venom	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
95131		I	Immunotherapy, insect venoms	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
95132		I	Immunotherapy, insect venoms	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
95133		I	Immunotherapy, insect venoms	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
95134		I	Immunotherapy, insect venoms	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
95144		A	Antigen therapy services	0.06	0.23	0.16	0.02	0.06	0.01	0.30	0.23	0.09	0.13	000
95145		A	Antigen therapy services	0.06	0.40	0.38	0.02	0.15	0.02	0.48	0.46	0.10	0.23	000
95146		A	Antigen therapy services	0.06	0.27	0.56	0.02	0.25	0.02	0.35	0.64	0.10	0.33	000
95147		A	Antigen therapy services	0.06	0.30	0.82	0.02	0.38	0.02	0.38	0.90	0.10	0.46	000
95148		A	Antigen therapy services	0.06	0.33	0.83	0.02	0.38	0.02	0.41	0.91	0.10	0.46	000
95149		A	Antigen therapy services	0.06	0.48	1.05	0.02	0.47	0.02	0.56	1.13	0.10	0.55	000
95165		A	Antigen therapy services	0.06	0.22	0.14	0.02	0.05	0.01	0.29	0.21	0.09	0.12	000
95170		A	Antigen therapy services	0.06	0.23	0.34	0.02	0.15	0.02	0.31	0.42	0.10	0.23	000
95180		A	Rapid desensitization	2.01	1.51	0.49	0.83	0.27	0.01	3.53	2.51	2.85	2.29	000
95199		C	Allergy immunology services	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	000
95805		A	Multiple sleep latency test	1.88	6.02	6.00	6.02	6.00	0.35	8.25	8.23	8.25	8.23	XXX
95805	26	A	Multiple sleep latency test	1.88	0.63	0.62	0.63	0.62	0.05	2.56	2.55	2.56	2.55	XXX
95805	TC	A	Multiple sleep latency test	0.00	5.39	5.38	5.39	5.38	0.30	5.69	5.68	5.69	5.68	XXX
95806		A	Sleep study, unattended	1.66	5.78	7.29	5.78	6.79	0.43	7.87	9.38	7.87	8.88	XXX
95806	26	A	Sleep study, unattended	1.66	0.63	2.15	0.63	1.65	0.15	2.44	3.96	2.44	3.46	XXX
95806	TC	A	Sleep study, unattended	0.00	5.15	5.14	5.15	5.14	0.28	5.43	5.42	5.43	5.42	XXX
95807		A	Sleep study, attended	1.66	7.37	8.47	7.37	8.47	0.53	9.56	10.66	9.56	10.66	XXX
95807	26	A	Sleep study, attended	1.66	0.51	1.62	0.51	1.62	0.15	2.32	3.43	2.32	3.43	XXX

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95807	TC	A	Sleep study, attended	0.00	6.86	6.85	6.86	6.85	0.38	7.24	7.23	7.24	7.23	XXX
95808		A	Polysomnography, 1-3	2.65	7.74	9.07	7.74	9.07	0.53	10.92	12.25	10.92	12.25	XXX
95808	26	A	Polysomnography, 1-3	2.65	0.88	2.22	0.88	2.22	0.15	3.68	5.02	3.68	5.02	XXX
95808	TC	A	Polysomnography, 1-3	0.00	6.86	6.85	6.86	6.85	0.38	7.24	7.23	7.24	7.23	XXX
95810		A	Polysomnography, 4 or more	3.53	8.00	9.13	8.00	9.13	0.53	12.06	13.19	12.06	13.19	XXX
95810	26	A	Polysomnography, 4 or more	3.53	1.14	2.28	1.14	2.28	0.15	4.82	5.96	4.82	5.96	XXX
95810	TC	A	Polysomnography, 4 or more	0.00	6.86	6.85	6.86	6.85	0.38	7.24	7.23	7.24	7.23	XXX
95811		A	Polysomnography w/cpap	3.80	8.43	9.59	8.43	9.59	0.55	12.78	13.94	12.78	13.94	XXX
95811	26	A	Polysomnography w/cpap	3.80	1.22	2.40	1.22	2.40	0.16	5.18	6.36	5.18	6.36	XXX
95811	TC	A	Polysomnography w/cpap	0.00	7.21	7.19	7.21	7.19	0.39	7.60	7.58	7.60	7.58	XXX
95812		A	Electroencephalogram (EEG)	1.08	1.89	1.98	1.89	1.98	0.12	3.09	3.18	3.09	3.18	XXX
95812	26	A	Electroencephalogram (EEG)	1.08	0.42	0.51	0.42	0.51	0.03	1.53	1.62	1.53	1.62	XXX
95812	TC	A	Electroencephalogram (EEG)	0.00	1.47	1.47	1.47	1.47	0.09	1.56	1.56	1.56	1.56	XXX
95813		A	Electroencephalogram (EEG)	1.73	2.13	2.04	2.13	2.04	0.12	3.98	3.89	3.98	3.89	XXX
95813	26	A	Electroencephalogram (EEG)	1.73	0.66	0.57	0.66	0.57	0.03	2.42	2.33	2.42	2.33	XXX
95813	TC	A	Electroencephalogram (EEG)	0.00	1.47	1.47	1.47	1.47	0.09	1.56	1.56	1.56	1.56	XXX
95816		A	Electroencephalogram (EEG)	1.08	1.78	1.70	1.78	1.70	0.10	2.96	2.88	2.96	2.88	XXX
95816	26	A	Electroencephalogram (EEG)	1.08	0.42	0.33	0.42	0.33	0.02	1.52	1.43	1.52	1.43	XXX
95816	TC	A	Electroencephalogram (EEG)	0.00	1.36	1.37	1.36	1.37	0.08	1.44	1.45	1.44	1.45	XXX
95819		A	Electroencephalogram (EEG)	1.08	1.84	1.92	1.84	1.92	0.11	3.03	3.11	3.03	3.11	XXX
95819	26	A	Electroencephalogram (EEG)	1.08	0.42	0.51	0.42	0.51	0.03	1.53	1.62	1.53	1.62	XXX
95819	TC	A	Electroencephalogram (EEG)	0.00	1.42	1.41	1.42	1.41	0.08	1.50	1.49	1.50	1.49	XXX
95822		A	Sleep electroencephalogram	1.08	2.30	2.43	2.30	2.43	0.14	3.52	3.65	3.52	3.65	XXX
95822	26	A	Sleep electroencephalogram	1.08	0.42	0.56	0.42	0.56	0.03	1.53	1.67	1.53	1.67	XXX
95822	TC	A	Sleep electroencephalogram	0.00	1.88	1.87	1.88	1.87	0.11	1.99	1.98	1.99	1.98	XXX
95824		A	Electroencephalography	0.74	0.73	0.98	0.73	0.98	0.05	1.52	1.77	1.52	1.77	XXX
95824	26	A	Electroencephalography	0.74	0.29	0.55	0.29	0.55	0.03	1.06	1.32	1.06	1.32	XXX
95824	TC	A	Electroencephalography	0.00	0.44	0.43	0.44	0.43	0.02	0.46	0.45	0.46	0.45	XXX
95827		A	Night electroencephalogram	1.08	2.77	3.19	2.77	3.19	0.18	4.03	4.45	4.03	4.45	XXX
95827	26	A	Night electroencephalogram	1.08	0.39	0.82	0.39	0.82	0.05	1.52	1.95	1.52	1.95	XXX
95827	TC	A	Night electroencephalogram	0.00	2.38	2.37	2.38	2.37	0.13	2.51	2.50	2.51	2.50	XXX
95829		A	Surgery electrocorticogram	6.21	2.68	1.15	2.68	1.15	0.04	8.93	7.40	8.93	7.40	XXX
95829	26	A	Surgery electrocorticogram	6.21	2.54	1.00	2.54	1.00	0.02	8.77	7.23	8.77	7.23	XXX
95829	TC	A	Surgery electrocorticogram	0.00	0.14	0.15	0.14	0.15	0.02	0.16	0.17	0.16	0.17	XXX
95830		A	Insert electrodes for EEG	1.70	2.94	1.37	0.68	0.81	0.05	4.69	3.12	2.43	2.56	XXX
95831		A	Limb muscle testing, manual	0.28	0.40	0.33	0.13	0.15	0.02	0.70	0.63	0.43	0.45	XXX
95832		A	Hand muscle testing, manual	0.29	0.30	0.28	0.12	0.14	0.02	0.61	0.59	0.43	0.45	XXX
95833		A	Body muscle testing, manual	0.47	0.44	0.42	0.23	0.22	0.04	0.95	0.93	0.74	0.73	XXX
95834		A	Body muscle testing, manual	0.60	0.50	0.62	0.27	0.32	0.05	1.15	1.27	0.92	0.97	XXX
95851		A	Range of motion measurements	0.16	0.35	0.28	0.08	0.12	0.02	0.53	0.46	0.26	0.30	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
95852		A	Range of motion measurements	0.11	0.30	0.20	0.05	0.07	0.02	0.43	0.33	0.18	0.20	XXX
95857		A	Tensilon test	0.53	0.54	0.54	0.22	0.26	0.03	1.10	1.10	0.78	0.82	XXX
95858		A	Tensilon test & myogram	1.56	1.05	1.09	1.05	1.09	0.07	2.68	2.72	2.68	2.72	XXX
95858	26	A	Tensilon test & myogram	1.56	0.64	0.68	0.64	0.68	0.04	2.24	2.28	2.24	2.28	XXX
95858	TC	A	Tensilon test & myogram	0.00	0.41	0.41	0.41	0.41	0.03	0.44	0.44	0.44	0.44	XXX
95860		A	Muscle test, one limb	0.96	0.79	1.08	0.79	1.08	0.07	1.82	2.11	1.82	2.11	XXX
95860	26	A	Muscle test, one limb	0.96	0.40	0.69	0.40	0.69	0.05	1.41	1.70	1.41	1.70	XXX
95860	TC	A	Muscle test, one limb	0.00	0.39	0.39	0.39	0.39	0.02	0.41	0.41	0.41	0.41	XXX
95861		A	Muscle test, two limbs	1.54	1.39	1.96	1.39	1.96	0.13	3.06	3.63	3.06	3.63	XXX
95861	26	A	Muscle test, two limbs	1.54	0.64	1.20	0.64	1.20	0.08	2.26	2.82	2.26	2.82	XXX
95861	TC	A	Muscle test, two limbs	0.00	0.75	0.76	0.75	0.76	0.05	0.80	0.81	0.80	0.81	XXX
95863		A	Muscle test, 3 limbs	1.87	1.73	2.31	1.73	2.31	0.14	3.74	4.32	3.74	4.32	XXX
95863	26	A	Muscle test, 3 limbs	1.87	0.76	1.34	0.76	1.34	0.09	2.72	3.30	2.72	3.30	XXX
95863	TC	A	Muscle test, 3 limbs	0.00	0.97	0.97	0.97	0.97	0.05	1.02	1.02	1.02	1.02	XXX
95864		A	Muscle test, 4 limbs	1.99	2.68	3.47	2.68	3.47	0.21	4.88	5.67	4.88	5.67	XXX
95864	26	A	Muscle test, 4 limbs	1.99	0.83	1.63	0.83	1.63	0.11	2.93	3.73	2.93	3.73	XXX
95864	TC	A	Muscle test, 4 limbs	0.00	1.85	1.84	1.85	1.84	0.10	1.95	1.94	1.95	1.94	XXX
95867		A	Muscle test, head or neck	0.79	0.94	1.16	0.94	1.16	0.07	1.80	2.02	1.80	2.02	XXX
95867	26	A	Muscle test, head or neck	0.79	0.34	0.56	0.34	0.56	0.04	1.17	1.39	1.17	1.39	XXX
95867	TC	A	Muscle test, head or neck	0.00	0.60	0.60	0.60	0.60	0.03	0.63	0.63	0.63	0.63	XXX
95868		A	Muscle test, head or neck	1.18	1.18	1.86	1.18	1.86	0.12	2.48	3.16	2.48	3.16	XXX
95868	26	A	Muscle test, head or neck	1.18	0.46	1.14	0.46	1.14	0.08	1.72	2.40	1.72	2.40	XXX
95868	TC	A	Muscle test, head or neck	0.00	0.72	0.72	0.72	0.72	0.04	0.76	0.76	0.76	0.76	XXX
95869		A	Muscle test, thor paraspinal	0.37	0.37	0.53	0.37	0.53	0.04	0.78	0.94	0.78	0.94	XXX
95869	26	A	Muscle test, thor paraspinal	0.37	0.15	0.31	0.15	0.31	0.02	0.54	0.70	0.54	0.70	XXX
95869	TC	A	Muscle test, thor paraspinal	0.00	0.22	0.22	0.22	0.22	0.02	0.24	0.24	0.24	0.24	XXX
95870		A	Muscle test, non-paraspinal	0.37	0.36	0.53	0.36	0.53	0.04	0.77	0.94	0.77	0.94	XXX
95870	26	A	Muscle test, non-paraspinal	0.37	0.14	0.31	0.14	0.31	0.02	0.53	0.70	0.53	0.70	XXX
95870	TC	A	Muscle test, non-paraspinal	0.00	0.22	0.22	0.22	0.22	0.02	0.24	0.24	0.24	0.24	XXX
95872		A	Muscle test, one fiber	1.50	1.21	1.32	1.21	1.32	0.09	2.80	2.91	2.80	2.91	XXX
95872	26	A	Muscle test, one fiber	1.50	0.59	0.70	0.59	0.70	0.05	2.14	2.25	2.14	2.25	XXX
95872	TC	A	Muscle test, one fiber	0.00	0.62	0.62	0.62	0.62	0.04	0.66	0.66	0.66	0.66	XXX
95875		A	Limb exercise test	1.34	0.95	0.73	0.95	0.73	0.08	2.37	2.15	2.37	2.15	XXX
95875	26	A	Limb exercise test	1.34	0.54	0.32	0.54	0.32	0.03	1.91	1.69	1.91	1.69	XXX
95875	TC	A	Limb exercise test	0.00	0.41	0.41	0.41	0.41	0.05	0.46	0.48	0.46	0.48	XXX
95900		A	Motor nerve conduction test	0.42	0.47	0.62	0.47	0.62	0.04	0.93	1.08	0.93	1.08	XXX
95900	26	A	Motor nerve conduction test	0.42	0.18	0.33	0.18	0.33	0.02	0.62	0.77	0.62	0.77	XXX
95900	TC	A	Motor nerve conduction test	0.00	0.29	0.29	0.29	0.29	0.02	0.31	0.31	0.31	0.31	XXX
95903		A	Motor nerve conduction test	0.60	0.51	0.61	0.51	0.61	0.04	1.15	1.25	1.15	1.25	XXX
95903	26	A	Motor nerve conduction test	0.60	0.25	0.35	0.25	0.35	0.02	0.87	0.97	0.87	0.97	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
95903	TC	A	Motor nerve conduction test	0.00	0.26	0.26	0.26	0.26	0.02	0.28	0.28	0.28	0.28	XXX
95904		A	Sense nerve conduction test	0.34	0.36	0.54	0.36	0.54	0.04	0.74	0.92	0.74	0.92	XXX
95904	26	A	Sense nerve conduction test	0.34	0.13	0.31	0.13	0.31	0.02	0.49	0.67	0.49	0.67	XXX
95904	TC	A	Sense nerve conduction test	0.00	0.23	0.23	0.23	0.23	0.02	0.25	0.25	0.25	0.25	XXX
95920		A	Intraop nerve test add-on	2.11	NA	NA	2.24	2.74	0.15	NA	NA	4.50	5.00	ZZZ
95920	26	A	Intraop nerve test add-on	2.11	NA	NA	0.90	1.39	0.09	NA	NA	3.10	3.59	ZZZ
95920	TC	A	Intraop nerve test add-on	0.00	NA	NA	1.34	1.35	0.06	NA	NA	1.40	1.41	ZZZ
95921		A	Autonomic nervous func test	0.90	0.73	0.74	0.73	0.74	0.04	1.67	1.68	1.67	1.68	XXX
95921	26	A	Autonomic nervous func test	0.90	0.34	0.35	0.34	0.35	0.02	1.26	1.27	1.26	1.27	XXX
95921	TC	A	Autonomic nervous func test	0.00	0.39	0.39	0.39	0.39	0.02	0.41	0.41	0.41	0.41	XXX
95922		A	Autonomic nervous func test	0.96	0.77	0.76	0.77	0.76	0.04	1.77	1.76	1.77	1.76	XXX
95922	26	A	Autonomic nervous func test	0.96	0.38	0.37	0.38	0.37	0.02	1.36	1.35	1.36	1.35	XXX
95922	TC	A	Autonomic nervous func test	0.00	0.39	0.39	0.39	0.39	0.02	0.41	0.41	0.41	0.41	XXX
95923		A	Autonomic nervous func test	0.90	0.74	0.74	0.74	0.74	0.04	1.68	1.68	1.68	1.68	XXX
95923	26	A	Autonomic nervous func test	0.90	0.35	0.35	0.35	0.35	0.02	1.27	1.27	1.27	1.27	XXX
95923	TC	A	Autonomic nervous func test	0.00	0.39	0.39	0.39	0.39	0.02	0.41	0.41	0.41	0.41	XXX
95925		A	Somatosensory testing	0.54	1.17	1.51	1.17	1.51	0.09	1.80	2.14	1.80	2.14	XXX
95925	26	A	Somatosensory testing	0.54	0.22	0.57	0.22	0.57	0.04	0.80	1.15	0.80	1.15	XXX
95925	TC	A	Somatosensory testing	0.00	0.95	0.94	0.95	0.94	0.05	1.00	0.99	1.00	0.99	XXX
95926		A	Somatosensory testing	0.54	1.18	1.52	1.18	1.52	0.09	1.81	2.15	1.81	2.15	XXX
95926	26	A	Somatosensory testing	0.54	0.23	0.58	0.23	0.58	0.04	0.81	1.16	0.81	1.16	XXX
95926	TC	A	Somatosensory testing	0.00	0.95	0.94	0.95	0.94	0.05	1.00	0.99	1.00	0.99	XXX
95927		A	Somatosensory testing	0.54	1.18	1.52	1.18	1.52	0.09	1.81	2.15	1.81	2.15	XXX
95927	26	A	Somatosensory testing	0.54	0.23	0.58	0.23	0.58	0.04	0.81	1.16	0.81	1.16	XXX
95927	TC	A	Somatosensory testing	0.00	0.95	0.94	0.95	0.94	0.05	1.00	0.99	1.00	0.99	XXX
95930		A	Visual evoked potential test	0.35	0.40	0.78	0.40	0.78	0.04	0.79	1.17	0.79	1.17	XXX
95930	26	A	Visual evoked potential test	0.35	0.13	0.51	0.13	0.51	0.03	0.51	0.89	0.51	0.89	XXX
95930	TC	A	Visual evoked potential test	0.00	0.27	0.27	0.27	0.27	0.01	0.28	0.28	0.28	0.28	XXX
95933		A	Blink reflex test	0.59	1.05	1.27	1.05	1.27	0.08	1.72	1.94	1.72	1.94	XXX
95933	26	A	Blink reflex test	0.59	0.23	0.46	0.23	0.46	0.03	0.85	1.08	0.85	1.08	XXX
95933	TC	A	Blink reflex test	0.00	0.82	0.81	0.82	0.81	0.05	0.87	0.86	0.87	0.86	XXX
95934		A	'h' reflex test	0.51	0.44	0.55	0.44	0.55	0.04	0.99	1.10	0.99	1.10	XXX
95934	26	A	'h' reflex test	0.51	0.22	0.33	0.22	0.33	0.02	0.75	0.86	0.75	0.86	XXX
95934	TC	A	'h' reflex test	0.00	0.22	0.22	0.22	0.22	0.02	0.24	0.24	0.24	0.24	XXX
95936		A	'h' reflex test	0.55	0.46	0.56	0.46	0.56	0.04	1.05	1.15	1.05	1.15	XXX
95936	26	A	'h' reflex test	0.55	0.24	0.34	0.24	0.34	0.02	0.81	0.91	0.81	0.91	XXX
95936	TC	A	'h' reflex test	0.00	0.22	0.22	0.22	0.22	0.02	0.24	0.24	0.24	0.24	XXX
95937		A	Neuromuscular junction test	0.65	0.61	0.78	0.61	0.78	0.05	1.31	1.48	1.31	1.48	XXX
95937	26	A	Neuromuscular junction test	0.65	0.26	0.43	0.26	0.43	0.03	0.94	1.11	0.94	1.11	XXX
95937	TC	A	Neuromuscular junction test	0.00	0.35	0.35	0.35	0.35	0.02	0.37	0.37	0.37	0.37	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
95950		A	Ambulatory eeg monitoring	1.51	7.17	7.69	7.17	7.69	0.47	9.15	9.67	9.15	9.67	XXX
95950	26	A	Ambulatory eeg monitoring	1.51	0.59	1.13	0.59	1.13	0.08	2.18	2.72	2.18	2.72	XXX
95950	TC	A	Ambulatory eeg monitoring	0.00	6.58	6.56	6.58	6.56	0.39	6.97	6.95	6.97	6.95	XXX
95951		A	EEG monitoring/videorecord	6.00	10.36	9.78	10.36	9.78	0.50	16.86	16.28	16.86	16.28	XXX
95951	26	A	EEG monitoring/videorecord	6.00	2.39	1.82	2.39	1.82	0.09	8.48	7.91	8.48	7.91	XXX
95951	TC	A	EEG monitoring/videorecord	0.00	7.97	7.96	7.97	7.96	0.41	8.38	8.37	8.38	8.37	XXX
95953		A	EEG monitoring/computer	3.08	7.79	7.85	7.79	7.85	0.47	11.34	11.40	11.34	11.40	XXX
95953	26	A	EEG monitoring/computer	3.08	1.21	1.29	1.21	1.29	0.08	4.37	4.45	4.37	4.45	XXX
95953	TC	A	EEG monitoring/computer	0.00	6.58	6.56	6.58	6.56	0.39	6.97	6.95	6.97	6.95	XXX
95954		A	EEG monitoring/giving drugs	2.45	1.47	2.26	1.47	2.26	0.22	4.14	4.93	4.14	4.93	XXX
95954	26	A	EEG monitoring/giving drugs	2.45	0.98	1.77	0.98	1.77	0.17	3.60	4.39	3.60	4.39	XXX
95954	TC	A	EEG monitoring/giving drugs	0.00	0.49	0.49	0.49	0.49	0.05	0.54	0.54	0.54	0.54	XXX
95955		A	EEG during surgery	1.01	2.38	2.96	2.38	2.96	0.24	3.63	4.21	3.63	4.21	XXX
95955	26	A	EEG during surgery	1.01	0.34	0.93	0.34	0.93	0.09	1.44	2.03	1.44	2.03	XXX
95955	TC	A	EEG during surgery	0.00	2.04	2.03	2.04	2.03	0.15	2.19	2.18	2.19	2.18	XXX
95956		A	EEG monitoring/cable/radio	3.08	7.81	8.09	7.81	8.09	0.46	11.37	11.65	11.37	11.65	XXX
95956	26	A	EEG monitoring/cable/radio	3.08	1.23	1.53	1.23	1.53	0.09	4.40	4.70	4.40	4.70	XXX
95956	TC	A	EEG monitoring/cable/radio	0.00	6.58	6.56	6.58	6.56	0.39	6.97	6.95	6.97	6.95	XXX
95957		A	EEG digital analysis	1.98	2.56	2.47	2.56	2.47	0.14	4.68	4.59	4.68	4.59	XXX
95957	26	A	EEG digital analysis	1.98	0.79	0.71	0.79	0.71	0.04	2.81	2.73	2.81	2.73	XXX
95957	TC	A	EEG digital analysis	0.00	1.77	1.76	1.77	1.76	0.10	1.87	1.86	1.87	1.86	XXX
95958		A	EEG monitoring/function test	4.25	3.41	4.83	3.41	4.83	0.41	8.07	9.49	8.07	9.49	XXX
95958	26	A	EEG monitoring/function test	4.25	1.60	3.03	1.60	3.03	0.30	6.15	7.58	6.15	7.58	XXX
95958	TC	A	EEG monitoring/function test	0.00	1.81	1.80	1.81	1.80	0.11	1.92	1.91	1.92	1.91	XXX
95961		A	Electrode stimulation, brain	2.97	2.59	2.83	2.59	2.83	0.15	5.71	5.95	5.71	5.95	XXX
95961	26	A	Electrode stimulation, brain	2.97	1.25	1.48	1.25	1.48	0.09	4.31	4.54	4.31	4.54	XXX
95961	TC	A	Electrode stimulation, brain	0.00	1.34	1.35	1.34	1.35	0.06	1.40	1.41	1.40	1.41	XXX
95962		A	Electrode stimulation, brain	3.21	2.66	2.84	2.66	2.84	0.15	6.02	6.20	6.02	6.20	ZZZ
95962	26	A	Electrode stimulation, brain	3.21	1.32	1.49	1.32	1.49	0.09	4.62	4.79	4.62	4.79	ZZZ
95962	TC	A	Electrode stimulation, brain	0.00	1.34	1.35	1.34	1.35	0.06	1.40	1.41	1.40	1.41	ZZZ
95970		A	Neurostim analyze,no program	0.45	0.12	0.12	0.10	0.10	0.09	0.66	0.66	0.64	0.64	XXX
95971		A	Simple neurostim analyze	0.78	0.21	0.21	0.18	0.18	0.09	1.08	1.08	1.05	1.05	XXX
95972		A	Complex neurostim analyze	1.50	0.40	0.40	0.35	0.35	0.09	1.99	1.99	1.94	1.94	XXX
95973		A	Complex neurostim analyze	0.92	0.25	0.25	0.22	0.22	0.09	1.26	1.26	1.23	1.23	ZZZ
95974		A	Complex cranial neurostim	3.00	0.96	0.96	0.74	0.74	0.09	4.05	4.05	3.83	3.83	XXX
95975		A	Complex cranial neurostim	1.70	0.62	0.62	0.49	0.49	0.09	2.41	2.41	2.28	2.28	ZZZ
95999		C	Neurological procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
96100		A	Psychological testing	0.00	1.83	1.82	1.83	1.82	0.16	1.99	1.98	1.99	1.98	XXX
96105		A	Assessment of aphasia	0.00	1.83	1.82	1.83	1.82	0.16	1.99	1.98	1.99	1.98	XXX
96110		C	Developmental test, lim	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
96111		A	Developmental test, extend	0.00	1.83	1.82	1.83	1.82	0.16	1.99	1.98	1.99	1.98	XXX
96115		A	Neurobehavior status exam	0.00	1.83	1.82	1.83	1.82	0.16	1.99	1.98	1.99	1.98	XXX
96117		A	Neuropsych test battery	0.00	1.83	1.82	1.83	1.82	0.16	1.99	1.98	1.99	1.98	XXX
96400		A	Chemotherapy, (SC)/(IM)	0.00	0.14	0.14	0.14	0.14	0.01	0.15	0.15	0.15	0.15	XXX
96405		A	Intralesional chemo admin	0.52	1.43	0.67	0.23	0 22	0.02	1.97	1.21	0.77	0.76	000
96406		A	Intralesional chemo admin	0.80	1.71	0.89	0.28	0.30	0.03	2.54	1.72	1.11	1.13	000
96408		A	Chemotherapy, push technique	0.00	1.00	1.00	1.00	1.00	0.05	1.05	1.05	1.05	1.05	XXX
96410		A	Chemotherapy,infusion method	0.00	1.60	1.60	1.60	1.60	0.07	1.67	1.67	1.67	1.67	XXX
96412		A	Chemotx infuse method add-on	0.00	1.20	1.19	1.20	1.19	0.06	1.26	1.25	1.26	1.25	ZZZ
96414		A	Chemotx infuse method add-on	0.00	1.37	1.38	1.37	1.38	0.07	1.44	1.45	1.44	1.45	XXX
96420		A	Chemotherapy, push technique	0.00	1.30	1.29	1.30	1.29	0.07	1.37	1.36	1.37	1.36	XXX
96422		A	Chemotherapy,infusion method	0.00	1.28	1.27	1.28	1.27	0.07	1.35	1.34	1.35	1.34	XXX
96423		A	Chemotx infuse method add-on	0.00	0.50	0.50	0.50	0.50	0.02	0.52	0.52	0.52	0.52	ZZZ
96425		A	Chemotherapy,infusion method	0.00	1.48	1.48	1.48	1.48	0.07	1.55	1.55	1.55	1.55	XXX
96440		A	Chemotherapy, intracavitary	2.37	6.22	2.22	1.01	0.91	0.05	8 64	4.64	3.43	3.33	000
96445		A	Chemotherapy, intracavitary	2.20	5.94	2.28	0.91	0 63	0.07	8.21	4.55	3.18	2.90	000
96450		A	Chemotherapy, into CNS	1.89	4.57	1.85	0.84	0.56	0.05	6.51	3.79	2.78	2.50	000
96520		A	Pump refilling, maintenance	0.00	0.93	0.92	0.93	0.92	0.05	0.98	0.97	0.98	0.97	XXX
96530		A	Pump refilling, maintenance	0.00	1.09	1.10	1.09	1.10	0.05	1.14	1.15	1.14	1.15	XXX
96542		A	Chemotherapy injection	1.42	2.93	1.82	0.67	0.61	0.10	4.45	3.14	2.19	2.13	XXX
96545		B	Provide chemotherapy agent	0.00	0.00	0.00	0 00	0 00	0.00	0.00	0 00	0.00	0.00	XXX
96549		C	Chemotherapy, unspecified	0.00	0.00	0.00	0 00	0.00	0.00	0.00	0.00	0 00	0.00	XXX
96900		A	Ultraviolet light therapy	0.00	0.41	0.41	0.41	0.41	0.02	0.43	0.43	0.43	0.43	XXX
96902		B	Trichogram	+0.41	0.22	0.29	0.15	0.27	0.02	0.65	0.72	0.58	0.70	XXX
96910		A	Photochemotherapy with UV-B	0.00	0.60	0.60	0.60	0.60	0.03	0.63	0.63	0.63	0.63	XXX
96912		A	Photochemotherapy with UV-A	0.00	0.69	0.68	0.69	0.68	0.04	0.73	0.72	0.73	0.72	XXX
96913		A	Photochemotherapy, UV-A or B	0.00	1.40	1.40	1.40	1.40	0.08	1.48	1.48	1.48	1.48	XXX
96999		C	Dermatological procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
97001		A	Pt evaluation	1.20	0.34	0.37	0.41	0.39	0.09	1.63	1.66	1.70	1.68	XXX
97002		A	Pt re-evaluation	0.60	0.25	0.09	0.21	0.08	0.01	0.86	0.70	0.82	0.69	XXX
97003		A	Ot evaluation	1.20	0.54	0.42	0.45	0.40	0.09	1.83	1.71	1.74	1.69	XXX
97004		A	Ot re-evaluation	0.60	0.28	0.10	0.19	0.08	0.01	0.89	0.71	0.80	0.69	XXX
97010		B	Hot or cold packs therapy	+0.06	0.12	0.20	0.01	0.18	0.02	0.20	0.28	0.09	0.26	XXX
97012		A	Mechanical traction therapy	0.25	0.14	0.19	0.02	0.16	0.02	0.41	0.46	0.29	0.43	XXX
97014		A	Electric stimulation therapy	0.18	0.13	0.20	0.02	0.17	0.02	0.33	0.40	0.22	0.37	XXX
97016		A	Vasopneumatic device therapy	0.18	0.13	0.24	0.02	0.21	0.02	0.33	0.44	0.22	0.41	XXX
97018		A	Paraffin bath therapy	0.06	0.11	0.22	0.01	0.20	0.02	0.19	0.30	0.09	0.28	XXX
97020		A	Microwave therapy	0.06	0.12	0.20	0.01	0.17	0.02	0.20	0.28	0.09	0.25	XXX
97022		A	Whirlpool therapy	0.17	0.13	0.19	0.02	0.16	0.02	0.32	0.38	0.21	0.35	XXX
97024		A	Diathermy treatment	0.06	0.12	0.20	0.01	0.18	0.02	0.20	0.28	0.09	0.26	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
97026		A	Infrared therapy	0.06	0.11	0.19	0.01	0.16	0.02	0.19	0.27	0.09	0.24	XXX
97028		A	Ultraviolet therapy	0.08	0.11	0.19	0.01	0.16	0.01	0.20	0.28	0.10	0.25	XXX
97032		A	Electrical stimulation	0.25	0.14	0.15	0.02	0.12	0.01	0.40	0.41	0.28	0.38	XXX
97033		A	Electric current therapy	0.26	0.17	0.16	0.03	0.12	0.02	0.45	0.44	0.31	0.40	XXX
97034		A	Contrast bath therapy	0.21	0.14	0.12	0.02	0.09	0.01	0.36	0.34	0.24	0.31	XXX
97035		A	Ultrasound therapy	0.21	0.14	0.13	0.02	0.10	0.01	0.36	0.35	0.24	0.32	XXX
97036		A	Hydrotherapy	0.28	0.18	0.22	0.03	0.18	0.02	0.48	0.52	0.33	0.48	XXX
97039		A	Physical therapy treatment	0.20	0.14	0.23	0.02	0.20	0.02	0.36	0.45	0.24	0.42	XXX
97110		A	Therapeutic exercises	0.45	0.19	0.15	0.04	0.12	0.02	0.66	0.62	0.51	0.59	XXX
97112		A	Neuromuscular reeducation	0.45	0.15	0.14	0.04	0.12	0.01	0.61	0.60	0.50	0.58	XXX
97113		A	Aquatic therapy/exercises	0.44	0.17	0.21	0.04	0.18	0.02	0.63	0.67	0.50	0.64	XXX
97116		A	Gait training therapy	0.40	0.15	0.13	0.04	0.10	0.01	0.56	0.54	0.45	0.51	XXX
97122		D	Manual traction therapy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
97124		A	Massage therapy	0.35	0.14	0.13	0.03	0.10	0.01	0.50	0.49	0.39	0.46	XXX
97139		A	Physical medicine procedure	0.21	0.13	0.16	0.02	0.13	0.02	0.36	0.39	0.25	0.36	XXX
97140		A	Manual therapy	0.43	0.18	0.18	0.04	0.04	0.02	0.63	0.63	0.49	0.49	XXX
97150		A	Group therapeutic procedures	0.27	0.14	0.20	0.03	0.17	0.02	0.43	0.49	0.32	0.46	XXX
97250		D	Myofascial release	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	000
97260		D	Regional manipulation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	000
97261		D	Supplemental manipulations	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	000
97265		D	Joint mobilization	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
97504		A	Orthotic training	0.45	0.13	0.15	0.04	0.12	0.02	0.60	0.62	0.51	0.59	XXX
97520		A	Prosthetic training	0.45	0.17	0.16	0.04	0.13	0.02	0.64	0.63	0.51	0.60	XXX
97530		A	Therapeutic activities	0.44	0.15	0.17	0.04	0.15	0.02	0.61	0.63	0.50	0.61	XXX
97535		A	Self care mngment training	0.45	0.15	0.17	0.04	0.15	0.02	0.62	0.64	0.51	0.62	XXX
97537		A	Community/work reintegration	0.45	0.15	0.17	0.04	0.15	0.02	0.62	0.64	0.51	0.62	XXX
97542		A	Wheelchair mngement training	0.25	0.13	0.17	0.02	0.14	0.02	0.40	0.44	0.29	0.41	XXX
97545		R	Work hardening	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
97546		R	Work hardening add-on	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ
97703		A	Prosthetic checkout	0.25	0.06	0.17	0.02	0.16	0.02	0.33	0.44	0.29	0.43	XXX
97750		A	Physical performance test	0.45	0.15	0.23	0.04	0.21	0.02	0.62	0.70	0.51	0.68	XXX
97770		A	Cognitive skills development	0.44	0.14	0.26	0.04	0.24	0.02	0.60	0.72	0.50	0.70	XXX
97780		N	Acupuncture w/o stim	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
97781		N	Acupuncture w/stim	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
97799		C	Physical medicine procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
98925		A	Osteopathic manipulation	0.45	0.31	0.28	0.14	0.24	0.02	0.78	0.75	0.61	0.71	000
98926		A	Osteopathic manipulation	0.65	0.40	0.42	0.27	0.39	0.02	1.07	1.09	0.94	1.06	000
98927		A	Osteopathic manipulation	0.87	0.46	0.42	0.30	0.38	0.02	1.35	1.31	1.19	1.27	000
98928		A	Osteopathic manipulation	1.03	0.53	0.48	0.34	0.43	0.03	1.59	1.54	1.40	1.49	000
98929		A	Osteopathic manipulation	1.19	0.60	0.47	0.37	0.41	0.02	1.81	1.68	1.58	1.62	000

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
98940		A	Chiropractic manipulation	0.45	0.23	0.29	0.11	0.15	0.01	0.69	0.75	0.57	0.61	000
98941		A	Chiropractic manipulation	0.65	0.29	0.31	0.17	0.18	0.01	0.95	0.97	0.83	0.82	000
98942		A	Chiropractic manipulation	0.87	0.34	0.32	0.23	0.18	0.01	1.22	1.20	1.11	1.06	000
98943		N	Chiropractic manipulation	+0.40	0.30	0.31	0.15	0.27	0.01	0.71	0.72	0.56	0.68	XXX
99000		B	Specimen handling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99001		B	Specimen handling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99002		B	Device handling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99024		B	Post-op follow-up visit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99025		B	Initial surgical evaluation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99050		B	Medical services after hrs	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99052		B	Medical services at night	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99054		B	Medical services,unusual hrs	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99056		B	Non-office medical services	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99058		B	Office emergency care	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99070		B	Special supplies	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99071		B	Patient education materials	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99075		N	Medical testimony	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99078		B	Group health education	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99080		B	Special reports or forms	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99082		C	Unusual physician travel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99090		B	Computer data analysis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99100		B	Special anesthesia service	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ
99116		B	Anesthesia with hypothermia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ
99135		B	Special anesthesia procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ
99140		B	Emergency anesthesia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ
99141		B	Sedation, iv/im or inhalant	+0.80	1.47	1.04	0.37	0.77	0.04	2.31	1.88	1.21	1.61	XXX
99142		B	Sedation, oral/rectal/nasal	+0.60	1.38	0.85	0.30	0.58	0.03	2.01	1.48	0.93	1.21	XXX
99175		A	Induction of vomiting	0.00	1.45	1.44	1.45	1.44	0.08	1.53	1.52	1.53	1.52	XXX
99183		A	Hyperbaric oxygen therapy	2.34	0.73	1.54	0.74	1.54	0.09	3.16	3.97	3.17	3.97	XXX
99185		A	Regional hypothermia	0.00	NA	NA	0.67	0.66	0.03	NA	NA	0.70	0.69	XXX
99186		A	Total body hypothermia	0.00	NA	NA	1.85	1.84	0.41	NA	NA	2.26	2.25	XXX
99190		X	Special pump services	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99191		X	Special pump services	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99192		X	Special pump services	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99195		A	Phlebotomy	0.00	0.45	0.46	0.45	0.46	0.02	0.47	0.48	0.47	0.48	XXX
99199		C	Special service or report	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99201		A	Office/outpatient visit, new	0.45	0.70	0.52	0.36	0.24	0.03	1.18	1.00	0.84	0.72	XXX
99202		A	Office/outpatient visit, new	0.88	0.95	0.65	0.54	0.32	0.04	1.87	1.57	1.48	1.24	XXX
99203		A	Office/outpatient visit, new	1.34	1.26	0.80	0.74	0.40	0.05	2.65	2.19	2.13	1.79	XXX
99204		A	Office/outpatient visit, new	2.00	1.68	1.14	1.00	0.57	0.06	3.74	3.20	3.06	2.63	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
99205		A	Office/outpatient visit, new	2.67	1.90	1.26	1.23	0.65	0.07	4.64	4.00	3.97	3.39	XXX
99211		A	Office/outpatient visit, est	0.17	0.44	0.28	0.20	0.13	0.02	0.63	0.47	0.39	0.32	XXX
99212		A	Office/outpatient visit, est	0.45	0.53	0.40	0.30	0.19	0.02	1.00	0.87	0.77	0.66	XXX
99213		A	Office/outpatient visit, est	0.67	0.63	0.51	0.36	0.25	0.02	1.32	1.20	1.05	0.94	XXX
99214		A	Office/outpatient visit, est	1.10	0.95	0.70	0.57	0.35	0.03	2.08	1.83	1.70	1.48	XXX
99215		A	Office/outpatient visit, est	1.77	1.21	1.00	0.82	0.51	0.05	3.03	2.82	2.64	2.33	XXX
99217		A	Observation care discharge	1.28	NA	NA	0.56	0.56	0.03	NA	NA	1.87	1.87	XXX
99218		A	Observation care	1.28	NA	NA	0.64	0.72	0.05	NA	NA	1.97	2.05	XXX
99219		A	Observation care	2.14	NA	NA	0.92	1.09	0.07	NA	NA	3.13	3.30	XXX
99220		A	Observation care	2.99	NA	NA	1.26	1.25	0.07	NA	NA	4.32	4.31	XXX
99221		A	Initial hospital care	1.28	NA	NA	0.65	0.71	0.05	NA	NA	1.98	2.04	XXX
99222		A	Initial hospital care	2.14	NA	NA	0.93	1.08	0.07	NA	NA	3.14	3.29	XXX
99223		A	Initial hospital care	2.99	NA	NA	1.25	1.24	0.06	NA	NA	4.30	4.29	XXX
99231		A	Subsequent hospital care	0.64	NA	NA	0.27	0.38	0.02	NA	NA	0.93	1.04	XXX
99232		A	Subsequent hospital care	1.06	NA	NA	0.41	0.47	0.03	NA	NA	1.50	1.56	XXX
99233		A	Subsequent hospital care	1.51	NA	NA	0.59	0.64	0.04	NA	NA	2.14	2.19	XXX
99234		A	Observ/hosp same date	2.56	NA	NA	1.07	0.82	0.05	NA	NA	3.68	3.43	XXX
99235		A	Observ/hosp same date	3.42	NA	NA	1.35	1.19	0.07	NA	NA	4.84	4.68	XXX
99236		A	Observ/hosp same date	4.27	NA	NA	1.68	1.35	0.07	NA	NA	6.02	5.69	XXX
99238		A	Hospital discharge day	1.28	NA	NA	0.57	0.56	0.03	NA	NA	1.88	1.87	XXX
99239		A	Hospital discharge day	1.75	NA	NA	0.72	0.59	0.03	NA	NA	2.50	2.37	XXX
99241		A	Office consultation	0.64	0.86	0.73	0.41	0.37	0.06	1.56	1.43	1.11	1.07	XXX
99242		A	Office consultation	1.29	1.26	0.95	0.67	0.48	0.07	2.62	2.31	2.03	1.84	XXX
99243		A	Office consultation	1.72	1.53	1.17	0.89	0.62	0.08	3.33	2.97	2.69	2.42	XXX
99244		A	Office consultation	2.58	1.92	1.48	1.21	0.81	0.09	4.59	4.15	3.88	3.48	XXX
99245		A	Office consultation	3.43	2.26	1.94	1.52	1.07	0.13	5.82	5.50	5.08	4.63	XXX
99251		A	Initial inpatient consult	0.66	NA	NA	0.43	0.66	0.06	NA	NA	1.15	1.38	XXX
99252		A	Initial inpatient consult	1.32	NA	NA	0.72	0.80	0.07	NA	NA	2.11	2.19	XXX
99253		A	Initial inpatient consult	1.82	NA	NA	0.95	1.01	0.08	NA	NA	2.85	2.91	XXX
99254		A	Initial inpatient consult	2.64	NA	NA	1.26	1.29	0.09	NA	NA	3.99	4.02	XXX
99255		A	Initial inpatient consult	3.65	NA	NA	1.65	1.69	0.11	NA	NA	5.41	5.45	XXX
99261		A	Follow-up inpatient consult	0.42	NA	NA	0.33	0.35	0.02	NA	NA	0.77	0.79	XXX
99262		A	Follow-up inpatient consult	0.85	NA	NA	0.51	0.50	0.03	NA	NA	1.39	1.38	XXX
99263		A	Follow-up inpatient consult	1.27	NA	NA	0.67	0.72	0.03	NA	NA	1.97	2.02	XXX
99271		A	Confirmatory consultation	0.45	0.51	0.60	0.34	0.33	0.05	1.01	1.10	0.84	0.83	XXX
99272		A	Confirmatory consultation	0.84	0.70	0.75	0.53	0.42	0.07	1.61	1.66	1.44	1.34	XXX
99273		A	Confirmatory consultation	1.19	0.93	1.07	0.65	0.58	0.09	2.21	2.35	1.93	1.86	XXX
99274		A	Confirmatory consultation	1.73	1.22	1.30	0.88	0.72	0.09	3.04	3.12	2.70	2.54	XXX
99275		A	Confirmatory consultation	2.31	1.42	1.77	1.04	1.68	0.13	3.86	4.21	3.48	4.12	XXX
99281		A	Emergency dept visit	0.33	NA	NA	0.12	0.26	0.01	NA	NA	0.46	0.60	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
99282		A	Emergency dept visit	0.55	NA	NA	0.19	0.36	0.02	NA	NA	0.76	0.93	XXX
99283		A	Emergency dept visit	1.24	NA	NA	0.35	0.49	0.03	NA	NA	1.62	1.76	XXX
99284		A	Emergency dept visit	1.95	NA	NA	0.52	0.70	0.05	NA	NA	2.52	2.70	XXX
99285		A	Emergency dept visit	3.06	NA	NA	0.77	1.12	0.06	NA	NA	3.89	4.24	XXX
99288		B	Direct advanced life support	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99291		A	Critical care, first hour	4.00	1.42	1.52	1.38	1.51	0.09	5.51	5.81	5.47	5.60	XXX
99292		A	Critical care, addl 30 min	2.00	0.75	0.70	0.72	0.69	0.03	2.78	2.73	2.75	2.72	ZZZ
99295		A	Neonatal critical care	16.00	NA	NA	5.71	5.56	1.21	NA	NA	22.92	22.77	XXX
99296		A	Neonatal critical care	8.00	NA	NA	4.41	3.11	0.60	NA	NA	13.01	11.71	XXX
99297		A	Neonatal critical care	4.00	NA	NA	4.25	2.06	0.30	NA	NA	8.55	6.36	XXX
99298		A	Neonatal critical care	2.75	0.94	0.94	0.88	0.88	0.30	3.99	3.99	3.93	3.93	XXX
99301		A	Nursing facility care	1.20	NA	NA	0.57	0.51	0.02	NA	NA	1.79	1.73	XXX
99302		A	Nursing facility care	1.61	NA	NA	0.73	0.59	0.03	NA	NA	2.37	2.23	XXX
99303		A	Nursing facility care	2.01	NA	NA	0.88	0.99	0.05	NA	NA	2.94	3.05	XXX
99311		A	Nursing facility care,subseq	0.60	NA	NA	0.30	0.35	0.02	NA	NA	0.92	0.97	XXX
99312		A	Nursing facility care,subseq	1.00	NA	NA	0.43	0.44	0.02	NA	NA	1.45	1.46	XXX
99313		A	Nursing facility care,subseq	1.42	NA	NA	0.59	0.52	0.03	NA	NA	2.04	1.97	XXX
99315		A	Nursing fac discharge day	1.13	NA	NA	0.58	0.56	0.03	NA	NA	1.74	1.72	XXX
99316		A	Nursing fac discharge day	1.50	NA	NA	0.71	0.59	0.03	NA	NA	2.24	2.12	XXX
99321		A	Rest home visit, new patient	0.71	0.38	0.40	0.40	0.40	0.02	1.11	1.13	1.13	1.13	XXX
99322		A	Rest home visit, new patient	1.01	0.59	0.56	0.58	0.56	0.04	1.64	1.61	1.63	1.61	XXX
99323		A	Rest home visit, new patient	1.28	0.74	0.78	0.74	0.78	0.05	2.07	2.11	2.07	2.11	XXX
99331		A	Rest home visit, estab pat	0.60	0.38	0.32	0.39	0.32	0.02	1.00	0.94	1.01	0.94	XXX
99332		A	Rest home visit, estab pat	0.80	0.48	0.41	0.49	0.42	0.02	1.30	1.23	1.31	1.24	XXX
99333		A	Rest home visit, estab pat	1.00	0.58	0.51	0.58	0.51	0.02	1.60	1.53	1.60	1.53	XXX
99341		A	Home visit, new patient	1.01	0.49	0.56	0.51	0.56	0.04	1.54	1.61	1.56	1.61	XXX
99342		A	Home visit, new patient	1.52	0.74	0.67	0.81	0.69	0.04	2.30	2.23	2.37	2.25	XXX
99343		A	Home visit, new patient	2.27	1.09	0.90	1.24	0.94	0.05	3.41	3.22	3.56	3.26	XXX
99344		A	Home visit, new patient	3.03	1.35	1.03	1.51	1.07	0.07	4.45	4.13	4.61	4.17	XXX
99345		A	Home visit, new patient	3.79	1.61	1.09	1.78	1.14	0.07	5.47	4.95	5.64	5.00	XXX
99347		A	Home visit, estab patient	0.76	0.41	0.47	0.43	0.48	0.03	1.20	1.26	1.22	1.27	XXX
99348		A	Home visit, estab patient	1.26	0.63	0.59	0.64	0.60	0.03	1.92	1.88	1.93	1.89	XXX
99349		A	Home visit, estab patient	2.02	0.91	0.72	0.86	0.71	0.04	2.97	2.78	2.92	2.77	XXX
99350		A	Home visit, estab patient	3.03	1.24	0.93	1.15	0.90	0.05	4.32	4.01	4.23	3.98	XXX
99354		A	Prolonged service, office	1.77	1.13	0.90	0.77	0.50	0.05	2.95	2.72	2.59	2.32	ZZZ
99355		A	Prolonged service, office	1.77	0.96	0.86	0.66	0.47	0.05	2.78	2.68	2.48	2.29	ZZZ
99356		A	Prolonged service, inpatient	1.71	NA	NA	0.61	0.84	0.06	NA	NA	2.38	2.61	ZZZ
99357		A	Prolonged service, inpatient	1.71	NA	NA	0.64	0.85	0.06	NA	NA	2.41	2.62	ZZZ
99358		B	Prolonged serv, w/o contact	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ
99359		B	Prolonged serv, w/o contact	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
99360		X	Physician standby services	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99361		B	Physician/team conference	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99362		B	Physician/team conference	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99371		B	Physician phone consultation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99372		B	Physician phone consultation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99373		B	Physician phone consultation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99374		B	Home health care supervision	+1.10	1.03	0.67	0.80	0.61	0.03	2.18	1.80	1.93	1.74	XXX
99375		A	Home health care supervision	1.73	1.11	0.69	0.92	0.64	0.03	2.87	2.45	2.68	2.40	XXX
99377		B	Hospice care supervision	+1.10	1.03	0.67	0.80	0.61	0.03	2.16	1.80	1.93	1.74	XXX
99378		A	Hospice care supervision	1.73	1.16	0.70	0.88	0.63	0.03	2.92	2.46	2.64	2.39	XXX
99379		B	Nursing fac care supervision	+1.10	1.03	0.67	0.80	0.61	0.03	2.16	1.80	1.93	1.74	XXX
99380		B	Nursing fac care supervision	+1.73	1.27	0.73	1.03	0.67	0.03	3.03	2.49	2.79	2.43	XXX
99381		N	Preventive visit, new,infant	+1.19	1.08	1.27	0.45	1.11	0.06	2.33	2.52	1.70	2.36	XXX
99382		N	Preventive visit,new,age 1-4	+1.36	1.13	1.43	0.52	1.28	0.07	2.56	2.86	1.95	2.71	XXX
99383		N	Preventive visit,new,age5-11	+1.36	1.11	1.43	0.52	1.28	0.07	2.54	2.86	1.95	2.71	XXX
99384		N	Preventive visit, new, 12-17	+1.53	1.18	1.59	0.58	1.44	0.08	2.79	3.20	2.19	3.05	XXX
99385		N	Preventive visit, new, 18-39	+1.53	1.18	1.44	0.58	1.29	0.07	2.78	3.04	2.18	2.89	XXX
99386		N	Preventive visit, new, 40-64	+1.88	1.34	1.74	0.71	1.58	0.08	3.30	3.70	2.67	3.54	XXX
99387		N	Preventive visit,new,65&over	+2.06	1.45	1.89	0.77	1.72	0.09	3.60	4.04	2.92	3.87	XXX
99391		N	Preventive visit, est,infant	+1.02	0.76	1.05	0.38	0.96	0.05	1.83	2.12	1.45	2.03	XXX
99392		N	Preventive visit,est,age 1-4	+1.19	0.83	1.21	0.45	1.11	0.06	2.08	2.46	1.70	2.36	XXX
99393		N	Preventive visit,est,age5-11	+1.19	0.83	1.21	0.45	1.11	0.06	2.08	2.46	1.70	2.36	XXX
99394		N	Preventive visit, est, 12-17	+1.36	0.90	1.37	0.52	1.28	0.07	2.33	2.60	1.95	2.71	XXX
99395		N	Preventive visit, est, 18-39	+1.36	0.92	1.25	0.77	1.21	0.06	2.34	2.67	2.19	2.63	XXX
99396		N	Preventive visit, est, 40-64	+1.53	1.00	1.39	0.84	1.35	0.07	2.60	2.99	2.44	2.95	XXX
99397		N	Preventive visit,est,65&over	+1.71	1.08	1.54	0.91	1.50	0.08	2.87	3.33	2.70	3.29	XXX
99401		N	Preventive counseling, indiv	+0.48	0.44	0.48	0.34	0.45	0.02	0.94	0.98	0.84	0.95	XXX
99402		N	Preventive counseling, indiv	+0.98	0.86	0.89	0.54	0.86	0.04	1.68	1.91	1.56	1.88	XXX
99403		N	Preventive counseling, indiv	+1.46	0.88	1.31	0.71	1.27	0.06	2.40	2.83	2.23	2.79	XXX
99404		N	Preventive counseling, indiv	+1.95	1.08	1.72	0.90	1.67	0.09	3.12	3.76	2.94	3.71	XXX
99411		N	Preventive counseling, group	+0.15	0.13	0.15	0.09	0.14	0.01	0.29	0.31	0.25	0.30	XXX
99412		N	Preventive counseling, group	+0.25	0.19	0.24	0.13	0.22	0.01	0.45	0.50	0.39	0.48	XXX
99420		N	Health risk assessment test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99429		N	Unlisted preventive service	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99431		A	Initial care, normal newborn	1.17	NA	NA	0.57	1.13	0.06	NA	NA	1.80	2.36	XXX
99432		A	Newborn care not in hospital	1.26	0.90	1.29	0.36	1.16	0.06	2.22	2.61	1.68	2.48	XXX
99433		A	Normal newborn care,hospital	0.62	NA	NA	0.23	0.58	0.03	NA	NA	0.88	1.23	XXX
99435		A	Hospital NB discharge day	1.50	NA	NA	0.57	1.40	0.08	NA	NA	2.15	2.98	XXX
99436		A	Attendance, birth	1.50	0.65	1.42	3.24	2.07	0.08	2.23	3.00	4.82	3.65	XXX
99440		A	Newborn resuscitation	2.93	NA	NA	3.92	3.46	0.15	NA	NA	7.00	6.54	XXX

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CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
99450		N	Life/disability evaluation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99455		R	Disability examination	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99456		R	Disability examination	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99499		C	Unlisted E/M service	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0021		I	Outside state ambulance serv	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0030		X	Air ambulance service	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0040		X	Helicopter ambulance service	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0050		X	Water amb service emergency	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0080		I	Noninterest escort in non er	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0090		I	Interest escort in non er	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0100		I	Nonemergency transport taxi	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0110		I	Nonemergency transport bus	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0120		I	Noner transport mini-bus	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0130		I	Noner transport wheelch van	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0140		I	Nonemergency transport air	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0160		I	Noner transport case worker	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0170		I	Noner transport parking fees	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0180		I	Noner transport lodgng recip	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0190		I	Noner transport meals recip	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0200		I	Noner transport lodgng escrt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0210		I	Noner transport meals escort	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0225		X	Neonatal emergency transport	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0300		X	Ambulance basic non-emer all	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0302		X	Ambulance basic emergeny all	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0304		X	Amb adv non-er no serv all	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0306		X	Amb adv non-er spec serv all	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0308		X	Amb adv er no spec serv all	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0310		X	Amb adv er spec serv all	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0320		X	Amb basic non-er + supplies	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0322		X	Amb basic emerg + supplies	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0324		X	Adv non-er serv sep mileage	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0326		X	Adv non-er no serv sep mile	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0328		X	Adv er no serv sep mileage	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0330		X	Adv er spec serv sep mile	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0340		X	Amb basic non-er + mileage	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0342		X	Ambul basic emer + mileage	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0344		X	Amb adv non-er no serv +mile	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0346		X	Amb adv non-er serv + mile	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0348		X	Adv emer no spec serv + mile	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0350		X	Adv emer spec serv + mileage	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
A0360		X	Basic non-er sep mile & supp	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0362		X	Basic emer sep mile & supply	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0364		X	Adv non-er no serv sep mi&su	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0366		X	Adv non-er serv sep mil&supp	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0368		X	Adv er no serv sep mile&supp	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0370		X	Adv er spec serv sep mi&supp	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0380		X	Basic life support mileage	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0382		X	Basic support routine suppls	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0384		X	Bls defibrillation supplies	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0390		X	Advanced life support mileag	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0392		X	Als defibrillation supplies	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0394		X	Als IV drug therapy supplies	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0396		X	Als esophageal intub suppls	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0398		X	Als routine disposble suppls	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0420		X	Ambulance waiting 1/2 hr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0422		X	Ambulance 02 life sustaining	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0424		X	Extra ambulance attendant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0888		N	Noncovered ambulance mileage	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0999		X	Unlisted ambulance service	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4206		I	1 CC sterile syringe&needle	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4207		I	2 CC sterile syringe&needle	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4208		I	3 CC sterile syringe&needle	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4209		I	5+ CC sterile syringe&needle	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4210		N	Nonneedle injection device	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4211		P	Supp for self-adm injections	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4212		P	Non coring needle or stylet	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4213		I	20+ CC syringe only	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4214		P	30 CC sterile water/saline	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4215		I	Sterile needle	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4220		P	Infusion pump refill kit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4221		X	Maint drug infus cath per wk	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4222		X	Drug infusion pump supplies	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4230		N	Infus insulin pump non needl	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4231		N	Infusion insulin pump needle	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4232		N	Syringe w/needle insulin 3cc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4244		I	Alcohol or peroxide per pint	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4245		I	Alcohol wipes per box	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4246		I	Betadine/phisohex solution	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4247		I	Betadine/iodine swabs/wipes	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4250		N	Urine reagent strips/tablets	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
A4253		P	Blood glucose/reagent strips	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4254		X	Battery for glucose monitor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4255		X	Glucose monitor platforms	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4256		P	Calibrator solution/chips	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4258		P	Lancet device each	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4259		P	Lancets per box	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4260		N	Levonorgestrel implant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4261		N	Cervical cap contraceptive	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4262		B	Temporary tear duct plug	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4263		A	Permanent tear duct plug	0.00	0.00	0.77	0.00	0.77	0.00	0.00	0.77	0.00	0.77	XXX
A4265		P	Paraffin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4270		B	Disposable endoscope sheath	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4300		A	Cath impl vasc access portal	0.00	0.00	0.77	0.00	0.77	0.00	0.00	0.77	0.00	0.77	XXX
A4301		P	Implantable access syst perc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4305		P	Drug delivery system >=50 ML	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4306		P	Drug delivery system <=5 ML	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4310		P	Insert tray w/o bag/cath	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4311		P	Catheter w/o bag 2-way latex	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4312		P	Cath w/o bag 2-way silicone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4313		P	Catheter w/bag 3-way	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4314		P	Cath w/drainage 2-way latex	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4315		P	Cath w/drainage 2-way silcne	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4316		P	Cath w/drainage 3-way	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4320		P	Irrigation tray	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4321		X	Cath therapeutic irrig agent	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4322		P	Irrigation syringe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4323		P	Saline irrigation solution	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4326		P	Male external catheter	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4327		P	Fem urinary collect dev cup	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4328		P	Fem urinary collect pouch	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4329		P	External catheter start set	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4330		P	Stool collection pouch	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4335		P	Incontinence supply	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4338		P	Indwelling catheter latex	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4340		P	Indwelling catheter special	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4344		P	Cath indw foley 2 way silicn	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4346		P	Cath indw foley 3 way	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4347		P	Male external catheter	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4351		P	Straight tip urine catheter	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4352		P	Coude tip urinary catheter	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
A4353		X	Intermittent urinary cath	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4354		P	Cath insertion tray w/bag	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4355		P	Bladder irrigation tubing	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4356		P	Ext ureth clmp or compr dvc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4357		P	Bedside drainage bag	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4358		P	Urinary leg bag	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4359		P	Urinary suspensory w/o leg b	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4361		P	Ostomy face plate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4362		P	Solid skin barrier	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4363		P	Liquid skin barrier	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4364		P	Ostomy/cath adhesive	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4365		X	Ostomy adhesive remover wipe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4367		P	Ostomy belt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4368		X	Ostomy filter	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4397		P	Irrigation supply sleeve	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4398		P	Ostomy irrigation bag	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4399		P	Ostomy irrig cone/cath w brs	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4400		P	Ostomy irrigation set	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4402		P	Lubricant per ounce	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4404		P	Ostomy ring each	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4421		P	Ostomy supply misc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4454		P	Tape all types all sizes	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4455		P	Adhesive remover per ounce	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4460		P	Elastic compression bandage	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4462		X	Abdmnl drssng holder/binder	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4465		P	Non-elastic extremity binder	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4470		P	Gravlee jet washer	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4480		P	Vabra aspirator	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4481		X	Tracheostoma filter	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4483		X	Moisture exchanger	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4490		N	Above knee surgical stocking	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4495		N	Thigh length surg stocking	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4500		N	Below knee surgical stocking	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4510		N	Full length surg stocking	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4550		A	Surgical trays	0.00	0.00	0.77	0.00	0.77	0.00	0.00	0.77	0.00	0.77	XXX
A4554		N	Disposable underpads	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4556		P	Electrodes	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4557		P	Lead wires	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4558		P	Conductive paste or gel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4560		X	Pessary	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
A4565		X	Slings	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4570		X	Splint	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4572		X	Rib belt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4575		N	Hyperbaric o2 chamber disps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4580		X	Cast supplies (plaster)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4590		X	Special casting material	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4595		X	TENS suppl 2 lead per month	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4611		X	Heavy duty battery	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4612		X	Battery cables	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4613		X	Battery charger	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4614		X	Hand-held PEFR meter	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4615		X	Cannula nasal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4616		X	Tubing (oxygen) per foot	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4617		X	Mouth piece	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4618		X	Breathing circuits	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4619		X	Face tent	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4620		X	Variable concentration mask	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4621		X	Tracheotomy mask or collar	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4622		X	Tracheostomy or laringectomy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4623		X	Tracheostomy inner cannula	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4624		X	Tracheal suction tube	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4625		X	Trach care kit for new trach	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4626		X	Tracheostomy cleaning brush	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4627		N	Spacer bag/reservoir	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4628		X	Oropharyngeal suction cath	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4629		X	Tracheostomy care kit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4630		X	Repl bat t.e.n.s. own by pt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4631		X	Wheelchair battery	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4635		X	Underarm crutch pad	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4636		X	Handgrip for cane etc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4637		X	Repl tip cane/crutch/walker	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4640		X	Alternating pressure pad	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4641		E	Diagnostic imaging agent	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4642		E	Satumomab pendetide per dose	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4643		E	High dose contrast MRI	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4644		E	Contrast 100-199 MGs iodine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4645		E	Contrast 200-299 MGs iodine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4646		E	Contrast 300-399 MGs iodine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4647		B	Supp- paramagnetic contr mat	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4649		P	Surgical supplies	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
A4650		X	Supp esrd centrifuge	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4655		X	Esrd syringe/needle	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4660		X	Esrd blood pressure device	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4663		X	Esrd blood pressure cuff	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4670		N	Auto blood pressure monitor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4680		X	Activated carbon filters	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4690		X	Dialyzers	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4700		X	Standard dialysate solution	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4705		X	Bicarb dialysate solution	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4712		X	Sterile water	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4714		X	Treated water for dialysis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4730		X	Fistula cannulation set dial	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4735		X	Local/topical anesthetics	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4740		X	Esrd shunt accessory	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4750		X	Arterial or venous tubing	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4755		X	Arterial and venous tubing	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4760		X	Standard testing solution	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4765		X	Dialysate concentrate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4770		X	Blood testing supplies	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4771		X	Blood clotting time tube	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4772		X	Dextrostick/glucose strips	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4773		X	Hemostix	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4774		X	Ammonia test paper	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4780		X	Esrd sterilizing agent	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4790		X	Esrd cleansing agents	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4800		X	Heparin/antidote dialysis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4820		X	Supplies hemodialysis kit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4850		X	Rubber tipped hemostats	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4860		X	Disposable catheter caps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4870		X	Plumbing/electrical work	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4880		X	Water storage tanks	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4890		R	Contracts/repair/maintenance	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4900		X	Capd supply kit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4901		X	Ccpd supply kit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4905		X	Ipd supply kit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4910		X	Esrd nonmedical supplies	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4912		X	Gomco drain bottle	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4913		X	Esrd supply	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4914		X	Preparation kit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4918		X	Venous pressure clamp	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
A4919		X	Supp dialysis dialyzer holde	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4920		X	Harvard pressure clamp	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4921		X	Measuring cylinder	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4927		X	Gloves	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5051		P	Pouch clsd w barr attached	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5052		P	Clsd ostomy pouch w/o barr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5053		P	Clsd ostomy pouch faceplate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5054		P	Clsd ostomy pouch w/flange	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5055		P	Stoma cap	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5061		P	Pouch drainable w barrier at	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5062		P	Drnble ostomy pouch w/o barr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5063		P	Drain ostomy pouch w/flange	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5064		I	Drain ostomy pouch w/fceplte	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5065		I	Drain ostomy pouch on fcplte	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5071		P	Urinary pouch w/barrier	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5072		P	Urinary pouch w/o barrier	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5073		P	Urinary pouch on barr w/flng	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5074		I	Urinary pouch w/faceplate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5075		I	Urinary pouch on faceplate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5081		P	Continent stoma plug	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5082		P	Continent stoma catheter	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5093		P	Ostomy accessory convex inse	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5102		P	Bedside drain btl w/wo tube	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5105		P	Urinary suspensory	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5112		P	Urinary leg bag	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5113		P	Latex leg strap	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5114		P	Foam/fabric leg strap	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5119		P	Skin barrier wipes box pr 50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5121		P	Solid skin barrier 6x6	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5122		P	Solid skin barrier 8x8	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5123		P	Skin barrier with flange	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5126		P	Adhesive disc/foam pad	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5131		P	Appliance cleaner	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5149		P	Incontinence/ostomy supply	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5200		X	Percutaneous catheter anchor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5500		X	Diab shoe for density insert	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5501		X	Diabetic custom molded shoe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5502		X	Diabetic shoe density insert	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5503		X	Diabetic shoe w/roller/rockr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5504		X	Diabetic shoe with wedge	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
A5505		X	Diab shoe w/metatarsal bar	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5506		X	Diabetic shoe w/off set heel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5507		X	Modification diabetic shoe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6020		P	Collagen wound dressing	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6025		I	Silicone gel sheet, each	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6154		P	Wound pouch each	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6196		P	Alginate dressing <=16 sq in	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6197		P	Alginate drsg >16 <=48 sq in	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6198		P	alginate dressing > 48 sq in	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6199		P	Alginate drsg wound filler	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6200		X	Compos drsg <=16 no border	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6201		X	Compos drsg >16<=48 no bdr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6202		X	Compos drsg >48 no border	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6203		P	Composite drsg <= 16 sq in	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6204		P	Composite drsg >16<=48 sq in	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6205		P	Composite drsg > 48 sq in	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6206		P	Contact layer <= 16 sq in	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6207		P	Contact layer >16<= 48 sq in	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6208		P	Contact layer > 48 sq in	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6209		P	Foam drsg <=16 sq in w/o bdr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6210		P	Foam drg >16<=48 sq in w/o b	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6211		P	Foam drg > 48 sq in w/o brdr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6212		P	Foam drg <=16 sq in w/border	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6213		P	Foam drg >16<=48 sq in w/bdr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6214		P	Foam drg > 48 sq in w/border	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6215		P	Foam dressing wound filler	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6216		P	Non-sterile gauze<=16 sq in	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6217		P	Non-sterile gauze>16<=48 sq	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6218		P	Non-sterile gauze > 48 sq in	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6219		P	Gauze <= 16 sq in w/border	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6220		P	Gauze >16 <=48 sq in w/bordr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6221		P	Gauze > 48 sq in w/border	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6222		P	Gauze <=16 in no w/sal w/o b	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6223		P	Gauze >16<=48 no w/sal w/o b	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6224		P	Gauze > 48 in no w/sal w/o b	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6228		P	Gauze <= 16 sq in water/sal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6229		P	Gauze >16<=48 sq in watr/sal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6230		P	Gauze > 48 sq in water/saline	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6234		P	Hydrocolld drg <=16 w/o bdr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6235		P	Hydrocolld drg >16<=48 w/o b	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
A6236		P	Hydrocolkd drg > 48 in w/o b	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6237		P	Hydrocolkd drg <=16 in w/bdr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6238		P	Hydrocolkd drg >16<=48 w/bdr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6239		P	Hydrocolkd drg > 48 in w/bdr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6240		P	Hydrocolkd drg filler paste	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6241		P	Hydrocolloid drg filler dry	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6242		P	Hydrogel drg <=16 in w/o bdr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6243		P	Hydrogel drg >16<=48 w/o bdr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6244		P	Hydrogel drg >48 in w/o bdr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6245		P	Hydrogel drg <= 16 in w/bdr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6246		P	Hydrogel drg >16<=48 in w/b	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6247		P	Hydrogel drg > 48 sq in w/b	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6248		P	Hydrogel drsg gel filler	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6250		P	Skin seal protect moisturizr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6251		P	Absorpt drg <=16 sq in w/o b	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6252		P	Absorpt drg >16 <=48 w/o bdr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6253		P	Absorpt drg > 48 sq in w/o b	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6254		P	Absorpt drg <=16 sq in w/bdr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6255		P	Absorpt drg >16<=48 in w/bdr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6256		P	Absorpt drg > 48 sq in w/bdr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6257		P	Transparent film <= 16 sq in	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6258		P	Transparent film >16<=48 in	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6259		P	Transparent film > 48 sq in	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6260		P	Wound cleanser any type/size	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6261		P	Wound filler gel/paste /oz	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6262		P	Wound filler dry form / gram	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6263		P	Non-sterile elastic gauze/yd	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6264		P	Non-sterile no elastic gauze	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6265		P	Tape per 16 sq inches	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6266		P	Impreg gauze no h20/sal/yard	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6402		P	Sterile gauze <= 16 sq in	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6403		P	Sterile gauze>16 <= 48 sq in	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6404		P	Sterile gauze > 48 sq in	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6405		P	Sterile elastic gauze /yd	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6406		P	Sterile non-elastic gauze/yd	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A9150		E	Misc/exper non-prescript dru	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A9160		N	Podiatrist non-covered servi	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A9170		N	Chiropractor non-covered ser	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A9190		N	Misc/expe personal comfort i	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A9270		N	Non-covered item or service	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
A9300		N	Exercise equipment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A9500		E	Technetium TC 99m sestamibi	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A9502		X	Technetium TC99M tetrofosmin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A9503		E	Technetium TC 99m medronate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A9505		E	Thallous chloride TL 201/mci	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A9507		X	Indium/111 capromab pendetid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A9600		X	Strontium-89 chloride	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A9605		X	Samarium sm153 lexidronamm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0120		N	Periodic oral evaluation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0140		N	Limit oral eval problm focus	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0150		R	Comprehensve oral evaluation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D0160		N	Extensv oral eval prob focus	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0210		I	Intraor complete film series	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0220		I	Intraoral periapical first f	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0230		I	Intraoral periapical ea add	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0240		R	Intraoral occlusal film	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D0250		R	Extraoral first film	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D0260		R	Extraoral ea additional film	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D0270		R	Dental bitewing single film	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D0272		R	Dental bitewings two films	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D0274		R	Dental bitewings four films	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D0290		I	Dental film skull/facial bon	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0310		I	Dental sialography	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0320		I	Dental tmj arthrogram incl i	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0321		I	Dental other tmj films	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0322		I	Dental tomographic survey	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0330		I	Dental panoramic film	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0340		I	Dental cephalometric film	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0415		N	Bacteriologic study	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0425		N	Caries susceptibility test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0460		R	Pulp vitality test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D0470		N	Diagnostic casts	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0471		R	Diagnostic photographs	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D0501		R	Histopathologic examinations	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D0502		R	Other oral pathology procedu	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D0999		R	Unspecified diagnostic proce	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D1110		N	Dental prophylaxis adult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D1120		N	Dental prophylaxis child	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D1201		N	Topical fluor w prophy child	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D1203		N	Topical fluor w/o prophy chl	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
D1204		N	Topical fluor w/o prophy adu	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D1205		N	Topical fluoride w/ prophy a	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D1310		N	Nutri counsel-control caries	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D1320		N	Tobacco counseling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D1330		N	Oral hygiene instruction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D1351		N	Dental sealant per tooth	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D1510		R	Space maintainer fxd unilat	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D1515		R	Fixed bilat space maintainer	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D1520		R	Remove unilat space maintain	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D1525		R	Remove bilat space maintain	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D1550		R	Recement space maintainer	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D2110		N	Amalgam one surface primary	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2120		N	Amalgam two surfaces primary	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2130		N	Amalgam three surfaces prima	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2131		N	Amalgam four/more surf prima	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2140		N	Amalgam one surface permanen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2150		N	Amalgam two surfaces permane	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2160		N	Amalgam three surfaces perma	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2161		N	Amalgam 4 or > surfaces perm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2210		N	Silcate cement per restorat	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2330		N	Resin one surface-anterior	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2331		N	Resin two surfaces-anterior	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2332		N	Resin three surfaces-anterio	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2335		N	Resin 4/> surf or w incis an	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2336		N	Composite resin crown	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2380		N	Resin one surf poster primar	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2381		N	Resin two surf poster primar	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2382		N	Resin three/more surf post p	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2385		N	Resin one surf poster perman	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2386		N	Resin two surf poster perman	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2387		N	Resin three/more surf post p	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2410		N	Dental gold foil one surface	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2420		N	Dental gold foil two surface	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2430		N	Dental gold foil three surfa	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2510		N	Dental inlay metalic 1 surf	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2520		N	Dental inlay metallic 2 surf	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2530		N	Dental inlay metl 3/more sur	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2543		N	Dental onlay metallic 3 surf	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2544		N	Dental onlay metl 4/more sur	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2610		N	Inlay porcelain/ceramic 1 su	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
D2620		N	Inlay porcelain/ceramic 2 su	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2630		N	Dental onlay porc 3/more sur	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2642		N	Dental onlay porcelin 2 surf	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2643		N	Dental onlay porcelin 3 surf	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2644		N	Dental onlay porc 4/more sur	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2650		N	Inlay composite/resin one su	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2651		N	Inlay composite/resin two su	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2652		N	Dental inlay resin 3/mre sur	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2662		N	Dental onlay resin 2 surface	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2663		N	Dental onlay resin 3 surface	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2664		N	Dental onlay resin 4/mre sur	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2710		N	Crown resin laboratory	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2720		N	Crown resin w/ high noble me	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2721		N	Crown resin w/ base metal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2722		N	Crown resin w/ noble metal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2740		N	Crown porcelain/ceramic subs	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2750		N	Crown porcelain w/ h noble m	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2751		N	Crown porcelain fused base m	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2752		N	Crown porcelain w/ noble met	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2790		N	Crown full cast high noble m	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2791		N	Crown full cast base metal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2792		N	Crown full cast noble metal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2810		N	Crown 3/4 cast metallic	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2910		N	Dental recement inlay	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2920		N	Dental recement crown	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2930		N	Prefab stnlss steel crwn pri	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2931		N	Prefab stnlss steel crown pe	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2932		N	Prefabricated resin crown	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2933		N	Prefab stainless steel crown	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2940		N	Dental sedative filling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2950		N	Core build-up incl any pins	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2951		N	Tooth pin retention	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2952		N	Post and core cast + crown	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2954		N	Prefab post/core + crown	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2955		N	Post removal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2960		N	Laminate labial veneer	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2961		N	Lab labial veneer resin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2962		N	Lab labial veneer porcelain	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2970		R	Temporary- fractured tooth	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D2980		N	Crown repair	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
D2999		R	Dental unspec restorative pr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D3110		N	Pulp cap direct	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3120		N	Pulp cap indirect	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3220		N	Therapeutic pulpotomy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3230		N	Pulpal therapy anterior prim	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3240		N	Pulpal therapy posterior pri	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3310		N	Anterior	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3320		N	Root canal therapy 2 canals	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3330		N	Root canal therapy 3 canals	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3346		N	Retreat root canal anterior	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3347		N	Retreat root canal bicuspid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3348		N	Retreat root canal molar	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3351		N	Apexification/recalc initial	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3352		N	Apexification/recalc interim	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3353		N	Apexification/recalc final	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3410		N	Apicoect/perirad surg anter	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3421		N	Root surgery bicuspid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3425		N	Root surgery molar	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3426		N	Root surgery ea add root	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3430		N	Retrograde filling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3450		N	Root amputation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3460		R	Endodontic endosseous implan	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D3470		N	Intentional replantation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3910		N	Isolation- tooth w rubb dam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3920		N	Tooth splitting	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3950		N	Canal prep/fitting of dowel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3960		N	Bleaching of discolored toot	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3999		R	Endodontic procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D4210		I	Gingivectomy/plasty per quad	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4211		I	Gingivectomy/plasty per toot	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4220		N	Gingival curettage per quadr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4240		N	Gingival flap proc w/ planin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4249		N	Crown lengthen hard tissue	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4250		R	Mucogingival surg per quadra	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D4260		R	Osseous surgery per quadrant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D4263		R	Bone replce graft first site	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D4264		R	Bone replce graft esch add	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D4266		N	Guided tiss regen resorble	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4267		N	Guided tiss regen nonresorb	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4270		R	Pedicle soft tissue graft pr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
D4271		R	Free soft tissue graft proc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D4273		R	Subepithelial tissue graft	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D4274		N	Distal/proximal wedge proc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4320		N	Provision splnt intracoronal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4321		N	Provisional splint extracoro	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4341		N	Periodontal scaling & root	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4355		R	Full mouth debridement	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D4381		R	Localized chemo delivery	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D4910		N	Periodontal maint procedures	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4920		N	Unscheduled dressing change	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4999		N	Unspecified periodontal proc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5110		N	Dentures complete maxillary	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5120		N	Dentures complete mandible	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5130		N	Dentures immediat maxillary	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5140		N	Dentures immediat mandible	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5211		N	Dentures maxill part resin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5212		N	Dentures mand part resin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5213		N	Dentures maxill part metal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5214		N	Dentures mandibl part metal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5281		N	Removable partial denture	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5410		N	Dentures adjust cmplt maxil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5411		N	Dentures adjust cmplt mand	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5421		N	Dentures adjust part maxill	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5422		N	Dentures adjust part mandbl	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5510		N	Dentur repr broken compl bas	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5520		N	Replace denture teeth complt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5610		N	Dentures repair resin base	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5620		N	Rep part denture cast frame	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5630		N	Rep partial denture clasp	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5640		N	Replace part denture teeth	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5650		N	Add tooth to partial denture	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5660		N	Add clasp to partial denture	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5710		N	Dentures rebase cmplt maxil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5711		N	Dentures rebase cmplt mand	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5720		N	Dentures rebase part maxill	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5721		N	Dentures rebase part mandbl	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5730		N	Denture reln cmplt maxil ch	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5731		N	Denture reln cmplt mand chr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5740		N	Denture reln part maxil chr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5741		N	Denture reln part mand chr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
D5750		N	Denture rein cmplt max lab	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5751		N	Denture rein cmplt mand lab	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5760		N	Denture rein part maxil lab	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5761		N	Denture rein part mand lab	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5810		N	Denture interm cmplt maxill	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5811		N	Denture interm cmplt mandbl	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5820		N	Denture interm part maxill	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5821		N	Denture interm part mandbl	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5850		N	Denture tiss conditn maxill	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5851		N	Denture tiss condtin mandbl	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5860		N	Overdenture complete	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5861		N	Overdenture partial	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5862		N	Precision attachment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5899		N	Removable prosthodontic proc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5911		R	Facial moulage sectional	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D5912		R	Facial moulage complete	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D5913		I	Nasal prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5914		I	Auricular prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5915		I	Orbital prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5918		I	Ocular prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5919		I	Facial prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5922		I	Nasal septal prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5923		I	Ocular prosthesis interim	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5924		I	Cranial prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5925		I	Facial augmentation implant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5926		I	Replacement nasal prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5927		I	Auricular replacement	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5928		I	Orbital replacement	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5929		I	Facial replacement	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5931		I	Surgical obturator	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5932		I	Postsurgical obturator	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5933		I	Refitting of obturator	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5934		I	Mandibular flange prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5935		I	Mandibular denture prosth	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5936		I	Temp obturator prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5937		I	Trismus appliance	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5951		R	Feeding aid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D5952		I	Pediatric speech aid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5953		I	Adult speech aid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5954		I	Superimposed prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
D5955		I	Palatal lift prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5958		I	Intraoral con def inter plt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5959		I	Intraoral con def mod palat	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5960		I	Modify speech aid prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5982		I	Surgical stent	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5983		R	Radiation applicator	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D5984		R	Radiation shield	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D5985		R	Radiation cone locator	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D5986		N	Fluoride applicator	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5987		R	Commissure splint	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D5988		I	Surgical splint	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5999		I	Maxillofacial prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6010		I	Odontics endosteal implant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6020		I	Odontics abutment placement	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6040		I	Odontics eposteal implant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6050		I	Odontics transosteal implnt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6055		I	Implant connecting bar	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6080		I	Implant maintenance	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6090		I	Repair implant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6095		I	Odontics repr abutment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6100		I	Removal of implant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6199		I	Implant procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6210		N	Prosthodont high noble metal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6211		N	Bridge base metal cast	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6212		N	Bridge noble metal cast	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6240		N	Bridge porcelain high noble	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6241		N	Bridge porcelain base metal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6242		N	Bridge porcelain nobel metal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6250		N	Bridge resin w/high noble	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6251		N	Bridge resin base metal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6252		N	Bridge resin w/noble metal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6520		N	Dental retainer two surfaces	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6530		N	Retainer metallic 3+ surface	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6543		N	Dental retainr onlay 3 surf	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6544		N	Dental retainr onlay 4/more	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6545		N	Dental retainr cast metl	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6720		N	Retain crown resin w hi nble	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6721		N	Crown resin w/base metal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6722		N	Crown resin w/noble metal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6750		N	Crown porcelain high noble	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
D6751		N	Crown porcelain base metal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6752		N	Crown porcelain noble metal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6780		N	Crown 3/4 high noble metal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6790		N	Crown full high noble metal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6791		N	Crown full base metal cast	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6792		N	Crown full noble metal cast	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6920		R	Dental connector bar	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D6930		N	Dental recement bridge	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6940		N	Stress breaker	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6950		N	Precision attachment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6970		N	Post & core plus retainer	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6971		N	Cast post bridge retainer	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6972		N	Prefab post & core plus reta	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6973		N	Core build up for retainer	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6975		N	Coping metal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6980		N	Bridge repair	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6999		N	Fixed prosthodontic proc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7110		R	Oral surgery single tooth	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D7120		R	Each add tooth extraction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D7130		R	Tooth root removal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D7210		R	Rem imp tooth w mucoper flp	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D7220		R	Impact tooth remov soft tiss	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D7230		R	Impact tooth remov part bony	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D7240		R	Impact tooth remov comp bony	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D7241		R	Impact tooth rem bony w/comp	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D7250		R	Tooth root removal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D7260		R	Oral antral fistula closure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D7270		N	Tooth reimplantation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7272		N	Tooth transplantation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7280		N	Exposure impact tooth orthod	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7281		N	Exposure tooth aid eruption	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7285		I	Biopsy of oral tissue hard	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7286		I	Biopsy of oral tissue soft	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7290		N	Repositioning of teeth	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7291		R	Transseptal fiberotomy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D7310		I	Alveoplasty w/ extraction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7320		I	Alveoplasty w/o extraction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7340		I	Vestibuloplasty ridge extens	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7350		I	Vestibuloplasty exten graft	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7410		I	Rad exc lesion up to 1.25 cm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
D7420		I	Lesion > 1.25 cm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7430		I	Exc benign tumor to 1.25 cm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7431		I	Benign tumor exc > 1.25 cm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7440		I	Malig tumor exc to 1.25 cm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7441		I	Malig tumor > 1.25 cm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7450		I	Rem odontogen cyst to 1.25cm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7451		I	Rem odontogen cyst > 1.25 cm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7460		I	Rem nonodonto cyst to 1.25cm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7461		I	Rem nonodonto cyst > 1.25 cm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7465		I	Lesion destruction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7470		I	Rem exostosis maxilla/mandib	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7480		I	Partial ostectomy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7490		I	Mandible resection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7510		I	I&d absc intraoral soft tiss	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7520		I	I&d abscess extraoral	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7530		I	Removal fb skin/areolar tiss	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7540		I	Removal of fb reaction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7550		I	Removal of sloughed off bone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7560		I	Maxillary sinusotomy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7610		I	Maxilla open reduct simple	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7620		I	Clsd reduct simpl maxilla fx	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7630		I	Open red simpl mandible fx	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7640		I	Clsd red simpl mandible fx	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7650		I	Open red simp malar/zygom fx	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7660		I	Clsd red simp malar/zygom fx	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7670		I	Open red simple alveolus fx	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7680		I	Reduct simple facial bone fx	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7710		I	Maxilla open reduct compound	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7720		I	Clsd reduct compd maxilla fx	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7730		I	Open reduct compd mandble fx	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7740		I	Clsd reduct compd mandble fx	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7750		I	Open red comp malar/zygma fx	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7760		I	Clsd red comp malar/zygma fx	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7770		I	Open reduc compd alveolus fx	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7780		I	Reduct compnd facial bone fx	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7810		I	Tmj open reduct-dislocation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7820		I	Closed tmp manipulation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7830		I	Tmj manipulation under anest	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7840		I	Removal of tmj condyle	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7850		I	Tmj meniscectomy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
D7852		I	Tmj repair of joint disc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7854		I	Tmj excisn of joint membrane	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7856		I	Tmj cutting of a muscle	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7858		I	Tmj reconstruction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7860		I	Tmj cutting into joint	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7865		I	Tmj reshaping components	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7870		I	Tmj aspiration joint fluid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7872		I	Tmj diagnostic arthroscopy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7873		I	Tmj arthroscopy lysis adhesn	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7874		I	Tmj arthroscopy disc reposit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7875		I	Tmj arthroscopy synovectomy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7876		I	Tmj arthroscopy discectomy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7877		I	Tmj arthroscopy debridement	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7880		I	Occlusal orthotic appliance	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7899		I	Tmj unspecified therapy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7910		I	Dent sutur recent wnd to 5cm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7911		I	Dental suture wound to 5 cm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7912		I	Suture complicate wnd > 5 cm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7920		I	Dental skin graft	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7940		R	Reshaping bone orthognathic	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D7941		I	Bone cutting ramus closed	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7942		I	Bone cutting ramus open	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7943		I	Cutting ramus open w/graft	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7944		I	Bone cutting segmented	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7945		I	Bone cutting body mandible	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7946		I	Reconstruction maxilla total	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7947		I	Reconstruct maxilla segment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7948		I	Reconstruct midface no graft	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7949		I	Reconstruct midface w/graft	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7950		I	Mandible graft	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7955		I	Repair maxillofacial defects	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7960		I	Frenulectomy/frenulotomy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7970		I	Excision hyperplastic tissue	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7971		I	Excision pericoronal gingiva	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7980		I	Sialolithotomy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7981		I	Excision of salivary gland	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7982		I	Sialodochoplasty	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7983		I	Closure of salivary fistula	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7990		I	Emergency tracheotomy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7991		I	Dental coronoidectomy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work [3] RVUs	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
D7995		I	Synthetic graft facial bones	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7996		I	Implant mandible for augment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7999		I	Oral surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8010		N	Limited dental tx primary	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8020		N	Limited dental tx transition	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8030		N	Limited dental tx adolescent	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8040		N	Limited dental tx adult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8050		N	Intercep dental tx primary	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8060		N	Intercep dental tx transitn	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8070		N	Compre dental tx transition	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8080		N	Compre dental tx adolescent	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8090		N	Compre dental tx adult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8210		N	Orthodontic rem appliance tx	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8220		N	Fixed appliance therapy habt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8660		N	Preorthodontic tx visit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8670		N	Periodic orthodontc tx visit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8680		N	Orthodontic retention	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8690		N	Orthodontic treatment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8999		N	Orthodontic procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9110		R	Tx dental pain minor proc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D9210		I	Dent anesthesia w/o surgery	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9211		I	Regional block anesthesia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9212		I	Trigeminal block anesthesia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9215		I	Local anesthesia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9220		I	General anesthesia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9221		I	General anesthesia ea ad 15m	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9230		R	Analgesia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D9240		I	Intravenous sedation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9310		I	Dental consultation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9410		I	Dental house call	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9420		I	Hospital call	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9430		I	Office visit during hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9440		I	Office visit after hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9610		I	Dent therapeutic drug inject	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9630		R	Other drugs/medicaments	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D9910		N	Dent appl desensitizing med	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9920		N	Behavior management	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9930		R	Treatment of complications	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D9940		R	Dental occlusal guard	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D9941		N	Fabrication athletic guard	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
D9950		R	Occlusion analysis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D9951		R	Limited occlusal adjustment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D9952		R	Complete occlusal adjustment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D9970		N	Enamel microabrasion	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9999		I	Adjunctive procedure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0001		X	Drawing blood for specimen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0002		A	Temporary urinary catheter	0.50	2.66	1.29	0.17	0.61	0.02	3.38	1.81	0.69	1.13	000
G0004		A	ECG transm phys review & int	0.52	7.72	7.88	7.72	7.88	0.51	8.75	8.91	8.75	8.91	XXX
G0005		A	ECG 24 hour recording	0.00	1.29	1.28	1.29	1.28	0.07	1.36	1.35	1.36	1.35	XXX
G0006		A	ECG transmission & analysis	0.00	6.24	6.23	6.24	6.23	0.40	6.64	6.63	6.64	6.63	XXX
G0007		A	ECG phy review & interpret	0.52	0.19	0.37	0.19	0.37	0.04	0.75	0.93	0.75	0.93	XXX
G0008		X	Admin influenza virus vac	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0009		X	Admin pneumococcal vaccine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0010		X	Admin hepatitis b vaccine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0015		A	Post symptom ECG tracing	0.00	6.24	6.23	6.24	6.23	0.40	6.64	6.63	6.64	6.63	XXX
G0016		A	Post symptom ECG md review	0.52	0.24	0.38	0.24	0.38	0.04	0.80	0.94	0.80	0.94	XXX
G0025		A	Collagen skin test kit	0.00	0.00	0.77	0.00	0.77	0.00	0.00	0.77	0.00	0.77	XXX
G0026		X	Fecal leukocyte examination	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0027		X	Semen analysis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0030		C	PET imaging prev PET single	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0030	26	A	PET imaging prev PET single	1.50	0.52	0.52	0.52	0.52	0.05	2.07	2.07	2.07	2.07	XXX
G0030	TC	C	PET imaging prev PET single	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0031		C	PET imaging prev PET multple	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0031	26	A	PET imaging prev PET multple	1.87	0.70	0.71	0.70	0.71	0.08	2.65	2.66	2.65	2.66	XXX
G0031	TC	C	PET imaging prev PET multple	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0032		C	PET follow SPECT 78464 singl	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0032	26	A	PET follow SPECT 78464 singl	1.50	0.52	0.52	0.52	0.52	0.05	2.07	2.07	2.07	2.07	XXX
G0032	TC	C	PET follow SPECT 78464 singl	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0033		C	PET follow SPECT 78464 mult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0033	26	A	PET follow SPECT 78464 mult	1.87	0.70	0.71	0.70	0.71	0.08	2.65	2.66	2.65	2.66	XXX
G0033	TC	C	PET follow SPECT 78464 mult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0034		C	PET follow SPECT 76865 singl	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0034	26	A	PET follow SPECT 76865 singl	1.50	0.52	0.52	0.52	0.52	0.05	2.07	2.07	2.07	2.07	XXX
G0034	TC	C	PET follow SPECT 76865 singl	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0035		C	PET follow SPECT 78465 mult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0035	26	A	PET follow SPECT 78465 mult	1.87	0.70	0.71	0.70	0.71	0.08	2.65	2.66	2.65	2.66	XXX
G0035	TC	C	PET follow SPECT 78465 mult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0036		C	PET follow comry angio sing	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0036	26	A	PET follow comry angio sing	1.50	0.52	0.52	0.52	0.52	0.05	2.07	2.07	2.07	2.07	XXX
G0036	TC	C	PET follow comry angio sing	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
G0037		C	PET follow comry angio mult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0037	26	A	PET follow comry angio mult	1.87	0.70	0.71	0.70	0.71	0.08	2.65	2.66	2.65	2.66	XXX
G0037	TC	C	PET follow comry angio mult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0038		C	PET follow myocard perf sing	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0038	26	A	PET follow myocard perf sing	1.50	0.52	0.52	0.52	0.52	0.05	2.07	2.07	2.07	2.07	XXX
G0038	TC	C	PET follow myocard perf sing	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0039		C	PET follow myocard perf mult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0039	26	A	PET follow myocard perf mult	1.87	0.70	0.71	0.70	0.71	0.08	2.65	2.66	2.65	2.66	XXX
G0039	TC	C	PET follow myocard perf mult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0040		C	PET follow stress echo singl	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0040	26	A	PET follow stress echo singl	1.50	0.52	0.52	0.52	0.52	0.05	2.07	2.07	2.07	2.07	XXX
G0040	TC	C	PET follow stress echo singl	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0041		C	PET follow stress echo mult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0041	26	A	PET follow stress echo mult	1.87	0.70	0.71	0.70	0.71	0.08	2.65	2.66	2.65	2.66	XXX
G0041	TC	C	PET follow stress echo mult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0042		C	PET follow ventriculogm sing	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0042	26	A	PET follow ventriculogm sing	1.50	0.52	0.52	0.52	0.52	0.05	2.07	2.07	2.07	2.07	XXX
G0042	TC	C	PET follow ventriculogm sing	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0043		C	PET follow ventriculogm mult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0043	26	A	PET follow ventriculogm mult	1.87	0.70	0.71	0.70	0.71	0.08	2.65	2.66	2.65	2.66	XXX
G0043	TC	C	PET follow ventriculogm mult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0044		C	PET following rest ECG singl	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0044	26	A	PET following rest ECG singl	1.50	0.52	0.52	0.52	0.52	0.05	2.07	2.07	2.07	2.07	XXX
G0044	TC	C	PET following rest ECG singl	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0045		C	PET following rest ECG mult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0045	26	A	PET following rest ECG mult	1.87	0.70	0.71	0.70	0.71	0.08	2.65	2.66	2.65	2.66	XXX
G0045	TC	C	PET following rest ECG mult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0046		C	PET follow stress ECG singl	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0046	26	A	PET follow stress ECG singl	1.50	0.52	0.52	0.52	0.52	0.05	2.07	2.07	2.07	2.07	XXX
G0046	TC	C	PET follow stress ECG singl	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0047		C	PET follow stress ECG mult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0047	26	A	PET follow stress ECG mult	1.87	0.70	0.71	0.70	0.71	0.08	2.65	2.66	2.65	2.66	XXX
G0047	TC	C	PET follow stress ECG mult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0050		A	Residual urine by ultrasound	0.00	0.88	0.88	0.88	0.88	0.04	0.92	0.92	0.92	0.92	XXX
G0101		A	CA screen;pelvic/breast exam	0.45	0.51	0.35	0.32	0.31	0.02	0.98	0.82	0.79	0.78	XXX
G0104		A	CA screen;flexi sigmoidscope	0.96	4.27	2.07	0.44	0.55	0.09	5.32	3.12	1.49	1.60	000
G0105		A	Colorectal scrn; hi risk ind	3.70	5.65	4.77	1.95	3.80	0.31	9.66	8.78	5.96	7.81	000
G0106		A	Colon CA screen;barium enema	0.99	2.68	2.77	2.68	2.77	0.16	3.83	3.92	3.83	3.92	XXX
G0106	26	A	Colon CA screen;barium enema	0.99	0.37	0.46	0.37	0.46	0.05	1.41	1.50	1.41	1.50	XXX
G0106	TC	A	Colon CA screen;barium enema	0.00	2.31	2.31	2.31	2.31	0.11	2.42	2.42	2.42	2.42	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
G0107		X	CA screen; fecal blood test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0108		A	Diab manage trn per indiv	0.00	1.64	1.64	1.64	1.64	0.01	1.65	1.65	1.65	1.65	XXX
G0109		A	Diab manage trn ind/group	0.00	0.96	0.97	0.96	0.97	0.01	0.97	0.98	0.97	0.98	XXX
G0110		R	Nett pulm-rehab educ; ind	0.90	0.70	0.39	0.34	0.30	0.03	1.63	1.32	1.27	1.23	XXX
G0111		R	Nett pulm-rehab educ; group	0.27	0.26	0.23	0.10	0.19	0.02	0.55	0.52	0.39	0.48	XXX
G0112		R	Nett;nutrition guid, initial	1.72	1.35	1.13	0.92	1.02	0.08	3.15	2.93	2.72	2.82	XXX
G0113		R	Nett;nutrition guid,subseqnt	1.29	1.15	0.92	0.73	0.81	0.07	2.51	2.28	2.09	2.17	XXX
G0114		R	Nett; psychosocial consult	1.20	0.54	0.42	0.45	0.40	0.09	1.83	1.71	1.74	1.69	XXX
G0115		R	Nett; psychological testing	1.20	0.61	0.44	0.45	0.40	0.09	1.90	1.73	1.74	1.69	XXX
G0116		R	Nett; psychosocial counsel	1.11	0.67	0.45	0.60	0.44	0.04	1.82	1.60	1.75	1.59	XXX
G0120		A	Colon ca scrn; barium enema	0.99	2.68	2.77	2.68	2.77	0.16	3.83	3.92	3.83	3.92	XXX
G0120	26	A	Colon ca scrn; barium enema	0.99	0.37	0.46	0.37	0.46	0.05	1.41	1.50	1.41	1.50	XXX
G0120	TC	A	Colon ca scrn; barium enema	0.00	2.31	2.31	2.31	2.31	0.11	2.42	2.42	2.42	2.42	XXX
G0121		N	Colon ca scrn not hi rsk ind	+3.70	5.65	4.77	1.95	3.80	0.31	9.66	8.78	5.96	7.81	XXX
G0122		N	Colon ca scrn; barium enema	+0.99	2.68	2.77	2.68	2.77	0.16	3.83	3.92	3.83	3.92	XXX
G0122	26	N	Colon ca scrn; barium enema	+0.99	0.37	0.46	0.37	0.46	0.05	1.41	1.50	1.41	1.50	XXX
G0122	TC	N	Colon ca scrn; barium enema	+0.00	2.31	2.31	2.31	2.31	0.11	2.42	2.42	2.42	2.42	XXX
G0123		X	Screen cerv/vag thin layer	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0124		A	Screen c/v thin layer by MD	0.42	0.15	0.30	0.15	0.30	0.03	0.60	0.75	0.60	0.75	XXX
G0124	26	H	Screen c/v thin layer by MD	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0125		A	Lung image (PET)	1.50	56.15	56.15	56.15	56.15	2.16	59.81	59.81	59.81	59.81	XXX
G0125	26	A	Lung image (PET)	1.50	0.52	0.52	0.52	0.52	0.05	2.07	2.07	2.07	2.07	XXX
G0125	TC	A	Lung image (PET)	0.00	55.63	55.63	55.63	55.63	2.11	57.74	57.74	57.74	57.74	XXX
G0126		A	Lung image (PET) staging	1.87	56.33	56.34	56.33	56.34	2.19	60.39	60.40	60.39	60.40	XXX
G0126	26	A	Lung image (PET) staging	1.87	0.70	0.71	0.70	0.71	0.08	2.65	2.66	2.65	2.66	XXX
G0126	TC	A	Lung image (PET) staging	0.00	55.63	55.63	55.63	55.63	2.11	57.74	57.74	57.74	57.74	XXX
G0127		R	Trim nail(s)	0.11	0.41	0.30	0.04	0.11	0.02	0.54	0.43	0.17	0.24	000
G0128		R	CORF skilled nursing service	0.08	0.18	0.18	0.08	0.08	0.01	0.27	0.27	0.17	0.17	XXX
G0130		A	Single energy x-ray study	0.22	0.90	0.89	0.90	0.89	0.06	1.18	1.17	1.18	1.17	XXX
G0130	26	A	Single energy x-ray study	0.22	0.11	0.11	0.11	0.11	0.02	0.35	0.35	0.35	0.35	XXX
G0130	TC	A	Single energy x-ray study	0.00	0.79	0.78	0.79	0.78	0.04	0.83	0.82	0.83	0.82	XXX
G0131		A	CT scan, bone density study	0.25	3.18	3.18	3.18	3.18	0.16	3.59	3.59	3.59	3.59	XXX
G0131	26	A	CT scan, bone density study	0.25	0.13	0.13	0.13	0.13	0.02	0.40	0.40	0.40	0.40	XXX
G0131	TC	A	CT scan, bone density study	0.00	3.05	3.05	3.05	3.05	0.14	3.19	3.19	3.19	3.19	XXX
G0132		A	CT scan, bone density study	0.22	0.90	0.89	0.90	0.89	0.06	1.18	1.17	1.18	1.17	XXX
G0132	26	A	CT scan, bone density study	0.22	0.11	0.11	0.11	0.11	0.02	0.35	0.35	0.35	0.35	XXX
G0132	TC	A	CT scan, bone density study	0.00	0.79	0.78	0.79	0.78	0.04	0.83	0.82	0.83	0.82	XXX
G0133		D	Echo exam,bone density study	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0133	26	D	Echo exam,bone density study	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0133	TC	D	Echo exam,bone density study	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
G0141		A	Scr c/v cyto,autosys and md	0.42	0.15	0.15	0.15	0.15	0.03	0.60	0.60	0.60	0.60	XXX
G0143		X	Scr c/v cyto,thinlayer,rescr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0144		X	Scr c/v cyto,thinlayer,rescr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0145		X	Scr c/v cyto,thinlayer,rescr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0147		X	Scr c/v cyto, automated sys	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0148		X	Scr c/v cyto, autosys, rescr	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0120		E	Tetracyclin injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0130		E	Abciximab injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0150		E	Injection adenosine 6 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0151		E	Adenosine injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0170		E	Adrenalin epinephrin inject	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0190		E	Inj biperiden lactate/5 mg	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0205		E	Alglucerase injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0207		E	Amifostine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0210		E	Methyldopate hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0256		E	Alpha 1 proteinase inhibitor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0270		E	Alprostadil for injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0275		E	Alprostadil urethral suppos	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0280		E	Aminophyllin 250 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0285		E	Amphotericin B	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0286		E	Amphotericin B lipid complex	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0290		E	Ampicillin 500 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0295		E	Ampicillin sodium per 1.5 gm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0300		E	Amobarbital 125 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0330		E	Succinycholine chloride inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0340		E	Nandrolon phenpropionate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0350		E	Injection anistreplase 30 u	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0360		E	Hydralazine hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0380		E	Inj metaraminol bitartrate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0390		E	Chloroquine injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0395		E	Arbutamine HCl injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0400		E	Inj trimethaphan camsylate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0460		E	Atropine sulfate injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0470		E	Dimecaprol injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0475		E	Baclofen 10 MG injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0476		E	Baclofen intrathecal trial	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0500		E	Dicyclomine injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0510		E	Benzquinamide injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0515		E	Inj benztropine mesylate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0520		E	Bethanechol chloride inject	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
J0530		E	Penicillin g benzathine inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0540		E	Penicillin g benzathine inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0550		E	Penicillin g benzathine inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0560		E	Penicillin g benzathine inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0570		E	Penicillin g benzathine inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0580		E	Penicillin g benzathine inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0585		E	Botulinum toxin a per unit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0590		E	Ethylnorepinephrine hcl inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0600		E	Edetate calcium disodium inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0610		E	Calcium gluconate injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0620		E	Calcium glycer & lact/10 ML	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0630		E	Calcitonin salmon injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0635		E	Calcitriol injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0640		E	Leucovorin calcium injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0670		E	Inj mepivacaine HCL/10 ml	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0690		E	Cefazolin sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0694		E	Cefoxitin sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0695		E	Cefonocid sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0696		E	Ceftriaxone sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0697		E	Sterile cefuroxime injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0698		E	Cefotaxime sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0702		E	Betamethasone acet&sod phosp	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0704		E	Betamethasone sod phosp/4 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0710		E	Cephapirin sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0713		E	Inj ceftazidime per 500 mg	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0715		E	Ceftizoxime sodium / 500 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0720		E	Chloramphenicol sodium injec	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0725		E	Chorionic gonadotropin/1000u	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0730		E	Chlorpheniramin maleate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0735		E	Clonidine hydrochloride	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0740		E	Cidofovir injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0743		E	Cilastatin sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0745		E	Inj codeine phosphate /30 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0760		E	Colchicine injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0770		E	Colistimethate sodium inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0780		E	Prochlorperazine injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0800		E	Corticotropin injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0810		E	Cortisone injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0835		E	Inj cosyntropin per 0.25 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0850		E	Cytomegalovirus imm IV /vial	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
J0895		E	Deferoxamine mesylate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0900		E	Testosterone enanthate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0945		E	Brompheniramine maleate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0970		E	Estradiol valerate injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1000		E	Depo-estradiol cypionate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1020		E	Methylprednisolone 20 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1030		E	Methylprednisolone 40 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1040		E	Methylprednisolone 80 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1050		E	Medroxyprogesterone inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1055		N	Medroxyprogester acetate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1060		E	Testosterone cypionate 1 ML	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1070		E	Testosterone cypionat 100 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1080		E	Testosterone cypionat 200 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1090		E	Testosterone cypionate 50 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1095		E	Inj dexamethasone acetate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1100		E	Dexamethosone sodium phos	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1110		E	Inj dihydroergotamine mesylt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1120		E	Acetazolamid sodium injectio	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1160		E	Digoxin injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1165		E	Phenytoin sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1170		E	Hydromorphone injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1180		E	Dyphylline injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1190		E	Dexrazoxane HCl injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1200		E	Diphenhydramine hcl injectio	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1205		E	Chlorothiazide sodium inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1212		E	Dimethyl sulfoxide 50% 50 ML	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1230		E	Methadone injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1240		E	Dimenhydrinate injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1245		E	Dipyridamole injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1250		E	Inj dobutamine HCL/250 mg	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1260		E	Dolasetron mesylate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1320		E	Amitriptyline injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1325		E	Epoprostenol injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1330		E	Ergonovine maleate injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1362		E	Erythromycin glucep / 250 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1364		E	Erythro lactobionate /500 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1380		E	Estradiol valerate 10 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1390		E	Estradiol valerate 20 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1410		E	Inj estrogen conjugate 25 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1435		E	Injection estrone per 1 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
J1436		E	Etidronate disodium inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1440		E	Filgrastim 300 mcg injeciton	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1441		E	Filgrastim 480 mcg injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1455		E	Foscarnet sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1460		E	Gamma globulin 1 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1470		E	Gamma globulin 2 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1480		E	Gamma globulin 3 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1490		E	Gamma globulin 4 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1500		E	Gamma globulin 5 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1510		E	Gamma globulin 6 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1520		E	Gamma globulin 7 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1530		E	Gamma globulin 8 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1540		E	Gamma globulin 9 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1550		E	Gamma globulin 10 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1560		E	Gamma globulin > 10 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1561		E	Immune globulin 500 mg	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1562		E	Immune globulin 5 gms	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1565		E	RSV-ivig	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1570		E	Ganciclovir sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1580		E	Garamycin gentamicin inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1600		E	Gold sodium thiomaleate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1610		E	Glucagon hydrochloride/1 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1620		E	Gonadorelin hydroch/ 100 mcg	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1626		E	Granisetron HCl injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1630		E	Haloperidol injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1631		E	Haloperidol decanoate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1642		E	Inj heparin sodium per 10 u	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1644		E	Inj heparin sodium per 1000u	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1645		E	Dalteparin sodium	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1650		E	Inj enoxaparin sodium 30 mg	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1670		E	Tetanus immune globulin inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1690		E	Prednisolone tebutate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1700		E	Hydrocortisone acetate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1710		E	Hydrocortisone sodium ph inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1720		E	Hydrocortisone sodium succ i	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1730		E	Diazoxide injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1739		E	Hydroxyprogesterone cap 125	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1741		E	Hydroxyprogesterone cap 250	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1742		E	Ibutilide fumarate injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1760		E	Iron dextran 2 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
J1770		E	Iron dextran 5 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1780		E	Iron dextran 10 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1785		E	Injection imiglucerase /unit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1790		E	Droperidol injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1800		E	Propranolol injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1810		E	Droperidol/fentanyl inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1820		E	Insulin injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1825		E	Interferon beta-1a	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1830		E	Interferon beta-1b / .25 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1840		E	Kanamycin sulfate 500 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1850		E	Kanamycin sulfate 75 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1885		E	Ketorolac tromethamine inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1890		E	Cephalothin sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1910		E	Kutapressin injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1930		E	Proplomazine injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1940		E	Furosemide injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1950		E	Leuprolide acetate /3.75 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1955		E	Inj levocarnitine per 1 gm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1956		E	Levofloxacin injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1960		E	Levorphanol tartrate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1970		E	Methotrimeprazine injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1980		E	Hyoscyamine sulfate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1990		E	Chlordiazepoxide injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2000		E	Lidocaine injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2010		E	Lincomycin injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2060		E	Lorazepam injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2150		E	Mannitol injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2175		E	Meperidine hydrochl /100 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2180		E	Meperidine/promethazine inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2210		E	Methylergonovin maleate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2240		E	Metocurine iodide injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2250		E	Inj midazolam hydrochloride	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2260		E	Inj milrinone lactate / 5 ML	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2270		E	Morphine sulfate injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2271		E	Morphine so4 injection 100mg	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2275		E	Morphine sulfate injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2300		E	Inj nalbuphine hydrochloride	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2310		E	Inj naloxone hydrochloride	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2320		E	Nandrolone decanoate 50 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2321		E	Nandrolone decanoate 100 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
J2322		E	Nandrolone decanoate 200 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2330		E	Thiothixene injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2350		E	Niacinamide/niacin injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2355		E	Oprelvekin injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2360		E	Orphenadrine injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2370		E	Phenylephrine hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2400		E	Chloroprocaine hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2405		E	Ondansetron hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2410		E	Oxymorphone hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2430		E	Pamidronate disodium /30 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2440		E	Papaverin hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2460		E	Oxytetracycline injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2480		E	Hydrochlorides of opium inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2510		E	.Penicillin g procaine inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2512		E	Inj pentagastrin per 2 ML	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2515		E	Pentobarbital sodium inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2540		E	Penicillin g potassium inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2545		E	Pentamidine isethionte/300mg	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2550		E	Promethazine hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2560		E	Phenobarbital sodium inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2590		E	Oxytocin injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2597		E	Inj desmopressin acetate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2640		E	Prednisolone sodium ph inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2650		E	Prednisolone acetate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2670		E	Totazoline hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2675		E	Inj progesterone per 50 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2680		E	Fluphenazine decanoate 25 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2690		E	Procainamide hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2700		E	Oxacillin sodium injeciton	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2710		E	Neostigmine methylsilfte inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2720		E	Inj protamine sulfate/10 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2725		E	Inj protirelin per 250 mcg	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2730		E	Pralidoxime chloride inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2760		E	Phentolaine mesylate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2765		E	Metoclopramide hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2790		E	Rho d immune globulin inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2792		E	Rho(D) immune globulin h, sd	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2800		E	Methocarbamol injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2810		E	Inj theophylline per 40 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2820		E	Sargramostim injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
J2860		E	Secobarbital sodium inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2910		E	Aurothioglucose injeciton	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2912		E	Sodium chloride injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2920		E	Methylprednisolone injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2930		E	Methylprednisolone injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2950		E	Promazine hcl injeciton	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2970		E	Methicillin sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2994		E	Reteplase double bolus	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2995		E	Inj streptokinase /250000 IU	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2996		E	Alteplase recombinant inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3000		E	Streptomycin injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3010		E	Fentanyl citrate injeciton	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3030		E	Sumatriptan succinate / 6 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3070		E	Pentazocine hcl injeciton	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3080		E	Chlorprothixene injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3105		E	Terbutaline sulfate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3120		E	Testosterone enanthate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3130		E	Testosterone enanthate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3140		E	Testosterone suspension inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3150		E	Testosteron propionate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3230		E	Chlorpromazine hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3240		E	Thyrotropin injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3250		E	Trimethobenzamide hcl inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3260		E	Tobramycin sulfate injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3265		E	Injection torsemide 10 mg/ml	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3270		E	Imipramine hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3280		E	Thiethylperazine maleate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3301		E	Triamcinolone acetonide inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3302		E	Triamcinolone diacetate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3303		E	Triamcinolone hexacetonl inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3305		E	Inj trimetrexate glucoronate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3310		E	Perphenazine injeciton	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3320		E	Spectinomycn di-hcl inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3350		E	Urea injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3360		E	Diazepam injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3364		E	Urokinase 5000 IU injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3365		E	Urokinase 250,000 IU inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3370		R	Vancomycin hcl injeciton	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3390		E	Methoxamine injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3400		E	Triflupromazine hcl inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
J3410		E	Hydroxyzine hcl injeciton	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3420		E	Vitamin b12 injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3430		E	Vitamin k phytonadione inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3450		E	Mephentermine sulfate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3470		E	Hyaluronidase injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3475		E	Inj magnesium sulfate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3480		E	Inj potassium chloride	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3490		E	Drugs unclassified injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3520		N	Edetate disodium per 150 mg	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3530		E	Nasal vaccine inhalation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3535		N	Metered dose inhaler drug	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3570		N	Laetrile amygdalin vit B17	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7030		E	Normal saline solution infus	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7040		E	Normal saline solution infus	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7042		E	5% dextrose/normal saline	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7050		E	Normal saline solution infus	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7051		E	Sterile saline/water	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7060		E	5% dextrose/water	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7070		E	D5w infusion	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7100		E	Dextran 40 infusion	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7110		E	Dextran 75 infusion	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7120		E	Ringers lactate infusion	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7130		E	Hypertonic saline solution	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7190		X	Factor viii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7191		X	Factor VIII (porcine)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7192		X	Factor viii recombinant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7194		X	Factor ix complex	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7196		X	Othr hemophilia clot factors	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7197		X	Antithrombin iii injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7300		N	Intraut copper contraceptive	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7310		E	Ganciclovir long act implant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7315		E	Sodium hyaluronate injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7320		E	Hylan G-F 20 injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7500		X	Azathiop po tab 50mg 100s ea	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7501		X	Azathioprine parenteral	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7503		X	Cyclosporine parenteral	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7504		X	Lymphocyte immune globulin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7505		X	Monoclonal antibodies	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7506		X	Prednisone oral	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7507		E	Tacrolimus oral per 1 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
J7508		E	Tacrolimus oral per 5 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7509		X	Methylprednisolone oral	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7510		X	Prednisolone oral per 5 mg	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7513		E	Daclizumab, parenteral	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7599		X	Immunosuppressive drug noc	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7610		E	Acetylcysteine 10% injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7615		E	Acetylcysteine 20% injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7620		E	Albuterol sulfate .083%/ml	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7625		E	Albuterol sulfate .5% inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7627		E	Bitolterolmesylate inhal sol	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7630		E	Cromolyn sodium injeciton	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7640		E	Epinephrine injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7645		E	Ipratropium bromide .02%/ml	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7650		E	Isoetharine hcl .1% inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7651		E	Isoetharine hcl .125% inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7652		E	Isoetharine hcl .167% inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7653		E	Isoetharine hcl .2%/ inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7654		E	Isoetharine hcl .25% inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7655		E	Isoetharine hcl 1% inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7660		E	Isoproterenol hcl .5% inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7665		E	Isoproterenol hcl 1% inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7670		E	Metaproterenol sulfate .4%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7672		E	Metaproterenol sulfate .6%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7675		E	Metaproterenol sulfate 5%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7699		E	Inhalation sclution for DME	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7799		E	Non-inhalation drug for DME	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J8499		N	Oral prescrip drug non chemo	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J8530		E	Cyclophosphamide oral 25 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J8560		E	Etoposide oral 50 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J8600		E	Melphalan oral 2 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J8610		E	Methotrexate oral 2.5 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J8999		E	Oral prescription drug chemo	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9000		E	Doxorubic hcl 10 MG vl chemo	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9015		E	Aldesleukin/single use vial	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9020		E	Asparaginase injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9031		E	Bcg live intravesical vac	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9040		E	Bleomycin sulfate injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9045		E	Carboplatin injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9050		E	Carmus bischl nitro inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9060		E	Cisplatin 10 MG injeciton	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
J9062		E	Cisplatin 50 MG injeciton	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9065		E	Inj cladribine per 1 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9070		E	Cyclophosphamide 100 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9080		E	Cyclophosphamide 200 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9090		E	Cyclophosphamide 500 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9091		E	Cyclophosphamide 1.0 grm inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9092		E	Cyclophosphamide 2.0 grm inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9093		E	Cyclophosphamide lyophilized	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9094		E	Cyclophosphamide lyophilized	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9095		E	Cyclophosphamide lyophilized	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9096		E	Cyclophosphamide lyophilized	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9097		E	Cyclophosphamide lyophilized	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9100		E	Cytarabine hcl 100 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9110		E	Cytarabine hcl 500 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9120		E	Dactinomycin actinomycin d	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9130		E	Dacarbazine 10 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9140		E	Dacarbazine 200 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9150		E	Daunorubicin	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9151		E	Daunorubicin citrate liposom	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9165		E	Diethylstilbestrol injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9170		E	Docetaxel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9181		E	Etoposide 10 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9182		E	Etoposide 100 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9185		E	Fludarabine phosphate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9190		E	Fluorouracil injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9200		E	Floxuridine injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9201		E	Gemcitabine HCl	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9202		E	Goserelin acetate implant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9206		E	Irinotecan injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9208		E	Ifosfomide injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9209		E	Mesna injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9211		E	Idarubicin hcl injeciton	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9212		E	Interferon alfacon-1	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9213		E	Interferon alfa-2a inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9214		E	Interferon alfa-2b inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9215		E	Interferon alfa-n3 inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9216		E	Interferon gamma 1-b inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9217		E	Leuprolide acetate suspnsion	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9218		E	Leuprolide acetate injeciton	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9230		E	Mechlorethamine hcl inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
J9245		E	Inj melphalan hydrochl 50 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9250		E	Methotrexate sodium inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9260		E	Methotrexate sodium inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9265		E	Paclitaxel injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9266		E	Pegaspargase/singl dose vial	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9268		E	Pentostatin injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9270		E	Plicamycin (mithramycin) inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9280		E	Mitomycin 5 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9290		E	Mitomycin 20 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9291		E	Mitomycin 40 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9293		E	Mitoxantrone hydrochl / 5 MG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9310		E	Rituximab cancer treatment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9320		E	Streptozocin injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9340		E	Thiotepa injection	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9350		E	Topotecan	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9360		E	Vinblastine sulfate inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9370		E	Vincristine sulfate 1 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9375		E	Vincristine sulfate 2 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9380		E	Vincristine sulfate 5 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9390		E	Vinorelbine tartrate/10 mg	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9600		E	Porfimer sodium	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9999		E	Chemotherapy drug	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
M0064		A	Visit for drug monitoring	0.37	0.21	0.21	0.19	0.21	0.02	0.60	0.60	0.58	0.60	XXX
M0075		N	Cellular therapy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
M0076		N	Prolotherapy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
M0100		N	Intragastric hypothermia	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
M0101		D	Foot care hygienic/pm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
M0300		N	IV chelationtherapy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
M0301		N	Fabric wrapping of aneurysm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
M0302		N	Assessment of cardiac output	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P2028		X	Cephalin flocculation test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P2029		X	Congo red blood test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P2031		N	Hair analysis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P2033		X	Blood thymol turbidity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P2038		X	Blood mucoprotein	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P3000		X	Screen pap by tech w md supv	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P3001		A	Screening pap smear by phys	0.42	0.18	0.31	0.18	0.31	0.03	0.63	0.76	0.63	0.76	XXX
P3001	26	H	Screening pap smear by phys	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P7001		I	Culture bacterial urine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9010		E	Whole blood for transfusion	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
P9011		E	Blood split unit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9012		E	Cryoprecipitate each unit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9013		E	Unit/s blood fibrinogen	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9014		D	Gamma globulin 1 ML	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9015		D	Rh immune globulin 1 ML	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9016		E	Leukocyte poor blood, unit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9017		E	One donor fresh frozn plasma	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9018		E	Plasma protein fract, unit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9019		E	Platelet concentrate unit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9020		E	Plaelet rich plasma unit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9021		E	Red blood cells unit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9022		E	Washed red blood cells unit	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9603		X	One-way allow prorated miles	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9604		X	One-way allow prorated trip	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9610		D	Urine specimen collect singl	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9612		X	Catheterize for urine spec	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9615		X	Urine specimen collect mult	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0034		X	Admin of influenza vaccine	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0035		A	Cardiokymography	0.17	0.46	0.51	0.46	0.51	0.03	0.66	0.71	0.66	0.71	XXX
Q0035	26	A	Cardiokymography	0.17	0.06	0.11	0.06	0.11	0.01	0.24	0.29	0.24	0.29	XXX
Q0035	TC	A	Cardiokymography	0.00	0.40	0.40	0.40	0.40	0.02	0.42	0.42	0.42	0.42	XXX
Q0068		A	Extracorpeal plasmapheresis	1.67	4.00	2.04	0.65	1.20	0.13	5.80	3.84	2.45	3.00	000
Q0091		A	Obtaining screen pap smear	0.37	0.67	0.39	0.13	0.26	0.02	1.06	0.78	0.52	0.65	XXX
Q0092		A	Set up port xray equipment	0.00	0.33	0.33	0.33	0.33	0.01	0.34	0.34	0.34	0.34	XXX
Q0111		X	Wet mounts/ w preparations	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0112		X	Potassium hydroxide preps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0113		X	Pinworm examinations	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0114		X	Fern test	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0115		X	Post-coital mucous exam	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0132		X	Dispensing fee DME neb drug	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0136		X	Non esrd epoetin alpha inj	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0144		N	Azithromycin dihydrate, oral	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0156		X	Human albumin 5%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0157		X	Human albumin 25%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0160		X	Factor IX non-recombinant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0161		X	Factor IX recombinant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0163		X	Diphenhydramine HCl 50mg	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0164		E	Prochlorperazine maleate 5mg	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0165		E	Prochlorperazine maleate10mg	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0166		E	Granisetron HCl 1 mg oral	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
Q0167		E	Dronabinol 2.5mg oral	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0168		E	Dronabinol 5mg oral	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0169		E	Promethazine HCl 12.5mg oral	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0170		E	Promethazine HCl 25 mg oral	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0171		E	Chlorpromazine HCl 10mg oral	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0172		E	Chlorpromazine HCl 25mg oral	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0173		E	Trimethobenzamide HCl 250mg	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0174		E	Thiethylperazine maleate10mg	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0175		E	Perphenazine 4mg oral	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0176		E	Perphenazine 8mg oral	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0177		E	Hydroxyzine pamoate 25mg	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0178		E	Hydroxyzine pamoate 50mg	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0179		E	Ondansetron HCl 8mg oral	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0180		E	Dolasetron mesylate oral	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0181		X	Unspecified oral anti-emetic	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0183		E	Nonmetabolic active tissue	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0184		E	Metabolically active tissue	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0185		E	Metabolic active D/E tissue	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9920		E	Epoetin with hct <= 20	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9921		E	Epoetin with hct = 21	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9922		E	Epoetin with hct = 22	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9923		E	Epoetin with hct = 23	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9924		E	Epoetin with hct = 24	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9925		E	Epoetin with hct = 25	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9926		E	Epoetin with hct = 26	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9927		E	Epoetin with hct = 27	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9928		E	Epoetin with hct = 28	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9929		E	Epoetin with hct = 29	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9930		E	Epoetin with hct = 30	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9931		E	Epoetin with hct = 31	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9932		E	Epoetin with hct = 32	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9933		E	Epoetin with hct = 33	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9934		E	Epoetin with hct = 34	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9935		E	Epoetin with hct = 35	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9936		E	Epoetin with hct = 36	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9937		E	Epoetin with hct = 37	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9938		E	Epoetin with hct = 38	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9939		E	Epoetin with hct = 39	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9940		E	Epoetin with hct >= 40	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
R0070		A	Transport portable x-ray	0.00	1.64	1.64	1.64	1.64	0.01	1.65	1.65	1.65	1.65	XXX

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ADDENDUM B. - RELATIVE VALUE UNITS(RVUs) AND RELATED INFORMATION -

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
R0075		A	Transport port x-ray multipl	0.00	0.69	0.69	0.69	0.69	0.01	0.70	0.70	0.70	0.70	XXX
R0076		B	Transport portable EKG	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2020		X	Vision svcs frames purchases	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2025		N	Eyeglasses delux frames	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2100		X	Lens spher single plano 4.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2101		X	Single visn sphere 4.12-7.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2102		X	Singl visn sphere 7.12-20.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2103		X	Spherocylindr 4.00d/12-2.00d	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2104		X	Spherocylindr 4.00d/2.12-4d	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2105		X	Spherocylinder 4.00d/4.25-6d	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2106		X	Spherocylinder 4.00d/>6.00d	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2107		X	Spherocylinder 4.25d/12-2d	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2108		X	Spherocylinder 4.25d/2.12-4d	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2109		X	Spherocylinder 4.25d/4.25-6d	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2110		X	Spherocylinder 4.25d/over 6d	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2111		X	Spherocylindr 7.25d/.25-2.25	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2112		X	Spherocylindr 7.25d/2.25-4d	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2113		X	Spherocylindr 7.25d/4.25-6d	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2114		X	Spherocylinder over 12.00d	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2115		X	Lens lenticular bifocal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2116		X	Nonaspheric lens bifocal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2117		X	Aspheric lens bifocal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2118		X	Lens aniseikonic single	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2199		X	Lens single vision not oth c	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2200		X	Lens spher bifoc plano 4.00d	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2201		X	Lens sphere bifocal 4.12-7.0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2202		X	Lens sphere bifocal 7.12-20.	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2203		X	Lens sphcyl bifocal 4.00d/.1	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2204		X	Lens sphcy bifocal 4.00d/2.1	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2205		X	Lens sphcy bifocal 4.00d/4.2	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2206		X	Lens sphcy bifocal 4.00d/ove	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2207		X	Lens sphcy bifocal 4.25-7d/.	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2208		X	Lens sphcy bifocal 4.25-7/2.	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2209		X	Lens sphcy bifocal 4.25-7/4.	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2210		X	Lens sphcy bifocal 4.25-7/ov	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2211		X	Lens sphcy bifo 7.25-12/.25-	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2212		X	Lens sphcyl bifo 7.25-12/2.2	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2213		X	Lens sphcyl bifo 7.25-12/4.2	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2214		X	Lens sphcyl bifocal over 12.	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2215		X	Lens lenticular bifocal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
V2216		X	Lens lenticular nonaspheric	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2217		X	Lens lenticular aspheric bif	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2218		X	Lens aniseikonic bifocal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2219		X	Lens bifocal seg width over	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2220		X	Lens bifocal add over 3.25d	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2299		X	Lens bifocal speciality	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2300		X	Lens sphere trifocal 4.00d	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2301		X	Lens sphere trifocal 4.12-7.	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2302		X	Lens sphere trifocal 7.12-20	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2303		X	Lens sphcy trifocal 4.0/.12-	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2304		X	Lens sphcy trifocal 4.0/2.25	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2305		X	Lens sphcy trifocal 4.0/4.25	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2306		X	Lens sphcyl trifocal 4.00/>6	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2307		X	Lens sphcy trifocal 4.25-7/.	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2308		X	Lens sphc trifocal 4.25-7/2.	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2309		X	Lens sphc trifocal 4.25-7/4.	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2310		X	Lens sphc trifocal 4.25-7/>6	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2311		X	Lens sphc trifo 7.25-12/.25-	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2312		X	Lens sphc trifo 7.25-12/2.25	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2313		X	Lens sphc trifo 7.25-12/4.25	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2314		X	Lens sphcyl trifocal over 12	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2315		X	Lens lenticular trifocal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2316		X	Lens lenticular nonaspheric	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2317		X	Lens lenticular aspheric tri	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2318		X	Lens aniseikonic trifocal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2319		X	Lens trifocal seg width > 28	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2320		X	Lens trifocal add over 3.25d	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2399		X	Lens trifocal speciality	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2410		X	Lens variab asphericity sing	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2430		X	Lens variable asphericity bi	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2499		X	Variable asphericity lens	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2500		X	Contact lens pmma spherical	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2501		X	Cntct lens pmma-toric/prism	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2502		X	Contact lens pmma bifocal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2503		X	Cntct lens pmma color vision	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2510		X	Cntct gas permeable sphericl	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2511		X	Cntct toric prism ballast	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2512		X	Cntct lens gas permbl bifocl	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2513		X	Contact lens extended wear	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2520		P	Contact lens hydrophilic	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RUVs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
V2521		X	Cntct lens hydrophilic toric	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2522		X	Cntct lens hydrophil bifocl	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2523		X	Cntct lens hydrophil extend	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2530		X	Contact lens gas impermeable	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2531		X	Contact lens gas permeable	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2599		X	Contact lens/es other type	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2600		X	Hand held low vision aids	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2610		X	Single lens spectacle mount	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2615		X	Telescop/othr compound lens	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2623		X	Plastic eye prosth custom	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2624		X	Polishing artifical eye	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2625		X	Enlargemnt of eye prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2626		X	Reduction of eye prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2627		X	Scleral cover shell	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2628		X	Fabrication & fitting	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2629		X	Prosthetic eye other type	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2630		X	Anter chamber intraocul lens	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2631		X	Iris support intraocir lens	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2632		X	Post chmbr intraocular lens	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2700		X	Balance lens	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2710		X	Glass/plastic slab off prism	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2715		X	Prism lens/es	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2718		X	Fresnell prism press-on lens	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2730		X	Special base curve	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2740		X	Rose tint plastic	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2741		X	Non-rose tint plastic	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2742		X	Rose tint glass	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2743		X	Non-rose tint glass	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2744		X	Tint photochromatic lens/es	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2750		X	Anti-reflective coating	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2755		X	UV lens/es	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2760		X	Scratch resistant coating	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2770		X	Occluder lens/es	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2780		X	Oversize lens/es	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2781		X	Progressive lens per lens	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2785		X	Corneal tissue processing	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2799		X	Miscellaneous vision service	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5008		N	Hearing screening	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5010		N	Assessment for hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5011		N	Hearing aid fitting/checking	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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V5014		N	Hearing aid repair/modifying	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5020		N	Conformity evaluation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5030		N	Body-worn hearing aid air	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5040		N	Body-worn hearing aid bone	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5050		N	Body-worn hearing aid in ear	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5060		N	Behind ear hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5070		N	Glasses air conduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5080		N	Glasses bone conduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5090		N	Hearing aid dispensing fee	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5100		N	Body-worn bilat hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5110		N	Hearing aid dispensing fee	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5120		N	Body-worn binaur hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5130		N	In ear binaural hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5140		N	Behind ear binaur hearing ai	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5150		N	Glasses binaural hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5160		N	Dispensing fee binaural	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5170		N	Within ear cros hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5180		N	Behind ear cros hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5190		N	Glasses cros hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5200		N	Cros hearing aid dispens fee	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5210		N	In ear bicros hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5220		N	Behind ear bicros hearing ai	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5230		N	Glasses bicros hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5240		N	Dispensing fee bicros	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5299		R	Hearing service	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5336		N	Repair communication device	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5362		R	Speech screening	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5363		R	Language screening	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5364		R	Dysphagia screening	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM C. - CODES WITH INTERIM RVUs

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
15000		A	Skin graft	4.00	2.25	2.31	1.93	2.23	0.41	6.66	6.72	6.34	6.64	000
15001		A	Skin graft add-on	1.00	0.49	0.49	0.48	0.48	0.41	1.90	1.90	1.89	1.89	ZZZ
15350		A	Skin homograft	4.00	6.47	3.37	3.58	2.64	0.33	10.80	7.70	7.91	6.97	090
15351		A	Skin homograft add-on	1.00	0.41	0.41	0.45	0.45	0.26	1.67	1.67	1.71	1.71	ZZZ
15400		A	Skin heterograft	4.00	3.69	1.79	4.22	1.92	0.13	7.82	5.92	8.35	6.05	090
15401		A	Skin heterograft add-on	1.00	0.41	0.41	0.45	0.45	0.26	1.67	1.67	1.71	1.71	ZZZ
19364		A	Breast reconstruction	41.00	NA	NA	23.30	19.40	2.80	NA	NA	67.10	63.20	090
27347		A	Remove knee cyst	5.78	2.44	2.44	2.83	2.83	0.74	8.96	8.96	9.35	9.35	090
28289		A	Repair hallux rigidus	7.04	2.78	2.78	3.12	3.12	0.42	10.24	10.24	10.58	10.58	090
31622		A	Dx bronchoscope/wash	2.67	3.18	3.30	1.12	2.79	0.27	6.12	6.24	4.06	5.73	000
31623		A	Dx bronchoscope/brush	3.07	3.33	3.33	1.25	1.25	0.27	6.67	6.67	4.59	4.59	000
31624		A	Dx bronchoscope/lavage	3.11	3.35	3.35	1.26	1.26	0.27	6.73	6.73	4.64	4.64	000
31643		A	Dx bronchoscope/catheter	3.50	1.73	1.73	1.23	1.23	0.66	5.89	5.89	5.39	5.39	000
32001		A	Total lung lavage	5.71	2.11	2.11	2.17	2.17	0.27	8.09	8.09	8.15	8.15	000
35681		A	Composite bypass graft	1.60	NA	NA	2.05	7.73	2.75	NA	NA	6.40	12.08	ZZZ
35682		A	Composite bypass graft	7.20	2.81	2.81	2.74	2.74	2.75	12.76	12.76	12.69	12.69	ZZZ
35683		A	Composite bypass graft	8.50	3.32	3.32	3.22	3.22	2.75	14.57	14.57	14.47	14.47	ZZZ
35875		A	Removal of clot in graft	10.13	NA	NA	5.87	8.15	1.29	NA	NA	17.29	19.57	090
35876		A	Removal of clot in graft	17.00	NA	NA	8.90	8.91	1.29	NA	NA	27.19	27.20	090
36831		A	Av fistula excision	8.00	2.38	2.38	2.98	2.98	1.29	11.67	11.67	12.27	12.27	090
36832		A	Av fistula revision	10.50	NA	NA	5.56	7.17	1.86	NA	NA	17.92	19.53	090
36833		A	Av fistula revision	11.95	4.52	4.52	4.49	4.49	1.29	17.76	17.76	17.73	17.73	090
45126		A	Pelvic exenteration	38.39	13.90	13.90	13.63	13.63	4.81	57.10	57.10	56.83	56.83	090
57106		A	Remove vagina wall, partial	6.36	2.45	2.45	2.37	2.37	0.86	9.67	9.67	9.59	9.59	090
57107		A	Remove vagina tissue/partial	23.00	8.71	8.71	8.53	8.53	0.86	32.57	32.57	32.39	32.39	090
57109		A	Vaginectomy partial w/nodes	27.00	9.80	9.80	9.36	9.36	3.03	39.83	39.83	39.39	39.39	090
57111		A	Remove vagina tissue/compl	27.00	9.43	9.43	10.12	10.12	3.03	39.46	39.46	40.15	40.15	090
57112		A	Vaginectomy complete w/nodes	29.00	10.00	10.00	9.96	9.96	3.03	42.03	42.03	41.99	41.99	090
67210		A	Treatment of retinal lesion	8.82	7.03	9.10	5.69	5.10	0.37	16.22	18.29	14.88	14.29	090
67220		A	Treat choroid lesion	13.13	6.61	6.61	6.54	6.54	0.37	20.11	20.11	20.04	20.04	090
67320		A	Revise eye muscle(s) add-on	4.33	NA	NA	7.49	9.63	0.28	NA	NA	12.10	14.24	ZZZ
67331		A	Eye surgery follow-up add-on	4.06	NA	NA	5.90	8.74	0.22	NA	NA	10.18	13.02	ZZZ
67332		A	Rerevise eye muscles add-on	4.49	NA	NA	6.95	9.79	0.24	NA	NA	11.68	14.52	ZZZ
67334		A	Revise eye muscle w/suture	3.98	NA	NA	6.07	6.65	0.13	NA	NA	10.18	10.76	ZZZ
67340		A	Revise eye muscle add-on	4.93	NA	NA	7.64	8.32	0.16	NA	NA	12.73	13.41	ZZZ
69990		R	Microsurgery add-on	3.46	1.83	1.83	1.83	1.83	0.73	6.02	6.02	6.02	6.02	ZZZ
76006		A	X-ray stress view	0.41	0.11	0.11	0.11	0.11	0.03	0.55	0.55	0.55	0.55	XXX
76977		R	Us bone density measure	0.22	0.94	0.94	0.94	0.94	0.06	1.22	1.22	1.22	1.22	XXX
76977	26	R	Us bone density measure	0.22	0.08	0.08	0.08	0.08	0.02	0.32	0.32	0.32	0.32	XXX
78018	26	A	Thyroid, met imaging, body	0.86	0.25	0.42	0.25	0.42	0.05	1.16	1.33	1.16	1.33	XXX

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[FR Doc. 98-29181 Filed 10-30-98; 8:45 am]
BILLING CODE 4120-01-C

ADDENDUM C. - CODES WITH INTERIM RVUs

CPT [1] / HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Non-facility practice expense RVUs	Transitioned Non-facility practice expense RVUs	Facility practice expense RVUs	Transitioned Facility practice expense RVUs	Mal-practice RVUs	Non-facility Total	Transitioned Non-facility Total	Facility Total	Transitioned Facility Total	Global
78020		A	Thyroid met uptake	0.60	0.17	0.17	0.17	0.17	0.08	0.85	0.85	0.85	0.85	ZZZ
78206	26	A	Liver image (3-d) w/flow	0.96	0.28	0.28	0.28	0.28	0.03	1.27	1.27	1.27	1.27	XXX
78494	26	A	Heart image, spect	1.19	0.36	0.36	0.36	0.36	0.05	1.60	1.60	1.60	1.60	XXX
78496	26	A	Heart first pass add-on	0.50	0.19	0.19	0.19	0.19	0.05	0.74	0.74	0.74	0.74	ZZZ
78588	26	A	Perfusion lung image	1.09	0.30	0.30	0.30	0.30	0.04	1.43	1.43	1.43	1.43	XXX
88291		A	Cyto/molecular report	0.52	0.21	0.21	0.21	0.21	0.01	0.74	0.74	0.74	0.74	XXX
92135	26	A	Opthalmic dx imaging	0.35	0.18	0.18	0.18	0.18	0.02	0.55	0.55	0.55	0.55	XXX
93571	26	A	Heart flow reserve measure	1.80	0.68	0.68	0.68	0.68	0.06	2.54	2.54	2.54	2.54	ZZZ
93572	26	A	Heart flow reserve measure	1.44	0.55	0.55	0.55	0.55	0.05	2.04	2.04	2.04	2.04	ZZZ
94014	26	A	Patient recorded spirometry	0.52	0.20	0.20	0.20	0.20	0.02	0.74	0.74	0.74	0.74	XXX
94016		A	Review patient spirometry	0.52	0.20	0.20	0.20	0.20	0.04	0.76	0.76	0.76	0.76	XXX
94621	26	A	Pulm stress test/complex	0.88	0.27	0.27	0.27	0.27	0.04	1.19	1.19	1.19	1.19	XXX
95970		A	Neurostim analyze,no program	0.45	0.12	0.12	0.10	0.10	0.09	0.66	0.66	0.64	0.64	XXX
95971		A	Simple neurostim analyze	0.78	0.21	0.21	0.18	0.18	0.09	1.08	1.08	1.05	1.05	XXX
95972		A	Complex neurostim analyze	1.50	0.40	0.40	0.35	0.35	0.09	1.99	1.99	1.94	1.94	XXX
95973		A	Complex neurostim analyze	0.92	0.25	0.25	0.22	0.22	0.09	1.26	1.26	1.23	1.23	ZZZ
95974		A	Complex cranial neurostim	3.00	0.96	0.96	0.74	0.74	0.09	4.05	4.05	3.83	3.83	XXX
95975		A	Complex cranial neurostim	1.70	0.62	0.62	0.49	0.49	0.09	2.41	2.41	2.28	2.28	ZZZ
97140		A	Manual therapy	0.43	0.18	0.18	0.04	0.04	0.02	0.63	0.63	0.49	0.49	XXX
99298		A	Neonatal critical care	2.75	0.94	0.94	0.88	0.88	0.30	3.99	3.99	3.93	3.93	XXX
G0141		A	Scr c/v cyto,autosys and md	0.42	0.15	0.15	0.15	0.15	0.03	0.60	0.60	0.60	0.60	XXX

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–1021–NC]

RIN 0938–AJ09

Medicare Program; Sustainable Growth Rate for Fiscal Year 1999

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice with comment period.

SUMMARY: This notice announces the fiscal year 1999 sustainable growth rate (SGR) for expenditures for physicians' services under the Medicare Supplementary Medical Insurance (Part B) program as required by section 1848(f) of the Social Security Act. The SGR for fiscal year 1999 is −0.3 percent. The negative fiscal year 1999 SGR is driven by the projected drop in Medicare fee-for-service enrollment.

DATES: *Effective Date:* The provisions of the Medicare SGR for fiscal year 1999 contained in this notice are effective on October 1, 1998.

Comment Date: Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on December 2, 1998.

ADDRESSES: Mail written comments (an original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–1021–NC, P.O. Box 26688, Baltimore, MD 21207–0488.

If you prefer, you may deliver your written comments (an original and three copies) to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201 or

Room C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmissions. In commenting, please refer to file code HCFA–1021–NC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's office at 200 Independence Avenue, SW, Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

Comments may also be submitted electronically to the following E-mail address: HCFA1021NC@hcfa.gov. E-mail comments must include the full name and address of the sender. All comments must be incorporated in the E-mail message because we may not be able to access attachments. Electronically submitted comments will be available for public inspection at the Independence Avenue address listed above.

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FOR FURTHER INFORMATION CONTACT: Elizabeth Holland, (410) 786–1309.

SUPPLEMENTARY INFORMATION:

I. Background

A. Medicare Sustainable Growth Rate

Section 1848(f) of the Social Security Act (the Act), as amended by section 4503 of the Balanced Budget Act of 1997 (BBA 1997) (Public Law 105–33), enacted on August 5, 1997, replaces the volume performance standard with a sustainable growth rate (SGR) standard. It specifies the formula for establishing yearly SGR targets for physicians' services under Medicare. The use of SGR targets is intended to control the actual growth in Medicare expenditures for physicians' services.

The SGR targets are not limits on expenditures. Payments for services are not withheld if the SGR target is exceeded. Rather, the appropriate fee schedule update, as specified in section 1848(d)(3)(A) of the Act, is adjusted to reflect the success or failure in meeting the SGR target.

Amended section 1848(f)(2) of the Act states that "the SGR for all physicians" services for a fiscal year (beginning with fiscal year 1998) shall be equal to the product of—

(A) 1.0 plus the Secretary's estimate of the weighted-average percentage increase (divided by 100) in the fees for all physicians' services in the fiscal year involved,

(B) 1.0 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than Medicare+Choice plan enrollees) from the previous fiscal year to the fiscal year involved,

(C) 1.0 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the year involved, and

(D) 1.0 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) that will result from changes in law or regulations determined without taking into account estimated changes in expenditures resulting from the update adjustment factor determined under subsection (d)(3)(B), minus 1 and multiplied by 100."

B. Physicians' Services

Because the scope of physicians' services covered by the SGR is the same as the scope of services that was covered by the Medicare volume performance standards, we are using the same definition of physicians' services for the SGR in this notice as we did for the Medicare volume performance standards published in the **Federal Register** (61 FR 59717) on November 22, 1996. That final notice announced the fiscal year 1997 volume performance standard rates and contained a detailed description of the scope of physicians' services.

II. Provisions of This Notice

Under the requirements in sections 1848(f)(2)(A) through (D) of the Act, as amended by section 4503 of the BBA 1997, we have determined that the SGR for physicians' services for fiscal year 1999 is −0.3 percent. Our determination is based on the following statutory factors:

Statutory factors	Percent change
Fees	2.1
Enrollment	−4.3
Increase in Gross Domestic Product	1.3
Legislation	0.7
Total	−0.3

The specific calculations to determine the −0.3 SGR for physicians' services for fiscal year 1999 are explained below.

III. Calculation of the Fiscal Year 1999 Sustainable Growth Rate

Our explanation of how we determined the values for each of the four factors used in determining the SGR for fiscal year 1999 is as follows:

Factor 1—Changes in Fees for Physicians' Services (Before Applying Legislative Adjustments) for Fiscal Year 1999

This factor was calculated as a weighted average of the calendar year 1998 and 1999 fee increases that apply during fiscal year 1999. Adjustments to the fee increases, such as the move to a single conversion factor, are accounted for in Factor 4 (the increase in expenditures resulting from changes in law or regulations).

Most of the fees for physicians' services (as defined in section I. B. of this final notice) are updated by the Medicare Economic Index (MEI). However, the BBA 1997 provided for a 0.0 percent update for laboratory services, which represent about 13 percent of the Medicare-allowed charges for physicians' services. The following table, therefore, shows both the MEI and laboratory service updates that were used in determining the percentage increase in physicians' fees for fiscal year 1999.

MEDICARE ECONOMIC INDEX AND LABORATORY SERVICE UPDATE FOR CALENDAR YEARS 1998 AND 1999

	1998	1999
Medicare Economic Index	2.2	2.4
Laboratory Service	0.0	0.0

After taking into account all the elements described above, we estimate that the weighted-average increase in fees for physicians' services in fiscal year 1999, before applying any legislative adjustments to the MEI, will be 2.1 percent for all physicians' services.

Factor 2—The Percentage Change in the Average Number of Part B Enrollees from Fiscal Year 1998 to Fiscal Year 1999

Due to the rapid growth in Medicare+Choice plan enrollees (whose Medicare-covered medical care is outside the scope of the SGR), we estimate that the average number of Medicare Part B enrollees, excluding those in Medicare+Choice plans, will decline by 4.3 percent. This decline was derived as follows:

Fiscal year	Average Medicare part B enrollment (in millions)		
	Overall	Medicare+Choice	Overall, excluding Medicare+Choice
1998	36.609	5.526	31.083
1999	36.876	7.131	29.745
Percent change			−4.3

Factor 3—Estimated Real Gross Domestic Product Per Capita Growth in Fiscal Year 1999

Section 1848(f)(2)(C) of the Act, as amended by section 4503 of the BBA 1997, requires the Secretary to project real gross domestic product per capita growth for the coming fiscal year. In calculating the SGR, we estimate that this growth will be 1.3 percent in fiscal year 1999.

Factor 4—Percentage Increase in Expenditures for Physicians' Services Resulting From Changes in Law or Regulations in Fiscal Year 1999 Compared With Fiscal Year 1998

Legislative changes contained in the BBA 1997 will affect expenditures for physicians' services in fiscal year 1999. The most significant change is the coverage of diabetes outpatient self-management training services. In addition, residual effects will result in fiscal year 1999 from the calendar year implementation of the following legislative changes:

- The move to a single conversion factor;
- The Medicare coverage changes for screening mammography, colorectal cancer screening, screening PAP smears, and screening pelvic exams; and
- The changes in payments for nurse practitioners, clinical nurse specialists, and physician assistants.

In response to changes associated with implementation of the 1998 physician fee schedule, we indicated in the October 31, 1997 **Federal Register** final rule (62 FR 59265) that we anticipated that the volume and intensity of physicians' services furnished to Medicare beneficiaries would increase by 0.1 percent. We made a compensating 0.1 percent reduction in the conversion factor. At this point, based on the June 5, 1998 proposed rule (63 FR 30818), we anticipate a 0.3 percent increase in the volume and intensity of physicians' services during 1999 and that we would make a compensating 0.3 percent reduction in the conversion factor to assure budget neutrality. For fiscal year 1999, the weighted average of the calendar year responses is expected to increase Medicare outlays for physicians' services by 0.2 percent.

Taking into account all of the provisions resulting from changes in law or regulation, the increase in expenditures for physicians' services is estimated to be 0.7 percent.

The establishment of the SGR for any year involves the use of projected values for Medicare beneficiary fee-for-service enrollment and the real gross domestic product per capita. In addition, publication of the fiscal year SGR (3 months ahead of publication of the calendar year update) also involves use of estimated values for the MEI and for the CPI-U for laboratory service fee increases, as well as volume and intensity changes in response to the Medicare physician fee schedule and relative value unit changes for the calendar year. The BBA 1997 clearly anticipated that estimated values would be used; the statute specifies that each

of the four factors would be "the Secretary's estimate."

While we will use our best efforts to make estimates at the time the SGR is established, we are concerned that there will be differences compared to later estimates of some of the components of the SGR. In some cases, such as projections of Medicare beneficiary fee-for-service enrollment, the differences between the initial estimate and a later estimate could be large and as a result could affect the SGR by as much as 1 percentage point. The difference could occur in either direction as our initial estimates could turn out to be higher or lower than later estimates. For example, in Factor 2, we have projected that Part B fee-for-service enrollees will decrease in FY 1999 by 4.3 percent, primarily because of enrollment in the new Medicare+Choice options that are excluded from the SGR. However, we actually use the FY 1999 SGR for purposes of establishing the update for CY 2000; at that time, we will have a more recent estimate of the number of enrollees, and that number could be significantly different from the projected 4.3 percent decrease. A projection difference of only 1 percentage point would affect roughly $400 million in spending under the physician fee schedule.

We do not believe that the Congress, in enacting the SGR, contemplated such significant variances between estimates made at different points in time. Therefore, we are considering whether we should "adjust" the SGR or the update for a year, to take into account more recent estimates, when the subsequent year's update is determined. Such an adjustment for estimate differences would assure that the update is related to actual performance. However, we have concerns about how this could best be accomplished, if at all, under current law. Therefore, we invite comments specifically with regard to how an adjustment could be effected consistent with the law and we will respond in a future notice.

IV. Technical Problems With the Sustainable Growth Rate System

We have begun to forecast the SGR for future years, and it appears that there is some instability in the SGR system. In the long-term, updates could oscillate between the maximum increase and decrease adjustments due to the use of mismatched time periods and the lag between measurement periods. The solution would be technical and would involve the matching of time periods for the SGR calculation, the actual versus target measurement, and the update adjustment. We will continue to study this potential problem and will propose a legislative or regulatory remedy in the future as appropriate.

V. Regulatory Impact Statement

Consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), we prepare a regulatory flexibility analysis unless we certify that a notice will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we treat all providers and suppliers as small entities. Individuals and States are not included in the definition of a small entity.

Also, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a notice may have a significant impact on the operations of a substantial number of small rural hospitals. That analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

Legislative changes contained in the BBA 1997 will affect expenditures for physicians' services in fiscal year 1999, although the impact will be slight, and residual effects will result in fiscal year 1999 from the calendar year implementation of the legislative changes described under Factor 4 in section III. of this notice.

We are not preparing an analysis for either the RFA or section 1102(b) of the Act because we have determined, and the Secretary certifies, that this notice will not have a significant economic impact on a substantial number of small entities or on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

(Sections 1848(d) and (f) of the Social Security Act)

(42 U.S.C. 1395w–4(d) and (f))

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: July 31, 1998.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Dated: October 6, 1998.

Donna E. Shalala,

Secretary.

[FR Doc. 98–29182 Filed 10–30–98; 8:45 am]

BILLING CODE 4120–01–P

federal register

Monday
November 2, 1998

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Parts 121, 135 and 145

Special Federal Aviation Regulation No. 36, Development of Major Repair Data; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121, 135, and 145

[Docket No. FAA–1998–4654; Amendment No. SFAR 36–7; Notice No. 98–15]

RIN 2120–AG64

Special Federal Aviation Regulation No. 36, Development of Major Repair Data

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposed rule would amend and extend Special Federal Aviation Regulation (SFAR) No. 36, which provides that holders of authorized repair station or aircraft operating certificates may approve aircraft products or articles for return to service after accomplishing major repairs using self-developed repair data that have not been directly approved by the FAA. Extension of the regulation would continue to provide, for those that qualify, an alternative from the requirement to obtain direct FAA approval of major repair data on a case-by-case basis.

DATES: Comments must be received on or before December 2, 1998.

ADDRESSES: Comments on this proposed rulemaking should be mailed or delivered, in duplicate, to: U.S. Department of Transportation Dockets, Docket No. FAA–1998–4654, 400 Seventh Street, SW., Room Plaza 401, Washington, DC 20590. Comments may also be sent electronically to the following Internet address: 9–NPRM–CMTS@faa.gov. Comments may be filed and/or examined in Room Plaza 401 between 10 a.m. and 5 p.m. weekdays except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Carol Martineau, Policy and Procedures Branch, Aircraft Engineering Division, AIR–110, Federal Aviation Administration, 800 Independence Ave., SW., Washington DC. 20591, telephone: (202) 267–9568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that may result from adopting the proposals in this document are also invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket or notice number and be submitted in triplicate to the Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. The docket is available for public inspection before and after the closing date for receiving comments.

All comments received on or before the closing date will be considered by the Administrator before taking action on this proposed rulemaking. Late-filed comments will be considered to the extent practicable. The proposals contained in this document may be changed in light of the comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this document must include a pre-addressed, stamped postcard with those comments on which the following statement is made: "Comments to Docket No. FAA–1998–4654." The postcard will be date-stamped and mailed to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339), the Government Printing Office's electronic bulletin board service (telephone: 202–512–1661), or the FAA's Aviation Rulemaking Advisory Committee Bulletin Board service (telephone: (800) 322–2722 or (202) 267–5948).

Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the Government Printing Office's webpage at http://www.access.gpo.gov/nara for access to recently published rulemaking documents.

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the notice number or docket number of this NPRM.

Persons interested in being placed on the mailing list for future NPRM's should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, that describes the application procedure.

Background

The FAA proposes to extend the termination date of and amend Special Federal Aviation Regulation (SFAR) No. 36, which allows authorized certificate holders (domestic repair stations, air carriers, air taxi operators of large aircraft, and commercial operators of large aircraft) to approve aircraft products and articles for return to service after accomplishing major repairs using data developed by the holder that have not been directly approved by the FAA. Currently, more than 25 air carrier and domestic repair station certificate holders have SFAR 36 authorizations that will expire on January 23, 1999.

History

Prior to the adoption of SFAR 36, certificate holders that were qualified to make repairs were required to obtain FAA approval on a case-by-case basis for data they had developed to perform major repairs. The only alternative to the time-consuming, case-by-case approval method was to petition for and obtain an exemption granting relief from the regulation. The number of exemptions being granted indicated that revisions to the regulations were necessary; SFAR 36 was adopted on January 23, 1978, as an interim rulemaking action. Adoption of the SFAR eliminated the requirement for authorized certificate holders to petition for exemption from the regulation, and allowed the FAA additional time to obtain the information necessary to develop a permanent rule change. Most of the affected certificate holders, however, did not use the provisions of SFAR 36 until it was well into its second year and nearing its expiration date of January 23, 1980. Since the FAA did not yet have sufficient data upon which to base a permanent rule change, the termination date for SFAR 36 was extended to January 23, 1982. To date, SFAR 36 has been extended four times.

The Aviation Rulemaking Advisory Committee (ARAC) is currently working on a proposal for permanent regulatory action. By the end of 1998, ARAC plans to submit a proposal to the FAA detailing a means of establishing an Organization Designation Authorization program which would expand and further standardize the approval functions of the FAA designee system. The ARAC recommendation will propose that certain functions and procedures, including those covered by SFAR 36, be terminated and that current authorization holders be allowed to apply for an Organization Designation Authorization. SFAR 36 is being extended an additional 5 years to allow time for the ARAC proposal to be fully developed and implemented.

Synopsis of the Rule

Section 1

Aircraft "product," "article," and "component" are defined for the purpose of the SFAR. The definitions clarify the scope of an authorization holder's return to service authority.

Section 2

Paragraph (a) of section 2 describes the general provisions of the current SFAR applicable to the individual types of eligible certificate holders. This proposed rule would amend paragraph (a) to reflect changes in the regulations as a result of the Commuter Rule, which became effective on December 20, 1995. Paragraph (b) of section 2 is deleted and reserved to remove references to part 127. Part 127 was removed from the regulations when the Commuter Rule became effective. Paragraph (c) of section 2 states that an SFAR 36 authorization does not expand the scope of authority of a repair station certificate holder; for example, the authorization does not give a repair station return to service authority for any article for which it is not rated, nor can the authorization change the articles a repair station is rated to repair.

Section 3

Section 3 states that an authorized certificate holder may approve an aircraft product or article for return to service after accomplishing a major repair, using data not approved by the Administrator, only in accordance with the amended SFAR. Section 3 requires that the data used to perform the major repair be developed and "approved" in accordance with the holder's authorization and procedures manual. Section 3 also permits an authorization holder to use its developed repair data on a subsequent repair of the same type of product or article. For each subsequent repair, the holder must determine that accomplishment of the repair, using previously developed data, will return the product or article to its original or properly altered condition and will conform to all applicable airworthiness requirements. In addition, each subsequent use of the data must be recorded in the authorization holder's SFAR records.

Section 4

Section 4 describes the procedures for applying for an SFAR 36 authorization.

Section 5

Section 5 identifies the requirements a certificate holder must meet to be eligible for an SFAR 36 authorization. This proposed rule would amend Paragraph (a)(1) to delete the reference to part 127 and section 135.2, which were removed from the regulations when the Commuter Rule became effective on December 20, 1995. Paragraphs (a)(2), (a)(3), and (b) define the personnel required. Paragraph (c) contains the reporting requirement of the current SFAR that pertains to changes that could affect the holder's continuing ability to meet the SFAR requirements.

Section 6

Section 6 describes the requirement for an approved procedures manual and what information the procedures manual must contain. Paragraph (c) of section 6 requires that an authorization holder that experiences a change in procedures or staff obtain and record FAA approval of the change in order to continue to approve products or articles for return to service under the SFAR.

Section 7

Section 7 sets forth the duration of the authorization. All authorizations issued under this SFAR will terminate upon expiration of the SFAR unless earlier surrendered, suspended, revoked, or otherwise terminated. The proposed rule would extend the duration until January 23, 2004.

Section 8

Section 8 prohibits the transfer of an SFAR 36 authorization.

Section 9

Section 9 retains the current inspection provisions. It also emphasizes that the FAA must be able to determine whether an applicant has, or a holder maintains, personnel adequate to comply with the provisions of the SFAR and any additional limitations contained in the authorization.

Section 10

Section 10 states that an SFAR 36 authorization does not expand the scope of products or articles that an aircraft operator or repair station is authorized to approve for return to service.

Section 11

Section 11 contains the provision that each SFAR 36 authorization holder must comply with any additional limitations prescribed by the Administrator and made a part of the authorization.

Sections 12 and 13

Sections 12 and 13 address data review and service experience requirements and record keeping requirements. Section 12 states the circumstances under which an authorization holder will be required to submit the information necessary for corrective action on a repair. Section 13 describes what information an authorization holder's records must contain.

As noted above, the proposed expiration date for SFAR 36 is January 23, 2004. The 5-year extension would allow time for the ARAC to deliberate and forward a recommendation, and time for the FAA to act upon it.

The extension of SFAR 36 would allow uninterrupted major repair activity by the current authorization holders that qualify under the amended SFAR; those authorizations would be extended without the holders reapplying for authorization. The extension would also allow a new, qualified applicant to obtain an authorization.

Paperwork Reduction Act

Information collection requirements in SFAR 36–7 have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 and have been assigned the OMB Control Number 2120–0507. The primary purpose of this proposal is to extend SFAR 36. No additional paperwork burden would be created as a result of this proposal.

International Compatibility

The FAA has determined that a review of the Convention on International Civil Aviation Standards and Recommended Practices is not warranted because there is no comparable rule under ICAO standards.

Regulatory Evaluation

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. And fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a

written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation).

In conducting these analyses, the FAA has determined that the extension of Special Federal Aviation Regulation No. 36 (SFAR 36): (1) would generate benefits that justify its costs; (2) Is not a significant regulatory action under section 3(f) of the Executive Order and is not subject to review by the Office of Management and Budget; (3) is not significant as defined in DOT's regulatory policies and procedures (44 FR 11034; February 26, 1979); (4) would not have a significant impact on a substantial number of small entities; (5) would not affect international trade; and (6) does not contain a significant intergovernmental or private sector mandate. These analyses, available in the docket, are summarized below.

Regulotory Evaluation Summary

The proposed rule would continue to allow domestic repair stations, air carriers, air taxis, and commercial operators of large airplanes, who have authority to return products to service, to accomplish major repairs using self-developed repair data that have not been directly approved by the Federal Aviation Administration (FAA). Without extending SFAR 36, authorized firms would likely incur economic hardship.

The extension of SFAR 36 would not impose incremental cost on the industry or on the FAA and would continue to relieve authorized firms of the economic burden of obtaining FAA approval for data developed by the firms for major repairs. The benefit of the proposed rule is that it allows the firms currently operating under the provisions of SFAR 36 to continue to do so, thereby avoiding the costs which would be incurred if SFAR 36 were to expire before a final rule were implemented. Thus the rulemaking imposes no incremental costs and has positive nonquantifiable benefits.

Because the proposed rule has no costs and positive, although not quantifiable, benefits, the FAA has determined that the benefits of the proposed rule exceed the costs of the proposed rule.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

As explained above, there are no incremental costs associated with the proposed extension of SFAR 36. Consequently, the FAA certifies that the rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

Consistent with the Administration's belief in the general superiority, desirability, and efficacy of free trade, it is the policy of the Administrator to remove or diminish, to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and those affecting the import of foreign goods and services into the United States.

In accordance with that policy, the FAA is committed to develop as much as possible its aviation standards and practices in harmony with its trading partners. Significant cost savings can result from this, both to American companies doing business in foreign markets, and foreign companies doing business in the United States.

This rule is available to and affects only domestic repair firms. Therefore there will be no impact on international trade.

Federalism Implications

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that will impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

The FAA determines that this rule does not contain a significant intergovernmental or private sector mandate as defined by the Act.

List of Subjects

14 CFR Part 121

Air carriers, Airworthiness directives and standards, Aviation safety, Safety.

14 CFR Part 135

Air carriers, Air taxis, Air transportation, Aircraft, Airmen, Airplanes, Airworthiness, Aviation safety, Helicopters, Safety.

14 CFR Part 145

Air carriers, Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR parts 121, 135, and 145 as follows:

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 46105.

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON-DEMAND OPERATIONS

2. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 44113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

PART 145—REPAIR STATIONS

3. The authority citation for part 145 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44707, 44717.

4. Amend Special Federal Aviation Regulation No. 36 by revising paragraphs 2(a), 3(a)(1), paragraph 5(a)(1), and 7; and by reserving paragraph 2(b)and by revising the termination date to read as follows:

SFAR No. 36

* * * * *

2. *General.* (a) Contrary provisions of § 121.379(b) and § 135.437(b) of this chapter notwithstanding, the holder of an air carrier certificate or operating certificate, that operates large aircraft, and that has been issued operations specifications for operations required to be conducted in accordance with 14 CFR part 121 or 135, may perform a major repair on a product as described in § 121.379 (b) or § 135.437(a), using technical data that have not been approved by the Administrator, and approve that product for return to service, if authorized in accordance with this Special Federal Aviation Regulation.

(b) [Reserved]

* * * * *

3. *Major Repair Data and Return to Service.* (a) * * *

(1) Has been issued an authorization under, and a procedures manual that complies with, Special Federal Aviation Regulation No. 36–7, effective on January 23, 1999;

* * * * *

5. *Eligibility.* (a) * * *

(1) Hold an air carrier certificate or operating certificate, operate large aircraft, and have been issued operations specifications for operations required to be conducted in accordance with 14 CFR part 121 or 135, or hold a domestic repair station certificate under 14 CFR part 145;

* * * * *

7. *Duration of Authorization.* Each authorization issued under this Special Federal Aviation Regulation is effective from the date of issuance until January 23, 2004, unless it is earlier surrendered, suspended, revoked, or otherwise terminated. Upon termination of such authorization, the terminated authorization holder must:

* * * * *

This Special Federal Aviation Regulation terminates January 23, 2004.

Issued in Washington, DC, on October 27, 1998.

Frank P. Paskiewicz,

Acting Director, Aircraft Certification Service.

[FR Doc. 98–29300 Filed 10–30–98; 8:45 am]

BILLING CODE 4910–13–U

federal register

Monday
November 2, 1998

Part IV

The President

Proclamation 7144—National American Indian Heritage Month, 1998

Presidential Determination No. 99–1 of October 21, 1998—Determination To Waive Requirements Relating to Blocked Property of Terrorist-List States

Federal Register
Vol. 63, No. 211
Monday, November 2, 1998

Presidential Documents

Title 3—

The President

Proclamation 7144 of October 29, 1998

National American Indian Heritage Month, 1998

By the President of the United States of America

A Proclamation

American Indians and Alaska Natives—the first Americans—have made enormous contributions to the life of our country. When the first Europeans arrived on this continent, they did not find an empty land; they found instead a land of diverse peoples with a rich and complex system of governments, languages, religions, values, and traditions that have shaped and influenced American history and heritage. Generations of American Indians have served and sacrificed to defend our freedom, and no segment of our population has sent a larger percentage of its young men and women to serve in our Armed Forces. But American Indians are not just an important part of our country's past; they are also a vital part of today's America and will play an even more important role in America's future.

There are more than 2 million American Indians living in our country today, from the hardwood forests of Maine to the Florida Everglades, across the Great Plains to the Pacific Coast, and throughout the State of Alaska. Through a variety of innovative enterprises, many tribes are sharing in the unprecedented prosperity our country enjoys today, prosperity that is reflected in the construction of community centers, schools, museums, and other cultural centers. However, many people who live in Indian Country are caught in a cycle of poverty made worse by poor health care and a lack of educational and employment opportunity. If we are to honor the United States Government's long-standing obligations to Indian tribes, we must do all in our power to ensure that American Indians have access to the tools and opportunities they need to make the most of their lives.

As part of this endeavor, my Administration has strengthened the special government-to-government relationship between the Federal Government and the sovereign nations of Indian Country, expanded the role of American Indians and Alaska Natives in the Administration, and sought to increase educational opportunities and economic development throughout Indian Country. Earlier this year, I signed an Executive order directing the Federal Government to work together with tribal and State governments to improve Native American achievement in math and reading, raise high school graduation rates, increase the number of Native American youth attending college, improve science education, and expand the use of educational technology. We are also striving to boost economic development in Indian Country by working with tribal governments to meet their technology infrastructure needs, to coordinate and strengthen existing Native American economic development initiatives, and to help Native Americans obtain loans more easily for building homes and starting new businesses.

Today's Native Americans are among the youngest segments of our population—a new, large generation of young people who, if empowered with the education, skills, opportunity, and encouragement they need to thrive, can lead Indian Country into a future as bright and promising as its extraordinary past. As we observe National American Indian Heritage Month, let us resolve to work together to make that future a reality.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 1998 as National American Indian Heritage Month. I urge all Americans, as well as their elected representatives at the Federal, State, local, and tribal levels, to observe this month with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of October, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-third.

William J. Clinton

[FR Doc. 98–29486
Filed 10–30–98; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Presidential Determination No. 99–1 of October 21, 1998

Determination To Waive Requirements Relating to Blocked Property of Terrorist-List States

Memorandum for the Secretary of State [and] the Secretary of the Treasury

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 117 of the Treasury and General Government Appropriations Act, 1999, as contained in the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (approved October 21, 1998), I hereby determine that the requirements of section 117, including the requirement that any property with respect to which financial transactions are prohibited or regulated pursuant to section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)), sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701–1702), and proclamations, orders, regulations, and licenses issued pursuant thereto, be subject to execution or attachment in aid of execution of any judgment relating to a claim for which a foreign state claiming such property is not immune from the jurisdiction of courts of the United States or of the States under section 1605(a)(7) of title 28, United States Code, would impede the ability of the President to conduct foreign policy in the interest of national security and would, in particular, impede the effectiveness of such prohibitions and regulations upon financial transactions, and, therefore, pursuant to section 117(d), I hereby waive the requirements of section 117 in the interest of national security.

The Secretary of State is authorized and directed to publish this determination in the **Federal Register.**

William J. Clinton

THE WHITE HOUSE,
Washington, October 21, 1998.

[FR Doc. 98–29454
Filed 10–30–98; 8:45 am]
Billing code 4710–10–M

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Federal Register

Vol. 63, No. 211

Monday, November 2, 1998

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FEDERAL REGISTER PAGES AND DATES, NOVEMBER

2.....58619–59202

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT NOVEMBER 2, 1998

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and promulgation; various States:
California; published 9-2-98
Kentucky; published 9-3-98
Maryland; published 9-2-98
Pennsylvania; published 9-2-98

FEDERAL COMMUNICATIONS COMMISSION
Radio stations; table of assignments:
Missouri et al.; published 9-24-98

FEDERAL MARITIME COMMISSION
Independent Offices Appropriation Act; implementation:
User fees for services and benefits; existing fees updated and new filing and service fees added; published 9-22-98

FEDERAL RESERVE SYSTEM
Membership of State banking institutions (Regulation H):
Simplification, update, and regulatory burden reduction
Technical amendments; published 11-2-98

GOVERNMENT ETHICS OFFICE
Government ethics:
Model qualified trust certificates of independence and compliance; paperwork revisions; published 11-2-98

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Community facilities:
Urban empowerment zones; round two designations; published 10-2-98

INTERIOR DEPARTMENT
Land Management Bureau
Land resource management:
Land exchanges; streamlining and CFR parts removal; published 10-1-98
Minerals management:
Mineral resources information; public availability; published 10-1-98

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office
Permanent program and abandoned mine land reclamation plan submissions:
Kentucky; published 10-2-98

LABOR DEPARTMENT
Mine Safety and Health Administration
Mining products; testing, evaluation, and approval:
Flame safety lamps and single-shot blasting units; CFR parts removed; published 9-3-98

TRANSPORTATION DEPARTMENT
Coast Guard
Lifesaving equipment for U.S. inspected vessels; published 10-1-98

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Airbus; published 10-16-98
British Aerospace; published 10-13-98
CFM International, S.A.; published 10-16-98
SAFT America Inc.; published 9-24-98

TRANSPORTATION DEPARTMENT
National Highway Traffic Safety Administration
Motor vehicle safety standards:
Occupant crash protection—
Occupant protection incentive grants criteria; published 10-1-98

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Milk marketing orders:
Nebraska-Western Iowa; comments due by 11-9-98; published 10-9-98

AGRICULTURE DEPARTMENT
Food and Nutrition Service
Child nutrition programs:
School breakfast program and national school lunch program—
Menu planning alternatives; republication; comments due by 11-12-98; published 5-15-98

COMMERCE DEPARTMENT
Export Administration Bureau
Export administration regulations:
Foreign policy-based export controls; effects; comments due by 11-12-98; published 10-13-98

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Caribbean, Gulf, and South Atlantic fisheries—
South Atlantic snapper-grouper; comments due by 11-9-98; published 9-8-98
Marine mammals:
Commercial fishing operations—
Commercial fisheries authorization; list of fisheries categorized according to frequency of incidental takes; comments due by 11-9-98; published 8-11-98

DEFENSE DEPARTMENT
Acquisition regulations:
Contract financing; flexible progress payments; comments due by 11-9-98; published 9-8-98
Federal Acquisition Regulation (FAR):
Competition under multiple award task and delivery order contracts; comments due by 11-9-98; published 9-9-98

ENERGY DEPARTMENT
Federal Energy Regulatory Commission
Natural Gas Policy Act:
Interstate natural gas pipelines—
Transportation services regulation; comments due by 11-9-98; published 8-11-98

ENVIRONMENTAL PROTECTION AGENCY
Air pollutants, hazardous; national emission standards:
Petroleum refineries
Catalytic cracking (fluid and other) units, catalytic reforming units, and sulfur plant units; comments due by 11-10-98; published 9-11-98
Air quality implementation plans; approval and promulgation; various States:
Alabama; comments due by 11-9-98; published 10-8-98
California; comments due by 11-13-98; published 10-23-98
Minnesota; comments due by 11-12-98; published 10-13-98
Pennsylvania; comments due by 11-9-98; published 10-8-98
Tennessee; comments due by 11-9-98; published 10-8-98
Hazardous waste:
Land disposal restrictions—
Alternate treatment standards; intent to grant site-specific treatment variance to Chemical Waste Management, Inc.; comments due by 11-13-98; published 10-23-98
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Bacillus sphaericus; comments due by 11-10-98; published 9-11-98
Cypermethrin; comments due by 11-10-98; published 9-11-98
Esfenvalerate; comments due by 11-10-98; published 9-11-98
Metolachlor; comments due by 11-10-98; published 9-11-98
Sulfosate; comments due by 11-10-98; published 9-11-98
Toxic substances:
Significant new uses—
Phenol, 2,4-dimethyl-6-(1-methylpentadecyl), etc.,; comments due by 11-9-98; published 10-26-98

FEDERAL COMMUNICATIONS COMMISSION
Common carrier services:
Truth-in-billing and billing format; comments due by 11-13-98; published 10-14-98

GENERAL SERVICES ADMINISTRATION
Federal Acquisition Regulation (FAR):
Competition under multiple award task and delivery order contracts; comments due by 11-9-98; published 9-9-98

HEALTH AND HUMAN SERVICES DEPARTMENT
Health Care Financing Administration
Medicare:
Ambulatory surgical centers; ratesetting methodology, payment rates and policies, and covered surgical procedures list; comments due by 11-9-98; published 10-1-98

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Lead-based paint hazards in federally owned residential property and housing receiving Federal assistance; notification, evaluation, and reduction; comments due by 11-9-98; published 10-9-98
Public and Indian housing:
Indian housing loan guarantees; direct guarantee processing; comments due by 11-10-98; published 9-11-98

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:
Devils River minnow; comments due by 11-12-98; published 10-13-98

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office
Permanent program and abandoned mine land reclamation plan submissions:
Iowa; comments due by 11-13-98; published 10-14-98

JUSTICE DEPARTMENT
Executive Office for Immigration Review:
Immigration Appeals Board; streamlined appellate review procedure; comments due by 11-13-98; published 9-14-98
Grants:
Juvenile accountability incentive block grants program; comments due by 11-13-98; published 10-14-98

LABOR DEPARTMENT
Occupational Safety and Health Administration
Construction safety and health standards:
Steel erection; comments due by 11-12-98; published 8-13-98

LABOR DEPARTMENT
Pension and Welfare Benefits Administration
Employee Retirement Income Security Act:
Summary plan description regulations; comments due by 11-9-98; published 9-9-98
Employment Retirement Income Security Act:
Summary plan description regulations; comments due by 11-9-98; published 9-9-98

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Federal Acquisition Regulation (FAR):
Competition under multiple award task and delivery order contracts; comments due by 11-9-98; published 9-9-98

NATIONAL CREDIT UNION ADMINISTRATION
Credit unions:
Organization and operations—
Chartering and field of membership policy update; comments due by 11-13-98; published 9-14-98

NUCLEAR REGULATORY COMMISSION
Byproduct material; medical use:
Policy statement; comments due by 11-12-98; published 8-13-98
Revision; comments due by 11-12-98; published 8-13-98
Production and utilization facilities; domestic licensing:
Nuclear power reactors—
Permanent shutdown; financial protection requirements; comments due by 11-9-98; published 9-23-98

PERSONNEL MANAGEMENT OFFICE
Prevailing rate systems
Environmental differential pay for working at high altitudes; comments due by 11-12-98; published 10-13-98

SECURITIES AND EXCHANGE COMMISSION
Securities:
Brokers and dealers; books and records requirements—
Sales practices; comments due by 11-9-98; published 10-9-98

TRANSPORTATION DEPARTMENT
Coast Guard
Drawbridge operations:
North Carolina; comments due by 11-9-98; published 9-10-98
Marine occupational safety and health standards:
Commercial diving operations; comments due by 11-9-98; published 9-23-98
Ports and waterways safety:
First Coast Guard District navigable waters; regulated navigation area; comments due by 11-12-98; published 10-13-98

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Airbus; comments due by 11-9-98; published 10-14-98
British Aerospace; comments due by 11-13-98; published 10-14-98
CFM International; comments due by 11-10-98; published 9-11-98
Dornier; comments due by 11-9-98; published 10-8-98
Empresa Brasileira de Aeronautica S.A.; comments due by 11-13-98; published 10-14-98
Pratt & Whitney; comments due by 11-9-98; published 9-9-98
Textron Lycoming; comments due by 11-10-98; published 9-11-98
Williams International; comments due by 11-9-98; published 9-9-98
Airworthiness standards:
Special conditions—
Raytheon Aircraft Co. model 300 airplane; comments due by 11-13-98; published 10-14-98
Class D and E airspace; comments due by 11-9-98; published 10-9-98
Class E airspace; comments due by 11-9-98; published 9-24-98

TRANSPORTATION DEPARTMENT
Federal Railroad Administration
Magnetic levitation transportation technology deployment program; comments due by 11-12-98; published 10-13-98

TRANSPORTATION DEPARTMENT
Surface Transportation Board
Rate procedures:
Service inadequacies; expedited relief; comments due by 11-13-98; published 10-30-98

TREASURY DEPARTMENT
Internal Revenue Service
Income taxes:
Foreign partnerships and corporations; property transfers by U.S. persons; information reporting requirements; comments due by 11-9-98; published 9-9-98
Foreign partnerships, U.S. persons owning interests in; return requirements; comments due by 11-9-98; published 9-9-98
Foreign partnerships; information reporting requirements; comments due by 11-9-98; published 9-9-98
Foreign partnerships; information reporting requirements; correction; comments due by 11-9-98; published 10-31-98
Widely held fixed investment trusts; reporting requirements; comments due by 11-12-98; published 8-13-98

VETERANS AFFAIRS DEPARTMENT
Freedom of Information Act; implementation; comments due by 11-9-98; published 9-10-98

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/su_docs/. Some laws may not yet be available.

H.R. 8/P.L. 105–286
Border Smog Reduction Act of 1998 (Oct. 27, 1998; 112 Stat. 2773)

H.R. 624/P.L. 105–287
Armored Car Reciprocity Amendments of 1998 (Oct. 27, 1998; 112 Stat. 2776)

H.R. 1021/P.L. 105–288
Miles Land Exchange Act of 1998 (Oct. 27, 1998; 112 Stat. 2778)

H.R. 1197/P.L. 105–289
Plant Patent Amendments Act of 1998 (Oct. 27, 1998; 112 Stat. 2780)

H.R. 2186/P.L. 105–290
To authorize the Secretary of the Interior to provide assistance to the National Historic Trails Interpretive Center in Casper, Wyoming. (Oct. 27, 1998; 112 Stat. 2782)

H.R. 2370/P.L. 105–291
Guam Organic Act Amendments of 1998 (Oct. 27, 1998; 112 Stat. 2785)

H.R. 2431/P.L. 105–292
International Religious Freedom Act of 1998 (Oct. 27, 1998; 112 Stat. 2787)

H.R. 2795/P.L. 105–293
Irrigation Project Contract Extension Act of 1998 (Oct. 27, 1998; 112 Stat. 2816)

H.R. 3069/P.L. 105–294
Advisory Council on California Indian Policy Extension Act of 1998 (Oct. 27, 1998; 112 Stat. 2818)

H.R. 4079/P.L. 105–295
To authorize the construction of temperature control devices at Folsom Dam in California. (Oct. 27, 1998; 112 Stat. 2820)

H.R. 4166/P.L. 105–296
To amend the Idaho Admission Act regarding the sale or lease of school land. (Oct. 27, 1998; 112 Stat. 2822)

S. 53/P.L. 105–297
Curt Flood Act of 1998 (Oct. 27, 1998; 112 Stat. 2824)

S. 505/P.L. 105–298
To amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes. (Oct. 27, 1998; 112 Stat. 2827)

S. 1298/P.L. 105–299
To designate a Federal building located in Florence, Alabama, as the "Justice John McKinley Federal Building". (Oct. 27, 1998; 112 Stat. 2835)

S. 1892/P.L. 105–300
To provide that a person closely related to a judge of a court exercising judicial power under article III of the United States Constitution (other than the Supreme Court) may not be appointed as a judge of the same court, and for other purposes. (Oct. 27, 1998; 112 Stat. 2836)

S. 1976/P.L. 105–301
Crime Victims With Disabilities Awareness Act (Oct. 27, 1998; 112 Stat. 2838)

S. 2235/P.L. 105–302
To amend part Q of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage the use of school resource officers. (Oct. 27, 1998; 112 Stat. 2841)

H.R. 1702/P.L. 105–303
Commercial Space Act of 1998 (Oct. 28, 1998; 112 Stat. 2843)

H.R. 2281/P.L. 105–304
Digital Millennium Copyright Act (Oct. 28, 1998; 112 Stat. 2860)

H.R. 3332/P.L. 105–305
Next Generation Internet Research Act of 1998 (Oct. 28, 1998; 112 Stat. 2919)

H.R. 4558/P.L. 105–306
Noncitizen Benefit Clarification and Other Technical Amendments Act of 1998 (Oct. 28, 1998; 112 Stat. 2926)

Last List October 30, 1998

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–034–00001–1)	5.00	[5] Jan. 1, 1998
3 (1997 Compilation and Parts 100 and 101)	(869–034–00002–9)	19.00	[1] Jan. 1, 1998
4	(869–034–00003–7)	7.00	[5] Jan. 1, 1998
5 Parts:			
1–699	(869–034–00004–5)	35.00	Jan. 1, 1998
700–1199	(869–034–00005–3)	26.00	Jan. 1, 1998
1200–End, 6 (6 Reserved)	(869–034–00006–1)	39.00	Jan. 1, 1998
7 Parts:			
1–26	(869–034–00007–0)	24.00	Jan. 1, 1998
27–52	(869–034–00008–8)	30.00	Jan. 1, 1998
53–209	(869–034–00009–6)	20.00	Jan. 1, 1998
210–299	(869–034–00010–0)	44.00	Jan. 1, 1998
300–399	(869–034–00011–8)	24.00	Jan. 1, 1998
400–699	(869–034–00012–6)	33.00	Jan. 1, 1998
700–899	(869–034–00013–4)	30.00	Jan. 1, 1998
900–999	(869–034–00014–2)	39.00	Jan. 1, 1998
1000–1199	(869–034–00015–1)	44.00	Jan. 1, 1998
1200–1599	(869–034–00016–9)	34.00	Jan. 1, 1998
1600–1899	(869–034–00017–7)	58.00	Jan. 1, 1998
1900–1939	(869–034–00018–5)	18.00	Jan. 1, 1998
1940–1949	(869–034–00019–3)	33.00	Jan. 1, 1998
1950–1999	(869–034–00020–7)	40.00	Jan. 1, 1998
2000–End	(869–034–00021–5)	24.00	Jan. 1, 1998
8	(869–034–00022–3)	33.00	Jan. 1, 1998
9 Parts:			
1–199	(869–034–00023–1)	40.00	Jan. 1, 1998
200–End	(869–034–00024–0)	33.00	Jan. 1, 1998
10 Parts:			
0–50	(869–034–00025–8)	39.00	Jan. 1, 1998
51–199	(869–034–00026–6)	32.00	Jan. 1, 1998
200–499	(869–034–00027–4)	31.00	Jan. 1, 1998
500–End	(869–034–00028–2)	43.00	Jan. 1, 1998
11	(869–034–00029–1)	19.00	Jan. 1, 1998
12 Parts:			
1–199	(869–034–00030–4)	17.00	Jan. 1, 1998
200–219	(869–034–00031–2)	21.00	Jan. 1, 1998
220–299	(869–034–00032–1)	39.00	Jan. 1, 1998
300–499	(869–034–00033–9)	23.00	Jan. 1, 1998
500–599	(869–034–00034–7)	24.00	Jan. 1, 1998
600–End	(869–034–00035–5)	44.00	Jan. 1, 1998
13	(869–034–00036–3)	23.00	Jan. 1, 1998
14 Parts:			
1–59	(869–034–00037–1)	47.00	Jan. 1, 1998
60–139	(869–034–00038–0)	40.00	Jan. 1, 1998
140–199	(869–034–00039–8)	16.00	Jan. 1, 1998
200–1199	(869–034–00040–1)	29.00	Jan. 1, 1998
1200–End	(869–034–00041–0)	23.00	Jan. 1, 1998
15 Parts:			
0–299	(869–034–00042–8)	22.00	Jan. 1, 1998
300–799	(869–034–00043–6)	33.00	Jan. 1, 1998
800–End	(869–034–00044–4)	23.00	Jan. 1, 1998
16 Parts:			
0–999	(869–034–00045–2)	30.00	Jan. 1, 1998
1000–End	(869–034–00046–1)	33.00	Jan. 1, 1998
17 Parts:			
1–199	(869–034–00048–7)	27.00	Apr. 1, 1998
200–239	(869–034–00049–5)	32.00	Apr. 1, 1998
240–End	(869–034–00050–9)	40.00	Apr. 1, 1998
18 Parts:			
1–399	(869–034–00051–7)	45.00	Apr. 1, 1998
400–End	(869–034–00052–5)	13.00	Apr. 1, 1998
19 Parts:			
1–140	(869–034–00053–3)	34.00	Apr. 1, 1998
141–199	(869–034–00054–1)	33.00	Apr. 1, 1998
200–End	(869–034–00055–0)	15.00	Apr. 1, 1998
20 Parts:			
1–399	(869–034–00056–8)	29.00	Apr. 1, 1998
400–499	(869–034–00057–6)	28.00	Apr. 1, 1998
500–End	(869–034–00058–4)	44.00	Apr. 1, 1998
21 Parts:			
1–99	(869–034–00059–2)	21.00	Apr. 1, 1998
100–169	(869–034–00060–6)	27.00	Apr. 1, 1998
170–199	(869–034–00061–4)	28.00	Apr. 1, 1998
200–299	(869–034–00062–2)	9.00	Apr. 1, 1998
300–499	(869–034–00063–1)	50.00	Apr. 1, 1998
500–599	(869–034–00064–9)	28.00	Apr. 1, 1998
600–799	(869–034–00065–7)	9.00	Apr. 1, 1998
800–1299	(869–034–00066–5)	32.00	Apr. 1, 1998
1300–End	(869–034–00067–3)	12.00	Apr. 1, 1998
22 Parts:			
1–299	(869–034–00068–1)	41.00	Apr. 1, 1998
300–End	(869–034–00069–0)	31.00	Apr. 1, 1998
23	(869–034–00070–3)	25.00	Apr. 1, 1998
24 Parts:			
0–199	(869–034–00071–1)	32.00	Apr. 1, 1998
200–499	(869–034–00072–0)	28.00	Apr. 1, 1998
500–699	(869–034–00073–8)	17.00	Apr. 1, 1998
700–1699	(869–034–00074–6)	45.00	Apr. 1, 1998
1700–End	(869–034–00075–4)	17.00	Apr. 1, 1998
25	(869–034–00076–2)	42.00	Apr. 1, 1998
26 Parts:			
§§ 1.0-1–1.60	(869–034–00077–1)	26.00	Apr. 1, 1998
§§ 1.61–1.169	(869–034–00078–9)	48.00	Apr. 1, 1998
§§ 1.170–1.300	(869–034–00079–7)	31.00	Apr. 1, 1998
§§ 1.301–1.400	(869–034–00080–1)	23.00	Apr. 1, 1998
§§ 1.401–1.440	(869–034–00081–9)	39.00	Apr. 1, 1998
§§ 1.441–1.500	(869–034–00082–7)	29.00	Apr. 1, 1998
§§ 1.501–1.640	(869–034–00083–5)	27.00	Apr. 1, 1998
§§ 1.641–1.850	(869–034–00084–3)	32.00	Apr. 1, 1998
§§ 1.851–1.907	(869–034–00085–1)	36.00	Apr. 1, 1998
§§ 1.908–1.1000	(869–034–00086–0)	35.00	Apr. 1, 1998
§§ 1.1001–1.1400	(869–034–00087–8)	38.00	Apr. 1, 1998
§§ 1.1401–End	(869–034–00088–6)	51.00	Apr. 1, 1998
2–29	(869–034–00089–4)	36.00	Apr. 1, 1998
30–39	(869–034–00090–8)	25.00	Apr. 1, 1998
40–49	(869–034–00091–6)	16.00	Apr. 1, 1998
50–299	(869–034–00092–4)	19.00	Apr. 1, 1998
300–499	(869–034–00093–2)	34.00	Apr. 1, 1998
500–599	(869–034–00094–1)	10.00	Apr. 1, 1998
600–End	(869–034–00095–9)	9.00	Apr. 1, 1998
27 Parts:			
1–199	(869–034–00096–7)	49.00	Apr. 1, 1998

Title	Stock Number	Price	Revision Date
200–End	(869–034–00097–5)	17.00	[6] Apr. 1, 1997
28 Parts:			
0–42	(869–034–00098–3)	36.00	July 1, 1998
43–end	(869–034–00099–1)	30.00	July 1, 1998
29 Parts:			
0–99	(869–034–00100–9)	26.00	July 1, 1998
100–499	(869–034–00101–7)	12.00	July 1, 1998
500–899	(869–034–00102–5)	40.00	July 1, 1998
900–1899	(869–034–00103–3)	20.00	July 1, 1998
1900–1910 (§§ 1900 to 1910.999)	(869–034–00104–1)	44.00	July 1, 1998
*1910 (§§ 1910.1000 to end)	(869–034–00105–0)	27.00	July 1, 1998
1911–1925	(869–034–00106–8)	17.00	July 1, 1998
1926	(869–034–00107–6)	30.00	July 1, 1998
1927–End	(869–034–00108–4)	41.00	July 1, 1998
30 Parts:			
1–199	(869–034–00109–2)	33.00	July 1, 1998
200–699	(869–034–00110–6)	29.00	July 1, 1998
700–End	(869–034–00111–4)	33.00	July 1, 1998
31 Parts:			
0–199	(869–034–00112–2)	20.00	July 1, 1998
200–End	(869–032–00113–8)	42.00	July 1, 1997
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–034–00114–9)	47.00	July 1, 1998
191–399	(869–032–00115–4)	51.00	July 1, 1997
400–629	(869–034–00116–5)	33.00	July 1, 1998
630–699	(869–034–00117–3)	22.00	July 1, 1998
*700–799	(869–034–00118–1)	26.00	July 1, 1998
800–End	(869–034–00119–0)	27.00	July 1, 1998
33 Parts:			
1–124	(869–032–00120–1)	27.00	July 1, 1997
125–199	(869–034–00121–1)	38.00	July 1, 1998
200–End	(869–034–00122–0)	30.00	July 1, 1998
34 Parts:			
1–299	(869–034–00123–8)	27.00	July 1, 1998
*300–399	(869–034–00124–6)	25.00	July 1, 1998
400–End	(869–034–00125–4)	44.00	July 1, 1998
*35	(869–034–00126–2)	14.00	July 1, 1998
36 Parts			
1–199	(869–034–00127–1)	20.00	July 1, 1998
200–299	(869–034–00128–9)	21.00	July 1, 1998
300–End	(869–034–00129–7)	35.00	July 1, 1998
37	(869–032–00130–8)	27.00	July 1, 1997
38 Parts:			
0–17	(869–034–00131–9)	34.00	July 1, 1998
*18–End	(869–034–00132–7)	39.00	July 1, 1998
39	(869–034–00133–5)	23.00	July 1, 1998
40 Parts:			
1–49	(869–034–00134–3)	31.00	July 1, 1998
50–51	(869–034–00135–1)	24.00	July 1, 1998
52 (52.01–52.1018)	(869–034–00136–0)	28.00	July 1, 1998
52 (52.1019–End)	(869–034–00137–8)	33.00	July 1, 1998
53–59	(869–034–00138–6)	17.00	July 1, 1998
60	(869–032–00139–1)	52.00	July 1, 1997
61–62	(869–034–00140–8)	18.00	July 1, 1998
63	(869–034–00141–6)	57.00	July 1, 1998
64–71	(869–034–00142–4)	11.00	July 1, 1998
72–80	(869–032–00142–1)	35.00	July 1, 1997
81–85	(869–032–00143–0)	32.00	July 1, 1997
86	(869–034–00144–9)	53.00	July 1, 1998
87-135	(869–032–00145–6)	40.00	July 1, 1997
136–149	(869–032–00146–4)	35.00	July 1, 1997
*150–189	(869–034–00148–3)	34.00	July 1, 1998
*190–259	(869–034–00149–1)	23.00	July 1, 1998
260–265	(869–034–00150–9)	29.00	July 1, 1998
266–299	(869–032–00150–2)	24.00	July 1, 1997
300–399	(869–032–00151–1)	27.00	July 1, 1997
400–424	(869–032–00152–9)	33.00	[5] July 1, 1996
425–699	(869–032–00153–7)	40.00	July 1, 1997
700–789	(869–032–00154–5)	38.00	July 1, 1997
790–End	(869–034–00156–4)	22.00	July 1, 1998
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–034–00157–2)	13.00	July 1, 1998
*101	(869–034–00158–1)	37.00	July 1, 1998
102–200	(869–034–00158–9)	15.00	July 1, 1998
201–End	(869–032–00159–6)	15.00	July 1, 1997
42 Parts:			
1–399	(869–032–00160–0)	32.00	Oct. 1, 1997
400–429	(869–032–00161–8)	35.00	Oct. 1, 1997
430–End	(869–032–00162–6)	50.00	Oct. 1, 1997
43 Parts:			
1–999	(869–032–00163–4)	31.00	Oct. 1, 1997
1000–end	(869–032–00164–2)	50.00	Oct. 1, 1997
44	(869–032–00165–1)	31.00	Oct. 1, 1997
45 Parts:			
1–199	(869–032–00166–9)	30.00	Oct. 1, 1997
200–499	(869–032–00167–7)	18.00	Oct. 1, 1997
500–1199	(869–032–00168–5)	29.00	Oct. 1, 1997
1200–End	(869–032–00169–3)	39.00	Oct. 1, 1997
46 Parts:			
1–40	(869–032–00170–7)	26.00	Oct. 1, 1997
41–69	(869–032–00171–5)	22.00	Oct. 1, 1997
70–89	(869–032–00172–3)	11.00	Oct. 1, 1997
90–139	(869–032–00173–1)	27.00	Oct. 1, 1997
140–155	(869–032–00174–0)	15.00	Oct. 1, 1997
156–165	(869–032–00175–8)	20.00	Oct. 1, 1997
166–199	(869–032–00176–6)	26.00	Oct. 1, 1997
200–499	(869–032–00177–4)	21.00	Oct. 1, 1997
500–End	(869–032–00178–2)	17.00	Oct. 1, 1997
47 Parts:			
0–19	(869–032–00179–1)	34.00	Oct. 1, 1997
20–39	(869–032–00180–4)	27.00	Oct. 1, 1997
40–69	(869–032–00181–2)	23.00	Oct. 1, 1997
70–79	(869–032–00182–1)	33.00	Oct. 1, 1997
80–End	(869–032–00183–9)	43.00	Oct. 1, 1997
48 Chapters:			
1 (Parts 1–51)	(869–032–00184–7)	53.00	Oct. 1, 1997
1 (Parts 52–99)	(869–032–00185–5)	29.00	Oct. 1, 1997
2 (Parts 201–299)	(869–032–00186–3)	35.00	Oct. 1, 1997
3–6	(869–032–00187–1)	29.00	Oct. 1, 1997
7–14	(869–032–00188–0)	32.00	Oct. 1, 1997
15–28	(869–032–00189–8)	33.00	Oct. 1, 1997
29–End	(869–032–00190–1)	25.00	Oct. 1, 1997
49 Parts:			
1–99	(869–032–00191–0)	31.00	Oct. 1, 1997
100–185	(869–032–00192–8)	50.00	Oct. 1, 1997
186–199	(869–032–00193–6)	11.00	Oct. 1, 1997
200–399	(869–032–00194–4)	43.00	Oct. 1, 1997
400–999	(869–032–00195–2)	49.00	Oct. 1, 1997
1000–1199	(869–032–00196–1)	19.00	Oct. 1, 1997
1200–End	(869–032–00197–9)	14.00	Oct. 1, 1997
50 Parts:			
1–199	(869–032–00198–7)	41.00	Oct. 1, 1997
200–599	(869–032–00199–5)	22.00	Oct. 1, 1997
600–End	(869–032–00200–2)	29.00	Oct. 1, 1997

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period July 1, 1996 to June 30, 1997. The volume issued July 1, 1996, should be retained.

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November 4	November 19	December 4	December 21	January 4	February 2
November 5	November 20	December 7	December 21	January 4	February 3
November 6	November 23	December 7	December 21	January 5	February 4
November 9	November 24	December 9	December 24	January 8	February 8
November 10	November 25	December 10	December 28	January 11	February 8
November 12	November 27	December 14	December 28	January 11	February 10
November 13	November 30	December 14	December 28	January 12	February 11
November 16	December 1	December 16	December 31	January 15	February 16
November 17	December 2	December 17	January 4	January 19	February 16
November 18	December 3	December 18	January 4	January 19	February 16
November 19	December 4	December 21	January 4	January 19	February 17
November 20	December 7	December 21	January 4	January 19	February 18
November 23	December 8	December 23	January 7	January 22	February 22
November 24	December 9	December 24	January 8	January 25	February 22
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11–3–98
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Contents

Federal Register
Vol. 63, No. 212
Tuesday, November 3, 1998

Agency for Health Care Policy and Research
NOTICES
Grants and cooperative agreements; availability, etc.:
Therapeutics education and research centers program, 59313–59315

Agricultural Marketing Service
PROPOSED RULES
Walnuts grown in—
California, 59246–59248

Agriculture Department
See Agricultural Marketing Service
See Farm Service Agency
See Forest Service
See National Agricultural Statistics Service
See Natural Resources Conservation Service
See Rural Utilities Service
NOTICES
Privacy Act:
Systems of records, 59275

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Centers for Disease Control and Prevention
NOTICES
Meetings:
Energy-Related Epidemiologic Research Advisory Committee, 59315

Coast Guard
RULES
Regattas and marine parades:
Blackbeard's Bounty Festival Pirate Attack, 59232–59233

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 59278–59279

Copyright Office, Library of Congress
RULES
Copyright office and procedures:
Claimed infringement; designation of agent to receive notification, 59233–59235
Supplementary registration applications; corrections and amplifications, 59235–59236

Defense Department
See Navy Department
RULES
Civilian health and medical program of uniformed services (CHAMPUS):
State victims of crime compensation programs and voice prostheses benefit establishment, 59231–59232
NOTICES
Civilian health and medical program of uniformed services (CHAMPUS):
DRG-based payment system (1999 FY)—
Medical and dental reimbursement rates, 59284–59290
TRICARE/CHAMPUS; revised weights, thresholds, and per diem rates, 59290–59291

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Direct grant and fellowship programs, 59435–59455

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Floodplain and wetlands protection; environmental review determinations; availability, etc.:
Spallation neutron source facility; siting, construction, and operation, 59292

Environmental Protection Agency
NOTICES
Grants, State and local assistance:
Drinking water State revolving fund program; public water systems, 59299–59300
Toxic and hazardous substances control:
Lead-based paint activities in target housing and child-occupied facilities; State and Indian Tribe authorization applications—
Georgia, 59303–59304
Kentucky, 59300–59302
North Carolina, 59305–59307

Executive Office of the President
See Presidential Documents

Farm Service Agency
RULES
Farm marketing quotas, acreage allotments, and production adjustments:
Tobacco, 59205

Federal Aviation Administration
RULES
Airworthiness directives:
Eurocopter Deutschland GmbH, 59206–59208
PROPOSED RULES
Airworthiness directives:
Eurocopter France, 59252–59255
Class E airspace, 59255–59257
NOTICES
Meetings:
Aviation Rulemaking Advisory Committee, 59358–59359

Federal Communications Commission
RULES
Radio stations; table of assignments:
Arkansas, 59238
Nebraska et al., 59238–59239
New Mexico, 59239
Texas, 59238

PROPOSED RULES
Radio stations; table of assignments:
Louisiana, 59262
Oregon, 59263
NOTICES
Agency information collection activities:
Proposed collection; comment request, 59307

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
Alabama et al., 59236–59238
NOTICES
Disaster and emergency areas:
Alabama, 59307
Kansas, 59308
Louisiana, 59308–59309
Mississippi, 59309
Missouri, 59309–59310
Texas, 59310
Washington, 59310–59311

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Bangor Hydroelectric Co., 59297
Safe Harbor Water Power Corp., 59298
Meetings:
Natural gas services; Federal and State regulation, 59298–59299
Applications, hearings, determinations, etc.:
Columbia Gas Transmission Corp., 59293
El Paso Natural Gas Co., 59293
Gulf States Transmission Corp., 59293
Kern River Gas Transmission Co., 59293–59294
Midcoast Interstate Transmission, Inc., 59294
Mississippi River Transmission Corp., 59294
Northern Natural Gas Co., 59294–59295
Petal Gas Storage Co., 59295–59296
Tapoco, Inc., 59296
Williams Gas Pipelines Central, Inc., 59296–59297
Williston Basin Interstate Pipeline Co., 59297

Federal Housing Finance Board
NOTICES
Meetings; Sunshine Act, 59311

Federal Maritime Commission
NOTICES
Freight forwarder licenses:
Horizon International Co. et al., 59311–59312

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 59312
Formations, acquisitions, and mergers, 59312–59313
Permissible nonbanking activities, 59313

Fish and Wildlife Service
RULES
Endangered and threatened species:
Virginia sneezeweed, 59239–59244

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
New drug applications—
Carbadox, 59216
Hyaluronate sodium, 59215–59216
Food additives:
Adjuvants, production aids, and sanitizers—
2,9-dichloro-5,12-dihydroquinone[2,3-b]acridine-7,14-dione (C.I. Pigment Red 202), 59213–59215
Medical devices:
Class II devices; exemptions from premarket notification, 59222–59231
Humanitarian use devices, 59217–59222
NOTICES
Reporting and recordkeeping requirements, 59315
Reports and guidance documents; availability, etc.:
Criteria and approaches for postmarket surveillance, 59315–59316
SMDA to FDAMA; FDA's transition plan for existing postmarket surveillance protocols, 59316–59317
Semiannual guidance agenda, 59317–59326

Forest Service
NOTICES
Meetings:
Southwest Washington Provincial Advisory Committee, 59275

Health and Human Services Department
See Agency for Health Care Policy and Research
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration

Health Resources and Services Administration
NOTICES
Meetings:
AIDS Advisory Committee, 59326–59327

Immigration and Naturalization Service
NOTICES
Temporary protected status program designations:
Burundi, 59334–59336
Sierra Leone, 59336–59337
Sudan, 59337–59338

Indian Affairs Bureau
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 59327–59328

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See National Park Service
See Surface Mining Reclamation and Enforcement Office
NOTICES
Committees; establishment, renewal, termination, etc.:
Water Information Advisory Committee, 59327

International Trade Administration
NOTICES
Antidumping:
Extruded rubber thread from—
Indonesia, 59279–59282
Applications, hearings, determinations, etc.:
Louisiana State University, 59282–59283
University of—
Maryland, 59283

Justice Department
See Immigration and Naturalization Service

NOTICES
Pollution control; consent judgments:
Air Products & Chemicals, Inc., et al., 59329–59330
Caterpillar, Inc., 59330–59331
Cummins Engine Co., 59331
Detroit Diesel Corp., 59331–59332
Mack Trucks, Inc., et al., 59332–59333
Navistar International Corp., 59333–59334
Volvo Truck Corp., 59334

Labor Department
See Mine Safety and Health Administration
NOTICES
Organization, functions, and authority delegations:
Assistant Secretary for Pension and Welfare Benefits, 59338–59339

Library of Congress
See Copyright Office, Library of Congress

Maritime Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 59359

Mine Safety and Health Administration
PROPOSED RULES
Education and training:
Miners engaged in shell dredging or employed at sand, gravel, surface stone/clay, colloidal phosphate, or surface limestone mines; training and retraining
Meetings, 59258–59259

National Aeronautics and Space Administration
NOTICES
Meetings:
Advisory Council task forces, 59339

National Agricultural Statistics Service
NOTICES
Committees; establishment, renewal, termination, etc.:
Agriculture Statistics Advisory Committee, 59275–59276

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Arts and Artifacts Indemnity Panel Advisory Committee, 59339–59340

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Pollock, 59244–59245
NOTICES
Meetings:
Gulf of Mexico Fishery Management Council, 59283
Mid-Atlantic Fishery Management Council, 59284

National Park Service
NOTICES
Environmental statements; availability, etc.:
Isle Royale National Park, MI, 59328
National Register of Historic Places:
Pending nominations, 59328–59329

Natural Resources Conservation Service
NOTICES
Environmental statements; availability, etc.:
Highline Breaks Watershed, CO, 59276–59278

Navy Department
NOTICES
Environmental statements; notice of intent:
Base realignment and closure—
Naval Air Warfare Center Indianapolis, IN; Naval Surface Warfare Center Louisville, KY; and Naval Radio Transmitter Facility Driver, VA; termination, 59291–59292

Nuclear Regulatory Commission
NOTICES
Meetings; Sunshine Act, 59340–59341
Applications, hearings, determinations, etc.:
International Uranium (USA) Corp., 59340

Peace Corps
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 59341

Pension Benefit Guaranty Corporation
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 59341–59342

Personnel Management Office
NOTICES
Agency information collection activities:
Proposed collection; comment request, 59342
Excepted service:
Schedules A, B, and C; positions placed or revoked—Update, 59342–59343
Meetings:
National Partnership Council, 59343–59344

Presidential Documents
PROCLAMATIONS
Special observances:
Adoption Month, National (Proc. 7145), 59203–59204

Public Health Service
See Agency for Health Care Policy and Research
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration

Rural Utilities Service
PROPOSED RULES
Telecommunications standards and specifications:
Materials, equipment, and construction—
Telecommunications conduit; engineering and technical requirements, 59248–59252
NOTICES
Environmental statements; availability, etc.:
Associated Electric Cooperative, 59278

Securities and Exchange Commission
RULES
Securities:
Brokers and dealers reporting requirement—
Year 2000 compliance, 59208–59213
Over-the-counter derivatives dealers, 59361–59434
NOTICES
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., et al., 59345–59348
Chicago Board Options Exchange, Inc., 59348–59351
New York Stock Exchange, Inc., 59351–59353

Options Clearing Corp., 59353–59354
Pacific Exchange, Inc., 59354–59356
Applications, hearings, determinations, etc.:
Meteor Industries, Inc., 59344
Real Goods Trading Corp., 59344

Small Business Administration
NOTICES
Disaster loan areas:
Missouri, 59356–59357
Texas, 59357
Washington, 59357
Organization, functions, and authority delegations:
Massachusetts District Office et al.; name changes, 59357–59358

Statistical Reporting Service
See National Agricultural Statistics Service

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program and abandoned mine land reclamation plan submissions:
Pennsylvania, 59259–59262

Surface Transportation Board
NOTICES
Railroad services abandonment:
Union Pacific Railroad Co., 59359–59360

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Maritime Administration
See Surface Transportation Board
See Transportation Statistics Bureau

Transportation Statistics Bureau
PROPOSED RULES
ICC Termination Act; implementation:
Motor carriers of property; reporting requirements, 59263–59274

Separate Parts In This Issue

Part II
Securities and Exchange Commission, 59361–59434

Part III
Department of Education, 59435–59455

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
7145 59203

7 CFR
723 59205
Proposed Rules:
984 59246
1755 59248

14 CFR
39 59206
Proposed Rules:
39 59252
71 (3 documents) 59255, 59256, 59257

17 CFR
200 59362
240 (2 documents) 59208, 59362
249 59362

21 CFR
178 59213
510 59215
522 59215
558 59216
814 59217
862 59222
864 59222
866 59222
876 59222
880 59222
882 59222
886 59222
890 59222
892 59222

30 CFR
Proposed Rules:
46 59258
938 59259

32 CFR
199 59231

33 CFR
100 59232

37 CFR
201 (2 documents) 59233, 59235

44 CFR
64 59236

47 CFR
73 (4 documents) 59238, 59239
Proposed Rules:
73 (2 documents) 59262, 59263

49 CFR
Proposed Rules:
1420 59263

50 CFR
17 59239
679 59244

Federal Register
Vol. 63, No. 212
Tuesday, November 3, 1998

Presidential Documents

Title 3—

The President

Proclamation 7145 of October 29, 1998

National Adoption Month, 1998

By the President of the United States of America

A Proclamation

Every child deserves a safe and loving family. But each year, thousands of American children grow up without such families, lacking the stability and sense of permanency they need to thrive. More than 100,000 such children—orphaned, abandoned, abused, or unable to remain at home for other serious reasons—will need homes in the next few years. Although foster care provides a good supportive temporary environment for these children, adoption can provide them with the sustained love and care of permanent families and can give adults the chance to open their hearts and homes to a child they will cherish.

My Administration has worked hard both to improve the experience of children awaiting adoption and to increase their chances of adoption. Last November, I signed into law the Adoption and Safe Families Act of 1997, which made sweeping changes in our Nation's child welfare system. This legislation underscores the importance of safety and permanency for children awaiting adoption and focuses on the urgency of finding adoptive families. In addition to achieving passage of this landmark legislation, we have made adoption easier by barring discrimination by race or ethnicity, by providing a tax credit for newly adoptive parents, and by ensuring that adoptive parents are covered by the Family and Medical Leave Act.

We must strengthen such efforts if we are to meet our national goal of doubling the number of adoptions by the year 2002. In addition, while adoption in America has increased in recent years, more than 25,000 young Americans each year reach the age of 18 and leave the child welfare system without permanent homes or families. This statistic tells us that we still have much to do. We must not only secure the placement of young children in families, but also move aggressively to place in permanent families our older children, as well. I have directed the Federal Government to work with State and local governments to continue identifying and removing the barriers that prevent young people from moving from our child welfare system into adoptive families.

Working together—policymakers, government officials, family welfare agencies, religious and community organizations, and families—we can make a difference in the lives of thousands of children. My Administration will continue to support efforts to recruit and strengthen adoptive families and to shorten the time it takes to move children from foster care to permanent homes; to reduce the backlogs in our Nation's juvenile and family court systems; and to promote strong, supportive adoption programs that meet the needs of every child.

During National Adoption Month, let us recommit ourselves to the goal of finding a safe, permanent, and loving home for every child in need. Let us also honor the many caring families across our Nation who have opened their arms and their hearts to a child through adoption. By making such a profound and loving commitment to our Nation's most vulnerable children, they are also making a lasting investment in America's future.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution

and laws of the United States, do hereby proclaim November 1998 as National Adoption Month. I urge all Americans to observe this month with appropriate programs and activities to honor adoptive families and to participate in efforts to find permanent, loving homes for waiting children.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of October, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-third.

William Jefferson

[FR Doc. 98–29537
Filed 11–2–98; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register
Vol. 63, No. 212
Tuesday, November 3, 1998

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 723

RIN 0560–AF14

Special Combinations for Tobacco Allotments and Quotas

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: This final rule adopts without change, an interim rule concerning tobacco farm combinations, published on May 14, 1998, (63 FR 26713). Comments were requested from interested parties, but none were received. The notice issued with the interim rule corrected a reference contained in a final rule published on February 24, 1998, (63 FR 9126) and by a regulation change, provided greater flexibility to tobacco farmers for special farm combinations. The interim rule also made certain clarifying changes to the regulations.

EFFECTIVE DATE: November 3, 1998.

FOR FURTHER INFORMATION CONTACT: Joe Lewis, Jr., Agricultural Program Specialist, Tobacco Branch, Tobacco and Peanuts Division, USDA, FSA, STOP 0514, 1400 Independence Avenue, SW, Washington, DC 20250–0514, telephone 202–720–0795.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant and therefore was not reviewed by OMB under Executive Order 12866.

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this final rule since the Farm Service Agency (FSA) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rule making with respect to the subject matter of this rule.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Commodity Loans and Purchases—10.051.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

Executive Order 12372

This activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988. The provisions of this final rule are not retroactive and preempt State laws to the extent that such laws are inconsistent with the provisions of this final rule. Before any legal action is brought regarding determinations made under provisions of 7 CFR part 723, the administrative appeal provisions set forth at 7 CFR parts 780 and 711, as applicable, must be exhausted.

Paperwork Reduction Act

This final rule does not contain new or revised information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq*). The information collections required in 7 CFR part 723 are currently being administered under OMB control number 0560–0058.

Effective Date of Rule

It has been determined for purposes of all limitations that might apply, including any provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, that this rule should be effective immediately. As the rule simply adopts an existing rule, provides additional flexibility to producers, and should not have any material adverse effect on anyone, it has been determined that it would be contrary to the public interest to delay the implementation date of the new regulations.

Background and Discussion

An interim rule published on May 14, 1998, (63 FR 26713), requested comments from interested parties on changes to 7 CFR 723.209, concerning tobacco farm combinations for administrative purposes. The notice issued with the interim rule also corrected a reference contained in a final rule, published on February 24, 1998, (63 FR 9126) concerning the same issue.

As for the regulations, the interim rule adopted clarifying language for § 723.209 and further amended § 723.209 to explicitly allow special combinations irrespective of whether any of the farms involved had a production flexibility contract under 7 CFR part 1412, and to allow for the relaxation of certain signature requirements. No comments were received in response to the interim rule and for the reasons given in the interim rule notice, it has been determined to adopt the interim rule as a final rule.

List of Subjects in 7 CFR Part 723

Acreage allotments, Auction warehouses, Dealers, Domestic manufacturers, Marketing quotas, Penalties, Reconstitutions, Tobacco.

Final Rule

Accordingly, the interim rule amending 7 CFR part 723, published on May 14, 1998 (63 FR 26713) is hereby adopted as a final rule as published.

PART 723—[AMENDED]

Signed at Washington, DC, on October 26, 1998.

Keith Kelly,

Administrator, Farm Service Agency.

[FR Doc. 98–29345 Filed 11–2–98; 8:45 am]
BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–35–AD; Amendment 39–10866; AD 98–15–25]

RIN 2120–AA64

Airworthiness Directives; Eurocopter Deutschland GmbH Model EC 135 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the Federal Register an amendment adopting Airworthiness Directive (AD) 98–15–25, which was sent previously to all known U.S. owners and operators of Eurocopter Deutschland GmbH Model EC 135 helicopters by individual letters. This AD supersedes AD 98–09–11, applicable to Eurocopter Deutschland GmbH Model EC 135 helicopters, that required, before further flight, a tail rotor drive shaft vibration survey and installation of a Fenestron Shaft Retrofit Kit; inspecting the tail rotor drive shaft bearing (bearing) attaching lock plates for bent-open tabs, and broken or missing slippage marks; and visually inspecting each bearing support for cracks. This AD requires the same actions as the superseded AD, however it changes the required compliance time for the repetitive inspections. This amendment is prompted by reports of loose bearings and attachment bolts. This condition, if not corrected, could result in loose bearing attachment bolts, or cracked bearing supports, which could result in loss of drive to the tail rotor and subsequent loss of control of the helicopter.

DATES: Effective November 18, 1998, to all persons except those persons to whom it was made immediately effective by priority letter AD 98–15–25, issued on July 17, 1998, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before January 4, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–35–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Horn, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5125, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: On July 17, 1998, the FAA issued priority letter AD 98–15–25, applicable to Eurocopter Deutschland GmbH Model EC 135 helicopters, which requires, before further flight, a tail rotor drive shaft vibration survey and installation of a Fenestron Shaft Retrofit Kit L 535M3002 882; before further flight, and thereafter at intervals not to exceed 15 hours time-in-service (TIS), inspecting the bearing attaching lock plates for bent-open tabs, and broken or missing slippage marks; and before further flight, and thereafter at intervals not to exceed 3 hours TIS, visually inspecting each bearing support for cracks. That action was prompted by several reports of loose tail rotor drive shaft bearings and attachment bolts. This condition, if not corrected, could result in loose bearing attachment bolts, or cracked bearing supports, which could result in loss of drive to the tail rotor and subsequent loss of control of the helicopter.

The FAA previously issued AD 98–09–11 on June 18, 1998 (63 FR 34796, June 26, 1998). AD 98–09–11 contained the same requirements as this AD except that this AD requires the repetitive visual inspection of each bearing support to be conducted at intervals not to exceed 3 hours TIS instead of the previous 15 hours TIS.

Since the issuance of AD 98–09–11, it has been determined that cracks can form in additional areas outside the bend radius of the bearing support, and that the cracks can form and propagate to failure within the previously-required 15 hours TIS inspection interval.

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for the Federal Republic of Germany, recently notified the FAA that an unsafe condition may exist on Eurocopter Deutschland GmbH Model EC 135 helicopters. The LBA advises that loosening of bolt connections at bearing supports may lead to a tail rotor failure and loss of the helicopter. The LBA issued AD 1998–033/6, dated July 9, 1998, applicable to ECD Model EC 135 helicopters.

The FAA has reviewed Eurocopter EC 135 Alert Service Bulletin No. EC 135–53A–002, Revision 1, dated July 7, 1998, which describes procedures for visually inspecting the bearing supports, and Eurocopter EC 135 Alert Service Bulletin No. EC 135–53A–005, Revision 1, dated April 6, 1998, which describes procedures for measuring vibrations on the tail rotor drive shaft and replacing roller bearing attaching hardware at bearing locations.

This helicopter model is manufactured in the Federal Republic of Germany and is type certificated for operation in the United States under the provision of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operations in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter Deutschland GmbH Model EC 135 helicopters of the same type design, this AD requires, before further flight, a tail rotor drive shaft vibration survey and installation of a Fenestron Shaft Retrofit Kit L 535M3002 882. Also, before further flight, and thereafter at intervals not to exceed 15 hours TIS, the AD requires inspecting the bearing attaching lock plates at each bearing support for bent-open tabs, and inspecting for broken or missing slippage marks. If a bearing attaching lock plate tab is bent open, or if a slippage mark is broken or missing, the FAA must be notified. Finally, the AD requires, before further flight, and thereafter at intervals not to exceed 3 hours TIS, inspecting the bearing supports for cracks in the areas shown in the attached Figure 1, from the bend radius to the attaching screws and rivets connecting the bearing supports to the tailboom. Use of a 6-power or higher magnifying glass and a bright light are required for this inspection. If a crack is found, the cracked bearing support is to be replaced with an airworthy bearing support.

The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity and controllability of the aircraft. Therefore, the installation and an inspection are required before further flight, and this AD must be issued immediately.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on July 17, 1998 to all known U.S. owners and operators of Eurocopter Deutschland GmbH Model EC 135 helicopters. These conditions still exist, and the AD is hereby published in the Federal Register as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons. The only difference between the priority letter AD and this published version of this AD is that a NOTE 2 is added to this AD to inform the reader that the procedures and limits for the vibration survey are contained in Eurocopter Deutschland document D/TA 13/98, Revision 01. This note is informational only and is not a substantive change.

The FAA estimates that 6 helicopters of U.S. registry will be affected by this AD. The 15 hours TIS inspection will take approximately 0.5 work hours and the 3 hours TIS inspection will take approximately 1.5 work hours. The average labor rate is $60 per work hour. The manufacturer has represented that they will accomplish this vibration survey and the installation of the Fenestron Shaft Retrofit kit at no cost to the owners/operators. Assuming the helicopters are operated 900 hours TIS per year, the total cost impact of the AD on U.S. operators for one year is estimated to be $172,800.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption ADDRESSES. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–SW–35–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–10632 (63 FR 34796, June 26, 1998) and by adding a new airworthiness directive to read as follows:

98–15–25 Eurocopter Deutschland: Amendment 39–10866. Docket No. 98–SW–35–AD. Supersedes AD 98–09–11, Amendment 39–10632, Docket No. 98–SW–18–AD.

Applicability: Model EC 135 helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To detect loose tail rotor drive shaft bearing (bearing) attachment bolts, or cracked bearing supports, which could result in loss of drive to the tail rotor and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight, conduct a tail rotor drive shaft vibration survey and install a Fenestron Shaft Retrofit Kit L 535M3002 882.

Note 2: Procedures and limits for the vibration survey are provided in Eurocopter Deutschland document D/TA 13/98 Revision 01.

(b) Before further flight, and thereafter at intervals not to exceed 15 hours time-in-service (TIS), at each bearing support:

(1) Inspect each bearing attaching lock plate that was installed with the Fenestron Shaft Retrofit Kit L 535M3002 882 for bent-open tabs.

(2) Inspect for broken or missing slippage marks that may indicate looseness or rotation of attaching hardware.

(3) If a lock plate tab is bent open on bearing supports A, B, or C (shown in Figure 1), or if slippage marks are broken or missing, contact the Manager, Rotorcraft Standards Staff, FAA, telephone (817) 222–5110, fax (817) 222–5961.

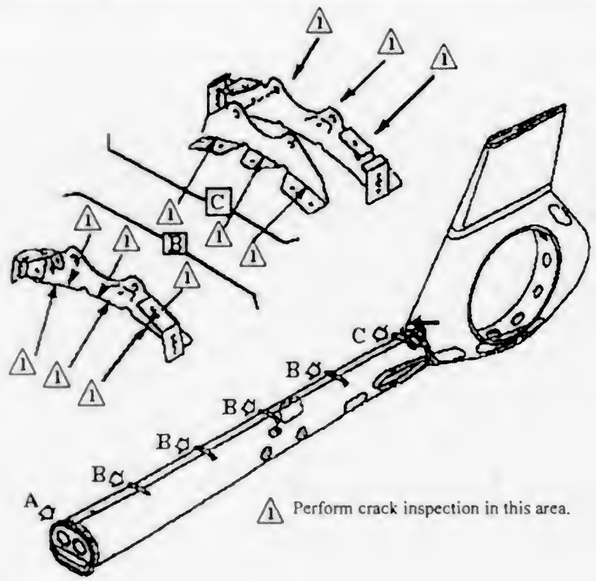


Figure 1

(c) Before further flight, and thereafter at intervals not to exceed 3 hours TIS, using a 6-power or higher magnifying glass and a bright light, visually inspect bearing supports B and C as shown in Figure 1, from the bend radius to the attaching screws and rivets connecting the bearing supports to the tailboom. If a crack is found, replace the bearing support with an airworthy bearing support.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Standards Staff, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(e) Special flight permits will not be issued.

(f) This amendment becomes effective on November 18, 1998, to all persons except those persons to whom it was made immediately effective by Priority Letter AD 98–15–25, issued July 17, 1998, which contained the requirements of this amendment.

Note 4: The subject of this AD is addressed in Luftfahrt-Bundesamt (Federal Republic of Germany) AD 1998–033/6, dated July 9, 1988.

Issued in Fort Worth, Texas, on October 27, 1998.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 98–29375 Filed 11–2–98; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–40608; FR–53; File No. S7–7–98]

RIN 3235–AH36

Reports To Be Made by Certain Brokers and Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission ("Commission") is amending Rule 17a–5 under the Securities Exchange Act of 1934 ("Exchange Act") to require certain broker-dealers to file with the Commission and their designated examining authorities ("DEA") a report prepared by an independent public accountant regarding the broker-dealer's process for preparing for the Year 2000. The report will provide valuable information on the existence and sufficiency of a broker-dealer's process for addressing Year 2000 Problems; provide an independent verification of the accuracy of the information contained in the broker-dealer's second Form BD–Y2K; aid the Commission in obtaining a more complete understanding of the industry's overall Year 2000 preparations; and identify firm-specific and industry-wide problems. The independent public accountant's report will be available to the public.

EFFECTIVE DATE: January 4, 1999.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, Associate Director, 202/942–0131; Thomas K. McGowan, Assistant Director, 202/942–4886; Lester Shapiro, Senior Accountant, 202/942–0757; or Christopher M. Salter, Staff Attorney, 202/942–0148, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW, Mail Stop 10–1, Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Commission views the Year 2000 Problem [1] as a serious issue that if not addressed could disrupt the proper functioning of many of the world's computer systems. At midnight on December 31, 1999, unless the proper modifications have been made, computer systems may start to produce erroneous results because, among other things, the systems may incorrectly read the date "01/01/00" as being the year 1900 or another incorrect date. In addition, systems may fail to detect that the Year 2000 is a leap year. Problems can also arise earlier than January 1, 2000, as dates in the next millennium are entered into non-Year 2000 compliant programs. Due to the serious nature of this issue, both the broker-dealer industry and the Commission are working hard to address the industry's Year 2000 Problems.

As part of its ongoing efforts relating to the Year 2000, on July 2, 1998, the Commission amended Rule 17a–5 [2] to require certain broker-dealers to file reports with the Commission and their DEAs regarding their efforts to address Year 2000 problems.[3] The amendments to Rule 17a–5 require each broker-dealer with a minimum net capital requirement of $5,000 or greater to file the new Form BD–Y2K. Part I of Form BD–Y2K is a check-the-box Year 2000 questionnaire. Each broker-dealer with a minimum net capital requirement of $100,000 or greater is also required to file Part II of Form BD–Y2K, which requires a narrative discussion of its efforts to address Year 2000 Problems. Form BD–Y2K is required to be filed no later than August 31, 1998, reflecting the broker-dealer's Year 2000 efforts as of July 15, 1998, and no later than April 30, 1999, reflecting the broker-dealer's Year 2000 efforts as of March 15, 1999.

In the Adopting Release, the Commission deferred consideration of its original proposal to require certain assertions by a broker-dealer regarding its process for addressing Year 2000 Problems be attested to or verified in some manner by an independent public accountant. In a Companion Release, also issued on July 2, 1998, the Commission solicited additional comments on the appropriate independent public accountant review, including comments on the feasibility and desirability of an agreed-upon procedures engagement in which an independent public accountant would follow certain established procedures as an independent check on a broker-dealer's assertions on the Form BD–Y2K.[4]

The Commission received 27 comment letters regarding either the appropriate scope of the independent public accountant review or the feasibility and desirability of an agreed-upon procedures engagement.[5] Twenty-two of the letters responded to the proposed attestation requirement with the majority of the commenters expressing concern about the scope and workability of an attestation review.[6] Five letters were received in response to the Commission's second solicitation of comments on the appropriate scope of the independent public accountant's review. The letters received in response to the second solicitation were generally opposed to any additional reporting or regulatory requirements. However, a number of the commenters indicated that an agreed-upon procedures approach mitigated some of their concerns regarding the proposed attestation review requirement. After considering the comments received, the Commission is adopting the proposed amendments regarding engagement of an independent public accountant with the changes discussed below.

II. Description of the Proposed Rule Amendments

Under the Commission's original proposal, a broker-dealer with a minimum net capital requirement of $100,000 or greater would have been required to make certain specific assertions as part of its second Year 2000 report regarding its efforts to address Year 2000 Problems.[7] In addition to making the assertions, the broker-dealer would have been required to engage an independent public accountant to attest to whether there was a reasonable basis for these assertions.

III. Discussion of Final Rule Amendments

A. Independent Public Accountant Review

The American Institute of Certified Public Accountants ("AICPA"), among other commenters, stated that the proposed attestation report would be difficult for independent public accountants to provide. The AICPA said that some of the required broker-dealer assertions are not appropriate for accountant attestation because the assertions are not capable of reasonably consistent measurement against reasonable criteria. Currently, there are no uniform, well established criteria related to Year 2000 remediation efforts. The lack of established criteria would likely result in significant variation in the examination procedures performed by independent public accountants and thus would reduce the usefulness of the attestation reports. In addition, the AICPA expressed concern that the purpose and conclusions of the attestation report could be misunderstood. The AICPA was primarily concerned that uninformed users of the attestation reports would place undue reliance on them. Several other commenters also expressed concern that independent public accountants probably do not have the expertise required to properly evaluate the broker-dealer's Year 2000 efforts and that requiring an attestation engagement would be burdensome.

The Commission believes that requiring a broker-dealer to file a report prepared by an independent public accountant will benefit the Commission's and the securities industry's efforts to prepare for the Year 2000 by improving the accuracy of the broker-dealer's second Year 2000 report and by encouraging the broker-dealer to proceed expeditiously with its efforts to address Year 2000 Problems. The information will help the Commission to have a more complete understanding of the industry's overall Year 2000 preparations and to identify firm-specific and industry-wide problems. Information in the reports will also help

[1] The Commission has defined the term "Year 2000 Problem" to include any erroneous result caused by any computer software: (1) Incorrectly reading the date "01/01/00" or any year thereafter; (ii) incorrectly identifying a date in the year 1999 or any year thereafter; (iii) failing to detect that the Year 2000 is a leap year, and (iv) any other computer error that is directly or indirectly related to (i), (ii), or (iii) above.

[2] 17 CFR 240.17a–5.

[3] Release No. 34–40162 (July 2, 1998), 63 FR 37668 (July 13, 1998) ("Adopting Release").

[4] Release No. 34–40164 (July 2, 1998), 63 FR 37709 (July 13, 1998) ("Companion Release").

[5] All comment letters are available in File No. S7–7–98 at the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. The comment period closed on April 27, 1998. *See also* Release No. 34–39858 (extending the comment period from April 13, 1998 to April 27, 1998) *See also* Release No. 34–40164 (reopening the comment period on the appropriate scope of independent public accountant review until August 12, 1998).

[6] Release Nos. 34–39724; IC–23059; IA–1704 (March 5, 1998), 63 FR 12056 (March 12, 1998) ("Proposing Release").

[7] Each broker-dealer would have been required to assert: (1) Whether it has developed written plans for preparing and testing its computer systems for potential Year 2000 Problems; (2) whether the board of directors, or similar body, has approved these plans, and whether a member of the broker-dealer's board of directors, or similar body, is responsible for executing the plans' (3) whether its Year 2000 remediation plans address all domestic and international operations, including the activities of its subsidiaries, affiliates, and divisions; (4) whether it has assigned existing employees, hired new employees, or engaged third parties to execute its Year 2000 remediation plans; and (5) whether it has conducted internal and external testing of its Year 2000 solutions and whether the results of those tests indicate that the broker-dealer has modified its software to correct Year 200 problems. Many of the issues covered by the assertions were adopted as questions in Part II of Form BD–Y2K.

the Commission focus its Year 2000-related efforts for 1999 on particular industry segments or firms that appear to pose the greatest risk of not being ready for the Year 2000. In sum, the rule amendments will enable the Commission to take a more active role in reducing the Year 2000 risk to the securities industry.

However, the Commission has modified the scope of the independent public accountant review. The rule adopted today requires each broker-dealer that is required to file Part II of Form BD–Y2K by April 30, 1999, to include with that filing a report prepared by an independent public accountant regarding the broker-dealer's process for addressing Year 2000 Problems. The independent public accountant's report must be prepared in accordance with standards that have been reviewed by the Commission and that have been issued by a national organization that is responsible for promulgating authoritative accounting and auditing standards. Such standards do not have to involve an attestation engagement, as the Commission originally proposed.

In conjunction with adopting the independent public accountant reporting requirement, the Commission has reviewed the procedures included in the Statement of Position 98–8, issued by the Auditing Standards Board.[8] An independent public accountant's report prepared in accordance with SOP 98–8 would satisfy the independent public accountant reporting requirements adopted by the Commission today.[9] Statement of Position 98–8 is discussed in more detail in part III. B below.

B. Statement of Position 98–8

The AICPA, along with other commenters, suggested that an "agreed-upon procedures" engagement, instead of an attestation engagement, would more effectively meet the Commission's objectives. Pursuant to such an engagement, a broker-dealer would engage an independent public accountant to perform and report on specific procedures designed to meet the Commission's objectives. This would eliminate the variability of examination procedures performed by independent public accountants and increase the consistency of the reports received by the Commission. In addition, other commenters indicated that an agreed-upon procedures engagement would be less time-consuming, less costly, and less disruptive operationally than the attestation approach.

SOP 98–8 addresses commenters' concerns regarding an attestation engagement by providing independent public accountants a list of procedures to follow when preparing its report on the broker-dealer's process for addressing Year 2000 Problems. More specifically, these procedures require an independent public accountant to consider the broker-dealer's plan for addressing Year 2000 Problems, its efforts to repair its affected computer systems, its tests of completed repairs, and its efforts to monitor the progress of the Year 2000 project. In addition, through SOP 98–8 the independent public accountant is provided a reporting format to use when reporting the results of executing the specified procedures. Finally, SOP 98–8 provides the independent public accountant with guidance on how to execute the procedures and how to report any exceptions identified.

The Commission believes that the procedures and reporting format contained in SOP 98–8 and the execution of the procedures by an independent public accountant (i) will provide valuable information on the existence and sufficiency of a broker-dealer's process for addressing Year 2000 Problems; (ii) will provide an independent verification of the accuracy of the information contained in the broker-dealer's second Form BD–Y2K; (iii) will aid the Commission in obtaining a more complete understanding of the industry's overall Year 2000 preparations; and (iv) will identify firm-specific and industry-wide problems.

C. Public Availability

The proposed rules would have made the independent public accountant's attestation report available to the public. The AICPA, in addition to other commenters, expressed concerns that some users of these reports could place undue reliance on the reports and that the technical nature of the reports could confuse investors. However, the Commission believes that the public's interest is best served by requiring full and open disclosure. Allowing the public, particularly other broker-dealers and counterparties, to have access to the independent public accountant's report will assist interested persons in determining whether a broker-dealer has a process for addressing Year 2000 Problems. For example, after reviewing an accountant's report regarding a counterparty, another broker-dealer might request additional information or assurances if the counterparty does not appear to be taking the steps necessary to be Year 2000 compliant. In the absence of such assurances, the other broker-dealer could determine whether it wishes to continue its dealings with that counterparty.

The rule amendments adopted by the Commission today provide that the public will have access to the independent public accountant's report.[10] In addition, the Commission or its staff, after reviewing Forms BD–Y2K, accompanying accountant's reports, and other pertinent information, may make findings or conclusions or compile information from filings by individual firms and make firm-specific, aggregate, or derivative information available to the public, Congress, or other members of the securities industry. The Commission notes, however, that the accountant's report has a specific regulatory purpose and is not intended to express an opinion or finding regarding whether a broker-dealer is Y2K compliant. The following excerpts from the sample "Independent Accountant's Report on Applying Agreed-Upon Procedures" attached to the AICPA's SOP makes clear the limitations of the accountant's role and report:

> We have performed the procedures enumerated below as specified in the American Institute of Certified Public Accountants' (AICPA's) Statement of Position 98–8, which were agreed to by ABC Broker-Dealer (hereinafter referred to as the entity) to assist the users in evaluating the entity's assertions in Parts I and II of Form BD–Y2K (Form BD–Y2K) as of March 15, 1999, prepared and filed pursuant to the requirements of SEC rule 17a–5. Pursuant to Securities and Exchange Commission (SEC) Release No. 34–40608 these agreed-upon procedures will satisfy the SEC's regulatory requirements. This report is issued solely for these regulatory purposes.
>
> This agreed-upon procedures engagement was performed in accordance with standards established by the AICPA. The sufficiency of these procedures is solely the responsibility of the specified users of the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.
>
> We were not engaged to, and did not, perform an examination, the objective of which would be the expression of an opinion on the entity's assertions included in Form BD–Y2K referred to in the introductory paragraph of this report. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you. Our procedures also do not provide assurance that the entity is or will be year 2000 ready, that its year 2000 project plans will be successful in whole or in part, or that parties with which the entity does business will be year 2000 ready.
>
> This report is intended solely for the information and use of the Board of Directors and Management of ABC Broker-Dealer, the Securities and Exchange Commission, and ABC Broker-Dealer's designated self-regulatory organization and is not intended to be and should not be used by anyone other than these specified parties.

D. Timing

The amendments to Rule 17a–5 adopted by the Commission in July 1998 require a broker-dealer to file its second Year 2000 report with the Commission and the broker-dealer's DEA by April 30, 1999, without regard to when its fiscal year ended.[11] The rule adopted today also requires the broker-dealer to file the report prepared by the independent public accountant by April 30, 1999, reflecting the broker-dealer's Year 2000 efforts as of March 15, 1999.

IV. Costs and Benefits

In the Proposing Release, the Commission requested that commenters provide analysis and data supporting the costs and benefits of the proposed amendments. In a second release soliciting additional comments on the appropriate scope of the independent public accountant's review, the Commission solicited comments on the desirability and feasibility of an agreed-upon procedures approach. Several commenters indicated that the Commission's cost estimates with regard to the attestation report were too low. However, no commenters provided detailed information or data as to the costs of the proposed amendments.

As discussed more fully in part III.A. above, the Commission is adopting a requirement that certain broker-dealers file with their second Form BD–Y2K a report prepared by an independent public accountant regarding the broker-dealer's process for addressing Year 2000 Problems. In addition, the Commission has determined that an independent public accountant's report prepared in accordance with SOP 98–8 will meet its regulatory objectives. It is important to note that the independent public accountant review adopted by the Commission today is significantly less in scope than the proposed attestation review. As a result, the aggregate cost of complying with the rule should be less.

In the Proposing Release, the Commission estimated that on average a broker-dealer would spend 20 hours working with its independent public accountant and that the cost of the attestation report could range from $5,000 to $200,000 with the average cost likely to be $25,000. Without providing cost figures or analysis, commenters indicated that these estimated costs were too low. Consequently, Commission staff contacted a number of accounting firms and the AICPA to obtain detailed data on the costs to broker-dealers of the independent public accountant's report. However, the parties contacted would not formally submit cost data.

Therefore, despite the reduced scope of the independent public accountant review adopted by the Commission today and based on the comments received and the efforts of its staff, the Commission is retaining its original cost estimates. The Commission estimates that the total cost to the industry of broker-dealers obtaining and filing the independent public accountant's reports is $66,150,000. This is based on 2,450 respondents spending on average 20 hours at $100 per hour working with their accountants and spending on average $25,000 in additional accounting fees. It is important to note that this is a total cost estimate and not an annual cost. Broker-dealers will only be required to file one independent public accountant's report. The Commission further notes that by limiting the requirement to those broker-dealers who pose the greatest risk to customers and the market if they are not Year 2000 compliant, the Commission has not imposed this burden on approximately 88% of small broker-dealers. For more information on the amendments effect on small broker-dealers see part VI below.

No commenters specifically addressed the potential benefits of the amendments, and the Commission has not been able to quantify those benefits.[12] The Commission is aware of the significant effort the securities industry has put forth and the progress it has made but believes that significant progress still needs to be made by the securities industry to be ready for the Year 2000.

As previously discussed in part III. A above, the Commission believes that a regulatory requirement to file an independent public accountant's report will improve the accuracy of the broker-dealer's second Year 2000 report and should encourage the broker-dealer to proceed expeditiously with its efforts to prepare for the Year 2000. The Commission will use the reported information to obtain a more complete understanding of the industry's overall Year 2000 preparations and to identify firm-specific and industry-wide problems. Information in the reports will help the Commission focus its Year 2000-related efforts for 1999 on particular industry segments or firms that appear to pose the greatest risk of non-compliance and will enable the Commission to take a more active role in reducing the Year 2000 risk to the securities industry. In light of the seriousness and pervasiveness of the Year 2000 Problem and in light of the systemic risk it presents to the securities industry and investors, the Commission believes the significant benefits that will result from the independent public accountant's report justify the costs.

V. Efficiency, Competition, and Capital Formation

Section 23(a) of the Exchange Act[13] requires the Commission, in adopting rules under the Exchange Act, to consider the impact any such rule would have on competition and to not adopt a rule that would impose a burden on competition not necessary or appropriate in furthering the purposes of the Exchange Act. Furthermore, section 3(f) of the Exchange Act[14] provides that whenever the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission also shall consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation. The Commission has

[8] The AICPA's Auditing Standards Board is responsible for the promulgation of auditing and attestation standards and procedures to be observed by members of the AICPA in accordance with the Institute's Bylaws and Code of Professional Conduct.

[9] Parties wishing to have the Commission review standards for the preparation of the independent public accountant's report should submit the standards to the Commission's Secretary at its principal office in Washington, DC. In reviewing SOP 98–8, the Commission considered whether it required the independent public accountant to consider the broker-dealer's plan for addressing Year 2000 problems, its efforts to repair affected computer systems, tests of completed repairs, and its efforts to monitor the progress of the broker-dealer's Year 2000 project.

[10] An agreed-upon procedures engagement conducted in accordance with SOP 98–8 must also comply with SSAE No. 4, *Agreed-Upon Procedures Engagements*. *See* AICPA, Professional Standards, Vol. 1, AT Sec. 600. SSAE No. 4 states, among other things, that a report on the performance of agreed-upon procedures should restrict the use of the report to parties specifically identified as users within the report. However, SSAE No. 4 does not limit who may have access to the report.

[11] The second Year 2000 report is required to reflect a broker-dealer's Year 2000 efforts as of March 15, 1999. *See* Adopting Release, 63 FR 37709 (July 13, 1998).

[12] One commenter expressed concern that the cost of obtaining the independent public accountant's report would outweigh its benefits. However, the commenter did not provide any specific information or analysis.

[13] 15 U.S.C. 78w (a)(2).

[14] 15 U.S.C. 78c.

considered the amendments to Rule 17a–5 in light of the standards cited in sections 3 and 23 (a)(2) of the Exchange Act. In addition, the Commission sought comments on the proposed amendments' effect on competition, efficiency, and capital formation. No commenters specifically addressed the issue of whether the proposed accountant's review would affect competition and no comments were received regarding the proposed amendment's effect on efficiency and capital formation.

In the Proposing Release, the Commission stated that the proposed amendments should not unduly burden competition. The Commission has drafted the rule amendments so as to minimize their impact on competition. The Commission has, in adopting the independent public accountant's reporting requirement, differentiated between broker-dealers based upon their size, type of business, and relative risk they pose to customers and the market if they are not Year 2000 compliant. Broker-dealers that do not meet the $100,000 minimum net capital reporting threshold are not required to file the accountant's report.[15] The Commission believes that the proposed amendments do not impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act.

The Commission believes that the amendments should increase the efficiency and effectiveness of the Commission's efforts to prepare for the Year 2000 by enabling the Commission to obtain a more complete understanding of the industry's overall Year 2000 preparations and to identify firm-specific and industry-wide problems. Information in the reports will also help the Commission focus its Year 2000-related efforts for 1999 on particular industry segments or firms that appear to pose the greatest risk of non-compliance. In addition, the Commission believes that the amendments do not adversely affect capital formation. However, failure on the part of the Commission and the securities industry to adequately prepare for the Year 2000 could adversely affect capital formation at the beginning of the next millennium.

[15] Generally, the type of business conducted by a broker-dealer who is required to maintain minimum net capital of $100,000 or greater poses a greater risk to customers and the markets if the broker-dealer is not Year 2000 compliant than a broker-dealer conducting a more limited securities business.

VI. Summary of Final Regulatory Flexibility Analysis

A final Regulatory Flexibility Analysis ("FRFA") concerning the amendments to Rule 17a–5 has been prepared in accordance with the provisions of the Regulatory Flexibility Act ("RFA"), as amended by Public Law No. 104–121, 110 Stat. 847, 864 (1996), 5 U.S.C. 604. The FRFA notes that the amendments to Rule 17a–5 will require broker-dealers to file with their second Form BD–Y2K a report prepared by an independent public accountant regarding the broker-dealer's process for addressing Year 2000 Problems.

The Commission received no comments on the Initial Regulatory Flexibility Analysis ("IRFA") prepared in connection with the Proposing Release, and no comment letters specifically addressed the IRFA. However, certain commenters expressed concern about the estimated costs associated with obtaining the independent public accountant's attestation.

As discussed more fully in the FRFA, the rule will affect small entities. When used with reference to a broker or dealer, the Commission has defined the term "small entity" to mean a broker or dealer ("small broker-dealer") that: (1) Had total capital (net worth plus subordinated liabilities) of less than $500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to section 240.17a–5(d) or, if not required to file such statements, a broker or dealer that had total capital (net worth plus subordinated liabilities) of less than $500,000 on the last business day of the preceding fiscal year (or in the time that it has been in business, if shorter); and (2) is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in this release.[16]

The Commission has drafted the rule amendments so as to minimize their impact on small broker-dealers while enhancing investor protection and minimizing any impact on competition by excluding those broker-dealers who do not pose the greatest risk to customers and the market. The rule amendments require broker-dealers with a minimum net capital requirement of $100,000 or greater to file a report prepared by an independent public accountant regarding the broker-dealer's process for addressing Year 2000 Problems. The type of business conducted by a broker-dealer who is required to maintain minimum net capital of $100,000 or greater generally poses a greater risk to customers and the markets if the broker-dealer is not Year 2000 compliant than a broker-dealer conducting a more limited securities business.

Based on FOCUS data for the fourth quarter of 1997, the latest information available, the Commission estimates that there are approximately 5,200 small broker-dealers. Of these 5,200 small broker-dealers, approximately 600 are affected by the amendments to Rule 17a–5. As noted in the cost-benefit section above, the Commission estimates that each of the affected broker-dealers will spend approximately 20 hours providing information to and assisting their independent public accountant review the broker-dealers process for addressing Year 2000 Problems. In addition, each affected small broker-dealer will incur $25,000 in additional accounting fees.

Thus, by limiting the requirement to file an independent public accountant's report to those broker-dealers who have a minimum net capital requirement of $100,000 or greater, the Commission has imposed no burden on approximately 4,600 (88%) small broker-dealers.

The FRFA notes that it would be difficult to further simplify, consolidate, or adjust compliance standards for small broker-dealers and be able to effectively monitor the securities industry's efforts to prepare for the Year 2000. The Commission believes that exempting those broker-dealers who do not pose the greatest risk to customers and the markets if they are not Year 2000 compliant strikes the appropriate balance between the need to protect investors and the need to minimize the impact on small broker-dealers. The Commission also considered the use of performance rather than design standards. However, the Commission concluded that it would be inconsistent with the purpose of the rule to use performance standards to specify different requirements for small entities.

A copy of the FRFA may be obtained by contacting Christopher M. Salter, Staff Attorney, U.S. Securities and Exchange Commission, Mail Stop 10–1, 450 Fifth Street, NW., Washington, DC 20549.

[16] 17 CFR 240.0–10(c). The Commission recently amended its small business definition for broker-dealers. *See* 63 FR 35508 (June 30, 1998). Because the IRFA for this proposal relied on the old definition (which is broader), the FRFA also relies on the old definition.

VII. Paperwork Reduction Act

The amendments to Rule 17a–5 adopted by the Commission today also amended the following collection of information within the meaning of the Paperwork Reduction Act of 1995 ("PRA"):[17] Reports to be Made by Certain Brokers and Dealers; Rule 17a–5(e)(5)—Year 2000 Problem.[18] Accordingly, the amendment to the collection of information requirement regarding the accountant's report was submitted to the Office of Management and Budget ("OMB") for review and was approved by OMB which assigned the following control number 3235–0511.

The Proposing Release solicited comments on the proposed collection of information. No comments were received that specifically addressed the PRA submission. However, as discussed in sections III. and IV. above, the Commission received suggestions that would improve the reporting requirement. Based upon these suggestions, the collection of information has been adjusted as described in section III. above and is in accordance with Section 3507 of the PRA.[19] These adjustments include reducing the scope of accountant's review to increase the consistency, accuracy and comparability of the information collected. In addition, the adjustments will reduce the time required to summarize, track, analyze, and report the information received.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the agency displays a valid OMB control number. Broker-dealers are required to comply with the collection of information pursuant to the amendments to Rule 17a–5 and the information is necessary to provide the Commission with a better understanding of the security industry's readiness for the Year 2000. The information collected pursuant to the amendments to Rule 17a–5 will be public.

As previously discussed, the Commission has reduced the scope of the independent public accountant's review. However, after carefully considering the comments received, the Commission is retaining its original estimate of the burden hours associated with obtaining the independent public accountant's report. Thus, the Commission estimates that under the final amendments, a broker-dealer will, on average, spend 20 hours obtaining the independent public accountant's report. This is in addition to the two hours a broker-dealer will spend preparing Part I of Form BD–Y2K and for those broker-dealers with a minimum net capital requirement of $100,000 or greater, the 35 hours they will spend preparing Part II of Form BD–Y2K.

The total annualized burden to the securities industry is estimated to be 146,750 hours. This is based on approximately 6,000 respondents spending on average two hours completing Part I of Form BD–Y2K; approximately 2,450 respondents spending on average 35 hours preparing Part II of Form BD–Y2K and an additional 20 hours working with their independent public accountant on the independent public accountant's report.

[17] 44 U.S.C. 3501 *et seq.*

[18] The Office of Management and Budget ("OMB") control number is 3235/0511.

[19] 44 U.S.C. 3507

VIII. Statutory Basis

Pursuant to the Securities Exchange Act of 1934 and particularly sections 17(a) and 23(a) thereof, 15 U.S.C. 78o(c)(3) and 78w, the Commission is adopting amendments to § 240.17a–5 of Title 17 of the Code of Federal Regulations in the manner set forth below.

List of Subjects in 17 CFR Part 240 and 249

Broker-dealers, Reporting and recordkeeping requirements, Securities.

Text of Final Rule

In accordance with the foregoing, Title 17, chapter II, part 240 of the Code of Federal Regulations is amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*(d), 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. By amending § 240.17a–5 by adding paragraph (e)(5)(vi) to read as follows:

§ 240.17a–5 Reports to be made by certain brokers and dealers.

* * * * *

(e) *Nature and form of reports.* * * *

(5) * * *

(vi) No later than April 30, 1999, every broker or dealer required to file Part II of Form BD–Y2K (§ 249.618 of this chapter) pursuant to paragraph (e)(5)(iii)(B) of this section and required to file audited financial statements pursuant to paragraph (d) of this section shall file with its Form BD–Y2K an original and two copies of a report prepared by an independent public accountant regarding the broker's or dealer's process, as of March 15, 1999, for addressing Year 2000 Problems with the Commission's principal office in Washington, DC and one copy of the accountant's report with the designated examining authority of the broker or dealer. The independent public accountant's report shall be prepared in accordance with standards that have been reviewed by the Commission and that have been issued by a national organization that is responsible for promulgating authoritative accounting and auditing standards.

* * * * *

Dated: October 28, 1998.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–29343 Filed 11–2–98; 8:45 am]

BILLING CODE 8010–01–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 96F–0214]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 2,9-dichloro-5,12-dihydroquinone[2,3-b]acridine-7,14-dione (C.I. Pigment Red 202) as a colorant for polymers used in contact with food. This action is in response to a petition filed by Ciba-Geigy Corp.

DATES: The regulation is effective November 3, 1998; submit written objections and requests for a hearing December 3, 1998.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of July 5, 1996 (61 FR 35229), FDA announced that a food additive petition (FAP 6B4512) had been filed by Ciba-Geigy Corp., 335 Water St., Newport, DE

19804 (currently, c/o Keller and Heckman, 1001 G St. NW., suite 500 West, Washington, DC 20001). The petition proposed to amend the food additive regulations in § 178.3297 *Colorants for polymers* (21 CFR 178.3297) to provide for the safe use of 2,9-dichloro-5,12-dihydroquinone[2,3-b]acridine-7,14-dione (C.I. Pigment Red 202) as a colorant in polymers used in contact with food.

In its evaluation of the safety of this additive, FDA has reviewed the safety of the additive itself and the chemical impurities that may be present in the additive resulting from its manufacturing process. Although the additive itself has not been shown to cause cancer, it has been found to contain minute amounts of *para*-chloroaniline, a carcinogenic impurity resulting from the manufacture of the additive. Residual amounts of reactants and manufacturing aids, such as *para*-chloroaniline, are commonly found as contaminants in chemical products, including food additives.

I. Determination of Safety

Under the so-called "general safety clause" of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A)), a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. FDA's food additive regulations (21 CFR 170.3(i)) define safe as "a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use."

The food additive anticancer, or Delaney, clause of the act further provides that no food additive shall be deemed safe if it is found to induce cancer when ingested by man or animal. Importantly, however, the Delaney clause applies to the additive itself and not constituents of the additive. That is, where an additive itself has not been shown to cause cancer, but contains a carcinogenic impurity, the additive is properly evaluated under the general safety standard using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive (*Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984)).

II. Safety of Petitioned Use of the Additive

FDA estimates that the petitioned use of the additive, 2,9-dichloro-5,12-dihydroquinone[2,3-b]acridine-7,14-dione, will result in exposure to no greater than 2.5 parts per billion of the additive in the daily diet (3 kilogram (kg)), or an estimated daily intake of 7.5 microgram per person per day (Ref. 1).

FDA does not ordinarily consider chronic toxicological studies to be necessary to determine the safety of an additive whose use will result in such low exposure levels (Ref. 2), and the agency has not required such testing here. However, the agency has reviewed the available toxicological data on the additive and concludes that the estimated small dietary exposure resulting from the proposed use of this additive is safe.

FDA has evaluated the safety of this additive under the general safety clause, considering all available data and using risk assessment procedures to estimate the upper-bound limit of lifetime human risk presented by *para*-chloroaniline, the carcinogenic chemical that may be present as an impurity in the additive. The risk evaluation of *para*-chloroaniline has two aspects: (1) Assessment of exposure to the impurity from the proposed use of the additive; and (2) extrapolation of the risk observed in the animal bioassay to the conditions of probable exposure to humans.

A. Para-Chloroaniline

FDA has estimated the exposure to *para*-chloroaniline from the petitioned use of the additive as a colorant in polymers to be 20 parts per trillion in the daily diet (3 kg), or 60 nanograms per person per day (ng/p/d) (Ref. 1). The agency used data from a carcinogenicity study of *para*-chloroaniline conducted by the National Toxicology Program (NTP) (Ref. 3), to estimate the upper-bound limit of lifetime human risk from exposure to this chemical resulting from the proposed use of the additive. The results of the NTP carcinogenicity studies on this chemical demonstrated that administration of the test material to Fisher 344 rats by gavage caused increased incidence of splenic sarcomas in male rats.

Based on the agency's estimated exposure to *para*-chloroaniline of 60 ng/p/d, FDA estimates that the upper-bound limit of lifetime human risk from the proposed use of the subject additive is 1×10^{-8}, or 1 in 100 million (Ref. 4). Because of the numerous conservative assumptions used in calculating the exposure estimate, the actual lifetime-averaged individual exposure to *para*-chloroaniline is likely to be substantially less than the estimated exposure, and therefore, the probable lifetime human risk would be less than the upper-bound limit of lifetime human risk. Thus, the agency concludes that there is reasonable certainty that no harm from exposure to *para*-chloroaniline would result from the proposed use of the additive.

B. Need for Specifications

The agency has also considered whether specifications are necessary to control the amount of *para*-chloroaniline present as an impurity in the additive. The agency finds that specifications are not necessary for the following reasons: (1) Because of the low level at which *para*-chloroaniline may be expected to remain as an impurity following production of the additive, the agency would not expect the impurity to become a component of food at other than extremely low levels; and (2) the upper-bound limit of lifetime human risk from exposure to the impurity is very low, less than 1 in 100 million.

III. Conclusion

FDA has evaluated the data in the petition and other relevant material. Based on this information, the agency concludes that the proposed use of the additive as a colorant in polymers in contact with food is safe, and that the additive will achieve its intended technical effect. Therefore, the agency concludes that the regulations in § 178.3297 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

IV. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

V. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VI. Objections

Any person who will be adversely affected by this regulation may at anytime on or before December 3, 1998, file with the Dockets Management Branch (address above) written objection thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objection received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

VII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Memorandum dated August 29, 1996, from the Chemistry Review Branch (HFS–247), to the file concerning FAP 6B4512, dietary concentrations of the additive and the impurity (*para*-chloroaniline).

2. Kokoski, C. J., "Regulatory Food Additive Toxicology," in *Chemical Safety Regulation and Compliance*, edited by F. Homburger and J. K. Marquis, published by S. Karger, New York, NY, pp. 24–33, 1985.

3. Chhabra, R. S., Toxicology and Carcinogenesis Studies of *para*-Chloroaniline Hydrochloride in F344/N Rats and B6C3F1 Mice (Gavage Studies), National Toxicology Program, Technical Report Series No. 351, July 1989.

4. Report of the Quantitative Risk Assessment Committee, FDA, concerning "Assessment of Carcinogenic upper-bound lifetime risk resulting from contamination by *para*-chloroaniline residues in C.I. Pigment Red 202 (Ciba-Geigy Corp.), FAP 6B4512, dates April 9, 1998.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

2. Section 178.3297 is amended in the table in paragraph (e) by alphabetically adding an entry under the headings "Substances" and "Limitations" to read as follows:

§ 178.3297 Colorants for polymers.

* * * * *

(e) * * *

Substances	Limitations
. . .	. . .
2,9-Dichloro-5,12-dihydroquinone[2,3-b]acridine-7,14-dione (C.I. Pigment Red 202, CAS Reg. No. 3089–17–6).	For use at levels not to exceed 1.0 percent by weight of polymers.
. . .	. . .

Dated: October 26, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–29333 Filed 11–2–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 522

Implantation or Injectable Dosage Form New Animal Drugs; Hyaluronate Sodium

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Anika Therapeutics, Inc. The supplemental NADA provides for equine use of hyaluronate sodium injection containing 11 milligrams hyaluronate sodium per milliliter (mg/mL) rather than the currently approved 10 mg/mL.

EFFECTIVE DATE: November 3, 1998.

FOR FURTHER INFORMATION CONTACT: Dennis M. Bensley, Jr., Center For Veterinary Medicine (HFV–143), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–4105.

SUPPLEMENTARY INFORMATION: Anika Therapeutics, Inc., 236 West Cummings Park, Woburn, MA 01810, formerly Anika Research, Inc., 160 New Boston St., Woburn, MA 01801, filed supplemental NADA 122–578 that provides for equine use of a 11-mg/mL Hyvisc (hyaluronate sodium) injection instead of the currently approved 10-mg/mL injection. The injection is for intra-articular use in horses for treatment of joint dysfunction due to noninfectious synovitis associated with equine osteoarthritis. The drug is limited to use by or on the order of a licensed veterinarian. The supplemental NADA is approved as of September 30, 1998, and 21 CFR 522.1145 is amended in paragraph (a)(2) and by adding paragraph (f) to reflect the approval.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this supplemental application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

In addition, the sponsor has changed its name and address. The regulations are amended in 21 CFR 510.600(c) to

reflect the changes in sponsor name and address.

FDA has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) in the entry "Anika Research, Inc." and in paragraph (c)(2) in the entry "060865" by removing the sponsor name and address and inserting in its place "Anika Therapeutics Inc., 236 West Cummings Park, Woburn, MA 01801".

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

4. Section 522.1145 is amended by revising paragraph (a)(2) and adding paragraph (f) to read as follows:

§ 522.1145 Hyaluronate sodium injection.

(a) * * *

(2) *Sponsor.* See 000009 in § 510.600(c).

* * * * *

(f)(1) *Specifications.* Each milliliter of sterile aqueous solution contains 11 milligrams of hyaluronate sodium.

(2) *Sponsor.* See 060865 in § 510.600(c).

(3) *Conditions of use*—(i) *Amount.* Small and medium-size joints (carpal, fetlock)—22 milligrams; larger joint (hock)—44 milligrams.

(ii) *Indications for use.* Treatment of joint dysfunction in horses due to noninfectious synovitis associated with equine osteoarthritis.

(iii) *Limitations.* For intra-articular injection in horses only. Treatment may be repeated at weekly intervals for a total of three treatments. Not for use in horses intended for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: October 25, 1998.

Margaret Ann Miller,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 98–29332 Filed 11–2–98; 8:45 am]

BILLING CODE 4160–01–F11

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Carbadox

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Pfizer Animal Health, Inc. The supplemental NADA provides for the establishment of a 42-day slaughter withdrawal period for use of carbadox in swine feed.

EFFECTIVE DATE: November 3, 1998.

FOR FURTHER INFORMATION CONTACT: William T. Flynn, Center for Veterinary Medicine (HFV–133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1652.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017, is sponsor of NADA 41–061 that provides for the use of Mecadox® 10 (carbadox) Type A medicated article used to make Type B and Type C medicated swine feeds. Mecadox® is indicated for the control of bacterial swine enteritis, increased rate of weight gain, and improved feed efficiency. The sponsor filed a supplemental NADA that provides for the establishment of a withdrawal period of 42 days in swine and a limitation against use in pregnant swine or swine intended for breeding purposes. The supplemental NADA is approved as of October 5, 1998, and the regulations are amended in 21 CFR 558.115(d)(1)(ii) and (d)(2)(ii) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.115 is amended by revising paragraphs (d)(1)(ii) and (d)(2)(ii) to read as follows:

§ 558.115 Carbadox.

* * * * *

(d) * * *

(1) * * *

(ii) *Limitations.* Not for use in pregnant swine or swine intended for breeding purposes. Do not feed to swine within 42 days of slaughter.

(2) * * *

(ii) *Limitations.* Not for use in pregnant swine or swine intended for breeding purposes. Do not feed to swine within 42 days of slaughter.

* * * * *

Dated: October 25, 1998.

Margaret Ann Miller,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 98–29334 Filed 11–2–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 814

[Docket No. 98N–0171]

Medical Devices; Humanitarian Use of Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule amending the regulations governing humanitarian use devices (HUD's). These amendments are being made to implement provisions of the Federal Food, Drug, and Cosmetic Act (the act) as amended by the Food and Drug Administration Modernization Act of 1997 (FDAMA).

EFFECTIVE DATE: February 1, 1999.

FOR FURTHER INFORMATION CONTACT: Joanne R. Less, Center for Devices and Radiological Health (HFZ–4dd), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1190.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 26, 1996 (61 FR 33232), FDA published a final rule prescribing the procedures for submitting humanitarian device exemption (HDE) applications, amendments, and supplements; procedures for obtaining an extension of the exemption; and the criteria for FDA review and approval of HDE's. This rule amended part 814 (21 CFR part 814) of FDA's premarket approval regulations.

On November 21, 1997, the President signed FDAMA into law (Pub. L. 105–115). Section 2dd of FDAMA made the following changes to section 520(m) of the act (21 U.S.C. 360j(m)):

(1) FDAMA added a new provision to section 520(m) of the act that requires FDA to issue an order approving or denying an HDE within 75 days after receiving the application.

(2) FDAMA provided for an exemption from the requirement that a HUD may not be used without approval from an institutional review board (IRB) for cases in which a physician determines in an emergency situation that approval cannot be obtained in time to prevent serious harm or death to a patient. In such cases, the physician must notify the chairperson of the IRB after using the device. The notification must include the name of the patient, the date on which the device was used, and the reason for the use.

(3) FDAMA eliminated the requirement that the sponsor of an HDE obtain approval for continued use every 18 months. Instead, FDA may require a sponsor to demonstrate continued compliance with the requirements of section 520(m) of the act, if FDA believes that such a demonstration is necessary to protect the public health, or if FDA has reason to believe that the criteria for exemption are no longer met.

(4) FDAMA added a provision to section 520(m) of the act stating that FDA may suspend or withdraw an HDE approval only after providing notice and an opportunity for an informal hearing.

(5) FDAMA eliminated the "sunset" provision in section 520(m) of the act, under which new approvals of HDE's would not have been permitted 5 years after the effective date of the rule originally implementing section 520(m) of the act.

Section 2dd of FDAMA became effective on February 19, 1998. In the **Federal Register** of April 17, 1998, FDA published a direct final rule (63 FR 19185) and a companion proposed rule (63 FR 19196) on humanitarian use devices to amend the existing regulations to conform to amendments made by FDAMA to section 520(m) of the act. FDA published the direct final rule because the agency anticipated that it would receive no significant adverse comments, and because the agency believed the rule contained noncontroversial changes. FDA stated that if the agency received any significant adverse comment regarding the direct final rule, FDA would publish a document withdrawing the direct final rule within 30 days after the comment period ended and proceed to respond to all the comments under the companion proposed rule using usual notice-and-comment procedures. Any comments received under the companion proposed rule would be considered as comments regarding the direct final rule.

FDA received significant adverse comment in response to the direct final rule. Therefore, FDA withdrew the direct final rule in the **Federal Register** of July 31, 1998 (63 FR 40825), and is publishing this final rule, which responds to the comments received and modifies the proposal in response to those comments.

II. Highlights of the Final Rule

The following provisions of the proposed rule have not been changed:

Part 814 has been amended in § 814.100 to implement new section 520(m)(5) of the act, which provides that FDA may require an HDE applicant to demonstrate continued compliance with the HDE requirements, if the agency believes that such a demonstration is necessary to protect the public health or if FDA has reason to believe the criteria for exemption are no longer met. This section of the regulation has also been modified to reflect the FDAMA provision that requires FDA to provide notice and an opportunity for an informal hearing before withdrawing or suspending approval of an HDE.

Section 814.104 has been amended to repeal the sunset provision for submitting an original application as provided for in new section 520(m)(5) of the act.

In addition to the changes required by FDAMA, FDA is amending § 814.104(b)(5) to allow a sponsor who is charging more than $250 per HUD, to submit, in lieu of a report by an independent certified accountant (CPA), an attestation by a responsible individual of the organization, verifying that the amount charged does not exceed the device's cost of research, development, fabrication, and distribution. The submission of any report or attestation is unnecessary for HUD's for which an HDE applicant is charging $250 per HUD or less because, in most circumstances, a charge for a HUD that is $250 or less is evidence that the charge is unlikely to exceed the cost of research, development, fabrication, and distribution. This modification to the regulation will decrease the burden associated with submitting an HDE application for some devices by eliminating the time and cost associated with obtaining a report by a CPA or an attestation by a responsible individual in the organization.

Sections 814.106, 814.108, 814.112, and 814.114 have been amended or revised to comply with a new provision of section 520(m) of the act. This new provision states that FDA will issue an order approving or denying an application 75 days after receiving it. Accordingly, FDA has adjusted its extension, review, and response timeframes for applications, amendments, and supplements.

Section 814.116 has also been amended to implement this new provision of section 520(m) of the act. This amendment adjusts the applicable timeframes in cases where panel review is necessary or an applicant has received a not approvable letter.

Section 814.120 has been revised because the 18-month term and 5-year sunset provision were repealed by FDAMA. In accordance with new section 520(m)(6) of the act, § 814.120 has been revised to provide for the

temporary suspension of approval of an HDE or an HDE supplement only after the sponsor has had an opportunity for an informal hearing under 21 CFR part 16.

Section 814.124 has been amended in accordance with section 520(m)(4) of the act, to allow physicians, faced with an emergency situation, to administer a HUD prior to obtaining IRB approval if the physician determines that the wait will cause the patient serious harm or death. The amendment to this section also reflects the requirement that physicians who use a HUD in such emergencies must notify the IRB of such use and establishes a 5-day timeframe for such notification.

Section 814.126 has been amended to incorporate section 520(m)(5) of the act, which provides FDA the authority to require an HDE applicant to demonstrate continued compliance with the HDE requirements, if the agency believes that such a demonstration is necessary to protect the public health or has reason to believe that the criteria for the HDE exemption are no longer met. FDA believes that it cannot fulfill its statutory obligation to protect the public health unless it obtains certain information about these products from the HDE holder. Accordingly, FDA added a reporting requirement that will permit the agency to monitor the HDE holder's continued compliance with the statutory criteria for exemption. The information required in these reports is the same type of information that is required for premarket approval applications (PMA's), but it will also contain additional information because of the unique nature of these device approvals. If these reports or any other information in FDA's possession give the agency reason to believe that a particular device raises public health concerns or that the criteria for exemption are no longer met, FDA may require the HDE holder to submit additional information to demonstrate compliance with the HDE requirements.

III. Summary and Analysis of Comments and FDA's Responses

FDA received significant adverse comment in response to the direct final rule. A summary of the comments and FDA's responses to them are as follows:

1. One comment expressed concern regarding the emergency use of a HUD before IRB review and approval (§ 814.124(a)), without any additional provision for the protection of human subjects. The comment stated that without additional measures, there may be nothing to prevent mistreatment of vulnerable or mentally incompetent subjects. The comment urged the agency to provide protection for patients in the form of required consultation with an institutional ethicist, ombudsman, or other unbiased third party prior to use of the device without IRB approval.

FDA has not changed this provision of the rule. FDAMA specifically provided for the use of a HUD without IRB approval in emergency situations to protect the life or physical well-being of patients. Although FDA encourages the kind of consultation suggested by the comment in situations where time and circumstances permit such consultation, the agency believes imposing a requirement for such prior consultation would be contrary to the intent of this statutory provision. The agency further believes that notification of the IRB chairperson following the emergency use will provide a measure of protection for patients.

2. The same comment also asked for clarification of the statement in § 814.118(e) that FDA will not withdraw approval of an HDE solely because it is subsequently determined that the disease or condition for which the HUD is intended affects or is manifested in more than 4,000 people in the United States per year. The comment urged FDA to set a distribution limit in order to reduce the possibility that manufacturers will abuse the exemption.

FDA agrees that § 814.118(e) of the proposed rule requires clarification. As originally issued in June 1996, that section of the regulation included an additional sentence, which explained that a determination that more than 4,000 people were affected could be a basis for disapproving an extension request for an HDE. When the sentence referencing the extension was eliminated in the proposed rule to conform with FDAMA's removal of the 18-month term for HDE's, the remaining portion of the provision became unclear. Under the statute and FDA's implementing regulations, an HDE may be withdrawn if any of the criteria for the exemption are no longer met. FDA, therefore, is deleting § 814.118(e) from the final rule.

However, because humanitarian use devices are intended for patient populations with limited options, the statute gives the agency discretion in determining whether a HUD should be removed from the market. FDA does agree with the comment that withdrawal would be appropriate when the numbers of devices being sold are so large that they indicate a clear abuse of the law. The agency does not believe, however, that it would be appropriate in every instance to withdraw approval of an HDE solely because the disease or condition has been determined to affect more than 4,000 people in the United States per year. In determining if the approval for an HDE should be withdrawn, FDA will consider all of the statutory criteria as well as the needs of the affected patient population.

3. The second comment objected to the annual reporting requirement and suggested that FDA determine the appropriate reporting period at the time of product approval rather than always requiring reporting on an annual basis.

FDA has modified the rule in response to this comment. Under the June 26, 1996, final rule, an HDE holder was required to obtain approval of an extension request every 18 months in order to continue marketing the HUD. FDAMA eliminated this requirement but provided that FDA may require the holder to demonstrate continued compliance with the HDE requirements if the agency believes that such demonstration is needed to protect the public health or has reason to believe that the criteria for the exemption are no longer met.

FDA included a provision for annual reporting in the proposed rule because the agency believed that annual reporting would be the most appropriate mechanism for the agency to monitor whether there is reason to question the continued exemption of the device from the act's effectiveness requirements. Upon reconsideration, FDA has determined that the reporting frequency necessary to protect the public health may vary depending upon the device, its intended use, the affected patient population, and experience with the device after it is marketed. Therefore, § 812.126(b)(1) has been modified in the final rule to state that the frequency of the reports will be specified in the approval order for the HDE. Ordinarily, FDA does not expect to require periodic reports to be submitted more frequently than annually. FDA does believe, however, that it may be appropriate to require reports on certain HDE's less frequently and that in many cases the frequency of required reports will decrease after the device has been marketed for a period of time.

4. The same comment also objected to the "requirement" that an "HDE holder maintain records in perpetuity * * *" and suggested that a more appropriate timeframe would be 3 calendar years after the manufacturer ceases distribution of the product in question.

Section 814.126(b)(2) of the HDE regulation specifies the types of records that should be maintained by the HDE holder, but does not specify the timeframe for maintaining such records. FDA agrees that a reasonable timeframe should be established for maintaining such records and intends to specify such timeframes as part of the approval order. Accordingly, FDA has modified the regulation to state that records shall be maintained in accordance with the approval order for the HDE.

FDA has also made some changes in the final rule to correct typographical errors and citations that were incorrect.

IV. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Analysis of Impacts

FDA has examined the impact of this final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Pub. L. 104–121)), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, this final rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The rule codifies applicable statutory requirements imposed by FDAMA. Because the rule allows physicians more flexibility without compromising the public health and reduces the requirements imposed on sponsors, it may permit more small competitors to enter the marketplace. The agency certifies, therefore, that this final rule will not have a significant economic impact on a substantial number of small entities. This final rule also does not trigger the requirement for a written statement under section 202(a) of the Unfunded Mandates Reform Act because it does not impose a mandate that results in an expenditure of $100 million or more by State, local, or tribal governments in the aggregate, or by the private sector, in any one year.

VI. Paperwork Reduction Act of 1995

This final rule contains information collection requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). A description of the requirements is given below. The title, description, and respondent description of the information collection provisions are shown below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information. The description below reflects the changes made in the final rule in response to comments, as discussed in section III of this document.

Title: Amendments to Humanitarian Use Device Requirements.

Description: Section 520(m) of the act was created as an incentive for the development of HUD'S for use in the treatment or diagnosis of diseases or conditions affecting fewer than 4,000 individuals in the United States. FDA is issuing this rule to amend the existing regulations governing HUD's, found in part 814, to conform to the amendments made by FDAMA to section 520(m) of the act.

Section 814.124(a) is amended to allow physicians in emergency situations to administer a HUD prior to obtaining IRB approval. In such situations, the physician is required to provide written notification, including the identification of the patient involved, the date of use, and the reason for use, to the IRB within 5 days after emergency use. FDA anticipates that five physicians will use HUD's in emergency situations before obtaining approval from an IRB. FDA estimates that notifications under this section will take an average of 1 hour per response.

In response to a comment, FDA is amending proposed § 814.126(b)(1) to delete the requirement of an annual report and to include instead a periodic reporting requirement that will be established by the approval order for the HDE. This change continues to permit the agency to obtain sufficient information for it to determine whether there is reason to question the continued exemption of the device from the act's effectiveness requirements. FDA estimates that, due to the nature of some of the devices, initially 15 HDE holders per year will be required to submit annual reports. As the agency and industry gain experience with HDE's, FDA believes the number of HDE holders who will be required to submit annual reports will decrease. FDA believes that much of the information will already be in the HDE holder's possession, and the agency estimates that the reports will take an average of 120 hours per response.

In addition to the changes required by FDAMA, FDA is amending § 814.104(b)(5) to allow a sponsor who is charging more than $250 per HUD to submit, in lieu of a report by an independent CPA, an attestation by a responsible individual of the organization, verifying that the amount charged does not exceed the device's cost of research, development, fabrication, and distribution. In addition, the amendments to § 814.104(b)(5) waive the requirement for submission of any CPA report or attestation for HUD's for which an HDE applicant is charging $250 or less. FDA anticipates, based on past experience, that 7 of the anticipated 15 HDE holders per year will charge less than $250 per HUD, and thus be exempt from the requirement altogether. For the remaining eight HDE holders, FDA anticipates that all will submit attestations in lieu of CPA reports, and estimates that these submissions will require 2 hours to complete.

Proposed § 814.126(b)(2) has been modified, in response to a comment, to require HDE holders to retain records for a time period specified in the approval order, rather than an unlimited time period.

Description of Respondents: Business or other for profit organization.

FDA estimates the burden for this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
814.104(b)(5)	8	1	8	2	16

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]—Continued

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
814.124(a)	5	1	5	1	5
814.126(b)(1)	15	1	15	120	1,800
Total					1,821

[1] There are no operating and maintenance costs or capital costs associated with this information collection.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
814.126(b)(2)	15	1	15	2	30

[1] There are no operating and maintenance costs or capital costs associated with this information collection.

The information collection provisions of this final rule have been submitted to OMB for review and approved under OMB control number 0910–dd84. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

List of Subjects in 21 CFR Part 814

Administrative practice and procedure, Confidential business information, Medical devices, Medical research, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 814 is amended as follows:

PART 814—PREMARKET APPROVAL OF MEDICAL DEVICES

1. The authority citation for 21 CFR part 814 continues to read as follows:

Authority: 21 U.S.C. 351, 352, 353, 360, 360c-360j, 371, 372, 373, 374, 375, 379, 379e, 381.

2. Section 814.100 is amended by revising paragraphs (a)(2) and (d) and by adding paragraph (e) to read as follows:

§ 814.100 Purpose and scope.

(a) * * *

(2) Marketing approval for the HUD notwithstanding the absence of reasonable assurance of effectiveness that would otherwise be required under sections 514 and 515 of the act.

* * * * *

(d) A person granted an exemption under section 520(m) of the act shall submit periodic reports as described in § 814.126(b).

(e) FDA may suspend or withdraw approval of an HDE after providing notice and an opportunity for an informal hearing.

3. Section 814.104 is amended by removing paragraph (b), by redesignating paragraphs (c) through (e) as paragraphs (b) through (d), and by revising newly redesignated paragraphs (b)(5) and (d) and the first sentence in redesignated paragraph (c) to read as follows:

§ 814.104 Original applications.

* * * * *

(b) * * *

(5) The amount to be charged for the device and, if the amount is more than $250, a report by an independent certified public accountant, made in accordance with the Statement on Standards for Attestation established by the American Institute of Certified Public Accountants, or in lieu of such a report, an attestation by a responsible individual of the organization, verifying that the amount charged does not exceed the costs of the device's research, development, fabrication, and distribution. If the amount charged is $250 or less, the requirement for a report by an independent certified public accountant or an attestation by a responsible individual of the organization is waived.

(c) *Omission of information.* If the applicant believes that certain information required under paragraph (b) of this section is not applicable to the device that is the subject of the HDE, and omits any such information from its HDE, the applicant shall submit a statement that identifies and justifies the omission. * * *

(d) *Address for submissions and correspondence.* Copies of all original HDE's, amendments and supplements, as well as any correspondence relating to an HDE, shall be sent or delivered to the Document Mail Center (HFZ–401), Office of Device Evaluation, Center for Devices and Radiological Health, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850.

4. Section 814.106 is revised to read as follows:

§ 814.106 HDE amendments and resubmitted HDE's.

An HDE or HDE supplement may be amended or resubmitted upon an applicant's own initiative, or at the request of FDA, for the same reasons and in the same manner as prescribed for PMA's in § 814.37, except that the timeframes set forth in § 814.37(c)(1) and (d) do not apply. If FDA requests an HDE applicant to submit an HDE amendment, and a written response to FDA's request is not received within 75 days of the date of the request, FDA will consider the pending HDE or HDE supplement to be withdrawn voluntarily by the applicant. Furthermore, if the HDE applicant, on its own initiative or at FDA's request, submits a major amendment as described in § 814.37(c)(1), the review period may be extended up to 75 days.

5. Section 814.108 is revised to read as follows:

§ 814.108 Supplemental applications.

After FDA approval of an original HDE, an applicant shall submit supplements in accordance with the requirements for PMA's under § 814.39, except that a request for a new indication for use of a HUD shall comply with requirements set forth in § 814.110. The timeframes for review of, and FDA action on, an HDE supplement are the same as those provided in § 814.114 for an HDE.

6. Section 814.112 is amended by revising paragraph (a) introductory text, paragraph (a)(1), and paragraph (b) to read as follows:

§ 814.112 Filing an HDE.

(a) The filing of an HDE means that FDA has made a threshold determination that the application is sufficiently complete to permit substantive review. Within 30 days from the date an HDE is received by FDA, the agency will notify the applicant whether the application has been filed. FDA may refuse to file an HDE if any of the following applies:

(1) The application is incomplete because it does not on its face contain all the information required under § 814.104(b);

* * * * *

(b) The provisions contained in § 814.42(b), (c), and (d) regarding notification of filing decisions, filing dates, the start of the 75-day review period, and applicant's options in response to FDA refuse to file decisions shall apply to HDE's.

7. Section 814.114 is revised to read as follows:

§ 814.114 Timeframes for reviewing an HDE.

Within 75 days after receipt of an HDE that is accepted for filing and to which the applicant does not submit a major amendment, FDA shall send the applicant an approval order, an approvable letter, a not approvable letter (under § 814.116), or an order denying approval (under § 814.118).

8. Section 814.116 is amended by removing the last sentence in paragraph (a) and by adding two sentences in its place, by revising the last sentence of paragraph (d), and by adding paragraph (e) to read as follows:

§ 814.116 Procedures for review of an HDE.

(a) * * * If the HDE is referred to a panel, the agency shall follow the procedures set forth under § 814.44, with the exception that FDA will complete its review of the HDE and the advisory committee report and recommendations within 75 days from receipt of an HDE that is accepted for filing under § 814.112 or the date of filing as determined under § 814.106, whichever is later. Within the later of these two timeframes, FDA will issue an approval order under paragraph (b) of this section, an approvable letter under paragraph (c) of this section, a not approvable letter under paragraph (d) of this section, or an order denying approval of the application under § 814.118(a).

* * * * *

(d) * * * The applicant may respond to the not approvable letter in the same manner as permitted for not approvable letters for PMA's under § 814.44(f), with the exception that if a major HDE amendment is submitted, the review period may be extended up to 75 days.

(e) FDA will consider an HDE to have been withdrawn voluntarily if:

(1) The applicant fails to respond in writing to a written request for an amendment within 75 days after the date FDA issues such request;

(2) The applicant fails to respond in writing to an approvable or not approvable letter within 75 days after the date FDA issues such letter; or

(3) The applicant submits a written notice to FDA that the HDE has been withdrawn.

9. Section 814.118 is amended by revising paragraph (a)(8) and removing paragraph (e) to read as follows:

§ 814.118 Denial of approval or withdrawal of approval of an HDE.

(a) * * *

(8) The applicant does not permit an authorized FDA employee an opportunity to inspect at a reasonable time and in a reasonable manner the facilities and controls, and to have access to and to copy and verify all records pertinent to the application; or

* * * * *

10. Section 814.120 is revised to read as follows:

§ 814.120 Temporary suspension of approval of an HDE.

An HDE or HDE supplement may be temporarily suspended for the same reasons and in the same manner as prescribed for PMA's in § 814.47.

11. Section 814.124 is amended by adding three sentences at the end of paragraph (a) to read as follows:

§ 814.124 Institutional Review Board requirements.

(a) * * * If, however, a physician in an emergency situation determines that approval from an IRB cannot be obtained in time to prevent serious harm or death to a patient, a HUD may be administered without prior approval by the IRB located at the facility or by a similarly constituted IRB that has agreed to oversee such use. In such an emergency situation, the physician shall, within 5 days after the use of the device, provide written notification to the chairman of the IRB of such use. Such written notification shall include the identification of the patient involved, the date on which the device was used, and the reason for the use.

* * * * *

12. Section 814.126 is amended by revising the first sentence in paragraph (a) and by revising paragraph (b) to read as follows:

§ 814.126 Postapproval requirements and reports.

(a) An HDE approved under this subpart H shall be subject to the postapproval requirements and reports set forth under subpart E of this part, as applicable, with the exception of § 814.82(a)(7). * * *

(b) In addition to the reports identified in paragraph (a) of this section, the holder of an approved HDE shall prepare and submit the following complete, accurate, and timely reports:

(1) *Periodic reports.* An HDE applicant is required to submit reports in accordance with the approval order. Unless FDA specifies otherwise, any periodic report shall include:

(i) An update of the information required under § 814.102(a) in a separately bound volume;

(ii) An update of the information required under § 814.104(b)(2), (b)(3), and (b)(5);

(iii) The number of devices that have been shipped or sold since initial marketing approval under this subpart H and, if the number shipped or sold exceeds 4,000, an explanation and estimate of the number of devices used per patient. If a single device is used on multiple patients, the applicant shall submit an estimate of the number of patients treated or diagnosed using the device together with an explanation of the basis for the estimate;

(iv) Information describing the applicant's clinical experience with the device since the HDE was initially approved. This information shall include safety information that is known or reasonably should be known to the applicant, medical device reports made under part 8dd of this chapter, any data generated from the postmarketing studies, and information (whether published or unpublished) that is known or reasonably expected to be known by the applicant that may affect an evaluation of the safety of the device or that may affect the statement of contraindications, warnings, precautions, and adverse reactions in the device's labeling; and

(v) A summary of any changes made to the device in accordance with supplements submitted under § 814.108. If information provided in the periodic reports, or any other information in the possession of FDA, gives the agency reason to believe that a device raises public health concerns or that the criteria for exemption are no longer met, the agency may require the HDE holder to submit additional information to demonstrate continued compliance with the HDE requirements.

(2) *Other.* An HDE holder shall maintain records of the names and

addresses of the facilities to which the HUD has been shipped, correspondence with reviewing IRB's, as well as any other information requested by a reviewing IRB or FDA. Such records shall be maintained in accordance with the HDE approval order.

Dated: October 28, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–29391 Filed 11–2–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 862, 864, 866, 876, 880, 882, 886, 890, and 892

[Docket No. 98–0015]

Medical Devices; Exemptions From Premarket Notification; Class II Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is codifying the exemption from premarket notification of all 62 class II (special controls) devices listed as exempt in a January 21, 1998, **Federal Register** notice, subject to the limitations on exemptions. FDA has determined that for these exempted devices, manufacturers' submissions of premarket notifications are unnecessary to provide a reasonable assurance of safety and effectiveness. These devices will remain subject to current good manufacturing practice (CGMP) regulations and other general controls. This rulemaking implements new authorities delegated to FDA under the Food and Drug Administration Modernization Act (FDAMA).

EFFECTIVE DATE: November 3, 1998.

FOR FURTHER INFORMATION CONTACT: Heather S. Rosecrans, Center for Devices and Radiological Health (HFZ–404), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1190.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of January 21, 1998 (63 FR 3142) (hereinafter referred to as the January 21, 1998, notice), FDA issued a notice stating that 62 class II (special controls) devices were exempt from the requirement of premarket notification, with limitations. This notice was issued in accordance with FDAMA (Pub. L. 105–115), which the President signed into law on November 21, 1997. Section 206 of FDAMA, in part, added a new section 510(m) to the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360(m)). Section 510(m)(1) of the act required FDA, within 60 days after enactment of FDAMA, to publish in the **Federal Register** a list of each type of class II device that does not require a report under section 510(k) of the act (generally referred to as a premarket notification or "510(k)") to provide reasonable assurance of safety and effectiveness. Section 510(m) of the act further provided that a 510(k) will no longer be required for these devices upon the date of publication of the list in the **Federal Register**. Interested persons were given until April 20, 1998, to comment on the notice.

Section 510(m)(2) of the act also provides that, 1 day after date of publication of the list under section 510(m)(1) FDA may exempt a device on its own initiative or upon petition of an interested person, if FDA determines that a 510(k) is not necessary to provide reasonable assurance of the safety and effectiveness of the device.

An exemption from the requirement of premarket notification does not mean that the device is exempt from any other statutory or regulatory requirements, unless such exemption is explicitly provided by order or regulation. Indeed, FDA's determination that premarket notification was unnecessary to provide a reasonable assurance of safety and effectiveness for devices listed in this document was based, in part, on the assurance of safety and effectiveness that other regulatory controls, such as current good manufacturing practice requirements, provide. Persons with pending 510(k) submissions for devices that are now exempt from premarket notification, subject to the limitations on exemptions, should withdraw their submissions.

FDA is codifying the exemption from premarket notification of all 62 class II devices listed as exempt in the January 21, 1998, notice, subject to the limitations on exemptions. These devices will remain subject to CGMP requirements and other general controls under the statute as well as any special controls.

The Administrative Procedure Act (the APA) (Pub. L. 79–404) and FDA regulations provide that the agency may issue a regulation without notice and comment procedures when the agency for good cause finds (and incorporates the finding and a brief statement of reasons thereof in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 553(b)(8), § 10.40(e)(1) (21 CFR 10.40).) The Commissioner of Food and Drugs (the Commissioner) finds for good cause that there is reason to dispense with notice and comment rulemaking to amend the codified language in the Code of Federal Regulations (CFR) to reflect that certain class II devices are exempt.

Notice and comment rulemaking to codify the exemptions for these class II devices would be both impracticable and unnecessary. As previously stated, under the authority provided by section 206 of FDAMA, these exemptions have already taken effect by operation of the statute on January 21, 1998. Accordingly, it is both impracticable and unnecessary to provide notice and comment on a regulation that merely codifies that which has already occurred. Furthermore, interested persons were provided an opportunity to comment when the January 21, 1998, notice published.

II. Effective Date

Section 553(d) of the APA requires that the effective date of a substantive rule shall occur not less than 30 days after the publication or service unless, under section 553(d)(1), the rule grants or recognizes an exemption or relieves a restriction, or unless, under section 553(d)(3), the agency finds good cause to make the effective date less than 30 days and publishes the basis with the rule.

The Commissioner finds that because the exemptions are already in effect, providing a delayed effective date for the regulation conforming the CFR to reflect the exemptions is impracticable and unnecessary. Accordingly, there is good cause, under section 553(d)(3) of the APA and § 10.40(c)(4)(ii), to provide an immediate effective date. Additionally, an immediate effective date is authorized under section 553(d)(1) and § 10.40(c)(4)(i) because the codification of the exemptions recognizes an exemption.

III. Comments

FDA received 8 sets of comments from respondents, both supporting and opposing the exemption of the 62 class II devices.

1. Two comments suggested that FDA remove the following in vitro diagnostic, class II devices from the list of exempted devices: 21 CFR 866.3060 *Blastomyces dermatitidis*, 866.3085 *Brucella spp. serological reagents*, 866.3135 *Coccidioides immitis serological reagents*, 866.3320 *Histoplasma capsulatum serological reagents*, 866.3165 *Crytococcus neoformans serological reagents*, 866.3220 *Entamoeba histoloytica serological reagents*, 866.3280 *Franciscella tularensis serological reagents*, 866.3350 *Leptospira spp. serological reagents*, and 866.3460 *Rabiesvirus immunofluorescent reagents*. The comments stated that these devices fail to meet the criteria for exemption as described in the regulatory notice as "Limitations on Exemptions." Also, a third comment suggested that two "in vitro devices * * * intended for the screening of familial and acquired genetic disorders"(21 CFR 866.5210 *Ceruloplasmin immunological test system* and 866.5470 *Hemoglobin immunological test system*) fail to meet criteria for exemption under FDAMA.

Devices that are listed as exempt from 510(k) requirements are subject to the limitations to those exemptions described in the January 21, 1998, notice. The limitations to the exemptions state that for certain uses, in vitro diagnostic devices that are otherwise exempt are still subject to 510(k) requirements. Accordingly, a generic device type may be exempt from 510(k) requirements for some uses, and not exempt from those requirements if it is intended for other uses described in the limitations language. For example, the January 21, 1998, notice states that a generic type of device that is otherwise exempt is not exempt if it is used in screening or diagnosis of familial and acquired genetic disorders, or for measuring analytes that serve as a surrogate marker for screening, diagnosis, or monitoring life-threatening diseases.

FDA does not agree that all the marketed uses for the devices addressed by the comments (with the exceptions of rabiesvirus immunofluorescent reagents, the ceruloplasmin immunological test system, and the hemoglobin immunological test system) fall within the limitations to the exemptions language in the January 21, 1998, notice. These devices can be exempt, for example, when they are marketed for the determination of immune status, or for epidemiological uses. If these same devices, however, are used in the diagnosis of a life-threatening disease, they would not be exempt.

FDA agrees, however, that all marketed uses for rabiesvirus immunofluorescent reagents are for the detection of rabies, a life-threatening disease, and that all marketed uses for the ceruloplasmin immunological test system and the hemoglobin immunological test system are for the screening or diagnosis of familial and acquired genetic disorders. Accordingly, all intended uses for these devices would fall within the limitations to exemptions for devices that are for use in screening or diagnosis of familial and acquired genetic disorders, or for measuring analytes that serve as surrogate markers for screening, diagnosis, or monitoring life-threatening diseases.

FDA believes that it erroneously listed the generic device types rabiesvirus immunofluorescent reagents, ceruloplasmin immunological test systems, and hemoglobin immunological test systems as exempt from 510(k) requirements in the January 21, 1998, notice. Therefore, FDA intends to issue a proposal to clarify that none of these devices are exempt from 510(k) requirements. Until such rulemaking is final, however, these devices will be listed, in accordance with the January 21, 1998, notice, as exempt subject to the limitations to the exemptions. Sponsors should be aware, however, that FDA believes that all marketed uses for these devices fall within the limitations to the exemptions, and that sponsors, therefore, should continue to submit 510(k) submissions.

2. One comment requested more information on devices covered by 21 CFR 864.9160 *Blood group substances of nonhuman origin for in vitro diagnostic use*.

FDA believes that devices in this classification traditionally have been used for neutralization studies to assist in identification of antibodies in patients with multiple antibodies. There does not appear to be a high demand for these devices. FDA believes that there are quality control practices and procedures in place that make continued active premarket regulation unnecessary to ensure safety and effectiveness.

3. The Health Care Financing Administration (HCFA) raised concerns about the effect that exemptions may have on HCFA's implementation of the Clinical Laboratory Improvements Amendments. HCFA subsequently commented that they believed that their concerns could be addressed without affecting the exemption process.

FDA intends to continue to meet with the HCFA staff to address these concerns, which relate to inspection procedures in laboratories.

4. One comment questioned the limitations on exemptions stated in the January 21, 1998, notice, particularly the limitations applicable to in vitro diagnostic devices that are noninvasive tests. The comment criticized the use of the words "noninvasive testing" as being overly broad.

FDA disagrees with this comment. FDA believes that the limitations are necessary to ensure that devices are not marketed that are significantly different from the devices exempted from premarket notification, particularly in the area of in vitro diagnostic devices where devices are often subject to changes in intended use and conditions of use. Noninvasive testing devices should not be exempt because they almost always involve novel matrices and novel technologies.

5. One comment suggested that the limitations on exemptions are unnecessary, confusing, and difficult to apply, especially to in vitro diagnostic devices. This comment additionally notes "we question the basis for FDA's broad restrictions in such a specific category of devices."

FDA does not agree that the language is unnecessary, confusing, or difficult to apply. The limitations language in the January 21, 1998, notice, that applies to class II devices listed therein, modifies the limitations on exemptions currently found in ".9" of each device classification regulation part (e.g., 21 CFR 862.9, 864.9, etc.) only in three ways. First, FDA has referenced class II devices to reflect that class II devices may be exempted in accordance with new section 510(m) of the act. Second, the limitations language modifies current limitations language by stating that devices are to be compared to "any legally marketed device in that generic type of device" rather than a device on the market "before May 28, 1976" or a "preamendments device to which it has been determined substantially equivalent." Third, the limitations language adds specific language relating to in vitro diagnostic devices. The agency cannot predict all possible different intended uses or changes in fundamental scientific technologies that may significantly affect safety and effectiveness; limitations on exemptions are, therefore, in the best interest of the public health because they ensure that devices incorporating such changes will be reviewed for safety and effectiveness by the agency before they go to market. Furthermore, FDA believes that in vitro diagnostic devices are unique because their safety and effectiveness relates primarily to the information generated by these devices rather than the direct interaction between device and patient. FDA has more fully discussed the need for these limitations in the January 21, 1998, notice. In order to efficiently allocate review resources, the agency has developed a risk-based approach toward use of the limitations on exemptions to ensure that high-risk devices remain subject to premarket review. The limitations on exemptions continue to take into account two

critical risk elements: Intended use and novelty of technology.

6. One comment stated that body fat testers meet the criteria for exemption from 510(k) and should therefore be exempt. Another comment stated that film dosimetry systems are quality control devices and should not be regulated as a class II device.

Neither of these devices were listed as exempt in the January 21, 1998, notice. Body fat analyzers have been found to be substantially equivalent to legally marketed devices classified under 21 CFR 870.2770 *Impedance plethysmograph*. Film dosimetry systems are regulated under 21 CFR 892.5050 *Medical charged-particle radiation therapy system*. This document is codifying the exemptions only for devices listed in the January 21, 1998, notice.

Under new section 510(m)(2) of the act, any person now may petition the agency for additional exemptions from the requirements of 510(k) for a class II device type. FDA has provided guidance for submitting a petition for exemption of a class II device and has requested that these comments submit such petitions for these device types.

7. One comment believed the limitations on exemptions required clarification as follows:

With regard to the first limitation ("has an intended use that is different from the intended use of a legally marketed device in that generic type"), we believe that current law is clear that if a device has an intended use different than that expressed in the definition contained in the Code of Federal Regulations (CFR), such device would not be the same as the exempted device. The exemption would simply not apply to that device. However, "intended use" can encompass many different concepts that go beyond the general intended use statements that comprised the CFR definitions. There has been some controversy, for instance, over the extent to which indications for use can change intended use. Our position is that any indication for use that has been included in a previous 510(k) order of classification identifies the scope of the intended use for each exempt type of device. Minor variances of indications for use within the intended use of an exempt type of device should have no effect on the status of a 510(k) exemption.

FDA has interpreted paragraph ".9(a)" of each device classification regulation part (e.g., 21 CFR 862.9, 864.9, etc.) in the limitations on exemptions under the current regulation to mean that any legally marketed device (as defined in 21 CFR 807.92(a)(3)) within a device classification regulation, may serve as a predicate for another manufacturer's device, and the other manufacturer's device may be exempt. FDA believes that any additional indication for use for an exempt classification device type (i.e., an indication not previously cleared) is considered a different intended use and does not meet the limitations on exemptions, and therefore, requires a new premarket notification. FDA agrees that minor variances in indications would not affect the exemption status of the classification. FDA notes that in our guidance entitled "Deciding When to Submit a 510(k) for a Change to an Existing Device," FDA states, in regard to minor variances in indications of closely related populations, "If the expansion is to a population with similar demographics, diagnosis, prognosis, comorbidity and potential for complications as the original, then a new 510(k) is not ordinarily expected."

IV. Environmental Impact

The agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment or an environmental impact statement is required.

V. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and under the Unfunded Mandates Reform Act (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy on principles identified in the Executive Order. In addition, the final rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

If there is a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this final rule would reduce a regulatory burden by exempting manufacturers of devices subject to the requirements of premarket notification, the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

VI. Paperwork Reduction Act of 1995

This final rule contains no collections of information. Therefore, clearance from the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

List of Subjects

21 CFR Parts 862, 876, 880, 882, and 890

Medical devices.

21 CFR Part 864

Blood, Medical devices, Packaging and containers.

21 CFR Part 866

Biologics, Laboratories, Medical devices.

21 CFR Part 886

Medical devices, Ophthalmic goods and services.

21 CFR Part 892

Medical devices, Radiation protection, X-rays.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drug, 21 CFR parts 862, 864, 866, 876, 880, 882, 886, 890, and 892 are amended as follows:

PART 862—CLINICAL CHEMISTRY AND CLINICAL TOXICOLOGY DEVICES

1. The authority citation 21 CFR part 862 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 862.9 is amended by revising the section heading, by designating the introductory text as paragraph (a), by redesignating paragraphs (a) and (b) as paragraphs (a)(1) and (a)(2), respectively, and by adding new paragraph (b) to read as follows:

§ 862.9 Limitations of exemptions from section 510(k) of the Federal Food, Drug, and Cosmetic Act (the act).

* * * * *

(b) The exemption from the requirement of premarket notification for a generic type of class II device applies only to those class II devices that have existing or reasonably foreseeable characteristics of commercially distributed devices within that generic type, or, in the case of in vitro diagnostic devices, for which a misdiagnosis, as a result of using the device, would not be associated with high morbidity or mortality. A class II device for which FDA has granted an exemption from the requirement of premarket notification must still submit a premarket notification when:

(1) The device is intended for a use different from the intended use of a legally marketed device in that generic type of device; e.g., the device is intended for a different medical purpose, or the device is intended for lay use where the former intended use was by health care professionals only; or

(2) The modified device operates using a different fundamental scientific technology than a legally marketed device in that generic type of device; e.g., a surgical instrument cuts tissue with a laser beam rather than with a sharpened metal blade, or an in vitro diagnostic device detects or identifies infectious agents by using deoxyribonucleic acid (DNA) probe or nucleic acid hybridization technology rather than culture or immunoassay technology; or

(3) The device is an in vitro device that is intended:

(i) For use in the diagnosis, monitoring, or screening of neoplastic diseases with the exception of immunohistochemical devices;

(ii) For use in screening or diagnosis of familial and acquired genetic disorders, including inborn errors of metabolism;

(iii) For measuring an analyte that serves as a surrogate marker for screening, diagnosis, or monitoring life-threatening diseases such as acquired immune deficiency syndrome (AIDS), chronic or active hepatitis, tuberculosis, or myocardial infarction or to monitor therapy;

(iv) For use in assessing the risk of cardiovascular diseases;

(v) For use in diabetes management;

(vi) For use in identifying or inferring the identity of a microorganism directly from clinical material;

(vii) For detection of antibodies to microorganisms other than immunoglobulin G (IgG) and IgG assays when the results are not qualitative, or are used to determine immunity, or the assay is intended for use in matrices other than serum or plasma;

(viii) For noninvasive testing; and

(ix) For near patient testing (point of care).

3. Section 862.1440 is amended by revising paragraph (b) to read as follows:

§ 862.1440 Lactate dehydrogenase test system.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 862.9.

4. Section 862.1635 is amended by revising paragraph (b) to read as follows:

§ 862.1635 Total protein test system.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 862.9.

PART 864—HEMATOLOGY AND PATHOLOGY DEVICES

5. The authority citation for 21 CFR part 864 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

6. Section 864.9 is amended by designating the introductory text as paragraph (a), by redesignating paragraphs (a) and (b) as paragraphs (a)(1) and (a)(2), respectively, and by adding new paragraph (b) to read as follows:

§ 864.9 Limitations of exemptions from section 510(k) of the Federal Food, Drug, and Cosmetic Act (the act).

* * * * *

(b) The exemption from the requirement of premarket notification for a generic type of class II device applies only to those class II devices that have existing or reasonably foreseeable characteristics of commercially distributed devices within that generic type, or, in the case of in vitro diagnostic devices, for which a misdiagnosis, as a result of using the device, would not be associated with high morbidity or mortality. A class II device for which FDA has granted an exemption from the requirement of premarket notification must still submit a premarket notification when:

(1) The device is intended for a use different from the intended use of a legally marketed device in that generic type of device; e.g., the device is intended for a different medical purpose, or the device is intended for lay use where the former intended use was by health care professionals only; or

(2) The modified device operates using a different fundamental scientific technology than a legally marketed device in that generic type of device; e.g., a surgical instrument cuts tissue with a laser beam rather than with a sharpened metal blade, or an in vitro diagnostic device detects or identifies infectious agents by using deoxyribonucleic acid (DNA) probe or nucleic acid hybridization technology rather than culture or immunoassay technology; or

(3) The device is an in vitro device that is intended:

(i) For use in the diagnosis, monitoring, or screening of neoplastic diseases with the exception of immunohistochemical devices;

(ii) For use in screening or diagnosis of familial and acquired genetic disorders, including inborn errors of metabolism;

(iii) For measuring an analyte that serves as a surrogate marker for screening, diagnosis, or monitoring life-threatening diseases such as acquired immune deficiency syndrome (AIDS), chronic or active hepatitis, tuberculosis, or myocardial infarction or to monitor therapy;

(iv) For assessing the risk of cardiovascular diseases;

(v) For use in diabetes management;

(vi) For identifying or inferring the identity of a microorganism directly from clinical material;

(vii) For detection of antibodies to microorganisms other than immunoglobulin G (IgG) and IgG assays when the results are not qualitative, or are used to determine immunity, or the assay is intended for use in matrices other than serum or plasma;

(viii) For noninvasive testing; and

(ix) For near patient testing (point of care).

7. Section 864.6100 is amended by revising paragraph (b) to read as follows:

§ 864.6100 Bleeding time device.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 864.9.

8. Section 864.6400 is amended by revising paragraph (b) to read as follows:

§ 864.6400 Hematocrit measuring device.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 864.9.

9. Section 864.9160 is amended by revising paragraph (b) to read as follows:

§ 864.9160 Blood group substance of nonhuman origin for in vitro diagnostic use.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 864.9.

10. Section 864.9550 is amended by revising paragraph (b) to read as follows:

§ 864.9550 Lectins and protectins.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 864.9.

11. Section 864.9575 is amended by revising paragraph (b) to read as follows:

§ 864.9575 Environmental chamber for storage of platelet concentrate.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 864.9.

12. Section 864.9600 is amended by revising paragraph (b) to read as follows:

§ 864.9600 Potentiating media for in vitro diagnostic use.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 864.9.

13. Section 864.9700 is amended by revising paragraph (b) to read as follows:

§ 864.9700 Blood storage refrigerator and blood storage freezer.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 864.9.

PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

14. The authority citation for 21 CFR part 866 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

15. Section 866.9 is amended by designating the introductory text as paragraph (a), by redesignating paragraphs (a) and (b) as paragraphs (a)(1) and (a)(2), respectively, and by adding new paragraph (b) to read as follows:

§ 866.9 Limitations of exemptions from section 510(k) of the Federal Food, Drug, and Cosmetic Act (the act).

* * * * *

(b) The exemption from the requirement of premarket notification for a generic type of class II device applies only to those class II devices that have existing or reasonably foreseeable characteristics of commercially distributed devices within that generic type, or, in the case of in vitro diagnostic devices, for which a misdiagnosis, as a result of using the device, would not be associated with high morbidity or mortality. A class II device for which FDA has granted an exemption from the requirement of premarket notification must still submit a premarket notification when:

(1) The device is intended for a use different from the intended use of a legally marketed device in that generic type of device; e.g., the device is intended for a different medical purpose, or the device is intended for lay use where the former intended use was by health care professionals only; or

(2) The modified device operates using a different fundamental scientific technology than a legally marketed device in that generic type of device; e.g., a surgical instrument cuts tissue with a laser beam rather than with a sharpened metal blade, or an in vitro diagnostic device detects or identifies infectious agents by using deoxyribonucleic acid (DNA) probe or nucleic acid hybridization technology rather than culture or immunoassay technology; or

(3) The device is an in vitro device that is intended:

(i) For use in the diagnosis, monitoring, or screening of neoplastic diseases with the exception of immunohistochemical devices;

(ii) For use in screening or diagnosis of familial and acquired genetic disorders, including inborn errors of metabolism;

(iii) For measuring an analyte that serves as a surrogate marker for screening, diagnosis, or monitoring life-threatening diseases such as acquired immune deficiency syndrome (AIDS), chronic or active hepatitis, tuberculosis, or myocardial infarction or to monitor therapy;

(iv) For assessing the risk of cardiovascular diseases;

(v) For use in diabetes management;

(vi) For identifying or inferring the identity of a microorganism directly from clinical material;

(vii) For detection of antibodies to microorganisms other than immunoglobulin G (IgG) and IgG assays when the results are not qualitative, or are used to determine immunity, or the assay is intended for use in matrices other than serum or plasma;

(viii) For noninvasive testing; and

(ix) For near patient testing (point of care).

16. Section 866.3060 is amended by revising paragraph (b) to read as follows:

§ 866.3060 Blastomyces dermatitidis serological reagents.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 866.9.

17. Section 866.3085 is amended by revising paragraph (b) to read as follows:

§ 866.3085 Brucella spp. serological reagents.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 866.9.

18. Section 866.3135 is amended by revising paragraph (b) to read as follows:

§ 866.3135 Coccidioides immitis serological reagents.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 866.9.

19. Section 866.3165 is amended by revising paragraph (b) to read as follows:

§ 866.3165 Crytococcus neoformans serological reagents.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 866.9.

20. Section 866.3220 is amended by revising paragraph (b) to read as follows:

§ 866.3220 Entamoeba histolytica serological reagents.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 866.9.

21. Section 866.3280 is amended by revising paragraph (b) to read as follows:

§ 866.3280 Francisella tularensis serological reagents.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 866.9.

22. Section 866.3300 is amended by revising paragraph (b) to read as follows:

§ 866.3300 Haemophilus spp. serological reagents.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 866.9.

23. Section 866.3320 is amended by revising paragraph (b) to read as follows:

§ 866.3320 Histoplasma capsulatum serological reagents.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 866.9.

24. Section 866.3350 is amended by revising paragraph (b) to read as follows:

§ 866.3350 Leptospira spp. serological reagents.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 866.9.

25. Section 866.3415 is amended by revising paragraph (b) to read as follows:

§ 866.3415 Pseudomonas spp. serological reagents.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 866.9.

26. Section 866.3550 is amended by revising paragraph (b) to read as follows:

§ 866.3550 Salmonella spp. serological reagents.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 866.9.

27. Section 866.3660 is amended by revising paragraph (b) to read as follows:

§ 866.3660 Shigella spp. serological reagents.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 866.9.

28. Section 866.3930 is amended by revising paragraph (b) to read as follows:

§ 866.3930 Vibrio cholerae serological reagents.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 866.9.

29. Section 866.5040 is amended by revising paragraph (b) to read as follows:

§ 866.5040 Albumin immunological test system.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 866.9.

30. Section 866.5320 is amended by revising paragraph (b) to read as follows:

§ 866.5320 Properdin factor B immunological test system.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 866.9.

31. Section 866.5380 is amended by revising paragraph (b) to read as follows:

§ 866.5380 Free secretory component immunological test system.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 866.9.

32. Section 866.5460 is amended by revising paragraph (b) to read as follows:

§ 866.5460 Haptoglobin immunological test system.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 866.9.

33. Section 866.5490 is amended by revising paragraph (b) to read as follows:

§ 866.5490 Hemopexin immunological test system.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 866.9.

PART 876—GASTROENTEROLOGY–UROLOGY DEVICES

34. The authority citation for 21 CFR part 876 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

35. Section 876.9 is amended by designating the introductory text as paragraph (a), by redesignating paragraphs (a) and (b) as paragraphs (a)(1) and (a)(2), respectively, and by adding new paragraph (b) to read as follows:

§ 876.9 Limitations of exemptions from section 510(k) of the Federal Food, Drug, and Cosmetic Act (the act).

* * * * *

(b) The exemption from the requirement of premarket notification for a generic type of class II device applies only to those class II devices that have existing or reasonably foreseeable characteristics of commercially distributed devices within that generic type, or, in the case of in vitro diagnostic devices, for which a misdiagnosis, as a result of using the device, would not be associated with high morbidity or mortality. A class II device for which FDA has granted an exemption from the requirement of premarket notification must still submit a premarket notification when:

(1) The device is intended for a use different from the intended use of a legally marketed device in that generic type of device; e.g., the device is intended for a different medical purpose, or the device is intended for lay use where the former intended use was by health care professionals only; or

(2) The modified device operates using a different fundamental scientific technology than a legally marketed device in that generic type of device; e.g., a surgical instrument cuts tissue with a laser beam rather than with a sharpened metal blade, or an in vitro diagnostic device detects or identifies infectious agents by using deoxyribonucleic acid (DNA) probe or nucleic acid hybridization technology rather than culture or immunoassay technology; or

(3) The device is an in vitro device that is intended:

(i) For use in the diagnosis, monitoring, or screening of neoplastic diseases with the exception of immunohistochemical devices;

(ii) For use in screening or diagnosis of familial and acquired genetic disorders, including inborn errors of metabolism;

(iii) For measuring an analyte that serves as a surrogate marker for screening, diagnosis, or monitoring life-threatening diseases such as acquired immune deficiency syndrome (AIDS), chronic or active hepatitis, tuberculosis, or myocardial infarction or to monitor therapy;

(iv) For assessing the risk of cardiovascular diseases;

(v) For use in diabetes management;

(vi) For identifying or inferring the identity of a microorganism directly from clinical material;

(vii) For detection of antibodies to microorganism other than immunoglobulin G (IgG) and IgG assays when the results are not qualitative, or are used to determine immunity, or the assay is intended for use in matrices other than serum or plasma;

(viii) For noninvasive testing; and

(ix) For near patient testing (point of care).

36. Section 876.1620 is amended by revising paragraph (b) to read as follows:

§ 876.1620 Urodynamics measurement system.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 876.9.

37. Section 876.1800 is amended by revising paragraph (b) to read as follows:

§ 876.1800 Urine flow or volume measuring system.

* * * * *

(b) *Classification.* (1) Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 876.9.

* * * * *

38. Section 876.2040 is amended by revising paragraph (b)(1) to read as follows:

§ 876.2040 Enuresis alarm.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 876.9.

39. Section 876.4370 is amended by revising paragraph (b)(1) to read as follows:

§ 876.4370 Gastroenterology-urology evacuator.

* * * * *

(b) *Classification.* (1) Class II (special controls) for the gastroenterology-urology evacuator when other than manually powered. The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 876.9.

* * * * *

40. Section 876.4650 is amended by revising paragraph (b) to read as follows:

§ 876.4650 Water jet renal stone dislodger system.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 876.9.

41. Section 876.4680 is amended by revising paragraph (b) to read as follows:

§ 876.4680 Ureteral stone dislodger.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 876.9.

42. Section 876.4890 is amended by revising paragraph (b)(1) to read as follows:

§ 876.4890 Urological table and accessories.

* * * * *

(b) *Classification.* (1) Class II (special controls) for the electrically powered urological table and accessories. The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 876.9.

* * * * *

43. Section 876.5250 is amended by revising paragraph (b)(1) to read as follows:

§ 876.5250 Urine collector and accessories.

* * * * *

(b) *Classification.* (1) Class II (special controls) for a urine collector and accessories intended to be connected to an indwelling catheter. The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 876.9.

* * * * *

PART 880—GENERAL HOSPITAL AND PERSONAL USE DEVICES

44. The authority citation for 21 CFR 880 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

45. Section 880.9 is amended by designating the introductory text as paragraph (a), by redesignating paragraphs (a) and (b) as paragraphs (a)(1) and (a)(2), respectively, and by adding new paragraph (b) to read as follows:

§ 880.9 Limitations of exemptions from section 510(k) of the Federal Food, Drug, and Cosmetic Act (the act).

* * * * *

(b) The exemption from the requirement of premarket notification for a generic type of class II device applies only to those class II devices that have existing or reasonably foreseeable characteristics of commercially distributed devices within that generic type, or, in the case of in vitro diagnostic devices, for which a misdiagnosis, as a result of using the device, would not be associated with high morbidity or mortality. A class II device for which FDA has granted an exemption from the requirement of premarket notification must still submit a premarket notification when:

(1) The device is intended for a use different from the intended use of a legally marketed device in that generic type of device; e.g., the device is intended for a different medical purpose, or the device is intended for lay use where the former intended use was by health care professionals only; or

(2) The modified device operates using a different fundamental scientific technology than a legally marketed device in that generic type of device; e.g., a surgical instrument cuts tissue with a laser beam rather than with a sharpened metal blade, or an in vitro diagnostic device detects or identifies infectious agents by using deoxyribonucleic acid (DNA) probe or nucleic acid hybridization technology rather than culture or immunoassay technology; or

(3) The device is an in vitro device that is intended:

(i) For use in the diagnosis, monitoring, or screening of neoplastic diseases with the exception of immunohistochemical devices;

(ii) For use in screening or diagnosis of familial and acquired genetic disorders, including inborn errors of metabolism;

(iii) For measuring an analyte that serves as a surrogate marker for screening, diagnosis, or monitoring life-threatening diseases such as acquired immune deficiency syndrome (AIDS), chronic or active hepatitis, tuberculosis, or myocardial infarction or to monitor therapy;

(iv) For assessing the risk of cardiovascular diseases;

(v) For use in diabetes management;

(vi) For identifying or inferring the identity of a microorganism directly from clinical material;

(vii) For detection of antibodies to microorganisms other than immunoglobulin G (IgG) and IgG assays when the results are not qualitative, or are used to determine immunity, or the assay is intended for use in matrices other than serum or plasma;

(viii) For noninvasive testing; and

(ix) For near patient testing (point of care).

46. Section 880.2200 is amended by revising paragraph (b) to read as follows:

§ 880.2200 Liquid crystal forehead temperature strip.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 880.9.

47. Section 880.2920 is amended by revising paragraph (b) to read follows:

§ 880.2920 Clinical mercury thermometer.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 880.9.

48. Section 880.5100 is amended by revising paragraph (b) to read as follows:

§ 880.5100 AC-powered adjustable hospital bed.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 880.9.

49. Section 880.5140 is amended by revising paragraph (b) to read as follows:

§ 880.5140 Pediatric hospital bed.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 880.9.

50. Section 880.5475 is amended by revising paragraph (b) to read as follows:

§ 880.5475 Jet lavage.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 880.9.

51. Section 880.5500 is amended by revising paragraph (b) to read as follows:

§ 880.5500 AC-powered patient lift.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 880.9.

52. Section 880.5550 is amended by revising paragraph (b) to read as follows:

§ 880.5550 Alternating pressure air flotation mattress.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 880.9.

53. Section 880.6740 is amended by revising paragraph (b) to read as follows:

§ 880.6740 Vacuum-powered body fluid suction apparatus.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures is subpart E of part 807 of this chapter subject to § 880.9.

54. Section 880.6775 is amended by revising paragraph (b) to read as follows:

§ 880.6775 Powered patient transfer device.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 880.9.

55. Section 880.6910 is amended by revising paragraph (b) to read as follows:

§ 880.6910 Wheeled stretcher.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 880.9.

PART 882—NEUROLOGICAL DEVICES

56. The authority citation 21 CFR part 882 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

57. Section 882.9 is amended by designating the introductory text as paragraph (a), by redesignating paragraphs (a) and (b) as paragraphs (a)(1) and (a)(2), respectively, and by adding new paragraph (b) to read as follows:

§ 882.9 Limitations of exemptions from section 510(k) of the Federal Food, Drug, and Cosmetic Act (the act).

* * * * *

(b) The exemption from the requirement of premarket notification for a generic type of class II device applies only to those class II devices that have existing or reasonably foreseeable characteristics of commercially distributed devices within that generic type, or, in the case of in vitro diagnostic devices, for which a misdiagnosis, as a result of using the device, would not be associated with high morbidity or mortality. A class II device for which FDA has granted an exemption from the requirement of premarket notification must still submit a premarket notification when:

(1) The device is intended for a use different from the intended use of a legally marketed device in that generic type of device; e.g., the device is intended for a different medical purpose, or the device is intended for lay use where the former intended use was by health care professionals only; or

(2) The modified device operates using a different fundamental scientific technology than a legally marketed device in that generic type of device; e.g., a surgical instrument cuts tissue with a laser beam rather than with a sharpened metal blade, or an in vitro diagnostic device detects or identifies infectious agents by using deoxyribonucleic acid (DNA) probe or nucleic acid hybridization technology rather than culture or immunoassay technology; or

(3) The device is an in vitro device that is intended:

(i) For use in the diagnosis, monitoring, or screening of neoplastic diseases with the exception of immunohistochemical devices;

(ii) For use in screening or diagnosis of familial and acquired genetic disorders, including inborn errors of metabolism;

(iii) For measuring an analyte that serves as a surrogate marker for screening, diagnosis, or monitoring life-threatening diseases such as acquired immune deficiency syndrome (AIDS), chronic or active hepatitis, tuberculosis, or myocardial infarction or to monitor therapy;

(iv) For assessing the risk of cardiovascular diseases;

(v) For use in diabetes management;

(vi) For identifying or inferring the identity of a microorganism directly from clinical material;

(vii) For detection of antibodies to microorganisms other than immunoglobulin G (IgG) and IgG assays when the results are not qualitative, or are used to determine immunity, or the assay is intended for use in matrices other than serum or plasma;

(viii) For noninvasive testing; and

(ix) For near patient testing (point of care).

58. Section 882.5050 is amended by revising paragraph (b) to read as follows:

§ 882.5050 Biofeedback device.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter when it is a prescription battery powered device that is indicated for relaxation training and muscle reeducation and prescription use, subject to § 882.9.

PART 886—OPHTHALMIC DEVICES

59. The authority citation 21 CFR Part 886 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

60. Section 886.9 is amended by revising the section heading, by designating the introductory text as paragraph (a), by redesignating paragraphs (a) and (b) as paragraphs (a)(1) and (a)(2), respectively, and by adding new paragraph (b) to read as follows:

§ 886.9 Limitations of exemptions from section 510(k) of the Federal Food, Drug, and Cosmetic Act (the act).

* * * * *

(b) The exemption from the requirement of premarket notification for a generic type of class II device applies only to those class II devices that have existing or reasonably foreseeable characteristics of commercially distributed devices within that generic type, or, in the case of in vitro diagnostic devices, for which a misdiagnosis, as a result of using the device, would not be associated with high morbidity or mortality. A class II device for which FDA has granted an exemption from the requirement of premarket notification must still submit a premarket notification when:

(1) The device is intended for a use different from the intended use of a legally marketed device in that generic type of device; e.g., the device is intended for a different medical purpose, or the device is intended for lay use where the former intended use was by health care professionals only; or

(2) The modified device operates using a different fundamental scientific technology than a legally marketed device in that generic type of device; e.g., a surgical instrument cuts tissue with a laser beam rather than with a sharpened metal blade, or an in vitro diagnostic device detects or identifies infectious agents by using deoxyribonucleic acid (DNA) probe or nucleic acid hybridization technology rather than culture or immunoassay technology; or

(3) The device is an in vitro device that is intended:

(i) For use in the diagnosis, monitoring, or screening of neoplastic diseases with the exception of immunohistochemical devices;

(ii) For use in screening or diagnosis of familial and acquired genetic disorders, including inborn errors of metabolism;

(iii) For measuring an analyte that serves as a surrogate marker for screening, diagnosis, or monitoring life-threatening diseases such as acquired immune deficiency syndrome (AIDS), chronic or active hepatitis, tuberculosis, or myocardial infarction or to monitor therapy;

(iv) For assessing the risk of cardiovascular diseases;

(v) For use in diabetes management;

(vi) For identifying or inferring the identity of a microorganism directly from clinical material;

(vii) For detection of antibodies to microorganisms other than immunoglobulin G (IgG) and IgG assays when the results are not qualitative, or are used to determine immunity, or the assay is intended for use in matrices other than serum or plasma;

(viii) For noninvasive testing; and

(ix) For near patient testing (point of care).

61. Section 886.3100 is amended by revising paragraph (b) to read as follows:

§ 886.3100 Ophthalmic tantalum clip.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 886.9.

62. Section 886.3130 is amended by revising paragraph (b) to read as follows:

§ 886.3130 Ophthalmic conformer.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 886.9.

63. Section 886.3800 is amended by revising paragraph (b) to read as follows:

§ 886.3800 Scleral shell.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 886.9.

PART 890—PHYSICAL MEDICINE DEVICES

64. The authority citation 21 CFR part 890 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

65. Section 890.9 is amended by designating the introductory text as paragraph (a), by redesignating paragraphs (a) and (b) as paragraphs (a)(1) and (a)(2), respectively, and by adding new paragraph (b) to read as follows:

§ 890.9 Limitations of exemptions from section 510(k) of the Federal Food, Drug, and Cosmetic Act (the act).

* * * * *

(b) The exemption from the requirement of premarket notification for a generic type of class II device applies only to those class II devices that have existing or reasonably foreseeable characteristics of commercially distributed devices within that generic type, or, in the case of in vitro diagnostic devices, for which a misdiagnosis, as a result of using the device, would not be associated with high morbidity or mortality. A class II device for which FDA has granted an exemption from the requirement of premarket notification must still submit a premarket notification when:

(1) The device is intended for a use different from the intended use of a legally marketed device in that generic type of device; e.g., the device is intended for a different medical purpose, or the device is intended for lay use where the former intended use was by health care professionals only; or

(2) The modified device operates using a different fundamental scientific technology than a legally marketed device in that generic type of device; e.g., a surgical instrument cuts tissue with a laser beam rather than with a sharpened metal blade, or an in vitro diagnostic device detects or identifies infectious agents by using deoxyribonucleic acid (DNA) probe or nucleic acid hybridization technology rather than culture or immunoassay technology; or

(3) The device is an in vitro device that is intended:

(i) For use in the diagnosis, monitoring, or screening of neoplastic diseases with the exception of immunohistochemical devices;

(ii) For use in screening or diagnosis of familial and acquired genetic disorders, including inborn errors of metabolism;

(iii) For measuring an analyte that serves as a surrogate marker for screening, diagnosis, or monitoring life-threatening diseases such as acquired immune deficiency syndrome (AIDS), chronic or active hepatitis, tuberculosis, or myocardial infarction or to monitor therapy;

(iv) For assessing the risk of cardiovascular diseases;

(v) For use in diabetes management;

(vi) For identifying or inferring the identity of a microorganism directly from clinical material;

(vii) For detection of antibodies to microorganisms other than immunoglobulin G (IgG) and IgG assays when the results are not qualitative, or are used to determine immunity, or the assay is intended for use in matrices other than serum or plasma;

(viii) For noninvasive testing; and

(ix) For near patient testing (point of care).

66. Section 890.1925 is amended by revising paragraph (b) to read as follows:

§ 890.1925 Isokinetic testing and evaluation system.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 890.9.

67. Section 890.3500 is amended by revising paragraph (b) to read as follows:

§ 890.3500 External assembled lower limb prosthesis.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 890.9.

68. Section 890.3710 is amended by revising paragraph (b) to read as follows:

§ 890.3710 Powered communication system.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 890.9.

69. Section 890.3725 is amended by revising paragraph (b) to read as follows:

§ 890.3725 Powered environmental control system.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 890.9.

70. Section 890.5160 is amended by revising paragraph (b) to read as follows:

§ 890.5160 Air-fluidized bed.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 890.9.

71. Section 890.5170 is amended by revising paragraph (b) to read as follows:

§ 890.5170 Powered flotation therapy bed.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 890.9.

72. Section 890.5225 is amended by revising paragraph (b) to read as follows:

§ 890.5225 Powered patient rotation bed.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 890.9.

73. Section 890.5720 is amended by revising paragraph (b) to read as follows:

§ 890.5720 Water circulating hot or cold pack.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 890.9.

74. Section 890.5740 is amended by revising paragraph (b) to read as follows:

§ 890.5740 Powered heating pad.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E part 807 of this chapter subject to § 890.9.

PART 892—RADIOLOGY DEVICES

75. The authority citation for 21 CFR part 892 continues to read follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

76. Section 892.9 is amended by designating the introductory text as paragraph (a), by redesignating paragraphs (a) and (b) as paragraphs (a)(1) and (a)(2), respectively, and by adding new paragraph (b) to read as follows:

§ 892.9 Limitations of exemptions from section 510(k) of the Federal Food, Drug, and Cosmetic Act (the act).

* * * * *

(b) The exemption from the requirement of premarket notification for a generic type of class II device applies only to those class II devices that have existing or reasonably foreseeable characteristics of commercially distributed devices within that generic type, or, in the case of in vitro diagnostic devices, for which a misdiagnosis, as a result of using the device, would not be associated with high morbidity or mortality. A class II device for which FDA has granted an exemption from the requirement of premarket notification must still submit a premarket notification when:

(1) The device is intended for a use different from the intended use of a legally marketed device in that generic type of device; e.g., the device is intended for a different medical purpose, or the device is intended for lay use where the former intended use was by health care professionals only; or

(2) The modified device operates using a different fundamental scientific technology than a legally marketed device in that generic type of device; e.g., a surgical instrument cuts tissue with a laser beam rather than with a sharpened metal blade, or an in vitro diagnostic device detects or identifies infectious agents by using deoxyribonucleic acid (DNA) probe or nucleic acid hybridization technology rather than culture or immunoassay technology; or

(3) The device is an in vitro device that is intended:

(i) For use in the diagnosis, monitoring, or screening of neoplastic diseases with the exception of immunohistochemical devices;

(ii) For use in screening or diagnosis of familial and acquired genetic disorders, including inborn errors of metabolism;

(iii) For measuring an analyte that serves as a surrogate marker for screening, diagnosis, or monitoring life-threatening diseases such as acquired immune deficiency syndrome (AIDS), chronic or active hepatitis, tuberculosis, or myocardial infarction or to monitor therapy;

(iv) For assessing the risk of cardiovascular diseases;

(v) For use in diabetes management;

(vi) For identifying or inferring the identity of a microorganism directly from clinical material;

(vii) For detection of antibodies to microorganisms other than immunoglobulin G (IgG) and IgG assays when the results are not qualitative, or are used to determine immunity, or the assay is intended for use in matrices other than serum or plasma;

(viii) For noninvasive testing; and

(ix) For near patient testing (point of care).

77. Section 892.1980 is amended by revising paragraph (b) to read as follows:

§ 892.1980 Radiologic table.

* * * * *

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 892.9.

Dated: October 22, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–29189 Filed 11–2–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN 0720–AA42

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); State Victims of Crime Compensation Programs; Voice Prostheses

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule establishes CHAMPUS as primary payer to State Victims of Crime Compensation Programs; and voice prostheses as a CHAMPUS benefit.

EFFECTIVE DATES: Amendments to §§ 199.2 and 199.8 are effective

September 13, 1994 and § 199.4(g)(48) is effective October 5, 1994.

FOR FURTHER INFORMATION CONTACT: Connie Kiese, TRICARE Management Activity, Office of Medical Benefits and Reimbursement Systems (303) 676–3578.

SUPPLEMENTARY INFORMATION: On October 20, 1997, DoD published an interim rule with a public comment period; however, no comments were received. Therefore, the interim final rule is being adopted as the final rule.

Under 10 U.S.C. 1079(j)(1), no CHAMPUS benefits shall be available for the payment for any service or supply for persons enrolled in any other insurance, medical service, or health plan to the extent that the service or supply is a benefit under the other plan, except in the case of those plans administered under title XIX of the Social Security Act (Medicaid), (51 FR 24008). Therefore, in all double coverage situations, and for all classes of beneficiaries, CHAMPUS shall be secondary payer except when the other medical coverage is provided through Medicaid.

However, on September 13, 1994, Public Law 103–322 was signed into law. Section 230202 of that law states that notwithstanding any other law, if the compensation paid by an eligible crime victim compensation plan would cover costs that a Federal program or a federally financed State or local program would otherwise pay, the crime compensation program shall not pay that compensation; and the other program shall make its payments without regard to the existence of the crime victim compensation program.

This provision mandates, as an exception to 10 U.S.C. 1079(j)(1), that CHAMPUS assume primary payer status to State Victims of Crime Compensation Programs. Benefits will be granted retroactively effective September 13, 1994.

Public Law 103–337, Section 705, October 5, 1994, added voice prostheses to the benefits available under CHAMPUS. Benefits will be granted retroactively effective October 5, 1994.

Regulatory Procedures

The Regulatory Flexibility Act (RFA) requires that each federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities.

This is not such a regulation. Nor is this final rule a significant regulatory action under Executive Order 12866. The changes set forth in this final rule are minor revisions to the existing regulation. In addition, this final rule does not impose new information collection requirements for purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511).

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health Insurance, Military personnel.

PART 199—[AMENDED]

Accordingly, 32 CFR part 199 is amended as follows:

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. Chapter 55.

2. Section 199.2(b) is amended by revising the definition "State Victims of Crime Compensation Programs" to read as follows:

§ 199.2 Definitions

* * * * *

(b) * * *

State victims of crime compensation programs. Benefits available to victims of crime under the Violent Crime Control and Law Enforcement Act.

* * * * *

3. Section 199.4 is amended by revising paragraph (g)(48) to read as follows:

§ 199.4 Basic program benefits

* * * * *

(g) * * *

(48) *Prosthetic devices.* Prostheses, except artificial limbs, voice prostheses, eyes, or if an item is inserted surgically in the body as an integral part of a surgical procedure. All dental prostheses are excluded, except for those specially required in connection with otherwise covered orthodontia directly related to the surgical correction of a cleft palate anomaly.

* * * * *

4. Section 199.8 is amended by revising paragraphs (b)(3)(iii), (b) (3)(iv) and (b)(3)(v) to read as follows:

§ 199.8 Double coverage.

* * * * *

(b) * * *

(3) * * *

(iii) Entitlement to receive care from Uniformed Services medical care facilities;

(iv) Certain Federal Government programs, as prescribed by the Director, OCHAMPUS, that are designed to provide benefits to a distinct beneficiary population and for which entitlement does not derive from either premium payment of monetary contribution (for example, the Indian Health Service); or

(v) State Victims of Crime Compensation Programs.

* * * * *

Dated: October 19, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–28414 Filed 11–2–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–98–093]

RIN 2115–AE46

Special Local Regulations for Marine Events; Blackbeard's Bounty Festival Pirate Attack, Bogue Sound, Morehead City, North Carolina

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Temporary special local regulations are being adopted for the Blackbeard's Bounty Festival Pirate Attack to be held in the waters of Bogue Sound, between the Morehead City waterfront and Sugar Loaf Island, North Carolina. These special local regulations are necessary to control vessel traffic in the immediate vicinity of this event. The effect will be to restrict general navigation in the regulated area for the safety of spectators, event participants, and transiting vessels.

EFFECTIVE DATE: This regulation is effective from 1:30 p.m. to 6 p.m. on November 7, 1998.

FOR FURTHER INFORMATION CONTACT: Petty Officer Matheny, Marine Events Coordinator, Commander, Coast Guard Group Fort Macon, P.O. Box 237, Atlantic Beach, North Carolina 28512–0237, telephone number (252) 247–4570.

SUPPLEMENTARY INFORMATION:

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impractical. The request to hold the event was not received until October 9, 1998. Publishing a notice of proposed rulemaking and delaying its effective date would be contrary to safety interests, since immediate action is needed to minimize potential danger to the participants in this event.

Background and Purpose

On November 7, 1998, the Morehead City Downtown Revitalization Committee will sponsor the Blackbeard's Bounty Festival Pirate Attack in the waters of Bogue Sound, between the Morehead City waterfront and Sugar Loaf Island. The event will consist of a mock pirate attack, with simulated cannon fire and pyrotechnic displays. These temporary special local regulations are necessary to provide for the safety of life and property on navigable waters during the event.

Discussion of Regulations

The Coast Guard will establish temporary special local regulations on specified waters of Bogue Sound, between the Morehead City waterfront and Sugar Loaf Island. The temporary special local regulations will be in effect from 1:30 p.m. to 6 p.m. on November 7, 1998. Except for participants in the Blackbeard's Bounty Festival Pirate Attack and vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area without the permission of the Patrol Commander.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory procedures of DOT is unnecessary. Since the regulations will only be in effect for a short period, the impacts on routine navigation are expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this rule to be minimal, the Coast Guard certifies under Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601–612) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

These regulations contain no collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(h) of COMDTINST M16475.1C, this rule is categorically excluded from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade are excluded under that authority.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Temporary Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary Section 100.35–T05–093 is added to read as follows:

§ 100.35–T05–093 Bogue Sound Morehead City, North Carolina.

(a) *Definitions:*

(1) *Regulated area:* The waters of Bogue Sound between the Morehead City waterfront and Sugar Loaf Island from shoreline to shoreline, bounded on the west by a line drawn along longitude 76°43′00″ West and bounded on the east by a line drawn along longitude 76°42′30″ West. All coordinates reference Datum NAD 1983.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Fort Macon.

(b) *Special Local Regulations:*

(1) Except for participants in the Blackbeard's Bounty Festival Pirate Attack and vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area without the permission of the Patrol Commander.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(c) *Effective dates:* This temporary final rule is effective from 1:30 p.m. to 6 p.m. on November 7, 1998.

Dated: October 21, 1998.

Roger T. Rufe, Jr.,

Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 98–29413 Filed 11–2–98; 8:45 am]

BILLING CODE 4910–15–M

LIBRARY OF CONGRESS

Copyright Office

37 CFR, Part 201

[Docket No. 98–11]

Designation of Agent to Receive Notification of Claimed Infringement

AGENCY: Copyright Office, Library of Congress.

ACTION: Interim regulations.

SUMMARY: The Copyright Office of the Library of Congress is issuing interim regulations governing the designation by online service providers of agents to receive notifications of claimed infringement. The regulations are issued on an interim basis without opportunity for comment due to the necessity of having regulations in place immediately upon enactment of the Online Copyright Infringement Liability Limitation Act. These regulations will be replaced by more complete regulations to be promulgated following notice and opportunity for comment.

EFFECTIVE DATE: The interim regulations are effective November 3, 1998.

ADDRESSES: An original and fifteen copies of the comments shall be delivered to: Office of the General Counsel, Copyright Office, LM–403, James Madison Memorial Building, 101 Independence Avenue, SE, Washington, DC, or mailed to: David Carson, General Counsel, Copyright GC/I&R, P.O. Box

70400, Southwest Station, Washington, D.C. 20024.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Jennifer L. Hall, Senior Attorney, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380.

SUPPLEMENTARY INFORMATION:

Background

On October 28, 1998, President Clinton signed into law the Digital Millennium Copyright Act, Pub. L. 105–_____ (1998). Title II of the Act (subtitled the "Online Copyright Infringement Liability Limitation Act") amended chapter 5 of the copyright law, title 17 United States Code, to provide limitations for service provider liability relating to material online. Specifically, new subsection 512(c) provides limitations on service provider liability with respect to material residing, at the direction of a user, on a system or network that the service provider controls or operates, if the conditions set forth in subsection 512(c)(1) are satisfied.

The limitations on liability established in subsection 512(c) apply to a service provider only if the service provider has designated an agent to receive notifications of claimed infringement by providing contact information for that agent (1) to the Copyright Office and (2) through the service provider's publicly accessible website. 17 U.S.C. 512(c)(2). The required information includes: (A) The name, address, telephone number, and electronic mail address of the agent; and (B) other contact information that the Register of Copyrights deems appropriate. Id. The Register of Copyrights shall maintain a current directory of designated agents, and make the listing available to the public for inspection, and may require payment of a fee by service providers to cover the costs of maintaining the directory. Id.

Because the Online Copyright Infringement Liability Limitation Act was effective on its date of enactment, and because online service providers may wish immediately to designate agents to receive notification of claimed infringement in order to meet the requirements of section 512(c)(2), the Copyright Office herein establishes interim regulations governing the designation of agents to receive notification of claimed infringement. The Office finds, for good cause, that notice and public procedure for issuance of these interim regulations would be impracticable, because of the necessity of having a procedure for designation of agents in place immediately upon the enactment of the Online Copyright Infringement Liability Limitation Act. These interim regulations will be effective immediately, but the Office will publish a notice of proposed rulemaking within the next several weeks seeking comments on more comprehensive final regulations governing the designation of agents to receive notification of claimed infringement. Interim designations filed pursuant to these interim regulations will be valid until the effective date of the final regulations. At that time, service providers wishing to invoke section 512(c)(2) will have to file new designations that satisfy the requirements of the final regulations, which will include the payment of the fee required under the final regulations.

Under section 512(c)(2), a service provider designates an agent by providing information required by Copyright Office regulations both on its publicly available website and in a filing with the Copyright Office. The requirements for such designation during the interim period prior to issuance of final regulations are governed by the rules set forth in the new interim regulations set forth in 37 CFR 201.38. During the interim period the Office will not provide printed forms for filing such interim designations. In order to satisfy section 512(c)(2), online service providers must file a document entitled "Interim Designation of Agent to Receive Notifications of Claimed Infringement" which contains all the information required by section 512(c)(2). Section 512(c)(2) provides that the Office may require payment of a fee by service providers to cover the costs of maintaining a directory of agents. The Office concludes that during the interim period, the appropriate fee for the filing of an interim designation is $20.00, the fee currently charged for recordation of a document. *See* 17 U.S.C. 708(a)(4). The fee that will be charged for filing a Designation of Agent to Receive Notifications of Claimed Infringement under the final regulations most likely will be higher.

During the interim period before final regulations are promulgated, each Interim Declaration may be filed only on behalf of a single service provider. For purposes of these interim regulations, related companies (e.g., parents and subsidiaries) are considered separate service providers who would file separate Interim Designations. When it considers final regulations, the Office will solicit comments as to whether related companies (e.g., parent and subsidiary companies) should be permitted to file a single Designation of Agent to Receive Notifications of Claimed Infringement.

List of Subjects in 37 CFR Part 201

Copyright.

Interim Regulations

For the reasons set forth in the preamble, part 201 of title 37 of the Code of Federal Regulations is amended to read as follows:

PART 201—GENERAL PROVISIONS

1. The authority for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

2. Section 201.38 is added to read as follows:

§ 201.38 Designation of agent to receive notification of claimed infringement.

(a) *General.* This section prescribes interim rules under which service providers may provide the Copyright Office with designations of agents to receive notification of claimed infringement under section 512(c)(2) of title 17 of the United States Code, as amended. These interim rules shall remain in effect until more comprehensive rules have been promulgated following a notice of proposed rulemaking and receipt of public comments.

(b) *Forms.* The Copyright Office does not provide printed forms for filing an Interim Designation of Agent to Receive Notification of Claimed Infringement.

(c) *Content.* An "Interim Designation of Agent to Receive Notification of Claimed Infringement" shall be identified as such by prominent caption or heading, and shall include the following information with respect to a single service provider:

(1) The full legal name and address of the service provider;

(2) All names under which the service provider is doing business;

(3) The name of the agent designated to receive notification of claimed infringement;

(4) The full address, including a specific number and street name or rural route, of the agent designated to receive notification of claimed infringement. A post office box or similar designation will not be sufficient except where it is the only address that can be used in that geographic location;

(5) The telephone number, facsimile number, and electronic mail address of the agent designated to receive notification of claimed infringement.

(d) *Signature.* The Interim Designation of Agent to Receive Notification of Claimed Infringement shall include the signature of the appropriate officer or representative of the service provider designating the agent. The signature shall be accompanied by the printed or typewritten name and title of the person signing the Notice, and by the date of signature.

(e) *Filing.* A service provider may file the Interim Designation of Agent to Receive Notification of Claimed Infringement with the Public Information Office of the Copyright Office, Room LM–401, James Madison Memorial Building, Library of Congress, 101 Independence Avenue, SE, Washington, DC, during normal business hours, 9 am to 5 pm. If mailed, the Interim Designation should be addressed to: Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024. Each designation shall be accompanied by a filing fee of $20.00. Designations and amendments will be posted online on the Copyright Office's website (http://www.loc.gov/copyright).

(f) *Amendments.* In the event of a change in the information reported in an Interim Designation of Agent to Receive Notification of Claimed Infringement, a service provider shall file with the Public Information Office of the Copyright Office an amended Interim Designation of Agent to Receive Notification of Claimed Infringement, containing the current information required by section 201.38(c). The amended Interim Designation shall be signed in accordance with the requirements of section 201.38(d) and shall be accompanied by a fee of $20.00.

(g) *Termination and dissolution.* If a service provider terminates its operations, the entity shall notify the Copyright Office by certified or registered mail.

Dated: October 28, 1998.

Marybeth Peters,

Register of Copyrights.

Approved:

James H. Billington,

The Librarian of Congress.

[FR Doc. 98–29382 Filed 11–2–98; 8:45 am]

BILLING CODE 1410–30–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 98–10]

Corrections and Amplifications of Copyright Registrations; Applications for Supplementary Registration

AGENCY: Copyright Office, Library of Congress.

ACTION: Interim Rule; correction.

SUMMARY: Subsection 408(d) of the Copyright Act authorizes the Register of Copyrights to accept applications for supplementary registration to correct errors or amplify information in basic registrations. The Copyright Office of the Library of Congress is now changing the regulatory language to clarify the type of amplification that may be made to a basic registration through supplementary registration.

EFFECTIVE DATE: November 3, 1998.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Renee Coe, Attorney Advisor, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024. Telephone (202) 707–8380 or Telefax (202) 707–8366.

SUPPLEMENTARY INFORMATION:

Background

Subsection 408(d) of the Copyright Act authorizes the Register of Copyrights to accept applications for supplementary registration. The purpose of supplementary registration is to correct errors or amplify information in a basic registration. The regulations for supplementary registration are contained in 37 CFR 201.5, which took effect on January 1, 1978, to implement the 1976 revision of the Copyright Act. Since that time, only minor technical amendments have been made to § 201.5.

The Copyright Office is now revising portions of § 201.5(b) to convey more clearly the Copyright Office's practices and procedures regarding the kind of amplifications that may be made to a basic registration through supplementary registration. The purpose of this notice is to remove any ambiguity concerning paragraph (b) that might exist by clarifying what has been standard practice for many years.

The Copyright Office determined that paragraph (b) should be clarified after it recently became aware that a member of the public misinterpreted the kind of amplification that may be made to a basic application through supplementary registration. Under this misinterpretation, paragraph (b) would prevent an amplification to add the name of someone who is a co-claimant or co-owner of a copyright but who is not also a co-author. The Copyright Office recognizes that paragraph (b) may be susceptible of such a misinterpretation. This amendment will preclude such an interpretation by clarifying that supplementary registration may be used to add the name of a co-owner or co-claimant who is not a co-author but whose name should have been provided at the time the basic registration was made.

This clarification is made by limiting amplifications to the information that is required by the application for the basic registration. See § 201.5(b)(2)(ii)(A). Defined this way, it is clear that supplementary registration may be made to add information about claimants, whether or not they are also authors, if such information constitutes a correct statement of the facts that existed at the time of the original submission of the claim already on record. The information that is required in an application for a basic registration is set forth at 17 U.S.C. 409. The Copyright Office follows the general policy of requiring all authors and copyright claimants to supply information, consistent with 17 U.S.C. 409, concerning the authorship being claimed in the application for registration.

As revised, § 201.5(b)(2)(ii)(A) now expressly states that a supplementary registration may be made to provide information "such as the identity of a co-author or co-claimant." This amendment also clarifies that an amplification may not be made through supplementary registration to add information about an owner or claimant who acquired a copyright claim on or after the effective date of registration. See § 201.5(b)(2)(iii)(A).

These changes clarify what have been the Copyright Office's longstanding practices and procedures. There will be no change in Copyright Office procedures as a result of this amendment.

List of Subjects in 37 CFR Part 201

Copyright, Registration.

Interim Rule

For the reasons stated above, 37 CFR 201.5 is amended as set forth below:

PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

§ 201.5 [Amended]

2. Amend § 201.5 to revise paragraphs (b)(2)(ii) and (b)(2)(iii)(A) to read as follows:

* * * * *

(b) * * *

(2) * * *

(ii) An amplification is appropriate:

(A) To supplement or clarify the information that was required by the application for the basic registration and should have been provided, such as the identity of a co-author or co-claimant, but was omitted at the time the basic registration was made, or

(B) To reflect changes in facts, other than those relating to transfer, license, or ownership of rights in the work, that have occurred since the basic registration was made.

(iii) * * *

(A) an amplification, to reflect a change in ownership that occurred on or after the effective date of the basic registration or to reflect the division, allocation, licensing or transfer of rights in a work; or

* * * * *

Dated: October 25, 1998.

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

Librarian of Congress.

[FR Doc. 98–29383 Filed 11–2–98; 8:45 am]

BILLING CODE 1410–30–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7700]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street SW., room 417, Washington, DC 20472, (202) 646–3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Associate Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Associate Director finds that the delayed effective dates would be contrary to the public interest. The Associate Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U. S. C. 601 *et seq.*, because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of eligibility	Current effective map date
New Eligibles—Emergency Program			
Alabama: Valley, city of, Chambers County	010424	September 15, 1998.	
Kentucky: Irvington, city of, Breckinridge County	210380	.....do.	
Tennessee: Bedford County, unincorporated areas	470006	.....do.	
Georgia: Sugar Hill, city of, Gwinnett County	130474	September 30, 1998..	

State/location	Community No.	Effective date of eligibility	Current effective map date
Indiana: Parke County, unincorporated areas	180192	.....do	April 14, 1978.
Kansas: Hoxie, city of, Sheridan County	200508	.....do	June 18, 1976.
New Eligibles—Regular Program			
Wisconsin: Ootsburg, village of Sheboygan County	550427	August 31, 1998	June 4, 1976.
Texas: Webb County, unincorporated areas	481059	September 8, 1998	May 17, 1982.
California: Canyon Lake, city of, Riverside County [1]	060753	September 15, 1998	November 20, 1996.
Texas: Rio Bravo, city of, Webb County [2]	481684	.....do	May 17, 1982.
Reinstatements			
Pennsylvania: West Sadsbury, township of, Chester County.	422281	March 23, 1976, Emerg; August 5, 1985, Reg; November 20, 1996, Susp; September 10, 1998, Rein.	November 20, 1996.
Indiana: Alton, town of, Crawford County	180031	March 19, 1984, Emerg; March 19, 1984, Reg; August 4, 1995, Susp; September 30, 1998, Rein.	August 1, 1983.
Wisconsin: Oconto County, unincorporated areas	550294	May 21, 1973, Emerg; January 6, 1983, Reg; August 3, 1998, Susp; September 30, 1998, Rein.	August 3, 1998
Regular Program Conversions			
Region II			
New York:			
Camden, town of, Oneida County	360523	September 7, 1998, Suspension Withdrawn	September 7, 1998.
Endicott, village of, Broome County	360045	.....do	Do.
Trenton, town of, Oneida County	360556	.....do	Do.
Region V			
Michigan: Logan, township of, Mason County	260811	.....do	Do.
Region VIII			
Montana:			
Hamilton, city of, Ravalli County	300186	.....do	Do.
Ravalli County, unincorporated areas	300061	.....do	Do.
Utah: Sevier County, unincorporated areas	490121	.....do	Do.
Region II			
New York: Rome, city of, Oneida County	360542	September 21, 1998, Suspension Withdrawn	September 21, 1998.
Region III			
Pennsylvania: Carroll, township of, Perry County	421949	.....do	Do.
Region IV			
Georgia: Charlton County, unincorporated areas	130292	.....do	Do.
Kentucky: Pike County, unincorporated areas	210298	.....do	Do.
Region V			
Wisconsin:			
Avoca, village of, Iowa County	550173	.....do	Do.
Iowa County, unincorporated areas	550522	.....do	Do.
Manitowoc County, unincorporated areas	550236	.....do	Do.
Region VI			
Arkansas: Lakeview, town of, Phillips County	050169	.....do	Do.
Texas: Newton County, unincorporated areas	480499	.....do	Do.
Region VII			
Kansas: Kansas City, city of, Wyandotte County	200363	.....do	Do.
Nebraska:			
Columbus, city of, Platte County	315272	.....do	Do.
Platte Center, village of, Platte County	310178	.....do	Do.
Platte County, unincorporated areas	310467	.....do	Do.
Region VIII			
Wyoming:			
Cokeville, town of, Lincoln County	560033	.....do	Do.
Lincoln County, unincorporated areas	560032	.....do	Do.
Region X			
Alaska: Emmonak, city of, unorganized borough	020125	.....do	Do.

[1] The City of Canyon Lake has adopted the Riverside County (CID #060245) Flood Insurance Rate Map dated November 20, 1996.

[2] The City of Rio Bravo has adopted the Webb County (CID #481059) Flood Insurance Rate Map dated May 17, 1998, panel 850.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension; With.—Withdrawn; NSFHA—Non Special Flood Hazard Area.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: October 21, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–29415 Filed 11–2–98; 8:45 am]

BILLING CODE 6718–05–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–215; RM–9168]

Radio Broadcasting Services; Wilson and Turrell, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document reallots Channel 234A from Wilson to Turrell, Arkansas, and modifies the authorization of Pollack Broadcasting Company for Station KAFW(FM) to specify operation on Channel 234A at Turrell, Arkansas, as requested, pursuant to the provisions of Section 1.420(i) of the Commission's Rules. *See* 62 FR 54819, October 22, 1997. The reallotment of Channel 234A to Turrell will provide that community with its first local aural transmission service. Coordinates used for Channel 234A at Turrell are 35–22–36 NL and 90–15–12 WL. With this action, the proceeding is terminated.

EFFECTIVE DATE: December 7, 1998.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–215, adopted October 14, 1998, and released October 23, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended by removing Wilson, Channel 234A and adding Turrell, Channel 234A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–29322 Filed 11–2–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–253; RM–9198]

Radio Broadcasting Services; Daingerfield, Ore City, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of OARA, Inc. substitutes Channel 295C3 for Channel 295A at Daingerfield; reallots Channel 295C3 from Daingerfield to Ore City, Texas, as the community's first local aural service, and modifies petitioner's license for Station KWSK(FM). Channel 295C3 can be allotted to Ore City, Texas, in compliance with the Commission's minimum distance separation requirements with at a site 13.5 kilometers (8.4 miles) north-west to accommodate petitioner's desired transmitter site. The coordinates for Channel 295C3 at Ore City, Texas, are 32–52–55 North Latitude and 94–49–18 West Longitude. With this action, this proceeding is terminated.

EFFECTIVE DATE: Effective December 7, 1998.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–253, adopted October 14 , 1998, and released October 23, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 295A at Daingerfield, and adding Channel 295C3 at Ore City.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–29321 Filed 11–2–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–95; RM–8787, RM–8838]

Radio Broadcasting Services; Plattsmouth and Papillion, NE, Osceola, IA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Platte Broadcasting Company, Inc., substitutes Channel 295C3 for Channel 295A at Plattsmouth, NE, and modifies the license of Station KOTD–FM to specify the higher powered channel. The Commission also substitutes Channel 296C2 for Channel 295C2 at Osceola, IA, and modifies the license of Station KJJC to specify the alternate Class C2 channel. See 61 FR 20206, May 6, 1996. The counterproposal of LifeStyle Communications Corporation, licensee of Station KJJC, to allot Channel 295A to Papillion, NE, as the community's first local aural service, substitute Channel 299A for Channel 295A at Plattsmouth, NE, and modify the license of Station KOTD–FM to specify the alternate Class A channel is dismissed. Channel 295C3 can be allotted to Plattsmouth with a site restriction of 18.4 kilometers (11.4 miles) northeast to avoid a short-spacing to Station KTPK, Channel 295C, Topeka, Kansas, and to accommodate Platte Broadcasting's desired transmitter site, at coordinates 41–09–22 North Latitude and 95–47–03 West Longitude. Channel 296C2 can be allotted to Osceola at Station KJJC's presently licensed transmitter site, at coordinates 41–01–34; 93–51–43. With this action, this proceeding is terminated.

DATES: Effective December 7, 1998.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 96–95, adopted October 14, 1998, and released October 23, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334. 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by removing Channel 295C2 and adding Channel 296C2 at Osceola.

3. Section 73.202(b), the Table of FM Allotments under Nebraska, is amended by removing Channel 295A and adding Channel 295C3 at Plattsmouth.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–29319 Filed 11–2–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–83; RM–9280]

Radio Broadcasting Services; Questa, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Metro Broadcasters-Texas, Inc., allots Channel 279C1 to Questa, NM, as the community's first local aural service. *See* 63 FR 34622, June 25, 1998. Channel 279C1 can be allotted to Questa in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.8 kilometers (3.6 miles) southeast, at coordinates 36–40–33 North Latitude; 105–32–27 West Longitude, to avoid a short-spacing to both the allotment reference coordinates and the transmitter site specified in the application of Idaho Broadcasting Consortium, Inc. (BPH–971126MD), for Channel 279C2 at Silverton, CO. With this action, this proceeding is terminated.

DATES: Effective December 7, 1998. A filing window for Channel 279C1 at Questa, NM, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–83, adopted October 14, 1998, and released October 23, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New Mexico, is amended by adding Questa, Channel 279C1.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–29317 Filed 11–2–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE37

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for Virginia Sneezeweed (Helenium virginicum), a Plant From the Shenandoah Valley of Virginia

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service or we) determines *Helenium virginicum* (Virginia sneezeweed) to be a threatened species, under the authority of the Endangered Species Act of 1973, as amended (Act). This rare plant is restricted to seasonally inundated sinkhole ponds and meadows in Augusta and Rockingham counties, Virginia. Five of the 25 known extant populations are on United States Forest Service land; the others are on private land. This perennial plant is threatened by residential development, incompatible agricultural practices, filling and ditching of its wetland habitat and other disruptions of its habitat and the hydrology that maintains it. *Helenium virginicum* is listed as endangered by the State of Virginia. This rule implements Federal protection and recovery provisions afforded by the Act for this species.

DATES: This rule is effective December 3, 1998.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the United States Fish and Wildlife Service, Chesapeake Bay Field Office, 177 Admiral Cochrane Drive, Annapolis, MD 21401.

FOR FURTHER INFORMATION CONTACT: Andy Moser, at the above address or by telephone (410/573–4537).

SUPPLEMENTARY INFORMATION:

Background

Helenium virginicum (Virginia sneezeweed) is a perennial plant and a member of the aster family (Asteraceae) known only from Augusta and

Rockingham counties, Virginia. The common name, sneezeweed, is based on the use of the dried leaves of these plants in making snuff, inhaled to cause sneezing that would supposedly rid the body of evil spirits (Niering 1979). *Helenium virginicum* stems grow to a height of 4 to 11 decimeters (1.5 to 3.5 feet) above a rosette of basal leaves. Coarse hairs are visible on the basal and lower stem leaves. The basal leaves may be broad in the middle tapering toward the ends, but otherwise may appear oblong. Stem leaves are lance-shaped, and become progressively smaller from the base to the tip of the stem. The stems are winged, the wings being continuous with the base of the stem leaves. The flower ray petals are yellow, and wedge-shaped with three lobes at the ends. The central disk of the flower is nearly ball-shaped. Flowering occurs from July to October (Virginia Department of Conservation and Recreation 1995).

Helenium virginicum is similar to common sneezeweed (*Helenium autumnale*), but differs in having a sparsely-leaved stem, larger basal leaves, and longer pappus scales (appendages which crown the ovary or fruit). It is also differentiated by leaf shape, stem and leaf hairs, and habitat requirements. Comparison of morphological and ecological characters with plants in common gardens and transplant sites (Knox *et al.* 1995) clearly demonstrated that *H. virginicum* and *H. autumnale* were two distinct species.

S.F. Blake first described *Helenium virginicum* in 1936 from specimens collected near Stuart's Draft, Virginia. The species is a wetland plant found on the shores of shallow, seasonally flooded ponds in Virginia's Shenandoah Valley. From 1985 through 1995, extensive status survey work was conducted for *H. virginicum* in over 100 limestone sinkhole ponds along the western edge of the Blue Ridge Mountains in the Shenandoah Valley of Virginia. A total of 28 separate populations were located during these surveys.

In addition, one *Helenium* population with similarities to *H. virginicum* has been found near Pomona, Missouri. This population was originally described as a hybrid between *H. autumnale* and *H. flexuosum* (Steyermark 1960). However a recent study (Knox *et al.* 1995) shows that this population of *Helenium* shares 12 of 15 morphological characters with *H. virginicum*, but indicates that more genetic and evolutionary study is necessary to clarify the relationship of this population with *H. virginicum*. Should further studies demonstrate that this population is *H. virginicum*, the existence of this single additional population would not significantly change the status of the species or the need to list it. Because this region of Missouri has been extensively surveyed over many years, it is unlikely that any additional *H. virginicum*-like populations occur there (G. Yatskievych, Missouri Dept. of Conservation, pers. comm. 1997).

The ponds supporting *H. virginicum* range in size from less than 0.04 hectare (ha) (0.1 acre (ac)) to 3 ha (8 ac) and are seasonally flooded or semi-permanent bodies of water. These ponds have poorly drained, acidic, silty loam soils, and are typically flooded from January through July.

Helenium virginicum is adapted to survive the water level fluctuations of the seasonal ponds, giving it a competitive advantage in this habitat. From year to year, the number of *H. virginicum* plants at any given site may vary greatly. A high water level one year may leave the ponds flooded, resulting in less shoreline for plants to become established or to survive. However, a high water level also eliminates the invading shrubs and trees that may compete with *H. virginicum* on the pond shores. When the water level is lower, more pond shore is exposed and the surviving plants and the seeds stored in the soil enable the *H. virginicum* populations to rebound (Virginia Department of Conservation and Recreation 1995).

Helenium virginicum disperses seeds in late fall and winter; the seeds germinate in late summer or early fall of the following year if conditions are suitable. Seeds will not germinate in the dark or under a standing column of water. In the first year of growth, the plant exists as a basal rosette with a diffuse root system. Plants seem to grow year-round, even while submerged. Flowering usually does not occur until the plant is more than 1 year old. *Helenium virginicum* forms one aerial stem bearing several flower heads during the first flowering season; in subsequent years it may form several flowering stems in a season. Plants may live for 5 years, flowering in consecutive years (J.S. Knox, Washington and Lee University, pers. comm. 1997).

Of the 28 populations of *Helenium virginicum* identified during the 10-year survey period, 25 are currently extant. The remaining three populations, where no *H. virginicum* have been seen in recent years, may be extirpated. Of the 25 extant populations, 5 are on U.S. Forest Service land and the remaining 20 are on private lands. The most recent status report (Van Alstine 1996) provides an excellent review of the status and trends for the species. The report indicates that the majority of sites on private land are in wetlands and continue to have a range of disturbances and threats including ditching, filling, mowing, and grazing.

Previous Federal Action

Federal government actions on this species began on November 28, 1983, when we published a notice of review in the **Federal Register** (48 FR 53640) covering all native plants being considered for listing as endangered or threatened. We included *Helenium virginicum* in that notice as a category 2 species. We defined category 2 candidates as those taxa for which we had information indicating that listing may be warranted but for which we lacked sufficient information on status and threats to support issuance of proposed listing rules. We subsequently retained it as a category 2 species when we revised the Notice of Review for Native Plants in 1985 (50 FR 39526), and again in 1990 (55 FR 61184).

In 1985, The Nature Conservancy conducted status surveys of *Helenium virginicum* and numerous other rare plant species. Their final report, dated October 20, 1986, recommended threatened status for this plant but indicated that additional ponds should be checked for the presence of this species.

In 1990 and 1991, the Virginia Department of Conservation and Recreation's Division of Natural Heritage (VDCRDNH) conducted further fieldwork, funded in part by us, to locate additional *Helenium virginicum* populations. The VDCRDNH conducted an exhaustive search and discovered seven additional locations of the species, but three of these locations contained very few individuals. Based largely on this new information, we designated *H. virginicum* as a category 1 candidate when we revised the Notice of Review for Plant Taxa in 1993 (58 FR 51144). We defined category 1 candidates as those taxa for which we had on file sufficient information on biological vulnerability and threats to support preparation of listing proposals. Upon publication of the February 28, 1996, notice of review (61 FR 7596), we ceased using category designations and included *H. virginicum* as a candidate species. Candidate species are those taxa for which we have on file sufficient information on biological vulnerability and threats to support proposals to list the species as threatened or endangered.

We published a proposed rule to list *H. virginicum* as threatened in the **Federal Register** on September 29, 1997 (62 FR 50896).

Summary of Comments and Recommendations

In the September 29, 1997, proposed rule (62 FR 50896) and associated notifications, we requested all interested parties to submit factual reports or information that might contribute to the development of a final rule. We contacted appropriate State and Federal agencies and representatives, county governments, scientific organizations, and other interested parties and requested comments. We published legal notices soliciting comments in three Virginia newspapers—the *Harrisonburg News-Record* on October 17, 1997, the *Staunton News-Leader* on October 12, 1997, and the *Waynesboro News-Virginian* on October 10, 1997.

Six individuals and organizations submitted comment letters. Two peer reviewers supported the listing and provided additional pertinent information which we incorporated into the final rule. The U.S. Forest Service and the Virginia Department of Agriculture and Consumer Services supported listing, the Virginia Department of Transportation was neutral, and the Pacific Legal Foundation opposed listing. One private landowner commented by telephone, but neither supported nor opposed the listing.

The following summary includes responses to all substantive written and oral comments we received during the comment period.

Issue 1: One commenter stated that we lack authority under the Act pursuant to the Commerce Clause of Article 1, Section 8 of the United States Constitution to regulate this plant species because "the Fish and Wildlife Service must show that regulation of these plants will address activities that bear a substantial relation to or substantially affect interstate commerce" and "based upon the information contained in the Proposed Rule, regulation of the Virginia sneezeweed does not bear a connection to impacts upon interstate commerce."

Response: A recent decision in the United States Court of Appeals for the District of Columbia Circuit (*National Association of Homebuilders* v. *Babbitt*, 130 F. 3d 1041, D.C. Cir. 1997) makes it clear in its application of the test used in the United States Supreme Court case, *United States* v. *Lopez*, 514 U.S. 549 (1995), that regulation of species limited to one State under the Act is within Congress' commerce clause power. On June 22, 1998, the Supreme Court declined to accept an appeal of this case (118 S. Ct. 2340 1998). Therefore, our application of the Act to *Helenium virginicum*, a plant endemic to only two counties in the Commonwealth of Virginia, is constitutional.

In addition to the reasons supporting the constitutionality of the ESA itself which were discussed in *Homebuilders*, the past, current, and potentially future use of *Helenium virginicum* habitat for agriculture and cattle production, residential development and roads and highways are activities which affect interstate commerce. The specimens in botanical collections around the country directly traveled via the channels or instrumentalities of interstate commerce as well as the scientists and others who have traveled interstate to study or observe the species.

Issue 2: One commenter expressed concern about the uncertainties involved in wetland delineation and the potential effects of listing *Helenium virginicum* on the regulation of private landowners.

Response: Listing of *Helenium virginicum* will not affect the guidelines and methodologies for delineating wetlands. Listing, however, will require Federal regulatory agencies, primarily the Army Corps of Engineers (Corps), to insure that their actions, including the issuance of wetland permits under section 404 of the Clean Water Act, do not jeopardize the continued existence of this species. In some cases, the Corps may require private landowners applying for permits to reduce the scope or extent of their proposed wetland fill projects if the fill would adversely affect the species.

Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1513) and regulations (50 CFR part 424) we promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. We determine a species to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Helenium virginicum* (Virginia sneezeweed) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Habitat modification is the principal threat to *Helenium virginicum*. The species is threatened by residential development, incompatible agricultural practices, filling and ditching of wetland habitats, groundwater withdrawal, and other disruptions of hydrology. Because the survival and maintenance of *H. virginicum* populations depend on seasonal water level fluctuations, either wetland drainage or increases in the time of inundation may cause high levels of mortality. Of the 18 populations visited in 1995, 8 were located in relatively undisturbed wetlands, while the remaining 10 were in wetlands altered by ditching, mowing, grazing or filling (Van Alstine 1996). At least four of the sites where the species has dramatically declined in recent years have modified hydrology (Van Alstine and Ludwig 1991). Three of these sites have been either ditched or filled, thereby shortening or eliminating the wet phase.

Among the most threatened populations of *Helenium virginicum* are those in the area south and southwest of Lyndhurst, Virginia, where land use is increasingly being converted from agricultural to residential. Increased drainage control which accompanies such development will adversely affect many of the sites located on or near agricultural lands over the next 10 years (Van Alstine and Ludwig 1991).

One proposed project, the widening of Route 340 in Augusta County from two to four lanes, could have severe impacts on one of the largest populations of *Helenium virginicum*. However, it may be possible to avoid or reduce impacts by careful routing of the highway, controlling runoff, and maintaining current hydrology.

Cattle grazing and mowing affect many of the sites supporting the species. In general, moderate levels of grazing and mowing appear to be beneficial, since populations at several regularly grazed or mowed sites are among the largest and best established. Nonetheless, there is a potential that frequent, or poorly timed mowing (and perhaps overgrazing) could have a long-term adverse effect on the species by interfering with flowering and seed production (Van Alstine and Ludwig 1991).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Other species in the genus *Helenium* have been shown to contain compounds with antitumor properties. However, there is no information to show that *Helenium virginicum* is in commercial trade for these compounds. Overcollection has not been documented as a problem for the species. Most collections, to date, have been for scientific purposes; scientists have collected specimens from locally large populations which can tolerate these low levels of collection.

Overcollection could become a problem at some of the sites supporting smaller populations of *H. virginicum*.

C. Disease or Predation

We believe disease and predation currently are not factors affecting the continued existence of *Helenium virginicum*. We believe the effects of grazing on the species are mostly positive, because most grazers appear to feed preferentially on competing vegetation while avoiding *H. virginicum*. We do not know the effects of long-term heavy grazing.

D. The Inadequacy of Existing Regulatory Mechanisms

The State of Virginia currently lists *Helenium virginicum* as an endangered species. State law prohibits the taking of this species from State or private lands without consent of the landowner but does not protect the species' habitat. Section 404 of the Clean Water Act provides some regulation of the species' wetland habitats. These regulations have not prevented draining and filling of sites supporting the species. Therefore, existing regulations appear to be inadequate to protect the species.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Invasion of an exotic species, purple loosestrife (*Lythrum salicaria*), is a potential threat to *Helenium virginicum*. Purple loosestrife is slowly extending its range throughout freshwater wetland areas in Virginia and may invade *H. virginicum* habitats. Climate changes (either natural or human-caused) are also a potential threat to the species. Several consecutive years of unusually wet or unusually dry weather can dramatically lower population numbers. Based on his long-term demographic study of one *H. virginicum* site, Knox (1997) suggests that *H. virginicum* is naturally at high risk of local extinction as a result of such events. *Helenium virginicum* is not self-fertilizing, and small populations are at risk of extirpation due to limited availability of compatible mates (Messmore and Knox 1997).

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to issue this final rule. Based on this evaluation, our preferred action is to list *Helenium virginicum* as a threatened species. This species is faced with increasing threats from loss and degradation of habitat due to development and related changes in hydrology as well as other activities incompatible with the species' long-term survival. These threats are compounded by the species' restricted range and small number of populations. While not in immediate danger of extinction, *H. virginicum* is likely to become so in the foreseeable future. In accordance with the definitions for endangered and threatened species found in section 3 of the Act, threatened is the most appropriate classification for *H. virginicum*.

Critical Habitat

Section 3 of the Act defines critical habitat as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management consideration or protection and; (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for conservation of the species. "Conservation" means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, we designate critical habitat at the time the species is determined to be endangered or threatened. We find that designation of critical habitat is not prudent for *Helenium virginicum*. Our regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist—(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

Twenty of the 25 known extant populations of *Helenium virginicum* are on private land. Most of these populations are located near or adjacent to residential areas or public roads. The remaining five populations, located on Forest Service land, are easily accessed by existing roads. The publication of precise maps and descriptions of critical habitat in the **Federal Register**, as required in a proposal for critical habitat, would make this plant vulnerable to incidents of collection and vandalism and, therefore, could contribute to the decline of the species. Although we do not know that collectors currently seek this species, related members of the genus are commercially cultivated and at least one member of the genus, *H. amarum*, has been shown to contain compounds of possible medicinal value. The listing of this species as threatened also publicizes its rarity and, thus, may make this plant more attractive to researchers, collectors, and those wishing to see rare plants. The potential desirability and the accessibility and vulnerability of the species, therefore, could make the plants subject to collection and vandalism if we publicized their precise locations.

In addition, critical habitat designation for *Helenium virginicum* is not prudent due to lack of benefit. Five of the species' 25 known extant populations occur on Federal land in the George Washington and Jefferson National Forest. The Forest Service is aware of the locations of these populations and has protected four of them through designation of the sites as Special Interest Areas (Biological). The Forest Service likely will protect the fifth population, discovered more recently, by designating the site as a Special Interest Area also. The Forest Service has indicated a commitment to assisting in the recovery of this species by protecting these sites. In the unlikely event that the Forest Service would plan an activity that could potentially affect a population, it is highly likely that if the activity would cause adverse modification of critical habitat, it would also cause jeopardy to the species. Therefore, the designation of critical habitat on Federal lands would not provide greater protection for this species or its habitat than that provided by listing.

The remaining 20 of the 25 known extant populations of *Helenium virginicum* are located on private lands. We informed the owners and managers of these private lands of the population locations and of the importance of protecting the species and its habitat. It is highly likely that an activity on private land involving Federal permitting or funding which causes adverse modification of critical habitat would also cause jeopardy to the species. For this reason, the designation of critical habitat on private lands would not provide greater protection for this species or its habitat than that provided by listing. As outlined above, the designation of critical habitat could cause additional threats but likely would provide no additional benefits for the species. Therefore, the Service concludes that designation of critical habitat for *H. virginicum* is not prudent.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery plans be developed for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is listed or proposed for listing as endangered or threatened and with respect to those species' designated or proposed critical habitat, if any. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the Federal agency must enter into formal consultation with us. Federal agency actions that may require conference and/or consultation include Forest Service land management activities and Corps permitting of projects such as road construction and filling of wetlands subject to section 404 of the Clean Water Act (33 U.S.C. 1344 *et seq.*).

The Act and its implementing regulations set forth a series of general trade prohibitions and exceptions that apply to all threatened plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce the species to possession from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction on areas under Federal jurisdiction and the removal, cutting, digging up, or damaging or destroying of such plants in knowing violation of any State law or regulation, including State criminal trespass law. Section 4(d) of the Act allows for the provision of such protection to threatened species through regulation. The protection may apply to this species in the future if regulations are promulgated. Seeds from cultivated specimens of threatened plants are exempt from these prohibitions provided that their containers are marked "Of Cultivated Origin." Certain exceptions to the prohibitions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened plants under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. For threatened plants, permits are also available for botanical or horticultural exhibition, education purposes, or special purposes consistent with the purposes of the Act. In the case of *Helenium virginicum*, we anticipate that few, if any, trade permits would ever be sought or issued since the species is not common in cultivation nor in the wild.

It is our policy published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time we list a species those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of this listing on proposed and ongoing activities within the species' range. Collection, damage, or destruction of listed species on Federal lands is prohibited, although in appropriate cases a Federal endangered species permit may be issued to allow collection. Such activities on non-Federal lands would constitute a violation of section 9, if conducted in knowing violation of State law or regulations or in violation of State criminal trespass law. We are not aware of any otherwise lawful activities being conducted or proposed by the public that would affect *Helenium virginicum* and result in a violation of section 9. You should direct questions regarding whether specific activities would constitute a violation of section 9 to the Field Supervisor of our Chesapeake Bay Field Office (see **ADDRESSES** section).

You should direct requests for copies of the regulations concerning listed plants and general inquiries regarding prohibitions and permits to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

National Environmental Policy Act

We have determined that we do not need to prepare Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

This rule does not contain any new collections of information other than those already approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance number 1018–0094. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information, unless it displays a currently valid control number. For additional information concerning permit and associated requirements for threatened species, see 50 CFR 17.32.

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Van Alstine, N.E., and J.C. Ludwig. 1991. Natural Heritage Inventory: *Helenium*

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Virginia Department of Conservation and Recreation. 1995. Natural Resources Fact Sheet—Virginia Sneezeweed (*Helenium virginicum*). VA Dept. of Conservation and Recreation, Richmond, VA. 2pp.

Author: The primary author of this final rule is Andy Moser, Chesapeake Bay Field office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, the Service amends part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.12(h) is amended by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family name	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
Helenium virginicum	Virginia sneezeweed	U.S.A. (VA)	Asteraceae	T	652	NA	NA

Dated: October 16, 1998.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 98–29303 Filed 11–2–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208298–8055–02; I.D. 102898B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock by Vessels Catching Pollock for Processing by the Inshore Component in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the inshore component in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the amount of the 1998 pollock total allowable catch (TAC) apportioned to vessels catching pollock for processing by the inshore component in the Bering Sea subarea of the BSAI and Aleutian Islands management area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), October 29, 1998 , until 2400 hrs, A.l.t., December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(c)(3)(iii), the Final 1998 Harvest Specifications of Groundfish for the BSAI (63 FR 12689, March 16, 1998) established the amount of the 1998 pollock TAC apportioned to vessels catching pollock for processing by the inshore component in the Bering Sea subarea of the BSAI as 359,363 metric tons (mt).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the amount of the 1998 pollock TAC apportioned to vessels catching pollock for processing by the inshore component in the Bering Sea subarea of the BSAI will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 358,363 mt, and is setting aside the remaining 1,000 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the inshore component in the Bering Sea subarea of the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent overharvesting the amount of the 1998 pollock TAC apportioned to vessels catching pollock for processing by the inshore component in the Bering Sea subarea of the BSAI. A delay in the effective date is impracticable and contrary to the public interest. The fleet has already taken the amount of the 1998 pollock TAC apportioned to vessels catching pollock for processing by the inshore component in the Bering Sea subarea of the BSAI. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action can not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived. This action is required by § 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 29, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–29393 Filed 10–29–98; 2:09 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 63, No. 212
Tuesday, November 3, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

[Docket No. FV99–984–1 PR]

Walnuts Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate, from $0.0116 to $0.0133 per kernelweight pound of merchantable walnuts certified, established for the Walnut Marketing Board (Board) under Marketing Order No. 984 for the 1998–99 and subsequent marketing years. The Board is responsible for local administration of the marketing order which regulates the handling of walnuts grown in California. Authorization to assess walnut handlers enables the Board to incur expenses that are reasonable and necessary to administer the program. The marketing year began August 1 and ends July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by November 18, 1998.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 205–6632; or Email: moabdocket_clerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Diane Purvis, Marketing Assistant, or Mary Kate Nelson, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (209) 487–5901; Fax: (209) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 984, both as amended (7 CFR part 984), regulating the handling of walnuts grown in California, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California walnut handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable walnuts beginning on August 1, 1998, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings, must be exhausted before parties may file suit in court. Under section 608c(15)(a) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Board for the 1998–99 and subsequent marketing years from $0.0116 to $0.0133 per kernelweight pound of certified merchantable walnuts.

The California walnut marketing order provides authority for the Board, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Board are producers and handlers of California walnuts. They are familiar with the Board's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1997–98 and subsequent marketing years, the Board recommended, and the Department approved, an assessment rate that would continue in effect from marketing year to marketing year unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Board or other information available to the Secretary.

The Board met on September 11, 1998, and unanimously recommended 1998–99 expenditures of $2,620,274 and an assessment rate of $0.0133 per kernelweight pound of merchantable walnuts certified. In comparison, last year's budgeted expenditures were $2,391,289. The assessment rate of $0.0133 is $0.0017 higher than the rate currently in effect. The quantity of assessable walnuts for 1998–99 is estimated at 198,000,000 kernelweight pounds, which is 9,000,000 kernelweight pounds less than 1997–98. With the anticipated decreases in assessable walnuts and increased budget expenditures, a higher assessment rate is needed to generate sufficient revenue

to administer the program for the 1998–99 marketing year as shown in the following table.

	Assessment income	Proposed budget	Difference
Current Rate—$0.0116	$2,296,800	$2,620,274	−$323,474
Proposed Rate—$0.0133	2,633,400	2,620,274	+$13,126

The following table compares major budget expenditures recommended by the Board for the 1998–99 and 1997–98 marketing years:

Budget expense categories	1998–99	1997–98
General Expenses	$246,643	$240,326
Office Expenses	163,815	147,126
Research Expenses	2,115,016	2,128,837
Production Research Director	59,800	50,000
Reserve for Contingencies	35,000	25,000

The assessment rate recommended by the Board was derived by dividing anticipated expenses by expected merchantable certifications of California walnuts. As mentioned earlier, merchantable certifications for the year are estimated at 198,000,000 kernelweight pounds which should provide $2,663,400 in assessment income. Unexpended funds may be used temporarily to defray expenses of the subsequent marketing year, but must be made available to the handlers from whom collected within five months after the end of the year (§ 984.69.)

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Board or other available information.

Although this assessment rate would be in effect for an indefinite period, the Board would continue to meet prior to or during each marketing year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Board meetings are available from the Board or the Department. Board meetings are open to the public and interested persons may express their views at these meetings. The Department would evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Board's 1998–99 budget and those for subsequent marketing years would be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 5,000 producers of walnuts in the production area and approximately 48 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Last year, as a percentage, 33 percent of the handlers shipped over 2.4 million kernelweight pounds of walnuts, and 67 percent of the handlers shipped under 2.4 million kernelweight pounds. Based an average price of $2.10 per kernelweight pound at point of first sale, the majority of handlers of California walnuts may be classified as small entities.

This rule would increase the assessment rate established for the Board and collected from handlers for the 1998–99 and subsequent marketing years from $0.0116 to $0.0133 per kernelweight pound of merchantable walnuts certified. The Board unanimously recommended 1998–99 expenditures of $2,620,274 and an assessment rate of $0.0133 per kernelweight pound of merchantable walnuts certified. The proposed assessment rate of $0.0133 is $0.0017 higher than the 1997–98 rate. The quantity of assessable walnuts for the 1998–99 marketing year is estimated at 198,000,000 kernelweight pounds. Thus, the $0.0133 rate should provide $2,633,400 in assessment income and be adequate to meet this year's expenses. Unexpended funds may be used temporarily to defray expenses of the subsequent marketing year, but must be made available to the handlers from whom collected within five months after the end of the year (§ 984.69).

The following table compares major budget expenditures recommended by the Board for the 1998–99 and 1997–98 marketing years:

Budget expense categories	1998–99	1997–98
General Expenses	$246,643	$240,326
Office Expenses	163,815	147,126
Research Expenses	2,115,016	2,128,837
Production Research Director	59,800	50,000
Reserve for Contingencies	35,000	25,000

The higher assessment rate is needed to provide sufficient revenue to administer the program for the 1998–99 marketing year as shown in the following table.

	Assessment income	Proposed budget	Difference
Current Rate—$0.0116	$2,296,800	$2,620,274	−$323,474
Proposed Rate—$0.0133	2,633,400	2,620,274	+$13,126

The Board reviewed and unanimously recommended 1998–99 expenditures of $2,620,274 which included increases in administrative and office expenses, and production research salary, and a decrease for a research programs. Prior to arriving at this budget, the Board considered information and recommendations from various sources, such as the Board's Budget and Personnel Committee, the Research Committee, and the Market Development Committee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various research projects to the walnut industry. After a desired expenditure level was determined, the assessment rate of $0.0133 per kernelweight pound of assessable walnuts was determined by dividing the total recommended budget by the quantity of assessable walnuts, estimated at 198,000,000 kernelweight pounds for the 1998–99 marketing year. This is approximately $13,000 above the anticipated expenses, which the Board determined to be acceptable.

A review of historical information and preliminary information pertaining to the upcoming marketing year indicates that the grower price for the 1998–99 season could range between $1.45 and $1.58 per kernelweight pound of walnuts. Therefore, the assessment revenue for the 1998–99 marketing year as a percentage of total grower revenue should be less than one percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the marketing order. In addition, the Board's meeting was widely publicized throughout the California walnut industry, and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the September 11, 1998, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large California walnut handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A 15-day comment period is provided to allow interested persons to respond to this proposed rule. Fifteen days is deemed appropriate because: (1) The Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1998–99 marketing year began on August 1, 1998, and the marketing order requires that the rate of assessment for each marketing year apply to all assessable walnuts handled during such marketing year; and (3) handlers are aware of this action which was unanimously recommended by the Board at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 984

Marketing agreements, Nuts, Reporting and recordkeeping requirements, Walnuts.

For the reasons set forth in the preamble, 7 CFR part 984 is proposed to be amended as follows:

PART 984—WALNUTS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 984 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 984.347 is proposed to be revised to read as follows:

§ 984.347 Assessment rate.

On and after August 1, 1998, as assessment rate of $0.0133 per kernelweight pound is established for California merchantable walnuts.

Dated: October 21, 1998.

Larry B. Lace,

Acting Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–29455 Filed 11–2–98; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1755

RUS Specification for Telecommunications Conduit

AGENCY: Rural Utilities Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Utilities Service (RUS) proposes to amend its regulations on Telecommunications Standards and Specifications for Materials, Equipment, and Construction, by adding a new specification, RUS Specification for Telecommunications Conduit. The specification will provide the relevant engineering and technical requirements for conduit.

DATES: Comments concerning this proposed rule must be received by RUS or be postmarked no later than January 4, 1999.

ADDRESSES: Comments should be mailed to Orren E. Cameron, III, Director, Telecommunications Standards Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 1598, Washington, DC 20250–1598. RUS requests an original and three copies of all comments (7 CFR part 1700.4). All comments received will be made available for public inspection at room 2835, South Building, U.S. Department of Agriculture, 1400 Independence Avenue, SW, STOP 1598 Washington, DC 20250–1598 between 8 a.m. and 4 p.m. (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Charlie I. Harper, Jr., Chief, Outside Plant Branch, Telecommunications Standards Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW, STOP 1598, Washington, DC 20250–1598, telephone (202) 720–0667.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule is exempt from the Office of Management and Budget (OMB) review for purposes of Executive Order 12866.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In addition, all state and local laws and regulations that are in conflict with this rule will be preempted, no retroactive effort will be given to this rule, and, in accordance with § 212(c) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(c)), appeal procedures must be exhausted before an action against the Department or its agencies may be initiated.

Regulatory Flexibility Act Certification

The Administrator of RUS has determined that this proposed rule will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This proposed rule involves standards and specifications, which may increase the short-term direct costs to the RUS borrower. However, the long-term direct economic costs are reduced through greater durability and lower maintenance cost over time.

Information Collection and Recordkeeping Requirements

The information collection and recordkeeping requirements contained in this proposed rule were approved by OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended) under control number 0572–0059. Comments concerning these requirements should be directed to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, USDA, RUS, Stop 1522, Washington, DC 20250–1522.

National Environmental Policy Act Certification

The Administrator of RUS has determined that this proposed rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this proposed rule is listed in the Catalog of Federal Domestic Assistance programs under No. 10.851, Rural Telephone Loans and Loan Guarantees, and No. 10.582, Rural Telephone Bank Loans. This catalog is available on a subscription basis from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402.

Executive Order 12372

This proposed rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. A final rule related notice titled "Department Programs and Activities Excluded from Executive Order 12372" (50 FR 47034) determined that RUS and RTB loans and loan guarantees, were not covered by Executive Order 12372.

Unfunded Mandates

This proposed rule contains no federal mandates (under the regulatory provision of Title II of the Unfunded Mandates Reform Act) for State, local, and tribal governments or the private sector. Thus this proposed rule is not subject to the Unfunded Mandates Reform Act.

Background

Pursuant to the Rural Electrification Act of 1936, as amended, (7 U.S.C. *et seq.*) (RE Act), RUS makes and guarantees loans to furnish and improve telecommunications in rural areas. As a condition of financing, borrowers are required to follow RUS standards and specifications for the construction of RUS financed facilities.

The specification contains mechanical and environmental requirements, desired design features, and test methods for evaluation of conduit. The test method procedures described in the specification are required to demonstrate the reliability of conduit for use in telecommunications systems.

Conduit is fabricated from rigid and flexible plastic, concrete, or fiberglass. Conduit comes in different sizes and configurations to suit a variety of applications. The purpose of conduit is to provide protection of telecommunications cable and provide ease of installation in restrictive areas.

List of Subjects in 7 CFR Part 1755

Loan programs-telecommunications, Reporting and recordkeeping requirement, Rural areas, Telephone.

For reasons set out in the preamble, RUS proposes to amend Chapter XVII of title 7 of the Code of Federal Regulations as follows:

PART 1755—TELECOMMUNICATIONS STANDARDS AND SPECIFICATIONS FOR MATERIALS, EQUIPMENT AND CONSTRUCTION

1. The authority citation for part 1755 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*

2. Section 1755.98 is amended by revising the section heading and by adding the entry 1755.920 to the table in numerical order to read as follows:

§ 1755.98 List of telephone standards and specifications included in this chapter.

* * * * *

Section	Issue date	Title
.	.	.
1755.920	[Effective date of final rule]	RUS Specification for Telecommunications Conduit.

3. Section 1755.920 is added to read as follows:

§ 1755.920 RUS specification for telecommunications conduit.

(a) *Scope.* (1) The purpose of this specification is to inform manufacturers and users of conduit of the engineering and technical requirements that are considered necessary for satisfactory performance in outside plant environments. Included are the relevant mechanical and environmental requirements, desired design features, and test methods for evaluation of conduit.

(2) The various types of conduit materials covered by this specification include rigid plastic, flexible plastic, multi-duct plastic, multi-duct concrete, and fiberglass.

(3) All conduit sold to RUS borrowers for projects involving RUS loan funds under this specification must be

accepted by RUS Technical Standards Committee "A" (Telecommunications). For conduit manufactured to this specification, all design changes to an accepted design must be submitted for acceptance. RUS will be the sole authority on what constitutes a design change.

(4) Materials, manufacturing techniques, or conduit designs not specifically addressed by this specification may be allowed if accepted by RUS. Justification for acceptance of modified materials, manufacturing techniques, or conduit designs shall be provided to substantiate product utility and long term stability and endurance.

(5) American Society for Testing and Materials Specifications (ASTM) C 150–97, Standard Specification for Portland Cement; and ASTM F 1173–95, Standard Specification for Thermosetting Resin Fiberglass Pipe and Fittings to be used for Marine Applications, referenced in this section are pending approval of incorporation by reference by the Office of the Federal Register. Copies are available from ASTM, 100 Barr Harbor Drive, W. Conshohocken, Pennsylvania 19428–2959, telephone number (610) 832–9585. Copies of ASTM standards are available for inspection during normal business hours at RUS, room 2843, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250–1598 or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(6) National Electrical Manufacturers Association (NEMA) TC–2, Electrical Plastic Tubing (EPT) and Conduit (EPC–40 and EPC–80); NEMA TC–5, Corrugated Polyolefin Coilable Plastic Utilities Duct; NEMA TC–6, PVC and ABS Plastic Utilities Duct for Underground Installation; NEMA TC–7, Smooth-Wall Coilable Polyethylene Electrical Plastic Duct; NEMA TC–8, Extra-Strength PVC Plastic Utilities Duct for Underground Installation; and NEMA TC–10, PVC Plastic Communications Duct and Fittings for Underground Installation, referenced in this section are pending approval of incorporation by reference by the Office of the Federal Register. Copies are available from Global Engineering Documents, 15 Inverness Way East, Englewood CO 80112, telephone number (303) 792–2181. Copies of NEMA standards are available for inspection during normal business hours at RUS, room 2843, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250–1598 or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(b) *Performance criteria and test procedures for rigid plastic conduit.* (1) Type B, Type C, and Type D round plastic conduit are available in 1 inch (in.) (25 millimeters (mm)), 1½ in. (38 mm), 2 in. (51 mm), 3 in. (76 mm), 3½ in. (89 mm), and 4 in. (102 mm) diameters, and are normally supplied in 20 foot lengths. The three types are as follows:

(i) Type B or Encased Buried (EB) is a thin-wall, round plastic conduit designed to always be encased in concrete;

(ii) Type C or Direct Buried (DB) is a thick wall, round plastic conduit designed to be placed with or without encasement; and

(iii) Type D is a round plastic conduit designed for exposed installation, as on bridges.

(2) Plastic telecommunications duct and fittings shall be made from Polyvinyl-Chloride (PVC) compound or Acrylonitrile-Butadiene-Styrene (ABS) compound. Materials other than PVC or ABS may be used provided that the materials are accepted by RUS prior to their use.

(3) The manufacturer shall specify the sizes of conduit that are to be considered for RUS acceptance (1 in. (25 mm), 1½ in. (38 mm), 2 in. (51 mm), 3 in. (76 mm), 3½ in. (89 mm), and 4 in. (102 mm) diameters).

(4) All plastic telecommunications duct and fittings shall be manufactured and tested in accordance with the specifications listed in Table 1. Test results shall be submitted for all sizes of conduit to be considered for RUS acceptance. Table 1 is as follows:

TABLE 1.—PLASTIC CONDUIT CRITERIA

Type of plastic	Conduit sizes in. (mm)	Performance specification
PVC	1 (25), 1½ (38)	NEMA TC–2 or TC–8.
PVC	2 (51), 3 (76)	NEMA TC–2, TC–6, or TC–8.
PVC	3½ (89), 4 (102)	NEMA TC–2, TC–6, TC–8, or TC–10.
ABS	2 (51), 3 (76), 3½ (89), 4 (102)	NEMA TC–6.

(c) *Performance criteria and test procedures for flexible plastic conduit.* (1) Flexible plastic conduit is available in both smooth wall and corrugated types.

(2) Smoothwall flexible plastic conduit and fittings shall be made from High-Density Polyethylene (HDPE) or Medium-density Polyethylene (MDPE). Corrugated flexible plastic conduit and fittings shall be made from HDPE or Copolymer Polypropylene. Materials other than HDPE, MDPE, or Copolymer Polypropylene may be used provided that the materials are accepted by RUS prior to their use.

(3) The manufacturer shall specify the sizes of conduit that are to be considered for RUS acceptance (1 in. (25 mm), 1½ in. (38 mm), 2 in. (51 mm), 3 in. (76 mm), 3½ in. (89 mm), and 4 in. (102 mm) diameters).

(4) All flexible plastic telecommunications duct and fittings shall be manufactured and tested in accordance with the specifications listed in Table 2. Test results shall be submitted for all sizes of conduit to be considered for RUS acceptance. Table 2 is as follows:

TABLE 2.—FLEXIBLE PLASTIC CONDUIT CRITERIA

Type of flexible conduit	Conduit sizes in. (mm)	Performance specification
Smooth-wall, HDPE and MDPE.	1 (25), 1½ (38), 2 (51), 3 (76), 3½ (89), 4 (102)	NEMA TC–7.
Corrugated, HDPE and Copolymer Polypropylene.	1 (25), 1½ (38), 2 (51), 3 (76), 3½ (89), 4 (102)	NEMA TC–5.

(d) *Performance criteria and test procedures for multi-duct plastic conduit.* (1) Multi-duct plastic conduit usually consists 3, 4, or 6 inner ducts contained within a larger plastic duct.

(2) Multi-duct plastic conduit and fittings shall be made from PVC or HDPE. Materials other than PVC or HDPE may be used provided that the materials are accepted by RUS prior to their use.

(3) The manufacturer shall specify the sizes of conduit and number chambers that are to be considered for RUS acceptance (3, 4, or 6 chambers).

(4) All multi-duct plastic conduit and fittings shall meet the requirements shown in Table 3. Test results showing conformance to these requirements shall be submitted for each size of conduit to be considered for RUS acceptance. Table 3 is as follows:

TABLE 3.—MULTI-DUCT PLASTIC CONDUIT CRITERIA

Material	Performance specification
PVC	NEMA TC–2, TC–6, TC–8, or TC–10.
HDPE	NEMA TC–7.

(e) *Performance criteria and test procedures for multi-duct concrete conduit.* (1) Multi-duct concrete conduit is available in 4, 6, and 9 way configurations with bore sizes of 3½ in. (89 mm) or 4 (102 mm) in. in diameter.

(2) Multi-duct concrete conduit shall consist of a homogeneous mixture of portland cement, aggregates, and water. Portland Cement shall be type I, II, or III conforming to ASTM C150–97, "Standard Specification for Portland Cement."

(3) The manufacturer shall specify the sizes of conduit that are to be considered for RUS acceptance (4, 6, or 9 chambers).

(4) *Physical tests.*—(i) *Permeability.* No conduit shall be permeable to water in excess of 38.5 cubic in. (63.1*E+04 cubic mm) per hour as determined in an outside corner chamber of the multi-duct. The test specimens for this test shall be in units of conduit at least 36 in. (914 mm) in nominal length which have been dried at a temperature of approximately 70°F (21°C) for a period of not less than 24 hours. A total of 5 test specimens shall be prepared in this manner. A rubber duct plug or equivalent shall then be used to seal the chamber to be tested. Water at a temperature of approximately 70°F (21°C) shall be poured into the sealed chamber to a height of 34 in. (864 mm) from the sealed end of the chamber. The water level shall not fall more than 2 in. (51 mm) in 30 minutes for each of the tested specimens.

(ii) *Compressive strength.* Compressive strength tests shall be made on a total of 5 specimens of 12 in. (305 mm) in nominal length cut from full length units of conduit but not including any formed end. Specimens shall be air dried at a temperature of approximately 70°F (21°C) for a period of not less than 24 hours immediately prior to the test. Samples shall be tested, 6-duct resting on the wide side, as follows. A suitable container, having interior dimensions of not less than 14 in. (356 mm) in length and 14 in. (356 mm) in width, shall be filled to a depth of not less than 2 in. (51 mm) nor more than 4 in. (102 mm) with dry, tightly packed sand and placed on the lower platen of the testing machine. The test specimen shall be bedded on the sand so that its upper surface is parallel with the crosshead of the test machine. The upper bearing block shall consist of a rigid steel plate 14 in. (356 mm) square and not less than ½ in. (13 mm) thick and shall be positioned so that it overhangs the flat portion of the upper surface of the sample on all sides. A sheet of sponge rubber 1 in. (25 mm) thick and 14 in. (356 mm) square, or equivalent, shall be inserted between the bearing block and the specimen. The load shall then be applied at a uniform rate such that the minimum compressive value set forth in Table 4 is reached in not less than 1 minute. No sample shall fail at a load less than that shown in Table 4. A sample shall be considered to have failed upon the first evidence that cracking has occurred. Table 4 is as follows:

TABLE 4.—MINIMUM BREAKING LOADS

Conduit size	Minimum breaking load (lbs)	
	3½ in. (89 mm) diameter duct	4 in. (102 mm) diameter duct
4–Duct	15,000	11,250
6–Duct	20,000	15,000
9–Duct	20,000	15,000

(f) *Performance criteria and test procedures for epoxy resin fiberglass conduit.* (1) Epoxy Resin Fiberglass conduit is available in 2 in. (51 mm), 3 in. (76 mm), 4 in. (102 mm), and 6 in. (152 mm) bore sizes.

(2) All Epoxy Resin Fiberglass conduit and fittings shall be manufactured and tested in accordance with ASTM F 1173–95, "Standard Specification for Thermosetting Resin Fiberglass Pipe and Fittings to be used for Marine Applications". Test results shall be submitted for all sizes of conduit to be considered for RUS acceptance.

(g) *RUS Acceptance Procedure.* (1) The tests described in this specification are required for acceptance of product designs and major modifications of accepted designs. All modifications shall be considered major unless otherwise declared by RUS. These tests are intended to demonstrate the capability of the manufacturer to produce conduit which meets service requirements of RUS Telecommunications borrowers.

(2) For initial acceptance the manufacturer shall:

(i) Certify that the product fully complies with each paragraph of this specification, and submit supporting test data;

(ii) Submit quality assurance data which is representative of several production lots and which demonstrate the reliability of an ongoing quality assurance program;

(iii) Certify whether the product complies with the domestic origin manufacturing provisions of the "Buy American" Requirement of the Rural Electrification Act of 1938 (7 U.S.C. 903 note), as amended (the REA "Buy American" Provision);

(iv) Submit at least three user testimonials concerning field performance of the product;

(v) Submit product identification information;

(vi) Submit one three inch production sample of each size of conduit to be considered for acceptance;

(vii) Agree to provide plant inspections by RUS; and

(viii) Provide any other nonproprietary data deemed necessary

by the Chief, Outside Plant Branch (Telecommunications).

(3) Requalification of a manufacturer's product shall be required every 2 years after initial acceptance of that product. In order for RUS to consider a manufacturer's request that a product be requalified, the manufacturer shall certify, that the product:

(i) Fully complies with each paragraph of this specification; and

(ii) Does or does not comply with the domestic origin manufacturing provisions of the REA "Buy American" provisions. The required certifications shall be dated within 90 days of the submission.

(4) Initial and requalification acceptance requests should be addressed to: Chairman, Technical Standards Committee "A" (Telecommunications), Telecommunications Standards Division, Rural Utilities Service, 1400 Independence Ave, SW, STOP 1598, Washington, DC 20250–1598.

Dated: October 23, 1998.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 98–29132 Filed 11–2–98; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–SW–14–AD]

Airworthiness Directives; Eurocopter France Model SA. 315B, SA. 316B, SA. 316C, SA. 319B, and SE. 3160 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Eurocopter France Model SA. 315B, SA. 316B, SA. 316C, SA. 319B, and SE. 3160 helicopters. This proposal would require inspecting the main rotor blade cuff attachment fitting in the area of the main rotor blade (blade) attachment bolts for cracks, and removing and replacing the blade if a crack is found. This proposal is prompted by a report of a crack in a main rotor blade cuff attachment fitting/spar assembly that was discovered during fatigue testing by the manufacturer. The actions specified by the proposed AD are intended to prevent failure of a main rotor blade cuff attachment fitting at a bolt hole location, loss of a main rotor blade, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before January 4, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 97–SW–14–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Monschke, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5116, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 97–SW–14–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 97–SW–14–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

The Direction Generale De L'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on Eurocopter France Model SA. 315B, SA. 316B, SA. 316C, SA. 319B, and SE. 3160 helicopters. The DGAC advises that, within 400 operating hours, and thereafter at every 400 operating hours, a crack detection inspection of the main rotor blade cuff attachment fitting in the area of the main rotor blade attachment bolt holes must be performed. The DGAC issued AD 96–081–036(B)R1, applicable to Eurocopter France Model SA. 315B helicopters, and AD 96–082–54(B)R1 applicable to Eurocopter France Model SA. 316B, SA. 316C, SA. 319B, and SE. 3160 helicopters, both dated April 24, 1996, in order to assure the continued airworthiness of these helicopters in France.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter France Model SA. 315B, SA. 316B, SA. 316C, SA. 319B, and SE. 3160 helicopters of the same type design registered in the United States, the proposed AD would require inspecting the attachment fitting in the area of the blade attachment bolt holes for cracks, and removing and replacing any blade in which a crack is found.

The FAA estimates that 83 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per helicopter to accomplish the proposed initial inspection and 2 work hours per helicopter for each repetitive inspection, and that the average labor rate is $60 per work hour. Required parts would cost $40,000 per blade, if needed. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $49,960 for one inspection and one blade replacement for each helicopter per year.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Eurocopter France: Docket No. 97–SW–14–AD.

Applicability: Model SA. 315B, SA. 316B, SA. 316C, SA. 319B, and SE. 3160 helicopters, with a main rotor blade, part number (P/N) 316OS.11.10.000, 316OS.11.30.000, 316OS.11.35.000, 316OS.11.40.000, 316OS.11.45.000, 316OS.11.50.000, or 316OS.11.55.000, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: (1) For blades with less than 400 hours time-in-service (TIS), required prior to the accumulation of 400 hours TIS, unless accomplished previously, and thereafter at intervals not to exceed 400 hours TIS; or (2) for blades with 400 hours or more TIS, required within 50 hours TIS or 30 calendar days, whichever occurs first, unless accomplished previously, and thereafter at intervals not to exceed 400 hours TIS:

To prevent failure of a main rotor blade (blade) cuff attachment fitting at a bolt hole location, loss of a blade, and subsequent loss of control of the helicopter, accomplish the following:

(a) Inspect both upper and lower blade surfaces of each blade cuff for cracks (see Figure 1) as follows:

(1) Use a mild liquid detergent or equivalent to remove all dirt from the blade cuff.

(2) Inspect the blade cuff for cracks, paying particular attention to the area around the attaching bolts, using a 10-power or higher magnifying glass.

(3) If a crack is suspected, remove any paint and clean the area under inspection using a Naptha-type solvent or equivalent, and conduct a dye penetrant inspection. Completely isolate the area under inspection with self-adhesive aluminum tape to prevent solvent or penetrating dye seepage into the other areas of the blade.

(b) If a crack is detected, remove the blade and replace it with an airworthy blade.

BILLING CODE 4910–13–P

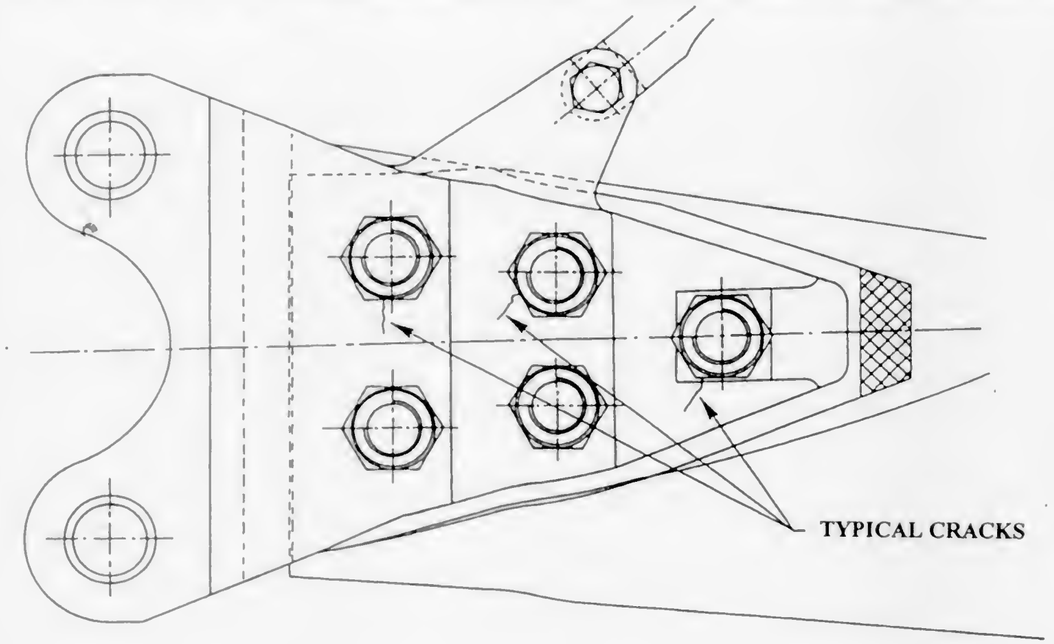


Figure 1

BILLING CODE 4910–13–C

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD 96–081–036(B)R1 and AD 96–082–054(B)R1, both dated April 24, 1996.

Issued in Fort Worth, Texas, on October 27, 1998.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 98–29378 Filed 11–2–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AEA–39]

Proposed Amendment to Class E Airspace; Wise, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice to amend the Class E airspace area at Wise, VA. The development of three new Standard Instrument Approach Procedures (SIAP) based on the Global Positioning System (GPS) and the Localizer (LOC) at Lonesome Pine Airport has made this proposal necessary. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAPs and for Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before December 3, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 98–AEA–39, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520 F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98–AEA–39." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class E airspace area at Wise, VA. A GPS RWY 6 SIAP, GPS RWY 24 SIAP and a LOC RWY 24 SIAP have been developed for Lonesome Pine Airport. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAPs and for IFR operations at the airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, is proposed to be amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AEA VA E5 Wise, VA [Revised]

Lonesome Pine Airport, Wise, VA
(Lat. 36°59'15"N., long. 82°31'49"W.)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Lonesome Pine Airport.

* * * * *

Issued in Jamaica, New York, on October 26, 1998.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 98–29410 Filed 11–2–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AEA–40]

Proposed Removal of Class E Airspace; Romulus, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to remove Class E airspace at Romulus, NY. Seneca Army Air Field (AAF) has been closed and all instrument procedures to the airport have been cancelled. Therefore, the requirement for Class E airspace no longer exists. Adoption of this proposal would result in the affected area reverting to Class G airspace.

DATES: Comments must be received on or before December 3, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 98–AEA–40, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98–AEA–40." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to remove Class E airspace at Seneca AAF, Romulus, NY. The required criteria for Class E airspace are no longer being met. The airport has been closed, negating the need for the airspace. Class E airspace designations are published in paragraph 6005, of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be removed subsequently from the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, is proposed to be amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA NY E–5 Romulus, NY [Removed]

* * * * *

Issued in Jamaica, New York, on October 26, 1998.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 98–29409 Filed 11–2–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AEA–41]

Proposed Amendment to Class E Airspace; Milton, WV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Milton, WV. The development of a new Standard Instrument Approach Procedure (SIAP) based on the Global Positioning System (GPS) at Ona Airpark has made this proposal necessary. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before December 3, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 98–AEA–41, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520 F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98–AEA–41." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class E airspace area at Milton, WV. A GPS RWY 07 SIAP has been developed for Ona Airpark. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP and for IFR operations at the airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter what would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, is proposed to be amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA WV E5 Milton, WV [Revised]

Ona Airpark, Milton, WV
(Lat. 38°26'26"N., long. 82°12'05"W.)

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Ona Airpark.

* * * * *

Issued in Jamaica, New York, on October 26, 1998.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 98–29408 Filed 11–2–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 46

Training and Retraining of Miners Engaged in Shell Dredging or Employed at Sand, Gravel, Surface Stone, Surface Clay, Colloidal Phosphate, or Surface Limestone Mines

AGENCY: Mine Safety and Health Administration (MSHA); Labor.

ACTION: Notice of public meetings.

SUMMARY: As directed by Congress, MSHA will develop final training regulations by September 30, 1999 to apply at mines where MSHA is currently prohibited by an appropriations amendment from enforcing existing miner training requirements. MSHA has also been instructed to work with interested parties in developing these regulations. To facilitate the broadest possible input from the regulated public, MSHA will hold seven public meetings across the country to receive comments from interested parties on the development of a proposed rule governing miner training.

DATES: See SUPPLEMENTARY INFORMATION section for meeting dates.

ADDRESSES: See *Supplementary Information* section for meeting addresses.

FOR FURTHER INFORMATION CONTACT: Carol Jones, Acting Director, Office of Standards, Regulations, and Variances, MSHA, 4015 Wilson Boulevard, Arlington, VA 22203–1984. She can be reached at cjones@msha.gov (Internet E-mail), 703–235–1910 (Voice), or 703–235–5551 (Fax).

SUPPLEMENTARY INFORMATION:

I. Public Meetings

MSHA will be conducting seven public meetings throughout the country to receive comments from interested parties on the development of a proposed rule governing miner training. All seven meetings are scheduled to run from 8:00 a.m. to 5:00 p.m., but will continue into the evening if necessary to accommodate as many participants as is reasonably possible. We will hold meetings on the following dates at the following locations:

1. December 7, 1998, Hilton Hotel, 2855 N. Milwaukee Avenue, Northbrook Illinois, 60062, Tel. No. (847) 480–7500.
2. December 9, 1998, Embassy Suites Hotel, 4444 N. Havana Street, Denver, Colorado, 80239, Tel. No. (303) 375–0400.
3. December 11, 1998, Albany Marriott, 189 Wolf Road, Albany, New York, 12205, Tel. No. (518) 458–8444.
4. December 15, 1998, Embassy Suites Hotel, 7900 NE 82nd Avenue, Portland, Oregon, 97220, Tel. No. (503) 460–3000.
5. December 17, 1998, Doubletree Hotel, 222 N. Vineyard Avenue, Ontario, California, 91764, Tel. No. (909) 983–0909.
6. January 5, 1999, Hotel Adolphus, 1321 Commerce Street, Dallas, Texas, 75202, Tel. No. (214) 742–8200.
7. January 7, 1999, Georgia International Convention Center, 1902 Sullivan Road, College Park, Georgia, 30337, Tel. No. (770) 997–3566.

We will conduct the meetings in an informal manner, and a court reporter will make a verbatim transcript of the proceedings. All meetings are open to the public. Upon request, we will allow members of the public to speak at the meeting they designate on a first-come, first-served basis. In addition to making an oral statement, any member of the public may also submit written statements, charts, and other data to MSHA representatives at the meeting, which will be included as part of the record when a proposed rule is developed.

Send requests to make oral presentations to MSHA, Office of Standards, Regulations, and Variances; 4015 Wilson Blvd., Room 631; Arlington, Virginia, 22203. Phone or fax requests may be made at voice: 703–235–1910; or fax: 703–235–5551. You also may request to speak as you sign in at the meeting.

II. Background

Section 115 of the Federal Mine Safety and Health Act of 1977 (Mine Act) requires that each mine operator have a health and safety training program, and that the Secretary of Labor promulgate regulations with respect to such health and safety training programs. In 1978 MSHA published regulations at 30 CFR part 48 that implemented the miner training provisions of § 115 of the Mine Act. In 1979, Congress inserted language in the Department of Labor's appropriations bill for fiscal year 1980 that prohibited the expenditure of appropriated funds to enforce any training requirements at approximately 10,200 surface nonmetal work sites. The restriction currently prohibits the use of appropriated funds to:

> carry out § 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of § 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

Over the last several years, the number of fatalities at the exempted industries has increased. MSHA's fatal accident investigations have shown that the majority of miners involved in fatal accidents in the industries affected by the rider had not received health and safety training in accordance with the Mine Act's requirements. In 1997, for example, 60 percent of victims of fatal accidents had not received health and safety training in accordance with the Mine Act.

Congress has included language in MSHA's fiscal year 1999 appropriation that directs MSHA to promulgate final training regulations that are appropriate for the industries affected by the rider. MSHA anticipates that a proposed rule would implement the training and retraining requirements contained in § 115 of the Mine Act and ensure that miners receive effective training, while at the same time addressing the particular needs of the identified segments of the mining industry.

Section 115 of the Mine Act provides that each operator of a coal or other mine shall have a health and safety training program that is approved by the Secretary of Labor, and that complies with specified minimum requirements. Section 115(a) specifies that surface miners are to receive no less than 24 hours of new miner training, no less than 8 hours of refresher training annually, and task training for new work assignments. Section 115 also requires that the training cover specific subject areas; provides that training is to be conducted during normal work hours at normal pay; requires that miners be reimbursed for additional costs they incur incident to training; and provides that mine operators must maintain miners' training certificates and furnish such records to the miners.

III. Conduct of Meetings

The purpose of these public meetings is to receive relevant comments on the development by MSHA of miner training regulations that are appropriate for miners employed at mines currently subject to a congressional training rider. Multiple public meetings are scheduled at seven locations across the country to give miners, their representatives, and mine operators, both small and large, a reasonable opportunity to present their views on what types of requirements will result in the most effective miner training.

MSHA is specifically interested in comments addressing the areas described below, although parties are encouraged to submit comments on any relevant miner training issue.

Definitions

Should certain terms, including "new miner" and "experienced miner" be defined? If so, how should these terms be defined?

New Miner Training

Section 115 of the Mine Act lists several subject areas that must be covered by training for new inexperienced miners at surface mines, including:

Instruction in the rights of miners and their representatives under the Mine Act;

Use of self-rescue devices where appropriate and respiratory devices where appropriate;

Hazard recognition;

Emergency procedures;

Electrical hazards;

First aid;

Walkaround training;

The health and safety aspects of the task to which the miner will be assigned.

Which of these subjects should be taught before a new miner is assigned work, even if the work is done under close supervision?

Should training for inexperienced miners be given all at once, or over a period of time, such as several weeks or months? Should this decision be left to the discretion of the mine operator? What are the advantages and disadvantages of spreading training over an extended period of time?

Should supervisors be subject to the same training requirements as miners?

Task Training

Should training be required whenever a miner receives a work assignment that involves new and unfamiliar tasks?

Annual Refresher Training

Should specific subject areas be covered during annual refresher training? If so, what subject areas should be included?

Can the 8 hours of annual refresher training required by the Mine Act be completed in segments of training lasting less than 30 minutes?

Training Certificates

Should the records of training be kept by the mine operator at the mine site, or should the regulation allow records to be kept at other locations?

Qualifications of Instructors

Should there be minimum qualifications for persons who conduct miner training? If so, what kind of qualifications are appropriate?

Dated: October 28, 1998.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 98–29436 Filed 11–2–98; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA–121–FOR]

Pennsylvania Abandoned Mine Land Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: OSM is reopening the public comment period on a proposed amendment to the Pennsylvania Abandoned Mine Land Reclamation (AMLR) Plan (hereinafter referred to as the Pennsylvania Program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.*, as amended. The proposed amendment adds a new section "F" entitled Government Financed Construction Contracts (GFCC) to authorize the incidental removal of coal at AML sites that would not otherwise be mined and reclaimed under the Title V program. The proposed amendment also includes the Program Requirements and Monitoring Requirements related to the use of GFCC for that purpose. The proposed amendment is intended to improve the efficiency of the Pennsylvania program by allowing the Government-financed construction exemption in Section 528 of SMCRA to be applied in cases involving less than 50% financing only in the limited situation where the construction constitutes a government approved and administered abandoned mine land reclamation project under Title IV of SMCRA. The amendment is also intended to authorize the use of excess spoil from a valid, permitted coal mining operation for the reclamation of an abandoned unreclaimed area outside of the permit area.

The comment period is being reopened because Pennsylvania has, at OSM's request, submitted portions of its State law which it believes provides specific authority to allow the State Regulatory Authority to approve exemptions for the incidental removal of coal pursuant to government-financed reclamation projects.

DATES: Written comments must be received by 4:00 p.m., [E.D.T.] November 18, 1998.

ADDRESSES: Written comments should be mailed or hand delivered to Robert Biggi, Field Office Director, at the address listed below. Copies of the Pennsylvania program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Harrisburg Field Office. Mr. Robert J. Biggi, Director, Harrisburg Field Office, Third Floor, Suite 3C, Harrisburg Transportation Center (Amtrack) 415 Market Street, Harrisburg, Pennsylvania 17101. Telephone: (717) 782–4036.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Biggi, Director, Harrisburg Field Office, Third Floor, Suite 3C, Harrisburg Transportation Center (Amtrack) 415 Market Street, Harrisburg, Pennsylvania 17101. Telephone: (717) 782–4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program

On July 30, 1982, the Secretary of the Interior conditionally approved the Pennsylvania program. Background on the Pennsylvania program, including the Secretary's findings and the disposition of comments can be found in the July 30, 1982 **Federal Register** (47 FR 33079). Subsequent actions concerning the AMLR program amendments are identified at 30 CFR 938.20 and 938.25.

II. Description of the Proposed Amendment

By letter dated November 21, 1997 (Administrative Record No. PA–855.00), the Pennsylvania Department of Environmental Protection (PADEP) submitted proposed Program Amendment No. 2 to the Pennsylvania Abandoned Mine Reclamation Plan. In addition, PADEP also submitted the following documents: Basis of Authority for the Proposed Amendment, AML Amendment Conformance with 30 CFR Section 884.13, Assistant Counsel's Opinion of Authority for GFCC, PADEP Organization Chart and the Office of Mineral Resources Management Organization Chart. The proposed amendment is intended to improve the efficiency of the Pennsylvania program by allowing the Government-financed

construction exemption in Section 528 of SMCRA to be applied in certain cases involving less than 50% financing. The inspection forms and related instructions to be utilized to monitor the GFCC program are part of the amendment. Pennsylvania submitted the proposed amendment at its own initiative.

OSM announced receipt of the proposed amendment in the December 29, 1997, **Federal Register** (62 FR 67590) and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on January 28, 1998. However, OSM's review determined that several items contained in the proposed amendments required clarification. As a result, a letter requesting clarification on three items was sent to Pennsylvania dated June 5, 1998 (Administrative Record No. PA–855.08). Pennsylvania initially responded in its letter dated June 17, 1998 (Administrative Record No. PA 855.09), that it would require additional time to respond to OSM's request, and that it expected to provide a response by July 15. A response was received from Pennsylvania in its letter dated July 7, 1998 (Administrative Record No. PA 855.10). Therefore, OSM reopened the public comment period regarding Pennsylvania's response in the July 28, 1998, **Federal Register** (63 FR 40237). The comment period closed on August 12, 1998 and no comments were received. However, OSM subsequently informed Pennsylvania that its program appeared to lack the statutory authority to implement the exemption for incidental coal removal pursuant to government-financed reclamation projects. Therefore, in a letter dated October 8, 1998 (Administrative Record No. PA 855.12), Pennsylvania subsequently submitted portions of its state law which it believes provides specific authorization to implement the proposed changes to its AML Plan. Pennsylvania requested to have the statutory provisions included as part of Pennsylvania's Abandoned Mine Reclamation Plan Amendment. The proposed additions are as follows:

52 P.S. § 1396.3

"Government-financed reclamation contract" shall mean:

(1) For the purposes of Section 4.8, a federally-funded or state-funded and approved abandoned mine reclamation contract entered into between the department and an eligible person or entity who has obtained special authorization to engage in incidental and necessary extraction of coal refuse pursuant to government-financed reclamation which is either:

(i) a State-financed reclamation contract less than or equal to fifty thousand dollars ($50,000) total project costs, where up to five hundred (500) tons of coal is extracted, including a reclamation contract where less than five hundred (500) tons is removed and the government's cost of financing reclamation will be assumed by the contractor under the terms of the no-cost contract;

(ii) a State-financed reclamation contract authorizing the removal of coal refuse, including where reclamation is performed by the contractor under the terms of the no-cost contract with the department, not involving any reprocessing of coal refuse on the project area or return of any coal refuse material to the project area;

(iii) a State-financed reclamation contract greater than fifty thousand dollars ($50,000) total project costs or a federally-financed abandoned mine reclamation project: Provided, That the department determines in writing that extraction of coal is essential to physically accomplish the reclamation of the project area and is incidental and necessary to reclamation; or (iv) federally financed or state-financed extraction of coal which the department determines in writing to physically extinguish an abandoned mine fire that poses a threat to the public health, safety and welfare.

(2) For purposes of determining whether or not extraction of coal is incidental and necessary under section 4.8, the department shall consider standard engineering factors and shall not in any case consider the economic benefit deriving from extraction of coal. Necessary extraction of coal shall in no case include:

(i) the extraction of coal in an area adjacent to the previously affected area which will be reclaimed; or

(ii) the extraction of coal beneath the previously affected area which will be reclaimed.

"Surface mining activities" shall mean the extraction of coal from the earth or from waste or stockpiles or from pits or banks by removing the strata or material which overlies or is above or between them or otherwise exposing and retrieving them from the surface, including, but not limited to, strip, auger mining, dredging, quarrying and leaching, and all surface activity connected with surface or underground mining, including, but not limited to, exploration, site preparation, entry, tunnel, drift, slope, shaft and borehole drilling and construction and activities related thereto, but not including those portions of mining operations carried out beneath the surface by means of shafts, tunnels or other underground mine openings. "Surface mining activities" shall not include any of the following:

(1) Extraction of coal or coal refuse removal pursuant to a government-financed reclamation contract for the purposes of section 4.8.

(2) Extraction of coal as an incidental part of Federal, State or local government-financed highway construction pursuant to regulations promulgated by the Environmental Quality Board.

(3) The reclamation of abandoned mine lands not involving extraction of coal or excess spoil disposal under a written agreement with the property owner and approved by the department.

(4) Activities not considered to be surface mining as determined by the United States Office of Surface Mining, Reclamation and Enforcement and set forth in department regulations.

"No-cost reclamation contract" shall mean a contract entered into between the department and an eligible person for the purpose of reclaiming unreclaimed abandoned mine lands and which does not involve the expenditure of Commonwealth funds.

§ 1396.4h. [also referred to as "section 4.8"] Government-financed reclamation contracts authorizing incidental and necessary extraction of coal or authorizing removal of coal refuse

(a) No person may engage in the extraction of coal or in removal of coal refuse pursuant to a government-financed reclamation contract without a valid surface mining permit issued pursuant to this act unless such person affirmatively demonstrates that he is eligible to secure special authorization pursuant to this section to engage in a government-financed reclamation contract authorizing incidental and necessary extraction of coal or authorizing removal of coal refuse. The department shall determine eligibility before entering into a government-financed reclamation contract authorizing incidental and necessary extraction of coal or authorizing removal of coal refuse. The department may provide the special authorization as part of the government-financed reclamation contract: Provided, That the contract contains and does not violate the requirements of this section. The department shall not be required to grant a special authorization to any eligible person. The department may, however, in its discretion, grant a special authorization allowing incidental and necessary extraction of coal or allowing removal of coal refuse pursuant to a government-financed reclamation contract in accordance with this section. (b) Only eligible persons may secure special authorization to engage in incidental and necessary extraction of coal or to engage in removal of coal refuse pursuant to a government-financed reclamation contract. A person is eligible to secure a special authorization if he can demonstrate, at a minimum, to the department's satisfaction that:

(1) The contractor or any related party or subcontractor which will act under its direction has no history of past or continuing violations which show the contractor's lack of ability or intention to comply with the acts or the rules and regulations promulgated thereunder, whether or not such violation relates to any adjudicated proceeding agreement, consent order or decree, or which resulted in a cease order or civil penalty assessment. For the purposes o'f this section, the term "related party" shall mean any partner, associate, officer, parent corporation, affiliate or person by or under common control with the contractor.

(2) The person has submitted proof that any violation related to the mining of coal by the contractor or any related party or subcontractor which will act under its direction of any of the acts, rules, regulations, permits or licenses of the department has been corrected or is in the process of being corrected to the satisfaction of the department, whether or not the violation relates to any adjudicated proceeding, agreement, consent order or decree or which resulted in a cease order or civil penalty assessment. For purposes of this section, the term "related party" shall mean any partner, associate, officer, parent corporation, subsidiary corporation, affiliate or person by or under common control with the contractor.

(3) The person has submitted proof that any violation by the contractor or by any person owned or controlled by the contractor or by a subcontractor which acts under its direction of any law, rule or regulation of the United States or any state pertaining to air or water pollution has been corrected or is in the process of being satisfactorily corrected.

(4) The person or any related party or subcontractor which will act under the direction of the contractor has no outstanding unpaid civil penalties which have been assessed for violations of either this act or the act of June 22, 1937 (P.L. 1987, No. 394), known as "The Clean Streams Law" (35 P.S. § 691.1 et seq.), in connection with either surface mining or reclamation activities.

(5) The person or any related party or subcontractor which will act under the direction of the contractor has not been convicted of a misdemeanor or felony under this act or the acts set forth in subsection (e) and has not had any bonds declared forfeited by the department.

(c) Any eligible person who proposes to engage in extraction of coal or in removal of coal refuse pursuant to a government-financed reclamation contract may request and secure special authorization from the department to conduct such activities under this section. The department may issue the special authorization as part of the government-financed reclamation contract: Provided, That the contract contains and does not violate the requirements of this section. A special authorization can only be obtained if a clause is inserted in a government-financed reclamation contract authorizing such extraction of coal or authorizing removal of coal refuse and the person requesting such authorization has affirmatively demonstrated to the department's satisfaction that he has satisfied the provisions of this section. A special authorization shall only be granted by the department prior to the commencement of extraction of coal or commencement of removal of coal refuse on a project area. In order to be considered for a special authorization by the department, an eligible person must demonstrate at a minimum that:

(1) The primary purpose of the operation to be undertaken is the reclamation of abandoned mine lands.

(2) The extraction of coal will be incidental and necessary, or the removal of coal refuse will be required, to accomplish the reclamation of abandoned mine lands pursuant to a government-financed reclamation contract.

(3) Incidental and necessary extraction of coal or in removal of coal refuse will be confined to the project area being reclaimed.

(4) All extraction of coal or in removal of coal refuse and reclamation activity undertaken pursuant to a government-financed reclamation project will be accomplished pursuant to:

(i) the applicable environmental protection performance standards promulgated in the rules and regulations relating to surface coal mining listed in the government-financed reclamation contract; and

(ii) additional conditions included in the government-financed reclamation contract by the department.

(d) The contractor will pay any applicable per-ton reclamation fee established by the United States Office of Surface Mining Reclamation and Enforcement (OSMRE) for each ton of coal extracted pursuant to a government-financed reclamation project.

(e) Prior to commencing extraction of coal or commencement of removal of coal refuse pursuant to a government-financed reclamation project, the contractor shall file with the department a performance bond payable to the Commonwealth and conditioned upon the contractor's performance of all the requirements of the government-financed reclamation contract, this act, "The Clean Streams Law", the act of January 8, 1960 (1959 P.L. 2119, No. 787) (35 P.S. § 4001 *et. seq.*), known as the "Air Pollution Control Act", the act of September 24, 1968 (Pub. L. 1040, No 318) (52 P.S. § 30.51 *et seq.*), known as the "Coal Refuse Disposal Control Act," where applicable, the act of November 26, 1978 (Pub. L. 1375, No. 325) (32 P.S. § 693.1 *et seq.*), known as the "Dam Safety and Encroachments Act, and, where applicable, the act of July 7, 1980 (Pub. L. 380, No. 97) (35 P.S. § 6018.101 *et seq.*), known as the "Solid Waste Management Act". An operator posting a bond sufficient to comply with this section shall not be required to post a separate bond for the permitted area under each of the acts herein above enumerated. For government-financed reclamation contracts other than a no-cost reclamation contract, the criteria for establishing the amount of the performance bond shall be the engineering estimate, determined by the department, of meeting the environmental obligations enumerated above. The performance bond which is provided by the contractor under a contract other than a government-financed reclamation contract shall be deemed to satisfy the requirements of this section provided that the amount of the bond is equivalent to or greater than the amount determined by the criteria set forth in this subsection. For no-cost reclamation projects in which the reclamation schedule is shorter than two (2) years the bond amount shall be a per acre fee, which is equal to the department's average per acre cost to reclaim abandoned mine lands; provided, however, for coal refuse removal operations, the bond amount shall only apply to each acre affected by the coal refuse removal operations. For long-term, no-cost reclamation projects in which the reclamation schedule extends beyond two (2) years, the department may establish a lesser bond amount. In these contracts, the department may in the alternative establish a bond amount which reflects the cost of the proportionate amount of reclamation which will occur during a period specified.

(f) The department shall insert in government-financed reclamation contracts conditions which prohibit coal extraction pursuant to government-financed reclamation in areas subject to the restrictions of Section 4.2 (52 P.S. § 1396.4b.), except as surface coal mining is allowed pursuant to that section.

(g) Any person engaging in extraction of coal pursuant to a no-cost government-financed reclamation contract authorized under this section who affects a public or private water supply by contamination or diminution shall restore or replace the affected supply with an alternate supply adequate in quantity and quality for the purposes served.

(h) Extraction of coal or removal of coal refuse pursuant to a government-financed reclamation contract cannot be initiated without the consent of the surface owner for right of entry and consent of the mineral owner for extraction of coal. Nothing in this section shall prohibit the department's entry onto land where such entry is necessary in the exercise of police powers.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 884.15 and 30 CFR 732.17, OSM is now seeking comment on whether the amendment proposed by Pennsylvania satisfies the applicable requirements for the approval of program amendments. Specifically, OSM is seeking comments on the incorporation of the statutory references as submitted on October 8, 1998 (Administrative Record No. PA 855.12) into the program amendment submission. Comments should address whether the proposed amendment with these statutory references and definitions satisfy the applicable program approval criteria of 30 CFR 884.15 and 30 CFR 732.17. If the amendment is deemed adequate, it will become part of the Pennsylvania program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Harrisburg Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This proposed rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order

12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State and Tribal abandoned mine land reclamation plans and revisions thereof since each such plan is drafted and promulgated by a specific State or Tribal, not by OSM. These standards are also not applicable to the actual language of State regulatory programs and program amendments for the same reason. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs, program amendments, abandoned mine land reclamation plans and revisions thereof submitted by the States must be based solely on a determination of whether the submittal is consistent with Titles IV and V of SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, 732 and 884 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State and Tribal abandoned mine land reclamation plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)), and since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 27, 1998.

Michael K. Robinson,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 98–29397 Filed 11–2–98; 8:45 am]

BILLING CODE 4310–05–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–191; RM–9351]

Radio Broadcasting Services; Leesville, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Pene Broadcasting Company, Inc., licensee of Station KJAE(FM), Channel 224A, Leesville, Louisiana, seeking the substitution of Channel 228C3 for Channel 224A and modification of its license accordingly to specify operation on the higher powered channel. Coordinates for this proposal are 31–11–29 NL and 93–14–35 WL.

Petitioner's modification proposal is consistent with the provisions of Section 1.420(g)(2) of the Commission's Rules since it demonstrated that an additional equivalent channel can be allotted to Leesville in the event other parties indicate an interest in the proposal. Therefore, we will not accept competing expressions of interest in the use of Channel 228C3 at Leesville.

DATES: Comments must be filed on or before December 14, 1998, and reply comments on or before December 29, 1998.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Denise B. Moline, Esq., 100 Carpenter Drive, Suite 100, P.O. Box 217, Sterling, VA 20167.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–191, adopted October 14, 1998, and released October 23, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–29320 Filed 11–2–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–189, RM–9377]

Radio Broadcasting Services; Manzanita, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by John L. Zolkoske seeking the allotment of Channel 235A to Manzanita, OR, as the community's first local aural service. Channel 235A can be allotted to Manzanita in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 45–43–06 North Latitude; 123–56–18 West Longitude. Canadian concurrence in the allotment is required since the community is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before December 14, 1998, and reply comments on or before December 29, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John L. Zolkoske, 915 N. Douglas Avenue, Stayton, OR 97383 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–189, adopted October 14, 1998, and released October 23, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–29318 Filed 11–2–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

49 CFR Part 1420

[Docket No. BTS–98–4659]

RIN 2139–AA05

Revision to Reporting Requirements for Motor Carriers of Property

AGENCY: Bureau of Transportation Statistics, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Transportation Statistics (BTS) proposes to adopt new accounting and reporting provisions that would provide data for current needs while significantly reducing the annual compliance burden. This rulemaking is being conducted to implement portions of the ICC Termination Act of 1995, which transferred the motor carrier financial and operating data collection program to the Department of Transportation and made several changes to the motor carrier program. Class I motor carriers would file much shortened quarterly reports and file a simplified annual report form based largely on the current Form M–2. Class II carriers would continue filing only annually and would use the same simplified form as class I carriers. In addition, the Bureau proposes a system for considering requests for exemptions from filing and from public release of data. With this document, BTS is also withdrawing its proposal to establish a negotiated rulemaking advisory committee to assist in developing the regulations. This rulemaking action is taken on the Bureau's initiative.

DATES: Comments must be submitted by December 3, 1998.

ADDRESSES: Please direct comments to the Docket Clerk, Docket No. BTS–98–4659, Department of Transportation, 400 Seventh Street, SW., Room PL–401, Washington, D.C. 20590, from 10 a.m. to 5 p.m. ET, Monday through Friday, except Federal Holidays.

Comments should identify the regulatory docket number and be submitted in duplicate to the address listed above. Commenters wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on Docket BTS–98–4659 . The Docket Clerk will date stamp the postcard and mail it back to the commenter.

If you wish to file comments using the Internet, you may use the U.S. DOT Dockets Management System website at http://dms.dot.gov. Please follow the instructions online for more information.

FOR FURTHER INFORMATION CONTACT: David Mednick, K–2, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590; (202) 366–8871; fax: (202) 366–3640; e-mail: david.mednick@bts.gov.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. Internet users can access all comments received by the U.S. DOT Dockets, Room PL401, at the address: http://dms.dot.gov. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the **Federal Register** Electronic Bulletin Board Service at (202) 512-1661. If you have access to the Internet, you can obtain an electronic copy at http://www.access.gpo.gov/su—‡docs/aces/aces140.html or http://www.bts.gov/mcs/rulemaking.html.

II. Background

Authority

The Secretary of Transportation has authority to establish regulations for the collection of certain data from motor carriers of property and others. Section 103 of the ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803 (1995) (codified at 49 U.S.C. 14123). This authority has been delegated to the Director of the Bureau of Transportation Statistics (BTS). 49 CFR 1.71.

Brief History of the Program

The Interstate Commerce Commission (ICC) collected financial data from

regulated motor carriers from the 1930's until its sunset at the end of 1995, when data collection was transferred to the Department of Transportation (DOT). See 49 U.S.C. 11145 and its implementing regulations at 49 CFR Part 1420.[1] Between 1978 and 1994, ICC significantly reduced the reporting requirements. It substantially shortened report forms and eased record retention requirements. These changes followed the shift in the ICC's focus from close economic regulation of the motor carrier industry to industry oversight. The last revision to accounting and reporting requirements, ICC's Ex Parte No. MC–206, 10 I.C.C.2d 329 (1994), contains additional background information.

The Current Program

The data collection program, as currently specified, has been in place since 1994, and is set forth in 49 CFR Part 1420. For motor carriers of property, the current regulations create three classes of carriers based on revenue. Class I carriers are those with annual operating revenues of $10 million or more, and they file annual report Form M–1 and quarterly report Form QFR. Class II carriers have annual operating revenues of between $3 and 10 million, file a simpler annual report, Form M–2, and do not file a quarterly report. Class III carriers have annual operating revenues of less than $3 million and are not required to file any periodic financial reports.

Unless otherwise prohibited by law, individual carrier reports are made available to the public. BTS is aware of three federal agencies that use the data regularly—the Bureau of Economic Analysis (in developing the national accounts), the Department of Defense's Military Traffic Command (to help assess potential carriers for shipping military goods), and the General Services Administration (to help in evaluating its shipment rates). Other agencies have used the data for special studies. Private sector users include motor carriers, shippers, industry analysts, labor unions, segments of the insurance industry, investment analysts, and the consultants and data vendors that support these users.

The New Statutory Provisions

This rulemaking is being conducted to implement the ICC Termination Act of 1995 (the Act), which abolished the ICC and transferred some former ICC functions to DOT. Revision is necessary because the Act made several changes to the program. Similar to the legislation replaced by the Act, then codified at 49 U.S.C. 11145, the Act requires DOT to collect certain data from motor carriers of property and motor carriers of passengers:

> The Secretary shall require Class I and Class II motor carriers to file with the Secretary annual financial and safety reports, the form and substance of which shall be prescribed by the Secretary; except that, at a minimum, such reports shall include balance sheets and income statements.

The former 49 U.S.C. 11145 did not explicitly charge ICC to collect information relevant to safety and did not specify minimum data to be collected. The Act also allows DOT to collect certain other data as needed:

> The Secretary may require motor carriers, freight forwarders, brokers, lessors, and associations, or classes of them as the Secretary may prescribe, to file quarterly, periodic, or special reports with the Secretary and to respond to surveys concerning their operations.

The Act specifies the criteria to be used in designing the reporting program. DOT must consider: (1) safety needs; (2) the need to preserve confidential business information and trade secrets and prevent competitive harm; (3) private sector, academic, and public use of information in the reports; and (4) the public interest. In the Act, Congress has also explicitly called on DOT to "streamline and simplify" these reporting requirements to the maximum extent practicable.

Unlike the former 49 U.S.C. 11145, the Act authorizes two types of exemptions from the reporting requirements. Each exemption is based on certain criteria and is granted for a three-year period. The first is an exemption from filing report forms. The requestor "must demonstrate, at a minimum, that an exemption is required to avoid competitive harm and preserve confidential business information that is not otherwise publicly available." The second is an exemption from public release of data reported by the carrier. Similar to the other exemption, the requestor must demonstrate that "the exemption requested is necessary to avoid competitive harm and to avoid the disclosure of information that qualifies as a trade secret or privileged or confidential information under section 552(b)(4) of title 5." Further, for the latter exemption the requestor must not be a publicly held corporation or must not be subject to financial reporting requirements of the Securities and Exchange Commission.

In addition to implementing the Act, the proposed changes are being made within the framework of other policies and in light of current conditions. The Paperwork Reduction Act of 1995 set a government-wide goal for the reduction of information collection burdens by at least 25 percent by the end of fiscal year 1998 and calls on agencies to improve the quality and use of federal information to strengthen decision making, accountability, and openness in government and society. The President's Regulatory Reinvention Initiative asked agencies to reduce by half the frequency of reports that the public is required to provide. As the motor carrier industry continues to experience structural changes and with the sunset of the ICC, the data needs of the public and private sectors have changed. Modernization must also take into account recent significant improvements in technologies to collect, process, and disseminate data.

Proposed Changes Regarding the Reporting Forms

In determining the data items to be collected, BTS started with the income statement and balance sheet of the current Form M–2, since these elements are required under the new Act. From this starting point, data items, and the amount of detail for data items, were added or subtracted. In applying the four criteria, BTS received information from a variety of sources: comments received during the recent renewal process for Forms M–1, M–2, and QFR, comments received during the proposal to conduct negotiated rulemaking, customer feedback, and experience gained in administering the data collection program. Based on these, BTS is proposing several changes to the reporting requirements. As detailed below, we invite your comments on this proposal.

Under the proposal, both class I and class II carriers would submit annually a modified version of Form M–2 to be called Form M. Quarterly reporting would be retained for class I carriers but would be drastically reduced. The Bureau believes that the information on the new Form M and on the modified QFR would serve the large majority of current information needs, while reducing the burden on industry by 45 percent. The number of data items for Form M would be slightly less than the current Form M–2's and we estimate respondent burden would drop from ten hours to nine for class II carriers. Class I carriers would experience a greater decrease, from the current 25 burden hours for Form M–1 to nine hours for the new form. We estimate that the burden hours for the new Form QFR would be reduced from two hours to a half hour. The change in reporting burden is summarized in the tables below.

[1] The regulations were recently transferred from 49 CFR Part 1249 to 49 CFR Part 1420. *See Reports of Motor Carriers; Redesignation of Regulations Pursuant to the ICC Termination Act of 1995*, 63 FR 52192 (September 30, 1998).

	Number of carriers	Burden hours/report		Total hours
		Annual	Quarterly	
Current				
Class I	900	25	2	29,700
Class II	1,900	10		19,000
Total	2,800			48,700
Under proposed changes				
Class I	900	9	.5	9,900
Class II	1,900	9		17,100
Total	2,800			27,000

Proposal regarding public release of data

Unlike the former 49 U.S.C. 11145, the Act explicitly authorizes two types of exemptions—an exemption from the reporting requirements and an exemption from public release of data. For each, the requestor must demonstrate, at a minimum, that the exemption is required to avoid competitive harm. If a carrier meets the applicable standard and is granted confidentiality, business information would not be publicly disclosed. The carrier would then no longer qualify for an exemption from filing. Therefore, BTS proposes to consider only requests for exemptions from public release, and not for exemptions from reporting requirements. With confidentiality protection, confidential information would not be released publicly, and competitive harm would no longer be a concern.

Under the Act, 49 U.S.C. 14123(c), requests for confidentiality must go through a notice and comment period and DOT must make a decision within 90 days of the request. BTS proposes the following procedure. Petitions relating to a current year's report must be received by the report's due date. The petition can be made either before submission of the report or simultaneous with submission. Carriers filing a petition after a report's deadline will not be able to later request confidentiality for the report. The report either would have already been submitted, and therefore already been available to the public, or the report should have been submitted but was not. Regarding content of the petition, at a minimum it must contain specific evidence that the carrier is likely to suffer competitive harm.

DOT will publish a **Federal Register** notice listing the petitions received for a given report and announcing a 30-day public comment period. DOT will make a decision on the petitions within 90 days of the report's due date. By waiting until all petitions for exemptions are received for a given report, those who wish to comment will be able to do so at one time rather than throughout the year. DOT will not release a petitioning carrier's reports to the public while its petition is pending.

Copies of the Forms

You can request copies of current or proposed forms from the contact listed in this notice. If you have access to the Internet, you can also obtain copies at http://www.bts.gov/mcs/rulemaking.htm.

Proposal To Establish a Negotiated Rulemaking Advisory Committee

BTS had earlier proposed establishing a negotiated rulemaking advisory committee in 61 FR 64849 (Dec. 9, 1996). The committee was to consider relevant issues and attempt to reach a consensus in developing regulations to implement the ICC Termination Act of 1995 regarding motor carriers of property. After receiving comments on this proposal and holding a public meeting on the subject, BTS determined that this process would not provide a significant advantage over conventional informal rulemaking. One of the factors to consider before choosing negotiated rulemaking is whether there is a reasonable likelihood that a committee will reach consensus on the proposed rule within a fixed period of time. BTS believes that consensus would not be reached in these circumstances on several of the issues, primarily on public release of the reports.

III. Request for Comments

The goal of this proposed rulemaking is to reach an equitable and practical balance, within the context of the ICC Termination Act of 1995, between the need for information and the goal of reducing reporting burden. BTS examined the accounting and reporting requirements in an effort to continue collecting meaningful data on the motor carrier industry while streamlining these requirements where possible. This proposal would create a simplified report for those carriers earning over $10 million in annual operating revenues while continuing to provide data helpful to understanding the industry. It would also implement a process for companies to seek confidentiality protection to avoid competitive harm. BTS requests comments concerning the above revisions to the information collection. You may wish to address one or more of the following topics: (1) Whether particular data items should be included or deleted from the annual and quarterly reporting requirements and why; (2) whether the instructions for the data items should be carried over from the current forms or whether they should be modified; (3) whether BTS should continue quarterly reporting; (4) how your comments to the proposal relate to the four areas of consideration listed in 49 U.S.C. 14123(b); (5) whether BTS accurately estimated the reporting burden and costs; (6) how BTS can minimize reporting burden, including the use of automated collection techniques or other forms of information technology; (7) the proposed process for handling requests for exemptions; (8) ways to reduce the burden on any segments of the industry that may be disproportionately affected, such as small entities; (9) how BTS can enhance the quality, utility, or clarity of the information collected; and (10) whether the regulations are clearly written.

IV. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, is not subject to review by the Office of Management and Budget.

This proposed rule is not considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034). The proposal would reduce industry reporting burden by 21,700 hours or 45 percent. BTS estimates that the annual cost of reporting to be just over $1 million for the industry. This breaks down to $418 per year for class I carriers and $342 per year for class II carriers. The estimate is based on reporting costs of $38 per hour including overhead.

The major beneficiaries of the data collection are the federal government, the motor carrier industry, industry associations, transportation investment analysts, transportation research analysts, and motor carrier safety analysts. The program provides data that are used in developing the national accounts, data for monitoring industry trends, and data useful to the public and private sectors regarding the operation and health of the trucking industry and individual carriers.

Executive Order 12612

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism") and DOT has determined the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Initial Regulatory Flexibility Analysis

I certify this proposed rule will not have a significant economic impact on a substantial number of small entities. The definition of "small business" is contained in the Small Business Administration's small business size standard regulations. For motor carriers of property, small businesses are those with annual receipts of up to $18.5 million. Under the current classification, there are about 2,800 reporting carriers of which an estimated 2,180 (or 78 percent) are small businesses (all class II carriers and 31 percent of class I carriers are classified as small businesses). The proposed amendments would decrease reporting burden for all reporting carriers. Class I carriers would realize a 67 percent reduction in burden hours while class II would realize a 10 percent reduction.

Environmental Assessment

The Bureau of Transportation Statistics has analyzed the proposed amendments for the purposes of the National Environmental Protection Act. The proposed amendments will not have any impact on the quality of the human environment. Accordingly, an Environmental Impact Statement is not required.

Initial Paperwork Reduction Act Analysis

The reporting and record keeping requirements associated with this rule are being sent to the Office of Management and Budget in accordance with 44 U.S.C. Chapter 35 under OMB Numbers 2139–0002, 2139–0004, and 2139–0005. Administration: Bureau of Transportation Statistics. Titles: Quarterly Report of Class I Motor Carriers of Property, Annual Report of Class I Motor Carriers of Property, and Annual Report of Class II Motor Carriers of Property. Need for Information: information on the health of the motor carrier of property industry, its impact on the economy, and industry changes that may affect national transportation policy. Frequency: Annually. Burden Estimate: 27,000 annual hours. Average Annual Burden Hours per Respondent: class I carriers—11 annual hours, class II carriers—9 annual hours. For further information contact: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Attention Desk Officer for the Bureau of Transportation Statistics or David Mednick at the address listed above under FOR FURTHER INFORMATION CONTACT.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number 2139–AA05 contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 1420

Motor carriers, Reporting and classification.

Proposed Rule

Accordingly, the Bureau of Transportation Statistics proposes to amend 49 CFR Part 1420 Reports of Motor Carriers, as follows:

PART 1420—REPORTS OF MOTOR CARRIERS

The authority citation for Part 1420 is revised to read as follows:

Authority: 49 U.S.C. 14123.

2. Section 1420.1 is revised to read as follows:

§ 1420.1 Annual reports of motor carriers of property, motor carriers of household goods, and dual authority carriers.

(a) *Annual Report Form M.* All class I and class II common and contract carriers of property, including household goods and dual authority motor carriers, must file Motor Carrier Annual Report Form M. Carriers must file the annual report on or before March 31 of the year following the year to which it relates. For classification criteria, see § 1420.2.

(b) *Quarterly Report Form QFR.* All class I common motor carriers of property and class I household goods motor carriers must complete and file motor carrier Quarterly Report Form QFR (Form QFR). The quarterly accounting periods end on March 31, June 30, September 30, and December 31. The quarterly reports must be filed within 30 calendar days after the end of the reporting quarter.

(c) Carriers must file the quarterly and annual reports in duplicate with the Bureau of Transportation Statistics, K–27, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. You can obtain copies of the report forms from the Bureau of Transportation Statistics.

3. In section 1420.2, paragraph (b)(4) is revised to read as follows:

§ 1420.2 Classification of carriers—motor carriers of property, household goods carriers, and dual property carriers.

* * * * *

(b) * * *

(4) Carriers must notify the Bureau of Transportation Statistics (BTS) of any change in classification or any change in annual operating revenues that would cause a change in classification. The carrier may request a waiver or an exception from the regulations in this part in unusual or extenuating circumstances, where the classification process will unduly burden the carrier, such as partial liquidation or curtailment or elimination of contracted services. The request must be in writing, specifying the conditions justifying the waiver or exception. BTS will notify the carriers of any change in classification.

* * * * *

4. In section 1420.2(b)(5), remove the term "an Annual Report (Form M–1 or Form M–2)" and add "Annual Report Form M" in its place.

5. In section 1420.2, paragraph (c) is removed (Note A is unchanged).

6. Section 1420.6 is added to read as follows:

§ 1420.6 Requests for exemptions from public release.

(a) *In general.* This section governs requests for exemptions from public release of reports filed under § 1420.1.

(b) *Criteria.* The Bureau of Transportation Statistics (BTS) will grant a request upon a proper showing that:

(1) The filer is not a publicly held corporation or the filer is not subject to financial reporting requirements of the Securities and Exchange Commission; and

(2) The exemption is necessary to avoid competitive harm and to avoid the disclosure of information that qualifies as trade secret or privileged or confidential information under 5 U.S.C. 552(b)(4).

(c) *Valid requests.* For a request to be valid, it must contain, at a minimum, assertions that the request meets the criteria in paragraph (b) of this section, including specific evidence that the carrier is likely to suffer competitive harm.

(d) *Procedure.* Requests for an exemption under this section may be made at any time during the year. However, a request will be deemed applicable to only those reports due on or after the date the request is received. Petitions received after a report's due date will only be considered for the following year's or quarter's report. Except as provided in this paragraph, requests must be made separately for report Forms M and QFR. After each due date of reports specified in § 1420.1, DOT will publish a notice in the **Federal Register** listing all of the valid pending requests for an exemption from public release and giving a 30-day public comment period. DOT will grant or deny each request no later than 90 days after the due date of the report for which the request applies. DOT will either publish a notice in the **Federal Register** specifying whether the request was granted or denied, or will give notice directly to the carrier, or will do both. A carrier submitting a petition regarding Form M can also request that it cover Form QFR, in which case DOT will decide both requests at the same time. Assuming the carrier's fiscal year coincides with the calendar year, the following table summarizes report and petition deadlines:

Report	Report and petition due	Decision due
Annual Form M	March 31	June 30.
First Quarter Form QFR	April 30	July 31.
Second Quarter Form QFR	July 31	October 31.
Third Quarter Form QFR	October 31	January 31.
Fourth Quarter Form QFR	January 31	April 30.

(e) *Pendency.* A request is deemed pending from the date it is received by BTS until it is granted or denied by BTS. BTS will not release publicly, unless otherwise required by law, any report for which a valid request for an exemption from public release is pending.

(f) *Period of exemptions.* If a request for an exemption under this section is granted, BTS will not publicly release any reports covered by the granted exemption, unless otherwise required by law. Exemptions granted under this section will cover a period of three reporting years.

Note: The following forms will not appear in the Code of Federal Regulations.

Robert A. Knisely,

Deputy Director.

BILLING CODE 4910–FE–P

[redacted] (draft only)

Class I
Motor Carriers of Property
and Household Goods
Quarterly Report

U.S. DOT/ Bureau of Transportation Statistics
K-27
400 7th St., SW
Washington, DC 20590

Motor Carrier Number

Quarter: ❑ 1 ❑ 2 ❑ 3 ❑ 4

U.S. DOT Number

Name of company

Trade or doing business as

Street address

City State Zip ( ) Telephone

Contact (for purposes of this report):

Contact name Title ( ) Telephone

Mailing Address (if different from above):

Mailing address

City State Zip

Affiliated Companies:

	Name	MC number	U.S. DOT number
parent			
affiliates			

Operating Revenues	
1 Freight operating revenue	
2 Household goods carrier operating revenue	
3 Other operating revenue	
4 **Total operating revenue**	

Operating Expenses	
5 Freight operating expenses	
6 Household goods carrier operating expenses	
7 **Total operating expenses**	

8 **Net Operating Income (Loss)**	

CERTIFICATION

I hereby certify that this report was prepared by me or under my supervision, that I have examined it, and that the items herein reported on the basis of my knowledge are correctly shown.

Name Signature

Title Date

1998 FORM M (draft only)

Class I & II
Motor Carriers of Property
and Household Goods
Annual Report

U.S. DOT/ Bureau of Transportation Statistics
K-27
400 7th St., SW
Washington, DC 20590

Motor Carrier Number

U.S. DOT Number

Base state

Base state registration number

Accounting Period:

calendar year ☐
fiscal year ☐ ending _____

Name of company

Trade or doing business as

Street address

City State Zip ( ) Telephone

Contact (for purposes of this report):

Contact name Title ( ) Telephone

Mailing Address (if different from above):

Mailing address

City State Zip

Affiliated Companies:

	Name	MC number	U.S. DOT number
parent			
affiliates			

Schedule 100 - Balance Sheet

Current Assets

101	Cash and equivalents	
102	Accounts receivable	
103	Notes receivable	
104	Other current assets	
105	**Total current assets**	

Carrier Operating Property

106	Carrier operating property	
107	Less accumulated depreciation	
108	**Net carrier operating property**	

Other Long Term Assets

109	Total intangible property	
110	Other long term assets	
111	**Total other long term assets**	
112	**Total Assets**	

Current Liabilities

113	Accounts payable	
114	Notes payable	
115	Taxes payable	
116	Current portion of long term debt	
117	Other current liabilities	
118	**Total current liabilities**	

Long term Payables

119	Long term debt	
120	Other long term liabilities	
121	**Total long term payables**	
122	**Total Liabilities**	

Owner's Equity or Capital

123	Retained earnings (if corporation)	
124	Other equity capital (if corporation)	
125	Proprietary or partnership capital (if not a corporation)	
126	**Total owner's equity or capital**	

127	**Total Liabilities and Equity**	

Schedule 200 - Income Statement

Operating Revenues

201	Freight revenue	
202	Household goods carrier operating revenue	
203	Other operating revenue	
204	**Total operating revenue**	

Wages and Salaries

205	Drivers' and helpers' wages, not including owner-operator driver wages	
206	Other wages and salaries	
207	Total fringe benefits	
208	Commission agent fees (HHG only)	
209	**Total salaries, wages, and fringe benefits**	

Operating Supplies and Expenses

210	Fuel, oil, and lubricants	
211	Outside maintenance	
212	Vehicle parts	
213	Tires and tubes	
214	Other operating supplies and expenses	
215	**Total operating supplies and expenses**	

Insurance Expenses

216	Cargo loss and damage premiums and claims paid	
217	Other liability and property damage premiums and claims paid	
218	Other insurance expense	
219	**Total insurance expenses**	

Miscellaneous Expenses

220	Fuel taxes	
221	Operating taxes and licenses	
222	Depreciation and amortization expenses	
223	Equipment and driver rentals	
224	Other purchased transportation - railroads	

225	Other purchased transportation - motor carriers, water, air, and other	
226	Communications and utilities	
227	Other operating expenses	
228	**Total miscellaneous expenses**	
229	**Total Operating Expenses**	
230	**Net Operating Income (Loss)**	

Other Income and Expenses

231	Other non-operating revenue	
232	Other non-operating expenses	
233	Net other income (loss)	
234	Gain (loss) on disposition of assets	
235	Income taxes	
236	**Total other income and expenses**	
237	**Net Income (Loss)**	

Schedule 300 - Operating Statistics

All Carriers:

301	Miles, intercity revenue freight - highway service	
302	Miles, intercity revenue freight - rail, water, and air services	
303	**Total miles**	
304	Ton-miles, intercity revenue freight - highway	
305	Ton-miles, intercity revenue freight - rail, water, and air services	
306	**Total ton-miles**	
307	Tons of revenue freight carried in intercity service	

Household Goods Carriers (HHG) Only:

	Category	Revenues (intercity common & contract carriage)	Tons (actual weight)	Number of shipments
308	Personal effects and property used or to be used in a dwelling			
309	Furniture, fixtures, equipment, and the property of stores, offices, etc.			

310	Articles of an unusual nature or value (objects of art, etc.)			
311	Total			
312	Moving revenue - intercity common carrier		XXXXXXXXXXX	XXXXXXXXXXX
313	Moving revenue - intercity contract carrier		XXXXXXXXXXX	XXXXXXXXXXX

Schedule 400 - Other Operating Information

Revenue equipment		Number of units at start of year	Units acquired during year: Number	Units acquired during year: Cost	Number of units retired/ disposed of during the year
401	Straight trucks - owned				
402	Straight trucks - leased				
403	Truck-tractors - owned				
404	Truck-tractors - leased				
405	Trailers and semi-trailers - owned				
406	Trailers and semi-trailers - leased				
407	Other				

Revenue Commodity Group		Mark with an X
408	General freight	
409	Household goods	
410	Specialty freight	

Drivers Subject to Federal Motor Carrier Safety Regulations

411	Non-CDL drivers	
412	CDL drivers	
413	**Total drivers**	

CERTIFICATION

I hereby certify that this report was prepared by me or under my supervision, that I have examined it, and that the items herein reported on the basis of my knowledge are correctly shown.

Name Signature

Title Date

[FR Doc. 98–29412 Filed 11–2–98; 8:45 am]
BILLING CODE 4910–FE–C

Notices

Federal Register
Vol. 63, No. 212
Tuesday, November 3, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Privacy Act; System of Records

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of New Privacy Act System of Records.

SUMMARY: Notice is hereby given that USDA proposes to create a new Privacy Act system of records, USDA/RMA, entitled "Dairy Options Pilot Program (DOPP), USDA/RMA."

EFFECTIVE DATE: This notice will be adopted without further publication in the **Federal Register** on December 14, 1998 unless modified by a subsequent notice to incorporate comments received from the public. Although the Privacy Act requires only that the portion of the system which describes the "routine uses" of the system be published for comment, USDA invites comments on all portions of this notice. Comments must be received by the contact person listed below on or before December 3, 1998.

FOR FURTHER INFORMATION CONTACT: E. Heyward Baker, Director, Reinsurance Services Division, Risk Management Agency, Room 6727–S, 1400 Independence Avenue, S.W., Washington, D.C. 20250, Telephone: (202) 720–0191.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act, 5 U.S.C. 552a, USDA is creating a new system of records to be maintained by the Risk Management Agency (RMA) to support the DOPP; a program to educate dairy farmers in the use of options as risk management tools. The system contains data on purchases of options on milk futures contracts.

The purpose of DOPP is to educate dairy producers in the use of options contracts as risk management tools and to ascertain their particular usefulness to dairy producers in various regional markets. The program lasts 6 to 8 months for each participant. Over that time, RMA will train the producers and pay for 80 percent of the premiums of their options contracts and up to $30 in brokers fees per contract. Brokers play a key role in DOPP. Producers will select their own DOPP-eligible brokers and place orders through those brokers. Brokers will use an Internet-based communications system to provide to RMA data on participants' trading activity. RMA will use this data for program evaluation and compliance tracking purposes. Brokers will, themselves, be the subject of records in so far as each DOPP-eligible broker will have signed a contract with RMA and a profile on each broker will be a part of the DOPP software. In addition to tracking the trading activity of DOPP brokers, the system will identify the brokers as having attended a DOPP training session once they have complied with this requirement, thus identifying them as eligible to conduct trades for DOPP participants.

In conformance with 5 U.S.C. 552a(r), as implemented by OMB Circular A–130, the Department of Agriculture has sent a report on the new system to the Chairman and Ranking Minority Member, Committee on Governmental Affairs, United States Senate; the Chairman and Ranking Minority Member, Committee on Government Reform and Oversight, U.S. House of Representatives; and the Acting Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget on _____, 1998.

Signed at Washington, D.C., on October 26, 1998.

Dan Glickman,
Secretary of Agriculture.

[FR Doc. 98–29347 Filed 11–2–98; 8:45 am]
BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Washington Provincial Advisory Committee Meeting Notice

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Washington Provincial Advisory Committee will meet on Thursday, November 19, 1998, in Centralia, Washington, at the King Oscar Motel (1049 Eckerson Road) in their meeting room. The meeting will begin at 9:30 a.m. and continue until 4:30 p.m. The purpose of the meeting is to present: (1) The 1999/2000 Timber Sale Program for the Gifford Pinchot National Forest, followed by discussion, advice, and recommendations; (2) Monitoring results; (3) a special presentation of the AMA landscape; and (4) a Public Open Forum. All Southwest Washington Provincial Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. The "open forum" provides opportunity for the public to bring issues, concerns, and discussion topics to the Advisory Committee. The "open forum" is scheduled as part of agenda item (4) for this meeting. Interested speakers will need to register prior to the open forum period. The committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Linda Turner, Public Affairs Specialist, at (360) 891–5195, or write Forest Headquarters Office, Gifford Pinchot National Forest, 10600 NE 51st Circle, Vancouver, WA 98682.

Dated: October 28, 1998.

Sandy Spurling,
Deputy Fire Staff.

[FR Doc. 98–29437 Filed 11–2–98; 8:45 am]
BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Advisory Committee for Agriculture Statistics

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice of intent to reestablish at USDA.

SUMMARY: The U.S. Department of Agriculture (USDA) proposes to reestablish the Advisory Committee for Agriculture Statistics. Effective October 1, 1996, responsibility for the census of agriculture program was transferred to the National Agricultural Statistics Service (NASS) at USDA from the Bureau of the Census, U.S. Department of Commerce. Effective February 2, 1997, NASS also received the transferred program positions and staff from the Bureau of the Census, U.S.

Department of Commerce.

Responsibility for the Advisory Committee on Agriculture Statistics, which is a discretionary committee, was transferred, along with its allocated slot, to USDA with the census of agriculture program.

The Advisory Committee on Agriculture Statistics has provided input and direction to the census of agriculture program since the committee was first established on July 16, 1962. It has been particularly critical to have the committee as a valuable resource to USDA during the transfer of the census from the U.S. Department of Commerce.

The purpose of the committee is to make recommendations on census of agriculture operations including questionnaire design and content, publicity, publication plans, and data dissemination. Comments are requested on the establishment of this committee at USDA.

DATES: Comments on this notice must be received by January 7, 1999 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Donald M. Bay, Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 4117 South Building, Washington, D.C. 20250–2000, (202) 720–2707.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (5 U.S.C. appendix), notice is hereby given that the Secretary of Agriculture intends to reestablish the Advisory Committee on Agriculture Statistics, hereafter referred to as Committee. The purpose of the Committee is to advise the Secretary of Agriculture on the conduct of the periodic censuses and surveys of agriculture, other related surveys, and the types of agricultural information to obtain from respondents. The committee also prepares recommendations regarding the content of agriculture reports, and presents the views and needs for data of major suppliers and users of agriculture statistics.

The Secretary of Agriculture has determined that the work of the Committee is in the public interest and relevant to the duties of USDA. No other advisory committee or agency of USDA is performing the tasks that will be assigned to the Committee.

The Committee, appointed by the Secretary of Agriculture, shall consist of 25 members representing a broad range of disciplines and interests, including, but not limited to, agricultural economists, rural sociologists, farm policy analysts, educators, State agriculture representatives, and agriculture-related business and marketing experts.

A representative of the Bureau of the Census, U.S. Department of Commerce, serves as an ex-officio member of the Committee.

The committee draws on the experience and expertise of its members to form a collective judgment concerning agriculture data collected and the statistics issued by NASS. This input is vital to keep current with shifting data needs in the rapidly changing agricultural environment and keep NASS informed of emerging developments and issues in the food and fiber sector that can affect agriculture statistics activities.

The Secretary of Agriculture invites individuals to comment on the reestablishment of this committee at USDA.

Equal opportunity practices, in line with USDA policies, will be followed in all membership appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by USDA, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Signed at Washington, D.C., October 27, 1998.

Reba Evans,

Acting Deputy Assistant Secretary for Administration.

[FR Doc. 98–29346 Filed 11–2–98; 8:45 am]

BILLING CODE 3410–20–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Highline Breaks Watershed, Otero & Pueblo Counties, CO

AGENCY: Natural Resources Conservation Service (NRCS), DOA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Part 1500); and the NRCS Regulations (7 CFR Part 560); the NRCS, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Highline Breaks Watershed, Otero and Pueblo Counties, Colorado.

FOR FURTHER INFORMATION CONTACT: Stephen F. Black, State Conservationist, 655 Parfet St., Room E200C, Lakewood, CO 80215–5517. (303) 236–2886, Extension 202.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Stephen Black, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purpose is a plan for agricultural water management watershed protection. The planned works of improvement include accelerated technical assistance for implementing land treatment practices such as nutrient management, residue management, irrigation water management, and enduring practices to reduce deep percolation to improve water quality and protect the resource base.

The Notice of Finding No Significant Impact (FONSI), has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Stuart N. Simpson.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Stephen F. Black,

State Conservationist.

(This activity is listed in the Catalog of Federal Domestic Assistance under NO. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which required intergovernmental consultation with State and local officials).

Finding of No Significant Impact for Highline Breaks Watershed Otero and Pueblo Counties, Colorado

Introduction

The Highline Breaks Watershed is a federally assisted action authorized for planning under Public Law 83–566, the Watershed Protection and Flood Prevention Act. An environmental assessment was undertaken in conjunction with the development of the watershed plan. This assessment was conducted in consultation with local, state, and federal agencies as well as with interested organizations and individuals. Data developed during the assessment are available for public review at the following location: U.S. Department of Agriculture, Natural Resources Conservation Service, 655 Parfet Street, Suite E200C, Lakewood, CO 80215–5517.

Recommended Action

The recommended plan is composed of management and enduring conservation practices to reduce deep percolation, runoff and irrigation induced erosion which will improve water quality of both surface and groundwater, the Arkansas River, as well as protect the resource base.

It is expected that 250 long-term land treatment contracts will be written during the project's life. Approximately 31,000 acres will be treated through project action.

The primary purposes are: (1) (watershed protection)—protect the soil resource base from excessive irrigation induced erosion, sedimentation, and reduce negative water quality impacts to surface and groundwater, including the Arkansas River, from nitrate loading, selenium, sediment, and salts; (2) (agriculture water management)—improve application uniformity.

Effects of Recommended Action

Expected impacts include: improved surface and groundwater quality, improved human health and safety, significant cropland erosion reduction, reduced sediment delivered to surface water bodies, reduced pollutant loading of wetlands, fishery habitat impairment reduced, improved wildlife habitat, reduced irrigation labor costs, reduced fertilizer use, reduced irrigation system operation and maintenance costs, greater irrigation effectiveness.

The proposed action will reduce nitrates, sediments, salts, and other pollutants leached into the ground water and delivered to the Arkansas River, thereby improving the water quality. It will also protect the watershed resource base by reducing irrigation induced erosion.

Significant negative effects to wetlands are not expected. However, if mitigation is necessary, it will be accomplished on a function for function basis.

Potentially, a slight improvement of the upland wildlife habitat is expected due to an increase in cover, forage, and water quality.

The proposed project will encourage and promote the agricultural enterprises in the watershed through education and accelerated technical and financial assistance. This will help maintain agriculture as a significant component in the area economy.

A list of the cultural resource sites within the watershed has been obtained from the State Historic Preservation Officer (SHPO). Their relationship to planned conservation measures was evaluated. Their survey concludes that no significant adverse impacts will occur to known cultural resources in the watershed should the plan be implemented. If however, during construction of enduring measures a new site is identified, construction will stop and the (SHPO) will be notified.

There are no wilderness areas in the watershed.

There are no threatened or endangered species known to exist in the watershed. However, prairie dog towns which could provide habitat for the black-footed ferret, will not be disturbed during project action.

As stated above, the primary objective of the project is to reduce the nitrates and selenium entering the Arkansas River and groundwater. Land treatment measures will reduce nitrate loading to ground and surface waters in the watershed as well as maintaining selenium levels within State and EPA standards.

Wildlife habitat may be temporarily disturbed in areas where enduring measures are implemented. It will recover however, within a short period of time.

The fishery in the Arkansas River will be impacted to a lesser degree by nitrates, selenium, and sediment after the project is complete.

No significant adverse environmental impacts will result from the installation of conservation measures. Some short-term habitat disturbances may occur during construction of enduring practices on irrigated cropland.

Alternatives

The recommended action is the most practical means of reducing the nitrates, selenium, salts, and sediment entering the Arkansas River and groundwater, thus protecting the resource base in the watershed. Since no significant adverse environmental impacts will result from installation of the measures and no other alternatives could meet the test of completeness, effectiveness, efficiency, and acceptability this alternative becomes the only viable candidate plan. The no action alternative was used for comparison purposes.

Consultation—Public Participation

The West and East Otero Soil Conservation Districts requested in March, 1989, that the watershed be considered for a Public Law 566 watershed project. A field review was made on March 22, 1989. The review team found that improved irrigation effectiveness, water quality, and watershed protection was needed. The Soil Conservation District and the NRCS Field Office decided that detailed information collection would be the first priority. Data on water quantity, quality, and practice needs were gathered. Ninety percent of the landowners expressed an interest in this project. The sponsors made an application for Public Law 566 planning assistance May 1, 1989.

The State Soil Conservation Board formally accepted the application on September 6, 1989. The Soil Conservation Services' West National Technical Center (WNTC) made a field reconnaissance October 25, 1989. They met with the irrigation company personnel, field offices, and conservation district officials. It was decided further data was needed to quantify the off-site effects from project action. In November, 1994, the NRCS Field Office, area staff and state staff developed a schedule to complete a preauthorization plan and plan of work. A revised application was developed in June, 1995. As a result, a water quality plan was developed for the area.

On June 26, 1995, a public scoping meeting was held to discuss the problems, needs, and possible effects from a project. Federal, State, and local agencies, and the general public were invited. This group helped give direction to the NRCS planners. A public response analysis was completed on the responses.

An environmental evaluation meeting was also held on June 26, 1995, to identify environmental concerns and issues and discuss how best to address those concerns.

Numerous newspaper articles, newsletters, and radio public service announcements have been aired to provide public information. Public meetings with the news media in attendance were held to gain input and inform the public.

A meeting was held with the Natural Resources Conservation Service (NRCS) field office, area staff, and sponsors in March, 1996, on the preauthorization report. A sponsors meeting was held in June, 1996, to determine the desirability of pursuing a planning authorization and review the preliminary plan. Potential alternatives and the responsibilities of each sponsor and NRCS were stressed in discussions. The SCD's have the right of eminent domain under authority established by state law. If needed, they are willing to fulfill their agreements to see that a plan is formulated and implemented. Planning

authorization was requested July 17, 1996.

The SCD boards have met regularly and provided positive leadership to the furthering of conservation and improvement of the watershed. Ongoing water quality, quantity and management practices are being installed by a combination of landowner, district and state funds. The two district boards cooperated in getting a HUA and 319 demonstration project, approved in FY–91, to show the value of surge irrigation and irrigation water management in the watershed area. The projects were enthusiastically accepted by the farmers.

In September, 1996, the watershed was approved for planning. A meeting was held in October, 1996, with field and area staffs, the State Water Resources Planning staff, and sponsors to review the Plan of Work and develop assignments to complete the watershed plan. A scoping meeting and environmental assessment meeting was held at this time.

The Watershed Plan was developed and reviewed with the sponsors at their board meetings on May 14, 1997. They requested that NRCS have a public meeting to present the plan to all interested parties. On December 3, 1997, a public meeting was held in Rocky Ford, Colorado. It was the consensus of those present to move forward into inter-agency review.

Specific consultation was conducted with the State Historic Preservation Officer concerning cultural resources in the watershed.

Public meetings were held throughout the planning process to keep all interested parties informed of the study progress and to obtain public input to the plan and environmental evaluation.

Agency consultation and public participation to date has shown no unresolved conflicts related to the project plan.

Conclusion

The Environmental Assessment summarized above indicates that this federal action will not cause significant local, regional, or national impact on the environment. Therefore, based on the above findings, I have determined that an environmental impact statement for the Highline Breaks Watershed Plan is not required.

Dated: October 28, 1998.

Stephen F. Black,

State Conservationist.

[FR Doc. 98–29379 Filed 11–2–98; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Associated Electric Cooperative; Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact with respect to its action related to the construction of a 100 megawatt simple cycle combustion turbine electric generation plant in Southeast Missouri by Associated Electric Cooperative (Associated). The finding of no significant impact is the conclusion of an environmental assessment prepared by RUS. The environmental assessment is based on an environmental analysis submitted to RUS by Associated. RUS conducted an independent evaluation of the environmental analysis and concurs with its scope and content. The environmental analysis has been incorporated by reference in the environmental assessment.

FOR FURTHER INFORMATION CONTACT: Bob Quigel, Environmental Protection Specialist, Engineering and Environmental Staff, RUS, Stop 1571, 1400 Independence Avenue, SW, Washington, DC 20250, telephone (202) 720–0468, E-mail bquigel@rus.usda.gov.

SUPPLEMENTARY INFORMATION: The preferred site for the plant is located in Stoddard County, Missouri, approximately 1.2 miles east of Idalia on County Road E. As proposed, the project is a 100-MW, simple-cycle combustion turbine generator. It will be powered by a Westinghouse 501D5A simple cycle/dry low-nitrogen oxides combustor. Fuel for the plant will be natural gas. No backup source of fuel, such as number 2 fuel oil, is proposed. The plant will occupy approximately three acres and will be located at an existing 12 acre electric distribution substation site. The main generator unit will be approximately 40 feet wide and 140 feet long. The exhaust stack will be 50 feet high. This type of combustion turbine is typically used for peak power generation and would normally be expected to operate only a few hundred to a few thousand hours per year.

Alternatives considered to constructing the project as proposed included no action, conservation and load management, power purchases, combined cycle combustion turbine technology, and an alternative site location.

Copies of the environmental assessment and finding of no significant impact along with the environmental analysis are available for review at, or can be obtained from, RUS at the address provided herein or from Jerry Bindel, Associated Electric Cooperative, PO Box 754, Springfield, Missouri, 65801–0754 telephone (417) 885–9272. Mr. Bindel's E-mail address is jbindel@aeci.org. These documents are also available at Bloomfield Public Library, 200 Seneca Street, Bloomfield, Missouri. Interested parties wishing to comment on the adequacy of the environmental assessment should do so within 30 days of the publication of this notice. RUS will take no action that would approve clearing or construction activities related to proposed combined cycle power plant prior to the expiration of the 30-day comment period.

Dated: October 27, 1998.

Thomas L. Eddy,

Acting Assistant Administrator, Electric Program.

[FR Doc. 98–29435 Filed 11–2–98; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Quarterly Financial Reports (QFR) Program.

Form Number(s): QFR–101(MG), QFR–101A(MG), QFR–102(TR), QFR–103(NB).

Agency Approval Number: 0607–0432.

Type of Request: Extension of a currently approved collection.

Burden: 77,616 hours.

Number of Respondents: 13,186.

Avg Hours Per Response: 2 hours and 2 minutes.

Needs and Uses: The QFR Program has published up-to-date aggregate statistics on the financial results and position of U.S. corporations since 1947. It is a principal economic indicator that also provides financial data essential to calculation of key Government measures of national economic performance. The QFR Program provides timely, accurate data on business financial conditions for use by Government and private-sector organizations and individuals. Primary users of QFR data are governmental organizations charged with economic policy-making responsibilities. Other data users include foreign countries, universities, financial analysts, unions, trade associations, public libraries, banking institutions, and U.S. and foreign corporations.

The Census Bureau has statutory authority granted in Title 13 USC, Section 91 and Public Law 105–252, signed into law by the President on October 9, 1998, to conduct the QFR program through September 30, 2005. This request is for extension of OMB approval.

Affected Public: Businesses or other for-profit organizations.

Frequency: Quarterly and annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 USC, Section 91 and P.L. 105–252.

OMB Desk Officer: Nancy Kirkendall, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Nancy Kirkendall, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: October 28, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–29384 Filed 11–2–98; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–803]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Extruded Rubber Thread From Indonesia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 3, 1998.

FOR FURTHER INFORMATION CONTACT: Russell Morris or Eric B. Greynolds, Office of AD/CVD Enforcement VI, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–2786.

SUPPLEMENTARY INFORMATION:

The Applicable Statue

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (April 1, 1998).

Preliminary Determination

We preliminarily determine that extruded rubber thread ("ERT") from Indonesia is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the initiation of this investigation on April 20, 1998 (*see Notice of Initiation of Antidumping and Countervailing Duty Investigations: Extruded Rubber Thread from Indonesia* (63 FR 23267) ("Notice of Initiation")), the following events have occurred:

On April 22, 1998, the Department of Commerce ("Department") requested information from the U.S. Embassy in Indonesia to identify producers/exporters of the subject merchandise.

On May 28, 1998, the International Trade Commission ("ITC") published its preliminary determination that there is a reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, by reason of imports from Indonesia of the subject merchandise (63 FR 29250).

On May 28, 1998, the Department issued the antidumping duty questionnaire to the following producers/exporters of ERT: P.T. Bakrie Rubber Industry ("Bakrie"), P.T. Swasthi Parama Mulya ("Swasthi"), P.T. Perkebunan Nusantara III ("Persero"), Cilatexindo Graha Alam P.T. ("Cilatexindo"). The questionnaire is divided into four sections. Section A requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the sales of the merchandise in all of its markets. Sections B and C request home market sales listings and U.S. sales listings, respectively. Section D requests information on the cost of production ("COP") of the foreign like product and constructed value ("CV") of the subject merchandise.

On June 8, 1998 and July 27, 1998, Cilatexindo and Persero, respectively, stated that it has never directly or indirectly sold ERT to the U.S. market during the period of investigation. Upon receipt of Cilatexindo and Persero's statements, the Department consulted with U.S. Customs to verify each party's respective claim as it pertains to the period of investigation. The Department was able to confirm that both Cilatexindo and Persero did not ship the subject merchandise to the United States. (*See* Memorandum from Russell Morris to the File, "Shipments of Subject Merchandise," dated August 24, 1998. The public version is on file in Room B–099, the Central Records Unit, of the Department of Commerce).

On July 8, 1998, Bakrie and Swasthi submitted their respective responses to Section A of the questionnaire. On July 21, 1998, Bakrie submitted Sections B and C of the questionnaire. On July 24, 1998, Swasthi submitted Sections B and C of the questionnaire. On August 17, 1998, we issued supplemental questionnaires to Bakrie and its affiliated U.S. reseller, Globe Manufacturing Co. ("Globe") and Swasthi. On September 14, 1998, Swasthi submitted its response to the Department's Section C supplemental questionnaire. On September 25, 1998, Bakrie submitted its response to the Department's supplemental questionnaire for Sections A, B and C. On September 25, 1998, Bakrie also submitted its revised Section C questionnaire response which contained a separate submission of Globe's selling expenses and prices to its first unaffiliated customer.

On August 3, 1998, the petitioner made a timely request that the Department postpone the preliminary determination in this investigation. We did so on August 14, 1998, in accordance with section 733(c)(1)(A) of the Act (*see Notice of Postponement of Time Limit for Antidumping Investigation: Extruded Rubber Thread from Indonesia*, 63 FR 43674).

Date of Sale

On September 3, 1998, the petitioner objected to Swasthi's use of date of invoice as the date of sale. Petitioner argued that given the actual sales processes of Swasthi, the appropriate date of sale is set on the purchase order date for U.S. sales, not the date on which the sale is invoiced as Swasthi has reported. Petitioner noted that there are no changes in the basic terms of each sale after the negotiation of the purchase order. The petitioner noted

that its comment pertaining to the proper date of sale applies to Bakrie, as well. After a review of the petitioner's comments and the method by which sales are made in both the home market and U.S. market by both respondents, we determined that the date of invoice is the appropriate date of sale in this investigation.

Section 351.401(i) of the Department's regulations states that the Department will normally use the date of invoice, as recorded in the exporter's or producer's records kept in the ordinary course of business, as the date of sale. The preamble to the Final Rules (the "Preamble") provides an explanation of this policy and examples of when the Department may choose to base the date of sale on a date other than the date of invoice. *See* 62 FR at 27348–49 (May 19, 1997). According to Swasthi's response, the product mix, the price, and the quantity of a customer's original order can change until the date of shipment which is the same as the company's date of invoice. Based upon Swasthi's representation, we preliminarily determine that the appropriate date of sale for Swasthi is the date of shipment. In determining the date of sale for Bakrie and its affiliated reseller Globe, the Department is relying on Globe's reported invoice date as the date of sale and shipment date. (For further discussion see memorandum to the file, "Clarification of Globe Manufacturing's Section C submission," dated October, 15, 1998.) We intend to verify respondents' claims concerning changes between the date of shipment and the date of invoice. Based upon the outcome of our verification, we will determine whether it is appropriate to continue to use the date of invoice as the date of sale. We will consider, among other things, whether, in fact, there were any changes to the contracted terms between the original order and the date of invoice. *See e.g. Notice of Final Results of Antidumping Duty Administrative Review: Canned Pineapple Fruit from Thailand*, 63 FR 7392 at 7394–7395 (February 13, 1998).

Cost Investigation

On August 17, 1998, pursuant to section 773(b) of the Act, petitioner submitted a timely allegation that Bakrie and Swasthi had made sales in the home market at less than the cost of production. Our analysis of the allegation indicated that there were reasonable grounds to believe or suspect that Bakrie and Swasthi both sold ERT in the home market at prices at less than COP. Accordingly, we initiated COP investigations with respect to Bakrie and Swasthi pursuant to section 773(b) of the Act on September 10, 1998 (*see* Memorandum from Team to David Mueller, Office Director, dated September 10, 1998. The public version is on file in Room B–099 of the Central Records Unit). As a result of the Department's COP investigation, the Department requested that both Bakrie and Swasthi answer Section D of the original questionnaire; both parties submitted their respective responses to the Section D questionnaire on October 23, 1998. Because of the timing of the COP initiation and the receipt of the COP responses, we are unable to include a COP analysis in this preliminary determination. We intend to issue COP analysis memoranda for Bakrie and Swasthi prior to verification and will conduct cost verifications for both respondents. Parties should include comments, if any, on our COP methodology in their case briefs.

Scope of the Investigation

For purposes of this investigation, the product covered is ERT from Indonesia. ERT is defined as vulcanized rubber thread obtained by extrusion of stable or concentrated natural rubber latex of any cross sectional shape, measuring from 0.18 mm, which is 0.007 inches or 140 gauge, to 1.42 mm, which is 0.056 inch or 18 gauge, in diameter.

ERT is currently classified under subheadings 4007.00.00 of the *Harmonized Tariff Schedule* ("HTS"). Although the HTS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation ("POI") is January 1, 1997, through December 31, 1997.

Postponement of Final Determination and Extension of Provisional Measures

In October 1998, pursuant to section 735(a)(2) of the Act, both respondents requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of an affirmative preliminary determination in the **Federal Register**. On October 27, 1998, respondents amended their request to include a request to extend the provisional measures to not more than six months. In accordance with 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) both Bakrie and Swasthi account for a significant proportion of exports of the subject merchandise, (3) no compelling reasons for denial exist, we are granting the respondents' request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. In addition, we are extending the provisional measures by not more than six months. Suspension of liquidation will be extended accordingly.

Fair Value Comparisons

To determine whether sales of ERT from Indonesia to the United States were made at less than fair value, we compared the export price ("EP") or the constructed export price ("CEP") to the normal value ("NV"), as described below in the "Export Price," "Constructed Export Price," and "Normal Value" sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs and CEPs for comparison to weighted-average NVs.

Physical Characteristics

In accordance with section 771(16) of the Act, we considered all products covered by the description in the "Scope of Investigation" section of this notice, produced in Indonesia by the respondents and sold in the home market during the POI, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed in the Department's antidumping questionnaire. In making the product comparisons, we relied on the following criteria (listed in order of preference): gauge, color, and ends. (For further explanation of the product comparisons, *see* Memorandum from Anne D'Alauro dated May 22, 1998, on file in the Central Records Unit, Room B–099 of the Department of Commerce.)

Level of Trade

While neither Swasthi nor Bakrie claimed a difference in level of trade, Bakrie requested that the Department evaluate whether Bakrie qualified for a level of trade adjustment. Based upon our review of the responses submitted by each of the companies, we detected no sales activities that would differ from the home market to U.S. market, and therefore determine that each company performed essentially the same selling activities for all reported home market and U.S. sales. Accordingly, we find that no level of trade differences exist between any sales in either the home market or U.S. market for either company. Therefore, all price comparisons are at the same level of trade and an adjustment pursuant to section 773(a)(7)(A) of the Act is unwarranted.

Export Price

For Swasthi, we used EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and because CEP methodology was not otherwise indicated. We based EP on the packed prices to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, we made deductions, where appropriate, from the starting price for foreign inland freight, international freight, marine insurance, U.S. customs duty, and brokerage and handling. We also made a deduction, where appropriate, for rebates.

Constructed Export Price

For Bakrie, we used CEP methodology, in accordance with section 772(b) of the Act, because the first sale of subject merchandise to an unaffiliated purchaser took place after importation into the United States. We based CEP on the packed delivered prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, for discounts. We also made deductions for the following movement expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act: foreign inland freight, containerization expenses (expenses for loading the merchandise into the container), foreign brokerage and handling, international freight (including marine insurance, U.S. inland insurance, U.S. freight to the affiliated reseller), U.S. customs duties, letter of credit fees, and freight to U.S. customer. In accordance with 772(d)(1) of the Act, we deducted selling expenses associated with economic activities occurring in the United States, including direct selling expenses (credit cost and technical services), inventory carrying costs, and other indirect selling expenses. Bakrie did not make a profit during the POI, therefore, profit was not deducted in accordance with sections 772(d)(3) and 772(f) of the Act.

In its response, Bakrie converted certain expenses originally incurred in Rupiah into U.S. dollars using an average exchange rate for the POI which was reported in its response. Because the company should have reported the charges in the currency of the transactions, we reconverted these expenses back into Rupiah using the average exchange rate used by the company.

In addition, in its initial questionnaire response, Bakrie and Globe failed to submit to the Department a single integrated Section C response. On August 17, 1998, we sent a supplemental questionnaire to both Bakrie and Globe, requesting that they submit a revised Section C response that integrated Bakrie's transfers of ERT to Globe and Globe's sales of ERT to its first unaffiliated customer in the United States. On September 25, 1998, Bakrie submitted a revised Section C questionnaire response. However, Bakrie's revised Section C response did not integrate its movement and other expenses associated with its shipments of ERT to Globe with that of Globe's sales of ERT to its first unaffiliated customer. The lack of an integrated response created gaps for which we did not have data.

Section 776(a)(2) of the Act provides that "if an interested party or any other person fails to provide such information by the deadlines for submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782, the administering authority shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title." In its August 17, 1998 supplemental questionnaire, the Department specifically requested that both Bakrie and its affiliated reseller, Globe, provide "one integrated response." *See* the Department's Supplemental Questionnaire dated August 11, 1998, page 5. Both Bakrie and Globe failed to comply with the Department's request for an integrated response. On this basis, we determined that use of facts available is appropriate for certain expenses reported by Bakrie and Globe. The Department relied on facts available to integrate and adjust certain selling expenses incurred by both Bakrie and Globe. Therefore, as facts available, we weight-averaged Bakrie's reported U.S. expenses for CEP sales and integrated them into Globe's reported response. *See* Memorandum from Team to the File "Normal Value and Constructed Export Price Adjustments for the Preliminary Determination," dated October 27, 1998.

In addition, according to Bakrie, Globe provided some technical services to its U.S. customers. However, Globe reported these expenses as part of its indirect selling expenses. Because we are unable to segregate these technical service expenses from other indirect selling expenses incurred in the United States as reported by Globe, we are treating, as facts available, the entire amount as direct selling expenses.

Normal Value

After testing for home market viability, we calculated NV as noted in the "Price-to-Price Comparisons" section of this notice.

Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondents' volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. As respondents' aggregate volume of home market sales of the foreign like product exceeded five percent of their aggregate volume of U.S. sales for the subject merchandise, we have determined that the home market is viable for both of the respondents.

Bakrie

We based NV on packed, delivered prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for inland freight, inland insurance, and direct selling expenses (credit expenses and commissions), pursuant to sections 773(a)(6)(B) and 773(a)(6)(C)(iii) of the Act. We also made deductions, where appropriate, for discounts. In addition, pursuant to sections 773(a)(6) (A) and (B) of the Act, we deducted home market packing costs and added U.S. packing costs.

While Bakrie reported in its response that it sold identical products in both its home and U.S. markets, identical product sales were not made during the POI. Thus, we had to match U.S. products to the most similar product sold in the home market based upon the matching criteria noted in the "Physical Characteristics" section of this notice. Bakrie, however, failed to provide information which could be used to make adjustments for physical differences in merchandise pursuant to section 773(a)(6)(C)(ii) of the Act. Therefore, we compared Bakrie's sales in the U.S. market to sales in the home market of products at the next highest gauge, as facts available, because the prices and costs per unit of weight are higher for the higher gauged ERT products.

Swasthi

We based NV on packed, delivered prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for inland freight in accordance with section 773(a)(6)(B)(ii) of the Act. We also adjusted for differences in circumstances of sale for credit expenses pursuant to section 773(a)(6)(C)(iii) of the Act. In addition, pursuant to sections 773(a)(6) (A) and (B) of the Act, we deducted home market packing costs and added U.S. packing costs.

Swasthi reported that it had returns of subject merchandise during the POI. On certain specific home market sales, it reported the quantity of the merchandise returned by the customer. Swasthi did not, however, report any additional expenses it incurred as a result of the return of defected and rejected merchandise. Therefore, we were unable to make any adjustments for any expenses incurred under this claim. We did, however, adjust the reported quantity of the home market sale based upon the quantity of the merchandise returned by the customer.

Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank, in accordance with section 773(A) of the Act.

In the recently completed preliminary determination of *Mushrooms from Indonesia*, an issue was raised regarding the use of two averaging periods for the margin calculations to account for the effect of the devaluation of the Indonesian Rupiah. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Preserved Mushrooms From Indonesia*, 63 FR 41783 (August 5, 1998) (*Mushrooms from Indonesia*). The petitioners in *Mushrooms from Indonesia* stated that the Department should calculate the weighted-average export price for two averaging periods—January through June 1997, and July through December 1997—in order to avoid distorting dumping margins. In *Mushrooms from Indonesia*, we preliminarily found no basis to depart from our practice of calculating the weighted-average export prices for the entire POI. Although the issue of using two different averaging periods has not been raised in the instant investigation, the effect, if any, of the devaluation of the Rupiah on margin calculations could also be relevant to this investigation because its POI, calendar year 1997, is identical to that in *Mushrooms from Indonesia*. Therefore, we will continue to examine this issue for our final determination in this instant investigation. We invite comments from the interested parties on this issue.

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Swasthi is excluded from suspension of liquidation because its rate is *de minimis* under section 733(b)(3) of the Act. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export or constructed export price, as indicated in the chart below for companies other than Swasthi. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-average margin Percentage
Bakrie Rubber Industry	13.07
P.T. Swasthi Parama Mulya	0.09
All Others Rate	13.07

Pursuant to section 735(c)(5)(A) of the Act, the Department has excluded all zero and *de minimis* weighted-average dumping margins from the calculation of the "All Others" rate. Under section 733(b)(3) of the Act, a weighted-average dumping margin is *de minimis* if it is less than two percent *ad valorem*.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threatening material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than February 3, 1999, and rebuttal briefs no later than February 10, 1999. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on February 16, 1999, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistance Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Act.

Dated: October 27, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–29441 Filed 11–2–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Louisiana State University; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC.

Docket Number: 98–042. *Applicant:* Louisiana State University, Baton Rouge, LA 70806. *Instrument:* Scanning Tunneling Microscope. Manufacturer: Scideco I/S, Denmark. *Intended Use:* See notice at 63 FR 44841, August 21, 1998. *Advice received from:* National Institute of Standards and Technology, October 2, 1998.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides: (1) resolution of 0.01 nm in the vertical and 0.1 nm lateral at all temperatures, (2) operation from 120 °K to 400 °K and (3) internal spring suspension. The National Institute of Standards and Technology advises that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–29442 Filed 11–2–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC.

Docket Number: 98–050. *Applicant:* University of Maryland, Baltimore, Department of Anatomy and Neurobiology, 685 W. Baltimore Street, Room 222, Baltimore, MD 21201. *Instrument:* Visual Stimulator, Model Leonardo. *Manufacturer:* Lohmann Research Equipment, Germany. *Intended Use:* The instrument will be used to provide visual stimulation during experiments on the processing of visual information in ferrets. In addition, the instrument will be used in rotation courses for graduate students preparing for thesis work. *Application accepted by Commissioner of Customs:* October 9, 1998.

Docket Number: 98–051. *Applicant:* University of Maryland, Baltimore, Department of Anatomy and Neurobiology, 685 W. Baltimore Street, Room 222, Baltimore, MD 21201. *Instrument:* Data Acquisition and Analysis Workstation, Model ORA 2001. *Manufacturer:* Optical Imaging Europe GmbH. *Intended Use:* The instrument will be used to provide visual stimulation during experiments on the processing of visual information in ferrets. In addition, the instrument will be used in rotation courses for graduate students preparing for thesis work. *Application accepted by Commissioner of Customs:* October 15, 1998.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–29443 Filed 11–2–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102798B]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of the Mississippi/Louisiana Habitat Protection Advisory Panel (AP).

DATES: The meeting will begin at 9:00 a.m. on Tuesday, November 17, 1998 and conclude by 3:00 p.m.

ADDRESSES: The meetings will be held at the Crowne Plaza New Orleans, 333 Poydras Street, New Orleans, LA 70130; telephone: 504–525–9444.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Jeff Rester, Gulf States Marine Fisheries Commission; telephone: 228–875–5912.

SUPPLEMENTARY INFORMATION: The Louisiana/Mississippi group is part of a three unit Habitat Protection AP of the Council. The principal role of the APs is to assist the Council in attempting to maintain optimum conditions within the habitat and ecosystems supporting the marine resources of the Gulf of Mexico. APs serve as a first alert system to call to the Council's attention proposed projects being developed and other activities which may adversely impact the Gulf marine fisheries and their supporting ecosystems. The APs may also provide advice to the Council on its policies and procedures for addressing environmental affairs.

At this meeting, the AP will tentatively discuss updates on the Caminada Cove project, the navigation canal between the Gulf Intercoastal Waterway and the Barataria Bay Waterway, port activity around Port Fourchon, LA, the Eden Isles project, the Big Island Restoration Project, and a presentation on the Destination Broadwater Casino project.

Although other issues not on the agenda may come before the AP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. The AP's actions will be restricted to those issues specifically identified in the agenda listed as available by this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by November 10, 1998.

Dated: October 28, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–29429 Filed 11–2–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102798D]

Mid-Atlantic Fishery Management Council; Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Summer Flounder Monitoring Committee, Scup Monitoring Committee, and Black Sea Bass Monitoring Committee will hold a public meeting.

DATES: The meeting will be held on Thursday, November 19, 1998, beginning at 9:00 a.m. with the Summer Flounder Monitoring Committee, followed by the Black Sea Bass Monitoring Committee and the Scup Monitoring Committee.

ADDRESSES: The meeting will be held at the Comfort Inn - Airport Complex, 6921 Baltimore Annapolis Blvd., Baltimore, MD, telephone: 410–789–9100.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904, telephone: 302–674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Acting Executive Director, Mid-Atlantic Fishery Management Council, telephone: 302–674–2331, ext. 16.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to recommend the 1999 recreational management measures for summer flounder, black sea bass, and scup.

Although other issues not contained in this agenda may come before the Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Council (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: October 28, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–29428 Filed 11–2–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102798C]

Mid-Atlantic Fishery Management Council (MAFMC); Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Squid, Mackerel, and Butterfish Committee, together with the Industry Advisors, will hold a public meeting.

DATES: The meeting will be held on Tuesday, November 17, 1998 from 10:00 a.m. until 5:00 p.m., and Wednesday, November 18, 1998 from 8:00 a.m. until 5:00 p.m.

ADDRESSES: The meeting will be held at the Ramada Inn, 76 Industrial Highway, Essington, PA; telephone: 610–521–9600.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904; telephone: 302–674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Acting Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331, ext. 16.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to discuss and make recommendations on: Limits on the size of mackerel processing vessels, exemptions from the vessel size limit for mackerel harvesting vessels, upgrades on mackerel vessel size, overfishing definitions for squids, and in season adjustment of annual specifications for squid, mackerel, and butterfish.

Although other issues not contained in this agenda may come before the Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Council (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: October 28, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–29430 Filed 11–2–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Medical and Dental Services Fiscal Year 1999

ACTION: Notice.

SUMMARY: Notice is hereby given that the Deputy Chief Financial Officer in a memorandum dated September 29, 1998 established the following reimbursement rates for inpatient and outpatient medical care to be provided in FY 1999. These rates are effective October 1, 1998.

Medical and Dental Services: Fiscal Year 1999

The FY 1999 Department of Defense (DoD) reimbursement rates for inpatient, outpatient, and other services are provided in accordance with Title 10, United States Code, Section 1095. Due to size, the sections containing the Drug Reimbursement Rates (Section III.E) and the rates for Ancillary Services Requested by Outside Providers (Section III.F) are not included in this package. The Office of the Assistant Secretary of Defense (Health Affairs) will provide these rates upon request (MAJ Rose Layman, OASD(HA)—Response Management/Tri-Care Management Activity, (703) 681–8912 or DSN 761–8912). The medical and dental service rates in this package (including the rates for ancillary services, prescription drugs or other procedures requested by outside providers) are effective October 1, 1998.

I. Inpatient Rates [1 2]

INPATIENT, OUTPATIENT AND OTHER RATES AND CHARGES

Per inpatient day	International military education and training (IMET)	Interagency and other Federal agency sponsored patients	Other (full/third party)
A. Burn Center	$2,538.00	$4,632.00	$4,952.00
B. Surgical Care Services (Cosmetic Surgery)	1,236.00	2,255.00	2,411.00
C. All Other Inpatient Services (Based on Diagnosis Related Groups (DRG) [3])			

1. FY99 Direct Care Inpatient Reimbursement Rates

Adjusted standard amount	IMET	Interagency	Other (full/third party)
Large Urban	$2,429.00	$4,552.00	$4,825.00
Other Urban/Rural	2,642.00	5,413.00	5,760.00
Overseas	2,989.00	6,823.00	7,234.00

2. Overview

The FY 1999 inpatient rates are based on the cost per Diagnosis Related Groups (DRG), which is the inpatient full reimbursement rate per hospital discharge weighted to reflect the intensity of the principal diagnosis, secondary, diagnoses, procedures, patient age, etc. involved. The average cost per Relative Weighted Product (RWP) for large urban, other urban/rural, and overseas facilities will be published annually as an inpatient Adjusted Standardized Amount (ASA) (see paragraph I.C.1. above). The ASA will be applied to the RWP for each inpatient case, determined from the DRG weights, outlier thresholds, and payment rules published annually for hospital reimbursement rates under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) pursuant to 32 CFR 199.14(a)(1), including adjustments for length of stay (LOS) outliers. The published ASAs will be adjusted for area wage differences and indirect medical education (IME) for the discharging hospital. An example of how to apply DoD costs to a DRG standardized weight to arrive at DoD costs is contained in paragraph I.C.3., below.

3. Example of Adjusted Standardized Amounts for Inpatient Stays

Figure 1 shows examples for a nonteaching hospital in a Large Urban Area.

a. The cost to be recovered is DoD's cost for medical services provided in the nonteaching hospital located in a large urban area. Billings will be at the third party rate.

b. DRG 020: Nervous System Infection Except Viral Meningitis. The RWP for an inlier case is the CHAMPUS weight of 2.9769. (DRG statistics shown are from FY 1997).

c. The DoD adjusted standardized amount to be charged is $4,825 (i.e., the third party rate as shown in the table).

d. DoD cost to be recovered at a nonteaching hospital with area wage index of 1.0 is the RWP factor (2.9769) in 3.b., above, multiplied by the amount ($4,825) in 3.c., above.

e. Cost to be recovered is $14,364.

FIGURE 1.—THIRD PARTY BILLING EXAMPLES

DRG No.	DRG description	DRG weight	Arithmetic mean LOS	Geometric mean LOS	Short stay threshold	Long stay threshold
010	Nervous System Infection Except Viral Meningitis	2.9769	11.2	7.8	1	30

Hospital	Location	Area wage rate index	IME adjustment	Group ASA	Applied ASA
Nonteaching Hospital	Large Urban	1.0	1.0	$4,825.00	4,825.00

Patient	Length of stay	Days above threshold	Relative weighted product			TPC amount***
			Inlier*	Outlier**	Total	
#1	7 days	0	2.9769	0.0000	2.9769	$14,364
#2	21 days	0	2.9769	0.0000	2.9769	14,364
#3	35 days	5	2.9769	0.6297	3.6066	17,402

* DRG Weight.

** Outlier calculation = 33 percent of per diem weight × number of outlier days.
= .33 (DRG Weight/Geometric Mean LOS) × (Patient LOS—Long Stay Threshold).
= .33 (2.9769/7.8) × 35 – 30).
= .33 (.38165 × 5 (take out to five decimal places).
= .12594 × 5 (take out to five decimal places).
= .6297 (take out to four decimal places).

*** Applied ASA × Total RWP.

II. Outpatient Rates [1 2] Per Visit

MEPRS code [4]	Clinical service	International military education and training (IMET)	Interagency and other Federal agency sponsored patients	Other (full/third party)
	A. Medical Care			
BAA	Internal Medicine	$104.00	$186.00	$198.00
BAB	Allergy	48.00	86.00	92.00
BAC	Cardiology	78.00	140.00	149.00
BAE	Diabetic	57.00	102.00	108.00
BAF	Endocrinology (Metabolism)	90.00	162.00	173.00
BAG	Gastroenterology	114.00	205.00	219.00
BAH	Hematology	145.00	260.00	277.00
BAI	Hypertension	89.00	160.00	170.00
BAJ	Nephrology	138.00	245.00	261.00
BAK	Neurology	112.00	200.00	213.00
BAL	Outpatient Nutrition	33.00	59.00	63.00
BAM	Oncology	132.00	236.00	251.00
BAN	Pulmonary Disease	118.00	211.00	225.00
BAO	Rheumatology	84.00	151.00	160.00
BAP	Dermatology	68.00	122.00	130.00
BAQ	Infectious Disease	126.00	225.00	240.00
BAR	Physical Medicine	74.00	133.00	142.00
BAS	Radiation Therapy	91.00	164.00	174.00
	B. Surgical Care			
BBA	General Surgery	164.00	295.00	314.00
BBB	Cardiovascular and Thoracic Surgery	132.00	237.00	252.00
BBC	Neurosurgery	188.00	337.00	359.00
BBD	Ophthalmology	102.00	183.00	194.00
BBE	Organ Transplant	239.00	429.00	457.00
BBF	Otolaryngology	124.00	222.00	237.00
BBG	Plastic Surgery	129.00	231.00	247.00
BBH	Proctology	65.00	117.00	124.00
BBI	Urology	125.00	224.00	239.00
BBJ	Pediatric Surgery	91.00	163.00	174.00
	C. Obstetrical and Gynecological (OB–GYN) Care			
BCA	Family Planning	45.00	81.00	87.00
BCB	Gynecology	101.00	181.00	193.00
BCC	Obstetrics	72.00	129.00	137.00
BCD	Breast Cancer Clinic	171.00	307.00	327.00
	D. Pediatric Care			
BDA	Pediatric	63.00	113.00	120.00
BDB	Adolescent	60.00	108.00	115.00
BDC	Well Baby	40.00	71.00	75.00
	E. Orthopaedic Care			
BEA	Orthopaedic	118.00	212.00	226.00
BEB	Cast	50.00	90.00	96.00
BEC	Hand Surgery	61.00	109.00	116.00
BEE	Orthotic Laboratory	60.00	108.00	115.00
BEF	Podiatry	67.00	119.00	127.00
BEZ	Chiropractic	24.00	42.00	45.00
	F. Psychiatric and/or Mental Health Care			
BFA	Psychiatry	97.00	174.00	186.00
BFB	Psychology	79.00	141.00	150.00
BFC	Child Guidance	52.00	93.00	99.00
BFD	Mental Health	105.00	188.00	201.00
BFE	Social Work	77.00	137.00	146.00
BFF	Substance Abuse	82.00	147.00	156.00
	G. Family Practice/Primary Medical Care			
BGA	Family Practice	74.00	133.00	141.00

MEPRS code [4]	Clinical service	International military education and training (IMET)	Interagency and other Federal agency sponsored patients	Other (full/third party)
BHA	Primary Care	75.00	134.00	143.00
BHB	Medical Examination	66.00	118.00	126.00
BHC	Optometry	48.00	86.00	91.00
BHD	Audiology	27.00	49.00	52.00
BHE	Speech Pathology	69.00	123.00	131.00
BHF	Community Health	48.00	87.00	92.00
BHG	Occupational Health	78.00	141.00	150.00
BHH	TRICARE Outpatient	44.00	79.00	84.00
BHI	Immediate Care	108.00	193.00	206.00
	H. Emergency Medical Care			
BIA	Emergency Medical	114.00	205.00	218.00
	I. Flight Medical Care			
BJA	Flight Medicine	103.00	185.00	197.00
	J. Underseas Medical Care			
BKA	Underseas Medicine	35.00	63.00	67.00
	K. Rehabilitative Services			
BLA	Physical Therapy	34.00	60.00	64.00
BLB	Occupational Therapy	48.00	86.00	91.00

III. Other Rates and Charges [1,2] Per Visit

MEPRS code [4]	Clinical service	International military education and training (IMET)	Interagency and other Federal agency sponsored patients	Other (full/third party)
FBI	A. *Immunization*	$13.00	$22.00	$24.00
DGC	B. *Hyperbaric Chamber* [5]	191.00	343.00	366.00
	C. *Ambulatory Procedure Visit (APV)* [6]	926.00	1,657.00	1,765.00
	D. *Family Member Rate* (formerly Military Dependents Rate)	10.45		

E. Reimbursement Rates for Drugs Requested By Outside Providers [7]

The FY 1999 drug reimbursement rates for drugs are for prescriptions requested by outside providers and obtained at a Military Treatment Facility. The rates are established based on the cost of the particular drugs provided. Final rule 32 CFR part 200 eliminates the high cost ancillary services' dollar threshold and the associated term "high cost ancillary service." The phrase "high cost ancillary service" will be replaced with the phrase "ancillary services requested by an outside provider" on publication of final rule 32 CFR Part 220. The list of drug reimbursement rates is too large to include here. These rates are available on request from OASD (Health Affairs)—MAJ Rose Layman, OASD(HA)-Resource Management/Tri-Care Management Activity, (703) 681–8912 or DSN 761–8912.

F. Reimbursement Rates for Ancillary Services Requested By Outside Providers [8]

Final rule 32 CFR part 220 eliminates the high cost ancillary services' dollar threshold and the associated term "high cost ancillary service." The phrase "high cost ancillary service" will be replaced with the phrase "ancillary services requested by an outside provider" on publication of final rule 32 CFR part 220.

The list of FY 1999 rates for ancillary services requested by outside providers and obtained at a Military Treatment Facility is too large to include here. These rates are available on request from OASD(Health Affairs)—MAJ Rose Layman, OASD(HA)-Resource Management/Tri-Care Management Activity, (703) 681–8912 or DSN 761–8912.

G. Elective Cosmetic Surgery Procedures and Rates

Cosmetic surgery procedure	International classification diseases (ICD–9)	Current procedural terminology (CPT) [9]	FY 1999 charge [10]	Amount of charge
Mammaplasty	85.50 85.32 85.31	19325 19324 19318	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	(a b c)
Mastopexy	85.60	19316	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	(a b c)

Cosmetic surgery procedure	International classification diseases (ICD–9)	Current procedural terminology (CPT)[9]	FY 1999 charge[10]	Amount of charge
Facial Rhytidectomy	86.82 86.22	15824	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	(a b c)
Blepharoplasty	08.70 08.44	15820 15821 15822 15823	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	(a b c)
Mentoplasty (Augmentation/Reduction).	76.68 76.67	21208 21209	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	(a b c)
Abdominoplasty	86.83	15831	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	(a b c)
Lipectomy suction per region[11]	86.83	15876 15877 15878 15879	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	(a b c)
Rhinoplasty	21.87 21.86	30400 30410	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	(a b c)
Scar Revisions beyond CHAMPUS.	86.84	1578__	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	(a b c)
Mandibular or Maxillary Repositioning.	76.41	21194	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	(a b c)
Minor Skin Lesions[12]	86.30	1578__	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	(a b c)
Dermabrasion	86.25	15780	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	(a b c)
Hair Restoration	86.64	15775	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	(a b c)
Removing Tattoos	86.25	15780	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	(a b c)
Chemical Peel	86.24	15790	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	(a b c)
Arm/Thigh Dermolipectomy	86.83	1583__	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	(a b c)
Brow Lift	86.3	15839	Inpatient Surgical Care Per Diem or APV or applicable Outpatient Clinic Rate.	(a b c)

H. Dental Rate[13] Per Procedure

MEPRS code[4]	Clinical service	International military education and training (IMET)	Interagency and other Federal agency sponsored patients	Other (full/third party)
	Dental Services ADA Code and DoD established weight	$56.00	$101.00	$108.00

I. Ambulance Rage[14] Per Visit

MEPRS code[4]	Clinical service	International military education and training (IMET)	Interagency and other Federal agency sponsored patients	Other (full/third party)
FEA	Ambulance	$56.00	$101.00	$107.00

J. Ancillary Services Requested by an Outside Provider[6] Per Procedure

MEPRS code[4]	Clinical service	International military education and training (IMET)	Interagency and other Federal agency sponsored patients	Other (full/third party)
	Laboratory procedures requested by an outside provider CPT '98 Weight Multiplier.	$10.00	$17.00	$18.00
	Radiology procedures requested by an outside provider CPT '98 Weight Multiplier.	25.00	45.00	48.00
	Cardiology procedures requested by an outside provider CPT '98 Weight Multiplier.	17.00	31.00	33.00

K. AirEvac Rate[15] Per visit

MEPRS code[4]	Clinical service	International military education and training (IMET)	Interagency and other Federal agency sponsored patients	Other (full/third party)
	AirEvac Services—Ambulatory	$90.00	$161.00	$172.00
	AirEvac Services—Litter	256.00	459.00	489.00

L. Observation Rate[16] Per hour

MEPRS code[4]	Clinical service	International military education and training (IMET)	Interagency and other Federal agency sponsored patients	Other (full/third party)
	Observation Services—Hour	$14.50	$25.83	$27.50

Notes on Cosmetic Surgery Charges

[a] Per diem charges for inpatient surgical care services are listed in Section I.B. (See notes 9 through 11, below, for further details on reimbursable rates.)

[b] Charges for ambulatory procedure visits (formerly same day surgery) are listed in Section III.C. (See notes 9 through 11, below, for further details on reimbursable rates.) The ambulatory procedure visit (APV) rate is used if the elective cosmetic surgery is performed in an ambulatory procedure unit (APU).

[c] Charges for outpatient clinic visits are listed in Sections II.A–K. The outpatient clinic rate is not used for services provided in an APU. The APV rate should be used in these cases.

Notes on Reimbursable Rates

[1] Percentages can be applied when preparing bills for both inpatient and outpatient services. Pursuant to the provisions of 10 U.S.C. 1095, the inpatient Diagnosis Related Groups and inpatient per diem percentages are 96 percent hospital and 4 percent professional charges. The outpatient per visit percentages are 89 percent outpatient services and 11 percent professional charges.

[2] DoD civilian employees located in overseas areas shall be rendered a bill when services are performed. Payment is due 60 days from the date of the bill.

[3] The cost per Diagnosis Related Group (DRG) is based on the inpatient full reimbursement rate per hospital discharge, weighted to reflect the intensity of the principal and secondary diagnoses, surgical procedures, and patient demographics involved. The adjusted standardized amounts (ASA) per Relative Weighted Product (RWP) for use in the direct care system is comparable to procedures used by the Health Care Financing Administration (HCFA) and the Civilian Health and Medical Program for the Uniformed Services (CHAMPUS). These expenses include all direct care expenses associated with direct patient care. The average cost per RWP for large urban, other urban/rural, and overseas will be published annually as an adjusted standardized amount (ASA) and will include the cost of inpatient professional services. The DRG rates will apply to reimbursement from all sources, not just third party payers.

[4] The Medical Expense and Performance Reporting System (MEPRS) code is a three digit code which defines the summary account and the sub account within a functional category in the DoD medical system. MEPRS codes are used to ensure that consistent expense and operating performance data is reported in the DoD military medical system. An example of the MEPRS hierarchical arrangement follows:

	MEPRS code
Outpatient Care (Functional Category)	B
Medical Care (Summary Account)	BA
Internal Medicine (Subaccount)	BAA

[5] Hyperbaric services charges shall be based on hours of service in 15 minute increments. The rates listed in Section III.B. are for 60 minutes or 1 hour of service. Providers shall calculate the charges based on the number of hours (and/or fractions of an hour) of service. Fractions of an hour shall be rounded to the next 15 minute increment (e.g., 31 minutes shall be charged as 45 minutes).

[6] Ambulatory procedure visit is defined in DOD Instruction 6025.8, "Ambulatory Procedure Visit (APV)," dated September 23, 1996, as immediate (day of procedure) pre-procedure and immediate post-procedure care requiring an unusual degree of intensity and provided in an ambulatory procedure unit (APU). Care is required in the facility for less than 24 hours. This rate is also used for elective cosmetic surgery performed in an APU.

[7] Prescription services requested by outside providers (e.g., physicians or dentists) are relevant to the Third Party Collection Program. Third party payers (such as insurance companies) shall be billed for prescription services when beneficiaries who have medical insurance obtain medications from a Military Treatment Facility (MTF) that are prescribed by providers external to the MTF. Eligible beneficiaries (family members or retirees with medical insurance) are not personally liable for this cost and shall not be billed by the MTF. Medical Service Account (MSA) patients, who are not beneficiaries as defined in 10 U.S.C. 1074 and 1076, are charged at the "Other" rate if they are seen by an outside provider and only come to the MTF for prescription services. The standard cost of medications ordered by an outside provider includes the cost of the drugs plus a dispensing fee per prescription. The prescription cost is calculated by multiplying the number of units (e.g., tablets or capsules) by the unit cost and adding a $5.00 dispensing fee per prescription. Final rule 32 CFR part 220 eliminates the high cost ancillary services' dollar threshold and the associated term "high cost ancillary service." The phrase "high cost ancillary service" will be replaced with the phrase "ancillary services requested by an outside provider" on publication of final rule 32 CFR part 220. The elimination of the threshold also eliminates the need to bundle costs whereby a patient is billed if the total cost of ancillary services in a day (defined as 0001 hours to 2400 hours) exceeded $25.00. The elimination of the threshold is effective as per date stated in final rule 32 CFR part 220.

[8] Charges for ancillary services requested by an outside provider (physicians, dentists, etc.) are relevant to the Third Party Collection Program. Third party payers (such as insurance companies) shall be billed for ancillary services when beneficiaries who have medical

insurance obtain services from the MTF that are prescribed by providers external to the MTF. Laboratory and Radiology procedure costs are calculated by multiplying the DoD established weight for the Physicians' Current Procedural Terminology (CPT) '98) code by either the cardiology, laboratory or radiology multiplier (Section III.J). Eligible beneficiaries (family members or retirees with medical insurance) are not personally liable for this cost an shall not be billed by the MTF. MSA patients, who are not beneficiaries as defined by 10 U.S.C. 1074 and 1076, are charged at the "Other" rate if they are seen by an outside provider and only come to the MTF for ancillary services. Final rule 32 CFR part 220 eliminates the high cost ancillary services' dollar threshold and the associated term "high cost ancillary service." The phrase "high cost ancillary service" will be replaced with the phrase "ancillary services requested by an outside provider" on publication of final rule 32 CFR part 220. The elimination of the threshold also eliminates the need to bundle costs whereby a patient is billed if the total cost of ancillary services in a day (defined as 0001 hours to 2400 hours) exceeded $25.00. The elimination of the threshold is effective as per date stated in final rule 32 CFR part 220.

[9] The attending physician is to complete the CPT '98 code to indicate the appropriate procedure followed during cosmetic surgery. The appropriate rate will be applied depending on the treatment modality of the patient: ambulatory procedure visit, outpatient clinic visit or inpatient surgical care services.

[10] Family members of active duty personnel, retirees and their family members, and survivors shall be charged elective cosmetic surgery rates. Elective cosmetic surgery procedure information is contained in Section III.G. The patient shall be charged the rate as specified in the FY 1999 reimbursable rates for an episode of care. The charges for elective cosmetic surgery are at the full reimbursement rate (designated as the "Other" rate) for inpatient per diem surgical care services in Section I.B., ambulatory procedure visits as contained in Section III.C, or the appropriate outpatient clinic rate in Sections II.A–K. The patient is responsible for the cost of the implant(s) and the prescribed cosmetic surgery rate. (Note: The implants and procedures used for the augmentation mammaplasty are in compliance with Federal Drug Administration guidelines.)

[11] Each regional lipectomy shall carry a separate charge. Regions include head and neck, abdomen, flanks, and hips.

[12] These procedures are inclusive in the minor skin lesions. However, CHAMPUS separates them as noted here. All charges shall be for the entire treatment, regardless of the number of visits required.

[13] Dental service rates are based on a dental rate multiplier times the American Dental Association (ADA) code and the DoD established weight for that code.

[14] Ambulance charges shall be based on hours of service in 15 minute increments. The rates listed in Section III.I are for 60 minutes or 1 hour of service. Providers shall calculate the charges based on the number of hours (and/or fractions of an hour) that the ambulance is logged out on a patient run. Fractions of an hour shall be rounded to the next 15 minute increment (e.g., 31 minutes shall be charged as 45 minutes).

[15] Air in-flight medical care reimbursement charges are determined by the status of the patient (ambulatory or litter) and are per patient. The appropriate charges are billed only by the Air Force Global Patient Movement Requirement Center (GPMRC).

[16] Observation Services are billed at either the hourly or daily charge. Begin counting when the patient is placed in the observation bed, and round to the nearest hour. The daily rate for full/third party, for example, would be $660 based on 24 hours of service. If a patient status changes to inpatient, the charges for observation services are added to the DRG assigned to the case and not billed separately. If a patient is released from Observation status and is sent to an APV, the charges for Observation services are not billed separately, but are added to the APV rate in order to recover all expenses.

Dated: October 27, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–29314 Filed 11–2–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

TRICARE/CHAMPUS; FY99 DRG Updates

AGENCY: Office of the Secretary, DOD.

ACTION: Notice of DRG revised rates.

SUMMARY: This notice describes the changes made to the TRICARE/CHAMPUS DRG-based payment system in order to conform to changes made to the Medicare Prospective Payment System (PPS). It also provides the updated fixed loss cost outlier threshold, cost-to-charge ratios and the Internet address for accessing the updated adjusted standardized amounts, DRG relative weights, and beneficiary cost-share per diem rates to be used for FY 1999 under the TRICARE/CHAMPUS DRG-based payment system.

EFFECTIVE DATES: The rates, weights and Medicare PPS changes which affect the TRICARE/CHAMPUS DRG-based payment system contained in this notice are effective for admissions occurring on or after October 1, 1998.

ADDRESSES: TRICARE Management Activity (TMA), Medical Benefits and Reimbursement Systems, 16401 East Centretech Parkway, Aurora, CO 80011–9403.

For copies of the **Federal Register** containing this notice, contact the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 783–3238. The charge for the **Federal Register** is $1.50 for each issue payable by check or money order to the Superintendent of Documents.

FOR FURTHER INFORMATION CONTACT: Marty Maxey, Medical Benefits and Reimbursement Systems, TMA, telephone (303) 676–3627. To obtain copies of this document, see the **ADDRESSES** section above. Questions regarding payment of specific claims under the TRICARE/CHAMPUS DRG-based payment system should be addressed to the appropriate contractor.

SUPPLEMENTARY INFORMATION: The final rule published on September 1, 1987 (52 FR 32992) set forth the basic procedures used under the CHAMPUS DRG-based payment system. This was subsequently amended by final rules published August 31, 1988 (53 FR 33461), October 21, 1988 (53 FR 41331), December 16, 1988 (53 FR 50515), May 30, 1990 (55 FR 21863), October 22, 1990 (55 FR 42560), and September 10, 1998 (63 FR 48439).

An explicit tenet of these final rules, and one based on the statute authorizing the use of DRGs by TRICARE/CHAMPUS, is that the TRICARE/CHAMPUS DRG-based payment system is modeled on the Medicare PPS, and that, whenever practicable, the TRICARE/CHAMPUS system will follow the same rules that apply to the Medicare PPS. HCFA publishes these changes annually in the **Federal Register** and discusses in detail the impact of the changes.

In addition, this notice updates the rates and weights in accordance with our previous final rules. The actual changes we are making, along with a description of their relationship to the Medicare PPS, are detailed below.

I. Medicare PPS Changes Which Affect the TRICARE/CHAMPUS DRG-Based Payment System

Following is a discussion of the changes the Health Care Financing Administration (HCFA) has made to the Medicare PPS that affect the TRICARE/CHAMPUS DRG-based payment system.

A. DRG Classifications

Under both the Medicare PPS and the TRICARE/CHAMPUS DRG-based payment system, cases are classified into the appropriate DRG by a Grouper program. The Grouper classifies each case into a DRG on the basis of the diagnosis and procedure codes and demographic information (that is, sex, age, and discharge status). The Grouper used for the TRICARE/CHAMPUS DRG-based payment system is the same as the current Medicare Grouper with two modifications. The TRICARE/CHAMPUS system has replaced Medicare DRG 435 with two age-based DRGs (900 and 901), and we have implemented thirty-four (34) neonatal DRGs in place of Medicare DRGs 385 through 390. For admissions occurring on or after October 1, 1995, the CHAMPUS grouper hierarchy logic was changed so the age split (age <29 days) and assignments to MDC 15 occur before assignment of the PreMDC DRGs. This resulted in all neonate tracheostomies and organ transplants to be grouped to MDC 15 DRGs and not to DRGs 480–483 or 495. For admissions occurring on or after October 1, 1998, the CHAMPUS grouper hierarchy logic was changed to move DRG 103 to the PreMDC DRGs and to assign patients to PreMDC DRGs 480, 103 and 495 before assignment to MDC 15 DRGs and the neonatal DRGs. Grouping for all other DRGs under the TRICARE/CHAMPUS system is identical to the Medicare PPS.

For FY 1999, HCFA will implement a number of classification changes, including surgical hierarchy changes, revisions to the Major Problem Diagnosis List, and refinements to the Complications and Comorbidities (CC) List. The CHAMPUS Grouper will incorporate all changes made to the Medicare Grouper.

B. Wage Index and Medicare Geographic Classification Review Board Guidelines

TRICARE/CHAMPUS will continue to use the same wage index amounts used for the Medicare PPS. In addition, TRICARE/CHAMPUS will duplicate all changes with regard to the wage index for specific hospitals that are redesignated by the Medicare Geographic Classification Review Board.

C. Hospital Market Basket

TRICARE/CHAMPUS will update the adjusted standardized amounts according to the final updated hospital market basket used for the Medicare PPS according to HCFA's July 31, 1998, final rule.

D. Outlier Payments

Since TRICARE/CHAMPUS does not include capital payments in our DRG-based payments, we will use the fixed loss cost outlier threshold calculated by HCFA for paying cost outliers in the absence of capital prospective payments. For FY99, the fixed loss cost outlier threshold is based on the sum of the applicable DRG-based payment rate plus any amounts payable for IDME plus a fixed dollar amount. Thus, for FY99, in order for a case to qualify for cost outlier payments, the costs must exceed the TRICARE/CHAMPUS DRG base payment rate for the DRG plus the IDME payment plus $10,129 (wage adjusted). The marginal cost factor for cost outliers continues to be 80 percent.

E. Graduate Medical Education

TRICARE/CHAMPUS will adopt Medicare's PPS changes as they pertain to the counting and reporting of residents on the Medicare cost reports for purposes of reimbursing hospitals for the TRICARE/CHAMPUS share of graduate medical education costs.

F. Transfers

TRICARE/CHAMPUS will adopt Medicare's PPS changes as they pertain to the expanded transfer definition. We will publish an interim final rule to reflect these changes in 32 CFR Part 199(a)(1).

G. Blood Clotting Factor

TRICARE/CHAMPUS will adopt the two new HCPCS billing codes and payment rates for purified Factor IX products, as outlined in HCFA's May 12, 1998, final rule. These new codes and payment rates are effective for admissions on or after June 11, 1998. In addition, we will adopt the changes to the payment rates for blood clotting factor for hemophilia patients as outlined in HCFA's July 31, 1998, final rule, effective for admissions on or after October 1, 1998.

H. Bad Debt Increase

TRICARE/CHAMPUS will adopt Medicare's PPS changes to gradually reduce the payment for bad debt for hospitals over the next several years.

II. Cost to Charge Ratio

For FY 1999, the cost-to-charge ratio used for the TRICARE/CHAMPUS DRG-based payment system will be 0.5487, which is increased to 0.5562 to account for bad debts. This shall be used to calculate the adjusted standardized amounts and to calculate cost outlier payments, except for children's hospitals. For children's hospital cost outliers, the cost-to-charge ratio used is 0.6085.

III. Updated Rates and Weights

The updated rates and weights are accessible through the Internet at *http://www.tso.osd.mil* under the heading Provider Reimbursement Rates. Table 1 provides the ASA rates and Table 2 provides the DRG weights to be used under the TRICARE/CHAMPUS DRG-based payment system during FY 1999 and which is a result of the changes described above. The implementing regulations for the TRICARE/CHAMPUS DRG-based payment system are in 32 CFR Part 199.

Dated: October 27, 1998.

L.M. Bynum,

Alternate Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–29315 Filed 11–2–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Termination of Environmental Impact Statements on Three Navy Actions

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy had previously announced its intent to prepare Environmental Impact Statements for three actions, however, after beginning the NEPA process, Navy determined that the actions would not result in significant impacts to the human environment. Navy's intent to prepare Environmental Impact Statements is hereby withdrawn for the following actions: disposal and privatization of Naval Air Warfare Center Indianapolis, Indiana; disposal and reuse of Naval Surface Warfare Center Louisville, Kentucky, and; disposal and reuse of Naval Radio Transmitter Facility Driver, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Hess, Office of Chief of Naval Operations (Code N456F) at telephone (703) 604–5421, fax (703) 602–4642, or e-mail to hessm@n4.opnav.navy.mil.

SUPPLEMENTARY INFORMATION: Pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) of

1969, as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), the Department of the Navy published in the **Federal Register**, Notices of Intent to prepare Environmental Impact Statements for the following actions: disposal and privatization of NAWC Indianapolis, Indiana, published on April 15, 1996; disposal and reuse of Naval Surface Warfare Center Louisville, Kentucky, published on June 3, 1996; disposal and reuse of Naval Radio Transmitter Facility Driver, Virginia, published on February 17, 1994.

During the NEPA analysis, it was determined that there were no significant impacts from these actions, therefore the appropriate documentation was prepared. This notice announces to the public that these Environmental Impact Statements were terminated.

Copies of the NEPA document for these actions may be requested from the Navy contact listed above.

Dated: October 26, 1998.

Ralph W. Corey,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 98–29462 Filed 11–2–98; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Notice of Wetlands and Floodplain Involvement for Siting, Construction, and Operation of the Spallation Neutron Source

AGENCY: U.S. Department of Energy.

ACTION: Notice of Wetland and Floodplain Involvement.

SUMMARY: The U.S. Department of Energy (DOE) proposes to site, construct, and operate a Spallation Neutron Source (SNS). The proposed SNS facility would consist of a proton accelerator system; a spallation target; and appropriate experimental areas, laboratories, offices, and support facilities to allow ongoing and expanded programs of neutron research. DOE has identified four alternative sites for this project: Oak Ridge National Laboratory, Oak Ridge, Tennessee (the preferred alternative); Argonne National Laboratory, Argonne, Illinois; Los Alamos National Laboratory, Los Alamos, New Mexico; and Brookhaven National Laboratory, Upton, New York.

The proposed sites at ORNL and ANL include small wetlands. In addition, a portion of the site at ANL lies within a 100-year floodplain. In accordance with DOE regulations for floodplain and wetlands environmental review (10 CFR part 1022), DOE will prepare a wetland/floodplain assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected wetlands and floodplain. This assessment will address potential mitigation measures and practicable siting alternatives and will be included in the EIS. The Statement of Findings will be incorporated in the Final EIS.

DATES: Within the next few months, a Draft Environmental Impact Statement (DEIS) for the Spallation Neutron Source will be issued for public comment for a period of at least 45 days. Comments in response to this Notice may be submitted to the address below at any time through the end of the DEIS public comment period.

ADDRESSES: Please direct comments to: David K. Wilfert, U.S. Department of Energy, Oak Ridge Operations Office, 200 Administration Road, 146/FEDC, Oak Ridge, Tennessee 37831, telephone: (800) 927–9964, facsimile: (423) 576–4542, or e-mail NSNSEIS@ornl.gov.

For general NEPA information, please contact Carol Borgstrom, U.S. Department of Energy, Office of NEPA Policy and Assistance, 1000 Independence Avenue, SW, Washington, DC 20585, telephone: (202) 586–4600.

FOR FURTHER INFORMATION CONTACT: For general information associated with the Spallation Neutron Source, please contact: Jeffrey C. Hoy, SNS Program Manager, Office of Basic Energy Sciences, Office of Energy Research, U.S. Department of Energy, ER–13, Germantown, MD 20874–1290, telephone: (301) 903–4924. Further information on this proposed action and wetlands assessment can be obtained from David K. Wilfert at the above address.

SUPPLEMENTARY INFORMATION: The proposed SNS facility would consist of a proton accelerator system, a spallation source to produce neutron pulses, and appropriate experimental areas, laboratories, offices, and support facilities to allow ongoing and expanded programs of neutron research. DOE proposes to construct and operate the SNS at one of four alternative sites in the United States. The preferred alternative being evaluated in the EIS is to construct the SNS at the Oak Ridge National Laboratory (ORNL), Oak Ridge, Tennessee: Other alternative locations for the SNS included in the EIS are Argonne National Laboratory (ANL), Argonne, Illinois; Los Alamos National Laboratory (LANL), Los Alamos, New Mexico; and Brookhaven National Laboratory (BNL), Upton, New York.

Construction of the SNS at the proposed ORNL site would involve the taking of two small palustrine emergent wetlands on the Chestnut Ridge construction site. These two wetlands have a combined area of 0.05 hectares (0.12 acres). One of these small wetlands is an emergent wetland in an isolated depression. It is adjacent to another small wetland that lies immediately adjacent to Chestnut Ridge Road near where it crosses White Oak Creek. The depression does not appear to have a surface outlet to the swale or to nearby White Oak Creek. Upgrades needed to Chestnut Ridge Road and the laying of a gas pipeline would encroach on these areas and result in the loss of the 0.05 hectares of wetlands. A third wetland with an area of 0.65 hectares (1.6 acres) could receive increased runoff and siltation during construction activities. Appropriate runoff mitigation measures would be employed to minimize any effects to this wetland.

As proposed, construction of the SNS at the ANL alternative site would involve the loss of a 1.4 hectares (3.5 acres) of palustrine emergent wetlands that would lie within the proposed SNS facility footprint at ANL. In accordance with Section 404 of the Federal Clean Water Act, a permit from the U.S. Army Corps of Engineers would be sought for construction in these wetlands and for possible plans to mitigate the losses as necessary, should the SNS be built at the ANL site.

In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR part 1022), DOE will prepare a floodplain and wetlands assessment for this proposed DOE action. The assessment and a floodplain statement of findings will be included in the environmental impact statement being prepared for the proposed project in accordance with the National Environmental Policy Act.

Issued in Washington, DC, this 22d day of October, 1998.

Martha A. Krebs,

Director, Office of Energy Research.

[FR Doc. 98–29438 Filed 11–2–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–31–000]

Columbia Gas Transmission Corporation; Notice of Request Under Blanket Authorization

October 28, 1998.

Take notice that on October 21, 1998, Columbia Gas Transmission Corporation (Columbia), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030–0146, filed in Docket No. CP99–31–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations (18 CFR 157.205, 157.211) under the Natural Gas Act (NGA) for authorization to construct and operate a new delivery point for service to Beaver Hollow Conference Center in Wyoming County, New York, pursuant to Section 7 of the NGA, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Columbia proposes to construct and operate delivery point facilities, consisting of a 2-inch tap meter and filter separator, on its Line 10248 in Wyoming County, New York, for interruptible Part 284 transportation service to Beaver Hollow for commercial end-use. It is stated that the facilities will be used to deliver approximately 20 dt equivalent of natural gas per day and 7,300 dt equivalent on a annual basis to Beaver Hollow.

It is asserted that the facilities are being installed in response to a request from Beaver Hollow. It is further asserted that Columbia will be reimbursed for the $12,373 cost of the facilities (including tax gross up) by Beaver Hollow. It is explained that the value of gas delivered to Beaver Hollow will be within certificated entitlement and that the proposal will not have any impact on Columbia's existing design day and annual obligations to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretory.

[FR Doc. 98–29350 Filed 11–2–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–97–000]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

October 28, 1998.

Take notice that on October 23, 1998, El Paso Natural Gas Company (El Paso), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheet to become effective January 1, 1999:

Sixth Revised Sheet No. 29

El Paso states that the tendered tariff sheet revises the fuel charges applicable to transportation service on El Paso's system.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–29358 Filed 11–12–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG98–12–001]

Gulf States Transmission Corporation; Notice of Filing

October 28, 1998.

Take notice that on October 21, 1998, Gulf States Transmission Corporation (Gulf States) submitted revised standards of conduct in response to the Commission's September 24, 1998 Order on Standards of Conduct. 84 FERC ¶ 61,311 (1998).

Gulf States states that it has served copies of the filing upon all of its affected customers and state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before November 12, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–29352 Filed 11–2–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–96–000]

Kern River Gas Transmission Company: Notice of Tariff Filing

October 28, 1998.

Take notice that on October 23, 1998, Kern River Gas Transmission Company (Kern River) tendered as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets for filing, to become effective December 1, 1998:

Third Revised Sheet No. 11
Second Revised Sheet No. 13
Third Revised Sheet No. 51
Second Revised Sheet No. 53
First Revised Sheet No. 54
Third Revised Sheet No. 96

Third Revised Sheet No. 97
Third Revised Sheet No. 98
Second Revised Sheet No. 140

Kern River states that the purpose of this filing is to submit tariff sheets (1) to streamline its administrative processes for Rate Schedules KRF–1 and KRI–1, (2) to clarify the bumping provision in Section 13.2(b) of its General Terms and Conditions, (3) to eliminate unnecessary language in the curtailment procedures in Section 13.3(a)(iii) of its General Terms and Conditions, and (4) to specify that available pools and related receipt points will be listed on Kern River's EBB and designated site instead of in its tariff, and that changes to the number of composition of such pools will be reflected on the EBB and designated site at least 10 days prior to such changes being implemented.

Kern River states that a copy of this filing has been served upon its customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–29357 Filed 11–2–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–247–000]

Midcoast Interstate Transmission, Inc.; Notice of Site Visit

October 28, 1998.

On November 5 and 6, 1998, the Office of Pipeline Regulation (OPR) staff will conduct a site visit, with representatives of Midcoast Interstate Transmission, Inc., of construction activities in Colbert County, Alabama.

All interested parties may attend. Those planning to attend must provide their own transportation.

For further information, please contact Paul McKee at (202) 208–1088.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–29362 Filed 11–2–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–404–001]

Mississippi River Transmission Corporation; Notice of Tariff Filing

October 28, 1998.

Take notice that on September 16, 1998, Mississippi River Transmission Corporation (MRT) tendered for filing as part of the General Terms and Conditions to FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets. On October 14, 1998, 85 FERC ¶ 61,049, the FERC accepted such revised tariff sheets subject to MRT's filing, within ten (10) days of the Order's issuance, revised tariff sheets in compliance with the terms of the October 14, 1998 order with an effective date of March 17, 1999 or earlier, subject to the technical conference to be convened in this proceeding.

MRT states that the following revised tariff sheets are filed in compliance with the October 14, 1998 order, and without waiving MRT's right to request clarification and/or rehearing of the issues raised in the October 14, 1998 order:

Substitute Original Sheet No. 99–A
Substitute Original Sheet No. 99–B
Substitute Original Sheet No. 99–C
Substitute Original Sheet No. 99–D
Substitute Original Sheet No. 99–E

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–29356 Filed 11–2–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–203–003]

Northern Natural Gas Company; Notice of Filing of Revised Rates and Motion To Place Suspended Rates, as Revised, and Suspended Tariff Sheets Into Effect

October 28, 1998.

Take notice that on October 23, 1998, Northern Natural Gas Company tendered for filing as part of its FERC Gas Tariff certain rate tariff sheets identified on Attachment A to the filing. Northern has moved that such rates and tariff sheets be placed in effect on November 1, 1998.

Northern states that copies of its filing have been mailed to all of Northern's customers and interested State Commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–29355 Filed 11–2–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–2–69–003]

Northern Natural Gas Company; Notice of Compliance Filing

October 28, 1998.

Take notice that on October 23, 1998 Northern Natural Gas Company (Northern), tendered for filing to become part of Northern FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets proposed to become effective on November 1, 1998 in compliance with the Commission's Order on Compliance Filing dated October 21, 1998:

Ninth Revised Sheet No. 54
Eighth Revised Sheet No. 61
Eighth Revised Sheet No. 62
Eighth Revised Sheet No. 63
Eighth Revised Sheet No. 64

Northern states that copies of the filing were serve upon Northern's customers and interested State Commission.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–29359 Filed 11–2–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–25–000]

Petal Gas Storage Company; Notice of Application

October 28, 1998.

Take notice that on October 20, 1998, Petal Gas Storage Company (Petal), 229 Milam Street, Shreveport, Louisiana, 71101, filed in Docket No. CP99–25–000 an application pursuant to Section 7 of the Natural Gas Act for authorization to construct and operate a second underground, salt dome cavern in Mississippi for the storage of natural gas and to construct and operate related facilities necessary to provide firm and interruptible gas storage service to others, on a self-implementing basis with pre-granted abandonment authorization and at market based rates.

It is stated that Petal, a wholly-owned subsidiary of Crystal Oil Company, was authorized on August 4, 1993, in Docket No. CP93–69–000 to construct and operate facilities related to a first storage cavern in Forrest County, Mississippi. Petal states that it is proposing to construct a second storage cavern. Petal also states that the second cavern represents the initial phase of a long-term planned expansion of Petal's services. It is stated that Phase I, the focus of the subject filing, is limited in scope, in that, Petal requests authorization to drill one well, leach a salt storage cavern with a storage capacity of 5.2 Bcf and install 825 feet of flow lines. Petal states that it does not intend to use the power of eminent domain. Petal further states all construction activity, except for 412 feet of flow lines on an easement to be acquired by Petal from Dynegy Midstream Services Limited Partnership, will take place on a 10.89 acre tract that was subject to environmental review in Docket No. CP93–69–000 and that Petal owns in fee.

Petal states that Phase II of the expansion project is still in the planning process; however, it is anticipated that Phase II will involve the construction of additional pipeline facilities in order to facilitate bi-directional interconnects with Transcontinental Gas Pipe Line Corporation, Southern Natural Gas Company, Destin Pipeline Company, L.L.C., the Koch Gateway Pipeline Company (Koch Gateway) high pressure system, and Florida Gas Transmission Corporation, which, in tandem with Petal's current interconnections with Tennessee Gas Pipeline Company and the Koch Gateway low pressure system, will provide added flexibility and enable Petal to access new markets. Petal states that if it does not pursue the Phase II project in conjunction with the development of the second storage cavern, it will operate both the first and second storage caverns as a single storage facility for the benefit of both existing and new customers.

Petal states that it has entered into a precedent agreement for firm storage service which covers at least 31 percent of the storage capacity available from the second cavern. In addition, Petal states that all available capacity in the first cavern is fully utilized. Further, Petal states that the existing contract commitments for service from the first storage cavern and the precedent agreement cover 62 percent of the storage capacity from the first and second caverns. Petal states that since it plans to operate the two caverns as a single storage facility, customers will have access to capacity in both storage caverns up to the total quantity reflected in their contracts.

It is stated that upon completion of the second cavern, the two storage caverns will be capable of a combined average daily injection rate of 160,000 Mcf per day, allowing customers to fill the working gas capacity in as little as 40 days, and an average combined daily withdrawal rate of 640,000 Mcf per day, allowing customers to completely withdraw gas in 10 days.

Petal proposes to offer its storage services at market-based rates. No cost data or revenue projections were submitted with this proceeding because Petal is requesting a waiver of those Commission Regulations requiring said submission.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before November 9, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process.

Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Petal to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–29349 Filed 11–2–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2169, TN]

Tapoco, Inc.; Notice of Tapoco, Inc.'s Request to Use Alternative Procedures in Preparing a License Application

October 28, 1998.

On October 1, 1998, the existing licensee, Tapoco, Inc. (Tapoco), filed a request to use alternative procedures for submitting an application for new license for the existing Tapoco Project No. 2169.[1] Tapoco has demonstrated that they have made an effort to contact resource agencies, Indian tribes, nongovernmental organizations (NGOs), and others affected by their proposal, and that a consensus exists that the use of an alternative procedure is appropriate in this case.

The purpose of this notice is to invite comments on GPC's request to use the alternative procedure, pursuant to Section 4.34(i) of the Commission's regulations.[2] Additional notices seeking comments on the specific project proposal, interventions and protests, and recommended terms and conditions will be issued at a later date.

The alternative procedures being requested here combine the prefiling consultation process with the environmental review process, allowing the applicant to complete and file an environmental document (NEPA document) in lieu of Exhibit E of the license application. This differs from the traditional process, in which the applicant consults with agencies, Indian tribes, and NGOs during preparation of the application for the license and before filing it, but the Commission staff performs the environmental review after the application is filed. The alternative procedures are intended to simplify and expedite the licensing process by combining the prefiling consultation and environmental review processes into a single process, to facilitate greater participation, and to improve communication and cooperation among the participants.

Comments

Interested parties have 30 days from the date of this notice to file with the Commission, any comments on GPC's proposal to use the alternative procedure to prepare an application to relicense the Middle Chattahoochee Project.

Filing Requirements

The comments must be filed by providing an original and 8 copies as required by the Commission's regulations to: Federal Energy Regulatory Commission, Office of the Secretary, Dockets—Room 1A, 888 First Street, NE, Washington, DC 20426.

All comment filings must bear the heading "Comments on the Alternative Procedure," and include the project name and number (Tapoco Project, No. 2169).

For further information, please contact Ronald McKitrick of the Federal Energy Regulatory Commission at 770–452–2363 ext. 44 or E-mail at ronald.mckitrick@FERC.Fed.US.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–29353 Filed 11–2–98; 8:45 am]

BILLING CODE 6717–01–M

[1] The 326.5-megawatt Tapoco (originally known as the Tallasee project) project is located on the Little Tennessee and its tributary, the Cheoah River, in Blount and Monroe Counties, Tennessee, and Graham and Swain Counties, North Carolina. The project consists of four developments, Chilhowee, Cheoah, Santeetlah, and Calderwood.

[2] Order No. 596, Regulations for the Licensing of Hydroelectric Projects, 81 FERC ¶ 61,103 (1997).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–32–000]

Williams Gas Pipelines Central, Inc.; Notice of Request Under Blanket Authorization

October 28, 1998.

Take notice that on October 21, 1998, Williams Gas Pipelines Central, Inc. (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP99–32–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon in place by sale to Missouri Gas Energy, a division of Southern Union Company (MGE), approximately 1.05 miles of the Alba and the Purcell 3-inch lateral pipelines and appurtenant facilities located in Jasper County, Missouri, under Williams' blanket certificate issued in Docket No. CP82–479–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Specifically, Williams seeks authorization to abandon in place by sale to MGE approximately 0.9 miles of the Alba 3-inch lateral pipeline (Line FN–5) and approximately 0.15 miles of the Purcell 3-inch lateral pipeline (Line FN–18) all located in Sections 16 & 17, Township 29 North, Range 32 West, Jasper County, Missouri, including without limitation, all gas lines, meters, records and other equipment, personal property, and fixtures located thereon and/or used in conjunction with the operation of the pipelines. Williams states that the Alba 3-inch lateral pipeline was originally installed in 1939 and Purcell 3-inch lateral pipeline was originally installed in 1939. Williams states that MGE will incorporate the pipelines into its existing distribution system. Williams states the sales price for these lateral lines is $10.

Williams states that the proposed lateral pipelines are downstream of its existing metering and regulating facilities and, therefore, no changes are being proposed to Williams' metering facilities serving the Alba and Purcell areas or in the capacity of Williams' facilities serving these areas. Williams states that there will be no change in volumes delivered as a result of its proposal.

Williams states that in the agreement to assign and transfer the pipeline facilities, MGE agrees to accept and provide service to all domestic customers currently receiving gas from the pipelines to be abandoned.

Williams states that inasmuch as this is a request to abandon lateral pipeline facilities in place by sale to a local distribution company, such change is not prohibited by an existing tariff, and that Williams has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–29351 Filed 11–2–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–9–000]

Williston Basin Interstate Pipeline Company; Notice of Application

October 28, 1998.

Take notice that on October 8, 1998, as supplemented on October 19, 1998, Williston Basin Interstate Pipeline Company, (Williston Basin) 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, filed in Docket No. CP99–9–000. an application pursuant to Section 7(b) of the Natural Gas Act (NGA) for an order permitting and approving the abandonment by removal of four meter stations and appurtenant facilities in North Dakota, as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Williston Basin reports that the four meter stations are: Western-Mosbacher-Pruett meter station, the Phillips Rawson Booster meter station and the Western Watford City meter station all located in McKenzie County, North Dakota; and the Temple meter station located in Williams County, North Dakota.

Williston Basin says the field compressors and oil enhancement recovery project previously fueled by the gas delivered through these four meters stations have been removed or abandoned so there are no downstream operating facilities. Williston Basin states that the facilities to be abandoned are located on existing pipeline right-of-way, and all excavation at the sites will take place entirely on existing, previously disturbed, pipeline right-of-way. Williston Basin asserts that no retail sales and/or transportation to end-use customers will be affected by this proposed abandonment.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 18, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a motion to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application, if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Williston Basin to appear or to be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–29348 Filed 11–2–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2666–007, Maine]

Bangor Hydroelectric Company; Notice of Availability of Draft Environmental Assessment

October 28, 1998.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing reviewed the application for a new license for the Medway Hydroelectric Project, and prepared a Draft Environmental Assessment (DEA) for the project. The Medway Project is located on the West Branch Penobscot River in the town of Medway, Penobscot County, Maine. The DEA contains the staff's analysis of potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

The DEA is available in the Public Reference Room, Room 2A, of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426.

Comments should be filed within 45 days from the date of this notice and should be addressed to David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. For further information, contact David Turner, Environmental Coordinator, at (202) 219–2844.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–29354 Filed 11–2–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1025–020]

Safe Harbor Water Power Corporation; Notice of Availability of Environmental Assessment

October 28, 1998.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Commission's (Commission's) regulations, 18 CFR part 380 (Order 486, 52 FR 47897), the Commission's Office of Hydropower Licensing has reviewed the application for license amendment for the Safe Harbor Hydroelectric Project,No. 1025–020. The Safe Harbor Project is located on the Susquehanna River in York and Lancaster Counties, Pennsylvania. The licensee is proposing to raise the normal maximum forebay elevation by 0.8 ft., from Elevation 227.2 ft. to Elevation 228.0 ft. Raising the forebay elevation can be completed operationally, and would not require any modifications to project structures. A Final Environmental Assessment (FEA) was prepared, and the FEA finds that approving the amendment application would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the FEA are available for review in the Commission's Reference and Information Center, Room 2A, 888 First Street, N.E., Washington, D.C. 20426. For further information, please contact Ms.Hillary Berlin, at (202) 219–0038.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–29360 Filed 11–2–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PL99–1–000]

Federal and State Regulation of Natural Gas Services; Notice of Conference

October 28, 1998.

Take notice that the Federal Energy Regulatory Commission (Commission) will host a conference on February 25, 1999, to discuss the relationship between the federal regulation of interstate natural gas pipelines and the unbundling of retail natural gas service at the state level.

As the Commission has recently stated, "[r]etail unbundling of natural gas services must be recognized as an important element in the evolving national energy market."[1] The relationship between state retail unbundling and federal regulation of the pipeline system has important implications for the smooth functioning of the natural gas pipeline grid. Thus, the Commission is interested in encouraging an environment that will allow state commissions and local distribution companies to implement retail unbundling in a manner that also accommodates the Commission's goals for the pipeline grid.

To this end, the Commission is interested in hearing different views on how to coordinate federal and state regulation in the new competitive gas market. The Commission is also interested in understanding the status of retail unbundling. The Commission's goal is to ensure an environment in which natural gas users can reap the benefits of both the restructured interstate natural gas market created by Order No. 636 and retail unbundling, when chosen as the preferred policy at the state level. Since the Commission is currently engaged in a comprehensive reexamination of its natural gas policies,[2] this appears to be an appropriate time to examine the interrelationship of the Commission's policies and proposals and the state retail policies. Therefore, the Commission has decided to convene this conference.

Scope of Discussion. The Commission is interested in determining the status of the unbundling of retail natural gas service. Specifically the Commission is interested in the following issues: Which states have already implemented retail unbundling programs? What are the chief components of these programs? What have been the benefits of such programs? How have local distribution companies (LDCs) implemented state unbundling programs? Which states are currently considering implementing retail unbundling programs? What are the various proposals for unbundling programs that are being considered? How do the state programs address the issue of the allocation of capacity on interstate pipelines? What types of stranded costs issues are state commissions confronting or are likely to confront? Specifically, how are states dealing with stranded costs of upstream pipeline capacity? How should an LDC's status as a supplier of last resort, if applicable, influence policies on both sides of the city gate, *e.g.*, open access and retail unbundling? What is the relationship between state unbundling plans and federal regulation? For example, how do state unbundling plans work with the Commission's capacity release regulations and the "shipper must have title" policy? What effect do particular rate designs have on an LDC's ability to be competitive?

The Commission is also interested in determining what actions by the Commission, or the states, could help remove any impediments to, or facilitate the appropriate development of, state retail unbundling, while at the same time maintaining the benefits of the restructured interstate natural gas market created by Order No. 636. Specifically, the Commission is interested in the following questions: How do states take into account federal regulations or policies when developing state retail unbundling plans? What types of inconsistencies may arise, or have arisen, between federal and state regulation when it comes to state retail unbundling programs? Should inconsistencies between federal and state regulation with respect to retail unbundling be resolved by waivers on a case-by-case basis or is a generic approach required? What effect would the proposals in the Notice of Proposed Rulemaking in *Short Term Natural Gas Transportation Services*, Docket No. RM98–10–000, have on state retail unbundling? What effect would the potential changes discussed in the Notice of Inquiry in *Regulation of Interstate Natural Gas Transportation Service*, Docket No. RM98–12–000, have on state retail unbundling?

Conference location. The conference will be held at the offices of the Federal Energy Regulatory Commission in the Commission Meeting Room, Room 2C, 888 First Street, NE., Washington, DC, 20426. Speakers that have audio/visual requirements should contact Wanda Washington at (202) 208–1460, no later than February 11, 1999.

Procedures to Participate. In order to obtain a complete picture of the relationship between federal regulation and state unbundling, the Commission seeks the views of all segments of the gas industry, especially state commissions and LDCs. The conference will be organized so that a cross section of views are obtained. Any person who wishes to participate in the conference should submit a written request to the Secretary of the Commission by January 26, 1999. The request should indicate the scope of the participants' planned remarks. This will assist in selecting the members of each panel. A separate notice organizing the conference will be issued at a later date.

Written comments may be filed at any time, but should be filed within 15 days after the conference.

The Capitol Connection will broadcast live the audio from the public conference on its wireless cable system in the Washington, DC area. If there is sufficient interest from those outside the Washington, DC metropolitan area, the Capitol Connection may broadcast the conference live via satellite for a fee. Persons interested in receiving the audio broadcast, or who need more information, should contact Shirley Al-Jarnai or Julia Morelli at the Capitol Connection at (703) 993–3100, no later than February 18, 1999.

In addition, National Narrowcast Network's Hearing-On-The-Line service covers all FERC meetings live by telephone. Call (202) 966–2211 for details. Billing is based on time on-line.

All questions concerning the format of the conference should be directed to:

David Faerberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–1275

John Carlson, Office of Pipeline Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–0288

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–29361 Filed 11–2–98; 8:45 am]

BILLING CODE 6717–01–M

[1] Atlanta Gas Light Company, 84 FERC ¶ 61,119 at 61,638 (1998).

[2] Regulation of Short-Term Natural Gas Transportation Services, Notice of Proposed Rulemaking, 63 FR 42982 (Aug. 11, 1998) and Regulation of Interstate Natural Gas Transportation Services, Notice of Inquiry, 63 FR 42974 (Aug. 11, 1998).

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6183–2]

Drinking Water State Revolving Fund (DWSRF) Program Policy Announcement: Eligibility of Using DWSRF Funds to Create a New Public Water System

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is issuing a policy decision for the Drinking Water State Revolving Fund (DWSRF) program that will allow States to make loans for projects that are needed to solve public health problems for residents currently served by individual wells or surface water sources. This policy would expand the universe of eligible loan recipients by allowing loans to an entity that is not currently a public water system, but which will become a public water system upon completion of the project. The Agency published the proposed policy in the **Federal Register** on June 12, 1998 to seek comment. . Comments received during a public comment period and in a stakeholder meeting held on July 13, 1998 were considered in developing the final policy.

Background

Section 1452(a)(2) of the Safe Drinking Water Act (SDWA) Amendments states that "financial assistance under this section may be used by a public water system only for expenditures . . . which . . . will facilitate compliance with national primary drinking water regulations . . . ." The Act defines a public water system (PWS) as a "system . . . (of) pipes or other constructed conveyances" which regularly serves at least 15 service connections or at least 25 individuals.

Several States indicated that a strict interpretation of this provision would prevent them from providing funds to an entity (e.g., homeowners' association, township) that has a public health problem and is not currently a PWS, but which would become a federally regulated PWS upon construction of a piped system. States want the flexibility to provide DWSRF funds to these entities in order to solve public health problems posed by contaminated wells. While the SDWA does allow States to lend funds to an existing PWS to extend lines to solve these types of public health problems, not all of these situations have an existing PWS nearby that is willing or able to help.

EPA believes that the statute permits the DWSRF to be used to create a federally regulated PWS in limited circumstances to solve public health problems intended to be addressed by the statute. However, the Agency proposed several conditions in its June 12, 1998 **Federal Register** proposal which would have to be met before such a project could be funded. They were: (a) upon completion of the project, the entity responsible for the loan must meet the definition of a Federal community public water system; (b) funding is limited to projects on the State's fundable list where an actual public health problem with serious risks exists; (c) the project must be limited in scope to the specific geographic area affected by contamination; (d) the project can only be sized to accomodate a reasonable amount of growth expected over the life of the facility—growth cannot be a substantial portion of the project; and (e) the project must meet the same technical, financial and managerial capacity requirements that the SDWA requires of all DWSRF assistance recipients.

Comments

Comments were received from 31 parties by July 27, 1998 (1 week after close of the comment period). Support was divided, with 17 in favor of, and 14 opposed to, the proposal. Commentors in support of the policy came from state health and environmental quality departments, national associations representing water utilities, engineering professionals and town managers. Commentors opposed to the policy were from national associations representing ground water professionals, and representatives of state well driller's associations and associated industries.

Most of the comments in support of the policy only asked for clarification of the language used in the proposal. One commentor asked that the policy be extended to address situations where homeowners receive unsafe drinking water from surface water sources.

There were three main concerns expressed by those opposing the policy. The first was that, in proposing such a policy, EPA is implying that drinking water provided by private wells is unsafe or inferior to that provided by public water systems. Comments indicated that the Agency does not distinguish between contaminated wells and contaminated ground water and that, in the case of the former, there are often solutions that will result in the provision of safe drinking water. The second concern was that, in rushing to build new water systems, communities and states would not sufficiently evaluate all possible alternatives to solving a problem in an effort to identify the most cost-effective solution. The third concern was that homeowners served by private wells would be forced to "hook-on" to a system, would not receive sufficient notice when a PWS was proposed, or would not receive balanced information about alternatives to construction of a new PWS. A concern raised by environmental organizations at a stakeholder meeting held to discuss the proposal was that the policy could result in growth or urban sprawl. Although EPA limits projects to encompass "reasonable growth", it provides no definition of what is reasonable.

Response to Comments

In proposing this policy, EPA did not intend to imply that private wells do not provide safe drinking water to users. There are millions of people in the nation that obtain water from wells with good drinking water quality. However, it must be acknowledged that there are situations where the public health of citizens would be better protected by creating a public water system supplying drinking water that is required to meet all health-based standards. States need the flexibility to address these important public health concerns.

The Agency recognizes that every situation is different, and that in many cases construction of a public water system is not the most cost-effective solution to addressing problems caused by poor ground water quality or poorly constructed wells. In response to the comments received, we have added an additional condition that must be met before a loan can be issued to construct a public water system. This condition requires that a State determine that the project proposed to create a public water system is a cost-effective solution to resolve the problem causing a risk to public health.

It is important to remember that these projects are funded using loans, which must ultimately be repaid by the users of the system. The DWSRF program requires that all applicants have adequate technical, financial and managerial capacity to operate a system. States are also required by the Safe Drinking Water Act to ensure that any new system created after October 1, 1999 will have adequate capacity to ensure provision of safe drinking water. If the cost of a project is too high or if community support for a project is lacking, it becomes more difficult to guarantee repayment of a loan, and the project would not receive assistance. States have also indicated that they have little interest in promoting the creation of new small systems, which often have more trouble complying with drinking water regulations. These controls, along with the condition described above and other requirements, should ensure that only cost-effective projects that are needed to protect public health receive assistance.

Public participation is an important element of the 1996 SDWA Amendments and the DWSRF program. States are required to release their Intended Use Plans for public review and comment before they can receive federal funds. States have policies in place to ensure that there is sufficient notification at the local level as well. For example, all projects are required to undergo an environmental review, which includes requirements for public notification. Additionally, in some States, where communities must approve debt, the public must approve a project by referendum. EPA strongly encourages States to ensure that homeowners which would be served by a proposed PWS get adequate notice and informational material to allow them to make an informed decision.

The issue of growth is important for the Agency as well as for environmental organizations. The DWSRF program cannot be used to finance projects where the primary purpose is growth and only allows for growth considered to be reasonable. The Agency has been hesitant to define "reasonable" because one definition would not capture the variability between States. For example, what is reasonable in Arizona may be completely unacceptable in New Hampshire. Many States are also sensitive to the issue of growth and have developed their own policies to address what is reasonable. For example, in one State, a proposed service area would only be allowed to encompass two properties (wells) beyond the last contaminated well. In another State the amount of growth that is considered reasonable is that which would increase capacity of the existing user base by 10%. Additionally, in most cases, requirements for environmental review should ensure that unworthy projects are not funded.

Minor changes to the final policy were also made in response to comments asking for clarification regarding such eligibility issues as creation of a system to replace a surface water source or creation of a regional public water system to consolidate smaller systems.

Final Policy

EPA will allow for the creation of a community water system (publicly or privately owned) to address an existing public health problem caused by unsafe drinking water provided by individual wells or surface water sources. This policy also extends to a situation where a new regional PWS is created by consolidating several existing PWS's that have technical, financial or managerial difficulties.

When reviewing an application for assistance the State must ensure that the applicant has given sufficient public notice to potentially affected parties and has considered alternative solutions to addressing the problem.

A proposed project may only receive assistance if the following conditions are met:

(a) Upon completion of the project, the entity responsible for the loan must meet the definition of a Federal community public water system;

(b) The project must be on the State's fundable list and must address an actual public health problem with serious risks;

(c) The project must be limited in scope to the specific geographic area affected by contamination;

(d) The project can only be sized to accomodate a reasonable amount of growth expected over the life of the facility—growth cannot be a substantial portion of the project;

(e) The project must meet the same technical, financial and managerial capacity requirements that the SDWA requires of all DWSRF assistance recipients; and

(f) The project is a cost-effective solution to solving the public health problem.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Act Hotline, telephone (800) 426–4791. Information about the DWSRF program, including program guidelines and State contact information, is available from the EPA Office of Ground Water and Drinking Water Web Site at the URL address "http://www.epa.gov/safewater."

Dated: October 22, 1998.

Elizabeth Fellows,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 98–29448 Filed 11–2–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[PB–402404–KY; FRL–6032–8]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; Commonwealth of Kentucky's Authorization Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comments and opportunity for public hearing.

SUMMARY: On August 28, 1998, the Commonwealth of Kentucky submitted an application for EPA approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA). This notice announces the receipt of Kentucky's application, provides a 45–day public comment period, and provides an opportunity to request a public hearing on the application. Kentucky has provided a certification that its program meets the requirements for approval of a State program under section 404 of TSCA. Therefore, pursuant to section 404, the program is deemed authorized as of the date of submission. If EPA finds that the program does not meet the requirements for approval of a State program, EPA will disapprove the program, at which time a notice will be issued in the **Federal Register** and the Federal program will take effect in Kentucky.

DATES: Comments on the authorization application must be received on or before December 18, 1998. Public hearing requests must be received on or before November 17, 1998.

ADDRESSES: Submit all written comments and/or requests for a public hearing identified by docket control number "PB-402404-KY" (in duplicate) to: Environmental Protection Agency, Region IV, Air, Pesticides and Toxics Management Division, Atlanta Federal Center, 61 Forsyth St., SW., Atlanta, GA 30303-3104. Comments, data, and requests for a public hearing may also be submitted electronically to: beldin-quinones.john@epamail.epa.gov. Follow the instructions under Unit IV. of this document. No information claimed to be Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: John A. Beldin-Quinones, Project Officer, Air, Pesticides and Toxics Management Division, Environmental Protection Agency, Region IV, Atlanta Federal Center, 61 Forsyth St., SW., Atlanta, GA 30303-3104, Telephone: (404) 562–9171, e-mail address: beldin-quinones.john@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 28, 1992, the Housing and Community Development Act of 1992, Pub. L. 102-550, became law. Title X of that statute was the Residential Lead-Based Paint Hazard Reduction Act of 1992. That Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV (15 U.S.C. 2681-92), entitled "Lead Exposure Reduction."

Section 402 of TSCA authorizes and directs EPA to promulgate final regulations governing lead-based paint activities in target housing, public and commercial buildings, bridges, and other structures. Those regulations are to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that individuals engaged in these activities are certified and follow documented work practice standards. Under section 404, a State may seek authorization from EPA to administer and enforce its own lead-based paint activities program.

On August 29, 1996 (61 FR 45777) (FRL–5389–9), EPA promulgated final TSCA section 402/404 regulations governing lead-based paint activities in target housing and child-occupied facilities (a subset of public buildings). Those regulations are codified at 40 CFR part 745, and allow both States and Indian Tribes to apply for program authorization. Pursuant to section 404(h) of TSCA, EPA is to establish the Federal program in any State or Tribal Nation without its own authorized program in place by August 31, 1998.

States and Tribes that choose to apply for program authorization must submit a complete application to the appropriate Regional EPA Office for review. Those applications will be reviewed by EPA within 180 days of receipt of the complete application. To receive EPA approval, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program, and provides for adequate enforcement (section 404(b) of TSCA, 15 U.S.C. 2684(b)). EPA's regulations (40 CFR part 745, subpart Q) provide the detailed requirements a State or Tribal program must meet in order to obtain EPA approval.

A State may choose to certify that its lead-based paint activities program meets the requirements for EPA approval, by submitting a letter signed by the Governor or Attorney General stating that the program meets the requirements of section 404(b) of TSCA. Upon submission of such certification letter, the program is deemed authorized. This authorization becomes ineffective, however, if EPA disapproves the application.

Pursuant to section 404(b) of TSCA, EPA provides notice and an opportunity for a public hearing on a State or Tribal program application before authorizing the program. Therefore, by this notice EPA is soliciting public comment on whether Kentucky's application meets the requirements for EPA approval. This notice also provides an opportunity to request a public hearing on the application. If a hearing is requested and granted, EPA will issue a **Federal Register** notice announcing the date, time, and place of the hearing. EPA's final decision on the application will be published in the **Federal Register**.

II. State Program Description Summary

The following summary of Kentucky's proposed program has been provided by the applicant:

The Commonwealth of Kentucky, through the Kentucky Department of Public Health (KDPH), is seeking authorization from EPA to administer and enforce its own lead-based paint activities program. The authority to administer and enforce the Kentucky Lead-Based Paint Program was established in the 1996 regular session of the Kentucky General Assembly.

The State lead-based paint program regulations are applicable to persons engaged in lead-based paint activities in target housing and child-occupied facilities. The State certification program requirements include the certification of firms, inspectors, risk assessors, supervisors, project designers and workers, as well as work practice standards for all of these disciplines, adopted from section 402 of TSCA.

Persons and companies seeking certification must apply using specified form(s), pay an application fee, and provide proof of accredited training, education and experience for the discipline which they are applying. Companies must also provide a list and certification number of KDPH-certified employees, and provide a notarized affidavit stating that its employees will follow standard work practices established by Kentucky regulations.

Training providers shall submit their name, address, and telephone number, a fee for each course, a list of courses proposed for accreditation, and documentation of the training manager's qualifications. In addition, training providers must submit documentation establishing reciprocity between the accreditation by another State and Kentucky's requirements; or a statement signed by the training manager certifying that the training program meets the requirements established by Kentucky regulations, with submission of manuals and course information; or provide information indicating that the training provider is using materials developed by EPA.

Except for the worker discipline, all individuals must successfully pass the third party exam, administered by the Department of Technical Education (Kentucky Tech System), applicable to the discipline in order to be certified.

The State program requires abatement permits prior to the commencement of abatement activity. The KDPH will investigate tips and complaints, and enforce certification, accreditation, and permitting requirements for all disciplines, and for all abatement-

related activities, including training. The KDPH will refer possible waste disposal violations to the Department of Environmental Protection. The State program provides for the suspension, revocation, or modification of training program accreditation and certifications of individuals and firms.

III. Federal Overfiling

TSCA section 404(b) makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

IV. Public Record and Electronic Submissions

The official record for this action, as well as the public version, has been established under docket control number "PB-402404-KY." Copies of this notice, the Commonwealth of Kentucky's authorization application, and all comments received on the application are available for inspection in the Region IV office, from 8 a.m. to 4:45 p.m., Monday through Friday, excluding legal holidays. The docket is located at the EPA Region IV Library, Environmental Protection Agency, Atlanta Federal Center, 9th Floor, 61 Forsyth St., SW., Atlanta, GA.

Commenters are encouraged to structure their comments so as not to contain information for which CBI claims would be made. However, any information claimed as CBI must be marked "confidential," "CBI," or with some other appropriate designation, and a commenter submitting such information must also prepare a nonconfidential version (in duplicate) that can be placed in the public record. Any information so marked will be handled in accordance with the procedures contained in 40 CFR part 2. Comments and information not claimed as CBI at the time of submission will be placed in the public record.

Electronic comments can be sent directly to EPA at:

beldin-quinones.john@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number "PB-402404-KY." Electronic comments on this document may be filed online at many Federal Depository Libraries. Information claimed as CBI should not be submitted electronically.

V. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

EPA's actions on State or Tribal lead-based paint activities program applications are informal adjudications, not rules. Therefore, the requirements of the Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*), the Congressional Review Act (5 U.S.C. 301 *et seq.*), Executive Order 12866 ("Regulatory Planning and Review," 58 FR 51735, October 4, 1993), and Executive Order 13045 ("Protection of Children from Environmental Health Risks and Safety Risks," 62 FR 1985, April 23, 1997), do not apply to this action. This action does not contain any Federal mandates, and therefore is not subject to the requirements of the Unfunded Mandates Reform Act (2 U.S.C. 1531–1538). In addition, this action does not contain any information collection requirements and therefore does not require review or approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

B. Executive Order 12875

Under Executive Order 12875, entitled "Enhancing Intergovernmental Partnerships" (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or Tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and Tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and Tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's action does not create an unfunded Federal mandate on State, local, or Tribal governments. This action does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this action.

C. Executive Order 13084

Under Executive Order 13084, entitled "Consultation and Coordination with Indian Tribal Governments" (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the Tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's action does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

Authority: 15 U.S.C. 2682, 2684.

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: October 16, 1998.

A. Stanley Meiburg,

Acting Regional Administrator, Region IV.

[FR Doc. 98–29445 Filed 11–2–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PB–402404–GA; FRL–6032–7]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; State of Georgia's Authorization Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comments and opportunity for public hearing.

SUMMARY: On August 27, 1998, the State of Georgia submitted an application for EPA approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA). This notice announces the receipt of Georgia's application, provides a 45–day public comment period, and provides an opportunity to request a public hearing on the application. Georgia has provided a certification that its program meets the requirements for approval of a State program under section 404 of TSCA. Therefore, pursuant to section 404, the program is deemed authorized as of the date of submission. If EPA finds that the program does not meet the requirements for approval of a State program, EPA will disapprove the program, at which time a notice will be issued in the **Federal Register** and the Federal program will take effect in Georgia.

DATES: Comments on the authorization application must be received on or before December 18, 1998. Public hearing requests must be received on or before November 17, 1998.

ADDRESSES: Submit all written comments and/or requests for a public hearing identified by docket control number "PB-402404-GA" (in duplicate) to: Environmental Protection Agency, Region IV, Air, Pesticides and Toxics Management Division, Atlanta Federal Center, 61 Forsyth St., SW., Atlanta, GA 30303-3104. Comments, data, and requests for a public hearing may also be submitted electronically to: bates.keith@epamail.epa.gov. Follow the instructions under Unit IV. of this document. No information claimed to be Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: Keith Bates, Project Officer, Air, Pesticides and Toxics Management Division, Environmental Protection Agency, Region IV, Atlanta Federal Center, 61 Forsyth St., SW., Atlanta, GA 30303-3104, Telephone: (404) 562–8992, e-mail address: bates.keith@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 28, 1992, the Housing and Community Development Act of 1992, Pub. L. 102-550, became law. Title X of that statute was the Residential Lead-Based Paint Hazard Reduction Act of 1992. That Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV (15 U.S.C. 2681-92), entitled "Lead Exposure Reduction."

Section 402 of TSCA authorizes and directs EPA to promulgate final regulations governing lead-based paint activities in target housing, public and commercial buildings, bridges, and other structures. Those regulations are to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that individuals engaged in these activities are certified and follow documented work practice standards. Under section 404, a State may seek authorization from EPA to administer and enforce its own lead-based paint activities program.

On August 29, 1996 (61 FR 45777) (FRL–5389–9), EPA promulgated final TSCA section 402/404 regulations governing lead-based paint activities in target housing and child-occupied facilities (a subset of public buildings). Those regulations are codified at 40 CFR part 745, and allow both States and Indian Tribes to apply for program authorization. Pursuant to section 404(h) of TSCA, EPA is to establish the Federal program in any State or Tribal Nation without its own authorized program in place by August 31, 1998.

States and Tribes that choose to apply for program authorization must submit a complete application to the appropriate Regional EPA Office for review. Those applications will be reviewed by EPA within 180 days of receipt of the complete application. To receive EPA approval, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program, and provides for adequate enforcement (section 404(b) of TSCA, 15 U.S.C. 2684(b)). EPA's regulations (40 CFR part 745, subpart Q) provide the detailed requirements a State or Tribal program must meet in order to obtain EPA approval.

A State may choose to certify that its lead-based paint activities program meets the requirements for EPA approval, by submitting a letter signed by the Governor or Attorney General stating that the program meets the requirements of section 404(b) of TSCA. Upon submission of such certification letter, the program is deemed authorized. This authorization becomes ineffective, however, if EPA disapproves the application.

Pursuant to section 404(b) of TSCA, EPA provides notice and an opportunity for a public hearing on a State or Tribal program application before authorizing the program. Therefore, by this notice EPA is soliciting public comment on whether Georgia's application meets the requirements for EPA approval. This notice also provides an opportunity to request a public hearing on the application. If a hearing is requested and granted, EPA will issue a **Federal Register** notice announcing the date, time, and place of the hearing. EPA's final decision on the application will be published in the **Federal Register**.

II. State Program Description Summary

The following is a summary of Georgia's training, certification, accreditation and enforcement program.

In 1994, the Georgia General Assembly passed the Lead Poisoning Prevention Act of 1994, O.C.G.A. 31-41-4, *et seq.*, as amended. This statute designated the Department of Natural Resources as the State agency responsible for implementation, administration, and enforcement of the Georgia Lead-Based Paint Certification Program. The Commissioner designated these duties to the Environmental Protection Division. The Act was amended by the Georgia General Assembly in 1998. On June 24, 1998, the Board of Natural Resources adopted the Lead-Based Paint Abatement, Certification and Accreditation Rules which became final on July 16, 1998.

The Lead-Based Paint Abatement, Certification and Accreditation Rules are applicable to all individuals and firms who are engaged in lead-based paint activities, except persons who perform these activities within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner while these activities are being performed, or a child residing in the residential dwelling has been identified as having an elevated blood level.

The rules contain procedures and requirements for the accreditation of lead-paint activities training programs, procedures and requirements for the certification of individuals and firms engaged in lead-based paint activities, and standards for performing such activities. The rules also contain requirements that all lead-based paint

activities in target housing and child-occupied facilities shall be performed by certified individuals and firms.

The State is authorized to assess penalties and revoke or suspend any license, certification, approval, or accreditation issued in accordance with the State program. Enforcement activities include audits of training providers, inspection of lead-based paint activities, and investigation of tips and complaints.

III. Federal Overfiling

TSCA section 404(b) makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

IV. Public Record and Electronic Submissions

The official record for this action, as well as the public version, has been established under docket control number "PB-402404-GA." Copies of this notice, the State of Georgia's authorization application, and all comments received on the application are available for inspection in the Region IV office, from 8 a.m. to 4:45 p.m., Monday through Friday, excluding legal holidays. The docket is located at EPA Region IV Library, Environmental Protection Agency, Atlanta Federal Center, 9th Floor, 61 Forsyth St., SW., Atlanta, GA.

Commenters are encouraged to structure their comments so as not to contain information for which CBI claims would be made. However, any information claimed as CBI must be marked "confidential," "CBI," or with some other appropriate designation, and a commenter submitting such information must also prepare a nonconfidential version (in duplicate) that can be placed in the public record. Any information so marked will be handled in accordance with the procedures contained in 40 CFR part 2. Comments and information not claimed as CBI at the time of submission will be placed in the public record.

Electronic comments can be sent directly to EPA at:
bates.keith@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number "PB-402404-GA." Electronic comments on this document may be filed online at many Federal Depository Libraries. Information claimed as CBI should not be submitted electronically.

V. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

EPA's actions on State or Tribal lead-based paint activities program applications are informal adjudications, not rules. Therefore, the requirements of the Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*), the Congressional Review Act (5 U.S.C. 801 *et seq.*), Executive Order 12866 ("Regulatory Planning and Review," 58 FR 51735, October 4, 1993), and Executive Order 13045 ("Protection of Children from Environmental Health Risks and Safety Risks," 62 FR 1985, April 23, 1997), do not apply to this action. This action does not contain any Federal mandates, and therefore is not subject to the requirements of the Unfunded Mandates Reform Act (2 U.S.C. 1531–1538). In addition, this action does not contain any information collection requirements and therefore does not require review or approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

B. Executive Order 12875

Under Executive Order 12875, entitled "Enhancing Intergovernmental Partnerships" (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or Tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and Tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and Tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's action does not create an unfunded Federal mandate on State, local, or Tribal governments. This action does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this action.

C. Executive Order 13084

Under Executive Order 13084, entitled "Consultation and Coordination with Indian Tribal Governments" (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the Tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's action does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

Authority: 15 U.S.C. 2682, 2684.

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: October 16, 1998.

A. Stanley Meiburg,

Acting Regional Administrator, Region IV.

[FR Doc. 98–29446 Filed 11–2–98 ; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PB–402404–NC; FRL–6032–9]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; State of North Carolina's Authorization Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comments and opportunity for public hearing.

SUMMARY: On August 24, 1998, the State of North Carolina submitted an application for EPA approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA). This notice announces the receipt of North Carolina's application, provides a 45–day public comment period, and provides an opportunity to request a public hearing on the application. North Carolina has provided a certification that its program meets the requirements for approval of a State program under section 404 of TSCA. Therefore, pursuant to section 404, the program is deemed authorized as of the date of submission. If EPA finds that the program does not meet the requirements for approval of a State program, EPA will disapprove the program, at which time a notice will be issued in the **Federal Register** and the Federal program will take effect in North Carolina.

DATES: Comments on the authorization application must be received on or before December 18, 1998. Public hearing requests must be received on or before November 17, 1998.

ADDRESSES: Submit all written comments and/or requests for a public hearing identified by docket control number "PB-402404-NC" (in duplicate) to: Environmental Protection Agency, Region IV, Air, Pesticides and Toxics Management Division, Atlanta Federal Center, 61 Forsyth St., SW., Atlanta, GA 30303-3104. Comments, data, and requests for a public hearing may also be submitted electronically to: beldin-quinones.john@epamail.epa.gov. Follow the instructions under Unit IV. of this document. No information claimed to be Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: John A. Beldin-Quinones, Project Officer, Air, Pesticides and Toxics Management Division, Environmental Protection Agency, Region IV, Atlanta Federal Center, 61 Forsyth St., SW., Atlanta, GA 30303-3104, Telephone: (404) 562–9171, e-mail address: beldin-quinones.john@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 28, 1992, the Housing and Community Development Act of 1992, Pub. L. 102-550, became law. Title X of that statute was the Residential Lead-Based Paint Hazard Reduction Act of 1992. That Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV (15 U.S.C. 2681-92), entitled "Lead Exposure Reduction."

Section 402 of TSCA authorizes and directs EPA to promulgate final regulations governing lead-based paint activities in target housing, public and commercial buildings, bridges, and other structures. Those regulations are to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that individuals engaged in these activities are certified and follow documented work practice standards. Under section 404, a State may seek authorization from EPA to administer and enforce its own lead-based paint activities program.

On August 29, 1996 (61 FR 45777) (FRL–5389–9), EPA promulgated final TSCA section 402/404 regulations governing lead-based paint activities in target housing and child-occupied facilities (a subset of public buildings). Those regulations are codified at 40 CFR part 745, and allow both States and Indian Tribes to apply for program authorization. Pursuant to section 404(h) of TSCA, EPA is to establish the Federal program in any State or Tribal Nation without its own authorized program in place by August 31, 1998.

States and Tribes that choose to apply for program authorization must submit a complete application to the appropriate Regional EPA Office for review. Those applications will be reviewed by EPA within 180 days of receipt of the complete application. To receive EPA approval, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program, and provides for adequate enforcement (section 404(b) of TSCA, 15 U.S.C. 2684(b)). EPA's regulations (40 CFR part 745, subpart Q) provide the detailed requirements a State or Tribal program must meet in order to obtain EPA approval.

A State may choose to certify that its lead-based paint activities program meets the requirements for EPA approval, by submitting a letter signed by the Governor or Attorney General stating that the program meets the requirements of section 404(b) of TSCA. Upon submission of such certification letter, the program is deemed authorized. This authorization becomes ineffective, however, if EPA disapproves the application.

Pursuant to section 404(b) of TSCA, EPA provides notice and an opportunity for a public hearing on a State or Tribal program application before authorizing the program. Therefore, by this notice EPA is soliciting public comment on whether North Carolina's application meets the requirements for EPA approval. This notice also provides an opportunity to request a public hearing on the application. If a hearing is requested and granted, EPA will issue a **Federal Register** notice announcing the date, time, and place of the hearing. EPA's final decision on the application will be published in the **Federal Register**.

II. State Program Description Summary

The following summary of North Carolina's proposed program has been provided by the applicant:

The State of North Carolina, through the Health Hazards Control Branch, will implement the Lead-Based Paint Hazard Management Program, based on authority granted by the North Carolina Legislature during ratification of Senate Bill 516 on August 28, 1997.

The North Carolina regulations are applicable to persons engaged in lead-based paint activities in target housing and child-occupied facilities. The State certification program requirements include: accreditation of lead-based paint activities training providers and training courses; certification of firms and individuals conducting lead-based paint inspections, risk assessments, or abatement in target housing and child-occupied facilities; permitting abatement projects; and required work practice standards for lead-based paint activities. Training providers conducting training in North Carolina must be accredited by the program. All initial and refresher training courses conducted in North Carolina must be accredited by the program, or by a State that has a written reciprocating agreement with the program. Additional requirements include on-site audits for approval of a training program and written notification of intent to teach the course in North Carolina prior to the start date of the course.

Work practice standards required for lead-based paint activities are equivalent to standards in the Federal regulations, but also include that a

certified supervisor must be on site at all times during abatement activities, an occupant protection plan must be prepared by a certified project designer for all projects greater than five units, and all abatement activities require an abatement permit, with a permit application that must be received 10 working days prior to starting the project. North Carolina's Rules provide for the suspension and revocation of training provider accreditation, training course accreditation, firm certification, and individual certification. Additionally, the program has the capacity to investigate tips and complaints, conduct follow up inspections, assess administrative and civil penalties for violations, and pursue criminal actions.

III. Federal Overfiling

TSCA section 404(b) makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

IV. Public Record and Electronic Submissions

The official record for this action, as well as the public version, has been established under docket control number "PB-402404-NC." Copies of this notice, the State of North Carolina's authorization application, and all comments received on the application are available for inspection in the Region IV office, from 8 a.m. to 4:45 p.m., Monday through Friday, excluding legal holidays. The docket is located at the EPA Region IV Library, Environmental Protection Agency, Atlanta Federal Center, 9th Floor, 61 Forsyth St., SW., Atlanta, GA.

Commenters are encouraged to structure their comments so as not to contain information for which CBI claims would be made. However, any information claimed as CBI must be marked "confidential," "CBI," or with some other appropriate designation, and a commenter submitting such information must also prepare a nonconfidential version (in duplicate) that can be placed in the public record. Any information so marked will be handled in accordance with the procedures contained in 40 CFR part 2. Comments and information not claimed as CBI at the time of submission will be placed in the public record.

Electronic comments can be sent directly to EPA at:
beldin-quinones.john@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number "PB-402404-NC." Electronic comments on this document may be filed online at many Federal Depository Libraries. Information claimed as CBI should not be submitted electronically.

V. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

EPA's actions on State or Tribal lead-based paint activities program applications are informal adjudications, not rules. Therefore, the requirements of the Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*), the Congressional Review Act (5 U.S.C. 801 *et seq.*), Executive Order 12866 ("Regulatory Planning and Review," 58 FR 51735, October 4, 1993), and Executive Order 13045 ("Protection of Children from Environmental Health Risks and Safety Risks," 62 FR 1985, April 23, 1997), do not apply to this action. This action does not contain any Federal mandates, and therefore is not subject to the requirements of the Unfunded Mandates Reform Act (2 U.S.C. 1531–1538). In addition, this action does not contain any information collection requirements and therefore does not require review or approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

B. Executive Order 12875

Under Executive Order 12875, entitled "Enhancing Intergovernmental Partnerships" (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or Tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and Tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and Tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's action does not create an unfunded Federal mandate on State, local, or Tribal governments. This action does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this action.

C. Executive Order 13084

Under Executive Order 13084, entitled "Consultation and Coordination with Indian Tribal Governments" (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the Tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's action does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

Authority: 15 U.S.C. 2682, 2684.

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: October 16, 1998.

A. Stanley Meiburg,

Acting Regional Administrator, Region IV.

[FR Doc. 98–29447 Filed 11–2–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

October 28, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments January 4, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at 202–418–0217 or via internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0028.

Title: Application for Authorization in the Auxiliary Broadcast Services.

Form Number: FCC 313.

Type of Review: Revision to an existing collection.

Respondents: Businesses or other for-profit entity; State, Local or Tribal Government.

Number of Respondents: 1,500.

Estimated Time per Response: 5.166 hours.

Frequency of Response: On occasion reporting requirements.

Total Annual Burden: 7,749 hours.

Estimated Cost to Repondents: None.

Needs and Uses: FCC 313 is used by licensees or permittees of AM, FM and TV broadcast stations and eligible networks when applying for a remote pickup, aural microwave, television microwave, and other various auxiliary broadcast stations.

Statutory authority for this collection of information is contained in Sections 154(i) and 308 of the Communications Act of 1934, as amended. This form is required by 47 CFR 73.3500 and 73.3533. The data are used by FCC staff to determine if the proposal will meet statutory requirements, determine eligibility for a license, to aid in frequency spectrum management and to ensure interference will not be caused to existing stations. The data are also used to issue an authorization and may be used for enforcement purposes when necessary.

This information collection is being incorporated into the Universal Licensing System (ULS) which combines 11 separate licensing databases and is currently under development with gradual implementation by radio service. New application forms have also been developed for ULS filing. Microwave Broadcast Auxiliary is scheduled for conversion to ULS in January 1999 and Land Mobile Broadcast Auxiliary in April 1999. However, we intend to permit these applicants to file the old application forms, including FCC 313, or the new ULS forms, approximately six months after conversion to ULS. After the published timeframe, applicants will be required to file only the ULS forms.

This collection is being revised to collect antenna structure registration number as a result of the FCC implementing new antenna procedures under Part 17; to amend the mailing location of feeable applications; to revise collection of measurements to metric only; and to delete the fee information as it is now required to be submitted on an FCC Fee Remittance Advice, FCC Form 159. These revisions do not change the estimated burden per response.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–29386 Filed 11–2–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1250–DR]

Alabama; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Alabama, (FEMA–1250–DR), dated September 30, 1998 and related determinations.

EFFECTIVE DATE: October 13, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Alabama, is hereby amended to include Public Assistance in those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 30, 1998:

Choctaw and Lowndes Counties for Individual Assistance and Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–29421 Filed 11–2–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1254–DR]

Kansas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Kansas (FEMA–1254–DR), dated October 14, 1998, and related determinations.

EFFECTIVE DATE: October 14, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 14, 1998, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Kansas, resulting from severe storms, flooding, and tornadoes on October 1–8, 1998, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Kansas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Public Assistance is later warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Carolyn J. Coleman of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Kansas to have been affected adversely by this declared major disaster:

Johnson, Seward, and Wyandotte Counties for Individual Assistance.

All counties within the State of Kansas are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

James L. Witt,

Director.

[FR Doc. 98–29425 Filed 11–2–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1254–DR]

Kansas; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Kansas, (FEMA–1254–DR), dated October 14, 1998, and related determinations.

EFFECTIVE DATE: October 22, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Kansas, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 14, 1998:

Douglas and Leavenworth Counties for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 98–29426 Filed 11–2–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1246–DR]

Louisiana; Amendment No. 9 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Louisiana, (FEMA–1246–DR), dated September 23, 1998, and related determinations.

EFFECTIVE DATE: October 13, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Louisiana, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 23, 1998:

St. Bernard, St. Tammany, and Tangipahoa Parishes for Public Assistance (already designated for Individual Assistance and Direct Federal assistance at 100 percent Federal funding for a 72-hour period beginning at 1800 hours September 27, 1998, and ending September 30, 1998 at 1800 hours. Emergency protective measures (Category B) at 100 percent Federal funding for a 72-hour period beginning at 1800 hours September 27, 1998, and ending September 30, 1998 at 1800 hours).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–29422 Filed 11–2–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1251–DR]

Mississippi; Amendment No. 7 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Mississippi, (FEMA–1251–DR), dated October 1, 1998, and related determinations.

EFFECTIVE DATE: October 20, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Mississippi, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 1, 1998:

Jasper County for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–29418 Filed 11–2–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1251–DR]

Mississippi; Amendment No. 6 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Mississippi, (FEMA–1251–DR), dated October 1, 1998, and related determinations.

EFFECTIVE DATE: October 19, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Mississippi, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 1, 1998:

Covington, Marion, Perry and Wayne Counties for Public Assistance (already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–29419 Filed 11–2–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1251–DR]

Mississippi; Amendment No. 5 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Mississippi, (FEMA–1251–DR), dated October 1, 1998, and related determinations.

EFFECTIVE DATE: October 14, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Mississippi, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 1, 1998:

Covington County for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–29420 Filed 11–2–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1253–DR]

Missouri; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Missouri (FEMA–1253–DR), dated October 14, 1998, and related determinations.

EFFECTIVE DATE: October 14, 1998

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 14, 1998, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Missouri, resulting from severe storms and flooding on October 4–11, 1998, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Missouri.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Public Assistance is later requested and warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Curtis D. Musgrave of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Missouri to have been affected adversely by this declared major disaster:

Carroll, Clay, and Jackson Counties for Individual Assistance.

All counties within the State of Missouri are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers(CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

James L. Witt,

Director.

[FR Doc. 98–29424 Filed 11–2–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1245–DR]

Texas; Amendment No. 5 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Texas, (FEMA–1245–DR), dated September 23, 1998, and related determinations.

EFFECTIVE DATE: October 14, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Texas, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 23, 1998:

Jefferson County for Individual Assistance (already designated for Public Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 98–29416 Filed 11–2–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1257–DR]

Texas; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Texas, (FEMA–1257–DR), dated October 21, 1998, and related determinations.

EFFECTIVE DATE: October 23, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Texas, is hereby amended to include Categories A and B under the Public Assistance program for the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 21, 1998:

Austin, Fort Bend, Harris, Montgomery, and Waller Counties for Individual Assistance and Categories A and B under the Public Assistance Program.

Bastrop, Bexar, Burleson, Caldwell, Calhoun, Colorado, Comal, DeWitt, Fayette, Goliad, Gonzales, Guadalupe, Hays, Jackson, Karnes, Refugio, Travis, Victoria, Wharton, and Wilson Counties for Categories A and B under the Public Assistance Program (already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 98–29417 Filed 11–2–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1252–DR]

Washington; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Washington (FEMA–1252–DR), dated October 5, 1998, and related determinations.

EFFECTIVE DATE: October 5, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 5, 1998, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Washington, resulting from severe storms and flooding on May 26–29, 1998, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Washington.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Mark R. Ekman of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Washington to have been affected adversely by this declared major disaster:

Ferry and Stevens Counties for Public Assistance.

All counties within the State of Washington are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

James L. Witt,

Director.

[FR Doc. 98–29423 Filed 11–2–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1255–DR]

Washington; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Washington (FEMA–1255–DR), dated October 16, 1998, and related determinations.

EFFECTIVE DATE: October 16, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 16, 1998, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Washington, resulting from a landslide in the City of Kelso (Cowlitz County), specifically the Aldercrest-Banyon subdivision, on March 6, 1998, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Washington.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance, Public Assistance, and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Nellie Ann Mills of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Washington to have been affected adversely by this declared major disaster:

City of Kelso (Cowlitz County), specifically the Aldercrest-Banyon subdivision for Individual Assistance and Public Assistance.

All counties within the State of Washington are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

James L. Witt,

Director.

[FR Doc. 98–29427 Filed 11–2–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL HOUSING FINANCE BOARD

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS NOTICE: 63 FR 57125, October 26, 1998.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 A.M., Wednesday, October 28, 1998.

CHANGE IN THE MEETING: The following topic was moved from the open portion to the closed portion of the meeting:

- Supervisory Determination—Tahquitz Court

The above matter was moved to the closed portion of the meeting, pursuant to section 906.5(b) of the Finance Board regulations and exempt under section 552b(c)(8) of title 5 of the United States Code.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

William W. Ginsberg,

Managing Director.

[FR Doc. 98–29542 Filed 10–30–98; 3:25 pm]

BILLING CODE 6725–01–U

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Horizon International Co., 1310 E. Ocean Blvd., #603, Long Beach, CA 90802, Benjamin N.K. Ho, Sole Proprietor

Boston Logistics, Inc., 186 Lee Burbank Highway, Revere, MA 02151, Officers: Edward S. Kaplan, President; Glenn J. Calvino, Vice President

ISCO 1 (International Service Company 1), 7322 Onyx Street, New Orleans,

LA 70124, Officer: Patricia S. McKinnon, President

Dated: October 29, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–29399 Filed 11–2–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 17, 1998.

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Michael P. Finbraaten, Connie S. Hoff, and Curtis R. Sheely, all of Adams, Minnesota; to acquire voting shares of Adams Bancshares, Inc., Adams, Minnesota, and thereby indirectly acquire voting shares of Farmers State Bank of Adams, Adams, Minnesota.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Knox Company FBO Harry Newlon, Individual IRA Account, Artesia, New Mexico; Knox Company FBO Nancy Newlon, Individual IRA Account, Artesia, New Mexico; Ronald K. Humphreys, Artesia, New Mexico; Knox Company FBO Ronald K. Humphreys, Individual IRA, Account, Artesia, New Mexico; Knox Company FBO W. Everett Crawford, Individual IRA, Account, Artesia, New Mexico; Knox Company FBO Belen Herrera, Individual IRA Account, Artesia, New Mexico; Knox Company FBO Sylvian Gillespie, Individual IRA Account, Artesia, New Mexico; Kenneth B. and Sharon E. Berry, Artesia, New Mexico; Susan K. and George E. Holmes, Artesia, New Mexico; Greg and Elizabeth Marrs, Hobbs, New Mexico; George M. and Marie E. Casabonne, Hope, New Mexico; Mike G. and Dewanna Casabonne, Hope, New Mexico; H. Crawford and M. Kay Culp, Hobbs, New Mexico; Russell Edward Guy, Artesia, New Mexico; Raye P. and Mary K. Miller, Artesia, New Mexico; Tom and Mary Jo Vandiver, Artesia, New Mexico; Brooks Holladay Trust B, Hobbs, New Mexico; Gilbert Gomez, Hagerman, New Mexico; Paul or Roetta Hudson, Artesia, New Mexico; Myco Industries, Inc., Artesia, New Mexico; William and Marilyn Mershon, Mayhill, New Mexico; James A. Ellett, Hope New Mexico; The First National Bank of Artesia as Trustee for the J.B. and Bereneice Runyan Trust, Bereneice Runyan, Trustee and Susan Holmes, Trustee, Artesia, New Mexico; Jackolin Runyan Jordan, Carlsbad, New Mexico; Clyde Guy Estate, Mary Jo Guy, Personal Representative, Artesia, New Mexico; and GenCon Corporation Profit Sharing Plan and Trust FBO Michael P. Clute, Mesilla, New Mexico; all to retain voting shares of First Artesia Bancshares, Inc., Artesia, New Mexico, and thereby indirectly acquire The First National Bank of Artesia, Artesiá, New Mexico.

C. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Franklin Mutual Series Fund, Inc., Short Hills, New Jersey ("the Fund"); to acquire additional voting shares of Western Bancorp, Newport Beach, California, and thereby indirectly acquire additional voting shares of Santa Monica Bank, Santa Monica, California, and Southern California Bank, Newport Beach, California. Subsidiaries of Franklin Resources, Inc., San Mateo, California, including Franklin Mutual Advisers, Inc., Franklin Templeton Services, Inc., and Franklin/Templeton Distributors, Inc., serve as investment adviser, administrator, and principal underwriter/distributor for the Fund, and provide additional services to the Fund.

Board of Governors of the Federal Reserve System, October 28, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–29324 Filed 11–2–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act, Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 27, 1998.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. SUM Financial Corporation, Pearson, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The Citizens Exchange Bank, Pearson, Georgia.

B. Federal Reserve Bank of St. Louis (Randall C. Summer, Vice President) 411 Locust Street, St. Louis, Missouri 63102–2034:

1. Worren County Bancshares, Inc. Warrenton, Missouri; to acquire 100 percent of the voting shares of the Central Missouri Bancshares, Inc., Sedalia, Missouri, and thereby indirectly acquire Central Bank of Missouri, Sedalia, Missouri.

C. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480–0291:

1. Glacier Bancorp, Inc., Kalispell, Montana; to acquire 100 percent of the voting shares of Big Sky Western Bank, Big Sky, Montana.

2. First National Bank At St. James ESOP, St. James, Minnesota; to acquire an additional 15.67 percent, for a total of 39.85 percent, of the voting shares of First National Agency At St. James, St. James, Minnesota, and thereby indirectly acquire First National Bank At St. James, St. James, Minnesota.

Board of Governors of the Federal Reserve System, October 28, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–29326 Filed 11–2–98; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 17, 1998.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. HSBC Holdings PLC, London, England; HSBC Finance (Netherlands) Limited, London, England; HSBC Holdings BV, Amsterdam, The Netherlands, and Hongkong Bank of Canada, Vancouver, British Columbia, Canada; to acquire Gordon Capital Corporation, Toronto, Ontario, Canada, Gordon Capital Holdings Inc., and Gordon Capital, Inc., both of New York, New York, and thereby engage in agency brokerage and private placement activities, pursuant to § 225.28(b)(7) of Regulation Y. These activities will be conducted worldwide.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Central Louisiana Capital Corporation, Vidalia, Louisiana; to acquire Community Credit Centers, Inc., Natchez, Mississippi and Monroe, Louisiana, and thereby engage in consumer finance, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, October 28, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–29325 Filed 11–2–98; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Nominations of Topics for Research on Therapeutics

AGENCY: Agency for Health Care Policy and Research, HHS.

ACTION: Notice.

SUMMARY: The Agency for Health Care Policy and Research (AHCPR) invites nominations of topics of study and ideas for implementation of a new program, Centers for Education and Research on Therapeutics, which will be established by AHCPR in conjunction with the Food and Drug Administration (FDA). The program is described in Section 409 of the Food and Drug Modernization Act, quoted below. AHCPR plans to publish during Fiscal Year 1999 a Request for Applications (RFA) for cooperative agreements to establish and operate one or more Centers. Nominated topics selected by AHCPR will be considered in developing the RFA.

Sec. 409. Centers for Education and Research on Therapeutics

Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended by adding at the end of part A the following new section:

Sec. 905. Demonstration Program Regarding Centers for Education and Research on Therapeutics

(a) In General.—The Secretary, acting through the Administrator and in consultation with the Commissioner of Food and Drugs, shall establish a demonstration program for the purpose of making one or more grants for the establishment and operation of one or more centers to carry out the activities specified in subsection (b).

(b) Required Activities.—The activities referred to in subsection (a) are the following:

(1) The conduct of state-of-the-art clinical and laboratory research for the following purposes:

(A) To increase awareness of—

(i) New uses of drugs, biological products, and devices;

(ii) Ways to improve the effective use of drugs, biological products, and devices; and

(iii) Risks of new uses and risks of combinations of drugs and biological products.

(B) To provide objective clinical information to the following individuals and entities:

(i) Health care practitioners or other providers of health care goods or services;

(ii) Pharmacy benefit managers;

(iii) Health maintenance organizations or other managed health care organizations;

(iv) Health care insurers or governmental agencies; and

(v) Consumers.

(C) To improve the quality of health care while reducing the cost of health care through—

(i) The appropriate use of drugs, biological products, or devices; and

(ii) The prevention of adverse effects of drugs, biological products, and devices and the consequences of such effects, such as unnecessary hospitalizations.

(2) The conduct of research on the comparative effectiveness and safety of drugs, biological products, and devices.

(3) Such other activities as the Secretary determines to be appropriate, except that the grant may not be expended to assist the Secretary in the review of new drugs.

DATES: To be considered for Fiscal Year 1999, nominations of topics and ideas for implementation for CERTS, in accordance with the criteria set out below, should be submitted by December 18, 1998. Nominations after that date will be accepted on an ongoing basis for consideration in future studies.

ADDRESSES: Nominations of topics and ideas for implementation should be sent to: Center for Outcomes and Effectiveness Research, AHCPR; ATTENTION: Joanne Book; 6010 Executive Boulevard; Suite 300; Rockville, Maryland 20852 or e-mail at jbook@ahcpr.gov. All responses will be available for public inspection at AHCPR's Information Resource Center (IRC) public reading room between the hours of 8:30 a.m. and 5 p.m. on regular business days at 2101 East Jefferson Street, Suite 500, Rockville, MD 20852.

Arrangements for reviewing the submissions may be made by calling 301 594–1360. Responses may also be accessed after December 1, 1998, through AHCPR's Electronic FOIA Reading Room on AHCPR's Website *(www.ahcpr.gov)*.

FOR FURTHER INFORMATION CONTACT: Lynn Bosco, M.D., M.P.H., Medical Officer, COER, AHCPR, at the above address. (Phone 301 594–1485; e-mail lbosco@ahcpr.gov)

SUPPLEMENTARY INFORMATION: The Food and Drug Administration Modernization Act of 1997 (Pub.L. 105–115) added a new section 905 to Title IX of the PHS Act (codified at 42 U.S.C. 299a–3). Section 905 requires AHCPR, in consultation with FDA, to set up a demonstration program for grants to establish Centers for Education and Research on Therapeutics to conduct research for the purposes set out above. AHCPR plans to publish, during Fiscal Year 1999, an RFA for cooperative agreements to establish and operate one or more Centers.

In FY 1999 there will be up to $2 million available to fund one or more centers. Recognizing the broad mission outlined in the legislation, AHCPR is requesting comments on:

- How the centers should be organized;
- The appropriateness of AHCPR or these centers seeking additional funding partners to increase the resources available for research;
- Initial area(s) of emphasis, drawing from the list outlined in the statute (reprinted above);
- High-priority research topics within the suggested initial area(s) of emphasis;
- Whether the Agency should include a list of specific research topics in the RFA to which applicants would respond or whether the RFA should focus primarily on the infrastructure and capacity of applicants and identify specific research issues to be addressed following selection of the centers; as well as
- Other issues that respondents believe need to be taken into account by the Agency in the implementation of this legislation.

General Considerations in Responding to these Questions.

Organization of the Centers. Are there existing frameworks, such as the NIH project or center grants (e.g. the Cancer Centers or Multipurpose Arthritis Centers), that could serve as a model project for the organization of these Centers?

Topic Selection. In developing topics and suggestions for how Centers might be organized, the roles of AHCPR and FDA, as defined below, should be considered. The FDA regulations most currently marketed drugs, biologics and medical devices. In order for marketing to occur, pre-marketing studies must be completed, with final approval for marketing contingent on manufacturers providing FDA evidence of safety and efficacy for a single indication through adequate and well-controlled studies. (The majority of devices receive clearance rather than approval after the manufacturer provides evidence that the product is substantially equivalent to a device that is already on the market).

Current regulations do not require information on how these products compare with the array of other existing therapies available, or use in the every day clinical settings. FDA regulation continues during the post-approval phase, through post marketing safety monitoring and through regulation of advertising.

The AHCPR activities related to therapeutics begin after product approval. The AHCPR supports research on the relative effectiveness, appropriateness, and cost effectiveness of various strategies for the prevention, diagnosis, treatment, and management of clinical conditions. Activities have included development and administration of a program to study patient outcomes, development of clinical guidelines and evidence based practice centers, and support of the development of quality measures.

The appropriate use of medical therapies, such as drugs, biologics and devices is critical to effective, high quality, affordable health care. Understanding which agents work; for which patients; and at what cost and risk; can inform programs in managing the selection, utilization, and cost of therapies and services within a changing health care environment. The Centers for Education and Research on Therapeutics will seek to make more information available after marketing to fill the gap between the research required for approval and the need for information to assist clinicians in the everyday use of products.

Selection Criteria

FDA's needs related to the necessity for going beyond the current voluntary reporting system to obtain needed safety and effectiveness information for providing guidance to practitioners on appropriate product use. The current post-marketing surveillance system provides only a fraction of the actual number of problems associated with product use, with only limited information available on the numbers of patients exposed to products. Little information is available on the interaction between the provider, product and patient. This is particularly important when a high degree of skill is required of either the provider or patient to use a product, thus making it difficult to determine whether problems relate to provider or patient error, product defect or an adverse event.

Selection criteria for AHCPR sponsored research have been the following: (1) High incidence or prevalence in the general population or in subpopulations, including racial and ethnic minorities, women and children; (2) significance to the Medicare, Medicaid and other Federal health programs; (3) high costs associated with a condition, procedure, treatment, or technology, whether due to the number of people needing care, high unit cost of care, or high indirect costs; (4) controversy or uncertainty about the effectiveness or relative effectiveness of available clinical strategies or technologies; (5) potential to inform and improve patient or provider decision making; (6) potential to reduce clinically significant variations in the prevention, diagnosis, treatment, or clinical management of a disease or condition, or in the use of a procedure or technology, or in the health outcomes achieved; (7) availability of scientific data to support the study or analysis of the topic; and (8) potential opportunities for rapid implementation.

Submission Process

Nominations of topics and suggestions for organization of the Centers should focus on broad aspects of the legislative program as set out above. For each topic nominated, nominators should provide a rationale and any available supporting evidence reflecting the importance and clinical relevance of the topic and should indicate the potential usefulness of the research in improving the quality of health care while reducing the cost of health care through—the appropriate use of drugs, biological products, or devices; and the prevention of adverse effects of drugs, biological products, and devices; and the consequences of such effects.

Submissions should be brief (1–2 pages) and may be in the form of a letter or e-mail, preferable along with an electronic file in a standard work processing format on a 3½ floppy disk. Submissions should provide:

- A broadly defined topic or idea for organization and implementation of the CERTS, with specific questions to be answered that will establish the focus and boundaries of the research.
- The availability of data and/or, any information on product utilization, cost, the incidence, prevalence, and/or severity of the particular disease, health condition, adverse event or medical error relevant to the topic being nominated.
- Include, if relevant, the significance to Federal Health Programs or underserved populations; or an indication of how the research results or Center activities might be used within the professional or organizational setting.

AHCPR will not reply to individual responses, but will consider all responses in developing the CERTS program and selecting topics for study. AHCPR will review the submissions and supporting information before making final determinations, seeking additional information as appropriate.

Dated: October 26, 1998.

John M. Eisenberg,

Administrator.

[FR Doc. 98–29335 Filed 11–2–98; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee for Energy-Related Epidemiologic Research and Subcommittee for Community Affairs: Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meetings.

Name: Advisory Committee for Energy-Related Epidemiologic Research (ACERER).

Times and Dates: 8:30 a.m.–5:15 p.m., November 19, 1998; 8:30 a.m.–12 noon, November 20, 1998.

Place: Radisson Plaza Hotel at Mark Center, 5000 Seminary Road, Alexandria, Virginia 22311, telephone 703/845–1010, fax 703/845–2610.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: This committee is charged with providing advice and recommendations to the Secretary, HHS; the Assistant Secretary for Health; the Director, CDC; and the Administrator, Agency for Toxic Substances and Disease Registry (ATSDR), on establishment of a research agenda and the conduct of a research program pertaining to energy-related analytic epidemiologic studies.

Matters to be Discussed: Agenda items will include update presentations from the National Institute for Occupational Safety and Health (NIOSH) and ATSDR on the progress of current studies; an update by the National Center for Environmental Health (NCEH) on coordination of activities with the National Cancer Institute (NCI); a presentation by NCI on Chernobyl, Radio Epi Tables and Ethel Gilbert's Research; a discussion by a panel of risk communications professionals on recommendations made by the National Academy of Sciences/Institutes of Medicine on the NCI report; and a discussion of committee recommendations and public involvement activities.

Agenda items are subject to change as priorities dictate.

Name: ACERER Subcommittee for Community Affairs.

Times and Dates: 1 p.m.–5 p.m., November 20, 1998; 8:30 a.m.–5 p.m., November 21, 1998.

Place: Radisson Plaza Hotel at Mark Center, 5000 Seminary Road, Alexandria, Virginia 22311, telephone 703/845–1010, fax 703/845–2610.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: This subcommittee will advise ACERER on matters related to community needs and will report back to the Agency through the full committee.

Matters to be Discussed: Agenda items will include update presentations from NCEH, NIOSH, and ATSDR on the progress of current studies; a discussion of the September 24, 1998, ACERER meeting and the resolution resulting from that meeting; a discussion of a special report presented by the Tennessean newspaper on health problems in the vicinity of nuclear facilities; and a discussion of committee recommendations and public involvement activities.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Michael J. Sage, Deputy Chief, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway, NE., m/s F–35, Atlanta, Georgia 30341–3724, telephone 770/488–7040, fax 770/488–7044.

Dated: October 28, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–29380 Filed 11–2–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0515]

Agency Information Collection Activities; Announcement of OMB Approval; Amendments to Humanitarian Use Device (HUD) Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Amendments to Humanitarian Use Device (HUD) Requirements" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA).

FOR FURTHER INFORMATION CONTACT: Margaret R. Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 7, 1998 (63 FR 42404), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the PRA (44 U.S.C. 3507). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0384. The approval expires on October 31, 2001.

Dated: October 28, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–29392 Filed 11–2–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0672]

Guidance on Criteria and Approaches for Postmarket Surveillance; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the

availability of a guidance document entitled "Guidance on Criteria and Approaches for Postmarket Surveillance." This guidance document provides examples of the agency's criteria and approaches for determining which products may be subject to postmarket surveillance (PS) under the Food and Drug Administration Modernization Act of 1997 (FDAMA). In developing this guidance document, the agency considered comments received from consumer, clinical, and industry representatives at a public meeting on changes in medical device tracking and PS authority on January 15, 1998, in Gaithersburg, MD. To facilitate conformance with the requirements under FDAMA, this guidance document is immediately in effect.

DATES: Written comments concerning the guidance document entitled "Guidance on Criteria and Approaches for Postmarket Surveillance" must be received by February 1, 1999. After February 1, 1999, you may submit written comments on the guidance document to the contact person listed below.

ADDRESSES: Submit written requests for single copies of the guidance document entitled "Guidance on Criteria and Approaches for Postmarket Surveillance" on a 3.5" diskette to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance document.

Submit written comments regarding this guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Anita M. Rayner, Center for Devices and Radiological Health (HFZ–543), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–0639.

SUPPLEMENTARY INFORMATION:

I. Background

The Safe Medical Devices Act of 1990 amended the Federal Food, Drug, and Cosmetic Act (the act), among other things, to add section 522 (21 U.S.C. 360l) to require PS for certain medical devices. Section 522 of the act was further amended by FDAMA (Pub. L. 105–115). As amended, section 522 of the act revises the criteria for determining which devices are subject to PS and revises the procedures for implementing PS. The revised provisions of section 522 of the act became effective on February 19, 1998. FDA is making this guidance document available at this time in order to facilitate the initial implementation of the revised PS provisions.

This guidance document represents the agency's current thinking on criteria and approaches for PS. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

The agency has adopted good guidance practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This guidance document is issued as a Level 1 guidance consistent with GGP's. This document is for immediate implementation to facilitate conformance with PS changes in section 522 of the act under FDAMA.

II. Electronic Access

In order to receive the guidance document entitled "Guidance on Criteria and Approaches for Postmarket Surveillance" via your fax machine, call the CDRH Facts-On-Demand (FOD) system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number (009) followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance document may also do so using the World Wide Web (WWW). CDRH maintains an entry on the WWW for easy access to information including text, graphics, and files that may be downloaded to a PC with access to the Web. Updated on a regular basis, the CDRH home page includes "Guidance on Criteria and Approaches for Postmarket Surveillance," device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at "http://www.fda.gov/cdrh".

III. Comments

Interested persons may, on or before February 1, 1999, submit to Dockets Management Branch (address above) written comments regarding the guidance document. After February 1, 1999, submit to the contact person (address above) written comments regarding the guidance document. Such comments will be considered when determining whether to amend the current guidance document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 28, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–29390 Filed 11–2–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0108]

SMDA to FDAMA: Guidance on FDA's Transition Plan for Existing Postmarket Surveillance Protocols; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled "SMDA to FDAMA: Guidance on FDA's Transition Plan for Existing Postmarket Surveillance Protocols." This guidance is for industry and FDA staff. This document indicates the agency's intent to terminate or continue postmarket surveillance (PS) orders for existing products and describes the criteria used to reach these determinations.

DATES: Written comments may be submitted at anytime.

ADDRESSES: Submit written comments on "SMDA to FDAMA: Guidance on FDA's Transition Plan for Existing Postmarket Surveillance Protocols" to the contact person. Submit written requests for single copies on a 3.5" diskette of the guidance document entitled "SMDA to FDAMA: Guidance on FDA's Transition Plan for Existing Postmarket Surveillance Protocols" to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Laura A. Alonge, Center for Devices and Radiological Health (HFZ–543), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–0648.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Safe Medical Devices Act (the SMDA) of 1990, FDA had implemented required PS (RPS) for 17 category "A" devices (permanent implants the failure of which could result in death or serious injury) and one category "C" device (plasma sprayed porous coated hips). In addition, the discretionary PS (DPS) authority under the SMDA had been used to order studies of a number of devices. The FDA Modernization Act (FDAMA) of 1997 (Pub. L. 105–115) has significantly modified the requirements for PS under section 522 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360l). Under FDAMA, PS may be ordered only for those devices that are Class II or Class III the failure of which would be reasonably likely to have serious adverse health consequences or which is intended to be: (1) Implanted in the human body for more than 1 year, or (2) [is] life sustaining or life supporting and used outside a device user facility. The draft of this guidance was made available for comment on February 25, 1998. FDA received comments from three sources. General comments were supportive of the criteria used to make the determinations contained in the guidance and urged that manufacturers of devices for which PS orders would be rescinded be notified as quickly as possible. FDA agrees with these comments as well as comments related to three specific devices: Replacement heart valve, implantable cardioverter-defibrillator (ICD), and plasma-sprayed porous coated hip. The guidance for replacement heart valves and ICD's has been revised accordingly. The comments on the plasma-sprayed porous coated hip did not affect the guidance, but will be considered in the evaluation of each existing protocol for continuation or termination of PS requirements.

II. Significance of Guidance

This guidance document represents the agency's current thinking on the disposition of existing PS protocols. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

The agency has adopted Good Guidance Practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This guidance document is issued as a Level 1 guidance consistent with GGP's.

III. Electronic Access

In order to receive "SMDA to FDAMA: Guidance on FDA's Transition Plan for Existing Postmarket Surveillance Protocols" via your fax machine, call the CDRH Facts-On-Demand (FOD) system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number 318 followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the World Wide Web (WWW). CDRH maintains an entry on the WWW for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the WWW. Updated on a regular basis, the CDRH home page includes "SMDA to FDAMA: Guidance on FDA's Transition Plan for Existing Postmarket Surveillance Protocols," device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at "http://www.fda.gov/cdrh". "SMDA to FDAMA: Guidance on FDA's Transition Plan for Existing Postmarket Surveillance Protocols" will be available at "http://www.fda.gov/cdrh/modact/modguide.html".

IV. Comments

Interested persons may, at any time, submit to the contact person (address above) written comments regarding this guidance. Such comments will be considered when determining whether to amend the current guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 28, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–29389 Filed 11–2–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0928]

Semiannual Guidance Agenda

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing the first semiannual guidance document agenda. FDA committed to publishing, on a semiannual basis, possible guidance topics or documents for development or revision during the next year, and seeking public comment on additional ideas for new or revisions of existing guidance documents. This commitment was made in FDA's February 1997 "Good Guidance Practices" (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents. This list is intended to seek public comment on possible topics for guidance documents and possible revisions to existing guidances.

DATES: Comments on this list and on agency guidance documents are welcome at any time.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

For general information regarding FDA's GGP's contact: Lisa L. Barclay, Office of Policy (HF–22), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3360.
For information regarding specific topics or guidances, please see contact persons listed below.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of February 27, 1997 (62 FR 8961), FDA published a notice announcing its GGP's, which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents. The agency adopted the GGP's to ensure public involvement in the development of guidance documents and to enhance public understanding of the availability, nature, and legal effect of such guidance.

As part of FDA's effort to ensure meaningful interaction with the public regarding guidance documents, the agency committed to publishing a semiannual guidance document agenda of possible guidance topics or documents for development or revision during the next year. The agency also committed to soliciting public input regarding these and additional ideas for new topics or revisions to existing guidance documents.

The agency is neither bound by this list of possible topics nor required to issue every guidance document on this list or precluded from issuing guidance documents not on the list set forth in this document.

The following list of guidance topics or documents represents possible new topics or revisions to existing guidance documents that the agency is considering. The agency solicits comments on the topics listed in this document and also seeks additional ideas from the public. On June 1, 1998, the President instructed all Federal agencies to ensure the use of "plain language" in all new documents. As part of this initiative, FDA is also seeking public comment on the clarity of its guidance documents.

The guidance documents are organized by the issuing Center or Office within FDA, and are further grouped by topic categories. The agency's contact persons are listed for each specific area.

II. Center for Biologics Evaluation and Research (CBER)

Title/Topic of Guidance	Contact
CATEGORY—COMPLIANCE AND INSPECTION	
Guidance for Reprocessing, Reworking, and Blending Practices for Biological Bulk Substances, Final Bulk, and Finished Products.	Stephan M. Ripley, Center for Biologics (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.
Guide for Inspection of Blood Banks.	Do.
Guide to Inspections of Source Plasma Establishments.	Do.
Compliance Program 7342.002, Inspection of Source Plasma Establishments.	Do.
Compliance Program 7342.001, Inspections of Licensed and Unlicensed Blood Banks.	Do.
Compliance Program for Inspections of Allergenic Product Manufacturers.	Do.
Compliance Program for Inspections of Licensed Therapeutic Products.	Do.
Guidance for the Design, Installation, and Operations of Water Systems.	Do.
Guidance on Heating, Ventilation, and Air Conditioning (HVAC) and the Monitoring of Environments for the Manufacture of Biological Substances and Products.	Do.
Guidance for the Validation of the Limulus Amebocyte Lystate Test as an End-Product Endotoxin Test for Human and Animal Parenteral Drugs, Biological Products, and Medical Devices.	Do.
CATEGORY—THERAPEUTICS	
Guidance for the Chemistry, Manufacturing and Control Information on Naturally Derived Proteins.	Do.
Guidance for the Chemistry, Manufacturing and Control Information on Gene Therapy Products.	Do.
Guidance on Monoclonal Antibodies and Orphan Drug Designation.	Do.
Guidance to Industry on Xenotransplantation.	Do.
Guidance for Industry: Public Health Issues Posed by the Use of Nonhuman Primate Xenografts in Humans.	Do.
Guidance on Clinical Trial Issues in Wound Healing.	Do.
CATEGORY—BLOOD AND BLOOD COMPONENTS	
Guidance for Clarification of the December 11, 1996, Memorandum: "Revised Precautionary Measures to Reduce the Possible Risk of Transmission of Creutzfeldt-Jacob Disease (CDJ) by Blood and Blood Products."	Do.
Guidance for Collection, Testing and Release of Autologous Blood.	Do.
Guidance for Recommendations for Donor Testing by Automated Methods When Using Treponemal Based Screening Tests for Syphilis.	Do.
Guidance for Reviewer Guidance for a Premarket Notification Submission for Automated Blood Establishment Testing Instruments.	Do.
Guidance for Revised Recommendations for the Invalidation of Test Results When Using Licensed and 510(k) Cleared Bloodborne Pathogen Assays to Test Donors.	Do.

Title/Topic of Guidance	Contact
Guidance for HIV Reentry Algorithms for Deferred Blood and Plasma Donors.	Do.
Guidance for Chemistry, Manufacturing and Control Information on In Vitro Diagnostic Products.	Do.
Guidance for Precautionary Measures to Reduce the Possible Risk of Transmission of Zoonoses by Xenograft Recipients and Their Close Contacts, Through Whole Blood, Blood Components, Source Plasma, and Source Leukocytes.	Do.
Guidance for Additional Recommendations for Donor Questioning Regarding Travel to Areas Endemic for Malaria.	Do.
Guidance for Platelet Testing and Evaluation of Platelet Substitute Products.	Do.
Guidance for Size Limitations for Human Blood or Plasma Pools Used to Manufacture Injectable Drug Products.	Do.

III. Center for Devices and Radiological Health (CDRH)

Title/Topic of Document	Contact
Guidance on Custom Devices.	Wally Pellerite, Center for Devices and Radiological Health (HFZ–300), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–4692.
Guidance on Medical Device Tracking—Revision (Level 1).	Casper Uldriks, Center for Devices and Radiological Health (HFZ–300), Food and Drug Administration, 5600 Fishers Lane, HFZ–300, Rockville, MD 20857, 301–594–4692.
Guidance on PMA Submissions and Inspectional Quality System Regulation Assessment—Proposal (Level 1).	Wes Morganstern, Center for Devices and Radiological Health (HFZ–305), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–4699.
Guidance on Inspection of Medical Device Manufacturers—Proposal (Level 1).	Do
Compliance Policy Guide on Remanufacturing of Used Medical Devices—Draft (Level 1).	Do.
Guidance on Year 2000 Issues for Medical Device Manufacturers and Servicers—Proposal (Level 1).	Stewart Crumpler, Center for Devices and Radiological Health (HFZ–343), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–4659, or Thomas Shoppe, Center for Devices and Radiological Health (HFZ–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3314.
Erythropoietin Assay.	Joseph L. Hacket, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–3084.
Fibrin Monomer Paracoagulator Tests.	Do.
Kits for Screening Drugs of Abuse To Be Used by the Consumer.	Do.
Assayed and Unassayed Quality Control Material.	Do.
Point of Care In Vitro Diagnostic Devices.	Do.
Extracorporeal Membrane Oxygenators (ECMO).	Lynn A. Reamer, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–8320.
Compressible Limb Sleeves.	Do.
Thermal Regulating Devices.	Do.
Cardiopulmonary Bypass Roller Pumps.	Do.
Guidance for Intraaortic Balloon Pumps.	Do.
Cardiac Monitors (including Cardiotachometers and Rate Alarm).	Do.
Electrocardiographs.	Do.
Cardiopulmonary Bypass Nonroller-Type Pumps.	Do.
Annulolasty Rings.	Do.
Vascular Prostheses.	Do.
Cardiopulmonary Bypass Arterial Filters.	Do.
Cardiopulmonary Bypass Defoamers.	Do.
Blood Gas Exchangers (Oxygenators) Used in Cardiopulmonary Bypass.	Do.
Endoscopes.	Patricia J. Miller, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5072.
Audiometers.	Do.
Assistive Listening Devices.	Do.
Phonosurgery Implants for Vocal Cord Medialization.	Do.
Biocompatibility of Materials in ENT Implants.	Do.

Title/Topic of Document	Contact
Endoscope Sheaths.	Do.
Body Composition Analyzers.	Do.
Hemodialysis Blood Access Devices (Level 2).	Do.
Blood Lines for Hemodialysis (Level 2).	Do.
Nasogastric Feeding Tubes (Level 2).	Do.
In Vivo Devices for the Detection of Cervical Cancer and Its Precursors: IDE.	Do.
Intrapartum Fetal Pulse Oximeters—IDE/PMA.	Do.
Thermal Endometrial Ablation Systems—IDE/PMA.	Do.
Radiation Therapy Treatment Planning.	Do.
Linear Accelerator.	Do.
Ultrasound Coupling Gel.	Do.
Radionuclide Dose Calibrator.	Do.
Ultrasound Transducer Probe Covers.	Do.
Ultrasound Bone Sonometers.	Do.
Bone Densitometry Device Labeling.	Do.
Emission Computed Tomography System.	Do.
Nuclear Tomography.	Do.
Electrohydraulic Lithotripters.	Do.
Extracorporeal Shockwave Lithotripters.	Do.
Neonatal Incubators and Neonatal Transport Incubators.	Von Nakayama, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–8913.
Spinal Assemblies (IDE's).	Sammie Niver, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2036.
Ophthalmic Camera.	Deborah L. Falls, Center for Devices and Radiological Health, Food and Drug Administration (HFZ–460), 5600 Fishers Lane, Rockville, MD 20857, 301–594–2205.
Keratome.	Do.
Refractive Implants.	Do.
Intraocular Lens Delivery Systems.	Do.
Accountability Analysis for Ophthalmic Devices.	Do.
Keratoprosthesis.	Do.
Glaucoma Drainage.	Do.
Nonprescription Sunglasses.	Do.
Patient Labeling Guidance (Level 1).	Paula G. Silberberg, Center for Devices and Radiological Health (HFZ–230), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–1217.
Human Factors Data To Be Submitted in Premarket Submissions (Level 1).	Ronald D. Kaye, Center for Devices and Radiological Health (HFZ–230), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–3265.
Questions and Answers About the Mammography Quality Standards Act Final Regulations (Level 1).	Kathleen M. Sheridan, Center for Devices and Radiological Health (HFZ–240), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–3275.
Search Engine to Use With Guidance Documents Developed for Mammography Quality Standards Act (Level 2).	Do.
Guidance for Additional Mammography Review (AMR).	Do.
Guidance for Patient Notification Under Mammography Quality Standards Act.	Do.
MDR Reporting for Manufacturers—Revision.	Thomas E. Cardamone, Center for Devices and Radiological Health (HFZ–220), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–0806, ext. 117.
MDR A Brief Overview—Revision of Archived Document.	Do.
Registration and Listing Instructions—Revision.	Do.
Registration and Listing Manual—Revision of Archived.	Do.
Immunotoxicity Testing.	John J. Langone, Center for Devices and Radiological Health (HFZ–113), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–7132.
Testing for Infant Apnea Monitors (draft).	Jeffrey L. Silberberg, Center for Devices and Radiological Health (HFZ–141), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2536, ext. 15.
Identification and Evaluation of Candidate Consensus Standards Recognition.	Harvey Rudolph, Center for Devices and Radiological Health (HFZ–100), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4777.
Guidance to Manufacturers for the Development of Postmarket Surveillance Plans Required Under Section 522 of the Federal Food, Drug, and Cosmetic Act (immediately in effect).	Laura A. Alonge, Center for Devices and Radiological Health (HFZ–543), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–0648.
Guidance for Industry on the Testing of Metallic Plasma Sprayed Coatings on Orthopedic Implants to Support Reconsideration of Postmarket Surveillance Requirements (draft).	Do.

Title/Topic of Document	Contact
Reportability of Incidents Associated With the Use of Endosseous Implants (final).	Do.
Reportability of Incidents Associated With the Use of External Defibrillators (final).	Do.
MDR Questions and Answers.	Do.
Reportability of Incidents Associated With the Use of Implants.	Do.
Reuse of Medical Devices.	Do.
Statistical Guidance for Clinical Trials of Nondiagnostic Devices (revised).	Do.
Statistical Guidance for Clinical Trials of Diagnostic Devices.	Do.
Statistical Guidance on Bayesian Methods in Medical Device Clinical Trials.	Do.
Guidance for MDR Analysts on Adverse Event Report Review.	Do.
Guidance on MDR Prioritization.	Do.
Guidance for Reviewers of Postmarket Surveillance Submissions.	Do.

IV. Center for Drugs Evaluation and Research (CDER)

Title/Topic of Document	Contact
CATEGORY—ADVERTISING	
Accelerated Approval Products: Submission of Promotional Materials.	Nancy E. Derr, Center for Drug Evaluation and Research (HFD–5), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–594–5400.
Advertising and Labeling of Treatment IND Protocols.	Do.
Anti-Infective Human Drug and Biological Products Advertising and Promotional Labeling.	Do.
Comparative Claims in Advertising and Labeling.	Do.
Fair Balance.	Do.
Healthcare Economic Information.	Do.
Health Related Quality of Life Claims.	Do.
Infomercials.	Do.
Promotion at International Meetings.	Do.
Promotion of Investigational Products.	Do.
Promotion of Medical Products on the Internet.	Do.
Proprietary (Brand) Name and Established (Generic) Name Placement, Size, and Prominence in Advertising and Promotional Labeling.	Do.
Providing Electronic Submissions to the Division of Drug Marketing, Advertising, and Communications.	Do.
CATEGORY—BIOPHARMACEUTICS	
Albuterol Inhalation Aerosols; Revision.	Do.
Bioavailability/Bioequivalence Studies for NDA's and ANDA's-Orally Administered Drugs.	Do.
Bioanalytical Methods Validation: Bioavailability and Bioequivalence Studies Based on Drug or Metabolites Assay in a Biological Matrix.	Do.
Conjugated Estrogens Tablets; Revision.	Do.
In Vivo Pharmacokinetics and Bioavailability Studies and In Vitro Dissolution Testing for Levothyroxine Sodium Tablets.	Do.
Nasal Inhalation Aerosols and Metered Dose Spray Pumps for Local Action.	Do.
Oral Inhalation Drug Products for Local Action, MDI's, DPI's, and Inhalation Solutions.	Do.
Pharmacokinetics Metrics for Bioavailability/Bioequivalence.	Do.
Waiver of In Vivo Bioequivalence Studies for Immediate Release Solid Oral Dosage Forms.	Do.
CATEGORY—CHEMISTRY	
Bulk Actives Postapproval Changes (BAC PAK I). Postapproval CMC Changes Prior to the Final Intermediate.	Do.
Bulk Actives Postapproval Changes (BAC PAK II) Bulk Actives Postapproval Changes, Postapproval Changes From the Final Intermediate to the Drug Substance.	Do.
Botanical Drug Products.	Do.
Changes to an Approved NDA or ANDA Description (21 CFR 314.70; revisions).	Do.

Title/Topic of Document	Contact
Content and Format of IND's for Phases 2 and 3 Studies of New Drugs Including Well-Characterized, Therapeutic, Biotechnology-Derived Products.	Do.
Drug Master Files; General Content and Format.	Do.
Environmental Assessment Submissions; Revision.	Do.
Formal Meetings With CDER/CBER on Chemistry, Manufacturing and Controls Information for IND Studies, Including on Specified Therapeutic Biotechnology-Derived Products.	Do.
SUPAC Semisolids, Manufacturing Equipment Addendum.	Do.
SUPAC Transdermal Systems, Manufacturing Equipment Addendum.	Do.
Methods Validation.	Do.
Monoclonal Antibodies Used as Reagents in Drug Manufacturing, Recommendations on Tests and Specifications.	Do.
NDA's: Impurities in Drug Substances.	Do.
Postapproval Changes for Sterile Aqueous Solutions.	Do.
Proprietary and Established Drug Names.	Do.
Provides Recommendation Regarding Submission of Information for Drug Products Containing Cyclodextrin.	Do.
Submission of Chemistry and Biopharmaceutical Information for Liposomal and Lipid-Complexed Drug Products.	Do.
Submission of Chemistry Information on Chiral Drugs.	Do.
Submission of Chemistry, Manufacturing, and Controls Documentation for Inhalation Drug Products: MDI's and DPI's.	Do.
Submission of Documentation for Antibiotics and Other Cellular Metabolites Produced by Microorganisms Modified by the Use of Recombinant DNA Technology.	Do.
Submitting Manufacturing and Quality Control Information With IND's, NDA's, ANDA's, and AADA's.	Do.
SUPAC Immediate Release; Revision.	Do.
SUPAC Transdermal Systems.	Do.
CATEGORY—CLINICAL ANTIMICROBIAL	
Acute Bacterial Arthritis; Developing Antimicrobials for Treatment.	Do.
Opportunistic Infections Related to Aids; Developing Antimicrobials for Treatment.	Do.
Sepsis/Septic Shock; Developing Antimicrobials for Treatment.	Do.
Surgical Prophylaxis; Developing Antimicrobials for Treatment.	Do.
Antifungal Agents; Developing Antimicrobials for Treatment.	Do.
Antimicrobacterial Agents; Developing Antimicrobials for Treatment.	Do.
Antiparasitic Agents; Developing Antimicrobials for Treatment.	Do.
Antiviral Agents; Developing Antimicrobials for Treatment.	Do.
Complicated Intra-Abdominal Infections; Developing Antimicrobials for Treatment.	Do.
Dermatological Surgical Scrubs; Developing Antimicrobials for Treatment.	Do.
Endocarditis; Developing Antimicrobials for Treatment.	Do.
Gynecologic Infections (Except Sexually Transmitted Disease and Pelvic Inflammatory Disease); Developing Antimicrobials for Treatment.	Do.
Helicobacter Pylori Infections; Developing Antimicrobials for Treatment.	Do.
Immunologic/Transplant Agents; Developing Antimicrobials for Treatment.	Do.
Osteomyelitis (Acute and Chronic); Developing Antimicrobials for Treatment.	Do.
Pelvic Inflammatory Disease; Developing Antimicrobials for Treatment.	Do.
Uncomplicated Intra-Abdominal Infections; Developing Antimicrobials for Treatment.	Do.
CATEGORY—CLINICAL MEDICAL	
Assessment of Reproductivity and Developmental Toxicity.	Do.
Clinical Development of Drugs for the Treatment of Allergic Rhinitis.	Do.
Clinical Development of Drugs for the Treatment of Chronic Sinusitis (other than antimicrobials).	Do.
Clinical Development Programs for MDI and DPI Drug Products.	Do.
Clinical Evaluation of Lipid-Altering Agents.	Do.
Clinical Evaluation of Potential ECG Effects of New Antihistamines.	Do.
Clinical Evaluation of Weight-Control Drugs.	Do.
Clinical Guidance for Estrogen/Progestin Containing Drug Products.	Do.
Clinical Guidance for Estrogen Drug Products.	Do.
Clinical Trials: Hormone Replacement Therapy in Women.	Do.
Content and Format for "Genatric Use" Supplemental Applications.	Do.

Title/Topic of Document	Contact
Content and Format of the Adverse Reactions Section of the Labeling.	Do.
Content and Format of the Clinical Studies Section of Labeling for Human Drugs and Biologics.	Do.
Content and Review of Applications.	Do.
Developing Clinical Programs for Developing Drugs, Devices, and Biological Products for the Treatment of Systemic Lupus Erythematosus.	Do.
Development of Medical Imaging Products.	Do.
Establishing Pregnancy Registries.	Do.
Evaluation of Growth Effects of Orally Inhaled and Intranasal Corticosteroids in Asthma and Allergic Rhinitis.	Do.
Evaluation of New Treatments for Diabetes Mellitus.	Do.
Fast Onset for Analgesic (Rx) Products.	Do.
Fast Track Products: Policies and Procedures.	Do.
General Guidance for Eye Allergy Relief/Allergic Conjunctivitis Clinical Trials.	Do.
General Guidance for Glaucoma/IOP Lowering Clinical Trials.	Do.
GRP (Good Review Practices) Guidance: Content and Format of the Clinical Review of a Marketing Application (will be developed in parts).	Do.
GRP Guidance: Safety Review of Clinical Data (1st part of the GRP guidance).	Do.
General Considerations for Pediatric Pharmacokinetic Studies.	Do.
Guidelines for the Clinical Evaluation of Motility Modifying Drugs.	Do.
Guidelines for the Clinical Evaluation of Drugs for Crohn's Disease.	Do.
Guidelines for the Clinical Evaluation of Drugs for Ulcerative Colitis.	Do.
Helicobacter Pylori Ulcers.	Do.
Human Pregnancy Outcome Data.	Do.
Lupus.	Do.
NSAID Ulcers.	Do.
NSAID GI–Sparing Study Guidance.	Do.
Other Ulcers.	Do.
Pain Claim Structure; Acute Versus Chronic Conditions.	Do.
Pediatric Clinical Trial Design.	Do.
Performance of Clinical Trials for Gastroduodenal Ulcer Disease.	Do.
Postmarketing Adverse Experience Reporting for Human Drug and Licensed Biological Products.	Do.
Post Cataract Inflammation Studies.	Do.
Preclinical and Clinical Evaluation of Agents Used in the Prevention or Treatment of Postmenopausal Osteoporosis.	Do.
Preclinical Development of Inhalation Drugs for Indications in Children Two Years of Age or Less.	Do.
Psoriasis Therapies.	Do.
Uveitis Studies.	Do.
Removal of a Preservative to Create a Preservative Free Ophthalmic Solution.	Do.
Submission of Debarment Certification Statements and Other Information Under The Generic Drug Enforcement Act of 1992.	Do.
Vaginal Contraceptive Drug Development.	Do.
Wound Care Products.	Do.
CATEGORY—CLINICAL PHARMACOLOGY	
Clinical Pharmacology and Biopharmaceutical Data for Human Drug Products.	Do.
Failed Bioequivalence.	Do.
Format and Content of the Clinical Pharmacology Section of Prescription Drug Product Labeling.	Do.
Immediate Release to Modified Release Dosage Forms.	Do.
In Vitro Drug Metabolism/Drug Interaction.	Do.
In Vivo Drug Metabolism/Drug Interaction.	Do.
Pharmacokinetics and Pharmacodynamics.	Do.
Pharmacokinetics in Patients With Impaired Hepatic Function: Study Design, Data Analysis, and Impact on Dosing and Labeling.	Do.
Submission of Expanded Synopses for Clinical Pharmacology and Biopharmaceutics Studies.	Do.
CATEGORY—COMPLIANCE	
Civil Money Penalty Cases Under the Prescription Drug Marketing Act (PDMA).	Do.
Development, Implementation, and Maintenance of a Sample Security and Audit System Under the Prescription Drug and Marketing Act (PDMA).	Do.

Title/Topic of Document	Contact
Investigating Out of Specification (OOS) Results for Pharmaceutical Production.	Do.
First Party Audit.	Do.
Plant Readiness; Preapproval Good Manufacturing Practices Inspections.	Do.
Maintaining Adequate and Accurate Records During Clinical Investigations.	Do.
National Drug Code Number and Drug Product Labels.	Do.
Sterile Drug Products Produced by Aseptic Processing; Revision.	Do.
Waiver of Informed Consent Requirements for Emergency Care Research.	Do.
CATEGORY—GENERICS	
Changes in Labeling of ANDA's Subsequent to Revisions in the Reference Listed Drug Labeling.	Do.
Clindamycin Intravenous Labeling.	Do.
Office of Generic Drugs, Policy on Inactive Ingredients.	Do.
Organization of an Abbreviated New Drug Application; Revision.	Do.
Product Variations Within the Same ANDA.	Do.
Submitting Documentation to Abbreviated Drug Applications for Degradation Products in Drug Products.	Do.
Variations in Drug Product That May Be Included in a Single Application.	Do.
CATEGORY—INFORMATION TECHNOLOGY.	
Computerized Systems Used in Clinical Trials.	Do.
Electronic Submission of Adverse Reaction Data Via Physical Media.	Do.
Providing Regulatory Submissions in Electronic Format (will be completed in parts—the part on the NDA published 9/97).	Do.
Standards for Electronic Safety Data Submissions.	Do.
CATEGORY—LABELING	
Labeling for Combined Oral Contraceptives, Physician Labeling and Instructions for Use.	Do.
Labeling Guidance for Noncontraceptive Estrogen Drug Products.	Do.
Placing the Therapeutic Equivalency Rating on Prescription Drug Labels.	Do.
Topical Corticosteroid Class Labeling.	Do.
CATEGORY—OVER THE COUNTER	
Points to Consider for OTC Actual Use Studies; Revision.	Do.
CATEGORY—PHARMACOLOGY TOXICOLOGY.	
Statistical Aspects of Design, Analysis, and Interpretation of Animal Carcinogenicity Studies.	Do.
Testing for Photocarcinogenesis.	Do.
CATEGORY—PROCEDURAL	
Appealing Center Regulatory and Scientific Decisions.	Do.
Clarify Requirements for Submission of Supplements.	Do.
Formal Meetings Between CDER and Sponsors and Applicants for PDUFA Products.	Do.
Major Dispute Resolution Involving PDUFA Covered Products.	Do.
Regulatory Considerations for section 505(b)(2) of the Federal Food, Drug, and Cosmetict Act Applications.	Do.
Scientific Advisory Panels.	Do.
Special Protocols for the Content and Review of Applications.	Do.
CATEGORY—USER FEES	
Product, Establishment, and Application Fees, Issues and Resolutions.	Do.

V. Center for Veterinary Medicine (CVM)

Title/Topic of Document	Contact
CATEGORY—FOOD ADDITIVES	
Data Requirements for Demonstrating a Food Additive Can Control *Salmonella* in Feed.	George Graber, Center for Veterinary Medicine (HFV–220), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6651.
Data Requirements for Demonstrating a Food Additive Binds Mycotoxins.	Do.
CATEGORY—MICROBIAL PRODUCTS IN FEEDS	

Title/Topic of Document	Contact
Compliance Policy Guide About Microbial Products.	Do.
CATEGORY—HUMAN FOOD SAFETY	
Disposition of Animals Used in Research and in the Manufacture of Biomedical Products.	Linda R. Tollefson or Margaret Miller, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6644 or 301–594–1620.
Animal Medicinal Drug Use Clarification Act Safe Levels Guidance.	Do.
Metabolism Guidance.	Do.
Threshold Assessment Guidance.	Do.
Tolerance Guidance.	Do.
Microbiological Tolerances/Withdrawal Times Guidance.	Do.
Risk Analysis Guidance.	Do.
Animal Drug Availability Act Import Tolerance Policy.	Do.
Microbiological Testing of Antimicrobial Drug Residues in Food Guidance.	Do.
CATEGORY—SUBSTANTIAL EVIDENCE	
One versus Multiple Adequate and Well-Controlled Studies/Field Studies.	Herman M. Schoenemann, III, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0220.
Choosing Study Parameters (Direct, Surrogate).	Do.
Inferential Value for Conditions, Animal, and Time.	Do.
Use of Published Studies.	Do.
Use of Foreign Studies.	Do.
Number and Types of Studies (By Drug Class) Needed to Demonstrate Effectiveness.	Do.
Principles of Statistical Analysis Relevant to Regulatory Studies.	Do.
Combination New Animal Drugs.	Do.
Positive Control.	Do.
Dose or Dose Range Characterization.	Do.
CATEGORY—MANUFACTURING CHEMISTRY	
Stability Guidance.	William G. Marnane, Center for Veterinary Medicine (HFV–140), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–0678.
Guidance on Chemistry and Manufacturing Changes and Good Manufacturing Practices Requirements for Minor Use/Minor Species Drug Products.	Do.
CATEGORY—TARGET ANIMAL SAFETY AND EFFECTIVENESS STUDIES FOR PRODUCTION DRUGS.	
Anticoccidial in Poultry Guidance.	Andrew J. Beaulieu, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1620.
CATEGORY—TARGET ANIMAL SAFETY AND EFFECTIVENESS STUDIES FOR THERAPEUTIC DRUG USES	
Guidance on Recommended Content and Format for Investigational New Animal Drug Data Submissions for HFV–110.	Do.
Nonsteroidal Anti-inflammatory Drug Guidance.	Do.
Competitive Exclusion Guidance.	Do.
CATEGORY—OTHER PREMARKETING	
Bioequivalence of Continual Release Drugs Such as Implant Drugs.	Do.
Correlation of In Vitro Dissolution and In Vivo Bioavailability.	Do.
FOI Summary Guidance.	Do.
CATEGORY—STATISTICS	
Add Log C I Guidance to Bioequivalence Guidance.	Anna B. Nevius, Center for Veterinary Medicine (HFV–124), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0218.
General Statistical Procedures for Designing and Analyzing Research.	Do.
Alternative Methods.	Do.

VI. Office of Regulatory Affairs (ORA)

Title/Topic of Document	Contact
CATEGORY—COMPLIANCE POLICY GUIDES	
Compliance Policy Guide, Chapter 1, Sec. 140.100, Seizure of Books That Constitute Misleading Labeling (CPG 7153.13).	JoAnne C. Marrone, Division of Compliance Policy (HFC–230), Office of Enforcement, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1242.

Title/Topic of Document	Contact
Compliance Policy Guide, Chapter 5, Sec. 540.400, Shrimp—Fresh or Frozen, Raw, Headless, Peeled or Breaded—Adulteration Involving Decomposition (CPG 7108.11).	MaryLynn A. Datoc, Division of Compliance Policy (HFC–230), Office of Enforcement, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0413.
Compliance Policy Guide, Chapter 5, Sec. 540.650, Sale-Cured, Air-Dried, Uneviscerated Fish (e.g., "Kapchunka") (CPG 7108.17).	Do.
Compliance Policy Guide, Chapter 6, Sec. 675.400, Rendered Animal Feed Ingredients (CPG 7126.24).	Barbara A. Rodgers, Division of Compliance Policy (HFC–230), Office of Enforcement, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0417.
Compliance Policy Guide: Evaluation and Processing of Post Donation Reports.	JoAnne A. Marrone, Division of Compliance Policy (HFC–230), Office of Enforcement, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1242.
Compliance Policy Guide: Summary of Records Accompanying Human Tissue for Transplantation.	Do.
Compliance Policy Guide: Foods Contaminated With Hard or Sharp Foreign Objects.	MaryLynn A. Datoc.
CATEGORY—COMPLIANCE PROGRAMS; BIORESEARCH MONITORING	
Compliance Program 7348.808,Bioresearch Monitoring; Good Laboratory Practices (GLP) (Nonclinical).	James F. McCormack, Division of Compliance Policy (HFC–230), Office of Enforcement, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0425.
Food Laboratory Practice Program (Nonclinical Laboratories) 7348.808A: EPA Data Audit Inspections.	Do.
Compliance Program 7348.810: Sponsors, Contract Research Organizations and Monitors.	Do.
Compliance Program 7348.809: Bioresearch Monitoring; Institutional Review Board.	Do.
Compliance Program 7348.811: Bioresearch Monitoring; Clinical Investigations.	Do.
CATEGORY—INSPECTION GUIDES	
Guide to Inspections of Source Plasma Establishments.	Elizabeth A. Waltrip, Division of Emergency and Investigational Operations (HFC–132), Office of Regional Operations, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 301–827–5662.
CATEGORY—LABORATORY PROCEDURES MANUAL	
Laboratory Procedures Manual, Chapter 1, Sample Accountability.	Leonard Valenti, Division of Field Science (HFC–140), Office of Regional Operations, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–7103.
Laboratory Procedures Manual, Chapter 10, Research Guidelines.	Lawrence D'Hoostelaere, Division of Field Science (HFC–140), Office of Regional Operations, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3320.

Dated: October 28, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–29387 Filed 11–2–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

HRSA AIDS Advisory Committee CARE Act Reauthorization Workgroup; Meeting

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice of public meeting and opportunity to provide written comments.

SUMMARY: On December 2, 1997, the HRSA AIDS Advisory Committee (HAAC) established the Ryan White CARE Act Reauthorization Workgroup. The workgroup is seeking public input about future HIV/AIDS care program directions including issues related to the second reauthorization of the Ryan White CARE Act. The HAAC will subsequently submit a set of formal recommendations relating to future program directions and reauthorization issues to the HRSA Administrator.

DATES: A public meeting will be held on December 3–4, 1998, from 8:30 a.m. to 5 p.m., to obtain public input into future program directions and issues related to the reauthorization of the Ryan White CARE Act of 1990 as amended by the Ryan White CARE Act Amendments of 1996 (Pub. L. 104–146). To be assured of consideration for this public session, written comments should be postmarked no later than December 16, 1998, and should contain the name, address, telephone and fax numbers and any organizational affiliation of the persons requesting to provide a written statement. The public meeting will be held at the Omni Shoreham Hotel, 2500 Calvert Street, NW, Washington, DC, 20008; phone (202) 234–0700; FAX (202) 265–7972.

ADDRESSES: Written comments should be sent to the HRSA AIDS Advisory Committee, c/o HRSA HIV/AIDS Bureau, Office of Policy and Program Development, Attention: Caitlin Ryan, Parklawn Building, 5600 Fishers Lane, Room 7–20, Rockville, Maryland 20857.

All requests for making oral comments will be made at the meeting on December 3rd and 4th. Depending on the number of requests to present oral comments, it may be necessary to limit the length of time for each presenter.

SUPPLEMENTARY INFORMATION: We are particularly interested in comments which address the following issues:

1. Extent to which CARE Act programs are enrolling underserved and vulnerable populations.

2. Extent to which CARE Act programs are providing clients with care whose quality meets or exceeds Public Health Service treatment guidelines and other care standards.

3. Extent to which CARE Act programs are providing services that remove barriers to primary care access so as to ensure clients enter into and remain in care.

4. Extent to which the CARE Act programs are reducing HIV-related mortality and morbidity.

5. Extent to which CARE Act programs are adapting to a changing service and cost environment.

6. Structure of the CARE Act.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Brady, HIV/AIDS Bureau, Division of Training and Technical Assistance, (301) 443–4156.

Dated: October 28, 1998.

Claude Earl Fox,

Administrator.

[FR Doc. 98–29331 Filed 11–2–98; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Advisory Committee on Water Information; Notice of Rechartering

This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act (Public Law 92–463). Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior is renewing the Advisory Committee on Water Information. The purpose of the Committee shall be to represent the interests of water-resources professionals and other water-information users in advising the Federal Governments, through the U.S. Department of the Interior, on activities and plans related to water-information programs and the effectiveness of those programs in meeting the Nation's needs.

Further information regarding the Committee may be obtained from the Chief Hydrologist, U.S. Geological Survey, U.S. Department of the Interior, 12201 Sunrise Valley Drive, Reston, Virginia 20192.

The certification of renewal is published below.

Certification

I hereby certify that renewing the Advisory Committee on Water Information is in the public interest. The public interests are related to the performance of duties imposed on the U.S. Department of the Interior by 43 U.S.C. 31 (1988), 43 U.S.C. 1457 (1988), by language in the annual U.S. Department of the Interior Appropriations Acts; and by Office of Management and Budget Memorandum No. 92–01.

Dated: October 26, 1998.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 98–29312 Filed 11–2–98; 8:45 am]

BILLING CODE 4310–31–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submission to OMB for Reinstatement Under Paperwork Reduction Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1980, as amended (44 U.S.C. 3501 *et seq.*), this notice announces that an information collection request, OMB Control Number 1076–0135, "Public Law 102–477 Reporting," was submitted to the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs for review and reinstatement under 5 CFR 1320.10. The first notice requesting comments about the collection was published in the **Federal Register** on February 24, 1998 (63 FR 9240–9241).

DATES: Written comments must be received on or before December 3, 1998.

ADDRESSES: Written comments should be sent to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for Department of the Interior, Docket Library, Room 10102, 725 17th Street NW, Washington, D.C. 20503. A copy should be sent to Lynn Forcia, Office of Economic Development, Bureau of Indian Affairs, 1849 C Street, NW, Mail Stop 4640–MIB, Washington, D.C. 20240. OMB is required to make a decision concerning this information collection request between 30 and 60 days after publication of this document in the **Federal Register.** Therefore, a comment will receive the best consideration by OMB if it is submitted early during this comment period.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or additional copies of the information collection instructions and the February 22, 1998 **Federal Register** should be directed to Lynn Forcia, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW, MS 4640–MIB, Washington, D.C. 20240 and Telephone: 202–219–5270. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Title: A Reporting System for the P.L. 102–477 Demonstration Project, expired on March 31, 1998. This is a request for reinstatement of a slightly modified previously approved information collection request.

I. Abstract: The information collection is needed to document satisfactory compliance with statutory requirements of the various integrated programs. Public Law 102–477 authorizes tribal governments to integrate federally-funded employment, training and related services programs into a single, coordinated, comprehensive service delivery plan. Funding agencies include the Department of the Interior, Department of Labor and the Department of Health and Human Services. The Bureau of Indian Affairs is statutorily required to serve as the lead agency. Section 11 of this Act requires that the Secretary of the Interior make available a single universal report format which shall be used by a tribal government to report on integrated activities and expenditures undertaken. The Bureau of Indian Affairs shares the information collected from these reports with the Department of Labor and Department of Health and Human Services.

II. Method of Collection: Tribal governments voluntarily participating in Public Law 102–477 are required to annually complete two single page, one-sided report forms and one narrative report, which includes four pages of instructions. They replace 166 pages of instructions and applications representing three different agencies and twelve different funded but related programs. We estimate a 95 percent reduction in reporting which is consistent with the Paperwork Reduction Act and goals of the National Performance Review. The statistical and narrative report will be used to demonstrate how well a plan was executed in comparison to proposed goals. The financial status report will be used to track cash flow, and will allow an analysis of activities versus expenditures and expenditures to approved budget. It is a slightly modified SF–269–A (short form).

These report forms and narrative are limited but satisfy the Department of Health and Human Services, Department of Labor and the Department of the Interior. They reduce the burden on tribal governments by consolidating data collection for employment, training, education, child care and related service programs. The forms were developed by a partnership of tribes and representatives of all three Federal agencies, to standardize terms and definitions, eliminate duplication and reduce frequency of collection.

Respondents: Tribes participating in Public Law 102–477 will report annually. Currently, there are 22 grantees participating in the program.

Burden: We estimate that completion of the reporting requirements will require 10 hours per year to complete for each grantee, times 22 grants equals 220 burden hours.

Public Comments and Responses

All comments were considered in preparing BIA's response.

The desk officer for Department of Labor at OMB verbally recommended that we add the following questions to the reporting forms in order to provide three additional items of information for the Department of Labor's new Welfare to Work program. Add to the Program Statistical report form:

1. "Welfare to work recipients entered unsubsidized employment."

2. "Placements with duration of 180 days or more."

Add to the Narrative portion of the report, one sentence:

3. "The narrative should show the extent of participants in any Welfare to Work activities, e.g., the number of participants and what activities were included."

The P.L. 102–477 Tribal Work Group formed a subcommittee to review all P.L. 102–477 report forms including the OMB requested additions. The subcommittee included representatives from the Central Council of Tlingit and Haida Indians, Kodiak Area Native Association, the Shoshone Bannock Tribes, the Cook Inlet Tribal Council, the Sisseton-Wahpeton Sioux Tribe and the Indian and Native American Employment and Training Coalition. The subcommittee responded to the recommendations from the Office of Management and Budget as follows. To the Program Statistical report form:

1. In the program consolidation authorized under P.L. 102–477, grantees no longer identify participants in each activity separately because the funding sources are not identified for each participant. Therefore, the subcommittee recommendation was added: *"Long-term TANF recipients entered unsubsidized employment."*

2. The subcommittee stated that tracking participants for 180 days is very costly in terms of additional time and expense that could otherwise be spent toward finding unsubsidized employment for individuals. Therefore, the subcommittee recommended that grantees track clients for 90 days instead of 180 days. Tracking participants for 90 days would also be consistent with existing Department of Labor, JTPA requirements and participant eligibility for services. Therefore, we have decided to add the following question to the form: *"Placements with durotion of 90 days or more."*

3. The subcommittee agreed with the Office of Management and Budget that it was appropriate to add one sentence to the narrative instruction, and is as follows: *"The narrative should show the extent of participotion in any welfare to work activities, e.g., the number of participonts and the services such as job readiness, supportive services, and any post employment services provided to place long-term welfare recipients into employment and the success of such services."*

The Bureau of Indian Affairs also received comments from five P.L. 102–477 grantees and one other interested party, stating that the existing format has allowed tribes to spend more time providing services to clients and less time completing report forms. Grantees stated that initiation of a P.L. 102–477 program resulted in the integration of several programs and resulted in the elimination of distinction between related tribal employment and training participants based on the source of funds for the services. The grantees stated they wanted no additional information collection elements and requested a face-to-face meeting with OMB prior to making any changes to the existing forms. We did not receive any written comments from any of the other participating Federal agencies. We have incorporated the additions recommended by the P.L. 102–477 subcommittee because we believe the additional information is necessary to provide the Department of Labor and the Office of Management and Budget with the information necessary to adequately manage and evaluate the Welfare to Work program. The collection of the additional information is the minimum amount of information needed to accomplish this goal and to limit information collection and reporting requirements for grantee tribes, many with limited resources.

Dated: October 23, 1998.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 98–29313 Filed 11–2–98; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Isle Royale National Park

AGENCY: National Park Service.

ACTION: Notice of Availability of the Final General Management Plan/ Environmental Impact Statement for Isle Royale National Park, Keweenaw County, Michigan.

SUMMARY: Pursuant to Council on Environmental Quality Regulations and National Park Service Policy, the National Park Service announces the release of the Final General Management Plan/Environmental Impact Statement (GMP/EIS) for Isle Royale National Park.

DATES: The required no-action period for review of the Final GMP/EIS will end 30 days after the Environmental Protection Agency has listed the availability of the document in the **Federal Register**. A record of decision will follow the no-action period.

FOR FURTHER INFORMATION CONTACT: Superintendent, Isle Royale National Park, 800 E. Lakeshore Drive, Houghton, Michigan 49931 or telephone: (906) 482–0984.

SUPPLEMENTARY INFORMATION: The Final GMP/EIS presents five alternatives for future management of Isle Royale National Park. The draft plan was on review in April and May 1998. This final plan incorporates comments made during that public review. Copies of the Final GMP/EIS will be available at the following locations: Office of Public Affairs, National Park Service, 1849 C Street, NW, Washington, DC 20013; Department of Interior Natural Resource Library, 1849 C Street, NW, Washington, DC 20013; National Park Service, Midwest Regional Office, 1709 Jackson Street, Omaha, Nebraska 68102; and Isle Royale National Park, 800 E. Lakeshore Drive, Houghton, Michigan 49931.

Dated: October 8, 1998.

David N. Given,

Deputy Regional Director, Midwest Region.

[FR Doc. 98–29364 Filed 11–2–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 24, 1998. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by November 18, 1998.

Paul R. Lusignan,

Acting Keeper of the National Register.

COLORADO

Denver County

Kopper's Hotel and Saloon, 1215–1219 20th St., Denver, 98001378

FLORIDA

Volusia County

South Peninsula Historic District (Daytona Beach MPS), Roughly the Daytona Beach Penisula between the Atlantic Ocean and Halifax R., Daytona Beach, 98001379

LOUISIANA

Beauregard Parish

First Street School, 500 W. First St., DeRidder, 98001380

MASSACHUSETTS

Barnstable County

Avant House, MA 130 at Mill Pond, Mashpee, 98001382

Old Indian Meeting House, 410 Meetinghouse Rd., Mashpee, 98001383

Suffolk County

Baker Congregational Church, 760 Saratoga St., Boston, 98001381

NEW YORK

Allegany County

Caneadea Bridge, Cty. Rd. over Genesee R., Caneadea, 98001388

Broome County

Trinity Memorial Church (Historic Churches of the Episcopal Diocese of Central New York MPS), 44 Main St., Binghamton, 98001389

Cattaraugus County

Conklin Mountain House, 304 E. State St., Olean, 98001386

Chemung County

Emmanuel Episcopal Church, 380 Pennsylvania Ave., Elmira, 98001395

Pentacostal Holy Temple Church of Jesus Christ, 351 Division St., Elmira, 98001387

Niagara County

Oliver Thomas House, 175 Locust St., Lockport, 98001390

Orange County

Village of Monroe Historic District, Roughly bounded by Lake St., Carpenter Place, Clark St., Monroe Race Track Site, Ramapo St., and Oakland Ave., Monroe, 98001391

Otsego County

Roseboom Historic District, Roughly along NY 166, NY 165, Beaver, John Deer and Gage Rds., Roseboom, 98001394

Sullivan County

Aqudas Achim Synagogue, Rock Ave., Livingston Manor, 98001404

Mamakating Park Historic District, Roughly along Park Rd, Columbian Rd., and Mamakating Ave., Wurtsboro vicinity, 98001393

Ulster County

Olive and Hurley Old School Baptist Church, NY 28, jct. with NY 30, Shokan, 98001392

NORTH CAROLINA

Mitchell County

Dellinger Mill, S side of Cane Creek Rd., just W of jct. with NC 1239, Hawk vicinity, 98001385

OHIO

Lorain County

Oberlin Gas Lighting Company Gasholder House, 291 S. Main St., Oberlin, 98001397

Lucas County

Woodlawn Cemetery, 1502 W. Central Ave., Toledo, 98001396

Tuscarawas County

Slingluff, Dr. Joseph, House, 606 N. Wooster Ave., Dover, 98001384

SOUTH DAKOTA

Beadle County

Bowden, Faye, House—Agnus Saunders (Lustron Houses in South Dakota MPS), 669 Dakota Ave. N., Huron, 98001401

Chicago and North Western Roundhouse (Historic Railroads of South Dakota MPS), N of First St., Huron, 98001411

Maxon, Margaret and Vernon, House (Lustron Houses in South Dakota MPS), 1305 McDonald St., Huron, 98001409

Butte County

Butte County Courthouse amd Historic Jail Building (County Courthouses of South Dakota MPS), 839 5th Ave., Belle Fourche, 98001398

Clay County

Sample—Lindblaum House (Lustron Houses in South Dakota MPS), 410 Idaho St., Wakonda, 98001405

Davison County

Mitchell Lustron Historic District (LustronHouses in South Dakota MPS), Roughly along Vincent Place, from Miller Ave. to Mitchell Blvd., Mitchell, 98001402

Gregory County

Gregory County State Bank, Main St., jct with Randall St., Fairfax, 98001399

Hughes County

Chicago and North Western Railroad Bridge (Historic Railroads of South Dakota MPS), N of US 14/83 over the Missouri R., Pierre vicinity, 98001412

Hansen, Peter, House (Lustron Houses in South Dakota MPS), 1123 E. Capitol St., Pierre, 98001410

Lawrence County

Lead Historic District (Boundary Increase), SW of the commercial district of Lead, Lead, 98001413

Minnehaha County

Hayward, Orlan A., House (Lustron Houses in South Dakota MPS), 1509 S. Glendale, Sioux Falls, 98001406

Reynolds, Grant J., House (Lustron Houses in South Dakota MPS), 800 S. Hawthorne St., Sioux Falls, 98001400

Pennington County

Cassidy House (Lustron Houses in South Dakota MPS), 4121 Canyon Lake Rd., Rapid City, 98001407

Nelson, Maurice, House (Lustron Houses in South Dakota MPS), 101 E. Quincy St., Rapid City, 98001403

Spink County

Opitz, Edbert and Josie, House (Lustron Houses in South Dakota MPS), 204 E. 2nd St., Redfield, 98001408

TEXAS

Caldwell County

Lockhart Vocational High School (Rosenwald School Building Progam in Texas MPS), 1104 E. Market St., Lockhart, 98001416

Guadalupe County

Sweet Home Vocational and Agricultural High School (Rosenwald School Building Program in Texas MPS), 10 mi. S of Seguin on Sweet Home Rd., Seguin vicinity, 98001417

Tarrant County

Montgomery Ward and Company Building, 801 Grove St., Fort Worth, 98001415

Taylor County

Bankhead Highway Historic District, Approx. 4 mi. sections of US 80 contained within Taylor Cty., Abilene vicinity, 98001414

WASHINGTON

King County

Issaquah Sportsmen's Club, 23600 SE Evans St., Issaquah, 98001419

Stevens County

Collins Building, S 202 Main, Colville, 98001418

A REQUEST for a REMOVAL has been made for the following resource:

WASHINGTON

Skagit County

Curtis Wharf, Jct. of O. Ave. And Second St., Anacortes, 87001941

[FR Doc. 98–29365 Filed 11–2–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a consent decree in *United States* v. *Air Products and Chemicals, Inc., et al.*, Civil Action No. 97–CV–

0674 (E.D. Pa), was lodged on October 23, 1998, with the United States District Court for the Eastern District of Pennsylvania. The consent decree resolves the claims of the United States under Sections 107(a) and 113(g) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9607(a) and 9613(g), for reimbursement of response costs incurred by the U.S. Environmental Protection Agency ("EPA") with respect to the Novak Sanitary Landfill Superfund Site in South Whitehall Township, Lehigh County, Pennsylvania. The consent decree also includes a covenant not to sue by the United States under Section 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6973. The consent decree obligates the Settling Defendants to pay a total of $1,035,931.72 to settle this action. This amount constitutes 87 percent of EPA's outstanding past costs incurred through January 9, 1998. The Settling Defendents remain potentially liable for all response costs incurred after January 9, 1998. The Owner Settling Defendant also has agreed to provide access to both EPA and private parties that are performing cleanup pursuant to an EPA administrative order for remedial design/remedial action.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Air Products and Chemicals, Inc., et al.*, DOJ Ref. #90–11–2–976B. Commenters may request an opportunity for public meeting in the affected area, in accordance with Section 7003(d) of RCRA.

The proposed consent decree may be examined at the office of the United States Attorney, 616 Chestnut Street, Philadelphia, Pennsylvania 19106; the Region III Office of the Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA: and at the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $38.25 (25 cent per page reproduction cost), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 98–29400 Filed 11–2–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Filing of Consent Decree Under the Clean Air Act

Under 28 C.F.R. 50.7, notice is hereby given that on October 22, 1998, a proposed Consent Decree (exception two appendices which will be the subject of a motion for leave to file under seal) in *United States* v. *Caterpillar, Inc.*, Civil Action No. 98–2544 (HHK), was filed with the United States District Court for the District of Columbia. At the same time, (1) Caterpillar, Inc. ("Caterpillar") and the California Air Resources Board ("CARB") have concluded a related settlement agreement that resolves California claims similar to the federal claims addressed by this proposed Consent Decree; and (2) the United States filed similar settlements with six other manufacturers of motor vehicle diesel engines, notice of which is also being published at this time.

The United States has asserted in a civil complaint against Caterpillar under the Clean Air Act, as amended 42 U.S.C. 7401 *et seq.* ("the Act"), that Caterpillar sold, offered for sale, or introduced or delivered for introduction into commerce, certain heavy duty diesel engines that are equipped with computer software that alters fuel injection timing when the engines are in actual use, relative to the fuel injection timing used to control emissions of oxides of nitrogen ("NO_X") on the emissions test (the Federal Test Procedure or "FTP") required by U.S. Environmental Protection Agency ("EPA") regulations for the sale of motor vehicle engines in the United States. The United States alleges in its complaint that these computer strategies have an adverse effect on the engines' emission control system for NO_X, that they were not adequately disclosed to EPA, that they are emission-control defeat devices prohibited under the Act, and that these engines are not covered by an EPA Certificate of Conformity, as required by the Act for motor vehicle engines to be sold in the United States.

Under the proposed Consent Decree, Caterpillar has agreed to resolve the United States' claims by, among other things:

(1) Reducing emissions from heavy duty diesel engines and eliminating the strategies of concern in future production, in accordance with the schedule set forth in the proposed Decree. This includes a substantial reduction in emissions by the end of this year, and a requirement that Caterpillar achieve early compliance (by October 1, 2002) with the more stringent NO_X plus nonmethane hydrocarbon emission standard that would otherwise not apply (under current law) until January 1, 2004;

(2) Meeting Consent Decree emission limits both on the FTP and on a supplemental test called the EURO III test, which measures emissions under steady state conditions;

(3) Meeting "emission surface limits" and "not-to-exceed" limits that impose specific emissions limits in real-world operating conditions;

(4) Addressing emissions from engines previously sold and currently in use by developing and supplying dealers and independent rebuilders with Low NO_X Rebuild Kits, which would be used by engine rebuilders at the time of rebuild, and would reduce NO_X emissions in rebuilt engines; and

(5) Meeting certain emission limits for nonroad engines one year earlier than the law engines;

As additional injunctive relief Caterpillar also will spend up to $35 million to fund projects approved by EPA and CARB that are designed to reduce NO_X and PM emissions. Some of those projects are already specified in the Consent Decree. Others will be selected after the close of the public comment period following consideration of, and review and approval by the United States and CARB, of projects proposed by Caterpillar, including any ideas submitted by the public. Caterpillar may receive credit against a portion of this $35 million obligation in return for securing verifiable reductions in NO_X emissions not otherwise required by this Decree or other applicable law, but in no event will its obligation to fund projects be less then $25 million.

Finally, Caterpillar is required to pay $25 million of civil penalties, twenty-five percent of which will be paid to CARB as part of its parallel settlement with Caterpillar.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environmental and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Caterpillar, Inc.*, Civil Action No. 98–2544 (HHK), D.J. Ref. 90–5–2–1–2255.

The Consent Decree may be examined at the Office of the United States Attorney for the District of Columbia, Judiciary Center Bldg., 555 Fourth St., N.W., Washington, D.C. 20001; at the Environmental Protection Agency Library, Reference Desk, Room 2904, 401 M Street, S.W., Washington, D.C. 20460; and at the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005, 202–624–0892. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 3RD Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $34.50 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–29405 Filed 11–2–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Filing of Consent Decree Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that on October 22, 1998, a proposed Consent Decree (excepting two appendices which will be the subject of a motion for leave to file under seal) in *United States* v. *Cummins Engine Co.* Civil Action No. 98–2546 (HHK), was filed with the United States District Court for the District of Columbia. At the same time, (1) Cummins Engine Company ("Cummins") and the California Air Resources Board ("CARB") have concluded a related settlement agreement that resolves California claims similar to the federal claims addressed by this proposed Consent Decree; and (2) the United States filed similar settlements with six other manufacturers of motor vehicle diesel engines, notice of which is also being published at this time.

The United States has asserted in a civil complaint against Cummins under the Clean Air Act, as amended 42 U.S.C. 7401 *et seq.* ("the Act"), that Cummins sold, offered for sale, or introduced or delivered for introduction into commerce, certain heavy duty diesel engines that are equipped with computer software that alters fuel injection timing when the engines are in actual use, relative to the fuel injection timing used to control emissions of oxides of nitrogen ("NO_X") on the emissions test (the Federal Test Procedure or "FTP") required by U.S. Environmental Protection Agency ("EPA") regulations for the sale of motor vehicle engines in the United States. The United States alleges in its complaint that these computer strategies have an adverse effect on the engines' emission control system for NO_X, that they were not adequately disclosed to EPA, that they are emission-control defeat devices prohibited under the Act, and that these engines are not covered by an EPA Certificate of Conformity, as required by the Act for motor vehicle engines to be sold in the United States.

Under the proposed Consent Decree, Cummins has agreed to resolve the United States' claims by, among other things:

(1) Reducing emissions from heavy duty diesel engines and eliminating the strategies of concern in future production, in accordance with the schedule set forth in the proposed Decree. This includes a substantial reduction in emissions by the end of this year, and a requirement that Cummins achieve early compliance (by October 1, 2002) with the more stringent NO_X plus nonmethane hydrocarbon emission standard that would otherwise not apply (under current law) until January 1, 2004;

(2) Meeting Consent Decree emission limits both on the FTP and on a supplemental test called the EURO III test, which measures emissions under steady state conditions;

(3) Meeting "emission surface limits" and "not-to-exceed" limits that impose specific emissions limits in real-world operating conditions;

(4) Addressing emissions from engines previously sold and currently in use by developing and supplying dealers and independent rebuilders with Low NO_X Rebuilt Kids, which would be used by engine rebuilders at the time of rebuild, and would reduce NO_X emissions in rebuilt engines; and

(5) Meeting certain emission limits for nonroad engines one year earlier than the law requires;

(6) Conducting, in conjunction with Chrysler Corporation, a recall of certain medium heavy-duty pickup trucks, so that modifications may be made to the engine to reduce emissions.

As additional injunctive relief Cummins also will spend up to $35 million to fund projects approved by EPA and CARB that are designed to reduce NO_X and PM emissions. Some of those projects are already specified in the Consent Decree. Others will be selected after the close of the public comment period following consideration of, and review and approval by the United States and CARB, of projects proposed by Cummins, including any ideas submitted by the public. Cummins may receive credit against a portion of this $35 million obligation in return for securing verifiable reductions in NO_X emissions not otherwise required by this Decree or other applicable by law, but in no event will its obligation to fund projects be less than $25 million.

Finally, Cummins is required to pay $25 million in civil penalties, twenty-five percent of which will be paid to CARB as part of its parallel settlement with Cummins. The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Cummins Engine Co.* Civil Action No. 98–2546 (HHK), D.J. Ref. 90–5–2–1–2136A.

The Consent Decree may be examined at the Office of the United States Attorney for the District of Columbia, Judiciary Center Bldg., 555 Fourth St., N.W., Washington, D.C. 20001; at the Environmental Protection Agency Library, Reference Desk, Room 2904, 401 M Street, S.W., Washington, D.C. 20460; and at the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005, 202–624–0892. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1220 G Street, N.W., 3rd Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $41.95 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–29401 Filed 11–2–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Filing of Consent Decree Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that on October 22, 1998, a proposed Consent Decree (excepting two appendices that will be the subject of a motion for leave to file under seal) in *United States* v. *Detroit Diesel Corporation*, Civil Action Nc. 98–2548 (HHK), was filed with the United States District Court for the District of Columbia. At the same time, (1) Detroit

Diesel Corporation ("DDC") and the California Air Resources Board ("CARB") have concluded a related settlement agreement that resolves California claims similar to the federal claims addressed by this proposed Consent Decree; and (2) the United States filed similar settlements with six other manufacturers of motor vehicle diesel engines, notice of which is also being published at this time.

The United States has asserted in a civil complaint against DDC under the Clean Air Act, as amended 42 U.S.C. 7401 *et seq.* ("the Act"), that DDC sold, offered for sale, or introduced or delivered for introduction into commerce, certain heavy duty diesel engines that are equipped with computer software that alters fuel injection timing when the engines are in actual use, relative to the fuel injection timing used to control emissions of oxides of nitrogen ("NO_X") on the emissions test (the Federal Test Procedure or "FTP") required by U.S. Environmental Protection Agency ("EPA") regulations for the sale of motor vehicle and nonroad engines in the United States. The United States alleges in its complaint that these computer strategies have an adverse effect on the engines' emission control system for NO_X, that they were not adequately disclosed to EPA, that they are emission-control defeat devices prohibited under the Act, and that these engines are not covered by an EPA Certificate of Conformity, as required by the Act for motor vehicle engines to be sold in the United States.

Under the proposed Consent Decree, DDC has agreed to resolve the United States' claims by, among other things:

(1) Reducing emissions from motor vehicle and nonroad heavy duty diesel engines and eliminating the strategies of concern in future production, in accordance with the schedule set forth in the proposed Decree. This includes a substantial reduction in emissions from motor vehicle diesel engines by the end of this year, and a requirement that DDC achieve early compliance (by October 1, 2002) with the more stringent NO_X plus nonmethane hydrocarbon emission standard that would otherwise not apply to motor vehicle diesel engines (under current law) until January 1, 2004;

(2) Meeting Consent Decree emission limits both on the FTP and on a supplemental test called the EURO III test, which measures emissions under steady state conditions;

(3) Meeting "emission surface limits" and "not-to-exceed" limits that impose specific emissions limits in real-world operating conditions;

(4) Addressing emissions from engines previously sold and currently in use by developing and supplying dealers and independent rebuilders with Low NO_X Rebuild Kits, which would be used by engine rebuilders at the time of rebuild, and would reduce NO_X emissions in rebuilt engines; and

(5) Meeting certain emission limits for nonroad engines one year earlier than the law requires;

As additional injunctive relief DDC also will spend up to $12 million to fund projects approved by EPA and CARB that are designed to reduce NO_X and PM emissions. Some of those projects are already specified in the Consent Decree. Others will be selected after the close of the public comment period and following consideration of, and review and approval by the United States and CARB, of projects proposed by DDC, including any ideas submitted by the public. DDC may receive credit against a portion of this $12 million obligation in return for securing verifiable reductions in NO_X emissions not otherwise required by this Decree or other applicable law, but in no event will its obligation to fund projects be less than $7 million.

Finally, DDC is required to pay $12.5 million in civil penalties, twenty-five percent of which will be paid to CARB as part of its parallel settlement with DDC.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Detroit Diesel Corporation*, Civil Action No. 98–2548 (HHK), D.J. Ref. 90–5–2–1–2253.

The Consent Decree may be examined at the Office of the United States Attorney for the District of Columbia, Judiciary Center Bldg., 555 Fourth St., NW., Washington, DC 20001; at the Environmental Protection Agency Library, Reference Desk, Room 2904, 401 M Street, SW., Washington, DC 20460; and at the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005, 202–624–0892. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $40.50 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–29404 Filed 11–2–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Filing of Consent Decree Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that on October 22, 1998, a proposed Consent Decree (excepting two appendices which will be the subject of a motion for leave to file under seal) in *United States* v. *Mack Trucks, Inc.*, Civil Action No. 98–1495 (HHK), and *United States* v. *Renault Vehicules Industriels*, Civil Action No. 98–2543 (HHK), was filed with the United States District Court for the District of Columbia. At the same time, (1) Mack Trucks, Inc. ("Mack"), Renault Vehicules Industriels ("Renault") and the California Air Resources Board ("CARB") have concluded related settlement agreements that resolve California claims similar to the federal claims addressed by this proposed Consent Decree; and (2) the United States filed similar settlements with five other manufacturers of motor vehicle diesel engines, notice of which is also being published at this time.

The United States has asserted in civil complaints against Mack and Renault under the Clean Air Act, as amended 42 U.S.C. 7401 *et seq.* ("the Act"), that Mack and Renault sold, offered for sale, or introduced or delivered for introduction into commerce, certain heavy duty diesel engines that are equipped with computer software that alters fuel injection timing when the engines are in actual use, relative to the fuel injection timing used to control emissions of oxides of nitrogen ("NO_X") on the emissions test (the Federal Test Procedure or "FTP") required by U.S. Environmental Protection Agency ("EPA") regulations for the sale of motor vehicle engines in the United States. The United States alleges in its complaint that these computer strategies have an adverse effect on the engines' emission control system for NO_X, that they were not adequately disclosed to EPA, that they are emission-control defeat devices prohibited under the Act, and that these engines are not covered by an EPA Certificate of Conformity, as required by the Act for motor vehicle engines to be sold in the United States.

Under the proposed Consent Decree, Mack and Renault have agreed to resolve the United States' claims by, among other things:

(1) Reducing emissions from heavy duty diesel engines and eliminating the strategies of concern in future production, in accordance with the schedule set forth in the proposed Decree. This includes a substantial reduction in emissions by the end of this year, and a requirement that Mack and Renault achieve early compliance (by October 1, 2002) with the more stringent NO_X plus nonmethane hydrocarbon emission standard that would otherwise not apply (under current law) until January 1, 2004;

(2) Meeting Consent Decree emission limits both on the FTP and on a supplemental test called the EURO III test, which measures emissions under steady state conditions;

(3) Meeting "emission surface limits" and "not-to-exceed" limits that impose specific emissions limits in real-world operating conditions;

(4) Addressing emissions from engines previously sold and currently in use by developing and supplying dealers and independent rebuilder with Low NO_X Rebuild Kits, which would be used by engine rebuilders at the time of rebuild, and would reduce NO_X emissions in rebuilt engines; and

(5) Meeting certain emission limits for nonroad engines one year earlier than the law requires;

As additional injunctive relief Mack and Renault also will spend up to $18 million to fund projects approved by EPA and CARB that are designed to reduce NO_X and PM emissions. Some of those projects are already specified in the Consent Decree. Others will be selected after the close of the public comment period following consideration of, and review and approval by the United States and CARB, or projects proposed by Mack and Renault, including any ideas submitted by the public. Mack and Renault may receive credit against a portion of this $18 million obligation in return for securing verifiable reductions in NO_X emissions not otherwise required by this Decree or other applicable law, but in no even will its obligation to fund projects be less than $11 million.

Finally, Mack and Renault are required to pay $13 million in civil penalties, twenty-five percent of which will be paid to CARB as part of its parallel settlement with Mack and Renault.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Mack Trucks, Inc.*, Civil Action No. 98–1495 (HHK), D.J. Ref. 90–5–2–1–2251, and *United States* v. *Renault Vehicules Industriels*, Civil Action No. 98–2543 (HHK), D.J. Ref. 90–5–2–1–2251/1.

The Consent Decree may be examined at the Office of the United States Attorney for the District of Columbia, Judiciary Center Bldg., 555 Fourth St., N.W., Washington, D.C. 20001; at the Environmental Protection Agency Library, Reference Desk, Room 2904, 401 M Street, S.W., Washington, D.C. 20460; and at the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005, 202–624–0892. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $29.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environment Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–29403 Filed 11–2–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Filing of Consent Decree Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that on October 22, 1998, a proposed Consent Decree in *United States* v. *Navistar International Corp.*, Civil Action No. 98–2545 (HHK), was filed with the United States District Court for the District of Columbia. At the same time, (i) Navistar International Corp. ("Navistar") and the California Air Resources Board ("CARB") have concluded a related settlement agreement that resolves California claims similar to the federal claims addressed by this proposed Consent Decree; and (2) the United States filed similar settlements with six other manufacturers of motor vehicle diesel engines, notice of which is also being published at this time.

The United States has asserted in a civil complaint against Navistar under the Clean Air Act, as amended 42 U.S.C. 7401 *et seq.* ("the Act"), that Navistar sold, offered for sale, or introduced or delivered for introduction into commerce, certain model year 1996 through 1998, heavy duty diesel engines that are equipped with computer software that alters fuel injection timing when the engines are in actual use, relative to the fuel injection timing used to control emissions of oxides of nitrogen ("NO_X") on the emissions test (the Federal Test Procedure or "FTP") required by U.S. Environmental Protection Agency ("EPA") regulations for the sale of motor vehicle engines in the United States. The United States alleges in its complaint that these computer strategies have an adverse effect on the engines' emission control system for NO_X, that they were not adequately disclosed to EPA, that they are emission-control defeat devices prohibited under the Act, and that these engines are not covered by an EPA Certificate of Conformity, as required by the Act for motor vehicle engines to be sold in the United States.

Under the proposed Consent Decree, Navistar has agreed to resolve the United States' claims by, among other things:

(1) Achieving emission reductions in addition to those already required by law of at least 40,000 tons of NO_X, through early compliance with new and more stringent emission standards, environmental projects, or other steps resulting in quantifiable and verifiable results.

(2) Addressing emissions from engines previously sold and currently in use by developing and supplying its dealers and distributors with Low NO_X Rebuild Kits, which would be used by engine rebuilders at the time of rebuild, and would reduce NO_X emissions in rebuilt engines;

(3) Meeting certain emission limits for nonroad engines one year earlier than the law requires;

(4) Participating in an in-use test program to evaluate the actual emissions performance of in-use heavy-duty diesel engines; and

(5) Voiding certain emissions averaging, banking and trading credit that otherwise would be available to Navistar to meet emission standards applicable to its engines.

Finally, Navistar is required to pay $2.9 million in civil penalties, twenty-five percent of which will be paid to CARB as part of its parallel settlement with Navistar.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Navistar*

International Corp., Civil Action No. 98–2545 (HHK), D.J. Ref. 90–5–2–1–2252.

The Consent Decree may be examined at the Office of the United States Attorney for the District of Columbia, Judiciary Center Bldg., 555 Fourth St., N.W., Washington, D.C. 20001; at the Environmental Protection Agency Library, Reference Desk, Room 2904, 401 M. Street, S.W., Washington, D.C. 20460; and at the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005, 202–624–0892. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $16.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environment Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–29406 Filed 11–2–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Filing of Consent Decree Under the Clean Air Act

Under 28 C.F.R. 50.7, notice is hereby given that on October 22, 1998, a proposed Consent Decree (excepting two appendices which will be the subject of a motion for leave to file under seal) in *United States* v. *Volvo Truck, Corp.* Civil Action No. 98–2547 (HHK), was filed with the United States District Court for the District of Columbia. At the same time, (1) Volvo Truck Corp. ("Volvo") and the California Air Resources Board ("CARB") have concluded a related settlement agreement that resolves California claims similar to the federal claims addressed by this proposed Consent Decree; and (2) the United States filed similar settlements with six other manufacturers of motor vehicle diesel engines, notice of which is also being published at this time.

The United States has asserted in a civil complaint against Volvo under the Clean Air Act, as amended 42 U.S.C. 7401 *et seq.* ("the Act"), that Volvo sold, offered for sale, or introduced or delivered for introduction into commerce, certain heavy duty diesel engines that are equipped with computer software that alters fuel injection timing when the engines are in actual use, relative to the fuel injection timing used to control emissions of oxides of nitrogen ("NO_x") on the emissions test (the Federal Test Procedure or "FTP) required by U.S. Environmental Protection Agency ("EPA") regulations for the sale of motor vehicle engines in the United States. The United States alleges in its complaint that these computer strategies have an adverse effect on the engines' emission control system for NO_x, that they were not adequately disclosed to EPA, that they are emission-control defeat devices prohibited under the Act, and that these engines are not covered by an EPA Certificate of Conformity, as required by the Act for motor vehicle engines to be sold in the United States.

Under the proposed Consent Decree, Volvo has agreed to resolve the United States' claims by, among other things:

(1) Reducing emissions from heavy duty diesel engines and eliminating the strategies of concern in future production, in accordance with the schedule set forth in the proposed Decree. This includes a substantial reduction in emissions by the end of this year, and a requirement that Volvo achieve early compliance (by October 1, 2002) with the more stringent NO_x plus nonmethane hydrocarbon emission standard that would otherwise not apply (under current law) until January 1, 2004;

(2) Meeting Consent Decree emission limits both on the FTP and on a supplemental test called the EURO III test, which measures emissions under steady state conditions;

(3) Meeting "emission surface limits" and "not-to-exceed" limits that impose specific emissions limits in real-world operating conditions;

(4) Addressing emissions from engines previously sold and currently in use by developing and supplying dealers and independent rebuilders with Low NO_x Rebuild Kits, which would be used by engine rebuilders at the time of rebuild, and would reduce NO_x emissions in rebuilt engines; and

(5) Meeting certain emission limits for nonroad engines one year earlier than the law requires;

As additional injunctive relief Volvo also will spend up to $9 million to fund project approved by EPA and CARB that are designed to reduce NO_x and PM emissions. Some of those projects are already specified in the Consent Decree. Others will be selected after the close of the public comment period following consideration of, and review and approval by the United States and CARB of projects proposed by Volvo, including any ideas submitted by the public. Volvo may receive credit against a portion of this $9 million obligation in return for securing verifiable reductions in NO_x emissions not otherwise required by this Decree or other applicable law, but in no event will its obligation to fund projects be less than $6 million.

Finally, Volvo is required to pay $5 million in civil penalties, twenty-five percent of which will be paid to CARB as part of its parallel settlement with Volvo. The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Volvo Truck, Corp.* Civil Action No. 98–2547 (HHK), D.J. Ref. 90–5–2–1–2256.

The Consent Decree may be examined at the Office of the United States Attorney for the District of Columbia, Judiciary Center Bldg., 555 Fourth St., NW., Washington, DC 20001; at the Environmental Protection Agency Library, Reference Desk, Room 2904, 401 M Street, SW., Washington, DC 20460; and at the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005, 202–624–0892. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $35.75 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environment Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–29402 Filed 11–2–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 1957–98; AG Order No. 2189–98]

RIN 1115–AE 26

Extension of Designation of Burundi Under Temporary Protected Status Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This notice extends, until November 3, 1999, the Attorney General's designation of Burundi under the Temporary Protected Status (TPS) program provided for in section 244 of the Immigration and Nationality Act (Act). Accordingly, eligible aliens who are nationals of Burundi (or who have no nationality and who last habitually resided in Burundi) may re-register for TPS and are eligible for an extension of employment authorization. This re-registration is limited to persons who registered for the initial period of TPS, which ends on November 3, 1998, or are eligible for late initial registration.

EFFECTIVE DATES: This extension of designation is effective November 4, 1998, and will remain in effect until November 3, 1999. The re-registration procedures become effective November 3, 1998, and will remain in effect until December 2, 1998.

FOR FURTHER INFORMATION CONTACT: Michael Valverde, Residence and Status Services Branch, Adjudications, Immigration and Naturalization Service, Room 3214, 425 I Street, NW., Washington, DC 20536, telephone (202) 514–3228.

SUPPLEMENTARY INFORMATION:

Background

Subsection 308(b)(7) of the Illegal Immigration Reform and Immigrant Responsibility Act, Public Law 104–208, dated September 30, 1996, redesignated section 244A of the Act as section 244 of the Act. Under this section, the Attorney General continues to be authorized to grant TPS to eligible aliens who are nationals of a foreign state designated by the Attorney General (or who have no nationality and last habitually resided in that state). The Attorney General may designate a state upon finding that the state is experiencing ongoing armed conflict, environmental disaster, or other extraordinary and temporary conditions that prevent nationals or residents of the country from returning in safety.

On November 4, 1997, the Attorney General designated Burundi for Temporary Protected Status for a period of 12 months (62 FR 59735).

Based on a thorough review by the Departments of State and Justice of all available evidence, the Attorney General finds that the ongoing armed conflict in Burundi continues and that, due to such armed conflict, requiring the return of nationals to Burundi would pose a serious threat to their personal safety.

This notice extends the designation of Burundi under the Temporary Protected Status program for an additional 12 months from November 4, 1998, to November 3, 1999, in accordance with subsections 244(b)(3)(A) and (C) of the Act. This notice also describes the procedures with which eligible aliens who are nationals of Burundi (or who have no nationality and who last habitually resided in Burundi) must comply in order to re-register for TPS.

In addition to timely re-registrations and late re-registrations authorized by this notice's extension of the Burundi TPS designation, late initial registrations are possible for some Burundians under 8 CFR 244.2(f)(2). Such late initial registrants must have been "continuously physically present" and have "continuously resided" in the United States since November 4, 1997, must have had a valid immigrant or nonimmigrant status during the original registration period or have had an application for such status pending during the initial registration period, and must register no later than 30 days from the expiration of such status.

An application for TPS does not preclude or adversely affect an application for asylum or any other immigration benefit. Any national of Burundi who is otherwise eligible for TPS and has applied for, or plans to apply for, asylum, but who has not yet been granted asylum or withholding of removal, may also apply for TPS.

Nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi) who have been continuously physically present and have continuously resided in the United States since November 4, 1997, may re-register for TPS within the registration period which beings on November 3, 1998, and ends on December 2, 1998.

This notice concerns "extension of TPS designation," not "redesignation of TPS." An extension of TPS designation does not change the required dates of continuous residence and continuous physical presence in the United States.

Nationals of Burundi may re-register for TPS by filing an Application for Temporary Protected Status, Form I–821. There is no fee for the Form I–821 for re-registration. The Application for Temporary Protected Status, Form I–821, must always be accompanied by an Application for Employment Authorization, Form I–765, which is required for data-gathering purposes. The fee for Form I–765 is one hundred dollars ($100). TPS applicants who already have employment authorization, including some asylum applicants, and those who have no need for employment authorization, including minor children, do not need to pay the fee for the I–765, must complete and file the I–765 but should submit no fee. In all other cases, the appropriate filing fee must accompany Form I–765, unless a properly documented fee waiver request under 8 CFR 244.20 is submitted to the Immigration and Naturalization Service.

Notice of Extension of Designation of Burundi Under the Temporary Protected Status Program

By the authority vested in me as Attorney General under section 244 of the Act (8 U.S.C. 1254), and pursuant to subsections 244(b)(3) (A) and (C) of the Act, I have consulted with the appropriate agencies of the Government concerning whether the conditions under which Burundi was designated for TPS continue to exist. As a result, I have determined that the conditions for the original designation of Temporary Protected Status for Burundi continue to be met. Accordingly, it is ordered as follows:

(1) The designation of Burundi under subsection 244(b) of the Act is extended for an additional 12-month period lasting from November 4, 1998, to November 3, 1999.

(2) I estimate that there are approximately 400 nationals of Burundi (and aliens having no nationality who last habitually resided in Burundi) who have been granted Temporary Protected Status and who are eligible for re-registration.

(3) In order to maintain current registration for Temporary Protected Status, a national of Burundi (or an alien having no nationality who last habitually resided in Burundi) who received a grant of TPS during the initial period of designation, from November 4, 1997, to November 3, 1998, must comply with the re-registration requirements contained in 8 CFR 244.17, which are described in pertinent part in paragraphs (4) and (5) of this notice.

(4) A national of Burundi (or an alien having no nationality who last habitually resided in Burundi) who previously has been granted TPS, must re-register for TPS by filing a new Application for Temporary Protected Status, Form I–821, along with an Application for Employment Authorization, Form I–765, within the 30-day period beginning on November 3, 1998, and ending on December 2, 1998 in order to be eligible for Temporary Protected Status during the period from November 4, 1998, until November 3, 1999. Late re-registration may be allowed when good cause is shown for a failure to timely re-register pursuant to 8 CFR 244.17(c).

(5) A national of Burundi (or an alien having no nationality who last habitually resided in Burundi) may submit a late initial registration under 8 CFR 244.2(f)(2), if the alien has been "continuously physically present" and "continuously resided" in the United States since November 4, 1997, had a

valid immigrant or nonimmigrant status during the original registration period or had an application for such status pending during the initial registration period, and registers no later than 30 days from the expiration of such status.

(6) There is no fee for Form I–821 filed as part of the re-registration application. Late initial registrants must submit a Form I–821 with the prescribed filing fee of fifty dollars ($50). A Form I–765 must be filed with the Form I–821. If the alien requests employment authorization for the extension period, the fee prescribed in 8 CFR 103.7(b)(1) or a properly documented fee waiver request pursuant to 8 CFR 244.20, must accompany the Form I–765. The prescribed fee for the Form I–765 is one hundred dollars ($100). An alien who does not request employment authorization must nonetheless file Form I–765 along with Form I–821, but in such cases no fee will be charged.

(7) Pursuant to subsection 244(b)(3)(A) of the Act, the Attorney General will review, at least 60 days before November 3, 1999, the designation of Burundi under the TPS program to determine whether the conditions for designation continue to be met. Notice of that determination, including the basis for the determination, will be published in the **Federal Register**.

(8) Information concerning the TPS program for nationals of Burundi (and aliens having no nationality who last habitually resided in Burundi) will be available at local Immigration and Naturalization Service offices upon publication of this notice.

Dated: October 29, 1998.

Janet Reno,

Attorney General.

[FR Doc. 98–29396 Filed 10–29–98; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 1958–98; AG Order No. 2187–98]

RIN 1115–AE26

Extension of Designation of Sierra Leone Under Temporary Protected Status Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This notice extends, until November 3, 1999, the Attorney General's designation of Sierra Leone under the Temporary Protected Status (TPS) program provided for in section 244 of the Immigration and Nationality Act (Act). Accordingly, eligible aliens who are nationals on Sierra Leone (or who have no nationality and who last habitually resided in Sierra Leone) may re-register for TPS and are eligible for an extension of employment authorization. This re-registration is limited to persons who registered for the initial period of TPS, which ends on November 3, 1998, or are eligible for late initial registration.

EFFECTIVE DATE: This extension of designation is effective November 4, 1998, and will remain in effect until November 3, 1999. The re-registration procedures become effective November 5, 1998, and will remain in effect until December 2, 1998.

FOR FURTHER INFORMATION CONTACT: Michael Valverde, Residence and Status Services Branch, Adjudications, Immigration and Naturalization Service, Room 3124, 425 I Street, NW., Washington, DC 20536, telephone (202) 514–3228.

SUPPLEMENTARY INFORMATION:

Background

Subsection 308(b)(7) of the Illegal Immigration Reform and Immigrant Responsibility Act, Public Law 104–208, dated September 30, 1996, redesignated section 244A of the Act as section 244 of the Act. Under this section, the Attorney General continues to be authorized to grant TPS to eligible aliens who are nationals of a foreign state designated by the Attorney General (or who have no nationality and last habitually resided in that state). The Attorney General may designate a state upon finding that the state is experiencing ongoing armed conflict, environmental disaster, or other extraordinary and temporary conditions that prevent nationals or residents of the country from returning in safety.

On November 4, 1997, the Attorney General designated Sierra Leone for Temporary Protected Protected Status for a period of 12 months (62 FR 59736).

Based on a thorough review by the Departments of State and Justice of all available evidence, the Attorney General finds that the ongoing armed conflict in Sierra Leone continues and that, due such armed conflict, requiring the return of nationals to Sierra Leone would pose a serious threat to their personal safety.

This notice extends the designation of Sierra Leone under the Temporary Protected Status program for an additional 12 months from November 4, 1998, to November 3, 1999, in accordance with subsections 244(b)(3)(A) and (C) of the Act. This notice also describes the procedures with which eligible aliens who are nationals of Sierra Leone (or who have no nationality and who last habitually resided in Sierra Leone) must comply in order to re-register for TPS.

In addition to timely re-registrations and late re-registrations authorized by this notice's extension of the Sierra Leone TPS designation, late initial registrations are possible for some Sierra Leoneans under 8 CFR 244.2(f)(2). Such late initial registrants must have been "continuously physically present" and have "continuously resided" in the United States since November 4, 1997, must have had a valid immigrant or nonimigrant status during the original registration period or have had an application for such status pending during the initial registration period, and must register no later than 30 days from the expiration of such status.

An application for TPS does not preclude or adversely affect an application for asylum or any other immigration benefit. Any national of Sierra Leone who is otherwise eligible for TPS and has applied for, or plans to apply for, asylum, but who has not yet been granted asylum or withholding or removal, may also apply for TPS.

Nationals of Sierra Leone (or aliens having no nationality who last habitually resided in Sierra Leone) who have been continuously physically present and have continuously resided in the United States since November 4, 1997, may re-register for TPS within the registration period which begins on November 3, 1998, and ends on December 2, 1998.

This notice concerns "extension of TPS designation," not "redesignation of TPS." An extension of TPS designation does not change the required dates of continuous residence and continuous physical presence in the United States.

Nationals of Sierra Leone may re-register for TPS by filing an Application for Temporary Protected Status, Form I–821. There is no filing fee for the Form I–821 for re-registration. The Application for Temporary Protected Status, Form I–821, must always be accompanied by an Application for Employment Authorization, Form I–765, which is required for data-gathering purposes. The fee for Form I–765 is one hundred dollars ($100). TPS applicants who already have employment authorization, including some asylum applicants, and those who have no need for employment authorization, including minor children, must complete and file the I–765, but should submit no fee. In all other cases, the appropriate filing fee must accompany Form I–765, unless a properly documented fee waiver request under 8 CFR 244.20 is submitted to the Immigration and Naturalization Service.

Notice of Extension of Designation of Sierra Leone Under the Temporary Protected Status Program

By the authority vested in me as Attorney General under section 244 of the Act (8 U.S.C. 1254), and pursuant to subsections 244(b)(3) (A) and (C) of the Act, I have consulted with the appropriate agencies of the Government concerning whether the conditions under which Sierra Leone was designated for TPS continue to exist. As a result, I have determined that the conditions for the original designation of Temporary Protected Status for Sierra Leone continue to be met. Accordingly, it is ordered as follows:

(1) The designation of Sierra Leone under subsection 244(b) of the Act is extended for an additional 12-month period from November 4, 1998, to November 3, 1999.

(2) I estimate that there are approximately 4,000 nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) who have been granted Temporary Protected Status and who are eligible for re-registration.

(3) In order to maintain current registration for Temporary Protected Status, a national of Sierra Leone (or an alien having no nationality who last habitually resided in Sierra Leone) who received a grant of TPS during the initial period of designation, from November 4, 1997, to November 3, 1998, must comply with the re-registration requirements contained in 8 CFR 244.17, which are described in pertinent part in paragraphs (4) and (5) of this notice.

(4) A National of Sierra Leone (or an alien having no nationality who last habitually resided in Sierra Leone) who previously has been granted TPS, must re-register for TPS by filing a new Application for Temporary Protected Status, Form I–821, along with an Application for Employment Authorization, Form I–765, within the 30-day period beginning on November 3, 1998, and end on December 2, 1998, in order to be eligible for Temporary Protected Status during the period from November 4, 1998, until November 3, 1999. Late re-registration may be allowed when good cause is shown for a failure to timely re-register pursuant to 8 CFR 244.17(c).

(5) A national of Sierra Leone (or an alien having no nationality who last habitually resided in Sierra Leone) may submit a late initial registration under 8 CFR 244.2(f)(2), if the alien has been "continuously physically present" and "continuously resided" in the United States since November 4, 1997, had a valid immigrant or nonimmigrant status during the original registration period or had an application for such status pending during the initial registration period, and registers no later than 30 days from the expiration of such status.

(6) There is no fee for Form I–821 filed as part of the re-registration application. Late initial, registrants must submit a Form I–821 with the prescribed filing fee of fifty dollars ($50). A Form I–765 must be filed with the Form I–821. If the alien requests employment authorization for the extension period, the fee prescribed in 8 CFR 103.7(b)(1) or a properly documented fee waiver request pursuant to 8 CFR 244.20, must accompany the Form I–765. The prescribed fee for the Form I–765 is one hundred dollars ($100). An alien who does not request employment authorization must nonetheless file Form I–765 along with Form I–821, but in such cases no fee will be charged.

(7) Pursuant to subsection 244(b)(3)(A) of the Act, the Attorney General will review, at least 60 days before November 3, 1999, the designation of Sierra Leone under the TPS program to determine whether the conditions for designation continue to be met. Notice of that determination, including the basis for the determination, will be published in the **Federal Register**.

(8) Information concerning the TPS program for nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) will be available at local Immigration and Naturalization Service offices upon publication of this notice.

Dated: October 29, 1998.

Janet Reno,

Attorney General.

[FR Doc. 98–29394 Filed 10–29–98; 2:42 pm]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 1959–98; AG Order No. 2188–98]

RIN 1115–AE26

Extension of Designation of Sudan Under Temporary Protected Status Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This notice extends, until November 3, 1999, the Attorney General's designation of Sudan under the Temporary Protected Status (TPS) program provided for in section 244 of the Immigration and Nationality Act (Act). Accordingly, eligible aliens who are nationals of Sudan (or who have no nationality and who last habitually resided in Sudan) may re-register for TPS and are eligible for an extension of employment authorization. This re-registration is limited to persons who registered for the initial period of TPS, which ends on November 3, 1998, or are eligible for late initial registration.

EFFECTIVE DATES: This extension of designation is effective November 4, 1998, and will remain in effect until November 3, 1999. The re-registration procedures become effective November 3, 1998, and will remain in effect until December 2, 1998.

FOR FURTHER INFORMATION CONTACT: Michael Valverde, Residence and Status Services Branch, Adjudications, Immigration and Naturalization Service, Room 3214, 425 I Street, NW., Washington, DC 20536, telephone (202) 514–3228.

SUPPLEMENTARY INFORMATION:

Background

Subsection 308(b)(7) of the Illegal Immigration Reform and Immigrant Responsibility Act, Public Law 104–208, dated September 30, 1996, redesignated section 244A of the Act as section 244 of the Act. Under this section, the Attorney General continues to be authorized to grant TPS to eligible aliens who are nationals of a foreign state designated by the Attorney General (or who have no nationality and last habitually resided in that state). The Attorney General may designate a state upon finding that the state is experiencing ongoing armed conflict, environmental disaster, or other extraordinary and temporary conditions that prevent nationals or residents of the country from returning in safety.

On November 4, 1997, the Attorney General designated Sudan for Temporary Protected Status for a period of 12 months (62 FR 59737).

Based on a thorough review by the Departments of State and Justice of all available evidence, the Attorney General finds that the ongoing armed conflict in Sudan continues and that, due to such armed conflict, requiring the return of nationals to Sudan would pose a serious threat to their personal safety.

This notice extends the designation of Sudan under the Temporary Protected Status program for an additional 12 months from November 4, 1998, to

November 3, 1999, in accordance with subsections 244(b)(3)(A) and (C) of the Act. This notice also describes the procedures with which eligible aliens who are nationals of Sudan (or who have no nationality and who last habitually resided in Sudan) must comply in order to re-register for TPS.

In addition to timely re-registrations and late re-registrations authorized by this notice's extension of the Sudan TPS designation, late initial registrations are possible for some Sudanese under 8 CFR 244.2(f)(2). Such late initial registrants must have been "continuously physically present" and have "continuously resided" in the United States since November 4, 1997, must have had a valid immigrant or nonimmigrant status during the original registration period or have had an application for such status pending during the initial registration period, and must register no later than 30 days from the expiration of such status.

An application for TPS does not preclude or adversely affect an application for asylum or any other immigration benefit. Any national of Sudan who is otherwise eligible for TPS and has applied for, or plans to apply for, asylum, but who has not yet been granted asylum or withholding of removal, may also apply for TPS.

Nationals of Sudan (or aliens having no nationality who last habitually resided in Sudan) who have been continuously physically present and have continuously resided in the United States since November 4, 1997, may re-register for TPS within the registration period which begins on November 3, 1998, and ends on December 2, 1998.

This notice concerns "extension of TPS designation," not "redesignation of TPS." An extension of TPS designation does not change the required dates of continuous residence and continuous physical presence in the United States.

Nationals of Sudan may re-register for TPS by filing an Application for Temporary Protected Status, Form I–821. There is no filing fee for the Form I–821 for re-registration. The Application for Temporary Protected Status, Form I–821, must always be accompanied by an Application for Employment Authorization, Form I–765, which is required for data-gathering purposes. The fee for the Form I–765 is one hundred dollars ($100). TPS applicants who already have employment authorization, including some asylum applicants, and those who have no need for employment authorization, including minor children, must complete and file the I–765 but should submit no fee. In all other cases, the appropriate filing fee must accompany Form I–765, unless a properly documented fee waiver request under 8 CFR 244.20 is submitted to the Immigration and Naturalization Service.

Notice of Extension of Designation of Sudan Under the Temporary Protected Status Program

By the authority vested in me as Attorney General under section 244 of the Act (8 U.S.C. 1254), and pursuant to subsections 244(b)(3) (A) and (C) of the Act, I have consulted with the appropriate agencies of the Government concerning whether the conditions under which Sudan was designated for TPS continue to exist. As a result, I have determined that the conditions for the original designation of Temporary Protected Status for Sudan continue to be met. Accordingly, it is ordered as follows:

(1) The designation of Sudan under subsection 244(b) of the Act is extended for an additional 12-month period lasting from November 4, 1998, to November 3, 1999.

(2) I estimate that there are approximately 4,000 nationals of Sudan (and aliens having no nationality who last habitually resided in Sudan) who have been granted Temporary Protected Status and who are eligible for re-registration.

(3) In order to maintain current registration for Temporary Protected Status, a national of Sudan (or an alien having no nationality who last habitually resided in Sudan) who received a grant of TPS during the initial period of designation, from November 4, 1997, to November 3, 1998, must comply with the re-registration requirements contained in 8 CFR 244.17, which are described in pertinent part in paragraphs (4) and (5) of this notice.

(4) A national of Sudan (or an alien having no nationality who last habitually resided in Sudan) who previously has been granted TPS, must re-register for TPS by filing a new Application for Temporary Protected Status, Form I–821, along with an Application for Employment Authorization, Form I–765, within the 30-day period beginning on November 3, 1998 and ending on December 2, 1998, in order to be eligible for Temporary Protected Status during the period from November 4, 1998, until November 3, 1999. Late re-registration may be allowed when good cause is shown for a failure to timely re-register pursuant to 8 CFR 244.17(c).

(5) A national of Sudan (or an alien having no nationallty who last habitually resided in Sudan) may submit a late initial registration under 8 CFR 244.2(f)(2), if the alien has been "continuously physically present" and "continuously resided" in the United States since November 4, 1997, had a valid immigrant or nonimmigrant status during the original registration period or had an application for such status pending during the initial registration period, and registers no later than 30 days from the expiration of such status.

(6) There is no fee for Form I–821 filed as part of the re-registration application. Late initial registrants must submit a Form I/821 with the prescribed filing fee of fifty dollars ($50). A Form I–765 must be filed with the Form I–821. If the alien requests employment authorization for the extension period, the fee prescribed in 8 CFR 103.7(b)(1) or a properly documented fee waiver request pursuant to 8 CFR 244.20, must accompany the Form I–765. The prescribed fee for the Form I–765 is one hundred dollars ($100). A alien who does not request employment authorization must nonetheless file Form I–765 along with Form I–821, but in such cases no fee will be charged.

(7) Pursuant to subsection 244(b)(3)(A) of the Act, the Attorney General will review, at least 60 days before to determine whether the conditions for designation continue to be met. Notice of that determination, including the basis for the determination, will be published in the **Federal Register**.

(8) Information concerning the TPS program for nationals of Sudan (and aliens having no nationality who last habitually resided in Sudan) will be available at local Immigration and Naturalization Service offices upon publication of this notice.

Dated: October 29, 1998.

Janet Reno,

Attorney General.

[FR Doc. 98–29395 Filed 10–29–98; 2:43 pm]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Office of the Secretary

Delegation of Authority To Assert Governmental Privileges; Pension and Welfare Benefits Administration

On October 28, 1998, I issued a memorandum to the Deputy Assistant Secretary for Pension and Welfare Benefits delegating to the Assistant Secretary for Pension and Welfare Benefits authority to assert certain governmental privileges. A copy of that memorandum is annexed hereto as an Appendix.

FOR FURTHER INFORMATION CONTACT: Debra Golding, Special Assistant to the Deputy Assistant Secretary for Pension and Welfare Benefits, telephone number (202) 219–8233.

Signed at Washington, D.C., this 28th day of October, 1998.

Alexis M. Herman,

Secretary of Labor.

U.S. DEPARTMENT OF LABOR

October 28, 1998.

Memorandum for Meredith Miller,
Deputy Assistant Secretary for Pension and Welfare Benefits

From: Alexis M. Herman.

Subject: Specific Delegation of Authority to the Assistant Secretary for Pension and Welfare Benefits.

Effective immediately, the Assistant Secretary for Pension and Welfare Benefits is hereby delegated authority and assigned responsibility to invoke all appropriate claims of governmental privilege, arising from the functions of the Pension and Welfare Benefits Administration, following his/her personal consideration of the matter, and in accordance with the following guidelines:

(a) *Informant's Privilege* (to protect from disclosure the identity of any person who has provided information to the Pension and Welfare Benefits Administration in cases arising under the statutes listed in paragraph 4a of the Secretary's Order 1–87): A claim of privilege may be asserted where the Assistant Secretary has determined that disclosure of the privileged matter may: (1) interfere with the Pension and Welfare Benefits Administration's enforcement of a particular statute for which the Pension and Welfare Benefits Administration exercises investigative or enforcement authority; (2) adversely affect persons who have provided information to the Pension and Welfare Benefits Administration; or (3) deter other persons from reporting violations of the statutes.

(b) *Deliberative Process Privilege* (to withhold information which may disclose pre-decisional intra-agency or inter-agency deliberations, including the analysis and evaluation of fact, written summaries of factual evidence, and recommendations, opinions or advice on legal or policy matters in cases arising under the statutes listed in paragraph 4a of Secretary's Order 1–87): A claim of privilege may be asserted where the Assistant Secretary has determined that disclosure of the privileged matter would have an inhibiting effect on the agency's decision-making processes.

(c) *Privilege for Investigational Files Compiled for Law Enforcement Purposes* (to withhold information which may reveal the Pension and Welfare Benefits Administration's confidential investigative techniques and procedures): The investigative file privilege may be asserted where the Assistant Secretary has determined the disclosure of the privileged matter may have an adverse impact upon the Pension and Welfare Benefits Administration's enforcement of the statutes listed in paragraph 4a of the Secretary's Order 1–87, by: (1) disclosing investigative techniques and methodologies; (2) deterring persons from providing information to the Pension and Welfare Benefits Administration; (3) prematurely revealing the facts of the Pension and Welfare Benefits Administration's case; or (4) disclosing the identities of persons who have provided information under an express or implied promise of confidentiality.

(d) Prior to filing a formal claim of privilege, the Assistant Secretary shall personally review all documents sought to be withheld (or, in case where the volume is so large that all of them cannot be personally reviewed in a reasonable time, an adequate and representative sample of such documents), together with a description or summary of the litigation with which the disclosure is sought.

(e) In asserting a claim of governmental privilege, the Assistant Secretary may ask the Solicitor of Labor, or the Solicitor's representative, to file any necessary legal papers or documents.

I hereby ratify any invocation of these privileges made by you since September 1, 1998, that was made in a manner consistent with the guidelines set forth in this memorandum.

[FR Doc. 98–29411 Filed 11–2–98; 8:45 am]

BILLING CODE 4510–23–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (98–159)]

NASA Advisory Council (NAC), Task Force on International Space Station Operational Readiness; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting change.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 63 FR 188, Notice Number 98–134, September 29, 1998.

PREVIOUSLY ANNOUNCED DATE AND ADDRESS OF MEETING: Tuesday, November 3, 1998, 9:00 a.m.–3:00 p.m.; Central Standard Time; Lyndon B. Johnson Space Center, NASA, Building 1, Room 920L, Houston, TX 77058–3696.

CHANGES IN THE MEETING: Date changed to November 4, 1998; Time and location remain the same.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis McSweeney, Code IH, National Aeronautics and Space Administration, Washington, DC 20546–0001, 202/358–4556.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Review the results of the IOR Task Force Working Group on International Space Station Software assessment.
—Review the results of the IOR Task Force Working Group on International Space Station Training assessment.
—Receive a briefing from the International Space Station Program Office on the current status of the International Space Station.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitors register.

Dated: October 28, 1998.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Spoce Administration.

[FR Doc. 98–29381 Filed 11–2–98; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities Arts and Artifacts Indemnity Panel Advisory Committee; Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended) notice is hereby given that a meeting of the Arts and Artifacts Indemnity Panel of the Federal Council on the Arts and the Humanities will be held at 1100 Pennsylvania Avenue, NW., Washington, DC 20506, in Room 730, from 9:00 a.m. to 5:30 p.m., on Friday, November 20, 1998.

The purpose of the meeting is to review applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities for exhibitions beginning after January 1, 1999.

Because the proposed meeting will consider financial and commercial data and because it is important to keep values of objects, methods of transportation and security measures confidential, pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated July 19, 1993, I have determined that the meeting would fall within exemptions (4) and (9) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of views and to avoid interference with the operations of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Nancy E. Weiss, 1100

Pennsylvania Avenue, NW., Washington, DC 20506, or call 202/606–8322.

Nancy E. Weiss,

Advisory Committee Management Officer.

[FR Doc. 98–29311 Filed 11–2–98; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8681]

International Uranium (USA) Corporation

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Receipt of License Amendment Application; Notice of Opportunity for Hearing.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) has received an application, by letter dated October 15, 1998, from International Uranium (USA) Corporation (IUC) to amend NRC Source Material License No. SUA–1358. By this submittal, IUC is requesting NRC approval to process, at IUC's White Mesa Uranium Mill, uranium-bearing material received from the Ashland 1 and Seaway Area D Formerly Utilized Sites Remedial Action Program (FUSRAP) sites, near Tonawanda, New York.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Park, Uranium Recovery Branch, Mail Stop TWFN 7–J8, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone 301/415–6699.

SUPPLEMENTARY INFORMATION: On September 15, 1995, NRC published in the **Federal Register** staff guidance entitled, "Final Position and Guidance on the Use of Uranium Mill Feed Material Other Than Natural Ores" (60 FR 49296). Under this guidance, NRC-licensed uranium or thorium mills may process "* * * natural or native matter that may be mined and treated for the extraction of any of its constituents or any other matter from which source material is extracted * * *" subject to NRC approval. By this amendment application, IUC is requesting that it be allowed to process, at the White Mesa mill, alternate feed materials received from the Ashland 1 and Seaway Area D FUSRAP sites, located near Tonawanda, New York.

The materials in question at the Ashland 1 and Seaway Area D sites, which currently are being remediated by the U.S. Army Corps of Engineers, are associated with uranium ore processing activities conducted by the Manhattan Engineering District during the mid-1940s. IUC states that the average uranium content of the materials is expected to be approximately 0.06 weight percent, and IUC estimates that a total of approximately 25,000 to 30,000 cubic yards of material would be shipped, over a three-to four-month period, to the White Mesa mill, near Blanding, Utah.

Activities at the White Mesa mill are authorized under NRC Source Material License No. SUA–1358. IUC's application to amend SUA–1358, which describes the proposed change and the reasons for the request, is available for public inspection and copying at the NRC Public Document Room, in the Gelman Building, 2120 L Street NW., Washington, DC 20555.

Notice of Opportunity for Hearing

The Commission hereby provides notice that this is a proceeding on an application for a licensing action falling within the scope of Subpart L, "Informal Hearing Procedures for Adjudications in Materials and Operators Licensing Proceedings," of the Commission's Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders in 10 CFR Part 2 (54 FR 8269). Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(c), a request for a hearing must be filed within thirty (30) days from the date of publication of this **Federal Register** notice. The request for a hearing must be filed with the Office of the Secretary either:

(1) By delivery to the Rulemakings and Adjudications Staff of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemakings and Adjudications Staff.

Each request for a hearing also must be served, by delivering it personally or by mail to:

(1) The applicant, International Uranium (USA) Corporation, Independence Plaza, Suite 950, 1050 Seventeenth Street, Denver, CO 80265;

(2) The NRC staff, by delivery to the Executive Director of Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or

(3) By mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the Commission's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(3) the requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

Any hearing that is requested and granted will be held in accordance with the Commission's "Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings" in 10 CFR Part 2, Subpart L.

Dated at Rockville, Maryland, this 28th day of October 1998.

For the Nuclear Regulatory Commission.

Joseph J. Holonich,

Chief, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98–29432 Filed 11–2–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of November 2, 9, 16, and 23, 1998.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of November 2

Monday, November 2

2:00 p.m.
Briefing on Reactor Oversight Process Improvements (Public Meeting) (Contact: Frank Gillespie, 301–415–1275)

3:30 p.m.
Affirmation Session (Public Meeting) (if needed)

Week of November 9—Tentative

Thursday, November 12

11:30 a.m.
Affirmation Session (Public Meeting) (if needed)

Friday, November 13

9:00 a.m.
*Meeting on NRC Response to Stakeholders' Concerns (Public Meeting) (Contact: Bill Hill, 301–415–1661/1969)

***Please Note:** The room location for the *Meeting on NRC Response to Stakeholders' Concerns*, scheduled for Friday, November 13, has been changed. The new location is NRC auditorium, Bldg 2, NRC Headquarters, Rockville, Md.

Week of November 16—Tentative

Tuesday, November 17

11:30 a.m.
Affirmation Session (Public Meeting) (if needed)

Week of November 23—Tentative

Tuesday, November 24

9:00 a.m.
Briefing on Fire Protection Issues (Public Meeting) (Contact: Steve West, 301–415–1220)

Wednesday, November 25

11:30 a.m.
Affirmation Session (Public Meeting) (if needed)

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

ADDITIONAL INFORMATION: By a vote of 3–0 on October 23, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation of (a) Yankee Atomic Electric Company (Yankee Nuclear Power Station), Docket No. 50–029–LA, Memorandum and Order (Decision on Standing), LBP–98–12, 47 NRC 343 (June 12, 1998) and (b) Hydro Resources, Inc.: Presiding Officer's Memorandum and Order Setting Schedule and Ruling on Bifurcation, September 22, 1998" (Public Meeting) be held on October 23, 1998, and on less than one week's notice to the public.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet ystem is available. If you are interested n receiving this Commission meeting chedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

* * * * *

Dated: October 30, 1998.

William M. Hill, Jr.

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 98–29541 Filed 10–30–98; 3:24 pm]

BILLING CODE 7590–01–M

PEACE CORPS

Information Collection Requests Under OMB Review

AGENCY: The Peace Corps.

ACTION: Notice of public use form review request of the Office of Management and Budget (0420–0529).

SUMMARY: Pursuant to the Paperwork Reduction Act (44 U.S.C. Chapter 35) this notice announces that the Peace Corps has submitted to the Office of Management and Budget a request to approve the annual Peace Corps Day Brochure. A copy of the information collection may be obtained from Betsi Shays, Director of World Wise Schools, Peace Corps, 1111 20th Street, NW, Washington, DC 20526. Ms. Betsi Shays may be contacted by telephone at 202–692–1455. The Peace Corps invites comments on whether the proposed collection of information is necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and, ways to minimize the burden the collection of information those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology. Comments on these forms should be addressed to Victoria Becker Wassmer, Desk Officer, Office of Management and Budget, NEOB, Washington, DC 20503.

Information Collection Abstract

Title: Peace Corps Day Brochure.

Need for an use of this informotion: The Peace Corps needs this information in order to identify prospective Peace Corps Day participants so that we can help them prepare for their classroom presentations. These materials are not considered to be gifts.

Respondets: Return Peace Corps Volunteers and/or educators who plan to participate in Peace Corps Day.

Respondents obligation to reply: Voluntary.

Burden on the public

a. Annual reporting burden: 6,500 hours.

b. Annual record keeping burden: 0 hours.

c. Estimated average burden per response: 3 min.

d. Frequency of response: one time.

e. Estimated number of likely respondents: 130,000.

f. Estimated cost to respondents: $00.81 (per respondent), $24,300 (cost of total response).

This notice is issued in Washington, DC, on 28 October 1998.

William C. Piatt,

Associate Director for Management.

[FR Doc. 98–29431 Filed 11–2–98; 8:45 am]

BILLING CODE 6051–01–M

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Annual Financial and Actuarial Information Reporting

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is requesting that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act, of the collection of information under the PBGC's regulation on Annual Financial and Actuarial Information Reporting, 29 CFR Part 4010 (OMB control number 1212–0049; expires December 31, 1998). This notice informs the public of the PBGC's request and solicits public comment on the collection of information.

DATES: Comments should be submitted by December 3, 1998.

ADDRESSES: Comments should be mailed to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, Washington, DC 20503. Copies of the request for extension (including the collection of information) are available from the Communications and Public Affairs Department, suite 240, 1200 K Street, NW., Washington, DC 20005–4026, between 9 a.m. and 4 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General

Counsel, or Deborah C. Murphy, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (For TTY and TDD, call the Federal relay service toll-free at 1–800–877–8339 and request connection to 202–326–4024).

SUPPLEMENTARY INFORMATION: Section 4010 of the Employee Retirement Income Security Act of 1974 (ERISA) requires each member of a corporate controlled group to submit identifying, financial, and actuarial information to the PBGC in certain circumstances. Reporting is required (1) if the aggregate unfunded vested benefits of all defined benefit pension plans maintained by the controlled group exceed $50 million, (2) if the controlled group maintains any plan with missed contributions (unless paid within a ten-day grace period), or (3) if the controlled group maintains any plan with funding waivers in excess of $1 million and any portion is still outstanding (taking into account certain credit balances in the funding standard account). The PBGC's regulation on Annual Financial and Actuarial Information Reporting (29 CFR Part 4010) implements section 4010.

The regulation requires the controlled group to file certain identifying information, certain financial information, each plan's actuarial valuation report, certain participant information, and a determination of the amount of each plan's benefit liabilities. The information submitted under the regulation allows the PBGC (1) to detect and monitor financial problems with the contributing sponsors that maintain severely underfunded pension plans and their controlled group members and (2) to respond quickly when it learns that a controlled group with severely underfunded pension plans intends to engage in a transaction that may significantly reduce the assets available to pay plan liabilities.

The collection of information under the regulation has been approved by OMB under control number 1212–0049 through December 31, 1998. The PBGC is requesting that OMB extend its approval for another three years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The PBGC estimates that an average of 60 controlled groups per year respond to this collection of information. The PBGC further estimates that the average annual burden of this collection of information is 9.2 hours and $7,500 per controlled group, for a total burden of 552 hours and $450,000.

Issued in Washington, D.C., this 28th day of October, 1998.

Stuart Sirkin,

Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation.

[FR Doc. 98–29398 Filed 11–2–98; 8:45 am]

BILLING CODE 7708–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of Data Collection Forms

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: Under the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for review of an information collection. The Establishment Information Form, the Wage Data Collection Form, and the Wage Data Collection Continuation Form are wage survey forms developed by OPM for use by the Department of Defense to establish prevailing wage rates for Federal Wage System employees. The Department of Defense contacts approximately 21,200 businesses annually to determine the level of wages paid by private enterprise establishments for representative jobs common to both private industry and the Federal Government. Each survey collection requires 1–4 hours of respondent burden, resulting in a total yearly burden of approximately 75,800 hours.

Comments are particularly invited on:

—Whether this collection of information is necessary for the proper performance of the functions of the Office of Personnel Management, and whether it will have practical utility;

—Whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and

—Ways in which we can minimize the burden of the collection of information on respondents through use of technological collection techniques or other forms of information technology.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, or send an email message to mbtoomey@opm.gov.

DATES: Comments on this proposal must be received on or before January 4, 1999.

ADDRESSES: Send or deliver written comments to—Donald J. Winstead, Assistant Director for Compensation Administration, Workforce Compensation and Performance Service, U.S. Office of Personnel Management, 1900 E Street NW., Room 7H31, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Mark A. Allen, Salary and Wage Systems Division, Office of Compensation Administration, (202) 606–2848.

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 98–29329 Filed 11–2–98; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Patricia H. Paige, Staffing Reinvention Office, Employment Service (202) 606–0830.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR 213 on October 8 1998, 1998 (63 FR 54163). Individual authorities established or revoked under Schedules A and B and established under Schedule C between September 1, 1998, and September 30, 1998, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 will also be published.

Schedule A

No Schedule A authorities were established or revoked during September 1998.

Schedule B

No Schedule B authorities were established or revoked during September 1998.

Schedule C

The following Schedule C authorities were established September 1998.

Commodity Futures Trading Commission

Special Assistant to the Commissioner. Effective September 8, 1998.

Special Assistant to the Commissioner. Effective September 10, 1998.

Department of Agriculture

Executive Assistant to the Administrator, Rural Housing Service. Effective September 8, 1998.

Confidential Assistant to the Administrator, Farm Service Agency. Effective September 16, 1998.

Confidential Assistant to the Chief, Natural Resources Conservation Service. Effective September 16, 1998.

Confidential Assistant to the Administrator, Rural Business Service. Effective September 18, 1998.

Confidential Assistant to the Chief Information Officer, Policy Analysis and Coordination Center. Effective September 18, 1998.

Confidential Assistant to the Director, Intergovernmental Affairs. Effective September 18, 1998.

Department of Commerce

Special Assistant to the Under Secretary for Economic Affairs/ Administrator, Economics and Statistics Administration. Effective September 8, 1998.

Senior Advisor to the Under Secretary for Economic Affairs. Effective September 30, 1998.

Department of Defense

Speechwriter to the Assistant Secretary for Public Affairs. Effective September 4, 1998.

Confidential Assistant to the Assistant Secretary of Defense for Health Affairs. Effective September 10, 1998.

Defense Fellow to the Special Assistant for White House Liaison. Effective September 11, 1998.

Department of Education

Special Assistant to the Deputy Secretary. Effective September 1, 1998.

Special Assistant to the Deputy Secretary. Effective September 11, 1998.

Confidential Assistant to the Chief of Staff. Effective September 21, 1998.

Confidential Assistant to the Chief Financial and Chief Information Officer. Effective September 25, 1998.

Department of Energy

Special Projects Officer to the Director, Office of Public Affairs. Effective September 11, 1998.

Department of Health and Human Services

Director, Division of Intergovernmental Affairs to the Deputy Assistant Secretary for Policy and External Affairs. Effective September 25, 1998.

Department of Justice

Staff Assistant to the Director, Office of Public Affairs. Effective September 11, 1998.

Department of Labor

Special Assistant to Director, Women's Bureau, Office of the Secretary. Effective September 11, 1998.

Chief of Staff to the Assistant Secretary for Office of Congressional and Intergovernmental Affairs. Effective September 16, 1998.

Department of State

Foreign Affairs Officer to the Under Secretary for Global Affairs. Effective September 16, 1998.

Department of Transportation

Special Assistant to the Associate Director for Media Relations and Special Projects. Effective September 8, 1998.

Associate Director of Media Relations and Special Projects to the Assistant to the Secretary and Director of Public Affairs. Effective September 25, 1998.

Department of the Treasury

Deputy Chief of Staff to the Chief of Staff. Effective September 11, 1998.

Senior Advisor to the Chief of Staff. Effective September 16, 1998.

Deputy to the Assistant Secretary, Legislative Affairs and Public Liaison. Effective September 18, 1998.

Director, Office of Public Affairs to the Deputy Assistant Secretary (Public Affairs). Effective September 30, 1998.

Environmental Protection Agency

Senior Advisor to the Chief of Staff. Effective September 18, 1998.

Federal Emergency Management Agency

Director, Office of Emergency Information and Media Services to the Director, Federal Emergency Management Agency. Effective September 28, 1998.

Federal Energy Regulatory Commission

Ombudsman to the Director, Office of External Affairs. Effective September 23, 1998.

National Aeronautics and Space Administration

Program Analyst to the Deputy Associate Administrator for External Relations. Effective September 8, 1998.

Office of Management and Budget

Confidential Assistant to the Executive Associate Director. Effective September 4, 1998.

Staff Assistant to the Associate Director, Legislative Affairs. Effective September 30, 1998.

Office of National Drug Control Policy

Staff Assistant to the Director, Office of National Drug Control Policy. Effective September 4, 1998.

Staff Assistant to the Chief of Staff. Effective September 21, 1998.

Small Business Administration

Special Assistant to the Deputy Administrator. Effective September 8, 1998.

National Director for Native American Outreach to the Associate Deputy Administrator for Entrepreneurial Development. Effective September 25, 1998.

Senior Advisor to the Associate Deputy Administrator for Government Contracting and Minority Enterprise Development. Effective September 30, 1998.

Senior Advisor to the Associate Deputy Administrator for Government Contracting and Minority Enterprise Development. Effective September 30, 1998.

U.S. International Trade Commission

Special Assistant (Economics) to the Commissioner. Effective September 16, 1998.

United States Tax Court

Trial Clerk to the Judge. Effective September 28, 1998.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.

Office of Personnel Management.

Janice A. Lachance,

Director.

[FR Doc. 98–29327 Filed 11–2–98; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

The National Partnership Council; Meeting

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting.

TIME AND DATE: 1:00 p.m., November 10, 1998.

PLACE: OPM Conference Center, Room 1350, U.S. Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street, NW., Washington, DC. The conference center is located on the first floor.

STATUS: This meeting will be open to the public. Seating will be available on a first-come, first-served basis. Individuals with special access needs wishing to attend should contact OPM at the number shown below to obtain appropriate accommodations.

MATTERS TO BE CONSIDERED: This National Partnership Council will consider for approval a draft of its skills-building publication. The Council will also review and consider an initial draft of an NPC 1999 Strategic Action Plan, outlining the Council's objectives for 1999 and actions to be taken to meet those objectives. The draft plan will also include proposed dates for 1999 NPC meetings.

CONTACT PERSON FOR MORE INFORMATION: Andrew M. Wasilisin, Acting Director, Center for Partnership and Labor-Management Relations, Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street, NW., Room 7H28, Washington, DC 20415–2000, (202) 606–2930.

Office of Personnel Management.

Janice R. Lachance,

Director

[FR Doc. 98–29328 Filed 11–2–98; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Meteor Industries, Inc., Common Stock, $.001 Par Value; Redeemable Common Stock Purchase Warrants) File No. 1–12401

October 28, 1998.

Meteor Industries, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities ("Securities") from listing and registration on the American Stock Exchange, Inc. ("Amex" or "Exchange").

The reasons cited in the application for withdrawing the Securities from listing and registration include the following:

The Board of Directors of the Company unanimously approved resolutions on August 25, 1998, to withdraw the Company's Securities from listing on the Amex. The Board of Directors believed that the listing of the Securities on the Nasdaq Small Cap Market would provide security holders with greater liquidity.

On September 15, 1998, the Securities commenced trading on the Nasdaq Small Cap Market.

The Company has complied with the rules of the Amex by notifying the Exchange of its intention to withdraw its Securities from listing on the Exchange by letter dated September 8, 1998. Also enclosed with that letter was a certified copy of the Board resolutions. The Exchange replied by letter dated September 9, 1998, advising that the Amex would not interpose any objection to such action nor require the Company to send security holders any statement with respect thereto.

Any interested person may, on or before November 19, 1998, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–29336 Filed 11–2–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Real Goods Trading Corporation, Common Stock, No Par Value) File No. 1–12964

October 28, 1998

Real Goods Trading Corporation ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the Pacific Exchange, Inc. ("PCX" or "Exchange").

The reasons cited in the application for withdrawing the Security from listing and registration include the following:

The Security of the Company is listed for trading on the PCX, as well as the Nasdaq and the Chicago Stock Exchange, Inc. ("CHX").

The Company has complied with rules of the PCX by filing with the Exchange a certified copy of the resolutions adopted by the Company's Board of Directors authorizing the withdrawal of its Security from listing and registration on the Exchange and by setting forth in detail to the Exchange the facts and reasons supporting the proposed withdrawal.

In deciding whether to withdrawal its Security from listing and registration on the PCX, the Company considered the direct and indirect costs and expenses attendant on maintaining the multiple listing of its Security on the PCX, Nasdaq and CHX. The Company does not see any particular advantage in multiply trading its Security and believes that listing on the PCX does not appear to provide incremental benefit.

By letter dated August 5, 1998, the Exchange informed the Company that it would not object to the withdrawal of the Company's Security from listing and registration on the PCX.

This application relates solely to the withdrawal from listing on the Company's Security from the Exchange and shall have no effect upon the continued listing of the Security on the Nasdaq or the CHX.

By reason of Section 12 of the Act and the rules and regulations thereunder, the Company shall continue to be obligated to file reports under Section 13 of the Act with the Commission.

Any interested person may, on or before November 19, 1998, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–29337 Filed 11–2–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Securities Exchange Act Release No. 34–40599; International Series Release No. 1164; File Nos. SR–Amex–98–41; SR–CBOE–98–45; and SR–Phlx–98–49]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Changes by the American Stock Exchange, Incorporated, the Chicago Board Options Exchange, Incorporated and the Philadelphia Stock Exchange, Incorporated Relating to the Listing and Trading of Options on Telebras Portfolio Certificate American Depositary Receipts

October 23, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [1] ("Act") and Rule 19b–4 [2] thereunder, on October 14, 1998, October 15, 1998, and October 19, 1998, the Chicago Board Options Exchange, Incorporated ("CBOE"), the American Stock Exchange, Incorporated ("Amex") and the Philadelphia Stock Exchange, Incorporated ("Phlx"), respectively, filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule changes, as described in Items I and II below, which Items have been prepared by the self-regulatory organizations ("SROs"), to permit the listing and trading of standardized equity options on Telebras Portfolio Certificate American Depositary Receipts ("RTBs"), as described below.[3] The Commission is publishing this notice to solicit comments from interested persons on the proposed rule changes and to grant approval to the proposed rule changes on an accelerated basis.

I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Changes

The SROs proposed to list and trade standardized equity options on the RTBs, as described below. The texts of the proposed rule changes are available at the Office of the Secretary, Amex, CBOE and Phlx, respectively, and at the Commission.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] RTBs are sponsored American Depositary Receipts ("ADRs") established by Morgan Guaranty Trust Company of New York ("Depositary"). RTBs began trading on the New York Stock Exchange ("NYSE") on October 13, 1998 pursuant to NYSE Listing Standard 103.5. A copy of the Depositary Agreement and Form F–6 (Registration No. 333–9476) was filed with the Commission, declared effective on October 8, 1998 and is publicly available.

II. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, the SROs included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments they received on their respective proposed rule changes. The text of those statements may be examined at the places specified in Item IV below and summaries of the most significant aspects are set forth in Sections (A), (B), and (C) below.

(A) Self-Regulatory Organizations' Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Changes

1. Purpose

Telecommunicacoes Brasileiras S.A. ("Telebras") is a corporation organized under the laws of the Federative Republic of Brazil. Prior to July 28, 1998, Telebras was wholly-owned by the government of Brazil.[4] Telebras was eventually reorganized ("Reorganization") into twelve spin-off companies ("Spin-Offs"). In April 1998, the Bolsa de Valores de Sao Paulo ("BOVESPA") began listing and trading RCTB Portfolio Certificates ("RCTB Certificates"). On September 21, 1998, the Spin-Off shares were listed, and began trading, on the BOVESPA. The RCTB Certificates currently represent one share each of the Spin-Offs and the residual Telebras shares.[5] Each RTB will represent 1,000 RCTB Certificates. As a result, each RTB will provide investors with a single exchange traded instrument that is intended to represent shares of each Spin-Off and the residual Telebras shares.

Currently, the SROs trade options on Telebras ADRs ("TBR") and options on Telebras Holding Company Depositary Receipts SM ("HOLDRs") [6] in order to allow investors in TBRs and HOLDRs to hedge their respective positions by opening offsetting positions in TBR options and HOLDRs options. The SROs now seek to list and trade options on RTBs as a way to permit investors in RTBs to hedge their exposure to the Brazilian telecommunications industry.

To acquire an RTB prior to the listing of the Spin-Off ADRs, an investor must first acquire a TBR. To acquire an RTB after the listing of the Spin-Off ADRs, an investor must first acquire the Spin-Off ADRs, and a residual TBR (if the residual TBRs still exist). In either case, the investor must then cancel the TBR, or the Spin-Off ADRs and residual TBR (whichever is applicable), and have the underlying securities delivered to the Companhia Brasileiras de Liquidacae e Custodia ("CBLC"). The CBLC is responsible for all clearing and custody services related to securities traded on the BOVESPA. The CBLC will convert the underlying securities without charge into RCTB Certificates. The RCTB Certificate will then be deposited into the custody account of J.P. Morgan ("JPM") at Banco Itau in Brazil. JPM will then issue an RTB, created by the Depositary and representing 1,000 RCTB Certificates, to the investor.

The SROs now propose to trade options on the RTBs pursuant to Amex Rule 915, CBOE Rule 5.3, and PHLX Rule 1009 (collectively, the "SRO Rules"), respectively.[7] The SROs have requested to rely upon the public ownership, public holding, trading volume and market price history of RCTB Certificates for purposes of satisfying the associated requirements for RTBs under the SRO Rules. Commentary .01 of the SRO Rules [8] requires that, absent exceptional circumstances, at the time the SRO selects an underlying security for options transactions, the following guidelines with respect to the issuer shall be met: (1) there are a minimum of 7 million shares of the underlying securities which are owned by persons other than those required to report their security holdings under Section 16(a) of the Act ("Public Ownership Requirement"); (2) there are a minimum of 2,000 holders of the underlying security ("Public Holder Requirement"); (3) there is trading volume (in all markets in which the underlying security is traded) of at least 2.4 million shares during the preceding 12 months ("Volume Requirement"); (4) the market

[4] The Brazilian government divested its interest in Telebras through a public auction in Brazil that commenced on July 28, 1998.

[5] Prior to September 21, 1998, the RCTB Certificates only represented Telebras shares. The RCTB Certificates will represent one share of each Spin-Off when Telebras is extinguished.

[6] HOLDRs are listed on the NYSE and are intended to represent TBRs currently listed on the NYSE, until such time as the Spin-Off ADRs are listed on the NYSE. When the Spin-Off ADRs are listed on the NYSE, HOLDRs will provide a single exchange traded instrument that is intended to represent each Spin-Off ADR and the residual TBR. When Telebras is finally extinguished, TBR will cease to exist and HOLDRs will represent each Spin-Off ADR. *See* Securities Exchange Act Release No. 40298 (August 3, 1998), 63 FR 43435 (August 13, 1998).

[7] The SROs have already filed certification with the Options Clearing Corporation for options on RTBs.

[8] The Amex and Phlx Rules refer to "Commentaries" while the CBOE Rules refer to "Interpretations and Policies." For purposes of this order, the term "Commentary" will be used for all SRO Rules.

price per share of the underlying security has been at least $7.50 for the majority of business days during the three calendar months preceding the date of selection ("Price Requirement"); and (5) the issuer is in compliance with any applicable requirements of the Act. The SROs request to reply upon the price history of RCTB Certificates in order to satisfy the Price Requirement applicable to options on the RTBs so that they do not have to wait three months prior to listing options on the RTBs. The SROs believe that it is essential that options on RTBs be provided without significant delay so that investors who have invested in RTBs can use options to manage the risks of their positions in RTBs.

Commentarty .03 of the SRO Rules requires that with respect to an ADR, an effective surveillance sharing arrangement be in place with the proper regulatory authority in the country where the security underlying the ADR trades or, as one of several alternatives, as the Commission otherwise authorizes the listing. The SROs note that the Commission has entered into a Memorandum of Understanding ("MOU") with the Comissao de Valores Mobiliarios ("CVM") in Brazil. In addition, the Amex represents that it has a surveillance sharing agreement ("SSA") with the BOVESPA. The CBOE also represents that it has an SSA with BOVESPA. The Phlx does not have an SSA with the BOVESPA. If the MOU ceases to exist, each SRO represents that it will contact the Commission immediately in order to enable the Commission to determine what measure should be taken with regards to the listing and trading of options on the RTBs.[9]

Commentary .05(d) of the SRO Rules, which applies to options on securities issued during a restructuring transaction that are sold in a public offering or pursuant to a rights distribution ("Restructure Security"), provides that an SRO may "look back" to the "original" security regarding the Public Ownership Requirement and Public Holder Requirement subject to certain conditions enumerated in the SRO Rules. Commentary .05(d) also provides that an SRO may certify that the market price of the Restructure Security meets the Price Requirement by relying on the price history of the original security, provided that the Restructure Security has traded "regular way" on an exchange or automatic quotation system for at least five trading days immediately preceding the date of selection and has a market price of at least $7.50. In addition, Commentary 05.(d) permits the SROs to assume the satisfaction of one or both of the Public Ownership Requirement and the Public Holder Requirement on the date RTB is selected for options trading only if (A) RTB is listed on an exchange or automatic quotation system subject to initial listing requirements in respect of public ownership of shares or number of shareholders, or both, is no less stringent than the list requirements of the SRO, or (B) at least 40 million shares of RTB are issued and outstanding on the intended date for listing options on RTB, unless, in the case of (A) or (B), the SRO, after reasonable investigation, has determined that such requirements will not in fact be satisfied on the date the SRO intends to list options on RTB.[10] Finally, Commentary .05(d) provides that an SRO may certify that the trading volume of the Restructure Security satisfies the Volume Requirement only if the trading volume in the Restructure Security, without reliance on the original security, has been at least 2.4 million shares during a period of 12 months or less ending on the date the Restructure Security is selected for options trading.[11]

Initial reports indicate that the RTBs have been trading near the current market price range for RCTB Certificates (approximately $50 to $134). In addition, the SROs state that although the RTBs are a unique product, it resembles shares issued during a restructuring transaction. Therefore, the SROs believe that they should be allowed to rely on the price history of the original security. Accordingly, the SROs represent that the RTBs will comply with the requirement that its market price be at least $7.50 for at least 5 trading days immediately prior to the listing date in order to rely upon the market price history of the original security to satisfy the three month Price Requirement. Thus, the SROs assert that options should be permitted to be listed on the RTBs following the five day Price Requirement Period, provided that all other options listing criteria, including that there are 7 million RTB shares owned by Public Owners, that there are 2,000 Public Holders of RTB shares and that 2.4 million RTB shares have been traded, will be met prior to the listing of RTB options.[12] In addition, the SROs note that, the Commission recognized a similar need for investors to have the ability to employ adequate hedging strategies using options on newly acquired securities issued in a restructuring transaction when it approved the SROs' proposal to list and trade options on HOLDRs following the five day Price Requirement period, provided that all other options listing criteria were met.[13]

The CBOE and Phlx represent that they will establish position and exercise limits for RTB options equal to 25,000 contracts on the same side of the market. The Amex represents that it will establish position and exercise limits for RTB options equal to 7,500 contracts on the same side of the market.[14] Prior to the commencement of trading, the SROs will issue an Information Circular advising their members concerning the proposed options on the RTBs.

2. Statutory Basis

The basis under the Act for the proposed rule changes is the requirement under Section 6(b) of the Act, and Section 6(b)(5) in particularly [15] that an exchange have rules that are designed to promote just and equitable principals of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest. The SROs believe that the proposed rule changes satisfy the requirements of Section 6(b) in general, and Section 6(b)(5) in particular, because the expedited trading of options on the RTBs will allow investors currently holding RTBs, to continue to hedge their positions by opening offsetting positions in options on RTBs.

[9] In the case of the Amex and CBOE, if the SSAs cease to exist but the MOU is still effective, they are not required to notify the Commission.

[10] In other words, if the Restructure Security does not meet either of these alternatives, it cannot piggyback upon the public ownership of shares and the number of shareholders of the original security. in such instances, the SRO cannot select a Restructure Security for options listing until there are 7 million shares of the Restructure Security outstanding and 2,000 public holders of the Restructure Security.

[11] The Restructure Security cannot piggyback upon the trading volume of the original security. Accordingly, the SROs cannot select a Restructure Security for options listing until 2.4 million shares of the Restructure Security actually have traded.

[12] Phone call between Nandita Yagnick, Counsel, Phlx, Claire McGrath, Vice President and Special Counsel, Amex, Timothy Thompson, Director, Regulatory Affairs, Legal Department, CBOE, James Yong, First Vice President, General Counsel and Secretary, The Options Clearing Corporation and Marianne Duffy, Special Counsel, Division of Market Regulation ("Division"), SEC and Sonia Patton, Attorney, Division, SEC on October 21, 1998 ("October 21, 1998 Conference Call").

[13] *See supra* note 6.

[14] The Commission has informed the SROs that they should establish position limits for RTB options under their respective rules based upon the trading volume of RTB only and not the trading volume of RCTB Certificates.

[15] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants or Others

No written comments were either solicited or received.

III. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Changes

For the reasons discussed below, the Commission finds that the SRO's proposals are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule changes is consistent with Section 6(b)(5) of the Act, which requires an exchange to have rules designed to promote just and equitable principals of trade, to remove impediments to, and perfect the mechanism of, a free and open market and national market system, and in general, to protect investors and the public interest.[16]

As the Commission has previously stated,[17] it is necessary for securities to meet certain minimum standards regarding both the quality of the issuer and the quality of the market for a particular security to become options eligible. The Commission believes that these standards are imposed to ensure that those issuers upon whose securities options are to be traded are financially sound companies whose trading volume, market price, number of holders and public ownership of shares are substantial enough to ensure adequate depth and liquidity to sustain options trading that is not readily susceptible to manipulation. The Commission also recognizes that under Commentary .01 of the SRO Rules, investors may be precluded for a significant period (generally, the three calendar month period required to meet the Price Requirement) from employing an adequate hedging strategy involving options on newly issued securities such as those issued during an initial public offering or rights distribution.

As the SROs observe in their filings, and alternate method of meeting equity option listing standards has been established for securities issued in connection with a spin-off, reorganization, restructuring or similar corporate transaction.[18] These alternate standards facilitate the earlier listing of options on Restructure Securities by permitting an SRP to determine whether the Restructure Security satisfies the Public Ownership Requirement, Public Holder Requirement, Volume Requirement and Price Requirement by reference to the outstanding equity security previously issued by the issuer of the Restructure Security. While such criteria are not directly applicable to the listing of options on RTBs, the CBOE notes that RTBs are being issued as a result of a corporate restructuring. The SROs believe that the price history of the RCTB Certificate should be allowed to be used to determine compliance with the Price Requirement since RTBs are designed to replicate RCTB Certificates.

The Commission believes that it is appropriate for the SROs to deem the Price Requirement satisfied for the listing of options of RTBs if the RTBs have a closing price of a least $7.50 for at least five trading days since its issuance.[19] This conclusion is based on the Commission's determination that RTBs are designed to track the price of RTCB Certificates. It is extremely likely that RTBs would independently meet the Price Requirement over the next three months.[20] Nevertheless, permitting the use of RCTB Certificates price history to meet the Price Requirement will allow the desirable result of permitting owners of RTBs to be able to hedge their exposure sooner through a single overlying options product. Finally, the Commission notes that requiring actual five day price history of RTBs, prior to listing options thereon, further ensures that the market is sufficient to support options trading and is not subject to manipulation.

The Commission's approval of these proposals is also based on the fact that, apart from the Price Requirement period, all other options listing criteria, including that there are 7 million RTB shares owned by Public Owners, that there are 2,000 Public Holders of RTB shares and that 2.4 million RTB shares have been traded, will be met prior to the listing of RTB options.[21]

In addition, as previously stated, Commentary, .03 of the SRO Rules requires that with respect to an ADR, an effective surveillance sharing arrangement be in place with the proper regulatory authority in the country where the security underlying the ADR trades or, as one of several alternatives, as the Commission otherwise authorizes the listing. In evaluating new derivative instruments, the Commission, consistent with the protection of investors, considers the degree to which the derivative instrument is susceptible to manipulation. The ability to obtain information necessary to detect and deter market manipulation and other trading abuses is a critical factor in the Commission's evaluation. It is for this reason that the Commission requires that there be an SSA is place between an exchange listing or trading a derivative product and the exchanges trading the stocks underlying the derivative contract that specifically enables officials to survey trading in the derivate product and its underlying stocks.[22] Such agreements provide a

[16] Pursuant to Section 6(b)(5) of the Act, the Commission must predict approval of any new securities product upon a finding that the introduction of such product is in the public interest. Such a finding would be difficult with respect to a warrant that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

[17] *See* Securities Exchange Act Release No. 37011 (March 22, 1996) 61 FR 14177 (March 29, 1996) (order approving proposed rule relating to listing standards for options on securities issued in a reorganization transaction pursuant to a public offering or a rights distribution).

[18] The Commission notes that there is a distinction in treatment of options overlying securities issued to existing shareholders in spin-off, reorganization or restructuring and options overlying securities issued through a public offering or rights distribution. Specifically, options overlying securities issued pursuant to a public offering or rights distribution cannot be listed until the market price of Restructure Security has been at least $7.50 for a least five trading days immediately preceding the selection date, while options overlying securities issued to existing shareholders in a spin-off, reorganization or restructuring can "look back" to the "original" security to meet the Price Requirement without waiting five trading days.

[19] This approach incorporates the price history of RCTB Certificates for the prior measured period converted to U.S. dollars. RCTB Certificates have traded well in excess of $7.50 per share for the prior three months.

[20] RTBs have traded from approximately $70 to $77 per share since October 13, 1998. Thus, the RTBs have been trading well within the previously discussed $50 to $134 trading range of the RCTB certificates.

[21] The Commission notes that the SROs may use various sources for collecting data on Public Owners of RTB shares, Public Holders of RTB shares and trading volume of RTB shares. As a result of the unique circumstances surrounding the Reorganization, the SROs have agreed to notify the Commission, prior to listing RTB options, when there are 7 million RTB shares owned by Public Owners, 2,000 Public Holders of RTB shares and 2.4 million RTB shares have been traded so that the Commission can ensure that the SROs list RTB options consistently pursuant to this order. *See* October 21, 1998 Conference Call, *supra* note 12.

[22] The Commission believes that the ability to obtain relevant surveillance information, including, among other things, the identity of the ultimate purchasers and sellers of securities, is an essential and necessary component of an SSA. An SSA should provide the parties thereto with the ability to obtain information necessary to detect and deter market manipulation and other trading abuses. Consequently, the Commission generally requires that an SSA require that the parties to the agreement provide each other, upon request, information about market trading activity, clearing activity and customer identify. *See* Securities

Continued

necessary deterrent to manipulation because they facilitate the availability of information needed to fully investigate a potential manipulation if it were to occur. With regards to RTBs, these agreements are especially important to facilitate the collection of necessary regulatory, surveillance and other information from foreign jurisdictions.[23]

In order to address the above noted concerns and to comply with Commentary .03 of the SRO Rules, the SROs note that the Commission has entered into an MOU and the CVM. The Amex represents that it has as SSA with the BOVESPA. The CBOE also represents that it has an SSA with the BOVESPA. If the MOU ceases to exist, each SRO represents that it will contact the Commission immediately in order to enable the Commission to determine what measures should be taken with regards to the listing and trading of options on RTBs.[24] The Commission believes that the combination of the SSAs and the MOU satisfy the requirement of Commentary .03 of the SRO Rules. The Commission also notes that the SROs have relied on the SSAs and the MOU to trade option overlying Telebras ADSs.

For the reasons described above, the Commission finds good cause to approve the proposed rule changes prior to the thirtieth day after publication of notice of filing thereof in the **Federal Register**. The Commission believes that the proposals will benefit investors that have invested in TRBs and who seek to hedge their exposure to the Brazilian telecommunications market through a single overlying options product. In addition, the Commission believes that any regulatory issues that are posed by options on RTBs have been addressed adequately by the SROs in a manner consistent with past Commission action.[25]

Accordingly, the Commission believes that it is consistent with Sections 6(b)(5) and 19(b)(2)[26] of the Act, to find that good cause exists to approve the proposed rule changes on an accelerated basis.

IV. Solicitation of Comments

Interested person are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule changes are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will be available for inspection and copying at the principal office of the SROs. All submission should refer to File Nos. SR–Amex–98–41, SR–CBOE–98–45 and SR–Phlx–98–49 and should be submitted by November 24, 1998.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes (SR–Amex–98–41, SR–CBOE–98–45 and SR–Phlx–98–49) are approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[27]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–29340 Filed 11–2–98; 8:45 am]

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Exchange Act Release No. 31529 (November 27, 1992).

[23] An MOU provides a framework for mutual assistance in investigatory and regulatory matters. Generally, the Commission has permitted an SRO to rely on an MOU in the absence of an SSA only if the SRO receives an assurance from the Commission that such an MOU can be relied on for surveillance purposes and includes, at a minimum, the transaction, clearing and customer information necessary to conduct an investigation. *See* Securities Exchange Act Release No. 35184 (December 30, 1994) 60 FR 2616 (January 10, 1995). In addition, an SRO should nonetheless endeavor to develop SSAs with the foreign exchange that trades the underlying securities even if the SRO receives prior Commission approval to rely on an MOU in place of an SSA.

[24] The Commission notes that although the Phlx does not have an SSA with the BOVESPA, the MOU alone satisfies the requirement of Commentary .03 of the SRO Rules. Furthermore, the Commission believes that in the case of the Amex and the CBOE, if the SAAs cease to exist but the MOU is still effective, the Amex and the CBOE are not required to notify the Commission.

[25] *Supra* note 6.

[26] 15 U.S.C. 78s(b)(2).

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40607; File No. SR–CBOE–98–22]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change Relating to Floor Official Fining Authority

October 27, 1998.

I. Introduction

On May 28, 1998, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change consolidating most floor official fining authority governed by Exchange Rule 17.50, Imposition of Fines for Minor Rule Violations ("Summary Fine Rule"), under one regulatory circular. The CBOE filed Amendment No. 1 to its proposal with the Commission on July 8, 1998,[3] Amendment No. 2 on August 27, 1998,[4] and Amendment No. 3 on September 9, 1998.[5]

On September 21, 1998, the proposed rule change and amendments were published for comment in the **Federal Register**.[6] No comments were received on the proposal. This order approves the proposal.

II. Description of the Proposal

The Exchange proposes to modify Exchange Rule 6.20, Admission to and Conduct on the Trading Floor, and certain other Exchange Rules to consolidate most floor official fining authority governed by Exchange Rule 17.50, Imposition of Fines for Minor Rule Violations ("Summary Fine Rule"), under one regulatory circular.[7] The CBOE also proposes to modify its

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Debora E. Barnes, Senior Attorney, CBOE, to Gail Marshall-Smith, Special Counsel, Division of Market Regulation ("Division"), Commission, dated July 7, 1998 ("Amendment No. 1").

[4] *See* Letter from Debora E. Barnes, Senior Attorney, CBOE, to Terri L. Evans, Attorney, Division, Commission, dated August 26, 1998 ("Amendment No. 2").

[5] *See* Letter from Debora E. Barnes, Senior Attorney, CBOE, to Terri L. Evans, Attorney, Division, Commission, dated September 8, 1998 ("Amendment No. 3").

[6] Exchange Act Release No. 40440 (Sept. 14, 1998) 63 FR 50265.

[7] The Exchange has issued separate circulars setting forth fine schedules for violations of Rule 8.51 with respect to OEX and DJX options. These circulars were approved by the Commission in SR–CBOE 96–31 and SR–CBOE 97–45.

regulatory circular pertaining to the administration and enforcement of paragraph (g)(6) of the Summary Fine Rule, as it relates to minor rule violations applicable to trading conduct and decorum policies ("Trading Conduct and Decorum Circular").

The purpose of the CBOE's summary fine plan is to provide a mechanism whereby certain minor violations of Exchange Rules can be resolved fairly, effectively and expeditiously. Because the minor rule violations subject to summary fines are easily ascertainable by floor officials, they are suitable for summary fine treatment. The proposed changes are meant to clarify the categories of behavior subject to summary fines and clarify the authority of floor officials to summarily fine under the Summary Fine Rule.

Currently, Rule 6.20 provides that admission to the Exchange's trading floor is limited to members, employees of the Exchange, clerks employed by members and registered with the Exchange, and such other persons as may be provided by resolution of the Board. The Exchange is proposing to amend Rule 6.20 to clarify that Exchange visitors and service personnel, including but not limited to, electricians, building maintenance engineers, and computer repair support staff, are authorized admission to the trading floor pursuant to and in accordance with Exchange policy concerning admission to the trading floor.[8] In addition, the amendment to Rule 6.20 grants the President, rather than the Board, the authority to allow other people admission to the floor, because admission to the floor is primarily an administrative issue and the President is generally able to act more expeditiously than the Board, which generally must convene a meeting to take action.

The summary fines for Rule 6.20 violations are set forth in the Trading Conduct and Decorum Circular. Currently, if a member is fined for a Rule 6.20 violation more than once in a calendar year, that individual is subject to increased summary fines for a second or subsequent offense of that kind in the same calendar year. The Exchange proposes to amend the Trading Conduct and Decorum Circular to provide that summary fines for second or subsequent offenses will be assessed on a twelve-month rolling period, rather than on a calendar year basis. This Circular also is being amended to allow for the fining of any supervisory personnel of an associated person of a member who fails to adequately supervise an associated person. The Circular and Rule 17.50 also are being amended to clarify that the Exchange, if warranted under the circumstances, may impose a fine for a first offense equal to the fine authorized for a second or third offense and to impose for a second offense the fine authorized for a third offense. This provision permits the Exchange to impose greater fines for more serious behavior. Currently, floor officials only have the ability to impose a fine authorized for a third offense for a first or second offense. This has restricted the ability of floor officials to fine a manner corresponding to the circumstances.[9]

The Exchange also is amending the Trading Conduct and Decorum Circular to add the following summary fine categories: Enabling a barred or suspended member to gain improper access to the floor, with fines of $500 for a first violation, $1,000 for a second violation, and $2,000 for a third violation; Enabling or assisting a member or associated person to gain improper access to the floor, with fines of $100 for a first violation, $250 for a second violation, and $500 for a third violation; Gaining improper access to the floor, with fines of $100 for a first violation, $250 for a second violation, and $500 for a third violation; Impermissible use of member phones, with fines of $50 for a first violation, $150 for a second violation, and $300 for a third violation; Visitor badge returned late, with a warning for the first violation, a $25 fine for a second violation, and a $50 fine for a third violation; and Failure to supervise a visitor, with fines of $50 for a first violation, $100 for second violation, and $250 for a third violation.

Additionally, the Exchange is amending the Trading Conduct and Decorum Circular to specify fine amounts for the following conduct: Effecting or attempting to effect transactions with no public outcry, with fines of $500 for a first violation, $1,000 for a second violation, and $2,000 for a third violation; Failure of a market-maker to respond to a request for the market by order book official, with fines of $500 for a first violation, $1,000 for a second violation, and $2,000 for a third violation; Failure to bid or offer within ranges specified by Rule 8.7(b), with fines of $500 for a first violation, $1,000 for a second violation, and $2,000 for a third violation; Failure to abide by floor official determination or floor official request for information, with fines of $1,000 for a first violation, $2,500 for a second violation, and $5,000 for a third violation; and Violation of Rule 8.51 in an option class other than OEX or DJX, with fines of any amount up to $5,000 for first, second and third violations. Floor officials currently have fining authority for this conduct under Rule 6.20.04, but specific fine amounts for the conduct are not set forth in the Trading Conduct and Decorum Circular. Including this conduct in the Circular will clarify that floor official fines for this conduct are imposed under the Summary Fine Rule.

The Exchange also is proposing to change some of the summary fine amounts in the Trading Conduct and Decorum Circular. The current fine for property damage is $500 for the first violation, $750 for the second violation and $1,000 for the third violation. The Exchange is proposing to increase the latter two fines to $1,000 for a second violation and $2,000 for a third violation.

The Exchange also is proposing to amend Rule 6.20(c) to clarify that the Exchange has the authority to direct members and persons employed by or associated with members to act or cease to act in a manner to ensure compliance with Exchange Rules.[10]

In addition, because the Exchange is consolidating all summary fine procedures under the Summary Fine Rule, the Exchange is proposing to amend Rule 6.20(c) by deleting the reference to Chapter XIX and its appeal procedures, because the appeal procedures for summary fines are set forth in the Summary Fine Rule. The proposed rule change also amends Rule 6.61, Interpretation and Policy .05(d) by deleting the last two sentences that relate to the authority of the Exchange to establish a fine schedule and refer violations to the Business Conduct Committee. The Exchange is deleting this language because it is attempting to consolidate summary fine authority under Exchange Rule 17.50. In addition, a member's failure to observe the procedures referenced in Interpretation and Policy .05 is subject to the disciplinary authority of the Business Conduct Committee under Chapter XVII of the Exchange's Rules, therefore making the cross-reference in Interpretation and Policy .05 unnecessary.[11] The Exchange also is proposing to clarify that non-member

[8] *See* Amendment No. 1, *supra* note 3.

[9] Telephone conversation between Arthur Reinstein, Associate General Counsel, CBOE, Debora Barnes, Senior Attorney, CBOE, and Terri Evans, Attorney, Division, Commission, on September 1, 1998.

[10] Telephone conversation between Arthur Reinstein, Associate General Counsel, CBOE, Debora Barnes, Senior Attorney, CBOE, and Terri Evans, Attorney, Division, Commission, on September 1, 1998.

[11] *See* Amendment No. 1, *supra* note 3.

joint venture participants have the right to appeal fines under the Summary Fine Rule.

The Exchange also proposes to amend Exchange Rule 6.51, Interpretation and Policy .01, by amending the final paragraph to delete the reference to the Floor Procedure Committee. This change is being proposed to conform the Exchange's Rule language with the Exchange's current practice. The Floor Procedure Committee is no longer involved in fining floor members who violate Rule 6.51(a) or (b); instead members are fined pursuant to the Summary Fine Rule.[12]

The Exchange is proposing that Rule 8.51 ("Firm Quote Rule") be revised as well, to provide that floor officials may fine members of trading crowds under the Summary Fine Rule for violations of the Firm Quote Rule.[13] This change is being proposed to consolidate all of the minor rule violation authority of floor officials under the Summary Fine Rule, rather than having the Firm Quote Rule refer to Rule 6.20, which then refers back to the Summary Fine Rule. This proposed rule change also makes certain changes to clarify and incorporate Rule 6.20, the Summary Fine Rule, and the Trading Conduct and Decorum Circular into other Exchange Rules.[14]

III. Discussion

After careful review the Commission finds that the proposed rule change, as amended, is consistent with the Act and the rules and regulation thereunder applicable to a national securities exchange.[15] Specifically, the Commission believes that the proposal is consistent with the requirements of Sections 6(b)(5), 6(b)(6) and 6(b)(7) of the Act,[16] because the proposed rule change is designed to promote just and equitable principles of trade and protect investors and the public interest, discipline members who fail to comply with the Exchange's Rules, and provide for fair disciplinary procedures.

In the proposed rule change, the Exchange proposes, in part, to: (1) clarify that the Floor Procedure Committee is no longer involved in fining floor members for violating CBOE Rule 6.51(a) or (b); (2) consolidate summary fine authority under the Summary Fine Rule; and (3) clarify and incorporate Rule 6.20, the Summary Fine Rule and Trading Conduct and Decorum Circular into other Exchange Rules. The Commission believes that the proposed rule change clarifies the Exchange's disciplinary procedures and conforms the Exchange's Rules with current practice. The Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[17] because the clarification and enhancement of the Exchange's summary fine plan promotes just and equitable principles of trade.

The Exchange also proposes to: (1) create a twelve-month look back period for assessing fines for second or subsequent offenses; (2) levy a fine for a first offense equal to the fine authorized for a second or third offense and impose a fine authorized for a third offense for a first or second offense based on the seriousness of the offense; (3) fine supervisory personnel who fail to adequately supervise associated persons; (4) add categories of behavior subject to summary fines as well as increase current fines; and (5) clarify that floor officials have the authority to direct members and persons employed by or associated with members to act or cease to act to achieve compliance with Exchange Rules. The Commission believes that these amendments to the Exchange's Rules and Trading Conduct and Decorum Circular are consistent with Section 6(b)(6) of the Act,[18] because the proposed changes provide for prompt, effective and appropriate discipline under the Exchange's Summary Fine Rule. Further, the proposed rule change encourages greater supervision of persons associated with members and compliance with the Exchange's Rules. The Commission notes that allowing the Exchange to create a twelve-month lookback period is consistent with the existing framework of graduated fines and may increase the Exchange's ability to deter repeat offenders. Further, the Commission believes that allowing the imposition of greater fines for first or second offenses should deter serious misconduct.

The Commission believes that the amendments to CBOE Rule 6.20, clarifying the appeals procedure for non-member joint venture participants and the appeals process under the Summary Fine Rule, are consistent with Section 6(b)(7) of the Act,[19] because the amendments help to ensure that the Exchange provides fair procedures for disciplining members, including joint venture participants that are treated as members of the Exchange for purposes of Exchange Rules 6.7 and 6.20. The Commission believes that the right to appeal sanctions helps to safeguard the procedural rights of sanctioned persons while preserving the Exchange's ability to adjudicate minor rule violations in a timely and efficient manner.

The Commission also believes that the Exchange's amendment to Exchange Rule 6.20 is appropriate in light of the practical need to allow service personnel on the trading floor. Further, the Commission believes that the President is the appropriate officer of the Exchange to grant the admission of other people onto the trading floor.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that the proposed rule change (SR–CBOE–98–22) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–29341 Filed 11–2–98; 8:45 am]

BILLING CODE 8010–01–M

[12] Telephone conversation between Arthur Reinstein, Associate General Counsel, CBOE, Debora Barnes, Senior Attorney, CBOE, and Terri Evans, Attorney, Division, Commission, on September 1, 1998.

[13] The Exchange has issued separate circulars setting forth fine schedules for violations of Rule 8.51 with respect to OEX and DJX options. These circulars were approved by the Commission in SR–CBOE 96–31 and SR–CBOE–97–45.

[14] For example, in Amendment No. 1, the Exchange notes that it has deleted the reference to member organizations in certain of the rules proposed to be amended by the rule filing that also refer to members, because Section 1.1 of the Exchange Constitution defines the term "member" to include either an individual member or a member organization.

[15] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[16] 15 U.S.C. 78f(b)(5)–(b)(7).

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78f(b)(6).

[19] 16 U.S.C. 78f(b)(7).

[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40604; File No. SR–CBOE–98–44]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Authority Over RAES Rejects

October 26, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 2, 1998, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in items I, II, and III below, which Items have been prepared by CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to amend CBOE Rule 6.8(b) to allow either the Exchange's Vice Chairman or the Chairman of the appropriate Market Performance Committee ("MPC") to allow transactions on the Exchange's Retail Automated Execution System ("RAES") to be executed at the price of the best bid or offer in the Exchange book. Currently, CBOE Rule 6.8(b) requires both these individuals to make this decision. The text of the proposed rule change is available at the Office of the Secretary, CBOE and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to permit either the Exchange's Vice Chairman or the Chairman of the appropriate MPC to individually allow RAES to execute orders at the price of the best bid or offer in the Exchange's Book. Under current CBOE Rules, such a decision must be made jointly. Absent such a joint determination, Exchange Rules do not permit a trade to be executed on RAES when the prevailing market bid or offer equals the best bid or offer on the Exchange's customer limit order book ("Book"), and instead requires that related RAES orders be rejected and re-routed by the Order Routing System to the broker for manual representation.

For practical reasons, CBOE believes that it is necessary to have only one person make this decision instead of two. On the infrequent occasion when the prevailing market bid or offer equals the best bid or offer on the Exchange's customer limit order book, immediate action is required. In these situations, it is often extremely difficult to contact both people. For instance, either Vice Chairman or Chairman may not be in the vicinity of the Exchange or reachable; however, in this situation usually the other individual is reachable.

2. Statutory Basis

The Exchange believes that the proposed rule change enhances its ability to make competitive, fair and orderly markets in options. The Exchange believes that the proposed rule change is consistent with Section 11A(a)(1)(C)(ii)[3] of the Act in that it assures fair competition among markets. In addition, CBOE believes that the proposed rule change is in furtherance of Section 6(b)(5) of the Act[4] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

[3] 15 U.S.C. 78k–1(a)(1)(C)(ii).

[4] 15 U.S.C. 78f(b)(5).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commissions, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange.

All submissions should refer to File No. SR–CBOE–98–44 and should be submitted by November 24, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–29342 Filed 11–2–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40605; File No. SR–NYSE–98–26]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the New York Stock Exchange, Inc., Relating to Delisting of Securities

October 26, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 9, 1998, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange.[3]

[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The proposal was originally submitted on August 24, 1998. However, the proposed rule

Continued

The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to conform NYSE Rule 499, governing the suspension and delisting of securities, to the standards in Paragraph 802 of the Exchange's Listed Company Manual ("Manual"). The text of the proposed rule change is as follows: new text is italicized and deleted text is bracketed:

Suspension From Dealings or Removal From List by Action of the Exchange

* * * * *

Rule 499. Securities admitted to the list may be suspended from dealings or removed from the list at any time.

* * * **Supplementary Material**

.10 No change.

* * * * *

.20 NUMERICAL AND OTHER CRITERIA.—

* * * * *

The Exchange would normally give consideration to suspending or removing from the list a security of a company when:

1. [Number of shareholders is less than:] *Number of total stockholders is less than* ..... *400; or*
Number of total stockholders is less than [Holders of 100 shares or more (or of a unit of trading if less than 100 shares)] ..... *1,200 and*

Average monthly trading volume (for most recent 12 months) is less than ..... *100,000 shares.*

The number of beneficial holders of stock held in the name of NYSE member organizations will be considered in addition to holders of record.

2. Number of publicly-held shares* is less than 600,000**

**Shares held by directors, officers, or their immediate families and other concentrated holdings of 10% or more are excluded in calculating the number of publicly-held shares.*

***If the unit of trading is less than 100 shares, the requirement relating to the number of shares publicly held shall be reduced proportionately.*

3. Aggregate market value of publicly-held shares,* subject to adjustment** depending on market conditions *is less than.* *$8,000,000*
[, within the following limits
Maximum $5,000,000
Minimum ..... $2,500,000]

* * * * * * *

4. Aggregate market value of shares outstanding (excluding treasury stock) is less than ..... *$12,000,000* [$8,000,000] and
Average net income after taxes for past 3 years is less than $600,000
5. Net tangible assets available to common stock are less than ..... *$12,000,000* [$8,000,000] and
Average net income after taxes for past 3 years is less than $600,000
6. For companies that, on listing, demonstrated earning power by meeting the listing standards requiring minimum levels of adjusted net income, and for companies that are currently valued on a "cash flow" basis, as described in Para. 102.01 of the Listed Company Manual: Aggregate market value of shares outstanding (excluding treasury stock) is less than. *$25,000,000*
And average adjusted net income for past 3 years is less than *$6,500,000*

(Renumber existing paragraphs 6 through 19 as 7 through 20, respectively.)

.30–.50 No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In File No. SR–NYSE–96–07 (the "1996 Filing") the NYSE proposed, and the Commission approved, changes to Paragraph 802 of the Manual to add a new continued listing standard for companies that list pursuant to the Exchange's adjusted net income standard in Paragraph 102.01 of the Manual, or that are currently valued on a cash flow basis.[4] The 1996 Filing also raised certain other NYSE continued listing standards. Specifically, the 1996 Filing added new delisting criteria for "cash flow" companies, requiring that such companies have average adjusted net income for the most recent three years of at least $6.5 million and an aggregate market value of the company's shares of at least $25 million. That filing also: raised the continued listing criteria to $8 million in aggregate market value of publicly-held stock (from $5 million); raised the market value and net tangible asset tests, when coupled with an earnings test, to $12 million (from $8 million); and replaced the test that a company have at least 1,200 holders of at least 100 shares with a new continued listing test that a company have at least 1,200 total holders coupled with an average monthly trading volume of at least 100,000 shares for the most recent 12 months. In addition, the 1996 Filing added a stand-alone continued listing test that a company have a minimum of 400 total stockholders regardless of its trading volume.

change was amended to make changes to the proposed rule language and provide a greater basis for the proposed rule change. *See* Letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Michael Wallinskas, Deputy Associate Director, Division of Market Regulation ("Division"), Commission, dated October 7, 1998 ("Amendment No. 1"). Subsequently, the Exchange agreed to make an additional technical change to its rule language by replacing the phrase "this Listed Company Manual" with "the Listed Company Manual" in Rule 499.20(6). Telephone conversation between N. Amy Bilbija, Counsel, NYSE, and Terri L. Evans, Attorney, Division, Commission on October 22, 1998. Because the Exchange requested immediate effectiveness under Section 19(b)(3)(A) of the Act, 15 U.S.C. 78s(b)(3)(A), the proposed rule change is deemed filed as of the date of filing of Amendment No. 1.

[4] *See* Exchange Act Release No. 37307 (June 12, 1996); Amendment No. 1, *supra* note 3.

Those standards currently are in effect.[5] The purpose of this proposed rule change, as amended, is merely to conform Rule 499 to the standards in effect as set forth in the Manual.[6]

2. Statutory Basis

The Proposed rule change is consistent with Section 6(b)(5) of the Act,[7] because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change is concerned solely with the administration of the Exchange and therefore, has become effective pursuant to Section 19(b)(3) of the Act [8] and Rule 19b–4(e)(3) thereunder.[9] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE.

All submissions should refer to File No. SR–NYSE–98–26 and should be submitted by November 24, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–29339 Filed 11–2–98; 8:45 am]

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[5] *See* Amendment No. 1, *supra* note 3.

[6] Currently pending before the Commission is a rule filing proposing additional changes to, among other things, the Exchange's continued listing standards, including Rule 499. *See* File No. SR–NYSE–98–21. If approved by the Commission, those standards would supersede the standards contained in this filing.

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3).

[9] 17 CFR 240.19b–4(e)(3).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40609; File No. SR–OCC–98–12]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees

October 28, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on September 30, 1998, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends OCC's first level clearing fees.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OCC proposes to reduce the first level clearing fee it charges for established products for the fourth quarter of 1998. During the first three quarters of 1998, OCC has experienced a record volume of options cleared. As a result, OCC proposes to reduce the first level clearing fee for the remainder of 1998 from nine cents ($.09) to eight cents ($.08) per contract per side for all contracts cleared between October 1, 1998, through and including December 31, 1998. OCC similarly reduced its clearing fees during the fourth quarter of 1997. OCC believes that the foregoing fee change will assure each clearing member a discount on clearing fees and will enable clearing members to realize immediately the benefits of reduced fees without having to wait for a rebate by OCC of such fees and without adversely affecting OCC's ability to maintain an acceptable level of retained earnings.

OCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act [3] and the rules and regulations thereunder because it allocates fees among clearing members in an equitable manner.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

[2] The Commission has modified the text of the summaries prepared by OCC.

[3] 15 U.S.C. 78q–1.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [4] and pursuant to Rule 19b–4(e)(2) [5] thereunder because the proposal establishes or changes a due, fee, or other charge imposed by OCC. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–98–12 and should be submitted by November 24, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 98–29335 Filed 11–2–98; 8:45 am]
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[4] 15 U.S.C. 78s(b)(3)(A)(ii).
[5] 17 CFR 240.19b–4(e)(2).
[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40603; International Series Release No. 1165; File No. SR–PCX–98–29]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to the Listing and Trading of Investment Company Units, Including World Equity Benchmark Shares ("WEBS")

October 26, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 18, 1998, the Pacific Exchange, Inc. ("Exchange" or "PCX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks to adopt new rules to accommodate the trading, whether by listing or pursuant to unlisted trading privileges, of Investment Company Units ("Units"), including World Equity Benchmark Shares ("WEBS").

The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).
[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Bosis for, the Proposed Rule Change

1. Purpose

The Exchange seeks to adopt new rules to accommodate the trading, whether by listing or pursuant to unlisted trading privileges, of Units. WEBS are among the Units which the Exchange may seek to trade.[3] WEBS are structured as shares of seventeen separate series ("Index Series"), each of which invests primarily in equity securities traded in a designated foreign market in an effort to track the performance of a specified foreign equity market index. The investment objective of each of the initial seventeen Index Series is to provide investment results that correspond generally to the price and yield performance of publicly traded securities in the aggregate in particular markets, as represented by a particular foreign equity securities index compiled by Morgan Stanley Capital International ("MSCI").

The Exchange notes that the Commission previously approved proposed rule changes submitted by the American Stock Exchange ("Amex") and the Chicago Stock Exchange ("CHX") to list and/or trade WEBS.[4]

a. Background & description. WEBS are issued by Foreign Fund, Inc., ("Fund") and are based on seventeen MSCI Indices (collectively "MSCI Indices," individually "MSCI Index"). The countries whose exchange markets are represented by the MSCI Indices are: Australia, Austria, Belgium, Canada, France, Germany, Hong Kong, Italy, Japan, Malaysia, Mexico, Netherlands, Singapore, Spain, Sweden, Switzerland, and the United Kingdom.

The investment objective of each WEBS series is to seek to provide investment results that generally correspond to the price and yield performance of public securities traded in the aggregate in particular foreign markets, as represented by specific MSCI Indices. Each WEBS series will use a "passive" or indexing investment approach which attempts to approximate the investment performance of its benchmark index through quantitative analytical procedures.

A WEBS series normally will invest at least 95% of its total assets in stocks that are represented in the relevant MSCI Index and will at all times invest at least 90% of its total assets in such stocks. A WEBS series will not hold all of the issues that comprise the subject MSCI Index, but will attempt to hold a representative sample of the securities in the MSCI Index in a technique known as "portfolio sampling."

The Fund will issue and redeem WEBS of each Index Series only in aggregations of shares specified for each Index Series (each aggregation is a "Creation Union"). The number of shares per Creation Unit will range from 40,000 to 600,000.[5]

b. The MSCI Indices. MSCI generally seeks to have 60% of the capitalization of a country's stock market index reflected in the MSCI Index for such country. Thus, the MSCI Indices seek to balance the inclusiveness of an "all share" index against the replicability of a "blue chip" index. MSCI applies the same criteria and calculation methodology across all markets for all indices, developed and emerging.

All single-country MSCI Indices are market capitalization weighted. For countries that restrict foreign ownership, MSCI calculates two types of indices: the MSCI Indices and additional indices called "Free Indices." The Free Indices exclude companies and share classes that may not be purchased by foreigners. MSCI currently calculates Free Indices for Singapore and Mexico, and for those regional and international indices which include such markets. The Mexico and Singapore WEBS series will be based on the Free Indices for those countries.

All MSCI Indices are calculated daily. The calculation method weights stocks in an MSCI Index by their beginning-of-period market capitalization. Share prices are "swept clean" daily and adjusted for any rights issues, stock dividends or splits. The MSCI Indices presently are calculated in local currency and in U.S. dollars, without dividends and with gross dividends reinvested.

Prices used to calculate the MSCI Indices are official exchange closing prices. All prices are taken from the predominant exchange in each market. To calculate the applicable foreign currency exchange rate, MSCI uses WM/Reuters Closing Spot Rates for all developed and emerging markets except those in Latin America. Because of the high volatility of currencies in some Latin American countries. MSCI continues to calculate its own rates for those countries. Under exceptional circumstances MSCI may elect to use an alternative exchange rate for any country if the WM/Ruters rate is believed not to be representative for a given currency on a particular day.

Each MSCI Index underlying a WEBS series is calculated by MSCI for each trading day in the applicable foreign exchange market based on official closing prices in such exchange market. For each trading day, MSCI publicly disseminates each MSCI Index value for the previous day's close. MSCI Indices are reported periodically in major financial publications and also are available through vendors of financial information.

The Fund will cause to be made available daily the names and required number of shares of each of the securities to be deposited in connection with the issuance of WEBS in Creation Unit size aggregations for each WEBS series, as well as information relating to the required cash payment representing, in part, the amount of accrued dividends applicable to such WEBS series. This information will be made available by the Fund Advisor to any National Securities Clearing Corporation ("NSCC") participant requesting such information. In addition, other investors can request such information directly from the Fund distributor. The net asset value ("NAV") for each WEBS series will be calculated directly by the Fund administrator, PFPC, Inc. The NAVs will be made available to the public from the Fund distributor by means of a toll-free number, and also will be available to NSCC participants through data made available from NSCC.[6]

The Exchange will distribute an information circular to its members in connection with the trading of WEBS. The circular will discuss the special characteristics and risks of trading this type of security. The following are among the items to be discussed in the circular: what WEBS are, how WEBS are created and redeemed, the requirement that members and member firms deliver a WEBS prospectus to investors purchasing WEBS prior to or concurrently with the confirmation of a WEBS transaction, applicable Exchange rules, dissemination information, trading information, and the applicability of suitability rules. The Exchange also intends to utilize its existing surveillance procedures to surveillance trading in WEBS, including surveilling specialist compliance with Exchange Rule 5.33(a), which contemplates specialists engaging in transactions with the issuer of WEBS under certain circumstances.

c. Proposed rule. The Exchange seeks to adopt new rules to accommodate the trading, whether by listing or pursuant to unlisted trading privileges, of Units that meet certain criteria. A Unit is a security that represents an interest in a registered investment company ("Investment Company") which Investment Company could be organized as a unit investment trust, an open-end management investment company, or similar entity.

The Exchange proposes that the Investment Company must hold securities comprising, or otherwise based on or representing an interest in an index or portfolio or securities; or hold securities in another registered investment company that holds securities based on or representing an interest in an index or portfolio of securities. An index or portfolio may be revised as necessary or appropriate to maintain the quality and character of the index or portfolio.

Under the proposed rule change, the Investment Company must also issue Units in a specified aggregate number in return for a deposit ("Deposit") consisting of either a specified number of shares of securities that comprise the index or portfolio, or are otherwise based on or represent an investment in securities comprising such index or portfolio, and/or a cash amount; or shares of a registered investment company based on or representing an interest in, an index or portfolio or

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[3] The Commission notes that the Exchange intends to clarify whether: (i) The Exchange seeks solely to establish rules to accommodate the trading of Units, or (ii) the Exchange, in addition to establishing such rules, seeks to trade WEBS pursuant to unlisted trading privilieges upon approval of the filing. This information will be reflected in any final approval order.

[4] *See* Securities Exchange Act Release Nos. 36947 (Mar. 8, 1996), 61 FR 10606 (Mar. 14, 1996) (approval of the Amex's request to list and trade Index Fund Shares, including WEBS); and 39117 (Sept. 22, 1997), 62 FR 50973 (Sept. 29, 1997) (approval of the CHX's request to trade WEBS pursuant to unlisted trading privileges).

[5] The Exchange notes that in the Amex's filing to list and trade WEBS, the Amex anticipated that the value at a Creation Unit at the start of trading would range from $450,000 to $10,000,000 and the net asset value of an individual WEBS security would range from $10 to $20. *See* Securities Exchange Act Release Nos. 36947 (Mar. 8, 1996), 61 FR 10606 (Mar. 14, 1996).

[6] The Exchange notes that in the Amex's WEBS filing, the Amex anticipated that it would provide current WEBS pricing information by disseminating through the facilities of the Consolidated Tape Association an indicative optimized portfolio value ("Value") for each WEBS series as calculated by Bloomberg, L.P. The Value was to be disseminated on a per WEBS basis every fifteen seconds during regular Amex trading hours of 9:30 A.M. to 4:00 P.M. Eastern Standard Time. *Id.*

The Exchange believes such Value is unlikely to reflect the value of all securities included in the applicable benchmark MSCI Index. In addition, the Exchange believes the Value would not necessarily reflect the precise composition of the current portfolio of securities held by the Fund for each WEBS series disseminated during Amex trading hours should not be viewed as a real-time update, of the NAV of the Fund, which is calculated only once a day. The Exchange recognizes, however, that during the trading day the Value will closely approximate the value, per WEBS share, of the portfolio of securities for each WEBS series, except under unusual circumstances.

securities, and/or a cash amount. Units must be redeemable, directly or indirectly, from the Investment Company for securities and/or cash then comprising the Deposit. Units must pay holders periodic cash payments corresponding to the regular cash dividends or distributions declared with respect to the securities held by the Investment Company, less applicable expenses and charges, and there must be at least 300,000 Units outstanding prior to the commencement of trading of a series of Units on the Exchange.

The proposed rule change would allow the Exchange to trade, whether by listing or pursuant to unlisted trading privileges, specified series of Units, with each series based on a specified index or portfolio of securities. The value of the index or portfolio must be calculated and disseminated to the public at least once per business day; provided that, if the securities representing at least half the value of the index or portfolio are securities of a single country other than the United States, then the value of the index or portfolio may be calculated and disseminated to the public at least once per day in that country. Units may be either certified or issued in the form of a single global certificate.

Under the proposal, the Exchange may consider suspending trading and delisting (if applicable) a series of Units if after the initial twelve-month period beginning upon the commencement of trading of a series of Units: (i) there are fewer than 50 record and/or beneficial holders of Units for 30 or more consecutive trading days; (ii) the value of the index or portfolio of securities on which the series is based is no longer calculated or available; or (iii) such other event occurs or condition exists that, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable. In addition, the Exchange will remove Units from trading and listing (if applicable) upon termination of the issuing Investment Company or upon the termination of listing of the Units on their primary market, if the primary market is not the Exchange.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and with Section 6(b)(5),[8] in particular, in that it is designed to promote just and equitable principles of trade; foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange did not solicit or receive written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C.. 552 will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–PCX–98–29 and should be submitted by November 24, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–29338 Filed 11–2–98; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3144]

State of Missouri

As a result of the President's major disaster declaration on October 19, 1998, I find that Jackson and St. Louis Counties, and the City of St. Louis in the State of Missouri constitute a disaster area due to damages caused by severe storms and flooding which occurred July 10 through July 31, 1998. Applications for loans for physical damages may be filed until the close of business on December 18, 1998, and for loans for economic injury until the close of business on July 19, 1999 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Fort Worth, TX 76155.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Cass, Clay, Franklin, Jefferson, Johnson, Lafayette, Ray, and St. Charles in the State of Missouri; Madison, Monroe, and St. Clair in the State of Illinois; and Johnson and Wyandotte in the State of Kansas may be filed until the specified date at the above location.

The interest rates are:

	Percent
Physical Damage:	
HOMEOWNERS WITH CREDIT AVAILABLE ELSEWHERE	6.875
HOMEOWNERS WITHOUT CREDIT AVAILABLE ELSEWHERE	3.437
BUSINESSES WITH CREDIT AVAILABLE ELSEWHERE	8.000
BUSINESSES AND NON-PROFIT ORGANIZATIONS WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000
OTHERS (INCLUDING NON-PROFIT ORGANIZATIONS) WITH CREDIT AVAILABLE ELSEWHERE	7.125
For Economic Injury:	
BUSINESSES AND SMALL AGRICULTURAL COOPERATIVES WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000

The number assigned to this disaster for physical damage is 314411 and for economic injury the numbers are 9A4300 for Missouri, 9A4400 for Illinois, and 9A4500 for Kansas.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: October 23, 1998.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 98–29369 Filed 11–2–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3145]

State of Texas

As a result of the President's major disaster declaration on October 21, 1998, and an amendment thereto on October 23, I find that the following Counties in the State of Texas constitute a disaster area due to damages caused by severe storms, flooding, and tornadoes beginning on October 17, 1998 and continuing: Austin, Bastrop, Bexar, Burleson, Caldwell, Calhoun, Colorado, Comal, DeWitt, Fayette, Fort Bend, Goliad, Gonzales, Guadalupe, Harris, Hays, Jackson, Karnes, Montgomery, Refugio, Travis, Victoria, Waller, Wharton, and Wilson. Applications for loans for physical damage may be filed until the close of business on December 19, 1998 and for economic injury until the close of business on July 19, 1999 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Aransas, Atascosa, Bandera, Bee, Blanco, Brazoria, Brazos, Burnet, Chambers, Galveston, Grimes, Kendall, Lavaca, Lee, Liberty, Live Oak, Matagorda, Medina, Milam, Robertson, San Jacinto, San Patricio, Walker, Washington, and Williamson Counties in the State of Texas.

The interest rates are:

	Percent
For Physical Damage:	
HOMEOWNERS WITH CREDIT AVAILABLE ELSEWHERE	6.875
HOMEOWNERS WITHOUT CREDIT AVAILABLE ELSEWHERE	3.437
BUSINESSES WITH CREDIT AVAILABLE ELSEWHERE	8.000
BUSINESSES AND NON-PROFIT ORGANIZATIONS WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000
OTHERS (INCLUDING NON-PROFIT ORGANIZATIONS) WITH CREDIT AVAILABLE ELSEWHERE	7.125
For Economic Injury:	
BUSINESSES AND SMALL AGRICULTURAL COOPERATIVES WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000

The number assigned to this disaster for physical damage is 314511 and for economic injury the number is 9A4600.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: October 26, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–29368 Filed 11–2–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3115; Amendment #1]

State of Washington

As a result of the President's major disaster declaration on October 16, 1998, I find that Cowlitz County in the State of Washington constitutes a disaster area as a result of a landslide in the City of Kelso beginning on March 6, 1998 and continuing. This amends SBA's existing Administrative disaster declaration (3115) to comply with the requirements of a Major declaration by the President. Applications for loans for physical damage may be filed until the close of business on December 15, 1998.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Clark, Skamania, Lewis, and Wahkiakum in the State of Washington, and Columbia County in the State of Oregon may be filed until the previously specified date.

All other information remains the same, i.e., the number assigned to this disaster for physical damage is 311509 and for economic injury the numbers are 995600 for Washington and 995700 for Oregon. The filing deadline for economic injury applications is April 30, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: October 23, 1998.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 98–29367 Filed 11–2–98; 8:45 am]

BILLING CODE 8025–01–P

Small Business Administration

Notice of District Office Name Changes

AGENCY: U.S. Small Business Administration.

ACTION: Notice of District Office Name Changes.

SUMMARY: The U.S. Small Business Administration has changed the names of the following district offices in order to more accurately reflect the broad geographic areas that they serve.

Old name	New name
Boston District Office, 10 Causeway Street, 2nd Floor, Room 265, Boston, MA 02222–1093.	Massachusetts District Office, 10 Causeway Street, 2nd Floor, Room 265, Boston, MA 02222–1093.
Providence District Office, 380 Westminster Mall, 5th Floor, Providence, RI 02903.	Rhode Island District, 380 Westminster Mall, 5th Floor, Providence, RI 02903.
Concord District Office, 143 North Main Street, Suite 202, Concord, NH 03301.	New Hampshire District Office, 143 North Main Street, Suite 202, Concord, NH 03301.
Augusta District Office, 40 Western Ave., Room 512, Augusta, ME 04330.	Maine District Office, 40 Western Ave., Room 512, Augusta, ME 04330.
Montpelier District Office, 87 State Street, Room 205, Montpelier, VT 05602.	Vermont District Office, 87 State Street, Room 205, Montpelier, VT 05602.
Hartford District Office, 330 Main Street, 2nd Floor, Hartford, CT 06106	Connecticut District Office, 330 Main Street, 2nd Floor, Hartford, CT 06106.

Old name	New name
Newark District Office, 2 Gateway Center, 4th Floor, Newark, NJ 07102	New Jersey District Office, 2 Gateway Center, 4th Floor, Newark, NJ 07102.
Hato Rey District Office, 252 Ponce de Leon Ave., Hato Rey, PR 00918.	Puerto Rico & USVI District Office, 252 Ponce de Leon Ave., Hato Rey, PR 00918.
Clarksburg District Office, 168 West Main Street, Clarksburg, WV 26301.	West Virginia District Office, 168 West Main Street, Clarksburg, WV 26301.
Charlotte District Office, 200 N. College Street, Suite A2015 Charlotte, NC 28202–2173.	North Carolina District Office, 200 N. College Street, Suite A2015, Charlotte, NC 28202–2173.
Columbia District Office, 1835 Assembly Street, Room 358, Columbia, SC 29201.	South Carolina District Office, 1835 Assembly Street, Room 358, Columbia, SC 29201.
Birmingham District Office, 2121 Eighth Ave., North, Ste.200, Birmingham, AL 35203.	Alabama District Office, 2121 Eighth Ave., North, Ste.200, Birmingham, AL 35203.
Atlanta District Office, 1720 Peachtree Road, NW, 6th Floor, Atlanta, GA 30309.	Georgia District Office, 1720 Peachtree Road, NW, 6th Floor, Atlanta, GA 30309.
Louisville District Office, 600 Dr. Martin Luther King Jr. Pl., Rm. 188, Louisville, KY 40202.	Kentucky District Office, 600 Dr. Martin Luther King Jr. Pl., Rm. 188, Louisville, KY 40202.
Nashville District Office, 50 Vantage Way, Suite 201, Nashville, TN 37228–1500.	Tennessee District Office, 50 Vantage Way, Suite 201, Nashville, TN 37228–1500.
Jackson District Office, 101 West Capitol Street, Suite 400, Jackson, MS 39201.	Mississippi District Office, 101 West Capitol Street, Suite 400, Jackson, MS 39201.
Minneapolis District Office, 100 North 6th Street, Ste. 610, Minneapolis, MN 55403–1563.	Minnesota District Office, 100 North 6th Street, Ste. 610, Minneapolis, MN 55403–1563.
Indianapolis District Office, 429 N. Pennsylvania, Suite 100, Indianapolis, IN 46204–1873.	Indiana District Office, 429 N. Pennsylvania, Suite 100, Indianapolis, IN 46204–1873.
Detroit District Office, 477 Michigan Avenue, Room 515, Detroit, MI 48226.	Michigan District Office, 477 Michigan Avenue, Room 515, Detroit, MI 48226.
Chicago District Office, 500 West Madison St., Suite 1250, Chicago, IL 60661–2511.	Illinois District Office, 500 West Madison St., Suite 1250, Chicago, IL 60661–2511.
Oklahoma City District Office, 210 Park Avenue, Suite 1300, Oklahoma City, OK 73102.	Oklahoma District Office, 210 NW Park Avenue, Suite 1300, Oklahoma City, OK 73102.
Little Rock District Office, 2120 Riverfront Drive, Suite 100, Little Rock, AR 72202.	Arkansas District Office, 2120 Riverfront Drive, Suite 100, Little Rock, AR 72202.
Albuquerque District Office, 625 Silver Avenue SW, Suite 320, Albuquerque, NM 87102.	New Mexico District Office, 625 Silver Avenue SW, Suite 320, Albuquerque, NM 87102.
New Orleans District Office, 1 Canal Place, Suite 2250, New Orleans, LA 70130.	Louisiana District Office, 1 Canal Place, Suite 2250, New Orleans, LA 70130.
Omaha District Office, 11145 Mill Valley Road, Omaha, NE 68154	Nebraska District Office, 11145 Mill Valley Road, Omaha, NE 68154.
Phoenix District Office, 2828 N. Central Avenue, Suite 800, Phoenix, AZ 85004–1025.	Arizona District Office, 2828 N. Central Avenue, Suite 800, Phoenix, AZ 85004–1025.
Las Vegas District Office, 301 East Stewart Street, RM 301, Las Vegas, NV 89125–2527.	Nevada District Office, 301 East Stewart Street, RM 301, Las Vegas, NV 89125–2527.
Honolulu District Office, 300 Ala Moana Boulevard, Rm. 2–235, Honolulu, HI 96850–4981.	Hawaii District Office, 300 Ala Moana Boulevard, Rm. 2–235, Honolulu, HI 96850–4981.
Anchorage District Office, 222 West 8th Avenue, Anchorage, AK 99513–7559.	Alaska District Office, 222 West 8th Avenue, Anchorage, AK 99513–7559.

DATES: Effective October 27, 1998.

FOR FURTHER INFORMATION CONTACT: Bradley Douglas, 202–205–6808.

Dated: October 27, 1998.

Bradley D. Douglas,

Associate Administrator for Field Operations.

[FR Doc. 98–29366 Filed 11–2–98; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Air Carrier Operations

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration, Aviation Rulemaking Advisory Committee to discuss air carrier operations issues.

DATES: The meeting will be held on November 13, 1998, at 1:00 p.m.

ADDRESSES: The meeting will be held at Federal Aviation Administration, Office of Rulemaking Conference Room, Room 808, 800 Independence Ave., SW, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Linda Williams, Office of Rulemaking, 800 Independence Avenue, SW, Washington, DC 20591, telephone (202) 267–9685.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on November 13, 1998. The agenda for this meeting will include status reports on the All Weather Operations Working Group, the Airplane Performance Working Group, Fatigue Countermeasures Working Group, and the Reserve Duty/Rest Requirements Working Group. Attendance is open to the interested public but may be limited by the space available. The Members of the public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. Arrangements may be made by contacting the person listed under the heading FOR FURTHER INFORMATION CONTACT.

Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting.

Issued in Washington, DC, on October 28, 1998.

Gary E. Davis,

Acting Assistant Executive Director for Air Carrier Operations, Aviation Rulemaking Advisory Committee.

[FR Doc. 98–29407 Filed 11–2–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–98–4461]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intentions to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before January 4, 1999.

FOR FURTHER INFORMATION CONTACT: Joe Strassburg, Chief, Division of Marine Insurance, Office of Subsidy and Insurance, Maritime Administration, MAR–575, Room 8117, 400 Seventh Street, S.W., Washington, D.C. 20590. Telephone 202–366–4161 or FAX 202–366–7901. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: War Risk Insurance.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0011.

Form Numbers: MA–355; MA–528; MA–742; MA–828; and, MA–942.

Expiration Date of Approval: August 31, 1999.

Summary of Collection of Information: As authorized by Section 1202, Title XII, Merchant Marine Act, 1936, as amended, (46 App. U.S.C. 1282), the Secretary of the U.S. Department of Transportation may provide war risk insurance adequate for the needs of the waterborne commerce of the United States if such insurance cannot be obtained on reasonable terms from qualified insurance companies operating in the United States. This collection is required for the program. It consists of forms MA–355; MA–528; MA–742; MA–828; and MA–942.

Need and Use of the Information: The collected information is necessary to determine the eligibility of the applicant and the vessel(s) for participation in the war risk insurance program.

Description of Respondents: Vessel(s) owner or charterer interested in participation in MARAD's war risk insurance program.

Annual Responses: 1730.

Annual Burden: 930 hours.

Comments: Signed written comments should refer to the docket number that appears at the top of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590. Specifically, address whether this information collection is necessary for proper performance of the function of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., e.t. Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at http:/dms.dot.gov.

Dated: October 28, 1998.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary.

[FR Doc. 98–29414 Filed 11–2–98; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub–No. 128X)]

Union Pacific Railroad Company—Abandonment Exemption—in San Antonio, Bexar County, TX (Austin Subdivision—"Old MKT Main Line")

On October 14, 1998, Union Pacific Railroad Company (UP) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a 2.16-mile line of railroad known as the Austin Subdivision (formerly known as the old MKT Main Line) extending from milepost 136.47 near South St. Marys Street to the end of the line at milepost 138.63 near Durango Street, in San Antonio, Bexar County, TX. The line traverses U.S. Postal Service Zip Code 78204 and includes no stations.

The line does not contain federally granted rights-of-way. Any documentation in UP's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by February 1, 1999.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than November 23, 1998. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–33 (Sub-No. 128X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001, and (2) Joseph D. Anthofer, Union Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, NE 68179–0830. Replies to the UP petition are due on or before November 23, 1998.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on

the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at "www.stb.dot.gov."

Decided: October 27, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–29434 Filed 11–2–98; 8:45 am]

BILLING CODE 4915–00–P

federal register

Tuesday
November 3, 1998

Part II

Securities and Exchange Commission

17 CFR Parts 200, 240, and 249
OTC Derivatives Dealers; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 240, 249

[Release No. 34–40594; File No. S7–30–97]

RIN 3235–AH16

OTC Derivatives Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission is adopting rules and rule amendments under the Securities Exchange Act of 1934 that tailor capital, margin, and other broker-dealer regulatory requirements to a class of registered dealers, called OTC derivatives dealers, that are active in over-the-counter derivatives markets. Registration as an OTC derivatives dealer under these rules is optional and is an alternative to registration as a broker-dealer under the traditional broker-dealer regulatory structure. It is available only to entities that engage in dealer activities in eligible over-the-counter derivative instruments and that meet certain financial responsibility and other requirements.

EFFECTIVE DATE: The rules and rule amendments shall become effective on January 4, 1999.

FOR FURTHER INFORMATION CONTACT:

General

Catherine McGuire, Chief Counsel, Patrice M. Gliniecki, Special Counsel, or Laura S. Pruitt, Special Counsel, at (202) 942–0073, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW, Mail Stop 10–1, Washington, DC 20549.

Financial Responsibility and Books and Records

Michael Macchiaroli, Associate Director, at (202) 942–0132, Thomas K. McGowan, Assistant Director, at (202) 942–0177, Christopher Salter, Attorney, at (202) 942–0148, Victoria Pawelski, Attorney, at (202) 942–4169, Matt Hughey, Accountant, at (202) 942–0143, or Gary Gregson, Statistician, at (202) 942–4156, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW, Mail Stop 10–1, Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Executive Summary
A. Introduction
B. The Proposing Release
C. Final Rules and Rule Amendments
1. General
2. Scope of Permissible Securities Activities
a. Eligible OTC Derivative Instruments
b. Cash Management Securities Activities
c. Ancillary Portfolio Management Securities Activities
3. Intermediation of Securities Transactions
4. Exemptions for OTC Derivatives Dealers
a. Exemption from SRO Membership
b. Exemption from Certain Margin Requirements
c. Exemption from SIPA
5. Section 11(a) of the Exchange Act
6. Net Capital Requirements
7. Rules 8c–1, 15c2–1, 15c3–2, and 15c3–3
8. Recordkeeping and Reporting
II. Discussion: New Rules and Amended Rules
A. Definitions
1. Rule 3b–12; Definition of OTC Derivatives Dealer
2. Rule 3b–13; Definition of Eligible OTC Derivative Instrument
3. Proposed Rule 3b–14; Definition of Permissible Derivatives Counterparty
4. Proposed Rule 3b–16; Definition of Hybrid Security
5. Rules 3b–14 and 3b–15; Definitions of Cash Management Securities Activities and Ancillary Portfolio Management Securities Activities
a. Rule 3b–14; Cash Management Securities Activities
i. Counterparty Collateral
ii. Cash Management
iii. Financing
b. Rule 3b–15; Ancillary Portfolio Management Securities Activities
i. Hedging
ii. Arbitrage
iii. Trading
iv. Documentation of Activities
B. Amendment to Rule 15b1–1; Registration with the Commission
C. Rule 15a–1; Securities Activities of OTC Derivatives Dealers
1. Scope of Permissible Securities Activities
2. Commission Orders Regarding OTC Derivatives Dealers' Activities
3. Intermediation of Securities Transactions
4. Communications Regarding Securities Transactions
5. Confirmation of Securities Transactions
6. Position Limits
D. Exemptions for OTC Derivatives Dealers
1. Rule 15b9–2; Exemption from SRO Membership
2. Rule 36a1–1; Exemption from Certain Margin Requirements
3. Rule 36a1–2; Exemption from SIPA
E. Rule 11a1–6; Transactions for Certain Accounts of OTC Derivatives Dealers
F. Net Capital Requirements for OTC Derivatives Dealers
1. Overview of Amendments to Rule 15c3–1
2. Reasons for Allowing OTC Derivatives Dealers to Use Value-at-Risk Models
3. Discussion of Net Capital Requirements
a. Rule 15c3–1(a)(5)
b. Appendix F
i. Application Requirement
ii. Market Risk
iii. Credit Risk
iv. Qualitative Requirements for Value-at-Risk Models
v. Quantitative Requirements for Value-at-Risk Models
G. Rules 8c–1, 15c2–1, 15c3–2, and 15c3–3
H. Recordkeeping and Reporting
1. Amendments to Rules 17a–3 and 17a–4; Books and Records to be Maintained by OTC Derivatives Dealers
2. Amendments to Rule 17a–11; Notification Requirements
3. Rule 15c3–4; Internal Risk Management Control Systems for OTC Derivatives Dealers
4. Rule 17a–12; Reports to be Made by OTC Derivatives Dealers
5. Amendments to Form X–17A–5
III. Costs and Benefits of the Rules and Rule Amendments
A. Comments and Survey
B. Benefits
1. Regulatory Capital Effects
2. Operational Cost Savings
3. Decreased Margin Requirements
C. Costs
1. Costs of Combining Activities into One Operation
2. Registration as an OTC Derivatives Dealer
3. Risk Management Adjustments
4. Books and Records Requirements
5. Regulatory Reporting
6. Regulation U Margin Requirements
D. Conclusion
IV. Efficiency, Competition, and Capital Formation
V. Summary of Final Regulatory Flexibility Analysis
A. Need for the Rules and Rule Amendments
B. Small Entities Subject to the Rules
C. Projected Reporting, Recordkeeping, and Other Compliance Requirements
D. Alternatives to Minimize Effect on Small Entities
VI. Paperwork Reduction Act
VII. Statutory Authority
Text of Rules and Rule Amendments

I. Executive Summary

A. Introduction

Over-the-counter ("OTC") derivative instruments are important financial management tools employed by many corporations, financial institutions, governmental entities, and other end-users. Participants in the OTC derivatives markets engage in transactions involving a wide range of instruments in order to effectively manage risks associated with their business activities or their financial assets.

Whether OTC derivatives transactions are structured as interest rate swaps, cross currency swaps, equity swaps, basis swaps, total return swaps, asset swaps, credit swaps, or options, they share certain characteristics.[1] For example, each has a value or return related to the value or return of an underlying asset. Asset classes can consist of securities or virtually any other financial instrument, financial measure, or physical commodity, such as interest rates, securities indices, foreign currencies, metals or energy products, or spreads between the values of different assets. More importantly, each of these instruments can provide users with a carefully tailored method for managing a variety of risks.[2]

OTC derivative instruments, for example, can be used by corporations and local governments to lower funding costs, or by multinational corporations to manage risk associated with fluctuating exchange rates. They can also be used by portfolio managers to manage volatility in investment portfolios or to obtain exposure to different assets without taking a position in the cash markets. Because of the benefits these instruments offer, the derivatives markets have grown significantly over the past two decades.[3]

The traditional broker-dealer regulatory structure under the Securities Exchange Act of 1934 ("Exchange Act"),[4] however, has not permitted a firm to operate a competitive OTC derivatives business in the United States that involves the broad range of OTC derivative instruments currently available to participants in these markets. While some of these OTC derivative instruments are securities, others are not. OTC options on equity securities or on U.S. government securities, for example, are securities within the meaning of section 3(a)(10) of the Exchange Act.[5] Firms that effect transactions in these or other OTC derivative instruments that are securities in the United States are required to register as broker-dealers under section 15(b) of the Exchange Act[6] and fulfill all requirements applicable to other securities broker-dealers, including Exchange Act rules governing margin and capital.

Traditional U.S. broker-dealer regulation seems particularly restrictive when contrasted with OTC derivatives activities that are conducted outside of the broker-dealer regulatory regime. Firms located off-shore can often structure their securities activities in a manner that will avoid or lessen the regulatory burdens imposed on broker-dealers under U.S. law. For example, off-shore firms can often avoid registering as broker-dealers in the United States if they engage in securities transactions only with non-U.S. persons, or if they comply with the requirements of Rule 15a–6 under the Exchange Act.[7]

Similarly, because U.S. banks are excluded from the Exchange Act definitions of "broker" and "dealer,"[8] they are not subject to U.S. broker-dealer regulation. They, therefore, may engage in a broad range of OTC derivatives activities in accordance with guidance issued by their appropriate banking regulators.[9] In addition, firms that effect transactions only in OTC derivative instruments that are not securities are not subject to U.S. broker-dealer regulation.

The potential costs of broker-dealer regulation, as applied to dealers in OTC derivative instruments, have affected the way U.S. securities firms conduct business in the OTC derivatives markets. In many instances, U.S. securities firms have decided to separate their securities activities from their non-securities activities. These firms often place their non-securities OTC derivatives activities in separate, unregistered affiliates located in the United States, and conduct some or all of their securities OTC derivatives activities from abroad. However, fragmenting a firm's OTC derivatives business in this manner may hinder its ability to manage risk and compete for business.

For example, U.S. securities firms have voiced concerns regarding their ability to manage counterparty credit risk effectively under the traditional broker-dealer regulatory regime. Typically, in order to reduce credit exposure to a single counterparty, dealers in OTC derivative instruments enter into master agreements with their counterparties that provide for netting of the outstanding financial obligations existing between the dealers and their counterparties. As these firms have pointed out, it would be more efficient and effective to conduct both securities and non-securities OTC derivatives transactions with a counterparty through a single legal entity, subject to appropriately tailored regulatory requirements, rather than through multiple legal entities. The firms have also indicated that certain counterparties prefer to deal with a firm through a single entity that is capable of transacting business across a broad range of OTC derivative instruments.

B. The Proposing Release

In response to the concerns raised by firms seeking to conduct an OTC derivatives business in the United States, the Commission proposed to establish a form of limited broker-dealer regulation that would give the firms an opportunity to conduct business in a vehicle subject to modified regulation appropriate to the OTC derivatives markets.[10] This form of limited broker-dealer regulation was intended to allow securities firms to establish dealer

[1] Swaps are contracts that typically allow the parties to the contract to exchange cash flows related to the value or performance of certain assets, rates, or indices for a specified period of time. *See generally* Peter A. Abken, Beyond Plain Vanilla: A Taxonomy of Swaps, *Financial Derivatives Reader* (Robert W. Kolb, ed.) (1992). Most swaps are based on currencies or interest rates. Swaps that provide for an exchange of values based on the value or performance of equity securities make up a small, but growing, share of the swaps market. Options are instruments that generally provide the holder, in exchange for the payment of a premium, with benefits of favorable movements in the underlying asset or index with limited or no exposure to losses from unfavorable price movements. Typically, OTC options provide for cash settlement, rather than the delivery of the underlying asset. Credit derivatives function like contingent options to the extent payments under the contract are triggered by the occurrence of a credit event, such as a decline in an issuer's credit rating or default in performance under a debt obligation.

[2] *See, e.g.*, Clifford W. Smith, Jr., Charles W. Smithson, and D. Sykes Wilford, Managing Financial Risk, *Financial Derivatives Reader* (Robert W. Kolb, ed.) (1992); Group of Thirty, *Derivatives: Practices and Principles* (July 1993), *Financial Derivatives: Actions Needed to Protect the Financial System*, United States General Accounting Office Report (May 1994).

[3] The International Swaps and Derivatives Association ("ISDA") estimates that, as of December 31, 1996, the combined notional amount of globally outstanding interest rate swaps, currency swaps, and interest rate options has grown to over $29 trillion. *See* "ISDA Market Survey," ISDA Internet web site (http://www.isda.org).

[4] 15 U.S.C. 78a *et seq.*

[5] 15 U.S.C. 78c(a)(10)

[6] 15 U.S.C. 78o(b).

[7] 17 CFR 240.15a–6.

[8] *See* Section 3(a)(4) of the Exchange Act (15 U.S.C. 78c(a)(4)) (defining broker) and Section 3(a)(5) of the Exchange Act (15 U.S.C. 78c(a)(5)) (defining dealer). The exclusion for banks from the definitions of "broker" and "dealer" under the Exchange Act is available only to those banking institutions that satisfy the definition of "bank" set forth in Section 3(a)(6) of the Exchange Act (15 U.S.C. 78c(a)(6)).

[9] Banking regulators have issued guidance to banks engaging in derivatives activities. *See e.g., Federal Financial Institutions Examination Council, Supervisory Policy Statement on Investment Securities and End-User Derivatives Activities*, 63 FR 20191 (Apr. 23, 1998); *Federal Reserve Board, Trading and Capital-Markets Activities Manual* (1998) (including discussions of various derivative instruments, such as credit derivatives); *Federal Reserve SR Letter 97–21, Risk Management and Capital Adequacy of Exposures Arising from Secondary Market Credit Activities* (July 11, 1997); *Federal Reserve SR Letter 97–18, Application of Market Risk Capital Requirements to Credit Derivatives* (June 13, 1997); *FDIC FIL 62–96, Supervisory Guidance for Credit Derivatives* (Aug. 19, 1996); *Federal Reserve SR Letter 96–17, Supervisory Guidance for Credit Derivatives* (Aug. 12, 1996); *OCC Bulletin 96–43, Credit Derivatives* (Aug. 12 1996); *OCC Bulletin 96–25, Fiduciary Risk Management of Derivatives and Mortgage-Backed Securities* (Apr. 30, 1996); *OCC Bulletin 94–31, Questions and Answers for BC–277* (May 10, 1994); and *Risk Management of Financial Derivatives, OCC Banking Circular No. 277* (Oct. 1993).

[10] Exchange Act Release No. 39454 (Dec. 17, 1997), 62 FR 67940 (Dec. 30, 1997) ("Proposing Release").

affiliates, referred to as "OTC derivatives dealers," that would be able to compete more effectively with banks and foreign dealers in global OTC derivatives markets, while also maintaining standards necessary to ensure investor protection.

In the Proposing Release, the Commission specifically solicited comment on the extent to which persons eligible to become registered as OTC derivatives dealers believed that the proposal would address competitive inequalities that discouraged securities firms from conducting an OTC derivatives business in the United States. Commenters were also asked to express their views on the application of the Commission's broker-dealer rules to OTC derivatives dealers and whether additional amendments or exemptions were needed for this class of dealers.

The Commission received twenty-one comment letters in response to the proposed rules and rule amendments, including comments from, among others, industry representatives, self-regulatory organizations, and other regulators.[11] The majority of the commenters endorsed the Commission's initiative to develop an alternative regulatory framework for OTC derivatives dealers. These commenters supported the Commission's intent to provide a regulatory framework for OTC derivatives dealers that would enable these dealers to compete more effectively with both banks and foreign dealers in OTC derivatives markets. They often noted in particular their support of the Commission's efforts to address the regulatory costs imposed by existing capital requirements on securities firms seeking to operate an OTC derivatives business in the United States.[12]

The commenters, however, also suggested that the Commission modify the proposed rules and rule amendments in various ways to more accurately reflect the manner in which firms conduct an OTC derivatives business. Many commenters stressed the need for the alternative regulatory regime to establish a practical commercial framework for the conduct of this business and to provide U.S. securities firms with flexibility in structuring their derivatives activities.

C. Final Rules and Rule Amendments

1. General

After considering the comment letters, the Commission is adopting rules and rule amendments that will allow U.S. securities firms to establish separately capitalized entities that may engage in dealer activities in eligible OTC derivative instruments, which include both securities and non-securities OTC derivative instruments. OTC derivatives dealers are also permitted to engage in certain additional securities activities related to conducting an OTC derivatives business. A firm engaging in the permitted activities has the option of registering with the Commission under Section 15(b) of the Exchange Act[13] as an OTC derivatives dealer, subject to specially tailored capital, margin, and various other requirements.

These tailored requirements are intended, in part, to improve the efficiency and competitiveness of U.S. securities firms active in global OTC derivatives markets. By permitting U.S. securities firms to conduct both securities and non-securities OTC derivatives activities through a single legal entity, the new structure will enable the firms to enter into more comprehensive netting arrangements with counterparties and thus more effectively manage credit risk. End-users should also benefit as a result of a reduction in the legal risks that arise when securities firms structure their derivatives activities in a manner that avoids U.S. broker-dealer registration.[14] As noted by one commenter, all participants in the OTC derivatives markets have a vital interest in ensuring that OTC derivatives transactions are available in a framework where the legal rights and obligations of the parties to an agreement are certain and enforceable.[15] The new regulatory regime for OTC derivatives dealers is intended to help provide that legal certainty to these markets.

As a "dealer" under the Exchange Act,[16] an OTC derivatives dealer remains subject to all other rules applicable to "fully regulated broker-dealers," [17] unless otherwise provided by the new rules and rule amendments. In addition, the Commission wishes to emphasize that purchasers and sellers of OTC derivative instruments that are securities will continue to be protected by the general anti-manipulation and anti-fraud provisions, including Section 17(a) of the Securities Act of 1933,[18] and Section 9(a) [19] and 10(b) [20] of the Exchange Act, and Rule 10b–5 thereunder.[21]

An OTC derivatives dealer also remains subject to all applicable statutes, rules, and regulations of other U.S. financial regulators. In particular, to the extent that the Commodity Exchange Act ("CEA") [22] and the rules and regulations adopted under the CEA apply to the activities of an OTC derivatives dealer, the new regulatory structure in no way alters the application of these laws to the activities of an OTC derivatives dealer.

2. Scope of Permissible Securities Activities

In order to take advantage of the new regulatory regime for conducting an OTC derivatives dealer business in the United States, an OTC derivatives dealer must, among other things, limit its securities activities to those specified in Rules 3b–12 and 15a–1. In general, these rules provide that an OTC derivatives dealer's securities activities must be limited to (1) engaging in dealer activities in eligible OTC derivative instruments (as defined in Rule 3b–13) that are securities; (2) issuing and reacquiring securities that are issued by the dealer, including warrants on securities, hybrid securities, and structured notes; (3) engaging in cash management securities activities (as defined in Rule 3b–14); (4) engaging in ancillary portfolio management securities activities (as defined in Rule 3b–15); and (5) engaging in such other securities activities that the Commission designates by order.[23] An OTC derivatives dealer must also be affiliated with a fully regulated broker-dealer.[24]

The Commission has defined the terms "cash management securities activities" and "ancillary portfolio management securities activities." [25] These two terms replace the term "permissible risk management, arbitrage, and trading transactions," which was included in the Proposing Release. The new terms serve substantially the same purpose as the proposed term in that they describe the additional securities activities in which an OTC derivatives dealer may engage in connection with its OTC derivatives dealer business. As a practical matter, a firm seeking to register as an OTC derivatives dealer will need to be able to conduct these additional securities activities, such as engaging in certain financing and hedging transactions, in order to compete effectively with other market participants.

The final rules and rule amendments also contain restrictions to prevent U.S. securities firms from moving their general securities dealing activities into the new OTC derivatives dealer entity, or from using these entities for substantial proprietary trading activities. For example, the definitions of both "cash management securities activities" and "ancillary portfolio management securities activities" include limitations to prevent an OTC derivatives dealer from engaging in dealing activities in cash market instruments or from establishing a proprietary trading desk.

In addition, an OTC derivatives dealer's securities activities must consist primarily of dealer activities in eligible OTC derivative instruments that are securities, issuing and reacquiring its issued securities, and cash management securities activities. Thus, if the securities activities of an OTC derivatives dealer were to consist only or primarily of ancillary portfolio management securities activities, the dealer would be in violation of the rules.

a. *Eligible OTC Derivative Instruments.* As noted above, an OTC derivatives dealer is permitted to engage in dealer activities in "eligible OTC derivative instruments," as that term is defined in Rule 3b–13. The term is defined broadly to encompass the wide range of securities and non-securities OTC derivative instruments currently existing in the derivatives markets, as well as to allow for the inclusion of reasonably similar instruments that market participants may develop in the future. The types of instruments that generally satisfy the criteria set forth in Rule 3b–13 include interest rate swaps, currency swaps, securities swaps, commodity swaps, OTC options on similar asset classes, long-dated forwards on securities, and forwards relating to assets other than securities. Other types of instruments also satisfy the criteria in the rule.

Short-dated securities forwards, however, are excluded from the definition of eligible OTC derivative instrument, as are securities derivative instruments that are listed or traded on a national securities exchange or on Nasdaq. Except as otherwise determined by the Commission by order, a securities derivative instrument that is one of a class of fungible instruments that are standardized as to their material economic terms is also excluded from the definition.

The new regulatory framework also allows an OTC derivatives dealer to issue and reacquire its issued securities, including hybrid securities. For purposes of Rules 3b–12 and 15a–1, which describe the permissible securities activities of an OTC derivatives dealer, the term "hybrid security" is defined as a security that incorporates payment features economically similar to the OTC derivative instruments that are enumerated in the definition.[26] The term "hybrid security" is used only in the context of an OTC derivatives dealer's permissible securities activities under the rules, and is not intended to have a broader application.

b. *Cash Management Securities Activities.* An OTC derivatives dealer may engage in "cash management securities activities," as defined in Rule 3b–14. Under the rule, an OTC derivatives dealer may engage in cash management securities activities in connection with its permissible securities activities or its non-securities activities (that involve eligible OTC derivative instruments or other financial instruments). Cash management securities activities include (1) any acquisition or disposition of collateral provided by a counterparty, or any acquisition or disposition of collateral to be provided to a counterparty; (2) cash management; and (3) financing of certain positions of the dealer. Any securities trading activities associated with cash management by an OTC derivatives dealer must be at a level commensurate with the dealer's *bona fide* operational needs, taking into consideration the Commission's capital requirements for the dealer and the amount of capital needed by the dealer to satisfy counterparties' credit requirements.

c. *Ancillary Portfolio Management Securities Activities.* An OTC derivatives dealer may also engage in "ancillary portfolio management securities activities," as defined in Rule 3b–15. These securities activities must be limited to transactions in connection with the OTC derivatives dealer's dealer activities in eligible OTC derivative instruments, the issuance of securities by the dealer, or such other securities activities that the Commission designates by order. They must also (1) be conducted for the purpose of reducing the dealer's market or credit risk or consist of incidental trading activities for portfolio management purposes; and (2) be limited to risk exposures within the market, credit, leverage, or liquidity risk parameters set forth in the trading authorizations granted to the associated person (or to the associated person's supervisor) who executes the transaction for the dealer, and in the written guidelines approved by the dealer's governing body and included in the dealer's internal risk management control system (as required under new Rule 15c3–4). Rule 3b–15 also requires that ancillary portfolio management securities activities be conducted only by associated persons of the dealer who perform substantial duties for the dealer in connection with its dealer activities in eligible OTC derivative instruments.

Again, the limitations on an OTC derivatives dealer's ancillary portfolio management securities activities under Rule 3b–15 are aimed at preventing a fully regulated broker-dealer from moving its securities book into its OTC derivatives dealer affiliate or otherwise permitting the OTC derivatives dealer to engage in substantial proprietary securities trading activities. An OTC derivatives dealer's ability to engage in incidental securities trading activities for portfolio management purposes under Rule 3b–15, however, recognizes

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[11] The staff of the Division of Market Regulation has prepared a summary of the comment letters received on the proposed rules and rule amendments entitled "Comment Summary for Proposing Release on OTC Derivatives Dealers" (hereinafter referred to as "Comment Summary"). Copies of the comment letters and the Comment Summary have been placed in Public Reference File No. S7–30–97 and are available for inspection in the Commission's Public Reference Room.

[12] *See* Letters cited in Section II., n.1 of the Comment Summary.

[13] 15 U.S.C. 78o(b).

[14] *See, e.g.*, Comment Letter from the End-Users of Derivatives Association, Inc. ("EUDA Letter"), p. 1.

[15] *See* Comment Letter from the International Swaps and Derivatives Association, Inc. ("ISDA Letter"), pp. 1–2.

[16] *See* Section 3(a)(5) of the Exchange Act (15 U.S.C. 78c(a)(5)).

[17] For purposes of this release, the term "fully regulated broker-dealer" means a broker or dealer that is registered with the Commission under section 15(b) of the Exchange Act (15 U.S.C. 78o(b)), but that is not an OTC derivatives dealer, and therefore is subject to all statutes, rules, and regulations imposed on broker-dealers under the transitional broker-dealer regulatory regime, including membership in a securities self-regulatory organization.

[18] 15 U.S.C. 78q(a).

[19] 15 U.S.C. 78i(a).

[20] 15 U.S.C. 78j(a).

[21] 17 CFR 240.10b–5. *See, e.g., In the Matter of BT Securities Corporation*, Exchange Act Release No. 35136 (Dec. 22, 1994).

[22] 7 U.S.C. 1 *et seq.*

[23] The alternative regulatory framework generally does not limit the non-securities activities of an OTC derivatives dealer, provided that the dealer complies with financial responsibility and internal risk management controls requirements. An OTC derivatives dealer's non-securities activities are also restricted under this framework by the practical limitations imposed by the definitions of "cash management securities activities" and "ancillary portfolio management securities activities."

[24] As proposed, the alternative regulatory framework defined the term "permissible derivatives counterparty," and required that an OTC derivatives dealer's counterparties be limited to such persons. In response to commenters' concerns, and in light of the protections afforded through other provisions of the alternative regulatory framework, the final rules do not restrict the persons that may act as counterparties in OTC derivatives transactions. The final rules, however, do not exempt OTC derivatives dealers or their fully regulated broker-dealer affiliates from counterparty limitations imposed under any other applicable regulatory or self-regulatory requirements.

[25] *See* Rules 3b–14 (17 CFR 240.3b–14) and 3b–15 (17 CFR 240.3b–15).

[26] *See* Rules 3b–12(d) (17 CFR 240.3b–12(d)) and 15a–1(e) (17 CFR 240.15a–1(e).

that the dealer may to a limited extent engage in securities trading activity that may not be for the specific purpose of reducing its market or credit risk.

The new regulatory structure for OTC derivatives dealers incorporates the concept of managing risk on a portfolio-wide basis and does not expressly limit the range of permissible ancillary portfolio management securities activities. Instead, these activities are limited by the requirement that they not give rise to risk exposures that, on an aggregate portfolio basis, exceed the risk limits adopted for the dealer's business under the rules. They are also limited by other requirements that serve to ensure that the OTC derivatives dealer does not engage in dealer activities in securities that are not eligible OTC derivative instruments. The final rules are intended to be flexible and to accommodate current business practices of OTC derivatives dealers. Because the rules define a broad scope of permissible securities activities, however, the restrictions on proprietary trading and dealing in cash market instruments may prove inadequate. Rule 15a–1 therefore preserves the Commission's ability to clarify, by order, whether certain securities activities are within the scope of ancillary portfolio management securities activities.[27]

3. Intermediation of Securities Transactions

Rule 15a–1 generally requires that all securities transactions of an OTC derivatives dealer, including securities OTC derivatives transactions, be effected through its fully regulated broker-dealer affiliate.[28] The intermediation requirement is designed, in part, to ensure that all securities transactions remain subject to existing sales practice standards and to reduce the risk that counterparties will mistakenly view an OTC derivatives dealer as a fully regulated broker-dealer. Certain professional counterparties, however, are less likely to need or expect the protections offered by the fully regulated broker-dealer under this framework. Therefore, the rules provide two limited exceptions to the broker-dealer intermediation requirement for securities transactions.

First, an OTC derivatives dealer is not required to use its fully regulated broker-dealer affiliate to effect securities transactions with a registered broker or dealer, a bank acting in a dealer capacity, a foreign broker or dealer, or an affiliate of the OTC derivatives dealer, provided that the counterparty is acting as principal. Second, if an OTC derivatives dealer engages in an ancillary portfolio management securities activity involving a foreign security, it is not required to effect that securities transaction through its fully regulated broker-dealer affiliate if a registered broker or dealer, a bank, or a foreign broker or dealer is acting as agent for the OTC derivatives dealer.

In addition, any person that solicits a potential counterparty to engage in a securities transaction with an OTC derivatives dealer, or otherwise has any contact with the counterparty regarding the transaction, generally must be a registered representative of the fully regulated broker-dealer affiliate.[29] These persons may be dual employees of both the OTC derivatives dealer and the fully regulated broker-dealer. However, if the counterparty is a registered broker or dealer, a bank acting in a dealer capacity, a foreign broker or dealer, or an affiliate of the OTC derivatives dealer, employees of the OTC derivatives dealer may solicit or have other forms of contact with the counterparty, even if they are not also registered representatives of the fully regulated broker-dealer. This is consistent with the exception for these same counterparties from the general requirement that an OTC derivatives dealer's securities transactions be effected through its fully regulated broker-dealer affiliate.

In addition, the rule does not require registered representatives of the fully regulated broker-dealer affiliate to be involved in contacts with foreign counterparties, in certain situations. Contacts with a foreign counterparty may generally be conducted by an associated person of a foreign broker or dealer who is not resident in the United States, if the foreign broker or dealer is affiliated with the OTC derivatives dealer and is registered under applicable local law. This approach recognizes the global nature of the OTC derivatives markets, and the practical limitations imposed by requiring registered representatives of the fully regulated broker-dealer affiliate to participate in all such contacts. Any resulting securities transaction, however, must generally be effected through the OTC derivatives dealer's fully regulated broker-dealer affiliate.

4. Exemptions for OTC Derivatives Dealers

The final rules and rule amendments provide exemptions from certain provisions of the Exchange Act to OTC derivatives dealers due to, among other things, the unique nature of this business. Specifically, OTC derivatives dealers are exempted from (a) membership in a securities self-regulatory organization ("SRO"); (b) certain margin requirements under the Exchange Act; and (c) the provisions of the Securities Investor Protection Act of 1970[30] ("SIPA"), including membership in the Securities Investor Protection Corporation ("SIPC").[31]

a. *Exemption from SRO Membership.* Under Rule 15b9–2, OTC derivatives dealers are exempt from membership in an SRO. SRO membership for OTC derivatives dealers, and the additional regulation it entails, is not warranted at this time. As a practical matter, certain SRO rules are not consistent with the OTC derivatives dealer regulatory structure, and accordingly, should not apply directly to the OTC derivatives dealer. In addition, with limited exceptions, all securities transactions of an OTC derivatives dealer must be effected through its fully regulated broker-dealer affiliate, which will be an SRO member. As a result, SRO rules, including sales practice requirements, will generally apply to these securities transactions.

While the Commission had proposed that the designated examining authority ("DEA") of the OTC derivatives dealer's fully regulated broker-dealer affiliate would review the OTC derivatives dealer's activities for violations of Commission rules, the New York Stock Exchange ("NYSE") and the National Association of Securities Dealers, Inc. ("NASD") expressed serious concerns with overseeing OTC derivatives dealers on a contractual basis (without the dealers being SRO members). The Commission staff, therefore, will examine OTC derivatives dealers to ensure compliance with Commission rules.

b. *Exemption from Certain Margin Requirements.* Federal regulations that govern the collateral, or margin, that must be collected by dealers in connection with securities transactions have created certain competitive inequalities between registered broker-dealers and other entities, including banks, that conduct an OTC derivatives business. Registered broker-dealers that extend credit for the purpose of purchasing or carrying securities are required to comply with the provisions of Regulation T.[32] The margin requirements for banks are contained in Regulation U.[33]

After the Commission issued the Proposing Release, several amendments to Regulation T were adopted that reduced the regulatory distinctions between broker-dealers and other lenders.[34] In general, Regulation T and Regulation U permit lenders to extend good faith credit against all non-equity securities and set specific limits on the amount of credit lenders can extend on equity securities.[35] However, several differences between Regulation T and Regulation U still remain, such as margin requirements for short OTC options. U.S. securities firms have indicated that because of these differences, applying Regulation T to their OTC derivatives business would continue to unnecessarily inhibit their ability to compete in the derivatives markets with banks and other lenders subject to Regulation U.

Given the nature of the bilateral financial instruments and the relative sophistication of the counterparties in the OTC derivatives markets, and the safeguards against excessive leverage contained in Regulation U, the requirements of Regulation U are more appropriate for the lending that occurs in these markets. Accordingly, under Rule 36a1–1, transactions involving extensions of credit by an OTC derivatives dealer are exempt from the provisions of Section 7(c) of the Exchange Act[36] and Regulation T, provided that the OTC derivatives dealer complies with Section 7(d) of the Exchange Act[37] and Regulation U.[38]

c. *Exemption from SIPA.* Under Rule 36a1–2, OTC derivatives dealers are exempt from the provisions of SIPA, including membership in SIPC. The application of SIPA's liquidation provisions to an OTC derivatives dealer in bankruptcy could undermine certain provisions of the bankruptcy code applicable to the dealer's business. As a result, the application of SIPA to OTC derivatives dealers would create legal uncertainty about the rights of counterparties in transactions with OTC derivatives dealers in the event of dealer insolvency. This uncertainty could impair the ability of securities firms electing to register OTC derivatives dealers to compete effectively with banks and foreign dealers, which are not subject to similar legal uncertainty.

5. Section 11(a) of the Exchange Act

Rule 11a1–6 provides an exception under section 11(a) of the Exchange Act[39] for certain transactions effected by a fully regulated broker-dealer for the account of its OTC derivatives dealer affiliate. Section 11(a) makes it unlawful for a member of a national securities exchange to effect transactions on that exchange for certain accounts, including its own account or the account of an associated person.

This general prohibition, however, is subject to numerous exceptions. Among these is a general exception under section 11(a)(1)(G) for a member's proprietary transactions, where the member is primarily engaged in a public securities business, as indicated by certain calculations involving the member's gross revenues from the preceding fiscal year (the "business mix" test), and the transactions "yield," in accordance with Commission rules, priority, parity, and precedence to transactions for accounts of persons who are not members, or associated with members, of the exchange.[40]

Rule 11a1–2 under the Exchange Act generally permits a member to effect a transaction for the account of an associated person if the member could have effected the transaction for its own account. The rule, however, requires that the associated person independently meet the "business mix" test in order for the member to rely on the exception provided under Section 11(a)(1)(G) for transactions effected for the account of that associated person.

Because an OTC derivatives dealer will be a newly created entity, it will not be able to demonstrate that it meets this test. Accordingly, new Rule 11a1–6, like existing Rule 11a1–2, allows a fully regulated broker-dealer member to effect a transaction on the exchange for the account of an affiliated OTC derivatives dealer if the member would have been permitted to effect the transaction for its own account. Rule 11a1–6 allows the fully regulated broker-dealer to rely on the exception under section 11(a)(1)(G) for transactions it effects for its OTC derivatives dealer affiliate even if that affiliate does not meet the "business mix" test. The fully regulated broker-dealer and the OTC derivatives dealer must comply with all other requirements of section 11(a).

6. Net Capital Requirements

The net capital rule has been amended to include an alternative net capital regime for OTC derivatives dealers. Under the amendments, an OTC derivatives dealer will be subject to higher minimum capital requirements than a fully regulated broker-dealer. The OTC derivatives dealer, however, may also be authorized by the Commission to use value-at-risk ("VAR") models to calculate capital charges for market risk and to take alternative charges for credit risk than those currently prescribed. The minimum capital requirements for an OTC derivatives dealer are tentative net capital of at least $100 million and net capital of at least $20 million. Under the circumstances, these minimum amounts will provide a sufficient liquid capital cushion for entities that elect to register as an OTC derivatives dealer.

In order to use VAR models to calculate capital charges for market risk and to take alternative charges for credit risk, under new Appendix F to Rule 15c3–1, an OTC derivatives dealer must file an application with, and obtain authorization from, the Commission. The application, among other things, must describe the OTC derivatives dealer's VAR model or models, including the manner in which the model or models meet the requirements specified in Appendix F, and the dealer's internal risk management controls system (as required under Rule 15c3–4). The OTC derivatives dealer must also describe in the application any non-marketable securities that it wants to include in its VAR calculation.

An OTC derivatives dealer's VAR model must meet certain qualitative and quantitative requirements under Appendix F that parallel rules currently followed by U.S. banking agencies. To meet the qualitative requirements, among other things, an OTC derivatives dealer must integrate its VAR model into the firm's daily risk management process, and subject its VAR model to stress tests, internal and external audits, and backtesting. The quantitative requirements contain statistical

[27] *See* Rule 15a–1(b)(4) (17 CFR 240.15a–1(b)(4)).

[28] *See* Rule 15a–1(c) (17 CFR 240.15a–1(c)). An OTC derivatives dealer may issue and reacquire its issued securities through an unaffiliated fully regulated broker-dealer. *Id.*

[29] *See* Rule 15a–1(d) (17 CFR 240.15a–1(d)). The rule provides an exception for clerical and ministerial activities that are conducted by associated persons of the OTC derivatives dealer.

[30] 15 U.S.C. 78aaa *et seq.*

[31] In 1996, Congress added section 36 to the Exchange Act (15 U.S.C. 78mm), which gives the Commission broad authority to exempt any person from any of the provisions of the Exchange Act. The exemptions from certain margin requirements under the Exchange Act and from SIPA were adopted using this new exemptive authority.

[32] 12 CFR 220.1.

[33] 12 CFR 221.1.

[34] *See* Securities Credit Transactions, Borrowing by Brokers and Dealers, Docket Nos. R–0905, R–0923, and R–0944, 63 FR 2806 (Jan 16, 1998).

[35] *See, e.g.*, 12 CFR 221.2(f).

[36] 15 U.S.C. 78g(c).

[37] 15 U.S.C. 78g(d).

[38] Because Regulation U is promulgated pursuant to Section 7(d) of the Exchange Act, an OTC derivatives dealer remains subject to that provision. In addition, Rule 36a1–1 (17 CFR 240.36a1–1) applies only to extensions of credit *by* an OTC derivatives dealer. Section 7 of the Exchange Act continues to apply to persons extending credit *to* an OTC derivatives dealer. Credit extended to an OTC derivatives dealer, like credit extended to a fully regulated broker-dealer, however, is excepted from section 7 of the Exchange Act is it satisfies the conditions for such exceptions contained in section 7.

[39] 15 U.S.C. 78k(a).

[40] *See* 15 U.S.C. 78k(e)(1)(G).

parameters for VAR measures using a time horizon that is appropriate in the regulatory capital context, as well as risk factors that must be addressed in any model used. These parameters include the use of a ten-day holding period and a 99% confidence level.

An OTC derivatives dealer applying Appendix F must also compute a two-part credit risk capital charge, calculated on a counterparty-by-counterparty basis. The first part of the charge is calculated based on the net replacement value of all outstanding transactions with each counterparty after taking into account netting arrangements and possession of liquid collateral multiplied by a counterparty factor derived from the creditworthiness of that counterparty. The second part of the credit risk charge is a concentration charge that is also based on the creditworthiness of a particular counterparty, but that only applies when the net replacement value in the account of that counterparty exceeds 25% of the OTC derivatives dealer's tentative net capital.

Under Rule 15c3–4, an OTC derivatives dealer using Appendix F is also required to establish a comprehensive system of internal controls for monitoring and managing risks associated with its business activities. The establishment of a system of controls is an important element of the Commission's regulatory regime for OTC derivatives dealers. The risks that an OTC derivatives dealer's system of internal controls must specifically address include market, credit, leverage, liquidity, legal, and operational risks associated with conducting an OTC derivatives business.

The Commission will authorize an OTC derivatives dealer to use Appendix F if it determines that the dealer has met the requirements set forth in the rules relating to its VAR model and internal risk management control systems. In addition, an OTC derivatives dealer must file an application with the Commission before making any material changes to its VAR model or internal risk management control systems and receive authorization before implementing any such changes.

7. Rules 8c–1, 15c2–1, 15c3–2, and 15c3–3

Under the new regulatory structure, a counterparty to an OTC derivatives transaction generally will not be considered a "customer" for purposes of Rules 8c–1, 15c2–1, 15c3–2, and 15c3–3, the Commission's hypothecation and customer protection rules, and will not be protected by SIPA. In particular, except as otherwise agreed to in writing, if an OTC derivatives dealer notifies its counterparty that it will not segregate the collateral and may use the counterparty's collateral to further its own business operations, including commingling and pledging the counterparty's assets, the counterparty will not be considered a "customer" of the dealer for purposes of Rules 8c–1, 15c2–1, 15c3–2, and 15c3–3.

8. Recordkeeping and Reporting

The rules governing recordkeeping and reporting for an OTC derivatives dealer have also been modified. The rules will remain substantially the same as for fully regulated broker-dealers, but they have been tailored to the business of OTC derivatives dealers. Reporting will be required only on a quarterly basis. The reports will include, among other things, information from the dealer regarding its VAR computations, as well as various credit concentration information.

II. Discussion: New Rules and Amended Rules

After consideration of the issues raised in comment letters concerning the alternative regulatory structure for OTC derivatives dealers, the Commission is adopting new Rules 3b–12, 3b–13, 3b–14, 3b–15, 11a1–6, 15a–1, 15b9–2, 15c3–4, 17a–12, 36a1–1, and 36a1–2 [41] under the Exchange Act.[42] The Commission is also amending Rule 30–3 of the Commission's rules of practice [43] and Exchange Act Rules 8c–1, 15b1–1, 15c2–1, 15c2–5, 15c3–1, 15c3–2, 15c3–3, 17a–3, 17a–4, 17a–5, and 17a–11.[44] In addition, the Commission is revising Form X–17A–5 (FOCUS report).[45]

A. Definitions

The final rules set forth definitions of four new terms: (1) OTC derivatives dealer; (2) eligible OTC derivative instrument; (3) cash management securities activities; and (4) ancillary portfolio management securities activities. Although the Commission had also proposed to define the term "permissible derivatives counterparty," the Commission has determined that it is unnecessary to use the term in the final rules and rule amendments. In addition, the Commission is not adopting a separate rule defining "hybrid security," as proposed, but rather is including a definition of "hybrid security" only for purposes of the final rules that use the term. The definitions of the new terms, and the reasons for adopting them in their revised forms, are described below.

1. Rule 3b–12; Definition of OTC Derivatives Dealer

As proposed, Rule 3b–12 would have defined OTC derivatives dealer to mean any dealer that limited its securities activities to (1) engaging as a counterparty in transactions in eligible OTC derivative instruments with permissible derivatives counterparties; (2) issuing and reacquiring issued securities through a fully regulated broker or dealer; or (3) engaging in other securities transactions that the Commission designated by order. The OTC derivatives dealer would also have been permitted to engage in "permissible risk management, arbitrage, and trading transactions," in connection with any of these securities activities.

The proposed definition of OTC derivatives dealer was intended to identify a category of dealers that would primarily be engaged as counterparties in OTC derivatives transactions. The proposed definition also recognized that these dealers would need to engage in certain limited securities trading activities in connection with their OTC derivatives dealing activities in order to operate a competitive business. The Proposing Release, however, emphasized that an OTC derivatives dealer should not be able to take advantage of the modified regulatory requirements to engage in activities better suited to full broker-dealer regulation.[46]

Several commenters requested that the Commission clarify that the non-securities activities in which an OTC derivatives dealer would be permitted to engage would not be limited in either scope or volume (subject only to capital considerations).[47] The commenters were concerned that the language in the summary of the Proposing Release stating that registration as an OTC derivatives dealer was available only to entities acting *primarily* as counterparties in privately negotiated OTC derivatives transactions was potentially inconsistent with the ability of these entities to engage in any non-securities activities.[48] In response to these comments, the Commission has revised the definition of OTC derivatives dealer to emphasize that the definition limits only the securities activities [49] of a dealer seeking to operate an OTC derivatives business under the new framework.[50]

Several commenters also questioned the proposed definition's limits on the scope of securities activities in which an OTC derivatives dealer could engage.[51] Merrill Lynch & Co., Inc. ("Merrill Lynch") suggested that an OTC derivatives dealer should be permitted to engage in a full range of activities in *securities* derivative instruments (including acting as a dealer in such instruments).[52] Merrill Lynch also noted that there were numerous types of securities *principal* transactions in which an OTC derivatives dealer would need to engage to support its derivatives business. It expressed concern that any limitation on the nature or scope of such transactions could unnecessarily restrict, and in certain cases could increase the risk of, the dealer's derivatives business.[53] Other commenters believed that monitoring the limitations in the proposed rule could create unnecessary burdens for both the dealers and the Commission, and that the limitations were not always consistent with the manner in which an OTC derivatives business is currently conducted.[54]

Commenters also addressed the issue that the alternative regulatory structure for OTC derivatives dealers is not intended to permit U.S. securities firms to move their general securities dealing activities into an OTC derivatives dealer affiliate or to establish proprietary securities trading desks in the new entity.[55] In this regard, the Government Finance Officers Association ("GFOA") questioned whether the proposal provided sufficient safeguards to ensure that a firm did not move its dealer activity in cash market instruments, such as stocks and bonds, to an OTC derivatives dealer.[56] Other commenters, however, believed that the proposal contained enough restrictions on securities dealing activities to avoid such behavior by an OTC derivatives dealer acting in good faith.[57]

Taking these comments into account, the final rule provides that an OTC derivatives dealer is a dealer that is affiliated with a registered broker or dealer (other than an OTC derivatives dealer) and whose securities activities are limited to (1) engaging in dealer [58] activities in eligible OTC derivative instruments that are securities; (2) issuing and reacquiring securities that are issued by the dealer, including warrants on securities, hybrid securities,[59] and structured notes;[60] (3) engaging in cash management securities activities (as defined in Rule 3b–14); (4) engaging in ancillary portfolio management securities activities (as defined in Rule 3b–15); and (5) engaging in such other securities activities that the Commission designates by order.

As detailed in Section II.A.5. below, the Commission has defined the terms "cash management securities activities" and "ancillary portfolio management securities activities." These two terms replace the term "permissible risk management, arbitrage, and trading transactions," which was included in the Proposing Release. The new terms serve substantially the same purpose as the proposed term in that they describe the additional securities activities in which an OTC derivatives dealer may engage in connection with its OTC derivatives business. As a practical matter, a firm seeking to register as an OTC derivatives dealer will need to be able to conduct these additional securities activities, such as engaging in certain financing and hedging transactions, in order to compete effectively with other market participants.

The focus of the alternative regulatory structure for OTC derivatives dealers, however, is on providing a regulatory vehicle that will allow a U.S. securities firm to establish a separately capitalized entity through which to book an OTC derivatives business. As a result, the final rules, including the definitions of "cash management securities activities" and "ancillary portfolio management securities activities" contain appropriate limitations to prevent an OTC derivatives dealer from engaging in dealing activities in cash market instruments or in substantial proprietary trading activities.

Rule 3b–12, as adopted, also requires that the securities activities of an OTC derivatives dealer consist primarily of engaging in dealer activities in eligible OTC derivative instruments that are securities, issuing and reacquiring its issued securities, and engaging in cash management securities activities. Thus, if the securities activities of an OTC derivatives dealer were to consist only or primarily of ancillary portfolio management securities activities, the OTC derivatives dealer would be in violation of the rule. For instance, an OTC derivatives dealer that trades in exchange-traded futures contracts may not engage in securities activities that consist only or primarily of managing the risks of those futures transactions.

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[41] 17 CFR 240.3b–12, 240.3b–13, 240.3b–14, 240.3b–15, 240.11a1–6, 240.15a–1, 240.15b9–2, 240.15c3–4, 240.17a–12, 240.36a1–1, and 240.36a1–2.

[42] 15 U.S.C. 78a *et seq.*

[43] 17 CFR 200.30–3.

[44] 17 CFR 240.8c–1, 240.15b1–1, 240.15c2–1, 240.15c2–5, 240.15c3–1, 240.15c3–2, 240.15c3–3, 240.17a–3, 240.17a–4, 240.17a–5, and 240.17a–11.

[45] 17 CFR 249.617.

[46] Proposing Release, Section II.A.1., n.17, 62 FR at 67942, n.17.

[47] *See* Comment Summary, Section IV.A.1.; Comment Letter from the Securities Industry Association's ("SIA") OTC Derivative Products Committee, dated April 6, 1998 ("SIA Letter I"), p. 5; Comment Letter from Merrill Lynch & Co., Inc. ("Merrill Lynch Letter"), p. 4.

[48] *See, e.g.*, SIA Letter I, p. 5.

[49] As a practical matter, the non-securities activities of an OTC derivatives dealer are limited by the capital requirements and by the limits imposed on cash management and ancillary portfolio management securities activities under this regulatory structure. This parallels the system for fully regulated broker-dealers, which does not prohibit non-securities activities by definition, but rather imposes practical limitations on those activities under the financial responsibility rules.

[50] In its comment letter, the Commodity Futures Trading Commission ("CFTC") stated that the proposal for the alternative regulatory framework for OTC derivatives dealers extended beyond the Commission's authority to regulate securities. *See* Comment Letter from the CFTC ("CFTC Letter"), p. 1. While the proposal was appropriately restricted in scope to fall within the Commission's statutory jurisdiction, the revisions made to Rule 3b–12 (17 CFR 240.3b–12), as well as to the other rules and rule amendments, that strengthen the focus of the new regulatory framework on the securities activities of an OTC derivatives dealer serve to clarify the scope of the Commission's jurisdiction.

[51] *See* letters cited in Section IV.A.2. of the Comment Summary.

[52] Merrill Lynch Letter, p. 4.

[53] Merrill Lynch Letter, p. 5. Similarly, the SIA commented that, so long as an OTC derivatives dealer limited its securities dealing activities to transactions in eligible OTC derivative instruments with permissible derivatives counterparties, it was neither necessary nor desirable to limit the non-dealing securities activities of an OTC derivatives dealer. SIA Letter I, p. 6.

[54] *E.g.*, SIA Letter I, p. 6.

[55] *See, e.g.* Proposing Release, Section II.A.1., n.17, 62 FR 67942, n.17.

[56] Comment Letter from the Government Finance Officers Association ("GFOA Letter"), p. 3.

[57] *E.g.*, Comment Letter from Morgan Stanley Dean Witter ("MSDW Letter"), p. 10. In addition, one commenter suggested a simple prohibition on that business instead of a series of detailed and complex prophylactic limitations on the permissible activities of an OTC derivatives dealer. Comment Letter from Salomon Smith Barney ("Salomon Smith Barney Letter"), p. 2.

[58] When used in the context of eligible OTC derivative instruments (as defined in Rule 3b–13 (17 CFR 240.3b–13)) or in the context of OTC derivative instruments in general, the term "dealer" activities includes buying, selling, and entering into OTC derivative instruments. *See* Section 3(a)(5) of the Exchange Act (15 U.S.C. 78c(a)(5)) (defining dealer).

[59] *See* Section II.A.4. below, discussing the definition of the term "hybrid security."

[60] In the Proposing Release, the requirement that an OTC derivatives dealer issue or reacquire its issued securities through a fully regulated broker or dealer (other than an OTC derivatives dealer) was set forth in proposed Rule 3b–12(a)(2), as well as in proposed Rule 15a–1(a)(1)(ii), regarding the permissible securities activities of an OTC derivatives dealer. This requirement, however, has been omitted from final Rule 3b–12, and included only in final Rule 15a–1(c). In this regard, while the securities transactions of an OTC derivatives dealer generally must be effected through an affiliated fully regulated broker-dealer, an OTC derivatives dealer may issue and reacquire its issued securities through an unaffiliated fully regulated broker-dealer. *See* Rule 15a–1(c) (17 CFR 240.15a–1(c)) (discussed in Section II.C.3. below).

In addition, Rule 3b–12 expressly states that an OTC derivatives dealer's securities activities may not consist of any securities activities other than those included in the rule, including engaging in any transaction in any security that is not an eligible OTC derivative instrument, except for cash management securities activities, ancillary portfolio management securities activities, and such other securities activities that the Commission may designate by order. This position is consistent with the general principle that a broker-dealer is not permitted to move dealer activities in cash market instruments into the OTC derivatives dealer.[61]

As some commenters noted, the ability of the Commission to issue orders under Rule 15a–1(b)(1) identifying other permissible securities activities in which an OTC derivatives dealer may engage should help to mitigate concerns that the definition sets forth specific limitations on the securities activities of these entities.[62] As provided in the Proposing Release, the Commission is amending Rule 30–3 of the Rules of Practice to delegate its authority to issue these orders to the Director of the Division of Market Regulation.[63]

[61] As stated in the Proposing Release, except to the extent expressly permitted under the rules and rule amendments, an OTC derivatives dealer may not engage directly or indirectly in any activity that may otherwise cause it to be a "dealer" as defined in Section 3(a)(5) of the Exchange Act (15 U.S.C. 78c(a)(5)). This includes, but is not limited to, without regard to the security, (1) purchasing or selling securities as principal from or to customers; (2) carrying a dealer inventory in securities (or any portion of an affiliated broker-dealer's inventory); (3) quoting a market in or publishing quotes for securities (other than quotes on one side of the market on a quotations system generally available to non-broker-dealers, such as a retail screen broker for government securities) in connection with the purchase or sale of securities permitted under Rule 15a–1; (4) holding itself out as a dealer or market-maker or as being otherwise willing to buy or sell one or more securities on a continuous basis; (5) engaging in trading in securities for the benefit of others (including any affiliate), rather than solely for the purpose of the OTC derivatives dealer's investment, liquidity, or other permissible trading objective; (6) providing incidental investment advice with respect to securities; (7) participating in a selling group or underwriting with respect to securities; or (8) engaging in purchases or sales of securities from or to an affiliated broker-dealer except at prevailing market prices. *See* Proposing Release, Section II.A.4., n.24, 62 FR at 67944, n.24.

[62] *See, e.g.*, SIA Letter I, pp. 6–7. *See also* Rule 15a–1(b)(1) (17 CFR 240.15a–1(b)(1)) and Section II.C.2. below, discussing the ability of the Commission to issue orders under Rule 15a–1(b) (17 CFR 240.15a–1(b)) regarding the securities activities of OTC derivatives dealers.

[63] Proposing Release, Section II.C., n.27, 62 FR at 67944, n.27. *See* Rule 30–3(a)(64) (17 CFR 200.30–3(a)(64)).

2. Rule 3b–13; Definition of Eligible OTC Derivative Instrument

An OTC derivatives dealer is permitted to engage in dealer activities in eligible OTC derivative instruments, as that term is defined in Rule 3b–13. As proposed, Rule 3b–13 would have defined "eligible OTC derivative instrument" to mean any agreement, contract, or transaction (1) that is not part of a fungible class of agreements, contracts, or transactions that are standardized as to their material economic terms; (2) that is based, in whole or in part, on the value of, any interest in, any quantitative measure of, or the occurrence of any event relating to, one or more securities, commodities, currencies, interest or other rates, indices, or other assets, or involve certain long-dated forward contracts, specifically contracts to purchase or sell a security on a firm basis at least one year following the transaction date;[64] and (3) that is not entered into and traded on or through an exchange, an electronic marketplace, or similar facility supervised or regulated by the Commission, or any other multilateral transaction execution facility.[65]

Several commenters criticized this proposed definition.[66] For example, the SIA argued that the proposed definition failed to include certain important categories of transactions, such as transactions that are based on the occurrence or nonoccurrence of specified events, but that do not technically relate to one or more securities, commodities, and the like, although they are associated with financial consequences, such as credit derivatives.[67] Morgan Stanley Dean Witter argued that the requirement that eligible OTC derivative instruments be based on at least one of an enumerated list of underlying assets could unnecessarily limit these dealers' activities in rapidly evolving products while Commission approval was being sought on a product-by-product basis.[68]

The SIA also suggested alternative definitions of "eligible OTC derivative instrument" and recommended that the Commission clarify that it was not intending to construe or expand the definition of "security" under the Exchange Act.[69] Several commenters asked that the Commission clarify what instruments would be considered "securities" OTC derivative instruments and "non-securities" OTC derivative instruments for purposes of the rules.[70] Merrill Lynch agreed in principle with the approach of proposed Rule 3b–13, but also suggested that an OTC derivatives dealer be able to seek expedited interpretative guidance for new derivative instruments.[71]

Several commenters were also concerned that the proposed definition required that forwards have a duration period of one year or more in order to qualify as an eligible OTC derivative instrument, and suggested shorter periods, such as one month or two weeks.[72] The SIA suggested that, in including a duration period for forwards, the definition should distinguish between government securities forwards and forwards involving non-government securities.[73] In addition, the SIA maintained that those securities forwards having material features of a type described in the definition of eligible OTC derivative instrument should qualify as eligible OTC derivative instruments.[74]

Several commenters raised concerns with the use of concepts from the CEA in defining the term eligible OTC derivative instrument. In its comment letter, the Commodity Futures Trading Commission ("CFTC") noted that the proposed definition relied on criteria that were similar to, but not the same as, the criteria for qualifying transactions under the CFTC's part 35 swaps exemption.[75] The CFTC stated that a registered OTC derivatives dealer could effect transactions that would be permissible under the proposed rules, but that would not be exempted under part 35 from the provisions of the CEA, and thus market participants might face legal uncertainty concerns in entering into certain derivatives transactions.

On a similar note, two commenters were concerned that the proposed

[64] The concern with forwards is that an OTC derivatives dealer should not be able to engage in dealer activities in short-dated securities forwards that may in effect replicate cash market instruments or in certain government securities forwards, such as Government National Mortgage Association (GNMA) forwards.

[65] Proposing Release, Section II.A.2., 62 FR at 67942.

[66] *See* letters cited in Section IV.B. of the Comment Summary.

[67] SIA Letter I, pp. 9–10; *see also* Merrill Lynch Letter, p. 7.

[68] MSDW Letter, p. 6.

[69] SIA Letter I, p. 10. *See also* Comment Letter from SIA, dated October 16, 1998 ("SIA Letter II"), pp. 2–3.

[70] EUDA Letter, p. 2; GFOA Letter, p. 1; Comment Letter from the New York Stock Exchange ("NYSE Letter"), p. 3.

[71] Merrill Lynch Letter, p. 7.

[72] SIA Letter I, pp. 9–10; Merrill Lynch Letter, p. 7; Comment Letter from D.E. Shaw & Co. L.P. ("DESCO Letter"), p. 7.

[73] SIA Letter II, p. 2.

[74] *Id.*

[75] CFTC Letter, pp. 11–12. The CFTC's Part 35 regulations exempt certain swap transactions from most provisions of the CEA, provided that the transaction is conducted solely between "eligible swap participants," as defined in part 35 (17 CFR part 35).

definition adopted concepts from the CEA in excluding transactions that were standardized or traded on "an exchange, an electronic marketplace, or similar facility supervised or regulated by the Commission, or any other multilateral transaction execution facility."[76] The SIA argued that the text potentially could exclude from the definition a broad range of transactions involving exempt securities, as well as transactions that did not involve securities at all, which it believed should not be excluded from the proposed definition. The SIA also opined that the proposed language would spawn significant uncertainty over its scope.[77] Morgan Stanley Dean Witter similarly claimed that the use of terms contained in the CEA that were not commonly understood in the securities law context caused the definition of "eligible OTC derivative instrument" to be ambiguous.[78]

In response to these comments, the Commission has revised the definition of eligible OTC derivative instrument in several ways. As adopted, Rule 3b–13 defines eligible OTC derivative instrument to mean, subject to certain exceptions, any contract, agreement, or transaction that provides, in whole or in part, on a firm or contingent basis, for the purchase or sale of, or is based on the value of, or any interest in, one or more commodities, securities, currencies, interest or other rates, indices, quantitative measures, or other financial or economic interests or property of any kind, or that involves any payment or delivery that is dependent on the occurrence or nonoccurrence of any event associated with a potential financial, economic, or commercial consequence, or any combination or permutation of the foregoing.[79] The term eligible OTC derivative instrument, however, does not include certain forwards on securities, securities listed or traded on a national securities exchange or on Nasdaq, or fungible securities derivative instruments that are standardized as to their material economic terms.[80]

Rule 3b–13 defines eligible OTC derivative instrument broadly to encompass the wide range of securities and non-securities OTC derivative instruments currently existing in the derivatives markets, as well as to allow for the inclusion of reasonably similar instruments that market participants may develop in the future. The types of instruments that generally satisfy the criteria set forth in Rule 3b–13 include interest rate swaps, currency swaps, equity swaps, swaps involving physical commodities (such as metals or petroleum), OTC options on equities (including equity indices), OTC options on U.S. government securities, OTC debt options (including options on debt indices), options on physical commodities, long-dated forwards on securities, and forwards relating to other types of assets. Other types of instruments also satisfy the criteria in the rule.

The definition of eligible OTC derivative instrument has also been revised to omit terms commonly understood in the context of the CEA. As a technical matter, exchange-traded futures will now fall within the definition of eligible OTC derivative instrument. As discussed in Section II.A.1. above, however, the rules limit only the *securities* activities of an OTC derivatives dealer, and, subject to appropriate capital treatment and compliance with internal risk management controls requirements, an OTC derivatives dealer generally may engage in any non-securities activities. Thus, the new regulatory structure does not limit an OTC derivatives dealer's ability to engage in futures activities, which is consistent with the current approach toward the regulation of general securities broker-dealers. The activities of an OTC derivatives dealer, however, must comply with any and all applicable laws, including the CEA to the extent it applies to any particular transaction.

In response to comments raised by the SIA,[81] the final rule also distinguishes between government securities forwards and other securities forwards with respect to duration periods. Rule 3b–13 generally excludes from the definition of eligible OTC derivative instrument forwards on a government security that settle within twelve months, and certain other securities forwards that satisfy the definition of "eligible forward contract"[82] that settle within four months.[83] Although the duration period for an "eligible forward contract" is shorter than the original proposal of one year for all securities forwards, the periods better reflect the manner in which an OTC derivatives business is conducted and will continue to constrain an OTC derivatives dealer from improperly engaging in the types of forward transactions that should occur in its fully regulated broker-dealer affiliate.[84] The final rule has also been revised to include as eligible OTC derivative instruments those securities forwards that have material economic features primarily of a type described in the definition of eligible OTC derivative instrument (other than the provision for the purchase and sale of a security on a firm basis).

The definition of eligible OTC derivative instrument excludes securities derivative instruments that are listed or traded on an exchange or on Nasdaq. Similarly, the definition excludes those securities derivative instruments that are one of a class of fungible instruments that are standardized as to their material economic terms. With respect to the exclusion for certain fungible instruments, the Commission has retained the authority under Rule 15a–1(b)(2) to determine by order that a securities derivative instrument that is one of a class of fungible instruments that are standardized as to their material economic terms is within the scope of eligible OTC derivative instrument. This

[76] SIA Letter I, pp. 9–10; MSDW Letter, pp. 7–8.

[77] SIA Letter I, p.9.

[78] MSDW Letter, pp. 7–8.

[79] Rule 3b–13(a) (17 CFR 240.3b–13(a).

[80] *See* Rule 3b–13(b) (17 CFR 240.3b–13).

[81] *See supra* note 73.

[82] For purpose of Rule 3b–13, the term "eligible forward contract" means "a forward contract that provides for the purchase or sale of a security other than a government security, provided that, if such contract provides for the purchase or sale of margin stock (as defined in Regulation U of the Regulations of the Board of Governors of the Federal Reserve System, 12 CFR part 221), such contract either (1) provides for the purchase or sale of such stock by the issuer thereof (or an affiliate that is not a bank or a broker or dealer); or (2) provides for the transfer of transaction collateral in an amount that would satisfy the requirements, if any, that would be applicable assuming the OTC derivatives dealer party to such transaction were not eligible for the exemption from Regulation T of the Regulations of the Board of Governors of the Federal Reserve System, 12 CFR part 220, set forth in (Rule 36a1–1).

[83] In its comment letter, the SIA requested guidance regarding the application of the duration requirement for securities forwards in the context of certain transaction structures that require a forward to be market-to-market and repriced. *See* SIA Letter II, p. 2, n.1. For example, a contract may provide that it is to be periodically marked-to-market and repriced with a settlement payment to be made on each repricing date in an amount equal to the change in the value of the underlying security. *Id.* In response to the SIA's request, under Rule 3b–13, where a securities forward transaction provides for reset or repricing dates, such dates will be viewed as settlement dates, and will cause the forward to be separated into shorter duration periods, only if the parties can close out the transaction on such dates. For example, if a one-year securities forward resets monthly to mitigate the credit risk associated with the transaction, and the parties can close out the forward on the reset date, for purposes of Rule 3b–13, the transaction will be regarded as separate one-month forward transaction. If, however, the parties are not able to close out the forward, or otherwise discharge their obligations under the contract by accelerating all or part of the originally scheduled physical settlement, on the reset dates, then the reset dates will not be viewed as separate settlement dates.

[84] A fully regulated broker-dealer is not permitted to move its securities book to the OTC derivatives dealer by forwarding out its positions and then reversing those transactions. *See* Rule 15a–1(a) (17 CFR 240.15a–1(a).

authority will permit the Commission, in limited circumstances, to expand the types of securities derivative instruments in which an OTC derivatives dealer may engage in dealer activities. The Commission is amending Rule 30–3 of the Rules of Practice to delegate this authority to the Director of the Division of Market Regulation.[85]

As noted above, the Commission responded to commenters' concerns by adopting an expansive definition of eligible OTC derivative instrument, with few exclusions. The final rule thereby permits an OTC derivatives dealer to deal in a broad array of financial instruments in order to accommodate current business practices.[86] Because of this accommodation, however, the Commission has also reserved the authority under Rule 15a–1(b) to issue orders clarifying whether certain contracts, agreements, or transactions are within the scope of eligible OTC derivative instrument.[87]

The final rules, however, do not define the term "securities OTC derivative instrument," which is intended to encompass OTC derivative instruments that are securities. The term "security" is defined in section 3(a)(10) of the Exchange Act,[88] and the final rules do not interpret or amend the definition of "security" under the Exchange Act. Staff guidance will continue to remain available regarding the applicability of the federal securities laws to any particular OTC derivative instrument.[89]

3. Proposed Rule 3b–14; Definition of Permissible Derivatives Counterparty

Proposed Rule 3b–14 defined those entities and natural persons that would have been eligible to engage in an OTC derivatives transaction with an OTC derivatives dealer. As the Proposing Release noted, these persons included the same persons who currently are eligible to effect transactions with swaps dealers under the CFTC's Part 35 regulations.[90] The Proposing Release also sought specific comment on whether the definition of permissible derivatives counterparty should be expanded to include natural persons having at least $5 million in total assets who entered into OTC derivatives transactions to hedge existing or anticipated assets or liabilities.[91]

Most commenters suggested that a broad range of persons should be able to act as permissible derivatives counterparties, and believed that the definition should be expanded, at a minimum, to include natural persons having at least $5 million in total assets as proposed.[92] The SIA opined that these natural persons were appropriate counterparties and would benefit from having access to risk mitigation products that could be tailored to their individual circumstances and objectives.[93]

A few commenters, however, raised concerns that the proposed group of permissible derivatives counterparties could include unsophisticated persons who would need the protections provided by the securities sales practice requirements.[94] D.E. Shaw & Co. noted that an OTC derivatives dealer would have to rely upon information provided by the counterparty as to its total assets or net worth, and suggested that an OTC derivatives dealer should only be required to have a "reasonable belief" that the counterparty was a "permissible derivatives counterparty."[95]

The CFTC, in turn, raised concerns that conflicts might arise between the Commission's rules and the CFTC's rules in connection with the proposed definition of permissible derivatives counterparty, particularly if the definition were expanded to include parties who would not be eligible swap participants under the CFTC's Part 35 regulations. The CFTC suggested that if an OTC derivatives dealer were to enter into a transaction with a permissible derivatives counterparty that was not an eligible swap participant, the transaction would be outside the exemption of the Part 35 regulations, and could therefore constitute an illegal futures or commodity option contract.[96]

In response to commenters' concerns, and in light of the protections afforded through other provisions of the alternative regulatory framework, the final rules do not restrict the persons that may act as counterparties in OTC derivatives transactions with an OTC derivatives dealer. Instead, the final rules contain certain safeguards designed to protect an OTC derivatives dealer's counterparties, as well as to prevent trading in standardized and fungible OTC derivative instruments that are securities.

In particular, Rule 15a–1 requires, subject to limited exceptions, an OTC derivatives dealer to effect any securities transaction through its fully regulated broker-dealer affiliate, subject to all applicable sales practice requirements.[97] In addition, Rule 3b–13 excepts from the definition of eligible OTC derivative instrument those securities contracts that are one of a class of fungible instruments that are standardized as to their material economic terms.[98] The elimination of counterparty restrictions also addresses concerns that confusion about the applicability of the CEA could arise as a result of any differences between the terms "permissible derivatives counterparty" and "eligible swap participant." As noted above, this rulemaking does not affect the applicability of the CEA to any particular transaction.

4. Proposed Rule 3b–16; Definition of Hybrid Security

As proposed, Rule 3b–16 would have defined hybrid security to mean a security that incorporates payment features economically similar to options, forwards, futures, swap agreements, or collars involving currencies, interest rates, commodities, securities, or indices (or any combination, permutation, or derivative of such contract or underlying interest). The definition of hybrid security did not raise many comments.

The CFTC, however, expressed concerns that, in proposing a definition of hybrid security, no consideration was given to the scope of the exemption for hybrid instruments contained in the CFTC's Part 34 regulations.[99] The CFTC noted that some of the instruments that would qualify as "acceptable" hybrid securities were actually futures or commodity option contracts that were not exempted under the CFTC's Part 34 regulations and could thus be illegal under the CEA.[100]

The term hybrid security, however, is limited to *securities* that incorporate the enumerated payment features. In addition, the alternative regulatory framework employs the term only in the context of an OTC derivatives dealer's ability to issue and reacquire its issued securities (including hybrid securities) under Rules 3b–12 and 15a–1. Moreover, as stated previously, an OTC derivatives dealer remains subject to all other applicable statutes, rules, and regulations. To the extent that the offer and sale of hybrid securities by an OTC derivatives dealer are covered by the CEA, the transactions would need to be structured to qualify for available exemptions. Nevertheless, because of the limited use of the term under the alternative regulatory framework, the Commission is not adopting a separate rule defining "hybrid security," but rather is including a definition of the term only for purposes of Rules 3b–12 and 15a–1.

Certain revisions have been made to the definition of "hybrid security" to achieve conformity with the revisions to the final definition of eligible OTC derivative instrument as set forth in Rule 3b–13.[101] Accordingly, for purposes of Rules 3b–12 and 15a–1, a "hybrid security" is defined to mean a security that incorporates payment features economically similar to options, forwards, futures, swap agreements, or collars involving currencies, interest or other rates, commodities, securities, indices, quantitative measures, or other financial or economic interests or property of any kind, or any payment or delivery that is dependent on the occurrence or nonoccurrence of any event associated with a potential financial, economic, or commercial consequence (or any combination, permutation, or derivative of such contract or underlying interest).[102]

5. Rules 3b–14 and 3b–15; Definitions of Cash Management Securities Activities and Ancillary Portfolio Management Securities Activities

Proposed Rule 3b–15 would have permitted an OTC derivatives dealer to engage in a limited range of securities activities, described under the rule as "permissible risk management, arbitrage, and trading transactions," in connection with the dealer's business as a counterparty in eligible OTC derivative instruments and as an issuer of securities. As discussed above, the focus of the alternate regulatory system for OTC derivatives dealers is to permit U.S. securities firms to establish a separately capitalized booking vehicle for an OTC derivatives business. However, in order to operate a competitive business, an OTC derivatives dealer must also be able to engage in limited securities trading activities in connection with its OTC derivatives dealing business. This includes the ability to take possession of and sell counterparty collateral, to invest short-term cash balances, to engage in certain financing transactions, and to manage risks associated with its OTC derivatives positions or its issuance of securities.

These related securities activities, however, must be subject to appropriate limitations to prevent an OTC derivatives dealer from engaging in dealing activity in cash market instruments. An OTC derivatives dealer should not be provided with an unfair regulatory advantage over a fully regulated broker-dealer due to the availability of modified capital and margin requirements. In addition, an entity that engages in comprehensive securities dealing activity should be subject to full broker-dealer regulation, including existing capital and margin requirements, and be subject to supervision by an SRO.

Moreover, appropriate limitations on the related securities activities of an OTC derivatives dealer must be in place to prevent the dealer from engaging in substantial proprietary securities trading activities. The alternative regulatory framework is not intended to allow an OTC derivatives dealer to operate in a manner similar to an active securities trader, such as a hedge fund. Accordingly, under the final rules, an OTC derivatives dealer may not engage in any transaction in any security that is not an eligible OTC derivative instrument, with the exception of activities permitted under final Rules 3b–14 and 3b–15, as discussed below.[103]

Under the regulatory framework, as proposed, the definition of "permissible risk management, arbitrage, and trading transactions" attempted to carefully define activities associated with managing the risk of an OTC derivatives dealer's business, while excluding other securities dealing and proprietary trading activities. Based on the comments received on the scope of "permissible risk management, arbitrage, and trading transactions," however, the final rules have been restructured to more accurately reflect the types of cash management and portfolio management activities engaged in by dealers in OTC derivative instruments. Therefore, as noted above, the Commission is not adopting a definition of "permissible risk management, arbitrage, and trading transactions," but rather is defining two new terms: "cash management securities activities" and "ancillary portfolio management securities activities."[104]

a. *Rule 3b–14; Cash Management Securities Activities.* An OTC derivatives dealer may engage in "cash management securities activities," as defined in Rule 3b–14. Under the rule, an OTC derivatives dealer may engage in cash management securities activities in connection with its securities activities as permitted under Rule 15a–1 (discussed in Section II.C.1. below) or its non-securities activities that involve eligible OTC derivative instruments or other financial instruments. Cash management securities activities are limited to (1) any taking possession of, and any subsequent sale or disposition of, collateral provided by a counterparty, or any acquisition of, and any subsequent sale or disposition of, collateral to be provided to a counterparty; (2) cash management; and (3) financing of certain positions of the dealer. Each of these three categories of cash management securities activities is discussed in more detail below.

i. Counterparty Collateral. Proposed Rule 3b–15(a) would have allowed an OTC derivatives dealer to take possession of and sell counterparty collateral, in connection with the dealer's business as a counterparty in eligible OTC derivative instruments and as an issuer of securities. The SIA

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[85] *See* Rule 30–3(a)(65) (17 CFR 200.30–3(a)(65). *See also* Section II.C.2. below, discussing the ability of the Commission to issue orders under rule 15a–1(b) (17 CFR 240.15a–1(b) regarding the securities activities of OTC derivatives dealers.

[86] The Commission will consider the economic realities of a securities transaction, and not the label assigned to the transaction, for purposes of determining whether a particular transaction is permitted under the alternative regulatory framework. *See, e.g., In the Matter of BT Securities Corporation*, Exchange Act Release No. 35136 (Dec. 22, 1994). For example, an OTC derivatives dealer may not engage in a forward transaction that would otherwise not be permitted under the framework in the guise of options or other permitted transactions.

[87] *See* Rule 15a–1(b)(3) (17 CFR 240.15a–1(b)(3). Unlike other provisions contained in these rules that permit the expansion of OTC derivatives dealers' activities, this authority has not been delegated to the staff.

[88] 15 U.S.C. 78c(a)(10).

[89] Questions on this subject should be addressed to the Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW, Mail Stop 10–1, Washington, DC 20549, (202) 942–0073

[90] Proposing Release, Section II.A.3., 62 FR at 67942.

[91] *Id.*

[92] *See* letters cited in Section IV.C. of the Comment Summary.

[93] SIA Letter I, p. 10.

[94] *See, e.g.*, NYSE Letter, p. 3; EUDA Letter, p. 2.

[95] DESCO Letter, pp. 7–8.

[96] CFTC Letter, p. 12.

[97] Rule 15a–1(c) (17 CFR 240.15a–1(c)).

[98] Rule 3b–13(b)(2)(ii) (17 CFR 240.3b–13(b)(2)(ii)).

[99] CFTC Letter, p. 13. Hybrid instruments are depository instruments or securities instruments, such as debt or equity securities, that have one or more commodity-dependent components with payment features similar to commodity futures or commodity option contracts. Under the CFTC's part 34 regulations, such instruments may be exempt from regulation under the CEA if the sum of the commodity-dependent values of the commodity-dependent components of the instrument is less than the commodity-dependent value of the commodity-independent component. 17 CFR part 34.

[100] CFTC Letter, p. 13.

[101] *See* discussion at Section II.A.2. above *See also* SIA Letter II, p. 3, n.2.

[102] *See* Rules 3b–12(d) (17 CFR 240.3b–12(d)) and 15a–1(e) (17 CFR 240.15a–1(e)).

[103] *See* Rules 3b–12(c) (17 CFR 240.3b–12(c)) and 15a–1(a)(3) (17 CFR 240.15a–1(a)(3)).

[104] With certain exceptions (*see* Section II.C.3. below), all cash management securities activities and ancillary portfolio management securities activities must be effected through an OTC derivatives dealer's fully regulated broker-dealer affiliate. *See* Rule 15a–1(c) (17 CFR 240.15a–1(c)).

argued that this provision unduly restricted the scope of activities, and requested that the rule be modified to allow an OTC derivatives dealer to engage in (1) any disposition of collateral provided by a counterparty; and (2) the acquisition of, and any subsequent sale or disposition of, collateral to be provided to a counterparty.[105]

To allow an OTC derivatives dealer to take appropriate action with respect to counterparty collateral, an OTC derivatives dealer's activities should not be limited to taking possession of and selling collateral, but should also extend to other dispositions of the collateral. Therefore, Rule 3b–14(a), as adopted, has been revised to expand the permissible activities of an OTC derivatives dealer with respect to counterparty collateral.

Rule 3b–14(a), like proposed Rule 3b–15(a), does not limit any use of the counterparty collateral consistent with the agreements entered into between dealers and their counterparties. As the End-Users of Derivatives Association, Inc. ("EUDA") noted, many end-users deny counterparties free use of posted collateral because it may expose the pledging party to significant additional credit risk.[106] In this regard, Rule 3b–14 is not intended to have any effect on individually negotiated collateral support agreements or any rehypothecation rights contained in these agreements.

ii. Cash Management. Rule 3b–14(b), as adopted, permits an OTC derivatives dealer to engage in cash management activities in connection with the dealer's securities activities (as permitted under Rule 15a–1) or its non-securities activities that involve eligible OTC derivative instruments or other financial instruments.[107] Rule 3b–14(b) applies only to managing cash of the OTC derivatives dealer, and not of its affiliates. Thus, any securities trading activities associated with cash management by an OTC derivatives dealer must be at a level commensurate with the OTC derivatives dealer's bona fide operational needs, taking into consideration the Commission's capital requirements for the OTC derivatives dealer and the amount of capital needed to satisfy the credit requirements of counterparties.

Cash management securities activities must also be limited to trading in instruments that are sufficiently liquid and otherwise recognized as appropriate cash management instruments. In addition, these activities may not involve moving government securities repurchase agreement or other trading books from a fully regulated broker-dealer into its OTC derivatives dealer affiliate.

iii. Financing. Under proposed Rule 3b–15(d), an OTC derivatives dealer generally would have been permitted to engage in financing transactions in connection with its business as a counterparty in eligible OTC derivative instruments and as an issuer of securities. The proposed rule would also have required that these financing activities be limited to transactions involving securities positions established through the taking possession of or sale of counterparty collateral, cash management, or hedging activity. The SIA regarded these limitations as unduly restrictive, and believed that an OTC derivatives dealer should be permitted to finance any aspect of its permitted activities, subject to compliance with Section 7(c) or (d) of the Exchange Act, as applicable.[108]

In response to these concerns, Rule 3b–14(c) provides that an OTC derivatives dealer may finance through securities transactions any position of the dealer acquired in connection with its permissible securities activities or its non-securities activities that involve eligible OTC derivative instruments or other financial instruments. Proposed Rule 3b–15 would have permitted financing of certain securities positions by means of repurchase and reverse repurchase agreements, buy/sell transactions,[109] and lending and borrowing transactions. The final rule eliminates the list of restrictions on the types of transactions in which an OTC derivatives dealer may engage to finance its positions. However, a broker-dealer may not run such things as a repurchase agreement, stock lending, or buy/sell book out of an affiliated OTC derivatives dealer in order, for example, to have access to financing for the OTC derivatives dealer's business.

b. *Rule 3b–15; Ancillary Portfolio Management Securities Activities.* In addition to cash management securities activities, an OTC derivatives dealer may engage in "ancillary portfolio management securities activities," as defined in Rule 3b–15. Under the rule, these securities activities must be limited to transactions in connection with the OTC derivatives dealer's dealer activities in eligible OTC derivative instruments, the issuance of securities by the dealer, or such other securities activities that the Commission may designate by order. They must also (1) be conducted for the purpose of reducing the market or credit risk of the dealer or consist of incidental trading activities for portfolio management purposes; and (2) be limited to risk exposures within the market, credit, leverage, and liquidity risk parameters set forth in both the trading authorizations granted to the associated person (or to the associated person's supervisor) who executes the transaction for, or on behalf of, the dealer, and the written guidelines approved by the dealer's governing body and included in the dealer's internal risk management control system.[110] Rule 3b–15 also requires that ancillary portfolio management securities activities be conducted only by associated persons of the dealer who perform substantial duties for or on behalf of the dealer in connection with its dealer activities in eligible OTC derivative instruments.

The limitations on an OTC derivatives dealer's portfolio management activities under Rule 3b–15 are aimed at preventing the fully regulated broker-dealer from moving its securities book into its OTC derivatives dealer affiliate, establishing a proprietary trading desk in the OTC derivatives dealer, or authorizing personnel or trading units specifically to engage in proprietary trading activities.[111] These activities are not within the scope of an OTC derivatives dealer's primary role as a booking vehicle for OTC derivatives transactions, and a firm engaging in these activities would be in violation of the rules.[112]

Rule 3b–15, however, does permit an OTC derivatives dealer to engage in incidental securities trading activities for portfolio management purposes. In permitting this, the rule recognizes that an OTC derivatives dealer may to a limited extent engage in a securities trading activity for portfolio management purposes that may not necessarily be for the specific purpose of reducing the dealer's market or credit risk.[113] This provision of the rule, however, is not intended to permit an OTC derivatives dealer to engage in substantial securities trading that is not for the purpose of reducing the dealer's market or credit risk arising out of its dealer activities in eligible OTC derivative instruments (or its issuance of securities).

As discussed more fully below, the Commission has responded to commenters by easing the restrictions on the non-dealing securities activities of OTC derivatives dealers and by broadly defining ancillary portfolio management securities activities. The final rules are intended to be flexible and to accommodate current business practices of OTC derivatives dealers. Because, as drafted, the rule defines a broad scope of permissible activities, the restrictions on proprietary trading and dealing in cash markets may prove inadequate. Thus, Rule 15a–1(b)(4) preserves the Commission's ability to clarify, by order, whether certain securities activities of an OTC derivatives dealer are within the scope of ancillary portfolio management securities activities.[114]

Because the commenters generally focused on the categories of activities identified in the definition of "permissible risk management, arbitrage, and trading transactions" under proposed Rule 3b–15, each of these categories is discussed separately below.

i. Hedging. Under proposed Rule 3b–15(c), an OTC derivatives dealer would have been permitted to "hedge an element of market or credit risk associated with one or more existing or anticipated transactions in eligible OTC derivative instruments or the issuance of securities, including warrants on securities, hybrid securities, or structured notes." This is the only section of the proposed rules that specifically addressed the risk management practices of an OTC derivatives dealer. For that reason, some commenters believed that the Commission should more clearly define what activities would be considered "hedging activity."[115] They essentially did not want an OTC derivatives dealer to be limited to hedging only those risks arising in connection with the dealer's business as a counterparty in eligible OTC derivative instruments and as an issuer of securities, but rather wanted the firm to be able to manage risks on a portfolio-wide basis through hedging or other risk management techniques.

For instance, the SIA regarded the limitation on the "hedging" activities listed in the proposed rule as unduly restrictive, and believed that an OTC derivatives dealer should be permitted to "engage in any risk management transaction that is designed to implement management's decision as to the market risk profile the firm wishes to obtain."[116] In this regard, the SIA commented that dealers do more than just hedge their positions, and that many dealers take on levels of risk consistent with certain risk parameters. The SIA also claimed that an OTC derivatives dealer should be permitted to manage the risks associated with cash management, financing, and other permissible securities positions, in addition to the risks arising from permissible derivative and hybrid positions.[117] D.E. Shaw & Co., in turn, stated that an OTC derivatives dealer should also be able to engage in risk management activities that involve the hedging of "liquidity, legal, or operational risks, or any other risks for which derivative hedging products are developed."[118]

As discussed earlier, in response to comments received regarding the manner in which dealers in OTC derivative instruments conduct their business activities, the Commission has restructured the final rules to better reflect current firm practices. As a result, Rule 3b–15, as adopted, incorporates the concept of managing risk on a portfolio-wide basis, and omits any reference to the term "hedging." Thus, the rule does not expressly limit the range of permissible portfolio management securities activities. Instead, these activities are limited by the requirement that they not give rise to risk exposures that, on an aggregate portfolio basis, exceed the risk limits adopted for the dealer's business under Rule 15c3–4,[119] as well as other requirements that serve to ensure that the OTC derivatives dealer does not engage in dealer activities in cash market securities or substantial proprietary trading activities.

ii. Arbitrage. Under proposed Rule 3b–15(e), an OTC derivatives dealer would have been permitted to engage in a transaction involving arbitrage, provided that any arbitrage involving securities was limited to arbitrage of a securities position that was acquired in connection with the taking possession of or selling of counterparty collateral, cash management, or hedging activity.[120] The SIA requested that

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[105] SIA Letter I, p. 8.

[106] EUDA Letter, p. 3.

[107] As proposed, Rule 3b–15(b) would have permitted an OTC derivatives dealer to engage in transactions involving cash management, in connection with the dealer's business as a counterparty in eligible OTC instruments and as an issuer of securities. Proposing Release, Section II.A4., 62 FR at 67943. No commenters specifically addressed permitted cash management practices.

[108] SIA Letter I, p. 8.

[109] A buy/sell transaction is in many respects the economic equivalent of a repurchase transaction. The principal respect in which it differs is that title to the instrument that is the subject of the transaction passes to another party. *See* Proposing Release, Section II.A.4., n.22, 62 FR at 67943, n.22.

[110] As discussed in Section II.H.3. below, Rule 15c3–4 (17 CFR 240.15c3–4) requires an OTC derivatives dealer to establish, document, and maintain a system of internal controls for monitoring and managing risk associated with its business activities.

[111] *See also* Section II.A.1. above, discussing the limitations on securities activities imposed under Rule 3b–12. In short, the scope of permissible portfolio management securities activities is further limited by the requirement under Rule 3b–12 that the securities activities of an OTC derivatives dealer consist primarily of engaging in dealer activities in eligible OTC derivative instruments that are securities, issuing and requiring securities that are issued by the dealer, and cash management securities activities. *See* Rule 3b–12(b) (17 CFR 240.3b–12(b)).

[112] *See* Rule 15a–1 (17 CFR 240.15a–1), and discussion in Section II.C. below.

[113] For example, a firm that has a long position in equity volatility as a result of OTC derivatives transactions with counterparties is not required to engage in ancillary portfolio management securities activities that reduce that volatility exposure. Instead, for example, a firm that believes that equity volatility exposure. Instead, for example, a firm that believes that equity volatility is underpriced in the market could enter into exchange-listed derivatives transactions to create or increase existing long volatility exposure. Similarly, a firm whose OTC derivatives portfolio included risk exposure to a particular asset category or credit could enter into non-OTC derivatives transactions in securities that would effectively convert that exposure to a different asset category or credit.

[114] *See* Rule 15a–1(b)(4) (17 CFR 240.15a–1(b)(4)). The Commission is not delegating this authority to its staff.

[115] *See, e.g.*, Comment Letter from the Association of the Bar of the City of New York, Committee on Futures Regulation ("ABCNY Committee Letter"), p. 3; *see also* letters cited in Section IV.F.1.b. of the Comment Summary.

[116] SIA Letter I, p. 8.

[117] *Id. See also* Merrill Lynch Letter, p. 5. In a later comment letter, the SIA also stated that, so long as an OTC derivatives dealer's securities activities consisted primarily of conducting an OTC derivatives dealing business, an OTC derivatives dealer should be permitted to engage in cash market securities trading activities for portfolio management purposes, provided that these activities did not give rise to portfolio risk exposures that, on an aggregate basis, exceeded the risk management parameters for the dealer's business pursuant to proposed Rule 15c3–4. SIA Letter II, p. 1. It maintained that this approach would permit the dealers to engage in portfolio management activities consistent with the manner in which such firms currently manage their OTC derivatives businesses, but would still preclude firms from establishing OTC derivatives dealers to conduct a proprietary trading business in cash market securities. *Id.* While Rule 3b–15, as adopted, has been revised in response to the SIA's comments, the rule includes additional limitations as a means of permitting reasonable portfolio management securities activities, while also prohibiting overly broad securities trading activities.

[118] DESCO Letter, p. 7.

[119] In addition to the risk parameters set forth in the written guidelines included in the dealer's internal risk management control system under Rule 15c3–4 (17 CFR 240.15c3–4), the appropriate levels of risk assumed by an OTC derivatives dealer are also to be determined by the dealer through trading authorizations or limits placed on the associated person executing a transaction on the dealer's behalf. *See* Rule 3b–15(a)(3)(i) (17 CFR 240.3b–15(a)(3)(i)).

[120] The Proposing Release further stated that permissible arbitrage transactions would be limited to transactions involving closely related cash market and derivative instruments that were effected close to one another in time for purposes of taking advantage of price disparities in different markets. An example would include transactions involving the purchase or sale of an equity security and the acquisition of an option on the same equity

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permissible arbitrage activities be expanded to include (1) arbitrage of eligible OTC derivatives instruments; (2) arbitrage of short securities positions; and (3) arbitrage of prospective securities purchases or sales under permitted forward arrangements.[121]

The final rules do not use the term "arbitrage" in describing the scope of risk management activities in which an OTC derivatives dealer may engage. Instead, the rules are intended to permit any portfolio management transaction, including arbitrage transactions, that meet the conditions in the rules. As a practical matter, however, a firm engaging in an OTC derivatives business typically does not engage in "arbitrage" transactions that would not otherwise qualify as an ancillary portfolio management securities activity. Rule 3b–15 allows a firm to manage its positions and make a profit, provided that the activities occur in connection with its derivatives dealing business (or the issuance of securities) and meet the other conditions set forth in the rule.

iii. Trading. To avoid inadvertent violations of the proposed rules through an inability to properly document the purpose of a transaction, proposed Rule 3b–15(f) would have allowed the OTC derivatives dealer to engage in a limited number of certain additional trading transactions. In particular, an OTC derivatives dealer generally would have been permitted to engage in no more than 150 additional securities transactions per year relating to a securities position acquired in connection with the taking possession of or selling of counterparty collateral, cash management, or hedging activity. Proposed Rule 3b–15(f) would have further required an OTC derivatives dealer engaging in any such trading transaction to maintain and enforce written policies and procedures reasonably designed to achieve compliance with the other provisions of proposed Rule 3b–15.

Commenters generally criticized proposed Rule 3b–15(f).[122] This provision was essentially crafted to create a limited "safe harbor" to protect dealers from committing inadvertent violations of the proposed rules because of their inability to properly document the purpose of a transaction. The majority of commenters, however, had difficulty understanding or applying the provision. For example, the SIA expressed concern that the limitation on trading activities might inadvertently exclude the purchase or disposition of securities delivered or received, or to be delivered or received, by the OTC derivatives dealer pursuant to the terms of an eligible OTC derivative instrument.[123] It also recommended that the proposed 150 transaction basket be clarified to indicate that the basket was not intended to place a limit on the number of securities transactions that could be entered into by an OTC derivatives dealer if such transactions could be demonstrated to relate to permitted activities.

Several commenters thought the 150 transaction limit was too low. For example, the SIA believed that the proposed basket was potentially too small and would not adequately reflect the character and scope of a particular firm's activities.[124] As an alternative, several commenters recommended that the size of any such basket be related to the scope of the OTC derivatives dealer's activities rather than a specified number of transactions.[125] The Committee on Futures Regulation of the Association of the Bar of the City of New York suggested that, instead of an arbitrary number of "allowable" transactions per year, the Commission, through its examination process, make determinations of whether a securities transaction was entered into with a good faith belief that it satisfied one of the purposes set forth in the rule.[126]

In response to these comments, the Commission has not included a safe harbor provision in either Rule 3b–14 or Rule 3b–15 allowing for inadvertent violations of the rules. Rather, under the final rules, an OTC derivatives dealer may engage in cash management securities activities and ancillary portfolio management securities activities, as those terms are defined in Rules 3b–14 and 3b–15.

iv. Documentation of Activities. Proposed Rule 3b–15(f), which contained the 150 transaction "safe harbor," also generated concern regarding whether an OTC derivatives dealer would be required to document the purpose of each individual transaction. Commenters argued that, to the extent the rules required individual transaction documentation, they were inconsistent with portfolio management practices. Instead, commenters suggested that dealers be allowed to demonstrate on a portfolio-wide basis that their cash market transactions were consistent with the restrictions set forth in the rules.[127]

As discussed in the Proposing Release, the nature of risk management activities makes it difficult to determine whether a particular transaction satisfies the requirements set forth in the rules.[128] The requirement that an OTC derivatives dealer develop reasonable procedures for ensuring compliance with the restrictions in the rules was intended, in fact, to accommodate current portfolio risk management practices. The rules do not require that documentation of the intended purposes of individual securities trades be maintained by the OTC derivatives dealer. Rather, an OTC derivatives dealer must develop reasonable procedures for ensuring compliance with the restrictions set forth in the rules and for demonstrating the relationship between its risk management activities and the positions it maintains on a portfolio-wide basis.[129]

B. Amendment to Rule 15b1–1; Registration With the Commission

Under the proposed amendments to Rule 15b1–1,[130] a firm seeking to register as an OTC derivatives dealer would have been required to register with the Commission by filing Form BD, the Uniform Application for Broker-Dealer Registration.[131] No comments were received regarding these proposed amendments. Accordingly, the amendments to Rule 15b1–1 are being adopted as proposed.

A firm that elects to register as an OTC derivatives dealer must file an application for registration on Form BD, in accordance with the instructions on the form. The form must be filed with the Central Registration Depository, a computer system operated by the NASD. In completing Item 10 of the form, which asks an applicant to disclose its planned business activities, an OTC derivatives dealer must respond by checking "other" and writing in that it proposes to engage in the business of an OTC derivatives dealer.[132] Some OTC

security that were effected close together in time, taking into consideration market liquidity and hours of market operations. Proposing Release, Section II.A.4., n.23, 62 FR at 67943, n.23.

[121] SIA Letter I, p. 8. *See also* Section IV.F.1.d. of the Comment Summary.

[122] *See* Section IV.F.1.e. of the Comment Summary.

[123] SIA Letter I, pp. 8–9.

[124] *Id.*

[125] *E.g.*, SIA Letter I, p. 9; Merrill Lynch Letter, p. 6.

[126] ABCNY Committee Letter, p. 3.

[127] *See* Section IV.F.2. of the Comment Summary.

[128] Proposing Release, Section II.A.4., 62 FR at 67943.

[129] *See* Section II.H.3. below, discussing Rule 15c3–4 (17 CFR 240.15c3–4), which addresses internal risk management control systems for OTC derivatives dealers.

[130] 17 CFR 240.15b1–1.

[131] 17 CFR 249.501.

[132] *See also* Section II.F.3.b.i. below, discussing the requirement that an OTC derivatives dealer send an application to the Commission with respect to the dealer's use of VAR models to calculate net capital.

derivatives dealers may also be required to comply with Exchange Act provisions applicable to government securities activities.[133] For instance, if an OTC derivatives dealer were to write an option on a government security, it would be considered to be a government securities dealer. Pursuant to Section 15C(a)(1)(B)(i),[134] a broker or dealer effecting, inducing, or attempting to induce the purchase or sale of a government security must file with the appropriate regulatory agency written notice that it is a government securities broker or dealer.[135] As a result, an OTC derivatives dealer that engages in government securities transactions must also file notice of such activities with the Commission, by checking "yes" in response to Item 13A on Form BD.

C. Rule 15a–1; Securities Activities of OTC Derivatives Dealers

1. Scope of Permissible Securities Activities

Proposed Rule 15a–1 would have permitted an OTC derivatives dealer to (1) engage as a counterparty in transactions in eligible OTC derivative instruments with permissible derivatives counterparties; (2) issue and reacquire issued securities, including warrants on securities, hybrid securities, and structured notes; and (3) engage in other securities transactions that the Commission designated by order. In connection with these activities, an OTC derivatives dealer would also have been permitted to engage in permissible risk management, arbitrage, and trading transactions, as defined in proposed Rule 3b–15.

Because Rule 15a–1 describes the securities activities in which an OTC derivatives dealer may engage, it parallels the requirements contained in Rule 3b–12, which defines the term "OTC derivatives dealer." Thus, the comments addressing proposed Rule 15a–1 were generally consistent with those concerning proposed Rule 3b–12.[136] The SIA urged that the rule be simplified by (1) making the proposed regulatory category available to "dealers who are not engaged in the business of buying and selling securities other than securities that are eligible OTC derivative instruments"; and (2) deleting the proposed restrictions on non-dealing activities in securities contained in proposed Rule 15a–1.[137]

As discussed earlier, however, the new regime is not intended to permit an OTC derivatives dealer to engage in substantial proprietary securities trading activities. Rather, the purpose of the alternative regulatory framework is to allow U.S. securities firms to elect to establish a separately capitalized vehicle in which to book a client-oriented OTC derivatives business. As a result, the restrictions on these activities in Rule 15a–1 are necessary.

For the reasons discussed above and in Section II.A.1. with respect to the definition of OTC derivatives dealer, the Commission has revised Rule 15a–1 to provide that the securities activities of OTC derivatives dealer must be limited to (1) engaging in dealer activities in eligible OTC derivative instruments that are securities; (2) issuing and reacquiring securities that are issued by the dealer, including warrants on securities, hybrid securities, and structured notes;[138] (3) engaging in cash management securities activities; (4) engaging in ancillary portfolio management securities activities; and (5) engaging in such other securities activities that the Commission designates by order. In addition, an OTC derivatives dealer's securities activities must consist primarily of engaging in dealer activities in eligible OTC derivative instruments that are securities, issuing and reacquiring its issued securities, and engaging in cash management securities activities.[139]

The alternative regulatory framework for OTC derivatives dealers, as adopted, also includes a provision requiring that the dealer develop procedures to help ensure that it does not engage in securities activities beyond those permitted under Rule 15a–1. As discussed further in Section II.H.3. below, new Rule 15c3–4 requires an OTC derivatives dealer to establish, document, and maintain a system of internal risk management controls to assist it in managing the risks associated with its business activities. As part of its obligations under Rule 15c3–4, an OTC derivatives dealer's written guidelines must include and discuss the dealer's procedures to prevent it from engaging in securities transactions that are not permitted under Rule 15a–1. In addition, Rule 15c3–4 requires the OTC derivatives dealer's management to periodically review the dealer's business activities for consistency with risk management guidelines, including whether procedures are in place to prevent the dealer from engaging in any impermissible securities transaction.

2. Commission Orders Regarding OTC Derivatives Dealers' Activities

Under Rule 15a–1(b), the Commission by order, entered upon its own initiative or after considering an application for exemptive relief, may clarify or expand the scope of permissible securities activities in which an OTC derivatives dealer may engage or the scope of eligible OTC derivative instruments. As discussed in earlier sections of this release, such orders may (1) identify other permissible securities activities in which an OTC derivatives dealer may engage; (2) determine that a class of fungible instruments that are standardized as to their material economic terms is within the scope of eligible OTC derivative instrument; (3) clarify whether certain contracts, agreements, or transactions are within the scope of eligible OTC derivative instrument; or (4) clarify whether certain securities activities are within the scope of ancillary portfolio management securities activities.

Applications for exemptive orders under Section 15a–1(b) should be filed

[133] In this regard, the SIA noted in its comment letter that an OTC derivatives dealer registered with the Commission that engages in transactions in eligible OTC derivative instruments that government securities would exempt from registration as a government securities dealer under Exchange Act Section 15C (15 U.S.C. 78o–5), subject to the notice requirement under Exchange Act section 15c(a)(1)(B) (15 U.S.C. 78o–5(a)(1)(B). SIA Letter I, p. 13.

[134] 15 U.S.C. 78o–5(a)(1)(B)(i).

[135] It must similarly file a written notice when it ceases to act as a government securities broker or dealer. 15 U.S.C. 78o–5(a)(1)(B)(i). *See also* Section 3(a)(44) of the Exchange Act (15 U.S.C. 78c(a)(44)) (defining government securities dealer).

[136] *See* Section II.A.1. above. For example, several commenters believed that the scope of permissible securities transactions under proposed Rule 15a–1 should be expanded, and that the proposed rule would unduly restrict the activities of an OTC derivatives dealer. *See, generally,* letters cited in Sections IV.A. and IV.E. of the Comment Summary.

[137] SIA Letter I, pp. 6–7.

[138] D.E. Shaw & Co. requested clarification regarding the ability of an OTC derivatives dealer to issue and reacquire its issued securities through a fully regulated broker-dealer. It asked whether the phrase meant that the fully regulated broker-dealer must be the issuer of the security or whether the fully regulated broker-dealer must act as principal or agent in the purchase of securities from, or the sale of securities to, the customer. D.E. Shaw & Co. also asked whether the OTC derivatives dealer could be the issuer of the security, as long as the OTC derivatives dealer complied with the registration, confirmation, and similar requirements set forth in the proposed rule. DESCO Letter, p. 9. In short, under Rule 15a–1, an OTC derivatives dealer may only issue its own securities, or reacquire its own securities, through a fully regulated broker-dealer; it may not act in a sales capacity or directly reacquire its securities from holders of such securities, except in limited circumstances with respect to certain counterparties. *See* Rule 15a–1(c) (17 CFR 240.15a–1(c)).

[139] As noted in Section II.A.1. above, although the rules limit the securities activities of OTC derivatives dealers, the Commission has retained the authority under Rule 15a–1 to identify other permissible securities activities for these entities. *See* Rule 15a–1(b)(1) (17 CFR 240.15a–1(b)(1)). This authority has been delegated to the Director of the Division of Market Regulation. *See* Rule 30–3(a)(64) (17 CFR 200.30–3(a)(64).

in accordance with Commission procedures set forth in Rule 0–12 under the Exchange Act.[140] The Commission may issue such orders to the extent they are necessary or appropriate in the public interest, and consistent with the protection of investors. In considering such orders, the Commission will consider whether the securities activities are of the type and nature of activities in which an OTC derivatives dealer may engage under Rule 15a–1, including whether such activities are integrated into, or integral to, the OTC derivatives dealing business of OTC derivatives dealers.

3. Intermediation of Securities Transactions

Proposed Rule 15a–1 would have required an OTC derivatives dealer to effect all securities transactions through a fully regulated broker-dealer. Accordingly, under proposed Rule 15a–1, all applicable SRO sales practice requirements would have applied to the securities transactions of an OTC derivatives dealer.

Several commenters argued that a fully regulated broker-dealer should not be required to intermediate every securities transaction.[141] The SIA maintained that the interpositioning of a broker-dealer was not necessary, particularly given the sophisticated character of the permissible derivatives counterparties, the active participation by such counterparties in structuring instruments to fulfill their particular needs, and the consensual negotiation of the terms of individual transactions.[142] The SIA further stated that, at a minimum, an OTC derivatives dealer should not be required to effect securities transactions through a fully regulated broker-dealer (1) where the counterparty to the transaction was a bank, broker-dealer, government securities broker, government securities dealer, or supranational organization; or (2) in connection with risk management, financing, arbitrage, or other trading transactions in which the OTC derivatives dealer was not acting in its capacity as a dealer, but rather as an investor or end-user.[143] The SIA also objected to the intermediation requirement in the context of offshore transactions involving foreign securities.[144]

D.E. Shaw & Co. also questioned whether an OTC derivatives dealer needed to effect a securities transaction through an *affiliated broker-dealer*. It claimed that an OTC derivatives dealer should also be able to effect these transactions through a bank or broker-dealer with which it had a working relationship.[145] Other commenters questioned the proposed rule's distinction between securities transactions and non-securities transactions, and claimed that if sales practice protection was warranted for securities transactions, then counterparties should receive similar protection for non-securities transactions undertaken with an OTC derivatives dealer.[146] The Chicago Board Options Exchange ("CBOE"), in turn, sought clarification as to which specific SRO sales practice rules would apply to a fully regulated broker-dealer effecting securities transactions for an OTC derivatives dealer's counterparties.[147]

Based on the comments received, Rule 15a–1, as adopted, provides certain limited exceptions to the requirement that securities transactions of an OTC derivatives dealer be effected through its fully regulated broker-dealer affiliate.[148] However, the rule has not been revised, as requested by some commenters, to eliminate the intermediation requirement in connection with cash management or ancillary portfolio management securities transactions in which the OTC derivatives dealer is not acting as a dealer, but rather as an investor or end-user.[149] Accordingly, all cash management securities activities and ancillary portfolio management securities activities of an OTC derivatives dealer must be effected by a fully regulated broker-dealer, unless the transaction is subject to one of the limited exceptions discussed below.[150]

The requirement that securities transactions be effected through a fully regulated broker-dealer is designed, in part, to ensure that all securities transactions remain subject to existing sales practice standards.[151] The requirement is also intended to prevent any regulatory disparity from arising between an OTC derivatives dealer, which is subject to modified capital and margin requirements, and a fully regulated broker-dealer in connection with conducting securities transactions. In addition, it is designed to reduce the risk that counterparties will mistakenly view an OTC derivatives dealer as a fully regulated broker-dealer, rather than as a booking vehicle for derivatives transactions.[152]

However, if the counterparty to a securities transaction is acting as principal and is itself either a registered broker or dealer (including another OTC derivatives dealer), a bank acting in a dealer capacity, a foreign broker or dealer,[153] or an affiliate of the OTC derivatives dealer,[154] the counterparty is less likely to require the protections afforded by sales practice requirements. In addition, these counterparties are not likely to mistakenly believe that an OTC derivatives dealer is a fully regulated broker-dealer engaging in general securities transactions. Therefore, an OTC derivatives dealer is not required to use its fully regulated broker-dealer affiliate to effect securities transactions with these listed entities. This exception, however, applies only when the counterparty is acting as a principal (that is, for its own account), and not as agent for one of its customers.[155]

There is a second limited exception to Rule 15a–1(c), as adopted. If an OTC derivatives dealer engages in a transaction that is an ancillary portfolio management securities activity involving a foreign security,[156] it is not required to effect that transaction through its fully regulated broker-dealer affiliate if a registered broker or dealer, a bank, or a foreign broker or dealer is acting as agent for the OTC derivatives dealer.[157] This exception will permit an OTC derivatives dealer to select one of these professional intermediaries to represent it in foreign markets when purchasing or selling foreign securities for hedging or portfolio management purposes.

4. Communications Regarding Securities Transactions

The requirement that securities transactions be effected through a fully regulated broker-dealer means that the OTC derivatives dealer's counterparties in these transactions will be considered customers of the fully regulated broker-dealer. Therefore, any person that solicits a potential counterparty to engage in a securities transaction with an OTC derivatives dealer, or otherwise has any contact with the counterparty regarding the transaction, generally must be a registered representative of the fully regulated broker-dealer affiliate.[158] As noted in the Proposing Release, these persons may be dual employees of the fully regulated broker-dealer and the OTC derivatives dealer, subject to appropriate supervision by both firms.[159]

The SIA, however, argued that all employees of the OTC derivatives dealer having contact with counterparties to OTC derivatives transactions effected through a fully regulated broker-dealer should not have to be employees of the fully regulated broker-dealer and be licensed as registered representatives of that firm.[160] D.E. Shaw & Co. claimed that the requirement for any person discussing the terms of a securities transaction with a counterparty to be a registered representative of the fully regulated broker-dealer was broader than current NASD requirements. It therefore requested clarification that the proposed rule would not expand the types of activities that would require registration of associated persons.[161]

Under the final rule, whether a registered representative of an OTC derivatives dealer's fully regulated broker-dealer affiliate must be involved in all contacts with a counterparty relating to a securities transaction depends on the nature of the counterparty. Under Rule 15a–1(d), if the counterparty is a registered broker or dealer, a bank acting in a dealer capacity, a foreign broker or dealer, or an affiliate of the OTC derivatives dealer, a registered representative of the fully regulated broker-dealer affiliate does not have to be involved in the contact. Thus, employees of the OTC derivatives dealer may solicit or otherwise contact these enumerated counterparties, even if the employees are not also registered representatives of the fully regulated broker-dealer.[162]

In addition, in some circumstances, registered representatives of the fully regulated broker-dealer affiliate are not required to be involved in contacts with foreign counterparties. Under Rule 15a–1(d), contacts with a foreign counterparty may generally be conducted by an associated person of a foreign broker or dealer who is not resident in the United States, if the foreign broker or dealer is affiliated with the OTC derivatives dealer and is registered by a foreign financial regulatory authority in the jurisdiction in which the counterparty is resident or the associated person is located.[163] Any resulting securities transaction, however, must generally be effected through the OTC derivatives dealer's fully regulated broker-dealer affiliate.

The new regulatory structure for OTC derivatives dealers does not expand on the types of activities that require registration of associated persons under existing SRO rules. For example, to the extent contact with an OTC derivatives dealer's counterparty regarding a securities transaction involves only clerical or ministerial activities that currently may be conducted by an unregistered associated person of a fully regulated broker-dealer, then the employee of the OTC derivatives dealer performing such activities need not be a registered representative.[164] Persons performing clerical and ministerial

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[140] 17 CFR 240.0–12.

[141] *See* letters cited in Section IV.E.1. of the Comment Summary.

[142] SIA Letter I, p. 11.

[143] SIA Letter I, p. 11. Similarly, D.E. Shaw & Co. argued that, in order to level the playing field with non-U.S. broker-dealers, an OTC derivatives dealer should be permitted to transact business directly (without a U.S. broker-dealer intermediary) with all parties with whom a non-U.S. broker-dealer could effect business under Rule 15a–6(a)(4) under the Exchange Act (17 CFR 240.15a–6(a)(4)), including a registered broker or dealer or a bank acting in a broker or dealer capacity. Likewise, it believed that where the OTC derivatives dealer itself is the counterparty to a securities derivatives transaction, the OTC derivatives dealer should not be required to effect the securities transaction through a fully regulated broker-dealer in connection with risk management, financing, arbitrage, or other trading transactions. DESCO Letter, p. 4.

[144] SIA Letter II, pp. 3–4. The SIA argued that the proposed broker-dealer intermediation requirement in the context of offshore transactions involving foreign securities could create significant burdens on registrants, without meaningful corresponding benefits. According to the SIA, if offshore transactions involving foreign securities are required to be intermediated by the fully regulated broker-dealer affiliate, firms might be required to register their non-U.S. offices as branch offices of their fully regulated U.S. broker-dealer (with potentially adverse tax, licensing, or other regulatory consequences) or to confront prohibitive logistical obstacles to compliance with the proposed requirement. The SIA was also concerned about the application of this provision to OTC derivatives transactions arranged and effected by employees resident in a foreign office of an OTC derivatives dealer with a counterparty that is also resident in a foreign jurisdiction. In this regard, it noted that local law may require that the transaction be effected through a locally registered entity, so that a transaction would have to be intermediated by two separate entities. For that reason, it suggested an exception to Rule 15a–1 for permissible securities transaction with foreign counterparties that are arranged and effected by non-U.S. resident employees of an OTC derivatives dealer.

[145] DESCO Letter, p. 3. D.E. Shaw & Co. stated that the restriction to use affiliates limited flexibility and placed an unnecessary burden on U.S. firms conducting a domestic derivatives business.

[146] *See, e.g.*, GFOA Letter, pp. 2–3; EUDA Letter, p. 2.

[147] Comment Letter from the Chicago Board Options Exchange ("CBOE Letter"), p. 5. The CBOE asserted that there is currently a disparity between NASD and NYSE options sales practice rules as applied to listed options, and argued that this disparity, as well as any other disparity between sales practice rules' application to qualified counterparties' OTC derivatives transactions and their listed options transactions, should be remedied.

[148] As noted earlier, an OTC derivative dealer may issue and reacquire its issued securities through an unaffiliated fully regulated broker-dealer. *See* Rule 15a–1(c) (17 CFR 240.15a–1(c)).

[149] *See supra* note 143 and accompanying text.

[150] In addition, the Commission has not revised Rule 15a–1 to extend sales practice requirements to non-securities transactions. As a general matter, sales practice requirements arising under the federal securities laws and SRO rules apply only to the securities transactions of broker-dealers.

[151] Unless otherwise expressly provided in the rules and rule amendments, the fully regulated broker-dealer must comply with all applicable sales practice requirements when effecting any securities transaction for, or on behalf of, an OTC derivatives dealer.

[152] For these same reasons, an OTC derivatives dealer may not effect a securities transaction through an unaffiliated broker-dealer, except in limited circumstances, or through a bank.

[153] The term "foreign broker or dealer" as used in Rule 15a–1 means "any person not resident in the United States (including any U.S. person engaged in business as a broker or dealer entirely outside the United States, except as otherwise permitted by § 240.15a–6 (17 CFR 240.15a–6)) that is not an office or branch of, or a natural person associated with, a registered broker or dealer, whose securities activities, if conducted in the United States, would be described by the definition of 'broker' in section 3(a)(4) of the Act (15 U.S.C. 78c(a)(4)) or 'dealer' in section 3(a)(5) of the Act (15 U.S.C. 78c(a)(5))." *See* See 15a–1(g) (17 CFR 240.15a–1(g)). In general, a foreign bank may be able to satisfy the terms of this definition.

[154] For purposes of Rule 15a–1, the term "affiliate" means "any organization (whether incorporated or unincorporated) that directly or indirectly controls, is controlled by, or is under common control with, the OTC derivatives dealer." *See* Rule 15a–1(f) (17 CFR 240.15a–1(f)).

[155] With respect to offshore transactions involving foreign securities, Rule 15a–1 has not been revised to the extent suggested by some commenters (*see supra* note 144), in part because of concerns regarding the application of sales practice protections to foreign counterparties and the proper maintenance of books and records regarding those transactions. However, the general requirement that communications regarding securities transactions be conducted by associated persons of the affiliated fully regulated broker-dealer has been revised to reflect the fact that firms operate OTC derivatives businesses on a global basis. *See* Rule 15a–1(d) (17 CFR 240.15a–1(d)) (further discussed in Section II.C.4. below).

[156] For purposes of Rule 15a–1, the term *foreign security* means "any security (including a depositary share issued by a United States bank, provided that the depositary share is initially offered and sold outside the United States in accordance with Regulation S (17 CFR 230.901 through 230.904)) issued by a person not organized or incorporated under the laws of the United States, provided the transaction that involves such security is not effected on a national securities exchange or on a market operated by a registered national securities association; or a debt security (including a convertible debt security) issued by an issuer organized or incorporated under the laws of the United States that is initially offered and sold outside the United States in accordance with Regulation S (17 CFR 230.901 through 230.904)." *See* Rule 15a–1(h) (17 CFR 240.15a–1(h)).

[157] *See* Rule 15a–1(c)(2) (17 CFR 240.15a–1(c)(2)). Rule 15c3–4 (17 CFR 240.15c3–4) requires that an OTC derivatives dealer's written guidelines include the dealer's procedures to prevent it from improperly relying on the exceptions to Rule 15a–1(c) and (d) (discussed in Section II.C.4. below).

[158] *See* Rule 15a–1(d) (17 CFR 240.15a–1(d)).

[159] Fully regulated broker-dealers are responsible for supervising only the securities activities of these dual employees. They are not responsible for supervising a dual employee's non-securities OTC derivatives activities conducted on behalf of the OTC derivatives dealer.

[160] SIA Letter I, p. 12.

[161] DESCO Letter, p. 4.

[162] This is consistent with the exception set forth in Rule 15a–1(c)(1) (17 CFR 240.15a–1(c)(1)).

[163] See Rule 15a–1(d) (17 CFR 240.15a–1(d)) and Rule 15a–1(i) (17 CFR 240.15a–1(i)). *See also supra* note 155 and accompanying text. This approach responds to commenters' concerns that it would be inefficient and impractical to require a registered representative of the OTC derivatives dealer's fully regulated broker-dealer affiliate to conduct all contacts with all foreign counterparties concerning permissible securities activities with the OTC derivatives dealer.

[164] *See* Rule 15a–1(d) (17 CFR 240.15a–1(d)).

functions may also be dual employees of the OTC derivatives dealer and the fully regulated broker-dealer affiliate.

5. Confirmation of Securities Transactions

Rule 10b–10 under the Exchange Act [165] requires broker-dealers to send a written confirmation of each securities transaction with a customer at or before completion of the transaction, containing certain material information about the transaction. The Proposing Release stated that in a securities transaction between an OTC derivatives dealer and a counterparty (or customer) effected through a fully regulated broker-dealer, the OTC derivatives dealer and the fully regulated broker-dealer would each be responsible for sending a confirmation to the counterparty under the rule.[166] It further stated that certain customers could choose not to receive two confirmations for each securities transaction, but rather could instruct the OTC derivatives dealer and the fully regulated broker-dealer to send one joint confirmation on behalf of both parties.[167]

The SIA agreed that the counterparty to any securities transaction would be a customer of the fully regulated broker-dealer and that the fully regulated broker-dealer would have an obligation to deliver a confirmation to the counterparty; however, the SIA argued that the counterparty would not be a customer of the OTC derivatives dealer and, accordingly, the OTC derivatives dealer should not be required to deliver a confirmation.[168] D.E. Shaw & Co. also questioned whether there were any benefits in requiring multiple confirmations that would justify the additional costs and paperwork. Instead, it believed that the fully regulated broker-dealer should take responsibility for sending out a joint confirmation accurately disclosing the respective roles of the fully regulated broker-dealer and the OTC derivatives dealer.[169] In addition, the SIA and D.E. Shaw & Co. noted that if each dealer were jointly and severally liable for a joint confirmation, then the requirement to obtain customer consent to the sending of a joint confirmation was unnecessary and burdensome.[170]

In response to the comments, the proposed requirement that the fully regulated broker-dealer and the OTC derivatives dealer each have to send a separate confirmation, unless the customer instructs them to send a single joint confirmation, has been revised. Although generally both the fully regulated broker-dealer and the OTC derivatives dealer will be responsible for sending a confirmation, disclosing their respective roles in the transactions, the two firms may establish procedures through which the fully regulated broker-dealer will send a joint confirmation on behalf of both firms in satisfaction of Rule 10b–10.[171]

6. Position Limits

Several commenters questioned the application of SRO position limits to an OTC derivatives dealer's activities.[172] The SIA, for example, argued that an OTC derivatives dealer should either be subject to a more realistic SRO position limit regime than was currently applicable under NASD rules or be exempted from the application of SRO position limits with respect to OTC securities options booked through a fully regulated broker-dealer affiliate.[173] The CBOE argued that the rules would result in a competitive disparity between OTC and listed index derivatives, because, as stated by the CBOE, an OTC derivatives dealer's transactions in OTC equity options would be exempt from NASD and CBOE position limits, but transactions in listed index and equity options would not be exempt.[174] As a result, it recommended that the Commission eliminate listed options position limits entirely.[175]

The final rules and rule amendments do not change the current application of position limits to securities transactions effected by a broker-dealer on behalf of an OTC derivatives dealer. Therefore, securities OTC derivatives transactions that are effected through fully-regulated broker-dealers, which are members of SROs, will continue to be subject to applicable SRO position limits.[176] However, in order to permit an OTC derivatives dealer to carry out its business using portfolio risk management techniques, the Commission encourages the NASD to revise its rules to recognize as "hedged" those OTC option positions of an OTC derivatives dealer that are hedged on a delta neutral basis.[177]

D. Exemptions for OTC Derivatives Dealers

Collectively, the rules and rule amendments adopted in this final rulemaking establish a new class of broker-dealers that will enjoy certain exemptions from full broker-dealer registration and regulation, subject to special requirements and conditions on their operations. Although an OTC derivatives dealer will be exempt from SRO membership, regular broker-dealer margin requirements, and SIPA (as discussed below), an OTC derivatives dealer's securities activities will be limited by Rule 15a–1.[178]

1. Rule 15b9–2; Exemption From SRO Membership

Proposed Rule 15b9–2 would have exempted an OTC derivatives dealer from membership in a SRO,[179] provided that it entered into an agreement with the examining authority designated pursuant to section 17(d) of the Exchange Act [180] for its registered broker-dealer affiliate. Under this agreement, the DEA would have been expected to conduct a review of the activities of the OTC derivatives dealer, report to the Commission any potential violation of the Commission's rules, and evaluate the dealer's procedures and controls designed to prevent violations.[181] The OTC derivatives dealer would also have been subject to direct examination by Commission staff.

The SRO commenters believed that an OTC derivatives dealer should become a *member* of either the DEA of its registered broker-dealer affiliate or another SRO.[182] In supporting this position, these commenters noted such things as (1) the DEA is in the best position to examine the OTC derivatives dealer given its surveillance and examination knowledge of the registered broker-dealer affiliate; (2) SRO rules impose certain supervisory obligations directly on each member; and (3) SRO membership is necessary to ensure an OTC derivatives dealer's cooperation during an examination.[183] In order to avoid conflict between the new regime and SRO rules, however, both the NYSE and the NASDR recognized that an OTC derivatives dealer member should not be subject to all SRO rules (such as margin rules), but should only be subject to rules that applied to the dealer's unique business.[184]

In contrast, securities firms generally opposed any plan that would require OTC derivatives dealers to become members of an SRO.[185] More than one commenter suggested that the oversight function should be performed only by Commission staff, and that it might be appropriate to establish a new SRO designed to oversee the activities of OTC derivatives dealers.[186]

The Commission has determined that it is not necessary to require OTC derivatives dealers to become members of an SRO and be subject to the full range of SRO regulation at this time. Moreover, because the NYSE and the NASD expressed serious concerns with overseeing OTC derivatives dealers on a contractual basis, the Commission staff will examine OTC derivatives dealers to ensure compliance with Commission rules. This approach will provide the Commission staff with valuable experience regarding the activities of dealers in OTC derivative instruments. In addition, the expected small number of initial registrants also supports direct Commission examination of OTC derivatives dealers at this time.

In granting the Commission authority under Section 15(b)(9) to exempt a class of brokers or dealers from the requirement of SRO membership, Congress recognized that certain types of broker-dealers could be regulated effectively by the Commission without the direct oversight of an SRO. Given that certain SRO rules, such as margin rules, are not consistent with the OTC derivatives dealer regulatory scheme and that securities transactions generally will be effected through a broker-dealer that will be a member of an SRO,[187] the Commission believes that SRO membership and the additional regulation it would entail is not currently warranted. Accordingly, the Commission finds that exempting OTC derivatives dealers from the SRO membership requirement is consistent with the public interest and the protection of investors.

2. Rule 36a1–1; Exemption From Certain Margin Requirements

As part of any OTC derivatives transaction, a dealer may require its counterparty to deposit collateral with the dealer to provide some assurance of the counterparty's ability to perform. Both the ability of the dealer to collect collateral to secure payment under an OTC derivative instrument and the amount of collateral the dealer must collect currently depend on the regulatory status of the dealer. Federal regulations that govern the collateral, or margin, that must be collected by dealers in connection with securities transactions have created certain competitive inequalities between registered broker-dealers and other entities, including bank dealers, that conduct an OTC derivatives business. Registered broker-dealers that extend credit for the purpose of purchasing or carrying securities are required to comply with the provisions of Regulation T.[188] The margin requirements for banks are contained in Regulation U.[189]

As noted above, despite the recent amendments to Regulation T,[190] there remain several differences between Regulation T and Regulation U.[191] For example, the two regulations differ with respect to the margin requirements for short OTC options. Compliance with the more restrictive requirements of Regulation T places broker-dealers at a competitive disadvantage with banks and other derivatives dealers by preventing them from offering credit in securities OTC derivatives transactions on terms that are as favorable as those offered by the other dealers.

Under proposed Rule 36a1–1, extensions of credit by an OTC derivatives dealer in permissible securities transactions generally would have been exempt from Section 7 of the Exchange Act (and Regulation T), provided that the OTC derivatives dealer complied with other federal margin requirements applicable to non-broker-dealer lenders (*i.e.*, Regulation U). While the SIA noted its full support for the proposal, it raised certain technical issues that could result from the codification of the proposed provisions.[192] Morgan Stanley Dean Witter also supported the proposed rule, and stated that application of Regulation U would provide sufficient safeguards against excessive leverage and would permit an OTC derivatives dealer to extend credit on a broader range of OTC derivative products.[193] It also stated that the SIA's clarifications were appropriate, and encouraged the Commission to reassess whether additional exemptive relief would be warranted in the future.[194]

In response to the comments received, the Commission has revised Rule 36a1–1 to clarify that transactions involving the extension of credit by an OTC derivatives dealer are exempt from the provisions of section 7(c) of the Exchange Act,[195] provided that the OTC derivatives dealer complies with section

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[165] 17 CFR 240.10b–10.

[166] Proposing Release, Section II.C., n.28, 62 FR at 67944, n.28.

[167] *Id.*

[168] SIA Letter I, pp. 11–12.

[169] DESCO Letter, p. 5.

[170] SIA Letter I, p. 12; DESCO Letter, p. 5.

[171] A joint confirmation, sent on behalf of both the OTC derivatives dealer and the fully regulated broker-dealer effecting the transaction must disclose all of the information required of either party under the rule, including, but not limited to, the identity of the security, the trade price, and the date and time of the trade, the identity of each party and its capacity in the transaction, the fact that the OTC derivatives dealer is not a member of SIPC, and any transaction-related compensation earned by either the fully regulated broker-dealer or the OTC derivatives dealer in connection with the transaction. Both the OTC derivatives dealer and the fully regulated broker-dealer will be considered fully responsible for the contents of the joint confirmation. The decision by the two firms to send a joint confirmation will not otherwise affect the obligations of either party to the customer under the anti-fraud provisions of the federal securities laws. In addition, in the event that an OTC derivatives dealer engages in a securities transaction that is not required to be effected through a fully regulated broker-dealer under rule 15a–1 (17 CFR 240.15a–1), then the OTC derivatives dealer must comply with the provisions of Rule 10b–10 (17 CFR 240.10b–10), to the extent such provisions apply to the transaction.

[172] *See* Section IV.J.1. of the Comment Summary.

[173] SIA Letter I, p. 16. D.E. Shaw & Co. also sought clarification that the requirement for executing securities OTC derivatives transactions through a fully regulated broker-dealer was not intended to subject OTC derivatives dealers to the options position limits set forth in NASD rules. In is view, these position limits constituted a competitive disadvantage for U.S. securities firms as against banks and foreign dealers. DESCO Letter, pp. 2–3.

[174] CBOE Letter, p. 2.

[175] CBOE Letter, p. 3.

[176] *See* Rule 2860 of the NASD's Conduct Rules.

[177] The Commission's support for recognizing options positions hedged on a delta neutral basis as properly exempted from SRO position limits is equally applicable to all option market participants for options traded over-the-counter or on exchanges. Therefore, the NASD and options exchange SROs are encouraged to submit rule changes that will recognize delta neutral hedges for both listed and OTC options.

[178] *See supra* Section II.C.

[179] In general, registered broker-dealers must become members of an SRO. *See* Section 15(b)(8) of the Exchange Act (15 U.S.C. 78o(b)(8)). This SRO membership requirement ensures that securities transactions meet SRO sales practice requirements, that employees of SRO member firms who sell securities satisfy certain uniform licensing requirements, that SRO members satisfy maintenance margin and financial responsibility requirements, and that member firms adhere to certain principles of trade and business conduct. *See* sections 15(b)(8) and 15A(g)(3) of the Exchange Act (15 U.S.C. 78o(b)(8); 15 U.S.C. 78o–3(g)(3)).

[180] 15 U.S.C. 78q(d).

[181] *See* Proposing Release, Section II.D.2., 62 FR at 67946.

[182] NYSE Letter, p. 2; Comment Letter from NASD Regulation ("NASDR Letter"), pp. 1–2. The NYSE objected to any structure that would cause the DEA to be considered merely an agent of the Commission, in part because it believed that such an approach would have broad procedural ramifications. It also stated that the proposal to have the DEA review the activities of OTC derivatives dealers on a contractual basis, absent membership, would be prohibited by the Exchange's Constitution. NYSE Letter, p. 2. NASDR also opposed the proposal that an OTC derivatives dealer would not be required to be a member of an SRO if it entered into an agreement with the DEA for its broker-dealer affiliate, because it believed it would create a difficult precedent and might impede effective oversight of this new type of entity. NASDR Letter, pp. 1–2.

[183] *See* section IV.H. of the Comment Summary.

[184] NYSE Letter, p. 2; NASDR Letter, p. 3.

[185] SIA Letter I, p. 14; MSDW Letter, pp. 20–21; DESCO Letter, p. 3, n.2.

[186] *See, e.g.*, SIA Letter I, p. 14.

[187] *See* Rule 15a–1(c) (17 CFR 240.15a–1(c)).

[188] 12 CFR 220.1.

[189] 12 CFR 220.1.

[190] *See* Securities Credit Transactions, Borrowing by Brokers and Dealers, Docket Nos. R–0905, R–0923, and R–0944, 63 FR 2806 (Jan. 16, 1998).

[191] *See* Section I.C.4.b. above.

[192] SIA Letter I, pp. 14–15.

[193] MSDW Letter, pp. 19–20.

[194] MSDW Letter, App. A, p. ii.

[195] 15 U.S.C. 78g(c).

7(d) of the Exchange Act.[196] Because Regulation U is promulgated pursuant to section 7(d), an OTC derivatives dealer remains subject to that provision. The final rule continues to provide that the exemption from section 7(c), and Regulation T thereunder, does not apply to extensions of credit made directly by a registered broker-dealer (other than an OTC derivatives dealer) in connection with transactions in eligible OTC derivative instruments for which an OTC derivatives dealer acts as counterparty.[197]

The Commission believes that application of Regulation U in lieu of Regulation T is appropriate for the lending that occurs in the OTC derivatives market, given the nature of the bilateral financial instruments and the relative sophistication of the counterparties. Applying Regulation U to extensions of credit by OTC derivatives dealers will provide sufficient safeguards, while allowing OTC derivatives dealers to extend credit in accordance with their normal business practices.[198]

Because application of Regulation U will promote competition and efficiency in the OTC derivatives market and will result in suitable margin regulation for OTC derivatives dealers and their counterparties, the Commission finds that exempting OTC derivatives dealers from Section 7(c) of the Exchange Act is necessary or appropriate in the public interest and consistent with the protection of investors. This exemption is conditioned on the OTC derivatives dealer's compliance with Section 7(d) of the Exchange Act.[199]

3. Rule 36a1–2; Exemption From SIPA

Under Rule 36a1–2, OTC derivatives dealers are exempt from the provisions of SIPA,[200] including membership in SIPC. As stated in the Proposing Release, the application of SIPA's liquidation provisions to an OTC derivatives dealer in bankruptcy could undermine certain provisions of the bankruptcy code applicable to the dealer's business.[201] As a result, the potential application of SIPA to OTC derivatives dealers would create legal uncertainty about the rights of counterparties in transactions with registered OTC derivatives dealers in the event of dealer insolvency.[202] This uncertainty could impair the ability of securities firms electing to register as OTC derivatives dealers to compete effectively with banks and foreign dealers, which are not subject to similar legal uncertainty.

The commenters addressing this issue generally believed that the SIPA exemption was both necessary and appropriate.[203] In particular, Morgan Stanley Dean Witter agreed with the statement in the Proposing Release that the exemption was necessary to avoid potential legal uncertainty about the rights of counterparties in transactions with registered OTC derivatives dealers in the event of dealer insolvency.[204] Two other commenters noted that the exemptive relief from SIPA and SIPC membership was critical to the commercial viability of an OTC derivatives dealer.[205]

In response to the comments received, the exemption for OTC derivatives dealers from the provisions of SIPA, including from membership in SIPC, is being adopted in its proposed form. The purposes of SIPA would not be promoted by its application to OTC derivatives dealers, and could in fact result in legal uncertainty for OTC derivatives dealers' counterparties. As a result, the Commission finds that Rule 36a1–2, exempting OTC derivatives dealers from SIPA, is necessary or appropriate in the public interest and consistent with the protection of investors.[206]

E. Rule 11a1–6; Transactions for Certain Accounts of OTC Derivatives Dealers

In response to the Proposing Release's general request for comment on whether additional amendments or exemptions would be needed for OTC derivatives dealers,[207] the SIA requested that the Commission clarify that an exchange member may execute transactions on a national securities exchange for the account of its affiliated OTC derivatives dealer without violating Section 11(a)(1) of the Exchange Act.[208] Section 11(a)(1)[209] makes it unlawful for a member of a national securities exchange to effect transactions on that exchange for certain accounts, including its own account or the account of an associated person of the member.

This general prohibition, however, is subject to numerous exceptions.[210] Among these is a general exception provided in section 11(a)(1)(G)[211] for a member's proprietary transactions where (1) the member is primarily engaged in a public securities business (the "business mix" test);[212] and (2) the transactions "yield," in accordance with Commission rules, priority, parity, and

[196] 15 U.S.C. 78g(d).

[197] OTC derivatives dealers that extend credit in securities transactions that are required to be effected through a fully regulated broker-dealer, however, may rely on the exemption form section 7(c) and Regulation T provided under Rule 36a1–1.

[198] While the CBOE supported allowing the OTC derivatives positions of counterparties carried on the books of OTC derivatives dealers to be exempt from Regulation T conditioned on the application of Regulation U, it believed that application of Regulation U would result in competitive disparities between OTC and listed options markets. Accordingly, it requested a similar margin treatment for listed options transactions. CBOE Letter, p.3. The Commission, however, is not extending a similar margin treatment to listed options at this time. The new regulatory framework is intended to allow U.S. securities firms to compete more effectively in global OTC derivatives markets. Any revisions to the regulatory standards for exchange markets would require, among other things, careful consideration of the differences between exchange markets and OTC derivatives markets.

[199] Rule 36a1–1 applies only to extensions of credit *by* an OTC derivatives dealer. Section 7 of the Exchange Act, however, continues to apply to persons extending credit *to* an OTC derivatives dealer. Credit extended to an OTC derivatives dealer, like credit extended to a fully regulated broker-dealer, however, is excepted from section 7 of the Exchange Act if it satisfies the conditions for such exceptions contained in section 7.

[200] 15 U.S.C. 78aaa *et seq.*

[201] Proposing Release, Section II.G., 62 FR at 67949–50. The bankruptcy code contains certain exceptions to its automatic stay provisions that enable a counterparty in a derivatives transaction to exercise its rights to liquidate a position (*i.e.*, it preserves a counterparty's contractual termination, setoff, and collateral foreclosure rights) in the event of the other counterparty's insolvency. *See, e.g.*, 11 U.S.C. 362(b)(6), (7), (17); *id.* at sections 555, 556, 559, and 560. Several of these provisions, however, may be subject to a stay order under SIPA. *See* 11 U.S.C. 555 (contractual right to liquidate a securities contract); *id.* at section 559 (contractual right to liquidate a repurchase agreement).

[202] Under the typical relationship where a counterparty delivers collateral to an OTC derivatives dealer in order to cover its contractual obligations to the dealer, the counterparty and the OTC derivatives dealer have a relationship more analogous to a debtor-creditor relationship than a fiduciary one. Accordingly, these counterparties are not the type of investor intended to be protected under SIPA. *See Securities Investor Protection Corporation v. Executive Services Corp.*, 423 F. Supp. 94 (S.D.N.Y. 1976), *aff'd*, 556 F.2d 98 (2d Cir. 1977).

[203] SIA Letter I, p. 14; DESCO Letter, p. 13; MSDW Letter, p. iv.

[204] MSDW Letter, p. iv.

[205] SIA Letter I, p. 14; DESCO Letter, p. 13.

[206] Section 2 of SIPA states that the provisions of the Exchange Act generally apply as if SIPA "constituted an amendment to, and was included as a section of" the Exchange Act. 15 U.S.C. 78bbb.

[207] Proposing Release, Section III, 62 FR at 67952.

[208] SIA Letter II, p. 4.

[209] 15 U.S.C. 78k(a)(1).

[210] The Commission is also authorized to determine, by rule, that additional types of transactions are excepted from the general prohibition of section 11(a)(1). *See* section 11(a)(1)(i) of the Exchange Act (15 U.S.C. 78k(a)(1)(I)). In adopting such a rule, the Commission must find that such transactions are consistent with the purposes of section 11(a), the protection of investors, and the maintenance of fair and orderly markets. *Id.*

[211] 15 U.S.C. 78k(a)(1)(G).

[212] In order to take advantage of this exception, the member must be "primarily engaged in the business of underwriting and distributing securities issued by other persons, selling securities to customers, and acting as broker, or any one or more of such activities, and whose gross income normally is derived principally from such business and related activities." 15 U.S.C. 78k(a)(1)(G)(i).

precedence to transactions for accounts of persons who are not members, or associated with members, of the exchange.

Rule 11a1–2 under the Exchange Act[213] generally provides that a member may effect a transaction for the account of an associated person if the member would have been permitted, under section 11(a) and the rules thereunder, to effect the transaction for its own account. The rule, however, specifically limits the circumstances in which a member may use the rule to rely on section 11(a)(1)(G) for transactions for the account of an associated person. In that situation, the associated person must independently meet the "business mix" test.[214] Because an OTC derivatives dealer will be a newly created entity, it will not be able to demonstrate that it meets this test. Thus, the exchange member with which it is associated will not be able to rely on section 11(a)(1)(G) for transactions it effects for the account of the OTC derivatives dealer.

In response to this concern, the Commission is adopting Rule 11a1–6. This new rule, which is modeled after Rule 11a1–2, will allow a fully regulated broker-dealer member to effect a transaction on a national securities exchange for the account of an associated person that is an OTC derivatives dealer if the member would have been permitted to effect the transaction for its own account under section 11(a) and the rules thereunder, other than Rule 11a1–2. Rule 11a1–6 permits the fully regulated broker-dealer to rely on the exception provided under section 11(a)(i)(G) for transactions it effects for its OTC derivatives dealer affiliate even if that affiliate does not meet the "business mix" test. The fully regulated broker-dealer and the OTC derivatives dealer, however, must comply with all other requirements of section 11(a). Thus, for example, transactions effected by the fully regulated broker-dealer for the account of the OTC derivatives dealer must continue to yield priority, parity, and precedence to transactions for accounts of persons who are not members, or associated with members, of the exchange.

Although Rule 11a1–6 will allow a fully regulated broker-dealer to execute securities transactions on behalf of its OTC derivatives dealer affiliate, public customers will continue to receive priority and precedence in the execution of their securities orders. Moreover, excepting these transactions from the general prohibition of section 11(a)(1) is consistent with Congressional intent in enacting this section. The Commission, therefore, finds that Rule 11a1–6 is consistent with the purposes of section 11(a)(1), the protection of investors, and the maintenance of fair and orderly markets.

F. Net Capital Requirements for OTC Derivatives Dealers

1. Overview of Amendments to Rule 15c3–1

The Commission is amending the net capital rule, Rule 15c3–1 under the Exchange Act,[215] as it applies to OTC derivatives dealers. In general, the net capital rule requires every registered broker-dealer to maintain certain specified minimum levels of net liquid assets, or net capital, to enable each firm that falls below the minimum net capital requirements to liquidate in an orderly fashion without the need for a formal legal proceeding. The rule is designed to protect the customers of a broker-dealer from losses that can be incurred upon a broker-dealer's failure. The rule prescribes different required minimum levels of capital based upon the nature of the broker-dealer's business and whether the firm handles customer funds or securities. When calculating its net capital, a broker-dealer must reduce its capital by certain percentage amounts, or haircuts, on its securities positions. The haircuts were designed not only to cover market risk, but also other risks faced by the firm, such as credit and liquidity risk.

As noted in the Proposing Release, U.S. securities firms generally state that firms avoid to the extent feasible booking swaps and other types of OTC derivative instruments in the registered broker-dealer because of the charges for these transactions under the net capital rule./216/ In general, the rule requires a firm to subtract most unsecured credits from its net worth when calculating its net capital, and limits the hedging allowance against positions if OTC derivatives dealers have unsecured credit exposures. The net capital rule's treatment of OTC derivatives transactions generally requires broker-dealers to reserve more capital with respect to these transactions than do capital rules governing banks or foreign securities firms.

The Commission is amending Rule 15c3–1 to provide alternative methods for OTC derivatives dealers to calculate capital charges on OTC derivatives transactions in several respects. Under Appendix F of Rule 15c3–1, which is being adopted substantially as proposed, an OTC derivatives dealer is permitted to add back to its net worth any unsecured credits arising from transactions in eligible OTC derivative instruments.[217] These will include unsecured accrued receivables as well as unsecured counterparty exposure in the OTC instruments. Appendix F also allows an OTC derivatives dealer to use VAR models to compute its market risk charges on proprietary positions instead of using the haircut structure under paragraph (c)(2)(vi) of the current rule. As mentioned above, the current haircut approach allows more limited offsetting among positions than the normal VAR model would permit when computing capital charges. Appendix F also allows an OTC derivatives dealer to use a less severe regime for credit risk, as described below.

Currently, some dealers use VAR models as part of their risk management systems. These firms use VAR modeling to analyze, control, and report the level of market risk from their trading activities. A VAR estimate is the loss that is not expected to be exceeded at the chosen confidence level for some time period. In practice, VAR models aggregate several components of price risk into a single quantitative measure of the potential for loss. In addition, VAR is based on a number of underlying mathematical assumptions and firm-specific inputs. For example, VAR models typically assume normality and that future return distributions and correlations can be predicted by past returns.[218]

[213] 17 CFR 240.11a1–2.

[214] This means that the associated person for whom the member is effecting the transaction must have derived, during its preceding fiscal year, more than 50% of its gross revenues from one or more of the sources specified in Section 11(a)(1)G)(i). *See* Rule 11a1–2 (17 CFR 240.11a1–2).

[215] 17 CFR 240.15c3–1.

[216] *See* Proposing Release, Section II.E.1., 62 FR at 67946.

[217] An unsecured receivable from an affiliated entity must be deducted to the extent the receivable is not collateralized with readily marketable securities.

[218] There is a wide variety of secondary source information discussing both the positive and negative aspects of VAR. *See* Philippe Jorion, *Value at Risk: The New Benchmark for Controlling Market Risk* (1996) (explaining how to use VAR to manage market risk); JP Morgan, *RiskMetrics-Technical Document* (1994) (providing a detailed description of RiskMetrics, which is JP Morgan's proprietary statistical model for quantifying market risk in fixed income and equity portfolios); Tanya Styblo Beder, *VAR: Seductive but Dangerous*, Financial Analysts Journal, September–October 1995, at 12 (giving an extensive analysis of the different results from applying three common VAR methods to three model portfolios); Darrell Duffie and Jun Pan, *An Overview of Value at Risk*, The Journal of Derivatives, Spring 1997, at 7 (giving a broad overview of VAR models); Darryll Hendricks, *Evaluation of Value-at-Risk Models Using Historical Data*, Federal Reserve Bank of New York Economic

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2. Reasons for Allowing OTC Derivatives Dealers To Use Value-at-Risk Models

During the past few years, the Commission has actively participated in several international undertakings to gain further experience with the use of VAR models to measure market and credit risk. For example, through its membership in the International Organization of Securities Commissions ("IOSCO"), the Commission has been cooperating with the Basle Committee on Banking Supervision ("Basle Committee") [219] with respect to the use of proprietary VAR models to determine bank capital requirements for market risk.[220]

Further, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation (collectively, the "U.S. Banking Agencies") have adopted rules implementing the Capital Accord [221] for U.S. banks and bank holding companies.[222] Appendix F is generally consistent with the U.S. Banking Agencies' rules, and incorporates the qualitative and quantitative conditions imposed on banking institutions.

By allowing OTC derivatives dealers to use VAR models in calculating their net capital requirement, the Commission has an opportunity to gain valuable experience with the use of these models by entities within its jurisdiction. This experience will enable the Commission to reassess its current rules for determining capital charges for market risk and determine whether more intensive subjective examinations are needed to ensure compliance with Commission regulations concerning the use of models.

The adoption of a more flexible approach for determining capital requirements for OTC derivatives dealers is appropriate because of the special nature of their business and the additional financial responsibility requirements applicable to these firms. The final rule requires an OTC derivatives dealer to maintain a minimum of $100 million in tentative net capital [223] and at least $20 million in net capital. OTC derivatives dealers are prohibited from accepting or holding customer funds or securities or generally from owing money or securities to customers in connection with securities activities. OTC derivatives dealers are, however, allowed to hold counterparty collateral or owe money or securities to counterparties, but only as a result of contractual commitments. Finally, OTC derivatives dealers are required to establish risk management controls pursuant to Rule 15c3–4.

3. Discussion of Net Capital Requirements

a. *Rule 15c3–1(a)(5).* Under paragraph (a)(5) of Rule 15c3–1, OTC derivatives dealers are required to maintain tentative net capital of not less than $100 million and net capital of not less than $20 million. In the Proposing Release, the Commission requested comment on whether the $100 million tentative net capital and $20 million net capital requirements would be adequate to ensure against excessive leverage and risks other than credit or market risk.[224] Many commenters declined to comment on the minimum required amount.[225] One commenter opposed any minimum tentative net capital requirement because other U.S. broker-dealers are not required to maintain minimum tentative net capital under the net capital rule, and because it believed that U.S. firms, and particularly small-sized, medium-sized, and newly established OTC derivatives dealers, would be at a competitive disadvantage.[226]

The final rule contains the minimum requirements of $100 million in tentative net capital and $20 million in net capital. The minimum tentative net capital and net capital requirements are necessary to ensure against excessive leverage and risks other than credit or market risk, all of which are now factored into the current haircuts. Further, while the mathematical assumptions underlying VAR may be useful in projecting possible daily trading losses under "normal" market conditions, VAR may not help firms measure losses that fall outside of normal conditions, such as during steep market declines.[227] Accordingly, the minimum capital requirements provide additional safeguards to account for possible extraordinary losses or decreases in liquidity during times of stress which are not incorporated into VAR calculations.

b. *Appendix F.* Appendix F applies only to an OTC derivatives dealer that elects to be subject to the Appendix and has its application to use Appendix F approved by the Commission. An OTC derivatives dealer that elects to be subject to Appendix F is required to calculate specific capital charges for market and credit risk. It is also required to maintain a VAR model that meets certain minimum qualitative and quantitative requirements described in Appendix F, and it must adopt risk management control procedures as provided in Rule 15c3–4.

i. Application Requirement. An OTC derivatives dealer must be authorized by the Commission to compute capital charges for market and credit risk pursuant to Appendix F. To request this authorization, an OTC derivatives dealer must file an application with the Commission describing its VAR model, including whether the firm has developed its own model, whether the firm intends to use VAR or alternative methods to calculate net capital, and how the qualitative and quantitative aspects described in Appendix F are incorporated into the model, and a description of its risk management and control procedures.[228]

More specifically, the application must include (1) an executive summary of information provided in the application; (2) a description of the statistical models used for pricing OTC derivative instruments and for computing VAR, a description of the applicant's controls over those models, and a statement regarding whether the firm has developed its own internal VAR model; and (3) a description of the policies and procedures which the dealer employs in association with its internal risk management control systems.[229] The application must also describe any alternative methods that the OTC derivatives dealer intends to use to compute its market risk charge for equity instruments, and categories of securities having no ready market or which are below investment grade. Further, an OTC derivatives dealer that wants to use internal credit ratings for counterparties that are not rated by a nationally recognized statistical rating organization ("NRSRO" or "rating organization") must also include in its application a description of its credit rating categories and rating procedures.

The Commission is amending Rule 30–3 of the Rules of Practice to delegate its authority to approve or deny, in full or in part, applications of OTC derivatives dealers to use Appendix F of Rule 15c3–1 to the Director of the Division of Market Regulation.[230] A denial of an application by the Division would be reviewable by the Commission.[231] The Commission will grant the application and authorize the OTC derivatives dealer to compute its net capital under Appendix F if the dealer has adopted (1) the internal risk management control systems required under Rule 15c3–4; and (2) a VAR model that meets the criteria in paragraphs (e)(1) and (e)(2) of Appendix F. All application information submitted will be kept confidential, in accordance with the rules.

Commenters noted the importance of including provisions for the review of risk management practices, policies, and procedures employed by OTC derivatives dealers, to assure that they are being executed in accordance with their intended purposes.[232] Accordingly, pursuant to the final rule, an OTC derivatives dealer is required to obtain authorization from the Commission before it may adopt any material changes to its VAR or other models, including changes in the qualitative or quantitative aspects of VAR models, before it may materially change the categories of non-marketable securities it wishes to include in its VAR model, or before it may materially alter its internal risk management control systems. If an OTC derivatives dealer desires to materially change its VAR model or internal risk management control systems, it must file an amended application with the Commission describing the changes. The OTC derivatives dealer will be authorized by the Commission to implement the proposed changes if the Commission determines that the changes meet the compliance standards of Rule 15c3–4 and Appendix F, and the amended application complements the internal review requirements imposed by those provisions. The final rule also clarifies that an OTC derivatives dealer will be in violation of the net capital rule if it fails to comply in all material respects with the internal risk management control systems under Rule 15c3–4.

ii. Market Risk. OTC derivatives dealers electing to apply Appendix F pursuant to the final rule must deduct from their net worth a capital charge for market risk [233] that is equal to the sum of its VAR charge, alternative charges for equity instruments and non-marketable securities, and the charge for residual positions. First, OTC derivatives dealers may use the VAR method to calculate capital charges for market risk exposure for transactions in eligible OTC derivative instruments and other proprietary positions of the OTC derivatives dealer. Under the VAR method, a market risk capital charge is equal to the VAR of its positions multiplied by a factor specified in Appendix F.[234]

Second, an OTC derivatives dealer may use an alternative method of computing the market risk capital charge for equity instruments, including OTC options. This alternative method may also be used by a firm that does not receive Commission authorization to use a VAR model for equity instruments. Under the alternative method, an OTC derivatives dealer must deduct from its net worth an amount equal to the largest theoretical loss calculated in accordance with the theoretical pricing model set forth in Appendix A of Rule 15c3–1.[235] The OTC derivatives dealer is permitted to use its own theoretical pricing model as long as it contains the minimum pricing factors set forth in Appendix A.[236]

Third, an OTC derivatives dealer may not use a VAR model to determine a capital charge for any category of securities having no ready market or any category of debt securities which are below investment grade, or any derivative instrument based on the value of these categories of securities, unless the Commission has granted, pursuant to paragraph (a)(1) of Appendix F, its application to use its VAR model for any such category of securities. However, the dealer may apply, pursuant to paragraph (a)(1) of Appendix F, for an alternative treatment for any such category of securities, rather than calculate the market risk capital charge for such category of securities under paragraph (c)(2) (vi) and (vii) of the new capital rule.

Fourth, to the extent that a position has not been included in the calculation of the market risk charge for VAR, or the alternative method for equity instruments or for non-marketable securities, the market risk charge for the position shall be computed under paragraph (c)(2)(vi) of Rule 15c3–1.

iii. Credit Risk. An OTC derivatives dealer electing to apply Appendix F must deduct from its net worth a capital charge for credit risk.[237] This charge has two parts and is computed on a counterparty-by-counterparty basis. First, for each counterparty with an investment or speculative grade rating, an OTC derivatives dealer must take a capital charge equal to the net replacement value in the account of the counterparty ("net replacement value") [238] multiplied by 8%, and

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Policy Review, April 1996, at 39 (examining twelve approaches to VAR modeling on portfolios that do not include options or other securities with non-linear pricing); and Robert Litterman, *Hot Spots and Hedges*, Goldman Sachs Risk Management Series (1996) (giving a detailed analysis on portfolio risk management, including how to identify the primary sources of risk and how to reduce these risks).

[219] The Governors of the G–10 countries established the Basle Committee in 1974 to provide a forum for ongoing cooperation among member countries on banking supervisory matters.

[220] In July 1995, IOSCO's Technical Committee issued a paper stating that further information and analysis was required before the Technical Committee could consider the use of internal models by securities firms to set regulatory capital standards for market risk. Due to the differences between banks and securities firms, the Technical Committee believed that more work was necessary before allowing securities firms to use VAR models to establish their capital requirements. *The Implications for Securities Regulators of the Increased Use of Volue At Risk Models by Securities Firms*, Technical Committee of IOSCO, July 1995.

[221] The Basle Accord, or Capital Accord, is a common measurement system and a minimum standard for capital adequacy of international banks in the G–10 countries.

[222] Federal Reserve System, Docket No. R–0884; Department of the Treasury, Office of the Comptroller of the Currency, Docket No. 96–18; Federal Deposit Insurance Corporation, RIN 3064–AB64 (Sept. 6, 1996), 61 FR 47358.

[223] For an OTC derivatives dealer that elects to compute its market risk charges under Appendix F, the term "tentative net capital" means the net capital of an OTC derivatives dealer before deducting charges for market and credit risk as computed pursuant to Appendix F and increased by the balance sheet value (including counterparty net exposure) resulting from transactions in eligible OTC derivative instruments which would otherwise be deducted by virtue of paragraph (c)(2)(iv) of Rule 15c3–1.

[224] Proposing Release, Section II.E.3.a., 62 FR at 67947.

[225] *See* Section V.A.1. of the Comment Summary.

[226] DESCO Letter, pp. 9–10.

[227] Models such as the one specified in Appendix F typically measure exposure at the first percentile, and steep market declines are, by definition, below the first percentile.

[228] *See* Sections II.F.3.b.iv. and v. below for a description of the qualitative and quantitative requirements.

[229] *See* Section II.H.3. below for a description of the risk management controls that are required by Rule 15c3–4 (17 CFR 240.15c3–4)

[230] *See* Rule 30–3(a)(7)(v) (17 CFR 200.30–3(a)(7)(v)).

[231] *See* Rules 430 and 431 (17 CFR 201.430 and 17 CFR 201.431).

[232] *See* Comment Letter from the Working Group of the Risk Management, OTC Derivative Products, and Capital Committees of the Securities Industry Association ("SIA Working Group Letter"), pp. 1–5.

[233] In general, market risk is the risk of adverse price movements resulting from a change in market prices, interest rates, volatilities, correlations, or other market factors.

[234] *See* Section II.F.3.b.iv. below for a discussion of how an OTC derivatives dealer determines the appropriate multiplication factor.

[235] 17 CFR 240.15c3–1a. The Commission recently amended Appendix A to include theoretical pricing models. Exchange Act Release No. 38248 (Feb. 6, 1997), 62 FR 6474 (Feb. 12, 1997).

[236] 17 CFR 240.15c3–1a(b)(1)(B). The minimum pricing factors under Appendix A include:

(1) The current spot price of the underlying asset;

(2) The exercise price of the option;

(3) The remaining time until the option's expiration;

(4) The volatility of the underlying asset;

(5) Any cash flows associated with ownership of the underlying asset that can reasonably be expected to occur during the remaining life of the option; and

(6) The current term structure of interest rates.

[237] In general, credit risk is the risk that a counterparty will fail to perform its obligations to an OTC derivatives dealer.

[238] For purposes of calculating credit risk charges, net replacement value in the account of a counterparty means the aggregate value of all receivables due from that counterparty (computed by marking the value of such receivables to market

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further multiplied by a counterparty factor. The counterparty factor is based on the counterparty's rating by an NRSRO. The counterparty factors range from 20% for counterparties that are highly rated to 100% for counterparties with ratings among the lowest rating categories. By using the ratings of the rating organization as a basis, the counterparty factors link the size of the credit risk capital charge to the perceived risk that the counterparty may default. A charge of 100% of the net replacement value is assessed for counterparties rated below speculative grade or that are insolvent, or in bankruptcy, or that have senior unsecured long-term debt in default.

The second part of the credit risk charge consists of a concentration charge that applies when the net replacement value in the account of any one counterparty exceeds 25% of the OTC derivatives dealer's tentative net capital. In these situations, the amount of the concentration charge is also based on the counterparty's rating by an NRSRO. For counterparties that are highly rated, the concentration charge equals 5% of the amount of the net replacement value in excess of 25% of the OTC derivatives dealer's tentative net capital. The concentration charge increases in relation to the OTC derivatives dealer's exposure to lower rated counterparties. For example, the concentration charge for counterparties with ratings among the lowest rating categories would equal 50% of the amount of the net replacement value in excess of 25% of the OTC derivatives dealer's tentative net capital.

In the rule as proposed, the credit risk concentration charge included a further provision that if the aggregate net replacement values of all counterparties exceeded 300% of the OTC derivatives dealer's tentative net capital, the OTC derivatives dealer would deduct 100% of the excess from its net worth. In the Proposing Release, the Commission requested comment on whether the 300% threshold for determining an overall concentration charge would result in excessive concentration risk charges.[239] Commenters suggested that the charge would have to be eliminated in order for the proposal to be viable.[240] The final rule does not contain this further provision.

If a counterparty is not rated by a rating organization, an OTC derivatives dealer is permitted to use its own ratings of the counterparty to calculate its credit risk charge. In these situations, however, the OTC derivatives dealer must demonstrate that its ratings categories and due diligence procedures, including procedures for the initial analysis and ongoing review of the counterparty (including review of the total leverage of the counterparty), are equivalent to those used by NRSROs. Several commenters requested that the Commission clarify whether the OTC derivatives dealer's demonstration must be on a counterparty-by-counterparty basis, and whether an affiliate of the dealer could rate non-NRSRO counterparties.[241] It is anticipated that authorization of an OTC derivatives dealer's credit rating methodology will occur as a whole rather than as to each counterparty. Further, the final rule provides that such ratings may be made by an affiliated bank or an affiliated broker-dealer of the OTC derivatives dealer, provided that the affiliate's methodology has been authorized by the Commission.

In the Proposing Release, the Commission requested comment on alternatives to relying on the ratings of NRSROs for approximating the risk that a counterparty may default.[242] Several commenters advocated the use of internal credit ratings of counterparties instead of or in addition to NRSRO ratings to calculate counterparty default risk.[243] Where available, NRSRO ratings are a reliable indicator of the perceived risk that a counterparty may default. Therefore, it is only in cases where a counterparty is not rated by an NRSRO that an OTC derivatives dealer is permitted to use its own ratings of a counterparty to calculate the credit risk charge.

Commenters also requested that the Commission allow the use of internal VAR models to assess credit risk regulatory capital, instead of or in addition to the proposed percentage-based credit risk capital charges. While the adoption of the current rule will provide valuable experience with the use of VAR models to assess market risk for regulatory capital purposes, the Commission has less confidence in the use of VAR for credit risk. Therefore, the Commission has determined at this time not to allow OTC derivatives dealers to employ credit risk VAR modeling in calculating net capital requirements. The Commission, however, expects to consider this issue in the future.

iv. Qualitative Requirements for Value-at-Risk Models. OTC derivatives dealers that elect to apply Appendix F are required to have VAR models that meet certain minimum qualitative requirements. The qualitative requirements address four aspects of an OTC derivatives dealer's risk management system. First, an OTC derivatives dealer's VAR model must be integrated into, and thus relied upon, in the OTC derivatives dealer's daily risk management process. Second, an OTC derivatives dealer's policies and procedures must identify and provide for appropriate stress tests.[244] The OTC derivatives dealer's policies and procedures must identify the procedures to follow in response to the results of the stress tests as well as backtests, and the OTC derivatives dealer is required to follow these procedures. Third, an OTC derivatives dealer's VAR model and risk management systems are required to undergo both periodic reviews that are performed by internal audit staff and annual reviews that are conducted by an independent public accountant.[245] Fourth, an OTC derivatives dealer is required to conduct backtesting of its VAR model.

As to the fourth element, the OTC derivatives dealer is required to conduct backtesting by comparing each of its most recent 250 business days' actual net trading profits or losses with the corresponding daily VAR measures. In addition, once each quarter, the OTC derivatives dealer must identify the number of exceptions, that is, the number of business days for which the actual daily net trading loss, if any, exceeds the corresponding daily VAR measure. The number of exceptions determines the multiplication factor the OTC derivatives dealer will be required to use for the following quarter, and which will continue to apply until the next quarter's backtesting results are obtained, unless the Commission determines that a different adjustment or other action is appropriate. Depending on the number of exceptions, the multiplication factors range from three to four. Increasing the multiplication factor in response to the number of backtesting exceptions increases an OTC derivatives dealer's market risk charge, thus requiring an OTC derivatives dealer that uses an inappropriate model to increase its net capital reserves. Although the multiplication factor increases an OTC derivatives dealer's market risk charge and corresponding capital requirement, firms are expected to work to improve the reliability of their models rather than set aside additional capital for an unreliable model.

v. *Quantitative Requirements for Value-at-Risk Models.* Appendix F also contains minimum quantitative requirements to address regulatory concerns. Because broker-dealers generally use VAR models to measure portfolio volatility on a day-to-day basis, the rule imposes certain requirements on VAR models to address regulatory capital-related concerns where a longer time horizon is appropriate. For example, OTC derivatives dealers are required to calculate VAR measures using a confidence level with a price change equivalent to a ten-business day movement in rates and prices, rather than a one-day price movement that is used in many VAR models currently used by firms for internal risk management purposes. The final rule also requires a one-year historical observation period, and addresses risks to be accounted for in VAR measures.

G. Rules 8c–1, 15c2–1, 15c3–2, and 15c3–3

The proposed rules would have excluded from the definition of customer, pursuant to Rules 8c–1,[246] 15c2–1,[247] and 15c3–3 under the Exchange Act,[248] a counterparty to an OTC derivatives transaction that has consented, after receiving appropriate disclosures, to the unrestricted use of its collateral by an OTC derivatives dealer. Rules 8c–1, 15c2–1, 15c3–2,[249] and 15c3–3 generally restrict a broker-dealer's use of customer funds and securities to finance its business activities.

The SIA commented that the proposed exclusions should be expanded to include counterparties to permissible cash management, risk management, and financing transactions.[250] In addition, the SIA suggested that the Commission clarify that the disclosure requirement could be met in any instance in which a counterparty has entered into an agreement explicitly authorizing the repledging, rehypothecation, substitution, or other disposition of collateral provided by the counterparty.[251] Further, the SIA sought to verify that counterparties to transactions effected through a fully regulated broker-dealer would not be considered a customer of the OTC derivatives dealer for purposes of Rules 8c–1, 15c2–1, 15c3–2, and 15c3–3.[252]

The amendments to Rules 8c–1, 15c2–1, 15c3–2, and 15c3–3 as adopted clarify the original intent of the proposal. Further, an OTC derivatives dealer that has received collateral from a counterparty will not be carrying a free credit balance for the account of a customer for the purposes of Rule 15c3–2 if the counterparty is not a customer of the dealer pursuant to Rules 8c–1, 15c2–1, and 15c3–3. A counterparty that has delivered collateral to an OTC derivatives dealer pursuant to a transaction in an eligible OTC derivative instrument or pursuant to the OTC derivatives dealer's cash management securities activities or ancillary portfolio management securities activities is not a customer for purposes of Rules 8c–1, 15c2–1, 15c3–2, and 15c3–3, but only if the counterparty has received a prominent written notice from the OTC derivatives dealer that, at a minimum, discloses that (1) except as otherwise agreed in writing by the OTC derivatives dealer and the counterparty, the OTC derivatives dealer may repledge or otherwise use the collateral in its business; (2) in the event of the dealer's failure, the counterparty will likely be considered an unsecured creditor of the dealer as to that collateral; (3) SIPA does not protect the counterparty; and (4) the collateral will not be subject to the requirements of Rules 8c–1, 15c2–1, 15c3–2, or 15c3–3.

H. Recordkeeping and Reporting

1. Amendments to Rules 17a–3 and 17a–4; Books and Records to be Maintained by OTC Derivatives Dealers

The Proposing Release[253] stated that OTC derivatives dealers, like other registered broker-dealers, are required to comply with the books and records requirements of Rules 17a–3[254] and 17a–4[255] under the Exchange Act. Rule 17a–3 would also have been amended to require an OTC derivatives dealer to compile a register of all derivatives transactions. In addition, Rule 17a–4 would have been amended to require OTC derivatives dealers to retain records required to be made pursuant to proposed Rules 15c3–4 and 17a–12.[256]

The Commission is adopting the amendments to Rules 17a–3 and 17a–4 as proposed. As several commenters have requested, the rules have been clarified to allow the OTC derivatives dealer's books and records to be maintained by an affiliated fully regulated broker-dealer. However, the OTC derivatives dealer remains responsible for ensuring that its books and records are properly maintained in accordance with Rules 17a–3 and 17a–4.

2. Amendments to Rule 17a–11; Notification Requirements

In the Proposing Release, the Commission stated that an OTC derivatives dealer would be subject to the provisions of Rule 17a–11 under the Exchange Act,[257] which requires a

Continued

daily), including the effect of legally enforceable netting agreements and the application of liquid collateral.

[239] Proposing Release, Section II.E.3.b.ii., 62 FR at 67948.

[240] *See, e.g.*, SIA Letter I, p. 3; Goldman Sachs Letter, p. 4; Salomon Smith Barney Letter, p. 2; MSDW Letter, pp.18–19, iii; Merrill Lynch Letter, p. 3.

[241] *See* letters cited in Section V.A.2.b.i. of the Comment Summary.

[242] Proposing Release, Section II.E.3.b.ii., 62 FR at 67948.

[243] *See, e.g.*, ISDA Letter, p. 4; SIA Letter I, pp. 3–4; Salomon Smith Barney Letter, p. 2; MSDW Letter, pp. 15–17; Merrill Lynch Letter, p. 4.

[244] Stress tests are used to evaluate changes in the value of a firm's portfolio under extreme market conditions. Stress tests must include the core risk factors of: (1) Parallel yield curve shifts; (2) changes in the steepness of yield curves; (3) parallel yield curve shifts combined with changes in the steepness of yield curves; (4) changes in yield volatilities; (5) changes in the value of equity indices; (6) changes in equity index volatilities; (7) changes in the value of key currencies (relative to the U.S. dollar); (8) changes in foreign exchange rate volatilities; and (9) changes in swap spreads in at least the G–7 countries plus Switzerland. Stress tests should also be designed to reflect the composition of the firm's portfolio.

[245] The OTC derivatives dealer must discuss the timing and nature of the periodic review by internal audit staff as part of the application process. *See* Section II.F.3.b.i. above.

[246] 17 CFR 240.8c–1.

[247] 17 CFR 240.15c2–1.

[248] 17 CFR 240.15c3–3.

[249] 17 CFR 240.15c3–2. The Commission did not propose to amend Rule 15c3–2 in the Proposing Release. Rule 15c3–2 restricts the use by a broker or dealer of funds arising out of any free credit balance carried for the account of any customer unless the broker or dealer complies with certain notice requirements.

[250] SIA Letter I, pp. 12–13.

[251] SIA Letter I, p. 13.

[252] *Id.*; SIA Letter II, p. 5.

[253] Proposing Release, Section II.H.1., 62 FR at 67950.

[254] 17 CFR 240.17a–3. In general, Rule 17a–3 under the Exchange Act requires broker-dealers to make records concerning the purchases and sales of securities, receipts and deliveries of securities, and receipts and disbursements of cash. In addition, the rule requires broker-dealers to make and keep ledgers reflecting securities borrowed and securities received, repurchase and reverse repurchase agreements, and a record of net capital computations.

[255] 17 CFR 240.17a–4. Rule 17a–4 under the Exchange Act specifies how long broker-dealers must keep the records required to be made under Rule 17a–3 and how long they must keep other records made in the normal course of business.

[256] *See* Proposing Release, Section II.H.1., 62 FR at 67950.

[257] 17 CFR 240.17a–11. Under Rule 17a–11, if a broker-dealer's net capital falls below the required minimum level, the broker-dealer must provide both the Commission and the broker-dealer's DEA with notice of such deficiency. A broker-dealer is also required to give same-day notice if it fails to make and keep current its books and records pursuant to Rules 17a–3 and 17a–4, and to submit a report within 48 hours detailing the steps it is taking to correct the problem. In addition, Rule 17a–11 requires a broker-dealer to give notice when it discovers any material inadequacy in its system of internal controls, or is notified of this inadequacy by its independent public accountant. In these

broker-dealer to report capital and other operational problems to the Commission and the broker-dealer's examining authority within specified time periods.[256] In addition, Rule 17a–11 would have been amended to take into consideration the new tentative net capital requirements that would apply to an OTC derivatives dealer. An OTC derivatives dealer would have been required to provide notice to the Commission and to its examining authority when its tentative net capital dropped below 120 percent of its required minimum and when its tentative net capital dropped below its required minimum.[259]

The Commission did not receive any comments that addressed the proposed amendments to Rule 17a–11. However, as discussed in Section II.D.1. above, the Commission is not requiring an OTC derivatives dealer to enter into an agreement with the examining authority for one of its registered broker-dealer affiliates that would require the examining authority to conduct a review of the activities of the OTC derivatives dealer. Therefore, the adopted amendments to Rule 17a–11 require an OTC derivatives dealer to provide the required notices only to the Commission. With respect to tentative net capital, an OTC derivatives dealer is required to provide notice to the Commission when its tentative net capital drops below 120 percent of its required minimum and when its tentative net capital drops below its required minimum. The Commission is also amending Rule 17a–11 to require an OTC derivatives dealer to notify the Commission of backtesting exceptions identified pursuant to Appendix F of Rule 15c3–1.

3. Rule 15c3–4; Internal Risk Management Control Systems for OTC Derivatives Dealers

Pursuant to proposed Rule 15c3–4, an OTC derivatives dealer would have been required to establish a system of internal controls for monitoring and managing risks associated with its business activities. More specifically, proposed Rule 15c3–4 would have established the basic elements for the design, implementation, and review of an OTC derivatives dealer's risk management control system. The proposed rule would have required an OTC derivatives dealer to assess a number of aspects about its business environment when creating its risk management control system. For example, an OTC derivatives dealer would have been required to consider the sophistication and experience of relevant trading, risk management, and internal audit personnel, as well as the management philosophy and culture of the firm. In addition, proposed Rule 15c3–4 would have required certain elements be included in an OTC derivatives dealer's internal control systems. For example, the proposed rule would have required the unit at the firm responsible for monitoring risks to be separate from and senior to the trading units whose activity created the risks.

The SIA Working Group commented[260] that an OTC derivatives dealer's internal risk management control system should specifically address operational risk,[261] market risk,[262] credit risk,[263] liquidity risk,[264] and legal risk.[265] In response to the comment, the Commission has revised Rule 15c3–4 to clarify the specific risks to be addressed by the OTC derivatives dealer's system of internal risk management controls. In particular, Rule 15c3–4 requires that an OTC derivatives dealer's system of internal risk management controls specifically address market risk, credit risk, leverage risk, liquidity risk, legal risk, and operational risk.

Rule 15c3–4 has also been revised to require that an OTC derivatives dealer's written guidelines include the dealer's procedures to prevent it from engaging in any securities transaction that is not permitted under Rule 15a–1 or from improperly relying on certain exceptions set forth in Rule 15a–1 (including procedures to determine whether a counterparty is acting in the capacity of principal or agent).[266] Under Rule 15c3–4, the dealer's management must also periodically review the dealer's business activities for consistency with risk management guidelines. The rule has been revised to require management, as part of this process, to review whether procedures are in place to prevent the dealer from engaging in impermissible securities transactions and from improperly relying on the exceptions contained in Rule 15a–1.[267]

4. Rule 17a–12; Reports to be Made by OTC Derivatives Dealers

Proposed Rule 17a–12 would have required an OTC derivatives dealer to file quarterly Financial Operational Combined Uniform Single Reports ("FOCUS" reports),[268] and to include with its filing the enhanced reporting information and evaluation of risks in relation to capital provisions of the Framework for Voluntary Oversight of the Derivatives Policy Group ("DPG").[269] Proposed Rule 17a–12 would also have required an OTC derivatives dealer to file annually its audited financial statements, a corresponding audit report, and three supplemental audit reports regarding (1) material inadequacies and reportable conditions; (2) derivatives pricing and modeling procedures; and (3) compliance with internal risk management controls. The proposed rule would have established guidelines for the content and form of the annual report, accountant qualifications, the process for designating an accountant, and audit objectives. For example, among other things, the annual audit report would have been required to include a statement of financial condition, a statement of income, a statement of changes in owners' equity, and a statement of changes in subordinated liabilities.

The SIA requested clarification as to the scope of the auditor's report regarding inventory pricing and modeling procedures.[270] More specifically, the SIA sought clarification that the objective of the review of the inventory pricing and modeling procedures was to confirm that (1) the pricing and modeling procedures relied upon by the OTC derivatives dealer conform to the procedures submitted to the Commission as part of its OTC derivatives dealer application; and (2) the procedures comply with the qualitative and quantitative standards set forth in proposed Rule 15c3–1f.[271] Further clarification was sought by the SIA and other commenters as to whether an OTC derivatives dealer would be required to file its FOCUS report monthly or quarterly and whether an OTC derivatives dealer would be required to comply with Rule 17a–5 under the Exchange Act.[272]

Rule 17a–12 has been amended to clarify the scope of the auditor's report on inventory pricing and modeling procedures. The rule requires that, at a minimum, the accountant's report on inventory pricing and modeling procedures confirm that (1) the pricing and modeling procedures relied upon by the OTC derivatives dealer conform to the procedures submitted to the Commission as part of its OTC derivatives dealer application; and (2) the procedures comply with the qualitative and quantitative standards set forth in Rule 15c3–1f. This does not imply any lessening of the auditor's normal role in the audit of the financial statements of the OTC derivatives dealer. Finally, the rule provides that an OTC derivatives dealer must file its FOCUS report quarterly, unless otherwise directed by the Commission, and amends Rule 17a–5 to clarify that an OTC derivatives dealer may comply with Rule 17a–5 by complying with the provisions of Rule 17a–12.

5. Amendments to Form X–17A–5

Proposed Rule 17a–12 would have required that certain conforming changes be made to Rule 249.617 to require OTC derivatives dealers to file the appropriate parts of Form X–17A–5, commonly known as the FOCUS report. These changes would have provided for the appropriate disclosure of the business activities of OTC derivatives dealers and the risks associated with those activities.

Under the proposed amendments to Form X–17A–5, the net capital computation worksheet would have been revised to reflect the proposed net capital requirements for OTC derivatives dealers. Other changes would have included revising the statement of financial condition and the statement of income, and eliminating the customer reserve computation and commission income line items. OTC derivatives dealers would also have been required to include certain new information in the quarterly FOCUS filing. This information would include credit concentration information, together with a geographic breakdown and a counterparty breakdown as described in the DPG Framework for Voluntary Oversight. OTC derivatives dealers would also have been required to provide, where applicable, a detailed summary of all long and short securities and commodities positions, including all OTC derivatives contracts. The SIA suggested several minor changes to the proposed amendments to Form X–17A–5.[273] For example, these suggestions included expanding the scope of covered OTC instruments to include all relevant sources of, or offsets to, market risk in an OTC derivatives dealer's portfolio. The SIA's suggestions have been incorporated into the amendments to Form X–17A–5, as adopted.

III. Costs and Benefits of the Rules and Rule Amendments

The rules and rule amendments adopted by the Commission today create a limited regulatory scheme for dealers active in the OTC derivatives market and allow U.S. securities firms to establish separately capitalized OTC derivatives dealer affiliates. OTC derivatives dealers may act as dealers in eligible OTC derivative instruments, which include both securities and non-securities OTC derivative instruments. Registration as an OTC derivatives dealer is optional and is an alternative to registration as a fully regulated broker-dealer or to conducting a more limited OTC derivatives business through an unregistered affiliate.

Under the limited regulatory scheme, an OTC derivatives dealer is able to conduct its business more efficiently and at lower cost than if it were a fully regulated broker-dealer. This is, in fact, because an OTC derivatives dealer is subject to specifically tailored capital, margin, and other broker-dealer regulatory requirements. With respect to margin in particular, OTC derivatives dealers are exempted from the margin requirements of Section 7(c) of the Exchange Act and Regulation T thereunder, provided that they comply with Section 7(d) of the Exchange Act and the requirements of Regulation U. Regulation U generally allows OTC derivatives dealers to extend credit on OTC derivative instruments on more flexible terms than Regulation T.

While registered OTC derivatives dealers will benefit from the new regulatory scheme, regulators and financial markets will also benefit if an unregistered derivatives dealer elects to register as an OTC derivatives dealer. Net capital requirements and other financial responsibility requirements imposed on registered OTC derivatives dealers help to protect against excessive leverage and business risk, and provide a cushion of capital against market declines and other risks. In addition, Commission oversight authority, including reporting and notice requirements, enable the Commission to monitor the financial and operational condition and securities activities of OTC derivatives dealers. Moreover, because an OTC derivatives dealer must adopt certain internal risk management controls that promote financial responsibility, the risk that significant losses by a single firm could undermine the securities markets as a whole is reduced.

A. Comments and Survey

In the Proposing Release, the Commission requested comment on the costs and benefits associated with the proposed rules and rule amendments.[274] More specifically, the Commission requested comment on the one-time costs of any modifications to accounting, information management, and recordkeeping systems required to implement the proposed rules and rule amendments, as well as on the continuing costs arising from compliance with the proposed rules and rule amendments. The Commission also requested comment on the benefits from the modified capital, margin, and other regulatory requirements. Commenters indicated that the new regulatory structure would result in lower capital requirements and would allow them to compete more effectively with banks and foreign dealers.[275] However, the Commission did not receive any specific cost or benefit data in response to the Proposing Release.

In an effort to obtain more specific information on the potential costs and

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instances, the broker-dealer is required to submit a report detailing steps being taken to correct the inadequacy.

[256] Proposing Release, Section II.H.2., 62 FR at 67950.

[259] Under proposed Rule 15b9–2, an OTC derivatives dealer would have been required to enter into an agreement with the examining authority for one or more of its registered broker-dealer affiliates. Under this agreement, the examining authority would have agreed to conduct a review of the activities of the OTC derivatives dealer. *See supra* note 181 and accompanying text.

[260] SIA Working Group Letter, p. 1.

[261] Operational risk encompasses the risk of loss due to the breakdown of controls within the firm including, but not limited to, unidentified limit excesses, unauthorized trading, fraud in trading or in back office functions, inexperienced personnel, and unstable and easily accessed computer systems.

[262] Market risk involes the risk that prices or rates will adversely change due to economic forces. Such risks include adverse effects of movements in equity and interest rate markets, currency exchange rates, and commodity prices. Market risk can also include the risks associated with the cost of borrowing securities, dividend risk, and correlation risk.

[263] Credit risk comprises risk of loss resulting from counterparty default on loans, swaps, options, and other similar financial instruments during settlement.

[264] Liquidity risk includes the risk that a firm will not be able to unwind or hedge a position.

[265] Legal risk arises from possible risk of loss due to an uneforceable contract or an *ultra vires* act of a counterparty.

[266] *See* Rule 15c3–4(c)(5)(xiii) and (xiv) (17 CFR 240.15c3–4(c)(5)(xiii) and (xiv)). *See also* Rule 15a–1 (17 CFR 240.15a–1) and Section II.C.1. above, discussing revisions to proposed Rule 15a–1.

[267] *See* rule 15c3–4(d)(8) and (9) (17 CFR 240.15c3–4(d)(8) and (9)).

[268] Form X–17A–5 (17 CFR 249.617).

[269] *See Framework for Voluntary Oversight*, Derivatives Policy Group (Mar. 1995). The firms comprising the DPG consist of the six U.S. broker-dealers with the largest OTC derivatives affiliates. This group was organized to respond to the public policy interests of Congress, federal agencies, and others in the OTC derivatives activities of unregulated affiliates of SEC-registered broker-dealers and CFTC-registered futures commission merchants. The Framework for Voluntary Oversight specifies certain information that the members of the DPG have voluntarily agreed to submit regarding their OTC derivatives activities and establishes certain internal control principles that group members should follow.

[270] SIA Letter I, p. 4.

[271] *Id.*

[272] 17 CFR 240.17a–5. *See* Section V.D.4.a. of the Comment Summary.

[273] SIA Letter I, pp. 16–17.

[274] Proposing Release, Section IV., 62 FR at 67952.

[275] *See* Section VI. of the Comment Summary.

benefits of operating as an OTC derivatives dealer, Commission staff asked broker-dealers to provide more specific estimates of the costs and benefits of moving OTC derivatives business to, and conducting business in the form of, an OTC derivatives dealer. Five firms that believed OTC derivative dealer registration would be cost effective provided cost information, and requested confidential treatment of the data provided to the Commission.[276] Most firms responding expected significant benefits from registering as an OTC derivatives dealer because of regulatory capital savings, increased capital efficiency, and efficiencies resulting from business consolidation. These benefits generally outweighed increased one-time and continuing operating costs associated with combining activities currently conducted in a registered broker-dealer with activities conducted in other unregistered entities. The firms that responded to the survey also stated that the margin requirements applicable to OTC derivatives dealers are beneficial in instances where the less stringent Regulation U applies to transactions instead of Regulation T, but costly to the extent Regulation U applies to offshore business not previously subject to either U.S. margin requirement.

Responses to the survey varied in terms of length and detail. Some were more qualitative than quantitative. At times respondents combined categories, making comparability and averaging more difficult. Where possible, estimated costs and benefits are provided below.

B. Benefits

1. Regulatory Capital Effects

Most firms responding to the survey identified regulatory capital effects as the most significant benefit resulting from operation as an OTC derivatives dealer. By applying Appendix F instead of taking traditional haircuts under paragraph (c)(2)(vi) of Rule 15c3–1, OTC derivatives dealers will be required to reserve less regulatory capital than they would if this business was conducted on the books of their fully regulated broker-dealer affiliates.[277] The five firms that provided estimated regulatory capital savings figures estimated an aggregate difference in net capital requirements of $1.25 billion if they registered as OTC derivatives dealers. Additionally, assuming that these firms would otherwise conduct their derivatives business through a fully regulated broker-dealer, the staff estimated that their reduced capital requirements would yield an aggregate annual benefit for the use of this capital of approximately $138 million.[278]

2. Operational Cost Savings

The firms surveyed generally predicted that they would not experience significant operational savings from operating as an OTC derivatives dealer. They predicted, but did not quantify, potential operational benefits from the consolidation of businesses into one entity. These benefits include:

- Streamlined transaction processing if all OTC derivatives activity were consolidated into one entity;
- Consolidated netting of counterparty credit exposures, and margining of counterparty net balances; and
- Consolidated transaction documentation by counterparty.

3. Decreased Margin Requirements

Most firms stated that the modified margin requirements would not be a significant benefit of registering as an OTC derivatives dealer, and did not quantify this benefit. The firms noted that margin requirements under Regulation U would be more flexible when extending credit than Regulation T, which applies to broker-dealers. They also noted, however, that with respect to business previously conducted offshore, which was not subject to Federal Reserve Board margin requirements, complying with Regulation U would increase the cost of doing business.

C. Costs

1. Costs of Combining Activities Into One Operation

A firm electing to register as an OTC derivatives dealer would incur costs to combine activities currently conducted in a registered broker-dealer with activities conducted in other unregistered entities. It also would incur continuing costs to comply with the applicable rules and rule amendments. Respondents to the survey identified, but did not uniformly quantify, the costs associated with operating as an OTC derivatives dealer. These costs include:

- Forming and registering as an OTC derivatives dealer;
- Adjusting risk management practices to conform with Rules 15c3–1 and 15c3–4;
- Enhancing and developing VAR and credit risk systems;
- Complying with minimum capital requirements;
- Making and retaining required books and records;
- Preparing and submitting FOCUS reports and annual audited financial statements;
- Responding to examination requests;
- Developing systems for compliance with the margin requirements of Regulation U;
- Subjecting offshore activities to Regulation U; and
- Hiring compliance personnel.

Five firms responding to the survey estimated that their annual operating costs would increase by at least $36 million in the aggregate to conduct business as an OTC derivatives dealer. Respondents' individual estimates of increased costs ranged from $900,000 to $26 million per year. However, they stated that the increases in operating costs were far outweighed by estimated positive regulatory capital effects. Although survey results were not uniformly comparable, estimates of some specific operational costs follow.

2. Registration as an OTC Derivatives Dealer

One firm estimated that the cost of registering an entity as an OTC derivatives dealer would be as high as $50,000. This firm noted that set-up and registration costs would likely decrease for later registrants, after the process becomes standardized.

3. Risk Management Adjustments

One firm did not consider the costs of further developing its VAR and other statistical risk models to be attributable to the OTC derivatives dealer specifically, because such development would be required in any event. This firm and another firm each estimated the cost of conforming their VAR model to the regulatory requirements to be approximately $200,000. A third firm estimated the cost of obtaining risk management systems and procedures that meet the regulatory requirements to be at least $250,000. One firm stated that the additional cost of compensating model-related personnel would be approximately $650,000 per year.

4. Books and Records Requirements

Apart from a likely increase in outside auditor fees, firms generally stated that the cost of compliance with books and records and reporting requirements were not significant. One firm estimated that the cost of systems changes necessary to create and maintain OTC derivatives dealer books and records, as well as the cost of necessary compliance personnel would be $500,000 in the first year. A second firm estimated that the cost of compensating additional regulatory compliance staff would be approximately $75,000 per year. A third firm expected increased costs of $400,000 per year for audit and related services, and for hiring additional personnel in the areas of compliance, operations, and reporting.

5. Regulatory Reporting

One firm estimated that the cost for an OTC derivatives dealer to prepare the required regulatory reports would be approximately $38,000 per year. This firm also estimated that internal and external auditor fees would be $100,000 per year. Another firm estimated the cost of preparation for regulatory examinations as $75,000 per year.

6. Regulation U Margin Requirements

One firm estimated the cost of maintaining OTC derivative dealer margin to be approximately $75,000. The Commission has also considered whether systemic risk would be created by permitting OTC derivatives dealers to comply with the reduced margin requirements of Regulation U as opposed to Regulation T. Although the collection of less margin in some transactions may increase risk for OTC derivatives dealers, the systemic risk is no greater for OTC derivatives dealers than for their banking competitors. Further, this risk is offset in part by financial responsibility safeguards applicable to OTC derivatives dealers, such as the minimum capital requirements in Rule 15c3–1 and the internal risk management control systems required by Rule 15c3–4.

D. Conclusion

Based on the survey results and its own analysis, the Commission believes that the rules and rule amendments adopted today provide firms that are active in the OTC derivatives market with a cost effective alternative to conducting this business through a fully regulated broker-dealer. In addition, it is important to note that registration as an OTC derivatives dealer is optional. Thus, a firm can perform its own cost and benefit analysis to determine whether registration as an OTC derivatives dealer is an appropriate alternative for that firm.

IV. Efficiency, Competition, and Capital Formation

Section 23(a)(2) of the Exchange Act[279] requires the Commission, in adopting Exchange Act rules, to consider the impact any such rule would have on competition and to not adopt a rule that would impose a burden on competition not necessary or appropriate in furthering the purposes of the Exchange Act. Furthermore, section 3(f) of the Exchange Act[280] provides that whenever the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission shall consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation. The Commission has considered the rules and rule amendments in light of the standards cited in sections 23(a)(2) and 3(f) of the Exchange Act.

In the Proposing Release, the Commission requested comment on the effect of the proposed rules and rule amendments on competition, efficiency, and capital formation.[281] Commenters generally indicated that the reduced capital, margin, and other regulatory requirements would allow an OTC derivatives dealer to compete more effectively with banks and foreign dealers. However, commenters did not provide detailed information or analysis on the limited regulatory scheme's effect on competition, efficiency, or capital formation.[282]

The rules and rule amendments adopted by the Commission today increase the ability of certain highly capitalized broker-dealers to compete effectively in global securities markets by removing substantial regulatory and economic barriers. Because registration as an OTC derivatives dealers is optional and is an alternative to registration as a fully regulated broker-dealer or to conducting a more limited OTC derivatives business in an unregistered entity, a firm can make its own analysis of the competitive advantages of being registered as an OTC derivatives dealer.

Major dealers in the OTC derivatives market are generally large, highly capitalized banks and securities firms. One commenter opposed any minimum tentative net capital requirement, arguing that other U.S. broker-dealers are not required to maintain minimum tentative net capital under the net capital rule, and that U.S. firms, and particularly small-sized, medium-sized, and newly established OTC derivatives dealers, would be at a competitive disadvantage.[283] It is likely that smaller firms in the OTC derivatives business will not be able to register as OTC derivatives dealers because they cannot satisfy the minimum capital requirements. This will not prevent competition, however, because these smaller firms may continue to conduct their OTC derivatives business outside of the OTC derivatives dealer regulatory structure, although they will not receive the benefits of the new rules. Further, reducing minimum capital requirements would not be consistent with investor protection.

The minimum capital requirements imposed on OTC derivatives dealers are necessary to help protect against excessive leverage and the risks associated with conducting an OTC derivatives business, and to provide a cushion of capital against severe market disturbances. It would not be appropriate, for example, to require less capital from less active OTC derivatives dealers. Firms of all sizes face risks, such as legal risk, liquidity risk, and operational risk, which are not typically incorporated into VAR calculations. Further, VAR may not measure losses that fall outside of normal conditions, such as during steep market declines. The minimum capital requirements provide additional safeguards to account for possible extraordinary losses or decreases in liquidity during times of market stress.

Two commenters suggested that the Commission address certain competitive disparities that they argued exist between exchange-traded products and seemingly similar products available in the OTC derivatives market.[284] The rules adopted today are only designed to address competitive disparities between market participants within the OTC derivatives market. They are not intended to address actual or perceived competitive disparities between OTC products and any other product or service.

The rules and rule amendments promote market efficiency and capital formation. The limited regulatory scheme provides U.S. broker-dealers with an optional alternative to conducting OTC derivatives

[276] Two additional firms submitted responses to the survey, but these responses are not reflected in this analysis. One firm provided limited cost information that was excluded because the firm indicated that, due to the small size of its OTC derivatives business, it is not likely to register as an OTC derivatives dealer. A second firm's response was excluded because it gave qualitative, rather than quantitative, information. A summary of the responses to the survey has been placed in Public Reference File No. S7–30–97 and is available for inspection in the Commission's Public Reference Room.

[277] Many of these firms may currently conduct their OTC derivatives business in unregistered or offshore affiliates not subject to regulatory net capital requirements.

[278] The total annual benefit was computed by multiplying the regulatory capital savings of $1.25 billion by 11%, which is the average of three estimated incremental rates of return provided by three responding firms.

[279] 15 U.S.C. 78w(a)(2).

[280] 15 U.S.C. 78c(f).

[281] Proposing Release, Sections IV. and V., 62 FR at 67952–53.

[282] *See* Section VI. of the Comment Summary.

[283] DESCO Letter, pp. 9–10.

[284] CBOE Letter, pp. 1–2; Comment Letter from the Chicago Mercantile Exchange, p. 2.

transactions through fully regulated broker-dealers, but does not create significant impediments to competition. As a result of the new regulatory structure, the Commission will be better able to monitor the financial and operational activities of OTC derivatives dealers. Finally, minimum capital requirements will provide a cushion against severe market disturbances, thus reducing the risk that a single firm will experience significant losses and trigger such losses by other market participants.

V. Summary of Final Regulatory Flexibility Analysis

A Final Regulatory Flexibility Analysis ("FRFA") regarding the rules and rule amendments under the Exchange Act that tailor capital, margin, and other broker-dealer regulatory requirements to the activities of OTC derivatives dealers has been prepared in accordance with 5 U.S.C. 604. The FRFA notes that registration as an OTC derivatives dealer is optional, and therefore will not impose any reporting requirements for those entities choosing not to become registered as OTC derivatives dealers. Those entities choosing to register as OTC derivatives dealers under the new regulatory system will be subject to the reporting requirements applicable to broker-dealers under the Exchange Act.

A. Need for the Rules and Rule Amendments

As discussed more fully in the FRFA, the rules and rule amendments are intended to give U.S. securities firms an opportunity to conduct business in a vehicle subject to modified regulation appropriate to OTC derivatives markets, and thereby to improve the efficiency and competitiveness of U.S. securities firms participating in global OTC derivatives markets. These improvements will be realized through a limited regulatory structure that is expected to impose fewer costs on firms conducting an OTC derivatives business than would be imposed under the Commission's current rules. In particular, the application of revised capital requirements and an exemption from the margin requirements of Regulation T should make it feasible for firms to conduct a business involving both securities and non-securities OTC derivative instruments within the United States. Commenters generally commended the Commission for its efforts to improve competition and efficiency.

B. Small Entities Subject to the Rules

These rules and rule amendments will not significantly affect a substantial number of small entities, as defined in the Commission's rules.[285] At the time of the Proposing Release, a broker-dealer (including any person that would be an OTC derivatives dealer) generally would be considered a small entity if (1) it had total capital (net worth plus subordinated liabilities) of less than $500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to Rule 17a–5(d) or, if not required to file such statements, a broker-dealer that had total capital (net worth plus subordinated liabilities) of less than $500,000 on the last day of the preceding fiscal year (or in the time that it has been in business, if shorter); and (2) it is not affiliated with any person (other than a natural person) that is not a small business or small organization.[286]

The Commission requested comment with respect to the Initial Regulatory Flexibility Analysis ("IRFA") that was prepared when the new regulatory regime was proposed. The Commission did not receive any comments specifically concerning the IRFA. However, some of the commenters addressed aspects of the rules that could potentially affect small businesses. These comments are discussed below.

Under the amendments to Rule 15c3–1, OTC derivatives dealers are required to maintain at least $100 million in tentative net capital and at least $20 million in net capital. Based on these minimum capital requirements, the FRFA notes that no OTC derivatives dealer would be considered a small entity. Major dealers in OTC derivatives markets tend to be the largest, highest-capitalized banks and securities firms. The capital requirements for OTC derivatives dealers have been tailored to this market and are necessary to ensure against excessive leverage and the risks associated with conducting an OTC derivatives business, as well as to provide for a cushion of capital against severe market disturbances.

Registration as an OTC derivatives dealer is optional. The rules and rule amendments do not require any broker-dealer to use this alternative. Instead, all broker-dealers may consider whether, given the nature of their business or any other relevant considerations, they want to register as an OTC derivatives dealer. Accordingly, the rules and rule amendments do not impose any additional costs on any entity, including any small business, currently engaging in the business of effecting transactions in OTC derivative instruments.

The rules and rule amendments guard against excessive leverage and the risk associated with conducting an OTC derivatives business, and provide a cushion of capital against severe market disturbances. In order to do so, the final rules require that an OTC derivatives dealer maintain $100 million in tentative net capital and $20 million in net capital. Lesser net capital requirements for small entities seeking to register as OTC derivatives dealers likely would not afford sufficient protection against these risks.

Given the level of these net capital requirements, the Commission is not aware of any small business or small organizations, as defined in Rule 0–10, that could operate as OTC derivatives dealers under the rule. In any event, the Commission is not aware of any small business or small organizations, as defined in Rule 0–10, that currently are active as dealers in OTC derivatives markets. In the Proposing Release, the Commission specifically requested comment on whether there were small entities that act as dealers in OTC derivatives, and what effect, if any, the proposed rules and rule amendments would have on their activities. No small entities, as defined in Rule 0–10 under the Exchange Act, submitted comments addressing this issue. Only one commenter, which is not a small entity under the Commission's rules, addressed the impact of the rules on small entities that might wish to take advantage of the new regulatory regime, noting that the $100 million tentative net capital requirement could have anti-competitive consequences for small-and medium-sized firms and newer entrants to the OTC derivatives business.

The final rules and rule amendments contain no limitations on the ability of small entities to participate as counterparties in OTC derivatives transactions with registered OTC derivatives dealers. Under proposed Rule 3b–14, the term "permissible derivatives counterparty" would have included a range of financial institutions, corporations, and other institutional entities with whom OTC derivatives dealers would have been permitted to enter into OTC derivatives transactions. Like OTC derivatives dealers, these institutional counterparties are frequently large, well-capitalized entities. Nevertheless, the proposed definition may have also included potential counterparties that would be considered small entities for purposes of the Regulatory Flexibility Act ("RFA").[287]

The Commission specifically requested comment regarding the participation of these classes of persons in OTC derivatives markets, whether any of them would be considered small entities, and what effect, if any, the proposed rules and rule amendments would have on their activities. The Commission also specifically requested comment from small entities that would not be able to satisfy the definition of permissible derivatives counterparty and, therefore, would not be eligible to engage in transactions with OTC derivatives dealers. No comments from small entities addressing this issue were received. Numerous comments, however, were received regarding the proposed definition of "eligible derivatives counterparty."

The majority of commenters on this issue suggested that a broad range of persons should be able to act as permissible derivatives counterparties, and believed that the definition should be expanded, at a minimum, to include natural persons having at least $5 million in total assets as proposed. Other commenters raised concerns that the proposed group of permissible derivatives counterparties could include unsophisticated persons who would need the protections provided by the securities sales practice requirements.

In response to commenters' concerns, and in light of the protections afforded through requiring intermediation of securities transactions, the final rules do not limit the persons with whom an OTC derivatives dealer may engage in transactions. Thus, to the extent that a small entity could act as a counterparty to an OTC derivatives transaction prior to the adoption of this new regulatory regime, it may still act as a counterparty to an OTC derivatives dealer under the new rules and rule amendments. Nothing in these rules, therefore, affects the ability of a small entity to participate in an OTC derivatives transaction. Other provisions of the rules that require broker-dealer intermediation will help assure protection of small entities.

C. Projected Reporting, Recordkeeping, and Other Compliance Requirements

Because no small entity would be eligible to meet the requirements of an OTC derivatives dealer, there is no compliance requirement for small entities. The adopting release details the cost, benefits, and compliance requirements for non-small entities that elect to register as OTC derivatives dealers.

As explained in the FRFA, none of the recordkeeping, reporting, or other compliance requirements under the rules and rule amendments are expected to apply directly to counterparties that enter into transactions with OTC derivatives dealers. No small entities commented on this aspect of the proposal, and no commenters addressed the costs, if any, on small entities that acted as counterparties to OTC derivatives transactions with OTC derivatives dealers. Nevertheless, the ability of an OTC derivatives dealer to consolidate its OTC derivatives activities into a single entity under the new regulatory regime with lower capital and margin requirements could result in lower transactional costs to counterparties, including small entities.

D. Alternatives To Minimize Effect on Small Entities

As discussed further in the FRFA, the Commission has considered alternatives to the rules and rule amendments that would minimize the effects of the rules on small entities, but would still accomplish the stated objectives of improving the efficiency and competitiveness of U.S. securities firms participating in global OTC derivatives markets, and make it feasible for these firms to conduct a business involving securities and non-securities OTC derivative instruments within the United States. Several of these alternatives were considered but rejected, while other alternatives were taken into account in the final rules. The final rules and rule amendments meet the Commission's stated goals by tailoring capital, margin, and other regulatory requirements to the activities of OTC derivatives dealers, while still providing sufficient protections.

Registration as an OTC derivatives dealer is an alternative to registration as a fully regulated broker-dealer, and is optional. The Commission is not imposing any additional costs on any entity, including any small businesses, currently engaging in the business of effecting transactions in OTC derivative instruments, which could remain subject to full regulation. The proposed capital requirements, in particular, provide OTC derivatives dealers with significant alternatives for computing risk charges. Thus, firms choosing to register as OTC derivatives dealers may individually tailor the methodology they will employ to calculate their net capital on an on-going basis, subject to Commission staff authorization. This flexibility should enable firms to keep costs of compliance as low as possible.

The final rules and rule amendments guard against excessive leverage and the risks associated with conducting an OTC derivatives business, and provide a cushion of capital against severe market disturbances. In order to do so, the final rules require that an OTC derivatives dealer maintain $100 million in tentative net capital and $20 million in net capital. Lesser net capital requirements for small entities seeking to register as OTC derivatives dealers would not afford sufficient protection against these risks, and this alternative was therefore rejected. Similarly, additional exemptions from specific broker-dealer regulations under the Exchange Act for small businesses engaging in an OTC derivatives business, if there are any, would not be warranted. Moreover, the Commission is not aware of any small businesses that are currently engaged as dealers in OTC derivative instruments.

Counterparties are expected to benefit from the final rules and rule amendments by being able to engage in transactions in both securities and non-securities OTC derivative instruments with a class of registered dealers subject to Commission oversight. To the extent that a small entity could act as a counterparty to an OTC derivatives transaction prior to adoption of the new regulatory regime, it would still be able to act in that capacity after adoption of the new rules and rule amendments. Nothing in the Commission's optional regulatory regime for OTC derivatives dealers affects a counterparty's ability to enter into an OTC derivatives transaction with an OTC derivatives dealer. A copy of the FRFA may be obtained by contacting Laura S. Pruitt, Special Counsel, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Mail Stop 10–1, Washington, DC 20549, (202) 942–0073.

VI. Paperwork Reduction Act

As set forth in the Proposing Release, Rules 15c3–4, 17a–12, Appendix F to Rule 15c3–1, and the amendments to Rule 17a–3 contain collections of information within the meaning of the Paperwork Reduction Act of 1995

[285] On June 24, 1998, several months after the Proposing Release was published, the Commission amended its definitions of small entities. *See* Exchange Act Release No. 40122 (June 24, 1998), 63 FR 35508 (June 30, 1998). The Commission's revised definition applicable to broker-dealers, effective as of July 30, 1998, maintains the capital standard set forth in the prior version, but also expands the affiliation standard applicable to broker-dealers. *See* Rule 0–10 under the Exchange Act (17 CFR 240.0–10). Although the FRFA analyzes the rules and rule amendments under the previous definition, the analysis applies equally under the Commission's new definition.

[286] Rule 0–10 (17 CFR 240.0–10).

[287] 5 U.S.C. 601 *et seq.*

("PRA").[288] Accordingly, the collection of information requirements contained in the rules and rule amendments were submitted to the Office of Management and Budget ("OMB") for review and were approved by OMB which assigned the following control numbers: Rule 15c3–4, control number 3235–0497; Rule 17a–12, control number 3235–0498; Appendix F to Rule 15c3–1, control number 3235–0496; and amendments to Rule 17a–3, control number 3235–0033. The collections of information are in accordance with Section 3507 of the PRA.[289]

The collection of information obligations imposed by the rules and rule amendments are mandatory. However, it is important to note that registration as an OTC derivatives dealer is optional. The information collected, retained, and/or filed pursuant to the rules and rule amendments will be kept confidential to the extent permitted by the Freedom of Information Act (5 U.S.C. 552 *et seq.*). An agency may not conduct or sponsor, and a person is not required to comply with, a collection of information unless it displays a currently valid OMB control number.

The collections of information are necessary for persons to obtain certain benefits or to comply with certain requirements. As described in the Proposing Release, the rules and rule amendments to which the collections of information are related implement a limited regulatory system under the Exchange Act for OTC derivatives dealers. Under this limited regulatory system, OTC derivatives dealers are permitted to engage in dealing activities with respect to certain types of securities and non-securities OTC derivatives instruments, and to issue and reacquire their issued securities, without being required to comply with the full range of capital, margin, and other regulatory requirements applicable to other regulated broker-dealers.

The Proposing Release solicited comments on the proposed collections of information. No comments were received that addressed the PRA submission. However, the Commission did receive comments on other aspects of the proposal. After carefully considering the comments received, the Commission is retaining its collection of information burden estimate. Thus the descriptions and estimated burdens of the collection of information requirements have not changed, and are set forth in the Proposing Release.

[288] 44 U.S.C. 3501 *et seq.*

[289] 44 U.S.C. 3507.

VII. Statutory Authority

The Commission is amending Title 17, Chapter II of the Code of Federal Regulations pursuant to the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (particularly sections 3(b), 11(a), 15(a), 15(b), 15(c), 17(a), 23, and 36 thereof (15 U.S.C. 78c(b), 78k(a), 78o(a), 78o(b), 78o(c), 78q(a), 78w, and 78mm)).

Text of Rules and Rule Amendments

List of Subjects

17 CFR Part 200

Administrative practice and procedure, Authority delegations (Government agencies).

17 CFR Parts 240 and 249

Broker-dealers, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as set forth below.

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. The authority citation for Part 200 continues to read in part as follows:

Authority: 15 U.S.C. 77s, 78d–1, 78d–2, 78w, 78*ll*(d), 78mm, 79t, 77sss, 80a–37, 80b–11, unless otherwise noted.

* * * * *

2. Section 200.30–3 is amended by removing the period after paragraph (a)(7)(iv) and in its place adding "; and" and by adding paragraphs (a)(7)(v), (a)(64), (a)(65) and (a)(66) to read as follows:

§ 200.30–3 Delegation of authority to Director of Division of Market Regulation.

* * * * *

(a) * * *

(7) * * *

(v) To review applications of OTC derivatives dealers filed pursuant to Appendix F of § 240.15c3–1f of this chapter, and to grant or deny such applications in full or in part.

* * * * *

(64) Pursuant to § 240.15a–1(b)(1) of this chapter, to issue orders identifying other permissible securities activities in which an OTC derivatives dealer may engage.

(65) Pursuant to § 240.15a–1(b)(2) of this chapter, to issue orders determining that a class of fungible instruments that are standardized as to their material economic terms is within the scope of eligible OTC derivative instrument.

(66) Pursuant to § 240.17a–12 of this chapter:

(i) To authorize the issuance of orders requiring OTC derivatives dealers to file, pursuant to § 240.17a–12(a)(ii) of this chapter, monthly, or at such times as shall be specified, Part IIB of Form X–17A–5 (§ 249.617 of this chapter) and such other financial and operational information as shall be specified.

(ii) Pursuant to § 240.17a–12(n) of this chapter, to consider applications by OTC derivatives dealers for exemptions from, and extensions of time within which to file, reports required by § 240.17a–12 of this chapter, and to grant or deny such applications.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

3. The authority citation for part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*(d), 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

4. By adding §§ 240.3b–12 through 240.3b–15 to read as follows:

§ 240.3b–12 Definition of OTC derivatives dealer.

The term *OTC derivatives dealer* means any dealer that is affiliated with a registered broker or dealer (other than an OTC derivatives dealer), and whose securities activities:

(a) Are limited to:

(1) Engaging in dealer activities in eligible OTC derivative instruments that are securities;

(2) Issuing and reacquiring securities that are issued by the dealer, including warrants on securities, hybrid securities, and structured notes;

(3) Engaging in cash management securities activities;

(4) Engaging in ancillary portfolio management securities activities; and

(5) Engaging in such other securities activities that the Commission designates by order pursuant to § 240.15a–1(b)(1); and

(b) Consist primarily of the activities described in paragraphs (a)(1), (a)(2), and (a)(3) of this section; and

(c) Do not consist of any other securities activities, including engaging in any transaction in any security that is not an eligible OTC derivative instrument, except as permitted under paragraphs (a)(3), (a)(4), and (a)(5) of this section.

(d) For purposes of this section, the term *hybrid security* means a security that incorporates payment features economically similar to options, forwards, futures, swap agreements, or collars involving currencies, interest or other rates, commodities, securities, indices, quantitative measures, or other financial or economic interests or property of any kind, or any payment or delivery that is dependent on the occurrence or nonoccurrence of any event associated with a potential financial, economic, or commercial consequence (or any combination, permutation, or derivative of such contract or underlying interest).

§ 240.3b–13 Definition of eligible OTC derivative instrument.

(a) Except as otherwise provided in paragraph (b) of this section, the term *eligible OTC derivative instrument* means any contract, agreement, or transaction that:

(1) Provides, in whole or in part, on a firm or contingent basis, for the purchase or sale of, or is based on the value of, or any interest in, one or more commodities, securities, currencies, interest or other rates, indices, quantitative measures, or other financial or economic interests or property of any kind; or

(2) Involves any payment or delivery that is dependent on the occurrence or nonoccurrence of any event associated with a potential financial, economic, or commercial consequence; or

(3) Involves any combination or permutation of any contract, agreement, or transaction or underlying interest, property, or event described in paragraphs (a)(1) or (a)(2) of this section.

(b) The term *eligible OTC derivative instrument* does not include any contract, agreement, or transaction that:

(1) Provides for the purchase or sale of a security, on a firm basis, unless:

(i) The settlement date for such purchase or sale occurs at least one year following the trade date or, in the case of an eligible forward contract, at least four months following the trade date; or

(ii) The material economic features of the contract, agreement, or transaction consist primarily of features of a type described in paragraph (a) of this section other than the provision for the purchase or sale of a security on a firm basis; or

(2) Provides, in whole or in part, on a firm or contingent basis, for the purchase or sale of, or is based on the value of, or any interest in, any security (or group or index of securities), and is:

(i) Listed on, or traded on or through, a national securities exchange or registered national securities association, or facility or market thereof; or

(ii) Except as otherwise determined by the Commission by order pursuant to § 240.15a–1(b)(2), one of a class of fungible instruments that are standardized as to their material economic terms.

(c) The Commission may issue an order pursuant to § 240.15a–1(b)(3) clarifying whether certain contracts, agreements, or transactions are within the scope of eligible OTC derivative instrument.

(d) For purposes of this section, the term *eligible forward contract* means a forward contract that provides for the purchase or sale of a security other than a government security, provided that, if such contract provides for the purchase or sale of margin stock (as defined in Regulation U of the Regulations of the Board of Governors of the Federal Reserve System, 12 CFR Part 221), such contract either:

(1) Provides for the purchase or sale of such stock by the issuer thereof (or an affiliate that is not a bank or a broker or dealer); or

(2) Provides for the transfer of transaction collateral in an amount that would satisfy the requirements, if any, that would be applicable assuming the OTC derivatives dealer party to such transaction were not eligible for the exemption from Regulation T of the Regulations of the Board of Governors of the Federal Reserve System, 12 CFR part 220, set forth in § 240.36a1–1.

§ 240.3b–14 Definition of cash management securities activities.

The term *cash management securities activities* means securities activities that are limited to transactions involving:

(a) Any taking possession of, and any subsequent sale or disposition of, collateral provided by a counterparty, or any acquisition of, and any subsequent sale or disposition of, collateral to be provided to a counterparty, in connection with any securities activities of the dealer permitted under § 240.15a–1 or any non-securities activities of the dealer that involve eligible OTC derivative instruments or other financial instruments;

(b) Cash management, in connection with any securities activities of the dealer permitted under § 240.15a–1 or any non-securities activities of the dealer that involve eligible OTC derivative instruments or other financial instruments; or

(c) Financing of positions of the dealer acquired in connection with any securities activities of the dealer permitted under § 240.15a–1 or any non-securities activities that involve eligible OTC derivative instruments or other financial instruments.

§ 240.3b–15 Definition of ancillary portfolio management securities activities.

(a) The term *ancillary portfolio management securities activities* means securities activities that:

(1) Are limited to transactions in connection with:

(i) Dealer activities in eligible OTC derivative instruments;

(ii) The issuance of securities by the dealer; or

(iii) Such other securities activities that the Commission designates by order pursuant to § 240.15a–1(b)(1); and

(2) Are conducted for the purpose of reducing the market or credit risk of the dealer or consist of incidental trading activities for portfolio management purposes; and

(3) Are limited to risk exposures within the market, credit, leverage, and liquidity risk parameters set forth in:

(i) The trading authorizations granted to the associated person (or to the supervisor of such associated person) who executes a particular transaction for, or on behalf of, the dealer; and

(ii) The written guidelines approved by the governing body of the dealer and included in the internal risk management control system for the dealer pursuant to § 240.15c3–4; and

(4) Are conducted solely by one or more associated persons of the dealer who perform substantial duties for, or on behalf of, the dealer in connection with its dealer activities in eligible OTC derivative instruments.

(b) The Commission may issue an order pursuant to § 240.15a–1(b)(4) clarifying whether certain securities activities are within the scope of ancillary portfolio management securities activities.

5. Section 240.8c–1 is amended by revising paragraph (b)(1) to read as follows:

§ 240.8c–1 Hypothecation of customers' securities.

* * * * *

(b) * * *

(1) The term *customer* shall not include any general or special partner or any director or officer of such member, broker or dealer, or any participant, as such, in any joint, group or syndicate account with such member, broker or dealer or with any partner, officer or director thereof. The term also shall not include any counterparty who has delivered collateral to an OTC derivatives dealer pursuant to a transaction in an eligible OTC derivative instrument, or pursuant to the OTC derivatives dealer's cash management securities activities or ancillary portfolio management securities activities, and who has received a prominent written

notice from the OTC derivatives dealer that:

(i) Except as otherwise agreed in writing by the OTC derivatives dealer and the counterparty, the dealer may repledge or otherwise use the collateral in its business;

(ii) In the event of the OTC derivatives dealer's failure, the counterparty will likely be considered an unsecured creditor of the dealer as to that collateral;

(iii) The Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa through 78lll) does not protect the counterparty; and

(iv) The collateral will not be subject to the requirements of § 240.8c–1, § 240.15c2–1, § 240.15c3–2, or § 240.15c3–3;

* * * * *

6. By adding § 240.11a1–6 to read as follows:

§ 240.11a1–6 Transactions for certain accounts of OTC derivatives dealers.

A transaction effected by a member of a national securities exchange for the account of an OTC derivatives dealer that is an associated person of that member shall be deemed to be of a kind that is consistent with the purposes of section 11(a)(1) of the Act (15 U.S.C. 78k(a)(1)), the protection of investors, and the maintenance of fair and orderly markets if, assuming such transaction were for the account of a member, the member would have been permitted, under section 11(a) of the Act and the other rules thereunder (with the exception of § 240.11a1–2), to effect the transaction.

7. By adding § 240.15a–1 under the undesignated section heading "Exemption of Certain OTC Derivatives Dealers" to read as follows:

§ 240.15a–1 Securities activities of OTC derivatives dealers.

Preliminary Note: OTC derivatives dealers are a special class of broker-dealers that are exempt from certain broker-dealer requirements, including membership in a self-regulatory organization (§ 240.15b9–2), regular broker-dealer margin rules (§ 240.36a1–1), and application of the Securities Investor Protection Act of 1970 (§ 240.36a1–2). OTC derivative dealers are subject to special requirements, including limitations on the scope of their securities activities (§ 240.15a–1), specified internal risk management control systems (§ 240.15c3–4), recordkeeping obligations (§ 240.17a–3(a)(10)), and reporting responsibilities (§ 240.17a–12). They are also subject to alternative net capital treatment (§ 240.15c3–1(a)(5)). This rule 15a–1 uses a number of defined terms in setting forth the securities activities in which an OTC derivatives dealer may engage: "OTC derivatives dealer," "eligible OTC derivative instrument," "cash management securities activities," and "ancillary portfolio management securities activities." These terms are defined under Rules 3b–12 through 3b–15 (§ 240.3b–12 through § 240.3b–15).

(a) The securities activities of an OTC derivatives dealer shall:

(1) Be limited to:

(i) Engaging in dealer activities in eligible OTC derivative instruments that are securities;

(ii) Issuing and reacquiring securities that are issued by the dealer, including warrants on securities, hybrid securities, and structured notes;

(iii) Engaging in cash management securities activities;

(iv) Engaging in ancillary portfolio management securities activities; and

(v) Engaging in such other securities activities that the Commission designates by order pursuant to paragraph (b)(1) of this section; and

(2) Consist primarily of the activities described in paragraphs (a)(1)(i), (a)(1)(ii), and (a)(1)(iii) of this section; and

(3) Not consist of any other securities activities, including engaging in any transaction in any security that is not an eligible OTC derivative instrument, except as permitted under paragraphs (a)(1)(iii), (a)(1)(iv), and (a)(1)(v) of this section.

(b) The Commission, by order, entered upon its own initiative or after considering an application for exemptive relief, may clarify or expand the scope of eligible OTC derivative instruments and the scope of permissible securities activities of an OTC derivatives dealer. Such orders may:

(1) Identify other permissible securities activities;

(2) Determine that a class of fungible instruments that are standardized as to their material economic terms is within the scope of eligible OTC derivative instrument;

(3) Clarify whether certain contracts, agreements, or transactions are within the scope of eligible OTC derivative instrument; or

(4) Clarify whether certain securities activities are within the scope of ancillary portfolio management securities activities.

(c) To the extent an OTC derivatives dealer engages in any securities transaction pursuant to paragraphs (a)(1)(i) through (a)(1)(v) of this section, such transaction shall be effected through a registered broker or dealer (other than an OTC derivatives dealer) that, in the case of any securities transaction pursuant to paragraphs (a)(1)(i), or (a)(1)(iii) through (a)(1)(v) of this section, is an affiliate of the OTC derivatives dealer, except that this paragraph (c) shall not apply if:

(1) The counterparty to the transaction with the OTC derivatives dealer is acting as principal and is:

(i) A registered broker or dealer;

(ii) A bank acting in a dealer capacity, as permitted by U.S. law;

(iii) A foreign broker or dealer; or

(iv) An affiliate of the OTC derivatives dealer; or

(2) The OTC derivatives dealer is engaging in an ancillary portfolio management securities activity, and the transaction is in a foreign security, and a registered broker or dealer, a bank, or a foreign broker or dealer is acting as agent for the OTC derivatives dealer.

(d) To the extent an OTC derivatives dealer induces or attempts to induce any counterparty to enter into any securities transaction pursuant to paragraphs (a)(1)(i) through (a)(1)(v) of this section, any communication or contact with the counterparty concerning the transaction (other than clerical and ministerial activities conducted by an associated person of the OTC derivatives dealer) shall be conducted by one or more registered persons that, in the case of any securities transaction pursuant to paragraphs (a)(1)(i), or (a)(1)(iii) through (a)(1)(v) of this section, is associated with an affiliate of the OTC derivatives dealer, except that this paragraph (d) shall not apply if the counterparty to the transaction with the OTC derivatives dealer is:

(1) A registered broker or dealer;

(2) A bank acting in a dealer capacity, as permitted by U.S. law;

(3) A foreign broker or dealer; or

(4) An affiliate of the OTC derivatives dealer.

(e) For purposes of this section, the term *hybrid security* means a security that incorporates payment features economically similar to options, forwards, futures, swap agreements, or collars involving currencies, interest or other rates, commodities, securities, indices, quantitative measures, or other financial or economic interests or property of any kind, or any payment or delivery that is dependent on the occurrence or nonoccurrence of any event associated with a potential financial, economic, or commercial consequence (or any combination, permutation, or derivative of such contract or underlying interest).

(f) For purposes of this section, the term *affiliate* means any organization (whether incorporated or unincorporated) that directly or indirectly controls, is controlled by, or is under common control with, the OTC derivatives dealer.

(g) For purposes of this section, the term *foreign broker or dealer* means any person not resident in the United States (including any U.S. person engaged in business as a broker or dealer entirely outside the United States, except as otherwise permitted by § 240.15a–6) that is not an office or branch of, or a natural person associated with, a registered broker or dealer, whose securities activities, if conducted in the United States, would be described by the definition of "broker" in section 3(a)(4) of the Act (15 U.S.C. 78c(a)(4)) or "dealer" in section 3(a)(5) of the Act (15 U.S.C. 78c(a)(5)).

(h) For purposes of this section, the term *foreign security* means any security (including a depositary share issued by a United States bank, provided that the depositary share is initially offered and sold outside the United States in accordance with Regulation S (17 CFR 230.901 through 230.904)) issued by a person not organized or incorporated under the laws of the United States, provided the transaction that involves such security is not effected on a national securities exchange or on a market operated by a registered national securities association; or a debt security (including a convertible debt security) issued by an issuer organized or incorporated under the laws of the United States that is initially offered and sold outside the United States in accordance with Regulation S (17 CFR 230.901 through 230.904).

(i) For purposes of this section, the term *registered person* is:

(A) A natural person who is associated with a registered broker or dealer and is registered or approved under the rules of a self-regulatory organization of which such broker or dealer is a member; or

(B) If the counterparty to the transaction with the OTC derivatives dealer is a resident of a jurisdiction other than the United States, a natural person who is not resident in the United States and is associated with a broker or dealer that is registered or licensed by a foreign financial regulatory authority in the jurisdiction in which such counterparty is resident or in which such natural person is located, in accordance with applicable legal requirements, if any.

8. Section 240.15b1–1 is amended to revise paragraph (a) to read as follows:

§ 240.15b1–1 Application for registration of brokers or dealers.

(a) An application for registration of a broker or dealer that is filed pursuant to section 15(b) of the Act (15 U.S.C. 78o(b)) shall be filed on Form BD (§ 249.501 of this chapter) in accordance with the instructions to the form. A broker or dealer that is an OTC derivatives dealer shall indicate where appropriate on Form BD that the type of business in which it is engaged is that of acting as an OTC derivatives dealer.

* * * * *

9. By adding § 240.15b9–2 to read as follows:

§ 240.15b9–2 Exemption from SRO membership for OTC derivatives dealers.

An OTC derivatives dealer, as defined in § 240.3b–12, shall be exempt from any requirement under section 15(b)(8) of the Act (15 U.S.C. 78o(b)(8)) to become a member of a registered national securities association.

10. Section 240.15c2–1 is amended to revise paragraph (b)(1) to read as follows:

§ 240.15c2–1 Hypothecation of customers' securities.

* * * * *

(b) * * *

(1) The term *customer* shall not include any general or special partner or any director or officer of such broker or dealer, or any participant, as such, in any joint, group or syndicate account with such broker or dealer or with any partner, officer or director thereof. The term also shall not include a counterparty who has delivered collateral to an OTC derivatives dealer pursuant to a transaction in an eligible OTC derivative instrument, or pursuant to the OTC derivatives dealer's cash management securities activities or ancillary portfolio management securities activities, and who has received a prominent written notice from the OTC derivatives dealer that:

(i) Except as otherwise agreed in writing by the OTC derivatives dealer and the counterparty, the dealer may repledge or otherwise use the collateral in its business;

(ii) In the event of the OTC derivatives dealer's failure, the counterparty will likely be considered an unsecured creditor of the dealer as to that collateral;

(iii) The Securities Investor Protection Act of 1970 (15 U.S.C 78aaa through 78lll) does not protect the counterparty; and

(iv) The collateral will not be subject to the requirements of § 240.8c–1, § 240.15c2–1, § 240.15c3–2, or § 240.15c3–3;

* * * * *

11. Section 240.15c2–5 is amended by adding paragraph (d) to read as follows:

§ 240.15c2–5 Disclosure and other requirements when extending or arranging credit in certain transactions.

* * * * *

(d) This section shall not apply to a transaction involving the extension of credit by an OTC derivatives dealer, as defined in § 240.3b–12, if the transaction is exempt from the provisions of Section 7(c) of the Act (15 U.S.C. 78g(c)) pursuant to § 240.36a1–1.

12. Section 240.15c3–1 is amended to add a sentence following the first sentence in the introductory text of paragraph (a); adding paragraphs (a)(5) and (c)(15) to read as follows:

§ 240.15c3–1 Net capital requirements for brokers or dealers.

(a) * * * In lieu of applying paragraphs (a)(1) and (a)(2) of this section, an OTC derivatives dealer shall maintain net capital pursuant to paragraph (a)(5) of this section. * * *

(5) In accordance with Appendix F to this section (§ 240.15c3–1f), the Commission may grant an application by an OTC derivatives dealer when calculating net capital to use the market risk standards of Appendix F as to some or all of its positions in lieu of the provisions of paragraph (c)(2)(vi) of this section and the credit risk standards of Appendix F to its receivables (including counterparty net exposure) arising from transactions in eligible OTC derivative instruments in lieu of the requirements of paragraph (c)(2)(iv) of this section. An OTC derivatives dealer shall at all times maintain tentative net capital of not less than $100 million and net capital of not less than $20 million.

* * * * *

(c) * * *

(15) The term *tentative net capital* shall mean the net capital of a broker or dealer before deducting the securities haircuts computed pursuant to paragraph (c)(2)(vi) of this section and the charges on inventory computed pursuant to Appendix B to this section (§ 240.15c3–1b). However, for purposes of paragraph (a)(5) of this section, the term *tentative net capital* means the net capital of an OTC derivatives dealer before deducting the charges for market and credit risk as computed pursuant to Appendix F to this section (§ 240.15c3–1f) or paragraph (c)(2)(vi) of this section, if applicable, and increased by the balance sheet value (including counterparty net exposure) resulting from transactions in eligible OTC derivative instruments which would otherwise be deducted by virtue of paragraph (c)(2)(iv) of this section.

* * * * *

13. By adding § 240.15c3–1f to read as follows:

§ 240.15c3–1f Optional Market and Credit Risk Requirements for OTC Derivatives Dealers (Appendix F to 17 CFR 240.15c3–1)

Application Requirements

(a) An OTC derivatives dealer may apply to the Commission for authorization to compute capital charges for market and credit risk pursuant to this Appendix F in lieu of computing securities haircuts pursuant to § 240.15c3–1(c)(2)(vi).

(1) An OTC derivatives dealer's application shall contain the following information:

(i) *Executive summary.* An OTC derivatives dealer shall include in its application an Executive Summary of information provided to the Commission.

(ii) *Description of methods for computing market risk charges.* An OTC derivatives dealer shall provide a description of all statistical models used for pricing OTC derivative instruments and for computing value-at-risk ("VAR"), a description of the applicant's controls over those models, and a statement regarding whether the firm has developed its own internal VAR models. If the OTC derivatives dealer's VAR model incorporates empirical correlations across risk categories, the dealer shall describe its process for measuring correlations and describe the qualitative and quantitative aspects of the model which at a minimum must adhere to the criteria set forth in paragraph (e) of this Appendix F. The application shall further state whether the OTC derivatives dealer intends to use an alternative method for computing its market risk charge for equity instruments and, if applicable, a description of how its own theoretical pricing model contains the minimum pricing factors set forth in Appendix A (§ 240.15c3–1a). The application shall also describe any category of securities having no ready market or any category of debt securities which are below investment grade for which the OTC derivatives dealer wishes to use its VAR model to calculate its market risk charge or for which it wishes to use an alternative method for computing this charge and a description of how those charges would be determined.

(iii) *Internal risk management control systems.* An OTC derivatives dealer shall provide a comprehensive description of its internal risk management control systems and how those systems adhere to the requirements set forth in § 240.15c3–4(a) through (d).

(2) The Commission may approve the application after reviewing the application to determine whether the OTC derivatives dealer:

(i) Has adopted internal risk management control systems that meet the requirements set forth in § 240.15c3–4; and

(ii) Has adopted a VAR model that meets the requirements set forth in paragraphs (e)(1) and (e)(2) of this Appendix F.

(3) If the OTC derivatives dealer materially amends its VAR model or internal risk management control systems as described in its application, including any material change in the categories of non-marketable securities that it wishes to include in its VAR model, the dealer shall file an application describing the changes which must be approved by the Commission before the changes may be implemented. After reviewing the application for changes to the dealer's VAR model or internal risk management control systems to determine whether, with the changes, the OTC derivatives dealer's VAR model and internal risk management control systems would meet the requirements set forth in this Appendix F and § 240.15c3–4, the Commission may approve the application.

(4) The applications provided for in this paragraph (a) shall be considered filed when received at the Commission's principal office in Washington, DC. All applications filed pursuant to this paragraph (a) shall be deemed to be confidential.

Compliance With § 240.15c3–4

(b) An OTC derivatives dealer must be in compliance in all material respects with § 240.15c3–4 regarding its internal risk management control systems in order to be in compliance with § 240.15c3–1.

Market Risk

(c) An OTC derivatives dealer electing to apply this Appendix F shall compute a capital charge for market risk which shall be the aggregate of the charges computed below:

(1) *Value-at-Risk.* An OTC derivatives dealer shall deduct from net worth an amount for market risk for eligible OTC derivative instruments and other positions in its proprietary or other accounts equal to the VAR of these positions obtained from its proprietary VAR model, multiplied by the appropriate multiplication factor in paragraph (e)(1)(iv)(C) of this Appendix F. The OTC derivatives dealer may not elect to calculate its capital charges under this paragraph (c)(1) until its application to use the VAR model has been approved by the Commission.

(2) *Alternative method for equities.* An OTC derivatives dealer may elect to use this alternative method to calculate its market risk for equity instruments, including OTC options, upon approval by the Commission on application by the dealer. Under this alternative method, the deduction for market risk must be the amount computed pursuant to Appendix A to Rule 15c3–1 (§ 240.15c3–1a). In this computation, the OTC derivatives dealer may use its own theoretical pricing model provided that it contains the minimum pricing factors set forth in Appendix A.

(3) *Non-marketable securities.* An OTC derivatives dealer may not use a VAR model to determine a capital charge for any category of securities having no ready market or any category of debt securities which are below investment grade or any derivative instrument based on the value of these categories of securities, unless the Commission has granted, pursuant to paragraph (a)(1) of this Appendix F, its application to use its VAR model for any such category of securities. The dealer in any event may apply, pursuant to paragraph (a)(1) of this Appendix F, for an alternative treatment for any such category of securities, rather than calculate the market risk capital charge for such category of securities under § 240.15c3–1(c)(2)(vi) and (vii).

(4) *Residual positions.* To the extent that a position has not been included in the calculation of the market risk charge in paragraphs (c)(1) through (c)(3) of this section, the market risk charge for the position shall be computed under § 240.15c3–1(c)(2)(vi).

Credit Risk

(d) The capital charge for credit risk arising from an OTC derivatives dealer's transactions in eligible OTC derivative instruments shall be:

(1) The net replacement value in the account of a counterparty (including the effect of legally enforceable netting agreements and the application of liquid collateral) that is insolvent, or in bankruptcy, or that has senior unsecured long-term debt in default;

(2) As to a counterparty not otherwise described in paragraph (d)(1) of this section, the net replacement value in the account of the counterparty (including the effect of legally enforceable netting agreements and the application of liquid collateral) multiplied by 8%, and further multiplied by the counterparty factor. The counterparty factors are:

(i) 20% for counterparties with ratings for senior unsecured long-term debt or commercial paper in the two highest rating categories by a nationally recognized statistical rating organization ("NRSRO");

(ii) 50% for counterparties with ratings for senior unsecured long-term debt in the third and fourth highest ratings categories by an NRSRO; and

(iii) 100% for counterparties with ratings for senior unsecured long-term debt below the four highest rating categories; and

(3) A concentration charge where the net replacement value in the account of any one counterparty (other than a counterparty described in paragraph (d)(1) of this section) exceeds 25% of the OTC derivatives dealer's tentative net capital, calculated as follows:

(i) For counterparties with ratings for senior unsecured long-term debt or commercial paper in the two highest rating categories by an NRSRO, 5% of the amount of the net replacement value in excess of 25% of the OTC derivatives dealer's tentative net capital;

(ii) For counterparties with ratings for senior unsecured long-term debt in the third and fourth highest rating categories by an NRSRO, 20% of the amount of the net replacement value in excess of 25% of the OTC derivatives dealer's tentative net capital; and

(iii) For counterparties with ratings for senior unsecured long-term debt below the four highest rating categories, 50% of the amount of the net replacement value in excess of 25% of the OTC derivatives dealer's tentative net capital.

(4) Counterparties that are not rated by an NRSRO may be rated by the OTC derivatives dealer, or by an affiliated bank or affiliated broker-dealer of the OTC derivatives dealer, upon approval by the Commission on application by the OTC derivatives dealer. After reviewing the application to determine whether the credit rating procedures and rating categories are equivalent to those used by NRSROs and that such ratings are current, the Commission may approve the application. The OTC derivatives dealer must make and keep current a record of the basis for the credit rating for each counterparty. The record must be preserved for a period of not less than three years, the first two years in an easily accessible place.

VAR Models

(e) An OTC derivatives dealer's VAR model must meet the following qualitative and quantitative requirements:

(1) *Qualitative requirements.* An OTC derivatives dealerapplying this Appendix F must have a VAR model that meets the following minimum qualitative requirements:

(i) The OTC derivatives dealer's VAR model must be integrated into the firm's daily risk management process;

(ii) The OTC derivatives dealer must conduct appropriate stress tests of the VAR model, and develop appropriate procedures to follow in response to the results of such tests;

(iii) The OTC derivatives dealer must conduct periodic reviews (which may be performed by internal audit staff) of its VAR model. The OTC derivatives dealer's VAR model also must be subject to annual reviews conducted by independent public accountants; and

(iv) The OTC derivatives dealer must conduct backtesting of the VAR model pursuant to the following procedures:

(A) Beginning one year after the OTC derivatives dealer begins using its VAR model to calculate its net capital, the OTC derivatives dealer must conduct backtesting by comparing each of its most recent 250 business days' actual net trading profit or loss with the corresponding daily VAR measures generated for determining market risk capital charges and calibrated to a one-day holding period and a 99 percent, one-tailed confidence level;

(B) Once each quarter, the OTC derivatives dealer must identify the number of exceptions, that is, the number of business days for which the actual daily net trading loss, if any, exceeded the corresponding daily VAR measure; and

(C) An OTC derivatives dealer must use the multiplication factor indicated in Table 1 of this Appendix F in determining its capital charge for market risk until it obtains the next quarter's backtesting results, unless the Commission determines that a different adjustment or other action is appropriate.

Table 5.—Multiplication Factor Based on Results of Backtesting

Number of exceptions	Multiplication factor
4 or fewer	3.00
5	3.40
6	3.50
7	3.65
8	3.75
9	3.85
10 or more	4.00

(2) *Quantitative requirements.* An OTC derivatives dealer applying this Appendix F must have a VAR model that meets the following minimum quantitative requirements:

(i) The VAR measures must be calculated on a daily basis using a 99 percent, one-tailed confidence level with a price change equivalent to a ten-business day movement in rates and prices;

(ii) The effective historical observation period for VAR measures must be at least one year, and the weighted average time lag of the individual observations cannot be less than six months. Historical data sets must be updated at least every three months and reassessed whenever market prices or volatilities are subject to large changes;

(iii) The VAR measures must include the risks arising from the non-linear price characteristics of options positions and the sensitivity of the market value of the positions to changes in the volatility of the underlying rates or prices. An OTC derivatives dealer must measure the volatility of options positions by different maturities;

(iv) The VAR measures may incorporate empirical correlations within and across risk categories, provided that the OTC derivatives dealer has described its process for measuring correlations in its application to apply this Appendix F and the Commission has approved its application. In the event that the VAR measures do not incorporate empirical correlations across risk categories, the OTC derivatives dealer must add the separate VAR measures for the four major risk categories in paragraph (e)(2)(v) of this Appendix F to determine its aggregate VAR measure; and

(v) The OTC derivatives dealer's VAR model must use risk factors sufficient to measure the market risk inherent in all covered positions. The risk factors must address, at a minimum, the following major risk categories: interest rate risk, equity price risk, foreign exchange rate risk, and commodity price risk. For material exposures in the major currencies and markets, modeling techniques must capture, at a minimum, spread risk and must incorporate enough segments of the yield curve to capture differences in volatility and less-than-perfect correlation of rates along the yield curve. An OTC derivatives dealer must provide the Commission with evidence that the OTC derivatives dealer's VAR model takes account of specific risk in positions, including specific equity risk, if the OTC derivatives dealer intends to utilize its VAR model to compute capital charges for equity price risk.

14. Section 240.15c3–3 is amended to revise paragraph (a)(1) to read as follows, and in paragraph (h) to revise the phrase "§ 240.17a–5," to read "§§ 240.17a–5 or 240.17a–12,".

§ 240.15c3–3 Customer protection—reserves and custody of securities.

(a) * * *

(1) The term *customer* shall mean any person from whom or on whose behalf a broker or dealer has received or acquired or holds funds or securities for the account of that person. The term shall not include a broker or dealer, a municipal securities dealer, or a government securities broker or government securities dealer. The term shall, however, include another broker or dealer to the extent that broker or dealer maintains an omnibus account for the account of customers with the broker or dealer in compliance with Regulation T (12 CFR 220.1 through 220.19). The term shall not include a general partner or director or principal officer of the broker or dealer or any other person to the extent that person has a claim for property or funds which by contract, agreement or understanding, or by operation of law, is part of the capital of the broker or dealer or is subordinated to the claims of creditors of the broker or dealer. The term also shall not include a counterparty who has delivered collateral to an OTC derivatives dealer pursuant to a transaction in an eligible OTC derivative instrument, or pursuant to the OTC derivatives dealer's cash management securities activities or ancillary portfolio management securities activities, and who has received a prominent written notice from the OTC derivatives dealer that:

(i) Except as otherwise agreed in writing by the OTC derivatives dealer and the counterparty, the dealer may repledge or otherwise use the collateral in its business;

(ii) In the event of the OTC derivatives dealer's failure, the counterparty will likely be considered an unsecured creditor of the dealer as to that collateral;

(iii) The Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa *et seq.*) does not protect the counterparty; and

(iv) The collateral will not be subject to the requirements of § 240.8c–1, § 240.15c2–1, § 240.15c3–2, or § 240.15c3–3;

* * * * *

15. By adding § 240.15c3–4 to read as follows:

§ 240.15c3–4 Internal risk management control systems for OTC derivatives dealers.

(a) An OTC derivatives dealer shall establish, document, and maintain a system of internal risk management controls to assist it in managing the risks associated with its business activities, including market, credit, leverage, liquidity, legal, and operational risks.

(b) An OTC derivatives dealer shall consider the following when adopting its internal control system guidelines, policies, and procedures:

(1) The ownership and governance structure of the OTC derivatives dealer;

(2) The composition of the governing body of the OTC derivatives dealer;

(3) The management philosophy of the OTC derivatives dealer;

(4) The scope and nature of established risk management guidelines;

(5) The scope and nature of the permissible OTC derivatives activities;

(6) The sophistication and experience of relevant trading, risk management, and internal audit personnel;

(7) The sophistication and functionality of information and reporting systems; and

(8) The scope and frequency of monitoring, reporting, and auditing activities.

(c) An OTC derivatives dealer's internal risk management control system shall include the following elements:

(1) A risk control unit that reports directly to senior management and is independent from business trading units;

(2) Separation of duties between personnel responsible for entering into a transaction and those responsible for recording the transaction in the books and records of the OTC derivatives dealer;

(3) Periodic reviews (which may be performed by internal audit staff) and annual reviews (which must be conducted by independent certified public accountants) of the OTC derivatives dealer's risk management systems;

(4) Definitions of risk, risk monitoring, and risk management; and

(5) Written guidelines, approved by the OTC derivatives dealer's governing body, that include and discuss the following:

(i) The OTC derivatives dealer's consideration of the elements in paragraph (b) of this section;

(ii) The scope, and the procedures for determining the scope, of authorized activities or any nonquantitative limitation on the scope of authorized activities;

(iii) Quantitative guidelines for managing the OTC derivatives dealer's overall risk exposure;

(iv) The type, scope, and frequency of reporting by management on risk exposures;

(v) The procedures for and the timing of the governing body's periodic review of the risk monitoring and risk management written guidelines, systems, and processes;

(vi) The process for monitoring risk independent of the business or trading units whose activities create the risks being monitored;

(vii) The performance of the risk management function by persons independent from or senior to the business or trading units whose activities create the risks;

(viii) The authority and resources of the groups or persons performing the risk monitoring and risk management functions;

(ix) The appropriate response by management when internal risk management guidelines have been exceeded;

(x) The procedures to monitor and address the risk that an OTC derivatives transaction contract will be unenforceable;

(xi) The procedures requiring the documentation of the principal terms of OTC derivatives transactions and other relevant information regarding such transactions;

(xii) The procedures authorizing specified employees to commit the OTC derivatives dealer to particular types of transactions;

(xiii) The procedures to prevent the OTC derivatives dealer from engaging in any securities transaction that is not permitted under § 240.15a–1; and

(xiv) The procedures to prevent the OTC derivatives dealer from improperly relying on the exceptions to § 240.15a–1(c) and § 240.15a–1(d), including the procedures to determine whether a counterparty is acting in the capacity of principal or agent.

(d) Management must periodically review, in accordance with written procedures, the OTC derivatives dealer's business activities for consistency with risk management guidelines including that:

(1) Risks arising from the OTC derivatives dealer's OTC derivatives activities are consistent with prescribed guidelines;

(2) Risk exposure guidelines for each business unit are appropriate for the business unit;

(3) The data necessary to conduct the risk monitoring and risk management function as well as the valuation process over the OTC derivatives dealer's portfolio of products is accessible on a timely basis and information systems are available to capture, monitor, analyze, and report relevant data;

(4) Procedures are in place to enable management to take action when internal risk management guidelines have been exceeded;

(5) Procedures are in place to monitor and address the risk that an OTC derivatives transaction contract will be unenforceable;

(6) Procedures are in place to identify and address any deficiencies in the operating systems and to contain the extent of losses arising from unidentified deficiencies;

(7) Procedures are in place to authorize specified employees to commit the OTC derivatives dealer to particular types of transactions, to specify any quantitative limits on such authority, and to provide for the oversight of their exercise of such authority;

(8) Procedures are in place to prevent the OTC derivatives dealer from engaging in any securities transaction that is not permitted under § 240.15a–1;

(9) Procedures are in place to prevent the OTC derivatives dealer from improperly relying on the exceptions to § 240.15a–1(c) and § 240.15a–1(d), including procedures to determine whether a counterparty is acting in the capacity of principal or agent;

(10) Procedures are in place to provide for adequate documentation of the principal terms of OTC derivatives transactions and other relevant information regarding such transactions;

(11) Personnel resources with appropriate expertise are committed to implementing the risk monitoring and risk management systems and processes; and

(12) Procedures are in place for the periodic internal and external review of the risk monitoring and risk management functions.

16. Amend § 240.17a–3, in paragraph (a)(4)(vi) by revising the phrase "Rule 17a–13 and Rule 17a–5 hereunder" to read "§ 240.17a–5, § 240.17a–12, and § 240.17a–13" and by adding a sentence to the end of paragraph (a)(10) to read as follows:

§ 240.17a–3 Records to be made by certain exchange members, brokers, and dealers.

(a) * * *

(10) * * * An OTC derivatives dealer shall also keep a record of all eligible OTC derivative instruments as defined in § 240.3b–13 in which the OTC derivatives dealer has any direct or indirect interest or which it has written or guaranteed, containing, at a minimum, an identification of the security or other instrument, the number of units involved, and the identity of the counterparty.

* * * * *

17. Amend § 240.17a–4 in paragraph (b)(8) introductory text by revising the phrase "Part IIA" to read "Part IIA or Part IIB" and by revising the phrase "§ 240.17a–5(i)(xv)" to read "§ 240.17a–5(d) and § 240.17a–12(b)"; in paragraph (b)(8)(xv) by revising the phrase "§ 240.17a–5" to read "§ 240.17a–5 and § 240.17a–12"; by adding paragraph (b)(10) to read as follows:

§ 240.17a–4 Records to be preserved by certain exchange members, brokers and dealers.

* * * * *

(b) * * *

(10) The records required to be made pursuant to § 240.15c3–4 and the results of the periodic reviews conducted pursuant to § 240.15c3–4(d).

* * * * *

18. Amend § 240.17a–5 by adding paragraph (o) to read as follows:

§ 240.17a–5 Reports to be made by certain brokers and dealers.

* * * * *

(o) *Compliance with § 240.17a–12.* An OTC derivatives dealer may comply with § 240.17a–5 by complying with the provisions of § 240.17a–12.

19. Amend § 240.17a–11 by redesignating paragraph (b) as paragraph (b)(1) and by adding paragraph (b)(2) to read as follows; in paragraph (c) introductory text by revising the phrase "(c)(1), (c)(2) or (c)(3)" to read "(c)(1), (c)(2), (c)(3) or (c)(4)"; by revising paragraph (c)(3) and by adding paragraph (c)(4) to read as follows; in paragraph (e) introductory text by adding the phrase "or § 240.17a–12(f)(2)" after the phrase "240.17a–5(h)(2)" and by adding the phrase "or § 240.17a–12(e)(2)" after the phrase "240.17a–5(g)"; and in paragraph (h) by revising the phrase "§ 240.15c3–3(i) and § 240.17a–5(h)(2)" to read "§ 240.15c3–3(i), § 240.17a–5(h)(2), and § 240.17a–12(f)(2)".

§ 240.17a–11 Notification provisions for brokers and dealers.

* * * * *

(b) * * *

(2) In addition to the requirements of paragraph (b)(1) of this section, an OTC derivatives dealer shall also provide notice if its tentative net capital falls below the minimum amount required pursuant to § 240.15c3–1. The notice shall specify the OTC derivatives dealer's net capital and tentative net capital requirements, and its current amount of net capital and tentative net capital.

(c) * * *

(3) If a computation made by a broker or dealer pursuant to § 240.15c3–1 shows that its total net capital is less than 120 percent of the broker's or dealer's required minimum net capital, or if a computation made by an OTC derivatives dealer pursuant to § 240.15c3–1 shows that its total tentative net capital is less than 120 percent of the dealer's required minimum tentative net capital.

(4) The occurrence of the fourth and each subsequent backtesting exception under § 240.15c3–1f(e)(1)(iv) during any 250 business day measurement period.

* * * * *

20. By adding § 240.17a–12 to read as follows:

§ 240.17a–12 Reports to be made by certain OTC derivatives dealers.

(a) *Filing of quarterly reports.* (1) This paragraph (a) shall apply to every OTC derivatives dealer registered pursuant to Section 15 of the Act (15 U.S.C. 78o).

(i) Every OTC derivatives dealer shall file Part IIB of Form X–17A–5 (§ 249.617 of this chapter) within 17 business days after the end of each calendar quarter and within 17 business days after the date selected for the annual audit of financial statements where said date is other than the end of the calendar quarter.

(ii) Upon receiving from the Commission written notice that additional reporting is required, an OTC derivatives dealer shall file monthly, or at such times as shall be specified, Part IIB of Form X–17A–5 (§ 249.617 of this chapter) and such other financial or operational information as shall be required by the Commission.

(2) The reports provided for in this paragraph (a) shall be considered filed when received at the Commission's principal office in Washington, DC. All reports filed pursuant to this paragraph (a) shall be deemed to be confidential.

(3) Upon written application by an OTC derivatives dealer to the Commission, the Commission may extend the time for filing the information required by this paragraph (a). The written application shall be filed with the Commission at its principal office in Washington DC.

(b) *Annual filing of audited financial statements.* (1)(i) Every OTC derivatives dealer registered pursuant to Section 15 of the Act (15 U.S.C. 78o) shall file annually, on a calendar or fiscal year basis, a report which shall be audited by a certified public accountant. Reports filed pursuant to this paragraph (b) shall be as of the same fixed or determinable date each year, unless a change is approved in writing by the Commission.

(ii) An OTC derivatives dealer succeeding to and continuing the business of another OTC derivatives dealer need not file a report under this paragraph (b) as of a date in the fiscal or calendar year in which the succession occurs if the predecessor

OTC derivatives dealer has filed a report in compliance with this paragraph (b) as of a date in such fiscal or calendar year.

(2) The annual audit report shall contain a Statement of Financial Condition (in a format and on a basis which is consistent with the total reported on the Statement of Financial Condition contained in Form X–17A–5 (§ 249.617 of this chapter), Part IIB, a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and a Statement of Changes in Liabilities Subordinated to Claims of General Creditors. Such statements shall be in a format which is consistent with such statements as contained in Form X–17A–5 (§ 249.617 of this chapter), Part IIB. If the Statement of Financial Condition filed in accordance with instructions to Form X–17A–5 (§ 249.617 of this chapter), Part IIB, is not consolidated, a summary of financial data for subsidiaries not consolidated in the Part IIB Statement of Financial Condition as filed by the OTC derivatives dealer shall be included in the notes to the consolidated statement of financial condition reported on by the certified public accountant. The summary financial data shall include the assets, liabilities, and net worth or stockholders' equity of the unconsolidated subsidiaries.

(3) Supporting schedules shall include, from Part IIB of Form X–17A–5 (§ 249.617 of this chapter), a Computation of Net Capital under § 240.15c3–1.

(4) A reconciliation, including appropriate explanations, of the Computation of Net Capital under § 240.15c3–1 contained in the audit report with the broker's or dealer's corresponding unaudited most recent Part IIB filing shall be filed with the report when material differences exist. If no material differences exist, a statement so indicating shall be filed.

(5) The annual audit report shall be filed not more than sixty days after the date of the financial statements.

(6) Two copies of the annual audit report shall be filed at the Commission's principal office in Washington, DC.

(c) *Nature and form of reports.* The financial statements filed pursuant to paragraph (b) of this section shall be prepared and filed in accordance with the following requirements:

(1) An audit shall be conducted by a certified public accountant who shall be in fact independent as defined in paragraph (f) of this section, and it shall give an opinion covering the statements filed pursuant to paragraph (b) of this section.

(2) Attached to the report shall be an oath or affirmation that, to the best knowledge and belief of the person making such oath or affirmation, the financial statements and schedules are true and correct and neither the OTC derivatives dealer, nor any partner, officer, or director, as the case may be, has any significant interest in any counterparty or in any account classified solely as that of a counterparty. The oath or affirmation shall be made before a person duly authorized to administer such oaths or affirmations. If the OTC derivatives dealer is a sole proprietorship, the oath or affirmation shall be made by the proprietor; if a partnership, by a general partner; or if a corporation, by a duly authorized officer.

(3) All of the statements filed pursuant to paragraph (b) of this section shall be confidential except that they shall be available for use by any official or employee of the United States or by any other person to whom the Commission authorizes disclosure of such information as being in the public interest.

(d) *Qualification of accountants.* The Commission will not recognize any person as a certified public accountant who is not duly registered and in good standing as such under the laws of the State of his principal office.

(e) *Designation of accountant.* (1) Every OTC derivatives dealer shall file no later than December 10 of each year with the Commission's principal office in Washington, DC a statement indicating the existence of an agreement, dated no later than December 1 of that year, with a certified public accountant covering a contractual commitment to conduct the OTC derivatives dealer's annual audit during the following calendar year.

(2) If the agreement is of a continuing nature, providing for successive yearly audits, no further filing is required. If the agreement is for a single audit, or if the continuing agreement previously filed has been terminated or amended, a new statement must be filed by the required date.

(3) The statement shall be headed "Notice pursuant to § 240.17a–12(e)" and shall contain the following information:

(i) Name, address, telephone number, and registration number of the OTC derivatives dealer;

(ii) Name, address, and telephone number of the certified public accounting firm; and

(iii) The audit date of the OTC derivatives dealer for the year covered by the agreement.

(4) Notwithstanding the date of filing specified in paragraph (e)(1) of this section, every OTC derivatives dealer shall file the notice provided for in paragraph (e) of this section within 30 days following the effective date of registration as an OTC derivatives dealer.

(f) *Independence of accountant.* A certified public accountant shall be independent in accordance with the provisions of § 210.2–01(b) and (c) of this chapter.

(g) *Replacement of accountant.* (1) An OTC derivatives dealer shall file a notice that must be received by the Commission's principal office in Washington, DC not more than 15 business days after:

(i) The OTC derivatives dealer has notified the certified public accountant whose opinion covered the most recent financial statements filed under paragraph (b) of this section that the certified public accountant's services will not be utilized in future engagements; or

(ii) The OTC derivatives dealer has notified a certified public accountant who was engaged to give an opinion covering the financial statements to be filed under paragraph (b) of this section that the engagement has been terminated; or

(iii) A certified public accountant has notified the OTC derivatives dealer that it will not continue under an engagement or give an opinion covering the financial statements to be filed under paragraph (b) of this section; or

(iv) A new certified public accountant has been engaged to give an opinion covering the financial statements to be filed under paragraph (b) of this section without any notice of termination having been given to or by the previously engaged certified public accountant.

(2) Such notice shall state the date of notification of the termination of the engagement of the former certified public accountant or the engagement of the new certified public accountant, as applicable, and the details of any disagreements existing during the 24 months (or the period of the engagement, if less) preceding such termination or new engagement relating to any matter of accounting principles or practices, financial statement disclosure, auditing scope or procedure, or compliance with applicable rules of the Commission, which disagreements, if not resolved to the satisfaction of the former certified public accountant, would have caused the former certified public accountant to make reference to them in connection with the report on the subject matter of the disagreements.

The disagreements required to be reported in response to the preceding sentence include both those resolved to the former certified public accountant's satisfaction and those not resolved to the former certified public accountant's satisfaction. Disagreements contemplated by this section are those that occur at the decision-making level (*i.e.*, between principal financial officers of the OTC derivatives dealer and personnel of the certified public accounting firm responsible for rendering its report). The notice shall also state whether the certified public accountant's report on the financial statements for any of the past two years contained an adverse opinion or a disclaimer of opinion or was qualified as to uncertainties, audit scope, or accounting principles, and describe the nature of each such adverse opinion, disclaimer of opinion, or qualification. The OTC derivatives dealer shall also request the former certified public accountant to furnish the OTC derivatives dealer with a letter addressed to the Commission stating whether the former certified public accountant agrees with the statements contained in the notice of the OTC derivatives dealer and, if not, stating the respects in which the former certified public accountant does not agree. The OTC derivatives dealer shall file three copies of the notice and the certified public accountant's letter, one copy of which shall be manually signed by the sole proprietor, or a general partner or a duly authorized corporate officer, as appropriate, and by the certified public accountant.

(h) *Audit objectives.* (1) The audit shall be made in accordance with U.S. Generally Accepted Auditing Standards and shall include a review of the accounting system, the internal accounting controls, and procedures for safeguarding securities including appropriate tests thereof for the period since the date of the prior audited financial statements. The audit shall include all procedures necessary under the circumstances to enable the certified public accountant to express an opinion on the statement of financial condition, results of operations, cash flows, and the Computation of Net Capital under § 240.15c3–1. The scope of the audit and review of the accounting system, the internal accounting controls, and procedures for safeguarding securities shall be sufficient to provide reasonable assurance that any material inadequacies existing at the date of the examination in the following are disclosed:

(i) The accounting system;

(ii) The internal accounting controls; and

(iii) The procedures for safeguarding securities.

(2) A material inadequacy in the accounting system, internal accounting controls, procedures for safeguarding securities, and practices and procedures referred to in paragraph (h) (1) of this section that must be reported under these audit objectives includes any condition which has contributed substantially to or, if appropriate corrective action is not taken, could reasonably be expected to:

(i) Inhibit an OTC derivatives dealer from promptly completing securities transactions or promptly discharging its responsibilities to counterparties, other brokers and dealers, or creditors;

(ii) Result in material financial loss;

(iii) Result in material misstatements of the OTC derivatives dealer's financial statements; or

(iv) Result in violations of the Commission's recordkeeping or financial responsibility rules to an extent that could reasonably be expected to result in the conditions described in paragraphs (h)(2)(i), (ii), or (iii) of this section.

(i) *Extent and timing of audit procedures.* (1) The extent and timing of audit procedures are matters for the certified public accountant to determine on the basis of its review and evaluation of existing internal controls and other audit procedures performed in accordance with U.S. Generally Accepted Auditing Standards and the audit objectives set forth in paragraph (h) of this section.

(2) If, during the course of the audit or interim work, the certified public accountant determines that any material inadequacies exist in the accounting system, internal accounting controls, procedures for safeguarding securities, or as otherwise defined in paragraph (h)(2) of this section, then the certified public accountant shall call it to the attention of the chief financial officer of the OTC derivatives dealer, who shall inform the Commission by telegraphic or facsimile notice within 24 hours thereafter as set forth in § 240.17a–11(e) and (g). The OTC derivatives dealer shall also furnish the certified public accountant with a copy of said notice to the Commission by telegram or facsimile within the same 24 hour period. If the certified public accountant fails to receive such notice from the OTC derivatives dealer within that 24 hour period, or if the certified public accountant disagrees with the statements contained in the notice of the OTC derivatives dealer, the certified public accountant shall inform the Commission by report of material inadequacy within 24 hours thereafter as set forth in § 240.17a–11(g). Such report from the certified public accountant shall, if the OTC derivatives dealer failed to file a notice, describe any material inadequacies found to exist. If the OTC derivatives dealer filed a notice, the certified public accountant shall file a report detailing the aspects, if any, of the OTC derivatives dealer's notice with which the certified public accountant does not agree.

(j) *Accountant's report, general provisions.*—(1) *Technical requirements.* The certified public accountant's report shall be dated; be signed manually; indicate the city and state where issued; and identify without detailed enumeration the financial statements and schedules covered by the report.

(2) *Representations as to the audit.* The certified public accountant's report shall state that the audit was made in accordance with U.S. Generally Accepted Auditing Standards; state whether the certified public accountant reviewed the procedures followed for safeguarding securities; and designate any auditing procedures deemed necessary by the certified public accountant under the circumstances of the particular case that have been omitted, and the reason for their omission. Nothing in this section shall be construed to imply authority for the omission of any procedure which certified public accountants would ordinarily employ in the course of an audit made for the purpose of expressing the opinions required under this section.

(3) *Opinion to be expressed.* The certified public accountant's report shall state clearly the opinion of the certified public accountant:

(i) In respect of the financial statements and schedules covered by the report and the accounting principles and practices reflected therein; and

(ii) As to the consistency of the application of the accounting principles, or as to any changes in such principles which have a material effect on the financial statements.

(4) *Exceptions.* Any matters to which the certified public accountant takes exception shall be clearly identified, explained, and, to the extent practicable, the effect of each such exception on the related financial statements shall be provided.

(5) *Definitions.* For the purpose of this section, the terms *audit* (or *examination*), *accountant's report*, and *certified* shall have the meanings given in § 210.1–02 of this chapter.

(k) *Accountant's report on material inadequacies and reportable conditions.* The OTC derivatives dealer shall file concurrently with the annual audit report a supplemental report by the certified public accountant describing any material inadequacies or any matter that would be deemed to be a reportable condition under U.S. Generally Accepted Auditing Standards that are unresolved as of the date of the certified public accountant's report. The report shall also describe any material inadequacies found to have existed since the date of the previous audit. The supplemental report shall indicate any corrective action taken or proposed by the OTC derivatives dealer with regard to any identified material inadequacies or reportable conditions. If the audit did not disclose any material inadequacies or reportable conditions, the supplemental report shall so state.

(l) *Accountant's report on management controls.* The OTC derivatives dealer shall file concurrently with the annual audit report a supplemental report by the certified public accountant indicating the certified public accountant's opinion on the OTC derivatives dealer's compliance with its internal risk management controls. The procedures are to be performed and the report is to be prepared in accordance with U.S. Generally Accepted Auditing Standards.

(m) *Accountant's report on inventory pricing and modeling.* (1) The OTC derivatives dealer shall file concurrently with the annual audit report a supplemental report by the certified public accountant indicating the results of the certified public accountant's review of the broker's or dealer's inventory pricing and modeling procedures. This review shall be conducted in accordance with procedures agreed to by the OTC derivatives dealer and by the certified public accountant conducting the review. The purpose of the review is to confirm that the pricing and modeling procedures relied upon by the OTC derivatives dealer conform to the procedures submitted to the Commission as part of its OTC derivatives dealer application, and that the procedures comply with the qualitative and quantitative standards set forth in § 240.15c3–1f.

(2) The agreed-upon procedures are to be performed and the report is to be prepared in accordance with U.S. Generally Accepted Attestation Standards.

(3) Every OTC derivatives dealer shall file prior to the commencement of the initial review, the procedures to be performed pursuant to paragraph (m)(1) of this section with the Commission's principal office in Washington, DC. Prior to the commencement of each subsequent review, every OTC derivatives dealer shall file with the Commission's principal office in Washington, DC notice of changes in the agreed-upon procedures.

(n) *Extensions and exemptions.* Upon the written request of the OTC derivatives dealer, or on its own motion, the Commission may grant an extension of time or an exemption from any of the requirements of this section either unconditionally or on specified terms and conditions.

(o) *Notification of change of fiscal year.* (1) In the event any OTC derivatives dealer finds it necessary to change its fiscal year, it must file a notice of such change with the Commission's principal office in Washington, DC.

(2) Such notice shall contain a detailed explanation of the reasons for the change. Any change in the filing period for the audit report must be approved by the Commission.

(p) *Filing requirements.* For purposes of filing requirements as described in § 240.17a–12, these filings shall be deemed to have been accomplished upon receipt at the Commission's principal office in Washington, DC.

21. By adding §§ 240.36a1–1 and 240.36a1–2 to read as follows:

§ 240.36a1–1 Exemptionfrom Section 7 for OTC derivatives dealers.

Preliminary Note: OTC derivatives dealers are a special class of broker-dealers that are exempt from certain broker-dealer requirements, including membership in a self-regulatory organization (§ 240.15b9–2), regular broker-dealer margin rules (§ 240.36a1–1), and application of the Securities Investor Protection Act of 1970 (§ 240.36a1–2). OTC derivative dealers are subject to special requirements, including limitations on the scope of their securities activities (§ 240.15a–1), specified internal risk management control systems (§ 240.15c3–4), recordkeeping obligations (§ 240.17a–3(a)(10)), and reporting responsibilities (§ 240.17a–12). They are also subject to alternative net capital treatment (§ 240.15c3–1(a)(5)).

(a) Except as otherwise provided in paragraph (b) of this section, transactions involving the extension of credit by an OTC derivatives dealer shall be exempt from the provisions of section 7(c) of the Act (15 U.S.C. 78g(c)), provided that the OTC derivatives dealer complies with Section 7(d) of the Act (15 U.S.C. 78g(d)).

(b) The exemption provided under paragraph (a) of this section shall not apply to extensions of credit made directly by a registered broker or dealer (other than an OTC derivatives dealer) in connection with transactions in eligible OTC derivative instruments for which an OTC derivatives dealer acts as counterparty.

§ 240.36a1–2 Exemption from SIPA for OTC derivatives dealers.

Preliminary Note: OTC derivatives dealers are a special class of broker-dealers that are exempt from certain broker-dealer requirements, including membership in a self-regulatory organization (§ 240.15b9–2), regular broker-dealer margin rules (§ 240.36a1–1), and application of the Securities Investor Protection Act of 1970 (§ 240.36a1–2). OTC derivative dealers are subject to special requirements, including limitations on the scope of their securities activities (§ 240.15a–1), specified internal risk management control systems (§ 240.15c3–4), recordkeeping obligations (§ 240.17a–3(a)(10)), and reporting responsibilities (§ 240.17a–12). They are also subject to alternative net capital treatment (§ 240.15c3–1(a)(5)).

OTC derivatives dealers, as defined in § 240.3b–12, shall be exempt from the provisions of the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa through 78lll).

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

22. The authority citation for part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted:

* * * * *

§ 249.617 [Amended]

23. Section 249.617 is amended by revising the phrase "and § 240.17a–11" in the section heading to read ", § 240.17a–11, and § 240.17a–12"; and by revising the phrase "and § 240.17a–11" to read ", § 240.17a–11, and § 240.17a–12".

24. Form X–17A–5 (referenced in § 249.617) is amended by adding section IIB to read as follows:

Note: Form X–17A–5 does not, and the amendments will not, appear in the Code of Federal Regulations. Part IIB of Form X–17A–5 is attached as Appendix A to this document.

Dated: October 23, 1998.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

Appendix A

Note: the text of Appendix A does not appear in the Code of Federal Regulations.

General Instructions

The FOCUS Report (Form X–17A–511B) constitutes the basic financial and operational report required of OTC derivatives dealers. Much of the information required by the FOCUS report is the same or similar to the information required to be reported by broker-dealers required to file Form X–17A–5 Part II. Consequently, for those items that appear on both forms, the instructions for X–17A–5 Part II are to be followed when completing Form X–17A–5 Part IIB. The following instructions apply to new information requests and to items appearing on both forms that have been altered to better reflect an OTC derivatives dealers's unique business.

Computation of Net Capital and Required Net Capital

(Under 15c3–1 Appendix F)

Tentative Net Capital

For purposes of paragraph (a)(5) of Rule 15c3–1 of this chapter (§ 240.15c3–1), the term "tentative net capital" mean the net capital of an OTC derivatives dealer before deducting the charges for market and credit risk as computed pursuant to Appendix F and increased by the balance sheet value (including counterparty net exposure) resulting from transactions in eligible OTC derivative instruments which would otherwise be deducted by virtue of paragraph (c)(2)(iv) of Rule 15c3–1.

Market Risk Exposure

The capital requirement for an OTC derivatives dealer electing to apply Appendix F of Rule 240.15c3–1 is computed as follows:

(1) *Value-at-Risk.* An OTC derivatives dealer shall deduct from net worth an amount for market risk exposure for eligible OTC derivatives transactions and other positions in its proprietary or other accounts equal to the value at risk ("VAR") of these positions obtained from its proprietary VAR model, multiplied by the appropriate multiplication factor. See paragraph (e)(1)(v)(C) of Appendix F for more information on the multiplication factor. The proprietary model used to calculate the capital requirement for market risk must be approved by the Commission prior to its use.

(2) *Alternative Method for Equities.* An OTC derivatives dealer may choose to use the Alternative Method to calculate market risk for equity instruments, including OTC options. An OTC derivatives dealer also may use this alternative method if the Commission does not approve the OTC derivatives dealer's use of VAR models for equity instruments. Under the alternative method, the deduction for market risk will be an amount equal to the largest theoretical loss calculated in accordance with the theoretical pricing model set forth in Appendix A of § 240.15c3–1. The OTC derivatives dealer may use its own theoretical pricing model as long as it contains the minimum pricing factors set forth in Appendix A.

(3) *Non-Marketable Securities.* An OTC derivatives dealer may not use a VAR model a determine a capital charge for any category of securities having no ready market or any category of debt securities which are below investment grade, or any derivative instrument based on the value of these categories of securities, unless the Commission has granted, pursuant to paragraph (a)(1) of Appendix F, its application to use its VAR model for any such category of securities. The dealer in any event may apply, pursuant to paragraph (a)(1) of Appendix F, for an alternative treatment for any such category of securities, rather than calculate the market risk capital charge for such category of securities under paragraphs (c)(2)(vi) and (vii) of § 240.15c3–1.

(4) *Residual Positions.* To the extent that a position has not been included in the calculation of the market risk charge in subparagraph (1) through (3) of this paragraph, the market risk charge for the position shall be computed under paragraph (c)(2)(vi) of § 240.15c3–1.

Credit Risk Exposure

The capital requirement for credit risk arising from an OTC derivatives dealer's eligible OTC derivatives transactions consists of a counterparty charge and a concentration charge. The counterparty charge is computed as follows:

(1) The net replacement value for each counterparty (including the effect of legally enforceable netting agreements and the application of liquid collateral) multiplied by 8% multiplied by the counterparty factor. The counterparty factors are 20% for entities with ratings for senior unsecured long term debt or commercial paper in the two highest rating categories by a nationally recognized statistical rating organization ("NRSRO"); 50% for entities with ratings of senior unsecured long term debt in the third and fourth highest ratings categories by and NRSRO; and 100% for entities with ratings for senior unsecured long term debt below the highest rating categories.

(2) The net replacement value for each counterparty (including the effect of legally enforceable netting agreements and the application of liquid collateral) that is insolvent, or in bankruptcy, or that has senior unsecured long-term debt in default.

The concentration charge is computed as follows: where the net replacement value in the account of any one counterparty exceeds 25% of the OTC derivatives dealer's tentative net capital, deduct the following amounts: for couterparties with ratings for senior unsecured long-term debt or commercial paper in the two highest rating categories by an NRSRO, 5% of the amount of the net replacement value in excess of 25% of the OTC derivatives dealer's tentative net capital; for counterparties with ranting for senior unsecured long-term debt in the third and fourth highest rating categories by an NRSRO, 20% of the amount of the net replacement value in excess of 25% of the OTC derivates dealer's tentative net capital; and for counterparties with ratings for senior unsecured long-term debt below the four highest rating categories, 50% of the amount of the net replacement value in excess of 25% of the OTC derivatives dealer's tentative net capital.

Aggregate Securities and OTC Derivatives Positions

Provide information for each affiliated broker-dealer in a separate column, or complete a separate schedule for each affiliated broker-dealer. In the event a separate listing of a position, financial instrument or otherwise is required pursuant to any of the provisions § 240.17h–1T, the dealer should indicate as such in the appropriate section of this schedule. Where appropriate, indicate long and short positions separately.

Paperwork Reduction Act Disclosure

Part IIB of Form X–17A–5 requires an OTC derivatives dealer to file with the Commission certain financial and operational information. The form is designed to enable the Commission to ascertain the nature and scope of a dealer's over-the-counter derivatives activity and to monitor the dealer's financial condition and risk exposure.

It is estimated that an OTC derivatives dealer will spend approximately 20 hours completing Part IIB of Form X–17A–5. Any member of the public may direct to the Commission any comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden.

The information collected pursuant to Part IIB of Form X–17A–5 will be kept confidential.

This collection of information has been reviewed by the Office of Management and Budget (OMB) in accordance with the clearance requirements of 44 U.S.C. 3507. This collection of information has been assigned Control Number 3235–0498 by OMB.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid number. Section 17(a) of the Securities Exchange Act of 1934 authorizes the Commission to collect the information on this Form from registrants. *See* U.S.C. 78q.

BILLING CODE 8010-01-W

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM X-17A-5

FOCUS REPORT

(Financial and Operational Combined Uniform Single Report)

PART IIB [11]

OTC DERIVATIVES DEALER

(PLEASE READ INSTRUCTIONS BEFORE PREPARING FORM.)

THIS REPORT IS BEING FILED PURSUANT TO (Check Applicable Block(s)):

1) Rule 17a-12 [16] 2) Rule 17a-11 [18] 3) Other [26]

[13] (Name of Dealer)

[14] (SEC File No.)

[20] (Address of Principal Place of Business (DO NOT USE P. O. Box No.))

[15] (Firm I.D. No.)

[21] (City) [22] (State) [23] (Zip Code)

[24] (For Period Beginning (MM/DD/YY))

[25] (For Period Ending (MM/DD/YY))

NAME AND TELEPHONE NO. OF PERSON TO CONTACT IN REGARD TO THIS REPORT:

[30] (Name)

[31] ((Area Code) - Telephone No.)

NAME(s) OF SUBSIDIARIES OR AFFILIATES CONSOLIDATED IN THIS REPORT:

OFFICIAL USE

[32] [33]

[34] [35]

[36] [37]

[38] [39]

[Does respondent carry its own customer accounts?] Yes [40] No [41]

Check here if respondent is filing an audited report: [42]

EXECUTION:

The registrant/dealer submitting this Form and its attachments and the person(s) by whom it is executed represent hereby that all information contained therein is true, correct and complete. It is understood that all required items, statements, and schedules are considered integral parts of this Form and that the submission of any amendment represents that all unamended items, statements and schedules remain true, correct and complete as previously submitted.

Dated the _____ day of _____ 19 ____

MANUAL SIGNATURES OF:

1) _____
(Principal Executive Officer or Managing Partner)

2) _____
(Principal Financial Officer or Partner)

3) _____
(Principal Operations Officer or Partner)

ATTENTION -- Intentional misstatements or omissions of facts constitute Federal Criminal Violations. (See 18 U.S.C. 1001 and 15 U.S.C. 78:f(a))

FOR SEC USE ONLY

TO BE COMPLETED WITH THE ANNUAL AUDIT REPORT ONLY:

CERTIFIED PUBLIC ACCOUNTANT whose opinion is contained in this report:

_____ 70
((Name) IF INDIVIDUAL, give last, first, middle name)

_____ 71
((Address) DO NOT USE P. O. Box No.)

_____ 72 _____ 73 _____ 74
(City) (State) (Zip Code)

DO NOT WRITE UNDER THIS LINE

FOR SEC USE ONLY

WORK LOCATION 50	REPORT DATE (MM/DD/YY) 51	DOC. SEQ. NO. 52	CARD 53

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT

PART IIB

_____ N 2 100
(Name of Dealer)

STATEMENT OF FINANCIAL CONDITION FOR OTC DERIVATIVES DEALERS

Consolidated 198
Unconsolidated 199

_____ 99
As of (MM/DD/YY)

_____ 98
(SEC File No.)

ASSETS

Assets		Allowable		Non - Allowable		Total	
1. Cash		$	200			$	750
2. Cash segregated in compliance with federal and other regulations			210				760
3. Receivable from brokers/dealers and clearing organizations:							
A. Failed to deliver			220				770
B. Securities borrowed			240				780
C. Omnibus accounts			260				790
D. Clearing organization			280				800
E. Contracts:							
1. Interest Rate			300				810
2. Currency & Foreign Exchange			310				820
3. Equity			320				830
4. Commodity			330				840
5. Other			340				850
F. Other			350	$	550		860
4. Receivable from customers:							
A. Securities accounts:							
1. Cash and fully secured accounts			360				
2. Partly secured accounts			370		560		
3. Unsecured accounts					570		
B. Commodity accounts			380		580		
C. Allowance for doubtful accounts		(	) 385	(	) 590		870

OMIT PENNIES

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT

PART IIB

(Name of Dealer) _____ As of (MM/DD/YY) _____

STATEMENT OF FINANCIAL CONDITION FOR OTC DERIVATIVES DEALERS

ASSETS (continued)

Assets	Allowable	Non - Allowable	Total
5. Receivables from non-customers:			
A. Cash and fully secured accounts	$ 390		
B. Partly secured and unsecured accounts	400	$ 600	$ 880
6. Securities purchased under agreements to resale	410	605	890
7. Securities and spot commodities owned at market value:			
A. Bankers acceptances, certificates of deposit and commercial paper	420		
B. U.S. and Canadian government obligations	430		
C. State and municipal government obligations	440		
D. Corporate obligations	450		
E. Stocks and warrants	460		
F. Options	470		
G. Arbitrage	472		
H. Other securities	474		
I. Spot commodities	480		900
8. Securities owned not readily marketable:			
A. At cost	$ 130	490	610	910
9. Other investments not readily marketable:			
A. At cost	$ 140		
B. At estimated fair value	500	620	920
10. Securities borrowed under subordination agreements and partners' individual and capital securities accounts at market value:			
A. Exempted securities	$ 150		
B. Other	$ 160	510	630	930

OMIT PENNIES

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT

PART IIB

(Name of Dealer) _____ As of (MM/DD/YY) _____

STATEMENT OF FINANCIAL CONDITION FOR OTC DERIVATIVES DEALERS

ASSETS (continued)

Assets	Allowable	Non - Allowable	Total
11. Secured demand notes - market value of collateral:			
A. Exempted securities	$ 170		
B. Other	$ 180	520	640	940
12. Investment in and receivables from affiliates, subsidiaries and associated partnerships	530	670	950
13. Property, furniture, equipment, leasehold improvements and rights under lease agreements:			
At cost (net of accumulated depreciation and amortization)	$ 540	$ 680	$ 960
14. Other Assets:			
A. Dividends and interest receivable	550	690	
B. Free shipments	560	700	
C. Loans and advances	570	710	
D. Miscellaneous	580	720	970
15. TOTAL ASSETS	$ 590	$ 740	$ 980

OMIT PENNIES

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT
PART IIB

(Name of Dealer) _____ As of (MM/DD/YY) _____

STATEMENT OF FINANCIAL CONDITION FOR OTC DERIVATIVES DEALERS

LIABILITIES AND OWNERSHIP EQUITY

Liabilities		Total
16. Bank loans payable:		
A. Includable in "Formula for Reserve Requirements"	$ 1460	
B. Other	1470	
17. Securities sold under repurchase agreement	1480	
18. Payable to brokers/dealers and clearing organizations:		
A. Failed to receive:	1490	
B. Securities loaned:	1500	
C. Omnibus accounts:	1510	
D. Clearing organization:	1520	
E. Other	1570	
19. Payable to customers:		
A. Securities accounts-including free credit of $ 950	1580	
B. Commodities accounts	1590	
20. Payable to non - customers:		
A. Securities accounts	1600	
B. Commodities accounts	1610	
21. Securities sold not yet purchased at market value- including arbitrage of $ 960	$ 1620	
22. Accounts payable and accured liabilities and expenses:		
A. Drafts payable	1630	
B. Accounts payable	1640	
C. Income taxes payable	1650	
D. Deferred income taxes	1660	
E. Accured expenses and other liabilities	1670	
F. Other	1680	

OMIT PENNIES

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT
PART IIB

(Name of Dealer) _____ As of (MM/DD/YY) _____

STATEMENT OF FINANCIAL CONDITION FOR OTC DERIVATIVES DEALERS

LIABILITIES AND OWNERSHIP EQUITY (continued)

Liabilities		Total
23. Notes and mortgages payable:		
A. Unsecured	1690	
B. Secured	1700	
24. Liabilities subordinated to claims of general creditors:		
A. Cash borrowings:	1710	
1. from outsiders $ 970		
2. Includes equity subordination (15c3-1d) of $ 980		
B. Securities borrowings, at market value	1720	
1. from outsiders $ 990		
C. Pursuant to secured demand note collateral agreements:	1730	
1. from outsiders $ 1000		
2. Includes equity subordination (15c3-1d) of $ 1010		
D. Exchange memberships contributed for use of company, at market value	1740	
E. Accounts and other borrowings not qualified for net capital purposes	1750	
25. TOTAL LIABILITIES	$ 1760	

OMIT PENNIES

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT

PART IIB

(Name of Dealer) | As of (MM/DD/YY)

STATEMENT OF FINANCIAL CONDITION FOR OTC DERIVATIVES DEALERS

LIABILITIES AND OWNERSHIP EQUITY (continued)

	Ownership Equity	Total
26. Sole proprietorship		$ 1770
27. Partnership-limited partners		1780
28. Corporation:		
A. Preferred stock		1791
B. Common Stock		1792
C. Additional paid-in capital		1793
D. Retained earnings		1794
E. Total		1795
F. Less capital stock in treasury		( ) 1796
29. TOTAL OWNERSHIP EQUITY		$ 1800
30. TOTAL LIABILITIES AND OWNERSHIP EQUITY		$ 1810

OMIT PENNIES

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT

PART IIB

(Name of Dealer) | As of (MM/DD/YY)

COMPUTATION OF NET CAPITAL AND NET CAPITAL REQUIRED
(Electing 15c3-1 Appendix F)

CAPITAL

Capital

1. Total Ownership Equity		$ 750
2. Deduct: Ownership Equity not Allowable for Net Capital		( ) 335
3. Total Ownership Equity Qualified for Net Capital		340
4. Add: Subordinated Liabilities Approved for Net Capital		340
5. Other Allowable Credits or Deductions		340
6. Total Capital and Approved Subordinations		340
7. Non-Allowable Assets	$ 550	
8. Secured demand note deficiency	550	
9. Other Deductions and Charges	300	
10. Total Non-Allowable Assets, Other Deductions, and Charges (add lines 7 - 9)		( ) 335
11. Tentative Net Capital (Must equal or exceed $100,000,000)		$ 580

Computation of Net Capital Requirements and Excess Net Capital

12. Market Risk Exposure:		
A. Total Value At Risk	$ 340	
Value At Risk Components:		
1. Fixed Income (VaR)	$ 310	
2. Currency (VaR)	320	
3. Commodities (VaR)	570	
4. Equities (VaR)	350	
NOTE: The sum of the value at risk components may not equal total value at risk.		
B. Multiplication Factor	X $ 820	
C. Subtotal (If Line 12A is positive, multiply Line 12A by 12B)	820	
D. Alternative Method for Equities under Appendix A of Rule 15c3-1 (If applicable)	840	
13. Subtotal Market Risk Exposure (add Lines 12C and 12D)		$ 840
14. Credit Risk Exposure:		
A. Credit Risk Charge (Counterparty)	840	
B. Concentration Charge	550	

OMIT PENNIES

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT

PART IIB

(Name of Dealer) | As of (MM/DD/YY)

COMPUTATION OF NET CAPITAL AND NET CAPITAL REQUIRED
(Electing 15c3-1 Appendix F)

CAPITAL (continued)

Capital

15. Subtotal Credit Risk Exposure (add Lines 14A and 14B)	$		840
16. Net Capital (Line 11 less Lines 13 and 15)			840
17. Minimum Capital Requirement		20,000,000	580
18. Excess Net Capital (Line 16 less Line 17)	$		840

OMIT PENNIES

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT

PART IIB

(Name of Dealer) | As of (MM/DD/YY)

COMPUTATION OF NET CAPITAL AND NET CAPITAL REQUIRED
(Under (c)(3)(vi) of Rule 15c3-1)

Capital

1. Total Ownership Equity (from Statement of Financial Condition - Item 1800)	$		750
2. Deduct: Ownership Equity not allowable for Net Capital		( )	760
3. Total Ownership Equity Qualified for Net Capital			840
4. Add: Subordinated Liabilities Approved for Net Capital			840
5. Other Allowable Credits or Deductions			840
6. Total Capital and Approved Subordinations	$		840
7. Non-Allowable Assets		( )	335
8. Other Deductions and/or Charges:		( )	335
9. Secured demand note deficiency		( )	335
10. Commodity futures contracts and spot commodities proprietary capital charges		( )	335
11. Other additions and/or allowable credits			840
12. Tentative Net Capital (must equal or exceed $100,000,000)	$		840
13. Haircuts On Securities (computed pursuant to 15c3-1(c)(2)(vi)):			
A. Fixed Income	$	310	
B. Currency		320	
C. Commodities		570	
D. Equities		350	
14. Total deductions and/or charges		( )	335
15. Undue Concentration		( )	335
16. Other (List)		( )	335
17. Credit Risk		( )	335
18. Net Capital	$		840
19. Minimum Net Capital	$	20,000,000	580
20. Excess Net Capital	$		840

OMIT PENNIES

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT

PART IIB

For the Period (MM/DD/YY) from _____ 3932 to _____ 3933

_____ (Name of Dealer)

Number of months included in this statement 3931

STATEMENT OF INCOME (LOSS)

REVENUE

1. Contracts:		
A. Interest Rate/Fixed Income Products	$	3935
B. Over-the-counter currency and foreign exchange products for Net Capital		3937
C. Equity products		3938
D. Commodity Products		0
E. All other securities commissions		3939
F. Total securities commissions	$	3940
2. Gains or Losses on Firm Securities Trading Accounts:		
A. From market making in over-the-counter equity securities	$	3941
1. Includes gains or (losses) OTC market making in exchange listed equity securities	$ 3943	
B. From trading in debt securities		3944
C. From market making in options on a national securities exchange		3945
D. From all other trading		3949
E. Total gains or (losses)	$	3950
3. Gains or Losses on Firm Securities Investment Accounts:		
A. Includes realized gains (losses)	$ 4235	
B. Includes unrealized gains (losses)	4236	
C. Total realized and unrealized gains (losses)	$	3952
4. Other interest		3960
5. Fees for account supervision, investment advisory and administrative services		3975
6. Revenue from research services		3980
7. Commodities revenue		3990
8. Other revenue		3995
9. Total Revenue	$	4030

EXPENSES

10. Compensation	$	4110
11. Clerical and administrative employees' expenses		4040

OMIT PENNIES

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT

PART IIB

For the Period (MM/DD/YY) from _____ 3932 to _____ 3933

_____ (Name of Dealer)

Number of months included in this statement 3931

STATEMENT OF INCOME (LOSS)

EXPENSES (continued)

12. Salaries and other employment costs for general partners, and voting stockholder officers	$	4120
A. Includes interest credited to General and Limited Partners capital accounts	$ 4130	
13. Floor brokerage paid to certain brokers (see definition)		4055
14. Commissions and clearance paid to all other brokers (see definition)		4145
15. Clearance paid to non-brokers (see definition)		4135
16. Communications		4060
17. Occupancy and equipment costs		4080
18. Promotional costs		4150
19. Interest expense		4075
A. Includes interest on accounts subject to subordination agreements	4070	
20. Losses in error account and bad debts		4170
21. Data processing costs (including service bureau service charges)		4186
22. Non-recurring charges		4190
23. Regulatory fees and expenses		4195
24. Other expenses		4100
25. Total expenses	$	4200

NET INCOME

26. Income (loss) before Federal income taxes and items below (Item 10 less Item 25)	$	4210
27. Provision for Federal income taxes (for parent only)		4220
28. Equity in earnings (losses) of unconsolidated subsidiaries not included above		4222
A. After Federal income taxes of	4238	
29. Extraordinary gains (losses)		4224
A. After Federal income taxes of	4239	
30. Cumulative effect of changes in accounting principles		4225
31. Net income (loss) after Federal income taxes and extraordinary items		4230

MONTHLY INCOME

32. Income (current month only) before provision for Federal income taxes and extraordinary items	$	4211

OMIT PENNIES

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT

PART IIB

(Name of Dealer) | As of (MM/DD/YY)

Ownership Equity and Subordinated Liabilities maturing or proposed to be withdrawn within the next six months and accruals, (as defined below), which have not been deducted in the computation of Net Capital.

Type of Proposed Withdrawal or Accrual (see below for code to enter)	Name of Lender or Contributor	Insider or Outsider? (In or Out)	Amount to be Withdrawn (cash amount and/or Net Capital Value of Securities)	Withdrawal or Maturity Date (MM/DD/YY)	Expect to Renew (Yes or No)
4600	4601	4602	$ 4603	4604	4605
4610	4611	4612	4613	4614	4615
4620	4621	4622	4623	4624	4625
4630	4631	4632	4633	4634	4635
4640	4641	4642	4643	4644	4645
4650	4651	4652	4653	4654	4655
4660	4661	4662	4663	4664	4665
4670	4671	4672	4673	4674	4675
4680	4681	4682	4683	4684	4685
4690	4691	4692	4693	4694	4695

Total $ 4699*

* To agree with the total on Recap (Item No. 4880)

OMIT PENNIES

WITHDRAWAL CODE:	DESCRIPTIONS
1	Equity Capital
2	Subordinated Liabilities
3	Accruals
4	15c3-1(c)(2)(iv) Liabilities

INSTRUCTIONS: Detail Listing must include the total of items maturing during the six month period following the report date, regardless of whether or not the capital contribution is expected to be renewed. The schedule must also include proposed capital withdrawals scheduled within the six month period following the report date including the proposed redemption of stock and payments of liabilities secured by fixed assets (which are considered allowable assets in the capital computation pursuant to Rule 15c-3-1(c)(2)(iv)), which could be required by the lender on demand or in less than six months.

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT

CAPITAL WITHDRAWALS

PART IIB

(Name of Dealer) | As of (MM/DD/YY)

Ownership Equity and Subordinated Liabilities maturing or proposed to be withdrawn within the next six months and accruals, which have not been deducted in the computation of net capital.

RECAP

1. Equity Capital		
A. Partnership Capital:		
1. General Partners	$	4700
2. Limited		4710
3. Undistributed Profits		4720
4. Other (describe below)		4730
5. Sole Proprietorship		4735
B. Corporation Capital:		
1. Common Stock	$	4740
2. Preferred Stock		4750
3. Retained Earings (Dividends and Other)		4760
4. Other (describe below)		4770
2. Subordinated Liabilities		
A. Secured Demand Notes	$	4780
B. Cash Subordinates		4790
C. Debentures		4800
D. Other (describe below)		4810
3. Other Anticipated Withdrawals		
A. Bonuses	$	4820
B. Voluntary Contributions to Pension or Profit Sharing Plans		4860
D. Other (describe below)		4870

4. Description of Other

OMIT PENNIES

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT

CAPITAL WITHDRAWALS

PART IIB

(Name of Dealer) _____ As of (MM/DD/YY) _____

STATEMENT OF CHANGES IN OWNERSHIP EQUITY (SOLE PROPRIETORSHIP, PARTNERSHIP OR CORPORATION)

1. Balance, beginning of period		$	4240
A. Net income (loss)			4250
B. Additions (includes non-conforming capital of	$ 4262		4260
C. Deductions	4272		4270
2. Balance, end of period (From Item 1800)		$	4290

STATEMENT OF CHANGES IN LIABILITIES SUBORDINATED TO CLAIMS OF GENERAL CREDITORS

3. Balance, beginning of period		$	4300
A. Increases			4310
B. Decreases		( )	4320
4. Balance, end of period (From Item 3520)		$	4330

OMIT PENNIES

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT

PART IIB

(Name of Dealer) _____ As of (MM/DD/YY) _____

FINANCIAL AND OPERATIONAL DATA

	VALUATION		NUMBER	
1. Month end total number of stock record breaks unresolved over three business days				
A. Breaks long	$	4890		4900
B. Breaks short	$	4890		4900
2. Is the firm in compliance with Rule 17a-13 regarding periodic count and verification of securities positions and locations at least once in each calendar quarter? (Check one)	Yes	4930	No	4940
3. Personnel employed at end of reporting period:				
A. Income producing personnel				2045
B. Non-income producing personnel (all other)				2055
C. Total				2055
4. Actual number of tickets executed during current month of reporting period				2055
5. Number of corrected customer confirmations mailed after settlement date				2055

	NO. OF ITEMS	DEBIT (Short Value)	NO. OF ITEMS	Credit (Long Value)
6. Money differences	2085	$ 2090	2080	$ 2055
7. Security suspense accounts	2085	$ 2090	2080	$ 2055
8. Security difference accounts	2085	$ 2090	2080	$ 2055
9. Commodity suspense accounts	2085	$ 2090	2080	$ 2055
10. Open transactions with correspondents, other brokers, clearing organizations, depositories and interoffice and inter-company accounts which could result in a charge -- unresolved amounts over 30 calendar days	2085	$ 2090	2080	$ 2055
11. Bank account reconciliations -- un-resolved amounts over 30 calendar days	2085	$ 2090	2080	$ 2055
12. Open transfers over 40 calendar days, not confirmed	2085	$ 2090	2080	$ 2055
13. Transactions in reorganization accounts -- over 60 calendar days	2085	$ 2090	2080	$ 2055
14. Total	2085	$ 2090	2080	$ 2055

OMIT PENNIES

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT

PART IIB

(Name of Dealer) | As of (MM/DD/YY)

FINANCIAL AND OPERATIONAL DATA (continued)

	NO. OF ITEMS		Lesser Amount		Market Value	
16. Failed to deliver 11 business days or longer (21 business days or longer in the case of Municipal Securities)		2085	$	2090	$	2055
18. Failed to receive 11 business days or longer (21 business days or longer in the case of Municipal Securities)		2085	$	2090	$	2055
17. Security concentrations (See instructions in Part I):						
A. Proprietary positions					$	2055
18. Total of personal capital borrowings due within six months					$	2055
19. Maximum haircuts on underwriting commitments during the period					$	2055
20. Planned capital expenditures for business expansion during next six months					$	2055
21. Liabilities of other individuals or organizations guaranteed by respondent					$	2055
22. Lease and rentals payable within one year					$	2055
23. Aggregated lease and rental commitments payable for entire term of the lease						
A. Gross					$	2055
B. Net					$	2055

OMIT PENNIES

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT
PART IIB

as of _____

SCHEDULE I

CREDIT-CONCENTRATION REPORT FOR TWENTY LARGEST CURRENT NET EXPOSURES

OTC Derivatives Dealer:

Counterparty Identifier (1)	Country (2)	Industry Segment (3)	Rating (4)	Gross Replacement Value ($) Receivable (Gross Gain)	Payable (Gross Loss)	Net Replacement Value ($)	Current Net Exposure (7)	Total Credit Exposure ($)	Comments ($)
Totals									

(1) Identify counterparty by counterparty's corporate name.

(2) Identify country exposures by residence of main operating company.

(3) Report on a counterparty-by-counterparty basis by type of entity in accordance with ISDA guidelines (i.e., Primary ISDA Members, Non-Primary ISDA Members: Corporates, Financial Institutions, Government/Supranationals, or Other.

(4) Ratings are internal credit ratings as assigned by the firm. See Schedule IV for conversion of these ratings into a Nationally Recognized Statistical Rating (NRSRO) agency equivalent.

(5) Report gross replacement value (receivable and payable) (for each of the top 20 current net exposures), excluding the effect of legally enforceable netting agreements and excluding the application of collateral.

(6) Report net replacement value (for each of the top 20 current net exposures), including the effect of legally enforceable netting agreements but excluding the application of collateral.

(7) Report current net exposure (for each of the top 20 current net exposures), including the effect of legally enforceable netting agreements and the application of collateral.

(8) Report the sum of the current net exposure and the potential additional credit exposure, calculated as the maximum credit exposure expected to be exceeded with a probability of one percent over a two-week period, less current net exposure.

(9) Provide additional relevant information (e.g., details on credit enhancements, type of contract, maturity, offsetting, significant additional exposures in affiliated entities, etc.).

OTC Derivatives Dealer:

as of _____

SCHEDULE II
PORTFOLIO SUMMARY OF OTC DERIVATIVES EXPOSURES (1)

Credit Rating Category (2)	Industry Segment (3)	Current Net Exposure (4)	Net Replacement Value (5)	Gross Replacement Value (6) Receivable	Gross Replacement Value (6) Payable
XXX	Primary ISDA Member				
	Corporate				
	Financial Institutions				
	Government				
	Other				
	TOTAL				
XX	Primary ISDA Member				
	Corporate				
	Financial Institutions				
	Government				
	Other				
	TOTAL				
X	Primary ISDA Member				
	Corporate				
	Financial Institutions				
	Government				
	Other				
	TOTAL				
	GRAND TOTAL				

(1) See Note (1) on Schedule I.

(2) See Note (5) on Schedule I.

(3) See Note (4) on Schedule I.

(4) Net replacement value, after application of collateral.

(5) Include effect of legally enforceable netting agreements, before application of collateral.

(6) Exclude effect of netting agreements and exclude application of collateral.

OTC Derivatives Dealer:

as of _____

SCHEDULE III
GEOGRAPHIC DISTRIBUTION (1) OF OTC DERIVATIVES EXPOSURES (2)

Country	Credit Rating Category (3)	Current Net Exposure (4)	Net Replacement Value (5)	Gross Replacement Value (6) Receivable	Gross Replacement Value (6) Payable
A	XXX				
	XX				
	X				
	YYY				
	YY				
	Y				
	Country A TOTAL				
B	XXX				
	XX				
	X				
	YYY				
	YY				
	Y				
	Country B TOTAL				
	GRAND TOTAL				

(1) Top 10 country exposures (by residence of main operating company).

(2) See Note (1) on Schedule I.

(3) See Note (5) on Schedule I.

(4) See Note (4) on Schedule II.

(5) See Note (5) on Schedule II.

(6) See Note (6) on Schedule II.

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT
PART IIB

Page 22 of 28

OTC Derivatives Dealer:

as of _____

SCHEDULE IV
INTERNAL CREDIT RATING CONVERSION

Internal Credit Rating	Equivalent Ratings NRSRO 1	NRSRO 2
	Aaa	AAA
	Aa1	AA+
	Aa2	AA
	Aa3	AA-
	A1	A+
	A2	A
	A3	A-
	Baa1	BBB+
	Baa2	BBB
	Baa3	BBB-
	Ba1	BB+
	Ba2	BB
	Ba3	BB-
	B3	B+
	B2	B
	B1	B-
	CCC	CCC

SEC Form 2430 (12/97)

Page 23 of 28

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT
PART IIB

as of _____

OTC Derivatives Dealer:

SCHEDULE V
NET REVENUES (1) FROM OTC DERIVATIVES (2) AND RELATED ACTIVITIES

Product Category (3)	Quarter Ended [DATE]	Month Ended [MONTH 3]	[MONTH 2]	[MONTH 1]
Fixed Income Products				
OTC Options				
Swaps				
Dollar				
Non-Dollar				
Currency & Foreign Exchange Products				
Equity Products				
Commodity Products				
Other Products (specify)				
Total All Products				

(1) Report net revenues from OTC derivatives activities in the specified product category after taking inro account related positions (including those that are not OTC derivatives), with net revenues defined as trading gains/losses plus interest and dividend income less dividend and interest expense (excluding all other expenses and allocable overhead).

(2) See Note (1) on Schedule I.

(3) Product types should be organized by one or more principle market categories.

SEC Form 2430 (12/97)

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT

PART IIB

(Name of Dealer) | As of (MM/DD/YY)

SCHEDULE VI
AGGREGATE SECURITIES AND OTC DERIVATIVE POSITIONS

I. AGGREGATE SECURITIES AND COMMODITIES POSITIONS

Aggregate Securities and Commodities Positions		LONG		SHORT	
1. U.S. Treasury securities	$	1000	$	1005	
2. U.S. Government agency	$	1010	$	1015	
3. Securities issued by states and political subdivisions in the U.S.	$	1020	$	1025	
4. Foreign securities:					
A. Debt securities	$	1030	$	1035	
B. Equity securities	$	1040	$	1045	
5. Banker's acceptances	$	1050	$	1055	
6. Certificates of deposit	$	1060	$	1065	
7. Commercial paper	$	1070	$	1075	
8. Corporate obligations	$	1080	$	1085	
9. Stocks and warrants (other than arbitrage positions)	$	1090	$	1095	
10. Arbitrage:					
A. Index arbitrage and program trading	$	1100	$	1105	
B. Risk arbitrage	$	1110	$	1115	
C. Other arbitrage	$	1120	$	1125	
11. Options:					
A. Market value of put options:					
1. Listed	$	1130	$	1135	
2. Unlisted	$	1140	$	1145	
B. Market value of call options:					
1. Listed	$	1150	$	1155	
2. Unlisted	$	1160	$	1165	
12. Spot commodities	$	1170	$	1175	
13. Investments with no ready market:					
A. Equity	$	1180	$	1185	
B. Debt	$	1190	$	1195	
C. Other (include limited partnership interests)	$	1200	$	1205	
14. Other securities or commodities	$	1210	$	1215	
15. Summary of delta or similar analysis (if available) (attach analysis)					

000's OMITTED

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT

PART IIB

(Name of Dealer) | As of (MM/DD/YY)

II. FINANCIAL INSTRUMENTS WITH OFF-BALANCE SHEET RISK AND WITH CONCENTRATION OF CREDIT RISK

(Provide notional or contractual amounts where appropriate, or in the case of options, the values of the underlying instrument.)

A. Securities		LONG		SHORT	
1. When-issued securities:					
A. Gross commitments to purchase	$	2000	$	2005	
B. Gross commitments to sell	$	2010	$	2015	
2. Written stock option contracts:					
A. Market value, and the value of the underlying securities, of call contracts:					
1. Listed					
a. Market value	$	2020	$	2025	
b. Value of underlying securities	$	2030	$	2035	
2. Unlisted					
a. Market value	$	2040	$	2045	
b. Value of underlying securities	$	2050	$	2055	
B. Market value, and the value of the underlying securities, of put contracts:					
1. Listed					
a. Market value	$	2060	$	2065	
b. Value of underlying securities	$	2070	$	2075	
2. Unlisted					
a. Market value	$	2080	$	2085	
b. Value of underlying securities	$	2090	$	2095	
C. Market value, and the value of the underlying securities, of naked call contracts:					
1. Listed					
a. Market value	$	2100	$	2105	
b. Value of underlying securities	$	2110	$	2115	
2. Unlisted					
a. Market value	$	2120	$	2125	
b. Value of underlying securities	$	2130	$	2035	
D. Market value, and the value of the underlying securities, of naked put contracts:					
1. Listed					
a. Market value	$	2140	$	2145	
b. Value of underlying securities	$	2150	$	2155	
2. Unlisted					
a. Market value	$	2160	$	2165	
b. Value of underlying securities	$	2170	$	2175	

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FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT

PART IIB

(Name of Dealer) | As of (MM/DD/YY)

II. FINANCIAL INSTRUMENTS WITH OFF-BALANCE SHEET RISK AND WITH CONCENTRATION OF CREDIT RISK
(Provide notional or contractual amounts where appropriate, or in the case of options, the values of the underlying instrument.)

	LONG	SHORT
3. Futures:		
A. U.S. Treasury and mortgage-backed securities futures	$ 2020	$ 2025
B. Other futures (specify)	$ 2030	$ 2035
4. Forwards:		
A. U.S. Treasury and mortgage-backed securities	$ 2020	$ 2025
1. Aggregate current cost of replacing contracts by counter-party.	$ 2010	$ 2015
2. Per counterparty breakdown where credit risk exceeds the (attach schedule)		
B. Other forwards (specify)	$ 2020	$ 2025
1. Aggregate current cost of replacing contracts by counter-party.	$ 2010	$ 2015
2. Per counterparty breakdown where credit risk exceeds the (attach schedule)		
B. Interest Rate Swaps		
1. U.S. dollar denominated swaps:		
A. Total notional or contractual amount	$ 2000	$ 2005
B. Aggregate current cost of replacing contracts by counter-party.	$ 2010	$ 2015
C. Per counterparty breakdown. (attach schedule)		
2. Cross currency swaps:		
A. Total notional or contractual amount	$ 2000	$ 2005
B. Aggregate current cost of replacing contracts.	$ 2010	$ 2015
C. Per counterparty breakdown. (attach schedule)		
C. Foreign exchange		
1. Swaps:		
A. Total notional or contractual amount	$ 2000	$ 2005
B. Aggregate cost of replacing contracts by counterparty.	$ 2010	$ 2015
C. Per counterparty breakdown. (attach schedule)		
2. Notional or contractual amounts of commitments to purchase foreign currencies and U.S. dollar exchange:		
A. Futures	$ 2020	$ 2025

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FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT

PART IIB

(Name of Dealer) | As of (MM/DD/YY)

II. FINANCIAL INSTRUMENTS WITH OFF-BALANCE SHEET RISK AND WITH CONCENTRATION OF CREDIT RISK
(Provide notional or contractual amounts where appropriate, or in the case of options, the values of the underlying instrument.)

	LONG	SHORT
B. Forwards	$ 2020	$ 2025
1. Aggregate current cost of replacing contracts by counter-party.	$ 2010	$ 2015
2. Per counterparty breakdown. (attach schedule).		
3. Naked written option contracts:		
A. Contractual value	$ 2000	$ 2005
B. Value of the underlying instruments	$ 2000	$ 2005
D. All other swap agreements (specify type) (attach schedule if necessary)		
1. Total notional or contractual amount	$ 2000	$ 2005
2. Aggregate current cost of replacing contracts by counterparty.	$ 2010	$ 2015
3. Per counterparty breakdown. (attach schedule)		
E. Commodities		
1. Futures	$ 2020	$ 2025
2. Forwards	$ 2020	$ 2025
1. Aggregate current cost of replacing contracts by counter-party.	$ 2010	$ 2015
2. Per counterparty breakdown. (attach schedule).		
3. Sold option contracts (e.g., options on individual commodities and commodities indexes)		
A. Market value, and the value of the underlying instruments, of call contracts:		
1. Listed		
a. Market value	$ 2140	$ 2145
b. Value of underlying instruments	$ 2150	$ 2155
2. Unlisted		
a. Market value	$ 2160	$ 2165
b. Value of underlying instruments	$ 2170	$ 2175
B. Market value, and the value of the underlying instruments, of put contracts:		
1. Listed		
a. Market value	$ 2140	$ 2145
b. Value of underlying instruments	$ 2150	$ 2155

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FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT

PART IIB

(Name of Dealer) _____ As of (MM/DD/YY) _____

II. FINANCIAL INSTRUMENTS WITH OFF-BALANCE SHEET RISK AND WITH CONCENTRATION OF CREDIT RISK

(Provide notional or contractual amounts where appropriate, or in the case of options, the values of the underlying instrument.)

	LONG	SHORT
2. Unlisted		
a. Market value	$ 2160	$ 2165
b. Value of underlying instruments	$ 2170	$ 2175
C. Market value, and the value of the underlying instruments, of naked call contracts:		
1. Listed		
a. Market value	$ 2140	$ 2145
b. Value of underlying instruments	$ 2150	$ 2155
2. Unlisted		
a. Market value	$ 2160	$ 2165
b. Value of underlying instruments	$ 2170	$ 2175
D. Market value, and the value of the underlying instruments, of naked put contracts:		
1. Listed		
a. Market value	$ 2140	$ 2145
b. Value of underlying instruments	$ 2150	$ 2155
2. Unlisted		
a. Market value	$ 2160	$ 2165
b. Value of underlying instruments	$ 2170	$ 2175

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SEC 2430 (12/97) Page 28 of 28

[FR Doc. 98–29007 Filed 11–2–98; 8:45 am]

BILLING CODE 8010–01–C

Federal Register

Tuesday
November 3, 1998

Part III

Department of Education

Direct Grant Programs and Fellowship Programs; Notice

DEPARTMENT OF EDUCATION

Direct Grant Programs and Fellowship Programs

AGENCY: Department of Education.

ACTION: Notice identifying direct grant programs and fellowship programs under which the Secretary has invited or expects to invite applications for new awards for fiscal year (FY) 1999.

SUMMARY: This notice identifies programs and competitions under which the Secretary has invited or expects to invite applications for new awards for FY 1999. The notice also announces actual or estimated deadline dates for the transmittal of applications. The notice is intended to help potential applicants in preparing to respond to expected FY 1999 grant competitions.

Note: This notice is advisory only and is not an official application notice of the Department of Education.

Organization of Notice: This notice provides charts, grouped by principal office, of virtually all the Department's direct grant and fellowship competitions for new awards the Secretary has announced or expects to announce for FY 1999. Each principal office is assigned a separate chart as follows:

Chart 1—Office of Bilingual Education and Minority Languages Affairs.

Chart 2—Office of Educational Research and Improvement.

Chart 3—Office of Elementary and Secondary Education.

Chart 4—Office of Postsecondary Education.

Chart 5—Office of Special Education and Rehabilitative Services.

Chart 6—Office of Vocational and Adult Education.

DATES: *Dates of Application Notices.* The actual or estimated date for publication of the application notice for a given program or competition is listed in column two of the charts. Application notices that have already been published in the **Federal Register** can be identified by the **Federal Register** page number, also shown in column two. If a program has yet to publish an application notice, an estimated date is listed.

Applications Available. The actual or estimated date for the availability of an application package for a given program or competition is listed in column three of the charts.

Deadline Dates for Transmitting Applications. The actual or estimated deadline for transmitting applications under a given program or competition is listed in column four of the charts. If a program has yet to publish an application notice, the estimated deadline date is listed. The actual deadline will appear in the **Federal Register.**

Deadline Dates for Transmitting Intergovernmental Reviews. Certain programs identified in this notice are subject to Executive Order 12372 and the regulations in 34 CFR part 79. The actual or estimated deadline date for the transmittal of State Process Recommendations by State Single Points of Contact (SPOCs) and comments by other interested parties is listed in column five of the charts. If a program has yet to publish an application notice, the estimated deadline date is listed. The actual deadline will appear in the application notice to be published in the **Federal Register**. For further information, an applicant under a program subject to the Executive order—and other parties interested in that program—are directed to the appendix to this notice.

ADDRESSES: *For Applications or Further Information.* The address and telephone number for obtaining applications for, or further information about, an individual program are in the actual application notice for that program.

For Users of TDD or FIRS. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number, if any, listed in the individual application notices. If a TDD number is not listed for a given program, individuals who use a TDD may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to Arthur Stewart, U.S. Department of Education, 600 Independence Avenue, SW., room 3652, ROB–3, Washington, DC 20202–4248. Telephone: (202) 708–8515. Internet: Arthur__Stewart@ed.gov

For Intergovernmental Review. The address for transmitting recommendations and comments under Executive Order 12372 is in the appendix to this notice. The appendix also contains the addresses of individual SPOCs.

SUPPLEMENTARY INFORMATION

Available Funds

The Secretary is publishing this notice in order to give potential applicants adequate time to prepare applications. The amounts of funds listed as available for these programs are estimates and are based on the recently passed FY 1999 appropriation for the Department of Education. Potential applicants should note, however, that some of the competitions listed in this notice may be canceled and some new competitions not listed in this notice may be announced.

Estimated Range and Average Size of Awards

Except for programs and competitions administered by the Office of Special Education and Rehabilitative Services (OSERS), columns six and seven list estimated ranges and average size of awards. The amounts referenced in these columns are advisory and represent the Secretary's best estimates at this time. The average size of an award is the estimate for a single-year project or for the first budget period of a multi-year project. In the application package for an individual program or competition, applicants will receive information about the amount the Secretary intends to make available for each year of a multi-year project.

In the case of programs and competitions administered by the principal components of OSERS, the charts differ with regard to the amount of awards. For programs and competitions of this program office, column six of the charts lists the actual or estimated maximum amount the Secretary will award per year. Applicants will receive further information about funding amounts in the application packages for the individual programs.

In the case of programs and competitions administered by the Office of Postsecondary Education, please note that the reauthorization of the Higher Education Act (Pub.L. 105-244, enacted October 7, 1998) may significantly affect the discretionary grant program competitions and timelines in the chart. Actual deadline dates will appear in the application notices published in the **Federal Register.**

Note: The Department is not bound by any of the estimates in this document. The dates, fiscal information, and number of new awards listed are estimates only and, thus, subject to change. Readers are advised to read the actual individual application notices for these programs or competitions when the notices are published in the **Federal Register.**

Applicability of the Federal Debt Collection Procedures Act of 1990

The programs identified in the chart make discretionary awards subject to the eligibility requirements of the Federal Debt Collection Procedures Act of 1990 (Pub. L. 101–647; 28 U.S.C. 3201). The Act provides that if there is a judgement lien against a debtor's property for a debt to the United States, the debtor is not eligible to receive a Federal grant or loan, except direct payments to which the debtor is entitled as beneficiary, until the judgement is paid in full or otherwise satisfied.

Chart 1 - OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

For any application notice not already published, the dates in this chart are estimates. For further information regarding any of the following competitions, please contact: Harry Logel, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 600 Independence Avenue, SW., room 5605, Switzer Building, Washington, DC 20202-6510. Telephone: (202) 205-5530. Internet: Harry_Logel@ed.gov

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Estimated Range of Awards	Estimated Average Size of Awards	Estimated Number of Awards
84.194Q Bilingual Education -- State Grant Programs	12/30/98	12/30/98	02/16/99	04/16/99	N/A	N/A	7
84.195A Bilingual Education -- Teachers and Personnel Grant Program	12/30/98	12/30/98	02/23/99	04/23/99	$150,000-$250,000	$200,000	50
84.195C Bilingual Education -- Training for all Teachers	01/25/99	01/25/99	03/15/99	05/14/99	$150,000-$250,000	$200,000	18
84.195C Bilingual Education -- Graduate Fellowship Program	12/23/98	12/23/98	02/16/99	04/16/99	$30,000-$300,000	$150,000	112
84.195É Bilingual Education -- Career Ladder Program	12/30/98	12/30/98	02/23/99	04/23/99	$150,000-$250,000	$200,000	49
84.288S Bilingual Education -- Program Development and Implementation Program	12/30/98	12/30/98	02/16/99	04/16/99	$100,000-$175,000	$150,000	72
84.289P Bilingual Education -- Program Enhancement	12/30/98	12/30/98	02/16/99	04/16/99	$100,000-$150,000	$125,000	80
84.290U Bilingual Education -- Comprehensive School Grants Program	12/26/98	12/26/98	02/26/99	04/26/99	$150,000-$350,000	$250,000	24
84.291R Bilingual Education -- System-wide Improvement Grants	12/30/98	12/30/98	02/26/99	04/26/99	$350,000-$650,000	$500,000	8
84.292A Bilingual Education -- Field Initiated Research	TBA	TBA	TBA	TBA	$50,000-$70,000	$55,000	3
84.293A Bilingual Education -- Foreign Language Assistance/LEA	12/30/98	12/30/98	02/23/99	04/23/99	$50,000-$175,000	$112,500	44

Chart 2 - OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

For any application notice not already published, the dates in this chart are estimates. For further information regarding any of the following competitions, please contact: Irene Fernandez, Office of Educational Research and Improvement, U.S. Department of Education, room 205, 555 New Jersey Avenue NW., Washington, DC 20208-5570. Telephone: (202) 219-1570. Internet: Irene_Fernandez@ed.gov

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Estimated Range of Awards	Estimated Average Size of Awards	Estimated Number of Awards
84.203A Star Schools Program-- General Grants	11/23/98	12/10/98	02/22/99	04/26/99	$1,500,000-$2,000,000	$1,750,000	5-6
84.215V Partnerships in Character Education Program	11/18/98	12/01/98	02/12/99	04/15/99	$100,000-$1,000,000	$500,000	10
84.287A 21st Century Community Learning Centers	11/19/98	12/07/98	03/08/99	05/10/99	$35,000-$1,000,000	$350,000	100
84.303A Technology Innovation Challenge Grants	11/16/98	12/07/98	02/12/99	04/12/99	$1,000,000-$2,000,000	$1,500,000	20
84.305F - 84.309F Field-Initiated Studies Educational Research Grant Program	11/17/98	12/01/98	02/01/99	N/A	$100,000-$200,000	$150,000	62
84.902B National Assessment of Educational Progress (NAEP) Secondary Analysis Program	10/01/98 (63 FR 52955)	10/09/98	11/30/98	N/A	$15,000-$100,000	$85,000	5 - 7

Chart 3 - OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

For any application notice not already published, the dates in this chart are estimates. For further information regarding any of the following competitions, please contact: Alda Giusti, Program Analyst, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW., Room 3W344, Washington, DC 20202-6110. Telephone: (202) 260-1925. Internet: Alda_Giusti@ed.gov

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Estimated Range of Awards	Estimated Average Size of Awards	Estimated Number of Awards
84.004D Civil Rights Training and Advisory Services/Equity Assistance Centers	02/05/99	02/05/99	03/15/99	05/15/99	$600,000-$800,000	$733,400	10
84.083A Women's Educational Equity Act Program--Implementation	11/30/98	11/30/98	02/19/99	04/19/99	$90,000-$200,000	$150,000	2
84.083B Women's Educational Equity Act Program -- Research and Development	11/30/98	11/30/98	02/19/99	04/19/99	$40,000-$75,000	$75,000	1
84.141A Migrant Education -- High School Equivalency Program	11/02/98	11/02/98	01/08/99	03/08/99	$200,000-$495,000	$330,000	21
84.149A Migrant Education-- College Assistance Migrant Program	11/02/98	11/02/98	01/08/99	03/08/99	$250,000-$375,000	$300,000	7
84.165B Innovative Programs	11/13/98	11/13/98	01/15/99	03/15/99	$200,000-$500,000	$369,000	8
84.256A Freely Associated States Educational Grant Program	10/15/98 (63 FR 55491)	10/15/98	12/11/98	N/A	$700,000-$800,000	$750,000	6
84.258A Even Start Literacy Programs for Federally Recognized Indian Tribes and Tribal Organizations	02/05/99	02/05/99	04/09/99	06/06/99	$100,000-$200,000	$150,000	1-2
84.282A Public Charter Schools Program	11/30/98	11/30/98	01/29/99	N/A	SEAs $250,000-$5,000,000 Others $25,000-$150,000	$1,750,000 $100,000	20 10
84.310A Goals 2000: Parental Assistance Program	12/01/98	12/01/98	03/01/99	05/03/99	$200,000-$500,000	$280,000	28

Chart 4 - OFFICE OF POSTSECONDARY EDUCATION

Higher Education Programs (HEP)

For any application notice not already published, the dates in this chart are estimates. For further information regarding any of the following competitions, please contact: Don Crews, Higher Education Programs, Office of Postsecondary Education, U.S. Department of Education, 600 Independence Avenue, SW., suite 600, Portals Building, Washington, DC 20024-2142. Telephone: (202) 260-2295. Internet: Don_Crews@ed.gov

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Estimated Range of Awards	Estimated Average Size of Awards	Estimated Number of Awards
84.016A Undergraduate International Studies and Foreign Language Program	03/08/99	03/29/99	05/03/99	07/06/99	Single Inst. $40,000-$90,000 Consortia $75,000-$100,000	$64,000 $90,000	23 4
84.017A International Research and Studies Program	04/12/99	05/03/99	06/01/99	N/A	$40,000-$150,000	$83,000	15
84.019A Fulbright-Hays -- Faculty Research Abroad Program	08/31/98 (63 FR 46369)	09/08/98	11/06/98	N/A	$18,000-$70,000	$43,000	21
84.021A Fulbright-Hays -- Group Projects Abroad Program	08/31/98 (63 FR 46369)	09/04/98	10/26/98	N/A	$30,000-$120,000	$65,000	36
84.022A Fulbright-Hays -- Doctoral Dissertation Research Abroad Program	08/31/98 (63 FR 46369)	09/08/98	11/06/98	N/A	$12,000-$60,000	$24,000	87
84.031A Strengthening Institutions Program	11/04/98	11/04/98	03/10/99	05/09/99	Development $300,000-$350,000 Planning $20,000-$25,000	$325,000 $22,500	44 6
84.031H Institutional Aid -- Eligibility	09/23/98 (63 FR 50960)	10/30/98	12/11/98; *02/15/99	N/A	N/A	N/A	N/A
84.031S Strengthening Institutions Program-- Hispanic Serving Institutions	11/04/98	11/04/98	03/10/99	05/09/99	$300,000-$350,000	$325,000	80

Chart 4 - Office of Postsecondary Education - HEP - Continued

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Estimated Range of Awards	Estimated Average Size of Awards	Estimated Number of Awards
84.047A Upward Bound Program	07/15/98 (63 FR 38249)	08/01/98	10/30/98	12/31/98	$200,000-$690,000	$319,000	682
84.047M Upward Bound Math/Science Program	07/15/98 (63 FR 38249)	08/01/98	10/02/98	12/31/98	$200,000-$300,000	$254,000	99
84.120A Minority Science Improvement Program	11/04/98	11/06/98	01/15/99	03/15/99	Institutional $100,000-$200,000 Design $15,000-$20,000 Special $20,000-$150,000 Cooperative $20,000-$500,000	$120,000 $18,000 $25,000 $280,000	22 4 11 4
84.153A Business and International Education Program	09/23/98 63 FR 50963)	09/28/98	11/13/98	01/12/99	$50,000-$90,000	$74,000	22
84.217A Ronald E. McNair Program	07/15/98 (63 FR 38247)	08/01/98	10/02/98	12/31/98	$190,000-$285,000	$215,000	109
84.220A Centers for International Business Education Program	09/23/98 (63 FR 50963)	09/28/98	11/16/98	01/15/99	$150,000-$310,000	$264,000	13
84.229 International Education Language Resource Centers	04/12/99	05/03/99	06/01/99	08/02/99	$200,000-$350,000	$318,000	7
84.269A Institute for International Public Policy	03/16/99	04/01/99	06/01/99	08/02/99	N/A	$1,000,000	1

*The program has two deadline dates for eligibility applications.

Chart 4 - Office of Postsecondary Education - FIPSE - Continued

Fund for the Improvement of Postsecondary Education (FIPSE)

For any application notice not already published, the dates in this chart are estimates. For further information regarding any of the following competitions, please contact: Frank Frankfort, Education Program Specialist, Fund for the Improvement of Postsecondary Education, Office of Postsecondary Education, U.S. Department of Education, 600 Independence Avenue, SW., room 3600 ROB-3, Washington, DC 20202-5175. Telephone: (202) 260-3704. Internet: Frank_Frankfort@ed.gov

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Estimated Range of Awards	Estimated Average Size of Awards	Estimated Number of Awards
84.116A&B Comprehensive Program	08/22/98 (63 FR 46829)	09/02/98	10/22/98 (preapplication) 03/19/99 (Final application)	05/18/99	$15,000-$150,000	$80,000	80
84.116J Joint US/EU Consortia for Cooperation in Higher Education and Vocational Education	11/30/98	12/01/98	02/01/99	05/07/99	$100,000-$175,000	$136,000	12
84.116P Disseminating Proven Reforms	11/13/98	11/16/98	01/15/99	03/18/99	$120,000-$180,000	$160,000	8
84.116R Controlling the Cost of Postsecondary Education	11/13/98	11/16/98	01/15/99	03/18/99	$100,000-$130,000	$120,000	10

Chart 5 - OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

National Institute on Disability and Rehabilitation Research (NIDRR)

For any application notice not already published, the dates in this chart are estimates. For further information regarding any of the following competitions, please contact: Donna Nangle, National Institute on Disability and Rehabilitation Research, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 600 Independence Avenue, SW., room 3418, Switzer Building, Washington, DC 20202-2645. Telephone: (202) 205-5880. Internet: Donna_Nagle@ed.gov

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Maximum or Estimated Maximum Award (per year)	Estimated Number of Awards
84.133A Supported Living and Choice for Persons with Mental Retardation	10/01/98 (63 FR 52919)	10/01/98	11/30/98	N/A	$400,000	1
84.133A Rehabilitation for Women with Disabilities	03/01/99	03/01/99	04/30/99	N/A	$300,000	1
84.133A Emerging Disability Populations	03/01/99	03/01/99	04/30/99	N/A	$300,000	1
84.133A Dissemination of Disability and Rehabilitation Research	02/01/99	02/01/99	04/01/99	N/A	$750,000	1
84.133A International Disability Research Information Exchange	03/01/99	03/01/99	04/30/99	N/A	$400,000	1
84.133B Rehabilitation for Persons with Long-term Mental Illness	02/01/99	02/01/99	04/01/99	N/A	$700,000	1
84.133B Family Strategies in Rehabilitation for Children with Emotional and Behavioral Disorders	03/01/99	03/01/99	04/30/99	N/A	$650,000	1
84.133B Rehabilitation for Persons with Disabilities from Minority Backgrounds	12/01/98	12/01/98	02/01/99	N/A	$600,000	1
84.133B Maintenance of Health and Wellness for Persons with Long-term Disabilities	12/01/98	12/01/98	02/01/99	N/A	$700,000	1
84.133B Rehabilitation for Persons with Traumatic Brain Injury	02/01/99	02/01/99	04/01/99	N/A	$650,000	1

Chart 5 - Office of Special Education and Rehabilitative Services - NIDRR - Continued

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Maximum or Estimated Maximum Award (per year)	Estimated Number of Awards
84.133B Measuring Rehabilitation Outcomes	02/01/99	02/01/99	04/01/99	N/A	$700,000	1
84.133B Measuring Disabilities	02/01/99	02/01/99	04/01/99	N/A	$700,000	1
84.133B Rehabilitation Children with Chronic Physical or Traumatic Disabilities	03/01/99	03/01/99	04/30/99	N/A	$700,000	1
84.133B Rehabilitation for Children with Emotional and Behavioral Disorders	03/01/99	03/01/99	04/30/99	N/A	$650,000	1
84.133E Engineering for Telecommunications Accessibility	02/01/99	02/01/99	04/01/99	N/A	$600,000	1
84.133E Engineering for Universal Design	02/01/99	02/01/99	04/01/99	N/A	$600,000	1
84.133F Research Fellowships	06/18/98 (63 FR 33500)	06/18/98	09/30/98	N/A	Merit: $45,000 Distinguished: $55,000	10
84.133G Field Initiated Projects	06/18/98 (63 FR 33501)	06/18/98	09/30/98	N/A	$150,000	30
84.133P Advanced Rehabilitation Research Training Projects	06/13/98 (63 FR 35504)	06/18/98	09/30/98	N/A	$150,000	5
84.133E-3 Wheeled Mobility	10/01/98 (63 FR 52920)	10/01/98	11/30/98	N/A	$900,000	1

Chart 5 - Office of Special Education and Rehabilitative Services - OSEP - Continued

Office of Special Education Programs (OSEP)

For any application notice not already published, the dates in this chart are estimates. For further information regarding any of the following competitions, please contact: The Grants and Contracts Services Team, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 600 Independence Avenue, SW., room 3080, Switzer Building, Washington, DC 20202-2641. The preferred method for requesting information is to FAX your request to: (202) 205-8717. Telephone: (202) 205-9182.

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Maximum or Estimated Maximum Award (per year)	Estimated Number of Awards
84.324B Student Initiated Research Projects	08/13/98 (63 FR 43598)	08/20/98	02/05/99	04/06/99	$20,000	12
84.324C Field Initiated Research Projects	08/13/98 (63 FR 43598)	08/20/98	09/28/98	11/27/98	$180,000	14
84.324D Directed Research Projects	04/09/99	04/19/99	06/04/99	08/30/99	$200,000	20
84.324H Center on Access to the General Education Curriculum	04/09/99	04/19/99	06/04/99	08/30/99	$500,000	1
84.324K Research Institutes	04/09/99	04/19/99	06/04/99	08/30/99	$700,000	2
84.324L Early Childhood Research and Training Center on Service Coordination	04/09/99	04/19/99	06/04/99	08/30/99	$500,000	1
84.324M Model Demonstration Projects for Children with Disabilities--Nondirected	08/13/98 (63 FR 43598)	08/20/98	10/05/98	12/04/98	$150,000	18
84.324N Initial Career Awards	08/13/98 (63 FR 43598)	08/20/98	09/28/98	11/27/98	$75,000	4
84.324R Outreach Projects for Children with Disabilities	08/13/98 (63 FR 43598)	08/20/98	10/05/98	12/04/98	$150,000	21

Chart 5 - Office of Special Education and Rehabilitative Services - OSEP - Continued

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Maximum or Estimated Maximum Award (per year)	Estimated Number of Awards
84.324S Research Institute to Improve Results for Adolescents with Disabilities in General Education Academic Curriculums	04/09/99	04/19/99	06/04/99	08/30/99	$700,000	1
84.324T Model Demonstration Projects for Children with Disabilities--Directed	04/09/99	04/19/99	06/04/99	08/30/99	$200,000	12
84.325A Preparation of Special Education, Related Services, and Early Intervention Personnel to Serve Infants, Toddlers, and Children with Low Incidence Disabilities	09/18/98 (63 FR 50113)	09/28/98	11/09/98	01/08/99	$300,000	26
84.325D Preparation of Leadership Personnel	09/18/98 (63 FR 50113)	09/28/98	11/16/98	01/15/99	$200,000	18
84.325E Personnel Preparation in Minority Institutions	09/18/98 (63 FR 50113)	09/28/98	02/01/99	04/02/99	$200,000	15
84.325H Improving the Preparation of Personnel to Serve Children with High Incidence Disabilities	09/18/98 (63 FR 50113)	09/28/98	12/07/98	02/05/99	$200,000	32
84.325N Projects of National Significance--Nondirected	09/18/98 (63 FR 50113)	09/28/98	11/30/98	01/29/99	$200,000	24
84.325Q Projects of National Significance--Directed	04/09/99	04/19/99	06/04/99	08/30/99	$600,000	8
84.326C Deaf Blind Centers	04/09/99	04/19/99	06/04/99	08/30/99	$200,000	48
84.326E Early Childhood Technical Assistance Center	04/09/99	04/19/99	06/04/99	08/30/99	$4,000,000	1
84.326M Minority Outreach Center	04/09/99	04/19/99	06/04/99	08/30/99	$1,000,000	1

Chart 5 - Office of Special Education and Rehabilitative Services - OSEP - Continued

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Maximum or Estimated Maximum Award (per year)	Estimated Number of Awards
84.326R Regional Resource Centers	11/08/98	11/15/98	12/15/98	02/13/99	$400,000	1
84.326U Deaf Blind Clearinghouse	04/09/99	04/19/99	06/04/99	08/30/99	$400,000	1
84.327A Steppingstones of Technology Innovation for Students with Disabilities	08/13/98 (63 FR 43598)	08/20/98	12/18/98	02/16/99	$200,000	15
84.327D Theater of the Deaf	04/09/99	04/19/99	06/04/99	08/30/99	$800,000	1
84.327L Closed Captioned Television Programs -- Local News and Public Information	04/09/99	04/19/99	06/04/99	08/30/99	$80,000	20
84.327U Closed Captioned Television Programs	09/18/98 (63 FR 50113)	09/28/98	11/23/98	01/22/99	$500,000	15
84.328M Parent Information Centers	01/25/99	02/01/99	03/12/99	05/13/99	$340,000	13

Rehabilitation Services Administration (RSA)

For any application notice not already published, the dates in this chart are estimates. For further information regarding any of the following competitions, please contact: The Grants and Contracts Services Team, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 600 Independence Avenue, SW., room 3317, Switzer Building, Washington, DC 20202-2641. The preferred method for requesting information is to FAX your request to: (202) 205-8717. Telephone: (202) 205-8351

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Maximum or Estimated Maximum Award (per year)	Estimated Number of Awards
84.129B Rehabilitation Long Term Training -- Vocational Rehabilitation Counseling	07/07/98 (63 FR 36665)	07/10/98	08/31/98	10/30/98	$100,000	19

Chart 5 - Office of Special Education and Rehabilitative Services - RSA - Continued

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Maximum or Estimated Maximum Award (per year)	Estimated Number of Awards
84.129E,F,P,Q, &R Rehabilitation Training:	07/24/98 (63 FR 40002)	07/24/98	09/18/98	11/17/98	$75,000-$100,000	10
84.129E Rehabilitation technology	"	"	"	"	"	3 (max.)
84.129F Vocational evaluation and work adjustment	"	"	"	"	"	3 (max.)
84.129P Specialized personnel for rehabilitation of individuals who are blind or have vision impairments	"	"	"	"	"	3 (max.)
84.129Q Rehabilitation of individuals who are deaf or hard of hearing	"	"	"	"	"	4 (max.)
84.129R Job development and job placement services to individuals with disabilities.	"	"	"	"	"	2 (max.)
84.129W Long Term Training Comprehensive System of Personnel Development	10/16/98 (63 FR 55766)	10/16/98	12/18/98	02/16/99	$75,000-$500,000	10
84.132A Centers for Independent Living	11/16/98	11/16/98	2/26/99	04/26/99	$62,000-$78,000	14
84.132B Technical Assistance for Centers with Independent Living Statewide IN Councils	11/16/98	11/20/98	02/26/99	05/18/99	$668,000	1-2
84.177A Independent Living Services for Older Individuals who are Blind	11/16/98	11/20/98	02/26/99	05/18/99	$214,000	53
84.250H Vocational Rehabilitation Service Projects for American Indians	12/15/98	12/15/98	06/01/99	08/01/99	$350,000	14
84.264A Rehabilitation Continuing Education	07/24/98 (63 FR 40006)	07/24/98	09/25/98	11/24/98	$370,000	3

Chart 6 - OFFICE OF VOCATIONAL AND ADULT EDUCATION

For further information please contact: Richard L. Smith, Office of Vocational and Adult Education, U.S. Department of Education, 600 Independence Avenue, SW., room 4529, Switzer Building, Washington, DC 20202-7110. Telephone: (202) 205-5621. Internet: Richard_Smith@ed.gov

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Estimated Range of Awards	Estimated Average Size of Awards	Estimated Number of Awards
Teacher Preparation Education Demonstration Grants	TBA	TBA	TBA	TBA	TBA	TBA	TBA
Adult Education Grants for English-as-a-Second Language Demonstrations	TBA	TBA	TBA	TBA	TBA	TBA	TBA

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FOR FURTHER INFORMATION CONTACT: For further information regarding a competition listed in this document, please contact the person whose name appears at the top of the particular chart in which that competition is listed.

Dated: October 27, 1998.

Donald Rappaport,

Chief Financial and Chief Information Officer.

Appendix—Intergovernmental Review of Federal Programs

This appendix applies to each program that is subject to the requirements of Executive Order 12372 (intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each of those States under the Executive order. A listing containing the Single Point of Contact for each State is included in this appendix.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in the actual application notice to the following address: The Secretary, EO 12372–CFDA# [commenter must insert number—including suffix letter, if any], U.S. Department of Education, room 6213, 600 Independence Avenue, SW., Washington, DC 20202–0124.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in the actual application notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

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STATE SINGLE POINT OF CONTACT
(as of October 20, 1998)

Note: In accordance with Executive Order 12372, Intergovernmental Review of Federal Programs, this listing represents the designated State Single Points of Contact (SPOCs). Because participation is voluntary, some States and Territories no longer participate in the process. These include: Alabama, Alaska, American Samoa, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, and Washington.

The jurisdictions not listed no longer participate in the process. However, an applicant is still eligible to apply for a grant or grants even if its respective State, Territory, Commonwealth, etc. does not have a SPOC.

ARIZONA
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DISTRICT OF COLUMBIA
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Office of Grants Mgmt. & Dev.
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2555 Shumard Oak Blvd.
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Ms. Frances Williams
State Budget Agency
212 State House
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Ms. Lois Pohl
Federal Assistance Clearinghouse
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Jefferson Building, 9th floor
Jefferson City, Missouri 65102
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Department of Administration
State Clearinghouse
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Director, New Hampshire Office of State Planning
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PUERTO RICO
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Federal Proposals Review Office
Minillas Government Center
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San Juan, Puerto Rico 00940-1119
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VIRGIN ISLANDS
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Note: This list is based on the most current information provided by the States. Information on any changes or apparent errors should be provided to Sherron Duncan (Telephone (202) 395-3914) at the Office of Management and Budget and to the State in question. Changes to the list will only be made upon formal notification by the State. The list is updated every six months and is also published biannually in the Catalog of Federal Domestic Assistance. The last changes made were to Arkansas, Delaware, District of Columbia, Florida, Georgia, Guam, Indiana, Kentucky, Maryland, Mississippi, Missouri, Nevada, New Mexico, New York, Puerto Rico, Rhode Island, Texas, Utah, Wisconsin, and Wyoming (10-20-98).

[FR Doc. 98-29344 Filed 11-2-98; 8:45 am]
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Tuesday, November 3, 1998

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FEDERAL REGISTER PAGES AND DATES, NOVEMBER

58619–59202 2
59203–59456 3

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7144 59197
7145 59203

Administrative Orders:

Presidential Determinations:
No. 99–1 of October 21, 1998 59201

5 CFR

2634 58619

Proposed Rules:
532 58659

7 CFR

723 59205

Proposed Rules:
984 59246
1755 59248

12 CFR

208 58620
211 58620
215 58620
225 58620
262 58620
263 58620
265 58620

14 CFR

39 ..... 58622, 58624, 58625, 59206
71 ..... 58627, 58628, 58629, 58811

Proposed Rules:
23 58660
39 59252
71 ..... 59255, 59256, 59257
121 59192
135 59192
145 59192

16 CFR

Proposed Rules:
305 58671

17 CFR

10 58811
200 59862
240 ..... 58630, 59208, 59362
249 59862

21 CFR

178 59213
510 59215
522 59215
558 59216
814 59217
862 59222
864 59222
866 59222
876 59222
880 59222
882 59222
886 59222
890 59222
892 59222

24 CFR

Proposed Rules:
5 58675

26 CFR

1 58811

Proposed Rules:
1 58811

30 CFR

Proposed Rules:
46 59258
938 58259

32 CFR

199 59231

33 CFR

100 59232
165 58635

Proposed Rules:
117 58676

37 CFR

201 ..... 59233, 59235

38 CFR

Proposed Rules:
17 58677

40 CFR

52 58637
81 58637

Proposed Rules:
52 58678
81 58678

42 CFR

405 58814
410 58814
413 58814
414 58814
415 58814
424 58814
485 58814

Proposed Rules:
5 58679
51c 58679

44 CFR

64 59236

46 CFR

Proposed Rules:
45 58679

47 CFR

2.....58645
73.....59238, 59239
90.....58645
Proposed Rules:
54.....58685
73.....59262, 59263
90.....58685

49 CFR

Proposed Rules:
1420.....59263

50 CFR

17.....59239
679.....58658, 59244
Proposed Rules:
17.....58692
222.....58701
227.....58701

REMINDERS

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RULES GOING INTO EFFECT NOVEMBER 3, 1998

AGRICULTURE DEPARTMENT
Farm Service Agency
Farm marketing quotas, acreage allotments, and production adjustments:
Tobacco; published 11-3-98

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and promulgation; various States:
California; published 9-4-98
Maryland; published 9-4-98

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Animal drugs, feeds, and related products:
New drug applications—
Carbadox; published 11-3-98
Hyaluronate sodium; published 11-3-98
Food additives:
Adjuvants, production aids, and sanitizers—
2,9-dichloro-5,12-dihydroquinone[2,3-b]acridine-7,14-dione (C.I. Pigment Red 202); published 11-3-98
Medical devices:
Class II devices; exemptions from premarket notification; published 11-3-98

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Copyright office and procedures:
Claimed infringement; designation of agent to receive notification; published 11-3-98
Supplementary registration applications; corrections and amplifications; published 11-3-98

PERSONNEL MANAGEMENT OFFICE
Meetings:
National Partnership Council; published 11-3-98

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Israel Aircraft Industries, Ltd.; published 9-29-98
Twin Commander Aircraft Corp.; published 9-28-98

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Milk marketing orders:
Nebraska-Western Iowa; comments due by 11-9-98; published 10-9-98

AGRICULTURE DEPARTMENT
Food and Nutrition Service
Child nutrition programs:
School breakfast program and national school lunch program—
Menu planning alternatives; republication; comments due by 11-12-98; published 5-15-98

COMMERCE DEPARTMENT
Export Administration Bureau
Export administration regulations:
Foreign policy-based export controls; effects; comments due by 11-12-98; published 10-13-98

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Caribbean, Gulf, and South Atlantic fisheries—
South Atlantic snapper-grouper; comments due by 11-9-98; published 9-8-98
Marine mammals:
Commercial fishing operations—
Commercial fisheries authorization; list of fisheries categorized according to frequency of incidental takes; comments due by 11-9-98; published 8-11-98

DEFENSE DEPARTMENT
Acquisition regulations:
Contract financing; flexible progress payments; comments due by 11-9-98; published 9-8-98
Federal Acquisition Regulation (FAR):
Competition under multiple award task and delivery order contracts; comments due by 11-9-98; published 9-9-98

ENERGY DEPARTMENT
Federal Energy Regulatory Commission
Natural Gas Policy Act:
Interstate natural gas pipelines—
Transportation services regulation; comments due by 11-9-98; published 8-11-98

ENVIRONMENTAL PROTECTION AGENCY
Air pollutants, hazardous; national emission standards:
Petroleum refineries
Catalytic cracking (fluid and other) units, catalytic reforming units, and sulfur plant units; comments due by 11-10-98; published 9-11-98
Air quality implementation plans; approval and promulgation; various States:
Alabama; comments due by 11-9-98; published 10-8-98
California; comments due by 11-13-98; published 10-23-98
Minnesota; comments due by 11-12-98; published 10-13-98
Pennsylvania; comments due by 11-9-98; published 10-8-98
Tennessee; comments due by 11-9-98; published 10-8-98
Hazardous waste:
Land disposal restrictions—
Alternate treatment standards; intent to grant site-specific treatment variance to Chemical Waste Management, Inc.; comments due by 11-13-98; published 10-23-98
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Bacillus sphaericus; comments due by 11-10-98; published 9-11-98
Cypermethrin; comments due by 11-10-98; published 9-11-98
Esfenvalerate; comments due by 11-10-98; published 9-11-98
Metolachlor; comments due by 11-10-98; published 9-11-98
Sulfosate; comments due by 11-10-98; published 9-11-98
Toxic substances:
Significant new uses—
Phenol, 2,4-dimethyl-6-(1-methylpentadecyl), etc..; comments due by 11-9-98; published 10-26-98

FEDERAL COMMUNICATIONS COMMISSION
Common carrier services:
Truth-in-billing and billing format; comments due by 11-13-98; published 10-14-98

GENERAL SERVICES ADMINISTRATION
Federal Acquisition Regulation (FAR):
Competition under multiple award task and delivery order contracts; comments due by 11-9-98; published 9-9-98

HEALTH AND HUMAN SERVICES DEPARTMENT
Health Care Financing Administration
Medicare:
Ambulatory surgical centers; ratesetting methodology, payment rates and policies, and covered surgical procedures list; comments due by 11-9-98; published 10-1-98

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Lead-based paint hazards in federally owned residential property and housing receiving Federal assistance; notification, evaluation, and reduction; comments due by 11-9-98; published 10-9-98
Public and Indian housing:
Indian housing loan guarantees; direct guarantee processing; comments due by 11-10-98; published 9-11-98

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:
Devils River minnow; comments due by 11-12-98; published 10-13-98

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office
Permanent program and abandoned mine land

reclamation plan submissions:
Iowa; comments due by 11-13-98; published 10-14-98
JUSTICE DEPARTMENT
Executive Office for Immigration Review:
Immigration Appeals Board; streamlined appellate review procedure; comments due by 11-13-98; published 9-14-98
Grants:
Juvenile accountability incentive block grants program; comments due by 11-13-98; published 10-14-98
LABOR DEPARTMENT
Occupational Safety and Health Administration
Construction safety and health standards:
Steel erection; comments due by 11-12-98; published 8-13-98
LABOR DEPARTMENT
Pension and Welfare Benefits Administration
Employee Retirement Income Security Act:
Summary plan description regulations; comments due by 11-9-98; published 9-9-98
Employment Retirement Income Security Act:
Summary plan description regulations; comments due by 11-9-98; published 9-9-98
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Federal Acquisition Regulation (FAR):
Competition under multiple award task and delivery order contracts; comments due by 11-9-98; published 9-9-98
NATIONAL CREDIT UNION ADMINISTRATION
Credit unions:
Organization and operations—
Chartering and field of membership policy update; comments due by 11-13-98; published 9-14-98
NUCLEAR REGULATORY COMMISSION
Byproduct material; medical use:
Policy statement; comments due by 11-12-98; published 8-13-98
Revision; comments due by 11-12-98; published 8-13-98
Production and utilization facilities; domestic licensing:
Nuclear power reactors—
Permanent shutdown; financial protection requirements; comments due by 11-9-98; published 9-23-98
PERSONNEL MANAGEMENT OFFICE
Prevailing rate systems
Environmental differential pay for working at high altitudes; comments due by 11-12-98; published 10-13-98
SECURITIES AND EXCHANGE COMMISSION
Securities:
Brokers and dealers; books and records requirements—
Sales practices; comments due by 11-9-98; published 10-9-98
TRANSPORTATION DEPARTMENT
Coast Guard
Drawbridge operations:
North Carolina; comments due by 11-9-98; published 9-10-98
Marine occupational safety and health standards:
Commercial diving operations; comments due by 11-9-98; published 9-23-98
Ports and waterways safety:
First Coast Guard District navigable waters; regulated navigation area; comments due by 11-12-98; published 10-13-98
TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Airbus; comments due by 11-9-98; published 10-14-98
British Aerospace; comments due by 11-13-98; published 10-14-98
CFM International; comments due by 11-10-98; published 9-11-98
Dornier; comments due by 11-9-98; published 10-8-98
Empresa Brasileira de Aeronautica S.A.; comments due by 11-13-98; published 10-14-98
Pratt & Whitney; comments due by 11-9-98; published 9-9-98
Textron Lycoming; comments due by 11-10-98; published 9-11-98
Williams International; comments due by 11-9-98; published 9-9-98
Airworthiness standards:
Special conditions—
Raytheon Aircraft Co. model 300 airplane; comments due by 11-13-98; published 10-14-98
Class D and E airspace; comments due by 11-9-98; published 10-9-98
Class E airspace; comments due by 11-9-98; published 9-24-98
TRANSPORTATION DEPARTMENT
Federal Railroad Administration
Magnetic levitation transportation technology deployment program; comments due by 11-12-98; published 10-13-98
TRANSPORTATION DEPARTMENT
Surface Transportation Board
Rate procedures:
Service inadequacies; expedited relief; comments due by 11-13-98; published 10-30-98
TREASURY DEPARTMENT
Internal Revenue Service
Income taxes:
Foreign partnerships and corporations; property transfers by U.S. persons; information reporting requirements; comments due by 11-9-98; published 9-9-98
Foreign partnerships, U.S. persons owning interests in; return requirements; comments due by 11-9-98; published 9-9-98
Foreign partnerships; information reporting requirements; comments due by 11-9-98; published 9-9-98
Foreign partnerships; information reporting requirements; correction; comments due by 11-9-98; published 10-31-98
Widely held fixed investment trusts; reporting requirements; comments due by 11-12-98; published 8-13-98
VETERANS AFFAIRS DEPARTMENT
Freedom of Information Act; implementation; comments due by 11-9-98; published 9-10-98

LIST OF PUBLIC LAWS

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H.R. 8/P.L. 105–286
Border Smog Reduction Act of 1998 (Oct. 27, 1998; 112 Stat. 2773)

H.R. 624/P.L. 105–287
Armored Car Reciprocity Amendments of 1998 (Oct. 27, 1998; 112 Stat. 2776)

H.R. 1021/P.L. 105–288
Miles Land Exchange Act of 1998 (Oct. 27, 1998; 112 Stat. 2778)

H.R. 1197/P.L. 105–289
Plant Patent Amendments Act of 1998 (Oct. 27, 1998; 112 Stat. 2780)

H.R. 2186/P.L. 105–290
To authorize the Secretary of the Interior to provide assistance to the National Historic Trails Interpretive Center in Casper, Wyoming. (Oct. 27, 1998; 112 Stat. 2782)

H.R. 2370/P.L. 105–291
Guam Organic Act Amendments of 1998 (Oct. 27, 1998; 112 Stat. 2785)

H.R. 2431/P.L. 105–292
International Religious Freedom Act of 1998 (Oct. 27, 1998; 112 Stat. 2787)

H.R. 2795/P.L. 105–293
Irrigation Project Contract Extension Act of 1998 (Oct. 27, 1998; 112 Stat. 2816)

H.R. 3069/P.L. 105–294
Advisory Council on California Indian Policy Extension Act of 1998 (Oct. 27, 1998; 112 Stat. 2818)

H.R. 4079/P.L. 105–295
To authorize the construction of temperature control devices at Folsom Dam in California. (Oct. 27, 1998; 112 Stat. 2820)

H.R. 4166/P.L. 105–296
To amend the Idaho Admission Act regarding the sale or lease of school land. (Oct. 27, 1998; 112 Stat. 2822)

S. 53/P.L. 105–297
Curt Flood Act of 1998 (Oct. 27, 1998; 112 Stat. 2824)

S. 505/P.L. 105–298
To amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes. (Oct. 27, 1998; 112 Stat. 2827)

S. 1298/P.L. 105–299
To designate a Federal building located in Florence, Alabama, as the "Justice John McKinley Federal Building". (Oct. 27, 1998; 112 Stat. 2835)

S. 1892/P.L. 105–300
To provide that a person closely related to a judge of a court exercising judicial power under article III of the United States Constitution (other than the Supreme Court) may not be appointed as a judge of the same court, and for other purposes. (Oct. 27, 1998; 112 Stat. 2836)

S. 1976/P.L. 105–301
Crime Victims With Disabilities Awareness Act (Oct. 27, 1998; 112 Stat. 2838)

S. 2235/P.L. 105–302
To amend part Q of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage the use of school resource officers. (Oct. 27, 1998; 112 Stat. 2841)

H.R. 1702/P.L. 105–303
Commercial Space Act of 1998 (Oct. 28, 1998; 112 Stat. 2843)

H.R. 2281/P.L. 105–304
Digital Millennium Copyright Act (Oct. 28, 1998; 112 Stat. 2860)

H.R. 3332/P.L. 105–305
Next Generation Internet Research Act of 1998 (Oct. 28, 1998; 112 Stat. 2919)

H.R. 4558/P.L. 105–306
Noncitizen Benefit Clarification and Other Technical Amendments Act of 1998 (Oct. 28, 1998; 112 Stat. 2926)

Last List October 30, 1998

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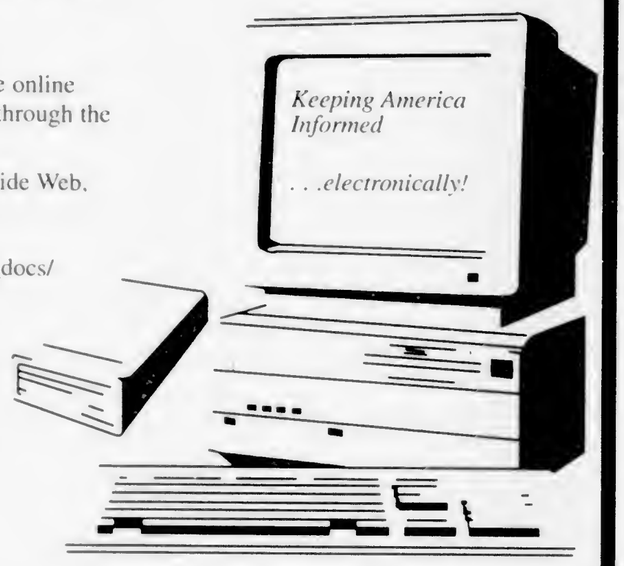
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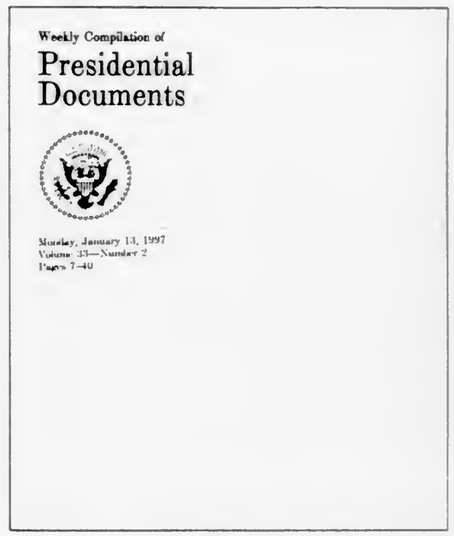
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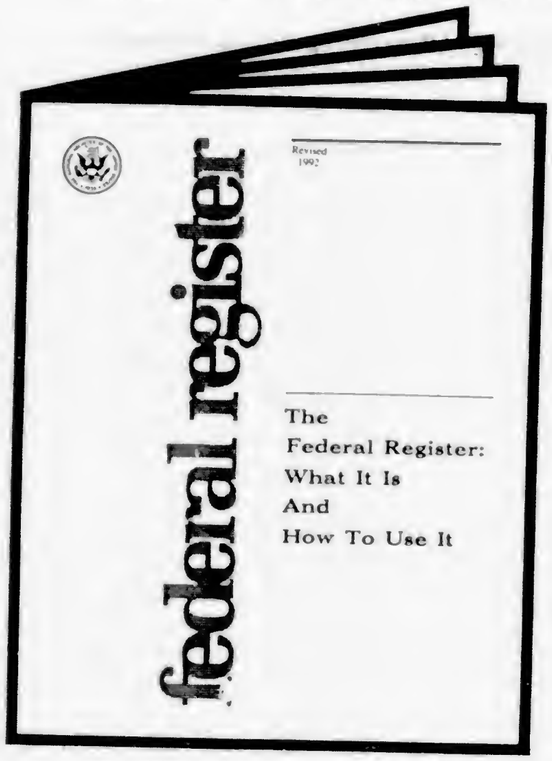
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Contents

Federal Register
Vol. 63, No. 213
Wednesday, November 4, 1998

Agency for International Development
PROPOSED RULES
Acquisition regulations:
Miscellaneous amendments, 59501–59504

Agency for Toxic Substances and Disease Registry
NOTICES
Superfund program:
Hazardous substances priority list (toxicological profiles), 59567–59568

Agriculture Department
See Food and Nutrition Service
See Forest Service

Army Department
NOTICES
Environmental statements; availability, etc.:
Base realignment and closure—
Red River Army Depot, TX, 59550

Bonneville Power Administration
NOTICES
Floodplain and wetlands protection; environmental review determinations; availability, etc.:
Johnson Creek, ID; artificial propagation enhancement project, 59553

Children and Families Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 59568–59569

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
New Hampshire, 59507–59508
Meetings; Sunshine Act, 59508

Coast Guard
RULES
Vessel inspections:
User fees; reductions and exemptions, 59472–59474

Commerce Department
See Economic Development Administration
See Export Administration Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration
See National Telecommunications and Information Administration
NOTICES
Senior Executive Service:
Performance Review Board; membership, 59508

Commission of Fine Arts
NOTICES
Meetings, 59547

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Laos, 59547–59548
Textile consultation; review of trade:
Cambodia, 59548–59549

Commodity Futures Trading Commission
NOTICES
Meetings; Sunshine Act, 59549

Comptroller of the Currency
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 59625–59626

Defense Department
See Army Department
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities—
Submission for OMB review; comment request, 59549–59550

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Iver, Robert D., D.D.S.; correction, 59627

Economic Development Administration
NOTICES
Senior Executive Service:
Performance Review Board; membership, 59508

Education Department
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 59550–59551

Energy Department
See Bonneville Power Administration
See Federal Energy Regulatory Commission
RULES
Occupational radiation protection:
Primary standards and compliance requirements, 59661–59689
NOTICES
Environmental statements; notice of intent:
Plutonim-238 production for use in advanced radioisotope power systems for future space missions, 59551
Meetings:
Environmental Management Site-Specific Advisory Board—
Idaho National Engineering and Environmental Laboratory, ID, 59552–59553
Los Alamos National Laboratory, NM, 59551–59552
Pantex Plant, TX, 59552

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Texas; correction, 59471–59472
NOTICES
Clean Water Act:
State water quality standards; approval and disapproval lists and individual control strategies; availability—
California, 59556–59557
Meetings:
Environmental Laboratory Advisory Board, 59557
Ground water and pesticide management plans workshop, 59557
Pesticide registration, cancellation, etc.:
Vinclozolin, 59557–59558
Superfund; response and remedial actions, proposed settlements, etc.:
North Penn Area 12 Site, PA, 59558–59559
Toxic and hazardous substances control:
Lead-based paint activities in target housing and child-occupied facilities; State and Indian Tribe authorization applications—
Confederated Tribes of Colville Reservation, WA, 59559–59561
Wisconsin, 59561–59563

Executive Office of the President
See Trade Representative, Office of United States

Export Administration Bureau
NOTICES
Meetings:
Materials Technical Advisory Committee, 59508
President's Export Council, 59508–59509

Federal Aviation Administration
RULES
Airworthiness directives:
Cessna, 59460–59463
PROPOSED RULES
Air carrier certification and operations:
Terrain awareness and warning system; technical standard order availability, 59494–59495

Federal Communications Commission
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 59563

Federal Contract Compliance Programs Office
RULES
Affirmative action and nondiscrimination obligations of contractors and subcontractors:
Individuals with disabilities; special disabled veterans, 59657–59659
Special disabled veterans and Vietnam era veterans, 59629–59657

Federal Deposit Insurance Corporation
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 59625–59626
Meetings; Sunshine Act, 59563–59564

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 59564

Federal Energy Regulatory Commission
NOTICES
Hydroelectric applications, 59555–59556
Applications, hearings, determinations, etc.:
Columbia Gas Transmission Corp., 59553–59554
Pittsfield Generating Co., L.P., 59554–59555
Transcontinental Gas Pipe Line Corp., 59555
USGen New England, Inc., 59555
Williston Basin Interstate Pipeline Co., 59555

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Williamson County, TX, 59620–59621
Grants and cooperative agreements; availability, etc.:
Transportation Equity Act for 21st Century; discretionary programs—
Innovative bridge research and construction program, 59621–59623

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 59564
Formations, acquisitions, and mergers, 59564–59565
Permissible nonbanking activities, 59565
Meetings; Sunshine Act, 59565–59566

Federal Trade Commission
NOTICES
Prohibited trade practices:
First American Real Estate Solutions, LLC, 59566–59567

Fine Arts Commission
See Commission of Fine Arts

Fish and Wildlife Service
NOTICES
Environmental statements; notice of intent:
Hart Mountain National Antelope Refuge, OR; pronghorn management plan, 59573–59574

Food and Drug Administration
RULES
Human drugs:
Drug products (OTC); tamper-evident packaging requirements, 59463–59471
NOTICES
Reports and guidance documents; availability, etc.:
Antimicrobial drug products development; development and use of guidance documents; industry guidances; comment request, 59569

Food and Nutrition Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 59506–59507

Forest Service
NOTICES
Meetings:
Scientists Committee, 59507

General Services Administration
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities—
Submission for OMB review; comment request, 59549–59550

Meetings:
President's Commission on Celebration of Women in American History; correction, 59627

Health and Human Services Department
See Agency for Toxic Substances and Disease Registry
See Children and Families Administration
See Food and Drug Administration
See National Institutes of Health

Indian Affairs Bureau
NOTICES
Indian child custody proceedings; jurisdiction reassumption petitions:
Native Village of Barrow, 59574

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See Surface Mining Reclamation and Enforcement Office

International Development Cooperation Agency
See Agency for International Development

International Trade Administration
NOTICES
Antidumping:
Color television receivers from—
Korea, 59509
Emulsion styrene-butadiene rubber from—
Brazil, 59509–59514
Korea, 59514–59519
Mexico, 59519–59524
Stainless steel plate in coils from—
Belgium, 59532–59535
Canada, 59527–59530
Italy, 59530–59532
Korea, 59535–59540
South Africa, 59540–59544
Taiwan, 59524–59527
Scope rulings; list, 59544–59545

Justice Department
See Drug Enforcement Administration
See Justice Programs Office

Justice Programs Office
NOTICES
Agency information collection activities:
Proposed collection; comment request, 59577–59578

Labor Department
See Federal Contract Compliance Programs Office

Land Management Bureau
NOTICES
Closure of public lands:
California, 59574–59575
Resource management plans, etc.:
Snake River Resource Area, ID, 59575–59576
Withdrawal and reservation of lands:
Arizona, 59576–59577

Legal Services Corporation
NOTICES
Meetings; Sunshine Act, 59578–59579

National Aeronautics and Space Administration
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities—
Submission for OMB review; comment request, 59549–59550

National Highway Traffic Safety Administration
RULES
Motor vehicle safety standards:
Lamps, reflective devices, and associated equipment—
Signal lamps; new ideas evaluation process; policy statement, 59482–59492
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
Mercedes-Benz of North America, Inc., 59623–59624
Red River Manufacturing, Inc., 59624

National Institutes of Health
NOTICES
Meetings:
National Cancer Institute, 59569–59570
National Human Genome Research Institute, 59570–59571
National Institute of Child Health and Human Development, 59571–59572
National Institute on Drug Abuse, 59571
Scientific Review Center, 59572–59573

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Northeastern United States fisheries—
Summer flounder, 59492–59493
NOTICES
Meetings:
Caribbean Fishery Management Council, 59545–59546

National Telecommunications and Information Administration
NOTICES
Meetings:
Public Interest Obligations of Digital Television Broadcasters Advisory Committee, 59546–59547
Senior Executive Service:
Performance Review Board; membership, 59547

Nuclear Regulatory Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 59579–59580
Certificates of compliance:
United States Enrichment Corp.—
Paducah Gaseous Diffusion Plant, KY, et al., 59582–59583
Portsmouth Gaseous Diffusion Plant, OH, 59580–59582
Meetings:
Reactor Safeguards Advisory Committee, 59583–59584
Operating licenses, amendments; no significant hazards considerations; biweekly notices, 59584–59604
Applications, hearings, determinations, etc.:
Philippon, Michael A., 59580

Office of United States Trade Representative
See Trade Representative, Office of United States

Personnel Management Office
RULES
Health benefits, Federal employees:
Disenrollment, 59457–59460

Public Health Service
See Agency for Toxic Substances and Disease Registry
See Food and Drug Administration
See National Institutes of Health

Research and Special Programs Administration
RULES
Pipeline safety:
Hazardous liquid transportation—
Older hazardous liquid and carbon dioxide pipelines; risk-based alternative to pressure testing, 59475–59482
PROPOSED RULES
Hazardous materials:
Hazardous liquid transportation—
Liquefied compressed gases in cargo tank motor vehicles; safety standards for unloading; negotiated rulemaking committee; meetings, 59505

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
National Association of Securities Dealers, Inc., 59610–59615
National Securities Clearing Corp., 59615–59617
Applications, hearings, determinations, etc.:
FPA Capital Fund, Inc., 59604–59605
Hilliard-Lyons Growth Fund, Inc., et al., 59605–59607
Merrill Lynch Private Equity Trust I et al., 59607–59610

Social Security Administration
NOTICES
Agency information collection activities:
Proposed collection and submission for OMB review; comment request, 59617–59618
Submission for OMB review; comment request, 59618–59619

State Department
NOTICES
Meetings:
Shipping Coordinating Committee, 59619

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program and abandoned mine land reclamation plan submissions:
Iowa; correction, 59627

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Thrift Supervision Office
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 59625–59626
Applications, hearings, determinations, etc.:
First Capital, Inc., M.H.C., 59626

Toxic Substances and Disease Registry Agency
See Agency for Toxic Substances and Disease Registry

Trade Representative, Office of United States
NOTICES
Foreign trade barriers; national trade estimate report, 59619–59620

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
See National Highway Traffic Safety Administration
See Research and Special Programs Administration
RULES
Organization, functions, and authority delegations:
Commandant, U.S. Coast Guard, 59474–59475

Treasury Department
See Comptroller of the Currency
See Thrift Supervision Office

Veterans Affairs Department
PROPOSED RULES
Legal services, General Counsel:
Organization recognition and representative, attorney, and agent accreditation, 59495–59500

Separate Parts In This Issue

Part II
Department of Labor, Office of Federal Contract Compliance Programs, 59627–59659

Part III
Department of Energy, 59661–59689

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
890 59457

10 CFR
835 59662

14 CFR
39 59460
Proposed Rules:
91 59494
121 59494
135 59494

21 CFR
211 59463

30 CFR
Proposed Rules:
915 59627

38 CFR
Proposed Rules:
14 59495

40 CFR
52 59471

41 CFR
60–250 59630
60–741 59657

46 CFR
2 59472

48 CFR
Proposed Rules:
Ch. 7 59501
712 59501
727 59501
742 59501
752 59501

49 CFR
1 59474
195 59475
571 59482
Proposed Rules:
171 59505
177 59505
178 59505
180 59505

50 CFR
648 59492

Rules and Regulations

Federal Register
Vol. 63, No. 213
Wednesday, November 4, 1998

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

RIN 3206–AH61

Federal Employees Health Benefits Program: Disenrollment

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations that are consistent with existing administrative procedures requiring employing offices to provide information about enrollees in the Federal Employees Health Benefits (FEHB) Program to the carriers of the FEHB plans in which they are enrolled. Carriers are also required to use the information provided by employing offices to reconcile their enrollment records. These regulations will regularize the conditions that would allow carriers to disenroll individuals when their employing office of record does not show them as enrolled in the carrier's plan and the carrier is otherwise unable to verify the enrollment. The purpose of these regulations is to facilitate reconciliation of carrier and employing office enrollment records, especially in cases where the carrier has not previously received a notice showing an enrollment no longer is valid.

EFFECTIVE DATE: December 4, 1998.

FOR FURTHER INFORMATION CONTACT: Jay D. Fritz (202) 606–0004.

SUPPLEMENTARY INFORMATION: On November 28, 1997, OPM issued proposed regulations in the **Federal Register** (62 FR 63282) that would amend part 890 to allow carriers of FEHB plans to disenroll individuals when (1) the payroll office of record with the carrier is unable to provide information about the enrollment, (2) the carrier receives reliable information that an individual with a self only enrollment has died, (3) a child survivor annuitant becomes age 22, unless the carrier has information indicating that the child is eligible for continued coverage because the child is incapable of self support due to a physical or mental disability, and (4) a former employee notifies the carrier that he or she has separated from Federal employment under circumstances that do not entitle him or her to an immediate annuity.

OPM received comments from six insurance carriers, one Government agency, and one health plan trade association. Seven of the commenters were in favor of the proposed regulations although each had specific areas of concern. One commenter was opposed to the proposed regulations. We will address the areas of concern below. We have tried to list these issues in the same order as the regulations to which they pertain.

One commenter suggested that we modify 5 CFR 890.107(a) to indicate that lawsuits filed over disenrollments are to be filed against the employing office. We believe that lawsuits involving disenrollments are the equivalent of lawsuits to compel enrollments which are adequately addressed at § 890.107(a).

One commenter requested that carriers be allowed to cancel an inactive contract in a situation where two identification numbers belong to one individual, the carrier determines which coverage should be active, and information about the incorrect enrollment is not available from the employing office. We believe this is strictly an enrollment issue that needs to be resolved between the employing office and the carrier and is outside the scope of these regulations.

Several commenters expressed concerns over the responsibilities of employing offices in responding to a carrier's request to provide documentation necessary to resolve enrollment discrepancies. Two commenters requested that employing offices be required to respond within a certain time frame to a carrier's request to provide documentation necessary to resolve an enrollment discrepancy. Two other commenters suggested the regulations indicate that if the employing office has not responded to a carrier's request for information within a set amount of time, the carrier may proceed with issuing a disenrollment notification. We are modifying the regulations to indicate that if a carrier has not received requested information from the employing office within 31 days of the request, they may proceed with issuing the disenrollment notice.

One commenter suggested that we change § 890.308(a)(1) to indicate that an enrollee will be disenrolled 31 "calendar" days after the date of the disenrollment notice since the term "calendar" is used elsewhere in the regulations. We are making this modification in the interest of clarity.

Another commenter believes that 31 calendar days is not sufficient time for an enrollee to respond to a carrier's disenrollment notice. We feel that 31 days is enough time for an individual to either contact the employing office or supply the carrier with appropriate documentation to resolve an enrollment discrepancy. If for some reason an individual does not provide documentation within the 31 calendar day time frame and he or she is disenrolled, the disenrollment will be voided and coverage reinstated retroactively upon presentation of the documentation.

Several commenters suggested that OPM and the carriers create a standard disenrollment notification letter and a standard letter advising individuals of conversion rights and TCC eligibility when applicable. OPM agrees and will work administratively with the carriers on creating these standard letters.

Two commenters expressed concern that after an individual receives a disenrollment notice, the individual is to deliver appropriate documentation resolving the discrepancy to the carrier instead of the employing office. The commenters feel that if the employing office does not see the documentation, they will not correct their records and the discrepancy will arise again in the next reconciliation. OPM believes that appropriate documentation should be sent to the carrier instead of the employing office since the carrier is taking the action to disenroll the individual and can rescind that action. We also expect that in many cases the individual will contact the employing office for assistance upon receipt of the

disenrollment notice, resulting in correction of employing office records. In addition, the standard disenrollment letter will advise individuals to send appropriate documentation to both their carrier and their employing office.

Two commenters inquired about the effective date of an individual's disenrollment. One questioned the disenrollment date when the carrier and the employing office are unable to reconcile the enrollment, and the other questioned the disenrollment date when the carrier receives reliable evidence that an enrollee with a self only enrollment has died but the date of death is unknown. In the first case, the disenrollment date will be 31 calendar days after the disenrollment notice is sent to the enrollee as the carrier would not have any knowledge as to when the employing office of record ceased forwarding premiums for that individual. In the second case, we are modifying the regulations to indicate that disenrollment would be effective the last day of the pay period in which the carrier received notice of the death.

One commenter requested that OPM give carriers discretion to delay disenrollments in appropriate cases. It is our intention for carriers to use the disenrollment process with appropriate discretion in all cases, but especially in cases where the carrier believes an individual is eligible for coverage but needs time to forward documentation. We are modifying the regulations to allow carriers this discretion.

One commenter asked if carriers should convey an individual's disenrollment date to the employing office when the individual is disenrolled 31 days after written notification is sent. We do not believe carriers should be required to make this notification. Since prior attempts at contact by the carrier have been ineffectual, it is unlikely they would know the office of record to which to send the notification.

One commenter suggested that we clarify the procedures for an individual disputing a disenrollment notice from a carrier. We are modifying the regulations so that after a carrier receives information from an individual attempting to resolve an enrollment discrepancy, the carrier will communicate its decision on the information to both the employing office and the individual. Only at the point where the information is determined to be inadequate to resolve the enrollment discrepancy should the reconsideration process with the individual's employing office begin.

One commenter suggested that employing offices be required to notify the carrier of a request made by an individual for reconsideration of a disenrollment decision. The commenter believes that the carrier may have information that bears on the enrollment issue. We are modifying the regulations to incorporate this requirement.

One commenter suggested that we clarify the regulations to indicate that if an employing office overturns a carrier's disenrollment determination upon reconsideration, the enrollment will be reinstated retroactively. OPM agrees and we are modifying the regulations for clarity, as all reinstatements of enrollment under these regulations will be made retroactively.

We are also revising the regulations to remove the requirement that reconsideration decisions be issued to the carriers in writing. After a reconsideration decision is made, agencies are still to issue a written notice of its final decision to the individual, however, agencies should contact the carrier by telephone with the reconsideration decision. We have made this change since currently much enrollment activity is handled between the agencies and carriers by telephone. In the case of reconsideration decisions to reinstate FEHB enrollment, we do not want individuals to remain disenrolled while a carrier waits for a written notice to be forwarded from the agency. Through use of the telephone, an individual that is eligible for FEHB coverage may be quickly reinstated.

One commenter suggested the regulations require that employing offices issue reconsideration decisions within a set time frame. We believe reconsideration should be in accordance with the existing processes developed within each individual employing office to process reconsideration requests under 5 CFR 890.104(c).

Two commenters expressed concern over retroactive enrollments in health maintenance organizations for individuals who received routine services from non-network providers during the period covered by the retroactive enrollment. When these situations arise, OPM requests that carriers review each occurrence on a case-by-case basis. In situations of true hardship, where services could not be deferred until the enrollment problem was resolved, we would expect the carriers to provide coverage for the non-network services in question.

Several commenters were concerned about our proposal allowing carriers, upon receiving from a reliable source information of the death of an enrollee with a self only enrollment, to disenroll the individual. We are modifying the regulations to include certain examples of what OPM considers reliable information that an enrollee has died. We are also eliminating the requirement that carriers attempt to notify the affected individual or a family member of the disenrollment. Upon additional review, we have determined that an attempt to notify the affected individual or a member of their family is unnecessary. If, however, the enrollee is not deceased and attempts to receive services, we expect the carrier to cover the services, void the disenrollment and reinstate coverage retroactively.

One commenter noted that a child survivor annuitant must be a full-time student in order to continue their health benefits enrollment beyond age 18, while the regulations only address the disenrollment of child survivor annuitants who reach age 22. While we are aware of the possibility that some child survivor annuitants under age 22 would not be eligible for FEHB coverage, we do not want carriers attempting to disenroll them. Members of this segment of the population are frequently dropped from, and reinstated to, the annuity rolls. Each time they move on or off the annuity rolls, their eligibility for FEHB enrollment changes. It would be difficult, if not impossible, for carriers to determine when these individuals would lose entitlement to an annuity and, consequently, their FEHB coverage. We will rely on the retirement system to keep carriers apprised of the enrollment eligibility of members of this group.

Two commenters suggested that we require the carriers to give notice of conversion rights when a child survivor annuitant covered under a self only enrollment loses entitlement to an annuity and is disenrolled. OPM agrees that notice of conversion rights be given to these individuals. However, the notice will be included in the written notice of disenrollment and specific regulatory language is not needed. Carriers must send the written notice of disenrollment to the individual prior to the individual's 22nd birthday.

We are removing the specific regulatory requirement that an enrollee who notifies the carrier that he or she has separated from Federal employment be notified of their right to convert to a non-group contract and possible eligibility to enroll under temporary continuation of coverage. In its place, we are requiring that the carrier provide the enrollee with a written notice of disenrollment prescribed or approved by OPM. This notice will contain the information on conversion and temporary continuation of coverage.

One commenter expressed concern that the regulations do not specify any grounds under which a child survivor annuitant might request reconsideration of a carrier's decision to disenroll the individual. The grounds that an individual would have for requesting reconsideration would be that the person is over age 22, but is incapable of self-support. In cases where the retirement system is provided with evidence of the situation stated above, they would order the carrier to reinstate coverage retroactively.

One commenter suggested that we change the regulations to allow child survivor annuitants 60 calendar days from the date of the carrier's disenrollment notice to file a request for reconsideration. To provide consistency among the time frames for filing reconsideration requests, we are modifying the regulations to allow 60 calendar days instead of the current 30 calendar days.

One commenter asserted that by allowing carriers to disenroll individuals, OPM is relinquishing its responsibilities in administering the FEHB Program and increasing the workload burden on the employing offices. OPM disagrees. The regulations will facilitate reconciliation of carrier and employing office enrollment records. Under these regulations, carriers may disenroll individuals only if the carrier has not received a notice terminating the enrollment or the individual has died, lost eligibility, or left Federal employment. We are modifying the regulations to give the carriers more discretion so they are not forced to disenroll an individual if they feel it would not be appropriate. We expect that few individuals would either reach the end of the disenrollment process without their enrollment status becoming clear or be otherwise incorrectly disenrolled. As a result, there would be few reconsideration requests filed with employing offices. However, if an employing office should find that it is receiving a large number of reconsideration requests, it may find that its training and procedures on transmitting enrollment transactions and performing enrollment reconciliations need to be reviewed and strengthened.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect administrative procedures for Federal agencies and health benefit carriers that participate in the FEHB Program.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professions, Hostages, Iraq, Kuwait, Lebanon, Reporting and recordkeeping requirements, Retirement.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is amending 5 CFR Part 890 as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. The authority citation for part 890 continues to read as follows:

Authority: 5 U.S.C. 8913; § 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c–1; subpart L also issued under sec. 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; § 890.102 also issued under sections 11202(f), 11232(e), and 11246 (b) and (c) of Pub. L. 105–33, 111 Stat. 251.

2. In subpart A, § 890.110 is added to read as follows:

§ 890.110 Enrollment reconciliation.

(a) Each employing office must report to each carrier or its surrogate on a quarterly basis the names of the individuals who are enrolled in the carrier's plan in a format and containing such information as required by OPM.

(b) The carrier must compare the data provided with its own enrollment records. When the carrier finds in its aggregate enrollment records individuals whose names do not appear in the report from the employing office of record, the carrier must request the employing office to provide the documentation necessary to resolve the discrepancy.

3. In subpart C, § 890.308 is added to read as follows:

§ 890.308 Disenrollment.

(a)(1) Except as otherwise provided in this section, a carrier that cannot reconcile its record of an individual's enrollment with agency enrollment records or does not receive documentation necessary to resolve the discrepancy from the employing office within 31 days of a request must provide written notice to the individual that the employing office of record does not show him or her as enrolled in the carrier's plan and that he or she will be disenrolled 31 calendar days after the date of the notice unless the enrollee provides appropriate documentation to resolve the discrepancy. Appropriate documentation includes, but is not limited to, a copy of the Standard Form 2809 (basic enrollment document) (or a letter confirming an electronic transaction), the Standard Form 2810 transferring the enrollment into the gaining employing office (or the equivalent electronic submission), copies of earnings and leave statements or annuity statements showing withholdings for the health benefits plan, or a document or other credible information from the enrollee's employing office stating that the individual is entitled to continued enrollment in the plan and that the premiums are being paid. After receiving documentation from the enrollee, the carrier must notify both the enrollee and the employing office of record of their decision on the information.

(2) If the carrier does not receive documentation required under paragraph (a)(1) of this section within the specified time frame, the carrier should disenroll the individual, without further notice.

(3) The enrollee may request his or her employing office to reconsider the carrier's decision to disenroll the individual. The request for reconsideration must be made in writing and must include the enrollee's name, address, Social Security Number or other personal identification number, name of carrier, reason(s) for the request, and, if applicable, retirement claim number. The employing office must notify the carrier when a request for reconsideration of the decision to disenroll the individual is made.

(4) A request for reconsideration of the carrier's decision must be filed within 60 calendar days after the date of the carrier's disenrollment notice. The time limit on filing may be extended when the individual shows that he or she was not notified of the time limit and was not otherwise aware of it, or that he or she was prevented by circumstances beyond his or her control from making the request within the time limit.

(5) After reconsideration, the employing office must issue a written notice of its final decision to the individual and notify the carrier of the decision. The notice must fully set forth the findings and conclusions on which the decision was based. If upon reconsideration the employing office determines the individual is entitled to continued enrollment in the plan, the disenrollment under paragraph (a)(2) of

this section is void and coverage is reinstated retroactively.

(6) If, at any time after the disenrollment has occurred, the employing office or OPM determines that another section of this part applies to the individual's enrollment or the carrier discovers or receives appropriate documentation showing that another section of this part applies to the individual's enrollment, the disenrollment under paragraph (a)(2) of this section is void and coverage is reinstated retroactively.

(b) When a carrier receives, from any reliable source, information of the death of an enrollee with a self only enrollment, the carrier may take action to disenroll the individual on the date set forth in § 890.304(a)(1)(iv) or § 890.304(b)(4), as appropriate. When the date of death is unknown, the carrier may take action to disenroll the individual on the date which is the last day of the pay period in which information of the death is received. Reliable sources include, but are not limited to, claims for hospital or physician costs incurred at time of death and correspondence returned from the Postal Service noting that the addressee is deceased. If, at any time after the disenrollment has occurred, the employing office or OPM determines that another section of this part applies to the individual's enrollment or the carrier discovers or receives appropriate documentation showing that another section of this part applies to the individual's enrollment, the disenrollment under this paragraph (b) is void and coverage is reinstated retroactively.

(c)(1) When a child survivor annuitant covered under a self only enrollment reaches age 22, the carrier may take action to disenroll the individual effective with the date set forth in § 890.304(c)(1) unless records with the carrier indicate that the child is incapable of self support due to a physical or mental disability. The carrier must provide the enrollee with a written notice of disenrollment prescribed or approved by OPM prior to the date set forth in § 890.304(c)(1).

(2) The child survivor annuitant may request the retirement system to reconsider the carrier's decision to disenroll the individual. The request for reconsideration must be made in writing and include the enrollee's name, address, Social Security Number or other identifier, name of carrier, reason(s) for the request, and the survivor annuity claim number. The retirement system must notify the carrier when a request for reconsideration of the carrier's decision to disenroll the individual is made.

(3) A request for reconsideration of the carrier's decision must be filed with the retirement system within 60 calendar days from the date of the carrier's disenrollment notice. The time limit on filing may be extended when the individual shows that he or she was not notified of the time limit and was not otherwise aware of it, or that he or she was prevented by circumstances beyond his or her control from making the request within the time limit.

(4) After reconsideration, the retirement system must issue a written notice of its final decision to the child survivor annuitant and notify the carrier of the decision. The notice must fully set forth the findings and conclusions on which the decision was based. If upon reconsideration the retirement system determines that he or she is entitled to continued enrollment in the plan, the disenrollment under paragraph (c)(1) of this section is void and coverage is reinstated retroactively.

(5) If, at any time after the disenrollment has occurred, the employing office or OPM determines that another provision of this part applies to the individual's enrollment or the carrier discovers or receives appropriate documentation showing that another section of this part applies to the individual's enrollment, the disenrollment under paragraph (c)(1) of this section is void and coverage is reinstated retroactively.

(d) When an enrollee notifies the carrier that he or she has separated from Federal employment and is no longer eligible for enrollment, the carrier must disenroll the individual on the last day of the pay period in which the separation occurred, if known, otherwise the carrier must disenroll the employee on the date the employee provides as the date of separation. The carrier must provide the enrollee with a written notice of disenrollment prescribed or approved by OPM.

[FR Doc. 98–29330 Filed 11–3–98; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–138–AD; Amendment 39–10865; AD 98–23–02]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company 180 and 185 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 80–10–01, which applies to certain Cessna Aircraft Company (Cessna) 180 and 185 series airplanes that have either Airglas Engineering Company, Inc., (AECI) Model LW3600–180 (single position) or Model LW3600–180A (two position) fixed penetration wheel skis installed in accordance with Supplemental Type Certificate (STC) SA213AL. AD 80–10–01 requires modifying the ski bungee assemblies, safety cables, and check cables, and their attachments to the airplane and the skis; limiting the maximum airspeed to 160 knots with skis installed; and installing an airspeed limitation placard. This AD is the result of field reports of incidents occurring on the affected airplanes that were in compliance with AD 80–10–01, and the fact that Cessna Model 180K airplanes were inadvertently left out of the existing AD. This AD retains the actions required by AD 80–10–01; requires re-marking the airspeed indicator to display the reduced airspeed limits and placing a certain airplane flight manual (AFM) supplement in the cockpit; and adds Cessna Model 180K airplanes to the Applicability section of the AD. The actions specified by this AD are intended to prevent one or both wheel skis from rotating into a nose-down position during flight, which could result in loss of control of the airplane and/or possible airplane damage during flight or landing operations.

DATES: Effective December 22, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 22, 1998.

ADDRESSES: Service information that applies to this AD may be obtained from Airglas Engineering Company, Inc., P.O. Box 190107, Anchorage, Alaska 99519–0107; telephone: (907) 344–1450; facsimile: (907) 349–4938. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–138–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Gordon K. Mandell, Aerospace Engineer, FAA, Anchorage Aircraft Certification Office, 222 West 7th Avenue, #14, Room 128, Anchorage, Alaska 99513–7587; telephone: (907) 271–2670; facsimile: (907) 271–6365.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that applies to certain Cessna 180 and 185 series airplanes that have either Airglas Engineering Company, Inc., (AECI) Model LW3600–180 (single position) or Model LW3600–180A (two position) fixed penetration wheel skis installed in accordance with STC SA213AL was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on June 26, 1998 (63 FR 34833). The NPRM proposed to supersede AD 80–10–01, Amendment 39–3762, which currently requires modifying the ski bungee assemblies, safety cables, and check cables, and their attachments to the airplane and the skis; limiting the maximum airspeed to 160 knots with skis installed; and installing an airspeed limitation placard. The NPRM proposed to require the following:

—Modifying the ski bungee assemblies, safety cables, and check cables, and their attachments to the airplane and the skis;

—Installing a placard adjacent to the airspeed indicator limiting the never exceed speed to 160 knots with the skis installed;

—Re-marking the airspeed indicator to display the reduced never exceed speed (160 KIAS) and the reduced maximum structural cruising speed (139 KIAS) with the skis installed; and

—Placing AECI Document No. AE97–13FM, "Supplemental Airplane Flight Manual and Airplane Flight Manual Supplement", dated October 10, 1997, in the airplane cockpit.

Accomplishment of the proposed actions as specified in the NPRM would be required in accordance with AECI Service Bulletin (SB) No. LW3600–3, originally issued: September 21, 1979; Amended: October 10, 1997; AECI Drawing No. LW3600–180A–1 and –2, Revision "B", dated September 21, 1979; AECI Drawing No. LW3600–180A–3, Revision "A", dated April 30, 1979; AECI Drawing No. LW3600–180, Revision "F", dated September 21, 1979 (for single position wheel ski installations) or AECI Drawing No. LW3600–180A, Revision "E", dated September 21, 1979 (for two position wheel ski installations); AECI Drawing No. LW3600–180A–11, originally issued: September 21, 1979; and AECI Document AE97–13FM, "Supplemental Airplane Flight Manual and Airplane Flight Manual Supplement", dated October 10, 1997.

The NPRM was the result of field reports of incidents occurring on the affected airplanes that were in compliance with AD 80–10–01, and the fact that Cessna Model 180K airplanes were inadvertently left out of the existing AD.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the following comments received.

Comment Disposition

The one commenter states that requiring re-marking of the airspeed indicator to display the reduced airspeed limits will not fix the problem because airplane operators that ignore placard requirements will also ignore the airspeed indicator requirements. This commenter operates one of the affected airplanes with skis for 6 months out of each year.

The commenter states that, if the proposed AD is adopted, he will have to accomplish pitot and static pressure checks required by current regulation every 6 months when he changes the airspeed indicator during ski installation and removal.

The commenter also states that skis are similar to other devices, such as landing gear, flaps, ramps, and doors that are affixed to or incorporated into aircraft. The commenter states that the maximum speed at which the other devices can be extended or opened in flight are specified only by placards and not by markings on the airspeed indicator.

The commenter goes on to state that, based on the above information, the costs of installing and removing the skis will become extremely high, and the commenter asks the FAA to remove the requirement of re-marking the airspeed indicator to display the reduced airspeed limits.

The FAA does not concur that the requirement in the proposed AD of re-marking the airspeed indicator is not justified.

The FAA's intent of requiring that the airspeed indicator be re-marked is not to provide another airspeed limit indication for certain pilots to ignore, but to provide consistent indications of airspeed limits, i.e., to eliminate the confusion generated by having the information in an airspeed limitation placard contradicting the airspeed indicator.

The proposed AD requires re-marking the airspeed indicator, but does not specifically require removing the existing airspeed indicator and replacing it with one marked differently. If the existing airspeed indicator is left in place and re-marked, no pitot and static pressure checks would be required. Each airplane owner/operator has the choice of changing the markings of the airspeed indicator either by replacing the airspeed indicator or by re-marking the existing airspeed indicator without removing it.

The FAA understands that an owner/operator who decides to replace the airspeed indicator will have to accomplish pitot and static pressure checks each time the airspeed indicator is replaced and that there are costs involved with this. However, the FAA has determined that the safety benefits of eliminating the confusion caused when the airspeed indicator contradicts current placards far outweigh this burden.

In addition, the FAA does not consider skis similar to other devices, such as landing gear, flaps, ramps, and doors that are affixed to or incorporated into aircraft. The compared items are all ones that can be extended or opened and retracted or closed during flight. On the other hand, the installation of skis on aircraft changes the aircraft's configuration until the skis are removed. Fixed penetration wheel skis cannot be extended or opened and then retracted or closed.

The commenter's assertion that the maximum speed at which wing flaps can be extended in flight is not specified by airspeed indicator markings is incorrect. The range of airspeeds over which the flaps of a small airplane can be extended in flight is specified by a white arc on the airspeed indicator. The upper end of the white arc is the maximum speed at which the flaps can be extended.

No changes have been made to the final rule as a result of these comments.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of

the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not impose any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 170 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 4 workhours per airplane to accomplish this action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $350 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $100,300, or $590 per airplane.

AECI has informed the FAA that approximately 12 of the affected airplanes have the modification required by this AD already incorporated. Based on this, the cost impact of the proposed AD is reduced by $7,080, from $100,300 to $93,220.

None of the above figures take into account the costs involved if operators would have to re-accomplish the work, i.e., ski removal and re-installation.

AD 80–10–01 currently requires most of the same actions on the affected airplanes that are required by this AD. The only differences between this AD and AD 80–10–01 are the addition of Cessna Model 180K airplanes to the applicability and the requirements for re-marking the airspeed indicator and placing an AFM supplement in the cockpit. Fabricating and installing the placard, placing the AFM supplement in the cockpit, and re-marking the airspeed indicator (provided the indicator is re-marked by painting the outside of the glass) can be accomplished by:

—*For airplanes operated in accordance with part 91 of the Federal Aviation Regulations (14 CFR part 91):* An owner/operator who holds at least a private pilot's certificate; and

—*For airplanes operated in accordance with part 135 of the Federal Aviation Regulations (14 CFR part 135):* An operator who holds an operating certificate issued under part 135 of the Federal Aviation Regulations (14 CFR part 135), as authorized by sections 43.3, 43.7, and 43.9 of the Federal Aviation Regulations (14 CFR 43.3, 43.7, and 43.9).

The only cost impact upon the public for airplanes other than the affected Cessna Model 180K airplanes is the time it will take the affected airplane owners/operators to incorporate these actions. Therefore, this AD has no additional cost impact over that already required by AD 80–10–01, except for the costs associated with the affected Cessna Model 180K airplanes.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 80–10–01, Amendment 39–3762, and by adding a new AD to read as follows:

98–23–02 Cessna Aircraft Company: Amendment 39–10865; Docket No. 97–CE–138–AD; Supersedes AD 80–10–01, Amendment 39–3762.

Applicability: The following airplane models, all serial numbers; certificated in any category, that have either Airglas Engineering Company, Inc., (AECI) Model LW3600–180 (single position) or Model LW3600–180A (two position) fixed penetration wheel skis installed in accordance with Supplemental Type Certificate (STC) SA213AL:

Models				
180	180D	180H	185A	185E
180A	180E	180J	185B	A185E
180B	180F	180K	185C	A185F
180C	180G	185	185D	

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 50 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent one or both wheel skis from rotating into a nose-down position during flight, which could result in loss of control of the airplane and/or possible airplane damage during flight or landing operations, accomplish the following:

(a) Modify the wheel ski bungee assemblies, safety cables, and check cables, and their attachments to the airplane and the skis, in accordance with Airglas Engineering Company, Inc. (AECI) Drawing No. LW3600–180A–1 and –2, Revision "B", dated September 21, 1979; AECI Drawing No. LW3600–180A–3, Revision "A", dated April 30, 1979; and AECI Drawing No. LW3600–180, Revision "F", dated September 21, 1979 (for single position wheel ski installations) or AECI Drawing No. LW3600–180A, Revision "E", dated September 21, 1979 (for two position wheel ski installations).

Note 2: AECI Service Bulletin (SB) No. LW3600–3, originally issued: September 21, 1979; Amended: October 10, 1997, specifies following the procedures provided in the drawings referenced in paragraph (a) of this AD.

(b) Fabricate a placard using letters at least ⅛ inch in height and install this placard adjacent to the airspeed indicator, in accordance with AECI Drawing No. LW3600–180A–11, originally issued: September 21, 1979, and AECI SB No. LW3600–3, originally issued: September 21, 1979; Amended: October 10, 1997.

(c) Re-mark the airspeed indicator to display the never exceed airspeed (160 knots indicated airspeed (KIAS)) and the maximum structural cruising speed (139 KIAS) with skis installed, in accordance with AECI SB No. LW3600–3, originally issued: September 21, 1979; Amended: October 10, 1997.

(d) Place AECI Document AE97–13FM, "Supplemental Airplane Flight Manual and Airplane Flight Manual Supplement", dated October 10, 1997, in the airplane cockpit, in accordance with AECI SB No. LW3600–3, originally issued: September 21, 1979; Amended: October 10, 1997.

(e) The placard, airspeed indicator re-marking (provided the indicator is re-marked by painting the outside of the glass), and AFM supplement placement requirements of paragraphs (b), (c), and (d) of this AD, respectively, can be accomplished by:

(1) *For airplanes operated in accordance with part 91 of the Federal Aviation Regulations (14 CFR part 91):* An owner/operator who holds at least a private pilot's certificate; and

(2) *For airplanes operated in accordance with part 135 of the Federal Aviation Regulations (14 CFR part 135):* An operator who holds an operating certificate issued under part 135 of the Federal Aviation Regulations (14 CFR part 135), as authorized by sections 43.3, 43.7, and 43.9 of the Federal Aviation Regulations (14 CFR 43.3, 43.7, and 43.9).

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Anchorage Aircraft Certification Office (ACO), 222 West 7th Avenue, #14, Room 128, Anchorage, Alaska 99513–7587.

(1) The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Anchorage ACO.

(2) Alternative methods of compliance approved for AD 80–10–01 are not considered approved as alternative methods of compliance for this AD.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Anchorage ACO.

(h) The modifications, placard installation, airspeed indicator re-marking, and AFM supplement placement required by this AD shall be done in accordance with AECI SB No. LW3600–3, originally issued: September 21, 1979; Amended: October 10, 1997; AECI Drawing No. LW3600–180A–1 and –2, Revision "B", dated September 21, 1979; AECI Drawing No. LW3600–180A–3, Revision "A", dated April 30, 1979; AECI Drawing No. LW3600–180, Revision "F", dated September 21, 1979 (for single position wheel ski installations) or AECI Drawing No. LW3600–180A, Revision "E", dated September 21, 1979 (for two position wheel ski installations); AECI Drawing No. LW3600–180A–11, originally issued: September 21, 1979; and AECI Document AE97–13FM, "Supplemental Airplane Flight Manual and Airplane Flight Manual Supplement", dated October 10, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airglas Engineering Company, Inc., P.O. Box 190107, Anchorage, Alaska 99519–0107. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) This amendment supersedes AD 80–10–01, Amendment 39–3762.

(j) This amendment becomes effective on December 22, 1998.

Issued in Kansas City, Missouri, on October 27, 1998.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–29363 Filed 11–3–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 211

[Docket No. 92N–0314]

Tamper-Evident Packaging Requirements for Over-the-Counter Human Drug Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations on tamper-resistant packaging to require that all over-the-counter (OTC) human drug products marketed in two-piece, hard gelatin capsules be sealed using a tamper-evident technology; to change the term "tamper-resistant" in the labeling of all OTC drug products to "tamper-evident;" and to specify that the required OTC drug product labeling statement must refer to all packaging features used to comply with the tamper-evident packaging requirements, including those on the secondary package, the immediate container or closure, and any capsule sealing technologies used. FDA is taking this action as a result of its continuing review of the potential public health threat posed by product tampering and to improve consumer protection by addressing specific vulnerabilities in the OTC drug market.

DATES: Effective December 4, 1998.

Compliance dates: All two-piece, hard gelatin capsules subject to the final rule that are initially introduced or initially delivered for introduction into interstate commerce by November 4, 1999, must be sealed in compliance with the requirements of the final rule.

OTC drug products that use the term "tamper-resistant" in their labeling must change the term to "tamper-evident" by November 6, 2000.

FOR FURTHER INFORMATION CONTACT: Thomas C. Kuchenberg, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5640.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of January 18, 1994 (59 FR 2542), FDA proposed to amend the tamper-evident packaging requirements for OTC drug products in § 211.132 (21 CFR 211.132). This regulation, which is intended to protect consumers from malicious tampering with OTC drug products, was first codified in 1982 and amended in 1989.

The 1982 regulation (47 FR 50442, November 5, 1982) was issued in response to a tampering incident in the Chicago area in which seven people died after ingesting cyanide-laced Extra-Strength Tylenol capsules. The regulation required, among other things, that any OTC drug product (except a dermatologic, dentifrice, insulin, or lozenge product) for retail sale be packaged in a "tamper-resistant" package, so that a breach of the package would provide visible evidence to consumers that tampering had occurred. Although the risk of tampering was reduced significantly by this rule, the two-piece, hard gelatin capsule remained vulnerable to tampering. Three deaths in 1986 were associated with this dosage form. In response to the continued susceptibility of two-piece, hard gelatin capsules, FDA amended § 211.132 (54 FR 5227, February 2, 1989) to require that OTC drug products marketed in two-piece, hard gelatin capsules must be packaged using at least two tamper-resistant packaging features, or with at least one tamper-resistant packaging feature if a tamper-resistant capsule seal was employed.

Despite these regulations, two-piece, hard gelatin capsules have continued to be a target of malicious drug tampering. This dosage form was implicated in a February 1991 tragedy, resulting in two deaths, involving Sudafed capsules contaminated with cyanide. The Sudafed package and dosage form met FDA's tamper-resistant standards, and there were visible signs of tampering that were both numerous and conspicuous. Based on investigations and discussions surrounding the 1991 tampering fatalities, as well as FDA's ongoing review of the public health threat from OTC drug product tampering, the agency initiated this rulemaking to reduce the potential for tampering with vulnerable two-piece, hard gelatin capsules. The agency invited comments from the public not only with respect to the proposed amendments, but also on effective ways to educate consumers about OTC drug product tampering issues and steps

consumers could take to reduce the threat from tampering. FDA also invited comments on consumer behavior in buying and using OTC drug products and how tamper-evident packaging and associated labeling affect their behavior. The agency also requested comments on whether additional regulatory changes, such as the establishment of performance standards for tamper-evident packaging, may be necessary.

II. Highlights of the Final Rule

The final rule amends the current tamper-resistant packaging requirements for OTC human drug products to further decrease the risks posed by product tampering by: (1) Mandating the sealing of all OTC two-piece, hard gelatin capsules; and (2) changing the terminology used throughout the agency's regulatory program from "tamper-resistant" to "tamper-evident" to characterize more accurately the role of tamper-evident packaging in protecting consumers.

The final rule requires that all OTC drug products marketed in two-piece, hard gelatin capsules be sealed using a tamper-evident technology, and that the packaging of the sealed capsules have a minimum of one tamper-evident feature. This amends the current requirement that a minimum of two tamper-resistant features be used for this dosage form if the capsule is not sealed. The capsule sealing requirement is necessary because two-piece hard gelatin capsules remain vulnerable to malicious tampering.

The final rule changes the terminology used throughout FDA's regulatory program from "tamper-resistant" to "tamper-evident." The words "tamper-evident" appropriately underscore the importance of heightening consumer awareness to any evidence of tampering, rather than implying that a particular package is difficult to breach or is tamper-proof. Labeling is unacceptable if it implies that the product is tamper resistant or tamper proof.

The final rule clarifies, in § 211.132(c), that an OTC drug product's labeling statement must identify all tamper-evident packaging features used, including those on the secondary package, the immediate container or closure, and any capsule sealing technologies used. This clarification is necessary because some firms have interpreted the regulation as requiring reference to the tamper-evident features only on the outside of the package.

The final rule replaces the term "throat lozenge" with "lozenge" in § 211.132(a) and (b), thus slightly broadening the exemption from, and narrowing the scope of, the rule.

Reflecting the change from tamper-resistant to tamper-evident, and consistent with proposed § 211.132(b), the final rule eliminates the reference to "aerosol product container." However, the reference to "aerosol products" in § 211.132(c) was inadvertently omitted in the proposed rule, and FDA has restored this language to make it clear that no tamper-evident features are required for aerosol products. FDA is also restoring the words "materials or through commonly available" in the explanation of the term "distinctive by design" in § 211.132(b). These words were inadvertently omitted in the proposed rule.

The dates for compliance with the sealing requirement and terminology change are 1 year and 2 years respectively from the date of publication of this final rule in the **Federal Register**. In response to comments, the final rule does not include a retail effective date as proposed because of the expected high rate of manufacturer compliance with the rule.

III. Comments on the Proposed Rule

A. General

FDA received 43 comments on the proposed rule, a substantial majority of which were from the general public. The remaining comments were from OTC drug manufacturers and packers, professional societies, and organizations with special interests in consumer safety and product packaging.

Many comments supported the requirement that two-piece, hard gelatin capsules be sealed. One of these comments stated:

> [U]nless two-piece, hard gelatin capsules used in OTC drug products are required to be sealed, as FDA is proposing, it is just a matter of time until another successful tampering incident involving this dosage form occurs. Each publicized tampering incident further erodes the public confidence in the safety of our OTC drug supply.

However, some comments were less supportive, including one that stated that:

> [T]he amendment requiring two-piece, hard gelatin capsules be sealed is unnecessary in light of the protections already required under the present regulation. * * * [F]urther regulation will only result in additional costs which will be borne by the consumer. Furthermore, such changes cannot completely eliminate the dangers of product tampering.

A significant majority of comments supported the change in terminology from "tamper-resistant" to "tamper-evident." These comments concurred with the agency's position that the term "tamper-evident" more accurately describes the role of packaging and other features designed to decrease the risk of harm from tampering. A typical comment on this issue stated that "such a change imparts an added degree of awareness to the consumer that no package design is 'tamper-proof'." Other comments were less supportive, saying that the change in language would not substantially aid consumer awareness or significantly reduce the threat of tampering harm.

B. Scope

Current § 211.132 applies to manufacturers and packers who package OTC drug products, except dermatologic, dentifrice, insulin, or throat lozenge products. The final rule maintains the current scope, except that it exempts all lozenge products rather than only throat lozenges.

1. One comment stated that the agency should expand the scope of the rule to include all OTC drug products, including dermatologics.

Dermatologic, dentifrice, and insulin products have been exempted from the OTC tampering regulations since they were issued in 1982. These product classes are exempted because of a lower probability of tampering and in the case of dermatologic and dentifrice products, a lower risk of severe consequences. Therefore the agency declines to apply the regulation to these product classes in this rulemaking.

2. One comment asserted that FDA had not considered the effect of the proposed rule on vitamins and other supplements sold in two-piece, hard gelatin capsules and stated that the economic impact on dietary supplement manufacturers and the public would be immense.

The scope of the regulation is limited to OTC drug products and is not intended to cover products that are regulated as dietary supplements.

C. Effectiveness of Sealing Requirement

Proposed § 211.132(b)(2) stated that, in addition to an acceptable tamper-evident packaging feature, any two-piece, hard gelatin capsule covered by the OTC tamper-evident packaging rule must be sealed using an acceptable tamper-evident technology.

3. Four comments asserted that if two-piece, hard gelatin capsules were sealed, consumers would have a false sense of security that such capsules are impenetrable.

The agency recognizes that an additional level of protection against tampering may make consumers feel more secure about using OTC drug products. However, the sealing requirement, along with the other regulatory standards set forth in this final rule, will in fact add a measure of protection against malicious tampering by making it more difficult for a person to tamper with a product without leaving visible evidence that tampering has occurred. Thus the heightened sense of security may have some basis in fact. Because all packaging is penetrable and no packaging or dosage form is tamper-proof, consumers should be vigilant when buying and using OTC drug products. The change in terminology from "tamper-resistant" to "tamper-evident," in combination with the agency's efforts to educate consumers about tamper-evident packaging, is designed to alert consumers to examine OTC drug product packaging for evidence of tampering.

4. Two comments claimed that consumers would not notice any tampering with sealed capsules and, thus, would not be protected by this requirement. Another comment stated that a breach in the tamper-evident packaging feature would more likely be noticed than a breach of a capsule seal.

The agency does not agree with the comments. However, a major benefit of the capsule-sealing feature is that sealing makes it virtually impossible for a tamperer to disturb the integrity of the product and recombine the two parts of the capsule without leaving conspicuous signs of entry. Although not all seals are visible in the unbreached state, some seals have distinctive characteristics (e.g., color scheme) that make it less likely that a substituted capsule would go unnoticed. Such signs of tampering with the product itself may be more likely to be noticed than less obvious manifestations of tampering left on certain tamper-evident packaging features such as container mouth inner seals, film wrappers, and heat shrink bands or wrappers. Some or all of these protective features could be removed by a tamperer without leaving any signs of tampering to consumers unaware of the packaging normally used. Thus, for the two-piece, hard gelatin capsule dosage form, which has been particularly vulnerable to criminal tampering, it is important to have the dual protection of a package tamper-evident feature plus the capsule-sealing feature.

5. Three comments stated that the sealing requirement would be ineffective in reducing the overall tampering risk because it only addresses the vulnerability of one OTC drug product dosage form, the two-piece, hard gelatin capsule, while other dosage forms go unprotected.

It is true that consumer products other than two-piece, hard gelatin capsules are vulnerable to tampering. For this reason, in addition to the capsule sealing requirement, current § 211.132 requires that all OTC drug products (except those specifically exempted) be packaged using a tamper-evident feature. This final rule maintains this requirement and proposes an extra measure of protection for OTC two-piece, hard gelatin capsules which, as explained in the preamble to the proposed rule, have been persistently implicated in the most serious tampering incidents (59 FR 2542 at 2543). Thus the agency believes the rule will reduce the overall tampering risk.

6. Two comments stated that the sealing requirement would not yield a significant benefit because most OTC two-piece, hard gelatin capsule drug products are already sealed.

While it is true that there are few two-piece, hard gelatin capsule drug products currently marketed without a seal, the remaining unsealed capsules may provide an attractive target for would-be tamperers. The availability of unsealed OTC drug product capsules makes it relatively easy for the tamperer to substitute them for other, sealed capsules with a similar appearance. Thus, the universal sealing of two-piece, hard gelatin capsule drug products will not only make products that are presently unsealed safer, but will also bolster the effectiveness of the sealing feature on currently sealed products by reducing opportunities for substitution.

7. Several comments proposed alternative means of reducing the threat of drug tampering. Some comments recommended that OTC drug products marketed in two-piece, hard gelatin capsules be banned or restricted to pharmacy counter sales.

FDA has considered these options and finds that a ban or restriction on the sale of two-piece, hard gelatin capsule OTC drug products is not warranted because the benefits of allowing the continued OTC marketing of the dosage form outweigh the risks posed by possible tampering. Consumers might mistakenly think that the threat of tampering has been eliminated by such an action and thus be lulled into a false sense of security. A complacent consumer may not remain vigilant to signs of tampering with other dosage forms.

In addition, capsules are a valuable dosage form option for several reasons: (1) Many consumers prefer capsules because they are easier to swallow than some other dosage forms and this factor may increase patient compliance with a drug regimen. (2) Some medicines cannot easily be put in tablet form because of the detrimental effects of tableting on the stability of the ingredients. (3) Capsules are less susceptible than other dosage forms to damage during shipping. Uncoated tablets may chip or break during shipping and, thus, may deliver less than the recommended amounts of ingredients, possibly affecting the product's efficacy. (4) Capsules contain fewer inactive ingredients than some tablet and oral liquid formulations, thus lowering the risk of allergic reactions. (5) Capsules are a preferred means of delivering sustained-release medications. Capsules containing encapsulated beads of active ingredients provide a means of delivering medications safely over prolonged periods, thus enhancing patient compliance. (6) The printing and color combinations that are possible with capsules aid consumers and health professionals in distinguishing medicines. Product distinction is important in aiding patient compliance with drug regimens and in the effective handling of overdose cases (Ref. 1).

Because of the numerous advantages of capsules, the agency believes that restricting two-piece, hard gelatin capsules to behind-the-counter sales would be a disservice to consumers. If capsules were kept behind the counter, consumers could not easily compare products. Also, because behind-the-counter space is limited, the expense and inconvenience of storing products might cause retail outlets to limit the number of OTC capsule drug products they make available.

8. Comments suggested several other alternative methods of protecting consumers against tampering, including requiring video surveillance of areas where tamper-prone products are displayed, and requiring that tamper-prone products have a holographic label to make evidence of tampering more visible.

Although these suggestions have merit insofar as they would provide an additional level of protection against tampering, FDA has determined that sealing the capsules is the preferred alternative because it will benefit the consuming public while keeping implementation costs low. FDA encourages manufacturers to continue to use innovative tamper-evident technologies to provide protection to the consumer and encourages retail outlets to play a significant role in protecting the consumer and apprehending tamperers. Retailers are encouraged, for example, to train their employees to handle products properly to avoid an accidental breach of the tamper-evident features and to play a role in inspecting products for signs of tampering when working at the cash register, placing

products on retail shelves, and otherwise handling products.

9. Two comments asserted that consumers accustomed to the use of two package tamper-evident features on their OTC drug products may be concerned if one of the familiar features is missing. As a result, manufacturers would, in effect, be compelled to use two package tamper-evident features in addition to the sealing feature.

FDA is not mandating that three tamper-evident features be used, and the agency is not convinced that consumers will be alarmed by a change in a product's tamper-evident features. Informative labeling will help allay the anxiety that consumers may feel. Retailers will also be able to explain the change in packaging to interested or concerned customers.

D. Dates

10. Two comments opposed the proposed retail level effective date for compliance with the sealing requirement. These comments characterized the effective date as extraordinary, insupportable, and unprecedented. The comments said that the retail effective date places an undue burden on retailers to examine all of their products, determine which products covered by the rule are out of compliance, and return those products to the manufacturers. According to the comments, the prospect of conducting these resource-intensive compliance checks would likely lead retailers to return all products marketed in two-piece, hard gelatin capsules rather than just those products that were, in fact, out of compliance. The comments asserted that such a marketing disruption is not justified in light of the negligible number of unsealed capsules that would be on the market 2 years after the publication of the final rule.

FDA has considered the benefits of a retail level effective date and the burden that would be placed on retailers, and agrees that such a condition is currently unwarranted. The agency expects that, because no unsealed capsules may be initially introduced into interstate commerce 1 year after publication of this final rule, a negligible quantity of noncomplying products will remain on the market 2 years after publication of the final rule. The agency bases this expectation in part on the high level of compliance with the effective date of the 1982 tamper-resistant packaging rule. The agency has, accordingly, removed the proposed retail level effective date from this final rule.

While FDA encourages manufacturers to revise OTC drug product labeling to replace the term "tamper-resistant" with "tamper-evident" as soon as possible, the agency recognizes that substantial revision of OTC labeling may be required by a final rule based on the proposed OTC labeling rule published in the **Federal Register** of February 27, 1997 (62 FR 9024). A reasonable effort has been made to coordinate implementation of the two rules and, following publication of a final OTC labeling rule, FDA will consider whether to extend the compliance date of the labeling changes provided by this regulation to coincide with the effective date of the OTC labeling final rule. The agency emphasizes that any such extension would apply only to the labeling requirements and not to the sealing requirements of this rule. All two-piece, hard gelatin capsules subject to this regulation that are initially introduced or initially delivered for introduction into interstate commerce must be sealed in compliance with this regulation by the date provided in the "Dates" section of this document.

E. Effectiveness of Chonge in Terminology from "Tamper-Resistant" to "Tamper-Evident"

FDA proposed to amend § 211.132 by changing the term "tamper-resistant" to "tamper-evident."

11. Fourteen comments, while agreeing with the proposed change, stated that its effectiveness would depend on an education campaign to bolster awareness of steps consumers can take to protect themselves. The most common concerns expressed by comments opposed to the proposed change were that consumers will not notice the change or that they will not understand the distinction between "tamper-resistant" and "tamper-evident."

The agency recognizes that this change may go unnoticed by those consumers who do not regularly read labels. It is nonetheless important that labeling accurately and truthfully characterize the degree of protection afforded by tamper-evident packaging. It is particularly important that measures designed to discourage tampering do not convey a false sense of security or reduce consumer vigilance. The agency believes the term "tamper-evident" better indicates the need for active consumer surveillance of protective packaging features. FDA stated in the proposed rule and reiterates here that "the term 'tamper evident' more accurately describes the role of packaging in reducing the likelihood of harm from tampering, and emphasizes the necessity of consumer involvement in the effectiveness of any packaging system designed to meet the requirements of this regulation" (59 FR 2542 at 2544). The role of consumer education in enhancing protection against tampering is discussed in the response to comment 20 in section III.G of this document.

12. Several comments suggested a requirement that the labeling statement on tamper-evident features be printed in a more conspicuous format (e.g., in bold face, underlined type, or contrasting colors).

The agency does not believe that such a requirement is necessary at this time. While such labeling measures would no doubt attract some consumers' attention initially, the agency believes that many other factors must be weighed in a consideration of such a requirement. First, such prominence of the tamper-evident message may distract consumers from other labeling information, such as warnings and directions for use, that may be equally important. Second, in light of the crucial role of OTC drug products in our health care system, consumers must not be discouraged from using OTC medications because of an excessive emphasis on the tampering threat.

13. One comment stated that the term "tamper-evident" would not convey the appropriate message, but rather would give consumers a false sense that it would be "glaringly obvious" if a product's antitampering feature had been breached. Another comment stated that consumers are intelligent and do not interpret the term "tamper-resistant" to mean "tamper-proof."

FDA does not agree that the term "tamper-evident" will mislead the consumer or that the term "tamper-resistant" does not. While the term "tamper-resistant" does not technically mean that a product is tamper proof, the term focuses on the packaging technology itself and can imply that it is difficult to breach an antitampering feature. While it may not be difficult to breach some commonly used antitampering features, it is difficult to breach a feature without leaving visible signs of tampering. Such visible signs will only protect consumers from tampering harm if they are aware that an antitampering feature is breached or missing. The proposed change in the terminology appropriately shifts the emphasis from the ability of the feature itself to protect consumers to the ability of vigilant consumers to protect themselves.

14. One comment asserted that the rule improperly shifts the burden of preventing drug product tampering from the OTC industry to the "unsuspecting sick and poor consumers."

FDA does not agree. The proposed rule will require some manufacturers of hard capsules to take additional steps to prevent tampering by sealing two-piece, hard gelatin capsules. Nonetheless, because it is impossible to make a tamper-proof package, the success of an antitampering regulatory program necessarily depends in part on consumers' attentiveness; consumers must take some responsibility for protecting themselves. FDA-mandated tamper-evident features will allow vigilant consumers to minimize their chances of being victimized by a malicious tamperer. Ultimately, the best defense against tampering is an awareness of the tamper-evident features and a careful inspection of all products.

15. One comment stated that packages should, in fact, be required to be tamper resistant.

FDA does not believe that such a requirement is practical. The intent of tamper-evident packaging is to alert the consumer to signs of tampering without making the package more difficult to open. Otherwise, those who have difficulty opening packages, such as the elderly and disabled, are more likely to avoid using products contained in such packaging.

16. One comment requested clarification regarding the extent of the regulation's restriction on the use of certain terms in OTC drug product labeling.

It is not the intent of the regulation to mandate the use of the specific term "tamper-evident" in labeling. Indeed, any words that correctly characterize the role of packaging in reducing the likelihood of harm from tampering (without an implication that a package or dosage form is tamper resistant or tamper proof) and that place appropriate emphasis on the importance of consumer involvement in their own protection would be acceptable under the rule.

17. One comment recommended shortening the 2-year effective date for implementing the labeling changes.

FDA does not agree that the proposed time for implementation of the labeling change should be shortened. The agency determined that a 2-year implementation is prudent because it achieves an expeditious implementation while at the same time not unreasonably burdening industry. Any burden to industry is minimized by a 2-year compliance date because most product labels are routinely reprinted within an 18- to 24-month period.

F. Listing of All Tamper-Evident Features

Proposed § 211.132(c) clarified that the labeling statements on all OTC drug products are required to identify all packaging features used to comply with proposed § 211.132(b)(1), not just the features on the external package. These packaging features would include those on the secondary package, the immediate container or closure, and any capsule-sealing technologies used to meet the requirements of the regulation.

18. Five of the seven comments raising the issue were in favor of this proposed revision. One comment expressed reservations about the lack of a requirement that the labeling on the inner package contain information regarding tamper-evident features, stating that persons are more likely to read the information on the inner labeling. The comment suggested that the proposed rule should give manufacturers more specific direction as to what information must be provided regarding possible signs of tampering (e.g., directions to compare lot numbers of blister packs with those on the box) and more specific guidance regarding the requisite prominence with which such information must be displayed.

The role of drug labeling is to effectively communicate consequential information regarding the safe and effective use of a drug. If the amount of information is too great, consumers may miss the essential message. The agency believes that § 211.132(c)(1) provides sufficient guidance to ensure that the important safety message is conveyed to consumers and that more specific direction to manufacturers is unnecessary.

19. One comment stated that revised labeling is unwarranted because consumers do not read the labeling and, thus, the reworded rule will have no impact.

FDA is charged with protecting the public health, and package labeling is one indispensable mechanism for conveying such information as instructions for use, warnings, and signs of possible tampering. Many consumers do read package labeling, and all consumers should have the opportunity to avail themselves of such information.

G. Consumer Education Campaign

The proposal stated that consumer education and involvement are important to help prevent malicious tampering, and discussed steps that FDA has taken to inform consumers to be alert for drug product tampering.

20. Nearly all of the comments stressed the need for a consumer education campaign in conjunction with implementation of the new tamper-evident requirements. Several comments cited the Sudafed tampering incident, which resulted in two deaths despite numerous and conspicuous signs of intrusion, as evidence that consumer education is an indispensable element of an antitampering campaign. The comments generally focused on two options for educating consumers: (1) A widespread media campaign using such means of communication as public service announcements, magazine advertisements, news articles, press releases, signs placed where OTC drug products are sold, brochures, or public workshops; and (2) a requirement for additional or stronger warnings on OTC drug product labels about the risks from product tampering.

While FDA encourages the drug industry to provide consumers as much information as is feasible regarding tampering, the agency will not mandate stronger tamper-evident messages on drug product labeling at this time. As previously discussed, the agency believes that the labeling requirements in this final rule provide necessary information to consumers without the negative consequences that can result from exaggerated emphasis on a single issue. Rather, FDA will focus its efforts on disseminating information through public service announcements, journal articles, store displays, flyers sent through the mail or disseminated with the purchase of an OTC drug product, or workshops aimed at specific target audiences. Messages will be aimed at informing consumers about tamper-evident packaging, the need for vigilance, and the safety of the OTC drug supply.

The extent of educational efforts undertaken depends, in large part, on support from interested parties. FDA appreciates the willingness of some professional societies to assist in the agency's educational endeavors. The agency requests assistance from the drug industry, professional organizations, consumer groups, and other Government agencies in conveying an effective, consistent message to consumers about drug tampering. Organizations, in coordination with FDA, are encouraged to use their newsletters, magazines, or other networking capacities to notify constituencies about the signs of drug product tampering.

21. Comments advocating a media campaign emphasized the importance of reaching a vast audience (e.g., through publication in a widely circulated magazine or through prime time

television public service announcements).

FDA recognizes the importance of imparting the message about drug tampering to as great a target audience as feasible. However, the agency must conduct any educational campaign so that the increased visibility of the tampering issue does not have the unintended effects of stimulating tampering or creating undue anxiety about the threats posed by tampering. In an effort to achieve this delicate balance, FDA must carefully choose a clear and focused message and a method of delivery to ensure that the message is perceived as intended.

H. Packaging Performance Standards

In the proposed rule FDA invited discussion on the possibility of establishing performance standards for tamper-evident packaging.

Three comments urged FDA to adopt packaging performance standards and two comments opposed such standards.

22. One comment in support of packaging performance standards stated that FDA's current method of evaluating tamper evidence is not objective and does not take into consideration all factors involved in violating a package seal. Another comment expressed a different view, stating that packaging performance standards are unnecessary because packaging guidance already exists through this rule and FDA's Compliance Policy Guide (CPG) 7132a.17 entitled "Tamper-Resistant Packaging Requirements for Certain Over-the-Counter (OTC) Human Drug Products" (Ref. 2). One comment that supported the use of packaging performance standards stated that many aspects of packaging needed to be improved if the packages are to provide adequate evidence of tampering.

The agency has concluded that § 211.132 and CPG 7132a.17 (which the agency will amend to conform to this final rule) will provide adequate guidance for a determination of whether a package meets the tamper-evident requirement. FDA does not use a rigid checklist of criteria to determine whether a package meets the tamper-evident requirement. The agency deems a technology to be in compliance with the regulation if the feature provides visible evidence to consumers that tampering has occurred, as required by the tamper-evident packaging regulation, and complies with the other regulatory requirements of § 211.132. Additional guidance on tamper-evident packaging is found in CPG 7132a.17 that lists examples of packaging and sealing technologies that are, and are not, capable of meeting tamper-evident packaging requirements.

FDA has considered the advantages and disadvantages of implementing packaging performance standards and finds that the drawbacks of requiring tamper-evident features to meet specific performance standards outweigh the advantages of such a system. The agency's current policy allows for flexibility in packaging technology and encourages technical innovation to improve tamper evidence and enhance packaging security.

The agency believes that the way to encourage improvements in feature design is not to impose additional regulatory requirements, but rather to set forth the general standard of tamper evidence and to remain flexible with respect to use of alternative technologies. Use of measurable performance standards might result in a premature ranking of tamper-evident technologies, and FDA has concluded that the establishment of performance standards for tamper-evident packaging is not necessary at this time.

23. One comment expressed a concern that a tamper-evident feature of a package may interfere with the package's child-resistant feature.

The agency wishes to clarify that the tamper-evident packaging rule does not affect a manufacturer's responsibility to comply with other applicable regulatory requirements, including the requirement of child-resistant packaging issued by the Consumer Product Safety Commission and found at 16 CFR 1700. The agency appreciates the comment's concern and reiterates that the manufacturer must ensure that the tamper-evident features of a package do not interfere with its child-resistant features.

I. Economic Impact

As noted earlier, FDA requirements for OTC drug product packaging to protect against drug tampering have been in effect since 1982. This final rule clarifies the application of the current regulation, amends the current regulation to require sealing of products marketed in two-piece, hard gelatin capsules, and requires that the labeling of certain products be modified to substitute the term "tamper-evident" for "tamper-resistant." FDA estimated, in the proposed rule, that the total one-time costs of the changes would be approximately $1.8 to $3 million to seal the few two-piece, hard gelatin capsule products that are currently unsealed, and for other minor costs associated with a change in the terminology used in the labeling of some products.

24. Some of the comments that specifically raised the issue of the cost of sealing considered the cost reasonable. Other comments stated that the sealing requirement is unduly burdensome and would result in unwarranted increased costs to manufacturers and higher prices to consumers.

An analysis of the costs of compliance with the new regulation is only meaningful in the context of expected benefits. While the important benefits that are expected to result from the sealing requirement have been discussed, it is impossible to predict precisely the number of lives that may be saved or injuries prevented by these new requirements. Nevertheless, in view of the public health benefits that can be reasonably expected from this added measure of consumer protection, the costs of compliance with the sealing requirement are relatively low.

25. Five comments stated that the cost of sealing all two-piece, hard gelatin capsules would be much higher than FDA's estimate. The comments questioned the premises on which the cost to industry estimate of $1.8 to $3 million was based. One of these comments said that at least 22 OTC drug products—not 12, as FDA estimated—are currently marketed as unsealed two-piece, hard gelatin capsules. Another comment said that, for companies with numerous OTC drug products offered in the capsule dosage form, compliance with the proposed rule would require the purchase of more than one hard gelatin capsule sealing machine, which, in combination with the required parts for the sealing machine and gelatin sealing solution, would total approximately $700,000. The comment asserted that the eventual cost of compliance would be substantially more because of additional costs for necessary alterations to the manufacturing facility's encapsulating area.

FDA's original cost estimate assumed that each affected product would require a separate gelatin capsule sealing and banding machine at a cost of $250,000 per machine. Consequently, this calculation is not inconsistent with the estimate of $700,000 for a company that manufactures several affected products. FDA acknowledges that its earlier estimate of 12 affected products may be too small and has accepted the estimate that 22 products are currently marketed in unsealed two-piece hard gelatin capsules. Using this higher figure, as detailed in section VIII of this document, FDA has revised its estimated compliance costs for this provision to $5.5 million.

26. Five comments expressed concern that the costs of compliance would be passed on to consumers of OTC drug products in the form of higher prices. One comment estimated that the cost passed on to the consumer would be in the range of $1 to $2 per bottle. Another comment estimated that the cost passed on to the consumer would be about 35 to 55 cents per 100-count bottle.

FDA realizes that a portion of the cost of compliance may be passed on to consumers and the agency has revised its estimate of this cost in section VIII of this document. In addition to the $250,000 cost of a gelatin capsule sealing and banding machine, the cost of labeling changes is expected to average $2,500 for each branded OTC drug and $850 for each private label OTC drug. Individual companies control product pricing and it is conceivable that the price of certain very low volume drug products might be noticeably increased. However, given the one-time impact of most of the costs of this rule, the safety benefits, and the overall costs of drug product manufacturing, the agency does not believe the price of many products will be substantially affected.

27. One comment stated that tamper-evident packaging features would be a cheaper, more effective alternative to sealing. The comment provided no support for this theory.

As explained earlier, FDA believes that packaging requirements do not effectively minimize the dangers posed by OTC drug product tampering and that the sealing requirement is necessary to address the continued vulnerability of two-piece, hard gelatin capsules.

28. Several comments stated that the cost of the labeling change to eliminate terms such as "tamper-resistant" was unreasonably burdensome.

In response to several comments, FDA reexamined the estimated cost of proposed labeling changes and has revised the $5 to $6 million estimate to $10 million. Even as revised, however, FDA disagrees that the cost of the labeling change is unreasonably burdensome. The use of terminology accurately characterizing the degree of protection offered by tamper-resistant packaging is a cost effective step toward educating consumers. The agency has further reduced the burden of the labeling change to industry by giving manufacturers up to 2 years to make the conversion.

IV. Legal Authority

FDA's revision of the tamper-resistant packaging requirements for OTC drug products is authorized by the Federal Food, Drug, and Cosmetic Act (the act). As discussed in the proposed rule (59 FR 2542 at 2545), the agency is authorized to establish requirements for container and package design that provide protection against intentional product adulteration by tampering and to establish requirements for labeling statements alerting consumers to tamper-evident features. (See also 47 FR 50442 at 50447, November 5, 1982, for additional discussion of the legal authority for requirements related to drug product tampering.)

V. References

The following references have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, and may be seen between 9 a.m. and 4 p.m, Monday through Friday.

1. The Nonprescription Drug Manufacturers Association, "The Sale of OTC Medicines in Capsule Form Should Not Be Banned or Restricted," position statement, March 9, 1991.

2. FDA Compliance Policy Guide 7132a.17, "Tamper Resistant Packaging Requirements for Certain Over-the-Counter (OTC) Human Drug Products," May 21, 1992. This document is also available at cost from the National Technical Information Service (NTIS), U.S. Dept. of Commerce, 5285 Port Royal Rd., Springfield, VA 22161, 703–487–4650.

VI. Paperwork Reduction Act of 1995

FDA concludes that this final rule is not subject to review by the Office of Management and Budget. Requiring manufacturers to use the term "tamper-evident" in the labeling and to identify tamper-evident features and capsule sealing technologies in the labeling is exempt under 5 CFR 1320.3(c)(2) as a public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public.

VII. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VIII. Analysis of Impacts

FDA has examined the impact of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612). Executive Order 12866 directs agencies to assess all cost and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). If an agency determines that a rule has a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Section 202 of the Unfunded Mandates Reform Act (Pub. L. 104–4) requires that agencies prepare an assessment of anticipated costs and benefits before proposing any rule that might result in an expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation) in any year.

As discussed in this preamble, the regulatory history of measures to reduce the risk of product tampering, the agency evaluation of alternative control strategies suggested in response to comments, and the revised implementation schedule demonstrate that this rule is consistent with the principles set forth in the Executive Order and these two statutes.

A. Executive Order 12866

FDA had estimated that the January 18, 1994 (59 FR 2542) proposed rule to strengthen tamper-evident packaging requirements would impose compliance costs of $3 million for sealing the two-piece hard gelatin capsules. One comment to the proposed rule stated that at least 22 products are currently marketed in unsealed two-piece hard gelatin capsules, not 12 products as FDA had estimated. Based on this comment, FDA has revised its estimated compliance costs for this provision to $5.5 million ($250,000 per capsule sealing machine x 22 products).

Compliance costs for relabeling OTC's containing the "tamper-resistant" terminology with the "tamper-evident" terminology was estimated at $5 to $6 million in the proposed rule. Based on information from the Nonprescription Drug Manufacturers Association (NDMA) indicating that these labels were routinely reprinted within an 18 to 24 month period, the incremental cost of this provision was expected to be minimal. Several comments, however, stated that the cost of the labeling change was unreasonably burdensome. FDA has reviewed the latest data on label change costs and patterns and revised its estimate of compliance costs for this provision. The agency estimates that about 20 percent of OTC drug labels are reprinted over any 2-year period, as shown by survey data from NDMA.

Further, FDA finds that branded OTC drugs have much higher per label costs than do private label OTC drugs. Based on recent information, FDA estimates that a minor label change would cost from $2,000 to $3,000 for each branded OTC drug. Private label costs for a minor change are estimated to range from $500 to $1,200, or an average of $850 per OTC drug.

FDA has also revised its estimate of the number of products (stock keeping units or SKU's) that are subject to the labeling provisions of the tamper-evident packaging. FDA estimates this number at about 62,000 SKU's (including both branded and private label SKU's). Whereas the proposal estimated that 60 percent of the SKU's would be out of compliance with the new rule, a very limited survey of OTC drug products now shows a noncompliance rate of about 15 percent. Accounting for all of the above factors, FDA estimates the compliance cost of the labeling provision at $10 million. These costs, however, would be mitigated to the extent that companies can coordinate this effort with the forthcoming rule to standardize all OTC drug labels.

To summarize, the estimated total one-time costs of the final rule are the sum of the $5.5 million to seal the capsule products that are currently not sealed and the $10 million to change the labeling on the products that currently use the "tamper-resistant" terminology. Total one-time compliance costs, therefore, are estimated at $15.5 million. The rule will not impose any other annual costs on the OTC drug industry.

Because this final rule is not a significant regulatory action as defined by Executive Order 12866, an additional assessment of the rule under section 6 of the Executive Order is not necessary.

B. Regulatory Flexibility Act

According to the Regulatory Flexibility Act, the final rule should include "a succinct statement of the need for, and objectives of, the rule." FDA is taking this action as a result of its continuing review of the potential public health threat posed by product tampering and to improve consumer protection by addressing specific vulnerabilities in the OTC drug market.

FDA accepts the industry estimate of 22 products currently marketed in two-piece hard gelatin capsules. FDA does not have a definitive estimate of the percentage of these companies that may be small. The Small Business Administration (SBA) defines small pharmaceutical manufacturers as those having less than 750 employees. It is likely, however, that many of these firms will not be small. FDA estimates that, at a maximum, only 2 of the original 12 products identified by FDA were made by a small manufacturer. Using the same ratio (2:12), a low-end range estimate of about 4 of the 22 affected products would be made by a small manufacturer. A high-end estimate of 12 was developed by assuming that all of the 10 products not previously accounted for (22 - 12 = 10) are made by different small manufacturers. The final estimate, therefore, is a range of 4 to 12 products from small manufacturers that are marketed in two-piece hard gelatin capsules. These small businesses are expected to incur average one-time compliance costs of $150,000 to $250,000 for purchasing the capsule sealing machinery if it is not already available. Other firms may choose to contract out the manufacturing process for these products.

Further, the proposed rule estimated that about 780 products (including different sizes and strengths) would be affected by the labeling provisions of this rule. Using more recent data, FDA revised its estimate of the number of product SKU's in need of relabeling to about 9,300. Due to the 2-year phase-in period for "tamper-evident" labeling, FDA expects only about 7,450 of these SKU's to be affected outside of their normal reprinting patterns. FDA does not have a good estimate of the number of small companies that would have to relabel their products. It can be assumed, however, that each small company has very few SKU's, as the large companies and a small number of large private labelers market numerous SKU's. As noted previously, each affected SKU is estimated to incur a one-time relabeling cost of either $850 or $2,500.

FDA attempted to minimize the burden of this rule on manufacturers by granting them 2 years after final publication to comply with the labeling provisions. Also, FDA has not included any new reporting or recordkeeping requirements. After review of the comments, FDA has revised the final rule even further. The proposed rule would have created a 2-year effective date at the retail level. Comments to the proposed rule claimed that it would require burdensome compliance checks by retailers in order to check for a negligible quantity of noncomplying products. In response to these comments, FDA has chosen an alternative policy that does not include a retail effective date.

Several other alternatives were considered. Comments suggested a requirement that: (1) Two-piece capsules be kept behind the counter, (2) video surveillance be provided for retail space where OTC drug products are sold, (3) holographic labels be used on OTC drugs, (4) bold print or contrasting colors be used to further illuminate the tamper-evident warning on OTC drugs and (5) packaging performance standards be developed and applied to tamper-evident OTC drug packaging. FDA considered these alternatives and determined that the additional compliance costs they would create cannot be justified by the small amount of increased awareness of tamper-evident packaging they would offer.

C. Unfunded Mandates Reform Act

FDA concludes that this regulation will not result in expenditure of $100 million by State, local or tribal governments, in the aggregate, or by the private sector, in any 1 year. Therefore, under the Unfunded Mandates Reform Act, no further analysis is required.

List of Subjects in 21 CFR Part 211

Drugs, Labeling, Laboratories, Packaging and containers, Prescription drugs, Reporting and recordkeeping requirements, Warehouses.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 211 is amended as follows:

PART 211—CURRENT GOOD MANUFACTURING PRACTICE FOR FINISHED PHARMACEUTICALS

1. The authority citation for 21 CFR part 211 continues to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 355, 357, 360b, 371, 374.

2. Section 211.132 is amended by revising the section heading, by removing in paragraph (a) the word "throat", by removing in paragraphs (a) and (d)(2) the words "tamper-resistant" and adding in their place the words "tamper-evident", and by revising paragraphs (b) and (c), and the second sentence in the introductory text of paragraph (d) to read as follows:

§ 211.132 Tamper-evident packaging requirements for over-the-counter (OTC) human drug products.

* * * * *

(b) *Requirements for tamper-evident package.* (1) Each manufacturer and packer who packages an OTC drug product (except a dermatological, dentifrice, insulin, or lozenge product) for retail sale shall package the product in a tamper-evident package, if this product is accessible to the public while held for sale. A tamper-evident package is one having one or more indicators or barriers to entry which, if breached or missing, can reasonably be expected to provide visible evidence to consumers that tampering has occurred. To reduce the likelihood of successful tampering and to increase the likelihood that consumers will discover if a product has been tampered with, the package is required to be distinctive by design or by the use of one or more indicators or barriers to entry that employ an identifying characteristic (e.g., a pattern, name, registered trademark, logo, or picture). For purposes of this section, the term "distinctive by design" means the packaging cannot be duplicated with commonly available materials or through commonly available processes. A tamper-evident package may involve an immediate-container and closure system or secondary-container or carton system or any combination of systems intended to provide a visual indication of package integrity. The tamper-evident feature shall be designed to and shall remain intact when handled in a reasonable manner during manufacture, distribution, and retail display.

(2) In addition to the tamper-evident packaging feature described in paragraph (b)(1) of this section, any two-piece, hard gelatin capsule covered by this section must be sealed using an acceptable tamper-evident technology.

(c) *Labeling.* (1) In order to alert consumers to the specific tamper-evident feature(s) used, each retail package of an OTC drug product covered by this section (except ammonia inhalant in crushable glass ampules, containers of compressed medical oxygen, or aerosol products that depend upon the power of a liquefied or compressed gas to expel the contents from the container) is required to bear a statement that:

(i) Identifies all tamper-evident feature(s) and any capsule sealing technologies used to comply with paragraph (b) of this section;

(ii) Is prominently placed on the package; and

(iii) Is so placed that it will be unaffected if the tamper-evident feature of the package is breached or missing.

(2) If the tamper-evident feature chosen to meet the requirements in paragraph (b) of this section uses an identifying characteristic, that characteristic is required to be referred to in the labeling statement. For example, the labeling statement on a bottle with a shrink band could say "For your protection, this bottle has an imprinted seal around the neck."

(d) * * * A request for an exemption is required to be submitted in the form of a citizen petition under § 10.30 of this chapter and should be clearly identified on the envelope as a "Request for Exemption from the Tamper-Evident Packaging Rule." * * *

* * * * *

Dated: October 28, 1998.

William B. Schultz,

Deputy Commissioner for Policy

[FR Doc. 98–29388 Filed 11–3–98; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–6182–8]

Technical Amendments to Approval and Promulgation of Air Quality State Implementation Plans, Texas; Recodification of, and Revisions to the State Implementation Plan; Chapter 114; Correction of Effective Date Under the Congressional Review Act (CRA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction of effective date under CRA.

SUMMARY: On July 1, 1998 (63 FR 35839), EPA published in the **Federal Register** a direct final rule concerning the Approval and Promulgation of Air Quality Implementation Plans, Texas; Recodification of, and Revisions to the State Implementation Plan, Chapter 114, which established an effective date of August 31, 1998. This document corrects the effective date of the rule to November 4, 1998 to be consistent with sections 801 and 808 of the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 801 and 808.

EFFECTIVE DATE: November 4, 1998.

FOR FURTHER INFORMATION CONTACT: Bill Deese, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7253.

SUPPLEMENTARY INFORMATION:

I. Background

Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States, head of the General Accounting Office (GAO). EPA recently discovered that it had inadvertently failed to submit the above rule as required; thus, although the rule was promulgated on July 1, 1998, by operation of law, the rule did not take effect on August 31, 1998 as stated. Now that EPA has discovered its error, the rule is being submitted to both Houses of Congress and the GAO. This document amends the effective date of the rule consistent with the provisions of the CRA.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the Congressional Review Act as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under 5 U.S.C. 553(b)(B). Moreover, since today's action does not create any new regulatory requirements and affected parties have known of the underlying rule since July 1, 1998, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2).

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), establish any technical standards subject to the section 12(d) of the National Technology Transfer and Advancement Act, or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or with officials of Indian tribal governments as specified by Executive Orders 12875 and 13084 (63 FR 27655, involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994), or involve special consideration of children's health and safety risks under Executive Order 13045 (62 FR 19885, April 23, 1997). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to

the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Orders, as applicable, for the underlying rule is discussed in the July 1, 1998 **Federal Register** document.

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States; however, in accordance with 5 U.S.C. 808(2), this rule is effective on November 4, 1998. This action is not a "major rule" as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it does not amend any substantive requirements contained in the rule. Accordingly, to the extent it is available, judicial review is limited to the amended effective date. Pursuant to section 307(b)(1) of the Clean Air Act, challenges to this amendment must be brought by January 4, 1999.

Dated: October 26, 1998.

Carol M. Browner,

Administrator.

[FR Doc. 98–29449 Filed 11–3–98; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 2

[CGD 96–067]

RIN 2115–AF40

Vessel Inspection User Fees

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is adopting as final, with changes, the interim rule it published on April 21, 1997. The interim rule reduced annual vessel inspection user fees for small passenger vessels and exempted publicly owned ferries from payment of vessel inspection user fees as required by the Coast Guard Authorization Act of 1996. The rule also revised the discretionary exemption criteria for vessels owned or operated by non-profit organizations.

DATES: This final rule is effective December 4, 1998.

ADDRESSES: Documents, as indicated in this preamble, are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G–LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593–0001, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is 1–800–842–8740, extension 7–1477 or 202–267–1477.

FOR FURTHER INFORMATION CONTACT: CDR Mark McEwen, Office of Planning and Resources, Budget and Resources Division (G–MRP–2), Marine Safety and Environmental Protection at 202–267–1409.

SUPPLEMENTARY INFORMATION:

Regulatory History

On April 21, 1997, the Coast Guard published an interim rule entitled Vessel Inspection User Fees in the **Federal Register** (62 FR 19229). The rule reduced the annual vessel inspection fees for small passenger vessels to the limits established under the Coast Guard Authorization Act of 1996 (the Act) (Pub. L. 104–324); exempted publicly owned ferries from annual vessel inspection fees, as mandated by Congress; and added definitions for the terms *publicly owned, ferry, political subdivision, State, youth,* and *non-profit organization*. The Coast Guard also revised the exemption criteria for vessels owned or operated by a non-profit organization to include some non-profit organizations that did not previously qualify for exemption from payment of fees.

The Coast Guard received 26 letters commenting on the interim rule. Twenty-five comments were from ferry owners or operators (21 "privately owned" ferries, 1 "publicly owned" ferry, and 3 "unspecified ownership" ferries). The remaining comment was from the Passenger Vessel Association (PVA). No public hearing was requested, and none was held.

Discussion of Comments and Changes

Fee Caps

As required by the Act, the interim rule capped the annual vessel inspection fees for small passenger vessels less than 65 feet in length at $300 and for small passenger vessels 65 feet or over in length at $600. The Coast Guard did not receive any comments on this issue and it has not been changed in the final rule.

Definitions

The interim rule added several definitions to 46 CFR 2.10–25. Only the definition of *ferry* was mentioned in the comments. The interim rule defined *ferry* as a vessel transporting passengers or vehicles on a regular run, over the most direct route between a point of embarkation and a point of debarkation on lands separated by a body of water other than an ocean, or between a point of embarkation and an island within the same State.

The Coast Guard received two comments recommending that the rule use the definition of *ferry* in subchapter T, 46 CFR 175.10–9 (now 46 CFR 175.400) and subchapter H, 46 CFR 70.10–15. The Coast Guard agrees that the definition should be consistent with those in subchapters T and H. The definition has been changed in the final rule to conform with those in subchapters T and H.

The Coast Guard has also revised the definition of *youth* by raising the age limit in the definition from 18 to 21 so the exemption could apply to vessels owned by colleges and universities providing courses of marine environmental studies and meeting the other exemption requirements.

Exemption Criteria

The interim rule revised the exemption criteria in 46 CFR 2.10–5 to allow some non-profit organizations that did not previously meet the narrowly drawn criteria to qualify for exemption from payment of fees. The Coast Guard received no comments on this revision, but we have changed the language in this section concerning fundraising activities to clearly give owners and operators flexibility in scheduling these activities.

Publicly Owned Ferries

Small passenger vessels, passenger ships, and passenger barges operating as ferries pay the annual vessel inspection fee for the vessel category to which they belong, since there is no fee category established specifically for ferries. As required by the Act, the interim rule amended 46 CFR 2.10–25 to exempt publicly owned ferries from the user fee requirements of 46 CFR part 2.

All of the written comments discussed the issue of exempting publicly owned ferries and stated that owners or operators of privately owned ferries should receive the same exemption as publicly owned ferries.

Identical Services

Nineteen comments stated that privately owned ferries and publicly owned ferries provide identical services. Several of the comments stated that all ferries provide lifeline services, such as serving as the primary or sole means of transportation for residents and visitors; providing vital transportation services for passengers, autos, trucks, and buses

to islands, riverine, and coastal communities; providing transportation of mail, packages, ambulances, food, and other things needed to supply a thriving community; and breaking ice to remote locations when needed.

The majority of comments stated that all privately owned ferries contribute to local economies by paying taxes; providing commuter services; transporting a large number of tourists; or providing service for commercial vehicles. One comment from a privately owned ferry stated it enhanced commerce by providing an important link between two major interstates.

Many comments stated that ferries in general are important to the overall infrastructure of mass transit because they provide such services as an efficient and popular mode of transit; reduce the costs of constructing and maintaining costly infrastructure; meet the increasing interest of government and the DOT transportation goals to reduce energy use and air pollution, as well as provide safe, comfortable, cost-effective transportation; and reduce vehicular traffic. Many comments also stated that privately owned ferry companies provide at least half of the waterborne passenger transportation service in this nation.

Seventeen comments discussed the economic burden of vessel inspection user fees on privately owned ferries. Several of the comments stated that continuing user fees for privately owned ferries exaggerates an uneven playing field, particularly when their exempted, publicly owned counterparts operate in direct competition. Fourteen of the comments stated the fees are yet another cost to an industry already operating without any financial assistance or subsidies. Additionally, several comments stated that fares, schedules, routes, and insurance requirements of some privately owned ferries are regulated by other rules and regulations. The comments did not describe in detail how this affected them, other than as a limitation on their ability to pass these costs on to their passengers.

Congress did not include privately owned ferries in the exclusion provision of the Act and the legislative history of the Act does not explain why Congress exempted only publicly owned ferries. The Coast Guard is implementing the requirements in the Act and has not changed the final rule.

A comment from one owner of a privately owned ferry stated that he was one of eight ferry operations required to pay the annual vessel inspection user fee for a Passenger Ship. Currently, his fee is $6,835.00. The comment requested the Coast Guard "eliminate these user fees or at least provide this operation with the same break afforded to the other [small] passenger vessels" under the Act, reducing his user fee from $6,835.00 to $600.00.

The legislative history of the Act is silent on why Congress only capped the fees of small passenger vessels and not other types of passenger vessels. With no relief provided in the Act to reduce any other passenger vessel user fees, the Coast Guard has not changed the vessel inspection user fees for passenger ships or other types of passenger vessels that were not covered by the Act.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The Act placed a cap on fees charged for the inspection of small passenger vessels which reduced the economic burden imposed on small businesses. The Act also provided an exemption for publicly owned ferries from the payment of user fees, which eliminated costs to States, State agencies, and local governments. Implementation of these provisions began on November 1, 1996.

The exemption criteria in 46 CFR 2.10–5 allow additional exemptions from payments of fees for vessels owned or operated by non-profit organizations because the Coast Guard determined it is clearly within the public interest to do so.

User fee revenues will be reduced by approximately $2.8 million dollars as a result of the Congressional cap on small passenger vessels and its exemption of the publicly owned ferries, and the Coast Guard's broadening of the exemption eligibility criteria for vessel owners or operators of non-profit organizations. The cap on small passenger vessels will affect 5,880 vessels; it reduces revenues to the government and provides savings to the small passenger vessel industry in the amount of $2.25 million dollars. The exemption of publicly owned ferries affects 170 vessels; it reduces revenues to the government and provides a savings to the industry in the amount of $428,200 dollars. Broadening the exemption eligibility for non-profit organizations is estimated to affect 100 vessels; it will reduce revenues to the government and will provide savings to industry in the amount of $67,000 dollars.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule would have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, governmental jurisdictions with populations of less than 50,000.

The Coast Guard has reviewed this rule for potential impact on small entities under the Regulatory Flexibility Act. This rule reduces an existing economic burden on small businesses owning inspected small passenger vessels or ferries specified by the Act, or that qualify for the revised exemption status by lowering or eliminating fees required for Coast Guard vessel inspection services. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act that this final rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. The interim rule informed individuals applying for an exemption under this rule that their local Officer in Charge, Marine Inspection (OCMI) could provide assistance, or they could call, toll free, 1–800–941–3337. Individuals seeking further assistance may still call, toll free, 1–800–941–3337.

During the interim rule comment period, assistance was provided to small entities by explaining the reasons for the annual user fee cap reduction for small passenger vessels and the revision of the discretionary exemption criteria for vessels owned or operated by non-profit organizations.

Collection of Information

This final rule contains no new collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard analyzed this rule under the principles and criteria contained in Executive Order 12612 and determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule amends user fees for vessel inspection and examination services to cap fees paid for services related to small passenger vessels, and exempts publicly owned ferries from payment of the fees.

Unfunded Mandates

Under the Unfunded Mandates Reform Act (Pub. L. 104–4), the Coast Guard considered whether this final rule will result in an annual expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation). Section 205 of the Unfunded Mandates Reform Act requires the Coast Guard to identify and to consider a reasonable number of regulatory alternates, and from those alternatives, select the least costly, most cost-effective, or least burdensome alternative that achieves the objective of this final rule. This rule does not impose additional costs upon any State, local, and tribal governments as a result of a mandate imposed upon them as a government agency. The completed analysis estimates that this final rule will provide a total savings to vessel owners and operators of approximately $2.8 million dollars. Publicly owned ferries will no longer have to pay a total of $428,200 in annual inspection user fees. This rule will, therefore, result In the reduction or elimination of fees paid by State, local, and tribal governments for inspection services provided to the applicable vessels owned by such entities.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(a) of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. Paragraph (34)(a) of that instruction excludes editorial or procedural regulations that clearly do not have any environmental impacts. "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 46 CFR Part 2

Fees, Marine safety, Vessels.

Accordingly, the interim rule amending 46 CFR part 2 which was published in 62 FR 19229 on April 21, 1997, is adopted as a final rule with the following changes and amendments:

PART 2—VESSELS INSPECTIONS

1. The authority citation for part 2 continues to read as follows:

Authority: 14 U.S.C 664; 31 U.S.C. 9701; 33 U.S.C. 1903; 43 U.S.C. 1333, 1356; 46 U.S.C. 2110, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46; Subpart 2.45 also issued under the authority of Act Dec 27, 1950, Ch 1155, sections 1, 2, 64 Stat. 1120 [see 46 U.S.C. App. Note prec. 1].

2. In § 2.10–5, revise paragraph (c)(2) to read as follows:

§ 2.10–5 Exemptions.

* * * * *

(c) * * *

(2) The vessel's use for fundraising activities without regard to the age of the participants aboard the vessel, provided revenues raised are for the operation and maintenance of the vessel and that such fundraising activities do not exceed one day of fundraising for each month of the vessel's operating season.

* * * * *

3. In § 2.10–25, revise the definitions of *ferry* and *youth* to read as follows:

§ 2.10–25 Definitions.

* * * * *

Ferry means a vessel that:

(1) Operates in other than ocean or coastwise service;

(2) Has provisions only for deck passengers or vehicles, or both;

(3) Operates on a short run on a frequent schedule between two points over the most direct water route; and

(4) Offers a public service of a type normally attributed to a bridge or tunnel.

* * * * *

Youth means an individual 21 years of age or younger.

Dated: September 28, 1998.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 98–29497 Filed 11–3–98; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1–296]

Organization and Delegation of Powers and Duties; Delegation to the Commandant, United States Coast Guard

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Secretary of Transportation is delegating to the Commandant, United States Coast Guard, authority pertaining to the enforcement of various conservation statutes. These statutes include the Atlantic Coastal Fisheries Cooperative Management Act of 1993, Lacey Act Amendments of 1981, Endangered Species Act of 1973, Atlantic Tunas Convention Act of 1975, Eastern Pacific Tuna Licensing Act of 1984, North Pacific Anadromous Stocks Convention Act of 1992, Pacific Salmon Treaty Act of 1985, Fur Seal Act of 1966, Antarctic Conservation Act of 1978, Antarctic Living Marine Resources Convention Act of 1984, North Pacific Halibut Act of 1982, High Seas Fishing Compliance Act of 1995, and the Northwest Atlantic Fisheries Compliance Act of 1995. In order that the Code of Federal Regulations reflect this delegation, a change is necessary.

EFFECTIVE DATE: November 4, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Gwyneth Radloff, Office of the General Counsel, C–50, (202) 366–9305, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: The Secretary of Transportation, as Secretary of the Department in which the Coast Guard is operating, is authorized to enforce each of the above Acts. The Secretary of Transportation is delegating this authority under these Acts to the Commandant of the Coast Guard. Delegation of authority to enforce these statutes is necessary to allow the Coast Guard to enter into cooperative fishery enforcement agreements with the National Marine Fisheries Service and state agencies.

In order to improve the speed and efficiency with which the Coast Guard can meet enforcement obligations, the Secretary is delegating authority to consult with other federal agencies or departments concerning the promulgation of regulations under the authority of the Eastern Pacific Tuna Licensing Act, Pacific Salmon Treaty Act, and Antarctic Living Marine Resources Convention Act. For this same reason the Secretary is also delegating authority to promulgate regulations needed for enforcement of the Endangered Species Act.

This rule amends 49 CFR 1.46 by adding a new paragraph to reflect the delegation of the Secretary's authority under the aforementioned Acts to the Commandant of the Coast Guard.

Since this amendment relates to departmental management, organization, procedure, and practice, notice and comment are unnecessary under 5 U.S.C. 533(b). Furthermore, since this amendment expedites the Coast Guard's ability to meet the needs of its conservation and enforcement obligations, the Secretary for good cause finds, under 5 U.S.C. 553(d)(3), that notice, and public procedure on notice, before the effective date of this rule are unnecessary, and that this rule should be made effective on the date of publication.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended to read as follows:

PART 1—[AMENDED]

1. The authority citation for Part 1 continues to read as follows:

Authority: 49 U.S.C. 322; Pub. L. 101–552, 28 U.S.C. 2672, 31 U.S.C. 3711(a)(2).

2. In § 1.46, paragraph (ppp) is added to read as follows:

§ 1.46 Delegations to the Commandant of the Coast Guard.

* * * * *

(ooo) Carry out the functions and exercise the authority vested in the Secretary by the following statutes:

(1) 16 U.S.C. 5106(h), relating to authorization of a person to enforce a moratorium declared under 16 U.S.C. 5106(c); pursuant to the Atlantic Coastal Fisheries Cooperative Management Act of 1993, as amended, Pub. L. 103–206, 107 Stat. 2447.

(2) 16 U.S.C. 3375(a), relating to the enforcement of the Lacey Act Amendments of 1981, as amended, Pub. L. 97–79, 95 Stat. 1073.

(3) 16 U.S.C. 1540(e) and (f), relating to promulgation of regulations under, and the enforcement of the Endangered Species Act of 1973, as amended, Pub. L. 93–205, 81 Stat. 844.

(4) 16 U.S.C. 971c and 971d, relating to the enforcement of the Atlantic Tunas Convention Act of 1975, as amended, Pub. L. 94–70, 89 Stat. 385.

(5) 16 U.S.C. 972e and 972g, relating to promulgation of regulations under, and enforcement of the Eastern Pacific Tuna Licensing Act of 1984, as amended, Pub. L. 98–445, 98 Stat. 1715.

(6) 16 U.S.C. 5008(a), relating to the enforcement of the North Pacific Anadromous Stocks Convention Act of 1992, as amended, Pub. L. 102–587, 106 Stat. 5098.

(7) 16 U.S.C. 3636 and 3637, relating to promulgation of regulations under, and the enforcement of the Pacific Salmon Treaty Act of 1985, as amended, Pub. L. No. 99–5, 99 Stat. 7.

(8) 16 U.S.C. 1156 and 1172(a), relating to the enforcement of the Fur Seal Act of 1966, as amended, Pub. L. 89–702, 80 Stat. 1091.

(9) 16 U.S.C. 2409, relating to the enforcement of the Antarctic Conservation Act of 1978, as amended, Pub. L. 95–541, 92 Stat. 2048.

(10) 16 U.S.C. 2434(b), 2436, and 2439, relating to conservation measures and promulgation of regulations under, and enforcement of the Antarctic Living Marine Resources Convention Act of 1984, as amended, Pub. L. 98–623, 98 Stat. 3398.

(11) 16 U.S.C. 773i, relating to the enforcement of the North Pacific Halibut Act of 1982, as amended, Pub. L. 97–176, 96 Stat. 78.

(12) 16 U.S.C. 5506, relating to the enforcement of the High Seas Fishing Compliance Act of 1995, as amended, Pub. L. 104–43, 109 Stat. 367.

(13) 16 U.S.C. 5606(e), relating to the enforcement of the Northwest Atlantic Fisheries Compliance Act of 1995, as amended, Pub. L. 104–43, 109 Stat. 377.

Issued in Washington, DC, this 27th day of October, 1998.

Rodney Slater,

Secretary of Transportation.

[FR Doc. 98–29517 Filed 11–3–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. PS–144; Amdt. 195–65]

RIN 2137–AC 78

Risk-Based Alternative to Pressure Testing Older Hazardous Liquid and Carbon Dioxide Pipelines Rule

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This final rule allows operators of older hazardous liquid and carbon dioxide pipelines to elect a risk-based alternative in lieu of the existing rule. The existing rule requires the hydrostatic pressure testing of certain older pipelines. The risk-based alternative would allow operators to elect an approach to evaluating the integrity of these lines that takes into account individual risk factors. This would allow operators to focus resources on higher risk pipelines and effect a greater reduction in the overall risk from pipeline accidents.

DATE: This final rule takes effect November 4, 1998.

FOR FURTHER INFORMATION CONTACT: Mike Israni, (202) 366–4571, or e-mail: mike.israni@rspa.dot.gov, regarding the subject matter of this final rule, or Dockets Unit (202) 366–4046, for copies of this final rule document or other material in the docket.

SUPPLEMENTARY INFORMATION:

Background

On June 7, 1994, RSPA published a final rule, "Pressure Testing Older Hazardous Liquid and Carbon Dioxide Pipelines," (Amdt. 195–51; 59 FR 29379) to ensure that certain older pipelines have an adequate safety margin between their maximum operating pressure and test pressure. This safety margin is to be provided by pressure testing according to part 195 standards or operation at 80 percent or less of a qualified prior test or operating pressure. The pipelines covered by the rule are steel interstate pipelines constructed before January 8, 1971, steel interstate offshore gathering lines constructed before August 1, 1977, or steel intrastate pipelines constructed before October 21, 1985, that transport hazardous liquids subject to part 195. Also covered are steel carbon dioxide pipelines constructed before July 12, 1991, subject to part 195.

On June 23, 1995, the American Petroleum Institute (API) filed a petition on behalf of many liquid pipeline operators that proposed a risk-based alternative to the required pressure testing rule. API indicated that its proposal would allow operators to focus resources on higher risk pipelines and to effect a greater reduction in the overall risk from pipeline accidents.

In order to determine whether the API proposal had merit, RSPA held a public meeting on March 25, 1996. On May 8 and November 7, 1996, and on May 17, 1997, RSPA briefed the Technical Hazardous Liquid Pipeline Safety

Standards Committee (THLPSSC) on the API proposal and steps taken by RSPA to develop a proposed rule. As discussed in more detail below, RSPA finds considerable merit in a risk-based approach to pressure testing of older hazardous liquid pipelines. It provides accelerated testing of electric resistance welded (ERW) pipe, incorporates the use of new technology, and provides for continuing internal inspection of older pipelines through a pigging program. RSPA has been working actively with the pipeline industry to develop a risk management framework for pipeline regulations. The API proposal is consistent with the risk assessment and management approach to safety. The API proposal provides an opportunity to pilot a risk-based approach in a rulemaking forum. Accordingly, this final rule requires a risk-based alternative to the pressure testing rule that has been modeled after the API proposal.

RSPA has extended time for compliance with the pressure testing rule in order to allow completion of this final rule on a risk-based alternative. The deadline for complying with § 195.302(c)(1) is extended to December 7, 1998. The deadline for complying with § 195.302(c)(2)(i) is extended to December 7, 2000. The deadline for complying with § 195.302(c)(2)(ii) is extended to December 7, 2003. (62 FR 54591; October 21, 1997).

Major Features of Risk-Based Alternative

The risk-based alternative to the rule requiring the pressure testing of older pipelines has six main features:

1. Highest Priority Is Given to the Highest Risk Facilities; Lowest Risk Facilities Are Excepted From Additional Measures

Pre-1970 electric resistance welded (ERW) and lapwelded pipelines susceptible to longitudinal seam failures exhibit the highest potential risk because of their combination of probability of failure and potential for larger volume releases as evidenced by historical records. Pressure testing is the only available technology for verifying the integrity of pre-1970 ERW and lapwelded pipelines, because it can detect the type of seam failures endemic to some ERW and all lapwelded pipe. This risk-based alternative requires accelerated testing of pre-1970 ERW and lapwelded pipe susceptible to longitudinal seam failure in certain locations (risk classification C and B) where people and environment might be significantly affected. However, in locations (risk classification A) where consequences to the public or environment are less significant, the risk-based alternative allows delayed testing for pre-1970 ERW and lapwelded pipe susceptible to longitudinal failure and allows the operator to determine the need for pressure testing of other types of pipe.

2. Consequence Factors Such as Location (Population and Environment), Product Type, and Release Potential Are Taken Into Consideration When Setting Testing Priorities

This risk-based alternative takes into account the most significant variables that may impact the severity of a release, i.e., location with respect to populated and environmentally sensitive [1] areas, the nature of the product transported, and the potential volume of product release. Historically, a very small percentage of releases adversely impacted public safety and environment. By taking these potential consequences into consideration in the timing of tests, an operator's resources will be more effectively applied to reduce risks.

3. Best Available Technology Is Applied To Verify Pipeline Integrity

The risk-based alternative encourages the use of the most effective means to ensure pipeline integrity. This rule utilizes the strength of two primary technologies—pressure testing and magnetic flux leakage/ultrasonic internal inspection devices. Each technology provides testing advantages in particular circumstances. This rule allows the operator to evaluate the pipeline risk considerations and to choose the most appropriate technology.

4. Timing of Tests Is Based on Risk

Considering the probability and consequence factors, the risk-based rule increases the priority of a limited amount of pre-1970 ERW and all lapwelded pipelines and maintains the three-year timing for risk classification B and C lines which represent the highest risk to people and environment. Pipelines with lower risks (risk classification A) are allowed a longer testing schedule or are eliminated (non-high risk pre-1970 ERW pipelines) from a mandatory testing requirement. Nothing in this rule precludes an operator from accelerating these schedules based on their pipeline operating and maintenance history.

[1] "Environmentally sensitive areas" is not currently defined, but operators are encouraged to use their best judgment in applying this factor. This factor may be defined in future rulemaking.

5. Reduces Test Water Requirements

This rule would allow operators options that require less test water and generate less water requiring treatment.

6. Provides an Opportunity To Reduce Operating Costs and Maintain the Necessary Margins of Safety by Applying the Risk-Based Concept

Acceptance and implementation of this rule provides an opportunity to pilot a risk-based approach to regulation. OPS anticipates increased use of risk-based approaches in future rulemakings.

Proposed Rule

RSPA published an NPRM (63 FR 5918; February 5, 1998), proposing to add a new section to Part 195 entitled "Risk-based alternative to pressure testing." NPRM also proposed that existing § 195.303 "Test pressure", and § 195.304 "Testing of components" would be renumbered as § 195.304 and § 195.305 respectively. The comment period closed April 6, 1998. Commenters included an industry association, two pipeline operating companies and a safety consultant.

Advisory Committee Review

On May 6, 1998, RSPA submitted the proposed rule and regulatory evaluation to the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC). Each proposed hazardous liquid pipeline safety standard must be submitted to the THLPSSC for Committee's view as to its technical feasibility, reasonableness, cost-effectiveness, and practicability. At the meeting, the THLPSSC declined to approve the proposed rule and unanimously requested that "environmentally sensitive areas" be included within the consequence factors for setting testing priorities. Some members argued that not including an environmental factor at this time would result in many segments of pipeline remaining untested for many more years. The Committee asked that the proposed rule be resubmitted for consideration through a mail ballot. On May 12, 1998, RSPA sent letter ballots to THLPSSC members to vote on revised language to be included in the final rule. RSPA received 10 of 12 ballots. All 10 members voted to approve the proposed rule provided the revised language was included. The THLPSSC also recommended discussion in the preamble to the final rule of the need to include consideration of environmentally sensitive areas even before a clear definition of the term is developed.

RSPA did not include an environmental factor in the proposed rule because of the lack of agreement on a definition. Following public briefings on the progress of the rulemaking at the THLPSSC meetings in November 1996 and May 1997, API objected to inclusion of an environmental factor as premature in light of the ongoing rulemaking to define unusually sensitive areas (USAs). At that time, RSPA intended to include an interim definition that could later be replaced, if appropriate, by the definition of USAs.

Although we do not necessarily agree that a definition of USAs should be the sole basis for inclusion of an environmental factor for a risk-based alternative to pressure testing, we recognized in the proposed rule the difficulties of defining an environmental factor before the USA definition is formulated. The difficulty in articulating a factor was made very apparent by THLPSSC members at the May 1997 meeting. One member argued that the environmental factor under consideration for the proposed rule was inadequate; two other members challenged that argument. Discussions with the members and API following that meeting indicated little chance of agreement on a definition prior to definition of USAs. Based on the discussion at the THLPSSC on May 6, 1998, it appears that there is broad agreement that environmentally sensitive areas will be considered by the industry even in the absence of a definition. Accordingly, we are following the advice of the THLPSSC and including environmentally sensitive areas within the consequence factors in this final rule. We recognize that we may need to revisit this issue once we have defined "unusually sensitive areas."

The Final Rule

The new § 195.303 "Risk-based alternative to pressure testing" would allow an operator of older hazardous liquid and carbon dioxide pipeline to elect an approach to evaluating the integrity of lines that takes into account individual risk factors. This alternative establishes test priorities based on the inherent risk of a given pipeline segment. Each pipeline is assigned a risk classification based on several indicators. In assigning a risk classification to a given pipeline segment, the first step is to determine whether or not the segment contains pre-1970 ERW and lap-weld pipe susceptible to longitudinal seam failures. Certain pre-1970 ERW and lap-weld pipeline segments are susceptible to longitudinal seam failures. An operator must consider the seam-related leak history of the pipe and pipe manufacturing information as available, which may include the pipe steel's mechanical properties, including fracture toughness; the manufacturing process and controls related to seam properties, including whether the ERW process was high-frequency or low-frequency, whether the weld seam was heat treated, whether the seam was inspected, the test pressure and duration during mill hydrotest; the quality control of the steel-making process; and other factors pertinent to seam properties and quality.

The next step is to determine the pipeline segment's proximity to populated and environmentally sensitive areas (Location). "Environmentally sensitive areas" is not currently defined. However, we expect operators to use their best judgment in applying this factor. Some good examples of areas which would be environmentally sensitive are waters used for drinking and fishing. This environmental factor may be defined in a future rulemaking.

The risk classification of a segment is also adjusted based on the pipeline failure history, the product transported, and the volume potentially releasable in a failure. Additional guidance for use of the alternative is provided in a new appendix B.

The pipeline failure history, denoted in the final rule as "Probability of Failure Indicator," is an important factor. The history of past failures (types of failures, number of failures, sizes of releases, etc.) plays an important role in determining the chances of future occurrences for a particular pipeline system. Therefore, it has been included as risk factor in the matrix for determining the risk classification. In the final rule the probability of failure indicator is considered "high risk" if the pipeline segment has experienced more than three failures in last 10 years due to time-dependent defects (due to corrosion, gouges, or problems developed during manufacture, construction or operation, etc.). Pipeline operators should make an appropriate investigation of spills to determine whether they are due to time-dependent defects. An operator's determination should be based on sound engineering judgment and be documented. In addition, the final rule provides compliance dates and recordkeeping requirements for those operators who elect the risk-based alternative to pressure testing of older hazardous liquid and carbon dioxide pipelines.

RSPA believes this rule will provide the pipeline industry with the flexibility to elect alternative technology for evaluating pipeline integrity without sacrificing safety.

Discussion of Comments

RSPA received four comments in response to the NPRM. Commenters included one industry association (API), two pipeline operating companies, and a safety consultant. Three commenters including API expressed strong support, but one commenter (a safety consultant) opposed issuing this risk-based rule.

Performance measures—In the proposed rule, RSPA sought comment and information on how to measure the performance of this risk-based alternative to determine effectiveness, particularly in comparison with the pressure test rule. RSPA received no comment. RSPA plans to examine the future performance of those pipeline segments that are pressure tested and compare it to the future performance of pipeline segments that are internally inspected or that are not tested at all.

Failure history—In the proposed rule, RSPA sought comment on excluding insignificant failures from the failure history risk factor. RSPA also sought comment on whether the failure should be quantified or if only a reportable incident should be considered.

One operator commented that only Department Of Transportation (DOT) reportable incidents be included. API commented that spills, regardless of whether reportable or not, should be included in the risk-based alternative engineering evaluation process by the operator making its own engineering judgment. The judgment should be documented and applied, when appropriate, to the failure history risk factor. API believes that proper documentation removes subjective judgments during agency audits/evaluations of the use of the risk-based alternative.

One commenter asked whether third party damage resulting in the immediate release of product would be considered a time-dependent defect in Table 6.

RSPA agrees that proper documentation would clarify the validity of decisions about whether spills are related to time-dependent defects or are truly insignificant during agency evaluation of the use of the risk-based alternative. This also eliminates need for failures to be quantified. Third party damage resulting in the immediate release of product does not constitute a time-dependent defect. Time-dependent defects are defects that result in spills due to corrosion, gouges, or problems developed during manufacture, construction or operation, etc. This is already covered in subnote 2 in Table 6

of Appendix B. Therefore, no changes have been made to Table 6.

Opposition to issuing the risk-based rule—One commenter (a safety consultant) opposed issuing this rule. Commenter argued that this rule might have been more meritorious had it been proposed after the results were in on the risk management demonstration projects. This commenter said that the notice published in the **Federal Register** on November 15, 1996 (61 FR 58605) states that the demonstration projects will test whether allowing operators the flexibility to allocate safety resources through risk management is an effective way to improve safety, environmental protection, and reliability. They will also provide data on how to administer risk management as a permanent feature of the Federal pipeline safety program if risk management proves to be viable regulation alternative. Therefore, this commenter said this rulemaking should be delayed until the completion of the risk management demonstration projects. This commenter also contended that the purpose of the API petition requesting the risk-based alternative was to reduce, or delay, the economic burden on pipeline companies as a result of the requirements of the final rule for pressure testing published by RSPA on June 7, 1994, (59 FR 29379).

RSPA disagrees that this rule should be delayed until completion of the risk management demonstration projects. The Accountable Pipeline Safety and Partnership Act of 1996 (Pub. L. 104–304, Oct. 12, 1996) that establishes the Risk Management Demonstration Program contemplates a limited number of projects. RSPA will approve no more than ten (10). Currently, none of projects being considered addresses the pressure testing of older pipelines that are impacted by the June 1994 pressure test rule. The Demonstration Program is looking at whole set of activities rather than focusing on an individual regulation. Also, delay until completion of the projects would unreasonably delay addressing issues of older hazardous liquid pipelines. These pipelines include high risk ERW pipelines.

The risk-based approach to older pipelines provides an opportunity to pilot a risk-based approach in a rulemaking forum as opposed to a demonstration project forum. RSPA believes this rule will provide the pipeline industry with the flexibility to elect alternative technology for evaluating pipeline integrity without sacrificing safety.

Proposed § 195.303(b)(4)(ii)—API suggested that this paragraph be revised to clarify that up to three time-dependent failures in 10 years would be low-risk. The proposed rule inadvertently limited the low risk assignation to two failures. This is inconsistent with the proposed Table 6. We agree and have revised this paragraph to be consistent with Table 6.

Proposed § 195.303(c): API said that the last sentence in the text of § 195.303(c) should be clarified so that operators understand that for those segments that fall under Risk Classification A "no additional measures" refers to no additional measures under this subpart (i.e. subpart E—Pressure Testing). API said that the last sentence as proposed appears to be broader. We have revised this section for clarity as recommended by the API.

Proposed § 195.303(g): API said that the text of § 195.303(g) should be clarified so that operators understand that pressure testing under the risk-based alternative, like the existing final rule, would be a one-time test. The review of risk classifications should be required only for those pipeline segments that have not yet been tested under § 195.303(a) or § 195.303(c). We agree and have clarified the wording.

Proposed § 195.303(i): API said that requiring operators to give a written notification and get approval from the Administrator before discontinuing from this program, should be eliminated from this rulemaking. Adding that this section is confusing, contradictory and results in a different standard of care for the risk-based alternative compared with the existing final rule. API said that operators should have flexibility to elect test portions and change plans of their system using the existing final rule and portions of their systems under the risk based alternative. The intent of § 195.303(i) requirement is to avoid operators switching from one testing program to another, causing delays in testing. Eliminating this requirement may make it difficult to enforce the regulatory deadlines. Requirements in this rule does not prevent an operator from choosing pressure testing for some segments and risk-based alternative for the remaining segments of a pipeline. Therefore, this section is retained.

Do previous in-line inspections on pipeline systems constitute compliance? API and one commenter requested that RSPA should allow previous in-line inspections and subsequent maintenance of a pipeline documented by company records as in compliance with this rule. RSPA will accept previous in-line inspections on pipeline conducted in the five years prior to the effective date of this final rule provided that anomalies found by previous smart pig runs have been repaired and pipeline has been maintained. RSPA will not accept older in-line inspections for the following reasons: (1) Technology keeps changing rapidly and internal inspection devices have greatly improved in recent years, (2) older internal inspection devices probably did not provide adequate data, (3) new corrosion or other defects may have developed since last in-line inspection.

Appendix B Table 1—API suggested that term "pipeline system" be changed to "pipeline segment" in Footnote 1 to Table 1, for clarity and agreement with the intent of the risk-based rule. We agree.

Additional Clarifying Guidance for both Operators and Inspectors—A number of operators (via API) offered suggestions for ways of making the rule more understandable, including rearranging the tables in the appendix, making the tables more explicit or providing flow charts that visually clarify the decision-making paths. RSPA realizes that a flowchart or decision tree with a couple of examples could aid the operators. However, the need to avoid further delay in addressing the issues of older hazardous liquid pipelines makes it impossible for RSPA to prepare such additional aids to implementation at this stage. Nothing precludes API with the help of its members from developing a flowchart and perhaps a few examples on how to apply this risk-based rule for its members.

V. Rulemaking Analyses

Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is a significant regulatory action under Executive Order 12866. Therefore, this rule was reviewed by the Office of Management and Budget. In addition, this final rule is significant under DOT's regulatory policies and procedures (44 FR 11034; February 26, 1979) because it is the first explicitly risk-based approach to rulemaking final by the Office of Pipeline Safety. A copy of the regulatory evaluation to this rule is also available in the docket office for review.

This section summarizes the conclusions of the regulatory evaluation. RSPA's pressure testing final rule was published on June 7, 1994 (59 FR 29379) along with a regulatory evaluation which found that the rule had a positive net benefit to the public, i.e., the benefits of the rule exceeded the cost (Present value costs of the earlier proposal were estimated to be between $134–$179 million in 1997 dollars while the present value benefits were estimated as $230–$283 million). RSPA believes that the risk-based alternative maintains the necessary margins of safety, therefore, the benefits of this alternative should be similar to the benefits of the earlier proposal. The present value costs for the risk-based alternative are estimated to be between $88.4–$98.4 million for reasons described below. The final rule allows the use of alternative technology (smart pigs) for evaluating pipeline integrity. On average smart pig testing is less expensive than pressure testing by $2,650/mile. In some cases smart pig technology provides more information about pipeline anomalies than pressure testing. The risk-based alternative would reduce the total amount of test water, which should lower the waste treatment costs and generate less hazardous waste. The risk-based alternative would allow operators to forgo testing where pipelines have low operating pressures, transport non-volatile product, operate in rural and environmentally non-sensitive areas, and have good records on pipeline failure history.

This risk-based approach is an ongoing process. RSPA believes that the risk-based alternative maintains the necessary margins of safety for the public and environment. Moreover, RSPA concludes that this alternative has the potential for positive improvements for the environment while reducing operating costs by allowing operators to elect those test methods most appropriate to the circumstances of each pipeline.

Regulatory Flexibility Act

The regulatory flexibility analysis of the earlier final rule concluded that it would not have a significant impact on a substantial number of small entities. RSPA believes that because this regulation offers an alternative to operators that could reduce the less than significant impact of the earlier regulation even further, this rule does not have a significant impact on a substantial number of small entities. Based on the facts available about the anticipated impact of this rulemaking action, I certify pursuant to Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605) that the action will not have a significant economic impact on a substantial number of small entities.

RSPA, in the proposed rule, had requested comments from small entities which might be impacted by this rule. We received no comments. This supports our earlier conclusion that this rule will have no significant impact on a substantial number of small entities.

Executive Order 12612

This rule will not have substantial direct effect on states, on the relationship between the Federal Government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 12612 (52 FR 41685; October 30, 1987), RSPA has determined that this final rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 13084

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 ("Consultation and Coordination with Indian Tribal Governments"). Because this rule would not significantly or uniquely affect the communities of the Indian tribal governments, the funding and consultation requirements of this Executive Order do not apply.

Unfunded Mandates

This rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

Paperwork Reduction Act

This rule does not substantially modify the paperwork burden on pipeline operators. Under the current pressure testing regulations operators are required to have testing plans, schedules, and records. The risk-based alternative would require the same or equivalent plans, schedules, and records for either pressure testing or internal inspection. Therefore, there is no additional paperwork required. Operators who choose the risk-based alternative will be required to have records that the pipeline segment which is not being tested qualifies for the risk-based alternative. According to conversations between OPS and the pipeline industry some of this information is already available in the form of drawings or plans that can be found either in operators' Facility Response Plans required by the Oil Pollution Act of 1990 (OPA 90) or in emergency response plans required by RSPA.

Operators will be required to periodically review the pipelines that qualify for the risk-based alternative to ensure that they still qualify. OPS believes that operators can conduct this review as part of their normal procedures.

Because of the above analysis, OPS does not believe that operators will have any additional paperwork burden because of this alternative, and therefore no separate paperwork submission is required.

National Environmental Policy Act

RSPA has analyzed this action for purposes of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and has determined that this action would not significantly affect the quality of the human environment. An Environmental Assessment and a Finding of No Significant Impact are in the docket.

List of Subjects in 49 CFR Part 195

Anhydrous ammonia, Carbon dioxide, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, RSPA amends part 195 of title 49 of the Code of Federal Regulations as follows:

PART 195—[AMENDED]

1. The authority citation for part 195 continues to read as follows:

Authority: 49 U.S.C. 60102, 60104, 60108, and 60109; and 49 CFR 1.53.

2. Section 195.302 is amended by adding a new paragraph (b)(4) to read as follows:

§ 195.302 General requirements.

* * * * *

(b) * * *

(4) Those portions of older hazardous liquid and carbon dioxide pipelines for which an operator has elected the risk-based alternative under § 195.303 and which are not required to be tested based on the risk-based criteria.

* * * * *

3. Section 195.302(a) is amended by removing cross-reference "§ 195.304(b)" and adding cross-reference "§ 195.305(b)".

4. In paragraph (c) of § 195.302, the introductory text is revised to read as follows:

§ 195.302 General requirements.

* * * * *

(c) Except for pipelines that transport HVL onshore, low-stress pipelines, and pipelines covered under § 195.303, the following compliance deadlines apply to pipelines under paragraphs (b)(1) and (b)(2)(i) of this section that have not been pressure tested under this subpart:

* * * * *

§§ 195.303 and 195.304 [Redesignated as §§ 195.304 and 195.305]

5. Section 195.303 *Test pressure.* and § 195.304 *Testing of components.* are redesignated as § 195.304 *Test pressure.* and § 195.305 *Testing of components.*

6. Part 195 is amended by adding a new § 195.303 to read as follows:

§ 195.303 Risk-based alternative to pressure testing older hazardous liquid and carbon dioxide pipelines.

(a) An operator may elect to follow a program for testing a pipeline on risk-based criteria as an alternative to the pressure testing in § 195.302(b)(1)(i)–(iii) and § 195.302(b)(2)(i) of this subpart. Appendix B provides guidance on how this program will work. An operator electing such a program shall assign a risk classification to each pipeline segment according to the indicators described in paragraph (b) of this section as follows:

(1) Risk Classification A if the location indicator is ranked as low or medium risk, the product and volume indicators are ranked as low risk, and the probability of failure indicator is ranked as low risk;

(2) Risk Classification C if the location indicator is ranked as high risk; or

(3) Risk Classification B.

(b) An operator shall evaluate each pipeline segment in the program according to the following indicators of risk:

(1) The location indicator is—

(i) High risk if an area is non-rural or environmentally sensitive [1]; or

(ii) Medium risk; or

(iii) Low risk if an area is not high or medium risk.

(2) The product indicator is [1]

(i) High risk if the product transported is highly toxic or is both highly volatile and flammable;

(ii) Medium risk if the product transported is flammable with a flashpoint of less than 100° F, but not highly volatile; or

(iii) Low risk if the product transported is not high or medium risk.

(3) The volume indicator is—

(i) High risk if the line is at least 18 inches in nominal diameter;

(ii) Medium risk if the line is at least 10 inches, but less than 18 inches, in nominal diameter; or

(iii) Low risk if the line is not high or medium risk.

(4) The probability of failure indicator is—

(i) High risk if the segment has experienced more than three failures in the last 10 years due to time-dependent defects (e.g., corrosion, gouges, or problems developed during manufacture, construction or operation, etc.); or

(ii) Low risk if the segment has experienced three failures or less in the last 10 years due to time-dependent defects.

(c) The program under paragraph (a) of this section shall provide for pressure testing for a segment constructed of electric resistance-welded (ERW) pipe and lapwelded pipe manufactured prior to 1970 susceptible to longitudinal seam failures as determined through paragraph (d) of this section. The timing of such pressure test may be determined based on risk classifications discussed under paragraph (b) of this section. For other segments, the program may provide for use of a magnetic flux leakage or ultrasonic internal inspection survey as an alternative to pressure testing and, in the case of such segments in Risk Classification A, may provide for no additional measures under this subpart.

(d) All pre-1970 ERW pipe and lapwelded pipe is deemed susceptible to longitudinal seam failures unless an engineering analysis shows otherwise. In conducting an engineering analysis an operator must consider the seam-related leak history of the pipe and pipe manufacturing information as available, which may include the pipe steel's mechanical properties, including fracture toughness; the manufacturing process and controls related to seam properties, including whether the ERW process was high-frequency or low-frequency, whether the weld seam was heat treated, whether the seam was inspected, the test pressure and duration during mill hydrotest; the quality control of the steel-making process; and other factors pertinent to seam properties and quality.

(e) Pressure testing done under this section must be conducted in accordance with this subpart. Except for segments in Risk Classification B which are not constructed with pre-1970 ERW pipe, water must be the test medium.

(f) An operator electing to follow a program under paragraph (a) must develop plans that include the method of testing and a schedule for the testing by December 7, 1998. The compliance deadlines for completion of testing are as shown in the table below:

TABLE.—§ 195.303—TEST DEADLINES

Pipeline segment	Risk classification	Test deadline
Pre-1970 Pipe susceptible to longitudinal seam failures [defined in § 195.303(c) & (d)].	C or B	12/7/2000.
	A	12/7/2002.
All Other Pipeline Segments.	C	12/7/2002.
	B	12/7/2004.
	A	Additional testing not required.

(g) An operator must review the risk classifications for those pipeline segments which have not yet been tested under paragraph (a) of this section or otherwise inspected under paragraph (c) of this section at intervals not to exceed 15 months. If the risk classification of an untested or uninspected segment changes, an operator must take appropriate action within two years, or establish the maximum operating pressure under § 195.406(a)(5).

(h) An operator must maintain records establishing compliance with this section, including records verifying the risk classifications, the plans and schedule for testing, the conduct of the testing, and the review of the risk classifications.

(i) An operator may discontinue a program under this section only after written notification to the Administrator and approval, if needed, of a schedule for pressure testing.

§ 195.406 [Amended]

7. Section 195.406(a)(4) is amended by removing cross-reference "§ 195.304" and adding cross-reference "§ 195.305"

8. A new Appendix B is added to part 195 to read as follows:

Appendix B—Risk-Based Alternative to Pressure Testing Older Hazardous Liquid and Carbon Dioxide Pipelines

Risk-Based Alternative

This Appendix provides guidance on how a risk-based alternative to pressure testing older hazardous liquid and carbon dioxide pipelines rule allowed by § 195.303 will work. This risk-based alternative establishes test priorities for older pipelines, not previously pressure tested, based on the inherent risk of a given pipeline segment. The first step is to determine the classification based on the type of pipe or on the pipeline segment's proximity to populated or environmentally sensitive area. Secondly, the classifications must be adjusted based on the pipeline failure history, product transported, and the release volume potential.

[1] (See Appendix B, Table C).

Tables 2–6 give definitions of risk classification A, B, and C facilities. For the purposes of this rule, pipeline segments containing high risk electric resistance-welded pipe (ERW pipe) and lapwelded pipe manufactured prior to 1970 and considered a risk classification C or B facility shall be treated as the top priority for testing because of the higher risk associated with the susceptibility of this pipe to longitudinal seam failures.

In all cases, operators shall annually, at intervals not to exceed 15 months, review their facilities to reassess the classification and shall take appropriate action within two years or operate the pipeline system at a lower pressure. Pipeline failures, changes in the characteristics of the pipeline route, or changes in service should all trigger a reassessment of the originally classification.

Table 1 explains different levels of test requirements depending on the inherent risk of a given pipeline segment. The overall risk classification is determined based on the type of pipe involved, the facility's location, the product transported, the relative volume of flow and pipeline failure history as determined from Tables 2–6.

TABLE 1. TEST REQUIREMENTS—MAINLINE SEGMENTS OUTSIDE OF TERMINALS, STATIONS, AND TANK FARMS

Pipeline segment	Risk classification	Test deadline [1]	Test medium
Pre-1970 Pipeline Segments susceptible to longitudinal seam failures [2]	C or B	12/7/2000 [3]	Water only.
	A	12/7/2002 [3]	Water only.
All Other Pipeline Segments	C	12/7/2002 [4]	Water only.
	B	12/7/2004 [4]	Water/Liq.[5]
	A	Additional pressure testing not required.	

[1] If operational experience indicates a history of past failures for a particular pipeline segment, failure causes (time-dependent defects due to corrosion, construction, manufacture, or transmission problems, etc.) shall be reviewed in determining risk classification (See Table 6) and the timing of the pressure test should be accelerated.

[2] All pre-1970 ERW pipeline segments may not require testing. In determining which ERW pipeline segments should be included in this category, an operator must consider the seam-related leak history of the pipe and pipe manufacturing information as available, which may include the pipe steel's mechanical properties, including fracture toughness; the manufacturing process and controls related to seam properties, including whether the ERW process was high-frequency or low-frequency, whether the weld seam was heat treated, whether the seam was inspected, the test pressure and duration during mill hydrotest; the quality control of the steel-making process; and other factors pertinent to seam properties and quality.

[3] For those pipeline operators with extensive mileage of pre-1970 ERW pipe, any waiver requests for timing relief should be supported by an assessment of hazards in accordance with location, product, volume, and probability of failure considerations consistent with Tables 3, 4, 5, and 6.

[4] A magnetic flux leakage or ultrasonic internal inspection survey may be utilized as an alternative to pressure testing where leak history and operating experience do not indicate leaks caused by longitudinal cracks or seam failures.

[5] Pressure tests utilizing a hydrocarbon liquid may be conducted, but only with a liquid which does not vaporize rapidly.

Using LOCATION, PRODUCT, VOLUME, and FAILURE HISTORY "Indicators" from Tables 3, 4, 5, and 6 respectively, the overall risk classification of a given pipeline or pipeline segment can be established from Table 2. The LOCATION Indicator is the primary factor which determines overall risk, with the PRODUCT, VOLUME, and PROBABILITY OF FAILURE Indicators used to adjust to a higher or lower overall risk classification per the following table.

TABLE 2.—RISK CLASSIFICATION

Risk classification	Hazard location indicator	Product/volume indicator	Probability of failure indicator
A	L or M	L/L	L.
B	Not A or C Risk Classification		
C	H	Any	Any.

H=High M=Moderate L=Low.

NOTE: For Location, Product, Volume, and Probability of Failure Indicators, see Tables 3, 4, 5, and 6.

Table 3 is used to establish the LOCATION Indicator used in Table 2. Based on the population and environment characteristics associated with a pipeline facility's location, a LOCATION Indicator of H, M or L is selected.

TABLE 3.—LOCATION INDICATORS—PIPELINE SEGMENTS

Indicator	Population [1]	Environment [2]
H	Non-rural areas	Environmentally sensitive [2] areas.
M		
L	Rural areas	Not environmentally sensitive [2] areas.

[1] The effects of potential vapor migration should be considered for pipeline segments transporting highly volatile or toxic products.

[2] We expect operators to use their best judgment in applying this factor.

Tables 4, 5 and 6 are used to establish the PRODUCT, VOLUME, and PROBABILITY OF FAILURE Indicators respectively, in Table 2. The PRODUCT Indicator is selected from Table 4 as H, M, or L based on the acute and chronic hazards associated with the product transported. The VOLUME Indicator is selected from Table 5 as H, M, or L based on the nominal diameter of the pipelina. The Probability of Failure Indicator is selected from Table 6.

TABLE 4.—PRODUCT INDICATORS

Indicator	Considerations	Product examples
H	(Highly volatile and flammable)	(Propane, butane, Natural Gas Liquid (NGL), ammonia)
	Highly toxic	(Benzene, high Hydrogen Sulfide content crude oils).
M	Flammable—flashpoint <100F	(Gasoline, JP4, low flashpoint crude oils).
This section has been revised to include reference to ANSI/NFPA 59A in paragraph (a) as follows: L.	Non-flammable—flashpoint 100+F	(Diesel, fuel oil, kerosene, JP5, most crude oils).
	Highly volatile and non-flammable/non-toxic	Carbon Dioxide.

Considerations: The degree of acute and chronic toxicity to humans, wildlife, and aquatic life; reactivity; and, volatility, flammability, and water solubility determine the Product Indicator. Comprehensive Environmental Response, Compensation and Liability Act Reportable Quantity values can be used as an indication of chronic toxicity. National Fire Protection Association health factors can be used for rating acute hazards.

TABLE 5.—VOLUME INDICATORS

Indicator	Line size
H	≥18".
M	10"–16" nominal diameters.
L	≤8" nominal diameter.

H=High M=Moderate L=Low.

Table 6 is used to establish the PROBABILITY OF FAILURE Indicator used in Table 2. The "Probability of Failure" Indicator is selected from Table 6 as H or L.

TABLE 6.—PROBABILITY OF FAILURE INDICATORS

[in each haz. location]

Indicator	Failure history (time-dependent defects) [2]
H [1]	>Three spills in last 10 years.
L	≤Three spills in last 10 years.

H=High L=Low.

[1] Pipeline segments with greater than three product spills in the last 10 years should be reviewed for failure causes as described in subnote [2]. The pipeline operator should make an appropriate investigation and reach a decision based on sound engineering judgment, and be able to demonstrate the basis of the decision.

[2] Time-Dependent Defects are defects that result in spills due to corrosion, gouges, or problems developed during manufacture, construction or operation, etc.

Issued in Washington, DC, on October 26, 1998.

Kelley S. Coyner,

Administrator, Research and Special Programs Administration.

[FR Doc. 98–29242 Filed 11–3–98; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–98–4281]

RIN 2127–AG38

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Statement of policy.

SUMMARY: This document announces that NHTSA will participate in an international effort under the aegis of the United Nations' Meeting of Experts on Lighting to develop a process for evaluating new ideas for signal lamps on vehicles. When that effort is complete, NHTSA will evaluate the results and see if it is appropriate to implement some or all of that process in the agency's evaluations of signal lighting ideas. Until the internationally-recommended process is available for NHTSA's consideration, the agency is adopting the policy (described in **SUPPLEMENTARY INFORMATION**) for evaluating requests to require or permit new or different signal lighting or signal lighting actuation.

FOR FURTHER INFORMATION CONTACT: Stephen R. Kratzke, Director, Office of Crash Avoidance Standards, NHTSA, 400 Seventh Street, S.W., Washington DC 20590. Mr. Kratzke's telephone number is (202) 366–4931 and his facsimile number is (202) 366–4329.

SUPPLEMENTARY INFORMATION:

Statement of Policy

When the agency is asked to evaluate a new signal lighting idea, NHTSA will ask:

1. Does the new signal lighting idea require a change in the standardized operation or appearance of a required lamp or piece of lighting equipment?

a. If NHTSA determines the answer is NO, does the new signal lighting idea impair the effectiveness of required lamps or lighting equipment?

i. If NHTSA determines the answer is YES, the new signal lighting idea is expressly prohibited by the lighting standard.

ii. If NHTSA determines the answer is NO, the new lighting signal idea may be installed on vehicles.

b. If NHTSA determines the answer is YES, the agency will proceed to Part 2 of this evaluation.

2. The current standardized approach for signal lighting has positive safety benefits by virtue of its broad public and international acceptance. Does the request to alter the current standardized approach for signal lighting present data purporting to show positive safety benefits from the new signal idea?

a. If no data are provided, NHTSA will not treat the request as a petition for rulemaking. The request will be forwarded to a public docket that will collect information describing all proposed new signal lighting ideas and systems. The docket will be available for review by NHTSA and others who may wish to plan future research based on the ideas and inventions collected in the docket.

b. If data are provided, NHTSA will treat the request as a petition for rulemaking. NHTSA will evaluate the data to determine if they show persuasive evidence of a positive safety impact.

i. If NO determination of positive safety can be made, NHTSA will not change its regulations to permit the new signal lighting idea, because that would negatively affect standardization of signal lighting.

ii. If YES, a determination of positive safety can be made. NHTSA will propose to amend its lighting standard to either permit or require the new signal lighting idea.

Background on Stop Lamps

Federal Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices and Associated Equipment (49 CFR 571.108) specifies types of signal lamps to be installed on new motor vehicles, and regulates their performance in terms of color, brightness, quantity, duty cycle (steady or flashing), and details of activation (e.g., activated when the service brakes are applied) [1]. All motor vehicles are required to have red stop lamps on the rear of the vehicle. Standard No. 108 requires that those stop lamps be activated "upon application of the service brakes." The goal of this activation requirement is to communicate to following drivers that the driver of the vehicle ahead has purposefully applied the brakes. This activation requirement does not differentiate between tapping the brakes and a hard braking application. Similarly, it does not indicate all times the vehicle may be slowing, such as when the driver downshifts or rapidly removes his or her foot from the accelerator pedal.

Many inventors have approached NHTSA over the past 30 years with ideas for changes that the inventors believe would improve stop lamps. Most of these ideas involve sending a different signal from the stop lamps for hard braking than for other, more typical brake applications. The agency has responded to these ideas by stating that it sees positive benefits from the current stop lamp activation provisions in Standard No. 108, which ensure a uniform, unambiguous signal that the driver has chosen to activate the service brakes. That is useful information for following drivers. However, NHTSA has acknowledged that it is *possible* that using a different action to activate the stop lamps or having the stop lamps send different signals might improve safety. The agency has stated it will consider changing the stop lamp requirements if it were shown that a change would yield a net safety benefit.

Baran's First Petition for ABWS and NHTSA'S Response

Baran Advanced Technologies, Ltd. of Israel manufactures an Advanced Brake Warning System (ABWS) that is intended to activate the stop lamps during emergency braking before the driver puts his or her foot on the brake pedal. The goal of this system is to give drivers of following vehicles an earlier warning of emergency braking. ABWS senses the rate at which the accelerator pedal returns to its upper stop after being released. It activates the stop lamps for one second if the accelerator pedal reaches its upper stop at greater than the set rate. Its operation is based on the assumption that any rapid release of the accelerator pedal is the beginning of an emergency braking maneuver and will be immediately followed by application of the brake pedal.

The issue of ABWS and the stop lamp requirements in Standard No. 108 goes back nearly a decade. In 1989, an Israeli competitor of Baran called ATAT asked for an interpretation to permit its version of ABWS to be installed in the aftermarket. ATAT did not want any mandate to use its version of ABWS and it did not want to install the device on new vehicles. In a January 25, 1990 letter, NHTSA told ATAT that its device could not legally be installed even in the aftermarket. The agency explained that activating the stop lamps upon rapid removal of the driver's foot from the accelerator would undermine standardization of the stop lamp signal and "can only create the potential for confusion and dilution of the effectiveness of the stop [lamp) signal."

The subject rested there until Baran filed a petition for rulemaking in 1993. Baran did not question the agency's interpretation of the existing requirements of Standard No. 108. However, Baran asked that the Standard's requirements be changed to permit its ABWS to activate the stop lamps upon rapid removal of the driver's foot from the accelerator pedal.

Baran relied upon two studies to support its request for a change to Standard No. 108 to permit the installation of its ABWS system. The first was a paper by Enke titled "Possibilities for Improving Safety Within the Driver-Vehicle Environment Control Loop." This paper estimates that the impact speed of 25 percent of rear end crashes is no more than 10 km/h, or 6 miles per hour and that the distance traveled at that speed in 0.25 second is exactly equal to the distance required to stop from 10 km/h. Baran claimed that this paper showed that providing a driver with an additional 0.25 second of warning of an impending stop by the driver ahead of him or her could yield a 25 to 30 percent reduction in all rear-end crashes.

The second paper on which Baran relied was a NHTSA report on Intelligent Vehicle Highway System (IVHS) countermeasures to rear end crashes (DOT HS 807 995). This report found that 75 percent of rear-end crashes "do not involve simply a 'too-slow' reaction of the following driver to a sudden crash threat." In fact, the most common scenario noted in the report for these 75 percent of rear-end crashes involves a lead vehicle that has been completely stopped for an extended interval (2 to 6 seconds) before it is struck by a following vehicle. However, the other 25 percent of rear-end crashes "may involve driver reaction time following a sudden crash threat as a critical factor." Baran believed that this report's finding was consistent with and bolstered the finding in Enke's report.

NHTSA carefully evaluated these reports and other data in response to Baran's petition. First, the IVHS paper found that rear-end crashes in which the following driver was attentive enough to respond to an earlier stop lamp signal were substantially less than 8 percent of all rear-end crashes, not 25 percent as interpreted by Baran. Second, a report by the Technical University of Darmstadt in Germany, titled Efficiency of Advanced Brake Light Devices, FO57 May 1994, found that responses by attentive test subjects improved by 0.10 to 0.15 second, instead of the 0.25 second improvement expected by Baran. This difference would substantially reduce the expected benefits of ABWS. Third, the potential safety benefits of ABWS appeared questionable. ABWS would allow as much as an additional 0.15 seconds of braking by following drivers, *but only if* the following driver immediately brakes hard upon seeing the stop lamps activated without waiting for any other cues that the lead vehicle is stopping, such as the car pitching or the tires and/or brakes squealing. To the extent the following driver waits for these other cues before braking, the potential benefits from ABWS are reduced. Recent research by Mercedes-Benz using a vehicle simulator in Germany found that more than 90 percent of drivers do not brake hard enough even when they have these cues *and* the lead vehicle's stop lamps are activated.

Fourth and finally, NHTSA was concerned that ABWS could negatively impact existing safety. At present, stop lamps are activated when the driver of a vehicle applies the brakes. ABWS would change this so that stop lamps were activated when the driver applies the brakes or rapidly removes his or her foot from the accelerator pedal. Baran's report on its ABWS that was submitted along with its 1993 petition showed that 23 percent of the time drivers did not brake after ABWS activated the stop lamps. Like the little boy who cried wolf, stop lamps that are activated when there is no subsequent braking are less likely to be immediately heeded in a real emergency. That undermines the most basic purpose of stop lamps. In addition, the agency was concerned that aggressive drivers could intentionally

[1] For the sake of simplicity, the rest of this document uses "NHTSA's lighting standard" or "Standard No. 108," instead of the full legal citation for this standard.

use these "false alarms" from the ABWS to further dilute the meaning of stop lamps.

Based on these analyses, involving both the absence of demonstrated net safety benefits and the possibility of net safety losses, NHTSA denied Baran's ABWS petition in a **Federal Register** notice of August 3, 1994 (59 FR 39522). In this denial, the agency expressly noted that it would consider data about the safety impacts of ABWS from a field study then being conducted by the Israeli Highway Safety Administration when those data became available and might reevaluate its decision in light of those data.

Baran's Second Petition for ABWS and NHTSA's Response

Less than a year after NHTSA's denial of Baran's first petition to allow ABWS, Baran submitted a second petition to allow ABWS. There were two changed factors since Baran's 1993 petition. First, Allied Signal, a major U.S. manufacturer of braking systems and components, had joined Baran in the petition. Second, the petition provided some preliminary, but not validated, data from the ongoing Israeli field study indicating that ABWS-equipped vehicles were in fewer crashes. The bulk of the petition contained a thorough explanation of why Baran and Allied Signal disagreed with NHTSA's judgment that current stop lamp signals would be more ambiguous if ABWS were permitted in the United States.

Upon review of this petition, NHTSA decided that the overarching issue was to define and articulate the agency's policy on braking and other lighting signals, so as to place the ABWS petition in the proper context. Once this NHTSA policy was articulated, the agency believed it would be a relatively simple matter to apply that policy in specific instances, whether to ABWS or some other signal. Up to this point, the ABWS discussions had involved only the parties asking for ABWS and the agency. Given the agency's desire to place ABWS in the broader context of signal lighting signals generally, NHTSA believed many more parties than ABWS petitioners and NHTSA should be involved in the discussion. Accordingly, NHTSA decided to publish a **Federal Register** notice asking for public comments on the agency's general policy on signals and on how that general policy should be applied in the case of four specific brake signaling ideas. Although all of the specific examples discussed in this notice were brake signaling ideas, NHTSA was also concerned about the appropriate policy for other signals, like turn signals. The four specific brake signaling ideas discussed were ABWS, flashing Center High Mounted Stop Lamps (CHMSLs) to warn of hard braking, flashing CHMSLs to identify a stopped vehicle, and "brake" lamps on the front of vehicles to indicate the vehicle is braking.

December 1996 Request for Comments

NHTSA published a **Federal Register** notice on December 13, 1996 (61 FR 65510) that articulated the agency's general policy regarding new signal lighting ideas and how that policy would apply in the case of four specific brake signaling ideas, including ABWS, and asked the public for comments. NHTSA explained the basic purpose underlying its signal lighting policy as follows:

> It is important that the integrity of the required signal lamps be maintained, and that auxiliary signal lamps not detract attention from the messages that the required signal lamps are sending. A vehicle signaling system must be as simple and as unambiguous as possible to others who share the roadway if traffic is to proceed in a safe and orderly fashion. As noted earlier, in many other countries, all auxiliary exterior lamps are expressly forbidden unless there is a specific regulation allowing it. 61 FR 65516.

The agency went on to explain that its paramount concern with signaling was to maintain standardization so as to minimize ambiguity about the meaning of required signal lamps. NHTSA will not give up the safety benefits of standardization unless there are data showing a net safety gain from doing so. Such data would generally come from large scale fleet tests over a significant number of vehicle miles. NHTSA has sponsored fleet tests to demonstrate the effectiveness of Center High Mounted Stop Lamps (CHMSLs) and conspicuity treatments for heavy trailers and truck tractors. However, these fleet tests are very expensive and time-consuming. Accordingly, the agency only conducts fleet tests after the signaling concept being evaluated has been analyzed within the agency and found to be sufficiently promising to have fleet testing included in NHTSA's research plan. NHTSA has neither the budget nor the time to sponsor fleet testing of most signal lighting ideas presented to it.

This leaves the inventor of the signaling concept as the other likely source to sponsor fleet tests or otherwise gather persuasive data showing a net safety benefit would result from the new signaling concept. NHTSA acknowledged that the costs and logistics of fleet testing may preclude most inventors from sponsoring those tests. Accordingly, the agency asked for comments on its recommendation to inventors that, unless the inventor has data showing a net safety benefit from his or her new signaling concept, the signaling concept should be presented to NHTSA as a candidate for further research. If the suggestions are found to have merit, they can influence agency research priorities and perhaps be included in the agency's research plan. Upon completion of the research project, NHTSA would have data that would allow it to consider whether to permit or require a new signaling concept.

This broad policy was then applied to four specific signaling concepts. The first three were signaling ideas that were at that time unsupported by field tests or other data. The AlliedSignal/Baran ABWS was discussed, along with flashing CHMSLs to warn of hard braking and flashing CHMSLs to identify a stopped vehicle. While each of these concepts has some intuitive appeal, adopting any of these three suggestions would eliminate the standardization that is already in place for stop lamps. Since there were no data showing any offsetting safety benefits for diluting the standardization, NHTSA indicated that it was reluctant to amend its lighting standard to permit the introduction of any of these concepts, but asked for public comment on this approach.

The fourth signaling idea on which public comment was sought was front "brake" lamp systems that would alert an oncoming vehicle that the subject vehicle was braking. Again, there were no data provided to show safety benefits for this signaling concept. However, S5.1.3 of Standard No. 108 provides that, "No additional lamp, reflective device, or other motor vehicle equipment shall be installed that impairs the effectiveness of lighting equipment required by this standard." Front "brake" lamps can be implemented in ways that would not affect the operation of any of the required lamps now on vehicles. Assuming front "brake" lamps were implemented so as not to interfere with the effectiveness of required front lighting equipment, front brake lamps are permitted to be installed on vehicles now, without any changes to the lighting standard.

There are some noteworthy paradoxes associated with these four signaling ideas. The first three have some intuitive appeal, but may not be offered because they would dilute standardization of stop lamp signals. The fourth has little, if any, intuitive appeal. In fact, NHTSA stated that it expected no safety benefits from front "brake" lamps. However, this concept may be offered on vehicles because it would not affect the standardized meaning of any required equipment. Nevertheless, the proponents of front "brake" lamps are not pleased with this result—they believe front "brake" lamps should be required. NHTSA asked the public for comments on its policy approach in this area and for comments on the four specific signaling ideas discussed in the notice.

Public Comments on the December 1996 Notice

NHTSA received more than 25 comments in response to its request for comments. With respect to the policy that should be followed in this area, Professor Rudolf Mortimer of the University of Illinois cautioned that decisions on any specific signal lighting idea should be made by looking broadly at all parts of the signaling system, not by considering "a host of seemingly desirable separate items that have no relationship to each other or the system as a whole." Other commenters, including the Insurance Institute for Highway Safety (IIHS) and the American Automobile Manufacturers Association (AAMA) noted that opportunities may exist to further improve the signaling required by Standard No. 108, and that it is important for the agency to periodically review design-restrictive standards like Standard No. 108 to assure that its restrictions still serve a safety need.

Volvo's comments urged the agency to adopt a permissive standard. Volvo suggested that NHTSA permit the installation of any auxiliary signal function that *might* work, unless that auxiliary signal plainly impaired the effectiveness of required signal lamps. However, Volvo commented that auxiliary signal functions should be mandated only if there were proof of significant safety benefits.

With the exception of Volvo, however, there was a general consensus in favor of the broad policy outlined by NHTSA in its request for comments. Most commenters agreed that NHTSA is correct to treat unsubstantiated concepts as requests for research and not to spend its resources responding to every signaling idea presented to the agency. For instance, the Truck Manufacturers Association (TMA) said: "TMA believes the responsibility for developing the necessary objective data lies with the petitioners and that the agency should not grant petitions unless such data are provided." Toyota and AAMA made the same point, and both also asked that NHTSA consider harmonizing any new signals with other countries' signaling requirements. Baran and AlliedSignal, the parties that petitioned for ABWS, concurred with the agency's intended policy of putting the burden on petitioners to provide data demonstrating the effectiveness of new signaling ideas before the agency began any rulemaking to modify its lighting standard. In the words of the ABWS petitioners:

> Petitioners are sensitive to NHTSA's concerns about the agency being inundated with untested ideas by inventors who lack data to support their ideas. Clearly, the agency cannot, and should not, initiate a rulemaking on each such idea. By contrast, where the efficacy of a logically attractive concept has been demonstrated by objective data, and where there is actual experience with the concept, we believe that a rulemaking is warranted. NHTSA Docket 96–041–N01–014, at 15.

Given this general agreement by commenters on the policy that should be applied when considering new signaling concepts, it is not surprising that the primary issue in each of the four examples identified by the agency was the quality of the available data. ABWS was the concept that drew the most comments specifically addressing it.

Five commenters favored ABWS. These five included Volvo, who commented that ABWS might work, so the concept should be permitted but not required. The petitioners for ABWS commented:

> Support for the ABWS concept is based on more than speculation or testimonials as to the efficacy of these safety devices. The recent report of a comprehensive fleet study conducted for the Government of Israel demonstrates that vehicles equipped with ABWS incurred a statistically significant (at the 95% confidence level) 17.6% lower rate of rear-end crashes than did a control group of non-equipped vehicles. • • • Together with other available data, the fleet study results persuasively demonstrate that ABWS devices offer significant safety benefits to the driving public, and that such devices do *not* pose any safety hazard. NHTSA Docket 96–041–N01–014, at 2.

ABWS petitioners also sought to address the agency's concerns about the high rate of "false alarms." NHTSA's 1994 denial expressed the agency's concern that 23 percent of the time ABWS activated the stop lamps, the driver never applied the brakes. ABWS petitioners included an Exhibit 9 to their comments. This exhibit was a study of six vehicles driven more than 61,000 kilometers. Table 1 of this study shows that ABWS activated the stop lamps 17.33 times per 1000 kilometers, and the driver never applied the brakes 2.57 of those times. Dividing these numbers gives an updated "false alarm" rate of 15 percent.

However, the ABWS petitioners contended that the agency had improperly calculated the "false alarms" for ABWS. NHTSA's calculations had been made by dividing the number of times ABWS activated the stop lamps with no subsequent braking by total number of times ABWS activated the stop lamps. The petitioners urged the agency to change the denominator and divide the number of times ABWS activated the stop lamps with no subsequent braking by the total number of times the stop lamps were activated. This change gives a much lower rate – 2.57 is now divided by 1,564.33 (1,547 times stop lamps activated by brake application + 17.33 times stop lamps activated by ABWS). By making this change, the "false alarm" rate is reduced to 0.2 percent, which petitioners argue is so small as to have no impact on drivers' reactions to stop lamps.

Two other commenters, the American Trauma Society and the International Association of Chiefs of Police, also were aware of the Israeli field study. Both stated in their comments that the Israeli field study had demonstrated an 18% reduction in rear-end crashes, and that NHTSA should permit ABWS. The Insurance Institute for Highway Safety (IIHS) commented that, "if the claims of Baran can be verified," then ABWS should not be a detriment to highway safety and may actually result in crash reductions. In that case, IIHS favored permitting ABWS. The American Automobile Association (AAA) did not comment specifically on ABWS, but did note in its comment that ABWS "has been demonstrated in field trials to reduce the rear end crash experience of vehicles in which it has been installed."

On the other hand, ten commenters stated that ABWS should not be permitted. These commenters included vehicle manufacturers (American Automobile Manufacturers Association (AAMA), as well as BMW, Mitsubishi, and Toyota), the American Trucking Association (ATA), and Advocates for Highway and Auto Safety (Advocates). Professor Mortimer commented that the brake signal is "the most important signal presently displayed on motor vehicles and nothing should be done to increase its ambiguity." Most of these commenters were of the opinion that, as expressed by AAMA, "research to date does not provide sufficient evidence that motor vehicle safety will be enhanced" by ABWS. ATA commented that NHTSA's signaling standards should be changed *only* to correct a demonstrated deficiency or when a

proponent demonstrates significant, cost-effective safety improvements from the change. The Truck Manufacturers Association (TMA) commented that ABWS should not be permitted because it could result in continuous activation of stop lamps when the driver of a big truck shifts gears. However, TMA noted in its comment that there are likely to be situations in the future where it is appropriate for stop lamps to be activated without service brake application. TMA offered as examples automatic braking being explored as part of Intelligent Transportation Systems and "differential braking" for heavy trucks. TMA suggested that stop lamps then should probably be activated as a function of the rate of deceleration, instead of by brake application alone.

There were fewer comments on the other three signaling concepts. Only 11 commenters specifically addressed the idea of flashing CHMSLs to warn of hard braking. Three commenters supported the idea. Volvo, as per its overall policy view, believed NHTSA should permit flashing CHMSLs for hard braking, because the concept *might* work. In Volvo's opinion, NHTSA should not prohibit signaling concepts that might work. Mr. Chris Egger of Las Vegas, Nevada commented that the idea of flashing CHMSLs to warn of hard braking would allow following vehicles "to take quick evasive action," and that this idea had merit. However, Mr. Egger believed flashing CHMSLs would only be beneficial if they were mandated on all vehicles, because the mandate would "establish an understood signal and eliminate ambiguity." Finally, Mr. Hamid Kashefy of Montreal, Quebec commented that NHTSA should permit flashing CHMSLs to indicate hard braking.

The eight commenters, including Advocates, ATA, TMA, Professor Mortimer, and AAMA, that opposed this concept expressed the view that the public would get no benefits for the added costs of flashing CHMSLs to indicate hard braking. TMA referred to NHTSA's 1981 research showing no additional benefits from a flashing CHMSL for hard braking as compared with a steady-burning CHMSL. TMA suggested that, until new data are presented, there is no basis for changing the current requirements in this area. Both IIHS and Mitsubishi opposed the concept of flashing CHMSLs for hard braking because they were concerned this might not be a helpful signal for following drivers.

Nine commenters commented on the concept of flashing CHMSLs to indicate a stopped vehicle. The only commenter supporting this concept was Mitsubishi, which said it did not object to flashing CHMSLs as a stopped vehicle signal. The other eight commenters that addressed this concept opposed it. Professor Mortimer commented, "There is no question that the single most important signal for the rear of motor vehicles to augment those presently provided would be a signal indicating that a vehicle is stopped or moving very slowly." However, Professor Mortimer asserted that a flashing CHMSL is not the way to provide a stopped vehicle signal because of confusion with the flashing lamps for turn and hazard signals. In the same vein, Advocates and IIHS commented that flashing CHMSLs could increase confusion and annoyance, especially in rush hour. Three other commenters, including ATA and Volvo, noted that 4-way hazard lamps are already on vehicles to serve exactly this purpose. Volvo stated its preference that flashing CHMSLs be reserved to indicate hard braking.

Eight commenters addressed the concept of front "brake" lamps. Volvo commented only that, at this time, NHTSA should not prohibit these signal lamps. The other seven commenters had less favorable views. Professor Mortimer commented that these signals should be prohibited because they can do more harm than good. Mr. Kashefy, an inventor of signal devices himself, also commented that front "brake" lamps should be expressly prohibited because there is a greater likelihood of safety losses than gains from this concept. However, Mr. Kashefy indicated that NHTSA should consider requiring front lamps that report when a vehicle is accelerating. TMA and IIHS, among others, commented that these front "brake" lamps might increase crashes and dilute the meaning of turn signals. ATA commented that front "brake" lamps would provide no benefits, while Advocates commented simply that, in that group's opinion, front "brake" lamps "have no merit whatsoever."

October 1997 Notice Reopening the Comment Period

Upon reviewing these comments, it was difficult to reconcile the general agreement about what policy NHTSA should apply to new signaling ideas with the widely divergent opinions about whether ABWS should be permitted. A closer look, however, readily explains the difference. With the exception of Volvo, the commenters agreed that new signaling concepts should be permitted when there are data demonstrating net safety gains from changing the current well-understood and effective signaling scheme. The commenters that favored ABWS had reviewed the Israeli field study cited by the ABWS petitioners in their comments and concluded that it was a convincing demonstration of safety gains from ABWS. None of the commenters that opposed ABWS referred to the Israeli study. Hence, this Israeli study of ABWS seemed to be a key factor for NHTSA in deciding whether to amend the current signaling requirements of Standard No. 108 to permit ABWS.

Unfortunately, the Israeli study had not been reviewed by many commenters because it became available to the public in NHTSA's docket on the day before the comment period closed. None of the commenters who indicated there was insufficient evidence that ABWS would offer safety benefits appeared to have reviewed the Israeli study. On the other hand, all of the parties that said ABWS had been shown to offer positive safety benefits based their statements on the Israeli study.

Given the importance of this study in commenters' views about whether ABWS should be permitted, NHTSA decided to reopen the comment period to make all commenters aware of the Israeli study and to get comments specifically directed to the merits of the study. NHTSA also decided it would be helpful to commenters for the agency to set forth its preliminary review of the Israeli study and ask for public comment on specific aspects of the Israeli study. Hence, NHTSA published an October 27, 1997 notice (62 FR 55562) reopening the comment period for an additional 30 days, with a request that commenters focus on the Israeli study and the other materials that were not previously available for public review.

The Israeli study of ABWS involved 764 Israeli government vehicles tracked over a two-year period. Half the vehicles were equipped with ABWS, the other half were not. The control group (those vehicles that did not have ABWS) were matched to the ABWS-equipped vehicles. That is, each vehicle in the control group was the same make, model, and model year as a vehicle in the ABWS group.

These 764 vehicles were in a total of 881 crashes, 78 of which were crashes in which the government vehicle was struck from the rear. Of these 78 rear-end crashes, 37 occurred in the vehicle fleet equipped with ABWS, while 41 crashes occurred in the control group. After adjusting for the distance driven by three particular vehicles, the study's authors concluded that the rear-end crash involvement rate of the ABWS equipped vehicles was 17.6 percent less than that of the control vehicles. In addition, these 78 crashes were then sorted into "relevant," defined in the report as "crashes in which the government vehicle was struck from behind while braking or immediately after braking," and "irrelevant," defined in the report as "crashes in which the government vehicle was already stopped for a while, or the driver reported that (s)he decelerated or braked gradually rather than abruptly, and/or the driver of the striking vehicle testified that he failed to pay attention to the stopping or stopped vehicle ahead." Of the 78 rear-end crashes, 26 were classified as "relevant" and the other 52 were deemed "irrelevant." The study concluded that the crash involvement rate of the ABWS-equipped vehicles in relevant rear end crashes was 64 percent less than that of the control group.

NHTSA identified some concerns about the study and the conclusions. The first concern was about how closely the ABWS group matched the control group. The Israeli study mentions that vehicle attributes (make, model, and year) were matched precisely in the ABWS group and the control group. However, no mention was made of matching important vehicle use patterns, such as the driving environment and the typical driver. It appeared that vehicle use patterns were not considered.

NHTSA next indicated in the October 27, 1997 notice that the analysis of the results appeared unusual. The data collected in the field study showed that there were 417 crashes for the ABWS-equipped vehicles and 464 crashes for the control group, or 9 percent fewer crashes for the ABWS group. This 9 percent reduction in crashes for the ABWS-equipped vehicles was found for:

- All crashes;
- Rear-end crashes; and
- Crashes other than rear-end crashes.

In other words, the ABWS-equipped vehicles in this field study were just as likely to avoid a frontal or side crash as they were to avoid a rear crash. Since ABWS would not be visible to the driver of the other vehicle in a frontal or side crash, there is no apparent reason to believe that ABWS would have any effect on those types of crashes. Thus, the data from this study do not appear to show any significant positive effect for ABWS. However, this simple analysis, which would be a conventional starting point for many analysts, was not reported in the study. NHTSA asked for comments on what significance should be given to the fact that one of the simplest uses of the data does not indicate any significant effect for ABWS in rear-end crashes relative to all other types of crashes.

The final major concern expressed by the agency in its October 1997 request for comments was that, as noted in the study, there was a large difference in the "relevant" rear-end crashes for the two groups—18 relevant rear-end crashes for the control group, but only eight relevant rear-end crashes for the ABWS group. However, the total rear-end crashes reported were substantially identical—41 for the control group and 37 for the ABWS group. The difference of four crashes in this sample size is not statistically significant. Thus, one interpretation of the data is that ABWS shifts rear-end crashes from the relevant to the irrelevant classification without reducing significantly the number of rear-end crashes. NHTSA asked for comments on the appropriate interpretation of the data.

In addition, the parties petitioning for ABWS had noted that several other countries permit the use of ABWS. The petitioners have identified Israel, Germany, Norway, the Czech Republic, and Austria, among others, as countries that currently permit ABWS on vehicles. NHTSA concurs with the petitioners that the practices in other countries ought to be given careful consideration. NHTSA has participated as the United States Delegate to the United Nations-sponsored Meetings of Experts on Lighting and Light Signaling in Geneva, Switzerland for more than 15 years. To bring insights and knowledge from lighting experts around the world, NHTSA sent a letter to each of the other 32 delegates, enclosing a copy of the Israeli field study and a copy of the October 27, 1997 notice reopening the comment period on this subject. These delegates to the Meeting of Experts on Lighting and Light Signaling were invited to review the documents and share any comments they might have.

Comments on the October 1997 Notice

Twelve parties responded to the reopening of the comment period with additional comments. Three commenters (the ABWS petitioners, the National Association of State Directors of Pupil Transportation Services, and Data Link, Inc.) said ABWS should be permitted because of its potential safety benefits, unless there were data showing a safety detriment from ABWS. Since there are no such data for ABWS, these commenters urged ABWS be permitted.

NHTSA notes that these comments argue for a different standard than those commenters favoring ABWS had urged in response to the December 1996 notice. In the previous notice, commenters had indicated that the Israeli study "persuasively demonstrate that ABWS devices offer significant safety benefits to the driving public," in the words of the ABWS petitioners. No such assertions were made on behalf of the Israeli study in response to the reopening of the comment period. The position now advocated was that "the intuitive appeal of ABWS benefits is so strong as to render unnecessary the conduct of a fleet study to prove benefits," in the words of Data Link (NHTSA Docket No. 96–041–N02–006). Instead, "the key question NHTSA should be asking in this proceeding is whether there is a demonstrable safety disbenefit associated with ABWS," according to the ABWS petitioners (NHTSA Docket No. 96–041–N02–005, at p.3). Stated in a broader policy perspective, ABWS advocates believe that a signaling concept that is "intuitively appealing" should be permitted unless there are data demonstrating that this concept will negatively affect safety.

Three commenters (Nebraska Motor Carriers Association, Advocates, and AAMA) said that, for the reasons identified in the agency's October 27 notice, the Israeli field study was inadequate to serve as the basis for any change to current signaling requirements. In its comments, AAMA agreed with the ABWS petitioners that "the concept of advanced brake warning is intuitively appealing and worthy of further research." (NHTSA Docket 96–041–N02–007). AAMA recommended that a controlled fleet study be undertaken in the United States.

The remaining six commenters were Delegates to the United Nations-sponsored "Meetings of Experts on Lighting and Light Signaling" in Geneva, Switzerland. These six international experts said that the Israeli study was not conclusive and was an insufficient basis for a change to current signaling. The Society of Motor Manufacturers and Traders (SMMT), the United Kingdom vehicle manufacturers' group, commented that "if all vehicles were fitted with ABWS and gave 23% false signals, the value of the stop signal would be greatly debased." (NHTSA Docket No. 96–041–N02–008). SMMT also commented that the issue of signaling and ABWS ought to be considered in a world-wide context, not just by the United States.

The second of the international commenters was Mr. Hanno Westermann, the chair of a Safety and Visual Performance (SVP) working group that has been asked by the UN-sponsored "Meetings of Experts on Lighting and Light Signaling" to study the subject of signaling, including ABWS, and to report the findings back to the Experts. Mr. Westermann

commented that the current signaling system has evolved continuously and is well understood. The Israeli study of ABWS "shows possible benefits," but those benefits do not appear to be significant, according to Mr. Westermann. In addition, the study shows that ABWS "exhibits a number of negative aspects." Specifically, Mr. Westermann referred to the instances when the stop lamp is illuminated but the brake is never applied (NHTSA Docket 96–041–N02–009). Mr. Westermann also noted that the 100 millisecond earlier warning of braking that is achieved with ABWS can also be achieved by means of light-emitting diodes (LEDs) or neon lamps in stop lamps (because they have a faster rise time than conventional incandescent lamps), without illuminating the stop lamps in situations where the brakes are never applied.

The third international commenter was Dr. Karl Manz, a consultant to the German Delegate to the Meeting of Experts. Dr. Manz stated that the Israeli field study is not sufficient to demonstrate the safety benefits claimed for ABWS.

The fourth international commenter was Mr. Hans Ammerlan, the Netherlands Delegate to the Meeting of Experts. Mr. Ammerlan stated that "false alarms," i.e., activation of the stop lamps when the brakes are never applied, are inherent in the design of ABWS because the assumption that rapid removal of the foot from the accelerator pedal will be followed by braking may be true most of the time, but will not be true 100% of the time. Mr. Ammerlan commented, "We consider such false alarms as a degradation of the brake signal." (NHTSA Docket No. 96–041–N02–012). Mr. Ammerlan also commented that if earlier warning of braking is useful, one would begin by addressing the rise times of current stop lamps since that has no possibility of degrading the brake signal.

The fifth international commenter was Mr. Kari Saari, Finland's Delegate to the Meeting of Experts. Mr. Saari commented that Finland follows the European Commission's lighting regulations, so it does not allow ABWS on vehicles.

The sixth international commenter was Mr. I. Ajtós, Hungary's Delegate to the Meeting of Experts. Mr. Ajtós commented that he agreed with NHTSA's observations about the shortcomings of the Israeli study. Mr. Ajtós also commented that human factors should have been studied, and specifically asked whether more frequent illuminations of stop lamps would not adversely affect the response of following drivers to those lamps. Mr. Ajtós concluded by stating that Hungary specifically rejected a petition to allow ABWS in that country in 1995 for two reasons. First, the 1968 Vienna Convention on Road Traffic, which Hungary has ratified, defines a "stop lamp" as "the lamp used to indicate to other road users to the rear of the vehicle that *the driver is applying the service brake.*" (Emphasis in Mr. Ajtós' comment—NHTSA Docket No. 96–041–N02–013, at page 5). According to Mr. Ajtós, Hungary interprets this language as precluding the use of ABWS. Second, Mr. Ajtós commented that Hungary denied the ABWS petition because it agreed with the reasoning in NHTSA's 1994 ABWS petition denial.

September 1998 Withdrawal of ABWS Petition

On September 16, 1998, the ABWS petitioners withdrew their petition for rulemaking to permit ABWS. The petitioners explained the withdrawal as follows:

> Given that NHTSA now seems to be applying a higher standard than that which should be applied for optional safety devices, and in spite of the considerable evidence of the safety benefits of ABWS that Petitioners have presented to date, Petitioners have decided that they cannot at this time move forward with their Petition. Other nations have approved the use of ABWS based on the considerable volume of data showing that it is a proven crash avoidance device, and additional nations are in the process of considering ABWS technology. In light of NHTSA's current views, resources at this time will be focused on these nations.

NHTSA's Conclusions and Decisions

After considering all the comments and the other information that is available on the subject of signals for braking, the agency has reached the following conclusions.

1. Current NHTSA Signaling Requirements Are the Norm Internationally, Not the Exception

The current signaling requirements for braking in NHTSA's lighting standard (stop lamps come on when service brakes are applied, stop lamps are steady-burning, not flashing, and stop lamps do not give a different signal for hard braking than lighter braking) are all consistent with the prevailing international practice. Indeed, the 1968 Vienna Convention on Road Traffic, signed by the United States and many other countries, sets forth an international consensus on what signal lamps should mean. Suggested changes to the prevailing international consensus on signaling requirements may of course be considered by individual countries to respond to particular needs, but such changes should also be considered internationally at an international forum.

2. Current Information Provided by Signal Lamps That Conform With NHTSA's Signaling Requirements is Standardized and Well Understood by the Driving Public

The information currently provided by signal lamps that conform with the requirements of NHTSA's lighting standard is well understood by the driving public. The information that is provided by signals (driver has applied brakes, has shifted into reverse, etc.) is instantly recognized and unambiguously informative. Even the ABWS petitioners expressly acknowledge the importance of uniform, unambiguous signals. Petitioners said, "The October 27 notice recognizes, quite properly, that there is a benefit associated with a uniform, unambiguous signal system;" NHTSA Docket No. 96–41–N02–005, at page 6. Given the benefits of the current standardized signaling system, it is reasonable and appropriate to require parties asking for a change to the current system to bear the burden of demonstrating that the benefits that will be lost by changing from the current uniform, unambiguous signals will be more than offset by new safety benefits from the signaling change.

3. It Is Appropriate for NHTSA and Other Countries To Re-Examine the Current Signaling Requirements To See If They Can Be Improved

The Vienna Convention set forth the international consensus about the state of the art of signaling information in 1968. There have been significant advances in electronics and sensors in vehicles over the past 30 years. Those advances make it appropriate to reexamine the information provided by signal lamps to see if the information can be improved.

NHTSA understands that the total information that can be provided by signal lamps is limited. It is clear that drivers won't respond instinctively to 100 different lights on the rear of vehicles. Likewise, illumination of a lamp can't mean ten different things. However, much human factors work needs to be done to understand these limits and other areas such as how many signals will produce "information overload," dilution of the intended message, and the risk that activation of one signal lamp will mask information from other signal lamps. In addition, NHTSA understands that much work needs to be done on crash data analysis to determine what new functions that could be served by signal lamps in 1998 would provide the biggest added safety gains. The goal of this work would not be to have vehicles provide more and more signals, but to assure that vehicles have clear signals that provide the most important information to other drivers.

In addition, NHTSA believes that any decision about what additional or improved information can or should be provided by signal lamps should be made after a comprehensive look at all the possibilities for enhancement, instead of as a piecemeal response to individual concepts. For instance, a decision to permit stop lamps to perform the ABWS function may limit those lamps' suitability for performing other functions, such as signaling onset of rapid deceleration or following too closely. While that may ultimately be the right decision, it should be made after considering the significance of those other functions.

In accordance with these conclusions, NHTSA is taking the following actions.

1. NHTSA Will Participate in the Efforts To Try To Develop an International Consensus on How To Handle New Signaling Ideas

The SVP Group has been asked by the UN-sponsored Experts on Lighting to study the subject of signaling and to report recommendations back to the Experts Group. The need to reexamine signaling ideas as we enter the 21st Century is an international concern. It seems appropriate to try to address that concern internationally. For example, according to the ABWS petitioners, Israel, Germany, Norway, and the Czech Republic currently permit the installation of ABWS on vehicles. The United States and Hungary have previously said no to ABWS. It would seem to be better for everyone, including the driving public, the governments, and vehicle and lighting manufacturers, if there were clear standardized meanings for signal lamps in all six of these countries.

Moreover, there is an international need to address this concern. All 16 of the countries that regularly participate in the U.N. Meeting of Experts on Lighting and Light Signaling report that they have been approached by people who believe they have devised improvements to the current signaling. It would be preferable to develop a global means for considering such changes to signaling, instead of having each nation consider the changes in isolation from the rest of the world.

NHTSA has already had a representative, the same person who is the United States Delegate to the Meeting of Experts on Lighting and Light Signaling, attend three meetings and participate in two video conferences of the SVP to participate in the effort to develop recommendations for signaling to be presented to the Meeting of Experts on Lighting and Light Signaling. NHTSA will make every effort to assure that an agency representative is actively involved in the SVP work and any other efforts of the Meeting of Experts to forge an international consensus on updating light signaling.

2. Until a New International Consensus Emerges, NHTSA Will Follow the Policies for Evaluating New Signaling Concepts Described in the December 1996 Request for Comments

NHTSA recognizes that it often takes years to arrive at an international consensus. It would be inappropriate for the agency to refuse to take any action on the subject of improved signaling until an international consensus is reached and the agency evaluates that consensus to see if some or all of it can be implemented by NHTSA, consistent with its safety mission and applicable legal requirements. Accordingly, NHTSA is announcing the policy it will follow for evaluating requests for changes to current signaling requirements for lamps. This policy is the same approach that was set forth in the December 1996 request for comments, which was supported by the vast majority of commenters to that notice.

The first question NHTSA must address in considering a new signal lighting idea is whether it requires a change in the standardized operation or appearance of a required lamp or piece of lighting equipment. As indicated above, the agency reiterates that there is a positive benefit to the motoring public from standardizing signals. NHTSA has always tried to tailor its signal lamp requirements to assure the public of the benefits of standardization, while at the same time allowing as much design freedom as possible for the location, shape, styling, and light source designs for those lamps. In the December 1996 request for comments, NHTSA noted that the intensity ranges of taillamps and stop lamps are regulated so that a following driver can distinguish a red stop lamp from a red taillamp as soon as the stop lamp is actuated by braking, without having to notice the transition. However, the size and shape of stop lamps and taillamps are left to the designer of the lamps. Likewise, stop lamps are required to be steady-burning to distinguish them from the required flashing of turn signals and hazard warning signal lamps of the same brightness and color.

In keeping with this approach, NHTSA also allows for lighting equipment beyond what is required by the lighting standard, called "auxiliary" lighting, provided that this auxiliary lighting does not "impair the effectiveness" of the required lamps and reflectors. Thus, when NHTSA is asked about a new signal lighting idea, the agency's first question is whether the new signal lighting would require a change to the standardized operation of required lighting equipment. If the new idea does not require a change to the standardized operation of required lighting equipment, the only question left for the agency is whether the new lighting would impair the effectiveness of required lighting. If it would impair the effectiveness of required lighting (e.g., by masking the operation of required lighting or introducing ambiguity into the meaning of required lighting), the idea is expressly prohibited by S5.1.3 of Standard No. 108 and it may not be installed on vehicles. That is because this lighting would undermine the safety benefits that NHTSA has determined are associated with the required lighting.

If, however, NHTSA determines the new signal lighting would not impair the effectiveness of required lighting, it may be installed on vehicles consistent with the existing requirements of the lighting standard. This is true even if there is no safety value for such auxiliary lighting. In these circumstances, the public is not losing any of the safety benefits from the required lighting. Thus, even if the public gains nothing of value from such auxiliary lighting, the result is safety-neutral.

Many new signal lighting ideas, however, would require a change in the standardized operation of required lamps or lighting equipment. In these instances, the hurdle that these ideas must clear is higher. This is because the public would be losing the safety benefits of the current standardized operation of required lighting that result from the broad public and international acceptance of the standardized operation. In these cases, NHTSA has long said that it is certainly possible that a new idea for the operation of signal lighting *might* improve safety. However, given the safety benefits associated with the standardized operation and meaning of required lighting, the burden is on the proponents of the new signal lighting idea to demonstrate that the use of the

new signal lighting idea would yield a positive safety benefit large enough to more than offset the adverse safety effects of giving up the standardized operation and meaning of signal lights.

Some commenters to the October 1997 notice reopening the comment period argued that this standard is too demanding. Instead, they urged that the appropriate standard should be that lighting will be permitted that necessitates changes to the standardized operation and meaning of required lighting *unless* there are data available showing adverse safety consequences from the new signal lighting. In other words, one should not have to demonstrate that new signal lighting offers the public any safety gains, just that it would not cause the public any safety harm.

NHTSA is not adopting this position as its policy. As noted above, the currently standardized operation and meaning of required lighting gives safety benefits because it enjoys broad public and international recognition and acceptance. NHTSA has made findings of benefits for the current standardized approach and discussed its current standardized approach with lighting experts from other nations at a United Nations-sponsored forum. Given this background, it seems reasonable and appropriate to require advocates of change to the current standardized approach to say more than that different decisions could have been made to achieve the same results from standardization. Even if that is true, it results in nothing of value for the American driving public. NHTSA concludes that it is more appropriate to require advocates of change to demonstrate that different decisions would have achieved better safety.

But, those advocates may ask, why is it acceptable for auxiliary lighting that does not impair the effectiveness of required lighting to merely be safety-neutral, while changes to the standardized approach for required lighting must be shown to be affirmatively safety-beneficial? The answer is that whatever happens with such auxiliary lighting does not effect the core safety functions performed by the required lighting, whereas changes to the standardized operation of required lighting directly impacts the core safety functions performed by those lamps. NHTSA believes a higher standard is appropriate for changes to the core safety functions of required lamps and signals than for changes to peripheral, non-required lamps that do not affect any of the core safety functions of required lamps and signals.

Required lighting cannot achieve its intended safety purpose unless the message of the lighting is instantly and unambiguously recognized by other drivers. The only way to achieve that level of clear recognition is to standardize the operation and meaning of required lamps—in other words, NHTSA must pick a single approach. When NHTSA changes the single standardized approach, it must specify a different single standardized approach for required lamps and lighting equipment. Such a change requires the public to adapt to new meaning and/or operation for required lamps and vehicle and lighting manufacturers to make any needed changes to their products. Something of this magnitude should not be undertaken lightly and should be justified by a greater good for all at the end, such as enhanced safety for the driving public.

In the case of auxiliary lighting that does not impair the effectiveness of required lighting, NHTSA has not recognized any safety purpose for that auxiliary lighting. It does not matter whether the public recognizes the message of the auxiliary lighting, as long as this lighting does not detract from the required lighting. There are hundreds of possible approaches for this type of lighting and NHTSA has no reason to pick any single approach over the others. In this situation, all that is required is that the auxiliary lighting not do harm to the required lighting.

NHTSA's regulations currently set forth at 49 CFR Part 552 the requirements for the agency to treat a request as a petition for rulemaking. Section 552.4 provides:

Each petition filed under this part must:

(a) Be written in the English language;

(b) Have, preceding its text, a heading that includes the word "Petition";

(c) Set forth facts which it is claimed establish that an order is necessary;

(d) Set forth a brief description of the substance of the order which it is claimed should be issued; and

(e) Contain the name and address of the petitioner.

The pertinent requirement for this discussion is the one in § 552.4(c) that a petition must "set forth facts" to support the contention that a rulemaking change is needed. In the case of signal lighting ideas, NHTSA has, as noted, made findings of benefits for the current standardized approach and discussed this approach at least twice a year with lighting experts from other nations at a United Nations-sponsored forum on lighting. In this context, NHTSA interprets its regulation as requiring that a request for a change to signal lighting must provide more than assertions of an unaddressed need, speculations about how to address that need, and testimonials about the efficacy of the requested approach, and the like. Those are not "facts" within the meaning of 49 CFR 552.4(c); they are simply opinions.

Thus, when NHTSA is requested to alter the current standardized operation and meaning for signal lighting, the agency determines whether the request provides data purporting to show positive safety benefits sufficient to more than offset the benefits lost from eroding standardization. If the request contains no such data, NHTSA interprets its regulations as providing that such a request will not be treated as a petition for rulemaking. Instead, the request will be treated as a suggestion for research to try to gather the necessary data. The request will be forwarded to a public docket that will collect information describing all proposed new signal lighting ideas and systems. The docket will be available for review by NHTSA and others who may wish to plan future research based on the ideas and inventions collected in the docket.

If the request provides data, NHTSA will treat it as a petition for rulemaking asking for changes to the current standardized meaning and operation for signal lighting. The agency will evaluate the data to determine if they show persuasive evidence of a positive safety impact. If that evaluation does not permit a determination of positive safety from the requested change, NHTSA will not change its lighting standard to permit the new signal lighting idea. If the evaluation of the data leads the agency to the conclusion that positive safety effects are likely from the requested change, NHTSA will propose to amend its lighting standard to either permit or require the new signal lighting idea.

NHTSA intends to apply this policy to any requests it receives for new signal lighting ideas. Because this notice explains how the agency will analyze requests and what sort of data is needed to support requests for changes in the standardized operation and meaning of required lighting, people with ideas for new signal lighting should now have a better understanding of what supporting information is needed when they request changes to standardized signal lighting. The agency will reexamine this policy periodically to assure that it continues to be appropriate. NHTSA will carefully consider the work in this area of SVP and the United Nations-sponsored Meeting of Experts on Lighting and Light Signal when such work becomes available. To repeat, the agency will actively participate in the international effort in this area.

3. Results of Applying These Policies To the Four New Signaling Concepts Described in the December 1996 Request for Comments

a. ABWS. ABWS requires a change in the standardized operation of required lamps (the stop lamps). Those lamps are currently required to be activated only when the service brakes are applied. ABWS would also activate those lamps if the driver rapidly removes his or her foot from the accelerator pedal. The next question for NHTSA's determination is whether the ABWS request to alter the activation of stop lamps presents data purporting to show positive safety benefits. Again the answer to this question is yes. The Israeli field study that was the subject of NHTSA's October 27, 1997 reopening of the comment period concluded that the rear-end crash involvement rate of ABWS-equipped vehicles was 17.6 percent less than the rear-end crash involvement rate of the control vehicles. Thus, NHTSA would treat the ABWS request as a petition for rulemaking under this policy.[2]

The next step under this policy would be for the agency to evaluate the Israeli study to determine if it shows persuasive evidence of a positive safety impact. After its evaluation, NHTSA has concluded that the Israeli study does not demonstrate any significant positive effect for ABWS. As noted in the October 27, 1997 request for comments, the data collected in the field study showed that there were 417 crashes for the ABWS-equipped vehicles and 464 crashes for the control, or 9 percent fewer crashes for the ABWS group. However, this 9 percent reduction in crashes for the ABWS-equipped vehicles was found for:

- All crashes;
- Rear-end crashes, and
- Crashes other than rear-end crashes.

In other words, the ABWS-equipped vehicles in this field study were just as likely to avoid a frontal or side crash as they were to avoid a rear crash. Since ABWS would not be visible to the driver of the other vehicle in a frontal or side crash, there is no reason to believe it would have any effect on these types of crashes. Thus, the data from this study do not appear to show any positive effect for ABWS.

In addition, the Israeli study did not show any significant effect on the total number of rear end crashes for ABWS-equipped vehicles. As noted in the October 27, 1997 request for comments, the authors of the field study sorted the rear-end crashes into a "relevant" and an "irrelevant" category, and claimed a major reduction of "relevant" rear-end crashes for ABWS—there were 18 relevant rear end crashes for the control vehicles, as compared with 8 relevant rear end crashes for the ABWS-equipped vehicles. However, the total rear end crashes for the ABWS vehicles and the control vehicles were substantially identical—41 rear-end crashes for the control group and 37 for the ABWS group. Whatever the merits of ABWS at shifting rear-end crashes from the "relevant" to the "irrelevant" category, the crashes still occurred. The data from the Israeli field study do not demonstrate any substantial reduction in total rear-end crashes for vehicles with ABWS compared with vehicles with conventional activation of stop lamps.

After evaluating the data from the Israeli study, NHTSA concludes that these data do not demonstrate any significant positive safety impact for ABWS, so there would be nothing gained for the American public to more than offset the safety lost by changing the current standardized approach to stop lamps. It seems that the ABWS petitioners came to the same conclusion after reviewing the Israeli study. In March 1997, when the ABWS petitioners submitted the Israeli study to NHTSA, they said that "the fleet study results persuasively demonstrate that ABWS devices offer significant safety benefits to the driving public." NHTSA Docket 96–041–N01–014, at 2. However, eight months later in November 1997, when they responded to the reopening of the comment period to allow public review of the Israeli study, the ABWS petitioners made no such claims. Instead, they now asserted, "In sum, all of the real-world evidence drawn from actual crash statistics, and all of the available studies, point in the same direction—there is no safety disbenefit associated with ABWS." NHTSA Docket No. 96–041–N02–005, at p.9. The agency also notes that none of the other commenters whose March 1997 comments indicated that they believed the Israeli study demonstrated significant benefits for ABWS (AAA, International Association of Chiefs of Police, and the American Trauma Society) responded to the agency's reopening of the comment period and preliminary evaluation of the Israeli study.

The Israeli study is an insufficient demonstration of positive safety impacts from ABWS. Accordingly, NHTSA's rulemaking action on ABWS is hereby withdrawn.

b. Flashing CHMSLs to warn of hard braking.

c. Flashing CHMSLs to warn that the vehicle is stopped. Flashing CHMSLs to warn of hard braking or that the vehicle is stopped would require a change in the standardized operation of required lamps (the stop lamps). Those lamps are currently required to be steady-burning. As noted above, the requirement for stop lamps to be steady-burning is intended to assure that drivers can instantly distinguish stop lamps from turn signals and hazard warning lamps, which flash when activated. The next question NHTSA must answer then is whether the requests to alter the activation of stop lamps to permit flashing CHMSLs for hard braking or a stopped vehicle have presented data purporting to show positive safety benefits sufficient to more than offset the safety losses from changing standardization. The answer to this is no. As noted by TMA in its comments, the only data in this area indicates no significant improvement from flashing CHMSLs (NHTSA's large scale field study in 1981). Accordingly, NHTSA would not treat these requests as petitions for rulemaking. Instead, the requests would be treated as suggestions for research to try to gather the necessary data. The requests would be forwarded to a public docket that will collect information describing all proposed new signal lighting ideas and systems. The docket will be available for review by NHTSA and others who may wish to plan future research based on the ideas and inventions collected in the docket. NHTSA notes that since it has already researched the merits of flashing CHMSLs, it is unlikely that the agency will research the same area again until there is some reason (such as new data in this area) to believe the 1981 study may no longer be valid.

d. Front "Brake" lamps to alert oncoming vehicles the subject vehicle is braking. Front "brake" lamp systems to alert oncoming vehicles that the subject vehicle was braking would not require any change in the standardized operation of required lamps. Thus, this idea has a much lower hurdle to clear than ideas that would require changes in the standardized operation of required lamps. The only issue for these front "brake" lamps is whether they would impair the effectiveness of required lighting. Assuming NHTSA determines that the front "brake" lamps are designed so as not to impair the effectiveness of the required lighting on the front of the vehicle, NHTSA's

[2] Under its policies in place at that time, NHTSA treated the ABWS request as a petition and granted it on July 26, 1996.

lighting standard already permits these front "brake" lamps to be installed on vehicles.

Of course, petitions to *require* front brake lamps or any other motor vehicle equipment are evaluated according to NHTSA's normal approach—will the American public get its money's worth from this requirement? In other words, are the safety benefits for the new equipment sufficient to justify the costs that will be imposed on the American people by a new requirement for this equipment? In the case of front brake lamps, NHTSA concluded in 1996 (61 FR 10556; March 14, 1996) that the answer was no, and denied a petition to require front "brake" lamps. Any future petitions to require front "brake" lamps will need to demonstrate greater safety benefits (which can most readily be done with testing and other data) to perhaps get a different result than the denial NHTSA announced in 1996.

In the December 1996 request for comments, NHTSA asked for comments on whether the agency should expressly prohibit front "brake" lamps because of the lack of data to show any positive safety effects for these lamps and the likely negative safety consequences of the widespread use of these lamps. After consideration of this possibility, NHTSA has decided not to take this action. These lamps do not necessarily affect the standardized operation, or impair the effectiveness, of any required lighting. NHTSA has traditionally had no regulations for such lamps, because they had no impact on the core safety functions of lighting. The agency will reexamine this approach if it has some testing or other indication that this approach may need to be changed. At this time, NHTSA has no such data. If front "brake" lamps are installed more widely and the agency's concerns remain, NHTSA will carefully consider a research effort to get more information about the safety impact of such lamps.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on October 30, 1998.

James R. Hackney,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 98–29520 Filed 11–3–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 971015246–7293–02; I.D. 101998A]

Fisheries of the Northeastern United States; Summer Flounder Fisheries; Readjustment to the 1998 Commercial State Quota for New York

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Commercial quota adjustment.

SUMMARY: NMFS issues this notification announcing an adjustment to the 1998 summer flounder commercial state quota for New York. This adjustment complies with regulations implementing the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP), which require that landings in excess of a state's annual summer flounder commercial quota be deducted from a state's respective quota the following year. The public is advised that the quota adjustment has been made, and is informed of the revised quota.

DATES: Effective October 30, 1998, through December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fisheries Management Specialist, 978–281–9326.

SUPPLEMENTARY INFORMATION: Regulations implementing summer flounder management measures are found at 50 CFR part 648, subparts A and G. The regulations require annual specification of a commercial quota that is apportioned among the Atlantic coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.100. Section 648.100(d)(2) provides that all landings for sale in a state shall be applied against that state's annual commercial quota. Any landings in excess of the state's quota must be deducted from that state's annual quota for the following year.

The final specifications for the 1998 summer flounder fishery (62 FR 66304, December 18, 1997), adopted to ensure achievement of a fishing mortality rate (F) of 0.24 for 1998, set a total commercial quota equal to 11,105,636 lb (5.0 million kg). In the preamble to the rule implementing these specifications, NMFS noted that associated adjustments to states' 1998 quotas would be required as a result of any landings in excess of 1997 quota. Two adjustments were made to the 1998 state commercial quotas, effective January 16, 1998 (63 FR 3478, January 23, 1998) and April 23, 1998 (63 FR 23227, April 28, 1998) to reflect updated 1997 landings. In addition, NMFS adjusted the North Carolina commercial quota to comply with a court order setting aside the 1997 overage, which had been deducted from the 1998 quota earlier this year. This adjustment was effective on October 20, 1998 (63 FR 56867, October 23, 1998).

In the April 28, 1998, notification announcing readjustments to the 1998 summer flounder commercial quotas, it was noted that further law enforcement investigations were ongoing, and a resulting quota adjustment from those investigations would be published, if necessary. The conclusion of such investigations resulted in an increase of 24,863 lb (11,277.8 kg) to the amount of summer flounder landed in New York in 1997 so that the 1997 overage for New York is revised from 61,398 lb (27,850 kg) to 86,261 lb (39,127.9 kg). Therefore, the final readjusted quota for New York in 1998 is 24,863 lb (11,277.8 kg) less than the adjusted quota published in the April 28 notification for a final 1998 quota for that state of 763,419 lb (346,286.8 kg). The final readjusted 1998 statewide quota is revised from 10,958,734 lb (4,972,102 kg) to 10,933,871 lb (4,959,603 kg). Also, commercial landings for New York for 1997 are revised from 815,741 lb (370,014 kg) to 840,604 lb (381,297.9 kg) and total coastwide commercial landings for summer flounder are revised from 8,887,783 lb (4,031,431 kg) to 8,912,646 lb (4,042,776.2 kg). Table 1. displays the current 1998 quotas resulting from these readjustments.

TABLE 1.—SUMMER FLOUNDER FINAL READJUSTED 1998 QUOTAS

State	Unadjusted 1998 quota [1]		Adjusted 1998 quota [2]		Final readjusted 1998 quota	
	lb	(kg) [3]	lb	(kg)	lb	(kg)
ME	5,284	2,397	4,791	2,173	4,791	2,173
NH	51	23	51	23	51	23
MA	757,841	343,751	721,889	327,448	721,899	327,448

TABLE 1.—SUMMER FLOUNDER FINAL READJUSTED 1998 QUOTAS—Continued

State	Unadjusted 1998 quota [1]		Adjusted 1998 quota [2]		Final readjusted 1998 quota	
	lb	(kg) [3]	lb	(kg)	lb	(kg)
RI	1,742,583	790,422	1,742,583	790,422	1,742,583	790,422
CT	250,791	113,757	250,791	113,757	250,457	113,605
NY	849,680	385,408	788,282	357,559	763,419	346,286
NJ	1,858,363	842,939	1,858,363	842,939	1,858,363	842,940
DE	[4] (3,685)	(1,671)	(14,534)	(6,593)	(14,534)	(6,593)
MD	226,570	102,770	199,876	90,662	199,876	90,662
VA	2,368,569	1,074,365	2,357,377	1,069,288	2,357,377	1,069,288
NC	3,049,589	1,383,270	2,649,849	1,201,951	3,049,589	1,383,270
Total	11,105,636	5,037,432	10,558,994	4,789,479	10,933,871	4,959,603

[1] As published on December 18, 1997 (62 FR 6304).
[2] As published on April 28, 1998 (63 FR 23227).
[3] Kilograms are as converted from pounds, and may not necessarily add due to rounding.
[4] Parentheses indicate a negative number.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 29, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–29521 Filed 10–30–98; 3:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 63, No. 213

Wednesday, November 4, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 121 and 135

Terrain Awareness and Warning System

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability for public comment.

SUMMARY: This notice announces the availability of and requests comments on proposed Technical Standard Order (TSO) C151, Terrain Awareness and Warning System (TAWS). The proposed TSO prescribes the minimum operational performance standards that a TAWS must meet to be identified with the applicable TSO marking.

DATES: Comments submitted must identify the TSO file number and be received on or before January 26, 1999.

ADDRESSES: Send all comments on the proposed technical standard order to: Federal Aviation Administration (FAA), Aircraft Certification Service, Aircraft Engineering Division, Avionic Systems Branch, AIR–130, 800 Independence Avenue, SW., Washington, DC 20591. Or deliver comments to: Federal Aviation Administration, Room 815, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Michelle Swearingen, Federal Aviation Administration (FAA), Aircraft Certification Service, Aircraft Engineering Division, Avionic Systems Branch, AIR–130, 800 Independence Avenue, SW., Washington, DC 20591, *Telephone:* (202) 267–3817, *FAX:* (202) 267–5340.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested person are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments, as they desire, to the aforementioned specified address. Comments received on the proposed technical standard order may be examined, before the closing date, in Room 815, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. All communications received on or before the closing date for comments specified above will be considered by the Director of the Aircraft Certification Service before issuing the final TSO.

Background

The Federal Aviation Administration (FAA) has proposed issuing operating rules that would prohibit operation of turbine-powered U.S. registered airplanes type certificated to have six or more passenger seats, exclusive of pilot and copilot seating, unless that airplane is equipped with an FAA-approved terrain awareness and warning system (also referred to as an enhanced ground proximity warning system) (63 FR 45628, August 26, 1998). That proposal would affect aircraft operated under parts 91, 121 and 135. Because operators under part 125 and operators of U.S. registered airplanes under part 129 must comply with part 91, they would also have to meet this proposed requirement.

The change is needed because there have been several accident investigations and studies that have shown a need to expand the safety benefits of ground proximity warning systems to certain additional operations. In addition, the investigations and studies have shown that there is a need to increase the warning times and situational awareness of flight crews to decrease the risk of controlled flight into terrain accidents.

Currently, the FAA approves the manufacture and installation of Ground Proximity Warning Systems (GPWS) through Technical Standard Orders. Section 121.360 of 14 CFR requires the use of a GPWS meeting TSO-C92, which has been reissued as TSO–C92a, TSO–C92b, and TSO–C92c. The FAA does not intend to revise TSO–C92c to include TAWS requirements.

Instead, the FAA is developing and plans to issue a new and separate TSO for TAWS. The new TSO–C151, TAWS, is being developed through the FAA TSO process that allows for public comments. Any person desiring to review and comment on the draft TSO–C151 may obtain a copy of the draft TSO–C151 from the person mentioned in the section entitled **FOR FURTHER INFORMATION CONTACT.** This TSO would be the means to obtain FAA approval of the TAWS product.

The standards of the TSO apply to equipment intended to provide the flight crew with both aural and visual alerts and terrain information on a display to aid in preventing an inadvertent controlled flight into terrain (CFIT) event. The TAWS includes: (a) a terrain display, (b) terrain awareness and alerting functions which use position information provided by either a suitable internal position sensor or an on-board area navigational system and an on-board terrain database, and (c) ground proximity detection and alerting functions that are described in the TSO as modes 1–6.

Comments submitted in response to this TSO notice will also be included in the docket for the TAWS NPRM. A preliminary review of comments submitted in response to the NPRM indicates that several commenters are very interested in the provisions of the proposed TAWS TSO. Accordingly, to the extent that commenters want to clarify or supplement their comments submitted to the NPRM docket, they should so identify those clarifying and supplementary comments submitted to the TSO–C151 docket.

How To Obtain Copies

A copy of the proposed TSO–C151 may be obtained via Internet (http://www.faa.gov/avr/air/100home.htm) or on request from the office listed under **FOR FURTHER INFORMATION CONTACT.** RTCA Document No. DO–161A, "Minimum Performance Standards—Airborne Ground Proximity Warning Equipment," dated May 27, 1976; DO–160D, "Environmental Conditions and Test Procedures for Airborne Equipment," dated July 29, 1997; DO–178B, "Software Considerations in Airborne Systems and Equipment Certification," dated 1992; and DO–200, "Preparation, Verification and Distribution of User-Selectable Navigation Data Bases," dated November 28, 1988, may be purchased from the RTCA Inc., 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 22036. Copies of the RTCA documents may be inspected at the **ADDRESSES** listed above. However, those documents are copyrighted and may not be copied without the written consent of RTCA, Inc.

Issued in Washington, DC, on October 26, 1998.

James C. Jones,

Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 98–29492 Filed 11–3–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 14

RIN 2900–AI93

Recognition of Organizations and Accreditation of Representatives, Attorneys, and Agents

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to revise existing procedures and requirements regarding recognition of service organizations and accreditation of their representatives and agents, attorneys, and individuals seeking to represent claimants for benefits administered by VA. These amendments are necessary to improve clarity and to enhance VA's ability to assure high quality representation of claimants.

DATES: Comments must be received on or before January 4, 1999.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900–AI93." All written comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Martin J. Sendek, Staff Attorney, Office of the General Counsel (022C), Department of Veterans Affairs, 810 Vermont Ave., NW, Washington, DC 20420, (202) 273–6330.

SUPPLEMENTARY INFORMATION: We are proposing to make numerous minor changes in the provisions governing recognition of organizations and accreditation of representatives, agents, attorneys, and individuals for purposes of updating, clarification, and conformity and to enhance VA's ability to protect the interests of claimants.

New definitions of "complete claims service," "cross-accreditation," and "facilities" would be added to § 14.627 to assist in implementation of other provisions discussed below. The definition of "facilities" would reflect General Counsel opinions interpreting that term. The definition of "claimant" in § 14.627 would be amended to reflect that representation may begin before a claim is filed.

In § 14.628, minor changes would be made in provisions governing recognition of "national," "state," and "other organizations." In order to meet the diversification requirement for recognition as a "national" organization, an organization would be required to have a sizable number of chapters or offices in more than one region of the country, rather than merely in more than one state, as is currently required. This would provide better evidence that an organization is truly "national" in the scope of its operations. In the case of "state" organizations, the regulation would be amended to require that the organization not only be created by a state government, as is currently required, but that it also be funded by the state government. This change would assure that the organization is in fact affiliated with and supported by the state government. Also, provisions currently designated as relating to "other" organizations would be given the more descriptive heading of "regional or local organization." Provisions in § 14.628 pertaining to the qualification of service organizations for recognition would be condensed and simplified. The requirements for recognition would be revised to make clear that an organization seeking recognition must establish that it has adequate funding to fulfill the representational responsibilities it wishes to assume. Requirements relating to the provision of complete claims service would be modified to reflect that certain organizations may not choose to represent every claimant seeking their assistance and to assure that the interests of claimants are protected in such cases. Rules governing the decision to grant or deny recognition would be simplified and would be revised to make clear that only the Secretary of Veterans Affairs may grant recognition and that the General Counsel may deny recognition, subject to appeal to the Secretary.

Provisions pertaining to the accreditation of service organization representatives in § 14.629(a) would be amended to delete certain obsolete material relating to the qualifications of representatives. Provisions pertaining to the accreditation of agents in § 14.629(b) would be amended to require that applicants for accreditation as agents use VA Form 21a prescribed by VA for that purpose. The information required to be submitted on this form would be set forth in the regulation at proposed § 14.629(b). The information required to be included on the form is necessary to establish that statutory eligibility requirements, i.e., good character and reputation, are met. This change is intended to assure that all necessary information will be supplied with the application. Section 14.629(b) would also be simplified by omission of certain provisions pertaining to internal VA procedures. Further, § 14.629(b) would provide that an applicant must achieve a score of 75 percent or more on a written examination administered by VA. We believe this will ensure sufficient proficiency to represent claimants before this Department.

Provisions in §§ 14.629 and 14.631 concerning authorization of representation by attorneys and use of legal interns, law students, and paralegals would be consolidated and clarified. Provisions governing attorneys' access to records would be removed from § 14.629(c). Rules governing access to records are stated in part 1 of title 38, Code of Federal Regulations, and their duplication in this part is unnecessary.

Proposed amendments to § 14.630 would incorporate VA's long-standing interpretation that the authorization to represent a claimant under that section is available on a one-time-only basis and may not be used to represent a series of claimants one at a time. The revised provisions would also specify factors which may be considered by the General Counsel in determining whether to grant an exception to this limitation.

The provisions pertaining to powers of attorney in § 14.631 would be modified to reflect a change in the law made by section 508 of Pub. L. 104–275. Under the revised provision, when a claimant executes a power of attorney in favor of a representative of a recognized service organization, unless the claimant indicates otherwise in the specific manner prescribed in the regulations, the power of attorney would be considered as designating the whole organization as the claimant's representative. Also, the regulation would be amended to reflect that a claimant may select an individual service organization representative as his or her representative if prescribed procedures are followed. A provision would be added to make clear that a representative designated in a power of attorney can decline to accept the

appointment and to assure that the claimant and VA are notified of that action. Current § 14.631(e), dealing with the continuation of the authority of a power of attorney upon a claimant's death, would be removed to reflect recent court decisions.

Section 14.632 would be amended to revise obsolete terminology and to delete provisions relating to internal VA procedures.

Section 14.633(a), regarding termination of accreditation, would be modified to make clear that accreditation shall be canceled immediately upon receipt of a request for cancellation from an agent, attorney, representative, or certifying organization and that cross-accreditation shall be canceled immediately once the accreditation on which the cross-accreditation is based is canceled. In order to better inform representatives of VA's expectations regarding their responsibilities to claimants, § 14.633(c) would be amended to add failure to keep a claimant informed of actions taken concerning a claim as an additional example of conduct warranting disciplinary action. VA regulations are not intended to define or affect any professional responsibilities of attorneys as members of the bar.

Section 14.633(e) would be amended to allow a Regional Counsel to suspend an agent's or attorney's accreditation for misconduct or incompetence, after an inquiry, pending a decision on termination of accreditation by the General Counsel. This change would make procedures applicable to agents and attorneys consistent with those applicable to representatives and would permit the Department to better protect the interests of claimants. In recognition of the national practice of certain claimants' representatives, § 14.633(e) would also be amended to make clear that a Regional Counsel undertaking an inquiry concerning the conduct of an agent, attorney, or service organization representative may request the assistance of another Regional Counsel as to matters within the latter's area of jurisdiction. Section 14.633(g) would be amended to clarify the actions, including suspension of accreditation and the issuance of a formal reprimand, which the General Counsel may take with respect to disciplinary proceedings and to state procedures for reinstatement of accreditation following cancellation.

Section 14.635 would be amended to incorporate VA's long-standing interpretation that free space and facilities may only be provided to the accredited representatives of recognized national organizations in buildings owned or occupied by VA. Certain inappropriate cross references erroneously included after §§ 14.634 and 14.635 would be deleted.

Paperwork Reduction Act of 1995

The Office of Management and Budget (OMB) has determined that proposed 38 CFR 14.629(b) would contain collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Accordingly, under section 3507(d) of the Act, VA has submitted a copy of this rulemaking action to OMB for its review of the collections of information.

OMB assigns a control number for each collection of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments on the proposed collections of information should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies mailed or hand-delivered to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900–AI93."

Title: Application for Accreditation as a Claims Agent.

Summary of collection of information: Under the provisions of proposed § 14.629(b), an individual who wishes to be accredited as a claims agent to represent claimants before VA would be required to submit a completed VA Form 21a to VA's Office of General Counsel (022A), 810 Vermont Ave., NW, Washington, DC 20420. The information requested on VA Form 21a is set forth at proposed § 14.629(b).

Description of the need for information and proposed use of information: This information is needed to determine whether an individual would be eligible to be accredited as a claims agent to represent claimants before VA.

Description of likely respondents: Individuals who wish to be accredited as a claims agent to represent claimants before VA.

Estimated number of respondents: 20 per year.

Estimated frequency of responses: 1.

Estimated total annual reporting and recordkeeping burden: 15 hours.

Estimated annual burden per collection: 45 minutes.

The Department considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including responses through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulations.

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The adoption of the proposed changes would not cause significant changes for those affected by the proposal. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

List of Subjects in 38 CFR Part 14

Administrative practice and procedure, Claims, Courts, Foreign relations, Government employees, Lawyers, Legal services, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Surety bonds, Trusts and trustees, Veterans.

Approved: July 24, 1998.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 14 is proposed to be amended as follows:

PART 14—LEGAL SERVICES, GENERAL COUNSEL

1. The authority citation for part 14 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 2671–2680; 38 U.S.C. 501(a), 5502, 5902–5905, unless otherwise noted.

2. Section 14.626 is revised to read as follows:

§ 14.626 Purpose.

The purpose of the regulation of representatives is to assure that claimants for Department of Veterans Affairs benefits have responsible, qualified representation in the preparation, presentation, and prosecution of claims for veterans' benefits.

(Authority: 38 U.S.C. 501(a), 5902, 5903, 5904)

3. In § 14.627, paragraphs (h), (i), (j), and (k) are redesignated as paragraphs (k), (l), (m), and (n), respectively; and paragraph (g) is revised and new paragraphs (h), (i), and (j) are added; and an authority citation is added at the end of the section, to read as follows:

§ 14.627 Definitions.

* * * * *

(g) *Claimant* means a person who has filed or intends to file a written application for determination of entitlement to benefits provided under title 38, United States Code, and implementing directives.

(h) *Complete claims service* means representation of each claimant requesting assistance, from the initiation of a claim until the completion of any potential administrative appeal.

(i) *Cross-accreditation* means an accreditation based on the status of a representative as an accredited and functioning representative of another organization.

(j) *Facilities* means equipment and furnishings which promote the efficient operation of an office and adjacent accommodations use of which is needed in order to promote access to office space.

* * * * *

(Authority: 38 U.S.C. 501(a), 5902, 5903, 5904)

4. In § 14.628, paragraph (e) is removed; paragraphs (f) and (g) are redesignated as paragraphs (e) and (f), respectively; and paragraphs (a)(2), (b), (d), and newly redesignated (e), and the heading of paragraph (c) are revised to read as follows:

§ 14.628 Recognition of organizations.

* * * * *

(a) * * *

(2) It satisfies the following requirements:

(i) Requirements set forth in paragraph (d) of this section, including information required to be submitted under that paragraph;

(ii) In the case of a membership organization, membership of 2,000 or more persons, as certified by the head of the organization;

(iii) Capability and resources to provide representation to a sizable number of claimants;

(iv) Capability to represent claimants before the Board of Veterans' Appeals in Washington, D.C.; and

(v) Geographic diversification, i.e., sizable number of chapters or offices in more than one region of the country.

(b) *State organization.* An organization created and funded by a State government for the purpose of serving the needs of veterans of that State may be recognized. Only one such organization may be recognized in each State.

(c) *Regional or local organization.*

* * *

(d) *Requirements for recognition.* (1) In order to be recognized under this section, an organization shall meet the following requirements:

(i) Have as a primary purpose serving veterans. In establishing that it meets this requirement, an organization requesting recognition shall submit a statement outlining the purpose of the organization.

(ii) Demonstrate a substantial service commitment to veterans either by showing a sizable organizational membership or by showing performance of veterans' services to a sizable number of veterans. In establishing that it meets this requirement, an organization requesting recognition shall submit:

(A) The number of members and number of posts, chapters, or offices and their addresses; and

(B) A copy of the articles of incorporation, constitution, charter, and bylaws of the organization, as appropriate; and

(C) A description of the services performed or to be performed in connection with programs administered by the Department of Veterans Affairs, with an approximation of the number of veterans, survivors, and dependents served or to be served by the organization in each type of service designated; and

(D) A description of the type of services, if any, performed in connection with other Federal and State programs which are designed to assist former armed forces personnel and their dependents, with an approximation of the number of veterans, survivors, and dependents served by the organization under each program designated.

(iii) Commit a significant portion of its assets to veterans' services and have adequate funding to properly perform those services. In establishing that it meets this requirement, an organization requesting recognition shall submit:

(A) A copy of the last financial statement of the organization indicating the amount of funds allocated for conducting particular veterans' services; and

(B) A statement indicating that use of the organization's funding is not subject to limitations imposed under any Federal grant or law which would prevent it from representing claimants before the Department of Veterans Affairs.

(iv) Provide complete claims service to each veteran requesting representation or give written notice of any limitation in its claims service with advice concerning the availability of alternative sources of claims service. Except as provided in paragraphs (d)(1)(iv)(A) and (B) of this section, in establishing that it meets this requirement, an organization requesting recognition shall submit evidence of capability to represent claimants before Department of Veterans Affairs regional offices and before the Board of Veterans' Appeals.

(A) If an organization does not intend to represent claimants before the Board of Veterans' Appeals, the organization shall submit evidence of an association or agreement with a recognized service organization for the purpose of representation before the Board of Veterans' Appeals, or the proposed method of informing claimants of the limitations in service that can be provided, with advice concerning the availability of alternative sources of claims service.

(B) If an organization does not intend to represent each claimant requesting assistance, the organization shall submit a statement of its policy concerning the selection of claimants and the proposed method of informing claimants of this policy, with advice concerning the availability of alternative sources of claims service.

(v) Take affirmative action, including training and monitoring of accredited representatives, to ensure proper handling of claims. In establishing that it meets this requirement, an

organization requesting recognition shall submit:

(A) A statement of the skills, training, and other qualifications of current paid or volunteer staff personnel for handling veterans' claims; and

(B) A plan for recruiting and training qualified claim representatives, including the number of hours of formal classroom instruction, the subjects to be taught, the period of on-the-job training, a schedule or timetable for training, the projected number of trainees for the first year, and the name(s) and qualifications of the individual(s) primarily responsible for the training.

(2) In addition, the organization requesting recognition shall supply:

(i) A statement that neither the organization nor its accredited representatives will charge or accept a fee or gratuity for service to a claimant and that the organization will not represent to the public that Department of Veterans Affairs recognition of the organization is for any purpose other than claimant representation; and

(ii) The names, titles, and addresses of officers and the official(s) authorized to certify representatives.

(e) *Recognition or denial.* A notice of the determination on a request for recognition will be sent to an organization within 90 days of receipt of all information to be supplied.

(i) Only the Secretary is authorized to recognize organizations.

(ii) The General Counsel is authorized to deny recognition of organizations. If the General Counsel denies recognition, the General Counsel will provide the organization with a notice of that decision, setting forth an explanation of the reasons for denial of recognition. A denial of recognition may be appealed to the Secretary within 90 days of mailing of notice of the denial.

* * * * *

5. In § 14.629, paragraphs (a)(1)(i), (a)(1)(ii) and (a)(1)(iii) are removed; the section heading and introductory text; paragraphs (a) introductory text, (a)(l), (a)(2)(ii) and the section authority citation; and paragraphs (b) and (c) are revised, to read as follows:

§ 14.629 Requirements for accreditation of service organization representatives; agents; and attorneys.

The Regional Counsel will resolve any question of current qualifications of a service organization representative, agent, or attorney. The claimant, the service organization representative, agent, or attorney, or an official of the organization for which such person acts, or a concerned Department of Veterans Affairs official may appeal such determination to the General Counsel.

(a) *Service Organization Representatives.* A recognized organization shall file with the Office of the General Counsel VA Form 21 (Application for Accreditation as Service Organization Representative) for each person it desires accredited as a representative of that organization. In recommending a person, the organization shall certify that the designee:

(1) Is of good character and reputation and has demonstrated an ability to represent claimants before the Department of Veterans Affairs;

* * * * *

(2) * * *

(ii) Has successfully completed a course of training and an examination which have been approved by a VA Regional Counsel with jurisdiction for the State; and

* * * * *

(Authority: 38 U.S.C. 501(a), 5902)

(b) *Agents.* (1) An individual desiring accreditation as an agent must establish that he or she is of good character and reputation and is qualified to render assistance to claimants in the presentation of their claim(s). An individual desiring accreditation as an agent must file a completed application with the Office of the General Counsel on VA Form 21a on which the applicant submits the following:

(i) His or her full name and business address;

(ii) Information concerning the applicant's military and civilian employment history (including character of military discharge, if applicable);

(iii) Information concerning representation provided by the applicant before any department, agency, or bureau of the Federal government.

(iv) Information concerning any criminal background of the applicant;

(v) Information concerning whether the applicant has ever been determined mentally incompetent or hospitalized as a result of a mental disease or disability, or is currently under treatment for a mental disease or disability;

(vi) Information concerning whether the applicant was previously accredited as a representative of a veterans service organization and, if so, whether that accreditation was terminated or suspended by or at the request of that organization;

(vii) The names, addresses, and phone numbers of three character references; and

(viii) Information relevant to whether or not the applicant has any physical limitations which would interfere with the completion of a comprehensive written examination administered under the supervision of a VA regional counsel.

(2) Applicant's must achieve a score of 75 percent or more on a written examination administered by VA as a prerequisite to accreditation. No applicant shall be allowed to sit for the examination more than twice in any 6 month period.

(Authority: 38 U.S.C. 501(a), 5904)

(c) *Attorneys.* (1) An attorney may represent a claimant upon submission of authorization as described in § 14.631(a) or (b).

(2) If the claimant consents in writing, an attorney associated or affiliated with the claimant's attorney of record or employed by the same legal services office as the attorney of record may assist in the representation of the claimant.

(3) A legal intern, law student, or paralegal may not be independently accredited to represent claimants under this paragraph. A legal intern, law student, or certified paralegal may assist in the preparation, presentation, or prosecution of a claim, under the direct supervision of an attorney of record designated under § 14.631(a) or (b), if the claimant's written consent is furnished to the Department of Veterans Affairs. Such consent must specifically state that participation in all aspects of the claim by a legal intern, law student, or paralegal furnishing written authorization from the attorney of record is authorized. In addition, suitable authorization for access to the claimant's records must be provided in order for such an individual to participate. The supervising attorney must be present at any hearing in which a legal intern, law student, or paralegal participates. (See § 20.606).

(4) Unless revoked by the claimant, consent provided under paragraph (c)(2) or paragraph (c)(3) of this section shall remain effective in the event the claimant's original attorney is replaced as attorney of record by another member of the same law firm or an attorney employed by the same legal services office.

(The information collection requirements in this section have been approved by the Office of Management and Budget under control number 2900–0018)

(Authority: 38 U.S.C. 501(a), 5904)

6. Section 14.630 is revised to read as follows:

§ 14.630 Authorization for a particular claim.

(a) Any person may be authorized to prepare, present, and prosecute one claim. A proper power of attorney, and a statement signed by the person and the claimant that no compensation will be charged or paid for the services, shall be filed with the office where the claim is presented. A signed writing, which may be in letter form, identifying the claimant and the type of benefit or relief sought, specifically authorizing a named individual to act as the claimant's representative, and further authorizing direct access to records pertinent to the claim, will be accepted as a power of attorney.

(b) Representation may be provided by an individual pursuant to this section one time only. An exception to this limitation may be granted by the General Counsel in unusual circumstances. Among the factors which may be considered in determining whether an exception will be granted are:

(1) The number of accredited representatives and claims agents operating in the claimant's geographic region;

(2) Whether the claimant has unsuccessfully sought representation from other sources;

(3) The nature and status of the claim; and

(4) Whether there exist unique circumstances which would render alternative representation inadequate.

(Authority: 38 U.S.C. 501(a), 5903)

7. In § 14.631, paragraphs (c)(3) and (e) are removed; paragraphs (b), (c), and (d) are redesignated as paragraphs (e), (f), and (g), respectively; and paragraph (a), introductory text, (a)(2), and newly redesignated paragraphs (e), (f)(1), and (g) are revised; and paragraphs (b), (c), and (d) are added, to read as follows:

§ 14.631 Powers of attorney.

(a) A power of attorney, executed on either Department of Veterans Affairs Form 21–22 (Appointment of Veterans Service Organization as Claimant's Representative) or Department of Veterans Affairs Form 22a (Appointment of Attorney or Agent as Claimant's Representative), is required to represent a claimant, except when representation is by an attorney who complies with paragraph (b) of this section or when representation by an individual is authorized under § 14.630. The power of attorney shall meet the following requirements:

* * * * *

(2) Shall be presented to the Department of Veterans Affairs regional office that has jurisdiction over the claim for filing in the claimant's claims folder.

(b) An attorney engaged by a client may state in writing on his or her letterhead that the attorney is authorized to represent the claimant. This evidence of authorization shall be equivalent to an executed power of attorney and shall be presented to the Department of Veterans Affairs regional office that has jurisdiction over the claim for filing in the claimant's claims folder.

(c) The Secretary may, for any purpose, treat a power of attorney naming as a claimant's representative an organization recognized under § 14.628, a particular office of such an organization, or an individual representative of such an organization as an appointment of the entire organization as the claimant's representative, unless the claimant specifically indicates in the power of attorney a desire to appoint only the individual representative. Such specific indication must be made in the space on the power-of-attorney form for designation of the representative and must use the word "only" with reference to the individual representative.

(d) An organization, representative, agent, or attorney named in a power of attorney executed pursuant to paragraph (a) of this section may decline to accept appointment as a claimant's representative by so notifying the claimant and the agency of original jurisdiction in writing prior to taking any action on the claimant's behalf before the Department of Veterans Affairs after execution of the power of attorney by the claimant.

(e) Questions concerning the validity or effect of powers of attorney shall be referred to the Regional Counsel of jurisdiction for initial determination. This determination may be appealed to the General Counsel.

(f)(1) Only one organization, representative, agent, or attorney will be recognized at one time in the prosecution of a particular claim. Except as provided in § 14.629(c) and paragraph (f)(2) of this section, all transactions concerning the claim will be conducted exclusively with the recognized organization, representative, agent, or attorney of record until notice of a change, if any, is received by the appropriate office of the Department of Veterans Affairs.

* * * * *

(g)(1) A power of attorney may be revoked at any time, and an attorney may be discharged at any time. Unless a claimant specifically indicates otherwise, the receipt of a new power of attorney shall constitute a revocation of an existing power of attorney.

(2) If an attorney submits a letter concerning representation under paragraph (b) of this section regarding a particular claim, or a claimant authorizes a person to provide representation in a particular claim under § 14.630, such specific authority shall constitute a revocation of an existing general power of attorney filed under paragraph (a) of this section only as it pertains to, and during the pendency of, that particular claim. Following the final determination of such claim, the general power of attorney shall remain in effect as to any new or reopened claim.

(Authority: 38 U.S.C. 501(a), 5902, 5903, 5904)

8. Section 14.632 is revised to read as follows:

§ 14.632 Determination of qualifications.

If challenged, the qualifications of prospective representatives or agents shall be verified by the Regional Counsel of jurisdiction. The report of the Regional Counsel, if any, including any recommendation of the Department of Veterans Affairs facility director, and the application shall be transmitted to the General Counsel for final action. If the designee is disapproved by the General Counsel, the reasons will be stated and an opportunity will be given to submit additional information. If the designee is approved, notification of accreditation will be issued by the General Counsel or the General Counsel's designee and will constitute authority to prepare, present, and prosecute claims in all Department of Veterans Affairs installations.

(Authority: 38 U.S.C. 501(a), 5902, 5904)

9. In § 14.633, paragraph (e)(2)(ii) is removed; paragraph (e)(2)(iii) is redesignated as new paragraph (e)(2)(ii); and paragraphs (a), (b), (c) introductory text, (c)(3), (c)(4), (e) introductory text, (e)(2)(i) and (g) are revised, to read as follows:

§ 14.633 Termination of accreditation of agents, attorneys, and representatives.

(a)(1) Accreditation shall be canceled at the request of an agent, attorney, representative, or certifying organization. If an organization requests cancellation of the accreditation of a representative it has certified, the organization shall notify the representative of the request, unless the representative is deceased.

(2) Cross-accreditation shall be canceled when a representative ceases to be accredited through the organization whose accreditation created the basis for the cross-accreditation, unless information has

been provided to the General Counsel indicating that the representative is independently qualified for accreditation by reason of membership or employment with the organization through which he or she is cross-accredited.

(b) Accreditation shall be canceled when the General Counsel finds that an agent, attorney, or representative no longer meets a requirement of § 14.629.

(c) Accreditation shall be canceled when the General Counsel finds, by clear and convincing evidence, one of the following on the part of an agent, attorney, or representative:

* * * * *

(3) Demanding or accepting unlawful compensation or gratuity for preparing, presenting, or prosecuting a claim or advising or consulting a claimant concerning a claim;

(4) Any other unlawful, unprofessional, or unethical practice. (Unlawful, unprofessional, or unethical practice shall include but not be limited to the following—deceiving, misleading, or threatening a claimant; neglecting to prosecute a claim for 6 months or more; failing to furnish a reasonable response within 90 days of a request for evidence by the Department of Veterans Affairs; failing to keep a claimant informed of actions taken concerning his or her claim; or willfully withholding an application for benefits.)

* * * * *

(e) As to cancellation of accreditation under paragraphs (b), (c), or (d) of this section, upon receipt of information from any source indicating failure to meet the requirements of § 14.629, improper conduct, or incompetence, the Regional Counsel of jurisdiction shall initiate an inquiry into the matter. If the matter involves an accredited representative of a recognized organization, this inquiry shall include contact with the representative's organization. The Regional Counsel of jurisdiction may request the assistance of another Regional Counsel as to matters occurring within the latter's area of jurisdiction.

* * * * *

(2) * * *

(i) Suspend accreditation immediately and notify the agent, attorney, or representative, and in the case of a representative, the representative's organization, of the suspension and of an intent to cancel accreditation. The notice will also state the reason(s) for the suspension and impending cancellation and inform the party of a right to request a hearing on the matter or to submit additional evidence within 10 working days of receipt of such notice. Such time may be extended for a reasonable period upon showing of sufficient cause.

* * * * *

(g)(1) The General Counsel may cancel accreditation, continue the existing suspension of accreditation for a specified period, dissolve the existing suspension, and/or issue a formal reprimand. The decision of the General Counsel is final. The effective date of cancellation or suspension of accreditation is the date a final decision is rendered by the General Counsel. The records of the case will be maintained in the General Counsel's office for ten years from the date of a final decision.

(2) A person whose accreditation has been canceled may apply for reinstatement at any time following the expiration of two years from the date of cancellation by filing a written request for reinstatement with the General Counsel.

(i) In the case of an individual seeking reinstatement as a service organization representative, a recognized organization must file on his or her behalf VA Form 21 (Application for Accreditation as a Service Organization Representative). Such an application will be evaluated subject to the same criteria as are applicable to new applications for accreditation as a service organization representative, except that satisfactory proof of good character and reputation will be required in addition to certification by the service organization.

(ii) An individual requesting reinstatement as a claims agent must do so by submitting VA Form 21a "Application for Accreditation as a Claims Agent." Such an application will be evaluated subject to the same criteria as are applicable to new applications for accreditation as a claims agent.

(iii) An attorney requesting reinstatement must demonstrate, to the satisfaction of the General Counsel, that he or she is a licensed attorney in good standing, is of good character and reputation, is sufficiently competent to handle VA cases, and will follow the statutes and regulations applicable to the adjudication of claims and the representation of claimants before VA.

(3) Reinstatement to full accreditation following cancellation is subject to a two-year probationary period.

(i) During the probationary period, the accreditation of an attorney, agent, or representative may be canceled upon a finding by a Regional Counsel that a preponderance of evidence supports a determination that the agent, attorney, or representative has engaged in conduct described in paragraph (c)(1), (2), (3), or (4) of this section.

(ii) In a proceeding to cancel accreditation during a probationary period, procedures concerning notice, hearing, and submission of additional evidence shall be as described in paragraphs (e)(2)(i) and (f) of this section. The decision by the Regional Counsel is final. The effective date for cancellation of accreditation shall be the date a decision is issued by the Regional Counsel. The records of the case will be forwarded to the General Counsel's office and will be maintained in that office for ten years from the date of the decision.

* * * * *

§ 14.634 [Amended]

10. In § 14.634, the cross references immediately following the authority citation are removed.

11. In § 14.635, the cross references immediately following the authority citation are removed; the section introductory text and paragraph (b), are revised to read as follows:

§ 14.635 Office space and facilities.

The Secretary may furnish office space and facilities, if available, in buildings owned or occupied by the Department of Veterans Affairs, for the use of paid full-time representatives of recognized national organizations, and for employees of recognized State organizations who are accredited to national organizations, for purposes of assisting claimants in the preparation, presentation, and prosecution of claims for Department of Veterans Affairs benefits.

* * * * *

(b) When in the judgment of the Director office space and facilities previously granted could be better used by the Department of Veterans Affairs, or would receive more effective use or serve more claimants if allocated to another recognized national organization, the Director may withdraw such space or reassign such space to another organization. In the case of a facility under the control of the Veterans Benefits Administration, the final decision on such matters will be made by the Under Secretary for Benefits.

(Authority: 38 U.S.C. 501(a), 5902)

[FR Doc. 98–29490 Filed 11–3–98; 8:45 am]
BILLING CODE 8320–01–P

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

U.S. Agency for International Development

48 CFR Parts 712, 727, 742, 752, and Chapter 7, Appendix I

[AIDAR Notice 98–2]

RIN 0412–AA30

Miscellaneous Amendments to Acquisition Regulations

AGENCY: U.S. Agency for International Development (USAID).

ACTION: Proposed rule.

SUMMARY: The U.S. Agency for International Development seeks public comment on a proposed rule that would revise the USAID Acquisition Regulation (AIDAR), 48 CFR Chapter 7. These revisions are being proposed to address current AIDAR deficiencies, some of which result from changes in the Federal Acquisition Regulation (FAR, 48 CFR Ch. 1).

DATES: Comments must be received no later than January 4, 1998.

ADDRESSES: Comments on the proposed rule should be addressed to: Ms. Diane Howard, Procurement Analyst, Policy Division, Office of Procurement (M/OP/P), Room 7.08–082U, 1300 Pennsylvania Ave. (RRB), U.S. Agency for International Development, Washington, DC 20523–7801. Electronic mail comments are encouraged and may be submitted via Internet to dhoward@usaid.gov. Please include the full body of electronic mail comments in the text and not as an attachment, as well as the name, title, organization, postal address, and E-mail address in the text of the message.

FOR FURTHER INFORMATION CONTACT: M/OP/P, Ms. Diane M. Howard, (202) 712–0206.

SUPPLEMENTARY INFORMATION: USAID is seeking comments on the proposed rule as described below:

A. The FAR was significantly revised as a result of the Federal Acquisition Streamlining Act of 1994 (FASA) and the Federal Acquisition Reform Act of 1996, now known as the Clinger-Cohen Act of 1996, particularly in how it covers the procurement of commercial items. An existing AIDAR clause, 752.7008 "Use of Government Facilities or Personnel (APR 1984)", requires that the unauthorized use of U.S. Government facilities (such as office space or equipment), or U.S. Government clerical or technical personnel in the performance of the services specified in the contract shall result in an offset in the amount payable under the contract by an amount equal to the value of the U.S. Government facilities or personnel. Although USAID does not procure many commercial items, we envision a possible situation in which this policy may be in conflict with customary commercial practice, if there is a commercial practice of providing the purchaser's facilities or personnel to the vendor for use in the normal performance of the contract. A new section 712.101 "Policy" is proposed to address this potential concern; while we believe that the situation would rarely arise, the proposed language is intended to clarify how it is to be handled, should it arise. We are especially interested in receiving comments from vendors, particularly of commercial services, who would be in a better position to inform us whether our concerns have any basis.

B. For years before the Federal Acquisition Regulation covered Rights in Data and Copyrights (48 CFR Subpart 27.4), AIDAR Appendix I contained USAID's policy on academic publication or release to parties other than those specifically authorized, of unclassified materials gathered or developed under contracts with academic institutions. The policy stated in Appendix I is not fully consistent with comparable coverage in FAR Subpart 27.4 and the clause at FAR 52.227–14, and USAID has determined that the Appendix, which is more restrictive than the FAR coverage, should be removed, as we propose to do in this Rule. However, some of the concerns addressed in the Appendix still exist, so a new Part 727 is proposed to address these concerns by authorizing the contracting officer to reserve the right to review data prior to publication. Since this proposed rule will not require the contracting officer's approval for the manuscript's publication, we do not believe that it is contrary to FAR 27.4 or the Rights in Data—General clause at FAR 52.227–14. Rather, it will serve to establish the Agency's policy regarding publication of material that may have national security implications serious enough to adversely affect the conduct of U.S. assistance programs and that may have potential repercussions on the successful execution of development and other cooperative programs in which the United States and foreign countries are involved.

In addition, the proposed Part 727 includes language to make the clause at FAR 52.227–14 applicable to USAID's contracts performed overseas and awarded to U.S. organizations, to provide an alternate paragraph to add to this clause to reserve USAID's right to restrict release of data when release may negatively impact the Government's development or diplomatic relationship with the cooperating country, and to provide guidance on Rights in Data coverage for overseas contracts with non-US entities.

C. Over the past several years as part of the Agency's reengineering efforts under the NPR, we have been trying to standardize reporting requirements under our technical assistance contracts. Several versions of a "Reports" clause have been implemented in our contracts since 1994, in lieu of the 1989 version of the clause that currently is found at (48 CFR) AIDAR 752.7026. However, these standardized "Reports" clauses have been found to be inadequate as contractor performance monitoring tools. Many times, contractors have not been reporting substantive information that is useful to the cognizant technical officer (CTO)'s monitoring of the contractor's performance, or the CTO has not been making effective use of the information being provided, or the reports were submitted too late for the information they contained to be of any benefit in improving or correcting the contractor's performance.

We are proposing to add a new section 742.1170 to the AIDAR, as well as a new clause as 752.242–70. Although we considered just making use of (48 CFR) FAR Subpart 42.11, after conducting an informal internal review, we concluded that developing a parallel but stand-alone AIDAR section would be more effective since we would then be able to use terminology and concepts more familiar to USAID program experts, who would then be more likely to fully use it. The intent of the proposed section is to allow the CTO to be specific about what information should be reported and when, so we expect that the reporting will be more efficient and timely, and therefore more effective. Along with the rest of the Government, USAID has a renewed focus on obtaining results in our programs, and we believe that the proposed clause, AIDAR 752.242–70 entitled "Periodic Progress Reports", will provide USAID with a mechanism to tailor the reporting requirements to obtain the best information to ensure that we achieve the results we need from our contractors. In addition, the optional withholding provision in paragraph (b) of the clause provides the Agency with an enforcement tool that will reduce the contractors to comply. Supplementary guidance on how to tailor the reporting requirements and circumstances that may warrant exercising the withholding will be

issued to contracting officers and CTOs in a Contract Information Bulletin.

D. USAID has always extensively used indefinite delivery contracts which combine features from different contract types; rather than use the fixed-price or cost-reimbursement payment clauses in the FAR for these hybrid contracts, the AIDAR allowed for the use of FAR 52.232–7 with an amended preamble, per AIDAR 752.232–7, in those indefinite quantity contracts which use a fixed daily rate pricing structure for services and reimbursement of other direct costs at cost. However, the preamble to the FAR clause in AIDAR 752.232–7 leads to an ambiguity regarding how much the Agency is to withhold. Our first step to remove this ambiguity is to clarity our terminology by specifying that "contract" in this context includes "task order" or "delivery order".

We also propose to modify paragraph (a)(2) of FAR 52.232–7, which states that the amount to be withheld is "5 percent of the amounts due under this paragraph (a), but the total amount withheld shall not exceed $50,000". The ambiguity arises because 5 percent is being withheld under each task order, many of which are issued from different Agency contracting activities and paid from different paying offices around the world. The result has been withholdings under the basic contract which exceed $50,000, even though this is inconsistent with the FAR's capping the withholdings at $50,000 per contract. USAID's use of these types of contracts has increased in recent years, and the size and duration of task orders under these contracts has gown to the point where there are frequent orders over $1,000,000 and for a year or longer. Under these circumstances, for some contractors, withholding $50,000 for each of possibly three or four task orders is a significant financial burden. However, limiting to $50,000 per basic contract the amount withheld for some contracts having as much as $10 million in task orders outstanding at any one time would not sufficiently protect the Agency, as intended by the FAR clause. Because of the difficulties that would arise in trying to coordinate cumulative withholdings per contract when payments are being made from so many different paying offices, we are proposing to modify the AIDAR implementation of the FAR clause by reducing the withholding percentage to one percent per task order, up to a maximum of $50,000 per task order, and have no limit specified for the basic contract. While we believe this is a reasonable compromise between not unduly burdening contractors with excessive withholdings and still protecting the Agency's interests by making the cap per task order, we are very interested in the pubic's opinion and comments. A modification of this nature will require a deviation to the FAR clause, which we intend to seek prior to formulating the final rule, after considering comments received in response to this proposed rule.

The changes in this proposed rule are not considered significant under FAR 1.301 or FAR 1.501. The proposed rule does not establish a new collection of information as contemplated by the Paperwork Reduction Act nor will it have an impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Although the proposed changes affecting withholdings under indefinite quantity contracts may result in cumulative withholdings over $50,000 per basic contract, the limit specified in the FAR, we do not anticipate that this will have a negative impact on small businesses, since, overall, the withholdings will be less than they are now. We conducted a survey of existing task orders with small businesses and found that none of the orders currently being implemented would reach the $50,000 cap per task order using a one percent withholding. In addition, using the reduced withholding, a task order would have to have $5,000,000 worth of burdened labor costs before this threshold is reached, which is an unusually large order for the small businesses with whom USAID typically contracts. Finally, since $5,000,000 is the maximum in annual receipts for qualifying as a small business in the typical SIC codes under which USAID's services contracts usually fall, a firm may no longer be considered a small business if it were to receive orders of this size. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. Comments or questions may be addressed as specified in the FOR FURTHER INFORMATION CONTACT section of the Preamble.

List of Subjects in 48 CFR Parts 712, 727, 742, and 752

Government procurement.

Therefore, it is proposed that 48 CFR Chapter 7 be amended as set forth below:

1. The authority citations in Parts 742 and 752 continue to read as follows:

Authority: Sec. 621, Pub. L. 87–195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

2. A new Part 712 is added to subchapter B to read as follows:

PART 712—ACQUISITION OF COMMERCIAL ITEMS

Authority: Sec. 621, Pub. L. 87–195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

712.101 Policy.

USAID policy regarding the acquisition of commercial items prohibits the use of Government facilities or personnel in the performance of such contracts, unless customary commercial practice for the item or service being acquired involves the use of the purchaser's facilities or personnel. In the latter case, USAID shall comply with customary commercial practice but shall ensure that the contract terms, including price, reflect this practice, unless a waiver is obtained in accordance with FAR 12.302. If a waiver is approved, then the contracting officer shall include the clause at 752.7008 in the contract.

3. A new part 727 is added to subchapter E to read as follows:

PART 727—PATENTS, DATA, AND COPYRIGHTS

Subpart 727.4—Rights in Data and Copyrights

Sec.
727.401 Definitions.
727.409 Solicitation provisions and contract clauses.
727.470 USAID policy on academic publications.

Authority: Sec. 621, Pub. L. 87–195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

Subpart 727.4—Rights in Data and Copyrights

727.401 Definitions.

Contract manuscript means a report or other data [as defined in FAR 27.401] which is prepared and delivered to the Agency under the terms of the contract.

Non-contract manuscript means an article, book or other data compilation based upon experience and information gained under a USAID contract but not prepared or delivered under the contract.

727.409 Solicitation provisions and contract clauses.

(a) Notwithstanding the exception in FAR 27.409(a)(1)(iii), and as provided for in paragraph (n) of the same section, USAID procedures are to include the clause at FAR 52.227.14 in contracts with U.S. entities, regardless of place of performance, and in contracts with non-U.S. entities for performance in the U.S., to the same extent that the clause would be included in contracts with U.S. entities for performance in the U.S. In contracts performed overseas, where the release or publication of data first produced in the performance of the contract may be sensitive to U.S. Government relations with the cooperating country, the contracting officer shall also use the clause at 752.227–14.

(b) For contracts with non-U.S. entities involving performance overseas, contracting officers shall include the substance of the clause at FAR 52.227–14 but adapted as necessary to comply with applicable laws in the country of performance. Legal advice shall be obtained to the extent necessary in adapting the clause. A deviation is not required.

727.470 USAID policy on academic publications.

(a) USAID policy favors and encourages the publication of scholarly research as well as the maximum availability, distribution, and use of knowledge developed in its programs and will not require an academic institution to obtain permission to publish the written work produced under a contract. USAID does, however, ask for the opportunity to review the manuscript, for comment only, prior to publication.

(1) In the case of a contract manuscript as defined in section 727.401 of this subpart, USAID reserves the right to disclaim endorsement of the opinions expressed.

(2) In the case of a non-contract manuscript as defined in section 727.401 of this subpart, USAID reserves the right to dissociate itself from sponsorship or publication.

(b)(1) To implement the policy stated in paragraph (a) of this section, the contracting officer may reserve the right to review all manuscripts prior to release for publication in those exceptional cases where conditions exist making its reasonably foreseeable, in light of the contract's scope of work and the manner and place of performance, that the written work to be prepared and delivered under the contract may have adverse repercussions on the relations and programs of the United States. Where this right is reserved, it must be so specified in the contract in accordance with paragraph (c) of this section.

(2) When deciding whether to reserve the right of review prior to release, the contracting officer shall consult with other USAID technical offices (such as the strategic objective/results package team, LPA, GC, etc.), as appropriate, and shall carefully consider all relevant factors of the specific contract, including:

(i) The extent to which prompt and full performance of the contract will require access, facilitated by reason of the contract, to information not generally available to scholars;

(ii) The extent to which the work involves matters of political concern to foreign countries, particularly where any substantial part of the work is to be performed therein;

(iii) The extent to which, by reason of USAID's close involvement and cooperation in the performance of the contract, the work product may be so identified with USAID itself as to prevent effective disclaimer of USAID endorsement thereof;

(iv) The extent to which the objective of the contract is to provide advice to USAID or to a foreign government of immediate operational significance in the conduct of the USAID program or the implementation of governmental programs in the host country;

(v) The desires of the host country.

(c) The actual contractual language reserving to the contracting officer the right to review a manuscript prior to release for publication must be worded to reflect the agreement reached in the contract negotiations. In order to allow enough time for USAID to adequately review and then determine its position regarding the manuscript, the contractual language shall provide for at least a two week (10 business days) timeframe for the USAID review to take place prior to the manuscript being submitted to the publisher.

PART 742—CONTRACT ADMINISTRATION

742.1170 [Added]

4. A new section 742.1170 and subsections 742.1170–1 through 742.1170–4 are added to read as follows:

742.1170 Performance monitoring and progress reporting.

742.1170 General.

Performance monitoring is a function of contract administration used to determine contractor progress towards achieving the goals and objectives of the contract and to identify any factors that may delay or prevent the accomplishment of those goals and objectives. Performance monitoring requires USAID personnel, particularly the Cognizant Technical Officer, to maintain adequate knowledge of the contractor's activities and progress in order to ensure that USAID's objectives, as stated in the contract's Statement of Work, will be achieved.

742.1170–2 Applicability.

(a) This section applies to USAID non-personal, professional/technical services contracts exceeding the simplified acquisition threshold, but may be applied to other USAID contracts (except personal services contracts awarded in accordance with Appendices D and J), if the contracting officer and requiring office determine that doing so is in the best interests of the Agency. This determination shall be documented in the contract file.

(b) The underlying principles of FAR Subpart 42.11 apply to USAID contracts and are inherent to this section. However, not all of the specific requirements and terminology in FAR 42.11 are compatible with the types of technical assistance contracts usually awarded by USAID. Therefore, this section 742.1170 shall apply in lieu of the requirements of FAR Subpart 42.11.

(c) The progress reports discussed in this section are separate from the performance evaluation reports prepared in accordance with FAR 42.15 and internal Agency procedures, although they may be used by USAID personnel or their authorized representatives when evaluating the contractor's performance. Furthermore, the policies, procedures and limitations of this section do not apply to technical reports, studies, papers, etc., the acquisition of which may be part of or even the sole purpose of the contract.

742.1170–3 Policy.

(a) The contractor is responsible for timely contract performance. Performance monitoring by USAID does not obviate this responsibility.

(b) The Strategic Objective Team (SOT), particularly the Cognizant Technical Officer and the Contracting Officer, will determined how to monitor the contractor's performance to protect the Government's interests, by considering:

(1) The contract requirements for reporting progress;

(2) The contract performance schedule;

(3) The contractor's implementation plan or workplan;

(4) The contractor's history of contract performance;

(5) The contractor's experience with the services or supplies being provided under the contract;

(6) The contractor's financial capability;

(7) Any other factors the SOT considers appropriate and necessary to adequately monitor contractor

performance (for example, the day-to-day working proximity of the SOT, CTO, or contracting officer to the contractor's place of performance).

(c) In monitoring contractor performance, the SOT (particularly the cognizant technical officer and contracting officer) shall utilize any of the contractor's existing systems or processes for monitoring progress, provided that doing so is not contrary to the terms of the contract. The SOT shall not require anything from the contractor that is outside the claims of waivers, of changes, or of other contract modifications. Further, progress reports shall not require information already available from other sources.

742.1170–4 Progress reporting requirements and contract clause.

(a) When information on contract performance status is needed, the contract may include a requirement for the contractor to submit periodic progress reports, tailored to address specific contract requirements but limited to only that information essential to USAID's needs in monitoring the contractor's progress.

(b) Because the cognizant technical officer (CTO) is the individual most familiar with the contractor's performance, the progress reports shall be directed to the CTO, who shall review the reports and advise the contracting officer of any required action, including any action needed to address potential or actual delays in performance. Such advice shall be in writing and provided in sufficient time for the contracting officer to take necessary action, and shall provide a definite recommendation, if action is appropriate. The requirements of this paragraph do not relieve the contractor of notification requirements identified elsewhere in the contract.

(c) The contracting officer shall insert the clause at 752.242–70, Periodic Progress Reports, in solicitations and contracts when progress reporting is required, as specified in this section. When this clause is used, the contract shall specify appropriate reporting instructions in Section G of the contract.

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

752.227–14 [Added]

5. A new section 752.227–14 is added to read as follows:

752.227–14 Rights in data—General (overseas).

As prescribed in 727.409(a), the following paragraph (d) shall be used in lieu of paragraph (d) in FAR 52.227–14 in all contracts requiring performance overseas:

Rights in Data—General (Overseas) (XXXX 1998)

(d)(1) For all data first produced or specifically used by the Contractor in the performance of this contract in the United States, its territories, or Puerto Rico, the Contractor shall have the right to use, release to others, reproduce, distribute, or publish such data, except to the extent such data may be subject to the Federal export control or national security laws or regulations, or unless otherwise provided in this paragraph of this clause or expressly set forth in this contract.

(2) For all data first produced or specifically used by the Contractor in the overseas performance of this contract, the Contractor shall not release, reproduce, distribute, or publish such data without the written permission of the Contracting Officer.

(3) The Contractor agrees that to the extent it receives or is given access to data necessary for the performance of this contract which contain restrictive markings, the Contractor shall treat the data in accordance with such markings unless otherwise specifically authorized in writing by the Contracting Officer.

752.232–7 [Revised]

5. Section 752.232–7 is revised to read as follows:

752.232–7 Payments under Time-and-Materials and Labor-Hour Contracts.

USAID uses the payment clause contained in FAR 52.232–7, PAYMENT UNDER THE TIME-AND-MATERIALS AND LABOR-HOUR CONTRACTS, in indefinite delivery (task order) contracts for professional services, modified as follows:

Payment Under Time-and-Materials and Labor-Hour Contracts (XXXX 1998)

(a) The following preamble will be included:

Certain terms used in this clause shall be interpreted as follows:

The term "contract(s)" includes "delivery order(s)" and "task orders"; "hour(s)", or "hourly" may be calculated in terms of "day(s)" or "daily (8 hours)"; and "materials" includes "other direct costs".

(b) Paragraph (a)(2) of the FAR clause is revised to read as follows:

Unless otherwise prescribed in the Schedule, the Contracting Officer shall withhold one (1) percent of the amount due under each task order, but the total amount withheld per task order shall not exceed $50,000. Amounts withheld under an individual task order shall be retained until the execution and delivery of a release for each task order by the Contractor as provided in paragraph (f) below.

752.242–70 [Added]

6. A new section 752.242–70 is added to read as follows:

752.242–70 Periodic progress reports.

As prescribed in 742.1170–3(c), insert the following clause in contracts for which periodic progress reports are required from the contractor. The term "contract" shall be interpreted as "task order" or "delivery order" when this clause is used in an indefinite-delivery contract.

Periodic Progress Reports (August 1998)

(a) The contractor shall prepare and submit progress reports as specified in the Schedule of this contract. These reports are separate from the interim and final performance evaluation reports prepared by USAID in accordance with FAR 42.15 and internal Agency procedures, but they may be used by USAID personnel or their authorized representatives when evaluating the contractor's performance.

(b) During any delay in furnishing a progress report required under this contract, the contracting officer may withhold from payment an amount not to exceed US$25,000 (or local currency equivalent) or 5 percent of the amount of this contract, whichever is less, until such time as the contracting officer determines that the delay no longer has a detrimental effect on the Government's ability to monitor the contractor's progress.

752.7008 [Amended]

7. Section 752.7008 is amended by adding ", and in commercial contracts when required in 712.101" after "contracts" in the introductory paragraph.

752.7026 [Removed]

8. Section 752.7026 is removed and reserved.

Appendix I to Chapter 7—[Removed]

9. Under the authority of Sec. 621, Pub. L. 87–195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435, Chapter 7 is amended by removing Appendix I and reserving it.

Dated: September 21, 1998.

Marcus L. Stevenson,

Procurement Executive.

[FR Doc. 98–28804 Filed 11–3–98; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 177, 178, 180

[Docket No. RSPA–97–2718 (HM–225A)]

RIN 2137–AD07

Hazardous Materials: Safety Standards for Preventing and Mitigating Unintentional Releases During the Unloading of Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of Negotiated Rulemaking Committee Meetings.

SUMMARY: On August 20, 1998, RSPA published in the **Federal Register** a document announcing dates and locations for its negotiated rulemaking advisory committee meetings. However, in the document, RSPA did not announce the locations for the December 1–2 meeting and the January 6–7 meeting. The purpose of this document is to announce the location of these meetings. This document is in accordance with the Federal Advisory Committee Act. The purpose of these meetings is to negotiate recommendations for alternative safety standards for preventing and mitigating unintentional releases of hazardous materials during the unloading of cargo tank motor vehicles in liquefied compressed gas service. The public is invited to attend; an opportunity for members of the public to make oral presentations will be provided if time permits.

DATES: Meetings of the advisory committee will be from 8:30 a.m. to 4:00 p.m. on December 1–2, 1998, and January 6–7, 1999.

ADDRESSES: The meetings will take place at the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. The December 1–2 meeting is in Room 3200 and the January 6–7 meeting is in Room 2230.

FOR FURTHER INFORMATION CONTACT: Jennifer Karim or Susan Gorsky, (202) 366–8553, Office of Hazardous Materials Standards, Research and Special Programs Administration, Department of Transportation. *Facilitator:* Philip J. Harter, The Mediation Consortium, (202) 887–1033.

SUPPLEMENTARY INFORMATION: The Negotiated Rulemaking Committee has been established to develop recommendations for alternative safety standards for preventing and mitigating unintentional releases of hazardous materials during the unloading of cargo tank motor vehicles in liquefied compressed gas service. Meeting summaries and other relevant materials will be placed in the public docket and can be accessed through (*http://dms.dot.gov*). Persons wishing to submit written comments should identify the docket number and submit one copy to the Dockets Management System, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20001. The Dockets Management System (DMS) is on the Plaza level of the Nassif Building at the U.S. Department of Transportation at the above address. Persons wishing to receive confirmation of receipt of their written comments should include a self-addressed, stamped postcard.

Comments may also be submitted by e-mail to the following address: "rules@rspa.dot.gov". Public dockets may be reviewed at the DMS facility between the hours of 10:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on October 29, 1998, under authority delegated in 49 CFR Part 1.

Edward T. Mazzullo,

Director, Office of Hazardous Materials Standards, Research and Special Programs Administration.

[FR Doc. 98–29485 Filed 11–3–98; 8:45 am]

BILLING CODE 4910–60–P

Notices

Federal Register

Vol. 63, No. 213

Wednesday, November 4, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection, Comment Request—Food Stamp Program: Federal Collection of State Plan of Operations, Operating Guidelines and Forms

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Food and Nutrition Service (FNS) is publishing for public comment a summary of a proposed information collection. The proposed collection is an extension of a collection currently approved under OMB No. 0584–0083.

DATES: Comments on this notice must be received by January 4, 1999, to be assured of consideration.

ADDRESSES: Send comments and requests for copies of this information collection to Joseph H. Pinto, Chief, State Administration Branch, Food Stamp Program, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, VA 22302. Copies of the estimate of the information collection can be obtained by contacting Mr. Pinto.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of Information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments will be summarized and included in the request for Office of Management and Budget approval of the information collection. All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Joseph H. Pinto, telephone number (703) 305–2383.

SUPPLEMENTARY INFORMATION:

Title: Operating Guidelines, Forms and Waivers.

OMB Number: 0584–0083.

Expiration Date: December, 1998.

Type of Request: Extension of a currently approved collection.

Abstract: In accordance with section 11(e) of the Food Stamp Act of 1977 (the Act), 7 U.S.C. 2020(e), State agencies are required to submit a Plan of Operation specifying the manner in which the Food Stamp Program will be conducted. The State Plan of Operations, in accordance with current rules at 7 CFR 272.2, consists of a Federal/State Agreement, annual budget and activity statements, and specific attachments (such as plans if the State elects to conduct program information activities or provide nutrition educational services). State Plans of Operation are a one-time effort with updates that are provided as necessary.

Under section 16 of the Act, 7 U.S.C. 2025, the Secretary is authorized to pay each State agency an amount equal to 50 percent of all administrative costs involved in each State agency's operation of the Food Stamp Program. Under corresponding Food Stamp Program regulations at 7 CFR 272.2, the State agencies must submit annually to FNS for approval, a Budget Projection Statement (Form FNS–366A), which projects the total costs for major areas of Food Stamp Program operations, and a Program Activity Statement (Form FNS–366B), which provides a summary of Food Stamp Program operations during the preceding fiscal year. The reports are required to substantiate the costs the State agency expects to incur during the next fiscal year. Form FNS–366A is submitted annually by August 15 for the upcoming fiscal year and Form FNS–366B must be submitted no later than 45 days after the end of each State agency's fiscal year.

Beginning July 1997, State agencies were allowed to submit the FNS–366B data electronically to the national database files stored in FNS' Food Stamp Program Integrated Information System in lieu of a paper report. The voluntary changeover from paper to electronic reporting of FNS–366B data by States was done as part of FNS' State Cooperative Data Exchange (SCDEX) Project. This project is being expanded over time as more FNS forms are transformed to electronic formats for State data entry. For FY 1997, the first year of FNS–366B electronic reporting, 5 State agencies submitted the FNS–366B data electronically and 48 State agencies submitted paper reports.

Under section 11(o) of the Act, 7 U.S.C. 2020(o), each State agency was required to develop a plan, no later than October 1, 1987, for implementing an automated data processing (ADP) and information retrieval system to administer the Food Stamp Program. Corresponding Food Stamp Program regulations at 7 CFR 277.18 require that a written plan of action, called an Advance Planning Document (APD), be prepared to acquire proposed ADP services, systems or equipment. The frequency of the APD submissions is at the discretion of the State agencies.

Under section 7(i) of the Act, 7 U.S.C. 2016(i), the Secretary is authorized to permit State agencies to implement on-line electronic benefit transfer (EBT) systems. The Secretary is authorized to establish standards for the required testing prior to implementation of any EBT system and analysis of the results of implementation in a limited pilot project area before expansion of the system. Any State requesting funding for an EBT system must submit an APD.

Respondents: State agencies that administer the Food Stamp Program.

Number of Respondents: 53.

Estimated Number of Responses per Respondent

Plan of Operation Updates: 53 State agencies once a year.

Form FNS–366A: 53 State agencies once a year.

Form FNS–366B: 53 State agencies once a year.

Advance Planning Documents: 25 State agencies once a year.

Advance Planning Documents for EBT Systems: 10 State agencies once a year.

EBT Reporting: 41 State agencies reporting four times a year.

Estimate of Burden

Plan of Operation Updates: The State agencies submit Plan updates at an estimate of 10 hours per respondent, or 530 total hours.

Form FNS–366A: The State agencies submit Form FNS–366A at an estimate of 13 hours per respondent, or 689 total hours.

Form FNS–366B: The total burden for the collection of information for Form FNS–366B is 1,526 hours. Forty-two State agencies submit Form FNS–366B automatically at an estimate of 18 hours per respondent, or 756 total hours. Eleven State agencies submit Form FNS–366B manually at an estimate of 70 hours per respondent or 770 hours.

Outreach Plans: FNS is planning an initiative to encourage States to do outreach to hard-to-serve population groups. Up to 25 States may submit an Outreach plan over the next year at an estimate of 1 hour per respondent or 25 total hours.

Advance Planning Documents: Approximately 25 State agencies submit an APD each year at an estimate of 15 hours per respondent or 375 total hours.

Advance Planning Documents for EBT Systems: Approximately 10 State agencies submit an APD each year for an EBT system at an estimate of 45 hours per respondent, or 450 total hours.

EBT Reporting: We estimate that approximately 41 State agencies with operational EBT systems will provide additional information about their EBT systems during the next burden period. The State agencies submit a report approximately 4 times a year at an estimate of one hour per response, or 164 total hours.

Estimated Total Annual Burden on Respondents

The total annual reporting and recordkeeping burden for OMB No. 0584–0083 is estimated to be 3,759, a decrease of 972 hours from the previous estimate and currently approved burden of 4,731 hours. Since the last notice on this burden in 1996, the number of States with operational EBT systems has increased to 35 States, leaving fewer States who will need to submit an Advance Planning Document for an EBT system. The decrease in the burden is due primarily to a decrease in the estimate of the number of States each year who may submit an Advance Planning Document for an EBT system.

Dated: October 26, 1998.

Samuel Chambers, Jr.,

Acting Administrator.

[FR Doc. 98–29487 Filed 11–3–98; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Committee of Scientists Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: The Committee of Scientists will hold a public teleconference call on Thursday, November 19, 1998. The teleconference call will begin at 2:30 p.m. and end at 5:00 p.m. (eastern standard time). The purpose of the telephone conference call is for the Committee of Scientists to continue discussion of its report and recommendations to the Secretary of Agriculture and the Chief of the Forest Service. The public is invited to attend this teleconference call and may be provided an opportunity to comment on the Committee of Scientists' deliberations during the teleconference, only at the request of the Committee.

DATES: The teleconference call will be held Thursday, November 19, 1998, from 2:30 p.m. to 5:00 p.m. (eastern standard time).

ADDRESSES: The teleconference will be held at the USDA Forest Service headquarters, Auditor's Building, 201 14th Street, S.W., Washington, D.C., in the Roosevelt Conference Room and at all Regional Offices of the Forest Service, which are listed in the table under **SUPPLEMENTARY INFORMATION.**

Written comments on improving land and resource management planning may be sent to the Committee of Scientists, P.O. Box 2140, Corvallis, OR 97339. Also, the Committee may be accessed via the Internet at www.cof.orst.edu./org/scicomm/.

FOR FURTHER INFORMATION CONTACT: For additional information concerning the teleconferences, contact Bob Cunningham, Designated Federal Official to the Committee of Scientists, by telephone (202) 205–1523.

SUPPLEMENTARY INFORMATION:

The public may attend the teleconference at the following field locations:

USDA Forest Service Regional Office Locations

Region 1—Northern Region: Federal Building, 200 E Broadway, Missoula, MT
Region 2—Rocky Mountain Region: 740 Simms St., Golden, CO
Region 3—Southwestern Region: Federal Building, 517 Gold Ave., SW, Albuquerque, NM
Region 4—Intermountain Region: Federal Building, 324 25th St., Ogden, UT
Region 5—Pacific Southwest Region: 630 Sansome St., San Francisco, CA
Region 6—Pacific Northwest Region: 333 SW 1st Ave., Portland, OR
Region 8—Southern Region: 1720 Peach Road NW, Atlanta, GA
Region 9—Eastern Region: 310 W. Wisconsin Ave., Room 500, Milwaukee, WI
Region 10—Alaska Region (office will open early): Federal Office Building, 709 W. 9th St., Juneau, AK

The Committee of Scientists is chartered to provide scientific and technical advice to the Secretary of Agriculture and the Chief of the Forest Service on improvements that can be made to the National Forest System land and resource management planning process (62 FR 43691; August 15, 1997). Notice of the names of the appointed Committee members was published December 16, 1997 (62 FR 65795).

Dated: October 28, 1998.

Donald L. Meyer,

Acting Deputy Chief, National Forest System.

[FR Doc. 98–29491 Filed 11–3–98; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New Hampshire Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New Hampshire Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 4:30 p.m. on November 19, 1998, at the Rivier Collage, Dion Center Conference Room, 420 Main Street, Nashua, New Hampshire 03060. The Committee will hold the first of three planned briefings based on its project, "A Biennial Report on the Status of Civil Rights in New Hampshire."

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Nury Marquez, 603–627–5127, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 23, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–29463 Filed 11–3–98; 8:45 am]

BILLING CODE 6335–01–P

UNITED STATES COMMISSION ON CIVIL RIGHTS

Sunshine Act Meeting

AGENCY: U.S. Commission on Civil Rights.

DATE AND TIME: Friday, November 13, 1998, 8:00 a.m.

PLACE: Washington Plaza Hotel, 10 Thomas Circle, N.W., in the Washington Room, Washington, DC 20005.

STATUS:

Agenda

I. Approval of Agenda
II. Approval of Minutes of October 16, 1998 Meeting
III. Announcements
IV. Staff Director's Report
V. State Advisory Committee Appointments for Michigan
VI. Future Agenda Items

Americans With Disabilities Act Hearing to follow the Commission Meeting.

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications (202) 376–8312.

Stephanie Y. Moore,

General Counsel.

[FR Doc. 98–29638 Filed 11–2–98; 2:19 pm]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Office of the Secretary

Performance Review Board; Membership

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Office of the Secretary Senior Executive Service (SES) Performance Appraisal System:

K. David Holmes, Jr.
Sonya G. Stewart
Suellen P. Hamby
Ellen M. Bloom
John S. Gray, III
Douglas K. Day
Kathleen J. Taylor
Mark T. Jurkovich
Bernadette McGuire-Rivera

Vicki G. Brooks,

Executive Secretary, Office of the Secretary, Performance Review Board.

[FR Doc. 98–29559 Filed 11–3–98; 8:45 am]

BILLING CODE 3510–BS–M

DEPARTMENT OF COMMERCE

Economic Development Administration

Performance Review Board; Membership

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Economic Development Administration Senior Executive Service (SES) Performance Appraisal System:

Charles R. Sawyer
Chester J. Straub, Jr.
Pedro Garza
William J. Day, Jr.
Stephen C. Browning

Vicki G. Brooks,

Executive Secretary, Economic Development Administration, Performance Review Board.

[FR Doc. 98–29557 Filed 11–3–98; 8:45 am]

BILLING CODE 3510–BS–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Materials Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Technical Advisory Committee will meet November 19, 1998, 10:30 a.m., Herbert C. Hoover Building, Room 1617M–2, 14th Street between Constitution & Pennsylvania Avenues, N.W., Washington, D.C. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials and related technology.

AGENDA

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers and comments by the public.
3. Discussion on current rolling text of the Biological Weapons Convention (BWC) protocol.
4. Discussion of a country proposal on clarification visits presented at the most recent BWC conference.
5. Discussion of other papers presented at the most recent BWC conference.

Executive Session

6. Discussion of matters properly classified under Executive Order 12958, dealing with U.S. export control programs and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. Reservations are not required. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Commission members, the materials should be forwarded prior to the meeting to the address below:

Ms. Lee Ann Carpenter, BXA/EAD MS:3886C, U.S. Department of Commerce, 15 St. & Pennsylvania Ave., N.W., Washington, D.C. 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 24, 1998, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meeting or portions of meetings of the Committee and of any Subcommittee thereof dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3) of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination of close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, D.C. For more information call Ms. Lee Ann Carpenter at (202) 482–2583.

Dated: October 30, 1998.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 98–29554 Filed 11–3–98; 8:45 am]

BILLING CODE 3510–33–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

President's Export Council Subcommittee on Encryption; Notice of Partially Closed Meeting

The President's Export Council Subcommittee on Encryption (PECSENC) will meet on November 20, 1998, at the U.S. Department of Commerce, Herbert C. Hoover Building, Room 4832, 14th Street between Pennsylvania and Constitution Avenues, N.W., Washington, D.C. The meeting will begin in closed session at 9:45 a.m. The open session will begin at 12:00 p.m. and is scheduled to adjourn at 4:15 p.m. The Subcommittee provides advice on matters pertinent to policies regarding commercial encryption products.

Closed Session: 9:45 a.m.–12:00 p.m.

1. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

Open Session: 12:00 p.m.–4:15 p.m.

2. Opening remarks by the Acting Chairman.
3. Presentation of papers or comments by the public.
4. Update on Bureau of Export Administration initiatives.
5. Issue briefings.
6. Briefings by working groups.
7. Open discussion.

A Notice of Determination to close meetings, or portions of meetings, of the Subcommittee to the public on the basis of 5 U.S.C. 522(c)(1) was approved May 7, 1998, in accordance with the Federal Advisory Committee Act. A copy of the Notice of Determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, D.C. For more information, contact Ms. Lee Ann Carpenter on (202) 482–2583.

Dated: October 30, 1998.

Iain S. Baird,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 98–29555 Filed 11–3–98; 8:45 am]

BILLING CODE 3510–33–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–008]

Color Television Receivers from the Republic of Korea: Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of rescission of antidumping duty administrative review.

SUMMARY: On May 29, 1998, the Department of Commerce initiated an administrative review of the antidumping duty order on color television receivers from the Republic of Korea for three manufacturers/exporters; Daewoo Electronics Co., Ltd., LG Electronics Inc., and Samsung Electronics Co., Ltd. This review was requested by the International Brotherhood of Electrical Workers and the International Union of Electronic, Electrical, Salaried, Machine & Furniture Workers, AFL–CIO (collectively the petitioners), and covered the period April 1, 1997, through March 31, 1998. The Department of Commerce is rescinding the review after receiving a withdrawal of its request for review from the petitioners.

EFFECTIVE DATE: November 4, 1998.

FOR FURTHER INFORMATION CONTACT: Wendy Frankel or Mark Manning, Office of AD/CVD Enforcement, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–5849 and (202) 482–3936, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's regulations refer to the regulations codified at 19 CFR Part 351 (1998).

Background

On April 30, 1998, the International Brotherhood of Electrical Workers and the International Union of Electronic, Electrical, Salaried, Machine & Furniture Workers, AFL–CIO ("the Unions"), requested that the Department of Commerce ("the Department") conduct an administrative review of color television receivers from the Republic of Korea ("Korea") for the period April 1, 1997 through March 31, 1998. No other interested party requested that the Department conduct an administrative review.

On May 29, 1998, the Department published in the **Federal Register** (63 FR 29370) a notice of initiation of administrative review with respect to three Korean manufacturers/exporters of the subject merchandise; Daewoo Electronics Co., Ltd., LG Electronics Inc., and Samsung Electronics Co., Ltd. On October 16, 1998, the Unions filed a letter with the Department requesting withdrawal of its request for the Department to conduct an administrative review. Ordinarily, parties have 90 days from the publication of the notice of initiation of review in which to withdraw a request for review. See 19 CFR 351.213(d). We did not receive petitioner's withdrawal request until October 16, 1998, after the 90-day period had elapsed. Given that the review has not progressed substantially and there would be no undue burden on the parties or the Department, the Department has determined that it would be reasonable to grant the withdrawal at this time. Therefore, in accordance with section 351.213(d) of the Department's regulations, the Department is rescinding this administrative review.

This notice is in accordance with section 751 of the Act and section 351.213(d) of the Department's regulations.

Dated: October 27, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–29549 Filed 11–3–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–827]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Emulsion Styrene-Butadiene Rubber from Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 4, 1998.

FOR FURTHER INFORMATION CONTACT: Sunkyu Kim or John Maloney, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2613 or (202) 482–1503, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the

regulations at 19 CFR Part 351, 62 FR 27296 (May 19, 1997).

Preliminary D etermination

We preliminarily determine that emulsion styrene-butadiene rubber (ESBR) from Brazil is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the initiation of this investigation (*Notice of Initiation of Antidumping Investigations: Emulsion Styrene-Butadiene Rubber from Brazil, the Republic of Korea, and Mexico* (63 FR 20575, April 27, 1998)), the following events have occurred:

On May 18, 1998, the United States International Trade Commission (ITC) issued an affirmative preliminary injury determination in this case (*see* ITC Investigation No. 731–TA–794–796).

In May 1998, the Department obtained information from the U.S. Embassy in Brazil identifying Petroflex Industria e Comercio S.A. (Petroflex) as the only producer and/or exporter of the subject merchandise to the United States. Based on this information, the Department issued the antidumping questionnaire to Petroflex in May 1998.

On May 22, 1998, Petroflex requested that it be permitted to use calendar year 1997 (*i.e.*, its fiscal year) as its cost calculation period rather than the period of investigation (*i.e.*, April 1, 1997, through March 31, 1998). We granted Petroflex's request on May 26, 1998. We note, however, that Petroflex subsequently submitted cost information for the period of investigation in its Section D questionnaire response. Also, on May 26, 1998, Petroflex requested that the Department not require Petroflex to report resales of ESBR made by its affiliated customers in Brazil because such sales represent less than five percent of Petroflex's total sales in the home market. On May 27, 1998, pursuant to 19 CFR 351.403(d), the Department granted Petroflex's request.

In June 1998, the Department received a response to Section A of the questionnaire from Petroflex. Petroflex submitted its response to Sections B and C of the questionnaire in July 1998.

On July 21, 1998, pursuant to section 733(c)(1)(A) of the Act, the petitioners made a timely request to postpone the preliminary determination. The petitioners filed an explanatory amendment to that request on July 23, 1998. We granted this request and, on July 28, 1998, postponed the preliminary determination until no later than October 28, 1998 (*see Notice of Postponement of Preliminary Determinations of Sales at Less Than Fair Value: Emulsion Styrene-Butadiene Rubber From Brazil, the Republic of Korea, and Mexico* (63 FR 41544, August 4, 1998)).

On July 27, 1998, the petitioners submitted a timely allegation pursuant to section 773(b) of the Act that Petroflex had made sales in the home market at less than the cost of production (COP). Our analysis of the allegation indicated that there were reasonable grounds to believe or suspect that Petroflex sold ESBR in the home market at less than the COP. Accordingly, we initiated a COP investigation with respect to Petroflex pursuant to section 773(b) of the Act (*see* Memorandum from Team to Louis Apple, Office Director, dated August 21, 1998).

We issued supplemental questionnaires for Sections A, B, and C to Petroflex in August 1998 and received responses to these questionnaires along with revised U.S. and home market sales listings in August and September 1998. We received Petroflex's response to Section D of the questionnaire in September 1998. We issued a supplemental questionnaire for Section D in October 1998, but the response to the supplemental questionnaire was not received in time to be considered for purposes of the preliminary determination. We will consider it, however, for purposes of the final determination.

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on October 13, 1998, Petroflex requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the publication of this notice in the **Federal Register**. On October 16, 1998, Petroflex amended its request to include a request to extend the provisional measures to not more than six months. In accordance with 19 CFR 351.210(b), because: (1) Our preliminary determination is affirmative; (2) Petroflex accounts for a significant proportion of exports of the subject merchandise; (3) no compelling reasons for denial exist; and (4) Petroflex has requested an extension of provisional measures, we are granting the respondent's request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

Scope of Investigation

For purposes of this investigation, the product covered is ESBR. ESBR is a synthetic polymer made via free radical cold emulsion copolymerization of styrene and butadiene monomers in reactors. The reaction process involves combining styrene and butadiene monomers in water, with an initiator system, an emulsifier system, and molecular weight modifiers. ESBR consists of cold non-pigmented rubbers and cold oil extended non-pigmented rubbers that contain at least one percent of organic acids from the emulsion polymerization process.

ESBR is produced and sold, both inside the United States and internationally, in accordance with a generally accepted set of product specifications issued by the International Institute of Synthetic Rubber Producers (IISRP). The universe of products subject to this investigation are grades of ESBR included in the IISRP 1500 series and IISRP 1700 series of synthetic rubbers. The 1500 grades are light in color and are often described as "Clear" or "White Rubber." The 1700 grades are oil-extended and thus darker in color, and are often called "Brown Rubber." ESBR is used primarily in the production of tires. It is also used in a variety of other products, including conveyor belts, shoe soles, some kinds of hoses, roller coverings, and flooring.

Products manufactured by blending ESBR with other polymers, high styrene resin master batch, carbon black master batch (*i.e.*, IISRP 1600 series and 1800 series) and latex (an intermediate product) are not included within the scope of this investigation.

The products under investigation are currently classifiable under subheading 4002.19.0010 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is April 1, 1997, through March 31, 1998.

Fair Value Comparisons

To determine whether sales of ESBR from Brazil to the United States were made at less than fair value, we compared the export price (EP) or constructed export price (CEP) to the Normal Value (NV), as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs and CEPs for comparison to weighted-average NVs.

On January 8, 1998, the Court of Appeals for the Federal Circuit issued a decision in *CEMEX* v. *United States*, 1998 WL 3626 (Fed Cir.). In that case, based on the pre-URAA version of the Act, the Court discussed the appropriateness of using constructed value (CV) as the basis for foreign market value when the Department finds home market sales to be outside the "ordinary course of trade." This issue was not raised by any party in this proceeding. However, the URAA amended the definition of sales outside the "ordinary course of trade" to include sales below cost. *See* Section 771(15) of the Act. Consequently, the Department has reconsidered its practice in accordance with this court decision and has determined that it would be inappropriate to resort directly to CV, in lieu of foreign market sales, as the basis for NV if the Department finds foreign market sales of merchandise identical or most similar to that sold in the United States to be outside the "ordinary course of trade." Instead, the Department will use sales of similar merchandise, if such sales exist. The Department will use CV as the basis for NV only when there are no above-cost sales that are otherwise suitable for comparison. Therefore, in this proceeding, when making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the "Scope of Investigation" section of this notice, above, that were in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade, based on the characteristics listed in Sections B and C of our antidumping questionnaire.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative (SG&A) expenses and profit. For EP, the LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different level of trade than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

Petroflex reported two customer categories (*i.e.*, end users and distributors) and two channels of distribution corresponding to each customer category for its home market sales. In its response, Petroflex claims that its sales to the end users are at a different LOT than its sales to the distributors, arguing that it provides significantly different selling services to its end-user customers than its distributors. In the U.S. market, Petroflex reported both EP and CEP sales. For EP sales, Petroflex reported one channel of distribution and one customer category (*i.e.*, direct sales to unaffiliated end users) and claims that sales to this customer category are at the same level of trade as its sales to end users in the home market. For CEP sales, Petroflex reported one channel of distribution and one customer category (*i.e.*, sales to small end-users through its U.S. affiliate). Petroflex claims that these sales constitute a separate level of trade from its EP sales and the same level of trade as its home market sales to distributors.

In determining whether separate levels of trade actually existed in the home market, we examined whether Petroflex's sales involved different marketing stages (or their equivalent) based on the channel of distribution, customer categories and selling functions. As noted above, Petroflex made sales to two different customer categories (*i.e.*, end users and distributors). With respect to selling activities, Petroflex identified the following selling services it provides to its end users: (1) freight and delivery; (2) pre-and post-sale technical services; (3) warranty services; and (4) market research. For sales to distributors, Petroflex stated that it does not perform any of the services it performs for its sales to end users except for post-sale technical services. With respect to technical services, however, Petroflex further stated that such services are provided infrequently to distributors, whereas they are provided frequently to end users. Based upon this information, we have determined that Petroflex's sales to end users differ significantly from its sales to distributors with respect to selling activities and, therefore, constitute a different level of trade than its sales to distributors.

In analyzing Petroflex's selling activities for its EP sales (*i.e.*, sales to end users), we noted that the sales involved basically the same selling functions associated with the home market sales to end users described above. Therefore, we determine that Petroflex's EP sales and its home market sales to end users are made at the same level of trade.

The CEP sales were based on sales made by Petroflex to its U.S. affiliate, which then sold the merchandise to unaffiliated purchasers in the United States. Based on our analysis, we find that the selling functions performed at the CEP level do not significantly differ from those performed in the home market for sales to distributors. Specifically, after making deductions pursuant to section 772(d) of the Act, we determined that there were two selling activities performed by Petroflex associated with its sales to its U.S. affiliate: (1) Freight; and (2) post-sale technical services, which, according to Petroflex, are offered infrequently. Based on this information, we determined that Petroflex's CEP sales and its home market sales to distributors are made at the same level of trade.

To the extent possible, we determined NV based on sales in the home market at the same LOT as the EP or CEP transactions. When we were unable to find sales of the foreign like product in the home market at the same LOT as the U.S. sale, we determined whether a LOT adjustment was warranted. To make that determination, we examined whether there was a pattern of consistent price differences between the two levels of trade in the home market by comparing, for each model sold at both levels, the average net price of sales made in the ordinary course of trade at the two

levels of trade. We examined whether average prices were higher at one of the levels of trade for a preponderance of the models, so as to demonstrate a pattern of consistent price differences. We also considered whether the average prices were higher at one of the levels of trade for a preponderance of sales, based on the quantities of each model sold, in making this determination. Based on our analysis, we did not find that there existed a pattern of consistent price differences between the two levels of trade in the home market. Therefore, we did not make level of trade adjustments in our calculation. Since there was no pattern of consistent price differences between sales at the different levels of trade, we also did not make a CEP offset adjustment to NV. *See* Calculation Memorandum from Case Analyst dated October 28, 1998, for further discussion.

Export Price and Constructed Export Price

Petroflex reported as EP transactions its sales of subject merchandise sold to unaffiliated U.S. customers prior to importation through its affiliated company, Nemotrade Corporation (Nemotrade). Petroflex reported as CEP transactions its sales of subject merchandise sold to Nemotrade for its own account. Nemotrade then resold the subject merchandise after importation to unaffiliated customers in the United States.

With respect to sales made through Nemotrade prior to importation, Petroflex claims that these sales are properly classified as EP sales because Nemotrade acted only as a sales-document processor and communication link to facilitate Petroflex's U.S. sales to unaffiliated customers. Specifically, Petroflex states the following: (1) Nemotrade does not take physical possession of the merchandise; (2) the merchandise is shipped directly from Petroflex to the customer; (3) Nemotrade does not have independent authority to establish prices; and (4) the essential terms of sales are set and approved by Petroflex in Brazil.

We examine several factors to determine whether sales made prior to importation through an affiliated sales agent to an unaffiliated customer in the United States are EP sales, such as: (1) Whether the merchandise was shipped directly from the manufacturer to the unaffiliated U.S. customer; (2) whether the sales follow customary commercial channels between the parties involved; and (3) whether the function of the U.S. selling agent is limited to that of a "processor of sales-related documentation" and a "communication link" with the unrelated U.S. buyer. Where the factors indicate that the activities of the U.S. affiliate are ancillary to the sale (*e.g.*, arranging transportation or customs clearance), we treat the transactions as EP sales. Where the U.S. affiliate is substantially involved in the sales process (*e.g.*, negotiating prices), we treat the transactions as CEP sales.

Based on our review of the selling activities of Petroflex's U.S. affiliate, we preliminarily determine that EP is appropriate for Petroflex's sales made to the first unaffiliated customers in the United States through Nemotrade prior to importation. The customary commercial channel between Petroflex and its unaffiliated customers is that Petroflex ships the EP merchandise directly to the unaffiliated U.S. customers without having the merchandise enter into the inventory of the U.S. affiliate and that the U.S. affiliate's activities are limited to that of a "processor of sales-related documentation" and a "communication link" with the unaffiliated U.S. buyers. Information on the record reflects that Nemotrade does no more than relay to Petroflex purchase orders received from U.S. customers and does not solicit such orders or negotiate terms with the customers. Accordingly, for purposes of the preliminary determination, we are treating the sales in question as EP transactions. We will examine this issue further at verification.

We calculated EP, in accordance with section 772(a) of the Act, for those sales where the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted, based on the facts of record. We based EP on the packed CIF or C&F price to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, ocean freight and marine insurance.

We calculated CEP, in accordance with subsections 772(b) of the Act, for those sales to the first unaffiliated purchaser that took place after importation into the United States. We based CEP on the packed FOB or delivered prices to unaffiliated purchasers in the United States. We made adjustments for price-billing errors, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, ocean freight, marine insurance, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), U.S. inland freight, and U.S. warehousing expenses. In accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (credit costs and warranty expenses), inventory carrying costs, and indirect selling expenses. We also made an adjustment for profit in accordance with section 772(d)(3) of the Act.

Affiliated-Party Transactions and Arm's-Length Test

Sales to affiliated customers in the home market not made at arm's-length prices (if any) were excluded from our analysis because we considered them to be outside the ordinary course of trade. *See* 19 CFR 351.102. To test whether these sales were made at arm's-length prices, we compared on a model-specific basis the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing. Where, for the tested models of subject merchandise, prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's length. *See* 19 CFR 351.403(c). In instances where no price ratio could be constructed for an affiliated customer because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's-length prices and, therefore, excluded them from our LTFV analysis. *See Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina* (58 FR 37062, 37077 (July 9, 1993)). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, we made a comparison to the next most similar model.

Normal Value

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared Petroflex's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because Petroflex's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable for Petroflex.

Based on the information contained in the cost allegation submitted by the petitioners, the Department found reasonable grounds to believe or suspect that Petroflex made sales in the home market at prices below their COPs, in accordance with section 773(b)(1) of the Act. As a result, the Department initiated an investigation to determine whether Petroflex made home market sales at prices below their COPs during the POI, within the meaning of section 773(b) of the Act. *See* Memorandum from the Team to Louis Apple, Director, Office 5, dated August 21, 1998. Before making any fair value comparisons, we conducted the COP analysis described below.

We calculated the COP based on the sum of Petroflex's cost of materials and fabrication for the foreign like product, plus amounts for home market SG&A, financial expenses and packing costs, in accordance with section 773(b)(3) of the Act. Petroflex purchased a major input, butadiene, for ESBR from both unaffiliated and affiliated parties. At the time of this determination, no information was available on the affiliated party's cost to produce the input. Therefore, in accordance with section 773(f)(2) of the Act, we valued butadiene that Petroflex purchased from its affiliated producer by applying the higher of the transfer price or the market price of the input. We intend to consider the affiliate's cost of production in our analysis for the final determination. In addition, we adjusted Petroflex's G&A and financial expense ratio calculation using fiscal year, rather that POI data, as set out in the Cost Calculation Adjustment Memorandum from William Jones to Neal Halper, Acting Director, Office of Accounting, dated October 28, 1998.

We compared Petroflex's weighted-average COP figures to home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether sales had been made at prices below their COPs. On a product-specific basis, we compared the COP to home market price, less any applicable movement charges, discounts, direct selling expenses and packing expenses.

In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made: (1) in substantial quantities within an extended period of time; and (2) at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade, pursuant to section 773(b)(1) of the Act.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of Petroflex's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of Petroflex's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in "substantial quantities" within an extended period of time in accordance with section 773(b)(2)(B) of the Act. In such cases, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product. For those U.S. sales of ESBR for which there were no comparable home market sales in the ordinary course of trade, we compared the CEP to CV in accordance with section 773(a)(4) of the Act.

We found that, for certain models of ESBR, more than 20 percent of Petroflex's home market sales within an extended period of time were at prices less than COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We, therefore, disregarded the below-cost sales and used the remaining above-cost sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

In accordance with section 773(e) of the Act, we calculated CV based on the sum of Petroflex's cost of materials, fabrication, SG&A expenses, profit, and U.S. packing costs. For Petroflex, in accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by Petroflex in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.

We calculated NV for Petroflex as noted in the "Price to Price Comparisons" and "Price to CV Comparisons" sections of this notice, below.

Price-to-Price Comparisons

We calculated NV based on FOB or delivered prices to unaffiliated customers or prices to affiliated customers that we determined to be at arm's-length prices. We made adjustments for price billing errors, where appropriate. We made deductions, where appropriate, for foreign inland freight, pursuant to section 773 (a)(6)(B) of the Act. In addition, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act, as well as for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We made COS adjustments for imputed credit expenses. Finally, we deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act.

To the extent practicable, we based NV on sales at the same level of trade as the EP or CEP transactions. In cases where NV was calculated at a different LOT, we did not make any LOT adjustment, as discussed further in the Level of Trade section, above.

Price-to-CV Comparisons

For price-to-CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act. Where we compared CV to EP, we deducted from CV the weighted-average home market direct selling expenses and added the weighted-average U.S. product-specific direct selling expenses in accordance with section 773(a)(6)(C)(iii) of the Act. Where we compared CV to CEP, we deducted from CV the weighted-average home market direct selling expenses.

Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice. Further, section 773A(b) of the Act directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks. (For an explanation of this method, *see Policy Bulletin 96–1: Currency*

Conversions (61 FR 9434, March 8, 1996).) Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of an adjustment period was not warranted in this case because the Brazilian Real did not undergo a sustained movement.

Verification

As provided in section 782(i) of the Act, we will verify all information determined to be acceptable for use in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-Average Margin Percentage
Petroflex Industria e Comercio S.A.	61.71
All Others	61.71

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than February 5, 1998, and rebuttal briefs no later than February 12, 1998. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on February 16, 1998, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is issued and published pursuant to sections 733(d) and 777(i) of the Act.

Dated: October 28, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–29551 Filed 11–3–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–833]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Emulsion Styrene-Butadiene Rubber From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 4, 1998.

FOR FURTHER INFORMATION CONTACT: Sunkyu Kim or James Nunno, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2613 or (202) 482–0783, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are references to 19 CFR part 351 (April 1, 1998).

Preliminary Determination

We preliminarily determine that emulsion styrene-butadiene rubber (ESBR) from the Republic of Korea is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice, below.

Case History

Since the initiation of this investigation (*see Notice of Initiation of Antidumping Investigations: Emulsion Styrene-Butadiene Rubber from Brazil, the Republic of Korea, and Mexico* (63 FR 20575, April 27, 1998), "*Notice of Initiation*"), the following events have occurred:

On May 8, 1998, the Department obtained a request from Hyundai Petrochemical Co., Ltd. ("Hyundai") to be excluded from participation as a mandatory respondent in this investigation. On May 12, 1998, the petitioner submitted a letter to the Department opposing Hyundai's exclusion from this proceeding. On May 13, 1998, the Department notified Hyundai that it was selected as a mandatory respondent. In August 1998, Hyundai submitted a letter stating that it is unable to participate in this investigation, and is not responding to our questionnaires.

On May 18, 1998, the United States International Trade Commission (ITC) issued an affirmative preliminary injury determination in this case (*see* ITC Investigation Nos. 731–TA–794–796).

On May 21, 1998, the Department of Commerce (the Department) issued the antidumping duty questionnaire to Kumho and Hyundai, the only two producers, and/or exporters of the subject merchandise to the United States identified in the petition. In June of 1998 the Department received Kumho's response to Section A of the questionnaire. Kumho submitted its response to Sections B and C of the questionnaire in July of 1998.

On July 21, 1998, pursuant to section 733(c)(1)(A) of the Act, the petitioners made a timely request to postpone the preliminary determination. The petitioners filed an explanatory amendment to that request on July 23, 1998. We granted this request and, on July 28, 1998, postponed the preliminary determination until no later than October 28, 1998 (*see Notice of Postponement of Preliminary Determinations of Sales at Less Than Fair Value: Emulsion Styrene-Butadiene Rubber From Brazil, the Republic of Korea, and Mexico* (63 FR 41544, August 4, 1998)).

On July 27, 1998, pursuant to section 773(b) of the Act, the petitioners submitted a timely allegation, that Kumho had made sales in the home market below the cost of production (COP). Our analysis of that allegation indicated that there were reasonable grounds to believe or suspect that Kumho sold ESBR in the home market at prices at less than the COP. Accordingly, on August 21, 1998, we initiated a COP investigation with respect to Kumho pursuant to section 773(b) of the Act (*see* Memorandum from Team to Louis Apple, Director, Office 5, dated August 21, 1998).

We issued supplemental questionnaires for Sections A, B, and C to Kumho in August 1998 and received responses to these supplemental questionnaires, along with revised U.S. and home market sales listings, in September 1998.

We received Kumho's response to Section D of the questionnaire in September 1998. We issued a supplemental questionnaire for Section D on October 13, 1998, but the response to the supplemental questionnaire was not received in time to be considered for purposes of the preliminary determination. We will consider it, however, for the final determination.

On September 24, 1998, the petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of ESBR from Korea. We requested shipment data from Kumho on September 28, 1998, and received this information on October 13, 1998. The critical circumstances analysis for the preliminary determination is discussed below under "Critical Circumstances."

Postponement of Final Determination and Extension of Provisional Measures

On October 21, 1998, Kumho requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until no later than 135 days after the publication of this notice in the **Federal Register**, pursuant to section 735(a)(2)(A) of the Act. In addition, Kumho requested that the Department extend provisional measures pursuant to section 733(d) of the Act from four months to not more than six months. In accordance with 19 CFR 351.210(e), because: (1) Our preliminary determination is affirmative; (2) Kumho accounts for a significant proportion of exports of the subject merchandise; (3) no compelling reasons for denial exist; and (4) Kumho has requested an extension of provisional measures, we are granting this request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

Scope of Investigation

For purposes of this investigation, the product covered is ESBR. ESBR is a synthetic polymer made via free radical cold emulsion copolymerization of styrene and butadiene monomers in reactors. The reaction process involves combining styrene and butadiene monomers in water, with an initiator system, an emulsifier system, and molecular weight modifiers. ESBR consists of cold non-pigmented rubbers and cold oil extended non-pigmented rubbers that contain at least one percent of organic acids from the emulsion polymerization process.

ESBR is produced and sold, both inside the United States and internationally, in accordance with a generally accepted set of product specifications issued by the International Institute of Synthetic Rubber Producers (IISRP). The universe of products subject to this investigation are grades of ESBR included in the IISRP 1500 series and IISRP 1700 series of synthetic rubbers. The 1500 grades are light in color and are often described as "Clear" or "White Rubber." The 1700 grades are oil-extended and thus darker in color, and are often called "Brown Rubber." ESBR is used primarily in the production of tires. It is also used in a variety of other products, including conveyor belts, shoe soles, some kinds of hoses, roller coverings, and flooring.

Products manufactured by blending ESBR with other polymers, high styrene resin master batch, carbon black master batch (*i.e.*, IISRP 1600 series and 1800 series) and latex (an intermediate product) are not included within the scope of this investigation.

The products under investigation are currently classifiable under subheading 4002.19.0010 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is April 1, 1997, through March 31, 1998.

Facts Available

Section 776(a)(2) of the Act provides that, if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsections 782(c)(1) and (e), use facts otherwise available in reaching the applicable determination. Because Hyundai failed to respond to the Department's questionnaire and because that failure is not overcome by the application of subsections (c)(1) and (e) of section 782, we must use facts otherwise available to calculate the dumping margins for this company.

Section 776(b) of the Act provides that adverse inferences may be used against a party that has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. *See also* Statement of Administrative Action accompanying the URAA, H.R. Rep. No. 316, 103d Cong., 2d Sess. 870 (1994) (SAA). Hyundai's decision not to reply to the Department's antidumping questionnaire demonstrates that it has failed to act to the best of its ability to comply with a request for information under section 776 of the Act. Thus, the Department has determined that, in selecting among the facts otherwise available, an adverse inference is warranted.

Consistent with Department practice, as adverse facts available, the Department is assigning to Hyundai the higher of: (1) The highest margin stated in the petition; or (2) the highest margin calculated for any respondent in this investigation. In this case, this margin is 118.88 percent, which is the highest margin alleged in the petition for any Korean producer (*see Initiation Checklist* and the *Notice of Initiation* for a discussion of the margin calculations in the petition).

Section 776(b) states that an adverse inference may include reliance on information derived from the petition or any other information placed on the record. *See* also SAA at 829–831. Section 776(c) provides that, when the Department relies on secondary information (*e.g.*, the petition) as the facts otherwise available, it must, to the extent practicable, corroborate that

information from independent sources that are reasonably at its disposal. We reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis of the petition, to the extent appropriate information was available for this purpose (*e.g.*, import statistics, call reports, and data from business contacts). *See Notice of Initiation* and April 21, 1998, "Office of Antidumping Investigations Initiation Checklist" ("*Initiation Checklist*").

For purposes of the preliminary determination, we were only able to reexamine part of the information in the petition. We reexamined the export price data provided in the petition in light of information obtained during the investigation and, to the extent that it could be corroborated, found that it continues to be of probative value. However, the Department was provided no other useful information by the respondents or other interested parties, and is aware of no other independent sources of information, that would enable it to further corroborate the remaining components of the margin calculation in the petition. *See* the October 27, 1998, Memorandum to Louis Apple on *The Facts Available Rate and Corroboration of Secondary Information: Preliminary Determination of Emulsion Styrene-Butadiene Rubber from the Republic of Korea.* We note that the SAA at 870 specifically states that, where "corroboration may not be practicable in a given circumstance," the Department may nevertheless apply an adverse inference.

Fair Value Comparisons

To determine whether sales of ESBR from Korea to the United States were made at less than fair value, we compared the export price (EP) to the Normal Value (NV), as described in the "Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs for comparison to weighted-average NVs.

On January 8, 1998, the Court of Appeals for the Federal Circuit issued a decision in *CEMEX* v. *United States*, 1998 WL 3626 (Fed Cir.). In that case, based on the pre-URAA version of the Act, the Court discussed the appropriateness of using constructed value (CV) as the basis for foreign market value when the Department finds home market sales to be outside the "ordinary course of trade." This issue was not raised by any party in this proceeding. However, the URAA amended the definition of sales outside the "ordinary course of trade" to include sales below cost. *See* Section 771(15) of the Act. Consequently, the Department has reconsidered its practice in accordance with this court decision and has determined that it would be inappropriate to resort directly to CV, in lieu of foreign market sales, as the basis for NV if the Department finds foreign market sales of merchandise identical or most similar to that sold in the United States to be outside the "ordinary course of trade." Instead, the Department will use sales of similar merchandise, if such sales exist. The Department will use CV as the basis for NV only when there are no above-cost sales that are otherwise suitable for comparison. Therefore, in this proceeding, when making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the "Scope of Investigation" section of this notice, above, that were in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade, based on the characteristics listed in Sections B and C of our antidumping questionnaire.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or constructed export price (CEP) transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative (SG&A) expenses and profit. For EP, the LOT is also the level of the starting-price sale, usually the price of the exporter to the importer. For CEP transactions, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different level of trade than EP or CEP, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the home market sales are at a different LOT than sales made to the United States, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales at different levels of trade in the home market, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

With respect to home market sales, Kumho reported two customer categories (*i.e.*, end users and distributors) and two channels of distribution corresponding to each customer category. For its sales to the United States, it also reported two customer categories (*i.e.*, end users and distributors) and two channels of distribution corresponding to each customer category. Kumho reported only EP sales in the U.S. market, and claimed that the selling functions that it performs in connection with its home market and U.S. sales do not vary by customer category or by distribution channel. In addition, Kumho considers all home market and U.S. sales to be at the same level of trade.

Based on our analysis of the selling functions in the home market, we found the selling functions to end users to be similar to the selling functions to distributors. In addition, we noted that the two U.S. channels of distribution did not differ with respect to selling activities. Similar services, such as sales administration, billing, warranties, and freight & delivery arrangement, where applicable, were offered to all or some portion of customers in each channel. Furthermore, we noted that EP sales involved basically the same selling functions associated with the home market sales. Therefore, based upon this information, we determined that the level of trade for all EP sales is the same as that of the home market sales and to consider them as constituting the same LOT in the two markets. Accordingly, all comparisons are at the same LOT and an adjustment pursuant to section 773(a)(7)(A) of the Act is not warranted.

Export Price

In accordance with sections 772(a) and (c) of the Act, we calculated EP for all of Kumho's sales, since the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of record.

We calculated EP based on the packed delivered price to unaffiliated purchasers in the United States. In accordance with section 772(c)(1)(B) of the Act, we added an amount for uncollected import duties in Korea. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign domestic inland freight, foreign brokerage and handling, international freight, and marine insurance.

Affiliated-Party Transactions and Arm's-Length Test

Kumho reported that it made sales in the home market to affiliated end users. Sales to affiliated customers in the home market not made at arm's-length prices (if any) were excluded from our analysis because we considered them to be outside the ordinary course of trade. *See* 19 CFR 351.102 (1998). To test whether these sales were made at arm's-length prices, we compared on a model-specific basis the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing. Where, for the tested models of subject merchandise, prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's length. *See* 19 CFR 351.403(c) (1998). In instances where no price ratio could be constructed for an affiliated customer because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's-length prices and, therefore, excluded them from our LTFV analysis. *See Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina* (58 FR 37062, 37077 (July 9, 1993)). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, we made a comparison to the next most similar model.

Normal Value

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared Kumho's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because Kumho's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable for Kumho.

Based on the information contained in the cost allegation submitted by the petitioners, the Department found reasonable grounds to believe or suspect that Kumho made sales in the home market at prices below their COPs, in accordance with section 773(b)(1) of the Act. As a result, the Department initiated an investigation to determine whether Kumho made home market sales at prices below their COPs during the POI, within the meaning of section 773(b) of the Act. *See* Memorandum from the Team to Louis Apple, Director, Office 5, dated August 21, 1998. Before making any fair value comparisons, we conducted the COP analysis described below.

We calculated the COP based on the sum of Kumho's cost of materials and fabrication for the foreign like product, plus amounts for home market SG&A expenses, financial expenses, and packing costs, in accordance with section 773(b)(3) of the Act. In addition, we made the following adjustments to Kumho's reported COP as follows: (1) we recalculated Kumho's interest expense factor on a consolidated basis, and (2) we adjusted the direct labor costs reported in the COP and CV databases to reflect Kumho's weighted-average direct labor costs (*see* Memorandum to the File from Stan Bowen, dated October 28, 1998).

We compared Kumho's weighted-average COP figures to home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether sales had been made at prices below their COPs. On a product-specific basis, we compared the COP to home market price, less any applicable movement charges, direct and indirect selling expenses, and packing expenses.

In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made: (1) In substantial quantities within an extended period of time; and (2) at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade, pursuant to section 773(b)(1) of the Act.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of Kumho's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of Kumho's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in "substantial quantities" within an extended period of time, in accordance with section 773(b)(2)(B) of the Act. In such cases, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product.

We found that, for certain models of ESBR, more than 20 percent of Kumho's home market sales within an extended period of time were at prices less than COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We, therefore, disregarded the below-cost sales and used the remaining above-cost sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. For those U.S. sales of ESBR for which there were no comparable home market sales in the ordinary course of trade, we compared the EP to CV, in accordance with section 773(a)(4) of the Act.

In accordance with section 773(e) of the Act, we calculated CV based on the sum of Kumho's cost of materials, fabrication, SG&A expenses, profit, and U.S. packing costs. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by Kumho in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in Korea. As noted above, we recalculated Kumho's interest expense factor on a consolidated basis, and we adjusted the direct labor costs reported in the COP and CV databases to reconcile with amounts reported in the Section D response.

We calculated NV for Kumho as noted in the "Price to Price Comparisons" and "Price to CV Comparisons" sections of this notice, below.

Price-to-Price Comparisons

We calculated NV based on packed, FOB or delivered prices to home market unaffiliated customers and prices to affiliated customers that we determined to be at arm's length. We made deductions, where appropriate, for movement expenses consistent with section 773(a)(6)(B) of the Act; these included inland freight and warehousing expenses. In addition, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act, as well as for differences in circumstances of sale (COS) in

accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We made COS adjustments for imputed credit expenses, bank charges and commissions. We made no adjustment for imputed credit expenses related to the pre-payment of value-added taxes (VAT), in accordance with our long-standing practice. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Sulfur Dyes, Including Sulfur Vat Dyes, from the United Kingdom*, 58 FR 3253 (Jan. 8, 1993), *Notice of Final Determination of Sales at Not Less Than Fair Value: Stainless Steel Bar from Italy*, 59 FR 66921 (Dec. 28, 1994), *Ferrosilicon from Brazil; Final Results of Antidumping Duty Administrative Review*, 61 FR 59407 (Nov. 22, 1996), and *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Stainless Steel Wire Rod From Italy*, 63 FR 10831 (March 5, 1998). In those instances where Kumho had not reported payment dates, we recalculated reported credit expenses using the date of the preliminary determination as the payment date. Because Kumho paid commissions to an unaffiliated agent on sales to the United States, in calculating NV, we offset these commissions using the weighted-average amount of indirect selling expenses, including inventory carrying costs, incurred on the home market sales for the comparison product, up to the amount of the U.S. commissions, in accordance with 19 CFR 351.410(e). Finally, we deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act.

Price-to-CV Comparisons

For price-to-CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act. Where we compared CV to EP, we deducted from CV the weighted-average home market direct selling expenses and added the weighted-average U.S. product-specific direct selling expenses (*i.e.*, credit expenses, bank charges, and commissions) in accordance with section 773(a)(6)(C)(iii) of the Act. We offset U.S. commissions using the weighted-average amount of indirect selling expenses and inventory carrying costs incurred on the home market sales for the comparison product, up to the amount of the U.S. commissions, in accordance with 19 CFR 351.410(e).

Currency Conversion

Our preliminary analysis of Federal Reserve dollar-won exchange rate data shows that the won declined rapidly at the end of 1997, losing over 40% of its value between the beginning of November and the end of December. The decline was, in both speed and magnitude, many times more severe than any change in the dollar-won exchange rate during the previous eight years. Had the won rebounded quickly enough to recover all or almost all of the initial loss, the Department might have been inclined to view the won's decline at the end of 1997 as nothing more than a sudden, but only momentary drop, despite the magnitude of that drop. As it was, however, there was no significant rebound. Therefore, we have preliminarily determined that the decline in the won at the end of 1997 was so precipitous and large that the dollar-won exchange rate cannot reasonably be viewed as having simply fluctuated during this time, i.e., as having experienced only a momentary drop in value. Therefore, in making this preliminary determination, the Department used daily rates exclusively for currency conversion purposes for home market sales matched to U.S. sales occurring between November 1 and December 31, 1997.

In the recently completed preliminary determination of *Mushrooms from Indonesia*, an issue was raised regarding the use of two averaging periods in the margin calculations to account for the effect of the devaluation of the Indonesian rupiah. *See, Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Preserved Mushrooms from Indonesia (Mushrooms from Indonesia)* 63 FR 41783 (August 5, 1998). The petitioners in *Mushrooms from Indonesia* argued that the Department should calculate the weighted-average export price for two averaging periods—January through June 1997 and July through December 1997—in order to avoid a distortion of the dumping margins caused by the rapid devaluation of the rupiah. The Department did not calculate two averaging periods in the preliminary determination in *Mushrooms from Indonesia*, but we are continuing to evaluate this issue. Although the issue of using two different averaging periods has not been raised in the instant investigation, the Korean won experienced a precipitous drop in value during the POI. Therefore, in both this investigation and *Mushrooms from Indonesia*, we will continue to examine this issue for the final determinations. We invite the interested parties to comment on this issue.

Critical Circumstances

On September 24, 1998, the petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of ESBR from Korea. In accordance with 19 CFR 351.206(c)(2)(i), since this allegation was filed 20 days prior to the Department's preliminary determination, we must issue our preliminary critical circumstances determination not later than the preliminary determination.

Section 733(e)(1) of the Act provides that if a petitioner alleges critical circumstances, the Department will determine whether there is a reasonable basis to believe or suspect that:

(A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and

(B) There have been massive imports of the subject merchandise over a relatively short period.

To determine that there is a history of dumping of the subject merchandise, the Department normally considers evidence of an existing antidumping duty order on ESBR in the United States or elsewhere to be sufficient. The petitioner did not provide any information indicating a "history of dumping" of ESBR from Korea. Furthermore, we investigated the existence of antidumping duty orders on ESBR from Korea in the United States or elsewhere, and did not find any. We were also unable to find other information that would have indicated a "history of dumping" of ESBR.

In determining whether an importer knew or should have known that the exporter was selling subject merchandise at less than fair value and thereby causing material injury, the Department normally considers margins over 15 percent for CEP sales and 25 percent for EP sales to impute knowledge of dumping and of resultant material injury. In this investigation, Kumho does not have a margin over 25 percent for EP sales, and there are no CEP sales. Based on these facts, we determine that the first criterion for ascertaining whether critical circumstances exist is not satisfied. Therefore, we have not analyzed the shipment data for this company to examine whether imports of ESBR have been massive over a relatively short period. Thus, we preliminarily determine that there is no reasonable basis to believe or suspect that critical circumstances exist with respect to exports of ESBR from Korea by Kumho (*see, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Collated Roofing Nails From Korea*, 62 FR 25895, 25898 (May 12, 1997)). Regarding all other exporters, because we do not find that critical circumstances exist for Kumho, we determine that critical circumstances do not exist for Hyundai, or for companies covered by the "All Others" rate. We will make a final determination concerning critical circumstances when we make our final determination in this investigation, if that final determination is affirmative.

Verification

As provided in section 782(i) of the Act, we will verify all information determined to be acceptable for use in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Korea Kumho Petrochemical Co., Ltd.	13.91
Hyundai Petrochemical Co., Ltd.	118.88
All Others	13.91

Pursuant to section 735(c)(5)(A) of the Act, the Department has excluded any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act, from the calculation of the "All Others Rate."

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than February 5, 1999, and rebuttal briefs no later than February 12, 1999. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on February 15, 1999, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is issued and published pursuant to sections 773(d) and 777(i) of the Act.

Dated: October 28, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–29552 Filed 11–3–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–821]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Emulsion Styrene-Butadiene Rubber from Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 4, 1998.

FOR FURTHER INFORMATION CONTACT: Sunkyu Kim or John Maloney, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2613 or (202) 482–1503, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are references to 19 CFR part 351 (62 FR 27296, May 19, 1997).

Preliminary Determination

We preliminarily determine that emulsion styrene-butadiene rubber (ESBR) from Mexico is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margin of sales at LTFV is shown in the "Suspension of Liquidation" section of this notice, below.

Case History

Since the initiation of this investigation (*see Notice of Initiation of Antidumping Investigations: Emulsion Styrene-Butadiene Rubber from Brazil, the Republic of Korea, and Mexico* (63 FR 20575, April 27, 1998)), the following events have occurred:

On May 18, 1998, the United States International Trade Commission (ITC) issued an affirmative preliminary injury determination in this case (*see* ITC Investigation Nos. 731–TA–794–796).

In May and June 1998, the Department obtained information from the U.S. Embassy in Mexico identifying Industrias Negromex, S.A. de C.V. (Negromex) as the only producer and/or exporter of the subject merchandise to the United States. Based on this

information, the Department issued the antidumping questionnaire to Negromex in May 1998.

In June 1998, the Department received a response from Negromex to Section A of the questionnaire. Negromex submitted its response to Sections B and C of the questionnaire in July 1998.

On July 21, 1998, pursuant to section 733(c)(1)(A) of the Act, the petitioners made a timely request to postpone the preliminary determination. The petitioners filed an explanatory amendment to that request on July 23, 1998. We granted this request and, on July 28, 1998, postponed the preliminary determination until no later than October 28, 1998 (*see Notice of Postponement of Preliminary Determinations of Sales at Less Than Fair Value: Emulsion Styrene-Butadiene Rubber From Brazil, the Republic of Korea, and Mexico* (63 FR 41544, August 4, 1998)).

On July 27, 1998, the petitioners submitted a timely allegation, pursuant to section 773(b) of the Act, that Negromex had made sales in the home market at less than the cost of production (COP). Our analysis of that allegation indicated that there were reasonable grounds to believe or suspect that Negromex sold ESBR in the home market at prices less than the COP. Accordingly, on August 21, 1998, we initiated a COP investigation with respect to ESBR pursuant to section 773(b) of the Act (*see* Memorandum from Team to Louis Apple, Director, Office 5, dated August 21, 1998).

We issued a supplemental questionnaire for Sections A, B, and C to Negromex in August 1998 and received a response to that supplemental questionnaire, along with revised U.S. and home market sales listings, in September 1998. In those revised sales listings, Negromex included, at the request of the Department, one "sample" U.S. sale for which Negromex received payment and transferred ownership to the customer. We received Negromex's response to Section D of the questionnaire in September 1998. In October 1998, we issued a supplemental questionnaire for Section D to Negromex, but the response to that supplemental questionnaire, submitted on October 23, 1998, was not considered for purposes of the preliminary determination because of a lack of time to properly analyze the response. We will consider it, however, for purposes of the final determination.

Postponement of Final Determination and Extension of Provisional Measures

On October 14, 1998, Negromex requested that, In the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until no later than 135 days after the publication of this notice in the **Federal Register**, pursuant to section 735(a)(2)(A) of the Act. Negromex also requested that the Department extend provisional measures pursuant to section 733(d) of the Act from four months to not more than six months. In accordance with 19 CFR 351.210(e), because: (1) Our preliminary determination is affirmative; (2) Negromex accounts for a significant proportion of exports of the subject merchandise; (3) no compelling reasons for denial exist; and (4) Negromex has requested an extension of provisional measures, we are granting this request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

Scope of Investigation

For purposes of this investigation, the product covered is ESBR. ESBR is a synthetic polymer made via free radical cold emulsion copolymerization of styrene and butadiene monomers in reactors. The reaction process involves combining styrene and butadiene monomers in water, with an initiator system, an emulsifier system, and molecular weight modifiers. ESBR consists of cold non-pigmented rubbers and cold oil extended non-pigmented rubbers that contain at least one percent of organic acids from the emulsion polymerization process.

ESBR is produced and sold, both inside the United States and internationally, in accordance with a generally accepted set of product specifications issued by the International Institute of Synthetic Rubber Producers (IISRP). The universe of products subject to this investigation are grades of ESBR included in the IISRP 1500 series and IISRP 1700 series of synthetic rubbers. The 1500 grades are light in color and are often described as "Clear" or "White Rubber." The 1700 grades are oil-extended and thus darker in color, and are often called "Brown Rubber." ESBR is used primarily in the production of tires. It is also used in a variety of other products, including conveyor belts, shoe soles, some kinds of hoses, roller coverings, and flooring.

Products manufactured by blending ESBR with other polymers, high styrene resin master batch, carbon black master batch (*i.e.*, IISRP 1600 series and 1800 series) and latex (an intermediate product) are not included within the scope of this investigation.

The products under investigation are currently classifiable under subheading 4002.19.0010 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is April 1, 1997, through March 31, 1998.

Fair Value Comparisons

To determine whether sales of ESBR from Mexico to the United States were made at less than fair value, we compared the constructed export price (CEP) to the Normal Value (NV) for Negromex, as described in the "Constructed Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average CEPs for comparison to weighted-average NVs.

On January 8, 1998, the Court of Appeals for the Federal Circuit issued a decision in *CEMEX, S.A.* v. *United States*, 133 F. 3d 897 (Fed. Cir. 1998). In that case, based on the pre-URAA version of the Act, the Court discussed the appropriateness of using constructed value (CV) as the basis for foreign market value when the Department finds home market sales to be outside the "ordinary course of trade." This issue was not raised by any party in this proceeding. However, the URAA amended the definition of sales outside the "ordinary course of trade" to include sales below cost. *See* Section 771(15) of the Act. Consequently, the Department has reconsidered its practice in accordance with this court decision and has determined that it would be inappropriate to resort directly to CV, in lieu of foreign market sales, as the basis for NV if the Department finds foreign market sales of merchandise identical or most similar to that sold in the United States to be outside the "ordinary course of trade." Instead, the Department will use sales of similar merchandise, if such sales exist. The Department will use CV as the basis for NV only when there are no above-cost sales that are otherwise suitable for comparison. Therefore, in this proceeding, when making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the "Scope of Investigation" section of this notice, above, that were in the ordinary course of trade for purposes of determining appropriate product

comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade, based on the characteristics listed in Sections B and C of our antidumping questionnaire.

Level of Trade and CEP Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on constructed value (CV), that of the sales from which we derive selling, general and administrative (SG&A) expenses and profit. For EP, the LOT is also that of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer in the comparison market. If the comparison-market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

For its home market sales, Negromex reported: (1) Four customer categories—large purchaser end users, other end users, unaffiliated distributors, and small footwear manufacturers; and (2) three channels of distribution—direct sales to large purchaser/other end users, direct sales to unaffiliated distributors, and direct sales to small footwear manufacturers through its Guadalajara warehouse. Negromex claimed two levels of trade in the home market: (1) Direct sales to large purchasers and other end users; and (2) direct sales to unaffiliated distributors and small footwear manufacturers through Guadalajara. For its U.S. sales, Negromex reported that its affiliated importer, GIRSA, Inc. (GIRSA), made sales to: (1) Two customer categories—large purchaser end users and other end users; and (2) through one channel of distribution. Negromex claimed one level of trade in the U.S. market (the CEP sale to GIRSA).

According to Negromex, there is no level of trade in the home market that is comparable to the CEP level of trade (Negromex's sales to GIRSA). Negromex asserts that its CEP level of trade involves few selling activities while, in contrast, its NV levels of trade (home market sales to the four classes of customers) involve significantly greater selling activities. Thus, Negromex contends that each of its proffered NV levels of trade occurs at a different, and more advanced, marketing stage than its CEP level of trade. Based on that contention, Negromex requests that the Department apply a CEP offset by adjusting NV under section 773(a)(7)(B) of the Act (the CEP offset provision). Accordingly, we have performed an analysis of the information on the record to determine whether a LOT adjustment, or in the alternative, a CEP offset, is warranted.

In order to determine whether NV was established at a different LOT than CEP sales, we examined stages in the marketing process and selling functions along the chains of distribution between Negromex and its home market customers. We compared the selling functions performed for home market sales with those performed with respect to the CEP transaction, exclusive of economic activities occurring in the United States, pursuant to section 772(d) of the Act, to determine if the home market levels of trade constituted more advanced stages of distribution than the CEP level of trade.

Based on an analysis of the information on the record, we found that Negromex made sales in the home market at two distinct levels of trade, the end user level of trade and the unaffiliated distributor level of trade, each representing different marketing stages and tiers of selling functions and services. In addition, we found that one of the levels of trade in the home market, sales to unaffiliated distributors, was comparable to the CEP level of trade because of the similarities between the class of customer and distribution channel. Our analysis of the chains of distribution and selling functions performed for sales to unaffiliated distributors in the home market and CEP sales in the U.S. market indicated that both are made at the same stage in the marketing process and involve analogous levels of selling functions. For a detailed explanation of this analysis, see the memorandum to The File through James Maeder from The Team, issued for the preliminary determination of this investigation, dated October 28, 1998.

To the extent possible, we have used home market sales at the unaffiliated distributor level of trade for comparison purposes in our analysis without making a LOT adjustment. When we were unable to find sales of the foreign like product in the home market at the same LOT as the U.S. sales, we determined whether a LOT adjustment was warranted. To make that determination, pursuant to section 773(a)(7)(A)(ii) of the Act, we performed an analysis to ascertain whether there was a pattern of consistent price differences between the end user level of trade in the home market and the unaffiliated distributor level of trade in the home market, which is analogous to the CEP level of trade. To accomplish this, we compared the weighted-average of Negromex's NV prices of sales made at both home market levels of trade for products sold at both levels. We base our findings on whether the weighted-average prices are higher for a preponderance of sales concerning the quantities of each product sold. *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et. al.: Preliminary Results of Antidumping Duty Administrative Reviews* (61 FR 35713, July 8, 1996). Because the weighted-average prices were higher at the end user level of trade for a preponderance of the products and quantities sold, we found that there was a pattern of consistent price differences between the products sold at the two levels of trade in the home market. Thus, we made an adjustment to NV for the difference in levels of trade when we made our comparison of CEP sales to home market sales at the end user level of trade.

Negromex requested a CEP offset in this investigation. Section 773(a)(7)(B) of the Act establishes that a CEP "offset" may be made when two conditions exist: (1) NV is established at a level of trade which constitutes a more advanced stage of distribution than the level of trade of the CEP; and (2) the data available do not provide an appropriate basis to determine a level-of-trade adjustment. In this investigation, we made a level of trade adjustment to NV in accordance with section 773(a)(7)(A) of the Act.

Therefore, we have not made a CEP offset.

Date of Sale

For U.S. sales made pursuant to the terms of two long-term contracts, Negromex has reported the contract date as the date of sale for all sales made under these contracts. Both contracts are year-long contracts that establish a minimum annual quantity of merchandise that is required to be purchased. Negromex reported that amounts of merchandise in addition to the minimum requirement could be purchased upon the agreement of both parties. Prices for the minimum annual quantity are fixed under the contracts and are based upon a mathematical formula that incorporates published monthly monomer prices and prices of butadiene and styrene—the major inputs of ESBR.

Pursuant to 19 CFR 351.401(i), the date of sale is normally the date of invoice unless satisfactory evidence is presented that the material terms of sale, price and quantity, are established on some other date. *See also Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Taiwan*, 61 FR 14067 (March 29, 1996). The Department has determined that, for a long-term contract, the price term is fixed if it is established by a published source outside of the control of either party to the contract, such that there is nothing more that the parties need to negotiate concerning the price of the goods sold. *See Final Determination of Sales of Less Than Fair Value: Brass Sheet and Strip From France*, 52 FR 812, 814 (January 9, 1987). In addition, the Department has decided that, for a long-term contract with a minimum quantity requirement, the date of the contract is the date of sale as to the minimum quantity specified in the contract. However, if the customer has not yet agreed to purchase any quantities above the minimum, then, for any amount sold in excess of the minimum, the Department will use the date of invoice as the date of sale. *See Titanium Sponge From Japan; Final Results of Antidumping Duty Administrative Review and Tentative Determination To Revoke in Part*, 54 FR 13403, 13404 (April 3, 1989); *see also Toho Titanium Co., Ltd. v. U.S.*, 743 F. Supp. 888, 890–91 (CIT 1990).

Under the long-term contracts in this investigation, the price term is fixed on the contract date, based on a set formula of published monthly prices for major inputs which are outside the control of either party to the contract. A minimum quantity requirement is also fixed on the contract date, but the parties made no agreement to purchase quantities greater than the minimum. Given these facts and the Department's practice, for Negromex's long-term contracts in the U.S. market we have used the contract date as the date of sale for sales equaling the minimum quantity agreed to in the contract. For any quantity sold above the minimum under these contracts, we used the reported invoice date as the date of sale.

Addition of Product Characteristics by Negromex

Negromex reported five additional product characteristics (ash content, free soap content, styrene content, mooney viscosity, and vulcanization time tolerance) not specified in the Department's questionnaire as matching criteria. Negromex alleged that these characteristics are commercially relevant because its customers have differing requirements for these characteristics and Negromex records the levels of these five characteristics for the ESBR it produces. Negromex referenced *Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy*, 61 FR 30326 (June 14, 1996) (Pasta from Italy) to support its addition of these product characteristics as matching criteria.

The Department has not accepted these additional product characteristics as matching criteria for purposes of the preliminary determination. The product characteristics included in our questionnaire define standard grades of ESBR according to the generally accepted set of product specifications issued by the International Institute of Synthetic Rubber Producers. These characteristics sufficiently define the product for matching purposes and Negromex has not provided adequate information on the record to establish that their additional product characteristics would result in more appropriate product matches. Moreover, in *Pasta from Italy*, we accepted the addition of wheat quality as a product matching criterion because we found that the level of wheat quality materially affected pasta input costs and, ultimately, pasta prices. *See Pasta from Italy* at 30346. In this investigation, Negromex's cost information on the record does not provide evidence of any difference in ESBR production costs relating to any of the additional five physical characteristics. Therefore, we preliminarily determine that ESBR is sufficiently defined for matching purposes by the ten criteria included in the questionnaire.

Constructed Export Price

We used CEP methodology for all sales by Negromex, in accordance with section 772(b) of the Act, because sales to the first unaffiliated purchaser took place after importation into the United States.

We calculated CEP based on the packed, FOB Brownsville, Texas warehouse starting price to the first unaffiliated purchaser in the United States. In accordance with section 772(c)(1)(B) of the Act, we added an amount for uncollected import duties in Mexico. We made deductions from the starting price, where appropriate, for foreign inland freight, transport and storage insurance, foreign brokerage and handling, U.S. brokerage and handling (including U.S. Customs Service processing fees), and U.S. warehousing expenses, pursuant to section 772(c)(2)(A) of the Act.

We made additional deductions from the starting price, in accordance with section 772(d)(1) of the Act, for selling expenses associated with economic activities occurring in the United States, including direct selling expenses (credit costs and technical service expenses), indirect selling expenses, and inventory carrying costs. In those instances where Negromex did not report payment dates, we calculated credit expenses using the date of the preliminary determination as the payment date. Additionally, in the instance where Negromex did not report a shipment date, we computed the average number of days between shipment and payment on Negromex's U.S. sales and assigned the shipment date for that sale to be the date of the average number of credit days prior to the preliminary determination. Pursuant to section 772(d)(3) of the Act, the starting price was further reduced by an amount for profit to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Negromex and GIRSA on their sales of the subject merchandise in the United States and the foreign like product in the home market and the profit associated with those sales.

Normal Value

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared Negromex's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because Negromex's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable for Negromex.

Based on the information contained in the cost allegation submitted by the petitioners, the Department found reasonable grounds to believe or suspect that Negromex made sales in the home market at prices below their COPs, in accordance with section 773(b)(1) of the Act. As a result, the Department initiated an investigation to determine whether Negromex made home market sales at prices below their COPs during the POI, within the meaning of section 773(b) of the Act. *See* Memorandum from the Team to Louis Apple, Director, Office 5, dated August 21, 1998. Before making any fair value comparisons, we conducted the COP analysis described below.

We calculated the COP based on the sum of Negromex's cost of materials and fabrication for the foreign like product, plus amounts for home market SG&A and financial expenses and packing costs, in accordance with section 773(b)(3) of the Act. In addition, we adjusted Negromex's G&A expense ratio and finance expense ratio calculations as set out in the Preliminary Determination Cost Calculation Memo from Sunkyu Kim to the File, dated October 28, 1998.

We compared Negromex's weighted-average COP figures to home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether sales had been made at prices below their COPs. On a product-specific basis, we compared the COP to home market price, less any applicable movement charges, discounts, direct selling expenses and packing expenses.

In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made: (1) In substantial quantities within an extended period of time; and (2) at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade, pursuant to section 773(b)(1) of the Act.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of Negromex's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of Negromex's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in "substantial quantities" within an extended period of time in accordance with section 773(b)(2)(B) of the Act. In such cases, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product. For those U.S. sales of ESBR for which there were no comparable home market sales in the ordinary course of trade, we compared the CEP to CV in accordance with section 773(a)(4) of the Act.

We found that, for certain models of ESBR, more than 20 percent of Negromex's home market sales within an extended period of time were at prices less than COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We, therefore, disregarded the below-cost sales and used the remaining above-cost sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

In accordance with section 773(e) of the Act, we calculated CV based on the sum of Negromex's cost of materials, fabrication, SG&A expenses, profit, and U.S. packing costs. For Negromex, in accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by Negromex in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.

We calculated NV for Negromex as noted in the "Price to Price Comparisons" and "Price to CV Comparisons" sections of this notice, below.

Price to Price Comparisons

We calculated NV based on packed, delivered prices to unaffiliated home market customers. We made deductions from the starting price, where appropriate, for price correction and customer pickup billing adjustments, volume rebates, and export rebates. We also made deductions, where appropriate, for foreign inland freight, warehousing, and foreign inland insurance expenses, pursuant to section 773(a)(6)(B) of the Act. Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, we made circumstance-of-sale adjustments, where appropriate, for differences in credit expenses, warranty expenses, and technical service expenses. In those instances where Negromex did not report payment dates, we calculated credit expenses using the date of the preliminary determination as the payment date. Finally, we deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(6) (A) and (B) of the Act.

To the extent practicable, we based NV on sales at the same level of trade as the CEP sales. In cases where NV was calculated at a different LOT, we made an adjustment, pursuant to section 773(a)(7) of the Act. This adjustment is discussed further in the Level of Trade section, above.

Price to CV Comparisons

For price to CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act. In addition, we deducted from CV the weighted-average home market direct selling expenses.

Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice. Further, section 773A(b) of the Act directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks. (For an explanation of this method, *see Policy Bulletin 96–1: Currency Conversions* (61 FR 9434, March 8, 1996).) Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of an adjustment period was not warranted in this case because the Mexican Peso did not undergo a sustained movement.

Verification

As provided in section 782(i) of the Act, we will verify all information determined to be acceptable for use in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the constructed export price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-average margin percentage
Industrias Negromex, S.A. de C.V.	29.57
All Others	29.57

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than February 5, 1999, and rebuttal briefs no later than February 12, 1999. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on February 16, 1999, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is issued and published pursuant to sections 773(d) and 777(i) of the Act.

Dated: October 28, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–29553 Filed 11–3–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–830]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils From Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 4, 1998.

FOR FURTHER INFORMATION CONTACT: Joanna Gabryszewski, Rebecca Trainor, or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0780, (202) 482–0666 or (202) 482–3020, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce ("the Department") regulations are to the regulations at 19 CFR Part 351, 62 FR 27296 (May 19, 1997).

Preliminary Determination

We preliminarily determine that stainless steel plate in coils ("SSPC") from Taiwan are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Case History

On April 20, 1998, the Department initiated antidumping duty investigations of imports of stainless steel plate in coils from Belgium, Canada, Italy, South Africa, South Korea, and Taiwan (*Notice of Initiation of Antidumping Investigations: Stainless Steel Plate in Coils From Belgium, Canada, Italy, South Africa, South Korea and Taiwan* (63 FR 20580, April 27, 1998)). Since the initiation of this investigation the following events have occurred:

The Department set aside a period for all interested parties to raise issues regarding product coverage. On May 8, 1998, Armco, Inc.; J&L Specialty Steel, Inc.; Lukens, Inc.; North American Stainless; the United Steelworkers of America, AFL–CIO/CLC; the Butler Armco Independent Union; and the Zanesville Armco Independent Organization, Inc. ("petitioners") submitted comments stating that, while they believed the scope of the investigations was accurate, they wished to clarify certain issues concerning product coverage. The Department has determined that the parties' comments do not warrant a change in the scope language.

During the month of May 1998, the Department requested information from the American Institute in Taiwan (AIT) to identify producers/exporters of the subject merchandise. The AIT identified seven companies in Taiwan as exporters of subject merchandise. Three companies, Chang Mien Industries Co., Ltd., Tang Eng Iron Works Co., Ltd., and Chia Far Industrial Factory Co., Ltd., informed the Department that they did not export the subject merchandise to the United States during the POI. In May 1998, the Department also requested and received comments from petitioners and potential respondents in these investigations regarding the model matching criteria.

On May 15, 1998, the United States International Trade Commission ("ITC") notified the Department of its affirmative preliminary injury determination in this case.

On May 27, 1998, the Department issued antidumping duty questionnaires to Yieh United Steel Corporation ("YUSCO"), Chien Shing Stainless Steel Co., Ltd. ("Chien Shing"), Ta Chen Stainless Steel Pipe, Ltd. ("Ta Chen"), and Tung Mung Development Co. Ltd. ("Tung Mung").

On June 4, 1998, Tung Mung stated in a letter to the Department that it did not export subject merchandise to the United States during the POI.

Chien Shing sent a letter in response to the Department's questionnaire on June 24, 1998. Based on that letter, it is unclear whether Chien Shing had sales of subject merchandise to the United States during the POI. We are in the process of investigating whether Chien Shing sold SSPC to the United States, or to third parties for export to the United States, during the POI.

On June 24, 1998, the Department received a response to Section A of the questionnaire from YUSCO. The Department received YUSCO's response to Sections B and C of the questionnaire on July 21, 1998 and the Section D response on September 25, 1998. Petitioners filed comments on YUSCO's questionnaire responses in July, August, and September 1998. The Department issued supplemental questionnaires for Sections A, B, C and D to YUSCO in July, August, September, and October 1998 and received responses to these questionnaires in August, September, and October 1998.

Ta Chen responded to Section A of the questionnaire on June 24, 1998. On July 14, 1998, Ta Chen submitted a letter to the Department indicating that Ta Chen, TCI, and their affiliates (hereafter, collectively "Ta Chen") did not sell subject merchandise during the POI which was produced by any Taiwan manufacturer other than YUSCO. YUSCO reported in its Section A questionnaire response that it knew at the time of sale that the merchandise it sold to Ta Chen was destined for the United States. Based on the above, the Department rescinded its request for Ta Chen to respond to Sections B and C of the questionnaire. *See* letter from Edward Yang to Peter Koenig, Ablondi, Foster, Sobin & Davidow, P.C., dated July 22, 1998.

On July 28, 1998, pursuant to section 733(c)(1)(A) of the Act, the petitioners made a timely request to postpone the preliminary determinations for thirty days. The Department determined that these investigations are extraordinarily complicated and that additional time is necessary beyond the thirty days requested by petitioners for the Department to make its preliminary determinations. On August 14, 1998, the Department postponed the preliminary determinations until no later than October 27, 1998. (*See Stainless Steel Plate in Coils from Belgium, Canada, Italy, South Africa, South Korea, and Taiwan; Notice of Postponement of Preliminary Determinations in Antidumping Duty Investigations*, 63 FR 44840, (August 21, 1998)).

On August 11, 1998, petitioners alleged that Ta Chen and/or its affiliated U.S. importer, Ta Chen International (TCI), are reselling subject merchandise in the United States at prices less than Ta Chen's cost of acquisition and related selling and movement expenses. After considering the merits of petitioners' allegation, the Department initiated a middleman dumping investigation on August 28, 1998. (*See* Memorandum to Joseph Spetrini, *Stainless Steel Plate In Coils From Taiwan: Whether to Initiate a Middleman Dumping Investigation*, August 28, 1998, on file in room B–099 of the Commerce Department.) Also on this day, the Department issued a questionnaire to Ta Chen. We received Ta Chen's questionnaire response on October 7, 1998, too late to issue a supplemental questionnaire and incorporate the results thereof in these preliminary results. For further details, see the "Middleman Dumping" section below.

On August 20, 1998, petitioners amended the antidumping petitions to include Allegheny Ludlum Corporation as an additional petitioner.

Scope of Investigation

For purposes of these investigations, the product covered is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (e.g., cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this petition are the following: (1) plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation ("POI") is January 1, 1997, through December 31, 1997.

Chien Shing

As noted above, we are in the process of investigating whether Chien Shing sold SSPC to the United States, or to third parties for export to the United States, during the POI. For this preliminary determination, we are treating Chien Shing as a non-shipper; therefore, it falls within the "all others" duty rate.

Middleman Dumping

Normally a determination of whether there are sales at less than fair value focuses on the price at which merchandise is first sold in the United States or for export to the United States. However, where a trading company (middleman) purchases for export to the United States, that trading company can, in turn, be the cause of, or contribute to, less-than-fair-value sales. Congress, in the legislative reports to the Trade Agreements Act of 1979, left to this agency the task of establishing a methodology which would accurately capture this "middleman dumping." *See Fuel Ethanol from Brazil; Final Determination of Sales at Less Than Fair Value*, 51 FR 5572, 5573 (February 14, 1986). Based on the allegation that Ta Chen was selling subject merchandise to the United States at a loss (*i.e.* at prices which were, after the deduction of all costs incurred in selling the merchandise in the United States, lower than its costs of acquisition from unrelated suppliers), we analyzed Ta Chen's prices and costs relative to all sales to the United States during the POI.

In accordance with the methodology discussed in our *Final Results of Redetermination Pursuant to Court Remand; Prestressed Concrete Strand from Japan*, filed in *Mitsui & Co., Ltd. v. the United States*, Slip Op. 97–49 (April 22, 1997), we determined whether a substantial portion of Ta Chen's sales were below acquisition costs by comparing the total value of SSPC sales below acquisition costs to the total value of SSPC sales. We first

identified sales below acquisition cost by comparing Ta Chen's resale price for SSPC to its acquisition cost for SSPC. We used the supplier's invoice price to Ta Chen as the acquisition cost. We based the U.S. resale prices on Ta Chen's sales to unaffiliated customers in the United States. From that starting price we deducted movement expenses and selling expenses incurred by Ta Chen (freight, insurance, commissions, warehousing charges, discounts, U.S. duties, brokerage and handling fees, and indirect selling expenses), where applicable. We then compared that price, after deductions, to the acquisition cost. Based on these results, we determine that Ta Chen did not make a substantial portion of its sales below acquisition cost. Because, at this preliminary stage, our findings indicate that the portion of below-acquisition-cost sales was not substantial, an examination of whether prices were substantially below acquisition cost is unnecessary at this time. *See Memorandum to the File: Analysis for the Preliminary Determination of SSPC from Taiwan: Middleman Dumping Investigation: To Chen*, dated October 27, 1998.

We note that this preliminary finding of no middleman dumping is based upon the information available to us at the time of this preliminary determination. Because Ta Chen's responses were received on October 7 and 14, 1998, we have not been able to issue a supplemental questionnaire and incorporate the answers thereto in our analysis. We intend to revisit this issue after issuing a supplemental questionnaire, incorporating the revised data into our analysis, and verifying the accuracy of that data.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondent, covered by the description in the *Scope of Investigation* section, above, and sold in the home market during the POI, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in the antidumping duty questionnaire and the May 27, 1998 reporting instructions.

Fair Value Comparisons

To determine whether sales of SSPC from Taiwan to the United States were made at less than fair value, we compared export price ("EP") or constructed export price ("CEP") to the Normal Value ("NV"), as described in the "Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1) of the Act, we calculated weighted-average prices for NV and compared these to individual U.S. transactions.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade ("LOT") as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on constructed value ("CV"), that of the sales from which we derive selling, general and administrative ("SG&A") expenses and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer.

To determine whether NV sales are at a different LOT than EP, the Department examines stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, (62 FR 61731, November 19, 1997).

YUSCO claimed that there was only one level of trade of customers in its home market. Although YUSCO sold to both en-users and distributors, it provided virtually the same services to both types of customers. Based on our analysis, we agree that YUSCO had one level of trade in its home market.

In the United States, YUSCO sold through unaffiliated distributors only. We found that YUSCO provided more services to the home market customers than to U.S. customers. YUSCO stated that it could not quantify the price difference attributable to differences in level of trade. Therefore, YUSCO did not make any claim for an LOT adjustment or demonstrate that any price differentials were due to differences in LOT and not any other factors. Therefore, we compared all U.S. sales to home market sales at that one home market level, and have not made an LOT adjustment. *See Memorandum to the File: Preliminary Determination of Sales at Less Than Fair Value: Yieh United Steel Corporation ("YUSCO")*, dated October 27, 1998.

United States Price

In calculating the United States Price (USP), we used EP, in accordance with sections 772 (a) and (c) of the Act, because YUSCO's sales to the first unaffiliated purchaser occurred before importation into the United States, and because CEP methodology was not otherwise indicated. We based EP on the packed prices to the first unaffiliated purchaser in the United States. We made deductions from the starting price, where appropriate, for the following movement expenses, in accordance with section 772(c)(2)(A) of the Act: foreign inland freight, container handling fees, certification fees, and brokerage and handling expenses. No other adjustments were claimed or allowed.

Normal Value

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared YUSCO's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(B) of the Act. Since YUSCO's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable. Therefore, we have based NV on home market sales.

Cost of Production Analysis

On August 10, 1998, petitioners in this investigation filed a timely sales-below-cost allegation against YUSCO. Petitioners filed revisions to their allegation on August 20, 1998. On August 25, 1998, the Department initiated a cost of production ("COP") investigation of YUSCO to determine whether sales were made at prices less than the COP. We conducted the COP analysis described below.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of YUSCO's cost of materials, labor, overhead, and general expenses. On October 15, 1998, the Department issued a supplemental section D questionnaire to YUSCO. The supplemental questionnaire response was not received in time to use in calculating COP for this preliminary determination. This information will be included in the Department's final determination.

B. Test of Home Market Prices

We compared YUSCO's reported weighted-average COP to home market sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home market sales made at prices less than the COP, we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP, less direct and indirect selling expenses, to home market prices, less any applicable movement charges, quantity discounts, and direct and indirect selling expenses.

C. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of respondent's home market sales of a given product were at prices less than the COP, we do not disregard any below-cost sales of that product because such below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are made at prices less than the COP, we determine such sales to have been made in "substantial quantities" within an extended period of time in accordance with section 773(b)(2)(B) of the Act. In such cases, because we compared prices to weighted-average COPs for the POI, we also determine that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act, and we disregard the below-cost sales. Where all sales of a specific product are made at prices below the COP, we disregard all sales of that product.

Price-to-Price Comparisons

Because all of YUSCO's home market sales were above COP, we based NV on prices to home market customers. We did not make adjustments for physical differences in the merchandise, as all of YUSCO's sales to the United States were identical to sales in the home market.

We calculated NV based on prices to unaffiliated home market customers. We made deductions for quantity discounts and inland freight. In addition, we made circumstance-of-sale adjustments for differences in credit and warranty expenses, where appropriate. In accordance with section 773(a)(6), we deducted home market packing costs and added U.S. packing costs.

Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank, in accordance with section 773A of the Act.

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the U.S. price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
YUSCO	67.68
All Others	67.68

ITC Notification

In accordance with section 733(f) of the Act, we are notifying the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than 50 days after the publication of the preliminary determination, and rebuttal briefs, limited to issues raised in case briefs, no later than 55 days after the publication of the preliminary determination. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on January 7, 1999, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by January 10, 1999.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Act.

Dated: October 27, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–29543 Filed 11–3–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–830]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 4, 1998.

FOR FURTHER INFORMATION CONTACT: Linda Ludwig or Helen Kramer, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3833 or (202) 482–0405, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to

the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department") regulations are to the regulations at 19 CFR Part 351, 62 FR 27296 (May 19, 1997).

Preliminary Determination

We preliminarily determine that Stainless Steel Plate in Coils ("SSPC") from Canada is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Act. The estimated margin of sales at LTFV is shown in the "Suspension of Liquidation" section of this notice.

Case History

On April 20, 1998, the Department initiated antidumping duty investigations of imports of stainless steel plate in coils from Belgium, Canada, Italy, South Africa, South Korea, and Taiwan (Notice of Initiation of Antidumping Investigations: Stainless Steel Plate in Coils From Belgium, Canada, Italy, South Africa, South Korea and Taiwan (63 FR 20580, April 27, 1998)). Since the initiation of this investigation the following events have occurred:

The Department set aside a period for all interested parties to raise issues regarding product coverage. Petitioners (Armco, Inc., J&L Specialty Steel, Inc., Lukens, Inc., and North American Stainless) filed comments on May 8, 1998, stating that while they believed the scope of the investigations was accurate, they wished to clarify certain issues regarding product coverage. These comments did not affect the product coverage. On May 15, 1998, the United States International Trade Commission ("ITC") notified the Department of its affirmative preliminary injury determination in this case. During May 1998, the Department requested information from the U.S. Embassy in Canada to identify producers/exporters of the subject merchandise. During May 1998, the Department also requested and received comments from petitioners and two potential respondents, Atlas Stainless Steels, a division of Sammi Atlas, Inc. of Canada ("Atlas"), and ALZ, N.V. of Belgium, regarding the model matching criteria. On May 27, 1998, the Department issued an antidumping duty questionnaire to Atlas.

On June 24, 1998, the Department received Atlas's response to Section A of the questionnaire. We received Atlas's responses to Sections B and C of the questionnaire on July 10, 1998. Petitioners filed comments on Atlas's responses to Section A on July 7, 1998, and to Sections B and C on July 24, 1998. On July 29, 1998, petitioners made a timely request that the Department initiate a cost investigation to determine whether respondent made home market sales at prices below the cost of production during the POI. We issued a supplemental questionnaire for Sections A, B, and C on August 5, 1998 and received a response on August 19, 1998. On August 14, 1998, the Department notified Atlas of its determination under section 773(b) of the Act that there are reasonable grounds to believe or suspect that it made sales of the subject merchandise in Canada at prices below its cost of production (COP), and gave Atlas until September 4, 1998, to respond to section D (the cost questionnaire), which was included in the Department's questionnaire issued on May 27, 1998. On September 4, 1998, Atlas declined to respond to section D, citing as reasons the effort, time and expense required.

On July 28, 1998, pursuant to section 733(c)(1)(A) of the Act, the petitioners made a timely request to postpone the preliminary determination for thirty days. The Department determined that these investigations are extraordinarily complicated and that additional time is necessary beyond the thirty days requested by petitioners for the Department to make its preliminary determination. The decision to postpone the preliminary determination until October 27, 1998 was made on August 14, and published on August 21, 1998. (See Stainless Steel Plate in Coils from Belgium, Canada, Italy, South Africa, South Korea and Taiwan; Notice of Postponement of Preliminary Determinations in Antidumping Duty Investigations, 63 FR 44840). On August 20, 1998, petitioners amended the antidumping duty petition to include Allegheny Ludlum Corporation as an additional petitioner.

Scope of Investigation

For purposes of these investigations, the product covered is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (e.g., cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this petition are the following: (1) plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation ("POI") is January 1, 1997, through December 31, 1997.

Facts Available

Section 776(a)(2) of the Act provides that if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner, or in the form requested, significantly impedes a proceeding under the antidumping statute, or provides information that cannot be verified, the Department shall, subject to subsections 782(c)(1) and (e) of the Act, use facts otherwise available in reaching the applicable determination. Although Atlas did not indicate any inability to respond to the Department's COP questionnaire, it chose not to do so. Because Atlas has refused to provide cost information, we must base its margin entirely on the facts otherwise available.

Atlas submitted responses to sections A, B, and C of the questionnaire, and to a supplemental questionnaire, but declined to respond to the section D (cost) questionnaire on the grounds of time, effort and expense. As a result, the Department is unable to determine whether Atlas's sales in Canada were at prices above COP and provide an appropriate basis for determining normal values. Without accurate COP and constructed value (CV) data, we cannot perform a reliable sales-below-cost test and LTFV analysis. Consequently, under section 776(a) of the Act, the Department must use facts otherwise available in making its determination.

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that a party has failed to cooperate by not acting to the best of its ability to comply with requests for information. See the Statement of Administrative Action (SAA) at 870. Such adverse inference may include reliance on information derived from the petition. To determine whether the respondent "cooperated" by "acting to the best of its ability" under section 776(b), the Department considers, among other facts, the accuracy and completeness of submitted information and whether the respondent has hindered the calculation of accurate dumping margins. See, e.g., Certain Welded Carbon Steel Pipes and Tubes from Thailand; Final Results of Antidumping Duty Administrative Review, 62 FR 53808, 53819–53820 (October 16, 1997); Brass Sheet and Strip from Germany; Final Results of Antidumping Duty Administrative Review, 63 FR 42823–42824 (August 11, 1998).

Atlas's refusal to reply to the Department's requests for cost information demonstrates that Atlas has failed to act to the best of its ability in this investigation. Thus, the Department has determined that, in selecting among the facts otherwise available, an adverse inference is warranted with regard to Atlas. Consistent with Department practice in cases in which a respondent fails to cooperate to the best of its ability by refusing to respond to an entire section of the questionnaire, and pursuant to section 776(b)(1) of the Act, as adverse facts available we have applied a margin based on the highest margin alleged in the petition. See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars From Turkey, 62 FR 9737–9738 (March 4, 1997).

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as facts available. Secondary information is described in the SAA (at 870) as "[i]nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise."

The SAA further provides that "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value (see SAA at 870). Thus, to corroborate secondary information, to the extent practicable, the Department will examine the reliability and relevance of the information used.

During the Department's pre-initiation analysis of the petition, we reviewed the adequacy and accuracy of the information in the petition, to the extent appropriate information was available for this purpose (e.g., import statistics, foreign market research reports, and data from U.S. producers). See Notice of Initiation and "Import Administration AD Investigation Initiation Checklist," (April 20, 1998). The estimated dumping margins were based on a comparison of two home market sales made by Atlas to steel service centers to two U.S. sales, as reported by domestic industry sources. The Department attempted to corroborate all of the secondary information from which the margin was calculated by reviewing all of the data presented and by requesting clarification and confirmation from petitioners and their sources as needed. See Memorandum to the File from Linda Ludwig and Marguerite Trossevin on April 17, 1998 Telephone Call to Market Research Firm Regarding the AD Petition for Antidumping Investigation of Stainless Steel Plate in Coils from Canada (April 20, 1998) and Memorandum to the File from Linda Ludwig on the same date. In addition, for purposes of this preliminary determination, the Department compared the export prices alleged by petitioners based on price quotations obtained from unaffiliated first purchasers with the average unit values of U.S. imports classified under the appropriate HTS number during the same months as the U.S. sales.

We observed that these values were almost identical for the first sale, and very similar for the second sale. U.S. official import statistics are sources which we consider to require no further corroboration by the Department. See Notice of Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails From the People's Republic of China, 62 FR 51410, 51412 (October 1, 1997). See Memorandum to the File from Helen M. Kramer on Corroboration of Petitioners' Estimated Dumping Margins (October 14, 1998). However, the Department was provided no information by the respondents or other interested parties, and is aware of no other independent sources of information that would enable it to corroborate home market prices further for this preliminary determination. The implementing regulation to section 776 of the Act, at 19 CFR 351.308(c), states "[t]he fact that corroboration may not be practicable in a given circumstance will not prevent the Secretary from applying an adverse inference as appropriate and using the secondary information in question." We note also that the SAA at 870 specifically states that, where "corroboration may not be practicable in a given circumstance", the Department may nevertheless apply an adverse inference. Based on the above, we find that the estimated margins set forth in the petition have probative value.

The All-Others Rate

The foreign manufacturer/exporter in this investigation is being assigned a dumping margin on the basis of facts otherwise available. Section 735(c)(5) of the Act provides that, where the dumping margins established for all exporters and producers individually investigated are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including weight averaging the zero, de minimis, and the margins based on facts available. In this case, the margin assigned to the only company investigated is based on adverse facts available. Therefore, consistent with the SAA, at 873, we are using an alternative method. As our alternative, we are basing the all others rate on a simple average of the margins in the petition. As a result, the all others rate is 11.10 percent.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the percentage margin, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The dumping margin is as follows:

Exporter/manufacturer	Margin percentage
Atlas Stainless Steel (Sammi Atlas)	15.35
All Others	11.10

The all others rate, which we derived from the average of the margins

calculated in the petition, applies to all entries of subject merchandise other than those exported by the named respondent.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than November 16, 1998, and rebuttal briefs no later than November 23, 1998. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on December 15, 1998, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination within 75 days after the date of signing of this notice.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Act.

Dated: October 27, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–29544 Filed 11–3–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–822]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils ("SSPC") from Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 4, 1998.

FOR FURTHER INFORMATION CONTACT: Lesley Stagliano or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0780 or (202) 482–3818, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department") regulations are to the regulations at 19 CFR Part 351, 62 FR 27296 (May 19, 1997).

Preliminary Determination

We preliminarily determine that Stainless Steel Plate in Coils ("SSPC") from Italy are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Case History

On April 20, 1998, the Department initiated antidumping duty investigations of imports of stainless steel plate in coils from Belgium, Canada, Italy, South Africa, South Korea, and Taiwan (*Notice of Initiation of Antidumping Investigations: Stainless Steel Plates in Coils From Belgium, Canada, Italy, South Africa , South Korea and Taiwan* (63 FR 20580, April 27, 1998) ("Notice of Initiation")). Since the initiation of this investigation the following events have occurred:

The Department set aside a period for all interested parties to raise issues regarding product coverage. On May 8, 1998, petitioners Armco, Inc.; J&L Specialty Steel Inc.; Lukens, Inc.; the United Steelworkers of America, AFL-CIO/CLC; the Butler Armco Independent Union: and the Zanesville Armco Independent Organization, Inc. ("petitioners") submitted comments stating that, while they believed the scope of the investigations was accurate, they wished to clarify certain issues concerning product coverage. On May 21, 1998, respondents filed rebuttal comments stating their objection to the scope comments filed by petitioners. The Department made no changes to the scope concerning these comments.

During May 1998, the Department requested information from the U.S. Embassy in Italy to identify producers/exporters of the subject merchandise. The embassy identified two companies in Italy as producers/exporters of subject merchandise, Acciai Speciali Terni SpA ("AST") and Arinox, Srl ("Arinox"). During May 1998, the Department also requested and received comments from petitioners and potential respondents in these investigations regarding the model matching criteria.

On May 15, 1998, the United States International Trade Commission ("ITC") notified the Department of its affirmative preliminary injury determination in this case.

On May 27, 1998, the Department issued antidumping duty questionnaires to AST and to Arinox. On June 24, 1998, Arinox informed the Department by electronic mail that the company did not produce subject merchandise during the period of investigation, and therefore did not respond to the Department's questionnaire.

Furthermore, AST did not respond to the Department's antidumping questionnaire. Thus, the Department received no questionnaire responses from identified Italian stainless steel producers/exporters.

On July 28, 1998, pursuant to section 733(c)(1)(A) of the Act, the petitioners made a timely request to postpone the preliminary determination for thirty days. On August 14, 1998, the Department postponed the preliminary determinations until no later than October 27, 1998. *See Notice of Postponement of Preliminary Antidumping Duty Investigations of Stainless Steel Plate in Coils: from Belgium, Canada, Italy, South Africa, South Korea and Taiwan* (63 FR 44840, August 21, 1998).

On August 20, 1998, petitioners amended the antidumping petitions to include Allegheny Ludlum Corporation as an additional petitioner.

Scope of Investigation

For purposes of these investigations, the product covered is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (e.g., cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this petition are the following: (1) plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation ("POI") is January 1, 1997, through December 31, 1997.

Facts Available

Section 776(a)(2) of the Act provides that if an interested party or any other person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified as provided in section 782(i) of the Act, the administering authority shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable determination. As discussed above, AST failed to respond to the Department's questionnaire. Accordingly, we have determined, under section 776(a)(2)(A), that we must base our determination for that company on the facts available.

Section 776(b) of the Act further provides that adverse inferences may be used for a party that has failed to cooperate by not acting to the best of its ability to comply with a request for information (*see* also the Statement of Administrative Action ("SAA"), accompanying the URAA, H.R. Rp. No. 316, 103rd Cong., 2d Sess. 870). Given their refusal to comply with the Department's request for information, AST has failed to cooperate to the best of its ability in this investigation. Therefore, the Department has determined that an adverse inference is warranted with respect to AST.

In this proceeding, we used the information from the petition to form the basis for a dumping margin for this uncooperative respondent. Thus, consistent with Department practice (*see, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Germany*), 63 FR 10847 (March 5, 1998) ("*Stainless Steel Wire Rod from Germany*")) as facts otherwise available, the Department is assigning to AST the highest margin alleged in the petition for any Italian producer, which is 45.09 percent (*see* Initiation Checklist and the Notice of Initiation for a discussion of the margin calculations in the petition).

Section 776(c) of the Act provides that when the Department relies on "secondary information," (*e.g.*, the petition) as the facts available, the Department shall, to the extent practicable, corroborate that information with independent sources reasonably at the Department's disposal. The SAA accompanying the URAA clarifies that the petition is "secondary information." *See* SAA at 870. The SAA also clarifies that "corroborate" means to determine whether the information used has probative value. *Id.*

We reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis of the petition, to the extent appropriate information was available for this purpose (*e.g.*, import statistics, foreign market research reports, and data from U.S. producers). See Notice of Initiation and April 20, 1998, "Import Administration AD Investigation Initiation Checklist ("Initiation Checklist"). Specifically, the petitioners based both export price ("EP") and normal value ("NV") in the petition on foreign market research, affidavits concerning prices and freight costs, official U.S. import statistics, U.S. government sources and International Financial Statistics.

As certain information included in the margin calculation in the petition is from public sources concerning for the most part the POI (*e.g.*, international freight and insurance, U.S. harbor maintenance and U.S. merchandise processing fees, SG&A and profit), we find, for the purpose of the preliminary determination, that the information is sufficiently corroborated. However, with respect to certain data included in the margin calculations included in the petition (*e.g.*, gross U.S. and home market unit prices), the Department was provided no information by the respondents or other interested parties, and is aware of no other independent sources of information, that would enable it to further corroborate the remaining components of the margin calculation in the petition. The implementing regulation to section 776 of the Act, at 19 CFR 351.308(c), states "[t]he fact that corroboration may not be practicable in a given circumstance will not prevent the Secretary from applying an adverse inference as appropriate and using the secondary information in question." Additionally, we note that the SAA at 870 specifically states that, where "corroboration may not be practicable in a given circumstance", the Department may nevertheless apply an adverse inference. We note further that the Department has used as the facts available margins developed in the petition that are based in part on foreign market research in other cases. *See, e.g., Stainless Steel Wire Rod From Germany*, and *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Melamine Institutional Dinnerware Products From Indonesia*, 61 FR 43333 (August 22, 1996).

The All-Others Rate

All foreign manufacturers/exporters in this investigation are being assigned dumping margins on the basis of facts otherwise available. Section 735(c)(5) of the Act provides that, where the dumping margins established for all exporters and producers individually investigated are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including weight averaging the zero, de minimus, and the margins based on facts available. In this case, the margin assigned to the only company investigated is based on adverse facts available. Therefore, consistent with the

SAA, at 873, we are using an alternative method. As our alternative, we are basing the all others rate on a simple average of all the margins in the petition, both price-to-price comparison and constructed value ("CV"). As a result, the all-others rate is 39.69 percent.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service ("Customs") to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct Customs to require a cash deposit or the posting of a bond equal to the percentage margins as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Accial Speciali Terni SpA	45.09
All Others	39.69

The all-others rate, which we derived from the average of the margins calculated in the petition, applies to all entries of subject merchandise other than those exported by the named respondent.

ITC Notification

In accordance with section 733(f) of the Act, we are notifying the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than 50 days after the publication of the preliminary determination, and rebuttal briefs, limited to issues raised in case briefs, no later than 55 days after the publication of the preliminary determination. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on December 28, 1998, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by January 10, 1999.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Act.

Dated: October 27, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–29545 Filed 11–3–98; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A–423–808]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils From Belgium

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 4, 1998.

FOR FURTHER INFORMATION CONTACT: Steve Bezirganian or Abdelali Elouaradia, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0162 or (202) 482–2243, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department") regulations are to the regulations at 19 CFR Part 351, 62 FR 27296 (APRIL 1, 1998).

Preliminary Determination

We preliminarily determine that Stainless Steel Plates in Coils ("SSPC") from Belgium are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Case History

On April 20, 1998, the Department initiated antidumping duty investigations of imports of stainless steel plate in coils from Belgium, Canada, Italy, South Africa, South Korea, and Taiwan (*Notice of Initiation of Antidumping Investigations: Stainless Steel Plate in Coils From Belgium, Canada, Italy, South Africa, South Korea and Taiwan* (63 FR 20580 (April 27, 1998)). Since the initiation of this investigation the following events have occurred.

The Department set aside a period for all interested parties to raise issues regarding product coverage. On May 8, 1998, Armco, Inc., J&L Specialty Steel, Inc., Lukens, Inc., North American Stainless, the United Steelworkers of America, AFL–CIO/CLC , the Butler Armco Independent Union and the Zanesville Armco Independent Organization, Inc. ("petitioners") submitted comments to the Department stating that, while they believed the scope of the investigations was accurate, they wished to clarify certain issues concerning product coverage.

During May 1998, the Department requested information from the U.S. Embassy in Belgium to identify producers/exporters of the subject merchandise. During May 1998, the Department also requested and received comments from petitioners and potential respondents regarding the model matching criteria. Petitioners and ALZ, N.V. ("ALZ") submitted comments on our proposed model matching criteria on May 21, 1998.

On May 15, 1998, the United States International Trade Commission ("ITC") notified the Department of its affirmative preliminary injury determination in this case.

On May 27, 1998, the Department issued an antidumping duty questionnaire to ALZ, Fabrique de Fer, and Cockeril Sambre Group. In June 24, 1998, the Department received response

to Section A of the questionnaire from ALZ. In addition, on June 16 and 26, 1998, the Department received letters from Fabrique de Fer, and Cockeril Sambre Group stating that the companies did not sell the subject merchandise to the United States during the period of investigation ("POI"). We received ALZ's responses to Sections B, C and D of the questionnaire on July 27, 1998. Petitioners filed comments on ALZ's questionnaire responses in July, August, and September 1998. We issued supplemental questionnaires for Sections A, B, C and D to ALZ in July, August, and September, 1998, and received responses to these questionnaires in August, September and October 1998.

On July 28, 1998, pursuant to section 733(c)(1)(A) of the Act, the petitioners made a timely request to postpone the preliminary determination for thirty days. The Department determined that this investigation is extraordinarily complicated and that additional time is necessary beyond the thirty days requested by petitioners for the Department to make its preliminary determination. On August 14, 1998, we postponed the preliminary determination until no later than October 27, 1998. (*See Notice of Postponement of Preliminary Antidumping Duty Investigations of Stainless Steel Plate in Coils: from Belgium, Canada, Italy, South Africa , South Korea and Taiwan*, 63 FR 44840, August 21, 1998). On August 20, 1998, petitioners amended the antidumping duty petitions to include Allegheny Ludlum Corporation as an additional petitioner. On October 19 and 20, 1998, petitioners submitted comments on ALZ's claim for a CEP adjustment, and on issues for consideration in this preliminary determination for ALZ. The Department did not address these comments because they came in too late.

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on October 19, 1998, ALZ requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of an affirmative preliminary determination in the **Federal Register**. On October 20, 1998, ALZ amended its request to include a request to extend the provisional measures to not more than six months. In accordance with 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) ALZ accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondent's request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

Scope of Investigation

For purposes of these investigations, the product covered is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (e.g., cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this investigation are the following: (1) plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this investigation is currently classifiable in the *Harmonized Tariff Schedule of the United States* (HTS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The POI is January 1, 1997, through December 31, 1997.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by ALZ covered by the description in the *Scope of Investigation* section, above, and sold in Belgium during the POI, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in the antidumping duty questionnaire and the May 27, 1998, reporting instructions.

Fair Value Comparisons

To determine whether sales of SSPC from Belgium to the United States were made at LTFV, we compared constructed export price ("CEP") to the Normal Value ("NV"), as described in the "Constructed Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average CEPs for comparison to weighted-average NVs or CVs.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade ("LOT") as the CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on constructed value ("CV"), that of the sales from which we derive selling, general and administrative ("SG&A") expenses and profit. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different level of trade than CEP, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

In this case, ALZ requested that the Department adjust NV to account for different LOTs in the home market and the U.S. market. The information on the record does not reveal meaningful differences between selling functions performed in the two markets, and thus no differences in home market and U.S. LOTs. Therefore, we preliminary do not grant a CEP offset for those sales by ALZ in Belgium which are compared with CEP sales in the United States (*See* Memorandum to Steven Presing from Steve Bezirganian and Abdelali Elouaradia, dated October 27, 1998).

Constructed Export Price

We calculated CEP in accordance with section 772(b) of the Act because sales to the first unaffiliated purchaser took place after importation into the United States.

We based CEP on the packed ex-warehouse or delivered prices to unaffiliated purchasers in the United States. We made deductions for billing adjustments (*i.e.* adjustments for freight and adjustments for customer claims), where applicable. We also made deductions for the following movement expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act: foreign inland freight, foreign inland insurance (including marine insurance), international freight (including foreign brokerage), U.S. inland freight from port to warehouse, U.S. inland insurance, U.S. brokerage and handling, U.S. warehouse expenses, U.S. inland freight from warehouse to unaffiliated customer and U.S. Customs duties. In accordance with section 772(d)(1) of the Act, we deducted selling expenses associated with economic activities occurring in the United States, including direct selling expenses (credit costs), inventory carrying costs, and other indirect selling expenses. We also deducted the profit allocated to these expenses, and further manufacturing costs in accordance with sections 772(d)(3) and 772(f) of the Act.

ALZ did not report in its U.S. sales database a small quantity of TrefilArbed re-sales of cut plate that the original U.S. customer had processed from SSPC purchased from TrefilArbed. In these few instances, TrefilArbed had agreed to accept the cut plate from the original U.S. customer, even though this customer had processed the SSPC into cut plate, a product not subject to this investigation. We preliminarily determine that these re-sales are of an insignificant quantity and value, and are not representative of the overall sales of subject merchandise. (*See* Memorandum to Joseph A. Spetrini from Roland MacDonald, dated October 22, 1998).

Normal Value

After testing home market viability, as discussed below, we calculated NV as noted in the "Price-to-CV Comparisons" and "Price-to-Price Comparisons" sections of this notice.

1. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because ALZ's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable. Therefore, we have based NV on home market sales.

2. Cost of Production Analysis

Based on a cost allegation filed by the petitioners, the Department found reasonable grounds to believe or suspect that sales by ALZ in its home market were made at prices below the costs of production (COP), pursuant to section 773(b)(1). As a result, the Department has initiated an investigation to determine whether the respondent made home market sales during the POI at prices below their respective COPs, within the meaning of section 773(b) of the Act.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP based on the sum of ALZ's cost of materials and fabrication for the foreign like product, plus amounts for general expenses and packing costs. We relied on the COP data submitted by ALZ in its supplemental cost questionnaire response, except as discussed below, where the submitted costs were not appropriately quantified or valued.

1. We increased ALZ's reported cost of hot rolling services purchased from affiliated parties to reflect the difference between transfer prices and market prices, since the transfer prices were below market prices.

2. We revised ALZ's general and administrative (G&A) expenses to exclude an offset for net exchange gains. We also included exchange gains and losses related to purchases and accounts payable, consistent with our general practice in the calculation of G&A expenses.

3. We recalculated ALZ's financial expense ratio using their parent company's, ARBED Group, consolidated financial statements.

B. Test of Home Market Prices

We compared the weighted-average COP for ALZ, adjusted where appropriate (see above), to home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made (1) within an extended period of time and in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade, in accordance with section 773(b)(1)(A) and (B) of the Act. On a product-specific basis, we compared the COP to home market prices, less any applicable billing adjustments (*i.e.* invoice correction and alloy surcharge), movement charges, discounts, and direct and indirect selling expenses.

C. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of ALZ's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of ALZ's sales of a given product during the POI were at prices less than the COP, we determined that such sales have been made in "substantial quantities" within an extended period of time, in accordance with section 773(b)(2)(B) of the Act. In such cases, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product.

D. Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of ALZ's cost of materials, fabrication, G&A, U.S. packing costs, direct and indirect selling expenses, interest expenses and profit. As noted above, we made adjustments to ALZ's reported cost of hot rolling services and G&A. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by ALZ in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. For selling expenses, we used the actual weighted-average home market direct and indirect selling expenses.

Price-to-Price Comparisons

For those product comparisons for which there were sales at prices above the COP, we based NV on prices to home market customers. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act.

We calculated NV based on prices to unaffiliated home market customers. We made deductions for billing adjustments (*i.e.* adjustment for transportation, when customer picks up the merchandise, invoice correction and alloy surcharge), early payment discounts, inland freight, and inland insurance. In addition, we made circumstance-of-sale adjustments or deductions for credit, where appropriate. In accordance with section 773(a)(6), we deducted home market packing costs and added U.S. packing costs.

Price-to-CV Comparisons

For price-to-CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act. We deducted from CV the amount of indirect selling expenses capped by the amount of the U.S. commissions.

Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank, in accordance with section 773A of the Act.

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the CEP, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-average margin percentage
ALZ, N.V.	3.44
All Others	3.44

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination, or 45 days after our final determination, whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than fifty days after the date of publication of this notice, and rebuttal briefs, limited to issues raised in case briefs, no later than fifty-five days after publication of this notice. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held fifty-seven days after publication of this notice, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination no later than one hundred and thirty-five days after publication of this notice.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Act.

Dated: October 27, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–29546 Filed 11–3–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–831]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils ("SSPC") From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 4, 1998.

FOR FURTHER INFORMATION CONTACT: Carrie Blozy or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0165 or (202) 482–3818, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department") regulations are to the regulations at 19 CFR Part 351, 62 FR 27296 (May 19, 1997).

Preliminary Determination

We preliminarily determine that Stainless Steel Plates in Coils ("SSPC") from the Republic of Korea are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Case History

On April 20, 1998, the Department initiated antidumping duty investigations of imports of stainless steel plate in coils from Belgium,

Canada, Italy, South Africa, South Korea, and Taiwan (*Notice of Initiation of Antidumping Investigations: Stainless Steel Plates in Coils From Belgium, Canada, Italy, South Africa, South Korea and Taiwan* (63 FR 20580, April 27, 1998)("*Notice of Initiation*")). Since the initiation of this investigation the following events have occurred:

The Department set aside a period for all interested parties to raise issues regarding product coverage. On May 8, 1998, petitioners Armco, Inc.; J&L Specialty Steel Inc.; Lukens, Inc.; North American Stainless; the United Steelworkers of America, AFL–CIO/CLC; the Butler Armco Independent Union; and the Zanesville Armco Independent Organization, Inc. ("petitioners") submitted comments to the Department stating that while they believed the scope of the investigations was accurate, they wished to clarify certain issues concerning product coverage.

In May 1998, the Department requested information from the U.S. Embassy in the Republic of Korea to identify producers/exporters of the subject merchandise. In May 1998, the Department also requested and received comments from the petitioners and potential respondents in these investigations regarding the model matching criteria.

On May 15, 1998, the United States International Trade Commission ("ITC") notified the Department of its affirmative preliminary injury determination in this case.

On May 27, 1998, the Department issued an antidumping duty questionnaire to Pohang Iron and Steel Company ("POSCO") and Sammi Steel Company, Ltd. ("Sammi").

On July 1, 1998, the Department received the response to Section A of the questionnaire from POSCO. Additionally, on July 13, 1998, the Department received a letter from Sammi stating that it did not export the subject merchandise to the United States during 1997. We received POSCO's responses to Sections B, C and D of the questionnaire on July 20, 1998. Petitioners filed comments on POSCO's questionnaire responses in July, August, and September 1998. We issued supplemental questionnaires for Sections A, B, C and D to POSCO on July 13, August 4, September 16, September 17, 1998, and October 7, 1998, and received responses to these questionnaires in July, August, September and October 1998.

On July 28, 1998, pursuant to section 733(c)(1)(A) of the Act, petitioners made a timely request to postpone the preliminary determination for thirty days. The Department determined that this investigation was extraordinarily complicated and that additional time was necessary beyond the thirty days requested by petitioners for the Department to make its preliminary determination. On August 14, 1998, the Department postponed the preliminary determination fifty days until October 27, 1998. *See Stoinless Steel Plate in Coils from Belgium, Canada, Italy, South Africa, South Korea and Taiwan; Notice of Postponement of Preliminary Determinations in Antidumping Duty Investigations*, 63 FR 44840 (August 21, 1998).

On August 20, 1998, petitioners amended the antidumping petitions to include Allegheny Ludlum Corporation as an additional petitioner.

Scope of Investigation

For purposes of this investigation, the product covered is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (e.g., cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this petition are the following: (1) plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this investigation is currently classifiable in the *Harmonized Tariff Schedule of the United States* (HTS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation ("POI") is January 1, 1997, through December 31, 1997.

Transactions Reviewed

POSCO reported that it made sales of the subject merchandise to affiliated resellers during the POI. On September 16, 1998, the Department requested that POSCO report the home market downstream sales made by its affiliated service centers (*see* September 16, 1998 supplemental questionnaire). Thus, in determining normal value ("NV") (*see* "Normal Value" section of the notice, below), the Department excluded POSCO's sales to the affiliated service centers and considered the affiliates' resales of the subject merchandise.

POSCO reported that it made local letter of credit sales ("local sales") in the home market which are exempted from value-added tax requirements because the end-user intends to export its finished product. Because the statute at section 773(a)(1)(B)(i) defines "the price at which the foreign like product is first sold (or, in the absence of a sale, offered for sale) *for consumption* in the exporting country * * *," we are disregarding home market local sales because there is knowledge that these sales are not consumed in the foreign market (emphasis added).

For its home market transactions, POSCO has reported the date of invoice as the date of sale, *i.e.*, the date when price and quantity are finalized. However, petitioners have alleged that the home market sales documentation provided by POSCO did not appear to support POSCO's claim that price and quantity may change between order and invoice. In August 1998, the Department requested that POSCO describe the type and frequency of price and quantity changes between order and invoice. Based on its analysis of the information submitted by POSCO, the Department found that it required additional information to determine if date of invoice is the appropriate date of sale. As POSCO's supplemental response was not due until October 30, 1998, the Department has not considered this issue for the preliminary determination. Therefore for the preliminary determination, the Department is using the invoice date as the date of sale for home market sales. We intend to revisit this issue after incorporating the revised data into our analysis and verifying the accuracy of that data.

In calculating export price ("EP") (*see* "Export Price" section of the notice, below), the Department determined that those U.S. sales for which POSCO was not paid should be excluded from the U.S. database.

For its U.S. sales, POSCO has reported the date of invoice as the date of sale, *i.e.*, the date when price and quantity are finalized. For U.S. sales, petitioners also alleged that the invoice date may not be the appropriate date of sale. Similarly, the Department requested and received additional information from POSCO on its use of invoice date as the date of sale. As described above, the Department found that it did not have enough information to make a determination whether invoice date was the appropriate date of sale and requested additional information from POSCO that was not due until October 30, 1998. Therefore for the preliminary determination, the Department is using the invoice date as the date of sale for U.S. sales. We intend to revisit this issue after incorporating the revised data into our analysis and verifying the accuracy of that data.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondent, covered by the description in the *Scope of Investigation* section, above, and sold in the home market during the POI, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in the antidumping duty questionnaire and the May 27, 1998 reporting instructions.

Foir Value Comparisons

To determine whether sales of SSPC from the Republic of Korea to the United States were made at less than fair value, we compared EP to NV. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs for comparison to weighted-average NVs.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade ("LOT") as the EP or constructed export price ("CEP") transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on constructed value ("CV"), that of the sales from which we derive selling, general and administrative ("SG&A") expenses and profit. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different level of trade than CEP, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

In this case, POSCO did not claim an LOT adjustment. The Department notes that in its July 1, 1998 response, POSCO stated that the downstream sales made by the affiliated service centers were at a different level of trade than other sales made by POSCO in the POI to both the U.S. and home market. However, it its October 5, 1998 response on downstream sales, POSCO reported that all sales in the U.S. and home market were made at the same level of trade. To ensure that no such adjustment was necessary, in accordance with principles discussed above, we examined information regarding the distribution systems in both the United States and Korean markets, including the selling functions, classes of customer and selling expenses.

In both the U.S. market and the HM market, POSCO reported one level of trade. POSCO sold through three channels of distribution in the U.S. market: (1) From POSCO Steel Sales and Services Co., Ltd. ("POSTEEL"), POSCO's affiliated company responsible for the majority of home market sales and all U.S. sales, to one unaffiliated end-user; (2) from POSTEEL through Pohang Steel American Corp. ("POSAM"), POSCO's U.S. subsidiary; and (3) from POSTEEL to unaffiliated Korean trading companies for resale in the U.S. POSCO also sold through three channels of distribution in the home market: (1) Directly from its mill to two unaffiliated end users; and (2) through POSTEEL to unaffiliated end-users and domestic trading companies. Additionally, POSCO has reported the home market downstream sales in HM Channel 3. The affiliates' resales were made exclusively to end-users with one exception.

For sales in HM Channel 1, POSCO performed all sales-related activities including arranging for freight and delivery, providing computerized accounting and sales systems, market research, warranty, sales negotiation, after sales service, and quality control. The same selling functions were performed in HM Channel 2; however, it was POSTEEL, not POSCO which performed all the major selling functions. Finally, in HM Channel 3, POSCO stated that the affiliated resellers sold their sales on a delivered or ex-factory basis.

POSCO performed similar selling functions in the U.S. market as in the home market including making freight and delivery arrangements and offering warranties and technical advice. As in sales in HM Channel 2, POSTEEL performed the major selling functions for U.S., regardless of channel of distribution. POSTEEL made the international freight arrangements except in the case of U.S. Channel 3 in which it sold FOB Pohang Port. Also, in U.S. Channel 2, POSAM invoiced the U.S. customer and for many sales, arranged for delivery to the customer from the U.S. port. Finally, as in the home market, POSCO reported that it did not provide inventory maintenance or advertising in the U.S. market.

Therefore, based on the information on the record, we preliminarily conclude that POSCO performed similar selling functions in the U.S. market and HM Channels 1 and 2 and that a LOT adjustment is not warranted for comparisons between the U.S. market and HM Channels 1 and 2. However, as POSCO's response detailing the type of selling functions performed by the affiliated service centers was not due until October 30, 1998, the Department could not make a determination for this preliminary determination whether the affiliated service centers' resales (HM Channel 3) were sold at a different level of trade than other home market channels or U.S. channels. Thus, the Department will consider this issue for the final determination. For a further discussion of the Department's LOT analysis, *see Memorandum to the File: Analysis Memorandum for the Preliminary Determination*, October 27, 1998.

Export Price/Constructed Export Price

We based our calculation on EP, in accordance with section 772 (a) of the Act, because the subject merchandise

was sold by the producer or exporter directly to the first unaffiliated purchaser in the United States prior to importation, and CEP methodology was not otherwise indicated.

POSCO classified all of its sales of the subject merchandise in the United States as EP sales in its questionnaire response, including those sales made prior to importation through POSAM, POSCO's wholly owned U.S. subsidiary. We examined several factors to determine whether sales made prior to importation through POSAM to an unaffiliated customer in the United States are EP sales. These factors are: (1) whether the merchandise was shipped directly from the manufacturer to the unaffiliated U.S. customer without being introduced into the physical inventory of the affiliated selling agent; (2) whether the sales follow customary commercial channels between the parties involved; and (3) whether the function of the U.S. selling agent is limited to that of a "processor of sales-related documentation" and a "communication link" with the unrelated U.S. buyer. Where the factors indicate that the activities of the U.S. selling agent are ancillary to the sale (e.g., arranging transportation or customs clearance), we treat the transactions as EP sales. Where the U.S. selling agent is substantially involved in the sales process (e.g., negotiating prices), we treat the transactions as CEP sales. *See Certain Cut-to-Length Carbon Steel Plate from Germany: Final Results of Antidumping Administrative Review*, 62 FR 18389, 18391 (April 15, 1997); *Mitsubishi Heavy Industries* v. *United States*, Slip Op. 98–82 at 6 (CIT, June 23, 1998).

Concerning the first two criteria, the record indicates that POSCO's sales through POSAM were shipped directly from the manufacturer to the unaffiliated U.S. customer and that this was the customary commercial channel. In determining whether the U.S. affiliate acted solely as a "processor of sales-related documentation" and a "communication link" with the unaffiliated U.S. customer, we reviewed the selling functions performed by POSAM and the sales process for these sales. Although POSAM performed a variety of selling functions on behalf of POSCO in connection with POSCO's SSPC sales in the United States, including forwarding inquiries and confirmations to and from the customer and POSTEEL, invoicing customers, arranging for freight to the customer from the U.S. port, collecting payment, and serving as importer of record, POSCO has stated that POSTEEL determined price and terms of sale and performed all other sales related activities. We will conduct an in-depth examination of the most appropriate classification of POSCO's U.S. sales through POSAM (i.e., CEP versus EP) at verification. However, based on POSCO's record statements, we preliminarily determine that POSCO's U.S. sales of SSPC through POSAM qualify as EP sales. For further discussion of this issue, *see Memorandum to the File: Analysis Memorandum for the Preliminary Determination for POSCO*, October 27, 1998.

We based EP on the packed prices to unaffiliated purchasers in the United States. We made deductions for foreign inland freight, brokerage and handling, ocean freight, marine insurance, U.S. inland freight (where applicable), U.S. brokerage and wharfage charges (where applicable) and U.S. Customs duties in accordance with section 772(c)(2)(A) of the Act. Additionally, we added to the U.S. price an amount for duty drawback pursuant to section 772(c)(1)(B) of the Act. For a further discussion of this issue, *see Memorandum to the File: Analysis Memorandum for the Preliminary Determination for POSCO*, October 27, 1998. As noted in the "Transactions Reviewed" section of the notice, above, the Department's use of POSCO's date of invoice as the date of sale for the U.S. in accordance with 19 CFR 351.401(i) is dependent upon the results of our analysis.

Normal Value

After testing home market viability and whether home market sales were at below-cost prices, we calculated NV as noted in the "Price-to-Price Comparisons" and "Price-to-CV Comparison" sections of this notice.

Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Since POSCO's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable. Therefore, we have based NV on home market sales.

Cost of Production Analysis

Based on the cost allegation submitted by the petitioners in the petition, the Department found reasonable grounds to believe or suspect that POSCO had made sales in the home market at prices below the cost of producing the merchandise, in accordance with section 773(2)(A)(i) of the Act. As a result the Department initiated an investigation to determine whether POSCO made home market sales during the POI at prices below their respective COPs within the meaning of section 773(b) of the Act. *See Notice of Initiation.*

When the annual inflation rate in the country under investigation exceeds 25 percent, the Department considers that inflation to be significant and often uses a modified questionnaire. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Turkey*, 61 FR 30309, 30315 (June 14, 1996).

Although the inflation rate in Korea in December 1997, was 8.19 percent, the annual inflation rate during the POI did not exceed 25% (*see* International Monetary Fund's International Financial Statistics: Producer Prices (July 1998; March 1998; December 1997; July 1997)). Therefore, we preliminarily determine that it is not appropriate to send out the Department's modified cost questionnaire in this case.

We conducted the COP analysis described below.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of POSCO's cost of materials and fabrication for the foreign like product, plus amounts for home market SG&A, interest expenses, and packing costs. We used the information from POSCO's Section D supplemental questionnaire response to calculate COP.

B. Test of Home Market Prices

We compared the weighted-average COP for POSCO, adjusted where appropriate (see above), to home market sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home market sales made at prices less than the COP, we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to home market prices, less any applicable movement charges and direct and indirect selling expenses.

C. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in "substantial quantities", 773(b)(2)(c)(i), within an extended period of time in accordance with section 773(b)(2)(B) of the Act. In such cases because we compared prices to weighted-average COPs for the POI , we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product.

D. Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of respondent's cost of materials, fabrication, SG&A, interest expenses and profit. We calculated the COP included in the calculation of CV as noted above, in the "Calculation of COP" section of the notice. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.

Price-to-Price Comparisons

For those product comparisons for which there were sales at prices above the COP, we based NV on prices to home market customers. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act.

We calculated NV based on prices to unaffiliated home market customers. We made a deduction for inland freight. We made circumstance-of-sale adjustments or deductions for credit, warranty expense and interest revenue, where appropriate. In accordance with section 773(a)(6), we deducted home market packing costs and added U.S. packing costs.

Price-to-CV Comparisons

For price-to-CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act.

Currency Conversion

Our preliminary analysis of Federal Reserve dollar-won exchange rate data shows that the won declined rapidly at the end of 1997, losing over 40% of its value between the beginning of November and the end of December. The decline was, in both speed and magnitude, many times more severe than any change in the dollar-won exchange rate during the previous eight years. Had the won rebounded quickly enough to recover all or almost all of the initial loss, the Department might have been inclined to view the won's decline at the end of 1997 as nothing more than a sudden, but only momentary drop, despite the magnitude of that drop. As it was, however, there was no significant rebound. Therefore, we have preliminarily determined that the decline in the won at the end of 1997 was so precipitous and large that the dollar-won exchange rate cannot reasonably be viewed as having simply fluctuated during this time, i.e., as having experienced only a momentary drop in value. Therefore, in making this preliminary determination, the Department used daily rates exclusively for currency conversion purposes for HM sales matched to U.S. sales occurring between November 1 and December 31, 1997.

The Department makes this determination without the benefit of extensive case precedent dealing with this area of our currency conversion policy. The Department therefore welcomes comments from interested parties on all aspects of our analysis and the time period-specific exchange rates used. For the purposes of the final determination, the Department will also analyze the implications, if any, of the decline in the won during 1997 for price averaging and whether multiple averages are warranted. The Department is studying this issue in *Mushrooms from Indonesia. See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Preserved Mushrooms from Indonesia*, 63 FR 41783 (August 5, 1998).

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-average margin percentage
POSCO	2.77
All Others	2.77

ITC Notification

In accordance with section 733(f) of the Act, we are notifying the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than 50 days after the publication of the preliminary determination, and rebuttal briefs, limited to issues raised in case briefs, no later than 55 days after the publication of the preliminary determination. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held 57 days after the publication of the preliminary determination, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by January 10, 1999.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Act.

Dated: October 27, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–29547 Filed 11–3–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–791–805]

Notice of Preliminary Determination of Sales at Less Than Fair Value; Stainless Steel Plate in Coils From South Africa

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary determination of sales at less than fair value.

EFFECTIVE DATE: November 4, 1998.

FOR FURTHER INFORMATION CONTACT: Robert James at (202) 482–5222 or John Kugelman at (202) 482–0649, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (April 1, 1998).

Preliminary Determination

We preliminarily determine that stainless steel plate in coil (SSPC) from South Africa is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Case History

On April 20, 1998, the Department initiated antidumping duty investigations of imports of stainless steel plate in coils from Belgium, Canada, Italy, the Republic of South Africa (South Africa), South Korea, and Taiwan. *See Initiation of Antidumping Duty Investigations: Stainless Steel Plate in Coils From Belgium, Canada, Italy, Republic of South Africa, South Korea and Taiwan*, 63 FR 20580, (April 27, 1998). Since the initiation of this investigation the following events have occurred:

The Department set aside a period for all interested parties to raise issues regarding product coverage. On May 8, 1998, Armco Inc., J & L Specialty Steel, Inc., Lukens, Inc., North American Stainless, United Steelworkers of America, AFL–CIO/CLC, Butler Armco Independent Union, and Zanesville Armco Independent Organization, Inc. (petitioners) [1] filed comments aimed at clarifying the scope of these investigations.

During May 1998, the Department requested information from the U.S. Embassy in Pretoria to identify producers/exporters of the subject merchandise. On May 15, 1998, the Department also requested comments from petitioners, a potential respondent, Columbus Stainless (Columbus), and the Embassy of South Africa regarding the criteria to be used for model matching purposes. Petitioners submitted comments on our proposed model matching criteria on May 21, 1998.

Also on May 21, 1998, the United States International Trade Commission (the Commission) notified the Department of its affirmative preliminary injury determination in this case.

The Department subsequently issued its antidumping questionnaire to Columbus on May 27, 1998. The questionnaire is divided into five parts: we requested that Columbus respond to section A (general information, corporate structure, sales practices, and merchandise produced), section B (home market or third-country sales), and section C (U.S. sales). Columbus submitted its response to section A of the questionnaire on June 24, 1998; Columbus's responses to sections B and C followed on July 20, 1998.

Petitioners filed comments on Columbus's questionnaire responses in July and August 1998. We issued a supplemental questionnaire for Sections A, B, and C to Columbus on August 18, 1998, to which Columbus responded on September 8, 1998.

On July 29, 1998, petitioners made a timely request for a thirty-day postponement of the preliminary determination pursuant to section 733(c)(1)(A) of the Tariff Act. The Department determined that these concurrent investigations are extraordinarily complicated and that additional time would be required beyond the thirty days requested by petitioners for the Department to make its preliminary determinations. On August 14, 1998, we postponed the preliminary determination until no later than October 27, 1998. *See Stainless Steel Plate in Coils From Belgium, Canada, Italy, South Africa, South Korea and Taiwan; Notice of Postponement of Preliminary Determinations in Antidumping Duty Investigations*, 63 FR 44840 (August 21, 1998).

On August 7, 1998, petitioners timely filed an allegation that Columbus's sales of the foreign like product were at prices below its cost of production. After analyzing petitioner's allegation and soliciting additional clarification from petitioners, on August 24, 1998, we requested that Columbus respond to section D (cost of production (COP) and constructed value (CV)) of our original questionnaire. Columbus filed its response on September 30, 1998. We solicited additional information on Columbus's COP in a supplemental questionnaire issued October 6, 1998. Columbus timely filed its response on October 19, 1998.

The Department issued an additional supplemental sales questionnaire on October 15, 1998; Columbus's response to this questionnaire is due October 30, 1998.

Scope of the Investigation

For purposes of this investigation, the product covered is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (e.g., cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this petition are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this investigation is currently classifiable in the *Harmonized Tariff Schedule of the United States* (HTS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation (POI) is January 1, 1997 through December 31, 1997.

Fair Value Comparisons

To determine whether sales of SSPC from South Africa to the United States were made at less than fair value, we compared export price (EP) to the normal value (NV), as described in the "Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Tariff Act, we calculated weighted-average EPs for comparison to weighted-average NVs or CVs.

Transactions Investigated

For its home market and U.S. sales Columbus reported the date of invoice as the date of sale, in keeping with the Department's stated preference for using the invoice date as the date of sale. Columbus further stated that the invoice date represented the date when the essential terms of sales, i.e., price and quantity, are definitively set, and that up to the invoice date, these terms were subject to change. However, petitioners have alleged that the sales documentation provided by Columbus does not appear to support Columbus's claims that price and quantity may change at any time between the order acceptance date and the final invoice date. On August 18, 1998, the Department requested that Columbus provide additional information concerning the nature and frequency of price and quantity changes occurring between the date of order and date of invoice. Based on our analysis of the information submitted by Columbus, we found that we required additional information to determine if date of invoice is the appropriate date of sale. On October 15, 1998, the Department sent an additional questionnaire to Columbus, requesting that it report sales during the POI for which Columbus had issued an order acceptance, in addition to those sales invoiced during the POI. However, Columbus's response to this supplemental request for information is not due until October 30, 1998; therefore for the preliminary determination, the Department is using the invoice date as the date of sale for both home market and U.S. sales. We intend to revisit this issue upon receiving Columbus's supplemental response, and we will incorporate and verify the revised data, as appropriate, in our analysis for the final determination.

Product Comparisons

In accordance with section 771(16) of the Tariff Act, we considered all products produced by the respondent covered by the description in the "Scope of the Investigation" section, above, and sold in the home market during the POI, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics and reporting instructions listed in the Department's questionnaire.

Level of Trade

In accordance with section 773(a)(1)(B) of the Tariff Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative (SG&A) expenses and profit. For EP it is the level of the sale from the exporter to the importer. If the sales being compared are at different LOTs, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and the U.S. sales being compared, we make a LOT adjustment under section 773(a)(7)(A) of the Tariff Act.

To determine whether home market sales are at a different LOT than U.S. sales we apply a two-part test. First, we examine whether the home market sales are at different stages in the marketing process than the U.S. sales. The marketing process in both markets begins with goods being sold by the producer and extends to the sale to the final end user. The chain of distribution between the producer and the final user may have many or few links, and each respondent's sales occur at some point along this chain. For sales to the United States, the respondent's sales are generally to an importer, whether affiliated or unaffiliated. We review and compare the distribution chains in the home market and the United States, including the selling functions, classes of customers, and the level of selling expenses incurred at each claimed LOT. Unless sales being compared are at different stages in the marketing process, the Department will not find a difference in LOT even if selling functions are different.

Second, we examine the selling functions performed at the different LOTs. If the LOTs in the two markets are different, the selling functions performed in selling to each LOT should also be different. Therefore, unless we find that there are different selling functions and different stages in the marketing process for the sales to the U.S. and home markets, we will not determine that there are, in fact, separate LOTs. Different LOTs necessarily involve different selling functions; however, differences in selling functions, even substantial ones, are not alone sufficient to establish that different LOTs exist. Differences in LOTs are characterized by purchasers at different stages of marketing and by sellers performing qualitatively different functions in selling to these purchasers.

If we compare U.S. sales to home market sales made at a different LOT, we will make an adjustment to NV if the difference in LOTs affects price comparability. In turn, we determine any effect on price comparability by examining sales at different LOTs in the comparison market. Any effect on price comparability must be manifested by a pattern of consistent price differences between the home market sales used for comparison and the sales at the LOT of the export transaction. *See, e.g.,*

[1] On August 26, 1998, petitioners amended the antidumping duty petitions to include Allegheny Ludlum Corporation as an additional petitioner.

Polytetraflourethylene Resin From Italy; Preliminary Results of Antidumping Duty Administrative Review, 62 FR 26285 (May 13, 1997). To quantify the price differences, we calculate the difference in the average of the net prices of the same merchandise sold at different LOTs. We use the average percentage difference between these net prices to adjust NV when the LOT of the NV sale is different from that of the export sale. If there is no pattern of price differences, then no LOT adjustment is necessary. Finally, for CEP sales, if the NV LOT is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Tariff Act (the CEP offset provision). *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

In this case Columbus stated that its selling activities differ very little between home market and export sales, noting that it does not "maintain a distribution network of our own, nor do we maintain an inventory in any market * * *. The only difference between our home market sales and our exports is the physical delivery distance, and the fact that we use agents to solicit and administer our customers' orders in our export markets." Columbus's June 24, 1998 Section A response at 12 and 13. In order to confirm independently the absence of separate LOTs within or between the U.S. and home markets, we examined Columbus's questionnaire responses for indications that Columbus's sales functions differed qualitatively or quantitatively among customer categories. Where possible, we further examined whether each selling function was performed for a substantial portion of sales.

In the home market Columbus sold to distributors and end users, and claims a single LOT existed. Based upon our examination of information supplied by Columbus in its original and supplemental questionnaire responses, we agree that only one LOT existed for Columbus in the home market. Columbus provided no strategic or economic planning services, market research, business development services, personnel training, procurement, or inventory maintenance services for either end-user or distributor customers. Both categories of customers received similar degrees of packing, after-sales services, and freight and delivery arrangements. Finally, Columbus provided a limited degree of advertising directed at its customers' customers, primarily in the form of advertising in industry journals.

For its U.S. sales Columbus reported sales through its agents to two customer categories, i.e., distributors and end-users. To determine whether, in fact, a single stage of marketing existed, we examined the selling functions as reflected in the starting price to the unaffiliated U.S. customer. Columbus provided delivery services to the U.S. port designated by the customer for all of its U.S. sales. Columbus also provided technical assistance, as needed. For certain sales of grade 3Cr12 stainless steel, Columbus provided a higher degree of these technical services due to the specialized applications to which 3Cr12 stainless steel is aimed. We find preliminarily that Columbus provided the same level of selling functions, with the sole exception being the additional technical services offered for sales of 3Cr12 steel. This single exception, however, is not sufficient to warrant a finding that Columbus sells at two distinct LOTs in the United States. Accordingly, we preliminarily agree with Columbus that its EP sales constitute a single LOT.

When comparing Columbus's sales at its EP LOT to its home market LOT, we found that Columbus provided little or no strategic or economic planning, market research, engineering services, or post-sale warehousing at either the EP or home market LOT. Columbus provided limited advertising services in the home market while providing none at the EP level. All packing expenses at either LOT were borne by Columbus, and freight arrangements were similar (in the activities performed) in both markets. Columbus provided similar degrees of after-sales and technical support at both the EP and home market LOT, with the exception noted above for sales of 3Cr12 steel. Our analysis of the selling functions performed by Columbus in both markets leads us to conclude that sales within or between the markets were made at the same LOT. We have not, therefore, made a LOT adjustment because all price comparisons are at the same LOT and an adjustment pursuant to section 773(a)(7)(A) of the Tariff Act is not appropriate.

Export Price

We calculated the price of United States sales based on EP, in accordance with section 772(a) of the Tariff Act, because the subject merchandise was sold to the first unaffiliated purchasers in the United States prior to the date of importation and because record evidence did not support basing price on CEP. We calculated EP based upon packed prices to unaffiliated customers in the United States. Where appropriate, we made deductions from the starting price for foreign inland freight, ocean freight, foreign handling, marine insurance, foreign warehousing expenses, and U.S. customs duties. We also made adjustments for credit and, where appropriate, credit insurance costs.

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (i.e., the aggregate volume of home market sales of the foreign like product was equal to or greater than five percent of the aggregate volume of U.S. sales) we compared the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Tariff Act. As Columbus's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable. Therefore, we have based NV on home market sales in the usual commercial quantities and in the ordinary course of trade.

Cost of Production Analysis

A timely allegation filed by petitioners provided the Department with reasonable grounds to believe or suspect that Columbus's sales of the foreign like product were made at prices which represent less than the cost of production. See section 773(b)(2)(A) of the Tariff Act. Accordingly, on August 24, 1998, the Department initiated a COP investigation to determine whether Columbus's sales in South Africa were made at prices less than the COP. In accordance with section 773(b)(3) of the Tariff Act, we calculated COP based on the sum of Columbus's cost of materials and fabrication for the foreign like product, plus an amount for G&A, interest expenses, and packing costs.

We used the information from Columbus's section D supplemental questionnaire response to calculate COP. However, while the Department's questionnaire instructed Columbus to submit a single COP for each product sold (i.e., each CONNUM), weighted by quantity produced during the POI, Columbus instead provided simple average COPs based on quarterly costs. In addition, Columbus reported multiple COPs (i.e., different amounts) for the same CONNUM. To conduct our cost test for this preliminary determination we have calculated a single average COP for each CONNUM, weighted by sales quantity, as this is the only information currently available on the record. We have requested additional data from Columbus, including COPs weighted by production quantity, and will analyze these new data for our final determination.

We compared the weighted-average COP for Columbus to home market sales prices of the foreign like product, as required under section 773(b) of the Tariff Act. In determining whether to disregard home market sales made at prices less than the COP, we examined whether such sales were made (i) in substantial quantities over an extended period of time, and (ii) at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared COP to home market prices, less any applicable movement charges, early payment and other discounts, and direct and indirect selling expenses.

Pursuant to section 773(b)(2)(C)(i) of the Tariff Act, where less than twenty percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where twenty percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in substantial quantities, in accordance with section 773(b)(2)(C)(i) of the Tariff Act. In addition, we determined that such below-cost sales were made within an extended period of time, in accordance with section 773(b)(2)(B) of the Tariff Act. In such cases, pursuant to section 773(b)(2)(D) of the Tariff Act, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time. Therefore, we disregarded the below-cost sales. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product.

Our cost test for Columbus revealed that less than twenty percent of Columbus's home market sales of certain products were at prices below Columbus's COP. We retained all such sales in our analysis. For other products, more than twenty percent of Columbus's sales were at below-cost prices. In such cases we disregarded the below-cost sales, while retaining the above-cost sales for our analysis. See Preliminary Determination Analysis Memorandum, October 27, 1998, a public version of which is on file in room B–099 of the main Commerce building.

Constructed Value

In accordance with section 773(e)(1) of the Tariff Act, we calculated CV based on the sum of respondent's cost of materials, fabrication, SG&A, interest expenses, and profit. In accordance with section 773(e)(2)(A) of the Tariff Act, we based SG&A and profit on the amounts incurred and realized by Columbus in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. We used the CV data Columbus supplied in its section D supplemental questionnaire response. However, while the Department's questionnaire instructed Columbus to submit a single CV for each product sold (i.e., each CONNUM), weighted by quantity produced during the POI, Columbus provided simple average COPs based on quarterly costs. In addition, Columbus reported multiple CVs (i.e., different amounts) for the same CONNUM. To calculate CV for this preliminary determination we have calculated a single average CV for each CONNUM, weighted by sales quantity, as this is the only information currently available on the record. We have requested additional data from Columbus, including CVs weighted by production quantity, and will analyze these data for our final determination.

Price-to-Price Comparisons

For those sales at prices which were at or above the COP, we based NV on Columbus's sales to unaffiliated home market customers. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Tariff Act.

Columbus's home market prices were reported net of certain volume discounts. We made additional deductions for early payment discounts, inland freight, and inland insurance and packing. Furthermore, we made circumstance-of-sale (COS) adjustments in accordance with section 773(a)(6) of the Tariff Act. We deducted credit expenses and mandatory assessments of the South African Stainless Steel Development Association. Finally, we increased NV by adding U.S. direct selling expenses and packing costs incurred in the home market for U.S. sales, in accordance with section 773(a)(6)(A) of the Tariff Act.

Price-to-CV Comparisons

In accordance with section 773(a)(4) of the Tariff Act, we based NV on CV if we were unable to find a home market match of such or similar merchandise. We calculated CV based on the costs of materials and fabrication employed in producing the subject merchandise, SG&A, and profit. In accordance with section 773(a)(2)(A) of the Tariff Act, we based SG&A expense and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in South Africa. For selling expenses, we used the weighted-average home market selling expenses. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Tariff Act. For comparisons to EP, we made COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses.

Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank, in accordance with section 773A(a) of the Tariff Act.

Verification

As provided in section 782(i) of the Tariff Act, we will verify all information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Tariff Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-average margin
Columbus Stainless	31.79
All Others	31.79

Commission Notification

In accordance with section 733(f) of the Tariff Act, we have notified the Commission of our determination. If our final determination is affirmative, the Commission will determine before the

later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of stainless steel plate in coils are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than fifty days after the date of publication of this notice, and rebuttal briefs, limited to issues raised in case briefs, no later than fifty-five days after the date of publication of this preliminary determination. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Tariff Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, any hearing will be held fifty-seven days after publication of this notice at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief, and may make rebuttal presentations only on arguments included in that party's rebuttal brief. See 19 CFR 351.310(c). We intend to issue our final determination in this investigation no later than January 10, 1999.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Tariff Act.

Dated: October 27, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–29550 Filed 11–3–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Scope Rulings

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of scope rulings and anticircumvention inquiries.

SUMMARY: The Department of Commerce hereby publishes a list of scope rulings and anticircumvention inquiries completed by Import Administration between July 1, 1998 and September 30, 1998. In conjunction with this list, the Department of Commerce is also publishing a list of pending requests for scope clarifications and anticircumvention inquiries. We intend to publish future lists within 30 days of the end of each quarter.

EFFECTIVE DATE: November 4, 1998.

FOR FURTHER INFORMATION CONTACT: Ronald M. Trentham, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–4793.

Background

The regulations of the Department of Commerce (the Department) (19 CFR 351.22(o)) provide that on a quarterly basis the Secretary will publish in the **Federal Register** a list of scope rulings completed within the last three months.

This notice lists scope rulings and anticircumvention inquiries completed by Import Administration, between July 1, 1998, and September 30, 1998, and pending scope clarification and anticircumvention inquiry requests. The Department intends to publish in January 1999 a notice of scope rulings and anticircumvention inquiries completed between October 1, 1998, and December 31, 1998, as well as pending scope clarification and anticircumvention inquiry requests.

The following lists provide the country, case reference number, requester(s), a brief description of either the ruling or product subject to the request, and the date of rulings made.

I. Scope Rulings Completed Between *July 1, 1998 and September 30, 1998:*

Country: Italy

C–475–819 *Certain Pasta*

A–475–818 Joseph A. Sidari Company, Inc.—a shrink wrapped package containing six one-pound packages, each of which would first be individually packaged in a cellophane wrapper (cello) with "Not Labeled for Retail Sale" written across the entire length of each of the individual packages on both sides, is within the scope of the antidumping and countervailing duty orders. 7/30/98

Country: People's Republic of China

A–570–504 *Petroleum Wax Candles*—Et Al Imports—Paraffin Wax Bamboo Candles are outside the scope of the order. 7/2/98.

Kohl's Department Stores—star-shaped, tree-shaped, and snowflake-shaped wax-filled containers are within the scope of the order. Also, two gold candles with rope designs, one ivory candle with gold flower and vine designs, and one ivory candle with gold cherubs and rope designs are within the scope of the order and one white wax-filled container with carolers and a Christmas scene is outside the scope of the order. 8/24/98.

Leader Light Ltd.—3"×3" square, 3"×6" square, and 3"×6" round candles are within the scope of the order. 8/31/98

A–570–808 *Chrome-Plated Lug Nuts*—Wheel Plus, Inc.—imported zinc-plated lug nuts which are chrome-plated in the United States are within the scope of the order. 9/22/98

Country: Japan

A–588–804 *Antifriction Bearings (Other Than Tapered Roller Bearings), and Parts Thereof*—Koyo Seiko Co., Ltd.—a cylindrical roller bearing for use as an axle bearing in cars and trucks is within the scope of the order. 8/10/98

A–588–837 *Large Newspaper Printing Presses*—Nireco Corporation—Calagraph Systems that are not imported and sold pursuant to a contract for a LNPP system, addition, or component, but rather imported and sold only as an upgrade or add-on to a pre-existing installed and operating LNPP are outside the scope of the order. 8/4/98

Komori American Corporation—the System 20 is outside the scope of the order. 8/4/98

II. Anticircumvention Rulings Completed Between July 1, 1998 and September 30, 1998

None.

III. Scope Inquiries Terminated Between July 1, 1998 and September 30, 1998

Country: Canada

A–122–506 *Oil Country Tubular Goods (OCTG)*—Regency Resources Corporation—Clarification to determine whether used OCTG is within the scope of the order. Scope inquiry was terminated on 9/21/98.

IV. Anticircumvention Inquiries Terminated Between July 1, 1998 and September 30, 1998

None.

V. Pending Scope Clarification Requests as of September 30, 1998

Country: Mexico

A–201–805 *Circular Welded Non-Alloy Steel Pipe*—Cierra Pipe, Inc.,—Clarification to determine whether line pipe "shorts," or "old line pipe" which has rusted and pitted after sitting in storage, constitute line pipe of a kind used for oil and gas pipelines or is pipe and tube covered by the order.

Country: Sweden

A–401–040 *Stainless Steel Plate*—Avesta Sheffield AB and Avesta Sheffield NAD, Inc.—Clarification to determine whether stainless steel slabs that are manufactured in Great Britain and rolled into hot bands in Sweden are within the scope of the order.

Country: Germany

A–428–801 *Antifriction Bearings (Other Than Tapered Roller Bearings), and Parts Thereof*—FAG Aerospace & Superprecision Bearings GmbH—Clarification to determine whether certain aerospace bearings which have entered the United States but have been returned to Germany for repair or refurbishing, and which then reenter the United States, are within the scope of the order.

A–428–816 *Cut-to-Length Carbon Steel Plate*

C–428–817 Novosteel SA—Clarification to determine whether certain profile slab produced by Reiner Brach GmbH and Co. KG is within the scope of the orders.

Country: India

A–533–806 *Sodium Sulfanilate*

C–533–806 3V Inc.—Clarification to determine whether sodium sulfanilate produced by 3V's affiliate, 3V Sigma S.p.A., in Italy from sulfanilic acid imported from India is within the scope of the order.

Country: People's Republic of China

A–570–504 *Petroleum Wax Candles*—Ocean State Jobbers—Clarification to determine whether taper candles consisting of a blend of petroleum wax and beeswax are within the scope of the order.

Et Al Imports—Clarification to determine whether candles consisting of an 80/20 beeswax/petroleum wax blend are within the scope of the order.

Target Stores—Clarification to determine whether "cache box" candles containing citronella oil are within the scope of the order.

Meijer Incorporated—Clarification to determine whether a wax-filled container in the shape of a rabbit is within the scope of the order.

Country: Japan

A–588–804 *Antifriction Bearings (Other Than Tapered Roller Bearings), and Parts Thereof*—Nissei Sangyo America, Ltd.—Clarification to determine whether "vacuum nozzle assemblies" are within the scope of the orders.

A–588–813 *Light-Scattering Instruments and Parts Thereof*—Thermo Capillary Electrophoresis, Inc.—Clarification to determine whether diode array detectors and cell flow units are within the scope of the order.

VI. Pending Anticircumvention Inquiries as of September 30, 1998

Country: Canada

A–122–823 *Cut-to-Length Carbon Steel Plate*—Kentucky Electric Steel Company (Petitioner)—Anticircumvention inquiry to determine whether Co-Steel Lasco and Gerdau MRM are circumventing the order by adding small amounts of boron to carbon steel plate products covered by the order.

Country: Mexico

A–201–805 *Certain Welded Non-Alloy Steel Pipe*—Allied Tube & Conduit Corp., Sawhill Tubular Division of Tex-Tube Co., Century Tube Corp., Laclede Steel Co., LTV Tubular Products Co., Sharon Tube Co., Western Tube & Conduit Co., Wheatland Tube Co., and CSI Tubular Products, Inc. (Petitioners)—Anticircumvention inquiry to determine whether imports of (i) pipe certified to the American Petroleum Institute (API) 5L line pipe specifications (API 5L or line pipe) and (ii) pipe certified to both the API 5L line pipe specifications and the less stringent American Society for Testing and Materials (ASTM) A–53 standard pipe specifications (dual certified pipe), falling within the physical dimensions outlined in the scope of the order, are circumventing the antidumping duty order.

Country: United Kingdom

A–412–810 *Lead and Bismuth Carbon Steel Products*

C–412–811 Inland Steel Bar Company and USS/Kobe Steel Company (Petitioners)—Anticircumvention inquiry to determine whether British Steel PLC is circumventing the order by shipping leaded steel billets to the United States, where they are converted into the hot-rolled carbon steel products covered by the order.

Country: Germany

A–428–811 *Lead and Bismuth Carbon Steel Products*

C–429–812 Inland Steel Bar Company and USS/Kobe Steel Company (Petitioners)—Anticircumvention inquiry to determine whether Saarstahl A.G. and Thyssen Stahl A.G. are circumventing the order by shipping leaded steel billets to the United States, where they are converted into the hot-rolled carbon steel products covered by the order.

Country: Italy

A–475–818 *Certain Pasta*—Borden, Inc., Hershey Foods Corp., Gooch Foods, Inc. (Petitioners)—Anticircumvention inquiry to determine whether Barilla S.r.L. is importing pasta in the United States in bulk (defined as packages of greater than five pounds) and repackaging the pasta into packages of five pounds or less for sale in the retail market; and whether such repackaging constitutes circumvention of the antidumping duty order.

Interested parties are invited to comment on the accuracy of the list of pending scope clarification requests. Any comments should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Dated: October 30, 1998.

Holly A. Kuga,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 98–29548 Filed 11–3–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.102898A]

Caribbean Fishery Management Council; Public Hearings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearings.

SUMMARY: The Caribbean Fishery Management Council (Council) will hold public hearings on its Draft Comprehensive Amendment Addressing Sustainable Fisheries Act Requirements, Including Overfishing Definitions (draft Comprehensive SFA Amendment).

DATES: The public hearings will be held on November 6 and November 10, 1998, from 7:00 p.m. to 10 p.m. Written comments on the draft Comprehensive SFA Amendment will be accepted through November 11, 1998.

ADDRESSES: The hearings will be held in the U.S. Virgin Islands and in Puerto Rico. For specific hearing locations and times, see SUPPLEMENTARY INFORMATION. Copies of the Council's draft Comprehensive SFA Amendment can be obtained by calling the Council at (787) 766–5926; copies will be available at the hearings. Written comments on the draft Comprehensive SFA Amendment should be sent to the Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–2577; telephone: 787–766–5926; fax: 787–766–6239.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–2577; telephone: 787–766–5926; fax: 787–766–6239.

SUPPLEMENTARY INFORMATION: The Sustainable Fisheries Act of 1996 (SFA) amended the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to require certain changes in the contents of the fishery management plans (FMPs) prepared by regional fishery management councils. Under the procedures of the Magnuson-Stevens Act, the Council has prepared FMPs for reef fish, spiny lobster, coral, and queen conch; these FMPs have been approved by NMFS and implemented through final regulations. The Council's draft Comprehensive SFA Amendment amends its FMPs to comply with aforementioned new requirements regarding FMP contents established in 1996.

The draft Comprehensive SFA Amendment contains new discussions on the status of the fisheries managed under the FMPs, on bycatch, and on recreational fishing. It also contains overfishing definitions and stock rebuilding plans for overfished species. Specifically, it includes the following overfishing definition for the red hind (*Epinephelus guttatus*):

A red hind stock is overfished when it is below the level of 45 percent of the spawning stock biomass per recruit that would occur in the absence of fishing. When a red hind stock is overfished, overfishing is defined as harvesting at a rate that is not consistent with a program that has been established to rebuild the stock to the 45 percent spawning stock biomass per recruit level. When a red hind stock is not overfished, overfishing is defined as a harvesting rate that, if continued, would lead to a state of the stock or stock complex that would not at least allow a harvest of OY (optimum yield) on a continuing basis.

This definition may be expanded to include the grouper complex. There is no new information available to the Council regarding the status of other Caribbean fishery stocks. Because the Comprehensive SFA Amendment contains no management measures, no implementing regulations will be required.

The Council hearings will be held at the following locations and times:

Friday, November 6, 1998, from 7–10 p.m., at the Conference Room of the Best Western Pierre Hotel, De Diego Avenue, Santurce, Puerto Rico; and

Tuesday, November 10, 1998, from 7–10 p.m., at the Conference Room of the Caravelle Hotel, located at 44A Queen Cross St., Christiansted, St. Croix, U.S. Virgin Islands.

Fishers and other interested persons are invited to attend these hearings and participate through oral and/or written statements regarding issues concerning the Comprehensive SFA Amendment.

Special Accommodations

These hearings are open to the public and will be conducted in English. The hearings are physically accessible to people with disabilities. For more information or requests for sign language interpretation or other auxiliary aids, please contact Mr. Miguel A. Rolon at the Council at least 5 days prior to the meeting dates (see FOR FURTHER INFORMATION CONTACT).

Dated: October 29, 1998.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–29522 Filed 10–30–98; 3:15 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Advisory Committee on Public Interest Obligations of Digital Television Broadcasters; Notice of Location of November Meeting

ACTION: Notice of location for the November 9 meeting.

Reference: This notice updates the notice of postponement published in the **Federal Register** on October 22, 1998. Citation: 63 FR 56628.

SUMMARY: The President established the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters (PIAC) to advise the Vice President on the public interest obligations of digital broadcasters. The Committee will study and recommend which public interest obligations should accompany broadcasters' receipt of digital television licenses. The President designated the National Telecommunications and Information Administration as secretariat for the Committee.

Authority: Executive Order 13038, signed by President Clinton on March 11, 1997.

DATES: The meeting will be held on Monday, November 9 from 8:30 a.m. to 5:30 p.m.

ADDRESSES: The meeting is scheduled to take place at the Ronald Reagan International Trade Center, in the Polaris Room, at 1300 Pennsylvania Avenue, NW, Washington, DC 20230. The nearest Metro stops are Federal Triangle and Metro Center.

FOR FURTHER INFORMATION CONTACT: Karen Edwards, Designated Federal Officer and Telecommunications Policy Specialist, at the National Telecommunications and Information Administration, U.S. Department of Commerce, Room 4720, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Telephone: 202–482–8056; Fax: 202–482–8058; E-mail: piac@ntia.doc.gov.

Media Inquiries: Please contact Sallianne Fortunato of NTIA's Office of Public Affairs at 202–482–7002.

Agenda

Opening remarks
Committee deliberations
Public comment
Closing remarks

This agenda is subject to change. For an updated, more detailed agenda, please check the Advisory Committee homepage at www.ntia.doc.gov/pubintadvcom/pubint.htm.

Public Participation

The meeting will be open to the public, with limited seating available on a first-come, first-served basis. This meeting is physically accessible to people with disabilities. Any member of the public requiring special services, such as sign language interpretation or other ancillary aids, should contact Karen Edwards immediately at 202–482–8056 or at piac@ntia.doc.gov.

Members of the public may submit written comments concerning the Committee's affairs at any time before or after the meeting. The Secretariat's guidelines for public comment are described below and are available on the Advisory Committee homepage (www.ntia.doc.gov/pubintadvcom/pubint.htm) or by calling 202–482–8056.

Guidelines for Public Comment

The Advisory Committee on Public Interest Obligations of Digital Television Broadcasters welcomes public comments.

Oral Comment: In general, opportunities for oral comment will usually be limited to no more than five (5) minutes per speaker and no more than thirty (30) minutes total at each meeting.

Written Comment: Written comments must be submitted to the Advisory Committee Secretariat at the address listed below. Comments can be submitted either by letter addressed to the Committee (please place "Public Comment" on the bottom left of the envelope and submit at least thirty-five (35) copies) or by electronic mail to piac@ntia.doc.gov (please use "Public Comment" as the subject line). Written comments received within three (3) workings days of a meeting and comments received shortly after a meeting will be compiled and sent as briefing material to Committee members prior to the next scheduled meeting.

Obtaining Meeting Minutes

Within thirty (30) days following the meeting, copies of the minutes of the meeting may be obtained over the Internet at www.ntia.doc.gov/pubintadvcom/pubint.htm, by phone request at 202–482–8056, by email request at piac@ntia.doc.gov or by written request to Karen Edwards; Advisory Committee on Public Interest Obligations of Digital Television Broadcasters; National Telecommunications and Information Administration; U.S. Department of Commerce, Room 4720; 14th Street and Constitution Avenue NW, Washington, DC 20230.

Larry Irving,

Assistant Secretary for Communications and Information.

[FR Doc. 98–29628 Filed 11–2–98; 12:26 pm]

BILLING CODE 3510–60–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Performance Review Board; Membership

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the National Telecommunications and Information Administration Senior Executive Service (SES) Performance Appraisal System:

William T. Hatch
Ronald P. Hack
Bernadette McGuire-Rivera
Dennis R. Connors
Neal B. Seitz
William F. Utalaut

Vicki G. Brooks,

Executive Secretary, National Telecommunications and Information Administration, Performance Review Board.

[FR Doc. 98–29558 Filed 11–3–98; 8:45 am]

BILLING CODE 3510–BS–M

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the Commission of Fine Arts is scheduled for 19 November 1998 at 10:00 AM in the Commission's offices at the National Building Museum (Pension Building), Suite 312, Judiciary Square, 441 F Street, NW., Washington, DC 20001. The meeting will focus on a variety of projects affecting the appearance of the city.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated in Washington, DC, 26 October 1998.

Charles H. Atherton,

Secretary.

[FR Doc. 98–29461 Filed 11–3–98; 8:45 am]

BILLING CODE 6330–01–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Laos

October 29, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: November 5, 1998.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 340/640 is being increased for carryover and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 63 FR 5786, published on February 4, 1998.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 29, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 29, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Laos and exported during the twelve-month period which began on January 1, 1998 and extends through December 31, 1998.

Effective on November 5, 1998, you are directed to increase the current limit for

Categories 340/640 to 175,358 dozen [1], as provided for under the terms of the current bilateral textile agreement between the Governments of the United States and the Lao People's Democratic Republic.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–29489 Filed 11–3–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on Bilateral Textile Consultations with the Government of Cambodia

October 30, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on categories for which consultations have been requested, call (202) 482–3740.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

On October 28, 1998, under Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Government of the United States requested consultations with the Government of Cambodia with respect to cotton knit shirts and blouses in Categories 338/339 and cotton sweaters in Category 345, produced or manufactured in Cambodia.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with the Government of Cambodia, the Government of the United States may later establish limits for the entry and withdrawal from warehouse for consumption of textile products in Categories 338/339 and 345, produced or manufactured in Cambodia and exported during the twelve-month period which began on October 28, 1998 and extends through October 27, 1999, at a level of not less than 1,745,634 dozen for Categories 338/339 and at a level of not less than 53,001 dozen for Category 345.

Statements of serious damage, actual threat of serious damage or the exacerbation of serious damage concerning Categories 338/339 and 345 follow this notice.

In a notice and letter to the Commissioner of Customs published on October 28, 1998 (63 FR 57666), CITA extended the restraint limit on cotton and man-made fiber gloves and mittens in Categories 331/631 for the period October 29, 1998 through October 28, 1999.

Anyone wishing to comment or provide data or information regarding Categories 331/631, 338/339 and 345 or to comment on domestic production or availability of products included in these categories is invited to submit 10 copies of such comments or information to Troy H. Cribb, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande. The comments received will be considered in the context of the consultations with the Government of Cambodia.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular commentary or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the implementation of an agreement is not a waiver in any respect of the exemption contained in 5 U.S.C.553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in consultations with the Government of Cambodia, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997).

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Summary of the Statement in Support of Request for Consultations Under Section 204 of the Agricultural Act of 1956

Men's & Boys' and Women's & Girls' Cotton Knit Shirts and Blouses—Category 338/339

October 1998

Import Situation and Conclusion

U.S. imports of men's and boys' and women's and girls' cotton knit shirts and blouses, Category 338/339, from Cambodia surged to 1,745,634 dozen during the year ending July 1998, nearly 12 times the 151,226 dozen imported during the year ending July 1997 and more than 600 times the 2,568 dozen imported in calendar year 1996. Imports from Cambodia were 1.2 percent of total U.S. imports of Category 338/339 in the year ending July 1998, and were equivalent to 1.7 percent of U.S. production of Category 338/339 in 1997.

U.S. imports of men's and boys' and women's and girls' cotton knit shirts and blouses, Category 338/339, from Cambodia entered the U.S. at an average landed duty-paid value of $47.28 per dozen during the first seven months of 1998, 10 percent below the average landed duty-paid value for all men's and boys' and women's and girls' cotton knit shirt and blouse imports into the U.S., and 43 percent below the average U.S. producers' price for men's and boys' and women's and girls' cotton knit shirts and blouses.

The sharp and substantial increase of low-valued Category 338/339 imports from Cambodia threatens to cause disruption to the U.S. men's and boys' and women's and girls' cotton knit shirt and blouse market and to the orderly flow of trade in these products. In several instances, Cambodia's import level for the year ending July 1998 exceeds the trade levels of WTO countries that have quota agreements with the United States.

U.S. Production, Import Penetration, and Market Share

U.S. production of men's and boys' and women's and girls' cotton knit shirts and blouses, Category 338/339, declined in 1997 falling to 104,876,000 dozen, 4 percent below the 1996 production level. Imports of Category 338/339 increased from 97,278,858 dozen in 1996 to 119,559,213 dozen in 1997, a 23 percent increase. Imports continued to increase reaching 141,574,072 dozen in the year ending July 1998, 28 percent above the same period a year earlier.

The ratio of imports to domestic production increased from 89 percent in 1996 to 114 percent in 1997. The domestic manufacturers' share of the U.S. market for men's and boys' and women's and girls' cotton knit shirts and blouses dropped 10 percentage points, falling to 36 percent in 1997.

Summary of the Statement in Support of Request for Consultations Under Section 204 of the Agricultural Act of 1956

Cotton Sweaters—Category 345

October 1998

Import Situation and Conclusion

U.S. imports of cotton sweaters, Category 345, from Cambodia surged to 53,001 dozen during the year ending July 1998, over 200 times the 249 dozen imported during the year ending July 1997. There were no imports from Cambodia in 1996. Imports from Cambodia were 1.6 percent of total U.S. imports of Category 345 in the year ending July 1998, and were equivalent to 2.3 percent of U.S. production of Category 345 in 1997.

U.S. imports of cotton sweaters, Category 345, from Cambodia entered the U.S. at an average landed duty-paid value of $57.26 per dozen during the first seven months of 1998, 62 percent below the average landed duty-paid value for all cotton sweater imports into the U.S., and 68 percent below the average U.S. producers' price for cotton sweaters.

The sharp and substantial increase of low-valued Category 345 imports from Cambodia threatens to cause disruption to the U.S. cotton sweater market and to the orderly flow of trade in these products.

U.S. Production, Import Penetration, and Market Share

U.S. production of cotton sweaters, Category 345, declined in 1997 falling to 2,290,000 dozen, 18 percent below the 1996 production level. Imports of Category 345 increased from 2,368,553 dozen in 1996 to 2,862,748 dozen in 1997, a 21 percent increase. Imports continued to increase reaching 3,322,066 dozen in the year ending July 1998, 30 percent above the same period a year earlier.

The ratio of imports to domestic production increased from 85 percent in 1996 to 125 percent in 1997. The domestic manufacturers' share of the U.S. market for cotton sweaters dropped 10 percentage points, falling to 41 percent in 1997.

[FR Doc. 98–29635 Filed 11–3–98; 8:45 am]

BILLING CODE 3510–DR–F

[1] The limit has not been adjusted to account for any imports exported after December 31, 1997.

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity futures Trading Commission.

TIME AND DATE: 10:00 a.m., Thursday, November 19, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–29651 Filed 11–2–98; 2:39 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:30 a.m., Thursday, November 19, 1998.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Objectives.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–29652 Filed 11–2–98; 2:39 pm]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0028]

Submission for OMB Review; Comment Request Entitled Termination Requirements

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Termination Requirements. A request for public comments was published at 63 FR 46003, August 28, 1998. No comments were received.

DATES: Comments may be submitted on or before December 4, 1998.

ADDRESSES: Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Federal Acquisition Policy Division, GSA, (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

Contracting officers terminate contracts, for default or convenience, only when it is in the best interest of the Government to do so. After receipt of the notice of termination, contractors are required to terminate subcontracts, advise the contracting officer of any special circumstances, submit any requests for an equitable adjustment, submit a settlement proposal, and take other action as directed. Records regarding the terminated contract must be maintained for 3 years.

The information submitted or retained in connection with contract termination is used to reach an equitable settlement with firms and to protect the interests of the Government and the terminated contractor.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *3* hours per termination, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The annual reporting burden is estimated as follows: Respondents, *2,920;* responses per respondent, *1;* total annual responses, *2,920;* preparation hours per response, *3;* and total response burden hours, *8,760;* and total recordkeeping hours, *2,920.*

Obtaining Copies of Proposals

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0028, Termination Requirements, in all correspondence.

Dated: October 30, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 98–29509 Filed 11–3–98; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

Department of the Army

Environmental Assessment (EA) for BRAC 95 Disposal and Reuse of Property at the Red River Army Depot, Texarkana, TX

AGENCY: Department of the Army, DOD.

ACTION: Notice of Availability.

SUMMARY: The Department of the Army announces today the availability of the EA and Finding of No Significant Impact (FNSI) for the disposal and use of BRAC property at the Red River Army Depot (RRAD), Texarkana, Texas, in accordance with the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. The 1994 Defense Base Closure and Realignment Commission (BRAC) recommended the realignment of RRAD. The proposed action in the disposal of property made available by the realignment of specified missions at RRAD.

DATES: Inquiries will be accepted until November 19, 1998.

ADDRESSES: A copy of the EA or inquiries into the FNSI may be obtained by writing to Mr. Joe Hand, U.S. Army Corps of Engineers, Mobile District, (ATTN: CESA–PD–EC), P.O. Box 2288, Mobile, Alabama 36628–0001.

FOR FURTHER INFORMATION CONTACT: Mr. Joe Hand via facsimile at (334) 690–2721.

SUPPLEMENTARY INFORMATION: The EA evaluates the environmental and socioeconomic effects associated with the disposal and subsequent reuse of the RRAD property. The Army proposes to dispose of approximately 765 acres of the 19,081-acre installation, which was identified through the BRAC process as surplus. Three alternative methods of disposal were analyzed: encumbered disposal, unencumbered disposal and retention of the property in caretaker status (i.e., no action alternative). The Army's preferred alternative for disposal of the RRAD BRAC property is encumbered disposal which involves conveying the property with conditions imposed on easements and rights-of-way, asbestos-containing material, groundwater-use prohibition, lead-based paint, and remedial activities, utility dependencies and wetlands.

The EA, which is incorporated into the FNSI, examines potential effects of the proposed action and alternatives on 16 resource areas and areas of environmental concern: land use, climate, air quality, noise, geology, water resources, infrastructure, training areas, hazardous and toxic substances, permits and regulatory authorizations, biological resources and ecosystems, cultural resources, economic development, sociological environment, quality of life, and installation agreements.

The EA concludes that the disposal and subsequent reuse of the property will not have a significant impact on the human environment. Issuance of a FNSI would be appropriate. An Environment Impact Statement is not required prior to implementation of the proposed actions.

Dated: October 29, 1998.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health) OASA (I,L&E).

[FR Doc. 98–29502 Filed 11–3–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Financial and Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 4, 1998.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address *Werfel__d@al.eop.gov*. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address *Pat__Sherrill@ed.gov*, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Financial and Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: October 29, 1998.

Kent H. Hannaman,

Leader, Information Management Group, Office of the Chief Financial and Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Reinstatement.

Title: Equity Assistance Centers (formerly called Desegregation Assistance Centers) Under Civil Rights Technical Assistance and Training.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 20.

Burden Hours: 650.

Abstract: The Equity Assistance Centers provide technical assistance and services in the areas of race and national origin desegregation and gender equity in a geographical region.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, this 30-day public comment period notice will be the only public comment notice published for this information collection.

[FR Doc. 98–29488 Filed 11–3–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Impact Statement on the Proposed Production of Plutonium-238 for Use in Advanced Radioisotope Power Systems for Future Space Missions

AGENCY: Department of Energy (DOE).

ACTION: Notice of extension of comment period.

SUMMARY: DOE is extending the public scoping period on the environmental impact statement (EIS) for the Proposed Production of Plutonium-238 for Use in Advanced Radioisotope Power Systems for Future Space Missions from November 4, 1998, to January 4, 1999. DOE is also changing the toll-free telephone number from (800) 708–2680 to (877) 562–4593 and establishing a fax number, (877) 562–4592, that the members of public can use to submit their comments. Since the publication of the Notice of Intent (NOI), DOE has established the dates and locations for the public scoping meetings and is publishing them in this notice.

DOE will also announce the dates and locations of these meetings in the local media at least 15 days prior to the meetings.

DATES: Comments on the scope of the EIS should be postmarked by January 4, 1999, to ensure consideration. Comments postmarked after that date will be considered to the extent practicable.

DOE will conduct public scoping meetings to assist in defining the appropriate scope of the EIS and to identify significant environmental issues to be addressed. These meetings will be held at the following locations and times:

- November 12, 1998, Shilo Inn, 780 Lindsey Blvd., Idaho Falls, Idaho
- November 17, 1998, Oak Ridge Associated Universities, Pollard Auditorium, 210 Badger Ave., Oak Ridge, Tennessee
- November 19, 1998, Best Western Tower Inn, 1515 George Washington Way, Richland, Washington

The schedule for all three meetings will be the same. They will begin at 5:00 p.m. and end at 9:00 p.m. Written comments may be submitted at the meetings or by mail to Ms. Colette Brown at the address identified below. If the comments are mailed, they should be postmarked by January 4, 1999, to ensure consideration.

FOR FURTHER INFORMATION CONTACT: For further information on this EIS, please contact Colette Brown, Office of Nuclear Energy, Science and Technology (NE–50), U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874. Telephone: (301) 903–6924, Facsimile: (301) 903–1510, Electronic Mail: *Colette.Brown@HQ.DOE.GOV*. For further information on DOE procedures for implementing the National Environmental Policy Act (NEPA), contact Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20582–0119, Telephone: (202) 586–4600 or leave a message at 1–800–472–2756.

SUPPLEMENTARY INFORMATION: On October 5, 1998, DOE published a notice in the **Federal Register** (63 FR 53398) announcing its intent to prepare an EIS on the proposed production of plutonium-238 for use in advanced radioisotope power systems for future space missions. In that notice, DOE indicated that the public scoping meetings would be announced at a later time. Because the scoping meetings could not be scheduled within the public comment period established by the original notice, the comment period has been extended to January 4, 1999. Comments should be postmarked by that date to ensure consideration.

To provide an additional method for submitting comments on the scope of the EIS and to correct a mistake in the original notice, DOE is adding a fax number and changing the toll-free telephone number. The toll-free telephone number has been changed to (877) 562–4593. The new fax number to be used to submit comments on the scope of the EIS is (877) 562–4592.

Signed in Washington, DC, this 29th day of October 1998, for the U.S. Department of Energy.

William D. Magwood, IV,

Acting Director, Office of Nuclear Energy, Science and Technology.

[FR Doc. 98–29529 Filed 11–3–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Department of Energy, Los Alamos, National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Los Alamos National Laboratory.

DATES:

Wednesday, November 18, 1998:
6 p.m.–9 p.m.
6:30 p.m. to 7:00 p.m. (public comment session)

ADDRESSES: Hotel Santa Fe, 1501 Paseo De Peralta, Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: Ms. Ann DuBois, Northern New Mexico Citizens' Advisory Board, Los Alamos National Laboratory, 528 35th Street, Los Alamos, New Mexico 87544, (505) 665–5048.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Advisory Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

6:00 p.m.—Call to Order by DOE
6:00 p.m.—Welcome by Chair, Roll Call, Approval of Agenda and Minutes
6:30 p.m.—Public Comments
7:00 p.m.—Break
7:15 p.m.—Board Business
9:00 p.m.—Adjourn

Public Participation: The meeting is open to the public. The public may file written statements with the Committee, either before or after the meeting. A sign-up sheet will also be available at the door of the meeting room to indicate a request to address the Board. Individuals who wish to make oral presentations, other than during the public comment period, should contact Ms. Ann DuBois at (505) 665–5048 five

(5) business days prior to the meeting to request that the Board consider the item for inclusion at this or a future meeting. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that has to be resolved prior to publication.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Ms. M.J. Byrne, Deputy Designated Federal Officer, Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87185–5400.

Issued at Washington, DC on October 29, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–29531 Filed 11–3–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Pantex Plant, Amarillo, TX

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Pantex Plant, Amarillo, Texas

DATE AND TIME: Tuesday, November 17, 1998: 9 a.m.–1:30 p.m.

ADDRESSES: Amarillo Senior Citizens' Association, Amarillo, Texas.

FOR FURTHER INFORMATION CONTACT: Jerry S. Johnson, Assistant Area Manager, Department of Energy, Amarillo Area Office, PO. Box 30030, Amarillo, TX 79120 (806) 477-3125.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The Board provides input to the Department of Energy on Environmental Management strategic decisions that impact future use, risk management, economic development, and budget prioritization activities.

Tentative Agenda

9:00 a.m.—Welcome—Agenda Review—Approval of Minutes
9:10 a.m.—Co-Chair Comments
9:30 a.m.—RTG Presentation
10:30 a.m.—RTG Question & Answer
10:45 a.m.—Break
11:00 a.m.—Task Force/Subcommittee Minutes
11:45 a.m.—Lunch
12:30 p.m.—Ex-Officio Reports
1:00 p.m.—Updates—Occurrence Reports—DOE
1:20 p.m.—Closing Remarks
1:30 p.m.—Adjourn

Public Participation: The meeting is open to the public, and public comment will be invited throughout the meeting. Written statements may be filed with the Committee either before or after the meeting. Written comments will be accepted at the address above for 15 days after the date of the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Jerry Johnson's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at any time throughout the meeting. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved.

Minutes: The minutes of this meeting will be available for public review and copying at the Pantex Public Reading Rooms located at the Amarillo College Lynn Library and Learning Center, 2201 South Washington, Amarillo, TX phone (806) 371–5400. Hours of operation are from 7:45 am to 10 pm, Monday through Thursday; 7:45 am to 5 pm on Friday; 8:30 am to 12 noon on Saturday; and 2 pm to 6 pm on Sunday, except for Federal holidays. Additionally, there is a Public Reading Room located at the Carson County Public Library, 401 Main Street, Panhandle, TX phone (806) 537–3742. Hours of operation are from 9 am to 7 pm on Monday; 9 am to 5 pm, Tuesday through Friday; and closed Saturday and Sunday as well as Federal Holidays. Minutes will also be available by writing or calling Jerry S. Johnson at the address or telephone number listed above.

Issued at Washington, DC on October 29, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–29532 Filed 11–3–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Idaho National Engineering and Environmental Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Idaho National Engineering and Environmental Laboratory (INEEL).

DATES:

Tuesday, November 17, 1998
8 a.m.–6 p.m.
Wednesday, November 18, 1998
8 a.m.–5 p.m.

There will be public comment sessions on Tuesday, November 17, 1998 from 9:45 a.m. to 10 a.m., 12 p.m. to 12:15 p.m., 4 p.m. to 4:15 p.m., and 5:30 p.m. to 5:45 p.m. These times are subject to change as the meeting progresses, depending on the extent of comment offered. Please check with the meeting facilitator to confirm these times.

ADDRESSES: The Miles & Virginia Willard Fine Arts Center, 498 A Street, Idaho Falls, Idaho 83402.

FOR FURTHER INFORMATION CONTACT: INEEL Information (1–800–708–2680) or Woody Russell, DOE-Idaho, (208) 526–0561, or Wendy Green Lowe, INEEL Board Facilitator, Jason Associates Corp. (208–522–1662) or visit the Board's Internet homepage at http://www.ida.net/users/cab.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Radioisotope Thermoelectric Generator Environmental Impact Statement scoping process; Plutonium 238 Production Environmental Impact Statement;
DOE's perspective on the INEEL Long Range Plan " expectations for new site contractor;
Proposed Plan for Waste Area Group 3 (Idaho Nuclear Technology and Engineering Center);
Nevada Test Site report regarding migration of plutonium contamination and the implications for cleanup at the INEEL;
DOE's strategy for emergency response planning and preparations for State, local, and Tribal governments for radiological materials transport; and
The TRA Accident report, plutonium uptake at the INTEC, and the decision to rebid the INEEL contract;
Discuss the Environmental Assessment on the intermodal transport of Low-Level Waste to Nevada Test Site; and
Finalize recommendations on the Proposed Plan for Waste Area Group 3 (Idaho Nuclear Technology and Engineering Center), the Proposed Plan for Waste Area Group 1 (Test Area North), suggestions developed at the Low-Level Waste Seminar, and establishing common databases for background radiation information to support decisionmaking in the cleanup program.

Agenda topics may change up to the day of the meeting. The final agenda will be available at the meeting.

Public Participation: The two-day meeting is open to the public, with public comment sessions scheduled for Tuesday, November 17, 1998. The Board will be available during these time periods to hear verbal public comments or to review any written public comments. If there are no members of the public wishing to comment or no written comments to review, the board will continue with it's current discussion. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact the INEEL Information line or Wendy Green Lowe, Jason Associates Corp., at the addresses or telephone numbers listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Charles M. Rice, INEEL Citizens' Advisory Board Chair, 477 Shoup Ave., Suite 205, Idaho Falls, Idaho 83402 or by calling Wendy Green Lowe, the Board Facilitator, at (208) 522–1662.

Issued at Washington, DC on October 29, 1998.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–29533 Filed 11–3–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Johnson Creek Artificial Propagation Enhancement Project

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of Floodplain and Wetlands Involvement.

SUMMARY: This notice announces BPA's intention to fund a small scale program designed to increase survival of a weak but recoverable population of summer chinook salmon in Johnson Creek, a tributary of the South Fork Salmon River in Valley County, Idaho. In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements, BPA will prepare a floodplain and wetlands assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplain and wetlands. The assessment will be included in the environmental assessment being prepared for the proposed project in accordance with the requirements of the National Environmental Policy Act. A floodplain statement of findings will be included in any finding of no significant impact that may be issued following the completion of the environmental assessment.

DATES: Comments are due to the address below no later than November 19, 1998.

ADDRESSES: Submit comments to Communications, Bonneville Power Administration—ACS–7, P.O. Box 12999, Portland, Oregon 97212. Internet address: comment@bpa.gov.

FOR FURTHER INFORMATION CONTACT: Colleen Spiering—ECP–4, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208–3621, phone number 503–230–5756, fax number 503–230–4089.

SUPPLEMENTARY INFORMATION: The project would include the following types of activities that may involve wetlands or floodplains: expansion of the McCall Fish Hatchery; in-stream temporary weirs for adult fish trapping; smolt acclimation and release sites utilizing stream side channels and possibly installing adult holding tanks. All proposed sites are in Valley County, Idaho. The locations of the proposed sites are as follows: McCall Fish Hatchery, T.18N., R3E., S.8. Pen Basin and Landmark Airstrip acclimation sites, T.15N., R.8E., S.18. Wapiti Meadows Ranch acclimation site, T.18., R.8E., S.29 and 32. Bryant Ranch and Old State Lands adult trap sites, T.18N., R.8E., S.9 and 16. Cox Ranch Acclimation site, T.18N., R.8E., S.20. Whitehorse Rapids, Burntlog Creek, and Ditch Creek acclimation sites, T.17N., R.8E., S.20.

Maps and further information are available from BPA at the address above.

Issued in Portland, Oregon, on October 27, 1998.

Thomas C. McKinney,

NEPA Compliance Officer.

[FR Doc. 98–29530 Filed 11–3–98; 8:45 am]

BILLING CODE 6450–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–213–008]

Columbia Gas Transmission; Notice of Application

October 29, 1998.

Take notice that on October 23, 1998, Columbia Gas Transmission Corporation (Columbia), a Delaware corporation, having its principal place of business at 12801 Fair Lakes Parkway, Fairfax, Virginia, 22030–10-46, an abbreviated application pursuant to Sections 7(b) and Section 7(c) of the Natural Gas Act, as amended, to amend its certificates previously issued by the Commission in an Order Denying Rehearing and Issuing Certificates on May 14, 1997, Order Amending Certificate on November 25, 1997, and Order Amending Certificates on June 30, 1998 in Docket Nos. CP96–213–000, et al., Columbia's Market Expansion Project (MEP).

Specifically, Columbia proposes to make a facility modification to the 1999 construction previously authorized at its Smithfield Compressor Station, located in Wetzel County, West Virginia.

As part of the MEP project, Columbia originally proposed to uprate and

relocate an existing Solar Centaur gas turbine (Unit No. 6) from its Clendenin Compressor Station to its Smithfield Compressor Station. Subsequently, Columbia has determined that it should retain Unit No. 6 at Clendenin for continued standby service.

Columbia now proposes herein to amend its certificate to modify the 1999 Smithfield compressor project by installing a new Solar Taurus 7,170 horsepower (ISO) gas turbine/compressor and abandoning an existing Solar Centaur 3,830 horsepower gas turbine/compressor. The existing Smithfield Centaur unit will be returned to Solar, Inc. (Solar) as an exchange for credit toward the purchase of the Taurus unit. Columbia states that this proposed modification to the Smithfield project results from further design, operating and cost analysis performed by Columbia's engineering personnel, and; this proposal will allow Columbia to fully benefit from the increased efficiency of a new generation Solar Taurus/C–40 compressor package. Columbia states the Centaur/C–30 units are less efficient than a Taurus/C–40 package. Columbia anticipates future operation and maintenance cost savings will result from more efficient compressor operations.

The revised estimated investment cost of $8,567,200 for the Smithfield project results in an approximate increase of $465,000 in 1995 dollars of the estimated Gross Investment for the MEP.

Any person desiring to participate in a hearing process or to make any protest with reference to said application should on or before November 19, 1998, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. The Commission's rules require that protesters provide copies of their protests to the party or parties directly involved. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of its intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in a subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 98–29479 Filed 11–3–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–4400–000]

Pittsfield Generating Company, L.P.; Notice of Issuance of Order

October 30, 1998.

Pittsfield Generating Company, L.P. (Pittsfield), an affiliate of Pacific Gas & Electric Company, filed an application for Commission authorization to engage in wholesale power sales at market-based rates, and for certain waivers and authorizations. In particular, Pittsfield requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Pittsfield. On October 29, 1998, the Commission issued an Order Accepting For Filing Proposed Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's October 29, 1998 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (C), (D), and (F):

(C) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Pittsfield should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(D) Absent a request to be heard within the period set forth in Ordering Paragraph (C) above, Pittsfield is hereby authorized, pursuant to section 204 of the FPA, to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Pittsfield, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(F) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Pittsfield's issuances of securities or assumptions of liabilities. . . .

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is November 30, 1998.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE, Washington, DC 20426.

David P. Boergers,

Secretary.

[FR Doc. 98–29507 Filed 11–3–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–1–29–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes In FERC Gas Tariff

October 29, 1998.

Take notice that on October 26, 1998 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, Seventeenth Revised Sheet No. 50. The tariff sheet is proposed to be effective November 1, 1998.

Transco states that the purpose of the instant filing is to track fuel changes attributable to transportation service purchased from Texas Gas Transmission Corporation (Texas Gas) under its Rate Schedule FT the costs of which are included in the rates and charges payable under Transco's Rate Schedule FT–NT. The filing is being made pursuant to tracking provisions under Section 4 of Transco's Rate Schedule FT–NT.

Included in Appendix B attached to the filing is the explanation of the fuel changes and details regarding the computation of the revised Rate Schedule FT–NT fuel percentages.

Transco states that copies of the filing are being mailed to each of its FT–NT customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29482 Filed 11–3–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EC98–66–000 and ER98–4705–000]

USGen New England, Inc.; Notice of Filing

October 29, 1998.

Take notice that on October 27, 1998, USGen New England, Inc. tendered for filing an amendment to the Application filed in the above-referenced dockets. The amendment informs the Commission that one of the owner lessors and one of the owner participants previously identified in the Application will no longer participate in the proposed sale-leaseback of the Bear Swamp Project.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before November 6, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98–29483 Filed 11–3–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–98–000]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

October 29, 1998.

Take notice that on October 26, 1998, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet to become effective October 1, 1998:

Sixth Revised Sheet No. 321

Williston Basin states that it has determined that the take-or-pay amounts associated with Docket No. RP93–175–000 have been fully recovered as of September 30, 1998. As a result, the instant tariff sheet reflects the elimination of the fixed monthly surcharge associated with Docket No. RP93–175–000, effective October 1, 1998.

Further, Williston Basin states that it is filing as Exhibit A of Appendix C of the instant filing, the final reconciliation of the monthly fixed surcharge in Docket No. RP93–175–000, pursuant to Section 37 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29481 Filed 11–3–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice Accepting Application for Filing and Requesting Interventions and Protests

October 29, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Minor License

b. *Project No.:* 597–003

c. *Date Filed:* June 24, 1998

d. *Applicant:* PacifiCorp

e. *Name of Project:* Stairs Hydroelectric Project

f. *Location:* On Big Cottonwood Creek in Big Cottonwood Canyon, Salt Lake County, near the town of Sandy, about 15 miles southeast of downtown Salt Lake City, Utah. The project affects federal lands within the Wasatch-Cache National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791 (a)–825(r).

h. *Applicant Contact:* Michael B. Burke, Project Manager, PacifiCorp, 910 S.W. Sixth Avenue, 610PSB, Portland, Oregon 97204, (503) 464–5344.

i. *FERC Contact:* Gaylord W. Hoisington (202) 219–2756

j. *Deadline for Interventions and Protests:* 60 days from the Issuance date of this notice.

k. *Status of Environmental Analysis:* This application has been accepted for filing but is not ready for environmental analysis at this time—see attached paragraph E1.

l. *Brief Description of Project:* The existing project consists of: (1) a 150-foot-long and 35-foot-high earth-fill diversion dam; (2) a reinforced concrete spillway; (3) a reinforced concrete intake structure; (4) a 2,850-foot-long penstock; (5) a 100-foot-wide by 35-foot-long masonry powerhouse; (6) one Francis turbine generator with a rated capacity of 1,200 kilowatts; (7) a 7-foot-wide by 5.3-foot-deep reinforced concrete tailrace; and (8) other appurtenances. No new construction is planned.

m. This notice also consists of the following standard paragraphs: B1 and E1.

n. *Available Locations of Applicotion:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, Room 2A, of the Commission's offices at 888 First Street, N.E., Washington D.C. 20426 or by calling (202) 219–1371. A copy is also available for inspection and reproduction at PacifiCorp, 910 S.W. Sixth Avenue, 610PSB Portland, Oregon 97204 or by calling Michael B. Burke (503) 464–5344.

B1. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practices and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

E1. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All findings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

David P. Boergers,

Secretary.

[FR Doc. 98–29480 Filed 11–3–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6184–6]

Clean Water Act Section 303(d): Availability of List Submissions and Proposed Decisions

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of an EPA decision identifying water quality limited segments and associated pollutants in California to be listed pursuant to Clean Water Act Section 303(d)(2), and requests public comment. Section 303(d)(2) requires that states submit and EPA approve or disapprove lists of waters for which existing technology-based pollution controls are not stringent enough to attain or maintain state water quality standards and for which total maximum daily loads (TMDLs) must be prepared.

EPA partially approved and partially disapproved California's submittal. Specifically, EPA approved California's listing of 472 waters and associated priority rankings. EPA disapproved California's decisions not to list 37 water quality limited segments and associated pollutants, and an additional 12 pollutants for waterbodies already listed by the State. EPA identified these additional waterbodies and pollutants for inclusion on the 1998 Section 303(d) list. EPA also announced its intention to approve the State's listing of Coyote Creek for toxicity pending solicitation of public comments concerning this listing decision.

EPA is providing the public the opportunity to review these proposed decisions as required by Public Participation regulations (40 CFR part 25). EPA will consider public comments in reaching its final decisions on the additional waterbodies and pollutants identified for inclusion on California's final lists.

DATES: Comments must be submitted to EPA on or before December 4, 1998.

ADDRESSES: Comments on the proposed decisions should be sent to David Smith, TMDL Coordinator, Water Division, U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105, telephone (415) 744–2012, facsimile (415) 744–1078. Copies of the proposed decisions concerning California which explain the rationale for EPA's proposed decisions can be obtained by writing or calling Mr. Smith at the above address. Underlying documentation comprising the record for this decision is available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: David Smith at (415) 744–2012.

SUPPLEMENTARY INFORMATION: Section 303(d) of the Clean Water Act (CWA) requires that each state identify those waters for which existing technology-based pollution controls are not stringent enough to attain or maintain state water quality standards. For those waters, states are required to establish TMDLs according to a priority ranking.

On January 11, 1985, EPA published the Water Quality Planning and Management regulations (50 FR 1775). These regulations included requirements related to the implementation of Section 303(d) of the CWA (40 CFR 130.7). The regulations did not specify dates for state compliance with the Section 303(d) requirements, but reiterated the statutory provisions calling for submissions from time to time. On July 24, 1992, EPA published a final rule (57 FR 33040) that amended 40 CFR 130.7 to establish that, for the purposes of identifying water quality limited waters still requiring TMDLs, "from time to time" means once every two years. The list of waters still needing TMDLs must also include a priority ranking and must identify the waters targeted for TMDL development during the next two years (40 CFR 130.7).

Consistent with EPA's revised regulations, California submitted to EPA for its approval its listing decisions under Section 303(d)(2) on June 25, 1998. EPA approved California's listing of 472 waters and associated priority rankings. EPA disapproved California's decisions not to list 37 water quality limited segments and associated pollutants, and an additional 12 pollutants for waterbodies already listed by the State. EPA identified these additional waters and pollutants for inclusion on the 1998 Section 303(d) list. EPA also announced its intention to approve the State's listing of Coyote Creek for toxicity pending solicitation of public comments concerning the State's listing decision.

EPA solicits public comment on its identification of 37 additional waters and associated pollutants, and 12 additional pollutants for waters already listed by the State, for inclusion on California's 1998 Section 303(d) list. EPA also solicits public comment on California's listing of Coyote Creek in the Los Angeles Region due to toxicity.

EPA notes that it does not normally solicit public comment on its decisions to approve individual waters included on state Section 303(d) lists. Pursuant to the public participation requirements of 40 CFR part 25, EPA is providing this opportunity for public review and comment on its proposed approval decisions because California provided inadequate opportunity for public comment on the decision to list Coyote Creek for toxicity. In the future, EPA expects that states will provide adequate opportunities for public comment on all listed waters during development of the state lists.

Alexis Strauss,

Acting Director, Water Division.

[FR Doc. 98–29649 Filed 11–3–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6184–7]

Environmental Laboratory Advisory Board, Meeting Date and Agenda

AGENCY: Environmental Protection Agency.

ACTION: Notice of open meeting.

SUMMARY: The Environmental Protection Agency (EPA) will convene an open meeting of the Environmental Laboratory Advisory Board (ELAB) on December 10, 1998, from 2:00 p.m. to 5:00 p.m. This meeting will be conducted by teleconference. The public is invited to join Ms. Ramona Trovato in Room 911, West Tower, Waterside Mall, 401 M Street, SW, Washington, DC.

Topics for discussion on the teleconference will include at a minimum an update from the workgroup tasked to examine performance-based measurement system, a briefing from the workgroup responsible for investigating issues affecting small laboratories, and discussion of agenda items for the ELAB meeting to be held January 14, 1999 at NELAC IVi in Bethesda, Maryland.

The public is encouraged to attend. Time will be allotted for public comment. Written comments are encouraged and should be directed to Ms. Elizabeth Dutrow; Designated Federal Officer; USEPA; 401 M Street, SW (8724R); Washington, DC 20460. If questions arise, please contact Ms. Dutrow by phone at (202) 564–9061, by facsimile at (202) 565–2441 or by email at dutrow.elizabeth@epamail.epa.gov.

Dated: October 26, 1998.

Nancy W. Wentworth,

Director, Quality Assurance Division.

[FR Doc. 98–29534 Filed 11–3–98; 8:45 am]

BILLING CODE 6560–60–U

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00561; FRL–6044–3]

Ground Water & Pesticide Management Plans Workshop; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA's Office of Pesticide Programs will hold a 2-day, participatory workshop on November 18 and 19, 1998. This notice announces the location and times for the workshop and sets forth the agenda topics. This workshop is free and open to the public. Advance registration is recommended because space is limited. Registration forms can be obtained from the contact given below.

DATES: The Ground Water & Pesticide Management Plans Workshop will be held on Wednesday, November 18, 1998 from 9 a.m. to 5 p.m. and Thursday, November 19, 1998, from 8 a.m. to 3 p.m.

ADDRESSES: The workshop will be held at: The Doubletree Hotel, 1301 Wyandotte Street, Kansas City, MO 64105.

FOR FURTHER INFORMATION CONTACT: By mail: Arthur-Jean B. Williams, Field and External Affairs Division, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 1921 Jefferson Davis Highway, Arlington-Crystal City, VA 22202, Crystal Mall 2 (CM #2), (703)305–5239, (fax) (703) 308–3259; e-mail: williams.arty@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The tentative agenda of the Ground Water & Pesticide Management Plans Workshop includes the following:

1. Groundwater Workshop goals and expectations.
2. Background on Ground Water Pesticide Management Plans.
3. Development of a mock Ground Water and Pesticide Management Plan.
4. State specific efforts to develop Ground Water and Pesticide Management Plans.
5. Discussion of mock scenarios that explore specific outcomes of a mock plan.

List of Subjects

Environmental protection.

Dated: October 30, 1998.

Arthur-Jean Williams,

Acting Director, Field and External Affairs Division.

[FR Doc. 98–29650 Filed 11–3–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66257A; FRL–6041–7]

Vinclozolin; Approval of Existing Stocks Provision for Terminated Uses

AGENCY: Environmental Protection Agency (EPA)

ACTION: Final approval of existing stocks provision of terminated uses.

SUMMARY: EPA is announcing approval, with one minor change, of a proposed existing stocks provision for products containing 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione), or vinclozolin. This notice is a follow-up to an earlier notice announcing a request by the registrant of vinclozolin, BASF Corporation, to terminate certain uses, and to propose provisions for existing stocks of products already in the channels of trade.

DATES: The proposed existing stocks provisions became effective upon approval of the EPA changes to vinclozolin registrations, September 4, 1998.

FOR FURTHER INFORMATION CONTACT: By mail: Mark Wilhite, Reregistration Branch I, (7508W), Special Review and Reregistration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20046. Office location, telephone number, and e-mail address: Reregistration Branch I, 6th Floor, 1925 Jefferson Davis Highway, Arlington, VA; (703) 308–8586; wilhite.mark@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background Information

Vinclozolin (trade names Ronilan, Curalan, and Ornilan) is a fungicide first registered in 1981 to control various types of rot caused by *Botrytis spp., Sclerotinia spp,* and other types of mold and blight causing organisms, on lettuce (all types), raspberries, onions, succulent beans, and turf on golf courses, commercial and industrial sites. Vinclozolin is also registered for use on ornamental plants in greenhouses, and nurseries. BASF, the sole registrant of vinclozolin used on food commodities, recently requested amendment of its vinclozolin registrations to terminate two uses of vinclozolin in order to mitigate acute dietary risk. With its request for use deletions, BASF also proposed provisions for existing stocks already in the channels of trade which contained the old labeling. EPA published the use deletions and existing stocks proposal in the **Federal Register** (63 FR 40710, July 30, 1998) (FRL–6020–9) and asked for public comment.

II. Comments and Response

EPA received one comment in response to the proposal, submitted on behalf of the California Strawberry Commission. The comment concerned the elimination of vinclozolin as a tool for growers to combat strawberry yield loss due to mold and rot, and the lack of involvement in the decision. The comment also pointed out an inconsistency in BASF's existing stocks proposal, which would have stopped use of product stickered after August 30, 1998 by June 30, 1999, while allowing product in the channels of trade before August 30, 1998, to be used until January 2000. The proposal was therefore inconsistent and likely to cause confusion among users.

In response to the first point, EPA is sympathetic to the needs of growers and seeks to involve them in such negotiations and decisions as much as possible. However, EPA would note that this matter involves a termination of uses initiated by the registrant, BASF. EPA published notice of BASF's request so that all affected parties could participate in the process. As to BASF's decision to terminate the strawberry use to reduce dietary exposure, EPA would point out that options available to BASF were limited, since vinclozolin is registered on only six crops in the United States. Strawberries and stone fruits accounted for approximately half of the tonnage of vinclozolin treated food commodities, and are more commonly consumed by infants and children than the other commodities for which vinclozolin is registered (lettuce, onions, raspberries, and snap beans). EPA is mandated by FQPA to place special emphasis on protecting infants and children. In addition, there are other fungicides registered as alternatives to vinclozolin for control of mold and rot in strawberries, as well as stone fruits.

In response to the second comment, EPA agrees that having two dates for use termination is confusing, and would be difficult to enforce. Accordingly, the final use date for use of vinclozolin products with the old labeling, which includes strawberries and stone fruits, is changed to no later January 30, 2000. The tolerance is expected to be revoked by that date. The change is reflected in the final existing stocks provision as outlined below in Unit III. of this notice.

III. Acceptance of Use Termination and Final Existing Stocks Provision

EPA approved BASF's label amendments (for EPA registration numbers 7969–62 and 7969–85) deleting strawberries and stone fruits on September 4, 1998. According to the terms of the label amendments, all product not labeled as of September 4, 1998, will contain the new labels reflecting the termination of uses on strawberries and stone fruits and any labeled product not released for shipment would be restickered to reflect the label amendments. The provisions for existing stocks of vinclozolin products with the old label, produced before the label changes were approved are outlined below.

1. Retailers, distributors, and end-users may sell, distribute, or use products with the previously approved labeling which have already been released for shipment as of September 4, 1998, until such supplies are exhausted or January 30, 2000, whichever comes first.

2. Any vinclozolin product that on September 4, 1998, had not been released for shipment, is present in a BASF manufacturing or packaging facility, and contains labeling not reflecting the use terminations will be stickered by BASF to reflect the use terminations and to bar sale and use by January 30, 2000.

3. Within 30 days of approval of the existing stocks proposal, BASF shall provide to all Ronilan points of purchase, 50 copies of a bulletin with the pertinent details of the label amendments and existing stocks provisions.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Use Terminations.

Dated: October 28, 1998.

Jack E. Housenger,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 98–29540 Filed 11–3–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6184–8]

Notice of Proposed Purchaser Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; Request for Public Comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. 9601–9675, notice is hereby given that a proposed purchaser agreement ("Purchaser Agreement") associated with the North Penn Area 12 Superfund Site, Worcester Township, Montgomery County, Pennsylvania was executed by the Environmental Protection Agency and the Department of Justice and is now subject to public comment, after which the United States may modify or withdraw its consent if comments received disclose facts or considerations which indicate that the Purchaser Agreement is inappropriate, improper, or inadequate. The Purchaser Agreement would resolve certain potential EPA claims under Section 107 of CERCLA, 42 U.S.C. 9607, against Techni-Tool, Inc. and T-Squared Realty, L.L.C. ("Purchasers"). The settlement would require the Purchasers to, among other things, (1) file a Notice of Use Restriction with the Montgomery County Recorder of Deeds within thirty (30) days of the effective date of the Purchaser Agreement, (2) provide access to EPA and all other persons performing response actions under EPA oversight, and (3) perform the following property revitalization activities: demolish existing dilapidated structures at the Site, including the buildings and water storage tanks; remove the debris; abate the existing asbestos on the property; investigate and remove any drums and PCB-contaminated concrete on the property; and remove the fuel oil tanks and septic system.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the Purchaser Agreement. The Agency's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103.

DATES: Comments must be submitted on or before December 4, 1998.

ADDRESSES: The Purchaser Agreement and additional background information relating to the Purchaser Agreement are available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103. A copy of the Purchaser Agreement may be obtained from Natalie L. Katz (3RC22), Assistant Regional Counsel, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103. Comments should reference the "North Penn Area 12 Superfund Site, Prospective Purchaser Agreement" and "EPA Docket No. III–98–079–DC," and should be forwarded to Natalie Katz at the above address.

FOR FURTHER INFORMATION CONTACT: Natalie L. Katz (3RC22), Assistant Regional Counsel, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103, Phone: (215) 814–2615.

Dated: October 27, 1998.

Thomas C. Voltaggio,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region III.

[FR Doc. 98–29535 Filed 11–3–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[PB–402404–CCT; FRL–6039–8]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; The Confederated Tribes of the Colville Reservation Authorization Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comments and opportunity for public hearing.

SUMMARY: On September 10, 1998, the Confederated Tribes of the Colville Reservation (Colville Confederated Tribes) submitted an application for EPA approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA). This notice announces the receipt of the Colville Confederated Tribes' application, provides a 45–day public comment period, and provides an opportunity to request a public hearing on the application.

DATES: Comments on the authorization application must be received on or before December 21, 1998. Public hearing requests must be received on or before November 19, 1998.

ADDRESSES: Submit all written comments and/or requests for a public hearing identified by docket control number "PB–402404–CCT" (in duplicate) to: Kristin Andersen, Environmental Protection Agency, Region X, 1200 Sixth Avenue, WCM–128, Seattle, WA 98101.

Comments, data, and requests for a public hearing may also be submitted electronically to: andersen.kristin@epamail.epa.gov. Follow the instructions under Unit IV. of this document. No information claimed to be Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: Kristin Andersen, Environmental Protection Agency, Region X, 1200 Sixth Avenue, WCM–128, Seattle, WA 98101, Telephone: (206) 553–0244, e-mail address: andersen.kristin@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 28, 1992, the Housing and Community Development Act of 1992, Pub. L. 102-550, became law. Title X of that statute was the Residential Lead-Based Paint Hazard Reduction Act of 1992. That Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV (15 U.S.C. 2681-92), entitled "Lead Exposure Reduction."

Section 402 of TSCA authorizes and directs EPA to promulgate final regulations governing lead-based paint activities in target housing, public and commercial buildings, bridges, and other structures. Those regulations are to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that individuals engaged in these activities are certified and follow documented work practice standards. Under section 404, a State or Indian Tribe may seek authorization from EPA to administer and enforce its own lead-based paint activities program.

On August 29, 1996 (61 FR 45777) (FRL–5389–9), EPA promulgated final TSCA section 402/404 regulations governing lead-based paint activities in target housing and child-occupied facilities (a subset of public buildings). Those regulations are codified at 40 CFR part 745, and allow both States and Indian Tribes to apply for program authorization. Pursuant to section 404(h) of TSCA, EPA is to establish the Federal program in any State or Tribal Nation without its own authorized program in place by August 31, 1998.

States and Tribes that choose to apply for program authorization must submit a complete application to the appropriate Regional EPA Office for review. Those applications will be reviewed by EPA within 180 days of receipt of the complete application. To receive EPA approval, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program, and provides for adequate enforcement (section 404(b) of TSCA, 15 U.S.C. 2684(b)). EPA's regulations (40 CFR part 745, subpart Q) provide the detailed requirements a State or Tribal program must meet in order to obtain EPA approval.

Pursuant to section 404(b) of TSCA, EPA provides notice and an opportunity for a public hearing on a State or Tribal program application before authorizing the program. Therefore, by this notice EPA is soliciting public comment on

whether the Colville Confederated Tribes' application meets the requirements for EPA approval. This notice also provides an opportunity to request a public hearing on the application. If a hearing is requested and granted, EPA will issue a **Federal Register** notice announcing the date, time, and place of the hearing. EPA's final decision on the application will be published in the **Federal Register**.

II. Tribal Program Description Summary

The following summary of the Colville Confederated Tribes' proposed program has been provided by the applicant:

On September 10, 1998, The Colville Confederated Tribes applied to EPA for authorization to administer and enforce a Tribal Lead-based Paint Program. The Colville Confederated Tribes have adopted Resolution 1998-477, dated July 1, 1998, in which the Colville Confederated Tribes Toxic Lead (Pb) Code is adopted in order to provide clear and specific guidance in the assessment, inspection, pre-renovation notification and abatement of lead-based paint activities on the Colville Confederated Tribes Reservation. Penalties for non-compliance are established. The Colville Confederated Tribes Toxic Lead (Pb) Code targets all buildings located on the Colville Confederated Tribes Reservation.

The Colville Confederated Tribes Toxic Lead (Pb) Code is designed to be at least as protective as the Federal law and provide for adequate enforcement of all provisions through a schedule of flexible remedies. This is accomplished through a combination of tribal specific requirements (training accreditation) that are identical to the Federal regulations, and through incorporation by reference of other required Federal elements (certification of individuals, workplace standards and pre-renovation notification activities). Also incorporated by reference are the Federal definitions with notable expansion of the definition of target housing to include all reservation buildings.

The Colville Confederated Tribes Toxic Lead (Pb) Code contains enforcement and compliance requirements consisting of a schedule of flexible remedies and an appeals process.

The Colville Confederated Tribes Program and request for Federal delegation of authority is a natural application of tribal sovereign power over environmental regulatory activities on tribal lands for the health, welfare and safety of tribal community members.

III. Federal Overfiling

TSCA section 404(b), makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

IV. Public Record and Electronic Submissions

The official record for this action, as well as the public version, has been established under docket control number "PB–402404–CCT." Copies of this notice, the Colville Confederated Tribes' application, and all comments received on the application are available for inspection in the Region X office, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket is located at EPA Region X, Office of Waste and Chemicals Management, Solid Waste and Toxics Unit, Environmental Protection Agency, 1200 Sixth Avenue, WCM–128, Seattle, WA.

Commenters are encouraged to structure their comments so as not to contain information for which CBI claims would be made. However, any information claimed as CBI must be marked "confidential," "CBI," or with some other appropriate designation, and a commenter submitting such information must also prepare a nonconfidential version (in duplicate) that can be placed in the public record. Any information so marked will be handled in accordance with the procedures contained in 40 CFR part 2. Comments and information not claimed as CBI at the time of submission will be placed in the public record.

Electronic comments can be sent directly to EPA at:

andersen.kristin@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number "PB–402404–CCT." Electronic comments on this document may be filed online at many Federal Depository Libraries. Information claimed as CBI should not be submitted electronically.

V. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

EPA's actions on State or Tribal lead-based paint activities program applications are informal adjudications, not rules. Therefore, the requirements of the Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*), the Congressional Review Act (5 U.S.C. 801 *et seq.*), Executive Order 12866 ("Regulatory Planning and Review," 58 FR 51735, October 4, 1993), and Executive Order 13045 ("Protection of Children from Environmental Health Risks and Safety Risks," 62 FR 1985, April 23, 1997), do not apply to this action. This action does not contain any Federal mandates, and therefore is not subject to the requirements of the Unfunded Mandates Reform Act (2 U.S.C. 1531–1538). In addition, this action does not contain any information collection requirements and therefore does not require review or approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

B. Executive Order 12875

Under Executive Order 12875, entitled "Enhancing Intergovernmental Partnerships" (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or Tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and Tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and Tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's action does not create an unfunded Federal mandate on State, local, or Tribal governments. This action does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this action.

C. Executive Order 13084

Under Executive Order 13084, entitled "Consultation and Coordination with Indian Tribal Governments" (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the Tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's action does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

Authority: 15 U.S.C. 2682, 2684.

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: October 22, 1998.

Charles C. Clarke,

Regional Administrator, Region X.

[FR Doc. 98–29538 Filed 11–3–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PB–402404–WI; FRL–6037–6]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; State of Wisconsin's Authorization Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comments and opportunity for public hearing.

SUMMARY: On August 31, 1998, the State of Wisconsin submitted an application for EPA approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA). This notice announces the receipt of Wisconsin's application, provides a 45–day public comment period, and provides an opportunity to request a public hearing on the application.

DATES: Comments on the authorization application must be received on or before December 21, 1998. Public hearing requests must be received on or before November 19, 1998.

ADDRESSES: Submit all written comments and/or requests for a public hearing identified by the tracking number PB-402404-WI. (in duplicate) to: Environmental Protection Agency, Region V, DT-8J, 77 West Jackson Blvd., Chicago, IL 60604. Comments, data, and requests for a public hearing may also be submitted electronically to: turpin.david@epamail.epa.gov. Follow the instructions under Unit IV. of this document. No information claimed to be Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: Marlyse Wiebenga, Project Officer, Environmental Protection Agency, Region V, DT-8J, 77 West Jackson Blvd., Chicago, IL 60604, Telephone: (312) 886–4437.

SUPPLEMENTARY INFORMATION:

I. Background

On October 28, 1992, the Housing and Community Development Act of 1992, Pub. L. 102–550, became law. Title X of that statute was the Residential Lead-Based Paint Hazard Reduction Act of 1992. That Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV (15 U.S.C. 2681-92), entitled "Lead Exposure Reduction."

Section 402 of TSCA authorizes and directs EPA to promulgate final regulations governing lead-based paint activities to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that individuals engaged in these activities are certified and follow documented work practice standards. In lieu of the Federal program, under section 404(a), a State or Tribe may seek authorization from EPA to administer and enforce its own lead-based paint activities program.

On August 29, 1996 (61 FR 45777) (FRL–5389–9), EPA promulgated final TSCA section 402/404 regulations governing lead-based paint activities in target housing and child-occupied facilities (a subset of public buildings). Those regulations are codified at 40 CFR part 745, and allow both States and Indian Tribes to apply for program authorization. Pursuant to section 404(h) of TSCA, EPA is to establish the Federal program in any State or Tribal Nation without its own authorized program in place by August 31, 1998. States and Tribes that choose to apply for program authorization must submit a complete application to the appropriate Regional EPA Office for review. Those applications will be reviewed by EPA within 180 days of receipt of the complete application. To receive final program authorization, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program, and provides for adequate enforcement (section 404(b) of TSCA, 15 U.S.C. 2684(b)). EPA's regulations (40 CFR part 745, subpart Q) provide the detailed requirements a State or Tribal program must meet in order to obtain EPA approval.

A State may choose to certify that its lead-based paint activities program meets the requirements for EPA approval, by submitting a letter signed by the Governor or Attorney General stating that the program meets the requirements of section 404(b) of TSCA. Upon submission of such certification letter, the program is deemed authorized. This authorization becomes ineffective, however, if EPA disapproves the application.

Pursuant to section 404(b) of TSCA, EPA provides notice and an opportunity for a public hearing on a State or Tribal program application before authorizing the program. Therefore, by this notice EPA is soliciting public comment on whether Wisconsin's application meets the requirements for EPA approval. This notice also provides an opportunity to request a public hearing on the application. If a hearing is requested and granted, EPA will issue a **Federal Register** notice announcing the date, time, and place of the hearing. EPA's final decision on the application will be published in the **Federal Register**.

II. State Program Description Summary

Under section 250.04, Wisconsin Statutes, the Wisconsin Department of Health and Family Services (DHFS), as the designated State health planning and development agency, is given broad authority to administer and enforce public health programs. Among other

duties, the DHFS is charged with the general supervision of the health of Wisconsin citizens and surveillance activities sufficient to detect any occurrence of acute, communicable, or chronic diseases and threat of occupational or environmental hazards, and the administration of programs for the control and prevention of public health problems. It is granted all powers necessary to fulfill the duties prescribed in Wisconsin Statutes and to bring action in the courts for the enforcement of public health statutes and rules, including the authority to administer oaths, certify to official acts, and to issue subpoenas and compel the attendance of witnesses.

Chapter HFS 163, Wisconsin Administrative Code, has been promulgated by DHFS under the authority of ch. 254, Wisconsin Statutes to ensure that persons who perform lead-based paint activities do so safely to prevent exposure of building occupants to hazardous levels of lead. This is accomplished by requiring that before a person performs, supervises, or offers to perform or supervise a lead-based paint activity involving target housing (built before 1978) or a child-occupied facility or the real property on which the target housing or child-occupied facility stands, the person must be certified by the Department. In addition, no person may offer, advertise, claim to provide, or conduct a lead training course that is represented as qualifying a person for certification unless the course has received accreditation from the department, has an approved principal instructor, uses only approved instructors, and the training provider is owned by or employs an approved training manager.

Both lead companies and individual lead professionals must be certified to perform any of the following lead-based paint activities: abatement, other lead hazard reduction funded by a HUD lead-based paint grant, clearance, inspection, lead hazard screen, risk assessment or project design. A homeowner must be certified to perform a lead-based paint activity in the homeowner's own nonrental dwelling or real property when the dwelling is occupied by a person other than the owner's immediate family, a child has been identified as having an elevated blood lead level as described in code, or use of certified persons has been ordered.

Certification for individuals is offered in the following disciplines: lead inspector, project designer, risk assessor, supervisor, worker, and worker-homeowner. To be certified, an individual must be at least 18 years of age, meet the discipline's education and experience requirements, and successfully complete certification training requirements. The Department accredits the training courses which prepare individuals for certification. To be certified as a lead inspector, risk assessor, or supervisor, the individual also must pass a State certification exam administered or approved by the Department.

To be certified, a lead company must agree to employ only appropriately certified employees to perform or supervise lead-based paint activities, must agree that all company employees will follow the established work practice standards and will comply with all lead-based paint regulations. In addition, the employer responsible for persons performing lead-based paint abatement, or a designated employee, must be certified as a lead supervisor for purposes of ensuring the safe performance of lead-based paint abatement activities, providing notification of lead hazard reduction activities, verifying employee certification, and ensuring compliance with lead-based paint regulations. The employer responsible for persons providing lead management services, including lead inspections, lead hazard screens, and risk assessments, must be certified as a lead risk assessor for purposes of ensuring the safe performance of lead management activities, submitting reports of lead management activities, verifying employee certification, and ensuring compliance with lead-based regulations.

All lead-based paint activities performed must comply with work practice standards established under ch. HFS 163, and training must be consistent with the work practice standards. Work practice standards address the following lead-based paint activities: inspection, lead hazard screen, risk assessment, abatement, clearance, collection and laboratory analysis of samples, composite dust sampling, and recordkeeping.

III. Federal Overfiling

TSCA section 404(b) makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

IV. Public Record and Electronic Submissions

The official record for this action, as well as the public version, has been established under the tracking number "PB-402404-WI." Copies of this notice, the State of Wisconsin's authorization application, and all comments received on the application are available for inspection in the Region V office, from 8:30 a.m. to 5 p.m., Monday through Friday, excluding legal holidays. The application materials are located at the Toxics Program Section, Environmental Protection Agency, Region V, 8th floor, 77 West Jackson Blvd., Chicago, IL.

Commenters are encouraged to structure their comments so as not to contain information for which CBI claims would be made. However, any information claimed as CBI must be marked "confidential," "CBI," or with some other appropriate designation, and a commenter submitting such information must also prepare a nonconfidential version (in duplicate) that can be placed in the public record. Any information so marked will be handled in accordance with the procedures contained in 40 CFR part 2. Comments and information not claimed as CBI at the time of submission will be placed in the public record.

Electronic comments can be sent directly to EPA at:

turpin.david@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the tracking number "PB-402404-WI." Electronic comments on this document may be filed online at many Federal Depository Libraries. Information claimed as CBI should not be submitted electronically.

V. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

EPA's actions on State or Tribal lead-based paint activities program applications are informal adjudications, not rules. Therefore, the requirements of the Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*), the Congressional Review Act (5 U.S.C. 801 *et seq.*), Executive Order 12866 ("Regulatory Planning and Review," 58 FR 51735, October 4, 1993), and Executive Order 13045 ("Protection of Children from Environmental Health Risks and Safety Risks," 62 FR 1985, April 23, 1997), do not apply to this action. In addition, this action does not contain any Federal mandates, and therefore is not subject to the requirements of the Unfunded Mandates Reform Act (2 U.S.C. 1531-1538). Finally, this action does not contain any information collection requirements and therefore does not require review or approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

B. Executive Order 12875

Under Executive Order 12875, entitled "Enhancing Intergovernmental Partnerships" (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or Tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and Tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and Tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's action does not create an unfunded Federal mandate on State, local, or Tribal governments. This action does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this action.

C. Executive Order 13084

Under Executive Order 13084, entitled "Consultation and Coordination with Indian Tribal Governments" (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the Tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's action does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

Authority: 15 U.S.C. 2682, 2684.

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: October 26, 1998.

David A. Ullrich,

Acting Regional Administrator, Region V.

[FR Doc. 98–29539 Filed 11–3–98; 8:45 am]

BILLING CODE 6560–60–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before December 4, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 234, 1919 M St., NW, Washington, DC 20554 or via internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at 202–418–0217 or via internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0552.

Title: Section 76.1003 Adjudicatory proceedings.

Type of Review: Revision of a currently approved collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents: 24.

Estimated Time per Response: 4–30 hours.

Frequency of Response: On occasion reporting requirements; Third party disclosure.

Total Annual Burden: 408 hours.

Cost to Respondents: $54,360.

Needs and Uses: The information disclosed and collected in these proceedings has been used by Commission staff to resolve disputes alleging unfair methods of competition and deceptive practices where the purpose or effect of which is to hinder significantly or to prevent any multichannel video programming distributor from providing satellite cable programming or satellite broadcast programming to subscribers or consumers.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–29456 Filed 11–3–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:07 p.m. on Thursday, October 29, 1998, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider

matters relating to the Corporation's corporate and liquidation activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Ellen S. Seidman (Director, Office of Thrift Supervision), concurred in by Director Julie L. Williams (Acting Comptroller of the Currency) and Chairman Donna Tanoue, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, DC.

Dated: November 2, 1998.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 98–29641 Filed 11–2–98; 2:19 pm]

BILLING CODE 6714–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE AND TIME: Tuesday, November 10, 1998 at 10:00 a.m.

PLACE: 999 E. Street, N.W., Washington, D.C.

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 98–29662 Filed 11–2–98; 2:39 pm]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 18, 1998.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. L. Clark Caley Estate, Clarks, Nebraska, and Chris S. Caley, Personal Representative, Grand Island, Nebraska; to acquire voting shares of Clark Bancshares, Inc., Clarks, Nebraska, and thereby indirectly acquire voting shares of Bank of Clarks, Clarks, Nebraska, Tereco, Inc., Silver Creek, Nebraska, and Farmers State Bank of Silver Creek, Silver Creek, Nebraska.

2. HRL Investments, L.P., Columbus, Nebraska; to acquire voting shares of Bradley Bancorp, Columbus, Nebraska, and thereby indirectly acquire voting shares of Columbus State Bank and Trust Company, Columbus, Nebraska.

Board of Governors of the Federal Reserve System, October 29, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–29458 Filed 11–3–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 27, 1998.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Lincoln County Bancorp, Inc., Troy, Missouri; to acquire at least 90.08 percent of the voting shares of Exchange Bank of Missouri, Fayette, Missouri.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Chickasha Bancshares, Inc., Chickasha, Oklahoma; to acquire 100 percent of the voting shares of Cement Insurance Agency, Inc., Cement, Oklahoma; and thereby indirectly acquire Cement Bank, Cement, Oklahoma.

In connection with this application, Applicant has also applied to acquire Cement Insurance Agency, Inc., Cement, Oklahoma, and thereby engage in general insurance activities in a town of less that 5,000, pursuant to § 225.28(b)(11)(iii) of Regulation Y.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. FVNB Corp., Victoria, Texas, and FVNB Delaware Corp., Wilmington, Delaware (in formation); to merge with CBOT Financial Corporation, New Waverly, Texas, and thereby indirectly acquire CBOT Financial Corporation of Delaware, Wilmington, Delaware, and Citizens Bank of Texas, N.A., New Waverly, Texas. FVNB Delaware Corp., also has applied to becomea bank holding company.

In connection with this application, Applicants also have applied to acquire CBOT Mortgage (dba Citizens Mortgage), Conroe, Texas, and thereby engage in making, acquiring, brokering, and/or the servicing of mortgage loans, pursuant to § 225.28(b)(1) of Regulation Y.

D. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Valley Community Bancshares, Inc., Puyallup, Washington; to acquire 100 percent of the voting shares of Valley Bank, Auburn, Washington (in formation).

2. Zions Bancorporation, Salt Lake City, Utah; to acquire 100 percent of the voting shares of Centennial Bank, National Association, Farmington, New Mexico.

Board of Governors of the Federal Reserve System, October 29, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–29460 Filed 11–3–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 30, 1998.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Associated Banc-Corp, Green Bay, Wisconsin; to acquire 100 percent of the voting shares of Windsor Bancshares, Inc., Minneapolis, Minnesota, and thereby indirectly acquire Bank Windsor, Minneapolis, Minnesota.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Union Planters Corporation, Memphis, Tennessee, and its wholly owned subsidiary, Union Planters Holding Corporation, Memphis, Tennessee; to acquire 100 percent of the voting shares of FSB, Inc., Covington, Tennessee, and thereby indirectly acquire First State Bank of Covington, Tennessee, Covington, Tennessee.

2. Village Bancshares, Inc., St. Libory, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of St. Libory, St. Libory, Illinois.

Board of Governors of the Federal Reserve System, October 30, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–29523 Filed 11–3–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 27, 1998.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102–2034:

1. First Tennessee National Corporation, Memphis, Tennessee; to engage *de novo* through its subsidiary, First Horizon, FSB, Bristol, Virginia (a federal savings bank in formation) in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, October 29, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–29459 Filed 11–3–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, November 9, 1998.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: October 30, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–29578 Filed 10–30–98; 4:52 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 952–3267]

First American Real Estate Solutions, LLC; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before January 4, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: David Medine or Thomas Kane, FTC/S–4429, Washington, D.C. 20580. (202) 326–3224.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for October 28, 1998), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from First American Real Estate Solutions, LLC ("FARES"). The proposed order would settle charges that First American CREDCO ("CREDCO"), which is now a division of FARES, violated the Fair Credit Reporting Act ("FCRA"). The FCRA requires, *inter alia*, that consumer reporting agencies such as CREDCO reinvestigate items that consumers dispute on their consumer reports and correct or delete items that are inaccurate.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

According to the complaint, one of the consumer report products that CREDCO produces is the Instant Merge Report ("IMR"). IMRs contain blended consumer account information from two or three of the national consumer reporting agencies ("repositories"), Trans Union, Equifax, and Experian. The complaint alleges that, in connection with its IMRs, CREDCO (1) failed to reinvestigate disputed information, (2) failed to correct or delete information in consumers' files that CREDCO found to be inaccurate or obsolete or whose accuracy can no longer be verified, and (3) failed to include in subsequent IMRs a notation that a consumer disputes an item and a statement by the consumer setting forth the nature of the dispute or a codification or summary of that statement. According to the complaint, these practices violated Section 611 of the FCRA, 15 U.S.C. 1681i.

The complaint also alleges that CREDCO failed to follow reasonable procedures to prevent information that CREDCO has found to be inaccurate or obsolete, or whose accuracy could not be verified, from appearing on subsequent IMRs. According to the complaint, these practices violated Section 607(b) of the FCRA, 15 U.S.C. 1681e(b).

Pursuant to Section 621(a)(1) of the FCRA, 15 U.S.C. 1681s(a)(1), all violations of the FCRA constitute unfair or deceptive acts or practices in commerce in violation of Section 5(a) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 45(a). Thus, the complaint also alleges that CREDCO violated Section 5(a).

The proposed order contains injunctive provisions designed to remedy the violations charged and to prevent respondent FARES from engaging in similar acts and practices in the future. Specifically, the order would require that FARES (1) reinvestigate consumer report items that consumers dispute and record the current status of the items or delete them; (2) within five business days after receiving a consumer dispute, notify the furnisher that the item is disputed; (3) "review and consider" all relevant information submitted by consumers in connection with their disputes; (4) maintain reasonable procedures designed to prevent the reappearance in a consumer's file, and in consumer reports on the consumer, of information that has been deleted; and (5) notify a consumer, within five business days after it completes a reinvestigation, (a) that the consumer has the right to file a dispute statement, and (b) that the consumer has the right to request that FARES provide either a notice that the item has been corrected or deleted, or the consumer's dispute statement, to any person specifically designated by the consumer who has received a consumer report that contained the deleted or disputed information within two years prior to the consumer's request, for employment purposes, or within six months prior to the consumer's request, for any other purpose.

The proposed order also would require FARES to permit a consumer to file a dispute statement if its reinvestigation does not resolve the consumer's dispute. If the dispute statement is neither frivolous nor irrelevant, the proposed order would require FARES to include the statement, or a codification or summary of the statement, in all subsequent consumer reports that FARES prepares concerning the consumer that contain the disputed item. The proposed order also would require FARES, at the request of a consumer, to provide a notification that a disputed item has been corrected or deleted, or the consumer's dispute statement or a codification or summary of the statement, to any person specifically designated by the consumer who has received a consumer report that contained the deleted or disputed information within two years prior to the consumer's request, for employment purposes, or within six months prior to the consumer's request, for any other purpose.

The proposed order also includes a number or recordkeeping and reporting requirements designed to assist the Commission in monitoring FARES's compliance.

Congress amended the FCRA in September 1996; the amendments became effective in September 1997. Because the practices of CREDCO that allegedly violated the FCRA occurred prior to September 1997, the complaint alleges violations of the pre-amendment FCRA only. The proposed order, however, requires FARES to comply with the post-amendment FCRA and any future FCRA amendments.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way its terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 98–29514 Filed 11–3–98; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency For Toxic Substances and Disease Registry

[ATSDR–138]

Availability of Final Toxicological Profiles

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of five final toxicological profiles, prepared by ATSDR for the Department of Defense, on unregulated hazardous substances.

FOR FURTHER INFORMATION CONTACT: Ms. Loretta Norman, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (404) 639–6322.

SUPPLEMENTARY INFORMATION: The Superfund Amendments and Reauthorization Act (SARA) of 1986 (Public Law 99–499) amended the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) of 1980. Section 211 of SARA also amended Title 10 of the U.S. Code, creating the Defense Environmental Restoration Program. Section 2704(a) and (b) of Title 10 of the U.S. Code directs the Secretary of Defense to notify the Secretary of Health and Human Services (HHS) of not less than 25 of the most commonly found, unregulated hazardous substances at defense facilities. The Secretary of HHS shall take necessary steps to ensure the timely preparation of toxicological profiles of these substances. Each profile includes an examination, summary and interpretation of available toxicological information and epidemiological evaluations. This information and these data are used to ascertain the levels of significant human exposure for the substance and the associated health effects. The profiles include a determination of whether adequate information on the health effects of each substance is available or under development. When adequate information is not available, ATSDR, in cooperation with the National Toxicology Program (NTP), is required to assure initiation of research to determine these health effects.

Notice of the availability of five new draft toxicological profiles for public review and comment was published in the **Federal Register** on November 26, 1996 (61 FR 60105), with notice of a 90-day public comment period for each profile, starting from the actual release date. Following the close of each comment period, chemical-specific comments were addressed, and where appropriate, changes were incorporated into each profile.

The public comments, the classification of and response to those comments, and other data submitted in response to the **Federal Register** notice bear the docket control number ATSDR–115. This material is available for public inspection at the Division of Toxicology, Agency for Toxic Substances and Disease Registry, Building 4, Suite 2400, Executive Park Drive, Atlanta, Georgia (not a mailing address), between 8 a.m. and 4:30 p.m., Monday through Friday, except legal holidays.

Availability

This notice announces the availability of five final toxicological profiles for the Department of Defense. The following toxicological profiles are now available through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, telephone 1–800–553–6847. There is a charge for these profiles as determined by NTIS.

Toxicological profile	NTIS order No.	CAS No.
1. 2-BUTOXYETHANOL AND 2-BUTOXYETHANOL ACETATE	PB99–102527	000111–76–2 000112–07–2
2. DIISOPROPYL METHYLPHOSPHONATE	PB99–102535	001445–75–6
3. HEXAMETHYLENE DIISOCYANATE	PB99–102543	000822–06–0
4. JET FUEL (JP–5)	PB99–102550	008008–20–6
JET FUEL (JP–8)		070892–10–3
5. METHYLENEDIANILINE	PB99–102568	000101–77–9

Dated: October 29, 1998.

Donna Garland,

Acting Director, Office of Policy and External Affoirs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 98–29504 Filed 11–3–98; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–139]

Availability of Draft Toxicological Profile

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: This notice, prepared by ATSDR for the Department of Defense, announces for review and comment, the availability of one new draft toxicological profile on unregulated hazardous substances. Profiles issued as "Drafts for Public Comment" represent the agency's best efforts to provide important toxicological information on priority hazardous substances. We are seeking public comments and additional information or reports on studies about the health effects of petrochemical substances and their components for review and potential inclusion in the profile.

DATES: In order to be considered, comments on this draft toxicological profile must be received on or before February 22, 1999. Comments received after the close of the public comment period will be considered at the discretion of ATSDR based upon scientific relevance and public health significance.

ADDRESSES: Requests for copies of the draft toxicological profile should be sent to the attention of Ms. Loretta Norman, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road, NE., Atlanta, Georgia 30333. Comments regarding the draft toxicological profile should be sent to the attention of Dr. Ganga Choudhary, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Requests for the draft toxicological profile must be in writing, and must specifically identify the profiled hazardous substance(s) profile(s) that you wish to receive. ATSDR reserves the right to provide only one copy of each profile requested, free of charge. In case of extended distribution delays, requestors will be notified.

Written comments and other data submitted in response to this notice and the draft toxicological profile should bear the docket control number ATSDR–139. Send one copy of all comments and three copies of all supporting documents to Dr. Ganga Choudhary at the above address by the end of the comment period. All written comments and the draft toxicological profile will be available for public inspection at ATSDR, Building 4, Executive Park Drive, Atlanta, Georgia (not a mailing address), from 8:00 a.m. until 4:30 p.m., Monday through Friday, except for legal holidays. Because all public comments regarding ATSDR toxicological profiles are available for public inspection, no confidential business information should be submitted in response to this notice.

FOR FURTHER INFORMATION CONTACT: Ms. Loretta Norman, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (404) 639–6322.

SUPPLEMENTARY INFORMATION: The Superfund Amendments and Reauthorization Act (SARA) of 1986 (Pub. L. 99–499) amended the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund). Section 211 of SARA also amended Title 10 of the U.S. Code, creating the Defense Environmental Restoration Program. Section 2704(a) of Title 10 of the U.S. Code directs the Secretary of Defense to notify the Secretary of Health and Human Services (HHS) of not less than 25 of the most commonly found unregulated hazardous substances at defense facilities. The Secretary of HHS is to prepare toxicological profiles of these substances. Each profile includes an examination, summary and interpretation of available toxicological information and epidemiologic evaluations. This information is used to ascertain the level of significant human exposure for the substance and the associated health effects. The profiles include a determination of whether adequate information on the health effects of each substance is available or in the process of development. When adequate information is not available, ATSDR, in cooperation with the National Toxicology Program (NTP), is required to assure initiation of research to determine these health effects.

Although key studies for the substance were considered during the profile development process, this **Federal Register** notice seeks to solicit any additional studies, particularly unpublished data and ongoing studies, which will be evaluated for possible addition to the profile now or in the future.

The draft toxicological profile will be made available to the public on or about October 17, 1998.

Document	Hazardous substance	CAS No.
1.	Total Petroleum Hydrocarbons (TPHs).	

Dated: October 29, 1998.

Donna Garland,

Acting Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 98–29505 Filed 11–3–98; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Annual statistical report on children in foster homes and children in families receiving payments in excess of the poverty income level from a State program funded under Part A of Title IV of the Social Security Act.

OMB No.: 0970–0040.

Description: This information is collected to meet the statutory requirements of section 1124 of Title I of the Elementary and Secondary Education Act (as amended by Pub. L. 103–382). It is collected by DHHS from State public welfare agencies and turned over to the Department of Education which uses it to arrive at the formula for allocating Title I grant funds to State and local elementary and secondary schools for the purpose of providing educational assistance to disadvantaged children.

Respondents: State, Local or Tribal Govt.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–4125	52	1	264	13,728

Estimated Total Annual Burden Hours: 13,728.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 to 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Attn: Ms. Wendy Taylor.

Dated: October 21, 1998.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 98–28841 Filed 11–3–98; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 98N–0517 and 98D–0548]

Development and Use of Guidances on Antimicrobial Drug Products; Draft Guidances for Industry on the Development of Antimicrobial Drug Products; Reopening of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening until January 29, 1999, the comment period for two **Federal Register** notices regarding guidance documents on developing antimicrobial drug products: A notice requesting comment on the agency's process for developing and using guidance documents on the development of antimicrobial drug products (63 FR 39096, July 21, 1998) and a notice announcing the availability of a general draft guidance for industry entitled "Developing Antimicrobial Drugs—General Considerations for Clinical Trials" and 17 draft guidances on developing antimicrobial drug products to treat individual indications (63 FR 40532, July 29, 1998). FDA is reopening the comment period for both notices to provide interested persons additional time for review and comment.

DATES: Written comments by January 29, 1999. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Copies of the 18 draft guidances for industry are available on the Internet at "http://www.fda.gov/cder/guidance/index.htm". Submit written requests for single copies of the draft guidances to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidances to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments are to be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Renata Albrecht, Center for Drug Evaluation and Research (HFD–590), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2336.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 21, 1998 (63 FR 39096), FDA's Center for Drug Evaluation and Research (CDER) published a notice requesting comments on the development and use of guidance documents for antimicrobial drug products. CDER requested comment on the process the center is using to revise old and develop new guidances for industry on the development of antimicrobial drug products for the treatment of infections. In the **Federal Register** of July 29, 1998 (63 FR 40532), CDER published a notice announcing the availability of a general draft guidance for industry entitled "Developing Antimicrobial Drugs—General Considerations for Clinical Trials" and 17 draft guidances on issues related to developing antimicrobial drug products to treat individual indications. The July 21 and July 29, 1998, notices invited interested persons to submit written comments within 90 days.

The agency has decided to reopen the comment period for both notices until January 29, 1999, in response to requests for additional time for public review and comment on the documents because of the large number of draft guidances that were issued at one time.

Interested persons may, on or before January 29, 1999, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidances and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 28, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–29515 Filed 11–3–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Cancer Institute Board of Scientific Advisors.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Cancer Institute Board of Scientific Advisors.
Date: November 12–13, 1998.
Time: 8:00 AM to 6:00 PM.
Agenda: Concept review.
Place: National Cancer Institute, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.
Contact Person: Paulette S. Gray, Executive Secretary, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard—Rm. 600C, Rockville, MD 20892–7405, 301/496–4218.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396; Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: October 27, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–29471 Filed 11–3–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, NCI/Innovative Technology (PAR98–066).
Date: November 18–19, 1998.
Time: 8:00 a.m. to 12:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Sherwood Githens, PhD, Scientific Review Administrator, National Institutes of Health, National Cancer Institute, Special Review, Referral and Resources Branch, Executive Plaza North, 6130 Executive Boulevard, Bethesda, MD 20892, 301/435–9050.

Name of Committee: National Cancer Institute Special Emphasis Panel, NCI/Innovative Technology (PAR98–067).
Date: November 19–20, 1998.
Time: 1:00 p.m. to 12:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Sherwood Githens, PhD, Scientific Review Administrator, National Institutes of Health, National Cancer Institute, Special Review, Referral and Resources Branch, Executive Plaza North, 6130 Executive Boulevard, Bethesda, MD 20892, 301/435–9050.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research ; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: October 27, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–29472 Filed 11–3–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel.
Date: November 6, 1998.
Time: 8:30 AM to 3:00 PM.
Agenda: To review and evaluate grant applications.
Place: Department of Human Genetics, University of Michigan Medical School, Ann Arbor, MI 48109–0618.
Contact Person: Rudy O POZZATTI, PHD, Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, 301 402–0838.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: October 27, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–29476 Filed 11–3–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Emphasis Panel.
Date: November 5, 1998.
Time: 3:00 PM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: National Human Genome Research Institute, National Institutes of Health, Building 38A, Room 609, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Ken D. Nakamura, PHD, Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, 301 402–0838.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: October 27, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–29477 Filed 11–3–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closing Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.
Date: November 5–6, 1998.
Time: 7:00 PM to 2:00 PM.
Agenda: To review and evaluate grant applications.
Place: Copley Marriott, 110 Huntington Avenue, Boston, MA 02116.
Contact Person: Edgar E. Hanna, PHD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Room 5E01, Bethesda, MD 20892, (301) 496–1485.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: October 27, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–29473 Filed 11–3–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDA.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Drug Abuse, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDA.
Date: November 17–18, 1998.
Time: 12:30 PM to 5:00 PM.
Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.
Place: Division of Intramural Research, NIDA, Johns Hopkins Bayview Campus, Bldg. C, 2nd Floor Auditorium, 5500 Nathan Shock Drive, Baltimore, MD 21224.
Contact Person: Stephen J. Heishman, PHD, Research Psychologist, Clinical Pharmacology Branch, Addiction Research Center, National Institute On Drug Abuse, National Institutes Of Health, DHHS, 5500 Nathan Shock Drive, Baltimore, MD 21224, (410) 550–1547.

Dated: October 27, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, HIH.

[FR Doc. 98–29475 Filed 11–3–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Meeting of the National Reading Panel

Notice is hereby given of the fourth Washington area meeting of the National Reading Panel. The meeting will be held on Monday, November 9, 1998, from 2:00 to 6:00 PM and on Tuesday, November 10, 1998, from 8:00 AM to 4 PM. The meeting location is the Embassy Suites Hotel, 4300 Military Road, NW, Washington, D.C. 20015. The entire meeting will be open to the public.

The National Reading Panel was requested by Congress and created by the Director of the National Institute of Child Health and Human Development in consultation with the Secretary of Education. The Panel will study the effectiveness of various approaches to teaching children how to read and report on the best ways to apply these findings in classrooms and at home. Its members include prominent reading researchers, teachers, child development experts, leaders in elementary and higher education, and parents. The Chair of the Panel is Dr. Donald N. Langenberg, Chancellor of the University System of Maryland.

The Panel will build on the recently announced findings presented by the National Research Council's Committee on the Prevention of Reading Difficulties in Young Children. Based on a review of the literature, the Panel will: determine the readiness for application in the classroom of the results of these research studies; identify appropriate means to rapidly disseminate this information to facilitate effective reading instruction in the schools; and identify gaps in the knowledge base for reading instruction and the best ways to close these gaps.

The agenda for this meeting will include obtaining consensus for the methodology to evaluate research studies, as well as reaching agreement on a prioritized list of claims, findings, and problems that will undergo this evaluation. A period of time will be set aside at approximately 3:00 PM on Tuesday, November 10 for members of the public to address the Panel and express their views regarding the Panel's mission. Individuals desiring an opportunity to speak before the Panel should address their requests to F. William Dommel, Jr., J.D., Executive Director, National Reading Panel, c/o Ms. Amy Andryszak and either mail them to the Widmeyer-Baker Group, 1875 Connecticut Avenue, NW, Suite 800, Washington, D.C. 20009, or e-mail them to *amyo@twbg.com*, or fax them to 202–667–0902. Requests for addressing the Panel should be received by November 4, 1998. Panel business permitting, each public speaker will be allowed five minutes to present his or her views. In the event of a large number of public speakers, the Panel Chair retains the option to further limit the presentation time allowed to each.

Although the time permitted for oral presentations will be brief, the full text of all written comments submitted to the Panel will be made available to the Panel members for consideration.

For further information contact Ms. Amy Andryszak at 202–667–0901. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Amy Andryszak by November 4, 1998.

Dated: October 26, 1998.

Duane Alexander,

Director, National Institute of Child Health and Human Development.

[FR Doc. 98–29478 Filed 11–3–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: November 5–6, 1998.
Time: 8:00 AM to 5:00 P.M.
Agenda: To review and evaluate grant applications.
Place: Georgetown Holiday Inn, 2101 Wisconsin Ave, N.W., Washington, DC 20007.
Contact Person: Jean Hickman, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4194, MSC 7808, Bethesda, MD 20892, (301) 435–1146.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for the Scientific Review Special Emphasis Panel.
Date: November 12–13, 1998.
Time: 8:00 AM to 3:00 PM.
Agenda: To review and evaluate grant applications.
Place: ANA Hotel, 2401 M Street, NW., Washington, DC 20037.
Contact Person: Marjam G. Behar, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4178, MSC 7806, Bethesda, MD 20892, (301) 435–1180.

Name of Committee: Health Promotion and Disease Prevention Initial Review Group, Nursing Research Study Section.
Date: November 12–13, 1998.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Silver Spring Plaza, 8777 Georgia Ave, Silver Spring, MD 20910.
Contact Person: Gertrude McFarland, DNSC, FAAN, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7816, Bethesda, MD 20892, (301) 435–1784.

Name of Committee: Cardiovascular Sciences Initial Review Group, Hematology Subcommittee 2.
November 12–13, 1998.
Date: November 12–13, 1998.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, Bethesda, MD 20814.
Contact Person: Jerrold Fried, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892, (301) 435–1777.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
November 12–13, 1998.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Chevy Chase Holiday Inn, Chevy Chase, MD 20815.
Contact Person: Cheri Wiggs, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7848, Bethesda, MD 20892, (301) 435–1261.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG–1–02–(01).
Date: November 12–13, 1998.
Time: 8:30 AM to 6:00 PM.
Agenda: To review and evaluate grant applications.
Place: The Hyatt Regency, One Metro Circle, Bethesda, MD 20852.
Contact Person: Sami A. Mayyasi, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7852, Bethesda, MD 20892, (301) 435–1169.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: November 12–13, 1998.
Time: 9:00 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: One Washington Circle Hotel, One Washington Circle, N.W., Washington, D.C., 20037.
Contact Person: Anita Miller Sostek, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7848, Bethesda, MD 20892, (301) 435–1260.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: November 12, 1998.
Time: 1:00 PM to 3:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Donald Schneider, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4172, MSC 7806, Bethesda, MD 20892, (301) 435–1727.

Name of Committee: Cell Development and Function Initial Review Group, Biological Sciences Subcommittee 1.
Date: November 12–13, 1998.
Time: 5:30 PM to 6:00 PM.
Agenda: To review and evaluate grant applications.
Place: St James Preferred Residence, 950 24th Street, NW, Washington, DC 20037.
Contact Person: Nancy Pearson, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6178, MSC 7890, Bethesda, MD 20892, (301) 435–1047.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: November 12, 1998.
Time: 6:00 PM to 10:00 PM.
Agenda: To review and evaluate grant applications.
Place: Wyndham Bristol Hotel, Washington, DC 20037.
Contact Person: Bruce Maurer, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1167.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: November 13, 1998.
Time: 8:00 AM to 5:00 PM.
Agenda: To provide concept review of proposed grant applications.
Place: Wyndham Bristol Hotel, Washington, DC 20037.
Contact Person: Bruce Maurer, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1167.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: November 13, 1998.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.
Contact Person: Daniel B. Berch, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5204, MSC 7848, Bethesda, MD 20892, (301) 435–1256.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: November 13, 1998.
Time: 1:00 PM to 2:30 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Richard Panniers, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, 7842, Bethesda, MD 20892, (301) 435–1741.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: November 13, 1998.
Time: 1:00 PM to 2:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Calbert Laing, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4210, MSC 7812, Bethesda, MD 20892, (301) 435–1221.

Name of Committee: Center for Scientific Review Special Emphasis Panel, SSS–6–5.
Date: November 13, 1998.
Time: 4:00 PM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: ANA Hotel, 2401 M Street, NW, Washington, DC 20037.
Contact Person: Marjam G. Behar, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4178, MSC 7806, Bethesda, MD 20892, (301) 435–1180.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: November 16–17, 1998.
Time: 8:00 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Houston Baker, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7854, Bethesda, MD 20892, 301–435–1175, houstonb@drg.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: November 16, 1998.
Time: 8:30 AM to 3:00 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn National Airport, 1489 Jefferson Davis Highway, Arlington, VA 22202.
Contact Person: J. Terrell Hoffeld, PHD, DDS, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7816, Bethesda, MD 20892, (301) 435–1781.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: November 16, 1998.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.
Contact Person: Luigi Giacometti, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7850, Bethesda, MD 20892, (301) 435–1246.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: November 16, 1998.
Time: 11:00 AM to 2:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge II, Bethesda, MD 20892.
Contact Person: Priscilla B. Chen, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: November 16–17, 1998.
Time: 7:00 PM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Nancy Shinowara, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7814, Bethesda, MD 20892–7814, (301) 435–1173, shinowan@drg.nih.gov.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 27, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–29474 Filed 11–3–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Intent To Amend and Supplement a Comprehensive Management Plan and Supplement a Final Environmental Impact Statement

SUMMARY: This notice advises the public and other agencies that the U.S. Fish and Wildlife Service (Service) intends to gather information necessary to prepare a Pronghorn Management Plan (PMP) and associated supplemental Environmental Impact Statement (EIS) for Hart Mountain National Antelope Refuge (Refuge), Lake County, Oregon. The PMP will amend and supplement the Comprehensive Management Plan (CMP) that was approved for the Refuge in May 1994. The supplemental EIS will disclose the environmental consequences of the changes and additions the PMP or its alternatives would make to the CMP. The Service is providing this notice to advise the public and other agencies of our intentions, to request suggestions and information on the scope of issues and alternatives to be included in the PMP and supplemental EIS, and to announce that public meetings will be held in appropriate locations between November 4, 1998 and December 4, 1998. Information about the times and locations of the public meetings will be published in local media, provided to known interested parties through public notices, and made available upon request from persons who contact the refuge at the address and telephone number provided herein. This notice is provided in compliance with the National Wildlife Refuge System Administration Act, as amended by the National Wildlife Refuge System Improvement Act; Service policy on refuge planning; and the National Environmental Policy Act and its implementing regulations.

DATES: Written comments should be received on or before December 21, 1998.

ADDRESSES: Address comments and requests for information to: Hart Mountain Refuge Pronghorn Plan; U.S.F.W.S.; P.O. Box 111 (18 South G Street, #301); Lakeview, Oregon 97630 (541/947–3315).

FOR FURTHER INFORMATION CONTACT: Victoria Roberts at the above address and telephone number.

SUPPLEMENTARY INFORMATION: The Service completed and approved a CMP and EIS in May 1994 to provide guidance for management of Hart Mountain National Antelope Refuge for the subsequent 15-year period. In this CMP, the Service acknowledged that many of the refuge habitats had been degraded by a long history of livestock grazing and fire suppression, and selected a "Native Community Restoration" alternative that emphasized habitat management actions including reintroduction of fire and removal of livestock grazing.

The PMP would be prepared as an amendment and step-down supplement to the approved CMP in accordance with the National Wildlife Refuge System Administration Act of 1966 as amended by the National Wildlife Refuge System Improvement Act of 1997 (Refuge Improvement Act) (16 U.S.C. 668dd et seq.). The 1997 amendment to the Refuge Administration Act defines new

planning standards for national wildlife refuges and strengthens the compatibility standard for national wildlife refuges by defining a mission for the National Wildlife Refuge System and specifying that uses of refuges must be compatible with both the purpose(s) of the individual refuge and mission of the System. It also clarifies that if there are conflicts between the purpose(s) of a refuge and the mission of the System, the conflict must be resolved to first protect the purpose(s) of the refuge. Furthermore, the Service is directed to recognize compatible wildlife-dependent recreation as the priority public uses of the System, facilitate compatible wildlife-dependent recreation, and provide increased opportunities for families to experience compatible wildlife-dependent recreation.

Hart Mountain National Antelope Refuge was established " * * * as a range and breeding ground for antelope and other species of wildlife * * *" by Executive Order 7523 on Dec. 21, 1936. The 1994 CMP for the refuge emphasized wildlife habitat management actions, de-emphasized wildlife population management actions, and did not establish population objectives for pronghorn. Pronghorn population numbers have fluctuated widely since the establishment of the refuge, and the population is currently declining despite significant habitat improvements that have occurred since the Service began implementing the CMP in 1994.

This decline has surfaced debate over pronghorn population objectives and the role of wildlife population management in meeting these objectives and other refuge goals including the public use direction provided by Congress in the Refuge Improvement Act. The existing management plan provides that "wildlife populations, with few exceptions, would be managed through managing upland and wetland habitat" on the refuge. The limited direction provided for population management in the CMP, such as in the case of predator control, is ambiguous and has resulted in public controversy over interpretations of the CMP's intent.

The Service is initiating a public process to develop a PMP that is intended to resolve some of the differences in interpretation of the CMP and to provide more detailed direction on pronghorn management that reflects recent legislative direction and biological information that has been gathered since the CMP's completion. The PMP will establish population management objectives for the pronghorn herd that uses the Refuge, develop population management actions to meet these objectives, develop decision criteria that could be used to initiate these population management actions, and establish a link between these population objectives and the wildlife-dependent recreational uses the Service is directed to provide. No changes are contemplated to the habitat-related objectives or actions approved in the 1994 CMP.

The range of alternative pronghorn population management strategies being considered for the PMP at this time include to: (1) maximize the pronghorn population and increase wildlife-dependent recreation opportunities in a manner consistent with the habitat objectives of the 1994 CMP (intensive population management intervention to benefit pronghorn); (2) define and maintain minimum pronghorn population limits that will meet public expectations about the purpose of the refuge and demand for wildlife recreation (limited, incremental population management intervention); and (3) manage the pronghorn population primarily through management of refuge habitat as provided in the 1994 CMP (population management intervention only when the species is at risk) (no action). The alternatives that will be considered in the PMP and supplemental EIS are expected to evolve through the public participation process.

The supplemental EIS would identify the environmental consequences of changes and additions the proposed PMP and its alternatives would make to the CMP in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), NEPA regulations (40 CFR 1500–1508), and Service policies and procedures for compliance with those regulations.

Dated: October 5, 1998.

Thomas J. Dwyer,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 98–29503 Filed 11–3–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Reassumption of Jurisdiction From the Native Village of Barrow

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

The Indian Child Welfare Act of 1978 (Pub. L. 95–608) provides, subject to certain specified conditions, that Indian tribes may petition the Secretary of the Interior for reassumption of jurisdiction over Indian child custody proceedings.

This is notice that the petition has been received by the Secretary from the Native Village of Barrow for the reassumption of jurisdiction over Indian child custody proceedings. The petition is under review and may be inspected at the Bureau of Indian Affairs, Division of Social Services, 1849 C Street, NW, Room 4603 MIB, Washington, D.C. 20240.

Dated: October 23, 1998.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 98–29556 Filed 11–3–98; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–660–99–1610–00]

Shooting Closure on Public Lands in San Diego County, CA

AGENCY: Bureau of Land Management, DOI.

ACTION: Closure Order.

SUMMARY: The Bureau of Land Management (BLM) is permanently closing 320 acres of public land near La Posta, southern San Diego County, California, to recreational target shooting. The closure is necessary due to safety hazards, fire danger, noise nuisance, litter and resource degradation and land use conflicts. BLM intends to eliminate these safety and environmental problems almost entirely by closing the area to target shooting. The closure will affect most of the recreational target shooters using BLM public lands in southern San Diego County. It will not affect licensed hunters in the pursuit of lawful game or law enforcement officers while in the performance of their official duties.

EFFECTIVE DATE: The closure is effective November 4, 1998.

FOR FURTHER INFORMATION CONTACT: Linda Hansen, Acting Field Manager, USDI Bureau of Land Management, Palm Springs-South Coast Field Office, 690 W. Garnet Avenue, P.O. Box 1260, North Palm Springs, CA 92258–1260. Telephone: (760) 251–4800.

SUPPLEMENTARY INFORMATION: The legal description for the Federally-managed lands permanently closed to recreational shooting (herein known as the La Posta parcel) is as follows: Township 17 South, Range 5 East, Section 25, East ½ SBM. The parcel is east of La Posta Road, approximately 4.5 miles south of Old Highway 30. The 320 acres parcel is a flat open field with a hill lying to the east.

On May 6, 1994, BLM held a public meeting on-site at the La Posta shooting area. Various safety concerns were expressed by local residents, causing BLM to consider better ways to manage the La Posta site or close it. Since that time, BLM has held more meetings and received numerous comments from the public, both opposing the shooting area and supporting it. Due to the growing list of problems associated with the shooting area, a temporary emergency closure was executed on June 26, 1996. Permanent closure of this area is necessary for the following reasons:

1. Safety Hazards

The eastern hill should serve as an adequate backstop for shooters placing their targets near its base. But many shooters place their targets high on the hill, trying to get a longer range. When doing this, bullets ricochet or carry directly east over the hill. Three quarters of a mile of down range on the other side of the hill lies a ranch. Investigations by BLM law enforcement indicate that horses, cattle and buildings have been hit by bullets and there have been near misses with people. There is also concern about the Campo historic train that runs through the ranch on Sundays. Immediately south and even closer to the shooting area lies another ranch that is frequently used by recreational groups and campers. Although shooters are supposed to shoot east into the hill, shots have been directed south towards this ranch, striking the house and resulting in near misses with people.

2. Fire Danger

From 1986 to 1992, the U.S. Forest Service had 25 fires near the La Posta site that were caused by target shooters. In 1994, the BLM La Posta site itself half burned by a fire started on the adjacent U.S. Navy shooting range. BLM has fire orders prohibiting the use of tracer rounds, steel core and incendiary types of ammunition, but evidence shows that target shooters are still causing many of the fires in the local area. Without the La Posta site being significantly graded, fire is a serious threat to the nearby residents.

3. Noise Nuisance

Prior to the emergency closure, on a busy day as many as 15 groups of shooters used the La Posta site at one time. The shooting started at dawn and continued nonstop until dark. One could hear the shooting from as far as five miles away. For the ranch only 500 feet to the south and other nearby residents on La Posta Road, it was a major nuisance.

4. Litter and Resource Degradation

The La Posta site used to be a natural area that attracted local hikers, hunters and dog trainers. Now targets, trash, broken glass and shells litter the area. Two major cleanups organized by local gun stores helped, but only temporarily. Despite frequent patrols by BLM law enforcement, and many concerned shooters and others picking up after themselves, the site deteriorated more each year.

5. Land Use Conflicts

The La Posta site was leased for cattle grazing long before it became a popular shooting area. The grazing lease is still valid yet the rancher is unable to use the area. BLM has also previously issued an apiary permit for the area. The placement of 100 beehives near numerous groups of shooters would likely result in injuries. There are also two mining claims on the east hill, down range. The grazing lease, apiary permit and mining claims are all incompatible land uses with target shooting.

BLM recognizes target shooting as a legitimate recreational use on the public lands. Before closing the La Posta site, several alternative sites were considered. Thus far, safety, fire, noise, environmental, land use, and legal access concerns have prevented the designation of any specific alternative shooting area. This closure is not intended to prohibit recreational target shooting on other BLM public lands; Nor does it affect licensed hunters in the pursuit of lawful game, or law enforcement officers while in the performance of their official duties. Individuals looking for alternative shooting areas are encouraged to obtain a BLM map from the Palm Springs-South Coast Field Office. Authority for this supplementary rule is established by 43 CFR 8364.1. Violation of the rule is punishable by a fine not to exceed $1000 and/or imprisonment not to exceed 12 months.

Dated: October 23, 1998.

Chris Roholt,

Acting Field Manager, Palm Springs-South Coast Field Office.

[FR Doc. 98–29524 Filed 11–3–98; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–024–1020–01]

Notice of Intent To Prepare a Land Use Plan Amendment

SUMMARY: The Snake River Resource Area, Upper Snake River District, is proposing to amend the Cassia Resource Management Plan to allow for the reallocation of 300 AUMs from livestock usage to bighorn sheep usage via a bighorn sheep reintroduction on Jim Sage Mountain in Cassia County, Idaho.

DATES: The public, state and local governments, and other Federal Agencies are invited to participate in the amendment process. Identification of issues, concerns, or other written comments pertaining to this notice will be accepted until November 30, 1998.

SUPPLEMENTARY INFORMATION: The proposed plan amendment would allow the reallocation of 300 AUMs of forage from livestock to bighorn sheep on Jim Sage Mountain in Cassia County, Idaho via a bighorn sheep reintroduction on public land managed by the Bureau of Land Management (BLM). The actual reintroduction of bighorn sheep would be conducted by the Idaho Dept. of Fish and Game with assistance from BLM and other agencies and individuals.

The public land where the reintroduction is proposed is currently managed for livestock grazing, wildlife habitat and recreation as part of the Jim Sage Allotment, #5003. All the aforementioned uses would continue.

Public participation in the amendment process will include publication of this notice in the **Federal Register** and local newspapers and the mailing of this notice to state and local governments, private individuals, and other interested parties. Depending on the amount of public interest, public meetings may be held in the Snake River Resource Area Office, Burley, Idaho.

ADDRESSES: Any comments on this notice should be mailed by close of business on November 30, 1998 to the Bureau of Land Management, Snake River Resource Area, Attention: Kurt Pavlat, 15 East, 200 South, Burley, ID 83318.

FOR FURTHER INFORMATION CONTACT: Kurt Pavlat, Range Conservationist, (208) 678–5514.

Dated: October 26, 1998.

Kurt Pavlat,

Range Conservationist.

[FR Doc. 98–29527 Filed 11–3–98; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–950–5700–77; AZA 30749]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service, has filed an application to withdraw 74,380.50 acres of National Forest System lands and 320 acres of non-Federal lands, if acquired, for protection of the San Francisco Peaks/Mount Elden Recreation Area. This notice closes the lands for up to 2 years from location and entry under the United States mining laws. The lands will remain open to all other uses which may be made of National Forest System lands. The non-Federal lands would also be closed to mining by this notice if acquired by the United States during the 2-year period.

DATES: Comments should be received on or before February 2, 1999.

ADDRESSES: Comments should be sent to the Forest Supervisor, Coconino National Forest, 2323 E. Greenlaw Lane, Flagstaff, Arizona 85006.

FOR FURTHER INFORMATION CONTACT: Pete Mourtsen, Coconino National Forest, 520–527–3600.

SUPPLEMENTARY INFORMATION: The Forest Service has filed an application to withdraw the following described National Forest System lands and non-Federal lands from location and entry under the United States mining laws, subject to valid existing rights:

Gila and Salt River Meridian

Coconino National Forest

National Forest System Lands

T. 21 N., R. 7 E.
Sec. 1, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 2, lots 1 to 8, inclusive, S½NW¼, S½SE¼, and SW¼, excluding HES 86.
T. 21 N., R. 8 E.
Sec. 6, lots 1 to 7, inclusive, SW¼NE¼, NE¼NE¼SE¼NE¼, W½E½SE¼NE¼, W½SE¼NE¼, SE¼NW¼, NE¼SW¼, NW¼SE¼, and W½SW¼SE¼SE¼NE¼SE¼.
T. 22 N., R. 6 E.
Sec. 1, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 2, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 3, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 4, lots 1 to 4, inclusive, S½NE¼, SW¼NW¼, and S½;
Secs. 9 to 11, inclusive;
Sec. 12, E½, and SW¼;
Sec. 13, N½;
Secs. 14 and 15;
Sec. 16, E½.
T. 22 N., R. 7 E.
Sec. 1, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 2, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 3, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 4;
Sec. 5, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, lots 1 to 4, inclusive, E½, and E½W½;
Secs. 8 to 17, inclusive;
Sec. 18, lots 1 to 4, inclusive, E½, and E½W½;
Secs. 20 to 23, inclusive;
Sec. 24, lots 1 to 16, inclusive;
Sec. 25, lots 1 to 16, inclusive;
Sec. 26, lots 1 to 16, inclusive;
Sec. 27, NW¼, and S½;
Sec. 28 and 29;
Sec. 32, N½;
Sec. 33, N½, N½S½, SW¼SE¼, and W½W½W½SE¼SE¼;
Sec. 34, N½, N½SW¼, E½SW¼SW¼, and NW¼SE¼;
Sec. 35, lots 1 to 4, inclusive, W½E½, and W½;
Sec. 36.
T. 22 N., R. 8 E.
Sec. 5, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, W½SW¼, and SE¼;
Sec. 7, lots 1 to 4, inclusive, E½, and E½W½;
Sec. 8, N½, SW¼, and W½SE¼;
Sec. 17, S½N½NE¼NE¼, S½NE¼NE¼, W½NE¼, SE¼NE¼, W½, and SE¼;
Sec. 18, lots 1 to 4, inclusive, E½, and E½W½;
Sec. 19, lots 1 to 4, inclusive, E½, and E½W½;
Sec. 20, N½NE¼NE¼, N½S½NE¼NE¼, SW¼SW¼NE¼NE¼, W½NE¼, S½SE¼NE¼, NW¼, and S½;
Sec. 29, N½, SW¼, N½SE¼, SW¼SE¼, N½SE¼SE¼, and W½SW¼SE¼SE¼;
Sec. 30, lots 1 to 4, inclusive, E½, and E½W½;
Sec. 31, lots 1 to 4, inclusive, E½, and E½W½;
Sec. 32, N½, N½S½, SW¼SW¼, W½SE¼SW¼, N½N½NE¼SE¼SW¼, N½N½NW¼SW¼SE¼, E½SW¼SE¼, and SE¼SE¼.
T. 23 N., R. 6 E.
Sec. 8, lots 1, 2, 7, and 8;
Sec. 9, lots 1 to 8, inclusive, and N½;
Sec. 10, NE¼, NE¼NE¼NW¼, NE¼NW¼NE¼NW¼, S½NE¼NW¼, NW¼NW¼NW¼NW¼, S½NW¼NW¼NW¼, SW¼NW¼NW¼, S½NW¼, and S½;
Sec. 11, E½, NW¼, W½SW¼, N½NE¼SW¼, SW¼NE¼SW¼, N½SE¼NE¼SW¼, SW¼SE¼NE¼SW¼, E½SE¼SE¼NE¼SW¼, W½NE¼SE¼SW¼, W½SE¼SW¼, E½E½NE¼SE¼SW¼, and E½E½SE¼SE¼SW¼;
Sec. 12;
Sec. 13, lots 1 to 4, inclusive, N½NE¼NE¼, SE¼SE¼NE¼NE¼, N½NW¼NE¼, SW¼NW¼NE¼, S½NE¼SW¼NE¼, NW¼SW¼NE¼, S½S½NE¼, NE¼SE¼NE¼, S½NW¼SE¼NE¼, and W½;
Sec. 14, S½N½S½N½N½, S½S½N½N½, S½N½, E½SW¼, NW¼SW¼, and SE¼;
Sec. 15, N½, SW¼, N½SE¼, and SW¼SE¼;
Sec. 16;
Sec. 17, lots 1 to 8, inclusive, and S½;
Sec. 20 and 21;
Sec. 22, W½NE¼, SE¼NE¼, N½SW¼, N½SW¼SW¼, N½N½SE¼SW¼, SE¼NE¼SE¼SW¼, E½SE¼SE¼SW¼, and SE¼;
Sec. 23, NE¼, E½NW¼, SW¼NW¼, N½SW¼, N½NE¼SW¼SW¼, SE¼NE¼SW¼SW¼, NW¼SW¼SW¼, N½SW¼SW¼SW¼, N½SE¼SW¼, N½SW¼SE¼, SE¼SW¼SE¼, and SE¼SE¼;
Sec. 24, lots 1 to 8, inclusive, and W½;
Sec. 25, lots 1 to 8, inclusive, and W½;
Sec. 26, E½E½NE¼, NW¼NE¼NE¼, N½SW¼NE¼NE¼, SW¼SW¼NE¼NE¼, S½N½NW¼NE¼, S½NW¼NE¼, SW¼NE¼, NW¼NW¼SE¼NE¼, S½NW¼SE¼NE¼, SW¼SE¼NE¼, S½SW¼, and SE¼;
Sec. 27, N½NE¼NE¼, SW¼NE¼NE¼, W½SE¼NE¼NE¼, N½NE¼SE¼NE¼NE¼, NW¼NE¼, E½W½SW¼NE¼, E½SW¼NE¼, W½SE¼NE¼, W½NE¼SE¼NE¼, S½NE¼NE¼SE¼NE¼, SE¼NE¼SE¼NE¼, SE¼SE¼NE¼, S½SW¼NW¼NW¼, SW¼SE¼NW¼NW¼, W½NE¼SW¼NW¼, W½SW¼NW¼, SE¼SW¼NW¼, SW¼SE¼NW¼, N½NE¼SW¼, N½S½NE¼SW¼, W½W½SW¼, SE¼SW¼SW¼, S½SE¼SW¼, N½N½SE¼, N½SW¼NE¼SE¼, SE¼NE¼SE¼, N½S½NW¼SE¼, SW¼SW¼SE¼, W½SE¼SW¼SE¼, E½SE¼SE¼, and reconveyed portion of NW¼ (AZA 28296);
Secs. 28, 29, 32, and 33;
Sec. 34, SW¼NW¼NE¼, NW¼, and SE¼;
Sec. 35, N½NE¼, E½W½SE¼NE¼, E½SE¼NE¼, N½N½NW¼, SW¼NW¼NW¼, W½SW¼NW¼, N½S½, N½SW¼SW¼, S½SE¼, reconveyed portion of NW¼ known as Parcels 1, 2, and 4 of Snow Bowl Estates (AZA 26537), and SE¼SW¼ excluding patented land;
Sec. 36.
T. 23 N., R. 7 E.
Sec. 7, lots 1 to 4, inclusive, E½, and E½W½;
Secs. 8 to 11, inclusive;
Sec. 12, lots 1 to 4, inclusive, W½E½, and W½;
Sec. 13, lots 1 to 4, inclusive, W½E½, NW¼, N½SW¼, SW¼SW¼, and N½SE¼SW¼, less and except MS 4652;
Secs. 14 and 15;
Sec. 16, lots 1 to 8, inclusive, and N½;
Sec. 17;
Sec. 18, lots 3 to 5, inclusive, E½, N½NE¼NW¼, SE¼NE¼NW¼, N½NE¼NW¼NW¼, E½SE¼NW¼, S½SW¼SE¼NW¼, and E½SW¼;
Sec. 19, lots 1 to 4, inclusive, E½, and E½W½;
Secs. 20 and 21;
Sec. 22, lots 1 to 12, inclusive, and NE¼;
Sec. 23;
Sec. 24, lots 1 to 4, inclusive, N½NW¼NE¼, SE¼NW¼NE¼, E½SW¼NW¼NE¼, E½W½SW¼NW¼NE¼, E½W½W½SW¼NW¼NE¼, E½SW¼NE¼, E½NW¼SW¼NE¼, E½W½NW¼SW¼NE¼, E½W½W½NW¼SW¼NE¼, SW¼SW¼NE¼, W½W½W½SW¼NE¼NW¼, W½NW¼, W½W½W½NW¼SE¼NW¼, S½SE¼NW¼, SW¼, and W½SE¼;
Sec. 25, lots 1 to 4, inclusive, W½E½, and W½;
Sec. 26;
Sec. 27, lots 1 to 4, inclusive, W½E½, and W½;
Secs. 28 and 29;
Sec. 30, lots 1 to 12, inclusive, and E½W½;
Sec. 31, lots 1 to 10, inclusive, E½NE¼, and E½W½;
Sec. 32, lots 1 to 4, inclusive, N½, and N½S½;
Sec. 33, lots 1 to 4, inclusive, N½, and N½S½;
Sec. 34, lots 1 to 7, inclusive, W½NE¼, NW¼, N½SW¼, and NW¼SE¼;
Sec. 35, lots 3 to 7, inclusive, N½, N½SW¼, and NE¼SE¼, excluding 50' R/W for railroad pipeline;
Sec. 36, lots 1 to 7, inclusive, W½NE¼, NW¼, N½SW¼, and NW¼SE¼.
T. 23 N., R. 8 E.
Sec. 7, lots 1 to 4, inclusive, E½, and E½W½;
Sec. 17, SW¼;
Sec. 18, lots 1 to 4, inclusive, NE¼NE¼, S½NE¼, E½W½, and SE¼;
Sec. 19, lots 1 to 4, inclusive, E½, and E½W½;
Sec. 20, W½;
Sec. 29, N½, SW¼, E½NE¼SE¼, E½NW¼NE¼SE¼, W½E½NW¼SE¼, W½W½SE¼, W½NE¼SW¼SE¼, and N½NE¼SE¼SE¼;
Sec. 30, lots 1 to 4, inclusive, E½, and E½W½;
Sec. 31, lots 1 to 4, inclusive, E½, and E½W½;
Sec. 32, W½NW¼NE¼, W½SE¼NW¼NE¼, S½NE¼, W½, and SE¼.

The areas described aggregate 74,380.50 acres in Coconino County.

Non-Federal Lands

T. 22 N., R. 6 E.
Sec. 12, NW¼.
T. 22 N., R. 7 E.
Sec. 27, NE¼.

The areas described aggregate 320 acres in Coconino County.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing, by the date specified above, to the Forest Supervisor, Coconino National Forest.

Notice is hereby given that a public meeting in connection with the proposed withdrawal will be held at a later date. A notice of time and place will be published in the **Federal Register** and a newspaper in the general vicinity of the lands to be withdrawn at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date.

Dated: October 27, 1998.

Alvin L. Burch,

Acting Deputy State Director, Resources Division.

[FR Doc. 98–29525 Filed 11–3–98; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF JUSTICE

Justice Programs Office

Bureau of Justice Statistics; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review: the Parole Data Survey and the Probation Data Survey.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days from the date listed at the top of this page in the **Federal Register**. This process is in accordance with the Paperwork Reduction Act of 1995.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency; including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

If you have additional comments, suggestions, or additional information, especially regarding the estimated public burden and associated response time, please write to Dr. Jan M. Chaiken, Director, Bureau of Justice Statistics, 810 Seventh St. NW, Washington, D.C. 20531. If you need a copy of the collection instruments with instructions, or have additional information, please contact Tom Bonczar at (202) 616–3615, or via facsimile at (202) 307–1463.

Overview of this information collection

(1) *Type of information collection:* Revision of currently approved collection.

(2) *The title of the Form/Collection:* The Parole Data Survey and the Probation Data Survey.

(3) *The agency form number and the applicable component of the Department sponsoring the collection:* Forms: CJ–7; and CJ–8. Corrections Statistics, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked to respond, as well as a brief abstract:* Primary: State Departments of Corrections or State probation and Parole authority. Others: The Federal Bureau of Prisons, city and county courts and probation offices for which a central reporting authority does not exist. For the CJ–7 form, 54 central reporters (two State jurisdictions in California and one each from the remaining States, the District of Columbia, the Federal Bureau of

Prisons, and one local authority) responsible for keeping records on parolees will be asked to provide information for the following categories:

(a) As of January 1, 1999 and December 31, 1999, the number of adult parolees under their jurisdiction;

(b) The number of adults entering parole during 1999 through discretionary release from prison, mandatory release from prison, or reinstatement of parole;

(c) The number of adults released from parole during 1999 through successful completion, incarceration, transfers to another parole jurisdiction, or death;

(d) As of December 31, 1999, the number of male and female parolees under their jurisdiction;

(e) As of December 31, 1999, the number of white, black, American Indian or Alaska Native, Asian or Pacific Islander, or other adult parolees, and the number of adult parolees of Hispanic origin under their jurisdiction;

(f) As of December 31, 1999, the number of adult parolees under their jurisdiction with a sentence of more than one year, or a year or less;

(g) As of December 31, 1999, the number of adult parolees under their jurisdiction who were active, inactive, absconders, or supervised out of state;

(h) Whether the parolee authority operated an intensive supervision program, a program involving electronic monitoring, or had any parolees enrolled in a program that approximates a bootcamp, and the number of adult parolees in each of the programs as of December 31, 1999; and

(i) Whether the parolee authority supervised any parolees from local jails as of December 31, 1999.

For the CJ–8 form 271 reporters (one from each State, the District of Columbia, and the Federal Bureau of Prisons; and 219 from local authorities) responsible for keeping records on inmates will be asked to provide information for the following categories:

(a) As of January 1, 1999 and December 31, 1999, the number of adult probationers under their jurisdiction;

(b) The number of adults entering probation during 1999 with and without a sentence to incarceration;

(c) The number of adults released from probation during 1999 through successful completion, incarceration, and death;

(d) As of December 31, 1999, the number of male and female probationers under their jurisdiction;

(e) As of December 31, 1999, the number of white, black, American Indian or Alaska Native, Asian or Pacific Islander, or other adult probationers, and the number of adult probationers of Hispanic origin under their jurisdiction;

(f) As of December 31, 1999, the number of adult probationers under their jurisdiction who were sentenced for a felony, misdemeanor, or driving while intoxicated or under the influence of alcohol;

(g) As of December 31, 1999, the number of adult probationers under their jurisdiction who had entered probation with a suspended sentence to incarceration, a suspended imposition of sentence, a direct sentence to probation, or a split sentence to probation;

(h) As of December 31, 1999, the number of adult probationers under their jurisdiction who were active; inactive, absconders, or supervised out of state; and

(i) Whether the probation authority operated an intensive supervision program, a program involving electronic monitoring, or had any probationers enrolled in a program that approximates a bootcamp, and the number of adult probationers in each of the programs as of December 31, 1999.

The Bureau of Justice Statistics uses this information in published reports and for the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, and others interested in criminal justice statistics.

(5) *An estimate of the total number of respondents and the amount of time needed for an average respondent to respond:* Three hundred and twenty-five respondents each taking an average 1.5 hours to respond.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 488 annual burden hours.

If additional information is required, contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: October 29, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–29465 Filed 11–3–98; 8:45 am]

BILLING CODE 4410–18–M

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors Committee on Provision for the Delivery of Legal Services

TIME AND DATE: The Committee on Provision for the Delivery of Legal Services of the Legal Services Corporation Board of Directors will meet on November 15, 1998. The meeting will begin at 10:30 a.m. and continue until conclusion of the committee's agenda.

LOCATION: 9th Floor Conference Center of 750 First Street, N.E., Washington, DC 20002.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.
2. Approval of minutes of the September 11, 1998, meeting of the committee.
3. Report on the Technology Conference held at Airlie House, Maryland, in September of this year.
4. Report on the State Planning Process.
5. Consider and act on other business.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel and Secretary of the Corporation, at (202) 336–8810.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Shannon Nicko Adaway, at (202) 336–8810.

Dated: October 30, 1998.

Victor M. Fortuno,

General Counsel.

[FR Doc. 98–29695 Filed 11–2–98; 3:54 pm]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting; Meeting of the Board of Directors Operations and Regulations Committee

TIME AND DATE: The Operations and Regulations Committee of the Legal Services Corporation Board of Directors will meet on November 15, 1998. The meeting will begin at 12:30 p.m. and continue until the committee concludes its agenda.

LOCATION: 9th Floor Conference Center of 750 First Street NE, Washington, DC 20002.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.
2. Approval of the minutes of the September 11, 1998, meeting of the committee.
3. Consider and act on proposed new rule, 45 CFR Part 1645, Acquisition Procedures and Property Standards.
4. Consider and act on other business.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel and Secretary of the Corporation, at (202) 336–8810.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Shannon Nicko Adaway, at (202) 336–8810.

Dated: October 30, 1998.

Victor M. Fortuno,

General Counsel.

[FR Doc. 98–29696 Filed 11–2–98; 3:54 pm]

BILLING CODE 7050–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information Pertaining to the Requirement to be Submitted

1. *The title of the information collection:*

—DOE/NRC Forms 741 & 741A—Nuclear Material Transaction Report;
—DOE/NRC Form 740M—Concise Note;
—NUREG/BR–0006—"Instructions for Completing Nuclear Material Transactions Reports and Concise Note, Forms 741, 741A, and 740M".

2. *Current OMB approval numbers:* 3150–0003 for DOE/NRC Forms 741 and 741A; 3150–0057 for DOE/NRC Form 740M.

3. *How often the collection is required:*

—DOE/NRC Form 741/741A: As occasioned by special nuclear material or source material transfers, receipts, or inventory changes that meet certain criteria.
—DOE/NRC Form 740M: As necessary to inform the U.S. or the International Atomic Energy Agency (IAEA) of any qualifying statement or exception to any of the data contained in any of the other reporting forms required under the US/IAEA Safeguards Agreement.

4. *Who is required or asked to report:* Persons licensed to possess specified quantities of special nuclear material or source material, and licensees of facilities on the U.S. eligible list who have been notified in writing by the Commission that they are subject to 10 CFR Part 75.

5. *The number of annual respondents:*

—DOE/NRC Form 741/741A: 1,200.
—DOE/NRC Form 740M: 38.

6. *The number of hours needed annually to complete the requirement or request:*

—DOE/NRC Form 741/741A: 27,375 for NRC and Agreement State licensees (an average of approximately 22.8 hours per response for 1200 respondents).
—DOE/NRC Form 740M: 855 (an average of approximately 22.5 hours per response for 38 respondents).

7. *Abstract:* NRC and Agreement State licensees are required to make inventory and accounting reports on DOE/NRC Form 741/741A for certain source or special nuclear material inventory changes, for transfers or receipts of special nuclear material; or for transfer or receipt of 1 kilogram or more of source material. Licensees affected by 10 CFR Part 75 and related sections of Parts 40, 50, 70, and 150 are required to submit DOE/NRC Form 740M to inform the U.S. or the IAEA of any qualifying statement or exception to any of the data contained in any of the other reporting forms required under the U.S./IAEA Safeguards Agreement. The use of Forms 740M, 741, and 741A, together with NUREG/BR–0006, the instructions for completing the forms, enables NRC to collect, retrieve, analyze as necessary, and submit the data to IAEA to fulfill its reporting responsibilities.

Submit, by January 4, 1998, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, or by telephone at 301–415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 29th day of October 1998.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–29495 Filed 11–3–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection:

NUREG/BR–0238, Materials Annual Fee Billing Handbook
NUREG/BR–0239, Financial EDI Authorization Form
NUREG/BR–0253, Fact Sheet—Electronic Funds Transfer
NUREG/BR–0254, Payment Methods

2. Current OMB approval number: 3150–0190.

3. How often the collection is required: Annually.

4. Who is required or asked to report: Anyone doing business with the Nuclear Regulatory Commission including licensees, applicants and individuals who are required to pay a fee for inspections and licenses.

5. The number of annual respondents: 1,320 (300 for the Financial EDI Form and 1,020 for the Credit Card Authorization Form).

6. The number of hours needed annually to complete the requirement or request: 105.6 (24 hours for the Financial EDI Form and 81.6 hours for the Credit Card Authorization Form).

7. Abstract: The U.S. Department of Treasury encourages the public to pay monies owed the government through use of the Automated Clearinghouse Network and credit card. These two methods of payment are used by licensees, applicants, and individuals to pay civil penalties, full cost licensing fees, and inspection fees to the NRC.

Submit, by January 4, 1999, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, by telephone at 301–415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 29th day of October 1998.

For the Nuclear Regulatory Commission.

Brenda Jo Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–29496 Filed 11–3–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 55–32443–SP and ASLBP No. 99–755–01–SP]

Michael A. Philippon; Designation of Presiding Officer

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.1207 of the Commission's Regulations, a single member of the Atomic Safety and Licensing Board Panel is hereby designated to rule on requests for hearing and/or petitions to intervene, and, if necessary, to serve as the Presiding Officer to conduct an informal adjudicatory hearing in the following proceeding.

Michael A. Philippon

(Denial of Senior Reactor Operator's License)

The hearing, if granted, will be conducted pursuant to 10 CFR Part 2 Subpart L of the Commission's Regulations, "Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings." This proceeding concerns a denial by NRC Staff of Mr. Philippon's senior reactor operator's license application and Mr. Philippon's request for a hearing pursuant to 10 CFR 2.103.

The Presiding Officer in this proceeding is Administrative Judge Thomas S. Moore. Pursuant to the provisions of 10 CFR 2.722, the Presiding Officer has appointed Administrative Judge Charles N. Kelber to assist the Presiding Officer in taking evidence and in preparing a suitable record for review.

All correspondence, documents and other materials shall be filed with Judge Moore and Judge Kelber in accordance with 10 CFR 2.701. Their addresses are:

Administrative Judge Thomas S. Moore, Presiding Officer, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. Charles N. Kelber, Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Issued at Rockville, Maryland, this 28th day of October 1998.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 98–29498 Filed 11–3–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket 70–7002]

Notice of Amendment to Certificate of Compliance GDP–2 for the U.S. Enrichment Corporation, Portsmouth Gaseous Diffusion Plant, Portsmouth, Ohio

The Director, Office of Nuclear Material Safety and Safeguards, has made a determination that the following amendment request is not significant in accordance with 10 CFR 76.45. In making that determination, the staff concluded that: (1) There is no change in the types or significant increase in the amounts of any effluents that may be released offsite; (2) there is no significant increase in individual or cumulative occupational radiation exposure; (3) there is no significant construction impact; (4) there is no significant increase in the potential for, or radiological or chemical consequences from, previously analyzed accidents; (5) the proposed changes do not result in the possibility of a new or different kind of accident; (6) there is no significant reduction in any margin of safety; and (7) the proposed changes will not result in an overall decrease in the effectiveness of the plant's safety, safeguards, or security programs. The basis for this determination for the amendment request is described below.

The NRC staff has reviewed the certificate amendment application and concluded that it provides reasonable assurance of adequate safety, safeguards, and security and compliance with NRC requirements. Therefore, the Director, Office of Nuclear Material Safety and Safeguards, is prepared to issue an amendment to the Certificate of Compliance for the Portsmouth Gaseous Diffusion Plant (PORTS). The staff has prepared a Compliance Evaluation Report which provides details of the staff's evaluation.

The NRC staff has determined that this amendment satisfies the criteria for a categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for this amendment.

USEC or any person whose interest may be affected may file a petition, not exceeding 30 pages, requesting review of the Director's Decision. The petition must be filed with the Commission not later than 15 days after publication of this **Federal Register** notice. A petition for review of the Director's Decision shall set forth with particularity the interest of the petitioner and how that interest may be affected by the results of the decision. The petition should specifically explain the reasons why review of the Decision should be permitted with particular reference to the following factors: (1) The interest of the petitioner; (2) how that interest may be affected by the Decision, including the reasons why the petitioner should be permitted a review of the Decision; and (3) the petitioner's areas of concern about the activity that is the subject matter of the Decision. Any person described in this paragraph (USEC or any person who filed a petition) may file a response to any petition for review, not to exceed 30 pages, within 10 days after filing of the petition. If no petition is received within the designated 15-day period, the Director will issue the final amendment to the Certificate of Compliance without further delay. If a petition for review is received, the decision on the amendment application will become final in 60 days, unless the Commission grants the petition for review or otherwise acts within 60 days after publication of this **Federal Register** notice.

A petition for review must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, by the above date.

For further details with respect to the action see: (1) The application for amendment and (2) the Commission's Compliance Evaluation Report. These items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, and at the Local Public Document Room.

Date of amendment request: May 26, 1998.

Brief description of amendment: On May 26, 1998, the United States Enrichment Corporation (USEC) requested an amendment to the certificate of compliance for PORTS. The request is to revise Technical Safety Requirement (TSR) 2.1.3.9, Low Cylinder Pressure Shutoff, to reduce the shutoff pressure level setpoint from 20 psia to an allowable value of 15 psia and to reflect an improved description of the system operation through changes to the TSR's Surveillance Requirements and the Basis Statement wording.

Specifically, USEC has proposed to revise the Surveillance Requirements of TSR 2.1.3.9 to: (1) Require the quarterly channel functional test and the semiannual calibration to be based on an allowable pressure reading of greater than or equal to 15 psia, instead of a setpoint of 20 psia and (2) to specify a definitive, initial period of time when the channel functional test and calibration are performed—an allowable value of less than or equal to 65 minutes from an open ended "after the first hour of heating." USEC has also proposed to revise the Basis Statement wording to reflect the revised system operation.

PORTS uses thirteen cylindrical (6, 7, and 8 foot diameter) steam autoclaves in buildings X–342, X–343 and X–344 to feed, transfer and sample UF_6 contained in cylinders. Cylinder heating is accomplished by pressurizing the autoclave with live steam. The feed, transfer and sample operations of the cylinders are protected against cylinder overpressure by instrumentation that measures cylinder pressure through sensors downstream in the UF_6 process line. If the cylinder has either a plugged cylinder valve or pigtail, the protection afforded by the cylinder high pressure shutoff system would be negated because the high pressure instrumentation would be unable to measure the UF_6 cylinder pressure. The low cylinder pressure shutoff system's sole function is to ensure line clarity by measuring for an expected pressure after a given time period. This is performed early in the heating evolution to ensure the availability of the pressure instrumentation well before the maximum allowable working pressure of the UF_6 cylinder.

Basis for Finding of No Significance:

1. The proposed amendment will not result in a change in the types or significant increase in the amounts of any effluents that may be released offsite.

The low cylinder pressure shutoff system is in place to verify the clarity of the UF_6 process line and the availability of the cylinder pressure instrumentation. The system is not involved in the generation of effluents; therefore, the proposed amendment will not change the types or increase the amount of effluents that may be released offsite.

2. The proposed amendment will not result in a significant increase in individual or cumulative occupational radiation exposure.

The proposed amendment which involves changing the surveillance requirements and actuation setpoints of the low cylinder pressure shutoff system will not affect operability. The low cylinder pressure shutoff system will still be capable of ensuring UF_6 process line clarity and the availability of the UF_6 cylinder high pressure autoclave steam shutdown system. The changes will not increase the probability or consequences of a UF_6 release associated with any postulated accident currently identified in the SAR. Therefore, the proposed amendment will not result in a significant increase in individual or cumulative occupational radiation exposure.

3. The proposed amendment will not result in a significant construction impact.

The proposed amendment does not involve any construction activities; therefore, there will be no construction impacts.

4. The proposed amendment will not result in a significant increase in the potential for, or radiological or chemical consequences from, previously analyzed accidents.

The proposed amendment which involves changing the surveillance requirements and actuation setpoints of the low cylinder pressure shutoff system will not affect operability. The low cylinder pressure shutoff system will still be capable of ensuring UF_6 process line clarity and the availability of the UF_6 cylinder high pressure autoclave steam shutdown system. The changes will not increase the probability or consequences of any postulated radiological or chemical accident currently identified in the SAR. The proposed changes will also not result in an increase in the potential for, or radiological consequences from, previously evaluated criticality accidents. Therefore, the proposed changes will not result in a significant increase in the potential for, or radiological or chemical consequences from, previously analyzed accidents.

5. The proposed amendment will not result in the possibility of a new or different kind of accident.

Releases of UF_6 involving autoclave feed, sampling and transfer operations have been analyzed in the SAR. The proposed amendment will not result in any changes to any of the operations; therefore, the proposed amendment will not result in the possibility of a new or different kind of accident.

6. The proposed amendment will not result in a significant reduction in any margin of safety.

The proposed changes, lowering the low cylinder pressure shutoff system setpoint from 20 psia to an allowable value of 15 psia will not affect the system operability. The function of the low cylinder pressure shutoff system is to ensure line clarity to the pressure instrumentation to allow for over pressure protection provided by the high UF_6 cylinder pressure shutoff system. The proposed revisions will

allow for improved system operability by lowering the setpoint from being set too close to the expected pressure measured at the particular time of the heating evolution. The revised methodology allows for the control system to accommodate for instrument uncertainty when determining the actual setpoint (a procedurally controlled value). The revised allowable value of 15 psia still allows for a 50% rise in pressure from the administratively controlled starting pressure of 10 psia, which allows for the low cylinder pressure control system to suitably demonstrate line clarity.

The change from the current surveillance requirements specifying ". . . after the first hour of heating . . ." to the proposed allowable value of less than or equal to 65 minutes will not lead to a significant increase in measured pressure. The proposed value provides a definitive time for the surveillance requirements to be performed within an expected pressure range that is well below the maximum allowable working pressure of the UF_6 cylinder.

The changes will not result in a significant reduction in any margin of safety.

7. The proposed amendment will not result in an overall decrease in the effectiveness of the plant's safety, safeguards, or security programs.

The proposed amendment which involves changing the surveillance requirements and actuation setpoints of the low cylinder pressure shutoff will not affect system operability. The low cylinder pressure shutoff system will still be capable of ensuring UF_6 process line clarity and the availability of the UF_6 cylinder high pressure autoclave steam shutdown system. Therefore, the proposed modifications will not result in a decrease in the overall effectiveness of the plant's safety program. The staff has also not identified any safeguards or security related implications from the proposed amendment.

Effective date: 60 days after issuance of amendment.

Certificate of Compliance No. GDP–2: Amendment will revise the Technical Safety Requirement.

Local Public Document Room location: Portsmouth Public Library, 1220 Gallia Street, Portsmouth, Ohio 45662.

Dated at Rockville, Maryland, this 27th day of October 1998.

Carl J. Paperiello,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98–29493 Filed 11–3–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Dockets 70–7001 and 70–7002]

Notice of Amendment to Certificates of Compliance GDP–1 and GDP–2 for the U.S. Enrichment Corporation (Paducah Gaseous Diffusion Plant and Portsmouth Gaseous Diffusion Plant, Paducah, Kentucky and Piketon, Ohio)

The Director, Office of Nuclear Material Safety and Safeguards, has made a determination that the following administrative amendments are not significant in accordance with 10 CFR 76.45. In making that determination, the staff concluded that: (1) There is no change in the types or significant increase in the amounts of any effluents that may be released offsite; (2) there is no significant increase in individual or cumulative occupational radiation exposure; (3) there is no significant construction impact; (4) there is no significant increase in the potential for, or radiological or chemical consequences from, previously analyzed accidents; (5) the proposed changes do not result in the possibility of a new or different kind of accident; (6) there is no significant reduction in any margin of safety; and (7) the proposed changes will not result in an overall decrease in the effectiveness of the plant's safety, safeguards or security programs. The basis for this determination for the amendments is shown below.

The NRC staff has concluded that the administrative amendments provide reasonable assurance of adequate safety, safeguards, and security, and compliance with NRC requirements. Therefore, the Director, Office of Nuclear Material Safety and Safeguards, is prepared to issue amendments to the Certificates of Compliance for the Paducah Gaseous Diffusion Plant and the Portsmouth Gaseous Diffusion Plant. The staff has prepared a Compliance Evaluation Report which provides details of the staff's evaluation.

The NRC staff has determined that these amendments satisfy the criteria for a categorical exclusion in accordance with 10 CFR 51.22(c)(19). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments.

USEC or any person whose interest may be affected may file a petition, not exceeding 30 pages, requesting review of the Director's Decision. The petition must be filed with the Commission not later than 15 days after publication of this **Federal Register** notice. A petition for review of the Director's Decision shall set forth with particularity the interest of the petitioner and how that interest may be affected by the results of the decision. The petition should specifically explain the reasons why review of the Decision should be permitted with particular reference to the following factors: (1) The interest of the petitioner; (2) how that interest may be affected by the Decision, including the reasons why the petitioner should be permitted a review of the Decision; and (3) the petitioner's areas of concern about the activity that is the subject matter of the Decision. Any person described in this paragraph (USEC or any person who filed a petition) may file a response to any petition for review, not to exceed 30 pages, within 10 days after filing of the petition. If no petition is received within the designated 15-day period, the Director will issue the final amendment to the Certificate of Compliance without further delay. If a petition for review is received, the decision on the amendment application will become final in 60 days, unless the Commission grants the petition for review or otherwise acts within 60 days after publication of this **Federal Register** notice.

A petition for review must be filed with the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, by the above date.

For further details with respect to the action see the Commission's Compliance Evaluation Report.

Date of amendment request: There was no formal amendment request. USEC, Inc. was formally privatized by the U.S. Treasury Department on July 28, 1998. These amendments will impose the conditions of transfer attached to the privatization action.

Brief description of amendment: The Commission conditionally consented to the transfer of the certificates of compliance to the privatized USEC. This transfer was subject to USEC consenting to three proposed conditions that related to foreign ownership, control or domination and the Russian High Enriched Uranium Agreement. On July 20, 1998, USEC consented to the conditions. USEC, Inc. was formally privatized by the U.S. Treasury Department on July 28, 1998. These amendments do not approve the transfer; they are administrative amendments to add the conditions of transfer to the certificates of compliance.

Basis for finding of no significance: 1. The proposed amendment will not result in a change in the types or significant increase in the amounts of any effluents that may be released offsite.

Operations at the gaseous diffusion plants will remain unchanged. The proposed action is to add three conditions of transfer to the certificates of compliance. There will be no change to the types or amount of effluents that may be released offsite.

2. The proposed amendment will not result in a significant increase in individual or cumulative occupational radiation exposure.

The proposed amendments will not increase any exposure to radiation. The action is solely an administrative action. Therefore, the changes will not result in a significant increase in individual or cumulative radiation exposure.

3. The proposed amendment will not result in a significant construction impact.

The proposed amendment will not result in any construction; therefore, there will be no construction impacts.

4. The proposed amendment will not result in a significant increase in the potential for, or radiological or chemical consequences from, previously analyzed accidents.

The proposed administrative amendments to add the conditions of transfer to the certificates of compliance have no impact on the potential for or occurrence of an accident or the resulting consequences. Therefore, these changes will not increase the probability of occurrence or consequence of any postulated accident currently identified in the safety analysis reports.

5. The proposed amendment will not result in the possibility of a new or different kind of accident.

The proposed amendments will not create the possibility of a new or different type of equipment malfunction or a new or different type of accident.

6. The proposed amendment will not result in a significant reduction in any margin of safety.

The proposed amendments to add conditions to the certificates of compliance will have no impact on the margin of safety. Therefore, these changes do not decrease the margins of safety.

7. The proposed amendment will not result in an overall decrease in the effectiveness of the plant's safety, safeguards or security programs.

Implementation of the proposed amendments does not change the safety, safeguards, or security programs. Therefore, the effectiveness of the safety, safeguards, and security programs is not decreased. In approving the transfer, the Commission determined that the transfer would not be inimical to the common defense and security of the United States.

Effective date: The amendments to Certificates of Compliance GDP–1 and GDP–2 become effective immediately upon being signed by the Director, Office of Nuclear Material Safety and Safeguards.

Certificates of Compliance GDP–1 and GDP–2: Amendments will revise the certificates of compliance to add three conditions of transfer related to foreign ownership, control or domination and the Russian High Enriched Uranium Agreement.

Local Public Document Room locations: Paducah Public Library, 555 Washington Street, Paducah, Kentucky 42003 and Portsmouth Public Library, 1220 Gallia Street, Portsmouth, Ohio 45662.

Dated at Rockville, Maryland, this 27th day of October, 1998.

For the Nuclear Regulatory Commission.

Carl J. Paperiello,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98–29494 Filed 11–3–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Plant License Renewal

The ACRS Subcommittee on Plant License Renewal will hold a meeting on November 18, 1998, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, November 18, 1998—8:30 a.m. until the conclusion of business.

The Subcommittee will discuss generic issues related to license renewal activities and the schedule for their resolution, selected technical and topical reports and the associated safety evaluation reports, status of the staff's review of the applications for renewing licenses for Calvert Cliffs and Oconee Nuclear Power Plants, and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Dr. Medhat El-Zeftawy (telephone 301/415–6889) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes in the proposed agenda, etc., that may have occurred.

Dated: October 29, 1998.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 98–29499 Filed 11–3–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Thermal-Hydraulic Phenomena

The ACRS Subcommittee on Thermal-Hydraulic Phenomena will hold a meeting on November 19, 1998, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

A portion of this meeting will be closed to public attendance to discuss Westinghouse proprietary information pursuant to 5 U.S.C. 552b(c)(4).

The agenda for the subject meeting shall be as follows:

Thursday, November 19, 1998—8:30 a.m.—12:00 Noon.

The Subcommittee will review the Westinghouse methodology for best-estimate small-break loss of coolant accident analysis, using the WCOBRA/TRAC code. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Westinghouse, NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the scheduling of sessions which are open to the public, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Paul A. Boehnert (telephone 301/415–8065) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: October 29, 1998.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 98–29500 Filed 11–3–98; 8:45 am]

BILLING CODE 7590–01–P

Nuclear Regulatory Commission Advisory Committee on Reactor Safeguards; Joint Meeting of the ACRS Subcommittees on Reliability and Probabilistic Risk Assessment, Plant Operations, and on Regulatory Policies and Practices; Notice of Meeting

The ACRS Subcommittees on Reliability and Probabilistic Risk Assessment, Plant Operations, and on Regulatory Policies and Practices will hold a joint meeting on November 19 and 20, 1998, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, November 19, 1998—1:00 p.m. until the conclusion of business.

The Subcommittees will continue their discussion of proposed options to make 10 CFR Part 50 and 10 CFR 50.59 (Changes, tests and experiments) risk informed.

Friday, November 20, 1998—8:30 o.m. until the conclusion of business.

The Subcommittees will review proposed changes to the NRC assessment programs, including integrated review of assessment processes, Senior Management Meeting process, as well as risk-informed baseline inspection case studies and associated proposed changes to the inspection program, and other related risk-informed initiatives. The Subcommittees will also discuss AEOD programs for risk-based analysis of reactor operating experience including risk-informed performance indicators. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittees, their consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Michael T. Markley (telephone 301/415–6885) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: October 29, 1998.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 98–29501 Filed 11–3–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued fromOctober 9, 1998, through October 23, 1998. The last biweekly notice was published on October 21, 1998 (63 FR 56238).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed no Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administration Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By December 4, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's

Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Arizona Public Service Company, et al., Docket Nos. STN 50–528 and STN 50–529, Palo Verde Nuclear Generating Station, Units Nos. 1 and 2, Maricopa County, Arizona

Date of application for amendment: October 6, 1998.

Description of amendment request: The proposed amendment would clarify the power level threshold at which certain reactor protective system (RPS) instrumentation trips must be enabled and may be bypassed, and clarify that this level is a percentage of the neutron flux at rated thermal power (RTP). The bypass power level, 1E–4% RTP, would be specified as logarithmic power instead of thermal power. The intent of (and the implementation of) the 1E–4% RTP RPS instrumentation bypass threshold level in the technical specifications (TS) has always been that this power level is neutron power, which would be indicated by logarithmic power, and is not the heat transfer from the reactor core to the coolant, including decay heat, which is the thermal power definition in the TS.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change would replace the words "THERMAL POWER" with "logarithmic power" for the 1E–4% rated thermal power (RTP) level threshold in Table 3.3.1–1 footnotes (a) and (b), surveillance requirement SR 3.3.1.7 Note 2, and Table 3.3.2–1 footnote (d) for the reactor protective system (RPS) instrumentation. The purpose of the 1E–4% RTP threshold is to (1) specify the power, below which, the logarithmic power level trip is required to be operable and surveilled, and (2) specify the power, above which, the local power density (LPD) and departure from nucleate boiling ratio (DNBR) trips are required to be operable. For these purposes, the appropriate power threshold should be logarithmic power, which is the power indicated on the logarithmic nuclear instrumentation, and not thermal power. Thermal power is defined in TS section 1.1 as the total reactor heat transfer rate to the reactor coolant, and would include decay heat. Thermal power would therefore not drop to 1E–4% RTP for a considerable period of time after shutdown, and would not provide the plant protective function correlation required at 1E–4% neutron RTP. However, logarithmic power, which is indicated by neutron flux, does provide the plant protective function correlation required at 1E–4% neutron RTP for the required reactor trips as required by safety analyses. The logarithmic power level of 1E–4% neutron RTP nominally correlates to the neutron flux measured by the excore neutron instrumentation that is 1E–4% of the neutron flux at 100% RTP (3876 MWt) measured by the excore neutron instrumentation.

The proposed editorial amendment would also replace "RTP" with "NRTP," in Table 3.3.1–1 footnotes (a) and (b), surveillance requirement SR 3.3.1.7 Note 2, and Table 3.3.2–1 footnotes (c) and (d). A definition would be added for NRTP (nuclear rated thermal power) in section 1.1 as the indicated neutron flux at RTP. These editorial clarifications will reflect the fact that the logarithmic power level of 1E–4% is not a percentage of the "total reactor core heat transfer rate to the reactor coolant of 3876 MWt," as RTP is defined in section TS 1.1, but is instead a percentage of the indicated neutron flux at RTP.

An editorial change is also proposed to specify NRTP as the "ALLOWABLE VALUE" parameter for the high logarithmic power level trip setpoint in Table 3.3.1–1 to correct the unintended omission of the trip setpoint parameter during preparation of the Improved Technical Specifications. This change will fill in the omitted parameter with the correct parameter of NRTP that is also consistent with the high logarithmic power trip setpoint parameter in Table 3.3.2–1.

These changes do not constitute a physical change to the Unit or make changes in the RPS instrumentation setpoints, system logic or manual actuation. In addition, these changes do not alter physical plant equipment or the way in which plant equipment is operated. This change is editorial in that it corrects the TS wording to match the appropriate power parameter that was originally intended and required by safety analyses, and that has been implemented since original licensing of the PVNGS plants. Therefore, these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change would replace the words "THERMAL POWER" with "logarithmic power" for the 1E–4% RTP level threshold in Table 3.3.1–1 footnotes (a) and (b), surveillance requirement SR 3.3.1.7 Note 2, and Table 3.3.2–1 footnote (d) for the RPS instrumentation. The purpose of the 1E–4% RTP threshold is to (1) specify the power, below which, the logarithmic power level trip is required to be operable and surveilled, and (2) specify the power, above which, the LPD and DNBR trips are required to be operable. For these purposes, the appropriate power threshold should be logarithmic power, which is the power indicated on the logarithmic nuclear instrumentation, and not thermal power. Thermal power is defined in TS section 1.1 as the total reactor heat transfer rate to the reactor coolant, and would include decay heat. Thermal power would therefore not drop to 1E–4% RTP for a considerable period of time after shutdown, and would not provide the plant protective function correlation required at 1E–4% neutron RTP. However, logarithmic power, which is indicated by neutron flux, does provide the plant protective function correlation required at 1E–4% neutron RTP for the required reactor trips as required by safety analyses.

The proposed editorial amendment would also replace "RTP" with "NRTP," in Table 3.3.1–1 footnotes (a) and (b), surveillance requirement SR 3.3.1.7 Note 2, and Table 3.3.2–1 footnotes (c) and (d). A definition would be added for NRTP (nuclear rated thermal power) in section 1.1 as the indicated neutron flux at RTP. These editorial clarifications will reflect the fact that the logarithmic power level of 1E–4% is not a percentage of the "total reactor core heat transfer rate to the reactor coolant of 3876 MWt," as RTP is defined in section TS 1.1, but is instead a percentage of the indicated neutron flux at RTP.

An editorial change is also proposed to specify NRTP as the "ALLOWABLE VALUE" parameter for the high logarithmic power level trip setpoint in Table 3.3.1–1 to correct the unintended omission of the trip setpoint parameter during preparation of the Improved Technical Specifications. This change will fill in the omitted parameter with the correct parameter of NRTP that is also consistent with the high logarithmic power trip setpoint parameter in Table 3.3.2–1.

These changes do not constitute a physical change to the Unit or make changes in the RPS instrumentation setpoints, system logic or manual actuation. In addition, these changes do not alter physical plant equipment or the way in which plant equipment is operated. The proposed change does not introduce any new modes of plant operation or new accident precursors. This change is editorial in that it corrects the TS wording to match the appropriate power parameter that was originally intended and required by safety analyses, and that has been implemented since original licensing of the PVNGS plants. Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change would replace the words "THERMAL POWER" with "logarithmic power" for the 1E–4% RTP level threshold in Table 3.3.1–1 footnotes (a) and (b), surveillance requirement SR 3.3.1.7 Note 2, and Table 3.3.2–1 footnote (d) for the RPS instrumentation. The purpose of the 1E–4% RTP threshold is to (1) specify the power, below which, the logarithmic power level trip is required to be operable and surveilled, and (2) specify the power, above which, the LPD and DNBR trips are required to be operable. For these purposes, the appropriate power threshold should be logarithmic power, which is the power indicated on the logarithmic nuclear instrumentation, and not thermal power. Thermal power is defined in TS section 1.1 as the total reactor heat transfer rate to the reactor coolant, and would include decay heat. Thermal power would therefore not drop to 1E–4% RTP for a considerable period of time after shutdown, and would not provide the plant protective function correlation required at 1E–4% neutron RTP. However, logarithmic power, which is indicated by neutron flux, does provide the plant protective function correlation required at 1E–4% neutron RTP for the required reactor trips as required by safety analyses.

The proposed editorial amendment would also replace "RTP" with "NRTP," in Table 3.3.1–1 footnotes (a) and (b), surveillance requirement SR 3.3.1.7 Note 2, and Table 3.3.2–1 footnotes (c) and (d). A definition would be added for NRTP (nuclear rated thermal power) in section 1.1 as the indicated neutron flux at RTP. These editorial clarifications will reflect the fact that the logarithmic power level of 1E–4% is not a percentage of the "total reactor core heat transfer rate to the reactor coolant of 3876 MWt," as RTP is defined in section TS 1.1, but is instead a percentage of the indicated neutron flux at RTP.

An editorial change is also proposed to specify NRTP as the "ALLOWABLE VALUE" parameter for the high logarithmic power level trip setpoint in Table 3.3.1–1 to correct the unintended omission of the trip setpoint parameter during preparation of the Improved Technical Specifications. This change will fill in the omitted parameter with the correct parameter of NRTP that is also consistent with the high logarithmic power trip setpoint parameter in Table 3.3.2–1.

These changes do not constitute a physical change to the Unit or make changes in the RPS instrumentation setpoints, system logic or manual actuation. In addition, these changes do not alter physical plant equipment or the way in which plant equipment is operated. This change is editorial in that it corrects the TS wording to match the appropriate power parameter that was originally intended and required by safety analyses, and that has been implemented since original licensing of the PVNGS plants. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

Attorney for licensee: Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072–3999.

NRC Project Director: William H. Bateman.

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: October 14, 1998.

Description of amendment request: The proposed change will revise the H. B. Robinson, Unit 2, Technical Specification (TS) on Residual Heat Removal Isolation Valve Interlock. The requested change modifies the acceptance criterion for surveillance requirement (SR) 3.4.14.2 from setpoint value to the analytical limit for overpressurization of the Residual Heat Removal System.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The HBRSEP [H. B. Robinson Steam Electric Plant], Unit No. 2 TS are proposed to be modified to increase the acceptance criterion for Surveillance Requirement (SR) 3.4.14.2 from a RCS [reactor coolant system] pressure of 465 psig to 474 psig. Carolina Power & Light (CP&L) Company has evaluated the proposed Technical Specifications (TS) change and has concluded that it does not involve a significant hazards consideration. The conclusion is in accordance with the criteria set forth in 10 CFR 50.92. The bases for the conclusion that the proposed change does not involve a significant hazards consideration is discussed below.

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change increases the acceptance criterion for the Residual Heat Removal (RHR) System interlock from 465 psig to 474 psig. The new value of 474 psig is the analytical limit for the RHR System interlock setpoint that corresponds to the highest RCS pressure that is allowable in the RHR System without overpressurizing the RHR System above its design pressure. The RHR System interlock prohibits remote manual operation of the RHR Pressure Isolation Valves (PIVS) from the control room when Reactor Coolant System (RCS) pressure is greater than the RHR System interlock setpoint to avoid inadvertent overpressurization of the RHR System due to operator action. Operating procedures prohibit opening of the RHR PIVs when RCS pressure is greater than 375 psig. Therefore, the probability of overpressurization of the RHR System resulting in a Loss-of-Coolant Accident (LOCA) is not affected by the change. The RHR System interlock provides no actuation function to mitigate the consequences of a LOCA as a result of open RHR PIVs with RCS pressure greater than the RHR System interlock setpoint. Therefore, the consequences of overpressurization of the RHR System is not affected by the change. Therefore, the proposed change does not involve any increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not involve any physical alteration of plant systems, structures, or components. The proposed change increases the acceptance criterion for the RHR System interlock SR from 465 psig to the analytical limit of 474 psig. Performance of a SR at the new acceptance criterion does not introduce any new accident initiation scenarios since the SR is performed at acceptable RCS pressure conditions. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The proposed change results in a new SR acceptance criterion that corresponds to the analytical limit for the RHR System interlock setpoint. The RHR System interlock is redundant to administrative controls which prohibit opening the RHR System PIVs under RCS pressure conditions which would overpressurize the RCS System. Therefore, the proposed change does not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550.

Attorney for licensee: William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: Frederick J. Hebdon.

Commonwealth Edison Company, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendment request: October 13, 1998.

Description of amendment request: The proposed amendments would change the Dresden, Quad Cities, and LaSalle Technical Specifications (TS) to reflect the use of Siemens Power Corporation (SPC) ATRIUM–9B fuel. Specifically the proposed amendments incorporate the following into the TS: (a) new methodologies that will enhance operational flexibility and reduce the likelihood of future plant derates; (b) administrative changes that eliminate the cycle-specific implementation of ATRIUM–9B fuel and adopt Improved Standard Technical Specification language where appropriate; and (c) changes to the Minimum Critical Power Ratio (MCPR). This amendment request supplements the submittal of August 14, 1998 (63 FR 48258). Changes in this supplement include only a change in reference to a recently NRC-approved additive constant uncertainty (ACU) generic methodology for ATRIUM–9B fuel (ANF–1125(P)(A), Supplement 1, Appendix E) from Appendix D which provided an interim value for ACU.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The probability of an evaluated accident is derived from the probabilities of the individual precursors to that accident. The consequences of an evaluated accident are determined by the operability of plant systems designed to mitigate those consequences. Limits have been established consistent with NRC approved methods to ensure that fuel performance during normal, transient, and accident conditions is acceptable. These changes do not affect the operability of plant systems, nor do they compromise any fuel performance limits.

a. Addition of SPC Revised Jet Pump Methodology (LaSalle Units 1 and 2)

The Reference 1 [ANF–91–048(P)(A), Supplement 1 and Supplement 2, "BWR Jet Pump Model Revision for RELAX," October 1997 and NRC SER, "Review of Siemens Topical Report ANF–91–048(P), BWR Jet Pump Revisison for RELAX (TAC No M995381), T.H. Essig to H.D. Curet, September 19, 1997] methodology to be added to the Technical Specifications is used as part of the LOCA [loss-of-coolant accident] analysis and does not introduce physical changes to the plant. The Reference 1 revised jet pump model changes the calculational behavior of the jet pump under reversed drive flow conditions. The revised jet pump model methodology makes the LOCA model behave more realistically and calculates small break LOCA PCTs [peak cladding temperature] that are comparable to the large break LOCA results. Therefore, this change only affects the methodology for analyzing the LOCA event and determining the protective APLHGR [average planar linear heat generation rate] limits. The Technical Specification requirements for monitoring APLHGR are not affected by this change. The revised method will result in higher APLHGR limits, thus the SPC fuel will be allowed to operate at higher nodal powers. The approved methodology, however, still protects the fuel performance limits specified by 10 CFR 50.46. Therefore, the probability or consequences of an accident previously evaluated will not change.

b. Addition of SPC Generic Methodology for Application of ANFB [Advanced Nuclear Fuel for Boiling Water Reactors] Critical Power Correlation to Non-SPC Fuel (Quad Cities Units 1 and 2 and LaSalle Units 1 and 2)

The probability or consequences of a previously evaluated accident are not increased by adding Reference 3 [EMF–1125(P)(A), Supplement 1 Appendix C, "ANFB Critical Power Correlation Application for Coresident Fuel," August 1997, and NRC SER, "Acceptance for Referencing of Licensing Topical Report EMF–1125(P), Supplement 1 Appendix C, "ANFB Critical Power Correlation Application for Co-Resident Fuel," J.E. Lyons to R. A. Copeland, May 9, 1997] to Section 6.9.A.6.b of the Quad Cities Technical Specifications and Bases Section 2.1.2 and Section 6.6.A.6.b of the LaSalle Technical Specifications. Reference 3 determines the additive constants and the associated uncertainty for application of the ANFB correlation to the coresident GE [General Electric Co.] fuel. Therefore, it provides data that is used in the determination of the MCPR Safety Limit. This approved methodology for applying the ANFB critical power correlation to the GE fuel will protect the fuel from boiling transition. Operational MCPR limits will also be applied to ensure that the MCPR Safety Limit is protected during all modes of operation and anticipated operational occurrences. Because Reference 3 contains conservative methods and calculations and because the operability of plant systems designed to mitigate any consequences of accidents have not changed, the probability or consequences of an accident previously evaluated will not increase.

c. Addition of SPC Topical for Revised ANFB Correlation Uncertainty [Quad Cities Units 1 and 2, Dresden Units 2 and 3, and LaSalle Units 1 and 2]

The probability or consequences of a previously evaluated accident are not increased by adding Reference 7 [ANF–1125(P), Supplement 1, Appendix E, "ANFB Critical Power Correlation Determination of ATRIUM–9B Additive Constant Uncertainties," and NRC SER, "Acceptance for Referencing of Licensing Topical Report ANF–1125(P), Supplement 1, Appendix E, "ANFB Critical Power Correlation Determination of ATRIUM–9B Additive Constant Uncertainties" (TAC No. MA2437), T.H. Essig to H.D. Curet, September 23, 1998] to Section" 6.9.A.6.b of the Quad Cities and Dresden Technical Specifications and Bases Section 2.1.2 and Section 6.6.A.6.b of the LaSalle Technical Specifications. Reference 7 documents the additive constant uncertainty for the SPC ATRIUM–9B fuel design with an internal water channel. This methodology is used to determine an input to the MCPR Safety Limit calculations, which ensures that at least 99.9 percent of the fuel rods avoid transition boiling during normal operation as well as anticipated operational occurrences. This change does not require any physical plant modifications, physically affect any plant components, or entail changes in plant operation. This methodology for determining the ATRIUM–9B additive constant uncertainty for the MCPR Safety Limit calculation will continue to support protecting the fuel from boiling transition. Operational MCPR limits will be applied to ensure the MCPR Safety Limit is not violated during all modes of operation and anticipated operational occurrences. Therefore, no individual precursors of an accident are affected and the operability of plant systems designed to mitigate the probability or the consequences of an accident previously evaluated is not affected by these changes.

d. Change to Minimum Critical Power Ratio Safety Limit (Quad Cities Units 1 and 2, Dresden Unit 3, and LaSalle Units 1 and 2)

Changing the MCPR Safety Limit at Quad Cities Units 1 and 2, Dresden Unit 3, and LaSalle Units 1 and 2 will not increase the probability or the consequences of an accident previously evaluated. The MCPR Safety Limits for Quad Cities Units 1 and 2, Dresden Unit 3, and LaSalle Units 1 and 2 are anticipated to be conservative and acceptable for future cycles. Cycle specific MCPR Safety Limit calculations will be performed, consistent with SPC's approved methodology, to confirm the appropriateness of the MCPR Safety Limit. Additionally, operational MCPR limits will be applied that will ensure the MCPR Safety Limit is not violated during all modes of operation and anticipated operational occurrences. The MCPR Safety Limits are being set at the CPR [critical power ratio] value where less than 0.1 percent of the rods in the core are expected to experience boiling transition. These Safety Limits are expected to be applicable for future cycles of ATRIUM–9B. Therefore the probability or consequences of an accident will not increase.

e. Removal of Footnotes Limiting Operation with ATRIUM–9B Fuel Reloads (Quad Cities Unit 2 and Dresden Units 2 and 3)

The removal of footnotes from the Quad Cities and Dresden Technical Specifications does not involve any significant increase in the probability or consequences of an accident previously evaluated. The footnotes were added to clarify that cycle specific methods were used until the generic methodology was approved by the NRC. Since the NRC has approved SPC's generic methodology for application of the ANFB correlation to the coresident GE fuel (Reference 3) and SPC has addressed the concerns regarding the database used to calculate the ATRIUM–9B additive constant uncertainties (Reference 7), the footnotes are no longer necessary. The removal of the Unit 2 specific "a" pages, 2–1a and B2–3a, in the Quad Cities Technical Specifications is justified by the removal of the footnotes. Therefore, removing these footnotes and "a" pages does not require any physical plant modifications, nor does it physically affect any plant components or entail changes in plant operation. Therefore, the probability or consequences of an accident previously evaluated are not expected to increase.

f. Revision to Thermal Limit Descriptions (Quad Cities Units 1 and 2, Dresden Units 2 and 3, and LaSalle Units 1 and 2)

The revision to the Section 3 Technical Specification description of the APLHGR limits has no implications on accident analysis or plant operations. The purpose of the revision is to allow flexibility for the MAPLHGR [maximum planar linear heat generation rate] limits and their exposure basis to be specified in the COLR [core operating limit report] and to establish consistency with approved methodologies currently utilized by Siemens Power Corporation, which calculate MAPLHGR limits based on bundle or planar average exposures. This revision also provides for consistency in the APLHGR limit Technical Specification wording between the ComEd BWRs. The revision to the 3.11.D SLHGR [steady state linear heat generation rate] Technical Specification for Dresden also has no implications on accident analysis or plant operations. The purpose of this revision is to allow flexibility for the LHGR [linear heat generation rate] limits and their exposure basis to be specified in the COLR. This revision makes the Dresden LHGR definition consistent with NUREG 1433/1434, Revision 1 wording. The definition of the Average Planar Exposure is deleted, because the exposure basis of the APLHGR and LHGR is being removed. Therefore, no plant equipment or processes are affected by this change. Thus, there is no alteration in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated:

Creation of the possibility of a new or different kind of accident would require the creation of one or more new precursors of that accident. New accident precursors may be created by modifications to the plant configuration, including changes in allowable modes of operation. This Technical Specification submittal does not involve any modifications to the plant configuration or allowable modes of operation. No new precursors of an accident are created and no new or different kinds of accidents are created. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

a. Addition of SPC Revised Jet Pump Methodology (LaSalle Units 1 and 2)

The revised jet pump model methodology will be used to analyze the LOCA for LaSalle Units 1 and 2, and does not introduce any physical changes to the plant or the processes used to operate the plant. This change only affects the methods used to analyze the LOCA event and determine the MAPLHGR limits. Therefore, the possibility of a new or different kind of accident is not created.

b. Addition of SPC Generic Methodology for Application of ANFB Critical Power Correlation to Non-SPC Fuel (Quad Cities Units 1 and 2 and LaSalle Units 1 and 2)

Addition of the generic methodology for the application of the ANFB critical power correlation to GE fuel in Section 6.9.A.6.b of the Quad Cities Technical Specifications and Bases Section 2.1.2 and Section 6.6.A.6.b of the LaSalle Technical Specifications does not introduce any physical changes to the plant, the processes used to operate the plant, or allowable modes of operation. This change only involves adding an NRC approved methodology, which is used to determine the additive constants and additive constant uncertainty for GE fuel, to Section 6 of the Technical Specifications. Therefore, no new precursors of an accident are created and no new or different kinds of accidents are created.

c. Addition of SPC Topical for Revised ANFB Correlation Uncertainty (Quad Cities Units 1 and 2, Dresden Units 2 and 3, and LaSalle Units 1 and 2)

Addition of the Reference 7 methodology to Section 6.9.A.6.b of the Quad Cities and Dresden Technical Specifications and Bases Section 2.1.2 and Section 6.6.A.6.b of the LaSalle Technical Specifications will not create the possibility of a new or different kind of accident from any accident previously evaluated. This methodology describes the calculation of an input to the MCPR Safety Limit—the ATRIUM–9B additive constant uncertainty. This change does not introduce any physical changes to the plant, the processes used to operate the plant, or allowable modes of operation. Therefore, no new precursors of an accident are created and no new or different kinds of accidents are created.

d. Change to Minimum Critical Power Ratio Safety Limit (Quad Cities Units 1 and 2, Dresden Unit 3, and LaSalle Units 1 and 2)

Changing the MCPR Safety Limit will not create the possibility of a new accident from an accident previously evaluated. This change will not alter or add any new equipment or change modes of operation. The MCPR Safety Limit is established to ensure that 99.9 percent of the rods avoid boiling transition.

The MCPR Safety Limit is changing for Quad Cities, Dresden Unit 3 and LaSalle due to the revised ATRIUM–9B additive constants and the ATRIUM–9B additive constant uncertainty calculated in Reference 7. The new MCPR Safety Limit for Quad Cities Units 1 and 2, Dresden Unit 3, and LaSalle Units 1 and 2 are greater than the current values at Quad Cities Units 1 and 2, Dresden Unit 3, and LaSalle Units 1 and 2 and are being increased now in anticipation of bounding future reloads of ATRIUM–9B. This change does not introduce any physical changes to the plant, the processes used to operate the plant, or allowable modes of operation. Therefore, no new accidents are created that are different from any accident previously evaluated.

e. Removal of Footnotes Limiting Operation with ATRIUM–9B Fuel Reloads (Quad Cities Unit 2 and Dresden Units 2 and 3)

The removal of the footnotes from the Quad Cities end Dresden Technical Specifications does not create a new or different kind of accident from any accident previously evaluated. The removal of the footnotes does not affect plant systems or operation. The footnotes were temporarily established to implement a conservative cycle specific MCPR Safety Limit until the SPC generic methodology was approved. With the approval of References 3 and 7, these footnotes are no longer applicable. Removing these footnotes does not introduce any physical changes to the plant, the processes used to operate the plant, or allowable modes of operation. The removal of the Unit 2 specific "a" pages, 2–1a and B2–3a, in the Quad Cities Technical Specifications, which is justified by the removal of the footnotes, also does not create a new or different kind of accident from any accident previously evaluated.

f. Revision to Thermal Limit Descriptions (Quad Cities Units 1 and 2, Dresden Units 2 and 3, and LaSalle 1 and 2)

The revision of the APLHGR and LHGR limit descriptions will not create the possibility of a new or different kind of accident from any accident previously evaluated. This revision will not alter any plant systems, equipment, or physical conditions of the site. This revision allows the flexibility of the APLHGR and the LHGR limits to be specified in the COLR and to maintain consistency with the calculated results of methodologies currently used to determine the APLHGR. The definition of the Average Planar Exposure is deleted, because it is being removed from LHGR and APLHGR Technical Specifications. This change does not introduce any physical changes to the plant, the processes used to operate the plant, or allowable modes of operation. Therefore this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in the margin of safety for the following reasons:

a. Addition of SPC Revised Jet Pump Methodology (LaSalle Units 1 and 2)

The revised jet pump model methodology, and the MAPLHGRs, resulting from the revised jet pump methodology, will continue

to ensure fuel design criteria and 10 CFR 50.46 compliance. The results of LOCA analyses performed with this methodology must continue to comply with the requirements of 10 CFR 50.46. Therefore, there is no significant reduction in the margin of safety.

b. Addition of SPC Generic Methodology for Application of ANFB Critical Power Correlation to Non-SPC Fuel (Quad Cities Units 1 and 2 and LaSalle Units 1 and 2)

The margin of safety is not decreased by adding Reference 3 to Section 6.9.A.6.b of the Quad Cities Technical Specifications and Bases Section 1.2 and Section 6.6.A.6.b of the LaSalle Technical Specifications. Siemens Power Corporation methodology for application of the ANFB Critical Power Correlation to coresident GE fuel is approved by the NRC and is the same methodology used in the cycle specific topicals for coresident fuel (References 4 [EMF–96–021(P), Revision 1, Application of the ANFB Critical Power Correlation to Coresident GE fuel for LaSalle Unit 2 Cycle 8," February 1996, and NRC SER, "Safety Evaluation for Topical Report EMF–96–021(P), Revision 1, 'Application of the ANFB Critical Power Correlation to Coresident GE Fuel for LaSalle Unit 2 Cycle 8' (TAC NO. M94964)," D.M. Skay to I. Johnson, September 26, 1996] and 5 [EMF–96–051(P), "Application of the ANFB Critical Power Correlation to Coresident GE Fuel for Quad Cities Unit 2 Cycle 15," May 1996, and NRC SER, "Approval of Topical Report EMF–96–051(P)—Quad Cities, Unit 2 (TAC NO. M96213)," R. Pulsifer to I. Johnson, May 16, 1997]). The MCPR Safety Limit will continue to ensure that greater than 99.9 percent of the rods in the core avoid boiling transition. Additionally, operating limits will be established to ensure the MCPR Safety Limit is not violated during all modes of operation.

c. Addition of SPC Topical for Revised ANFB Correlation Uncertainty (Quad Cities Units 1 and 2, Dresden Units 2 and 3, and LaSalle Units 1 and 2)

The MCPR Safety Limit provides a margin of safety by ensuring that less than 0.1 percent of the rods are expected to be in boiling transition if the MCPR Safety Limit is not violated. This Technical Specification amendment request proposes to insert the topical report that describes SPC's calculation of the ATRIUM–9B additive constant uncertainty. The new ATRIUM–9B additive constant uncertainty calculation is conservative and is based on a larger database than previous calculations. Because the criteria of ensuring that 99.9 percent of the rods are expected to avoid boiling transition has not been changed and a conservative method is used to calculate the ATRIUM–9B additive constant uncertainty, a decrease in the margin to safety will not occur due to adding this methodology to the Technical Specifications. In addition, operational limits will be established to ensure the MCPR Safety Limit is protected for all modes of operation. This revised methodology will ensure that the appropriate level of fuel protection is being employed.

d. Change to Minimum Critical Power Ratio Safety Limit (Quad Cities Units 1 and 2, Dresden Unit 3, and LaSalle Units 1 and 2)

Changing the MCPR Safety Limit for Quad Cities Units 1 and 2, Dresden Unit 3, and LaSalle Units 1 and 2 will not involve any reduction in margin of safety. The MCPR Safety Limit provides a margin of safety by ensuring that less than 0.1 percent of the rods are calculated to be in boiling transition if the MCPR Safety Limit is not violated. The proposed Technical Specification amendment request reflects the MCPR Safety Limit results from conservative evaluations by SPC using the ANFB critical power correlation with the ATRIUM–9B additive constant uncertainty calculated in Reference 7.

Because a conservative method is used to apply the ATRIUM–9B additive constant uncertainty in the MCPR Safety Limit calculation, a decrease in the margin to safety will not occur due to changing the MCPR Safety Limit. The revised MCPR Safety Limit will ensure the appropriate level of fuel protection. Additionally, operational limits will be established based on the proposed MCPR Safety Limit to ensure that the MCPR Safety Limit is not violated during all modes of operation including anticipated operation occurrences. This will ensure that the fuel design safety criterion of more than 99.9 percent of the fuel rods avoiding transition boiling during normal operation as well as during an anticipated operational occurrence is met.

e. Removal of Footnotes Limiting Operation with ATRIUM–9B Fuel Reloads (Quad Cities Unit 2 and Dresden Units 2 and 3)

The removal of the cycle specific footnotes in Quad Cities and Dresden Technical Specifications does not impose a change in the margin of safety. These footnotes were added due to concerns regarding the calculation of the additive constant uncertainty for the ATRIUM–9B fuel and the cycle specific application of the ANFB critical power correlation to coresident GE fuel in Quad Cities Unit 2 Cycle 15. Because the generic ANFB application to coresident GE fuel MCPR methodology (Reference 3) has received NRC approval and the topical report describing the increased database used to calculate the additive constant uncertainties for ATRIUM–9B (Reference 7) has also received NRC approval and both are proposed to be added to the Technical Specifications in this amendment request, there is no reason for the footnotes to remain. Removal of the Unit 2 specific "a" pages, 2–1a and B2–3a, in the Quad Cities Technical Specifications is justified by the removal of the footnotes. Therefore, the removal of the "a" pages, 2–1a and B2–3a, also does not impose a change in the margin of safety.

f. Revision to Thermal Limit Descriptions (Quad Cities Units 1 and 2, Dresden Units 2 and 3, and LaSalle Units 1 and 2)

The revision to the APLHGR and LHGR limit descriptions will not involve a reduction in the margin of safety. The methodology used to calculate the APLHGR must comply with the guidelines of Appendix K of 10 CFR Part 50, and the APLHGR and LHGR will still be required to be maintained within the limits specified in the COLR. The surveillance requirements for these two thermal limits remain unchanged. Thus, there will be no reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: For Dresden, Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450; for Quad Cities, Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021; and for LaSalle, the Jacobs Memorial Library, 815 North Orlando Smith Avenue, Illinois Valley Community College, Oglesby, Illinois 61348–9692.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603. *NRC Project Director:* Stuart A. Richards.

Duke Energy Corporation, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: September 30, 1998.

Description of amendment request: The proposed amendment would increase the maximum fuel rod internal pressure in the spent fuel pool from 1200 pounds per square inch gauge (psig) to 1300 psig by changing the Updated Final Analysis Report (UFSAR) reference to the computer code used to determine the fuel rod internal pressure (TACO3 computer code would be added) in UFSAR Chapter 15. The proposed amendment would also provide justification for not increasing the overall effective decontamination factor for iodine as a consequence of a fuel handling accident. In addition, the term "fuel assembly gap gas pressure" would be changed to "fuel rod internal pressure" to correct an UFSAR error.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The following discussion is a summary of the evaluation of the changes contained in this proposed amendment against the 10 CFR 50.92 (c) requirements to demonstrate that all three standards for no significant hazards consideration are satisfied. A no significant hazards consideration is indicated if operation of the facility in accordance with the proposed amendment would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated, or
2. Create the possibility of a new or different kind of accident from any accident previously evaluated, or
3. Involve a significant reduction in a margin of safety.

First Standard

Implementation of this amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated. The increase in maximum rod internal pressure in the spent fuel pool from 1200 psig to 1300 psig does not result in a significant change in the calculated overall effective decontamination factor for iodine (described in Attachment 1) [of the licensee's submittal]. Therefore, the continued use of an overall effective decontamination factor for iodine of 89 can be justified. Therefore, there is no significant increase in the dose consequences for a fuel handling accident at Oconee Nuclear Station.

Implementation of the BAW–10183P-A (Reference 4) methodology, which allows fuel rod internal pressure to exceed system pressure, also increases the fuel rod pressure at spent fuel pool conditions. The fuel is currently licensed to rod internal pressure of system pressure plus a proprietary amount above system pressure. This criteria represents a separate limit from the maximum internal pressure in the spent fuel pool criteria. Thus, an increase in the maximum rod internal pressure in the spent fuel pool does not affect the mechanical design limit specified in Reference 4. Therefore, an increase in the maximum internal pressure in the spent fuel pool does not constitute a significant increase in the probability of an accident previously evaluated.

Second Standard

Implementation of this amendment will not create the possibility of a new or different kind of accident from any previously evaluated. The fuel handling accident is the bounding accident. Implementation of this amendment will not impact any plant systems that are accident initiators. No other modifications are being proposed in the plant which would result in the creation of a new accident mechanism. Also, no changes are being made to the way the plant is operated; therefore, no new failure mechanisms will be initiated.

Third Standard

Implementation of this amendment would not involve a significant reduction in a margin of safety. As discussed in Attachment 1 [of the licensee's submittal], the overall effective decontamination factor (DF) of 522 was determined for a rod internal pressure of 1200 psig, and a DF of 443 for a rod internal pressure of 1300 psig based on a spent fuel pool depth of 21.34 feet. Both of these factors are well above the DF of 89 currently used in the fuel handling accident analyses. The margin of safety is a factor of 5.

Based upon the preceding analysis, Duke proposes that ample margin is retained to justify the continued use of a DF of 89 at a maximum rod internal pressure of 1300 psig. Therefore, Duke has concluded that the proposed amendment does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina.

Attorney for licensee: J. Michael McGarry III, Winston and Strawn, 1200 17th Street, NW., Washington, DC.

NRC Project Director: Herbert N. Berkow.

Duquesne Light Company, et al., Docket No. 50–412, Beaver Valley Power Station, Unit 2, Shippingport, Pennsylvania.

Date of amendment request: September 24, 1998.

Description of amendment request: The proposed amendment would revise technical specification (TS) 3.1.2.8 in two places to change the term "contained volume" to "usable volume." This change would eliminate the potential for a non-conservative interpretation of the specification values for the Refueling Water Storage Tank and Boric Acid Storage System (BAT) and would eliminate the need for plant administrative controls, which currently interpret these volumes as usable volumes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed Limiting Condition for Operation (LCO) change will assure that the Refueling Water Storage Tank (RWST) minimum usable volume is maintained consistent with that required by accident analysis. The safety function of the RWST will not differ in any way from its normal operational mode. The normal operation of plant equipment is not a precursor to any accident. Therefore, operation of equipment under this change will not increase the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed amendment will not change the physical plant or the modes of plant operation defined in the operating license. The change does not involve the addition or modification of equipment nor does it alter the design or operation of plant systems. The proposed change will help to ensure that the analysis value of minimum contained volume is available, so that the RWST can perform its safety function.

Therefore, operation of the facility in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

RWST: The basis for TS 3.1.2.8.b is to ensure adequate water for the Emergency Core Cooling System to respond to a Large Break Loss Of Coolant Accident; supply the containment with cooling spray flow; supply the containment sump with adequate water for Recirculation Spray pump suction head concerns; and to provide adequate boron to shut down the core. This change will ensure that the proper tank volume is maintained to support the Design Basis Accident (DBA) analysis.

BAT: These tanks are credited for ensuring adequate Shutdown Margin in the event that the unit has to initiate an emergency shutdown. Additional requirements are derived for the postulated Anticipated Transient Without Scram event. This change will ensure that the proper tank volume is maintained to support the DBA analysis.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Robert A. Capra.

Duquesne Light Company, et al., Docket No. 50–412, Beaver Valley Power Station, Unit 2, Shippingport, Pennsylvania

Date of amendment request: October 16, 1998.

Description of amendment request: The proposed amendment would extend on a one time only basis, the surveillance interval for technical specifications (TSs) 4.8.1.1.1.b and 4.8.1.2 from its current due date of January 30, 1999, to the first entry into Mode 4 following the seventh refueling outage (2R7), but not later than May 1, 1999, by adding a new License Condition 2.C(12). The purpose of TSs 4.8.1.1.1.b and 4.8.1.2 is to demonstrate the ability to transfer the unit power

supply from the unit circuit to the system circuit.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change is temporary and allows a one time extension of the automatic transfer function 18 month surveillance requirement specified in Surveillance Requirement (SR) 4.8.1.1.1.b. This surveillance requirement is also referenced in SR 4.8.1.2. The proposed surveillance interval extension will not cause a significant reduction in system reliability nor affect the ability of a system to perform its design function. The proposed change does not affect the UFSAR (Updated Final Safety Analysis Report) accident analyses since a loss of offsite power is assumed during a design basis accident. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Extending the surveillance interval for the performance of specific testing will not create the possibility of any new or different kind of accidents. No change is required to any system configurations, plant equipment or analyses. The UFSAR accident analyses assume a loss of offsite power; therefore, loss of the automatic bus transfer feature will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

Extending the surveillance interval for the automatic transfer function will not impact any plant safety analyses since the UFSAR accident analyses assume the loss of offsite power. The safety limits assumed in the accident analyses and the design function of the equipment required to mitigate the consequences of any postulated accidents will not be changed since only the 18 month surveillance test interval is being extended. Based on engineering judgment, extending the surveillance test interval for the performance of this specific test could slightly reduce the margin of safety derived from the required surveillances. However, past experience has shown that the system which automatically transfers power from the unit to the system circuit supply is reliable. The manual transfer requirement of SR 4.8.1.1.1.b demonstrates that the breakers relied upon for the transfer of power are functional and provides an opportunity to identify potential equipment degradation. The manual transfer requirement of SR 4.8.1.1.1.b will continue to be completed within the required surveillance interval. Therefore, the plant will be maintained within the analyzed limits and the proposed extension will not significantly reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Robert A. Capra.

Entergy Gulf States, Inc., and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: September 22, 1998.

Description of amendment request: The proposed amendment would delete license conditions associated with the River Bend Station (RBS) Transamerica Delaval, Inc. (TDI) emergency diesel generators (EDGs), which prescribe certain inspection requirements associated with various overload conditions experienced by the EDGs. Current license requirements were issued following publication of NUREG–1216, which called for extensive periodic engine tear-downs as the major part of a maintenance and surveillance program for TDI engines. The proposed removal of license conditions appears to be consistent with the NRC's approval of Generic Topical Report TDI–EDG–001–A "Basis for Modification to Inspection Requirements for Transamerica Delaval, Inc., Emergency Diesel Generators". EOI currently inspects and maintains its EDGs in accordance with Technical Requirements Manual (TRM) surveillance requirement TSR 3.8.1.21. Periodicity of planned inspections and maintenance are based upon the manufacturer's recommendations for standby service.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or the consequences of an accident previously evaluated:

Diesel generators are not accident initiating equipment. Elimination of the non-routine tear-downs and inspections will not adversely affect the probability of an accident occurring. Regular maintenance programs (which may include periodic tear-downs and inspections) in lieu of this specific license condition would decrease the consequences of an accident because of the availability of the engines will increase as a result of the less frequent tear-downs. (See Generic Topical Report TDI–EDG–001–A, "Basis for Modification to Inspection Requirements for Transamerica Delaval, Inc., Emergency Diesel Generators") Additionally, the high average reliability of the TDI engines will not be negatively affected due to this change. NRC research has shown there is a period of decreased reliability immediately following intrusive tear-downs (break-in period), followed by a long period of high reliability. Continued monitoring and maintenance as implemented by Technical Requirements Manual (TRM) surveillances will contribute to continued high reliability of the EDGs.

2. Create the possibility of a new or different kind of accident from any previously evaluated:

The proposed amendment does not affect the design or function of any plant structure, system, or component, nor does it change the way plant systems are operated. The proposed amendment will not cause any physical change to the plant or the design or operation of the diesel units. This change will only affect the frequency of tear-down inspections of the EDGs, and not the physical activities performed during such inspections. Therefore, the removal of the existing condition from the operating license will not create the possibility of a new or different kind of accident from any previously evaluated.

3. Involve a significant decrease in the margin of safety.

The proposed amendment does not affect parameters which would result in a significant reduction in margin of safety. Operating experience and data have shown increased reliability can be achieved by eliminating unnecessary tear-down inspections, such as those prescribed by this license condition. Maintenance of the EDGs is presently scheduled in accordance with the vendor's recommendations. The RBS corrective action program provides a means to evaluate future operational events and take the appropriate actions. Therefore, the proposed amendment does not involve a significant decrease in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, LA 70803.

Attorney for licensee: Mark Wetterhahn, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005.

NRC Project Director: John N. Hannon.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: May 28, 1998.

Description of amendment request: This amendment requests changes to Technical Specification 3.7.1.2 and Surveillance Requirement 4.7.1.2 for the Emergency Feedwater System. The amendment will expand and clarify the current specification. A change to Technical Specification Bases 3/4.7.1.2 has been included to support the changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes included in this amendment request are being made to the Emergency Feedwater (EFW) System Technical Specification. These changes include clarification of the LCO [limiting conditions for operation], a 7 day allowed outage time for an inoperable steam supply, additional ACTION requirements for inoperable flow path(s), a requirement to test the pumps pursuant to Specification 4.0.5, and rewording of numerous Surveillance Requirements consistent with NUREG–1432, "Standard Technical Specifications Combustion Engineering Plants."

The administrative and more restrictive changes will not affect the assumptions, design parameters, or results of any accident previously evaluated. The accident mitigation features of the plant are not affected by these proposed changes. The proposed changes do not add or modify any existing equipment. The administrative change to test EFW pumps pursuant to the Inservice Test Program will ensure the EFW pumps are tested against the more restrictive of the data points required by either the safety analysis or the Inservice Test Program. Therefore, the proposed administrative changes do not involve a significant increase in the probability or consequences of any accident previously evaluated.

The less restrictive changes (allowing 7 days for an inoperable pump due to an inoperable steam supply, performing Surveillance Requirements during other than shut down conditions, allowing the use of actual actuation signals in addition to test signals, and delaying the requirement to complete Surveillance Requirement "d" to just prior to Mode 2) will not affect the assumptions, design parameters, or results of any accident previously evaluated. The accident mitigation features of the plant are not affected by these proposed changes. The proposed changes do not add or modify any existing equipment. Therefore, the proposed less restrictive changes do not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different type of accident from any accident previously evaluated?

Response: No.

The proposed changes included in this amendment request are being made to the EFW System Technical Specification. These changes include clarification of the LCO, a 7 day allowed outage time for an inoperable steam supply, additional ACTION requirements for inoperable flow path(s), a requirement to test the pumps pursuant to Specification 4.0.5, and rewording of numerous Surveillance Requirements consistent with NUREG–1432. These changes do not alter the design nor configuration of the plant. There has been no physical change to plant systems, structures, or components. The proposed changes will not reduce the ability of any of the safety-related equipment required to mitigate Anticipated Operational Occurrences or accidents. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes included in this amendment request are being made to the EFW System Technical Specification. These changes include clarification of the LCO, a 7 day allowed outage time for an inoperable steam supply, additional ACTION requirements for inoperable flow path(s), a requirement to test the pumps pursuant to Specification 4.0.5, and rewording of numerous Surveillance Requirements consistent with NUREG–1432.

The proposed change to the LCO requiring three pumps and two flow paths be OPERABLE maintains the functionality of the EFW such that it is capable of performing its design function as assumed in the Updated Final Safety Analysis Report. If the functionality of the system is not maintained, Technical Specifications require ACTIONs be taken, within specified time limitations, to restore EFW to OPERABLE status or shut down the reactor. This action is consistent with the existing Technical Specification and NUREG–1432.

The allowed outage time for one inoperable steam supply has been increased from 72 hours to 7 days in accordance with NUREG–1432. This is acceptable due to the redundant OPERABLE steam supply, the availability of redundant OPERABLE motor-driven EFW pumps, and the low probability of an event requiring the inoperable steam supply. This change is consistent (other than format) with NUREG–1432 and has therefore been previously approved by the NRC.

The ACTION for one flow path inoperable (but capable of delivering 100% flow) as proposed will allow a 72 hour completion time for an inoperable flow path. This change is acceptable based on the availability of at least two OPERABLE EFW pumps, a redundant OPERABLE flow path capable of feeding the other steam generator and the capability of the inoperable flow path to deliver 100% of the required EFW flow to the affected steam generator.

The ACTION for one flow path inoperable (not capable of delivering 100% flow) as proposed requires a unit shutdown be initiated immediately. This change is appropriate due to the seriousness of the condition and is acceptable due to the availability of the remaining operable flow path to support the unit shut down.

The ACTION for two flow paths not capable of delivering 100% flow is the same as that for three pumps inoperable. With two flow paths inoperable such that neither flow path is capable of delivering 100% flow the unit is in a seriously degraded condition just as it is with all three pumps inoperable. The ACTION as proposed requires that immediate action be taken to restore one flow path to OPERABLE status. This change is consistent with the intent of the current EFW Technical Specification.

Testing pursuant to Specification 4.0.5 (Inservice Testing Program) as proposed for Surveillance Requirement 'b' will ensure the EFW pumps are tested against the more restrictive of the data points required by either the safety analysis or ASME Section XI.

The remaining changes to the EFW Technical Specification are consistent (other than format) with NUREG–1432 and have therefore been previously approved by the NRC.

Therefore, based on the above discussion, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122.

Attorney for licensee: N.S. Reynolds, Esq., Winston & Strawn 1400 L Street N.W., Washington, D.C. 20005–3502.

NRC Project Director: John N. Hannon.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: September 28, 1998.

Description of amendment request: In 1997 Northeast Nuclear Energy Company (the licensee) changed the Final Safety Analysis Report (FSAR) Section 8.7.3.1 electrical separation requirements from 12 inches to 6

inches. At that time, the licensee concluded that the FSAR changes did not involve an unreviewed safety question. Therefore, the licensee did not request a license amendment to implement the FSAR change. The licensee has since determined that, although the changes were safe, an unreviewed safety question was involved. Therefore, the licensee is now requesting NRC's review and approval, through an amendment to Operating License No. DPR–65 pursuant to 10 CFR 50.90, regarding the separation requirement of 6 inches in Millstone Unit No. 2 FSAR (which is applied to redundant vital cables, internal wiring of redundant vital circuits, and associated devices).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no signficant hazards consideration, which is presented below:

In accordance with 10CFR50.92, NNECO [Northeast Nuclear Energy Company] has reviewed the proposed changes and has concluded that they do not involve a Significant Hazards Consideration (SHC). The basis for this conclusion is that the three criteria of 10CFR50.92(c) are not compromised. The proposed chenges do not involve an SHC because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The FSAR changes reduce the minimum allowable separation between redundant vital wires/devices of different channels from twelve inches to six inches. Reducing the physical separation between wires/devices does not in itself increase the probability of any credible event that would challenge circuit operability since the wire/device characteristics have not changed and there is no change in the circuit the wires/devices are in. The probability that an accident could occur due to the change in separation is not increased since the remaining separation will still prevent adverse channel interactions (i.e. short circuit, etc.). The six inch standard is acceptable in accordance with IEEE standard 384–1981 [IEEE standard 384–1981, "Standard Criteria for Independence of Class 1E Equipment and Circuits"], sections 6.6.2 and 6.6.5, and IEEE standard 420–1982, [IEEE standard 420–1982, "Design Standards and Qualification of class 1E Control Boards, panels, and Racks Used in Nuclear Power Generating Stations"], sections 4.3.1, 4.3.2, and 4.3.3 which have been endorsed by the NRC in Regulatory Guide 1.75 [Regulatory Guide 1.75, "Physical Independence of Electrical Systems"]. Therefore, these changes will not significantly increase the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The FSAR changes reduce the minimum allowable separation between redundant vital wires/devices of different channels from twelve inches to six inches. The new minimum allowable separation will not introduce any new or unanalyzed failure modes of equipment or systems, and does not change the configuration of the plant. These changes will not require any new or unusual operator actions, alter the way any structure, system, or component functions and do not alter the manner in which the plant is operated. Therefore, there are no new or different types of failures of systems or equipment important to safety which could cause a new or different type of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The FSAR changes reduce the minimum allowable separation between redundant vital wires/devices of different channels from twelve inches to six inches. The probability that a single wire/device failure could cause the failure of redundant vital channels may be increased. However, the new minimum allowed separation has been found acceptable by IEEE standard 384–1981, sections 6.6.2 and 6.6.5, and IEEE standard 420–1982, sections 4.3.1, 4.3.2, and 4.3.3 which have been endorsed by the NRC in Regulatory Guide 1.75. The new minimum allowed separation does not change any plant equipment configuration, does not change the functionality of any equipment, and does not change any operating setpoints. This change does not alter the acceptance limits of the safety parameters of the accident analyses stated in the FSAR. No new analysis assumptions are required based on this change (e.g. common-cause failures). Therefore, there is no impact on the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut.

NRC Project Director: William M. Dean.

Public Service Electric & Gas Company, Docket No. 50–311, Salem Nuclear Generating Station, Unit No. 2, Salem County, New Jersey

Date of amendment request: October 12, 1998.

Description of amendment request: The proposed amendment would allow a one-time extension of the Technical Specification (TS) surveillance interval to the end of fuel cycle 10 for certain TS surveillance requirements (SRs). Specifically, SR 4.3.2.1.3 requires the instrumentation response time testing of each engineered safety features actuation system function at least once per 18 months and SRs 4.8.2.3.2.f and 4.8.2.5.2.d require that the 125 volt DC and the 28 volt DC distribution system batteries, respectively, be capacity service tested at least once per 18 months, during shutdown. Additionally, SR 4.8.2.5.2.c.2 requires that the 125 volt DC battery connections be verified clean, tight, and coated with anti-corrosion material at least once per 18 months. Because of the length of the last outage and delays in restart, the SRs will be overdue prior to reaching the next refueling outage (2R10). The SRs are to be completed during the 2R10 outage, prior to returning the unit to Mode 4 (hot shutdown) upon outage completion.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

4.3.2.1.3 (Instrumentation, Engineered Safety Feature Actuation System Instrumentation)

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The deferral of the surveillance requirement does not involve any physical changes to the plant nor does it change the way the plant is operated. Thus, the proposal does not increase the probability of an accident previously evaluated.

The SEC [safeguard equipment control] automatic self-test feature, the monthly functional surveillance testing and the positive surveillance testing history provide sufficient assurance of the operability of the system. These features also provide assurance that a degraded condition, if it did occur, would be detected.

Thus, it is reasonable to conclude that this proposal represents no significant increase in the consequences of an accident previously analyzed.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Deferral of the surveillance requirement does not involve any physical changes to the plant nor does it change the way the plant is operated.

Thus, it can be concluded that deferring the surveillance requirement to the refueling outage cannot create the possibility of a different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

Deferral of the surveillance requirement does not involve any physical changes to the plant nor does it change the way the plant is operated. The self-test feature and the monthly functional testing will provide reasonable assurance that the SECs will remain operable during the few weeks of deferral to the refueling outage. Also the ability to detect a degraded condition in the SEC will not be affected during the deferral period.

Therefore, the plant's response to accident conditions during the period of deferral will not be affected.

Thus, it can be reasonably concluded that this proposal to amend the Salem Unit 2 Technical Specifications, on a one-time basis, to defer surveillance requirement 4.3.2.1.3 does not involve a significant reduction in any margin of safety.

4.8.2.3.2.f, (Electrical Power Systems, 125 Volt D.C. Distribution), and 4.8.2.5.2.c.2 and 4.8.2.5.2.d (Electrical Power Systems, 28 Volt D.C. Distribution)

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The deferral of the battery service tests to the refueling outage does not involve any physical changes to the power plant or to the manner in which the power plant is operated. Therefore, the probability of an accident previously evaluated is not increased.

Weekly and quarterly testing and performance monitoring by the system manager along with the current condition of the batteries (past test results demonstrating above 100% capacity) provide assurance that battery condition and performance will not deteriorate during the deferral period. Other positive industry experience for similar batteries on 24 month cycles also support this assurance. Therefore, the consequences of a loss of power accident will not be increased due to the deferral of the surveillance requirements.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The deferral of the battery service tests to the refueling outage does not involve any physical changes to the power plant or to the manner in which the power plant is operated. No new failure mechanisms will be introduced by the surveillance deferral. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The deferral of the battery service tests to the refueling outage does not involve any physical changes to the power plant or to the manner in which the power plant is operated. Continuing weekly and quarterly testing and performance monitoring along with the current condition of the batteries provides assurance that battery condition and performance will not deteriorate to an unacceptable level during the deferral period and that any degradation that may occur will be detected. Therefore, the plant's response to accident conditions during the period of deferral will not be affected.

Thus, it can be reasonably concluded that this proposal to amend the Salem Unit 2 Technical Specifications, on a one-time basis, to defer surveillance requirements 4.8.2.3.2.f and 4.8.2.5.2.d does not involve a significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, NJ 08079.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Project Director: Robert A. Capra.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment request: May 7, 1998.

Description of amendment request: This change would revise the reference for obtaining the thyroid dose conversion factors used in the definition of Dose Equivalent Iodine 131 (I–131) in Technical Specification (TS) Section 1.1, "Definitions" for each plant. Specifically, the reference to "Table E–7 of Regulatory Guide 1.109, Rev. 1, NRC 1977" is to be replaced with a reference to the International Commission on Radiological Protection Publication 30 (ICRP–30), Supplement to Part 1, Pages 192–212, Tables titled, "Committed Dose Equivalent in Target Organs or Tissues per Intake of Unit Activity."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change, which utilizes International Committee on Radiological Protection (ICRP)–30 methodology for determining dose equivalent Iodine-131, and therefore for evaluating thyroid dose consequences, does not involve any change to the method of operation of any plant equipment, nor does it modify any plant equipment. In addition, utilization of the ICRP–30 Dose Conversion Factors (DCFs) will effectively reduce calculated thyroid dose consequences of design basis accidents, thereby decreasing the calculated thyroid dose consequences of previously evaluated accidents.

Therefore, the proposed changes will not increase the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not modify the configuration of the units, involve any change to plant equipment or change the method of plant operation. The utilization of the ICRP methodology for determining DCFs uses more recent data which only affects calculations for determining thyroid dose consequences.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated accident.

3. The proposed change does not involve a significant reduction in a margin of safety.

The change to utilize the ICRP methodology for determining DCFs allows the use of more recent data which only affects calculations for determining thyroid dose consequences. ICRP–30 is recognized in Revision 1 of NUREG–1432, "Standard Technical Specifications, Combustion Engineering Plants," as an acceptable source document for DCFs. The new methodology will result in more accurate DCFs that will be used in the determination of dose consequences. Utilization of the ICRP–30 DCFs will effectively reduce calculated thyroid dose consequences of design basis accidents, thereby providing additional design margin.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, Irvine, California 92713.

Attorney for licensee: Douglas K. Porter, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770.

NRC Project Director: William H. Bateman.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: September 30, 1998.

Description of amendment request: Revises Units 1 and 2 Technical

Specification (TS) Section 3/4.4.5, "Steam Generator" Surveillance Requirements. The installation of the new Delta 94 steam generators at the South Texas Project Units 1 and 2 necessitates changes to the steam generator tube sample selection and inspection requirements; inservice inspection frequencies; acceptance criteria; and inspection reporting requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Eliminating provisions in the Technical Specifications for applications of the voltage-based repair criteria, the F* alternate repair criteria, and laser-welded sleeves for the Delta 94 steam generators is an administrative adjustment, since the voltage-based repair criteria, the F* alternate repair criteria, and laser-welded sleeves are not applicable to the Delta 94 steam generators.

The Delta 94 steam generator tubing is designed and evaluated consistent with the margins of safety specified in ASME Code Section III.

The program for periodic inservice inspection of steam generators monitors the integrity of the steam generator tubing to ensure that there is sufficient time to take proper and timely corrective action if tube degradation is present.

The ASME Section XI basis for the 40% through-wall plugging limit is applicable to the Delta 94 steam generators just as it was applicable to the Model E steam generators prior to the implementation of voltage-based repair criteria, F* alternate repair criteria, and laser-welded sleeves. In addition, analysis per Regulatory Guide 1.121 (WCAP-15095/WCAP-15096) has confirmed the applicability of the 40% plugging limit for the Delta 94 steam generators.

The changes also clarify that inservice inspection is required following steam generator replacement, and that inservice inspection is not required during the steam generator replacement outage. This is an administrative chenge in that it only provides clarification of requirements written without steam generator replacement considerations, and therefore, reduces the possibility for confusion in the application of the subject technical specification provisions. Therefore, these proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Eliminating provisions in the Technical Specifications for application of the voltage-based repair criteria, the F* alternate repair criteria, and laser-welded sleeves to the Delta 94 steam generators is an administrative adjustment, since the voltage-based repair criteria, the F* alternate repair criteria, and laser-welded sleeves are not applicable to the Delta 94 steam generators.

The changes also clarify that inservice inspection is required following steam generator replacement, and that inservice inspection is not required during the steam generator replacement outage. These are administrative changes in that they only provide clarification of requirements written without steam generator replacement considerations, and therefore, reduce the possibility for confusion in the application of the subject technical specification provisions. Therefore, these proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety.

Eliminating provisions in the Technical Specifications for applications of the voltage-based repair criteria, the F* alternate repair criteria, and laser-welded sleeves for the Delta 94 steam generators is an administrative adjustment, since the voltage-based repair criteria, the F* alternate repair criteria, and laser-welded sleeves are not applicable to the Delta 94 steam generators.

The Delta 94 steam generator tubing is designed and evaluated consistent with the margins of safety specified in ASME Code Section III. The program for periodic inservice inspection of steam generators monitors the integrity of the steam generator tubing to ensure that there is sufficient time to take proper and timely corrective action if tube degradation is present.

The ASME Section XI basis for the 40% through-wall plugging limit is applicable to the Delta 94 steam generators just as it was applicable to the Model E steam generators prior to the implementation of voltage-based repair criteria, F* alternate repair criteria, and laser-welded sleeves. In addition, analysis per Regulatory Guide 1.121 (WCAP-15095/WCAP-15096) has confirmed the applicability of the 40% plugging limit for the Delta 94 steam generators.

The changes also clarify that inservice inspection is required following steam generator replacement, and that inservice inspection is not required during the steam generator replacement outage. These are administrative changes in that they only provide clarification of requirements written without steam generator replacement considerations, and therefore, reduce the possibility for confusion in the application of the subject technical specification provisions. Therefore, these proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488.

Attorney for licensee: Jack R. Newman, Esq., Morgan, Lewis & Bockius, 1800 M Street, N.W., Washington, DC 20036–5869.

NRC Project Director: John N. Hannon.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: September 20, 1996 (TS 96–09).

Brief description of amendments: The amendments would change the Sequoyah Nuclear Plant (SQN) Technical Specifications by clarifying the types of work shifts that are acceptable when considering the requirements to ensure heavy use of overtime is not used routinely by unit staff. The current "8-hour day" criteria in Section 6.2.2.g will be expanded to include 10-hour and 12-hour allowances. In addition, the "40-hour week" criteria will be changed to a "nominal 40-hour week" to provide the necessary flexibility associated with the use of the proposed shift durations.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the Tennessee Valley Authority (TVA), the licensee, has provided its analysis of the issue of no significant hazards consideration, which is presented below:

TVA has evaluated the proposed technical specification (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

This change affects the requirements that ensure unit staff personnel do not routinely incur heavy use of overtime. These requirements are not changed by the proposed revision, but are clarified to accommodate the various shift durations used at SQN. The overtime usage by unit staff is not considered to be the initiator for any postulated accident; therefore, the clarification of associated requirements will not increase the probability of an accident. Limiting the use of overtime by staff personnel enhances the operation and maintenance of critical plant equipment that are necessary to mitigate accidents. The proposed revision clarifies these provisions, but does not reduce their adequacy. Therefore, the proposed revision will not increase the consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

This change only affects the clarification of shift durations use by unit staff and is not associated with the initiators of accidents. Therefore, the possibility of a new or different kind of accident from any previously analyzed is not created by the proposed clarifications.

3. Involve a significant reduction in a margin of safety.

The proposed changes do not affect plant equipment setpoints or operating policies at SQN. The overtime provisions that ensure the unit staff are capable to operate and maintain the plant in an acceptable manner to provide safe operation and mitigation of accidents is maintained by this change. Therefore, the margin of safety is not reduced by the proposed changes.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon.

TU Electric Company, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: October 2, 1998.

Brief description of amendments: The proposed change would revise Technical Specification (TS) 4.0.6, "Steam Generator Surveillance Requirements," to add definitions required for the F* alternate steam generator tube plugging criterion and identify the portion of the tube subject to the criteria.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

The supporting technical evaluation of the subject criterion [Westinghouse WCAP-15004, listed as Reference 1 (Proprietary)], demonstrates that the presence of the tubesheet enhances the tube integrity in the region of the hardroll by precluding tube deformation beyond its initial expanded outside diameter. The result of hardrolling of the tube into the tubesheet is an interference fit between the tube and the tubesheet. A tube rupture cannot occur because the contact between the tube and tubesheet does not permit sufficient movement of tube material. In a similar manner, the tubesheet does not permit sufficient movement of tube material to permit buckling collapse of the tube during postulated LOCA loadings. Analysis and testing have been done to determine the resistive strength of roll expanded tubes within the tubesheet. This evaluation provides the basis for the acceptance criterion for tube degradation subject to the F* criterion. The F* distance of roll expansion is sufficient to preclude tube axial translation or pullout from tube degradation located below the F* distance, regardless of the extent of the tube degradation. The necessary engagement length applicable to the Comanche Peak Unit 1 steam generators is determined to be 1.13 inches, plus an allowance for eddy current measurement uncertainty, based on preload analyses. Verification that this value is significantly conservative was demonstrated by both pullout and hydraulic proof testing. Application of the F* criterion provides a level of protection for tube degradation in the tubesheet region commensurate with that afforded by RG 1.121. Leakage testing of roll expanded tubes indicates that for roll lengths approximately equal to the F* distance, any postulated faulted condition primary to secondary leakage from F* tubes would be insignificant. No leakage occurred from any of the hydraulic proof test specimens for pressures up to and exceeding faulted condition events. The existing Technical Specification leakage rate requirements and accident analysis assumptions remain unchanged.

Based on the above, it is concluded that the proposed F* criterion does not adversely impact any other previously evaluated design basis accidents and operation of Comanche Peak Unit 1 in accordance with the proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Implementation of the proposed F* criterion does not introduce any significant changes to the plant design basis. Use of the F* criterion does not provide a mechanism to result in an accident initiated outside of the region of the tubesheet expansion. Even if it is postulated that a circumferential separation of a F* tube were to occur below the F* distance, tube structural and leakage integrity will be maintained consistent with the assumptions of the design basis accidents during all plant conditions. Verification of the F* distance of non-degraded tube roll expansion prevents a postulated separated tube from lifting out of the tubesheet during all plant conditions. The F* criterion does not create a possibility for simultaneous failures of multiple tubes. Any other hypothetical accident as a result of any degradation in the expanded portion of the tube would be bounded by the existing steam generator tube rupture accident analysis.

Therefore, it is concluded that the proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Do the proposed changes involve a significant reduction in a margin of safety?

The use of the F* criterion has been demonstrated to maintain the integrity of the tube bundle commensurate with the requirements of RG 1.121 (intended for indications in the free span of tubes) and the primary to secondary pressure boundary under normal and postulated accident conditions. Acceptable tube degradation for the F* criterion is any degradation indication in the tubesheet region, more than the F* distance below the bottom of the transition between the roll expansion and the unexpanded tube or the bottom of the tubesheet (whichever is lower). The safety factors used in the verification of the strength of the degraded tube are consistent with the safety factors in the ASME Boiler and Pressure Vessel Code used in steam generator design. The F* distance has been verified by pullout and hydraulic proof testing of tubes in tubesheet simulating collars to be greater than the length of roll expansion required to preclude both tube pullout and significant leakage during normal and postulated accident conditions. Resistance to tube pullout is based upon the primary to secondary pressure differential as it acts on the surface area of the tube, which includes the tube wall cross-section, in addition to the inner diameter based area of the tube. The leak testing acceptance criteria are based on the primary to secondary leakage limit in the Technical Specifications and the leakage assumptions used in the FSAR accident analyses.

Implementation of the proposed F* criterion will decrease the number of tubes which must be taken out of service with tube plugs. Plugged tubes reduce the RCS flow margin, thus implementation of the F* alternate plugging criterion will maintain the margin of flow that would otherwise be reduced in the event of increased plugging.

Therefore, it is concluded that the proposed change does not result in a significant reduction in margin to plant safety as defined in the Final Safety Analysis Report or the bases of the Technical Specifications.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, TX 76019.

Attorney for licensee: George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, N.W., Washington, DC 20036.

NRC Project Director: John N. Hannon.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: September 12, 1996, as supplemented April 24, 1997, and September 24, 1998.

Description of amendment request: The staff had previously published a Notice of Consideration of Amendments and Proposed No Significant Hazards Consideration Determination for the licensee's September 12, 1996, application in the **Federal Register** on April 23, 1997 (62 FR 19835). As a result of the staff's requests for additional information, the licensee supplemented its original proposal to relocate the fire protection requirements from the Technical Specifications (TS) to the Updated Final Safety Analysis Report (UFSAR) by letters dated April 24, 1997, and September 24, 1998. The April 24, 1997, letter corrected two minor administrative oversights and does not affect the No Significant Hazards Consideration Determination (NSHCD). However, the September 24, 1998, letter revised the original application to require the Station Nuclear Safety and Operating Committee to submit recommended changes to the offsite review group. In addition, a requirement was added for the establishment, implementation, and maintenance of the Fire Protection Program and implementing procedures. The NSHCD for these changes, as provided in the September 24, 1998, letter, is addressed below.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Since these two changes only deal with administrative requirements, neither of these two specific changes would result in a significant hazards consideration. Therefore, the operation of Surry Power Station with the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The probability of an accident is not increased as a result of this Technical Specifications change request. This is an administrative change and merely incorporates two additional requirements for ensuring that the Fire Protection Program and implementing procedures are appropriately established, implemented and maintained, and that changes to the Program and implementing procedures receive the appropriate offsite review. The consequences of an accident previously evaluated are not increased since the station will not be operated differently, and no physical modifications are being made to plant systems or components.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

A new or different type of accident is not being created since this TS change request is administrative. As noted above, the station will not be operated differently, and no physical modifications are being made to plant systems or components. Administrative revisions regarding the establishment, implementation and maintenance of a TS requirement for a Fire Protection Program and implementing procedures and the imposition of an offsite review for changes thereto [do] not create a new or different type of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The margin of safety as defined in the Technical Specifications is not reduced since system/component performance as assumed in the existing safety analyses is not being affected by the proposed TS change. The TS change is administrative in nature and, as such, has no effect on station operation. The Fire Protection Program is being retained and maintained in the UFSAR and station procedures.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia.

NRC Project Director: Herbert N. Berkow.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed no Significant Hazards Consideration Determination and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Illinois Power Company, Docket, No. 50–461, Clinton Power Station, DeWitt County, Illinois

Date of application for amendment: October 5, 1998.

Brief description of amendment request: The proposed amendment requests deferral of the next scheduled local leak rate test for valve 1MC–042 until the seventh refueling outage.

Date of publication of individual notice in **Federal Register**: October 23, 1998 (63 FR 56949).

Expiration date of individual notice: November 23, 1998.

Local Public Document Room location: Vespasian Warner Public Library, 310 N. Quincy Street, Clinton, IL 61727.

Northeast Nuclear Energy Company, Docket No. 50–423, Millstone Nuclear Power Station, Unit 3, New London County, Connecticut

Date of amendment request: August 6, 1998, as supplemented by letters dated September 3 and 21, 1998.

Description of amendment request: The proposed amendment allows a one-time extension to the steam generator tube inspection surveillance interval until the next refueling outage or July 1, 1999, whichever date is earlier.

Date of publication of individual notice in **Federal Register**: August 17, 1998 (63 FR 43964).

Expiration date of individual notice: September 16, 1998.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) The applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: August 27, 1998, as supplemented by letter dated October 1, 1998.

Brief description of amendment: This amendment revises Technical Specifications (TS) 3.0.4 and 4.0.4 in accordance with the guidance provided in Generic Letter 87–09. The revision to TS 3.0.4 removes the need to explicitly reference its applicability for certain TS. As a result, several other TS were also amended by deleting references to TS 3.0.4.

Date of issuance: October 20, 1998.

Effective date: October 20, 1998.

Amendment No: 84.

Facility Operating License No. NPF–63. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: September 8, 1998 (63 FR 47529).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 20, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Commonwealth Edison Company, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: August 23, 1996.

Brief description of amendments: The amendments revise the Technical Specifications related to the Non-Accessible Area Exhaust Filter Plenum Ventilation System to reflect the design lineup and to make provisions for the performance of maintenance and testing.

Date of issuance: October 15, 1998.

Effective date: Immediately, to be implemented within 30 days.

Amendment Nos.: 105; 105 & 97; 97.

Facility Operating License Nos. NPF–37, NPF–66, NPF–72 and NPF–77: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: March 12, 1997 (62 FR 11488).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 15, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: For Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: October 16, 1996, as supplemented by letters dated December 22, 1997, and May 27, 1998.

Brief description of amendment: The amendment changes the Appendix A Technical Specifications by relocating certain administrative controls to Quality Assurance Program Manual as described in Administrative Letter 95–06, "Relocation of Technical Administrative Controls related to Quality Assurance;" changing shift coverage from 8-hour day, 40-hour weeks to an option of 8 or 12 hour days and nominal 40-hour weeks; and making editorial changes to the titles of certain organizational positions.

Date of issuance: October 19, 1998.

Effective date: October 19, 1998, to be implemented within 60 days.

Amendment No.: 146.

Facility Operating License No. NPF–38: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 9, 1997 (62 FR 17233).

The December 22, 1997, and May 27, 1998 letters, provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 19, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122.

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application for amendment: June 21, 1995.

Brief description of amendment: The amendments revise the Technical Specification action statements and certain surveillances of TS 3/4.5.1, Safety Injection Tanks (SITs). These revisions include a two-tiered extension of the action completion/allowed outage time for the SITs. The revisions are also consistent with the guidance provided in Generic Letter 93–05, "Line-Item Technical Specifications Improvements to Reduce surveillance requirements for Testing During Power Operation."

Date of Issuance: October 16, 1998.

Effective Date: To be implemented within 30 days from date of receipt.

Amendment Nos.: 157 and 96.

Facility Operating License No. NPF–16: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: September 27, 1995 (60 FR 49936).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 16, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Community College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34981–5596.

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment request: October 31, 1996, supplemented October 31, 1997, May 27, 1998, and September 25, 1998.

Description of amendment request: The amendments revise the administrative control specifications to reduce the administrative burden carried by the Facility Review Group and the Plant General Manager by making more efficient use of site personnel possessing the requisite experience and qualifications in the review and approval process for plant procedures.

Date of Issuance: October 16, 1998.

Effective Date: October 16, 1998.

Amendment Nos.: 158 and 97.

Facility Operating License Nos. DPR–67 and NPF–16: Amendments revised the Technical Specifications.

Date of Initial Notice in **Federal Register**: December 18, 1996 (61 FR 66707) The October 31, 1997, May 27, 1998, and September 25, 1998, submittals provided clarifying information that did not change the original no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 16, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Community College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34981–5596.

GPU Nuclear, Inc. et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: August 21, 1998.

Brief description of amendment: The amendment removes the requirement for the Automatic Depressurization System function of the Electromatic Relief Valves to be operable during Reactor Vessel Pressure Testing. Additionally, it clarifies Note h of Technical Specification Table 3.1.1.

Date of Issuance: October 14, 1998.

Effective date: October 14, 1998, to be implemented within 30 days.

Amendment No.: 199.

Facility Operating License No. DPR–16: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: September 10, 1998 (63 FR 48527).

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated October 14, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753.

GPU Nuclear, Inc. et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: May 28,1998.

Brief description of amendment: The amendment revises Technical Specification 4.5.A.1 such that the first Type A test required by the primary containment leakage rate testing program be performed during refueling outage 18 rather than refueling outage 17.

Date of Issuance: October 15, 1998.

Effective date: October 15, 1998, to be implemented within 30 days.

Amendment No.: 200.

Facility Operating License No. DPR–16. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 15, 1998 (63 FR 38201).

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated October 15, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753.

Illinois Power Company, Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois.

Date of application for amendment: May 4, 1998, as supplemented September 23, 1998.

Brief description of amendment: The amendment incorporates Technical Specification requirements for the protection systems for the new static VAR compensators.

Date of issuance: October 9, 1998.

Effective date: October 9, 1998.

Amendment No.: 117.

Facility Operating License No. NPF–62: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 3, 1998 (63 FR 30264).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 9, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, IL 61727.

Northeast Nuclear Energy Company, et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut.

Date of application for amendment: May 9, 1997, as supplemented August 4, 1998.

Brief description of amendment: The amendment revises the shutdown margin requirements and adds Technical Specification 3/4.3.5 to provide the limiting condition for operation and surveillance requirements for the shutdown margin monitors. The amendment also makes administrative changes and revises the associated Bases section.

Date of issuance: October 21, 1998.

Effective date: As of the date of issuance, to be implemented within 60 days from the date of issuance.

Amendment No.: 164.

Facility Operating License No. NPF–49: Amendment revised the Facility Operating License and the Technical Specifications.

Date of initial notice in **Federal Register**: June 18, 1997 (62 FR 33129).

The August 4, 1998, letter provided clarifying information that did not change the scope of the May 9, 1997, application, and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 21, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: July 11, 1995.

Brief description of amendment: The amendment revises Technical Specifications (TS) 2.3(2)f and 2.3(2)g to increase allowed outage times for the safety injection tanks (SIT).

Date of issuance: October 19, 1998.

Effective date: October 19, 1998.

Amendment No.: 186.

Facility Operating License No. DPR–40. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 2, 1995 (60 FR 39447). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 19, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: October 3, 1997, as supplemented by letter dated May 18, 1998.

Brief description of amendment: The amendment revises Technical Specifications (TS) 3.9 to clarify required flow paths for testing the auxiliary feedwater system (AFW) and to delete specific AFW pump discharge pressure.

Date of issuance: October 19, 1998.

Effective date: October 19, 1998, to be implemented 30 days from the date of issuance.

Amendment No.: 187.

Facility Operating License No. DPR–40: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 3, 1997 (62 FR 63982).

The May 18, 1998, supplemental letter provided additional clarifying information that did not change the staff's original no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 19, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

PECO Energy Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50–277, Peach Bottom Atomic Power Station, Unit No. 2, York County, Pennsylvania

Date of application for amendment: July 10, 1998, as supplemented by two letters dated September 11, 1998. The supplemental letters provided clarifying information but did not change the initial no significant hazards consideration determination.

Brief description of amendment: This amendment revises the Technical Specifications for safety limit Minimum Critical Power Ratio from its current value of 1.11 to 1.10 for two recirculation loop operation, and from 1.13 to 1.12 for single recirculation loop operation.

Date of issuance: October 26, 1998.

Effective date: As of date of issuance, to be implemented prior to startup for Cycle 13 operations, scheduled for October 1998.

Amendment No.: 226.

Facility Operating License No. DPR–44: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: September 9, 1998 (63 FR 48261).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 26, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: March 16, 1998, as supplemented by letters dated May 22, August 10, and September 17, 1998, and also by letter dated February 9, 1998.

Brief description of amendments: The amendment authorized changes to the Final Safety Analysis Report to incorporate the increases in the main steam line radiation monitor setpoint and allowable values and the change to the design basis of the offgas system to a detonation resistant design.

Date of issuance: October 13, 1998.

Effective date: October 13, 1998.

Amendment Nos.: 179 and 152.

Facility Operating License Nos. NPF–14 and NPF–22: The amendments revised the Final Safety Analysis Report.

Date of initial notice in **Federal Register**: May 20, 1998 (63 FR 27764).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 13, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: April 23, 1998.

Brief description of amendments: These amendments change the name "Pennsylvania Power & Light Company" to "PP&L, Inc." in the operating licenses and appendices to reflect the licensee's corporate name change.

Date of issuance: October 19, 1998.

Effective date: Both units, as of the date of issuance to be implemented within 30 days.

Amendment Nos.: 180 and 153.

Facility Operating License Nos. NPF–14 and NPF–22. The amendments revised the operating licenses and Appendix B to each licensee and Attachment 1 to the Unit 1 license.

Date of initial notice in **Federal Register**: July 1, 1998 (63 FR 35993).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 19, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Philadelphia Electric Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: February 25, 1997, as supplemented September 8 and November 18, 1997 and January 8 and July 2, 1998. The supplemental letters provided clarifying information and did not change the initial proposed no significant hazards consideration determination.

Brief description of amendments: These amendments revise the Facility Operating Licenses, Technical Specifications, and Environmental Protection Plans to reflect a corporate name change, remove obsolete information, and correct typographical errors.

Date of issuance: October 23, 1998.

Effective date: Both units, as of date of issuance and shall be implemented within 30 days.

Amendment Nos.: 131 and 92.

Facility Operating License Nos. NPF–39 and NPF–85. The amendments revised the Technical Specifications and Licenses.

Date of initial notice in **Federal Register**: June 4, 1997 (62 FR 30642).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 23, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, PA 19464.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: June 25, 1997, as supplemented August 3, 1998.

Brief description of amendment: The amendment allows the use of zirconium or stainless steel filler rods in fuel assemblies to replace failed or damaged fuel rods.

Date of issuance: October 8, 1998.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 183.

Facility Operating License No. DPR–64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 17, 1998 (63 FR 33107).

The August 3, 1998, submittal fell within the scope of, and did not change, the initial proposed finding of no significant hazards consideration.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 8, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: August 8, 1997, as supplemented by letters dated March 9, May 6, July 6, July 31, September 4, and September 11, 1998.

Brief description of amendments: The amendments revise the Technical Specifications to accommodate an increase in the maximum licensed thermal power level from 2558 megawatts thermal (MWt) to 2763 MWt.

Date of issuance: October 22, 1998.

Effective date: As of the date of issuance to be implemented on Unit 1 prior to startup from the next refueling outage and on Unit 2 prior to startup from the current refueling outage.

Amendment Nos.: Unit 1–214; Unit 2–155.

Facility Operating License Nos. DPR–57 and NPF–5: The amendments revised the Technical Specifications and Operating Licenses.

Public comments requested as to proposed no significant hazards consideration: Yes. (63 FR 53730 dated October 6, 1998.) The notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by November 5, 1998, but indicated that if the Commission makes a final no significant hazards consideration determination, any such hearing would take place after issuance of the amendments.

The Commission's related evaluation of the amendments, finding of exigent circumstances, and a final no significant hazards consideration determination are contained in a Safety Evaluation dated October 22, 1998.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: May 27, 1997.

Brief Description of amendments: The amendments revise the Technical Specifications (TSs) to change the Applicable Modes for Source Range (SR) Nuclear Instrumentation (NI) (TS ¾.3.1, "Reactor Trip System Instrumentation"), provide allowances for an exception to the requirements for the state of the power supplies for residual heat removal discharge to charging pump suction valves following Mode changes (TS ¾.5.2, "ECCS Subsystems—T_{avg}>350°F" and ¾.5.3, "ECCS Subsystems—T_{avg}<350°F"), and delete cycle-specific guidance concerning manual engineered safety feature functional input checks.

Date of issuance: October 15, 1998.

Effective date: As of the date of issuance to be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 1–138; Unit 2–130.

Facility Operating License Nos. NPF–2 and NPF–8: Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register**: June 18, 1997 (62 FR 33134).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 15, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama.

Tennessee Valley Authority, Docket No. 50–390 Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of application for amendment: June 5, 1997, as supplemented April 21 and August 12, 1998.

Brief description of amendment: The requested changes would revise the Technical Specifications (TS) to allow testing of diesel generators, pursuant to Surveillance Requirement (SR) 3.8.1.14, during operational modes 1 or 2. The requested changes would also revise the TS to allow testing of the diesel generator batteries and associated battery chargers, pursuant to SRs 3.8.4.12, 3.8.4.13 and 3.8.4.14 during operational modes 1, 2, 3 or 4.

Date of issuance: October 19, 1998.

Effective date: October 19, 1998.

Amendment No.: 12.

Facility Operating License No. NPF–90: Amendment revises the TS.

Date of initial notice in **Federal Register**: July 29, 1998 (63 FR 40561).

The supplemental letter dated August 12, 1998, contained clarifying information and did not change the original no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 19, 1998.

No significant hazards consideration comments received: None.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, TN 37402.

Wisconsin Public Service Corporation, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: April 8, 1998, as revised by letter dated August 27, 1998.

Brief description of amendment: The amendment reduces the allowable reactor coolant system specific activity from 1.0 microcurie/gram to 0.20 microcurie/gram dose equivalent I–131, a means described by Generic Letter 95–05 to support the reduction of reactor coolant system specific activity limits.

Date of issuance: October 27, 1998.

Effective date: October 27, 1998.

Amendment No.: 140.

Facility Operating License No. DPR–43: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: September 14, 1998 (63 FR 49137).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 27, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Wisconsin, Cofrin Library, 2420 Nicolet Drive, Green Bay, WI 54311–7001.

Notice of Issuance of Amendment to Facility Operating License and Final No Significant Hazards Consideration Determination

During the period since publication of the last biweekly notice, individual notices of issuance of amendments have been issued for the facilities as listed below. These notices were previously published as separate individual notices. They are repeated here because this biweekly notice lists all amendments that have been issued for which the Commission has made a final determination that an amendment involves no significant hazards consideration.

In this case, a prior Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing was issued, a hearing was requested, and the amendment was issued before any hearing because the Commission made a final determination that the amendment involves no significant hazards consideration.

Details are contained in the individual notice as cited.

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By December 4, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in

the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Arizona Public Service Company, et al., Docket No. STN 50–530, Palo Verde Nuclear Generating Station, Unit No. 3, Maricopa County, Arizona

Date of application for amendment: October 6, 1998

Brief description of amendment: The amendment revises TS 3.3.1, "Reactor Protective System (RPS) Instrumentation—Operation," and TS 3.3.2, "Reactor Protective System (RPS) Instrumentation—Shutdown." The proposed amendment would clarify the power level threshold at which certain RPS instrumentation trips must be enabled and may be bypassed, and would clarify that this level is a percentage of the neutron flux at rated thermal power (RTP). The bypass power level, 1E–4% RTP, would be specified as logarithmic power instead of thermal power.

Date of issuance: October 19, 1998.

Effective date: October 19, 1998.

Amendment No.: 119.

Facility Operating License No. NPF–74: The amendment revised the Technical Specifications.

Press release issued requesting comments as to proposed no significant hazards consideration: Yes. October 13, 1998. Arizona Republic Newspaper (Arizona).

Comments received: No. The Commission's related evaluation of the amendment, finding of exigent circumstances, consultation with the State of Arizona and final determination of no significant hazards consideration are contained in a Safety Evaluation dated October 19, 1998.

Local Public Document Room location: Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

Attorney for licensee: Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072–3999.

NRC Project Director: William H. Bateman.

Dated at Rockville, Maryland, this 28th day of October 1998.

For the Nuclear Regulatory Commission

Elinor G. Adensam,

Acting Director, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–29433 Filed 11–3–98; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23511; 812–11252]

FPA Capital Fund, Inc.; Notice of Application

October 29, 1998.

AGENCY: Notice of application under section 17(b) of the Investment Company Act of 1940 ("Act") for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicant, FPA Capital Fund, Inc. ("Fund"), seeks an order to permit an in-kind redemption of shares of the Fund by an affiliated person of the Fund.

FILING DATES: The application was filed on August 6, 1998 and amended on October 20, 1998.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 23, 1998, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 11400 West Olympic Boulevard, Los Angeles, California 90064.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Attorney-Adviser, (202) 942–0574 or Edward P. Macdonald, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 5th Street, NW., Washington, DC 20549 (tel. no. 202–942–8090).

Applicant's Representation

1. The Fund, organized as a Maryland corporation, is registered under the Act as an open-end management investment company. First Pacific Advisors, Inc. ("Adviser"), registered under the Investment Advisers Act of 1940 ("Advisers Act"), is the Fund's investment adviser.

2. ICMA Retirement Trust ("Affiliated Shareholder") is a retirement trust for deferred compensation plans and qualified retirement plans established by state and local governments and their agencies and instrumentalities for their employees. The Affiliated Shareholder is not registered under the Act in reliance upon section 2(b) of the Act. The ICMA Retirement Corporation ("Retirement Corporation"), registered under the Advisers Act, serves as the investment adviser to the Affiliated Shareholder. The Affiliated Shareholder owns approximately 13.33% of the outstanding shares of the Fund.

3. The Retirement Corporation, acting in its fiduciary capacity with respect to the Affiliated Shareholder, has concluded that the assets of the Affiliated Shareholder invested in the Fund should be managed directly by the Adviser. Consequently, the Affiliated Shareholder has notified the Fund that it expects to redeem all of its shares of the Fund and place the proceeds in a separate account managed by the Retirement Corporation and subadvised by the Adviser. On August 3, 1998, the Fund's board of directors, including all of the independent directors, determined that it would be in the best interests of the Fund and its shareholders to redeem the shares of the Affiliated Shareholder in-kind.

Applicant's Legal Analysis

1. Section 17(a)(2) of the Act generally prohibits an affiliated person of a registered investment company, acting as principal, from knowingly purchasing any security from the company. Section 2(a)(3)(A) of the Act defines "affiliated person" of another person to include any person owning 5% or more of the outstanding voting securities of the other person.

2. Section 17(b) of the Act provides that, notwithstanding section 17(a) of the Act, the Commission shall exempt a proposed transaction from section 17(a) of the Act if evidence establishes that: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policy of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

3. Applicant states that the Affiliated Shareholder is an affiliated person of the Fund under section 2(a)(3)(A) of the Act because it owns beneficially in excess of 5% of the Fund's shares. To the extent that the proposed in-kind redemption would be considered to involve the "purchase" of the Fund's portfolio securities by the Affiliated Shareholder, applicant states that the proposed in-kind redemption would be prohibited by section 17(a)(2) of the Act.

4. Applicant submits that the terms of the proposed in-kind redemption meet the standards set forth in section 17(b) of the Act. Applicant asserts that neither the Adviser nor the Affiliated Shareholder will have any opportunity to select the specific portfolio securities to be distributed. Applicant further states that the portfolio securities to be distributed to the Affiliated Shareholder will be valued according to an objective, verifiable standard and that the in-kind redemption is consistent with the investment policies of the Fund. Applicant also states that the proposed in-kind redemption is consistent with the general purposes of the Act.

Applicant's Conditions

Applicant agrees that any order granting the requested relief will be subject to the following conditions:

1. The portfolio securities of the Fund distributed to the Affiliated Shareholder pursuant to the in-kind redemption (the "In-Kind Securities") will be limited to securities that are traded on a public securities market or for which quoted bid prices are available.

2. The In-Kind Securities will be distributed by the Fund on a pro rata basis after excluding: (a) securities which, if distributed, would be required to be registered under the Securities Act of 1933; and (b) certain portfolio assets (such as futures and options contracts and repurchase agreements) that, although they may be liquid and marketable, must be traded through the marketplace or with the counterparty to the transaction in order to effect a change in beneficial ownership. Cash will be paid for that portion of the Fund's assets represented by cash equivalents (such as certificates of deposit, commercial paper, and repurchase agreements) and other assets which are not readily distributable (including receivables and prepaid expenses), net of all liabilities (including accounts payable). In addition, the Fund will distribute cash in lieu of securities held in its portfolio not amounting to round lots (or which would not amount to round lots if included in the in-kind distribution), fractional shares, and accruals on such securities.

3. The In-Kind distributed to the Affiliated Shareholders will be valued in the same manner as they would be valued for purposes of computing the Fund's net asset value which, in the case of securities traded on a public securities market for which quotations are available, is their last reported sales price on the exchange on which the securities are primarily traded or at the last sales price on the national securities market, or, if the securities are not listed on an exchange or the national securities market or if there is no such reported price, the most recent bid price.

4. The Fund will maintain and preserve for a period of not less that six years from the end of the fiscal year in which the proposed in-kind redemption occurs, the first two years in as easily accessible place, a written record of the redemption setting forth a description of each security distributed, the terms of the distribution, and the information or materials upon which the valuation was made.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Security.

[FR Doc. 98–29511 Filed 11–3–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23509; 812–11350]

Hilliard-Lyons Growth Fund, Inc., et al.; Notice of Application

October 28, 1998.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 15(a) of the Act.

SUMMARY OF APPLICATION: The requested order would permit the implementation, without prior shareholder approval, of new investment advisory agreements (the "New Advisory Agreements"), for a period of up to 60 days following the later of the dates on which Hilliard

Lyons, Inc., the corporate parent of J.J.B. Hilliard, W.L. Lyons, Inc. (the "Adviser"), consummates its merger with PNC Bank Corp., or the date on which the requested order is issued (but in no event later than January 31, 1999) (the "Interim Period"). The order also would permit the Adviser to receive all fees earned under the New Advisory Agreements during the Interim Period following shareholder approval.

APPLICANTS: Hilliard-Lyons Growth Fund, Inc. (the "Growth Fund"), Hilliard-Lyons Government Fund, Inc. (the "Government Fund") (together, the "Funds,"), and the Adviser.

FILING DATES: The application was filed on October 8, 1998, and amended on October 26, 1998. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 20, 1998, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549. Applicants, Hilliard-Lyons Growth Fund, Inc., *et al.*, Hilliard Lyons Center, Louisville, KY 40202.

FOR FURTHER INFORMATION CONTACT: Lisa McCrea, Attorney Adviser, (202) 942–0562, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 5th Street, N.W., Washington, DC 20549 (tel. 202–942–8090).

Applicants' Representations

1. The Funds are registered under the Act as an open-end management investment companies. The Adviser is registered as an investment adviser under the Investment Advisers Act of 1940. The Adviser serves as investment adviser to the Funds under existing investment advisory agreements (the "Existing Advisory Agreements").

2. On August 20, 1998, PNC Bank Corp. ("PNC") entered into a merger agreement with Hilliard-Lyons, Inc. ("Hilliard-Lyons"), the parent of the Adviser, under which Hilliard-Lyons would be merged into PNC (the "Merger"). Upon consummation of the Merger, PNC will own all of the outstanding capital stock of Hilliard-Lyons. Applicants expect consummation of the Merger (the "Closing Date") on or before November 30, 1998.[1]

3. Applicants state that the Merger will result in the assignment and the automatic termination of the Existing Advisory Agreements. Applicants request an exemption to permit (a) the implementation during the Interim Period, prior to obtaining shareholder approval, of the New Advisory Agreements, and (b) the Adviser to receive from each Fund, upon approval of that Fund's shareholders, any and all fees payable under the New Advisory Agreement during the Interim Period. The requested exemption would cover the Interim Period of not more than 60 days beginning on the later of the Closing Date or the date on which the requested order is issued, and continuing with respect to each Fund through the date on which each New Advisory Agreement is approved or disapproved by the shareholders of each Fund (but in no event later than January 31, 1999). The New Advisory Agreements will contain terms and conditions identical to those of the Existing Advisory Agreements, except for the effective dates, termination dates, and escrow provisions.

4. On September 17, 1998 and September 21, 1998, the boards of directors (the "Boards"), including a majority of the members who are not "interested persons" as defined in section 2(a)(19) of the Act (the "Independent Directors"), of the Government Fund and the Growth Fund, respectively, voted in accordance with section 15(c) of the Act to approve the New Advisory Agreements, and to submit them to the Funds' shareholders. The shareholder meetings are scheduled to be held on November 6, 1998 for the Government Fund, and on November 19, 1998 for the Growth Fund (the "Meetings"). Applicants state that proxy materials for the Meetings were mailed to the Government Fund's shareholders on October 15, 1998, and to the Growth Fund's shareholders on October 22, 1998. Applicants state that the Boards will meet in person prior to the commencement of the Interim Period to approve the escrow provisions of the New Advisory Agreements in accordance with section 15(c) of the Act.

5. Applicants propose to enter into an escrow arrangement with an unaffiliated financial institution. The fees payable to the Adviser during the Interim Period under the New Advisory Agreements would be paid by the Funds into an interest-bearing escrow account. The escrow agent would release the monies held in the escrow account (including any interest earned): (a) to the Adviser only upon approval of the relevant New Advisory Agreement by the relevant fund's shareholders in accordance with section 15 of the Act; or (b) to the relevant Fund if the Interim Period has ended and the New Advisory Agreement has not received the requisite shareholder approval. Before any such release is made, the Board of the relevant fund would be notified.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in pertinent part, that it shall be unlawful for any person to serve or act as investment adviser of a registered investment company, except pursuant to a written contract that has been approved by the vote of a majority of the outstanding voting securities of such registered investment company. Section 15(a) further requires that the written contract provide for automatic termination in the event of its assignment. Section 2(a)(4) of the Act defines "assignment" to include any direct or indirect transfer of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor. Applicants state that the Merger will result in an "assignment" of the Existing Advisory Agreements, and that the Existing Advisory Agreements will terminate by their terms and in accordance with the Act.

2. Rule 15a–4 under the Act provides, in pertinent part, that if an investment advisory contract with an investment company is terminated, the adviser may continue to serve for 120 days under a written contract that has not been approved by the investment company's shareholders, provided that: (a) The new contract is approved by the board of directors (including a majority of the non-interested directors); (b) the compensation to be paid under the new contract does not exceed the compensation which would have been paid under the contract most recently approved by shareholders of the investment company; and (c) neither the adviser nor any controlling person of the investment adviser "directly or indirectly receives money or other benefit" in connection with the transaction. Applicants state that they may not rely on rule 15a–4 because the Adviser and its affiliates may be deemed to receive a benefit in connection with the Merger.

3. Section 6(c) provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants state that the requested relief satisfies this standard.

4. Applicants assert that the terms and timing of the Merger were determined by Hilliard-Lyons and PNC in response to a number of factors beyond the scope of the Act and unrelated to the Funds and the Adviser. Applicants state that a proxy solicitation is a time consuming task, and that it is possible that an insufficient number of votes will have been received by the Meeting, and it may be necessary to adjourn for a period to permit additional shareholders to vote their shares by proxy.

5. Applicants state that the requested relief will allow continuity in investment management services to the Funds during the Interim Period. Applicants state that, during the Interim Period, the Funds would receive the same advisory services, provided in the same manner and at the same fee levels, by substantially the same personnel as they received before the Merger.

Applicant's Conditions

Applicants agree that the requested order will be subject to the following conditions:

1. The New Advisory Agreements will have the same terms and conditions as the Existing Advisory Agreements, except for the effective dates, termination dates, and escrow provisions.

2. Advisory fees earned by the Adviser during the Interim Period will be maintained in an interest-bearing escrow account, and amounts in the account, (including interest earned on such amounts), will be paid (a) to the Adviser in accordance with the relevant New Advisory Agreement, after the requisite shareholder approval is obtained, or (b) to the relevant Fund, in the absence of such approval with respect to such Fund.

3. The Government Fund and the Growth Fund will hold meetings of shareholders to vote on approval of the New Advisory Agreements on November 6, 1998, and November 19, 1998, respectively, or within the 60-day period following the commencement of the Interim Period (but in no event later than January 31, 1999).

4. The Funds will not bear the costs of preparing and filing the application, or any costs relating to the solicitation of shareholder approval necessitated by the consummation of the Merger.

5. The Adviser will take all appropriate steps to ensure that the scope and quality of advisory and other services provided to the Funds during the Interim Period will be at least equivalent, in the judgment of the Board, including a majority of the Independent Directors, to the scope and quality of services provided under the Existing Advisory Agreement. In the event of any material change in personnel providing services pursuant to the New Advisory Agreements, the Adviser will apprise and consult with the Boards to assure that the Boards, including a majority of the Independent Directors, are satisfied that the services provided will not be diminished in scope or quality.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–29469 Filed 11–3–98; 8:45 am]

BILLING CODE 8010–01–M

[1] Applicants state that if the Merger precedes the issuance of the requested order, the Adviser will continue to serve as investment adviser after the Merger and prior to the issuance of the order in a manner consistent with its fiduciary duty to continue to provide advisory services to the Funds even though shareholder approval of the new arrangements has not yet been secured. Applicants also state that the Funds may be required to pay, with respect to the period until receipt of the order, no more than the actual out-of-pocket cost to the Adviser for providing advisory services.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23510; 812–11146]

Merrill Lynch Private Equity Trust I, et al.; Notice of Application

October 29, 1998.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the "Act") requesting an exemption from section 17(e) of the Act and under rule 17d–1 under the Act to permit certain joint transactions in accordance with section 17(d) and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end investment companies to co-invest with other investment vehicles managed by the same investment adviser, and the investment adviser to receive certain compensation in connection with these transactions.

APPLICANTS: ML Private Equity Inc. (together with any investment adviser controlling, controlled by, or under common control with ML Private Equity Inc., the "Advisers") and Merrill Lynch Private Equity Trust I (the "Fund" and together with any future registered closed-end investment company advised by the Advisers, the "Funds").

FILING DATE: The application was filed on May 15, 1998, and amended on September 2, 1998. Applicants have agreed to file an amendment, the substance of which is incorporated in this notice, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 23, 1998, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: South Tower, World Financial Center, New York, New York 10080.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Senior Counsel, at (202) 942–0572, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicant's Representations

1. The fund will be a Delaware business trust and a privately offered closed-end investment company registered under the Act. ML Private Equity Inc. will register as an investment adviser under the

Investment Advisers Act of 1940 and will serve as the Fund's investment adviser. The Adviser also may serve as investment adviser to private accounts on a discretionary basis and as manager and/or investment adviser to other investment vehicles excepted from the definition of investment company by section 3(c)(1) or 3(c)(7) of the Act ("Private Funds").[1]

2. ML Private Equity Inc. is a wholly-owned subsidiary of Merrill Lynch & Co., Inc. ("ML & Co."). Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch"), also a wholly-owned subsidiary of ML & Co., will act as placement agent for the Fund's shares.

3. The Fund will have at least four trustees who are natural persons ("Individual Trustees") and, in addition, the Adviser may serve as a trustee. Under the Fund's declaration of trust, the Individual Trustees will perform the duties imposed by the Act or the rules under the Act on directors of registered investment companies organized in corporate form and the Adviser as trustee will not be entitled to vote on any matters related to these duties.

4. The Fund will invest in institutional investment funds excepted from the definition of investment company by section 3(c)(1) or 3(c)(7) of the Act ("Underlying Funds"). The Underlying Funds may include real estate partnerships, venture capital funds, leveraged buyout funds, and hedge funds. The Underlying Funds will be managed by individuals or entities that are not affiliated with the Adviser.

5. Merrill Lynch will act as placement agent and financial adviser to the Underlying Funds and their sponsors. Merrill Lynch will receive compensation for its services from the sponsors (but not from the Underlying Funds). In general, fees for the combined financial advice and placement agency services range up to 2 percent of the proceeds of the offering for a new Underlying Fund, together with reimbursement of out-of-pocket transaction expenses.

6. The Fund proposes to make investments in the Underlying Funds concurrently with one or more other Funds, the Private Funds, and "ML Entities" ("Co-Investments").[2] The Fund will not invest in an Underlying Fund unless at least 70 percent of the capital committed to the Underlying Fund is committed by investors that are not Funds, Private Funds, or ML Entities.

[1] Private Funds may include certain employees' securities companies formed for the benefit of employees of Merrill Lynch & Co., Inc. If the Adviser acts as the general partner of a Private Fund, it may make a capital contribution in connection with the organization of the Private Fund and maintain an interest in the Private Fund.

[2] "ML Entities" refers to the Advisers, ML & Co., any other entity controlling, controlled by, or under common control with ML & Co. and other entities (other than the Funds or the Private Funds) with respect to which ML & Co., or any entity controlling, controlled by, or under common control with ML & Co., is authorized to cause the entity to provide the opportunity for a Fund to participate in the sale of an investment as contemplated by condition 6 below.

Applicants' Legal Analysis

A. Co-Investments

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person of or principal underwriter for a registered investment company or any affiliated person of such person or principal underwriter ("second-tier affiliate"), acting as principal, from effecting any transaction in connection with any joint enterprise or other joint arrangement or profit sharing plan, in which the investment company participates unless the Commission by order approves the transaction. Under section 2(a)(3) of the Act, an affiliated person of another person includes any person directly or indirectly controlling, controlled by, or under common control with the other person and the investment adviser to an investment company. Applicants request an order pursuant to section 17(d) and rule 17d–1 to permit the Co-Investments.

2. In determining whether to approve a transaction under rule 17d–1, the SEC considers whether the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation of the investment companies is on a basis different from or less advantageous than that of the other participation. For the reasons stated below, applicants believe that the Co-Investments meet these standards.

3. Applicants state that the proposed Co-Investments will not be less advantageous to any Fund than they are to any other Fund, Private Fund, or ML Entity since each Fund will be offered the opportunity to participate in the Co-Investments with each other participating Fund, Private Fund, or ML Entity on an identical basis. In addition, applicants state that oversight by the Individual Trustees as provided for in the conditions below will protect the Fund from overreaching by any affiliated person in a Co-Investment.

B. Payment of Compensation to Advisers

1. Section 17(e) of the Act places limitations on the types and amounts of compensation that an affiliated person or second-tier affiliate of a registered investment company, acting as agent, may receive with respect to purchases and sales of securities by the investment company. Section 6(c) permits the SEC to exempt any person or transaction from any provision of the Act, if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies of the Act.

2. Applicants request an exemption under section 6(c) from section 17(e) to the extent that the section is applicable to compensation received by Merrill Lynch or an affiliate attributable to the purchase of the Underlying Funds by the Funds. The exemption would only be available to purchases of an Underlying Fund by a Fund in which neither Merrill Lynch nor any affiliate receives any commissions, fees, or other compensation from a Fund or an Underlying Fund in connection with the purchase.

3. Applicants state that the limitations in section 17(e) were designed to prevent affiliates of registered investment companies from receiving excessive compensation attributable to portfolio transactions conducted by the investment companies. Applicants state that fees received by Merrill Lynch from a sponsor of an Underlying Fund will be identical with respect to each investor in an Underlying Fund for which Merrill Lynch acts as placement agent, regardless of the identity of the purchaser or whether it is affiliated with Merrill Lynch.

Applicants' Conditions

Applicants agree that any order of the SEC granting the requested relief will be subject to the following conditions:

1. A majority of the Individual Trustees of each Fund will not be "interested persons," as defined in section 2(a)(19) of the Act, of the Fund.

2. A fund will not invest in an Underlying Fund unless at least 70 percent of the capital committed to the Underlying Fund is committed by investors that are not Funds, Private Funds, or ML Entities.

3. The Individual Trustees of each Fund participating in a Co-Investment in an Underlying Fund, including a majority of the non-interested Individual Trustees, will approve Co-Investments in advance. To facilitate the Individual Trustees' determinations, the Adviser will provide the Individual Trustees of a Fund with periodic information listing all investments suitable for investment by the Fund which have been entered into by another Fund or, to the knowledge of the Adviser, a Private Fund or an ML Entity.

4. (a) Before making a Co-Investment, the Adviser will make a preliminary determination as to whether each particular Co-Investment opportunity meets the Fund's investment objective, policies, and restrictions. The Adviser will maintain written records of the factors considered in any preliminary determination.

(b) Following the making of the determination referred to in (a), information concerning the proposed Co-Investment will be distributed to the Individual Trustees. This information will be presented in written form and will include the name of each Fund, each Private Fund, and each ML Entity that, to the knowledge of the Adviser, may participate and the maximum amount offered to each entity.

(c) Information regarding the Adviser's preliminary determinations referred to in (a) will be reviewed by the Individual Trustees, including a majority of the non-interested Individual Trustees. The Individual Trustees, including a majority of the non-interested Individual Trustees, will make an independent decision as to whether to participate and the extent of participation in a Co-Investment in an Underlying Fund based on the factors as are deemed appropriate under the circumstances. If a majority of the non-interested Individual Trustees of the Fund determines that the amount proposed to be invested by the Fund is not sufficient to obtain an investment position that they consider appropriate under the circumstances, the Fund will not participate in the Co-Investment. Similarly, the Fund will not participate in a Co-Investment if a majority of the non-interested Individual Trustees of the Fund determines that the amount proposed to be invested is an amount in excess of that which is determined to be appropriate under the circumstances, although the non-interested Individual Trustees may make a determination that the Fund take other than their allotted portion of an investment. A Fund will only make a Co-Investment if a majority of the non-interested Individual Trustees of the Fund prior to making the Co-Investment in an Underlying Fund conclude, after consideration of all information deemed relevant (including the extent to which such participation is on a basis different from or less advantageous than that of other participants and the extent to which an ML Entity has or will provide investment banking or other services to the Underlying Fund), that the investments by any other Fund, Private Fund, and/or ML Entity, as applicable, would not disadvantage the Fund in the making of the investment, in maintaining its investment position or in disposing of the investment, and that participation by the Fund would not be on a basis different from or less advantageous than that of the other Fund, Private Fund, and/or any ML Entity, as applicable. The non-interested Individual Trustees will maintain at the Fund's office written records of the factors considered in any decision regarding the proposed Co-Investment.

(d) The non-interested Individual Trustees will, for purposes of reviewing each recommendation of the Adviser, request additional information from the Adviser as they deem necessary for the exercise of their reasonable business judgment, and they will also employ such experts, including lawyers and accountants, as they deem appropriate for the reasonable exercise of this oversight function.

5. Co-Investments in equity interests in an Underlying Fund by a Fund with any other Fund, any Private Fund, and/or any ML Entity, as applicable, will consist of the same class of securities, including the same registration rights (if any), and other related rights, and will be purchased at the same unit consideration, and the approval of these transactions, including the determination of the terms of the transactions by the Fund's non-interested Individual Trustees, will be made in the same time period.

6. A Fund will not participate in a Co-Investment in an Underlying Fund with another Fund, a Private Fund, or an ML Entity unless each other party agrees to permit the Fund to participate, in the manner set forth in this condition, in the disposition of (a) an interest in each Underlying Fund or (b) securities received through an in-kind distribution by the Underlying Fund. If a Fund, a Private Fund, or an ML Entity proposes to dispose of a security described in the preceding sentence, notice of the proposed sale will be given to the non-interested Individual Trustees of the relevant Fund(s) at the earliest practical time. A Fund will participate in the disposition of the security on a lock-step basis with any other Fund, Private Fund, or an ML Entity, unless the non-interested Individual Trustees of a Fund determine that the Fund should not participate in the sale or not participate on a lock-step basis. A Fund need not participate on a lock-step basis in the disposition of securities sold by any other Fund, a Private Fund, or an ML Entity if the non-interested Individual Trustees of the Fund find that the retention or sale, as the case may be, of the securities is fair to the Fund and that the Fund's participation or choice not to participate in the sale on a lock-step basis is not the result of overreaching by any other Fund, any Private Fund, and/or an ML Entity, as applicable. If this finding is not made, then the relevant Fund must participate in the sale on the basis of a lock-step disposition. If at any time the result of a proposed disposition of any portfolio security held by a Fund would alter the proportionate holdings of each class of securities held by the other Funds, Private Funds, and/or an ML Entity, as applicable, holding the Co-Investment, then the non-interested Individual Trustees of the Fund or Funds involved must determine that this result is fair to the relevant Fund(s) and is not the result of overreaching by any other Fund, Private Fund, and/or ML Entity, as applicable. The non-interested Individual Trustees will record in the records of the Fund the basis for their decisions as to whether to participate in the sale.

7. A decision by the Individual Trustees of a Fund (a) not to participate in a Co-Investment or (b) not to sell, exchange, or otherwise dispose of a Co-Investment in the same manner and the same time as another Fund, Private Fund, or ML Entity will include a finding that the decision is fair and reasonable to the Fund and not the result of overreaching by or its share holders by the other Fund, Private Fund and/or ML Entity, as applicable. The non-interested Individual Trustees of each Fund will be provided quarterly for review all information concerning Co-Investments made by the Funds, the Private Funds, and/or ML Entities, as applicable, including Co-Investments in which the Fund declined to participate, so they may determine whether all Co-Investments made during the preceding quarter, including those Co-Investments they declined, complied with the conditions set forth above. In addition, the non-interested Individual Trustees of each Fund will consider at least annually the continuing appropriateness of the standards established for Co-Investments by the Fund, including whether the use of these standards continues to be in the best interest of the Fund and its share holders and does not involve overreaching of the Fund or its share holders on the part of any party concerned.

8. No non-interested Individual Trustee of a Fund will be an affiliated person of a Private Fund or Underlying

Fund or have had, at any time since the beginning of the last two completed fiscal years of any Private Fund or Underlying Fund, a material business or professional relationship with any Private Fund or Underlying Fund.

9. A Fund, each Private Fund, and/or ML Entity, as applicable, will bear its own expenses associated with the disposition of portfolio securities. The expenses, if any, of distributing and registering securities under the Securities Act of 1933 sold by the Fund, one or more Private Funds, and/or the ML Entity, as applicable, at the same time will be shared by the Fund, the selling Private Fund(s), and or each ML Entity, as applicable, in proportion to the relative amounts they are selling.

10. Merrill Lynch and its affiliates will receive no commissions, fees, or other compensation from a Fund or an Underlying Fund in connection with a purchase by the Fund of an interest in the Underlying Fund.[3]

11. The Fund will maintain all records required of it by the Act, and all records referred to or required under these conditions will be available for inspection by the Commission. The Fund will also maintain the records required by section 57(f)(3) of the Act as if the Fund was a business development company and the Co-Investments were approved by the non-interested Individual Trustees under section 57(f).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–29470 Filed 11–3–98; 8:45 am]

BILLING CODE 8010–01–M

[1] This condition does not limit arrangements in which an Underlying Fund initially pays a placement fee to Merrill Lynch but is reimbursed or credited with such amount so that the sponsor of the Underlying Fund effectively bears the cost of the placement fee.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40606; File No. SR–NASD–98–51]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Microcap Initiatives-Amendments to NASD Rules 6530 and 6540

October 27, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 20, 1998, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly-owned subsidiary, the Nasdaq Stock Market, Inc. ("Nasdaq") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. On October 7, 1998, the NASD filed with the Commission Amendment No. 1 to the proposal.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Association is proposing amendments to NASD Rules 6530 and 6540 to limit quotations on the OTC Bulletin Board® ("OTCBB") to the securities of issuers that are current in their reports filed with the SEC or other regulatory authority, and to prohibit a member from quoting a security on the OTCBB unless the issuer has made current filings, respectively. Proposed new language is in *italics;* proposed deletions are in [brackets].

* * * * *

6530. OTCBB Eligible Securities

A Member shall be permitted to quote the [The] following categories of securities [shall be eligible for quotation] in the Service:

(a) any domestic equity security that *satisfies the requirements of paragraph (1) and either paragraph (2) or (3) or (4) below;*

(1) the security is not listed on The Nasdaq Stock Market ("Nasdaq") or a registered national securities exchange in the U.S., except that *an* equity *security* [securities that are] *shall be considered eligible if it*:

(*A*[1]) *is* listed on one or more regional stock exchanges, *and*

(*B*[2]) [do] *does* not qualify for disseminating of transactions reports via the facilities of the Consolidated Tape [shall be considered eligible.]; *and*

(2) the issuer of the security is required to file reports pursuant to Section 13 or 15(d) of the Act or the security is described in Section 12(g)(2)(B) of the Act, and, subject to a thirty calendar day grace period, the issuer of the security is current in its reporting obligations, or

(3) the security is described in Section 12(g)(2)(G) of the Act and, subject to a sixty calendar day grace period, the issuer or the security is current in its reporting obligations, or

(4) the issuer of the security is a bank or savings association that is not required to file reports with the Commission pursuant to Section 13 or 15(d) of the Act and, subject to a sixty calendar day grace period, the issuer of the security is current with all required filings with its appropriate Federal banking agency or State bank supervisor (as defined in 12 U.S.C. 1813).

(b) any foreign equity security or American Depositary Receipt (ADR) that *meets all of the following criteria*:

(1) [prior to April 1, 1998, is not listed on Nasdaq or a registered national securities exchange in the U.S., except that a foreign equity security or ADR shall be considered eligible if it is:

(A) listed on one or more regional stock exchanges, and

(B) does not qualify for dessimination of transaction reports via the facilities of the Consolidated Tape.

(2) after March 31, 1998,] *the security* is registered with the Securities and Exchange Commission pursuant to Section 12 of the [Securities Exchange Act] Act [of 1934] *and the issuer of the security is current in its reporting obligating; or the security satisfies the requirements of paragraph (a)(2)* or (3) or (4) above; and

(2) the security is not listed on Nasdaq or a registered national securities exchange in the U.S., except that a foreign equity security or ADR shall [be considered eligible] *meet this subparagraph (2)*[4] if it is:

(A) listed on one or more regional stock exchanges, and

(B) does not qualify for dissemination of transaction reports via the facilities the Consolidated Tape.

(c) any equity security that [is] *meets the following criteria*:

(1) *the security is* undergoing delisting from either the New York Stock Exchange, Inc. (NYSE) or the American Stock Exchange, Inc. (AMEX) for non-compliance with maintenance-of-listing standards; and

(2) *the security is* subject to a trading suspension imposed by the NYSE or AMEX preceding the actual delisting; and

(3) the security satisfies the requirements of paragraph (a)(2) or (3) or (4) above.

(d) any *Direct* [District] Participation Program as defined in Rule 6910 that is not listed on Nasdaq or a registered national securities exchange in the U.S. *and that satisfies the requirements of paragraph (a)(2) or (3) or (4) above.*

(e) Paragraphs (a)(2) and (3) and (4) above will not apply with respect to any domestic equity security quoted in the Service on the effective dote of this rule change until six months after that date.

* * * * *

Rule 6540. Requirements Applicable to Market Makers

(a) No change.

(b) No change.

(1) Permissible Quotation Entries: no change.

(2) Impermissible Quotation Entries.

(A) No member or person associated with a member shall enter into the Service a priced bid and/or offer, an unpriced indication of interest (including "bid wanted" or "offer wanted" indications), or a bid or offer accompanied by a modifier to reflect unsolicited customer interest in any security that does not satisfy the requirements of Rule 6530.

(B) No member or person associated with a member shall enter into the Service a priced bid and/or offer, an unpriced indication of interest (including "bid wanted" or "offer wanted" indications), or a bid or offer accompanied by a modifier to reflect unsolicited customer interest in any security of an issuer that does not make filing with the Securities and Exchange Commission through the Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system (or in paper format, if specifically permitted by Commission Rules) unless the member:

(i) notifies the Association of the issuer of the security's schedule for the filing of all periodic reports or financial reports required pursuant to the Act or regulatory authority, respectively, and the identity of the regulatory authority with which such reports are filed, or ensures that such notice is provided; and

(ii) provides to the Association the issuer's periodic reports required pursuant to the Act, or the issuer's financial reports required by regulatory authority, prior to the expiration of the grace period described in Rule 6530(a)(3), or ensures that the required periodic reports are provided to the Association within that time period.

(3) [(2)] Voluntary Termination of Registration

No change.

(4) [(3)] More Than One Trading Location

No change.

(5) [(4)] Clearance and Settlement

No change.

(c) Compliance With Market Maker Requirements

Failure of a member or a person associated with a member to comply with this Rule may be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of Rule 2110.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The NASD has actively studied the OTC market in an effort to address abuses in the trading and sales of thinly traded, thinly capitalized (microcap) securities. These securities are not listed on Nasdaq or any exchange and trade on the OTCBB, in the "pink sheets" published by the National Quotation Bureau, Inc. ("Pink Sheets"), and in other quotation media where there are no listing requirements. With respect to its examination of the OTCBB in particular, the NASD noted the lack of reliable and current financial information about the issuers, and the perception by the public that the OTCBB is similar to a highly regulated market, such as the registered exchanges or Nasdaq.[5]

The OTCBB provides a real-time quotation medium that NASD member firms can use to enter, update, and retrieve quotation information (including unpriced indications of interest) for equity securities trade over-the-counter that are neither listed on Nasdaq nor on a primary national securities exchange. Eligible securities include national, regional, and foreign equity issues, warrants, units. Direct Participation Programs ("DPPs"),[6] and American Depositary Receipts ("ADRs")[7] not listed on any other U.S. national securities market or exchange. Unlike Nasdaq or registered exchanges where individual companies apply for listing on the market—and must meet and maintain strict listing standards—there are no listing standards for the OTCBB, and there currently is no requirement that issuers of securities on the OTCBB make current, publicly-available reports with the SEC or other regulator. In fact, over half of the companies that are currently quoted on the OTCBB are not subject to any public reporting requirements.

The proposed rule change was developed in an effort to balance the benefits that the transparency of the OTCBB provides with the public need for information about the issuers being quoted. The NASD is concerned that where there is no public information available regarding a security, the broad-based automated display of quotations in that security creates an unjustified perception of reliability. While the NASD realizes that the new rule may result in the lack of real-time quotations for those securities that become ineligible for the OTCBB, it believe that this loss is outweighed by the benefit to investors who would, under the proposed rule, have access to information about the companies in which they may invest. In addition, transactions in securities ineligible for the OTCBB would still be subject to real-time last sale trade reporting. These reports are publicly disseminated through market data vendors on a real-time basis.

Amendment to Rule 6530

This proposed amendment to rule 6530 would limit quotations on the OTCBB to the securities of issuers that make current filings pursuant to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Letter from Robert E. Aber, General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation ("Division"), Commission, dated October 7, 1998 ("Amendment No. 1"). The substance of Amendmeot No. 1 is incorporated into this notice.

[4] The proposed rule text was changed from "subparagraph (3)" to "subparagraph (2)" to correct the internal cross-reference. Telephone conversation between Sara Nelson Bloom, Associate General Counsel, Nasdaq, and Robert B. Long, Attorney, Division Commission, on October 28, 1998.

[5] In addition, the NASD has filed a proposed rule change through its subsidiary, NASD Regulation, to require a member to review current financial statements and other business information about the issuer of a security that is not listed on Nasdaq or a national securities exchange before that member could recommend a transaction to a customer in the security and to provide certain disclosure information on the trade confirmation for all customer transactions (solicited and unsolicited) in such securities. *See* SR–NASD–98–50.

[6] DPPs are securities offerings that permit investors to directly participate in the cash flow and tax consequences of the underlying investments. DPPs provide for the "flow through" of tax results. Thus, gains and losses are taxed to the investor not the issuer of the security.

[7] ADRs are receipts for shares of foreign corporations that are held by U.S. banks and bought and sold in the U.S. by investors, without utilizing overseas markets.

Sections 13[8] and 15(d) of the Act,[9] securities of depository institutions that are not required to make filings under the Act, but file publicly-available reports with their appropriate regulatory agencies, registered closed-end investment companies, and insurance companies that are exempt from registration under Section 12(g)(2)(G) of the Act.[10]

To remain eligible for quotation on the OTCBB, as issuer must remain current in its filings with the SEC or applicable regulatory authority. A member would be required to inform the NASD of the issuer's reporting schedule. Based upon that schedule, the NASD will affix a modifier on the security's symbol if the NASD has not received information that the report was timely filed.[11] The addition of the modifier to the symbol, as well as any changes to the symbol necessary to accommodate the modifier, will be publicly reported on the OTCBB Daily List, which is available to market makers and investors through the OTCBB web site as http://www.otcbb.com. Once an issuer is delinquent in filing a required report (*e.g.*, Form 10–K, Form 10–Q, Form 20–F, Insurance Company Annual Statement, or call report), a security of the issuer may continue to be quoted on the OTCBB for a 30 or 60 calendar day grace period from the due date of the report, depending on the type of issuer. After the grace period, quotations in the security of the delinquent issuer would not be permitted on the OTCBB.

Filings for most OTCBB issuers are available through the SEC's Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system.[12] Foreign issuers are generally permitted to file in paper format and copies of these filings are available from the Commission. Exchange Act filings of banks and thrifts are available upon filing from the financial institution's primary bank regulatory agency. The grace period for these issuers is 30 days. In the case of banks and thrifts that are not required to make Exchange Act filings, members can obtain call report information from the National Information Center of Banking Information website (http://www.ffiec.gov/nic) or the Federal Deposit Insurance Corporation's website (http://www.fdic.gov). Call reports are filed 30 days after the end of each calendar quarter and are available to the public within 15 days of filing. Insurance companies file annual statements with the National Association of Insurance Commissioners ("NAIC") by March 1 of each year. This information is released to the public by NAIC by April 1. Because of the delay in the availability of call reports and insurance company annual statements, the proposed rule permits a 60 calendar day grace period for the quotation of securities of these companies after the deadline for the issuer to submit a report to the appropriate regulator.

Amendment to Rule 6540

This proposed amendment to Rule 6540 would prohibit member firms from quoting an issuer's security if the issuer has not made current reports with the SEC or the appropriate regulatory authority. Members must also provide such reports to the NASD, although the reports may be provided by any market maker in the security. The NASD is exploring ways to reduce the burden of this requirement for members, particularly with respect to issuers who are EDGAR filers. As discussed above, the NASD will affix a modifier to the security's symbol if the NASD has not received information that the report was timely filed. This indication will provide members with notice that the NASD has not received information that the issuer's report was timely filed. Once the NASD provides this notice, the member will have the opportunity to acquire the necessary report and provide it to the NASD before the end of the grace period.

Phase-In

The new requirements will be immediately effective upon approval of the rule for securities not previously quoted on the OTCBB. Securities quoted on the OTCBB on the date the rule becomes effective will be afforded at least six months to comply with the new requirements. Specifically, and in order to accommodate the resource demands that may be placed upon the SEC when certain issuers elect to file current public reports, the new requirements will be applied in a month-by-month staggered manner for a period from six to eighteen months from the date the rule is approved. The NASD will apply the new rule to approximately the same number of issuers for each month during that period in order to evenly distribute the SEC's anticipated work load. The delayed effectiveness of the rule should also enable market makers, investors, and issuers to take appropriate action. It should be noted that for issuers who file a Form 10 or Form 10SB with the SEC to register under Section 12(g) of the Exchange Act,[13] all SEC comments, if any, must be cleared with the SEC before securities can be quoted on the OTCBB.

2. Statutory Basis

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6)[14] of the Act, which requires, among other things, that the Association's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. In addition, Section 15A(b)(11)[15] of the Act requires that the rules of a registered national securities association be designed to produce fair and informative quotations, prevent fictitious or misleading quotations and to promote orderly procedures for collecting, distributing, and publishing quotations. The NASD believes the proposed rule change, which will address actual and potential fraud in the quotation and trading of non-listed securities and the investor perception that the OTCBB is equivalent to Nasdaq or exchange markets in terms of standards, regulatory structure and oversight, will accordingly protect investors and the public interest. Further, the NASD believes limiting the OTCBB to companies that provide public information will prevent fictitious and misleading quotations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The proposed rule change was published for comment in NASD Notice to Members 98–14 ("Notice" or "NTM") in January, 1998. A total of 44 comments were received in response to the Notice.

Of the 44 responses received, 18 responses (or 41%) were from broker/dealer firms or registered persons and the balance of 26 comments (or 59%) were from individual investors, issuers, various state agencies, trade associations, and other interested parties. In providing comments, a majority of commenters expressed a position (*i.e.*, approval or disapproval) regarding each specific proposal. Other commenters did not provide a stated position on each proposal, but identified particular issues with certain proposals and provided written comment.

Twenty-two commenters opposed the proposal, 19 commenters supported it, and three did not take a definitive position. Those commenters who disapproved of the proposed changes generally believed that the changes would decrease transparency and liquidity and would increase the regulatory burden that small issuers face. One commenter opined that the annual cost to an issuer to comply with the Exchange Act reporting requirements would be $150,000.

Those commenters supporting the proposed changes generally felt the changes will help eliminate fraud by providing investors with reliable information. These commenters thought the deterrence of fraud and increased availability of information outweighed the increase burden on companies.

Commenters indicated that the rule as proposed in the Notice should be modified to recognize issuers filing under Section 15(d) of the Exchange Act.[18] A commenter encouraged the NASD to accept reports filed with regulatory agencies outside of the Exchange Act, such as call reports filed by financial institutions. The rule as published in the Notice would have permitted members to maintain quotes in a security in which an issuer is delinquent in its reports with the SEC or regulatory authorities for a period of ten days. Other commenters supported an expansion of the grace period for filing a report with the SEC to 30 days after its due date.

After the public comment process, the staff recommended and the Boards of the NASD and Nasdaq approved the following modifications to the proposed rules. As to NASD Rule 6530, the proposed delinquency grace period was expanded from ten days to thirty days for issuers filing Exchange Act forms and to sixty days for insurance companies and financial institutions that do not file Exchange Act forms. This extended grace period is consistent with the proposed review period in the SEC's Rule 15c2–11 proposal.[17] Further, in the original Notice, the staff solicited comment on whether certain non-Exchange Act depository institutions that provide publicly-available financial reports to banking regulators should be eligible for quotation on the OTCBB. Based on the comments received, the nature of the issuers, the independent oversight of banking regulators, and the SEC's position that reports filed with federal or state bank supervisory agencies contain information analogous to Exchange Act reports,[18] the proposed rule allows securities of these issuers to be quoted on the OTCBB if the issuer provides timely reports to the appropriate Federal banking agency or State bank supervisor and the information is publicly available. Finally, consistent with comments received, the proposed rule includes securities of issuers who are currently filing reports with the SEC pursuant to Section 15(d) of the Act as eligible securities for the OTCBB. An issuer becomes subject to Section 15(d) as a result of registering securities under the Securities Act of 1933 ("Securities Act") and is thereby required to make timely filings with the SEC such as Forms 10–K, 10–Q, and 8–K or 20–F for at least a year following the Securities Act registration.[19]

The staff and the NASD and Nasdaq Boards considered commenters' objection that the proposed rule would decrease transparency for securities no longer eligible for the OTCBB. However, this objection was outweighed by the benefit of ensuring that there was publicly-available information regarding issuers that are afforded the visibility and credibility of the OTCBB. In this regard, the NASD considered that in granting permanent approval to the OTCBB, the SEC noted: "As a general matter, transparency benefits the markets. However, in the context of the inclusion of unregistered foreign securities on the OTCBB, the benefits may be outweighed by the potential harm from including unregistered securities on a visible U.S. market operated by a self-regulatory organization."[20] The SEC also noted that "the OTCBB may be inconsistent with the full disclosure goals of the securities laws in allowing a regulated public marketplace for unregistered securities."[21] While these comments were made in the context of unregistered foreign securities, the NASD believes that the same concerns exist with respect to domestic securities for which no public information is available.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD.

All submissions should refer to File SR–NASD–98–51 and should be submitted by November 25, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–29467 Filed 11–3–98; 8:45 am]

BILLING CODE 8010–01–M

[8] 15 U.S.C. 78m.

[9] 15 U.S.C. 78o–(d).

[10] 15 U.S.C. 78(g)(2)(G).

[11] It is contemplated that the modifier will be affixed one to two days after the report is due.

[12] EDGAR is the SEC system for the receipt, acceptance, and review of documents submitted in electronic format.

[13] 15 U.S.C. 78*l*(G).

[14] 15 U.S.C. 78*o*–3(b)(6).

[15] 15 U.S.C. 78*o*–3(b)(11).

[16] 15 U.S.C. 78*o*–(d).

[17] Exchange Act Release No. 39670 (February 17, 1998), 63 FR 9661 (February 25, 1998).

[18] *Id.* 9667–68.

[19] In addition to its requirements under Section 15(d), an issuer may voluntarily register under Section 12(g) or be required to register under Section 12(g) if it has 500 or more shareholders of record and total assets of more than $10 million. Under both scenarios, the issuer's securities would continue to qualify as eligible securities for purposes of the OTCBB Rules if the issuer maintains current filings with the SEC.

[20] Exchange Act Release No. 38456 (March 31, 1997), 62 FR 16635 at 16638 (April 7, 1997).

[21] *Id.*

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40615; File No. SR–NASD–98–56]

Self-Regulatory Organizations; Order Granting Partial Approval to Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Small Firm Representative on NASD Board Portion of the Proposed Rule Change Relating to Amendment to Composition of NASD Board to Include Members of New Amex LLC and for Other Purposes

October 28, 1998.

On August 10, 1998, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder.[2] In its proposal, among other matters, the NASD proposed revision of its by-laws to reserve one Industry Governor position on the NASD Board of Governors ("Board") for a representative of smaller NASD member firms. Notice of the proposal was published in the **Federal Register** on August 26, 1998 ("Notice").[3] The Commission received one comment letter on the filing.

I. Introduction and Description of the Proposal

In 1997, the NASD reorganized its corporate governance structure in connection with a revision of its disciplinary process following issuance of the Commission's Report Pursuant to Section 21(a) of the Act and related order and undertakings.[4] The changes streamlined the NASD's decisionmaking process, improved communication among members of the Board and Association staff and enabled the Association to act quickly and decisively when appropriate.[5] After the reorganization, the NASD established the Small Firm Advisory Board[6] to address concerns raised by a number of smaller member firms about their representation within the new NASD corporate structure.

The Notice indicated that the NASD's experience under the new corporate structure suggested that further participation by the small member firm community in matters affecting their business and their customers would be desirable. To provide this, the NASD filed the proposed rule change, seeking amendment of its by-laws to include one representative of member firms with 150 or fewer registered representatives among the Industry positions on the Board of Governors.[7]

II. Summary of Comments

The Commission received one comment letter from the Independent Broker-Dealer Association ("IBDA").[8] The NASD responded to this letter.[9]

The comment letter expresses numerous concerns about the representation of small firms within the NASD.[10] Primarily, the comment letter questions whether the proposed "small firm Board position," combined with the current Small Firm Advisory Board, adequately represent the IBDA members within the NASD. The letter stresses the need for enhanced representation of small firms and asserts that IBDA members have been hurt by the lack of adequate representation. The comment letter suggests that IBDA members would be better represented if they were able to elect the members of the Small Firm Advisory Board and the small firm Board representative directly. The comment letter also suggests that the maximum number of registered representatives allowed by the proposed definition of a small firm should be reduced, to more adequately represent the majority of smaller firms.

Responding to the IBDA's concerns, the NASD points out that the Commission approved its 1997 corporate structure and in doing so, found the restructuring to be consistent with the requirements of Section 15A of the Act, including the provisions requiring fair representation of members in the governance of the NASD.[11] In particular, the Association responds that the Commission assessed the 1997 corporate structure changes in terms of the fair representation requirement before reservation of a small firm Board position. Additionally, the NASD asserts that the Small Firm Advisory Board was voluntarily established by the Board of Governors to provide a more effective voice for the small firm member community, notwithstanding the minimum requirements of the Act. Moreover, the NASD points out that, regardless of the proposed definition, the current nominee for the small firm Governor position is associated with a member firm of eight registered representatives,[12] and that eight of the twelve members of the Small Firm Advisory Board are from member firms with fewer than twenty registered representatives. Finally, the NASD notes that its by-laws allow for the nomination of dissident candidates for specific positions, such as the small firm representative, through the by-laws' contested election procedures.[13]

III. Discussion

As discussed below, the Commission has determined to approve the Association's proposal incorporating a small firm Board representative. The standard by which the Commission must evaluate a proposed rule change is set forth in Section 19(b) of the Act. The Commission must approve a proposed NASD rule change if it finds that the proposal is consistent with the requirements of Section 15A of the Act[14] and the rules and regulations thereunder that govern the NASD.[15] In evaluating a given proposal, the Commission examines the record before it and all relevant factors and necessary information. In addition, Section 15A of the Act establishes specific standards for NASD rules against which the Commission must measure the proposal.[16]

The Commission believes the creation of a small firm representative is consistent with that portion of Section 15A requiring fair member representation in the governance of the NASD.[17] As discussed above, the Association made substantial changes to its corporate governance structure in 1997, many of which responded to the Commission's 21(a) Report and related documents. After these changes, the NASD created the Small Firm Advisory Board to address concerns raised by small firms about their ability to participate in the new NASD corporate structure. Today, the Commission approves the reservation of a Governor position to represent member firms with 150 or fewer registered representatives. The Commission agrees with the NASD that the changes, as proposed, will enhance the representation of small firms within the NASD corporate governance structure by inserting a small firm representative into the center of the decisionmaking process, the NASD Board of Governors. As a member of the Board of Governors, the small firm representative, unlike a member of the Small Firm Advisory Board, will have an opportunity to actively participate in the governance of the NASD and keep abreast of the Association's new initiatives.

Additionally, the Commission believes that the NASD acted within its discretion by defining a small member firm as one having 150 or fewer registered representatives. Approval of the exercise of this discretion is supported by the fact that the NASD by-laws include contested election provisions approved in connection with the 1997 restructuring. These provision will allow organizations such as the IBDA to present candidates for the NASD Board of Governors to the NASD membership during the regular election process, if they do not like those nominated by the NASD Nominating Committee. The existence of these contested election procedures further supports the finding that the amendments approved today satisfy the fair representation requirements of the Act discussed above, since these provisions permit presentation of an alternative nominee for the small firm representative Board position.

IV. Conclusion

The Commission believes that the proposed rule change is consistent with the Act, and, particularly, with Section 15A thereof.[18] In approving the proposal, the Commission has considered its impact on efficiency, competition, and capital formation.[19]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that the portion of the proposed rule change (SR–NASD–98–56) relating to reservation of a small firm representative on the NASD Board of Governors, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–29513 Filed 11–3–98; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 40399 (August 19, 1998), 63 FR 22839 (File No. SR–NASD–98–56).

[4] Report and Appendix to Report Pursuant to Section 21(a) of the Securities Exchange Act of 1934 Regarding the NASD and The Nasdaq Stock Market (August 8, 1996) and Securities Exchange Act Release No. 37538 (August 8, 1996) (SEC Order Instituting Public Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions, In the Matter of National Association of Securities Dealers, Inc. Administrative Proceeding File No. 3–9056), respectively. The undertakings were included in the SEC Order.

[5] *See* Securities Exchange Act Release No. 39326 (November 14, 1997), 62 FR 62385 (November 21, 1997) (File Nos. NASD–97–71, 96–29 and 96–20).

[6] Press Release, National Association of Securities Dealers, NASD Creates Small Firm Advisory Board (Feb. 17, 1998).

[7] To qualify for this position, a proposed nominee must be associated with a member firm of 150 or fewer registered representatives. The definition of an Industry Governor is set forth in Article I of the NASD By-laws.

[8] *See* Letter from Bill T. Singer, Singer Fumiento LLP to The Secretary, Securities and Exchange Commission, dated September 11, 1998. The comment letter is composed of a cover letter from Mr. Singer, counsel to the IBDA and a report to Alan Davidson, President of the IBDA from Mr. Singer, addressing the small firm representative and other issues, dated September 10, 1998.

[9] *See* Letter from T. Grant Callery, General Counsel, NASD to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated October 22, 1998.

[10] The comment letter also questioned: (a) certain aspects of the proposed NASD/Amex combination; (b) inclusion of the small firm representative vote in the same filing as the combination; and (c) the effects of the post 21(a) Report enhancement of the NASD disciplinary process on OBDA members. That portion of SR–NASD–98–56 regarding the NASD/Amex combination, and any comment letters received thereto, will be separately addressed by the Commission at a later date, in connection with review of all filings addressing the combination. *See, e.g.*, Securities Exchange Act Release No. 40426 (September 10, 1998) (*Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange, Inc. Relating to Changes to the Combination of the American Stock Exchange, Inc. and the National Association of Securities Dealers, Inc.* File No. SR–AMEX–98–32) and Securities Exchange Act Release No. 40443 (September 16, 1998.) (*Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. Relating to Policies Regarding Authority Over American Stock Exchange LLC and Composition of Board of Governors of American Stock Exchange LLC*, File No. SR–NASD–98–67).

The Association has indicated to the Commission that the small firm representative Board member vote was included in the same ballot as the NASD/Amex combination issues as a cost-savings mechanism, to avoid incurring the expense of separate mailings to the NASD membership on each issue. Conversation between Philip Rosen, Associate General Counsel, Office of General Counsel, NASD and Mandy S. Cohen, Special Counsel, Division of Market Regulation, Commission, on October 26, 1998.

The comments on the post 21(a) Report disciplinary process enhancements do not relate to the subject of SR–NASD–98–56, the proposal currently under consideration. The Commission notes, however, that enhancement of the disciplinary process is a favorable outcome of the 21(a) Report and SEC Order.

[11] *See* 15 U.S.C. 78o(b)(4).

[12] *See, e.g.*, Notice To Members 98–80 (Sept. 29, 1998); *supra* note 9.

[13] *See* Article VII, Section 10 to the NASD by-laws. In this context, dissident candidates are those not nominated by the NASD Nominating Committee.

[14] 15 U.S.C. 78o–3.

[15] 15 U.S.C. 78s(b).

[16] 15 U.S.C. 78o–3.

[17] 15 U.S.C. 78o(b)(4).

[18] 15 U.S.C. 78o–3.

[19] 15 U.S.C. 78(c)f.

[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40614; File No. SR–NSCC–98–09]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Mutual Fund Profile Service

October 28, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on July 22, 1998, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to increase the information available through NSCC's Mutual Fund Profile Service.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments its received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Currently, MFPS provides NSCC's members with an automated method of transmitting and receiving information pertaining to mutual funds through a centralized and standardized facility.[3]

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[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by the NSCC.

[3] For a complete description of MFPS, refer to Securities Exchange Act Release No. 37171 (May 14, 1996), 61 FR 24343 [File No. SR–NSCC–96–04] (order approving the proposed rule change establishing the daily price and rete file phase of MFPS).

Under the proposed rule change, NSCC will expand the information available through MFPS to include a member profile, security issue profile, and distribution declaration information profile.

The "member profile" will provide members with fund data including personnel contacts, telephone numbers, addresses, commission payment procedures, processing capabilities, and information regarding NSCC members which act as agents for other NSCC members.

The "security issue profile" will provide members with minimum purchase or maintenance requirements, fund features, and various fund processing characteristics for all the individual funds included in MFPS.

The "distribution declaration information profile" will provide members with projected and/or actual record dates, ex-dates, and reinvestment and payable dates for dividend and capital gain payments, and it may also include Rule 12b–1 plan and other commission payout information.

NSCC expects to implement the new profiles in December 1998 and will notify its members of the new services when they become available.

NSCC believes that the proposed rule change is consistent with Section 17A of the Act [4] and the rules and regulations thereunder.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [5] and pursuant to Rule 19b–4(e)(4) [6] promulgated thereunder because the proposal effects a change in an existing service that does not adversely effect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and does not affect the respective rights or obligations of the clearing agency or persons using the service. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street N.W., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, DC 20549.

Copies of such filing also will be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR–NSCC–98–09 and should be submitted by November 25, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–29468 Filed 11–3–98; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. 78q–1.

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(e)(4).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40618; File No. SR–NSCC–98–12]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Expanding the Fund/Serv Service

October 29, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on July 30, 1998, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change expands NSCC's Fund/Serv service to permit the transfer of eligible assets in all types of retirement plan accounts.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statement.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On November 15, 1996, the Commission approved NSCC's rule filing to allow members to transfer assets held in an individual retirement account ("IRA") to another mutual fund through Fund/Serv.[4] Consistent with NSCC's original intentions, this proposed rule change expands NSCC's Fund/Serv to permit transfers of eligible assets held in all types of retirement accounts, not just assets held in IRAs.

NSCC believes that the proposed rule change is consistent with Section 17A of the Act [5] and the rules and regulations thereunder because it will help foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions and will help remove impediments to the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for the Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [6] and pursuant to Rule 19b–4(e)(4) [7] promulgated thereunder because the proposal effects a change in an existing service that does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and does not affect the respective rights or obligations of the clearing agency or persons using the service. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR–NSCC–98–12 and should be submitted by November 25, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–29512 Filed 11–3–98; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] Fund/Serv, which is part of NSCC's Mutual fund Services, permits NSCC members to process and to settle on an automated basis mutual fund purchase and redemption orders and to transmit registration instructions.

[3] The Commission has modified the text of the summaries prepared by NSCC.

[4] Securities Exchange Act Release No. 37959 (November 15, 1996), 61 FR 59478 [File No. SR–NSCC–96–16].

[5] 15 U.S.C. 79q–1.

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(e)(4).

[8] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Information Collection Activities: Proposed Collection Requests and Comment Requests

This notice lists information collection packages that will require submission to the Office of Management and Budget (OMB), as well as information collection packages submitted to OMB for clearance, in compliance with Pub. L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995.

I. The information collection(s) listed below require(s) extension(s) of the current OMB approval(s) or are proposed new collection(s).

1. *Statement of Death by Funeral Director—0960–0142.* The Social Security Administration (SSA) uses the information collected on Form SSA–721 to verify the death of an individual insured under the Social Security Act and to determine if there is a survivor eligible for a lump-sum death payment. The respondents are funeral directors with knowledge of the death of a person insured for Social Security benefits.

Number of Respondents: 900,000.

Frequency of Response: 1.

Average Burden Per Response: 3.5 minutes.

Estimated Average Burden: 52,500 hours.

2. *Statement Regarding Marriage—0960–0017.* SSA uses the information collected on Form SSA–753 to make determinations regarding entitlement to spouse's benefits when a common-law marriage is alleged. The respondents are third parties who can supply evidence concerning the existence of a common-law marriage.

Number of Respondents: 40,000.

Frequency of Response: 1.

Average Burden Per Response: 9 minutes.

Estimated Average Burden: 6,000 hours.

Written comments and recommendations regarding the information collection(s) should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

II. The information collection(s) listed below have been submitted to OMB.

1. *Modified Benefits Formula Questionnaire, Employer—0960–0477.* The information collected on Form SSA–50 is used by SSA to verify that a pension based on noncovered employment after 1956 was allegedly received by the claimant. The form also shows whether or not the individual became eligible for that pension before 1985. The respondents are persons who are eligible for both Social Security benefits and a pension from noncovered employment after 1985.

Number of Respondents: 30,000.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Average Burden: 10,000 hours.

2. *Report of Continuing Disability Interview—0960–0072.* SSA uses the information collected on Form SSA–454 to determine whether a person who receives Social Security Disability benefits is still unable to work because of an existing disability. The form will also be used to make a determination as

[8] 17 CFR 200.30–3(a)(12).

to whether the disability benefits should continue or be terminated. The respondents are Social Security Disability benefit recipients.

Number of Respondents: 830,175.
Frequency of Response: 1.
Average Burden Per Response: 30 minutes.
Estimated Average Burden: 415,088 hours.

3. *Statement by School Official About Student's Attendance; Statement to U.S. Social Security Administration by School Outside the U.S. About Student's Attendance—0960–0090.* The information collected on Forms SSA–1371 and SSA–1371–FC is used by SSA to verify a student's alleged full-time attendance at an educational institution, in order to determine the student's eligibility for Social Security student benefits. The respondents are the school officials who provide the information on these forms.

Number of Respondents: 5,000.
Frequency of Response: 1.
Average Burden Per Response: 10 minutes.
Estimated Average Burden: 833 hours.

4. *Reconsideration Disability Report—0960–0144.* SSA uses the information collected on Form SSA–3441 to determine if the claimant's medical or vocational situation changed after the initial disability determination, when the claimant requests a reconsideration of a denied disability claim. The form also elicits additional sources of medical and vocational evidence, which was not considered in the initial determination. The respondents are disability beneficiaries who request a reconsideration.

Number of Respondents: 400,000.
Frequency of Response: 1.
Average Burden Per Response: 30 minutes.
Estimated Average Burden: 200,000 hours.

5. *Agreement to Sell Property—0960–0127.* The information on Form SSA–8060–U3 is used by SSA field office personnel to authorize payment of conditional benefits to individuals or couples who are otherwise eligible for Supplemental Security Income (SSI) benefits (but whose resources exceed the allowable limit), and at the end of the conditional payment period, to institute overpayment recovery procedures. Form SSA–8060–U3 documents this agreement and ensures that the individuals understand their obligations. The respondents are applicants for and recipients of SSI benefits.

Number of Respondents: 20,000.
Frequency of Response: 1.
Average Burden Per Response: 10 minutes.
Estimated Average Burden: 3,333 hours.

6. *Modified Benefit Formula Questionnaire—0960–0395.* The information collected on Form SSA–150 is needed by SSA to determine the correct formula to use in computing Social Security benefits for someone who also receives benefits from employment not covered by Social Security. The respondents consist of claimants for Social Security benefits who are also entitled to benefits not covered by Social Security.

Number of Respondents: 90,000.
Frequency of Response: 1.
Average Burden Per Response: 4 minutes.
Estimated Average Burden: 6,000 hours.

7. *Application for Survivors Benefits—0960–0062.* SSA collects the information on Form SSA–24 to determine whether insured status exists in order for the claimant to complete the appropriate SSA survivor application. If entitlement does not exist, SSA may disallow the claim. If an SSA survivor application has already been filed, Form SSA–24 is treated as a duplicate application. The respondents are survivors of military service veterans filing for Social Security benefits.

Number of Respondents: 3,200.
Frequency of Response: 1.
Average Burden Per Response: 15 minutes.
Estimated Average Burden: 800 hours.

8. *Medical Report (Individual With Childhood Impairment)—0960–0102.* The information collected on Form SSA–3827 is used by SSA to determine whether an individual with a childhood impairment medically qualifies for benefits or payments under the provisions of the Social Security Act, based on the medical aspects of an individual's claim or application. The respondents are attending physicians/medical sources.

Number of Respondents: 12,000.
Frequency of Response: 1.
Average Burden Per Response: 30 minutes.
Estimated Average Burden: 6,000 hours.

Written comments and recommendations regarding the information collection(s) should be directed within 30 days to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses:

(OMB)

Office of Management and Budget, OIRA, Attn: Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, D.C. 20503

(SSA)

Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235

To receive a copy of any of the forms or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4145 or write to him at the address listed above.

Dated: October 29, 1998.

Frederick W. Brickenkamp,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 98–29508 Filed 11–3–98; 8:45 am]

BILLING CODE 4190–29–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities; Submissions for OMB Review

The information collection package listed below has been submitted to the Office of Management and Budget (OMB) for clearance, in compliance with Public Law 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995.

Information Collections Conducted by State Disability Determination Services (DDS) on Behalf of SSA—0960–0555. The State DDSs collect certain information to administer SSA's disability program. The information collected is as follows: (1) medical evidence requirements (MER)—DDSs use MER information to determine a person's physical and/or mental status prior to making a disability determination; (2) consultative exam (CE) provider information—DDSs use the CE provider information to verify medical providers' credentials and licenses before hiring them to conduct CEs; (3) CEs—DDSs use CE information to make disability determinations when the claimant's own medical sources cannot or will not provide the information; DDSs use the information obtained from claimants under the CE process to obtain release of medical information to personal physicians and to confirm scheduled CE appointments; (4) activities of daily living—this information and other medical evidence are part of the evidentiary documentation used by the DDS's in evaluating a person's disability; and (5) pain information—this information is used by the DDSs to assess the effects of symptoms on functionality for determining disability. The respondents are medical providers and disability claimants.

MER: (Respondents-Medical Providers)

Number of Responses: 9,182,836.
Frequency of Response: Unknown.
Average Burden Per Response: 15 minutes.
Estimate Annual Burden: 2,295,709 hours.

CE: (Respondents-Medical Providers)

Number of Responses: 3,001,500.
Frequency of Response: Unknown.
Average Burden Per Response: 30 minutes.
Estimated Annual Burden: 1,500,750 hours.

CE: (Respondents-Claimants)

	Appointment form	Medical release
Number of Respondents.	750,375 ..	1,500,750.
Frequency of Response.	2	2.
Average Burden Per Response.	5 minutes	5 minutes.
Estimated Annual Burden.	125,062 hours.	250,125 hours

CE Providers (Respondents-Medical Providers)

Number of Responses: 6,300.
Frequency of Response: 1.
Average Burden: 20 minutes.
Estimated Annual Burden: 2,100 hours.

ADL: (Respondents-Claimants)

Number of Responses: 2,264,000.
Frequency of Response: 1.
Average Burden Per Response: 15 minutes.
Estimated Annual Burden: 566,000 hours.

Pain: (Respondents-Claimants)

Number of Responses: 1,000,000.
Frequency of Response: 1.
Average Burden Per Response: 15 minutes.
Estimated Average Burden: 250,000 hours.

In addition to your comments on the accuracy of the Agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Written comments and recommendations regarding the information collection should be directed within 30 days to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses:

(OMB), Office of Management and Budget, OIRA, Attn: Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, D.C. 20503.

(SSA), Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

To receive a copy of any of the forms or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4145 or write to him at the address listed above.

Dated: October 27, 1998.

Frederick W. Brickenkamp,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 98–29323 Filed 11–3–98; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

[Public Notice No. 2918]

Shipping Coordinating Committee; Subcommittee on Ship Design and Equipment; Meeting Notice

The Shipping Coordinating Committee will conduct an open meeting at 9:30 am on Tuesday, November 24, 1998, in Room 2415, at U.S. Coast Guard Headquarters, 2100 2nd Street, SW, Washington, DC 20593–0001. The purpose of the meeting is to prepare for the forty second session of the Subcommittee on Ship Design and Equipment of the International Maritime Organization (IMO) which is scheduled for March 8–12, 1999, at IMO Headquarters in London, England.

Among other things, items of particular interest are: revision of the High Speed Craft Code; emergency towing arrangements for tankers; safety aspects of ballast water management; guidelines on helicopter landing areas; prohibition of the use of asbestos on board new ships; development of a code on polar navigation; development on requirements for wing-in-ground craft; international approval procedures for life-saving appliances; standards and requirements for thermal protective litojackets; and guidelines under MARPOL Annex VI on prevention of air pollution from ships.

IMO works to develop international agreements, guidelines, and standards for the marine industry. In most cases, these form the basis for class society rules and national standards/regulations. Such an open meeting supports the U.S. Representative to the IMO Subcommittee in developing the U.S. position on those issues at the IMO Subcommittee meetings. This open meeting serves as an excellent forum for the U.S. maritime industry to express their ideas and participate in the international rulemaking process. All members of the maritime industry are encouraged to send representatives to participate in the development of U.S. positions on those issues affecting your maritime industry and remain abreast of all activities ongoing within the IMO.

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing: Mr. Wayne Lundy, U.S. Coast Guard Headquarters, Commandant (G–MSE–3), 2100 2nd Street, SW, Washington, DC 20593–0001 or by calling: (202) 267–2206.

Dated: October 26, 1998.

Stephen M. Miller,

Chairman, Shipping Coordinating Committee.

[FR Doc. 98–29464 Filed 11–3–98; 8:45 am]

BILLING CODE 4710–70–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request For Public Comment With Respect To The Annual National Trade Estimate Report on Foreign Trade Barriers

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: Pursuant to section 303 of the Trade and Tariff Act of 1984, as amended, USTR is required to publish annually the National Trade Estimate Report on Foreign Trade Barriers (NTE). With this notice, the Trade Policy Staff Committee (TPSC) is requesting interested parties to assist it in identifying significant barriers to U.S. exports of goods, services and overseas direct investment for inclusion in the NTE. Particularly important are impediments materially affecting the actual and potential financial performance of an industry sector. The TPSC invites written comments that provide views relevant to the issues to be examined in preparing the NTE.

DATES: Public comments are due not later than December 4, 1998.

ADDRESSES: Gloria Blue, Executive Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, 600 17th Street NW, Room 501, Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Gloria Blue, Office of Policy Coordination, Office of the United States Trade Representative, (202) 395–3475.

SUPPLEMENTARY INFORMATION: Last year's report may be found on USTR's Internet Home Page (www.ustr.gov) under the section on Reports. This year we have added the following African countries to the report: the Southern African Customs Union (Botswana, Lesotho, Namibia, Swaziland (in addition to South Africa)); the West African Economic and Monetary Union (Benin, Burkina Faso, Cote d'Ivoire, Mali, Niger, Senegal and Togo); and the Customs and Economic Union of Central Africa (Cameroon, Central African Republic, Chad, Republic of Congo, Equatorial Guinea, and Gabon).

In addition, the new Internet Tax Freedom Act has added a new section to the NTE relating to U.S. electronic commerce. Finally, in order to ensure compliance with the statutory mandate for reporting foreign trade barriers that are significant, we will focus particularly on those restrictions where there has been active private sector interest.

The information submitted should relate to one or more of the following ten categories of foreign trade barriers:

(1) import policies (e.g., tariffs and other import charges, quantitative restrictions, import licensing, and customs barriers);

(2) standards, testing, labeling, and certification (including unnecessarily restrictive application of phytosanitary standards, refusal to accept U.S. manufacturers' self-certification of conformance to foreign product standards, and environmental restrictions);

(3) government procurement (e.g., "buy national" policies and closed bidding);

(4) export subsidies (e.g., export financing on preferential terms and agricultural export subsidies that displace U.S. exports in third country markets);

(5) lack of intellectual property protection (e.g., inadequate patent, copyright, and trademark regimes);

(6) services barriers (e.g., limits on the range of financial services offered by foreign financial institutions, regulation of international data flows, restrictions on the use of data processing, quotas on imports of foreign films, and barriers to the provision of services by professionals (e.g., lawyers, doctors, accountants, engineers, nurses, etc.));

(7) investment barriers (e.g., limitations on foreign equity participation and on access to foreign government-funded R&D consortia, local content, technology transfer and export performance requirements, and restrictions on repatriation of earnings, capital, fees and royalties);

(8) anticompetitive practices with trade effects tolerated by foreign governments (including anticompetitive activities of both state-owned and private firms that apply to services or to goods and that restrict the sale of U.S. products to any firm, not just to foreign firms that perpetuate the practices;

(9) trade restrictions affecting electronic commerce (e.g., tariff and non-tariff measures, burdensome and discriminatory regulations and standards, and discriminatory taxation; and

(10) other barriers (i.e., barriers that encompass more than one category, e.g., bribery and corruption, or that affect a single sector).

As in the case of last year's NTE, we are asking that particular emphasis be placed on any practices that may violate U.S. trade agreements. We are also interested in receiving any new or updated information pertinent to the barriers covered in last year's report as well as new information. Please note that the information not used in the NTE will be maintained for use in future negotiations.

It is most important that your submission contain estimates of the potential increase in exports that would result from the removal of the barrier, as well as a clear discussion of the method(s) by which the estimates were computed. Estimates should fall within the following value ranges: less than $5 million; $5 to $25 million; $25 million to $50 million; $50 million to $100 million; $100 million to $500 million; or over $500 million. Such assessments enhance USTR's ability to conduct meaningful comparative analyses of a barrier's effect over a range of industries.

Please note that interested parties discussing barriers in more than one country should provide a separate submission (i.e., one that is self-contained) for each country.

Written Comments

All written comments should be addressed to: Gloria Blue, Executive Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, 600 17th Street NW, Room 501, Washington, DC 20508.

All submissions must be in English and should conform to the information requirements of 15 CFR 2003. A party must provide ten copies of its submission which must be received at USTR no later than December 4, 1998.

If the submission contains business confidential information, ten copies of a confidential version must also be submitted. A justification as to why the information contained in the submission should be treated confidentially must be included in the submission. In addition, any submissions containing business confidential information must be clearly marked "Confidential" at the top and bottom of the cover page (or letter) and of each succeeding page of the submission. The version that does not contain confidential information should also be clearly marked, at the top and bottom of each page, "public version" or "non-confidential."

Written comments submitted in correction with this request, except for information granted "business confidential" status pursuant to 15 CFR 2003.6, will be available for public inspection shortly after the filing deadline. Inspection is by appointment only with the staff of the USTR Public Reading Room and can be arranged by calling Brenda Webb (202) 395–6186. The Reading Room is open to the public from 9:30 a.m. to 12 noon, and from 1 p.m. to 4 p.m., Monday through Friday.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 98–29506 Filed 11–3–98; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Williamson County, Texas

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a Major Investment Study (MIS) and Environmental Impact Statement (EIS) will be prepared for a proposed U.S. Highway 183 corridor improvement project in Williamson County, Texas. The study corridor includes the existing U.S. Highway 183 alignment and the general area located east of existing U.S. Highway 183. The study limits extend from approximately Lakeline Boulevard, located north of RM 620 and south of the City of Cedar Park, to north of the City of Leander, south of the San Gabriel River.

FOR FURTHER INFORMATION CONTACT: Walter C. Waidelich, District Engineer, Federal Highway Administration, Room 826, Federal Building, 300 East 8th Street, Austin, Texas 78701. Stacey Benningfield, Texas Turnpike Authority, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701–2483.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Texas Turnpike Authority Division (TTA) of the Texas Department of Transportation, will prepare a joint MIS/EIS for a proposed project to relieve traffic congestion on U.S. Highway 183 and within the Cities of Cedar Park and Leander and adjacent portions of Williamson County, Texas. Alternatives to be considered for this project include upgrading the existing U.S. Highway 183 or constructing a traffic reliever route, known as U.S. Highway 183A, on new location. If ultimately selected as the recommended action, U.S. Highway 183A would be located parallel and northeast of existing U.S. Highway 183, beginning at Lakeline Boulevard, south of Cedar Park, Texas, and running north to a terminus with existing U.S. Highway 183 north of Leander, Texas. If constructed, the ultimate facility design for U.S. Highway 183A is anticipated to be a six-lane controlled access roadway with intermittent frontage roads and overpasses at major thoroughfares. The total length of U.S. Highway 183A would be approximately ten and one-half miles.

Other improvements to be considered within the U.S. Highway 183 corridor include implementing Transportation System Management (TSM) and/or Travel Demand Management (TDM) improvements for U.S. Highway 183. The TSM alternative would involve implementing only those activities which maximize the efficiency of existing U.S. Highway 183, such as improved traffic signal timing, more efficient accident removal, or the addition of turn lanes. TDM improvements could include strategies such as flex time, telecommuting, or other control measures to reduce travel time. Ongoing regional high occupancy vehicle (HOV) studies, toll road studies, as well as the combination of a fixed guideway facility (light rail) and/or commuter rail facility will be considered for integration with the proposed U.S. Highway 183A.

The MIS portion of the study will analyze the various mobility alternatives in the U.S. Highway 183 corridor as described above. Information on the costs, benefits, and impact of the alternatives will lead to decisions by TTA, FHWA, the Texas Department of Transportation and the Austin Transportation Study, the metropolitan planning organization for the Austin-area, on the design concept and scope of the investment.

For all alternatives being considered, the DEIS will include an analysis of the cost of the right-of-way, the numbers and types of relocations necessary, engineering constraints and limitations due to topography, and potential environmental impacts involving land use, socioeconomic conditions, water resources, air quality, noise, traffic, ecological/cultural resources and hazardous material sites. At the present stage of the planning process, no preferred alternative has been selected. More in-depth studies will be conducted after a preferred alternative is chosen to avoid and/or minimize impacts to human, cultural and ecological resources. All studies will be coordinated through appropriate local, state and federal agencies.

If construction of U.S. Highway 183A is ultimately selected as the preferred alternative, the TTA will conduct a toll feasibility study to evaluate the viability of developing U.S. Highway 183A as a toll road and financing it, in whole or in part, through the issuance of revenue bonds. The toll road designation will not influence the selection of a preferred alternative. Proposed alternatives, including alternative alignments for U.S. Highway 183A, will be evaluated for how well they meet the established purpose and need for the proposed project. Any impacts owing to the toll road designation will be discussed in the environmental impact statement.

An initial public meeting for the proposed U.S. 183 project was held in 1990. However, the project progression was slowed shortly after that meeting due to resource and budget shortfalls. In 1995, the project was revived and another public meeting was held on May 22, 1996. At the meeting, mobility concerns within the U.S. Highway 183 corridor were raised and a proposed corridor for U.S. Highway 183A was shown. A Major Investment Study public initiation meeting was held on May 12, 1998, in Cedar Park, Texas, that provided more information on the modal alternatives for the corridor, alternative alignments being considered for the corridor and some of the potential impacts associated with each alternative.

In continuation of the scoping process for the proposed project, on November 10, 1998, the TTA will conduct another public meeting to discuss the proposed improvements within the U.S. Highway 183 corridor. The purpose of the public meeting will be to receive comments on the proposed project and possible alignments for the U.S. 183A alternative. The meeting will be held in the gymnasium of Giddens Elementary School, 1500 Timberwood Drive, Cedar Park, Texas 78613. From 6 to 7 p.m., displays showing the project corridor and possible alignments for the U.S. Highway 183A alternative will be available for review. During this time, TTA staff will be available to answer questions. At 7 p.m. there will be a formal project presentation followed by a public comment period. All interested citizens are invited to attend this meeting.

A public hearing will be held after publication of the Draft MIS/EIS. Public notice will be given of the time and place of the hearing. The Draft MIS/EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the MIS/EIS should be directed to the FHWA or TTA at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulation implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Walter C. Waidelich,

District Engineer, Austin, Texas.

[FR Doc. 98–29526 Filed 11–3–98; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Transportation Equity Act for the 21st Century; Implementation Information for Innovative Bridge Research and Construction Program Funds

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This document publishes implementation information on the Transportation Equity Act for the 21st Century (TEA–21) enacted on June 9, 1998, for eligible candidate projects in Fiscal Years 1998 and 1999 concerned with the innovative bridge research and construction program. The FHWA is issuing this notice to specifically address the construction of bridges using innovative materials. Implementation information materials on this topic were issued to FHWA region and division offices on July 29, 1998. This material describes activities eligible for funding for the program, the application process, and criteria used to evaluate candidate projects. This notice further identifies all statutory and regulatory criteria applicable to the program.

FOR FURTHER INFORMATION CONTACT: For bridge program: Mr. George P. Romack, HNG–33, Office of Engineering, (202) 366–4606, or Mr. John Hooks, Office of Technology Applications, HTA–22, (202) 366–6712; for legal issues: Mr. Wilbert Baccus, HCC–32, Office of the Chief Counsel, (202) 366–1396, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register**'s home page at: http://www.nara.gpo.fedreg and the Government Printing Office's database at: http://www.access.gpo.gov/nara.

Background

The TEA–21 (Pub. L. 105–178, 112 Stat.107) implementation material published in this notice is provided for informational purposes. Specific questions on any of the material published in this notice should be directed to the contact person named in the caption FOR FURTHER INFORMATION CONTACT for this program.

Publication of this implementation information for the innovative bridge research and construction program satisfies the requirement of section 9004(a) of the TEA–21 Restoration Act, Pub. L. 105–206, 112 Stat. 685 (1998).

(Authority: 23 U.S.C. 315 and 503; 49 CFR 1.48)

Issued on: October 28, 1998.

Kenneth R. Wykle,

Administrator, Federal Highway Administration.

The text of the FHWA implementation guidelines memorandum follows:

July 29, 1998.

(HNG–33)

Action: Request for Candidates Innovative Bridge Research and Construction Program (*Reply Due:* September 1, 1998)

Director, Office of Engineering
Regional Administrators
Division Administrators

The purpose of this memorandum is to solicit candidate projects from the States for using innovative materials in the repair, rehabilitation, replacement and new construction of bridges. The TEA–21 establishes Title V—Transportation Research and sets up substantial annual funding to demonstrate the application of innovative material technology for bridge construction. The new Section 503(b) provides for an Innovative Bridge Research and Construction program. Research, development and technology transfer portion of the program is funded at $1 million per year, and the construction portion at a level of $10 million in FY 1998 to a high of $20 million in FY 2003. These figures will be adjusted to reflect any obligation limitations.

The seven goals of the program are specified in 503(b)(2), and emphasize new materials and construction techniques to reduce maintenance and life-cycle costs. The construction provision specifies funding to the States to pay the Federal share of the cost of repair, rehabilitation, replacement, and new construction of bridges using innovative materials. The TEA–21 allows the Federal share to vary and instructs the Secretary of Transportation to determine the Federal share (percentage) of the cost of a project under this section. Actual percentages will depend on the number of projects, the types of innovative technologies, and the cost of the candidate projects.

We are requesting your assistance to identify candidate bridge projects to allocate FY 1998 and FY 1999 funds to demonstrate innovative bridge materials. For the remaining years of the program, annual solicitations will be made sufficiently in advance to allow allocation by the beginning of the fiscal year. Please discuss the program with your State transportation departments to determine their interest in the program and solicit their candidate projects. Examples of innovative materials include high performance concrete, high performance steel, aluminum and fiber reinforced polymer composites. It is likely there are other innovative materials that your State has considered or would like to consider.

Preliminary engineering and construction are eligible work, although construction projects will be given priority consideration. Also, the program would support projects to develop design standards, specifications, and material applications that would lead to continuing use of innovative materials. Bridges on all public roads, including State and locally funded projects, are eligible. These funds may be used for the Federal share of the cost of the construction of the "innovative materials" portion of the project. A consideration in the selection will also be a State's willingness to provide performance data for a reasonable period of time during and after construction. Examples of documentation during construction include photographs and written accounts of the methods and techniques used to incorporate the innovative material into the project.

Attached is an application form which is to be used for candidate projects. The State's application should describe the innovative material(s), how it is being used in the project, and how the project meets one or more of the program goals. The application should be completed and submitted along with supporting documents that provide a further description of the project including the scope of work. Please furnish your response by September 1, 1998.

In this initial call for candidate projects for the program, all project applications will be evaluated by the FHWA on a case-by-case basis and being [sic] guided by the goals set out in TEA–21. Thereafter, the FHWA will be working with States and industry partners to develop more definitive project selection methods and criteria for determining the appropriate Federal share of the project costs.

Any questions concerning this program should be addressed to George Romack of the Bridge Division at (202) 366–4606 or John Hooks of the Office of Technology Applications at (202) 366–6712.

Henry H. Rentz

APPLICATION

TECHNOLOGY DEPLOYMENT

INNOVATIVE BRIDGE CONSTRUCTION PROGRAM

State _____

Project Type (New construction, replacement, rehabilitation, or repair)

_____

NBI Structure No. _____

Location (e.g., county, city, route) _____

_____

Structure Description (e.g., spans, length, width, design, material)

_____

_____

_____

Innovative Material (Describe the material, how it is used and how the project meets one or more of the program goals)

_____

_____

_____

_____

Schedule for start of work (Month/year) ____

Cost Estimates

Total project cost _____

Cost of "innovative material" portion of construction project

_____

Preliminary engineering cost, if requested __

Cost of innovative material performance evaluation (e.g., a 2-year post-construction period)

Total funds requested _____

TECHNOLOGY DEPLOYMENT INNOVATIVE BRIDGE CONSTRUCTION PROGRAM FUNDING

Year	1998(TEA21)	1999	2000	2001	2002	2003
Authorization	$10M	$15M	$17M	$20M	$20M	$20M

- Section 5001 of the Transportation Efficiency Act for the 21st Century (TEA–21) authorized the sums shown to be available to the States for projects to demonstrate innovative materials relating to repair, rehabilitation, and construction of bridges.
- The Federal share of project costs may vary and is to be determined by the Secretary.

Eligibility

- Funds are available for bridge projects that meet one or more of the seven program goals listed in Section 503(b)(2) of TEA–21.
- The project may be on any public roadway, including State and locally funded projects.
- Funds are available for preliminary engineering, construction and project performance evaluations costs.

Selection Criteria

- For FY 1998 and 1999 allocations, the FHWA will select candidate projects using the following criteria:

(1) Projects which will meet one or more of the goals of the program
(2) Projects which will incorporate materials and/or products that are available
(3) Projects ready for or near the construction phase will be given priority consideration
(4) Projects that leverage Federal funds with other significant public or private resources will given preference
(5) Projects with designs that are repeatable or have wide spread application

- For subsequent years, the FHWA will select candidate projects utilizing input from a panel of experts from the States and industry using the criteria above.

Schedule

- The following is the schedule for the program:

8/98 Call for FY 1998–99 projects
12/98 Selection of FY 1998–99 project

- The following schedule will be used for subsequent years for the program:

4/99—02 Call for projects
10/99—02 Selection of projects

[FR Doc. 98–29484 Filed 11–3–98; 8:45 am]
BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–3983; Notice 2]

Mercedes-Benz of North America, Inc., Grant of Application for Decision of Inconsequential Noncompliance

Mercedes-Benz of North America, Inc. (Mercedes-Benz) of Montvale, New Jersey has determined that some 1998 Mercedes-Benz M-class vehicles fail to comply with 49 CFR 571.120, Federal Motor Vehicle Safety Standard (FMVSS) No. 120, "Tire selection and rims for vehicles other than passenger cars," and has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and noncompliance reports." Mercedes-Benz has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—"Motor Vehicle Safety" on the basis that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published, with a 30-day comment period, on July 13, 1998, in the **Federal Register** (63 FR 37620). NHTSA received no comments on this application during the 30-day comment period.

Mercedes-Benz states that 35,357 vehicles were produced from the beginning of production in January 1997 through April 13, 1998, which do not meet the labeling requirements stated in FMVSS No. 120. Mercedes-Benz equipped the vehicles with tire information labels on the fuel filler door that specify the tire size, rim size, and cold inflation pressure. The information is formatted differently than required by FMVSS No. 120. The size of the letters and numerals is also smaller than the required minimum of 2.4 millimeters. The label should have been affixed to the hinge pillar, the door-latch post, the door edge that meets the latch post, or next to the driver's seating position. If these locations are impractical, the label shall be affixed to the inward-facing surface of the door next to the driver's seating position. However, if all of the preceding locations are not practical, the manufacturer can notify NHTSA, in writing, and request approval for an alternate location in the same general location

Mercedes-Benz supported its application for inconsequential noncompliance with the following statements:

1. With regards to the content of the label, all the information required by FMVSS No. 120 is contained in the label including recommended tire size, rim size, and cold inflation pressure.

2. Although the height of the labeling is less than the required minimum of 2.4 mm, the letters in the labels are of sufficient size and color to be easily read.

3. With regards to the labeling format, Mercedes-Benz believes that placing the English units before the metric units is not a noncompliance that affects vehicle safety, because consumers in the U.S. are generally more familiar with English units of measurement than metric units.

4. Regarding the location of the tire information label, Mercedes-Benz believes that consumers interested in checking their tire pressure labels would likely perform this check at gas stations, convenience stores, or auto repair facilities. In some cases, this label's location serves as a reminder to check the tire pressure.

5. Based on the convenient location of the tire information label, the reference information in the owner's manual, and the maximum inflation pressure marked on the tire, Mercedes-Benz believes that the tire information label on the fuel filler door is an inconsequential noncompliance.

The purpose of FMVSS No. 120 is to provide safe operation of vehicles by ensuring that those vehicles are equipped with tires of appropriate size and load rating; and rims of appropriate size and type designation. Paragraph S5.3, Label information, of FMVSS No. 120 states that each vehicle shall show the appropriate tire information (such as: recommended cold inflation pressure) and rim information (such as: size and type designations) in the English language. This information must appear either on the certification label or a tire information label, lettered in block capitals and numerals not less

than 2.4 millimeters high, and in the prescribed format. In addition, FMVSS No. 120 requires that the label be affixed to the hinge pillar, the door-latch post, the door edge that meets the latch post, or next to the driver's seating position. If these locations are impractical, the label shall be affixed to the inward-facing surface of the door next to the driver's seating position. However, if all of the preceding locations are not practical, the manufacturer can notify NHTSA, in writing, and request approval for an alternate location in the same general location.

The agency agrees with Mercedes-Benz that the label on these M-class vehicles is likely to achieve the safety purpose of the tire label. First, all the information required by FMVSS No. 120 is correct and contained in the label including recommended tire size, rim size, and cold inflation pressure. Second, per the sample label provided by Mercedes-Benz, the letters can be easily read. Third, a vehicle owner will find the necessary and correct safety information in English units in the owner's manual, and the maximum inflation pressure properly marked on the tire.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the noncompliance it describes is inconsequential to safety. Accordingly, its application is granted, and the applicant is exempted from providing the notification of the noncompliance that is required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120.

(49 U.S.C. 30118, delegations of authority at 49 CFR 1.50 and 501.8).

Issued on October 30, 1998.

James R. Hackney,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 98–29519 Filed 11–3–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–4209]

Red River Manufacturing, Inc., Grant of Application for Decision of Inconsequential Noncompliance

Red River Manufacturing, Inc. (Red River) of West Fargo, North Dakota, a manufacturer of trailers, has determined that since March 14, 1996, its tire and rim label information was not in full compliance with 49 CFR 571.120, Federal Motor Vehicle Safety Standard (FMVSS) No. 120, "Tire Selection and Rims for Vehicles Other Than Passenger Cars," and has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports." Red River has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—"Motor Vehicle Safety" on the basis that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published, with a 30-day comment period, on August 12, 1998, in the **Federal Register** (63 FR 43230). NHTSA received no comments on this application during the 30-day comment period.

Paragraph S5.3 of FMVSS No. 120 states that each vehicle shall show the information specified in both metric and English units. The standard also shows an example of the prescribed format.

Since the amendment requiring metric units went into effect on March 14, 1996, Red River manufactured and/or distributed 1,063 trailers that do not meet the requirements stated in the standard. The certification label affixed to Red River's trailers pursuant to 49 CFR Part 567 failed to comply with S5.3 of FMVSS No. 120 because of the omission of metric measurements, and Red River did not separately provide the metric measurements on another label, an alternative allowed by FMVSS No. 120.

Red River supports its application for inconsequential noncompliance with the following statements:

1. "The label contained the correct English unit information."
2. "Red River had been unaware of the metric measurement requirement because Red River interpreted Part 567 as suggesting the use of metric measurements is permissive, not mandatory, and did not understand that FMVSS No. 120 made the use of certain metric measurements mandatory."
3. "FMVSS No. 120's metric measurement requirements were not mandated for safety purposes. Rather, in designating the metric system as the preferred system of weights and measures, Congress was concerned chiefly with the contributions that the metric system could make to the international competitiveness of U.S. industries and to the efficiency of governmental operations."
4. "The dual labeling requirement is to continue until consumers become familiar with metric measurements."
5. "The omission of metric measurements from Red River's FMVSS No. 120 certification label is highly unlikely to have any effect whatsoever on motor vehicle safety, both because the correct English units are used on Red River's labels and because of the small number of trailers involved."
6. As soon as practicable upon learning of its noncompliance, Red River has converted its labels to metric measurements, in conformity with those requirements.

The purpose of labeling requirements in S5.3, Label information, of FMVSS No. 120 is to provide safe operation of vehicles by ensuring that those vehicles are equipped with tires of appropriate size and load rating; and rims of appropriate size and type designation. Section 5164 of the Omnibus Trade and Competitiveness Act (Pub. L. 100–418) makes it the United States policy that the metric system of measurement is the preferred system of weights and measures for U.S. trade and commerce. On March 14, 1995, NHTSA published in the **Federal Register** (60 FR 13693) the final rule that metric measurements be used in S5.3 of FMVSS No. 120. The effective date for this final rule was March 14, 1996.

Paragraph S5.3 states that each vehicle shall show the appropriate tire information (such as: recommended cold inflation pressure) and rim information (such as: size and type designations) in metric and English units. This information must appear either on the certification label or a tire information label, lettered in block capitals and numerals not less than 2.4 millimeters high, and in the prescribed format.

The agency agrees with Red River that the label on these trailers is likely to achieve the safety purpose of the required label. The vehicle user will have the correct safety information sans the metric conversion in the prescribed location. First, all the correct English unit information required by FMVSS No. 120 is provided on the certification label. Second, the information contained on the label is of the correct size. Third, the information contained on the label is in the prescribed format.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the noncompliance it describes is inconsequential to safety. Accordingly, its application is granted, and the applicant is exempted from providing the notification of the noncompliance that is required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120.

(49 U.S.C. 30118, delegations of authority at 49 CFR 1.50 and 501.8).

Issued on October 30, 1998.

James R. Hackney,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 98–29518 Filed 11–3–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Office of Thrift Supervision

Federal Deposit Insurance Corporation

Submission for OMB Review; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Office of Thrift Supervision (OTS), Treasury; and Federal Deposit Insurance Corporation (FDIC).

ACTION: Submission for OMB review; comment request.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 35), the OCC, OTS, and FDIC hereby give notice that they plan to submit to the Office of Management and Budget (OMB) requests for review of an information collection titled: Interagency Bank Merger Act Application (BMA). In the case of the OCC, this collection is a part of the Comptroller's Corporate Manual. Also, the OCC is making other clarifying changes to the Comptroller's Corporate Manual. Additionally, the Board of Governors of the Federal Reserve System (Board) is reviewing the collection under its delegated authority from OMB and will publish a separate **Federal Register** Notice. The OCC, OTS, Board, and FDIC (collectively, the Agencies) may not conduct or sponsor, and respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before December 4, 1998.

ADDRESSES: Direct written comments as follows.

OCC: Communications Division, Office of the Comptroller of the Currency, Third Floor, 250 E Street, SW, Washington, DC 20219; Attention: 1557–0014. Comments also may be sent by facsimile transmission to (202)874–5274, or by electronic mail to: regs.comments@occ.treas.gov. Comments will be available for inspection and photocopying at the OCC's Public Reference Room, 250 E Street, SW, Washington, DC 20219, between 9:00 a.m. and 5:00 p.m. on business days. Appointments for inspection of comments can be made by calling (202)874–5043.

OTS: Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, Attention 1550–0016. These submissions may be hand-delivered to 1700 G Street, NW, from 9:00 a.m. to 5:00 p.m. on business days. They may be sent by facsimile transmission to (202)906–7755. Comments over 25 pages in length should be sent to Fax (202)906–6956. Comments will be available for inspection at 1700 G Street, NW, from 9:00 a.m. until 4:00 p.m. on business days.

FDIC: Steven F. Hanft, FDIC Clearance Officer, Office of the Executive Secretary, (202)898–3907, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429. Comments may be hand-delivered to the guard station at the rear of the 17th Street building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m. [Fax number (202)898–3838; Internet address: COMMENTS@FDIC.GOV].

A copy of the comments may also be submitted to the OMB Desk Officer for the agencies: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the submission may be obtained by contacting:

OCC: Jessie Gates, OCC Clearance Officer, (202)874–5090, Legislative and Regulatory Activities Division; or Cheryl Martin, Senior Licensing, Policy, and Systems Analyst, Bank Organization and Structure, (202)874–5060.

OTS: Scott Ciardi, Financial Analyst, Corporate Activities, (202)906–6960, or Frances Augello, Senior Counsel, Business Transactions Division, (202)906–6151. Copies of the forms with instructions are available for inspection at 1700 G Street, NW, from 9 a.m. until 4 p.m. on business days or from PubliFax, OTS' Fax-on-Demand system, at (202)906–5660.

FDIC: Steven F. Hanft, FDIC Clearance Officer, (202) 898–3907.

SUPPLEMENTARY INFORMATION: Request to extend for three years with major revision the following currently approved collections of information.

Title: Interagency Bank Merger Act Application.

OCC's Title: Comptroller's Corporate Manual. The specific portions of the Comptroller's Corporate Manual covered by this notice are those that pertain to the Business Combination Application, Director Waivers, certain disclosures, and various portions to which the OCC is making technical clarifying changes.

OMB Number

OCC: 1557–0014
OTS: 1550–0016
FDIC: 3064–0015

Form Number

OCC: None
OTS: 1639 (formerly 1588)
FDIC: 6220/01 and 6220/07

Abstract: This submission covers a revision to make uniform among the Agencies the merger application forms for both affiliated and nonaffiliated institutions. The form name is the Interagency Bank Merger Act Application. The Agencies need the information collected to insure that the proposed transactions are permissible under law and regulation and are consistent with safe and sound banking practices. The Agencies are required, for example, under the Bank Merger Act, to consider financial and managerial resources, future prospects, convenience and needs of the community, community reinvestment, and competition.

Some agencies will collect limited supplemental information in certain cases. For example, the OCC and OTS will collect information regarding Community Reinvestment Act commitments, and all agencies will require additional information on the competitive impact of proposed mergers under separate instructions.

Further, the OCC is correcting its information collection inventory to cover certain disclosures required in the Manual. This is an administrative adjustment, and does not change, in any way, the requirements on national banks. Further, the OCC is making a change to its Director Waiver's booklet of the Comptroller's Corporate Manual, adding information regarding residency waivers and retitling the booklet from Citizenship Waiver to Director Waivers. Finally, the OCC is making technical and clarifying changes to various Manual booklets. These changes are not material. The changes are technical in nature.

Current Actions: A task force of the Federal Financial Institutions Examination Council (FFIEC) has adapted, reformatted, and retitled the collection: Interagency Bank Merger Act Application, pursuant to the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI). Comments were solicited in the **Federal Register** on January 21, 1998 (63 FR 3182). The agencies received five comments on the form. The comments

are summarized in each agency's OMB submission.

Type of Review: Revision of a currently approved collection.

Frequency of Response: On occasion.

Affected Public: Businesses or other for-profit; individuals or households.

Estimated Number of Respondents

OCC:
BMA, Nonaffiliate—120; Affiliate—260.
Director Waivers, Citizenship: 6; Residency: 14.
OTS:
Nonaffiliate—60; Affiliate—5.
FDIC:
Nonaffiliate—240; Affiliate—290.

Estimated Total Annual Responses

OCC:
BMA, Nonaffiliate—120; Affiliate—260.
Director Waivers, Citizenship: 6; Residency: 14.
OTS:
Nonaffiliate—60; Affiliate—5.
FDIC:
Nonaffiliate—240; Affiliate—290.

Estimated Total Annual Burden Hours

OCC:
BMA, Nonaffiliate—3,320; Affiliate—4,520. Total: 7,840 burden hours.
Director Waivers, Citizenship: 9; Residency: 28.
OTS:
Nonaffiliate—1,800; Affiliate—90. Total: 1,890 burden hours.
FDIC:
Nonaffiliate—7,200; Affiliate—5,220. Total: 12,420 burden hours.

General Description of Report: This information collection is mandatory. 12 U.S.C. 1828(c).

Comments

Comments are invited on: (a) whether the proposed revisions to the following collection of information is necessary for the proper performance of the Agencies' functions, including whether the information has practical utility; (b) the accuracy of the Agencies' estimate of the burden of the information collections as they are proposed to be revised, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide the required information. Comments submitted in response to this notice are summarized in each Agency's OMB submission. All comments will become a matter of public record.

Dated: August 24, 1998.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Dated at Washington, D.C., this 17th day of September, 1998.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: August 24, 1998.

By the Office of Thrift Supervision.

Catherine C. Teti,

Director, Records Management and Information Policy.

[FR Doc. 98–29466 Filed 11–3–98; 8:45 am]

BILLING CODE 4810–33–P (34%); 6714–01–P (33%); 6720–01–P (33%)

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–28: OTS Nos. H–2049 and 06568]

First Capital, Inc., M.H.C., Corydon, Indiana; Approval of Conversion Application

Notice is hereby given that on October 26, 1998, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of First Capital, Inc., M.H.C., Corydon, Indiana, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision, 200 West Madison Street, Suite 1300, Chicago, Illinois 60606.

Dated: October 30, 1998.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 98–29516 Filed 11–3–98; 8:45 am]

BILLING CODE 6720–01–P

Corrections

Federal Register
Vol. 63, No. 213
Wednesday, November 4, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

GENERAL SERVICES ADMINISTRATION

President's Commission on the Celebration of Women in American History; Meeting

Correction

In notice document 98–28913, appearing on page 58052, in the issue of Thursday, October 29, 1998, in the second column, in the **SUMMARY** section, in the fifth line, "9 a.m. to 4 p.m. on Monday" should read "1 p.m to 4 p.m. on Thursday".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

[SPATS No. IA-002-FOR]

Correction

Iowa Regulatory Program

Proposed rule document 98–27503 was inadvertently published in the Rules and Regulations section of the issue of Wednesday, October 14, 1998, beginning on page 55025. It should have appeared in the Proposed Rules section.

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Drug Enforcement Agency

[Docket No. 97-30]

Robert D. Iver, D.D.S. Continuation of Registration With Restrictions

Correction

In notice document 98–28175 beginning on page 56220, in the issue of Wednesday, October 21, 1998, make the following corrections:

1. On page 56221, in the first column, in the eighth line "1998" should read "1988".

2. On page 56221, in the first column, in the first full paragraph, in the ninth line, "1998" should read "1988".

3. On page 56222, in the second column, in the second full paragraph, in the 16th line, "1998" should read "1988".

BILLING CODE 1505-01-D

federal register

Wednesday
November 4, 1998

Part II

Department of Labor

Office of Federal Contract Compliance Programs

41 CFR Part 60–250

Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Special Disabled Veterans and Vietnam Era Veterans; Final Rule

41 CFR Part 60–741

Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals With Disabilities; Final Rule

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Part 60–250

RIN 1215–AA62

Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Special Disabled Veterans and Vietnam Era Veterans

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Final rule.

SUMMARY: This final rule revises the regulations implementing the affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA). VEVRAA requires Government contractors and subcontractors to take affirmative action to employ and advance in employment qualified special disabled veterans and veterans of the Vietnam era. Today's rule generally conforms the VEVRAA regulations to the Office of Federal Contract Compliance Programs' regulations implementing Section 503 of the Rehabilitation Act of 1973, as amended (Section 503). The rule also withdraws portions of a final rule published by the Department of Labor on December 30, 1980 (which was subsequently suspended) concerning VEVRAA, Executive Order 11246, and Section 503. The withdrawal applies only to those provisions of the 1980 rule which pertain to VEVRAA.

DATES: The regulations are effective January 4, 1999. However, affected parties do not have to comply with the new recordkeeping requirements contained in the final rule until the Office of Management and Budget (OMB) completes its review under the Paperwork Reduction Act of 1995 and OFCCP publishes in the **Federal Register** valid OMB control numbers.

FOR FURTHER INFORMATION CONTACT: James I. Melvin, Director, Division of Policy, Planning and Program Development, Office of Federal Contract Compliance Programs, 200 Constitution Avenue, N.W., Room C3325, Washington, D.C. 20210. Telephone: (202) 693-0102 (voice), 1–800–326–2577 (TDD). Copies of this final rule, including copies in alternate formats, may be obtained by calling (202) 693–0102 (voice), 1–800–326–2577 (TDD). The alternate formats available are large print, an electronic file on computer disk and audiotape. The rule also is available on the Internet at http://www.dol.gov/dol/esa.

SUPPLEMENTARY INFORMATION:

Recent Legislative Developments

When OFCCP sent this final rule to the **Federal Register** for publication, both houses of Congress had passed S. 1021, the "Veterans Employment Opportunities Act of 1998," but the bill had not yet been signed into law. If the bill becomes law it will require additional changes to the VEVRAA regulations, to increase the coverage threshold from a contract of $10,000 or more to a contract of $25,000 or more, and to add to the class of individuals protected under the law "veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized." OFCCP considered delaying publication of this final rule until regulatory provisions addressing the new legislation could be drafted and included in the rule. We rejected that approach, however, because it would unduly delay the implementation of the many important provisions contained in this final rule, without increasing the speed with which the revisions mandated by the new legislation could be published. OFCCP has already begun work on an additional regulatory document that would address the new legislation, and expects to publish that document in the near future.

Current Regulations and Rulemaking History

This final rule revises the current regulations (41 CFR Part 60–250) implementing the affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act, as amended, 38 U.S.C. 4212 (Section 4212 or VEVRAA). VEVRAA requires parties holding a Government contract or subcontract of $10,000 or more to "take affirmative action to employ and advance in employment qualified special disabled veterans and veterans of the Vietnam era." (VEVRAA, which was originally codified at 38 U.S.C. 2012, was redesignated as 38 U.S.C. 4212 by Section 5(a) of the Department of Veterans Affairs Codification Act, Pub. L. 102–83, August 6, 1991; no substantive change to VEVRAA resulted from this legislation.)

The Department of Labor's Office of Federal Contract Compliance Programs (OFCCP), which has authority to enforce Section 4212, has published regulations implementing the Act at 41 CFR Part 60–250. These regulations, consistent with the statute's mandate, establish various affirmative action obligations for contractors (e.g., contractors are required to use effective practices to recruit special disabled veterans and veterans of the Vietnam era). The regulations require that contractors refrain from discriminating against special disabled veterans and veterans of the Vietnam era in all aspects of employment, inasmuch as this prohibition is an indispensable component of affirmative action. Another central requirement of the current regulations is that contractors make reasonable accommodation to the known physical or mental limitations of a qualified special disabled veteran applicant or employee, unless the contractor can demonstrate that the accommodation would impose an undue hardship on the operation of its business. An accommodation is, for example, any change in the work environment (e.g., the modification or acquisition of equipment) or in the way a job customarily is performed (e.g., changes in work assignments) that enables a qualified special disabled veteran to enjoy equal employment opportunities.

On May 1, 1996, OFCCP published an interim rule revising 41 CFR 60–250.5(d), Invitation to self-identify, and Appendix A to Part 60–250, Sample Invitation to Self-Identify (61 FR 19366). The revision was published to be consistent with an analogous requirement in the Section 503 final rule, also published on May 1, 1996 (61 FR 19336).

On September 24, 1996, OFCCP published a notice of proposed rulemaking (NPRM)(61 FR 50080), proposing to revise the regulations implementing VEVRAA. A correction notice and extension of the comment period was published on October 28, 1996 (61 FR 55613). The comment period ended December 27, 1996. Two comments were submitted in response to the May 1, 1996, interim rule, and another seven comments were submitted in response to the September 24, 1996, NPRM, as corrected. In addition, five organizations expressed views on the proposal in a meeting with OFCCP held during the comment period. The comments represented the views of contractor advocacy organizations, veterans advocacy organizations, an employer, an attorney who advises employers, a state governmental agency, and two Federal agencies. All comments have been analyzed and considered in the development of this final rule.

Regulatory Revisions

Today's final rule is precipitated, in part, by OFCCP's publication of a final rule revising the regulations implementing Section 503 of the Rehabilitation Act of 1973 (61 FR 19336, May 1, 1996). Section 503 requires Government contractors and subcontractors to take affirmative action to employ and advance in employment qualified individuals with disabilities. In turn, the revision to the Section 503 regulations was designed, in part, to conform those regulations to regulations published by the Equal Employment Opportunity Commission (EEOC) implementing Title I of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. 12101 *et seq.* See 29 CFR Part 1630. Title I of the ADA, which is enforced by the EEOC, prohibits private and state and local governmental employers with 15 or more employees from discriminating against qualified individuals with disabilities in all aspects of employment. The ADA regulations establish comprehensive, detailed prohibitions regarding disability discrimination but do not require affirmative action.

OFCCP has modeled its regulations implementing 38 U.S.C. 4212 on those implementing Section 503. This reflects the close similarity between the statutes in terms of their substantive protections and jurisdictional requirements. For instance, Section 4212, like Section 503, protects disabled individuals, albeit a more narrow class of disabled persons—that is, "special disabled veterans." The VEVRAA regulations being revised today were identical to the former Section 503 regulations, except where differences were necessary because of the nature of the protected class or differences in the statutes, to assure that covered contractors were subject to consistent requirements under both laws. In order to retain that consistency and avoid confusion and conflict, OFCCP believes that the Section 4212 regulations should continue to parallel the Section 503 regulations.

Accordingly, OFCCP has revised the Section 4212 regulations to conform them to the Section 503 final rule published in 1996. Thus, today's final rule, similar to the final Section 503 regulations, adopts the standards contained in the regulations implementing the ADA regarding disability discrimination, but applies these standards with respect to special disabled veterans and, to a more limited extent, to veterans of the Vietnam era.

Specific changes are discussed in the Section-by-Section Analysis below.

Partial Withdrawal of 1980 Final Rule

OFCCP also proposed to withdraw portions of a final rule published by the Agency on December 30, 1980 (45 FR 86215; corrected at 46 FR 7332, January 23, 1981), and deferred indefinitely on August 21, 1981 (46 FR 42865). That 1980 rule would have revised the regulations at 41 CFR Chapter 60 implementing Section 4212 as well as two other laws enforced by OFCCP—Executive Order 11246, as amended, and Section 503. Executive Order 11246 requires Government contractors and subcontractors to assure equal employment opportunity without regard to race, color, religion, sex and national origin. As noted above, Section 503 mandates similar requirements with regard to the employment of individuals with disabilities.

The December 30, 1980, rule was to take effect on January 29, 1981. On January 28, 1981, the Department of Labor published a document (46 FR 9084) delaying the effective date of the final rule until April 29, 1981, to allow the Department time to review the regulation fully. The Department published three subsequent deferrals of the rule in 1981 in order to fully review the OFCCP regulations in accordance with Executive Order 12291, to permit consultation with interested groups, and to comply with new intergovernmental review and coordination procedures. The Department again postponed the rule's effective date on August 25, 1981, until action could be taken on a proposed rule published on the same date (46 FR 42968).

The August 25, 1981, proposal would have revised a number of provisions contained in the December 30, 1980, final rule as well as a number of provisions in 41 CFR Chapter 60 which were not amended by that final rule. Final action has not been taken with respect to the proposed regulations issued on August 25, 1981, or, consequently, with respect to the 1980 final rule.

The substance of a number of the provisions contained in the 1980 final rule pertaining to the current Section 4212 regulations has been incorporated into today's final rule. However, OFCCP has determined not to go forward with some of the other revisions to the regulations. For instance, unlike today's final rule (and the current regulations), the 1980 final rule would have consolidated a number of the provisions of the Section 4212 regulations with common provisions implementing Executive Order 11246 and Section 503 into 41 CFR Part 60–1, which currently sets out the general obligations under the Executive Order.

The one comment received on the proposed withdrawal of the 1980 final rule is discussed in the Section-by-Section Analysis below. In order to avoid conflict between today's final rule and the 1980 final rule, OFCCP hereby withdraws all provisions of the 1980 rule that pertain to Section 4212.

Section-by-Section Analysis

This final rule consists of five subparts. Subpart A, "Preliminary Matters, Equal Opportunity Clause," explains the purpose, application and construction of the regulations in general and contains an extensive definitions section. The definitions section incorporates the definitions contained in the Section 503 final rule which are relevant to the enforcement of Section 4212, as well as statutorily required revisions to the definitions of "special disabled veteran" and "veteran of the Vietnam era." Subpart A also contains provisions relating to coverage under Section 4212, and coverage exemptions and waivers, as well as the equal opportunity clause, which delineates a covered contractor's general duties under the Act.

Subpart B is a new subpart, which specifies the employment actions that will be deemed to constitute prohibited discrimination under Section 4212. This subpart is substantially identical to the parallel provisions in the Section 503 final rule. Where appropriate, references to special disabled veterans and veterans of the Vietnam era have been substituted for the references in the Section 503 regulations to individuals with disabilities.

Subpart C, which governs the applicability of the written affirmative action program requirement, reorganizes, clarifies and strengthens the affirmative action provisions in the current regulations. These revisions parallel those found in the Section 503 final rule. As stated in § 60–250.40(a), the requirements of Subpart C apply only to Government contractors with 50 or more employees and a contract of $50,000 or more. All other subparts of the regulation are applicable to all contractors covered by Section 4212.

Subpart D covers general enforcement and complaint procedures. In order to help ensure that OFCCP uses consistent enforcement approaches under VEVRAA and Executive Order 11246, this subpart, again paralleling the changes in the Section 503 final rule, incorporates a number of provisions from the regulations implementing the Executive Order. Further, Subpart D's provisions regarding complaint procedures, like the counterpart provisions in the Section 503 final rule, are in part based on the procedural regulations applicable to the ADA. These procedures also are revised to reflect an amendment to Section 4212.

Subpart E, Ancillary Matters, incorporates revised provisions on recordkeeping (e.g., it extends the current one-year record retention period to two years for larger contractors and conforms the scope of the retention obligation to that applied by the EEOC under the ADA and by OFCCP under Section 503), adds a mandatory notice posting requirement, and makes other revisions.

Finally, this rule contains a new appendix which sets out guidance on the duty to provide reasonable accommodation under the Act. The appendix is substantially identical to the counterpart appendix contained in the Section 503 final rule. In turn, that appendix is consistent with the discussion of the issue of reasonable accommodation contained in the Interpretative Guidance on Title I of the Americans with Disabilities Act, which is set out as an appendix to the EEOC's ADA regulations. Accordingly, the EEOC appendix may be relied on for guidance with respect to parallel provisions of this final rule.

This rule uses a long form amending procedure in which all sections of the regulations are republished, including sections for which no changes were proposed and sections for which the only proposed change was the section number. Use of the long form procedure ensures maximum clarity. The discussion which follows identifies the comments received in response to the NPRM, provides OFCCP's responses to those comments, and explains any resulting changes to the proposed revisions.

Subpart A—Preliminary Matters, Equal Opportunity Clause

Section 60–250.1 Purpose, Applicability and Construction

The preamble to the NPRM pointed out that the 1980 final rule would have consolidated provisions (e.g., definitions) which are applicable to both Section 4212 and Executive Order 11246 into 41 CFR Part 60–1, and would have established some common enforcement procedures under all of the laws enforced by OFCCP by making certain procedures (e.g., the show cause notice), which were previously applicable only to the Executive Order, applicable to Section 4212. The VEVRAA NPRM proposed withdrawal of the 1980 final rule, and did not propose similar consolidations because OFCCP now believes that consolidation of provisions in this way is not practical.

One commenter objected to OFCCP's stated inclination not to consolidate common provisions. The commenter felt that OFCCP applies a low priority to veterans' employment rights, and suggested that consolidating common provisions would strengthen enforcement of VEVRAA and place it on a par with enforcement of Executive Order 11246.

OFCCP disagrees with the commenter's assessment that the agency applies low priority to enforcement of VEVRAA. Traditionally, whenever OFCCP has conducted a compliance review it has examined compliance with VEVRAA (and Section 503) as well as compliance with Executive Order 11246. OFCCP also investigates all complaints of discrimination filed under VEVRAA; by contrast, most complaints of discrimination under the Executive Order are not investigated by OFCCP but are referred to the EEOC for processing under Title VII of the Civil Rights Act of 1964.

Further, OFCCP does not agree with the commenter's premise that consolidating provisions would alter enforcement of VEVRAA. The vast majority of the consolidations made in the 1980 rule simply moved various provisions from Parts 60–250 and 60–741 into Part 60–1, without substantive change. The thinking at that time was that the regulations would be easier to use if fundamental elements (such as definitions) appeared in one place at the beginning of Chapter 60. Also, OFCCP hoped to shorten the regulations by reducing instances in which similar material (e.g., provisions on coverage and waivers) was repeated three times in three different Parts of Chapter 60. Upon reexamination in light of the comment, OFCCP concludes that consolidating provisions is not justified or necessary at this time. In OFCCP's view, consolidation would not strengthen enforcement of VEVRAA and could be confusing to readers of the regulations.

Paragraph (c)(2) of the proposal, and of the final rule, provides that the contractor may take an action which would violate Part 60–250, or refrain from taking an action required by that part, where such action or omission is required or necessitated by another Federal law or regulation. OFCCP stated in the preamble to the NPRM, as examples of this principle, that "contractors would be permitted to comply with requirements relating to the collection, analysis and disclosure of certain medical information which are imposed by the Mine Safety and Health Act (MSHA) and the Occupational Safety and Health Act (OSHA) (**and related state laws** which have been approved by the Occupational Safety and Health Administration)." (Emphasis added.)

The EEOC commented that they agree that contractors may rely on an OSHA-approved state law that is identical to its Federal counterpart, as a defense. However, they stated that they have not yet taken a position on the use of a conflicting OSHA-approved state safety and health law that is not identical to the Occupational Safety and Health Act, as a defense to a violation of the ADA. We agree that our NPRM preamble statement relating to reliance on a state law may be overly broad. At this time we will not permit a contractor to rely upon a state law which is not identical to the Occupational Safety and Health Act, as a defense to a violation of VEVRAA. Accordingly, we have deleted the parenthetical statement which appeared in the NPRM.

Section 60–250.2 Definitions

Section 60–250.2(h) Contract

OFCCP proposed that "contract" be defined to include "any Government contract **or subcontract**." (Emphasis added.) One commenter suggested that it is inappropriate to include subcontracts within the definition of contract, because doing so would impede OFCCP's ability to identify subcontractors and therefore to enforce VEVRAA against subcontractors. OFCCP disagrees. The regulations continue to define the terms "subcontract" and "subcontractor." See §§ 250.2(l) and (m). The purpose of including "subcontract" within the definition of "contract" is simply to eliminate the need to mention subcontracts in the regulatory text each time the regulation seeks to address both contracts and subcontracts. This change will not in any way affect OFCCP's ability to identify subcontractors or to enforce the law against subcontractors.

Section 60–250.2(o) Qualified Special Disabled Veteran

In the proposed rule the definition of qualified special disabled veteran cross-referenced § 60–250.3, which in the proposal contained exceptions to the definition of special disabled veteran and qualified special disabled veteran. As discussed below, we have not included the exceptions in the final rule. Accordingly, we have dropped the cross reference from this definition.

Section 60–250.2(p) Veteran of the Vietnam Era

One commenter pointed out that on October 9, 1996, the Veterans' Benefits Improvement Act of 1996 (Public Law 104–275, Sec. 505) amended VEVRAA by, among others things, changing the definition of "Vietnam era." Under the revised definition, the Vietnam era now extends from February 28, 1961, through May 7, 1975, for veterans who served in the Republic of Vietnam during that period, and from August 5, 1964, through May 7, 1975, in all other cases.

Revision of the statutory definition requires a corresponding revision of OFCCP's regulatory definition of "Veteran of the Vietnam era." This revision is a nondiscretionary, ministerial action which merely incorporates, without change, the statutory amendment into a pre-existing regulation. Publication in proposed form would serve no useful purpose, and therefore is unnecessary under the Administrative Procedure Act (5 U.S.C. 553(b)(B)). Accordingly, we find good cause to waive notice of proposed rulemaking and to include the revision in this final rule.

Section 60–250.3 Exceptions to the Definitions of "special disabled veteran" and "qualified special disabled veteran"

As proposed, this section would have excluded from the Act's protection of special disabled veterans and qualified special disabled veterans: (a) an alcoholic whose current use of alcohol prevents performance of the essential functions of the employment position in question or which would pose a direct threat to property or to health or safety; and (b) an individual with a currently contagious disease or infection who, by reason of the disease or infection, would constitute a direct threat to the health or safety of the individual or others or who, by reason of the disease or infection, is unable to perform the essential functions of the employment position in question. The two exclusions would have been carried over from the Section 503 rule.

A commenter objected to the proposal's exclusion of certain alcoholics from protection. The commenter was concerned that the provision might encourage stereotyping of disabled veterans.

Upon consideration of the proposed rule in light of the comment, OFCCP has decided to remove from the final rule both proposed exclusions. The exclusions must appear in the Section 503 rules, because Section 503 itself requires them. However, none of Section 503's exclusions from protection have been legislated into VEVRAA. Accordingly, in this final rule we do not adopt the exclusions which are found at 41 CFR 60–741.3 in the Section 503 rule. In order to preserve parallel section numbering between the VEVRAA and Section 503 rules, we have designated § 60–250.3 as "Reserved."

Section 60–250.5 Equal Opportunity Clause

Paragraph (a)2 of the proposal required that contractors immediately list their employment openings at an appropriate office of the state employment service system wherein the opening occurs. One commenter suggested that listing job openings with the Department of Labor's America's Job Bank should be deemed to satisfy the job listing requirement. America's Job Bank is a computerized, nationwide listing of job openings. The computerized network links the 1600 state employment service offices. Job seekers may access the Job Bank via the Internet at http://www.ajb.dni.us/, and on computer systems in public libraries, colleges and universities, high schools, shopping malls and other public places.

OFCCP agrees, along with the Veterans' Employment and Training Service, that listing jobs in America's Job Bank will satisfy a contractor's listing obligation. Therefore, we have supplemented paragraph (a)2 of the equal opportunity clause to reflect this additional method for listing jobs.

The same commenter also felt that the regulations "are unclear as to whether an employer is required to list with a state employment agency positions normally filled through outside temporary employment agencies." The commenter apparently disagrees with the interpretation some OFCCP staff have given the corresponding provision of the existing regulation. OFCCP believes that the answer to this question depends upon the facts of each particular situation, and therefore is too detailed to be included in a regulation.

Section 702 of the Veterans' Benefits Improvements Act of 1994, Public Law 103–446, permits the exemption of the contractor's "executive and top management" positions from the mandatory job listing requirement. OFCCP proposed a definition of "executive and top management" that was based upon the definition of "executive" found in the Department of Labor's regulations implementing the Fair Labor Standards Act (FLSA), 29 CFR 541.1. One commenter objected to the proposed definition, claiming that it "would serve to exempt all but the very lowest positions."

As proposed, the full definition stated that in order to be considered "executive and top management," and thus exempt from the mandatory listing requirement, a job must satisfy five factors: (a) the incumbent employee's primary duty must consist of the management of the enterprise or of a customarily recognized department or subdivision of the enterprise; (b) the employee must customarily and regularly direct the work of two or more other employees; (c) the employee must have the authority to hire or fire other employees, or his or her suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or other change of status will be given particular weight; (d) the employee must customarily and regularly exercise discretionary powers; and (e) with certain limited exceptions, the employee must not devote more than 20 percent (40 percent in retail and service establishments) of his or her hours of work to activities which are not closely related to the work described in (a) through (d).

The commenter took a portion of the test out of context, citing only one clause from factor (c) relating to the employee's authority to make recommendations and suggestions about personnel actions. In fact, the standard is quite stringent in that all five factors must be satisfied. Thus, for example, in a case under the FLSA, Assistant Managers in a fast-food restaurant were determined not to be executives because, despite many management responsibilities, they spent more than 40 percent of their time on production duties. *Donovan* v. *Burger King*, 675 F.2d 516 (2nd Cir., 1982). Similarly, a Warehouse Manager for a retail shoe chain was found to fall outside the "executive" exemption of the FLSA because he did not regularly exercise discretionary powers, and because the employer was unable to demonstrate that the Manager did not devote more than 20 percent of his working hours to activities not related to the performance of the work described in factors (a) through (d). *Wirtz* v. *C&P Shoe Corp.*, 336 F.2d (5th Cir., 1964). Accordingly, OFCCP has decided to adopt the definition of "executive and top management" as proposed.

Throughout the equal opportunity clause, and elsewhere in the regulation, we have used the term "local employment service office" to refer to the office with which jobs must be listed. This is the same term used in the statute. A proposed definition of the term "appropriate local office of the state employment service system" has been dropped as unnecessary, and the remaining definitions in section 6 of the equal opportunity clause have been renumbered accordingly.

Subpart C—Affirmative Action Program

Section 60–250.40 Applicability of the Affirmative Action Program Requirement

One commenter objected to the proposed standard (which is also the standard under the current rule) that the written affirmative action program requirement applies only to contractors with 50 or more employees and a contract of $50,000 or more. The commenter felt that this was at odds with the statutory requirement that "[a]ny contract in the amount of $10,000 or more" contain a provision requiring that the contractor take affirmative action to employ and advance in employment qualified special disabled and Vietnam era veterans.

OFCCP does not agree that the two provisions are at odds. All nonexempt contractors, that is, all contractors with a contract of $10,000 or more, are subject to the basic nondiscrimination and affirmative action requirements of VEVRAA. These requirements include the duty to list job vacancies with a local employment service office. In addition, those contractors who meet the stated 50 employee/$50,000 contract threshold must prepare a **written affirmative action program.** The written AAP contains additional affirmative action obligations for larger contractors with larger contracts, such as undertaking specified outreach and positive recruitment activities. See, for example, § 60–250.44(f). Accordingly, the rule is adopted as proposed.

Section 60–250.42 Invitation to Self-identify

On May 1, 1996, OFCCP published an interim rule amending § 60–250.5(d) of the then-current regulations relating to invitations to self-identify. The interim rule was intended to conform the invitation to self-identify requirement under VEVRAA with the requirement contained in the Section 503 final rule. The rule was published in response to concerns raised by representatives of Government contractors that if contractors were faced with a self-identification requirement under VEVRAA that was different than the requirement under Section 503, each contractor would have to revise its forms, notices and posters when the Section 503 final regulations took effect, and then change those same forms, notices and posters again when OFCCP promulgated its revisions to the VEVRAA regulations.

The NPRM published on September 24, 1996, mirrored the VEVRAA interim rule and the Section 503 final rule. It required the contractor, after making an offer of employment and before the applicant began his or her employment duties, to invite applicants to identify themselves as special disabled or Vietnam era veterans in order to benefit from the contractor's affirmative action program. As an exception to the general requirement that the invitation be extended after an offer of employment, the proposal permitted a pre-offer invitation in two limited circumstances: if the invitation was made when the contractor actually was undertaking affirmative action at the pre-offer stage; or if the invitation was made pursuant to a Federal, state or local law requiring affirmative action for special disabled or Vietnam era veterans. This approach was intended to be consistent with § 1630.14(b) of the EEOC's regulations, and the EEOC's October 10, 1995, "ADA Enforcement Guidance: Preemployment Disability-Related Questions and Medical Examinations."

The proposal also required that the contractor maintain a separate file on applicants and employees who identified themselves as covered disabled veterans or Vietnam era veterans, and provide that file to OFCCP upon request. Finally, the proposal provided that if an applicant identified himself or herself as a special disabled or Vietnam era veteran, the contractor should seek the advice of the applicant regarding proper placement and appropriate accommodation, after a job offer had been extended.

Two comments were submitted in response to the May 1, 1996, interim rule. One of the interim rule commenters also commented on the NPRM, and two additional comments were submitted in response to the NPRM. Finally, five organizations expressed views on the proposal in a meeting with OFCCP held during the comment period.

The five organizations felt that the proposed limitations on pre-offer invitations to Vietnam era veterans were unduly restrictive. They asserted that in most instances a contractor would be aware of an applicant's veteran status at the pre-offer stage, because the applicant would include this information in his or her employment history, or because of priority referral from the job listing program. The organizations advocated that, with respect to Vietnam era veterans, the invitation to self identify should be mandatory at the pre-offer stage so that contractors could take affirmative action specific to Vietnam era veterans in the employment process. Upon consideration, we agree that limiting the invitation to Vietnam era veterans to the post-offer stage is unduly restrictive. The disability discrimination concerns embodied in the ADA (which justify restrictions on the timing of invitations extended to special disabled veterans) do not apply to Vietnam era veterans.

On the other hand, we are reluctant to **require** that the invitation be extended pre-offer, because to do so would **mandate** that contractors extend invitations at two different times—a pre-offer invitation to Vietnam era veterans and a post-offer invitation to special disabled veterans. This would potentially be confusing and seemingly over-technical, particularly for smaller employers.

Accordingly, the final rule contains separate invitation to self-identify provisions for special disabled veterans and for Vietnam era veterans. Paragraph (a) covers the invitation that is to be extended to special disabled veterans. It requires, with two limited exceptions, that the invitation be extended after a job offer has been made and before the individual begins his or her employment duties. The exceptions are that the invitation may be extended pre-offer when: the invitation is made when the contractor actually is undertaking affirmative action for special disabled veterans at the pre-offer stage; or the invitation is made pursuant to a Federal, state or local law requiring affirmative action for special disabled veterans. In this context, the reference to Federal law means a law other than one enforced by OFCCP (i.e., Section 503 and VEVRAA). Following are examples which illustrate the application of each exception:

Special disabled veteran example: A contractor establishes a job training program to train disabled veterans for high paying technical jobs like those at the contractor's establishment. The initial phase of the training program is a six-month classroom component. The contractor pays all costs for the classroom training, and pays the participants the minimum wage during this period. After completion of classroom training, all trainees participate in a six-month work-study phase of the program. During the work-study phase, participants are regarded as temporary trainee-employees of the contractor. The contractor hires graduates of the program as permanent employees, if openings exist when the training is complete. Program participants whom the contractor is unable to hire have acquired education and job experience that will assist them in obtaining skilled employment as technicians elsewhere.

The contractor's initial decision to accept an individual into the program is also a decision to employ that person as a temporary employee during the classroom and work-study phases of the program. Under the general rule stated at § 60–250.42(a), the contractor could not ask program applicants to disclose whether they are disabled veterans because the question would be a pre-offer disability-related inquiry. However, the contractor's program is a voluntary affirmative action program that satisfies the exception at § 60–250.42(a)(1). The contractor's program is a specific and fully implemented affirmative action effort, which is not required by any Federal, state or local law. The affirmative action program requires the identification of disabled veterans prior to extending an offer to participate in the program, because the information is necessary for determining whether the applicant is eligible to participate in the program.

Federal, state or local law example: A state statute requires that state government jobs be filled in the following fashion. Applicants who meet basic eligibility requirements take a competitive examination. The names of applicants who pass the examination are placed on a list of eligible applicants in the following order: (1) disabled veterans; (2) veterans; (3) widows of veterans who were killed in action; (4) all others in order of their test scores. When job openings occur the selecting official is provided the names of the top five applicants from the list to interview for employment. All five applicants are interviewed before a job offer is extended.

The state statute expressly requires affirmative action in the form of according top priority to disabled veterans for placement on a list of eligibles. In order to implement the priority accorded disabled veterans, state officials must be able to determine whether an applicant is a disabled veteran prior to extending a job offer. The state's program fits within the exception at § 60–250.42(a)(2). Therefore, it is not a violation of VEVRAA (or of Section 503 or the ADA) for state hiring officials to invite applicants to self-identify as a special disabled veteran prior to extending an offer of employment.

Paragraph (b) covers invitations to veterans of the Vietnam era. It specifies that the invitation may be made at any time before the applicant begins his or her employment.

This approach necessitated some modification of Appendix B, which contains a sample invitation to self-identify. We have amended the Appendix to make it adaptable to situations in which a contractor extends an invitation to Vietnam era veterans separately from its invitation to special disabled veterans, as well as when the contractor extends a single invitation to both categories of veterans.

One comment on the interim rule expressed concerns about the separate file requirement contained in subsection (d)(4). The commenter, an agency of a state government, felt that the requirement that contractors maintain a separate file on persons who have self-identified and provide the file to OFCCP upon request, "creates an undue burden on covered contractors, without any appreciable benefit to the class Sec. 60–250 was intended to protect." OFCCP disagrees that the requirement to maintain separate files results in an increased recordkeeping burden for contractors. As explained in the preamble to the interim rule:

> OFCCP believes that a number of contractors may already have maintained separate files on such applicants and employees in order to implement the VEVRAA confidentiality requirements. In addition, the ADA presently requires employers with 15 or more employees to maintain on separate forms and in separate medical files information obtained regarding the medical condition or history of applicants and to treat this information as confidential medical records (42 U.S.C. 12112(d)(3)(B); 29 CFR 1630.14(b)(1)). Furthermore, because the invitation to self-identify is only required by the interim rule to occur after a job offer has been made, and not to all applicants, there will be fewer records of self-identification being generated than in the past.

Moreover, because the ADA requires that information regarding the medical condition or history of applicants be kept in separate files, OFCCP cannot impose a different standard with regard to disabled veterans under VEVRAA.

The second commenter on the interim rule addressed the portion of proposed subsection (d)(4) that provided that if an applicant identifies himself or herself as an individual with a disability, the contractor should seek the advice of the applicant regarding proper placement and appropriate accommodation, after a job offer has been extended. The commenter asserted that if an applicant self-identified at the pre-offer stage, the contractor apparently cannot discuss accommodation at that stage unless the applicant first raises the issue. The commenter then opined that this imposed an additional burden as well as a more stringent restriction on Federal contractors under VEVRAA than the EEOC imposes under the ADA. Specifically, the commenter asserted that the EEOC's enforcement guidance permits an employer to ask an applicant questions regarding possible reasonable accommodations: (1) If the employer believes the applicant will need accommodation because of an obvious disability; (2) if the employer believes the applicant will need accommodation because of a hidden disability that the applicant has voluntarily disclosed; or (3) if the applicant has voluntarily disclosed to the employer that he or she needs accommodation. In the commenter's view OFCCP's interim rule permitted pre-offer discussion of accommodations only in the third instance mentioned above.

We disagree with the commenter's interpretation of the rule. The rule recommends that contractors make certain inquiries after tendering an offer of employment, but the rule does not **prohibit** inquiries before a job offer when the contractor becomes aware of the need for accommodation at the pre-offer stage. OFCCP intends that its regulations under Section 503 and VEVRAA be interpreted in a manner which is consistent with the EEOC's interpretations of the ADA. Accordingly, pre-offer discussion of accommodations would be permissible under VEVRAA in the same circumstances as those in which it would be permissible under the ADA.

The same commenter also submitted comments in response to the NPRM. Those comments requested that OFCCP provide "clear guidance" as to what is meant by "actually taking affirmative action at the pre-offer stage." Consistent with interpretations made by the EEOC under the ADA, "actually taking affirmative action at the pre-offer stage" refers to an employer voluntarily using the information obtained in response to an invitation to self-identify, to benefit special disabled veterans. If an employer wishes to invoke this exception, it must provide affirmative action at the pre-offer stage that necessitates the identification of special disabled veterans. The example provided earlier in this discussion should help to illustrate the point.

The commenter also requested "clear guidance" as to what is meant by "before the applicant begins his or her job [employment] duties." By this we mean that the invitation to self identify must be made before the applicant is placed on the contractor's payroll.

Another commenter pointed out that, as proposed, the rule would require contractors to discuss reasonable accommodation with all who self identify as either special disabled veterans or veterans of the Vietnam era. The commenter asserted, "by encompassing Vietnam-era veterans, this provision presupposes that all Vietnam-era veterans are likely to require some form of accommodation to

be employable." The point is well taken. Reasonable accommodation is relevant in the context of special disabled veterans, but generally not in the context of Vietnam era veterans. We have modified the rule accordingly, and have made corresponding modifications to the sample invitation to self-identify found at Appendix B.

The same commenter also was concerned that self-identification, coupled with the provision that permits an employer to ask an applicant to demonstrate how the applicant will be able to perform job-related functions, could result in an employer "withdraw[ing] the job offer on the pretense that the veteran couldn't perform some aspect of the job when asked to "demonstrate."" The commenter than asked, "[w]ho couldn't be deemed to fail some task they'd never done before?'

As proposed, the literal wording of the rule was ambiguous as to whether a contractor would be permitted to require a demonstration from both Vietnam era and special disabled veterans, or only from the latter. The context of the proposal, specifically the reference to inquiries that are consistent with the ADA, makes clear, however, that our intent was to apply this standard with respect to special disabled veterans only. We have revised the rule to clarify the point.

Turning more directly to the commenter's concern, the concept of requiring an applicant with a known disability to demonstrate his or her ability to perform the job is drawn directly from the ADA, and OFCCP intends to apply it consistent with its application under the ADA. The EEOC Guidance on this subject explains that an employer may require a disabled applicant to demonstrate how he or she will perform the job only when: (1) the employer could reasonably believe that the applicant would not be able to perform a job function due to a known disability; or (2) all applicants in the job category (i.e., including those who are not disabled) are asked to demonstrate how they would perform the job. Thus, an employer need not hire someone who, even with accommodation, cannot perform the essential functions of the job. On the other hand, an employer may not use the demonstration requirement to discriminatorily deny an individual employment simply because that individual is disabled.

Another commenter was concerned that the proposed restrictions on pre-offer self-identification could preclude contractors from asking questions about military service on employment applications or in employment interviews. As the commenter pointed out, a normal employment application asks about military service and the reason for leaving or the type of discharge, and military service also is a common topic in employment interviews. However, such questions may elicit information that identifies an applicant as a special disabled or a Vietnam era veteran. The commenter asserted restricting such inquiries would require radical revision in the application process among United States employers.

The ADA prohibits employers from asking about the existence, nature, or severity of a disability at the pre-offer stage. The EEOC's October 10, 1995, Enforcement Guidance on Preemployment Disability-Related Inquiries and Medical Examinations defines such an inquiry as one that is **likely** to elicit information about a disability. On the other hand, according to the EEOC Guidance, if there are many possible answers to a question and only some of those answers would contain disability-related information, the question is not disability-related. It is our intent that the VEVRAA rule be applied consistent with this standard. Under this interpretation, it would be permissible for an employer to inquire about an applicant's military service, including the reason for leaving or the type of discharge. This is because the large majority of those discharged from the military are discharged for reasons other than medical, and even among those discharged for medical reasons not all would qualify as special disabled veterans under VEVRAA or as individuals with disabilities under the ADA and Section 503. If the applicant's response indicated a discharge for medical reasons, the employer would not be permitted to ask follow-up questions relating to the nature or extent of the medical condition. However, if the response caused the employer to reasonably believe that the applicant may need an accommodation, the employer may inquire about that need.

The same commenter also expressed concern that a contractor electing to invite individuals to self-identify at the pre-offer stage might violate the ADA, which generally prohibits pre-offer inquiries as to whether an individual has a disability. The commenter sought further guidance on this issue.

As we have stated above, our intent is that this rule be applied consistently with the ADA. The limited instances of pre-offer self-identification permitted by the regulation should not result in violation of the ADA. The ADA expressly does not preempt other Federal, state or local laws that provide greater or equal protection for the rights of individuals with disabilities than are provided in the ADA. 42 USC 12201(b). Therefore, the provision permitting pre-offer invitations to self-identify directed to special disabled veterans, when required by a Federal, state or local law requiring affirmative action, would not violate the ADA. Similarly, a contractor actually undertaking affirmative action for special disabled veterans pursuant to VEVRAA at the pre-offer stage would not violate this provision of the ADA.

Finally, staff from the Department's Office of the Assistant Secretary of Labor for Veterans' Employment and Training (OASVET) have asked that we clarify one additional point. The restrictions on the timing of the invitation to self-identify that appear in the regulation, are completely unrelated to pre-application recruitment activities. Accordingly, it would not violate VEVRAA, Section 503 or the ADA, for an employer to advertise that it encourages applicants who are special disabled or Vietnam era veterans, or to otherwise direct its recruitment efforts at members of those two groups.

Section 60–250.44 Required Contents of Affirmative Action Programs

The regulations being replaced today, at § 60–250.6(b), specify that "[c]ontractors shall review their personnel processes to determine whether their present procedures assure careful, thorough and systematic consideration of the job qualifications' of special disabled and Vietnam era veterans. Section 60-250.44(b) of the NPRM stated the obligation as follows: "[t]he contractor shall ensure that its personnel processes provide for careful, thorough, and systematic consideration of the job qualifications" of special disabled and Vietnam era veterans. One commenter felt that the duty to "ensure" as stated in the NPRM required a "different mandate" than the duty to "review" as stated in the rule that was current at that time. We disagree. When read in full context, the regulation being replaced today requires that contractors do more than simply examine their processes. If affirmative action is to have any meaning, it surely requires that contractors take steps to reform those processes that, upon review, are found not to meet the stated standard of assuring careful, thorough and systematic consideration.

Two commenters addressed the obligation in proposed § 60-250.44(d), that contractors inquire whether an employee with a known disability who is having difficulty performing a job is in need of accommodation. One commenter characterized the obligation as: (1) conflicting with the EEOC's guidance under the ADA which "gives the employee primary responsibility for requesting an accommodation"; (2) conflicting with the spirit of the ADA which "empowers individuals with disabilities to choose to—or choose not to—ask for help"; and (3) "paternalistic," "potentially insulting and embarrassing to the individual," and liable to "be perceived by special disabled veterans as prejudicial, because the employer has distinguished employees with disabilities from employees who do not" have disabilities.

The other commenter read the provision as potentially requiring identification of special disabled veterans prior to the job offer, accommodation in the application process, and post-offer disability-related questions directed to only some entering employees, all of which the commenter thought were problematic under the ADA.

We do not share the commenters' views on this issue. Affirmative action, of which this provision is an example, is unique to VEVRAA and Section 503, and includes actions above and beyond those required as a matter of nondiscrimination. Also, by specifying "employee," the provision does not conflict with the ADA restrictions relating to pre-offer, and post-offer but pre-employment, inquiries. Moreover, the rule does not undermine the concept of individuals with disabilities being able to choose not to ask for help. That is, the rule requires that the employer make inquiry, but it does not require a particular response from the employee. Additionally, contrary to this type of employer inquiry being prohibited by the ADA, it is permitted by the EEOC's interpretive materials. See 29 CFR Part 1630, Appendix, Section 1630.9.

Finally, we are sensitive to the concern that employers not be required to take actions which might be offensive to their employees with disabilities. However, we disagree with the commenter that the provision in question here crosses that line. It is instructive to note that OFCCP did not receive a single objection to this provision from a commenter that might be characterized as a veteran or an individual with disabilities, nor from a group representing veterans or individuals with disabilities. Similarly, OFCCP did not receive a single objection from any of these categories of commenters when it proposed the corresponding provision in its Section 503 NPRM. See 57 FR 48084 (October 21, 1992), corrected at 57 FR 49160 (October 30, 1992).

OFCCP has made one minor alteration to the text of § 60-250.44(d) for clarification. Language has been inserted to specify that the obligation to provide reasonable accommodation is an element of nondiscrimination, whereas the obligation to notify the employee of a performance problem and inquire whether the problem is related to disability is an element of affirmative action.

One commenter objected to the requirement in proposed § 60-250.44(e) that contractors "develop and implement procedures to ensure" that employees are not harassed because of their status as special disabled and Vietnam era veterans. The commenter felt that the requirement was unnecessary and impractical, adding that it is almost impossible for an employer to guarantee that an employee will not act inappropriately. But that is not what the regulation requires. The rule simply requires that contractors develop and implement procedures that are designed to ensure that disabled and Vietnam era veteran employees will not be harassed.

Proposed § 60–250.44(f) required that contractors undertake appropriate outreach and recruitment activities, and enumerated eight suggested activities. The proposed section's introductory provision stated that the scope of the contractor's efforts "shall depend upon all the circumstances," and that "[i]t is not contemplated that the contractor will necessarily undertake all the activities listed . . . or that its activities will be limited to those listed."

One commenter objected to proposed subsection (f)(8), which would have provided that contractors, in making hiring decisions, should consider special disabled and Vietnam era veterans for all available positions for which they may be qualified, when the position(s) applied for is unavailable. The commenter felt that "the requirement" is onerous, in that it would require contractors to set up two application processes—one for covered veterans and one for all other applicants—and it would force contractors to review applicants' files numerous times in an effort to consider applicants for other jobs. Paragraph (f)(8) does not establish a "requirement." As is outlined above it is a suggested measure, which contractors may take, or not take, as appropriate under the circumstances. Accordingly, we do not share the commenter's concerns about the provision.

Section 60–250.44(j) of the proposal would have required that all personnel involved in the recruitment, screening, selection, promotion, disciplinary, and related processes be trained to ensure that the commitments in the contractor's affirmative action program are implemented. One commenter objected to the provision, declaring that "[t]he proposed mandatory training requirement suggests that OFCCP desires training above and beyond" the current requirement. The commenter described the requirement in effect at that time as "employees of federal contractors are instructed on the requirements of VEVRAA." However, the wording of proposed § 60–250.44(j) is virtually identical to the wording of § 60–250.6(i)(3) in the regulations being replaced today. Accordingly, no substantial change was intended and the rule is adopted as proposed.

Subpart D—General Enforcement and Complaint Procedures

Section 60–250.60 Compliance Evaluations

As proposed, paragraph (a) of this section would have clarified existing regulatory authority for OFCCP to conduct compliance reviews with regard to contractors' implementation of their affirmative action obligations, and would have provided that the review consist of "a comprehensive analysis and evaluation" of all relevant practices. The proposal was intended to make the VEVRAA provision consistent with the corresponding provision in the Section 503 regulations. One commenter noted that the proposal did not track a proposed revision to the regulations implementing Executive Order 11246, under which OFCCP proposed to supplement the "comprehensive analysis" approach with a variety of alternative means of assessing a contractor's compliance status. See proposed § 60–1.20(a) at 61 FR 25516, 25523 (May 21, 1996). The commenter recommended that "[t]he proposed § 60-250.60 * * * be modified to clarify that OFCCP is not required to conduct a full, on-site compliance review of any contractor it selects for review."

Since the publication of the VEVRAA proposal, OFCCP has promulgated a final version of its Executive Order 11246 "compliance evaluation" procedure. See 41 CFR 60–1.20(a) at 62 FR 44174, 44189 (August 19, 1997). As recommended by the commenter, OFCCP has decided to adopt the compliance evaluation approach for VEVRAA as well, in lieu of the proposed "comprehensive analysis" compliance review approach. (Corresponding wording changes have been made, as appropriate, throughout the regulations.) The new VEVRAA

regulatory text is virtually identical to the text of the Executive Order regulation, except for changes necessary to reflect differences between the two laws and their implementing regulations. This approach will improve the efficiency of OFCCP and permit the agency to target resources better. It will also further procedural consistency among the laws enforced by OFCCP.

The same commenter also recommended that the regulations be changed "to insure that OFCCP may not arbitrarily demand that a federal contractor produce anything the agency wants, at any time it wants, at any location it wants." The commenter asserted that many contractors have faced "seemingly endless requests for information under current regulations," and that "[c]ontractors now have no recourse when confronted with endless requests for information." The commenter also asserted that OFCCP should establish in the regulation a definite time period within which the compliance evaluation should be completed. Such a time limit, the commenter argued, would help both OFCCP and the contractor to focus their efforts on supplying and reviewing definite records, and reduce piecemeal requests.

OFCCP does not agree that the regulations should contain additional assurances of the type requested. Under the proposed rule access is limited to records that may be relevant to the matter under investigation and pertinent to compliance with VEVRAA. Moreover, the suggestion that OFCCP should be limited to one or a small number of data requests ignores the reality of conducting a law enforcement investigation. The initial data request often is intentionally restricted in scope, to minimize the burden on the responding party. However, if the materials provided in response to the initial request indicate potential problem areas, it is perfectly reasonable and appropriate for the agency to follow up with supplementary requests. Several rounds of supplementary requests may be necessary before the agency can definitively conclude that a violation did, or did not, occur. Contractors may expect that the currently prescribed time frames for completing compliance evaluations and reviews will continue. However, in OFCCP's view such time frames are more appropriately included in a compliance manual than in implementing regulations.

In addition, we have revised subsection (c) to reflect the terms of a Memorandum of Understanding entered into on May 29, 1997, between OFCCP and OASVET. The proposal provided that during a compliance review OFCCP would verify whether the contractor has filed its annual Veterans' Employment Report (VETS–100 Report) with OASVET and that OFCCP would notify OASVET if the contractor has not filed. We have added to the regulation a provision under which, if the contractor has not filed its report, OFCCP will request a copy from the contractor. If the contractor fails to provide a copy of the report to OFCCP, OFCCP will notify OASVET.

Section 60–250.61 Complaint procedures

Two commenters opposed our proposal under § 60–250.61(a) that the time for filing a complaint with OFCCP be expanded from 180 to 300 days after the alleged violation. Both felt that the current 180-day rule is more in keeping with the standard under Title VII and the ADA, both of which require filing within 180 days in non-deferral jurisdictions and 300 days in deferral jurisdictions. Additionally, one of the commenters argued that the 300-day filing period in deferral jurisdictions was developed for the convenience of the states, not the Federal enforcement agencies.

OFCCP recently considered this question in detail in conjunction with the preparation of the Section 503 final rule. In that rule we adopted a 300-day standard, based upon a desire to establish a uniform national standard that would be at least as long as the complaint filing period under the ADA. We elected not to adopt the split 180/300-day limit applied under the ADA because we are not statutorily bound to do so (as is the EEOC under Title VII and the ADA), and because the lack of a frequently updated and readily available list of deferral jurisdictions could make it difficult for complainants and contractors to know whether the 180 or the 300-day limit applies in any particular case. In line with OFCCP's approach of applying consistent procedures under Section 503 and VEVRAA wherever possible, we hereby adopt the proposed rule's standard that complaints must be filed within 300 days.

Section 60–250.61(b)(2) Contents of Complaints—Third Party Complaints

One commenter objected to this paragraph of the proposal, which provided in part that a complaint filed by an authorized representative need not identify by name the person on whose behalf the complaint was filed. The purpose of this provision is to help prevent retaliation against persons seeking to exercise their rights under VEVRAA. The commenter asserted that in some cases contractors would have difficulty responding to the allegations of a complaint without knowing the identity of the person on whose behalf it is filed.

In many cases it will not be necessary to disclose the individual's identity to enable the contractor to respond effectively. For example, as the commenter acknowledged, where the complaint alleges a broad contractor policy or practice, the contractor will be able to respond fully without knowing the name(s) of the person(s) on whose behalf the complaint was filed. However, we agree that where the complaint involves a practice with limited applicability or an isolated act of discrimination, it may not be possible to protect the individual's confidentiality. Therefore, the rule reflects that confidentiality will be protected where possible, given the facts and circumstances in the complaint.

Section 60–250.66 Sanctions and Penalties

Section 60–250.66(c) Debarment

The proposed paragraph would have authorized OFCCP to impose fixed-term debarments. One commenter objected to the fixed-term debarment concept. The commenter was concerned that fixed-term debarment is too harsh a measure, especially if it is used in response to what the commenter termed "paper" violations, which the commenter characterized as violations of recordkeeping or affirmative action requirements which do not involve discrimination. OFCCP does not view fixed-term debarments as too harsh a measure, and OFCCP does not intend to seek a fixed term debarment for minor, technical violations of the law. Explicit regulatory authority to impose debarment for a minimum fixed-term is necessary to ensure the continued future compliance of some contractors.

OFCCP believes the fixed-term debarment sanction will be particularly effective in encouraging compliance among the recalcitrant contractors who repeatedly break their promises of future compliance with respect to affirmative action and recordkeeping requirements. OFCCP views affirmative action and recordkeeping requirements as fundamental to VEVRAA compliance. These requirements provide the foundation for the contractor's affirmative action efforts and provide the basis for monitoring the contractor's compliance by both the contractor and OFCCP.

The regulation being replaced today (at § 60–250.50) requires a showing that a debarred contractor will carry out employment policies and practices in compliance with VEVRAA and its regulations as one of the conditions of reinstatement. OFCCP traditionally has accepted a contractor's promise of future compliance as sufficient to meet this requirement. Unfortunately, OFCCP has found that, for some contractors, a promise is not enough. The sanction of debarment for a fixed-term of not less than six months but no more than three years establishes a minimum trial period during which a contractor can demonstrate its commitment and ability to establish personnel practices that will ensure continuing compliance with the contractor's VEVRAA obligations. See, e.g., *OFCCP* v. *Disposable Safety Wear*, 92–OFC–11 (Decision and Final Administrative Order of the Secretary of Labor, September 29, 1992). The express recognition of fixed-term debarment in the regulations is designed to put contractors on notice that an empty promise of future compliance will not be a sufficient premise for continued contracting with the Federal Government. Express regulatory recognition of the sanction of fixed-term debarment will strengthen the VEVRAA enforcement scheme by deterring contractors from engaging in violations "based on a cold weighing of the costs and benefits of noncompliance." *Janik Paving & Construction* v. *Brock*, 828 F.2d 84 (2d Cir. 1987). Accordingly, OFCCP has determined to retain in this final rule the authority to impose fixed-term debarments.

Subpart E—Ancillary Matters

Section 60–250.80 Recordkeeping

Under the regulation being replaced today (§ 60–250.52(a)), contractors are required to maintain for one year records relating to complaints and actions taken by the contractor in connection with such complaints. Paragraph (a) of proposed § 60–250.81 would have revised this obligation in two ways. First, it would have made the record retention obligation applicable to any personnel or employment record made or kept by the contractor, and set out a listing of examples of the types of records that must be retained. Second, it would have extended the required record retention period from one to two years for larger contractors. In this context, larger contractors are those that have 150 or more employees and a Government contract of $150,000 or more. When a contractor has been notified that a complaint has been filed, a compliance evaluation has been initiated or an enforcement action has been commenced, the contractor would be required to preserve all relevant personnel records until the final disposition of the action. Three comments were received on proposed paragraph (a).

Two commenters criticized the two-year record retention period proposed for larger contractors. The commenters questioned why OFCCP should need to review two years' worth of records, when complaints must be filed within 300 days and when a one-year retention period applies under the ADA and Title VII. As one commenter put it, "[t]he responsibility and authority of OFCCP to investigate complaints under VEVRAA is no greater or more encompassing than EEOC's responsibility to investigate complaints under the ADA. Similarly, the data needed by OFCCP to accomplish this purpose is no greater than that of the EEOC." One of the commenters also said that OFCCP had "significantly underestimate[d]" the administrative and storage costs associated with maintaining an additional year of records.

These comments incorrectly minimize the differences in the enforcement schemes of EEOC and OFCCP. EEOC's enforcement of Title VII and the ADA is triggered exclusively by charges, which must be filed within 180 days (or, in deferral jurisdictions, 300 days) of an alleged violation. EEOC's one-year retention period is designed to ensure that relevant records are not discarded before the expiration of the complaint filing period. In contrast, OFCCP's evaluations of contractors' compliance with VEVRAA cover a two-year period. The agency's policy and practice are to examine the contractor's personnel policies and activities for the two years preceding the initiation of the evaluation, and to assess liability for discriminatory practices dating back two years. The two-year record retention period provides greater assurance that relevant records will be available to OFCCP during its compliance evaluations.

The commenter who asserted that OFCCP has underestimated the burdens on contractors provided no data or other support for its assertion. OFCCP continues to believe, as stated in the preamble to the NPRM, that the recordkeeping provisions of this proposed rule are consistent with those contained in the Section 503 final rule and therefore do not result in recordkeeping burdens beyond those under the Section 503 rule.

One commenter raised questions regarding the record retention obligations of contractors who are at or near the thresholds that trigger the different retention periods. Specifically, the commenter asked what would happen if the employment levels or contract values change so that they exceed or fall below the 150 employees/$150,000 thresholds during the course of the contract. A change in status relating to either threshold would affect the record retention obligation. If the number of employees should fall below 150 or if the contractor no longer has a contract of at least $150,000, the contractor would not be required to retain employment records for two years. The requirement to keep records for two years would become effective again on the date that the contractor met the thresholds of 150 employees and a contract of $150,000. The record retention requirement, however, would not be applied retroactively, *i.e.*, the change from one year to two years would be phased in day-by-day. See the discussion later in this section of the preamble regarding the obligation to maintain records once a compliance evaluation has commenced.

One commenter contended that the proposed regulatory language was inadequate because it failed to answer contractors' recurrent questions regarding what records must be kept. The commenter urged that the regulations should include guidance on: (1) who is an "applicant" for the purposes of the record retention requirement; and (2) whether and to what extent the record retention requirement applied when a contractor used electronic bulletin boards and the Internet as recruitment sources.

OFCCP has issued the following guidance on the meaning of the term "applicant" under Executive Order 11246:

> The precise definition of the term "applicant" depends upon [a contractor's] recruitment and selection procedures. The concept of an applicant is that of a person who has indicated an interest in being considered for hiring, promotion, or other employment opportunities. This interest might be expressed by completing an application form, or might be expressed orally, depending upon the [contractor's] practice. Question and Answer No. 15, Adoption of Questions and Answers to Clarify and Provide a Common Interpretation of the Uniform Guidelines on Employee Selection Procedures (44 F.R. 11996, 11998 (March 2, 1979)).

The Uniform Guidelines on Employee Selection Procedures do not apply to VEVRAA. See § 60–250.21(g)(2) of this rule. Nevertheless, the statement quoted above represents a reasoned, balanced approach to the question of who is an

applicant under VEVRAA, and hereby is adopted for that purpose. Accordingly, whether an individual will be considered an applicant turns on the employee selection procedures designed and utilized by the contractor. OFCCP is studying the range of ways contractors are utilizing electronic media in their employee selection processes and intends to issue guidance responding to questions most frequently asked by contractors regarding this issue.

One commenter expressed disapproval of the requirement that contractors retain all relevant records once a compliance review, complaint investigation or enforcement action has been initiated. This commenter contended that the requirement was burdensome and inequitable, particularly because the regulations lack a limitation on the period of time in which OFCCP must complete a compliance review.

The purpose of this record retention requirement is to ensure that OFCCP can obtain all relevant documents during a compliance evaluation, complaint investigation or enforcement action. OFCCP appreciates the commenter's concerns about the timely completion of compliance evaluations but, as discussed earlier in this preamble, disagrees with the assertion that the schedule should be codified in the regulations.

One commenter, a Federal agency, said that the recordkeeping requirements increase both the number of contractors and subcontractors that must maintain records, and the recordkeeping burden on each contractor and subcontractor. As a result, the commenter recommended that the increased burdens be submitted for approval to the Office of Management and Budget under the Paperwork Reduction Act, and that a Regulatory Flexibility Act analysis be conducted to address asserted increases in the burden on small businesses.

The assertion that the rule increases the number of contractors and subcontractors that must maintain records simply is incorrect. Coverage thresholds are not being altered in any way. Moreover, as was stated in the preamble to the NPRM, the recordkeeping provisions of this rule are consistent with those already being applied under Section 503; accordingly, this rule will not impose new recordkeeping burdens. Nevertheless, we have submitted the requirements to the Office of Management and Budget as is required under the Paperwork Reduction Act.

Subsection (c) of the rule states that the recordkeeping requirements shall apply only to records made or kept on or after the date on which OFCCP publishes in the **Federal Register** notice that the Office of Management and Budget has cleared the requirements. When OFCCP receives the clearance from OMB under the Paperwork Reduction Act of 1995, which it expects to occur approximately 60 days after publication of this final rule, we will revise subsection (c) to specify the actual date on which the recordkeeping requirements take effect.

Finally, in order that the section numbers in the VEVRAA rule correspond to the numbers of counterpart regulatory provisions in the Section 503 rules, we have renumbered this section as § 60–250.80. The section number in the NPRM was § 60–250.81.

Except as mentioned above, the final rule adopts the record retention provisions proposed in the NPRM without change.

Section 60–250.81 Access to Records

Each contractor is required to permit OFCCP access during normal business hours to its places of business, books, records and accounts for the purpose of investigating compliance with VEVRAA. OFCCP proposed to add computerized records to the list of items which the contractor must make available for inspection by OFCCP.

One commenter objected to the proposal regarding access to computerized records. The commenter contended that the proposal would allow unlimited access to sensitive information in a contractors' human resource files, regardless of its relevancy to the contractor's compliance with VEVRAA. The commenter requested that OFCCP modify the proposal to clarify that contractors need only provide "reasonable" access, that data requests would be limited in scope to information necessary to address specific compliance questions raised during the evaluation, and that contractors would not be required to reprogram their computers to comply with an OFCCP request. The commenter also recommended that contractors be afforded an appeal process for use when they believe a data request is unreasonable.

OFCCP's primary interest is that it have access during an investigation to relevant data that already exists, whether in computerized or other form. Accordingly, OFCCP intends to apply the same standards for access to computerized records that it always has applied regarding paper records.

The proposed rule would not have expanded the scope of records that must be made available to OFCCP. Contractors already must give OFCCP access to their "books, records and accounts" under the previous regulations. The proposed regulation simply would have clarified that "books, records and accounts" includes those maintained in computerized form.

The concern that the provision would permit, if not encourage, unfettered access to confidential commercial proprietary data or irrelevant information, is unjustified in OFCCP's view. Under the proposed rule, as under the current regulation, access is limited to records that may be relevant to the matter under investigation and pertinent to compliance with VEVRAA. A further safeguard against broad requests for irrelevant data is the provision that information obtained under this regulation may be used only in connection with the administration of VEVRAA and in furtherance of the purposes of the Act.

Incorporating an appeal process for use by contractors when they disagree with a data request into the VEVRAA regulations at this time would result in procedural inconsistencies between VEVRAA and Section 503, which in our view would not be in the best interest of either contractors or OFCCP. Accordingly, OFCCP is considering this issue for further action in the future.

The regulation is adopted in the final rule as proposed in the NPRM, except that in order that the section numbers in the VEVRAA rule correspond to the numbers of counterpart regulatory provisions in the Section 503 rules, we have renumbered this section as § 60–250.81. The section number in the NPRM was § 60–250.82.

Section 60–250.82 Labor Organizations and Recruiting and Training Agencies

In order that the section numbers in the VEVRAA rule correspond to the numbers of counterpart regulatory provisions in the Section 503 rules, we have renumbered this section as § 60–250.82. The section number in the NPRM was § 60–250.83.

Section 60–250.83 Rulings and interpretations

In order that the section numbers in the VEVRAA rule correspond to the numbers of counterpart regulatory provisions in the Section 503 rules, we have renumbered this section as § 60–250.83. The section number in the NPRM was § 60–250.84.

Section 60–250.84 Responsibilities of Local Employment Service Offices

This section, which was numbered § 60–250.80 in the NPRM, is renumbered as § 60–250.84. Also, the title of the section, and corresponding text within the section, have been amended to reflect the term "local employment service office."

Appendix B—Sample Invitation to Self-Identify

Proposed Appendix B would have contained a sample format that contractors could use to satisfy their obligation under § 60–250.42 to invite applicants to identify themselves as being covered under the Act and wishing to benefit under the contractor's affirmative action program. Paragraph d of the proposed sample invitation would have informed the special disabled veteran applicant that self-identification would assist the contractor in making accommodations to the individual's disability, and then would have suggested that the contractor insert a brief provision summarizing the relevant portion of its affirmative action program.

A commenter suggested that it would be helpful to include in paragraph d of the Appendix a cross reference to the relevant subsection of § 60–250.44. The implication of the comment is that § 60–250.44 contains a particular provision which details what should be inserted in the invitation. That is not the case. Each contractor's approach to affirmative action for special disabled veterans, and each affirmative action program, is different; that is, each is tailored to the contractor's unique circumstances. The contractor should insert into its invitation information about its affirmative action efforts that might be of benefit to covered veterans.

As noted above, we have modified Appendix B to reflect comments relating to § 60–250.42. Specifically, consistent with the revision to the regulation that permits contractors to invite Vietnam era veterans and special disabled veterans to self identify at different stages in the employment process, we have modified the Appendix so that it can be used in a way that best fits the contractor's actual practices relating to the timing of invitations to the two categories of veterans. Further, we have modified the Appendix, in both content and format, to enhance the user's understanding of whether particular portions of the invitation apply to special disabled veterans, Vietnam era veterans, or both.

Appendix C—Review of Personnel Processes

Proposed Appendix C would have set out an example of an appropriate set of procedures that contractors could use to facilitate a review by the contractor and the Government of the contractor's implementation of its duty to evaluate its personnel processes pursuant to proposed § 60–250.44(b). (Section 60–250.44(b) requires the contractor to ensure that its personnel processes provide for careful consideration of the qualifications of applicants and employees, who are known to be special disabled veterans or veterans of the Vietnam era, for employment opportunities.)

Paragraphs 3 and 4 of proposed Appendix C would have instructed contractors to attach or include a description of accommodations considered or used for special disabled veterans to application forms or personnel records. The EEOC commented that in most instances descriptions of accommodations constitute medical information that must be maintained in separate files and treated as confidential medical records. Accordingly, the EEOC recommended that paragraphs 3 and 4 be changed to require contractors to maintain descriptions of accommodations considered or used in separate confidential medical files.

We agree with the EEOC's recommendation and believe it is consistent with § 60–250.23(d) of this rule. Accordingly, we have modified paragraphs 3 and 4 consistent with the comment. Moreover, in order to maintain consistency between the VEVRAA and Section 503 rules, in a companion document published today we also are modifying the corresponding Appendix C to 41 CFR Part 60–741.

General Comments

Several comments addressed the regulatory proposal in general, rather than focusing on any particular section of the NPRM.

One commenter questioned the continued need for VEVRAA, stating that he did not "think that any employment laws or regulations are necessary any more pertaining to the Vietnam war" and that the ADA "should be sufficient to cover disabled vets." The commenter also asserted that "[c]omplying with the paper requirements of this Act are costly, time consuming, and difficult to administer" and that laws like VEVRAA "add an artificial cost to our products which puts U.S. business at a disadvantage when competing with foreign companies."

OFCCP believes that VEVRAA serves a valuable purpose in ensuring that those who served their country are given opportunity to participate in our economic system. Moreover, we note that at least four times within the past seven years the Congress has acted to reauthorize VEVRAA or expand its reach. See, e.g., Section 505 of P.L. 104–275, Section 702 of P.L. 103–446, Section 502 of P.L. 102–568, and Section 1 of P.L. 102–16. OFCCP remains mindful, however, of concerns about compliance burdens. OFCCP seeks to minimize the burdens associated with compliance with VEVRAA by administering the statute, to the extent reasonable, in tandem with the agency's administration of Section 503.

One commenter suggested that publication of a final rule by OFCCP would somehow violate "due process" because interested parties were not given sufficient notice of assertedly "massive, substantive revisions" and a "total rewrite" of the regulations. The commenter supports its point by referring to two semi-annual regulatory agendas in which OFCCP characterized the regulatory action under VEVRAA as "nonsignificant," and by claiming that the published agendas for two meetings of a Department of Labor Advisory Committee on Veterans' Employment and Training did not note anything about the alleged "extensive rewrite of 41 CFR 60–250."

OFCCP disagrees with the commenter and believes that it has followed all applicable rulemaking procedures. As is required under the Administrative Procedure Act, OFCCP published the proposed rule for public notice and comment. Despite an extended comment period of more than three months' duration, only a small number of comments were submitted on the proposal.

Moreover, OFCCP's designation of the regulatory action as "nonsignificant" is a term of art, referring to the categories used in Executive Order 12866, rather than an indication of the importance of the rule to OFCCP or to the regulated community. Under Executive Order 12866, a "significant" regulatory action is one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the

President's priorities, or the principles set forth in Executive Order 12866. OFCCP's VEVRAA proposal clearly did not meet any of the standards of a "significant" action. Accordingly, OFCCP's designation of the action as "nonsignificant" was entirely appropriate, and was entirely consistent with other agencies' entries in the semiannual regulatory agendas.

Finally, OFCCP also does not agree with the commenter's characterization of this rule as containing extensive substantive revisions of the VEVRAA regulations. To be certain, we have changed the format of the rules. We also have codified in these regulations some concepts and procedures that heretofore existed only in judicial rulings and OFCCP practice. However, the fundamental principles—concepts such as the equal opportunity/affirmative action clause to be inserted in all nonexempt contracts, the contents of written affirmative action programs, the coverage thresholds for the AAP requirement, and the complaint and enforcement procedures—remain largely unchanged in this rule.

Regulatory Procedures

Executive Order 12866

The Department is issuing this rule in conformance with Executive Order 12866. This rule has been determined not to be significant for purposes of Executive Order 12866 and therefore need not be reviewed by OMB. This rule does not meet the criteria of Section 3(f)(1) of Executive Order 12866 and therefore the information enumerated in Section 6(a)(3)(C) of that Order is not required.

This conclusion is based on the fact that this rule does not substantively change the existing obligation of Federal contractors to apply a policy of nondiscrimination and affirmative action in their employment of qualified special disabled veterans and veterans of the Vietnam era. For instance, although the rule generally conforms the existing Section 4212 regulations' nondiscrimination provisions to the Section 503 final rule published by the OFCCP, it does not significantly alter the substance of the existing nondiscrimination provisions.

Regulatory Flexibility Act

The rule clarifies existing requirements, and does not substantively change existing obligations, for Federal contractors. Accordingly, we certify that the rule will not have a significant economic impact on a substantial number of small business entities. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act is not required.

Unfunded Mandates Reform

Executive Order 12875—This rule will not create an unfunded Federal mandate upon any State, local or tribal government.

Unfunded Mandates Reform Act of 1995—This rule will not include any Federal mandate that may result in increased expenditures by State, local, and tribal governments, in the aggregate, of $100 million or more, or increased expenditures by the private sector of $100 million or more.

Paperwork Reduction Act

The information collection requirements under the VEVRAA regulations being replaced today were covered by OMB control numbers 1215–0072 and 1215–0163. The new recordkeeping requirements contained in this final rule have been submitted to the Office of Management and Budget (OMB) for clearance under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). These new recordkeeping requirements are not effective until OFCCP displays currently valid OMB control numbers. When OMB completes its review OFCCP will publish a notice in the **Federal Register** regarding the control numbers.

In the Preamble to the NPRM OFCCP explained that the rule: would extend the current one-year record retention period to two years (for larger contractors) and make the retention obligation applicable to a broader range of records; require that, for purposes of confidentiality, medical information obtained regarding the medical condition or history of any applicant or employee be collected and maintained on separate forms and in separate medical files; and require those contractors who, for affirmative action purposes, choose to invite applicants to identify themselves as special disabled veterans or veterans of the Vietnam era to maintain a separate file on such applicants and employees.

OFCCP stated that the recordkeeping provisions of the rule were consistent with those contained in the Section 503 final rule. Therefore, OFCCP stated, although the recordkeeping provisions would be more expansive than those in the current VEVRAA regulations, they would not result in increased recordkeeping burdens.

OFCCP invited the public to comment on the accuracy of the agency's estimates regarding the burdens posed by the proposed revisions to the information collection requirements, and to suggest ways of minimizing the burden and enhancing the quality and utility of the information collected. None of the commenters responded to this request for comments. Several commenters, however, expressed general opinions about the burdens associated with the record retention requirements in their comments directed toward particular regulatory provisions. We have addressed those comments in our discussion of those regulatory provisions. After careful consideration of the comments, OFCCP continues to believe that the recordkeeping provisions in this rule will not result in increased burdens.

List of Subjects in 41 CFR Part 60–250

Administrative practice and procedure, Civil rights, Employment, Equal employment opportunity, Government contracts, Government procurement, Individuals with disabilities, Investigations, Reporting and recordkeeping requirements, Veterans.

Signed at Washington, DC, this 26th day of October, 1998.

Alexis M. Herman,

Secretary of Labor.

Bernard E. Anderson,

Assistant Secretary for Employment Standards.

Shirley J. Wilcher,

Deputy Assistant Secretary for Federal Contract Compliance.

Accordingly, with respect to the rule amending 41 CFR Chapter 60 published on December 30, 1980 (45 FR 86216), which was delayed indefinitely at 46 FR 42865, the revision of Part 60–250 is withdrawn, and in Part 60–30, all references to Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act are withdrawn; and, under authority of 38 U.S.C. 4212, Title 41 of the Code of Federal Regulations, Chapter 60 is amended by revising part 60–250 to read as follows:

PART 60–250—AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS REGARDING SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

Subpart A—Preliminary Matters, Equal Opportunity Clause

Sec.

60–250.1 Purpose, applicability and construction.
60–250.2 Definitions.
60–250.3 [Reserved]
60–250.4 Coverage and waivers.
60–250.5 Equal opportunity clause.

Subpart B—Discrimination Prohibited

60–250.20 Covered employment activities.
60–250.21 Prohibitions.
60–250.22 Direct threat defense.
60–250.23 Medical examinations and inquiries.
60–250.24 Drugs and alcohol.
60–250.25 Health insurance, life insurance and other benefit plans.

Subpart C—Affirmative Action Program

60–250.40 Applicability of the affirmative action program requirement.
60–250.41 Availability of affirmative action program.
60–250.42 Invitation to self-identify.
60–250.43 Affirmative action policy.
60–250.44 Required contents of affirmative action programs.

Subpart D—General Enforcement and Complaint Procedures

60–250.60 Compliance evaluations.
60–250.61 Complaint procedures.
60–250.62 Conciliation agreements and letters of commitment.
60–250.63 Violation of conciliation agreements and letters of commitment.
60–250.64 Show cause notices.
60–250.65 Enforcement proceedings.
60–250.66 Sanctions and penalties.
60–250.67 Notification of agencies.
60–250.68 Reinstatement of ineligible contractors.
60–250.69 Intimidation and interference.
60–250.70 Disputed matters related to compliance with the Act.

Subpart E—Ancillary Matters

60–250.80 Recordkeeping.
60–250.81 Access to records.
60–250.82 Labor organizations and recruiting and training agencies.
60–250.83 Rulings and interpretations.
60–250.84 Responsibilities of local employment service offices.
60–250.85 Effective date.

Appendix A to Part 60–250—Guidelines on a Contractor's Duty To Provide Reasonable Accommodation

Appendix B to Part 60–250—Sample Invitation To Self-Identify

Appendix C to Part 60–250—Review of Personnel Processes

Authority: 29 U.S.C 793; 38 U.S.C. 4211 and 4212; E.O. 11758 (3 CFR, 1971–1975 Comp., p. 841).

Subpart A—Preliminary Matters, Equal Opportunity Clause

§ 60–250.1 Purpose, applicability and construction.

(a) *Purpose.* The purpose of the regulations in this part is to set forth the standards for compliance with the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212, or VEVRAA), which requires Government contractors and subcontractors to take affirmative action to employ and advance in employment qualified special disabled veterans and veterans of the Vietnam era.

(b) *Applicability.* This part applies to all Government contracts and subcontracts of $10,000 or more for the purchase, sale or use of personal property or nonpersonal services (including construction): *Provided,* That subpart C of this part applies only as described in § 60–250.40(a). Compliance by the contractor with the provisions of this part will not necessarily determine its compliance with other statutes, and compliance with other statutes will not necessarily determine its compliance with this part.

(c) *Construction*—(1) *In general.* The Interpretive Guidance on Title I of the Americans with Disabilities Act (ADA) (42 U.S.C. 12101, *et seq.*) set out as an appendix to 29 CFR Part 1630 issued pursuant to Title I may be relied upon for guidance in interpreting the parallel provisions of this part.

(2) *Relationship to other laws.* This part does not invalidate or limit the remedies, rights, and procedures under any Federal law or the law of any state or political subdivision that provides greater or equal protection for the rights of special disabled veterans or veterans of the Vietnam era as compared to the protection afforded by this part. It may be a defense to a charge of violation of this part that a challenged action is required or necessitated by another Federal law or regulation, or that another Federal law or regulation prohibits an action (including the provision of a particular reasonable accommodation) that would otherwise be required by this part.

§ 60–250.2 Definitions.

(a) *Act* means the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212.

(b) *Equal opportunity clause* means the contract provisions set forth in § 60–250.5, "Equal opportunity clause."

(c) *Secretary* means the Secretary of Labor, United States Department of Labor, or his or her designee.

(d) *Deputy Assistant Secretary* means the Deputy Assistant Secretary for Federal Contract Compliance of the United States Department of Labor, or his or her designee.

(e) *Government* means the Government of the United States of America.

(f) *United States,* as used in this part, shall include the several States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Wake Island.

(g) *Recruiting and training agency* means any person who refers workers to any contractor, or who provides or supervises apprenticeship or training for employment by any contractor.

(h) *Contract* means any Government contract or subcontract.

(i) *Government contract* means any agreement or modification thereof between any contracting agency and any person for the purchase, sale or use of personal property or nonpersonal services (including construction). The term *Government contract* does not include agreements in which the parties stand in the relationship of employer and employee, and federally assisted contracts.

(1) *Modification* means any alteration in the terms and conditions of a contract, including supplemental agreements, amendments and extensions.

(2) *Contracting agency* means any department, agency, establishment or instrumentality of the United States, including any wholly owned Government corporation, which enters into contracts.

(3) *Person,* as used in this paragraph (i) and paragraph (l) of this section, means any natural person, corporation, partnership or joint venture, unincorporated association, state or local government, and any agency, instrumentality, or subdivision of such a government.

(4) *Nonpersonal services,* as used in this paragraph (i) and paragraph (l) of this section, includes, but is not limited to, the following: Utility, construction, transportation, research, insurance, and fund depository.

(5) *Construction,* as used in this paragraph (i) and paragraph (l) of this section, means the construction, rehabilitation, alteration, conversion, extension, demolition, or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other on-site functions incidental to the actual construction.

(6) *Personal property,* as used in this paragraph (i) and paragraph (l) of this section, includes supplies and contracts for the use of real property (such as lease arrangements), unless the contract for the use of real property itself constitutes real property (such as easements).

(j) *Contractor* means, unless otherwise indicated, a prime contractor or subcontractor holding a contract of $10,000 or more.

(k) *Prime contractor* means any person holding a contract of $10,000 or

more, and, for the purposes of subpart D of this part, "General Enforcement and Complaint Procedures," includes any person who has held a contract subject to the Act.

(l) *Subcontract* means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(1) For the purchase, sale or use of personal property or nonpersonal services (including construction) which, in whole or in part, is necessary to the performance of any one or more contracts; or

(2) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.

(m) *Subcontractor* means any person holding a subcontract of $10,000 or more and, for the purposes of subpart D of this part, "General Enforcement and Complaint Procedures," any person who has held a subcontract subject to the Act.

(n)(1) *Special disabled veteran* means:

(i) A veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Department of Veterans Affairs for a disability:

(A) Rated at 30 percent or more; or

(B) Rated at 10 or 20 percent in the case of a veteran who has been determined under 38 U.S.C. 3106 to have a serious employment handicap; or

(ii) A person who was discharged or released from active duty because of a service-connected disability.

(2) *Serious employment handicap*, as used in paragraph (n)(1) of this section, means a significant impairment of a veteran's ability to prepare for, obtain, or retain employment consistent with such veteran's abilities, aptitudes and interests.

(o) *Qualified special disabled veteran* means a special disabled veteran who satisfies the requisite skill, experience, education and other job-related requirements of the employment position such veteran holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

(p) *Veteran of the Vietnam era* means a person who:

(1) Served on active duty for a period of more than 180 days, and was discharged or released therefrom with other than a dishonorable discharge, if any part of such active duty occurred:

(i) In the Republic of Vietnam between February 28, 1961, and May 7, 1975; or

(ii) Between August 5, 1964, and May 7, 1975, in all other cases; or

(2) Was discharged or released from active duty for a service-connected disability if any part of such active duty was performed:

(i) In the Republic of Vietnam between February 28, 1961, and May 7, 1975; or

(ii) Between August 5, 1964, and May 7, 1975, in all other cases.

(q) *Essential functions*—(1) *In general.* The term *essential functions* means fundamental job duties of the employment position the special disabled veteran holds or desires. The term *essential functions* does not include the marginal functions of the position.

(2) A job function may be considered essential for any of several reasons, including but not limited to the following:

(i) The function may be essential because the reason the position exists is to perform that function;

(ii) The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed; and/or

(iii) The function may be highly specialized so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

(3) Evidence of whether a particular function is essential includes, but is not limited to:

(i) The contractor's judgment as to which functions are essential;

(ii) Written job descriptions prepared before advertising or interviewing applicants for the job;

(iii) The amount of time spent on the job performing the function;

(iv) The consequences of not requiring the incumbent to perform the function;

(v) The terms of a collective bargaining agreement;

(vi) The work experience of past incumbents in the job; and/or

(vii) The current work experience of incumbents in similar jobs.

(r) *Reasonable accommodation*—(1) The term *reasonable accommodation* means:

(i) Modifications or adjustments to a job application process that enable a qualified applicant who is a special disabled veteran to be considered for the position such applicant desires; [1] or

(ii) Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified special disabled veteran to perform the essential functions of that position; or

(iii) Modifications or adjustments that enable the contractor's employee who is a special disabled veteran to enjoy equal benefits and privileges of employment as are enjoyed by the contractor's other similarly situated employees who are not special disabled veterans.

(2) *Reasonable accommodation* may include but is not limited to:

(i) Making existing facilities used by employees readily accessible to and usable by special disabled veterans; and

(ii) Job restructuring; part-time or modified work schedules; reassignment to a vacant position; acquisition or modifications of equipment or devices; appropriate adjustment or modifications of examinations, training materials, or policies; the provision of qualified readers or interpreters; and other similar accommodations for special disabled veterans.

(3) To determine the appropriate reasonable accommodation it may be necessary for the contractor to initiate an informal, interactive process with the qualified special disabled veteran in need of the accommodation.[2] This process should identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations. (Appendix A of this part provides guidance on a contractor's duty to provide reasonable accommodation.)

(s) *Undue hardship*—(1) *In general. Undue hardship* means, with respect to the provision of an accommodation, significant difficulty or expense incurred by the contractor, when considered in light of the factors set forth in paragraph (s)(2) of this section.

(2) *Factors to be considered.* In determining whether an accommodation would impose an undue hardship on the contractor, factors to be considered include:

(i) The nature and net cost of the accommodation needed, taking into consideration the availability of tax

[1] A contractor's duty to provide a reasonable accommodation with respect to applicants who are special disabled veterans is not limited to those who ultimately demonstrate that they are qualified to perform the job in issue. Special disabled veteran applicants must be provided a reasonable accommodation with respect to the application process if they are qualified with respect to that process (e.g., if they present themselves at the correct location and time to fill out an application).

[2] Contractors must engage in such an interactive process with a special disabled veteran, whether or not a reasonable accommodation ultimately is identified that will make the person a qualified individual. Contractors must engage in the interactive process because, until they have done so, they may be unable to determine whether a reasonable accommodation exists that will result in the person being qualified.

credits and deductions, and/or outside funding;

(ii) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, and the effect on expenses and resources;

(iii) The overall financial resources of the contractor, the overall size of the business of the contractor with respect to the number of its employees, and the number, type and location of its facilities;

(iv) The type of operation or operations of the contractor, including the composition, structure and functions of the work force of such contractor, and the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the contractor; and

(v) The impact of the accommodation upon the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business.

(t) *Qualification standards* means the personal and professional attributes including the skill, experience, education, physical, medical, safety and other requirements established by the contractor as requirements which an individual must meet in order to be eligible for the position held or desired.

(u) *Direct threat* means a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation. The determination that a special disabled veteran poses a *direct threat* shall be based on an individualized assessment of the individual's present ability to perform safely the essential functions of the job. This assessment shall be based on a reasonable medical judgment that relies on the most current medical knowledge and/or on the best available objective evidence. In determining whether an individual would pose a direct threat, the factors to be considered include:

(1) The duration of the risk;

(2) The nature and severity of the potential harm;

(3) The likelihood that the potential harm will occur; and

(4) The imminence of the potential harm.

§ 60–250.3 [Reserved]

§ 60–250.4 Coverage and waivers.

(a) *General*—(1) *Contracts and subcontracts of $10,000 or more.* Contracts and subcontracts of $10,000 or more, are covered by this part. No contracting agency or contractor shall procure supplies or services in less than usual quantities to avoid the applicability of the equal opportunity clause.

(2) *Contracts for indefinite quantities.* With respect to indefinite delivery-type contracts (including, but not limited to, open end contracts, requirement-type contracts, Federal Supply Schedule contracts, "call-type" contracts, and purchase notice agreements), the equal opportunity clause shall be included unless the contracting agency has reason to believe that the amount to be ordered in any year under such contract will be less than $10,000. The applicability of the equal opportunity clause shall be determined at the time of award for the first year, and annually thereafter for succeeding years, if any. Notwithstanding the above, the equal opportunity clause shall be applied to such contract whenever the amount of a single order is $10,000 or more. Once the equal opportunity clause is determined to be applicable, the contract shall continue to be subject to such clause for its duration, regardless of the amounts ordered, or reasonably expected to be ordered in any year.

(3) *Employment activities within the United States.* This part applies only to employment activities within the United States and not to employment activities abroad. The term "employment activities within the United States" includes actual employment within the United States, and decisions of the contractor made within the United States pertaining to the contractor's applicants and employees who are within the United States, regarding employment opportunities abroad (such as recruiting and hiring within the United States for employment abroad, or transfer of persons employed in the United States to contractor establishments abroad).

(4) *Contracts with state or local governments.* The requirements of the equal opportunity clause in any contract or subcontract with a state or local government (or any agency, instrumentality or subdivision thereof) shall not be applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract or subcontract.

(b) *Waivers*—(1) *Specific contracts and classes of contracts.* The Deputy Assistant Secretary may waive the application to any contract of the equal opportunity clause in whole or part when he or she deems that special circumstances in the national interest so require. The Deputy Assistant Secretary may also grant such waivers to groups or categories of contracts: where it is in the national interest; where it is found impracticable to act upon each request individually; and where such waiver will substantially contribute to convenience in administration of the Act. When a waiver has been granted for any class of contracts, the Deputy Assistant Secretary may withdraw the waiver for a specific contract or group of contracts to be awarded, when in his or her judgment such action is necessary or appropriate to achieve the purposes of the Act. The withdrawal shall not apply to contracts awarded prior to the withdrawal, except that in procurements entered into by formal advertising, or the various forms of restricted formal advertising, such withdrawal shall not apply unless the withdrawal is made more than 10 calendar days before the date set for the opening of the bids.

(2) *National security.* Any requirement set forth in the regulations of this part shall not apply to any contract whenever the head of the contracting agency determines that such contract is essential to the national security and that its award without complying with such requirements is necessary to the national security. Upon making such a determination, the head of the contracting agency will notify the Deputy Assistant Secretary in writing within 30 days.

(3) *Facilities not connected with contracts.* The Deputy Assistant Secretary may waive the requirements of the equal opportunity clause with respect to any of a contractor's facilities which he or she finds to be in all respects separate and distinct from activities of the contractor related to the performance of the contract, provided that he or she also finds that such a waiver will not interfere with or impede the effectuation of the Act. Such waivers shall be considered only upon the request of the contractor.

§ 60–250.5 Equal opportunity clause.

(a) *Government contracts.* Each contracting agency and each contractor shall include the following equal opportunity clause in each of its covered Government contracts or subcontracts (and modifications, renewals, or extensions thereof if not included in the original contract):

Equal Opportunity for Special Disabled Veterans and Veterans of the Vietnam Era

1. The contractor will not discriminate against any employee or applicant for employment because he or she is a special disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take

affirmative action to employ, advance in employment and otherwise treat qualified individuals without discrimination based on their status as a special disabled veteran or veteran of the Vietnam era in all employment practices, including the following:

i. recruitment, advertising, and job application procedures;

ii. hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;

iii. rates of pay or any other form of compensation and changes in compensation;

iv. job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

v. leaves of absence, sick leave, or any other leave;

vi. fringe benefits available by virtue of employment, whether or not administered by the contractor;

vii. selection and financial support for training, including apprenticeship, and on-the-job training under 38 U.S.C 3687, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

viii. activities sponsored by the contractor including social or recreational programs; and

ix. any other term, condition, or privilege of employment.

2. The contractor agrees to immediately list all employment openings which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the contractor other than the one wherein the contract is being performed, but excluding those of independently operated corporate affiliates, at an appropriate local employment service office of the state employment security agency wherein the opening occurs. Listing employment openings with the U.S. Department of Labor's America's Job Bank shall satisfy the requirement to list jobs with the local employment service office.

3. Listing of employment openings with the local employment service office pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a *bona fide* job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicants or from any particular group of job applicants, and nothing herein is intended to relieve the contractor from any requirements in Executive orders or regulations regarding nondiscrimination in employment.

4. Whenever the contractor becomes contractually bound to the listing provisions in paragraphs 2 and 3 of this clause, it shall advise the state employment security agency in each state where it has establishments of the name and location of each hiring location in the state: *Provided*, That this requirement shall not apply to state and local governmental contractors. As long as the contractor is contractually bound to these provisions and has so advised the state agency, there is no need to advise the state agency of subsequent contracts. The contractor may advise the state agency when it is no longer bound by this contract clause.

5. The provisions of paragraphs 2 and 3 of this clause do not apply to the listing of employment openings which occur and are filled outside of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

6. As used in this clause: i. *All employment openings* includes all positions except executive and top management, those positions that will be filled from within the contractor's organization, and positions lasting three days or less. This term includes full-time employment, temporary employment of more than three days' duration, and part-time employment.

ii. *Executive and top management* means any employee: (a) Whose primary duty consists of the management of the enterprise in which he or she is employed or of a customarily recognized department or subdivision thereof; and (b) who customarily and regularly directs the work of two or more other employees therein; and (c) who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and (d) who customarily and regularly exercises discretionary powers; and (e) who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his or her hours of work in the work week to activities which are not directly and closely related to the performance of the work described in (a) through (d) of this paragraph 6. ii.; *Provided*, that (e) of this paragraph 6.ii. shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment, or who owns at least a 20-percent interest in the enterprise in which he or she is employed.

iii. *Positions that will be filled from within the contractor's organization* means employment openings for which no consideration will be given to persons outside the contractor's organization (including any affiliates, subsidiaries, and parent companies) and includes any openings which the contractor proposes to fill from regularly established "recall" lists. The exception does not apply to a particular opening once an employer decides to consider applicants outside of his or her own organization.

7. The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

8. In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

9. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants who are special disabled veterans or veterans of the Vietnam era. The contractor must ensure that applicants or employees who are special disabled veterans are informed of the contents of the notice (e.g., the contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair).

10. The contractor will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, and is committed to take affirmative action to employ and advance in employment qualified special disabled veterans and veterans of the Vietnam era.

11. The contractor will include the provisions of this clause in every subcontract or purchase order of $10,000 or more, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Deputy Assistant Secretary for Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

[End of Clause]

(b) *Subcontracts.* Each contractor shall include the equal opportunity clause in each of its subcontracts subject to this part.

(c) *Adaption of language.* Such necessary changes in language may be made to the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings.

(d) *Inclusion of the equal opportunity clause in the contract.* It is not necessary that the equal opportunity clause be quoted verbatim in the contract. The clause may be made a part of the contract by citation to 41 CFR 60–250.5(a).

(e) *Incorporation by operation of the Act.* By operation of the Act, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the Act and the regulations in this part to include such a clause, whether or not it is physically incorporated in such contract and whether or not there is a written contract between the agency and the contractor.

(f) *Duties of contracting agencies.* Each contracting agency shall cooperate with the Deputy Assistant Secretary and the Secretary in the performance of their responsibilities under the Act. Such cooperation shall include insuring that the equal opportunity clause is included in all covered Government contracts and that contractors are fully informed of their obligations under the Act and this part, providing the Deputy Assistant Secretary with any information which comes to the agency's attention that a contractor is not in compliance with the Act or this part, responding to requests for information from the Deputy Assistant Secretary, and taking such actions for noncompliance as are set forth in § 60–250.66 as may be ordered by the Secretary or the Deputy Assistant Secretary.

Subpart B—Discrimination Prohibited

§ 60–250.20 Covered employment activities.

The prohibition against discrimination in this part applies to the following employment activities:

(a) Recruitment, advertising, and job application procedures;

(b) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(c) Rates of pay or any other form of compensation and changes in compensation;

(d) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(e) Leaves of absence, sick leave, or any other leave;

(f) Fringe benefits available by virtue of employment, whether or not administered by the contractor;

(g) Selection and financial support for training, including, apprenticeships, professional meetings, conferences and other related activities, and selection for leaves of absence to pursue training;

(h) Activities sponsored by the contractor including social and recreational programs; and

(i) Any other term, condition, or privilege of employment.

§ 60–250.21 Prohibitions.

The term *discrimination* includes, but is not limited to, the acts described in this section and § 60–250.23.

(a) *Disparate treatment.* It is unlawful for the contractor to deny an employment opportunity or benefit or otherwise to discriminate against a qualified individual because of that individual's status as a special disabled veteran or veteran of the Vietnam era.

(b) *Limiting, segregating and classifying.* Unless otherwise permitted by this part, it is unlawful for the contractor to limit, segregate, or classify a job applicant or employee in a way that adversely affects his or her employment opportunities or status on the basis of that individual's status as a special disabled veteran or veteran of the Vietnam era. For example, the contractor may not segregate qualified special disabled veterans or veterans of the Vietnam era into separate work areas or into separate lines of advancement.

(c) *Contractual or other arrangements.*—(1) *In general.* It is unlawful for the contractor to participate in a contractual or other arrangement or relationship that has the effect of subjecting the contractor's own qualified applicant or employee who is a special disabled veteran or veteran of the Vietnam era to the discrimination prohibited by this part.

(2) *Contractual or other arrangement defined.* The phrase "contractual or other arrangement or relationship" includes, but is not limited to, a relationship with: an employment or referral agency; a labor organization, including a collective bargaining agreement; an organization providing fringe benefits to an employee of the contractor; or an organization providing training and apprenticeship programs.

(3) *Application.* This paragraph (c) applies to the contractor, with respect to its own applicants or employees, whether the contractor offered the contract or initiated the relationship, or whether the contractor accepted the contract or acceded to the relationship. The contractor is not liable for the actions of the other party or parties to the contract which only affect that other party's employees or applicants.

(d) *Standards, criteria or methods of administration.* It is unlawful for the contractor to use standards, criteria, or methods of administration, that are not job-related and consistent with business necessity, and that:

(1) Have the effect of discriminating on the basis of status as a special disabled veteran or veteran of the Vietnam era; or

(2) Perpetuate the discrimination of others who are subject to common administrative control.

(e) *Relationship or association with a special disabled veteran or a veteran of the Vietnam era.* It is unlawful for the contractor to exclude or deny equal jobs or benefits to, or otherwise discriminate against, a qualified individual because of the known special disabled veteran or Vietnam era veteran status of an individual with whom the qualified individual is known to have a family, business, social or other relationship or association.

(f) *Not making reasonable accommodation.* (1) It is unlawful for the contractor to fail to make reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee who is a special disabled veteran, unless such contractor can demonstrate that the accommodation would impose an undue hardship on the operation of its business.

(2) It is unlawful for the contractor to deny employment opportunities to an otherwise qualified job applicant or employee who is a special disabled veteran based on the need of such contractor to make reasonable accommodation to such an individual's physical or mental impairments.

(3) A qualified special disabled veteran is not required to accept an accommodation, aid, service, opportunity or benefit which such qualified individual chooses not to accept. However, if such individual rejects a reasonable accommodation, aid, service, opportunity or benefit that is necessary to enable the individual to perform the essential functions of the position held or desired, and cannot, as a result of that rejection, perform the essential functions of the position, the individual will not be considered a qualified special disabled veteran.

(g) *Qualification standards, tests and other selection criteria.*—(1) *In general.* It is unlawful for the contractor to use qualification standards, employment tests or other selection criteria that screen out or tend to screen out individuals on the basis of their status as special disabled veterans or veterans of the Vietnam era, unless the standard, test or other selection criterion, as used by the contractor, is shown to be job-related for the position in question and is consistent with business necessity. Selection criteria that concern an essential function may not be used to exclude a special disabled veteran if that individual could satisfy the criteria with provision of a reasonable accommodation. Selection criteria that exclude or tend to exclude individuals on the basis of their status as special disabled veterans or veterans of the Vietnam era but concern only marginal functions of the job would not be consistent with business necessity. The contractor may not refuse to hire an applicant who is a special disabled veteran because the applicant's disability prevents him or her from performing marginal functions. When considering a special disabled veteran or a veteran of the Vietnam era for an employment opportunity, the contractor

may not rely on portions of such veteran's military record, including his or her discharge papers, which are not relevant to the qualification requirements of the opportunity in issue.

(2) The Uniform Guidelines on Employee Selection Procedures, 41 CFR part 60–3, do not apply to 38 U.S.C. 4212 and are similarly inapplicable to this part.

(h) *Administration of tests.* It is unlawful for the contractor to fail to select and administer tests concerning employment in the most effective manner to ensure that, when a test is administered to a job applicant or employee who is a special disabled veteran with a disability that impairs sensory, manual, or speaking skills, the test results accurately reflect the skills, aptitude, or whatever other factor of the applicant or employee that the test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant, except where such skills are the factors that the test purports to measure.

(i) *Compensation.* In offering employment or promotions to special disabled veterans or veterans of the Vietnam era, it is unlawful for the contractor to reduce the amount of compensation offered because of any income based upon a disability-related and/or military-service-related pension or other disability-related and/or military-service-related benefit the applicant or employee receives from another source.

§ 60–250.22 Direct threat defense.

The contractor may use as a qualification standard the requirement that an individual be able to perform the essential functions of the position held or desired without posing a direct threat to the health or safety of the individual or others in the workplace. (See § 60–250.2(u) defining *direct threat.*)

§ 60–250.23 Medical examinations and inquiries.

(a) *Prohibited medical examinations or inquiries.* Except as stated in paragraphs (b) and (c) of this section, it is unlawful for the contractor to require a medical examination of an applicant or employee or to make inquiries as to whether an applicant or employee is a special disabled veteran or as to the nature or severity of such a veteran's disability.

(b) *Permitted medical examinations and inquiries*—(1) *Acceptable pre-employment inquiry.* The contractor may make pre-employment inquiries into the ability of an applicant to perform job-related functions, and/or may ask an applicant to describe or to demonstrate how, with or without reasonable accommodation, the applicant will be able to perform job-related functions.

(2) *Employment entrance examination.* The contractor may require a medical examination (and/or inquiry) after making an offer of employment to a job applicant and before the applicant begins his or her employment duties, and may condition an offer of employment on the results of such examination (and/or inquiry), if all entering employees in the same job category are subjected to such an examination (and/or inquiry) regardless of their status as a special disabled veteran.

(3) *Examination of employees.* The contractor may require a medical examination (and/or inquiry) of an employee that is job-related and consistent with business necessity. The contractor may make inquiries into the ability of an employee to perform job-related functions.

(4) *Other acceptable examinations and inquiries.* The contractor may conduct voluntary medical examinations and activities, including voluntary medical histories, which are part of an employee health program available to employees at the work site.

(5) Medical examinations conducted in accordance with paragraphs (b)(2) and (b)(4) of this section do not have to be job-related and consistent with business necessity. However, if certain criteria are used to screen out an applicant or applicants or an employee or employees who are special disabled veterans as a result of such examinations or inquiries, the contractor must demonstrate that the exclusionary criteria are job-related and consistent with business necessity, and that performance of the essential job functions cannot be accomplished with reasonable accommodations as required in this part.

(c) *Invitation to self-identify.* The contractor shall invite applicants to self-identify as being covered by the Act, as specified in § 60–250.42.

(d) *Confidentiality and use of medical information.* (1) Information obtained under this section regarding the medical condition or history of any applicant or employee shall be collected and maintained on separate forms and in separate medical files and treated as a confidential medical record, except that:

(i) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the applicant or employee and necessary accommodations;

(ii) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(iii) Government officials engaged in enforcing the laws administered by OFCCP, including this part, or enforcing the Americans with Disabilities Act, shall be provided relevant information on request.

(2) Information obtained under this section regarding the medical condition or history of any applicant or employee shall not be used for any purpose inconsistent with this part.

§ 60–250.24 Drugs and alcohol.

(a) *Specific activities permitted.* The contractor:

(1) May prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees;

(2) May require that employees not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;

(3) May require that all employees behave in conformance with the requirements established under the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 *et seq.*);

(4) May hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior to which the contractor holds its other employees, even if any unsatisfactory performance or behavior is related to the employee's drug use or alcoholism;

(5) May require that its employees employed in an industry subject to such regulations comply with the standards established in the regulations (if any) of the Departments of Defense and Transportation, and of the Nuclear Regulatory Commission, and other Federal agencies regarding alcohol and the illegal use of drugs; and

(6) May require that employees employed in sensitive positions comply with the regulations (if any) of the Departments of Defense and Transportation, and of the Nuclear Regulatory Commission, and other Federal agencies that apply to employment in sensitive positions subject to such regulations.

(b) *Drug testing*—(1) *General policy.* For purposes of this part, a test to determine the illegal use of drugs is not considered a medical examination. Thus, the administration of such drug tests by the contractor to its job applicants or employees is not a violation of § 60–250.23. Nothing in this part shall be construed to encourage, prohibit, or authorize the contractor to conduct drug tests of job applicants or

employees to determine the illegal use of drugs or to make employment decisions based on such test results.

(2) *Transportation employees.* Nothing in this part shall be construed to encourage, prohibit, or authorize the otherwise lawful exercise by contractors subject to the jurisdiction of the Department of Transportation of authority to test employees in, and applicants for, positions involving safety-sensitive duties for the illegal use of drugs or for on-duty impairment by alcohol; and remove from safety-sensitive positions persons who test positive for illegal use of drugs or on-duty impairment by alcohol pursuant to paragraph (b)(1) of this section.

(3) Any information regarding the medical condition or history of any employee or applicant obtained from a test to determine the illegal use of drugs, except information regarding the illegal use of drugs, is subject to the requirements of §§ 60–250.23(b)(5) and (c).

§ 60–250.25 Health insurance, life insurance and other benefit plans.

(a) An insurer, hospital, or medical service company, health maintenance organization, or any agent or entity that administers benefit plans, or similar organizations may underwrite risks, classify risks, or administer such risks that are based on or not inconsistent with state law.

(b) The contractor may establish, sponsor, observe or administer the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with state law.

(c) The contractor may establish, sponsor, observe, or administer the terms of a bona fide benefit plan that is not subject to state laws that regulate insurance.

(d) The contractor may not deny a qualified special disabled veteran equal access to insurance or subject a qualified special disabled veteran to different terms or conditions of insurance based on disability alone, if the disability does not pose increased risks.

(e) The activities described in paragraphs (a), (b) and (c) of this section are permitted unless these activities are used as a subterfuge to evade the purposes of this part.

Subpart C—Affirmative Action Program

§ 60–250.40 Applicability of the affirmative action program requirement.

(a) The requirements of this subpart apply to every Government contractor that has 50 or more employees and a contract of $50,000 or more.

(b) Contractors described in paragraph (a) of this section shall, within 120 days of the commencement of a contract, prepare and maintain an affirmative action program at each establishment. The affirmative action program shall set forth the contractor's policies and procedures in accordance with this part. This program may be integrated into or kept separate from other affirmative action programs.

(c) The affirmative action program shall be reviewed and updated annually.

(d) The contractor shall submit the affirmative action program within 30 days of a request from OFCCP, unless the request provides for a different time. The contractor also shall make the affirmative action program promptly available on-site upon OFCCP's request.

§ 60–250.41 Availability of affirmative action program.

The full affirmative action program shall be available to any employee or applicant for employment for inspection upon request. The location and hours during which the program may be obtained shall be posted at each establishment.

§ 60–250.42 Invitation to self-identify.

(a) *Special disabled veterans.* The contractor shall invite applicants to inform the contractor whether the applicant believes that he or she is a special disabled veteran who may be covered by the Act and wishes to benefit under the affirmative action program. Such invitation shall be extended after making an offer of employment to a job applicant and before the applicant begins his or her employment duties, except that the contractor may invite special disabled veterans to self-identify prior to making a job offer when:

(1) The invitation is made when the contractor actually is undertaking affirmative action for special disabled veterans at the pre-offer stage; or

(2) The invitation is made pursuant to a Federal, state or local law requiring affirmative action for special disabled veterans.

(b) *Veterans of the Vietnam era.* The contractor shall invite applicants to inform the contractor whether the applicant believes that he or she is a veteran of the Vietnam era who may be covered by the Act and wishes to benefit under the affirmative action program. Such invitation may be made at any time before the applicant begins his or her employment duties.

(c) The invitations referenced in paragraphs (a) and (b) of this section shall state that a request to benefit under the affirmative action program may be made immediately and/or at any time in the future. The invitations also shall summarize the relevant portions of the Act and the contractor's affirmative action program. Furthermore, the invitations shall state that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide it will not subject the applicant to any adverse treatment, and that it will not be used in a manner inconsistent with the Act. (An acceptable form for such an invitation is set forth in Appendix B of this part. Because a contractor usually may not seek advice from a special disabled veteran regarding placement and accommodation until after a job offer has been extended, the invitation set forth in Appendix B of this part contains instructions regarding modifications to be made if it is used at the pre-offer stage.)

(d) If an applicant so identifies himself or herself as a special disabled veteran, the contractor should also seek the advice of the applicant regarding proper placement and appropriate accommodation, after a job offer has been extended. The contractor also may make such inquiries to the extent they are consistent with the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. 12101, (e.g., in the context of asking applicants to describe or demonstrate how they would perform the job). The contractor shall maintain a separate file in accordance with § 60-250.23(d) on persons who have self-identified as special disabled veterans.

(e) The contractor shall keep all information on self identification confidential. The contractor shall provide the information to OFCCP upon request. This information may be used only in accordance with this part.

(f) Nothing in this section shall relieve the contractor of its obligation to take affirmative action with respect to those applicants or employees who are known to the contractor to be special disabled veterans or veterans of the Vietnam era.

(g) Nothing in this section shall relieve the contractor from liability for discrimination under the Act.

§ 60–250.43 Affirmative action policy.

Under the affirmative action obligations imposed by the Act contractors shall not discriminate because of status as a special disabled veteran or veteran of the Vietnam era and shall take affirmative action to employ and advance in employment qualified special disabled veterans and veterans of the Vietnam era at all levels of employment, including the executive

level. Such action shall apply to all employment activities set forth in § 60–250.20.

§ 60–250.44 Required contents of affirmative action programs.

Acceptable affirmative action programs shall contain, but not necessarily be limited to, the following ingredients:

(a) *Policy statement.* The contractor shall include an equal opportunity policy statement in its affirmative action program, and shall post the policy statement on company bulletin boards. The contractor must ensure that applicants and employees who are special disabled veterans are informed of the contents of the policy statement (for example, the contractor may have the statement read to a visually disabled individual, or may lower the posted notice so that it may be read by a person in a wheelchair). The policy statement should indicate the chief executive officer's attitude on the subject matter, provide for an audit and reporting system (see paragraph (h) of this section) and assign overall responsibility for the implementation of affirmative action activities required under this part (see paragraph (i) of this section). Additionally, the policy should state, among other things, that the contractor will: recruit, hire, train and promote persons in all job titles, and ensure that all other personnel actions are administered, without regard to special disabled veteran or Vietnam era veteran status; and ensure that all employment decisions are based only on valid job requirements. The policy shall state that employees and applicants shall not be subjected to harassment, intimidation, threats, coercion or discrimination because they have engaged in or may engage in any of the following activities:

(1) Filing a complaint;

(2) Assisting or participating in an investigation, compliance evaluation, hearing, or any other activity related to the administration of the affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA) or any other Federal, state or local law requiring equal opportunity for special disabled veterans or veterans of the Vietnam era;

(3) Opposing any act or practice made unlawful by VEVRAA or its implementing regulations in this part or any other Federal, state or local law requiring equal opportunity for special disabled veterans or veterans of the Vietnam era; or

(4) Exercising any other right protected by VEVRAA or its implementing regulations in this part.

(b) *Review of personnel processes.* The contractor shall ensure that its personnel processes provide for careful, thorough, and systematic consideration of the job qualifications of applicants and employees who are known special disabled veterans or veterans of the Vietnam era for job vacancies filled either by hiring or promotion, and for all training opportunities offered or available. The contractor shall ensure that when a special disabled veteran or a veteran of the Vietnam era is considered for employment opportunities, the contractor relies only on that portion of the individual's military record, including his or her discharge papers, that is relevant to the requirements of the opportunity in issue. The contractor shall ensure that its personnel processes do not stereotype special disabled veterans and veterans of the Vietnam era in a manner which limits their access to all jobs for which they are qualified. The contractor shall periodically review such processes and make any necessary modifications to ensure that these obligations are carried out. A description of the review and any necessary modifications to personnel processes or development of new processes shall be included in any affirmative action programs required under this part. The contractor must design procedures that facilitate a review of the implementation of this requirement by the contractor and the Government. (Appendix C of this part is an example of an appropriate set of procedures. The procedures in Appendix C of this part are not required and contractors may develop other procedures appropriate to their circumstances.)

(c) *Physical and mental qualifications.* (1) The contractor shall provide in its affirmative action program, and shall adhere to, a schedule for the periodic review of all physical and mental job qualification standards to ensure that, to the extent qualification standards tend to screen out qualified special disabled veterans, they are job-related for the position in question and are consistent with business necessity.

(2) Whenever the contractor applies physical or mental qualification standards in the selection of applicants or employees for employment or other change in employment status such as promotion, demotion or training, to the extent that qualification standards tend to screen out qualified special disabled veterans, the standards shall be related to the specific job or jobs for which the individual is being considered and consistent with business necessity. The contractor shall have the burden to demonstrate that it has complied with the requirements of this paragraph (c)(2).

(3) The contractor may use as a defense to an allegation of a violation of paragraph (c)(2) of this section that an individual poses a direct threat to the health or safety of the individual or others in the workplace. (See § 60–250.2(u) defining *direct threat.*)

(d) *Reasonable accommodation to physical ond mental limitotions.* As is provided in § 60–250.21(f), as a matter of nondiscrimination the contractor must make reasonable accommodation to the known physical or mental limitations of an otherwise qualified special disabled veteran unless it can demonstrate that the accommodation would impose an undue hardship on the operation of its business. As a matter of affirmative action, if an employee who is known to be a special disabled veteran is having significant difficulty performing his or her job and it is reasonable to conclude that the performance problem may be related to the known disability, the contractor shall confidentially notify the employee of the performance problem and inquire whether the problem is related to the employee's disability; if the employee responds affirmatively, the contractor shall confidentially inquire whether the employee is in need of a reasonable accommodation.

(e) *Harassment.* The contractor must develop and implement procedures to ensure that its employees are not harassed because of their status as a special disabled veteran or veteran of Vietnam era.

(f) *External dissemination of policy, outreach and positive recruitment.* The contractor shall undertake appropriate outreach and positive recruitment activities such as those listed in paragraphs (f)(1) through (f)(8) of this section that are reasonably designed to effectively recruit qualified special disabled veterans and veterans of the Vietnam era. It is not contemplated that the contractor will necessarily undertake all the activities listed in paragraphs (f)(1) through (f)(8) of this section or that its activities will be limited to those listed. The scope of the contractor's efforts shall depend upon all the circumstances, including the contractor's size and resources and the extent to which existing employment practices are adequate.

(1) The contractor should enlist the assistance and support of the following persons and organizations in recruiting, and developing on-the-job training opportunities for, qualified special disabled veterans and veterans of the Vietnam era, to fulfill its commitment to provide meaningful employment opportunities to such veterans:

(i) The Local Veterans' Employment Representative or his or her designee in the local employment service office nearest the contractor's establishment;

(ii) The Department of Veterans Affairs Regional Office nearest the contractor's establishment;

(iii) The veterans' counselors and coordinators ("Vet-Reps") on college campuses;

(iv) The service officers of the national veterans' groups active in the area of the contractor's establishment; and

(v) Local veterans' groups and veterans' service centers near the contractor's establishment.

(2) Formal briefing sessions should be held, preferably on company premises, with representatives from recruiting sources. Plant tours, clear and concise explanations of current and future job openings, position descriptions, worker specifications, explanations of the company's selection process, and recruiting literature should be an integral part of the briefing. Formal arrangements should be made for referral of applicants, follow up with sources, and feedback on disposition of applicants.

(3) The contractor's recruitment efforts at all educational institutions should incorporate special efforts to reach students who are special disabled veterans or veterans of the Vietnam era. An effort should be made to participate in work-study programs with Department of Veterans Affairs rehabilitation facilities which specialize in training or educating disabled veterans.

(4) The contractor should establish meaningful contacts with appropriate veterans' service organizations which serve special disabled veterans or veterans of the Vietnam era for such purposes as advice, technical assistance, and referral of potential employees. Technical assistance from the resources described in this paragraph may consist of advice on proper placement, recruitment, training and accommodations contractors may undertake, but no such resource providing technical assistance shall have authority to approve or disapprove the acceptability of affirmative action programs.

(5) Special disabled veterans and veterans of the Vietnam era should be made available for participation in career days, youth motivation programs, and related activities in their communities.

(6) The contractor should send written notification of company policy to all subcontractors, vendors and suppliers, requesting appropriate action on their part.

(7) The contractor should take positive steps to attract qualified special disabled veterans and veterans of the Vietnam era not currently in the work force who have requisite skills and can be recruited through affirmative action measures. These persons may be located through the local chapters of organizations of and for Vietnam era veterans and veterans with disabilities.

(8) The contractor, in making hiring decisions, should consider applicants who are known special disabled veterans or veterans of the Vietnam era for all available positions for which they may be qualified when the position(s) applied for is unavailable.

(g) *Internal dissemination of policy.* (1) A strong outreach program will be ineffective without adequate internal support from supervisory and management personnel and other employees. In order to assure greater employee cooperation and participation in the contractor's efforts, the contractor shall develop internal procedures such as those listed in paragraph (g)(2) of this section for communication of its obligation to engage in affirmative action efforts to employ and advance in employment qualified special disabled veterans and veterans of the Vietnam era. It is not contemplated that the contractor will necessarily undertake all the activities listed in paragraph (g)(2) of this section or that its activities will be limited to those listed. These procedures shall be designed to foster understanding, acceptance and support among the contractor's executive, management, supervisory and other employees and to encourage such persons to take the necessary actions to aid the contractor in meeting this obligation. The scope of the contractor's efforts shall depend upon all the circumstances, including the contractor's size and resources and the extent to which existing practices are adequate.

(2) The contractor should implement and disseminate this policy internally as follows:

(i) Include it in the contractor's policy manual;

(ii) Inform all employees and prospective employees of its commitment to engage in affirmative action to increase employment opportunities for qualified special disabled veterans and veterans of the Vietnam era. The contractor should periodically schedule special meetings with all employees to discuss policy and explain individual employee responsibilities;

(iii) Publicize it in the company newspaper, magazine, annual report and other media;

(iv) Conduct special meetings with executive, management, and supervisory personnel to explain the intent of the policy and individual responsibility for effective implementation, making clear the chief executive officer's attitude;

(v) Discuss the policy thoroughly in both employee orientation and management training programs;

(vi) Meet with union officials and/or employee representatives to inform them of the contractor's policy, and request their cooperation;

(vii) Include articles on accomplishments of special disabled veterans and veterans of the Vietnam era in company publications; and

(viii) When employees are featured in employee handbooks or similar publications for employees, include special disabled veterans.

(h) *Audit and reporting system.* (1) The contractor shall design and implement an audit and reporting system that will:

(i) Measure the effectiveness of the contractor's affirmative action program;

(ii) Indicate any need for remedial action;

(iii) Determine the degree to which the contractor's objectives have been attained;

(iv) Determine whether known special disabled veterans and veterans of the Vietnam era have had the opportunity to participate in all company sponsored educational, training, recreational and social activities; and

(v) Measure the contractor's compliance with the affirmative action program's specific obligations.

(2) Where the affirmative action program is found to be deficient, the contractor shall undertake necessary action to bring the program into compliance.

(i) *Responsibility for implementation.* An official of the contractor shall be assigned responsibility for implementation of the contractor's affirmative action activities under this part. His or her identity should appear on all internal and external communications regarding the company's affirmative action program. This official shall be given necessary top management support and staff to manage the implementation of this program.

(j) *Training.* All personnel involved in the recruitment, screening, selection, promotion, disciplinary, and related processes shall be trained to ensure that

the commitments in the contractor's affirmative action program are implemented.

Subpart D—General Enforcement and Complaint Procedures

§ 60–250.60 Compliance evaluations.

(a) OFCCP may conduct compliance evaluations to determine if the contractor is taking affirmative action to employ, advance in employment and otherwise treat qualified individuals without discrimination based on their status as a special disabled veteran or veteran of the Vietnam era in all employment practices. A compliance evaluation may consist of any one or any combination of the following investigative procedures:

(1) *Compliance review.* A comprehensive analysis and evaluation of the hiring and employment practices of the contractor, the written affirmative action program, and the results of the affirmative action efforts undertaken by the contractor. A compliance review may proceed in three stages:

(i) A desk audit of the written affirmative action program and supporting documentation to determine whether all elements required by the regulations in this part are included, whether the affirmative action program meets agency standards of reasonableness, and whether the affirmative action program and supporting documentation satisfy agency standards of acceptability. The desk audit is conducted at OFCCP offices;

(ii) An on-site review, conducted at the contractor's establishment to investigate unresolved problem areas identified in the affirmative action program and supporting documentation during the desk audit, to verify that the contractor has implemented the affirmative action program and has complied with those regulatory obligations not required to be included in the affirmative action program, and to examine potential instances or issues of discrimination. An on-site review normally will involve an examination of the contractor's personnel and employment policies, inspection and copying of documents related to employment actions, and interviews with employees, supervisors, managers, hiring officials; and

(iii) Where necessary, an off-site analysis of information supplied by the contractor or otherwise gathered during or pursuant to the on-site review;

(2) *Off-site review of records.* An analysis and evaluation of the affirmative action program (or any part thereof) and supporting documentation, and other documents related to the contractor's personnel policies and employment actions that may be relevant to a determination of whether the contractor has complied with the requirements of the Executive Order and regulations;

(3) *Compliance check.* A visit to the establishment to ascertain whether data and other information previously submitted by the contractor are complete and accurate; whether the contractor has maintained records consistent with § 60–250.80; and/or whether the contractor has developed an affirmative action program consistent with § 60–250.40; or

(4) *Focused review.* An on-site review restricted to one or more components of the contractor's organization or one or more aspects of the contractor's employment practices.

(b) Where deficiencies are found to exist, reasonable efforts shall be made to secure compliance through conciliation and persuasion pursuant to § 60–250.62.

(c) *VETS–100 Report.* During a compliance evaluation, OFCCP may verify whether the contractor has complied with its obligation, pursuant to 41 CFR Part 61–250, to file its annual Veterans' Employment Report (VETS–100 Report) with the Office of the Assistant Secretary for Veterans' Employment and Training (OASVET). If the contractor has not filed its report, OFCCP will request a copy from the contractor. If the contractor fails to provide a copy of the report to OFCCP, OFCCP will notify OASVET.

§ 60–250.61 Complaint procedures.

(a) *Place and time of filing.* Any applicant for employment with a contractor or any employee of a contractor may, personally, or by an authorized representative, file a written complaint alleging a violation of the Act or the regulations in this part. The complaint may allege individual or class-wide violation(s). Such complaint must be filed within 300 days of the date of the alleged violation, unless the time for filing is extended by OFCCP for good cause shown. Complaints may be submitted to the OFCCP, 200 Constitution Avenue, N.W., Washington, D.C. 20210, or to any OFCCP regional, district, or area office. Complaints may also be submitted to the Veterans' Employment and Training Service of the Department of Labor directly, or through the Local Veterans' Employment Representative (LVER) or his or her designee at the local employment service office. Such parties will assist veterans in preparing complaints, promptly refer such complaints to OFCCP, and maintain a record of all complaints which they receive and forward. OFCCP shall inform the party forwarding the complaint of the progress and results of its complaint investigation. The state employment security agency shall cooperate with the Deputy Assistant Secretary in the investigation of any complaint.

(b) *Contents of complaints.*—(1) *In general.* A complaint must be signed by the complainant or his or her authorized representative and must contain the following information:

(i) Name and address (including telephone number) of the complainant;

(ii) Name and address of the contractor who committed the alleged violation;

(iii) Documentation showing that the individual is a special disabled veteran or veteran of the Vietnam era. Such documentation must include a copy of the veteran's form DD–214, and, where applicable, a copy of the veteran's Benefits Award Letter, or similar Department of Veterans Affairs certification, updated within one year prior to the date the complaint is filed, indicating the veteran's level (by percentage) of disability, and whether the veteran has been determined by the Department of Veterans Affairs to have a serious employment handicap under 38 U.S.C. 3106;

(iv) A description of the act or acts considered to be a violation, including the pertinent dates (in the case of an alleged continuing violation, the earliest and most recent date that the alleged violation occurred should be stated); and

(v) Other pertinent information available which will assist in the investigation and resolution of the complaint, including the name of any known Federal agency with which the employer has contracted.

(2) *Third party complaints.* A complaint filed by an authorized representative need not identify by name the person on whose behalf it is filed. The person filing the complaint, however, shall provide OFCCP with the name, address and telephone number of the person on whose behalf it is made, and the other information specified in paragraph (b)(1) of this section. OFCCP shall verify the authorization of such a complaint by the person on whose behalf the complaint is made. Any such person may request that OFCCP keep his or her identity confidential, and OFCCP will protect the individual's confidentiality wherever that is possible given the facts and circumstances in the complaint.

(c) *Incomplete information.* Where a complaint contains incomplete information, OFCCP shall seek the needed information from the complainant. If the information is not furnished to OFCCP within 60 days of the date of such request, the case may be closed.

(d) *Investigations.* The Department of Labor shall institute a prompt investigation of each complaint.

(e) *Resolution of matters.* (1) If the complaint investigation finds no violation of the Act or this part, or if the Deputy Assistant Secretary decides not to refer the matter to the Solicitor of Labor for enforcement proceedings against the contractor pursuant to § 60–250.65(a)(1), the complainant and contractor shall be so notified. The Deputy Assistant Secretary, on his or her own initiative, may reconsider his or her determination or the determination of any of his or her designated officers who have authority to issue Notifications of Results of Investigation.

(2) The Deputy Assistant Secretary will review all determinations of no violation that involve complaints that are not also cognizable under Title I of the Americans with Disabilities Act.

(3) In cases where the Deputy Assistant Secretary decides to reconsider the determination of a Notification of Results of Investigation, the Deputy Assistant Secretary shall provide prompt notification of his or her intent to reconsider, which is effective upon issuance, and his or her final determination after reconsideration, to the person claiming to be aggrieved, the person making the complaint on behalf of such person, if any, and the contractor.

(4) If the investigation finds a violation of the Act or this part, OFCCP shall invite the contractor to participate in conciliation discussions pursuant to § 60–250.62.

§ 60–250.62 Conciliation agreements and letters of commitment.

(a) If a compliance evaluation, complaint investigation or other review by OFCCP finds a material violation of the Act or this part, and if the contractor is willing to correct the violations and/or deficiencies, and if OFCCP determines that settlement on that basis (rather than referral for consideration of formal enforcement) is appropriate, a written conciliation agreement shall be required. The agreement shall provide for such remedial action as may be necessary to correct the violations and/or deficiencies noted, including, where appropriate (but not necessarily limited to) such make whole remedies as back pay and retroactive seniority. The agreement shall also specify the time period for completion of the remedial action; the period shall be no longer than the minimum period necessary to complete the action.

(b) The term "conciliation agreement" does not include "letters of commitment", which are appropriate for resolving minor technical deficiencies.

§ 60–250.63 Violation of conciliation agreements and letters of commitment.

(a) When OFCCP believes that a conciliation agreement has been violated, the following procedures are applicable:

(1) A written notice shall be sent to the contractor setting forth the violation alleged and summarizing the supporting evidence. The contractor shall have 15 days from receipt of the notice to respond, except in those cases in which OFCCP asserts that such a delay would result in irreparable injury to the employment rights of affected employees or applicants.

(2) During the 15-day period the contractor may demonstrate in writing that it has not violated its commitments.

(b) In those cases in which OFCCP asserts that a delay would result in irreparable injury to the employment rights of affected employees or applicants, enforcement proceedings may be initiated immediately without proceeding through any other requirement contained in this chapter.

(c) In any proceedings involving an alleged violation of a conciliation agreement OFCCP may seek enforcement of the agreement itself and shall not be required to present proof of the underlying violations resolved by the agreement.

(d) When OFCCP believes that a letter of commitment has been violated, the matter shall be handled, where appropriate, pursuant to § 60–250.64. The violation may be corrected through a conciliation agreement, or an enforcement proceeding may be initiated.

§ 60–250.64 Show cause notices.

When the Deputy Assistant Secretary has reasonable cause to believe that the contractor has violated the Act or this part, he or she may issue a notice requiring the contractor to show cause, within 30 days, why monitoring, enforcement proceedings or other appropriate action to ensure compliance should not be instituted. The issuance of such a notice is not a prerequisite to instituting enforcement proceedings (see § 60–250.65).

§ 60–250.65 Enforcement proceedings.

(a) *General.* (1) If a compliance evaluation, complaint investigation or other review by OFCCP finds a violation of the Act or this part, and the violation has not been corrected in accordance with the conciliation procedures in this part, or OFCCP determines that referral for consideration of formal enforcement (rather than settlement) is appropriate, OFCCP may refer the matter to the Solicitor of Labor with a recommendation for the institution of enforcement proceedings to enjoin the violations, to seek appropriate relief, and to impose appropriate sanctions, or any of the above in this sentence. OFCCP may seek back pay and other make whole relief for aggrieved individuals identified during a complaint investigation or compliance evaluation. Such individuals need not have filed a complaint as a prerequisite to OFCCP seeking such relief on their behalf. Interest on back pay shall be calculated from the date of the loss and compounded quarterly at the percentage rate established by the Internal Revenue Service for the underpayment of taxes.

(2) In addition to the administrative proceedings set forth in this section, the Deputy Assistant Secretary may, within the limitations of applicable law, seek appropriate judicial action to enforce the contractual provisions set forth in § 60–250.5, including appropriate injunctive relief.

(b) *Hearing practice and procedure.* (1) In administrative enforcement proceedings the contractor shall be provided an opportunity for a formal hearing. All hearings conducted under the Act and this part shall be governed by the Rules of Practice for Administrative Proceedings to Enforce Equal Opportunity Under Executive Order 11246 contained in 41 CFR Part 60–30 and the Rules of Evidence set out in the Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges contained in 29 CFR Part 18, Subpart B: *Provided,* That a final administrative order shall be issued within one year from the date of the issuance of the recommended findings, conclusions and decision of the Administrative Law Judge, or the submission of exceptions and responses to exceptions to such decision (if any), whichever is later.

(2) Complaints may be filed by the Solicitor, the Associate Solicitor for Civil Rights, Regional Solicitors and Associate Regional Solicitors.

(3) For the purposes of hearings pursuant to this part, references in 41 CFR Part 60–30 to "Executive Order 11246" shall mean the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; to "equal opportunity clause" shall mean the equal opportunity clause published at

§ 60–250.5; and to "regulations" shall mean the regulations contained in this part.

§ 60–250.66 Sanctions and penalties.

(a) *Withholding progress payments.* With the prior approval of the Deputy Assistant Secretary, so much of the accrued payment due on the contract or any other contract between the Government contractor and the Federal Government may be withheld as necessary to correct any violations of the provisions of the Act or this part.

(b) *Termination.* A contract may be canceled or terminated, in whole or in part, for failure to comply with the provisions of the Act or this part.

(c) *Debarment.* A contractor may be debarred from receiving future contracts for failure to comply with the provisions of the Act or this part subject to reinstatement pursuant to § 60–250.68. Debarment may be imposed for an indefinite period, or may be imposed for a fixed period of not less than six months but no more than three years.

(d) *Hearing opportunity.* An opportunity for a formal hearing shall be afforded to a contractor before the imposition of any sanction or penalty.

§ 60–250.67 Notification of agencies.

The Deputy Assistant Secretary shall ensure that the heads of all agencies are notified of any debarments taken against any contractor.

§ 60–250.68 Reinstatement of ineligible contractors.

(a) *Application for reinstatement.* A contractor debarred from further contracts for an indefinite period under the Act may request reinstatement in a letter filed with the Deputy Assistant Secretary at any time after the effective date of the debarment; a contractor debarred for a fixed period may make such a request following the expiration of six months from the effective date of the debarment. In connection with the reinstatement proceedings, all debarred contractors shall be required to show that they have established and will carry out employment policies and practices in compliance with the Act and this part. Additionally, in determining whether reinstatement is appropriate for a contractor debarred for a fixed period, the Deputy Assistant Secretary also shall consider, among other factors, the severity of the violation which resulted in the debarment, the contractor's attitude towards compliance, the contractor's past compliance history, and whether the contractor's reinstatement would impede the effective enforcement of the Act or this part. Before reaching a decision, the Deputy Assistant Secretary may conduct a compliance evaluation of the contractor and may require the contractor to supply additional information regarding the request for reinstatement. The Deputy Assistant Secretary shall issue a written decision on the request.

(b) *Petition for review.* Within 30 days of its receipt of a decision denying a request for reinstatement, the contractor may file a petition for review of the decision with the Secretary. The petition shall set forth the grounds for the contractor's objections to the Deputy Assistant Secretary's decision. The petition shall be served on the Deputy Assistant Secretary and the Associate Solicitor for Civil Rights and shall include the decision as an appendix. The Deputy Assistant Secretary may file a response within 14 days to the petition. The Secretary shall issue the final agency decision denying or granting the request for reinstatement. Before reaching a final decision, the Secretary may issue such additional orders respecting procedure as he or she finds appropriate in the circumstances, including an order referring the matter to the Office of Administrative Law Judges for an evidentiary hearing where there is a material factual dispute that cannot be resolved on the record before the Secretary.

§ 60–250.69 Intimidation and interference.

(a) The contractor shall not harass, intimidate, threaten, coerce, or discriminate against, any individual because the individual has engaged in or may engage in any of the following activities:

(1) Filing a complaint;

(2) Assisting or participating in any manner in an investigation, compliance evaluation, hearing, or any other activity related to the administration of the Act or any other Federal, state or local law requiring equal opportunity for special disabled veterans or veterans of the Vietnam era;

(3) Opposing any act or practice made unlawful by the Act or this part or any other Federal, state or local law requiring equal opportunity for special disabled veterans or veterans of the Vietnam era; or

(4) Exercising any other right protected by the Act or this part.

(b) The contractor shall ensure that all persons under its control do not engage in such harassment, intimidation, threats, coercion or discrimination. The sanctions and penalties contained in this part may be exercised by the Deputy Assistant Secretary against any contractor who violates this obligation.

§ 60–250.70 Disputed matters related to compliance with the Act.

The procedures set forth in the regulations in this part govern all disputes relative to the contractor's compliance with the Act and this part. Any disputes relating to issues other than compliance, including contract costs arising out of the contractor's efforts to comply, shall be determined by the disputes clause of the contract.

Subpart E—Ancillary Matters

§ 60–250.80 Recordkeeping

(a) *General requirements.* Any personnel or employment record made or kept by the contractor shall be preserved by the contractor for a period of two years from the date of the making of the record or the personnel action involved, whichever occurs later. However, if the contractor has fewer than 150 employees or does not have a Government contract of at least $150,000, the minimum record retention period shall be one year from the date of the making of the record or the personnel action involved, whichever occurs later. Such records include, but are not necessarily limited to, records relating to requests for reasonable accommodation; the results of any physical examination; job advertisements and postings; applications and resumes; tests and test results; interview notes; and other records having to do with hiring, assignment, promotion, demotion, transfer, lay-off or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship. In the case of involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of two years from the date of the termination, except that contractors that have fewer than 150 employees or that do not have a Government contract of at least $150,000 shall keep such records for a period of one year from the date of the termination. Where the contractor has received notice that a complaint of discrimination has been filed, that a compliance evaluation has been initiated, or that an enforcement action has been commenced, the contractor shall preserve all personnel records relevant to the complaint, compliance evaluation or action until final disposition of the complaint, compliance evaluation or action. The term *personnel records relevant to the complaint, compliance evaluation or action* would include, for example, personnel or employment records relating to the aggrieved person and to all other employees holding positions similar to that held or sought by the aggrieved person, and application forms or test papers completed by an unsuccessful applicant and by all other candidates for the same position as that for which the aggrieved person applied and was rejected.

(b) *Failure to preserve records.* Failure to preserve complete and accurate records as required by paragraph (a) of this section constitutes noncompliance with the contractor's obligations under the Act and this part. Where the contractor has destroyed or failed to preserve records as required by this section, there may be a presumption that the information destroyed or not preserved would have been unfavorable to the contractor: *Provided,* That this presumption shall not apply where the contractor shows that the destruction or failure to preserve records results from circumstances that are outside of the contractor's control.

(c) The requirements of this section shall apply only to records made or kept on or after the date that the Office of Management and Budget has cleared the requirements.

§ 60–250.81 Access to records.

Each contractor shall permit access during normal business hours to its places of business for the purpose of conducting on-site compliance evaluations and complaint investigations and inspecting and copying such books and accounts and records, including computerized records, and other material as may be relevant to the matter under investigation and pertinent to compliance with the Act or this part. Information obtained in this manner shall be used only in connection with the administration of the Act and in furtherance of the purposes of the Act.

§ 60–250.82 Labor organizations and recruiting and training agencies.

(a) Whenever performance in accordance with the equal opportunity clause or any matter contained in the regulations in this part may necessitate a revision of a collective bargaining agreement, the labor organizations which are parties to such agreement shall be given an adequate opportunity to present their views to OFCCP.

(b) OFCCP shall use its best efforts, directly or through contractors, subcontractors, local officials, the Department of Veterans Affairs, vocational rehabilitation facilities, and all other available instrumentalities, to cause any labor organization, recruiting and training agency or other representative of workers who are employed by a contractor to cooperate with, and to assist in, the implementation of the purposes of the Act.

§ 60–250.83 Rulings and interpretations.

Rulings under or interpretations of the Act and this part shall be made by the Deputy Assistant Secretary.

§ 60–250.84 Responsibilities of local employment service offices.

(a) Local employment service offices shall refer qualified special disabled veterans and veterans of the Vietnam era to fill employment openings listed by contractors with such local offices pursuant to the mandatory listing requirements of the equal opportunity clause, and shall give priority to special disabled veterans and veterans of the Vietnam era in making such referrals.

(b) Local employment service offices shall contact employers to solicit the job orders described in paragraph (a) of this section. The state employment security agency shall provide OFCCP upon request information pertinent to whether the contractor is in compliance with the mandatory listing requirements of the equal opportunity clause.

§ 60–250.85 Effective date.

This part is effective on January 4, 1999, and does not apply retroactively. Contractors presently holding Government contracts shall update their affirmative action programs as required to comply with the regulations in this part within 120 days after January 4, 1999.

Appendix A to Part 60–250—Guidelines on a Contractor's Duty To Provide Reasonable Accommodation

The guidelines in this appendix are in large part derived from, and are consistent with, the discussion regarding the duty to provide reasonable accommodation contained in the Interpretive Guidance on Title I of the Americans with Disabilities Act (ADA) set out as an appendix to the regulations issued by the Equal Employment Opportunity Commission (EEOC) implementing the ADA (29 CFR part 1630). Although the following discussion is intended to provide an independent "free-standing" source of guidance with respect to the duty to provide reasonable accommodation under this part, to the extent that the EEOC appendix provides additional guidance which is consistent with the following discussion, it may be relied upon for purposes of this part as well. See § 60–250.1(c). Contractors are obligated to provide reasonable accommodation and to take affirmative action. Reasonable accommodation under VEVRAA, like reasonable accommodation required under Section 503 and the ADA, is a part of the nondiscrimination obligation. See EEOC appendix cited in this paragraph. Affirmative action is unique to VEVRAA and Section 503, and includes actions above and beyond those required as a matter of nondiscrimination. An example of this is the requirement discussed in paragraph 2 of this appendix that a contractor *shall* make an inquiry of a special disabled veteran who is having significant difficulty performing his or her job.

1. A contractor is required to make reasonable accommodations to the known physical or mental limitations of an "otherwise qualified" special disabled veteran, unless the contractor can demonstrate that the accommodation would impose an undue hardship on the operation of its business. As stated in § 60–250.2(o), a special disabled veteran is qualified if he or she satisfies all the skill, experience, education and other job-related selection criteria, and can perform the essential functions of the position with or without reasonable accommodation. A contractor is required to make a reasonable accommodation with respect to its application process if the special disabled veteran is qualified with respect to that process. One is "otherwise qualified" if he or she is qualified for a job, except that, because of a disability, he or she needs a reasonable accommodation to be able to perform the job's essential functions.

2. Although the contractor would not be expected to accommodate disabilities of which it is unaware, the contractor has an affirmative obligation to provide a reasonable accommodation for applicants and employees who are known to be special disabled veterans. As stated in § 60–250.42 (see also Appendix B of this part), the contractor is required to invite applicants who have been provided an offer of employment, before they are placed on the contractor's payroll, to indicate whether they are covered by the Act and wish to benefit under the contractor's affirmative action program. That section further provides that the contractor should seek the advice of special disabled veterans who "self-identify" in this way as to proper placement and appropriate accommodation. Moreover, § 60–250.44(d) provides that if an employee who is a known special disabled veteran is having significant difficulty performing his or her job and it is reasonable to conclude that the performance problem may be related to the disability, the contractor is required to confidentially inquire whether the problem is disability related and if the employee is in need of a reasonable accommodation.

3. An accommodation is any change in the work environment or in the way things are customarily done that enables a special disabled veteran to enjoy equal employment opportunities. Equal employment opportunity means an opportunity to attain the same level of performance, or to enjoy the same level of benefits and privileges of employment, as are available to the average similarly situated employee without a disability. Thus, for example, an accommodation made to assist an employee who is a special disabled veteran in the performance of his or her job must be adequate to enable the individual to perform the essential functions of the position. The accommodation, however, does not have to

be the "best" accommodation possible, so long as it is sufficient to meet the job-related needs of the individual being accommodated. There are three areas in which reasonable accommodations may be necessary: (1) accommodations in the application process; (2) accommodations that enable employees who are special disabled veterans to perform the essential functions of the position held or desired; and (3) accommodations that enable employees who are special disabled veterans to enjoy equal benefits and privileges of employment as are enjoyed by employees without disabilities.

4. The term "undue hardship" refers to any accommodation that would be unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the contractor's business. The contractor's claim that the cost of a particular accommodation will impose an undue hardship requires a determination of which financial resources should be considered—those of the contractor in its entirety or only those of the facility that will be required to provide the accommodation. This inquiry requires an analysis of the financial relationship between the contractor and the facility in order to determine what resources will be available to the facility in providing the accommodation. If the contractor can show that the cost of the accommodation would impose an undue hardship, it would still be required to provide the accommodation if the funding is available from another source, e.g., the Department of Veterans Affairs or a state vocational rehabilitation agency, or if Federal, state or local tax deductions or tax credits are available to offset the cost of the accommodation. In the absence of such funding, the special disabled veteran should be given the option of providing the accommodation or of paying that portion of the cost which constitutes the undue hardship on the operation of the business.

5. Section 60–250.2(r) lists a number of examples of the most common types of accommodations that the contractor may be required to provide. There are any number of specific accommodations that may be appropriate for particular situations. The discussion in this appendix is not intended to provide an exhaustive list of required accommodations (as no such list would be feasible); rather, it is intended to provide general guidance regarding the nature of the obligation. The decision as to whether a reasonable accommodation is appropriate must be made on a case-by-case basis. The contractor generally should consult with the special disabled veteran in deciding on the appropriate accommodation; frequently, the individual will know exactly what accommodation he or she will need to perform successfully in a particular job, and may suggest an accommodation which is simpler and less expensive than the accommodation the contractor might have devised. Other resources to consult include the appropriate state vocational rehabilitation services agency, the Equal Employment Opportunity Commission (1–800–669–EEOC (voice), 1–800–800–3302 (TDD)), the Job Accommodation Network (JAN) operated by the President's Committee on Employment of People with Disabilities (1–800–JAN–7234), private disability organizations (including those that serve veterans), and other employers.

6. With respect to accommodations that can permit an employee who is a special disabled veteran to perform essential functions successfully, a reasonable accommodation may require the contractor to, for instance, modify or acquire equipment. For the visually-impaired such accommodations may include providing adaptive hardware and software for computers, electronic visual aids, braille devices, talking calculators, magnifiers, audio recordings and braille or large-print materials. For persons with hearing impairments, reasonable accommodations may include providing telephone handset amplifiers, telephones compatible with hearing aids and telecommunications devices for the deaf (TDDs). For persons with limited physical dexterity, the obligation may require the provision of goose neck telephone headsets, mechanical page turners and raised or lowered furniture.

7. Other reasonable accommodations of this type may include providing personal assistants such as a reader, interpreter or travel attendant, permitting the use of accrued paid leave or providing additional unpaid leave for necessary treatment. The contractor may also be required to make existing facilities readily accessible to and usable by special disabled veterans—including areas used by employees for purposes other than the performance of essential job functions such as restrooms, break rooms, cafeterias, lounges, auditoriums, libraries, parking lots and credit unions. This type of accommodation will enable employees to enjoy equal benefits and privileges of employment as are enjoyed by employees who do not have disabilities.

8. Another of the potential accommodations listed in § 60–250.2(r) is job restructuring. This may involve reallocating or redistributing those nonessential, marginal job functions which a qualified special disabled veteran cannot perform to another position. Accordingly, if a clerical employee who is a special disabled veteran is occasionally required to lift heavy boxes containing files, but cannot do so because of a disability, this task may be reassigned to another employee. The contractor, however, is not required to reallocate essential functions, i.e., those functions that the individual who holds the job would have to perform, with or without reasonable accommodation, in order to be considered qualified for the position. For instance, the contractor which has a security guard position which requires the incumbent to inspect identity cards would not have to provide a blind special disabled veteran with an assistant to perform that duty; in such a case, the assistant would be performing an essential function of the job for the special disabled veteran. Job restructuring may also involve allowing part-time or modified work schedules. For instance, flexible or adjusted work schedules could benefit special disabled veterans who cannot work a standard schedule because of the need to obtain medical treatment, or special disabled veterans with mobility impairments who depend on a public transportation system that is not accessible during the hours of a standard schedule.

9. Reasonable accommodation may also include reassignment to a vacant position. In general, reassignment should be considered only when accommodation within the special disabled veteran's current position would pose an undue hardship. Reassignment is not required for applicants. However, in making hiring decisions, contractors are encouraged to consider applicants who are known special disabled veterans for all available positions for which they may be qualified when the position(s) applied for is unavailable. Reassignment may not be used to limit, segregate, or otherwise discriminate against employees who are special disabled veterans by forcing reassignments to undesirable positions or to designated offices or facilities. Employers should reassign the individual to an equivalent position in terms of pay, status, etc., if the individual is qualified, and if the position is vacant within a reasonable amount of time. A "reasonable amount of time" should be determined in light of the totality of the circumstances.

10. The contractor may reassign an individual to a lower graded position if there are no accommodations that would enable the employee to remain in the current position and there are no vacant equivalent positions for which the individual is qualified with or without reasonable accommodation. The contractor may maintain the reassigned special disabled veteran at the salary of the higher graded position, and must do so if it maintains the salary of reassigned employees who are not special disabled veterans. It should also be noted that the contractor is not required to promote a special disabled veteran as an accommodation.

11. With respect to the application process, appropriate accommodations may include the following: (1) Providing information regarding job vacancies in a form accessible to special disabled veterans who are vision or hearing impaired, e.g., by making an announcement available in braille, in large print, or on audio tape, or by responding to job inquiries via TDDs; (2) providing readers, interpreters and other similar assistance during the application, testing and interview process; (3) appropriately adjusting or modifying employment-related examinations, e.g., extending regular time deadlines, allowing a special disabled veteran who is blind or has a learning disorder such as dyslexia to provide oral answers for a written test, and permitting an applicant, regardless of the nature of his or her ability, to demonstrate skills through alternative techniques and utilization of adapted tools, aids and devices; and (4) ensuring a special disabled veteran with a mobility impairment full access to testing locations such that the applicant's test scores accurately reflect the applicant's skills or aptitude rather than the applicant's mobility impairment.

Appendix B to Part 60–250—Sample Invitation To Self-Identify

Note: When the invitation to self-identify is being extended to special disabled veterans prior to an offer of employment, as is permitted in limited circumstances under §§ 60–250.42(a)(1) and (2), paragraph 7(ii) of this appendix, relating to identification of reasonable accommodations, should be omitted. This will avoid a conflict with the EEOC's ADA Guidance, which in most cases precludes asking a job applicant (prior to a job offer being made) about potential reasonable accommodations.

[Sample Invitation to Self-Identify]

1. This employer is a Government contractor subject to the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, which requires Government contractors to take affirmative action to employ and advance in employment qualified special disabled veterans and veterans of the Vietnam era.

2. **[The following text should be used when extending an invitation to veterans of the Vietnam era only.]** If you are a veteran of the Vietnam era, we would like to include you under our affirmative action program. If you would like to be included under the affirmative action program, please tell us. The term "veteran of the Vietnam era" refers to a person who served on active duty for a period of more than 180 days, and was discharged or released therefrom with other than a dishonorable discharge, if any part of such active duty occurred in the Republic of Vietnam between February 28, 1961, and May 7, 1975 or between August 5, 1964, and May 7, 1975, in all other cases. The term also refers to a person who was discharged or released from active duty for a service-connected disability if any part of such active duty was performed in the Republic of Vietnam between February 28, 1961, and May 7, 1975, or between August 5, 1964, and May 7, 1975, in all other cases.

[The following text should be used when extending an invitation to special disabled veterans only.] If you are a special disabled veteran, we would like to include you in our affirmative action program. If you would like to be included under the affirmative action program, please tell us. This information will assist us in placing you in an appropriate position and in making accommodations for your disability. The term "special disabled veteran" refers to a veteran who is entitled to compensation (or who, but for the receipt of military retired pay, would be entitled to compensation) under laws administered by the Department of Veterans Affairs for a disability rated at 30 percent or more, or rated at 10 or 20 percent in the case of a veteran who has been determined by the Department of Veterans Affairs to have a serious employment handicap. The term also refers to a person who was discharged or released from active duty because of a service-connected disability.

[The following text should be used when extending an invitation to both veterans of the Vietnam era and special disabled veterans.] If you are a veteran of the Vietnam era or a special disabled veteran, we would like to include you under our affirmative action program. If you would like to be included under the affirmative action program, please tell us. [The contractor should include here the definitions of "veteran of the Vietnam era" and "special disabled veteran" found in the two preceding paragraphs.]

3. You may inform us of your desire to benefit under the program at this time and/or at any time in the future.

4. Submission of this information is voluntary and refusal to provide it will not subject you to any adverse treatment. The information provided will be used only in ways that are not inconsistent with the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended.

5. The information you submit will be kept confidential, except that (i) supervisors and managers may be informed regarding restrictions on the work or duties of special disabled veterans, and regarding necessary accommodations; (ii) first aid and safety personnel may be informed, when and to the extent appropriate, if you have a condition that might require emergency treatment; and (iii) Government officials engaged in enforcing laws administered by OFCCP, or enforcing the Americans with Disabilities Act, may be informed.

6. [The contractor should here insert a brief provision summarizing the relevant portion of its affirmative action program.]

7. **[The following text should be used only when extending an invitation to special disabled veterans, either by themselves or in combination with veterans of the Vietnam era. Paragraph 7(ii) should be omitted when the invitation to self-identify is being extended prior to an offer of employment.]** If you are a special disabled veteran it would assist us if you tell us about (i) any special methods, skills, and procedures which qualify you for positions that you might not otherwise be able to do because of your disability so that you will be considered for any positions of that kind, and (ii) the accommodations which we could make which would enable you to perform the job properly and safely, including special equipment, changes in the physical layout of the job, elimination of certain duties relating to the job, provision of personal assistance services or other accommodations. This information will assist us in placing you in an appropriate position and in making accommodations for your disability.

Appendix C to Part 60–250—Review of Personnel Processes

The following is a set of procedures which contractors may use to meet the requirements of § 60–250.44(b):

1. The application or personnel form of each known applicant who is a special disabled veteran or veteran of the Vietnam era should be annotated to identify each vacancy for which the applicant was considered, and the form should be quickly retrievable for review by the Department of Labor and the contractor's personnel officials for use in investigations and internal compliance activities.

2. The personnel or application records of each known special disabled veteran or veteran of the Vietnam era should include (i) the identification of each promotion for which the covered veteran was considered, and (ii) the identification of each training program for which the covered veteran was considered.

3. In each case where an employee or applicant who is a special disabled veteran or a veteran of the Vietnam era is rejected for employment, promotion, or training, the contractor should prepare a statement of the reason as well as a description of the accommodations considered (for a rejected special disabled veteran). The statement of the reason for rejection (if the reason is medically related), and the description of the accommodations considered, should be treated as confidential medical records in accordance with § 60–250.23(d). These materials should be available to the applicant or employee concerned upon request.

4. Where applicants or employees are selected for hire, promotion, or training and the contractor undertakes any accommodation which makes it possible for him or her to place a special disabled veteran on the job, the contractor should make a record containing a description of the accommodation. The record should be treated as a confidential medical record in accordance with § 60–250.23(d).

[FR Doc. 98–29043 Filed 11–3–98; 8:45 am]
BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Part 60–741

RIN 1215–AB19

Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals With Disabilities

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Final rule.

SUMMARY: This final rule amends Appendix C to the regulations implementing Section 503 of the Rehabilitation Act of 1973, as amended (Section 503). Appendix C contains procedures that Government contractors may use to review their personnel processes to ensure that the processes are fair to disabled applicants and employees. The existing Appendix recommends that contractors attach or include a description of accommodations considered or used for special disabled veterans to application forms or personnel records. As amended, the Appendix recommends that the description of accommodations be maintained in separate confidential medical files. The amendments make Appendix C to the Rehabilitation Act rules consistent with Appendix C to OFCCP's rules implementing the Vietnam Era Veterans' Readjustment Assistance Act, which also are published elsewhere in this issue of the **Federal Register**.

EFFECTIVE DATE: These regulations are effective January 4, 1999.

FOR FURTHER INFORMATION CONTACT: James I. Melvin, Director, Division of Policy, Planning and Program Development, 202–693–0102 (voice), 1–800–326–2577 (TDD). Copies of this final rule, including copies in alternative formats, may be obtained by calling OFCCP at 202–693–0102 (voice) or 1–800–326–2577 (TDD). The alternative formats available are: Large print, electronic file on computer disk, and audio-tape. The rule also is available on the Internet at http://www.dol.gov/dol/esa.

SUPPLEMENTARY INFORMATION:

Rulemaking History

This final rule amends the regulations implementing Section 503. The Act, and OFCCP's implementing regulations, 41 CFR Part 60–741, require parties holding a Federal Government contract or subcontract in excess of $10,000 to "take affirmative action to employ and advance in employment qualified individuals with disabilities." The Section 503 Rules last were revised on May 1, 1996, 61 FR 19336.

On September 24, 1996, OFCCP published a notice of proposed rulemaking (NPRM), 61 FR 50080, proposing to revise the regulations implementing the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA). VEVRAA, and OFCCP's regulations at 41 CFR Part 60–250, require Government contractors and subcontractors to take affirmative action to employ and advance in employment qualified special disabled veterans and veterans of the Vietnam era.

OFCCP has modeled its regulations implementing VEVRAA on those implementing Section 503. This reflects the close similarity between the statutes in terms of their substantive protections and jurisdictional requirements. The September 24, 1996, VEVRAA NPRM was modeled after the May 1, 1996, Section 503 final rule.

Appendix C, Review of Personnel Processes, in the VEVRAA NPRM proposed a set of procedures that contractors could use to facilitate a review by the contractor and the Government of the contractor's personnel processes. The review is required by § 60–250.44(b), and is intended to ensure that the contractor's personnel processes provide for careful consideration of the qualifications of applicants and employees who are known to be special disabled veterans or veterans of the Vietnam era, for all employment and training opportunities. Paragraphs 3 and 4 of Appendix C proposed to recommend that contractors attach or include a description of accommodations considered or used for special disabled veterans to application forms or personnel records. Appendix C to the VEVRAA NPRM repeated the substance of Appendix C to the May 1, 1996, Section 503 final rule.

The Equal Employment Opportunity Commission (EEOC) submitted a comment in which it asserted that in most instances descriptions of accommodations considered or used for special disabled veterans constitute medical information that must be maintained in separate files and treated as confidential medical records. Accordingly, the EEOC recommended that Appendix C be revised by changing paragraphs 3 and 4 to indicate that contractors should maintain descriptions of accommodations considered or used in separate confidential medical files. OFCCP agreed with the EEOC's recommendation and, in its VEVRAA final rule published elsewhere in this issue of the **Federal Register**, revised paragraphs 3 and 4 of Appendix C.

The EEOC's comment applies equally to Appendix C to the Section 503 rules. Just as descriptions of accommodations considered or used for special disabled veterans often constitute medical information, so, too, do descriptions of accommodations considered or used for individuals with disabilities often constitute medical information. Accordingly, OFCCP has decided to revise paragraphs 3 and 4 of the corresponding Appendix C to 41 CFR Part 60–741.

Regulatory Revision

Pursuant to this revision, paragraphs 3 and 4 to Appendix C specify:

3. Where the contractor prepares a statement of the reason why an individual with a disability was rejected and a description of accommodations considered, those materials should be treated as confidential medical records.

4. Where the contractor makes a record of accommodations undertaken in order to place an individual with a disability on the job, the record should be treated as a confidential medical record.

Regulatory Procedures

Executive Order 12866

The Department is issuing this rule in conformance with Executive Order 12866. This rule has been determined not to be significant for purposes of Executive Order 12866 and therefore need not be reviewed by OMB. This rule does not meet the criteria of Section 3(f)(1) of Executive Order 12866 and therefore the information enumerated in Section 6(a)(3)(C) of that Order is not required.

This conclusion is based on the fact that this rule does not substantively change the existing obligation of Federal contractors to apply a policy of nondiscrimination and affirmative action in their employment of qualified individuals with disabilities. As discussed in more detail below, the rule is interpretive in nature and does not require particular actions by contractors.

Regulatory Flexibility Act

The rule is interpretive and does not substantively change existing obligations for Federal contractors. Accordingly, we certify that the rule will not have a significant economic impact on a substantial number of small business entities. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 605(b), is not required.

Unfunded Mandates Reform

Executive Order 12875

This rule will not create an unfunded Federal mandate upon any State, local or tribal government.

Unfunded Mandates Reform Act of 1995

This rule will not include any Federal mandate that may result in increased expenditures by State, local, and tribal governments, in the aggregate, of $100 million or more, or increased expenditures by the private sector of $100 million or more.

Paperwork Reduction Act

We have reviewed this rule and we have not identified any changes in paperwork under the Paperwork Reduction Act.

Notice and Comment Rulemaking

The Department believes that notice and comment rulemaking are not required under the Administrative Procedure Act, 5 U.S.C. 553(b)(A), because this rule is interpretive rather than substantive in nature. The Section 503 regulations specifically provide as follows:

Appendix C of this part is *an example* of an appropriate set of procedures. The procedures in Appendix C of this part *are not required* and contractors may develop other procedures appropriate to their circumstances. 41 CFR 60–741.44(b) (emphasis added).

Because contractors are not required to follow Appendix C, no penalty can attach for failure to follow the Appendix. Accordingly, the rule is not substantive in nature and notice and comment rulemaking is not required. See, e.g., *American President Lines, Ltd.* v. *FMC*, 316 F.2d 419 (DC Cir. 1963).

List of Subjects in 41 CFR Part 60–741

Administrative practice and procedure, Civil rights, Employment, Equal employment opportunity, Government contracts, Government procurement, Individuals with disabilities, Investigations, and Reporting and recordkeeping requirements.

Signed at Washington, D.C., this 26th day of October, 1998.

Alexis M. Herman,

Secretary of Labor.

Bernard E. Anderson,

Assistant Secretary for Employment Standards.

Shirley J. Wilcher,

Deputy Assistant Secretary for Federal Contract Compliance.

For the reasons set forth above, 41 CFR Part 60–741 is amended as follows:

PART 60–741—[AMENDED]

1. The authority citation for part 60–741 continues to read as follows:

Authority: 29 U.S.C. 706 and 793; E.O. 11758 (3 CFR, 1971–1975 Comp., p. 841).

2. In Appendix C to part 60–741, the introductory text is republished and paragraphs 3 and 4 are revised to read as follows:

Appendix C to Part 60–741—Review of Personnel Processes

The following is a set of procedures which contractors may use to meet the requirements of § 60–741.44(b):

* * * * *

3. In each case where an employee or applicant who is an individual with a disability is rejected for employment, promotion, or training, the contractor should prepare a statement of the reason as well as a description of the accommodations considered. The statement of the reason for rejection (if the reason is medically related), and the description of the accommodations considered, should be treated as confidential medical records in accordance with § 60–741.23(d). These materials should be available to the applicant or employee concerned upon request.

4. Where applicants or employees are selected for hire, promotion, or training and the contractor undertakes any accommodation which makes it possible for him or her to place an individual with a disability on the job, the contractor should make a record containing a description of the accommodation. The record should be treated as a confidential medical record in accordance with § 60–741.23(d).

[FR Doc. 98–29042 Filed 11–3–98; 8:45 am]

BILLING CODE 4510–27–P

Federal Register

Wednesday
November 4, 1998

Part III

Department of Energy

10 CFR Part 835
Occupational Radiation Protection; Final Rule

DEPARTMENT OF ENERGY

10 CFR Part 835

[Docket No.: EH–RM–96–835]

RIN 1901–AA59

Occupational Radiation Protection

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is amending its primary standards for occupational radiation protection. This final rule is the culmination of a systematic analysis to identify the elements of a comprehensive radiation protection program and determine those elements of such a program that should be codified as DOE continues its transition from a system of contractually-based nuclear safety standards to regulatory-based requirements. The final rule codifies requirements previously established in DOE's contractually-based standards, clarifies certain issues identified during implementation of programs to ensure compliance with the original rule, and corrects minor errors.

EFFECTIVE DATE: The amendments to this regulation become effective on December 4, 1998.

FOR FURTHER INFORMATION CONTACT: Dr. Joel Rabovsky, U.S. Department of Energy, Office of Worker Protection Programs and Hazards Management, EH–52, 19901 Germantown Road, Germantown, MD 20874, (301) 903–2135.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of Significant Changes
III. Review Under the National Environmental Policy Act
IV. Review Under the Regulatory Flexibility Act
V. Review Under Executive Order 12866
VI. Review Under Executive Order 12612
VII. Review Under Executive Order 12988
VIII. Review Under Paperwork Reduction Act
IX. Review Under the Unfunded Mandates Reform Act
X. Review Under Small Business Regulatory Enforcement Fairness Act of 1996

I. Background

On December 14, 1993, DOE published a final rule, 10 CFR part 835, "Occupational Radiation Protection" (58 FR 65458), which established regulatory requirements consistent with the "Radiation Protection Guidance to Federal Agencies for Occupational Exposure" (52 FR 2822) (Guidance to Federal Agencies), as well as guidance issued by authoritative organizations, including the National Council on Radiation Protection and Measurements (NCRP) and the International Commission on Radiological Protection (ICRP). Many of the codified requirements were previously established in DOE Order 5480.11, "Radiation Protection for Occupational Workers." In addition, DOE codified in 10 CFR part 835 the "as low as is reasonably achievable" (ALARA) process as the primary means of maintaining occupational radiation doses below regulatory limits.

As a result of an initiative to eliminate redundant and unnecessarily stringent requirements, DOE conducted a systematic analysis to identify the elements of a comprehensive radiation protection program and determine those elements of such a program that should be codified as DOE continues its transition from a system of contractually-based nuclear safety standards to regulatory-based requirements. The systematic analysis included an evaluation of DOE's objectives for occupational radiation protection programs, including structured analyses of existing standards for similar programs, operational occurrences within the DOE complex, and provisions in the original rule. The analysis also included reviews of the requirements in DOE Notice 441.1, "Radiological Protection for DOE Activities," (extended by DOE N 441.2 and 441.3) and the provisions of the "DOE Radiological Control Manual" (Manual). DOE proposed to codify requirements in use within the DOE complex to ensure that worker health and safety programs would continue to be maintained at a level commensurate with workplace hazards. DOE also considered approaches used by national and international radiation protection organizations and experience throughout the DOE complex in achieving compliance with 10 CFR part 835. The systematic analysis is documented in a report entitled, "Development of the 1996 Proposed Amendment to 10 CFR part 835, Occupational Radiation Protection," (regulatory development document, November 1996) which may be viewed in the DOE Freedom of Information Reading Room at Room 1E–190, 1000 Independence Avenue, SW, Washington, DC, 20585, (202) 586–6020.

On December 23, 1996, DOE published a Notice of Proposed Rulemaking that would amend 10 CFR part 835 by:

1. Modifying the scope to explicitly exclude radioactive material transportation and certain activities conducted on foreign soil;
2. Adding requirements for area posting and sealed radioactive source control;
3. Adding a removable surface contamination value for tritium, to be used to identify the need for area posting and imposition of certain radioactive material controls;
4. Expanding and clarifying provisions of the rule to address emergent radiation protection issues;
5. Deleting certain provisions, as appropriate, to eliminate redundant and excessively stringent regulatory requirements; and
6. Clarifying and correcting minor errors.

As discussed in this Notice of Final Rulemaking, the final rule was developed in consideration of the extensive input received during two public hearings and through written and electronic public comments.

The schedule for achieving compliance with the amendments to 10 CFR part 835 is as follows. The final rule will become effective 30 days following publication in the **Federal Register**. As provided at § 835.101(g)(3), updated radiation protection programs (RPPs) must be submitted to DOE within 180 days following the effective date of the final rule. Changes that do not decrease the effectiveness of the RPP may be implemented prior to DOE approval. Changes that decrease the effectiveness of the RPP require DOE approval prior to implementation. As provided at § 835.101(i), an update of the RPP shall be considered approved 180 days after its initial submission unless rejected by DOE at an earlier date. The final rule, at § 835.101(f), requires full compliance with the regulatory changes within 180 days of RPP approval except for radiobioassay program accreditation required under § 835.402(d). Because of the breadth of the joint DOE/DOE-contractor effort needed to accomplish radiobioassay program accreditation, at § 835.101(f) DOE has established January 1, 2002 as the compliance date for the radiobioassay program accreditation requirements.

II. Discussion of Significant Changes

The discussion of the significant changes to 10 CFR part 835 and the response to public comments is organized according to subpart. When there was more than one significant change in a subpart the significant changes are generally listed in order of section. The topic addressed by each significant change is listed. In many cases, inclusion of a change to the provisions in one subpart or section required changes to other subparts or sections of the regulation either for internal consistency or to resolve a public comment. For example a number of changes to the provisions of the rule required concomitant changes to the definitions or recordkeeping requirements. Accordingly, the discussion of a change may reference other subparts in addition to the one in which the primary change was made. This organization of the discussion of the significant changes to 10 CFR part 835 and the response to public comments was chosen to more clearly explain the changes and how DOE responded to the public comments.

A. General Provisions, Subpart A

1. Nuclear Explosive and Weapon Surety Program

Proposed Amendment

DOE proposed to revise the Nuclear Explosive and Weapon Surety Program exclusion at § 835.1(b)(3) to clearly indicate that the exclusion applies only to the extent that compliance with 10 CFR part 835 would compromise the effectiveness of activities essential to prevention of an accidental or unauthorized detonation. This action was initiated to ensure that radiation protection programs are implemented that do not compromise the overriding goal of preventing such incidents.

Summary of Public Comments and Disposition

DOE received comments indicating that this exclusion should also be extended to address the provisions of CG-TSS-S2, "Transportation Safeguards System Classification and Unclassified Controlled Information Guide (Supplement)," which states that "The fact that a specific SST (Safe Secure Trailer)/SSR (Safe Secure Railcar) is loaded or empty is CNSI (controlled nuclear safeguards information)." The commenters believe that certain posting and labeling provisions of 10 CFR part 835 would provide indication of the loaded or empty status of affected vehicles, contrary to the referenced guidance. DOE believes that the existing exclusion already provides the flexibility needed for implementation of programs consistent with CG-TSS-S2. Indeed, the situation presented by the commenters is exactly the type of condition for which the exclusion is intended.

Final Rule

After further consideration, DOE has determined that the proposed clarification is not needed. Ruling 1995–1 makes it clear that the existing language recognizes "the paramount importance of preventing accidental or unauthorized nuclear detonations and ensuring that the requirements in (part 835) do not come into conflict with any activities necessary to prevent such detonation. However, [the language is] not intended to relieve the person responsible for a DOE nuclear facility or a DOE activity from complying with the requirements in (part 835) to the extent they do not interfere with the conduct of activities undertaken to prevent an accidental or unauthorized detonation." (61 FR 4212, February 5, 1996.)

2. Radioactive Material Transportation

Proposed Amendment

DOE standards for packaging and transporting radioactive material are addressed in DOE Orders. DOE Orders 460.1A, "Packaging and Transportation Safety," and 460.2, "Departmental Materials Transportation and Packaging Management," provide DOE requirements for packaging and transportation of radioactive material. Requirements for radioactive material transported under DOE's national security mission are provided in DOE Order 5610.12, "Packaging and Off-site Transportation of Nuclear Components and Special Assemblies Associated with the Nuclear Explosive and Weapon Safety Program," and DOE Order 5610.14, "Transportation Safeguards System Program Operations." The requirements of these Orders are consistent with Department of Transportation (DOT) regulatory requirements and provide the framework for ensuring transportation safety. Certain provisions of 10 CFR part 835 complement these transportation safety directives by ensuring that individuals are afforded an adequate level of radiation protection while preparing radioactive materials for transportation and taking possession of radioactive material from transportation.

Although the absence of provisions pertaining to radioactive material transportation was addressed in the preamble for the original Rulemaking (58 FR 65465), DOE did not explicitly exclude radioactive material transportation from the scope of 10 CFR part 835. Consistent with its original intent as expressed in the preamble of the final rule, DOE proposed an exclusion at § 835.1(b)(4) for radioactive material transportation conducted in accordance with applicable DOE Orders. DOE also proposed a definition of "radioactive material transportation" at § 835.2(a) to clarify the distinction between the process of transporting radioactive materials, which would be excluded from 10 CFR part 835, and those activities leading to or resulting from radioactive material transportation, which would be subject to 10 CFR part 835. The proposed definition included a specified threshold (specific activity) consistent with DOT requirements at 49 CFR 171–179.

Summary of Public Comments and Disposition

Public comments supported DOE's intent to exclude radioactive material transportation, but indicated that the proposed approach did not clearly establish the interface between 10 CFR part 835 and applicable transportation requirements. Other comments indicated that the term "specific activity" in the proposed § 835.2(a) definition of the term "radioactive material transportation" could be misconstrued, potentially resulting in non-compliant conditions.

Final Rule

The final rule clearly establishes the interface between the occupational radiation protection and transportation requirements. This approach makes it clear that 10 CFR part 835 does not apply to the radioactive material transportation, which is defined to be movement of radioactive material that is subject to DOE Orders or DOT regulations. The definition of radioactive material transportation is independent of the geographical location of the material being transported (i.e., inside or outside of the area controlled by DOE) and also independent of the radiological characteristics (e.g., specific activity) of the material in question. As a result of this revised approach, DOE has not included the term "specific activity" in the § 835.2(a) definition of the term "radioactive material transportation."

3. DOE Activities Conducted on Foreign Soil

Proposed Amendment

DOE proposed to add an exclusion at § 835.1(b)(5) for DOE activities conducted on foreign soil and under requirements agreed to between the foreign government and the United States. DOE proposed this exclusion in recognition of the primacy of foreign governments' occupational radiation protection requirements.

Summary of Public Comments and Disposition

Several commenters indicated that the development and approval of agreements with foreign governments may require action by the State Department and that DOE contractors could not take independent actions to

ensure that appropriate agreements have been reached. However, DOE activities, including those performed on foreign soil, are conducted under the cognizance of the responsible DOE Program Office and these offices are responsible for ensuring that such agreements are in effect before authorizing the conduct of the activities. The only action required of the DOE contractor will be to ensure that the DOE Program Office has established, or verified the establishment of, the appropriate agreements. Also, the activity is not excluded unless there are occupational radiation protection requirements agreed upon.

Final Rule

The final rule includes the exclusion for DOE activities conducted on foreign soil at § 835.1(b)(5).

4. Applicability of Occupational Dose Received From Excluded Activities

Proposed Amendment

At §§ 835.1(c), 835.202(a), and 835.202(b), DOE proposed changes to clarify the requirements for accounting for occupational doses received from non-DOE activities. The proposed amendment indicated that, even though certain activities are excluded from the scope of the rule at § 835.1(b), an individual's occupational dose resulting from excluded activities would be applied toward determination of compliance with the occupational dose limits established in subpart C of 10 CFR part 835. This is necessary to ensure that an individual's annual aggregate occupational dose is maintained below the limits specified in the Federal Guidance. This would include occupational doses received from activities licensed by the Nuclear Regulatory Commission (NRC) and its agreement states, activities conducted under the authority of the Director, Naval Nuclear Propulsion Program, activities conducted under the Nuclear Explosive and Weapon Surety Program, radioactive material transportation activities, and activities conducted under the auspices of foreign governments. However, radiation doses received from background radiation, as a patient for the purposes of medical diagnosis or therapy, and from participation as a subject in medical research programs are not considered occupational doses and would not be considered in determining compliance with the occupational dose limits. Furthermore, occupational dose received as a result of authorized emergency exposures and planned special exposures, although occupational in nature, would not be considered in determining compliance with the dose limits established at § 835.202(a).

Summary of Public Comments and Disposition

Commenters generally supported this clarification of DOE policy.

Final Rule

The final rule adopts the proposed clarification that all occupational doses, other than doses resulting from authorized emergency exposures and planned special exposures, shall be considered in determining compliance with the limits set forth in §§ 835.202, and 835.207. Section § 835.206, Limits for the embryo/fetus, was included in this provision for consistency and completeness. Because § 835.1302 establishes the appropriate criteria for authorizing exposures under emergency conditions, DOE has instituted an editorial change to reference this section. Procedures for handling doses resulting from authorized emergency exposures and planned special exposures are discussed in Section II.C of this Notice of Final Rulemaking, "Limitation of Individual Doses."

5. Definitions

DOE proposed to add, revise, or remove the definitions of a number of terms that appear at § 835.2(a) and (b) as follows:

a. Adding definitions of the terms "accountable sealed radioactive source," "derived air concentration-hour," "occupational dose," "radioactive material area," "radioactive material transportation," "radiological control technician," "real time air monitoring," "respiratory protective device," "sealed radioactive source," "source leak test," and "week."

b. Revising the definitions of the terms "airborne radioactive material or airborne radioactivity," "airborne radioactivity area," "contamination area," "controlled area," "DOE activity," "high contamination area," "member of the public," "monitoring," "radiological area," "year," "committed dose equivalent," "cumulative total effective dose equivalent," "effective dose equivalent," "external dose or exposure," "internal dose or exposure," "quality factor," "total effective dose equivalent," and "weighting factor."

c. Removing the definitions of the terms "ambient air," "continuous air monitor," "collective dose," and "occupational exposure."

The effects of these proposed changes, significant public comments on these proposed changes, and any resulting changes are discussed in this Notice of Final Rulemaking as these terms appear in the final rule.

6. Intervals Between Required Activities

Proposed Rule

DOE proposed to revise the required intervals for internal audits, instrument and equipment calibration and maintenance, and radiation safety retraining from the specified number of years to the equivalent number of months. This change was proposed to eliminate any confusion resulting from the § 835.2(a) definition of the term "year," which specifically defined the year in terms necessary to ensure compliance with the subpart C dose limits.

Summary of Public Comments and Disposition

DOE received a number of comments indicating that the required intervals appeared to be somewhat arbitrary and should therefore include some degree of flexibility to accommodate operational and scheduling needs. DOE agrees with these observations.

Final Rule

DOE has included a provision at § 835.3(e) that will allow a 30 day automatic extension in the required time interval to accommodate operational and scheduling constraints. The extension is considered to be automatic in that there is no requirement to obtain DOE or other approval for the extension. This provision addresses the requirements of §§ 835.102, 835.901, and 835.1202 for internal audits, radiation safety training, and sealed radioactive source inventories and leak tests, respectively. Because of the varying lengths of the calendar months, DOE has not provided a definition of the term "month." DOE expects that those entities responsible for ensuring compliance with 10 CFR part 835 will undertake those measures necessary to perform the required activities within the prescribed time frame (i.e., if a sealed radioactive source is leak tested on January 15, DOE would expect the subsequent leak test to be performed on or before July 15 of the same year). When operational or scheduling considerations preclude adherence to that schedule, then one may consider utilization of the 30 day extension (i.e., the leak test could be performed no later than August 14 of the same year).

7. Radiological Units

Proposed Amendment

DOE proposed to delete the § 835.4 prohibition on use of the international (SI) radiological units. The international system of radiological units is commonly used for calculational and reference purposes. As proposed, § 835.4 would continue to require the use of the special radiological units in required records. Consistent with its historical endorsement of the special units and in recognition of the capabilities of many commercially-available instruments in use throughout the DOE complex, DOE also proposed to specifically allow for use of subunits and multiples of the unit "roentgen."

Summary of Public Comments and Disposition

Although some comments indicated that DOE should proceed toward use of the SI units for required records, DOE believes that considerations of consistency with records required by the NRC and its agreement states override the impetus toward use of SI units.

Final Rule

As proposed, § 835.4 of the final rule allows the use of the international system of units for calculations or reference purposes. Records required by 10 CFR part 835 will continue to be maintained using the special radiological units of curie, rad, roentgen, and rem.

B. Management and Administrative Requirements, Subpart B

1. Documented Radiation Protection Programs

Proposed Rule

Paragraph 835.101(g) of the original rule requires that those entities subject to the requirements of 10 CFR part 835 submit an update of the documented radiation protection program (RPP) within 180 days of the effective date of any regulatory modifications. DOE proposed to establish provisions at § 835.101(f) requiring compliance with amendments to 10 CFR part 835 no later than 180 days following approval of the updated RPP, except for the provisions of § 835.402(d) for radiobioassay program accreditation. Because of the extent of the joint DOE/DOE contractor effort necessary to complete the radiobioassay program accreditations, DOE proposed a compliance date of January 1, 2000 for this provision. DOE also proposed to delete outdated provisions codified at § 835.101 (f) and (g).

Summary of Public Comments and Disposition

Several commenters indicated that DOE's proposed compliance date of January 1, 2000 for radiobioassay program accreditation may be inappropriate due to the lack of experience in implementing the accreditation program. Other comments indicated that DOE delays in implementing the program might result in a state of non-compliance for DOE-contractors. DOE agrees that more time may be necessary to complete the required program accreditations.

Final Rule

DOE has codified the proposed 180 day period for achieving compliance with the amendments to 10 CFR part 835, except for the radiobioassay program accreditation requirements of § 835.402(d). DOE has extended the date for compliance with the radiobioassay program accreditation requirements until January 1, 2002 to accommodate the planned schedule to complete program accreditations throughout the DOE complex. DOE expects this extension to provide ample time for completion of the program accreditations. Should significant delays occur in performing the program accreditations, DOE could exercise appropriate enforcement discretion. These changes will not affect the compliance status of personnel dosimetry programs currently accredited, or excepted from accreditation, under the existing Department of Energy Laboratory Accreditation Program (DOELAP) standards.

DOE has deleted the outdated provisions of § 835.101 (f) and (g) as proposed.

2. Education and Training of Cognizant Individuals

Proposed Amendment

To address a number of shortcomings in its provisions for training radiological control technicians identified during its systematic analysis, DOE proposed to codify a definition of "radiological control technician" at § 835.2(a). DOE also solicited comments on four alternative approaches that were discussed in the preamble of the Notice of Proposed Rulemaking.

Summary of Public Comments and Disposition

Public comments indicated that DOE's proposed definition of the term "radiological control technician" did not adequately describe the roles and responsibilities of individuals filling this position. DOE received comments endorsing each of the proposed alternative approaches, with the majority of the comments endorsing Alternative Approach 4 as discussed in the preamble of DOE's Notice of Proposed Rulemaking.

Final Rule

To satisfy its programmatic objectives for occupational radiation protection programs, DOE has codified an approach consistent with that discussed as Alternative Approach 4 in its Notice of Proposed Rulemaking. Under this approach, DOE has eliminated the specific requirements for radiological control technician training from subpart J of 10 CFR part 835 and added at § 835.103 a requirement for all individuals responsible for ensuring compliance with the rule to have the appropriate education, training, and skills. This approach provides the flexibility necessary to address the wide range of individuals involved in developing and implementing measures necessary for ensuring compliance with 10 CFR part 835, including cognizant managers, supervisors, auditors, engineers, clerks, and technicians.

3. Written Procedures

Proposed Rule

In its Notice of Proposed Rulemaking, DOE noted that the existing rule did not establish requirements for written procedures that consistently addressed the hazards associated with the specified activity. DOE believes that, due to the wide variation of radiological activities and their associated hazards conducted at DOE facilities, requiring written procedures for specific types of activities may divert resources from active management of higher-hazard activities to administrative control of lower-hazard activities. DOE discussed two alternative approaches in its Notice of Proposed Rulemaking. Alternative Approach 1 would eliminate most or all of the requirements for written procedures and leave the determination of the need for written procedures to the cognizant DOE Program Office. Alternative Approach 2 would eliminate most or all of the existing requirements for written procedures in favor of a general requirement that written procedures be developed and implemented commensurate with the radiological hazards created by the activity and consistent with the education, training, and skills of the affected individuals.

Summary of Public Comments and Disposition

Public comments overwhelmingly favored Alternative Approach 2. Commenters indicated that this approach would provide for an appropriate level of radiological safety while providing the flexibility needed to address the wide range of DOE activities. DOE agrees with the public comments.

Final Rule

DOE has established a requirement at § 835.104 consistent with that described as Alternative Approach 2 in its Notice of Proposed Rulemaking. As a result of this change, DOE has deleted specific requirements for written procedures from §§ 835.501(d), 835.1001(a), 835.1001(b), 835.1003(a), 835.1101(c), and 835.1102(c)(3) (formerly 835.404(d)). In addition, proposed requirements for written procedures at §§ 835.405(f) and 835.1201(a) were omitted from the final rule.

DOE's adoption of this approach is not intended to imply a global requirement that written procedures be developed and implemented to address all of the requirements of 10 CFR part 835. In evaluating the need for written procedures addressing any particular provision of 10 CFR part 835, consideration must be given to the nature and extent of the radiological hazards, the complexity of the measures necessary to achieve compliance, and the education, training and skills of the individuals who must implement those measures. Under such a regimen, a low hazard activity employing a stable staff of highly educated and skilled workers having an advanced knowledge of radiation protection principles and practices could have fewer and less detailed procedures than a higher hazard activity employing a transient force of workers with less knowledge of radiation protection principles and practices. The adequacy of the written procedures is ultimately determined by the appropriate implementation of the necessary compliance measures by the affected individuals.

Because the scope of subpart B of 10 CFR part 835 has been expanded, DOE has changed the title of this subpart to "Management and Administrative Requirements."

C. Limitation of Individual Doses, Subpart C

1. Summing of Internal and External Doses

Proposed Amendment

DOE proposed to revise § 835.203(a) to provide flexibility in requirements for summing of individual internal and external dose equivalents to determine the total effective dose equivalent. As proposed, § 835.203(a) would require summing only when the individual was monitored in accordance with § 835.402 (that is, when the individual's dose was likely to exceed the mandatory individual monitoring thresholds) or when the individual's dose exceeded the mandatory monitoring thresholds, regardless of a priori expectations.

DOE also proposed to delete § 835.203(c) because this provision is redundant with provisions included in the § 835.2(b) definition of the term "weighting factor."

Summary of Public Comments and Disposition

DOE received comments indicating that all monitored individual internal and external doses should be summed to determine the total effective dose equivalent. Commenters noted that these data were available and could be important in future dose reconstruction or litigation efforts. DOE agrees with these comments. Although DOE is concerned about the administrative burden associated with the need to sum trivial internal and external doses, DOE has provided ample flexibility for ameliorating such burdens through codification of the individual monitoring thresholds provided at § 835.402.

Final Rule

DOE has omitted the proposed change from § 835.203(a), but deleted the second sentence of § 835.203(a) because this sentence is redundant with provisions included in the definition of the term "effective dose equivalent" at § 835.2(b). DOE has deleted § 835.203(c), as proposed.

2. Planned Special Exposures

Proposed Amendment

DOE proposed changes to the 10 CFR part 835 requirements for conducting planned special exposures in excess of the dose limits established at § 835.202. The proposed changes included:

a. Changing the § 835.204(a)(1) reference from § 835.202(a)(1) to § 835.202(a) to indicate that all of the § 835.202 dose limits apply.

b. Revising § 835.204(c) to indicate that doses resulting from planned special exposures may exceed the numerical values established at § 835.202(a) without actually exceeding the occupational dose limits.

c. Clarifying documentation requirements for planned special exposures at § 835.204(d).

DOE also solicited comments on the possibility of deleting the provisions for planned special exposures because these provisions have not been used to date.

Summary of Public Comments and Disposition

Commenters generally supported the proposed changes to the provisions for planned special exposures. Many commenters indicated that the provisions for planned special exposures should be retained to provide the maximum practical degree of flexibility.

Final Rule

Consistent with the comments received, DOE has retained the provisions for planned special exposures, with the proposed revisions, in the final rule.

3. Radiation Dose Limits

Proposed Amendment

DOE proposed editorial changes to § 835.207 and the heading of that section to clarify that the dose limits for minors apply to doses resulting from occupational exposure only. DOE also proposed to add deterministic dose limits for minors consistent with the Federal Guidance. Non-occupational exposure of minors is subject to the dose limits established at § 835.208 for members of the public entering a controlled area. DOE also proposed changes to § 835.208 to clarify that the member of the public dose limit applies to members of the public in the controlled area only. DOE proposed to revise the definition of "member of the public" at § 835.2(a) to clearly distinguish members of the public from temporary or transient workers or visiting scientists who could receive occupational doses.

DOE proposed to revise the definition of "cumulative total effective dose equivalent" (CTEDE) at § 835.2(b) to include all total effective dose equivalent (TEDE) values, where available, from January 1, 1989, whether or not the dose was received at that DOE site or facility.

Summary of Public Comments and Disposition

Several commenters questioned DOE's proposed approach to controlling doses to minors, pointing out that a minor could possibly receive 0.1 rem in a year occupational dose and 0.1 rem in a year as a member of the public. Although this scenario is possible, the resulting maximum dose is well below the most recent recommendations of scientific bodies for exposures that do not occur repeatedly.

DOE did not receive any substantive comments on the proposed change to the definition of the term "cumulative total effective dose equivalent."

Final Rule

DOE has adopted the changes, essentially as proposed. DOE has also made editorial changes to §§ 835.207 and 835.208 for clarity. These changes include omitting, in § 835.207, the proposed occupational dose limit for minors of 10% of the § 835.202(a)(2) limit. This limit is redundant because the 0.1 rem total effective dose equivalent limit for minors is always more restrictive.

4. Exposures to Airborne Radionuclides

Proposed Amendment

DOE proposed to delete § 835.209(b) because of redundancy with other rule requirements for inhalation exposures and external exposures from airborne radionuclides.

Summary of Public Comments and Disposition

DOE did not receive any substantive comments on the proposed deletion.

Final Rule

DOE has deleted § 835.209(b) and redesignated § 835.209(c) as § 835.209(b). In addition, DOE has initiated an editorial change by deleting the word "representative" from § 835.209(c)(3) (redesignated as § 835.209(b)(3)). This word was redundant with the remaining requirement that the internal dose estimate based upon air concentration values must be as or more accurate than that based upon bioassay results.

D. Monitoring of Individuals and Areas, Subpart E

1. General Requirements for Area and Individual Monitoring

Proposed Amendment

In reviewing the requirements of 10 CFR part 835, DOE noted that the terms "monitoring" and "survey" were not used consistent with the definitions provided at § 835.2(a). DOE proposed changes to the definition of the term "monitoring" at § 835.2(a) to clearly establish that "monitoring" involves measurement of radiological conditions and the subsequent use of the results of these measurements to evaluate potential and actual exposures to ionizing radiation. As proposed, the term "survey," would be more directly related to the assessment of workplace or material radiological conditions through direct measurement, assessment, or calculation for the purposes of hazards assessment. DOE proposed changes throughout the rule to ensure consistent application of these terms.

DOE proposed to clarify the requirements of §§ 835.401(c) and 835.703(d) by making the calibration requirements apply to both "instruments" and "equipment." This clarification is consistent with current field practice with regard to equipment, such as an air sampler, that, although incorporated into or associated with instrumentation systems, does not have any instrumentation.

Summary of Public Comments and Disposition

DOE received a number of comments supporting its attempt to clarify the "monitoring" and "surveying" terminology. However, comments indicated that the usage of these terms remained inconsistent.

With regard to the proposed § 835.401(c) requirements for calibration and maintenance of instruments and equipment, DOE received a number of comments indicating that the required one year calibration frequency was overly stringent given the reliability of many modern instruments, particularly certain fixed monitors. Other commenters indicated that the term "equipment" could conceivably be extended to include vehicles, calculators, and other equipment routinely used in the course of area monitoring.

Commenters indicated that the use of the undefined term "workplace" in this subpart could result in confusion regarding the scope of the requirements. Commenters also indicated that the use of the term "area monitoring" at § 835.401(b) seemed to imply that stationary area monitors were required under certain conditions.

Final Rule

DOE has determined that, for regulatory purposes as established in 10 CFR part 835, there is no substantive difference between the uses of the terms "monitoring" and "survey." Therefore, in the final rule DOE has revised the definition of the term "monitoring" and deleted the term "survey," replacing this term with "monitoring" (as modified) throughout the rule. DOE has also deleted the undefined terms "sampling" and "measurements" in favor of the defined term "monitoring."

DOE has deleted the term "workplace" from subpart E of 10 CFR part 835, instead adopting a performance-oriented approach of "monitoring of individuals and areas." In a related editorial change, DOE has deleted the term "area monitoring" from proposed § 835.401(b) and redesignated the remaining text as § 835.401(a)(6) to eliminate any connotation regarding requirements for stationary radiation monitors. DOE has also substituted the defined term "individual" for the undefined term "personnel" in this provision.

In response to comments on DOE's requirements for calibration and maintenance of instruments and equipment, DOE has revised these requirements (at redesignated § 835.401(b)(1)) such that calibration and maintenance will be required "periodically" on an "established frequency." This change is consistent with NRC requirements at 10 CFR 20.1501 and provides flexibility for acceptance of recommendations provided in various consensus standards accepted by the instrument calibration community and used within the DOE complex. DOE will provide guidance regarding measures for establishing appropriate maintenance and calibration frequencies and proper application of these requirements to "equipment" used for monitoring.

As used in 10 CFR part 835, instruments and equipment used for monitoring includes devices used for both area monitoring (e.g., portable and installed radiation, contamination, and airborne radioactivity sampling and monitoring devices) and individual monitoring devices (e.g., thermoluminescent dosimeters, pocket ion chambers, track etch dosimeters, and electronic dosimeters). Note that the calibration of personnel dosimeters that are required under § 835.402 is addressed by the DOELAP for personnel dosimetry.

2. Individual Monitoring and Dose Determination

Proposed Amendment

DOE proposed several changes to the existing requirements for monitoring individual radiation doses. The proposed changes included:

a. Clarifying the requirements for external and internal dose monitoring programs at § 835.402(b) and (d) by providing that such programs must be capable of demonstrating compliance with all of the individual dose equivalent limits in subpart C. This approach is consistent with DOE's previously established requirements for records required under § 835.701(a).

b. Revising the monitoring requirements for minors at § 835.402(a)(3) and (c)(3) to expressly state that these requirements apply to occupationally exposed minors only.

Minors who are not occupationally exposed are subject to the member of the public monitoring requirements found at § 835.402(a)(4) and (c)(4).

c. Deleting from § 835.402(c)(1) the monitoring threshold based on organ and tissue committed dose equivalent. The monitoring threshold based upon committed effective dose equivalent obviates the need for this threshold because, through application of the weighting factors defined at § 835.2(b), the committed effective dose equivalent always provides a more restrictive basis for individual monitoring.

d. Changing § 835.402(a)(1)(i) to require individual monitoring on the basis of deep dose equivalent rather than effective dose equivalent because deep dose equivalent is the parameter actually monitored by existing dosimetry programs.

e. Removing provisions at § 835.402(a)(1)(iv) for measuring deep dose equivalent from external sources to any organ or tissue other than the lens of the eye because any doses meeting this condition are adequately addressed by § 835.402(a)(1)(i).

f. Clarifying § 835.402(a)(4) and (c)(4) to indicate that these provisions apply to members of the public inside the controlled area only.

Summary of Public Comments and Disposition

Commenters indicated that the proposed § 835.402(a)(1)(i) requirement for monitoring of deep dose equivalent, as worded, would challenge the capabilities of modern dosimetry systems. While the technical basis for the comments was not clear, reflection on these comments revealed that the wording in the proposed rule could suggest the basis for initiating monitoring was the highest dose received by any portion of the whole body. Furthermore, although deep dose equivalent is the quantity most commonly measured, effective dose equivalent is the appropriate criterion upon which the mandatory individual monitoring threshold should be based because the corresponding occupational dose limits are stated in terms of effective dose equivalent.

Final Rule

DOE agrees with the public comments regarding the proposed change to § 835.402(a)(1)(i). The language in the original version of 10 CFR part 835 has been retained. DOE has included the other proposed changes in the final rule.

3. Program Accreditation

Proposed Amendment

DOE proposed a number of enhancements and additions to the existing requirements for the DOELAP. These proposed changes included:

a. Amending § 835.402(b) to indicate that, except as discussed below, personnel dosimetry programs must be either accredited under the DOELAP or excepted from accreditation under that program.

b. Amending § 835.402(d) to require radiobioassay program accreditation or exception through the recently developed DOELAP for Radiobioassay. This proposed change was intended to ensure the integrity of radiobioassay programs and prevent recurrence of recent adverse events.

c. Revising § 835.402(b) and (d) to limit the scope of the DOELAP requirements to personnel dosimetry and radiobioassay programs implemented to ensure compliance with § 835.402 (i.e., monitoring when individual doses are likely to exceed the stated thresholds). In a related change, because § 835.401(b) addresses calibration of instruments and equipment used for monitoring and DOELAP for Personnel Dosimetry provides appropriate dosimetry system performance criteria, DOE proposed to delete the dosimeter calibration requirement from § 835.402(b).

d. Adding § 835.402(e) to require that external dosimetry and bioassay programs conform to the most recent revisions of the DOELAP technical standards or be subject to review and approval of the Secretarial Officer responsible for environment, safety, and health matters (currently the Assistant Secretary for Environment, Safety and Health). For those programs that are not accredited or excepted from the accreditation program, this provision would also allow this same officer to provide approval if the programs demonstrate performance equivalent to those accredited under the DOELAP. This provision would ensure that, to the extent practical, DOE radiation protection programs will reflect the latest advances in the sciences of external and internal dosimetry. To prevent the automatic loss of accreditation status as a result of changes to the DOELAP technical standards, the DOELAP technical standards provide that changes in the standards become effective only during the ensuing accreditation cycle.

Summary of Public Comments and Disposition

Several commenters suggested that all individual dose measurements be performed under an accredited dosimetry program in order to maintain credibility of all monitoring data. However, DOE does not believe that is appropriate to impose regulatory accreditation requirements on monitoring programs that are not required by regulation. Existing regulatory provisions at § 835.402(a) and (c) require individual monitoring for all individuals likely to receive a dose equivalent exceeding the specified thresholds. As part of a comprehensive radiation protection program, measures used to identify these individuals should include comprehensive, documented area monitoring and could include, if management so chooses, individual monitoring. Section 835.401 establishes minimum requirements for performing such monitoring, including requirements for calibration and maintenance of instruments and equipment used to perform the monitoring. As required by §§ 835.701(a) and 835.703, the monitoring results must be documented.

Several commenters recommended that DOE revise the rule to permit DOE facilities to procure the services of dosimetry processors who are accredited by the National Voluntary Laboratory Accreditation Program (NVLAP) administered through the National Institute of Standards and Technology, as an alternative to accreditation under the DOELAP for personnel dosimetry. These comments noted the NRC's regulations require licensees to use dosimetry processors with NVLAP accreditation. They argued that permitting NVLAP accreditation in lieu of DOELAP accreditation, would maximize private sector competition for DOE contracts. DOE has not accepted the commenters' recommendations because NVLAP accreditation does not meet DOE's requirement for an external dose monitoring program. DOELAP accreditation covers both the facility's and the processor's quality assurance program, whereas NVLAP only deals with the dosimetry processor. The commenter's reference to the NRC's use of NVLAP accreditation for dosimetry processors ignores the fact that NRC has the resources to perform frequent on-site inspections of a facility's dosimetry program. In the absence of such resources at DOE facilities, DOE relies upon the DOELAP accreditation to ensure that a facility's personnel dosimetry program provides accurate results.

DOE received comments on its proposal to require DOELAP accreditation, exception from accreditation under DOELAP, or DOELAP equivalency, for radiobioassay programs that would satisfy the internal dose monitoring program requirement in the rule. The commenters argued that it would be premature to impose this requirement because DOE has not completed the process for developing accreditation standards for radiobioassay programs. As discussed in connection with § 835.101, concerning the effective date of the rule, DOE has responded to these concerns by extending the deadline for complying with this provision to January 1, 2002. In any event, § 835.402(d) provides for Secretarial Officer approval of radiobioassay programs that are not accredited under DOELAP.

Several commenters objected to proposed § 835.402(e), which would have required Secretarial Officer approval of personnel dosimetry and radiobioassay programs that do not comply with the latest edition of DOE's technical standards governing program accreditation. They argued that incorporation by reference of the technical standards was inappropriate because the requirements in the technical standards had not been proposed for public comment in a rulemaking. In light of these comments, DOE has deleted the reference to DOE's technical standards for accreditation in the regulatory text of the final rule. DOE does not intend to codify the accreditation standards through this rulemaking. DOE technical standards are guidance documents to assist contractors in implementing regulatory requirements. As a matter of policy (DOE P 450.2A, May 15, 1996), DOE routinely seeks public comments on guidance documents issued to implement environment, safety and health requirements at DOE sites. On April 24, 1997, DOE published a notice of availability of draft guides and technical standards for the Occupational Radiation Protection Program (62 FR 19940). At that time, DOE invited public comment on draft technical standard, "Department of Energy Laboratory Accreditation Program Administration," which includes requirements for personnel dosimetry and radiobioassay program accreditation. The revised regulatory provisions will accomplish DOE's purpose of providing that programs which DOE accredits, or excepts from accreditation, under DOELAP will satisfy the requirements in this rule for programs that are implemented to demonstrate compliance with § 835.402(a) and (c). Accreditation under DOELAP will obviate the need for contractors to secure approval of the Assistant Secretary for Environment, Safety and Health.

Final Rule

In the final rule DOE has revised § 835.402(b) and (d) to provide that contractors may demonstrate the adequacy of external and internal dose monitoring programs, respectively, by submitting their programs to the Secretarial Officer responsible for environment, safety and health for approval in lieu of accreditation or exception from accreditation under the DOELAP. Alternative programs will be approved if their performance is demonstrated to be substantially equivalent to that of accredited programs. This change makes unnecessary, and DOE has deleted, proposed § 835.402(e), which would have required Secretarial Officer approval of programs not complying with the latest edition of the technical standards for DOELAP accreditation.

DOE has adopted the other changes as proposed, with minor editorial corrections.

4. Air Monitoring

Proposed Amendment

DOE proposed to revise the § 835.403(a)(1) air sampling requirement to be based on potential individual exposures in derived air concentration (DAC)-hours in a year rather than a percentage of the annual limit on intake (ALI) because the values provided in appendices A and C of 10 CFR part 835 are listed as DACs. DOE proposed to add § 835.403(a)(2) to require that air sampling be performed when respiratory protective devices are prescribed to protect individuals from exposure to airborne radionuclides. DOE also proposed an editorial change to delete § 835.403(b), eliminating redundancy with § 835.401(b).

To enhance air monitoring programs, DOE proposed to provide more practical and technically accurate criteria at § 835.403 for the use of real-time air monitors based on potential releases that would exceed a defined threshold exposure levels of 40 DAC-hours in a week. In a related change, DOE proposed to replace the term "continuous air monitor" with the term "real-time air monitor" with supporting changes to the definitions provided at § 835.2(a). DOE also proposed to add a definition of the term "week" at § 835.2(a).

Summary of Public Comments and Disposition

DOE received a number of comments indicating that the proposed revision of the requirements for real-time air monitoring was unclear and did not acknowledge the actual capabilities of available monitors. Other commenters indicated that the proposed definition of the term "week," based upon a period beginning on Monday, might cause unnecessary changes in existing schedules for real-time air monitor filter changes. Several commenters indicated that the proposed provisions for air sampling when respiratory protective devices are prescribed could be construed to mean that an air sample must be taken each time an individual enters an area wearing a respiratory protective device.

DOE received comments indicating that the existing criterion based upon the percentage of an ALI was more appropriate for prospective establishment of air monitoring programs. DAC-hours are related to the fraction of an ALI in a consistent and fixed manner; therefore, potential exposures in units of DAC-hours are an appropriate basis for prospectively determining the need for air sampling.

Final Rule

As suggested through public comments, DOE clarified the mandatory airborne radioactivity monitoring criteria in the final rule. Section 835.403(a) of the final rule requires the implementation of air sampling programs in areas in which an individual is expected to be exposed in excess of 40 DAC-hours in a year. The final rule clarifies that airborne radioactivity monitoring during use of respiratory protective equipment is required "as necessary" to characterize the hazard. This provision is consistent with requirements imposed by both the NRC and the Occupational Safety and Health Administration (OSHA) (see 10 CFR 20.1703(a)(3), "Use of individual respiratory protection equipment," and 29 CFR part 1910, "Occupational Safety and Health Standards," § 1910.134(d)(1)(iii), respectively).

The § 835.403(b) criterion for real-time air monitoring is based upon the need to alert potentially exposed individuals of the need for action to reduce or terminate exposures to airborne radioactive material. This approach provides more flexibility for implementation on a site-and facility-specific basis, taking into account realistic event scenarios, source terms, and instrument capabilities. This requirement acknowledges the wide

variety of configurations and hazards associated with DOE activities and the limitations of currently available real-time air monitoring equipment. DOE's implementing guidance provides an acceptable approach for achieving compliance with this provision. The restructuring of the requirements for real-time air monitoring rendered proposed § 835.403(c) redundant; DOE has therefore deleted this provision.

In support of the revised provisions, § 835.2(a) provides definitions for the terms "derived air concentration-hour (DAC-hour)," "real-time air monitoring," "respiratory protective device," and "week" which are used at § 835.403. In consideration of public comments, DOE has revised the proposed definition of the term "week" to omit a mandatory starting day. In addition, DOE has deleted the definitions of "ambient air" and "continuous air monitor" because these terms are no longer used in 10 CFR part 835.

5. Contamination Monitoring

In consideration of public comments received, DOE has revised the § 835.404 requirements for contamination monitoring and control and moved these requirements to § 835.1102. The proposed changes, public comments, and final rule provisions are discussed in full in Section II.J of this Notice of Final Rulemaking.

6. Receipt of Packages of Radioactive Material

Proposed Amendment

DOE proposed to add requirements at § 835.405 for surveys of packages of radioactive material received from radioactive material transportation to ensure adequate protection is provided to individuals, including warehouse and office workers, who may be exposed to these materials. The proposed provisions included requirements for taking possession of radioactive material packages from transport and performing surveys of these packages. At 835.405(d), DOE proposed to establish requirements for completion of the necessary surveys within three hours of receipt of the package (if received during working hours) or within three hours of the beginning of the following working day (if received after working hours). The proposed requirements are similar to NRC requirements at 10 CFR 20.1906.

Summary of Public Comments and Disposition

Several commenters suggested that the time provision included in the proposed amendment was unnecessarily stringent. During evaluation and resolution of these comments, DOE determined that the nature of many of its sites and facilities and the stringency of the requirements for radioactive material transportation indicate that this observation is accurate.

Final Rule

In deference to the comments received and in recognition of the variety of sites and facilities subject to 10 CFR part 835, DOE has extended the time required for monitoring packages received from radioactive material transportation to 8 hours after the beginning of the working day following the receipt of the package. In practice, the actual interval may also be constrained by the requirements for individual monitoring and radiation safety training at §§ 835.402 and 835.901 respectively, and by the ALARA requirements at § 835.101.

As used in § 835.405, a "working day" is considered to be the interval of time within each 24 hour period during which the building or area in which the received package is stored is routinely occupied or available for operations other than emergency activities. For example, if the received package is stored in a warehouse awaiting the required monitoring and that warehouse is occupied or accessible to shipping and receiving personnel, then the working day is that period of time within each 24 hour period during which the shipping and receiving personnel are scheduled to be working or to have ready access to the warehouse. The working day does not include periods during which shipping and receiving personnel would have to return to work on a non-scheduled basis to address emergent issues requiring their attendance.

E. Entry Control Program, Subpart F

Proposed Amendment

DOE proposed more detailed provisions for written work authorizations at § 835.501(e) to address operational occurrences throughout the DOE complex. DOE also proposed to revise § 835.502 to add measures for control of access to high radiation areas. The proposed control measures were consistent with those previously established in the Manual and included requirements for use of a supplemental dosimetry device and appropriate area surveys.

Summary of Public Comments and Disposition

Commenters expressed concern that the proposed § 835.501(e) entry control requirements were inappropriate for relatively minor hazards present in areas such as radiation areas. With regard to the proposed high radiation area access control requirements, commenters also indicated that devices capable of rendering an immediate indication of an individual's integrated dose resulting from neutron radiation are not commercially available. Several commenters also indicated that the proposed § 835.502(c) requirements for control of access to very high radiation areas could be taken to mean that the required controls must be impenetrable. DOE agrees that these issues require clarification.

Final Rule

Regarding low-hazard radiological areas, the final rule provides significant flexibility for implementation of access controls on a facility-and hazard-specific basis. The written authorizations required by 835.501(d) must specify radiation protection measures consistent with existing and potential hazards. DOE does not intend for this provision to establish a global requirement for the development and implementation of radiological work permits to address all entries into radiological areas. The written authorization may take the form of generally applicable procedures, as appropriate. Guidance on the use of written authorizations will be published in DOE's Radiological Control Standard. As a result of the deletion of specific requirements for written procedures (discussed in Section II.B.3 of this Notice of Final Rulemaking), DOE has redesignated proposed § 835.501(e) as § 835.501(d) in the final rule.

To address the unavailability of devices capable of providing an immediate indication of an individual's dose resulting from exposure to neutron radiation in a high radiation area, § 835.502(a)(2) allows for supplemental dosimeters or other means of immediately estimating or measuring the individuals' integrated doses during the area entry. The other means may include knowledge of the area exposure rates combined with tracking of individual access times. Consistent with the existing definition of the terms "high radiation area" and "very high radiation area," DOE has revised the proposed requirements to indicate that the required devices and measures must be capable of estimating the affected individual's deep dose equivalent, rather than the dose equivalent. DOE also provided an editorial correction at § 835.502(b)(2), substituting the defined term "individuals" for the undefined term "personnel."

In response to public comments, DOE has clarified § 835.502(c) to indicate that the additional controls required for very high radiation areas need to be sufficient to prevent "unauthorized or inadvertent" entries rather than to prohibit entry into the area.

F. Posting and Labeling, Subpart G

1. Controlled Area and Radiological Area Posting Requirements

Proposed Amendment

DOE proposed several changes to clarify and simplify requirements for area hazard posting and to provide additional flexibility in implementing these requirements. In acknowledgment of the differing hazards and controls associated with removable and fixed radioactive contamination, DOE proposed to revise the § 835.2(a) definitions of "contamination area" and "high contamination area" to be based upon removable surface contamination levels only and to clearly establish these areas based on accessibility rather than the general reference to "working areas" which appeared at § 835.601(a). DOE proposed a similar change to the § 835.2(a) definition of the term "airborne radioactivity area." DOE also proposed to move the controlled area maximum dose expectation from the § 835.2(a) "controlled area" definition to the § 835.602(a) controlled area posting provision.

Because radiological area terms are defined at § 835.2(a), DOE proposed to remove redundant definitions imbedded in the posting provisions at § 835.603. DOE also proposed to delete the requirement for DOE approval of warning signs from § 835.601(b) because acceptable signs are described in DOE's implementing guidance and DOE did not intend to establish a formal process for approval of radiological postings and labels. In addition, DOE proposed to expand its provision at § 835.601(e) (redesignated as § 835.601(d) in the proposed amendment) allowing modification of postings and labels to accommodate special considerations of DOE activities involving private residences to also include private businesses.

Consistent with NRC requirements published at 10 CFR 20.1902, DOE proposed to amend § 835.603(b), (d), and (f) to allow use of the words "Caution" or "Danger" on postings for high radiation, high contamination, and airborne radioactivity areas, respectively. This proposed change would accommodate the wide range of radiological conditions that may be present in these areas to provide some degree of flexibility in their posting.

Proposed § 835.604(a) would create an exception from posting requirements for periods of less than 8 continuous hours as long as the radiological area is placed under continuous observation and control of a person able to implement the required access and exposure control measures. This exception would cover temporary conditions or activities such as maintenance, repair or cleanup activities so long as the absence of posting is kept to within the prescribed time and the prescribed control measures are implemented.

DOE also proposed to add § 835.604(b) and (c) delineating specific exceptions from the radiological area posting requirements of § 835.603, recognizing that compensatory measures may be implemented that would obviate the need for area posting. The proposed exceptions are similar to those established by the NRC at 10 CFR 20.1903.

Summary of Public Comments and Disposition

DOE received several comments indicating that the proposed definition of the term "airborne radioactivity area" should include an exposure-based criterion (i.e., based upon potential individual exposures in term of dose, percentage of an ALI, or DAC-hours) instead of, or in addition to, the existing criterion based upon the absolute airborne radioactivity concentration. DOE agrees that this issue requires clarification.

Some commenters expressed support for the current 10 CFR part 835 posting provisions based upon the identification of "working areas." However, the term "working areas" is not defined and DOE does not believe that posting of only "working areas" provides adequate protection of individuals approaching or entering radiological areas in which there is no work in progress. The commenters did not provide any evidence that such a practice would provide for adequate protection.

DOE received a number of comments on the proposed allowance for the use of "Caution" or "Danger" on certain radiological hazard warning signs. Commenters indicated that the terms "Caution" and "Danger" are not interchangeable and that the term "Danger" generally carries a connotation of greater hazard than "Caution." While DOE agrees with these observations, DOE believes that, in the continuum of possible radiological conditions associated with DOE activities, the threshold at which "Danger" becomes more appropriate than "Caution" most likely lies somewhere within those conditions described in the § 835.2(a) definitions of "airborne radioactivity area," "high radiation area," and "high contamination area." Furthermore, individual protective actions required for entry into these areas are dependent upon the radiological area title, not the "Caution" or "Danger" heading. DOE believes that the demarcation between those conditions requiring "Caution" and "Danger" headings is best left to the discretion of those responsible for individual DOE activities to ensure that activity-specific conditions are addressed. Therefore, DOE believes that it is appropriate to allow flexibility in the use of the "Caution" and "Danger" headings for posting of high radiation, high contamination, and airborne radioactivity areas.

Some commenters indicated that provisions for alternative measures for DOE activities conducted at private residences and businesses should be extended to DOE activities conducted on state- and Federally-owned lands. However, DOE does not believe that considerations of individual property rights and property value impacts extend to DOE activities conducted on state and Federal lands. Furthermore, the great majority of DOE activities are conducted at state-and Federally-owned sites. Such an exception would negate the specific posting requirements for essentially all DOE activities.

Commenters generally supported DOE's proposed exceptions to the radiological posting requirements. However, comments indicated that the proposed § 835.604(c) exception for packages received from radioactive material transportation should not apply to damaged packages. DOE agrees that this issue requires specific attention.

Final Rule

DOE has revised the § 835.2(a) definition of the term "airborne radioactivity area" such that posting and control of these areas will be required when the airborne radioactivity concentration exceeds the DAC values provided in appendix A or C of 10 CFR part 835 or when an individual present in the area without a respiratory protective device could be exposed to airborne radioactive material in excess of 12 DAC-hours in a week. This definition is similar to that provided by the NRC at 10 CFR 20.1003.

DOE has codified the changes to the radiological hazard posting requirements as proposed. In the final rule, DOE has deleted § 835.601(a) to eliminate redundancy. As a result, § 835.601(b)—(d) have been redesignated as § 835.601(a)—(c), respectively. The § 835.604 radiological

area posting exceptions do not apply to the radiological area entry control requirements established at §§ 835.501 and 835.502 or to the radiation safety training requirements at § 835.901. In response to public comments, DOE has restricted the scope of the posting exception for packages received from radioactive material transportation to those packages received in a non-degraded condition.

2. Radioactive Material Area Posting

Proposed Amendment

To ensure that individuals entering controlled areas but not entering radiological areas are adequately protected, DOE proposed requirements for posting of radioactive material areas similar to the existing requirements of DOE N 441.1 (extended by DOE N 441.2 and DOE N 441.3). The proposed posting requirements were based on quantities of radioactive materials that exceeded 10 times the threshold values proposed in appendix E of 10 CFR part 835 and were similar to NRC requirements at 10 CFR 20.1902. DOE proposed to define "radioactive material area" and include this term in the definition of "radiological area" at § 835.2(a) and establish requirements for posting radioactive material areas at § 835.603(g). DOE also proposed exceptions to the radioactive material area posting requirements at § 835.604(b).

Summary of Public Comments and Disposition

DOE received numerous comments on these proposed requirements. The major issues included: (1) The threshold values (based on ten times the activity levels provided in proposed appendix E of 10 CFR part 835) which would require posting of radioactive material areas were overly restrictive; (2) the hazards present in a radioactive material area, as defined, did not warrant the imposition of specific entry controls and radiation safety training programs required for radiological areas; (3) posting of radioactive material areas should not be required when the radioactive material consists solely of activated structures or installed components; and (4) there is no apparent difference between the hazards in a controlled area and a radioactive material area, as defined at § 835.2(a).

DOE agrees that: (1) The proposed appendix E values, as a basis for defining a radioactive materials area, were somewhat restrictive; (2) posting of radioactive material areas should not be required when the material solely consists of structures or installed components which have been activated; and (3) the hazards present in a radioactive material area, as defined, are not always significantly different than the hazards in a controlled area and would not always warrant imposition of the entry controls required for the defined radiological areas.

Final Rule

DOE recognizes the fact that the radiological conditions expected in radioactive material areas, as proposed, are less hazardous than those present in radiological areas as defined in the original rule. Accordingly, a less restrictive approach to radiological protection is warranted. In the final rule, DOE has omitted the term "radioactive material area" from the § 835.2(a) definition of "radiological area." Therefore, radioactive material areas will not be subject to the specific entry control provisions of § 835.501. As a result of the codification of hazard-based radiation safety training requirements at § 835.901 (discussed in Section II.H. of this Notice of Final Rulemaking), applicability of the radiation safety training requirements for entry into radioactive material areas will be subject to an evaluation of the activities to be performed in the area and the degree of actual or potential exposure to radiological hazards.

Section 835.603(g) of the final rule requires posting of radioactive material areas at the entry points to accessible areas where there exist items or containers of radioactive material in excess of the revised appendix E values as published, rather than ten times the appendix E values, as proposed. The basis for the revised appendix E values is discussed in detail in Section II.K of this Notice of Final Rulemaking. Because of the minimal hazards present in radioactive material areas, DOE has omitted the allowance for the use of the "Danger" heading from the § 835.603(g) requirement for posting of radioactive material areas.

DOE has included proposed exceptions to the radioactive material area posting requirement at § 835.604. In response to the comments received, DOE has included another posting exception for areas in which the radioactive material consists solely of structures or installed components which have been activated, such as activation by exposure to neutron radiation or radiation incident to operation of a particle accelerator. DOE expects that this exception will most commonly be applied to building and shielding structures associated with nuclear reactors and particle accelerators. Note that these structures and components are not excepted from the radiological area posting requirements.

Because the term "radioactive material area" has been deleted from the § 835.2(a) definition of the term "radiological area," DOE has revised the heading of § 835.603 and the provisions of § 835.602(a) to reflect the inclusion of the radioactive material area posting requirements in subpart G of 10 CFR part 835.

3. Radioactive Material Labeling

Proposed Amendment

To augment and clarify existing requirements, DOE proposed to add requirements for labeling items and containers of radioactive materials at § 835.605, with appropriate exceptions being proposed at § 835.606. These proposed provisions are similar to those in the Manual and consistent with requirements imposed by the NRC at 10 CFR 20.1904 and 20.1905.

Summary of Public Comments and Disposition

DOE received comments indicating that, because the proposed labeling provisions were based upon the proposed appendix E total activity values, they were not adequate to ensure proper labeling of items having removable contamination exceeding the 10 CFR part 835 appendix D surface radioactivity values. However, even though labeling of contaminated items is not explicitly required by the rule, adequate controls are established under §§ 835.1101 and 835.1102 which will require that either labeling or equivalent measures be implemented to inform individuals of the contamination hazard.

DOE also received comments on the proposed exceptions from the labeling requirements. Commenters indicated that exceptions should also be provided for nuclear weapons and their components, for inaccessible radioactive material, and for activated building components. DOE agrees with these comments.

Final Rule

DOE has codified the proposed requirements for labeling with minor editorial changes. Section 835.605 requires labeling of radioactive items and containers of radioactive materials. Section 835.606 provides an exception from the labeling requirements for items and containers having a total activity of less than 1/10 of the appendix E values rather than at the proposed appendix E values because DOE has reevaluated the appendix E values to address concerns regarding the stringency of the proposed requirements for accountable sealed radioactive sources (see discussion in Section II.K. of this Notice of Final Rulemaking). Because §§ 835.1101 and 835.1102 establish appropriate requirements for control of contaminated material and equipment, DOE has not included specific requirements for labeling of contaminated items in this subpart.

In response to the comments received, DOE has revised the radioactive material labeling exceptions proposed at § 835.606 to include nuclear weapons and their components and inaccessible radioactive material. In addition, the exception from the § 835.601 design and color specifications for labels applied to sealed radioactive sources, proposed at § 835.1201(b), has been codified at § 835.606(b).

G. Records and Reports, Subparts H and I

Proposed Amendment

DOE proposed a number of changes to its requirements for records demonstrating compliance with 10 CFR part 835. The proposed changes included:

1. Revising §§ 835.203(a) and 835.702(b) to provide that, when monitoring is performed, but not required by § 835.402, internal and external doses must be summed and records must be maintained only if the doses determined by the non-mandatory monitoring exceed the thresholds of § 835.402. This proposed change was intended to reduce the burden of recordkeeping consistent with the recommendations in the Guidance to Federal Agencies.

2. Deleting the words "caused by contamination on the skin" from § 835.702(b) to ensure consistency with the referenced requirements at § 835.205.

3. Revising § 835.702(c)(1) to provide that records must be sufficient to demonstrate compliance with all of the subpart C dose limits. This provision is consistent with § 835.701(a).

4. Deleting the requirement at § 835.702(c)(4)(iii) to record the estimated intake associated with internal dose assessments. This change was necessary because determination of the individual dose equivalent resulting from intakes of certain radionuclides, such as tritium, does not require determination of the estimated intake.

5. Revising § 835.702(d) and (e) such that acceptance of written estimates of an individual's prior occupational dose is based upon an inability to obtain formal records, rather than the absence of those records. DOE also proposed to revise § 835.702(d) consistent with the previously discussed clarification of the components of occupational dose and to reference DOE Orders for authorizing emergency exposures. DOE further proposed to revise § 835.702(e) to indicate that efforts to obtain records of prior years doses were necessary only for those individuals monitored in accordance with § 835.402.

6. Technical and editorial changes to clarify the recordkeeping provisions and to ensure consistency with other changes included in subparts J and M. DOE also proposed to revise § 835.704(d) to require documentation of revocations of declarations of pregnancy.

7. Because some individuals may not have social security numbers, DOE proposed to revise § 835.801(a) to allow for use of another unique identification number in reports associated with such individuals.

Summary of Public Comments and Disposition

DOE received a number of comments indicating that the results of all individual monitoring that is performed should be recorded. DOE agrees that this approach has merit. Furthermore, DOE has provided adequate flexibility under the individual monitoring requirements of § 835.402 to eliminate any onerous administrative burdens resulting from records of trivial doses.

DOE received comments indicating that the term "accident" was not clearly defined, resulting in uncertainty about the proper application of the individual monitoring records requirement of § 835.702(a).

DOE received comments suggesting that the proposed change to § 835.702(e) was not needed because, in the absence of a cumulative dose limit, written estimates would not serve any substantive purpose. DOE agrees with this observation.

Final Rule

DOE has revised § 835.702(a) to delete reference to accidents and to specify that records be maintained to document unplanned doses exceeding the monitoring thresholds of § 835.402.

In consideration of the comments received, DOE has not included the proposed changes to § 835.702(b) in the final rule.

Consistent with the changes to § 835.1302 discussed in Section II.L of this Notice of Final Rulemaking, DOE has revised § 835.702(d) to reference the emergency exposure authorization measures included in that section.

DOE has also not included in the final rule the proposed change to § 835.702(e) allowing written estimates of prior years doses. DOE has included the remaining changes with minor editorial corrections to enhance clarity.

DOE's review of 10 CFR part 835 revealed the fact that § 835.702(c)(2) inappropriately invoked the requirements of certain DOE Orders. The applicability of these Orders is established through DOE contractual processes. DOE has revised the text to delete this invocation of DOE Orders.

Consistent with changes discussed elsewhere in this Notice of Final Rulemaking, DOE has revised the heading of § 835.703 and language at § 835.703(a) and (e) to eliminate the use of the term "workplace" and to reference those subparts of the rule (subparts E and L) that establish monitoring requirements.

Because individuals generally do not record the results of contamination monitoring upon exiting contamination and high contamination areas and there is little perceived value in maintaining such records, DOE has clarified § 835.703(a) to permit such a practice. In consideration of comments on the specificity of the proposed § 835.703(c) recordkeeping provisions, DOE has not included the second portion of proposed § 835.703(c) regarding informational content of these records in the final rule. DOE has revised the recordkeeping requirements of § 835.703(d) consistent with the changes made to § 835.401.

In recognition of the need to record the estimated date of conception for a declared pregnant worker (in order to determine compliance with the applicable dose limit for the embryo/fetus), DOE has clearly stated this as a requirement at § 835.704(d). Also, consistent with the changes made at § 835.401, DOE has deleted the term "workplace" from § 835.704(e).

H. Radiation Safety Training, Subpart J

1. Training Course Content and Administration

Proposed Amendment

When 10 CFR part 835 was originally developed, the detailed radiation safety training requirements provided in the Manual obviated the need to specify minimum training course content in the rule. Because the Manual is no longer mandatory, DOE proposed to specify minimum training course content at § 835.901(b). Also at § 835.901(b), DOE proposed requirements that would allow more liberal acceptance of an individual's previous radiation safety training.

DOE proposed to further consolidate and simplify its requirements for

radiation safety training. Under the proposed amendment, the level of training required would be based upon the areas entered by the individual unescorted, the activities performed, and the likely doses, rather than the individual's classification as a member of the public, general employee, or radiological worker. Implementation of this hierarchical approach to training would result in the appropriate level of radiation safety training for general employees, with a higher level of training required for radiological workers. This approach is consistent with field experience and feedback from DOE operating contractors and is similar to the approach previously taken by DOE in DOE Order 5480.11 and currently taken by the NRC in 10 CFR part 19, "Notices, Instructions and Reports to Workers: Inspection and Investigations." DOE proposed to eliminate the examination requirement for individuals who are not permitted unescorted access to radiological areas and who do not perform unescorted assignments as a radiological worker. DOE also proposed to provide specific requirements at § 835.901(f) for individuals who may act as escorts of individuals who have not completed required training.

Summary of Public Comments and Disposition

Public comments generally endorsed DOE's proposed hierarchical approach to radiation safety training. However, some commenters were concerned that the proposed approach, which would require an individual to complete radiation safety training prior to being occupationally exposed to radiation, would needlessly penalize those facilities that conduct training inside the controlled area or in other areas in which trivial occupational exposures may occur. However, as proposed, § 835.901(c) (§ 835.901(b) in the proposed rule) requires training to the extent appropriate to the individual's degree of exposure to potential radiological hazards. Under the circumstances described, the "extent appropriate" may be minimal (perhaps a briefing on appropriate alarm responses).

Comments indicated that the proposed § 835.901(b)(3) requirement to provide training on "measures implemented at the facility to minimize exposures" was inappropriate, as there is no requirement to "minimize exposures." Other comments indicated that it was unnecessary for the required training to be appropriate to "anticipated and actual" work assignments; training appropriate to the individual's work assignments should be sufficient. DOE agrees with these observations.

DOE received comments indicating that the existing § 835.2(a) definition of the term "radiological worker" was overly restrictive and unclear due to its inclusion of individuals who operate radiation producing devices. Commenters indicated that this inclusion could require extensive training and testing of individuals who operate devices emitting nominal amounts of radiation or those who operate devices such as televisions and computer monitors. However, consumer devices that emit nominal amounts of radiation are clearly excluded from the scope of 10 CFR part 835 under the provisions of 835.1(b)(6) and the related § 835.2(a) definition of "background." Although the proposed provisions of § 835.901(d) (see § 835.901(b) in the final rule) would require training and testing of individuals who operate other radiation producing devices, the provisions of § 835.901(c) (see § 835.901(b) in the proposed rule) would only require that such training be appropriate to the extent of the individual's potential exposure to radiological hazards.

Although many commenters favored DOE's proposed relaxation of the examination requirements, other commenters indicated that an examination should be required for all forms of training to ensure that the student has an understanding of the material presented. DOE agrees that examinations are useful tools for assessing the retention of information by the student. However, as stated in DOE's Notice of Proposed Rulemaking, the radiological hazards present in those portions of controlled areas which are outside of radiological areas are so minimal that the information needed prior to entry does not warrant a regulatory requirement for an examination. However, the absence of this regulatory requirement does not preclude DOE's operating entities from administering an examination.

Several commenters indicated that DOE's proposed requirements for use of escorts in lieu of training were unclear because of the use of the phrase "where an escort is required." These commenters correctly pointed out that the proposed § 835.901(c) and (d) would permit, but would not explicitly require, the use of escorts.

Other commenters were concerned that the retraining requirements of proposed § 835.901(g) might require individuals to complete the full introductory radiation safety training course every 24 months. DOE agrees that this issue requires clarification.

Final Rule

As proposed, DOE has reformatted subpart J into one section in the final rule, codifying an approach similar to that previously published in the Manual and eliminating redundancy. DOE has omitted proposed § 835.901(a) from the final rule because that paragraph would not establish any substantive requirements. DOE has also eliminated the examination requirement for individuals who are not permitted unescorted access to radiological areas and who do not perform unescorted assignments as a radiological worker, as proposed. Although not a regulatory requirement, DOE contractors may still choose to administer examinations or to undertake other means of assessing individual understanding, such as interactive classroom discussions.

DOE has included at § 835.901(c) (§ 835.901(b) in the proposed amendment) a requirement for training to be provided to the extent appropriate to the individual's work assignment. DOE has also included at § 835.901(c)(3) (proposed § 835.901(b)(3)) a requirement that the training address measures used to "manage doses and maintain doses ALARA," rather than "minimize" doses. This modification makes clear the distinction between maintaining doses well below the dose limits using the ALARA process and maintaining doses well below the dose limits by minimizing doses regardless of other considerations.

DOE has established requirements applicable to instances in which escorts are used, rather than required, in lieu of training at revised § 835.901(d) (§ 835.901(f) in the proposed amendment).

With regard to the requirements for biennial retraining, DOE has eliminated the use of the undefined term "retraining." Section 835.901(e) of the final rule requires affected individuals to complete the required training at least every 24 months. Like the initial training, this follow-on training is for individuals subject to the requirements of § 835.901(a) and (b), and is subject to the provisions of § 835.901(c). Thus, the content and scheduling (prior to the end of the two year time interval) of such training needs to incorporate considerations of the individual's prior training, work assignments, and degree of exposure to radiological hazards, as well as significant changes to radiation protection policies and procedures that affect the individual.

2. Radiological Control Technician Training [§ 835.903]

DOE also proposed changes to the 10 CFR part 835 requirements for training of radiological control technicians. These changes are discussed in detail in Section II.B.3. of this Notice of Final Rulemaking.

I. Design and Control, Subpart K

Proposed Amendment

Experience in implementing programs to ensure compliance with 10 CFR part 835 revealed that the design objectives currently included at § 835.1002(b) and (c) may not be practical in developing certain modifications to existing facilities. Therefore, DOE proposed to delete § 835.1002(b) and (c). DOE also proposed to move the remaining requirements in paragraphs (a) and (d) of § 835.1002 to § 835.1001.

The design criteria established at § 835.1003(a) did not include all of the occupational dose limits of § 835.202, e.g. the lens of the eye dose limit established at § 835.202(a)(3). This omission implied that the design of new facilities or modification of existing facilities could include design features that would result in doses exceeding the lens of the eye dose equivalent limit of 15 rem established at § 835.202. DOE proposed to correct this omission by including all applicable occupational dose limits established at § 835.202 in this section.

Summary of Public Comments and Disposition

Comments indicated that the phrase "as low as is reasonably achievable" at § 835.1001(a) could be construed to have a meaning that differed from "ALARA" as defined at § 835.2(a).

Many commenters stated that DOE should retain the numerical design objectives provided at § 835.1002. Although achievement of the numerical design objectives may not be practical in some cases (particularly for minor modifications of existing facilities), the design objectives are important components of the ALARA process. Public comments suggested that elimination of the numerical design objectives could result in confusion over when to apply quantitative design objectives and the appropriate magnitude of those objectives. Comments also indicated that § 835.1003(b) did not establish any substantive requirements beyond those established in subpart E of 10 CFR part 835.

DOE agrees with these observations.

Final Rule

At § 835.1001(a), DOE has substituted "ALARA" for "as low as is reasonably achievable."

Because procedural requirements are a type of administrative control, DOE has deleted the term "procedural requirements" from § 835.1001 and deleted the term "procedures" from § 835.1003 to eliminate redundancy. For consistency, DOE has revised the heading of § 835.1003 to read "Workplace Controls."

Because the use of quantitative design objectives plays a significant role in the ALARA process as it applies to facility design, DOE has chosen to defer this critical change until more experience is gained through implementation of these regulatory provisions. DOE has accepted the public comments and has retained the numerical design objectives of § 835.1002; however, DOE has retained the proposed editorial change at § 835.1002 (proposed § 835.1001(c)) substituting the term "existing facilities" for the term "old facilities." DOE will address its concerns with the application of these requirements through enhanced guidance for achieving compliance. DOE has included in the final rule the proposed change related to the lens of the eye dose limit. In consideration of public comments, DOE has also deleted § 835.1003(b) from the final rule.

J. Radioactive Contamination Control, Subpart L

Proposed Amendment

Consistent with the changes to the § 835.2(a) definitions of the terms "contamination area" and "high contamination area," DOE proposed changes to the § 835.404 requirements for areas having only fixed contamination exceeding the appendix D total surface radioactivity values.

DOE proposed several changes to appendix D of 10 CFR part 835, which provides mandatory surface radioactivity values for contamination control. DOE proposed to add the word "alpha" after the values for uranium isotopes in appendix D to clarify the applicability of these values. DOE also proposed to add to appendix D of 10 CFR part 835 a contamination control value of 10,000 disintegrations per minute per 100 square centimeters for surfaces contaminated with tritium and Footnote 6 to explain the use of this value. The surface contamination value would be used to determine the applicability of the § 835.603 contamination hazard posting provisions and the §§ 835.404 and 835.1101 contamination control provisions. DOE has prepared an Environmental Assessment, available at DOE's Freedom of Information Reading Room at the address provided above, that addresses this change in detail.

DOE also proposed to move the existing requirements of § 835.1101(d) to § 835.703(c) to consolidate recordkeeping requirements and to add a new requirement for removal of radioactive material labels from released materials and equipment at § 835.1101(d).

Summary of Public Comments and Disposition

Public comments were generally supportive of DOE's proposed changes to the requirements for control of radioactive contamination. Public comments also indicated that the recordkeeping requirements of proposed § 835.703(c) were overly prescriptive in comparison to related requirements of the rule. Public comments also indicated that a literal reading of § 835.404(f) would indicate that the performance of individual contamination monitoring by someone other than the individual exiting a contamination or high contamination area (i.e., individual frisking by radiological control technicians) would be contrary to 10 CFR part 835. DOE agrees with these observations.

Comments indicated that the related requirements of §§ 835.404 and 835.1101 were confusing and possibly contradicting. The existing provisions of § 835.404 establish requirements for control of areas contaminated by radioactive material; the provisions of § 835.1101 establish similar requirements for materials and equipment contaminated by radioactive materials. Upon reexamination of these requirements in light of the comments received, DOE believes that there is opportunity for simplification and clarification of the rule.

Final Rule

DOE has combined and simplified the requirements of §§ 835.404 and 835.1101 in the final rule as follows:

a. Although the provisions of § 835.404 were specifically related to controlling the spread of contamination, they were located in subpart E, which was entitled "Monitoring in the Workplace." Therefore, DOE has moved these requirements, with revisions discussed below, to subpart L.

b. Although the title of subpart L indicates that the subject matter is related to "Releases of Materials and Equipment from Radiological Areas," the requirements are more specifically related to retention and control of

contaminated materials in radiological areas. Therefore, DOE has retitled subpart L, "Radioactive Contamination Control."

c. DOE has clarified and simplified the structure of § 835.1101(a).

d. DOE has retained paragraphs 835.1101(b) and (c) with minor editorial clarifications. Consistent with the discussion in Section II.B.3 of this Notice of Final Rulemaking regarding written procedures, DOE has omitted the requirement for written procedures (formerly § 835.1101(c)(3)).

e. Because the existing requirements of § 835.404(a) established no substantive requirements, DOE has omitted this paragraph from the final rule.

f. DOE has redesignated paragraph 835.404(b) as § 835.1102(a) in the final rule.

g. DOE has edited paragraph 835.404(c) and redesignated it as § 835.1102(b) in the final rule. DOE has omitted the provision related to posting of contamination hazards (formerly § 835.404(c)(1)) because this provision is redundant with § 835.603(e) and (f).

h. DOE has edited paragraph 835.404(d) and redesignated it as § 835.1102(c) in the final rule. Consistent with the discussion in Section II.B.3 of this Notice of Final Rulemaking regarding written procedures, DOE has omitted the requirement for written procedures (formerly § 835.404(d)(5)).

i. Because of the changes to the § 835.2(a) definitions of "contamination area" and "high contamination area" discussed above, the areas discussed at § 835.404(d) (i.e., those having fixed contamination at levels exceeding the appendix D total contamination values, but removable contamination levels below the appendix D removable contamination values) would no longer be considered radiological areas. This renders the provisions of § 835.404(e) redundant; therefore, DOE has omitted these requirements from the final rule.

j. DOE has clarified § 835.404(f) and redesignated it as § 835.1102(d).

k. DOE has revised the language at § 835.404(g) for clarity and redesignated it as § 835.1102(e).

DOE has reconsidered its proposal to add § 835.1101(d) establishing requirements for removal of radioactive material labels from released materials and equipment. Although DOE considers materials and equipment meeting the requirements of § 835.1101(a) to be appropriate for release from radiological areas, such materials and equipment are not necessarily "non-radioactive" and conditions may arise under which retention of the radioactive material labels is appropriate. DOE has therefore omitted this provision from the final rule.

As before, the requirements of § 835.1101 address release of materials and equipment from radiological areas to controlled areas. DOE requirements for release of materials and equipment from its control are addressed in DOE environmental protection standards.

K. Control of Sealed Radioactive Sources, Subpart M

Proposed Amendment

DOE proposed to add subpart M to 10 CFR part 835 to establish requirements for control of sealed radioactive sources. These requirements would supersede similar requirements established in DOE Notice 5400.9, "Sealed Radioactive Source Accountability" (extended through DOE Notice 5400.13 and superseded by DOE N 441.1 through DOE N 441.3). DOE proposed to add the terms "accountable sealed radioactive source," "sealed radioactive source," and "source leak test" at § 835.2(a) and to add recordkeeping requirements at § 835.704(f). DOE also proposed to add appendix E to 10 CFR part 835 to establish threshold values for sealed radioactive source accountability, radioactive material labeling, and radioactive material area posting.

Summary of Public Comments and Disposition

Although many commenters supported DOE's efforts to codify requirements for sealed radioactive source control, several commenters indicated that the accountability threshold values proposed for inclusion in appendix E of 10 CFR part 835 were overly restrictive. Commenters also indicated that the definition of "sealed radioactive source" was too broad to allow for exclusion of certain items, such as reactor fuel elements, that are not commonly produced or used as sealed radioactive sources. In addition, several commenters indicated that DOE's proposed minimum activity requiring performance of periodic leak tests (0.005 microcuries) was overly restrictive.

Commenters indicated that inaccessible sources should be excepted from the requirements for leak testing and inventory. Such a measure would obviate the need to disassemble facility components and instruments for the purpose of performing the inventories and leak tests. Commenters also indicated that common contamination control measures are capable of minimizing, but perhaps not preventing, the spread of contamination as would be required by proposed § 835.1202(e).

DOE agrees with these observations.

Final Rule

In response to public comments, DOE has revised the § 835.2(a) definition of the term "sealed radioactive source" to exclude reactor fuel elements, nuclear explosive devices, and radioisotope thermoelectric generators. DOE has included the definitions of "accountable sealed radioactive source" and "source leak test" at § 835.2(a) as proposed. DOE has revised § 835.1202(d) to provide an exception from leak testing and inventory for sealed radioactive sources that are inaccessible. DOE has also revised § 835.1202(e) to indicate that the required contamination control measures must "minimize" the spread of contamination.

DOE has revised the proposed appendix E values. DOE determined the appendix E values in the final rule as follows: For each radionuclide, DOE considered two scenarios: (1) the activity quantity resulting in a deep dose equivalent from external radiation of 0.1 rem (0.001 sievert) assuming an individual was irradiated for a period of 12 hours per day at a distance of 1 meter from the source for 365 days; and (2) the activity quantity resulting in a committed effective dose equivalent of 0.1 rem (0.001 sievert) assuming an instantaneous intake of 0.001% of the material by an individual. DOE compared the activity quantities for the deep dose equivalent and the committed effective dose equivalent and selected the more restrictive value as the basis for the accountability threshold value. DOE selected the value of 0.1 rem as the basis for the revised appendix E values for consistency with DOE's mandatory threshold for monitoring of general employee dose (see § 835.402) and dose limit for members of the public in controlled areas (see § 835.208). DOE also assumed more realistic values for the exposure time and intake factor and eliminated the arbitrary 300 microcurie activity cap. The basis for the appendix E values is discussed in more detail in a technical basis document available in DOE's Freedom of Information Reading Room at the address provided above.

Because all of the revised appendix E values are greater than 0.005 microcuries, DOE has deleted this threshold from the requirements for sealed radioactive source leak tests (proposed § 835.1202(b)). DOE has also omitted the proposed requirement for written procedures from the final rule. For details on this omission, see Section II.B.3 of this Notice of Final Rulemaking. Finally, because DOE's

reevaluation of the appendix E values resulted in significant increases in all of the accountability threshold values, DOE has codified a general requirement at § 835.1201 for all radioactive sources (both accountable and non-accountable) to be used, handled, and stored in a manner commensurate with the radiological hazards created by the operation involving the sources. DOE will provide implementing guidance to discuss acceptable methods for achieving compliance with this provision.

The basis for the control of sealed radioactive sources is a hierarchy of increasing radiological controls based upon the maximum credible dose consequence resulting from the loss of a source. The maximum credible dose consequence should not be considered to be a release criterion. Under the requirements of 10 CFR part 835, some degree of radiological control is required for all sealed radioactive sources, regardless of their activity. This hierarchy of controls reduces the likelihood of losing a sealed radioactive source. Thus the approach to sealed radioactive source control is analogous to that taken in nuclear safety. As the potential consequences of a credible incident increase, additional controls are imposed to reduce the probability that the incident will occur and mitigate the consequences of that incident.

For the lowest activity sealed radioactive sources, a minimal level of radiological control is required based upon the hazards associated with the operations involving the sources. More specific actions are not considered necessary and are therefore not specified.

For sealed radioactive sources whose loss could result in a maximum credible dose consequence of 0.1 rem or more in a year, additional controls are imposed. The requirement for semi-annual inventories reduces the possibility of losing the source and, by triggering investigative action, mitigates the consequences of a lost source. The requirement for semi-annual leak testing provides a means of monitoring the integrity of the source and likewise triggers action to mitigate the consequences of a leaking source.

L. Accident and Emergency Exposures, Subpart N

Proposed Amendment

DOE proposed to correct § 835.1301(a), (b), and (d) by deleting references to § 835.205, which provides no dose limits. Consistent with changes to § 835.204, DOE proposed to revise § 835.1301(a) to indicate that doses resulting from accident and emergency exposures may exceed the numerical values established at § 835.202(a) without violating the occupational dose limits. Both accident and emergency doses are considered occupational doses and are included in a general employee's occupational dose record, but emergency doses are explicitly excluded from consideration in determining compliance with the occupational dose limits at § 835.202(a).

DOE proposed to delete § 835.1302(d) because these provisions are adequately addressed in related DOE Orders and emergency management guides.

DOE clarified § 835.1304 by substituting the defined term "individual" for the term "personnel" which eliminates any confusion regarding the coverage of the personal nuclear accident dosimetry provisions. DOE also proposed to remove the reference to "all personnel" to provide flexibility in implementing the personal nuclear accident dosimetry provisions.

Summary of Public Comments and Disposition

Regarding accident and emergency exposures, public comments indicated that DOE had failed to clearly define the terms "accident" and "emergency," resulting in uncertainty about the proper application of these provisions.

Comments regarding the proposed approach basing personal nuclear accident dosimetry requirements on the need for nuclear criticality alarms indicated that this approach would be impractical due to the vagueness of the referenced requirements for these alarms.

DOE agrees with these observations.

Final Rule

DOE has included the proposed changes into the final rule.

Consistent with the clarification of the requirements for accounting for occupational doses, including doses resulting from authorized planned special exposures and emergency exposures, DOE has deleted the term "accident" from § 835.1301(a). This deletion results from DOE's recognition that, except for doses resulting from planned special exposures and authorized emergency exposures, all doses in excess of the regulatory limits may be considered to be "accidents." Under such circumstances, DOE believes that provisions allowing affected individuals to return to work without further detailed review subverts the intent of the § 835.202 occupational dose limits. DOE believes that it is most appropriate for this section to address doses resulting from authorized emergency exposures. Despite this change, DOE recognizes the fact that issues of individual work rights and DOE liability may arise as a result of "accidental" exposures exceeding the regulatory dose limits. Mechanisms for addressing doses resulting from accidents, and authorizations to return affected individuals to work, exist within the exemption process established in 10 CFR part 820.

In response to public comments, DOE revised the text in § 835.1301(c) and (d) to eliminate the terms "emergency" and "accident" and specify that the notification and resumption provisions apply when doses were received in excess of the limits of § 835.202, except those doses received in accordance with § 835.204.

As discussed above with regard to § 835.702(c)(2), DOE found that § 835.1301(e) inappropriately invoked the requirements of DOE Orders. The applicability of these Orders is established through DOE contractual processes. Therefore, DOE has deleted this provision.

To resolve issues related to requirements for personal nuclear accident dosimetry, DOE has revised the requirement to simply indicate that the nuclear accident dosimetry system must include personal nuclear accident dosimeters. This approach will allow for flexible implementation on a site-and facility-specific basis.

M. Use of Appendices

Proposed Amendment

DOE proposed to clarify the application of the data presented in the appendices of 10 CFR part 835 by adding introductory text to each appendix referencing those sections of the rule requiring use of the appendix. DOE also proposed to delete the absorption factor (f1) values and the related footnote (footnote 5) from appendix A of 10 CFR part 835 because absorption factors and alternative absorption factors are neither used nor referenced in the rule. DOE determined that 10 CFR part 835 established no substantive requirements for use of the data presented in appendix B, and therefore proposed to delete appendix B.

DOE's review of exemption requests concerning occupational exposure to 220Rn and 222Rn and their daughter products revealed that DAC values for these radioisotopes are inappropriately referenced in both appendices A and C. Exposure to these radionuclides results in a lung dose and therefore, the air immersion DACs in appendix C are inappropriate. Accordingly, DOE

proposed to delete the air immersion DAC values for 220Rn and 222Rn from appendix C.

Experience in implementing programs that ensure compliance with 10 CFR part 835 has proven that the exposure conditions used to determine the appendix C DAC values (immersion in a semi-infinite cloud) often differ from those at DOE facilities (i.e., exposure in relatively small enclosures). Use of the appendix C DAC values under these conditions can result in the overestimation of individual doses. Therefore, DOE proposed to revise appendix C, note b., to allow modification of the DAC values to compensate for immersion in a cloud of finite dimensions and to provide instructions for determining the DAC of a mixture of radionuclides.

Summary of Public Comments and Disposition

Although several commenters suggested that the data in appendix B were useful and should be retained, the correlation of chemical form to lung retention class is available directly from Table 3 of Federal Guidance Report Number 11, "Limiting Values of Radionuclide Intake and Air Concentration and Dose Conversion Factors for Inhalation, Submersion, and Ingestion."

Commenters favored DOE's proposal to allow for modification of the appendix C values. However, contrary to the information provided in appendix C, note b., these values were calculated based upon an exposure of 2000 hours per year, and not based upon a continuous exposure.

Final Rule

DOE has included the proposed changes in the final rule with minor editorial corrections. For consistency with the existing provisions associated with appendix C of 10 CFR part 835, DOE has included a note with appendix A of 10 CFR part 835 that will allow use of the sum of the fractions rule when there exists a mixture of radionuclides in the area of interest. DOE has also revised appendix C, note b., to reflect the 2000 hour per year exposure basis of the values.

Consistent with terminology used throughout the rule and in DOE's guidance documents, DOE has also retitled the table in appendix D of 10 CFR part 835 "Surface Contamination Values."

N. Corrections and Clarifications

Proposed Amendment

DOE proposed numerous editorial corrections and technical clarifications that do not change the requirements of the rule or the measures necessary to ensure regulatory compliance. The proposed changes included:

1. Correction of the definitions of "airborne radioactive material", and "year" (§ 835.2(a)) and "external dose or exposure," and "quality factor" (§ 835.2(b));

2. Clarification of the application of the mean quality factors for neutrons provided at § 835.2(b);

3. Deletion of § 835.2(d) because the convention stated in that paragraph for the use of singular, plural, masculine, and feminine terms is not used in part 835;

4. Revision of the requirements of § 835.102 for clarity;

5. Change of the heading of § 835.202 to "Occupational dose limits for general employees" to accurately reflect the content of that section;

6. Deletion from § 835.203(a) and the § 835.2(b) definition of "total effective dose equivalent" the provision related to substitution of deep dose equivalent for effective dose equivalent from external exposure. This provision is redundant with the revised definition of "effective dose equivalent" proposed at § 835.2(b).

Summary of Public Comments and Disposition

DOE received no substantive comments on these changes.

Final Rule

DOE has included the proposed changes in the final rule.

III. Review Under the National Environmental Policy Act

DOE has reviewed the promulgation of this amendment to 10 CFR part 835 under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) and the Council on Environmental Quality regulations for implementing NEPA (40 CFR parts 1500–1508). DOE has completed an Environmental Assessment and on the basis of that information has issued a Finding of No Significant Impact (FONSI) for this amendment. The FONSI and the Environmental Assessment update the FONSI and Environmental Assessment issued when the proposed amendment was published for public comment and reflect changes in the final rule made in response to public comments. The Environmental Assessment and FONSI are available for inspection at the DOE Freedom of Information Reading Room, 1E–190, 1000 Independence Ave. SW, Washington, DC 20585, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

IV. Review Under Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires that an agency prepare an initial regulatory flexibility analysis and publish it at the time of publication of general notice of rulemaking for the rule. This requirement does not apply if the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b).

Today's action amends DOE's regulations governing programs established at DOE facilities to protect individuals from ionizing radiation resulting from DOE activities. The contractors who manage and operate DOE facilities are responsible for implementing the occupational radiation protection program. DOE has considered whether management and operating (M&O) contractors are "small businesses," as that term is defined by the Regulatory Flexibility Act (5 U.S.C. 601(3)). The Regulatory Flexibility Act's definition incorporates the definition of "small business concern" in the Small Business Act, which the Small Business Administration (SBA) has developed through size standards in 13 CFR part 121. Small businesses are business concerns which, together with their affiliates, have no more than 500 to 1500 employees, varying by SIC category, and annual receipts of between $0.5 million to $25 million, again varying by SIC category—Title 13 CFR part 121. DOE's M&O contractors exceed the SBA's size standards for small businesses. In addition, it is noted that M&O contractors are reimbursed through their contracts with DOE for the costs of complying with DOE occupational radiation protection requirements. They will not, therefore, be adversely impacted by the requirements in the rule. For these reasons, DOE certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

V. Review Under Executive Order 12866

Today's regulatory action has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," (58 FR 51735, October 4, 1993). Accordingly, today's action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs within the Office of Management and Budget.

VI. Review Under Executive Order 12612

Executive Order 12612, 52 FR 41685 (October 30, 1987) requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the National Government and the States, or in the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action.

This final rule would not have a substantial direct effect on the institutional interests or traditional functions of States.

VII. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements:

(1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that the amendments to 10 CFR part 835 meet the relevant standards of Executive Order 12988.

VIII. Review Under Paperwork Reduction Act

DOE submitted the proposed collections of information in this rule to the Office of Management and Budget for review under section 3507(d) of the Paperwork Reduction Act of 1995 (42 U.S.C. 3507(d)), and, by separate notice on May 26, 1998, invited public comment on DOE's statement of need and estimates of the burden of the collection of information in 10 CFR part 835 (63 FR 28495). The information that DOE management and operating contractors are required to produce, maintain and report is necessary to permit the Department and its contractors to manage and oversee health and safety programs that control worker exposure to radiation. DOE estimates that the total annual burden of the collection of information requirements to be 50,000 hours for the approximately 50 contractors subject to the rule.

The Office of Management and Budget has approved the collections of information in 10 CFR part 835 and assigned to the part OMB Number 1910–5105. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number (5 CFR 1320.5(b)).

IX. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), Pub.L. 104–4 on March 22, 1995, codified at 2 U.S.C. 1501–1571, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, codified at 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on proposals containing "significant Federal intergovernmental mandates." Section 203(a) of the Act, codified at 2 U.S.C. 1533(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and enables officials of affected small governments to provide meaningful and timely input in the development of regulatory proposals containing significant intergovernmental Federal mandates.

The final rule published today does not contain any Federal mandate that would result in any expenditure by State, local or tribal government. The provisions of 10 CFR part 835 apply only to activities conducted by or for DOE. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

X. Review Under Small Business Regulatory Enforcement Fairness Act of 1996

As required by 5 U.S.C. 801, DOE will report to Congress promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 10 CFR Part 835

Emergency radiation exposures, Nuclear material, Occupational safety and health, Radiation exposures, Radiation protection, Radioactive material, Reporting and recordkeeping requirements, Safety during emergencies, Training.

Issued in Washington, DC, on October 29, 1998.

Peter N. Brush,

Acting Assistant Secretary, Environment, Safety and Health.

For the reasons set forth in the preamble, Title 10, Code of Federal Regulations, part 835 is amended as set forth below:

PART 835—OCCUPATIONAL RADIATION PROTECTION

1. The authority citation for part 835 continues to read as follows:

Authority: 42 U.S.C. 2201; 7191.

Subpart A—General Provisions

2. Section 835.1 is amended by revising the introductory text of paragraph (b) and paragraph (b)(3), redesignating paragraph (b)(4) as (b)(6), and by adding paragraphs (b)(4), (b)(5), and (c) as follows:

§ 835.1 Scope.

* * * * *

(b) *Exclusion.* Except as discussed in paragraph (c) of this section, the requirements in this part do not apply to:

* * * * *

(3) Activities conducted under the Nuclear Explosives and Weapons Surety Program relating to the prevention of accidental or unauthorized nuclear detonations;

(4) Radioactive material transportation as defined in this part;

(5) DOE activities conducted outside the United States on territory under the jurisdiction of a foreign government to the extent governed by occupational radiation protection requirements agreed to between the United States and the cognizant government; or

(6) Background radiation, radiation doses received as a patient for the purposes of medical diagnosis or therapy, or radiation doses received from participation as a subject in medical research programs.

(c) Occupational doses received as a result of excluded activities and radioactive material transportation, as listed in paragraphs (b)(1) through (b)(5) of this section, shall be considered when determining compliance with the occupational dose limits at §§ 835.202 and 835.207, and with the limits for the embryo/fetus at § 835.206. Occupational doses resulting from authorized emergency exposures and planned special exposures shall not be considered when determining compliance with the dose limits at §§ 835.202 and 835.207.

3. At § 835.2, paragraph (a) is amended by removing definitions of the terms "ambient air", "continuous air monitor", "DOE activities", "occupational exposure", "representative", and "survey"; by adding in alphabetical order, definitions for the terms "accountable sealed radioactive source", "derived air concentration-hour", "DOE activity", "occupational dose", "radioactive material area", "radioactive material transportation", "real-time air monitoring", "respiratory protective device", "sealed radioactive source", "source leak test", and "week"; and revising the definitions of the terms "airborne radioactive material or airborne radioactivity", "airborne radioactivity area", "contamination area", "controlled area", "declared pregnant worker", "general employee", "high contamination area", "member of the public", "monitoring", "radiological area", and "year" to read as follows. At § 835.2, paragraph (b), the definition of "collective dose" is removed, the definition of "dose" is added, and the definitions of the terms "cumulative total effective dose equivalent", "effective dose equivalent", "external dose or exposure", "quality factor", "total effective dose equivalent", and "weighting factor" are revised as follows. Paragraph (d) of § 835.2 is removed.

§ 835.2 Definitions.

(a) As used in this part:

Accountable sealed radioactive source means a sealed radioactive source having a half-life equal to or greater than 30 days and an isotopic activity equal to or greater than the corresponding value provided in appendix E of this part.

Airborne radioactive material or airborne radioactivity means radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.

Airborne radioactivity area means any area, accessible to individuals, where:

(1) The concentration of airborne radioactivity, above natural background, exceeds or is likely to exceed the derived air concentration (DAC) values listed in appendix A or appendix C of this part; or

(2) An individual present in the area without respiratory protection could receive an intake exceeding 12 DAC-hours in a week.

* * * * *

Contamination area means any area, accessible to individuals, where removable surface contamination levels exceed or are likely to exceed the removable surface contamination values specified in appendix D of this part, but do not exceed 100 times those values.

* * * * *

Controlled area means any area to which access is managed by or for DOE to protect individuals from exposure to radiation and/or radioactive material.

Declared pregnant worker means a woman who has voluntarily declared to her employer, in writing, her pregnancy for the purpose of being subject to the occupational dose limits to the embryo/fetus as provided at § 835.206. This declaration may be revoked, in writing, at any time by the declared pregnant worker.

* * * * *

Derived air concentration-hour (DAC-hour) means the product of the concentration of radioactive material in air (expressed as a fraction or multiple of the DAC for each radionuclide) and the time of exposure to that radionuclide, in hours.

DOE activity means an activity taken for or by DOE in a DOE operation or facility that has the potential to result in the occupational exposure of an individual to radiation or radioactive material. The activity may be, but is not limited to, design, construction, operation, or decommissioning. To the extent appropriate, the activity may involve a single DOE facility or operation or a combination of facilities and operations, possibly including an entire site or multiple DOE sites.

* * * * *

General employee means an individual who is either a DOE or DOE contractor employee; an employee of a subcontractor to a DOE contractor; or an individual who performs work for or in conjunction with DOE or utilizes DOE facilities.

High contamination area means any area, accessible to individuals, where removable surface contamination levels exceed or are likely to exceed 100 times the removable surface contamination values specified in appendix D of this part.

* * * * *

Member of the public means an individual who is not a general employee. An individual is not a "member of the public" during any period in which the individual receives an occupational dose.

* * * * *

Monitoring means the measurement of radiation levels, airborne radioactivity concentrations, radioactive contamination levels, quantities of radioactive material, or individual doses and the use of the results of these measurements to evaluate radiological hazards or potential and actual doses resulting from exposures to ionizing radiation.

* * * * *

Occupational dose means an individual's ionizing radiation dose (external and internal) as a result of that individual's work assignment. Occupational dose does not include doses received as a medical patient or doses resulting from background radiation or participation as a subject in medical research programs.

* * * * *

Radioactive material area means any area within a controlled area, accessible to individuals, in which items or containers of radioactive material exist and the total activity of radioactive material exceeds the applicable values provided in appendix E of this part.

Radioactive material transportation means the movement of radioactive material by aircraft, rail, vessel, or highway vehicle when such movement is subject to Department of Transportation regulations or DOE Orders that govern such movements. Radioactive material transportation does not include preparation of material or packagings for transportation, monitoring required by this part, storage of material awaiting transportation, or application of markings and labels required for transportation.

Radiological area means any area within a controlled area defined in this section as a "radiation area," "high radiation area," "very high radiation area," "contamination area," "high contamination area," or "airborne radioactivity area."

* * * * *

Real-time air monitoring means measurement of the concentrations or quantities of airborne radioactive materials on a continuous basis.

* * * * *

Respiratory protective device means an apparatus, such as a respirator, worn by an individual for the purpose of reducing the individual's intake of airborne radioactive materials.

Sealed radioactive source means a radioactive source manufactured, obtained, or retained for the purpose of utilizing the emitted radiation. The sealed radioactive source consists of a known or estimated quantity of radioactive material contained within a sealed capsule, sealed between layer(s) of non-radioactive material, or firmly fixed to a non-radioactive surface by electroplating or other means intended to prevent leakage or escape of the radioactive material. Sealed radioactive sources do not include reactor fuel elements, nuclear explosive devices, and radioisotope thermoelectric generators.

Source leak test means a test to determine if a sealed radioactive source is leaking radioactive material.

* * * * *

Week means a period of seven consecutive days.

Year means the period of time beginning on or near January 1 and ending on or near December 31 of that same year used to determine compliance with the provisions of this part. The starting and ending date of the year used to determine compliance may be changed provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

(b) * * *

Cumulative total effective dose equivalent means the sum of all total effective dose equivalent values recorded for an individual, where available, for each year occupational dose was received, beginning January 1, 1989.

* * * * *

Dose is a general term for absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, or total effective dose equivalent as defined in this part.

* * * * *

Effective dose equivalent (H_E) means the summation of the products of the dose equivalent received by specified tissues of the body (H_T) and the appropriate weighting factor (w_T)—that is, $H_E = \Sigma w_T H_T$. It includes the dose from radiation sources internal and/or external to the body. For purposes of compliance with this part, deep dose equivalent to the whole body may be used as effective dose equivalent for external exposures. The effective dose equivalent is expressed in units of rem (or sievert).

External dose or exposure means that portion of the dose equivalent received from radiation sources outside the body (i.e., "external sources").

* * * * *

Quality factor (Q) means the modifying factor used to calculate the dose equivalent from the absorbed dose; the absorbed dose (expressed in rad or gray) is multiplied by the appropriate quality factor.

(i) The quality factors to be used for determining dose equivalent in rem are as follow:

QUALITY FACTORS

Radiation type	Quality factor
X-rays, gamma rays, positrons, electrons (including tritium beta particles)	1
Neutrons, ≤10 keV	3
Neutrons, >10 keV	10
Protons and singly-charged particles of unknown energy with rest mass greater than one atomic mass unit	10
Alpha particles and multiple-charged particles (and particles of unknown charge) of unknown energy	20

When spectral data are insufficient to identify the energy of the neutrons, a quality factor of 10 shall be used.

(ii) When spectral data are sufficient to identify the energy of the neutrons, the following mean quality factor values may be used:

QUALITY FACTORS FOR NEUTRONS

[Mean quality factors, $\bar{Q}$ (maximum value in a 30-cm dosimetry phantom), and values of neutron flux density that deliver in 40 hours, a maximum dose equivalent of 0.1 rem (0.001 sievert). Where neutron energy falls between listed values, the more restrictive mean quality factor shall be used.]

Neutron energy (MeV)	Mean quality factor	Neutron flux density ($cm^{-2}s^{-1}$)
2.5×10^{-8} thermal	2	680
1×10^{-7}	2	680
1×10^{-6}	2	560
1×10^{-5}	2	560
1×10^{-4}	2	580
1×10^{-3}	2	680
1×10^{-2}	2.5	700
1×10^{-1}	7.5	115
5×10^{-1}	11	27
1	11	19
2.5	9	20
5	8	16
7	7	17
10	6.5	17
14	7.5	12
20	8	11
40	7	10
60	5.5	11
1×10^{2}	4	14
2×10^{2}	3.5	13
3×10^{2}	3.5	11
4×10^{2}	3.5	10

* * * * *

Total effective dose equivalent (TEDE) means the sum of the effective dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures).

Weighting factor (w_T) means the fraction of the overall health risk, resulting from uniform, whole body irradiation, attributable to specific tissue (T). The dose equivalent to tissue (H_T) is multiplied by the appropriate weighting factor to obtain the effective dose equivalent contribution from that tissue. The weighting factors are as follows:

WEIGHTING FACTORS FOR VARIOUS ORGANS AND TISSUES

Organs or tissues, T	Weighting factor, w_T
Gonads	0.25
Breasts	0.15
Red bone marrow	0.12
Lungs	0.12
Thyroid	0.03
Bone surfaces	0.03
Remainder[1]	0.30
Whole body[2]	1.00

[1] "Remainder" means the five other organs or tissues, excluding the skin and lens of the eye, with the highest dose (e.g., liver, kidney, spleen, thymus, adrenal, pancreas, stomach, small intestine, and upper large intestine). The weighting factor for each remaining organ or tissue is 0.06.

[2] For the case of uniform external irradiation of the whole body, a weighting factor (w_T) equal to 1 may be used in determination of the effective dose equivalent.

(c) * * *

4. Section 835.3 is amended by adding paragraph (e) as follows:

§ 835.3 General Rule

* * * * *

(e) For those activities that are required by §§ 835.102, 835.901(e), 835.1202 (a), and 835.1202(b), the time interval to conduct these activities may be extended by a period not to exceed 30 days to accommodate scheduling needs.

§ 835.4 [Amended]

5. Section 835.4 is amended by adding "roentgen," after "rad," in the first sentence and removing the last sentence.

Subpart B—Management and Administrative Requirements

6. The heading of subpart B is revised to read as set forth above.

6a. Section 835.101 is amended by revising paragraph (f) to read as follows, removing paragraph (g), and redesignating paragraphs (h), (i), and (j) as (g), (h), and (i) respectively; in paragraph (d), the reference to "§ 835.101(i)" is changed to "§ 835.101(h)".

§ 835.101 Radiation protection programs.

* * * * *

(f) The RPP shall include plans, schedules, and other measures for achieving compliance with regulations of this part. Unless otherwise specified in this part, compliance with amendments to this part shall be achieved no later than 180 days following approval of the revised RPP by DOE. Compliance with the requirements of § 835.402(d) for radiobioassay program accreditation shall be achieved no later than January 1, 2002.

* * * * *

7. Section 835.102 is revised to read as follows:

§ 835.102 Internal audits.

Internal audits of the radiation protection program, including examination of program content and implementation, shall be conducted through a process that ensures that all functional elements are reviewed no less frequently than every 36 months.

8. Section 835.103 is added as follows:

§ 835.103 Education, training and skills.

Individuals responsible for developing and implementing measures necessary for ensuring compliance with the requirements of this part shall have the appropriate education, training, and skills to discharge these responsibilities.

9. Section 835.104 is added as follows:

§ 835.104 Written procedures.

Written procedures shall be developed and implemented as necessary to ensure compliance with this part, commensurate with the radiological hazards created by the activity and consistent with the education, training, and skills of the individuals exposed to those hazards.

10. Section 835.202 is amended by revising the section heading, revising the introductory text of paragraph (a), and revising paragraphs (b) and (c) to read as follows:

§ 835.202 Occupational dose limits for general employees.

(a) Except for planned special exposures conducted consistent with § 835.204 and emergency exposures authorized in accordance with § 835.1302, the occupational dose received by general employees shall be controlled such that the following limits are not exceeded in a year:

* * * * *

(b) All occupational doses received during the current year, except doses resulting from planned special exposures conducted in compliance with § 835.204 and emergency exposures authorized in accordance with § 835.1302, shall be included when demonstrating compliance with §§ 835.202(a) and 835.207.

(c) Doses from background, therapeutic and diagnostic medical radiation, and participation as a subject in medical research programs shall not be included in dose records or in the assessment of compliance with the occupational dose limits.

11. Section 835.203 is amended by revising the section heading and paragraph (a) to read as follows and by removing paragraph (c):

§ 835.203 Combining internal and external dose equivalents.

(a) The total effective dose equivalent during a year shall be determined by summing the effective dose equivalent from external exposures and the committed effective dose equivalent from intakes during the year.

* * * * *

12. Section 835.204 is amended by revising paragraphs (a)(1), (a)(3), (c)(1), (c)(2) and (d) to read as follows:

§ 835.204 Planned special exposures.

(a) * * *

(1) The planned special exposure is considered only in an exceptional situation when alternatives that might prevent a radiological worker from exceeding the limits in § 835.202(a) are unavailable or impractical;

* * * * *

(3) Joint written approval is received from the appropriate DOE Headquarters program office and the Secretarial Officer responsible for environment, safety and health matters.

* * * * *

(c) * * *

(1) In a year, the numerical values of the dose limits established at § 835.202(a); and

(2) Over the individual's lifetime, five times the numerical values of the dose limits established at § 835.202(a).

(d) Prior to a planned special exposure, written consent shall be obtained from each individual involved. Each such written consent shall include:

(1) The purpose of the planned operations and procedures to be used;

(2) The estimated doses and associated potential risks and specific radiological conditions and other hazards which might be involved in performing the task; and

(3) Instructions on the measures to be taken to keep the dose ALARA considering other risks that may be present.

* * * * *

13. Section 835.207 is revised to read as follows:

§ 835.207 Occupational dose limits for minors.

The dose equivalent limits for minors occupationally exposed to radiation and/or radioactive materials at a DOE activity are 0.1 rem (0.001 sievert) total effective dose equivalent in a year and 10% of the occupational dose limits specified at § 835.202(a)(3) and (a)(4).

14. Section 835.208 is revised to read as follows:

§ 835.208 Limits for members of the public entering a controlled area.

The total effective dose equivalent limit for members of the public exposed to radiation and/or radioactive material during access to a controlled area is 0.1 rem (0.001 sievert) in a year.

§ 835.209 [Amended]

15. Section 835.209 is amended by changing the first "to" to "of" in paragraph (a), removing paragraph (b), redesignating paragraph (c) as (b), and removing the word "representative" from (b)(3).

Subpart E—Monitoring of Individuals and Areas

16. The heading of Subpart E is revised to read as set forth above.

16a. Section 835.401 is amended by removing paragraph (b), redesignating paragraph (c) as (b), revising paragraphs (a), introductory text, (a)(2), (a)(4), (a)(5), (a)(6), and revising in newly redesignated paragraph (b), the introductory text, and (b)(1) to read as follows:

§ 835.401 General requirements.

(a) Monitoring of individuals and areas shall be performed to:

(1) * * *

(2) Document radiological conditions;

(3) * * *

(4) Detect the gradual buildup of radioactive material;

(5) Verify the effectiveness of engineering and process controls in containing radioactive material and reducing radiation exposure; and

(6) Identify and control potential sources of individual exposure to radiation and/or radioactive material.

(b) Instruments and equipment used for monitoring shall be:

(1) Periodically maintained and calibrated on an established frequency;

* * * * *

17. Section 835.402 is revised to read as follows:

§ 835.402 Individual monitoring.

(a) For the purpose of monitoring individual exposures to external radiation, personnel dosimeters shall be provided to and used by:

(1) Radiological workers who, under typical conditions, are likely to receive one or more of the following:

(i) An effective dose equivalent to the whole body of 0.1 rem (0.001 sievert) or more in a year;

(ii) A shallow dose equivalent to the skin or to any extremity of 5 rems (0.05 sievert) or more in a year;

(iii) A lens of the eye dose equivalent of 1.5 rems (0.015 sievert) or more in a year;

(2) Declared pregnant workers who are likely to receive from external sources a dose equivalent to the embryo/fetus in excess of 10 percent of the limit at § 835.206(a);

(3) Occupationally exposed minors likely to receive a dose in excess of 50 percent of the applicable limits at § 835.207 in a year from external sources;

(4) Members of the public entering a controlled area likely to receive a dose in excess of 50 percent of the limit at § 835.208 in a year from external sources; and

(5) Individuals entering a high or very high radiation area.

(b) External dose monitoring programs implemented to demonstrate compliance with § 835.402(a) shall be adequate to demonstrate compliance with the dose limits established in subpart C of this part and shall be:

(1) Accredited, or excepted from accreditation, in accordance with the DOE Laboratory Accreditation Program for Personnel Dosimetry; or

(2) Determined by the Secretarial Officer responsible for environment, safety and health matters to have performance substantially equivalent to that of programs accredited under the DOE Laboratory Accreditation Program for Personnel Dosimetry.

(c) For the purpose of monitoring individual exposures to internal radiation, internal dosimetry programs (including routine bioassay programs) shall be conducted for:

(1) Radiological workers who, under typical conditions, are likely to receive a committed effective dose equivalent of 0.1 rem (0.001 sievert) or more from all occupational radionuclide intakes in a year;

(2) Declared pregnant workers likely to receive an intake or intakes resulting in a dose equivalent to the embryo/fetus in excess of 10 percent of the limit stated at § 835.206(a);

(3) Occupationally exposed minors who are likely to receive a dose in excess of 50 percent of the applicable limit stated at § 835.207 from all radionuclide intakes in a year; or

(4) Members of the public entering a controlled area likely to receive a dose in excess of 50 percent of the limit stated at § 835.208 from all radionuclide intakes in a year.

(d) Internal dose monitoring programs implemented to demonstrate compliance with § 835.402(c) shall be adequate to demonstrate compliance with the dose limits established in subpart C of this part and shall be:

(1) Accredited, or excepted from accreditation, in accordance with the DOE Laboratory Accreditation Program for Radiobioassay; or,

(2) Determined by the Secretarial Officer responsible for environment, safety and health matters to have performance substantially equivalent to that of programs accredited under the DOE Laboratory Accreditation Program for Radiobioassy.

18. Section 835.403 is revised to read as follows:

§ 835.403 Air monitoring.

(a) Monitoring of airborne radioactivity shall be performed:

(1) Where an individual is likely to receive an exposure of 40 or more DAC-hours in a year; or

(2) As necessary to characterize the airborne radioactivity hazard where respiratory protective devices for protection against airborne radionuclides have been prescribed.

(b) Real-time air monitoring shall be performed as necessary to detect and provide warning of airborne radioactivity concentrations that warrant immediate action to terminate inhalation of airborne radioactive material.

§ 835.404 [Reserved]

19. Section 835.404 is removed and reserved.

20. Section 835.405 is added to subpart E to read as follows:

§ 835.405 Receipt of packages containing radioactive material.

(a) If packages containing quantities of radioactive material in excess of a Type A quantity (as defined at 10 CFR 71.4) are expected to be received from radioactive material transportation, arrangements shall be made to either:

(1) Take possession of the package when the carrier offers it for delivery; or

(2) Receive notification as soon as practicable after arrival of the package at the carrier's terminal and to take possession of the package expeditiously after receiving such notification.

(b) Upon receipt from radioactive material transportation, external surfaces of packages known to contain radioactive material shall be monitored if the package:

(1) Is labeled with a Radioactive White I, Yellow II, or Yellow III label (as specified at 49 CFR 172.403 and 172.436–440); or

(2) Has been transported as low specific activity material (as defined at 10 CFR 71.4) on an exclusive use vehicle (as defined at 10 CFR 71.4); or

(3) Has evidence of degradation, such as packages that are crushed, wet, or damaged.

(c) The monitoring required by paragraph (b) of this section shall include:

(1) Measurements of removable contamination levels, unless the package contains only special form (as defined at 10 CFR 71.4) or gaseous radioactive material; and

(2) Measurements of the radiation levels, unless the package contains less than a Type A quantity (as defined at 10 CFR 71.4) of radioactive material.

(d) The monitoring required by paragraph (b) of this section shall be completed as soon as practicable following receipt of the package, but not later than 8 hours after the beginning of the working day following receipt of the package.

Subpart F—Entry Control Program

21. Section 835.501 is amended by revising paragraph (d) as follows:

§ 835.501 Radiological areas.

* * * * *

(d) Written authorizations shall be required to control entry into and perform work within radiological areas. These authorizations shall specify radiation protection measures commensurate with the existing and potential hazards.

22. At § 835.502, paragraphs (a), (b), and (c) are redesignated as paragraphs (b), (c), and (d) respectively; the paragraph heading of redesignated paragraph (b) is revised; a new paragraph (a) is added and redesignated paragraphs (b)(2) and (c) are revised as follows:

§ 835.502 High and very high radiation areas.

(a) The following measures shall be implemented for each entry into a high radiation area:

(1) The area shall be monitored as necessary during access to determine the exposure rates to which the individuals are exposed; and

(2) Each individual shall be monitored by a supplemental dosimetry device or other means capable of providing an immediate estimate of the individual's integrated deep dose equivalent during the entry.

(b) *Physical controls.* * * *

(1) * * *

(2) A device that functions automatically to prevent use or operation of the radiation source or field while individuals are in the area;

* * * * *

(c) *Very high radiation areas.* In addition to the above requirements, additional measures shall be implemented to ensure individuals are not able to gain unauthorized or inadvertent access to very high radiation areas.

Subpart G—Posting and Labeling

23. Section 835.601 is revised to read as follows:

§ 835.601 General requirements.

(a) Except as otherwise provided in this subpart, postings and labels required by this subpart shall include the standard radiation warning trefoil in black or magenta imposed upon a yellow background.

(b) Signs required by this subpart shall be clearly and conspicuously posted and may include radiological protection instructions.

(c) The posting and labeling requirements in this subpart may be modified to reflect the special considerations of DOE activities conducted at private residences or businesses. Such modifications shall provide the same level of protection to individuals as the existing provisions in this subpart.

24. Section 835.602 is amended by revising paragraph (a) to read as follows:

§ 835.602 Controlled areas.

(a) Each access point to a controlled area (as defined at § 835.2) shall be posted whenever radiological areas or radioactive material areas exist in the area. Individuals who enter only controlled areas without entering radiological areas or radioactive material areas are not expected to receive a total effective dose equivalent of more than 0.1 rem (0.001 sievert) in a year.

* * * * *

25. Section 835.603 is revised to read as follows:

§ 835.603 Radiological areas and radioactive material areas.

Each access point to radiological areas and radioactive material areas (as defined at § 835.2) shall be posted with conspicuous signs bearing the wording provided in this section.

(a) *Radiation area.* The words "Caution, Radiation Area" shall be posted at each radiation area.

(b) *High radiation area.* The words "Caution, High Radiation Area" or "Danger, High Radiation Area" shall be posted at each high radiation area.

(c) *Very high radiation area.* The words "Grave Danger, Very High Radiation Area" shall be posted at each very high radiation area.

(d) *Airborne radioactivity area.* The words "Caution, Airborne Radioactivity Area" or "Danger, Airborne Radioactivity Area" shall be posted at each airborne radioactivity area.

(e) *Contamination area.* The words "Caution, Contamination Area" shall be posted at each contamination area.

(f) *High contamination area.* The words "Caution, High Contamination Area" or "Danger, High Contamination Area" shall be posted at each high contamination area.

(g) *Radioactive material area.* The words "Caution, Radioactive Material(s)" shall be posted at each radioactive material area.

26. Section 835.604 is added to subpart G to read as follows:

§ 835.604 Exceptions to posting requirements.

(a) Areas may be excepted from the posting requirements of § 835.603 for periods of less than 8 continuous hours when placed under continuous observation and control of an individual knowledgeable of, and empowered to implement, required access and exposure control measures.

(b) Areas may be excepted from the radioactive material area posting requirements of § 835.603(g) when:

(1) Posted in accordance with §§ 835.603(a) through (f); or

(2) Each item or container of radioactive material is labeled in accordance with this subpart such that individuals entering the area are made aware of the hazard; or

(3) The radioactive material of concern consists solely of structures or installed components which have been activated (i.e., such as by being exposed to neutron radiation or particles produced by an accelerator).

(c) Areas containing only packages received from radioactive material transportation labeled and in non-degraded condition need not be posted in accordance with § 835.603 until the packages are monitored in accordance with § 835.405.

27. Section 835.605 is added to subpart G to read as follows:

§ 835.605 Labeling items and containers.

Except as provided at § 835.606, each item or container of radioactive material shall bear a durable, clearly visible label bearing the standard radiation warning trefoil and the words "Caution, Radioactive Material" or "Danger, Radioactive Material." The label shall also provide sufficient information to permit individuals handling, using, or working in the vicinity of the items or containers to take precautions to avoid or control exposures.

28. Section 835.606 is added to subpart G to read as follows:

§ 835.606 Exceptions to labeling requirements.

(a) Items and containers may be excepted from the radioactive material labeling requirements of § 835.605 when:

(1) Used, handled, or stored in areas posted and controlled in accordance with this subpart and sufficient information is provided to permit individuals to take precautions to avoid or control exposures; or

(2) The quantity of radioactive material is less than one tenth of the values specified in appendix E of this part; or

(3) Packaged, labeled, and marked in accordance with the regulations of the Department of Transportation or DOE Orders governing radioactive material transportation; or

(4) Inaccessible, or accessible only to individuals authorized to handle or use them, or to work in the vicinity; or

(5) Installed in manufacturing, process, or other equipment, such as reactor components, piping, and tanks; or

(6) The radioactive material consists solely of nuclear weapons or their components.

(b) Radioactive material labels applied to sealed radioactive sources may be excepted from the color specifications of § 835.601(a).

Subpart H—Records

29. In § 835.702, paragraphs (a), (b), (c), (d), and (e) are revised to read as follows:

§ 835.702 Individual monitoring records.

(a) Records shall be maintained to document doses received by all individuals for whom monitoring was required pursuant to § 835.402 and to document doses received during planned special exposures, unplanned doses exceeding the monitoring thresholds of § 835.402, and authorized emergency exposures.

(b) The results of individual external and internal dose monitoring that is performed, but not required by § 835.402, shall be recorded. Recording of non-uniform shallow dose equivalent to the skin is not required if the dose is less than 2 percent of the limit specified for the skin at § 835.202(a)(4).

(c) The records required by this section shall:

(1) Be sufficient to evaluate compliance with subpart C of this part;

(2) Be sufficient to provide dose information necessary to complete reports required by subpart I of this part;

(3) Include the following quantities for external dose received during the year:

(i) The effective dose equivalent from external sources of radiation (deep dose equivalent may be used as effective dose equivalent for external exposure);

(ii) The lens of the eye dose equivalent;

(iii) The shallow dose equivalent to the skin; and

(iv) The shallow dose equivalent to the extremities.

(4) Include the following information for internal dose resulting from intakes received during the year:

(i) Committed effective dose equivalent;

(ii) Committed dose equivalent to any organ or tissue of concern; and

(iii) Identity of radionuclides.

(5) Include the following quantities for the summation of the external and internal dose:

(i) Total effective dose equivalent in a year;

(ii) For any organ or tissue assigned an internal dose during the year, the sum of the deep dose equivalent from external exposures and the committed dose equivalent to that organ or tissue; and

(iii) Cumulative total effective dose equivalent.

(6) Include the dose equivalent to the embryo/fetus of a declared pregnant worker.

(d) Documentation of all occupational doses received during the current year, except for doses resulting from planned special exposures conducted in compliance with § 835.204 and emergency exposures authorized in accordance with § 835.1302(d), shall be obtained to demonstrate compliance with § 835.202(a). If complete records documenting previous occupational dose during the year cannot be obtained, a written estimate signed by the individual may be accepted to demonstrate compliance.

(e) For radiological workers whose occupational dose is monitored in accordance with § 835.402, reasonable efforts shall be made to obtain complete records of prior years occupational internal and external doses.

* * * * *

30. In § 835.703, paragraphs (a), (b), (c), and (d) are revised to read as follows:

§ 835.703 Other monitoring records.

* * * * *

(a) Results of monitoring for radiation and radioactive material as required by subparts E and L of this part, except for monitoring required by § 835.1102(d);

(b) Results of monitoring used to determine individual occupational dose from external and internal sources;

(c) Results of monitoring for the release and control of material and equipment as required by § 835.1101; and

(d) Results of maintenance and calibration performed on instruments and equipment as required by § 835.401(b).

31. Section 835.704, paragraph (a) is amended by removing the reference to ", 835.902, and 835.903"; paragraphs (d) and (e) are revised and a new paragraph (f) is added as follows:

§ 835.704 Administrative records.

* * * * *

(d) Written declarations of pregnancy, including the estimated date of conception, and revocations of declarations of pregnancy shall be maintained.

(e) Changes in equipment, techniques, and procedures used for monitoring shall be documented.

(f) Records shall be maintained as necessary to demonstrate compliance with the requirements of §§ 835.1201 and 835.1202 for sealed radioactive source control, inventory, and source leak tests.

Subpart I—Reports to Individuals

32. Section 835.801, paragraph (a) is revised to read as follows:

§ 835.801 Reports to individuals.

(a) Radiation exposure data for individuals monitored in accordance with § 835.402 shall be reported as specified in this section. The information shall include the data required under § 835.702(c). Each notification and report shall be in writing and include: the DOE site or facility name, the name of the individual, and the individual's social security number, employee number, or other unique identification number.

* * * * *

Subpart J—Radiation Safety Training

33. In subpart J, § 835.901 is revised to read as follows:

§ 835.901 Radiation safety training.

(a) Each individual shall complete radiation safety training on the topics established at § 835.901(c) commensurate with the hazards in the area and the required controls:

(1) Before being permitted unescorted access to controlled areas; and

(2) Before receiving occupational dose during access to controlled areas at a DOE site or facility.

(b) Each individual shall demonstrate knowledge of the radiation safety training topics established at § 835.901(c), commensurate with the hazards in the area and required controls, by successful completion of an examination and performance demonstrations:

(1) Before being permitted unescorted access to radiological areas; and

(2) Before performing unescorted assignments as a radiological worker.

(c) Radiation safety training shall include the following topics, to the extent appropriate to each individual's prior training, work assignments, and degree of exposure to potential radiological hazards:

(1) Risks of exposure to radiation and radioactive materials, including prenatal radiation exposure;

(2) Basic radiological fundamentals and radiation protection concepts;

(3) Physical design features, administrative controls, limits, policies, procedures, alarms, and other measures implemented at the facility to manage doses and maintain doses ALARA, including both routine and emergency actions;

(4) Individual rights and responsibilities as related to

implementation of the facility radiation protection program;

(5) Individual responsibilities for implementing ALARA measures required by § 835.101; and

(6) Individual exposure reports that may be requested in accordance with § 835.801.

(d) When an escort is used in lieu of training in accordance with paragraph (a) or (b) of this section, the escort shall:

(1) Have completed radiation safety training, examinations, and performance demonstrations required for entry to the area and performance of the work; and

(2) Ensure that all escorted individuals comply with the documented radiation protection program.

(e) Radiation safety training shall be provided to individuals when there is a significant change to radiation protection policies and procedures that may affect the individual and at intervals not to exceed 24 months. Such training provided for individuals subject to the requirements of § 835.901(b)(1) and (b)(2) shall include successful completion of an examination.

§§ 835.902 and 835.903 [Removed and Reserved]

34. Sections 835.902 and 835.903 of subpart J are removed and reserved.

Subpart K—Design and Control

35. In Subpart K, section 835.1002 is amended by changing the word "old" to "existing", and section 835.1001 is revised to read as follows:

§ 835.1001 Design and control.

(a) Measures shall be taken to maintain radiation exposure in controlled areas ALARA through physical design features and administrative control. The primary methods used shall be physical design features (e.g., confinement, ventilation, remote handling, and shielding). Administrative controls shall be employed only as supplemental methods to control radiation exposure.

(b) For specific activities where use of physical design features is demonstrated to be impractical, administrative controls shall be used to maintain radiation exposures ALARA.

36. Section 835.1003 is revised to read as follows:

§ 835.1003 Workplace controls.

During routine operations, the combination of physical design features and administrative controls shall provide that:

(a) The anticipated occupational dose to general employees shall not exceed the limits established at § 835.202; and

(b) The ALARA process is utilized for personnel exposures to ionizing radiation.

Subpart L—Radioactive Contamination Control

37. The heading of subpart L is revised to read as set forth above.

37a. Section 835.1101 is revised and § 835.1102 is added to read as follows:

§ 835.1101 Control of material and equipment.

(a) Except as provided in paragraphs (b) and (c) of this section, material and equipment in contamination areas, high contamination areas, and airborne radioactivity areas shall not be released to a controlled area if:

(1) Removable surface contamination levels on accessible surfaces exceed the removable surface contamination values specified in appendix D of this part; or

(2) Prior use suggests that the removable surface contamination levels on inaccessible surfaces are likely to exceed the removable surface contamination values specified in appendix D of this part.

(b) Material and equipment exceeding the removable surface contamination values specified in appendix D of this part may be conditionally released for movement on-site from one radiological area for immediate placement in another radiological area only if appropriate monitoring is performed and appropriate controls for the movement are established and exercised.

(c) Material and equipment with fixed contamination levels that exceed the total contamination values specified in appendix D of this part may be released for use in controlled areas outside of radiological areas only under the following conditions:

(1) Removable surface contamination levels are below the removable surface contamination values specified in appendix D of this part; and

(2) The material or equipment is routinely monitored and clearly marked or labeled to alert personnel of the contaminated status.

§ 835.1102 Control of areas.

(a) Appropriate controls shall be maintained and verified which prevent the inadvertent transfer of removable contamination to locations outside of radiological areas under normal operating conditions.

(b) Any area in which contamination levels exceed the values specified in appendix D of this part shall be controlled in a manner commensurate with the physical and chemical characteristics of the contaminant, the radionuclides present, and the fixed and removable surface contamination levels.

(c) Areas accessible to individuals where the measured total surface contamination levels exceed, but the removable surface contamination levels are less than, corresponding surface contamination values specified in appendix D of this part, shall be controlled as follows when located outside of radiological areas:

(1) The area shall be routinely monitored to ensure the removable surface contamination level remains below the removable surface contamination values specified in appendix D of this part; and

(2) The area shall be conspicuously marked to warn individuals of the contaminated status.

(d) Individuals exiting contamination, high contamination, or airborne radioactivity areas shall be monitored, as appropriate, for the presence of surface contamination.

(e) Protective clothing shall be required for entry to areas in which removable contamination exists at levels exceeding the removable surface contamination values specified in appendix D of this part.

38. Subpart M is added, consisting of §§ 835.1201 and 835.1202, to read as follows:

Subpart M—Sealed Radioactive Source Control

§ 835.1201 Sealed radioactive source control.

Sealed radioactive sources shall be used, handled, and stored in a manner commensurate with the hazards associated with operations involving the sources.

§ 835.1202 Accountable sealed radioactive sources.

(a) Each accountable sealed radioactive source shall be inventoried at intervals not to exceed six months. This inventory shall:

(1) Establish the physical location of each accountable sealed radioactive source;

(2) Verify the presence and adequacy of associated postings and labels; and

(3) Establish the adequacy of storage locations, containers, and devices.

(b) Except for sealed radioactive sources consisting solely of gaseous radioactive material or tritium, each accountable sealed radioactive source shall be subject to a source leak test upon receipt, when damage is suspected, and at intervals not to exceed six months. Source leak tests shall be capable of detecting radioactive material leakage equal to or exceeding 0.005 microcurie.

(c) Notwithstanding the requirements of paragraph (b) of this section, an accountable sealed radioactive source is not subject to periodic source leak testing if that source has been removed from service. Such sources shall be stored in a controlled location, subject to periodic inventory as required by paragraph (a) of this section, and subject to source leak testing prior to being returned to service.

(d) Notwithstanding the requirements of paragraphs (a) and (b) of this section, an accountable sealed radioactive source is not subject to periodic inventory and source leak testing if that source is located in an area that is unsafe for human entry or otherwise inaccessible.

(e) An accountable sealed radioactive source found to be leaking radioactive material shall be controlled in a manner that minimizes the spread of radioactive contamination.

Subpart N—Emergency Exposure Situations

39. In § 835.1301, paragraphs (a), introductory text, (b), (c), and (d) are revised to read as follows:

§ 835.1301 General provisions.

(a) A general employee whose occupational dose has exceeded the numerical value of any of the limits specified in § 835.202 as a result of an authorized emergency exposure may be permitted to return to work in radiological areas during the current year providing that all of the following conditions are met:

* * * * *

(b) All doses exceeding the limits specified in § 835.202 shall be recorded in the affected individual's occupational dose record.

(c) When the conditions under which a dose was received in excess of the limits specified in § 835.202, except those received in accordance with § 835.204, have been eliminated, operating management shall notify the Head of the responsible DOE field organization.

(d) Operations after a dose was received in excess of the limits specified in § 835.202, except those received in accordance with § 835.204, may be resumed only with the approval of DOE.

40. Section 835.1302 is revised in paragraphs (b), (c), and (d) as follows:

§ 835.1302 Emergency exposure situations.

* * * * *

(b) Operating management shall weigh actual and potential risks against the benefits to be gained.

(c) No individual shall be required to perform a rescue action that might involve substantial personal risk.

(d) Each individual authorized to perform emergency actions likely to result in occupational doses exceeding the values of the limits provided at § 835.202(a) shall be trained in accordance with § 835.901(b) and briefed beforehand on the known or anticipated hazards to which the individual will be subjected.

* * * * *

41. At § 835.1304, paragraphs (a) and (b)(1), the word "personnel" is revised to read "individuals" and paragraph (b)(4) is revised as follows:

§ 835.1304 Nuclear accident dosimetry.

* * * * *

(b) * * *

(4) Personal nuclear accident dosimeters.

42. Appendix A of Part 835 is amended by removing footnote 5 from the Footnotes for Appendix A and, adding the following two paragraphs at the beginning of the introductory text:

Appendix A to Part 835—Derived Air Concentrations (DAC) for Controlling Radiation Exposure to Workers at DOE Facilities

The data presented in appendix A are to be used for controlling individual internal doses in accordance with § 835.209, identifying the need for air monitoring in accordance with § 835.403, and identifying the need for posting of airborne radioactivity areas in accordance with § 835.603(d).

The DAC values are given for individual radionuclides. For known mixtures of radionuclides, determine the sum of the ratio of the observed concentration of a particular radionuclide and its corresponding DAC for all radionuclides in the mixture. If this sum exceeds unity (1), then the DAC has been exceeded. For unknown radionuclides, the most restrictive DAC (lowest value) for those isotopes not known to be absent shall be used.

* * * * *

Appendix B—[Removed and Reserved]

43. Appendix B to Part 835 is removed and reserved.

44. Appendix C to Part 835 is amended by removing the entries for the radionuclides Rn-220 and Rn-222 and their corresponding half-lives and air immersion DACs from the table and revising the introductory text preceding the table as follows:

Appendix C to Part 835—Derived Air Concentration (DAC) for Workers From External Exposure During Immersion in a Contaminated Atmospheric Cloud

* * * * *

a. The data presented in appendix C are to be used for controlling occupational exposures in accordance with § 835.209, identifying the need for air monitoring in accordance with § 835.403, and identifying the need for posting of airborne radioactivity areas in accordance with § 835.603(d).

b. The air immersion DAC values shown in this appendix are based on a stochastic dose limit of 5 rems (0.05 Sv) per year or a nonstochastic (organ) dose limit of 50 rems (0.5 Sv) per year. Four columns of information are presented: (1) Radionuclide; (2) half-life in units of seconds (s), minutes (min), hours (h), days (d), or years (yr); (3) air immersion DAC in units of μCi/ml; and (4) air immersion DAC in units of Bq/m³. The data are listed by radionuclide in order of increasing atomic mass. The air immersion DACs were calculated for a continuous, nonshielded exposure via immersion in a semi-infinite atmospheric cloud. The DACs listed in this appendix may be modified to allow for submersion in a cloud of finite dimensions.

c. The DAC value for air immersion listed for a given radionuclide is determined either by a yearly limit on effective dose equivalent, which provides a limit on stochastic radiation effects, or by a limit on yearly dose equivalent to any organ, which provides a limit on nonstochastic radiation effects. For most of the radionuclides listed, the DAC value is determined by the yearly limit on effective dose equivalent. Thus, the few cases where the DAC value is determined by the yearly limit on shallow dose equivalent to the skin are indicated in the table by an appropriate footnote. Again, the DACs listed in this appendix account only for immersion in a semi-infinite cloud and do not account for inhalation or ingestion exposures.

d. Three classes of radionuclides are included in the air immersion DACs as described below.

(1) *Class 1.* The first class of radionuclides includes selected noble gases and short-lived activation products that occur in gaseous form. For these radionuclides, inhalation doses are negligible compared to the external dose from immersion in an atmospheric cloud.

(2) *Class 2.* The second class of radionuclides includes those for which a DAC value for inhalation has been calculated, but for which the DAC value for external exposure to a contaminated atmospheric cloud is more restrictive (i.e., results in a lower DAC value). These radionuclides generally have half-lives of a few hours or less, or are eliminated from the body following inhalation sufficiently rapidly to limit the inhalation dose.

(3) *Class 3.* The third class of radionuclides includes selected isotopes with relatively short half-lives. These radionuclides typically have half-lives that are less than 10 minutes, they do not occur as a decay product of a longer lived radionuclide, or they lack sufficient decay data to permit internal dose calculations. These radionuclides are also typified by a radioactive emission of highly intense, high-energy photons and rapid removal from the body following inhalation.

e. The DAC values are given for individual radionuclides. For known mixtures of radionuclides, determine the sum of the ratio of the observed concentration of a particular

radionuclide and its corresponding DAC for all radionuclides in the mixture. If this sum exceeds unity (1), then the DAC has been exceeded. For unknown radionuclides, the most restrictive DAC (lowest value) for those isotopes not known to be absent shall be used.

* * * * *

45. Appendix D to part 835 is revised as follows:

Appendix D to Part 835—Surface Contamination Values

The data presented in appendix D are to be used in identifying the need for posting of contamination and high contamination areas in accordance with § 835.603(e) and (f) and identifying the need for surface contamination monitoring and control in accordance with §§ 835.1101 and 835.1102.

SURFACE CONTAMINATION VALUES [1] IN DPM/100 CM [2]

Radionuclide	Removable [2, 4]	Total (Fixed + Removable) [2, 3]
U-nat, U-235, U-238, and associated decay products	[7] 1,000	[7] 5,000
Transuranics, Ra-226, Ra-228, Th-230, Th-228, Pa-231, Ac-227, I-125, I-129	20	500
Th-nat, Th-232, Sr-90, Ra-223, Ra-224, U-232, I-126, I-131, I-133	200	1,000
Beta-gamma emitters (nuclides with decay modes other than alpha emission or spontaneous fission) except Sr-90 and others noted above [5]	1,000	5,000
Tritium and tritiated compounds [6]	10,000	N/A

[1] The values in this appendix, with the exception noted in footnote 5, apply to radioactive contamination deposited on, but not incorporated into the interior or matrix of, the contaminated item. Where surface contamination by both alpha-and beta-gamma-emitting nuclides exists, the limits established for alpha-and beta-gamma-emitting nuclides apply independently.

[2] As used in this table, dpm (disintegrations per minute) means the rate of emission by radioactive material as determined by correcting the counts per minute observed by an appropriate detector for background, efficiency, and geometric factors associated with the instrumentation.

[3] The levels may be averaged over one square meter provided the maximum surface activity in any area of 100 cm^2 is less than three times the value specified. For purposes of averaging, any square meter of surface shall be considered to be above the surface contamination value if: (1) From measurements of a representative number of sections it is determined that the average contamination level exceeds the applicable value; or (2) it is determined that the sum of the activity of all isolated spots or particles in any 100 cm^2 area exceeds three times the applicable value.

[4] The amount of removable radioactive material per 100 cm^2 of surface area should be determined by swiping the area with dry filter or soft absorbent paper, applying moderate pressure, and then assessing the amount of radioactive material on the swipe with an appropriate instrument of known efficiency. (Note—The use of dry material may not be appropriate for tritium.) When removable contamination on objects of surface area less than 100 cm^2 is determined, the activity per unit area shall be based on the actual area and the entire surface shall be wiped. It is not necessary to use swiping techniques to measure removable contamination levels if direct scan surveys indicate that the total residual surface contamination levels are within the limits for removable contamination.

[5] This category of radionuclides includes mixed fission products, including the Sr-90 which is present in them. It does not apply to Sr-90 which has been separated from the other fission products or mixtures where the Sr-90 has been enriched.

[6] Tritium contamination may diffuse into the volume or matrix of materials. Evaluation of surface contamination shall consider the extent to which such contamination may migrate to the surface in order to ensure the surface contamination value provided in this appendix is not exceeded. Once this contamination migrates to the surface, it may be removable, not fixed; therefore, a "Total" value does not apply.

[7] (alpha)

46. Appendix E to Part 835 is added as follows:

Appendix E to Part 835—Values for Establishing Sealed Radioactive Source Accountability and Radioactive Material Posting and Labeling Requirements

The data presented in this appendix E are to be used for identifying accountable sealed radioactive sources as defined at § 835.2(a), establishing the need for radioactive material area posting in accordance with § 835.603(g), and establishing the need for radioactive material labeling in accordance with § 835.605.

Note: The data are listed in alphabetical order by nuclide.

Nuclide	Activity (μCi)	Nuclide	Activity (μCi)	Nuclide	Activity (μCi)
Ac-227	1.5E+00	H-3	1.6E+08	Re-184m	1.5E+02
Ag-105	2.1E+06	Hf-172	3.1E+04	Re-186m	2.8E+05
Ag-108m	1.8E+01	Hf-175	1.8E+06	Rh-101	2.5E+05
Ag-110m	2.2E+01	Hf-178m	4.1E+03	Rh-102	8.3E+04
Al-26	1.6E+01	Hf-181	3.5E+02	Rh-102m	2.1E+05
Am-241	2.3E+01	Hf-182	3.0E+03	Ru-103	4.4E+02
Am-242m	2.4E+01	Hg-194	3.5E+04	Ru-106	2.1E+04
Am-243	2.3E+01	Hg-203	4.9E+02	S-35	4.0E+06
As-73	5.4E+02	Ho-166m	2.2E+01	Sb-124	9.1E+01
Au-195	4.8E+02	I-125	3.5E+02	Sb-125	6.8E+01
Ba-133	5.2E+01	I-129	1.8E+02	Sc-46	6.2E+01
Be-10	2.8E+04	In-114m	7.8E+02	Se-75	6.4E+01
Be-7	3.2E+03	Ir-192	1.4E+02	Se-79	1.0E+06
Bi-207	1.7E+01	Ir-192m	2.6E+04	Si-32	9.9E+03
Bi-208	1.5E+01	Ir-194m	2.7E+01	Sm-145	9.1E+05
Bi-210m	1.3E+03	K-40	2.8E+02	Sm-146	1.2E+02
Bk-247	1.7E+01	La-137	1.1E+05	Sm-151	2.5E+05
Bk-249	7.2E+03	Lu-173	4.4E+05	Sn-113	3.1E+02
C-14	4.8E+06	Lu-174	2.5E+05	Sn-119m	3.3E+02
Ca-41	7.4E+06	Lu-174m	3.9E+05	Sn-121m	8.7E+05
Ca-45	1.5E+06	Lu-177m	5.8E+01	Sn-123	1.3E+04
Cd-109	1.6E+02	Md-258	6.0E+02	Sn-126	1.8E+02
Cd-113m	6.5E+03	Mn-53	2.0E+07	Sr-85	1.2E+02

Nuclide	Activity (μCi)	Nuclide	Activity (μCi)	Nuclide	Activity (μCi)
Cd-115m	1.0E+04	Mn-54	6.5E+01	Sr-89	2.4E+05
Ce-139	2.4E+02	Mo-93	7.7E+01	Sr-90	7.7E+03
Ce-141	2.4E+03	Na-22	1.9E+01	Ta-179	1.5E+06
Ce-144	1.5E+03	Nb-91	7.0E+01	Ta-182	7.3E+01
Cf-248	2.0E+02	Nb-91m	3.6E+02	Tb-157	2.5E+03
Cf-249	1.7E+01	Nb-92	1.8E+01	Tb-158	3.9E+04
Cf-250	3.8E+01	Nb-93m	4.4E+02	Tb-160	1.2E+02
Cf-251	1.7E+01	Nb-94	2.3E+01	Tc-95m	1.3E+02
Cf-252	6.4E+01	Nb-95	3.4E+02	Tc-97	8.1E+01
Cf-254	3.4E+01	Ni-59	7.5E+06	Tc-97m	3.6E+02
Cl-36	4.6E+05	Ni-63	3.2E+06	Tc-98	2.5E+01
Cm-241	6.8E+04	Np-235	1.2E+02	Tc-99	6.8E+06
Cm-242	5.8E+02	Np-236	2.2E+01	Te-121m	1.9E+02
Cm-243	3.3E+01	Np-237	1.9E+01	Te-123m	2.8E+02
Cm-244	4.0E+01	Os-185	1.4E+02	Te-125m	4.4E+02
Cm-245	2.2E+01	Os-194	1.5E+04	Te-127m	8.0E+02
Cm-246	2.2E+01	Pa-231	7.8E+00	Te-129m	2.3E+03
Cm-247	2.4E+01	Pb-202	1.0E+05	Th-228	2.9E+01
Cm-248	6.0E+00	Pb-205	9.1E+01	Th-229	4.7E+00
Cm-250	1.1E+00	Pb-210	9.2E+01	Th-230	3.1E+01
Co-56	4.0E+01	Pd-107	7.8E+05	Th-232	6.1E+00
Co-57	2.3E+02	Pm-143	1.3E+02	Ti-44	1.6E+02
Co-58	1.4E+02	Pm-144	2.9E+01	Tl-204	2.2E+04
Co-60	1.8E+01	Pm-145	2.6E+02	Tm-170	8.4E+03
Cs-134	2.7E+01	Pm-146	4.5E+01	Tm-171	2.8E+04
Cs-135	2.2E+06	Pm-147	2.5E+05	U-232	1.5E+01
Cs-137	6.0E+01	Pm-148m	1.1E+02	U-233	7.4E+01
Dy-159	4.1E+06	Po-209	6.3E+03	U-234	7.5E+01
Es-254	6.3E+01	Po-210	1.1E+03	U-235	6.7E+01
Es-255	4.6E+04	Pt-193	4.4E+07	U-236	8.0E+01
Eu-148	7.0E+05	Pu-236	6.9E+01	U-238	8.4E+01
Eu-149	5.3E+06	Pu-237	3.3E+02	V-49	2.9E+07
Eu-152	3.1E+01	Pu-238	2.5E+01	W-181	1.1E+03
Eu-154	3.1E+01	Pu-239	2.3E+01	W-185	3.9E+06
Eu-155	3.7E+02	Pu-240	2.3E+01	W-188	6.4E+04
Fe-55	3.7E+06	Pu-241	1.2E+03	Y-88	3.4E+01
Fe-59	2.0E+02	Pu-242	2.4E+01	Y-91	5.0E+04
Fe-60	1.3E+04	Pu-244	2.5E+01	Yb-169	5.5E+02
Fm-257	4.3E+02	Ra-226	1.2E+03	Zn-65	1.1E+02
Gd-146	2.6E+05	Ra-228	2.1E+03	Zr-88	1.2E+02
Gd-148	3.0E+01	Rb-83	9.2E+01	Zr-93	3.1E+04
Gd-151	1.1E+06	Rb-84	2.0E+02	Zr-95	2.0E+02
Gd-153	2.1E+02	Re-183	5.4E+02		
Ge-68	5.7E+02	Re-184	2.6E+02		

Any alpha emitting radionuclide not listed above and mixtures of alpha emitters of unknown composition have a value of 10 microcuries.

Any radionuclide other than alpha emitting radionuclides not listed above and mixtures of beta emitters of unknown composition have a value of 100 microcuries.

Note: Where there is involved a combination of radionuclides in known amounts, derive the value for the combination as follows: determine, for each radionuclide in the combination, the ratio between the quantity present in the combination and the value otherwise established for the specific radionuclide when not in combination. If the sum of such ratios for all radionuclides in the combination exceeds unity (1), then the accountability criterion has been exceeded.

[FR Doc. 98–27366 Filed 11–3–98; 8:45 am]

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Federal Register

Vol. 63, No. 213

Wednesday, November 4, 1998

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FEDERAL REGISTER PAGES AND DATES, NOVEMBER

58619–59202 2
59203–59456 3
59457–59690 4

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7144 59197
7145 59203

Administrative Orders:
Presidential Determinations:
No. 99–1 of October 21, 1998 59201

5 CFR

2634 58619
890 59457

Proposed Rules:
532 58659

7 CFR

723 59205

Proposed Rules:
984 59246
1755 59248

0 CFR

835 59662

12 CFR

208 58620
211 58620
215 58620
225 58620
262 58620
263 58620
265 58620

14 CFR

39 ..... 58622, 58624, 58625, 59206, 59460
71 ..... 58627, 58628, 58629, 58811

Proposed Rules:
23 58660
39 59252
71 ..... 59255, 59256, 59257
91 59494
121 ..... 59192, 59494
135 59494
135 59192
145 59192

16 CFR

Proposed Rules:
305 58671

17 CFR

10 58811
200 59862
240 ..... 58630, 59208, 59362
249 59862

21 CFR

178 59213
211 59463
510 59215
522 59215
558 59216
814 59217
862 59222
864 59222
866 59222
876 59222
880 59222
882 59222
886 59222
890 59222
892 59222

24 CFR

Proposed Rules:
5 58675

26 CFR

1 58811

Proposed Rules:
1 58811

30 CFR

Proposed Rules:
46 59258
915 59627
938 59259

32 CFR

199 59231

33 CFR

100 59232
165 58635

Proposed Rules:
117 58676

37 CFR

201 ..... 59233, 59235

38 CFR

Proposed Rules:
14 59495
17 58677

40 CFR

52 ..... 58637, 59471
81 58637

Proposed Rules:
52 58678
81 58678

41 CFR

60–250 59630
60–741 59657

42 CFR

405 58814
410 58814
413 58814
414 58814
415 58814

424.....58814
485.....58814
Proposed Rules:
5.....58679
51c.....58679

44 CFR

64.....59236

46 CFR

2.....59472
Proposed Rules:
45.....58679

47 CFR

2.....58645
73.....59238, 59239
90.....58645
Proposed Rules:
54.....58685
73.....59262, 59263
90.....58685

48 CFR

Proposed Rules:
Ch. 7.....59501
712.....59501
727.....59501
742.....59501
752.....59501

49 CFR

1.....59474
195.....59475
571.....59482
Proposed Rules:
1420.....59263
171.....59505
177.....59505
178.....59505
180.....59505

50 CFR

17.....59239
679.....58658, 59244
Proposed Rules:
17.....58692
222.....58701
227.....58701
648.....59492

REMINDERS
The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT NOVEMBER 4, 1998

AGRICULTURE DEPARTMENT
Rural Utilities Service
Electric loans:
- Long-range financial forecasts; published 10-5-98

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and promulgation; various States:
- Texas; correction; published 11-4-98

Hazardous waste:
- Identification and listing—
  - Organobromine production wastes; published 5-4-98

FEDERAL COMMUNICATIONS COMMISSION
Radio services, special:
- Maritime services—
  - New Orleans vessel traffic services; published 10-5-98

FEDERAL MARITIME COMMISSION
Freedom of Information Act; implementation; published 10-5-98

PERSONNEL MANAGEMENT OFFICE
Performance ratings finality; retroactive, assumed, and carry-over ratings of record prohibited; published 10-5-98

TRANSPORTATION DEPARTMENT
Organization, functions, and authority delegations:
- Commandant, U.S. Coast Guard; published 11-4-98

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
- Boeing; published 9-30-98
- Pilatus Aircraft Ltd.; published 9-24-98
- Raytheon; published 9-29-98

TRANSPORTATION DEPARTMENT
Research and Special Programs Administration
Pipeline safety:
- Hazardous liquid transportation—
  - Older hazardous liquid and carbon dioxide pipelines; risk-based alternative to pressure testing; published 11-4-98

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Milk marketing orders:
- Nebraska-Western Iowa; comments due by 11-9-98; published 10-9-98

AGRICULTURE DEPARTMENT
Food and Nutrition Service
Child nutrition programs:
- School breakfast program and national school lunch program—
  - Menu planning alternatives; republication; comments due by 11-12-98; published 5-15-98

COMMERCE DEPARTMENT
Export Administration Bureau
Export administration regulations:
- Foreign policy-based export controls; effects; comments due by 11-12-98; published 10-13-98

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
- Caribbean, Gulf, and South Atlantic fisheries—
  - South Atlantic snapper-grouper; comments due by 11-9-98; published 9-8-98

Marine mammals:
- Commercial fishing operations—
  - Commercial fisheries authorization; list of fisheries categorized according to frequency of incidental takes; comments due by 11-9-98; published 8-11-98

DEFENSE DEPARTMENT
Acquisition regulations:
- Contract financing; flexible progress payments; comments due by 11-9-98; published 9-8-98

Federal Acquisition Regulation (FAR):
- Competition under multiple award task and delivery order contracts; comments due by 11-9-98; published 9-9-98

ENERGY DEPARTMENT
Federal Energy Regulatory Commission
Natural Gas Policy Act:
- Interstate natural gas pipelines—
  - Transportation services regulation; comments due by 11-9-98; published 8-11-98

ENVIRONMENTAL PROTECTION AGENCY
Air pollutants, hazardous; national emission standards:
- Petroleum refineries
  - Catalytic cracking (fluid and other) units, catalytic reforming units, and sulfur plant units; comments due by 11-10-98; published 9-11-98

Air quality implementation plans; approval and promulgation; various States:
- Alabama; comments due by 11-9-98; published 10-8-98
- California; comments due by 11-13-98; published 10-23-98
- Minnesota; comments due by 11-12-98; published 10-13-98
- Pennsylvania; comments due by 11-9-98; published 10-8-98
- Tennessee; comments due by 11-9-98; published 10-8-98

Hazardous waste:
- Land disposal restrictions—
  - Alternate treatment standards; intent to grant site-specific treatment variance to Chemical Waste Management, Inc.; comments due by 11-13-98; published 10-23-98

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Bacillus sphaericus; comments due by 11-10-98; published 9-11-98
- Cypermethrin; comments due by 11-10-98; published 9-11-98
- Esfenvalerate; comments due by 11-10-98; published 9-11-98
- Metolachlor; comments due by 11-10-98; published 9-11-98
- Sulfosate; comments due by 11-10-98; published 9-11-98

Toxic substances:
- Significant new uses—
  - Phenol, 2,4-dimethyl-6-(1-methylpentadecyl), etc.,; comments due by 11-9-98; published 10-26-98

FEDERAL COMMUNICATIONS COMMISSION
Common carrier services:
- Truth-in-billing and billing format; comments due by 11-13-98; published 10-14-98

GENERAL SERVICES ADMINISTRATION
Federal Acquisition Regulation (FAR):
- Competition under multiple award task and delivery order contracts; comments due by 11-9-98; published 9-9-98

HEALTH AND HUMAN SERVICES DEPARTMENT
Health Care Financing Administration
Medicare:
- Ambulatory surgical centers; ratesetting methodology, payment rates and policies, and covered surgical procedures list; comments due by 11-9-98; published 10-1-98

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Lead-based paint hazards in federally owned residential property and housing receiving Federal assistance; notification, evaluation, and reduction; comments due by 11-9-98; published 10-9-98

Public and Indian housing:
- Indian housing loan guarantees; direct guarantee processing; comments due by 11-10-98; published 9-11-98

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:
- Devils River minnow; comments due by 11-12-98; published 10-13-98

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office
Permanent program and abandoned mine land reclamation plan submissions:
- Iowa; comments due by 11-13-98; published 10-14-98

JUSTICE DEPARTMENT
Executive Office for Immigration Review:
Immigration Appeals Board; streamlined appellate review procedure; comments due by 11-13-98; published 9-14-98
Grants:
Juvenile accountability incentive block grants program; comments due by 11-13-98; published 10-14-98

LABOR DEPARTMENT
Occupational Safety and Health Administration
Construction safety and health standards:
Steel erection; comments due by 11-12-98; published 8-13-98

LABOR DEPARTMENT
Pension and Welfare Benefits Administration
Employee Retirement Income Security Act:
Summary plan description regulations; comments due by 11-9-98; published 9-9-98
Employment Retirement Income Security Act:
Summary plan description regulations; comments due by 11-9-98; published 9-9-98

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Federal Acquisition Regulation (FAR):
Competition under multiple award task and delivery order contracts; comments due by 11-9-98; published 9-9-98

NATIONAL CREDIT UNION ADMINISTRATION
Credit unions:
Organization and operations—
Chartering and field of membership policy update; comments due by 11-13-98; published 9-14-98

NUCLEAR REGULATORY COMMISSION
Byproduct material; medical use:
Policy statement; comments due by 11-12-98; published 8-13-98
Revision; comments due by 11-12-98; published 8-13-98
Production and utilization facilities; domestic licensing:
Nuclear power reactors—
Permanent shutdown; financial protection requirements; comments due by 11-9-98; published 9-23-98

PERSONNEL MANAGEMENT OFFICE
Prevailing rate systems
Environmental differential pay for working at high altitudes; comments due by 11-12-98; published 10-13-98

SECURITIES AND EXCHANGE COMMISSION
Securities:
Brokers and dealers; books and records requirements—
Sales practices; comments due by 11-9-98; published 10-9-98

TRANSPORTATION DEPARTMENT
Coast Guard
Drawbridge operations:
North Carolina; comments due by 11-9-98; published 9-10-98
Marine occupational safety and health standards:
Commercial diving operations; comments due by 11-9-98; published 9-23-98
Ports and waterways safety:
First Coast Guard District navigable waters; regulated navigation area; comments due by 11-12-98; published 10-13-98

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Airbus; comments due by 11-9-98; published 10-14-98
British Aerospace; comments due by 11-13-98; published 10-14-98
CFM International; comments due by 11-10-98; published 9-11-98
Dornier; comments due by 11-9-98; published 10-8-98
Empresa Brasileira de Aeronautica S.A.; comments due by 11-13-98; published 10-14-98
Pratt & Whitney; comments due by 11-9-98; published 9-9-98
Textron Lycoming; comments due by 11-10-98; published 9-11-98
Williams International; comments due by 11-9-98; published 9-9-98
Airworthiness standards:
Special conditions—
Raytheon Aircraft Co. model 300 airplane; comments due by 11-13-98; published 10-14-98
Class D and E airspace; comments due by 11-9-98; published 10-9-98
Class E airspace; comments due by 11-9-98; published 9-24-98

TRANSPORTATION DEPARTMENT
Federal Railroad Administration
Magnetic levitation transportation technology deployment program; comments due by 11-12-98; published 10-13-98

TRANSPORTATION DEPARTMENT
Surface Transportation Board
Rate procedures:
Service inadequacies; expedited relief; comments due by 11-13-98; published 10-30-98

TREASURY DEPARTMENT
Internal Revenue Service
Income taxes:
Foreign partnerships and corporations; property transfers by U.S. persons; information reporting requirements; comments due by 11-9-98; published 9-9-98
Foreign partnerships, U.S. persons owning interests in; return requirements; comments due by 11-9-98; published 9-9-98
Foreign partnerships; information reporting requirements; comments due by 11-9-98; published 9-9-98
Foreign partnerships; information reporting requirements; correction; comments due by 11-9-98; published 10-31-98
Widely held fixed investment trusts; reporting requirements; comments due by 11-12-98; published 8-13-98

VETERANS AFFAIRS DEPARTMENT
Freedom of Information Act; implementation; comments due by 11-9-98; published 9-10-98

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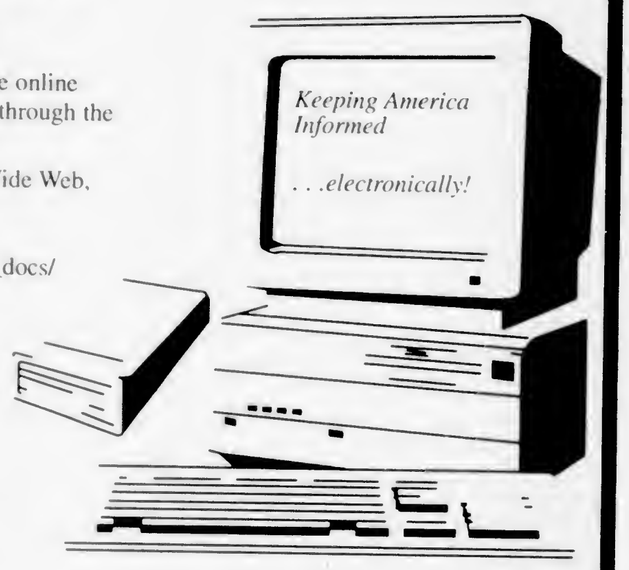
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11–5–98
Vol. 63 No. 214

federal register

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Contents

Federal Register

Vol. 63, No. 214

Thursday, November 5, 1998

Agency for International Development
NOTICES
Monetization Field Manual; availability, 59805

Agriculture Department
See Food Safety and Inspection Service
See Foreign Agricultural Service
RULES
Agricultural commodities:
Commercial sales financing, 59691–59692

Army Department
NOTICES
Privacy Act:
Systems of records, 59765–59766

Centers for Disease Control and Prevention
NOTICES
Meetings:
Advisory Committee to Director, 59792–59793

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Alaska, 59761

Coast Guard
RULES
Ports and waterways safety:
Hudson River, NY; safety zone, 59719–59720

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Dominican Republic, 59763–59764
United Arab Emirates, 59764

Commodity Futures Trading Commission
NOTICES
Contract market proposals:
Dual trading prohibition; exemption petitions—
New York Mercantile Exchange, 59764–59765

Defense Department
See Army Department
See Navy Department
RULES
Privacy Act; implementation, 59718–59719
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 59765
Meetings:
Military Personnel Testing Advisory Committee, 59765

Drug Enforcement Administration
PROPOSED RULES
Schedules of controlled substances:
Synthetic dronabinol; placement into Schedule III, 59751–59753

Education Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 59775–59776
Committees; establishment, renewal, termination, etc.:
School-to-Work Opportunities Advisory Council, 59776
Meetings:
School-to-Work Opportunities Advisory Council, 59776–59777

Employment and Training Administration
NOTICES
Federal-State unemployment compensation program:
Federal Unemployment Tax Act; certifications, 59807–59808

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Maryland, 59720–59722
Air quality planning purposes; designation of areas:
Idaho, 59722–59732
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Maryland, 59754
Toxic substances:
Lead-based paint—
Identification of dangerous levels of lead; meeting, 59754–59755
NOTICES
Clean Water Act:
State and interstate monies appropriation; allotment formulas revision, 59869–59874
Grants; State and local assistance:
Drinking water State revolving fund program; implementation guidelines, 59843–59868
Meetings:
Benzene (noncancer effects); toxicological review document; external peer-review panel, 59779
State FIFRA Issues Research and Evaluation Group, 59779–59780
Reports and guidance documents; availability, etc.:
Food Quality Protection Act; probabilistic exposure assessments; submission to Pesticide Programs Office, etc.; policy papers, 59780–59783
Toxic and hazardous substances control:
Premanufacture notices receipts, 59783–59791
Water pollution control:
Marine sanitation device standard; petitions—
New York, 59791–59792

Executive Office of the President
See Trade Representative, Office of United States

Federal Aviation Administration
RULES
Airworthiness directives:
Boeing, 59697–59699

Eurocopter France, 59695–59697
General Electric Aircraft Engines, 59699–59701
Airworthiness standards:
Special conditions—
Boeing model 777 series airplanes, 59692–59695
Class E airspace, 59701–59706
Class E airspace; correction, 59842
PROPOSED RULES
Airworthiness directives:
Pratt & Whitney, 59743–59746

Federal Communications Commission
PROPOSED RULES
Common carrier services:
Satellite communications—
Direct access to INTELSAT system; legal, economic, and policy ramifications, 59755–59758

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Albany, OR; correction, 59842
Applications, hearings, determinations, etc.:
Equitrans, L.P., 59777
Lakehead Pipe Line Co., L.P., 59777–59778
Public Utility District No. 2 of Grant County, WA, 59778
Texas Eastern Transmission Corp., 59778–59779

Federal Highway Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 59837
Environmental statements; notice of intent:
Jackson County, MO, 59838

Federal Maritime Commission
NOTICES
Agreements; additional information requests:
CSAV/CCNI Car Carrier Agreement, 59792

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit applications, 59802–59803
Meetings:
North American Wetlands Conservation Council, 59803

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
New drug applications—
Eprinomectin, 59715
Levamisole hydrochloride soluble drench powder, 59712–59713
Sulfadimethoxine soluble powder and oral solution, 59713–59714
Sponsor name and address changes—
Boehringer Ingelheim Animal Health, Inc., 59714
Food additives:
Adhesive coatings and components—
Dimethyl-2,6-naphthalenedicarboxylate, etc., 59706–59707
Adjuvants, production aids, and sanitizers—
Chromium oxide green, Cr2O3 (C.I. Pigment Green 17), 59710
Paper and paperboard components—
2-[2-aminoethyl)amino]ethanol, etc., 59707–59709
Human drugs:
Abbreviated new drug applications; approval effective date, 59710–59712
Medical devices:
Dental devices—
Sulfide detection device; classification, 59715–59717
General hospital and personal use devices—
Apgar timer, lice removal kit, and infusion stand; classification, 59717–59718
PROPOSED RULES
Human drugs and biological products:
Postmarketing adverse drug reactions; electronic reporting, 59750
Medical devices:
Mammography quality standards, 59750–59751
NOTICES
Meetings:
Antiviral Drugs Advisory Committee et al., 59793
Reports and guidance documents; availability, etc.:
General/specific intended use; industry guidance, 59793–59794
Washers and washer-disinfectors; premarket notification [510(k)] submissions; content and format, 59794–59795

Food Safety and Inspection Service
NOTICES
Meetings:
Codex Alimentarius Commission; U.S. participation, 59760

Foreign Agricultural Service
NOTICES
North American Free Trade Agreement (NAFTA):
Mexican frozen concentrated orange juice; temporary duty imposition, 59761

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Missouri, 59761–59762
Ohio
Lucent Technologies Inc.; telecommunications equipment manufacturing facilities, 59762
Tennessee, 59762

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Care Financing Administration
See Health Resources and Services Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Health Care Financing Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 59795–59796

Health Resources and Services Administration
NOTICES
National vaccine injury compensation program:
Petitions received, 59796–59797

Interior Department
See Fish and Wildlife Service

See Land Management Bureau
See Minerals Management Service

International Development Cooperation Agency
See Agency for International Development

International Trade Administration
NOTICES
Antidumping:
Freshwater crawfish tail meat from—
China, 59762–59763

International Trade Commission
NOTICES
Import investigations:
Five-year sunset reviews—
Racing plates from Canada, et al., 59805
Meetings; Sunshine Act, 59805–59806

Justice Department
See Drug Enforcement Administration

Labor Department
See Employment and Training Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 59806–59807
Committees; establishment, renewal, termination, etc.:
School-to-Work Opportunities Advisory Council, 59776
Meetings:
School-to-Work Opportunities Advisory Council, 59776–59777

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
Newmont Gold Corp.'s Trenton Canyon Project, NV, 59803
Meetings:
Resource advisory councils—
Front Range, 59803–59804
Southeast Oregon, 59803
Public land orders:
Wyoming, 59804
Realty actions; sales, leases, etc.:
Idaho; correction, 59842

Minerals Management Service
NOTICES
Meetings:
Minerals Management Advisory Board, 59804–59805

National Archives and Records Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 59808

National Credit Union Administration
PROPOSED RULES
Credit unions:
Organization and operations—
Directors and senior officers; prior notice of appointment or employment, 59742–59743

National Highway Traffic Safety Administration
RULES
Motor vehicle safety standards:
School bus body joint strength, 59732–59741

National Institutes of Health
NOTICES
Meetings:
National Cancer Institute, 59797–59798
National Institute of Allergy and Infectious Diseases, 59798–59799
National Institute of Neurological Disorders and Stroke, 59799
National Institute on Aging, 59798
National Institute on Deafness and Other Communication Disorders, 59799
Scientific Review Center, 59799–59801
Warren Grant Magnuson Clinical Center Board of Governors, 59801

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
West Coast States and Western Pacific fisheries—
Pelagic, crustacean, bottomfish and seamount groundfish, and precious corals fisheries, 59758–59759

National Science Foundation
NOTICES
Agency information collection activities:
Proposed collection; comment request, 59809

Navy Department
NOTICES
Environmental statements; availability, etc.:
Base realignment and closure—
Mare Island Naval Shipyard, California, 59766–59775

Nuclear Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
Florida Power & Light Co., 59809–59811
Florida Power Corp. et al., 59811–59813
Washington Public Power Supply System; correction, 59813

Office of United States Trade Representative
See Trade Representative, Office of United States

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Railroad Retirement Board
NOTICES
Railroad Unemployment Insurance Act:
Monthly compensation base and other determinations (1999 CY), 59813–59814

Securities and Exchange Commission
NOTICES
Investment Company Act of 1940:
Deregistration applications—
New England Funds Trust IV et al., 59814–59816
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., 59816–59819
American Stock Exchange, Inc., et al., 59819–59831
Government Securities Clearing Corp., 59831–59834
Options Clearing Corp., 59834–59835

Substance Abuse and Mental Health Services Administration
NOTICES
Meetings:
Drug Testing Advisory Board, 59801
SAMHSA special emphasis panels, 59801–59802

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Trade Representative, Office of United States
NOTICES
Unfair trade practices, petitions, etc.:
Korea; barriers to U.S. auto imports; determination, 59836–59837

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
See National Highway Traffic Safety Administration

United States Information Agency
NOTICES
Grants and cooperative agreements; availability, etc.:
Overseas educational advising centers; educational advisers reference tool and research service development, 59838–59840

Veterans Affairs Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 59840–59841

Separate Parts In This Issue

Part II
Environmental Protection Agency, 59843–59868

Part III
Environmental Protection Agency, 59869–59874

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
17 59691

12 CFR
Proposed Rules:
701 59742

14 CFR
25 59692
39 (4 documents) 59695, 59696, 59697, 59699
71 (7 documents) 59701, 59702, 59703, 59704, 59705, 59842
Proposed Rules:
39 59743

21 CFR
175 59706
176 59707
178 59709
314 59710
520 (2 documents) 59712, 59713
522 59714
524 59715
556 59715
872 59715
880 59717
Proposed Rules:
310 59746
314 59746
600 59746
900 59750
1308 59751
1312 59751

32 CFR
311 59718

33 CFR
165 59719

40 CFR
52 59720
81 59722
Proposed Rules:
52 59754
745 59754

47 CFR
Proposed Rules:
Ch. 1 59755

49 CFR
571 59732

50 CFR
Proposed Rules:
660 59758

Rules and Regulations

Federal Register
Vol. 63, No. 214
Thursday, November 5, 1998

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 17

RIN 0551–AA54

Regulations Governing the Financing of Commercial Sales of Agricultural Commodities

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the regulations applicable to the financing of the sale and exportation of agricultural commodities pursuant to title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480). The rule would permit a waiver of the present requirement that only private entities with a business office or agent in the United States are eligible to enter into title I, Pub. L. 480 agreements when the General Sales Manager determines that there is adequate assurance of repayment to CCC. This change would allow additional foreign private entities to participate in title I, and thereby increase exports of U.S. agricultural commodities.

DATES: This rule is effective November 5, 1998.

ADDRESSES: Comments should be sent to Grant Pettrie, Acting Director, Program Development Division, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4506, South Building, Stop 1034, Washington, DC 20250–1034.

FOR FURTHER INFORMATION CONTACT: Acting Director, Program Development Division, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4506, South Building, Stop 1034, Washington, DC 20250–1034; telephone: (202) 720–4221; Facsimile: (202) 690–0251.

SUPPLEMENTARY INFORMATION: This rule is issued in conformance with Executive Order 12866. Based on information compiled by the Department, it has been determined that this rule:

(1) Would have an annual effect on the economy of less than $100 million;

(2) Would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(3) Would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(4) Would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations of recipients thereof; and

(5) Would not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act. The Vice President, CCC, who is the General Sales Manager, has certified that this rule will not have a significant economic impact on a substantial number of small entities. Under title I, Pub. L. 480 CCC enters into agreements with foreign governments or private entities to finance their purchase and importation of U.S. agricultural commodities. The rule would allow a waiver of an existing program requirement that restricts the eligibility of businesses in foreign countries to enter into these agreements with CCC. A copy of this rule has been submitted to the General Counsel, Small Business Administration.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

Paperwork Reduction Act

The information collection requirements imposed by this rule have been previously submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). OMB has assigned control number 0551–0005 for this information collection. This rule would not require the collection of additional information.

Executive Order 12988

This rule has been reviewed under Executive order 12988, Civil Justice Reform. The rule would have preemptive effect with respect to any state or local laws, regulations, or policies which conflict with such provisions or which otherwise impede their full implementation. The final rule does not have a retroactive effect. The rule does not require that administrative remedies be exhausted before suit may be filed.

Background

Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480) authorizes CCC to finance the sale and exportation of agricultural commodities on concessional credit terms, 7 U.S.C. 1701 *et seq.* CCC may enter into title I, Pub. L. 480 agreements with private entities. Current regulations provide that, in order to be eligible for a title I, Pub. L. 480 agreement, a private entity must maintain a bona fide business office in the United States and have a person, principal, or agent on whom service of judicial process may be had in the United States.

On August 7, 1998, CCC published a proposed rule (63 FR 42283) that would allow the General Sales Manager to waive this requirement if the foreign private entity provides adequate assurances of repayment to CCC for the financing extended to it under the Pub. L. 480 agreement.

The purpose of the proposed rule was to allow CCC more flexibility in programming in order to take advantage of viable export opportunities. CCC did not receive any comments on the proposed rule and is adopting it as a final rule without change.

List of Subjects in 7 CFR Part 17

Agricultural commodities, Exports, Finance, Maritime carriers.

Accordingly, this rule amends part 17 of 7 CFR As follows:

Part 17—Sales of Agricultural Commodities Made Available Under Title I of the Agricultural Trade Development and Assistance Act of 1954, as Amended

1. The authority citation for part 17 continues to read as follows:

Authority: 7 U.S.C. 1701–1704, 1731–1736b, 1736f, 5676,; E.O. 12220, 45 FR 44245.

2. Section 17.1(b)(3) is revised to read as follows:

§ 17.1 General.

* * * * *

(b) * * *

(3) A private entity must maintain a bona fide business office in the United States and have a person, principal, or agent on whom service of judicial process may be had in the United States unless the General Sales Manager determines that there are adequate assurances of repayment to CCC for the financing extended by CCC.

* * * * *

Signed at Washington, DC, on October 14, 1998.

Lon Hatamiya,

Administrator, Foreign Agricultural Service and Vice President, Commodity Credit Corporation.

[FR Doc. 98–29588 Filed 11–4–98; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM148; Special Conditions No. 25–141–SC]

Special Conditions: Boeing Model 777 Series Airplanes; Seats With Articulating Seat Backs

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for Boeing Model 777 series airplanes with articulating seat backs. The applicable regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the existing airworthiness standards.

EFFECTIVE DATE: December 7, 1998.

FOR FURTHER INFORMATION CONTACT: Jeff Gardlin, Propulsion, Mechanical Systems, and Crashworthiness Branch, ANM–112, Transport Airplane Directorate, Aircraft Certification Service, FAA, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2136; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Background

On April 15, 1998, the Boeing Company applied for a change to Type Certificate No. T00001SE to include Model 777 series airplanes equipped with seats with articulating seat backs (seats that have a portion of the seat back that moves under inertia loads). Sicma Aero Seat, a Boeing supplier, has designed a seat for installation on a Boeing 777–300 airplane with an articulating seat back that is designed to rotate forward under a prescribed inertial load. The prescribed inertial load is slightly below the 16g test condition of § 25.562. The inertial load causes the seat back mounted video monitor and headrest assembly to partially separate from the seat back and pivot forward. The goal of the design is to reduce the mass of the upper seat back subject to impact, thereby reducing the Head Injury Criteria (HIC) measurement and enhancing passenger safety.

Section 25.562 specifies the dynamic test criteria for each seat type installed in the airplane. The pass/fail criteria for these seats include structural as well as human tolerance criteria. In particular, the regulations require that persons not suffer serious head injury under the conditions specified in the tests, and that a HIC measurement of not more than 1000 units be recorded, should contact with the cabin interior occur. While the test conditions described in this section are specific, it is the intent of the requirement that an adequate level of head injury protection be provided for crash severities up to and including that specified.

The FAA has established guidance, known as "simplified HIC certification," described in a February 1996 Transport Airplane Directorate memorandum, which provides a simplified procedure for demonstrating compliance with the HIC requirements of § 25.562(c)(5). This procedure provides test conditions that meet the intent of the requirements, without causing excessive testing to be performed. The typical seat back has three areas that are considered head strike zones within the +/− 10-degree yaw range of impact orientation. The procedure describes two different tests that address these three head strike zones for the majority of cases.

Because § 25.562 and FAA guidance do not adequately address seats with articulating seat backs, the FAA recognizes that appropriate pass/fail criteria need to be developed that do fully address the safety concerns specific to occupants of these seats.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Boeing must show that Model 777 airplanes equipped with seats with articulating seat backs comply with the regulations in the U.S. type certification basis established for the Model 777 airplane. The U.S. type certification basis for the Model 777 is established in accordance with 14 CFR 21.29 and 21.17 and the type certification application date. The U.S. type certification basis is listed in Type Certificate Data Sheet No. T00001SE.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR Part 25 as amended) do not contain adequate or appropriate safety standards for Boeing Model 777 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of 14 CFR 21.16 to establish a level of safety equivalent to that established in the regulations.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 777 must comply with the fuel vent and exhaust emission requirements of 14 CFR Part 34 and the noise certification requirements of 14 CFR Part 36.

Special conditions, as appropriate, are issued in accordance with 14 CFR 11.49 after public notice, as required by 14 CFR 11.28 and 11.29(b), and become part of the type certification basis in accordance with 14 CFR 21.101(b)(2). Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The Boeing Company has proposed installing seats with articulating seat backs on a Boeing Model 777–300 airplane. The articulating seat back is designed to rotate forward under a prescribed inertial load. The prescribed inertial load is slightly below the 16g test condition specified in § 25.562. The inertial load causes the seat back mounted video monitor and headrest assembly to partially separate from the seat back and pivot forward. The goal of the design is to reduce the mass of the upper seat back subject to impact, thereby reducing the HIC and enhancing passenger safety.

The Federal Aviation Regulations (FAR) state the performance criteria for head injury protection in objective terms. Additionally, as discussed earlier in this document, the FAA has established further guidance to address head injury protection for the majority of cases. However, none of these criteria are adequate to address the specific issues raised concerning seats with articulating seat backs. The FAA has therefore determined that, in addition to the requirements of 14 CFR part 25, special conditions are needed to address requirements particular to installation of seats with articulating seat backs.

Accordingly, in addition to the passenger injury criteria specified in 14 CFR 25.562 and 25.785, Boeing must also comply with these special conditions for Model 777 series airplanes equipped with seats with articulating seat backs. Note that HIC, which is addressed in this special condition, does not address occupant injury due to contact with sharp edges or protrusions. Damage to the anthropomorphic test device (ATD) may be used as part of the evaluation of protrusions and sharp edges in demonstrating compliance with § 25.785(b). Other conditions may be developed, as needed, based on further FAA review and discussions with the manufacturer and civil aviation authorities.

Discussion

The seat with the articulating seat back is a new and complex design that warrants additional requirements to ensure an equivalent level of safety to that provided by the regulations. This seat reduces the effective mass that an occupant contacts during a high inertial load, thereby increasing the amount of head injury protection. However, additional considerations are necessary to ensure that the articulating seat back design does not introduce other hazards to occupants. If the articulating seat back fails to break away at the designed inertial load, the seat back may remain rigid, resulting in a significantly higher head injury than allowed for in the regulations. To ensure that the occupant does not contact a rigid seat back, the seat back must break away each time the designed break away inertial load is encountered.

In addition, it is important to evaluate the articulating seat back at lower values than the designed break away inertial load. During a lower inertial load, the occupant may also contact the seat. Since the seat will not break away prior to the occupant contacting the seat during this lower inertial load, the occupant may receive a more severe head injury than during an event occurring at the designed break away inertial load. The intent of the regulations is that the occupant is protected from head injury for crash severities up to and including that specified.

When the articulating seat back breaks away, the video monitor pivots and moves forward, leaving a rectangular opening in the seat back. This opening could pose an entrapment hazard to the person seated behind the seat. During any testing for certification, the head must not become entrapped. In addition, the head must not become entrapped in any other foreseeable operating conditions for the range of occupants.

The articulating seat back may have protrusions and/or recessed areas (i.e., bottom lip of the seat back opening) that pose a head injury hazard to the occupant during emergency conditions. As stated in § 25.562(c)(5), the head impact for a seat occupant cannot exceed a HIC of 1,000 units. The "simplified HIC certification" procedure is commonly used to demonstrate compliance with § 25.562(c)(5). Due to the non-standard articulating seat back configuration, the "simplified HIC certification" procedure alone may not be sufficient for demonstrating compliance with § 25.562(c)(5). The ATD must come in contact with these protrusions or recessed areas of the seat back opening during testing. If the ATD does not contact these areas using the "simplified HIC certification" procedure, additional testing will be required to demonstrate compliance with § 25.562(c)(5).

Discussion of Comments

Notice of Proposed Special Conditions No. 25–98–03–SC for Model 777 series airplanes equipped with articulating seat backs was published in the **Federal Register** on June 4, 1998 (63 FR 30423). Six commenters responded.

One commenter had no objection to the special conditions. Two of the commenters generally agreed with the need for special conditions, but requested clarifications regarding certain of the specific conditions. The remaining three commenters did not agree that special conditions were warranted.

Several commenters requested a more specific definition regarding the level of reliability intended by the special conditions. Commenters contend that, while a reliable system is desirable, the level of reliability should be made clear. The FAA agrees that the term "reliable" is open to interpretation and should be clarified. In this context, the FAA intends that the system be demonstrated to perform as reliably as other means of head injury protection. This will require testing to establish that the design results in repeatable performance. The FAA considers that 18 successful tests, without failure, would constitute acceptable performance. The FAA notes that this will require only three dynamic tests, since 6 seatbacks can be tested at once.

Other commenters discuss the requirement that the HIC be shown to be less than 1000 for other impact conditions, where the seatback does not break away. Some commenters believe that the wording of the special conditions implies multiple tests at various conditions. The intent of this condition is to ensure that the articulating feature will activate at the minimum impact level that could produce 1000 HIC. Therefore, a test at the maximum impact at which the seatback does not deploy that results in a HIC of less than 1000 would be sufficient. The FAA agrees that the wording of this requirement is not entirely clear, and it has been changed accordingly.

Another comment concerned the discussion in the preamble regarding lacerations and damage to the ATD. The commenters do not agree that the ATD is an acceptable vehicle for making such assessments, and question whether lacerations qualify as "serious" injuries. This discussion is not part of the special conditions themselves, but rather an informational aside concerning the utility of the HIC measurement. The FAA is aware that the ATD will not behave in the same manner as a human being with respect to laceration and will take this into account. In this regard, this seat is not considered particularly different than other seats, and therefore no special condition on this matter is proposed. The issue has been adequately addressed on other designs up to now.

The issue of head entrapment was also the subject of several comments, especially concerning the language "under any other foreseeable operating or crash conditions." The intent of this requirement is to ensure that the opening created in the seatback does not have the potential to entrap an occupant's head, even if the entrapment does not happen to occur during the specific dynamic tests conducted to demonstrate compliance with other

requirements. That is, just because the head of the ATD might not become entrapped does not necessarily indicate that entrapment is not an issue. Nonetheless, the FAA agrees that considering the phrase "any other foreseeable crash condition" literally would require an excessive amount of tests. The severity of the impact is considered limited by the requirements of § 25.562. It is the potential for entrapment that might be variable, depending on occupant size, or precise angle of impact. The FAA has determined that these variables can be assessed using the dynamic tests that are conducted as a source of baseline data.

Another commenter requested quantification of the term "entrapment," and correlation between the energy needed to entrap the head of the ATD, versus what would be required to entrap the head of a person. In this regard, the FAA considers that entrapment of the ATD's head is sufficient to indicate that a person's head would also be entrapped. The remaining conditions, where the ATD's head is not entrapped, but a person's head would be, are difficult to quantify. The FAA does not have quantitative criteria available to make this assessment in advance, but will review the data that are generated. Considering that smaller occupants will not impact the seatback as high as would larger occupants, it may be that the test with the ATD impacting the opening will be sufficient to show compliance. The wording of the special conditions has been modified to reflect the discussion above.

One commenter notes that the HIC evaluation of a precise impact target (the lip or edge of the opening) specified in the special conditions will be difficult to achieve, due to the variability in such tests. The FAA recognizes that there is difficulty in testing with a precise target, but this should be a test objective. The FAA will consider the results of the tests in conjunction with other data supplied by the applicant to determine compliance with this requirement if a direct assessment proves impractical.

Three commenters generally disagree with the special conditions and contend that either the conditions are not justified, or that the existing rules already address them.

One commenter believes that reliability should not be a requirement of the special condition and is not contained within the dynamic test performance standard. Other commenters agree that reliability is an issue, but contend that the existing regulations already require it by virtue of § 25.601, which prohibits use of features that have been shown to be unreliable. The FAA agrees that the dynamic performance standards do not explicitly address reliability. Section 25.601 has not been applied in this manner, and since the features employed here are novel, the feature's reliability has not been demonstrated or determined. Typically in type certification, the assumption is that the type design is represented during certification testing and that all such articles incorporating that type design will perform identically. In this case, the dynamic performance of a feature intended to provide injury protection might be demonstrated only one time. In making this provision a part of the special conditions, the FAA has determined that a single certification test is not adequate to show compliance.

These commenters also question the need to address HIC when the seatback does not break away. They contend that the conditions as described are too numerous to address, or that the potential for injury in this case is too low to consider. Regarding the former issue, the special condition has been clarified as noted above. Regarding the latter issue, the FAA would be willing to consider the question of whether the potential for HIC greater than 1000 was negligible when the seatback does not break away, if there are credible data to support that conclusion. Nonetheless, the issue needs to be addressed, whether or not additional tests result.

These commenters also questioned the issue of entrapment of the head as already addressed by the regulations. Owing to the particular design, the issue of entrapment is not considered to the extent necessary by the current regulations. As discussed above, the performance of the ATD in a particular test may not be indicative of the situation in general. In this case, the design tends to create a potential area for head entrapment as part of its intended operation. This must be addressed explicitly.

Commenters question whether the issue of HIC on the seatback opening is a requirement at all. These commenters contend that if no contact with the opening occurs during a certification test, then it is not required to be substantiated directly. The commenters cite previous FAA guidance concerning establishment of head strike envelopes and simplified test methods. The FAA notes that the methods cited are dependent on more or less homogeneous contact surfaces that are not sensitive to minor variation in head path. The articulating seatback creates a discontinuity in the impact surface that can only be addressed directly. That is, if the discontinuous area is within the headstrike envelope it does not fall under the guidance previously issued. As noted above, the FAA recognizes the difficulty in trying to assess a specific target, but this must be the objective.

Comments related to the consideration of sharp edges parallel those discussed earlier, and again, are not part of the special conditions themselves.

Many commenters also noted that proposed Special Condition 5 is essentially a restatement of § 25.562(c)(8). After further consideration, the FAA agrees that this special condition is redundant, and it is therefore withdrawn.

Except as noted above, the special conditions for the Model 777 series airplanes equipped with articulating seat backs are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Model 777 series airplanes. Should Boeing apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of 14 CFR 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on the Boeing Model 777 series airplanes. It is not a rule of general applicability, and it affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Boeing Model 777 series airplanes equipped with seats with articulating seat backs:

1. The articulating seat back must reliably break away at the designed inertial load.

2. The HIC value must not exceed 1,000 units under the maximum inertia loading conditions under which the articulating seat back will not break away.

3. The head must not become entrapped in the seat back opening created by the articulating seat back, during any testing conducted to demonstrate compliance with §§ 25.562 and 25.785(b), and these special conditions. The head must also not become entrapped in the seat back opening during any other foreseeable operating conditions.

4. The HIC must not exceed 1,000 units for any obvious protrusions or recessed areas of the seat back opening (i.e., bottom lip of the seat back opening). The anthropomorphic test device (ATD) must come in contact with these protrusions or recessed areas of the seat back opening.

Issued in Renton, Washington, on October 23, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–29626 Filed 11–4–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–SW–36–AD; Amendment 39–10868; AD 98–23–04]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS 332C, L, and L1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Eurocopter France Model AS 332C, L, and L1 helicopters that requires replacing main rotor blades with modified main rotor blades. This amendment is prompted by reports of an investigation that found broken braids on main rotor blade de-icers. The actions specified by this AD are intended to prevent loss of deicing capabilities of the main rotor blades, adverse performance during flight in icing conditions, and subsequent loss of control of the helicopter.

DATES: Effective December 10, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 10, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCallister, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5121, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Eurocopter France Model AS 332C, L, and L1 helicopters was published in the **Federal Register** on May 7, 1998 (63 FR 25182). That action proposed to require replacing main rotor blades with modified main rotor blades.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for a change in the Technical Instructions referenced from number 230b to 230c. This change was made because the new Technical Instructions add a clarifying note and figure useful in accomplishing the requirements of this AD. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 3 helicopters of U.S. registry will be affected by this AD, that it will take approximately 20 work hours per helicopter to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be provided at no cost by the manufacturer. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $3600 per helicopter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 98–23–04 Eurocopter France: Amendment 39–10868. Docket No. 97–SW–36–AD.

Applicability: Model AS 332C, L, and L1 helicopters, with main rotor blades, part number (P/N) 332A11–030–03 or 332A11–030–04, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the de-icing capabilities of the main rotor blades, adverse performance during flight in icing conditions, and subsequent loss of control of the helicopter, accomplish the following:

(a) From available helicopter records, within the next 10 calendar days, determine the time-in-service (TIS) on each main rotor blade.

(b) Replace each main rotor blade with a main rotor blade that has been modified and reidentified in accordance with Eurocopter Technical Instruction Number 230c, approved May 17, 1995, in accordance with the following schedule:

(1) If the TIS is equal to or greater than 2,000 hours, replace within the next 50 hours TIS.

(2) If the TIS is equal to or greater than 1,850 hours and less than 2,000 hours, replace on or before attaining 2,050 hours TIS.

(3) If the TIS is equal to or greater than 1,500 hours and less than 1,850 hours, replace within the next 200 hours TIS.

(4) If the TIS is equal to or greater than 1,400 hours and less than 1,500 hours, replace on or before attaining 1,700 hours TIS.

(5) If the TIS is greater than 700 hours and less than 1,400 hours, replace within the next 300 hours TIS.

(6) If the TIS is equal to or less than 700 hours, replace within the next 1,000 hours TIS.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Standards Staff, FAA, Rotorcraft Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(e) The main rotor blade replacements shall be done in accordance with Eurocopter Technical Instruction Number 230 c approved May 17, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on December 10, 1998.

Note 3: The subject of this AD is addressed Direction Generale De L'Aviation Civile (France) AD 95–029–054(B), dated February 1, 1995.

issued in Fort Worth, Texas, on October 27, 1998.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 98–29377 Filed 11–4–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–SW–43–AD; Amendment 39–10867; AD 98–23–03]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model SA 330F, G, and J Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Eurocopter France Model SA 330F, G, and J helicopters, that requires removing and replacing each tail rotor electrical bonding braid (bonding braid). This amendment is prompted by an in-service report of the failure of a bonding braid. The actions specified by this AD are intended to prevent failure of a bonding braid due to fatigue, resulting impact with the tail rotor blades, and subsequent loss of control of the helicopter.

DATES: Effective December 10, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 10, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCallister, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5121, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Eurocopter France Model SA 330F, G, and J helicopters, was published in the **Federal Register** on May 7, 1998 (63 FR 25180). That action proposed to require removal and replacement of each tail rotor electrical bonding braid.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest required the adoption of the rule as proposed, except for non-substantive editorial changes. Additionally, the part number as published in the Applicability section of the NPRM contained an extra "0". This has been corrected in this final rule. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 2 helicopters of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per helicopter to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $250 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $740.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

AD 98–23–03 Eurocopter France: Amendment 39–10867. Docket No. 97–SW–43–AD.

Applicability: Model SA 330F, G, and J helicopters, with tail rotor electrical bonding braids (bonding braids), part number (P/N) 332A031.1276.00, installed, certificated in any category, that have not been modified in accordance with AMS 332A07–66–003 or AMS 33207–66–072.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required within the next 60 calendar days, unless accomplished previously.

To prevent failure of a bonding braid due to fatigue, resulting impact with the tail rotor blades, and subsequent loss of control of the helicopter, accomplish the following:

(a) Remove the bonding braids, P/N 332A31.1276.00, and replace them with airworthy bonding braids, P/N 332A31.1276.01, in accordance with paragraphs B and C of the Operating Procedure of Eurocopter France Service Bulletin SA 330 No. 65.73 R3, dated June 22, 1995.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(d) The replacement shall be done in accordance with Eurocopter France Service Bulletin SA 330 No. 65.73 R3, dated June 22, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on December 10, 1998.

Note 3: The subject of this AD is addressed in Direction Generale L' Aviation Civile (France) AD 95–153–072(B), dated July 19, 1995.

Issued in Forth Worth, Texas, on October 27, 1998.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 98–29376 Filed 11–4–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–39–AD; Amendment 39–10869; AD 98–23–05]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, that currently requires an inspection to detect damage of the wire bundles in the left side of the flight compartment in the vicinity of the stowage box for the captain's oxygen mask, and repair, if necessary; a continuity check on repaired wires; installation of sleeving over the wire bundles; and rerouting of the wire bundles. This amendment requires modifications of the captain's and first officer's consoles in the flight compartment to ensure adequate clearance between oxygen equipment and adjacent wire bundles. This amendment is prompted by reports indicating that chafed wiring and wire insulation wear occurred in the vicinity of the stowage box for the captain's oxygen mask due to interference between oxygen line fittings and adjacent wire bundles. The actions specified by this AD are intended to prevent such chafing and inadequate clearance, which could result in electrical arcing and consequent oxygen leakage in the vicinity of the stowage box; these conditions, if not corrected, could result in a fire in the flight compartment.

DATES: Effective December 10, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 10, 1998.

The incorporation by reference of Boeing Alert Service Bulletin 767–35A0028, dated September 7, 1995, as listed in the regulations, was approved previously by the Director of the Federal Register as of October 26, 1995 (60 FR 52844, October 11, 1995).

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Susan Letcher, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227–2670; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 95–21–05, amendment 39–9390 (60 FR 52844, October 11, 1995), which is applicable to certain Boeing Model 767 series

airplanes, was published in the **Federal Register** on July 2, 1997 (62 FR 35711). The action proposed to require an inspectison to detect damage of the wire bundles in the left side of the flight compartment in the vicinity of the stowage box for the captain's oxygen mask, and repair, if necessary; a continuity check on repaired wires; installation of sleeving over the wire bundles; and rerouting of the wire bundles. The action also proposed to require modifications of the captain's and first officer's consoles in the flight compartment to ensure adequate clearance between oxygen equipment and adjacent wire bundles.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Four commenters support the proposed rule.

Request To Extend the Compliance Time

One commenter requests that the compliance time for the wiring modification be extended to 24 months instead of the 18 months specified by the proposed AD. The commenter states that it intends to accomplish the wiring modifications during heavy maintenance visits. However, the commenter advises that modification of the flight compartment requires the electrical power to be turned off and creates congestion in the cockpit area, which causes disruption to the work flow during the maintenance check. For these reasons, the commenter suggests extending the compliance time to allow modification during "C–4" heavy maintenance checks that have extended downtimes.

Another commenter advises that, although it has commenced the modification program required in the proposed AD, it anticipates completion in approximately 20 months. In addition, this commenter advises that the completion date for the modification will depend on whether the modification kits can be provided readily by the manufacturer. The FAA infers that the commenter requests an extension to the compliance time to provide additional time for delivery of parts.

The FAA does not concur with the commenters' requests to extend the compliance time. No justification of a possible delay in the availability of the required parts was offered, and the manufacturer has not advised the FAA of an impending delay in the delivery of adequate parts. Additionally, chafed wiring and wire insulation wear in the vicinity of the stowage box for the captain's oxygen mask due to interference between oxygen line fittings and adjacent wire bundles is a significant safety issue. The FAA considered not only those safety issues in developing an appropriate compliance time for this action, but the recommendations of the manufacturer, and the practical aspect of accomplishing the required modification within an interval of time that parallels normal scheduled maintenance for the majority of affected operators. In light of these factors, the FAA has determined that 18 months is an appropriate compliance time for the accomplishment of the required modification. No change is required to the final rule.

Comment Regarding Cost Estimates

One commenter advises that the FAA's cost estimate for labor and parts in the proposed AD is too low and has estimated the cost to be $2,010 per airplane. The FAA does not concur. The FAA based its cost estimate on the parts and labor estimates specified in Boeing Alert Service Bulletin 767–35A0029, dated January 30, 1997. Those estimates for the modification were $479 for parts, and 11 work hours at the labor rate of $60 per hour, for a total of $1,139 per airplane for parts and labor. In addition, the commenter did not provide sufficient data to validate the higher cost estimate of $2,010 per airplane. Therefore, the FAA has determined that the cost estimate specified in the final rule is reasonable, and no change to the final rule is required.

Concerns About Current Standards for Wire Bundle Routing

The National Transportation Safety Board (NTSB) states that it supports the proposal. However, the NTSB is concerned that current design and manufacturing for wire bundle routing may not provide necessary protection for other makes and models of airplanes to ensure that electrical wiring will not chafe against adjacent components. The NTSB indicates that it may institute further studies and may consider additional safety recommendations on this subject.

The FAA acknowledges the NTSB's comments. However, in the case of this particular identified unsafe condition, the FAA considers that the actions required by this AD are adequate to ensure the continued safety of the affected fleet. No change to this final rule is necessary.

Actions Since Issuance of Proposed Rule

Since the issuance of the proposed rule, the FAA has reviewed and approved Boeing Alert Service Bulletin 767–35A0029, Revision 1, dated June 25, 1998, which includes the same procedures specified in the original issue of the service bulletin for the modification of Captain's console and revises the procedure to modify the new First Officer's console. The revised procedure specifies replacing the existing electrical connector on the dimmer module with an electrical connector with a 90-degree backshell.

This alert service bulletin revision has been added to the final rule as an additional source of service information to accomplish the modification.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 568 Model 767 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 185 airplanes of U.S. registry will be affected by this AD.

The actions that are currently required by AD 95–21–05 take approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts cost approximately $50 per airplane. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $42,550, or $230 per airplane.

The new actions that are required by this new AD will take approximately 11 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $479 per airplane. Based on these figures, the cost impact of the new requirements of this AD on U.S. operators is estimated to be $210,715, or $1,139 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9390 (60 FR 52844, October 11, 1995), and by adding a new airworthiness directive (AD), amendment 39–10869, to read as follows:

98–23–05 Boeing: Amendment 39–10869. Docket 97–NM–39–AD. Supersedes AD 95–21–05, Amendment 39–9390.

Applicability: Model 767 series airplanes, as listed in Boeing Alert Service Bulletin 767–35A0029, dated January 30, 1997; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent wire chafing and subsequent electrical arcing in the vicinity of the stowage box for the captain's oxygen mask, which could result in a fire in the flight compartment, accomplish the following:

Restatement of Requirements of AD 95–21–05

(a) For Model 767 series airplanes having line positions 2 through 589 inclusive except VA801 through VA810 inclusive, VN684 through VN691 inclusive, and VW701: Within 45 days after October 26, 1995 (the effective date of AD 95–21–05, amendment 39–9390), inspect to detect damage of the wire bundles in the left side of the flight compartment in the vicinity of the stowage box for the captain's oxygen mask, in accordance with Boeing Alert Service Bulletin 767–35A0028, dated September 7, 1995.

(1) If no damage is detected, prior to further flight, install protective sleeving on the wiring, and reroute the wire bundles, in accordance with the alert service bulletin.

(2) If any damage is detected, prior to further flight, accomplish the requirements of paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Repair the wiring and perform a continuity check on each repaired wire, in accordance with the alert service bulletin. And

(ii) Install protective sleeving on the wiring and reroute the wire bundles, in accordance with the alert service bulletin.

New Requirements of This AD

(b) For all airplanes: Within 18 months after the effective date of this AD, modify the airplane wiring in the vicinity of the captain's and first officer's consoles, in accordance with Boeing Alert Service Bulletin 767–35A0029, dated January 30, 1997, or Revision 1, dated June 25, 1998. Accomplishment of this modification constitutes terminating action for the inspection requirements of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The actions shall be done in accordance with Boeing Alert Service Bulletin 767–35A0028, dated September 7, 1995; or Boeing Alert Service Bulletin 767–35A0029, dated January 30, 1997; or Boeing Alert Service Bulletin 767–35A0029, Revision 1, dated June 25, 1998.

(1) The incorporation by reference of Boeing Alert Service Bulletin 767–35A0028, dated September 7, 1995, was approved previously by the Director of the Federal Register, as of October 26, 1995 (60 FR 52844, October 11, 1995).

(2) The incorporation by reference of Boeing Alert Service Bulletin 767–35A0029, dated January 30, 1997, and Boeing Alert Service Bulletin 767–35A0029, Revision 1, dated June 25, 1998, is approved by the Director of the Federal Register, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(3) Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on December 10, 1998.

Issued in Renton, Washington, on October 29, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–29589 Filed 11–4–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–60–AD; Amendment 39–10870; AD 98–23–06]

RIN 2120–AA64

Airworthiness Directives; General Electric Aircraft Engines CJ610 Turbojet and CF700 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to General Electric Aircraft Engines (GEAE) CJ610 series turbojet and CF700 series turbofan engines. This action requires operators to remove and replace with serviceable parts unapproved combustion liner assemblies prior to further flight. This amendment is prompted by findings that unapproved combustion liner assemblies are installed on the affected engines. The actions specified in this AD are intended to prevent combustor

liner cracking at multiple locations, progressing to liner fragmenting and combustor casing burnthrough, which could result in an engine fire.

DATES: Effective November 20, 1998.

Comments for inclusion in the Rules Docket must be received on or before January 4, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–60–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ad-engineprop@faa.dot.gov". Comments sent via the Internet must contain the docket number in the subject line.

FOR FURTHER INFORMATION CONTACT: Eugene Triozzi, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7148, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration has received reports of premature cracking of unapproved combustor liner assemblies, part number (P/N) 6008T94G03, installed on General Electric Aircraft Engines (GEAE) CJ610 series turbojet and CF700 series turbofan engines. The investigation revealed that combustor liners were repaired using unapproved inner and outer shells manufactured using a substituted material, and with cooling slots, dilution holes, and other geometric features that do not conform to approved drawing requirements, resulting in increased stress levels at these features. The substituted material or the increased stress levels or both can result in reduced combustor life. In addition, because the potential crack origin sites occur at multiple locations surrounding the combustor, including liner cooling slots and dilution holes, adjacent cracks may combine, resulting in liner holes and hot gas discharge from the combustor. Analyses supported by inspections of parts have revealed that unapproved liners will have an unknown service life that could be significantly lower than the inspection interval requirements for approved combustor liners. The FAA has identified 38 combustor liners, identified by serial number (S/N), known to have been repaired using inner or outer shells manufactured by an unknown manufacturer using unknown processes and materials. The FAA has also identified additional combustor liners, with unknown S/N markings, that were repaired in the same way, by a particular certificated repair station. This condition, if not corrected, could result in combustor liner cracking at multiple locations, progressing to liner fragmenting and combustor casing burnthrough, which could result in an engine fire.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design, this AD is being issued to prevent combustor liner failure. This AD requires removal and replacement of unapproved combustion liner assemblies with serviceable parts prior to further flight.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of thisAD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–ANE–60–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–23–06 General Electric Aircraft Engines: Amendment 39–10870. Docket 98–ANE–60–AD.

Applicability: General Electric Aircraft Engines (GEAE) CJ610 series turbojet and CF700 series turbofan engines, with combustor liner assemblies, part number (P/N) 6008T94G03, identified by serial number (S/N) or otherwise specified in Appendix 1 of this AD, installed. These engines are installed on but not limited to the following aircraft: Dassault-Aviation Fan Jet Falcon 20 series, Sabreliner NA265 series, Learjet 20 series, Israel Aircraft Industries Westwind series, Hansa Jet, Aero Commander Jet Commander.

APPENDIX 1.—SERIAL NUMBER COMBUSTION LINERS (SORTED ALPHANUMERICALLY)

1763	GGM82
181	GGM830
1939	GGMB7019
318–1	GGMH2135
318–2	GGMM1218
35	GKAPL77
497	OG2250
564	ST000891
900206	ST00247
910205	ST00276
GGM00028	ST00303
GGM00518	ST00391
GGM00536	ST00488
GGM00585	ST00623
GGM00893	ST00808
GGM59515	ST00840
GGM59675	ST00896
GGM59801	ST01042
GGM60028	ST01142

Additional Liners, With Serial Number Markings Unknown

Any other serial number combustion liner, part number 6008T94G03, following repair or overhaul which included installation of inner shell, P/N 5016T30G02, or installation of outer shell, P/N 6008T95G01, during the period from May 16, 1997, through February 13, 1998, and if approved for return to service by: The Jet Engine Shop (also known as 3d Industries, or 3DI, or identified by Certificate Number CRS J3DR866N), 4553 Keller Springs Road, Dallas, Texas 75248.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent combustor liner cracking at multiple locations, progressing to liner fragmenting and combustor casing burnthrough, which could result in an engine fire, accomplish the following:

(a) Prior to further flight, for any combustor liner identified by serial number (S/N), or otherwise identified in Appendix 1 of this AD, remove from service and replace with a serviceable part.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the record search requirements of this AD can be accomplished.

(d) This amendment becomes effective on November 20, 1998.

Issued in Burlington, Massachusetts, on October 30, 1998.

David A. Downey,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 98–29602 Filed 11–4–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AAL–11]

Revision of Class E Airspace; King Salmon, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule modifies Class E airspace at King Salmon, AK. The establishment of Global Positioning System (GPS) instrument approaches to runway (RWY) 11 and RWY 29 at King Salmon, AK, made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at King Salmon, AK.

EFFECTIVE DATE: 0901 UTC, December 3, 1998.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, Operations Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863; fax: (907) 271–2850; email: Robert.van.Haastert@faa.dot.gov. Internet address: http://162.58.28.41/at or at address http://www.alaska.faa.gov/at.

SUPPLEMENTARY INFORMATION:

History

On June 12, 1998, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at King Salmon, AK, was published in the **Federal Register** (63 FR 32156). The proposal was necessary due to the establishment of GPS instrument approaches to RWY 11 and RWY 29.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments to the proposal were received, thus the rule is adopted as written.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1 (63 FR 50139; September 21, 1998). The Class E airspace designations listed in this document will be revised and published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revises the Class E airspace at King Salmon, AK, due to the establishment of GPS instrument approaches to RWY 11 and RWY 29. The intended effect of this action is to provide adequate controlled airspace for IFR operations at King Salmon, AK.

The FAA has determined that these proposed regulations only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore —(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 King Salmon, AK [Revised]

King Salmon Airport, AK
(Lat. 58°40'36" N., long. 156°38'57" W.)
King Salmon VORTAC
(Lat. 58°43'29" N., long. 156°45'08" W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the King Salmon Airport and within 4 miles northeast and 8 miles southwest of the King Salmon VORTAC 312° radial extending from the VORTAC to 21 miles northwest of the VORTAC and within 14 miles of the VORTAC 259° radial clockwise to the 004° radial and that airspace within 3.3 miles either side of the 132° radial of the VORTAC extending from the VORTAC to 17 miles southeast of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 39-mile radius of the King Salmon Airport.

* * * * *

Issued in Anchorage, AK, on October 28, 1998.

Trent S. Cummings,

Acting Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 98–29633 Filed 11–4–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AAL–10]

Revision of Class E Airspace; Unalakleet, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule modifies Class E airspace at Unalakleet, AK. The establishment of Global Positioning System (GPS) instrument approach to runway (RWY) 14 at Unalakleet, AK, made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Unalakleet, AK.

EFFECTIVE DATE: 0901 UTC, December 3, 1998.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, Operations Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863; fax: (907) 271–2850; email: Robert.van.Haastert@faa.dot.gov. Internet address: http://162.58.28.41/at or at address http://www.alaska.faa.gov/at.

SUPPLEMENTARY INFORMATION:

History

On June 12, 1998, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Unalakleet, AK, was published in the **Federal Register** (63 FR 32158). The proposal was necessary due to the establishment of GPS instrument approaches to RWY 14.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments to the proposal were received, thus the rule is adopted as written.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1 (63 FR 50139; September 21, 1998). The Class E airspace designations listed in this document will be revised and published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revises the Class E airspace at Unalakleet, AK, due to the establishment of GPS instrument approaches to RWY 14. The intended effect of this action is to provide adequate controlled airspace for IFR operations at Unalakleet, AK.

The FAA has determined that these proposed regulations only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71— DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth

* * * * *

AAL AK E5 Unalakleet, AK [Revised]

Unalakleet Airport, AK
(Lat. 63°53'18" N., long. 160°47'56" W.)
Unalakleet VORTAC
(Lat. 63°53'31" N., long. 160°41'04" W.)
Unalakleet Localizer
(Lat. 63°52'52" N., long. 160°47'42" W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the Unalakleet Airport and within 2 miles each side of the 289° radial of the Unalakleet VORTAC extending from the 6.7-mile radius to 14.1 miles west of the VORTAC and within 3 miles east and 3 miles west of the Unalakleet Localizer front course extending from the 6.7-mile radius to 12.9 miles north of the airport; and that airspace extending upward from 1,200 feet above the surface within a 22-mile radius of the Unalakleet VORTAC extending clockwise from the 165° radial to the 322° radial and within 4 miles east and 8 miles west of the Unalakleet Localizer front course extending from the Localizer to 22 miles north of the airport and within 4 miles north and 8 miles south of the Unalakleet VORTAC 289° radial extending from the VORTAC to 27 miles west of the VORTAC.

* * * * *

Issued in Anchorage, AK, on October 28, 1998.

Trent S. Cummings,

Acting Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 98–29632 Filed 11–4–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AAL–17]

Revision of Class E Airspace; Yakutat, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule modifies Class E airspace at Yakutat, AK. The establishment of Global Positioning System (GPS) instrument approaches to runway (RWY) 02, RWY 11, and RWY 29 at Yakutat, AK, made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Yakutat, AK.

EFFECTIVE DATE: 0901 UTC, December 3, 1998.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, Operations Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863; fax: (907) 271–2850; email: Robert.van.Haastert@faa.dot.gov. Internet address: http://162.58.28.41/at or at address http://www.alaska.faa.gov/at.

SUPPLEMENTARY INFORMATION:

History

On August 5, 1998, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Yakutat, AK, was published in the **Federal Register** (63 FR 41749). The proposal was necessary due to the establishment of GPS instrument approaches to RWY 02, RWY 11, and RWY 29.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments to the proposal were received, thus the rule is adopted as written.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1 (63 FR 50139; September 21, 1998). The Class E airspace designations listed in this document will be revised and published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revises the Class E airspace at Yakutat, AK, due to the establishment of GPS instrument approaches to RWY 02, RWY 11, and RWY 29. The intended effect of this action is to provide adequate controlled airspace for IFR operations at Yakutat, AK.

The FAA has determined that these proposed regulations only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Yakutat, AK [Revised]

Yakutat Airport, AK
(Lat. 59°30'12" N., long. 139°39'38" W.)
Yakutat VORTAC
(Lat. 59°30'39" N., long. 139°38'53" W.)
Ocean Cape NDB
(Lat. 59°32'37" N., long. 139°43'41" W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Yakutat Airport and within 4 miles northeast and 8 miles southwest of the 314° bearing from the Ocean Cape NDB extending from the NDB to 16 miles west of NDB and within 4 miles northeast and 8 miles southwest of the Yakutat VORTAC 148° radial extending from the VORTAC to 16 miles southeast of the VORTAC and within 8 miles south of the Yakutat VORTAC 299° radial extending from the VORTAC to 16 miles west of the VORTAC and within 4 miles east and 8 miles west of the Yakutat VORTAC 230° radial extending from 6 miles southwest of the VORTAC to 21 miles southwest of the VORTAC and within 3.4 miles north of the Yakutat Localizer back course extending from the 7-mile radius to 13.2 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within 12.6 miles southwest and 8 miles northeast of the Yakutat VORTAC 138° and 318° radials extending from the VORTAC to 23.5 miles northwest and southeast of the VORTAC and within 5 miles each side of the 119° radial of the Yakutat VORTAC to 65 miles east of the VORTAC; and within 41 miles of the

Yakutat VORTAC between the 118° radial clockwise to the 298° radial; excluding Control 1487L and the Gulf of Alaska Low Class E airspace areas.

* * * * *

Issued in Anchorage, AK, on October 28, 1998.

Trent S. Cummings,

Acting Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 98–29631 Filed 11–4–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AAL–18]

Establishment of Class E Airspace; Atka, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes Class E airspace at Atka, AK. The establishment of a Global Positioning System (GPS) instrument approach at Atka, AK, made this action necessary. The Atka Airport status is upgraded from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR). The intended effect of this action is to provide adequate controlled airspace for IFR operations at Atka, AK.

EFFECTIVE DATE: 0901 UTC, December 3, 1998.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, Operations Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863; fax: (907) 271–2850; email: Robert.van.Haastert@faa.dot.gov. Internet address: http://162.58.28.41/at or at address http://www.alaska.faa.gov/at.

SUPPLEMENTARY INFORMATION:

History

On August 5, 1998, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Atka, AK, was published in the **Federal Register** (63 FR 41750). The proposal was necessary due to the establishment of a GPS instrument approach at Atka, AK.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Two letters in support of the proposal from Peninsula Airways, Inc. (Penn Air) were received. No negative comments to the proposal were received, however, new coordinates for the Atka Airport have been derived via a recent GPS survey. The new coordinates are lat. 52°13'13" N., long. 174°12'23" W. The FAA has determined that this change is editorial in nature and will not increase the scope of this rule. Except for the non-substantive change just discussed, the rule is adopted as written.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9F, *Airspace Designations and Reporting Points,* dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1 (63 FR 50139; September 21, 1998). The Class E airspace designations listed in this document will be revised and published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revises the Class E airspace at Atka, AK, due to the establishment of a GPS instrument approach at Atka, AK. The Atka Airport status is upgraded from VFR to IFR. The intended effect of this action is to provide adequate controlled airspace for IFR operations at Atka, AK.

The FAA has determined that these proposed regulations only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, *Airspace Designations and Reporting Points,* dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Atka, AK [New]

Atka Airport, AK
(Lat. 52°13'13" N., long. 174°12'23" W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Atka Airport; and that airspace extending upward from 1,200 feet above the surface within a 10-mile radius of the airport.

* * * * *

Issued in Anchorage, AK, on October 28, 1998.

Trent S. Cummings,

Acting Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 98–29630 Filed 11–4–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AAL–12]

Revision of Class E Airspace; Nome, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule modifies Class E airspace at Nome, AK. The establishment of Global Positioning System (GPS) instrument approaches to runway (RWY) 2, RWY 9, and RWY 27 at Nome, AK, made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Nome, AK.

EFFECTIVE DATE: 0901 UTC, December 3, 1998.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, Operations Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863; fax: (907) 271–2850; email: Robert.van.Haastert@faa.dot.gov. Internet address: http://162.58.28.41/at or at address http://www.alaska.faa.gov/at.

SUPPLEMENTARY INFORMATION:

History

On June 12, 1998, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Nome, AK, was published in the **Federal Register** (63 FR 32157). The proposal was necessary due to the establishment of GPS instrument approaches to RWY 2, RWY 9, and RWY 27.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments to the proposal were received, thus the rule is adopted as written.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9F, *Airspace Designations and Reporting Points,* dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1 (63 FR 50139; September 21, 1998). The Class E airspace designations listed in this document will be revised and published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revises the Class E airspace at Nome, AK, due to the establishment of GPS instrument approaches to RWY 11 and RWY 29. The intended effect of this action is to provide adequate controlled airspace for IFR operations at Nome, AK.

The FAA has determined that these proposed regulations only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, *Airspace Designations and Reporting Points,* dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth

* * * * *

AAL AK E5 Nome, AK [Revised]

Nome Airport, AK
(Lat. 64°30'44" N., long. 165°26'43" W.)
Nome VORTAC
(Lat. 64°29'06" N., long. 165°15'11" W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Nome Airport and within 14 miles of the Nome VORTAC extending clockwise from the 002° radial to the 175° radial of the VORTAC and within 20 miles of the Nome VORTAC extending clockwise from the 175° radial to the 305° radial of the VORTAC and within 4 miles north and 8 miles south of the 106° radial of the Nome VORTAC extending from the VORTAC to 16 miles east and within 4 miles north and 8 miles south of the Nome VORTAC 271° radial extending from the 6.6-mile radius to 27 miles west of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 39-mile radius of the Nome VORTAC and within 39 miles each side of the Nome VORTAC 092° radial extending from the 39-mile radius to 77.4 miles east of the VORTAC.

* * * * *

Issued in Anchorage, AK, on October 28, 1998.

Trent S. Cummings,

Acting Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 98–29629 Filed 11–4–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AAL–16]

Establishment of Class E Airspace; Anaktuvuk Pass, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes Class E airspace at Anaktuvuk Pass, AK. The establishment of Global Positioning System (GPS) and Non-Directional Radio Beacon (NDB) instrument approaches at Anaktuvuk Pass, AK, made this action necessary. The Anaktuvuk Pass Airport status is upgraded from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR). The intended effect of this action is to provide adequate controlled airspace for IFR operations at Anaktuvuk Pass, AK.

EFFECTIVE DATE: 0901 UTC, December 3, 1998.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, Operations Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863; fax: (907) 271–2850; email: Robert.van.Haastert@faa.dot.gov. Internet address: http://162.58.28.41/at or at address http://www.alaska.faa.gov/at.

SUPPLEMENTARY INFORMATION:

History

On August 5, 1998, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Anaktuvuk Pass, AK, was published in the **Federal Register** (63 FR 41751). The proposal was necessary due to the establishment of GPS and NDB instrument approaches at Anaktuvuk Pass, AK.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments to the proposal were received, however, the airspace description incorrectly listed the Anaktuvuk Pass NDB as the VORTAC

which has been reworded to read NDB. The FAA has determined that this change is editorial in nature and will not increase the scope of this rule. Except for the non-substantive change just discussed, the rule is adopted as written.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1 (63 FR 50139; September 21, 1998). The Class E airspace designations listed in this document will be revised and published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revises the Class E airspace at Anaktuvuk Pass, AK, due to the establishment of a GPS instrument approach at Anaktuvuk Pass, AK. The Anaktuvuk Pass Airport status is upgraded from VFR to IFR. The intended effect of this action is to provide adequate controlled airspace for IFR operations at Anaktuvuk Pass, AK.

The FAA has determined that these proposed regulations only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore —(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71— DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth

* * * * *

AAL AK E5 Anaktuvuk Pass, AK [New]

Anaktuvuk Pass Airport, AK
(Lat. 52°13'15" N., long. 174°12'39" W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Anaktuvuk Pass Airport and within 5 miles either side of the Anaktuvuk Pass NDB 240° bearing extending from the NDB to 7 miles southwest of the airport.

* * * * *

Issued in Anchorage, AK, on October 28, 1998.

Trent S. Cummings,

Acting Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 98–29627 Filed 11–4–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 97F–0428]

Indirect Food Additives: Adhesives and Components of Coatings

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of dimethyl-2,6-naphthalenedicarboxylate and 2,6-naphthalenedicarboxylic acid as polybasic acids intended for use as components of resinous and polymeric coatings that contact food. This action is in response to a petition filed by Amoco Corp.

DATES: The regulation is effective November 5, 1998; written objections and requests for a hearing by December 7, 1998.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Mark A. Hepp, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3098.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of November 20, 1997 (62 FR 62062), FDA announced that a food additive petition (FAP 7B4555) had been filed by Amoco Corp., One Prudential Plaza, 130 East Randolph St., Chicago, IL 60601–6207. The petition proposed to amend the food additive regulations in § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300) to include dimethyl-2,6-naphthalenedicarboxylate and 2,6-naphthalenedicarboxylic acid as polybasic acids intended for use as components of resinous and polymeric coatings that contact food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use of the additives as components of resinous and polymeric coatings that contact food is safe, that the additives will have their intended technical effect, and therefore, that the regulation in § 175.300 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this rule as announced in the notice of filing for FAP 7B4555 (62 FR 62062, November 20, 1997). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time on or before December 7, 1998, file with the Dockets Management Branch (address above) written objection thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 175

Adhesives, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR part 175 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

2. Section 175.300 is amended in paragraph (b)(3)(vii)(*a*) by alphabetically adding two entries to read as follows:

§ 175.300 Resinous and polymeric coatings.

* * * * *

(b) * * *
(3) * * *
(vii) * * *
(*a*) * * *

* * * * *

2,6-Naphthalenedicarboxylic.

2,6-Naphthalenedicarboxylic, dimethyl ester.

* * * * *

Dated: October 16, 1998.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives.

[FR Doc. 98–29615 Filed 11–4–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket No. 98F–0054]

Indirect Food Additives: Paper and Paperboard Components

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of octadecanoic acid, reaction products with 2-[(2-aminoethyl)amino]ethanol and urea, and the acetate salts thereof, which may be emulsified with ethoxylated tallow alkyl amines, for use in the manufacture of paper and paperboard intended for use in contact with dry food. This action is in response to a petition filed by Sequa Chemicals, Inc.

DATES: The regulation is effective November 5, 1998; submit written objections and requests for a hearing by December 7, 1998.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of February 9, 1998 (63 FR 6571), FDA announced that a food additive petition (FAP 8B4576) had been filed by Sequa Chemicals, Inc., c/o Keller and Heckman, 1001 G St. NW., suite 500 West, Washington, DC 20001). The petition proposed to amend the food additive regulations in § 176.180 *Components of paper and paperboard in contact with dry food* (21 CFR 176.180) to provide for the safe use of octadecanoic acid, reaction products with 2-[(2-aminoethyl)amino]ethanol and urea, and the acetate salts thereof, which may be emulsified with ethoxylated tallow alkyl amines, will result in exposure to no greater than 50 parts per billion (ppb) and urea, and the acetate salts thereof, which may be emulsified with ethoxylated tallow alkyl amines, for increasing opacity and thickness, employed prior to the sheet forming operation in the manufacture of paper and paperboard intended for use in contact with dry food.

In its evaluation of the safety of this additive, FDA has reviewed the safety of the additive itself and the chemical impurities that may be present in the additive resulting from its manufacturing process. Although the additive itself has not been shown to cause cancer, it has been found to contain minute amounts of ethylene oxide, a carcinogenic impurity resulting from the manufacture of the additive. Residual amounts of reactants and manufacturing aids, such as ethylene oxide, are commonly found as contaminants in chemical products, including food additives.

I. Determination of Safety

Under the so-called "general safety clause" of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A)), a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. FDA's food additive regulations (21 CFR 170.3(i)) define safe as "a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use."

The food additive anticancer, or Delaney, clause of the act (21 U.S.C. 348(c)(3)(A)) provides that no food additive shall be deemed safe if it is found to induce cancer when ingested by man or animal. Importantly, however, the Delaney clause applies to the additive itself and not to impurities in the additive. That is, where an additive itself has not been shown to cause cancer, but contains a carcinogenic impurity, the additive is properly evaluated under the general safety standard using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the intended use of the additive (*Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984)).

II. Safety of Petitioned Use of the Additive

FDA estimates that the petitioned use of the additive, octadecanoic acid, reaction products with 2-[(2-aminoethyl)amino]ethanol and urea, and the acetate salts thereof, which may be emulsified with ethoxylated tallow alkyl amines, will result in exposure to no greater than 50 parts per billion (ppb)

of the additive in the daily diet (3 kilogram (kg)), or an estimated daily intake (EDI) of 0.15 milligram per person per day (mg/p/d) (Ref. 1).

FDA does not ordinarily consider chronic toxicological studies to be necessary to determine the safety of an additive whose use will result in such low exposure levels (Ref. 2), and the agency has not required such testing here. However, the agency has reviewed the available toxicological data on the additive and concludes that the estimated small dietary exposure resulting from the proposed use of this additive is safe.

FDA has evaluated the safety of this additive under the general safety standard, considering all available data and using risk assessment procedures to estimate the upper-bound limit of lifetime human risk presented by ethylene oxide, the carcinogenic chemical that may be present as an impurity in the additive. The risk evaluation of ethylene oxide has two aspects: (1) Assessment of exposure to the impurity from the proposed use of the additive; and (2) extrapolation of the risk observed in the animal bioassay to the conditions of exposure to humans.

A. Ethylene Oxide

FDA has estimated the exposure to ethylene oxide from the petitioned use of the additive in the manufacture of paper and paperboard to be no more than 6.9 parts per trillion (ppt) in the daily diet (3 kg), or 6.3 nanograms (ng)/p/d (Ref. 1). The agency used data from a carcinogenesis bioassay on ethylene oxide conducted by the Institute of Hygiene, University of Mainz, Germany (Ref. 3), to estimate the upper-bound limit of lifetime human risk from exposure to ethylene oxide resulting from the proposed use of the additive. The results of the bioassay on ethylene oxide demonstrated that ethylene oxide was carcinogenic for female rats under the conditions of the study. The test material caused significantly increased incidence of squamous cell carcinomas of the forestomach and carcinomas in situ of the glandular stomach.

Based on the estimated exposure to ethylene oxide of 6.3 ng/p/d, FDA estimates that the upper-bound limit of lifetime human risk from the proposed use of the subject additive is 1.1×10^{-8}, or 1.1 in 100 million (Ref. 4). Because of the numerous conservative assumptions used in calculating the exposure estimate, the actual lifetime-averaged individual exposure to ethylene oxide is likely to be substantially less than the estimated exposure, and therefore, the probable lifetime human risk would be less than the upper-bound limit of lifetime human risk. Thus, the agency concludes that there is reasonable certainty that no harm from exposure to ethylene oxide would result from the proposed use of the additive.

B. Need for Specifications

The agency has also considered whether specifications are necessary to control the amount of ethylene oxide present as an impurity in the additive. The agency finds that specifications are not necessary for the following reasons: (1) Because of the low level at which ethylene oxide may be expected to remain as an impurity following production of the additive, the agency would not expect the impurity to become a component of food at other than extremely low levels; and (2) the upper-bound limit of lifetime human risk from exposure to the impurity is very low, less than 1.1 in 100 million.

III. Conclusion

FDA has evaluated the data in the petition and other relevant material. Based on this information, the agency concludes that the proposed use of the additive in the manufacture of paper and paperboard intended for use in contact with dry food is safe, and that the additive will achieve its intended technical effect. Therefore, the agency concludes that the regulations in § 176.180 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

IV. Environmental Impact

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for FAP 8B4576 (63 FR 6571, February 9, 1998). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

V. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VI. Objections

Any person who will be adversely affected by this regulation may at any time on or before December 7, 1998, file with the Dockets Management Branch (address above) written objection thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objection received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

VII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Memorandum dated May 8, 1998, from the Chemist, Special Project Team (HFS–246), to the file, concerning FAP 8B4576: dietary concentrations of the additive and the impurity (ethylene oxide).

2. Kokoski, C. J., "Regulatory Food Additive Toxicology," in *Chemical Safety Regulation and Compliance*, edited by F. Homburger and J. K. Marquis, published by S. Karger, New York, NY, pp. 24–33, 1985.

3. Dunkelberg, H., "Carcinogenicity of Ethylene Oxide and 1,2-Propylene Oxide Upon Intragastric Administration of to Rats," *British Journal of Cancer*, 46:924–933, 1982.

4. Memorandum from the Indirect Additives Branch, FDA, to the Executive Secretary, Quantitative Risk Assessment Committee, FDA, concerning: Assessment of upper-bound lifetime risk from exposure to ethylene oxide from the use of octadecanoic acid, reaction product with 2-[(2-aminoethyl)amino]ethanol and urea, and the acetate salts which may be emulsified with ethoxylated tallow alkyl amines, in the manufacture of paper and paperboard. Subject of Food Additive Petition 8B4576 (Sequa Chemicals, Inc.), dated May 21, 1998.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 176 is amended as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

1. The authority citation for 21 CFR part 176 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 346, 348, 379e.

2. Section 176.180 is amended in the table in paragraph (b)(2) by alphabetically adding an entry under the headings "List of substances" and "Limitations" to read as follows:

§ 176.180 Components of paper and paperboard in contact with dry food.

* * * * *

(b) * * *

(2) * * *

List of substances	Limitations
* * * * * * *	
Octadecanoic acid, reaction products with 2-[(2-aminoethyl)amino]ethanol and urea (CAS Reg. No. 68412–14–6), and the acetate salts thereof (CAS Reg. No. 68784–21–4), which may be emulsified with ethoxylated tallow alkyl amines (CAS Reg. No. 61791–26–2).	For use prior to sheet forming at levels not to exceed 12 pounds per ton of paper.
* * * * * * *	

Dated: October 21, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–29616 Filed 11–4–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 98F–0432]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of chromium oxide green, Cr_2O_3 (C.I. Pigment Green 17) as a colorant for polymers intended for use in contact with food. This action is in response to a petition filed by Ticona.

DATES: The regulation is effective November 5, 1998; written objections and requests for a hearing by December 7, 1998.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 22, 1998 (63 FR 33935), FDA announced that a food additive petition (FAP 8B4603) had been filed by Ticona, c/o Keller and Heckman, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposed to amend the food additive regulations in § 178.3297 *Colorants for polymers* (21 CFR 178.3297) to provide for the safe use of chromium oxide green, Cr_2O_3 (C.I. Pigment Green 17) as a colorant for polymers intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that the proposed use of the additive is safe, that the additive will achieve its intended technical effect, and therefore, that the regulations in § 178.3297 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for FAP 8B4603 (63 FR 33935). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time on or before December 7, 1998, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents

shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

2. Section 178.3297 is amended in the table in paragraph (e) by revising the entry for "Chromium oxide green" under the headings "Substances" and "Limitations" to read as follows:

§ 178.3297 Colorants for polymers.

* * * * *

(e) * * *

Substances	Limitations
* * *	* * * *
Chromium oxide green, Cr_2O_3 (C.I. Pigment Green 17, C.I. No. 77288).	For use only: 1. In polymers used in contact with food at a level not to exceed 5 percent by weight of the polymer, except as specified below. 2. In olefin polymers complying with § 177.1520 of this chapter. 3. In repeat-use rubber articles complying with § 177.2600 of this chapter; total use is not to exceed 10 percent by weight of rubber articles.
* * *	* * * *

Dated: October 15, 1998.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–29562 Filed 11–4–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 314

[Docket No. 85N–0214]

Effective Date of Approval of an Abbreviated New Drug Application

AGENCY: Food and Drug Administration, HHS.

ACTION: Interim rule; opportunity for public comment.

SUMMARY: The Food and Drug Administration (FDA) is issuing an interim rule to amend its regulations establishing the effective date of approval of abbreviated new drug applications (ANDA's). The interim rule eliminates the requirement that an ANDA applicant successfully defend a patent infringement suit to be eligible for 180 days of marketing exclusivity.

DATES: The interim rule is effective November 10, 1998. Submit written comments by February 3, 1999.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Virginia G. Beakes or Wayne H. Mitchell, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the Hatch-Waxman Amendments) amended the Federal Food, Drug, and Cosmetic Act (the act). The Hatch-Waxman Amendments created section 505(j) of the act (21 U.S.C. 355(j)). Section 505(j) created the current ANDA approval process, which allows lower-priced generic versions of previously approved innovator drugs to be approved and brought on the market.

Innovator drug applicants must include in their new drug application (NDA) information about patents that claim the drug product that is the subject of the NDA. FDA publishes this patent information as part of the "Approved Drug Products With Therapeutic Equivalence Evaluations," which is generally known as the "Orange Book."

An ANDA applicant must include in the ANDA a patent certification described in section 505(j)(2)(A)(vii) of the act. The certification must make one of the following statements: (1) That no patent information on the drug product that is the subject of the ANDA has been submitted to FDA; (2) that such patent has expired; (3) the date on which such patent expires; or (4) that such patent is invalid or will not be infringed by the manufacture, use, or sale of the new drug for which the ANDA is submitted. This last certification is known as a "paragraph IV certification." A notice of the paragraph IV certification must be provided to each owner of the patent which is the subject of the certification and to the holder of the approved NDA to which the ANDA refers. The submission of an ANDA for a drug product that is claimed in a patent is an infringing act, if that drug product is intended to be marketed before the expiration of the patent, and may be the basis for patent litigation.

Section 505(j)(5)(B)(iv)[1] of the act provides an incentive for generic manufacturers to challenge patents that may be invalid or unenforceable by filing paragraph IV certifications, thereby inviting a patent action against them by the patent owner. Section 505(j)(5)(B)(iv) of the act states that:

If the [ANDA] contains a [paragraph IV certification] and is for a drug for which a previous application has been submitted under this subsection continuing [sic] such a certification, the application shall be made effective not earlier than one hundred and eighty days after—

(I) the date the Secretary receives notice from the applicant under the previous [ANDA] of the first commercial marketing of the drug under the previous [ANDA] or

(II) the date of a decision of a court[2] in [a patent infringement action] holding the patent which is the subject of the certification to be invalid or not infringed, whichever is earlier.

This means that an ANDA applicant whose application contains a paragraph IV certification is protected from competition from subsequent generic versions of the same drug product for 180 days after either the first commercial marketing of the first ANDA applicant's drug or a decision of a court holding the patent that is the subject of the paragraph IV certification to be invalid or not infringed. This marketing protection is commonly known as "180-day exclusivity" and was created as an incentive to generic manufacturers to challenge patents that may be invalid, not infringed, or unenforceable.

In the **Federal Register** of October 3, 1994 (59 FR 50338 at 50367), FDA published the final rule for implementing the patent and marketing exclusivity provisions of the Hatch-Waxman Amendments. Section 314.107(c)(1) (21 CFR 314.107(c)(1)), the regulation implementing section 505(j)(5)(B)(iv) of the act, provides:

If an abbreviated new drug application contains a certification that a relevant patent is invalid, unenforceable, or will not be infringed and the application is for a generic copy of the same listed drug for which one or more substantially complete abbreviated new drug applications were previously submitted containing a certification that the same patent was invalid, unenforceable, or would not be infringed *and the applicant submitting the first application has successfully defended against a suit for patent infringement brought within 45 days of the patent owner's receipt of notice submitted under § 314.95*, approval of the subsequent abbreviated new drug application will be made effective no sooner than 180 days from whichever of the following dates is earlier:

(i) The date the applicant submitting the first application first commences commercial marketing of its drug product; or

(ii) The date of a decision of the court holding the relevant patent invalid, unenforceable, or not infringed.

(Emphasis added)

The proposal containing § 314.107(c)(1), published in the **Federal Register** of July 10, 1989 (54 FR 28872 at 28929), proposing the requirement that the first ANDA applicant submitting a paragraph IV certification be sued for patent infringement in order to obtain the 180-day exclusivity. This interpretation was believed to be most consistent with the language of the Hatch-Waxman Amendments and furthered the congressional intent to encourage challenges to patents that may be invalid or unenforceable (54 FR 28872 at 28894). In response to a comment on the proposed rule, FDA added a requirement to the final rule that the first ANDA applicant submitting a paragraph IV certification successfully defend a patent infringement suit to be entitled 180-day exclusivity. The "successful defense" requirement was established to eliminate "an incentive for frivolous claims of patent invalidity or noninfringement because it would give ANDA applicants exclusivity even if the applicant was unsuccessful in defending against the patent owner's lawsuit" (59 FR 50338 at 50353).

FDA's requirements for 180-day exclusivity have been challenged in *Inwood Laboratories, Inc.* v. *Young*, 723 F. Supp. 1523 (D.D.C. 1989), *vacated as moot*, 43 Fed. 3d 712 (D.C. Cir. 1989); *Mova Pharmaceutical Corp.* v. *Shalala*, 955 F. Supp. 128 (D.D.C. 1997), and *Granutec, Inc. et al.* v. *Shalala et al.*, No. 5:97–CV–485–BO(1) (E.D.N.C. July 3, 1997). The district courts in both *Inwood* and *Mova* held that 180 days of marketing exclusivity should be granted to the first ANDA applicant who files a paragraph IV certification, regardless of whether the applicant is subsequently sued for patent infringement. Following the *Inwood* decision and the initial district court decision in *Mova*, FDA determined that it would be appropriate to acquiesce in the courts' decisions until the issue was resolved by the appellate courts.

The *Mova* decision was upheld in the U.S. Court of Appeals for the District of Columbia Circuit, *Mova Pharmaceutical Corp.* v. *Shalala* No. 97–5082, 1998 U.S. App. Lexis 7391 (D.C. Cir. Apr. 14, 1998). Following the circuit court decision, on June 1, 1998, the district court in *Mova* entered an order stating that the successful defense requirement of § 314.107(c)(1) is invalid and permanently enjoining FDA from enforcing it.

Subsequent to the district court decision in *Mova* and FDA's acquiesence, but prior to the Court of Appeals' decision, the U.S. District Court for the Eastern District of North Carolina addressed the validity of § 314.107(c)(1) in *Granutec* v. *Shalala* and, in a holding contrary to the earlier *Mova* district court decision, ordered FDA to follow its regulations in approving ANDA's for ranitidine hydrochloride. The *Granutec* decision was stayed and appealed to the U.S. Court of Appeals for the 4th Circuit, which reversed the district court's decision.

Both the U.S. Court of Appeals for the District of Columbia Circuit and the U.S. Court of Appeals for the 4th Circuit held that FDA's interpretation of section 505(j)(5)(B)(iv) as expressed in § 314.107(c)(1) is unsupported by the act. FDA has not appealed either decision. The effect of these decisions, together with the June 1, 1998, order of the district court in *Mova*, is that FDA will not enforce the "successful defense" provision of § 314.107(c)(1). Accordingly, FDA is instituting this rulemaking procedure to remove the "successful defense" provision from § 314.107(c)(1), and the related provision in § 314.107(c)(4).

Before either court of appeals' decision issued, in the **Federal Register** of November 28, 1997 (62 FR 63268), FDA published a clarification stating that FDA would apply § 314.107(c)(1) as written, including the "successful defense" provision. That clarification is hereby withdrawn.

In the near future, FDA will publish a proposed rule that will more extensively address the agency's interpretation of section 505(j)(5)(B)(iv) of the act in a manner consistent with the *Mova* and *Granutec* decisions. An opportunity for public comment will be provided when the document is published.

II. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

III. Analysis of Impacts

FDA has examined the impacts of the interim rule under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 12866 classifies a rule as significant if it meets any one of a number of specified conditions, including having an annual effect on the economy of $100 million or adversely

[1] Prior to the enactment of the Food and Drug Administration Modernization Act (the Modernization Act) of 1997, 180-day exclusivity was described at section 505(j)(4)(B)(iv) of the act. The Modernization Act added new provisions to section 505(j) that resulted in a renumbering of the sections.

[2] The agency interprets the term "court" to refer to the court that enters final judgment from which no appeal can be or has been taken (§ 314.107(e)).

affecting in a material way a sector of the economy, competition, or jobs, or if it raises novel legal or policy issues. The agency believes that this interim rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the interim rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires that if a rule has a significant economic impact on a substantial number of small entities, the agency must analyze regulatory options to minimize the economic impact on small entities. The agency certifies that this interim rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

The Unfunded Mandates Reform Act requires an agency to prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in expenditures by State, local, and tribal governments or the private sector of $100 million (adjusted annually for inflation) in any 1 year. The elimination of the "successful defense" provision of § 314.107(c)(1), and the related provision in § 314.107(c)(4), will not result in any significant increased expenditures by State, local, and tribal governments or the private sector. Because this interim rule will not result in an expenditure of $100 million or more on any governmental entity or the private sector, no budgetary impact statement is required.

This interim rule is intended to bring FDA's regulations into conformance with the *Granutec* and *Mova* court decisions. The agency believes that this interim rule is necessary and that it is consistent with the principles of Executive Order 12866; that it is not a significant regulatory action under that Order; that it will not have a significant economic impact on a substantial number of small entities; and that it is not likely to result in an annual expenditure in excess of $100 million.

IV. Paperwork Reduction Act of 1995

This interim rule contains no collections of information, therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

V. Effective Date

The agency is issuing these amendments as an interim rule effective November 10, 1998. This action is being issued to remove the "successful defense" provision of § 314.107(c)(1), and the related provision in § 314.107(c)(4). This action is necessary because both the *Granutec* and *Mova* courts have found the "successful defense" provision to be without support in the act. Indeed, the *Mova* court has ordered FDA not to enforce the "successful defense" provision of § 314.107(c)(1). These decisions have rendered the "successful defense" provision, and the related provision in § 314.107(c)(4), a nullity, and FDA can find no reason to retain the provisions in its regulations. For the foregoing reasons, FDA finds, for good cause, that notice and public procedure would be impracticable, unnecessary, and contrary to the public interest; therefore, a public comment period before the establishment of this interim rule may be dispensed with under 5 U.S.C. 553(b)(B) and § 10.40(e)(1) (21 CFR 10.40(e)(1)). In addition, the Commissioner of Food and Drugs finds good cause under 5 U.S.C. 553(d)(3) and § 10.40(c)(4)(ii) for making this interim rule effective in less than 30 days.

VI. Opportunity for Public Comment

Interested persons may, on or before February 3, 1999, submit to the Dockets Management Branch (address above) written comments regarding this interim rule. FDA will use any comments received to determine whether this interim rule should be modified or revoked. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 314

Administrative practice and procedure, Confidential business information, Drugs, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 314 is amended as follows:

PART 314—APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG OR AN ANTIBIOTIC DRUG

1. The authority citation for 21 CFR part 314 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 371, 374, 379e.

§ 314.107 [Amended]

2. Section 314.107 *Effective date of approval of a 505(b)(2) application or abbreviated new drug application under section 505(j) of the act* is amended in paragraph (c)(1) by removing the phrase "and the applicant submitting the first application has successfully defended against a suit for patent infringement brought within 45 days of the patent owner's receipt of notice submitted under § 314.95" and in paragraph (c)(4) by removing the phrase "if sued for patent infringement".

Dated: October 30, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–29610 Filed 11–2–98; 11:57 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Levamisole Hydrochloride Soluble Drench Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Agri Laboratories, Ltd. The ANADA provides for use of levamisole hydrochloride soluble drench powder for use in water as an anthelmintic for cattle and sheep.

EFFECTIVE DATE: November 5, 1998.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Agri Laboratories, Ltd., P.O. Box 3103, St. Joseph, MO 64503–0103, filed ANADA 200–225 that provides for use of Prohibit™ (levamisole hydrochloride) soluble drench powder, in 46.8 and 544.5 gram packages, in water, as an anthelmintic for cattle and sheep. Levamisole cattle and sheep drench is used to treat infections of stomach worms (*Haemonchus, Trichostrongylus, Ostertagia*), intestinal worms (*Trichostrongylus, Cooperia, Nematodirus, Bunostomum, Oesophagostomum*) (*Chabertia*, sheep only), and lung worms (*Dictyocaulus*). Agri Laboratories, Ltd.'s ANADA 200–225 is approved as a generic copy of the Schering–Plough Corp.'s NADA 112–051 Levasole® (levamisole) soluble drench. ANADA 200–225 is approved as

of August 27, 1998, and § 520.1242a (21 CFR 520.1242a) is amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In the regulations, § 520.1242a provides for use of levamisole hydrochloride soluble powder in a drench as an anthelmintic for cattle and sheep against stomach worms, intestinal worms, and lung worms, and in drinking water as an anthelmintic for swine against large roundworms, nodular worms, intestinal threadworms, and lungworms. The regulation states the drug's chemical name and assay, information that FDA has determined is better provided by other references. In addition, the rule fails to properly reflect the dosage. Thus, FDA is amending § 520.1242a to remove the chemical name and assay and to better reflect the package sizes and dosage. Finally, FDA also is redesignating the paragraphs to reflect current style format.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 520.1242a is amended by removing paragraphs (a) and (d), by redesignating paragraphs (b), (c), (e), and (f) as paragraphs (a), (b), (c), and (d), respectively, by revising newly redesignated paragraphs (a), (b), (c), (d)(1)(i), (d)(1)(iii), (d)(2)(i), and by adding newly designated paragraph (d)(2)(iii) to read as follows:

§ 520.1242a Levamisole hydrochloride drench and drinking water.

(a) *Specifications.* Each package contains either 9.075, 11.7, 18.15, 46.8, or 544.5 grams of levamisole hydrochloride.

(b) *Sponsors.* Approval for sponsors in 21 CFR 510.600(c) for use as in paragraph (d) of this section as follows:

(1) See 043781 for use of 46.8 gram package as in paragraph (d)(1) of this section, for 11.7 and 46.8 gram packages as in paragraph (d)(2) of this section, and for 9.075 and 18.15 gram packages as in paragraph (d)(3) of this section.

(2) See 000061 for use of 46.8 and 544.5 gram packages as in paragraph (d)(1) of this section, for 11.7, 46.8, and 544.5 gram packages as in paragraph (d)(2) of this section, and for 18.15 gram package as in paragraph (d)(3) of this section.

(3) See 057561 for use of 46.8 and 544.5 gram packages as in paragraphs (d)(1) and (d)(2) of this section.

(c) *Related tolerances.* See § 556.350 of this chapter.

(d) *Conditions of use.* It is used as an anthelmintic at 0.365 gram per 100 pounds of body weight as follows:

(1) *Cattle*—(i) *Amount.* As a single oral dose drench using 46.8 or 544.5 gram packet.

* * * * *

(iii) *Limitations.* Conditions of constant helminth exposure may require retreatment within 2 to 4 weeks after the first treatment. Do not slaughter for food within 48 hours of treatment. Not for use in dairy animals of breeding age. Consult your veterinarian before using in severely debilitated animals. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism. Prepare solutions for use as follows:

(*a*) Dissolve contents of 11.7 gram package in 1 quart (32 ounces) of water and administer as a drench at 1 ounce per 100 pounds of body weight, or dissolve in 10.9 fluid ounces of water and administer as a drench at 1 milliliter per 10 pounds of body weight as a single oral dose.

(*b*) Dissolve contents of 46.8 gram package in 128 fluid ounces (1 gallon) of water and administer as a drench at 1 ounce per 100 pounds of body weight as a single oral dose.

(*c*) Dissolve contents of 544.5 gram package in 3 liters of water and administer as a drench at 2 milliliters per 100 pounds of body weight as a single oral dose.

* * * * *

(2) *Sheep*—(i) *Amount.* As a single oral dose drench using 11.7, 46.8, or 544.5 gram packet.

* * * * *

(iii) *Limitations.* Conditions of constant helminth exposure may require retreatment within 2 to 4 weeks after the first treatment. Do not slaughter for food within 72 hours of treatment. Consult your veterinarian before using in severely debilitated animals. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism. Prepare solutions for use as follows:

(*a*) Dissolve contents of 11.7 gram package in 1 quart (32 ounces) of water and administer as a drench at 1 ounce per 100 pounds of body weight, or dissolve in 10.9 fluid ounces of water and administer as a drench at 1 milliliter per 10 pounds of body weight as a single oral dose.

(*b*) Dissolve contents of 46.8 gram package in 128 fluid ounces (1 gallon) of water and administer as a drench at 1 ounce per 100 pounds of body weight as a single oral dose.

(*c*) Dissolve contents of 544.5 gram package in 3 liters of water and administer as a drench at 2 milliliters per 100 pounds of body weight as a single oral dose.

* * * * *

Dated: October 23, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–29613 Filed 11–4–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Sulfadimethoxine Soluble Powder and Oral Solution

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two abbreviated new animal drug applications (ANADA's) filed by Med–Pharmex, Inc. One ANADA provides for the use of sulfadimethoxine soluble powder for use in drinking water or as a drench, and the second ANADA provides for the use of the oral solution in drinking water or as a drench, for the treatment of chickens,

turkeys, and dairy calves, dairy heifers, and beef cattle.

EFFECTIVE DATE: November 5, 1998.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Med–Pharmex, Inc., 2727 Thompson Creek Rd, Pomona, CA 91767–1861, has filed both ANADA 200–238 that provides for the use of Sulfasol® (sulfadimethoxine) soluble powder, and ANADA 200–251 that provides for use of Sulforal® (sulfadimethoxine) concentrated solution, both for use in drinking water or as a drench for the treatment of disease outbreaks as follows: Coccidiosis, fowl cholera, and infectious coryza in chickens; coccidiosis and fowl cholera in meat-producing turkeys; and shipping fever complex and bacterial pneumonia associated with *Pasteurella* spp. sensitive to sulfadimethoxine, and calf diphtheria and foot rot associated with *Sphaerophorus necrophorus* sensitive to sulfadimethoxine in dairy calves, dairy heifers, and beef cattle.

ANADA 200–238 is approved as a generic copy of Pfizer, Inc.'s NADA 46–285 for Albon® (sulfadimethoxine soluble powder). ANADA 200–238 is approved as of July 28, 1998.

ANADA 200–251 is approved as a generic copy of Pfizer, Inc.'s NADA 31–205 for Albon® (sulfadimethoxine 12.5% concentrated solution). ANADA 200–251 is approved as of August 3, 1998.

Currently the regulations in § 520.2220a (21 CFR 520.2220a) do not specify which sponsors have approval for the oral solution or the soluble powder. The section is amended to combine paragraphs (a) and (b) to specify the approvals, including the new approvals. The basis for approval is discussed in the freedom of information summaries.

In amending § 520.2220a paragraph (a) is revised, paragraph (b) is removed, and paragraphs (c) through (e) are redesignated as paragraphs (b) through (d), respectively.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of these applications may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 520.2220a is amended by revising paragraph (a), by removing paragraph (b), and by redesignating paragraphs (c) through (e) as paragraphs (b) through (d), respectively, to read as follows:

§ 520.2220a Sulfadimethoxine oral solution and soluble powder.

(a) *Approvals.* (1) For oral solution containing 12.5 percent (3.75 grams per ounce) sulfadimethoxine, see Nos. 000010, 000069, 051259, 057561, and 059130 in § 510.600(c).

(2) For soluble powder, each package containing the equivalent of 94.6 grams of sulfadimethoxine (as the sodium salt), see Nos. 000069, 051259, and 057561 in § 510.600(c).

* * * * *

Dated: October 22, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–29612 Filed 11–4–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Animal Drugs, Feeds, and Related Products; Change of Sponsor; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the correct sponsor for an approved new animal drug application. The sponsor that is currently specified in the regulations is incorrect. This document amends the regulations to correct that error.

EFFECTIVE DATE: November 5, 1998.

FOR FURTHER INFORMATION CONTACT: LaJuana D. Caldwell, Office of Policy (HF–27), 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

SUPPLEMENTARY INFORMATION: FDA has discovered that an error has become incorporated into the agency's regulations for animal drugs, feeds, and related products. An amendment published on June 30, 1997 (62 FR 35075), amended § 522.1044 (21 CFR 522.1044) in paragraph (b)(3) by removing "054273" and adding in its place "000010". However, § 522.1044(b)(3) was not added to the agency's regulations until August 26, 1997 (62 FR 45157). Because § 522.1044(b)(3) did not exist when the amendment was made, the regulations were not amended and therefore the regulations are incorrect. This document corrects that error.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 522.1044 [Amended]

2. Section 522.1044 *Gentamicin sulfate injection* is amended in paragraph (b)(3) by removing "054273" and adding in its place "000010".

Dated: October 22, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–29611 Filed 11–4–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 524 and 556

Ophthalmic and Topical Dosage Form New Animal Drugs; Eprinomectin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Merial Ltd. The supplemental NADA provides for topical use of eprinomectin on cattle for treatment and control of two additional gastrointestinal roundworms and to establish of an acceptable daily intake (ADI) and tolerance for eprinomecrin residues in cattle muscle.

EFFECTIVE DATE: November 5, 1998.

FOR FURTHER INFORMATION CONTACT: Estella Z. Jones, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1643.

SUPPLEMENTARY INFORMATION: Merial Ltd., 2100 Ronson Rd., Iselin, NJ 08830–3077, is sponsor of NADA 141–079 that provides for use of Ivomec® Eprinex™ Pour-On (5 milligrams per milliliter eprinomectin) on beef and dairy cattle for treatment and control of gastrointestinal roundworm, lungworm, cattle grub, lice, mange mite, and horn fly infections. The sponsor filed a supplemental NADA that provides for use of the product for treatment and control of *Strongyloides papillosus* (adults) and *Trichostrongylus longispicularis* (adults). The supplemental NADA is approved as of August 9, 1998, and 21 CFR 524.814(d)(2) is revised to reflect the approval. The basis of approval is discussed in the freedom of information summary.

A tolerance for residues of eprinomectin in the muscle of cattle has not previously been established. At this time, 21 CFR 556.227 is amended to establish a tolerance for eprinomectin residues in cattle muscle. Also, the regulation is amended to establish an ADI for safe daily human intake of residues of eprinomectin. The ADI is the amount of total drug residue that can be safely consumed by humans every day.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this supplemental application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under 21 U.S.C. 360b(c)(2)(F)(iii), this supplemental approval for food-producing animals qualifies for 3 years of marketing exclusivity beginning August 9, 1998, because the supplement contains substantial evidence of the effectiveness of the drug involved, studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval of the supplement and conducted or sponsored by the applicant. The 3 years of marketing exclusivity applies only to use of the drug as approved in this supplemental NADA.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 524

Animal drugs.

21 CFR Part 556

Animal drugs, Foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 524 and 556 are amended as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 524.814 is amended by revising paragraph (d)(2) to read as follows:

§ 524.814 Eprinomectin.

* * * * *

(d) * * *

(2) *Indications for use.* The drug is used in beef and dairy cattle for treatment and control of gastrointestinal roundworms (*Haemonchus placei* (adult and L4), *Ostertagia ostertagi* (adult and L4, including inhibited L4), *Trichostrongylus axei* (adult and L4), *T. colubriformis* (adult and L4), *T. longispicularis* (adult), *Cooperia oncophora* (adult and L4), *C. punctata* (adult and L4), *C. surnabada* (adult and L4), *Nematodirus helvetianus* (adult and L4), *Bunostomum phlebotomum* (adult and L4), *Oesophagostomum radiatum* (adult and L4), *Strongyloides papillosus* (adults), *Trichuris* spp. (adults)); lungworms (*Dictyocaulus viviparus*, adult and L4); cattle grubs (all parasitic stages *Hypoderma lineatum*, *H. bovis*); lice (*Damalinia bovis*, *Linognathus vituli*, *Haematopinus eurysternus*, *Solenopotes capillatus*); mange mites (*Chorioptes bovis*, *Sarcoptes scabiei*); and horn flies (*Haematobia irritans*). Controls and protects from reinfection of *D. vivaparus* for 21 days after treatment and *H. irritans* for 7 days after treatment.

* * * * *

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

3. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

4. Section 556.227 is revised to read as follows:

§ 556.227 Eprinomectin.

(a) *Acceptable daily intake (ADI).* The ADI for total residues of eprinomectin is 10 micrograms per kilogram of body weight per day.

(b) *Tolerances*—(1) *Cattle.* Tolerances are established for residues of eprinomectin B1a (marker residue) in milk of 12 parts per billion, in liver (target tissue) of 4.8 parts per million, and in muscle of 100 parts per billion.

(2) [Reserved]

Dated: September 20, 1998.

Margaret Ann Miller,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 98–29614 Filed 11–4–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 872

[Docket No. 98P–0731]

Dental Devices; Classification of Sulfide Detection Device

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is classifying the sulfide detection device into class II (special controls). The special controls that will apply to the sulfide detection device are restriction to prescription use, conformance with recognized standards relating to biocompatibility, electrical safety and sterility, submission of performance data from analytical and clinical studies demonstrating device effectiveness and adherence to specific labeling requirements. The agency is taking this action in response to a petition submitted under the Federal Food, Drug, and Cosmetic Act (the act) as amended by the Medical Device Amendments of 1976, the Safe Medical Devices Act of 1990, and the Food and Drug Modernization Act of 1997. The agency is classifying sulfide detection devices into class II (special controls) in order to provide a reasonable assurance of safety and effectiveness of the device.

EFFECTIVE DATE: December 7, 1998.

FOR FURTHER INFORMATION CONTACT: Robert S. Betz, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–827–5283.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 513(f)(1) of the act (21 U.S.C. 360c(f)(1)), devices that were not in commercial distribution before May 28, 1976, the date of the enactment of the Medical Device Amendments 1976, generally referred to as postamendments devices are classified automatically by statute into class III without any rulemaking process. These devices remain in class III and require premarket approval, unless and until the device is classified or reclassified into class I or II or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the act, to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to previously marketed devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and 21 CFR part 807 of the FDA regulations.

Section 513(f)(2) of the act provides that any person who submits a premarket notification under section 510(k) of the act for a device that has not previously been classified may, within 30 days after receiving an order classifying the device in class III under section 513(f)(1) of the act, request FDA to classify the device under the criteria set forth in section 513(a)(1). FDA shall, within 60 days of receiving such as request, classify the device by written order. This classification shall be the initial classification of the device. Within 30 days after the issuance of an order classifying the device, FDA must publish a notice in the **Federal Register** announcing such classification.

In accordance with section 513(f)(1) of the act, FDA issued an order on May 15, 1998, classifying sulfide detection devices in class III. On May 18, 1998, Diamond General Development Corp. submitted a petition requesting classification into class II of the Diamond Probe®/Perio 2000 System that is intended to measure periodontal pocket probing depths, evaluate the presence or absence of bleeding on probing, and to detect the presence of sulfides in periodontal pockets of adult patients. After reviewing the information submitted in the petition, its amendments, K980749, and medical literature, FDA concludes that this device, and substantially equivalent devices of this generic type, can be classified into class II with the establishment of special controls. In accordance with 513(f)(2) of the act, FDA reviewed the petition in order to classify the device under the criteria for classification set forth in 513(a)(1) of the act. Devices are to be classified into class II if general controls, by themselves, are insufficient to provide reasonable assurance of the safety and effectiveness of the device and there is sufficient information to develop special controls to provide such assurance. After reviewing the information submitted in the petition, FDA determined that sulfide detection devices can be classified into class II with the establishment of special controls. FDA believes that general controls and special controls will provide reasonable assurance of safety and effectiveness of the device.

FDA has identified the following risks to health associated with this type of device: (1) Risks associated with the inability to develop adequate directions for use; (2) risks associated with biocompatibility, electrical safety, and sterility; (3) risks related to inaccurate device performance; and (4) risks associated with improper device use.

FDA determined that the special controls described below address these risks and provide reasonable assurance of the safety and effectiveness of the device. Therefore on July 17, 1998, FDA issued an order to the petitioner classifying the sulfide detection device as described previously into class II subject to the special controls described below.

Additionally, FDA is codifying the classification of this device by adding § 872.1870 *Sulfide detection device.*

In addition to the general controls of the act, the sulfide detection device is subject to the following special controls which, combined with general controls, provide reasonable assurance of the safety and effectiveness of the device: (1) Restriction of the sale, distribution, and use of this device to prescription use in accordance with 21 CFR 801.109; (2) conformance with recognized standards for biocompatibility, electrical safety, and sterility; (3) clinical and analytical testing sufficient to demonstrate that the device accurately measures probing depths, detects the presence or absence of bleeding on probing, and accurately detects the presence of sulfides in periodontal pockets in adult patients; (4) labeling that includes proper instructions for device storage, use, and maintenance.

Section 510(m) of the act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) of the act, if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and efficacy of the device. FDA has determined premarket notification is necessary to provide reasonable assurance of the safety and effectiveness of the device, and therefore, the device is not exempt from the premarket notification requirements. Thus persons who intend to market this device must submit to FDA a premarket notification prior to marketing the device.

II. Environmental Impact

The agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

III. Analysis of Impacts

FDA has examined the impacts of this final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Flexibility Act (Pub. L. 104–121), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the final rule is not a significant regulatory action as defined by the Executive Order, and so it is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Classification of these devices in class II will relieve manufacturers of the device of the cost of complying with the premarket approval requirements of section 515 of the act (21 U.S.C. 360e), and may permit small potential competitors to enter the marketplace by lowering their costs. The agency therefore, certifies that the final rule will not have a significant impact on a substantial number of small entities. In addition, this final rule will not impose costs of $100 million or more on either the private sector or State, local, and tribal governments in the aggregate, and, therefore a summary statement of analysis under section 202(a) of the Unfunded Mandates Act is not required.

IV. Paperwork Reduction Act of 1995

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget, under the Paperwork Reduction Act of 1995 is not required.

V. References

The following references have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD, 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Petition from Diamond General Development Corp., dated May 18, 1998.

2. Solis-Gaffar, M. C., T. Fischer, and A. Gaffar, "Instrumental Evaluation of Odor Produced by Specific Oral Microorganisms," *Journal of Cosmetic Chemistry*, vol. 30, pp. 241 to 247, 1979.

3. Solis-Gaffar, M. C., K. N. Rustogi, and A. Gaffar, "Hydrogen Sulfide Production from Gingival Crevicular Fluid," *Journal of Periodontology*, vol. 5 (10), pp. 603 to 606, 1980.

List of Subjects in 21 CFR Part 872

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 872 is amended as follows:

PART 872—DENTAL DEVICES

1. The authority citation for 21 CFR part 872 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 872.1870 is added to subpart B to read as follows:

§ 872.1870 Sulfide detection device.

(a) *Identification.* A sulfide detection device is a device consisting of an AC-powered control unit, probe handle, probe tips, cables, and accessories. This device is intended to be used in vivo, to manually measure periodontal pocket probing depths, detect the presence or absence of bleeding on probing, and detect the presence of sulfides in periodontal pockets, as an adjunct in the diagnosis of periodontal diseases in adult patients.

(b) *Classification.* Class II (special controls) prescription use in accordance with § 801.109 of this chapter; conformance with recognized standards of biocompatibility, electrical safety, and sterility; clinical and analytical performance testing, and proper labeling.

Dated: August 25, 1998.

D.B. Burlington,

Director, Center for Devices and Radiological Health.

[FR Doc. 98–29569 Filed 11–4–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 880

[Docket No. 98N–0087]

General Hospital and Personal Use Devices: Classification of the Apgar Timer, Lice Removal Kit, and Infusion Stand

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is classifying the Apgar timer, the lice removal kit, and the infusion stand into class I (general controls) based on new information regarding these devices. FDA is also exempting the devices from the requirement of premarket notification and is exempting the Apgar timer from most of the requirements of the good manufacturing practice regulations. This action is taken under the Federal Food, Drug, and Cosmetic Act (the act), as amended by Medical Device Amendments of 1976 (the amendments), the Safe Medical Devices Act of 1990 (SMDA), and the Food and Drug Administration Modernization Act of 1997 (FDAMA).

EFFECTIVE DATE: December 7, 1998.

FOR FURTHER INFORMATION CONTACT: Patricia M. Cricenti, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8913.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of March 10, 1998 (63 FR 11632), FDA issued a proposed rule to classify the Apgar timer, the lice removal kit, and the infusion stand into class I (general controls) and to exempt them from premarket notification procedures based on new information regarding these devices. FDA also proposed to exempt the Apgar timer from the current good manufacturing practice requirements in part 820 (21 CFR part 820), with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons were given until June 8, 1998, to comment on the proposed rule. FDA did not receive any comments on the proposed rule.

II. FDA's Conclusion

FDA has concluded that the Apgar timer, the lice removal kit, and the infusion stand do not present unreasonable risks to the public health and that general controls would provide reasonable assurance of the safety and effectiveness of the devices. On November 21, 1997, the President signed FDAMA into law. Section 206 of FDAMA, in part, added a new section 510(l) to the act (21 U.S.C. 360(l)). Under section 501 of FDAMA, new section 510(l) became effective on February 19, 1998. New section 510(l) provides that a class I device is exempt from the premarket notification requirements under section 510(k) of the act, unless the device is intended for a use which is of substantial importance in preventing impairment of human health or it presents a potential unreasonable risk of illness or injury (hereinafter referred to as "reserved criteria"). FDA has determined that these devices do not meet the reserved criteria and, therefore, they are exempt from the premarket notification requirements. FDA is finalizing the classification of these devices, the exemptions from premarket notification

for all of the devices, and the exemption from the good manufacturing practices requirements for the Apgar timer.

III. Environmental Impact

The agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the final rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. As noted previously, FDA may classify devices into one of three regulatory classes according to the degree of control needed to provide reasonable assurance of safety and effectiveness. For these three devices, FDA is classifying them into class I, the lowest level of control allowed. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

V. Paperwork Reduction Act of 1995

FDA concludes that this final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

List of Subjects in 21 CFR Part 880

Medical devices.

Therefore, under the Federal Food, Drug and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, part 880 is amended as follows:

PART 880—GENERAL HOSPITAL AND PERSONAL USE DEVICES

1. The authority citation for 21 CFR part 880 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 880.2930 is added to subpart C to read as follows:

§ 880.2930 Apgar timer.

(a) *Identification.* The Apgar timer is a device intended to alert a health care provider to take the Apgar score of a newborn infant.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 880.9. The device is also exempt from the current good manufacturing practice requirements in part 820 of this chapter, with the exception of § 820.180 of this chapter, with respect to general requirements concerning records, and § 820.198 of this chapter, with respect to complaint files.

3. Section 880.5960 is added to subpart F to read as follows:

§ 880.5960 Lice removal kit.

(a) *Identification.* The lice removal kit is a comb or comb-like device intended to remove and/or kill lice and nits from head and body hair. It may or may not be battery operated.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 880.9.

4. Section 880.6990 is added to subpart G to read as follows:

§ 880.6990 Infusion stand.

(a) *Identification.* The infusion stand is a stationary or movable stand intended to hold infusion liquids, infusion accessories, and other medical devices.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 880.9.

Dated: September 16, 1998.

D.B. Burlington,

Director, Center for Devices and Radiological Health.

[FR Doc. 98–29568 Filed 11–4–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 311

OSD Privacy Program

AGENCY: Office of the Secretary, DOD.

ACTION: Final rule.

SUMMARY: The Office of the Secretary of Defense deleted an exempt system of records identified as DODDS 25, entitled DoDDS Internal Review Office Project File on June 12, 1998, 62 FR 32193. Therefore, the exemption rule is being removed.

EFFECTIVE DATE: June 12, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. David Bosworth at (703) 695–0970.

SUPPLEMENTARY INFORMATION:

Executive Order 12866. It has been determined that this Privacy Act rule for the Department of Defense does not constitute 'significant regulatory action'. Analysis of the rule indicates that it does not have an annual effect on the economy of $100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Regulatory Flexibility Act. It has been determined that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Paperwork Reduction Act. It has been determined that this Privacy Act rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act, and 44 U.S.C. Chapter 35.

List of Subjects in 32 CFR part 311

Privacy.

Accordingly, 32 CFR part 311 is amended as follows:

1. The authority citation for 32 CFR part 311 continues to read as follows:

Authority: Pub.L. 93–579, 88 Stat 1896 (5 U.S.C.552a).

2. Section 311.7, paragraph (c)(7) is removed and reserved as follows:

§ 311.7 Procedures for exemptions.

* * * * *

(c) * * *

(7) [Reserved]

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Dated: October 30, 1998.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–29575 Filed 11–4–95; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–98–157]

RIN 2115–AA97

Safety Zone: Building Owners and Managers Fireworks, Hudson River, Manhattan, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Building Owners and Managers Fireworks program located on the Hudson River, Manhattan, New York. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic on a portion of the Hudson River.

DATES: This rule is effective from 10 p.m. until 11:30 p.m., on Friday, November 13, 1998. There is no rain date for this event.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 205, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (718) 354–4195.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) A. Kenneally, Waterways Oversight Branch, Coast Guard Activities New York, at (718) 354–4195.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing an NPRM and for making this regulation effective less than 30 days after **Federal Register** publication. Due to the date the Application for Approval of Marine Event was received, there was insufficient time to draft and publish an NPRM. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to close a portion of the waterway and protect the maritime public from the hazards associated with this fireworks display.

Background and Purpose

On September 10, 1998, Bay Fireworks submitted an application to hold a fireworks program on the waters of the Hudson River. The fireworks program is being sponsored by Chelsea Piers, New York. This regulation establishes a safety zone in all waters of the Hudson River within a 360 yard radius of the fireworks barge located in approximate position 40°44′49″N 074°01′02″W (NAD 1983), approximately 500 yards west of Pier 60, Manhattan, New York. The safety zone is in effect from 10 p.m. until 11:30 p.m. on Friday, November 13, 1998. There is no rain date for this event. The safety zone prevents vessels from transiting a portion of the Hudson River and is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Marine traffic will still be able to transit through the eastern 150 years of the 850-yard wide Hudson River during the event. The Captain of the Port does not anticipate any negative impact on commercial traffic due to this event. Additionally, vessels are not precluded from mooring at or getting underway from Piers 59–62 or from the Piers at Castle Point, New Jersey. Public notifications will be made prior to the event via the Local Notice of Mariners and marine information broadcasts.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the minimal time that vessels will be restricted from the area, that vessels are not precluded from getting underway, or mooring at, Piers 59–62 and the Piers at Castle Point, New Jersey, that vessels may safely transit to the east of the zone, and extensive advance notifications which will be made.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601–612) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order 12612 and has determined that this final rule does not have sufficient implications for federalism to warrant the preparation of a Federal Assessment.

Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), the Coast Guard must consider whether this rule will result in an annual expenditure by state, local, and tribal governments, in the aggregate of $100 million (adjusted annually for inflation). If so, the Act requires that a reasonable number of regulatory alternatives be considered, and that from those alternatives, the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule be selected. No state, local, or tribal government entities will be effected by this rule, so this rule will not result in annual or aggregate costs of $100 million or more. Therefore, the Coast Guard is exempt from any further regulatory requirements under the Unfunded Mandates Act.

Environment

The Coast Guard has considered the environmental impact of this final rule and concluded that under Figure 2–1, paragraph 34(g), of Commandant

Instruction M16475.1C, this final rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reason discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01–157 to read as follows:

§ 165.T01–157 Safety Zone: Building Owners and Managers Fireworks, Hudson River, Manhattan, New York.

(a) *Location.* The following area is a safety zone: all waters of the Hudson River within a 360 yard radius of the fireworks barge located in approximate position 40°44'49"N 074°01'02"W (NAD 1983), approximately 500 yards west of Pier 60, Manhattan, New York.

(b) *Effective period.* This section is effective from 10 p.m. until 11:30 p.m. on Friday, November 13, 1998. There is no rain date for this event.

(c) *Regulations.*

(1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: October 20, 1998.

R.E. Bennis,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 98–29625 Filed 11–4–98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD060–3032a; FRL–6183–9]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Approval of Revision to the VOC Rule Governing Automotive and Light-duty Truck Coating Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maryland. This action revises the rule citation for the VOC provisions governing automotive and light-duty truck coating operations. The intended effect of this action is to provide consistency between Maryland's current regulatory numbering format and the Maryland SIP numbering format with regard to this rule. There are no substantive revisions. This action is being taken in accordance with the Clean Air Act.

DATES: This direct final rule is effective without further notice on January 4, 1999, unless EPA receives adverse written comment by December 7, 1998. Should EPA receive such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to Marcia L. Spink, Associate Director, Office of Air Programs, Mailcode 3AP20, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford, (215) 814–2108, or by e-mail at frankford.harold@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On February 6, 1998, the State of Maryland submitted a formal revision to its State Implementation Plan (SIP). The SIP revision, Number 98–01, consists of revised citation for the Federally-enforceable rules governing automotive and light-duty truck coating. The new SIP citation—COMAR 26.11.19.03—replaces the current SIP citation, which is COMAR 10.18.21.03. There are no revisions to the substantive provisions of this rule.

Except for the COMAR citation and associated administrative revisions, the provisions of COMAR 26.11.19.03 are identical to that which became State-enforceable at COMAR 10.18.21.03 effective July 18, 1983. Maryland had submitted the 1983 light-duty truck coating rule to EPA on August 22, 1983. EPA approved COMAR 10.18.21.03 in its entirely on September 10, 1984 (49 FR 35500), and incorporated by reference this rule into the Maryland SIP at 40 CFR 52.1070(c)(72).

Although Maryland had revised the State-enforceable rule effective August 10, 1987 and August 1, 1988, EPA had never revised the 1983 Maryland SIP rule. On August 18, 1997, Maryland repealed the 1987 revision (as amended in 1988), and adopted the version of COMAR 26.11.19.03 being approved by EPA in today's action.

EPA is approving this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective January 4, 1999 without further notice unless the Agency receives adverse comments by December 7, 1998.

If EPA receives such comments, then EPA will publish a timely withdrawal of direct the final rule informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this rule. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on January 4, 1999 and no further action will be taken on the proposed rule.

II. Final Action

EPA is approving the revision to COMAR 26.11.19.03 as a revision to the Maryland SIP, and incorporating this provision by reference at 40 CFR section 52.1070(c)(140).

III. Administrative Requirements

A. Executive Orders 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under E.O. 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is "economically significant," as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This final rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the

appropriate circuit by January 4, 1999. Filing a petition for reconsideration by the Administrator of this final rule revising the SIP citation for Maryland's VOC provisions governing automotive and light-duty truck coating operations does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: October 27, 1998.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart V—Maryland

2. Section 52.1070 is amended by adding paragraphs (c)(140) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(140) Revisions to the Maryland State Implementation Plan submitted on February 6, 1998 by the Maryland department of the Environment:

(i) Incorporation by reference.

(A) Letter of February 6, 1998 from the Maryland Department of the Environment transmitting revisions to COMAR 26.11.19, pertaining to the control of VOC emissions from automotive and light-duty truck coating operations.

(B) Revised COMAR 26.11.19.03, effective September 22, 1997.

(ii) Additional Material—Remainder of the February 6, 1998 State submittal [Revision No. 98–01].

[FR Doc. 98–29658 Filed 11–4–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[ID–21–7001, ID 22–7002; FRL–6185–8]

Designation of Areas for Air Quality Planning Purposes: State of Idaho and the Fort Hall Indian Reservation

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: In this action, the Environmental Protection Agency (EPA) is revising the designation for particulate matter with an aerodynamic diameter of less than a nominal 10 microns (PM–10) for the Power-Bannock Counties PM–10 nonattainment area, located in Idaho, by creating two distinct nonattainment areas that together cover the identical geographic area as the original nonattainment area. The revised areas are divided at the boundary between State lands and the Fort Hall Indian Reservation, with one revised area consisting of State lands and the other revised area consisting of lands within the exterior boundaries of the Fort Hall Indian Reservation. The redesignation is based upon a request from the State of Idaho, which is supported by monitoring and modeling information. Both areas retain PM–10 nonattainment designation and classification as moderate PM–10 nonattainment areas as a result of this action.

EPA recently established a new standard for particulate matter with an aerodynamic diameter equal to or less than a nominal 2.5 microns and also revised the existing PM–10 standards. This rule, however, does not address these new and revised standards.

EFFECTIVE DATE: December 7, 1998.

ADDRESSES: Information supporting this action can be found in Public Docket No. [ID–21–7001, ID 22–7002]. The docket is located at EPA, Region 10, 1200 Sixth Avenue, Seattle WA 98101. The docket may be inspected from 9:00 a.m. to 4:30 p.m. on weekdays, except for legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Steven K. Body, EPA Region 10, Office of Air Quality (OAQ–107), EPA, Seattle, Washington, (206) 553–0782.

I. Background

A portion of Power and Bannock Counties in Idaho was designated nonattainment for PM–10 [1] and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act upon enactment of the Clean Air Act Amendments of 1990 (Act or CAA). See 40 CFR 81.313 (PM–10 Initial Nonattainment Areas); see also 55 FR 45799 (October 31, 1990); 56 FR 11101 (March 15, 1991); 56 FR 37654 (August 8, 1991); 56 FR 56694 (November 6, 1991). For an extensive discussion of the history of the designation of the Power-Bannock Counties PM–10 nonattainment area, please refer to the discussion at 61 FR 29667, 29668–29670 (June 12, 1996).

The Power-Bannock Counties PM–10 nonattainment area covers approximately 266 square miles in south central Idaho and comprises both trust and fee lands within the exterior boundaries of the Fort Hall Indian Reservation and State lands in portions of Power and Bannock Counties. Approximately 75,000 people live in the nonattainment area, most of whom live in the cities of Pocatello and Chubbuck, which are located near the center of the nonattainment area on State lands. Approximately 15 miles northwest of downtown Pocatello is an area known as the "industrial complex," which includes the two major stationary sources of PM–10 in the nonattainment area. The boundary between the Fort Hall Indian Reservation and State lands runs through the industrial complex. One of the major stationary sources of PM–10, FMC Corporation (FMC), is located primarily on fee lands within the exterior boundaries of the Fort Hall Indian Reservation. The other major stationary source of PM–10 in the nonattainment area, J.R. Simplot Corporation (Simplot), is located on State lands immediately adjacent to the Reservation.

Pursuant to section 107(d)(3)(D) of the Act, the Governor of any State, on the Governor's own motion, is authorized to submit to the Administrator a revised designation of any area or portions thereof within the State. On April 16, 1998, the State of Idaho submitted to EPA a request to revise the designation of the Power-Bannock Counties PM–10 nonattainment area by splitting the nonattainment area into two separate nonattainment areas at the boundary between the Fort Hall Indian Reservation and State lands. In support of its request, the State of Idaho noted that the State has the primary PM–10 planning responsibility under the Clean Air Act for State lands within the nonattainment area, whereas EPA and the Shoshone-Bannock Tribes (Tribes) have the primary PM–10 planning responsibility for the Reservation lands [2] within the nonattainment area. The State also noted that it has largely completed the PM–10 planning and implementation of control measures for the PM–10 sources located on State lands within the nonattainment area whereas no controls have been proposed or imposed on sources located on Reservation lands within the nonattainment area.

The State also supported its request with monitoring data which show that State monitors have not recorded any PM–10 concentrations above the level of the 24-hour PM–10 NAAQS since January 1993 and that the State lands within the nonattainment area have attained the PM–10 NAAQS. In addition, the State provided an analysis of pollution concentrations recorded on Tribal monitors as a function of wind direction which shows that exceedences of the PM–10 NAAQS on the Tribal monitors are not the result of emissions from sources located on State lands. The State also provided modeling information to support its assertion that sources on State lands are not contributing to the violations of the PM–10 NAAQS that have been recorded at the Tribal monitors.

On June 19, 1998, EPA proposed to grant the State's request to split the Power-Bannock Counties PM–10 nonattainment area into two nonattainment areas at the State-Reservation boundary. 63 FR 33597. In a concurrent notice of proposed rulemaking, EPA proposed to make a finding that the proposed PM–10 nonattainment area within the exterior boundaries of the Fort Hall Indian Reservation failed to attain the NAAQS for PM–10 by the applicable attainment date. 63 FR 33605. Based on a request from a commenter, EPA extended the public comment period on both proposals for an additional 30 days. 63 FR 41221 (August 3, 1998).

EPA received comments from nine commenters on its proposals. Six of the commenters—the State of Idaho—Division of Environmental Quality (IDEQ), the City of Pocatello, Bannock Planning Organization, the Portneuf Environmental Council (PEC), J.R. Simplot Company, and a private citizen—supported EPA's proposal to split the Power-Bannock Counties PM–10 nonattainment area into two nonattainment areas at the State-Reservation boundary. The comments from PEC also suggest support for EPA's proposal to make a finding that the proposed PM–10 nonattainment area within the exterior boundaries of the Fort Hall Indian Reservation failed to attain the PM–10 NAAQS by the applicable attainment date.

Three commenters—the Shoshone-Bannock Tribes, FMC, and a private citizen—opposed EPA's proposal to split the existing PM–10 nonattainment area into two PM–10 nonattainment areas at the State-Reservation boundary. FMC also opposed EPA's proposal to make a finding that the proposed PM–10 nonattainment area within the exterior boundaries of the Fort Hall Indian Reservation failed to attain the PM–10 NAAQS by the applicable attainment date.

After carefully considering the public comments, EPA continues to believe it is appropriate to split the existing Power-Bannock Counties PM–10 nonattainment area into two nonattainment areas at the State-Reservation boundary, with the area comprised of State lands to be known as the "Portneuf Valley PM–10 nonattainment area" and with the area comprised of Reservation lands to be known as the "Fort Hall PM–10 nonattainment area." EPA intends to take final action on its proposal to find that the Fort Hall PM–10 nonattainment area failed to attain the PM–10 NAAQS by the applicable attainment date in a later rulemaking.

II. Response to Comments

A. Comments That EPA's Action is Contrary to EPA Policy and Inconsistent With Prior EPA Actions

All three adverse commenters state that an integrated planning effort is preferable and that splitting the area into two PM–10 nonattainment areas at the State-Reservation boundary could result in a less comprehensive approach to air quality planning in the area. The Tribes also assert that splitting the nonattainment area, in and of itself, does not advance any air quality improvements and that it would be a better use of resources to expedite efforts to promulgate rules and permits for Reservation lands within the nonattainment area.

EPA agrees with the Tribes that promulgating rules to control PM–10 emissions from sources contributing to the nonattainment problem reflected on the Tribal monitors is a high priority.[3] EPA assures the Tribes and the public that EPA is expending considerable resources in the development of a Federal Implementation Plan (FIP) for the Fort Hall PM–10 nonattainment area, which EPA intends to propose by January 31, 1999.

EPA also agrees that the "split" in and of itself does not improve air quality. No action to designate an area as attainment or nonattainment or to determine the appropriate boundaries of an attainment or nonattainment area under section 107 of the Clean Air Act improves air quality, in and of itself. Rather, it is the planning efforts that flow from an area's designation that improves air quality. Section 107(d)(3) of the Clean Air Act, which provides the authority for the State's request and EPA's action, includes criteria in addition to air quality that may be taken into consideration in the revision of the designation of an area, such as planning and control considerations. In general, EPA agrees that integrated planning in a nonattainment area is desirable. In this situation, however, the two nonattainment areas are at very different places in the planning process and the planning responsibilities for the two areas rest with different agencies. As stated in the proposal, the State has largely completed its planning obligations and monitors on State lands show attainment of the standard. 63 FR 33599–33601. EPA believes that splitting the nonattainment area into two nonattainment areas at the State-Reservation boundary will better enable EPA, the Tribes, and the State to focus planning efforts on the areas under their respective authorities, and will therefore, in the long run, advance efforts to improve air quality. EPA does not believe that splitting the nonattainment area will result in a less comprehensive approach to PM–10 planning for the existing Power-Bannock Counties PM–10 nonattainment area as a whole. EPA, the Tribes and the State have been working together on PM–10 planning for the Power-Bannock Counties PM–10 nonattainment area since the early

[1] There are two pre-existing PM–10 National Ambient Air Quality Standards (NAAQS), a 24-hour standard and an annual standard. See 40 CFR 50.6. EPA promulgated these NAAQS on July 1, 1987 (52 FR 24672), replacing standards for total suspended particulate with new standards applying only to particulate matter up to 10 microns in diameter (PM–10). The annual PM–10 standard is attained when the expected annual arithmetic average of the 24-hour samples for a period of one year does not exceed 50 micrograms per cubic meter (μg/m3). Attainment of the 24-hour PM–10 standard is determined by calculating the expected number of days in a year with PM–10 concentrations greater than 150 μg/m3. The 24-hour PM–10 standard is attained when the expected number of days with levels above the standard, averaged over a three-year period, is less than or equal to one. See 40 CFR 50.6 and 40 CFR part 50, appendix K.

[2] "Reservation lands" as used in this notice refers to all lands within the exterior boundaries of the Fort Hall Indian Reservation. EPA believes that this land is "Indian country" as defined under Federal law. *See* 18 U.S.C. § 1151.

[3] Once EPA received a request from the State of Idaho to split the nonattainment area, EPA became obligated under section 107(d)(3)(D) to act to approve or deny the State's request. EPA does not believe that denying the State's request requires any more resources than approving the State's request.

1990s. Dividing the area into two nonattainment areas in no way precludes EPA, the Tribes, and the State from continuing a coordinated planning effort. EPA fully intends to work closely with the Tribes and the State in the promulgation of a FIP and a Tribal Implementation Plan (TIP) for Reservation lands within the nonattainment area and in the revision and approval of the State's Implementation Plan (SIP). In the comments submitted by the State, the State indicated its intent to continue a coordinated planning effort with EPA and the Tribes notwithstanding the split of the area into two nonattainment areas.

On a related matter, the adverse comment received from the private citizen expresses concern that splitting the Power-Bannock Counties PM–10 nonattainment area could impair planning efforts for PM–2.5 or other pollutants. EPA emphasizes that a coordinated planning effort can be accomplished notwithstanding that there are two separate nonattainment areas. In addition, as EPA stated in the proposal, this action relates only to PM–10. If the City of Pocatello or the Fort Hall Indian Reservation is later identified as a nonattainment area for PM–2.5, EPA will consider at the time of such identification whether, based on air quality data, planning and control considerations, or other air quality-related considerations, the planning requirements for PM–2.5 are best carried out by having a single nonattainment area or having two nonattainment areas divided at the State-Reservation boundary or in some other way. 63 FR 33603. These same factors will be considered with respect to other pollutants.

Both the Tribes and FMC state that EPA's action to divide the Power-Bannock Counties PM–10 nonattainment area is inconsistent with EPA's longstanding practice and policy regarding the basis for establishing nonattainment designations (and for determining whether to redesignate nonattainment areas). The Tribes argue that, in the past, EPA has made it clear that the dimensions of a nonattainment area are not limited solely to those locations where violations have been recorded. FMC similarly claims that EPA's practice has been to "establish nonattainment areas based on the total contribution of various sources to ambient air pollution in an entire airshed and not simply on the presence or absence of exceedences at individual monitoring sites or the presence or absence of sources in a particular location." However, while these statements (and the litigation examples cited by FMC) appear to accurately reflect prior EPA practice and policy, the commenters' assumption that the proposal to split the Power/Bannock nonattainment area is inconsistent with that practice and policy is erroneous mainly because it ignores the ambient air data cited by EPA in support of its proposed action. EPA's proposal to split the existing nonattainment area is based on the conclusions it reached after analyzing the contributions of the various sources, evidence regarding PM–10 pollution impacts, and relevant ambient air quality data. Moreover, EPA's proposed action is entirely consistent with statutory requirements.

Section 107(d)(1)(A)(i) makes clear that an area can be designated nonattainment if the area does not meet the standard or if the area contributes to ambient air quality in a nearby area that does not meet the standard. Thus, an area could be designated as part of a nonattainment area even if the air quality in the area meets the applicable standard if sources in that area contribute to ambient air quality in a nearby area that does not meet the standard. However, that is not the case here. As demonstrated by the State's request, the State monitors show attainment of the standard on State lands and that sources on State lands are not contributing to the violations of the PM–10 standard that have been recorded on the Tribal portion of the nonattainment area. In addition, section 107(d)(3)(A), which sets forth criteria for EPA to consider when revising the designation of an area on its own motion, states that EPA may initiate such actions "on the basis of air quality data, planning and control considerations, or any other air quality-related considerations the Administrator deems appropriate." EPA believes it would be unreasonable for the Agency not to consider similar criteria in determining whether to approve or deny a designation revision request submitted by the Governor of a State under the provisions of subsection 107(d)(3)(D). That is precisely what the Agency has done with respect to the air quality data submitted by Idaho in support of its request to separate the Power-Bannock area into two distinct nonattainment areas.

To support its claim that EPA is acting contrary to EPA policy and practice by splitting the nonattainment area, FMC cites three specific cases in which EPA has rejected proposals to split existing nonattainment areas into separate areas: Lorain County, Ohio, for ozone; the San Francisco Bay area for ozone; and Spokane, Washington for carbon monoxide. The first 2 cases were the subjects of lawsuits: respectively, *State of Ohio* v. *Ruckelshaus*, 776 F.2d 1333 (6th Cir. 1985) and *Western Oil & Gas Ass'n* v. *U.S.E.P.A.*, 767 F.2d 603 (9th Cir. 1985). There are several important differences between the three cases cited by FMC and the case at hand. First, in the case of the Power-Bannock Counties PM–10 nonattainment area, ambient air quality data provided by the State specifically show that sources of pollution on State lands do not impact the violations that have been recorded on the monitors located on Tribal lands. No such showing was made in any of the three examples cited by FMC. In fact, in the case of Lorain County, Ohio, FMC acknowledges that the sources in Lorain County were found to contribute to the nonattainment problem in the greater Cleveland area even though the monitors in Lorain County showed attainment. The Ninth Circuit Court of Appeals found similar evidence with respect to the complaining sources in the case involving the San Francisco Bay area. In describing the areas where the petitioning sources were located, the Court stated: "[I]f treated separately, [these areas] would be 'attainment' areas. The reason is the prevailing winds, which blow from the west and north toward the south and east, thus carrying emissions from the parts of the Bay area in which [the plaintiffs] do business into the part of the area that is clearly 'nonattainment' and contributing to that condition." 767 F.2d at 605. And again, in the case of Spokane, in the documentation cited by FMC, EPA stated that it was not possible to divide the nonattainment area into two nonattainment areas under CAA section 107(d)(3)(A)(iv), which authorizes EPA to make revisions to boundaries, because the area sought to be eliminated from the nonattainment area in fact contributed to the nonattainment problem.[4]

Another important difference is that each of the three cases cited by FMC involved efforts to divide along county lines or along even smaller political boundaries areas that are all subject to the relevant State's jurisdiction. Ultimately, for example, Ohio was

[4] In the briefing paper cited by FMC, EPA stated: "CAA § 107(d)(4)(iv) allows boundary revisions under certain circumstances. However, it does not allow elimination of any part of a nonattainment area that would be considered part of the air shed of the nonattainment area *and that contributes to the nonattainment problem.*" Spokane CO Briefing Report (EPA Region 10), October 14, 1997 (emphasis added). FMC's comments neglected to mention this important qualification to EPA's position. A copy of the Spokane CO Briefing Report is in the docket.

responsible for the nonattainment planning requirements for Lorain County being fulfilled, as well as it was for those for the greater Cleveland area. Under section 110(a)(2)(E)(iii) of the Act, even where a State relies on a local or regional government or agency for the implementation of elements of the State implementation plan, the State has the ultimate responsibility for ensuring adequate implementation of that plan. In the case of the Power-Bannock Counties PM–10 nonattainment area, however, the State's jurisdiction and CAA planning responsibilities extend only to the portion of the nonattainment area on State lands, while the Tribes and EPA are authorized by the CAA to exercise planning responsibilities for the portion of the nonattainment area that falls within the exterior boundaries of the Fort Hall Indian Reservation. Although evidence regarding the lack of pollution contribution is the key consideration for purposes of this action, i.e., splitting or revising the existing nonattainment area designation under section 107(d)(3)(D), this jurisdictional factor, as it relates to the appropriate authority for air quality management and planning, is (along with the air quality considerations) an important consideration in EPA's decision to divide the Power-Bannock Counties PM–10 nonattainment area into two nonattainment areas along the State-Reservation boundary. In short, EPA does not agree with the Tribes and FMC that this action is inconsistent with previous EPA policy and practice.

The Tribes also claim that EPA's action to split the nonattainment area is inconsistent with EPA policy because there are several other PM–10 nonattainment areas that include both State lands and lands within the exterior boundaries of Indian Reservations that EPA has not considered splitting. Although this claim is certainly factually true, it has simply not been an issue because EPA has never received requests in these other cases from the relevant States or Tribes to divide these nonattainment areas at the State-Reservation boundary, nor has EPA been provided with the technical air quality information that would support splitting any other such PM–10 nonattainment area at the State-Reservation boundary, as is the case here.

In a similar vein, the Tribes assert that EPA did not split the Power-Bannock Counties PM–10 nonattainment area at the State-Reservation boundary in previous years when the State monitors were recording violations of the PM–10 NAAQS, but there were no recorded violations of the PM–10 NAAQS on the Reservation lands. Again, neither the Tribes nor the State had previously submitted a request to EPA to split the Power-Bannock Counties PM–10 nonattainment area. In addition, although there were no monitors located on Tribal lands in the late 1980s and early 1990s (and therefore no documented violations of the PM–10 NAAQS on Reservation lands), when violations were recorded on the State monitors, modeling conducted at that time predicted significant violations of the PM–10 NAAQS on Reservation lands in the vicinity of FMC. In fact, the Tribes' comments acknowledge that violations of the PM–10 NAAQS on the Reservation were predicted during the early planning stages for the Power-Bannock Counties PM–10 nonattainment area. Consequently, while there may not have been actual recorded violations of the PM–10 NAAQS on Reservation lands due to the absence of monitors when (and for some time after) the area was initially designated nonattainment for PM–10, there has always been evidence of pollution contribution from PM–10 sources on Tribal lands. Thus, it was appropriate under section 107(d)(4)(B) to include both State and Tribal lands in the area initially designated nonattainment for PM–10. In summary, EPA does not believe splitting the Power-Bannock Counties PM–10 nonattainment area at the State-Reservation boundary is inconsistent either with the CAA or previous EPA practice or policy. This is true both with respect to the treatment of the Power-Bannock Counties PM–10 nonattainment area prior to Idaho's recent request, and with respect to other PM–10 nonattainment areas, including those consisting of both State and Reservation lands.

The Tribes also express concern that EPA is treating the Tribes as if they were a subdivision of the State and lack any independent role with respect to this action. They further state that EPA has failed to follow EPA's own guidance for acting on matters significantly or uniquely affecting Indian Tribal governments by not adequately considering the Tribes' concerns. Although EPA is fully cognizant of, and believes it has respectfully considered, the Tribes' concerns, there exist a number of legal, statutory and policy limitations—which the Agency has shared on various occasions with Tribal representatives—that constrain approaches and flexibility the Tribes would have preferred the Agency to pursue. In addition, EPA believes that a review of the 20-year planning relationship shared by the Tribes, the State of Idaho and EPA, and cited favorably by the Tribes in its comments on this action, clearly evinces strong support from EPA with respect to assertions of sovereignty raised by the Shoshone-Bannock Tribes in actions related to this area under the Clean Air Act. For example, EPA has supported the Tribes' sovereignty on occasions when the State of Idaho has attempted to assert regulatory jurisdiction over sources located on fee lands within the exterior boundaries of the Fort Hall Indian Reservation. EPA is also actively working with the Tribes on a government-to-government basis in the regulation of sources within Reservation boundaries, including FMC. Indeed, the only major difference of opinion between the Tribes and EPA appears to be the designation revision decision, since the Tribes continue to assert, even in comments opposing this action, that they support and intend to work closely with the Agency's efforts to promulgate a Federal Implementation Plan addressing the sources located on Reservation lands. EPA relates to Indian tribes, as a matter of policy and practice, on a government-to-government basis, but in all actions required to be taken by the Agency under the CAA, whether those actions involve States or Tribes, EPA is subject to requirements and limitations imposed by that statute.

It is also a fact that the existing nonattainment area covers territory that is subject to two distinct jurisdictions and legal authorities. Although the Tribes claim that the State's designation revision request purports to assert authority over lands under Tribal control, the State is merely availing itself of a regulatory option provided by the CAA itself with respect to the lands under State jurisdiction, that is, requesting a revision of the nonattainment area boundaries under section 107(d)(3)(D). Under that section, EPA must act on such requests within a specified time, i.e., no later than 18 months after the request is submitted. The fact that EPA's action in approving the State's request has consequences that are not favored by the Tribes does not alter either the State's right to make the request nor EPA's obligation to take action on the request. EPA is approving the State's request because it meets specified CAA criteria. EPA understands that among the Tribes' concerns is that the split action, particularly, will result in unfair attributions regarding the unresolved nonattainment problems in the area that they, in fact, never had authority or responsibility to control. EPA would

suggest, however, that this designation revision action should more properly be regarded as simply one component of a combination of actions the Agency is undertaking in order to establish for the first time a comprehensive PM–10 planning and implementation program on the Tribal portion of the Power-Bannock nonattainment area. After careful consideration of the Tribes' objections to dividing the nonattainment area, both those expressed by the Tribes before the proposal and in response to the proposal, it remains EPA's continued belief that, in seeking to achieve the ultimate air quality goals of the Act, splitting the existing nonattainment area into two separate nonattainment areas is in the overall best interest of the area as a whole.

B. Comments That the State's Request and EPA's Action Are Procedurally Defective

The Tribes and FMC also raise several alleged procedural defects with the State's request and EPA's proposed action on the State's request. First, FMC asserts that, as an initial matter, the State's request to split the area is defective in that the State violated the requirements of Idaho law as well as Clean Air Act requirements for notice and public hearing. FMC raised these issues in a petition to the State under Idaho law and the Tribes also raised these concerns to EPA and the State prior to EPA's proposal. Because EPA received a copy of FMC's petition and a copy of a letter from the Tribes to the State raising the alleged deficiency of the State's request prior to EPA's proposal on the State's request, EPA responded to the issues raised in FMC's petition and the Tribes' letter on the validity of the State's request in the proposal. 63 FR 33602–33603. In FMC's formal comments on EPA's proposal to split the nonattainment area, FMC comments that EPA's "conclusory rejection in [the proposal] of the position of FMC and the Tribes is improper and contrary to the Administrative Procedures Act." FMC further asserts it is premature for EPA to take final action before FMC's concerns have been resolved in the State proceeding. EPA disagrees on all points.

As an initial matter, it was in no way improper or contrary to the Administrative Procedures Act for EPA to explain in the proposal to grant the State's request why EPA believed the issues raised by FMC and the Tribes to the State regarding the alleged deficiency of the State's request were without merit. EPA had before it issues relating to the legal sufficiency of the State's request on which EPA was proposing to take action. It was clearly appropriate for EPA to explain why EPA believed the State's request was not deficient. EPA made clear in the proposal that FMC and the Tribes would have an opportunity to again raise these issues, as well as any other issues, in response to the proposal, as required by the Administrative Procedures Act.

Neither FMC nor the Tribes have provided additional information in their comments on the proposal to show why they believe the State's request to EPA is deficient as a matter of State and Federal law. Based on EPA's review of FMC's petition, the State's letter to EPA responding to FMC's petition, and EPA's review of the State regulations at issue, EPA agrees with the State that the State was not required to provide public notice and opportunity to comment on the State's request to EPA as a matter of State law. EPA also agrees with the State that the State's request to EPA to split the nonattainment area into two nonattainment areas is not subject to IDAPA 16.01.01.578 because that section is entitled "Designation of Attainment, Unclassifiable and Nonattainment Areas" and the State's request to EPA was not a request to designate an area attainment, unclassifiable, or nonattainment. Finally, as stated in the proposal, EPA does not believe that the State's request to EPA was required to go through public notice and comment before submission to EPA under sections 110(a)(2) and 110(l) of the CAA because the State's request is not a SIP or SIP revision. In short, EPA believes that FMC's petition in the State proceeding is without merit. Under such circumstances, EPA does not believe it is appropriate to defer action on the State's request until FMC's petition under Idaho law has been resolved.[5]

Along with the claim that the State impermissibly invoked section 107(d)(3)(D) over lands subject to Tribal jurisdiction, which EPA addressed earlier in this notice, the Tribes raise another procedural defect in their comments, asserting that EPA has ignored section 164(c) of the Clean Air Act. That section provides that "Lands within the exterior boundaries of Federally recognized Indian Tribes may be redesignated only by the appropriate governing Indian body. . . ." In arguing against splitting the nonattainment area, the Tribes assert that EPA's action is contrary to section 164(c). Section 164, however, applies only to the redesignation of areas as Class I, Class II, or Class III for purposes of the Prevention of Significant Deterioration (PSD) program. The redesignation of an area as Class I, II, or III under section 164 determines the maximum permitted ambient impact of any new major source or modified major source constructed in an area designated as attainment or unclassifiable under section 107. It does not apply to the designation or redesignation of areas under section 107 of the Act. Moreover, EPA is not changing the designation of "lands within the exterior boundaries" of the Fort Hall Indian Reservation, but rather, separating an existing nonattainment area that includes both State and Tribal lands at the State-Reservation boundary.

FMC comments that EPA should take into consideration the redesignation requirements of section 107(d)(3)(E) in deciding whether to split the Power-Bannock Counties PM–10 nonattainment area into two separate nonattainment areas. As EPA stated in the proposal, section 107(d)(3)(E), by its terms, applies only to requests to redesignate an area from nonattainment to attainment. 63 FR 33603. The State has not requested that the Portneuf Valley PM–10 nonattainment area, as defined in this notice, be redesignated from nonattainment to attainment, and the area will retain its classification as a moderate PM–10 nonattainment area as a result of this action. EPA did state in the proposal, as FMC notes, that the State of Idaho is demonstrating attainment of the PM–10 standard on State lands. FMC does not show or even suggest that any portion of the Portneuf Valley PM–10 nonattainment area is currently violating the PM–10 standards. There are many areas in the country that are in the same position that the Portneuf Valley PM–10 nonattainment area will be in as a result of this action: many other areas have attained the standard—which is a factual determination based on air quality data—but have not yet been redesignated as "attainment" for PM–10 under section 107(d)(3)(E) because they have either not yet requested redesignation or not yet completed the planning requirements of section 107(d)(3)(E). EPA does not believe it is appropriate to hold the Portneuf Valley PM–10 nonattainment area to the requirements of section 107(d)(3)(E) when it is simply requesting that the current nonattainment area be split and is not requesting that the nonattainment area be redesignated as attainment for PM–10.

[5] FMC has advised Idaho that it intends to drop its challenge to Idaho's request at the State level once a final settlement of FMC's alleged violations of the Resource Conservation and Recovery Act (RCRA) has gone through public comment and been finally entered. A consent decree between FMC and EPA resolving alleged RCRA violations at the FMC facility was lodged in the United States District Court for the District of Idaho on October 16, 1998, and is currently undergoing a 30 day public comment period.

FMC also argues that because the split will result in different treatment for the two nonattainment areas under EPA's transition policy for PM–2.5, see 63 FR 33604, the State's request to split the nonattainment area is, in essence, a SIP, and, as FMC argued in its petition in the State proceeding, should have gone through notice and public comment under section 110(a)(2) and 110(l) of the Act. There is simply no basis to argue that the State's request to split the nonattainment area is a SIP or a SIP revision. The State's request does not contain and was not intended to impose any control measures and does not include any other elements of a SIP, such as an emission inventory or an attainment demonstration. The State submitted a PM–10 nonattainment SIP for the portion of the Power-Bannock Counties PM–10 nonattainment area on State lands in 1993, on which EPA has not yet taken action. The State's 1993 SIP went through public notice and comment at the State level. Idaho has advised EPA in its request to split the nonattainment area that it intends to submit a revision to the 1993 SIP this year. That SIP revision will also be required to meet the notice and public comment requirements of section 110(a)(2) and 110(l) of the Act.

C. Comments Relating to the Technical Basis for EPA's Action

The Tribes and the private citizen who submitted adverse comments contend that the existing Power-Bannock Counties PM–10 nonattainment area was delineated on the basis of natural topographical and meteorological characteristics of the air shed, and that there is no topographical or meteorological basis for splitting the nonattainment area. The individual commenter further states that the split is therefore not based on scientific considerations. As stated in the proposal and in earlier responses to comments, in determining whether to approve or deny a State's request for a revision to the designation of an area under section 107(d)(3)(D), EPA believes it is appropriate to consider the same factors Congress directed EPA to consider when EPA initiates a revision to a designation of an area on its own motion under section 107(d)(3)(A). 63 FR 33599. These factors include "air quality data, planning and control considerations, or any other air quality-related considerations the Administrator deems appropriate." Thus, although technical and scientific considerations are factors in determining the designation of an area, they are not the sole factors.

At the time the Power-Bannock Counties PM–10 nonattainment area was delineated, a State monitor at the sewage treatment plant (STP), located downwind of the industrial complex and near the Reservation boundary, recorded violations of the PM–10 standard. There was little other technical or scientific information upon which to base the boundary other than best professional judgement. Therefore, the topographical and general meteorological characteristics of the area were strong considerations in drawing the boundary. Although there were no monitors located on Reservation lands at the time the PM–10 nonattainment area was originally established, the Tribes and the State of Idaho provided comments to EPA requesting that the nonattainment area be established to include the major sources of particulate matter that were thought to contribute to the PM–10 exceedences, including FMC and Simplot at the industrial complex. 61 FR 29667, 29668 (June 12, 1996); 56 FR 37654, 37658 (August 8, 1991). In short, the boundary was determined based on considerations of where air quality did not meet or was not believed to meet the PM–10 standard and the location of sources thought to contribute to air quality that did not meet the standard or was not believed to meet the standard. Neither the State nor the Tribes requested at the time the Power-Bannock Counties PM–10 nonattainment area was first delineated that the nonattainment area be divided at the State-Reservation boundary. 61 FR 29668; 56 FR 37658. In fact, at the time the boundary deliberations were ongoing, the State was regulating FMC, which was located on fee lands within the Reservation, under a Memorandum of Agreement with the Tribes. Therefore, EPA did not consider then whether, apart from technical air quality considerations, jurisdictional considerations should play a role in establishing the boundary of the nonattainment area.

Several important factors have changed since that time. First, the State monitors now show attainment of the standard and the Tribal monitors, which were installed in 1995 and 1996 in areas where modeling had predicted maximum PM–10 concentrations, have recorded violations of the PM–10 standard. Second, the technical and scientific understanding of the sources and their contribution to PM–10 violations in the area has increased significantly. EPA has a better understanding of meteorology in the area and how it affects the continuing violations of the PM–10 standard that have been recorded on the Tribal monitors. Based on information available to EPA, it appears that, due to the predominant wind direction, PM–10 emissions from FMC, located on the Reservation, are the primary, if not sole, cause of the continuing violations that have been recorded. Finally, the State has largely completed the PM–10 planning and control process for the sources under its authority, whereas the planning and control process for the sources on Reservation lands is still under development. All these factors support EPA's decision to grant the State's request to split the nonattainment area into two nonattainment areas. Although EPA agrees that the decision to split the area is not based on topographical features of the area, EPA disagrees that the decision to split the area is not based on scientific or meteorological considerations. The air quality data recorded on the State and Tribal monitors as well as the pollution windroses showing that State sources do not cause the violations of the standard on the Tribal monitors constitute the scientific and meteorological considerations underlying EPA's action. Also relevant is the fact (which the State acknowledges) that the two areas are subject to differing jurisdictions, an important planning and control consideration that EPA believes is an appropriate factor to consider under the Act.

FMC asserts that the Tribal monitors do not document a violation of the 24-hour PM–10 NAAQS because the Tribal monitors had collected less than three years of data as of the attainment date of December 31, 1996, and because the existing data does not "unambiguously show nonattainment," a condition for reliance on less than three years of data. In support of its argument that the Tribal monitors do not "unambiguously show nonattainment" of the 24-hour PM–10 standard, FMC asserts that the placement of the Tribal monitors raises several technical and legal issues regarding the siting and reliability of the data relied on by EPA in the proposal. Although FMC provides few specifics to support this charge, the company argues that one of the Tribal monitors is on a highway right-of-way, and thus subject to undue influence from vehicle traffic, and that another Tribal monitor is located on FMC land which is subject to institutional restrictions on development and public use.

As an initial matter, EPA is not, in this notice, making a determination of

whether or not the Fort Hall PM–10 nonattainment area is in violation of the PM–10 NAAQS. For purposes of EPA's decision to split the nonattainment area, there is no legal requirement that the air quality data considered by EPA establish a violation of the PM–10 NAAQS. The difference in air quality between the Reservation and State lands was one factor considered by EPA, not the sole factor. EPA nonetheless disagrees with FMC's suggestion that the siting of the Tribal monitors is improper and that the data are unreliable. With respect to FMC's assertion that one Tribal monitor is located on a highway right-of-way and is subject to undue influence from vehicle traffic, it is important to note that FMC does not argue that the monitor does not meet the EPA siting criteria of 40 CFR part 58, appendix E. EPA disagrees that this monitor (referred to as the "Sho-Ban site") is unduly influenced by vehicle traffic. The magnitude of emissions from paved highways is a function of several factors including vehicle speed, vehicle weight, silt loading on the roadway, number of vehicles, and emissions from the vehicles themselves. This is not a major roadway, but rather a frontage road. Thus, there are relatively few vehicles passing along this section of roadway and vehicle speeds are low. EPA believes that vehicular emissions from this section of road are minimal and do not unduly influence ambient levels of PM–10. In addition, another Tribal monitor (referred to as the "primary site") that has recorded numerous exceedences of the PM–10 standard is located in a similar orientation vis-a-vis the frontage road as the Sho-Ban site (across the frontage road from FMC and near the road). If, as FMC asserts, the Sho-Ban monitor is unduly influenced by road dust, one would also expect to see exceedences on the same day and of similar magnitude at the primary site. This is not the case. On only a few occasions have exceedences been recorded at the primary site and the Sho-Ban site on the same days. Instead, exceedences on both of these monitors, as well as on the third Tribal monitor, are closely correlated with the wind direction blowing from FMC sources toward the monitors.

With respect to FMC's assertion that the primary site is located "on lands owned and controlled by FMC which are subject to specific restrictions on development and public use, although it is not clear from FMC's comment, FMC may be implying that the monitor does not measure ambient air. "Ambient air" for NAAQS purposes is defined as "that portion of the atmosphere, external to buildings, to which the general public has access." 40 CFR 50.1(e). EPA notes that, at the time the monitor was established and to this day, access to the vicinity of the monitor has been in no way restricted by a fence.[6] The primary site is located in an area external to buildings, to which the general public has access. That FMC has the legal right to restrict access to the location of the monitor is irrelevant. In short, there is no basis for FMC's suggestion that the monitors or data are invalid.

FMC argues that the attainment status of all or part of the Power-Bannock Counties PM–10 nonattainment area is moot because FMC intends to install additional controls on its facility. FMC notes that EPA and FMC are in the process of negotiating a settlement to resolve violations of the Resource Conservation and Recovery Act and that, as part of those discussions, FMC has committed to installing new emission controls and reconfiguring various processes to achieve significant PM–10 emission reductions at the facility. In fact, since FMC submitted its comments, a consent decree between FMC and EPA resolving alleged RCRA violations at the FMC facility was lodged in the United States District Court for the District of Idaho on October 16, 1998, and is currently undergoing a 30 day public review and comment period. The RCRA consent decree, once entered by the Court, will require FMC to pay a civil penalty of $11,864,800 million for the alleged RCRA violations and take measures to bring the FMC facility into compliance with RCRA. The RCRA consent decree also includes 13 "supplemental environmental projects" (referred to as SEPs) designed to reduce PM–10 emissions at the FMC facility.[7] FMC states in its comments on EPA's proposal to split the nonattainment area that the attainment status of the area is moot because FMC believes the Reservation will be able to attain the PM–10 standard once it has completed installation and implementation of the SEPs under the RCRA consent decree. EPA certainly supports any PM–10 emission reductions by FMC, whether voluntary or as part of an enforceable settlement agreement. That the area may attain the PM–10 NAAQS several years from now after FMC installs completes the SEPs, however, does not render the attainment status of the area at the present time a moot issue. In any event, the attainment status of the State monitors versus the Tribal monitors is only one of the many factors considered by EPA in deciding to split the nonattainment area.

FMC also contends that the State's technical analysis, where it looked at the "urban complex" (the Cities of Pocatello and Chubbuck and the surrounding urban areas) and the "industrial complex" (FMC and J.R. Simplot) is flawed. FMC asserts that the State's analysis might support splitting the nonattainment area between the urban complex and the industrial complex, but not splitting the area within the industrial complex. FMC misunderstands the two-step analysis conducted by the State. The State first presented information to demonstrate that these two separate areas have separate air quality impacts and sources. Specifically, the modeling information presented by the State shows that the urban complex and the industrial complex have different sources contributing to the high PM–10 levels that have been recorded in each area and that there is no evidence of significant mixing of emissions between the urban complex and the industrial complex. Had the State stopped here in its analysis, FMC would be correct in its assertion that there is no basis for splitting the existing nonattainment area at the State-Reservation boundary. The State went on to show, however, that sources on State lands within the industrial complex, namely, Simplot, are effectively controlled and do not contribute to violations of the PM–10 NAAQS on State or Tribal lands. EPA agrees with the State that this information supports splitting the existing nonattainment area at the State-Reservation boundary.

D. Comments Relating to the Location of the Boundary

In the State's April 16, 1997, request, the State requested that the Power-Bannock Counties PM–10 nonattainment area be divided at the boundary between State lands and the Fort Hall Indian Reservation. As discussed in the proposal, EPA learned after submission of the State's request that a small portion of the FMC facility is located on State lands. See 63 FR 3360. In the proposal, EPA considered the fact that the FMC sources located within the Power-Bannock Counties PM–10 nonattainment area but outside the exterior boundaries of the Fort Hall Indian Reservation on State lands

[6] Access to the monitor itself is, of course, restricted by a 15 by 10 foot chain-link fence to guard against vandalism and tampering.

[7] The RCRA consent decree also includes a SEP whereby FMC commits $1,650,000 to fund a study of the potential health effects on residents of the Fort Hall Indian Reservation that may have resulted from releases of hazardous substances at the FMC facility.

accounted for less than 1% of all of FMC's PM–10 emissions and did not appear to contribute to the violations that have been recorded on the Tribal monitors. EPA stated it believed it was appropriate to split the nonattainment area at the State-Reservation boundary despite this new information. EPA specifically requested comment, however, on whether it would be preferable to split the current Power-Bannock Counties PM–10 nonattainment area at the State-Reservation boundary, except to include in the Fort Hall PM–10 nonattainment area that portion of the FMC facility located on State lands.

Both the State and FMC commented on this issue. The State advised EPA it would be comfortable with either approach. FMC stated that it was equally unhappy with either approach. FMC went on to state that either approach would necessitate two implementation plans (i.e., a SIP and a FIP/TIP). EPA disagrees that splitting the nonattainment area, either along the State-Reservation boundary or including all of the FMC facility in the Fort Hall nonattainment area, will result in any more implementation plans than if the area remains as one nonattainment area. In all events, the State must submit a SIP revision to address the previous deficiencies in the State's 1993 PM–10 SIP covering State lands. The State's plan must address that portion of the FMC facility on State lands, regardless of whether that portion of the FMC facility is located in the Power-Bannock Counties PM–10 nonattainment area, the Fort Hall PM–10 nonattainment area, or the Portneuf Valley PM–10 nonattainment area. EPA and the Tribes will promulgate Federal Implementation Plans and Tribal Implementation Plans covering lands within the exterior boundaries of the Fort Hall Indian Reservation.

After considering the comments of the State and FMC on this issue, EPA continues to believe it is preferable to split the nonattainment area along the State-Reservation boundary. Apart from the technical air quality information, the fact that the existing Power-Bannock Counties PM–10 nonattainment area encompasses two regulatory jurisdictions is a major additional reason why EPA has decided to grant the State's request to split the nonattaiment area. EPA therefore believes it is more appropriate to split the nonattainment areas in a manner that respects this jurisdictional distinction.

III. Final Action

By this action, the existing Power-Bannock Counties PM–10 nonattainment area is divided into two nonattainment areas that together cover the identical geographic area of the existing nonattainment area. The revised areas will be divided at the boundary between State lands and the Fort Hall Indian Reservation, with one revised area, referred to as the "Portneuf Valley PM–10 nonattainment area," consisting of State lands, and the other revised area, referred to as the "Fort Hall PM–10 nonattainment area," consisting of lands within the exterior boundaries of the Fort Hall Indian Reservation. Both the Portneuf Valley PM–10 nonattainment area and the Fort Hall PM–10 nonattainment area will retain designations as PM–10 nonattainment areas and a classification of moderate as a result of this action.

IV. Administrative Requirements

A. Executive Order (E.O.) 12866

Under Executive Order 12866, 58 FR 51735 (October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The OMB has exempted this action from review under E.O. 12866. In addition, the Agency has determined that an action revising the designation of an area by creating two separate nonattainment areas under section 107(d)(3) of the CAA results in none of the effects identified in E.O. 12866 as constituting a significant regulatory action. The revised designations together cover the same geographic area and the same sources as the original designation and the classification of the areas remains unchanged by this action.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. § 601 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities unless EPA certifies that the rule will not have a significant economic impact on substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. A regulatory flexibility screening of this action revealed that it would not have a significant adverse economic impact on a substantial number of small entities. An action revising the designation of an area by creating two separate nonattainment areas under section 107(d)(3) of the CAA is an action affects only the boundary of the geographic area. The revised designations together cover the same geographic area and the same sources as the original designation and the classification of the areas remains unchanged by this action. Therefore, this action does not impose any new requirements on small entities. See Mid-Tex Electric Cooperative, Inc. v. FERC, 773 F.2d 327 (D.C. Cir. 1985) (agency's certification need only consider rule's impact on entities subject to the requirements of the rule). To the extent that a State, Tribe or EPA must adopt new regulations, based on an area's nonattainment status, EPA will review the effect those actions have on small entities at the time EPA takes action on those regulations. Therefore, pursuant to 5 U.S.C. 605(b), EPA certifies that today's action does not have a significant economic impact on a substantial number of small entities within the meaning of those terms for RFA purposes.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 04–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, when EPA promulgates "any general notice of proposed rulemaking that is likely to result in promulgation of any rule that includes any Federal mandate that may result in the expenditures by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more" in any one year. A "Federal mandate" is defined, under section 101 of UMRA,

as a provision that "would impose an enforceable duty" upon the private sector or State, local, or Tribal governments," with certain exceptions not here relevant. Under section 203 of UMRA, EPA must develop a small government agency plan before EPA "establish[es] any regulatory requirements that might significantly or uniquely affect small governments." Under section 204 of UMRA, EPA is required to develop a process to facilitate input by elected officers of State, local, and Tribal governments for EPA's "regulatory proposals" that contain significant Federal intergovernmental mandates. Under section 205 of UMRA, before EPA promulgates "any rule for which a written statement is required under [UMRA section] 202," EPA must identify and consider a reasonable number of regulatory alternatives and either adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule, or explain why a different alternative was selected.

EPA has determined that this action does not include a Federal mandate that may result in the expenditures by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. An action revising the designation of an area by creating two separate nonattainment areas under section 107(d)(3) of the CAA is an action affects only the boundary of the geographic area. The revised designations together cover the same geographic area and the same sources as the original designation and the classification of the areas remains unchanged by this action. Therefore, this action does not impose any new requirements on the State of Idaho, the Shoshone-Bannock Tribes, or the private sector. Accordingly, EPA has determined that this action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or Tribal governments in the aggregate, or to the private sector. Consequently, sections 202, 204, and 205 of UMRA do not apply to today's action, and EPA is therefore not required to and has not taken any actions to meet the requirements of these sections of UMRA. With respect to section 203 of UMRA, EPA has concluded that this action includes no regulatory requirements that will significantly or uniquely affect small governments, because it imposes no requirements on them. Nevertheless, during the development of the proposal for this action, EPA held several meetings with representatives of the Shoshone-Bannock Tribes to discuss the requirements of, and receive input regarding, this action.

D. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1966, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, 62 FR 19885 (April 23, 1997) applies to any rule that (1) is determined to be "economically significant" as that term is defined in E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final action is not subject to E.O. 13045 because it is not an economically significant rule as defined by E.O. 12866. In addition, it does not involve decisions based on environmental health or safety risks because these decisions were made at the time EPA promulgated the PM–10 NAAQS. Today's action does not change the health standard set by the NAAQS.

F. Executive Order 12875: Enhancing the Intergovernmental Partnership

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's action does not create a mandate on State, local or tribal governments and does not impose any enforceable duties on these entities. An action revising the designation of an area by creating two separate nonattainment areas under section 107(d)(3) of the CAA is an action affects only the boundary of the geographic area and does not impose any regulatory requirements. The revised designations together cover the same geographic area and the same sources as the original designation and the classification of the areas remains unchanged by this action. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

G. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's action does not impose substantial direct compliance costs on the communities of Indian tribal governments. An action revising the designation of an area by creating two separate nonattainment areas under section 107(d)(3) of the CAA is an action affects only the boundary of the geographic area and does not impose any regulatory requirements. The revised designations together cover the same geographic area and the same sources as the original designation and the classification of the areas remains unchanged by this action. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule. In taking this action, EPA consulted with representatives of the Shoshone-Bannock Tribes to permit them to have meaningful and timely input into its development. Prior to issuing the proposal to split the Power-Bannock Counties PM–10 nonattainment area, EPA met on three occasions with representatives of the Shoshone-Bannock Tribes to discuss the basis for and consequences of splitting the nonattainment area and to hear the Tribe's concerns with splitting the nonattainment area. EPA also had several telephone conferences with representatives of the Shoshone-Bannock Tribes to learn of the Tribes' concerns prior to the proposal. In addition, EPA provided public notice and an opportunity for comment on EPA's proposal to split the Power-Bannock Counties PM–10 nonattainment area a 30 day prior to this action. The Tribes' concerns and EPA's response to those concerns are discussed in the proposal, 63 FR 33602–33603, and in Section II of this notice.

H. National Technology Transfer and Advancement Act of 1995 (NTTAA)

Section 12(d) of NTTAA, Pub. L. No. 104–113, Section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary standards.

An action revising the designation of an area by creating two separate nonattainment areas under section 107(d)(3) of the CAA does not establish technical standards. Therefore, this action is not subject to the NTTAA.

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 4, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: October 30, 1998.

Chuck Clarke,

Regional Administrator, Region 10.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 81.313, the table entitled "Idaho—PM–10" is amended by revising the entry for "Power-Bannock Counties, part of: (Pocatello)" to read as follows:

§ 81.313 Idaho.

* * * * *

IDAHO—PM–10

Designated area	Designation		Classification	
	Date	Type	Date	Type
. . . .	.	.	.	.
Power-Bannock Counties, part of: (Pocatello):				
State Lands				
Portneuf Valley Area	11/15/90	Nonattainment	11/15/90	Moderate.
T.5S, R.34E Sections 25–36.				
T.5S, R.35E Section 31.				
T.6S, R.34E Sections 1–36.				
T.6S, R.35E Sections 5–9, 16–21, 28–33.				
Plus the West 1/2 of Sections 10, 15, 22, 27, 34.				
T.7S, R.34E Sections 1–4, 10–14, and 24.				
T.7S, R.35E Sections 4–9, 16–21, 28–33.				
Plus the West 1/2 of Sections 3, 10, 15, 22, 27, 34.				
T.8S, R.35E Section 4.				
Plus the West 1/2 of Section 3.				
Power-Bannock Counties, part of: (Pocatello):				
Fort Hall Indian Reservation	11/15/90	Nonattainment	11/15/90	Moderate.
T.5S, R.34E Sections 15–23.				
T.5S, R.33E Sections 13–36.				
T.6S, R.33E Sections 1–36.				
T.7S, R.33E Sections 4, 5, 6.				
T.7S, R.34E Section 8.				
. . . .	.	.	.	.

[FR Doc.98–29663 Filed 11–4–98; 8:45 am]
BILLING CODE 4560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–98–4662]

RIN 2127–AC19

Federal Motor Vehicle Safety Standards; School Bus Body Joint Strength

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This rule amends Federal Motor Vehicle Safety Standard No. 221, *School Bus Body Joint Strength* (49 CFR 571.221), which requires school bus body panel joints to be capable of holding the body panel to the member to which it is joined when subjected to a force of 60 percent of the tensile strength of the weakest joined body panel. Currently, the standard applies only to school buses with a gross vehicle weight rating (GVWR) greater than 10,000 pounds. This rule extends the applicability of the standard to school buses with a GVWR of 10,000 pounds or less, narrows an exclusion of maintenance access panels from the requirements of the standard, and revises testing requirements.

This rule ensures that children are provided equivalent levels of protection against joint separation in small as well as large school buses. Since a larger proportion of small school buses than of large school buses are lift-equipped to transport mobility impaired students compared to large buses, this rule particularly enhances the safety of mobility impaired children.

DATES: This rule is effective May 5, 2000. Optional early compliance with the changes made in this final rule is permitted beginning November 5, 1998. Any petitions for reconsideration of this final rule must be received by NHTSA not later than December 21, 1998.

ADDRESSES: Petitions for reconsideration should refer to the docket number for this action and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Copies of the Final Regulatory Evaluation for this rule can be obtained from: Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC, 20590, telephone: (202) 366–9324. Docket hours are 10 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Charles R. Hott, Office of Crashworthiness Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW, Washington, DC 20590, (202) 366–0247.

SUPPLEMENTARY INFORMATION:

I. Summary of the Final Rule
II. Background
II. Amendments
A. Applicability to small school buses
B. Maintenance access panels
C. Other issues relating to exclusions
D. Test procedures
E. Other issues
IV. Rulemaking Analyses and Notices
A. EO 12866; DOT Regulatory Planning and Review and DOT Policies and Procedures
B. Regulatory Flexibility Act
C. Paperwork Reduction Act
D. National Environmental Policy Act
E. Executive Order 12612 Federalism
F. Civil Justice Reform

I. Summary of the Final Rule

This rule is intended to enhance the applicability and objectivity of Standard No. 221's school bus joint strength requirements. The standard currently applies only to large school buses (GVWR greater than 10,000 pounds). The standard specifies strength requirements for each "body panel joint," which is currently defined as the area of contact or close proximity between the edges of a body panel and another body component, excluding spaces designed for ventilation or another functional purpose, and excluding doors, windows, and maintenance access panels (MAPs).

This rule extends the applicability of Standard No. 221 to small school buses (GVWR of 10,000 pounds or less) and narrows the present exclusion of MAPs from the joint strength requirements. Except as noted below, the rule requires panels to be attached at least at every 8 inches (203 millimeters (mm)), and requires body panel joints to withstand a tensile strength of 60 percent of the tensile strength of the weakest joined body panel. Excluded from these requirements are MAPs outside of the passenger area, and MAPs, smaller than a specified size, inside the passenger area. Joints from which a test sample cannot be obtained because of the joint's size or the curvature of the panels comprising the joint, are excluded from the tensile strength requirements.

Some of the definitions adopted by this rule differ from the NPRM. For example, the rule simplifies the definition of "maintenance access panel," and adopts a definition of "passenger compartment" based on the definition in Standard No. 217, *Bus Emergency Exits and Window Retention and Release* (49 CFR 571.217). The proposal for deleting the "hourglass" shape of the test specimen has not been adopted.

II. Background

NHTSA is authorized by 49 U.S.C. 30101, *et seq.*, to issue Federal motor vehicle safety standards for new motor vehicles, including school buses.[1] In 1974, Congress enacted the Motor Vehicle and Schoolbus Safety Amendments (Pub. L. 93–492), which directed NHTSA to issue Federal motor vehicle safety standards for various aspects of school bus safety, including interior protection for occupants, floor strength, and crashworthiness of body and frame. In response to that Congressional mandate, NHTSA issued Standard No. 221, *School Bus Body Joint Strength*.

Standard No. 221 requires the strengthening of school bus body panel joints to prevent these joints from separating during a crash and becoming cutting edges that could cause serious injuries or allowing passenger ejection through openings created by such panel separations. The standard currently provides that each school bus body panel joint must be capable of holding the body panel to the member to which it is joined when subjected to a force of 60 percent of the tensile strength of the weakest joined body panel. Excluded from this requirement are doors, windows, spaces designed for ventilation or another functional purpose, and MAPs. MAPs were excluded because they involve areas on the vehicle requiring frequent maintenance and need to have unrestricted accessibility. Although MAPs were not defined in the standard, it was NHTSA's intent that manufacturers would limit MAPs to panels providing access to areas requiring routine maintenance.

Maintenance access panels (MAPs). The exception of MAPs from Standard No. 221 has been an issue of concern to NHTSA, the National Transportation Safety Board (NTSB), and school bus manufacturers. Through information provided by manufacturers and inspection of buses being built in the years following the effective date of the standard in 1977, NHTSA learned that most manufacturers created MAPs that ranged from a few inches up to 12 inches wide above the window area and extending the entire length of the bus. In addition, nearly the entire rear wall of some buses was designated as a MAP.

In testing some of those MAPs after the effective date of the standard, the agency found the panels to be loosely attached and unable to withstand much force before detaching from the bus body or adjacent panels. For example, NHTSA's inspections of a variety of school bus makes and models disclosed that MAPs extending the length of the bus above the windows were not fastened down, but were held in place only by the window frames. On the other hand, NHTSA observed that in some buses which had been involved in crashes, panels that complied with the standard performed very well and rarely detached from the bus body and adjacent panels.

To correct the perceived MAP problem, NHTSA issued a notice of proposed rulemaking on November 27, 1981 (46 FR 57939) proposing to remove the exemption for all maintenance access panels except for a few that were considered critical for proper maintenance.

Over 200 comments were received in response to that notice, all but two of which opposed the proposed amendments. In addition, public meetings were held on these issues in March 1982, and again in January 1983. Commenters on the notice and representatives of interested parties at the meetings contended that NHTSA could show no safety problem or abuse of the standard and no injuries attributed to MAP failure, and that extra fasteners could delay proper maintenance because of difficulties in removing them. They also suggested that the additional cost of compliance might be $500 per bus with no greater safety benefits, and that the proposals could include other previously excluded joints unrelated to MAPs.

NHTSA conducted an internal review of the comments received and available crash data and concluded that the assertions of the commenters had substantial merit. The agency was not able to locate a documented case of personal injury resulting from MAP failure, and was unable to identify any specific instances of abuse of the MAP exclusion. The agency believed, however, that the potential for abuse existed and urged manufacturers to limit their use of MAPs to those areas where such panels were clearly necessary. The agency also agreed that requiring extra fasteners on MAPs might not enhance safety because an increase in fasteners or a decrease in MAPs could complicate the maintenance process, thus discouraging prompt maintenance. Finally, the agency concluded that increased compliance costs could be detrimental to safety by inducing owners of older buses to keep them longer than they normally would, without a safety benefit. In view of these considerations, NHTSA terminated the rulemaking on July 2, 1984 (49 FR 27181), but nevertheless urged bus manufacturers to minimize the number of MAPs.

Although NHTSA terminated the rulemaking, NHTSA continued to consider the matter in light of additional information received after the termination, such as documentation of MAP separations in actual crashes that caused injuries, and evidence that some previously-complying panels had been redesignated as MAPs. The NTSB, in several recommendations based on a number of serious school bus accidents occurring after the termination, proposed elimination of the exclusion for MAPs and recommended other improvements in school bus safety. The NTSB also indicated that joint separation had occurred in crashes involving small school buses.

In June 1987, NHTSA issued an advance notice of proposed rulemaking (ANPRM) (52 FR 23314; June 19, 1987) on school bus body joint strength issues. The ANPRM requested comments on possible proposals to specify minimum strength requirements for the floors of school buses with a GVWR over 10,000 pounds, narrow the MAP exclusion from the joint strength requirements of Standard No. 221, and revise the test procedures of the standard.

Thirty-seven comments were received in response to the ANPRM, including comments from school bus manufacturers, school bus operators, and Federal, state and local governmental agencies. After considering all comments and completing a series of dynamic tests of school bus floor joints, NHTSA published a notice of proposed rulemaking on March 15, 1991 (56 FR 11142) (hereinafter NPRM), proposing to: (1) Extend the applicability of Standard 221 to small school buses (GVWR 10,000 pounds or less); (2) narrow the existing exclusion of MAPs; and (3) expand testing requirements and clarify testing procedures for school bus body panel joints.

NHTSA received 18 comments to the NPRM. Commenters included seven school bus manufacturers, one equipment supplier, six state organizations, three trade and citizens' associations, and one private citizen. All comments were fully considered and the significant ones are addressed below.

III. Amendments

A. Applicability to Small School Buses

This rule extends the applicability of Standard No. 221 to small school buses (GVWR 10,000 pounds or less), as proposed.

Commenters were divided in their support of NHTSA's proposal to extend the standard to small school buses. The Maryland State Department of Education (MSDE), Maryland Motor Vehicle Administration (MMVA), Washington Superintendent of Public Instruction (SPI), Connecticut Department of Motor Vehicles (CDMV), California Department of Education (CDE), and the Blue Bird Body Company (Blue Bird) all expressed support for the proposal. In general, the state agencies believed that small school buses should offer the same passenger protection as large school buses. Blue Bird stated that although there does not appear to be sufficient safety need or cost benefit justification for extending the requirements of Standard No. 221 to small school buses, the company supports the proposal in the interest of providing uniform safety levels in all school buses and because use of small school buses is growing.

Commenters opposed to the extension of Standard No. 221 to small school buses were Collins Industries (Collins), National Truck Equipment Association on behalf of the Manufacturers Council of Small School Buses (MCSSB), General Motors Corporation (GM), Ford Motor Company (Ford), and Mid Bus Inc. (Mid Bus). Most of these commenters believed that the findings of the NTSB were insufficient to establish a safety need to extend the standard to small school buses.

The agency disagrees, and believes there is a safety need to extend the standard to small school buses. NTSB was concerned that small school buses experience higher crash forces in a crash than do large school buses, since size and mass are important factors in crash severity. The NTSB studies on the crashworthiness of large and small school buses found that 6 of 19 small school bus crashes resulted in body panel joint separation (32 percent of the cases studied). In contrast, joint separations in large school buses

[1] 49 U.S.C. 30125(a)(1) defines a *schoolbus* as a passenger motor vehicle designed to carry a driver and more than ten passengers that the Secretary of Transportation determines "is likely to be used significantly to transport preprimary, primary, and secondary school students to or from school or an event related to school." NHTSA further defines a school bus as a bus that is sold or introduced in interstate commerce for purposes that include carrying students to and from school and related events, but does not include a bus that is designed and sold for operation as a common carrier in urban transportation. 49 CFR 571.3.

occurred in MAPs and floor joints, while body panel joints maintained structural integrity very well, even in severe crash forces. These results indicate that the requirements of Standard 221 are very effective (see NTSB Safety Study: Crashworthiness of Small Poststandard School Buses, October 11, 1989). Further, these results lead NHTSA to conclude that the structural integrity of small buses would be enhanced by the joint strength requirement of Standard 221. NHTSA concludes that small school buses should at least be subject to the same joint strength requirements as large school buses. This will better ensure that all children are provided equivalent levels of protection against injuries from joint separation, regardless of the GVWR of the vehicle transporting them.

Small school buses are becoming an increasingly larger part of the school bus fleet. From 1988 to 1993, the percentage of total school bus sales for small school buses rose from about 13 percent to about 19 percent (an increase of almost 50 percent in market share). From 1994 to the present, the percentage of small school bus sales has been holding steady at about 16 percent. This rise of sales is of concern because it indicates that crashes, and resultant injuries, are likely to increase.

Moreover, the agency notes that a larger proportion of small school buses than of large buses are lift-equipped to transport mobility impaired students. The school bus industry describes Type A and Type B school buses as being for "disability/special purpose" use. Extending Standard No. 221's requirements to small school buses thus enhances the safety of mobility impaired children. In addition, these buses may frequently be used to carry pre-primary, Head Start program children.

GM stated that small school buses are already subject to standards not applicable to large school buses, such as Standard Nos. 204, 208, 209, 210, 212, 219, and 301. Therefore, GM argued, a vehicle built in compliance with those standards has inherent structural integrity and occupant protection. Collins and MCSSB stated that small school buses actually have a double approach to passenger protection and restraint in crashes since they are subject to the compartmentalization requirements of large school buses as well as the seat belt requirements of Standard No. 208, *Occupant Crash Protection*.

NHTSA is not persuaded by these comments. The standards cited by GM help ensure the crashworthiness of a small school bus, but those standards address safety systems that are not directly relevant to school bus body panel joint integrity. For example, Standard No. 204 limits the rearward displacement of the steering control into the passenger compartment; 208, 209 and 210 address the occupant belt systems; 212 and 219 pertain to retention and intrusion of the windshield; and 301 addresses the vehicle's fuel system integrity. Similarly, in response to Collins and MCSSB, the fact that small school buses must comply with seat belt requirements and most (but not all) of the compartmentalization requirements of Standard No. 222 is irrelevant to the issue of upgrading the integrity of the bus body. The seat belt and compartmentalization requirements for small school buses help ensure that the passenger is restrained safely. Standard No. 221 regulates the lap joint construction method used to manufacture school bus bodies. The joint strength requirements will help ensure that the environment in which the passenger is restrained does not lose structural integrity in a crash. NHTSA views the occupant restraint and compartmentalization requirements of Standards No. 208 and 222 as complementing the joint strength requirements of Standard No. 221, and not as requirements that obviate the need for them.

MCSSB argued that the cost to manufacturers of bringing small school buses into compliance with Standard No. 221 would be prohibitive, considering the need for complete joint analysis, testing and certification programs, and possible material and design changes. Mid Bus estimated that having to comply with Standard No. 221 requirements would increase the cost of a small school bus by $1,982 (1996 dollars).[2]

The agency disagrees that the cost impact of the rule on small school buses is unreasonable. Currently, 21 states and the District of Columbia already require small school buses to comply with the joint strength requirements of Standard No. 221 at an additional cost ranging from $91 to $1,087 per vehicle. NHTSA estimates that the sales-weighted average increase in the consumer cost of a small school bus to comply with both the joint strength and the MAP requirements would be $343 (for a more detailed discussion of costs, including the cost impacts of the rule on large school buses, see the discussion of NHTSA's Final Regulatory Evaluation in the section on *Rulemaking Analyses and Notices*, below). All small school bus manufacturers already produce, at the purchaser's option, small school buses with body panel joints that comply with Standard No. 221. NHTSA believes, therefore, that extending the requirements of the standard to all school buses would not create an undue burden or expense for small school bus manufacturers since they are already tooled up for producing complying small school buses.

MCSSB expressed concern that chassis manufacturers would refuse to certify their chassis, forcing small school bus manufacturers to certify the chassis themselves or go out of business. Ford and Mid Bus also alluded to the potential problem of chassis manufacturers refusing to certify their chassis.

NHTSA does not believe the impacts of this rule on final-stage manufacturers will be unduly burdensome. As noted above, many states currently require small school buses to meet the joint strength requirements of Standard No. 221. Any final-stage school bus manufacturer producing a vehicle for sale in one of these states is already taking the necessary steps toward fulfilling its contractual obligations to meet Standard No. 221. In addition, any final-stage manufacturer of school buses is also required to meet the compartmentalization requirements of Standard No. 222, the crashworthiness requirements of Standard Nos. 204, 208, 209, 210, 212, 219, and 301 (as mentioned by GM, above), as well as the comprehensive series of FMVSSs that apply to school buses (e.g., Standard No. 217 for emergency exits and No. 108 for school bus lights). The commenters did not provide any information to demonstrate that a final-stage manufacturer, who is capable of fulfilling its present obligation to certify its vehicles to the extensive school bus safety standards, would be unable to certify to Standard No. 221. Moreover, Standard No. 221 specifies a relatively simple static-pull test procedure that manufacturers who choose to perform the test would not find burdensome to conduct. In contrast, Standards No. 212, 219 and 301 specify dynamic crash tests, and Standard No. 222 call for force applications and the calculation of head injury criterion values. NHTSA believes that, given the present certification responsibilities of final-stage manufacturers of small school buses and the level of testing necessary to test to FMVSS No. 221, these manufacturers have the means necessary to certify their vehicles to Standard No. 221, even in the absence of assurances from the chassis manufacturer. This assumes that the chassis manufacturer would not provide such assurances. The agency believes that the provision in the rule that excludes joints that can not be physically accommodated in the tensile testing apparatus from the 60 percent joint strength requirement will make it easier for more chassis manufacturers to provide assurances to final-stage manufacturers that the joints on the incomplete vehicle meets Standard No. 221.

[2] All costs shown are in terms of 1996 dollars unless otherwise noted.

B. Maintenance Access Panels

NHTSA is defining "maintenance access panel" to limit a manufacturer's latitude to designate panels as MAPs and thus be excluded from the strength requirements of the standard. Under this rule, to be excluded from the requirements of Standard No. 221 as a "maintenance access panel," a panel must meet the definition of a MAP, and must also meet certain criteria.

Definition. The definitions pertaining to maintenance access panels are the same as those proposed in the NPRM. This rule defines "maintenance access panel" as "a body panel which must be moved or removed to provide access to one or more serviceable component(s)." This rule also defines "serviceable component" as a part of the bus which is identified by the body or chassis manufacturer in the owners' or service manuals as requiring routine maintenance at least once each year. The definition specifies that "serviceable component" includes pneumatic and hydraulic devices, wiring harnesses, and tubing only at their attachments.

Criteria to be Excluded. However, the rule differs from the NPRM in setting criteria that a MAP must meet to be excluded from the requirements of Standard No. 221. To be excluded, the MAP must either: (1) Be located forward of the passenger seating area (the MAP must not lie between a vertical transverse plane located 762 mm (30 inches) in front of the forwardmost passenger seating reference point and a vertical transverse plane tangent to the rear interior wall of the bus at the vehicle's centerline); or (2) be located within the passenger seating area but have an opening that does not exceed 305 mm (12 inches) when measured across any two points diametrically on opposite sides of the opening.

In the NPRM, NHTSA proposed that any MAP that exposes the bus interior to areas below the floor, to the engine compartment or to compartments adjoining the engine compartment, would not be excluded, regardless of where in the bus interior the MAP was located. NHTSA also proposed that MAPs, other than those exposing the interior to areas below the floor or to the engine compartment or to compartments adjoining the engine compartment, which were in the passenger seating area had to meet size limits to be excluded from the joint strength requirements, ensuring that the MAP is no larger than required to provide access to the serviceable components the MAP covered. The proposed size limits provided a two-inch access margin around the periphery of serviceable components or clusters of components for handling and tool clearance during installation, replacement, inspection and adjustment procedures. The average spacing between components within a cluster of components covered by a single MAP could not exceed four inches.

Five manufacturers, two associations, and two state organizations commented on the proposal to narrow the exclusion of MAPs. The SPI and the California Highway Patrol (CHP) concurred with the proposal to restrict the size and locations of MAPs. SPI asserted that the present exclusion compromises the safety and structural integrity of school buses and that the proposed changes reflect a realistic limitation on the use of access panels.

Commenting in opposition to the NPRM, Thomas and Mid Bus asserted that there was not sufficient need shown to restrict MAPs. NHTSA disagrees. After reviewing both NTSB studies as well as reviewing recent NTSB school bus crash investigation reports, the agency found 7 out of 80 crashes studied involved MAP separations, causing head laceration injuries in two of the cases. In 4 of the 20 crashes involving small school buses, body joint separations occurred, resulting in one occupant with multiple leg fractures. Further, NHTSA's own tests have shown that MAP joints are not strong and can and do separate easily.

Navistar International Transportation Corporation (Navistar), National School Transportation Association (NSTA), MCSSB, and Blue Bird expressed concern that restricting MAPs as proposed would make required maintenance too difficult and time-consuming. They argued that mechanics would not take the time to replace all the fasteners to restore body panel joints to the 60 percent joint strength, and that mechanics would experience more cuts and abrasions because of tighter working areas. Those conditions could result in improperly accomplished maintenance, delays in required maintenance, increased failure of improperly-maintained parts, increased maintenance costs, and increased injuries because of the smaller sizes of the panels. Thomas, Mid Bus, and NSTA argued that the size restriction is too stringent. Mid Bus suggested an alternative restriction, i.e., that the MAP should be no smaller than 92,903 square millimeters (mm^2) or 144 square inches (in^2).

NHTSA can not agree with commenters that the proposed MAP restrictions will necessarily result in maintenance personnel not replacing all the fasteners after opening or removal. NHTSA believes that manufacturers are capable of designing their MAPs in such a manner as to minimize potential problems. For example, school bus designers and engineers may be able to redesign their current MAPs to provide fewer fasteners for mechanics to replace. Nevertheless, NHTSA has decided that the proposed limitations on MAP size are too restrictive. Clearance of two inches on a side in servicing components does not appear to be sufficient. After considering other alternatives for MAP exclusions, NHTSA has decided to exclude from the joint strength requirements of Standard No. 221 those maintenance access openings that do not exceed 305 mm (12 inches) when measured across any two points diametrically on opposite sides of the opening. That measurement is independent of the serviceable component's perimeter and location. The adopted restriction will ensure that MAPs are no larger than needed to provide access to the serviceable components the MAP covered. The proposed 102 mm (4 inches) average maximum distance limitation between components has not been adopted since no such component clusters have been identified either by NHTSA or by the commenters.

Engine access panels. Thomas and Navistar asserted that because engines need sometimes daily maintenance, engine covers should be excluded wherever located. NHTSA believes that most front engine buses have engine covers that are located outside the defined passenger compartment area and that maintenance on rear engine buses is routinely accomplished from the outside. Nevertheless, the agency agrees that direct and often-recurring engine maintenance should be quickly and easily accomplished. This includes easy accessibility to the engine compartment by the driver who may not have an extensive array of tools available. Accordingly, NHTSA has decided that engine access panels will be excluded from the requirements of the standard.

MAP floor panels. MAPs that expose the bus interior to areas located below

the bus floor or within the engine compartment are excluded from Standard No. 221's requirements if the MAP meets the restrictions on either MAP location or size described above. The NPRM did not provide for conditions whereupon interior MAP floor panels or interior MAPs leading into the engine compartment could be excluded from Standard No. 221. This was because NHTSA believed these panels should be universally required to comply with the joint strength requirement since the panels serve to isolate the bus interior from areas where fire is most likely to occur, and are an integral part of the vehicle's barrier against passenger compartment fires. In commenting on the proposal, Blue Bird asserted that subjecting floor panels to the body panel strength requirements is an unjustified extension of the standard that would do little to provide fire protection for the passenger compartment. NSTA stated that the strength of a joint has little or no relation to its effectiveness as a firestop.

It was NHTSA's intent in making the proposal to protect passengers as much as possible from fire entering the passenger compartment through a separated floor panel, as well as to prevent passengers from being ejected through a separated floor panel. Even though compliance with the joint strength requirement may not render a floor panel fireproof, proper joint strength may prevent the panel from separating. This would, in turn, help confine a fire to the area outside the passenger compartment, thereby allowing passengers more time to evacuate the vehicle. However, NHTSA agrees that there is an insufficient fire-related reason at this time to require any MAP, regardless of its location outside the bus occupant space or insignificant size, to meet the joint strength requirement if it is on the floor. Thus, the rule excludes MAPs on the floor of the vehicle if the MAP is forward of the passenger compartment or is of a size small enough to qualify the MAP for the exclusion.

C. Other Issues Relating to Exclusions

Ventilation. Currently, spaces designed for ventilation are excluded from the body joint strength requirements, and this rule continues that exclusion. The NPRM proposed to end the exclusion because the agency believed that the exclusion is not being utilized and therefore serves no useful purpose. However, Blue Bird and Thomas informed NHTSA that that belief is not correct. Blue Bird stated that, contrary to NHTSA's impression, ventilation panels are used for heater housings, heater air diffusers, heater ducts, heater hose covers, and air conditioning ducts and diffusers. Blue Bird argued that all those components serve important functional purposes, that they enclose no occupant air space, and are typically supported by panels that are required to comply with the standard. Blue Bird further asserted that eliminating this exclusion is not justified from a safety need and would be overly burdensome in terms of cost and restricted access to those components by maintenance personnel. Thomas stated that this revision would result in increased costs from redesign and extra fastening as well as decreased serviceability for the end user of the vehicle.

After careful consideration of the comments of Thomas and Blue Bird, NHTSA is persuaded that the ventilated panel exclusion is being utilized and that ventilation panels do serve important functional purposes. Further, due to their size and location, ventilation panels are not as likely as first thought to cause occupant injuries in an accident. NHTSA believes that extending the joint strength requirements to these panels would result in increased costs for redesign and additional fasteners, as well as decreased serviceability for the end user, without a commensurate safety benefit. Therefore, ventilation panels will continue to be excluded from the joint strength requirements of Standard 221.

Perforated panels. Thomas stated that perforated metal sheets are widely used in the interior linings of school buses to reduce interior noise. Thomas stated that the perforations do not extend into the joint area, making the joints stronger than the perforated portions of the panels. Thomas asserted, therefore, that the perforated portions could tear before the joints fail. Thomas suggested that NHTSA evaluate the safety advantages and disadvantages of the use of perforated headlining material to determine whether "special considerations" should be given for such material.

NHTSA is aware that perforated material is often used in school bus ceilings for noise reduction. The agency is unaware of any problems with perforated panels, such as instances where perforations contributed to the failure of a joint or where panels separated due to torn perforations. Nevertheless, the agency will monitor the use of perforated panels and their performance in school buses to determine whether there is a safety need to limit or otherwise regulate their use.

Curved and small joints. This rule excludes from the joint tensile strength requirement joints from which a test sample cannot be obtained because of the size of the joint or the curvature of the panels comprising the joint.

The NPRM proposed a procedure for testing curved joints, such as those found in roof or ceiling joints. The procedure would have specified that the test specimen is prepared by selecting a joint segment where the radius of curvature is at least 508 mm (20 inches). Thomas suggested a method of testing a curved joint, but stated that in order to prevent distortion of the test results, the gripping devices must be able to grip the sample in the same radius as the sample curvature. To avoid such complex test procedures, Thomas strongly recommended that NHTSA approve the use of surrogate joints.

NHTSA recognizes that the curved shape of such joints poses difficulty in obtaining accurate test results. The application of force on a curved surface would cause the surface to flatten, thus misrepresenting the actual force loading on the panel. Although NHTSA believes that it is possible to design and fabricate test fixtures and procedures capable of testing curved joints, such fixtures would involve additional certification costs for manufacturers and additional cost for NHTSA in the agency's compliance testing. Since the agency is not aware of any data indicating that injuries have been caused disproportionately by curved joint separation, NHTSA believes that the potential costs and technical difficulty of testing curved joints more than outweigh any potential safety benefits. However, the agency will continue to monitor this issue and initiate rulemaking should curved joint separation become a safety problem.

Thomas and GM commented on NHTSA's proposals to test small and complex joints such as those taken from door, window, and other small or inaccessible body panel joints. GM stated that NHTSA's proposals regarding the testing of these joints did not fully clarify specimen preparation procedures for such joints found in passenger vans or van cutaways. The commenters contended that many of the joints in those vehicles cannot be tested under either current or proposed testing procedures. GM suggested that NHTSA further study such types of joints and either further clarify pertinent test procedures or exclude such joints from the requirements of Standard 221 as being nontestable. Thomas asserted that the testing of very short pieces of frame that would require fittings would violate ASTM test principles. Thomas further argued that tests need not be performed in this manner if NHTSA would approve the use of surrogate sampling.

NHTSA agrees that complex joints such as those found in body panels configured to join two or more panels in a single plane in any manner other than linear, as well as other small joints, cannot feasibly be tested under either current or proposed testing procedures. Accordingly, NHTSA has decided that test specimens from joints with discrete fasteners will be taken from 305 mm (12 inch) segments (203 mm (8 inches) at the neck) of only flat body panels. Small and complex joints, as well as trim, decorative parts, floor coverings, and molding strips will not be tested. The agency has no data indicating that any injuries have been caused by failure of those small and complex joints or components, and NHTSA believes that the potential cost of trying to test them would far outweigh any potential safety benefits.

While curved, small and complex joints are excluded from the tensile test requirement because they cannot be accommodated on the test apparatus, they are nevertheless subject to the requirement in S5.1.1 that no body panel, when joined to another body panel, shall have an unattached segment at the joint longer than 203 mm (8 inches). Presumably rivets or other fasteners will be used. This requirement helps ensure that the joints will maintain their integrity in a crash.

D. Test Procedures

This rule makes a number of revisions to Standard No. 221's test procedures, including adopting a provision that support members must remain attached to the specimen during testing; and that the term "approximately perpendicular" be deleted from S6.3.2 and replaced by a provision that the joint be in stress at 90 degrees plus or minus 3 degrees from the joint centerline. The parts of the NPRM proposing these changes did not engender opposition.

In contrast, the proposal that the existing "hourglass" shape of test specimens be eliminated in favor of straight sides was strongly opposed by Thomas and Blue Bird. The idea behind the proposal was that with a simple rectangular shape, more joints could potentially be tested. However, Thomas stated that a straight-sided test specimen was contrary to the shape principles set forth in the ASTM sample testing procedures. Those principles were designed to "even-out" the force distortions induced by the testing device. Blue Bird stated that the proposal to eliminate the hour glass shape was unacceptable, arguing that the test specimens need to be wider at the grips than at the joint section being tested. It said that this width is needed to allow for proper attachment of the specimen to the test grips and to ensure that adequate loading can be properly applied to the joint portion of the specimen.

NHTSA is persuaded by the comments of Thomas and Blue Bird and has decided to retain the hourglass shape of test specimens. The ASTM Standards call for the shape of the test specimen to be narrower at the sample's longitudinal centerline than at the ends of the specimen where the grips are attached. That shape concentrates the load exerted by the grips in the center of the specimen rather than at the edges as in the case of a straight-sided specimen.

Another proposal that generated opposition was the proposed discontinuance of the deduction of the total area of material removed for installation of fasteners (i.e., holes drilled for installation of rivets or screws) in calculating the tensile strength of each joined component. Thomas asserted that the proposal was not logical because the removal of material to make the fastener holes does in fact reduce the cross-sectional area being tested. Further, the commenter said that the change proposed by NHTSA would have the effect of increasing the joint strength required to meet the test. Blue Bird alluded to the NHTSA interpretation letter to that company dated November 28, 1978, which was the basis for the proposal. In that letter, NHTSA stated that subtracting the fastener holes was the proper procedure for calculating the correct area of the sample, but did not explain the basis for that conclusion. Blue Bird urged that subtracting the fastener holes is the correct method of calculating the area of the sample.

NHTSA has carefully considered this issue in light of the comments of Thomas and Blue Bird. It is easier for a sample joint to meet the standard's tensile strength requirement when the deduction is made for fastener holes. As previously discussed in this notice, the required strength of a given joint is based on the tensile strength of the weakest body panel attached at that joint. If the area for fastener holes were deducted from the total area of the test specimen when calculating the strength of the test specimen, the tensile strength of a sample joint could appear higher than the actual tensile strength of that joint. As a result, a given joint could meet the 60 percent tensile requirement of Standard 221 using fewer fasteners than those that would be necessary if the deduction were not made. In setting the 60 percent tensile requirement, the agency determined that minimum value met the need for motor vehicle safety. Since deducting for fastener holes can result in a joint being actually weaker than 60 percent of its weakest member, safety is better served if the deduction were not made. Accordingly, the letter of interpretation issued by this agency on November 28, 1978 that provided for the deduction is hereby rescinded.

E. Other Issues

Relative vs. Minimum Strength

Several comments on NHTSA's ANPRM of June 19, 1987 suggested that NHTSA replace the present relative body joint strength requirement (60 percent of the tensile strength of the weakest joined body panel) with an absolute minimum strength requirement. Specifically, Thomas suggested that the minimum required joint strength for interior body panels be established at 60 percent of the strength of 22 gauge steel, with a minimum tensile strength of 3,103 mPa (45,000 psi). For exterior body panels, Thomas suggested that the requirement be based on 20 gauge steel. The State of Connecticut suggested that a minimum strength requirement be based on materials currently used in school buses that performed favorably relative to those that performed poorly in similar crashes studied by the NTSB. The National Association of State Directors of Pupil Transportation suggested that minimum strength requirements be based on 60 percent of the tensile strength of 18 gauge steel for exterior panels and 20 gauge steel for interior panels, regardless of the materials used. Ford suggested that NHTSA include a minimum strength requirement as an optional alternative to the present relative strength requirement. NHTSA tentatively determined that the standard should be amended to establish a minimum strength standard, but requested comments in the NPRM on the issue.

NHTSA received comments on both sides of this issue. Those favoring establishment of a minimum strength requirement generally agreed that all school buses, regardless of size, should be subject to the same body panel joint strength requirements. Thomas disagreed with the proposal to base a minimum strength requirement on 18 and 20 gauge steel, contending that 20 and 22 gauge steel would suffice. Connecticut agreed with Thomas, but disagreed with Ford's suggestion to make an absolute strength standard optional. The West Virginia Department

of Education urged adoption of the recommendation of the National Standards Committee of the 11th National Conference on School Transportation which met in May 1990. That committee recommended that school bus body panels be constructed of prime commercial quality steel or other metal or material with strength at least equivalent to all-steel, as certified by the manufacturer. The Maryland Departments of Education and Motor Vehicles believed it appropriate to establish a minimum absolute joint strength standard which allows for equivalent strength materials. SPI and the CDE favored basing an absolute strength standard on 18 and 20 gauge steel for external and internal body panels respectively, while the CHP favored a standard governing the minimum strength for the weaker component of each joint, thus preventing the manufacturer from deliberately selecting body panel materials of low tensile strength.

Collins, Blue Bird and MCSSB opposed the proposal to set an absolute minimum strength standard. Collins asserted that the relative strength standard makes the most sense, insofar as the joint strength requirements must be consistent with the parent materials being joined, the expected loads, the probability of occurrence, and the location of the joint. Blue Bird argued that the proposal was neither practical nor objective and stated that some state specifications contain design and performance standards that require manufacturers to provide specific gauges and thicknesses of material for most body components. MCSSB asserted that the relative strength standard is preferable to the absolute standard in that the relative standard provides greater flexibility in material usage and methods which will increase strength. To set an absolute minimum requirement would restrict future developments.

NHTSA carefully considered the comments on this issue and was persuaded by the comments of Collins, Blue Bird, and MCSSB that body panel joint strength should be consistent with the bus manufacturers' choice of body panel materials. School bus manufacturers currently utilize many different thicknesses, or gauges, of steel in constructing their bus bodies, depending on the type and location of the joints. Thicknesses of panels and structural components range from 0.9 millimeters (0.034 inches) to 16 millimeters (.625 inches). Lastly, a minimum standard based on steel gauge would force manufacturers to overdesign their lightly loaded joints, requiring costly new tooling. Many school bus manufacturers are small business entities. Having to build to the heaviest loaded joint or the thickest gauge, somewhere between 18 and 22 gauge steel as suggested by commenters, would result in increases in vehicle weight, manufacturing costs, and operating costs with little or no corresponding increases in school bus safety benefits. Therefore, specifying a minimum absolute strength requirement by specifying a minimum steel gauge would be design restrictive and require significant changes in current industry design practices and procedures.

Some commenters expressed concern that under the relative strength approach, a manufacturer could deliberately select weak materials, thus lowering overall joint strength and reduce the number of fasteners needed for assembly. This has not happened under standard industry practices, however, and this agency has noted no degradation of safety attributable to the relative strength requirement. In its *Safety Study: Crashworthiness of Large Poststandard School Buses*, March 18, 1987, the NTSB found that large school buses with body panel joints that complied with the standard maintained structural integrity very well, even in severe crashes, thus providing effective protection to school bus occupants. Accordingly, NHTSA perceives no safety basis for changing the current relative strength standard in favor of an absolute minimum standard.

Effective Date

49 U.S.C. 30111(d) provides that a standard may not become effective before the 180th day or later than one year after the standard is prescribed, except upon a finding that a longer or shorter lead time is in the public interest. The NPRM proposed an effective date of 18 months after date of publication in the **Federal Register** for this final rule. None of the commenters addressed that issue.

As pointed out above, many if not all small school bus manufacturers currently offer, as an option, small school buses with body panel joints that comply with Standard No. 221 to accommodate those 21 states and the District of Columbia that require such compliance. The agency believes, therefore, that at least some of the tooling needed to comply with the changes mandated by this final rule is already in place. Nevertheless, some additional tooling may be required for all small school buses to be produced in compliance with Standard No. 221. In addition, MAPs in both large and small school buses may require redesign and testing in order to meet the new requirements. Accordingly, NHTSA believes that 18 months is sufficient lead time for manufacturers to accomplish any necessary redesign, retooling, testing, and marketing strategy to meet the requirements promulgated by this final rule, and that the 18 month lead time is therefore in the public interest.

IV. Rulemaking Analyses and Notices

A. Executive Order 12866, Regulatory Planning and Review, and DOT Regulatory Policies and Procedures

NHTSA has evaluated the impacts of this final rule and has determined that it is significant within the meaning of the Department of Transportation's regulatory policies and procedures. This rule was reviewed under E.O. 12866.

The agency has prepared a Final Regulatory Evaluation (FRE) for this rulemaking action and has placed a copy of that FRE in the public docket. A copy of the FRE may be obtained by contacting the Department's Docket at the address given at the beginning of this document.

As explained in the FRE, NHTSA estimates that the average consumer cost per vehicle affected by this final rule will be approximately $221 per large school bus and $343 per small school bus. Those retail price increases include variable costs, fixed factory overhead, tooling, and manufacturers' and dealers' profit margins. The difference in cost between large and small buses arises from the fact that large school buses, which already comply with the body panel joint strength standards of Standard 221, have only to bring their MAPs into compliance. Small school buses, on the other hand, which have heretofore been excluded from the joint strength requirements of Standard 221, must bring their body panel joints and their MAPs into compliance.

Information available to NHTSA indicates that the average combined total of annual sales of large and small school buses is approximately 35,000 units. Approximately 84 percent of those are large and 16 percent are small.

The estimated costs for small school buses were derived as follows. As discussed above, 21 states and the District of Columbia currently require small school buses to comply with the joint strength requirements of Standard No. 221. Sales within those jurisdictions represent 35 percent of small school bus sales. NHTSA estimates that the average cost of bringing body panel joints on 65 percent (@($414) joint strength upgrade) of the small school buses and MAPs on 100 percent (@($74) MAP redesign) of the small school buses into compliance with Standard No. 221 will be $343 per vehicle. (.65($414)+1.00($74)=$343.) The total annual consumer cost for implementing the terms of this final rule for small school buses, therefore, is estimated to be $1,920,800. ($343×16% of 35,000 school buses.) These costs are based on optional equipment costs and may be overstated when required on all vehicles.

As noted above, the agency estimates that the average cost per large school bus will be $222. Thus, the total annual consumer cost of limiting the MAP exclusion in large school buses would average approximately $6,526,800 ($222×84% of 35,000 school buses).

The total annual consumer cost to implement the amendments promulgated by this final rule for both large and small school buses is estimated to be $8,447,600.

NHTSA believes that this rule will reduce 6 to 46 minor to serious injuries (AIS 1–3) annually. It is estimated that 5 to 33 AIS 1–3 laceration-type injuries will be reduced on large school buses due to the narrowing of the MAPs requirements. It is also estimated that the injury reduction for small school buses will be 0 to 3 AIS 1–3 laceration-type injuries and 1 to 10 AIS–3 fracture-type injuries. The methodology used to obtain these benefits can be found in the Final Regulatory Evaluation available in the docket.

B. Regulatory Flexibility Act

NHTSA has also considered the impacts of this final rule under the Regulatory Flexibility Act. NHTSA's analysis appears in the FRE. Based on such evaluation, I certify that the amendments will not have a significant economic impact on a substantial number of small entities.

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires each agency to evaluate the potential effects of its rules on small businesses, small organizations, and small governmental jurisdictions. The small businesses and organizations most likely to be affected by this final rule are: (1) School bus manufacturers; (2) school bus dealers and distributors; and (3) public and private school bus transportation owners and operators.

The Small Business Administration (SBA) defines a bus manufacturer with less than 500 employees as a small business (13 CFR part 121). Using that definition, the agency believes that many of the school bus manufacturers qualify as small businesses. As discussed above, most bus manufacturers known by NHTSA to build small school buses currently offer small school buses with complying body panel joints as an option. The manufacturers produce these vehicles to accommodate the 21 states and the District of Columbia which require that all school buses comply with Standard No. 221. NHTSA believes, therefore, that no new manufacturing techniques or tooling will be required by school bus manufacturers in order to build school buses that comply with the requirements of Standard No. 221. Further, costs, as a percentage of the total school bus manufacturing cost, will not increase significantly. Thus, any impact on total school bus sales will be negligible. On balance, the agency anticipates little measurable impact on school bus manufacturers' revenue levels, profitability, or employment.

The SBA defines a motor vehicle retailer with less than $11,500,000 in annual receipts as a small business. There are approximately 465 school bus dealers and distributors in the United States. Over the past 6 years (1991–1996), an annual average of approximately 35,000 school buses were sold, representing an average of 75 buses per dealer. In order to reach the threshold of $11,500,000 in annual sales receipts, the average dealer would have to sell a much larger number (270) of large school buses annually, assuming a cost of $45,280 per unit. Thus, most school bus dealers are probably small businesses. Because of the negligible cost impact on manufacturers, the agency also anticipates little measurable impact on retailers' revenue levels, profitability, or employment.

School bus operators will probably be the group most affected by the amendments to Standard No. 221 set forth in this final rule because of increased school bus purchase prices as discussed above, and possibly increased maintenance costs. The modest increase in purchase prices is not expected to influence significantly the demand for new school bus products. The sales weighted average consumer cost increase of $222 for large school buses is 0.49 percent of the price of a new 66 passenger school bus with an approximate $45,280 retail purchase price. For small school buses, the estimated incremental consumer cost of $343 per affected vehicle represents 1.21 percent of the retail price of a new $28,300 small school bus.

It is difficult to predict what impact the projected retail price increases discussed above will have on school bus purchases by states and/or school districts. There is a strong and continuing demand for school buses to transport school children and no alternative to the purchase of those vehicles. On the one hand, for many states and school districts operating on tight budgets, a 1.21 percent rise in the prices of small school buses and a 0.49 percent increase in the prices of large school buses may result in a proportionate reduction in new school bus sales. On the other hand, school districts may offset price increases by purchasing school buses with less optional equipment, such as luggage racks, extra batteries, or upgraded interiors. Even assuming the "tight budget" scenario, the agency believes that new school bus sales revenues will remain relatively constant. Thus, the net impact on school bus production and sales should be negligible.

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the agency notes that there are no collection of information requirements associated with this final rule.

D. National Environmental Policy Act

NHTSA has analyzed this final rule for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

E. Executive Order 12612, Federalism

NHTSA has analyzed this final rule in accordance with the principles and criteria contained in Executive Order 12612, Federalism, and has determined that this final rule has borderline federalism implications. The agency's initial determination, however, is that such implications are not sufficient to warrant preparation of a Federalism Assessment.

F. Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103(b), whenever a Federal motor vehicle safety standard is in effect, a state or political subdivision may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle only if the standard is identical to the Federal standard. However, the United States Government, a state or political subdivision of a state may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the Federal standard. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. A petition for reconsideration

or other administrative proceedings is not required before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, 49 CFR 571.221 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegations of authority at 49 CFR 1.50.

2. Standard No. 221 is amended by revising S3; revising the definitions of "body panel joint" and "bus body" in S4; adding, in alphabetical order, the definitions of "maintenance access panel," "passenger compartment" and "serviceable component" to S4; and revising S5 and S6, to read as follows:

§ 571.221 Standard No. 221, School Bus Body Joint Strength.

* * * * *

S3. *Application.* This standard applies to school buses.

S4. *Definitions.*

* * * * *

Body panel joint means the area of contact or close proximity between the edges of a body panel and another body component, including but not limited to floor panels, and body panels made of composite materials such as plastic or plywood.

Bus body means that portion of a bus that encloses the bus occupant space, including the floor and firewall (the body panel separating the engine compartment from the occupant space), but excluding the bumpers and chassis frame and any structure forward of the forwardmost point of the windshield mounting.

* * * * *

Maintenance access panel means a body panel which must be moved or removed to provide access to one or more serviceable component(s).

Passenger compartment means space within the school bus interior that is between a vertical transverse plane located 762 mm in front of the forwardmost passenger seating reference point and including a vertical transverse plane tangent to the rear interior wall of the bus at the vehicle centerline.

Serviceable component means any part of the bus, of either a mechanical or electrical nature, which is explicitly identified by the bus chassis and/or body manufacturer in the owner's manual or factory service manual as requiring routine maintenance actions at intervals of one year or less. Tubing, wires and harnesses are considered to be serviceable components only at their attachments.

S5. *Requirements.*

S5.1 Except as provided in S5.2, each body panel joint shall meet S5.1.1 and S5.1.2.

S5.1.1 Body panels attached to each other shall have no unattached segment at the joint longer than 203 mm.

S5.1.2 When tested in accordance with the procedure of S6, each body panel joint shall hold each body panel to the component to which it is joined when subjected to a force that equates to 60 percent of the tensile strength of the weakest joined body panel, determined pursuant to S6.2.

S5.2 *Exclusions.*

S5.2.1 The requirements of S5.1.1 and S5.1.2 do not apply to—

(a) Any interior maintenance access panel which lies forward of the passenger compartment, or, which exceeds 305 mm when measured across any two points diametrically on opposite sides of the opening.

(b) Trim and decorative parts which do not contribute to the strength of the joint, support members such as rub rails which are entirely outside of body panels, doors and windows, ventilation panels, and engine access covers.

S5.2.2 The requirements of S5.1.2 do not apply to joints from which a test specimen of the dimensions specified in Figure 1 can not be obtained.

S6 *Procedure.*

S6.1 *Preparation of the test specimen.*

S6.1.1 If a body panel joint is 203 mm long or longer, cut a test specimen that consists of any 203 mm segment of the joint, together with a portion of the bus body whose dimensions are those specified in Figure 1, so that the specimen's centerline is perpendicular to the joint at the midpoint of the joint segment. Where the body panel joint is not fastened continuously, select the segment so that it does not bisect a spot weld or a discrete fastener. Support members which contribute to the strength of a body panel joint, such as rub rails on the outside of body panels or underlying structure attached to joint members, shall remain attached to the test specimen, except that material may be removed from the support members as necessary to clear the gripping areas of the joint members being tested.

S6.1.2 [Reserved]

S6.1.3 Prepare the test specimen in accordance with the preparation procedures specified in the 1989 edition of the Annual Book of American Society for Testing and Materials (ASTM) Standards.

S6.2 *Determination of minimum allowable strength.* For purposes of determining the minimum allowable joint strength, determine the tensile strengths of the joined body components as follows:

(a) If the mechanical properties of a joint component material are specified by the ASTM in the 1989 Annual Book of ASTM Standards, the lowest value of that material's tensile strength per unit of area shown in that source shall be used.

(b) If the mechanical properties of a material are not specified by the ASTM in the 1989 Annual Book of ASTM Standards, determine its tensile strength by cutting a sheet specimen from outside the joint region of the bus body in accordance with Figure 1 of E 8–89 Standard Test Methods of Tension Testing of Metallic Materials, in Volume 03.01 of the 1989 Annual Book of ASTM Standards, and by testing it in accordance with S6.3.

(c) The cross sectional area of material removed to facilitate the installation of fasteners shall be used in the determination of the tensile strength of the weakest joined body panel.

S6.3 *Strength test.*

S6.3.1 The joint specimen is gripped on opposite sides of the joint in a tension testing machine in accordance with the 1989 Annual Book of ASTM Standards.

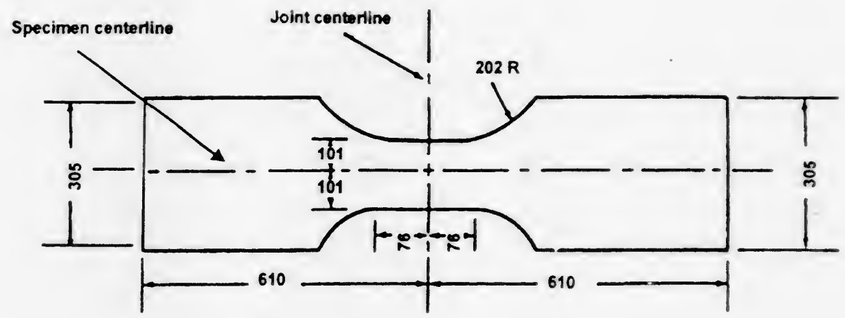
S6.3.2 Adjust the testing machine grips so that the applied force on the joint is at 90 degrees plus or minus 3 degrees from the joint centerline, as shown in Figure 1.

S6.3.3 A tensile force is applied to the specimen by separating the heads of the testing machine at any uniform rate not less than 3 mm and not more than 10 mm per minute until the specimen separates.

3. Figure 1 is revised to read as follows:

BILLING CODE 4910–59–P

FIGURE 1



All dimensions in millimeters

BILLING CODE 4910–59–C

Issued: October 29, 1998.

Ricardo Martinez,

Administrator.

[FR Doc. 98–29536 Filed 11–4–98; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register
Vol. 63, No. 214
Thursday, November 5, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The NCUA Board proposes to amend its regulation dealing with newly chartered and troubled credit unions that requires prior notice of the appointment or employment of directors and senior officers. The proposed amendment clarifies when the notice period commences and when the new director or senior officer may begin service. This action is in accordance with section 914 of the Financial Institutions Reform, Recovery , and Enforcement Act (FIRREA) of 1989.

Additionally, the NCUA Board has adopted a new rating system for corporate credit unions, the Corporate Risk Information System (CRIS). The proposed amendment clarifies that the definition of a "troubled" corporate credit union will be based on CRIS, or on CAMEL for those state-chartered corporate credit unions in states that do not adopt CRIS. Clarification is also added to reflect that corporate credit unions should submit notices of changes in officials or senior management to the Director of the Office of Corporate Credit Unions.

DATES: Comments must be received on or before February 3, 1999.

ADDRESSES: Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: Margaret E. McPartlin, Trial Attorney, Litigation Division, Office of General Counsel, at the above address or telephone: (703) 518–6566 or David A. Shetler, Corporate Program Specialist, Office of Corporate Credit Unions, at the above address or telephone: (703) 518–6646.

SUPPLEMENTARY INFORMATION:

Background

NCUA has a policy of periodically reviewing its regulations to "update, clarify and simplify existing regulations and eliminate redundant and unnecessary provisions."

IRPS 87–2, Developing and Reviewing Government Regulations. 52 FR 35231 (September 18, 1987). As part of its regulatory review program, NCUA reviewed § 701.14 of its regulation, 12 CFR 701.14, to determine whether the language of the regulation was clear and effective. Section 701.14 of NCUA's Regulations requires that federally insured credit unions which have been chartered less than two years or fall within the regulatory definition of a "troubled credit union," file a notice with NCUA prior to adding or replacing a member of the board of directors or a committee member, or employing or changing the responsibilities of an individual to a position as a senior executive officer. As a result of NCUA review and questions from credit unions, as well as our regional office staff, the Board proposes this amendment to clarify the language contained in § 701.14(d)(1).

There has been confusion as to when the Regional Director accepts the notice of a proposed change in an official or senior officer; how long the Regional Office has to process the notice; and when the official or senior officer may commence work. The proposed amendment clarifies the language in § 701.14(d)(1) to provide that the Regional Director will determine when the notice is complete. The proposal would provide the Regional Director with up to ten working days to make this determination. The Regional Director can ask for additional information if a notice is incomplete. Once the Regional Director has a complete notice, the credit union will receive written notification that the complete notice is ready for processing. The Regional Director then has up to 30 calendar days to issue a decision approving or disapproving the proposed official or senior officer. If after the expiration of the 30 days the Regional Director has not issued written notification of approval or disapproval, the official or senior officer is considered approved and service may begin.

The NCUA Board has adopted the new CRIS rating system for corporate credit unions. The proposed amendment clarifies that a CRIS rating of 4 or 5 will be one of the conditions that defines a "troubled" federal corporate credit union. As is the case for all federally insured state credit unions in the present rule, the rating assigned by the state supervisor is utilized in determining the definition of a "troubled" federally insured, state-chartered corporate credit union. Language is added to clarify that a 4 or 5 CAMEL composite rating by the state supervisor will be a condition that defines a "troubled" federally insured, state-chartered corporate credit union, unless that state has adopted the CRIS system. If the state has not adopted either system, NCUA will determine and apply a CRIS rating using the corporate credit union's core exam workpapers.

The existing language of § 701.14 does not indicate that corporate credit unions should submit notices of changes in officials or senior management to the Director of the Office of Corporate Credit Unions (OCCU). Language has been added to the proposed amendment to clarify that corporate credit unions will submit notices to the Director of OCCU and that the Director of OCCU will be the NCUA official that takes action on such notices.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small entities (primarily those under $1 million in assets). The NCUA Board has determined and certifies that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

NCUA has determined that the proposed rule does not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. NCUA has determined that the proposed amendment does not constitute a significant regulatory action for the purposes of the Executive Order.

List of Subjects in 12 CFR Part 701

Credit unions, Senior executive officials.

By the National Credit Union Administration Board on October 26, 1998.

Becky Baker,

Secretary of the Board.

For the reasons set forth in the preamble, it is proposed that 12 CFR part 701 be amended as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 et seq., 42 U.S.C. 1861 and 42 U.S.C. 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

2. Section 701.14 is amended as follows:

a. Revise the introductory text of paragraph (b)(3) and add paragraph (b)(4).

b. Revise paragraph (c)(2).

c. Amend paragraph (d)(1) by adding two new sentences after the first sentence and by removing the last three sentences and adding five sentences.

The revisions and additions to § 701.14 read as follows:

§ 701.14 Change in official or senior executive officer in credit unions that are newly chartered or are in troubled condition.

* * * * *

(b) * * *

(3) Except as provided in paragraph (4) of this section for corporate credit unions, "troubled condition" means any insured credit union that has one or a combination of the following conditions:

* * * * *

(4) In the case of a corporate credit union, *troubled condition* means any insured corporate credit union that has one or a combination of the following conditions:

(i) Has been assigned:

(A) A 4 or 5 Corporate Risk Information System (CRIS) rating in either the Financial Risk or Risk Management composites by NCUA for a federal corporate credit union, or

(B) An equivalent 4 or 5 CAMEL composite rating by the state supervisor in the case of a federally insured, state-chartered corporate credit union, or an equivalent 4 or 5 CRIS rating in either the Financial Risk or Risk Management composites by the state supervisor in the case of a federally insured, state-chartered corporate credit union in those states that have adopted the CRIS system, or

(C) A 4 or 5 CRIS rating in either the Financial Risk or Risk Management composites by NCUA based on core workpapers received from the state supervisor in the case of a federally insured, state-chartered credit union in a state that does not use either the CAMEL or CRIS systems. In this case, the state supervisor will be notified in writing by the Director of the Office of Corporate Credit Unions that the corporate credit union has been designated by NCUA as a troubled institution;

* * * * *

(c) * * *

(2) The credit union meets the definition of troubled condition as set forth in paragraph (b) (3) or (4) of this section.

* * * * *

(d) *Procedures for notice of proposed change in official or senior executive officer.*—(1) *Filing and acceptance.* * * * In the case of a corporate credit union, notice shall be filed with the Director of the Office of Corporate Credit Unions. Additional references herein to Regional Director will, for corporate credit unions, mean the Director of the Office of Corporate Credit Unions. * * * Within ten business days the Regional Director will review the notice and determine whether the notice is complete. If the notice is not complete, the Regional Director can request additional information. The credit union will receive written notification of the date that the notice is deemed complete and ready for processing. Within 30 calendar days from the date a notice is deemed complete, the Regional Director will send a written notification to the individual and the credit union of disapproval or approval of the proposed official or employee. If the Regional Director fails to issue a written notification within 30 calendar days, the individual is considered approved and service may begin.

* * * * *

[FR Doc. 98–29196 Filed 11–4–98; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–66–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney PW4000 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposal would require revisions to the Time Limits Section (TLS) of the manufacturer's Engine Manuals (EMs) for Pratt & Whitney (PW) PW4000 series turbofan engines to include required enhanced inspection of selected critical life-limited parts at each piece-part exposure. This proposal would also require an air carrier's approved continuous airworthiness maintenance program to incorporate these inspection procedures. Air carriers with an approved continuous airworthiness maintenance program would be allowed to either maintain the records showing the current status of the inspections using the record keeping system specified in the air carrier's maintenance manual, or establish an acceptable alternate method of record keeping. This proposal is prompted by an FAA study of in-service events involving uncontained failures of critical rotating engine parts which indicated the need for improved inspections. The improved inspections are needed to identify those critical rotating parts with conditions, that if allowed to continue in service, could result in uncontained failures. The actions specified by this proposed AD are intended to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

DATES: Comments must be received by February 3, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–66–AD, 12 New England Executive Park,

Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ad-engineprop@faa.dot.gov". Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Peter White, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7128, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–ANE–66–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–66–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

A recent FAA study analyzing 15 years of accident data for transport category airplanes identified several failure mode root causes that can result in serious safety hazards to transport category airplanes. This study identified uncontained failure of critical life-limited rotating engine parts as the leading engine-related safety hazard to airplanes. Uncontained engine failures have resulted from undetected cracks in rotating parts that initiated and propagated to failure. Cracks can originate from causes such as unintended excessive stress from the original design, or they may initiate from stresses induced from material flaws, handling damage, or damage from machining operations. The failure of rotating parts can present a significant safety hazard to the airplanes by release of high energy fragments that could injure passengers or crew by penetration of the cabin, damage flight control surfaces, sever flammable fluid lines, or otherwise compromise the airworthiness of the airplane.

Accordingly, the FAA has developed an intervention strategy to significantly reduce uncontained engine failures. This intervention strategy was developed after consultation with industry and will be used as a model for future initiatives. This intervention strategy is to conduct enhanced, nondestructive inspections of fan disks which could most likely result in a safety hazard to the airplane in the event of a disk fracture. The need for additional rule making is also being considered by the FAA. Future ADs may be issued introducing additional intervention strategies to further reduce or eliminate uncontained engine failures.

Properly focused enhanced inspections require identification of the parts whose failure presents the highest safety hazard to the airplane, identifying the most critical features to inspect on these parts, and utilizing inspection procedures and techniques that improve crack detection. The FAA, with close cooperation of the engine manufacturers, has completed a detailed analysis that identifies the most safety significant parts and features, and the most appropriate inspection methods.

Critical life-limited high energy rotating parts are currently subject to some form of recommended crack inspection when exposed during engine maintenance or disassembly. As a result of this AD, the inspections currently recommended by the manufacturer will become mandatory for those parts listed in the compliance section. Furthermore, the FAA intends that additional mandatory enhanced inspections resulting from this AD serve as an adjunct to the existing inspections. The FAA has determined that the enhanced inspections will significantly improve the probability of crack detection while the parts are disassembled during maintenance. All mandatory inspections must be conducted in accordance with detailed inspection procedures prescribed in the manufacturer's Engine Cleaning, Inspection, and Repair (CIR) manuals.

Additionally, this AD allows for air carriers operating under the provisions of 14 CFR part 121 with an FAA-approved continuous airworthiness maintenance program, and entities with whom those air carriers make arrangements to perform this maintenance, to verify performance of the enhanced inspections by retaining the maintenance records that include the inspections resulting from this AD, provided that the records include the date and signature of the person performing the maintenance action. These records must be retained with the maintenance records of the part, engine module, or engine until the task is repeated. This will establish a method of record preservation and retrieval typical to those in existing continuous airworthiness maintenance programs. Instructions must be included in an air carrier's maintenance manual providing procedures on how this record preservation and retrieval system will be implemented and integrated into the air carrier's record keeping system.

For engines or engine modules that are approved for return to service by an authorized FAA-certificated entity and that are acquired by an operator after the effective date of this AD, the mandatory enhanced inspections need not be accomplished until the next piece-part opportunity. For example, there is no need for an operator to disassemble to piece-part level an engine or module returned to service by an FAA-certificated facility simply because that engine or module was previously operated by an entity not required to comply with this AD. Furthermore, the FAA intends for operators to perform the enhanced inspections of these parts at the next piece-part opportunity following the initial acquisition, installation, and removal of the part following the effective date of this AD. For piece parts that have not been approved for return to service prior to the effective date of this AD, the FAA does intend that the mandatory enhanced inspections required by this AD be performed before such parts are approved for return to service. Piece parts that have been approved for return to service prior to the effective date of this AD may be installed; however,

enhanced inspection will be required at the next piece-part opportunity.

This proposal would require, within the next 30 days after the effective date of this AD, revisions to the Time Limits Section (TLS) of the Engine Manuals for PW4000 series turbofan engines, and, for air carriers, the approved continuous airworthiness maintenance program. Pratt & Whitney, the manufacturer of PW4000 series turbofan engines, used on 14 CFR part 25 airplanes has provided the FAA with a detailed proposal that identifies and prioritizes the critical life-limited rotating engine parts with the highest potential to hazard the airplane in the event of failure, along with instructions for enhanced, focused inspection methods. The enhanced inspections resulting from this AD will be conducted at piece-part opportunity, as defined below in the compliance section, rather than specific time inspection intervals.

There are approximately 1,900 engines of the affected design in the worldwide fleet. The FAA estimates that 450 engines installed on airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours for the fan disk inspection. The average labor rate is $60 per work hour. Based on these figures, and using recent shop visit rate data, the total cost impact of the proposed AD on U.S. operators is estimated to be $70,000 per year.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Pratt & Whitney: Docket 98–ANE–66–AD.

Applicability: Pratt & Whitney PW4050, PW4052, PW4056, PW4060, PW4060A, PW4062, PW4060C, PW4152, PW4156, PW4156A, PW4158, PW4160, PW4460, PW4462, PW4164, PW4168, PW4074, PW4074D, PW4077, PW4077D, PW4084, PW4084D, and PW4090 series turbofan engines, installed on but not limited to Airbus A300, A310, and A330 series, Boeing 747, 767, 777 series, and McDonnell Douglas MD–11 series airplanes.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, If the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane, accomplish the following:

(a) Within the next 30 days after the effective date of this AD, revise the manufacturer's Time Limits section of the manufacturer's Engine Manual, Part Numbers (P/Ns) 50A605, 50A443, 51A342, 50A822, 51A751, and 51A345, as applicable, for Pratt & Whitney PW4050, PW4052, PW4056, PW4060, PW4060A, PW4062, PW4060C, PW4152, PW4156, PW4156A, PW4158, PW4160, PW4460, PW4462, PW4164, PW4168, PW4074, PW4074D, PW4077, PW4077D, PW4084, PW4084D, and PW4090 series turbofan engines, and for air carrier operations revise the approved continuous airworthiness maintenance program, by adding the following:

"MANDATORY INSPECTIONS

(1) Perform inspections of the following parts at each piece-part opportunity in accordance with the instructions provided in the PW4000 series Engine Cleaning, Inspection, and Repair (CIR) Manuals:

Part nomen	P/N	Manual section	Inspection	CIR manual
Hub, LPC Assembly	50B221 (50B201 Detail)	72–31–07	02	51A357
Hub, LPC Assembly	50B321 (50B301 Detail)	72–31–07	02	51A357
Hub, LPC Assembly	51B321 (51B301 Detail)	72–31–07	02	51A357
Hub, LPC Assembly	52B021 (52B001 Detail)	72–31–07	02	51A357
Hub, LPC Assembly	51B631 (50B601 Detail)	72–31–07	02	51A750
Hub, LPC Assembly	51B821 (51B801 Detail)	72–31–07	02	51A750
Hub, LPC Assembly	52B521 (52B501 Detail)	72–31–07	02	51A750

(2) For the purposes of these mandatory inspections, *piece-part opportunity* means:

(i) The part is considered completely disassembled when done in accordance with the disassembly instructions in the engine manufacturer's Engine Manual; and

(ii) The part has accumulated more than 100 cycles in service since the last piece-part opportunity inspection, provided that the part was not damaged or related to the cause for its removal from the engine."

(b) Except as provided in paragraph (c) of this AD, and notwithstanding contrary provisions in section 43.16 of the Federal Aviation Regulations (14 CFR 43.16), these mandatory inspections shall be performed only in accordance with the Time Limits

section of the applicable PW4000 series Engine Manuals.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Engine Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector (PMI), who may add comments and then send it to the Engine Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The records of the mandatory inspections required as a result of revising the Time Limits section of the PW4000 series Engine Manuals and the air carrier's continuous airworthiness maintenance program as provided by paragraph (a) of this AD shall be maintained by FAA-certificated air carriers which have an approved continuous airworthiness maintenance program in accordance with the record keeping system currently specified in their manual required by sections 121.369 of the Federal Aviation Regulations (14 CFR 121.369); or, in lieu of the record showing the current status of each mandatory inspection required by sections 121.380(a)(2)(vi) of the Federal Aviation Regulations (14 CFR 121.380(a)(2)(vi)), certificated air carriers may establish an approved alternate system of record retention that provides a method for preservation and retrieval of the maintenance records that include the inspections resulting from this AD, and include the policy and procedures for implementing this alternate method in the air carrier's maintenance manual required by sections 121.369 (c) of the Federal Aviation Regulations (14 CFR 121.369 (c)); however, the alternate system must be accepted by the appropriate PMI and require the maintenance records be maintained either indefinitely or until the work is repeated.

Note 3: These record keeping requirements apply only to the records used to document the mandatory inspections required as a result of revising the Time Limits section of the PW4000 series Engine Manuals as provided in paragraph (a) of this AD, and do not alter or amend the record keeping requirements for any other AD or regulatory requirement.

Issued in Burlington, Massachusetts, on October 30, 1998.

David A. Downey,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 98–29603 Filed 11–4–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 310, 314, and 600

[Docket No. 98N–0750]

RIN 0910–AB42

Electronic Reporting of Postmarketing Adverse Drug Reactions; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it is considering preparing a proposed rule that would require applicants, manufacturers, packers, and distributors of marketed human drugs and licensed biological products to submit postmarketing expedited individual case safety reports and individual case safety reports contained in periodic safety reports to the agency electronically using standardized medical terminology, data elements, and electronic transmission standards recommended by the International Conference on Harmonization of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The proposed rule would help harmonize reporting of postmarketing safety information worldwide and expedite detection of safety problems for marketed drugs, thus enhancing FDA's ability to protect and promote public health. FDA is soliciting comments from interested persons to assist with the development of the proposed rule. The agency is specifically seeking comments on whether exemptions from any electronic safety reporting requirements should be granted to any entity and, if so, the basis on which they should be granted, the cost benefits or burdens of such requirements, and timeframes for implementing the requirements.

DATES: Written information and comments by February 3, 1999.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville MD 20852.

FOR FURTHER INFORMATION CONTACT: Thomas C. Kuchenberg, Center for Drug Evaluation and Research (HFD–7), 5600 Fishers Lane, Rockville, MD 20857, 301–594–5621 (Internet electronic mail: kuchenbergt@cder.fda.gov) or Marcel Salive, Center for Biologics Evaluation and Research (HFM–220), 1401 Rockville Pike, Rockville, MD 20852, 301–827–3974 (Internet electronic mail: salive@cber.fda.gov).

SUPPLEMENTARY INFORMATION:

I. Background

A. International Harmonization

For several years, FDA has cooperated with industry associations and the regulatory authorities of certain other nations to promote international harmonization of regulatory requirements. Much of this effort has been coordinated through ICH, which is facilitating the harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are: the European Commission, the European Federation of Pharmaceutical Industries Associations, the Japanese Ministry of Health and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research and Biologics Evaluation and Research at FDA, and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization (WHO), the Canadian Therapeutic Products Directorate, and the European Free Trade Area.

One ICH initiative is to harmonize certain safety reporting requirements of the three regions. Through the ICH process, recommendations have been developed regarding the content, format, and reporting frequency for expedited individual case safety reports and periodic safety reports for human drugs and biological products. In the **Federal Register** of March 1, 1995 (60 FR 11284), FDA published an ICH final guidance entitled "Clinical Safety Data Management: Definitions and Standards for Expedited Reporting" (the ICH E2A guidance). In the **Federal Register** of May 19, 1997 (62 FR 27470), FDA published an ICH final guidance entitled "Clinical Safety Data Management: Periodic Safety Update Reports for Marketed Drugs" (the ICH E2C guidance). Under the auspices of ICH, standards for electronic submission of safety information have been developed, as described in the Appendices, including a standard medical terminology for regulatory purposes, ICH M1 (see Appendix A in section VII.A of this document); electronic standards for the transfer of regulatory information, ICH M2 (see Appendix B in section VII.B of this document); and standardized data elements for transmission of individual case safety reports, ICH E2B format (see Appendix C in section VII.C of this document). FDA believes the changes recommended by ICH will result in more effective and efficient safety reporting to regulatory authorities worldwide.

There is now international agreement on the major components for standardizing electronic transmission of certain safety reports, and worldwide implementation of this initiative has begun.

B. Postmarketing Safety Reports

Under existing regulations, manufacturers, packers, distributors, applicants of approved new and abbreviated marketing applications for drugs, and licensed manufacturers of biological products must submit expedited individual case safety reports of postmarketing adverse drug experiences under §§ 310.305, 314.80, 314.98, and 600.80 (21 CFR 310.305, 314.80, 314.98, and 600.80). Applicants and licensed manufacturers must also submit periodic reports of postmarketing adverse drug experiences under §§ 314.80, 314.98, and 600.80.

Expedited individual case safety reports are required to be submitted for each adverse drug experience that is both serious and unexpected, whether foreign or domestic, as soon as possible, but in no case later than 15 calendar days of initial receipt of the information (§§ 310.305(c)(1), 314.80(c)(1)(i), and 600.80(c)(1)(i)). Followup reports to these expedited reports are required to be submitted within 15 calendar days of receipt of new information or as requested by FDA (§§ 310.305(c)(2), 314.80(c)(1)(ii), and 600.80(c)(1)(ii)).

Presently, periodic reports are required to be submitted at quarterly intervals for 3 years from the date of approval of the application and annually thereafter (§§ 314.80(c)(2)(i) and 600.80(c)(2)(i)). The periodic report is required to contain: (1) A narrative summary and analysis of the information in the report and an analysis of the expedited individual case safety reports submitted during the reporting interval, (2) individual case safety reports for each adverse drug experience not previously reported, and (3) a history of actions taken since the last periodic report (§§ 314.80(c)(2)(ii) and 600.80(c)(2)(ii)).

Each adverse drug experience is required to be submitted to the agency on an FDA Form 3500A (§§ 310.305(d), 314.80(f), and 600.80(f)). Foreign events may be submitted either on an FDA Form 3500A or, if preferred, on a CIOMS (Council for International Organizations of Medical Sciences) I form.

FDA is in the process of revising these regulations to be consistent with safety reporting recommendations developed by ICH. In the **Federal Register** of October 27, 1994 (59 FR 54046), FDA published a proposed rule to amend its postmarketing expedited and periodic safety reporting requirements, as well as others, to implement international standards and to facilitate the reporting of adverse drug experiences. In the **Federal Register** of October 7, 1997 (62 FR 52237), FDA published a final rule amending its premarketing and postmarketing expedited safety reporting regulations to implement certain recommendations in the ICH E2A guidance on definitions and standards for expedited reporting. At this time, the agency is considering other recommendations in the ICH E2A guidance and plans to propose additional amendments to its postmarketing expedited safety reporting regulations. With regard to the amendments to the postmarketing periodic adverse drug experience reporting requirements proposed on October 27, 1994, FDA has decided to repropose these amendments based on recommendations in the ICH E2C guidance on postmarketing periodic safety update reports. In developing the reproposal, FDA will consider comments submitted in response to the proposed rule of October 27, 1994, regarding postmarketing periodic adverse experience reports.

II. Proposed Policy

FDA is considering preparing a proposed rule that would require that applicants, manufacturers, packers and distributors of marketed human drugs and licensed biological products submit postmarketing expedited individual case safety reports and individual case safety reports contained in periodic safety reports to the agency electronically rather than on paper. The proposed rule would require that the electronic submission of postmarketing expedited and periodic individual case safety reports be precoded in the standardized M1 international medical terminology, use the E2B format, and be transmitted using M2 specifications. FDA may also propose requiring that textual materials contained within periodic safety reports (e.g., narrative summary and analyses, history of actions taken) be submitted electronically.

In the **Federal Register** of March 20, 1997 (62 FR 13430), FDA published a final rule in part 11 (21 CFR part 11) providing the conditions under which the agency will accept electronic signatures, electronic records, and handwritten signatures executed to electronic records as equivalent to paper records and handwritten signatures executed to paper records. Part 11 applies to any required records submissions under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, or Title 21 of the Code of Federal Regulations. Part 11 provides that for records required to be maintained but not submitted to the agency, electronic records and accompanying signatures may be used in lieu of traditional records and signatures provided certain requirements are met. Electronic records and accompanying signatures that are submitted to the agency must meet the requirements of part 11 and must also be identified in public docket number 92S–0251 as the type of submission the agency is prepared to accept electronically. It is important to note that the use of electronic records, as well as their submission to FDA under part 11, is voluntary.

However, for a number of reasons, FDA believes that it is essential to mandate the electronic submission of postmarketing expedited and periodic individual case safety reports as well as the use of international standards for electronic safety reporting.

The rapid identification and dissemination of information about emerging problems with individual drugs or harmful drug interactions is central to the agency's mission to protect and promote public health and safety. First, receipt of safety information electronically will vastly increase FDA's ability to quickly analyze data and identify emerging safety problems. Second, the agency believes that use of international standards for electronic safety reporting will eliminate the costs to industry associated with maintaining multiple systems designed to meet the needs of different terminologies, data elements, and electronic transmission standards of different regulatory authorities, and would thereby greatly enhance the utility of the system. Third, electronic submissions will improve the speed and efficiency of industry and agency operations and enhance the quality of the safety data.

III. Solicitation of Comments

All interested persons are invited to submit to FDA their comments on any aspect of this advance notice of proposed rulemaking (ANPRM). In particular, FDA is seeking public comment on the following subjects:

1. Exemptions

The agency believes that the electronic reporting of postmarketing individual case safety reports will be welcomed by most of industry. The agency is aware, however, that some entities may have difficulty adapting existing systems to the requirements of a mandatory standardized electronic reporting system. The agency seeks guidance on whether exemptions should be granted and, if so, what considerations should be used to determine whether requesting entities may continue submitting postmarketing individual case safety reports in a paper format and whether any such exemptions should continue indefinitely or be terminated after a certain period of time.

In the **Federal Register** of October 30, 1997 (62 FR 58647), the Securities and Exchange Commission (SEC) published a final rule stating that it would no longer accept paper copies of filings and required filers to submit information electronically unless certain requirements for a temporary or continuing hardship were met. Filers may claim or request, as appropriate, hardship exemptions based on certain criteria, including: Technical difficulties in filing and undue burden and expense of conversion to electronic format. A temporary hardship exemption, generally for unanticipated technical difficulties, is available automatically, but submission of a paper copy of the filing must be followed, within 6 business days, by a confirming electronic copy. A continuing hardship exemption is also available but must be granted by the SEC. It may be granted for a specific period (after which a confirming electronic copy of the paper copy must be filed) or for an indefinite period.

FDA is seeking specific comments on whether a similar exemption provision would be appropriate for electronic reporting for postmarketing individual case safety reports.

2. Cost Benefits and Burdens

The agency is interested in comments on the impact of a mandatory standardized electronic reporting requirement on different segments of regulated industry. For example, how will such a requirement affect manufacturers of different type and size over the short term during implementation and over the long term once systems are established? FDA is also interested in information on the benefits that industry could derive from a mandatory standardized electronic reporting requirement (e.g., reduced paperwork burden, reduced errors, increased convenience and more timely receipt of information).

3. Timeframes for Implementation

The SEC model, described in section III.1 of this document, phased companies into its electronic filing system over a 4-year period, with small business filers being the last to be required to file electronically. The agency is seeking comments on whether a similar implementation plan, based on the size of a firm, would be appropriate for electronic reporting of postmarketing individual case safety reports and, if not, how it should be modified, and what criteria should be used to define an implementation plan.

4. OMB Circular A–130

Section 8a(3) of OMB circular A–130 cites a policy to encourage agencies to explore the use of automated techniques for the collection of information and conditions conducive to the use of those techniques. Section 8a(3) reads as follows:

Electronic Information Collection. Agencies shall use electronic collection techniques where such techniques reduce burden on the public, increase efficiency of government programs, reduce costs to the government and the public, and/or provide better service to the public. Conditions favorable to electronic collection include:

(a) The information collection seeks a large volume of data and/or reaches a large proportion of the public;

(b) The information collection recurs frequently;

(c) The structure, format, and/or definition of the information sought by the information collection does not change significantly over several years;

(d) The agency routinely converts the information collected into electronic format;

(e) A substantial number of the affected public are known to have ready access to the necessary information technology and to maintain the information in electronic form;

(f) Conversion to electronic reporting, if mandatory, will not impose substantial costs or other adverse effects on the public, especially State and local governments and small business entities.

FDA is soliciting comments on whether a proposed rule consistent with the objectives discussed in this ANPRM would advance the objectives of the policy stated in the OMB circular.

If FDA develops a proposed rule for electronic reporting of postmarketing individual case safety reports, it will take into consideration comments submitted in response to this ANPRM.

IV. Executive Order 12866 Analysis

In any rulemaking proposed as a result of comments received on this ANPRM, FDA will examine the economic implications of the proposed rule as required by Executive Order 12866, which directs agencies to assess all costs and benefits of available regulatory alternatives. Executive Order 12866 classifies a rule as significant if it meets any one of a number of specified conditions, including having an annual effect on the economy of $100 million or adversely affecting in a material way a sector of the economy, competition, or jobs, or if it raises novel legal or policy issues. In any rulemaking, the agency will examine the potential costs and potential benefits of the proposed rule. FDA requests information that would aid the agency in responding to the Executive Order.

V. Regulatory Flexibility Analysis

If a rule has a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act (5 U.S.C. 601–612) requires agencies to analyze options that would minimize the economic impact of that rule on small entities. FDA requests information regarding the impact on small entities of the three subjects identified in section III of this document.

VI. Comments

Interested persons may on or before February 3, 1999, submit to the Dockets Management Branch (address above) written comments regarding this ANPRM. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

VII. Appendices

A. Appendix A: M1 Medical Terminology

Most organizations currently process their regulatory data using an international adverse drug reaction (ADR) terminology in combination with a morbidity terminology. In Europe, many users combine the World Health Organization's Adverse Reaction Terminology with the ninth revision of the International Classification of Diseases (ICD–9). In the United States, Coding Symbols for a Thesaurus of Adverse Reaction Terms with Clinical Modification of ICD–9 (ICD–9–CM) is very commonly used, and Japan has developed its own version of these ADR terminologies, J–Art and MEDIS.

The established terminologies have been criticized for a number of reasons, including: Lack of specificity, limited data retrieval options, and an inability to effectively handle complex combinations of signs and symptoms (syndromes). In addition, use of different terminologies at different stages in the development and use of products complicates data retrieval and analysis of information and makes it difficult to effectively cross-reference data through the lifetime of a product. Internationally, communication is impaired between regulatory authorities because of the delays and distortions caused by the translation of data from one terminology to another.

Use of different terminologies also has significant consequences for pharmaceutical firms. Companies operating in more than one jurisdiction have had to adjust to subsidiaries or clinical research organizations that use different terminologies because of variations in data submission requirements. The difficulty of analyzing data comprehensively may be compounded by use of incompatible terminologies and could lead to delays in recognizing potential public health problems.

A medical terminology designed for regulatory purposes was recognized as necessary by industry and regulatory authorities to support the computerization and transmission of information related to many aspects of the regulation of medical products. In October 1994, the ICH Steering Committee introduced a multidisciplinary communication initiative to establish an international medical terminology for regulatory purposes (M1).

In November 1994, the ICH Steering Committee released a draft (or alpha) version of the M1 terminology for review and evaluation. The alpha version was made available free of charge to all national regulatory entities participating in the WHO International Drug Monitoring Program and, on request, to pharmaceutical companies and contract research organizations. More than 600 electronic copies were distributed with a testing guide which provided suggestions on how the terminology could be evaluated.

In March 1995, the M1 ICH working group met to evaluate the results of the alpha test, review proposals submitted by potential users participating in the alpha test, and evaluate suggested changes. Since 1995, the working group has: (1) Refined and documented the definitions of the levels in the structural hierarchy; (2) reviewed and established the scope of the terminology; (3) reviewed terms and codes of the established terminologies, made necessary linkages and deletions, and included the most recent versions of the current terminologies to facilitate the transfer of historical data; (4) reviewed the results of the extensive and systematic Organ Class reviews performed in the United States and Japan; and (5) made necessary changes to facilitate data analysis and presentation.

Over time, it is essential that the M1 medical terminology be maintained and updated in response to medical/scientific advances and regulatory changes. An international maintenance and service organization (MSSO) is being established to provide this function as well as serve as the licensing agent for the distribution of the M1 medical terminology. It is anticipated that the MSSO will begin licensing the M1 medical terminology in the near future.

B. Appendix B: Electronic Transmission Standards

The ICH Steering Committee recognized the need for rapid communication of regulatory information between pharmaceutical manufacturers and regulatory authorities and, in particular, the need for the electronic communication of safety information. The ICH Steering Committee also noted that rapid communication required universal standards and that separate, uncoordinated initiatives launched in various countries could compromise the benefits of electronic communication and jeopardize the harmonization process. As a result, the ICH Multidisciplinary Group 2 (M2) Expert Working Group (EWG) was established in October 1994 to recommend electronic standards and provide solutions to facilitate international electronic communication in the three ICH regions.

The M2 EWG recommended various open international standards that allow for the worldwide transmission of information regardless of the technical infrastructure. The electronic standards for the transfer of regulatory information (ESTRI) gateway is designed to ensure reliable regulatory communications by using certain common electronic elements. The M2 EWG recommended the following:

1. Physical Media

Use of 3.5 inch floppy disk (ISO 8860) (1 and 2) and CD–ROM 640 MB (ISO 9660) as standard media for physical data storage and transferability across heterogenous computer platforms.

2. Network Messaging

Use of the Internet (STP/MIME) and X400 as network messaging standards that will provide for the efficient transport of heterogenous data formats and complex documents among the three ICH regions.

3. Electronic Document Format

Use of the Portable Document Format (PDF) as the interchange format for the transfer of certain types of documents.

4. Secure Electronic Data Interchange (EDI) Over the Internet

Use of Templar, a standards-based solution that facilitates the transmission of secure EDI over the Internet in all three ICH regions.

In addition, the M2 EWG facilitated the implementation of E2B data elements by defining an attribute list and deriving a relational view that allows for transmission of all types of individual case safety reports, regardless of source and destination. The E2B/M2 attribute list will form the basis for defining E2B data elements in various structured formats such as standard generalized markup language (SGML).

C. Appendix C: E2B Data Elements for Transmission of Individual Case Safety Reports

In the **Federal Register** of October 1, 1996 (61 FR 51287), FDA published a draft guidance entitled "Data Elements for Transmission of Individual Case Safety Reports." The notice gave interested parties an opportunity to submit comments by December 30, 1996. After consideration of the comments received and revisions to the guidance, a final draft was submitted to the ICH Steering Committee and endorsed by the three participating regulatory parties on July 17, 1997. The final guidance entitled "E2B Data Elements for Transmission of Individual Case Safety Reports" (ICH E2B guidance) was published in the **Federal Register** of January 15, 1998.

The guidance is intended to facilitate the standardization of data elements for transmission of individual case safety reports. The format for individual case safety reports includes provisions for transmitting all the relevant data elements useful to assess an individual ADR or adverse event report. The data elements are sufficiently comprehensive to cover complex reports from most sources, different data sets, and transmission situations or requirements. In many, if not most, instances a

substantial number of the data elements will not be known, but as much information as possible should be provided. The minimum information for the transmission of a safety report should include an identifiable patient, an identifiable reporter, a reaction/event, and a suspect drug or biological product.

Dated: October 6, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–29564 Filed 11–4–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 900

[Docket No. 98N–0728]

Quality Mammography Standards

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend its regulations governing mammography that published in a document entitled "Quality Mammography Standards." The purpose of these amendments is to eliminate a conflict between the mammography regulations, which must be followed by all facilities performing mammography, and FDA's Electronic Product Radiation Control (EPRC) performance standards, which establish radiation safety performance requirements for x-ray units, including mammographic systems.

DATES: Submit written comments on the proposed rule by January 4, 1999.

ADDRESSES: Submit written comments on the proposed rule to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Roger L. Burkhart, Center for Devices and Radiological Health (HFZ–240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–594–3332.

SUPPLEMENTARY INFORMATION:

I. Background

The Mammography Quality Standards Act (the MQSA) (Pub. L. 102–539) was signed on October 27, 1992, to establish national quality standards for mammography. The MQSA required that, to provide mammography services legally after October 1, 1994, all facilities, except facilities of the Department of Veterans Affairs, be accredited by an approved accreditation body and certified by the Secretary of Health and Human Services (the Secretary). The authority to approve accreditation bodies and to certify facilities was delegated by the Secretary to FDA.

A specific requirement of the MQSA was that quality standards be established for mammographic equipment and practices, including quality assurance and quality control programs. Mammography facilities had to meet these standards to become accredited and certified. The standards were intended to replace the patchwork of Federal, State, and private standards existing in 1992 to ensure that all women nationwide receive uniformly high quality mammography services. Since October 1, 1994, these standards have been provided by interim rules published in the **Federal Register** of December 21, 1993 (58 FR 67558 and 58 FR 67565) and amended in the **Federal Register** of September 30, 1994 (59 FR 49808).

On April 3, 1996, FDA proposed final regulations to replace the interim regulations (61 FR 14856, 14870, 14884, 14898, and 14908). Developed with strong congressional encouragement, these proposed final regulations reflected FDA's belief that more comprehensive quality standards would further optimize facility performance. After analysis of the extensive public comments received on the proposed regulations, revisions were made and a final rule was published on October 28, 1997 (62 FR 55852). The effective date for most of the final rule is April 28, 1999. A few equipment and equipment quality assurance requirements do not become effective until October 28, 2002.

FDA has subsequently discovered that some mammographic x-ray systems will have difficulty meeting certain of the new requirements because of design features that were used by the manufacturers in order to ensure that their units met the agency's EPRC performance standards for diagnostic x-ray systems. The purpose of these amendments is to resolve this conflict.

II. Need for Proposed Amendments

The source of the conflict lies in the requirements for the collimation of the x-ray field and the alignment of that field with the image receptor found in § 900.12(b)(5) and (e)(5)(vii)(A) (21 CFR 900.12(b)(5) and (e)(5)(vii)(A)) of the MQSA final regulations. Two problems exist with these provisions as they appeared in the **Federal Register** of October 28, 1997.

First, both of these provisions permit the x-ray field "to extend to or beyond the edges of the image receptor." This allowance was made in response to the expressed desire of some mammography facilities to have the capacity to "blacken" the film to the edges, a capacity that is particularly useful when automated viewing devices are used. Masking clear borders of mammography films is difficult to accomplish with such devices. However, the manufacturers of all diagnostic x-ray systems, including mammography systems, must comply with applicable performance standards established by FDA. These performance standards currently require that mammography systems be manufactured with collimation to ensure that the x-ray field does not extend beyond the nonchest wall edges of the image receptor.

It is possible for a mammography system to meet both of these sets of standards as they are currently written. However, FDA has been informed by one manufacturer that in the past, in order to be sure to meet the EPRC standards, their systems were designed so that the x-ray field does not reach the nonchest wall edges of the image receptor. Such systems would not meet the final MQSA regulations as presently written. Units of other manufacturers may have the same problem.

Without an amendment to the MQSA regulations, in order to be in compliance, some facilities would have to choose among three courses of action. The first would be to apply for and receive approval of an alternative requirement for alignment under 21 CFR 900.18 of the MQSA regulations that would allow the facility to continue using its system unchanged. The second would be to purchase a retrofit of their system under a variance to the performance standards that has already been approved by FDA for one manufacturer. The third would be to purchase a new system that meets both sets of existing requirements.

FDA is proposing to solve this first problem by changing § 900.12(e)(5)(vii)(A) so that the x-ray field will be allowed, but not required as at present, to extend to or beyond the nonchest wall sides of the image receptor. This would permit facilities whose systems are not presently capable of "blackening" the films to these edges to continue to use those systems without the need of either applying for an alternative requirement or purchasing an expensive retrofit.

The second problem is that the limit on the extension of the x-ray field beyond all edges of the image receptor to "within 2 percent of the SID", discussed at 62 FR 55852 at 55945 of the regulation preamble was erroneously applied in the regulations only to the chest-wall side of the image receptor. This omission raises the possibility of an unnecessary radiation hazard to the patient if the x-ray field extends an excessive amount beyond the nonchest wall edges of the image receptor. The agency is proposing to remove the radiation hazard concern by amending § 900.12(e)(5)(vii)(A) to apply the 2 percent of the source-image receptor distance (SID) extension limit to all edges of the image receptor, in accordance with the intentions expressed in the preamble.

Finally, FDA is also proposing to simplify the regulations by dropping all mention of alignment from § 900.12(b)(5), thus consolidating all alignment requirements at one location in § 900.12(e)(5)(vii)(A). The portion of § 900.12(b)(5) dealing with the light field remains unchanged.

III. Environmental Impact

The agency has determined under 21 CFR 25.30(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Analysis of Impacts

FDA has examined the impact of this rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Pub. L. 104–121)), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, this rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The agency certifies that this rule, if finalized, will not have a significant economic impact on a substantial number of small entities. This rule also does not trigger the requirement for a written statement under section 202(a) of the Unfunded Mandates Reform Act because it does not impose a mandate that results in an expenditure of $100 million or more by State, local, or tribal governments in the aggregate, or by the private sector, in any 1 year.

FDA had previously estimated (62 FR 55852 at 55968) that the expected average annual benefits from the final regulations would range between $181.7 to $262.7 million. Average annual compliance costs were estimated at $38.2 million. The compliance cost estimate did not include the possible added costs related to the alignment requirement discussed previously, as the difficulty noted by the one manufacturer was not foreseen during the development of the regulations. These added costs would be minimal if an alternative requirement was applied for and received but would be more significant if retrofitting or purchasing of a new unit was carried out to meet the requirement. However, amending the regulations as proposed by FDA would eliminate the requirement leading to the possible extra costs and thus eliminate any possible extra cost.

V. Paperwork Reduction Act of 1995

The agency has tentatively determined that this proposed rule contains no additional collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

List of Subjects in 21 CFR Part 900

Electronic products, Health facilities, Mammography, Medical devices, Radiation protection, Reporting and recordkeeping requirements, X-rays.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 900 is amended as follows:

PART 900—MAMMOGRAPHY

1. The authority citation for 21 CFR part 900 continues to read as follows:

Authority: 21 U.S.C. 360i, 360nn, 374(e); 42 U.S.C. 263b.

2. Section 900.12 is amended by removing paragraph (b)(5)(i) and by redesignating paragraph (b)(5)(ii) as paragraph (b)(5), by revising newly redesignated paragraph (b)(5), and by revising paragraph (e)(5)(vii)(A) to read as follows:

§ 900.12 Quality standards.

* * * * *

(b) * * *

(5) *Light fields.* For any mammography system with a light beam that passes through the X-ray beam-limiting device, the light shall provide an average illumination of not less than 160 lux (15 foot candles) at 100 cm or the maximum source-image receptor distance (SID), whichever is less.

* * * * *

(e) * * *

(5) * * *

(vii) * * *

(A) All systems shall have beam-limiting devices that allow the entire chest wall edge of the X-ray field to extend to the chest wall edge of the image receptor and provide means to assure that the X-ray field does not extend beyond any edge of the image receptor by more than two percent of the SID.

* * * * *

Dated: September 8, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–29563 Filed 11–4–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[DEA–180P]

21 CFR Parts 1308 and 1312

Schedules of Controlled Substances: Rescheduling of Synthetic Dronabinol (Martinol®; (-)-Δ⁹-(trans)-Tetrahydrocannabinol in Sesame oil and Encapsulated in Soft Gelatin Capsules) From Schedule II to Schedule III.

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule is issued by the Acting Deputy Administrator of the Drug Enforcement Administration (DEA) to remove the Food and Drug Administration (FDA) approved drug product containing dronabinol [Marinol®; (-)-Δ⁹-(*trans*)-tetrahydrocannabinol in sesame oil and encapsulated in soft gelatin capsules] from Schedule II and place it into Schedule III of the Controlled Substances Act (CSA). This proposed action is based on an evaluation of the relevant data by the DEA and a recommendation from the Assistant Secretary for Health of the Department of Health and Human Services (DHHS)

that the FDA-approved dronabinol product [Marinol®; (-)-Δ^9-(*trans*)-THC in sesame oil and encapsulated in soft gelatin capsules] be rescheduled from Schedule II to Schedule III. If finalized, this action will impose the regulatory controls and criminal sanctions of Schedule III on those who handle dronabinol and products containing dronabinol.

DATES: Comments, objections and requests for a hearing must be received on or before December 7, 1998.

ADDRESSES: Comments, objections and requests for a hearing should be submitted in quintuplicate to the Acting Deputy Administrator, Drug Enforcement Administration, Washington, DC. 20537; Attention: DEA Federal Register Representative/CCR.

FOR FURTHER INFORMATION CONTACT: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC. 20537, 202–307–7183.

SUPPLEMENTARY INFORMATION: Dronabinol is the synthetic equivalent of the (-)-isomer of Δ^9-(*trans*)-tetrahydrocannabinol [Δ^9-(*trans*)-THC], which is the major psychoactive component of *Cannabis sativa L.* (Marijuana). Dronabinol, under the trade name Marinol®, was approved for marketing by the FDA on May 31, 1985 for the treatment of nausea and vomiting associated with cancer chemotherapy. Dronabinol [Marinol®; (-)-Δ^9-(*trans*)-THC in sesame oil and encapsulated in soft gelatin capsules], but not THC itself, was transferred from Schedule I to Schedule II of the CSA on May 13, 1986, in accordance with 21 U.S.C. 811(a) and the FDA approval of a new drug application for Marinol® capsules. The rescheduling of Marinol® was based on a recommendation from the Assistant Secretary for Health which also stated that THC should remain in Schedule I. Marinol®'s indications were expanded on December 22, 1992 to include the treatment of anorexia associated with weight loss in patients with AIDS.

On February 3, 1995, UNIMED Pharmaceuticals, Inc. petitioned the Administrator of the DEA to reschedule dronabinol formulations from Schedule II to Schedule III. This request involves only dronabinol [synthetic (-)-Δ^9-(*trans*)-THC], specifically the product Marinol® (dronabinol in sesame oil in a soft gelatin capsule). Prior to a review of the data in the petition, the DEA had to determine whether the rescheduling of dronabinol formulations to Schedule III was possible, in light of the control of THC in Schedule II of the 1971 Convention on Psychotropic Substances. The DEA concluded that control of dronabinol formulations in Schedule III of the CSA was possible and would meet the requirements of Schedule II of the convention provided that THC remained in Schedule I or II of the CSA and that 21 CFR 1312.30 was amended to require import and export permits for international transactions involving dronabinol.

On December 11, 1996, UNIMED Pharmaceuticals, Inc. submitted a supplement to its petition to reschedule dronabinol formulations from Schedule II to Schedule III. This supplement provided data regarding the pharmacokinetics of Marinol®, additional data about the chemistry of the product and studies regarding the actual abuse of the Marinol® product. This information specifically addressed the criteria required to be considered under the CSA.

On August 7, 1997, after gathering the necessary data, the DEA sent its review document and a letter to the Acting Assistant Secretary for Health, DHHS requesting a scientific and medical evaluation of the available data and a scheduling recommendation on dronabinol, as required by 21 U.S.C. 811(b).

On September 11, 1998, the Acting Assistant Secretary for Health sent to the DEA a letter recommending that dronabinol (Marinol®; (-)-Δ^9-(trans)-THC in sesame oil and encapsulated in soft gelatin capsules) be transferred from Schedule II to Schedule III of the CSA. Enclosed with the September 11, 1998 letter was a document prepared by the FDA entitled "Basis for the Recommendation for Rescheduling Marinol® Capsules from Schedule II to Schedule III of the CSA." In this document, the FDA defines the Marinol® product as "an FDA approved drug product containing synthetically produced dranabinol dissolved in sesame oil and encapsulated in soft gelatin capsules (2.5 mg, 5 mg, and 10 mg per dosage unit." The document contained a review of the factors which the CSA requires the Secretary to consider [21 U.S.C. 811(c)].

The factors considered by the Acting Assistant Secretary for Health and the DEA with respect to dranabinol were:

(1) Its actual or relative potential for abuse;

(2) Scientific evidence of its pharmacological effect, if known;

(3) The state of current scientific knowledge regarding the drug or other substance;

(4) Its history and current pattern of abuse;

(5) The scope, duration, and significance of abuse;

(6) What, if any, risk there is to the public health;

(7) Its psychic or physiological dependence liability; and

(8) Whether the substance is an immediate precursor of a substance already controlled under this subchapter.

The pharmacological and behavioral effects of dronabinol are comparable to those of Δ^9-THC, marijuana and other active cannabinoids. There are few scientific studies that directly evaluate the pharmacologeutical and behavioral effects of the product Marinol® to indicate that there are differences in its abuse liability compared to oral THC. Nevertheless, there is little evidence of actual abuse of Marinol®, despite modest annual increases in the total number of prescriptions written. Despite dronabinol's THC-like abuse liability, there are several factors that deter its actual abuse and trafficking. These factors include dronabinol's formulation in sesame oil, the improbability that the THC would be extracted from the product and abused by another route of administration, and its delayed onset of effects. Although excessive use of Marinol® may result in the development of psychological dependence, there has been no evidence of such use. The scientific data reviewed to date and the minimal evidence of actual abuse and trafficking support the transfer of dronabinol to Schedule III of the CSA.

Relying on the scientific and medical evaluation and the recommendation of the Assistant Secretary for Health in accordance with section 201(b) of the CSA (21 U.S.C. 811(b)), and the independent review of the DEA, the Acting Deputy Administrator of the DEA, pursuant to sections 201(a) and 201(b) of the CSA (21 U.S.C. 811(a) and 811(b)), finds that:

(1) Based on information now available, dronabinol (Marinol®) has a potential for abuse less than the drugs or other substances in Schedules I and II.

(2) Marinol® [(-)-Δ^9-(trans)-THC in sesame oil and encapsulated in soft gelatin capsules] is an FDA approved drug product and has a currently accepted medical use in treatment in the United States; and

(3) Abuse of dronabinol [Marinol®; (-)-Δ^9-(*trans*)-THC in seasame oil and encapsulated in soft gelatin capsules] may lead to moderate or low physical dependence or high psychological dependence.

Based on these findings, the Acting Deputy Administrator of the DEA concludes that dronabinol [Marinol®; (-)-Δ^9-(*trans*)-THC in sesame oil and encapsulated in soft gelatin capsules] should be removed from Schedule II and placed into Schedule III of the CSA.

Special Provisions Regarding Import/Export Authorization

Dronabinol is internationally controlled in Schedule II of the 1971 Convention on Psychotropic Substances, to which the United States is a party. Under the special obligations of the Convention, Article 12 defines provisions relating to international trade relative to Schedule II substances. Specifically, signatory countries are required to issue import/export permits/authorizations to import or export a Schedule II substance. Due to its international control status, import/export permits for dronabinol still will be required despite the proposed transfer of dronabinol to Schedule III of the CSA.

In accordance with 21 CFR 1312.13(b) "[t]he Administrator may require that such non-narcotic controlled substances in Schedule III as he shall designate by regulation in § 1312.30 of this part be imported only pursuant to the issuance of an import permit" (21 U.S.C. 952(b)(2)). Similarly, the DEA could require export permits for Schedule III non-narcotic substances (21 CFR 1312.23(b) and 21 U.S.C. 953(e)(2)).

Currently, there are no Schedule III non-narcotic substances for which the Administrator requires an import/export permit. However, in accordance with 21 CFR 1312.30, this proposed designation of dronabinol as a Schedule III non-narcotic substance requiring an import/export permit is necessary for the United States to remain in compliance with the Convention.

Interested persons are invited to submit their comments, objections or requests for a hearing, in writing, with regard to this proposal. Requests for a hearing should state, with particularity, the issues concerning which the person desires to be heard. All correspondence regarding this matter should be submitted to the Acting Deputy Administrator, Drug Enforcement Administrator, Washington, DC 20537. Attention: DEA Federal Register Representative/CCR. In the event that comments, objections, or requests for a hearing raise one or more issues which the Acting Deputy Administrator finds warrant a hearing, the Acting Deputy Administrator shall order a public hearing by notice in the **Federal Register**, summarizing the issues to be heard and setting the time for the hearing.

In accordance with the provisions of the CSA (21 U.S.C. 811(a)), this action is a formal rulemaking "on the record after opportunity for a hearing," such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, are exempt from review by the Office of Management and Budget pursuant to Executive Order (E.O.) 12866, section 3(d)(1). The Acting Deputy Administrator, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this proposed rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities. Dronabinol products are prescription drugs used to treat nausea due to cancer chemotherapy and AIDS wasting. Handlers of dronabinol are likely to handle other controlled substances used to treat cancer or AIDS, which are already subject to the regulatory requirements of the CSA. Further, placement of dronabinol in Schedule III of the CSA will mean a significant decrease in the regulatory requirements for persons handling dronabinol products.

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under provisions of the Unfunded Mandates Reform Act of 1995.

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based companies to compete with foreign based companies in domestic and export markets.

This rule will not have substantial direct effects on the United States, on the relationship between the national government and the United States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 12612, it is determined that this rule, if finalized, will not have sufficient federalism implications to warrant the preparation of Federalism Assessment.

List of Subjects

21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

21 CFR Part 1213

Administrative practice and procedure, Drug traffic control, Exports, Imports, Narcotics, Reporting requirements.

Under the authority vested in the Attorney General by section 201(a) of the CSA (21 U.S.C. 811(a)), and delegated to the Administrator of the DEA by the Department of Justice regulations (28 CFR 0.100) and redelegated to the Deputy Administrator pursuant to 28 CFR 0.104, the Acting Deputy Administrator hereby proposes that 21 CFR parts 1308 and 1312 be amended as follows:

PART 1308—[AMENDED]

1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b) unless otherwise noted.

§ 1308.12 [Amended]

2. Section 1308.12 is proposed to be amended by removing paragraph (f)(1) and redesignating the existing paragraph (f)(2) as (f)(1).

3. Section 1308.13 is proposed to be amended by adding a new paragraph (g)(1) to read as follows:

§ 1308.13 Schedule III.

* * * * *

(g) *Hallucinogenic substances.*

(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved product 7369

[Some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-[6H-dibenzo[b,d]pyran-1-ol] or (-)-delta-9-(trans)-tetrahydrocannabinol]

PART 1312—[AMENDED]

1. Section 1312.30 is proposed to be amended by adding a new paragraph (a) to read as follows:

§ 1313.30 Schedule III, IV and V non-narcotic controlled substances requiring an import and export permit.

* * * * *

(a) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved product.

* * * * *

Dated: October 29, 1998.

Donnie R. Marshall,

Acting Deputy Administrator, Drug Enforcement Administration.

[FR Doc. 98–29571 Filed 11–4–98; 8:45 am]

BILLING CODE 4410–09–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD060–3032b; FRL–6184–1]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Proposed Approval of Revision to the VOC Rule Governing Automotive and Light-duty Truck Coating Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Maryland. This action revises the rule citation for the VOC provisions governing automotive and light-duty truck coating operations. The intended effect of this action is to provide consistency between Maryland's current regulatory numbering format and the Maryland SIP numbering format with regard to this rule. There are no substantive revisions. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by December 7, 1998.

ADDRESSES: Written comments should be addressed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford (3AP20), (215) 814–2108, at the EPA Region III address above, or by e-mail at frankford.harold@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final action which is located in the Rules and Regulations Section of this **Federal Register**.

Dated: October 27, 1998.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc.98–29659 Filed 11–4–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 745

[OPPTS–62156D; FRL–6044–9]

RIN 2070–AC63

Lead, Identification of Dangerous Levels of Lead; Extension of Comment Period and Rescheduling of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is extending the time for the public to provide written comments on a proposed rule, issued under section 403 of the Toxic Substances Control Act (TSCA), that would provide guidelines for managing lead in paint, dust, and soil in residences and child-occupied facilities. The public now has until December 31, 1998, to submit written comments. EPA is also rescheduling a public meeting on the proposed rule from its original date of November 16, 1998, to December 4, 1998. The purpose of this meeting is to provide an opportunity for nationally recognized experts to offer their perspectives on the proposed rule and for the public to present oral comments. The public would still have the opportunity to submit written comments after the meeting.

DATES: Written comments on the proposed rule must be received on or before December 31, 1998.

The public meeting will be held on December 4, 1998, from 9 a.m. to 9 p.m. EPA requests that members of the public wishing to present oral comments at the meeting register by November 23, 1998, persons may also register to speak at the time of the meeting, if any comment time is remaining.

ADDRESSES: *Public meeting:* The meeting will be held at the Grand Hyatt San Francisco, 345 Stockton St., San Francisco, CA.

Comments: Each written comment must bear the docket control number OPPTS–62156D. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. G–099, East Tower, Washington, DC 20460.

Written comments and data may also be submitted electronically to: oppt.ncic@epa.gov. Follow the instructions in Unit III. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

All written comments which contain information claimed as CBI must be clearly marked as such. Three copies, sanitized of any comments containing information claimed as CBI, must also be submitted and will be placed in the public record for this rulemaking. Persons submitting information, any portion of which they believe is entitled to treatment as CBI by EPA, must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

FOR FURTHER INFORMATION CONTACT: *For general information and to register to present oral comments at the meeting:* National Lead Information Center's Clearinghouse, 1–800–424–LEAD (5323).

For technical and policy questions: Jonathan Jacobson, telephone: (202) 260–3779 or e-mail: jacobson.jonathan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 3, 1998 (63 FR 30302) (FRL–5791–9), EPA published a proposed rule under Title IV of TSCA. Section 403 of TSCA (15 U.S.C. 2683) directs EPA to promulgate regulations identifying lead-based paint hazards, lead-contaminated dust, and lead-contaminated soil. Section 402 of TSCA (15 U.S.C. 2682) directs EPA to promulgate regulations governing lead-based paint activities. Section 404 of TSCA (15 U.S.C. 2684) requires that any State that seeks to administer and enforce the requirements established by the Agency under section 402 of TSCA must submit to the Administrator a request for authorization of such a program.

On October 1, 1998, EPA announced in the **Federal Register** (63 FR 52662) (FRL–6037–7) that it would extend the public comment period until November 30, 1998. On October 28, 1998, EPA announced in the **Federal Register** (63 FR 57636) (FRL–6041–1) that it would be holding a public meeting on November 16, 1998, to provide an opportunity to present oral comments. Upon further reflection, the Agency has decided that it would be more valuable to expand the scope of this meeting and include nationally recognized experts to offer their perspectives on the proposed rule in a public workshop. Following the workshop, members of the public will have the opportunity to present oral comments on the proposed rule to the Agency. In order to accommodate this type of forum, EPA is rescheduling the public meeting to December 4, 1998, and will further extend the time for submitting written comments to December 31, 1998.

II. Meeting Process

The workshop component of the meeting, consisting of nationally recognized experts, will convene at approximately 9 a.m. and will end at 2:30 p.m. Oral comments from the public will be heard between 3 p.m. and 9 p.m.

The workshop will begin with presentations by EPA officials on the Agency's approach described in the proposed rule and an explanation of the decisions in the proposal. These presentations will be followed by several discussion segments that will address the major issues of concern. In each segment, several experts have been invited to present formal remarks on EPA's proposed standards. After the conclusion of the formal presentations during each segment, there will be an open discussion among the invited participants. EPA officials will facilitate the discussion and will be available to answer questions that will help clarify materials contained in the public record. In addition, the public is encouraged to attend the workshop to hear the discussions and will have the opportunity to offer comments later in the day.

The public comment component of the meeting will run from approximately 3 p.m. to 9 p.m. with an hour break from 5 p.m. to 6 p.m. EPA will hear as many comments as time permits. Commenters will speak in the order in which they register. Individuals are requested to limit their presentations to 10 minutes in order to allow as many persons as possible a fair chance to participate. Individuals interested in presenting comments at the meeting should register in advance by contacting the National Lead Information Clearinghouse at 1–800–424–LEAD (5323). Individuals should indicate whether they wish to speak at the afternoon or evening session.

III. Public Record and Electronic Submissions

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket control number OPPTS-62156D (including comments and data submitted electronically as described in this unit). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC. Electronic comments can be sent directly to EPA at: oppt.ncic@epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPPTS-62156D. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

List of Subjects in 40 CFR Part 745

Environmental protection, Hazardous substances, Lead-based paint, Lead poisoning, Reporting and recordkeeping requirements.

Dated: November 3, 1998.

Joseph S. Carra,

Acting Director, Office of Pollution Prevention and Toxics.

[FR Doc. 98–29802 Filed 11–3–98; 3:37 pm]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[IB Docket No. 98–192, FCC 98–280]

Direct Access to the INTELSAT System

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is seeking comment on the legal, economic, and policy ramifications of permitting direct access to the INTELSAT system in the United States. Direct access to INTELSAT would enable U.S. carriers and users to obtain space segment capacity directly from INTELSAT rather than through Comsat, the U.S. Signatory to INTELSAT. The Commission tentatively concludes that the Communications Satellite Act of 1962 and the Communications Act give it discretion to permit U.S. carriers and users the option of obtaining contractual, or Level 3, direct access to the INTELSAT system. The Commission does not, however, reach tentative conclusions as to whether and under what circumstances the Commission may permit direct access. On this issue, the Commission is seeking comments on: What are the potential benefits of direct access?; what competitive concerns are raised by direct access?; how would direct access affect U.S. efforts to privatize INTELSAT?

DATES: Comments must be submitted on or before December 18, 1998; reply comments must be submitted on or before January 8, 1999.

ADDRESSES: Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, D.C. 20554. Also, comments should also be filed with: Kathleen A. Campbell, International Bureau, 2000 M Street, N.W., Suite 800, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jim Ball at (202) 418–0427 or Sande Taxali at (202) 418–7586.

SUPPLEMENTARY INFORMATION: This is a summary of the commission's Notice of Proposed Rulemaking in IB Docket No. 98–192; FCC 98–280, adopted October 22, 1998 and released October 28, 1998. The complete text of this Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC and also may be purchased from the commission's copy contractor, International Transcription Service, 1231 20th Street, N.W., Washington, DC 20036, phone: (202) 857–3800, fax: (202) 857–3805.

To file formally in this proceeding, comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings (63 FR 24121, May 1, 1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/

ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties may also choose to file comments by paper. To file by paper, parties must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, D.C. 20554. Paper filings will be received at a designated counter located at TW–A325 in the 12th street lobby. In addition, comments should be filed with: Kathleen A. Campbell, International Bureau, 2000 M Street, N.W., Suite 800, Washington, D.C. 20554. The Commission expects to complete its relocation to The Portals within the next six months. During the transition period, paper filings also will be accepted at 1919 M Street, NW, Room 222, but only between the hours of 4:00pm to 5:30pm.

Summary of Notice of Proposed Rulemaking

1. On April 29, 1998, the Commission granted Comsat's petition for reclassification as a non-dominant carrier in competitive product markets and denied its petition for reclassification in non-competitive product markets.[1] For non-competitive markets where Comsat remains dominant the Commission denied Comsat's request for forbearance under Section 10 of the Communications Act. The Commission stated it would consider favorably in its analysis of any forbearance request certain actions that Comsat might undertake to promote competitive market conditions, including, for example, the provision of direct access and a waiver of privileges and immunities. The Commission said that it would expeditiously initiate a proceeding to explore the legal, economic, and policy ramifications of direct access.

2. The Commission previously considered direct access to the INTELSAT system in 1984.[2] At that time, the Commission concluded that the specific direct access alternatives then under consideration would result in little savings to end users and would not be in the public interest. The Commission did, however, indicate that it would be amenable to reconsider the issue of direct access at a future date.

3. Beginning in 1992, INTELSAT developed procedures for non-Signatory carriers and users to obtain space segment capacity directly from INTELSAT rather than through Signatories. INTELSAT now offers to non-Signatories four types or "levels" of direct access. The first two levels involve access to information.[3] The third and fourth levels involve access to communication services: (a) Level 3 direct access permits a customer to enter into a contractual agreement with INTELSAT for ordering, receiving and paying for INTELSAT space segment capacity at the same rate that INTELSAT charges its Signatories; and (b) Level 4 direct access permits a customer to make a capital investment in INTELSAT in proportion to its customers' utilization of the INTELSAT system at INTELSAT tariff rates.

4. For both Level 3 and Level 4 direct access, a customer is required to enter into a service agreement with INTELSAT that sets forth the general terms and conditions for INTELSAT supply of its space segment capacity. So long as the service agreement remains in effect, a customer is able to access INTELSAT space segment directly. Level 3 customers would benefit from INTELSAT rates lower than Signatory "marked up" rates, and would have no investment obligations in the system. A Signatory permitting Level 3 direct access, however, will earn a return on its investment in space segment capacity used by a Level 3 customer (currently up to 21 percent as established by the INTELSAT Board of Governors).[4] A Level 4 customer undertakes all of the financial obligations under the INTELSAT Operating Agreement that are applicable to Signatories and thus is entitled to earn on its investment (but is not entitled to participate in the INTELSAT governance process absent special arrangements with the Party and Signatory of its country).

5. INTELSAT offers direct access only in countries where it is authorized by the Signatory. Currently 94 countries permit either Level 3 or Level 4 direct access. Seventy-six countries permit contractual Level 3 direct access and 18 countries permit Level 4 direct access to INTELSAT. Comsat has not authorized direct access in the United States.

6. The Commission tentatively concludes that the Commission has authority under the Communications Satellite Act of 1962 to permit Level 3 direct access but not level 4 direct access. The Satellite Act requires Comsat to be the sole U.S. participant in INTELSAT. This requirement is satisfied under Level 3 direct access because Comsat continues to be the only U.S. investor in INTELSAT and the only U.S. representative within the governing bodies of INTELSAT. This requirement is not satisfied under Level 4 direct access which would involve investment in INTELSAT by U.S. direct access customers. Further, nothing in the Satellite Act requires Comsat to be the only provider of INTELSAT services in the U.S. and the Commission tentatively concludes that the Satellite Act gives the Commission discretion to mandate Level 3 direct access. The Commission tentatively concludes that permitting level 3 direct access would not violate the Fifth Amendment to the Constitution. The Commission seeks comment on these tentative conclusions and corresponding analysis.

7. The Commission does not reach tentative conclusions as to whether and under what circumstances it may permit direct access in the United States. The Commission seeks comment on (1) What are the potential benefits of direct access? (2) what competitive concerns are raised by direct access? and (3) how would direct access affect efforts to privatize INTELSAT?

8. On the issue of potential benefits of direct access, the Commission compared the differences between prices Comsat offers to customers and services providers and INTELSAT tariffs, the latter which reflect substantially lower prices in most instances. It noted the potential for greater customer choice and cost savings from direct access. It requests comment on the desirability of allowing direct access to INTELSAT with respect to all product and geographic markets including those markets that are competitive and for which Comsat is non-dominant. The Commission requests comments on whether direct access to all markets would further increase the level of competition to the extent that prices to consumers would be likely to fall, even in competitive markets. The Commission also requests, however, comment on whether Comsat would be able to recover its costs under a Level 3 direct access scheme and asks whether Comsat, as a matter of law and policy, must be allowed to recoup its costs and the Commission requests comment on whether circumstances have changed since the Commission's *1984 Direct Access Order*. Further, it asks carriers seeking direct access to comment on how cost savings would be passed on to their customers.

9. Finally, on the question of competitive concerns, the Commission asks for comment on whether permitting direct access in the United States would result in a concentration of control of cable and satellite facilities by U.S. carriers, and whether INTELSAT should be allowed to compete in the U.S. market free from FCC jurisdiction over rates and under cover of immunity from suit and process. As to INTELSAT privatization, the Commission requests comment on whether permitting direct access in the U.S. will reinforce U.S. efforts to promote competition and privatize INTELSAT. The Commission noted that, in the *Comsat Non-Dominant Order*, it determined that Level 3 direct access would neither dilute Comsat's voting power on the INTELSAT Board of Governors nor give direct access customers any right to participate in the INTELSAT governance process. The Commission, therefore, then found no basis to find that direct access would undermine U.S. efforts to privatize INTELSAT in a pro-competitive manner.

Administrative Matters

10. This is a non-restricted notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules. See generally 47 CFR 1.1202, 1.203 and 1.206(a). The Sunshine Agenda period is the period of time that commences with the release of public notice that a matter has been placed on the Sunshine Agenda and terminates when the Commission (1) releases the text of a decision or order in the matter, (2) issues a public notice stating that the matter has been deleted from the Sunshine Agenda; or (3) issues a public notice stating that the matter has been returned to the staff for further consideration, whichever occurs first 47 CFR 1.202(f). During the Sunshine Agenda period, no presentations, ex parte or otherwise, are permitted unless specifically exempted (47 CFR 1.203. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before December 18, 1998 and reply comments on or before January 8, 1999. To file formally in this proceeding, you must file an original and five copies of all comments, reply comments and supporting comments. If you want each Commissioner to receive a personal copy of your comments, send additional copies to Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the Federal Communications Commission Reference Center, Room 239, 1919 M Street, NW., Washington, DC 20554. For further information concerning this rulemaking, contact Jim Ball at (202) 418–0427 or Sande Taxali at (202) 418–7586.

Initial Regulatory Flexibility Analysis

11. As required by the Regulatory Flexibility Act, ("RFA"),[5] the Commission has prepared an Initial Regulatory Flexibility Analysis ("IRFA") of the expected significant economic impact on small entities by the rules proposed in this *Notice of Proposed Rulemaking* ("*NPRM*"). Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments set forth in paragraph 65 of the *NPRM*. The Commission will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. § 603(a).

Need for, and Objectives of, the Proposed Rules

12. The purposes of the *NPRM* are to initiate a notice and comment proceeding that explores the legal, economic and policy ramifications of permitting direct access to the INTELSAT[6] system in the United States and to propose rules for permitting U.S. carriers and users to obtain non-discriminatory direct access to INTELSAT's satellites. "Direct access" is a term used to refer to the means by which users of the INTELSAT satellite system obtain service directly from INTELSAT rather than through INTELSAT's Signatories.

13. The *NPRM* tentatively concludes that (a) the Commission has authority under applicable statutes to permit U.S. carriers and users to obtain services from INTELSAT directly at the same rates that INTELSAT charges its Signatories; and (b) direct access presents the opportunity to introduce competition in markets where competition does not exist and enhance competition in markets where it does exist. Consistent with these tentative conclusions, the *NPRM* proposes rules that would permit U.S. carriers and users to obtain direct access to INTELSAT. The *NPRM* invites interested parties to comment on these tentative conclusions and related proposed rules. If commenters believe that the proposed rules discussed in the *NPRM* require additional RFA analysis, they should include a discussion of this in their comments.

Legal Basis

14. The authority for the *NPRM* is the Administrative Procedure Act, 5 U.S.C. 553; and sections 4(i) and 201(b) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 201(b), and sections 201(c)(5) and (c)(11) of the Communications Satellite Act of 1962, 47 U.S.C. 721(c)(5), (c)(11) and 741.

15. Description and Estimate of the Number of Small Entities to Which Proposed Rule Will Apply Under the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; (3) meets any additional criteria

[1] Comsat Corporation Petition pursuant to Section 10(c) of the Communications Act of 1939, as amended, for forbearance from Dominant Carrier Regulation and for Reclassification as a Non-Dominant Carrier, *Comsat Non-Dominant Order*, and *Notice of Proposed Rulemaking*, FCC 98–78, (released April 28, 1998) (*Comsat Non-Dominant Order*).

[2] Regulatory Policies Concerning Direct Access to INTELSAT Space Segment for the U.S. International Service Carriers (*1984 Direct Access Order*) 97 FCC 2d 296 (1984), *Western Union International, Inc.* v *FCC* 814 F.2d 1280 (D.C. Cir. 1986).

[3] Level 1 direct access permits a customer to receive operational and technical information and attend global traffic meetings as an operations representative. Level 2 direct access permits a customer to meet with INTELSAT management and staff regarding capacity availability, commercial and INTELSAT tariff matters.

[4] Under the INTELSAT Operating Agreement, the Board of Governors establishes a target rate of compensation (return) on shareholders (Signatories) invested capital. All shareholders are entitled to the target rate of return. *See* INTELSAT Operating Agreement, Article 8; *See also* INTELSAT Annual Report, 1996, "Report of Independent Public Accountants, Arthur Anderson LLP" at p. 36.

[5] *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et seq.*, has been amended by the Contract with America Advancement Act of 1996, Public L. 104–121, 110 Stat. 847 (1996) ("CWAAA"). Title II of the CWAAA is The Small Business Regulatory Enforcement Fairness Act of 1996.

[6] INTELSAT is an acronym for the International Telecommunications Satellite Organization.

established by the Small Business Administration.[7]

16. The Commission has not developed a definition of small entities applicable to satellite service licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration ("SBA") rules applicable to Communications Services "Not Elsewhere Classified." This definition provides that a small entity is one with $11 million or less in annual receipts.[8]

17. If the Commission adopts the proposed rules permitting U.S. carriers and users to obtain direct access to INTELSAT, the Commission would require Comsat Corporation ("Comsat") to take appropriate actions within INTELSAT to give effect to these rules. Comsat's 1996 revenues were in excess of $11 million. Thus, Comsat does not qualify as a small entity under the SBA's definition. U.S. carriers and users that may benefit from the Commission's adoption of the proposed rules, may include small entities that offer communications services. According to the SBA, the Census Bureau estimates that there are approximately 848 entities providing communications services, not elsewhere classified. Of those, approximately 775 reported annual receipts of less than $9.999 million or less and would qualify as small entities subject to the proposed rules.[9] More precise data is not available.

Description of Projected Reporting, Recordkeeping or Other Compliance Requirements

18. The proposals in the *NPRM* are not expected to result in any additional reporting, recordkeeping and other compliance.

Steps Taken To Minimize Significant Economic Burden on Small Entities, and Significant Alternatives Considered

19. The *NPRM* considers two alternatives for U.S. carriers and users to obtain direct access to INTELSAT: Level 3 direct access and Level 4 direct access. Level 3 direct access permits a customer to enter into a contractual agreement with INTELSAT for ordering, receiving and paying for INTELSAT space segment capacity at the same rate that INTELSAT charges its Signatories. Level 4 direct access permits a customer to make a capital investment in INTELSAT in proportion to its customers' utilization of the INTELSAT system at INTELSAT tariff rates. The *NPRM* proposes rules that would permit U.S. carriers and users to obtain Level 3 direct access to INTELSAT. The *NPRM* does not propose a rule permitting Level 4 direct access to INTELSAT because the *NPRM* tentatively concludes that such a rule would contravene the requirement under the Communications Satellite Act of 1962 that Comsat be the sole U.S. participant in INTELSAT. The proposed rules would permit small entities to obtain Level 3 direct access to INTELSAT, however, as a Level 3 direct access customer of INTELSAT, such small entities would not be required to undertake any of the financial obligations or be entitled to participate in the INTELSAT governance process as are Signatories. We believe that the proposed rules will permit authorized carriers and users, including small entities, to benefit from direct access through greater choice and lower rates in connection with use of the INTELSAT system and we seek comment on these and other benefits that may result from direct access. We recognize that other issues not raised in the *NPRM* may be significant to carriers and users, including small entities, and we also request comment on issues relating to direct access that are not raised in the *NPRM*. We do not expect the proposed rules to cause any economic burden to small entities, and seek comment on any issues pertinent to this.

Federal Rules That Overlap, Duplicate, or Conflict With These Proposed Rules

20. None.

Ordering Clauses

21. Accordingly, it is ordered that pursuant to the authority contained in sections 4(i), 4(j) 201, 214, 301 *et seq.*, and 403, and sections 201(c)(5) and (c)(11) and 401 of the Communications Satellite Act of 1962, 47 U.S.C. 721(c)(5) and (c)(11) and 741 of the applicable procedures set forth in sections 1.415 and 1.3–419 of the Commission's rules, 47 CFR 1.415 and 1.419 that this *Notice of Proposed Rulemaking* is hereby adopted.

22. It is further ordered that interested parties may comment until December 18, 1998 and file reply comments until January 8, 1999.

23. It is further ordered that the Commission's Office of Public Affairs Reference Operations Division shall send a copy of this *Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis, to Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–29572 Filed 11–4–98; 8:45 am]

BILLING CODE 6712–01–P

[7] *See* 15 U.S.C. 632.

[8] 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4899.

[9] U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92–S–1, Subject Series, Establishment and Firm Size, Table D, Employment Size of Firms: 1992, SIC Code 4899 (May 1995).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 103098A]

RIN 0648–AL49

Fisheries Off West Coast States and in the Western Pacific; Pelagic Fisheries, Amendment 8; Crustacean Fisheries, Amendment 10; Bottomfish and Seamount Groundfish Fisheries, Amendment 6; Precious Corals Fisheries, Amendment 4

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce,

ACTION: Notice of availability of fishery management plan amendments; request for comments.

SUMMARY: NMFS issues this notice that the Western Pacific Fishery Management Council (Council) has submitted for Secretarial review Amendment 8 to the Pelagic Fisheries Management Plan (FMP), Amendment 10 to the Crustaceans Fisheries FMP, Amendment 4 to the Precious Corals Fisheries FMP, and Amendment 6 to the Bottomfish and Seamount Groundfish Fisheries FMP and is requesting comments from the public. The amendments were prepared so that the FMPs would comply with provisions of the Sustainable Fisheries Act (SFA) regarding bycatch, fishing sectors, essential fish habitat, fishing communities, and overfishing. Copies of the amendments may be obtained from the Council (See **ADDRESSES**).

DATES: Written comments on the amendments must be received on or before January 4, 1998.

ADDRESSES: Written comments should be sent to Charles Karnella, Administrator, Pacific Islands Area Office, National Marine Fisheries Service, 2570 Dole Street, Room 106, Honolulu, HI 96822–2396. Copies of the comprehensive amendment document are available from, Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Alvin Katekaru, Fishery Management Specialist, Pacific Islands Area Office, NMFS, at (808) 973–2985 or Kitty Simonds at (808) 522–8220.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each Regional Fishery Management Council submit any amendment to a FMP to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an amendment, immediately publish a notice that the amendment is available for public review and comment. NMFS will consider all public comments received during the comment period in determining whether to approve the amendments for implementation.

The SFA amended the requirements for FMPs in section 303(a) of the Magnuson-Stevens Act. The SFA established a 2-year deadline by which the FMPs had to be in compliance with the SFA/Magnuson-Stevens Act requirements. The proposed amendments are intended to supplement the FMPs to conform to the new requirements in section 303(a) of the Magnuson-Stevens Act. The proposed amendments: address bycatch and bycatch mortality issues by presenting an overview of the type and amount of bycatch in each managed fishery, assessing the adequacy of bycatch reporting, and examining the existing and possible new measures to minimize bycatch and mortality of bycatch in each fishery; describe the likely effects of management measures on fishing communities; specify overfishing criteria to determine whether a fishery is overfished; identify commercial, recreational, and charter fishing activity in each sector; identify pertinent data associated with the fishing activity in each sector; and identify essential fish habitat/areas of particular concern for management unit species. The new overfishing criteria are not expected to result in major changes to allowable catches in these fisheries. Specifically, the amendments would add or revise existing definitions in the four Western Pacific FMPs for: "Bycatch," "Charter fishing," "Commercial fishing," "Recreational fishing," "Essential fish habitat," "Fishing community," "Individual fishing quota," "Optimum," "Overfishing," "Overfished," and "Pacific Insular Area." Recommendations are also presented for obtaining additional data that would enable NMFS and the Council to implement effectively the new requirements under the proposed amendments.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 2, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–29653 Filed 11–2–97; 2:59 pm]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 63, No. 214
Thursday, November 5, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 98–058N]

Codex Alimentarius Commission: Meeting of the Codex Committees on Methods of Analysis and Sampling, and Natural Mineral Waters

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Under Secretary for Food Safety, U.S. Department of Agriculture (USDA); the Food Safety and Inspection Service, USDA; and the Food and Drug Administration (FDA), U.S. Department of Health and Human Services, are sponsoring a public meeting on November 10, 1998, to provide information and receive public comments on agenda items that will be discussed at the following upcoming committee meetings:

- Twenty-Second Session of the Codex Committee on Methods of Analysis and Sampling, Budapest, Hungary, November 21–27, 1998.
- Sixth Session of the Codex Committee on Natural Mineral Waters, Bern, Switzerland, November 19–21, 1998.

DATES: The public meeting is scheduled for Tuesday, November 10, 1998, from 9:00 a.m. to 12:15 p.m.

ADDRESSES: The public meeting will be held in Room 1409, Department of Health and Human Services, Food and Drug Administration Building, 200 C Street, SW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Patrick J. Clerkin, Associate U.S. Manager for Codex, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South Agriculture Building, 14th Street and Independence Avenue, SW, Washington, DC 20250–3700. Telephone: (202) 205–7760; Fax: (202) 720–3157.

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius Commission (Codex) was established in 1962 by two United Nations organizations, the Food and Agriculture Organization and the World Health Organization. Codex is the principal international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration and correctly labeled.

Issues to be Discussed at the Public Meeting

The U.S. Delegate for the Codex Committee on Methods of Analysis and Sampling will provide information and receive public comments on the following subjects at the public meeting from 9:00 a.m. to 11:00 a.m.:

Agenda item/subject matter	Doc. Ref. No.
1. Methods of Sampling	
(a) Proposed Draft General Guidelines on Sampling at Step 4	CX/MAS 98/3.
(b) Draft Revised Recommended Methods of Sampling for the Determination of Pesticide Residues for Compliance with MRLs.	CX/MAS 98/4.
2. Criteria for Evaluating Acceptable Methods of Analysis for Codex Purposes	CX/MAS 98/5.
3. Harmonization of Reporting of Test Results Corrected for Recovery Factors. Progress Report on Development of Harmonized Guidelines for the Use of Recovery Factors in Analytical Measurement.	CX/MAS 98/6.
4. Harmonization of Analytical Terminology in Accordance with International Standards. Report of Inter-Agency Meeting on "Limits"	Conference Room Document (CRD) 1.
5. Measurement Uncertainty	CX/MAS 98/7.
6. In-House Method Validation	CX/MAS 98/8.

The U.S. Delegate for the Codex Committee on Natural Mineral Waters will provide information and receive public comments on the following subject at the public meeting as soon as the earlier discussion ends or from 11:15 a.m. to 12:15 p.m.:

Agenda item/subject matter	Doc. Ref. No.
1. Consideration of Proposed Draft General Standard for Bottled/Packaged Waters Other Than Natural Mineral Waters at Step 4	CX/NMW 98/2.

Patrick J. Clerkin,
Associate U.S. Manager for Codex.
[FR Doc. 98–29640 Filed 11–4–98; 8:45 am]
BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Special Provision for Frozen Concentrated Orange Juice Under the North American Free Trade Agreement Implementation Act

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice of Determination of Termination of Existence of Price Conditions Necessary for Imposition of Temporary Duty on Frozen Concentrated Orange Juice from Mexico.

SUMMARY: Pursuant to Section 309(a) of the North American Free Trade Agreement Implementation Act of 1993 ("NAFTA Implementation Act"), this is a notification that for 5 consecutive business days the daily price for frozen concentrated orange juice has exceeded the trigger price.

FOR FURTHER INFORMATION CONTACT: Mark Petry, Horticultural and Tropical Products Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, DC 20250–1000 or telephone at (202) 720–6877.

SUPPLEMENTARY INFORMATION: The NAFTA Implementation Act authorizes the imposition of a temporary duty (snapback) for Mexican frozen concentrated orange juice when certain conditions exist. Mexican articles falling under subheading 2009.11.00 of the Harmonized Tariff Schedule of the United States (HTS) are subject to the snapback duty provision.

Under Section 309(a) of the NAFTA Implementation Act, certain price conditions must exist before the United States can apply a snapback duty on imports of Mexican frozen concentrated orange juice. In addition, such imports must exceed specified amounts before the snapback duty can be applied. The price conditions exist when for each period of 5 consecutive business days the daily price for frozen concentrated orange juice is less than the trigger price.

For the purpose of this provision, the term "daily price" means the daily closing price of the New York Cotton Exchange, or any successor as determined by the Secretary of Agriculture (the "Exchange"), for the closest month in which contracts for frozen concentrated orange juice are being traded on the Exchange. The term "business day" means a day in which contracts for frozen concentrated orange juice are being traded on the Exchange.

The term "trigger price" means the average daily closing price of the Exchange for the corresponding month during the previous 5-year period, excluding the year with the highest average price for the corresponding month and the year with the lowest average price for the corresponding month.

Price conditions no longer exist when the Secretary determines that for a period of 5 consecutive business days the daily price for frozen concentrated orange juice has exceeded the trigger price. Whenever the price conditions are determined to exist or to cease to exist the Secretary is required to immediately notify the Commissioner of Customs of such determination. Whenever the determination is that the price conditions exist and the quantity of Mexican articles of frozen concentrated orange juice entered exceeds (1) 264,978,000 liters (single strength equivalent) in any of calendar years 1994 through 2002, or (2) 340,560,000 liters (single strength equivalent) in any calendar years 2003 through 2007, the rate of duty on Mexican articles of frozen concentrated orange juice that are entered after the date on which the applicable quantity limitation is reached and before the date of publication in the **Federal Register** of the determination that the price conditions have ceased to exist shall be the lower of—(1) the column 1—General rate of duty in effect for such articles on July 1, 1991; or (2) the column 1—General rate of duty in effect on that day. For the purpose of this provision, the term "entered" means entered or withdrawn from warehouse for consumption in the customs territory of the United States.

In accordance with Section 309(a) of the NAFTA Implementation Act, it has been determined that for the period October 12–16, 1998, the daily price for frozen concentrated orange juice has exceeded the trigger price.

Issued at Washington, DC the 30th day of October, 1998.

Lon Hatamiya,
Adminstrator, Foreign Agricultural Service.
[FR Doc. 98–29639 Filed 11–4–98; 8:45 am]
BILLING CODE 3410–10–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Alaska Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Alaska Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 3 p.m. on November 19, 1998, at the Anchorage Hilton, 500 West Third Avenue, Anchorage, Alaska 99501. The purpose of the meeting is to discuss civil rights issues and review a special education draft report.

Persons desiring additional information, or planning a presentation to the Committee, should contact Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 2, 1998.

Carol-Lee Hurley,
Chief, Regional Programs Coordination Unit.
[FR Doc. 98–29697 Filed 11–2–98; 4:23 pm]
BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1004]

Expansion of Foreign-Trade Zone 15, Kansas City, Missouri, Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Greater Kansas City Foreign Trade Zone, Inc., grantee of Foreign-Trade Zone 15, submitted an application to the Board for authority to expand FTZ 15 to include a new site in Hermann, Missouri, within the St. Louis Customs port of entry area (FTZ Docket 44–97; filed 5/29/97);

Whereas, notice inviting public comment was given in **Federal Register** (62 FR 32582, 6/16/97) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 15 is approved, subject to the Act and the Board's regulations, including Section 400.28, and further subject to the Board's standard 2,000-acre activation limit, and to a sunset provision that

terminates the authority for the site on December 31, 2005, unless the site is activated pursuant to 19 CFR Part 146 of the U.S. Customs Service regulations.

Signed at Washington, DC, this 19th day of October, 1998.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–29670 Filed 11–4–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1005]

Grant of Authority for Subzone Status Lucent Technologies Inc. (Telecommunications Equipment), Columbus, Ohio

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for "* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, the Rickenbacker Port Authority, grantee of Foreign-Trade Zone 138, has made application to the Board for authority to establish special-purpose subzone status at the telecommunications equipment manufacturing facility of Lucent Technologies Inc., located in Columbus, Ohio, (FTZ Docket 73–97, filed 9/29/97);

Whereas, notice inviting public comment has been given in the **Federal Register** (62 FR 52683, 10/9/97); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the telecommunications equipment manufacturing facility of the Lucent Technologies Inc., located in Columbus, Ohio, (Subzone 138E), at the location described in the application, and subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 19th day of October 1998.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–29671 Filed 11–4–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1006]

Grant of Authority for Temporary Time Extension, Subzones 78C and 78D (Nuclear Power Equipment), Hartsville and Phipps Bend, Tennessee

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, FTZ Subzones 78C and 78D at Global Power Company's nuclear equipment storage facilities in Hartsville and Phipps Bend, Tennessee, were approved in 1984, subject to a voluntary time limit (Board Order 246, 3/30/84);

Whereas, the Metropolitan Nashville Port Authority, grantee of FTZ 78, has applied to the Board for extension of the time limit to allow Global Power Company further time to sell the equipment (Docket 39–98, filed August 14, 1998);

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants authority for the extension of the time limit for Subzones 78C and 78D to October 25, 2003.

Signed at Washington, DC, this 19th day of October, 1998.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–29672 Filed 11–4–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–848]

Freshwater Crawfish Tail Meat From the People's Republic of China: Initiation of New-Shipper Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of New-Shipper Antidumping Administrative Review.

SUMMARY: The Department of Commerce (the Department) has received a request from Lianyungang Haiwang Aquatic Products Co., Ltd. (Haiwang), Qingdao Rirong Foodstuff Co., Ltd. (Rirong), and Yangcheng Baolong Biochemical Products Co., Ltd. (Yangcheng) to conduct new-shipper administrative reviews of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC). In accordance with the Department's current regulations, we are initiating this administrative review.

EFFECTIVE DATE: November 5, 1998.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita, Mark Hoadley, Thomas Gilgunn, or Maureen Flannery, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4236, (202) 482–4106, (202) 482–0648, or (202) 482–3020, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, codified at 19 CFR Part 351 (1998).

Background

On September 29, 1998 and September 30, 1998, the Department received timely requests, in accordance with section 751(a)(2)(B) of the Act, and section 351.214(c) of the Department's regulations, for new shipper reviews of this antidumping duty order which has a September anniversary date.

Initiation of Review

In its September 29, 1998 request for review, Haiwang certified that it did not export the subject merchandise to the United States during the POI and that it is not affiliated with any company which exported subject merchandise to the United States during the POI. Haiwang further certified that its export activities are not controlled by the central government of the PRC.

In its September 29, 1998 request for review, Rirong certified that it did not export the subject merchandise to the United States during the POI and that it is not affiliated with any company which exported subject merchandise to the United States during the POI. Rirong further certified that its export activities are not controlled by the central government of the PRC. In addition, Rirong submitted a statement from Weishan Hongfa Lake Foodstuffs Co., Ltd. (Weishan), the producer/supplier of subject merchandise to Rirong. In that statement, Weishan certified that it did not export subject merchandise during the POI and that it is not affiliated with any exporter or producer who exported subject merchandise during the POI. Weishan further certified that its export activities are not controlled by the government of the PRC.

In its September 30, 1998 request for review, Yangcheng certified that it did not export the subject merchandise to the United States during the POI and that it is not affiliated with any company which exported subject merchandise to the United States during the POI. Yangcheng further certified that its export activities are not controlled by the central government of the PRC. In addition, Yangcheng submitted a statement from the processor of its subject merchandise. In that statement, the processor certified that it did not export subject merchandise during the POI and that it is not affiliated with any exporter or producer who exported subject merchandise during the POI. The processor further certified that its export activities are not controlled by the government of the PRC.

In accordance with section 751(a)(2)(B) and 19 CFR 351.214(d), we are initiating new-shipper reviews of the antidumping duty order on freshwater crawfish tail meat from the PRC. Haiwang and Rirong have agreed to waive the standard deadline for new-shipper reviews. Therefore, we intend to conduct the new-shipper reviews for these parties concurrent with the administrative review initiated on October 29, 1998 (63 FR 58009). With respect to the new-shipper review for Yangcheng, the Department will issue the final results not later than 270 days from the publication of this notice.

In accordance with section 351.214(g)(ii) of the Department's regulations, the period of review (POR) for a new shipper review initiated in the month immediately following the annual anniversary month of the first administrative review extends from the date of suspension of liquidation to the end of the month immediately preceding the first anniversary month of the antidumping duty order. Therefore, the POR for these new-shippers is:

Antidumping duty proceeding	Period to be reviewed
Fresh Water Crawfish Tail Meat from the PRC, A–570–848	
Lianyungang Haiwang Aquatic Products Co., Ltd	3/26/97–8/31/98
Qingdao Rirong Foodstuff Co., Ltd	3/26/97–8/31/98
Yangcheng Baolong Biochemical Products Co., Ltd	3/26/97–8/31/98

Concurrent with publication of this notice and in accordance with CFR 351.214(e), we will instruct the U.S. Customs Service to allow, at the option of the importer, the posting of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by the companies listed above, until the completion of the review.

The interested parties must submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.214.

Dated: October 30, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–29669 Filed 11–4–98; 8:45 am]

BILLING CODE 3510–DS–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

November 2, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 6, 1998.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 67622, published on December 29, 1997.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 2, 1998.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 19, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on January 1, 1998 and extends through December 31, 1998.

Effective on November 6, 1998, you are directed to adjust the current limits for the

following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
340/640	830,076 dozen.
342/642	144,115 dozen.
351/651	1,243,383 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1997.

The guaranteed access levels for the foregoing categories remain unchanged.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.98–29637 Filed 11–4–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in the United Arab Emirates

October 30, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 6, 1998.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 63528, published on December 1, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 30, 1998.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 25, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in the United Arab Emirates and exported during the twelve-month period which began on January 1, 1998 and extends through December 31, 1998.

Effective on November 6, 1998, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
335/635/835	195,343 dozen.
338/339	735,224 dozen of which not more than 462,653 dozen shall be in Categories 338–S/339–S [2].
351/651	218,160 dozen.
352	208,582 dozen.
363	7,561,378 numbers.
647/648	426,073 dozen.
847	136,499 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1997.

[2] Category 338–S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.8010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.9068, 6112.11.0030 and 6114.20.0005; Category 339–S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2510, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.9070, 6112.11.0040, 6114.20.0010 and 6117.90.9020.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.98–29636 Filed 11–4–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

New York Mercantile Exchange Amendment to Petition for Exemption from the Dual Trading Prohibition in Affected Contract Markets

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of amendment to a petition for exemption from the prohibition on dual trading in an affected contract market.

SUMMARY: New York Mercantile Exchange ("NYMEX" or "Exchange") has submitted to the Commodity Futures Trading Commission ("Commission") an amendment and update to its October 25, 1993 petition for exemption from the prohibition against dual trading in five contract markets. The Exchange had resubmitted a corrected petition on December 1, 1993. Copies of the entire file, including any future submissions, will be available to the public upon request, except to the extent the Exchange has requested confidential treatment.

ADDRESSES: Copies of the file are available from the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Reference should be made to the NYMEX dual trading exemption petition file.

FOR FURTHER INFORMATION CONTACT: Duane C. Andresen, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581; telephone: (202) 418–5490.

SUPPLEMENTARY INFORMATION: Pursuant to Sections 4j(a)(1) and (3) of the Commodity Exchange Act ("Act") and Commission Regulation 155.5 thereunder, a board of trade may submit a petition to the Commission to exempt any of its affected contract markets (markets with an average daily trading volume equal to or in excess of 8,000 contracts for four consecutive quarters) from the prohibition against dual trading. Regulation 15.5(d)(6) authorizes the Director of the Division of Trading and Markets to publish notice of each exemption petition deemed complete under Regulation 155.5(d) and to make the petition available to the public as required by Section 4j(a)(5) of the Act.

NYMEX originally submitted a petition for a dual trading exemption on October 25, 1993. After the Commission requested additional information, the Exchange submitted a corrected petition on December 1, 1993. That petition was made available to the public by a notice of availability published in the **Federal Register** on December 22, 1993. Pursuant to a request from the Commission, NYMEX submitted a dual trading petition amendment and update dated September 30, 1998 for its Light Sweet Crude Oil, Natural Gas, New York Harbor No. 2 Heating Oil, and Harbor Unleaded Gasoline futures contracts and the option contracts on Light Sweet Crude Oil futures.

Copies of the file containing all these materials and any future submissions, except to the extent the Exchange has requested confidential treatment in accordance with 17 CFR 145.9, are available for inspection at the Commission's Office of the Secretariat, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581, and may be obtained by mail at that address or by telephone at (202) 418–5100.

Petition materials subject to NYMEX's request for confidential treatment may be available upon request pursuant to the Freedom of Information Act ("FOIA") (5 U.S.C. § 552) and the Commission's regulations thereunder (17 CFR Part 145), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to FOIA, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the above address in accordance with 17 CFR 145.7 and 145.8.

NYMEX timely submitted its original petition before October 26, 1993, the effective date of the dual trading prohibition. Therefore, application of the prohibition against the contract markets covered by the petition has been suspended in accordance with Commission Regulation 155.5(d)(5) and will remain suspended until the petition is acted upon.

Issued in Washington, DC, on October 30, 1998.

Alan L. Seifert,

Deputy Director, Division of Trading and Markets.

[FR Doc. 98–29667 Filed 11–4–98; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provision of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 219, Small Business Programs, and the Clause at 252.219–7003; OMB Number 0704–0386.

Type of request: Extenstion.

Number of respondents: 41.

Responses per respondent: 1.

Annual responses: 41.

Average burden per response: 1 hour.

Annual burden hours: 41.

Needs and uses: This collection of information is necessary to implement the reporting requirements of the acquisition-related sections of the Small Business Act (15 U.S.C. 631, et seq.) and applicable sections of the Armed Services Procurement Act (10 U.S.C. 2302, et seq.). DFARS 219.704 and the clause at DFARS 252.219–7003, Small, Small Disadvantaged and Women-owned Small Business Subcontracting Plan (DoD Contracts), require prime contractors to notify the administrative contracting officer of any substitutions of firms that are not small, small disadvantaged, or women-owned small businesses for the firms listed in those subcontracting plans that specifically identify small, small-disadvantaged, and women-owned small businesses. Notifications must be in writing and may be submitted in a contractor-specified format.

Affected public: Business or Other For-Profit; Not-For-Profit Institutions.

Frequency: On occasion.

Respondent's obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Peter N. Weiss. Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing. Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: October 30, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–29573 Filed 11–4–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Military Personnel Testing

ACTION: Notice.

Pursuant to Public Law 92–463, notice is hereby given that a meeting of the Defense Advisory Committee on Military Personnel Testing is scheduled to be held from 8:30 a.m. to 4:30 p.m. on December 3, 1998 and from 8:30 a.m. to 4:30 p.m. on December 4, 1998. The meeting will be held at The Pine Inn, Ocean Avenue and Lincoln, Carmel, California 93921. The purpose of the meeting is to review planned changes and progress in developing paper-and-pencil and computerized enlistment tests and renorming of the tests. Persons desiring to make oral presentations or submit written statements for consideration at the Committee meeting must contact Dr. Jane M. Arabian, Assistant Director, Accession Policy, Office of the Assistant Secretary of Defense (Force Management Policy), Room 2B271, The Pentagon, Washington, DC 20301–4000, telephone (703) 697–9271, no later than November 16, 1998.

Dated: October 30, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–29574 Filed 11–4–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Amend System of Records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on December 7, 1998 unless comments are received which result in a contrary determination.

ADDRESSES: Privacy Act Officer, Records Management Program Division, U.S. Total Army Personnel Command, ATTN: TAPC-PDR-P, Stop C55, Ft. Belvoir, VA 22060–5576.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: October 30, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0070 AMC

SYSTEM NAME:

Resumes for Non-Government Technical Personnel *(February 22, 1993, 58 FR 10002).*

CHANGES:

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add to entry 'DoD Directive 4205.2, Acquiring and Managing Contract Advisory Services; Army Regulation 5-14, Management of Contracted Advisory and Assistance Services.'

PURPOSE(S):

Delete entry and replace with 'To provide a source of qualified scientists and technical personnel to solve scientific and technical problems for the Federal government.'

* * * * *

STORAGE:

Delete entry and replace with 'Paper records in metal containers, magnetic discs, and tapes.'

* * * * *

A0070 AMC

SYSTEM NAME:

Resumes for Non-Government Technical Personnel.

SYSTEM LOCATION:

U.S. Army Research Office, 4300 South Miami Blvd, Research Triangle Park, NC 27703–9142.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Resumes of candidates who can provide scientific and engineering discipline services to federal agencies, namely mathematics, physical science, and geosciences.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, personal history resume, affiliations, area of expertise, Social Security Number, record of remuneration for services provided, and performance evaluations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; DoD Directive 4205.2, Acquiring and Managing Contract Advisory Services; Army Regulation 5-14, Management of Contracted Advisory and Assistance Services; and E.O. 9397 (SSN).

PURPOSE(S):

To provide a source of qualified scientists and technical personnel to solve scientific and technical problems for the Federal government.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in metal containers; magnetic discs, tapes.

RETRIEVABILITY:

By candidate's surname.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized, properly trained personnel who have official need therefor.

RETENTION AND DISPOSAL:

Retained for life of the contract; destroyed by shredding when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, U.S. Army Research Office, 4300 South Miami Blvd, Research Triangle Park, NC 27703–9142.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Contracting Officer, U.S. Army Research Office, 4300 South Miami Boulevard, Research Triangle Park, NC 27703–9142.

Individuals should provide his/her full name, current address and telephone number, position title, and current employer.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Contracting Officer, U.S. Army Research Office, 4300 South Miami Boulevard, Research Triangle Park, NC 27703–9142.

Individuals should provide his/her full name, current address and telephone number, position title, and current employer.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual candidate.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 98–29577 Filed 11–4–98; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF DEFENSE

Department of the Navy

Record of Decision for the Disposal and Reuse of Mare Island Naval Shipyard, Vallejo, CA

Summary

The Department of the Navy (Navy), pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 4332(2)(C), and the regulations of the Council on Environmental Quality that implement NEPA procedures, 40 CFR Parts 1500–1508, hereby announces its decision to dispose of mare Island Naval Shipyard in Vallejo, California.

Navy and the City of Vallejo analyzed the impacts of the disposal and reuse of Mare Island Naval Shipyard in a Joint Environmental Impact Statement/ Environmental Impact Report (EIS/EIR), as required by NEPA and the California Environmental Quality Act (CEQA), Cal. Pub. Res. Code, § 21000, *et seq.* The EIS/EIR analyzed three reuse alternatives and identified the Mare Island Final Reuse Plan, described in the EIS/EIR as the Reuse Plan Alternative, as the Preferred Alternative. The Reuse Plan Alternative proposed industrial, commercial, residential, and educational uses, the development of public parks and recreational areas, expansion of the existing golf course, and extensive roadway improvements.

Navy intends to dispose of the property in a manner that is consistent with the Mare Island Final Reuse Plan dated July 1994, as modified in March 1998 (Reuse Plan). The City of Vallejo, the Local Redevelopment Authority (LRA) for Mare Island Naval Shipyard, prepared the Reuse Plan.

In deciding to dispose of mare Island Naval Shipyard in a manner consistent with the Reuse Plan, Navy has determined that a mixed land use will meet the goals of achieving local economic redevelopment, creating new jobs, and providing additional housing, while limiting adverse environmental impacts and ensuring land uses that are compatible with adjacent property. This Record Of Decision does not mandate a specific mix of land uses. Rather, it leaves selection of the particular means to achieve the proposed redevelopment to the acquiring entity and the local zoning authority.

Background

Under the authority of the Defense Base Closure and Realignment Act of 1990 (DBCRA), Public Law 101–5 10, 10 U.S.C. § 2687 note, the 1993 Defense Base Closure and Realignment Commission recommended the closure of Mare Island Naval Shipyard. This recommendation was approved by President Clinton and accepted by the One Hundred Third Congress in October 1993. Mare Island Naval Shipyard closed on April 1, 1996, and Navy is currently maintaining the property in an inactive caretaker status.

Mare Island Naval Shipyard is located on the western edge of the City of Vallejo in Solano County, California, about 30 miles northeast of the City of San Francisco. The 5,252-acre property consists of four parcels: Mare Island comprising 5,197 acres; main entrance complex and railroad spur comprising 26 acres in the City of Vallejo; a housing complex comprising 29 acres in Vallejo; and a bulkhead in Vallejo.

Most of the Shipyard is situated on Mare Island, which lies west of the Napa River and mare Island Strait into which the river flows. About 3.5 miles long, the island is just west of the City and its axis runs approximately northwest to southeast. The eastern half of Mare Island is developed with about 960 buildings that contain about 10.5 million square feet of space. It lies adjacent to Mare Island Strait. The western half of Mare Island is composed largely of wetlands, dredge material disposal ponds, and submerged lands. It lies adjacent to San Pablo Bay. The southern end of Mare Island touches Carquinez Strait.

The State of California granted about 3,629 acres of tidal and submerged lands to the United States for the establishment of a Naval base at Mare Island. These grants were issued in 1854, 1897, and 1963. By the terms of these grants, title to the property reverts to the State of California when the United States no longer occupies the ceded lands for military purposes, as in the case of the 1854 statute, or no longer continues to hold and own the adjacent lands, as in the case of both the 1897 and 1963 statutes. Navy has no discretion regarding the return of this property to the state of California nor any authority to control its use after reversion.

During the Federal screening process, six Federal agencies requested interagency transfers of base closure property at Mare Island. These included the Department of Agriculture's United States Forest Service, the United States Coast Guard, the Department of the Interior's United States Fish and Wildlife Service, the Department of the Army, the Department of Justice's Immigration and Naturalization Service, and the Department of the Air Force.

Navy will transfer 207 acres of Shipyard property to four of these Federal agencies. Navy has already transferred part of the former Combat Systems Technical School (Buildings 1306 and 1324) and about 8 acres of land in the southern part of the base to the United States Forest Service for use as the headquarters for its Pacific Southwest Region.

Navy will transfer about one acre in the southern part of the base to the Coast Guard for the operation of a communications tower. Additionally, Navy will grant the Coast Guard easements to permit it to continue operating a navigational aid and vessel traffic service remote radar on Pier 35 at the southeastern tip of Mare Island.

Navy will transfer about 162 acres in the north central part of the base that contain wetlands, dredge material disposal ponds, and Building 505 to the United States Fish and Wildlife Service. The Service will use this property to enlarge the San Pablo Bay National Wildlife Refuge and establish a wildlife interpretive center. While the Service initially requested 670 acres, 508 of those acres will revert to the State of California. Thus, only 162 acres were available for this interagency transfer.

Navy will transfer about 36 acres in the southeastern part of the base to the Department of the Army for use as an Army Reserve Center. Army initially also requested an interagency transfer of 600 housing units at Roosevelt Terrace but later withdrew that request.

The Immigration and Naturalization Service initially requested an interagency transfer of three buildings on Mare Island for use as a detention facility, but subsequently withdrew its request. Similarly, the Department of the Air Force expressed interest in 481 housing units and supporting facilities on Mare Island, but subsequently withdrew its request.

After the Federal screening process had concluded, Navy received additional expressions of interest in base closure property at Mare Island from the United States Department of Agriculture and the Department of the Interior's National Park Service. Both agencies subsequently withdrew their requests.

The remaining property, comprising about 1,416 acres, is surplus to the needs of the Federal Government. Therefore, in this Record Of Decision, the Federal action is the disposal of 1,416 acres of surplus Federal property associated with Mare Island Navy Shipyard.

Navy published a Notice of Intent in the **Federal Register** on September 1, 1994, announcing that Navy and the City of Vallejo would prepare a Joint EIS/EIR to analyze the impacts of disposal and reuse of the land, buildings, and infrastructure at Mare Island Navy Shipyard. Navy and Vallejo held a public scoping meeting at the John F. Kennedy Library in Vallejo on September 22, 1994, and the scoping period concluded on October 21, 1994.

On September 1, 1995, Navy and Vallejo distributed a Draft EIS/EIR (DEIS/EIR) to Federal, State, and local agencies, interested parties, and the general public. On September 27, 1995, Navy held a public hearing concerning the DEIS/EIR at Vallejo City Hall. During the 45-day review period after publication of the DEIS/EIR, Federal, State, and local agencies, community groups and associations, and the general public submitted oral and written comments concerning the DEIS/EIR. These comments and Navy's responses were incorporated in the Final EIS/EIR (FEIS/EIR), which was distributed to the public on May 1, 1998, for a 30-day review period that concluded on June 1, 1998. Navy received nine letters concerning the FEIS/EIR.

Alternatives

NEPA requires Navy to evaluate a reasonable range of alternatives for the disposal and reuse of this surplus Federal property. In the Joint EIS/EIR, Navy and Vallejo analyzed the environmental impacts of three "action" alternatives that could result from the disposal of Mare Island Naval Shipyard property. In the NAPA process, Navy also evaluated a "No action" alternative that would leave the property in a caretaker status with Navy maintaining the physical condition of the property, providing a security force, and making repairs essential to safety.

The City of Vallejo developed the Reuse Plan with extensive public involvement and comment that began with its establishment of the Mare Island Futures Project in October 1993. Vallejo created the Mare Island Futures Work Group to guide the reuse planning process. This Group was composed of representatives from local government, labor, business, educational institutions, environmental organizations, and private citizens who were interested in the reuse of Mare Island Naval Shipyard.

In November 1993, the Work Group completed a Conceptual Reuse Plan that was accepted by the Vallejo City Council in December 1993. In April 1994, Vallejo evaluated the market feasibility of the Conceptual Reuse Plan. Based upon the findings of the market feasibility study and an economic analysis, the Work Group prepared the Final Reuse Plan. During preparation of the Final Reuse Plan, all Work Group meetings were open to the public. This Plan addressed all of the property associated with Mare Island Naval Shipyard, and in July 1994, the Vallejo City Council accepted the Mare Island Final Reuse Plan.

After the Plan was completed and the reversionary property and Federal agency requests for base closure property were considered, Navy determined that about 3,629 acres on Mare Island would revert to the State of California and about 207 acres on Mare Island would be transferred to other Federal agencies. In March 1998, Vallejo modified the Final Reuse Plan to take account of the Department of the Army's request for an interagency transfer of base closure property.

The Preferred Alternative, designated in the FEIS/EIR as the Reuse Plan Alternative, would implement the Reuse Plan for the surplus Shipyard property. This alternative proposed extensive use of existing structures and land uses that were similar to Navy's use of the property. In particular, the Reuse Plan Alternative proposed industrial, commercial, residential and educational uses as well as expansion of the nine-hole golf course to 18 holes and relocation of the rifle range activity from the center of Mare Island to an undeveloped area in the southeastern part of the island.

The Reuse Plan also proposed to build a bridge across Mare Island Strait and to redevelop the southeastern part of Mare Island for retail commercial and residential uses. Additionally, this alternative proposed to make extensive roadway improvements that would serve the proposed redevelopment. Under the Reuse Plan, there are about 81 acres of wetlands in the northeastern, central, southern and southeastern parts of the base available for disposal that will be protected by conservation easements or similar real estate instruments.

The Reuse Plan designated 13 Reuse Areas on the eastern side of Mare Island and identified wetland, submerged land, and dredge material disposal areas on the eastern and western sides and at the southern end of Mare Island. Although not included within these 13 Reuse Areas, the main entrance office building and causeway bridge, the railroad spur, the Roosevelt Terrace housing complex, and the bulkhead are also addressed in the Reuse Plan.

Reuse Area 1, the North Light Industry Area, covers about 192 acres at the northern end of Mare Island. It contains buildings that are surrounded by paved or grassy open areas. Navy used this part of the base for warehouse activity and light industrial, retail, administrative, residential, and recreational activities. Under the Reuse Plan, this area would contain an industrial park. The 29-acre wetland area on its eastern boundary will be protected by a conservation easement or similar real estate instrument.

Reuse Area 2, the Neighborhood Center, covers 85 acres located south of the North Light Industry Area. It contains recreational facilities, *i.e.*, the base theater, gymnasium, and athletic fields. Under the Reuse Plan, this area would be used for community and social services and housing.

Reuse Area 3, the Office and Light Industry Area, covers 111 acres and consists of historic and non-historic industrial and office buildings in the eastern part of Mare Island, south of the North Light Industry area. Under the Reuse Plan, this part of the base would be redeveloped as a small business and residential complex. Some buuildings would be subdivided to provide residential units, and other buildings would be demolished to provide space for parking. A waterfront promenade would extend along the length of this Reuse Area.

Reuse Area 4, the Historic District, covers about 47 acres along the waterfront in the east central part of Mare Island. The historic resources located here such as Saint Peter's Chapel, Alden Park, 21 houses, and Drydock 1 are components of the area that the Secretary of the Interior designated in 1976 as the Mare Island Naval Shipyard National Historic Landmark. Under the Reuse Plan, the area along the waterfront would be used for ship repair, historic ship restoration, and an extension of the waterfront promenade. Saint Peter's Chapel and Alden Park would be used for tours and special events and as visitor attractions. The historic houses would be used for permanent private residences, guest lodging, restaurants, and as office space. Because of the presence of these historic structures, there would be very little demolition in this Reuse Area.

Reuse Area 5, the Heavy Industry Area, covers 119 acres along the waterfront south of the Historic District. Navy will transfer Pier 22, Buildings 573 and 743, and about 7 acres here to Army for use as part of the Reserve Center. The remaining 112 acres are available for reuse. This area, which Navy formerly used for shipbuilding and ship repair, contains some of the largest buildings on Mare Island, two drydocks, and several overhead cranes.

Under the Reuse Plan, this property would be used for manufacturing, *e.g.*, metal processing and fabrication and biotechnology. The railroad lines that serve this area would remain in their present configuration. Historic buildings and landmarks would be preserved, and the waterfront promenade would be extended, to the extent practicable, into the industrial shoreline area.

Reuse Area 6, Farragut Village, covers 107 acres and is located west of the Historic District. It contains duplex residences, barracks, an elementary school building, and adjacent playgrounds. About 15 acres in this Reuse Area, where 30 duplex housing units are located, will revert to the State of California. The remaining 92 acres are available for reuse.

Under the Reuse Plan, these 92 acres would contain residential structures and retail stores. The Vallejo Unified School District would continue to operate the elementary school and playgrounds. The 32-acre wetland at the northwest boundary of this Reuse Area will be protected by a conservation easement or similar real estate instrument.

Reuse Area 7, the Developed Recreation Area, covers 48 acres in the center of Mare Island, south of Farragut Village. This Reuse Area contains the rifle range, open laydown storage areas, and undeveloped lands. About 36 of the 48 acres in this part of the base will revert to the State of California, including most of the property where the rifle range is currently located. The remaining 12 acres are available for reuse. Under the Reuse Plan, this property would be redeveloped for recreational uses, *i.e.*, athletic fields and enlargement of the nine-hole golf course. The rifle range activity would be moved to the southeastern part of Mare Island.

Reuse Area 8, Coral Sea Village, is a 70-acre residential development with a parade ground located southeast of the Developed Recreation Area. Under the Reuse Plan, this area would be used for housing. The parade ground would be used as a recreational field.

Reuse Area 9, the Education and Office Area, covers 101 acres in the south central part of the base between Reuse Area 5 (Heavy Industry) and Reuse Area 8 (Coral Sea Village). It contains the 30-building school and campus of the former Combat Systems Technical School, office buildings and a large electrical shop (Building 866). Navy has transferred Buildings 1306 and 1324 and about 8 acres of land to the Forest Service for use as the headquarters for its Pacific Southwest Region. Navy will transfer 9 buildings (A–272, 726, 776, 930, 934, 936, 938, 1294, and 1296) and about 13 acres here to Army for use as part of the Reserve Center. The remaining 80 acres are available for reuse. Under the Reuse Plan, the school and campus, the office buildings, and the electrical shop would be used for educational activities and as a conference center.

Reuse Area 10, the Retail and Residential Area, covers 94 acres adjacent to Mare Island Strait in the southeastern part of the base, south of the Heavy Industry Area. Navy will transfer Pier 23, 6 buildings (A–279, 597, 724, 736, 762, and FA1–0) and about 16 acres here to Army for use as part of the Reserve Center. The remaining 78 acres are available for reuse.

This Reuse Area contains vacant lots and many small buildings that would be demolished. Under the Reuse Plan, a retail commercial complex and residential apartments and condominium units would be built in this part of the base. The 9-acre wetland area along the eastern edge next to Mare Island Strait will be protected by a conservation easement or similar real estate instrument. Where practicable, the waterfront promenade would be extended into Reuse Area 10. A southern crossing bridge across Mare Island Strait, connecting Mare Island with the City of Vallejo, would be built in this area but its precise location has not yet been determined.

Reuse Area 11, the Golf Course Area, is located in the south central part of Mare Island and covers about 172 acres. It consists of the existing nine-hole golf course and clubhouse and undeveloped open space. Under the Reuse Plan, the nine-hole golf course, now covering about 100 acres, would be expanded to 18 holes over 172 acres. The existing clubhouse and parking facilities would also be expanded.

Reuse Area 12, the Regional Park, covers about 241 acres of undeveloped property at the southeastern end of Mare Island. The FEIS/EIR erroneously stated that Reuse Area 12 contained 172 acres and that 69 acres of dredge material disposal ponds were available for disposal. There are actually 241 acres of property in Reuse Area 12, and there are no dredge material disposal ponds here. Navy will transfer a one-acre site in this part of the base to the Coast Guard for its communications tower, and about 10 acres will revert to the State of California. The remaining 230 acres are available for reuse.

Under the Reuse Plan, public recreational facilities would be built here. Walking, bicycling, and equestrian paths and trails would link the various parts of Mare Island, particularly the wetland and dredge material disposal ponds to the west with the waterfront promenade along the eastern shoreline. These trails would be designed and built in a manner that preserves the natural terrain and character of the island. The 11-acre wetland area along the southeastern edge of Reuse Area 12 will be protected by a conservation easement or similar real estate instrument. The Regional Park would also provide horse stables and a rifle range. These facilities are currently located on reversionary property in the center of the island. The cemetery in Reuse Area 12 would be preserved as an historic cemetery.

Reuse Area 13, the Open Space and Recreation Area, covers 92 acres and is located on a landfill site between the dredge material disposal ponds and the nontidal wetlands in the northwestern part of Mare Island west of the wetlands adjacent to Reuse Area 2, the Neighborhood Center. The entire area is located on property that will revert to the State of California.

There is additional surplus Shipyard property that is located off the island in the City of Vallejo and covers about 55 acres. The main entrance office building, the causeway bridge, the railroad spur, and the bulkhead cover about 26 acres, and the Roosevelt Terrace housing complex covers about 29 acres. Under the Reuse Plan, the main entrance office building would be used for retail commercial activities or professional office space; the causeway bridge would continue to serve as the primary access to Mare Island; and the railroad spur would be used to support industrial and commercial activities on Mare Island that require rail service.

The Roosevelt Terrace housing complex is located in Vallejo, about one mile northeast of the main entrance office building. Under the Reuse Plan, half of this 600-unit housing complex would be remodeled for residential use. The remaining housing units would be demolished to provide space for landscaping, recreational activities, and parking.

The bulkhead is located in Vallejo across Mare Island Strait from the southeastern end of Mare Island. Under the Reuse Plan, this 2,150 foot concrete and stone bulkhead would continue to serve as a breakwater.

In the NEPA process, Navy considered a second "action" alternative, described in the FEIS/EIR as the Medium Density Alternative. In the Medium Density Alternative, the reuse of Mare Island Naval Shipyard would be similar to that proposed in the Preferred Alternative but with reduced development densities, *i.e.*, less new construction and fewer people. This alternative includes the same 81 acres of wetlands that would be protected by conservation easements or similar real estate instruments.

The southern crossing bridge across Mare Island Strait, linking Mare Island with Vallejo, would not be built. Reuse Area 10, the Retail and Residential Area, would not be developed. The rifle range activity would remain at its present location in Reuse Area 7, the Developed Recreation Area. No new apartment or condominium units and a minimal number of industrial and commercial structures would be built. Instead, existing facilities would be converted for industrial, commercial, and residential reuse.

Navy also considered a third "action" alternative, described in the FEIS/EIR as the Open Space Alternative. In the Open Space Alternative, there would be substantially less development than in the Preferred Alternative.

The southern crossing bridge linking Mare Island and Vallejo would not be built. Reuse Area 10, the Retail and Residential Area, would not be developed. The sites of the existing rifle range and golf course would be used as

open space in an expanded Regional Park covering 344 acres. No new industrial, commercial, and residential structures would be built. Instead, existing facilities would be converted for reuse. This alternative also includes the same 81 acres of wetland that would be protected by conservation easements of similar real estate instruments.

Environmental Impacts

Navy analyzed the direct, indirect, and cumulative impacts of the disposal and reuse of this Federal property. The EIS/EIR addressed impacts of the Preferred Alternative, the Medium Density Alternative, the Open Space Alternative, and the "No action" alternative for each alternative's effects on land use, socioeconomic, public services, cultural resources, aesthetics and scenic resources, biological resources, water resources, geology and soils, traffic and circulation, air quality, noise, utilities, and hazardous materials and waste.

The direct environmental impacts are those associated with Navy's proposed disposal of 1,416 acres of surplus Shipyard property and with the "No action" alternative. The indirect impacts are those associated with the reuse of this surplus property. The cumulative impacts are those associated with reuse of the Shipyard property that reverts to the State of California (3,629 acres), the Shipyard property that will be transferred to other Federal agencies (207 acres), and other projects within the Vallejo area.

No significant direct impacts will result from Navy's disposal of the surplus Shipyard property. Therefore, this Record Of Decision focuses on the indirect and cumulative impacts that are likely to result from implementation of the Reuse Plan Alternative, designed in the FEIS/EIR as the Preferred Alternative.

The Preferred Alternative would he significant impacts on land use. The intensive development of new retail commercial and residential structures in the Retail and Residential Area in the southeastern part of Mare Island would not be compatible with the proposed open space and passive recreational uses of the adjacent Regional Park. The proposed relocation of the rifle range activity to the Regional Park would also conflict with the proposed recreational use of this park because it would introduce safety concerns, noise, and new structures into this otherwise undeveloped area.

The proposed southern crossing bridge would have significant land use impacts on both Mare Island and Vallejo. Siting the bridge in the southeastern part of Mare Island would not be compatible with the proposed residential and open space uses planned for that property. It could also require construction in a shoreline area that contains sensitive wetland habitat that will be protected by the conservation easement. In the City of Vallejo, construction of the proposed bridge could divide and substantially alter the South Vallejo residential and commercial neighborhood by virtue of the need to demolish buildings and other structures and increase the size of roadways serving this area.

The proposed redevelopment in Reuse Areas 3, 4, 5, 10, and 12 (Office and Light Industry, Historic District, Heavy Industry, Retail and Residential, and Regional Park) would involve the construction of new buildings, roads, and utilities. In order to accommodate this redevelopment, it may be necessary to remove and relocate segments of the dredge slurry pipelines that traverse these Reuse Areas as well as their supporting facilities. Navy used these pipelines to carry material dredged from Mare Island Strait across the island to the dredge material disposal ponds on the western side of Mare Island.

The Preferred Alternative would not have any adverse effect on employment and housing in the Vallejo area. On the contrary, the Reuse Plan would generate about 9,669 jobs on Mare Island and add about 1,786 dwelling units to the Vallejo area. Similarly, the proposed redevelopment of the Shipyard would substantially increase the amount of public recreational resources available in Vallejo.

The Preferred Alternative would have significant impacts on schools. Student enrollment would exceed capacity at the Mare Island Elementary School that serves Mare Island and at the Federal Terrace School that serves the Roosevelt Terrace Housing Complex in Vallejo. The Vallejo Unified School District would be responsible for providing facilities to accommodate the additional students.

The Preferred Alternative would also have significant impacts on police and fire protection and emergency medical services. A substantial increase in the demand for these services in the Vallejo area would result from the increased population and redevelopment on Mare Island.

The Preferred Alternative would not have a significant impact on cultural resources. Many of the historic buildings, structures, and landscapes will be preserved. However, some demolition and construction activities would take place within the Mare Island Naval Shipyard Historic District and in sensitive archaeological areas.

Navy has completed consultation pursuant to Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470(f), and its implementing regulations, "Protection of Historic Properties", 36 CFR Part 800, with the California State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP). This consultation addressed the potential adverse effects of the Reuse Plan on the Mare Island Naval Shipyard Historic District, which is listed on the National Register of Historic Places and includes the properties comprising the Mare Island Naval Shipyard National Historic Landmark. In particular, the consultation considered the demolition of historic buildings and structures and the construction of new buildings within the Mare Island Naval Shipyard Historic District and in sensitive archaeological areas.

The consultation also identified measures to be taken by Navy and Vallejo that would avoid or mitigate adverse effects on Mare Island's historic properties. These measures are set forth in the Memorandum Of Agreement Among the United States Navy, the Advisory Council on Historic Preservation and the California State Historic Preservation Officer Regarding the Layaway, Caretaker Maintenance, Leasing, and Disposal of Historic Properties on the Former Mare Island Naval Shipyard, Vallejo, California, dated April 1, 1997 (MOA). This MOA was executed by Navy, the SHPO, and the ACHP and concurred in by the City of Vallejo and the National Park Service.

Under the terms and conditions of this MOA, Navy will secure and maintain the historic properties and implement a program of recording representative historic buildings according to the standards of the Historic American Engineering Record or the Historic American Buildings Survey before conveying any property at Mare Island Naval Shipyard. The City will extend the protection of its historic preservation ordinance to include all of the historic properties in Reuse Area 4 (the Historic District) and selected historical buildings, structures, and landscape features elsewhere within the Mare Island Naval Shipyard Historic District. Vallejo will also ensure compliance with those requirements of the California Environmental Quality Act applicable to the protection of historic archaeological sites.

The Preferred Alternative would have significant impacts on aesthetics and scenic resources. The proposed walking, bicycling, and equestrian trails and the rifle range and horse stables in the Regional Park at the southwestern end of the island would be visible from many places in the Vallejo area. Similarly, the proposed southern crossing bridge across Mare Island Strait would have a significant impact on aesthetics and scenic resources because it would also be visible from many places in the Vallejo area.

The Preferred Alternative could have adverse effects on biological resources. In general, the proposed construction and redevelopment in areas adjacent to wetlands could add sediment to those resources. Construction of the southern crossing bridge could have a negative impact if the project were to include removal of shoreline wetlands and/or sensitive species habitat such as that which lies adjacent to the proposed retail and residential development in Reuse Area 10. If construction of this bridge would result in the placement of fill in a wetland, permits required by Section 404 of the Clean Water Act, 33 U.S.C. § 1251, *et seq.*, must be obtained from the United States Army Corps of Engineers.

Navy has completed consultations with the National Marine Fisheries Service and the United States Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act, 16 U.S.C. § 1531, *et seq.* In a letter dated March 29, 1996, the National Marine Fisheries Service concurred that the endangered winter-run chinook salmon would not be adversely affected by the proposed redevelopment. On May 23, 1997, the U.S. Fish and Wildlife Service issued a Biological Opinion in which it concluded that the disposal and reuse of Mare Island Naval Shipyard property would not jeopardize the continued existence of the endangered California clapper rail, the endangered salt marsh harvest mouse, the threatened Delta smelt, or the proposed threatened Sacramento splittail.

The Service's Opinion was conditioned upon Navy and the City of Vallejo implementing measures that will protect these species. Before disposal, Navy will protect the California clapper rail and salt marsh harvest mouse by providing predator management (*i.e.*, monitoring, managing, and removing predators likely to adversely affect these species) and by establishing conservation easements or similar real estate instruments on the 81 acres of wetlands that provide suitable habitat for these species.

Navy expects that the conservation easements or similar real estate instruments will be held and administered by the U.S. Fish and Wildlife Service. Additionally, in accordance with Executive Order 11990, Protection of Wetlands, dated May 24, 1977, Navy will place a Notice in the conveyance document that describes the conservation easements or similar real estate instruments and identifies those uses that are restricted by Federal, State, and local wetland regulations.

Navy will also develop a predator management plan and a public access management program for Mare Island Naval Shipyard that it will implement during the caretaker period preceding conveyance. After conveyance of the surplus Shipyard property, the City of Vallejo will be responsible for implementing a similar plan and program. Vallejo will also limit the number of cats and dogs allowed in each residential unit on Mare Island and will restrict cats and unleashed dogs to the property lines of individual housing units.

Navy will protect the Delta smelt and the Sacramento splittail by providing a Notice in the conveyance document that future users of the drydocks and other waterfront property at Mare Island such as piers, berths, and pilings may be required to obtain endangered species incidental take permits from the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, and the California Department of Fish and Game.

The Preferred Alternative could degrade water resources. Demolition and construction activities may disturb the soil, increasing erosion and sedimentation into Mare Island Strait. Thus, the California Water Resources Board and the Regional Water Quality Control Board will impose controls on redevelopment that require the use of stormwater pollution prevention plans and best management practices.

Certain property on Mare Island could be subject to flooding from high tides and water flow on the Napa River and as a result of land subsidence and rising sea level. Those parts of the North Light Industry, Office and Light Industry, Historic District, Heavy Industry, and Retail and Residential Areas with elevations less than 10 feet above sea level could be flooded if not adequately protected. Consequently, the acquiring entity must comply with the Vallejo Municipal Code, Title VII, Chapter 7.98, Flood Damage Protection. Additionally, in accordance with Executive Order 11988, Floodplain Management, dated May 24, 1997, Navy will place a Notice in the conveyance document that describes those uses that are restricted under Federal, State, and local floodplain regulations.

Dredging the ship berths along the eastern side of Mare Island could expose aquatic organisms in the flood chain to disturbed contaminated sediments from Mare Island Strait. The nature and extent of these impacts cannot be determined before the sediments have been tested and the dredging methods and dredge disposal sites have been selected. It may be necessary to use special dredging equipment such as closed clamshell buckets that would minimize the escape and dispersion of contaminated water and sediment. In any event, the acquiring entity will be required to obtain permits for such dredging from the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act, 33 U.S.C. § 1251, *et seq.*

The Preferred Alternative would have significant impacts on geology and soils. As discussed earlier, certain parts of Mare Island could be subject to flooding from naturally occurring high water levels. In addition, the southern end of Reuse Area 10, the Retail and Residential Area, could be flooded if the saltwater reservoir dam in Reuse Area 12's Regional Park were to fail. Similarly, if the Golf Course's freshwater reservoir dam in Reuse Area 11 were to fail, the resultant flooding would affect nearby wetland and open space areas.

Additionally, the Preferred Alternative would allow redevelopment in parts of Mare Island that contain potential geological hazards. Because the Shipyard is located in a seismically active area, buildings there would be susceptible to structural damage from ground shaking, liquefaction of soil, and slope failures that may occur during a large earthquake.

The Preferred Alternative would have significant impacts on traffic and circulation. Although the proposed reuse would generate about 60,224 average daily vehicle trips, significantly less than the 76,350 average daily vehicle trips that were associated with Navy's use of the Shipyard property, the Preferred Alternative would result in an increase in truck traffic during construction and subsequent reuse. This increased truck traffic, arising out of the proposed warehouse and industrial activities, could cause traffic congestion during peak commuting periods.

Additionally, these trucks would be traveling on narrow Mare Island roadways that were not designed to accommodate such traffic, introducing safety hazards for other vehicles. The use of railroad lines that run on the causeway bridge and on and close to Mare Island's roadways would pose similar safety hazards. Neither the

railroad lines nor the roadways were designed to accommodate the nature and extent of public use proposed in the Reuse Plan.

The Preferred Alternative would have a significant impact on air quality. Local dust would be generated during demolition, renovation, and construction activities, including construction of the southern crossing bridge.

Section 176(c) of the Clean Air Act, 42 U.S.C. § 7506, as amended, requires Federal agencies to review their activities to ensure that they do not hamper local efforts to control air pollution. This statute prevents Federal agencies from conducting activities that do not conform to an approved implementation plan. The United States Environmental Protection Agency regulations implementing this statute recognize certain categorically exempt activities. Conveyance of title to real property and leases in furtherance of conveyance that meet certain criteria are categorically exempt activities. 49 CFR § 93.153(c)(2). Accordingly, the disposal of Mare Island Naval Shipyard property does not require Navy to conduct a conformity determination.

Navy holds Bay Area Air Quality Management District (BAAQMD) air emission reduction credits (ERCs) for stationary air emission sources such as the boilers, paint spray booths, and fuel storage facilities and historically produced air emissions at Mare Island Naval Shipyard. These ERCs include 18.9 tons of nitorgen oxides, 12.7 tons of precursor organic compounds, one ton of non-precursor organic compounds, 1.2 tons of particulate matter (PM10), 11.5 tons of carbon monoxide, and 0.9 tons of sulfur oxides. Navy has placed these ERCs in the BAAQMD Emission Bank, from which they can be withdrawn later to offset air emissions from new sources. Navy will retain the stationary source ERCs to meet the future permit requirements of Department of Defense facilities and activities. If there are no future Department of Defense needs, the credits will be reallocated.

Navy also documented, as part of the NEPA process, mobile source emissions associated with the operation of motor vehicles and other non-stationary sources such as locomotives, vessels, and portable generators at Mare Island. These mobile emission sources historically produced 259 tons per year of reactive organic compounds, 397 tons per year of nitrogen oxides, 1,823 tons per year of carbon monoxide, 50 tons per year of sulfur oxides, and 60 tons per year of particulate matter (PM10).

The mobile sources emission reductions resulting from the closure of Mare Island can be applied to offset emissions from other Federal mobile sources to satisfy Federal Clean Air Act conformity determinations in the area. Navy will retain the mobile source offsets to meet future Federal Clean Air Act conformity requirements.

The Preferred Alternative would have significant temporary noise impacts on adjacent lands use arising out of demolition, renovation, and construction activities, including construction of the proposed southern crossing bridge. Noise levels in residential areas along Cedar Avenue between Seventh Street and Twelfth Street and at some other locations would significantly increase as a result of the increased traffic generated by the proposed reuse. In addition, a significant noise impact would result from use of the proposed rifle range in the Regional Park in Reuse Area 12. Noise generated at this rifle range would adversely affect the nearby residential areas and passive recreational uses of the Regional Park.

The Preferred Alternative would have a significant impact on one utility system. The existing sanitary waste water collection system lacks sufficient capacity to serve areas where there will be substantial increases in users, such as the planned residential development in Reuse Area 10. Consequently, it will be necessary for the acquiring entity to upgrade and improve the existing system in those areas where significant increases in population would result from the proposed redevelopment.

The Preferred Alternative would not have a significant impact on the other utility systems that serve Mare Island, *i.e.*, water distribution, solid waste management, natural gas, electric power, and storm water drainage. Navy will convey easements and rights-of-way to permit the continuing operation and maintenance of the communications, electricity, and natural gas utility systems at Mare Island that have already been conveyed to local utility providers.

Implementation of the Preferred Alternative would not have any impact on existing environmental contamination at Mare Island Naval Shipyard. Before conveyance, Navy will remediate contamination from hazardous substances and investigate and remove unexploded ordnance in a manner that protects human health and the environment. If Navy conveys property at Mare Island Naval Shipyard before completion of the required remediation, Navy will endure that the property is suitable for disposal for its intended use. In either case, Navy will inform future property owners about the environmental condition of the property and may, where appropriate, include restrictions, notifications, or covenants in deeds to ensure protection of human health and the environment in light of the intended use of the property.

No significant adverse impacts would be cause by the hazardous materials and hazardous waste that may be used and generated by the Preferred Alternative. The quantity of hazardous materials used, stored, and disposed of, and the quantity of hazardous waste generated on the property will be less under the Preferred Alternative than during Navy's use of the Shipyard property. Hazardous materials used under the Preferred Alternative will be managed according to applicable Federal and State regulations. Hazardous wastes transported for disposal or generated under the Preferred Alternative and stored for more than 90 days will be controlled by the Resource Conservation and Recovery Act of 1976, (RCRA), 42 U.S.C. § 6901, *et seq.*

Navy also analyzed the impacts of low-income and minority populations pursuant to Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, reprinted in 42 U.S.C. § 4321 note. Construction of the proposed southern crossing bridge could have disproportionate and adverse land use, noise, traffic, and air quality impacts on the minority and low-income residential neighborhood in South Vallejo. The acquiring entity could avoid adversely affecting this neighborhood by siting the Vallejo access to the bridge in an industrial area at Solano Avenue.

A separate environmental analysis will be conducted, with public participation, when the City selects a right-of-way for the bridge. Consultation and coordination with Federal, State, and local environmental and permitting agencies will be required throughout the project review and approval process. No other disproportionately high and adverse human health or environmental effects would be experienced by minority and low-income populations as a result of the Preferred Alternative.

Navy also analyzed the impacts on children pursuant to Executive Order 13045, Protection of Children from Environmental Health and Safety Risks, dated April 21, 1997. Under the Preferred Alternative, the largest concentration of children would be present in the residential, educational, and recreational areas on Mare Island and at the Roosevelt Terrace housing complex in the City of Vallejo. The Preferred Alternative would not impose any disproportionate environmental health or safety risks on children.

Mitigation

Implementation of the decision to dispose of Mare Island Naval Shipyard does not require Navy to perform any mitigation measures beyond those discussed here. Navy will take certain actions to implement existing agreements and regulations. These actions were treated in the FEIS/EIR as agreements or regulatory requirements rather than as mitigation.

As required by Executive Order 11990, Protection of Wetlands, and Executive Order 11988, Floodplain Management, Navy will incorporate Notices in the conveyance documents describing wetland and floodplain uses that are restricted under Federal, State, and local regulations. Before property is conveyed, Navy will execute conservation easements or similar real estate instruments for the 81 acres of wetlands that provide suitable habitat for endangered species.

Before conveying any Shipyard property, Navy will record representative historic buildings according to the standards of the Historic American Engineering Record or the Historic American Buildings Survey, as required by the Memorandum of Agreement dated April 1, 1997. Additionally, in accordance with Federal and State laws, Navy will include appropriate restrictive covenants in the property deeds for any parcels where hazardous substances remain. As discussed above, Navy will inform future property owners about the environmental condition of the property and may, where appropriate, include restrictions, notifications, or covenants in deeds to ensure the protection of human health and the environment in light of the intended use of the property.

The FEIS/EIR identified and discussed those actions that would be necessary to mitigate impacts associated with the disposal and reuse of Mare Island. The acquiring entity, under the direction of Federal, State, and local agencies with regulatory authority over protected resources, will be responsible for implementing necessary mitigation measures.

Comments Received on the FEIS

Navy received comments on the FEIS/EIR from the United States Environmental Protection Agency (EPA), the California Department of Transportation, the California State Lands Commission, the Greater Vallejo Recreation District, Arc Ecology (a private organization), and four individuals. All of the substantive comments concerned issues already discussed in the FEIS/EIR. Those comments that require clarification are addressed below.

The California Department of Transportation commented that the FEIS/EIR did not propose adequate mitigation measures for the highway interchange on State Route 37 at Mare Island's North Gate. This agency suggested that it may be necessary to rebuild the interchange to accommodate the traffic that would be generated by the proposed reuse activities. As discussed in the FEIS/EIR, the acquiring entity will widen roads leading to and from this interchange to reduce potential traffic congestion near Mare Island's North Gate.

The California Department of Transportation also commented that the FEIS/EIR did not analyze the environmental impact of the additional traffic on State Route 29 (Sonoma Boulevard) that would be generated by the southern crossing bridge. The City of Vallejo and the California Department of Transportation will determine the location of the bridge in a future planning study. Thereafter, construction of the southern crossing bridge will be subject to environmental impact analysis and permitting requirements. At that time, appropriate mitigation measures to address any additional traffic on State Route 29 can be identified.

The California State Lands Commission, Arc Ecology, and two private citizens challenged Navy's determination of the amount of Mare Island property that is subject to reversion to the State of California. They also requested that Navy consider impacts associated with the different configuration of reversionary land at Mare Island advanced by the State Lands Commission. Navy's determination of the amount of property that is subject to reversion to the State of California is based upon the decision of the Supreme Court of the United States in *United States* v. O'Donnell, 303 U.S. 501 (1938). The impacts that could arise from other hypothetical configurations of reversionary lands need not be considered.

A private citizen commented that in the FEIS/EIR, Navy should also have considered alternative uses for certain property that reverts to the State of California, *i.e.*, the dredge material disposal ponds. Similarly, Arc Ecoloy commented that, in addition to the Reuse Plan's proposals for reuse of the surplus Shipyard property, Navy should also have evaluated in the FEIS/EIR, future uses of the reversionary property and the property transferred to other Federal agencies.

The reversionary property will revert to the State of California by operation of law. Since neither Navy nor the City of Vallejo can determine the future use of this reversionary property, it would not be appropriate to include a discussion of alternatives for the reuse of such property in the FEIS/EIR. Similarly, the property transferred to other Federal agencies to meet other Federal requirements is not surplus to the needs of the Federal Government. Therefore, it is not being considered for disposal in this FEIS/EIR. However, the FEIS/EIR does analyze the potential cumulative environmental impacts arising out of the proposed reuse of the Shipyard property, the reuse of base closure property by other Federal agencies, and the reuse of reversionary property by the State of California.

The Greater Vallejo Recreation District commented that additional evaluation would be required before implementing particular recreational projects such as construction of the horse stables and rifle range in the Regional Park. The FEIS/EIR, however, recognizes that future projects and redevelopment proposals will be subject to CEQA and the City of Vallejo's zoning requirements.

Arc Ecology also commented that Navy narrowly defined the disposal action to avoid responsibility for mitigating environmental impacts that may occur after conveyance of the Shipyard property. The FEIS/EIR fully analyzes the direct environmental impacts associated with the disposal of surplus Shipyard property at Mare Island and the indirect environmental impacts associated with reuse of that property. The FEIS/EIR also clearly identifies mitigation related to the direct impacts of Navy's disposal and the indirect impacts of reuse. Navy cannot control reuse after conveyance of the property, and the acquiring entity will be responsible for implementing any mitigation required by reuse activities.

A private citizen expressed concern that Navy had leased property at Mare Island to the City of Vallejo and transferred Shipyard property to other Federal agencies before completing the FEIS/EIR. Navy leased property at Mare Island Naval Shipyard to Vallejo only after conducting separate NEPA evaluations and preparing appropriate NEPA documentation for these interim leases. Additionally, the uses allowed under these leases are limited to those that are substantially the same as Navy's historical uses of the property. Moreover, these leases can be cancelled

upon 30 days notice if the uses are incompatible with this Record of Decision.

Arc Ecology also commented that Navy's use of historical environmental conditions as the basis for its assessment of the effects of projected future impacts could minimize or understate future environmental impacts. In the FEIS/EIR, Navy employed the most recent conditions representative of historical full scale Navy operations at Mare Island as the baseline for evaluating impacts that would likely result from the proposed reuse. Navy believes that this is an appropriate standard to apply when assessing potential future conditions.

In further comments on the FEIS/EIR, Arc Ecology suggested that Navy had concluded that as a result of compliance with existing laws, there would be no environmental impacts. On the contrary, Navy identified several potential environmental impacts that could occur as a result of implementing the Reuse Plan. Navy concluded, however, that these impacts would be reduced to insignificant levels through the required compliance with existing Federal, State, and local regulations. These include compliance with Federal and State air pollution emissions regulations and guidelines, Federal and State hazardous waste management and remediation regulations, the Vallego General Plan, and the Vallejo Municipal Code. Implementation of the Reuse Plan will not require mitigation or protection beyond the applicable requirements of these regulations and guidelines.

Arc Ecology also commented that Navy had incorrectly concluded that the proposed redevelopment would be consistent with the goals, policies, and land use designations set forth in the Vallejo General Plan. This comment pointed to the need to revise the General Plan to take account of the proposed reuse. The General Plan Land Use Map will be amended to reflect the planned reuse, but the amendments to the General Plan will fall within and be consistent with the current policies and goals of the Vallejo General Plan.

Arc Ecology and a private citizen commented that Navy had not adequately analyzed the potential impacts of future human or ecological exposure to currently unknown contamination at Mare Island. Navy is remediating contamination at Mare Island to levels that are protective of human health and the environment pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601, *et seq.*, and Executive Order 12580, Superfund Implementation, dated January 23, 1987. If any additional contamination is discovered and is attributable to Navy, it too would be addressed under CERCLA. It would be speculative now to identify mitigation measures that would address unknown contamination. Furthermore, it is unnecessary to an analysis of the proposed disposal and reuse of the Shipyard.

A private citizen expressed concern that additional minority and low-income areas in Vallejo, beyond those already identified in the FEIS/EIR, would be disproportionately and adversely affected by reuse activities on and off Mare Island. As discussed in the FEIS/EIR, however, only the southern crossing bridge (depending upon the location selected) could result in disproportionately high and adverse impacts on a minority and low-income population. The other environmental impacts identified in the FEIS/EIR would occur only on Mare Island where no one presently resides or over a broad geographic area. Therefore, these impacts would not result in disproportionately high and adverse impacts on minority and low-income populations.

Another private citizen expressed concern that future redevelopment projects could adversely affect wetlands because they may rely upon the general wetland map that was included in the FEIS/EIR. This citizen asked that Navy annotate the FEIS/EIR to state that its wetland map is not adequate for project planning. This citizen also suggested that the City adopt a mitigation measure requiring that project proponents submit a wetland delineation approved by the United States Army Corps of Engineers for any project that would affect lands which are not paved, built upon, or landscaped. Section 404 of the Clean Water Act, 33 U.S.C. 1344, as implemented by its regulations, provides protection for the wetlands at Mare Island. In addition, as required by Executive Order 11990, Protection of Wetlands, Navy will place a Notice in the property conveyance document that describes those uses that are restricted under Federal, State, and local wetland regulations.

Several comments expressed concern that Navy had underestimated the levels of police and fire protection services required to serve Mare Island and that the costs of providing these services would result in an overall reduction in public services in the City of Vallejo. Navy's analysis in the FEIS/EIR adopted projected staffing requirements that were provided by the City of Vallejo's Police and Fire Departments during the reuse planning process. The Vallejo General Plan provides that new development should bear the cost of extending or upgrading public services. It is the policy and practice of the City of Vallejo to require a new development to pay its fair share of the costs of public services generated by the development.

Several private citizens and Arc Ecology, none of whom commented on the Draft EIS/EIR, suggested making several changes to, or providing additional detail concerning, aspects of the Reuse Plan and the alternatives. They also requested more detailed analysis of certain environmental impacts. Navy analyzed a reasonable range of alternatives in the FEIS/EIR at a reasonably specific level. Future reuse proposals will be subject to the environmental requirements of CEQA when particular redevelopment plans are submitted to the City of Vallejo for its consideration.

Regulations Governing the Disposal Decision

Since the proposed action contemplates a disposal action under the Defense Base Closure and Realignment Act of 1990 (DBCRA), Public Law 101–510, 10 U.S.C. § 2687 note, Navy's decision was based upon the environmental analysis in the FEIS/EIR and application of the standards set forth in DBCRA, the Federal Property Management Regulations (FPMR), 41 CFR Part 101–47, and the Department of Defense Rule on Revitalizing Base Closure Communities and Community Assistance (DoD Rule), 32 CFR Parts 174 and 175.

Section 101–47.303–1 of the FPMR requires that the disposal of Federal property benefit the Federal government and constitute the "highest and best use" of the property. Section 101–47.4909 of the FPMR defines the "highest and best use" as that use to which a property can be put that produces the highest monetary return from the property, promotes its maximum value, or serves a public or institutional purpose. The "highest and best use" determination must be based upon the property's economic potential, qualitative values inherent in the property, and utilization factors affecting land use such as zoning, physical characteristics, and other private and public uses in the vicinity, neighboring improvement, utility services, access, roads, location, and environmental and historical considerations.

After Federal property has been conveyed to non-Federal entities, the property is subject to local land use regulations, including zoning and subdivision regulations and building codes. Unless expressly authorized by statute, the disposing Federal agency cannot restrict the future use of surplus Government property. As a result, the local community exercises substantial control over future use of the property. For this reason, local land use plans and zoning affect determination of the highest and best use of surplus Government property.

The DBCRA directed the Administrator of the General Services Administration (GSA) to delegate to the Secretary of defense authority to transfer and dispose of base closure property. Section 2905(b) of DBCRA directs the Secretary of Defense to exercise this authority in accordance with GSA's property disposal regulations, set forth in Part 101–47 of the FPMR. By letter dated December 20, 1991, the Secretary of Defense delegated the authority to transfer and dispose of base closure property closed under DBCRA to the Secretaries of the Military Departments. Under this delegation of authority, the Secretary of the Navy must follow FPMR procedures for screening and disposing of real property when implementing base closures. Only where Congress has expressly provided additional authority for disposing of base closure property, *e.g.*, the economic development conveyance authority established in 1993 by Section 2905(b)(4) of DBCRA, may Navy apply disposal procedures other than those in the FPMR.

In Section 2901 of the National Defense Authorization Act for Fiscal Year 1994, Public Law 103–160, Congress recognized the economic hardship occasioned by base closures, the Federal interest in facilitating economic recovery of base closure communities, and the need to identify and implement reuse and redevelopment of property at closing installations. In Section 2903(c) of Public law 103–160, Congress directed the Military Departments to consider each base closure community's economic needs and priorities in the property disposal process. Under Section 2905(b)(2)(E) of DBCRA, Navy must consult with local communities before it disposes of base closure property and must consider local plans developed for reuse and redevelopment of the surplus Federal property.

The Department of Defense's goal, as set forth in Section 174.4 of the DoD Rule, is to help base closure communities achieve rapid economic recovery through expeditious reuse and redevelopment of the assets at closing bases, taking into consideration local market conditions and locally developed reuse plans. Thus, the Department has adopted a consultative approach with each community to ensure that property disposal decisions consider the Local Redevelopment Authority's reuse plan and encourage job creation. As a part of this cooperative approach, the base closure community's interests, *e.g.*, reflected in its zoning for the area, play a significant role in determining the range of alternatives considered in the environmental analysis for property disposal. Furthermore, Section 175.7(d)(3) of the DoD Rule provides that the Local Redevelopment Authority's plan generally will be used as the basis for the proposed disposal action.

The Federal Property and Administrative Services Act of 1949, 40 U.S.C. § 484, as implemented by the FPMR, identifies several mechanisms for disposing of surplus base closure property: by public benefit conveyance (FPMR § 101–47.303–2); by negotiated sale (FPMR § 101–47.304–9); and by competitive sale (FPMR § 101–47.304–7). Additionally, in, Section 2905(b)(4), the DBCRA established economic development conveyances as a means of disposing of surplus base closure property. The selection of any particular method of conveyance merely implements the Federal agency's decision to dispose of the property. Decisions concerning whether to undertake a public benefit conveyance or an economic development conveyance, or to sell property by negotiation or by competitive bid are committed by law to agency discretion. Selecting a method of disposal implicates a broad range of factors and rests solely within the Secretary of the Navy's discretion.

Conclusion

The City of Vallejo's proposed reuse of Mare Island Naval Shipyard, reflected in the Reuse Plan, is consistent with the requirements of the FPMR and Section 174.4 of the DoD Rule. The LRA has determined in its Reuse Plan that the property should be used for several purposes, including industrial, commercial, residential, educational, and recreational uses. The property's location, physical characteristics, and existing infrastructure as well as the current uses of adjacent property make it appropriate for the proposed uses.

The Preferred Alternative responds to local economic conditions, promotes rapid economic recovery from the impact of the Shipyard's closure, and is consistent with President Clinton's Five-Part Plan for Revitalizing Base Closure Communities, which emphasizes local economic redevelopment and creation of new jobs as the means to revitalize these communities. 32 CFR Parts 174 and 175, 59 Fed. Reg. 16123 (1994). Although the "No action" alternative has less potential for causing adverse environmental impacts, this alternative would not take advantage of the property's location, physical characteristics, and infrastructure or the current uses of adjacent property. Additionally, it would not foster local economic redevelopment of the Mare Island Navy Shipyard property.

The acquiring entity, under the direction of Federal, State, and local agencies with regulatory authority over protected resources, will be responsible for adopting practicable means to avoid or minimize environmental harm that may result from implementing the Reuse Plan.

Accordingly, Navy will dispose of Mare Island Naval Shipyard in a manner that is consistent with the City of Vallejo's Reuse Plan for the property.

Dated: October 23, 1998.

William J. Cassidy, Jr.,

Deputy Assistant Secretary of the Navy (Conversion And Redevelopment).

[FR Doc. 98–29560 Filed 11–4–98; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Financial and Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 4, 1999.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address *Pat Sherrill@ed.gov*, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339

between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Financial and Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: November 2, 1998.

Kent H. Hannaman,

Leader, Information Management Group, Office of the Chief Financial and Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: New.

Title: School-level Expenditure Survey Field Test.

Frequency: One time.

Affected Public: Businesses or other for-profit; Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 525.

Burden Hours: 658.

Abstract: This field test would test the procedures and an instrument for collecting public school-level expenditure data from public school district financial officers and private school finance data from private school business officers. Currently, national school level finance data are not available from any source. The public school component will satisfy the mandate from Congress for the development of school-level expenditure data collection. School-level expenditure data would allow for the comparison of per pupil expenditures, instructional and instructional support expenditures, and some program expenditures across school types, sizes, regions, and grade levels. Comparisons of the resource allocation and private schools could also be made.

[FR Doc. 98–29618 Filed 11–4–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

DEPARTMENT OF LABOR

The Advisory Council for School-to-Work Opportunities; Notice of Renewal

In accordance with the Federal Advisory Committee Act, the Secretaries of Labor and Education have renewed the charter for the Advisory Council for School-to-Work Opportunities.

The Advisory Council for School-to-Work Opportunities shall provide advice to the Departments of Education and Labor on a number of matters pertaining to implementation of the School-to-Work Opportunities Act of 1994. The Council shall be responsible for: Assessing the progress of School-to-Work Opportunities systems development and program implementation toward achieving the goals of the School-to-Work Opportunities initiative; providing feedback and making recommendations to the Steering Committee regarding the progress and direction of implementation of the School-to-Work Opportunities initiative; advising the Steering Committee on the effectiveness of the new Federal role in providing venture capital to States and localities to develop School-to-Work systems; and reporting periodically to the Steering Committee on emerging issues, actions, findings and advice; and providing input into policy issues, as requested.

The Council will meet two times a year. It will be composed of approximately 40 members, with the following representation: Educators (seven), employers (six), labor (six), community groups (five), the general public (four), students (two, one secondary and one post-secondary), parents (two), State officials (four e.g., current Governors, State legislators, State STWO officials), and local officials (four, e.g., mayors, county administrators, local STWO officials). None of these members shall be deemed to be employees of the United States.

The Council will report to the Departments of Education and Labor through the School-to-Work Opportunities Steering Committee, composed of senior executive Federal officials from the Departments of Education and Labor. It will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act fifteen (15) days from the date of this publication.

Interested persons are invited to submit comments regarding the renewal of The Advisory Council for School-to-Work Opportunities. Such comments should be addressed to: Stephanie Powers, School-to-Work Office, 400 Virginia Ave., SW, Room 210, Washington, DC 20024.

Signed at Washington, DC this 30th day of October, 1998.

Richard W. Riley,

Secretary of Education.

Alexis M. Herman,

Secretary of Labor.

[FR Doc. 98–29645 Filed 11–4–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF EDUCATION

DEPARTMENT OF LABOR

Office of School-to-Work Opportunities; Advisory Council for School-to-Work Opportunities; Notice of Open Meeting

SUMMARY: The Advisory Council for School-to-Work Opportunities was established by the Departments of Education and Labor to advise the Departments on implementation of the School-to-Work Opportunities Act. The Council shall assess the progress of School-to-Work Opportunities systems development and program implementation; make recommendations regarding progress and implementation of the School-to-Work Opportunities initiative; advise on the effectiveness of the new Federal role in providing venture capital to States and localities to develop School-to-Work systems and act as advocates for implementing the School-to-Work framework on behalf of their stakeholders.

Time and Place: The Advisory Council for School-to-Work Opportunities have an open meeting on Tuesday, November 24, 1998 from 9:00 a.m.–4:00 p.m. at the Renaissance Mayflower Hotel, 1127 Connecticut Avenue, NW, Washington, DC 20036.

Agenda: The agenda for the meeting on November 24, 1998 will include opening remarks, an overview of findings from the National Evaluation of School-to-Work and on School-to-Work progress measures and discuss issues related to sustainability of School-to-Work.

Public Participation: The meeting on Tuesday, November 24 from 9:00 a.m.–4:00 p.m. will be open to the public. Seats will be reserved for the media. Individuals with disabilities in need of special accommodations should contact the Designated Federal Official (DF)), listed below, at least 7 days prior to the meeting.

FOR ADDITIONAL INFORMATION CONTACT: Stephanie J. Powers, Designated Federal Official (DFO), Advisory Council for School-to-Work Opportunities, Office of School-to-Work Opportunities, 400 Virginia Avenue, SW, Room 210, Washington, D.C. 202/401–6222, (this is not a toll free number.)

Signed at Washington, D.C. this 30th day of October, 1998.

Raymond L. Bramucci,

Assistant Secretary for Employment and Training.

[FR Doc. 98–29646 Filed 11–4–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–36–000]

Equitrans, L.P.; Notice of Application

October 30, 1998.

Take notice that on October 27, 1998, Equitrans, L.P. (Equitrans), 3500 Park Lane, Pittsburgh, PA 15275, filed an application pursuant to Section 7(b) of the Natural Gas Act (NGA) and the Commission's Regulations thereunder, for an order permitting and approving the abandonment of individually certificated storage service to Equitable Gas Company (Equitable) under FERC Rate Schedule SS–3. Equitrans states that Equitable will convert a portion of its FERC Rate Schedule SS–3 entitlements, in the Total Annual Storage Quantity of 1,055,454 Dth with a corresponding Maximum Daily Withdrawal Quantity of 10,000 Dth and a maximum Daily Injection Quantity of 5,227 Dth to equivalent firm storage entitlements under Equitrans' open-access FERC Rate Schedule 115SS, all as more fully set forth in the application on file with the Commission and open to public inspection.

Equitrans states that this conversion will permit Equitrans to release its storage capacity to its own customers as part of its retail customer choice program in the State of Pennsylvania. Equitrans states that the certificated level of service entitlements to all other customers will remain unchanged, and that no modification of Equitrans' rates is required by this application. Equitrans states that it does not propose to abandon any facilities as part of this application.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 20, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure provided for, unless otherwise advised, it will be unnecessary for Equitrans to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 98–29593 Filed 11–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR99–2–000]

Lakehead Pipe Line Company Limited Partnership; Notice of Offer of Settlement

October 30, 1998.

Take notice that pursuant to 18 CFR 385.602, Lakehead Pipe Line Company, Limited Partnership (Lakehead), a common carrier oil pipeline regulated by this Commission, on October 27, 1998 tendered for filing an Offer of Settlement.

By this offer, Lakehead seeks Commission approval for a comprehensive settlement agreement (1998 Settlement Agreement), which was entered into on October 21, 1998 by Lakehead and the Canadian Association of Petroleum Producers (CAPP), the principal representative of the producers Lakehead serves. The 1998 Settlement Agreement is intended to govern the rate recovery by Lakehead of the costs of three projects for the expansion of Lakehead's capacity and the broadening of its capability to transport heavier crude oil. Its primary features are:

(1) A cost-of-service based surcharge, for 15 years, on terms included as part of the settlement of Lakehead's most recent rate case, for recovery of costs associated with Lakehead's portion of the System Expansion Program Phase II (SEP II);

(2) An agreed-upon flat-rate surcharge for 15 years for recovery of costs associated with Lakehead's portion of the so-called Terrace Expansion Project (Terrace); and

(3) An increase in the existing heavy oil surcharge from 20 percent of the standard rate to as much as 22 percent to reflect a planned operational change permitting shippers to transport heavier grades of crude through the Lakehead system.

In the case of the two expansion-related surcharges, the terms of those surcharges have been extensively negotiated between CAPP and Lakehead's Canadian affiliate Enbridge

Pipelines, Inc. (Enbridge),[1] on behalf of itself and Lakehead. The resulting agreements have been formally approved by the National Energy Board of Canada (NEB), and the terms of the SEP II surcharge were included in the Lakehead rate settlement approved by this Commission on October 18, 1996. The proposed change to the heavy oil surcharge has also been agreed to by CAPP and the affected heavy oil producers, and has been approved in principle by the NEB. This change is conditional on CAPP giving notice to Enbridge and Lakehead of CAPP's intent to have the higher viscosity limit implemented, and on Lakehead's operations being altered to permit movement of much heavier crudes than could be accommodated in the past.

Lakehead states that its rates are currently governed by the 1996 FERC Settlement, which resolved Lakehead's most recent major rate proceeding before this Commission. Under the 1996 FERC Settlement, to the extent Lakehead undertakes system capacity expansions during the initial five-year period, the costs of such expansions can be recovered through an incremental surcharge to Lakehead's rates calculated in accordance with Appendix D to the 1996 FERC Settlement.

The Commission will follow its Rule 602 procedures for processing this Offer of Settlement. Parties seeking to comment on any aspect of the proposed settlement are required to do so within 20 days of the date of the filing of this Offer of Settlement (Rule 602(f)(2), 18 CFR 385.602(f)(2)), on or before November 16, 1998. Reply comments are due November 27, 1998.

David P. Boergers,

Secretary.

[FR Doc. 98–29592 Filed 11–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2114–070]

Public Utility District No. 2 of Grant County, Washington; Notice Establishing Comment Period for Complaint

October 30, 1998.

On May 29, 1998, Crescent Bar Homeowners Association, Crescent Bar Resort Condominium Association, Crescent Bar, Inc., and Commercial Leaseholders (collectively, Crescent Bar Residents) filed a complaint with the Commission regarding the Priest Rapids Hydroelectric Project No. 2114, which is located on the Columbia River in Chelan, Douglas, Kittitas, Grant, Yakima, and Benton Counties, Washington. The complaint alleges that excess lands containing private homes and businesses were unlawfully included within the project boundary, and should be removed. The Commission issued notice of this complaint on June 18, 1998.[1]

On October 16, 1998, a subgroup of Crescent Bar Residents, comprised of Crescent Bar Homeowners Association and Crescent Bar Resort Condominium Association, filed what they termed an amended complaint, seeking modified land exclusions. If the Commission were to treat this filing as an amended complaint, parties would be required to file answers within 15 days after the date of filing, and the amendment would become effective at the end of 15 days if no party filed an answer in opposition.[2] However, because the parties filing the amended complaint are not the same entities that filed the original complaint, the Commission has determined that this pleading should be considered a separate complaint.

Pursuant to Rule 213(d) of the Commission's regulations, answers to complaints are due within 30 days after filing or, if noticed, after publication of the notice in the **Federal Register**, unless otherwise ordered.[3] In general, the Commission's policy is to publish notice in the **Federal Register** of complaints against hydroelectric licensees.[4]

Any person may file an answer, comment, protests, or a motion to intervene with respect to the complaint in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.213, and 385.214. In determining the appropriate action to take with respect to the complaint, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in this proceeding in accordance with the Commission's rules may become a party to the proceeding.[5] Any answers, comments, or protests must be received no later than 30 days after publication of this notice in the **Federal Register**.

David P. Boergers,

Secretary.

[FR Doc. 98–29591 Filed 11–3–98; 8:45 am]

BILLING CODE 6717–01–M

[1] Enbridge was formerly known as Interprovincial Pipe Line Inc. (IPL). The name was changed to Enbridge effective October 7, 1998.

[1] 63 FR 34372 (June 24, 1998).

[2] *See* 18 CFR 385.215.

[3] 18 CFR 385.213(d) *See also* 18 CFR 385.202.

[4] 18 CFR 2.1(a)(1)(iii)(j).

[5] Because the parties and issues are similar, the Commission will consider both complaints together, and parties who have already intervened in response to the first notice of complaint need not file a second motion to intervene in response to this notice.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–38–000]

Texas Eastern Transmission Corporation; Notice of Application

October 30, 1998.

Take notice that on October 27, 1998, Texas Eastern Transmission Corporation (Applicant), 5400 Westheimer Court, Houston, Texas, 77251–1642, filed in Docket No. CP99–38–000 an abbreviated application pursuant to Section 7(b) of the Natural Gas Act, as amended, and Sections 157.7 and 157.18 of the Federal Energy Regulatory Commission's (Commission) regulations thereunder, for permission and approval to abandon a certificated service agreement for Penn Fuel Gas, Inc. (Penn Fuel) under Applicant's Rate Schedule FTS–5, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon, at Penn Fuel's request, an existing individually certificated firm transportation service for Penn Fuel and at Penn Fuel's request to convert said service to firm open-access transportation service under Applicant's Rate Schedule FTS–1 and Part 284 of the Commission's regulations. Applicant also requests a waiver of Section 12.2 of Rate Schedule FT–1 to effectuate the conversion.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 20, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission to Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, and if the Commission on its own review of the matter finds that the abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provide for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 98–29594 Filed 11–4–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6185–7]

Draft Toxicological Review of Benzene (Noncancer Effects): In Support of Summary Information on the Integrated Risk Information System

AGENCY: Environmental Protection Agency.

ACTION: Notice of extension of public comment period.

SUMMARY: This notice announces the extension of the public comment period for the external review draft document entitled, Toxicological Review of Benzene (Noncancer Effects) (NCEA-S–0455). The document was prepared by the National Center for Environmental Assessment-Washington Office (NCEA-W) within EPA's Office of Research and Development.

DATES: In the October 6, 1998, **Federal Register** (63 FR 53654), EPA announced a 45-day public comment period from October 9 through November 24, 1998. The Agency is now extending the public comment period to December 31, 1998. Comments must be in writing and postmarked by the December date.

ADDRESSES: The document is available on the Internet at http://www.epa.gov/ncea under the What's New and Publications menus. A limited number of paper copies are available from the Technical Information Staff (8623D), NCEA-W, telephone: 202–564–3261; facsimile: 202–565-0050. If you are requesting a paper copy, please provide your name, mailing address, and the title and number for the draft: Toxicological Review of Benzene (Noncancer Effects) (NCEA-S-0455).

Comments may be mailed to the Technical Information Staff (8623D), NCEA-W, U.S. Environmental Protection Agency, Washington, DC 20460, or delivered to the Technical Information Staff at 808 17th Street, N.W., 5th Floor, Washington, DC 20074. Please submit one unbound original with pages numbered consecutively, and three copies. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies. Electronic comments may be sent e-mail to benzene.new@epa.gov.

Please note that all technical comments received in response to this notice will be placed in a public record. For that reason, commentors should not submit personal information (such as medical data or home address), Confidential Business Information, or information protected by copyright. Due to limited resources, acknowledgments will not be sent.

FOR FURTHER INFORMATION CONTACT: For information contact Bob Sonawane (202–564–3292) or David Bayliss (202–564–3294); mailing address: NCEA-W (8623D), U.S. Environmental Protection Agency, Washington, DC 20460; facsimile: 202–565–0078; e-mail: benzene.new@epa.gov.

SUPPLEMENTARY INFORMATION: This draft report provides the scientific basis for deriving an oral reference dose (RfD) and inhalation reference concentration (RfC) for the noncancer health risk from exposure to benzene.

Dated: October 29, 1998.

William H. Farland,

Director, National Center for Environmental Assessment.

[FR Doc. 98–29661 Filed 11–4–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00563; FRL–6044–7]

State FIFRA Issues Research and Evaluation Group (SFIREG) Pesticide Operations and Management Working Committee; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The State FIFRA Issues Research and Evaluation Group (SFIREG) Pesticide Operations and Management Working Committee will meet on November 16 and 17, 1998. This notice announces the location and times for the meeting and sets forth the tentative agenda topics. The meetings are open to the public.

DATES: The SFIREG Working Committee on Pesticide Operations and Management will meet on Monday, November 16, 1998, from 8:30 to 5:00 p.m. and Tuesday, November 17, 1998, from 8:30 a.m. to 4:00 p.m.

ADDRESSES: The meeting will be held at: The Ronald Reagan National Airport, 300 Army-Navy Drive, Arlington-Crystal City, VA 22202.

FOR FURTHER INFORMATION CONTACT: By mail: Elaine Y. Lyon, Field and External Affairs Division, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 1921 Jefferson Davis Highway, Arlington, VA, CM #2; (703) 305–5306; e-mail: lyon.elaine@epa.gov.

SUPPLEMENTARY INFORMATION: The tentative agenda of the Working Committee on Pesticide Operations and Management includes the following.

1. Update of Pesticide Inspector Regulatory Training.
2. Submission of field data - 6(a)(2) rule and/other mechanisms.
3. Enforcement of FIFRA & other Pesticide laws on Federal lands.
4. Inspector use of credentials.
5. Antimicrobial compliance program.
6. Update from the Office of Enforcement and Compliance Assurance
7. Status of PR Notice on Greenhouse Pesticide labeling and enforcement.
8. Labeling issues:
   (a) user compliance with meteorological restrictions.
   (b) hazards of handling & disposal of swimming pool chemicals/pesticides.
   (c) compliance with surface water precautions.
9. SFIREG registrations issues:
   (a) addition of domestic/homeowner use to EPA approved for agriculture use only.
   (b) marketing of concentrated insecticides for indoor use/supplemental labels.
   (c) changing labels via "quick" notification subsequent to registration.
10. Update on National Environmental Laboratory Accreditation Conference policy issues.
11. Quality management plans/state lead agency mandatory compliance.
12. Update on methyl parathion.
13. Office of Pesticide Programs update:
   (a) bee labeling.
   (b) isoxaflutole conditional registration.
   (c) indoor insecticide label improvement.

(d) disclaimers, warranties & limitations of liability.

(e) use of chlorine gas as agricultural pesticide.

(f) modification of Worker Protection Standard posting requirements.

14. Reports from committee members.
15. Other topics as appropriate.

List of Subjects

Environmental protection.

Dated: November 2, 1998.

Charles Franklin,

Acting Acting Director, Field and External Affairs Division.

[FR Doc. 98–29790 Filed 11–3–97; 3:37 pm]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00558; FRL–6042–3]

Pesticides; Science Policy Issues Related to the Food Quality Protection Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: To assure that EPA's science policies related to implementing the Food Quality Protection Act (FQPA) are transparent and open to public participation, EPA is soliciting comments on two draft science policy papers—"Guidance for Submission of Probabilistic Exposure Assessments to the Office of Pesticide Programs" and "Office of Pesticide Program's Science Policy on the Use of Cholinesterase Inhibition for Risk Assessments of Organophosphate and Carbamate Pesticides." These policies have been peer reviewed by the Agency's FIFRA Scientific Advisory Panel and are now ready for broader public comment.

DATES: Written comments for each science policy paper, identified by separate docket numbers provided in the ADDRESSES section, should be submitted by January 4, 1999.

ADDRESSES: The docket number for "Guidance for Submission of Probabilistic Exposure Assessments to the Office of Pesticide Programs" is OPP–00559 and for "Office of Pesticide Program's Science Policy on the Use of Cholinesterase Inhibition for Risk Assessments of Organophosphate and Carbamate Pesticides" is OPP–00560. By mail, submit written comments identified by the docket control number listed for each to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epa.gov. Follow the instructions under Unit V. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 119 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: For "Guidance for Submission of Probabilistic Exposure Assessments to the Office of Pesticide Programs" contact by mail: Kathleen Martin, Environmental Protection Agency (7509C), 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail: 1921 Jefferson Davis Highway, Arlington, VA, 703–308–2857, fax: 703–305–5147, e-mail: martin.kathleen@epa.gov.

For "Office of Pesticide Program's Science Policy on the Use of Cholinesterase Inhibition for Risk Assessments of Organophosphate and Carbamate Pesticides" contact William Wooge, Environmental Protection Agency (7509C), 401 M St., SW., Washington, DC 20460. Office location, telephone number, e-mail: 1921 Jefferson Davis Highway, Arlington, VA, 703–308–8794, fax: 703–305–5147, e-mail: wooge.william@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Electronic Availability

A. Internet

Electronic copies of this document and the two science policy papers are available from the EPA Home Page at the **Federal Register** - Environmental Documents entry for this document under "Laws and Regulations" (http://www.epa.gov/fedrgstr/).

B. Fax-on-Demand

For Fax-on-Demand, use a faxphone to call 202–401–0527 and select item 6021 for the draft document entitled "Guidance for Submission of Probabilistic Exposure Assessments to the Office of Pesticide Programs" and item 6022 for the draft document entitled "Office of Pesticide Program's Science Policy on the Use of Cholinesterase Inhibition for Risk Assessments of Organophosphate and Carbamate Pesticides."

II. Background

On August 3, 1996, the FQPA was signed into law. Effective upon signature, the FQPA significantly amended the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Among other changes, FQPA established a stringent health-based standard ("a reasonable certainty of no harm") for pesticide residues in foods to assure protection from unacceptable pesticide exposure; provided heightened health protections for infants and children from pesticide risks; required expedited review of new, safer pesticides; created incentives for the development and maintenance of effective crop protection tools for farmers; required reassessment of existing tolerances over a 10 year period; and required periodic re-evaluation of pesticide registrations and tolerances to ensure that scientific data supporting pesticide registrations will remain up-to-date in the future.

Subsequently, the Agency established the Food Safety Advisory Committee (FSAC) as a subcommittee of the National Advisory Council for Environmental Policy and Technology to assist in soliciting input from stakeholders and to provide input to EPA on some of the broad policy choices facing the Agency and on strategic direction for the Office of Pesticide Programs (OPP). The Agency has used the interim approaches developed through discussions with FSAC to make regulatory decisions that met FQPA's standard but that could be revisited if additional information became available or as the science evolved. As EPA's approach to implementing the scientific provisions of FQPA has evolved, the Agency has sought independent review and public participation, often through presentation of many of the science policy issues to the FIFRA Scientific Advisory Panel (SAP), a group of independent, outside experts who provide peer review and scientific advice to OPP.

In addition, as directed by Vice President Albert Gore, EPA has been working with the U.S. Department of Agriculture (USDA) and another subcommittee of NACEPT, the Tolerance Reassessment Advisory Committee (TRAC), chaired by the EPA Deputy Administrator and the USDA Deputy Secretary, to address FQPA issues and implementation. TRAC comprises more than 50 representatives of affected user, producer, consumer, public health, environmental, states, and other interested groups. The TRAC has met five times as a full committee from May 27, 1998 through September 16, 1998.

The Agency has been working with the TRAC to ensure that its science policies, risk assessments of individual pesticides, and process for decision making are transparent and open to public participation. An important product of these consultations with TRAC is the development of a framework for addressing key science policy issues. The Agency decided that the FQPA implementation process would benefit from initiating notice and comment on the major science policy issues.

The TRAC identified nine science policy issue areas they believe were key to implementation of FQPA and tolerance reassessment. The framework calls for EPA to provide one or more documents for comment on each of the nine issues by announcing their availability in the **Federal Register**. In addition to comments received in response to these **Federal Register** notices, EPA will consider comments received during the TRAC meetings. Each of these issues is evolving and in a different stage of refinement. Accordingly, as the issues are further refined by EPA in consultation with USDA and others, they may also be presented to the SAP.

In accordance with the framework described in a separate notice published in the **Federal Register** of October 29, 1998 (63 FR 58038) (FRL–6041–5), EPA is issuing a series of draft documents concerning nine science policy issues identified by the TRAC that are related to the implementation of FQPA. This notice announces the availability of two draft documents. The first paper relates to science policy area #2 (Dietary exposure and Monte Carlo techniques) as described in the framework notice published in the **Federal Register** of October 29, 1998 (63 FR 58038); this paper is one of three papers that will be issued for comment. The second paper addresses science policy area #9 (Cholinesterase (ChE) Inhibition) as described in the framework notice published in the **Federal Register** of October 29, 1998 (63 FR 58038); it is the only paper for this area.

III. Summary of Draft Papers

A. Guidance for Submission of Probabilistic Exposure Assessments to the Office of Pesticide Programs

EPA assesses pesticide dietary exposure from raw and processed foods using two distinct pieces of information: The amount of pesticide residue that is present in and on food (i.e., the residue level) and the types and amounts of food that we eat (i.e., food consumption). The residue information comes from the numerous crop field trials and other sources where the amount of pesticide residues on a given commodity is measured. Consumption information comes primarily from USDA surveys of what people eat. In the past, EPA has used the Dietary Risk Evaluation System (DRES) to combine the residue and food consumption information with data on a pesticide's toxicity to calculate acute and chronic dietary risk from food. This deterministic model calculates an average value (sometimes referred to as a "point" estimate) for these exposure and risk assessments.

The science of risk assessment is constantly evolving. As better methods and techniques are developed, the Agency strives to incorporate these into its risk assessment methodologies. Over the last few years, a new technique has been applied to estimating acute pesticide dietary exposure during a single day, which is a probabilistic evaluation called Monte Carlo analysis. A probabilistic analysis uses the entire range of data from the numerous crop field trial studies or other sources to better estimate the distribution of exposure to the residues for the population of concern. This technique allows for a more realistic estimate of exposure, and depicts the variability in exposure that results from differences in individual eating patterns as well as differences in the levels of pesticide residues on food.

The Agency has been developing guidance on how to conduct probabilistic exposure assessments for pesticides as well as guidance to Agency reviewers on how to evaluate such assessments. In March 1998, draft guidance was presented to the SAP. The SAP was very supportive of the proposed guidance document and in general agreed with the proposed approach. EPA has since revised the draft guidance, incorporating the SAP's advice. Today, this revised draft guidance is being made available for public comment. EPA is inviting public comment on several issues listed in Unit IV.A.

The draft guidance is related to two of the other nine TRAC science policy issues as follows:

1. *Dietary exposure estimates (science policy issue area #4).* Dietary exposure estimates derived from probabilistic assessments are one input in the overall assessment of dietary exposures.

2. *Aggregate exposure (science policy issue area #7).* Again, exposure estimates derived from probabilistic assessments are part of the aggregate exposures. Also, the use of probabilistic techniques is being discussed among the scientific community as a method for aggregating exposure from multiple sources and pathways.

The draft guidance is not intended to address the following two other related issues:

1. The procedures (statistical and otherwise) used to address situations where no residue is detected.

2. The rationale for the Agency's interim decision to regulate at the 99.9th percentile of exposure when using probabilistic exposure evaluation techniques.

Separate issue papers will be prepared according to the schedule in the framework **Federal Register** notice to deal with these two topics.

A number of comments were provided by various industry and public interest groups in response to the TRAC meetings, which began in May 1998. Commenters included the Natural Resources Defense Council (NRDC), the National Food Processors Association (NFPA), Latham and Watkins, and the Implementation Working Group (IWG). However, only IWG's comments related to the draft guidance announced (in revised form) in this **Federal Register** notice. The IWG, a coalition of farm, food, pesticide manufacturing, and pest management organizations, provided a "road map" report entitled "A Science-Based Workable Framework for Implementing the Food Quality Protection Act." The IWG report stated that the Agency should more fully utilize probabilistic techniques for dietary, non-dietary and aggregate exposure assessments and that EPA regulatory staff should become more familiar with the concepts of using probabilistic analysis in decision making.

B. Office of Pesticide Program's Science Policy on the Use of Cholinesterase Inhibition for Risk Assessments of Organophosphate and Carbamate Pesticides

Most organophosphate (OP) and certain carbamate insecticides exert their toxic effects on insects and mammals by the mechanism of ChE inhibition. Communication between a large number of nerve cells in the peripheral and central nervous system is by means of acetylcholine, a neurotransmitter. Acetylcholinesterase is the enzyme that breaks down acetylcholine after it has communicated the nerve signal between two nerve cells or nerve and muscle cells. Inhibition of this enzyme prolongs the action of acetylcholine and results in the acute toxic effects known for these chemicals such as nausea, dizziness, confusion and, at high concentrations, more serious effects such as respiratory paralysis and death. This can also result in chronic effects that have been observed with many of these insecticides. Measures of cholinesterase levels in the blood or nervous system after exposure to OPs and certain carbamates have become the most common endpoint used in risk assessments of these chemical classes. For at least the last 10 years, EPA has used plasma, red blood cells, and/or brain ChE inhibition as the basis for determining critical effect levels and setting reference doses.

Over the last several years, the Agency has engaged with outside scientists and the regulatory community about which measures of ChE inhibition may be used for setting reference doses in risk assessments. Much of the discussion focused on two issues:

1. The role of blood measures, since blood cholinesterases are not part of the nervous system and therefore are only an indirect measure of neurotoxicity.

2. Whether plasma cholinesterases should be treated differently from red blood cell cholinesterases.

In June 1997, the Agency made a presentation to the SAP including a literature review, a series of case studies, a summary of activities related to methodology of ChE measurement, and a briefing. This briefing paper presented to the SAP, "Office of Pesticide Programs Science Policy on the Use of Cholinesterase Inhibition for Risk Assessment of Organophosphate and Carbamate Pesticides" (draft, April 30, 1997), provided EPA's analysis of the issues and options and its proposed policy to use a weight of evidence approach that would consider all of the data that might result in the use of ChE measures in plasma, red blood cells, and/or the brain for defining critical effects. In addition, EPA also asked the SAP about the feasibility of using measures of peripheral nervous system tissue to replace blood measures, which largely serve as indirect estimators of ChE inhibition in the peripheral nervous system in animals. The report of the SAP addresses these issues and is also included in the docket. The Agency's briefing paper cited above has been updated and is being made available for comment with this notice.

The IWG prepared a paper evaluating several science policy issues relating to EPA's implementation of FQPA. Issue paper II of the IWG report discussed the choice and use of endpoints in risk assessments of ChE inhibitors and provided a number of comments about their use. The IWG asserted several opinions: that ChE inhibition in blood itself is not an adverse effect; that use of ChE inhibition in blood has the effect of adding a safety factor; and that the additional safety factor should be considered when applying other safety factors related to infants and children.

During the public comment period for the SAP review, the Acute Cholinesterase Risk Assessment Work Group, a group of pesticide manufacturing organizations, proposed a complex alternative policy for using measures of ChE inhibition in risk assessments. They proposed not using plasma measures, reducing the uncertainty factor for red blood cell measures, establishing a generic threshold of 20 percent difference for blood or brain measures, and provided other comments.

The Natural Resources Defense Council, an environmental group, in a brief oral presentation to the SAP, provided general support for the Agency's proposed policy, but emphasized the need for broader pre-natal and post-natal testing of pesticides to provide more data specific to fetuses, infants, and children. This would, in their view, include both cholinesterase data and data on a variety of neurological functions, including in particular learning and memory.

Other regulatory bodies (i.e., agencies from California and Canada) and public commenters from outside the United States (including scientists from Great Britain and individual physicians who have worked with the World Health Organization) described their own policies and how those policies generally placed less reliance on plasma measures of ChE inhibition as a risk assessment endpoint.

IV. Questions/Issues for Comment

A. Guidance for Submission of Probabilistic Exposure Assessments to the Office of Pesticide Programs

1. Should outlier data points in residue or consumption data sets be excluded from consideration? If so, then what should be the criteria for excluding a data point from either food consumption or residue data sets on the grounds that it is an outlier?

2. What criteria should be used to determine if a data set is sufficiently "representative" of the population of interest to be used in a probablistic assessment? Are there minimum size or Quality Assurance/Quality Control (QA/QC) requirements that should be met?

3. Should the Agency allow exposure assessments to include data reflecting the range of typical application parameters? Are the conditions for accepting residue data based on typical parameters appropriate, or should they be modified?

4. Do the currently available consumption data permit probabilistic assessment of chronic dietary risk? If not, is there an appropriate process for using the available consumption data to permit probabilistic assessment of chronic dietary risk?

5. Is there a process or procedure which would allow the Agency to utilize post-farm monitoring data on composite samples (e.g., from the Food and Drug Administration (FDA), USDA, and State pesticide monitoring data) to assess acute dietary exposure for unblended commodities?

6. Is it appropriate to assess acute dietary risk on a population basis, and to assess short- and intermediate-term occupational and residential exposure on an exposed-individual basis? If it is more appropriate to assess short- and intermediate-term occupational and residential risk on a population basis, is there a process to do so?

7. What changes or additions to the document would improve its readability and make it easier for general audiences to understand? For example, would it be helpful to include a glossary of terms? Are there key scientific concepts that need to be better explained for a lay audience? Would the addition of a case study make any of the concepts easier to understand?

B. Office of Pesticide Program's Science Policy on the Use of Cholinesterase Inhibition for Risk Assessments of Organophosphate and Carbamate Pesticides

1. How should EPA use measures of ChE inhibition in plasma, red blood cells, and brain in determination of critical effect levels and setting reference doses?

2. Should plasma and red blood cell measures of ChE inhibition be treated differently from brain measures of ChE inhibition and/or from one another?

3. How should measures of peripheral tissues be used in these processes of risk assessment, both in a practical sense and a science policy sense?

4. Can measures of ChE inhibition in peripheral tissues, such as the heart and salivary glands, be used as a supplement or even an alternative to blood measures?

5. Should comparative data on ChE inhibition in the young exposed pre-natally, during infancy (nursing), and during childhood be considered essential for defining the relative sensitivity of the young and adults?

6. Are other measures, such as functional measures of clinical signs, or learning and memory, similarly important?

Based on special additional recommendations of the SAP, EPA wishes to highlight two other issues for public comment.

The first is the SAP's recommendation that plasma cholinesterase be differentiated by use of selective inhibitors into acetylcholinesterase and butyrylcholinesterase. At present, most animal studies received by EPA do not differentiate between these enzymes. An important part of the argument made for consideration of plasma activity was the fact that for rat studies, nearly half of the plasma cholinesterase is acetylcholinesterase, identical to the neuronal form. Such differential analyses would provide additional data on this topic.

7. Should EPA require the differentiation of acetylcholinesterase and butyrylcholinesterase in plasma, and how might this data be used?

The second is the SAP's recommendation that EPA ask for receptor binding assays for long term studies. A common consequence of prolonged ChE inhibition in the nervous system is the down regulation of cholinergic receptors. This represents a longer term response to exposure than the inhibition of enzyme activity. This effect might be differentially affected by some chemicals, and its time course might differ from enzyme activity. Such data would help to broaden the data base on which to characterize the hazards of these chemicals.

8. Should EPA require receptor binding assays for long term (subchronic and chronic) studies, and how should such data be interpreted?

9. A number of parameters related to the neurotoxicological potential of cholinesterase-inhibiting pesticides are measured and considered when developing a hazard characterization for these chemicals. Some of these parameters (e.g., clinical signs) represent direct observations of this potential; others serve as surrogates (e.g., inhibition of red cell cholinesterase) for potential effects not currently measured or observed directly. OPP has proposed to use a weight-of-the-evidence approach when characterizing the hazard of these chemicals and developing health-based benchmarks such as reference doses. A weight-of-the-evidence approach obligates the risk assessor to consider all of the study results as a whole, rather than focusing on any single result in isolation of the others. Is this approach a reasonable means for evaluating the overall significance of the potential neurotoxic effects associated with this type of pesticide?

10. What changes or additions to the document would improve its readability and make it easier for general audiences to understand? For example, would it be helpful to expand the glossary of terms? Are there key scientific concepts that need to be better explained for a lay audience? Would the addition of more examples make the concepts easier to understand?

V. Public Record and Electronic Submissions

A record has been established for these policy guidances under docket control numbers OPP–00559 and OPP–00560 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the Virginia address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control numbers OPP–00559 and OPP–00560. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

VI. Contents of Docket

Documents that are referenced in this notice document will be inserted in the docket under the document control numbers OPP–00559 and OPP–00560. In addition, documents referenced in in the framework notice, which published in the **Federal Register** on October 29, 1998 (63 FR 58038) will also be inserted in the docket under docket control number OPP–00557.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: October 30, 1998.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 98–29665 Filed 11–4–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51917; FRL–6040–7]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the **Federal Register** each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from September 1, to September 30, 1998.

ADDRESSES: Written comments, identified by the document control number "[OPPTS–51917]" and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending

electronic mail (e-mail) to: oppt.ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPPTS–51917]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under "SUPPLEMENTARY INFORMATION" of this document.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–531, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number "[OPPTS–51917]" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 3 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

In the past, EPA has published individual notices reflecting the status of section 5 filings received, pending or expired, as well as notices reflecting receipt of notices of commencement. In an effort to become more responsive to the regulated community, the users of this information and the general public, to comply with the requirements of TSCA, to conserve EPA resources, and to streamline the process and make it more timely, EPA is consolidating these separate notices into one comprehensive notice that will be issued at regular intervals.

In this notice, EPA shall provide a consolidated report in the **Federal Register** reflecting the dates PMN requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Additionally, in this same report, EPA shall provide a listing of receipt of new notices of commencement.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received; (II) TMEs received; (III) Notices of Commencement to manufacture/import.

I. 162 PREMANUFACTURE NOTICES RECEIVED FROM: 09/01/98 TO 09/30/98

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–1154	09/01/98	11/30/98	CBI	(G) Lubricant Additive	(G) Reaction product of ethoxylated fatty amines and ammoniummolybate
P–98–1155	08/31/98	11/29/98	CBI	(G) Binder for graphic arts coatings and printing inks	(G) 2,5-furandione, polymer eith ethenylbenzene, 4-[(1-oxo-2-propenyl) oxy]alkyl propyl ester, ammonium salt*
P–98–1156	09/01/98	11/30/98	CBI	(G) Adhesive film on a tissue carrier	(G) Acrylic polymer amine salt

I. 162 PREMANUFACTURE NOTICES RECEIVED FROM: 09/01/98 TO 09/30/98—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–1157	08/31/98	11/29/98	CBI	(S) Raw material used in the manufacture of photoresist	(G) Acetal blocked phs
P–98–1158	09/01/98	11/30/98	CBI	(G) Grease additive	(G) Oxoaluminum acylate complex
P–98–1159	09/01/98	11/30/98	CBI	(G) Nickel plating additive	(G) Unsaturated aliphatic amine, salt
P–98–1161	08/31/98	11/29/98	Elf Atochem North America, Inc.	(G)	(S) Urea, monomethanesulfonate (1:1)*
P–98–1162	09/01/98	11/30/98	Allied Signal, Inc.	(S) Coating (radiation curable); inks (radiation curable); adhesive (radiation curable)	(S) 1,3-benzenedicarboxylic acid, bis [[4-[(ethenylox-y)methyl]cyclohexyl]methyl]ester*
P–98–1163	09/01/98	11/30/98	Allied Signal, Inc.	(S) Coating (radiation curable); inks (radiation curable); adhesive (radiation curable)	(S) 1,4-benzendicarboxylic acid, bis [4-ethenyloxy)butyl]ester*
P–98–1164	09/01/98	11/30/98	Allied Signal, Inc.	(S) Coating (radiation curable); inks (radiation curable); adhesive (radiation curable)	(S) 1,4-benzenedicarboxylic acid, bis [[4-[(ethenyloxy)methyl] cyclohexyl]methyl]ester*
P–98–1165	09/01/98	11/30/98	Allied Signal, Inc.	(S) Coating (radiation curable); inks (radiation curable); adhesive (radiation curable)	(S) 1,2,4-benzenetricarboxylic acid, tris [4-(ethenyloxy)butyl] ester*
P–98–1166	09/01/98	11/30/98	CBI	(G) Non-dispersive use	(G) Blocked aromatic isocyanate
P–98–1167	09/01/98	11/30/98	CBI	(G) Painting material	(G) Epoxidized styrene-butadien copolymer
P–98–1168	09/02/98	12/01/98	Alox Corporation	(S) Rust preventive for metals	(G) Aliphatic acid, calcium salt
P–98–1169	09/02/98	12/01/98	CBI	(G) Resin for coating	(G) Modified acrylic resin
P–98–1170	09/02/98	12/01/98	CBI	(G) Resin for coating	(G) Modified acrylic resin
P–98–1171	09/02/98	12/01/98	CBI	(G) Coating additive	(G) Long chain amide/ester
P–98–1172	09/03/98	12/02/98	CBI	(G) Stabilizer for polymerization	(G) Amine salt of organic acid
P–98–1173	09/04/98	12/03/98	CBI	(G) Component of structural material	(G) Organic silicon compound
P–98–1174	09/04/98	12/03/98	CBI	(G) Fuel additive	(G) Amine fatty acid salt
P–98–1175	09/04/98	12/03/98	CBI	(S) Chemical Intermediate; coatings	(G) Acrylic Polymer
P–98–1176	09/04/98	12/03/98	Shin-etsu Silicones of America, Inc	(S) Ingredient for rubber compounds	(G) Polyfluoroalkylether
P–98–1177	09/08/98	12/07/98	CBI	(G) Rheology modifier for aqueous systems	(G) Hydrophobically moddified polyether
P–98–1178	09/08/98	12/07/98	OMG Americas, Inc.	(S) Fuel oil additive / diesel additive	(S) 9-octadecenoic acid (*z*)-cerium salt*
P–98–1179	09/08/98	12/07/98	OMG Americas, Inc.	(S) PVC stabilizer	(S) 2-butenedioic acid (*z*)-, mono-C^{8}–C^{10}-isoalkyl esters, C^{9} rich*
P–98–1180	09/08/98	12/07/98	OMG Americas, Inc.	(S) PVC stabilizer	(S) 2-butenedioic acid (*z*)-, mono-C^{9}–C^{11}-isoalkyl esters, C^{10} rich*
P–98–1181	09/08/98	12/07/98	OMG Americas, Inc.	(S) PVC stabilizer	(S) 2-butenoic acid, 4,4'-[(dibutylstannylene)bis(oxy)]bis[4-oxo-,(z,z)-, di-C^{8}–C^{10}-isoalkyl esters, C^{9}-rich*
P–98–1182	09/08/98	12/07/98	OMG Americas, Inc.	(S) PVC Stabilizer	(S) 2-butenoic acid, 4,4'-[(dibutylstannylene)bis(oxy)]bis[4-oxo-,(z,z)-, di-C^{9}–C^{11}-isoalkyl esters, C^{10}-rich*
P–98–1183	09/09/98	12/08/98	Mona Industries, Inc.	(S) Metal working; household, industrial and institutional surfactants, detergents, emilsifiers; personal care	(S) Amides, coco, *n*-(hydroxyethyl), propoxylated*
P–98–1184	09/09/98	12/08/98	Mona Industries, Inc.	(S) Metal working; household, industrial and institutional surfactants, detergents, emilsifiers; personal care	(S) Amides, soya, *n*-(hydroxyethyl), propoxylated*
P–98–1185	09/09/98	12/08/98	Mona Industries, Inc.	(S) Metal working; household, industrial and institutional surfactants, detergents, emilsifiers; personal care	(S) Amides, tall-oil, *n*-(hydroxyethyl), propoxylated*
P–98–1186	09/09/98	12/08/98	Mona Industries, Inc.	(S) Metal working; household, industrial and institutional surfactants, detergents, emilsifiers; personal care	(S) Amides, milk fatty, *n*-(hydroxyethyl), propoxylated*
P–98–1187	09/09/98	12/08/98	Mona Industries, Inc.	(S) Metal working; household, industrial and institutional surfactants, detergents, emilsifiers; personal care	(S) Amides, tallow, *n*-(hydroxyethyl), propoxylated*
P–98–1188	09/09/98	12/08/98	CBI	(G) Industrial adhesive component for open, non-dispersive use	(G) Phenol-resorcinol resin sulfonic acid, sodium salt

I. 162 PREMANUFACTURE NOTICES RECEIVED FROM: 09/01/98 TO 09/30/98—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–1189	09/10/98	12/09/98	CBI	(G) Open, non-dispersive (coating coreactant)	(G) Silane urea hydantoin
P–98–1190	09/09/98	12/08/98	Mona Industries, Inc.	(S) Metal working; household, industrial and institutional surfactants, detergents, emilsifiers personal care*	(S) Amides, sunflower-oil, *n*-(hydroxyethyl), propoxylated*
P–98–1191	09/09/98	12/08/98	Mona Industries, Inc.	(S) Metal working; household, industrial and institutional surfactants, detergents, emilsifiers personal care*	(S) Amides, rape-oil, *n*-(hydroxyethyl), propoxylated*
P–98–1192	09/09/98	12/08/98	Mona Industries, Inc.	(S) Metal working; household, industrial and institutional surfactants, detergents, emilsifiers personal care*	(S) Amides, lard-oil, *n*-(hydroxyethyl), propoxylated*
P–98–1193	09/09/98	12/08/98	Mona Industries, Inc.	(S) Metal working; household, industrial and institutional surfactants, detergents, emilsifiers personal care*	(S) Amides, castor-oil, *n*-(hydroxyethyl), propoxylated*
P–98–1194	09/09/98	12/08/98	Mona Industries, Inc.	(S) Metal working; household, industrial and institutional surfactants, detergents, emilsifiers personal care*	(S) Amides, borage seed-oil, *n*-(hydroxyethyl), propoxylated*
P–98–1195	09/09/98	12/08/98	Mona Industries, Inc.	(S) Metal working household, industrial and institutional surfactants, detergents, emilisifiers; personal care*	(S) Poly[oxy(methyl-1,2-ethanediyl)), alpha-[2[(1-oxooctyl)amino]ethyl]-omega-hydroxy-*
P–98–1196	09/09/98	12/08/98	Mona Industries, Inc.	(S) Metal working household, industrial and institutional surfactants, detergents, emilisifiers; personal care*	(S) Poly[oxy(methyl-1,2-ethanediyl)), alpha-[2[(1-oxodecyl)amino]ethyl]-omega-hydroxy-*
P–98–1197	09/09/98	12/08/98	Mona Industries, Inc.	(S) Metal working household, industrial and institutional surfactants, detergents, emilisifiers; personal care*	(S) Poly[oxy(methyl-1,2-ethanediyl)], alpha-[2[(1-oxododecyl)amino]ethyl]-omega-hydroxy-*
P–98–1198	09/09/98	12/08/98	Mona Industries, Inc.	(S) Metal working household, industrial and institutional surfactants, detergents, emilisifiers; personal care*	(S) Poly[oxy(methyl-1,2-ethanediyl)], alpha-[2[(1-oxotetradecyl)amino]ethyl]-omega-hydroxy-*
P–98–1199	09/09/98	12/08/98	Mona Industries, Inc.	(S) Metal working household, industrial and institutional surfactants, detergents, emilisifiers; personal care	(S) Poly[oxy(methyl-1,2-ethanediyl)], alpha-[2[(1-hexadecyl)amino]ethyl]-omega-hydroxy-*
P–98–1200	09/09/98	12/08/98	Mona Industries, Inc.	(S) Metal working household, industrial and institutional surfactants, detergents, emilisifiers; personal care*	(S) Poly[oxy(methyl-1,2-ethanediyl)], alpha-[2[(1-oxooctadecyl)amino]ethyl]-omega-hydroxy-*
P–98–1201	09/09/98	12/08/98	Mona Industries, Inc.	(S) Metal working household, industrial and institutional surfactants, detergents, emilisifiers; personal care*	(S) Poly[oxy(methyl-1,2-ethanediyl)], alpha-[2[(1-oxooctadecenyl)amino]ethyl]-omega-hydroxy-*
P–98–1202	09/10/98	12/09/98	Hampshire Chemical Corp.	(G) Hydrogel Polymer	(G) Aliphatic polyurethane prepolymer
P–98–1203	09/10/98	12/09/98	Hampshire Chemical Corp.	(G) Hydrogel Polymer	(G) Aliphatic polyurethane prepolymer
P–98–1204	09/11/98	12/10/98	CBI	(G) Non-dispersive use	(G) Amino epoxy silane
P–98–1205	09/14/98	12/13/98	CBI	(S) Curing agent for epoxy coating and flooring systems	(G) Cycloaliphatic amine adducts
P–98–1206	09/11/98	12/10/98	CBI	(S) Coagulant for industrial wastewater treatment; coagulant for municipal water treatment	(G) Iron salt of metal hydroxy chloride phosphate
P–98–1207	09/16/98	12/15/98	CBI	(S) Site Intermediate	(G) Alkylphenolpolyoxyalkyl alkylnitrile
P–98–1208	09/11/98	12/10/98	CBI	(G) Processing aid	(G) Polyalkyl-substituted-heteromonocycle
P–98–1209	09/16/98	12/15/98	CBI	(G) Petroleum product additive	(G) Alkylphenolpolyoxyalkyl alkyamine
P–98–1210	09/15/98	12/14/98	CBI	(G) Open, non-dispersive (coatings co-reactant)	(G) Silane urea/hydantoin
P–98–1211	09/15/98	12/14/98	Rhodia Inc. - HS&E Corporate Services	(G) Printing Ink Additive	(G) Alkoxy aluminum chelate complex

I. 162 PREMANUFACTURE NOTICES RECEIVED FROM: 09/01/98 TO 09/30/98—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–1212	09/16/98	12/15/98	CBI	(G) Additive, open, non-dispersive use	(G) *N*-butyl, 2-ethylhexyl acrylate copolymer
P–98–1213	09/16/98	12/15/98	The Dow Chemical Company	(S) Flexibilizer for epoxy flooring; flexibilizer for epoxy adhesives; flexibilizer for expoxy coatings	(G) Epoxidized polyol
P–98–1214	09/16/98	12/15/98	The Dow Chemical Company	(S) Flexibilizer for epoxy flooring; flexibilizer for epoxy adhesives; flexibilizer for expoxy coatings	(G) Epoxidized polyol
P–98–1215	09/15/98	12/14/98	CBI	(S) Ingredient in (fragrance) compounds	(S) Ethanethioic acid, *s*-[1-[2-(acetyloxy)ethyl]butyl]ester*
P–98–1216	09/15/98	12/14/98	Daychem Laboratories, Inc.	(S) Chemical intermediate used in the manufacture of photoresist	(G) Diarylsulfonium salt
P–98–1217	09/15/98	12/14/98	U.S. Polymers Inc.	(S) Binder for air dry paints	(G) Reaction product of -soybean oil, benzoic acid, phthalic anhydride, aromatic alcohols, aliphatic alcohols, formaldehyde and trimellitic anhydride.
P–98–1218	09/15/98	12/14/98	3M Company - group compliance 3M Automotive and Chemical Markets group	(G) Coating additive	(G) Sulfosilanol urethane
P–98–1219	09/15/98	12/14/98	Allied Signal Incorporated - advanced microelectronics materials	(S) Spin-on dielectric film; spin-on passivation layer; characterization of thin films; matrix material	(G) Poly(arylene ether)
P–98–1220	09/15/98	12/14/98	3M Company - group compliance 3M Automotive and Chemical Markets group	(S) Chemical Intermediate	(G) Sulfonated diol
P–98–1221	09/15/98	12/14/98	3M Company - group compliance 3M Automotive and Chemical Markets group	(S) Chemical Intermediate	(G) Sulfonated polyester diol
P–98–1222	09/15/98	12/14/98	CBI	(S) Fluorescent brightener for use in cellulosic paper applications; fluorescent brightener for use in textile cellulosic applications	(G) Benzenesulfonic acid, 2,2′-(1,2-ethenediyl)bis[5-[4-substituted-6-substituted-1,3,5-triazin-2-yl]amino]-, sodium salt
P–98–1223	09/16/98	12/15/98	Mitsui Chemicals America, Inc.	(S) Toner binder	(S) 1,3-benzenedicarboxylic acid, polymer with alpha, alpha′-[(methylethylidene)di-4,1-phenylene]bis[omega-hydroxypoly[oxy(methyl-1,2-ethanediyl)] and 2,2′-oxybis[ethanol]*
P–98–1224	09/17/98	12/16/98	Elf Atochem North America, Inc.	(S) Metal Working Lubricant	(G) Calprylic acid, compd. with monoalicylamino-alcohol
P–98–1225	09/17/98	12/16/98	Elf Atochem Morth America, Inc.	(S) Metal working lubricant	(G) Calprylic acid, compound with primary amino alcohol
P–98–1226	09/17/98	12/16/98	Elf Atochem North America, Inc.	(S) Metalworking fluid	(G) Ethoxylated alcohol phosphate ester, compd. with monoalkylamino-alcohol
P–98–1227	09/17/98	12/16/98	Elf Atochem North America, Inc.	(S) Metalworking fluid	(G) Ethoxylated alcohol phosphate ester, compd. with secondary amino-alcohol
P–98–1228	09/17/98	12/16/98	Elf Atochem North America, Inc.	(S) Metalworking fluid	(G) Ethoxylated alcohol phosphate ester, compound with primary amino alcohol
P–98–1229	09/17/98	12/16/98	Elf Atochem North America, Inc.	(S) Metalworking lubricant	(G) Fatty acids, monomer, compd. with monoalkylamino alcohol
P–98–1230	09/17/98	12/16/98	Elf Atochem North America, Inc.	(S) Metalworking lubricant	(G) Fatty acids, monomer, compd. with 2,2′-iminobis-ethanol
P–98–1231	09/17/98	12/16/98	Elf Atochem North America, Inc.	(S) Metalworking lubricant	(G) Fatty acids, monomer, compd. with 2,2,2″-nitrilotris [ethanol]
P–98–1232	09/17/98	12/16/98	Elf Atochem North America, Inc.	(S) Metalworking lubricant	(G) 9-octadecenoic acid (7)-,sulfurized compd. with monoalkylamino-alcohol

I. 162 PREMANUFACTURE NOTICES RECEIVED FROM: 09/01/98 TO 09/30/98—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–1233	09/17/98	12/16/98	Elf Atochem North America, Inc.	(S) Metalworking Lubricant	(G) 9-octadecenoic acid (7)-,sulfurized compd. with primaryamino-alcohol
P–98–1234	09/17/98	12/16/98	Elf Atochem North America, Inc.	(S) Metalworking Lubricant	(G) Boric acid, compound with monoalkylamino-alcohol
P–98–1235	09/17/98	12/16/98	Elf Atochem North America, Inc.	(S) Metalworking Lubricant	(G) Boric acid, compound with primary amino-alcohol
P–98–1236	09/17/98	12/16/98	Elf Atochem North America, Inc.	(S) Metalworking Lubricant	(G) Fatty acid, tall-oil, compd. with monoalkylamino-alcohol
P–98–1237	09/17/98	12/16/98	Patco Polymer Additives Division, American Ingredients Company	(G) Multi-purpose polymers additive	(S) Fatty acids, C^{14-18}, calcuim salts*
P–98–1238	09/17/98	12/16/98	Patco Polymer Additives Division, american ingredients company	(G) Multi-purpose polymers additive	(S) Fatty acids, C^{14-18}, lithium salts*
P–98–1239	09/17/98	12/16/98	Patco Polymer Additives Division, American Ingredients Company	(G) Multi-purpose polymers additive	(S) Fatty acids, C^{14-18}, potassium salts*
P–98–1240	09/17/98	12/16/98	Patco Polymer Additives Division, American Ingredients Company	(G) Multi-purpose polymers additive	(S) Fatty acids, C^{14-18}, Sodium salts*
P–98–1241	09/17/98	12/16/98	Patco Polymer Additives Division, American Ingredients Company	(G) Multi-purpose polymers additive	(S) Fatty acids, C^{14-18}, and C^{18}-unsaturated, calcium salts*
P–98–1242	09/17/98	12/16/98	Patco Polymer Additives Division, American Ingredients Company	(G) Multi-purpose polymers additive	(S) Glycerines, C^{16-18} mono- and di-*
P–98–1243	09/17/98	12/16/98	Patco Polymer Additives Division, American Ingredients Company	(G) Multi-purpose polymers additive	(S) Fatty acids, C^{16-18}, calcium salts*
P–98–1244	09/17/98	12/16/98	Patco Polymer Additives Division, American Ingredients Company	(G) Multi-purpose polymers additive	(S) Fatty acids, C^{16-18}, potassium salts*
P–98–1245	09/18/98	12/17/98	Elf Atochem North America, Inc.	(S) Metalworking Lubricant (with primary amino alcohol)	(G) Decanoic acid, compd. with primary amino alcohol*
P–98–1246	09/18/98	12/17/98	Elf Atochem North America, Inc.	(S) Metalworking Lubricant (with primary amino alcohol)	(G) Decanoic acid, compd. with monoalkyl amino alcohol*
P–98–1247	09/18/98	12/17/98	Elf Atochem North America, Inc.	(S) Metalworking Lubricant	(G) Isooctyl phosphate ester, compd. with monoalkylamino-alcohol
P–98–1248	09/18/98	12/17/98	Elf Atochem North America, Inc.	(S) Metalworking Lubricant with monoalkyl amino alcohol	(G) Isooctadecanoic acid, compd. with monoalkylamino-alcohol*
P–98–1249	09/18/98	12/17/98	Elf Atochem North America, Inc.	(S) Metalworking lubricant with secondary amino alcohol	(G) Isooctadecanoic acid, compd. with secondary-amino alcohol*
P–98–1250	09/18/98	12/17/98	Elf Atochem North America, Inc.	(S) Metalworking lubricant with tertiary amino alcohol	(G) Isooctadecanoic acid, compd. with tertiary-amino alcohol*
P–98–1251	09/18/98	12/17/98	CBI	(S) Resin for Coating	(G) Waterborne Epoxy Ester Polymer
P–98–1252	09/18/98	12/17/98	CBI	(G) Coating Resin for Glass	(G) Silan modified urethane prepolymer
P–98–1253	09/18/98	12/17/98	CBI	(S) Resin for Coatings	(G) Polyether Functional Acrylic Polymer
P–98–1254	09/21/98	12/20/98	CBI	(G) Surfactant Rinse Aid	(G) Alkali metal amino carboxylate
P–98–1255	09/21/98	12/20/98	CBI	(G) Adhesion promoter for open, non-dispersive use	(G) Trihema Phosphate
P–98–1256	09/21/98	12/20/98	CBI	(S) Nonwoven finish paper board finish	(G) Perfluoroalkylethylacrylate copolymer
P–98–1257	09/23/98	12/22/98	CBI	(G) Non-dispersive use	(G) Blocked aromatic isocyanate
P–98–1258	09/23/98	12/22/98	CBI	(S) Ingredient in (fragrance) compounds	(S) Ethanone, 1–(3-methyl-2-benzofuranyl)-*

I. 162 PREMANUFACTURE NOTICES RECEIVED FROM: 09/01/98 TO 09/30/98—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–1259	09/21/98	12/20/98	CBI	(G) Printing Ink Resin	(G) Propanoic acid, 3-hydroxy-2-(hydroxymethyl)-2-methyl-, polymer with diamine, alpha-hydro-omega-hydroxypoly[oxy(methyl-1,2-ethanediyl)] and 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane, ammonium salt*
P–98–1260	09/25/98	12/24/98	CBI	(G) Ingredient for use in consumer products; highly dispersive use	(G) Organic Nitrile
P–98–1261	09/25/98	12/24/98	CBI	(G) Resin Coatings	(G) Acrylated Urethane
P–98–1262	09/25/98	12/24/98	CBI	(S) Specialty grease thickener	(G) Aromatic substituted diurea
P–98–1263	09/25/98	12/24/98	CBI	(G) Coating component	(G) Poly (bisphenol acrylate ester/ alicyclic ketone)
P–98–1264	09/25/98	12/24/98	CBI	(G) Resin coating	(G) Acrylated polyol
P–98–1265	09/25/98	12/24/98	CBI	(G) Resin Coating	(G) Acrylated Urethane
P–98–1266	09/24/98	12/23/98	CBI	(S) Curing agent for epoxy coating and flooring systems	(G) Cycloaliphatic amine adducts
P–98–1267	09/24/98	12/23/98	CBI	(S) Curing agent for epoxy coating and flooring systems	(G) Cycloaliphatic amine adducts
P–98–1268	09/23/98	12/22/98	AOC, LLC	(S) Molding resin	(S) 2,5-furandione polymer with 1,2 ethanediol, 1,2-propanediol, 2,2'-oxybis-(ethanol) and 1,4 butanedicarboxlic acid or hexanedioic acid, polymer with 1,2-ethanediol, 2,5-furandione, 2,2'-oxybis [ethanol] and 1,2-propanediol*
P–98–1269	09/29/98	12/28/98	Eastman Chemical Company	(S) Size for processing textile fibers	(G) Poly(ester-ether)
P–98–1270	09/29/98	12/28/98	Eastman Chemical Company	(S) Size for processing textile fibers	(G) Poly(ester-ether)
P–98–1271	09/28/98	12/27/98	Univation Technologies, Exxon Chemical/Union Carbide joint venture	(S) Polymerization catalyst	(G) Aluminum organometallic compound
P–98–1272	09/28/98	12/27/98	3M Company - Group Compliance 3M Automotive and Chemical Markets Group	(G) Repellent Coating	(G) Fluoroalkyl Acrylate Copolymer
P–98–1273	09/29/98	12/28/98	CBI	(G) Additive for Polymer Fibers	(G) Benzene sulfonic acid, dodecyl, ion(1-), *n,n,n*-tributyl benzene methananium
P–99–0001	10/01/98	12/23/98	CBI	(G) Prepolymer of polyester urethane	(G) Aromatic saturated copolyester
P–99–0002	10/01/98	12/23/98	CBI	(G) Prepolymer of polyester urethane	(G) Aromatic saturated copolyester
P–99–0003	10/01/98	12/23/98	CBI	(G) Prepolymer of polyester urethane	(G) Aliphatic saturated copolyester
P–99–0004	10/01/98	12/23/98	CBI	(G) Prepolymer of Polyester Urethane	(G) Aromatic saturated copolyester
P–99–0005	10/01/98	12/23/98	CBI	(G) Prepolymer of polyester urethane	(G) Aromatic saturated copolyester
P–99–0008	10/01/98	12/30/98	CBI	(G) Coating with Open Use	(G) Cationic Epoxy Resin
P–99–0009	10/01/98	12/30/98	CBI	(G) Coating with open use	(G) Cationic Epoxy Resin
P–99–0010	10/01/98	12/30/98	CBI	(G) Coating with Open Use	(G) Cationic Epoxy Resin
P–99–0011	10/01/98	12/30/98	CBI	(G) Coating with Open Use	(G) Cationic Epoxy Resin
P–99–0012	10/01/98	12/30/98	CBI	(G) Coating with open use	(G) Cationic Epoxy Resin
P–99–0013	10/01/98	12/30/98	CBI	(G) Coating with open use	(G) Cationic Epoxy Resin

II. 1 Test Marketing Exemption Notice Received From: 09/01/98 to 09/30/98

Case No.	Received Date	Projected Notice End Date	Manufacturer/ Importer	Use	Chemical
T–98–0005	09/17/98	11/01/98	Reichhold chemicals inc	(G) Purge material for hot melt polyurethane adhesive	(G) Polyurethane adhesive

II. 63 Notices of Commencement Received From: 09/01/98 to 09/30/98

Case No.	Received Date	Commencement/Import Date	Chemical
P–92–1455	09/21/98	09/01/98	(G) Alkyl phenolic carboxylic acid, metal salt
P–94–1103	09/09/98	08/22/98	(G) Rosin, maleated, polymer with an alkylphenol, carboxylic acids, formaldehyde and a polyol
P–95–0017	09/30/98	01/05/95	(S) 1-bromo-2, 5-dimethoxybenzene*
P–96–1176	09/09/98	08/27/98	(S) Polymer of: ethylene oxide; isotridocyl alcohol; phosphorous pentoxide; dimethylcyclohexylamine*
P–96–1321	09/09/98	08/13/98	(S) Ethanone, 1-[1,1,[4or6]-trimethyl-[4,5,6 or 7]-indanyl)-*
P–97–0038	09/21/98	08/18/98	(G) Calcium phophosulfurized polyolefin
P–97–0301	08/31/98	08/10/98	(S) Benzene, ethenyl-, polymer with ethene*
P–97–0311	09/15/98	08/11/98	(G) Carbamate functional polyether
P–97–0321	09/15/98	09/07/98	(S) 2-[methyl(4-methylphenyl)amino]ethanol*
P–97–0482	09/09/98	09/04/98	(S) Fatty acids, C^{10-13}-branched, vinyl esters*
P–97–0545	09/15/98	09/02/98	(G) Epoxy acrylate ester
P–97–0639	09/09/98	08/31/98	(S) Fatty acids, C^{10-13}, branched, zinc salts*
P–97–0648	09/15/98	09/01/98	(S) Benzeneamine, 3,5-difluoro-*
P–97–0649	09/28/98	09/25/98	(S) Hydrazine carboxamide, *n*-(3,5-difluorophenyl-)*
P–97–0661	09/22/98	08/31/98	(G) Alkyl substituted aromatic glycidyl ether
P–97–1088	09/14/98	09/04/98	(G) Substituted diphenylamine reaction product with sodium sulfides, reduced
P–98–0031	09/28/98	09/21/98	(G) Polyether polyurethane acrylic graft copolymer
P–98–0182	09/28/98	09/11/98	(G) Cationic aqueous resin disperion
P–98–0294	09/25/98	09/03/98	(G) Polyether type polyurethane
P–98–0337	09/09/98	08/24/98	(G) Acrylic emulsion polymer
P–98–0358	09/18/98	08/26/98	(G) Naphthalenesulfonamide, *n,n*-bis [3-[[[3-(dimethyloctadecylheteromonocycle)-4-hydroxyphenyl]sulfonyl]amino] propyl]-1-hydroxy-4- [[4-methoxy-2-(4-morpholinosulfamoyl) phenyl]azo]-5-[(methylsulfonyl)amino]-*
P–98–0359	09/23/98	09/08/98	(G) Alkoxylated acrylate monomer
P–98–0392	09/15/98	09/04/98	(G) Blocked polyisocyanate
P–98–0454	09/09/98	08/30/98	(G) Heterocyclic amine and others
P–98–0488	09/25/98	09/20/98	(G) Organomodified silicone copolymer
P–98–0512	09/10/98	08/03/98	(G) Modified epoxy resin copolymer of epoxy withacrylic monomers modifiers acrylic co-polymer
P–98–0520	09/09/98	08/26/98	(G) Substituted phenol glycidyl ether
P–98–0541	09/21/98	09/11/98	(S) Glucitol, hexakis [2-[2-[2-(2-hydroxy-1-oxopropoxy) -1-oxopropoxy]-1-oxopropoxy]propanoate]*
P–98–0549	09/14/98	08/17/98	(S) 2-propenoic acid, reaction products with *n*-[3(dimethylamino)propyl]-1,1,2,2,3,3,4,4,4-nonafluoro-1-butanesulfonamide*
P–98–0602	09/14/98	08/25/98	(G) Alkyd resin
P–98–0636	09/17/98	08/20/98	(G) Epoxy resin
P–98–0637	08/31/98	07/31/98	(G) Copolymer of methyl methacrylate
P–98–0654	09/25/98	09/15/98	(G) Organosilicic compound
P–98–0657	09/21/98	08/17/98	(S) Propanoic acid, 2-[2-[2-(2-hydroxy-1-oxopropoxy)-1-oxopropoxy]-1-oxopropoxy]-1,2,3-propanetriyl ester*
P–98–0662	09/04/98	09/02/98	(G) Carboxylic acid alkyl ester modified polyalkylene amine, salt with polyether phosphate
P–98–0663	09/09/98	08/25/98	(G) Azo yellow pigment
P–98–0678	08/31/98	08/02/98	(G) Alkyl benzenesulfonic acid salt
P–98–0685	09/01/98	08/14/98	(G) Siloxanes and silicones, alkyl arylalkyl
P–98–0688	09/09/98	08/20/98	(G) Aminobenzoic acid, polyolefin phenol ethoxylate
P–98–0689	09/17/98	08/20/98	(G) Acrylic resin
P–98–0745	09/15/98	08/21/98	(G) Aminocarboxylic acid, salts
P–98–0746	09/15/98	08/21/98	(G) Aminocarboxylic acid, salts
P–98–0747	09/15/98	08/21/98	(G) Aminocarboxylic acid, salts
P–98–0748	09/15/98	08/12/98	(G) Metal carboxylic acid, salt
P–98–0749	09/15/98	08/12/98	(G) Metal carboxylic acid, salt
P–98–0750	09/15/98	08/12/98	(G) Substituted phenol, salt
P–98–0753	09/28/98	09/16/98	(G) Organo silane ester
P–98–0764	09/09/98	08/27/98	(G) Alkylphenol polyether amine
P–98–0767	09/15/98	08/10/98	(G) Phosphated polyester
P–98–0768	09/21/98	08/26/98	(G) Alkyl polyoxyalkylpropanamine
P–98–0780	08/31/98	08/21/98	(S) Hexanoic acid, 6-[(1-oxoisononyl)amino]-, cmpd. with 2,2'2" itrilotris[ethanol](1:1)*
P–98–0786	09/21/98	09/02/98	(G) Amine fuctional epoxy curing agent
P–98–0793	09/23/98	09/18/98	(G) Aliphatic-oxy-substituted, saturated pyranyl magnesium halide*
P–98–0795	09/11/98	08/14/98	(G) Modified petroleum distillate
P–98–0798	09/21/98	08/17/98	(G) Alkylpolyoxyalkyl propionitrile
P–98–0799	08/31/98	08/21/98	(G) Polyamic acid, ethyl ester, acrylate ester
P–98–0804	09/22/98	09/01/98	(S) Tall oil pitch, ammonium salt*
P–98–0821	09/16/98	08/31/98	(G) Cycloolefin polymer
P–98–0860	09/21/98	09/10/98	(G) Water borne polyurethane
P–98–0861	09/15/98	09/02/98	(G) Copolymer of acrylic and methacrylic esters
P–98–0906	09/21/98	09/11/98	(G) Amine functional epoxy curing agent

II. 63 Notices of Commencement Received From: 09/01/98 to 09/30/98—Continued

Case No.	Received Date	Commencement/Import Date	Chemical
P–98–0907	09/24/98	09/17/98	(S) 1,2-ethanediamine, *n*-(2-aminoethyl)-*n'*-[2-[(2-aminoethyl)amino]ethyl]-, polymer with 2,2'-[methylenebis(4,1-phenyleneoxymethylene)]bis[oxirane],2,2'-[(1-methylethylidene)bis(4,1-phenyleneoxymethylene)]bis[oxirane],[(2-methylphenoxy)methyl]oxirane and alpha-(oxiranylmethyl)-omega-(oxiranylmethoxy)poly[oxy(methyl-1,2-ethanediyl)]*
Y–93–0157	09/28/98	09/13/98	(G) Polyol ester*

List of Subjects

Environmental protection, Premanufacture notices.

Dated: October 26, 1998.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 98–29666 Filed 11–4–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6185–6]

New York Marine Sanitation Device Standard; Receipt of Petition and Tentative Determination

Notice is hereby given that a petition was received from the State of New York on June 2, 1998 requesting a determination by the Regional Administrator, Environmental Protection Agency (EPA), pursuant to Section 312(f) of Public Law 92–500, as amended by Public Law 95–217 and Public Law 100–4 (the Clean Water Act), that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the harbors and creeks of the Peconic Estuary from the Sag Harbor Village Line to Montauk Point, East Hampton, New York. The harbors and creeks included in this tentative determination are Northwest Creek, Three Mile Harbor, Hog Creek, Accabonac Harbor, Napeague Harbor and Lake Montauk.

This petition was made by the New York State Department of Environmental Conservation (NYSDEC) in cooperation with the New York State Department of State and the Town of East Hampton. The State of New York has certified that greater protection of the surface water in the harbors and creeks of the Peconic Estuary in the Town of East Hampton is required than the applicable federal standards provide. Upon receipt of an affirmative determination in response to this petition, NYSDEC would completely prohibit the discharge of sewage, whether treated or not, from any vessel in Northwest Creek, Three Mile Harbor, Hog Creek, Accabonac Harbor, Napeague Harbor and Lake Montauk in accordance with Section 312(f)(3) of the Clean Water Act and 40 CFR 140.4(a). This prohibition would be part of a comprehensive approach to water quality management aimed at preventing water quality impairments and improving overall water quality in the harbors and creeks. This designation is part of a wider effort at controlling non-point source pollution including problems associated with stormwater runoff and residential septic systems.

The proposed No Discharge Area (NDA) lies within the Town of East Hampton, Suffolk County, New York. The boundaries of the Proposed NDAs will be the mouth of each individual creek or harbor and all the waters within the following harbors and creeks:

Name of harbor or creek	Latitude	Longitude
Northwest Creek.	N 41° 00.8′ ..	W 72° 15.3′
Three Mile Harbor.	N 41° 031″ ...	W 72° 11.3′
Hog Creek	N 41° 03.1′ ..	W 72° 08.2′
Accabonac Harbor.	N 41° 01.5′ ..	W 72° 18.2′
Napeague Harbor—west.	N 41° 00.8′ ..	W 72° 03.7′
Napeague Harbor—east.	N 41° 01.1′ ..	W 72° 03.3′
Lake Montauk	N 41° 04.7′ ..	W 72° 56.4′

Information submitted by the State of New York and the Town East Hampton shows that there are ten existing pump-out facilities available and that three pumpout boats service vessels in the proposed NDA. Harbor Marina, located in Three Mile Harbor, operates a portable pumpout. The pumpouts are available from 8:30 a.m. to 4:30 p.m. daily and the fee is $25. Town Dock—Gann Road, located in Three Mile Harbor, operates a stationary pumpout and a portable pumpout. The pumpouts, which are free to use, are available self-service 24 hours a day and from 8:00 a.m. to 4:00 p.m. with an attendant on duty. Maidstone Harbor Marina, located in Three Mile Harbor, operates a stationary pumpout. The pumpout is available on weekends from May 1 through October 31 from 9:00 a.m. to 5:00 p.m and the fee is $20. East Hampton Point Marina, located in Three Mile Harbor, operates a portable pumpout. The pumpout is available from 8:30 a.m. to 4:00 p.m. from May through October. The fee is $5. Shagwong Marina, located in Three Mile Harbor, operates a portable pumpout. The pumpout is available from 9:00 a.m. to 5:00 p.m. daily and the fee is $5. Town Dock—Star Island, located in Montauk Harbor, operates two stationary pumpout facilities. These facilities are available on a self-service basis 24 hours a day and operated by an attendant from 8:00 a.m. through 4:00 p.m. Montauk Sportsman's Dock, located in Montauk, operates a portable pumpout. The pumpout is available from 9:00 a.m. through 4:00 p.m. daily. Gone Fishing Marina, located in Montauk Harbor, operates a portable pumpout unit. The unit is available from 8:00 a.m. through 5:00 p.m. and the fee is $5. Darenberg Marine operates two pumpout boats in Three Mile Harbor and Lake Montauk, and will serve any harbor on an as-needed basis. Darenberg Marine can be reached at 329–2739 or VHF channel 73. The boat located on Three Mile Harbor operates from 8:00 a.m. through 2:00 p.m. on Tuesday and Wednesday, and from 7:00 a.m. through 12:00 p.m. Friday, Saturday and Sunday. The boat located on Lake Montauk operates from 2:30 p.m. through 7:00 p.m. on Tuesday and Wednesday, and from 12:30 p.m. through 7:00 p.m. Friday, Saturday and Sunday. Darenberg Marine charges a fee of $10 per boat. The Town of East Hampton operates a pumpout boat in Three Mile Harbor and does not charge for the service. East Hampton operates the boat 40 hours per week and can be contacted at 267–8688 or VHF Channel 73.

Draft restrictions at three of the marinas would exclude a certain number of the larger vessels from accessing the pumpouts at these three marinas. Montauk Sportsman's Dock has a water depth of 6 feet; it is estimated that 5% of the vessels would be excluded. Captain's Cove Marina has a water depth of 5 feet; it is estimated that 10% of the vessels would be excluded. Gone Fishing Marina has a water depth of 6 feet; it is estimated that 5% of the vessels would be excluded. For these excluded vessels, there are seven other pumpouts and three pumpout boats available for their use.

Vessel waste generated from the pump-out facilities operated by the Town of East Hampton is conveyed to a storage tank at the municipal scavenger waste treatment plant. The waste is hauled from the scavenger plant to the Bergen Point Wastewater Treatment Plant. With two exceptions, the other marinas empty their pumpouts into large storage tanks ranging in size from 500 gallons to 2,376 gallons. A certified hauler collects, transports and disposes of the sewage in accordance with all Federal, State and local laws. The two exceptions are Harbor Marina, which uses an on-site Bio-Robi septic system, and Captain's Cove Marina, which does not have a pumpout facility and instead uses a certified waste hauler to pumpout a vessel on request.

According to the petition, the slip and mooring capacity for each harbor or creek is as follows:

Name of harbor or creek	Number of slips/ moorings/docks
Northwest Creek	21
Three Mile Harbor	1067
Accabonac Harbor	56
Hog Creek	195
Napeague Harbor	20
Lake Montauk	1274
Total	2577

The New York State Department of State conducted a survey of recreational vessels using aerial photography during August 1995 for the New York State Clean Vessel Act Plan. Analysis of the photographs provided information on the total numbers of vessels by water body. Data indicates the following peak season vessel population in the proposed NDAs in East Hampton:

Name of harbor or creek	Number of vessels
Northwest Creek	No data available
Three Mile Harbor	734
Accabonac Harbor	38
Hog Creek	No data available
Napeague Harbor	56
Lake Montauk	883
Total	1711

Information regarding vessel population based on length shows that 63% of the boats are less than 40 feet and 37% of the vessels are 40 feet or greater in length. These percentages are based on a survey of overnight and long term occupancy and omitted marinas with recreational small crafts. Based on the number and size of boats, and using various methods to estimate the number of holding tanks, it is estimated that 5 to 8 pumpouts are needed to service the vessel population in the proposed NDAs. Currently, ten pumpouts and three pumpout boats exist in the proposed NDAs.

The EPA hereby makes a *tentative affirmative determination* that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for Northwest Creek, Three Mile Harbor, Hog Creek, Accabonac Harbor, Napeague Harbor and Lake Montauk in the Town of East Hampton, New York. A final determination on this matter will be made following the 30 day period for public comment. A final affirmative determination would result in a New York State prohibition of any sewage discharges from vessels in Northwest Creek, Three Mile Harbor, Hog Creek, Accabonac Harbor, Napeague Harbor and Lake Montauk.

Comments and views regarding this petition and EPA's tentative determination may be filed on or before December 7, 1998. Comments or requests for information or copies of the applicant's petition should be addressed to Walter E. Andrews, U.S. Environmental Protection Agency, Region II, Water Programs Branch, 290 Broadway, 24th Floor, New York, New York, 10007–1866. Telephone: (212) 637–3880.

Dated: October 21, 1998.

Jeanne Fox,

Regional Administrator, Region II.

[FR Doc. 98–29660 Filed 11–4–98; 8:45 am]

BILLING CODE 6560–60–P

FEDERAL MARITIME COMMISSION

Request for Additional Information

Agreement No.: 203–011474–002.

Title: The CSAV/CCNI Car Carrier Agreement.

Parties: Compania Sud Americana de Vapores S.A. Compania Chileana de Navegacion Interoceanica S.A.

Synopsis: The Federal Maritime Commission hereby gives notice, pursuant to section 6(d) of the Shipping Act of 1984, 46 U.S.C. app. §§ 1701 *et seq.*, that it has requested the agreement parties to submit additional information regarding their agreement. Further information is necessary so the Commission can determine the impact of the proposed agreement modification. This action prevents the agreement from becoming effective as originally scheduled.

By Order of the Federal Maritime Commission.

Dated: October 30, 1998.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 98–29596 Filed 11–4–98; 8:45 am]

BILLING CODE 6730–01–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee, NCEH Meeting

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Advisory Committee to the Director, National Center for Environmental Health.

Times and Dates: 10 a.m.–5:15 p.m., November 23, 1998; 8:30 a.m.–3:30 p.m., November 24, 1998.

Place: CDC National Center for Environmental Health, Building 102, Room 2201A/B, 4770 Buford Highway N.E., Chamblee, Georgia, telephone 770/488–7020.

Status: Open to the public, limited only by space available. The meeting room will accommodate approximately 19 Committee members and presenters, plus 20 observers.

Matters To Be Discussed: The Committee will provide advice on environmental public health problems that potentially pose the greatest risks to human health and may not be receiving adequate attention; the primary prevention of birth defects and developmental and other disabilities; the prevention of secondary conditions in persons with a primary disability; and the research agenda needed to improve the science base relative to human health effects and environmental exposures and that will ultimately provide sound human health data for policy and decision-making. The Committee will also review NCEH's 1998–2002 Strategic Plan.

Persons wishing to make written or oral comments at the meeting should notify the contact person in writing or by telephone no later than close of business November 18, 1998.

Requests to make oral comments should contain the name, address, telephone number, and organizational affiliation of the presenter. Depending on the time available and the number of requests to make oral comments, it may be necessary to limit the time of each presenter.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Anne Wilson, Program Analyst, Office of the Director, NCEH, CDC, 4770 Buford Highway, NE, M/S F49, Atlanta, Georgia 30341–3724, telephone 770/488–7321, e-mail amw6@cdc.gov.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: October 30, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–29601 Filed 11–4–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Joint Meeting of the Antiviral Drugs Advisory Committee and the Nonprescription Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Antiviral Drugs Advisory Committee and the Nonprescription Drugs Advisory Committee.

General Function of the Committees: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on December 1, 1998, 8:30 a.m. to 5 p.m.

Location: Holiday Inn, Versailles Ballrooms I and II, 8120 Wisconsin Ave., Bethesda, MD.

Contact Person: Rhonda W. Stover or Sandra L. Titus, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, (301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12531. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committees will jointly discuss new drug application (NDA) N20–629, to switch penciclovir (Denavir®, SmithKline Beecham) topical cream from prescription status to over-the-counter status for the treatment of recurrent herpes labialis (cold sores) in immunocompetent adults.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by November 24, 1998. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before November 24, 1998, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 27, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–29561 Filed 11–4–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0298]

Guidance for Industry on General/ Specific Intended Use; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled "Guidance for Industry on General/ Specific Intended Use." FDA developed this guidance to satisfy a new section of the Federal Food, Drug, and Cosmetic Act (the act), which was added by the Food and Drug Administration Modernization Act of 1997 (FDAMA). This new section directs the agency to issue guidance explaining the general principles used by FDA in determining when a specific use may be added to a legally marketed device using premarket notification (510(k)) procedures and when a specific use triggers the need for a premarket approval (PMA) application.

DATES: Written comments concerning this guidance may be submitted at any time.

ADDRESSES: Submit written requests for single copies on a 3.5" diskette of the guidance document to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your electronic or written request, or fax your request to 301–443–8818. Submit written comments on "Guidance for Industry on General/Specific Intended Use" to the contact person. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance entitled "Guidance for Industry on General/Specific Intended Use."

FOR FURTHER INFORMATION CONTACT: Daniel G. Schultz, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–5072.

SUPPLEMENTARY INFORMATION:

I. Background

Congress indicated that FDA should provide additional guidance on the approach that the agency takes when evaluating whether a new use, which appears to fall within the scope of the intended use of a legally marketed predicate device, is a new intended use that would require a PMA. This guidance is issued in accordance with the new section 513(i)(1)(F) of the act (21 U.S.C. 360c(i)(1)(f)), which was added by section 206 of FDAMA. The purpose of this document is to help medical device manufacturers understand the principles used by FDA to determine whether the addition of a specific indication for use to a medical device cleared for marketing with a general indication for use could trigger the need for a PMA application. The guidance is intended to help manufacturers answer the following questions: Under what circumstances is the device with a new, specific indication for use likely to be found to be substantially equivalent to a device legally marketed for a general indications for use? Conversely, when does a specific indication for use become a new intended use that requires submission of a PMA to establish the safety and effectiveness of the device? FDA announced the

availability of a draft guidance pertaining to General/Specific Intended use in the **Federal Register** of May 22, 1998 (63 FR 28392). The agency received two comments on the draft guidance. FDA has reviewed the comments and has made some revisions to the guidance in response to the comments.

II. Significance of Guidance

This guidance document represents the agency's current thinking on General/Specific Intended Use. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

The agency has adopted Good Guidance Practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This guidance document is issued as a Level 1 guidance consistent with GGP's.

III. Electronic Access

In order to receive "Guidance for Industry on General/Specific Intended Use" via your fax machine, call the CDRH Facts-On-Demand (FOD) system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number 499 followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the World Wide Web (WWW). CDRH maintains an entry on the WWW for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the WWW. Updated on a regular basis, the CDRH home page includes "Guidance for Industry on General/Specific Intended Use," device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at "http://www.fda.gov/cdrh".

IV. Comments

Interested persons may, at any time, submit written comments regarding this final guidance to the contact person. Such comments will be considered when determining whether to amend the current guidance.

Dated: October 28, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–29567 Filed 11–4–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0729]

Draft "Guidance on the Content and Format of Premarket Notification [510(k)] Submissions of Washers and Washer–Disinfectors;" Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled "Guidance on the Content and Format of Premarket Notification [510(k)] Submissions of Washers and Washer–Disinfectors." This draft guidance is not final nor is it in effect at this time. FDA recognizes the importance of providing applicants and other interested parties the agency's 510(k) submission criteria for washers and washer-disinfectors intended to process reusable medical devices. The intent of this draft guidance is to provide specific directions regarding information and data which should be submitted to FDA in 510(k) submission for these types of devices. This draft guidance is posted on the Internet and will be included in the panel package for the formal classification of these devices at the General Hospital and Personal Use Devices Panel meeting on September 14, 1998.

DATES: Written comments concerning this guidance must be received by February 3, 1999.

ADDRESSES: Submit written requests for single copies of the draft guidance entitled "Guidance on the Content and Format of Premarket Notification [510(k)] Submissions of Washers and Washer–Disinfectors" to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. Written comments concerning this guidance must be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. Submit written comments on "Guidance on the Content and Format of Premarket Notification [510(k)] Submissions of Washers and Washer–Disinfectors" to the contact person listed below. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Chiu S. Lin, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8913.

SUPPLEMENTARY INFORMATION:

I. Background

Washers and washer-disinfectors intended for cleaning and disinfection of reusable medical devices, such as stainless steel devices, surgical instruments, including devices with lumens, respiratory therapy equipment, and other medical devices, were legally marketed devices prior to the enactment of the Medical Device Amendments of 1976. These devices are considered "unclassified" medical devices. On June 2, 1998, FDA published on the Internet a guidance document entitled "CDRH Guidance Document for Washers and Washer–Disinfectors Intended for Processing Reusable Medical Devices" to provide direction to the regulated industry on when a premarket notification [510(k)] submission is required for these unclassified washers and washer-disinfectors. In the "CDRH Guidance Document for Washers and Washer–Disinfectors Intended for Processing Reusable Medical Devices," the agency made the commitment to provide industry with guidance on the information and data which should be included in a 510(k) submission. This draft guidance entitled "Guidance on the Content and Format of Premarket Notification [510(k)] Submissions of Washers and Washer–Disinfectors" provides regulated industry with specific guidance on the information and data that should be included in a 510(k) submission for these devices.

These unclassified washers and washer-disinfectors will undergo formal classification at the September 14, 1998, General Hospital and Personal Use Devices Panel meeting.

II. Significance of Guidance

This draft guidance represents the agency's current thinking on the

information and data which should be included in a 510(k) submission for the washers and washer-disinfectors intended to process reusable medical devices. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

The agency has adopted good guidance practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This guidance document is issued as a Level 1 guidance consistent with GGP's.

III. Electronic Access

In order to receive "Guidance on the Content and Format of Premarket Notification [510(k)] Submissions of Washers and Washer–Disinfectors" via your fax machine, call the CDRH Facts–On–Demand (FOD) system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number 1252 followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the World Wide Web (WWW). CDRH maintains an entry on the WWW for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Web. Updated on a regular basis, the CDRH home page includes "Guidance on the Content and Format of Premarket Notification [510(k)] Submissions of Washers and Washer–Disinfectors," device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at "http://www.fda.gov/cdrh". "Guidance on the Content and Format of Premarket Notification [510(k)] Submissions of Washers and Washer–Disinfectors" will be available at "http://www.fda.gov/cdrh/ode/Ed☒dn.HTML".

IV. Comments

Interested persons may, on or before February 3, 1999, submit to Dockets Management Branch (address above) written comments regarding this draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 8, 1998.

D.B. Burlington,

Director, Center for Devices and Radiological Health.

[FR Doc. 98–29565 Filed 11–4–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Collection # HCFA–R–265]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services (DHSS), has submitted to the Office of Management and Budget (OMB) the following request for Emergency review. We are requesting an emergency review because the collection of this information is needed prior to the expiration of the normal time limits under OMB's regulations at 5 C.F.R. Part 1320. We cannot reasonably comply with the normal clearance procedures because of the statutory requirement to implement section 4016 of Balanced Budget Act of 1997.

We are requesting OMB review and approval of this collection within 11 working days, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individual designated below, within 10 working days of the publication of this notice in the **Federal Register**. During this 180-day period HCFA will pursue OMB clearance of this collection as stipulated by 5 C.F.R. section 1320.5.

In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comments on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

Therefore, we are soliciting public comment on each of these issues for the information collection summarized and discussed below.

Type of Information Collection Request: New collection;

Title of Information Collection: Medicare Coordinated Care Demonstration Project and Request for Information on Potential Best Practices of Coordinated Care;

Form/Collection No.: HCFA-R–265;

Use: Section 4016 of the Balanced Budget Act of 1997 (Public Law 105–33) requires the Secretary of Health and Human Services (the Secretary) to evaluate best practices in the private sector for methods of coordinated care. The statute also directs the Secretary to design a demonstration project for the Medicare fee-for-service population based on such evaluation.

The purpose of the demonstration is to evaluate models of coordinated care that improve the quality of services provided to beneficiaries who have a chronic illness and reduce expenditures under Parts A and B of the Medicare program.

We competitively awarded a task order to Mathematica Policy Research, Inc. (MPR) to conduct a review of best practices in coordinating care and provide a recommendation of demonstration design options. We will perform the final assessment of best practices and select the demonstration design.

We will publish a notice to announce our intent to conduct the Medicare Coordinated Care Demonstration and inform interested parties of the opportunity to submit information on potential best practices of coordinated care, as well as comment on potential aspects of the overall demonstration. We will solicit information on successful models of coordinated care, disease management, or case management that are appropriate for the Medicare fee-for-service population.

In the notice we will request that any person or organization submit information about successful programs; however, the information must provide evidence of success in sufficient detail to be useful. Thus, operators of programs may be in the best position to submit information regarding their approach. We are interested in the following items of information:

- The name and address of the program.
- The name, address, telephone number, facsimile number, and E-mail address of a contact person.
- Background information on the program (including goals, history, relationship to larger organization(s), number of clients served, and length of time the program has been in operation).
- Special or innovative features of the program.
- Size and composition of the staff (number of registered nurses and number of social workers performing case management).
- Referral sources, targeting criteria, and selection criteria, if any, for participants.
- Information on the patients the program serves, including age ranges, diagnoses or conditions, and/or functional impairments.
- Program intervention and how services differ from the usual care the patient would have received.
- How care plans are developed and monitored for each patient.
- Patient education efforts, if any.
- Patient monitoring efforts, if any.
- Feedback to providers, if any.
- Average length of time patient is in program.
- Funding source(s) for the program.
- Financial incentives, if any, for providers and patients to participate.
- Outcome measures by which the program's performance is evaluated (including clinical, utilization, client-reported, and financial measures used).
- Program impacts on these measures.
- Cost savings due to the program (total and per person served per month).
- How the program impacts and cost savings were calculated (i.e., method of estimating reduction in use and costs, such as comparison to control group or prior year experience).
- Costs of operating the program (average per patient, per month costs).
- Adaptability of the program to the Medicare fee-for-service setting.
- Program brochures or published articles, if any.

We are also interested in comments on potential aspects of the overall demonstration. Specifically, we are interested in comments that discuss and distinguish program characteristics known to be essential for positive outcomes in a fee-for-service setting from characteristics of lesser or unknown importance. Commenters may also wish to address the types of providers, organizations, or entities that are capable of, and qualified to provide, coordinated care or case management services. Other topics of importance include, but are not limited to:

- The relationship of the case management entity with other providers.
- The potential role of the case manager in authorizing and/or providing services beyond coordinating and educational activities.
- Appropriate incentives for the case management entity, beneficiaries, and other providers.
- Appropriate payment methodology.
- Potential risk bearing arrangements for the case management entity.

In addition, we will seek comments regarding challenges to, and potential solutions for, implementing a coordinated care demonstration in rural sites.

Frequency: One time;

Affected Public: Business or other for-profit, not-for-profit institutions;

Number of Respondents: 1,000;

Total Annual Responses: 1,000;

Total Annual Hours: 10,000.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, E-mail your request, including your address, phone number, and HCFA form number referenced above, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection requirements must be mailed and/or faxed within 10 working days of the publication of this notice in the **Federal Register** to the designee referenced below:

Health Care Financing Administration, Office of Information Services, Standards and Security Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Attn: Dawn Willinghan, HCFA–R–265, Fax Number: (410) 786–0262 and,

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Eydt, HCFA Desk Officer. *Fax Number:* (202) 395–6974 or (202) 395–5167.

Datedd: October 30, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–29677 Filed 11–4–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) is publishing this notice of petitions received under the National Vaccine Injury Compensation Program ("the Program"), as required by section 2112(b)(2) of the Public Health Service (PHS) Act, as amended. While the Secretary of Health and Human Services is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program generally, contact the Clerk, United States Court of Federal Claims, 717 Madison Place, N.W., Washington, D.C. 20005, (202) 219–9657. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 8A46, Rockville, MD 20857, (301) 443–6593.

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.*, provides that those seeking compensation are to file a petition with the U.S. Court of Federal Claims and to serve a copy of the petition on the Secretary of Health and Human Services, who is named as the respondent in each proceeding. The Secretary has delegated her responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at section 2114 of the PHS Act or as set forth at 42 CFR 100.3, as applicable. This Table lists for each covered childhood vaccine the conditions which will lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested after the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa-12(b)(2), requires that the Secretary publish in the **Federal Register** a notice of each petition filed. Set forth below is a list of petitions received by HRSA on July 1, 1998 through September 30, 1998.

Section 2112(b)(2) also provides that the special master "shall afford all interested persons an opportunity to submit relevant, written information" relating to the following:

1. The existence of evidence "that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition," and

2. Any allegation in a petition that the petitioner either:

(a) "Sustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Table but which was caused by" one of the vaccines referred to in the Table, or

(b) "Sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine" referred to in the Table.

This notice will also serve as the special master's invitation to all interested persons to submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Court of Federal Claims at the address listed above (under the heading "For Further Information Contact"), with a copy to HRSA addressed to Director, Bureau of Health Professions, 5600 Fishers Lane, Room 8–05, Rockville, MD 20857. The Court's caption (Petitioner's Name v. Secretary of Health and Human Services) and the docket number assigned to the petition should be used as the caption for the written submission.

Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

List of Petitions

1. Lynette Lowe, Coal Township, Pennsylvania, Court of Federal Claims Number 98–0310V
2. Karyn and Gary Benner on behalf of Micah Benner, Harleysville, Pennsylvania, Court of Federal Claims Number 98–0311V
3. Karyn and Alan Friedman on behalf of James Friedman, Rochester, New York, Court of Federal Claims Number 98–0318V
4. Timmie Peterson on behalf of Christopher Avina, Deceased, Lake Elsinore, California, Court of Federal Claims Number 98–0324V
5. Lena Konialian, El Monte, California, Court of Federal Claims Number 98–0380V
6. Shari D. Ford, Sherman, Texas, Court of Federal Claims Number 98–0381V
7. Cruz Pena, Oxnard, California, Court of Federal Claims Number 98–0384V
8. Carmen Davis on behalf of Andre Ronnie Davis, Jr., Meridian, Mississippi, Court of Federal Claims Number 98–0395V
9. Katherine Pierce on behalf of William Fletcher, Charleston, South Carolina, Court of Federal Claims Number 98–0398V
10. Winona Brown on behalf of Shelby Brown, Deceased, Boston, Massachusetts, Court of Federal Claims Number 98–0401V
11. Robin Renee Presley, Russell, Kentucky, Court of Federal Claims Number 98–0417V
12. Elizabeth and David Briggs on behalf of Falcon Briggs, Nogal, New Mexico, Court of Federal Claims Number 98–0418V
13. Francine Nye on behalf of Ashley Nye, Leadville, Colorado, Court of Federal Claims Number 98–0420V
14. Janet McDonald on behalf of Michael McDonald, Newark, New Jersey, Court of Federal Claims Number 98–0421V
15. Mattie Lemesha White, Atlanta, Georgia, Court of Federal Claims Number 98–0426V
16. Carmen Rice on behalf of Owen Burman, Southfield, Michigan, Court of Federal Claims Number 98–0438V
17. Elizabeth Fortuna and John Jimenez on behalf of John Paul Jimenez, Jr., Deceased, Los Angeles, California, Court of Federal Claims Number 98–0439V
18. Lisa Wall on behalf of Jason Wall, Bridgewater, New Jersey, Court of Federal Claims Number 98–0442V
19. Jenny and Larry Dooley on behalf of Brittany Dooley, Springfield, Ohio, Court of Federal Claims Number 98–0454V
20. Jaqueline Thaw on behalf of Kevvin Thaw, Englewood, New Jersey, Court of Federal Claims Number 98–0465V
21. Shelly and Paul White, on behalf of Hayley White, Canton, Ohio, Court of Federal Claims Number 98–0466V
22. Susan and Paul Sigloch on behalf of Paul Raymond Sigloch, Medford, New Jersey, Court of Federal Claims Number 98–0467V
23. Lisa and Jake Schaerer on behalf of Matthew Schaerer, La Mesa, California, Court of Federal Claims Number 98–0479V
24. Regan Maddox on behalf of Christopher Maddox, Deceased, Tampa, Florida, Court of Federal Claims Number 98–0491V
25. Lavonne and Harvey Spaans on behalf of Hannah Spaans, Remsen, Iowa, Court of Federal Claims Number 98–0494V
26. Peter Menkin, San Rafael, California, Court of Federal Claims Number 98–0502V
27. Tracy and Joseph Daniel, on behalf of Jackson E. Daniel Houston, Texas, Court of Federal Claims Number 98–0519V
28. William McNear on behalf of William Henry McNear, Vienna, Virginia, Court of Federal Claims Number 98–0521V
29. Claire Parsons, Cranston, Rhode Island, Court of Federal Claims Number 98–0529V
30. Belinda Neumann on behalf of Daniel Aaron Neumann, Deceased, Jasper, Alabama, Court of Federal Claims Number 98–0538V
31. Ann Doty, Medford, Oregon, Court of Federal Claims Number 98–0548V

Dated: October 30, 1998.

Claude Earl Fox,

Administrator.

[FR Doc. 98–29606 Filed 11–4–98; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Minority Based Community Clinical Oncology Program.

Date: November 5, 1998.

Time: 6:00 PM to 7:00 PM.

Agenda: To review and evaluate grant applications.

Place: Cystal City Marriott, 1999 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Ray Bramhall, PHD, Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Blvd, Rockville, MD 20892, (301) 496–3428.

Name of Committee: National Cancer Institute Special Emphasis Panel, Community Clinical Oncology Program CA–98–020.

Date: November 5–6, 1998.

Time: 6:00 PM to 7:00 PM.

Agenda: To review and evaluate grant applications.

Place: Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: .Ray Branhall, PHD, Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Blvd, Rockville, MD 20892, (301) 496–3428.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: October 29, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–29579 Filed 11–4–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Amyloid beta protein in typical late onset Alzheimer's Disease.

Date: November 19–20, 1998.

Time: 7:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Marriott Courtyard Hotel, 4600 San Pablo Road, Jacksonville, FL 32224.

Contact Person: Paul Lenz, PHD, Scientific Review Administrator, the Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel, Program Project in Biomedical Outcomes of Aging.

Date: November 23, 1998.

Time: 1:00 PM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: William A. Kachadorian, PHD, Scientific Review Administrator, the Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel, the Effect of Estrogens on Brain Aging.

Date: December 4, 1998.

Time: 1:00 PM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: Best Western Manhattan, 17 West 32nd St., New York, NY 10001.

Contact Person: Arthur D. Schaerdel, DVM, Scientific Review Administrator, the Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: October 29, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–29581 Filed 11–4–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, CFAR Molecular Biology Core Supplement.

Date: November 19, 1998.

Time: 12:00 PM to 1:00 PM.

Agenda: To review and evaluate grant applications.

Place: Bethesda Ramada Inn, 8400 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Edward W. Schroder, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Solar Building, Room 4C38, 6003 Executive Boulevard MSC 7610, Bethesda, MD 20892–7610, 301–435–8537.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 30, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–29583 Filed 11–4–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussion could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Centers for AIDS Research.

Date: November 18–20, 1998.

Time: 7:30 PM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Bethesda Ramada, 8400 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Edward W. Schroder, PHD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Solar Building, Room 4C38, 6003 Executive Boulevard MSC 7610, Bethesda, MD 20892–7610, 301–435–8537.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institute of Health, HHS)

Dated: October 30, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–29584 Filed 11–4–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness & Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: November 12, 1998.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: Executive Plaza South, Room 400C, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: George M. Barnas, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities/NIDCD, 6120 Executive Blvd, Bethesda, MD 20892, 301–496–8683.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: October 30, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–29585 Filed 11–9–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: November 3, 1998.

Time: 2:00 PM to 3:00 PM.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, National Institute of Neurological Disorders and Stroke, Federal Building, Room 9C10, Bethesda, MD 20814, (Telephone Conference Call).

Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, NINDS, National Institutes of Health, PHS, DHHS, Federal Building, Room 9C10, 7550 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: October 30, 1998.

LaVerne Y. Stringfield,

Committee Managment Officer, NIH.

[FR Doc. 98–29586 Filed 11–4–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections

552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 MBC–2 (02).

Date: November 5, 1998.

Time: 12:00 PM to 6:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn National Airport, 1489 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Gerald Liddel, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4186, MSC 7808, Bethesda, MD 20892, 301–435–1150.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 AARR–8(01).

Date: November 17–18, 1998.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Mohindar Poonian, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5110, MSC 7852, Bethesda, MD 20892, (301)–435–1168.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: November 18–19, 1998.

Time: 8:30 AM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn-Rockville, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Gerald Liddel, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4186, MSC 7808, Bethesda, MD 20892, 301–435–1150.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: November 18, 1998.

Time: 10:00 AM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn National Airport, 1489 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Garrett V. Keefer, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7808, Bethesda, MD 20892. (301)–435–1152.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: November 18–19, 1998.

Time: 2:00 PM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Shirley Hilden, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7814, Bethesda, MD 20892, (301) 435–1198.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: November 18, 1998.

Time: 3:30 PM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge II, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Everett E. Sinnett, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7818, Bethesda, MD 20892, (301) 435–1016, ev__sinnett@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG–1 VACC (01).

Date: November 18–19, 1998.

Time: 5:00 PM to 7:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Mary Clare Walker, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435–1165.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG–1 AARR–3 (05).

Date: November 18, 1998.

Time: 12:00 PM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH Rockledge II, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mohindar Poonian, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5110, Bethesda, MD 20892, (301) 435–1168, poonianm@drg.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG–1 AARR–06–(01).

Date: November 19–20, 1998.

Time: 8:30 AM to 6:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Ave, Palladian West, Chevy Chase, MD 20815.

Contact Person: Sami A Mayyasi, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7852, Bethesda, MD 20892, (301) 435-1169.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: November 19, 1998.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jerrold Fried, PHD, Scientific

Contact Person: Jerrold Fried, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892. (301) 435-1777.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 GEN (02) Small Business.

Date: November 19-20, 1998.

Time: 9:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: River Inn, 924 25th Street NW, Washington, DC 20037.

Contact Person: David J. Remondini, PHD, Sc

Contact Person: David J. Remondini, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7890, Bethesda, MD 20892, (301) 435-1038.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: November 19, 1998.

Time: 11:30 AM to 1:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mohindar Poonian, PHD, Sci

Contact Person: Mohindar Poonian, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5110, Bethesda, MD 20892, 301-435-1168, poonianm@drg.nih.gov.

Name of Committee: Center for Scientific to Special Emphasis Panel, ZRG-1 AARR-3 (04).

Date: November 19, 1998.

Time: 3:30 PM to 5:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Monindar Poonian, PHD, Scientific Review Admininstrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5110, Bethesda, MD 20892, 301-435-1168, poonianm@drg.nih.gov.

Name of Committee: Center for Scientific Review Special Empasis Panel, ZRG-1VACC (02).

Date: November 20, 1998.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Mary Clare Walker, PHD, Scientific Review, Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435-1165.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846–, 93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated October 30, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98-29582 Filed 11–4–98; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Clinical Center; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Governors of the Warren Grant Magnuson Clinical Center.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Board of Governors of the Warren Grant Magnuson Clinical Center, Executive Committee.

Date: November 23, 1998.

Time: 9:00 AM to 12:00 PM.

Agenda: Discussion of updates on organizational planning, governance, and the budget.

Place: National Institutes of Health, Clinical Center Medical Board Room, 2C116, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Maureen E. Gormley, Executive Secretary, Warren Grant Magnuson Clinical Center, National Institutes of Health, Building 10, Room 2C146, Bethesda, MD 20892, 301/496–2897.

Dated: October 29, 1998.

LaVerne Y. Stingfield,

Committee Management Officer, NIH.

[FR Doc. 98–29580 Filed 11–4–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Drug Testing Advisory Board of the Center for Substance Abuse Prevention in December 1998.

The Drug Testing Advisory Board meeting on December 7 will be an open meeting and will include a roll call, general announcements, and a discussion of various program, procedural, and technical issues. The preliminary agenda includes, but is not limited to, the following topics: HHS update, DOT update, and a discussion of the information submitted by industry representatives regarding the use of alternative matrices (hair, sweat, oral fluids) and on-site tests to test for drugs of abuse. A public comment period will be scheduled during the open session. If anyone needs special accommodations for persons with disabilities please notify the Contact listed above.

An agenda for this meeting and a roster of board members may be obtained from: Ms. Giselle Hersh, Division of Workplace Programs, 5600 Fishers Lane, Rockwall II, Suite 815, Rockville, MD 20857, Telephone: (301) 443–6014.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Drug Testing Advisory Board.

Meeting Date: December 7, 1998.

Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Open: December 7, 1998, 8:30 a.m.–4:00 p.m.

Contact: Donna M. Bush, Ph.D., Executive Secretary, Telephone: (301) 443–6014 and FAX: (301) 443–3031.

Dated: October 30, 1998.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 98–29607 Filed 11–4–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA); Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the following meeting of the SAMHSA Special Emphasis Panel II in November.

A summary of the meeting may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA, Office of Program Planning and Coordination (OPPC), Division of Extramural Activities Policy and Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: (301) 443–7390.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

The meeting will include the review, discussion and evaluation of individual contract proposals. These discussions could reveal personal information concerning individuals associated with the proposals and confidential and financial information about an individual's proposal. The discussion may also reveal information about procurement activities exempt from disclosure by statute and trade secrets and commercial or financial information obtained from a person and privileged and confidential. Accordingly, the meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c) (3), (4), and (6) and 5 U.S.C. App. 2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel II.

Meeting Date: November 18–19, 1998.

Place: Parklawn Building, Room "P" and Room "N", 5600 Fishers Lane, Rockville, MD 20857.

Closed: November 18, 1998 8:30 a.m.–5:00 p.m.; November 19, 1998 8:30 a.m.–Adjournment.

Contact: Boris Aponte, Room 17–89, Parklawn Building, Telephone: (301) 443–2290 and FAX: (301) 443–3437.

Dated: October 30, 1998.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 98–29605 Filed 11–4–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Application for Endangered Species Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application for Endangered Species permit.

SUMMARY: The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

DATES: Written data or comments on these applications must be received, at the address given below, by December 7, 1998.

ADDRESSES: Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: David Dell, Permit Biologist). Telephone: 404/679–7313; Facsimile: 404/679–7081.

FOR FURTHER INFORMATION CONTACT: David Dell, Telephone: 404/679–7313; Facsimile: 404/679–7081.

SUPPLEMENTARY INFORMATION:

Applicant: Stephen M. Shea, St. Joe Timberland Company, Port St. Joe, Florida, TE004399–0.

The applicant requests authorization to take (capture for surveys and population estimates) the endangered Choctawhatchee beach mouse, *Peromyscus polionotus allophrys*, throughout the species range in South Walton County, Florida, for the purpose of enhancement of survival of the species.

Applicant: Michael H. Smith, Savannah River Ecology Laboratory, Aiken, South Carolina, TE004317–0.

The applicant requests authorization to remove and reduce to possession leaf samples of the endangered smooth coneflower, *Echinacea laevigata*, from throughout the species range at the Savannah River Site and at Fort Jackson, South Carolina, for the purpose of enhancement of survival of the species.

Applicant: Forest Supervisor, Ouachita National Forest, Hot Springs, Arkansas, TE004289–0.

The applicant requests authorization to take (capture, band, translocate, and harass during nest monitoring and augmentation) the endangered red-cockaded woodpecker, *Picoides borealis*, throughout the species range in Arkansas and Oklahoma, for the purpose of enhancement of survival of the species.

Applicant: Dr. William Howell, Samford University, Birmingham, Alabama, TE003953–0.

The applicant requests authorization to take (capture for surveys and population estimates) the endangered watercress darter, *Etheostoma nuchale*, throughout the species range in Jefferson County, Alabama, for the purpose of enhancement of survival of the species.

Dated: October 28, 1998.

H. Dale Hall,

Acting Regional Director.

[FR Doc. 98–29600 Filed 11–4–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–003841

Applicant: Mr. James.Y. Jones, Dublin, GA

The applicant has requested a permit to import one male wood bison (*Bison bison athabascae*) taken in the Mackenzie Bison Sanctuary, Northwest Territories, Canada, for the purpose of enhancement of the survival of the species.

PRT–004448

Applicant: Centers for Disease Control, Hepatitis Branch, Atlanta, GA

The applicant has requested a multiple-use permit to import blood samples from Bornean orangutans (*Pongo pygmaeus*) being held at Wanariset Station Orangutan Reintroduction Center on the island of Borneo, for the purpose of enhancement of the survival of the species.

PRT–004469

Applicant: John McLeod, Saginaw, MI

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–004344

Applicant: Charles R. Hutton, Memphis, TN

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–004468

Applicant: Donald D. Schmidtz, Tucson, AZ

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–004066

Applicant: Zoological Society of San Diego, San Diego, CA,

The applicant requests a permit to export two male and two female captive-born Chinese gorals (*Nemorhaedus goral arnouxianus*) to the Warsaw Zoo, Poland for enhancement of the survival of the species through captive propagation.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: October 30, 1998.

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 98–29634 Filed 11–4–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

North American Wetlands Conservation Council; Meeting Announcement

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The North American Wetlands Conservation Council (Council) will meet December 9, 1998 to review proposals for funding submitted pursuant to the North American Wetlands Conservation Act. Upon completion of the Council's review, proposals will be submitted to the Migratory Bird Conservation Commission with recommendations for funding. The meeting is open to the public.

DATES: December 9, 1998, Mexico—10:00 A.M.

ADDRESSES: The meeting will be held at the Hotel Finca Real, located at Victoria, Esquina Bustamante, Xalapa, Veracruz, Mexico. The North American Wetlands Conservation Council Coordinator is located at U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Suite 110, Arlington, Virginia, 22203.

FOR FURTHER INFORMATION CONTACT: David A. Smith, Coordinator, North American Wetlands Conservation Council, (703) 358–1784.

SUPPLEMENTARY INFORMATION: In accordance with the North American Wetlands Conservation Act (Pub. L. 101–223, 103 Stat. 1968, December 13, 1989, as amended), the North American Wetlands Conservation Council is a Federal-State-private body which meets to consider wetland acquisition, restoration, enhancement and management projects for recommendation to and final approval by the Migratory Bird Conservation Commission. Proposals from State, Federal, and private sponsors require a minimum of 50 percent non-Federal matching funds.

Dated: October 30, 1998.

Daniel M. Ashe,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 98–29682 Filed 11–4–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–020–1990–01]

Record of Decision

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability, Record of Decision for Newmont Gold Corporation's Trenton Canyon Mine Expansion Project.

DATES: The Record of Decision will be distributed and made available to the public on October 28, 1998. Anyone wishing to appeal the Record of Decision has 30 days following the date of publication of this notice in the **Federal Register.**

ADDRESS: A copy of the Record of Decision can be obtained from: Bureau of Land Management, Winnemucca Field Office, 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445.

FOR FURTHER INFORMATION CONTACT: Rod Herrick, Project Manager, at the above Winnemucca Field Office address or telephone (702) 623–1500.

SUPPLEMENTARY INFORMATION: The Record of Decision consists of the action proposed in the Plan of Operation and analyzed in the Draft and Final Environmental Impact Statements. The Agency Preferred Alternative includes all components of the Proposed Action with the partial sequential backfill alternative and implementing appropriate mitigation for each significant potential resource impact. The Agency Preferred Alternative is also the environmentally preferred alternative incorporating mitigation and monitoring measures.

Dated: October 27, 1998.

Terry A. Reed,

Winnemucca Field Office Manager.

[FR Doc. 98–29676 Filed 11–4–98; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–010–1430–00; GP9–0015]

Meeting Notice for Southeast Oregon RMP Subcommittee of the Southeast Oregon Resource Advisory Council

AGENCY: Lakeview District, Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Southeast Oregon RMP Subcommittee of the Southeast Oregon Resource Advisory Council will meet at the Burns District BLM Office, HC 74–12533 Hwy 20 West, Hines, Oregon, from 11:00 a.m. to 4:30 pm on December 9, 1998. Topics to be discussed by the Council include the Southeast Oregon Resource Management Plan and such other matters as may reasonably come before the Council. The entire meeting is open to the public.

Dated: October 23, 1998.

FOR FURTHER INFORMATION CONTACT: Sonya Hickman, Bureau of Land Management, Lakeview District Office, P.O. Box 151, Lakeview, OR 97630 (Telephone: 541/947–2177).

Steve Ellis,

Designated Federal Official.

[FR Doc. 98–29673 Filed 11–4–98; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–050–1220–00]

Front Range Resource Advisory Council (Colorado) Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix, notice is hereby given that the next meeting of the Front Range Resource Advisory Council (Colorado) will be held on November 19, 1998 in Canon City, Colorado.

The meeting is scheduled to begin at 9:15 a.m. at the Holycross Abbey Community Center, 2951 E. Highway 50, Canon City, Colorado. Topics discussed at the meeting will include current issues within the district including a discussion on the Impacts of Dumping on Public Land and an update on the Penrose OHV Trails Environmental Analysis.

All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council at 9:30 a.m. or written statements may be submitted for the Council's consideration. The District Manager may limit the length of oral presentations depending on the number of people wishing to speak.

DATES: The meeting is scheduled for Thursday November 19, 1998 from 9:15 a.m. to 4 p.m.

ADDRESSES: Bureau of Land Management (BLM), Canon City District Office, 3170 East Main Street, Canon City, Colorado 81212; Telephone (719) 269–8500; TDD (719) 269–8597.

FOR FURTHER INFORMATION CONTACT: Ken Smith at 719–269–8553.

SUPPLEMENTARY INFORMATION: Summary minutes for the Council meeting will be maintained in the Canon City District Office and will be available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting.

Donnie R. Sparks,

District Manager.

[FR Doc. 98–29678 Filed 11–4–98; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–921–1430–01; WYW 2866, WYW 72569, WYW 72585, WYW 72586, WYW 72591, and WYW 72592]

Public Land Order No. 7370; Partial Revocation of Secretarial Orders Dated October 21, 1913, April 27, 1922, May 24, 1922, April 20, 1928, and April 2, 1929, and Revocation of Public Land Order No. 4301; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes five Secretarial orders and revokes one public land order in its entirety, insofar as they affect 21,711.53 acres of public lands withdrawn for the Bureau of Reclamation's Shoshone Reclamation Project. The lands are no longer needed for reclamation purposes. Of the lands being revoked, 1,325.99 acres are within overlapping Bureau of Land Management withdrawals and will remain closed to surface entry and mining, and 19,745.54 acres will not be opened to surface entry and mining until the Bureau of Land Management completes a planning review. The lands have been and will remain open to leasing. The remaining 640 acres have been conveyed out of Federal ownership and the revocation of these lands is a record-clearing action only.

EFFECTIVE DATE: December 7, 1998.

FOR FURTHER INFORMATION CONTACT: Janet Booth, BLM Wyoming State Office, 5353 N. Yellowstone Road, Cheyenne, Wyoming 82003, 307–775–6124.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Secretarial Orders dated October 21, 1913, April 27, 1922, May 24, 1922, April 20, 1928, and April 2, 1929, and Public Land Order No. 4301, which withdrew public lands for the Bureau of Reclamation's Shoshone Reclamation Project, are hereby revoked insofar as they affect the following described lands:

Sixth Principal Meridian

T. 56 N., R. 97 W.,
Sec. 33, lot 1.
T. 56 N., R. 98 W.,
Sec. 26, SW¼;
Sec. 27, E½SE¼.
T. 56 N., R. 100 W.,
Sec. 31, lots 3 and 4, E½SW¼, and SE¼ (Formerly S½);
Sec. 32.
T. 55 N., R. 101 W.,
Sec. 1, lots 5 to 8, inclusive, S½N½, and N½SW¼ (Formerly N½ and N½SW¼);
Sec. 2, lots 5 to 8, inclusive, S½N½, N½SE¼, and NE¼SW¼ (Formerly N½, N½SE¼, and NE¼SW¼);
Sec. 3, lots 5 to 8, inclusive, S½N½ (Formerly N½);
Sec. 4, NE¼SW¼.
T. 56 N., R. 101 W.,
Sec. 31, lots 5 to 10, inclusive, E½SE¼, SW¼SE¼, and SE¼SW¼ (Formerly S½NE¼ and S½);
Sec. 32, lots 1 to 4, inclusive, S½S½, and NW¼SW¼ (Formerly SW¼NW¼ and S½);
Sec. 33, lots 1 to 5, inclusive, NE¼NE¼, S½NE¼, SE¼, and S½SW¼ (Formerly E½NW¼, S½, and NE¼);
Sec. 34, S½;
Sec. 36, lots 1 to 7, inclusive, (Formerly E½E½, S½SW¼, and SW¼SE¼);
Tracts 63A to 63D, inclusive, and 63G to 63M, inclusive;
Tracts 64A to 64J, inclusive;
Tracts 65A to 65G, inclusive.
T. 55 N., R. 102 W.,
Sec. 1, lots 5 to 8, inclusive, and S½N½ (Formerly N½);
Sec. 2, lots 5 to 8, inclusive, S½N½, and S½ (Formerly All);
Sec. 3, lots 5 to 8, inclusive, S½N½, and S½ (Formerly All);
Sec. 4, lots 5 to 8, inclusive, S½N½, and S½ (Formerly All);
Sec. 5, lots 5 to 8, inclusive, S½N½, and S½ (Formerly All);
Sec. 6, lots 8 to 10, inclusive, SE¼, S½NE¼, and SE¼NW¼ (Formerly E½NW¼ and E½);
Sec. 8, NW¼;
Sec. 9, N½;
Sec. 10, N½;
Sec. 11, N½.
T. 56 N., R. 102 W.,
Sec. 2, lots 5, 6, 11, 12, 17, 18, and 19;
Sec. 4, lots 5, 6, 7, 8, 13, and 14;
Sec. 5, lots 13, 21, and 22;
Sec. 25, lots 3 to 5, inclusive, and N½SW¼;
Sec. 26, lots 1 to 4, inclusive, N½SE¼, and SW¼SE¼;
Sec. 27, lot 5;
Sec. 29, lots 1 to 3, inclusive;
Sec. 31, lots 5, 11, 12, and 15, and E½SE¼;
Sec. 32, lot 1, SE¼NE¼, W½NE¼, NW¼, and S½;
Sec. 33, lots 1 to 4, inclusive, SW¼, and SW¼SE¼;
Sec. 34, lots 3 to 6, inclusive;
Sec. 35, lots 1 to 9, inclusive, and SW¼SE¼;
Sec. 36, lots 1–5;
Tracts 63E, 63F, and 63N;
Tracts 64 to 71, inclusive;
Tracts 76 to 85, inclusive;
Tracts 88 to 98, inclusive;
Tracts 107 to 116, inclusive;
Tracts 119 to 130, inclusive;
Tracts 139 to 150, inclusive;
Tracts 158 to 169, inclusive;
Tracts 172 to 179, inclusive;
Tracts 189 to 194, inclusive;
Tracts 199 to 204, inclusive;
Tracts 212 to 218, inclusive;
Tracts 225 to 235, inclusive;
Tracts 238 to 248, inclusive;
Tracts 252 to 260, inclusive;
Tracts 262 to 342, inclusive.
T. 57 N., R. 102 W.,
Sec. 35, E½E½.

The areas described aggregate 21,071.53 acres in Park and Big Horn Counties.

2. The Secretarial Order dated October 21, 1913, which withdrew public lands for the Bureau of Reclamation's Shoshone Reclamation Project, is hereby revoked insofar as it affects the following described land:

Sixth Principal Meridian

T. 56 N., R. 97 W.,
Tract 37.

The area described contains 640 acres in Big Horn County.

3. Of the lands described in paragraph 1, 1,325.99 acres are within overlapping withdrawals and will remain closed to surface entry and mining, and 19,745.54 acres will not be opened to surface entry and mining until a planning review and an analysis are completed to determine if any of the lands need special designation and protection or have exchange potential.

4. The land described in paragraph 2 has been conveyed out of Federal ownership and this is a record clearing action only.

Dated: October 26, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98–29599 Filed 11–4–98; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service (MMS)

Minerals Management Advisory Board Outer Continental Shelf Scientific Committee; Announcement of Plenary Session

This Notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92–463, 5 U.S.C., Appendix I, and the Office of Management and Budget Circular A–63, Revised.

The Minerals Management Advisory Board OCS SC will meet in plenary session on Wednesday, November 18, and on Thursday, November 19, and will meet in subcommittee meetings also on Thursday, November 19, 1998, at the Ramada Plaza Hotel Pentagon, 4641 Kenmore Avenue, Alexandria, Virginia 22304, telephone (703) 751–4510.

The OCS SC is an outside group of scientists which advises the Director, MMS, on the feasibility, appropriateness, and scientific merit of the MMS OCS Environmental Studies Program as related to information needed for informed OCS decisionmaking.

Below is a schedule of meetings that will occur.

The Committee will meet in plenary session on Wednesday, November 18, from 9:00 a.m. to 5:15 p.m. Discussion will focus on:

- Deepwater Issues
- National Ocean Conference Report
- Overview of the MMS Strategic Studies Plan

The SC will meet in subcommittees on Thursday, November 19, from 8:15 a.m. to noon, to review regional and Headquarters strategic plans. Another plenary session is scheduled for Thursday, November 19, from 1:30 p.m. to 4:30 p.m., and discussion will focus on Committee business.

The meetings are open to the public. Approximately 30 visitors can be accommodated on a first-come-first-served basis at the plenary session.

A copy of the agenda may be requested from the MMS by writing Ms. Phyllis Clark at the address below. Other inquiries concerning the OCS SC meeting should be addressed to Mr. Robert LaBelle, Executive Secretary to the OCS Scientific Committee, Minerals Management Service, 381 Elden Street, Mail Stop 4040, Herndon, Virginia 20170–4817. He may be reached by telephone at (703) 787–1756, and by electronic mail at Robert.Labelle@mms.gov.

Dated: October 29, 1998.

Michael Hunt,

Acting Associate Director for Offshore Minerals Management.

[FR Doc. 98–29457 Filed 11–4–98; 8:45 am]

BILLING CODE 4043–MR–M

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice on Final Publication of the Monetization Field Manual

AGENCY: U.S. Agency for International Development (USAID).

ACTION: Notice.

SUMMARY: The U.S. Agency for International Development announces that the rewrite of the Monetization Field Manual is completed. All comments received from the draft published on April 15, 1998, have been considered carefully, and changes and clarifications were made as appropriate to address them.

DATES: This document is final as of October 28, 1998 and replaces the draft document dated April 15, 1998.

ADDRESSES: The Monetization Field Manual can be read online, or downloaded from the following internet address: http://www.info.usaid.gov/hum_response/ffp/monetiz.htm.

A hard copy, or diskette of the Monetization Field Manual may be requested from USAID. Please submit all requests to: U.S. Agency for International Development, Attn: Mr. James F. Thompson, Bureau for Humanitarian Response, Office of Food for Peace, Room 7.06–111, Washington, DC 20523–6700. A request for a hard copy must be accomplished by an address label.

Any comments may also be submitted to the above address.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Thompson, at the address identified above.

Dated: October 22, 1998.

Jeanne Markunas,

Acting Director, Office of Food for Peace, Bureau for Humanitarian Response.

[FR Doc. 98–29679 Filed 11–4–98; 8:45 am]

BILLING CODE 8116–01–M

INTERNATIONAL TRADE COMMISSION

Termination of Five-Year Reviews

[Racing Plates From Canada (AA1921–137 (Review)); Acrylic Sheet from Japan (AA1921–154 (Review)); Cotton Yarn From Brazil (104–TAA–21 (Review)); Animal Glue From Germany (AA1921–172 (Review)); Railway Track Maintenance Equipment From Austria (AA1921–173 (Review)); Impression Fabric From Japan (AA1921–176 (Review)); Rayon Staple Fiber From Finland & Sweden (AA1921–191 & 104–TAA–13 (Review))]

AGENCY: United States International Trade Commission.

ACTION: Termination of five-year reviews.

SUMMARY: The subject five-year reviews were initiated in August and September 1998 to determine whether revocation of the existing antidumping and countervailing duty orders would be likely to lead to continuation or recurrence of dumping and material injury to a domestic industry. On October 22, 1998, the Department of Commerce published notice that it was revoking the orders because no domestic interested party responded to its notice of initiation by the applicable deadline (63 FR 56605, October 22, 1998). Accordingly, pursuant to section 207.69 of the Commission's Rules of Practice and Procedure (19 CFR § 207.69), the subject reviews are terminated.

EFFECTIVE DATE: October 22, 1998.

FOR FURTHER INFORMATION CONTACT: Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

Authority: These reviews are being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.69 of the Commission's rules (19 CFR § 207.69).

By order of the Commission.

Issued: October 28, 1998.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–29528 Filed 11–4–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

[USITC SE–98–018]

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: November 13, 1998 at 2:00 p.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: None.

2. Minutes.
3. Ratification List.
4. Inv. Nos. 701–TA–384 and 731–TA–806–808 (Preliminary) (Hot-Rolled Steel Products from Brazil, Japan, and Russia)—briefing and vote.
5. Outstanding action jackets:
   1. Document No. ID–98–021: Approval of final report in Inv. No. 332–237 (Production Sharing: Use of U.S. Components and Materials in Foreign Assembly Operations, 1994–1997).
   2. Document No. ID–98–022: Approval of final report in Inv. No. 332–384 (The Changing Structure of the Global Large Civil Aircraft Industry and Market: Implications for the Competitiveness of the U.S. Industry).
   3. Document No. INV–98–063: Approval of the draft producers', importers', purchasers', and foreign producers' questionnaires in Inv. Nos. 751–TA–21–27 (Ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela).

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: November 3, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–29769 Filed 11–3–98; 12:55 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

November 2, 1998.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Todd R. Owen (202 219–5096 ext. 143) or by E-mail to Owen-Todd@dol.gov.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for MSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 (202 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriated automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Mine Safety and Health Administration.

Title: Radiation Sampling and Exposure Records.

OMB Number: 1219–0003 (Extension).

Frequency: Weekly.

Affected Public: Business or other for-profit.

Number of Respondents: 20.

Estimated Time Per Respondent: 10 minutes.

Total Burden Hours: 8,000.

Total Annualized Capital/startup Costs: $0.

Total Annual (operating/maintaining): $182,500.

Description: Airborne radon and radon daughters exist in every uranium mine and several other underground mining commodities. Radon is a radioactive gas. Operators are required to conduct weekly sampling where the fluctuation in radiation is substantial or concentrations of radon daughters exceed 0.3 WL. Monthly sampling is required where mines have consistent readings of 0.3 WL or less. The mine operators are required to keep records of all mandatory samplings, retained the results at the mine site or nearest mine office for two years.

Agency: Mine Safety and Health Administration.

Title: Notification of Legal Identity.

OMB Number: 1219–0008 (Extension).

Agency Form Number: MSHA Form 2000–7.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Estimated Time Per Respondent: 23 minutes.

Total Responses: 6,307.

Total Burden Hours: 6,307.

Total Annualized Capital/startup Costs: $0.

Total Annual (operating/maintaining): $2,018.

Description: Requires mine operators to file with MSHA the name and address of the mine and the name and address of the persons who control and operate the mine, and any revisions of such names and addresses. The information is used to identify persons chargeable with violations of safety and health standards, in the assessment of civil penalties, and in the service of legal documents.

Agency: Mine Safety and Health Administration.

Title: Application for Waiver of Surface Facilities Requirement.

OMB Number: 1219–0024 (Reinstatement).

Frequency: On Occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 419.

Estimated Time Per Respondent: 30 minutes.

Total Burden Hours: 470 hours.

Category	Applications	Minutes	Salary	Total cost	Total burden hours
Initial for management	419	20	$43	$6,020	140
Initial for clerical	.....	10	17	1,190	70
Exception for management	521	10	43	3,741	87
Exception for clerical	.....	10	17	1,479	87
Totals	940	.....	.....	12,430	384

Total Annualized Capital/startup Costs: $0.

Total Annual (operating/maintaining): $0.

Description: Coal mine operators are required to provide bathing facilities, clothing change rooms, and sanitary flush toilet facilities in a location convenient for use of the miners. If the operator is unable to meet any or all of the requirements, he/she may apply for a waiver. Applications are filed with the District Manager for the district in which the mine is located.

Agency: Mine Safety and Health Administration.

Title: Respirator Program Records.

OMB Number: 1219–0048 (Extension).

Frequency: On Occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 2,700.

Estimated Time Per Respondent: 5-one half hours.

Total Burden Hours: 3,973.

Total Annualized Capital/startup Costs: $0.

Total Burden Costs (operating/maintaining): $131,666.

Description: Where protective equipment or respirators are required because of exposure to harmful substances, MSHA regulations require a written respirator program that addresses such issues as selection, fitting, use, and maintenance of respirators to ensure that workers are properly and effectively using the equipment, and that such equipment offers adequate protection for workers. Records of fit-testing are essential for determining that the worker is wearing the proper respirator. Certain records are also required to be kept in connection with respirators, including records of the date of issuance of the respirator, and fit-test results. The fit-testing records are essential for determining that the worker is wearing the proper respirator.

Agency: Mine Safety and Health Administration.

Title: Rock Burst Control Plan.

OMB Number: 1219–0097 (Extension).

Frequency: On Occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 2.

Estimated Time Per Respondent: 12 hours.

Total Burden Hours: 24 hours.

Total Annualized Capitol/startup Costs: $0.

Total Annual (operating/maintaining): $864.

Description: Rock bursts in an underground mine pose a serious threat to the safety of miners in the area affected by the burst. These bursts may reasonably be expected to result in the entrapment of miners, death, and serious physical harm. Title 30 Section 57.3461 requires operators of underground metal and nonmetal mines to develop a rock burst control plan within 90 days after a rock burst has been experienced.

Todd R. Owen,

Departmental Clearance Officer.

[FR Doc. 98–29648 Filed 11–4–98; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program: Certifications Under the Federal Unemployment Tax Act for 1998

On October 31, 1998, the Secretary of Labor signed the annual certifications under the Federal Unemployment Tax Act, 26 U.S.C. 3301 *et seq.*, thereby enabling employers who make contributions to State unemployment funds to obtain certain credits for their liability for the Federal unemployment tax. By letter of the same date the certifications were transmitted to the Secretary of the Treasury. The letter and certifications are printed below.

Dated: November 2, 1998.

Raymond L. Bramucci,

Assistant Secretary.

October 31, 1998.

The Honorable Robert E. Rubin,
Secretary of the Treasury,
Washington, D.C. 20220.

Dear Secretary Rubin: Transmitted herewith are an original and one copy of the certifications of the States and their unemployment compensation laws for the 12-month period ending on October 31, 1998. One is required with respect to normal Federal unemployment tax credit by Section 3304 of the Internal Revenue Code of 1986 (IRC), and the other is required with respect to additional tax credit by Section 3303 of the Code. Both certifications list all 53 jurisdictions.

In addition, due to the resolution of an issue arising under Section 3304(a) of the Internal Revenue Code of 1986, I hereby certify the State of Washington and its law for the 12-month period ending on October 31, 1997.

Sincerely,

Alexis M. Herman.

Enclosures.

Certification of States to the Secretary of the Treasury Pursuant to Section 3304 of the Internal Revenue Code of 1986

In accordance with the provisions of Section 3304(c) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(c)), I hereby certify the following named States to the Secretary of the Treasury for the 12-month period ending on October 31, 1998, in regard to the unemployment compensation laws of those States which heretofore have been approved under the Federal Unemployment Tax Act:

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Virgin Islands
Washington
West Virginia
Wisconsin
Wyoming

This certification is for the maximum normal credit allowable under Section 3302(a) of the Code.

Signed at Washington, DC, on October 31, 1998.

Alexis M. Herman,

Secretary of Labor.

Certification of State Unemployment Compensation Laws to the Secretary of the Treasury Pursuant to Section 3303(b)(1) of the Internal Revenue Code of 1986

In accordance with the provisions of paragraph (1) of Section 3303(b) of the Internal Revenue Code of 1986 (26 U.S.C. 3303(b)(1)), I hereby certify the unemployment compensation laws of the following named States, which heretofore have been certified pursuant to paragraph (3) of Section 3303(b) of the Code, to the Secretary of the Treasury for the 12-month period ending on October 31, 1998:

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Virgin Islands
Washington
West Virginia
Wisconsin
Wyoming

This certification is for the maximum additional credit allowable under Section 3302(b) of the Code.

Signed at Washington, D.C., on October 31, 1998.

Alexis M. Herman,

Secretary of Labor.

[FR Doc. 98–29647 Filed 11–4–98; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collection described in this notice. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before December 7, 1998, to be assured of consideration.

ADDRESSES: Comments should be sent to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Ms. Maya Bernstein, Desk Officer for NARA, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–713–6730 or fax number 301–713–6913.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for this information collection on August 11, 1998 (63 FR 42882 and 42883). No comments were received. NARA has submitted the described information collection to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. In this notice, NARA is soliciting comments concerning the following information collection:

Title: National Archives and Records Administration Class Evaluation Forms.

OMB number: 3095–0023.

Agency form number: NA Forms 2019A, 2019B, 2019C, and 2019D.

Type of review: Regular.

Affected public: Individuals or households, Business or other for-profit, Nonprofit organizations and institutions, Federal, state, local, or tribal government agencies.

Estimated number of respondents: 6,744.

Estimated time per response: 5 minutes.

Frequency of response: On occasion (when respondent takes NARA sponsored training classes).

Estimated total annual burden hours: 562 hours.

Abstract: The information collection allows uniform measurement of customer satisfaction with NARA training. NARA distributes the approved forms to the course coordinators on diskette for customization of selected elements, shown as shaded areas on the forms submitted for clearance. NARA Form 2019A is used for courses having a single instructor; Form 2019B is used for courses with two instructors team-teaching, as is common in records management classes; and Form 2019C is used for one-day courses with several topics that are taught by different instructors or speakers, as is common with some archival and genealogical workshops. These forms are distributed at the end of the class for completion before the participant leaves. NARA Form 2019D is used for courses held on multiple days with a variety of speakers or instructors; this class format is used in the twice yearly Modern Archives Institute and some genealogical courses. For these courses, the daily evaluation form (NARA Form 2019D front) is distributed on a daily basis so the student may provide a rating while the experience with the material and instructor is fresh. The overall evaluation (NARA Form 2019D back) is distributed at the end of the class. The enclosed "Use of NARA Class Evaluation Form" instructions identify the degree of customization allowed on the forms.

Dated: October 27, 1998.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 98–29668 Filed 11–4–98; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Science Foundation.

ACTION: Notice.

Title of Collection: NSF Proposal Review Process (OMB Control No. 3145–0060).

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the National Science Foundation (NSF) will publish periodic summaries of proposed projects. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments call Suzanne Plimpton, NSF Reports Clearance Officer, at (703) 306–1125x2017.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project Proposal Evaluation Process

The missions of the NSF are to: increase the Nation's base of scientific and engineering knowledge and strengthen its ability to support research in all areas of science and engineering; promote innovative science and engineering education programs that can better prepare the Nation to meet the challenges of the future; and promote international cooperation in science and engineering. The Foundation is also committed to ensuring the Nation's supply of scientists, engineers and science educators. In its role as leading Federal supporter of science and engineering, NSF also has an important role in national policy planning.

The Foundation fulfills this responsibility by initiating and supporting merit-selected research and education projects in all the scientific and engineering disciplines. This support is made primarily through grants, contracts, and other agreements awarded to approximately 2,000 colleges, universities, academic consortia, nonprofit institutions, and small businesses.

The Foundation relies heavily on the advice and assistance of external advisory committees, ad-hoc proposal reviewers, and to other experts to ensure that the Foundation is able to reach fair and knowledgeable judgments. These scientists and educators come from colleges and universities, nonprofit research and education organizations, industry, and other Government agencies.

In making its decisions on proposals the counsel of these merit reviewers has proven invaluable to the Foundation both in the identification of meritorious projects and in providing sound basis for project restructuring.

Review of proposals may involve large panel sessions, small groups, or use of a mail-review system. Proposals are reviewed carefully by scientists or engineers who are expert in the particular field represented by the proposal. About one-fourth are reviewed by mail reviewed by mail reviewers alone. Another one-fourth are reviewed exclusively by panels of reviewers who gather, usually in Arlington, VA, to discuss their advice as well as to deliver it. The remaining one-half are reviewed first by mail reviewers expert in the particular field, then by panels, usually of persons with more diverse expertise, who help the NSF decide among proposals from multiple fields or sub-fields.

Use of the Information

The information collected is used to support grant programs of the Foundation. The information collected on the proposal evaluation forms is used by the Foundation to determine the following criteria when awarding or declining proposals submitted to the Agency: (1) What is the intellectual merit of the proposed activity? (2) What are the broader impacts of the proposed activity?

The information collected on reviewer background questionnaires is used by managers to maintain an automated database of reviewers for the many disciplines represented by the proposals submitted to the Foundation. Information collected on gender, race, ethnicity is used in meeting NSF needs for data to permit response to Congressional and other queries into equity issues. These data are also used in the design, implementation, and monitoring of NSF efforts to increase the participation of various groups in science, engineering, and education.

Confidentiality

Verbatim but anonymous copies of reviews are sent to the principal investigators/project directors. Subject to this NSF policy and applicable laws, including the Freedom of Information Act, reviewers' comments will be given maximum protection from disclosure.

While listings of panelists' names are released, the names of individual reviewers, associated with individual proposals, are not released to anyone.

Because the Foundation is committed to monitoring and identifying any real or apparent inequities based on gender, race, ethnicity, or disability of the proposed principal investigator(s)/project director(s) or the co-principal investigator(s)/co-project director(s), the Foundation also collects information regarding race, ethnicity, disability, and gender. This information is also protected by the Privacy Act.

Burden on the Public

The Foundation estimates that anywhere from one hour to twenty hours may be required to review a proposal. It is estimated that approximately five hours are required to review an average proposal. Each proposal receives an average of seven reviews.

Send comments to Suzanne Plimpton, Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, VA 22230. Written comments should be received by December 30, 1998.

Dated: October 30, 1998.

Mary Lou Higgs,

Acting NSF Reports Clearance Officer.

[FR Doc. 98–29604 Filed 11–4–98; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–335, 50–389]

Florida Power & Light Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission or NRC) is considering issuance of amendments to Facility Operating License Nos. DPR–67 and NPF–16, issued to Florida Power & Light Company (the licensee), for operation of the St. Lucie Plant, Units 1 and 2, respectively, that are located in St. Lucie County, Florida.

The proposed amendments would revise the terminology used in the St. Lucie Plant Technical Specifications (TSs) relative to the implementation and automatic removal of certain reactor protection system trip bypasses to

ensure that the meaning of explicit terms used in the TSs are consistent with the intent of the stated requirements.

The circumstances surrounding this request support an exigent TS amendment process. St. Lucie Unit 2 is scheduled to enter their 10th refueling outage on November 9, 1998. The licensee currently plans to begin the Unit 2 startup activities on December 1, 1998. The staff finds that there are sufficient time restraints in the schedule, and with the current TSs, the reactor could not be started up without exposing the plant to the risk of unnecessary reactor trips. Therefore, this amendment request will be handled on an exigent basis.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendments are administrative in nature, and do not change the function or the setpoints of the RPS trip bypass features. The revisions simply make corrections to the Notation of TS Tables 2.2–1 and 3.3–1 to ensure that the meaning of explicit terms used in the Notes is consistent with the intent of the stated requirements based on the St. Lucie plant design. The proposed technical specification changes do not involve accident initiators, do not change the configuration or method of operation of any plant equipment that is used to mitigate the consequences of an accident, and do not alter any conditions assumed in the plant accident analyses. Therefore, operation of either facility in accordance with its proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendments are administrative in nature and will not change the physical plant or the modes of plant operation defined in the Facility Operating Licenses. The changes do not involve the addition or modification of equipment nor do they alter the design or operation of plant systems. Therefore, operation of either facility in accordance with its proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The proposed amendments are administrative in nature and do not change the function or the setpoints of the RPS trip bypass features. The revisions simply make corrections to the Notation of TS Tables 2.2–1 and 3.3–1 to ensure that the meaning of explicit terms used in the Notes is consistent with the intent of the stated requirements based on the St. Lucie plant design. The proposed changes do not alter the basis for any technical specification that is related to the establishment of, or the maintenance of, a nuclear safety margin. Therefore, operation of either facility in accordance with its proposed amendment would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 19, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Indian River Community College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34981–5596. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and M.S. Ross, Florida Power & Light Company, P.O. Box 14000, Juno Beach, FL, 33408–0420, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated October 29, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Indian River Community College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34981–5596.

Dated at Rockville, Maryland, this 30th day of October 1998.

For the Nuclear Regulatory Commission.

William C. Gleaves,

Project Manager, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–29642 Filed 11–4–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302]

Florida Power Corporation et al. (Crystal River Unit 3); Exemption

I

The Florida Power Corporation et al. (FPC or the licensee) is the holder of Facility Operating License No. DPR–72, which authorizes the operation of Crystal River Unit 3. The license states that the licensee is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC or the Commission) now or hereafter in effect.

The facility consists of a pressurized-water reactor at the licensee's site located in Citrus County, Florida.

II

The Code of Federal Regulations at 10 CFR Part 50, Appendix K, Section I.D.1, "Single Failure Criterion," requires that accident evaluations use the combination of emergency core cooling system (ECCS) subsystems assumed to be operative "after the most damaging single-failure of ECCS equipment has taken place." The proposed action would exempt the licensee from the single-failure requirement for very-low-probability scenarios under certain circumstances. The exemption is limited to the systems required for preventing boron precipitation during the long-term cooling phase of a loss-of-coolant accident (LOCA). 10 CFR 50.46(b)(5) requires that the ECCS be capable of providing long-term core cooling. Post-accident boron precipitation is a potential, but unlikely, challenge to maintaining long-term core cooling.

By letter dated October 31, 1997, as supplemented by letters dated December 13, 1997, February 27, 1998, and April 24, 1998, FPC requested an amendment to its operating license for Crystal River Unit 3. The FPC amendment request addressed prevention of boron precipitation following a LOCA that involved the following:

(1) Reactor vessel vent valves (RVVVs) that are effective when needed for all LOCA conditions except for (a) some LOCAs between the reactor coolant pumps and the reactor vessel (RV) at an elevation below the cold-leg mid-pipe at the junction with the RV and (b) decay heat generation rate comparable to approximately a month following extended operation at full power for some LOCAs.

(2) If the RVVVs are not effective, then, according to the licensee's

calculations, Motor Control Center (MCC) 3AB is needed to provide power to open valves within 8 hours for the worst-case LOCA to (a) initiate water injection via auxiliary pressurizer spray (APS) or (b) initiate the dump-to-sump (DTS) method of moving water from a hot leg to the reactor building sump.

Should MCC 3AB fail before the APS or DTS initiates, both of these systems will fail to initiate in these licensing scenarios. In a June 4, 1998, submittal, FPC requested an exemption from the single-failure requirement with respect to this failure. FPC justified its request by stating that the proposed exemption meets the underlying purpose of the rule in that there are conservatisms in the calculations that cause underprediction of available repair time, so that, using realistic assumptions, sufficient time would be available to perform repairs to restore MCC 3AB if needed. As a result, the licensee stated that there was reasonable assurance of the availability of an activo boron precipitation method (APS or DTS) if one were needed. FPC states that timely recognition of boron precipitation is assured by compliance with plant procedures and further states that prompt operator actions will be taken to restore an active method in the event of MCC 3AB failure.

One element of the licensee's justification was to credit flow through the hot-leg nozzle gaps. According to FPC's calculations, APS is not fully effective until 21 hours after LOCA initiation, but it may be needed within 8 hours if a single failure other than the failure of MCC 3AB makes DTS unavailable. FPC addressed this problem by crediting flow through hot-leg nozzle gaps to provide a boron dilution means for the first 21 hours. However, the NRC does not accept credit for hot-leg nozzle gap flow because FPC has not established that the nozzle gaps will remain functional after a LOCA. Therefore, during this time period, a failure to meet the Appendix K Item I.D.1 single-failure criterion remains. However, the NRC has determined that the licensee has given adequate justification in its submittal to extend the exemption to this scenario.

III

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 (1) when the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security and (2) when special circumstances are present. Special circumstances are present whenever, according to 10 CFR 50.12(a)(2)(ii), "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule. . . ."

The underlying purpose of the single-failure criterion requirement is to assure long-term cooling performance of the ECCS in the event of the most damaging single-failure of ECCS equipment. As a licensing review tool, the single-failure criterion helps assure reliable systems as an element of defense in depth. As a design and analysis tool, it promotes reliability through enforced redundancy. Since only those systems or components that are judged to have a credible chance of failure are assumed to fail, the criterion is applied to such responses as valve movement on demand, emergency diesel generator start, short circuit in an electrical bus, and fluid leakage caused by gross failure of a pump or valve seal during long-term cooling. Reactor vessels or certain types of structural elements within systems, when combined with other unlikely events, are not assumed to fail because the probabilities of the resulting scenarios have been deemed sufficiently small that they need not be considered. Certain passive failures 24 hours or more after initiation of a LOCA, such as pipe breaks, are not addressed as single failures because the compounded probabilities were judged sufficiently small that they could be discounted without affecting overall systems reliability.

The single-failure criterion was developed without the benefit of numerical failure assessments. Regulatory requirements and guidance consequently were based upon categories of equipment and examples that must be covered or that are exempt, and do not allow a probabilistic consideration during routine implementation. Hence, a single failure, whether or not there is a substantial impact upon overall system reliability, would not meet the regulatory requirements. A non-beneficial result is inconsistent with the objective of the single-failure criterion, which was not intended to force changes if essentially no benefit would accrue. This is the case with the potential MCC 3AB failure.

FPC estimated that the combined probability of the LOCA of concern and failure of MCC 3AB is 10^{-10}/reactor-year. (The probability of the LOCA of concern is 10^{-7}/reactor-year and the failure probability of MCC 3AB given the LOCA of concern is 10^{-3}/reactor-year.) If MCC 3AB were to fail, FPC would initiate its Emergency Plan Implementing Procedure to re-power MCC 3AB from an alternate electric power source. FPC stated that sufficient time will be available and that radiological conditions should permit such activities.

In addition, there are other conservatisms in the licensee's analyses. These include:

- *Presence of buffer compounds may increase solubility limit margins.* FPC concluded that solutes in the sump water will increase boron solubility, but did not credit the effect in its calculations. This is a conservatism when considering MCC 3AB repair and APS unavailability time.
- *Decay heat was calculated using Appendix K methods.* FPC's calculations, in accordance with its licensing basis, use a decay heat generation rate that is roughly 25 percent too high. A realistic decay heat would increase the time available before boron precipitation became a concern. This is a significant conservatism when considering MCC 3AB repair and APS unavailability time.
- *Boron solubility.* FPC used a boron solubility decreased by 4 weight percent from the published values, consistent with previously accepted evaluation models. This is a conservatism when considering MCC 3AB repair and APS unavailability time.
- *Boron precipitation.* The approved evaluation models are based upon preventing precipitation. Should precipitation occur, significant boron would have to precipitate to prevent core cooling. This unquantified conservatism is significant when considering MCC 3AB repair and APS unavailability time.

Despite the licensee's determination that there is no safety-significant vulnerability associated with the two particular instances of failing to meet the single-failure criterion, FPC has developed and implemented procedures to address the conditions should they occur. It has shown that there is essentially no benefit to be achieved by investing in additional equipment to eliminate the single-failure aspects since the combined probability of the LOCA of concern with the failure is very low. With regard to the availability of APS during the first 21 hours following a LOCA should DTS be unavailable, realistic calculations without the conservative assumptions discussed above predict that APS would be available.

These calculations, along with the low estimate of core damage probability resulting from this scenario, result in a conclusion that essentially no benefit would be achieved by requiring modifications to meet the single-failure criteria for the specific scenario during this time period.

IV

For these foregoing reasons, the NRC staff has concluded that it is not necessary to meet the single-failure requirement of Appendix K, Section I.D.1, with respect to (1) failure of Motor Control Center 3AB and the resulting inability to initiate an active means of controlling core boron concentration and (2) the active methods not meeting the single-failure criterion for the period when approved licensing methods predict that APS is not effective following certain LOCAs to adequately ensure that boron precipitation does not interfere with long-term cooling. The NRC staff has determined that there are special circumstances present, as specified in 10 CFR 50.12.(a)(2)(ii), in that application of 10 CFR Part 50, Appendix K, Section I.D.1, is not necessary in order to achieve the underlying purpose of this regulation, which is to provide adequate assurance that boron precipitation will not interfere with the capability of the ECCS to provide long-term core cooling.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), this exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants the following exemption:

The Florida Power Corporation, et al., is exempt from the singie-failure criterion requirement of 10 CFR Part 50, Appendix K, Section I.D.1, with respect to (1) failure of Motor Control Center 3AB and the resulting inability to initiate an active means of controlling core boron concentration and (2) failure of the active means to meet the single-failure criterion for the period when approved licensing methods predict that APS is not effective following reactor coolant pump discharge breaks provided that: procedural guidance shall be maintained that describes the actions necessary to restore an active method of boron precipitation mitigation in the event of a failure of Motor Control Center 3AB.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (63 FR 54162).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 29th day of October, 1998.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–29644 Filed 11–4–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–397]

Washington Public Power Supply System (Nuclear Project No. 2; Correction to Confirmatory Order Modifying License Effective Immediately

On March 25, 1998, the Commission issued a Confirmatory Order Modifying License for the Washington Public Power Supply System (WPPSS) Nuclear Project No. 2. The Order confirmed WPPSS' commitment to complete implementation of Thermo-Lag 330–1 fire barriers corrective actions. The Order was published in the **Federal Register** on April 2, 1998 (63 FR 16289). In Column 3, Line 4, "3485" should read "3486".

Dated at Rockville, Maryland, this 30th day of October 1998.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–29643 Filed 11–4–98; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

1999 Railroad Experience Rating Proclamations, Monthly Compensation Base and Other Determinations

AGENCY: Railroad Retirement Board.

ACTION: Notice.

SUMMARY: Pursuant to section 8(c)(2) and section 12(r)(3) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(2) and 45 U.S.C. 362(r)(3), respectively), the Board gives notice of the following:

1. The balance to the credit of the Railroad Unemployment Insurance (RUI) Account, as of June 30, 1998, is $81,520,684.90;
2. The September 30, 1998, balance of any new loans to the RUI Account, including accrued interest, is zero;
3. The system compensation base is $2,817,307,517.24 as of June 30, 1998;
4. The cumulative system unallocated charge balance is ($202,216,518.19) as of June 30, 1998;
5. The pooled credit ratio for calendar year 1999 is zero;
6. The pooled charged ratio for calendar year 1999 is zero;
7. The surcharge rate for calendar year 1999 is 1.5 percent;
8. The monthly compensation base under section 1(i) of the Act is $970 for months in calendar year 1999;
9. The amount described in section 1(k) of the Act as "2.5 times the monthly compensation base" is $2,425 for base year (calendar year) 1999;
10. The amount described in section 2(c) of the Act as "an amount that bears the same ratio to $775 as the monthly compensation base for that year as computed under section 1(i) of this Act bears to $600" is $1,253 for months in calendar year 1999;
11. The amount described in section 3 of the Act as "2.5 times the monthly compensation base" is $2,425 for base year (calendar year) 1999;
12. The amount described in section 4(a–2)(i)(A) of the Act as "2.5 times the monthly compensation base" is $2,425 with respect to disqualifications ending in calendar year 1999;
13. The maximum daily benefit rate under section 2(a)(3) of the Act is $46 with respect to days of unemployment and days of sickness in registration periods beginning after June 30, 1999.

DATES: The balance in notice (1) and the determinations made in notices (3) through (7) are based on data as of June 30, 1998. The balance in notice (2) is based on data as of September 30, 1998. The determinations made in notices (5) through (7) apply to the calculation, under section 8(a)(1)(C) of the Act, of employer contribution rates for 1999. The determinations made in notices (8) through (12) are effective January 1, 1999. The determination made in notice (13) is effective for registration periods beginning after June 30, 1999.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

FOR FURTHER INFORMATION CONTACT: Marla L. Huddleston, Bureau of the Actuary, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092, telephone (312) 751–4779.

SUPPLEMENTARY INFORMATION: The RRB is required by section 8(c)(1) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(1)) as amended by Public Law 100–647, to proclaim by October 15 of each year certain system-wide factors used in calculating experience-based employer contribution rates for the following year. The RRB is further required by section 8(c)(2) of the Act (45 U.S.C. 358(c)(2)) to publish the amounts so determined and proclaimed. The RRB is required by section 12(r)(3) of the Act (45 U.S.C. 362(r)(3)) to

publish by December 11, 1998, the computation of the calendar year 1999 monthly compensation base (section 1(i) of the Act) and amounts described in sections 1(k), 2(c), 3 and 4(a–2)(i)(A) of the Act which are related to changes in the monthly compensation base. Also, the RRB is required to publish, by June 11, 1999, the maximum daily benefit rate under section 2(a)(3) of the Act for days of unemployment and days of sickness in registration periods beginning after June 30, 1999.

Surcharge Rate

A surcharge is added in the calculation of each employer's contribution rate, subject to the applicable maximum rate, for a calendar year whenever the balance to the credit of the RUI Account on the preceding June 30 is less than the greater of $100 million or the amount that bears the same ratio to $100 million as the system compensation base for that June 30 bears to the system compensation base as of June 30, 1991. If the RUI Account balance is less than $100 million (as indexed), but at least $50 million (as indexed), the surcharge will be 1.5 percent. If the RUI Account balance is less than $50 million (as indexed), but greater than zero, the surcharge will be 2.5 percent. The maximum surcharge of 3.5 percent applies if the RUI Account balance is less than zero.

The system compensation base as of June 30, 1991 was $2,799,430,259.23. The system compensation base for June 30, 1998 was $2,817,307,517.24. The ratio of $2,817,307,517.24 to $2,799,430,259.23 is 1.00638603. Multiplying 1.00638603 by $100 million yields $100,638,603. Multiplying $50 million by 1.00638603 produces $50,319,302. The Account balance on June 30, 1998, was $81,520,684.90. Accordingly, the surcharge rate for calendar year 1999 is 1.5 percent.

Monthly Compensation Base

For years after 1988, section 1(i) of the Act contains a formula for determining the monthly compensation base. Under the prescribed formula, the monthly compensation base increases by approximately two-thirds of the cumulative growth in average national wages since 1984. The monthly compensation base for months in calendar year 1999 shall be equal to the greater of (a) $600 or (b) $600 [1 + {(A − 37,800)/56,700≡)], where A equals the amount of the applicable base with respect to tier 1 taxes for 1999 under section 3231(e)(2) of the Internal Revenue Code of 1986. Section 1(i) further provides that if the amount so determined is not a multiple of $5, it shall be rounded to the nearest multiple of $5.

The calendar year 1999 tier 1 tax base is $72,600. Subtracting $37,800 from $72,600 produces $34,800. Dividing $34,800 by $56,700 yields a ratio of 0.61375661. Adding one gives 1.61375661. Multiplying $600 by the amount 1.61375661 produces the amount of $968.25, which must then be rounded to $970. Accordingly, the monthly compensation base is determined to be $970 for months in calendar year 1999.

Amounts Related to Changes in Monthly Compensation Base

For years after 1988, sections 1(k), 2(c), 3 and 4(a–2)(i)(A) of the Act contain formulas for determining amounts related to the monthly compensation base.

Under section 1(k), remuneration earned from employment covered under the Act cannot be considered subsidiary remuneration if the employee's base year compensation is less than 2.5 times the monthly compensation base for months in such base year. Multiplying 2.5 by the calendar year 1999 monthly compensation base of $970 produces $2,425. Accordingly, the amount determined under section 1(k) is $2,425 for calendar year 1999.

Under section 2(c), the maximum amount of normal benefits paid for days of unemployment within a benefit year and the maximum amount of normal benefits paid for days of sickness within a benefit year shall not exceed an employee's compensation in the base year. In determining an employee's base year compensation, any money remuneration in a month not in excess of an amount that bears the same ratio to $775 as the monthly compensation base for that year bears to $600 shall be taken into account. The calendar year 1999 monthly compensation base is $970. The ratio of $970 to $600 is 1.61666667. Multiplying 1.61666667 by $775 produces $1,253. Accordingly, the amount determined under section 2(c) is $1,253 for months in calendar year 1999.

Under section 3, an employee shall be a "qualified employee" if his/her base year compensation is not less than 2.5 times the monthly compensation base for months in such base year. Multiplying 2.5 by the calendar year 1999 monthly compensation base of $970 produces $2,425. Accordingly, the amount determined under section 3 is $2,425 for calendar year 1999.

Under section 4(a–2)(i)(A), an employee who leaves work voluntarily without good cause is disqualified from receiving unemployment benefits until he has been paid compensation of not less than 2.5 times the monthly compensation base for months in the calendar year in which the disqualification ends. Multiplying 2.5 by the calendar year 1999 monthly compensation base of $970 produces $2,425. Accordingly, the amount determined under section 4(a–2)(i)(A) is $2,425 for calendar year 1999.

Maximum Daily Benefit Rate

Section 2(a)(3) contains a formula for determining the maximum daily benefit rate for registration periods beginning after June 30, 1989, and after each June 30 thereafter. Legislation enacted on October 9, 1996, revised the formula for indexing maximum daily benefit rates. Under the prescribed formula, the maximum daily benefit rate increases by approximately two-thirds of the cumulative growth in average national wages since 1984. The maximum daily benefit rate for registration periods beginning after June 30, 1999, shall be equal to 5 percent of the monthly compensation base for the base year immediately preceding the beginning of the benefit year. Section 2(a)(3) further provides that if the amount so computed is not a multiple of $1, it shall be rounded down to the nearest multiple of $1.

The calendar year 1998 monthly compensation base is $925. Multiplying $925 by 0.05 yields $46.25, which must then be rounded down to $46. Accordingly, the maximum daily benefit rate for days of unemployment and days of sickness beginning in registration periods after June 30, 1999, is determined to be $46.

Dated: October 28, 1998.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 98–29675 Filed 11–4–98; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23512]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

October 30, 1998.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of October, 1998. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., N.W., Washington, DC 20549 (tel. 202–942–8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 23, 1998, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, SEC, 450 Fifth Street, N.W., Washington, DC 20549. For Further Information Contact: Diane L. Titus, at (202) 942–0564, SEC, Division of Investment Management, Office of Investment Company Regulation, Mail Stop 5–6, 450 Fifth Street, N.W., Washington, DC 20549.

New England Funds Trust IV [File No. 811–8473]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on September 28, 1998.

Applicant's Address: 399 Boylston Street, Boston, Massachusetts 02116.

Heitman Securities Trust [File No. 811–5659]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 30, 1998, applicant transferred all of its assets and liabilities to Heitman Real Estate Portfolio, a newly created series of the UAM Funds Trust (the "Acquiring Fund"), in exchange for Institutional Class and Advisor Class shares of the Acquiring Fund, based on the relative net asset value per share. Heitman/PRA Securities Advisors, Inc., applicant's investment adviser, paid approximately $142,500 in expenses incurred in connection with the reorganization.

File Date: The application was filed on October 13, 1998.

Applicant's Address: 180 North LaSalle Street, Suite 3600, Chicago, Illinois 60601.

Alamo Growth Fund, Inc. [File No. 811–9162]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. By July 23, 1998, applicant had distributed all of its assets to its security holders at the net asset value per share. Expenses incurred in connection with the liquidation are not expected to exceed $1,000 and will be paid by applicant's investment adviser, Alamo Advisers, Inc.

Filing Dates: The application was filed on May 20, 1998, and amended on September 15, 1998, and October 1, 1998

Applicant's Address: 1777 N.E. Loop 410, Suite 1512, San Antonio, Texas 78217.

Capitol Square Funds [File No. 811–7699]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. As of September 30, 1997, applicant's four series, Capitol Square Bond Fund, Capitol Square Large Cap Fund, Capitol Square Small Cap Fund, and Capitol Square Balanced Fund, each liquidated their portfolio securities and other assets, and distributed the proceeds *pro rata* to their shareholders based on the net asset value per share. Expenses associated with the liquidation totaled approximately $450.00, and were paid by applicant's investment adviser, Dillon Capitol Management.

File Dates: The application was filed on July 28, 1998, and amended on October 2, 1998.

Applicant's Address: 21 East State Street, Suite 1410, Columbus, Ohio 43215.

Scudder Institutional Fund, Inc. [File No. 881–4555]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On April 3, 1998, applicant transferred its assets and liabilities to Scudder International Fund (the "International Fund"), a series of Scudder International Fund, Inc., based on the relative net asset values per share. Scudder Kemper Investments, Inc., investment adviser to both applicant and the International Fund, paid approximately $75,497 in expenses incurred in connection with the reorganization. In addition, applicant has incurred approximately $3,464 in liquidation expenses, and applicant's total liquidation expenses are not expected to exceed $4,500.

Filing Date: The application was filed on September 11, 1998.

Applicant's Address: 345 Park Avenue, New York, New York 10154.

Peachtree Funds [File No. 811–7107]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 30, 1998, four portfolios of Peachtree Funds transferred all of their assets and liabilities to corresponding portfolios of Nations Funds Trusts. The remaining portfolio of Peachtree Funds, Peachtree Prime Money Market Fund, transferred all of its assets and liabilities to a corresponding portfolio of Nations Prime Fund, Inc. The reorganization incurred approximately $695,000 in expenses that were paid for by the acquiring funds' investment adviser, NationsBank, and their sponsor, distributor, and administrator.

Filing Dates: The application was filed on May 13, 1997, and amended on July 15, 1998.

Applicant's Address: Federated Investors Tower, Pittsburgh, Pennsylvania 15222–3779.

The Columbus Fund, Inc. [File No. 811–8418]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on October 14, 1998.

Applicant's Address: c/o Dechert Price & Rhoads, 1775 Eye Street, N.W., Washington, D.C. 20006–2401.

Dodge & Cox Stock Fund [File No. 811–1294]; Dodge & Cox Income Fund [File No. 811–5580]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On April 30, 1998, each applicant transferred all of its assets and liabilities to a corresponding series of the Dodge & Cox Funds based on the net asset value per share. Applicants paid $158,581, and $38,008, respectively, in expenses related to the reorganizations.

Filing Dates: Each application was filed on August 12, 1998, and amended on October 22, 1998.

Applicants' Address: One Sansome Street, San Francisco, California 94104.

Oppenheimer Strategic Investment Grade Bond Fund [File No. 811–6458]; Oppenheimer Strategic Short-Term Income Fund [File No. 811–6533]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On September 21, 1995, Oppenheimer Strategic Investment Grade Bond Fund transferred all of its assets to Oppenheimer Bond Fund ("Bond Fund") at net asset value. Applicant and Bond Fund paid $26,882 and $20,057,

respectively, in expenses related to the reorganization. On September 21, 1995, Oppenheimer Strategic Short-Term Income Fund transferred all of its assets to Oppenheimer Limited-Term Government Fund ("Limited-Term Government Fund") at net asset value. Applicant and Limited-Term Government Fund paid $26,432 and $20,057, respectively, in expenses related to the reorganization.

Filing Dates: Each application was filed on September 28, 1998, and the application for Oppenheimer Strategic Short-Term Income Fund was amended on October 27, 1998.

Applicants' Address: 6803 S. Tucson Way, Englewood, Colorado 80112.

Composite Equity Series, Inc. [File No. 811–565]; Composite Income Fund, Inc. [File No. 811–2604]; Composite Tax-Exempt Bond Fund, Inc. [File No. 811–2681]; Composite Cash Management Company [File No. 811–2941]; Composite U.S. Government Securities, Inc. [File No. 811–3426]; Composite Northwest Fund, Inc. [File No. 811–4740]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On March 20, 1998, each applicant transferred all of its assets and liabilities to corresponding series of WM Trust I (formerly known as The Composite Funds) based on the relative net asset values per share. The aggregate amount of expenses incurred in connection with the reorganization was approximately $625,000 and was paid by WM Advisors, Inc., applicants' investment adviser, and/or its affiliates but not the applicants.

Filing Dates: Each application was filed on October 13, 1998. Each applicant has agreed to file an amendment during the notice period.

Applicants' Address: 601 West Main Avenue, Suite 300, Spokane, Washington 99201–0613.

Minerva Fund, Inc. [File No. 811–7828]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On December 26, 1997, applicant made a liquidating distribution to its shareholders at the net asset value per share. Expenses incurred in connection with the liquidation totaled approximately $30,000, and were paid by LTCB–MAS Investment Management, Inc., applicant's investment adviser.

Filing Dates: The application was filed on August 21, 1998, and amended on October 26, 1998.

Applicant's Address: 3435 Stelzer Road, Columbus, Ohio 43219.

First Global Equity Portfolio [File No. 811–9072]; AIG All Ages Funds, Inc. [File No. 811–9022]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. First Global Equity Portfolio ("Global Equity") is a master fund in a master-feeder structure. Global Equity has two feeder funds, the AIG Children's World Fund—2005 and the AIG Retiree Fund—2003 (collectively, the "AIG Funds"), each a series of AIG All Ages Funds, Inc. On January 21, 1998, the AIG Funds redeemed their respective shares of Global Equity at net asset value. On February 6, 1998, AIG Asset Management Services, Inc. ("AIG") redeemed its seed capital shares of Global Equity. AIG paid approximately $9,658 in expenses in connection with the liquidation of Global Equity. On January 26, 1998, the AIG Funds made a *pro rata* distribution to their shareholders of their net assets. AIG Capital Management Corp., the investment adviser to the AIG Funds, paid approximately $89,857 in expenses in connection with the liquidation of the AIG Funds.

Filing Dates: Each application was field on August 4, 1998. Each applicant has agreed to file an amendment during the notice period.

Applicants' Addresses: Global Equity, 80 Harcourt Street, Dublin, Ireland, and AIG Funds, 505 Carr Road, Wilmington, Delaware 19809.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–29619 Filed 11–4–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40616; File No. SR–Amex–98–30]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Options of Advertisements

October 28, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 16, 1998,[3] the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), the proposed rule change as described in Items I, II, and III below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Amex proposes to adopt an interpretation to Rule 991 relating to options communications with customers. The text of the proposed rule change is available at the Office of the Secretary, Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Amex has prepared summaries, set forth in sections A, B, and C below, on the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Amex Rule 991 details Exchange requirements with respect to options-related communications with customers. Commentary .02 and Commentary .03 to Rule 991, as well as the Guidelines for Options Communications (published by the self-regulatory organizations) provide in part that advertisements and educational material should contain the name and address of a specific person from whom an Options Disclosure Document ("ODD") may be obtained. Common practice within the securities industry is for such communications to be published as part of a national or regional marketing program. In that regard, the Exchange believes that it is both unnecessary and impractical for a member organization to list *one* person as the recipient for all requests concerning ODDs. It is important for investors to be able to readily obtain an ODD. The Exchange interprets Rule 991 to provide member organizations sufficient latitude to set forth other reasonably specific mechanisms by which clients and other investors may obtain the ODD. A firm may, for example, provide one or more telephone numbers or addresses from which an ODD may be obtained. Alternatively, in a communication addressed only to account holders the organization may direct them to contact their registered representative.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act[4] in general and furthers the objectives of Section 6(b)(5)[5] in particular in that it is designed to promote just and equitable principles of trade, remove impediments to a free and open market and a national market system, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Exchange and, therefore, has become effective upon filing pursuant to Section 19(b)(3)(A)(i) of the Act[6] and Rule 19b–4(e)(1)[7] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.[8] Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of Amex. All submissions should refer to the File No. SR–Amex–98–30 and should be submitted by November 27, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–29621 Filed 11–4–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40613; File No. SR–Amex–98–20]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Permanent Approval of the Exchange's Pilot Program for Specialists in Portfolio Depositary Receipts, Investment Trust Securities, and Index Fund Shares To Participate in the After-Hours Trading Facility

October 28, 1998.

I. Introduction

On June 9, 1998, the American Stock Exchange, Inc. ("Amex" or "the Exchange"), filed with the Securities and Exchange Commission ("SEC" or "the Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4[2] thereunder seeking permanent approval of the pilot program permitting specialists in Portfolio Depositary Receipts[3] ("PDRs"), investment trust securities, and Index Fund Shares to participate in the after-hours trading ("AHT") facility to "clean-up" order imbalances and to effect closing price coupled orders.[4] The proposed rule change was published for comment in the **Federal Register** on July 23, 1998.[5] No comments were received on the Amex's proposal.

II. Description of the Proposal

The Commission originally approved the pilot program on August 29, 1994 ("Original Pilot Approval").[6] The pilot was scheduled to expire on August 29, 1995, but was extended for three successive one-year periods, and a thirty-day period.[7] With this proposed rule change, the Amex seeks permanent approval of the pilot program, which otherwise will expire on October 31, 1998.

In the Original Pilot Approval and in each one-year extension, the Commission requested that the

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[1] The proposed rule change was originally submitted on August 5, 1998. On October 16, 1998, the Exchange submitted Amendment No. 1 to add a footnote to Commentary .02 and Commentary .03(v) to Rule 991 stating the requirement of providing in options advertisements the name and address of a person or persons from whom current Options Disclosure Documents may be obtained "may be satisfied by providing a reasonably specific mechanism by which clients and other investors may obtain this material." Letter from Claudia Crowley, Special Counsel, Amex to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated October 15, 1998 ("Amendment No. 1").

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The proposed rule change was originally submitted on August 5, 1998. On October 16, 1998, the Exchange submitted Amendment No. 1 to add a footnote to Commentary .02 and Commentary .03(v) to Rule 991 stating the requirement of providing in options advertisements the name and address of a person or persons from whom current Options Disclosure Documents may be obtained "may be satisfied by providing a reasonably specific mechanism by which clients and other investors may obtain this material." Letter from Claudia Crowley, Special Counsel, Amex to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated October 15, 1998 ("Amendment No. 1").

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A)(i).

[7] 17 CFR 240.19b–4(e)(1).

[8] In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 17 CFR 200.30–3(e)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange currently lists three Portfolio Depositary Receipts, viz., Depositary Receipts on the Standard and Poor's 500® and MidCap® Indexes, and Depositary Receipts on the Dow Jones Industriel Average™. The Exchange also lists 17 Index Fund Shares which are commonly referred to as WEBS℠. WEBS are shares issued by an open-end management investment company that seek to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic equity market index. The Exchange currently lists WEBS based on the following Morgan Stanley Capital International ("MSCI") indices: MSCI Australia Index, MSCI Austria Index, MSCI Belgium Index, MSCI Canada Index, MSCI France Index, MSCI Germany Index, MSCI Hong Kong Index, MSCI Italy Index, MSCI Japan Index, MSCI Malaysia Index, MSCI Mexico Index, MSCI Netherlands Index, MSCI Singapore (Free) Index, MSCI Spain Index, MSCI Sweden Index, MSCI Switzerland Index, and MSCI United Kingdom Index. The Commission notes that due to certain restrictions imposed by the Malaysian government WEBS based on the MSCI Malaysia Index currently trade differently than the other WEBS trading on Amex.

[4] Pursuant to the pilot program, the specialist in PDRs, investment trust securities, and Index Fund Shares may participate in a coupled price closing order so long as the other side of the order is not for an account in which a member or member organization has a direct or indirect interest.

[5] Securities Exchange Act Release No. 40201 (July 15, 1998), 63 FR 39608.

[6] *See* Securities Exchange Act Release No. 34611 (Aug. 29, 1994), 59 FR 45739 (Sept. 2, 1994).

[7] *See* Securities Exchange Act Release Nos. 36123 (Aug. 18, 1995), 60 FR 44519 (Aug. 28, 1995); 37529 (Aug. 6, 1996), 61 FR 41814 (Aug. 12, 1996); 38986 (Aug. 27, 1997), 62 FR 46785 (Sept. 4, 1997); and 40533 (October 8, 1998), 63 FR 55660 (October 16, 1998).

Exchange submit a report and analysis regarding the operation of the pilot program. The Exchange did not submit a report until 1997, however, as specialists made little or no use of the pilot program until the period September 3, 1996 to May 30, 1997. The 1997 report stated that during that period, there were two trades for a total of 600 shares of PDRs in the AHT session for PDRs, investment trust securities, and Index Fund Shares.[8] The 1998 report stated that during the period June 1, 1997 to April 30, 1998, there were 12 trades for a total of 56,320 shares of PDRs in the AHT session.[9] No single-sided orders remained unexecuted at the end of the AHT session during the review period and there were no problems with any of these trades.[10]

The Exchange believes that permanent approval of the Exchange's pilot program to permit specialists in PDRs, investment trust securities, and Index Fund Shares to participate in the AHT facility in order to "clean-up" order imbalances and effect closing price coupled orders will benefit investors by providing additional liquidity to the listed cash market for derivative securities based upon market indexes. The market price of these exchange-traded funds is based upon transactions largely effected in markets other than the Amex. (In the case of Index Fund Shares, the market price of these securities is based exclusively on transactions occurring outside the Amex.) The Exchange represents that the specialist in the Amex-listed securities has no unique access to market sensitive information regarding the market for the underlying securities or closing index values. Further, to prevent the potential for manipulation or misuse, the pilot program eliminates the migration of limit orders for PDRs, investment trust securities, and Index Fund Shares from the specialists limit order book to the AHT facility. The Exchange, therefore, believes that permanent approval of specialist participation in the AHT facility in PDRs, investment trust securities and Index Fund Shares in the manner previously approved by the Commission on a pilot basis does not raise any market integrity issues. In addition, should a customer not care for an execution at the closing price, the rules of the Exchange's AHT facility permit cancellation of an order up to the close of the AHT session at 5:00 p.m. (Orders in the AHT facility are not executed until the 5:00 p.m. close of the AHT session.) Amex represents, therefore, that a customer has approximately 40 minutes to determine if an execution at the closing price suits his needs and may cancel the order if he believes that the closing price does not suit his objectives.

[8] *See* letter dated August 5, 1997, from William Floyd-Jones, Jr., Assistant General Counsel, Amex, to Michael Wallinskas, Senior Special Counsel, Division of Market Regulation ("Division"), Commission.

[9] *See* letter dated June 8, 1998, from William Floyd-Jones, Jr., Assistant General Counsel, Amex, to Michael Wallinskas, Senior Special Counsel, Division, Commission.

[10] *Id.*

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, Sections 6(b)(5) and 11 of the Act.[11] The Commission believes that the rule change is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, and in general, protect investors and the public interest.[12] The Commission also believes that the proposal is consistent with Section 11(b) of the Act and Rule 11b–1 thereunder,[13] which allow exchanges to promulgate rules relating to specialists in order to maintain fair and orderly markets.

Under the pilot program, specialists in PDRs, investment trust securities and Index Fund Shares may participate in the AHT facility to clean up order imbalances by entering an order for their own account. The pilot program also allows specialists in PDRs, investment trust securities and Index Fund Shares to participate in a coupled closing price order as long as the other side of the order is not for an account in which a member or member organization has a direct or indirect interest. Moreover, the pilot program eliminates the migration of limit orders for PDRs, investment trust securities, and Index Fund Shares from the specialists limit order book to the AHT facility to prevent the potential for manipulation or misuse of specialists' information regarding which limit orders are eligible for execution in the AHT facility.

[11] 15 U.S.C. 78f(b)(5) and 78k.

[12] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 17 CFR 240.11b–1.

The Commission continues to believe, as it did when the pilot program was initially approved, that permitting specialists in PDRs, investment trust securities, and Index Fund Shares [14] to participate in the AHT facility by entering an order for the specialist's account to eliminate order imbalances should assist specialists in their obligation to minimize temporary disparity between supply and demand.[15] Moreover, the Commission agrees with the Amex that permitting specialists in PDRs, investment trust securities, and Index Fund Shares to participate in the AHT facility to effect closing price coupled orders should benefit investors by providing additional liquidity to the listed cash market for derivative securities based upon market indexes.

The Commission also continues to believe that the Amex's rule change strikes a reasonable balance between the Exchange's need to accommodate the needs of investors by increasing the liquidity in the listed cash market for derivative securities based on market indexes and the need to prevent the potential for manipulation or misuses of information. With regard to the latter concern, although Amex specialists will be aware of limit orders remaining on the specialist's limit order book, they generally will not be able to use this information to their advantage because, under the terms of the pilot program, as permanently approved, Amex Rule 1302(b) has been amended to eliminate the migration of limit orders for PDRs, investment trust securities, and Index Fund Shares from the specialist's limit order book to the AHT facility.[16] Further, the Commission notes that all orders entered by the specialist in the AHT facility receive the closing price in the Amex market on that same trading day, rather than a negotiated price. This should reduce the likelihood that any additional information the specialist has as a result of making a market in the speciality security could be misused in the AHT facility.

In addition, while the trading activity for PDRs, investment trust securities, and Index Fund Shares in the AHT facility has been modest, the Exchange has reported no problems with any of these trades. Moreover, as evidenced by the reports filed by the Exchange, the pilot program has been used increasingly over the past two years.

Finally, the Commission expects the Amex, through use of its surveillance procedures, to monitor closely the trading of PDRs, investment trust securities, and Index Fund Shares in the AHT facility to ensure that trading in these issues is not subject to any patterns of manipulation, trading abuses or unusual trading activity.

[14] The Commission notes that when the original pilot program was approved, it applied only to PDRs and investment trust securities. The pilot program was modified to include Index Fund Shares with the extension of the pilot program in August 1996. *See* Securities Exchange Act Release No. 37529 (August 6, 1996), 61 FR 41814 (August 12, 1996).

[15] *See* Original Pilot Approval, *supra* note 6.

[16] The Commission notes that the permanent approval of the pilot program includes permanent approval of the changes to Rule 1302(b) restricting the migration of limit orders.

IV. Conclusion

For the reasons discussed above, the Commission believes that permanent approval of specialist participation in the AHT facility in PDRs, investment trust securities and Index Fund Shares in the manner previously approved by the Commission is appropriate and consistent with the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (SR–Amex–98–20) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–29622 Filed 11–4–98; 8:45 am]

BILLING CODE 8010–01–M

[17] 15 U.S.C. 78s(b)(2).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40622; File Nos. SR–Amex–98–32; SR–NASD 98–56; SR–NASD 98–67]

Self-Regulatory Organizations; American Stock Exchange, Inc., and National Association of Securities Dealers, Inc.; Order Granting Approval to Proposed Rule Changes and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 Thereto; Relating to the Combination of the American Stock Exchange, Inc. and the National Association of Securities Dealers, Inc., Including Amendments to the Composition of the NASD Board and Relating to Policies Regarding Authority Over American Stock Exchange LLC and Composition of Board of Governors of American Stock Exchange LLC

October 30, 1998.

I. Introduction

Three separate filings have been submitted to the Securities and Exchange Commission ("SEC" or "Commission") in connection with the proposed combination between the National Association of Securities Dealers, Inc. ("NASD" or "Association") and the American Stock Exchange, Inc. ("Amex").

On August 10, 1998, the NASD submitted to the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change (SR–NASD–98–56) to amend the NASD's By-Laws to reserve one NASD Board of Governors ("NASD Board") position for a person representing an NASD member firm having not more than 150 registered persons; to reserve two Board positions for the Chief Executive Officer and one Floor Governor of the American Stock Exchange LLC ("New Amex"); and to make other clarifying amendments, including the addition of certain definitions. The NASD also proposed to add corresponding clarifying amendments and definitions to the By-Laws of NASD Regulation, Inc. ("NASD Regulation") and The Nasdaq Stock Market, Inc. ("Nasdaq").

On September 3, 1998, Amex submitted to the Commission, pursuant to Section 19(b)(1) of the Exchange Act [3] and Rule 19b–4 thereunder,[4] a proposed rule change (SR–Amex–98–32) to make certain amendments to its Constitution and Rules that will become effective at the time they become the Constitution and Rules of New Amex. An amendment to SR–Amex–98–32 was filed with the Commission on October 29, 1998.[5]

On September 14, 1998, the NASD submitted to the Commission, pursuant to Section 19(b)(1) of the Exchange Act [6] and Rule 19b–4 thereunder,[7] a proposed rule change (SR–NASD–98–67) to state two policies regarding NASD's oversight of New Amex and the composition of the Board of Governors of New Amex.

Notice of the proposed rule changes, together with the substance of the proposals, was published for comment in Exchange Act Release Nos. 40339 (August 19, 1998), 63 FR 45547 (August 26, 1998) (SR–NASD–98–56); 40426 (September 10, 1998), 63 FR 49766 (September 17, 1998) (SR–Amex–98–32); and 40443 (September 16, 1998), 63 FR 51108 (September 24, 1998) (SR–NASD–98–67). One comment was received on the proposals.[8] The NASD responded to the comment letter, the substance of which is discussed in Item III below.[9]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(1).

[4] 17 CFR 240.19b–4.

[5] *See* Letter to Michael Wallinskas, Deputy Associate Director, Division of Market Regulation, Commission, from James F. Duffy, Executive Vice President, Legal and Regulatory Policy, Amex, and Richard G. Ketchum, President and Chief Executive Officer, NASD, dated October 29, 1998 ("Amendment No. 2").

[6] 15 U.S.C. 78s(b)(1).

[7] 17 CFR 240.19b–4.

[8] *See* letter from Bill T. Singer, Singer Frumento L.L.P., to Secretary, Commission, dated September 11, 1998 (incorporating a report from Bill T. Singer to Alan Davidson, President, Independent Broker-Dealer Association, Inc., dated September 10, 1998) ("Singer Letter"). The comment letter was written in opposition of the proposed combination of the NASD and Amex. Although the comment letter responded specifically to SR–NASD–98–56, it addressed several general issues in connection with the proposed combination. As such, the Commission has determined to treat the comment letter as if it were a comment on each of the three submitted proposals.

[9] *See* letter from T. Grant Callery, Senior Vice President and General Counsel, NASD, to Katherine A. England, Assistant Director, Market Regulation, Commission, dated October 23, 1998 ("NASD Response").

II. Description

A. Background

On March 18, 1998, Amex and the NASD announced that their respective Boards of Governors had each agreed to enter into a merger agreement that, subject to finalization of a definitive agreement and approval by Amex Members, would result in Amex becoming a subsidiary of the NASD. On April 8, 1998, the Amex and NASD Boards each unanimously approved the terms of a definitive agreement (the "Transaction Agreement"), which was signed by the NASD and Amex as of May 8, 1998. At a Special Meeting of Members on June 25, 1998, the Amex Membership ratified the Transaction Agreement by a vote of 622 to 206.[10] NASD members were not required to vote on the merger.

[10] Two-thirds approval from the Amex Membership was required in order for the transaction to pass. The Membership approved the transaction by roughly 75 percent. In connection with Amex member approval of the agreement, Amex sent to all 864 Amex Regular Members and Options Principal Members (referred to collectively as "Members") an Information Memorandum, dated May 14, 1998, describing the transaction in detail. Attached as exhibits to the Information Memorandum were the Restated Certificate of Incorporation and the new By-Laws of Amex Corp. (as hereinafter defined), and the Constitution of New Amex. Members also were provided with documents relating to the transaction ("Transaction Documents"). These included, among other items, the Transaction Agreement and exhibits thereto, including the Limited Liability Company Agreement of New Amex ("LLC Agreement") and the Technology Transfer and Development Agreement. Copies of the Transaction Agreement, the LLC Agreement, and the Technology Transfer and Development Agreement are available at the Commission's Public Reference Room under File No. SR–Amex–98–32.

The merger has been represented as an alliance that will combine the resources of the NASD, including its technology and expertise, with Amex's auction market. It has further been represented that this combination has been designed to provide: Amex Member organizations with more efficient, less costly equity trade executions; issuers with additional listing choices; and investors with more transparent, less costly trading. The proposed technology upgrades to Amex center around a proposed "New Equity Market Structure" that, among other things, will introduce a new electronic limit order book and provide automatic execution for electronically delivered orders.[11] Although this program may be funded through New Amex revenues, NASD has committed up to $110 million, including through capital contributions, loans, or guarantees of loans, to complete the New Equity Market Structure and certain other trading facility and technology upgrades.[12]

B. Reorganization of Amex

The Transaction Agreement provides that, at the Closing, Amex will transfer its exchange registration and its assets to New Amex. New Amex will assume all existing liabilities, known and unknown, of Amex. New Amex will be a national securities exchange registered under Section 6 of the Exchange Act operating a floor-based, specialist auction market with its own members and listed securities.[13] New Amex will be structured as a Delaware Limited Liability Company ("LLC"), and will be jointly owned by The Amex Corporation ("Amex Corp.") (the name that Amex will use following the Closing), and the NASD (through a holding company, the NASD Market Holding Company ("Holdco")) pursuant to the LLC Agreement between the parties.[14] Under the LLC Agreement, Amex Corp. will be the holder of the Class A Interest and Holdco will be the holder of the Class B Interest in New Amex. Only Holdco will have a voting interest in New Amex. The NASD cannot amend the LLC Agreement without the consent of the Board of Amex Corp. or the Members of Amex Corp. (depending upon the type of change, as governed by the Transaction Documents).[15]

After the Closing, Amex will continue to exist as a New York not-for-profit corporation, under the name Amex Corp. Amex Corp.'s activities will be limited to holding an ownership interest in New Amex and exercising the rights incident to ownership arising under the Transaction Documents. Specifically, the Restated Certificate of Incorporation for Amex Corp. states that, except for those activities specifically mentioned in the Restated Certificate, Amex Corp. may not engage in any other business activities. Nor may it incur directly or indirectly any debt for borrowed money, or incur, without prior written consent from the Amex Corp. Chairman, any liability or make any expenditure unless the liability or expenditure is reasonable in amount and reasonably related to the corporate purpose of Amex Corp.[16] Except for the voting rights in connection with the request for consents from New Amex, described below, Amex Corp. will hold an otherwise nonvoting interest in New Amex. Amex Corp. will have its own Board, which will consist of the same four Floor Governors as those serving on the New Amex Board.

C. New Amex Corporation Governance

1. New Amex Board

The principal management authority of New Amex rests in the New Amex Board, which will be composed of 18 governors—including four floor governors (one of whom must be an equity specialist and at least one of whom must be a Registered Options Trader ("ROT"),[17] two Upstairs Industry Governors (*i.e.*, members affiliated with broker-dealers that have substantial contact with public customers); eight Public Governors;[18] the two most senior officers of New Amex; and two staff representatives from the NASD staff.[19] The eight Public Governors and two Upstairs Industry Governors will be nominated and elected by the NASD. The four Floor Governors will be nominated by Amex Corp. and elected by the NASD.[20] The NASD may reject a Floor Governor nominee only if (i) the nominee is subject to a statutory disqualification, (ii) the nominee is subject to a proceeding or investigation which could result in a statutory disqualification, or (iii) the nominee has been disciplined by a securities SRO with respect to a matter involving fraud or a serious violation of U.S. securities laws. In the event the NASD rejects a Floor Governor nominee, the Amex Corp. has the right to select a substitute nominee.

New Amex Governors will serve a two year term in office. The four Floor Governors will be divided into two classes of two each: the first class will include an equity specialist and the second class will include an ROT. The other elected governors also will be divided into two classes, each consisting of one Upstairs Industry Governor and four Public Governors. The term of the first class will expire in 1999 and the term of the second class will expire in 2000. Elected governors will be eligible to serve no more than three consecutive two year terms, except that governors in the class of 1999 and any elected governor appointed to serve for one year or less by reason of a vacancy may be elected to serve three subsequent consecutive two year terms. The term "elected governors" does not include governors who are New Amex officers or representatives of the NASD staff, who are appointed by New Amex or the NASD, respectively.

Floor Governor nominees will be proposed either by the Amex Nominating Committee or by petition signed by at least 25 Members and will be selected by a plurality of the Regular and Options Principal Members of Amex Corp. voting together as a single class. The Amex Nominating Committee will consist of five persons: three Floor Members and two persons having no affiliation with a registered broker or dealer ("Public Members"). Each of the three principal business activities on the floor, registered specialists, registered options traders, and floor brokers, will be represented on the Amex Nominating Committee. While the existence and behavior of the Amex Nominating Committee is described in the New Amex Constitution, the Amex Nominating Committee is a committee of Amex Corp., under the By-Laws of Amex Corp. The Amex Nominating Committee will be divided into two classes: the first (terminating in 1999) will consist of a Public Member and specialist, and the second (terminating in 2000) will consist of a Public Member, a floor broker and an ROT. Persons on the Amex Nominating Committee may not serve consecutive terms. No one affiliated with a member of the Amex Nominating Committee will be eligible as a candidate for a ticket named by it. In addition to proposing Floor Governor nominees, the Amex Nominating Committee also will propose nominees for Trustees of the Gratuity Fund, the Amex Nominating Committee, and Amex Adjudicatory Council. Candidates for these petitions can also be nominated through the independent petition process described above. Members of the Trustees of the Gratuity Fund, Amex Nominating Committee and the Amex Adjudicatory Council will be elected at the annual meeting by a plurality of Members voting together as a single class.

The filling of vacancies on the New Amex Board requires recommendation by Amex Corp. in the case of Floor Governors, and from the NASD for all other Governors. The recommendation from Amex Corp. will be made by the Amex Nominating Committee, while the NASD recommendation will be made by the NASD Nominating Committee. As with current Amex procedures, persons appointed to fill such vacancies will serve until the next annual election.

2. Role of the Amex Committee and Amex Corp.

Although most of the voting power in New Amex concerning the operation of New Amex will be vested in the NASD, the Transaction Agreement provides that certain actions affecting Amex Corp. Members will require their consent. Consent by Amex Corp. Members will occur through several means depending on particular circumstances, as provided for in the Transaction Agreement. The "Amex Committee" has been established under the Transaction Agreement to provide required consent under some circumstances. The Amex Committee will be required to represent and exercise its powers in the best interest of Amex Corp. and its Members, but will exist outside of both New Amex and Amex Corp.[21] The Amex Committee has seven members composed of (1) three non-industry[22] Members, one of whom will serve as chairman; (2) one person who is not active on the floor of New Amex but who is associated with a member organization of New Amex; and (3) three Floor Members who are active on the floor of New Amex, one whose principal business is as a specialist on the Equity Market or Options Market, one whose principal business is as a registered options trader and one whose principal business is as a floor broker.[23]

The Transaction Agreement provides that, during certain periods, New Amex will not be able to act on certain matters without the consent of the Amex Committee, Amex Corp.,[24] or both. Specifically, during the period from the Closing to the fifth anniversary of the Facility Commitment Date

[11] The New Equity Market Structure, which will be subject to future SEC review and approval, intends to retain Amex's centralized, floor-based specialist auction market, but would enhance the ability to access this market either electronically or thorough floor brokers. It plans to provide for automatic execution of electronically delivered orders, and would use a newly developed electronic order book that would display the aggregate size and price of orders on the book away from the best bid and offer. Specialists would be precluded from charging floor brokerage fees on electronically delivered orders. In order to offset the expected loss of floor brokerage revenue, New Amex would share its transaction-based revenue with the specialists. In addition, specialists may be allowed to hand discretionary orders as agent, and their specialist affirmative obligations may be liberalized. New Amex likely will file a rule filing reflecting these proposed changes following the closing of the transaction ("Closing").

[12] *See* Technology Transfer and Development Agreement.

[13] Upon succeeding to the exchange registration of Amex, New Amex promptly will file necessary amendments to New Amex's registration as a national securities exchange on Form 1–A, pursuant to Rule 6a–1 under the Act. Current Amex rules will become the rules of New Amex on the date of the Closing, amended only as described herein. Any amendments to such rules proposed after the Closing will be filed by New Amex pursuant to Rule 19b–4. New Amex will also succeed to any proposed rule change filed with the Commission by Amex before the Closing but not approved by the Commission by that time, and if ultimately approved such proposal would change the rules of New Amex.

[14] For tax consolidation purposes, the NASD will own its interest in New Amex and Nasdaq through Holdco, a wholly-owned subsidiary of the NASD.

[15] The New Amex Constitution provides that the Constitution may be amended by a majority vote of the New Amex Board of Governors and the holder of the Class B Interest, Holdco, without any further procedures at the SRO level except where the change would require the consent of Amex Corp. or the Amex Committee. Thus, the NASD, via its wholly-owned subsidiary Holdco, must approve, and has the power to veto, any proposed amendments to the New Amex Constitution.

[16] Amendments to the Restated Certificate of Incorporation of Amex Corp., which dictates the purposes and powers of Amex Corp., may not be made without the approval of the NASD.

[17] The Transaction Agreement provides that on the tenth anniversary of the closing date, one additional Floor Governor will be added to the New Amex Board. The fifth Floor Governor is intended to provide Members with additional representation on the Board upon the expiration of certain contractual provisions in the Transaction Agreement.

[18] "Public Governor" is defined in Article II, Section .01(a)(2) of the New Amex Constitution as someone who is neither a broker or dealer in securities nor affiliated with one. The Commission notes that the NASD definition of "Public Governor" restricts persons who have material business relationships with a broker or dealer from serving as Public Governors, whereas the New Amex definition of "Public Governor" does not contain this restriction.

The NASD and Amex have represented to the Commission that they will implement certain undertakings with respect to the operation of New Amex following the Closing of the Transaction Agreement, and that these undertakings will constitute SRO rules under the Exchange Act. The NASD and Amex have indicated that there is a likelihood of overlap of Public Governors between the NASD Board and the New Amex Board. The NASD and Amex have agreed through the undertakings, and have represented to the Commission, that not more than three of the nine non-industry governors on the New Amex Board may simultaneously serve as governors on the NASD Board. In this instance only, the term "non-industry" is used to refer to the eight Public Governors on the New Amex Board, as well as to the NASD staff representative who is required to meet the definition of "Non-Industry" as defined in the NASD By-Laws. *See* Amendment No. 2. With respect to those serving on both the New Amex and NASD Boards, the NASD and Amex also have agreed through the undertakings, and have represented to the Commission, that New Amex will implement conflict of interest policies and procedures, consistent with those now in place at the NASD, to address the potential unique issues facing those persons that overlap between Boards. *See* Amendment No. 2.

[19] The Commission notes that the NASD will appoint as one of these representatives a person who is not an employee of and has no material business relationship with a broker or dealer or with the NASD, NASD Regulation, Nasdaq or New Amex, but who may be an officer or employee of an issuer of securities listed on Nasdaq or New Amex or traded in the over-the-counter market. *See* File SR–NASD–98–56, described more fully in Section II.C.3. below.

[20] The NASD, acting through its Board or a Board representative, will cast the vote of the holder of the Class B Interest for all elected governors, including the four Floor Governors.

[21] The initial Amex Committee Floor Members will be nominated by current Amex floor governors on the Amex Board and agreed to by Amex and the NASD prior to the Closing. The remaining initial members of the Amex Committee will be selected by the NASD and agreed to by the NASD and Amex prior to the Closing. The existence of the Amex Committee will begin on the Closing Date. Five of the seven members of the Amex Committee will constitute a quorum for the transaction of business, and the Committee will act by majority vote.

[22] The term "non-industry" is used in the Transaction Agreement. It is intended to mean someone who is neither a broker or dealer in securities nor affiliated with one. Telephone call between James Duffy, Amex, and Michael Ryan, NASD, and Christine Richardson, Commission, on October 29, 1998.

[23] Amex Committee members will be divided into three classes with staggered three-year terms. No Amex Committee member may serve more than two consecutive three-year terms. Vacancies on the Amex Committee will be filled by a person of the same category as the vacating member. Replacements for Floor Members will be chosen by the Floor Governors on New Amex's Board. Replacement members for other Amex Committee members, including the chairman, will be chosen by a majority of the remaining members of the Amex Committee or, in some circumstances, by action of New Amex's Board (including the approval of at least two Floor Governors of New Amex). All replacements will be subject to the approval of the NASD's Chairman, including Floor Member representatives.

The NASD and Amex have agreed through the undertakings, and have represented to the Commission, that neither the member of the Amex Committee described in Section 9.9(a)(i) of the Transaction Agreement nor any of the non-industry members of the Amex Committee (those described in Section 9.9(a)(v) of the Transaction Agreement) will simultaneously serve on the Board of Governors of either the NASD or New Amex. See Amendment No. 2.

The NASD and Amex also have agreed through the undertakings, and have represented to the Commission, that for the purpose of confirming the SEC's jurisdiction over members of the Amex Committee, such persons will be deemed "directors" as that term is used in Section 3(a)(7), and will be deemed directors of an SRO under Section 19(h)(4), of the Exchange Act.

[24] Promptly after receiving a requested consent in writing from New Amex, the Secretary of Amex Corp. will call a meeting of the holders of the Memberships to vote on the requested consent. If, and only if, the required number of Memberships are voted in favor of authorizing the requested consent, the proper officers of Amex Corp. will promptly grant Amex Corp.'s consent to New Amex. Any requested consent will be granted only upon the affirmative vote of a majority of the Amex Corp. Regular Memberships and the Options Principal Memberships voted (as a single class) at a meeting duly called and convened and at which quorum is present.

(approximately six and one-half years after the Closing),[25] New Amex will not make any material market structure change [26] in the equity market without the consent of both Amex Corp. and the Amex Committee. From the fifth anniversary of the Facility Commitment Date until the tenth anniversary of the Closing, New Amex may not make any material market structure changes in the equity market without the consent of the Amex Committee and the Board of New Amex. From and after the tenth anniversary of the Closing, New Amex may not make any material structure change in the new equity market structure without the consent of the Amex Committee; however, an affirmative vote of two-thirds of the entire New Amex Board can override disapproval by the Amex Committee.[27] Similar provisions apply to material market structure changes to the options market.[28] The Amex Committee also has a role in a number of other significant matters, including the acquisition by the NASD of other options or securities exchanges, the timing of the modernization of the New Amex trading facility, and the monitoring of amounts spent on new technology by the NASD for New Amex.[29]

[25] "Facilities Commitment Date" is defined in the Technology Transfer and Development Agreement as the period "[w]ithin six months from the Pilot Program Initiation Date." The "Pilot Program Initiation Date" is defined in the Technology Transfer and Development Agreement as "[b]y the later of nine months form the Closing Date and June 30, 1999."

[26] "Material Market Structure Change" is defined in the Transaction Agreement as "any change or series of changes in the Transaction documents, [New] Amex Constitution, rules or methods of operation of [New] Amex that have the effect of changing in any material way a material element of the new Equity Market structure, as described in Exhibit D, or the Options Market, as existing at the Closing, or in the manner in which a Regular Member or an Options Principal Member is permitted to conduct business in either the new Equity Market structure or the Options Market structure, or the rights or obligations of any such Member in the new Equity Market structure or the Options Market structure. Notwithstanding the foregoing or any other provision herein or in the Exhibits hereto, a change in the market structure specification contained in Exhibit D which, notwithstanding the best efforts of [New Amex and the NASD], is required by the SEC and accepted by the New Amex as described in Section 9.15 [of the Transaction Agreement], shall not be considered a Material Market Structure Change. Any change in the matching procedure (e.g., algorithms) or in the fees provided in Exhibit D shall be deemed a Material Market Structure Change."

[27] *See* Transaction Agreement, Section 9.10.

[28] *See* Transaction Agreement, Section 9.11.

[29] New Amex also must give the Floor Members on the Amex Committee at least ten business days' prior notice before aggregate costs and fees to Floor Members and other floor participants on New Amex can be increased by more than ten percent in any calendar year. A majority of those persons may vote to submit the matter to binding arbitration. Such arbitration will last no more than 30 days and will determine whether the increases were reasonable and fair in light of all relevant factors, including the costs other major securities exchanges charge their Members, the costs historically imposed by New Amex, and changes in the expenses and overall economic performance of New Amex (other than debt service in connection with the $110 million Development Program).

The principal function of Amex Corp., as limited purpose corporation, will be to implement the voting process to obtain the consents necessary for New Amex to take action. All Amex Corp. Members will have equal voting rights and will vote on certain matters together as a single class.

Although the powers of Amex Corp. are limited, Amex Corp. Members will have certain voting and other rights. Notably, New Amex may increase the number of either Regular and Options Principal Memberships only if such action is consented to by Amex Corp. through a Membership vote. In addition, the right to trade on New Amex will continue to be embodied in Memberships which are interests in Amex Corp., although New Amex will have the authority and responsibility to approve transfers of such Memberships and changes in the "approved persons" of a member or member organization.[30] Amex Corp. Members also will have certain preferential liquidation rights, as set forth in the Transaction Agreement.

3. NASD Plan of Responsibility

In File SR–NASD–98–67, the NASD proposed two policies relating to the NASD's responsibilities concerning New Amex and the composition of the Board of Governors of New Amex.[31] Specifically, this proposed rule change sets forth certain principles to guide the NASD in fulfillment of its responsibilities as parent company of New Amex with ultimate responsibility for New Amex's compliance with its statutory responsibilities as a self-regulatory organization ("SRO"). The NASD has represented that it will exercise its powers and its managerial influence to ensure that the New Amex fulfills its self-regulatory obligations by directing New Amex to take action necessary to effectuate its purposes and functions as a national securities exchange operating pursuant to the Act, and ensuring that New Amex has and appropriately allocates such financial, technological, technical, and personnel resources as may be necessary or appropriate to meet its obligations under the Act. Furthermore, the NASD has committed to refraining from taking any action with respect to New Amex that, to the best of its knowledge, would impede, delay, obstruct, or conflict with efforts by New Amex to carry out its self-regulatory obligations under the Act and the rules and regulations thereunder. This filing also provides that the NASD will appoint as one of the two representatives of the NASD staff on the New Amex Board of Governors a person who is not an employee of and has no material business relationship with a broker or dealer or with the NASD, NASD Regulation, Nasdaq or New Amex, but who may be an officer or employee of an issuer of securities listed on Nasdaq or New Amex or traded in the over-the-counter market. The purpose of this change is to ensure compliance with the NASD Delegation Plan, which reflects the requirements of the Commission's Report Pursuant to Section 21(a) of the Act and related order and undertakings, and requires that all boards of NASD subsidiaries equal or exceed 50% non-industry representation in composition.[32]

D. NASD Corporate Governance

Although NASD Members were not required to vote to approve the merger, NASD Membership approval was required to amend the NASD By-Laws to reflect a term of the Transaction Agreement, requiring the inclusion of the Chief Executive Officer of New Amex and one Floor Governor from the New Amex Board on the NASD Board. File SR–NASD–98–56 reflects this proposed change.[33] Inclusion of these New Amex Members on the NASD Board is designed to provide for representation of New Amex, as a subsidiary of the NASD.

[30] There are no changes currently proposed to the rules and policies governing the Membership approval process.

[31] *See* Exchange Act Release No. 40443 (September 16, 1998), 63 FR 51108 (September 24, 1998) (NASD–98–67).

[32] Report and Appendix to Report Pursuant to Section 21(a) of the Exchange Act of 1934 Regarding the NASD and the Nasdaq Stock Market (August 8, 1996) and Exchange Act Release No. 37538 (August 8, 1996) (SEC Order Instituting Public Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions, In the Matter of National Association of Securities Dealers, Inc. Administrative Proceeding File No. 3–9056), respectively. The undertakings were included in the SEC Order. *See also* Exchange Act Release No. 39326 (November 14, 1997), 62 FR 62385 (November 21, 1997) (File Nos. SR–NASD–97–71, 96–29 and 96–20).

[33] *See* Exchange Act Release No. 40339 (August 19, 1998), 63 FR 45547 (August 26, 1998) (NASD–98–56). This filing also proposed an additional position on the Board representing an NASD member firm having not more than 150 registered persons. The portion of SR–NASD–98–56 addressing the small firm Board representative was approved in Exchange Act Release No. 40615 (October 28, 1998).

The NASD Membership approved these changes to the NASD By-Laws. Voting on this proposal closed on September 14, 1998. Of the 2,658 ballots received by the NASD, 2,565 were in favor of the By-Law change, 82 opposed the change, and 11 ballots were received with no vote indicated.

E. Class C Trading Rights

The New Amex Constitution also provides for the creation of up to 25 trading rights that will allow holders to specialize in newly listed securities that they are responsible for bringing to New Amex ("Class C Trading Rights"). Class C Trading Rights will have a limited life and will expire on the earlier of three years from the date of issuance or the fifth anniversary of the Closing. These permits are intended to attract firms that are not currently involved in specialist activity on New Amex to bring substantial new listings to New Amex. Accordingly, holders of Class C Trading Rights only will be eligible to be allocated securities that they bring to New Amex, and they may not operate a joint book with a Regular Member.[34] The New Amex Board will determine when and to whom to issue Class C Trading Rights, and the fees, dues and other charges applicable to such rights. Class C Trading Rights will not be transferable except by reason of a business combination, reorganization or other transfer of all or substantially all of the assets from one member organization to another. Class C Trading Rights may be issued to qualified individuals or organizations who are instrumental in obtaining new listings of securities admitted to dealings on New Amex that are judged by New Amex to constitute demonstrable product. New Amex will exercise its judgment in this matter based on both the quantity and quality of listings brought to New Amex.

F. Discipline

The New Amex Constitution creates the Amex Adjudicatory Council ("AAC") to review appeals of right from Disciplinary Panel decisions (removing the current Board and Executive Committee review).[35] Modeled on NASD Regulation's National Adjudicatory Council, the AAC will consist of six persons, three of whom will be New Amex Floor Governors and three of whom will be New Amex Public Governors.[36] AAC members will be nominated by the Amex Nominating Committee or by independent petition signed by at least 25 Members and will be elected by the Regular and Options Principal Members of Amex Corp. voting together as a single class. AAC members will be divided into two classes. The first class (terminating in 1999) will consist of two Floor Governors and one Public Governor. The second class (terminating in 2000) will consist of one Floor Governor and two Public Governors. Apart from the members of the first class whose terms will expire in 1999, AAC members will be elected to two year terms. Beginning with the class elected in 2000, no AAC member may serve more than two consecutive terms unless the member initially is appointed to fill a term of less than one year, in which case the member may serve up to two consecutive terms following the expiration of the initial term.

Respondents in contested disciplinary proceedings can take an appeal of right to the AAC, and any member of the AAC may require the review of a Disciplinary Panel decision by the full AAC.[37] A quorum of the AAC will be four persons. In the event of a tie vote, the decision that is the subject of the review will be upheld. Proposed written decisions of the AAC in contested proceedings are provided to all members of the New Amex Board.

The New Amex Board will have a discretionary right to review decisions of the AAC. Any four members of the New Amex Board may require Board review of an AAC decision. Ten governors will constitute a quorum at a meeting where a decision by the AAC is reviewed and a majority vote of the governors present at the meeting will be required to modify, reverse or remand the decision. In the absence of such discretionary review by the Board, a decision by the AAC will be the final action of New Amex, and therefore appealable to the Commission.

[34] A specialist holding a Class C Trading Right ("Limited Specialist Trading Right") who then becomes a Regular Member will be considered to have continued his registration as a specialist in the securities allocated to him without any need to submit to a further allocation process.

It is anticipated that holders of Class C Trading Rights generally will not be existing Members of Amex Corp; however, the Commission notes that nothing in the New Amex Constitution would preclude current Amex Corp. Members of availing themselves of this provision.

[35] The Commission notes that the current hearing process for Members requiring a hearing before a Disciplinary Panel is not being changed from the current procedures. *See* New Amex Constitution, Article V. Section .01.

[36] For a description of the National Adjudicatory Council, *see* Article V of the By-Laws of NASD Regulation.

[37] The AAC may review settlements of disciplinary proceedings that have been approved by a Disciplinary Panel. If the AAC rejects the settlement, the matter would proceed before a Disciplinary Panel as if the settlement had never occurred. The AAC may reject a settlement or impose a lesser penalty upon a respondent; it cannot increase the penalty. AAC decisions to reject a settlement would not be subject to Board review. AAC decisions with respect to settlements (other than rejections) would constitute the final action of New Amex.

G. Arbitration

With regard to New Amex's arbitration program, the New Amex Constitution provides that any arbitration filed prior to the Closing will be conducted by means of the arbitration facilities and procedures that existed as of the date the arbitration was instituted. Actions filed *following* the Closing will be conducted pursuant to the NASD Code of Arbitration Procedure using the arbitration facilities of NASD Regulation, Inc., although an existing Amex provision is preserved allowing use of the New York Stock Exchange arbitration procedures if all parties to the controversy are members there. Certain portions of Amex's arbitration procedures, including that which permits the Board to decline to permit the use of New Amex's arbitration facilities in particular cases, and that which permits arbitration before the American Arbitration Association in certain circumstances, will be deleted in view of the complete assumption by NASD Regulation of New Amex's arbitration program and the adoption of the NASD Code of Arbitration Procedure.

The New Amex Constitution also states that a failure on the part of persons within New Amex's jurisdiction to pay an arbitration award of any exchange or the NASD, shall be deemed a failure to meet his or its engagements and subject him or it to suspension under Article V, Section 3 of the New Amex Constitution.

H. Seat Market Program

The Transaction Agreement provides that a Seat Market Program for Regular and Options Principal Memberships will begin immediately after the Closing. This program is intended to moderate possible downside volatility in seat prices following the Closing. The NASD has committed to fund this program, but no "trust" or other segregated fund will be created. Immediately after the Closing, the NASD will commit $30 million for this program. On January 1, 1999, the NASD will increase its commitment by $10 million. New Amex will fund this $10 million increase to the extent that its 1998 earnings allow, and the remainder will be funded by the NASD.[38] The

[38] In addition, the NASD will: (1) increase its commitment by any after-tax net proceeds received from leasing Regular or Options Principal Memberships purchased under the program; (2) increase or decrease its commitment, as the case may be, by the after-tax profit or loss realized from reselling such Memberships; (3) decrease its commitment by the payments or expenditures pursuant to the program (other than payments or

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liquidation, dissolution or winding up of New Amex will not affect the NASD's funding commitment under the Seat Market Program.

The Transaction Agreement provides for control of the program by a six-member seat committee (the "Seat Committee"). The Seat Committee will be composed of three Regular or Options Principal Members (at least one who is active on the floor of New Amex and one who is not active on the floor), two Public Members, and the NASD's Chairman (or his designee). The Regular or Options Principal Members on the Seat Committee may not be from large multi-service broker-dealer firms.

The Floor Governors of New Amex will choose the Regular or Options Principal Members to serve on the Seat Committee, and will fill vacancies in those three positions, subject to approval by the NASD Chairman. The other members of the Seat Committee will be chosen, and vacancies filled, by the NASD's Chairman.

During the Seat Market Program, the NASD must purchase Regular and Options Principal Memberships, as and if directed by the Seat Committee. Memberships held or leased by the NASD may not be voted. The NASD may sell or lease Memberships purchased under the program, and net proceeds will be returned to the program.

On or soon after the fifth anniversary of the Closing, the Seat Committee may recommend that the NASD apply up to $30 million of the funds in the Seat Market Program as: (1) Distributions to Members, (2) reductions in New Amex fees, or (3) investments in technology for New Amex (which will not count toward the $110 million Development Program). The Seat Committee also may recommend that no fund amounts be spent on any of these choices. Every two years after the fifth anniversary of the closing, the Seat Committee can recommend that the balance of the commitment be applied in one or more of the ways described above.

Each of these Seat Committee recommendations will require the consent of Amex Corp. Upon receiving a Seat Committee recommendation, Amex Corp. must put the matter to a vote of its Members and give its consent if, and only if, authorized by the affirmative vote of a majority of the Regular and Options Principal Memberships voted (as a single class) at a meeting called for the purpose of considering the Seat Committee's recommendation. If it receives Amex Corp.'s consent, the NASD must comply with the Seat Committee's recommendation. If the Seat Committee's recommendation is not approved, the Seat Committee must make a new recommendation.[39]

In the case of any vote on the distribution of funds to Members,[40] the Regular and Options Principal Members of Amex Corp. will vote as separate classes on whether to approve the proposed allocation of the distribution between Regular and Options Principal Members. If either class of Members fails to approve the proposed allocation, the Seat Committee will appoint an arbitrator to decide an equitable allocation between the two classes.

I. Gratuity Fund

Certain changes are being made in the Constitution with regard to New Amex's Gratuity Fund.[41] Specifically, new language is being added to provide for proportional credits to each participant[42] in reduction of such participant's payments under Article IX in the event the Gratuity Fund receives any extraordinary payment from any source. The Trustees of the Gratuity Fund will be appointed by Amex Corp. following a vote by the Regular and Option Principal Members. This will essentially maintain the current process by which trustees are nominated and elected in the same manner, and at the same time, as governors of Amex. In the even of a vacancy, the Board of Amex Corp. will appoint a person qualified to serve as Trustee until the next meeting at which the Trustees to be appointed are selected. Currently, the Amex Board fills any vacancy, pending the next annual election. These procedures are consistent with procedures in the New By-Laws of Amex Corp. that provide for the election by Members of Amex Corp. of Trustees of the Gratuity Fund, as well as the Amex Nominating Committee, Amex Adjudicatory Council, and nominees for Floor Governors to serve on the New Amex Board.

J. Miscellaneous Provisions

The transaction also requires that several miscellaneous changes be made to the New Amex Constitution. For example, New Amex Constitution deletes language excepting the Amex Nominating Committee from among the committees that may be dissolved by the New Amex Board. In addition, the New Amex Constitution deletes references to the Executive Committee since New Amex, at least initially, will not have such a committee. The New Amex Constitution provides that the Chief Executive Officer of New Amex, who is the Chairman of the Board, will be elected by a majority of the entire Board. The New Amex Board will have only one Vice Chairman who must be a Floor Governor. The New Amex Constitution eliminates the section of the "Selection of General Counsel" in its entirety.

The New Amex Constitution eliminates the New Amex Chairman's status as an ex-officio member of all committees and further clarifies that the Chairman is not a member of certain committees (*e.g.*, the AAC). The New Amex Constitution also provides that the New Amex Chairman is required to call a special meeting of the Board upon the written request of three rather than four governors (reflecting the reduced size of the Board). The Chairman will no longer be permitted to call special meetings of regular members upon the direction of the Board or upon the written request of 50 regular members.[43] The position of "Executive Vice Chairman" is being eliminated as unnecessary.

The New Amex Constitution eliminates in its entirety the section on "Indemnification." Indemnification by New Amex of persons associated with it (*e.g.*, Governors, officers and employees) is covered through the provisions in the LLC Agreement.

The New Amex Constitution also will reduce the number of Regular Memberships from 675 to 661 to reflect the fact that only 661 Regular Memberships currently are outstanding. (675 Memberships had been authorized, but only 661 were issued.)

The New Amex Constitution also will provide that any Regular Member or lessee, by exercising any of the rights inherent in a regular trading right, shall be deemed to have pledged to abide by the New Amex Constitution. A similar provision will be applicable to Options Principal Members or lessees. The purpose of these provisions is to clarify that existing Members will continue to be subject to the jurisdiction of New Amex.

A New Amex Constitution provision concerning "Exchange Liability" will reflect the fact that New Amex provides services as well as facilities to its members.

The New Amex Construction will provide a procedure by which Members may challenge New Amex staff determinations. The appeal procedure will be clarified to eliminate the possibility of a review by a New Amex Disciplinary Panel which properly should consider only rule violations and not New Amex staff determinations.

The New Amex Constitution provision concerning "fixed income security options trading permits" and "options trading permits" will be deleted in its entirety since both of these classes of trading permits have expired. The provisions regarding Limited Trading Permits ("LTPs") will reduce the maximum number of such permits from 36 to 10 to reflect the fact that there currently are only 10 outstanding.

The New Amex Constitution provision concerning "Fees and Duties" will provide flat rate initiation fee of $2,500 for Regular and Options Principal Members. This fixed initiation fee replaces the former graduated initiation fee schedule that has become obsolete with the increase in seat prices. (The old formula established a base initiation fee of $1,000 that increased to a maximum of $2,500 when seat prices rose above $20,000.) Certain other additional obsolete provisions also will be deleted from this section.

Furthermore, the New Amex Constitution will make explicit the implicit authority of the New Amex Board to set different charges for different services and securities. Such charges will be subject to filing with, and under certain circumstances approval by, the Commission.

The New Amex Constitution will conform to the current Amex employee trading policy, which allows employees to trade standardized options issued by the Options Clearing Corporation unless such options are on an underlying security listed on the Amex.

The New Amex Constitution will now provide a provision concerning "Authority to Take Action under Emergency or Extraordinary Market Conditions" that will be comparable to Article VII, Section 3 of the NASD's By-Laws. In addition, the Amex Constitution currently references emergency by-laws under Subdivision 17 of Section 12 of the New York State Defense Emergency Act and to the effectiveness of emergency by-laws of New York Corporations. These references will no longer be appropriate to New Amex, as a Delaware Limited Liability Company.

Several necessary changes are being made to Amex Rules 345, 590 and 600 in order to make the rules consistent with the terms of the transaction and the New Amex Constitution.

III. Summary of Comments

The Commission received one comment letter from Bill T. Singer ("Singer"), who wrote on behalf of the Independent Broker-Dealer Association ("IBDA").[44] The NASD submitted a letter responding to the Singer Letter.[45]

A. NASD/Amex Consolidation Issues

Singer is concerned that NASD members were not allowed to vote on the substantive details of the merger and were not given copies of the merger transaction agreement. According to Singer, the ballot submitted to the NASD members did not contain any details about the merger. Instead, the ballot merely asked the members to approve changes to NASD by-laws affecting the composition of the Board of Governors. Singer also contends that the NASD, which did not seek membership approval of the merger, failed to meet the fair representation provision of Section 15A(b)(4) of the Act. Based on this contention, he asks whether the Commission will meet with individual constituencies of NASD members prior to approving the merger. Further, he questions whether the proposed rule change is consistent with the Act because the NASD failed to seek member comments about the merger.

In response, the NASD asserts that whether the merger should be approved by the membership is a matter of state corporate law and the NASD's certificate of incorporation. The NASD states that it is incorporated in Delaware and that the Delaware law does not require the NASD Board to submit the merger to membership approval. Additionally, the NASD maintains that neither the NASD's certificate of incorporation nor its by-laws requires it to submit the merger to membership approval.

The NASD also contends that its members were indirectly given the opportunity to approve the merger through their vote on a change to the NASD's by-laws to add two new Board seats,[46] a change that was necessary for the Closing to occur. According to the NASD, the members overwhelmingly approved the merger with a vote of 2,565 for and 82 against the addition of the new seats.

Additionally, Singer is concerned about the merger's effect on competition between the various markets, noting that the consolidation might increase listing fees for issuers and reduce the NASD's incentive for market innovation. Moreover, after the merger, Singer feels that the NASD might forsake its traditional role as a market for developing companies and an

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expenditures for purchasing Memberships under the program); and (4) increase its commitment by imputed interest at an annual interest rate of five percent on the amount of the commitment, for the first five years after the Closing, and on the difference between the amount of the commitment and the aggregate purchase price of all Memberships purchased under the program during the period they are held by the NASD, after the fifth anniversary of the Closing.

[39] In *Selmo Philipson* v. *American Stock Exchange, et al.*, 98 Civ 4219 (DC), United States District Court, Southern District of New York, filed as a class action, plaintiff challenged the transaction between the Amex and the NASD on several grounds. The NASD and the Amex have negotiated an agreement in principle for the settlement of this litigation which provides that the Seat Committee shall consider, 18 months and 36 months after the Closing, whether half of the NASD's initial $30 million commitment to the Member Equity Program should be distributed to owners of Membership interests, used to reduce New Amex fees, or invested in technology for New Amex, rather than continuing to be held for the purchase of seats. After five years, any remaining portion of the initial $30 million commitment must be used for one of these purposes. In addition, the agreement provides that the NASD shall contribute to a separate fund 15% of any amount by which New Amex's annual after-tax income in each of the first ten years after the Closing exceeds a specified base amount. A committee consisting of three Members of New Amex and the Chairman of the NASD will determine whether this fund shall be distributed to owners of Membership interests, invested in technology for New Amex, or used to fund pension or retirement benefits for owners of Membership interests. The proposed settlement is subject to execution of a formal settlement stipulation, which will then be subject to court approval following notice to all members of the plaintiff class.

It is the view of Amex that, once court approval is received, the terms of the settlement can be implemented without the necessity of further amendment of the Transaction Agreement or any further approval from the Commission. Telephone call between James Duffy, Executive Vice President and General Counsel, Amex, and Michael Walinskas, Deputy Associate Director, Commission, on September 10, 1998.

The Commission notes that this information has been provided to the Commission for informational purposes only. Neither Amex nor the NASD have requested the Commission to approve this in the context of this rule filing or otherwise.

[40] If the Seat Committee's recommendation is other than that funds be distributed to Members, and two or more Floor Governors of New Amex disagree with that recommendation, they may require Amex Corp. to call for a vote of Members. In this case, the Regular and Options Principal Members, voting as a single class, will decide between (i) implementing the Seat Committee's recommendation and (ii) making a cash distribution to Members, in an allocation between Regular and Options Principal Members as proposed by the Seat Committee Floor Members. If two-thirds of the Regular and Options Principal Memberships voted (as a single class) at a meeting called for the purpose of considering the matter approve the distribution, the Seat Committee will direct the NASD to make such distribution.

[41] For a description of the Gratuity Fund, *see* New Amex Constitution, Article IX, Section 2.

[42] Participants to the Gratuity Fund include Regular and Options Principal Members, as well as owners, nominees, lessors and lessees of Regular and Options Principal Memberships who satisfy certain eligibility requirements. *See* New Amex Constitution, Article IX, Section 1(e).

[43] Amex believes that this change is appropriate given that Amex members will no longer be corporate owners of Amex after the Closing. Instead, Holdco and Amex Corp. will be the corporate owners of New Amex. Any meeting of Members will be conducted under the By-Laws of Amex Corp. in the circumstances specified therein and would not be governed by the New Amex Constitution.

[44] *See supra* note 8.

[45] *See supra* note 9.

[46] The By-Law change adds two Board positions: one for the Chief Executive Officer of New Amex and one for a Floor Governor from the New Amex Board.

association of independent/regional members.

In response, the NASD believes that the combination of the two markets will provide a more efficient mechanism for trading at lower costs. Furthermore, the NASD notes that the Antitrust Division of the Department of Justice reviewed the transaction for anticompetitive effects, and did not object. In sum, the NASD believes these benefits will improve the markets for investors, issuers, and NASD members.

Singer also asserts that the proposed operation of New Amex as an independent subsidiary poses significant issues. First, he maintains that the independent operation of New Amex might result in a loss of economy of scale and entail additional costs. The NASD, however, believes that the application of its modern technology to the New Amex market facilities will provide significant scale economies and result in cost savings for investors and traders. Second, Singer is concerned about how the NASD will decide between Nasdaq or New Amex when allocating listings. He also feels that issuers who would normally list on Nasdaq might choose New Amex instead. According to Singer, this choice could reduce the trading revenue of NASD market makers.

The NASD responds by asserting that, after the merger, NASD market makers will have greater access to the two markets at lower costs. The NASD also believes the creation of multiple market venues will provide market choices for issuers and additional business opportunities for NASD member firms who underwrite securities.

B. Financing the Merger

Singer notes that the NASD does not explain how it will finance the $30 million seat stabilization program. He believes that the money might be better spent on the improvement of NASD technology or the hiring of additional NASD employees. Furthermore, Singer observes that the NASD does not explain how it will finance the upgrade of Amex's technology. In both the seat stabilization plan and the technology upgrade. Singer fears that the NASD will assess its members with the costs. He believes that, although all NASD members will shoulder the burden of transferring resources to New Amex, most members will not receive anything in return.

The NASD responds by maintaining that its Board, after careful consideration of the transaction, found that the transaction was fair to the Association and in the best interests of its members. Moreover, the NASD contends that the money spent on upgrading Amex's technology will benefit all of the NASD's members, and that the increased technological capabilities will reduce costs for members trading on both the Nasdaq and Amex markets.

In addition, Singer suggests that the prior improper conduct of major Nasdaq market-makers might have contributed to the weakening of the Amex market. If this weakening did occur, then Singer believes that the major Nasdaq market-makers should bear the cost of the merger.

C. Regulatory and Other Concerns

Singer suggests that independent/regional members recently have experienced difficulties in securing permission to make markets in or to underwrite OTC Bulletin Board or Nasdaq Small Capitalization Issues. Because of these difficulties, Singer asks whether new NASD and Commission regulatory initiatives will further restrict these members' abilities to facilitate transactions in smaller capitalization issues. Singer also raises other general concerns about the merger.[47]

IV. Discussion

The Commission believes that Amex's proposed rule changes are consistent with Section 6(b)(3), 6(b)(5), and 6(b)(8) of the Act in that they are designed to assure a fair representation of an exchange's members in the selection of its directors and administration of its affairs and provide that one or more directors shall be representative of issuers and investors and not be associated with the exchange, broker, or dealer; to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest; and do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Commission also finds that the NASD's proposed rule changes are consistent with Sections 15A(b)(6) and 15A(b)(9) of the Act in that they are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest; and do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[48]

The proposed merger offers the promise of important benefits to the public. Specifically, the merger should help improve the competitiveness of New Amex's auction market by making it a more efficient, technologically advanced alternative to other exchange auction markets. This technological advance should increase competition between existing markets to improve their marketplaces in order to be able to offer the best available market trading mechanisms at the lowest cost. Of particular note, the proposed future introduction of a new electronic limit order book providing automatic execution for electronically delivered orders may offer a more efficient and lower-cost auction market for Amex equities.

The Commission disagrees with the argument made by the commenter that the merger is likely to have anticompetitive effects, particularly the possibility of higher listing fees for issuers and a reduced incentive for NASD market innovation. The Commission does not believe that listing fees were a primary form of competition between Amex and Nasdaq in the past; rather, competition focused on market structures, quality of executions and services. These alternative choices still remain between Nasdaq and Amex. Moreover, New Amex would need to file any proposed fee increases with the SEC pursuant to a rule filing that must meet the requirements of the Act. With regard to a possible reduction in market innovation, the Commission believes that the competition presented by the New York Stock Exchange and the regional exchanges provides a more than adequate incentive for the NASD and New Amex to each continue finding ways to create better markets. Moreover,

[47] For example, Singer expresses concern about the recent exodus of senior Commission staff to the NASD, Nasdaq market makers, and private firms. He feels that these groups might have greater access to the Commission and the merger approval process because of their ties with the Commission. Singer also notes that NASD Chairman Frank Zarb and Chairman Levitt were former business partners.

[48] In approving this rule, the Commission notes that it has considered the proposed rules' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

the Commission emphasizes that the initial combination between the NASD and Amex will not result in the closure of any equity or options markets. Indeed, it is expected that New Amex and Nasdaq will remain as separate markets and each will retain their separate listings and offer different market features. The Commission notes that the transaction will not result in a combination of the Amex equity and options floors and Nasdaq, but rather results in a change of ownership of Amex. The basic market structure of Amex and Nasdaq will remain unchanged.

In addition to increased competition, the Commission observes that the proposal should help improve both the Amex and NASD marketplaces by combining the strengths of the two organizations, to the benefit of the markets and investors. Under the terms of the transaction, Amex will receive an infusion of new capital that will allow it to upgrade its trading facilities and technology. This should enable Amex to increase its trading capabilities, and remain competitive with other auction-based equity and option markets, possibly attracting new listings and increasing volume. The Commission also believes that the NASD, by gaining control of an established options exchange and a specialist-based auction market that complements Nasdaq, its dealer-based equity market, will be able to offer issues and investors greater choice in where to list and where to invest.

A. Transfer of Section 6 Registration

As a general matter, the Commission does not view registration as a national securities exchange under the Act as an asset that is freely transferable or that can be bought and sold. Based on the unique facts and circumstances presented by this proposal, however, the Commission believes it is reasonable under, and consistent with, the Act for Amex effectively to transfer its Section 6 exchange registration to New Amex. The Commission notes that, except for the changes currently proposed to the Amex Constitution and Rules, the Constitution and Rules of New Amex will remain unchanged from those of existing Amex. In addition, the Amex Corp. Members will be the same as the current Amex Members, and the operation of the floor of the exchange will remain unchanged. If New Amex were not permitted to, in effect, succeed to the registration of Amex, it would have been forced to undertake the full process of reregistering, including refiling its entire Constitution, its By-Laws and Certificate of Incorporation, as well as all of its current Rules. In addition, New Amex would have had to submit a complete explanation of New Amex and its operations, its listing and membership forms and requirements, consolidated and unconsolidated financial statements, a list of all members and member organizations, and a list of all the securities listed on New Amex or traded pursuant to unlisted trading privileges. This process would have added little of value to the review previously given to these matters in filings made under Section 19 of the Act and Rule 19b–4 thereunder. The 19b–4 rule filing process has afforded essentially the same opportunity for public notice and comment and Commission review as would have been provided by a New Amex application for exchange registration. Accordingly, on the facts presented here, the Commission has not required Amex to deregister as a national securities exchange and New Amex to file an application for exchange registration.

B. Corporate Structure—Regulation of New Amex and Amex Corp. Members

The Commission believes that the framework of the proposal provides for sufficient regulatory oversight of Amex Corp. Members and the operation of New Amex as an SRO, as required by the Act. The Commission notes that New Amex, as a registered SRO under Section 6 of the Act, will have the statutory authority and responsibility to, among other things, discipline its Members, amend its Constitution and Rules (subject to the consent of the NASD, the parent company), list and delist securities, and grant or deny Membership in New Amex.[49]

The Commission notes that Amex Corp. Members are subject to the jurisdiction of New Amex through the provisions of the New Amex Constitution. Members (both Regular and Options Principal) are defined in the New Amex Constitution as those persons holding trading rights issued by Amex Corp. which grant them the right to transact business on the floor of New Amex. The New Amex Constitution states that by exercising the trading rights on the floor of New Amex, both the Amex Corp. Regular and Options Principal members have pledged to abide by the New Amex Constitution and all the rules and regulations (or orders, directives or decisions) adopted pursuant to the New Amex Constitution.

C. NASD Ownership and Responsibility

The Commission believes that the proposal adequately addresses the role of the NASD, as the parent corporation, in the operation of New Amex. Particularly, the Commission finds it critical to the proposal that the NASD, as the parent company with a controlling interest in New Amex, has committed to ensuring that New Amex meets its obligations as an SRO. It has been represented that the NASD will bear ultimate responsibility to ensure that New Amex meets its statutory obligations and that the necessary and appropriate resources are available to New Amex so that it can meet the evolving demands of operating a regulatory and compliance program in an advanced marketplace.[50] The acceptance of this responsibility is entirely appropriate given the management and financial control held by the NASD as a result of the terms of the merger. In order to codify this responsibility, the NASD submitted a filing which states that the NASD, as the parent company of New Amex, will be responsible to ensure that New Amex meets its obligations as a self-regulatory organization. It will be the policy of the NASD that in discharging this responsibility the NASD will be governed by the following principles: The NASD will exercise its powers and its managerial influence to ensure that New Amex fulfills its self-regulatory obligations by directing New Amex to take action necessary to effectuate its purposes and functions as a national securities exchange operating pursuant to the Act, and ensuring that New Amex has and appropriately allocates such financial, technological, technical, and personnel resources as may be necessary or appropriate to meet its obligations under the Act. Finally, the NASD has also committed to refrain from taking any action with respect to New Amex that, to the best of its knowledge, would impede, delay, obstruct, or conflict with efforts by New Amex to carry out its SRO obligations under the Act, and the rules and regulations thereunder. The Commission believes it is reasonable and consistent with the Act for the NASD, as parent company and controlling owner, to make these commitments. Indeed, the adoption of this policy statement, which shall constitute a rule of a self-regulatory

[49] The Commission notes that the present filing is silent as to whether it is the intention of the NASD and New Amex to consolidate SRO functions. A consolidation of SRO functions potentially raises important issues under the Exchange Act. The Commission notes that if Amex were to propose any changes to consolidate its SRO functions and have them performed by the NASD (or any other party) it should notify the Commission prior to implementing such change, so that the Commission may determine if a rule filing is necessary.

[50] *See* Transaction Documents, Information Memorandum, pp. 14 and 40.

organization under the Act enforceable by the Commission pursuant to Section 19 of the Act, is a necessary component to the Commission's determination that the submitted proposals are consistent with the Act.

D. New Amex Corporate Governance

The requirement of Section 6(b)(3) of the Act that the rules of an exchange assure a fair representation of its members in the selection of its directors and administration of its affairs and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer is designed to ensure in a traditional exchange structure that a member has a voice in the use of self-regulatory authority that may affect the member. This requirement, among other things, also helps ensure that the member's financial stake in its seat and the structure of the market is considered in the decisions of the exchange, and it protects members from unfair, unfettered disciplinary actions under the rules of the exchange. Although the terms of the merger provide the NASD with ultimate control over New Amex, the merger has been structured to satisfy the principles of fair representation in several ways.

1. New Amex Board Composition

The Commission believes that the composition of the New Amex Board of Governors ("New Amex Board") is consistent with Section 6(b)(3) of the Act in that it provides for fair representation of its members in the selection of its directors and administration of its affairs and provides that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer. First, nine of the eighteen New Amex Board members are "public" representatives who are not affiliated with the securities industry, and no more than three of these nine non-industry governors may serve on both the New Amex and NASD Boards.[51] Second, the proposed New Amex Constitution provides the Amex Corp. Membership the opportunity to select member representatives on the New Amex Board by granting Amex Corp. The authority to nominate the four New Amex Board members that are Floor Governors, one of whom must be an equity specialist and one whom must be an ROT. Floor Governor nominees would be proposed by either the Amex Nominating Committee (consisting of three Floor Members and two Public Members) or a petition signed by 25 Members and would be selected by a plurality of the Amex Corp. Regular and Options Principal members voting together as a single class. The Amex Corp. Membership elects the members of the Amex Nominating Committee, which is an Amex Corp. committee under the By-Laws of Amex Corp.[52] The Commission believes that these nominating procedures for Member representatives on the New Amex Board should help ensure that the diverse interests of Floor Members are represented. The Commission notes that even though the NASD must approve the Floor Governors, it can reject the nominees only on specific regulatory grounds.[53] In addition, the proposed rule change provides that the Vice Chairman of the New Amex Board must be a Floor Governor. The Commission also believes it is appropriate for the New Amex Board members to be divided into classes to ensure that the terms of all the Floor Governor New Amex Board members and the public New Amex Board members do not expire at one time, and for New Amex to establish limits on the number of consecutive terms a New Amex Board member can serve.

Additionally, the Commission believes that inclusion of one New Amex Floor Governor and the Chief Executive Officer of New Amex on the NASD on the NASD Board as representatives of New Amex helps fulfill the fair representation requirements of the Act on the part of New Amex. The New Amex Floor Governor is nominated by the Amex Corp. Membership and will be able to most directly express their viewpoint and concerns within the NASD Board forum. In addition, the Chief Executive Officer of New Amex will be able to provide information about, and communicate the needs of, New Amex to the NASD Board.

Under the proposed corporate structure, there is the potential for members of the boards of the NASD or one of its other subsidiaries and New Amex to overlap. The Commission believes that such overlap presents potential conflicts. Conflicts could occur notwithstanding that each Board member must vote in the best interests of the entity on whose board he or she is sitting at that time. For example, a dual Board member could be asked to vote on whether or not to allocate money to New Amex operations. As a New Amex Board member, he or she could conclude that it is in the best interest of New Amex to allocate the funds. However, as an NASD Board member, he or she could conclude that the money would be better spent on the NASD, or Nasdaq. The Commission believes that the limitation of three non-industry board members who can serve on both the NASD Board and the New Amex Board, coupled with New Amex's assertion that it will implement conflict of interest policies and procedures to address potential unique issues facing governors serving on both boards, adequately addresses the issue.

2. Protection of Amex Membership Interests

The Commission believes that the proposal provides for fair representation and participation of the various types of Amex Corp. Members in the governance and operation of New Amex. Although the NASD has majority control over New Amex, several important structures are provided to better ensure that the interests of Amex Corp. Members are adequately represented in the critical decisions regarding New Amex. This is accomplished by requiring consent of either Amex Corp. (through a Membership vote), the Amex Committee, or both, in situations impacting certain Membership interests or material changes to New Amex, as described above in Section II.C.2. Additionally, the Commission believes that even after the expiration of the express limits on changes to the New Amex structure, the authority exercised by the Amex Committee provides on an ongoing basis for significant member and public input, representation, and participation in the operation of the equity and options markets and the development of new trading facilities on New Amex. The Commission notes that no member of the Amex Committee designated as either a non-industry member or an "upstairs" member may overlap with the NASD or New Amex Boards. The Commission believes that this limitation is appropriate to help avoid potential conflicts of interest for Amex Committee members in the exercise of their duties and to preserve their independence. The Commission believes that the Amex Committee should adequately represent the interests of Amex Corp. members as it exercises its specific powers.

The Commission believes it is appropriate for the Amex Corp. members, through the Amex Committee, to have a vote in contemplated changes to the basic structure and operation of Amex's equity and options trading floors, including the amount of money spent by the NASD to upgrade the technology used on the floor, as well as certain increases in member fees, because these areas affect the operation of the trading floor and financial burdens imposed on the Amex Corp. Membership. The Commission also believes that it is import for Amex Corp. Members to have a degree of control over the areas of new memberships, changes to the basic market structure, and amendments to the New Amex LLC agreement because they implicate the value of member seats and member's trading rights on the Amex floor, as well as New Amex's authority as contained in the LLC agreement. Without these powers, New Amex and the NASD would have the authority to take steps to dilute Amex Corp. Memberships and restructure the basic trading structure on the equity and options floors, and Amex Corp. members would have little influence over the imposition of fees upon themselves.

Although the Commission recognizes the need for the Amex Committee, it also believes that the Amex Committee will be performing certain functions similar to those performed by the board of New Amex, a registered self-regulatory organization. For example, the Amex Committee has the right to review and veto changes to the structure and operation of Amex's equity and option trading floor, as well as any changes that would implicate the value of member seats and member trading rights. Because the Amex Committee will be performing important functions with respect to the board of an SRO, as a material condition to this order of approval the Commission is deeming the members of the Amex Committee to be "director[s] of [a] self-regulatory organization" for purposes of Commission oversight. Exchange Act Section 19(h)(4).[54]

3. Disciplinary Process

The Commission believes that proposed rule changes to the disciplinary process for New Amex are consistent with the requirement of Section 6(b)(7) of the Act that the rules of an exchange provide a fair procedure for the disciplining of members and persons associated with members because the process, as proposed, provides for review of all disciplinary matters by a committee composed of both Amex Corp. Members and public representatives. The Commission notes in particular that the AAC, which is empowered to act for the full New Amex Board in reviewing appeals from disciplinary proceedings, is composed of three Public Members and three Floor Governors, all of whom are nominated by the Amex Nominating Committee (or by petition signed by twenty-five Members) and elected by a full Amex Corp. Membership vote. In addition, all respondents in contested disciplinary proceedings have the right to appeal the decision of a Disciplinary Panel to the AAC, and all decisions of the AAC are appealable to the Commission (or by the full New Amex Board, if at least four Governors desire such review).

E. Seat Market Program

The Commission believes that the Seat Market Program, run by the Seat Committee, is a reasonable means to help protect the value of Amex Corp. Member seats from any downside volatility that may occur as a result of the merger.[55] The Seat Program may help protect the value of member seats by authorizing the NASD, upon a recommendation from the NASD Seat Committee, to buy Memberships. In addition, the Seat Market Program also provides additional monetary benefits for Amex Corp. Members in that the Seat Committee may recommend that the NASD apply the Seat Program funds to reduce fees, invest in technology for New Amex, or distribute the funds to Members.[56] A Seat Committee recommendation that is approved by a majority vote of all Amex Corp. Members voting as a single class must be complied with by the NASD.

F. Class C Trading Rights

The Commission believes that the creation of Class C Trading Rights is reasonable in that it may serve to encourage new firms to bring new listings to New Amex without having to become full Members. The Commission believes that the creation of Class C Trading Rights should not harm the value of full Membership seats because they are of limited duration (expiring on the earlier of three years from the date of issuance or the fifth anniversary of the closing), are limited in number (25), and the owner of the right is not allowed to operate a joint book with a regular member. The Commission notes that any person holding a Class C Trading right would still be bound by New Amex Rules relating to the obligations of and restrictions on specialists, including Rule 190 regulating specialist relationships with the issuer of a stock in which that specialist is registered and Rule 170 and procedures adopted thereunder for the evaluation of specialist performance and imposition of non-disciplinary sanctions, including reallocations for unsatisfactory performance.

G. NASD Compliance With the Act and Its Rules

In response to the commenter's concern that the members of the NASD neither received any detailed information on the terms of the transaction nor had the opportunity to approve or disapprove the substance of the transaction, the NASD represented that it followed proper corporate governance procedure in approving the transaction and was not required to submit the transaction to a full NASD membership vote. The Commission believes there was adequate notice and opportunity for comment on the substance of the current proposals because the Commission published the substance and terms of each of the three proposals for the full notice and comment period. The request for comments was highlighted on the Commission's website,[57] and was published in the **Federal Register**. The NASD Board, which has the authority to approve the transaction on behalf of its members, determined that the

[51] Eight public governors are nominated by the NASD Nominating Committee, and one of the two NASD representatives on the New Amex Board is a person that meets the qualifications of Non-Industry Governor as defined under NASD rules.

[52] In addition, the members of the Amex Nominating Committee are also divided into two classes, with a public member in each class, whose terms expire at different times. Persons on the Amex Nominating Committee cannot serve consecutive terms and no one affiliated with a member of the Amex Nominating Committee can be eligible as a candidate for a ticket named by it.

[53] The NASD can reject the Floor Governor nominee only if the nominee is (1) subject to a statutory disqualification, or (2) subject to a proceeding or investigation which could result in a statutory disqualification, or (3) has been disciplined by a securities SRO with respect to a matter involving fraud or a serious violation of U.S. securities laws.

[54] See also Exchange Act Section 3(a)(7) ("The term 'director' means any director of a corporation or any person performing similar functions with respect to any organization, whether incorporated or unincorporated."). The joint letter from the NASD and Amex, dated October 29, 1998, amending the Amex rule filing acknowledges and accepts the Commission's interpretation: "For the purpose of confirming the SEC's jurisdiction over such persons, the members of the Amex Committee shall be deemed 'directors' as that term is used in section 3(a)(7), and shall be deemed directors of a self-regulatory organization under Section 19(h)(4), of the Exchange Act."

[55] The Seat Committee is composed of three members (at least one who is active on the New Amex floor and one who is not, none of whom can be from multi-service broker-dealer firms), two Public Members and the NASD's Chairman. The initial and replacement Regular and Options Principal Members will be chosen by the floor governors on the New Amex Board and must be approved by the NASD's Chairman. The remaining initial and replacement members will be chosen by the NASD's Chairman.

[56] The Seat Committee can also recommend that no money be spent at a particular time.

[57] See www.sec.gov.

transaction was fair to the NASD and in the best interests of its members.[58]

H. Miscellaneous

The Commission believes that it is consistent with the Act to amend the language of Article IX, Section 10 of the New Amex Constitution to provide specifically for the appointment of Trustees of the Gratuity Fund by the Amex Corp. Membership. Currently, the Trustees are appointed by the Amex membership, but the wording of Article IX, Section 10, which states that they are appointed in the same manner as the Amex governors, will not remain the same under the proposal. The Commission also believes it is reasonable to provide that the Amex Corp. Board will appoint interim replacement Trustees, rather than the New Amex Board, in order to allow for member input. Additionally, the Commission believes it is consistent with the Act to provide that in the event of an extraordinary payment received by the Gratuity Fund, a proportion of such payment shall be credited to each participant in reduction of his or her payments under the Gratuity Fund.

The Commission believes that the proposed rule change eliminating Amex's arbitration program and referring cases to the NASD is consistent with the Act because it will maintain a fair arbitration forum available for all Amex arbitration claims, despite Amex's small caseload, which may not sustain an independent program. Merging the Amex program with the NASD arbitration program, the industry's largest, takes advantage of economies of scale. The Commission also believes that procedurally the proposed rule change should adequately ensure that all arbitration cases that would be subject to Amex's arbitration process will be provided for under the NASD's arbitration program. The proposed rule change also provides for adequate enforcement in that any violation of the NASD's Code of Arbitration Procedure by Amex Corp. Members would be considered a violation of New Amex rules, subjecting the violator to New Amex disciplinary action.

The Commission believes that it is consistent with the Act to amend Section 1(e) of Article IV of the New Amex Constitution relating to New Amex liability to reflect the fact that New Amex provides services as well as facilities to its members. The Commission notes that it approved a similar change to the Chicago Board Options Exchange ("CBOE") liability provisions.[59] The Commission also believes it is reasonable for Amex to delete Article II, Section 5 of the Constitution, Indemnification, because the LLC Agreement provides for indemnification of the persons associated with New Amex.

The Commission believes that the amendment to Article VII, Section 1 of the New Amex Constitution to revise member fees is consistent with Section 6(b)(4) of the Act in that it provides for the equitable allocation of reasonable fees among its members. The amendment provides a flat rate initiation fee of $2,500 for Regular and Options Principal Members, replacing the former graduated initiation fee schedule that Amex believes has become obsolete with the increase in seat prices. The Commission also believes it is consistent with Section 6(b)(4) of the Act to codify existing practice by granting the New Amex Board the authority to set different rates for equity or options transactions effected in different securities or through different mechanisms.

The Commission believes it is consistent with the Act to amend the Amex employee option trading policy to reflect the policy that Amex employees can trade standardized options issued by the Options Clearing Corporation, unless such option is on an underlying security listed on Amex. The Commission also believes it is reasonable for Amex to delete current Article XII, relating to an emergency committee that has authority to act in emergency situations, in its entirety and to replace it with an emergency provision comparable to Article VII, Section 3 of the NASD's By-Laws. The provisions of the current Article XII state that they constitute emergency by-laws under the New York State Defense Emergency Act, which Amex states will no longer be applicable because New Amex is an LLC incorporated under Delaware Law, not New York law. In addition, the Commission believes that new Article XII provides an adequate procedure for New Amex operations in the case of emergencies or extraordinary market conditions.[60]

The proposed rule change makes several other miscellaneous amendments to the New Amex Constitution and Rules that are dictated by the Transaction Documents. The Commission believes that these changes, which are extremely technical in nature, are reasonable in that they generally are nonsubstantive or address particular corporate governance requirements that are necessary in order to make the New Amex Constitution and Rules consistent with the new proposed governance structure.

No provision contained in the Transaction Documents or in any other agreement or document, nor any actions taken pursuant to them, shall be construed to affect, or shall affect, any right or responsibility of the Commission to take any action under the Federal Securities Laws. This includes, but is not limited to, the Commission's rights and responsibilities under Section 19 of the Act (i) to review and approve rule changes by an SRO, as those terms are defined under the Act and interpreted by the Commission; (ii) to take appropriate disciplinary action against an SRO or its officers and directors; or (iii) to amend the rules of an SRO. The Commission's approval of the rule changes necessary for the consummation of the merger of the NASD and Amex is expressly conditioned on this statement.

The Commission finds good cause to approve Amendment No. 2 to SR–Amex–98–32 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Specifically, Amendment No. 2 clarifies and strengthens the proposed rule change in that it limits the number of overlapping public and non-industry governors on the NASD and New Amex Boards, and restricts the non-industry and upstairs members of the Amex Committee from also serving on the NASD or New Amex Boards, thereby furthering the independence of these bodies. Additionally, Amendment No. 2 provides that New Amex will implement conflict of interest policies and procedures to address any potential issues facing overlapping members on the NASD and New Amex Boards. This provision will serve to help New Amex comply with the requirements of the Act. Finally, Amendment No. 2 strengthens the proposed rule change by addressing the Commission's jurisdiction over Amex Committee members. Accordingly, the Commission believes that it is consistent with Section 6(b)(5) of the Act to approve Amendment No. 2 to the proposal on an accelerated basis.

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2 to SR–Amex–98–32, including whether Amendment No. 2 is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–98–32 and should be submitted by November 27, 1998.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[61] that the proposed rule changes (SR–Amex–98–32; SR–NASD–98–56; SR–NASD–98–67) are approved, as amended.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–29624 Filed 11–4–98; 8:45 am]

BILLING CODE 8010–01–M

[58] In response to the commenter's concern over the NASD's financial commitments under the transaction, the Commission notes that such commitments were given in consideration of the acquisition of a controlling interest in New Amex. The Commission also notes that the NASD's Board determined that the transaction is fair and in the best interests of its members based upon an independent assessment of the fairness of the transaction to the NASD. Finally, the Commission notes that the NASD represents that it plans to allocate sufficient resources to upgrade its technological capabilities in order to provide investors with the fastest, fairest and least expensive marketplace access on a global scale, and that this will be accomplished within the context of the transaction, which will benefit all of its members, large or small.

[59] *See* CBOE rule 6.7(a).

[60] The new Article XII provides that in the event of an emergency or extraordinary market conditions the New Amex Board (or such person or persons as the Board designates) shall have the authority to take action regarding the trading of securities on the Exchange and the operation of any Exchange trading system or facility, if the Board decides that the action is necessary or appropriate to protect investors or the public interest or for the orderly operation of the Exchange or any Exchange system or facility.

[61] 15 U.S.C. 78s(b)(2).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40623; File No. SR–GSCC–98–02]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Regarding the Implementation of the GCF Repo Service

October 30, 1998.

On April 10, 1998, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission "(Commission") a proposed rule change (File No. SR–GSCC–98–02) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal was published in the **Federal Register** on June 9, 1998.[2] The Commission received six comment letters from five commenters in response to the proposed rule change.[3] For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

Under the proposed rule change, GSCC will implement a new service called the GCF Repo service. The GCF Repo service will allow GSCC's dealer members to trade general collateral repos involving U.S. Government securities throughout the day without requiring intraday, trade for trade settlement on a delivery versus payment ("DVP") basis.

A. General Description of the GCF Repo Service

The GCF Repo service will enable netting members of GSCC that are not interdealer brokers ("dealers") to trade general collateral repos, based on rate and term, with interdealer broker netting members of GSCC ("brokers") on a blind basis throughout each day. Brokers will be required to submit GCF Repo trade data to GSCC within five minutes of trade execution through a new terminal function. Brokers will not be able to submit GCF Repo trades in batch. Upon receipt of the trade data, GSCC immediately will report transaction details to dealers through a terminal facility, and the GCF Repos will receive GSCC's settlement guarantee. Standardized, generic CUSIP numbers established exclusively for the GCF Repo service will be used to specify the acceptable type of underlying eligible collateral, which will include Treasuries, Agencies, and mortgage-backed securities.[4]

The daily cutoff for submission of trades through the GCF Repo service will be five minutes after a predetermined trading deadline, which initially will be 3:30 p.m. GSCC will reject all trades submitted for same day processing that are received after the cutoff. Dealers initially will have until 3:45 p.m. to affirm or disaffirm trade data submitted against them by a broker. If a dealer takes no action either to affirm or to disaffirm trade data, the trade automatically will be deemed to be affirmed. GSCC will then conduct an afternoon net exclusively for GCF Repo service activity and will establish a single net receive or deliver obligation for each dealer in each generic CUSIP.

Each dealer with a net deliver obligation will allocate acceptable securities (determined by the generic CUSIP) and will deliver those securities on a DVP basis to a GSCC account within the dealer's clearing bank using a modified triparty arrangement. GSCC will then instruct the clearing bank to deliver those securities to dealers that have net receive obligations. All GCF Repo service activity will settle between dealers and GSCC within the dealers' clearing banks.

GSCC initially will implement the GCF Repo service within each of its participating clearing banks separately.[5] As a result, a participating dealer will be able to trade GCF Repos only with other dealers that use the same clearing bank.[6]

B. Participant Eligibility

To be eligible for the GCF Repo service, brokers and dealers will be required to meet the qualifications for

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 40057 (June 2, 1998), 63 FR 31539.

[3] *Infra* note 12.

[4] The specific collateral will not be known at the time of the trade. As a result, brokers will submit all GCF Repo trades to GSCC using generic general collateral CUSIPs that denote the underlying category of security. GSCC expects that the initial types of generic CUSIPs that will be used for GCF Repo activity will denote the following categories of securities: all Treasury securities, Treasury securities with a remaining maturity of ten years and under, all Fedwire-eligible Agency securities, and all Fedwire-eligible mortgage-backed securities.

[5] Currently, GSCC's clearing banks are the Bank of New York and the Chase Manhattan Bank. Under the proposed rule change, any clearing bank that meets GSCC's operational requirements will be able to provide GCF Repo settlement services to GSCC netting members.

[6] GSCC has informed the Commission that it eventually would like to expand the GCF Repo service to allow dealers to engage in GCF Repo trading with dealers that use different clearing banks. As a result, GSCC currently is engaged in discussions with staff of the Federal Reserve Bank of New York regarding the means by which to accomplish "after-hours" interbank securities allocations. A resolution of the issues involved may require, among other things, opening of the securities Fedwire after its normal close.

repo netting membership as provided in GSCC's rules. In addition, dealers will be required to designate the brokers that are authorized to submit GCF Repo trades on their behalf. GSCC members that wish to become eligible to use the GCF Repo service also will be required to test with GSCC and to demonstrate that they are able to submit data to and to receive output from GSCC using the communications links and in the formats, timeframes, and deadlines established for the service.

C. Securities Eligibility

The securities eligible for the GSF Repo service are U.S. Treasury securities (other than inflation-indexed securities or STRIPs), agency securities that are not mortgage-backed, and book-entry mortgage-backed securities that are Fedwire-eligible.

D. Broker Submission

Under the rule change, all GCF Repos will be executed by dealers as money-fill transactions[7] through eligible GSCC brokers on a blind-brokered basis. Brokers will be required to submit GCF Repo trades within five minutes of trade execution. Each GCF Repo trade will have a single dealer on the repo side that is matched to a single dealer on the reverse side. The facilitate broker submission, GSCC will implement a new terminal facility that will provide the following services:

1. Large Trade Submission

Brokers will be able to submit GCF Repo trades to GSCC having principal values of up to $2 billion. The current maximum transaction size is $50 million.[8] The GCF Repo service will have a $1 million minimum transaction size and a $1 million multiple requirement.

2. Submission of Trade Data

Brokers will be able to submit data simultaneously for both the repo and reverse sides of the trade using a single screen. GSCC automatically will populate certain fields of the GCF Repo service's screen design (such as trade date and start date) with default values. Brokers will have to enter any information that differs from the default values. The system also will automatically calculate the end money for the repo based on start amount, term, and rate. In addition, GSCC will require that every broker participating in the GCF Repo service provide its terminal on GSCC's premises so that GSCC operations staff can monitor whether the broker is satisfactorily fulfilling its trade submission responsibilities.

E. Trade Recordings and Dealer Notification

GSCC will immediately record, as compared, all GCF Repos upon receipt of trade data from the brokers. This type of "locked-in" trade recording, called broker-assisted processing, will replace the traditional matched comparison process. As a result, both the repo and reverse sides of the transaction will be processed solely based upon broker input without requiring the submission and matching of corresponding trade details from the dealer members.

Upon receipt of trade data from the brokers, GSCC will immediately provide dealers with GCF Repo transaction details by way of a dynamic, real time, online display. The five most recent trades will be displayed in a window at the bottom of these screens while current position information will be displayed at the top of the screens. Position information will be available at both the individual CUSIP level and the cumulative, overall level.

F. Dealer Affirmation

The rule change requires dealers to review GCF Repo trades and to either affirm or disaffirm them by a predetermined deadline, which initially will be 3:45 p.m. Affirming a trade will indicate that the dealer recognizes the trade and agrees to its terms. If a dealer disaffirms a trade, its GCF Repo position will be adjusted automatically, and a notification will be sent to the broker for prompt resolution. During the affirmation process, dealers will be able to provide their own internal reference number. Entry of a reference number will result in the automatic affirmation of the trade.

Any trade that has not been affirmed or disaffirmed by the close of business will be affirmed automatically by the system.[9] GSCC will assess penalties for late dealer affirmations.

G. Netting and Position Reporting

GSCC will net all GCF Repo trades on a real time basis intraday for each dealer into a single net settlement position for each generic general collateral CUSIP submitted. This position will represent the aggregate net dollar amount "borrowed" by the repo dealer or "loaned" by the reverse dealer.

Each day, netting will consist of adding all of the carryover activity (*i.e.*, term repos that are already in effect and forward starting repos that have already been submitted and for which the start date is the current day)[10] in GCF Repos together with the current day's activity. As a result, positions associated with term repos will be renetted each day with the dealer's current activity. GSCC will provide netting results to the clearing banks and its dealer members. Clearing banks participating in the GCF Repo service will be responsible for notifying their members regarding the allocation of collateral and the transfer of funds.

GSCC will carry every GCF Repo trade in its system and will be responsible for maintaining a database of all financial date for the repos that are traded. This will include tracking all relevant terms of each transaction and insuring that the appropriate final settlement amounts are paid at the conclusion of each repo.

Real time, online output will be provided to brokers, dealers, and the clearing banks over GSCC terminals to provide all transaction and position information necessary for the intraday processing of GCF Repo activity. Brokers and dealers will be able to view real time position information, both at the individual CUSIP and overall position levels, on their terminals throughout the day. The bottom of each position screen also will display the five most recent transactions processed against that participant. Each clearing bank will be able to monitor the positions of its clearing members using its terminal.

H. Securities Allocation

Each dealer that is a net lender of securities through the GCF Repo service will be responsible for allocating the appropriate collateral (as defined by the generic general collateral CUSIP) to its clearing banks using whatever mechanism it mutually agrees upon with the bank. All such collateral movements will be made on a DVP basis to and from a GSCC account. As a practical matter, dealers will have to give priority to the allocation of GCF Repo service collateral so that reallocation to the ultimate customer may occur promptly. GSCC will impose a penalty on collateral allocations that are made after 4:30 p.m. Allocations not made by 7:00 p.m. will be considered fails.

Dealers that receive securities as the result of reverse GCF Repos will be required to reallocate them to a location that is available for reversal before the opening of the securities wire on the next day. Examples of these locations are overnight triparty repos, hold-in-custody repos, and bank loans.

I. Next-Day Return of Collateral

All GCF Repo positions will be reversed on the morning of the next business day prior to the opening of the securities Fedwire. This next day reversal will occur for all GCF transactions regardless of the term of the transaction. The repos themselves will be fully collateralized intraday by cash.

J. Risk Management

GCF Repo transactions and resulting settlement obligations will be subject to all of GSCC's existing risk management processes. GSCC will assess its members' overall, cumulative exposure as a result of their combined DVP buy/sell and repo activity and their GCF Repos service activity.[11]

K. Trade Modification/Cancellation

The rules for GCF Repo trade modification are: (1) any data input field on an unaffirmed trade may be modified unilaterally by the broker at any time during the processing day and (2) dealers may not modify any data on GCF Repos. Rather, dealers must cancel (or request cancellation of) the trade. The modification of an unaffirmed trade will result in the immediate replacement of the original trade and all affected processing screens will be immediately updated accordingly.

Under the rule change, the two basic rules for canceling GCF Repos are: (1) an unaffirmed trade may be unilaterally canceled by either the broker or the dealer at any time during the processing day and (2) a trade that has been affirmed, either by a dealer or by the system as part of end-of-day processing, will require bilateral cancellation. This means that a broker may cancel a trade unilaterally at any time during the day if it has not been affirmed by either the dealer or by the system. A unilateral cancellation of a GCF Repo trade by the broker will result in the cancellation of both sides of the trade. Trade cancellation by the broker will result in the cash and collateral positions being reversed by the amount of the canceled trade and taken out of account balances.

A dealer may cancel a GCF Repo trade unilaterally at any time during the day if it has not been affirmed either by the dealer or by the system. Trade cancellation will result in the dealer's cash and collateral position balances being adjusted by the amount of the canceled trade and in the automatic replacement of the dealer by the broker in the transaction. The broker will carry the position and incur all associated responsibilities unless and until the broker submits a correcting entry (*i.e.*, an entry where the broker enters a new single-sided transaction with another dealer to eliminate the broker's position). Cancellation of a trade by the dealer results in the cancellation of that dealer's side only. The other dealer's side of the trade will remain intact.

Cancellation of trades that have been affirmed by the dealer or by the system will be required to be bilateral (*i.e.*, if the dealer requests a cancellation, the broker must approve it and vice-versa). The submission by a broker or dealer of a request for cancellation of an affirmed trade will result in the generation of a trade cancellation request to the original broker or dealer. Upon approval of the cancel request, the dealer will automatically be replaced by the broker in the transaction. The broker will carry the position and incur all associated responsibilities unless and until the broker submits a correcting entry (*i.e.*, an entry where the broker enters a new single-sided transaction with another dealer to eliminate the broker's position). A dealer or broker request for cancellation of an affirmed trade that is not acted upon by the counterparty will require manual intervention (*i.e.*, contacting the counterparty) by GSCC operations to determine whether or not the trade should be canceled.

L. Output and Reports

GSCC will establish a separate reporting stream to produce a full range of machine-readable output ("MRO") and print image end-of-day reports for the GCF Repo service, which will be substantially similar to the output currently provided to participants in conjunction with their regular cash and repo trading activity. In implementing the GCF Repo service, GSCC will attempt to limit the number and magnitude of changes made to existing MRO formats in order to minimize the development effort required by participating members.

II. Comment Letters

The Commission received six comment letters from five commenters in response to GSCC's filing.[12]

A. Comment Letters Submitted by CBOT, CME and the CFTC

CBOT, CME, and the CFTC addressed the possibility that GCF Repo service might be subject to the CFTC's jurisdiction.

1. Letter From CBOT

CBOT stated that the GCF Repo service might be subject to the exclusive jurisdiction of the CFTC. CBOT further stated that if any of the repos that would be cleared through the GCF Repo service are futures then the CFTC has exclusive jurisdiction over the service even if the repos also are securities. CBOT requested that the Commission defer final action on the proposed rule change until the CFTC had an opportunity to consider those issues.

2. Letter From CME

CME stated that the forward starting repos that GSCC proposed to clear through the GCF Repo service might be futures subject to the CFTC's jurisdiction. CME stated further that the forward starting repos described in the proposed rule change might not qualify for the forward contract exemption from the Commodity Exchange Act ("CEA"). As a result, CME concluded that the trading of forward starting repos might violate Section 4(a) of the CEA.

CME went on to consider whether the forward starting repo transactions are exempt from the CEA either through Section 2(a)(1)(A)(ii) of the CEA, known as the "Treasury Amendment,"[13] or through the CFTC's Part 35 swaps exemption.[14] CME stated that forward starting repos contemplated by the proposed rule change are transactions in repurchase agreements and are not "enumerated in the Treasury Amendment" and that government securities are not the subject of the forward starting repos. In addition, CME stated that the Treasury Amendment does not apply to the forward starting repos because the inter-dealer brokers

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[7] A money-fill repo transaction is a repo transaction in which the amount of securities sold and repurchased is determined by the market value of the securities rather than on the par value.

[8] This limit on transaction size results from the $50 million limit on book-entry securities transfers over Fedwire.

[9] GSCC will send a message to participants fifteen minutes prior to running the automated process that will affirm all pending trades.

[10] In a forward starting repo, the term of the repo beings on a day after the trade date.

[11] For a more detailed description of how GSCC will apply its risk management procedures to the GCF Repo service, refer to Securities Exchange Act Release No. 40057 (June 2, 1998), 63 FR 31539.

[12] Letters from Thomas R. Donavan, President and Chief Executive Officer, Chicago Board of Trade ("CBOT") (June 30, 1998); Jean Webb, Secretary, U.S. Commodity Futures Trading Commission ("CFTC") (June 30, 1998); T. Eric Kilcollin, President and Chief Executive Officer, Chicago Mercantile Exchange ("CME") (June 30, 1998); Daniel O. Minerva, Chair, and Paul G. Schuefele, Vice Chair, Funding Division, The Bond Market Association (July 24, 1998); Sal Ricca, President and Chief Operating Officer, GSCC (July 31, 1998); and I. Michael Greenberger, Director, Division of Trading & Markets, CFTC (September 21, 1998).

[13] The Treasury Amendment states that:

Nothing in the (CEA) shall be deemed to govern or in any way be applicable to transactions in foreign currency, security warrants, security rights, resales of installment loan contracts, repurchase options, government securities, or mortgages and mortgage purchase commitments, unless such transactions involve the sale thereof for future delivery conducted on a board of trade.

7 U.S.C. 2(ii).

[14] The Part 35 exemption exempts certain swap transactions from the provisions of the CEA. 17 CFR 35.2.

executing the transactions constitute a board of trade.

In addition, CME presented three reasons why it believes that the CFTC's Part 35 swaps exemption does not apply to the forward starting repos that would be cleared through the GCF Repo service: first, the transactions that would be cleared through the GCF Repo service are subject to multilateral clearing arrangements; second, the forward starting repos transactions that would be cleared through the GCF Repo service are standardized and fungible; and third, the proposed rule change "contemplates trading through multilateral execution facilities maintained by blind-brokers."

CME requested that the Commission defer action on the proposed rule change until the CFTC had an opportunity to consider those issues.

3. Letters From the CFTC

The Commission received two comment letters from the CFTC. In the first letter, the CFTC stated that it was analyzing the repos that would be cleared through the GCF Repo service and requested that the Commission defer final action on the proposed rule change until the CFTC had time to complete its review of the proposal. The second letter stated that staff of the CFTC's Division of Trading & Markets "has completed a review of the GCF Repo Service and has determined that we have no further comment on this service or the transactions contemplated thereby."

B. Letters From the Bond Market Association and GSCC

The Bond Market Association ("BMA") and GSCC responded to CBOT's and CME's letters and to the CFTC's first letter. GSCC and the BMA stated that forward start repos are not futures. GSCC and the BMA stated further that a forward starting repo is the same as a standard repo except that the obligations created by a forward starting repo begin on a day after the day that the transaction is executed.

In addition, GSCC and the BMA stated that the forward starting repos that would be cleared through the GCF Repo service are covered by the Treasury Amendment. GSCC stated that forward starting repos are transactions in government securities because they obligate the parties to purchase and sell specified government securities on specified dates. The BMA stated that market participants understand that the Treasury Amendment applies to transactions in and in any way involving government securities (as long as the transactions do not involve the sale of such securities for future delivery conducted on an organized exchange). Moreover, GSCC and the BMA stated that the facilities of interdealer brokers should not be considered boards of trade because they are not formally organized exchanges.

III. Discussion

Under Section 19(b) of the Act,[15] the Commission is required to approve a proposed rule change of a clearing agency if it finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder. In reviewing GSCC's proposal under this standard, the Commission has looked primarily to Section 17A(b)(3) of the Act.[16] This section requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to remove impediments to and perfect the mechanism of a national system for prompt and accurate clearance and settlement of securities transactions.

The market in repo transactions involving government securities, including general collateral repos, is already well established. The proposed rule change would expand the types of repo transactions that can be processed through GSCC. As a result, the Commission believes that the proposed rule change is consistent with GSCC's obligations under Section 17A(b)(3) because it should provide a more efficient method for the clearance and settlement of general collateral repo transactions in government securities. Specifically, the Commission believes that the use of the GCF Repo service should reduce exposure to counterparty default, increase payment netting, and apply advance clearing and risk management practices to the market in general collateral repos. Accordingly, the Commission believes that the rule change should enable GSCC to help facilitate the prompt and accurate clearance and settlement of general collateral repos involving U.S. Government securities and to remove impediments to and help perfect the mechanism of the national clearance and settlement system for securities transactions.

The comment letters that the Commission received from CBOT and CME raised a question as to whether some of the repos that will be processed through the GCF Repo service are futures subject to the CFTC's jurisdiction. The BMA and GSCC asserted that forward starting repos are distinct from futures, and even if futures they would be exempt from CFTC jurisdiction. CBOT and CME urged the Commission to defer action until the CFTC had an opportunity to address the question. The CFTC requested that the Commission defer final action until the CFTC had an opportunity to review whether the proposal "raise[d] legal issues under the Commodity Exchange Act." The CFTC's Division of Trading & Markets has advised the Commission that it has no further comment on the GCF Repo service or the transactions that will be processed through it.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–98–02) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–29620 Filed 11–4–98; 8:45 am]

BILLING CODE 8010-01-M

[15] 15 U.S.C. 7s.

[16] 15 U.S.C. 7q–1(b)(3).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40624; File No. SR–OCC–98–06]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Market Coordination in the Application of Circuit Breakers

October 30, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on June 9, 1998, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") and on July 23, 1998 and October 27, 1998, amended the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would provide OCC with the authority to adjust margin requirements with respect to cross-margined accounts in the event of an asynchronized application of circuit breakers by the securities and futures exchanges.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OCC believes there are no assurances that the application of trading halts or "circuit breakers" will be coordinated among the securities markets and the stock index futures markets. According to OCC, the securities markets could reopen after a significant market decline while trading in stock index futures remained halted. A a result, OCC believes that the closing prices used by the futures markets to determine variation margin on index futures and the closing prices of futures options may lose their theoretical relationship to the closing prices of related index option contracts. Under such circumstances OCC's margin calculation for cross-margined accounts may either overestimate or underestimate the actual risk of the cross-margined positions.

Under the proposed rule change, OCC will have plenary authority to take whatever actions that it deems appropriate to adjust margins with respect to cross-margined accounts when futures and options markets have become delinked as a result of an asynchronized application of circuit breakers in the futures and securities options markets.

OCC has submitted comments regarding asynchronized application of circuit breakers to the Commission with respect to the amendments to New York Stock Exchange ("NYSE") Rule 80B.[3] In its comment letter, OCC noted that the amended Rule 80B would permit the securities markets to reopen after a trading halt and continue to trade in the range of twenty to thirty percent down while the rules of the Chicago Mercantile Exchange ("CME") would not permit index futures contracts to trade below twenty percent down. Moreover, OCC noted that CME variation settlements would be based on the limit price, potentially resulting in inconsistent closing prices in the two markets.

As a result of the potentially disparate application of the circuit breaker rules, OCC believes that it is necessary to have the authority to address as best it can the distortions in risk calculations and settlement values that could result with respect to cross-margined accounts. OCC believes that it has been able to identify certain actions it might take in the exercise of its authority. However, OCC also believes that it is presently unable to ascertain each and every type of action that it might need to take in the event of asynchronized application of circuit breakers.

OCC believes that the proposed rule change is consistent with the purposes and requirements of Section 17A of the Act[4] in that it is designed to address the potential problems caused by a lack of coordination among markets in the application of circuit breakers. OCC believes that the authority to address distortions in risk calculation and settlement values when there is an asynchronized application of circuit breakers should promote the protection of investors and the safety of the national system for the clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any material impact on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

[2] The Commission has modified the text of the summaries prepared by OCC.

[3] Securities Exchange Act Release No. 39846 (April 9, 1998), 63 FR 18477 (April 15, 1998) (order approving NYSE's proposed rule change). OCC's comment letter is attached to OCC's filing of this proposed rule change which is available for inspection and copying at the Commission's Public Reference Room and through OCC.

[4] 15 U.S.C. 78q–1.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which OCC consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–98–06 and should be submitted by November 27, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–29623 Filed 11–4–98; 8:45 am]

BILLING CODE 8010-01-M

[5] 17 CFR 200.30–3(a)(12).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–115]

Section 304 Determination: Korean Barriers to Auto Imports

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of determination under section 304 of the Trade Act of 1974, as amended.

SUMMARY: Having concluded the investigation undertaken pursuant to section 302 of the Trade Act of 1974, as amended ("Trade Act"), the United States Trade Representative ("USTR") has determined pursuant to section 304(a)(1)(A)(ii) of the Trade Act that certain acts, policies, and practices of the Government of the Republic of Korea related to exports of U.S. motor vehicles to the Korean market are unreasonable and discriminatory and burden or restrict U.S. commerce. The Korean government, however, has agreed to take several measures to resolve the matters under investigation. Therefore, pursuant to section 304(a)(1)(B) of the Trade Act, the USTR has determined that the appropriate action in this case is to terminate the investigation and to monitor under section 306 the Korean government's implementation of these measures to eliminate those acts, policies, and practices.

EFFECTIVE DATE: October 20, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Latimer, Director of Korean Affairs, Office of Asia and the Pacific, (202) 395–3077.

SUPPLEMENTARY INFORMATION: On October 1, 1997, pursuant to Executive Order No. 12901 of March 3, 1994, as extended by Executive Order No. 12973 of September 27, 1995, regarding the "Super 301" annual review, the USTR identified as a "priority foreign country practice" the Government of the Republic of Korea's barriers to auto imports. On October 20, 1997, also pursuant to Executive Orders 12901 and 12973, the USTR initiated an investigation under section 302(b)(1)(A) of the Trade Act (19 U.S.C. 2412) with respect to certain acts, policies, and practices of the Korean government that pose barriers to imports of U.S. motor vehicles into the Korean market.

On October 28, 1997, (62 FR 55843), the USTR invited written comments on the acts, policies and practices of the Korean government that were the subject of this investigation, including the amount of burden or restriction on U.S. commerce caused by these acts, policies and practices, and the determinations required under section 304 of the Trade Act regarding whether they are actionable under section 301, and if affirmative, the appropriate action, if any, to take in response.

During the course of this investigation, the U.S. and Korean governments held a series of consultations on the matters under investigation. Specific Korean government practices raised during the consultations included an array of cumulative tariff and tax disincentives that have a discriminatory effect on imports, onerous and costly standards and certification procedures, financing restrictions, and a climate of bias against imported vehicles. While some of these barriers were addressed in a 1995 bilateral agreement between the United States and Korea, implementation of that agreement had been disappointing, especially as new practices had been introduced that undermined the 1995 agreement. Also discussed during the consultations was the application of the market economic reform measures that Korea is undertaking to the operation of the Korean motor vehicle sector.

On October 20, 1998, the United States and Korea concluded a Memorandum of Understanding (MOU) to improve market access of U.S. and other foreign motor vehicles to the Korean market. The new MOU addresses certain acts, policies, and practices that are unreasonable and discriminatory and burden or restrict U.S. commerce and were the subject of the section 301 investigation. Specifically, the MOU provides that the Government of the Republic of Korea will:

(a) Reduce specific motor vehicle-related taxes that have significantly increased, in comparison to Korean vehicles, the purchase price of and cost of retaining foreign motor vehicles, including: a 30 percent reduction in the Special Consumption tax until at least July 2005, and a 40 percent reduction in the rate applied to U.S.-type vehicles under the Annual Motor Vehicle Registration tax; not increase the tax differentials between engine-displacement based categories; eliminate an Education tax and the Rural Development tax on motor vehicles in Korea; equalize the Subway Bond purchase and revenue requirements for Korean and domestic foreign motor vehicles within engine-displacement categories; and, in the longer term, simplify Korea's motor vehicle tax structure and reduce the tax burden on Korea motor vehicle purchases;

(b) Lower Korea's WTO tariff bindings on motor vehicles from 80% to its current applied rate of 8% and actively participate in future multilateral negotiations aimed at reducing or eliminating tariffs in this sector;

(c) Revise standards and certification procedures that have imposed increased costs and time delays on imported motor vehicles through redundant testing and excessive documentation requirements through a number of actions, including: institution of a self-certification system by 2002 that will allow U.S. manufacturers to certify compliance of their own products with Korean safety standards; acceptance of U.S. headlamp standards; and significant streamlining of the current safety and environmental standards certification system;

(d) Institute an expeditious and efficient secured financing system for the purchase of motor vehicles that will enable Korean consumers to more easily finance purchases of U.S. vehicles; and

(e) Continue government efforts to improve public perception of imports by: addressing instances of anti-import activity targeting foreign motor vehicles, such as discriminatory use of tax audits; encouraging equal treatment of foreign and Korean motor vehicles; and actively promoting Korean understanding of the benefits of free and open trade and competition; Sport utility vehicles and minivans are specifically included in the scope of the MOU.

The MOU also sets forth goals and general policies, including the goals of substantially increasing market access for foreign motor vehicles in Korea and establishing conditions so that the Korean motor vehicle sector operates according to market principles. In that regard, the Korean government confirmed that it is implementing a wide range of economic reform measures, including structural reforms of the financial and corporate sectors, and that it expects these reforms will create a dramatic change in the Korean business environment and contribute to a more market-oriented and transparent Korean motor vehicle industry.

Section 304 Determination

(1) Korea's Acts, Policies, and Practices

Having concluded the investigation undertaken pursuant to section 302 of the Trade Act and on the basis of consultations with the Government of the Republic of Korea, the affected U.S. industry, and the relevant private sector advisory committees, the USTR has determined pursuant to section 304(a)(1)(A)(ii) of the Trade Act that certain acts, policies, and practices of the Korean government related to exports of U.S. motor vehicles to the Korean market are unreasonable and discriminatory and burden or restrict U.S. commerce.

(2) U.S. Action

The Government of the Republic of Korea has agreed to take several measures, described above, to resolve the matters under investigation. Therefore, pursuant to section 304(a)(1)(B) of the Trade Act, the USTR has determined that the appropriate action in this case is to terminate the investigation and to monitor under section 306 the Korean government's implementation of these measures to eliminate those acts, policies, and practices.

Joanna K. McIntosh,

Chairman, Section 301 Committee.

[FR Doc. 98–29681 Filed 11–4–98; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–98–4671]

Notice of Request for Clearance of a New Information Collection: Local Technical Assistance Program Extent of Coverage

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirement in section 3506(c) (2)(A) of the Paperwork Reduction Act of 1995, this notice announces the intention of the FHWA to request the Office of Management and Budget (OMB) to approve a new information collection related to the Local Technical Assistance Program (LTAP) which provides for training, technology transfer and technical assistance to local and tribal government transportation providers. This information collection will be in the form of a survey that will document the extent of coverage of the LTAP and provide a baseline from which to measure the Program's progress in expanding that coverage between now and the year 2002.

DATES: Comments must be submitted on or before January 4, 1999.

ADDRESSES: All signed, written comments should refer to the docket number that appears in the heading of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10:00 a.m. to 5:00 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Dr. Anna K. Bennett, LTAP Project Manager, (415) 744–2616, Federal Highway Administration, Western Resource Center, 201 Mission Street, Suite 2100, San Francisco, CA 94105. Office hours are from 7:30 a.m. to 4:00 p.m., p.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Local Technical Assistance Program Extent of Coverage

OMB Number:

Background: The LTAP has established a network of 57 technology transfer centers at universities and state highway agencies for the purpose of improving the skills and knowledge of local and tribal transportation providers through training, technical assistance and technology transfer. The LTAP Strategic Plan, adopted in 1997, calls for increasing usage of the program to 75 percent of local and tribal governments by the year 2002. Information is needed to document the extent to which local and tribal transportation agencies recognize, utilize, and are satisfied with the services provided by their LTAP Centers. The information will establish the baseline from which progress towards the goal of increasing coverage to 75 percent of all local and tribal transportation agencies will be measured.

The information will be collected through a mail survey. Respondents will be asked to complete a brief, standardized questionnaire asking if employees of their agency are aware of the existence of their local or tribal LTAP Center, have read its newsletter, attended training sessions or utilized other technology transfer services provided by the Center within the past year, and their satisfaction with those services.

Information will be collected from a simple random sample of all local and tribal governments in the U.S. In order to sample the population of local and tribal governments in the United States and Puerto Rico with +/−three percent error at 95 percent confidence, 1,100 surveys need to be completed. Based on responses to an earlier LTAP study, a 17 percent response rate to the mail survey is anticipated. Therefore, questionnaires will be mailed to 6,500 randomly selected employees of local and tribal governments to ensure obtaining 1,100 completed survey forms.

The results of the survey will be retained by the Office of Technology Applications for comparison with the results of a subsequent collection in 2002. The results of the survey will also be presented in a report for dissemination to LTAP partners, including national associations, state departments of transportation, LTAP centers, and local and tribal governments.

Respondents: Employees of local and tribal government transportation providers.

Estimated average burden per response: 20 minutes to read and respond to the mail survey.

Estimated total annual Burden: 367 hours.

Frequency: The survey will be conducted once for a baseline measurement and again in the year 2002 to measure progress.

Public comments invited: Interested parties are invited to send comments regarding any aspect of this information collection, including, but not limited to: (1) the necessity and utility of the information collection for the proper performance of the functions of the FHWA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance of this information collection.

Electronic access: Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at telephone number 202–512–1661. Internet users may reach the **Federal Register**'s home page at *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Authority: 23 U.S.C. Section 504.

Issued on: October 28, 1998

George S. Moore, Jr.,

Associate Administrator for Administration.

[FR Doc. 98–29617 Filed 11–4–98; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Jackson County, Missouri

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for proposed improvements to the transportation system in Jackson County, Missouri.

FOR FURTHER INFORMATION CONTACT: Mr. Donald Neumann, Programs Engineer, FHWA Division Office, 209 Adams St., Jefferson City, MO 65101, Telephone: (573) 636–7104 or Mr. Steve Noble, Manager, Long Range Transportation Planning, Mid-America Regional Council, 600 Broadway, Suite 300, Kansas City, MO 65105, Telephone: (816) 474–4240.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Mid-America Regional Council (MARC), will prepare an EIS for proposed improvements to the transportation system in Jackson County, Missouri. Improvements to the corridor are considered necessary to provide for a safe and efficient transportation network.

MARC initiated a Major Investment Study (MIS) in April 1997 to identify and evaluate potential transportation improvements in the Missouri River Corridor. The area studied during the MIS is generally located along the Missouri River in Clay and Jackson Counties. The boundaries of the study area were I–70 on the south, I–35 on the west, N. 48th Street on the north, and M–7 on the east. The east-west distance of the study area is approximately 17 miles. The north-south distance ranges from six miles on the eastern end to approximately 10 miles on the western end. Major Routes studied included M–210, U.S. 24, M–78, M–12, Chouteau Trafficway, Front Street, and the proposed Little Blue and South Riverfront Expressways. As a result of the MIS, this EIS will address the impacts associated with improvements on Front Street between I–29/35 and I–435, improvements on the Chouteau Trafficway between I–35 and Front street (excluding the Chouteau Bridge which is currently under construction), and construction of the South Riverfront and Little Blue River Expressways.

The goals of the proposed project established during the MIS include: 1) Improve the safety of the Missouri River Corridor facilities; 2) improve mobility in the Missouri River Corridor; 3) facilitate the development of an efficient, integrated transportation system; 4) support economic development; 5) manage the transportation system to maximize the return on the Region's investment in highway and transit networks; 6) maintain or improve the quality of the natural environment, and 7) enhance quality of life. A location study will run concurrently with the preparation of the EIS. It will advance both "build" and "no build" alternatives for evaluation by the EIS.

The scoping process, which began during the MIS, will continue with appropriate federal, state, local agencies, private organizations and citizens who have previously expressed or are known to have interest in this proposal. Preliminary information has been issued to local officials and other interested parties. Additional public meetings will be held to further engage the regional community in the decisionmaking process and to obtain public comment. A public hearing will be held to present the findings of the DEIS. The DEIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or MARC at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations Implementing Executive Order 12373 regarding intergovernmental consultation on Federal programs and activities apply to this program).

Issued: October 27, 1998.

Donald L. Neumann,

Programs Engineer, Jefferson City.

[FR Doc. 98–29674 Filed 11–4–98; 8:45 am]

BILLING CODE 4910–22–M

UNITED STATES INFORMATION AGENCY

Development of an Educational Advisers Reference Tool and Research Service for Overseas U.S. Educational Advising Centers

ACTION: Notice—request for proposals.

SUMMARY: The Advising and Student Services Branch of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award. Public or private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c)(3)–1 may apply. In collaboration with the United States Information Agency (USIA), the organization should produce an educational advisers reference tool to provide timely and in-depth information on trends and developments in U.S. higher education and other issues and topics relevant to the USIA-affiliated overseas educational advising and information centers. The organization will also answer reference inquiries from USIA-designated educational advising offices overseas. USIA anticipates awarding up to $90,000 to one organization for these activities.

Overview

In the interest of providing this material in a broad and timely manner, USIA encourages submissions that propose delivery via electronic (e.g. web, e-mail) as well as traditional print means. The proposal should illustrate how the organization will produce an internet website, e-mail format, and/or print version to provide timely and in-depth information for the staff of the USIA-affiliated overseas educational advising and information centers which provide accurate, unbiased information on, and advise foreign nationals about, opportunities for studying in the United States. The information should be centered on an overall theme related to trends and developments in international student mobility, the practice of educational advising, or U.S. higher education which will enhance the guidance given by overseas educational advisers to international students and others who inquire about opportunities for studying in the United States.

Guidelines

The website must be designed in a user-friendly fashion, with an index of topics, and ideally in a format that can be shared directly with students with minimal repackaging by the adviser. If necessary, the website may be password protected. E-mail issues of timely topics must be distributed regularly. If a print version is produced, the organization should describe what publishing capacity will be used to assure that each issue (at least 32 pages) is produced quickly and efficiently (at least four times a year) in an attractive typeset quality format.

In addition, funds will be awarded to enable the recipient to perform supplemental research to provide in-depth responses to inquiries from USIA-affiliated educational advisers overseas. Answers to questions of general interest should be posted on the website.

The website and/or print version must acknowledge that its contents were developed, in part, under a grant from the Bureau of Educational and Cultural Affairs of the U.S. Information Agency. USIA reserves the right to use all materials produced for noncommercial purposes of educational advancement outside the U.S.

Proposed Budget

A comprehensive line item budget should be submitted together with the proposal. The budget should not exceed $90,000 for the development of the website/e-mail/print version and research service. Grants awarded to eligible organizations with less than four years of experience in conducting international educational programs will be limited to a total of $60,000. For both electronic and/or print versions, applicants may sell subscriptions and use advertising to offset production costs in excess of the grant.

The applicant is required to submit a comprehensive line item budget, based on the specific guidance in the Solicitation Package. There must be a summary budget as well as a breakdown of the administrative budget. USIA's grant assistance will not exceed $90,000. Of this amount, not more than $27,000 may be attributed to overhead expenses. The $90,000 is expected to constitute only a portion of the total project funding. Cost sharing is required and the proposal should list other anticipated sources of support. Grant applications should demonstrate financial and in-kind support.

Allowable costs for the program include the following:

(1) Salaries and fringe benefits
(2) Website design costs, printing, utilities, and other direct costs
(3) Indirect expenses, auditing costs

Applicants should refer to the Solicitation package for complete budget guidelines and formatting instructions.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will be reviewed by the Agency contracts office, as well as the USIA Area Offices and the USIA posts overseas, where appropriate. Proposals may also be reviewed by the Office of the General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contracting officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. Program Planning

Proposals should exhibit originality, substance, precision, and relevance to design a website and e-mail system, and/or produce a publication which will successfully address the needs for timely information and in-depth and balanced exploration of issues and topics important to overseas educational advisers. In addition, the proposal should illustrate the resources and professional contacts necessary to respond in a timely manner to inquiries by overseas educational advisers are available.

2. Institution's Track Record/Ability

Proposals should demonstrate an institutional record of successful programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program goals.

3. Demonstrated Ability

Proposals should clearly demonstrate how the institution will meet the program's objectives and plan. The proposal should describe technological and editorial capability.

4. Project Evaluation

Proposal should provide a plan for evaluation by the grantee institution, including periodic progress reports at the end of the grant cycle, as well as intermediate reports.

5. Cost-Effectiveness

The overhead and administrative components of the proposal, including salaries, should be kept as low as possible. All other items should be necessary and appropriate.

6. Cost-Sharing

Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions. For both electronic and/or print versions, applicants may sell subscriptions and use advertising to offset production costs in excess of the grant.

7. Support of Diversity

Proposals should demonstrate the recipient's commitment to promoting the awareness and understanding of diversity, and should expose readers to the widest possible range of views and approaches to U.S. higher education. Attention should be given to printing articles relating to different kinds of schools and universities from various regions of the U.S.

Authorization

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations* * *and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world."

Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package. USIA projects and programs are subject to the availability of funds.

Announcement Name and Number

All communications with USIA concerning this announcement should refer to the above title and reference number E/ASA–99–08.

Deadline for Proposal

All copies must be received at the U.S. Information Agency by 5 p.m. Washington, D.C. time on December 16, 1998. Faxed documents will not be accepted, nor will documents postmarked on December 16, 1998 but received at a later date. It is the responsibility of each applicant to ensure that proposals are received by the above deadline. Grant should begin April 1, 1999 and run through March 31, 2000.

FOR FURTHER INFORMATION CONTACT: Advising and Student Services, E/ASA, Room 349, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C.

20547, Tel: (202) 619–5549, Fax: (202) 401–1433, E-mail: aprince@usia.gov. Potential applicants are encouraged to contact the program office to request an Application Package, which includes more detailed award criteria; all application forms, and guidelines for preparing proposals, including specific criteria for preparation of the proposal budget. Please specify the USIA Program Officer, Ann Prince, on all inquiries and correspondences. Interested applicants should read the complete **Federal Register** announcement before addressing inquiries to E/ASA or submitting their proposals to the United States Information Agency. Once the RFP deadline has passed, the Bureau of Educational and Cultural Affairs may not discuss this competition in any way with applicants until after the Bureau proposal review process has been completed.

Submissions

Applicants must follow all instructions given in the Solicitation Package. The original and ten copies of the complete application, plus one extra copy of the cover sheet, should be sent to: U.S. Information Agency, Ref.: E/ASA–99–08, Office of Grants Management, E/XE, Room 326, 301 4th Street, S.W., Washington, D.C. 20547.

Diversity Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the "Support for Diversity" section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," USIA "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Proposals should reflect advancement of this goal in their program contents, to the full extent deemed feasible.

Year 2000 Compliance Requirement (Y2K Requirement)

The Year 2000 (Y2K) issue is a broad operational and accounting problem that could potentially prohibit organizations from processing information in accordance with Federal management and program specific requirements including data exchange with USIA. The inability to process information in accordance with Federal requirements could result in grantees' being required to return funds that have not been accounted for properly.

USIA therefore requires all organizations use Y2K compliant systems including hardware, software, and firmware. Systems must accurately process data and dates (calculating, comparing and sequencing) both before and after the beginning of the year 2000 and correctly adjust for leap years.

Additional information addressing the Y2K issue may be found at the General Services Administration's Office of Information Technology website at http://www.itpolicy.gsa.gov.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budget in accordance with the needs of the program and availability of funding. Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicant will be notified of the results of the review process on or about March 19, 1999. Awards will be subject to periodic reporting and evaluation requirements.

Dated: October 29, 1998.

John P. Loiello,

Associate Director for Educational and Cultural Affairs.

Notification

All applicants will be notified of the results of the review process on or about March 19, 1999. Awards will be subject to periodic reporting and evaluation requirements.

Judith Siegel,

Deputy Associate Director for Educational and Cultural Affairs.

[FR Doc. 98–29587 Filed 11–4–98; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New (OP&P)]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Office of Policy and Planning, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Policy and Planning (OP&P), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed new collection of information, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information that will be collected by a survey concerning the VA's three educational programs.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 4, 1999.

ADDRESSES: Submit written comments on the collection of information to Marcelle Habibion, Task Order Project Manager, Office of Assistant Secretary for Policy and Planning (008), Department of Veterans Affairs, 810 Vermont Ave., NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–NEW (OP&P)" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Marcelle Habibion at (202) 273–5058 or FAX (202) 273–5993.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, the Office of Policy and Planning invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VA's functions, including whether the information will have practical utility; (2) the accuracy of VA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Program Evaluation of VA's Education Programs.

OMB Control Number: None assigned.

Type of Review: New collection.

Abstract: The purpose of this project is to assess the effectiveness and efficiency of three education programs administered by the Department of Veterans Affairs: Montgomery GI Bill (Title 38 U.S.C., Chapter 30); Montgomery GI Bill for Selected Reserves (Title 10 U.S.C., Chapter 1606); and Dependents' Education Assistance (Title 38 U.S.C., Chapter 35). The telephone surveys will determine the extent to which each program meets its statutory intent and the expectations of veterans, school officials, legislators, and program officials. The surveys will also examine how well the programs are poised to meet the needs of veterans in the early 21st century and make recommendations as to how best to meet these needs. They will also make an independent, unbiased assessment and recommendation on a strategy to continue to deliver the best possible educational benefits and services at the least cost to all users of education benefits under these three programs administered by the Department of Veterans Affairs.

Affected Public: Individuals or households—Business or other for profit.

Estimated Annual Burden: 2,240 hours.

Estimated Time Per Respondent: 16 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 8,400.

Dated: October 15, 1998.

By direction of the Secretary.

Sandra S. McIntyre,

Program Analyst Information Management Service.

[FR Doc. 98–29598 Filed 11–4–98; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register
Vol. 63, No. 214
Thursday, November 5, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11509-000]

City of Albany, OR; Notice of Availability of Final Environmental Assessment

Correction

In notice document 98–28939 appearing on page 58032 in the issue of Thursday, October 29, 1998, the docket number heading should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–010–02–5700–10; IDI–32281]

Notice of Realty Action–IDI–32281; Direct Sale of Public Lands in Owyhee County, ID

Correction

In notice document 98–27697, beginning on page 55403, in the issue of Thursday, October 15, 1998, in the third column, under **Boise Meridian, Idaho** in the second line, "SW¼" should read "NW¼".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–23]

Establish Class E Airspace; Guthrie, IA

Correction

In rule document 98–26299 appearing on page 57588 in the issue of Wednesday, October 28, 1998, make the following corrections:

§ 71.1 [Corrected]

1. On page 57588, in the third column, in the airspace area description for Guthrie County Regional Airport, IA, "long. 94°25′07″W." should read "long. 94°26′07″W.".

2. On the same page, in the same column, in the paragraph after the airspace area descriptions, in the second line, "fee" should read "feet".

BILLING CODE 1505-01-D

federal register

Thursday
November 5, 1998

Part II

Environmental Protection Agency

Final Guidelines for Implementation of the Drinking Water State Revolving Fund Program; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6154–7]

Final Guidelines for Implementation of the Drinking Water State Revolving Fund Program

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has published the Final Guidelines for the Drinking Water State Revolving Fund (DWSRF) program. The DWSRF program was established by the Safe Drinking Water Act (SDWA) Amendments of 1996, which were signed by President Clinton on August 6, 1996. The SDWA authorizes $9.6 billion for the DWSRF program and related programs under section 1452 from fiscal year 1994 through fiscal year 2003. For fiscal year 1997, EPA's budget includes $1.275 billion for these programs. On a national level, the Office of Water is responsible for implementing the SDWA requirements, including the DWSRF program and related programs under section 1452. The document is being published today for the benefit and interest of the general public.

DATES: The Final Guidelines were distributed to all State agencies with responsibility for the DWSRF program on February 28, 1997.

ADDRESSES: Copies of the Final Guidelines for implementation of the DWSRF program are available from the Safe Drinking Water Act Hotline, telephone (800) 426–4791. Copies are also available from the Office of Water Resource Center (RC4100), U.S. EPA, 401 M Street, SW, Washington, DC 20460. The DWSRF Guidelines may also be obtained from the EPA Web Site at the URL address http://www.epa.gov/OGWDW.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Act Hotline, telephone (800) 426–4791. For technical inquiries, contact James Bourne, Drinking Water Implementation and Assistance Division, Office of Ground Water and Drinking Water, U.S. EPA, (4606), 401 M Street SW, Washington, DC 20460, telephone (202) 260–5557.

SUPPLEMENTARY INFORMATION: The Drinking Water State Revolving Fund (DWSRF) program was established as a new section 1452 of the Safe Drinking Water Act (SDWA), 33 U.S.C. 300j–12, by the SDWA Amendments of 1996, Pub. L. 104–182, which were signed by President Clinton on August 6, 1996. The DWSRF is a State loan program, to be capitalized in large part by Federal contributions. Loans from the DWSRF must be made to protect public health and to achieve or maintain SDWA compliance. States have the flexibility to tailor DWSRF programs to address local needs as long as the programs meet the minimum Federal requirements in the law. States must describe how their programs will prioritize use of DWSRF funds and are required to develop a priority list of projects, subject to public review.

The SDWA amendments establish a strong emphasis on preventing contamination through source water protection and enhanced water system management. The amendments also emphasize the needs of small water systems. States may use portions of their DWSRF capitalization grants for programs that work toward attaining some of these goals and are required to reserve portions of their DWSRF loan funds for small water systems.

Interim guidance for the DWSRF program was released on October 4, 1996, to allow States to develop DWSRF programs so that capitalization grants could be awarded as soon as possible. A notice of availability of the interim guidance was published in the **Federal Register** on October 27, 1996, and announced a public comment period which ended on November 28, 1996. EPA subsequently held a series of public meetings with stakeholders to provide information about the program and to review the interim guidance. Comments received during the period of public comment and from attendees of public meetings were critical in developing the Final Guidelines for the program. After discussions with the Office of Management and Budget, the Final Guidelines for the program were released on February 28, 1997 and made widely available, including to all States, which are the recipients of capitalization grants under section 1452. The Guidelines were also made available to the general public at that time by placement on the Office of Ground Water and Drinking Water internet site. The Agency is publishing these guidelines for the benefit and interest of the public at large.

Paperwork Reduction Act

The information requirements for these Guidelines were submitted to the Office of Management and Budget (OMB) on March 14, 1997. OMB granted an emergency request for collecting information from State grant recipients on January 29, 1997 to allow for award of grants following release of the Final Guidelines. OMB approved the final requirements for collecting information from State grant recipients on June 30, 1997 and assigned OMB control number 2040–0185. The Information Collection Request is valid for a three year period. The estimated annual burden for EPA Headquarters and Regional review of applications, oversight of State programs and review of audits is 722 hours per State. The estimated annual burden per State for completing required capitalization grant applications, biennial reports and state audits is 3285 hours and the estimated annual burden for applicants to prepare applications for DWSRF assistance is 80 hours per community.

Dated: October 28, 1998.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

DRINKING WATER STATE REVOLVING FUND PROGRAM GUIDELINES

Contents

Introduction

I. Development of a Capitalization Grant Application/Agreement
- A. Items Necessary To Establish a Loan Fund That Complies with Federal Requirements
  1. Assurance that the State has the authority to establish a Fund and to operate the DWSRF program in accordance with the SDWA
  2. Assurance that the State will comply with State statutes and regulations
  3. Assurance that the State has the technical capability to operate the program
  4. Assurance that the State will accept capitalization grant funds in accordance with a payment schedule
  5. Assurance that the State will deposit all capitalization grant funds in the Fund or Set-Aside Account
  6. Assurance that the State will provide an amount at least equal to 20 percent of the capitalization grant (State match) in the Fund
  7. Assurance that the State will deposit net bond proceeds, interest earnings, and repayments into the Fund
  8. Assurance that the State will match capitalization grant funds the State uses for 1452(g)(2) set-asides
  9. Assurance that the State will use Generally Accepted Accounting Principles
  10. Assurance that the State will have the Fund and set-aside account audited annually in accordance with Generally Accepted Government Auditing Standards
  11. Assurance that the State will adopt policies and procedures to assure that borrowers have a dedicated source of revenue for repayments (or in the case of a privately owned system, demonstrate that there is adequate security)
  12. Assurance that the State will commit and expend funds as efficiently as possible, and in an expeditious and timely manner
  13. Assurance that funds will be used in accordance with the Intended Use Plan
  14. Assurance that the State will provide EPA with a Biennial Report
  15. Assurance that the State will comply with all Federal cross-cutting authorities
- B. Intended Use Plan
  1. Priority list of projects, including description and size of community
  2. Description of criteria and method used for distribution of funds
  3. Description of the financial status of the DWSRF Program
  4. Description of the short- and long-term goals of the DWSRF Program
  5. Description of amounts transferred between the DWSRF and the CWSRF
  6. Description of the set-aside activities, and percentage of funds, that will be funded from the DWSRF capitalization grant, including DWSRF administrative expenses allowance, PWSS program support, technical assistance, etc.
  7. Description of how a State disadvantaged community program will define a disadvantaged system and the amount of DWSRF funds that will be used for this type of loan assistance
- C. Capitalization Grant Agreement
- D. Operating Agreement

II. Allotment/Use of Funds
- A. Allotment/Reallotment/Withholding of Funds
  1. Allotment formula
  2. Period of availability and reallotment
  3. Withholding of funds
  a. The Administrator will withhold funds
  b. Reallotment of withheld funds
  c. Loss of primacy
- B. Set-asides From The National Appropriation And Ceilings on State Allotments
  1. National set-asides
  a. Indian Tribes/Alaska Native Villages
  b. Health effects studies
  c. Unregulated contaminant monitoring
  d. Small system Technical Assistance
  e. Operator training reimbursement
  2. Allotment for D.C. and other jurisdictions
  3. State set-aside activities
  a. DWSRF administrative expenses
  b. State program management
  c. Small systems technical assistance
  d. Local assistance and other State programs
  e. Movement of funds between the Fund and set-aside account after award of capitalization grant
  f. Transfer of funds
- C. Types of Financial Assistance That the Fund May Provide
  1. Loans
  a. Repayment of loan
  b. Dedicated repayment source
  c. Financial security of privately-owned systems
  d. Financial, technical, and managerial capability analysis
  e. Disadvantaged communities
  f. Project funding for small systems
  2. Buy or refinance existing debt obligations
  3. Guarantee or purchase insurance for local debt obligations
  4. A source of revenue or security for payment of Fund debt obligations
  5. Earn interest on Fund accounts

III. Eligible Systems and Projects
- A. Eligible Systems
- B. Eligible Projects
  1. Compliance and public health
  2. Loan assistance to systems that meet the definition in section 1401(4)(B)
  3. Land acquisition
  4. Planning and design of a drinking water project
  5. Restructuring of systems that are in noncompliance or that lack the technical, managerial and financial capability to maintain the system
- C. Projects not eligible for funding
  1. Lack of technical, managerial and financial capability
  2. Significant noncompliance
  3. Growth
- D. Compliance without DWSRF funding

IV. State/Project Level Authorities
- A. Cross-cutting Federal Authorities
- B. Environmental Reviews
  1. Equivalency projects
  2. Non-equivalency projects
  3. EPA approval and review process

V. Funding Process
- A. 20 Percent State Match
- B. State Match for the 1452(g)(2) Set-aside
- C. Federal Funding Process
  1. General
  2. Schedule of payments
  3. Binding commitments
  4. Cash draw
  a. Projects
  b. Set-asides

VI. Reporting/Review Responsibilities
- A. State Responsibilities
  1. Biennial Report
  2. Annual audit
  3. Information management system
- B. EPA Responsibilities
  1. Annual review of DWSRF program
  2. Evaluation
  3. Compliance assurance
  4. Dispute resolution

VII. Appendices
- A. Federal Cross-cutters
- B. Criteria for Evaluating a State's Proposed NEPA-like Process
- C. Definitions

Acknowledgements

We wish to thank the many individuals who contributed to development of the Drinking Water State Revolving Fund Program Guidelines. In particular, we thank those members of the DWSRF Guidance Advisory Group for their dedication and commitment in the development of the guidelines under a very tight time schedule. We also wish to thank those members of the public who contributed comments on the Interim Guidance.

Introduction

The Safe Drinking Water Act (SDWA) Amendments of 1996 (Pub. L. 104–182) authorize a Drinking Water State Revolving Fund (DWSRF) to assist public water systems to finance the costs of infrastructure needed to achieve or maintain compliance with SDWA requirements and to protect public health objectives of the Act. Section 1452 authorizes the Administrator of the U.S. Environmental Protection Agency (EPA) to award capitalization grants to States, which in turn can provide low cost loans and other types of assistance to eligible systems.

In addition to authorizing the infrastructure fund, the SDWA Amendments also establish a strong new emphasis on preventing contamination problems through source water protection and enhanced water systems management. That emphasis transforms the previous law from a largely after-the-fact regulatory oriented program into a statute that can provide for the sustainable use of water. Central to this emphasis is the development of State prevention programs, including source water protection, capacity development and operator certification. States may use a portion of their capitalization grants to fund these eligible activities. The success of these activities will act to safeguard the DWSRF funds that are provided for improving system compliance and public health protection and help determine whether the new law's potential as a preventive environmental statute is realized.

The DWSRF program will help ensure that the nation's drinking water supplies remain safe and affordable, that drinking water systems that receive funding will be properly operated and maintained, and that permanent institutions will exist in each State to provide financial support for drinking water needs for many years to come. Congress has placed particular emphasis on assisting smaller drinking water systems and those serving less affluent populations by providing greater funding flexibility for these systems under the DWSRF, to ensure that these systems have adequate technical, managerial, and financial resources to come into or maintain compliance and provide safe water.

Under the SDWA, a State may administer its DWSRF in combination with other State loan funds, including the wastewater SRF, hereafter known as the Clean Water State Revolving Fund (CWSRF). Beginning one year after a DWSRF program receives its first capitalization grant (Fund portion), a State may transfer up to a third of the amount of its subsequent DWSRF capitalization grant(s) to its CWSRF or an equivalent amount from its CWSRF capitalization grant to its DWSRF.

These two provisions linking the DWSRF and the CWSRF signal Congressional intent to implement and manage the two programs in a similar

manner. EPA also intends to administer the two programs in a consistent manner and to apply the principles developed for the existing CWSRF to the DWSRF program to the fullest extent possible. Like the CWSRF, the DWSRF is fundamentally a State program. Each State will have considerable flexibility to determine the design of its program and to direct funding toward its most pressing compliance and public health protection needs. Only minimal Federal requirements will be imposed.

This document provides a comprehensive description of the guidelines that will apply in the operation of the DWSRF program. In basic terms, the guidelines explain:

- What States must do to receive a DWSRF capitalization grant,
- What States may do with Federal capitalization grant funds,
- What States may do with funds the law intends for activities other than project construction (set-asides) and
- The roles of both the States and EPA in managing and administering the program.

The sources of these guidelines are the Statute itself, existing regulations and policies that apply in EPA grant programs, particularly those that apply in EPA general grant regulations (40 CFR part 31) and the CWSRF program, and the Administrator's authority to issue guidelines and regulations under SDWA. EPA will incorporate the guidelines by reference in each capitalization grant award as a grant condition. Where a specific statutory or regulatory provision is the basis for a requirement, that provision is cited. EPA will follow-up these guidelines with regulations.

The capitalization grants authorized under section 1452 for the DWSRF program are generally divided between two purposes: part of each capitalization grant is to be deposited into the DWSRF Fund for providing loans and other types of assistance for drinking water infrastructure projects; the other part is to be deposited into a set-aside account(s) for programs, projects and activities that do not receive assistance from the Fund. Throughout this document, the entire program authorized by section 1452 will be referred to as the DWSRF program, the loan account as the Fund and the account or accounts for other programs, projects and activities as the set-aside account.

I. Development of a Capitalization Grant Application/Agreement

The capitalization grant agreement process begins when the State submits a capitalization grant application. A capitalization grant cannot be awarded until after Federal funds have been appropriated for the DWSRF under section 1452 and then allotted by EPA. With its application, the State must also submit an Intended Use Plan (IUP), documentation on the institutional framework of its DWSRF program, and a proposed schedule for capitalization grant payments by the EPA.

In addition to the Fund, a State may use part of the capitalization grant to encourage the development of source water protection and State prevention programs and to enhance water systems management. All DWSRF funds will be awarded through the capitalization grant process. Before applying for a capitalization grant, a State must prepare an IUP that identifies how it intends to distribute the grant among the set-aside account(s) and the Fund and includes the list of projects expected to be funded.

A State may, however, prepare this IUP in two parts. The first part would present the State's overall framework for allocation of the grant among the set-asides and the Fund, but need not include the project priority list. The second part would be the IUP for the Fund only. This two-part process will allow a State to proceed with a partial capitalization grant application (e.g., a set-aside) before it completes all of the activities required to obtain a full capitalization grant.

The State must seek meaningful public review and comment on its funding decisions in the IUP. If a State applies for the project funds and set-aside funds separately, the State must seek public review on each separate component of the IUP.

In addition to identifying the distribution of funds, the capitalization grant application outlines the State's planned DWSRF program activities, provides assurances and specific proposals for meeting requirements of the SDWA and Federal general grant regulations, and serves as the basis for negotiations between the Regional Administrator (RA) and the State on the proposed payment schedule. The IUP and the payment schedule are then incorporated into the capitalization grant agreement, which also defines the State program and operating methods. Material in these documents that does not change from year-to-year may be incorporated by reference in subsequent grant agreements or in an operating agreement (OA), which remains in effect unless the RA and the State agree to amend it.

For DWSRF program grant applications, States must submit EPA's standard application for non-construction grant assistance (EPA Form SF–424). States should submit grant applications no later than ninety days prior to the end of the period of funds availability. By so doing, EPA has adequate time to properly review the application and, as necessary, request additional information from the State. States that submit applications after this date run the risk of losing funds due to the provisions governing reallotment.

EPA Headquarters will concur on one State capitalization grant award in each Region and retains the flexibility to review additional capitalization grant applications. Headquarters may also review applications of States with more complex funding programs (e.g. leveraging). EPA Headquarters will work with the Regions to determine which State(s) will be reviewed.

A. Items Necessary To Establish a Loan Fund That Complies With Federal Requirements

The State must provide assurances in the capitalization grant application on how it will comply with the fifteen specifications discussed below for all DWSRF program funding (some apply only to the Fund). In some cases, the State must simply agree or certify in the grant application that it will comply with the specifications. In other cases, documentation on the procedures by which the State plans to ensure compliance with the specifications must be furnished. The State must include this documentation with its capitalization grant application or the Operating Agreement (OA) (see Table 1).

1. Assurance That the State Has the Authority To Establish a Fund and To Operate the DWSRF Program In Accordance With the SDWA

The State must establish a Fund and comply with section 1452 before it can receive a capitalization grant award (section 1452(a)(1)(B)).

With each capitalization grant application, the State's Attorney General (AG), or someone designated by the AG, must sign or concur in a certification that the authority establishing the DWSRF program and the powers it confers are consistent with State law and that the State may legally bind itself to the terms of the capitalization grant agreement. The AG must also provide written assurance that the DWSRF program will be administered by an instrumentality of the State that is authorized to (1) enter into capitalization grant agreements with the EPA, (2) accept capitalization grant awards made under section 1452(a)(1)(A) of the SDWA and (3) otherwise manage the Fund in accordance with the requirements and the objectives of the SDWA. Documentation supporting the AG's certification, such as copies of statutes, executive orders, or administrative orders, must be furnished with the application or reference must be made to documentation submitted with previous DWSRF capitalization grant applications. Where waiting for this certification would significantly delay awarding the first capitalization grant, the head or chief legal officer of the State agency primarily responsible for administering the DWSRF program may sign or concur in the certification at the time of the grant award. In this case the capitalization grant agreement will contain the condition requiring the State to submit the AG's or designee's concurrence within 120 days of the grant award. If the AG opinion is not received within the 120-day period, EPA will not process further payments until the certification is received.

If more than one State Agency is involved in the DWSRF program, the roles and responsibilities of each agency must be described in the application, and a copy of any Memoranda of Understanding or interagency agreement(s) that describes the roles and responsibilities between agencies, must be included with the application. However, the agency that is awarded the capitalization grant must remain accountable for the use of the funds provided in the grant agreement under EPA's general grant regulations (40 CFR 31.3).

A State may (as a convenience and to avoid unnecessary administrative costs) combine, in accordance with State law, the financial administration of the Fund with the financial administration of any other revolving fund established by the State if otherwise not prohibited by the law under which the Fund was established and if the State certifies that:

(A) All monies in the Fund, including capitalization grants, State match, bond proceeds, loan repayments and interest, must be separately accounted for and used solely for the purposes specified in section 1452(a); and

(B) The authority to establish assistance priorities and carry out oversight and related activities (other than financial administration) with respect to assistance remains with the State agency having primary responsibility for administration of the State's public water supply supervision program (primacy agency), after consultation with other appropriate State agencies (section 1452(g)(1)).

If a State is eligible to receive a capitalization grant but does not have primacy, the Governor shall determine which State agency will have the authority to establish priorities for financial assistance from the State loan fund (section 1452(g)(1)(B)). Evidence of the Governor's determination must be furnished with the application.

2. Assurance That the State Will Comply With State Statutes and Regulations

The State must agree to comply with all State statutes and regulations that are applicable to DWSRF funds, including Federal capitalization grant funds, State match, interest earnings, bond proceeds and repayments, and funds used for set-aside account activities.

3. Assurance That the State Has the Technical Capability To Operate the Program

The State must provide documentation demonstrating that it has adequate personnel and resources to establish and manage the DWSRF program (for example, current and future staffing plan, background/qualifications statements, schedule for planned training).

4. Assurance That the State Will Accept Capitalization Grant Funds in Accordance With a Payment Schedule

The State must agree to accept Federal grant payments in accordance with the negotiated payment schedule and use those payments for the activities of the DWSRF program under section 1452. As part of its capitalization grant application, the State must submit a proposed schedule of grant payments that is consistent with its proposed binding commitments outlined in its IUP, and its plan for expending set-aside funds. The payment schedule will become part of the capitalization grant agreement. The State will receive Federal funds in accordance with the provisions of the EPA-Automated Clearing House (formerly known as Letter-of-Credit). (See V.C. below)

5. Assurance That the State Will Deposit All Capitalization Grant Funds in the Fund or Set-Aside Account

The State must agree to deposit the capitalization grant in the Fund except for those portions of the grant that the State intends to use for set-aside purposes authorized under the SDWA (section 1452(a)(1)(B)). The State must maintain an identifiable and separate account(s) for the portion, or portions, of the capitalization grant to be used for set-aside activities (see II.B.3. below).

Once funds are deposited into the Fund, such monies may be used only as authorized under section 1452(f). Under some circumstances, funds may be moved after the award of the capitalization grant among authorized activities (see II.B).

6. Assurance That the State Will Provide an Amount at Least Equal to 20 Percent of the Capitalization Grant (State Match) in the Fund

The State must agree to provide an amount into the Fund equaling at least 20 percent of the amount of each capitalization grant. Except for Federal payments made from Fiscal Year (FY) 1997 appropriations, the State match must be deposited into the Fund on or before the date that each Federal capitalization grant payment is made to the State (section 1452(e)). States have until September 30, 1999 to provide the State match for grant payments already received from FY 1997 appropriations. (See V.A. for additional details.)

The State may provide its match in a form that is similar to the form of the Federal payment. For example, the Federal payment is made in the form of an increase to the level of funds available to the State through the Automated Clearing House (ACH). The State may establish a similar mechanism to provide its match.

7. Assurance That the State Will Deposit Net Bond Proceeds, Interest Earnings, and Repayments Into the Fund

The State must agree to credit net bond proceeds, interest earnings and repayments into the Fund. Fund assets may be used as a source of revenue or security for bonds, as long as the net proceeds of the sale of bonds will be deposited into the Fund (section 1452(f)(4)).

Loans for land acquisition and source water protection, made pursuant to section 1452(k)(1)(A) must be repaid. A State may deposit these repayments, including principal and interest, in the Fund, or the State may choose to deposit the repayments into a separate account dedicated to 1452(k)(1) activities. This separate account is subject to the same management oversight requirements as the Fund.

8. Assurance That the State Will Match Capitalization Grant Funds the State Uses for 1452(g)(2) Set-Asides

The State may use up to 10% of its capitalization grant for 1452(g)(2) activities. The State must match use of these funds with an equivalent amount of state expenditures or provide documentation of in-kind services. A State cannot use any of the 20% match required under section 1452(e) to also match the 10% set-aside.

9. Assurance That the State Will Use Generally Accepted Accounting Principles

The State must agree to establish fiscal controls and accounting systems, according to Generally Accepted Accounting Principles (GAAP) as promulgated by the Governmental Accounting Standards Board, that are sufficient to account for and report DWSRF Program activities. The accounting system used for the DWSRF Program must allow for proper measurement of (1) revenues earned by the DWSRF Program and other receipts, including, but not limited to, loan repayments, capitalization grants, interest earnings, State match deposits and bond proceeds; (2) expenses incurred by the DWSRF Program and other disbursements, including but not limited to, loan disbursements, repayment of DWSRF bonds, and other expenditures allowed under section 1452; (3) the assets, liabilities and capital contributions in the DWSRF Program; (4) the maintenance of the corpus of the Federal and State capital contributions made to the DWSRF Program; and (5) the DWSRF's performance in relation to its short- and long-term goals as identified in the previous IUP.

10. Assurance That the State Will Have the Fund and Set-Aside Account Audited Annually in Accordance With Generally Accepted Government Auditing Standards

The State must agree to conduct an annual audit (with separate opinion for project funds) on the Fund and set-aside account activities funded in the DWSRF program. The contents of the annual audit are discussed in more detail under Part VI of these guidelines.

The State DWSRF program shall provide an audit on an annual basis. Such audits shall be conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS) issued by the Comptroller General of the United States.

The Administrator is relying on the annual audit of the DWSRF program to minimize the risk of waste, fraud and abuse and increase the chance that such occurrences will be detected and reported. As called for under GAGAS, audits should be designed to provide reasonable assurance of detecting material misstatements resulting from noncompliance with applicable laws, regulations, contracts and grant agreements and which have a direct and material effect on the determination of financial statement amounts and be developed in accordance with State audit practices established in State law. If specific information comes to the auditor's attention that provides evidence concerning the existence of possible noncompliance, auditors should apply procedures specifically directed to ascertaining whether noncompliance has occurred.

11. Assurance That the State Will Adopt Policies and Procedures to Assure That Borrowers Have a Dedicated Source of Revenue for Repayments (Or in the Case of a Privately Owned System, Demonstrate That There is Adequate Security)

The State must adopt policies and procedures to assure that borrowers have a dedicated source of revenue for the repayment of loans and must apply these policies and procedures to the portion of the loan that must be repaid. States must submit and receive EPA approval for the policies prior to the award of the first project loan. States must develop criteria to evaluate an applicant's financial ability to repay the loan, in addition to paying for operation and maintenance costs and other necessary expenses.

12. Assurance That the State Will Commit and Expend Funds as Efficiently as Possible, and in an Expeditious and Timely Manner

The State must agree to commit and expend all funds allotted under Section 1452 "as efficiently as possible" (section 1452(g)(3)), and in a timely and expeditious manner. The State must enter into binding commitments with recipients of Fund assistance equal to the total amount of each grant payment and required State match deposited in the Fund within one year of the grant payment. States need to work with loan recipients to make sure that projects are funded and completed in a timely and expeditious manner. (See V.C.3. for additional details.)

13. Assurance That funds Will Be Used in Accordance With the Intended Use Plan

The State must agree to expend DWSRF funds in accordance with an Intended Use Plan (section 1452(b)) that has undergone public review and comment. (See I.B. for additional details)

14. Assurance That the State Will Provide EPA With a Biennial Report

The State must agree to complete and submit a Biennial Report on the uses of the DWSRF program. The scope of the report covers both the Fund and set-aside account activities. The contents of the Biennial Report are discussed in more detail under Part VI of these guidelines.

States which jointly administer DWSRF and CWSRF programs, in accordance with section 1452(g)(1), may submit a report which covers both programs. If the State elects to prepare a joint report, it may either (1) submit a joint report in alternate years and an annual CWSRF report in the other years or (2) submit a joint report annually.

Even though the report covers both programs, financial information must be reported separately for each program. For example, the DWSRF and CWSRF should be reported in separate columns in audited balance sheets, income statements, and other financial statements.

15. Assurance That the State Will Comply With All Federal Cross-Cutting Authorities

The State must agree to ensure that all applicable Federal cross-cutting authorities will be complied with. (See IV.A for additional details.)

B. Intended Use Plan

The central component of the capitalization grant application is an IUP (section 1452(b)), which describes how the State intends to use available DWSRF program funds for the year to meet the objectives of the SDWA and further the goal of protecting public health.

The State must prepare the IUP, and provide it to the public for review and comment prior to submitting it to the RA as part of its capitalization grant application. EPA expects that the public review and comment process that a State uses to discuss the IUP will be open and that it will provide the public with adequate opportunity to comment on how the State plans to use capitalization grant funds. States should also respond to substantial comments received. The State must include in the capitalization grant application a description of the public review process and how it responded to major comments and concerns.

For efficient planning and to maintain consistency in calculating set-asides, scheduling payments and other matters, each IUP must conform to the fiscal year adopted by the State for the DWSRF program (e.g., the State's fiscal year or the Federal fiscal year).

In the IUP, the State must describe how it will use all funds available to the capitalization grant, including funds that will be allocated to the set-asides. Specifically, the IUP must describe how all available funds, including capitalization grants, State match, loan repayments, interest earnings, bond proceeds, and other monies deposited into the DWSRF program, are intended to be expended. States may, as an alternative, develop the IUP in a two part process, one part that identifies the distribution and uses of the funds among the various set-asides and the Fund and the other part dealing only with project funding in the Fund. The two-part process would allow a State to submit a capitalization grant application for a portion of the DWSRF program funds before they complete all of the specific funding decisions. In this situation, a State would have to conduct two rounds of public review and comment—one for the overall distribution of funds and specific details on particular set-aside uses and the other for the priority project list(s).

For example, assume that a State has decided to allocate 76% of its funds to the DWSRF Fund, 10% of its funds to the source water delineation set-aside, 4% for DWSRF administration, and 10% for the Public Water System Supervision (PWSS) program set-aside, but the State has not yet developed its project priority list(s). This State could seek public review and comment on the allocation of funds and submit a capitalization grant application for the 24% of funds that will be used for set-aside purposes. As with all grant applications, the State would have to include a detailed description of what the set-aside funds would be used for. The State would then, at a later date, develop the Fund component, including the project priority list, seek public review and comment on this list, and then submit an amendment to the capitalization grant application for the additional funds.

Because the Fund can only provide those types of assistance described in section 1452(f), funds that the State will use for set-aside activities must be placed in an account that is separate (outside) from the Fund account.

The State must prepare an IUP as long as the Fund account and/or set-aside account funds remain in operation, not just in those years in which the State submits an application for a Federal capitalization grant.

States must provide information regarding the IUP in a format and a manner that are consistent with the needs of the RA.

1. Priority List of Projects, Including Description and Size of Community

In accordance with Section 1452(b), States must develop a list of projects that will receive funding in the first year after the grant award and a comprehensive priority list of eligible projects for funding in future years. In determining the priority of funding, a States' "intended use plan shall provide, to the maximum extent practicable, that priority for the use of funds be given to projects that:

i. Address the most serious risk to human health;

ii. Are necessary to ensure compliance with the requirements of this Title [SDWA] (including requirements of filtration); and

iii. Assist systems most in need, on a per household basis, according to State "affordability criteria" (section 1452(b)(3)).

Section 1452(a)(2) of the Act identifies eligible projects as those projects "which the Administrator has determined, through guidelines, will facilitate compliance with national primary drinking water regulations* * * or otherwise significantly further the health protection objectives of this title."

Taken together, these two sections clearly signal Congressional intent that States *must give maximum priority* to projects needed for SDWA compliance, projects that provide the greatest protection to public health, and those projects which assist systems most in need on a per household basis. States *must* develop a priority list that reflects this intent and fund projects in this order, to the maximum extent practicable. The priority system must provide sufficient detail to permit the public and EPA to readily understand how the system has been established and the basis for ranking individual systems. A State that does not adhere to the above stated criteria must detail why they were unable to do so.

This is clearly different from the provisions in the CWSRF under which States can fund any project on the priority list regardless of its position on the list. To comply with this Congressional directive, EPA will annually review a States actions to see how closely the State adheres to the priority list.

Although "readiness to proceed" is not an appropriate factor in ranking projects based on their compliance and public health needs, EPA does recognize that States will need to consider this when deciding which projects to fund. This will be especially critical in the first two years, because many highly-ranked projects may not be ready to apply for assistance. Consequently, EPA will approve priority systems that take readiness to proceed into account only for the first two fiscal years.

The IUP list of projects to receive funding (project priority list) must include the name of the public water system, the priority assigned to the project, and a description of the project (including the type of project), the expected terms of financial assistance based on the best information available at the time the IUP is developed, and the population of the system's service area at the time of the loan application.

The comprehensive IUP priority list must include the priority assigned to each project and, to the extent known, the expected funding schedule for each project (section 1452(b)(3)(B)). A State may combine these two lists into one list by identifying which projects on the single list will receive funding in that year.

The State must seek public review and comment on its IUP. The IUP project list may be amended during the year under provisions established in the IUP as long as the project has been previously identified through the public participation process. The IUP may also allow for the addition of projects on an emergency basis. Such projects would include those where some type of failure was unanticipated and requires immediate attention to protect public health.

A State may bypass a project on the priority project list if the State's bypass procedures have undergone public review and comment. These bypass procedures should clearly identify the conditions which would allow a project to be bypassed and the way the State will identify which projects would receive the bypassed funds. If a State elects to bypass a project for reasons other than fiscal capacity or readiness to proceed, the State must provide a justification for this bypass and, in each specific instance, describe why it was not practicable to fund projects that were ranked higher on the priority list than the funded project. In all such cases, the State must describe its efforts to adhere to the priority list, as required by the Act, "to the maximum extent practicable". States must work with bypassed projects to ensure that the project will be eligible for funding in the following fiscal year, to the maximum extent possible.

A State must annually use at least 15% of all funds credited to the Fund account to provide loan assistance to systems serving fewer than 10,000 persons (section 1452(a)(2)), to the extent that there are a sufficient number of eligible projects to fund. States must determine the amount to be used for this provision based on the level of available funds that the State expects to have for funding DWSRF projects during the period covered by the IUP. A State that does not use at least 15% of the available funds for small systems must describe in the next IUP the steps it is

taking to ensure that a sufficient number of projects are identified to meet this requirement in future years. States that exceed the prescribed percentage of assistance to these systems in one year may bank the excess toward future years.

2. Description of Criteria and Method Used for Distribution of Funds

The IUP must describe the criteria and method that the State will use to distribute all funds. This description shall include: (1) The process and rationale for distribution of funds between the Fund and the set-aside account, (2) the process for selection of systems to receive assistance, (3) the priority and allocation of assistance the State gives to different eligible categories of projects, (4) the rationale for providing different types of assistance and terms (e.g., length of repayment, interest rate), including a description of the financial planning process undertaken by the Fund, and (5) the impact of all funding decisions (e.g., set-aside, disadvantaged communities) on the long term financial health of the Fund.

3. Description of the financial status of the DWSRF Program

The IUP must include a description of the financial status of the DWSRF Program. This description should detail: The total dollar amount in the Fund; the total dollar amount used as set-asides, including the level of funds banked; the types of projects to be funded; and the amount of the capitalization grants that will be used for disadvantaged community assistance. The IUP should include factors such as expected estimated loan demand, whether the State will leverage, and other factors that determine the short-term and long-term focus and health of the program.

4. Description of the short- and long-term goals of the DWSRF Program

The IUP must describe the short term goals of the DWSRF program, including how the capitalization grant funds will be utilized to ensure compliance and protect public health goals of the Act.

The IUP must also describe the objectives of the DWSRF program over the long-term, and how these objectives can be realized. These objectives include public health, compliance with the Act, assisting systems to ensure affordable water and maintaining the long-term viability of the Fund. The IUP should include a description of how the DWSRF program funds will be used to support other components of the State drinking water and ground water programs, including water system restructuring, capacity building, operator certification, source water protection, and wellhead protection.

5. Description of amounts transferred between the DWSRF and the CWSRF

The Governor of a State may transfer up to 33% of the DWSRF capitalization grant to the CWSRF or an equivalent amount from the CWSRF to the Fund, starting a year after the State has received its first DWSRF capitalization grant (project funds), but no later than the beginning of FY 2002 (section 302 of Pub. L. 104–182). EPA will provide additional guidelines concerning these fund transfers at a later date.

6. Description of the set-aside activities, and percentage of funds, that will be funded from the DWSRF capitalization grant, including DWSRF administrative expenses allowance, PWSS program support, technical assistance, etc.

The IUP must identify what portion of the capitalization grant a State is electing to use for set-aside activities (e.g., section 1452(g)(2), section 1452(k)), and place those funds in a set-aside account. The set-aside account must be dedicated to supporting the other activities authorized in section 1452. The IUP must describe how the funds in the separate account(s) will be used and provide a schedule for their expected use. A State must describe how it intends to use the funds and the expected accomplishments that will result from use of the funds for a given purpose. For project set-aside funds, the State must describe, at a minimum, the process by which projects will be selected and how the funds will be distributed.

Recipients of 1452(k) land acquisition or source water protection loans are required to repay the loans in the same manner as loans from the Fund. The State may place the repayments in the Fund or it may set up a separate account to continue funding eligible 1452(k) loan activities. Subsequent loans from this separate account must meet the same requirements as loans from the Fund.

7. Description of how a State disadvantaged community program will define a disadvantaged system and the amount of DWSRF funds that will be used for this type of loan assistance

A State may provide additional loan subsidies, including forgiveness of principal, to disadvantaged communities receiving Fund loans (section 1452(d)). If the State establishes a disadvantaged community program it must describe in the IUP how the program will operate. Using the best information available at the time of the IUP, this description must include: (1) A definition of disadvantaged community, (2) the total amount of the capitalization grant that may be used for providing additional subsidies, (3) to the maximum extent practicable, an identification of systems that will receive additional subsidies and the amount and (4) a description of affordability criteria that the State will use to determine the level of principal forgiveness.

The value of loan subsidies a Fund provides during the fiscal year adopted by the IUP under this provision cannot exceed 30 percent of the amount of the capitalization grant for that year (1452(d)(2)). Loan subsidies under this provision cannot be banked for future use.

C. Capitalization Grant Agreement

The Capitalization Grant Agreement (CGA) is the principal instrument by which the State commits to manage its DWSRF program, and to ensure that it conforms with the requirements of the SDWA Amendments of 1996. The CGA contains, or incorporates by reference, the following parts of the agreement: the application; the IUP; the agreed upon payment schedule; certifications or other agreement requirements discussed in the first section; the operating agreement, if used, and other documentation required by the RA. In addition to these requirements, the CGA must also define the types of performance measures, reporting requirements, and oversight responsibilities that will be required to determine compliance with section 1452. Agreement is also needed on the contents of the Biennial Report, annual audit, and the EPA review. Table 1 describes how each of the following assurances and CGA requirements must be addressed.

The capitalization grant agreement must also describe the process a State will use to ensure that systems have the technical, financial, and management capacity to operate the system before receiving a loan. If a system in non-compliance is going to receive a loan, the State must describe how the system has changed or will change its operation over the long-term.

A State may also place into a separate, non-project administration account, loan application fees or other program fees or assessments that a DWSRF program collects from loan recipients to help offset the cost of running the DWSRF program. Because these fees and assessments would be considered program income under the Agency's general grant regulations (40 CFR 31.25), the grant agreement must specify that they will be used for purposes directly related to the DWSRF program, that they will not be made available for other purposes and that they will be properly accounted for in the annual audit. The IUP must identify the amount of any fees that are placed in the non-project administration account and describe how they are used.

D. Operating Agreement

The framework and procedures of the DWSRF program that are not expected to change annually may be described in an Operating Agreement (OA) that can be included as part of the Capitalization Grant Agreement. The grant application and subsequent grant agreement may incorporate by reference relevant portions of the previous year's application. If there are proposed changes to the OA, the State will need to negotiate changes with the Region that may be necessary prior to submitting the next capitalization grant application.

The decision to prepare an OA does not entail additional program requirements, demonstrations or documentation. The OA simply describes the structure of the State's program, explains its goals and objectives, and includes review, overview, accounting, auditing and sanction provisions. Upon the successful completion of negotiations, the OA must be signed by the State signatory to the CGA and the Regional Administrator. On an annual basis, the OA must be supplemented with an Intended Use Plan that identifies the projects and activities that the State plans to support with financial assistance from the fund. Based on the OA and the Intended Use Plan, the Region will award a capitalization grant to the State. Regions and States that choose this alternative method of program implementation may find that it facilitates their program management capability.

II. Allotment/Use of Funds

Section 1452(m) authorizes a total of $9.6 billion for the DWSRF program from FY 1994 through FY 2003. This section describes allotment, reallotment, and withholding of these funds; national and State set-asides; and types of financial assistance available from the Fund.

A. Allotment/Reallotment/Withholding of Funds

1. Allotment Formula

Funds available to States from FY 1997 appropriations will be allotted according to the formula used for distributing Public Water System Supervision (PWSS) grants under section 1443 in FY 1995. Funds available to States from FY 1998 appropriations and beyond will be allotted according to a formula that reflects the needs identified in the most recent Needs Survey conducted pursuant to section 1452(h). In each case, the minimum proportional share established in the formula that each State will receive will be one percent of the funds available for allotment to all the States. The District of Columbia will also receive a one-percent share of available funds (section 1452(a)(1)(D)). The Virgin Islands and the Pacific Island territories will together receive an allotment of 0.33 percent (section 1452(j)).

2. Period of Availability and Reallotment

Funds are available to the States during the fiscal year in which they are authorized and during the following fiscal year (section 1452(a)(1)(C)). The amount of any allotment not obligated to the State at the end of this period of availability will be reallotted among other States according to the original formula used to allot these funds (FY 1997 funds: PWSS formula; FY 1998 funds and beyond: appropriate Needs Survey). Any State that has not obligated all of the funds allotted to it in the period of availability shall not be eligible to participate in the reallotment of funds for that particular fiscal year. The Administrator may reserve up to 10 percent of the funds available for reallotment to provide additional assistance to Indian tribes (section 1452(a)(1)(E)).

3. Withholding of Funds

a. The Administrator will withhold funds under the following provisions:

i. Capacity Development Authority—The Administrator will withhold 20% of a State's allotment unless the State has obtained the legal authority or other means to ensure that all new community water systems and new nontransient, noncommunity water systems commencing operation after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each drinking water regulation in effect. This withholding provision becomes effective in FY 1999, which begins October 1, 1998. For any capitalization grant applications awarded after October 1, 1998, but before October 1, 1999 (FY 1999 funds), EPA will not obligate 20 percent of capitalization grant funds allotted to a State that does not have adequate authority in place. If a State documents by September 30, 1999, that the authority is in place to ensure that new systems demonstrate adequate capacity, then EPA will award the unobligated FY 1999 funds. If a State does not have the authority in place by September 30, 1999, it will lose the 20 percent of FY 1999 funds that were not awarded originally. EPA will withhold 20% of each successive capitalization grant allotted to a State and the withheld funds *will* be reallotted. The withholding provision will cease to apply to federal funds appropriated starting the next fiscal year after a State obtains the required authority.

ii. Capacity Development Strategy—The Administrator will withhold funds from any States that are not developing and implementing a strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity. The amount of a State's allotment under section 1452 that will be withheld on October 1 of each fiscal year is 10 percent of FY 2001 allotments, 15 percent of FY 2002 allotments, and 20 percent of each subsequent year's allotments. The determination of when the State meets the requirement will occur on October 1 of each year. States not meeting the requirement for that fiscal year's federal appropriation will lose funds to reallotment regardless of when the State submits the capitalization grant application. Funds will no longer be withheld once a State develops and implements its capacity development strategy. The withholding provision will cease to apply to federal funds appropriated starting the next fiscal year after a State obtains the required authority. EPA plans to issue separate guidelines for States to use in developing these strategies.

The total amount of funding that will be withheld if a State fails to meet the requirements of both of the capacity development provisions is 20 percent of the capitalization grant (section 1452(a)(1)(G)(i)).

iii. Operator Certification Program—The Administrator will withhold 20% of a State's funds unless the State has adopted and is implementing a program for certifying operators of community and nontransient, noncommunity public water systems. This withholding provision will begin two years after the Administrator publishes guidelines for certification of operators. The Administrator is required to publish guidelines no later than February 6, 1999. The withholding provision will cease to apply to federal funds appropriated the next fiscal year after a

State complies with the requirement (section 1452(a)(1)(G)(ii)).

b. Reallotment of withheld funds.

All funds withheld from a State because the State does not have the capacity development authority, does not develop and implement a capacity development strategy, and/or does not develop and implement an operator certification program, will be reallotted, using the same formula that was originally used to allot those funds. A State that has funds withheld for any one of these three activities is not eligible to receive reallotted funds for that activity. Thus, if a State does not develop an operator certification program but does have a capacity development strategy, the State would be eligible to receive a reallotment from withheld funds from States without capacity development programs but would not be eligible for reallotted funds under the operator certification provision. A State would also have to be eligible to receive reallotted funds in accordance with the reallotment provisions in section 1452(a)(1)(E) prior to being eligible to receive reallotted funds under the specified withholding provisions. This section limits reallotment to those States that have obligated all of their allotment during the period of availability.

c. Loss of primacy.

A State may not receive capitalization grant funds if the State had primary enforcement authority (primacy) for drinking water pursuant to section 1443 (section 1452(a)(1)(F)) on the date of enactment of the Safe Drinking Water Amendments of 1996 (August 6, 1996) and the State subsequently loses primacy. A State would not be eligible for future capitalization grants until primacy is restored. Wyoming and the District of Columbia did not have primacy prior to August 6, 1996. However, the law provides that they are eligible to receive DWSRF funds. The Administrator may reserve funds from the allotment of a State that loses primacy for use by EPA to administer primary enforcement responsibilities in that State. The balance of the funds not used by EPA to administer primacy will be reallotted to other States pursuant to section 1452(a)(1)(E).

B. Set-asides From the National Appropriation and Ceilings on State Allotments

Section 1452 authorizes numerous national set-sides from the appropriation for that section and allows States to use certain percentages of their allotment for various purposes other than project construction. Table 2 provides an overview of the available set-asides. Table 3 presents a flow chart for calculating these set-asides and Table 4 gives a numerical example of the set-asides. States need to determine the level of funds necessary to evaluate short-term program needs to protect public health and prevent contamination versus the long-term need to maintain an adequate level of infrastructure to address system needs over the long-term.

1. National Set-Asides

The National set-asides are reserved from the funds annually appropriated by Congress to carry out section 1452. These set-asides are:

a. Indian Tribes/Alaska Native Villages. The Administrator may reserve (the Administrator will provide these funds) 1.5% from annually appropriated funds for grants to Indian Tribes and Alaska Native Villages (section 1452(i)). EPA will provide separate guidelines regarding the selection of projects, project management, and program oversight for these grants. Indian Tribes and Alaska Native Villages that have not otherwise received either grants or DWSRF assistance under 1452 for a specific project are eligible to receive grants under this provision.

b. Health effects studies. Section 1452 requires the Administrator to reserve $10 million from annually appropriated funds to conduct health effects studies on drinking water contaminants (section 1452(n)).

c. Unregulated contaminant monitoring. Starting in FY 1998, section 1452 requires the Administrator to reserve $2 million from annually appropriated funds (section 1452(o)) to pay for the costs of monitoring unregulated contaminants under section 1445(a)(2)(C).

d. Small system technical assistance. The Administrator may reserve up to 2% of the funds annually appropriated in FYs 1997–2003 to carry out the technical assistance provisions of section 1442(e) to the extent that the total amount of funding appropriated under section 1442 is not sufficient. The set-aside from section 1452(q) plus the appropriation in 1442(e) cannot exceed $15 million per year (section 1452(q)).

e. Operator training reimbursement. The Administrator will reimburse States for the costs of training and certifying operators of drinking water systems serving 3,300 persons or fewer to meet the requirements of guidelines that the Administrator must publish by February 6, 1999 (section 1419(a) and (d)). The Congress has authorized to be appropriated $30 million annually from FY 1997 through FY 2003 for these reimbursement costs (section 1419(d)(3)). If the appropriation is not sufficient to meet these requirements, the Administrator, prior to allocating funds to the States, shall reserve such sums from 1452(m) as are necessary to provide grants to States. Funds under this provision are set-aside prior to the allotment of funds to the States, and will be provided as a separate grant.

2. Allotment for D.C. and Other Jurisdictions

The Administrator shall reserve one percent of the funds allotted to the States for the District of Columbia. The administrator shall also reserve up to 0.33% of the total funds allotted to the States for grants to the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and Guam (section 1452(j)). The funds will be allotted according to the formula for allotting PWSS grants under section 1443(a)(4), and may be used to fund projects eligible for assistance under section 1452(a)(2). EPA will provide separate guidelines regarding the management of these set-asides.

3. State Set-aside Activities

Section 1452 authorizes States to provide funding for certain set-aside activities, described below, provided that the amount of that funding does not exceed ceilings specified in the Statute. A State must describe in the IUP the amount of funds that it will use for these activities. A set-aside account must be set up to accept these funds. Before cash can be drawn down from the federal ACH, a State must provide a workplan to EPA describing how the funds will be expended.

When set-asides are used to fund program (non-project) activities, the State and EPA must negotiate a workplan indicating how funds will be spent. No cash draws will be authorized from the federal ACH until the workplan(s) have been approved by EPA. While EPA reserves the right to require additional information from the States, the workplan should at a minimum include:

- The funding amount in dollars and as a percentage of the State DWSRF allocation;
- The number of FTEs projected for implementing each set-aside;
- The goals and objectives, outputs, and deliverables for each set-aside;
- A schedule for completing activities under each set-aside;
- The responsibilities of the agencies involved in implementing each set-aside;
- A description of the evaluation process to assess the success of work funded under each set-aside.

If a State does not expend all of its set-aside funds, a State may redirect the monies to the Fund, or it may redirect the funds to another set-aside activity as long as the maximum allowed for that activity has not been reached for the Fiscal Year from which the funds were derived. Set-aside funds may not be used to subsidize water system operation and maintenance expenses or for project activities eligible for funding from the Fund or those projects specifically not eligible for assistance from the Fund.

a. DWSRF administrotive expenses. A State may use up to four percent of the funds allotted to it for the reasonable costs of administering the programs under section 1452 and providing technical assistance (section 1452(g)(2)). These costs may include such activities as issuing debt; DWSRF program start-up costs; audit costs; financial, management and legal consulting fees; development of IUP and priority ranking system; development of affordability criteria; and cost of support services provided by other State agencies.

Expenses incurred issuing bonds guaranteed by the Fund may be absorbed by the proceeds of the bonds and need not be charged against the four percent administrative costs allowance, if done so prior to depositing the proceeds into the Fund. The net proceeds of those issues must be deposited in the Fund.

Funds that a State chooses to use for administrative purposes cannot be deposited into the Fund. Instead, these funds must be deposited into a separate account, or with other non-project funds.

The State may charge an application fee to process, manage or review an application for Fund assistance. Such fees may be collected in an account outside the Fund and used to supplement administrative expenses. Monies in this non-project fee account must be dedicated to the administrative purposes associated with the DWSRF program. If fees are collected and deposited into the Fund account, they are subject to the stipulated uses of the Fund, which does not include the use of funds for administrative purposes.

States may recover reasonable costs associated with the development of the DWSRF program, if the costs were incurred between August 6, 1996, the date of enactment of the SDWA Amendments of 1996, and the date on which the first capitalization grant for a State was awarded. Documented reimbursement costs will be counted as part of the amount, up to four percent, that a State can set aside for administrative purposes.

If the State does not obligate the entire four percent for administrative costs in one year, it can bank the excess balance and use it for administrative costs in later years.

b. State program management. A State may use up to a total of 10 percent of its allotment to:

- Administer the State PWSS program;
- Administer or provide technical assistance through source water protection programs, which includes the Class V portion of the Underground Injection Control Program;
- Develop and implement a capacity development strategy; and
- Develop and implement an operator certification program (section 1452(g)(2)).

The State must provide a dollar for dollar match (100 percent for up to 10 percent of the capitalization grant) for capitalization grant funds used for these purposes. This match is separate, and in addition to, the 20 percent match for the capitalization grant. At least one-half of the State match funds provided by the State must be in addition to the amount the State expended for the PWSS program in FY 1993 (see example on following page). Federal grant regulations preclude a State from using the same State funds to meet match requirements for two different programs. Thus, the same State dollar cannot be used to meet this match requirement and the match requirement in section 1443 of the SDWA (PWSS program grants), except that the FY 1993 match for the PWSS can offset up to one-half of the match required under section 1452 (g).

Funds used to administer or provide technical assistance for source water protection programs *shall not* be used for enforcement actions. States may credit toward the one-to-one match State dollars used for the PWSS program that are in excess of the current fiscal year State match required in section 1443. States may also credit current year expenditures on capacity development and operator certification programs toward the State's required match.

If the State does not obligate the entire 10 percent for these activities in any one year, it can bank the excess balance and use it for the same activities in later years.

c. Small systems technical assistance. A State may use up to two percent of its allotment to provide technical assistance to public water systems serving 10,000 people or fewer (section 1452(g)(2)). If the State does not use the entire 2 percent for these activities against a given allotment, it can bank the excess balance and use it for the same activities in later years. If a State chooses to use funds under this set-aside, EPA encourages States to use available funds to support small system efforts to apply for DWSRF loans. A State may use these funds to support a technical assistance team or to contract with outside organizations to provide technical assistance.

d. Local assistance and other State programs. A State may fund several other categories of activities to assist development and/or implementation of local drinking water protection initiatives (section 1452(k)). A State may use up to 15% of the capitalization grant amount for specified uses below, with the stipulation that not more than 10% of the capitalization grant amount can be used for any one activity. A State is not allowed to bank any of these funds for use in future years, with the exception of the funds used for source water delineation and assessment.

Funds loaned out under this section (i and ii) must be repaid in 20 years after completion of a project. States may place repayments in the project fund or set up a new, separate dedicated account(s) for 1452(k)(1) activities. Assistance from this separate account(s) may continue to be used for any eligible 1452(k)(1) activity.

State Program Management Match Example

Assume a State will receive a $10 million capitalization grant, and it would like to use 10% of the funds for this set-aside, which is $1 million. The State must match it with $1 million in State funds. According to the Statute, a State may receive credit for certain expenditures in FY 1993 and the current year being discussed, in lieu of having to match entirely with new appropriations. One important reminder is that at least one-half of the funds must be in addition to the amount expended by the State for the PWSS program in FY 1993.

	FY 1993	FY 1997
PWSS grant	$900,000	$1,200,000
State match for PWSS match	300,000	400,000
Additional State funds	200,000	300,000

Determination of State Credit

In lieu of providing funds for part or all of this match provision, many States may be able to credit current funds that a State is using for its PWSS program or other eligible funding. The Statute allows a State to use funds expended for

the PWSS program that are above and beyond the required PWSS State match, for both the current year ($300,000 for FY 1997 in this example) and in FY 1993 ($200,000 here). In addition, a State may credit the funds that the State is using for the State PWSS match portion in FY 1993 only ($300,000). Thus, in this example, you first look at the $300,000 from FY 1997, since the Statute requires that at least 50% of the total match come from the current year (FY 1997 in this example). The State could then potentially use up to $500,000 ($200,000 + $300,000) from FY 1993. However, in this example, the State would be limited to the use of $300,000 credit in FY 1993, due to the limitation of having only $300,000 of credit available in FY 1997. Thus, the State could use a total of $600,000 without providing new appropriations or other in-kind services. If the State wants to use the remaining $400,000 ($1 million less $600,000 already matched) in eligible set-aside funds, the State would need to provide an additional $200,000 or an equivalent amount of in-kind services. This additional $200,000 in FY 1997 would allow the State to use the additional $200,000 of unused credit from FY 1993. Thus, the State could take advantage of the full 10% set-aside with only a small amount of new funding or other in-kind contributions. In-kind services could include funds that the State currently expends on operator certification or capacity development programs. The State could also choose to simply use only $600,000 if no additional funding could be secured.

Second Example

Using the above example, if the State provided no funding for the PWSS program above the $400,000 State match in FY 1997, the allowable credit for FY 1997 would be zero. Thus, the State could not receive credit for FY 1993 allowable credits without providing State contributions in addition to the PWSS State match in FY 1997. This is due to the requirement that at least one-half of the funds be in addition to funding since 1993. For each new dollar the State provides, up to $500,000, the State could match it with eligible credits from the FY 1993 expenditures described in the example above. Thus, in order to use the full $1 million set-aside in this example, a State would have to provide $500,000 in new funding or in-kind services.

Third Example

Again using the above example, if the State provides $600,000 for the PWSS program above the State match requirement in FY 1997 (versus $300,000 as stated above), the State could use the $600,000 from FY 1997 and use $400,000 from FY 1993 as credit for the State match. In this example, the State would not have to provide any additional match in cash to take full advantage of this set-aside.

i. Assistance to a public water system to acquire land or a conservation easement for source water protection purposes:

A State may provide assistance, only in the form of a loan, to a public water system to acquire land or a conservation easement from a willing party for the purpose of protecting the system's source water(s) and ensuring compliance with national drinking water regulations.

If a State elects to use this set-aside, the State shall develop a priority setting process, or use an established priority setting process that meets the same goals, to decide what land or easements can be purchased. The process must include a requirement that public water systems demonstrate how the land or easements to be purchased will directly promote public health protection and/or compliance with national drinking water regulations. The State must seek public review and comment on this process. Furthermore, the State must identify specific parcels of land or easements purchased in the Biennial Report.

ii. Assistance to a community water system to implement voluntary, incentive-based source water quality protection measures:

A State may make a loan to assist a community water system implement voluntary, incentive-based source water protection measures in areas delineated under a source water assessment program described in section 1453 and for source water petitions. Only community (as opposed to noncommunity) water systems are eligible for this assistance. A State may establish a source water petition program and receive petitions from owners/operators or local governments requesting State assistance in the development of a voluntary, incentive-based partnership among systems, local governments, and others likely to be affected by the management measures. Only pathogenic organisms, chemicals in source water at levels above a drinking water standard, or chemicals that are not reliably and consistently below the drinking water standard can be identified as contaminants in a petition.

If a State elects to use this set-aside, the State must develop a list of systems that will receive loans, giving priority to projects that promote compliance and public health protection, and then seek public review and comment on this list.

iii. Provide funding to delineate and assess source water protection areas:

A State may use up to 10 percent of its FY 1997 capitalization grant to delineate and/or assess source water protection areas for public water systems in accordance with section 1453. Assessments include the identification of potential sources of contamination within the delineated areas. These assessment activities, which primacy States are required to undertake, are limited to the identification of contaminants regulated under the SDWA, or unregulated contaminants, selected by the State, at its discretion, when the State determines that they may pose a threat to public health. Funds set aside for this purpose shall be obligated by the State within four fiscal years after the State receives the grant from which the funds are set-aside.

Funds are available from the capitalization grant only for FY 1996 and FY 1997 to delineate and assess source water protection areas in accordance with section 1453.[1] Since there are no FY 1996 funds available for the DWSRF program, FY 1997 is the only year when funds will be available for this important activity. *EPA encourages States to determine the level of activity necessary to delineate and assess their source water protection areas, and determine the level of funding necessary to complete these activities. If needed, States should take up to 10 percent of fiscal year capitalization grant allowed by law.* EPA will review the State's determination as part of the capitalization grant application review.

iv. To support the establishment and implementation of wellhead protection programs:

The State may make expenditures from the set-aside account to establish and implement wellhead protection programs (WHP) under section 1428. Funds can be used to establish a WHP program, which a State must then submit to the EPA Region for approval. The WHP activities to be funded must be identified in the IUP.

v. To provide funding to a Public Water System to implement a technical or financial assistance under the capacity development strategy:

A State may provide assistance to a public water system as part of a capacity development strategy under section 1420(c).

e. Movement of funds between the Fund and set-aside account after award of capitalization grant. If provided for in the IUP, a State may move funds among set-aside activities or from the set-aside account(s) to the Fund after receiving an approved amendment to the capitalization grant. Once payments have been made (according to the schedule outlined in the capitalization grant award), the project funds will be considered part of the Fund and may only be used for the authorized purposes.

f. Transfer of funds. Section 302 of the SDWA Amendments of 1996 allows a State to transfer up to 33% of the capitalization grant made to a State under section 1452(m) to the CWSRF or an equivalent amount from the CWSRF to the DWSRF. This transfer is at the Governor's discretion and cannot occur until at least a year after the State has received its first DWSRF capitalization grant. EPA plans to issue guidelines at a later date concerning this transfer provision.

C. Types of Financial Assistance That the Fund May Provide

A Fund may make loans for project construction, purchase or refinance local debt obligations, guarantee or purchase insurance for local debt issues, provide revenue for or secure State bonds if the proceeds of the bonds are deposited in the Fund, and earn interest on Fund accounts (section 1452(f)).

1. Loans

A Fund may make loans with interest rates that are less than or equal to the market interest rate, including zero percent loans. The State is responsible for identifying in the IUP the method it will use to determine the "prevailing" market interest rate at the time a particular loan is executed with an assistance recipient. As part of its capitalization grant application, the State should outline its policy with respect to interest rate terms for various potential categories of assistance recipients.

A State may issue separate loans for planning, design, and construction costs. If the State had made prior loans to a recipient, the Fund may "roll over" the separate loans into a subsequent loan for construction. A State may also provide "incremental" assistance to finance a multi-year construction activity (e.g., for particularly large, expensive projects).

a. Repayment of loan. Assistance recipients (borrowers) must begin repayment of the loan(s), as provided in the loan agreement, not later than one year after completion of the project. A project is considered complete when the operations are initiated or are capable of being initiated. Recipients must complete loan repayment not later than 20 years after the completion of the project. However, States which establish a disadvantaged community loan program pursuant to section 1452(d) may provide loans to qualified recipients for up to 30 years, as long as the period of the loan does not exceed the expected design life of the project.

b. Dedicated repayment source. Each loan recipient (except for disadvantaged subsidy portion) must establish a dedicated source of revenue (or in the case of a privately owned system, demonstrate that there is adequate security) for repayment of the principal and interest due on the loan which is consistent with local ordinances and State laws. In most cases, this will be a pledge of revenues from user charges, while for privately owned systems, it could include the pledge of accounts receivable and proceeds therefrom.

c. Financial security of privately-owned systems. Eligible water systems that are privately owned must demonstrate that there is adequate security to assure repayment of the loan. In some cases a State may determine that it is appropriate to require such systems to provide credit enhancements, to pledge a variety of collateral, and/or to provide other types of security, such as corporate or personal guarantees.

d. Financial, technical, and managerial capability analysis. The State shall review the overall financial capability of the recipient to repay the loan as well as technical and managerial capability of the assistance recipient to maintain compliance with the SDWA (section 1452(a)(3)(A)(i)). Findings of the financial capability analysis may be used to determine the terms of assistance for applicants. The State may not provide assistance to any system that does not have the technical, managerial or financial capability to ensure compliance with the SDWA or is in significant non-compliance with any drinking water standard or variance. However, if assistance will ensure compliance or if the system's owner or operator agrees to take appropriate measures to ensure that the system has the necessary capability, the State may provide assistance.

e. Disadvantaged communities. A Fund may provide additional loan subsidies (e.g., principal forgiveness, negative interest rate loans) to benefit communities meeting the definition of "disadvantaged" or which the State expects to become disadvantaged as a result of the project. A "disadvantaged community" is one in which the entire service area of a public water system meets affordability criteria established by the State after public review and comment (section 1452(d)). The Administrator shall publish information, within 18 months after enactment of the SDWA amendments, to assist States in developing affordability criteria. EPA will undertake this effort in consultation with States and the Rural Utilities Service.

The State should take its affordability criteria into account when deciding the level of subsidy a disadvantaged community will receive, in order to make the loan affordable. Where capability of the system is an issue, the State must ensure that, prior to necessary funding and any other actions, the system has adequate financial, technical and managerial capability to maintain compliance.

The value of subsidies that a Fund provides during a particular fiscal year's capitalization grant cannot exceed 30 percent of the amount of the capitalization grant for that year (1452(d)(2)). Subsidies under this provision cannot be banked for future use.

f. Project funding for small systems. The Statute requires that a State use a *minimum* of 15 percent of all dollars credited to the Fund to provide loan assistance to small systems that serve fewer than 10,000 persons. The 15 percent minimum is based on the level of DWSRF funds that the State expects to have available for funding in the fiscal year addressed by the IUP.

2. Buy or Refinance Existing Debt Obligations

A Fund may buy or refinance debt obligations of municipal, intermunicipal or interstate agencies, where the initial debt was incurred and construction started after July 1, 1993 (section 1452(f)(2)). Private systems are not eligible for refinancing under section 1452(f)(2). Refinancing may entail purchasing existing municipal debt such that the proceeds of the transaction

[1] States may use funds from this set-aside for the development of Total Maximum Daily Loads (TMDL's) in limited circumstances. The State must establish a policy of allowing use of set-aside funds to develop TMDL's only if a clear cause and effect relationship can demonstrate that development of the TMDL is essential to public health protection and continuing compliance with national primary drinking water regulations. Funding TMDL's through source water set-asides is only eligible if it will prevent or reduce source water contamination or enhance the efficiency of the drinking water treatment process. In this context, TMDL activity should be weighed against other source water assessment and delineation priority activities. State source water assessment programs submitted to EPA that propose to include TMDL activity shall ensure that the development of TMDL's does not delay the completion of the source water assessments.

may be used to call the bonds. This provision is intended to encourage projects to proceed using their own means of financing in advance of the availability of Fund assistance, by offering the prospect of project refinancing at better financial terms at a later date.

Projects incurring debt and initiating construction between July 1, 1993 and the effective date of a State capitalization grant must meet the eligibility requirements of section 1452 to be eligible for refinancing. Where the original debt for a project was in the form of a multi-purpose bond incurred for purposes in addition to eligible purposes under section 1452, a Fund may provide refinancing only for eligible purposes, not for the entire debt.

If a State has credited repayments of loans made under a pre-existing State loan program as part of its State match (see V.A.), the State cannot also refinance the projects under the DWSRF. If the State has already counted certain projects toward its State match which it now wants to refinance, the State must provide replacement funds for the amounts previously credited as match.

The State should seek the advice of bond counsel or tax attorneys to ensure that these refinances do not conflict with Federal law.

3. Guarantee or Purchase Insurance for Local Debt Obligations

A Fund may provide assistance to improve the marketability of local debt obligations or to reduce interest rates to attract potential buyers of the bonds and loans (section 1452(f)(3)). These credit enhancements may take the form of guarantees or purchases of insurance, which are available from a number of insurance companies. Assistance of this type is limited to local debt obligations that are undertaken to finance projects eligible for assistance under section 1452.

4. A Source of Revenue or Security for Payment of Fund Debt Obligations

The State may use assets deposited in the Fund to "leverage" (i.e., increase) the total amount of funds available within the Fund (section 1452(f)(4)). Leveraging is accomplished by using Fund assets as a source of revenue or security for the payment of the principal and interest on revenue or general obligation bonds issued by the State. The net proceeds of the sale of the bonds secured by the Fund must be deposited into the Fund.

The security may be provided by any of the assets of the Fund, including an existing Fund balance and future revenues from loan repayments. The State may also choose to borrow against the repayment stream from outstanding loans made from an initial set of capitalization grants (or part of the capitalization grant or State match), thus increasing the financial resources of the Fund much sooner than would otherwise be possible. Bonds may be issued by an instrumentality of the State, including the State agency responsible for administering the Fund.

Note that the use of a capitalization grant to leverage does not, in and of itself, satisfy any requirements on the use of DWSRF funds. The proceeds of the bond issue must ultimately be used for providing loans and other assistance to satisfy the requirements of section 1452.

For the purposes of this section, "net proceeds" is defined as the funds raised from the sale of the bonds minus issuance costs (e.g., the underwriting discount, underwriter's legal counsel fees, bond counsel fees, financial advisor fees, rating agency fees, printing of disclosure documents/bond certificates, trustee banks' fees, various forms of credit enhancement and enhancement and other costs that may be incurred by a State agency incidental to the bond issuance).

Funds in a CWSRF cannot secure bonds issued for DWSRF assisted projects, and vice-versa, where there is the potential that assets in one Fund could be used for a purpose not authorized by the law establishing that Fund. Funds in a CWSRF cannot be used to cure a default on a project receiving DWSRF assistance because it is not an authorized type of assistance, nor is the project eligible, under title VI of the Clean Water Act. However, States may propose other leveraging methods relying on one or both Fund's assets where the potential for using those assets for an unauthorized purpose does not exist. For example, a State may use the authority to reserve one program's capitalization grant funds under section 302 of the SDWA Amendments to further secure a bond issued for one or both SRF programs. Such leveraging methods must be reviewed by the Regional Office and by EPA Headquarters before they can be implemented by the State.

5. Earn Interest on Fund Accounts

Sections 1452(c) and 1452(f)(5) authorize the State to earn interest on Fund accounts prior to disbursement of assistance (e.g., on reserve accounts used as security or guarantees). Dollars deposited must not remain in the Fund primarily to earn interest. States and municipalities should obtain the legal opinion of a bond counsel or tax attorney with respect to using the Fund to earn interest on the proceeds of a tax-exempt issue.

There are limits to the type of investments that a State can make with Fund accounts. Funds not required for current obligation or expenditure must be invested in interest bearing obligations (section 1452(c)). The authority to earn interest does not include investment methods that earn dividends or yields other than interest. Most States have laws that restrict the eligible investments of these fund accounts. Furthermore, if a State engages in a leveraged program, there may be restrictions on eligible investments in the trust indenture securing the bonds. In certain cases, the Federal tax code may limit the investments a leveraged program can make with fund accounts.

III. Eligible Systems and Projects

A. Eligible Systems

Drinking water systems that are eligible for Fund assistance are community water systems, both privately and publicly owned, and nonprofit noncommunity water systems. Federally-owned systems are not eligible to receive Fund assistance (section 1452(a)(2)).

Fund managers should seek tax advice if they plan to issue bonds, to ensure that the requirements of the Private Activity Use Rule are met, particularly with regard to funding eligible private systems.

Drinking water systems that have components of their systems in more than one State are eligible to receive funding after consultation with the regulatory agencies involved.

B. Eligible Projects

1. Compliance and Public Health

A DWSRF may provide assistance only for expenditures (not including monitoring, operation, and maintenance expenditures) of a type or category which will facilitate compliance with national primary drinking water regulations applicable to the system under section 1412 or otherwise significantly further the health protection objectives of the Act (section 1452(a)(2)).

Projects to address SDWA health standards that have been exceeded or to prevent future violations of the rules are eligible for funding. These include projects to maintain compliance with existing regulations for contaminants with acute health effects (i.e., the Surface Water Treatment Rule, the Total Coliform Rule, and nitrate standard) and

regulations for contaminants with chronic health effects (i.e., Lead and Copper Rule, Phases I, II, and V rules, and safety standards for total trihalomethanes, arsenic, barium, cadmium, chromium, fluoride, mercury, selenium, combined radium-226, -228, and gross alpha particle activity).

Projects to replace aging infrastructure are also eligible if they are needed to maintain compliance or further the public health protection goals of the Act. Examples of these include projects to:

- Rehabilitate or develop sources (excluding reservoirs, dams, dam rehabilitation and water rights) to replace contaminated sources;
- Install or upgrade treatment facilities if, in the State's opinion, the project would improve the quality of drinking water to comply with primary or secondary standards;
- Install or upgrade storage facilities, including finished water reservoirs, to prevent microbiological contaminants from entering the water system; and
- Install or replace transmission and distribution pipes to prevent contamination caused by leaks or breaks in the pipe, or improve water pressure to safe levels.

Projects to consolidate water supplies—for example, when individual homes or other public water supplies have a water supply that is contaminated, or the system is unable to maintain compliance for financial or managerial reasons—are eligible for DWSRF assistance.

The purchase of a portion of another system's capacity is eligible for a loan, if it is the most cost-effective solution.

2. Loan Assistance to Systems That Meet the Definition in Section 1401(b)

Certain entities that deliver water through constructed conveyances, other than piped water systems, are not currently considered public water supplies. The SDWA Amendments would classify such systems as public water systems unless they comply with provisions of 1401(b).

These systems are eligible for section 1452 funds for the purposes specified in 1401(b).

3. Land Acquisition

Land is eligible only if it is integral to a project that is needed to meet or maintain compliance and further public health protection. In this instance, land that is integral to a project is only the land needed to locate eligible treatment or distribution projects. In addition, the acquisition has to be from a willing seller. Land that is necessary for source water protection may be eligible to receive a loan under section 1452(k).

The cost of complying with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (the Uniform Act) is an eligible cost to be included in a DWSRF program loan. (See section on cross-cutters for a more detailed discussion of the Uniform Act.)

4. Planning and Design of a Drinking Water Project

A Fund may provide assistance for the costs of project planning, design and other related costs. The provision of assistance for design and planning costs does not guarantee a system that the DWSRF program will provide funding for the construction of the project. The State may choose to combine the loan for planning and design with a construction loan.

Costs to municipalities for preparing environmental assessment reports may be included as part of the costs of planning a project. Costs incurred by the State in reviewing the environmental assessments are considered DWSRF administrative costs.

5. Restructuring of Systems That Are in Noncompliance or That Lack the Technical, Managerial and Financial Capability to Maintain the System

A Fund may provide assistance to an eligible public water system to consolidate with other public water system(s) only if the assistance will ensure that the system returns to and maintains compliance with SDWA requirements (section 1452(a)(3)(B)).

If the system does not have the technical, managerial, and/or financial capability to ensure compliance, or is in significant noncompliance, the system may receive assistance only if (1) the assistance will ensure compliance, or (2) the owner or operator of the system agrees to undertake appropriate changes in operations. These changes include consolidation or management changes that will ensure that the system has the technical, managerial, and financial capability to ensure and maintain compliance with SDWA requirements. Costs associated with consolidation, such as legal fees and water buy-in fees, are eligible for funding.

A State should establish criteria or guidelines to help assess what types of operational or management changes may be appropriate for a water system. Further, a State should define when a system would be a good candidate for physical consolidation to solve a compliance or long-term financial issue, or when a system could consolidate by other means, such as through management consolidation.

C. Projects Not Eligible for Funding

The Fund cannot provide funding assistance for the following projects and activities:

- Dams, or rehabilitation of dams;
- Water rights, except if the water rights are owned by a system that is being purchased through consolidation as part of a capacity development strategy;
- Reservoirs, except for finished water reservoirs and those reservoirs that are part of the treatment process and are located on the property where the treatment facility is located;
- Laboratory fees for monitoring;
- Operation and maintenance expenses;
- Projects needed mainly for fire protection;
- Projects for systems that lack adequate technical, managerial and financial capability, unless assistance will ensure compliance;
- Projects for systems in significant noncompliance, unless funding will ensure compliance;
- Projects primarily intended to serve future growth.

1. Lack of Technical, Managerial and Financial Capability

A Fund may not provide any type of assistance to a system that lacks the technical, managerial or financial capability to maintain SDWA compliance, unless the owner or operator of the system agrees to undertake feasible and appropriate changes in operation or if the use of the financial assistance from the DWSRF will ensure compliance over the long-term (section 1452(a)(3)(B)(i)). The State shall develop a capacity program to evaluate each system to be funded to ensure it has adequate capacity to receive funding.

2. Significant Noncompliance

A Fund may not provide assistance to any system that is in significant noncompliance with any national drinking water regulation or variance unless the State conducts a review and determines that the project will enable the system to return to compliance and the system will maintain an adequate level of technical, managerial and financial capability to maintain compliance (section 1452(a)(3)(B)(ii)).

3. Growth

A Fund cannot provide assistance to finance the expansion of any drinking water system solely in anticipation of future population growth (section

1452(g)(3)(C)). However, assistance may be provided to address population growth expected to occur over the useful life of the facility to be funded. In determining whether or not a project is eligible for assistance, the State must determine the primary purpose of the project. If the primary purpose is to supply or attract growth, the project is not eligible to receive DWSRF funds. If the primary purpose is to solve a compliance or public health problem, the entire project, including the portion necessary to accommodate a reasonable amount of growth over its useful life, is eligible. In reviewing the proposed project, the State should review the basis for, and reasonableness of, the population projections.

A State must also consider the extent of current risk to public health in establishing funding priorities. Consequently, if a project includes substantial growth, it must be placed at the lower end of the priority list. It would be contrary to the intent of Congress, as reflected in the "anticipation of growth" provision, to fund a project with the prospect of a substantial amount of growth ahead of a project where a significant portion is attributable to rectifying a current health threat.

D. Compliance Without DWSRF Funding

The inability or failure of any public water system to receive assistance from a Fund or any other funding agency, shall not alter the obligation of a drinking water system to comply in a timely manner with all applicable drinking water standards and requirements of section 1452 (section 1452(l)).

IV. State/Project Level Authorities

A. Cross-Cutting Federal Authorities

There are a number of Federal laws, executive orders and government-wide policies that apply by their own terms to projects and activities receiving Federal financial assistance, regardless of whether the statute authorizing the assistance makes them applicable. These "cross-cutting Federal authorities" (cross-cutters) include environmental laws such as the National Historic Preservation Act and the Wild and Scenic Rivers Act, and social and economic policy authorities such as Executive Orders on Equal Employment Opportunity and government-wide debarment and suspension rules.

A few cross-cutters apply by their own terms only to the State as the grant recipient (e.g., Drug-Free Workplace Act, Pub. L. 100–692 section 5152 *et seq.*), because the authorities explicitly limit their application to grant recipients. In general, however, the cross-cutters will apply to projects and activities receiving assistance from the Fund.

The Fund may consist of funds from several sources: Federal grant dollars, State match amounts, loan repayments, and, perhaps, bond proceeds. It is therefore difficult to identify which projects are receiving Federal financial assistance and are thus, subject to the cross-cutters. Consequently, the cross-cutters will apply to an amount of funds equaling the amount of the Federal grant. Requirements imposed by the cross-cutters must be met by projects whose cumulative DWSRF funding is equivalent to the amount of the capitalization grant ("equivalency projects").

The concept of equivalency was developed for the CWSRF program, although in that program it had an additional feature. In the CWSRF program, equivalency projects were subject to a number of specific requirements listed in the Clean Water Act (section 602(b)(6)), as well as the cross-cutters. In the DWSRF program, the concept of equivalency is only used to describe which projects must comply with cross-cutters and which must undergo a tier one environmental review (see IV.B.)

Projects funded with DWSRF monies in amounts greater than the capitalization grant are not subject to these requirements, but States that apply cross-cutters to projects whose cumulative funding is greater than the amount of the Federal capitalization grant may bank this excess to meet future requirements.

All programs, projects and activities undertaken by the DWSRF program, including those undertaken as non-equivalency projects, are subject to Federal anti-discrimination laws, including the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975.

Because of the similarities between the DWSRF and CWSRF programs, and because the State plays a more substantial role in these two programs than in other Federal assistance programs (particularly in its relationship with assistance recipients), the method for applying cross-cutters in the DWSRF program will be the same as that used in the CWSRF program. The Agency will remain ultimately responsible for ensuring that assistance recipients comply with the cross-cutters, but will carry out this responsibility mainly through its annual oversight and approval roles. Day-to-day responsibility for overseeing funding recipients' implementation of the cross-cutters will fall upon the State. For example, where a cross-cutter requires consultation with another Federal agency, such as the U.S. Fish and Wildlife Service, the State will take this action initially. If a compliance issue cannot be resolved for a particular project through that consultation, then the State must seek the Regional Office's assistance in settling the matter. The most recent list of cross-cutters that apply is attached in Appendix A.

B. Environmentol Reviews

The environmental review principles developed for the CWSRF program will provide the basis for the development of a State environmental review process (SERP) in the DWSRF program. The SERP that applies to Fund equivalency projects must be the same as the process for CWSRF equivalency projects. Non-equivalency projects must also undergo an environmental review, but the State may elect to apply an alternative SERP to these projects.

1. Equivalency Projects

Equivalency projects are reviewed under a SERP that is functionally equivalent to the review followed by the Agency under the National Environmental Policy Act (NEPA). The State may elect to apply the procedures at 40 CFR part 6, subpart E and related subparts, or apply its own "NEPA-like" SERP for conducting environmental reviews developed for the CWSRF program. For equivalency projects, a SERP must contain the elements described below.

Legal foundation: The State must have the legal authority to conduct environmental reviews of construction projects receiving Fund assistance. The legal authority and supporting documentation must specify:

- The mechanisms to implement mitigation measures to ensure that a project is environmentally sound;
- The legal remedies available to the public to challenge environmental review determinations and enforcement actions;
- The State agency that is primarily responsible for conducting environmental reviews; and
- The extent to which environmental review responsibilities will be delegated to local recipients and will be subject to oversight by the primary State agency.

Interdisciplinary approach: The State must employ an interdisciplinary approach for identifying and mitigating adverse environmental effects including, but not limited to, those associated with cross-cutting Federal environmental authorities.

Decision documentation: The State must fully document the information, processes and premises that influence its decisions to:

- Proceed with a project contained in a finding of no significant impact (FNSI) following documentation in an environmental assessment (EA);
- Proceed or not proceed with a project contained in a record of decision (ROD) following preparation of a full environmental impact statement (EIS);
- Reaffirm or modify a decision contained in a previously issued categorical exclusion (CE), EA/FNSI or EIS/ROD following a mandatory 5 year environmental reevaluation of a proposed project; and
- If a State elects to implement processes for either partitioning an environmental review or CE from environmental review, the State must similarly document these processes in its proposed SERP.

Public Notice and Participation: The State must provide public notice when a CE is issued or rescinded, a FNSI is issued but before it becomes effective, a decision issued 5 years earlier is reaffirmed or revised, and prior to initiating an EIS. Except with respect to a public notice of a categorical exclusion or reaffirmation of a previous decision, a formal public comment period must be provided during which no action on a project will be allowed.

A public hearing or meeting must be held for all projects except for those having little or no environmental effect.

Alternatives Consideration: The State must have evaluation criteria and processes which allow for:

- Comparative evaluation among alternatives, including the beneficial and adverse consequences on the existing environment, the future environment and individual sensitive environmental issues that are identified by project management or through public participation; and
- Devising appropriate near-term and long-range measures to avoid, minimize or mitigate adverse impacts.

2. Non-equivalency projects.

The State may elect to apply an alternative SERP to non-equivalency construction projects assisted by the Fund, provided that the process:

- Is supported by a legal foundation which establishes the State's authority to review construction projects;
- Responds to other environmental objectives of the State;
- Provides for comparative evaluations among alternatives and accounts for beneficial and adverse consequences to the existing and future environment;
- Adequately documents the information, processes and premises that influence an environmental determination; and
- Provides for notice to the public of proposed projects and for the opportunity to comment on alternatives and to examine environmental review documents. For projects determined by the State to be controversial, a public hearing must be held.

3. EPA approval and Review Process

The RA must review and approve any State "NEPA-like" and alternative procedures to ensure that the requirements for both equivalency and non-equivalency projects have been met. The RA will conduct these reviews on the basis of the criteria for evaluating NEPA-like reviews contained in appendix B to these guidelines. Because these criteria are also used in the CWSRF program (appendix A to the CWSRF regulations), a State may simply adopt those for the DWSRF program. Significant changes to State environmental review procedures must be approved by the RA. The approved SERP may be incorporated in the State's operating agreement, if it elects to prepare one. (See I.D. above)

States should establish administrative procedures for monitoring, collecting and summarizing environmental review information and provide documentation of these activities in the Biennial Report. EPA's annual review will include a review of a sample of DWSRF projects to verify the application and the adequacy of the SERP.

V. Funding Process

A. 20 Percent State Match

Except for FY 1997 funds, States must deposit the 20% State match into the Fund on the date of or before receiving payments under the capitalization grant. In general, State match deposits must be in cash. When a State opts to use a "letter of credit" mechanism for its State match, payments to this letter of credit account must be made proportionally on the same schedule as the payments of Federal funds (as outlined elsewhere in these guidelines) in the capitalization grant. Monies from this State match letter of credit must be drawn into the Fund as monies are drawn on the Federal letter of credit (known as the automated clearinghouse account (ACH)).

When cash is drawn from the Federal ACH for the set-aside account only, the State may deposit its proportional share into the Fund in the form of a note receivable rather than actual cash. The note(s) must be converted to cash prior to the time when cash is drawn from the federal ACH to the project fund, in order to meet the State match requirement.

For grant payments made to the State from funds appropriated in FY 1997, the State may defer deposit of its matching amount to no later than September 30, 1999. This flexibility is provided to States which may need additional time to secure State funding for the required matching amount. Note that even if the State defers deposit of its matching amounts, it must identify the source of its matching funds in the capitalization grant application and agree to provide the State match for grant payments already received from the FY 1997 appropriations by September 30, 1999. Thus, States will have to match the funds that have been received as payments or are drawn down in cash, in order to reach the proportional match requirement of 20%, before additional funds can be expended from the federal ACH.

States may acquire the matching amount from a variety of sources, including legislative appropriations, proceeds from State issued bonds, revenues from State taxes or assessments, and funds maintained in other State accounts. Bonds issued by the State to derive the match may be retired from the interest payments made to the Fund on loans awarded by the Fund if the net proceeds from the State issued bonds are deposited in the fund. Loan repayments including principal and interest of a loan must be repaid to the Fund; with only the interest portion of repayments and interest earnings of the Fund as a source of funds to retire State bond issues that provide the State match. This flexibility to retire State debt should not be used to the extent that it endangers the long term financial goals and objectives, and financial condition of the DWSRF program, as described in the IUP. If the State provides a match in excess of the required amount, the excess balance may be banked toward match requirements associated with subsequent capitalization grants.

The State may already manage a dedicated revolving fund which provides assistance for activities consistent with section 1452(a)(2) of the SDWA. The State may credit toward its match requirement State monies deposited into this dedicated fund between July 1, 1993 and prior to the receipt of a capitalization grant under section 1452(a) of the SDWA if:

(1) The monies were deposited in an SRF that subsequently received a capitalization grant and, if the deposit

was expended, it was expended in accordance with section 1452 of the SDWA;

(2) The monies were deposited in a separate fund that has not received a capitalization grant, they were expended in accordance with section 1452 of the SDWA and an amount equal to all repayments of principal and payments of interest from these loans will be deposited in the Federally capitalized fund; or

(3) The monies were deposited in a separate fund and used as a reserve consistent with section 1452 and an amount equal to the reserve is transferred to the Federally capitalized fund as its function is satisfied.

B. State Match for the 1452(g)(2) Set-Aside

The State must agree to deposit into the set-aside account where the 1452(g)(2) funds will be deposited, a dollar for dollar match, up to 10 percent of the capitalization grant. States may acquire the matching amounts from a variety of sources, in particular, PWSS funding credits discussed in II.B.3.b. If additional funds are required, a State may use legislative appropriation or other State funds.

C. Federal Funding Process

1. General

A State will receive each capitalization grant payment in the form of an increase to the ceiling of funds available through a separate Fund account set up in the EPA-Automated Clearing House (EPA–ACH). Cash will be transferred to the State from the U.S. Treasury on a reimbursement basis, after the assistance recipient has billed the DWSRF program for work completed and the DWSRF program requests reimbursement from EPA. The State then reimburses project assistance recipients for costs incurred—a process known as the disbursement from the DWSRF.

2. Schedule of Payments

A State must include a payment schedule in its capitalization grant agreement that is based on its projection of binding commitments (see below) and use of set-asides in the State's Intended Use Plan. Increases in the ceiling of funds available in the EPA–ACH will be made in accordance with the schedule of payments. All payments will be made by the earlier of 8 quarters from the date of a capitalization grant award or 12 quarters from the date of allotment. The schedule of payments applies to all funds in the capitalization grant, including those funds that are used for set-aside activities.

3. Binding Commitments

In order to demonstrate continuing progress in project (both Fund and set-aside projects) initiation, and to further the intent of Congress to "commit(s) and expend(s) funds * * * as efficiently as possible* * *" (section 1452(g)(3)(A)), the State must agree to enter into binding commitments to provide financial assistance under the DWSRF program with assistance recipients. A binding commitment is a legal obligation by the State to a recipient of assistance that defines the terms for DWSRF assistance. The binding commitment should include a description of the project to receive financial assistance, the expected terms of the assistance, and expected date of project initiation and project completion.

Binding commitments must be made in an amount equal to the amount of each grant payment that is deposited into the Fund and State match within one year after the receipt of each grant payment.

The State must continue to make progress in providing Fund assistance by entering into binding commitments equaling the amount of the grant payment and State match within one year after it receives a grant payment. To facilitate compliance with this requirement, the State may wish to plan for binding commitments equal to the federal capitalization grant less the non-project set-asides plus the State match (Federal funds only for the FY 1997 funds). Then, if some projects are unable to proceed for unforeseen reasons, the State will still be able to comply with the requirement. The State may make binding commitments for more than the required amount, and bank the "excess" balance towards the binding commitment requirements of subsequent grant payments.

If a State is concerned about its ability to comply with the binding commitment requirement, it should notify the RA before it fails to fulfill its responsibility, and propose a revised payment schedule.

4. Cash Draw

The ACH process is structured so that neither the DWSRF program nor the assistance recipients will be required to provide interim financing on financial transactions of the DWSRF program. Transfer procedures have been established to ensure that cash will be in the DWSRF program account within two days after the Agency receives a valid request for cash draw from the State. To effect this two day transfer, the Agency will only subject requests to account verification. The Agency will not review DWSRF program documents (e.g., construction status of projects, adequacy of voucher documentation) as part of the cash draw process.

Cash draws from the DWSRF–ACH are limited by the ceiling available in the DWSRF–ACH. However, in the event of an imminent default (e.g., debt service payments to bondholders and resulting need for a cash draw from a DWSRF–ACH for use as a security or guarantee), the Agency can amend the grant agreement and payment schedule to allow the State to draw cash immediately, up to the total amount of the DWSRF–ACH committed to the guarantee or security. The DWSRF or the assistance recipient must first incur a cost in order for cash to be drawn against the DWSRF–ACH. The State may draw cash from the DWSRF–ACH for the proportionate Federal share of eligible costs at the time those costs have been incurred.

The following subsections describe the cash draw rules that apply to the different types of assistance a Fund can provide.

a. Projects

i. Loans

The State may draw cash from the DWSRF–ACH when the Fund receives a request from a loan recipient, based on incurred costs, including pre-building and building costs.

ii. Refinance or Purchase of Municipal Debt

For completed construction, cash draws will be made at a rate no greater than equal amounts over the maximum number of quarters that capitalization grant payments are made, and up to the portion of the DWSRF–ACH committed to the refinancing or purchase of the local debt. Cash draws for incurred building costs will generally be treated as refinanced costs. With the approval of the RA, the State may draw cash immediately when it is prepared to refinance for up to five percent of each fiscal year's capitalization grant or two million dollars, whichever is greater, to refinance or purchase local debt.

For projects or portions of projects that have not been constructed, the State may draw cash based on incurred construction costs according to the rule for loans.

For the purchase of incremental disbursement bonds from local governments, cash draws will be based on a schedule that coincides with the rate at which construction related costs are expected to be incurred for the project.

iii. Purchase of Insurance

The State may draw cash to purchase insurance as premiums are due.

iv. Guarantees and Security for Bonds

In the event of an imminent default in debt service payments on a guaranteed or secured debt, the State can draw cash immediately up to the total amount of the DWSRF–ACH that is dedicated to the guarantee or security. If a balance remains after the default is covered, the State must negotiate a revised schedule for the remaining amount dedicated to the guarantee or security.

In the absence of default, the State can draw cash up to the amount of the DWSRF–ACH dedicated for the guarantee or security based on actual construction cost. The amount of the cash draw would be the actual construction costs multiplied by the Federal share of the reserve multiplied by the ratio of the reserve to either the amount guaranteed or the proceeds of the bond issue.

In addition, in the case of a security, the State can identify a group of projects whose value equals approximately the total of that portion of the DWSRF–ACH and the State match dedicated as a security. The State can then draw cash based on the incurred construction costs of the selected projects only, multiplied by the ratio of the Federal portion of the security to the entire security.

Where the cash draw rules discussed immediately above would significantly frustrate a State's program, the Agency may permit an exception to these cash draw rules and provide for a more accelerated cash draw, where the State can demonstrate that:

- There are eligible projects ready to proceed in the immediate future with enough costs to justify the amount of the secured bond issue;
- The absence of cash on an accelerated basis will substantially delay these projects;
- If accelerated cash draws are allowed, the Fund will provide substantially more assistance; and
- The long term viability of the State program to meet water quality needs will be protected.

When the ACH is used for securing State issued bonds, cash draws cannot be made at a rate greater than equal amounts over the maximum number of quarters that payments can be made. Exceptions to this limitation are in cases of default and where cash draws are based on construction costs for all projects.

b. Set-Asides

States may draw down federal funds for set-aside use without the need to provide a State match in the form of cash (see V.A.). The one exception is the required one-for-one match, where a State elects to use up to 10 percent of the funds to be used for 1452(g)(2)(A–D). A State must provide the match prior to or at the time the State requests the federal funds, which is the same as the requirement for the 20 percent State match.

VI. Reporting/Review Responsibilities

Each State must submit a Biennial Report to the Administrator on the State's activities which receive funding under section 1452.

The Administrator has determined that the Agency shall conduct reviews of the DWSRF program on an annual basis. The Annual Review is necessary to carry out the Agency's Federal fiduciary responsibilities and to assure that States are implementing the program as efficiently as possible (section 1452(g)(3)(A)). Specific elements of the Agency's Annual Review are outlined below.

Several other programs may receive funding from the State's allotment, including operator certification, small systems technical assistance, source water protection, and wellhead protection. Agency review of these other programs shall generally be conducted separately in accordance with procedures described in program specific guidelines. The Agency may develop additional guidelines to reflect new components for the other eligible programs receiving funds pursuant to section 1452.

A. State Responsibilities

1. Biennial Report

The State should submit its Biennial Report to the RA according to the schedule established in the grant agreement.

The Biennial Report should contain detailed information on how the State has met the goals and objectives of the previous two fiscal years as stated in the IUP and grant agreement. The Report should provide information on loan recipients, loan amounts, loan terms, project categories of eligible cost, and similar details on other forms of assistance. This information should be provided in a format and a manner that is consistent with the needs of the Regional Office. The Report should also describe the extent to which the existing DWSRF program financial operating policies, alone or in combination with other State financial assistance programs, will provide for the long term fiscal health of the Fund, attain and maintain compliance with the Safe Drinking Water Act, and carry out other provisions specified in the legislation.

The State must submit a detailed financial report as part of the Biennial Report. At a minimum, the financial report shall include the financial statements and footnotes required under GAAP to present fairly the financial condition and results of operations.

In addition, the State must establish in its DWSRF program Biennial Report that it has:

- Reviewed all DWSRF funded projects in accordance with the approved State Environmental Review Procedures;
- Deposited its match (cash or State ACH) on or before the date on which each grant payment was made;
- Made binding commitments to provide assistance equal to the Federal capitalization grant less set-asides funds plus the State match funds within one year after receiving the grant payment, except for FY 1997 (100%);
- Managed the DWSRF program in a fiscally prudent manner and adopted policies and processes which promote the long-term financial health of the Fund(s);
- Complied with Agency grant regulations (40 CFR part 31) and specific conditions of the grant;
- Complied with Federal cross-cutting authorities that apply to the State as a Federal grantee and those which flow through to assistance recipients;
- Provided assistance only to eligible water systems and for eligible purposes under these guidelines; and
- Funded only the highest priority projects listed on the IUP, according to their priority and readiness to proceed, and have documented any procedures for by-passing priority projects on the IUP.

The State must provide, in the Biennial Report, all information necessary to demonstrate that the State remains eligible to receive its full allotment of funds provided under section 1452(m). Information on the other eligible programs provided in the State's biennial DWSRF program report shall not replace reporting requirements of other Agency program-specific guidelines. At its option, the State may wish to incorporate by reference or attach copies of the most recent copies of other reports to the Agency describing progress under the other eligible programs.

2. Annual Audit

The State must conduct an annual audit of the Fund, to be prepared by the State or an independent auditor in accordance with the standards of the

General Accounting Office (otherwise known as Generally Accepted Government Auditing Standards). Set-aside monies used for projects, in particular monies loaned out under section 1452(k)(1)(A), must also be covered by a separate audit. Programmatic set-asides may be covered by the Single Audit Act.

The audits must provide an auditor's opinion on the DWSRF financial statements, a report on internal controls and a report on compliance with laws and regulations. The audits may be conducted in conjunction with audits conducted under the Single Audit Act. However, a State's Single Audit report alone will not meet the DWSRF audit requirement.

Those set-asides that are not directly related to the revolving fund should be audited under the guidelines of the Single Audit Act, including OMB Circular A–133 and OMB's Compliance Supplement for Single Audits of State and Local Governments.

3. Information Management System

In conjunction with the States, the Agency shall develop and implement an information management system which includes regularly updated data on funds available and assistance provided by the DWSRF program. To the extent practical, this system will be coordinated with the implementation of a similar effort in the CWSRF program. Once developed, States will be required to provide information for the information system. The Agency will use this information to assess the program on a national basis and to monitor State progress in years in which Biennial Reports are not required. In particular, the Regional Offices will use the information to assist in conduct of the annual reviews.

B. EPA Responsibilities

1. Annual Review of DWSRF Program

EPA will conduct annual reviews of each DWSRF program to assess the success of each program in meeting the objectives of section 1452. The purposes of the Annual Review are to (1) assess the success of the State's performance of activities identified in the IUP, the State's Biennial Report, the Operating Agreement (if used), and the DWSRF program information management system, (2) determine how the DWSRF is achieving the intent of section 1452 and the overall goals and objectives of the SDWA as amended, (3) determine compliance with the capitalization grant agreement, and (4) assess the financial status of the Fund. The time period for conduct of Agency Annual Reviews is not connected to the period of award of Federal capitalization grants (i.e., Annual Reviews will continue even after Federal appropriations are no longer available).

EPA will complete an Annual Review of the IUP and the Biennial Report covering the same fiscal year according to the schedule established in the grant agreement (generally within 60 days of receipt of the Biennial Report in the year it is due, and approximately the same date on the year the Biennial Report is not due). After reasonable notice by EPA, the State or loan recipient shall make available to the EPA such records as the EPA reasonably requires to review and determine State compliance with the requirements of section 1452 of the SDWA as amended in 1996. EPA may conduct on-site visits as needed to provide adequate programmatic review. During years in which a State Biennial Report is not required, the Region will, to the extent practicable, obtain information necessary to conduct its Annual Review from the DWSRF Information System. If necessary, the Region will request the State to clarify information in the system or provide additional information. Requests for such supplemental information shall be kept to a minimum necessary for conduct of the Annual Review.

Upon completion of its Annual Review, the Region will prepare a Program Evaluation Report (PER). The Region shall submit the draft PER to the State for review and comment prior to preparing the final PER.

Identification and resolution of issues need not be limited to the Annual Review process. As the Region becomes aware of issues in DWSRF program operations, the Region shall consult with the State as appropriate. EPA will review the adequacy of State program management procedures and compliance with procedures as described in the State's capitalization grant application and Operating Agreement (if used).

The following is a list of review topics which may be included as part of the Annual Review:

Compliance/General Program Management

- Compliance with capitalization grant conditions and EPA grant regulations;
- Compliance with the State assurances incorporated in the capitalization grant agreement(s);
- Consistency of DWSRF program operations with the State's short and long term goals and objectives as reflected in the DWSRF capitalization grant application(s) and grant agreements;
- Coordination between the DWSRF program and other State drinking water program management activities (e.g., source water protection, wellhead protection, capacity development, assistance to small systems);
- Compliance with requirements of section 1452 (e.g., eligibility of recipients, types of projects, and types of financial assistance provided);
- Program administration costs; adequacy of staffing; and
- Adequacy of State in filing timely "UCC Financing Statements" to ensure security on loans to private systems.

Pace of Program

- Status of binding commitments and progress in initiating and completing projects;
- Compliance with projections of Federal outlays and adequacy of efforts to manage outlays, both for the current year as well as the period covered by the Annual Review; and
- Size of uncommitted fund balance.

Project Level Management

- Compliance with cross-cutting Federal authorities;
- Adequacy of State environmental review procedures (including consideration of mitigation, consultation with appropriate State and Federal environmental officials, and adequacy of project documentation);

Adequacy of State procedures for reviewing assistance applicants' financial (financial capability and credit analysis), managerial and technical capabilities;

- Adequacy of State procedures to review proposed dedicated repayment sources and financial security demonstrations;
- Adequacy of loan agreements (e.g., inclusion of assistance terms; accounting, audit, and record keeping procedures; default management provisions; and compliance with applicable State and Federal requirements);
- Adequacy of on-going State oversight of the financial, managerial and technical capability of assistance recipients and appropriateness of State actions to resolve areas of concern.
- Consistency of assistance recipients with IUP (e.g., names of recipients, assistance amounts, terms of assistance); and
- Adequacy of construction management oversight (e.g., change orders, compliance with applicable labor laws, adherence to schedule, record keeping).

Financial Management

- Adequacy of State financial management system (including documentation relating to Federal cash draws, deposit of State matching funds, posting of repayments and interest earnings);
- Timeliness of flow of funds to assistance recipients;
- Adequacy of financial statement of the DWSRF program;
- Adequacy of fund balance to meet financial responsibilities (e.g., current operating expenses, debt service payments, funding of reserves, long-term financial assistance needs);
- Comparison of actual expenditures to budget;
- Adequacy of State internal controls to prevent waste, fraud and abuse (e.g., processing of payments, financial accounting);
- Adequacy of loan portfolio management (including billing and collections, aging of accounts, actions to prevent payment default);
- Repayment record, including defaults and potential for defaults;
- Mix and relative risk of financial assistance types (e.g., various interest rates, guarantees, refinancings, disadvantaged community assistance);
- Adequacy and reasonableness of State fund investment practices;
- Appropriateness of State policies and strategies with respect to impacts on the long-term financial viability of the DWSRF program;
- Reasonableness of the disadvantaged community program and consistency of its implementation with the approved program; and
- Adequacy of the State's cash flow analysis, review of financial trends, and long term forecasting of project assistance needs.

2. Evaluation

The Administrator shall prepare an evaluation of the effectiveness of the DWSRF programs' operations through FY 2003 (section 1452(r)).

3. Compliance Assurance

The Administrator will develop guidelines necessary to assure effective program management and to prevent waste, fraud, and abuse (section 1452(g)(3)). The Agency will assist the State in achieving and maintaining compliance with program objectives and requirements. There may be cases, however, when technical support may be insufficient or where a State may be reluctant or unable to correct identified problems. This section of the guidelines outlines procedures and potential actions which may be necessary in cases of non-compliance.

If the annual review or audit reveals that the State has not complied with its capitalization grant agreement or other requirements under section 1452, or if the State does not manage the DWSRF program in a financially sound manner (e.g., allows consistent and substantial failures of loan repayments), the Agency may take action under the enforcement provisions of the general grant regulations at 40 CFR 31.43.

Before taking such action the Agency will issue a notice of non-compliance with the capitalization grant agreement and prescribe appropriate corrective action. The State's corrective action must remedy the specific instance of non-compliance and adjust program management to avoid non-compliance in the future.

If within 60 days of receipt of the non-compliance notice, a State fails to take the necessary actions to obtain the results required by the EPA, or provide an acceptable plan to achieve the results required, the Agency may suspend payments to the DWSRF until the State has taken acceptable actions (40 CFR 31.43(a)(3)). Once the State has taken the corrective action deemed necessary and adequate by the Agency, the withheld payments shall be released and scheduled payments shall recommence.

If the State fails to take the necessary corrective action deemed adequate by the Agency within twelve months of receipt of the original notice, any suspended payments may be deobligated and reallotted to other States. All future payments may be withheld from a State (40 CFR 31.43 (a)(4)), and reallotted, until such time that adequate corrective action is taken and the Administrator certifies that the State is back in compliance.

4. Dispute Resolution

Any State applicant or recipient that has been adversely affected by an Agency action or omission may request a review of such action or omission. The procedures are codified in the Agency's general grant regulations at 40 CFR part 31, subpart F.

VII. Appendices

A. Federal Cross-Cutters

Environmental Authorities

- Archeological and Historic Preservation Act of 1974, Pub. L. 86–523, as amended.
- Clean Air Act, Pub. L. 84–159, as amended.
- Coastal Barrier Resources Act, Pub. L. 97–348.
- Coastal Zone Management Act, Pub. L. 92–583, as amended.
- Endangered Species Act, Pub. L. 93–205, as amended.
- Environmental Justice, Executive Order 12898.
- Floodplain Management, Executive Order 11988 as amended by Executive Order 12148.
- Protection of Wetlands, Executive Order 11990.
- Farmland Protection Policy Act, Pub. L. 97–98.
- Fish and Wildlife Coordination Act, Pub. L. 85–624, as amended.
- National Historic Preservation Act of 1966, Pub. L. 89–665, as amended.
- Safe Drinking Water Act, Pub. L. 93–523, as amended.
- Wild and Scenic Rivers Act, Pub. L. 90–542, as amended.

Economic and Miscellaneous Authorities

- Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89–754, as amended, Executive Order 12372.
- Procurement Prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans.
- Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91–646, as amended.
- Debarment and Suspension, Executive Order 12549.

Social Policy Authorities

- Age Discrimination Act of 1975, Pub. L. 94–135.

Title VI of the Civil Rights Act of 1964, Pub. L. 88–352.[2]

- Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92–500 (the Clean Water Act).
- Section 504 of the Rehabilitation Act of 1973, Pub. L. 93–112 (including Executive Orders 11914 and 11250).
- The Drug-Free Workplace Act of 1988, Pub. L. 100–690 (applies only to the capitalization grant recipient).
- Equal Employment Opportunity, Executive Order 11246.
- Women's and Minority Business Enterprise, Executive Orders 11625, 12138 and 12432.
- Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Pub. L. 100–590.
- Anti-Lobbying Provisions (40 CFR Part 30) (applies only to capitalization grant recipients).

[2] The Civil Rights Act and related anti-discrimination statues apply to all the operations of the SRF program.

B. Criteria for Evaluating a State's Proposed NEPA-Like Process

The following criteria will be used by the RA to evaluate a proposed SERP:

(A) *Legal foundation.* Adequate documentation of the legal authority, including legislation, regulations or executive orders and/or Attorney General certification that authority exists.

(B) *Interdisciplinary approach.* The availability of expertise, either in-house or otherwise, accessible to the State Agency.

(C) *Decision documentation.* A description of a documentation process adequate to explain the basis for decisions to the public.

(D) *Public notice and participation.*

(1) A description of the process, including routes of publication (e.g., local newspapers and project mailing list), and use of established State legal notification systems for notices of intent, and criteria for determining whether a public hearing is required.

(2) The adequacy of a rationale where the comment period differs from that under NEPA and is inconsistent with other State review periods.

(E) *Consider alternatives.* The extent to which the SERP will adequately consider:

(1) Designation of a study area comparable to the final system;

(2) A range of feasible alternatives, including the no action alternative;

(3) Direct and indirect impacts;

(4) Present and future conditions;

(5) Land use and other social parameters including recreation and open-space considerations;

(6) Consistency with population projections used to develop State implementation plans under the Clean Air Act;

(7) Cumulative impacts including anticipated community growth (residential, commercial, institutional and industrial) within the project study area; and

(8) Other anticipated public works projects including coordination with such projects.

C. Definitions

Administrative Expenses—Costs incurred in managing and operating the SRF program. A State may use up to 4% of its allotment for program administration expenses.

Annual Review—EPA's assessment of the success of a State DWSRF program.

Appropriations—Statutory authority that, after apportionment by OMB, allows Federal agencies to obligate funds and make payments from the Treasury for specified purposes.

Assurances—Certifications or pledges by the State that it will meet the requirements of the SDWA and other requirements of the program.

Automated Clearing House—A Federal payment mechanism that transfers cash to States and other recipients of Federal assistance using electronic transfers from the Treasury through the Federal Reserve System.

Biennial Report—The State's SRF Report to EPA which contains information on how the State has met the goals and objectives of the previous two fiscal years as stated in the Intended Use Plan and grant agreement.

Bank/Banking—Crediting amounts (contributed by the State to SRF eligible projects or activities) to the SRF in excess of amounts required towards meeting certain requirements of future capitalization grants.

Binding Commitment—A legal obligation by the State to a local recipient that defines the terms and the timing for assistance under the SRF.

Capitalization Grant—The assistance agreement by which EPA obligates to award funds allotted to a State for purposes of capitalizing that State's revolving fund and funds for other purposes authorized in section 1452.

Capitalization Grant Application—An application for Federal assistance submitted by a State, which in addition to the application form includes an Intended Use Plan, proposed payment schedule, and operating agreement or other documents describing how the State intends to operate its SRF.

Certification/Certify—Documentation signed by the responsible party that specific requirements or standards have been or will be met.

Community Water System—A public water system that: (a) Serves at least 15 service connections used by year-round residents of the area served by the system; or (b) regularly serves at least 25 year-round residents.

Cross-Cutting Authorities—Federal laws and authorities that apply by their own terms to projects or activities receiving Federal assistance.

Debt Obligation—A legal obligation or liability to pay something to someone else.

Default—Failure to meet a financial obligation such as a loan payment.

Disadvantaged Community—The service area of a public water system that meets affordability criteria established after public review and comment by the State in which the public water system is located.

Disbursement—The transfer of cash from the SRF to the assistance recipient.

Disbursement Schedule—A quarterly schedule of estimated disbursements from the SRF.

Eligible System—Community water systems, both privately or publicly owned, and nonprofit noncommunity water systems.

Environmental Review—An environmental review process conducted by States that complies with 40 CFR Part 6, Subpart E or an alternative "NEPA-like" State environmental review.

Equivalency Projects—Projects that must total the amount equal to the Federal capitalization grants and must comply with environmental review requirements and Federal cross-cutting authorities.

Financial Health/Integrity—The ability of the DWSRF to address SDWA needs and to be continually available to meet future needs.

Guarantee—A promise to provide municipal bondholders with full and timely payment of principal and interest on the municipal debt obligation to the limit of the guarantee, in the event of default by the municipality.

Intended Use Plan—A document prepared each year by the State, which identifies the intended uses of the funds in the SRF and describes how those uses support the goals of the SRF.

Leveraging—The use of the capitalization grant as the security for the sale of State bonds. Leveraging does not include State financing arrangements in which repayment streams, rather than capitalization grant or ACH are used as the primary security for the bond issue.

Loan—An agreement between the DWSRF and the local recipient through which the SRF provides funds for eligible assistance and the recipient promises to repay the principle sum back to the SRF over a period not to exceed 20 years, except for disadvantaged communities that may receive a loan for up to 30 years (that does not exceed the life of the project), at an interest rate established at or below market interest rates (may be interest free).

Net Bond Proceeds—The funds raised from the sale of the bonds minus issuance costs (e.g., the underwriting discount, underwriter's legal counsel fees, bond counsel fee, financial advisor fee, rating agency fees, printing of disclosure documents/bond certificates, trustee banks' fees, various forms of credit enhancement and other costs that may be incurred by a State agency incidental to the bond issuance).

Noncommunity Woter System—A public water system that is not a community system.

Noncompliance—Failure to satisfy the terms of the capitalization grant agreement, including unmet assurances, invalid certifications, or failure to manage the DWSRF in a financially sound manner.

Nonprimacy States—States that do not exercise primary enforcement responsibility for public water systems.

Operating Agreement—An optional document in which the State may establish the basic framework and procedures of the DWSRF that are not expected to change annually.

Payment/Payment Schedule—A payment is an action by EPA to increase the amount of funds available for cash draw in the Automated Clearing House. A payment is not a transfer of cash to the State, but only an authorization making funds available for transfer to the State when a cash draw request is submitted. A payment schedule, indicating the timing and size of the payments to be made, will be agreed upon by EPA and the State based on the State's projection of binding commitments.

Refinancing—Purchase of a previously executed debt obligation where initial debt was incurred and construction initiated after July 1, 1993.

Set-Aside—Use of allotted State funds for a range of specific SDWA related activities identified in section 1452, to encourage source water protection and other State drinking water program activities.

State Match—Funds equaling at least 20% of the amount of the capitalization grants which the State must deposit into the Fund. The State must also provide a 10% match if the State uses the 1452(g)(2) set-aside.

TABLE 1.—STATE REQUIREMENTS FOR THE CAPITALIZATION GRANT AGREEMENT

Requirement	How addressed
CG Application:	
Part 31 Assurances (Grant Conditions)	Agree to.
Established SRF & Instrumentality	Document (AG certif.).
Comply with State Statutes/Regulations	Agree to.
Technical Capability To Manage Program	Document.
Review Technical, Financial & Managerial Capability of Assistance Recipients	Agree to.
Intended Use Plan (IUP):	
(1) List of Projects	Propose.
(2) By-pass Procedures	Describe, if applicable.
(3) DWSRF Goals	Describe.
(4) Activities To Be Supported	Describe.
(5) Disadvantaged Communities	Describe, if applicable.
(6) Assurances and Proposals:	
—Environmental Review	Document/certify.
—Federal Cross-Cutters	Agree to.
—120% Binding Commitments	Agree to.
—Timely Expenditure	Agree to.
(7) Criteria & Method for Distributing Funds	Describe.
Payment Schedule/Schedule of Estimated DWSRF Disbursements	Agree to and Propose.
Other Activities To Be Supported by Set-Asides	Intended Use Plan.
Transfer of Funds To/From CWSRF	Describe.
Grant Agreement:	
Accept Grant payments	Certify.
Deposit Funds in DWSRF Fund	Certify.
Deposit State Match:	
—Source of the Match	Identify.
—Deposit of Match	Certify.*
120% Binding Commitments	Agree to.
Information Management System	Agree to.
Use State Laws & Procedures	Agree to.
Use GAAP (Generally Accepted Accounting Principles)	Agree to.
Use GAGAS (Generally Accepted Government Auditing Standards)	Agree to.
Recipient Accounting	Agree to.
Biennial Report	Agree to.
Annual Audit	Agree to.
Environmental Review**	Agree to.
Program Oversight	Agree to.
All changes to the agreement or OA require a formal grant amendment.	

* For payments from FY 1997 appropriations, the State must agree to provide the certification no later than September 30, 1999, of the availability of its match and provide the State match for grant payments already received from the FY 1997 appropriations. A State that fails to certify by that date may not receive further grant payments until the match is deposited.

** States required to certify environmental review process.

TABLE 2.—SET-ASIDES AND FUNDING CEILINGS IN THE DRINKING WATER SRF PROGRAM

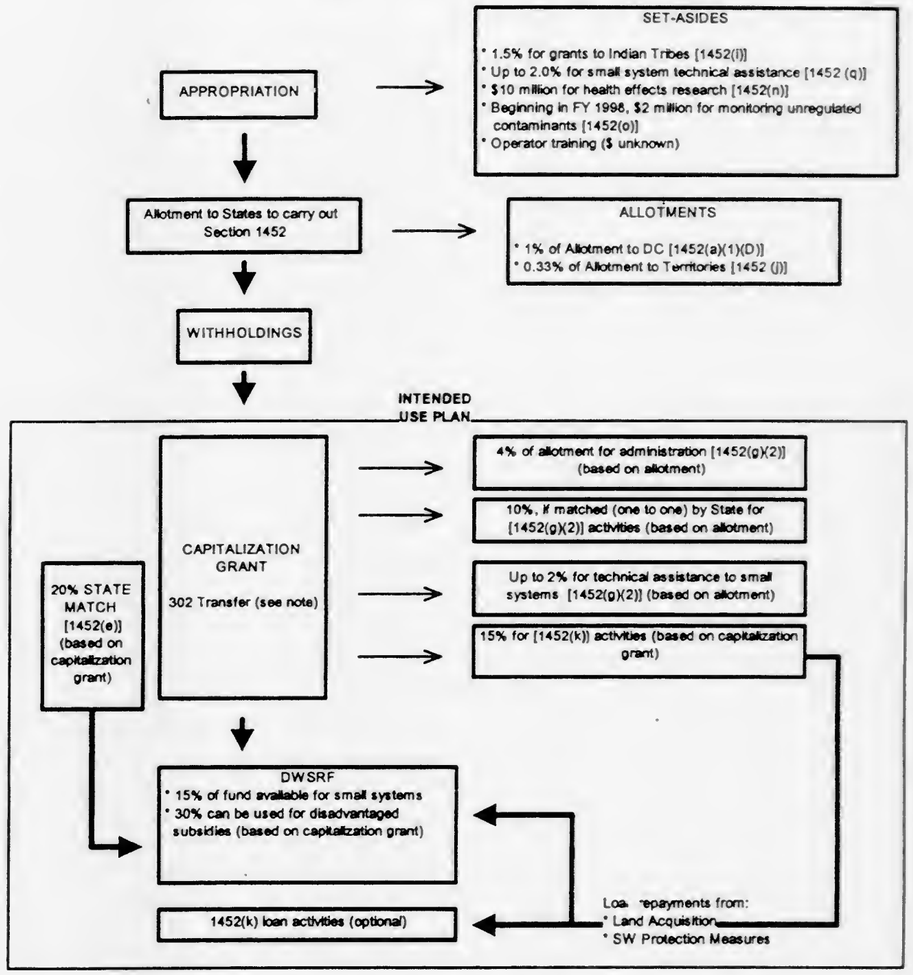
Before Allotment to States	
Programmatic	
$10 Million	Health effects research.
$2 Million	Unregulated contaminant monitoring (starting in FY 1998).
Up to 2%	Technical assistance to small systems (optional) Capped at $15 Million when combined with funds appropriated under Section 1442.
Undecided	Reimbursement of operator training expenses projects.

TABLE 2.—SET-ASIDES AND FUNDING CEILINGS IN THE DRINKING WATER SRF PROGRAM—Continued

Projects	
1.5%	Indian Tribes/Alaska Native Villages.
Based on Allotment to States	
Projects	
1.0%	District of Columbia.
0.33%	Virgin Islands, Territories.
After Allotment to States	
Programmatic	
Up to 4%	Administration of DWSRF program and technical assistance.
Up to 2%	Technical assistance to small systems.
Up to 10%	Assistance to State programs (PWSS, SWP, capacity development, operator certification.)
Up to 15%	Combination of the following:** • Loans for public water systems to acquire land or conservation easements. • Loans for community water systems to implement SWP measures or to implement recommendations in SW petitions. • Technical and financial assistance to public water systems for capacity development. • Expenditures to delineate or assess SWP areas. • Expenditures to establish and implement wellhead protection programs. **Each activity separately can receive no more than 10% of the capitalization grant amount.
Projects	
Up to 30%	Loan subsidies for disadvantaged communities.
Based on Fund Amount	
Projects	
Minimum 15%	Loans toward small systems (population <10,000) under Section 1452.

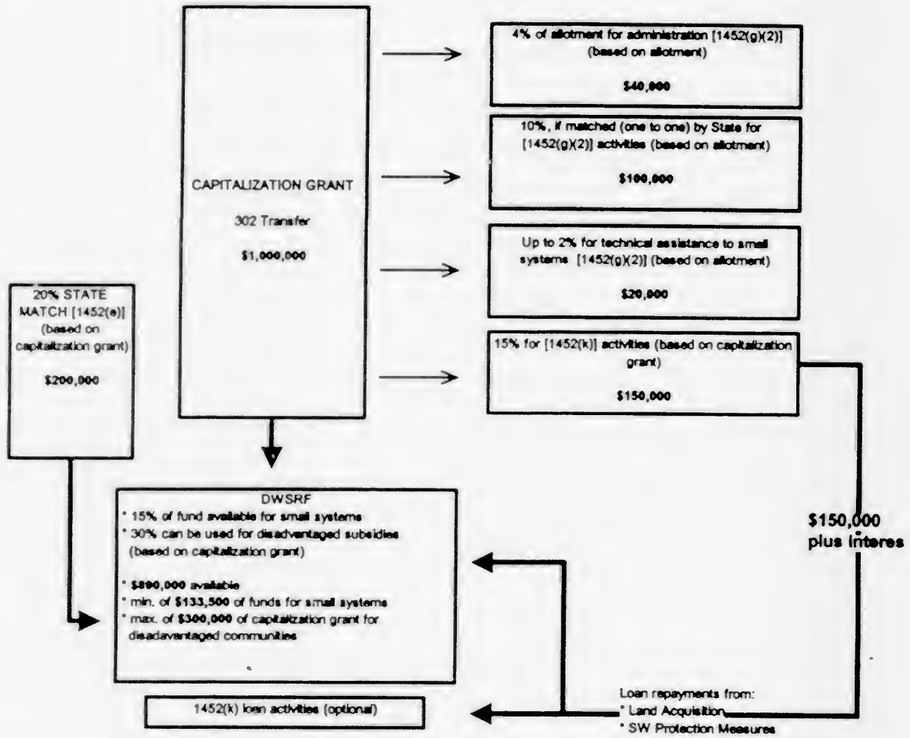
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Table 3 - DWSRF Set-Asides



Note: The Governor of a State may transfer up to 33% of the DWSRF capitalization grant amount to the CWSRF or an equivalent amount may be transferred from the CWSRF to the DWSRF, to be used for eligible Fund activities. If Clean Water funds are used for DWSRF set-asides, the maximum amount of funds available for these purposes is the amount stated in Section 1452.

Table 4 - Set-aside Example



Note: The Governor of a State may transfer up to 33% of the DWSRF capitalization grant amount to the CWSRF or an equivalent amount may be transferred from the CWSRF to the DWSRF, to be used for eligible Fund activities. If Clean Water funds are used for DWSRF set-asides, the maximum amount of funds available for these purposes is the amount stated in Section 1452.

[FR Doc. 98–29450 Filed 11–4–98; 8:45 am]
BILLING CODE 6560–50–C

federal register

Thursday
November 5, 1998

Part III

Environmental Protection Agency

Revised Allotment Formulas for State and Interstate Monies Appropriated Under Section 106 of the Clean Water Act; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6184–9]

Revised Allotment Formulas for State and Interstate Monies Appropriated Under Section 106 of the Clean Water Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of revised allotment to formulas and request for comment.

SUMMARY: This notice announces revised allotment formulas for allotting funds appropriated under section 106 of the Clean Water Act (CWA) to States and to interstate agencies for use in administering specific elements of Clean Water Act programs. The notice includes FY 1999 allotments for States and interstate agencies and requests comments on the revised formulas for use in FY 2000 and beyond.

Section 106 of the CWA authorizes the Environmental Protection Agency (EPA) to provide grants to States, interstate agencies, and Indian Tribes to administer programs for the prevention, reduction, and elimination of water pollution, including the development and implementation of ground-water protection strategies. EPA has revised the CWA section 106 allotment formulas, which are based on "the extent of the pollution problem," to better reflect its current understanding of the significant sources of pollution nationwide.

The revised formula will be phased in FY 1999, with no State or interstate agency receiving less than its FY 1998 allotment. EPA is seeking comment on the revised formula for use in FY 2000 and beyond.

DATES: The revised formula for FY 1999 is effective November 5, 1998.

Comments on the revised formula for the full implementation for FY 2000 should be in writing and must be postmarked by January 4, 1999. Electronic comments should be posted by January 4, 1999.

ADDRESSES: Public Comments. All public comments regarding the revised formula shall be submitted no later than January 4, 1999, to: Water Docket, W–98–28, EB 57, USEPA Headquarters, 401 M. St., S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Carol Crow, Office of Wastewater Management (4201), 401 M Street, SW, Washington, D.C. 20460, (202) 260–6742, Facsimile: (202) 260–1156, e-mail: crow.carol@epa.gov.

SUPPLEMENTARY INFORMATION: CWA section 106 provides general authority for grants to States, Tribes, and interstate agencies to support key elements of clean water programs. Grants provide States, Tribes, and interstate agencies with critical resources for the effective management of water pollution control programs including water quality monitoring, standards development, and permit issuance. The Administration proposed and Congress appropriated a significant increase in grant funds to support these activities in FY 1999.

The CWA directs the EPA Administrator to allocate section 106 grants funds "on the basis of the extent of the pollution problem." The existing section 106 formula is derived from data more than 25 years old and is based on population data from the 1960s and an estimate from the early 1970s of the number of large cattle feedlots, industrial and municipal point sources and power plants.

Reports of water quality conditions around the country provided by States under section 305(b) of the CWA indicate that the location and nature of the sources of water pollution has changed significantly since the early 1970s. In evaluating this data, EPA decided to consider whether an alternate formula would better comply with the statutory directive to allocate funds among States and interstate agencies based on the "extent of the pollution problem." (The allotment formula for the Tribal Section was revised in 1998 and it is not affected by this action.)

EPA organized a work group consisting of geographically-balanced representation from the Agency, seven States, and an interstate agency to review the existing formula and consider other approaches. The State representatives were recommended by the Environmental Council of States (ECOS), the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA), and the Ground Water Protection Council (GWPC). EPA posted minutes from the work group meetings, background data, and all written comments on an Internet website and invited all States and Interstate agencies to participate in the discussion via the website and contact with work group members.

The work group evaluated a wide range of alternative approaches and ultimately developed and recommended a new allocation formula. The work group believed that the formula should largely be based on impairment, but decided not to give impairment *too much* weight because of shortcomings in data related to water quality monitoring. The work group therefore recommended other surrogates for "extent of the pollution problem," including surrogates for point and nonpoint sources of pollution.

Work group members were concerned about the impact of reductions in funding levels on clean water programs in individual States. A "safety net" was built into the new formula to provide for a gradual transition to adjusted funding amounts. The revised formula specifically provides that no State lose more than five percent compared with the previous year or more than a total of 20 percent compared with 1998. In addition, a significant increase in the section 106 grant funds appropriated in FY 1999 ensures that no State will receive less section 106 funding in FY 1999 than it did in FY 1998, while providing additional resources to [most] States. The funding set-aside for interstate agencies will be increased to its historic (FY 1976) level of 2.5 percent of the total State monies appropriated under section 106.

Since no State or interstate agency will receive less funding in FY 1999 than it did in FY 1998, the revised funding formula will be effective November 5, 1998 for use in distributing FY 1999 section 106 funds to State and interstate agencies. EPA is soliciting comments on the revised formula for use in FY 2000 and beyond. EPA is particularly interested in comments on the accuracy of the data bases used in deriving the formula and how well the components meet the statutory test of representing the "extent of the pollution problem" and associated workload. After reviewing the comments on the formula, EPA will adopt an allotment formula for FY 2000 and beyond.

Please send an original and three copies of your comments and enclosures to W–98–28, Comment Clerk, Water Docket (MC 4101), USEPA, 401 M., St. S.W. Washington, D.C., 20460. Comments must be received or post-marked by midnight January 4, 1999. Comments may also be submitted electronically to *ow-docket@epa.gov*. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and form of encryption. Electronic comments must be identified by the docket number W–98–28. Comments and data will also be accepted on disks in WP 5.1, 6.1 or ASCII file format. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Dated: October 26, 1998.

J. Charles Fox,

Assistant Administrator for Water.

Table of Contents

I. Definitions
II. Background
  A. The Existing Section 106 Allotment Formula
  B. Rationale for Formula Revision
  C. The Development Process for the Revised Section 106 Allotment Formulas
III. The Revised Section 106 State Allotment Formula
  A. Components
  B. Minimum Level of Funding
  C. Maximum Annual Funding Increase
  D. Set-Asides
  E. Update Cycle
IV. The Revised Section 106 Interstate Allotment Formula for FY 1999

I. Definitions

As used herein, the following words and terms will have the meaning set forth below:

(a) The term "allotment" means the sum reserved for each State or interstate agency from funds appropriated by Congress under the § 106 Grant Program. The allotments for States and interstate agencies will be determined by separate formulas. However, both the § 106 State allotment formula and the § 106 interstate allotment formula are designed to reflect the extent of the water pollution problem in the several States.

(b) The term "State" means a State, the District of Columbia (DC), the Commonwealth of Puerto Rico (PR), the U.S. Virgin Islands (VI), Guam (GU), American Samoa (AS), and the Commonwealth of the Northern Mariana Islands (CNMI). [CWA § 502(3)]

(c) The term "interstate agency" means an agency of two or more States established by, or pursuant to, an agreement or compact approved by the Congress, or any other agency of two or more States, having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator. [CWA § 502(2)]

(d) The term "component" refers to one of the six factors selected for use in the revised § 106 State allotment formula. Each component of the revised formula was selected based on its potential contribution to the extent of water pollution problems within the several States and to the workload of State water pollution control programs.

(e) The term "element" refers to one of the constituent factors used to provide greater specificity to a component in the revised § 106 State allotment formula. Certain components are composed of two or more "elements." For example, the non-point source component of the revised § 106 State allotment formula is composed of an agricultural element, a logging element, and an abandoned mine element.

(f) The term "sub-element" refers to one of the constituent factors used to provide greater specificity to an element in the revised § 106 State allotment formula. Certain elements are composed of two or more "sub-elements." For example, the abandoned mine element of the non-point source component is composed of a soft-rock mining sub-element and a hard-rock mining sub-element.

II. Background

A. Description of the Existing Section 106 Allotment Formula

The allotment formula currently employed to allot funds appropriated under CWA § 106 was first used in FY 1974. The existing § 106 allotment formula was revised in 1976, and provided for the implementation of a separate allotment formula for interstate agencies based on the level of funding each interstate agency had received in FY 1973. The State and interstate allocation ratios were published in the **Federal Register** on April 27, 1976. These proportionate shares have been used to allocate § 106 funds ever since.

The existing § 106 State allotment formula is based on four point source factors. When the existing formula was first adopted in 1973 (for the determination of FY 1974 allotments), the understanding was that the number of point sources in a particular State adequately represented the "extent of the pollution problem" [as required by CWA § 106(b)] in that State. Thus, each of the four point source factors selected for use in the formula enumerates potential contributors to point source pollution. The four selected point source factors were:

(1) number of cattle feedlots with more than 1,000 head;
(2) number of industrial dischargers;
(3) number of municipal dischargers; and
(4) number of nuclear, oil, coal, and gas power plants.

The Agency specified that all States and interstate agencies would be guaranteed an allotment no less than their FY 1973 allotment for FY 1974 and beyond. FY 1973 allotments were distributed according to § 7 of the Federal Water Pollution Control Act (FWPCA). Two components of the FWPCA § 7 allotment formula, population and population density, drove approximately five-sixths of the FY 1974 allotments and continue to drive the existing § 106 State allotment formula.

B. Rationale for Formula Revision

The existing § 106 State allotment formula is based on point source pollution factors, and minimum levels of funding are determined largely by population and population density as established in the Federal Water Pollution Control Act, § 7 allotment. However adequate this formula was in 1974, it does not reflect the complexity of current State water pollution control programs. Also, the data used in the formula are from the 1960's and early 1970's. In the 25 years since the formula was developed, much has changed.

EPA recognized the critical need to develop a revised § 106 allotment formula which reflects the current understanding of the factors that contribute to water quality impairment and which utilizes current data. Thus, the revised formula is designed to allot funds in a manner which more accurately reflects the problems that currently confront State water pollution control programs. To achieve this objective, the revised § 106 formula is based on six components which reflect the extent of water quality impairment and associated potential workload in determining State allotments.

C. The Development Process for the Revised Section 106 Allotment Formulas

An EPA/State Work Group examined ways in which the existing § 106 State allotment formula could be updated and made responsive to the workload associated with water quality impairment. A separate Interstate Work Group, composed of EPA personnel and representatives from six interstate agencies, participated in the development of the revised § 106 interstate allotment formula.

Work Group recommendations contributed heavily to the development of the revised § 106 allotment formulas. First, to ensure that monies were directed to the areas where the greatest water quality problems and the greatest workload exists, weighting factors that reflected the individual contribution of the six different components in the revised § 106 State allotment formula were developed. Second, modulating procedures (e.g., a base level of funding, a maximum increase in annual funding, etc.) were built into both the revised § 106 State and interstate allotment formulas to prevent disruption of State and interstate programs. Third, a five-year update cycle was implemented in each revised § 106 allotment formula to ensure that supporting data for the

formulas would be updated regularly. The weights, modulating procedures, and the update cycle for the revised § 106 allotment formulas are discussed more fully in sections III and IV of this notice.

III. The Revised Section 106 State Allotment Formula

A. Components

The revised § 106 State allotment formula, as defined in this notice, is based on six components that were selected to more accurately reflect the extent of the water pollution control problems in the United States. These components reflect a shift in emphasis from point source pollution and population data to an emphasis on water quality impairment and the associated workload. The six components selected for use in the revised § 106 State allotment formula were:

(1) surface water area;
(2) ground water use;
(3) water quality impairment;
(4) point sources;
(5) non-point sources; and
(6) population of urbanized areas.

A primary reason for the development and adoption of a revised § 106 State allotment formula was the need to improve the quality and the consistency of the data used for allocating § 106 funds. The selected components for the revised § 106 formula are presented in Table 1 (below) with their associated elements, sub-elements, and supporting data sources.[1] Data sources for the components were selected on the basis of data availability, currency, quality, national consistency, and reliability.

EPA invites comments on the revised formula prior to issuing FY2000 planning targets in early 1999. Comments will be accepted until January 4, 1999.

Table 1.—Components of the Revised Section 106 State Allotment Formula

Formula component	Element	Sub-element	Data source
1. Surface Water Area.	.....	.....	U.S. Department of Commerce, Bureau of the Census, Statistical Abstract of the United States.
2. Ground Water Use.	(a) Non-agricultural withdrawals.	.....	U.S. Department of the Interior, U.S. Geological Survey, Preliminary Estimates of Water Use in the United States.
	(b) Population served by CWSs that use GW for the majority of their source water.	.....	U.S. Environmental Protection Agency, Office of Water, Safe Drinking Water Information System.
3. Water Quality Impairment.	(a) Impaired rivers and streams (miles).	.....	U.S. Environmental Protection Agency, Office of Water, National Water Quality Inventory (based on § 305(b) reports submitted by the States).
	(b) Impaired lakes, ponds, and reservoirs (acres)		
	(c) Impaired estuaries (square miles)		
	(d) Impaired wetlands (acres)		
	(e) Impaired ocean shoreline (miles)		
	(f) Impaired Great Lake shoreline (miles)		
4. Potential Point Sources.	(a) Agriculture (total animal units).	.....	U.S. Department of Commerce, Bureau of the Census, Census of Agriculture.
	(b) Industrial	(i) Manufacturers	U.S. Department of Commerce, Bureau of the Census, Economic Census, Census of Manufactures.
		(ii) Mining operations	U.S. Department of Commerce, Bureau of the Census, Economic Census, Census of Mineral Industries.
		(iii) Power plants	U.S. Department of Energy, Office of Coal, Nuclear, Electric, and Alternate Fuels, Inventory of Power Plants in the U.S.
	(c) Municipal dischargers	.....	U.S. Environmental Protection Agency, Office of Water, Wastewater Facilities Database.
5. Potential Non-Point Sources.	(a) Agriculture	.....	U.S. Department of Commerce, Bureau of the Census, Census of Agriculture.
	(b) Logging	.....	U.S. Department of Commerce, Bureau of the Census, Economic Census, Census of Manufactures.
	(c) Abandoned mines	(i) Abandoned soft-rock (coal) mining operations.	U.S. Department of the Interior, Office of Surface Mining, Abandoned Mine Land Inventory System.
		(ii) Abandoned hard-rock mining operations.	U.S. Department of the Interior, Bureau of Mines, Minerals Availability System/Mineral Inventory Location System.
6. Population of Urbanized Area.	.....	.....	U.S. Department of Commerce, Bureau of the Census, Census of Population and Housing.*

* The population living in urban areas (Census designated places with 2,500 or more residents) rather than population living in urbanized areas (one or more Census designated places and the associated urban fringe that together have 50,000 or more residents) will be used for PR and the Insular Areas (VI, AS, GU, and CNMI).

[1] Note that in the future additional elements and sub-elements may be considered for inclusion in the revised § 106 allotment formula if they are deemed appropriate and if they are reflective of the extent of water quality impairment or State workload.

To account for the fact that not all of the selected formula components contribute equally to the extent of the water pollution problem within the States, and to address concerns regarding the current consistency of some of the new data sources, each formula component will be weighted individually. Component weights will be phased-in over the course of the first and second five-year implementation periods, according to the schedule presented in Table 2 (below).

TABLE 2.—COMPONENT WEIGHTS IN THE REVISED SECTION 106 STATE ALLOTMENT FORMULA—FY 1999 AND BEYOND

Component	FY 1999 (percent)	FY 2001 (percent)	FY 2004+ (percent)
Surface Water Area	13	13	12
Ground Water Use	11	12	12
Impairment	13	25	35
Potential Point Sources	25	17	13
Potential Non-Point Sources	18	15	13
Population of Urbanized Area	20	18	15
Total	100	100	100

The increase in the weight of the impairment component will be phased in over time to allow for improvement in the consistency of its data source, the CWA § 305(b) report. This gradual transition will also provide greater fiscal stability for State and interstate water pollution control programs.

B. Minimum Level of Funding

Under the revised § 106 State allotment formula, all States will be allotted a minimum level of funding. In FY 1999, the minimum level of funding for each State will be the larger of: (1) the guaranteed base level of funding for which the State qualifies (defined below); or (2) the FY 1998 § 106 allotment for that State. This second provision allows for stability during the transition to the revised § 106 State allotment formula. In FY 2000 and all future years, the minimum level of funding for a specific State will be the largest of: (1) the guaranteed base level of funding for which the State qualifies; (2) 95 percent of the State's § 106 allotment from the previous fiscal year; or (3) 80 percent of the State's FY 1998 § 106 allotment. By limiting the maximum annual reduction in a State allotment to 5 percent of the previous fiscal year's allotment and by limiting the maximum total reduction to 20 percent of the State's FY 1998 § 106 allotment, the revised formula allows for gradual funding adjustments. These modulating procedures will serve to ease the burden that unrestricted allotment reductions might otherwise create.

The base level of funding for the fifty States, DC, PR, VI, and GU will be set at $500,000 for FY 1999, while the base level of funding for AS and CNMI will be set at $250,000 for FY 1999. The base level of funding is designed to ensure a minimum level of funding for the operation of a water quality pollution control program. Beginning in FY 2000, to protect against erosion in the real value of the base level of funding due to inflation, annual adjustments will be made to the base level of funding as determined by changes to the Consumer Price Index.

C. Maximum Annual Funding Increase

All States will be subject to a cap on the annual increase in their § 106 allotment. The maximum funding level any State can receive will be 150 percent of that State's § 106 allotment from the previous fiscal year.[2]

D. Set-Asides

A portion of the § 106 appropriation available to States will continue to be set aside for interstate agencies. For FY 1999 and every year thereafter, the size of this set-aside will be set at its historic (FY 1976) level of 2.6 percent of the total § 106 State appropriation.

Funds will be distributed to interstate agencies on the basis of a separate allotment formula. The particulars of the revised § 106 interstate allotment formula are described in detail in section IV of this notice.

EPA will provide a single allotment to each State under the § 106 Grant Program rather than separate allotments for ground water and surface water programs. Since this grant program provides one of the few sources of federal funds for State ground water protection efforts that, in turn, are critical to the maintenance of water quality, EPA strongly advises States to target at least 15 percent of their § 106 allotment for ground water protection programs and activities. Should the State agency responsible for the administration of the § 106 grant not include the State's ground water protection program, the appropriate agency should be immediately informed of the amount of funds targeted and available for ground water activities.

E. Update Cycle

The data used in the revised § 106 State allotment formula will be periodically updated. The first update will impact allotments for FY 2001, and will consist of updating the data used to support the impairment component of the revised formula. These data will be updated based on 1998 CWA § 305(b) reports. After this initial update, the data used to support all six components of the revised § 106 State allotment formula will be updated in 2003 (for use in the determination of FY 2004 allotments). Thereafter, all data will be updated every five years (i.e., in FY 2008 for FY 2009 allotments, in FY 2013 for FY 2014 allotments, etc.).

The base level of funding for all States will be updated annually to account for inflation based on the Consumer Price Index (CPI).

IV. The Revised Section 106 Interstate Allotment Formula for FY 1999

The interstate set-aside will be allocated to interstate agencies for FY 1999 and all fiscal years thereafter according to the formula defined below. The revised § 106 interstate allotment formula will consist of two parts: (1) a base portion, and (2) a variable portion.

The base portion of the formula ensures that each interstate agency will receive a minimum base level of funding equal to $125,000, to provide for coordination activities among its member States. Should the size of the interstate set-aside decrease due to a reduction in the total § 106

[2] Note that the minimum level of funding described in section III.B. takes precedence over the maximum annual funding increase. For example, since the FY 1998 allotment for CNMI ($150,251) represents less than two-thirds of its Base level of funding for FY 1999 ($250,000), CNMI will realize a 66 percent increase in its allotment for FY 1999.

appropriation, the minimum level of funding may be modified.

Funds not allocated by the base portion of the revised § 106 interstate allotment formula will be allocated based on the sum of State allocation ratios from the revised § 106 State allotment formula for the signatory States in the Compact of each eligible interstate agency. The allocation ratios for those States involved in compacts with more than one eligible interstate agency will be distributed among those interstate agencies based on the percentage of the State's territory that is situated within the drainage basin or watershed area covered by each compact.

REVISED SECTION 106 ALLOTMENTS FOR STATES, DC, PR, AND THE INSULAR AREAS

Entity	FY 1999
Connecticut	$1,241,717
Maine	952,282
Massachusetts	1,877,408
New Hampshire	659,035
Rhode Island	888,532
Vermont	518,786
Region One	6,137,760
New Jersey	2,145,811
New York	4,293,034
Puerto Rico	1,263,308
Virgin Islands	599,364
Region Two	8,301,517
Delaware	761,034
D.C	684,123
Maryland	1,620,935
Pennsylvania	3,487,826
Virginia	1,990,420
West Virginia	1,115,516
Region Three	9,659,854
Alabama	2,103,431
Florida	3,028,010
Georgia	2,470,720
Kentucky	1,202,400
Mississippi	1,799,009
North Carolina	3,226,738
South Carolina	1,594,878
Tennessee	1,467,740
Region Four	16,892,926
Illinois	3,125,087
Indiana	1,665,511
Michigan	4,136,782
Minnesota	2,265,180
Ohio	2,979,273
Wisconsin	3,221,840
Region Five	17,393,673
Arkansas	1,241,263
Louisiana	2,032,092
New Mexico	873,803
Oklahoma	1,428,423
Texas	4,341,770
Region Six	9,917,351
Iowa	1,756,629
Kansas	1,351,923
Missouri	2,080,385
Nebraska	1,423,225
Region Seven	6,612,162
Colorado	1,237,173
Montana	988,553
North Dakota	720,804
South Dakota	739,929
Utah	912,053
Wyoming	586,931
Region Eight	5,185,443
Arizona	1,105,960
California	6,334,978
Hawaii	858,690
Nevada	552,084
American Samoa	250,000
Guam	613,490
Northern Marianas	250,000
Region Nine	9,965,202
Alaska	586,931
Idaho	896,671
Oregon	1,558,054
Washington	2,476,920
Region Ten	5,518,576
U.S. Total	95,584,464

REVISED SECTION 106 ALLOTMENTS FOR INTERSTATE AGENCIES

Entity	FY 1999
DRBC	$332,206
ICPRB	354,506
ISC	380,306
NEIWPCC	469,406
ORSANCO	681,006
SRBC	334,106
Total Interstate Set-Aside	2,551,536

[FR Doc. 98–29664 Filed 11–4–98; 8:45 am]

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Federal Register

Vol. 63, No. 214

Thursday, November 5, 1998

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FEDERAL REGISTER PAGES AND DATES, NOVEMBER

58619–59202	2
59203–59456	3
59457–59690	4
59691–59874	5

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7144 59199
7145 59203
Administrative Orders:
Presidential Determinations:
No. 99–1 of October 21, 1998 59201

5 CFR

890 59457
2634 58619
Proposed Rules:
532 58659

7 CFR

17 59691
723 59205
Proposed Rules:
984 59246
1755 59248

10 CFR

835 59662

12 CFR

208 58620
211 58620
215 58620
225 58620
262 58620
263 58620
265 58620
Proposed Rules:
701 59742

14 CFR

25 59692
39 ..... 58622, 58624, 58625, 59206, 59460, 59695, 59696, 59697, 59699
71 ..... 58627, 58628, 58629, 58811, 59701, 59702, 59703, 59704, 59705, 59842
Proposed Rules:
23 58660
39 ..... 59252, 59743
71 ..... 59255, 59256, 59257
91 59494
121 ..... 59192, 59494
135 ..... 59192, 59494
145 59192

16 CFR

Proposed Rules:
305 58671

17 CFR

10 58811
200 59862
240 ..... 58630, 59208, 59362
249 59862

21 CFR

175 59706
176 59707
178 ..... 59213, 59709
211 59463
314 59710
510 59215
520 ..... 59712, 59713
522 ..... 59215, 59714
524 59715
556 59715
558 59216
814 59217
862 59222
864 59222
866 59222
872 59715
876 59222
880 ..... 59222, 59717
882 59222
886 59222
890 59222
892 59222
Proposed Rules:
310 59746
314 59746
600 59746
900 59750
1308 59751
1312 59751

24 CFR

Proposed Rules:
5 58675

26 CFR

1 58811
Proposed Rules:
1 58811

30 CFR

Proposed Rules:
46 59258
915 59627
938 59259

32 CFR

199 59231
311 59718

33 CFR

100 59232
165 ..... 58635, 59719
Proposed Rules:
117 58676

37 CFR

201 ..... 59233, 59235

38 CFR

Proposed Rules:
14 59495

17 58677

40 CFR
52 ..... 58637, 59471, 59720
81 ..... 58637, 59722
Proposed Rules:
52 ..... 58678, 59754
81 58678
745 59754

41 CFR
60–250 59630
60–741 59657

42 CFR
405 58814
410 58814
413 58814
414 58814
415 58814
424 58814
485 58814
Proposed Rules:
5 58679
51c 58679

44 CFR
64 59236

46 CFR
2 59472
Proposed Rules:
45 58679

47 CFR
2 58645
73 ..... 59238, 59239
90 58645
Proposed Rules:
Ch. 1 59755
54 58685
73 ..... 59262, 59263
90 58685

48 CFR
Proposed Rules:
Ch. 7 59501
712 59501
727 59501
742 59501
752 59501

49 CFR
1 59474
195 59475
571 ..... 59482, 59755
Proposed Rules:
171 59505
177 59505
178 59505
180 59505
1420 59263

50 CFR
17 59239
679 ..... 58658, 59244
Proposed Rules:
17 58692
222 58701
227 58701
648 59492
660 59758

REMINDERS

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RULES GOING INTO EFFECT NOVEMBER 5, 1998

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Potato research and promotion order:
Importers' votes and reporting requirements clarification; published 10-6-98

AGRICULTURE DEPARTMENT
Agricultural commodities:
Commercial sales financing; published 11-5-98

ENERGY DEPARTMENT
Federal Energy Regulatory Commission
Natural Gas Policy Act:
Interstate natural gas pipelines—
Business practice standards; published 10-6-98

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Animal drugs, feeds, and related products:
New drug applications—
Eprinomectin; published 11-5-98
Levamisole hydrochloride soluble drench powder; published 11-5-98
Sulfadimethoxine soluble powder and oral solution; published 11-5-98
Sponsor name and address changes—
Boehringer Ingelheim Animal Health, Inc.; published 11-5-98
Food additives:
Adhesive coatings and components—
Dimethyl-2,6-naphthalenedicarboxylate, etc.; published 11-5-98
Adjuvants, production aids, and sanitizers—
Chromium oxide green, Cr2O3 (C.I. Pigment Green 17); published 11-5-98
Paper and paperboard components—
2-[2-aminoethyl)amino]-ethanol, etc.; published 11-5-98

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:
Lane Mountain milk-vetch (five desert milk-vetch taxa from California); published 10-6-98

NATIONAL SCIENCE FOUNDATION
Antarctic animals and plants conservation; published 9-21-98

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Airbus; published 10-1-98
Boeing; published 10-1-98
Class B airspace; published 10-30-98

TRANSPORTATION DEPARTMENT
Federal Highway Administration
Transportation Equity Act for 21st Century; implementation:
Open container laws; published 10-6-98

TRANSPORTATION DEPARTMENT
National Highway Traffic Safety Administration
Transportation Equity Act for 21st Century; implementation:
Open container laws; published 10-6-98

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Milk marketing orders:
Nebraska-Western Iowa; comments due by 11-9-98; published 10-9-98

AGRICULTURE DEPARTMENT
Food and Nutrition Service
Child nutrition programs:
School breakfast program and national school lunch program—
Menu planning alternatives; republication; comments due by 11-12-98; published 5-15-98

COMMERCE DEPARTMENT
Export Administration Bureau
Export administration regulations:
Foreign policy-based export controls; effects; comments due by 11-12-98; published 10-13-98

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Caribbean, Gulf, and South Atlantic fisheries—
South Atlantic snapper-grouper; comments due by 11-9-98; published 9-8-98
Marine mammals:
Commercial fishing operations—
Commercial fisheries authorization; list of fisheries categorized according to frequency of incidental takes; comments due by 11-9-98; published 8-11-98

DEFENSE DEPARTMENT
Acquisition regulations:
Contract financing; flexible progress payments; comments due by 11-9-98; published 9-8-98
Federal Acquisition Regulation (FAR):
Competition under multiple award task and delivery order contracts; comments due by 11-9-98; published 9-9-98

ENERGY DEPARTMENT
Federal Energy Regulatory Commission
Natural Gas Policy Act:
Interstate natural gas pipelines—
Transportation services regulation; comments due by 11-9-98; published 8-11-98

ENVIRONMENTAL PROTECTION AGENCY
Air pollutants, hazardous; national emission standards:
Petroleum refineries
Catalytic cracking (fluid and other) units, catalytic reforming units, and sulfur plant units; comments due by 11-10-98; published 9-11-98
Air quality implementation plans; approval and promulgation; various States:
Alabama; comments due by 11-9-98; published 10-8-98
California; comments due by 11-13-98; published 10-23-98
Minnesota; comments due by 11-12-98; published 10-13-98
Pennsylvania; comments due by 11-9-98; published 10-8-98
Tennessee; comments due by 11-9-98; published 10-8-98
Hazardous waste:
Land disposal restrictions—
Alternate treatment standards; intent to grant site-specific treatment variance to Chemical Waste Management, Inc.; comments due by 11-13-98; published 10-23-98
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Bacillus sphaericus; comments due by 11-10-98; published 9-11-98
Cypermethrin; comments due by 11-10-98; published 9-11-98
Esfenvalerate; comments due by 11-10-98; published 9-11-98
Metolachlor; comments due by 11-10-98; published 9-11-98
Sulfosate; comments due by 11-10-98; published 9-11-98
Toxic substances:
Significant new uses—
Phenol, 2,4-dimethyl-6-(1-methylpentadecyl), etc.,; comments due by 11-9-98; published 10-26-98

FEDERAL COMMUNICATIONS COMMISSION
Common carrier services:
Truth-in-billing and billing format; comments due by 11-13-98; published 10-14-98

GENERAL SERVICES ADMINISTRATION
Federal Acquisition Regulation (FAR):
Competition under multiple award task and delivery order contracts; comments due by 11-9-98; published 9-9-98

HEALTH AND HUMAN SERVICES DEPARTMENT
Health Care Financing Administration
Medicare:

Ambulatory surgical centers; ratesetting methodology, payment rates and policies, and covered surgical procedures list; comments due by 11-9-98; published 10-1-98

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Lead-based paint hazards in federally owned residential property and housing receiving Federal assistance; notification, evaluation, and reduction; comments due by 11-9-98; published 10-9-98

Public and Indian housing:
Indian housing loan guarantees; direct guarantee processing; comments due by 11-10-98; published 9-11-98

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:
Devils River minnow; comments due by 11-12-98; published 10-13-98

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:
Iowa; comments due by 11-13-98; published 10-14-98

JUSTICE DEPARTMENT

Executive Office for Immigration Review:
Immigration Appeals Board; streamlined appellate review procedure; comments due by 11-13-98; published 9-14-98

Grants:
Juvenile accountability incentive block grants program; comments due by 11-13-98; published 10-14-98

LABOR DEPARTMENT

Occupational Safety and Health Administration

Construction safety and health standards:
Steel erection; comments due by 11-12-98; published 8-13-98

LABOR DEPARTMENT

Pension and Welfare Benefits Administration

Employee Retirement Income Security Act:
Summary plan description regulations; comments due by 11-9-98; published 9-9-98

Employment Retirement Income Security Act:
Summary plan description regulations; comments due by 11-9-98; published 9-9-98

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):
Competition under multiple award task and delivery order contracts; comments due by 11-9-98; published 9-9-98

NATIONAL CREDIT UNION ADMINISTRATION

Credit unions:
Organization and operations—
Chartering and field of membership policy update; comments due by 11-13-98; published 9-14-98

NUCLEAR REGULATORY COMMISSION

Byproduct material; medical use:
Policy statement; comments due by 11-12-98; published 8-13-98
Revision; comments due by 11-12-98; published 8-13-98

Production and utilization facilities; domestic licensing:
Nuclear power reactors—
Permanent shutdown; financial protection requirements; comments due by 11-9-98; published 9-23-98

PERSONNEL MANAGEMENT OFFICE

Prevailing rate systems
Environmental differential pay for working at high altitudes; comments due by 11-12-98; published 10-13-98

SECURITIES AND EXCHANGE COMMISSION

Securities:
Brokers and dealers; books and records requirements—
Sales practices; comments due by 11-9-98; published 10-9-98

TRANSPORTATION DEPARTMENT

Coast Guard

Drawbridge operations:
North Carolina; comments due by 11-9-98; published 9-10-98

Marine occupational safety and health standards:
Commercial diving operations; comments due by 11-9-98; published 9-23-98

Ports and waterways safety:
First Coast Guard District navigable waters; regulated navigation area; comments due by 11-12-98; published 10-13-98

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
Airbus; comments due by 11-9-98; published 10-14-98
British Aerospace; comments due by 11-13-98; published 10-14-98
CFM International; comments due by 11-10-98; published 9-11-98
Dornier; comments due by 11-9-98; published 10-8-98
Empresa Brasileira de Aeronautica S.A.; comments due by 11-13-98; published 10-14-98
Pratt & Whitney; comments due by 11-9-98; published 9-9-98
Textron Lycoming; comments due by 11-10-98; published 9-11-98
Williams International; comments due by 11-9-98; published 9-9-98

Airworthiness standards:
Special conditions—
Raytheon Aircraft Co. model 300 airplane; comments due by 11-13-98; published 10-14-98

Class D and E airspace; comments due by 11-9-98; published 10-9-98

Class E airspace; comments due by 11-9-98; published 9-24-98

TRANSPORTATION DEPARTMENT

Federal Railroad Administration

Magnetic levitation transportation technology deployment program; comments due by 11-12-98; published 10-13-98

TRANSPORTATION DEPARTMENT

Surface Transportation Board

Rate procedures:
Service inadequacies; expedited relief; comments due by 11-13-98; published 10-30-98

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:
Foreign partnerships and corporations; property transfers by U.S. persons; information reporting requirements; comments due by 11-9-98; published 9-9-98
Foreign partnerships, U.S. persons owning interests in; return requirements; comments due by 11-9-98; published 9-9-98
Foreign partnerships; information reporting requirements; comments due by 11-9-98; published 9-9-98
Foreign partnerships; information reporting requirements; correction; comments due by 11-9-98; published 10-31-98
Widely held fixed investment trusts; reporting requirements; comments due by 11-12-98; published 8-13-98

VETERANS AFFAIRS DEPARTMENT

Freedom of Information Act; implementation; comments due by 11-9-98; published 9-10-98

LIST OF PUBLIC LAWS

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S. 2468/P.L. 105–307
Dante Fascell Biscayne National Park Visitor Center Designation Act (Oct. 29, 1998; 112 Stat. 2931)

H.R. 700/P.L. 105–308
To remove the restriction on the distribution of certain revenues from the Mineral Springs parcel to certain members of the Agua Caliente Band of Cahuilla Indians. (Oct. 30, 1998; 112 Stat. 2932)

H.R. 1274/P.L. 105–309
Technology Administration Act of 1998 (Oct. 30, 1998; 112 Stat. 2935)

H.R. 1756/P.L. 105–310
Money Laundering and Financial Crimes Strategy Act of 1998 (Oct. 30, 1998; 112 Stat. 2941)

H.R. 2675/P.L. 105–311
Federal Employees Life Insurance Improvement Act (Oct. 30, 1998; 112 Stat. 2950)

H.R. 2807/P.L. 105–312
To clarify restrictions under the Migratory Bird Treaty Act on baiting and to facilitate acquisition of migratory bird habitat, and for other purposes. (Oct. 30, 1998; 112 Stat. 2956)

H.R. 3055/P.L. 105–313
Miccosukee Reserved Area Act (Oct. 30, 1998; 112 Stat. 2964)

H.R. 3494/P.L. 105–314
Protection of Children From Sexual Predators Act of 1998 (Oct. 30, 1998; 112 Stat. 2974)

H.R. 3528/P.L. 105–315
Alternative Dispute Resolution Act of 1998 (Oct. 30, 1998; 112 Stat. 2993)

H.R. 3687/P.L. 105–316
Canadian River Project Prepayment Act (Oct. 30, 1998; 112 Stat. 2999)

H.R. 3903/P.L. 105–317
Glacier Bay National Park Boundary Adjustment Act of 1998 (Oct. 30, 1998; 112 Stat. 3002)

H.R. 4151/P.L. 105–318
Identity Theft and Assumption Deterrence Act of 1998 (Oct. 30, 1998; 112 Stat. 3007)

H.R. 4293/P.L. 105–319
Irish Peace Process Cultural and Training Program Act of 1998 (Oct. 30, 1998; 112 Stat. 3013)

H.R. 4309/P.L. 105–320
Torture Victims Relief Act of 1998 (Oct. 30, 1998; 112 Stat. 3016)

H.R. 4326/P.L. 105–321
Oregon Public Lands Transfer and Protection Act of 1998 (Oct. 30, 1998; 112 Stat. 3020)

H.R. 4337/P.L. 105–322
To authorize the Secretary of the Interior to provide financial assistance to the State of Maryland for a pilot program to develop measures to eradicate or control nutria and restore marshland damaged by nutria. (Oct. 30, 1998; 112 Stat. 3027)

H.R. 4660/P.L. 105–323
To amend the State Department Basic Authorities Act of 1956 to provide rewards for information leading to the arrest or conviction of any individual for the commission of an act, or conspiracy to act, of international terrorism, narcotics related offenses, or for serious violations of international humanitarian law relating to the Former Yugoslavia, and for other purposes. (Oct. 30, 1998; 112 Stat. 3029)

H.R. 4679/P.L. 105–324
Antimicrobial Regulation Technical Corrections Act of 1998 (Oct. 30, 1998; 112 Stat. 3035)

S. 231/P.L. 105–325
National Cave and Karst Research Institute Act of 1998 (Oct. 30, 1998; 112 Stat. 3038)

S. 890/P.L. 105–326
Dutch John Federal Property Disposition and Assistance Act of 1998 (Oct. 30, 1998; 112 Stat. 3040)

S. 1333/P.L. 105–327
To amend the Land and Water Conservation Fund Act of 1965 to allow national park units that cannot charge an entrance or admission fee to retain other fees and charges. (Oct. 30, 1998; 112 Stat. 3055)

S. 2094/P.L. 105–328
Fish and Wildlife Revenue Enhancement Act of 1998 (Oct. 30, 1998; 112 Stat. 3057)

S. 2106/P.L. 105–329
Arches National Park Expansion Act of 1998 (Oct. 30, 1998; 112 Stat. 3060)

S. 2193/P.L. 105–330
Trademark Law Treaty Implementation Act (Oct. 30, 1998; 112 Stat. 3064)

Last List November 2, 1998

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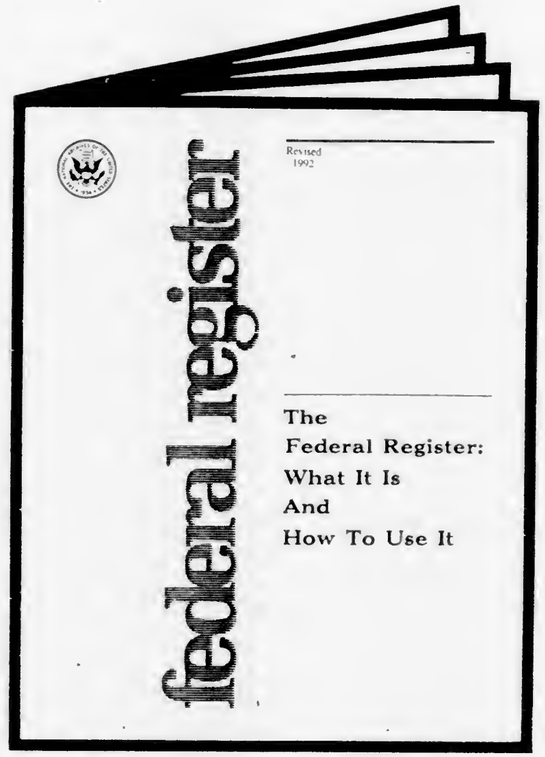
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federal register

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Contents

Federal Register
Vol. 63, No. 215
Friday, November 6, 1998

Agency for Toxic Substances and Disease Registry
NOTICES
Senior Executive Service:
Performance Review Board; membership, 60006–60007

Agricultural Marketing Service
PROPOSED RULES
Peanut promotion, research, and information order, 59893–59911
Walnuts grown in—
California, 59891–59893

Agriculture Department
See Agricultural Marketing Service
See Commodity Credit Corporation
See Forest Service
See Risk Management Agency

Alcohol, Tobacco and Firearms Bureau
PROPOSED RULES
Alcoholic beverages:
Hard cider, semi-generic wine designations, and wholesale liquor dealers' signs, 59921–59922
NOTICES
Agency information collection activities:
Proposed collection; comment request, 60042–60043

Army Department
NOTICES
Environmental statements; availability, etc.:
Fort Wainwright Yukon Training Area et al., AK, 59950–59951
White Sands Missile Range, NM, 59951–59952

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Centers for Disease Control and Prevention
NOTICES
Agency information collection activities:
Proposed collection; comment request, 60007–60008
Fertility Clinic Success Rate and Certification Act; implementation:
Embryo laboratories certification; model program; comment request, 60177–60189
Meetings:
Energy-Related Epidemiologic Research Advisory Committee; correction, 60008
Senior Executive Service:
Performance Review Board; membership, 60006–60007

Children and Families Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 60008

Commerce Department
See Export Administration Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration
See National Telecommunications and Information Administration

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement list; additions and deletions, 59936–59937

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Bangladesh, 59942
Bulgaria, 59942–59943
Hungary, 59943–59944
Macau, 59944–59945
Malaysia, 59945–59946
Pakistan, 59946–59947
Qatar, 59947–59948
Turkey, 59948–59949

Commodity Credit Corporation
RULES
Export programs:
Foreign donation of agricultural commodities—
Changes, corrections, and clarifications, 59876–59878
Ocean transportation procurement procedures, 59876

Customs Service
NOTICES
Country of origin marking:
Germany; surgical instruments, 60043
Customs broker permits; user fees, 60043

Defense Department
See Army Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 59949–59950
Federal Acquisition Regulation (FAR):
Agency information collection activities—
Proposed collection; comment request, 59950

Education Department
PROPOSED RULES
Postsecondary education:
Student assistance; regulatory issues; advice and recommendations request, 59922–59923
NOTICES
Agency information collection activities:
Proposed collection; comment request; correction, 59952
Submission for OMB review; comment request, 59952

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 60025–60026

Energy Department
See Federal Energy Regulatory Commission
See Southeastern Power Administration
See Western Area Power Administration

NOTICES
Grants and cooperative agreements; availability, etc.:
Nuclear energy research initiative program, 59952–59961

Environmental Protection Agency
RULES
Air programs; approval and promulgation; State plans for designated facilities and pollutants:
Oklahoma, 59887–59890
Air quality implementation plans; approval and promulgation; various States:
Pennsylvania, 59884–59887
PROPOSED RULES
Air programs; approval and promulgation; State plans for designated facilities and pollutants:
Oklahoma, 59928
Air quality implementation plans; approval and promulgation; various States:
California, 59924–59928
Pennsylvania, 59923–59924
NOTICES
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 59989
Weekly receipts, 59988–59989
Hazardous waste:
Facilities generating mixed radioactive/hazardous waste; storage prohibition; enforcement policy statement, 59989–59992
Meetings:
Environmental Policy and Technology National Advisory Council, 59992–59993
Pesticide registration, cancellation, etc.:
Oryzalin, 59993–59994
Toxic and hazardous substances control:
Lead-based paint activities in target housing and child-occupied facilities; State and Indian Tribe authorization applications—
Delaware, 59994–59996
Maryland, 59996–59998

Executive Office of the President
See Presidential Documents

Export Administration Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 59937–59938

Federal Aviation Administration
RULES
Class B airspace, 59878
Standard instrument approach procedures, 59878–59883
NOTICES
Advisory circulars; availability, etc.:
Aircraft—
Flight in icing conditions, 60038–60039
Aircraft products and parts—
Premium quality titanium alloy rotating engine components; manufacturing process, 60038

Federal Communications Commission
PROPOSED RULES
Radio stations; table of assignments:
Florida, 59928

Federal Emergency Management Agency
NOTICES
Disaster and emergency areas:
Florida, 59998
Kansas, 59999
Missouri, 59999–60000
Texas, 60000

Federal Energy Regulatory Commission
PROPOSED RULES
Electric utilities (Federal Power Act) and natural gas companies (Natural Gas Act):
Energy facilities applications; collaborative procedures; technical conferences, 59916–59917
NOTICES
Electric rate and corporate regulation filings:
Consolidated Edison Co. of New York, Inc., et al., 59964–59967
Lake Benton Power Partners L.L.C. et al., 59967–59970
Environmental statements; availability, etc.:
Wisconsin Electric Power Co., 59970–59972
Hydroeletric applications, 59972–59973
Meetings; Sunshine Act, 59973–59975
Applications, hearings, determinations, etc.:
Granite State Gas Transmission, Inc., 59961
Idaho Power Co., 59961–59962
Tapoco, Inc., 59962
Tennessee Gas Pipeline Co., 59962–59964
Williams Gas Pipelines Central, Inc., 59964

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Douglas County, CO, 60039

Federal Maritime Commission
NOTICES
Agreements filed, etc., 60000

Federal Railroad Administration
PROPOSED RULES
Railroad safety:
Florida Overland eXpress high speed rail system; safety standards; public regulatory conference, 59928–59929

Federal Reserve System
NOTICES
Federal Reserve Bank services:
Net settlement payment services enhancements, 60000–60006

Federal Transit Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Job access and reverse commute program, 60167–60176
Transit assistance programs; apportionments and allocations (1999 FY), 60051–60105
Grants and cooperative agreements; certifications and assurances; annual list, 60107–60119

Food and Drug Administration
RULES
Mutual recognition agreements:
U.S.-European Community—
Pharmaceutical good manufacturing practice inspection reports and medical device quality system audit and product evaluation reports, 60121–60164

PROPOSED RULES
Medical devices:
General hospital and personal use devices—
Liquid chemical sterilants and general purpose disinfectants; classification, 59917–59921
NOTICES
Memorandums of understanding:
U.S.-European Community Agreement on Mutual Recognition, Joint Committee; FDA and U.S. Trade Representative Office cooperative understandings and procedures, 60165–60166
Reports and guidance documents; availability, etc.:
Medical devices containing materials derived from animal sources (except for in vitro diagnostic devices); guidance for FDA reviewers and industry, 60009–60010
PMA shell development and modular review; medical device industry guidances, 60010–60011

Foreign Assets Control Office
RULES
Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb-controlled areas of Republic of Bosnia and Herzegovina sanctions regulations:
Blocked Montenegrin vessels; claims resolutions, 59883–59884

Forest Service
RULES
Freedom of Information Act; implementation
Correction, 60049

General Services Administration
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities—
Proposed collection; comment request, 59950

Health and Human Services Department
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 60011–60015

Indian Affairs Bureau
NOTICES
Tribal-State Compacts approval; Class III (casino) gambling:
Viejas Band of Kumeyaay Indians, CA, 60016

Interior Department
See Indian Affairs Bureau
See Land Management Bureau
See Minerals Management Service
See National Park Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 60016

International Trade Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Special American business internship training program, 59938–59941

International Trade Commission
NOTICES
Import investigations:
Agricultural tractors under 50 power take-off horsepower, 60020–60021

Justice Department
NOTICES
Pollution control; consent judgments:
Alpine Aromatics International, Inc., et al., 60021
Archer-Daniels-Midland Co. et al., 60022
Coal Valley Mining, Inc., 60022
Lang, Sadean, executrix of Donald R. Lang estate, 60022–60023
Midwest Metallics, L.P., et al., 60023
Pacific Mechanical Insulators Inc. et al., 60023–60024
Rueth Development Co. et al., 60024
San Luis Obispo County, CA, 60024

Labor Department
See Employment Standards Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request; correction, 60024–60025

Land Management Bureau
NOTICES
Environmental statements; notice of intent:
Apache County, AZ and Catron County, NM; St. Johns carbon dioxide and helium project, 60016–60017
Recreation management restrictions, etc.:
Shasta County, CA—
Camping and campfires prohibition, 60017
Reading Island Recreation Site; hours establishment, 60017–60018
Survey plat filings:
Idaho, 60018
Montana, 60018
New Mexico, 60019

Legal Services Corporation
NOTICES
Meetings; Sunshine Act, 60026–60027

Minerals Management Service
NOTICES
Environmental statements; availability, etc.:
Central Gulf of Mexico OCS—
Lease sales, 60019
Western Gulf of Mexico OCS—
Lease sales, 60019–60020
Meetings:
Gulf of Mexico region; Federal royalty-in-kind (RIK) pilot program for natural gas; correction, 60020, 60049

National Aeronautics and Space Administration
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities—
Proposed collection; comment request, 59950

National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 59941–59942

National Park Service
NOTICES
National Register of Historic Places:
Pending nominations, 60020

National Science Foundation
NOTICES
Meetings:
Civil and Mechanical Systems Special Emphasis Panel, 60027

National Telecommunications and Information Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Public telecommunications facilities program, 60191–60197

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Holtec International, 60027–60029
Meetings; Sunshine Act; correction, 60049
Petitions; Director's decisions:
Entergy Operations, Inc., 60027–60029
Applications, hearings, determinations, etc.:
Advanced Medical Systems, 60027

Personnel Management Office
RULES
Employment:
Senior Executive Service; involuntary reassignment moratorium and competitive service reinstatement eligibility, 59875–59876

Presidential Documents
EXECUTIVE ORDERS
Government agencies and employees
Foreign service and Central Intelligence Agency retirement and disability systems; open enrollment season for participants (EO 13105), 60199–60201

Public Health Service
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Food and Drug Administration

Risk Management Agency
NOTICES
Dairy options pilot program; availability, 59930–59936

Securities and Exchange Commission
PROPOSED RULES
Securities:
Equity securities purchases by issuer or affiliated purchaser, 59911–59916
NOTICES
Meetings; Sunshine Act, 60035
Self-regulatory organizations; proposed rule changes:
New York Stock Exchange, Inc., 60036–60037
Applications, hearings, determinations, etc.:
Ranson & Associates, Inc., et al., 60030–60032
Ranson Unit Investment Trusts et al., 60033–60035

Small Business Administration
NOTICES
Disaster loan areas:
Missouri, 60037

Southeastern Power Administration
NOTICES
Power rates:
Georgia-Alabama-South Carolina System of Projects; correction, 59975–59986

Surface Transportation Board
NOTICES
Railroad operation, acquisition, construction, etc.:
Belt Line Division of Tacoma Public Utilities, 60039–60040
Minnesota Commercial Railway Co., 60040
Railroad services abandonment:
Norfolk Southern Railway Co., 60040–60041

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Toxic Substances and Disease Registry Agency
See Agency for Toxic Substances and Disease Registry

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Railroad Administration
See Federal Transit Administration
See Surface Transportation Board
NOTICES
Aviation proceedings:
Agreements filed; weekly receipts, 60037–60038
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 60038

Treasury Department
See Alcohol, Tobacco and Firearms Bureau
See Customs Service
See Foreign Assets Control Office
NOTICES
Organization, functions, and authority delegations:
Community Development Financial Institutions Fund, Director, et al., 60041
Financial Management Service, Commissioner, 60041–60042

United States Information Agency
NOTICES
Art objects; importation for exhibition:
Pieter de Hooch (1629-1684), 60043–60044
Projects 66: Campana/Ingo Maurer, 60044
Grants and cooperative agreements; availability, etc.:
Summer institutes in American studies for foreign university teachers, 60044–60047

United States Institute of Peace
NOTICES
Meetings; Sunshine Act, 60047

Veterans Affairs Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 60047
Senior Executive Service:
Performance Review Boards; membership, 60047–60048

Western Area Power Administration
NOTICES
Environmental statements; availability, etc.:
Sutter Power Project, CA, 59986–59988

Separate Parts In This Issue

Part II
Department of Transportation, Federal Transit Administration, 60051–60105

Part III
Department of Transportation, Federal Transit Administration, 60107–60119

Part IV
Department of Health and Human Services, Food and Drug Administration, 60121–60166

Part V
Department of Transportation, Federal Transit Administration 60167–60176

Part VI
Health and Human Services Department, Centers for Disease Control and Prevention, 60177–60189

Part VII
Commerce Department, National Telecommunications and Information Administration, 60191–60197

Part VIII
The President, 60199–60201

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
13105 60201

5 CFR
317 59875
335 59875

7 CFR
1499 (2 documents) 59876
Proposed Rules:
984 59891
1216 (2 documents) 59893, 59907

14 CFR
71 59878
97 (3 documents) 59878, 59879, 59881

17 CFR
Proposed Rules:
240 59911

18 CFR
Proposed Rules:
4 59916
153 59916
157 59916
375 59916

21 CFR
26 60122
Proposed Rules:
880 59917

27 CFR
Proposed Rules:
4 59921
19 59921
24 59921
194 59921
250 59921
251 59921

31 CFR
585 59883
Proposed Rules:

34 CFR Ch. VI

36 CFR
200 60049

40 CFR
52 59884
62 59887
Proposed Rules:
52 (2 documents) 59923, 59924
62 59928

47 CFR
Proposed Rules:
73 59928

49 CFR
Proposed Rules:
243 59928

Rules and Regulations

Federal Register
Vol. 63, No. 215
Friday, November 6, 1998

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 317 and 335

RIN 3206–AH92

Employment in the Senior Executive Service Promotion and Internal Placement

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations that adopt without change interim regulations that corrected previous regulations which were inconsistent with statutory provisions that govern the 120-day moratorium on involuntary reassignments of career Senior Executive Service (SES) appointees following the appointment of a new agency head or a new noncareer immediate supervisor. These regulations also authorize agencies to reinstate SES career appointees who have competitive service reinstatement eligibility to career appointments in competitive service positions for which they qualify, including Senior Level (SL) positions.

EFFECTIVE DATE: December 7, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Bede Bender (202) 606–1784.

SUPPLEMENTARY INFORMATION:

120-Day Moratorium on Involuntary Reassignments

On June 24, 1998, the Office of Personnel Management (OPM) published interim regulations (63 FR 34257) to correct existing regulations that were inconsistent with statutory provisions governing the 120-day moratorium on involuntary reassignments of Senior Executive Service (SES) career appointees. The law in 5 U.S.C. 3395(e)(1) provides for a 120-day moratorium on involuntary reassignments of SES career appointees following the appointment of a new agency head or the career appointee's most immediate supervisor who is a noncareer appointee and who has the authority to make an initial appraisal of the career appointee's performance. The law also provides in § 3395(e)(2) for an exception to the moratorium by permitting involuntary reassignments during the 120-day period when the reassignment results from a final unsatisfactory performance rating issued prior to the appointment that triggered the moratorium. In situations which meet this criterion for exception, it does not matter if a new agency head or noncareer supervisor (with authority to make an initial performance appraisal) is appointed subsequently, i.e., after issuance of a final unsatisfactory performance rating, nor does it matter if there has been a change in the agency official responsible for taking the reassignment action (the language of the current regulation). The reassignment action may proceed if the conditions for the exception are met.

In instances where there is a change in agency head, it is possible that career appointees will be subject to more than one moratorium—which almost certainly will not run concurrently but may overlap to some degree, i.e., the appointment of a new agency head often results in some turnover among noncareer appointees. When applying the regulation in these instances, it is important to look at the starting date of each moratorium independently, in relation to the date on which the unsatisfactory rating was issued. For example, if a final rating of unsatisfactory is issued after the appointment of a new agency head, the moratorium initiated by that appointment must be allowed to run its course before any involuntary reassignment action can be effected. If a new noncareer supervisor is appointed after the new agency head, and also after the issuance of the unsatisfactory rating (i.e., when the rating is issued between the appointment of the new agency head and the new noncareer supervisor), then the second moratorium (i.e., the moratorium triggered by the appointment of the new noncareer supervisor) does not apply to an involuntary reassignment resulting from the unsatisfactory rating.

Conversion From Career SES to Career SL Appointment

The interim regulations published on June 24, 1998, also expanded the eligibility of SES career appointees for reinstatement to Senior Level (SL) positions. SL positions established under 5 CFR Part 319 are in the competitive service and are covered by OPM regulations governing the competitive service generally. Formerly, under 5 CFR 335.103(c)(1)(vi), agencies were required to follow competitive procedures in agency merit promotion plans in order to reinstate a person to a permanent or a temporary position at a higher grade or with more promotion potential than a position previously held on a permanent basis in the competitive service. This meant that career SES members could be reinstated to competitive service positions only at the same grade or pay level as the highest position they held previously in the competitive service.

By law, SES and SL positions are above the GS–15 level. In nearly all cases, career SES appointees have already competed at least Governmentwide. This regulatory change recognized that fact by permitting reinstatement of career SES appointees to competitive service positions above the GS–15 level.

The 30-day comment period expired on August 24, 1998. OPM did not receive any comments during the comment period. Therefore, the interim rule is being adopted as a final rule.

Regulatory Flexibility Act

I certify that these regulations will not have a significant impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Parts 317 and 335

Government employees.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, under the authority in 5 U.S.C. 3392, 3393, 3393a, 3395, 3397, 3593, and 3595, the interim regulations

amending 5 CFR Parts 317 and 335 (63 FR 34257) published on June 24, 1998, are adopted as final without any changes.

[FR Doc. 98–29768 Filed 11–5–98; 8:45 am]
BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1499

RIN 0551–AA57

Foreign Donation of Agricultural Commodities

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: Commodity Credit Corporation (CCC) is issuing its final rule with respect to amendments to the regulations governing procedures for procuring ocean transportation for agricultural commodities provided under section 416(b) of the Agricultural Act of 1949 and the Food for Progress Act of 1985, published as an interim final rule in the **Federal Register** on February 23, 1998.

EFFECTIVE DATE: November 6, 1998.

FOR FURTHER INFORMATION CONTACT: Ira D. Branson, Director, Commodity Credit Corporation, Program Support Division, Foreign Agricultural Service, United States Department of Agriculture, 1400 Independence Avenue, S.W., Stop 1031; Washington, D.C. 20250–1031; telephone (202) 720–3573.

SUPPLEMENTARY INFORMATION: This final rule is issued in conformance with Executive Order 12866. Based on information compiled by the Department, it has been determined that this final rule:

(1) Will have an annual effect on the economy of less than $100 million;

(2) Will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(3) Will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(4) Will not materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or rights and obligations of recipients thereof; and

(5) Will not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of rulemaking with respect to the subject matter of this rule.

Paperwork Reduction Act

This final rule does not contain any information collection requirements that require OMB approval under the provisions of the Paperwork Reduction Act.

Executive Order 12372

This final rule is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 46 FR 29115 (June 24, 1983).

Executive Order 12988

This final rule has been reviewed under the Executive Order 12988, Civil Justice Reform. The final rule will have pre-emptive effect with respect to any state or local laws, regulations, or policies which conflict with such provisions or which otherwise impede their full implementation. The final rule will not have retroactive effect. Administrative proceedings are not required before parties may seek judicial review.

On February 23, 1998, CCC published an interim final rule to amend the regulations applicable to donations under section 416(b) of the Agricultural Act of 1949, and the Food for Progress Program to be consistent with the new title I, Pub. L. 480 requirements. In particular, the final interim rule deleted the prohibition in § 1499.8(b)(4) against "clarification or submission of additional information" under competitive freight invitations for bids and updated a cross reference to the title I, Pub. L. 480 regulations regarding information and certifications required from prospective shipping agents. CCC did not receive any comments regarding the interim final rule.

List of Subjects in 7 CFR part 1499

Agricultural commodities, Exports, Foreign aid.

Accordingly, the interim rule amending 7 CFR part 1499 which was published at 63 FR 8837 on February 23, 1998, is adopted as a final rule without change.

Christopher E. Goldthwait,

General Sales Manager, FAS, and Vice President, Commodity Credit Corporation.

[FR Doc. 98–29726 Filed 11–5–98; 8:45 am]
BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1499

RIN 0551–AA56

Foreign Donation of Agricultural Commodities

AGENCY: Commodity Credit Corporation, USDA

ACTION: Final rule.

SUMMARY: This rule amends Commodity Credit Corporation (CCC) regulations governing foreign donations of agricultural commodities. This rule contains changes, corrections and clarifications to the regulations to achieve more effective management of foreign donations of agricultural commodities.

EFFECTIVE DATE: November 6, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Ira D Branson, Director, Commodity Credit Corporation Program Support Division, Foreign Agricultural Service, United States Department of Agriculture, 1400 Independence Ave., S.W., Stop 1031; Washington, D.C. 20250–1031; telephone (202) 720–3573.

SUPPLEMENTARY INFORMATION: This rule is issued in conformance with Executive Order 12866. Based on information compiled by the Department, it has been determined that this rule:

(1) Will have an annual effect on the economy of less than $100 million;

(2) Will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(3) Will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(4) Will not materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or rights and obligations of recipients thereof; and

(5) Will not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of rulemaking with respect to the subject matter of this rule.

Paperwork Reduction Act

The information collection requirements imposed by this rule has been previously submitted to the Office of Management and Budget (OMB) under the paperwork Reduction Act of 19980 (44 U.S.C. Chapter 35). OMB has assigned control number 0551–0035 for this information collection. This final rule change does not require collection of additional information; however, the final rule includes a requirement to use new forms for the semiannual logistic and monetization reports. These report forms have been submitted to OMB for review.

Executive Order 12372

This rule is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials. See the Notice related to 7 CFR Part 3015, subpart V, published at 46 FR 29115 (June 24, 1983).

Executive Order 12988

This rule has been reviewed under the Executive Order 12988, Civil Justice Reform. The rule will have pre-emptive effect with respect to any state or local laws, regulations, or policies which conflict with such provisions or which otherwise impede their full implementation. The rule will not have retroactive effect. Administrative proceedings are not required before parties may seek judicial review.

Background

On February 23, 1998, CCC published a notice of proposed rulemaking 63 FR 8879, regarding the donation of agricultural commodities under section 416(b) of the Agricultural Act of 1949 and the Food for Progress Act of 1985 appear at 7 CFR Part 1499. That notice proposed changes to address certain issues that have arisen since the regulations were first published on November 29, 1996, and additionally, make non-substantive corrections. CCC did not receive any comments on the proposed rule and is adopting the proposed rule without change.

List of Subjects in 7 CFR Part 1499

Agricultural commodities, Exports, Foreign aid.

Accordingly, Part 1499 of Title 7 of the Code of Federal Regulations is amended as follows:

PART 1499—FOREIGN DONATION PROGRAMS

1. The authority citation for Part 1499 continues to read as follows:

Authority: 7 U.S.C. 1431 (b); 7 U.S.C. 17360; E.O. 12752

§ 1499.1 [Amended]

2. Section 1499.1 is amended by removing—KCFMO—Kansas City Financial Management Office" and adding, in its place, "KCMO/DMD—Kansas City Management Office/Debt Management Division."

3. Section 1499.7(e) is amended by revising the third and fourth sentences to read as follows:

§ 1499.7 Apportionment of costs and advances.

* * * * *

(e) * * * The non-government Cooperating Sponsor may make adjustments between line items of an approved Program Operations Budget up to 20 percent of the total amount approved or $5,000, whichever is less without any further approval. Adjustments beyond these limits must be specifically approved by the Director, PDD.

* * * * *

§ 1499.7 [Amended]

4. Section 1499.7 (i) is amended by deleting "Director, CCCPSD" and adding in its place , "Director, PDD."

5. In section 1499.8, the introductory text of paragraph (b) and the headings of paragraph (g) and (g)(1) are revised, paragraph (g)(1)(vii) is redesignated as paragraph (g)(viii), and new paragraph (g)(1)(vii) and (g)(1)(ix) are added to read as follows:

§ 1499.8 Ocean transportation.

* * * * *

(b) *Freight procurement requirements.* When CCC is financing any portion of the ocean freight, whether on U.S.-flag or non-U.S. flag vessels, and the Cooperating Sponsor arranges ocean transportation:

* * * * *

(g) Documents required for payment of freight—(1) General rule. * * *

* * * * *

(vii) For all liner cargoes, a copy of the tariff page.

* * * * *

(ix) Each request to CCC for payment must provide a document, on letterhead and signed by an official or agent of the requester, the name of the entity to receive payment, the bank ABA number to which payment is to be made; the account number for the deposit at the bank; the requester's taxpayer identification number; and the type of the account into which funds will be deposited.

* * * * *

§ 1499.8 [Amended]

6. In section 1499.8, paragraph (g) is amended by deleting "One copy" wherever it appears and adding "One signed copy" in its place, and paragraph (g)(vi) is amended by deleting "a notice" and adding, in its place, "a signed notice."

7. Section 1499.10 is amended by adding a new paragraph (d) to read as follows:

§ 1499.10 Restrictions on commodity use and distribution.

* * * * *

(d) In the event that its participation in the program terminates, the non-government cooperating sponsor will safeguard any undistributed commodities and sales proceeds and dispose of such commodities and proceeds as directed by CCC.

§ 1499.14 [Amended]

8. Section 1499.14(b)(2) is amended by deleting "KCFMO" and adding, in its place "KCMO/DMD."

9. Section 1499.15, is amended by removing "KCFMO" wherever it appears and adding, in its place "KCMO/DMD", revising the last sentence of paragraphs § 1499.15(d)(2) and (f)(3) and adding paragraphs (d)(2)(i) through (d)(2)(vi) to read as follows:

§ 1499.15 Liability for loss, damage, or improper distribution of commodities—claims and procedures.

* * * * *

(d) * * *

(2) * * * In the event of a declaration General Average:

(i) The Cooperating Sponsor shall assign all claim rights to CCC and shall provide CCC all documentation relating to the claim, if applicable;

(ii) CCC will be responsible for settling general average and marine salvage claims;

(iii) CCC has sole authority to authorize any disposition of commodities which have not commenced ocean transit or of which the ocean transit is interrupted;

(iv) CCC will receive and retain any monetary proceeds resulting from such disposition;

(v) CCC will initiate, prosecute, and retain all proceeds of cargo loss and

damage against ocean carriers and any allowance in general average; and

(vi) CCC will pay any general average or marine salvage claims determined to be due.

* * * * *

(f) * * *

(3) * * * If the Agricultural Counselor or Attache approves a Cooperating Sponsor's decision not to take further action on the claim, the Cooperating Sponsor shall assign the claim to CCC and shall forward all documentation relating to the claim to KCMO/DMD.

* * * * *

10. In section 1499.16, the second and third sentences of paragraph (c)(1) introductory text and the second and third sentences of paragaph (c)(2) introductory text are revised to read as follows:

§ 1499.16 Records and reporting requirements.

* * * * *

(c) *Reports.* (1) * * * Cooperating sponsors must submit reports on Form CCC–620 and submit the first report by May 16 for agreements signed during the period, October 1 through March 31, or by November 16 for agreements signed during the period, April 1 through September 30. The first report must cover the time period from the date of signing and subsequent reports must be provided at six months intervals covering the period from the due date of the last report until all commodities have been distributed or sold and such distribution or sale reported to CCC. * * *

* * * * *

(2) * * * Cooperating Sponsors must submit reports on Form CCC–621 and submit the first report by May 16 for agreements signed during the period, October 1 through March 31, or by November 16 for agreements signed during the period, April 1 through September 30. The first report must cover the time period from the date of signing and subsequent reports must be provided at six months intervals covering the period from the due date of the last report until all funds generated from commodity sales have been distributed and such distribution reported to CCC.* * *

* * * * *

Christopher E. Goldthwait,

General Sales Manager, FAS, and Vice President, Commodity Credit Corporation.

[FR Doc. 98–29725 Filed 11–5–98; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 94–AWA–1]

RIN 2120–AA66

Modification of Phoenix Class B Airspace Area, AZ

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects a final rule published in the **Federal Register** on October 30, 1998 (Airspace Docket 94–AWA–1). In that rule, the legal description inadvertently contained an error in the longitudinal coordinates in Area D. This action corrects that error.

EFFECTIVE DATE: November 6, 1998.

FOR FURTHER INFORMATION CONTACT: William C. Nelson, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION: **Federal Register** Document 98–29148, Airspace Docket No. 94–AWA–1, published on October 30, 1998 (63 FR 58291), modified the Phoenix Class B airspace area. However, the legal description for Area D of the Phoenix Class B airspace area inadvertently contained an error in the longitudinal coordinates. This action corrects that error.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the Phoenix Class B airspace area, published in the **Federal Register** on October 30, 1998 (63 FR 58296); **Federal Register** Document 98–29148, and incorporated by reference in 14 CFR 71.1, is corrected as follows:

§ 71.1 [Corrected]

On page 58296, in the third column, paragraph Area D, lines 12 and 13, correct the longitudinal coordinates for Valley Road to read: "(Lat. 33°13'10" N., long. 112°09'58" W.),"

Issued in Washington, DC, on November 2, 1998.

Nancy B. Kalinowski,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 98–29778 Filed 11–5–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29381; Amdt. No. 1899]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAP's) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAP's, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAP's. The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 14 CFR 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Form 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAP's, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAP's contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with a Global Positioning System (GPS) and or Flight Management System (FMS) equipment. In consideration of the above, the applicable SIAP's will be altered to include "or GPS or FMS" in the title without otherwise reviewing or modifying the procedure. (Once a stand alone GPS or FMS procedure is developed, the procedure title will be altered to remove "or GPS or FMS" from these non-localizer, non-precision instrument approach procedure titles.)

The FAA has determined through extensive analysis that current SIAP's intended for use by Area Navigation (RNAV) equipped aircraft can be flown by aircraft utilizing various other types of navigational equipment. In consideration of the above, those SIAP's currently designated as "RNAV" will be redesignated as "VOR/DME RNAV" without otherwise reviewing or modifying the SIAP's.

Because of the close and immediate relationship between these SIAP's and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are, impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on October 30, 1998.

Richard O. Gordon,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113–40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

§§ 97.23, 97.27, 97.33, 97.35 [Amended]

2. Amend 97.23, 97.27, 97.33 and 97.35, as appropriate, by adding, revising, or removing the following SIAP's, effective at 0901 UTC on the dates specified:

* * * *Effective December 03, 1998*

St. Paul Island, AK, St. Paul Island, NDB/DME or GPS RWY 18, Amdt 2A CANCELLED
St. Paul Island, AK, St. Paul Island, NDB/DME RWY 18, Amdt 2A
Pueblo, CO., Pueblo Memorial, VOR or TACAN or GPS RWY 26R, Amdt 27 CANCELLED
Pueblo, CO., Pueblo Memorial, VOR or TACAN RWY 26R, Amdt 27
Pueblo, CO., Pueblo Memorial, NDB or GPS RWY 8L, Amdt 19 CANCELLED
Pueblo, CO., Pueblo Memorial, NDB RWY 8L, Amdt 19
Glenwood, MN, Glenwood Muni, VOR or GPS RWY 33, Amdt 1 CANCELLED
Glenwood, MN, Glenwood Muni, VOR RWY 33, Amdt 2
Racine, WI, John H Batten Field, NDB or GPS RWY 4, Amdt 3A CANCELLED
Racine, WI, John H Batten Field, NDB RWY 4, Amdt 3A

[FR Doc. 98–29782 Filed 11–5–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29379; Amdt. No. 1897]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reverence in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** sexpensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment stated the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and procedures (44 FR 11035; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC, on October 30, 1998.

Richard O. Gordon,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

Effective 3 December, 1998

Page, AZ, Page Muni, VOR–B, Orig
Page, AZ, Page Muni, VOR or GPS–A, Orig, CANCELLED
Petaluma, CA, Petaluma Muni, VOR RWY 29, Orig
Titusville, FL, Space Coast Regional, NDB OR GPS RWY 18, Amdt 12
Titusville, FL, Space Coast Regional, ILS RWY 36 Amdt 1
Sulphur, LA, Southland Field, GPS RWY 15, Amdt 1
Sulphur, LA, Southland Field, NBD RWY 15, Amdt 1
Sulphur, LA, Southland Field, LOC RWY 15, Amdt 1
Missoula, MT, Missoula International, ILS RWY 11, Admt 11
Portsmouth, NH, Peace Intl Tradeport, ILS RWY 16, Orig
Portsmouth, NH, Peace Intl Tradeport, GPS RWY 16, Amdt 1
Portsmouth, NH, Peace Intl Tradeport, VOR OR TACAN RWY 16, Amdt 5
Shelby, NC, Shelby Muni, NDB RWY 5, Amdt 4, CANCELLED
Shelby, NC, Shelby Muni, NDB RWY 5, Orig
Shelby, NC, Shelby Muni, NDB RWY 23, Orig

Effective 31 December, 1998

Hugo, OK, Stan Stamper Muni, NDB OR GPS RWY 35, Amdt 1

Effective 28 January, 1999

Yakutat, AK, Yakutat, VOR/DME RWY 2, Amdt 1
Yakutat, AK, Yakutat, VOR/RWY 11, Amdt 11A, CANCELLED
Yakutat, AK, Yakutat, VOR/DME RWY 11, Orig
Yakutat, AK, Yakutat, VOR/ RWY 29, Amdt 4
Yakutat, AK, Yakutat, VOR/DME RWY 29, Orig
Yakutat, AK, Yakutat, LOC/DME BC RWY 29, Amdt 2
Yakutat, AK, Yakutat, NDB RWY 11, Amdt 2
Yakutat, AK, Yakutat, ILS RWY 11, Amdt 4
Yakutat, AK, Yakutat, GPS RWY 2, Orig
Delano, CA, Delano Muni, VOR RWY 32, Amdt 8
Delano, CA, Delano Muni, GPS RWY 32, Amdt 1
Fresno, CA, Fresno-Chandler Downtown, GPS RWY 12R, Orig
Lincoln, CA, Lincoln Regional/Karl Harder Field, GPS RWY 15, Orig
Lincoln, CA, Lincoln Regional/Karl Harder Field, GPS RWY 32, Orig
Madera, CA, Madera Muni, VOR RWY 30, Amdt 10
Madera, CA, Madera Muni, GPS RWY 30, Amdt 1
San Diego (El Cajon), CA, Gillespie Field, LOC–D, Amdt 10
San Jose, CA, San Jose Intl, VOR RWY 12R, Amdt 3
San Jose, CA, San Jose Intl, ILS RWY 12R, Amdt 5
San Jose, CA, San Jose Intl, GPS RWY 12R, Orig
San Jose, CA, San Jose Intl, VOR/DME RWY 30L, Amdt 1
San Jose, CA, San Jose Intl, LOC/DME RWY 30L, Amdt 11
San Jose, CA, San Jose Intl, NDB/DME RWY 30L, Amdt 5
San Jose, CA, San Jose Intl, ILS RWY 30L, Amdt 21
San Jose, CA, San Jose Intl, GPS RWY 30L, Orig
Victorville, CA, Southern California Intl, VOR/DME RWY 17, Orig
Jasper, GA, Pickens County, NDB RWY 34, Amdt 1, CANCELLED
Jasper, GA, Pickens County, GPS RWY 34, Orig
Perry, IA, Perry Muni, GPS RWY 13, Orig
Perry, IA, Perry Muni, GPS RWY 31, Orig
Salina, KS, Salina Muni, VOR RWY 17, Amdt 1
Salina, KS, Salina Muni, NDB RWY 35, Amdt 17
Salina, KS, Salina Muni, ILS RWY 35, Amdt 19
Salina, KS, Salina Muni, GPS RWY 12, Orig
Salina, KS, Salina Muni, GPS RWY 17, Orig
Salina, KS, Salina Muni, GPS RWY 30, Orig
Salina, KS, Salina Muni, GPS RWY 35, Orig
Hartford, KY, Ohio County, GPS RWY 3, Orig
Hartford, KY, Ohio County, GPS RWY 21, Orig
Louisville, KY, Bowman Field, GPS RWY 24, Orig
Natchitoches, LA, Natchitoches Regional, NDB OR GPS RWY 34, Amdt 4
New Orleans, LA, Lakefront, LORAN RNAV RWY 18R, Orig-A, CANCELLED
Rush City, NM, Rush City Rgnl, GPS RWY 34, Orig
Libby, MT, Libby, GPS-A, Orig
Statesville, NC, Statesville Muni, GPS RWY 10, Amdt 1
Superior, NE, Superior Muni, VOR/DME OR GPS-A, Amdt 1
Roswell, NM, Roswell Industrial Air Center, RADAR–1, Orig
Ellenville, NY, Joseph Y Resnick, GPS RWY 4, Orig
Ellenville, NY, Joseph Y Resnick, GPS RWY 22, Orig
Washington Court House, OH, Fayette County, NDB RWY 22, Amdt 4
Washington Court House, OH, Fayette County, GPS RWY 22, Orig
Frederick, OK, Frederick Muni, GPS RWY 35L, Admt 1
Aiken, SC, Aiken Muni, GPS RWY 6, Orig
Aiken, SC, Aiken Muni, GPS RWY 24, Orig
Gregory, SD, Gregory Muni, GPS RWY 31, Amdt 1
San Antonio, TX, San Antonio Intl, GPS RWY 3, Orig
San Antonio, TX, San Antonio Intl, GPS RWY 12R, Orig
San Antonio, TX, San Antonio Intl, GPS RWY 30L, Orig

Note: The FAA published the following amendment in Docket No. 29357, Amdt No. 1893 to Part 97 of the Federal Aviation Regulations (Volume 63, No. 197, Page 54573; dated Tuesday, October 13, 1998) under Section 97.25 effective December 3, 1998 which is hereby rescinded:

San Diego (El Cajon), CA, Gillespie Field, LOC–D, Amdt 10

[FR Doc. 98–29780 Filed 11–5–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29380; Amdt. No. 1898]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPS) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for such SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination–1, FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription— Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airman (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAP's, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of

the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on October 30, 1998.

Richard O. Gordon,

Acting Director, Flight Standards Service.

Adoption of The Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23, VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * EFFECTIVE UPON PUBLICATION.

FDC date	State	City	Airport	FDC number	SIAP
10/13/98	WI	Cumberland	Cumberland Muni	FDC 8/7207	VOR/DME–A, Orig.
10/16/98	WI	Ladysmith	Ladysmith/Rush County	FDC 8/7274	NDB or GPS Rwy 32, Amdt 2.
10/19/98	WI	Kenosha	Kenosha Regional	FDC 8/7313	ILS Rwy 6L, Amdt 2A.
10/19/98	WI	Kenosha	Kenosha Regional	FDC 8/7314	VOR or GPS Rwy 14, Orig–B.
10/19/98	WI	Kenosha	Kenosha Regional	FDC 8/7315	VOR or GPS Rwy 24R, Orig–A.
10/19/98	WI	Kenosha	Kenosha Regional	FDC 8/7316	NDB or GPS Rwy 6L, Amdt 1A.
10/19/98	WI	Meford	Taylor County	FDC 8/7329	GPS Rwy 27 Orig.
10/19/98	WI	Racine	John H. Batten	FDC 8/7353	VOR or GPS Rwy 4, Orig.
10/19/98	WI	Sheboygan	Sheboygan County Memorial	FDC 8/7346	VOR or GPS Rwy 3, Amdt 6.
10/19/98	WI	Sheboygan	Sheboygan County Memorial	FDC 8/7347	ILS Rwy 21, Orig.
10/19/98	WI	Sheboygan	Sheboygan County Memorial	FDC 8/7348	NDB or GPS Rwy 21, Orig.
10/19/98	WI	Sheboygan	Sheboygan County Memorial	FDC 8/7421	VOR Rwy 21, Amdt 6.
10/19/98	WI	Waukesha	Waukesha County	FDC 8/7341	ILS Rwy 10, Orig.
10/19/98	WI	Waukesha	Waukesha County	FDC 8/7343	NDB or GPS Rwy 28, Amdt 3A.
10/19/98	WI	Waukesha	Waukesha County	FDC 8/7344	VOR or GPS–A, Amdt 15A.
10/19/98	WI	Wisconsin Rapids	Alexander Field South Wood County	FDC 8/7350	NDB or GPS Rwy 29, Amdt 8.
10/19/98	WI	Wisconsin Rapids	Alexander Field South Wood County	FDC 8/7352	SDF Rwy 2, Amdt 4.
10/19/98	WI	Wisconsin Rpaids	Alexander Field South Wood County	FDC 8/7359	NDB or GPS Rwy 2, Amdt 5.
10/19/98	WI	Wisconsin Rapids	Alexander Field South Wood County	FDC 8/7422	VOR/DME or GPS–A, Amdt 9.
10/20/98	WI	Minneapolis	Anoka County-Blaine Airport (Janes Field).	FDC 8/7383	VOR/DME Rwy 26, Amdt 4.
10/20/98	WI	Minneapolis	Anoka County-Blaine Airport (Janes Field).	FDC 8/7414	VOR or GPS Rwy 8, Amdt 11.
10/20/98	WI	Minneapolis	Anoka County-Blaine Airport (Janes Field).	FDC 8/7416	VOR/DME RNAV or GPS Rwy 17, Amdt 3.
10/20/98	WI	Fond Du Lac	Fond Du Lac County	FDC 8/7437	VOR/DME or GPS Rwy 18, Amdt 6.

FDC date	State	City	Airport	FDC number	SIAP
10/20/98	WI	Fond Du Lac	Fond Du Lac County	FDC 8/7438	SDF Rwy 36, Amdt 6.
10/20/98	WI	Fond Du Lac	Fond Du Lac County	FDC 8/7439	GPS Rwy 36, Orig.
10/20/98	WI	Fond Du Lac	Fond Du Lac County	FDC 8/7440	VOR/DME Rwy 36, Amdt 6.
10/20/98	WI	Rhinelander	Rhinelander-Onieda County	FDC 8/7402	ILS Rwy 9, Amdt 6.
10/20/98	WI	Rhinelander	Rhinelander-Onieda County	FDC 8/7403	VOR or GPS Rwy 9, Amdt 4B.
10/20/98	WI	Rhinelander	Rhinelander-Onieda County	FDC 8/7404	VOR/DME or GPS Rwy 27, Orig–B.
10/20/98	WI	Stevens Point	Stevens Point Muni	FDC 8/7389	VOR/DME or GPS Rwy 3, Amdt 14.
10/20/98	WI	Stevens Point	Stevens Point Muni	FDC 8/7390	VOR or GPS Rwy 21, Amdt 18.
10/20/98	WI	Stevens Point	Stevens Point Muni	FDC 8/7394	VOR or GPS Rwy 30, Amdt 17.
10/20/98	WI	Watertown	Watertown Muni	FDC 8/7385	VOR/DME Rwy 29, Orig.
10/20/98	WI	Watertown	Watertown Muni	FDC 8/7386	VOR/DME RNAV or GPS Rwy 5, Amdt 3.
10/20/98	WI	Watertown	Watertown Muni	FDC 8/7387	NDB Rwy 5, Amdt 1.
10/20/98	WI	Watertown	Watertown Muni	FDC 8/7388	NDB or GPS Rwy 23, Amdt 1.
10/20/98	WI	West Bend	West Bend Muni	FDC 8/7406	NDB or GPS Rwy 31, Amdt 10.
10/20/98	WI	West Bend	West Bend Muni	FDC 8/7433	VOR or GPS Rwy 24, Amdt 2.
10/20/98	WI	West Bend	West Bend Muni	FDC 8/7436	VOR Rwy 13, Amdt 5.
10/21/98	WI	Gainesville	Gainesville Regional	FDC 8/7425	NDB Rwy 28, Amdt 8A.
10/21/98	WI	Jacksonville	Jacksonville Intl	FDC 8/7380	NDB Rwy 31, Orig–A.
10/21/98	WI	Ocala	Ocala Regional/Jim Taylor Field	FDC 8/7426	GPS Rwy 18, Orig.
10/21/98	WI	Palatka	Kay Larkin	FDC 8/7427	NDB or GPS Rwy 9, Amdt 1.
10/21/98	WI	Norman	University of Oklahoma/Westheimer	FDC 8/7391	NDB Rwy 3, Amdt 5B.
10/21/98	WI	Norman	University of Oklahoma/Westheimer	FDC 8/7392	VOR/DME RNAV or GPS Rwy 3, Orig–B.
10/21/98	WI	Fond Du Lac	Fond Du Lac County	FDC 8/7454	NDB or GPS Rwy 9, Amdt 6.
10/21/98	WI	Medford	Taylor County	FDC 8/7349	NDB or GPS Rwy 33, Amdt 6.
10/21/98	WI	Racine	John H. Batten	FDC 8/7358	NDB or GPS Rwy 4, Amdt 3A.
10/21/98	WI	Racine	John H. Batten	FDC 8/7420	ILS Rwy 4, Amdt 4A.
10/21/98	WI	Racine	John H. Batten	FDC 8/7453	VOR/DME RNAV or GPS Rwy 22, Amdt 3.
10/21/98	WI	West Bend	West Bend Muni	FDC 8/7410	VOR/DME RNAV or GPS Rwy 13, Amdt 5.
10/21/98	WI	West Bend	West Bend Muni	FDC 8/7435	LOC Rwy 31, Orig.
10/22/98	WI	Plymouth	Plymouth Muni	FDC 8/7486	NDB or GPS Rwy 2, Amdt 2.
10/23/98	WI	Thomaston	Thomaston-Upson County	FDC 8/7513	NDB or GPS Rwy 30 Orig.
10/23/98	WI	Thomaston	Thomaston-Upson County	FDC 8/7514	LOC Rwy 30 Orig.
10/23/98	WI	Portland	Portland Intl	FDC 8/7516	ILS Rwy 10L, Amdt 1A.
10/23/98	OR	Portland	Portland Intl	FDC 8/7517	ILS Rwy 10R Amdt 30D
10/23/98	TN	Crossville	Crossville Memorial-Whitson Field	FDC 8/7515	ILS Rwy 26 Amdt 11
10/26/98	ND	Bottineau	Bottineau Muni	FDC 8/7578	GPS Rwy 31, Orig
10/27/98	MI	Hastings	Hastings	FDC 8/7603	VOR Rwy 12, Orig
10/27/98	MI	Sault Ste Marie	Sanderson Field	FDC 8/7608	VOR or GPS Rwy 32, Amdt 1
10/27/98	TX	Arlington	Arlington Muni	FDC 8/7601	GPS Rwy 34, Amdt 1
10/27/98	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	FDC 8/7600	Converging ILS Rwy 17R, Amdt 5A

[FR Doc. 98–29781 Filed 11–5–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 585

Federal Republic of Yugoslavia (Serbia & Montenegro) and Bosnian Serb–Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations: Resolution of Claims Regarding Blocked Montenegrin Vessel Accounts

AGENCY: Office of Foreign Assets Control, Department of the Treasury

ACTION: Final rule; amendment.

SUMMARY: The Office of Foreign Assets Control is amending the Federal Republic of Yugoslavia (Serbia & Montenegro) and Bosnian Serb–Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations to authorize all transactions on and after December 7, 1998 with respect to bank accounts representing the proceeds of the sales of the following two blocked vessels: the M/V KAPETAN MARTINOVIC and the M/V BOR. U.S. persons are generally licensed to seek, obtain and have served on these blocked accounts writs of attachment during the ten–day period prior to the accounts' unblocking if their claims are not settled with the vessels' owners or agents.

EFFECTIVE DATE: November 6, 1998.

FOR FURTHER INFORMATION: John T. Roth, Chief, Policy Planning and Program Management Division (tel.: 202/622–2500), or William B. Hoffman, Chief Counsel (tel.: 202/622–2410), Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document is available as an electronic file on *The Federal Bulletin Board* the day of publication in the **Federal Register**. By modem, dial 202/512–1387 and type "/GO FAC," or call 202/512–1530 for disk or paper copies. This file is available for downloading without charge in ASCII and Adobe Acrobat® readable (*.PDF) formats. For Internet access, the address for use with the World Wide Web (Home Page),

Telnet, or FTP protocol is: fedbbs.access.gpo.gov. The document is also accessible for downloading in ASCII format without charge from Treasury's Electronic Library ("TEL") in the "Research Mall" of the FedWorld bulletin board. By modem, dial 703/321–3339, and select self–expanding file "T11FR00.EXE" in TEL. For Internet access, use one of the following protocols: Telnet = fedworld.gov (192.239.93.3); World Wide Web (Home Page) = http://www.fedworld.gov; FTP = ftp.fedworld.gov (192.239.92.205). Additional information concerning the programs of the Office of Foreign Assets Control is available for downloading from the Office's Internet Home Page: http://www.treas.gov/ofac, or in fax form through the Office's 24–hour fax–on–demand service: call 202/622–0077 using a fax machine, fax modem, or (within the United States) a touch–tone telephone.

Background

On April 18, 1997, the Office of Foreign Assets Control issued an amendment to the Federal Republic of Yugoslavia (Serbia & Montenegro) and Bosnian Serb–Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations, 31 CFR part 585 (the "Regulations"), providing for the unblocking of the following five vessels: the M/V MOSLAVINA, M/V ZETA, M/V LOVCEN, M/V DURMITOR and M/V BAR (a.k.a. M/V INVIKEN) after 30 days (62 FR 19672, April 23, 1997). Two previously blocked vessels, the M/V KAPETAN MARTINOVIC and the M/V BOR, were sold pursuant to specific licenses and the proceeds of the sales placed in blocked interest–bearing accounts at U.S. financial institutions as substitute property for the blocked vessels.

The accounts representing the two vessels will also be unblocked after 30 days. During this period, U.S. persons may negotiate settlements of their outstanding claims with respect to the vessels with the vessels' owners or agents. If claims remain unresolved by November 27, 1998, U.S. persons are generally licensed to seek and obtain judicial writs of attachment against the funds during the ten–day period prior to the accounts' unblocking.

Since the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

List of Subjects in 31 CFR Part 585

Administrative practice and procedure, Banks, banking, Blocking of assets, Bosnia and Herzegovina, Foreign investments in the United States, Foreign trade, Penalties, Reporting and recordkeeping requirements, Securities, Specially designated nationals, Transportation, Vessels, Yugoslavia.

For the reasons set forth in the preamble, 31 CFR part 585 is amended as set forth below:

1. The authority citation for part 585 is revised to read as follows:

Authority: 3 U.S.C. 301; 22 U.S.C. 287c; 31 U.S.C. 321(b); 49 U.S.C. 40106; 50 U.S.C. 1601–1651, 1701–1706; Pub.L. 101–410, 104 Stat 890 (28 U.S.C. 2461 note); E.O. 12808, 57 FR 23299, 3 CFR, 1992 Comp., p. 305; E.O. 12810, 57 FR 24347, 3 CFR, 1992 Comp., p. 307; E.O. 12831, 58 FR 5253, 3 CFR, 1993 Comp., p. 576; E.O. 12846, 58 FR 25771, 3 CFR, 1993 Comp., p. 599; E.O. 12934, 59 FR 54117, 3 CFR, 1994 Comp., p. 930.

Subpart E to Part 585—Licenses, Authorizations, and Statements of Licensing Policy

2. Section 585.528 is amended by revising the section heading and adding paragraph (d) to read as follows:

§ 585.528 Unblocking of certain vessels and accounts.

* * * * *

(d) All transactions with respect to blocked accounts held at Whitney National Bank, New Orleans, Louisiana, containing the proceeds of the sales of the M/V KAPETAN MARTINOVIC and the M/V BOR are authorized as of December 7, 1998. All transactions by U.S. persons to seek and obtain judicial writs of attachment against the blocked accounts as substitute property for these vessels are authorized as of 10:00 a.m. Eastern Standard Time, November 27, 1998.

Dated: October 7, 1998.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: October 15, 1998.

Elisabeth A. Bresee,

Assistant Secretary (Enforcement), Department of the Treasury.

[FR Doc. 98–29789 Filed 11–3–98; 1:59 pm]

BILLING CODE 4810–25–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4081a; FRL–6184–2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of VOC and NO_X RACT Determinations for Individual Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision establishes and requires volatile organic compounds (VOC) and nitrogen oxides (NO_X) reasonably available control technology (RACT) for 16 major sources located in Pennsylvania. The intended effect of this rule is to approve source-specific plan approvals and operating permits that establish the above-mentioned RACT requirements in accordance with the Clean Air Act.

DATES: This direct final rule is effective without further notice on January 5, 1999, unless EPA receives adverse written comment by December 7, 1998. Should EPA receive such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to David Campbell, Air Protection Division, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: David Campbell, (215) 814–2196, at the EPA Region III office or via e-mail at campbell.daveepamail.epa.gov. While information may be requested via e-mail, any comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION:

I. Background

On April 20, May 29, and July 24, 1998, the Commonwealth of Pennsylvania submitted formal revisions to its State Implementation Plan (SIP). Each source subject to this rulemaking will be identified and discussed below. Any plan approvals and operating permits submitted coincidentally with those being approved in this document, and not identified below, will be addressed in a separate rulemaking action.

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), Pennsylvania is required to implement RACT for all major VOC and NO_X sources by no later than May 31, 1995. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR), which is established by the CAA. The Pennsylvania portion of the Philadelphia ozone nonattainment area consists of Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties and is classified as severe. The remaining counties in Pennsylvania are classified as either moderate or marginal nonattainment areas or are designated attainment for ozone. However, under section 184 of the CAA, at a minimum, moderate ozone nonattainment area requirements (including RACT as specified in sections 182(b)(2) and 182(f)) apply throughout the OTR. Therefore, RACT is applicable statewide in Pennsylvania. The Pennsylvania submittals that are the subject of this document are meant to satisfy the RACT requirements for 16 sources in Pennsylvania.

Summary of SIP Revision

The details of the RACT requirements for the source-specific plan approvals and operating permits can be found in the docket and accompanying technical support document (TSD) and will not be reiterated in this document. Briefly, EPA is approving a revision to the Pennsylvania SIP pertaining to the determination of RACT for 16 major sources. Several of the plan approvals and operating permits contain conditions irrelevant to the determination of VOC or NO_X RACT. Consequently, these provisions are not being included in this approval for source-specific VOC or NO_X RACT.

RACT Determinations

The following table identifies the individual plan approvals and operating permits EPA is approving. The specific emission limitations and other RACT requirements for these sources are summarized in the accompanying technical support document, which is available upon further request from the EPA Region III office listed in the **ADDRESSES** section of this document.

PENNSYLVANIA—VOC AND NO_X. RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source	County	Plan approval (PA #) operating permit (OP #)	Source type	"Major source" pollutant
Eldorado Properties Corporation	Northumberland	OP 49–0016	Petroleum storage and distribution	VOC.
Endura Products, Inc.	Bucks	OP 09–0028	Surface coating	NO_X., VOC.
Ford Electronics & Refrigeration Company	Montgomery	OP 46–0036	Electronics manufacturing	NO_X., VOC.
H&N Packaging, Inc.	Bucks	OP 09–0038	Graphic arts	VOC.
Lancaster County Solid Waste Management Authority.	Lancaster	PA 36–2013	Municipal waste combustion	NO_X.
Monsey Products Company	Chester	OP 15–0031	Protective coatings manufacturing	VOC.
Ortho-McNeil Pharmaceutical	Montgomery	OP 46–0027	Pharmaceutical manufacturing	NO_X., VOC.
Piccari Press, Inc.	Bucks	OP 09–0040	Graphic arts	VOC.
Pierce and Stevens Corporation	Chester	OP 15–0011	Coatings and adhesives manufacturing	VOC.
PQ Corporation	Delaware	OP 23–0016	Flat glass manufacturing	NO_X.
Reynolds Metals Company	Chester	OP 15–0004	Graphic arts	NO_X., VOC.
Rhone-Poulenc Rorer Pharmaceuticals, Inc.	Montgomery	OP 46–0048B	Pharmaceutical manufacturing	NO_X., VOC.
Superior Tube Company	Montgomery	OP 46–0020	Steel tubing manufacturing	NO_X., VOC.
Uniform Tubes Company	Montgomery	OP 46–0046A	Steel tubing manufacturing	VOC.
U.S. Air Force—Willow Grove Air Reserve Station.	Montgomery	OP 46–0072	Military installation	NO_X., VOC.
U.S. Navy—Willow Grove Naval Air Station Joint Reserve Base.	Montgomery	OP 46–0079	Military installation	NO_X., VOC.

EPA is approving this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the rule should adverse comments be filed. This rule will be effective January 5, 1999 without further notice unless the Agency receives adverse comments by December 7, 1998.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on January 5, 1999 and no further action will be taken on the proposed rule. If adverse comments are received that do not pertain to all paragraphs subject to this rule, those paragraphs not affected by the adverse comments will be finalized in the manner described here. Only those paragraphs that receive adverse comments will be withdrawn in the manner described here.

II. Final Action

EPA is approving 1 plan approval and 15 operating permits as NO_X and/or VOC RACT for 16 individual sources.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under E.O. 12866.

entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is "economically significant," as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability.

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 5, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action to approve VOC and NO_X RACT determinations for a number of individual sources in Pennsylvania as a revision to the Commonwealth's SIP may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: October 27, 1998.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(136) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(136) Revisions to the Pennsylvania Regulations, Chapter 129.91 pertaining to VOC and NO_X RACT, submitted on April 20, May 29, and July 24, 1998, by the Pennsylvania Department of Environmental Protection.

(i) Incorporation by reference.

(A) Three letters submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO_X RACT determinations in the form of plan approvals or operating permits on the following dates: April 20, May 29, and July 24, 1998.

(B) Plan approvals (PA), Operating permits (OP):

(*1*) Eldorado Properties Corporation, Northumberland County, OP 49–0016, effective May 1, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 7, 8, 9, and 10 relating to non-RACT provisions.

(*2*) Endura Products, Inc., Bucks County, OP 09–0028, effective May 13, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 11A and 15 through 21 relating to non-RACT provisions.

(*3*) Ford Electronics & Refrigeration Company, Montgomery County, OP 46–0036 , effective April 30, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 11 through 18, 20, and 22 through 26 relating to non-RACT provisions.

(*4*) H & N Packaging, Inc., Bucks County, OP 09–0038, effective June 8, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 4, 7, 8, and 11 through 20 relating to non-RACT provisions.

(*5*) Lancaster County Solid Waste Management Authority, Lancaster County, PA 36–2013, effective June 3, 1998; except for the plan approval expiration date and item (or portions thereof) Nos. 3 through 9, 11 through 24, 27 through 37, and 39 relating to non-RACT provisions.

(*6*) Monsey Products Company, Chester County, OP 15–0031, effective June 4, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 9 through 24 relating to non-RACT provisions.

(*7*) Ortho-McNeil Pharmaceutical, Montgomery County, OP 46–0027, effective June 4, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 4, 9, and 13 through 20 relating to non-RACT provisions.

(*8*) Piccari Press, Inc, Bucks County, OP 09–0040, effective April 29, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 14, 15, 17, and 19 through 22 relating to non-RACT provisions.

(*9*) Pierce and Stevens Corporation, Chester County, OP 15–0011, effective March 27, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 11 through 15 relating to non-RACT provisions.

(*10*) PQ Corporation, Delaware County, OP 23–0016, effective June 16, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 8, 13, and 15 through 19 relating to non-RACT provisions.

(*11*) Reynolds Metals Company, Chester County, OP 15–0004, effective May 8, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 4, 5, 14, 15, 17 through 42, and 44 through 48 relating to non-RACT provisions.

(*12*) Rhone-Poulenc Rorer Pharmaceutical, Inc, Montgomery County, OP 46–0048B, effective April 2, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 11 through 42 relating to non-RACT provisions.

(*13*) Superior Tube Company, Montgomery County, OP 46–0020, effective April 17, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 17 through 25 relating to non-RACT provisions.

(*14*) Uniform Tubes Inc., Montgomery County, OP 46–0046A, effective March 26, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 16, 17, and 19 through 24 relating to non-RACT provisions.

(*15*) U.S. Air Force—Willow Grove Air Reserve Station, Montgomery County, OP 46–0072, effective May 1, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 11 through 15 relating to non-RACT provisions.

(*16*) U.S. Navy—Willow Grove Naval Air Station Joint Reserve Base, Montgomery County, OP 46–0079, effective May 4, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 11, 12, 15 through 26, and 28 through 33 relating to non-RACT provisions.

(ii) Additional Material.

(A) Remainder of the Commonwealth of Pennsylvania's April 20, May 29, and July 24, 1998 submittals VOC and NO_X RACT SIP submittals.

[FR Doc. 98–29656 Filed 11–5–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[OK–15–1–7399a: FRL–6183–5]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving the State Plan submitted by the State of Oklahoma on July 10, 1998. The plan was developed in accordance with sections 111 and 129 of the Clean Air Act, and provides for implementation and enforcement of the Emissions Guidelines (EG) applicable to existing Municipal Waste Combustors (MWCs) with capacity to combust more than 250 tons per day of municipal solid waste (MSW) (see 40 CFR part 60, subpart Cb).

DATES: This direct final rule is effective January 5, 1999 without further notice, unless EPA receives adverse comment by December 7, 1998. If adverse comments are received, EPA will publish a timely withdrawal of the

direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be addressed to: Mr. Thomas H. Diggs, Chief, Air Planning Section, EPA Region 6, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 6, Air Planning Section, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202, telephone (214) 665–7214.

Oklahoma Department of Environmental Quality, 707 North Robinson, Oklahoma City, OK 73101–1677, telephone (405) 702–4100.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote, Air Planning Section, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202, telephone (214) 665–7219.

SUPPLEMENTARY INFORMATION:

I. Background

On December 19, 1995, pursuant to sections 111 and 129 of the Clean Air Act (the Act), EPA promulgated New Source Performance Standards (NSPS) applicable to new MWCs and EG applicable to existing MWCs. The NSPS and EG are codified at 40 CFR part 60, subparts Eb and Cb, respectively (see 60 FR 65387). Subparts Cb and Eb regulate the following: particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans.

On April 8, 1997, the United States Court of Appeals for the District of Columbia Circuit vacated Subparts Cb and Eb as they apply to MWC units with capacity to combust less than or equal to 250 tons per day of MSW (small MWCs), consistent with their opinion in Davis County Solid Waste Management and Recovery District v. EPA, 101 F.3d 1395 (D.C. Cir. 1996), as amended, 108 F.3d 1454 (D.C. Cir. 1997). As a result, subparts Eb and Cb apply only to MWC units with individual capacity to combust more than 250 tons per day of MSW (large MWC units).

Under section 129 of the Act, EG are not Federally enforceable. Section 129(b)(2) of the Act requires states to submit to EPA for approval, plans that implement and enforce the EG. State plans must be at least as protective as the EG, and become Federally enforceable upon approval by EPA. The procedures for adoption and submittal of State Plans are codified in 40 CFR part 60, subpart B. The EPA originally promulgated the subpart B provisions on November 17, 1975. The EPA amended subpart B on December 19, 1995, to allow the subparts developed under section 129 to include specifications that supersede the general provisions in Subpart B regarding the schedule for submittal of State Plans, the stringency of the emission limitations, and the compliance schedules (see 60 FR 65414).

This action approves the plan submitted by Oklahoma to implement and enforce subpart Cb, as it applies to large MWC units.

II. Discussion

Oklahoma submitted to EPA on July 10, 1998, the following in their 111(d)/129 State Plan for implementation and enforcement of the EG for existing MWCs under their direct jurisdiction in the State of Oklahoma pursuant to 40 CFR 60.23 through 60.26: Demonstration of Legal Authority; Enforceable Mechanism; Inventory of MWC Plants/Units; MWC Emissions Inventory; Emission Limits; Compliance Schedule; Testing, Monitoring, Recordkeeping and Reporting Requirements; Demonstration that the Public had Adequate Notice and Opportunity to Submit Written Comments; Provisions for Submittal of Progress Reports to EPA; and applicable State of Oklahoma statutes. Oklahoma submitted its State Plan after the Court of Appeals vacated subpart Cb as it applies to small MWC units. Thus, the Oklahoma State Plan covers only large MWC units.

One MWC facility exists in Oklahoma with units affected by the MWC EG. This facility is owned by the City of Tulsa, and operated by Ogden-Martin Systems of Tulsa, Incorporated. The Facility has three MWC units, each with the capacity to burn more than 250 tons per day of municipal solid waste.

The approval of the Oklahoma State Plan is based on finding that: (1) The Oklahoma Department of Environmental Quality (ODEQ) provided adequate public notice of public hearings for the proposed rulemaking and State Plan which allow the ODEQ to implement and enforce the EG for large MWCs, and (2) the ODEQ also demonstrated legal authority to adopt emission standards and compliance schedules applicable to the designated facility; enforce applicable laws, regulations, standards and compliance schedules; seek injunctive relief; obtain information necessary to determine compliance; require recordkeeping; conduct inspections and tests; require the use of monitors; require emission reports of owners and operators; and make emission data publicly available. Please see the Region & Evaluation Report and the State Plan submittal, as enclosed in the official file, for the detailed technical evaluation of the Oklahoma State Plan.

III. Final Action

The EPA is approving the above referenced State Plan because it meets the Agency requirements. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed section of this **Federal Register** publication, the EPA is publishing a separate document that will serve as the proposal to approve the State Plan should relevant adverse comments be filed. This rule will be effective January 5, 1999 without further notice unless, by December 7, 1998, relevant adverse comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective January 5, 1999.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State Plan. Each request for revision to the State Plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates. Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because State Plan approvals under section 111 of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal State Plan approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions on such grounds. Union Electric Co. v. U.S. EPA, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the mostly cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 7, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Municipal waste combustors, Reporting and recordkeeping requirements.

Dated: October 28, 1998.

Lynda F. Carroll,

Acting Regional Administrator, Region 6.

40 CFR Part 62 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart LL—Oklahoma

2. Section 62.9100 is amended by adding paragraphs (b)(3) and (c)(3) as follows:

§ 62.9100 Identification of plan.

* * * * *

(b) * * *

(3) Oklahoma State Plan for Existing Large Municipal Waste Combustors, submitted on July 10, 1998, by the Oklahoma Department of Environmental Quality.

(c) * * *

(3) Existing municipal waste combustors.

3. Subpart LL is amended by adding a new § 62.9150 and a new undesignated center heading to read as follows:

Metals, Acid Gases, Organic Compounds and Nitrogen Oxide Emissions From Existing Municipal Waste Combustors with the Capacity To Combust Greater Than 250 Tons Per Day of Municipal Solid Waste

§ 62.9150 Identification of sources.

The plan applies to existing facilities with a municipal waste combustor (MWC) unit capacity greater than 250 tons per day of municipal solid waste (MSW) at the following MWC site: Ogden-Martin Systems of Tulsa, Incorporated, 2122 South Yukon Avenue, Tulsa, OK 74107.

[FR Doc. 98–29654 Filed 11–5–98; 8:45 am]

BILLING CODE 6560–50–M

Proposed Rules

Federal Register

Vol. 63, No. 215

Friday, November 6, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

[Docket No. FV99–984–1 PR]

Walnuts Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate, from $0.0116 to $0.0133 per kernelweight pound of merchantable walnuts certified, established for the Walnut Marketing Board (Board) under Marketing Order No. 984 for the 1998–99 and subsequent marketing years. The Board is responsible for local administration of the marketing order which regulates the handling of walnuts grown in California. Authorization to assess walnut handlers enables the Board to incur expenses that are reasonable and necessary to administer the program. The marketing year begins August 1 and ends July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by November 23, 1998.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 205–6632; or E-mail: moabdocket_clerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Diane Purvis, Marketing Assistant, or Mary Kate Nelson, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (209) 487–5901; Fax: (209) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 984, both as amended (7 CFR part 984), regulating the handling of walnuts grown in California, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California walnut handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable walnuts beginning on August 1, 1998, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Board for the 1998–99 and subsequent marketing years from $0.0116 to $0.0133 per kernelweight pound of certified merchantable walnuts.

The California walnut marketing order provides authority for the Board, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Board are producers and handlers of California walnuts. They are familiar with the Board's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1997–98 and subsequent marketing years, the Board recommended, and the Department approved, an assessment rate that would continue in effect from marketing year to marketing year unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Board or other information available to the Secretary.

The Board met on September 11, 1998, and unanimously recommended 1998–99 expenditures of $2,620,274 and an assessment rate of $0.0133 per kernelweight pound of merchantable walnuts certified. In comparison, last year's budgeted expenditures were $2,391,289. The assessment rate of $0.0133 is $0.0017 higher than the rate currently in effect. The quantity of assessable walnuts for 1998–99 is estimated at 198,000,000 kernelweight pounds, which is 9,000,000 kernelweight pounds less than 1997–98. With the anticipated decrease in assessable walnuts and increased budget expenditures, a higher assessment rate is needed to generate sufficient revenue

to administer the program for the 1998–99 marketing year as shown in the following table.

	Assessment income	Proposed budget	Difference
Current Rate—$0.0116	$2,296,800	$2,620,274	−$323,474
Proposed Rate—$0.0133	2,633,400	2,620,274	+13,126

The following table compares major budget expenditures recommended by the Board for the 1998–99 and 1997–98 marketing years:

Budget expense categories	1998–99	1997–98
General Expenses	$246,643	$240,326
Office Expenses	163,815	147,126
Research Expenses	2,115,016	2,128,837
Production Research Director	59,800	50,000
Reserve for Contingencies	35,000	25,000

The assessment rate recommended by the Board was derived by dividing anticipated expenses by expected merchantable certifications of California walnuts. As mentioned earlier, merchantable certifications for the year are estimated at 198,000,000 kernelweight pounds which should provide $2,663,400 in assessment income. Unexpended funds may be used temporarily to defray expenses of the subsequent marketing year, but must be made available to the handlers from whom collected within five months after the end of the year (§ 984.69.)

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Board or other available information.

Although this assessment rate would be in effect for an indefinite period, the Board would continue to meet prior to or during each marketing year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Board meetings are available from the Board or the Department. Board meetings are open to the public and interested persons may express their views at these meetings. The Department would evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Board's 1998–99 budget and those for subsequent marketing years would be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 5,000 producers of walnuts in the production area and approximately 48 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Last year, as a percentage, 33 percent of the handlers shipped over 2.4 million kernelweight pounds of walnuts, and 67 percent of the handlers shipped under 2.4 million kernelweight pounds. Based on an average price of $2.10 per kernelweight pound at point of first sale, the majority of handlers of California walnuts may be classified as small entities.

This rule would increase the assessment rate established for the Board and collected from handlers for the 1998–99 and subsequent marketing years from $0.0116 to $0.0133 per kernelweight pound of merchantable walnuts certified. The Board unanimously recommended 1998–99 expenditures of $2,620,274 and an assessment rate of $0.0133 per kernelweight pound of merchantable walnuts certified. The proposed assessment rate of $0.0133 is $0.0017 higher than the 1997–98 rate. The quantity of assessable walnuts for the 1998–99 marketing year is estimated at 198,000,000 kernelweight pounds. Thus, the $0.0133 rate should provide $2,633,400 in assessment income and be adequate to meet this year's expenses. Unexpended funds may be used temporarily to defray expenses of the subsequent marketing year, but must be made available to the handlers from whom collected within five months after the end of the year (§ 984.69).

The following table compares major budget expenditures recommended by the Board for the 1998–99 and 1997–98 marketing years:

Budget expense categories	1998–99	1997–98
General Expenses	$246,643	$240,326
Office Expenses	163,815	147,126
Research Expenses	2,115,016	2,128,837
Production Research Director	59,800	50,000
Reserve for Contingencies	35,000	25,000

The higher assessment rate is needed to provide sufficient revenue to administer the program for the 1998–99 marketing year as shown in the following table.

	Assessment income	Proposed budget	Difference
Current Rate—$0.0116	$2,296,800	$2,620,274	−$323,474
Proposed Rate—$0.0133	2,633,400	2,620,274	+13,126

The Board reviewed and unanimously recommended 1998–99 expenditures of $2,620,274 which included increases in administrative and office expenses, and production research salary, and a decrease for research programs. Prior to arriving at this budget, the Board considered information and recommendations from various sources, such as the Board's Budget and Personnel Committee, the Research Committee, and the Market Development Committee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various research projects to the walnut industry. After a desired expenditure level was determined, the assessment rate of $0.0133 per kernelweight pound of assessable walnuts was determined by dividing the total recommended budget by the quantity of assessable walnuts, estimated at 198,000,000 kernelweight pounds for the 1998–99 marketing year. This is approximately $13,000 above the anticipated expenses, which the Board determined to be acceptable.

A review of historical information and preliminary information pertaining to the upcoming marketing year indicates that the grower price for the 1998–99 season could range between $1.45 and $1.58 per kernelweight pound of walnuts. Therefore, the assessment revenue for the 1998–99 marketing year as a percentage of total grower revenue should be less than one percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the marketing order. In addition, the Board's meeting was widely publicized throughout the California walnut industry, and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the September 11, 1998, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large California walnut handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A 15-day comment period is provided to allow interested persons to respond to this proposed rule. Fifteen days is deemed appropriate because: (1) The Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1998–99 marketing year began on August 1, 1998, and the marketing order requires that the rate of assessment for each marketing year apply to all assessable walnuts handled during such marketing year; and (3) handlers are aware of this action which was unanimously recommended by the Board at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 984

Marketing agreements, Nuts, Reporting and recordkeeping requirements, Walnuts.

For the reasons set forth in the preamble, 7 CFR part 984 is proposed to be amended as follows:

PART 984—WALNUTS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 984 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 984.347 is proposed to be revised to read as follows:

§ 984.347 Assessment rate.

On and after August 1, 1998, an assessment rate of $0.0133 per kernelweight pound is established for California merchantable walnuts.

Dated: October 21, 1998.

Larry B. Lace,

Acting Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–29727 Filed 11–5–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1216

[FV–98–702–PR]

Proposed Peanut Promotion, Research, and Information Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The U.S. Department of Agriculture (the Department or USDA) is seeking comments regarding the establishment of an industry-funded promotion, research, and information program for peanuts. A proposed program—the Peanut Promotion, Research, and Information Order (Order)—was submitted to USDA by the American Farm Bureau Federation. Under the Order, peanut producers would pay an assessment of 1 percent of the price of farmers stock peanuts sold to first handlers. First handlers and marketing associations would remit the assessments to the proposed National Peanut Board (Board). The proposed program would be implemented under the Commodity Promotion, Research, and Information Act of 1996 (Act).

DATES: Comments must be received by January 5, 1999.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule to the Docket Clerk, Research and Promotion Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, Stop 0244, Room 2535–S, 1400 Independence Avenue, S.W., Washington, D.C. 20250–0244. Comments should be submitted in triplicate and will be made available for public inspection at the above address during regular business hours. Comments may also be submitted electronically to: malinda__e__farmer@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register**. A copy of this rule may be found at: www.ams.usda.gov/fv/rpdocketlist.htm. Pursuant to the PRA, send comments regarding the merits of the burden estimate, ways to minimize the burden, including the use of automated collection techniques or other forms of

information technology, or any other aspect of this collection of information to the above address. Comments concerning the information collection under the PRA should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Angela C. Snyder, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, Stop 0244, 1400 Independence Avenue, S.W., Room 2535–S, Washington, D.C. 20250–0244; telephone (910) 860–4689 or fax (202) 205–2800.

SUPPLEMENTARY INFORMATION: This proposed Order is issued pursuant to the Commodity Promotion, Research, and Information Act of 1996, 7 U.S.C. 7401–7425; Public Law 104–127, enacted April 4, 1996, hereinafter referred to as the Act.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 524 of the Act provides that the Act shall not affect or preempt any other Federal or state law authorizing promotion or research relating to an agricultural commodity.

Under Section 519 of the Act, a person subject to the Order may file a petition with the Secretary stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not established in accordance with the law, and requesting a modification of the Order or an exemption from the Order. Any petition filed challenging the Order, any provision of the Order, or any obligation imposed in connection with the Order, shall be filed within 2 years after the effective date of the Order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, the Secretary of Agriculture (Secretary) will issue a ruling on a petition. The Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the Secretary's final ruling.

Executive Order 12866

This proposed rule has been determined not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*], the Agency is required to examine the impact of the proposed rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened.

The Act authorizes generic programs of promotion, research, and information for agricultural commodities. Congress found that it is in the national public interest and vital to the welfare of the agricultural economy of the United States to maintain and expand existing markets and develop new markets and uses for agricultural commodities through industry-funded, government-supervised, generic commodity promotion programs.

This program is intended to develop and finance an effective and coordinated program of promotion, research, and consumer information to maintain and expand the markets for peanuts. A proposal was submitted by the American Farm Bureau Federation (proponent), working in cooperation with 20 state and regional peanut grower organizations representing the nine primary peanut-producing states. The proponent has proposed that peanut producers approve the program in a referendum in advance of its implementation, and producer members would serve on the 1-member Board that would administer the program under USDA's supervision. In addition, any person subject to the program may file with the Secretary a petition stating that the Order or any provision is not in accordance with law and requesting a modification of the Order or an exemption from the Order.

While the proposed Order would impose certain recordkeeping requirements on first handlers, information required under the proposed Order could be compiled from records currently maintained. First handlers and area marketing associations—for peanuts placed under loan with the Commodity Credit Corporation (CCC) in the price support program administered for CCC by USDA's Farm Service Agency (FSA)—would collect and remit all assessments to the Board. Their responsibilities would include accurate recordkeeping and accounting of all peanuts purchased or contracted for, including the number of pounds handled, price paid to the producer, and when peanuts are purchased. The forms require the minimum information necessary to effectively carry out the requirements of the program, and their use is necessary to fulfill the intent of the Act. Such records shall be retained for at least two years. These requirements are either already being conducted as a normal business practice or are required by other USDA peanut regulations. The added burden to first handlers and area marketing associations for a peanut promotion, research, and information program is therefore expected to be minimal.

There is also a minimal burden on producers. The burden relates to those producers who would seek nomination to serve on the Board and those who vote in referenda. In addition, the proposed Order would require producers to keep records and to provide information to the Board or the Secretary when requested. However, it is not anticipated that producers would be required to submit forms to the Board. Most likely, the information would be obtained through an audit of a producer's records to confirm information provided by a first handler or if a first handler did not file the required reports as part of the Board's compliance operation.

The estimated annual cost of providing the information to the Board by an estimated 98 respondents (21 producers, 57 first handlers, and 20 producer organizations) would be $4,059.85 or $5.00 per producer, $66.05 per first handler, and $9.50 per producer organization.

The Department would oversee program operations and, if the program is implemented, would conduct a referendum (1) every five years to determine whether peanut producers support continuation of the program, (2) at the request of the Board established under the Order, or (3) at the request of 10 percent or more of the number of persons eligible to vote in referenda. Additionally, the Secretary may conduct a referendum at any time to determine whether the continuation, suspension, or termination of the Order or a provision of the Order is favored by those eligible to vote in referenda.

There are approximately 25,000 producers and 57 first handlers of peanuts that would be subject to the program. Most of the producers would be classified as small businesses under the criteria established by the Small Business Administration (SBA) [13 CFR 121.601]. Most first handlers would not be classified as small businesses. The SBA defines small agricultural handlers as those whose annual receipts are less than $5 million, and small agricultural producers are defined as those having annual receipts of not more than $500,000 annually.

According to USDA's National Agricultural Statistics Service (NASS), the nine major peanut-producing states in the United States account for 99 percent of the peanuts grown in this country. The combined production from these states totaled 3.5 billion pounds in 1997. NASS reports that Georgia was the largest producer (38 percent of the total), followed by Texas (23 percent), Alabama (11 percent), North Carolina (9 percent), Florida (6 percent), Virginia (5 percent), Oklahoma (5 percent), New Mexico (1 percent), and South Carolina (1 percent). The farm value of peanuts in 1997 reached $932 million. According to 1992 Census of Agriculture (Census) data, small amounts of peanuts were also grown in seven other states.

According to the proponent, based on Census for these nine states, 36 percent of the peanut-producing counties in the United States had 35 percent or more of their total crop income from peanuts. Twenty-four percent of the counties had 50 percent or more of their crop income from peanuts. From a state perspective, 70 percent of the crop income in Alabama's peanut-producing counties is generated from peanuts. For Virginia, the percentage is 48 percent. In addition, 16,194 farms harvested peanuts in 1992. Of these, 15,914 were located in the nine primary peanut-producing states.

Three main types of peanuts are grown in the United States: Florunners, Virginia, and Spanish. The southeast growing region grows mostly the medium-kernel Runner peanuts. The southwest growing region used to grow two-thirds Spanish and one-third Runner peanuts, but now more Runners than Spanish are grown. Virtually all of the Spanish peanut production is in Oklahoma and Texas. In the Virginia-Carolina region, mainly large-kernel Virginia peanuts are grown. New Mexico grows a fourth type of peanut, the Valencia.

Peanut manufacturers produce three principal peanut products: peanut butter, packaged nuts (including salted, unsalted, flavored, and honey-roasted nuts), and peanut candies. In most years, half of all peanuts produced in the United States for edible purposes are used to manufacture peanut butter. Packaged nuts account for almost one-third of all processed peanuts. Some of these (commonly referred to as "ballpark" peanuts) are roasted in the shell, while a much larger quantity is used as shelled peanuts packed as dry-roasted peanuts, salted peanuts, and salted mixed nuts. Some peanuts are ground to produce peanut granules and flour. Other peanuts are crushed to produce oil.

According to USDA's Foreign Agricultural Service, U.S. exports of peanuts (including peanut meal, oil, and peanut butter) totaled 880 million inshell equivalent pounds in 1997, with a value of $285 million (U.S. point of departure for the foreign country). Of the total quantity, 60 percent was shelled peanuts used as nuts, 11 percent was blanched or otherwise prepared or preserved peanuts, 10 percent was inshell peanuts, 7 percent was peanut butter, 4 percent was shelled oil stock peanuts, 4 percent was crude peanut oil, and 3 percent was refined peanut oil.

The major destinations for domestic shelled peanuts for use as nuts are Canada, Mexico, the United Kingdom, and the Netherlands. Blanched or otherwise prepared peanuts are sent mainly to Western Europe, especially the Netherlands, France, and Spain. Inshell peanuts are mainly exported to Canada and various countries in Western Europe. Peanut butter is sent to many countries, with the largest amounts going to Canada and Saudi Arabia. Peanut oil and oil stock peanuts are exported world-wide, but major destinations can vary from year to year.

Approximately 250 million inshell equivalent pounds of peanuts and processed peanuts (including oil and peanut butter) were imported in 1997 with a combined value (f.o.b. country of origin) of $73 million. Most of the imports (45 percent) were shelled peanuts for use as nuts. The major U.S. supplier is Argentina, but several other countries export shelled peanuts to the United States, including Mexico, Nicaragua, and South Africa.

Peanut butter imports are also significant and accounted for about 32 percent of the total quantity of nuts (inshell basis) imported in 1997. Most peanut butter imports come from Canada and Argentina. The other major import category—crude and refined peanut oil—are shipped mainly from Argentina and Nicaragua and account for approximately 18 percent of total imports (inshell equivalent basis). Inshell peanuts, primarily from Mexico, accounted for nearly 3 percent of total imports in 1997. About 3 percent of total imports consisted of blanched or other processed peanuts, mainly from China. Imports of oil stock shelled peanuts were negligible.

Most peanuts produced in other countries are crushed for oil and protein meal. The United States is the main producer of peanuts used in such edible products as peanut butter, roasted peanuts, and peanut candies. Peanuts are one of the world's principal oilseeds, ranking fourth behind soybeans, cottonseed, and rapeseed. India and China usually account for half of the world's peanut production.

According to The Agriculture Statistics Report published by USDA, during the 1995–96 season, the average annual production per U.S. producer was approximately 144,228 pounds of peanuts. Peanuts produced during these growing seasons provided average annual gross sales of $42,222 per peanut producer. The value of the 1995–96 crop was approximately $1.013 billion. During the same period, per capita consumption in the United States was 5.7 pounds of peanuts.

The proposed Order would authorize a fixed assessment paid by producers (to be collected by first handlers) at a rate of 1 percent of the price paid for all farmers stock peanuts, regardless of whether the peanuts are sold commercially or placed under loan with CCC in the price support program administered for CCC by FSA.

Section 516(a)(1) of the Act provides authority to the Secretary to exempt from the Order any de minimis quantity of an agricultural commodity otherwise covered by the Order. The proponent has elected not to provide for exemptions for a de minimis amount regarding peanuts. Therefore, the term de minimis is not defined in the proposed Order, and a de minimis exemption is not included.

At the proposed rate of assessment of 1 percent of farm value, the Board would collect approximately $10 million annually, assuming 1 billion pounds of peanuts are produced. It is expected that the 1 percent rate of assessment would represent approximately 1 percent of producers' average return. In 1995–96, the average price for peanuts was $0.293 per pound.

USDA will keep all individuals informed throughout the referendum process to ensure that they are aware of and are able to participate in the referendum. USDA will publicize information regarding the referendum process so that trade associations and related industry media can be kept informed. If the program is implemented, the newly established Board would recommend to USDA regulations for the program.

In addition, the peanut industry would nominate producers to serve as members on the Board. The Board would recommend the assessment rate, programs and projects, a budget, and any other rules and regulations that might be necessary for the administration of the program. USDA

would ensure that the nominees represent the peanut industry in accordance with the Act. Primary peanut-producing states are defined in the Order as Alabama, Florida, Georgia, New Mexico, North Carolina, Oklahoma, South Carolina, Texas, and Virginia, provided that these states maintain 3-year average production of at least 10,000 tons of peanuts each. Minor peanut-producing states are defined in the Order as all peanut-producing states other than the primary peanut-producing states. Currently, the following states would be considered minor states: Arizona, California, Louisiana, Mississippi, and Tennessee.

Each primary producing state would have one member on the Board, and the minor peanut-producing states would be represented collectively by one member on the Board. Each member would have an alternate. Therefore, the Board would have 10 members and 10 alternates.

Proposed recordkeeping and reporting requirements for the peanut promotion, research, and information program would be designed to minimize the burden on first handlers. It is USDA's goal to collect information from forms already submitted to another USDA agency. Any information collection that could not occur through forms already in use would pose minimal additional burden. The peanut promotion program would be designed to strengthen the position of peanuts in the marketplace, maintain and expand existing domestic and foreign markets, and develop new uses and markets for peanuts.

The estimated annual cost of providing the information to the proposed Board by an estimated 98 respondents (21 producers, 57 first handlers, and 20 producer organizations) would be $4,059.85, or $5.00 per producer, $66.05 per first handler, and $9.50 per producer organization.

With regard to alternatives to this proposed rule, the Act itself does provide for authority to tailor a program according to the individual needs of an industry. Provision is made for permissive terms in an order in Section 516 of the Act, and other sections provide for alternatives. For example, Section 514 of the Act provides for orders applicable to (1) producers, (2) first handlers and other persons in the marketing chain as appropriate, and (3) importers (if imports are subject to assessment). Section 516 authorizes an order to provide for exemption of de minimis quantities of an agricultural commodity; different payment and reporting schedules; coverage of research, promotion, and information activities to expand, improve, or make more efficient the marketing or use of an agricultural commodity in both domestic and foreign markets; provision for reserve funds; provision for credits for generic and branded activities; and assessment of imports. In addition, Section 518 of the Act provides for referenda to ascertain approval of an order to be conducted either prior to its going into effect or within 3 years after assessments first begin under the order. An order also may provide for its approval in a referendum to be based upon (1) a majority of those persons voting; (2) persons voting for approval who represent a majority of the volume of the agricultural commodity; or (3) a majority of those persons voting for approval who also represent a majority of the volume of the agricultural commodity. Section 515 of the Act provides for establishment of a board from among producers, first handlers, and others in the marketing chain as appropriate and importers, if importers are subject to assessment.

This proposal includes provisions for both domestic and foreign market expansion and improvement; reserve funds; and an initial referendum to be conducted prior to the Order going into effect and with approval based upon a majority of those persons voting in a referendum.

While we have performed this Initial Regulatory Flexibility Analysis regarding the impact of this proposed Order on small entities, in order to obtain all the data necessary for a comprehensive analysis, we invite comments concerning potential effects of the proposed Order. In particular, we are interested in obtaining more information on the number and kind of small entities that may incur benefits or costs from implementation of the proposed Order and information on the expected benefits or costs.

Paperwork Reduction Act

In accordance with the Office of Management and Budget (OMB) regulation [5 CFR Part 1320] which implements the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the information collection and recordkeeping requirements that may be imposed by this Order have been submitted to OMB for approval.

Title: National Research, Promotion, and Consumer Information Programs.

OMB Number for background form (number 1 below): 0505–0001.

Expiration Date of Approval: November 30, 1998.

OMB Number for other information collections: 0581–0093.

Expiration Date of Approval: November 30, 2000.

Type of Request: Revision of currently approved information collections for advisory committees and boards and for research and promotion programs.

Abstract: The information collection requirements in the request are essential to carry out the intent of the Act.

In addition, there will be the additional burden on producers of voting in referenda. The referendum ballot, which represents the information collection requirement relating to referenda, is addressed in a proposed rule on referendum procedures which is published separately in this issue of the **Federal Register**.

Under the proposed program, first handlers would be required to collect assessments from producers and file reports with and submit assessments to the Board. While the proposed Order would impose certain recordkeeping requirements on first handlers, information required under the proposed Order could be compiled from records currently maintained. Such records shall be retained for at least two years beyond the marketing year of their applicability. The estimated annual cost of providing the information to the Board by an estimated 98 respondents (21 producers, 57 first handlers, and 20 producer organizations) would be $4,059.85, or $5.00 per producer, $66.05 per first handler, and $9.50 per producer organization.

The proposed Order's provisions have been carefully reviewed, and every effort has been made to minimize any unnecessary recordkeeping costs or requirements, including efforts to utilize information already submitted under other peanut programs administered by the Department. The Department is exploring ways to obtain some of the information needed from forms already in use.

The proposed forms would require the minimum information necessary to effectively carry out the requirements of the program, and their use is necessary to fulfill the intent of the Act. Such information can be supplied without data processing equipment or outside technical expertise. In addition, there are no additional training requirements for individuals filling out reports and remitting assessments to the Board. The forms would be simple, easy to understand, and place as small a burden as possible on the person required to file the information.

Collecting information monthly would coincide with normal industry business practices. Reporting other than monthly would impose an additional and unnecessary recordkeeping burden on first handlers. The timing and frequency of collecting information is intended to meet the needs of the industry while minimizing the amount of work necessary to fill out the required reports. In addition, the information to be included on these forms is not available from other sources because such information relates specifically to individual producers and first handlers who are subject to the provisions of the Act.

Therefore, there is no practical method for collecting the required information without the use of these forms.

Information collection requirements that are included in this proposal include:

(1) *A background information form to be completed by candidates nominated by certified producer organizations for appointment to the Board.*

Estimate of Burden: Public reporting for this collection of information is estimated to average 0.5 hours per response for each producer.

Respondents: Producers.

Estimated number of Respondents: 21 (average of 40 for initial nominations to the Board and approximately 12 respondents annually thereafter for each 3-year period).

Estimated number of Responses per Respondent: 1 every 3 years.

Estimated Total Annual Burden on Respondents: 20 hours for the initial nominations to the promotion board and 6 hours annually thereafter.

(2) *A monthly report by each first handler of peanuts.*

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.5 hours per each first handler reporting on peanuts handled.

Respondents: First handlers.

Estimated number of Respondents: 57.

Estimated number of Responses per Respondent: 12.

Estimated Total Annual Burden on Respondents: 342 hours.

(3) *A nomination form by which certified producer organizations would nominate producers for membership on the Board.*

Estimate of Burden: Public reporting burden for this collecting of information is estimated to average 0.5 hours per response.

Respondents: Certified producer organizations.

Estimated number of Respondents: 20.

Estimated number of Responses per Respondent: 1 per year.

Estimated Total Annual Burden on Respondents: 10 hours.

(4) *A request of peanut producer organizations for certification of eligibility to nominate Board members.*

Estimate of Burden: Public reporting for this collection of information is estimated to average 0.5 hours per response for each organization.

Respondents: Peanut producer organizations.

Estimated number of Respondents: 9.

Estimated number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 9 hours.

(5) *A requirement to maintain records sufficient to verify reports submitted under the Order.*

Estimate of Burden: Public recordkeeping burden for keeping this information is estimated to average 0.5 hours per recordkeeper maintaining such records.

Recordkeepers: First handlers.

Estimated number of recordkeepers: 57.

Estimated total recordkeeping hours: 28.5 hours.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of functions of the Order and the Department's oversight of the program, including whether the information will have practical utility; (b) the accuracy of USDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumption used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The Act provides for the submission of proposals for a peanut promotion, research, and information order by industry organizations or any other interested person affected by the Act.

Comments concerning the information collection requirements contained in this action should reference OMB No. 0581–0093. Comments addressing the nomination background information form should reference OMB No. 0505–0001. In addition, the docket number, date, and page number of this issue of the **Federal Register** also should be referenced. Comments should be sent to the USDA Docket Clerk and the OMB Desk Officer for Agriculture at the addresses and within the time-frames listed above. All responses to this notice will be summarized and included in the request for OMB approval.

OMB is required to make a decision concerning the collection of information contained in this rule between 30 and 60 days after publication. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Background

The Act authorizes the Secretary, under a generic authority, to establish agricultural commodity research and promotion orders. Section 516 of the Act provides permissive terms for orders, and other sections provide for alternatives. For example, Section 514 of the Act provides for orders applicable to (1) producers, (2) first handlers and others in the marketing chain as appropriate, and (3) importers (if importers are subject to assessment). Section 516 authorizes an order to provide for exemption of de minimis quantities of an agricultural commodity; different payment and reporting schedules; coverage of research, promotion, and information activities to expand, improve, or make more efficient the marketing or use of an agricultural commodity in both domestic and foreign markets; provision for reserve funds; provision for credits for generic and branded activities; and assessment of imports. In addition, Section 518 of the Act provides for referenda to ascertain approval of an order to be conducted either prior to its going into effect or within 3 years after assessments first begin under the order. The order also may provide for its approval in a referendum based upon different voting patterns. Section 515 provides for establishment of a board from among producers, first handlers and others in the marketing chain as appropriate, and importers, if imports are subject to assessment.

This proposed Order includes provisions for both domestic and foreign market expansion and improvement, reserve funds, and an initial referendum to be conducted prior to the Order going into effect and with approval based upon a majority of those persons voting in the referendum.

The Act provides for a number of optional provisions that allow the tailoring of orders for different commodities.

The proponent, working in cooperation with 20 state and regional peanut industry organizations representing the nine primary peanut-producing states, has requested the establishment of a national peanut promotion, research, and information order pursuant to the Act. The Act authorizes the establishment and operation of generic promotion programs which may include a combination of promotion, research, industry information, and consumer

information activities funded by mandatory assessments. These programs are designed to maintain and expand markets and uses for agricultural commodities. This proposal would provide for the development and financing of an effective and coordinated program of research, promotion, and information for peanuts. The purpose of the program would be to strengthen the position of peanuts in domestic and foreign markets, and to develop, maintain, and expand markets for peanuts.

The program would not become effective until approved by peanut producers in a referendum to be conducted by USDA. Section 518 of the Act provides for the Department (1) to conduct an initial referendum, preceding a proposed order's effective date, among persons who would pay assessments under the program or (2) to implement a proposed order, pending the conduct of a referendum, among persons subject to assessments, within 3 years after assessments first begin.

In accordance with Section 518(e) of the Act, the results of the referendum must be determined one of three ways: (1) Approval by a majority of those persons voting; (2) approval by persons voting who represent a majority of the volume of the commodity covered by the program; or (3) approval by a majority of the persons voting who also represent a majority of the volume of the commodity produced, handled, or imported by the persons voting.

The proponent proposes that the Department conduct an initial referendum preceding the proposed Order's effective date and that approval of the Order be determined by a simple majority of the producers voting.

In accordance with the Act, the Department would oversee the program's operations. In addition, the Act requires the Secretary to conduct subsequent referenda: (1) not later than 7 years after assessments first begin under the Order; or (2) at the request of the board established under the Order; or (3) at the request of 10 percent or more of the number of persons eligible to vote. The proponent group has requested that a referendum be conducted every 5 years to determine if producers want the program to continue.

In addition to these criteria, the Act provides that the Secretary may conduct a referendum at any time to determine whether the continuation, suspension, or termination of the Order or a provision of the Order is favored by persons eligible to vote.

The proponent states that the United States Congress has established a number of programs since the early 1930's to support and stabilize farm prices and income and to adjust production in 1934. In 1949, a revised system of marketing quotas and acreage allotments for peanuts began. Since then, Congress has amended and changed the peanut program a number of times, with the latest changes made to the peanut title in 1996 with the passage of the Federal Agriculture Improvement and Reform (FAIR) Act. The new program retains its price support and supply management elements while operating at no cost to the government other than administrative expenses common to all price support programs. The new program also lowers the loan rate for quota peanuts from $678 per ton to $610 per ton and freezes that price for the life of the program, through 2002. In addition, the quota level, which the Secretary could not set below 1.35 million tons prior to passage of the FAIR Act, has been reduced to equal the anticipated domestic demand for peanuts.

The proponent has identified a number of market and production factors that suggest the need for a national research, promotion, and information program for peanuts. The most basic problem affecting peanut marketing is a drop in demand caused by negative health perceptions of peanuts' fat content, competition from other snack foods, and lack of awareness among young people.

In addition, the proponent cites other factors. Government purchases of peanut butter is down. If purchases return to historic heights, purchases will still not be enough to reverse supply/demand trends. Also, a 1997 Gallup survey revealed that 87 percent of all consumers are peanut users, while 13 percent did not consume any peanuts in the past year. Per capita consumption of peanuts has been decreasing. It appears now that demand trends have bottomed out and are starting to rise. National promotion could bolster this trend.

The same survey indicated that the percent of peanut non-users is increasing, as is the percent of young people not consuming peanuts or peanut products. Thirty-five percent of all consumers surveyed indicated they did not consume any snack peanuts, and more than 40 percent thought peanuts contained cholesterol when, in fact, peanuts contain none.

The proponent also states that 26 percent of all consumers did not consume any peanut butter last year. Peanut butter could be an affordable alternative for low-income consumers in comparison to other sandwich options, but fewer and fewer low income consumers are using peanut butter as an alternative.

In addition, in 1996, the farm value of U.S. peanuts fell below $1 billion to $970 million for the first time since 1982.

Further, the domestic industry is facing increased competition in the United States and abroad from lower-priced peanuts produced in other countries. The value of peanuts and peanut products imported into the United States exceeded $100 million in 1996.

All of these factors have led the domestic peanut industry to seek a national promotion program to find ways to further increase the consumption of U.S. peanuts.

Section 516(f) of the Act allows an order to authorize the levying of assessments on imports of the commodity covered by the program or on products containing that commodity, at a rate comparable to the rate determined for the domestic agricultural commodity covered by the order. The proponent has elected in its proposal not to assess imports.

The assessment levied on domestically produced peanuts would be used to pay for promotion, research, and consumer and industry information as well as administration, maintenance, and functioning of the Board. Expenses incurred by the Secretary in implementing and administering the Order, including referenda costs, also would be paid from assessments.

Sections 516(e)(1) and (2) of the Act state that the Secretary may provide credits of assessments for generic and branded activities. The proponent has elected not to propose credits for generic or branded activities. Therefore, the terms "generic activities" and "branded activities" are not defined in the Order, and credits for assessments would not be made.

First handlers would be responsible for the collection of assessments from the producer and payment to the promotion Board. First handlers would be required to maintain records for each producer for whom peanuts are handled, including peanuts produced by the first handler. In addition, first handlers would be required to file reports regarding the collection, payment, or remittance of the assessments.

All information obtained from persons subject to this Order as a result of recordkeeping and reporting requirements will be kept confidential by all officers, employees, and agents of the Department and of the Board. However, this information may be disclosed only if the Secretary considers the information relevant, and the information is revealed in a judicial proceeding or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party. Other exceptions for disclosure of confidential information would include the issuance of general statements based on reports or on information relating to a number of persons subject to an order if the statements do not identify the information furnished by any person or the publication, by direction of the Secretary of the name of any person violating the Order and a statement of the particular provisions of the Order violated by the person.

The proposed Order provides for the Department to conduct an initial referendum preceding the proposed Order's effective date. Therefore, the proposed Order must be approved by a majority of the producers voting for approval. The proposed Order also provides for subsequent referenda to be conducted (1) every 5 years after the program is in effect, (2) at the request of the Board established under the Order, or (3) when requested by 10 percent or more of peanut producers covered by the Order. In addition, the Secretary may conduct a referendum at any time.

The Act requires that such a proposed order provide for the establishment of a board to administer the program under USDA supervision. The proponent's proposal provides for a 10-member National Peanut Board, as stated earlier.

To ensure fair and equitable representation of the peanut industry on the Board, the Act requires membership on the Board to reflect the geographical distribution of the production of peanuts. To that end, this proposal provides that each primary peanut-producing state would be represented on the Board by one producer member and alternate and that the minor peanut-producing states would be represented collectively by one at-large producer member and alternate. Based on current information on production in the various states, the Order defines the primary peanut-producing states as Alabama, Florida, Georgia, New Mexico, North Carolina, Oklahoma, South Carolina, Texas, and Virginia, provided that these states maintain three-year average production of at least 10,000 tons of peanuts.

Upon implementation of the Order and pursuant to the Act, the Board would at least once in each five-year period, but not more frequently than once in each three-year period, review the geographical distribution of peanuts in the United States and make a recommendation to the Secretary after considering the results of its review and other information it deems relevant regarding the reapportionment of the Board.

Members and alternates would serve for three-year terms, except that the members and alternates appointed to the initial Board would serve proportionately for two-, three-, and four-year terms. No member or alternate would serve more than two consecutive three-year terms.

The proposed Order submitted by the proponent is summarized as follows:

Sections 1216.01 through 1216.31 of the proposed Order define certain terms, such as peanuts, minor peanut-producing states, primary peanut-producing states, producer, and quota peanuts, which are used in the proposed Order.

Sections 1216.40 through 1216.49 include provisions relating to the Board establishment and membership, nominations, selections and acceptance, term of office, vacancies, alternate members, and compensation and reimbursement; procedures for conducting Board business; and powers and duties of the Board, which is the governing body authorized to administer the Order through the implementation of programs, plans, projects, budgets, and contracts to promote and disseminate information about peanuts, subject to oversight of the Secretary. These sections also include maintenance of books and records by the Board and prohibited activities of the Board, its employees, and agents.

In order to ensure support throughout the production area for all Board votes, § 1216.46(b) provides that all Board members' votes would be weighted by the value of production represented by each member. The votes of members from primary peanut-producing states would represent their respective states' three-year running average of total gross farm income derived from all peanut sales. The votes of the at-large Board member would equal the collective value of production from all minor peanut-producing states' three year running average of total gross farm income from all peanut sales. Any Board action would require the concurring votes of members collectively representing more than 50 percent of the total U.S. gross farm income derived from all peanut sales plus an additional two votes from other Board members, provided a minimum of five members concur. Therefore, regardless of the volume voted by the members, no Board action would be approved unless at least five members voted in favor of it. Similarly, if five members vote in favor of a motion and those five members do not represent more than 50 percent of the total U.S. gross farm income derived from all peanut sales, the motion would not be approved.

Sections 1216.50 through 1216.55 would cover budget review and approval; authorize the collection of assessments; use of assessments, including reimbursement of necessary expenses incurred by the Board for the performance of its duties, including expenses incurred for the Department's oversight responsibilities; specify who pays the assessment and how; authorize the imposition of a late-payment charge on past-due assessments; address programs, plans, and projects; require the Board to conduct periodically an independent review of its overall program; specify a program operating reserve; and cover the investment of assessment funds.

The proponent recommends a proposed assessment rate of 1 percent of the price paid for all farmers stock peanuts sold. Peanut producers may sell their peanuts commercially or put them in a government loan program. For peanuts sold commercially, the first handler would remit the assessment to the Board. The assessment would be 1 percent of the price paid for the peanuts.

Under a loan program administered by FSA, a peanut producer also has the option of delivering the peanuts to an area marketing association and receiving payment for the peanuts from CCC. If the peanut promotion program is implemented, the area association would deduct 1 percent of the payment from the producer's proceeds and remit that amount to the Board as the producer's initial assessment payment on the peanuts. After the association sells the peanuts, the area association reimburses CCC the amount of the payment to the producer and deducts its expenses from the selling price. If the peanut promotion program is implemented and if there is any profit from the sale of the peanuts, the association would deduct 1 percent of the profit, remit that amount to the Board to pay the producer's assessment, and pay the balance to the producer.

The Board may raise or lower the rate of assessment with approval of the Secretary.

The federal debt collection procedures referenced in § 1216.51(g) include those set forth in 7 CFR 3.1 through 3.36 for all research and promotion programs administered by AMS (60 FR 12533, March 7, 1995).

Sections 1216.60 through 1206.62 concern reporting and recordkeeping requirements for persons subject to the Order and protect the confidentiality of information from such books, records, or reports.

Section 1216.70 describes the certification requirements for peanut-producer organizations to be eligible to nominate Board members and submit requests for funds from the Board.

Sections 1216.80 through 1216.87 describe the rights of the Secretary; authorize the Secretary to suspend or terminate the Order when deemed appropriate; prescribe proceedings after suspension or termination; address personal liability, separability, and amendments; and address patents, copyrights, trademarks, information, publications, and product formulations developed through the use of assessment funds.

The Department has modified the proponent's proposal to make it consistent with the Act, other similar national research and promotion programs, and other Federal peanut programs administered by the Department; for consistency throughout the text; and for clarity.

In the definitions and throughout the text of the Order, "farmer stock peanuts" was changed to "farmers stock peanuts" for consistency with industry use and existing regulations.

A definition for "first handler" was added for consistency with similar national research and promotion programs, and subsequent sections were renumbered accordingly.

The definition of "information" was rewritten to include activities designed to enhance peanuts' image, to add definitions of "consumer information" and "producer information," and to conform with the Act.

The definition of "quota peanuts" was rewritten to reference 7 CFR Part 729.

In § 1216.41 (Nominations), the phrase "qualified nominating organizations" was changed to read "certified nominating organizations" for consistency with the text.

In addition, § 1216.50(h) has been revised to be consistent with the Act. Paragraph (e)(5) *Limitation on spending* of § 515 of the Act states that a board "may not expend for administration (except for reimbursements to the Secretary * * *)" an amount that exceeds 15 percent of the board's income during any fiscal year. The proposal submitted set a more stringent limitation of 10 percent and stated that administrative expenses included reimbursement to the Secretary. The Order may set the more stringent limitation of 10 percent because that amount is less than the 15 percent provided in the Act. However, the Order may not provide that reimbursements to the Secretary are covered by the limitation on spending.

Other minor changes which do not materially affect the text were made for consistency. For instance, in the definitions, "additional peanuts are * * *" was changed to read "additional peanuts means * * *" As another example, in sections containing only one paragraph, the paragraph designation was removed. Minor grammatical changes also were made.

The proponent submitted "Subpart B—Voting Procedures and Approval of the Peanut Promotion, Research, and Information Order." This proposed subpart has been revised and included as § 1216.80 of the proposed Order.

The Department has determined that this proposed Order is consistent with and will effectuate the purposes of the Act.

The proposal set forth below has not received the approval of the Secretary.

List of Subjects in 7 CFR Part 1216

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Peanut promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that Title 7 of Chapter XI of the Code of Federal Regulations be amended as follows:

1. Part 1216 is added to read as follows:

PART 1216—PEANUT PROMOTION, RESEARCH, AND INFORMATION ORDER

Subpart A—Peanut Promotion, Research, and Information Order

Definitions

Sec.

1216.01 Act.
1216.02 Additional peanuts.
1216.03 Area marketing association.
1216.04 Board.
1216.05 Conflict of interest.
1216.06 Contract export additional peanuts.
1216.07 Department.
1216.08 Farmers stock peanuts.
1216.09 First handler.
1216.10 Fiscal year.
1216.11 Handle.
1216.12 Information.
1216.13 Market.
1216.14 Minor peanut-producing states.
1216.15 Order.
1216.16 Part and subpart.
1216.17 Peanuts.
1216.18 Peanut producer organization.
1216.19 Person.
1216.20 Primary peanut-producing states.
1216.21 Producer.
1216.22 Promotion.
1216.23 Quota peanuts.
1216.24 Research.
1216.25 Secretary.
1216.26 Suspend.
1216.27 State.
1216.28 Terminate.
1216.29 United States.

National Peanut Board

1216.40 Establishment and membership.
1216.41 Nominations.
1216.42 Selection.
1216.43 Term of office.
1216.44 Vacancies.
1216.45 Alternate members.
1216.46 Procedure.
1216.47 Compensation and reimbursement.
1216.48 Powers and duties of the National Peanut Board.
1216.49 Prohibited activities.

Expenses and Assessments

1216.50 Budget and expenses.
1216.51 Assessments.
1216.52 Programs, plans, and projects.
1216.53 Independent evaluation.
1216.54 Operating reserve.
1216.55 Investment of funds.

Reports, Books, and Records

1216.60 Reports.
1216.61 Books and records.
1216.62 Confidential treatment.

Certification of Peanut Producer Organizations

1216.70 Certification.

Miscellaneous

1216.80 Implementation of Order.
1216.81 Suspension and termination.
1216.82 Proceedings after termination.
1216.83 Effect of termination or amendment.
1216.84 Personal liability.
1216.85 Separability.
1216.86 Amendments.
1216.87 Patents, copyrights, trademarks, information, publications, and product formulations.

Authority: 7 U.S.C. 7401–7425.

Subpart A—Peanut Promotion, Research, and Information Order

Definitions

§ 1216.01 Act.

Act means the Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7401–7425; Public Law 104–127; 110 Stat. 1029), or any amendments thereto.

§ 1216.02 Additional peanuts.

Additional peanuts means peanuts which are marketed from a farm other than peanuts marketed or considered marketed as quota peanuts.

§ 1216.03 Area marketing association.

Area marketing association means an association selected and approved by the Secretary to conduct activities under regulations of the Department's Farm Service Agency. Under an inter-agency agreement, area marketing associations will assist in the collection of assessments under this subpart. The approved area marketing associations and the areas served by such associations are as follows:

(a) *GFA Peanut Association of Comilla, Georgia (GFA).* GFA serves the southeastern area consisting of Puerto Rico, the U.S. Virgin Islands, and the states of Alabama, Florida, Georgia, Mississippi, and that part of South Carolina south and west of the Santee-Congaree-Broad Rivers;

(b) *Peanut Growers Cooperative Marketing Association of Franklin, Virginia (PGCMA).* PGCMA serves the Virginia-Carolina area consisting of the District of Columbia, and the states of Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and that part of South Carolina north and east of the Santee-Congaree-Broad Rivers; and

(c) *Southwestern Peanut Growers Association of Gorman, Texas (SWPGA).* SWPGA serves the southwestern area consisting of the states of Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Kansas, Louisiana, Montana, Nebraska, New Mexico, Nevada, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming, and all other territories of the United States not listed in paragraph (a) or (b) of this section.

§ 1216.04 Board.

Board means the administrative body referred to as the National Peanut Board established pursuant to § 1216.40 of this subpart.

§ 1216.05 Conflict of interest.

Conflict of interest means a situation in which a member or employee of the Board has a direct or indirect financial interest in a person who performs a service for, or enters into a contract with, the Board for anything of economic value.

§ 1216.06 Contract export additional peanuts.

Contract export additional peanuts are additional peanuts for exportation, including peanuts for crushing for exportation, for which a contract has been entered into between a first handler and a producer.

§ 1216.07 Department.

Department means the U.S. Department of Agriculture.

§ 1216.08 Farmers stock peanuts.

Farmers stock peanuts means picked or threshed peanuts produced in the United States which have not been changed (except for removal of foreign material, loose shelled kernels and excess moisture) from the condition in which picked or threshed peanuts are customarily marketed by producers, plus any loose shelled kernels that are removed from farmers stock peanuts before such farmers stock peanuts are marketed.

§ 1216.09 First handler.

First handler means any person who handles peanuts in a capacity other than that of a custom cleaner or dryer, an assembler, a warehouseman, or other intermediary between the producer and the person handling.

§ 1216.10 Fiscal year.

Fiscal year is synonymous with crop year and means the 12-month period beginning with August 1 of any year and ending with July 31 of the following year, or such other period as determined by the Board and approved by the Secretary.

§ 1216.11 Handle.

Handle means to engage in the receiving or acquiring, cleaning and shelling, cleaning inshell, or crushing of peanuts and in the shipment (except as a common or contract carrier of peanuts owned by another) or sale of cleaned inshell or shelled peanuts, or other activity causing peanuts to enter the current of commerce: *Provided*, That this term does not include sales or deliveries of peanuts by a producer to a handler or to an intermediary person engaged in delivering peanuts to handler(s) and *Provided further*, That this term does not include sales or deliveries of peanuts by such intermediary person(s) to a handler.

§ 1216.12 Information.

Information means information and programs that are designed to increase efficiency in processing and to develop new markets, marketing strategies, increased market efficiency, and activities that are designed to enhance the image of peanuts on a national or international basis. These include:

(a) *Consumer information*, which means any action taken to provide information to, and broaden the understanding of, the general public regarding the consumption, use, nutritional attributes, and care of peanuts; and

(b) *Producer information*, which means information and programs that will lead to the development of new markets, new marketing strategies, or increased efficiency for the peanut industry, and activities to enhance the image of the peanut industry.

§ 1216.13 Market.

Market means to sell or otherwise dispose of peanuts into interstate, foreign, or intrastate commerce by buying, marketing, distributing, or otherwise placing peanuts into commerce.

§ 1216.14 Minor peanut-producing states.

Minor peanut-producing states means all peanut-producing states with the exception of Alabama, Florida, Georgia, New Mexico, North Carolina, Oklahoma, South Carolina, Texas, and Virginia.

§ 1216.15 Order.

Order means an order issued by the Secretary under section 514 of the Act that provides for a program of generic promotion, research, and information regarding agricultural commodities authorized under the Act.

§ 1216.16 Part and subpart.

Part means the Peanut Promotion, Research, and Information Order and all rules, regulations, and supplemental orders issued pursuant to the Act and the Order. The Order shall be a "subpart" of such part.

§ 1216.17 Peanuts.

Peanuts means the seeds of the legume *arachis hypogaea* and includes both inshell and shelled peanuts other than those marketed by the producer in green form for consumption as boiled peanuts.

§ 1216.18 Peanut producer organization.

Peanut producer organization means a state-legislated peanut promotion, research, and education commission or organization. For states without a state-legislated peanut promotion, research, and education commission or organization, "peanut producer organization" means any organization which has the primary purpose of representing peanut producers and has peanut producers as members.

§ 1216.19 Person.

Person means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

§ 1216.20 Primary peanut-producing states.

Primary peanut-producing states means Alabama, Florida, Georgia, New

Mexico, North Carolina, Oklahoma, South Carolina, Texas, and Virginia, *Provided*, these states maintain three-year average production of at least 10,000 tons of peanuts.

§ 1216.21 Producer.

Producer means any person engaged in the production and sale of peanuts and who owns, or shares the ownership and risk of loss of, the crop. This does not include quota holders who do not share in the risk of loss of the crop.

§ 1216.22 Promotion.

Promotion means any action taken by the National Peanut Board under this Order, including paid advertising, to present a favorable image of peanuts to the public to improve the competitive position of peanuts in the marketplace, including domestic and international markets, and to stimulate sales of peanuts.

§ 1216.23 Quota peanuts.

Quota peanuts means peanuts which are:

(a) Eligible for domestic edible uses; and

(b) Marketed or considered marketed from a farm as quota peanuts pursuant to the provisions of 7 CFR Part 729 and are not in excess of the effective farm poundage quota established for the farm on which such peanuts were produced.

§ 1216.24 Research.

Research means any type of test, study, or analysis designed to advance the image, desirability, use, marketability, production, product development, or quality of peanuts, including research relating to nutritional value and cost of production.

§ 1216.25 Secretary.

Secretary means the Secretary of Agriculture of the United States, or any officer or employee of the U.S. Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

§ 1216.26 Suspend.

Suspend means to issue a rule under section 553 of title 5, United States Code, to temporarily prevent the operation of an order during a particular period of time specified in the rule.

§ 1216.27 State.

State means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

§ 1216.28 Terminate.

Terminate means to issue a rule under section 553 of title 5, United States Code, to cancel permanently the operation of an order beginning on a date certain specified in the rule.

§ 1216.29 United States.

United States means collectively the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

National Peanut Board

§ 1216.40 Establishment and membership.

(a) Establishment of a National Peanut Board. There is hereby established a National Peanut Board, hereinafter called the Board, composed of no more than 10 peanut producers and alternates, appointed by the Secretary from nominations as follows:

(1) Nine members and alternates. One member and one alternate shall be appointed from each primary peanut-producing state, who are producers and whose nominations have been submitted by certified peanut producer organizations within a primary peanut-producing state.

(2) The minor peanut-producing states shall collectively have one at-large member and one alternate, who are producers, to be appointed by the Secretary from nominations submitted by certified peanut producer organizations within minor peanut-producing states or from other certified farm organizations that include peanut producers as part of their membership.

(b) Adjustment of membership. At least once in each five-year period, but not more frequently than once in each three-year period, the Board, or a person or agency designated by the Board, shall review the geographical distribution of peanuts in the United States and make recommendation(s) to the Secretary to continue without change, or whether changes should be made in the number of representatives on the Board to reflect changes in the geographical distribution of the production of peanuts.

§ 1216.41 Nominations.

(a) All nominations authorized under § 1216.40 shall be made within such a period of time as the Secretary shall prescribe. Eligible peanut producer organizations within each state as certified pursuant to § 1216.70 shall nominate two qualified persons for each member and each alternate member. The nominees shall be chosen at an open meeting by election among the general membership. Any certified peanut producer organization representing a minor peanut-producing state may nominate two eligible persons for each member and two eligible persons for each alternate member.

(b) As soon as practicable after this subpart becomes effective, the Secretary shall obtain nominations for appointment to the initial promotion Board from certified nominating organizations. In any subsequent year in which an appointment to the Board is to be made, nominations for positions whose terms will expire shall be obtained from certified nominating organizations by the Board's staff and submitted to the Secretary by May 1 of such year, or other such date as approved by the Secretary.

(c) Except for initial Board members, whose nomination process will be initiated by the Secretary, the Board shall issue call for nominations by March 1 of each year.

§ 1216.42 Selection.

From the nominations, the Secretary shall select the members of the Board and alternates for each primary peanut-producing state. The Secretary shall select one member and one alternate from all nominations submitted by certified peanut producer organizations representing minor peanut-producing states.

§ 1216.43 Term of office.

(a) All members and alternates of the Board shall each serve for terms of three years, except that the members and alternates appointed to the initial Board shall serve proportionately for two-, three-, and four-year terms, with the length of the terms determined at random. No member or alternate may serve more than two consecutive three-year terms. An alternate, after serving two consecutive three-year terms, may serve as a member for an additional two consecutive three-year terms. A member, after serving two consecutive three-year terms, may serve as an alternate for an additional two consecutive three-year terms. Each member and alternate shall continue to serve until a successor is selected and has qualified.

(1) Those members serving initial terms of two or four years may serve one successive three-year term.

(2) Any successor serving one year or less may serve two consecutive three-year terms.

§ 1216.44 Vacancies.

To fill any vacancy resulting from the failure to qualify of any person selected as a member or as an alternate member of the Board, or in the event of death, removal, resignation, or disqualification of any member or alternate member of the Board, a successor for the unexpired term of such member or alternate member of the Board shall be nominated and selected in the manner specified in § 1216.40 of this Order.

§ 1216.45 Alternate members.

An alternate member of the Board, during the absence of the member for the primary peanut-producing state or at-large member for whom the person is the alternate, shall act in the place and stead of such member and perform such duties as assigned. In the event of death, removal, resignation, or disqualification of any member, the alternate for that state or at-large member shall act for the member until a successor for such member is selected and qualified. In the event that both a producer member of the Board and the alternate are unable to attend a meeting, the Board may not designate any other alternate to serve in such member's or alternate's place and stead for such a meeting.

§ 1216.46 Procedure.

(a) A majority of the members of the Board, including alternate members acting for members, shall constitute a quorum.

(b) At assembled meetings, all votes shall be cast in person. Board actions shall be weighted by value of production as determined by a primary peanut-producing state's three-year running average of total gross farm income derived from all peanut sales. The at-large Board member's vote shall be weighted by the collective value of production from all minor peanut-producing states' three-year running average of total gross farm income derived from all peanut sales. Any Board action shall require the concurring votes of members or alternates from states representing more than 50 percent of total U.S. gross farm income derived from all peanut sales, plus an additional two votes from any other Board members, provided a minimum of five votes concur.

(c) For routine and noncontroversial matters which do not require deliberation and the exchange of views, and in matters of an emergency nature when there is not time to call an assembled meeting of the Board, the Board may also take action as prescribed in this section by mail, facsimile, telephone, or any telecommunication method appropriate for the conduct of business, but any such action shall be confirmed in writing within 30 days.

(d) There shall be no voting by proxy.

(e) The chairperson shall be a voting member.

§ 1216.47 Compensation and reimbursement.

The members of the Board, and alternates when acting as members, shall serve without compensation but shall be reimbursed for reasonable travel expenses, as approved by the Board, incurred by them in the performance of their duties as Board members.

§ 1216.48 Powers and duties of the National Peanut Board.

The Board shall have the following powers and duties:

(a) To administer the Order in accordance with its terms and conditions and to collect assessments;

(b) To develop and recommend to the Secretary for approval such bylaws as may be necessary for the functioning of the Board, and such rules as may be necessary to administer the Order, including activities authorized to be carried out under the Order;

(c) To meet, organize, and select from among the members of the Board a chairperson, other officers, committees, and subcommittees, as the Board determines to be appropriate;

(d) To employ persons, other than the members, as the Board considers necessary to assist the Board in carrying out its duties and to determine the compensation and specify the duties of such persons;

(e) To develop programs and projects, and enter into contracts or agreements, which must be approved by the Secretary before becoming effective, for the development and carrying out of programs or projects of research, information, or promotion, and the payment of costs thereof with funds collected pursuant to this subpart. Each contract or agreement shall provide that any person who enters into a contract or agreement with the Board shall develop and submit to the Board a proposed activity; keep accurate records of all of its transactions relating to the contract or agreement; account for funds received and expended in connection with the contract or agreement; make periodic reports to the Board of activities conducted under the contract or agreement; and make such other reports available as the Board or the Secretary considers relevant. Any contract or agreement shall provide that:

(1) The contractor or agreeing party shall develop and submit to the Board a program, plan, or project together with a budget or budgets that shall show the estimated cost to be incurred for such program, plan, or project;

(2) The contractor or agreeing party shall keep accurate records of all its transactions and make periodic reports to the Board of activities conducted, submit accounting for funds received and expended, and make such other reports as the Secretary or the Board may require;

(3) The Secretary may audit the records of the contracting or agreeing party periodically; and

(4) Any subcontractor who enters into a contract with a Board contractor and who receives or otherwise uses funds allocated by the Board shall be subject to the same provisions as the contractor.

(f) To prepare and submit for approval of the Secretary fiscal year budgets in accordance with § 1216.50;

(g) To maintain such records and books and prepare and submit such reports and records from time to time to the Secretary as the Secretary may prescribe; to make appropriate accounting with respect to the receipt and disbursement of all funds entrusted to it; and to keep records that accurately reflect the actions and transactions of the Board;

(h) To cause its books to be audited by a competent auditor at the end of each fiscal year and at such other times as the Secretary may request, and to submit a report of the audit directly to the Secretary;

(i) To give the Secretary the same notice of meetings of the Board as is given to members in order that the Secretary's representative(s) may attend such meetings, and to keep and report minutes of each meeting of the Board to the Secretary;

(j) To act as intermediary between the Secretary and any producer or first handler;

(k) To furnish to the Secretary any information or records that the Secretary may request;

(l) To receive, investigate, and report to the Secretary complaints of violations of the Order;

(m) To recommend to the Secretary such amendments to the Order as the Board considers appropriate; and

(n) To work to achieve an effective, continuous, and coordinated program of promotion, research, consumer information, evaluation, and industry information designed to strengthen the peanut industry's position in the marketplace; maintain and expand existing markets and uses for peanuts; and to carry out programs, plans, and projects designed to provide maximum benefits to the peanut industry.

§ 1216.49 Prohibited activities.

The Board may not engage in, and shall prohibit the employees and agents of the Board from engaging in:

(a) Any action that would be a conflict of interest;

(b) Using funds collected by the Board under the Order to undertake any action

for the purpose of influencing legislation or governmental action or policy, including local, state, national, and international, other than recommending to the Secretary amendments to the Order; and

(c) Any advertising, including promotion, research, and information activities authorized to be carried out under the Order, that is false or misleading or disparaging to another agricultural commodity.

Expenses and Assessments

§ 1216.50 Budget and expenses.

(a) At least 60 days prior to the beginning of each fiscal year, and as may be necessary thereafter, the Board shall prepare and submit to the Secretary a budget for the fiscal year covering its anticipated expenses and disbursements in administering this subpart. Each such budget shall include:

(1) A statement of objectives and strategy for each program, plan, or project;

(2) A summary of anticipated revenue, with comparative data for at least one preceding year (except for the initial budget);

(3) A summary of proposed expenditures for each program, plan, or project; and

(4) Staff and administrative expense breakdowns, with comparative data for at least one preceding year (except for the initial budget).

(b) Each budget shall provide adequate funds to defray its proposed expenditures and to provide for a reserve as set forth in this subpart.

(c) Subject to this section, any amendment or addition to an approved budget must be approved by the Secretary, including shifting funds from one program, plan, or project to another. Shifts of funds which do not cause an increase in the Board's approved budget and which are consistent with governing bylaws need not have prior approval by the Secretary.

(d) The Board is authorized to incur such expenses, including provision for a reasonable reserve, as the Secretary finds are reasonable and likely to be incurred by the Board for its maintenance and functioning, and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart. Such expenses shall be paid from funds received by the Board.

(e) With approval of the Secretary, the Board may borrow money for the payment of administrative expenses, subject to the same fiscal, budget, and audit controls as other funds of the Board. Any funds borrowed by the Board shall be expended only for startup costs and capital outlays and are limited to the first year of operation of the Board.

(f) The Board may accept voluntary contributions, but these shall only be used to pay expenses incurred in the conduct of programs, plans, and projects. Such contributions shall be free from any encumbrance by the donor and the Board shall retain complete control of their use.

(g) The Board shall reimburse the Secretary for all expenses incurred by the Secretary in the implementation, administration, and supervision of the Order, including all referendum costs in connection with the Order.

(h) The Board may not expend for administration, maintenance, and functioning of the Board in any fiscal year an amount that exceeds 10 percent of the assessments and other income received by the Board for that fiscal year. Reimbursements to the Secretary required under paragraph (g) are excluded from this limitation on spending.

(i) The Board shall allocate, to the extent practicable, 80 percent of the assessments collected on quota peanuts for any fiscal year on national and regional promotion, research, and information activities. The Board shall allocate, to the extent practicable, 20 percent of assessments collected on quota peanuts for any fiscal year for use in state or regional research programs. Specific percentages and amounts shall be determined annually by the Board, with the approval of the Secretary.

(j) Certified peanut producer organizations may submit requests for funding for research and/or generic promotion projects. Amounts approved for each state shall not exceed the pro rata share of funds available for that state as determined by the Board and approved by the Secretary. Amounts allocated by the Board for state research or promotion activities will be based on requests submitted to the Board and approved when it is determined that they meet the goals and objectives stated in the Order.

(k) Assessments collected, less pro rata administrative expenses, from the gross sales of contract export additional peanuts shall be provided by the Board to an appropriate organization approved by the Secretary as the primary contractor for the promotion and related research of export peanuts.

(l) The Board shall determine annually how total funds shall be allocated pursuant to paragraph (i), (j), and (k) of this section, with the approval of the Secretary.

§ 1216.51 Assessments.

(a) The funds to cover the Board's expenses shall be acquired by the levying of assessments upon producers as prescribed in regulations issued by the Secretary.

(b) Each first handler, at such times and in such manner as prescribed by regulations issued by the Secretary, shall collect from each producer and pay assessments to the Board on all peanuts handled, including peanuts owned by the first handler: *Provided*, that the deadline prescribed in the regulations for remittance of assessments shall be no more than 60 days after the last day of the month in which the peanuts were marketed.

(c) Such assessments shall be levied at a rate of 1 percent of the price paid for all farmers stock peanuts sold.

(d) For peanuts placed under loan with the Department's Commodity Credit Corporation, each area marketing association shall remit to the Board the following:

(1) One (1) percent of the initial price paid for either quota or additional peanuts no more than 60 days after the last day of the month in which the peanuts were placed under loan; and

(2) One (1) percent of the profit from the sale of the peanuts within 60 days after the final day of the area association's fiscal year.

(e) All assessments collected under this section are to be used for expenses and expenditures pursuant to this Order and for the establishment of an operating reserve as prescribed in the Order.

(f) The Board shall impose a late payment charge on any person who fails to remit to the Board the total amount for which the person is liable on or before the payment due date established under this section. The late payment charge will be in the form of interest on the outstanding portion of any amount for which the person is liable. The rate of interest shall be prescribed in regulations issued by the Secretary.

(g) Persons failing to remit total assessments due in a timely manner may also be subject to actions under federal debt collection procedures.

(h) The Board may authorize other organizations to collect assessments on its behalf with the approval of the Secretary.

§ 1216.52 Programs, plans, and projects.

(a) The Board shall receive and evaluate, or on its own initiative develop, and submit to the Secretary for approval any program, plan, or project authorized under this subpart. Such programs, plans, or projects shall provide for:

(1) The establishment, issuance, effectuation, and administration of appropriate programs for promotion, research, and information, including producer and consumer information, with respect to peanuts; and

(2) The establishment and conduct of research with respect to the use, nutritional value, sale, distribution, and marketing of peanuts and peanut products, and the creation of new products thereof, to the end that marketing and use of peanuts may be encouraged, expanded, improved, or made more acceptable and to advance the image, desirability, or quality of peanuts.

(b) No program, plan, or project shall be implemented prior to its approval by the Secretary. Once a program, plan, or project is so approved, the Board shall take appropriate steps to implement it.

(c) Each program, plan, or project implemented under this subpart shall be reviewed or evaluated periodically by the Board to ensure that it contributes to an effective program of promotion, research, or consumer information. If it is found by the Board that any such program, plan, or project does not contribute to an effective program of promotion, research, or consumer information, then the Board shall terminate such program, plan, or project.

(d) No program, plan, or project shall make any false claims on behalf of peanuts or use unfair or deceptive acts or practices with respect to the quality, value, or use of any competing product. Peanuts of all domestic origins shall be treated equally.

§ 1216.53 Independent evaluation.

The Board shall, not less often than every five years, authorize and fund, from funds otherwise available to the Board, an independent evaluation of the effectiveness of the Order and other programs conducted by the Board pursuant to the Act. The Board shall submit to the Secretary, and make available to the public, the results of each periodic independent evaluation conducted under this paragraph.

§ 1216.54 Operating reserve.

The Board shall establish an operating monetary reserve and may carry over to subsequent fiscal years excess funds in a reserve so established; *Provided*, that funds in the reserve shall not exceed any fiscal year's anticipated expenses.

§ 1216.55 Investment of funds.

The Board may invest, pending disbursement, funds it receives under this subpart, only in obligations of the United States or any agency of the United States; general obligations of any state or any political subdivision of a state; interest bearing accounts or certificates of deposit of financial institutions that are members of the Federal Reserve system; or obligations that are fully guaranteed as to principal and interest by the United States.

Reports, Books, and Records

§ 1216.60 Reports.

Each first handler and producer subject to this subpart may be required to provide to the Board periodically such information as is required by regulations, which may include but not be limited to the following:

(a) Number of pounds handled and the price paid to the producer;

(b) Number of pounds on which an assessment was collected;

(c) Name and address of person from whom the first handler has collected the assessments on each pound handled; and

(d) Date collection was made on each pound handled.

§ 1216.61 Books and records.

Each first handler and producer subject to this subpart shall maintain and make available for inspection by the Secretary such books and records as are necessary to carry out the provisions of this subpart and the regulations issued thereunder, including such records as are necessary to verify any reports required. Such records shall be retained for at least two years beyond the marketing year of their applicability.

§ 1216.62 Confidential treatment.

All information obtained from books, records, or reports under the Act, this subpart, and the regulations issued thereunder shall be kept confidential by all persons, including all employees and former employees of the Board, all officers and employees and former officers and employees of contracting and subcontracting agencies or agreeing parties having access to such information. Such information shall not be available to Board members, producers, importers, exporters, or handlers. Only those persons having a specific need for such information to effectively administer the provisions of this subpart shall have access to such information. Only such information so obtained as the Secretary deems relevant shall be disclosed by them, and then only in a judicial proceeding or administrative hearing brought at the direction, or on the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart. Nothing in this section shall be deemed to prohibit:

(a) The issuance of general statements based upon the reports of the number of persons subject to this subpart or statistical data collected therefrom, which statements do not identify the information furnished by any person; and

(b) The publication, by direction of the Secretary, of the name of any person who has been adjudged to have violated this subpart, together with a statement of the particular provisions of this subpart violated by such person.

Certification of Peanut Producer Organizations

§ 1216.70 Certification.

(a) Organizations receiving certification from the Secretary will be entitled to submit nominations for Board membership to Secretary for appointment and to submit requests for funding to the Board.

(b) For major peanut-producing states, state-legislated peanut promotion, research, and information organizations may request certification, provided the state-legislated promotion program submits a factual report that shall contain information deemed relevant and specified by the Secretary for the making of such determination pursuant to paragraph (e) of this section.

(c) If a state-legislated peanut promotion, research and information organization in a major peanut-producing state does not elect to seek certification from the Secretary within a specified time period as determined by the Secretary, or does not meet eligibility requirements as specified by the Secretary, then any peanut producer organization whose primary purpose is to represent peanut producers within a primary peanut-producing state, or any other organization which has peanut producers as part of its membership, may request certification. Certification shall be based, in addition to other available information, upon a factual report submitted by the organization that shall contain information deemed relevant and specified by the Secretary for the making of such determination pursuant to paragraph (e) of this section.

(d) For minor peanut-producing states, any organization that has peanut producers as part of its membership may request certification.

(e) The information required for certification by the Secretary may include, but is not limited to, the following:

(1) The geographic distribution within the state covered by the organization's active membership;

(2) The nature and size of the organization's active membership in the state, proportion of total such active membership accounted for by producers, a map showing the peanut-producing counties in such state in which the organization has members, the volume of peanuts produced in each such county, the number of peanut producers in each such county, and the size of the organization's active peanut producer membership in each such county;

(3) The extent to which the peanut producer membership of such organization is represented in setting the organization's policies;

(4) Evidence of stability and permanency of the organization;

(5) Sources from which the organization's operating funds are derived;

(6) Functions of the organization;

(7) The organization's ability and willingness to further the aims and objectives of the Act and Order; and,

(8) Demonstrated experience administering generic state promotion and research programs.

(f) The Secretary's determination as to eligibility or certification of an organization shall be final.

Miscellaneous

§ 1216.80 Implementation of the Order.

The Order shall not become effective unless:

(a) The Secretary determines that the Order is consistent with and will effectuate the purposes of the Act; and

(b) The Order is approved by a simple majority of the peanut producers voting in a referendum who, during a representative period determined by the Secretary, have been engaged in the production of peanuts.

§ 1216.81 Suspension and termination.

(a) The Secretary shall suspend or terminate this subpart or a provision thereof if the Secretary finds that the subpart or a provision thereof obstructs or does not tend to effectuate the purposes of the Act, or if the Secretary determines that this subpart or a provision thereof is not favored by persons voting in a referendum conducted pursuant to the Act.

(b) Every five years, the Secretary shall hold a referendum to determine whether peanut producers favor the continuation of the Order. The Secretary will also conduct a referendum if 10 percent or more of all eligible peanut producers request the Secretary to hold a referendum. In addition, the Secretary may hold a referendum at any time.

(c) The Secretary shall suspend or terminate this subpart at the end of the marketing year whenever the Secretary determines that its suspension or termination is approved or favored by a simple majority of the producers voting in a referendum who, during a representative period determined by the Secretary, have been engaged in the production of peanuts.

(d) If, as a result of the referendum conducted under paragraph (b) of this section, the Secretary determines that this subpart is not approved, the Secretary shall:

(1) Not later than 180 days after making the determination, suspend or terminate, as the case may be, collection of assessments under this subpart; and

(2) As soon as practical, suspend or terminate, as the case may be, activities under this subpart in an orderly manner.

§ 1216.82 Proceedings after termination.

(a) Upon the termination of this subpart, the Board shall recommend not more than three of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the Board. Such persons, upon designation by the Secretary, shall become trustees of all of the funds and property then in the possession or under control of the Board, including claims for any funds unpaid or property not delivered, or any other claim existing at the time of such termination.

(b) The said trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the Board under any contracts or agreements entered into pursuant to the Order;

(3) From time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and the trustees, to such person or persons as the Secretary may direct; and

(4) Upon request of the Secretary execute such assignments or other instruments necessary and appropriate to vest in such persons title and right to all funds, property and claims vested in the Board or the trustees pursuant to the Order.

(c) Any person to whom funds, property or claims have been transferred or delivered pursuant to the Order shall be subject to the same obligations imposed upon the Board and upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be turned over to the Secretary to be disposed of, to the extent practical, to the peanut producer organizations, certified pursuant to § 1216.70, in the interest of continuing peanut promotion, research, and information programs.

§ 1216.83 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued thereunder; or

(b) Release or extinguish any violation of this subpart or any regulation issued thereunder; or

(c) Affect or impair any rights or remedies of the United States, or of the Secretary or of any other persons, with respect to any such violation.

§ 1216.84 Personal liability.

No member or alternate member of the Board shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member or alternate, except for acts of dishonesty or willful misconduct.

§ 1216.85 Separability.

If any provision of this subpart is declared invalid or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of this subpart or the applicability thereof to other persons or circumstances shall not be affected thereby.

§ 1216.86 Amendments.

Amendments to this subpart may be proposed from time to time by the Board or by any interested person affected by the provisions of the Act, including the Secretary.

§ 1216.87 Patents, copyrights, trademarks, information, publications, and product formulations.

Patents, copyrights, trademarks, information, publications, and product formulations developed through the use of funds received by the Board under this subpart shall be the property of the U.S. Government as represented by the Board and shall, along with any rents, royalties, residual payments, or other income from the rental, sales, leasing, franchising, or other uses of such patents, copyrights, trademarks, information, publications, or product formulations, inure to the benefit of the Board; shall be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board; and may be licensed subject to approval by the Secretary. Upon termination of this subpart, § 1216.82 shall apply to determine disposition of all such property.

Dated: November 2, 1998.

Enrique E. Figueroa,

Administrator, Agricultural Marketing Service.

[FR Doc. 98–29729 Filed 11–5–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1216

[FV–98–703–PR]

Peanut Promotion, Research, and Information Order; Referendum Procedures

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: The purpose of this rule is to establish procedures which the Department of Agriculture (USDA or the Department) will use in conducting a referendum to determine whether the issuance of the proposed Peanut Promotion, Research, and Information Order (Order) is favored by a majority of the producers voting in the referendum. These procedures would also be used for any subsequent referendum under the Order, if it is approved in the initial referendum. The proposed Order is being published in a separate document. This proposed program would be implemented under the Commodity Promotion, Research, and Information Act of 1996 (Act). In addition, in accordance with the Paperwork Reduction Act of 1995 (PRA), this proposed rule specifies the public reporting burden for the collection of information involved in conducting the referendum.

DATES: Comments must be received by January 5, 1999.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule to: Docket Clerk, Research and Promotion Branch, Fruit and Vegetable Programs (FV), Agricultural Marketing Service (AMS), USDA, Stop 0244, Room 2535–S, 1400 Independence Avenue, S.W., Washington, D.C. 20250–0244. Comments should be submitted in triplicate and will be made available for public inspection at the above address during regular business hours. Comments may also be submitted electronically to: malinda__e__farmer@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register**. A copy of this rule may be found at: www.ams.usda.gov/fv/rpdocketlist.htm. Pursuant to the Paperwork Reduction Act of 1995 (PRA), also send comments regarding the accuracy of the burden estimate, ways to minimize the burden, including through the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information, to the above address. Comments concerning the information collection under the PRA should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Angela C. Snyder, Research and Promotion Branch, FV, AMS, USDA, Stop 0244, Room 2535–S, 1400 Independence Avenue, S.W., Washington, D.C. 20250–0244; telephone (910) 860–4689 or facsimile (202) 205–2800.

SUPPLEMENTARY INFORMATION: A referendum would be conducted among eligible peanut producers to determine whether the issuance of the proposed Peanut Promotion, Research, and Information Order (Order) (7 CFR Part 1216) is favored by a majority of persons voting in the referendum. The Order is authorized under the Commodity Promotion, Research, and Information Act of 1996 (Act) (Pub. L. 104–427, 7 U.S.C. 7401–7425). A proposed Order is being published separately in the **Federal Register**.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 524 of the Act provides that the Act shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under Section 519 of the Act, a person subject to the order may file a petition with the Secretary of Agriculture (Secretary) stating that the order, any provision of the order, or any obligation imposed in connection with the order, is not established in accordance with the law, and requesting a modification of the order or an exemption from the order. Any petition filed challenging the order, any provision of the order or any obligation imposed in connection with the order, shall be filed within two years after the effective date of the order, provision or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. The Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the Secretary's final ruling.

Executive Order 12866

This rule has been determined not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agency is required to examine the impact of the proposed rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such action so that small businesses will not be disproportionately burdened.

The Act, which authorizes the Secretary to consider industry proposals for generic programs of promotion, research, and information for agricultural commodities, became effective on April 4, 1996. The Act provides for alternatives within the terms of a variety of provisions.

Paragraph (e) of Section 518 of the Act provides three options for determining industry approval of a new research and promotion program: (1) by a majority of those voting; (2) by a majority of the volume of the agricultural commodity voted in the referendum; or (3) by a majority of those persons voting who also represent a majority of the volume of the agricultural commodity voted in the referendum. In addition, section 518 of the Act provides for referenda to ascertain approval of an order to be conducted either prior to its going into effect or within three years after assessments first begin under the order. The American Farm Bureau Federation (proponent) has recommended that the Secretary conduct a referendum in which the Order must be approved by a majority of those persons voting. The proponent also has recommended that a referendum be conducted prior to the proposed Order going into effect.

This proposed rule would establish the procedures under which producers may vote on whether they want a

peanut promotion, research, and information program to be implemented. This proposal would add a new subpart which establishes procedures to conduct an initial and future referenda. The proposed subpart covers definitions, voting instructions, use of subagents, ballots, the referendum report, and confidentiality of information.

There are approximately 25,000 producers and 57 handlers of peanuts who would be subject to the program. Most producers would be classified as small businesses under the criteria established by the Small Business Administration (SBA) [13 CFR § 121.601), and most of the handlers would not be classified as small businesses. The SBA defines small agricultural handlers as those whose annual receipts are less than $5 million, and small agricultural producers are defined as those having annual receipts of not more than $500,000 annually.

According to USDA's National Agricultural Statistics Service (NASS), the nine major peanut-producing states in the United States account for 99 percent of the peanuts grown in this country. The combined production from these states totaled 3.5 billion pounds in 1997. NASS reports that Georgia was the largest producer (38 percent of the total), followed by Texas (23 percent), Alabama (11 percent), North Carolina (9 percent), Florida (6 percent), Virginia (5 percent), Oklahoma (5 percent), New Mexico (1 percent), and South Carolina (1 percent). The farm value of peanuts in 1997 reached $932 million. According to 1992 Census of Agriculture (Census) data, small amounts of peanuts were also grown in seven other states.

According to the proponent, and based on the Census for these nine states, 36 percent of the peanut-producing counties in the United States had 35 percent or more of their total crop income from peanuts. Twenty-four percent of the counties had 50 percent or more of their crop income from peanuts. From a state perspective, 70 percent of the crop income in Alabama's peanut-producing counties is generated from peanuts. For Virginia, the percentage is 48 percent. In addition, 16,194 farms harvested peanuts in 1992. Of these, 15,914 were located in the nine primary peanut-producing states.

Three main types of peanuts are grown in the United States: Florunners, Virginia, and Spanish. The southeast growing region grows mostly the medium-kernel Runner peanuts. The southwest growing region used to grow two-thirds Spanish and one-third Runner peanuts, but now more Runners than Spanish are grown. Virtually all of the Spanish peanut production is in Oklahoma and Texas. In the Virginia-Carolina region, mainly large-kernel Virginia peanuts are grown. New Mexico grows a fourth type of peanut, the Valencia.

Peanut manufacturers produce three principal peanut products: peanut butter, packaged nuts (including salted, unsalted, flavored, and honey-roasted nuts), and peanut candies. In most years, half of all peanuts produced in the United States for edible purposes are used to manufacture peanut butter. Packaged nuts account for almost one-third of all processed peanuts. Some of these (commonly referred to as "ballpark" peanuts) are roasted in the shell, while a much larger quantity is used as shelled peanuts packed as dry-roasted peanuts, salted peanuts, and salted mixed nuts. Some peanuts are ground to produce peanut granules and flour. Other peanuts are crushed to produce oil.

According to USDA's Foreign Agricultural Service, exports of U.S. peanuts (including peanut meal, oil, and peanut butter) totaled 880 million inshell equivalent pounds in 1997, with a value of $285 million (U.S. point of departure for the foreign country). Of the total quantity, 60 percent was shelled peanuts used as nuts, 11 percent was blanched or otherwise prepared or preserved peanuts, 10 percent was inshell peanuts, 7 percent was peanut butter, 4 percent was shelled oil stock peanuts, 4 percent was crude peanut oil, and 3 percent was refined peanut oil.

The major destinations for domestic shelled peanuts for use as nuts are Canada, Mexico, the United Kingdom, and the Netherlands. Blanched or otherwise prepared peanuts are sent mainly to Western Europe, especially the Netherlands, France, and Spain. Inshell peanuts are mainly exported to Canada and various countries in Western Europe. Peanut butter is sent to many countries, with the largest amounts going to Canada and Saudi Arabia. Peanut oil and oil stock peanuts are exported world-wide, but major destinations can vary from year to year.

Approximately 250 million inshell equivalent pounds of peanuts and processed peanuts (including oil and peanut butter) were imported in 1997 with a combined value (f.o.b. country of origin) of $73 million. Most of the imports (45 percent) were shelled peanuts for use as nuts. The major U.S. supplier is Argentina, but several other countries export shelled peanuts to the United States, including Mexico, Nicaragua, and South Africa.

Peanut butter imports are also significant and accounted for about 32 percent of the total quantity of nuts (inshell basis) imported in 1997. Most peanut butter imports come from Canada and Argentina. The other major import category—crude and refined peanut oil—are shipped mainly from Argentina and Nicaragua and account for approximately 18 percent of total imports (inshell equivalent basis). Inshell peanuts, primarily from Mexico, accounted for nearly 3 percent of total imports in 1997. About 3 percent of total imports consisted of blanched or other processed peanuts, mainly from China. Imports of oil stock shelled peanuts were negligible.

Most peanuts produced in other countries are crushed for oil and protein meal. The United States is the main producer of peanuts used in such edible products as peanut butter, roasted peanuts, and peanut candies. Peanuts are one of the world's principal oilseeds, ranking fourth behind soybeans, cottonseed, and rapeseed. India and China usually account for half of the world's peanut production.

According to "The Agriculture Statistics Report" published by USDA, during the 1995–96 season, the average annual production per domestic producer was approximately 144,228 pounds of peanuts. Peanuts produced during these growing seasons provided average annual gross sales of $42,222 per peanut producer. The value of the 1995–96 crop was approximately $1.013 billion. During the same period, per capita consumption in the United States was 5.7 pounds of peanuts.

This proposed rule provides the procedures under which peanut producers may vote on whether they want the Order to be implemented. In accordance with the provisions of the Act, subsequent referenda may be conducted, and it is anticipated that the proposed procedures would apply. There are approximately 25,000 producers who will be eligible to vote in the first referendum.

USDA will keep these individuals informed throughout the program implementation and referendum process to ensure that they are aware of and are able to participate in the program implementation process. USDA will also publicize information regarding the referendum process, so that trade associations and related industry media can be kept informed.

Voting in the referendum is optional. However, if producers choose to vote, the burden of voting would be offset by the benefits of having the opportunity to vote on whether or not they want to be covered by the program.

The information collection requirements contained in this proposed rule are designed to minimize the burden on producers. This rule provides for a ballot to be used by eligible producers in voting in the referendum. The estimated annual cost of providing the information by an estimated 25,000 producers would be $12,500 or $0.50 per producer.

The Secretary considered requiring eligible voters to vote in person at various USDA offices across the country. The Secretary also considered electronic voting, but the use of computers is not universal, current technology is not reliable enough to ensure that electronic ballots would be received in a readable format, and technology is insufficient at this time to provide sufficient safeguards of voters' confidentiality. Conducting the referendum from one central location by mail ballot would be more cost-effective and reliable. The Department will also accept ballots sent by facsimile (fax) machine. A pilot of this method was conducted during a recent referendum for another program. A fax machine was dedicated to the receipt of ballots. All ballots received in this manner were stored in the memory of the machine until the end of the voting period. Due to the large number of voters expected in the referendum on the proposed peanut program, USDA may use more than one such machine, providing voters in different states with different fax numbers in order to avoid exceeding the memory of the machine. Further, the Department would provide easy access to information for potential voters through a toll-free telephone line.

While other peanut programs have been implemented by the government, USDA has not identified any relevant federal rules that duplicate, overlap, or conflict with this rule.

We have preformed this Initial Regulatory Flexibility Analysis regarding the impact of this proposed rule on small entities. However, in order to obtain all of the data necessary for a comprehensive analysis, we invite comments concerning the potential effects of this proposed rule. In particular, we are interested in obtaining more information on the number of small entities that may incur benefits or costs from the implementation of this proposed rule and information on the expected benefits or costs.

Paperwork Reduction Act

In accordance with the Office of Management and Budget (OMB) regulations (5 CFR 1320) which implements the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the referendum ballot, which represents the information collection and recordkeeping requirements that may be imposed by this rule, has been submitted to OMB for approval.

Title: National Research, Promotion, and Consumer Information Programs.

OMB Number: 0581–0093.

Expiration Date of Approval: November 30, 2000.

Type of Request: Revision of a currently approved information collection for research and promotion programs.

Abstract: The information collection requirements in this request are essential to carry out the intent of the Act. The burden associated with the ballot is as follows:

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.25 hours per response for each producer.

Respondents: Producers.

Estimated Number of Respondents: 25,000.

Estimated Number of Responses per Respondent: 1 every 5 years (0.2).

Estimated Total Annual Burden on Respondents: 1,250 hours.

The estimated annual cost of providing the information by an estimated 25,000 producers would be $12,500 or $0.50 per producer.

The ballot will be added to the other information collections approved for use under OMB Number 0581–0093.

Comments are invited on: (a) Whether the proposed collection of information is necessary and whether it will have practical utility; (b) the accuracy of USDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumption used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments concerning the information collection requirements contained in this action should reference OMB No. 0581–0093, the docket number, and the date and page number of this issue of the **Federal Register.** Comments should be sent to the USDA Docket Clerk and the OMB Desk Officer for Agriculture at the addresses and within the time frames specified above. All comments received will be available for public inspection during regular business hours at the same address. All responses to this notice will be summarized and included in the request for OMB approval.

OMB is required to make a decision concerning the collection of information contained in this rule between 30 and 60 days after publication. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Background

The Act authorizes the Secretary, under generic authority, to establish agricultural commodity research and promotion orders. The American Farm Bureau Federation (proponent), working in cooperation with 20 state and regional industry organizations from the peanut-producing states, has requested the establishment of a Peanut Promotion, Research, and Information Order (Order) pursuant to the Act. The proposed Order would provide for the development and financing of an effective and coordinated program of promotion, research, and information for peanuts. The program would be funded by an assessment levied on producers (to be collected by handlers) at a rate of 1 percent of the total value of all farmers stock peanuts. When peanuts are placed under loan, a deduction from the producer's loan draft equal to 1 percent of the price support value would be made and submitted to the Board by an area marketing association. Once peanuts are sold for disposition from a loan, the association would remit the balance of the assessment to the Board. In the proposed Order, peanuts are defined as the seeds of the legume *arachis hypogaea*, including both inshell and shelled peanuts other than those marketed by the producer in green form for consumption as boiled peanuts.

Assessments would be used to pay for promotion, research, and consumer information; administration, maintenance, and functioning of the Board; and expenses incurred by the Secretary in implementing and administering the Order, including referendum costs.

Section 518 of the Act requires that a referendum be conducted among eligible peanut producers to determine whether they favor the Order. In addition, section 518 of the Act provides for referenda to ascertain approval of an order to be conducted either prior to its going into effect or within three years after assessments first begin under the order. According to a proposed rule that is published separately in this issue of the **Federal Register**, the Order would become effective if it is approved by a majority of producers voting in the referendum,

which will be held before the program is implemented.

This proposed rule establishes the procedures under which producers may vote on whether they want the peanut promotion, research, and information program to be implemented. There are approximately 25,000 eligible voters.

This proposed rule would add a new subpart which would establish procedures to be used in this and future referenda. The subpart covers definitions, voting, instructions, use of subagents, ballots, the referendum report, and confidentiality of information.

All written comments received in response to this rule by the date specified will be considered prior to finalizing this action. We encourage the industry to pay particular attention to the definitions to be sure that they are appropriate for the peanut industry. We also encourage the industry to comment on whether it has considered the impact of disaster transfers on the assessment process, whether peanuts under those transfers would be considered quota or additional peanuts.

List of Subjects in 7 CFR Part 1216

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Peanut promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that Title 7, Chapter XI of the Code of Federal Regulations be amended as follows:

1. Subpart B is added to proposed Part 1216 to read as follows:

PART 1216—PEANUT PROMOTION, RESEARCH, AND INFORMATION ORDER

* * * * *

Subpart B—Procedure for the Conduct of Referenda in Connection with the Peanut Promotion, Research, and Information Order

Sec.

1216.100 General.
1216.101 Definitions.
1216.102 Voting.
1216.103 Instructions.
1216.104 Subagents.
1216.105 Ballots.
1216.106 Referendum report.
1216.107 Confidential information.

Authority: 7 U.S.C. 7401–7425.

Subpart B—Procedure for the Conduct of Referenda in Connection With the Peanut Promotion, Research, and Information Order

§ 1216.100 General.

Referenda to determine whether eligible peanut producers favor the issuance, amendment, suspension, or termination of the proposed Peanut Promotion, Research, and Information Order shall be conducted in accordance with this subpart.

§ 1216.101 Definitions.

Unless otherwise defined in this section, the definition of terms used in these procedures shall have the same meaning as the definitions in the Order.

(a) *Administrator* means the Administrator of the Agricultural Marketing Service, with power to redelegate, or any officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead.

(b) *Order* means the Peanut Promotion, Research, and Information Order.

(c) *Referendum agent* or *agent* means the individual or individuals designated by the Secretary to conduct the referendum.

(d) *Representative period* means the period designated by the Secretary.

(e) *Person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity. For the purpose of this definition, the term "partnership" includes, but is not limited to:

(1) A husband and a wife who have title to, or leasehold interest in, a peanut farm as tenants in common, joint tenants, tenants by the entirety, or, under community property laws, as community property; and

(2) So-called "joint ventures" wherein one or more parties to an agreement, informal or otherwise, contributed land and others contributed capital, labor, management, or other services, or any variation of such contributions by two or more parties.

(f) *Eligible producer* means any person who is engaged in the production and sale of peanuts in the United States and who:

(1) Owns, or shares the ownership and risk of loss of, the crop. This does not include quota holders who do not share in the risk of loss of the crop;

(2) Rents peanut production facilities and equipment resulting in the ownership of all or a portion of the peanuts produced;

(3) Owns peanut production facilities and equipment but does not manage them and, as compensation, obtains the ownership of a portion of the peanuts produced; or

(4) Is a party in a landlord-tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce peanuts who share the risk of loss and receive a share of the peanuts produced. No other acquisition of legal title to peanuts shall be deemed to result in persons becoming eligible producers.

§ 1216.102 Voting.

(a) Each person who is an eligible producer, as defined in this subpart, at the time of the referendum and during the representative period, shall be entitled to cast only one ballot in the referendum. However, each producer in a landlord-tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce peanuts, in which more than one of the parties is a producer, shall be entitled to cast one ballot in the referendum covering only such producer's share of the ownership.

(b) Proxy voting is not authorized, but an officer or employee of an eligible corporate producer, or an administrator, executor, or trustee or an eligible producing entity may cast a ballot on behalf of such producer. Any individual so voting in a referendum shall certify that such individual is an officer or employee of the eligible producer, or an administrator, executive, or trustee of an eligible producing entity and that such individual has the authority to take such action. Upon request of the referendum agent, the individual shall submit adequate evidence of such authority.

(c) All ballots are to be cast by mail or by facsimile, as instructed by the Secretary.

§ 1216.103 Instructions.

The referendum agent shall conduct the referendum, in the manner herein provided, under the supervision of the Administrator. The Administrator may prescribe additional instructions, not inconsistent with the provisions hereof, to govern the procedure to be followed by the referendum agent. Such agent shall:

(a) Determine the period during which ballots may be cast.

(b) Provide ballots and related material to be used in the referendum. The ballot shall provide for recording essential information, including that needed for ascertaining whether the person voting, or on whose behalf the vote is cast, is an eligible voter.

(c) Give reasonable public notice of the referendum:

(1) By utilizing available media or public information sources, without incurring advertising expense, to publicize the dates, places, method of voting, eligibility requirements, and other pertinent information. Such sources of publicity may include, but are not limited to, print and radio; and

(2) By such other means as the agent may deem advisable.

(d) Mail to eligible producers whose names and addresses are known to the referendum agent, the instructions on voting, a ballot, and a summary of the terms and conditions of the proposed Order. No person who claims to be eligible to vote shall be refused a ballot.

(e) At the end of the voting period, collect, open, number, and review the ballots and tabulate the results in the presence of an agent of a third party authorized to monitor the referendum process.

(f) Prepare a report on the referendum.

(g) Announce the results to the public.

§ 1216.104 Subagents.

The referendum agent may appoint any individual or individuals necessary or desirable to assist the agent in performing such agent's functions hereunder. Each individual so appointed may be authorized by the agent to perform any or all of the functions which, in the absence of such appointment, shall be performed by the agent.

§ 1216.105 Ballots.

The referendum agent and subagents shall accept all ballots cast. However, if an agent or subagent deems that a ballot should be challenged for any reason, the agent or subagent shall endorse above their signature, on the ballot, a statement to the effect that such ballot was challenged, by whom challenged, the reasons therefore, the results of any investigations made with respect thereto, and the disposition thereof. Ballots invalid under this subpart shall not be counted.

§ 1216.106 Referendum report.

Except as otherwise directed, the referendum agent shall prepare and submit to the Administrator a report on results of the referendum, the manner in which it was conducted, the extent and kind of public notice given, and other information pertinent to analysis of the referendum and its results.

§ 1216.107 Confidential information.

The ballots and other information or reports that reveal, or tend to reveal, the vote of any person covered under the Act and the voting list shall be held confidential and shall not be disclosed.

Dated: November 2, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc.98–29728 Filed 11–5–98; 8:45 am]

BILLING CODE 3410–02–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–40617; File No. S7–27–98]

RIN: 3235–AH48

Purchases of Certain Equity Securities by the Issuer and Others

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission (Commission) ("Commission") today is proposing for public comment an amendment to Rule 10b–18 (Rule) under the Securities Exchange Act of 1934 (Exchange Act). Rule 10b–18 provides a "safe harbor" from liability for manipulation under Sections 9(a)(2) and 10(b) of the Exchange Act, and Rule 10b–5 thereunder, when an issuer or affiliated purchaser of the issuer bids for or buys shares of its common stock in compliance with the Rule's conditions. In order to improve liquidity during severe market downturns, the proposal would amend the Rule's timing condition during the trading session immediately following a market-wide trading suspension. In particular, the safe harbor now would be available to an issuer that bids for or purchases its common stock either: from the reopening of trading until the close of trading on the same day as the imposition of the market-wide trading suspension; or at the next day's opening, if the market-wide trading suspension was in effect at the scheduled close of trading. The proposed safe harbor requires that the issuer continue to comply with the Rule 10b–18 conditions governing the manner, price and volume of market purchases of its common stock.

DATES: Comments should be submitted on or before December 7, 1998.

ADDRESSES: Interested persons should submit three copies of their written data, views and opinions to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7–27–98. All submissions will be made available for public inspection and copying at the Commission's Public Reference Room, Room 1024, 450 Fifth Street, NW, Washington DC 20549. Electronically submitted comment letters will be posted on the Commission's Internet web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: James A. Brigagliano, Assistant Director; Denise Landers, Attorney; and Jerome Roche, Attorney; Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, or at (202) 942–0772.

SUPPLEMENTARY INFORMATION:

I. Introduction

In response to a petition for rulemaking (Petition) [1] filed by the New York Stock Exchange, Inc. (NYSE), the Commission is proposing to amend Rule 10b–18 [2] to modify the timing condition during the trading session immediately following a market-wide trading suspension.[3] The proposal extends the safe harbor to Rule 10b–18 bids or Rule 10b–18 purchases [4] effected either: (i) from the reopening of trading until the close of trading immediately following, and on the same day as, a market-wide trading suspension; or (ii) at the next day's opening, if the market-wide trading suspension was in effect at the scheduled close of trading. At such times, an issuer or an affiliated purchaser of the issuer (affiliated

[1] The Petition was filed with the Commission on January 9, 1998 and is publicly available in File No. 4–409 in the Commission's Public Reference Room.

[2] 17 CFR 240.10b–18.

[3] The proposed amendment defines market-wide trading suspension as either: (i) A market-wide trading halt imposed pursuant to the rules of a national securities exchange or a registered national securities association in response to a market-wide decline during a single trading session; or (ii) a market-wide trading halt ordered by the Commission pursuant to section 12(k) of the Exchange Act. Proposed Rule 10b–18(e)(15). For example, the proposed alternative safe harbor would apply in the trading session following a trading halt pursuant to NYSE exchange rule 80B or Market Closing Policy of the National Association of Securities Dealers, Inc. (NASD). The Commission approved the NASD's market closing policy statement, codified in IM–4120–3. Securities Exchange Act Release No. 39846 (April 9, 1998), 63 FR 18477 (April 15, 1998) (Circuit Breaker Approval Order). The Commission notes that it has a standing request with the NASD that the NASD halt trading as quickly as practicable whenever the NYSE and other markets have suspended trading, which the NASD continues to honor. See Letter to Howard L. Kramer, Senior Associate Director, Office of Market Supervision, Division of Market Regulation, Commission, from Richard Ketchum, Chief Operating Officer and Executive Vice President, NASD, dated January 23, 1998.

[4] Rule 10b–18 bid is defined as a bid for securities that, if accepted, or a limit order to purchase securities, that if executed, would result in a Rule 10b–18 purchase. 17 CFR 240.10b–18(a)(4). A Rule 10b–18 purchase is defined as a purchase of common stock of an issuer by or for the issuer, with certain exceptions. 17 CFR 240.10b–18(a)(3).

purchaser)[5] would still also have to comply with the manner, price and volume conditions in Rule 10b–18 to satisfy the requirements of the safe harbor.

The NYSE Petition stated that it had surveyed floor brokers, upstairs traders and listed-company representatives. Those groups agreed that expanding the Rule 10b–18 safe harbor to issuer repurchases effected during the trading session following a severe market decline could offer an important source of liquidity and provide balance to selling activity. The Commission has previously noted that issuers repurchase their securities for many legitimate reasons and that those repurchases benefit shareholders and the marketplace by providing additional liquidity.[6] Based on these considerations, the Commission is publishing for public comment this proposed amendment to Rule 10b–18.

II. Rule 10b–18 Safe Harbor

Before Rule 10b–18 was adopted, issuers effecting repurchase programs were uncertain about their potential liability under the anti-manipulation provisions of the Exchange Act. Those provisions offer little practical guidance with respect to the scope of permissible issuer market activity.[7] Since 1967, the Commission has considered periodically whether, and how, to regulate an issuer's market repurchases of its securities.[8] The Commission determined that a safe harbor rule would prevent fraudulent, manipulative, and deceptive acts or practices by issuers and others without imposing unnecessarily complex and intrusive restrictions on issuer market repurchases.[9] Rule 10b–18 grants a safe harbor from liability for manipulation under Sections 9(a)(2) and 10(b), and Rule 10b–5, of the Exchange Act to an issuer in connection with bids for or purchases of its common stock that comply with the Rule's conditions. Because Rule 10b–18 is a safe harbor, compliance with the Rule's conditions is voluntary. Thus, issuer bids for or purchases of its common stock that do not comply with Rule 10b–18 are not necessarily manipulative.[10]

The Commission adopted safe harbor provisions both to ensure that the price of an issuer's repurchases would be set by independent market forces and to offer clear guidance concerning the scope of non-manipulative issuer repurchasing.[11] Rule 10b–18, therefore, sets out specific conditions that issuers must comply with while conducting stock repurchases.

- The *manner of purchase condition* requires an issuer to use a single broker or dealer on any given day to bid for or purchase its common stock.[12] The goal of this provision is to prevent an issuer from creating the appearance of widespread broker-dealer interest and trading activity in its security.
- The *timing condition* specifies that an issuer's purchase may not be the opening transaction reported to the consolidated transaction reporting system nor may purchases be made during the last half-hour before the scheduled close of trading.[13] Because they tend to forecast the direction of trading and suggest the strength of demand, purchases effected at the opening or close of trading are generally considered to be a significant indication of the current market value of the security. The Rule excludes opening bids and purchases to prevent the issuer from setting the character of the day's trading. The Rule similarly excludes bids and purchases near or at the close of trading to prevent the issuer from influencing the closing price for its security.
- The *price condition* specifies the highest price an issuer may bid or pay for its common stock.[14] Because the price condition generally limits the issuer to bidding for or buying its security at a price that is no higher than the current independent published bid or last independent transaction price, it ensures that the issuer would not lead the market for its security through its repurchases.
- The *volume condition* is designed to prevent an issuer from dominating the market for its securities through substantial purchasing activity. Generally, the issuer may effect daily purchases up to 25 percent of the trading volume in its shares.[15] Block purchases are excepted from the volume condition, although all other Rule 10b–18 conditions apply to block purchases.[16] Therefore, an issuer may purchase one or more blocks as long as its non-block purchases amount to no more than 25 percent of the security's trading volume.

III. NYSE Petition and Proposed Amendment to Rule 10b–18

The Commission recently approved a NYSE proposal to amend its rule establishing "circuit breakers."[17] Circuit breakers are coordinated market-wide trading halts that are intended to avoid systemic breakdown when a severe one-day market drop interferes with the orderly operation of the financial markets.[18] The new circuit breaker rule sets trigger values representing a one-day decline in the Dow Jones Industrial Average (DJIA) of 10%, 20%, and 30%. It also modifies the duration of the market-wide trading halt depending on when the circuit breaker is triggered.[19] Given the new trigger values, these circuit breakers would rarely be triggered, and only during significant market declines when liquidity may evaporate. In conjunction with the new circuit breaker rules, the NYSE asked the Commission to expand the Rule 10b–18 timing condition to permit issuers to bid for or purchase its security either: (1) At the reopening of trading on the same day as the trading halt, and during the half hour prior to the scheduled close of trading of such trading session; or (2) at the next day's opening, if the market-wide trading halt is in effect at the scheduled close of trading. The Petition did not propose to change the other Rule 10b–18 conditions.[20]

The NYSE acknowledged that Rule 10b–18 is neither mandatory nor the exclusive means for an issuer to make repurchases without manipulating the market price of its securities. However, it noted that in practice many issuers are reluctant to undertake repurchases without the certainty that their bids or purchases fall within the Rule 10b–18 safe harbor. The NYSE highlighted the need for liquidity in the period following a significant market decline, and suggested that issuer repurchases offer a source of liquidity that could ease the stress of volatile markets. In October 1987 and October 1997, the markets experienced severe declines. At those times, numerous issuers sought our guidance on the applicability of Rule 10b–18 in the following trading session. The events following those market breaks underscore the significant role of issuer repurchases in enhancing liquidity during extreme market downturns and the need to clearly communicate the applicability of Rule 10b–18 during such periods.[21]

When the Commission adopted Rule 10b–18, it recognized that issuers rarely buy back their securities with improper intent, but rather generally conduct repurchase programs for legitimate business reasons. The Commission also acknowledged the benefit of offering clear guidance and certainty to issuers and broker-dealers concerning permissible market activity when repurchasing their stock. The Rule 10b–18 safe harbor allows issuers and their broker-dealer agents to bid for and purchase their common stock within the Rule's conditions and thereby avoid the substantial and unpredictable risks of liability under the general anti-manipulation provisions of the Exchange Act. With an expanded safe harbor during the trading session following a market break, issuers may be encouraged to participate in reestablishing equilibrium between buying and selling interests. Under the proposal, the safe harbor would also be available in the trading session following a market-wide trading suspension declared pursuant to a Commission emergency order.[22]

The Commission weighed its concerns about potential manipulative activity by issuers against the benefits of facilitating short-term liquidity during periods of severe market turbulence. We found that the balance tips in favor of enhanced liquidity. Thus, we are publishing for public comment the amendment to Rule 10b–18 substantially as proposed by the NYSE. Rule 10b–18 would continue to state that no presumption of manipulation arises for issuer purchases of its securities made outside the Rule 10b–18 conditions.[23]

IV. Request for Public Comment

The Commission seeks comment generally on adopting the proposal. The Commission asks commenters to address whether the proposed amendment provides appropriate safe harbor conditions for issuers and affiliated purchasers in times of severe market downturns. The Commission seeks comment on whether there are any risks of manipulation that this proposal may raise. Commenters may also wish to discuss whether there are any legal or policy reasons why the Commission should consider a different approach.[24] For instance, should volume limits also be relaxed and/or should specific disclosure of issuer repurchases be required? Further, should the time of purchase condition under the proposed safe harbor be broader, narrower, or include different parameters? The Commission encourages commenters to provide information regarding the functioning of secondary markets during periods of market volatility, the roles of market participants, and the advantages and disadvantages of the proposed amendments. For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, the Commission also requests information regarding the potential impact of the proposed amendment on the economy on an annual basis. If possible, commenters should provide empirical data to support their views. Comments should be submitted by December 7, 1998.

V. Costs and Benefits of the Proposed Amendments

The Commission has identified certain costs and benefits relating to the proposals, which are discussed below, and encourages commenters to discuss any additional costs or benefits. In particular, the Commission requests comment on the potential costs for any necessary modifications to information gathering, management, and record-keeping systems or procedures, as well as any potential benefits resulting from the proposals for issuers, investors, broker-dealers, securities industry professionals, regulators or others. Commenters should provide analysis and data to support their views on the costs and benefits associated with the proposals.

A. Benefits

The Commission preliminarily believes that the proposed amendments generally would help improve the liquidity of markets for equity securities following a market-wide trading suspension. Securities sellers would benefit from improved liquidity while issuers could buy shares at relatively low prices. We preliminarily believe that the specific benefits set forth below

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[5] The safe harbor is also available for affiliates of the issuer (affiliated purchasers). References to "issuer" in this release include affiliated purchasers.

[6] Securities Exchange Act Release No. 19244 (Nov. 17, 1982), 47 FR 53333 (Nov. 26, 1982) (Adopting Release).

[7] *Id.*

[8] The Commission first proposed Rule 10b–10 to govern issuer repurchases in connection with proposed legislation that became the Williams Act Amendments of 1968. Pub. L. No. 90–439, 82 Stat. 454 (July 29, 1968), reprinted in Hearings on S. 510 before Senate Committee on Banking and Currency, 90th Cong., 1st Sess. 214–216 (1967). The Commission then published for public comment proposed Rule 13e–2 in 1970, 1973 and 1980, a proscriptive rule that would have imposed disclosure requirements, purchasing limitations and general antifraud liability. Securities Exchange Act Release Nos. 8930 (July 13, 1970), 35 FR 11410 (July 16, 1970); 10539 (Dec. 6, 1973), 38 FR 34341 (Dec. 13, 1973); and 17222 (Oct. 17, 1980), 45 FR 70890 (Oct. 27, 1980).

[9] Adopting Release, *supra* note 6, at 53334.

[10] 17 CFR 240.10b–18(c).

[11] Adopting Release, *supra* note 6, at 53334. Some conduct that meets the safe harbor requirement of Rule 10b–18 may still violate the anti-fraud provisions of the Exchange Act. For example, as the Commission noted in 1982 when adopting Rule 10b–18, "Rule 10b–18 confers no immunity from possible Rule 10b–5 liability where the issuer engages in repurchases while in possession of favorable, material nonpublic information concerning its securities." *Id.*, n. 5.

[12] 17 CFR 240.10b–18(b)(1). This manner condition applies only to Rule 10b–18 bids or Rule 10b–18 purchases solicited by or on behalf of the issuer.

[13] 17 CFR 240.10b–18(b)(2).

[14] 17 CFR 240.10b–18(b)(3). The price limitation varies on whether the security is a reported, exchange-traded, Nasdaq or other security, and whether the bid or purchase is effected on an exchange. *Id.*

[15] For nonreported securities, volume may not exceed one round lot on a single day or on such day plus the five preceding days, ½oth of the percent of outside shares. 17 CFR 240.10b–18(b)(4). Trading volume is defined generally as the average daily trading volume reported to the consolidated transaction reporting system or to the NASD for the security in the four calendar weeks preceding the week that the Rule 10b–18 purchase or bid is to be effected. 17 CFR 240.10b–18(a)(11).

[16] Block is defined as a quantity of stock that either: (i) has a purchase price of $200,000 or more; or (ii) is at least 5,000 shares and has a purchase price of at least $50,000; or (iii) is at least 20 round lots of the security and totals 150 percent or more of the trading volume for that security or, in the event that trading volume data are unavailable, is at least 20 round lots of the security and totals at least one-tenth of one percent (0.001) of the outstanding shares of the security, exclusive of any shares owned by any affiliate. Block does not include any amount a broker or dealer, acting as principal, has accumulated for the purpose of selling to the issuer or affiliated purchaser, if the issuer or affiliated purchaser knows or has reason to know that such amount was accumulated for such purpose, nor does it include any amount that a broker or dealer has sold short to the issuer, if the issuer or affiliated purchaser knows or has reason to know that the sale was a short sale. 17 CFR 240.10b–18(a)(14).

[17] *See* Circuit Breaker Approval Order *supra* note 3. (Order approving circuit breakers for rules governing market-wide trading halts on the NYSE, American Stock Exchange, Boston Stock Exchange, Chicago Stock Exchange, NASD, and Philadelphia Stock Exchange.

[18] *Id.*

[19] *Id.* NYSE Rule 80B governs the imposition of trading halts on the NYSE due to extraordinary market volatility. Rule 80B provides both the trigger values (circuit breakers) for trading halts on the NYSE, which are expressed as a decline in the DJIA from the closing value on the previous trading day, and the duration of the trading halt for each circuit breaker. The circuit breakers contained in Rule 80B have been coordinated with: (i) All other U.S. stock exchanges and the National Association of Securities Dealers with respect to trading of stocks, stock options, and stock index options; and (ii) all U.S. futures exchanges with respect to the trading of stock index futures and options on such futures, so that all such markets would cease trading when a circuit breaker is triggered by a decline in the DJIA.

[20] *See* Petition, *supra* note 1.

[21] *See*, "Bargain-Shopping Through Buybacks", *New York Times*, August 6, 1998, p. D 6.

[22] Section 12(k) of the Exchange Act gives the Commission special authority to respond to market disruptions and extreme market volatility that could result from a variety of contingencies. Section 12(k)(1)(B) authorizes the Commission summarily to suspend all trading in the markets, for up to ninety calendar days when such suspension is required by the public interest and for the protection of investors. The Commission has never invoked this provision of section 12(k).

[23] The proposed alternative safe harbor conditions would be codified in Rule 10b–18(c); and current paragraph (c) would be amended and redesignated as paragraph (d).

[24] Additionally, the Commission expects to consider broad revisions to Rule 10b–18 in the near future, covering the manner, timing, price and volume conditions in Rule 10b–18 and seeks comment on Rule 10b–18 generally.

would flow from the proposed amendments.

The Commission preliminarily believes that the proposal will facilitate trading in the issuer's securities by reducing issuer reluctance to purchase in response to sell-side order imbalances that may occur during periods of severe market declines. The proposed amendments, by extending the safe harbor, may encourage issuers to purchase their securities at a time when other market participants may be unable or unwilling to do so. We preliminarily believe that extending the safe harbor to issuers under the conditions following a market-wide trading suspension will improve the liquidity of markets in the issuer's securities. The Commission requests data and analysis on what effect the proposed changes may have on the liquidity of these markets.

The proposed safe harbor also provides clarity as to the scope of permissible market activity for issuers and the broker-dealers that assist issuers in their stock repurchases. If an issuer effects its repurchases in compliance with the conditions of Rule 10b-18, it will avoid what might otherwise be substantial and unpredictable risks of liability under the anti-manipulative provisions of the Exchange Act.

The Commission does not have data to quantify the value of the benefits described above. The Commission seeks comments on how it may quantify these benefits and any other benefits, not already identified, that may result from the adoption of these proposed amendments.

B. Costs

The Commission notes that the costs related to complying with Rule 10b-18, and the proposed amendment, are assumed voluntarily because the rule provides an optional rather than mandatory safe harbor that issuers may use for purchasing their securities.

The Rule implicitly requires an issuer seeking to avail itself of the safe harbor to collect information regarding the manner, timing, price, and volume of its purchases of the issuer's common stock, on a transaction by transaction basis, in order to verify compliance with the Rule's safe harbor conditions. We estimate that each year there are approximately 1,455 issuers effecting 1,730 share repurchase programs; or, on average, 1.2 repurchase programs per issuer, in accordance with Rule 10b-18.[25] For each such repurchase program, an issuer spends an average of approximately 8 hours collecting the requisite information, for a total burden of 13,840 burden hours. We estimate that each issuer spends $670 per repurchase program to comply with the safe harbor requirements.[26] We have no way of estimating the average number of market-wide trading halts per year or the number of issuers that would avail themselves of the safe harbor in the subsequent trading session. With regard to issuer repurchases permitted under the proposed amendment to Rule 10b-18, the Commission anticipates that the triggering of a market-wide trading suspension would occur infrequently. However, the Commission estimates that, if one market-wide trading suspension occurs each year, each issuer would incur an additional burden of 1 hour for a cost, per issuer, of approximately $83.75.[27]

The Commission seeks comments, data and analysis on the cost estimates identified in this section and comments on any cost, not already identified, on the proposed amendment.

VI. Effects on Efficiency, Competition, and Capital Formation

In adopting rules under the Exchange Act, section 23(a)(2) requires the Commission to consider the impact any rule would have on competition. Further, the law requires that the Commission not adopt any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. Section 3(f) of the Exchange Act requires the Commission, when engaged in rulemaking, and when considering the public interest, to consider whether the action would promote efficiency, competition, and capital formation.[28]

The Commission preliminarily believes that the safe harbor should improve market efficiency by providing additional purchasers, namely issuers, during a time of selling order imbalance. That effect could enhance market liquidity following a market-wide trading suspension.

The Commission's preliminary view is that the proposed amendment to the Rule 10b-18 would not have any anticompetitive effect because it would apply equally to all issuers and the safe harbor would only be triggered in extremely rare circumstances. Further, an issuer currently is able to purchase its shares outside the Rule 10b-18 safe harbor conditions without raising a presumption of manipulation.

The Commission requests comments on the effect on competition that may result to issuers under the proposed amendments to the Rule. Finally, the Commission seeks comment on what impact the proposals, if adopted, would have on efficiency and capital formation.

VII. Initial Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA)[29] regarding the proposed amendments to Rule 10b-18.

A. Reasons for the Proposed Action

On January 9, 1998, the NYSE filed a petition for rulemaking with the Commission pursuant to Rule 192 of the Commission's Rules of Practice.[30] The NYSE requested that the Commission initiate rulemaking proceedings to amend Rule 10b-18 to include in its safe harbor bids and purchases made following a market-wide trading suspension: (1) at the reopening on the day of the market-wide trading suspension; (2) during the half-hour prior to the scheduled close of trading on the day of the trading suspension; and (3) at the next day's opening if the market-wide trading suspension is in effect at the scheduled close of trading. The proposed conditions adjust the Rule's time of purchase condition but also provide that the issuer must continue to comply with the other Rule 10b-18 conditions governing the manner, price and volume of market purchases of its common stock.

B. Objectives

The proposed amendments will allow issuers who otherwise comply with the current Rule 10b-18 safe harbor conditions governing manner, price and volume to use the proposed timing condition during the trading session following an emergency market-wide trading suspension. The events following the market breaks in October 1987 and October 1997 have underscored the significant role of issuer repurchases during market downturns and the need for clarity as to the applicability of Rule 10b-18 in periods of extreme market downturns. On those occasions, issuer repurchases provided an important source of liquidity that helped ease market stress. The proposal, by modifying the safe harbor's timing condition during the trading session following a market break, may improve liquidity and facilitate market participants' ability to reestablish equilibrium between buying and selling interests.

C. Legal Basis

The amendments to Rule 10b-18 are proposed pursuant to the authority set forth in Sections 9(a)(2) and 10(b) of the Securities Exchange Act of 1934.[31]

D. Small Entities Subject to the Rule

The proposed amendments may affect those small entity issuers and affiliated purchasers that wish to avail themselves of the safe harbor provisions with the conditions following a market-wide trading suspension. Based on Exchange Act Rule 0–10(a), a small issuer is one that on the last day of its most recent fiscal year had total assets of $5,000,000 or less. The Commission estimates that approximately 1,450 issuers will avail themselves of the safe harbor each year, of which about 10 may be considered small entities. The Commission seeks comment on the number of issuers engaged in market repurchases of its stock and the number of such issuers that are small entities.

E. Reporting, Recordkeeping and Other Compliance Requirements

The proposed amendments would not impose any new reporting, recordkeeping, or other compliance requirements.

F. Duplicative, Overlapping or Conflicting Federal Rules

The Commission believes that there are no rules that duplicate, overlap, or conflict with, the proposed amendments.

G. Significant Alternatives

The Regulatory Flexibility Act directs the Commission to consider significant alternatives that would accomplish the stated objective, while minimizing any significant adverse impact on small issuers and broker-dealers. In connection with the proposed rule, the Commission considered the following alternatives: (a) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (b) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for small entities; (c) the use of performance rather than design standards; and (d) an exemption from coverage of the rule, or any part thereof, for small entities.

With respect to the proposed amendments, the Commission believes that the establishment of different requirements for small entities is neither necessary nor practicable, because the proposal provides voluntary safe harbor from liability for manipulation under the Exchange Act. The proposed rule should not adversely affect small entities because it does not impose any new reporting, recordkeeping or compliance requirements. Therefore, it is not feasible to further clarify, consolidate or simplify the rule for small entities.

H. Solicitation of Comments

The Commission encourages the submission of comments with respect to any aspect of this IRFA. The Commission specifically requests comments on the number of issuers conducting repurchase programs and the number of such issuers that are small entities. Such comments will be considered in the preparation of the Final Regulatory Flexibility Analysis, if the proposed amendments are adopted, and will be placed in the same public file as comments on the proposed amendments themselves. Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Stop 6–9, Washington, D.C. 20549. Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7–27–98; this file number should be included on the subject line if E-mail is used. Comment letters will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Electronically submitted letters also will be posted on the Commission's Internet web site (http://www.sec.gov).

VIII. Paperwork Reduction Act

Certain provisions of the proposed amendments contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 (PRA);[32] the Commission has submitted them to the Office of Management and Budget for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The title for the collection of information is: "Purchases of certain equity securities by the issuer and others." This collection of information has previously been assigned OMB Control No. 3235–0474.

Rule 10b–18 provides that an issuer or any affiliated purchaser of an issuer will not incur liability under Sections 9(a)(2) and 10(b) of the Exchange Act, or Rule 10b–5 under the Exchange Act if its purchases of the issuer's common stock are made in compliance with the manner, timing, price, and volume limitations of the rule. The proposed amendments to the Rule provide conditions to the safe harbor applicable during the trading session following a market-wide trading suspension. An agency may not sponsor, conduct, or require response to an information collection unless a currently valid OMB control number is displayed.

The Rule implicitly requires an issuer or an affiliated purchaser seeking to avail itself of the safe harbor to collect information regarding the manner, time, price and volume of its purchases of the issuer's common stock, on a transaction by transaction basis, in order to verify compliance with the rule's safe harbor conditions. The Commission estimates that each year there are approximately 1,455 issuers effecting 1,730 share repurchase programs, or on average 1.2 repurchase programs per issuer per year, in accordance with Rule 10b–18 safe harbor. For each such repurchase program, an issuer spends an average of approximately 8 hours collecting the requisite information, for a total burden of 13,840 burden hours.[33] With regard to issuer repurchases permitted under the proposed amendment to Rule 10b–18, the Commission anticipates that the triggering of a market-wide trading suspension would occur infrequently. However, for purposes of the PRA, if we assume that, at most, one market-wide trading suspension occurs each year, each issuer would incur an additional burden of 1 hour for a cost per issuer of approximately $83.75.[34] If 1,455 issuers engage in repurchases following a market-wide trading halt and comply with the safe harbor, then collectively these issuers would incur an additional 1,455 burden hours.

The issuer's decision to effect purchases of its common stock within the safe harbor is voluntary. All records required to be preserved are considered confidential and are not available to the

[25] The Commission estimates that 1,225 issuers effect single repurchase programs while 230 issuers effect multiple repurchase programs.

[26] The estimated average cost of $670 to comply with the requirements of the safe harbor is composed of $96 for collection of information by an issuer (4 hours at $24 per hour), $400 for review of the information (4 hours at $100 per hour), and $174 for printing, supplies, and copying (approximately 35% of the total labor costs). The Commission estimates overhead based on 35% of total labor costs based on the *GSA Guide to Estimating Reporting Costs* (1973).

[27] The estimated total average burden per issuer is 8 burden hours per repurchase program. The estimated additional cost of $83.75 per issuer is calculated from each issuer effecting an average of 1 repurchase program per year at a cost of $670 per repurchase program divided by 8 hours.

[28] 15 U.S.C. 78c(f).

[29] 5 U.S.C. § 603.

[30] *See* Petition, *supra* note 1.

[31] 15 U.S.C. §§ 78i(a)(2), 78j(b).

[32] 44 U.S.C. § 3501 *et seq.*

[33] This represents 1,730 repurchase programs requiring 8 burden hours for compliance.

[34] This number was dervied by dividing the estimated average cost of $670 per issuer per repurchase program to comply with the safe harbor requirements by 8 hours. *See, supra* note 26.

public. All records required under the proposed amendments to Rule 10b–18 would be preserved for not less than 3 years, the first 2 years in an easily accessible place.

Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments to:

(i) Evaluate whether the proposed information collection is necessary for the proper performance of the agency's functions, including whether the information shall have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collections of information;

(iii) Enhance the quality, utility, and clarity of the information to be collected;

(iv) Minimize the burden of the collections of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Persons desiring to submit comments on the collection of information requirements should direct them to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, D.C. 20503, and should also send a copy of their comments to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Stop 6–9, Washington, D.C. 20549 with reference to File No. S7–27–98. OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication, so a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

IX. Statutory Basis and Text of Proposed Amendment

The rule amendment is being proposed pursuant to Sections 2, 3, 9(a)(6), 10(b), 13(e), 15(c) and 23(a), 15 U.S.C. 78b, 78c, 78i(a)(6), 78j(b), 78m(e), 78o(c) and 78w(a).

List of Subjects in 17 CFR Part 240

Broker-dealers, Issuers, Securities.

For the reasons set forth in the preamble, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation to Part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*(d), 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. Section 240.10b–18 is amended by adding paragraphs (a)(15) and (d) and revising paragraph (c) to read as follows:

§ 240.10b–18 Purchases of certain equity securities by the issuer and others.

(a) *Definitions.* * * *

(15) The term *market-wide trading suspension* means either:

(i) A market-wide trading halt imposed pursuant to the rules of a national securities exchange or a registered national securities association, in response to a market-wide decline during a single trading session; or

(ii) A market-wide trading suspension ordered by the Commission pursuant to Section 12(k) of the Act, 15 U.S.C. 78*l*(k).

* * * * *

(c) *Conditions following a market-wide trading suspension.*

(1) The conditions of paragraph (b) of this section shall apply in connection with a Rule 10b–18 bid or a Rule 10b–18 purchase effected during a trading session following the termination of a market-wide trading suspension, except that the time of purchase condition in paragraph (b)(2) of this section shall not apply, either:

(i) From the reopening of trading until the scheduled close of trading; or

(ii) At the opening of trading on the next trading day, if a market-wide trading suspension is in effect at the scheduled close of a trading session.

(d) No presumption shall arise that an issuer or affiliated purchaser of an issuer has violated the anti-manipulation provisions of sections 9(a)(2) or 10(b) of the Act, 15 U.S.C. 78i(a)(2) or 78j(b), or § 240.10b–5, if the Rule 10b–18 bids or Rule 10b–18 purchases of such issuer or affiliated purchaser do not meet the conditions specified in paragraph (b) or (c) of this section.

* * * * *

By the Commission.

Dated: October 29, 1998.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–29510 Filed 11–5–98; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 4, 153, 157, and 375

[Docket No. RM98–16–000]

Collaborative Procedures for Energy Facilities Applications; Notice of Technical Conferences

October 30, 1998.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Technical Conferences.

SUMMARY: The Federal Energy Regulatory Commission (Commission) intends to hold staff technical conferences to discuss the proposed pre-filing collaborative process.

DATES: Conference will be held at 9:00 a.m. on November 10, 1998, in Houston, Texas and at 9:00 a.m. on November 18, 1998, in Chicago, Illinois.

ADDRESSES: Conference locations are as follows:

Houston Airport Marriott, 18700 Kennedy Boulevard, Houston, Texas

Chicago Marriott Downtown, 540 North Michigan Avenue, Chicago, Illinois

FOR FURTHER INFORMATION CONTACT:

Thomas Russo, Office of Pipeline Regulation, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 219–2792

Berne Mosley, Office of Pipeline Regulation, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 208–2256

Gordon Wagner, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 219–0122

Merrill Hathaway, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 208–0825

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, N.E., Room 2A, Washhington, D.C. 20426.

The Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the Commission. CIPS can be accessed via Internet through FERC's Homepage (http://www.ferc.fed.us) using the CIPS Link or the Energy Information Online icon. The full text of this document will be available on CIPS in ASCII and WordPerfect 6.1 format. CIPS is also available through the Commission's electronic bulletin board service at no charge to the user and may be accessed using a personal computer with a modem by dialing 202–208–1397, if dialing locally, or 1–800–856–3920, if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. User assistance is available at 202–208–2474 or by E-mail to CipsMaster@FERC.fed.us.

This document is also available through the Commission's Records and Information Management System (RIMS), an electronic storage and retrieval system of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed. RIMS is available in the Public Reference Room or remotely via Internet through FERC's Homepage using the RIMS link or the Energy Information Online icon. User assistance is available at 202–208–2222, or by E-mail to RimsMaster@FERC.fed.us.

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, RVJ International, Inc. RVJ International, Inc., is located in the Public Reference Room at 888 First Street, N.E., Washington, D.C. 20426.

The Federal Energy Regulatory Commission (Commission) is proposing to expand its procedural regulations governing the authorization of natural gas facilities and services, and is considering revising its procedural regulations governing applications for licenses for hydroelectric projects.[1] The proposed regulations are intended to offer prospective applicants seeking to construct, operate or abandon natural gas facilities or services the option, in appropriate circumstances and prior to filing an application, of using a collaborative process to resolve significant issues. In addition, a significant portion of the environmental review process could be completed as part of the pre-filing collaborative process. This pre-filing collaborative process is comparable to the process the Commission recently adopted with respect to applications for hydroelectric licenses, amendments and exemptions and, like those regulations, is optional and is designed to be adaptable to the facts and circumstances of the particular case. The proposed regulations would not delete or replace any existing regulations. Finally, the Commission is considering whether the existing collaborative process for hydroelectric license and exemption applications, as well as the proposed collaborative process for natural gas facilities and services, should be made mandatory.

Staff technical conferences will be held to provide an overview of the proposed pre-filing collaborative process and to respond to questions. Conferences will be held at 9:00 a.m. on November 10, 1998, at the Houston Airport Marriott, 18700 Kennedy Boulevard, Houston, Texas, and on November 18, 1998, at the Chicago Marriott Downtown, 540 North Michigan Avenue, Chicago, Illinois. These conferences are designed as workshops in which Commission staff will present information and respond to questions concerning the proposed collaborative process as an aid to assist participants in developing comments in response to and as requested in the September 30, 1998 Notice of Proposed Rulemaking. Accordingly, there will be no transcript and statements made in the context of the workshops will not become part of the record in this proceeding. All parties—particularly those with experience with collaborative processes, whether at this agency or in another context—are invited to attend.

David P. Boergers,

Secretary.

[FR Doc. 98–29590 Filed 11–5–98; 8:45 am]

BILLING CODE 6717–01–M

[1] *See* 84 FERC ¶ 61,346 (September 30, 1998).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 880

[Docket No. 98N–0786]

General Hospital and Personal Use Devices: Proposed Classification of Liquid Chemical Sterilants and General Purpose Disinfectants

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to classify both liquid chemical sterilants intended for use as the terminal step in processing critical and semicritical medical devices prior to patient use, and general purpose disinfectants intended to process noncritical medical devices and equipment surfaces. Under the proposal, liquid chemical sterilants would be classified into class II (special controls) and general purpose disinfectants would be classified into class I (general controls). FDA also proposes to exempt general purpose disinfectants from the premarket notification requirements. The agency is publishing in this document the recommendations of the General Hospital and Personal Use Devices Panel (the Panel) regarding the classification of these devices. After considering public comments on the proposed classification, FDA will publish a final regulation classifying these devices. This action is being taken to establish sufficient regulatory controls that will provide reasonable assurance of the safety and effectiveness of these devices.

DATES: Written comments by February 4, 1999.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Chiu S. Lin, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8913.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 *et seq.*), as amended by the Medical Devices Amendments of 1976 (the 1976 amendments) (Pub. L. 94–295), the Safe Medical Devices Act of 1990 (the SMDA) (Pub. L. 101–629), and the Food and Drug Administration Modernization Act of 1997 (the FDAMA) (Pub. L. 105–115), established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the act (21 U.S.C. 360c) established three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513 of the act, devices that were in commercial distribution before May 28, 1976 (the date of enactment of the 1976 amendments), generally referred to as preamendments devices, are classified after FDA has: (1)

Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976, generally referred to as postamendments devices, are classified automatically by statute (section 513(f) of the act) into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval, unless and until: (1) The device is reclassified into class I or II; (2) FDA issues an order classifying the device into class I or II in accordance with new section 513(f)(2) of the act, as amended by the FDAMA; or (3) FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(I) of the act, to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to previously offered devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807) of the regulations.

A preamendments device that has been classified into class III may be marketed, by means of premarket notification procedures, without submission of a premarket approval application (PMA) until FDA issues a final regulation under section 515(b) of the act (21 U.S.C. 360e(b)) requiring premarket approval. Consistent with the act and the regulations, FDA consulted the Panel, regarding the classification of the device.

The FDAMA added a new section 510(l) to the act (21 U.S.C. 360(l)). New section 510(l) of the act provides that a class I device is exempt from the premarket notification requirements under section 510(k) of the act, unless the device is intended for a use which is of substantial importance in preventing impairment of human health or it presents a potential unreasonable risk of illness or injury. Hereafter, these are referred to as "reserved criteria." FDA has considered the general purpose disinfectants in accordance with the reserved criteria and determine that the devices do not require premarket notification. Such an exemption permits manufacturers to introduce into commercial distribution generic types of devices without first submitting a premarket notification to FDA.

In 1980, when other general hospital and personal use devices were classified (45 FR 69678 to 69737, October 21, 1980), FDA inadvertently omitted liquid chemical germicides, such as liquid chemical sterilants and general purpose disinfectants from the classification process. In subsequent years, FDA actively regulated only liquid chemical germicides that were used as accessories to specific class II devices, such as hemodialyzers. FDA began actively regulating all liquid chemical germicides in the early 1990's following efficacy testing by FDA for the Environmental Protection Agency (EPA) and publication of the 1993 General Accounting Office (GAO) report on Hospital Sterilants (Ref. 1). Liquid chemical germicides were regulated as accessories to other devices with the level of regulation applicable coinciding with the classification of the other devices. FDA also determined that two categories of liquid chemical germicides existed, liquid chemical sterilants and general purpose disinfectants.

The first category consists of liquid chemical sterilants which are intended for use as the terminal step in processing critical and semicritical medical devices prior to patient use. Semicritical medical devices contact mucous membranes or nonintact skin during use, while critical devices contact normally sterile tissue or body spaces.

The second category of liquid chemical germicides consists of general purpose disinfectants which are intended to process noncritical medical devices and medical equipment surfaces, and can be used to preclean or decontaminate critical or semicritical medical devices prior to terminal sterilization or high level disinfection. Noncritical medical devices only make topical contact with intact skin of the body.

In addition to being regulated by FDA, certain liquid chemical germicides are regulated by EPA as pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). On June 4, 1993, a memorandum of understanding (MOU) was signed between FDA and EPA (Refs. 3 and 4). The purpose of the MOU was to resolve the confusion and burden of dual regulation and, at the same time, ensure that the safety and efficacy requirements of both statutes are met.

In 1996, liquid chemical sterilants used for processing critical and semicritical medical devices were exempted from the definition of a pesticide under FIFRA with passage of the Food Quality Protection Act of 1996 (FQPA) and are no longer regulated by EPA. FDA now has sole regulatory jurisdiction over liquid chemical sterilants and high level disinfectants used to process reusable critical and semicritical medical devices. Regulatory authority over general purpose disinfectants was not affected by FQPA. Therefore, the MOU remains in effect for general purpose disinfectants, and the dual regulatory requirements for these germicides continue until the rulemaking process for classification of the germicides is completed.

II. Recommendations of the Panel

During a public meeting which was held on July 18, 1995, the Panel made the following recommendations regarding the classification of liquid chemical sterilants and general purpose disinfectants.

A. Identification

The Panel recommended that the devices be identified as follows:

A liquid chemical sterilant is a germicide intended for use as the terminal step in processing critical and semicritical medical devices prior to patient use. Semicritical devices make contact with mucous membranes or nonintact skin during use. Critical devices contact normally sterile tissue or body spaces during use (Refs. 5 and 6).

A general purpose disinfectant is a germicide intended to process noncritical medical devices and medical equipment surfaces. A general purpose disinfectant can be used to preclean or decontaminate critical or semicritical medical devices prior to terminal sterilization or high level disinfection. Noncritical medical devices only make topical contact with intact skin of the body (Refs. 5 and 6).

B. Recommended Classification of the Panel

The Panel unanimously recommended that liquid chemical sterilants be classified into class II. The Panel believed that class II with the special controls (the 510(k) guidance document (Ref. 2), voluntary standards, and user information and training) would provide reasonable assurance of the safety and effectiveness of the devices.

The Panel recommended that general purpose disinfectants be classified into class I and that the devices should be exempt from the premarket notification procedures.

C. Summary of Reasons for Recommendation

After reviewing the information provided by FDA, and after consideration of the open discussions during the Panel meeting and the Panel members' personal knowledge of and clinical experience with the device systems, the Panel gave the following reasons in support of its recommendations to classify the generic type of liquid chemical sterilants for use as the terminal step in processing critical and semicritical medical devices prior to patient use into class II, and general purpose disinfectants for use in processing noncritical medical devices and medical equipment surfaces into class I:

1. The Panel believes that liquid chemical sterilants should be classified into class II because special controls, in addition to general controls, would be necessary to provide reasonable assurance of the safety and effectiveness of the devices, and there is sufficient information to establish special controls to provide such assurance.

2. The Panel believes that general purpose disinfectants should be classified into class I because general controls would provide reasonable assurance of the safety and effectiveness of the devices. In addition to the Panel's recommendation, FDA has considered general purpose disinfectants in accordance with the reserved criteria of new section 510(l) of the act and determined that the general purpose disinfectants do not require premarket notification.

D. Summary of Data Upon Which the Recommendation is Based

The Panel noted that liquid chemical sterilants include peracetic acid, hydrogen peroxide, chlorine dioxide, and glutaraldehyde. These substances are used to sterilize or high level disinfect heat sensitive medical devices such as flexible endoscopes. Toxicity studies have shown hydrogen peroxide and peracetic acid to be nontoxic, nonsensitizing and, at most, minimally irritating. In addition, these chemicals, as well as chlorine dioxide, are used at low concentrations and readily degrade to nontoxic compounds, such as water and molecular oxygen (Refs. 7, 8, and 9).

Toxicity studies have shown glutaraldehyde to be a skin, eye, and respiratory system irritant and a skin sensitizer. Since glutaraldehyde does not readily degrade, long-term effects of its residue as a skin or eye irritant are of concern (Refs. 10 and 11). Although some injuries and deaths have been reported following the use of these chemicals as sterilants and disinfectants, they have been primarily associated with failure of the user to follow the manufacturer's directions for use (Ref. 12).

The Panel noted that general purpose disinfectants include alcohols, chlorines, iodophors, phenolics, and quaternary ammonium compounds. The hazards and adverse effects of these substances are well known (Ref. 8). Toxicity is minimal because these substances are used at low concentrations on equipment surfaces and noncritical devices that only contact intact skin during use.

The use of liquid chemical sterilants and general purpose disinfectants on medical devices is based on the infection control classification system devised by E. H. Spaulding (Refs. 13 and 14), and adopted by infection control practitioners, FDA, and the Centers for Disease Control and Prevention. Spaulding's system is predicated on the relative risks associated with the use of medical devices. According to Spaulding's system, devices that contact normally sterile tissues or body spaces during use are termed critical devices. Critical devices should be sterilized prior to use.

Devices that contact mucous membranes, which can provide a barrier to many, but not all microorganisms, are termed semicritical devices. Semicritical devices should be sterilized prior to use when practical, or should undergo high level disinfection (a high level disinfectant is a sterilant used for a shorter contact time and that kills all microbial pathogens except large numbers of bacterial endospores). General purpose disinfectants can be used to clean or decontaminate critical and semicritical devices prior to a terminal sterilization or high level disinfection process.

E. Risks to Health

The following three risks are associated with the use of germicides such as liquid chemical sterilants and general purpose disinfectants: (1) Nosocomial infection, (2) toxicity associated with chemical exposure, and (3) damage to medical devices.

The formulation of a germicide plays an important role in the effectiveness of the germicide on the device. If the formulation is inadequate for its intended use or if the germicide is improperly used, the sterilization or disinfection process will be ineffective. As a result, the processed device may serve as a potential vector for the transmission of infectious microorganisms to the next patient.

In the **Federal Register** of December 6, 1996 (61 FR 64755), FDA announced the availability of a draft guidance document entitled "Draft Guidance on the Content and Format of Premarket Notification (510(k)) Submissions for Liquid Chemical Germicides" (Ref. 2). In the **Federal Register** of May 22, 1997 (62 FR 28055), FDA extended the period to comment on the draft guidance until August 20, 1997.

The guidance document suggests that manufacturers of these devices are to submit, for review and evaluation, microbiological studies supporting all germicidal claims, and adequate instructions for use. EPA registration for general purpose disinfectants requires similar information.

With regard to chemical exposure, health-care workers who process medical devices with either liquid chemical sterilants or general purpose disinfectants are potentially exposed to toxic substances during use of the germicides. In addition, the patient may be exposed to germicide residues if the device is inadequately rinsed.

Labeling recommendations in the guidance document include warnings and precautions regarding the proper use and handling of liquid chemical sterilants and other toxic substances. Additionally, the guidance document recommends a toxicological assessment of germicide residues remaining following rinsing. EPA registration of general purpose disinfectants requires similar information.

Lastly, both liquid chemical sterilants and general purpose disinfectants may damage medical devices causing them to function improperly or create areas that cannot be effectively cleaned, disinfected or sterilized. The guidance document recommends that data demonstrating device materials compatibility with the liquid chemical germicides be included in the 510(k).

F. Special Controls

Based on the available information, FDA believes that, in addition to general controls, the special controls discussed as follows are adequate to address the risks to health which were identified previously.

1. The 510(k) guidance document;
2. Voluntary standards; and
3. User information and training.

The guidance document provides 510(k) applicants with specific directions regarding data and information that should be submitted to FDA in a 510(k) submission for liquid chemical germicides. The document incorporates voluntary standards and guidelines from professional organizations as part of its recommendation for performance testing. Compliance with the recommendations made in the document for liquid chemical sterilants is important in preventing nosocomial infections.

Voluntary standards provide assurance of consistency and uniformity in germicide effectiveness.

User information and training programs are critical to ensure that users have full knowledge and assume responsibility for the safe and effective use of the liquid chemical sterilants.

Adherence to these special controls can provide the user community a greater assurance of effectiveness and appropriate use in order to minimize nosocomial infection through improperly sterilized or disinfected reusable medical devices.

III. Proposed Classification

FDA believes that liquid chemical sterilants should be classified into class II because special controls, in addition to general controls, would provide reasonable assurance of the safety and effectiveness of the devices, and there is sufficient information to establish special controls to provide such assurance.

FDA believes that general purpose disinfectants should be classified into class I because general controls under the act and the EPA registration requirements would provide reasonable assurance of safety and effectiveness of these products. FDA also believes that these devices do not meet the reserved criteria of new section 510(l) of the act and should be exempt from premarket notification requirements.

IV. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. U.S. General Accounting Office, Report to the Ranking Minority Member Committee on Government Operations, House of Representatives, Hospital Sterilants: Insufficient FDA Regulation May Pose a Public Health Risk, GAO/HRD–93–79, June 1993.

2. FDA, Center for Devices and Radiological Health, Office of Device Evaluation, "Draft Guidance on the Content and Format of Premarket Notification (510(k)) Submissions for Liquid Chemical Germicides," January 1992; revised April 26, 1995.

3. Memorandum of Understanding Between the Food and Drug Administration, Public Health Service, Department of Health and Human Services and the Environmental Protection Agency, Notice Regarding Matters of Mutual Responsibility—Regulation of Liquid Chemical Germicides Intended for Use on Medical Devices, June 4, 1993.

4. Amendment to the June 4, 1993, Memorandum of Understanding Between the Food and Drug Administration, Public Health Service, Department of Health and Human Services and the Environmental Protection Agency, June 30, 1994.

5. General Hospital and Personal Use Devices Panel, Thirtieth Meeting, Transcript, July 18, 1995.

6. General Hospital and Personal Use Devices Panel, Thirtieth Meeting, Summary of Minutes, July 18, 1995.

7. Malchesky, P. S., "Peracetic Acid and Its Application to Medical Instrument Sterilization," *Artificial Organs*, vol. 17, no. 3, pp. 147–152, 1993.

8. Block, S. S., "Peroxygen Compounds," *Disinfection, Sterilization, and Preservation*, pp. 167–181, Philadelphia, 1991.

9. Dychdala, G. R., "Chlorine and Chlorine Compounds," *Disinfection, Sterilization, and Preservation*, pp. 131–151, Philadelphia, 1991.

10. Scott, E. M., and S. P. Gorman, "Glutaraldehyde," in *Disinfection, Sterilization, and Preservation*, pp. 596–614, Philadelphia, 1991.

11. Australian Government Publishing Service, "Priority Existing Chemical No.3, Glutaraldehyde," pp. 53–62, Canberra, July 1994.

12. Spach, D. H., F. E. Silverstein, and W. E. Stamm, "Transmission of Infection by Gastrointestinal Endoscopy and Bronchoscopy," *Annals of Internal Medicine*, vol. 118, no. 2, pp. 117–128, 1993.

13. Spaulding, E. H., "Role of Chemical Disinfection in the Prevention of Nosocomial Infections," Proceedings of International Conference on Nosocomial Infections, pp. 247–254, Chicago, 1970.

14. Spaulding, E. H., "Chemical Disinfection and Antisepsis in the Hospital," *Journal of Hospital Research*, vol. 9, pp. 5–31, 1972.

V. Environmental Impact

The agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Pub. L. 104–121), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4)). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the proposed rule classifying these devices eliminates duplicative registration, and may enable additional small competitors to enter the marketplace by eliminating the cost of complying with two sets of requirements, it will impose no significant economic impact on any small entities. The agency therefore certifies that this proposed rule, if issued, will not have a significant economic impact on a substantial number of small entities. In addition, this proposed rule will not impose costs of $100 million or more on either the private sector or State, local, and tribal governments in the aggregate, and therefore a summary statement or analysis under section 202(a) of the Unfunded Mandates Reform Act of 1995 is not required.

VII. Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VIII. Submission of Comments and Proposed Dates

Interested persons may, on or before February 4, 1999, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

FDA proposes that any final regulation that may issue based on this proposal become effective 30 days after its date of publication in the **Federal Register**.

List of Subjects in 21 CFR Part 880

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 880 be amended to read as follows:

PART 880—GENERAL HOSPITAL AND PERSONAL USE DEVICES

1. The authority citation for 21 CFR part 880 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Sections 880.6885 and 880.6890 are added to subpart G to read as follows:

§ 880.6885 Liquid chemical sterilants.

(a) *Identification.* A liquid chemical sterilant is a germicide that is intended for use as the terminal step in processing critical and semicritical medical devices prior to patient use. Critical devices make contact with normally sterile tissue or body spaces during use. Semicritical devices make contact with mucous membranes or nonintact skin during use.

(b) *Classification.* Class II (special controls). (Guidance on the Content and Format of Premarket Notification (510(k)) Submissions for Liquid Chemical Germicides, voluntary standards, and user information and training.)

§ 880.6890 General purpose disinfectants.

(a) *Identification.* A general purpose disinfectant is a germicide intended to process noncritical medical devices and equipment surfaces. A general purpose disinfectant can be used to preclean or decontaminate critical or semicritical medical devices prior to terminal sterilization or high level disinfection. Noncritical medical devices make only topical contact with intact skin of the body.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 880.9.

Dated: October 2, 1998.

D.B. Burlington,

Director, Center for Devices and Radiological Health.

[FR Doc. 98–29566 Filed 11–5–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4, 19, 24, 194, 250 and 251

[Notice No. 869; Ref: Notice No. 859]

RIN 1512–AB71

Implementation of Public Law 105–34, Sections 908, 910 and 1415, Related to Hard Cider, Semi-generic Wine Designations, and Wholesale Liquor Dealers' Signs (97–2523)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Notice of proposed rulemaking; reopening of comment period.

SUMMARY: This notice reopens the comment period for Notice No. 859, a notice of proposed rulemaking, published in the **Federal Register** on August 21, 1998. ATF has received requests to extend the comment period in order to provide sufficient time for all interested parties to respond to the issues raised in the notice.

DATES: Written comments must be received on or before December 7, 1998.

ADDRESSES: Send written comments to: Chief, Regulations Division; Bureau of Alcohol, Tobacco and Firearms; P.O. Box 50221; Washington, DC 20091–0221; *ATTN: Notice No. 859.* See the Public Participation section of this notice for alternative means of commenting.

FOR FURTHER INFORMATION CONTACT: Marjorie D. Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202–927–8230), mdruhf@atfhq.atf.treas.gov.

SUPPLEMENTARY INFORMATION:

Background

On August 21, 1998, ATF published a temporary rule and an associated notice of proposed rulemaking in the **Federal Register** soliciting comments from the public and industry on three sections of the Taxpayer Relief Act of 1997, (Treasury Decision ATF–398, 63 FR 44779, and Notice No. 859, 63 FR 44819).

The comment period for Notice No. 859 closed on October 20, 1998. Prior to the close of the comment period ATF received requests from Ms. Cheryl A. Lau, a cider industry representative, Mr. Kirk Seggie, Winery Manager of Andrés Wines (B.C.) Ltd., Mr. Kenton E. Kidd, of the California Apple Commission, and Mr. Thomas E. Dalldorf, Sr., Publisher of *Celebrator Beer News*, to extend the comment period for a short time. All these writers stated that potential commenters in the apple industry were in the middle of the apple harvest and would not be able to take time to provide the sort of historical and technical information requested in the notice. They suggested an extension until late November to afford these interested persons an opportunity to comment. In consideration of the above, ATF finds that a reopening of the comment period is warranted.

Public Participation

ATF requests comments on the temporary regulations published in Treasury decision ATF–398 (63 FR 44779) from all interested persons. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practicable to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

Comments may be submitted by facsimile transmission (FAX) to (202) 927–8602, provided the comments: (1) Are legible, (2) are 8½″×11″ in size, (3) contain a written signature, and (4) are three pages or less in length. This limitation is necessary to assure reasonable access to the equipment. Comments sent by FAX in excess of three pages will not be accepted. Facsimile transmitted comments will be treated as originals.

Comments may also be sent by electronic mail (e-mail) to nprm@atfhq.atf.treas.gov, provided (1) the message is entitled "Comment on Notice No. 859; (2) the name and company affiliation, if any, of the commenter is contained in the body of the message; and (3) the message contains no attachments, special characters or encryption. E-mail comments will be printed and filed with comments submitted on paper and by facsimile transmission.

Receipt of comments will not be acknowledged. ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting the comment is not exempt from disclosure. During the comment period, any person may request an opportunity to present oral testimony at a public hearing. However, the Director reserves the right, in light

of all circumstances, to determine if a public hearing is necessary.

Disclosure

Copies of this notice, Notice No. 859, and the written comments will be available for public inspection during normal business hours at: ATF Public Reading Room, Room 6480, 650 Massachusetts Avenue, NW, Washington, DC.

Drafting Information

The author of this document is Marjorie D. Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, Wine.

27 CFR Part 19

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Chemicals, Claims, Customs duties and inspections, Electronic funds transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Spices and flavorings, Stills, Surety bonds, Transportation, Vinegar, Virgin Islands, Warehouses, Wine.

27 CFR Part 24

Administrative practice and procedure, Authority delegations, Claims, Electronic fund transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavoring, Surety bonds, Taxpaid wine bottling house, Transportation, Vinegar, Warehouses, Wine.

27 CFR Part 194

Alcohol and alcoholic beverages, Authority delegations, Beer, Claims, Excise taxes, Exports, Labeling, Liquors, Packaging and containers, Penalties, Reporting requirements, Wine.

27 CFR Part 250

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Beer, Claims, Customs duties and inspections, Drugs, Electronic funds transfers, Excise taxes, Foods, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Spices and flavorings, Surety bonds, Transportation, Wine.

27 CFR Part 251

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Beer, Customs duties and inspections, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Perfume, Reporting and recordkeeping requirements, Transportation, Wine.

Authority and Issuance

This notice is issued under the authority in 26 U.S.C. 5301, 7805, and 27 U.S.C. 205.

Signed: October 29, 1998.

John W. Magaw,

Director.

[FR Doc. 98–29746 Filed 11–5–98; 8:45 am]

BILLING CODE 4810–31–U

DEPARTMENT OF EDUCATION

34 CFR Ch. VI

Office of Postsecondary Education, Student Assistance

AGENCY: Department of Education.

ACTION: Request for advice and recommendations on regulatory issues under Title IV of the Higher Education Amendments of 1998, "Student Assistance."

SUMMARY: The Secretary of Education (Secretary) solicits advice and recommendations from the public prior to publishing proposed regulations to implement student assistance programs under Title IV of the Higher Education Act of 1965, as recently amended by the Higher Education Amendments of 1998.

DATES: We request that you send written comments by December 15, 1998. You may also submit comments at regional hearings to be held on December 4–12, 1998. (See dates, times and locations of regional hearings under the **SUPPLEMENTARY INFORMATION** section of this notice.)

ADDRESSES: Please send your comments to Brian Kerrigan, U.S. Department of Education, 400 Maryland Avenue, SW, ROB-3, Washington D.C. 20202–5257, or fax them to Brian Kerrigan at (202) 205–0786. You may also E-mail your comments to:

hea98negotiated__rulemaking@ed.gov

FOR FURTHER INFORMATION CONTACT: Brian Kerrigan, U.S. Department of Education, 400 Maryland Avenue, SW, Rob-3, Washington, DC 20202–5257. Telephone: (202) 708–5217. If you use a telecommunications device for the deaf (TDD) you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

Background

On October 7, President Clinton signed into law Public

Law 105–244, the Higher Education Amendments of 1998 (Amendments), amending the Higher Education Act of 1965 (HEA). Section 492 of the HEA, as amended, requires that, before publishing any proposed regulations to implement programs under Title IV, the Secretary obtain public involvement in the development of the proposed regulations. The Secretary must obtain advice and recommendations from individuals and groups involved in student financial assistance, such as students, legal assistance organizations that represent students, institutions of higher education, guaranty agencies, lenders, secondary markets, loan servicers, guaranty agency servicers, and collection agencies, and must provide for a comprehensive discussion and exchange of information concerning the implementation of Title IV of the HEA. After obtaining advice and recommendations, the Secretary will conduct a negotiated rulemaking process to develop proposed regulations. All published proposed regulations must conform to any agreements resulting from the negotiated rulemaking process unless the Secretary reopens the negotiated rulemaking process, or provides a written explanation to the participants in that process why the Secretary has decided to depart from the agreements.

Participants in the negotiation process will be selected by the Secretary from individuals nominated by the groups mentioned above, and will include both representatives of those groups from Washington, D.C., and industry participants. To the extent possible, the Secretary will select individuals reflecting the diversity in the industry, representing both large and small participants, and serving both local areas and national markets. The Secretary intends to include in the negotiation sessions those groups that participated in the 1992 and 1994 higher education negotiation sessions. Any additional groups that did not participate in the 1992 and 1994 negotiation sessions that would like to participate in these negotiation sessions should inform the Department of their interest in participating, either by submitting a written comment, or by attending one of the regional hearings.

The negotiation process must be conducted in a timely manner so that the Secretary can issue the final regulations within 360 days of the date of enactment of the Amendments. Additionally, the Secretary must publish any final regulations under Title IV by November 1, 1999, as any final regulations not published by that date would not take effect until July 1, 2001, at the earliest. As a result of these time constraints, the Secretary anticipates a highly expedited process in the development of any proposed regulations.

The Secretary therefore invites advice and recommendations from interested parties concerning what regulations may be necessary to implement Title IV of the HEA. The Secretary also invites advice and recommendations concerning which regulated issues should be subjected to a negotiated rulemaking process. The Secretary further requests advice and recommendations concerning ways to prioritize the numerous issues in Title IV, in order to meet the statutory deadlines mentioned above. Additionally, the Secretary would like advice and recommendations concerning how the negotiated rulemaking process should be conducted, given the time available and the number of regulations that may need to be developed.

Under its principles for regulating, the Department of Education (Department) will regulate only when it improves the quality and equality of services to its customers—learners of all ages. The Department will regulate only when absolutely necessary, and then in the most flexible, most equitable, and least burdensome way possible. The Department will regulate if a demonstrated problem exists and cannot be resolved without regulation or if necessary to provide legally binding interpretation to resolve an ambiguity. The Department will not regulate if entities or situations to be regulated are so diverse that a uniform approach does more harm than good.

Regional Hearings

Participants are welcome to address issues relating to the implementation of Title IV of the HEA, either by attending the regional hearings or submitting written comments. Comments will be used to help develop any proposed regulations, and will not result in any statutory changes. Individuals desiring to present comments at the hearings are encouraged to do so. It is likely that each participant choosing to make a statement will be limited to five minutes. Individuals interested in making oral statements will be able to sign up to make a statement beginning at 8:30 a.m. on the day of the hearing at the Department's regional hearing on-site registration table on a first-come, first-served basis. If additional time slots remain, individuals may be given additional time to speak. If no time slots remain, the Department has reserved one additional hour at the end of the first day, and one-half hour at the end of the second day for people who were not able to register to speak. The amount of time available will depend upon the number of individuals who request reservations. Speakers may also submit written comments. The dates, times, and locations of the regional hearings are listed below.

In addition, for anyone unable to attend any of the regional hearings, the Department will also accept, and strongly encourages, written comments. You should send your comments to Brian Kerrigan at the above address by December 15, 1998. If possible, please try to provide a copy of any written comments on a disk.

The Department has reserved a limited number of rooms at each of the following hotels at a special government per diem room rate. To reserve these rates, be certain to inform the hotel that you are attending the regional hearings with the Department of Education.

The hearing sites are accessible to individuals with disabilities. The Department will provide a sign language interpreter at each of the scheduled hearings. An individual with a disability who will need an auxiliary aid or service other than an interpreter to participate in the meeting (e.g., assistive listening device, or materials in an alternate format) should notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although the Department will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

Dates, Times, and Locations of Regional Hearings

1. December 4, 1998, 9:00–5:00 p.m., December 5, 1998, 9:00 a.m.–12:00 p.m., Holiday Inn on the Hill, 415 New Jersey Ave., N.W., Washington, D.C.; 1–202–638–1616, and ask for reservations. Sleeping Room rate: $126.00 (inclusive of all taxes). Reservations must be made by November 13.

2. December 8, 1998, 9:00–5:00 p.m., December 9, 1998, 9:00 a.m.–12:00 p.m., The Regal Knickerbocker, Walton Place at North Michigan Avenue, Chicago, Illinois; 1–312–751–8100, and ask for reservations. Sleeping room rate: $120.00 (inclusive of all taxes). Reservations must be made by November 16.

3. December 11, 1998, 9:00 a.m.–5:00 p.m., December 12, 1998, 9:00 a.m.–12:00 p.m., Hyatt Regency Los Angeles, 711 South Hope Street, Los Angeles, California; 1–213–683-1234, and ask for reservations. Sleeping room rate: $124.26 (inclusive of all taxes). Reservations must be made by November 27.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in Text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg/htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Program Authority: 20 U.S.C. 1090a.

(Catalog of Federal Domestic Assistance Number does not apply.)

Dated: November 4, 1998.

Richard W. Riley,

Secretary of Education.

[FR Doc. 98–30004 Filed 11–5–98; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA4081b; FRL–6184–3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of VOC and NO_X RACT Determinations for Individual Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania for the

purpose of establishing volatile organic compound (VOC) and nitrogen oxides (NO_X) reasonably available control technology (RACT) for 16 major sources located in Pennsylvania. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP submittal on as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule and the accompanying technical support document. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If adverse comments are received that do not pertain to all paragraphs subject to this rulemaking action, those paragraphs not affected by the adverse comments will be finalized in the manner described here. Only those paragraphs that receive adverse comments will be withdrawn in the manner described here.

DATES: Written comments must be received by December 7, 1998.

ADDRESSES: Written comments on this action should be addressed to David Campbell, Air Protection Division, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: David Campbell, (215) 814–2196, at the EPA Region III office or via e-mail at campbell.dave@epamail. epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: For additional information pertaining VOC and NO_X RACT determinations for individual sources located in Pennsylvania, see the Direct Final rule located in the Rules and Regulations Section of this **Federal Register**.

Dated: October 27, 1998.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 98–29657 Filed 11–5–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 102–0111; FRL–6185–9]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a limited approval and limited disapproval of revisions to the California State Implementation Plan (SIP). This revision concerns Rules 1, 2 and 4 of Regulation 2—Permits, for the Bay Area Air Quality Management District (BAAQMD or the "District"). This State Implementation Plan (SIP) revision was submitted by the State of California for the purpose of meeting the requirements of the Clean Air Act (CAA), as amended in 1990, with regard to new source review (NSR) in areas that have not attained the national ambient air quality standards (NAAQS). This SIP revision was submitted by the State to satisfy Federal requirements for an approvable nonattainment area NSR SIP for the District.

The intended effect of proposing a limited approval and limited disapproval of these rules is to strengthen the federally approved SIP by incorporating these updated provisions. EPA's final action on this proposal will incorporate the rules into the SIP. EPA is proposing a simultaneous limited approval and limited disapproval under provisions of the Act regarding EPA action on SIP submittals and general rulemaking authority. While strengthening the SIP, this revision contains deficiencies which the BAAQMD must address before EPA can grant full approval under Section 110(k)(3).

DATES: Comments must be received on or before December 7, 1998.

ADDRESSES: Comments may be mailed to: John Walser, Permits Office [AIR–3], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the state submittal and rules are available for public inspection at EPA's Region IX office during normal business hours and at the following locations: Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109. California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

FOR FURTHER INFORMATION CONTACT: John Walser, Permits Office, [AIR–3], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1257.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules proposed for limited approval and limited disapproval into the California SIP are the District's Regulation 2 Permits, Rule 1 General Requirements, Rule 2 New Source Review, and Rule 4 Emissions Banking. These rules were submitted by the California Air Resources Board on behalf of the District to EPA on September 28, 1994.

II. Background

The air quality planning requirements for nonattainment NSR are set out in part D of title 1 of the Clean Air Act. EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under part D, including those State submittals containing nonattainment NSR SIP requirements [see 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)]. Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion. EPA has also proposed regulations to implement the changes under the 1990 Amendments in the NSR provisions in parts C and D of title 1 of the Act. [See 61 FR 38249 (July 23, 1996)]. Upon final promulgation of those regulations, EPA will review those NSR SIP submittals on which it has already taken final action to determine whether additional SIP revisions are necessary.

Part D of the Clean Air Act (CAA), Sections 171 to 173, Section 182, Section 187, and Section 189, requires that States incorporate in their State Implementation Plans an acceptable permitting program for the construction and operation of new or modified major stationary sources in nonattainment areas. The statutory permit requirements for ozone nonattainment areas are generally contained in Section 173, and in subpart 2 of part D. These are the minimum requirements that States must include in an approvable

implementation plan. EPA's requirements are contained in 40 CFR 51.165, revised as of July 1, 1992, and the Emissions Trading Policy Statement, published December 4, 1986 under 51 FR 43814. EPA relied upon the following materials in its review of the District's NSR rules: CAA, as amended, 40 CFR 51.160 through 51.165, Emissions Trading Policy Statement, General Preamble to Title 1, and the December 15, 1992, draft comprehensive SIP checklist for all Part D NSR requirements.

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the 1977 Clean Air Act (1977 CAA or pre-amended Act), that included the San Francisco Bay Area (43 FR 8964). On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the pre-amended Act, that the Bay Area Air Quality Management District's portion of the SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, amendments to the 1977 CAA were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.

On November 12, 1993, BAAQMD submitted a request for redesignation to attainment of the ozone standard. Subsequently, EPA approved BAAQMD's request and the San Francisco Bay Area was reclassified as an attainment area. 40 CFR 81.305. Subsequently, on July 10, 1998, EPA revoked the Bay Area's attainment status and reclassified the area back to nonattainment for ozone. 63 FR 37258. The Bay Area was redesignated under Subpart 1 of Part D of the Act, and for this reason does not have a classification. However, for purposes of the new source review and Title V programs, moderate area requirements apply to the Bay Area based on its design value of .138 ppm. *See* 62 FR 66581, December 19, 1997. Because the District is currently designated as nonattainment for ozone and attainment or unclassifiable for NO_2, PM–10, Pb, CO, and SO_2, the District's nonattainment rules must be applied to all major new or modified stationary sources proposing to emit ozone precursors, namely VOC and NO_X.

This document addresses EPA's proposed action for BAAQMD Regulation 2 Permits, Rules 1, 2 and 4. The BAAQMD adopted these rules on June 15, 1994. These submitted rules were found to be complete on November 22, 1994, pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51, Appendix V;[1] and are being proposed for limited approval and limited disapproval.

BAAQMD Regulation 2 clarifies the terms and requirements that apply to the District's NSR regulation and emissions banking program. BAAQMD Regulation 2 was originally adopted as part of BAAQMD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone. The following is EPA's evaluation and proposed action for BAAQMD Regulation 2, Rules 1, 2 and 4.

III. EPA Evaluation and Proposed Action

In determining the approvability of a rule submittal, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 of the CAA and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans).

The statutory requirements for nonattainment NSR SIPs and permitting are found in sections 172 and 173 of the Act. The Act requires States to address a number of nonattainment NSR provisions in a SIP submittal to meet the requirements of part D of title 1 of the Act.

EPA has evaluated District Rules 1, 2 and 4 of Regulation 2 and has determined that the rules contain deficiencies and are not fully consistent with CAA requirements, EPA regulations and EPA policy. A more detailed analysis is contained in the Technical Support Document for this submittal which is available for inspection at the Region IX address listed above.

The following six items are issues that EPA has identified as significant deficiencies (approvability issues) in BAAQMD Regulation 2.

1. Interpollutant Trading

Regulation 2, Rule 2 Sections 302.1, 302.2 and 303.1

Section 302.1 states that emission reduction credits (ERCs) of nitrogen oxides (NO_X) may be used to offset increased emissions of precursor organic compounds (POC) at the offset ratio specified in Section 2–2–302 (generally 1.15 to 1.0). Section 302.2 allows for emission reduction credits of POC to be used to offset increased emissions of NO_X at the offset ratio specified in Section 302.2, and Section 303.1 allows ERCs of NO_X and/or sulfur dioxide (SO_2) to be used to offset increased emissions of particulate matter (PM10) at ratios deemed appropriate by the Air Pollution Control Officer.

These sections of Regulation 2, Rule 2 are not approvable in their current form because they do not contain adequate safeguards to ensure an overall air quality benefit from this type of trading. For example, as currently drafted, the rule allows for the same trading ratio for POC to POC trades as it does for POC for NO_X trades, without any demonstration that such trades will result in an equal air quality benefit. EPA continues to discourage interpollutant trading due to the scientific uncertainty of acceptable pollutant trading ratios. However, if the District wishes to allow interpollutant trading, the rule must be consistent with EPA guidance.[2] For instance, the rule must restrict interpollutant trading to precursor pollutants contributing to the same secondary non-attainment pollutant (such as trading POC for NO_X). The District must either perform adequate modelling studies to include a scientifically determined pollutant trading ratio and define that ratio in the rule, or perform a case-by-case analysis of the ratio, and state in the rule that the ratio will be determined after adequate modelling, public notice, and EPA concurrence.

Additionally, the District's interpollutant trading provisions may allow inter-District trading without regard to the attainment status of the District where the ERCs are created and used, because the rule is silent on this issue. Therefore, the rule must be revised to prohibit this type of trading, or be revised to explicitly include the provisions of 173(c)(1) of the Clean Air Act.

2. Exemption List

Regulation 2 Permits, Rule 1 General Requirements

Sections 2–1–114 to 128, provide that "any equipment that produces air contaminants in excess of 150 lb/day of any single pollutant is not exempt" from permit review. EPA is concerned that the District interprets this language to apply on an individual emissions unit basis, rather than a facility-wide basis.

EPA's fundamental requirements with respect to permit exemptions are threefold. First, the exemptions must not keep a major source from appearing to be major. That is, emissions from

[1] EPA adopted completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

[2] *See* letter from Dave Howekamp to Dan Speer of the San Diego Air Pollution Control District dated April 13, 1995.

exempt equipment must be included in the determination of whether a source is major (or whether a modification is major), whether for NSR or Title V purposes. Second, emissions from exempt equipment must be included in determining the offset liability for a source. Third, substantive requirements, such as BACT, must generally apply to all emissions units.

EPA continues to believe that if the 150 lb/day cap on exemptions applies to any group of emissions units or pieces of equipment, and not just to a single piece of equipment, the District is likely to be able to satisfy the above requirements. For example, the District may be able to argue that 150 pounds a day is de minimus from a BACT standpoint. Also, a maximum 150 pound per day facility wide exemption could be factored into offset requirements.

In addition, Regulation 2, Rule 1 exempts equipment such as internal combustion engines or gas turbines of less than 250 horsepower rating (Section 2–1–115.2) from authority to construct and permit to operate requirements, and exempts certain other sources subject to generally applicable requirements. These sources may have high emissions and a greater likelihood of violating emission standards and for these reasons should not be included on an exemptions list.

3. Functionally Identical Replacement

Regulation 2, Rule 2–NSR, Dated 6/15/94, Sections 2–2–225.4, 2–2–313, 2–2–241 and 2–2–608: Replacement Sources

EPA does believe that the sections in Regulation 2, Rule 2 concerning functionally identical replacement may not fully meet the federal requirements found at 40 CFR 51.165. Specifically, section 51.165(a)(1)(v)(A) defines "major modification" as any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Act. Section 51.165 (a)(1)(v)(C)(1) excludes "routine maintenance, repair and replacement" from the definition of physical or operational change. Such assessments should be made on a case-by-case basis, but would generally not include replacement of emissions units ("sources" in BAAQMD's nomenclature), or life extension projects.

Additionally, Section 2–2–313 of Regulation 2 states that offset requirements for replacement sources of POC and NO_X shall be met either in accordance with Section 2–2–302 Offset Requirements, or 2–2–608 Alternate Emission Calculation Procedures, Replacement Sources, which is an alternative to the calculation procedures outlined in Section 2–2–605. EPA believes that the alternate emission calculation procedures outlined in Section 2–2–608 may allow replacement sources to construct without fully applying offsets that would be required by Section 2–2–605, and by the federal regulations at 40 CFR 51.165. As drafted, the rule does not require the replacement source to consider the operating history of the replaced source, which could have been operating at a capacity well below its maximum allowable limits (e.g., actual emissions 50 percent of potential emissions). Therefore, the calculation appears to use a potential to potential emissions test, and as a result no offsets would be needed. EPA's regulations and policy (Emission Trading Policy Statement, FR 51 43838 and 40 CFR 51.165) require an actual to potential test for determining emission changes, and, consequently, offset requirements.

4. Ensuring Offsets Are Surplus When Used

Both Regulation 2, Rule 2 and Regulation 2, Rule 4 are silent regarding the requirement to ensure that ERCs are surplus at the time of use. All ERCs must be adjusted at the time of use pursuant to the requirements of Sections 173 (a), 173 (c)(1) and 173 (c)(2) of the Clean Air Act ("Act"). EPA has provided flexibility in the implementation of these requirements in the August 26, 1994 memo from John Seitz to David Howekamp entitled, "Response to Request for Guidance on Use of Pre-1990 ERCs and Adjusting for RACT at Time of Use." For example, if an ERC is created and approved this year, but the District subsequently proposes, passes and includes (implicitly or explicitly) in its plan a control measure related to the source category of the creator of the ERC, the District must, upon use of the ERC, evaluate the effect the control measure would have had on the source that created the reduction, and reduce the amount of the ERC appropriately. Section 173 (a) of the Act requires that offsetting emission reductions be federally enforceable at the time an NSR permit is issued, and in effect by the time the source commences operation (Section 173 (c)(1)). In addition, Section 173 (c)(2) requires that offsets be surplus of all other requirements of the Act. The District must adjust all emission reductions to ensure that the surplus requirement of Section 173(c)(2) is met at the time that the reductions are used to meet the offset requirements of Section 173 (a) and (c).

5. Exemption, Emissions From Abatement Equipment

Section 2–2–112 in Regulation 2, Rule 2

This section states that BACT requirements shall not apply to emissions of secondary pollutants which are the direct result of the use of an abatement device which complies with the BACT or BARCT requirements for control of another pollutant. On July 1, 1994, EPA issued guidance from John Seitz, Director of the Office of Air Quality Planning and Standards, entitled "Pollution Control Projects and New Source Review (NSR) Applicability", which states that a source must secure offsetting reductions in the case of a pollution control project which will result in a significant increase in nonattainment pollutants.

Section 2–2–112 in Regulation 2, Rule 2 must be revised to make it clear that significant emissions of secondary pollutants which result from control devices or requirements are subject to the requirement to obtain offsets.

6. Prevention of Significant Deterioration

EPA suggests that the District add lead to the PSD pollutant list in Regulation 2, Rule 2, Sections 2–2–304, 2–2–305 and 2–2–306. The rule lists CO, PM_{10}, SO_2, POC and NO_X as PSD pollutants, but excludes lead. EPA realizes that the District has a 0.6 ton/yr BACT threshold for lead, and in Regulation 2, Rule 1, Section 111.1 a 0.3 lb/day lead exemption threshold for authorities to construct or permits to operate. However, the PSD pollutant list must include all criteria pollutants, including lead.

Because the rule deficiencies described above are inappropriate for inclusion in the SIP, EPA cannot grant full approval of this rule under section 110(k)(3). Also, because the submitted rule is not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rule under section 110(k)(3). However, EPA may grant a limited approval of the submitted rule under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval. In order to strengthen the SIP, EPA is proposing a limited approval of BAAQMD's submitted Regulation 2 under sections 110(k)(3) and 301(a) of the CAA.

It should be noted that the rules covered by this proposed rulemaking have been adopted by the BAAQMD, subsequently revised, and are currently in effect in the BAAQMD. EPA's final limited disapproval action will not prevent the BAAQMD or EPA from enforcing this rule.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping

requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 et seq.

Dated: October 29, 1998.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 98–29818 Filed 11–5–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[OK–15–1–7399b; FRL–6183–6]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is approving the Oklahoma State Plan for control of air emissions from existing municipal waste combustors. The plan provides for implementation and enforcement of the Emissions Guidelines applicable to existing Municipal Waste Combustors with capacity to combust more than 250 tons per day of municipal solid waste. In the final rules section of this **Federal Register**, EPA is approving the State Plan as a direct final rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn, and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please see the direct final rule located elsewhere in today's **Federal Register** for a detailed description of the Oklahoma State Plan.

DATES: Comments must be received by December 7, 1998. If no adverse comments are received, then the direct final rule is effective on January 5, 1999.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD-L), at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 6, Multimedia Planning and Permitting Division, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665–7214.

Oklahoma Department of Environmental Quality, 707 North Robinson, Oklahoma City, OK 73101–1677, telephone (405) 702–4100.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote, Region 6, Air Planning Section, at the above address, telephone (214) 665–7219.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final action of the same title which is published in the Rules and Regulations section of this **Federal Register**.

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Intergovernmental relations, Municipal waste combustors, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: October 28, 1998.

Lynda F. Carroll,

Acting Regional Administrator, Region 6.

[FR Doc. 98–29655 Filed 11–5–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–190, RM–9317]

Radio Broadcasting Services; Cross City, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Tony Downes proposing the allotment of Channel 249A at Cross City, Florida. Channel 249A can be allotted to Cross City with a site restriction 2 kilometers (1.3 miles) west of the community at coordinates 29–38–35 and 83–08–28.

DATES: Comments must be filed on or before December 14, 1998, and reply comments on or before December 29, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Tony Downes, 3029 Harbor Hills Road, Dunnellon, Florida 34431.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–190, adopted October 14, 1998, and released October 23, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–29770 Filed 11–5–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 243

[FRA Docket No. HST–1; Notice No. 2]

RIN 2130–AB14

FOX High Speed Rail Safety Standards

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of Public Regulatory Conference.

SUMMARY: By notice of proposed rulemaking (NPRM) published on December 12, 1997 (62 FR 65478), FRA proposed safety standards for the Florida Overland eXpress (FOX), a high speed rail system planned for development in Florida. This document announces a public regulatory conference to address specific issues, set forth below, that are related the NPRM and comments FRA has received in response to the NPRM.

DATES: FRA will host a public regulatory conference on November 23, 1998 at 10:00 a.m. Any interested party who desires to attend or participate in the conference must notify FRA's Docket Clerk in writing on or before November 17, 1998.

ADDRESSES: *Regulatory Conference:* The regulatory conference will take place in Conference Area 1, Seventh Floor, 1120 Vermont Avenue, NW, Washington, D.C.

Docket Clerk: Written notification to FRA's Docket Clerk must identify the docket number, the participant's or attendee's name, address, and phone number. Each notification must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, RCC–10, 400 Seventh Street, S.W., Stop 10, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Christine Beyer, Trial Attorney, Office of the Chief Counsel, RCC–11, 400 Seventh Street, S.W., Stop 10, Washington, D.C. 20950 (telephone 202–493–6027).

SUPPLEMENTARY INFORMATION: FRA published its NPRM for the proposed FOX high speed rail system on December 12, 1997. At that time, FRA provided all interested parties the opportunity to request a public hearing to discuss the NPRM. However, FRA did not receive any requests for a public hearing, and so none was held. FRA received written comments from the Florida Department of Transportation (FDOT) and FOX (filed jointly and referred to hereafter FDOT/FOX), the Brotherhood of Maintenance of Way Employes, Simula Technologies, Inc., the Association of American Railroads, GE Plastics, Atohaas Americas, Inc., and the American Public Transit Association.

FRA is in the process of analyzing all comments received to determine how the agency should proceed with final standards in this matter. As part of that analysis, FRA has determined that additional information is necessary in order for the agency to respond fully and accurately to all commenters. In particular, FRA believes it is necessary to explore the basis on which FDOT/FOX claim that the standards proposed in the NPRM are unduly costly. FRA's mission is to provide a very high level of safety without imposing needless financial burden, and so this claim is one the agency intends to investigate thoroughly. FRA requested detailed information from FOX in this regard, by letter dated October 23, 1998, and FOX responded to the requests in two letters, dated November 2 and 3, 1998. (Copies of these letters are in the docket of this matter.) FRA plans to discuss these areas further at the regulatory conference.

The conference will be conducted on the record, with a stenographer present, in question and answer format. While the format will be conversational to some degree, it is important to note that the conference will not be an opportunity for participants to question FRA staff on the reasoning behind all standards proposed in the NPRM, or to issue broad opinions about the NPRM. FRA provided rationale for the proposed standards in the preamble and section-by-section analysis of the NPRM, and that document speaks for itself. In addition, a public hearing is the appropriate forum for presenting broad opinions about the proposed rule, and interested parties chose not to avail themselves of the opportunity for a public hearing. It is also important to note that FRA has reviewed all comments received, and so there is no need for participants to restate what they have already submitted in written comments. FRA is hosting the regulatory conference in order to focus narrowly on particular aspects of the NPRM and comments received. The FOX representatives should be prepared to discuss the following topics:

- All assumptions made in the calculation of each cost estimate listed in the chart on page 9 of Section 3.0 of the FDOT/FOX comments, and the error factor built into these assumptions and costs; and
- All assumptions made in the project revenue model and the error factor incorporated in the model.

In addition, FRA may have additional questions about specific aspects of the FDOT/FOX comments.

Public Participation Procedures

Any person wishing to participate or attend the public regulatory conference should notify the Docket Clerk by mail at the address provided in the **ADDRESSES** section on or before November 17, 1998. The notification should identify the participant's and attendee's name, and the party the participant represents (if any). The notification must provide the Docket Clerk with the participant's and attendee's mailing address and phone number. FRA reserves the right to limit the participation of individuals who fail to provide such notification.

Issued in Washington, D.C., on November 3, 1998.

S. Mark Lindsey,

Chief Counsel.

[FR Doc. 98–29897 Filed 11–4–98; 10:35 am]

BILLING CODE 4910–06–P

Notices

Federal Register
Vol. 63, No. 215
Friday, November 6, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Risk Management Agency

RIN 0563–AB61

Dairy Options Pilot Program

AGENCY: Risk Management Agency, USDA.

ACTION: Notice of Availability.

SUMMARY: This notice announces the availability of a new Dairy Options Pilot Program (DOPP) to be administered by the Risk Management Agency (RMA) in conjunction with the private sector. The objective of DOPP is to provide education, training and assistance to producers to ascertain whether put options can provide producers with reasonable protection from the price risk.

EFFECTIVE DATE: December 14, 1998.

FOR FURTHER INFORMATION CONTACT: For further information and a copy of the cost-benefit analysis to the DOPP, contact Joe Connor, Financial Analyst, Reinsurance Services Division, Risk Management Agency, United States Department of Agriculture, 1400 Independence Avenue, S.W., Stop 0804, Room 6739–S, Washingon, DC., 20250–0804.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget (OMB) has determined this rule to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by OMB.

Cost-Benefit Analysis

The program is designed to increase the level of understanding of options contracts as risk management tools among dairy producers and to explore their specific applicability to the dairy industry. The costs to the Government of options premium under the program are estimated to be about $10 million annually. If successful, the program will help create liquid markets in basic formula price (BFP) futures and options contracts which would be sustained, in part, by the on-going hedging of output price risk by dairy producers who have benefited from the educational aspect of the program. Under that scenario, the benefits of the program would include furnishing producers with a viable price risk management alternative, exerting a stabilizing influence on the dairy industry, and contributing to the Department's goals of supporting market oriented reforms in the agricultural sector.

Paperwork Reduction Act of 1995

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information for this notice have been approved by the Office of Management and Budget (OMB) under control number 0563–0054 through February 28, 2001.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This notice contains no Federal mandates (under the regulatory provisions of title II of UMRA) for State, local, and tribal governments or the private sector. Therefore, this notice is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 12612

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this notice does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this notice will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This notice will not have a significant impact on a substantial number of small entities. The provisions included in this notice will not impact small entities to a greater extent than large entities. The amount of work required of brokers will only increase slightly because the information to determine the eligibility of producers and trading activities is already collected by brokers specializing in hedge positions and the only additional burden is the electronic transmittal of this information. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605) and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No.10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372 which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This notice has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this notice will not have a retroactive effect. The provisions of this notice will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review of any determination made by RMA may be brought.

Environmental Evaluation

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

Section 191 of the Federal Agriculture Improvement and Reform Act of 1996 authorizes the Secretary of Agriculture (Secretary) to conduct a pilot program for one or more agricultural commodities to determine the feasibility of the use of futures and options as risk management tools to protect producers from fluctuations in price, yield and income. Accordingly, the Secretary directed RMA to develop DOPP

The purpose of this notice is to announce the implementation of DOPP. DOPP will not be published as a proposed or final rule unless the program is authorized to be and is offered on a wider basis. DOPP will be in effect when applications and contracts are made available by RMA and producers in selected counties are provided actual notice through the mail of the program's availability.

DOPP is intended to offer an educational experience to dairy producers whose need for risk management tools has risen sharply as a result of unprecedented price volatility, the elimination of price supports, and the current unavailability of production insurance. DOPP will be offered on a pilot basis to determine the usefulness of commodity futures and options markets to manage risk in the dairy industry.

The program represents a joint initiative between RMA and the private sector. DOPP procedures were first proposed to RMA by the Coffee, Sugar & Cocoa Exchange (CSCE). During the development of this program, the Chicago Mercantile Exchange (CME) provided additional recommendations. If successful, the educational benefits of DOPP will prepare producers to manage their price risk independently through the milk futures and options markets.

The program will be available in the following States and counties: Stanislaus, Merced, Tulare, San Bernadino, San Joaquin, and Kings counties, California; Stearns, Otter Tail, Todd, Morrison, Winona, and Goodhue counties, Minnesota; St. Lawrence, Oneida, Steuben, Chautaugua, Jefferson, and Lewis counties, New York; Lancaster, Bradford, Franklin, Crawford, Berks, and Chester counties, Pennsylvania; Hopkins, Wood, Van Zandt, Erath, Johnson, and Comanche counties, Texas; Marathon, Clark, Grant, Vernon, and Chippewa counties, Wisconsin; and Franklin, Addison, Orleans, Orange, Rutland, and Caledonia counties, Vermont. At the discretion of the Secretary, States and counties are subject to change throughout the duration of this pilot program.

The participation limit per county is set at 100 producers, subject to adjustments as described below. Counties with a higher number of participants signing-up will have participants selected through a lottery. Applicants who miss the opportunity to participate in the first round of the program will obtain preference in the next round offered in their county. When a county has fewer than the maximum number of participants, the excess program vacancies will be pooled and distributed among counties where more than the maximum number has signed up. Producers wishing to participate in the program must fill out and sign an application (Form CCC–320) and a release of information from their broker to RMA (CCC–321).

The program will last a maximum of 8 months for each participating producer commencing at the date of training through the close-out of DOPP options positions. After registration and training, producers will have up to 2 months to purchase DOPP options and all DOPP options must expire within 6 months from the date of purchase. Producers are required to buy "put options" at least two months in the future in order to allow time for the educational benefits of the program to be realized. For the same reason, producers will be required to hold their options until the four week period immediately prior to the expiration date.

In order to introduce the new trading volume onto the markets slowly, each round of participants will commence trading at different times by state.

The two exchanges where the BFP futures and put options are currently available are CSCE and CME. The contracts on the two exchanges differ with regard to quantity. Under the program, a participating producer will be permitted to purchase contracts to hedge between 100,000 and 600,000 pounds of milk over a six-month period. Producers will be required to submit documentation supporting their farm's production of at least 100,000 pounds of milk over a six-month period.

Discussion of Comments and Changes to the Program

On Friday, January 2, 1998, RMA published an Advance Notice of Availability and Request for Comments in the **Federal Register** at 63 FR 51 to seek input from the public on a new DOPP to be administered by the RMA in conjunction with the private sector. The public was afforded 30 days to submit written comments and opinions.

Approximately one-hundred comments were received from dairy producers, cooperatives, industry associations, milk processors, members of Congress, commodities exchanges, academics, state representatives, and the general public. Over 95 percent of the comments were in favor of the concept of the program, though many suggested ways to improve the program's design features.

Comments received generally revolve around 4 major issues: (1) what states and counties would be first implemented; (2) what exchange or exchanges would be used to trade DOPP options; (3) whether cooperatives should be able to participate as eligible producers; and (4) various modifications to the constraints on trading behavior placed on DOPP participants. The comments received and RMA's responses are as follows:.

Comments: Seventy comments were solicitations by producers, agricultural extension agents, brokers, futures exchanges, association of dairy cooperatives, state and Federal government representatives, and legislators to implement DOPP in their states and counties or congressional districts. One cooperative suggested that the county selection criteria should be: (1) the majority of farms (but not all) should be family operations; (2) states should be representative of the industry as a whole; (3) states should not be selected if they are dominated by just one or two cooperatives; and (4) favor should be given to states with strong pre-existing support structures such as active university extension, marketing clubs, etc. An extension agent suggested selecting states and counties from the several regions of milk production, and makes a point of selecting one state from the west and from the southeast.

Response: Selection of the counties where the DOPP is to be implemented first was based on the concentration of production and the geographical proximity of selected counties to one another. The former criterion is relatively objective and was based on 1992 agricultural census data. The latter criterion is more subjective but is necessary to enable RMA to increase operational efficiency with regard to training and compliance. The selected counties contain a diverse mixture of family farms and corporate farms of all sizes, as well as regions where many cooperatives are active, not just one or two dominant cooperatives. Extension support and marketing clubs are also found in many of these areas.

Comments: Fifty-one comments from cooperatives, futures exchanges, legislators, association of dairy cooperatives, brokers and industry associations suggested the use of a single exchange or a single contract in the program. They can be summarized as follows:

(A) DOPP options should be traded solely on the Coffee Sugar & Cocoa Exchange (CSC) because: (1) Trading on two exchanges diffuses liquidity the program could be expected to build; (2) it makes the program less confusing to the new trader; (3) it makes data collection and analysis easier; (4) it recognizes CSC's longer commitment to

the project and innovative contribution to the program's design; and (5) CSC has an excellent track record on aggressive efforts to present educational seminars.

(B) DOPP options should be traded using any single contract and exchange but not more than one of either to make the program less complicated.

(C) DOPP options should be traded on any eligible exchange as established by the language of the statute and the Advance Notice of Availability and let the market decide where DOPP options should be traded and inform the producers of the different contracts available on the market.

Response: Dairy producers should be able to choose the options product that best fits their needs both in terms of contract size and in the exchange used. The market alone should dictate where options are traded and it would be inappropriate for RMA to intervene in that process. Further, the complexity of these markets is not something the producer should be sheltered from under the program. Rather, the program is intended to be an educational opportunity for the producer to become familiar with this complexity.

Comments: Two cooperatives and one association suggested DOPP should allow cooperatives to be DOPP participants, thus making the program less time consuming to the producer and bringing their key partner, the cooperative, up to speed on futures and options as well as indirectly encouraging cooperatives to expand their forward contracting programs.

Response: Based on the language in section 191 of the Federal Agriculture Improvement and Reform Act of 1996 (1996 Act), there is no authority to allow other than those producers who are eligible for a production flexibility contract, a marketing assistance loan, or other assistance under title I of the 1996 Act. Cooperatives are not eligible for any of the programs listed. Therefore, no change has been made.

Comment: One exchange suggested that RMA should clarify restrictions on the timing of purchases.

Response: RMA has clarified the provisions regarding the date by which all purchases must be complete. RMA has also added a provision to clarify for what months the options can be purchased.

Comment: One broker and one crop insurance company suggested that RMA should remove the 600,000 pound maximum production that can be hedged under the program.

Response: This program is experimental and intended to determine the feasibility of such a risk management tool. The 600,000 pound maximum is intended to allow sufficient use of the market while protecting taxpayers from larger outlays than necessary to achieve the educational objective of the program. Therefore, no change has been made.

Comment: One association and one broker commented that RMA should change the maximum strike price of 25 cents out-of-the-money to the first strike price that is "at" or "in" the money.

Response: This change would also be too expensive to implement and, potentially, less relevant educationally because producers wishing to hedge production might be less inclined to choose an expensive "in" the money option. However, the 25 cent requirement has been reduced to 10 cents.

Comment: One legislator and one producer suggested that DOPP should be implemented in the statutorily allowed 100 counties.

Response: As RMA's first options pilot program, it has been determined that a smaller scale of operation will allow greater opportunity to observe and make adjustments to the program before expanding it. Further, implementing the program at its full capacity would increase the likelihood that a proposed and final rule be published prior to implementation, instead of a Notice of Availability. This would eliminate RMA's ability to modify the program expeditiously in its early stages. Therefore, no change has been made.

Comment: One broker suggested that the separate billing scheme would detract from the realism of the producer's experience.

Response: In any subsidized program, the producer will not receive a perfectly realistic free-market experience. By using a billing scheme that bills RMA for the subsidized portion of the transaction, RMA has enhanced the speed and efficiency of the payment system. A 72 hour turn around time is required by brokers under their industry regulations. Other alternatives such as asking producers to put up the money and be reimbursed later, or advancing funds to the producer to conduct DOPP trades were considered. However, the former alternative was rejected on the grounds that it would negatively impact participation due to the limited working capital of many small dairy producers. The latter was deemed to subject the program to increased risk of misuse of funds while significantly complicating the compliance audit process. Further, timeliness of trading and compliance information will play a critical role as RMA evaluates the program for program expansion and relocation. Therefore, no change has been made.

Comment: One cooperative suggested that 6 months is too short a period for the program to last for each participant and stated that 12 months is better.

Response: The program can actually last as long as 8 months from the date of the producer's attendance at the required training class. RMA determined that an 8 month time period encompasses enough of the dairy marketing cycle to enable the producer to implement and complete a useful price risk hedge and allow the producer to decide whether to continue utilizing this risk management strategy. Therefore, no change has been made.

Comment: One state government employee commented that RMA should clarify that producers cannot buy options on more milk than they produce over six months.

Response: RMA has added a provision that specifies that producers cannot purchase put options for more production than the producer has documents to prove was produced during the 6 month period.

Comment: Two brokers suggested that RMA should clarify the flow of funds.

Response: RMA has clarified that RMA and the producer will make their respective required payments directly to the broker.

Comment: One broker suggested that funds should be committed to subsidize additional floor brokers (market makers) to ensure continued viability of the program.

Response: New floor brokers should naturally gravitate toward the BFP contracts in response to the new volume the program will provide. Therefore, no change has been made.

Comment: One association of dairy cooperatives suggested that DOPP should be funded for three years to allow a diverse group of producers to participate.

Response: RMA has received funding approval to operate the program for three years.

Comment: One association suggested that the requirement that producers cannot exercise or sell an option until the four weeks prior to expiration should be eliminated or modified.

Response: Previous options pilot programs administered by USDA were criticized for failing to educate producers by permitting them to sell their options the same day they obtained them. In order to maximize the educational experience in hedging strategies, the producer should hold a position until the month they are actually hedging. To allow the sale of the option before that time may re-expose the producer to price risk for the rest of time before the expiration date.

RMA will take this into consideration as it conducts its ongoing evaluation of the program and make such changes as are necessary. Therefore, no change has been made.

Comment: One association suggested that RMA should clarify the reporting requirement for participation.

Response: The only reporting requirements for eligibility is that producers must report their milk production history for 6 months to establish that they meet the 100,000 pounds of production during a consecutive 6 month period within the previous 12 month period and maintaining the record of each transaction to ensure that the maximum amount of production for which options may be purchased under the program is not exceeded. These requirements are clearly stated. Therefore, no change has been made.

Comment: One producer perceived the program as Federally sponsored gambling and suggested the program be abolished prior to implementation.

Response: Futures and options contracts are widely recognized risk management tools. The intent of DOPP is simply to educate producers on the use of these tools. While there is some risk involved, the value of these risk management tools, which after DOPP expires is at no cost to the taxpayers, outweighs the risks. Therefore, no change has been made.

In addition to the changes described above, and minor reformatting and word changes for clarity, RMA has made the following changes to DOPP:

1. In section 1 of the producer contract, RMA added definitions of "hedge," "round turn," "Secretary," "strike month," and "USDA" for clarification.

2. In section 2(a)(4) of the producer contract, RMA reduced the minimum production in a consecutive 6 month period to be eligible for the program from 200,000 pounds to 100,000. This change will ensure that smaller producers are not excluded from the program.

3. In section 2 of the producer contract, RMA added a provision that requires the producer to execute the DOPP contract and comply with all its terms and conditions in order to permit enforcement of program requirements.

4. In section 3(a)(2) of the producer contract and broker agreement, RMA reduced the amount of milk upon which producers must purchase put options from 200,000 pounds to 100,000 to allow smaller producers to participate. RMA also added a provision that specifically states that options on no more than 600,000 pounds of milk production can be purchased by any producer. This requirement is intended to limit the potential costs of the program until such a time that its viability can be assessed.

5. In section 3 of the producer contract and broker agreement, RMA clarified when put options may be sold or exercised and has included an example.

6. In section 3(b) of the producer contract, RMA added a provision requiring the producer to submit the application to RMA within 30 days after receiving notification and application materials from RMA through the mail so that RMA can timely select producers to participate in the program and reallocate any unfilled slots.

7. In section 5(a) of the producer contract, RMA reduced the number of producers allowed to participate in each county from 150 to 100. This change was based on information indicating that it is unlikely that any county will have more than 100 producers interested in participating. A reduction in the number of participants per county will also allow RMA to increase the number of states participating from 6 to 7, which will allow for a greater geographic representation of milk producers in the program without increasing budget outlays.

8. In section 5(d) of the producer contract and broker agreement, RMA deleted the requirement that no put option could be purchased at a premium that was more than 160 percent of the previous day's settlement premium because such limits could routinely be exceeded under normal trading situations.

9. In section 6(d) of the producer contract, RMA added a new provision that authorized the Chicago Mercantile Exchange and Coffee, Sugar, and Cocoa Exchange to replace BFP options contracts with options contracts based on a milk price index other than the BFP in order to provide greater flexibility into the program. This change is necessary because USDA may stop publishing the BFP at some point in the future.

10. In section 1 of the broker agreement, RMA added definitions of "hedge," "Secretary," "strike month," and "USDA" for clarification.

11. In section 2 of the broker agreement, RMA added provisions that require the broker to attend at least one DOPP training session and have specified hardware and software to electronically receive and transmit data to RMA to be eligible to participate.

12. In section 3 of the broker agreement, RMA added provisions specifying that brokers cannot allow producers to purchase a DOPP option that expires during a month that is more than 6 months after the month of purchase for that option in order to protect the integrity of the program.

13. In section 3 of the broker agreement, RMA also added a provision specifying the applicable sanctions if the broker fails to comply with the terms and conditions of the broker agreement.

14. In section 3 of the broker agreement, RMA deleted the provision mandating that brokers cannot accept an application unless the producer's marketing receipts show the requisite production since RMA will be accepting the applications.

RMA will enter into contracts with producers and brokers who elect to participate in DOPP.

Notice: The terms and provisions for the DOPP Producer Contract are as follows:

United States Department of Agriculture

Risk Management Agency

Dairy Options Pilot Program Contract

Participation in the Dairy Options Pilot Program is voluntary. Neither the United States, the Commodity Credit Corporation, the Risk Management Agency, the Department of Agriculture, nor any other Federal agency is authorized to guarantee that participants in this pilot program will be better or worse off financially as a result of participation in the pilot program than the producer would have been if the producer had not participated in the pilot program.

1. Definitions.

Application. Form CCC–320 that is required to be completed and signed by the producer before the producer is eligible to participate in this program.

Basic formula price (BFP). The price established by USDA, and provided to the USDA marketing order administrators to be used to set regional minimum prices.

Broker. A broker or brokerage firm registered under the Commodities Exchange Act that has entered into an agreement with RMA to participate in the program.

CME. Chicago Mercantile Exchange.

CSCE. Coffee, Sugar, and Cocoa Exchange.

DOPP. Dairy Options Pilot Program.

Eligible markets. Commodity futures and options markets designated as contract markets under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*).

Exercise. The action taken by the holders of a put option on a futures contract if they wish to sell the underlying futures contract.

Expiration date. The last date on which the put option may be exercised.

Futures contract. A contract to buy or sell a commodity on an eligible market at some point in the future.

Hedge. To take compensatory measures to counter a possible loss.

Open outcry. Method of public auction required to make bids and offers in the trading pits, or rings, of commodity exchanges.

Out-of-the-money. Put option whose strike price is less than the underlying futures contract price.

Premium. The price of a put option determined by open outcry. The premium does not include related brokerage commission fees.

Producer. An individual, entity, or joint operation, which as owner, operator, landlord, tenant, or sharecropper, is entitled to share in the production available for marketing from the farm, or share in the proceeds thereof.

Program. The Dairy Options Pilot Program.

Put option. A contract traded on eligible markets that gives the buyer the right to sell the underlying futures contract at the strike price on or before the expiration date.

RMA. Risk Management Agency, an agency of the United States Department of Agriculture.

Round turn. The broker's service in transacting a single put option consisting of consultation services and the purchase and liquidation (sale or exercise) of a put option, including the subsequent sale of the underlying futures position if the put option is exercised.

Sale. Transfer of title through the selling of the value of the put option.

Secretary. The Secretary of Agriculture.

Settlement price. The price of a specific put option as published by the exchange on which that contract trades at the end of each day's trading.

Strike month. The month preceding the month in which a DOPP options contract expires, *e.g.*, the strike month for a DOPP option contract that expires in March would be February.

Strike price. The price at which the holder of a put option may sell the underlying futures contract.

USDA. The United States Department of Agriculture.

2. Eligibility.

(a) To be eligible for any benefits under this contract, a producer must:

(1) Be eligible for a production flexibility contract, a marketing assistance loan or any other assistance under title I of the Federal Agriculture Improvement and Reform Act of 1996;

(2) Volunteer to participate in this program;

(3) Operate a farm located in a county selected for the pilot program; and

(4) Have documented production history of at least 100,000 pounds of production over any consecutive six month period during the most recent 12 months.

(b) This program is available to producers in states and counties designated.

(c) Execute this contract and comply with its terms and conditions.

3. Responsibilities.

(a) Producers who elect to participate in the program agree:

(1) To attend not less than one training session conducted by RMA to educate the producer on the use of put options and the program's operations;

(2) To buy all put options on a minimum of 100,000, and a maximum of 600,000, pounds of milk on an eligible market, through an eligible broker, within 2 months after the date the producer attends the required training session;

(3) That put options on no more than 200,000 pounds of milk will be purchased for any one strike month under this program;

(4) That put options on no more than the producer's total average production over the 6-month period used to establish the producer's eligibility shall be purchased under this program (For example, if a producer has provided copies of marketing receipts for 245,000 pounds of milk production eligible for the program, only 200,000 pounds can be hedged under the program because there are no 45,000 pound contracts or less currently available on the market);

(5) That the producer shall not purchase a DOPP option that expires on a date that is less than 2 months after the date the DOPP option was purchased (For example, assume the producer wants to hedge August 1998 production with BFP put options. The last date on which he or she shall be able to purchase an August option is Friday, July 3, because the August options expire exactly two months later, September 3. On July 4, the earliest option the producer could purchase is the September contract);

(6) That the put options will be purchased at a strike price that is at least 10 cents out of the money;

(7) That no put options will be sold or exercised before four weeks prior to the expiration date (For example, the BFP is announced by the USDA on the fifth of the month following the strike month, which is not on a weekend or Federal holiday. The September BFP will be announced by USDA on Monday, October 5, 1998. The September BFP option expires on the last day of trading of the September BFP futures contract, which is the day before the date of the BFP's announcement, or in this case, October 2, 1998 (October 4 is a Sunday). For purposes of DOPP, the four week period leading up to October 2, 1998, will begin on September 4, 1998. Therefore, a DOPP participant holding a September BFP put option would be free to sell or exercise that option at his or her discretion between September 4, 1998, and the expiration date. If the producer exercises the put option and holds the futures contract, the producer assumes the risk of any loss); and

(8) That all options purchased shall expire during the month that is not more than 6 months after the month of purchase. For example, assume a producer is trained on June 4, 1998, and makes all purchases in the months of June and July. The latest option contract the producer is permitted to buy is the December 1998 contract, which expires in January, 1999.

(b) The producer must open an account with an eligible broker in order to participate in the program and must do so before making any purchases.

(c) The producer must submit a properly completed and executed application and a copy of the marketing receipts for 6 consecutive months in the previous 12 months showing production in excess of 100,000 pounds to RMA within 14 days after receiving notification and application materials from RMA through the mail.

4. Costs.

(a) The producer will pay 20 percent of the premium of each put option to the broker.

(b) RMA shall pay transactions costs not to exceed $30 per round turn and 80 percent of the premium to the broker on behalf of the producer. The producer is free to deal with brokers who charge more than $30 per round turn, but the producer will be responsible for any amount that exceeds $30.

5. Restrictions and limitations.

(a) Except as stated herein, total program participation will be limited to 100 producers per county. If more participants are enrolled than the county limit, a lottery will be held by RMA to determine participants within a county. If fewer than 100 participants are enrolled in a county, the number of unfilled participation slots will be pooled and redistributed over counties where enrollment exceeds 100.

(b) The producer will be able to order put options from a broker after the broker has obtained verification from RMA of the producer's selection as a program participant and the date the producer received training. Verification will take place electronically after the producer selects an eligible broker.

(c) No producer may participate in the program more than once.

(d) If a producer who has participated in the program is not in compliance with the provisions of this contract, the producer will be required to repay any premiums and broker fees paid by RMA on behalf of the producer.

(e) This agreement is not effective until the producer executes and returns forms CCC–320, with supporting documentation of milk marketing, and CCC–321, and the producer receives written notice from RMA that the producer has been accepted into the program.

6. Other.

(a) The National Futures Association, on behalf of the Commodity Futures Trading Commission, maintains a current listing of brokers and brokerage firms who are licensed to conduct futures-related business. However, only those brokers who have entered into an agreement with RMA will be eligible to trade put options under this program.

(b) To assist in the evaluation of the program, producers participating in the program may be asked to complete entry and exit surveys by RMA. While completion of these surveys is voluntary, producers are encouraged to do so in order that an accurate assessment may be made of this program's overall effectiveness.

(c) There may be tax consequences with respect to participation in this program. Producers interested in participating in the program who have questions regarding the tax issues associated with this program should seek the advice of a tax advisor.

(d) The CME or the CSCE could replace BFP options contracts with options contracts on another milk price index. The program will permit the trading of options contracts on another milk price index selected by the CME or the CSCE.

Notice: The terms and conditions for the DOPP broker agreement are as follows:

United States Department of Agriculture

Risk Management Agency

Broker Agreement for the Dairy Options Pilot Program

1. Definitions.

Application. Form CCC–320 that is required to be completed and signed by the producer before the producer is eligible to participate in this program.

Basic formula price. The price established by USDA, and provided to USDA's marketing order administrators to be used to set regional minimum prices.

Broker. A broker or brokerage firm registered under the Commodities Exchange Act that has entered into an agreement with RMA to participate in the program.

CME. Chicago Mercantile Exchange.

CSCE. Coffee, Sugar, and Cocoa Exchange.

DOPP. Dairy Options Pilot Program.

Eligible markets. Commodity futures and options markets designated as contract markets under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*).

Exercise. The action taken by the holders of a put option on a futures contract if they wish to sell the underlying futures contract.

Expiration date. The last date on which the put option may be exercised.

Futures contract. A contract to buy or sell a commodity on an eligible market at some point in the future.

Hedge. To take compensatory measures to counter a possible loss.

Open outcry. Method of public auction required to make bids and offers in the trading pits, or rings, of commodity exchanges.

Out-of-the-money. Put option whose strike price is less than the underlying futures contract price.

Premium. The price of a put option determined by open outcry. The premium does not include related brokerage commission fees.

Producer. An individual, entity, or joint operation, which as owner, landlord, tenant, or sharecropper, is entitled to share in the production available for marketing from the dairy farm, or share in the proceeds thereof.

Program. The Dairy Options Pilot Program.

Put option. A contract traded on eligible markets that gives the buyer the right to sell the underlying futures contract at the strike price on or before the expiration date.

RMA. Risk Management Agency, an agency of the United States Department of Agriculture.

Round turn. The broker's service in transacting a single put option consisting of consultation services and the purchase and liquidation (sale or exercise) of a put option, including the subsequent sale of the underlying futures position if the put option is exercised.

Sale. Transfer of title through the selling of the value of the put option.

Secretary. The Secretary of Agriculture.

Settlement price. The price of a specific put option as published by the exchange on which that contract trades at the end of each day's trading.

Strike month. The month preceding the month in which a DOPP options contract expires, *e.g.*, the strike month for a DOPP options contract that expires in March would be February.

Strike Price. The price at which the holders of a put option may choose to sell the underlying futures contract.

USDA. The United States Department of Agriculture.

2. Eligibility.

(a) To be eligible to trade options under this agreement a broker must:

(1) Be properly licensed and in good standing with the National Futures Association;

(2) Volunteer to participate in this program;

(3) Attend at least one DOPP training session;

(4) Have the following hardware and software and service in order to operate the DOPP communications software: Internet Service Provider; Internet E-mail address; a Windows 95 PC; Internet Browser, either Microsoft Internet Explorer or Netscape; minimum 28.8 modem; minimum 8 meg RAM, (16 meg recommended); and

(5) Execute this agreement and comply with all its terms and conditions.

3. Responsibilities.

(a) Brokers who elect to participate in the program agree to enforce the following program requirements with respect to any producer participating in the program who might use the broker's services:

(1) To buy all put options on a minimum of 100,000 and a maximum of 600,000, pounds of milk on an eligible market within 2 months after the date the producer attends the required training session;

(2) That put options on no more than 200,000 pounds of milk will be purchased for any one strike month under this program;

(3) That put options on no more than the producer's total production over the 6-month period used to establish the producer's eligibility of production shall be purchased under this program;

(4) That the producer shall not purchase a DOPP option that expires on a date that is less 2 months after the date the DOPP options contract was purchased (For example, assume the producer wants to hedge August 1998 production. The last date on which he or she shall be able to purchase an August option is Friday, July 3, because the August options expire exactly two months later, September 3. After July 3, the earliest option the producer could purchase is the September contract);

(5) That the put options will be purchased at a strike price that is at least 10 cents out of the money;

(6) That no put options will be sold or exercised before four weeks prior to the expiration date (For example, the BFP is announced by the USDA on the fifth of the month following the strike month, which is not on a weekend or Federal holiday. The September BFP will be announced by USDA on Monday, October 5, 1998. The September BFP option expires on the last day of trading of the September BFP futures contract which is the day before the date of the BFP's announcement, or in this case, October 2, 1998 (October 4 is a Sunday). For purposes of DOPP, the four week period leading up to October 2, 1998, will begin on September 4, 1998. Therefore, a DOPP participant holding a September BFP put option would be free to sell or exercise that option at his or her discretion between September 4, 1998, and the expiration date. If the producer exercises the put option and holds the futures contract, the producer assumes the risk of any loss); and

(7) That all options purchased shall expire during the month that is not more than 6 months after the month of purchase (For example, assume a producer is trained on June 4, 1998, and makes all purchases in the months of June and July. The latest option contract the producer is permitted to buy is the December 1998 contract, which expires in January, 1999).

(b) The broker must keep detailed records on each transaction and transmit that information to RMA through electronic data transmission. The broker will be provided with communications software for this purpose by RMA. Records required include:

(1) The purchase date, time, and premium for each put option;

(2) The expiration date and strike month for each put option; and

(3) Whether the options are sold or exercised and, if sold or exercised, the date, and price of the futures contract on the date of sale or exercise and the time of the transaction.

(c) Brokers certify that systems used to transmit data will be year 2000 compliant, i.e., be able to accurately process date and time data (including, but not limited to, calculating, comparing, and sequencing) from, into, and between the years 1999 and 2000 and leap year calculations, and to properly exchange date and time data with other information technology. Data transmission requirements and year 2000 compliance guidelines are available upon request.

(d) The broker cannot permit a producer to purchase a DOPP option until RMA has electronically notified the broker that the producer has been accepted into the program, the amount of milk for which the producer has provided production records, and the date on which the producer fulfilled the training requirements.

(e) If a broker participating in the program through this agreement is not in compliance with the provisions of this agreement, the broker will be required to repay any broker fees and premiums paid by RMA on options contracts traded by the broker under the program.

4. Costs.

(a) Up to $30 per round turn in broker fees will be paid by RMA. Any transactions costs agreed upon between the broker and a producer in excess of $30 will be the sole responsibility of the producer and not of RMA.

(b) The broker will charge the producer's account for 20 percent of the premium per put option. The 20 percent of the transaction for which the producer is responsible is the sole responsibility of the producer and not of RMA.

(c) The broker will bill transaction costs not to exceed $30 and the balance of the premium, 80 percent, to RMA. RMA will pay these amounts via the automated clearing

house (ACH) payments process within three banking days after RMA's acceptance of the transaction. Transactions will be considered accepted after RMA systems verify that the broker and participant have been selected for participation in the program, and that the transaction does not violate the trading limitations of the program itemized in Section 3 above.

5. Program changes.

(a) The broker acknowledges that, due to the pilot nature of this program, on-going modifications may be necessary. The broker agrees to abide by reasonable changes in the program by RMA.

(b) The CME or the CSCE could replace BFP options contracts with options contracts on another milk price index. The program will permit the trading of options contracts on a new milk price index selected by the futures exchanges at that time.

Signed in Washington, D.C., on November 2, 1998.

Kenneth D. Ackerman,

Administrator, Risk Management Agency.

[FR Doc.98–29724 Filed 11–5–98; 8:45 am]

BILLING CODE 3410–08–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: December 7, 1998.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Janitorial/Custodial, Federal Bureau of Prisons HOLC Federal Building, 320 First Street, NW, Washington, DC, NPA: The Chimes, Inc., Baltimore, Maryland.

Janitorial/Grounds Maintenance, U.S. Courthouse and Federal Building, Carleton Avenue & North Spur Drive, Central Islip, Long Island, New York, NPA: The Corporate Source, Inc., New York, New York.

Microfilming, Department of Treasury, Financial Management Services, Hyattsville, Maryland, NPA: Didlake, Inc., Manassas, Virginia.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for deletion from the Procurement List.

The following commodities have been proposed for deletion from the Procurement List:

Block, Currency Packing

BEP Stock #L–1391

Cover, Mattress

7210–00–171–1091
7210–00–998–7745

Beverly L. Milkman,

Executive Director.

[FR Doc. 98–29807 Filed 11–5–98; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities previously furnished by such agencies.

EFFECTIVE DATE: December 7, 1998.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On August 14 and September 25, 1998, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (63 F.R. 43660, 51336 and 51337) of proposed additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and service and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities.

The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and service to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and service.

3. The action will result in authorizing small entities to furnish the commodities and service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and service proposed for addition to the Procurement List.

Accordingly, the following commodities and service are hereby added to the Procurement List:

Commodities

Tape, Measuring

5210–00–086–4988
5210–00–182–4797
5210–00–150–2920

Services

Janitorial/Custodial, Army Research Laboratory (ARL), Adelphi Laboratory Center (ALC), 2800 Powder Mill Road, Adelphi, Maryland

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the commodities.

3. The action will result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities are hereby deleted from the Procurement List:

Cleaner, Tobacco Pipe

M.R. 204

Stool

P.S. #127–A
P.S. #127–B
P.S. #127–C
P.S. #127–D

Pad, Typewriter

7510–00–849–1137
7510–00–530–6412
7510–00–257–2576

Beverly L. Milkman,

Executive Director.

[FR Doc. 98–29808 Filed 11–5–98; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Survey of U.S. Chemical Industry To Assist in Compliance Activities Regarding Certain Provisions of the Chemical Weapons Convention

ACTION: Proposed Collection; Comment Request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before January 5, 1999.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dawn Battle, Department of Commerce, 14th & Constitution Ave., NW, room 6877, Washington, DC, 20230 (telephone number (202) 482–0637).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Chemical Weapons Convention (CWC) is a multilateral arms control treaty that seeks to achieve an international ban on chemical weapons (CW). The CWC was signed by the United States in Paris on January 13, 1993, and was submitted by President Clinton to the United States Senate on November 23, 1993, for its advice and consent to ratification. The CWC prohibits, *inter alia*, the use, development, production, acquisition, stockpiling, retention, and direct or indirect transfer of chemical weapons.

The information that will be collected by this survey is necessary in order to assist efforts by U.S. government officials to ensure that the U.S. is and will be in compliance with certain provisions of the Chemical Weapons Convention (CWC) Treaty.

The CWC, after enactment of U.S. implementing legislation and promulgation of appropriate agency regulations, prohibits all individuals and legal entities (e.g. corporations) within the U.S., as well as all individuals outside the U.S. possessing U.S. citizenship, from engaging in activities prohibited under the Convention.

The proposed new information collection by BXA will attempt to survey, by telephone, private companies either known or suspected to have activities involving Schedule 1 chemicals. The additional data obtained from the proposed survey will enable BXA to determine whether the information collection activities already approved by OMB are all that are needed, for the time being, to monitor U.S. compliance with the 1 metric ton limit.

BXA intends to use the CWC Schedule 1 chemical survey to obtain data from those U.S. facilities that are believed to be engaged in the production, acquisition, stockpiling, transfer, or use of chemicals listed in Schedule 1 of the CWC. The facilities that are asked to participate in the survey will be requested to respond, regardless of the amount of Schedule 1 chemicals that they produce, acquire, stockpile, transfer, or use.

BXA will use the data obtained from the survey, as well as data obtained from other sources, in order to determine whether or not it needs to impose additional information collection burdens on the U.S. chemical industry in order to accurately determine U.S. compliance with Part VI.A.2 of the Annex on Implementation and Verification of the CWC, which limits the aggregate amount of Schedule

1 chemicals that may be produced, acquired, retained, transferred, or used by any state party in a single calendar year to 1 metric ton (i.e. 1 million grams).

II. Method of Collection

Telephone survey.

III. Data

OMB Number: None.
Form Number: N/A.
Type of Review: Submission for new collection.
Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.
Estimated Number of Respondents: 100.
Estimated Time Per Response: 30 minutes per response.
Estimated Total Annual Burden Hours: 50.
Estimated Total Annual Cost: $1,800 for respondents time (no capital expenditures required).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: October 30, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc.98–29699 Filed 11–5–98; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 980930252–8252–01]

Special American Business Internship Training Program (SABIT)

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: This Notice announces availability of funds for the Special American Business Internship Training Program (SABIT), for training business executives and scientists (also referred to as "interns") from the NIS. The Department of Commerce, International Trade Administration (ITA) established the SABIT program in September 1990 to assist the former Soviet Union's transition to a market economy. Since that time, SABIT has been matching business executives and scientists from the NIS with U.S. firms which provide them with three to six months of hands-on training in a U.S. market economy.

Under the SABIT program, qualified U.S. firms will receive funds through a cooperative agreement with ITA to help defray the cost of hosting interns. ITA will interview and recommend eligible interns to participating companies. Interns may be from any of the following Independent States: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. The U.S. firms will be expected to provide the interns with a hands-on, non-academic, executive training program designed to maximize their exposure to management or commercially-oriented scientific operations. At the end of the training program, interns must return to the NIS.

DATES: The closing date for applications is January 29, 1999. An original and two copies of the application (Standard Form 424 (Rev. 4–92) and supplemental material) are to be sent to the address designated in the Application Kit and postmarked no later than the closing date. Applications will be considered on a "rolling" basis as they are received, subject to the availability of funds. If available funds are depleted prior to the closing date, a notice to that effect will be published in the **Federal Register**. Processing of complete applications takes approximately two to three months. All awards are expected to be made by May 1, 1999.

ADDRESSES: Request for Applications: Competitive Application kits will be available from ITA starting on the day this notice is published. To obtain a copy of the Application Kit please E-mail: sabitapply@usita.gov (please state which format, e.g. WordPerfect© 6.1), telephone (202) 482–0073, facsimile (202) 482–2443 (these are not toll free numbers), or send a written request with two self-addressed mailing labels to Application Request, The SABIT Program, HCHB Room 3319, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230. Only one copy of the Application Kit will be provided to each organization requesting it, but it may be reproduced by the requester.

FOR FURTHER INFORMATION CONTACT: Liesel C. Duhon, Director, SABIT Program, U.S. Department of Commerce, phone—(202) 482–0073, facsimile—(202) 482–2443. These are not toll free numbers.

SUPPLEMENTARY INFORMATION: SABIT exposes NIS business managers and scientists to a completely new way of thinking in which demand, consumer satisfaction, and profits drive production. Senior-level interns visiting the U.S. for internship programs with public or private sector companies will be exposed to an environment which will provide them with practical knowledge for transforming their countries' enterprises and economies to the free market. The program provides first-hand, eye-opening experience to managers and scientists which cannot be duplicated by American managers traveling to their territories.

Managers: SABIT assists economic restructuring in the NIS by providing top-level business managers with practical training in American methods of innovation and management in such areas as strategic planning, financing, production, distribution, marketing, accounting, wholesaling, and labor relations. This first-hand experience in the U.S. economy enables interns to become leaders in establishing and operating a market economy in the NIS, and creates a unique opportunity for U.S. firms to familiarize key executives from the NIS with their products and services. Sponsoring U.S. firms will benefit by establishing relationships with key managers in similar industries who are uniquely positioned to assist their U.S. sponsors do business in the Independent States.

Scientists: SABIT provides opportunities for gifted scientists to apply their skills to peaceful research and development in the civilian sector, in areas such as defense conversion, medical research, and the environment, and exposes them to the role of scientific research in a market economy where applicability of research relates to business success. Sponsoring firms in the U.S. scientific community also benefit from exchanging information and ideas, and different approaches to new technologies.

The Special American Business Internship Training program's Catalog of Federal Domestic Assistance (CFA) number is 11.114.

Funding Availability: Pursuant to section 632(a) of the Foreign Assistance Act of 1961, as amended (the "Act")

funding for the program will be provided by the United States Agency for International Development (A.I.D). ITA will award financial assistance and administer the program pursuant to the authority contained in section 635(b) of the Act and other applicable Grant rules. The estimated amount of financial assistance available for the program is $ 2 million. At least $800,000 of that amount is reserved for U.S. organizations which host scientists. Additional funding may become available at a future date.

Funding Instrument and Project Duration: Federal assistance will be awarded pursuant to a cooperative agreement between ITA and the recipient firm. All internships are three to six months; however, ITA reserves the right to allow an intern to stay for a shorter period of time (no less than one month) if the U.S. company agrees and the intern demonstrates a need for a shorter internship based on his or her management responsibilities. ITA will reimburse companies for the round trip international travel of each intern from the intern's home city in the NIS to the U.S. internship site, upon submission to ITA of the paid travel invoice, payment receipt, or other evidence of payment and the form SF–270, "Request for Advance or Reimbursement." Travel under the program is subject to the Fly America Act. Recipient firms provide $30 per day directly to interns; ITA will reimburse recipient firms for this stipend of $30 per day per intern, for up to six months, upon submission by company of an end-of-internship report and form SF–270. Recipient firms provide housing for the interns; ITA will reimburse recipient firms for up to $500 per month for housing costs, at the same time as the stipend, and upon submission by company of an end-of-internship report and form SF–270. In general, each award will have a cap of $10,500 per intern for total cost of airline travel, stipend and housing costs. ITA reserves the right to allow an award to exceed this amount in cases of unusually high costs, such as airfare from remote regions of the NIS. However, the total payment cannot exceed the award amount. There are no specific matching requirements for the awards. Host firms, however, are expected to bear the costs beyond those covered by the award, including: visa fees, insurance, any food and incidentals costs beyond $30 per day, any training-related travel within the U.S., and provision of the hands-on training for the interns.

U.S. firms wishing to utilize SABIT in order to be matched with an intern without applying for financial assistance may do so. Such firms will be responsible for all costs, including travel expenses, related to sponsoring the intern. However, prior to acceptance as a SABIT intern, work plans and candidates must be approved by the SABIT Program. Furthermore, program training will be monitored by SABIT staff and evaluated upon completion of training.

Eligibility: Eligible applicants for the SABIT program will include all for profit or non-profit U.S. corporations, associations, organizations or other public or private entities. Agencies or divisions of the federal government are not eligible.

Project Funding Priorities: Applicant proposal must provide an explanation, including description and extent of involvement, in priority business sector(s). While Applicants involved in any industry sector may apply to the program, priority consideration is given to those operating in the following sectors: (a). Agribusiness (including food processing and distribution, and agricultural equipment), (b). Defense conversion, (c). Energy, (d). Environment (including environmental clean-up), (e). Financial services (including banking and accounting), (f). Housing, construction and infrastructure, (g). Medical equipment, supplies, pharmaceuticals, and health care management, (h). Product standards and quality control, (i). Telecommunications, (j). Transportation and (k) Biotechnology.

Evaluation Criteria: Consideration for financial assistance will be given to those SABIT proposals which:

(1). Demonstrate a commitment to the intent and goals of the program to provide practical, on-the-job, non-academic, non-classroom, training: in the case of manager interns, an appropriate management training experience, or, in the case of scientist interns, a practical, commercially-oriented scientific training experience. Include a brief objectives section indicating why the Applicant wishes to provide an internship to a manager(s) or scientist(s) from the NIS, and how the proposed internship would further the purpose of the SABIT program as described above. Also, the Applicant should note how the internship to be provided will respond to the priority needs of senior business managers and scientists in the NIS, as determined by ITA.

(2). Present a realistic work plan describing in detail the training program to be provided to the SABIT intern(s). Work plans must include the proposed internship training activities. The components of the training activities must be described in as much detail as possible, preferably on a week-by-week basis. The description of the training activities should include an account of what the intern's(s') duties and responsibilities will be during the training.

(3). The application should also have a section noting: (a). Whether Applicant is applying to host managers or scientists, or both (and the number of each); (b). the duration of the internship; (c). the location(s) of the internship; (d). the name, address, and telephone number of the designated internship coordinator; (e). name(s) of division(s) in which the intern(s) will be placed; (f). the individual(s) in the U.S. company under whose supervision the intern will train; (g). the anticipated housing arrangements to be provided for the intern(s). Note that housing arrangements should be suitable for mid-and senior-level professionals, and that each intern must be provided with a private room; (h). a statement that the host firm is solidly committed to interns' return to their own countries upon completion of the internships.

(4). Provide a general description of the profile of the intern(s) the Applicant would like to host, including: educational background; occupational/professional background (including number of years and areas of experience); size and nature of organization at which the intern(s) is/are presently employed; preference for the region of the NIS where the intern(s) is/are employed; and whether Applicant is open to sponsoring interns from a variety of NIS countries.

Evaluation criteria 1–4 will be weighted equally.

ITA does not guarantee that it will match Applicant with the profile provided to SABIT.

Selection Procedures: Each application will receive an independent, objective review by one or more three or four-member ITA review panels qualified to evaluate applications submitted under the program. Applications will be evaluated on a competitive, "rolling" basis as they are received in accordance with the selection evaluation set forth above. Awards will be made to those applications which successfully meet the selection criteria. If funds are not available for all those applications which successfully meet the criteria, awards will be made to the first applications received which successfully do so. ITA reserves the right to reject any application; to limit the number of interns per applicant; and to waive informalities and minor irregularities in applications received.

The final selecting official reserves the right to make awards based on U.S. geographic and organization size diversity among applicants, as well as to consider priority business sectors (listed in Project Funding Priorities, above) when making awards. Recipients may be eligible, pursuant to approval of an amendment of an active award, to host additional interns under the program. ITA reserves the right to evaluate applicants based on past performance. The Director of the SABIT Program is the final selecting official for each award.

Additional Information: Applicants must submit: (1). Evidence of adequate financial resources of Applicant organization to cover the costs involved in providing an internship(s). As evidence of such resources, Applicant should submit financial statements audited by an outside organization or an annual report including such statements. If these are not available, a letter should be provided from the Applicant's bank or outside accountant attesting to the financial capability of the firm to undertake the scope of work involved in training an intern under the SABIT program. (2). Evidence of a satisfactory record of performance in grants, contracts and/or cooperative agreements with the Federal Government, if applicable. (Applicants who are or have been deficient in current or recent performance in their grants, contracts, and/or cooperative agreements with the Federal Government shall be presumed to be unable to meet this requirement). (3). A statement that the Applicant will provide medical insurance coverage for interns during their internships. Recipients will be required to submit proof of the interns' medical insurance coverage to the Federal Program Officer, before the interns' arrivals. The insurance coverage must include an accident and comprehensive medical insurance program as well as coverage for accidental death, emergency medical evacuation, and repatriation.

Other Requirements: All applicants are advised of the following:

1. No award of Federal funds shall be made to an Applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, a negotiated repayment schedule is established and at least one payment is received, or other arrangements satisfactory to the Department of Commerce (DOC) are made.

2. A false statement on the application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

3. Recipients and subrecipients are subject to all Federal laws and Federal and Departmental regulations, policies and procedures applicable to financial assistance awards.

4. Participating companies will be required to comply with all relevant U.S. tax and export regulations. Export controls may relate not only to licensing of products for export, but also to technical data transfer.

5. Applications under this program are not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

6. If applicants incur any costs prior to an award being made, they do solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DOC to cover pre-award costs.

7. Past performance: Unsatisfactory performance by an applicant under prior Federal awards may result in an application not being considered for funding.

8. No obligation for future funding: If an application is selected for funding, DOC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DOC.

9. Primary Applicant Certifications: All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations are hereby provided:

(a) Nonprocurement Debarment and Suspension: Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies.

(b) Drug Free Workplace: Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, "Government wide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies.

(c) Anti-Lobbying: Funds provided under the SABIT program may not be used for lobbying activities. Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater.

(d) Anti-Lobbying Disclosures: Any applicant that has paid or will pay for lobbying in connection with this award using any funds must submit an SF-LLL, "Disclosure of Lobbying Activities," as required under 15 CFR Part 28, Appendix B.

10. All primary applicants must also submit a completed Standard Form 424, "Application for Federal Assistance" and a Standard Form 424B, "Assurances—Non-Construction Programs." Form CD–511 and Standard Forms 424 and 424B are included in the Application Kit supplied by the SABIT office.

11. Lower Tier Certifications: Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF-LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF-LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

12. Indirect Costs: Indirect costs are not allowed under the SABIT program.

13. Applicants are hereby notified that any equipment or products authorized to be purchased with funding provided under this program must be American-made to the greatest extent practicable.

14. The following statutes apply to this program: Section 907 of the FREEDOM Support Act, Public Law 102–511, 22 U.S.C. 5812 note (Restriction on Assistance to the Government of Azerbaijan); 7 U.S.C. § 5201 et seq. (Agricultural Competitiveness and Trade—the Bumpers Amendment); The Foreign Assistance Act of 1961, as amended, including Chapter 11 of Part I, section 498A (b) Public Law 102–511, 22 U.S.C. 2295a(b), (regarding ineligibility for assistance); 22 U.S. C. 2420(a), Section 660(a) of The Foreign Assistance Act of 1961, as amended (Police Training Prohibition); and provisions in the annual Foreign Operations, Export Financing, and Related Programs Appropriations Acts, concerning Use of American Resources, Impact on Jobs in the United States and Commerce and Trade (see, e.g., §§ 546, 538 and 513 respectively of the Foreign Operations, Export Financing, and Related Appropriations Act, 1998, Public Law 105–118).

15. *Audit Requirements:* The DOC Office of Inspector General has authority under the Inspector General Act of 1978, as amended, to conduct an audit of any DOC award at any time.

16. *Payments.* As required by the Debt Collections Improvement Act of 1996, all Federal payments to award recipients pursuant to this announcement will be made by electronic funds transfer.

17. The collection of information is approved by the Office of Management and Budget, OMB Control Number 0625–0225. Public reporting for this collection of information is estimated to be three hours per response, including the time for reviewing instructions, and completing and reviewing the collection of information. All responses to this collection of information are voluntary, and will be protected from disclosure to the extent allowed under the Freedom of Information Act. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Clearance Officer, International Trade Administration, Department of Commerce, Room 4001, 14th and Constitution Ave., N.W., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Special American Business Internship Training, International Trade Administration, at (202)482–0073. This is not a toll free-number.

Dated: November 3, 1998.

Liesel C. Duhon,

Director, SABIT Program.

[FR Doc. 98–29791 Filed 11–5–98; 8:45 am]

BILLING CODE 3510–HE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

Title: Coastal Services Center (CSC): Coastal Resource Management Opportunities, Capabilities, and Needs.

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before January 5, 1999.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Nina Petrovich, South Carolina's Sea Grant Coastal Program Coordinator, NOAA Coastal Services Center, 2234 South Hobson Avenue, Charleston SC 29405. Phone (843) 740–1203, Email: *npetrovich@csc.noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Three years ago, the Coastal Services Center (CSC) surveyed the coastal resource management community to assess its information management needs and capabilities. CSC has used the results to deliver products in formats that the greatest proportion of the community can use. CSC proposes to repeat this survey every three years (the next one to be conducted in 1999) to assess changes in the community's management capabilities and needs.

The overall objectives of the survey are: to receive feedback from the coastal management community on the relevance, importance, and need of specific proposed products; to give coastal resource managers the opportunity to describe their priority problems and management needs; and to obtain information on the hardware and software platforms and capabilities of the coastal information management community. Results will be used to evaluate the effectiveness and most useful format for delivery of CSC products and services and to set priorities for future programming.

The survey will be conducted in two parts to differentiate between resource management needs and information management needs. Both sections will be sent to the coastal manager, who would be asked to forward the second section to the data/information manager.

(1) Section one will contain general questions about information management problems and opportunities, and about communication pathways and management services.

(2) Section two will ask questions about information management for coastal problems, data/information exchange, and computer-based tools and techniques.

The survey is targeted for release to the coastal community in February 1999, and results will be compiled during the summer months of that year.

II. Method of Collection

The survey will be mailed to clients with an option to respond electronically or by mail.

III. Data

OMB Number: 0648–0308.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Not-for-profit institutions; state, local, or tribal government (coastal managers from the following programs or agencies: Coastal Zone Management Programs, National Estuarine Research Reserve Sites, National Marine Sanctuaries, Sea Grant Institutions, Natural Resource Management Agencies, and National Estuary Programs.

Estimated Number of Respondents: 240.

Estimated Time Per Response: 40 minutes.

Estimated Total Annual Burden Hours: 160.

Estimated Total Annual Cost to Public: $0 (no capital expendiures required).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be

collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 30, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–29698 Filed 11–5–98; 8:45 am]

BILLING CODE 3510–08–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Bangladesh

November 3, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Bangladesh and exported during the period January 1, 1999 through December 31, 1999 are based on the limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the limits for the 1999 period. The 1999 limits for certain categories have been reduced for carryforward applied to the 1998 limits.

Effective on January 1, 1999, a visa will no longer be required for products integrated in the second stage of the integration of textiles and clothing into GATT 1994 from WTO member countries (see 63 FR 53881, published on October 7, 1998). A visa will continue to be required for non integrated products. For quota purposes only, products remaining in categories partially integrated will continue to be designated by the designator "pt."

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Information regarding the 1999 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 3, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 1999, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, man-made fiber, silk blend and other vegetable fiber textile products in the following categories, produced or manufactured in Bangladesh and exported during the twelve-month period beginning on January 1, 1999 and extending through December 31, 1999, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
237	505,495 dozen.
331	1,354,428 dozen pairs.
334	154,215 dozen.
335	276,895 dozen.
336/636	495,508 dozen.
338/339	1,435,433 dozen.
340/640	3,244,886 dozen.
341	2,688,094 dozen.
342/642	479,015 dozen.
347/348	2,419,283 dozen.
351/651	738,646 dozen.
352/652	11,019,845 dozen.
363	27,532,454 numbers.
369–S [1]	1,845,520 kilograms.
634	539,527 dozen.
635	349,551 dozen.
638/639	1,820,392 dozen.
641	1,171,266 dozen.
645/646	427,498 dozen.
647/648	1,521,563 dozen.
847	854,436 dozen.

[1] Category 369–S: only HTS number 6307.10.2005.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1998 shall be charged to the applicable category limits for that year (see directive dated November 19, 1997) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

Effective on January 1, 1999, a visa will no longer be required for products integrated in the second stage of the integration of textiles and clothing into GATT 1994 from WTO member countries (see directive dated September 30, 1998). A visa will continue to be required for non-integrated products. For quota purposes only, products remaining in categories partially integrated will continue to be designated by the designator "pt."

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–29829 Filed 11–5–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Wool and Man-Made Fiber Textile Products Produced or Manufactured in Bulgaria

November 3, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Bulgaria and exported during the period January 1, 1999 through December 31, 1999 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1999 limits. The limit for Category 435 has been reduced for carryforward applied in 1998.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Information regarding the 1999 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 3, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 1999, entry into the United States for consumption and withdrawal from warehouse for consumption of wool and man-made fiber textile products in the following categories, produced or manufactured in Bulgaria and exported during the twelve-month period beginning on January 1, 1999 and extending through December 31, 1999, in excess of the following levels of restraint:

Category	Twelve-month limit
410/624	2,738,549 square meters of which not more than 850,058 square meters shall be in Category 410.
433	13,094 dozen.
435	21,975 dozen.
442	15,276 dozen.
444	71,496 numbers.
448	26,980 dozen.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1998 shall be charged to the applicable category limits for that year (see directive dated November 19, 1997) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–29830 Filed 11–5–98 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Hungary

November 3, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Hungary and exported during the period January 1, 1999 through December 31, 1999 are based on the limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the limits for the 1999 period.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Information regarding the 1999 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 3, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 1999, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Hungary and exported during the twelve-month period beginning on January 1, 1999 and extending through December 31, 1999, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
351/651	290,594 dozen.
410	950,751 square meters.
433	18,030 dozen.
434	15,298 dozen.
435	26,443 dozen.
443	169,371 numbers.

Category	Twelve-month restraint limit
444	54,637 numbers.
448	23,369 dozen.
604	1,438,282 kilograms.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1998 shall be charged to the applicable category limits for that year (see directive dated November 24, 1997) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–29833 Filed 11–5–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Macau

November 3, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota reopenings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Macau and exported during the period January 1, 1999 through December 31, 1999 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1999 limits.

Effective on January 1, 1999, a visa will no longer be required for products integrated in the second stage of the integration of textiles and clothing into GATT 1994 from WTO member countries (see 63 FR 53881, published on October 7, 1998). A visa will continue to be required for non-integrated products. For quota purposes only, products remaining in categories partially integrated will continue to be designated by the designator "pt."

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Information regarding the 1999 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 3, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 1999, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Macau and exported during the twelve-month period beginning on January 1, 1999 and extending through December 31, 1999, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Levels in Group I	
219	3,142,347 square meters.
225	10,998,214 square meters.
313	7,855,867 square meters.
314	1,309,311 square meters.
315	3,927,934 square meters.
317	7,855,867 square meters.
326	3,142,347 square meters.
333/334/335/833/834/835.	319,417 dozen of which not more than 168,257 dozen shall be in Categories 333/335/833/835.
336/836	75,708 dozen.
338	411,198 dozen.
339	1,722,361 dozen.
340	389,198 dozen.
341	251,025 dozen.
342	113,563 dozen.
345	69,441 dozen.
347/348/847	973,295 dozen.
350/850	75,708 dozen.
351/851	90,852 dozen.
359–C/659–C[1]	454,253 kilograms.
359–V[2]	151,419 kilograms.
611	3,142,347 square meters.
625/626/627/628/629	7,855,867 square meters.
633/634/635	676,390 dozen.
638/639/838	2,106,297 dozen.
640	149,760 dozen.
641/840	257,398 dozen.
642/842	149,962 dozen.
645/646	351,051 dozen.
647/648	708,176 dozen.
659–S[3]	151,419 kilograms.
Group II	
400–431, 433–438, 440–448, 459pt.[4], 464 and 469pt.[5], as a group.	1,551,104 square meters equivalent.
Sublevel in Group II	
445/446	83,622 dozen.

[1] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[2] Category 359–V: only HTS numbers 6103.19.2030, 6103.19.9030, 6104.12.0040, 6104.19.8040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.9044, 6110.90.9046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.9030, 6204.12.0040, 6204.19.8040, 6211.32.0070 and 6211.42.0070.

[3] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[4] Category 459pt.: all HTS numbers except 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[5] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010 and 6406.10.9020.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1998 shall be charged to the applicable category limits for that year (see directive dated December 9, 1997) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

Effective on January 1, 1999, a visa will no longer be required for products integrated in the second stage of the integration of textiles and clothing into GATT 1994 from WTO member countries (see directive dated September 30, 1998). A visa will continue to be required for non-integrated products. For quota purposes only, products remaining in categories partially integrated will continue to be designated by the designator "pt."

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–29831 Filed 11–5–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in Malaysia

November 3, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota reopenings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Malaysia and exported during the period January 1, 1999 through December 31, 1999 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC). In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1999 limits. The 1999 limit for Categories 347/348 is being decreased for carryforward applied to the 1998 limit.

Effective on January 1, 1999, a visa will no longer be required for products integrated in the second stage of the integration of textiles and clothing into GATT 1994 from WTO member countries (see 63 FR 53881, published on October 7, 1998). A visa will continue to be required for non-integrated products. For quota purposes only, products remaining in categories partially integrated will continue to be designated by the designator "pt."

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Information regarding the 1999 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 3, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 1999, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel in the following categories, produced or manufactured in Malaysia and exported during the twelve-month period beginning on January 1, 1999 and extending through December 31, 1999, in excess of the following limits:

Category	Twelve-month restraint limit
Fabric Group 218–220, 225–227, 313–315, 317, 326, 611–O[1], 613/614/615/617, 619 and 620, as a group.	134,499,315 square meters equivalent.
Sublevels within the group	
218	7,716,910 square meters.
219	37,384,140 square meters.
220	37,384,140 square meters.
225	37,384,140 square meters.
226	37,384,140 square meters.
227	37,384,140 square meters.
313	44,586,589 square meters.
314	53,641,038 square meters.
315	37,384,140 square meters.
317	37,384,140 square meters.
326	7,229,250 square meters.
611–O	4,337,550 square meters.
613/614/615/617	42,912,832 square meters.
619	5,783,401 square meters.
620	7,229,250 square meters.
Other specific limits	
200	325,418 kilograms.
237	437,848 dozen.
300/301	3,451,423 kilograms.
331/631	2,369,696 dozen pairs.
333/334/335/835	271,755 dozen of which not more than 163,053 dozen shall be in Category 333 and not more than 163,053 dozen shall be in Category 835.
336/636	527,616 dozen.
338/339	1,308,086 dozen.
340/640	1,523,665 dozen.
341/641	1,974,727 dozen of which not more than 704,485 dozen shall be in Category 341.
342/642/842	472,990 dozen.
345	181,376 dozen.
347/348	523,769 dozen.

Category	Twelve-month restraint limit
350/650	170,579 dozen.
351/651	293,492 dozen.
363	4,597,802 numbers.
435	15,664 dozen.
438–W [2]	12,818 dozen.
442	19,088 dozen.
445/446	30,299 dozen.
604	1,513,372 kilograms.
634/635	921,663 dozen.
638/639	542,928 dozen.
645/646	415,264 dozen.
647/648	1,954,189 dozen of which not more than 1,367,930 dozen shall be in Category 647–K [3] and not more than 1,367,930 dozen shall be in Category 648–K [4].
Group II 201, 222–224, 239pt. [5], 332, 352, 359pt. [6], 360–362, 369pt. [7], 400–431, 433, 434, 436, 438–O [8], 440, 443, 444, 447, 448, 459pt. [9], 464, 469pt. [10], 600–603, 606, 607, 618, 621, 622, 624–629, 633, 643, 644, 649, 652, 659pt. [11], 666, 669pt. [12], 670, 831, 833, 834, 836, 838, 840, 843–858 and 859pt. [13], as a group.	44,117,960 square meters equivalent.

[1] Category 611–O: all HTS numbers except 5516.14.0005, 5516.14.0025 and 5516.14.0085

[2] Category 438–W: only HTS numbers 6104.21.0060, 6104.23.0020, 6104.29.2051, 6106.20.1010, 6106.20.1020, 6106.90.1010, 6106.90.1020, 6106.90.2520, 6106.90.3020, 6109.90.1540, 6109.90.8020, 6110.10.2080, 6110.30.1560, 6110.90.9074 and 6114.10.0040.

[3] Category 647–K: only HTS numbers 6103.23.0040, 6103.23.0045, 6103.29.1020, 6103.29.1030, 6103.43.1520, 6103.43.1540, 6103.43.1550, 6103.43.1570, 6103.49.1020, 6103.49.1060, 6103.49.8014, 6112.12.0050, 6112.19.1050, 6112.20,.1060 and 6113.00.9044.

[4] Category 648–K: only HTS numbers 6104.23.0032, 6104.23.0034, 6104.29.1030, 6104.29.1040, 6104.29.2038, 6104.63.2006, 6104.63.2011, 6104.63.2026, 6104.63.2028, 6104.63.2030, 6104.63.2060, 6104.69.2030, 6104.69.2060, 6104.69.8026, 6112.12.0060, 6112.19.1060, 6112.20.1070, 6113.00.9052 and 6117.90.9070.

[5] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[6] Category 359pt.: all HTS numbers except 6406.99.1550.

[7] Category 369pt.: all HTS numbers except 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020 and 6406.10.7700.

[8] Category 438–O: only HTS numbers 6103.21.0050, 6103.23.0025, 6105.20.1000, 6105.90.1000, 6105.90.8020, 6109.90.1520, 6110.10.2070, 6110.30.1550, 6110.90.9072, 6114.10.0020 and 6117.90.9025.

[9] Category 459pt.: all HTS numbers except 6405.20.6030, 6405.20.6060, 6405.20.6090, 6405.99.1505 and 6406.99.1560.

[10] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010 and 6406.10.9020.

[11] Category 659pt.: all HTS numbers except 6406.99.1510 and 6406.99.1540.

[12] Category 669pt.: all HTS numbers except 5601.10.2000, 5601.22.0090, 5607.49.3000, 5607.50.4000 and 6406.10.9040.

[13] Category 859pt.: only HTS numbers 6115.19.8040, 6117.10.6020, 6212.10.5030, 6212.10.9040, 6212.20.0030, 6212.30.0030, 6212.90.0090, 6214.10.2000 and 6214.90.0090.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1998 shall be charged to the applicable category limits for that year (see the December 22, 1997 directive) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

Effective on January 1, 1999, a visa will no longer be required for products integrated in the second stage of the integration of textiles and clothing into GATT 1994 from WTO member countries (see directive dated September 30, 1998). A visa will continue to be required for non-integrated products. For quota purposes only, products remaining in categories partially integrated will continue to be designated by the designator "pt."

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–29832 Filed 11–5–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

November 3, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Pakistan and exported during the period January 1, 1999 through December 31, 1999 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1999 limits.

Effective on January 1, 1999, a visa will no longer be required for products integrated in the second stage of the integration of textiles and clothing into GATT 1994 from WTO member countries (see 63 FR 53881, published on October 7, 1998). A visa will continue to be required for non-integrated products. For quota purposes only, products remaining in categories partially integrated will continue to be designated by the designator "pt."

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Information regarding the 1999 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 3, 1998.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 1999, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Pakistan and exported during the twelve-month period beginning on January 1, 1999 and extending through December 31, 1999, in excess of the following limits:

Category	Twelve-month restraint limit
Specific limits	
219	9,024,717 square meters.
226/313	129,440,629 square meters.
237	438,929 dozen.
239pt. [1]	1,895,617 kilograms.
314	6,563,430 square meters.
315	85,003,997 square meters.
317/617	35,270,770 square meters.
331/631	2,688,116 dozen pairs.
334/634	259,256 dozen.
335/635	400,369 dozen.
336/636	526,715 dozen.
338	5,254,913 dozen.
339	1,492,003 dozen.
340/640	702,288 dozen of which not more than 263,357 dozen shall be in Categories 340–D/640–D [2].
341/641	790,073 dozen.
342/642	391,045 dozen.
347/348	873,067 dozen.
351/651	351,143 dozen.
352/652	877,858 dozen.
359–C/659–C [3]	1,580,146 kilograms.
360	5,640,837 numbers.
361	6,559,112 numbers.
363	48,878,391 numbers.
369–F/369–P [4]	2,633,576 kilograms.
369–R [5]	12,290,024 kilograms.
369–S [6]	804,050 kilograms.
613/614	25,630,432 square meters
615	27,266,412 square meters.
625/626/627/628/629	83,859,305 square meters of which not more than 41,929,654 square meters shall be in Category 625; not more than 41,929,654 square meters shall be in Category 626; not more than 41,929,654 square meters shall be in Category 627; not more than 8,675,101 square meters shall be in Category 628; and not more than 41,929,654 square meters shall be in Category 629.
638/639	487,367 dozen.
647/648	924,029 dozen.
666–P [7]	809,891 kilograms.
666–S [8]	4,287,658 kilograms.

[1] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[2] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030; Category 640–D: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.3030 and 6205.90.4030.

[3] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[4] Category 369–F: only HTS number 6302.91.0045; Category 369–P: only HTS numbers 6302.60.0010 and 6302.91.0005.

[5] Category 369–R: only HTS number 6307.10.2020.

[6] Category 369–S: only HTS number 6307.10.2005.

[7] Category 666–P: only HTS numbers 6302.22.1010, 6302.22.1020, 6302.22.2010, 6302.32.1010, 6302.32.1020, 6302.32.2010 and 6302.32.2020.

[8] Category 666–S: only HTS numbers 6302.22.1030, 6302.22.1040, 6302.22.2020, 6302.32.1030, 6302.32.1040, 6302.32.2030 and 6302.32.2040.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1998 shall be charged to the applicable category limits for that year (see directive dated November 25, 1997) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

Effective on January 1, 1999, a visa will no longer be required for products integrated in the second stage of the integration of textiles and clothing into GATT 1994 from WTO member countries (see directive dated September 30, 1998). A visa will continue to be required for non-integrated products. For quota purposes only, products remaining in categories partially integrated will continue to be designated by the designator "pt."

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–29836 Filed 11–5–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Qatar

November 3, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Qatar and exported during the period January 1, 1999 through December 31, 1999 are based on limits notified to the Textiles Monitoring Body pursuant to

the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the limits for the 1999 period. The 1999 limit for Categories 347/348 has been reduced for carryforward applied to the 1998 limit.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Information regarding the 1999 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 3, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 1999, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Qatar and exported during the twelve-month period beginning on January 1, 1999 and extending through December 31, 1999, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
340/640	477,565 dozen.
341/641	220,415 dozen.
347/348	513,906 dozen.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1998 shall be charged to the applicable category limits for that year (see directive dated November 6, 1997) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–29835 Filed 11–5–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Turkey

November 3, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Turkey and exported during the period January 1, 1999 through December 31, 1999 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC), and Memoranda of Understanding (MOUs) dated July 19, 1995 and April 24, 1998, between the Governments of the United States and the Republic of Turkey.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1999 limits. The limits for certain categories have been reduced for carryforward applied in 1998.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Information regarding the 1999 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 3, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC); and Memoranda of Understanding (MOUs) dated July 19, 1995 and April 24, 1998 between the Governments of the United States and the Republic of Turkey, you are directed to prohibit, effective on January 1, 1999, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Turkey and exported during the period January 1, 1999 through December 31, 1999, in excess of the following levels of restraint:

Category	Restraint limit
Fabric Group 219, 313–O[1], 314–O[2], 315–O[3], 317–O[4], 326–O[5], 617, 625/626/627/628/629, as a group.	191,145,399 square meters of which not more than 43,680,621 square meters shall be in Category 219; not more than 53,387,425 square meters shall be in Category 313–O; not more than 31,061,775 square meters shall be in Category 314–O; not more than 41,739,262 square meters shall be in Category 315–O; not more than 43,680,621 square meters shall be in Category 317–O; not more than 4,853,401 square meters shall be in Category 326–O, and not more than 29,120,416 square meters shall be in Category 617.
Sublevel in Fabric Group 625/626/627/628/629	19,663,562 square meters of which not more than 7,865,424 square meters shall be in Category 625; not more than 7,865,424 square meters shall be in Category 626; not more than 7,865,424 square meters shall be in Category 627; not more than 7,865,424 square meters shall be in Category 628; and not more than 7,865,424 square meters shall be in Category 629.
Limits not in a group	
200	1,843,054 kilograms.
300/301	8,973,700 kilograms.
335	387,457 dozen.
336/636	912,676 dozen.
338/339/638/639	5,369,028 dozen of which not more than 4,832,126 dozen shall be in Categories 338–S/339–S/638–S/639–S[6].
340/640	1,659,062 dozen of which not more than 471,858 dozen shall be in Categories 340–Y/640–Y[7].
341/641	1,638,402 dozen of which not more than 573,440 dozen shall be in Categories 341–Y/641–Y[8].
342/642	1,015,998 dozen.
347/348	5,527,718 dozen of which not more than 1,922,780 dozen shall be in Categories 347–T/348–T[9].
350	544,420 dozen.
351/651	870,434 dozen.
352/652	3,152,300 dozen.
361	1,830,351 numbers.
369–S[10]	2,002,784 kilograms.
410/624	1,119,683 square meters of which not more than 737,423 square meters shall be in Category 410.
448	38,420 dozen.
604	2,311,800 kilograms.
611	57,834,003 square meters.

[1] Category 313–O: all HTS numbers except 5208.52.3035, 5208.52.4035 and 5209.51.6032.

[2] Category 314–O: all HTS numbers except 5209.51.6015.

[3] Category 315–O: all HTS numbers except 5208.52.4055.

[4] Category 317–O: all HTS numbers except 5208.59.2085.

[5] Category 326–O: all HTS numbers except 5208.59.2015, 5209.59.0015 and 5211.59.0015.

[6] Category 338–S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.8010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.9068, 6112.11.0030 and 6114.20.0005; Category 339–S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2510, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.9070, 6112.11.0040, 6114.20.0010 and 6117.90.9020; Category 638–S: all HTS numbers except 6109.90.1007, 6109.90.1009, 6109.90.1013 and 6109.90.1025; Category 639–S: all HTS numbers except 6109.90.1050, 6109.90.1060, 6109.90.1065 and 6109.90.1070.

[7] Category 340–Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060; Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

[8] Category 341–Y: only HTS numbers 6204.22.3060, 6206.30.3010, 6206.30.3030 and 6211.42.0054; Category 641–Y: only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.

[9] Category 347–T: only HTS numbers 6103.19.2015, 6103.19.9020, 6103.22.0030, 6103.42.1020, 6103.42.1040, 6103.49.8010, 6112.11.0050, 6113.00.9038, 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040; Category 348–T: only HTS numbers 6104.12.0030, 6104.19.8030, 6104.22.0040, 6104.29.2034, 6104.62.2006, 6104.62.2011, 6104.62.2026, 6104.62.2028, 6104.69.8022, 6112.11.0060, 6113.00.9042, 6117.90.9060, 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.69.6010, 6204.69.9010, 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9050.

[10] Category 369–S: only HTS number 6307.10.2005.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1998 shall be charged to the applicable category limits for that year (see directive dated December 22, 1997) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–29834 Filed 11–5–98; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

[OMB Control Number 0704–0390]

Information Collection Requirements; Defense Federal Acquisition Regulation Supplement; Taxes

AGENCY: Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement, and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. This information collection requirement is currently approved by the Office of Management and Budget (OMB) for use through August 31, 1999. DoD proposes that OMB extend its approval for use through August 31, 2002.

DATES: Consideration will be given to all comments received by January 4, 1999.

ADDRESSES: Written comments and recommendations on the proposed information collection requirement should be sent to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350.

E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil.

Please cite OMB Control Number 0704–0390 in all correspondence related to this issue. E-mail comments should

cite OMB Control Number 0704–0390 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, at (703) 602–0131. A copy of this information collection requirement is available electronically via the Internet at: http://www.acq.osd.mil/dp/dars/dfars/html

Paper copies may be obtained from Ms. Amy Williams, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062.

SUPPLEMENTARY INFORMATION:

Title, Associated Forms, and OMB Control Number: Taxes—Defense Federal Acquisition Regulation Supplement (DFARS) Part 229, and related clauses at 252.229, OMB Control Number 0704–0390.

Needs and Uses: This information collection is used by DoD to determine if DoD contractors in the United Kingdom have attempted to obtain relief from customs duty on vehicle fuels in accordance with contract requirements.

Affected Public: Businesses or other for-profit institutions.

Annual Burden Hours: 68.

Number of Respondents: 17.

Responses per Respondent: 1.

Number of Responses: 17.

Average Burden per Response: 4 hours.

Frequency: On occasion.

Summary of Information Collection

The clause at DFARS 252.229–7010, Relief from Customs Duty on Fuel (United Kingdom), is prescribed at DFARS 229.402–70(j), for use in solicitations issued and contracts awarded in the United Kingdom that require the use of fuels (gasoline or diesel) and lubricants in taxis or vehicles other than passenger vehicles. The clause requires the contractor to submit to the contracting officer evidence that an attempt to obtain relief from customs duty on fuels and lubricants has been initiated.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 98–29775 Filed 11–5–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

General Services Administration

National Aeronautics and Space Administration

[OMB Control No. 9000–0141]

Proposed Collection; Comment Request for Buy American Act—Construction (Grimberg Decision)

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance (9000–0141).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Buy American Act—Construction (Grimberg Decision). The clearance currently expires on February 28, 1999.

DATES: Comments may be submitted on or before January 5, 1999.

FOR FURTHER INFORMATION CONTACT: Paul Linfield, Federal Acquisition Policy Division, GSA, (202) 501–1757.

ADDRESSES: Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat, 1800 F Street, NW, Room 4035, Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

The clauses at FAR 52.225–5, Buy American Act—Construction Materials, and FAR 52.225–15, Buy American Act—Construction Materials under Trade Agreements Act and North American Free Trade Agreement, provide that offerors/contractors requesting to use foreign construction material, other than construction material eligible under a trade agreement, shall provide adequate information for Government evaluation of the request. These regulations implement the Buy American Act for construction (41 U.S.C. 10a–10d).

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *2.5* hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *500;* responses per respondent, *2;* total annual responses, *1,000;* preparation hours per response, *2.5;* and total response burden hours, *2,500.*

OBTAINING COPIES OF PROPOSALS: Requester may obtain a copy of justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0141 regarding Buy American Act—Construction (Grimberg Decision) in all correspondence.

Dated: November 3, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 98–29742 Filed 11–5–98; 8:45 am]

BILLING CODE 6820–34–U

DEPARTMENT OF DEFENSE

Department of the Army

Draft Legislative Environmental Impact Statement for the Withdrawal Renewal of Fort Wainwright Yukon Training Area and Fort Greely West Training Area and Fort Greely East Training Area, Alaska

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: This announces the availability of the Draft legislative Environmental Impact Statement (DLEIS) for the renewed withdrawal of Fort Wainwright Yukon Training Area (formerly known as the Fort Wainwright Maneuver Area) and Fort Greely West Training Area (formerly known as the Fort Greely Maneuver Area) and Fort Greely East Training Area (formerly known as the Fort Greely Air Drop Zone) from public use for military purposes. The lands are located near Fairbanks, Alaska.

The Military Lands Withdrawal Act (Pub. L. 99–606, enacted by Congress on November 6, 1986) identified Fort Wainwright Maneuver Area (now known as Fort Wainwright Yukon Training Area) and Fort Greely Maneuver Area (now known as the Fort Greely West Training Area) and Fort Greely Air Drop Zone (now known as Fort Greely East Training Area) as lands withdrawn from public use until November 6, 2001. If the Army intends to continue use beyond this time, the Act requires the Army to publish a Draft Environmental Impact Statement by November 6, 1998.

DATES: Comments should be received no later than February 7, 1999.

ADDRESSES: To obtain copies of the DLEIS, contact Mr. Doug Johnson, Directorate of Public Works, ATTN: APVR–RPW–EV, 730 Quartermaster Road, Fort Richardson, AK 99505–6500.

FOR FURTHER INFORMATION CONTACT: Mr. Doug Johnson at (907) 384–3090, fax: (907) 384–3047 or Ms. Cindy Herdrich, Center for Ecological Management of Military Lands (CEMML), Colorado State University, Vocational Education Building, Fort Collins, CO 80523; telephone: (970) 491–2728, fax: (970) 491–2713.

SUPPLEMENTARY INFORMATION: The Fort Wainwright Yukon Training Area comprises approximately 246,277 acres near Fairbanks, Alaska. The Fort Greely West and East Training Areas comprise approximately 623,585 acres near Delta Junction, Alaska. These areas were withdrawn from public use from the Bureau of Land Management (BLM) for military purposes with the enactment of the Military Lands Withdrawal Act on November 6, 1986. The Act specifies these lands are reserved for use by the Secretary of the Army for military maneuvering, training, artillery firing, aerial gunnery, infantry tactics, equipment development and testing, as well as other defense related purposes. The withdrawal renewal lands are used to train in an extremely cold environment, and to test the effect of this environment on military equipment. The Fort Wainwright Yukon Training Area and Fort Greely West and East Training Areas are used by the Army and Air Force. The Army and BLM jointly manage the natural resources on the withdrawal renewal lands recognizing their primary military role.

The Department of the Army has determined there is a continuing military requirement for the use of these withdrawal lands to train and maintain military units at the required state of readiness. The preferred alternative proposes to renew the existing military withdrawals for 50 years until November 6, 2051. The proposed 50-year withdrawal period is approximately the same length of time the military will have used these lands when the existing withdrawals expire in 2001.

Under the no action alternative considered in the DLEIS, Congress would not grant the requested withdrawal renewals. The lands would no longer be available for military use after November 5, 2001.

The Army conducted scoping on the DLEIS to inform the public of the proposed action, identify significant issues, and develop alternatives related to the proposed withdrawal renewal. Federal, State, local agencies, and the public were invited to participate in the scoping process. Public scoping meetings were held in Delta Junction, Fairbanks, and Anchorage in June and December 1997.

Significant issues identified during the scoping process and included in the impact analysis of the DLEIS are public access, air quality, military contamination of soils and surface water, noise, ownership of submerged lands, and wildlife and their habitat.

Public meetings are tentatively scheduled for January 1999 in Delta Junction, Fairbanks, and Anchorage to receive comments on the DLEIS. Notification of specific times and locations for the public meetings will be published in local newspapers. Written comments on the DLEIS will be accepted from publication of the Notice of Availability through 30 days following the public meetings. All comments will be addressed in the Final Legislative Environmental Impact Statement. All interested individuals, organizations, and governmental agencies are encouraged to comment on the DLEIS.

Written comments may be forwarded to Ms. Cindy Herdrich at the above address or at http://www.cemml.colostate.edu/alaskaeis.

Dated: November 2, 1998.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army, (Environmental, Safety, and Occupational Health) OASA (I,L&E).

[FR Doc. 98–29747 Filed 11–5–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Record of Decision (ROD) for Environmental Impact Statement (EIS) for Projects and Activities Associated With Programs at White Sands Missile Range, New Mexico

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: This notice of availability announces the public release of a ROD resulting from a recently completed EIS for White Sands Missile Range, New Mexico. A summary of the ROD is provided in the supplementary information paragraph below.

ADDRESSES: To receive a copy of the ROD contact the Commander, White Sands Missile Range, ATTN: STEWS–NRES–C (Mr. Robert J. Andreoli), White Sands Missile Range, NM 88002–5048.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Andreoli at (505) 678–7926.

SUPPLEMENTARY INFORMATION: White Sands Missile Range is an extensive and complex test range. It consists of launch sites, target areas, instrumentation, buildings, equipment, and personnel used by DoD, the National Aeronautics and Space Administration, and other Federal and commercial testing concerns to conduct safe, large-scale experiments on advanced weapons and space flight systems. In accordance with the National Environmental Policy Act, White Sands prepared an EIS to address environmental quality implications of implementing projects and activities on the missile range. The decision resulting from the findings of the EIS is to adopt specific mitigation measures for the continuation of existing White Sands Missile Range programs and future testing of scientific, military, and commercial systems.

Mitigation measures, in addition to those specifically identified in the EIS, will be developed by use of the White Sands Missile Range Decision Analysis System and Geographic Information System (DAS/GIS) during the planning stage and will assist in planning projects so as to minimize environmental impacts. White Sands has management practices for the conservation of sensitive natural resources, including wildlife, endangered species, and wetlands. Best management practices and common erosion control techniques will be used in ground disturbed activities.

These same mitigation measures will be integrated into the DAS/GIS and will provide project proponents with environmental information, site location decision support, and regulatory approval at significant cost savings and with improved efficiency. As a result, White Sands will be better able to protect, restore, and enhance the range environment as it more effectively supports its operational mission.

The White Sands EIS lacks some baseline documentation and impacts analysis information and is to be rectified by the preparation of Technical Support Documents (TSDs). TSDs are to be prepared for: water resources analysis; emissions analysis (including

analyses of noise, electromagnetic interference, lasers, light emissions and light pollution, radio astronomy interference, and Global Positioning System interference); an integrated natural resource management plan; chaff analysis; and cumulative impacts analysis. TSDs may be prioritized by immediate need, schedule, or availability of funding.

The entire text of the White Sands Missile Range ROD and the Executive Summary of the EIS can be found on the White Sands Missile Range home page at *http://www.wsmr.army.mil*. To find these documents access the Public Info part of the pager and then click on the Environmental button and choose the desired document.

Dated: November 3, 1998.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), OASA(I,L&E).

[FR Doc. 98–29806 Filed 11–5–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education; Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Correction Notice.

SUMMARY: On October 26, 1998, a notice inviting comment from the public was published on page 57108 for the Federal Stafford Loan (Subsidized and Unsubsidized) Program Master Promissory Note. This notice corrects the title from "Federal Stafford Loan (Subsidized and Unsubsidized) Program Master Promissory Note" to "Federal Stafford Loan (Subsidized and Unsubsidized) Program Promissory Note".

FOR FURTHER INFORMATION CONTACT: Danny Werfel, Desk Officer: Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651 or should be electronically mailed to the internet address Pat *Sherrill@ed.gov*, or should be faxed to 202–708–9346.

Dated: November 2, 1998.

Kent H. Hannaman,

Leader, Information Management Group, Office of the Chief Financial and Chief Information Officer.

[FR Doc. 98–29731 Filed 11–5–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Financial and Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 7, 1998.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address *Werfeld@al.eop.gov*. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW, Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address *PatSherrill@ed.gov*, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Financial and Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: November 2, 1998.

Kent H. Hannaman,

Leader, Information Management Group, Office of the Chief Financial and Chief Information Officer.

Office of Bilingual Education and Minority Languages Affairs

Type of Review: New.

Title: Application for Grants Under Bilingual Education: Career Ladder Program.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't; SEAs or LEAs.

Reporting and Recordkeeping Burden:

Responses: 200; *Burden hours:* 24,000.

Abstract: The Department needs and uses this information to make grants. The respondents are local educational agencies, State educational agencies and institutions of higher education and are required to provide this information in applying for grants.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, this 30-day public comment period notice will be the only public comment notice published for this information collection.

[FR Doc. 98–29730 Filed 11–5–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Nuclear Energy, Science and Technology (NE); Program Announcement LAB NE–99–1 Nuclear Energy Research Initiative

AGENCY: Oakland Operations Office, DOE.

ACTION: Notice of Nuclear Energy Research Initiative Program Announcement LAB NE–99–1.

SUMMARY: The Office of Nuclear Energy, Science and Technology, U.S. Department of Energy, is interested in receiving field work proposals for innovative scientific and engineering research and development in the field of nuclear energy as part of the Nuclear Energy Research Initiative (NERI). NERI is designed to support innovative research that can address the principal technical and scientific obstacles to future use of nuclear power in the U.S. NERI is also intended to reinvigorate the vital nuclear scientific and engineering infrastructure within U.S. universities, industry and DOE national laboratories.

This Program Announcement applies only to field work proposals from DOE National Laboratories that are the sole or lead performer organization of the proposed work. Where the laboratories are included in collaborative arrangements with other nonfederal organizations, but not as the lead performers, the proposals should be submitted in response to a separate Solicitation, DE–PS03–99SF21764, being issued simultaneously with this Program Announcement.

DATES: Potential applicants are encouraged to submit a Notice of Intent to Apply (Attachment A). Refer to the paragraph on the Designation of Field(s) of Proposed Work in this Program Announcement to identify the contemplated field of R&D in Attachment A. The notice should be faxed to Denise Berry, Department of Energy at (510) 637–2025 by November 13, 1998. This Notice of Intent in no way obligates an organization to submit a field work proposal, and failure to submit the Notice of Intent in no way prevents an organization from submitting a field work proposal.

Potential applicants are encouraged to submit a brief preproposal. All preproposals, responding to Program Announcement LAB NE–99–1 should be received by DOE by 4:30 P.M. P.S.T. November 20, 1998. A response encouraging or discouraging a formal field work proposal will be communicated to the applicant by December 11, 1998. Notification of a favorable preproposal is not an indication that an award will be made in response to the field work proposal.

The deadline for receipt of the formal field work proposal is 4:30 P.M. P.S.T. January 29, 1999.

ADDRESSES: All preproposals and field work proposals responding to Program Announcement LAB NE–99–1 should be sent to Denise Berry, U.S. Department of Energy, 1301 Clay Street, 700N, Oakland, California 94612–5208, Attn: Program Announcement LAB NE–99–1.

An original and five copies of the preproposal should be submitted by United States Postal Service including Express Mail or commercial mail delivery service, or should be hand carried by the applicant to the address stated above. Preproposals will not be accepted by fax or electronic mail.

An original and seven copies of the field work proposal should be submitted by United States Postal Service including Express Mail or commercial mail delivery service, or should be hand carried by the applicant to the address stated above. Field work proposals will not be accepted by fax or electronic mail.

SUPPLEMENTARY INFORMATION:

Eligibility

This program announcement invites field work proposals from DOE national laboratories acting as the sole or lead performer organization.

Awards

It is anticipated that awards will be made in Fiscal Year 1999. Field work proposals will be funded yearly, contingent upon the availability of funds. Up to a total of $19 million of Government Fiscal Year 1999 Federal funds are available for awards under this Program Announcement and the complementary grants and cooperative agreements Solicitation (to universities or other institutions of higher learning, industry, non-profit and R&D organizations, and DOE national laboratories that are not participating as the lead organization). Funding for individual research awards is expected to be up to $1 million per year with typical awards in the range of $100,000 to $400,000 per year. Collaborative research projects involving two or more organizations may receive larger awards, if merited. The period of performance for individual projects is expected to be up to 3 years.

DOE reserves the right to fund, in whole or in part, any, all, or none of the field work proposals submitted in response to this Program Announcement.

Background

In January 1997, the President requested his Committee of Advisors on Science and Technology (PCAST) to review the current national energy research and development (R&D) portfolio, and provide a strategy to insure the U.S. has a program to address the Nation's energy and environmental needs for the next century.

In its November 1997 report responding to this request, the PCAST Energy Research and Development Panel determined that assuring a viable nuclear energy option to help meet our future energy needs is important, and that a properly focused R&D effort should be implemented by the Department of Energy to address the principal obstacles to achieving this option. These obstacles include issues involving nuclear waste, proliferation, economics, and safety. The Panel recommended addressing technologies that include, but are not limited to, work on proliferation-resistant reactors or fuel cycles; new reactor designs for improved performance, reduced cost, and enhanced safety to compete in the global market; lower output power reactors for applications where larger reactors may not be advantageous; and nuclear waste. The PCAST report can be viewed on the NERI web page at http://neri.ne.doe.gov.

In response to these recommendations, the Department has proposed the Nuclear Energy Research Initiative (NERI), composed of projects selected from individual or collaborative applications or field work proposals from universities, DOE national laboratories, industry, R&D, and non-profit organizations. To assist in defining the NERI Program, a workshop was convened in Washington, D.C. on April 23–24, 1998, attended by over 120 researchers, scientists, and engineers representing these organizations. The workshop focused primarily on the nuclear R&D topics recommended by PCAST, and served to identify promising areas of R&D to implement these recommendations and related recommendations from the workshop. The workshop results, as reported on the NERI web page, http://neri.ne.doe.gov, have been of fundamental importance in developing the program defined in this Program Announcement. Respondents are encouraged to refer to the NERI Workshop Report prior to developing a field work proposal.

Objective

The NERI program is intended to conduct R&D to meet the following objectives:

- Address and help overcome the principal technical and scientific obstacles to expanded future use of nuclear energy in the U.S., including the issues involving resistance to proliferation, unfavorable economics and nuclear waste disposition;
- Advance the state of nuclear technology to maintain a competitive

position in overseas markets and a future domestic market.

• Promote and maintain a nuclear science and engineering to meet future technical challenges, and

• Improve the performance, efficiency, reliability, economics, and other attributes to enhance nuclear energy applications.

Scope of Work

The Department of Energy is seeking field work proposals for new and innovative science and engineering research, development, concepts, and/or experimental projects in the nuclear energy and supporting fields that will contribute significantly to meeting the NERI program objectives. The following paragraphs identify areas for which field work proposals are solicited. However, researchers may propose projects in other related areas that are consistent with the NERI objectives. In formulating proposed projects, the current state of development in the areas to be investigated should be recognized, such as by citing references, to avoid repeating work already accomplished.

Proliferation Resistant Reactors and Fuel Technology

Increased knowledge is required to enable incorporation of proliferation resistance in the design, development, and deployment of new reactor systems. Proposals are solicited in scientific and engineering research to improve the proliferation resistance of reactors and fuel systems. Possible research areas include, but are not limited to, investigation, and conceptual development to establish feasibility and attributes of reactor systems, fuel systems and/or alternative or modified reactor and fuel cycle concepts; material protection, and control; and techniques that minimize generation of plutonium and waste-by-products, restrict physical access to fuel materials while in the reactor, or increase the energy extraction from and utilization of plutonium and other actinides generated in the fuel.

There is an inherent need for an increase in the understanding of the basic behavior of irradiated materials; for science and engineering research that impacts fuel preparations and recycle or alternate means of spent fuel treatment; and for basic materials research to support understanding of fuel structure changes during irradiation, as it relates to the advancement of proliferation resistant reactors and fuel cycles.

New Reactor Designs

This program element involves scientific and engineering investigation and development, to the extent needed to establish feasibility and attributes, of promising reactor concepts in the following areas:

• Reactors to Achieve Improved Performance/Higher Efficiency and Reduced Costs

Advances in understanding of reactor systems and components are required to achieve a significant improvement in performance and economics for the next generation of reactors. Innovative reactor and power conversion concepts are needed which offer the prospects of higher efficiency, improved performance, design simplification, enhanced safety, and low cost. Increased knowledge is required to support enabling technologies. Research areas of interest include, but are not limited to development of reactor design advancements and alternative reactor core concepts, passive safe systems and components, development of innovative reactor concepts for electrical, non-electrical or co-generation purposes and advanced system or component design concepts, advanced instrumentation and controls, and work to evaluate direct energy conversion technologies such as thermoelectric conversion systems. Proposed projects should address, among other items, the characteristics, principal attributes, feasibility, safety features, proliferation resistance, economic competitiveness, and identification of other research that may be required.

• Low Output Power Reactors

New concepts and supporting knowledge are required to support development of small, possibly compact, and easily deployable reactors either for uses in developing countries or for specialized applications. Potential applications include electrical power generation, process heating, medical isotope production, or nuclear research. Research in science and engineering is expected to focus on concepts, characteristics, principal attributes, feasibility, safety features, proliferation resistance and underlying technologies rather than on full reactor systems design.

Science and engineering research of crucial importance to new reactor designs is dependent on the particular reactor application being explored. Examples include, but are not limited to, basic material degradation and corrosion sciences impacting both operation and applications; increased understanding of the behavior of fluid systems at elevated temperatures; modern high-temperature materials for reactor structural components; innovative non-destructive evaluation methods for system and component monitoring; development and application of risk-based design tools for pre-deployment predictions of performance and reliability; modern computational and modeling methods; incorporation of inherent safety features; automation of reactor system operation; radiation damage and metallurgy of long-lived fuels and other components; science and engineering effort to support alternative energy conversion methods.

Advanced Nuclear Fuels

Research and development is needed to provide measurable improvements in the understanding and performance of nuclear fuel with respect to safety, waste production, proliferation resistance, and economics to enhance the long-term viability of nuclear energy systems. Appropriate topics include, but are not limited to innovative concepts for material preparation and production of nuclear fuels; enhanced fuel design safety; innovation in fuel composition or other attributes that maximize energy production, optimize fissile material utilization, or reduce production costs.

Proposals are solicited in scientific and engineering research that encompass an evaluation over the entire nuclear fuel cycle utilizing knowledge gained over the past several decades on the technical characteristics of recycling systems, as well as in monitoring and controlling fissionable materials, but not being bound by technologies and facilities currently available. This work is basic to innovative reactor concepts, proliferation resistance, and advanced fuels. Results are expected to define gaps in current knowledge and hence identify areas requiring further work.

New Technologies for Management of Nuclear Waste

Paramount to public acceptance of nuclear technology is development of concepts and supporting knowledge required for reliable approaches to management and storage of spent fuels and associated wastes. Appropriate research topics include, but are not limited to, new concepts for on-site or interim surface storage; chemistry and materials science to develop understanding of the behavior of spent fuel for time periods consistent with on-site surface storage requirements; strategies for reduction in high level waste volume; research in surface chemistry and physics to understand and ameliorate corrosion processes at all pertinent interfaces; engineering research to support beneficial use of spent fuel and associated wastes.

Proposals in this area are expected to complement, and not duplicate, research activities supported by the Offices of Civilian Radioactive Waste and Environmental Management. Abstracts of work supported under the Environmental Management Science Program (EMSP) can be found at *http://www.doe.gov/em52/science-grants.html*, while information on the Civilian Radioactive Waste program and related efforts can be found at *http://www.rw.doe.gov/links.htm*.

Fundamental Science and Technology

This element features research and development in science and new technologies that support one or more applications in the nuclear energy field, including but not limited to those identified for the preceding program elements. The proposed work should be based in part on a consideration of the value or benefits of this work to potential future applications that satisfy the program objectives. Scientific and engineering research is solicited in pertinent areas of materials and chemical sciences, automation engineering and computational sciences, thermodynamics, health physics, systems engineering and safety, human factors research to improve the man/machine interface, and other areas which addresses problems common to the technology topics described above.

Field work proposals should identify the prospective applications associated with the proposed work, and the expected benefits from successful completion of this work.

Designation of Field(s) of Proposed Work

To facilitate the merit review, preproposals and field work proposals should identify the nuclear technology areas and the related engineering research and/or basic science field(s) that most closely apply to the proposed research work. The nuclear technology areas include proliferation resistant reactor and fuel, reactors with higher performance/efficiency, low output reactors, advanced nuclear fuels, and management of nuclear waste, and fundamental science and technology. The engineering research category would include such fields as reactors; system and component design development; fuel systems development; instrumentation and control system development; radioactive waste; and other nuclear engineering fields of research. The basic science categories would include such fields as materials science, chemical science, computational sciences (including development of algorithms and software technology), and engineering sciences (including basic research on instrumentation and control systems, and diagnostic and transport processes).

The requested identification of applicable fields of work is not intended to constrain or otherwise influence the proposed work in any way.

Collaborative Field Work Proposals

Collaboration between science and engineering researchers is encouraged. U.S. universities, DOE national laboratories, private industry and R&D and non-profit organizations are encouraged to submit collaborative field work proposals. Under this Program Announcement, collaborative field work proposals should identify the national laboratory as the lead organization, and should identify the work scope responsibilities and cost for each participating organization. The DOE national laboratory should submit a single field work proposal which integrates the portion of the overall project work scope assigned to each participant.

For successful field work proposals, the DOE laboratory will fund other non-federal participants by a subcontract arrangement. The DOE national laboratory will be funded directly by DOE. The private sector or academic organizations must include a Face Page and Budget Pages for its portion of the project in the field work proposal. Separate Budget Pages must be included for the DOE national laboratory portions. The collaborative field work proposal must be submitted as one package.

Collaboration with international organizations is acceptable provided the collaboration is mutually beneficial and all DOE and other domestic funding is used for work performed in the U.S. Such collaborative arrangements are subject to approval by DOE and must comply with any Federal restrictions on foreign participation, and with any current DOE memoranda of understanding or other general agreements between DOE and the participating foreign entity.

Preproposals

The submittal of preproposals prior to submission of field work proposals is encouraged to receive a preliminary DOE opinion regarding the significance of the proposed work in meeting program objectives. Preproposals should include a cover sheet and a brief (up to 3 pages) project description. The cover sheet should identify the name, telephone, fax and e-mail address for the project manager or principal investigator and for the organization(s) submitting the field work proposal, title of the project, and the field of R&D. A narrative project description should be included indicating the objectives, work to be accomplished and importance of successful completion, resources needed, and estimated cost. In the case of collaborative projects, the applicant should identify the work to be performed by each participating organization and the estimated cost to be borne by each party. The original and five copies of the preproposal should be submitted. DOE will review preproposals for technical and scientific merit and relevance of the proposed project to program objectives and respond to the applicants. This preliminary review neither prevents submittal of a full field work proposal nor indicates the likelihood of an award.

Format and Information To Be Included in the Field Work Proposal

(Reference DOE Order 5700.7C, "http://www.explorer.doe.gov:1776/htmls/regs/doe/seriestable.html")

The Field Work Proposal (FWP) is to be prepared and submitted consistent with policies of the investigator's laboratory and the local DOE Operations Office. Additional information is also requested to allow for scientific/technical merit review.

Applicants are expected to use the following format. Field work proposals must be written in English with all budgets in U.S. dollars. The field work proposals should clearly present the objectives, activities or tasks to be performed, schedule and costs, and the importance/significance of the proposed project. Where collaborative efforts are proposed, the individual responsibilities of participating organizations should be identified. As a minimum, the following information should be included:

• Field work proposal.

• Table of Contents.

• Project Abstract including identification of the field(s) of R&D for the proposed project (1 page).

• Project Description—narrative description of the proposed project including objectives, R&D plan including preliminary studies, research design and tasks, and the significance or benefits of the proposed project (no more than 20 pages; multi-investigator collaborative projects may use up to 40 pages).

• Project Schedule information.

• Organization & Qualifications—identification of the project organization, and qualifications and responsibilities of the participating organizations. Biographical sketches of project manager/principal investigator and other key project personnel (no more than 2 pages each).

• Collaborative R&D (if applicable)—description of the collaborative arrangements defining responsibilities and tasks assigned to each participating organization (up to 2 pages).

• Facilities & Resources—information on the experience of the applicant's organization and the adequacy of required facilities and resources (no more than 5 pages).

• Budget for each year and a summary budget page for the entire project period.

• Budget explanation for each participating organization.

• Budget and budget justification for each collaborative subproject, if any.

• Additional information the applicant deems relevant may be included, subject to the page limitation.

In addition to providing an original and seven copies of each proposal, applicants are required to also provide a 3.5-inch write protected diskette containing the field work proposal in electronic format. The label on the diskette must clearly identify the institution, principal investigator, title of field work proposal, and the computer system and program used to prepare the document. Unsuccessful field work proposals will not be returned to the applicant.

Field Work Proposal Evaluation

All valid field work proposals will be evaluated in accordance with the requirements of Title 10, Code of Federal Regulations, Part 600.13.

• DOE will perform an initial review for conformance with the technical and administrative requirements stated in this Program Announcement, for funding availability, and for general relevance to NERI program objectives.

• For those field work proposals that successfully complete the initial review, an objective merit review (peer review) will be performed to evaluate technical and/or scientific merit, and cost aspects of the field work proposals, exclusive of NE programmatic and policy factors. This review will be in accordance with the evaluation criteria stated below. For this purpose, a group comprised of three or more professionally and technically qualified persons will be selected in such a manner as to assure the highest degree of independence and objectivity. The reviewers may include any mix of federal and non-federal experts, except those persons involved in approving/disapproving the field work proposals. Reviewers must comply with the requirements for avoiding conflict of interest as stated in 10 CFR 600.14.

• Following the objective merit review, a relevance review will be performed by DOE on those field work proposals judged to be of the highest merit. The field work proposals will be evaluated with respect to NE programmatic and policy factors, including relevance of the proposed work to the NERI program objectives, and the balance among program elements to be supported.

The following evaluation criteria apply to the objective merit review:

• Technical quality of the field work proposal:

—Contribution to the state of knowledge in the scientific/technology fields;

—Importance of the proposed work in meeting program objectives;

—Completeness and clarity of the technical proposal;

—Appropriateness/adequacy of the proposed methodology or approach;

• Extent to which proposed work is new, unique or innovative;

• Reasonableness of project cost and schedule, including allocations among multiple participating organizations where applicable.

• Capabilities and qualifications of principal investigator/project manager and key personnel, adequacy of resources and facilities applied by participating organizations.

Intellectual Property Rights

With respect to intellectual property, the patent and data provisions set forth in the national laboratories M&O contract shall be used.

Statutory and Regulatory Authority

The Nuclear Energy Research Initiative will be conducted under the authority of the Energy and Water Development Appropriations Act of 1999, Public Law 105–245; the Catalog of Federal Domestic Assistance (CFDA) number 81.092; and the applicable DOE Financial Assistance Regulations at 10 CFR Part 600. The regulations and guidance documents can be accessed on the DOE Financial Assistance Home Page at "http://www.pr.doe.gov/fahome.html".

Program Announcement Questions & Answers

DOE does not intend to hold a preproposal conference. You may submit your written questions via e-mail to denise.berry@oak.doe.gov by November 13, 1998. Responses to questions will be placed on the Oakland Operations Office Website at "http://www.oak.doe.gov/financial/sol__page.html".

Information

Information about the development, submission of field work proposals, eligibility, limitations, the selection process, and other policies and procedures may be found on "http://www.oak.doe.gov/financial/sol__page.html".

FOR FURTHER INFORMATION CONTACT: Denise Berry, Contract Specialist, U.S. Department of Energy, 1301 Clay Street, 700N, Oakland, California 94612–5208 (510) 637–1873, (510) 637–2025 FAX.

Issued in Oakland, California, on October 29, 1998.

Joan Macrusky,

Director, Financial Assistance Center.

Attachment A

FAX: (510) 637–2025
TO: Denise Berry, Contract Specialist

Notice of Intent To Apply

_____

Name of DOE Laboratory

_____

Name of Collaborating Organization(s) intends to submit a field work proposal under Program Notice No. LAB NE–99–1.

Title: _____

Scope of Work Element/Area: _____

Engineering research and/or basic science field: _____

[FR Doc. 98–29800 Filed 11–5–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Nuclear Energy, Science and Technology (NE)

Financial Assistance Solicitation No. DE–PS03–99SF21764; Nuclear Energy Research Initiative

AGENCY: Oakland Operations Office, DOE.

ACTION: Notice of Solicitation inviting Grant and Cooperative Agreement applications.

SUMMARY: The Office of Nuclear Energy, Science and Technology, U.S. Department of Energy, is interested in receiving applications for financial assistance through the award of grants and cooperative agreements, as appropriate, for innovative scientific and engineering research and development in the field of nuclear energy as part of the Nuclear Energy Research Initiative (NERI). NERI is designed to support innovative research that can address the principal technical and scientific obstacles to future use of nuclear power in the U.S. NERI is also intended to reinvigorate the vital nuclear scientific and engineering infrastructure within U.S. universities, industry and DOE national laboratories.

This Solicitation applies to applications from universities or other institutions of higher learning, industry, non-profit and R&D organizations and collaborations among organizations, including those in which DOE national laboratories are participating, but not as the lead organization. A separate Program Announcement is being issued simultaneously for applications in which a DOE national laboratory is the sole or lead performing organization.

DATES: Potential applicants are encouraged to submit a Notice of Intent to Apply (Attachment A). Refer to the paragraph on the Designation of Field(s) of Proposed Work in this solicitation to identify the contemplated field of R&D in Attachment A. The notice should be faxed to Denise Berry, Department of Energy at (510) 637–2025 by November 13, 1998. This Notice of Intent in no way obligates an organization to submit an application, and failure to submit the Notice of Intent in no way prevents you from submitting an application.

Potential applicants are encouraged to submit a brief preapplication. All preapplications, responding to Solicitation No. DE–PS03–99SF21764, should be received by DOE by 4:30 p.m. P.S.T., November 20, 1998. A response encouraging or discouraging a formal application will be communicated to the applicant by December 11, 1998. Notification of a favorable preapplication is not an indication that an award will be made in response to the formal application.

The deadline for receipt of the formal applications is 4:30 p.m. P.S.T., January 29, 1999.

ADDRESSES: All preapplications and applications referencing Solicitation No. DE–PS03–99SF21764, should be sent to Denise Berry, U.S. Department of Energy, 1301 Clay Street, 700N, Oakland, California 94612–5208, Attn: Solicitation No. DE–PS03–99SF21764.

An original and five copies of the preapplication should be submitted by United States Postal Service including Express Mail or commercial mail delivery service, or should be hand carried by the applicant to the address stated above. Preapplications will not be accepted by fax, or electronic mail.

An original and seven copies of the application shall be submitted by United States Postal Service including Express Mail or commercial mail delivery service, or should be hand carried by the applicant to the address stated above. Applications will not be accepted by fax, or electronic mail.

SUPPLEMENTARY INFORMATION:

Eligibility

This solicitation invites applications from all segments of the U.S. private sector (non-federal). U.S. universities or other institutions of higher learning, industry, non-profit and R&D organizations are eligible for grant or cooperative agreement awards under this program. DOE national laboratories are eligible to participate, but not as the lead organization in the application. A separate Program Announcement is being issued for proposals in which a DOE national laboratory is the sole or lead performing organization. Non-citizens employed by U.S. institutions also are eligible.

Awards

It is anticipated that awards will be made in Fiscal Year 1999. One-year or multiple year funding of grants and cooperative agreements are anticipated, contingent upon the availability of funds. Up to a total of $19 million of Government Fiscal Year 1999 Federal funds are available for awards under this Solicitation and the complementary Program Announcement (to DOE national laboratories).

Funding for individual research awards is expected to be up to $1 million per year with typical awards in the range of $100,000 to $400,000 per year. Collaborative research projects involving two or more organizations may receive larger awards, if merited. The period of performance for individual projects is expected to be up to 3 years.

DOE reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this solicitation.

Background

In January 1997, the President requested his Committee of Advisors on Science and Technology (PCAST) to review the current national energy research and development (R&D) portfolio, and provide a strategy to insure the U.S. has a program to address the Nation's energy and environmental needs for the next century.

In its November 1997 report responding to this request, the PCAST Energy Research and Development Panel determined that assuring a viable nuclear energy option to help meet our future energy needs is important; and that a properly focused R&D effort should be implemented by the Department of Energy to address the principal obstacles to achieving this option. These obstacles include issues involving nuclear waste, proliferation, economics, and safety. The Panel recommended addressing technologies that include, but are not limited to, work on proliferation-resistant reactors or fuel cycles; new reactor designs for improved performance, reduced cost, and enhanced safety to compete in the global market; lower output power reactors for applications where larger reactors may not be advantageous; and nuclear waste. The PCAST report can be viewed on the NERI web page at http://neri.ne.doe.gov.

In response to these recommendations, the Department has proposed the Nuclear Energy Research Initiative (NERI), composed of projects selected from individual or collaborative applications from universities, DOE national laboratories, industry, R&D, and non-profit organizations. To assist in defining the NERI program, a workshop was convened in Washington, D.C. on April 23–24, 1998, attended by over 120 researchers, scientists, and engineers representing these organizations. The workshop focused primarily on the nuclear R&D topics recommended by PCAST, and served to identify promising areas of R&D to implement these recommendations and related recommendations from the workshop. The workshop results, as reported on the NERI web page, http://neri.ne.doe.gov, have been of fundamental importance in developing the program defined in this solicitation. Respondents are encouraged to refer to the NERI Workshop Report prior to developing an application.

Objective

The NERI program is intended to conduct R&D to meet the following objectives:

• Address and help overcome the principal technical and scientific obstacles to expanded future use of nuclear energy in the U.S., including the issues involving resistance to proliferation, unfavorable economics and nuclear waste disposition;

• Advance the state of nuclear technology to maintain a competitive position in overseas markets and a future domestic market;

• Promote and maintain a nuclear science and engineering infrastructure to meet future technical challenges, and

• Improve the performance, efficiency, reliability, economics, and other attributes to enhance nuclear energy applications.

Scope of Work

The Department of Energy is seeking applications for new and innovative science and engineering research, development, concepts, and/or

experimental projects in the nuclear energy and supporting fields that will contribute significantly to meeting the NERI program objectives. The following paragraphs identify areas for which proposals are solicited. However, researchers may propose projects in other related areas that are consistent with the NERI objectives. In formulating proposed projects, the current state of development in the areas to be investigated should be recognized such as by citing references, to avoid repeating work already accomplished.

Proliferation Resistant Reactors and Fuel Technology

Increased knowledge is required to enable incorporation of proliferation resistance in the design, development, and deployment of new reactor systems. Proposals are solicited in scientific and engineering research to improve the proliferation resistance of reactors and fuel systems. Possible research areas include, but are not limited to, investigation and conceptual development to establish feasibility and attributes of reactor systems, fuel systems and/or alternative or modified reactor and fuel cycle concepts; material protection, and control; and techniques that minimize generation of plutonium and waste-by-products, restrict physical access to fuel materials while in the reactor, or increase the energy extraction from and utilization of plutonium and other actinides generated in the fuel.

There is an inherent need for an increase in the understanding of the basic behavior of irradiated materials; for science and engineering research that impacts fuel preparations and recycle or alternate means of spent fuel treatment; and for basic materials research to support understanding of fuel structure changes during irradiation, as it relates to the advancement of proliferation resistant reactors and fuel cycles.

New Reactor Designs

This program element involves scientific and engineering investigation and development of promising new reactor concepts in the following areas:

• Reactors to Achieve Improved Performance/Higher Efficiency and Reduced Costs

Advances in understanding of reactor systems and components are required to achieve a significant improvement in performance and economics for the next generation of reactors. Innovative reactor and power conversion concepts are needed which offer the prospects of higher efficiency, improved performance, design simplification, enhanced safety, and low cost. Increased knowledge is required to support enabling technologies. Research areas of interest include, but are not limited to development of reactor design advancements and alternative reactor core concepts, passive safety systems and components, development of innovative reactor concepts for electrical, non-electrical or co-generation purposes and advanced system or component design concepts, advanced instrumentation and controls, and work to evaluate direct energy conversion technologies such as thermoelectric conversion systems. Proposed projects should address, among other items, the characteristics, principal attributes, feasibility, safety features, proliferation resistance, economic competitiveness, and identification of other research that may be required.

• Low Output Power Reactors

New concepts and supporting knowledge are required to support development of small, possibly compact, and easily deployable reactors either for use in developing countries or for specialized applications. Potential applications include electrical power generation, process heating, medical isotope production, or nuclear research. Research in science and engineering is expected to focus on concepts, characteristics, principal attributes, feasibility, safety features, proliferation resistance and underlying technologies rather than on full reactor systems design.

Science and engineering research of crucial importance to new reactor designs is dependent on the particular reactor application being explored. Examples include, but are not limited to, basic material degradation and corrosion sciences impacting both operation and applications; increased understanding of the behavior of fluid systems at elevated temperatures; modern high-temperature materials for reactor structural components; innovative non-destructive evaluation methods for system and component monitoring; development and application of risk-based design tools for pre-deployment predictions of performance and reliability; modern computational and modeling methods; incorporation of inherent safety features; automation of reactor system operation; radiation damage and metallurgy of long-lived fuels and other components; science and engineering effort to support alternative energy conversion methods.

Advanced Nuclear Fuels

Research and development is needed to provide measurable improvements in the understanding and performance of nuclear fuel with respect to safety, waste production, proliferation resistance, and economics to enhance the long-term viability of nuclear energy systems. Appropriate topics include, but are not limited to: innovative concepts for material preparation and production of nuclear fuels; enhanced fuel design safety; innovation in fuel composition or other attributes that maximize energy production, optimize fissile material utilization, or reduce production costs.

Applications are solicited in scientific and engineering research that encompass an evaluation over the entire nuclear fuel cycle utilizing knowledge gained over the past several decades on the technical characteristics of recycling systems, as well as in monitoring and controlling fissionable materials, but not being bound by technologies and facilities currently available. This work is basic to innovative reactor concepts, proliferation resistance, and advanced fuels. Results are expected to define gaps in current knowledge and hence identify areas requiring further work.

New Technologies for Management of Nuclear Waste

Paramount to public acceptance of nuclear technology is development of concepts and supporting knowledge required for reliable approaches to management and storage of spent fuels and associated wastes. Appropriate research topics include, but are not limited to, new concepts for on-site or interim surface storage; chemistry and materials science to develop understanding of the behavior of spent fuel for time periods consistent with on-site surface storage requirements; strategies for reduction in high level waste volume; research in surface chemistry and physics to understand and ameliorate corrosion processes at all pertinent interfaces; engineering research to support beneficial use of spent fuel and associated wastes.

Applications in this area are expected to complement, and not duplicate, research activities supported by the Offices of Civilian Radioactive Waste and Environmental Management. Abstracts of work supported under the Environmental Management Science Program (EMSP) can be found at *http://www.doe.gov/em52/science-grants.html*, while information on the Civilian Radioactive Waste program and related efforts can be found at *http://www.rw.doe.gov/links.htm*.

Fundamental Science and Technology

This element features research and development in science and new technologies that support one or more applications in the nuclear energy field, including but not limited to those identified for the preceding program elements. The proposed work should be based in part on a consideration of the value or benefits of this work to potential future applications that satisfy the program objectives. Scientific and engineering research is solicited in pertinent areas of materials and chemical sciences, automation engineering and computational sciences, thermodynamics, health physics, systems engineering and safety, human factors research to improve the man/machine interface, and other areas which addresses problems common to the technology topics described above.

Applications should identify the prospective technical areas associated with the proposed work, and the expected benefits from successful completion of this work.

Designation of Field(s) of Proposed Work

To facilitate the merit review, preapplications and applications should identify the nuclear technology areas and the related engineering research and/or basic science field(s) that most closely apply to the proposed research work. The nuclear technology areas include proliferation resistant reactor and fuel, reactors with higher performance/efficiency, low output reactors, advanced nuclear fuels, management of nuclear waste, and fundamental science and technology. The engineering research category would include such fields as reactors; system and component design development; fuel systems development; instrumentation and control systems development; radioactive waste; and other nuclear engineering fields of research. The basic science categories would include such fields as materials science, chemical science, computational sciences (including development of algorithms and software technology), and engineering sciences (including basic research on instrumentation and control systems, diagnostics and transport processes).

The requested identification of applicable fields of work is not intended to constrain or otherwise influence the proposed work in any way.

Collaborative Applications

Collaboration between science and engineering researchers is encouraged. U.S. universities, DOE national laboratories, private industry and R&D and non-profit organizations are encouraged to submit collaborative applications. Collaborative applications should identify a lead organization, and the work scope responsibilities and cost for each participating organization. The lead organization should submit a single application, which integrates the portion of the overall project work scope assigned to each participant.

For successful applications, DOE will award grants or cooperative agreements, as applicable, to the lead organizations. The lead organization will fund other non-federal participants by a subcontract arrangement. Any participating DOE national laboratories will be separately funded directly by DOE. The private sector or academic organization must include a Standard Face Page (Form 424) and Budget Pages for its portion of the project in the application. Separate Budget Pages must be included for the DOE national laboratory portion. The joint application must be submitted as one package.

Where a DOE national laboratory is the lead organization, the application should be prepared in response to Program Announcement LAB NE–99–1.

Collaboration with international organizations is acceptable provided the collaboration is mutually beneficial and the lead organization is a U.S. based organization, and all DOE and other domestic funding is used for work performed in the U.S. Such collaborative arrangements are subject to approval by DOE and must comply with any Federal restrictions on foreign participation, and with any current DOE memoranda of understanding or other general agreements between DOE and the participating foreign entity.

Preapplications

The submittal of preapplications prior to submission of full applications is encouraged. The purpose of submitting a preapplication is to receive a preliminary DOE opinion regarding the significance of the proposed work in meeting program objectives. Preapplications should include a cover sheet and a brief (up to 3 pages) project description. The cover sheet should identify the name, telephone, fax and e-mail address for the project manager or principal investigator and for the organization(s) submitting the application, title of the project, and the field of R&D. A narrative project description should be included indicating the objectives, work to be accomplished and importance of successful completion, resources needed, and estimated cost. In the case of collaborative projects, the preapplicant should identify the work to be performed by each participating organization and the estimated cost to be borne by each party. The original and five copies of the preapplication should be submitted. DOE will review preapplications for technical and scientific merit and relevance of the proposed project to program objectives and respond to the applicants. This preliminary review neither prevents submittal of a full application nor indicates the likelihood of an award.

Format and Information to be Included in the Application

Applicants are expected to use the following format. Applications must be written in English with all budgets in U.S. dollars. The applications should clearly present the objectives, activities or tasks to be performed, schedule and costs, and the importance/significance of the proposed project. Where collaborative efforts are proposed, the individual responsibilities of participating organizations should be identified. As a minimum, the following information should be included:

• Standard face page (DOE Form 424).
• Table of Contents.
• Project Abstract including identification of the fields of R&D for the proposed project (1 +page).
• Project Description—narrative description of the proposed project including objectives, R&D plan including preliminary studies, research design and tasks, and the significance or benefits of proposed project (no more than 20 pages; multi-investigator collaborative projects may use up to 40 pages).
• Project schedule information.
• Organization & Qualifications—identification of the project organization, and qualifications and responsibilities of the participating organizations. Biographical sketches of project manager/principal investigator and other key project personnel (no more than 2 pages each).
• Collaborative R&D (if applicable)—description of the collaborative arrangements defining responsibilities and tasks assigned to each participating organization (up to 2 pages).
• Facilities & Resources—information on the experience of the applicant organization and the adequacy of required facilities and resources (no more than 5 pages).
• Budget for each year and a summary budget page for the entire project period (using DOE F.4620.1)
• Budget explanation for each participating organization.

• Budget and budget justification for each collaborative subproject, if any.

• Additional information the applicant deems relevant may be included, subject to the page limitation.

In addition to providing an original and seven copies of each application, applicants are required to also provide a 3.5-inch write protected diskette containing the application in electronic format. The label on the diskette must clearly identify the institution, principal investigator, title of application, and the computer system and program used to prepare the document. Unsuccessful applications will not be returned to the applicant.

Application Evaluation

All valid applications will be evaluated in accordance with the requirements of Title 10 Code of Federal Regulations, Part 600.13:

• DOE will perform an initial review for conformance with the technical and administrative requirements stated in this solicitation, for funding availability, and for general relevance to NERI program objectives.

• For those applications that successfully complete the initial review, an objective merit review (peer review) will be performed to evaluate technical and/or scientific merit, and cost aspects of the applications, exclusive of NE programmatic and policy factors. This review will be in accordance with the evaluation criteria stated below. For this purpose, a group comprised of three or more professionally and technically qualified persons will be selected in such a manner as to assure the highest degree of independence and objectivity. The reviewers may include any mix of federal and non-federal experts, except those persons involved in approving/disapproving the applications. Reviewers must comply with the requirements for avoiding conflict of interest as stated in 10 CFR 600.14.

• Following the objective merit review, a relevance review will be performed by DOE on those applications judged to be of the highest merit. The applications will be evaluated with respect to NE programmatic and policy factors, including relevance of the proposed work to the NERI program objectives, and the balance among program elements to be supported.

The following evaluation criteria apply to the objective merit review:

• Technical quality of the application and proposed work:

—Contribution to the state of knowledge in the scientific/technology fields;

—Importance of the proposed work in meeting program objectives;

—Completeness and clarity of the technical application;

—Appropriateness/adequacy of the proposed methodology or approach;

• Extent to which proposed work is new, unique or innovative;

• Reasonableness of the proposed project cost and schedule including allocations among multiple participating organizations where applicable.

• Capabilities and qualifications of principal investigator/project manager and key personnel; adequacy of resources and facilities applied by participating organizations.

Intellectual Property Rights

With respect to intellectual property, the patent and data provisions set forth in 10 CFR Part 600.27 and 48 CFR 927 shall be used in any financial assistance awards funded under this program. Any application or preapplication materials which contain proprietary technical or confidential commercial data should be submitted with the Notice contained at 10 CFR 600.15 (b)(1).

Regulatory Information

No funding will be available under the DOE Minority Economic Impact Act (MEI) loan program, 10 CFR Part 800, to finance the cost of preparing a financial assistance application.

Review under E.O. 12372, "Intergovernmental Review of Federal Programs" is not required.

Statutory and Regulatory Authority

The Nuclear Energy Research Initiative will be conducted under the authority of the Energy and Water Development Appropriations Act of 1999, Pub. L. 105–245; the Catalog of Federal Domestic Assistance (CFDA) number 81.092; and the applicable DOE Financial Assistance Regulations at 10 CFR Part 600. The regulations and guidance documents can be accessed on the DOE Financial Assistance Home Page at: "http://www.pr.doe.gov/fahome.html".

Solicitation Questions & Answers

DOE does not intend to hold a preapplication conference. You may submit your written questions via e-mail to denise.berry@oak.doe.gov by November 13, 1998. Responses to questions will be periodically placed on the Oakland Operations Web Site: "http://www.oak.doe.gov/financial/sol_page.html".

Information

Information about the development, submission of applications, eligibility, limitations, the selection process, and other policies and procedures may be found on "http://www.oak.doe.gov/financial/sol_page.html"2.

Certifications

Lobbying Restrictions (Department of Interior & Related Agencies Appropriations Act, 1998)

The contractor or awardee agrees that none of the funds obligated on the award shall be made available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete. This restriction is in addition to those prescribed elsewhere in statute and regulation.

Notice Regarding the Purchase of American-Made Equipment and Products—Sense of Congress

It is the sense of Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this award should be American-made.

Simpson-Craig Amendment

Applicant organizations which are described in section 501(c)(4) of the Internal Revenue Code of 1986 and engage in lobbying activities after December 31, 1995 shall not be eligible for the receipt of Federal funds constituting an award, grant, or loan. Section 501(c)(4) of the Internal Revenue Code of 1986 covers:

> Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

As set forth in section 3 of the Lobbying Disclosure Act of 1995, as amended, (2 U.S.C. 1602), lobbying activities are defined broadly to include among other things, contacts on behalf of an organization with specified employees of the Executive Branch and Congress with regard to Federal legislative regulatory, and program administrative matters. Applicants qualifying as described in section 501(c)(4) of the Internal Revenue Code of 1986 must fill out representation.

FOR FURTHER INFORMATION CONTACT: Denise Berry, Contract Specialist, U.S. Department of Energy, 1301 Clay Street, 700N, Oakland, California 94612–5208, (510) 637–1873, Fax (510) 637–2025.

Issued in Oakland, California on October 29, 1998.

Joan Macrusky,

Director, Financial Assistance Center.

Attachment A

FAX: (510) 637–2025

To: Denise Berry, Contract Specialist

NOTICE OF INTENT TO APPLY

Name of Organization/Principal Investigator

Name of Collaborating Organization(s) intends to submit an application under Solicitation No. DE–PS03–99SF21764.
Title:
Scope of Work Element/Area:
Engineering research and/or basic science field:

[FR Doc. 98–29801 Filed 11–5–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–39–000]

Granite State Gas Transmission, Inc.; Notice of Application

November 2, 1998.

Take notice that on October 27, 1998, Granite State Gas Transmission, Inc. (Granite State), 300 Friberg Parkway, Westborough, Massachusetts 01581, filed an application, pursuant to Sections 7(b) and 7(c) of the Natural Gas Act and Part 157 of the Commission's Regulations. Granite State seeks to acquire and operate as an integral component of its main transmission system approximately 5,300 feet of 8 and 12-inch lateral pipeline now owned and operated by Northern Utilities, Inc. (Northern Utilities). The pipe is currently part of Northern Utilities natural gas distribution system in the Town of Newington (Rockingham County), New Hampshire. As a consequence of the acquisition, Granite State needs to abandon a transportation service delivery point to Northern Utilities on its main line and establish three new delivery points to Northern Utilities along the lateral. The details of Granite State's proposal are more fully set forth in the application which is on file with the Commission and open to public inspection.

Granite State says that the Commission has certificated a new interstate pipeline in Docket No. CP97–238–000 which will be jointly owned and operated by the Portland Natural Gas Transmission System (PNGTS) and Maritimes and Northeast Pipeline L.L.C. (Maritimes). According to Granite State, PNGTS-Maritimes have been authorized to construct and operate an interconnection with Granite State in the Town of Newington at which point Granite State will receive natural gas deliveries from the jointly owned pipeline. Granite State will receive such deliveries for further transportation on its system, most notably on behalf of, Northern Utilities. Granite State further says that Northern Utilities will be a significant shipper on PNGTS–Maritimes, but will not be directly connected to the jointly owned pipeline facility. Granite State says that the only route by which Northern Utilities can receive gas shipped for its account on PNGTS-Maritimes is via Granite State's authorized interconnections with the jointly owned pipeline.

Granite State further says that it has no existing directly connecting pipeline between the planned and authorized Newington interconnection with PNGTS–Maritimes. However, Granite State says that Northern Utilities has a distribution lateral consisting of 5,324 feet of 8 and 12-inch pipeline (the Gosling Road Lateral) which extends from Granite State's main line to the site of the Newington interconnection. Granite State proposes in its application to acquire and operate the lateral as an integral component of its main transmission system. The acquisition cost will be the depreciated book cost on the date of transfer, which is estimated to be $372,035.12 on December 31, 1998.

Granite State also says that, in connection with the acquisition, it will abandon the present delivery point to Northern Utilities at the point where the Gosling Road Lateral connects with Granite State's main line and it will establish three delivery points to Northern Utilities at existing points on the lateral where gas now flows into Northern Utilities' local distribution system. Granite State says that no construction of new facilities is required to implement its proposed acquisition and no existing service will be terminated or abandoned.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 23, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the Protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed acquisition are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Granite State to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 98–29764 Filed 11–5–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2777]

Idaho Power Company; Notice of Authorization for Continued Project Operation

November 2, 1998.

On December 20, 1995, Idaho Power Company, licensee for the Upper Salmon Falls Project No. 2777, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 2777 is located on the Snake River in Gooding and Twin Falls Counties, Idaho.

The license for Project No. 2777 was issued for a period ending October 31, 1998. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the

prior license until a new license is issued, or the project is otherwise disposed of as provided in Section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of Section 15 of the FPA, then, based on Section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at CFR 16.21(a); if the licensee of such project has filed an application of a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to the 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to Section 15 of the FPA, notice is hereby given that an annual license for Project No. 2777 is issued to Idaho Power Company for a period effective November 1, 1998, through October 31, 1999, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before October 31, 1999, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under Section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to Section 15 of the FPA, notice is hereby given that Idaho Power Company is authorized to continue operation of the Upper Salmon Falls Project No. 2777 until such time as the Commission acts on its application for subsequent license.

David P. Boergers,

Secretary.

[FR Doc. 98–29766 Filed 11–5–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2169, TN]

Tapoco, Inc.; Notice of Tapoco, Inc's Request To Use Alternative Procedures in Preparing a License Application

November 2, 1998.

This notice supersedes the NOTICE OF TAPOCO, INC'S REQUEST TO USE ALTERNATIVE PROCEDURES IN PREPARING A LICENSE APPLICATION, dated October 28, 1998.

On October 1, 1998, the existing licensee, Tapoco, Inc. (Tapoco), filed a request to use alternative procedures for submitting an application for new license for the existing Tapoco Project No. 2169.[1] Tapoco has demonstrated that they have made an effort to contact resource agencies, Indian tribes, nongovernmental organization (NGOs), and others affected by their proposal, and that a consensus exists that the use of an alternative procedure is appropriate in this case.

The purpose of this notice is to invite comments on Tapoco request to use the alternative procedure, pursuant to Section 4.34(i) of the Commission's regulations.[2] Additional notices seeking comments on the specific project proposal, interventions and protests, and recommended terms and conditions will be issued at a later date.

The alternative procedures being requested here combine the prefiling consultation process with the environmental review process, allowing the applicant to complete and file an environmental document (NEPA document) in lieu of Exhibit E of the license application. This differs from the traditional process, in which the applicant consults with agencies, Indian tribes, and NGOs during preparation of the application for the license and before filing it, but the Commission staff performs the environmental review after the application is filed. The alternative procedures are intended to simplify and expedite the licensing process by combining the prefiling consultation and environmental review processes into a single process, to facilitate greater participation, and to improve communication and cooperation among the participants.

[1] The 326.5-megawatt Tapoco (originally known as the Tallasee project) project is located on the Little Tennessee and its tributary, the Cheoah River, in Blount and Monroe Counties, Tennessee, and Graham and Swain Counties, North Carolina. The project consists of four development: Chilhowee, Cheoah, Santeetlah, and Calderwood.

[2] Order No. 596, Regulations for the Licensing of Hydroelectric Projects, 81 FERC ¶ 61,103 (1997).

Comments

Interested parties have 30 days from the date of this notice to file with the Commission, any comments on Tapoco's proposal to use the alternative procedures to prepare an application to relicense the Tapoco Project.

Filing Requirements

The comments must be filed by providing an original and 8 copies as required by the Commission's regulations to: Federal Energy Regulatory Commission, Office of the Secretary, Dockets—Room 1A, 888 First Street, NE, Washington, DC 20426.

All comment filings must bear the heading "Comments on the Alternative Procedure," and include the project name and number (Tapoco Project, No. 2169).

For further information, please contact Ronald McKitrick of the Federal Energy Regulatory Commission at 770–452–2363 ext. 44 or E-mail at ronald.mckitrick@FERC.Fed.US.

David P. Boergers,

Secretary.

[FR Doc. 98–29765 Filed 11–5–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–28–000]

Tennessee Gas Pipeline Company; Notice of Application for Section 3 Authorization and Request for a Presidential Permit

November 2, 1998.

Take notice that on October 20, 1998, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed an application pursuant to Section 3 of the Natural Gas Act (NGA), and Subpart B of Part 153 of the Federal Energy Regulatory Commission's (Commission) Regulations under the NGA, for an order authorizing the siting, construction, and operation of pipeline facilities and the place of entry and exit for import and export of natural gas at the International Boundary between the United States and Mexico in Hidalgo County, Texas.

Additionally, Tennessee requests, pursuant to Subpart C of Part 153 of the Commission's Regulations under the NGA and in compliance with Executive Order 10485, as amended by Executive Order 12038, issuance of a Presidential Permit for the construction, operation, maintenance, and connection of pipeline facilities for the import and export of natural gas at the International Boundary between the United States and Mexico in Hidalgo County, Texas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Pemex Gas y Petroquímica Básica (PGPB) has requested that Tennessee provide transportation service for PGPB to an interconnect with PGPB's existing meter station in Reynosa, Mexico.[1] In order for Tennessee to provide the requested transportation service for PGPB, Tennessee will construct new facilities consisting of (1) approximately 9.3 miles of 24-inch diameter lateral pipeline commencing from Side Valve No. 409A–401 of Tennessee's existing Donna Lateral line 409A–100 located at Mile Post 9.02 located in Hidalgo County, Texas, (2) a meter station, and (3) approximately 1,500 feet of 24-inch diameter pipe (Border Crossing Facilities) ending at an interconnect with an existing PGPB meter station located in Reynosa, Mexico. These facilities are the subject of a prior notice filing in Docket No. CP99–29–000.

In order to provide for the importation and exportation of natural gas at the International Boundary between the United States and Mexico in Reynosa, Mexico, Tennessee proposes to construct the Border Crossing Facilities. Of this approximately 1,500 foot pipeline segment, Tennessee will construct approximately 486 feet of 24-inch diameter pipe from the terminus of the 9.3 mile lateral to a point which represents the midpoint of the Rio Grande/Rio Bravo River at the International Boundary. From the Mexican side of the midpoint of the Rio Grande/Rio Bravo River, Tennessee will cause the construction on PGPB's behalf of approximately 951 feet of 24-inch diameter pipeline, with appurtenances, which shall extend to PGPB's meter station. Tennessee will own, operate and maintain the Border Crossing Facilities on the U.S. side of the International Boundary. PGPB will own, operate and maintain the facilities extending from the Mexican side of the International Boundary to its meter station.

Tennessee and PGPB have entered into a Transportation Service Agreement (TSA) dated September 30, 1998, which provides for the firm transportation of up to 185,000 dekatherms per day of natural gas by Tennessee for PGPB between specified points of interconnection on Tennessee's mainline facilities and the proposed interconnection point.

Any person desiring to be heard or to make any protest with reference to said document should, on or before, November 23, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426 a protest or motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Section 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this document if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the motion is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Tennessee to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 98–29761 Filed 11–5–98; 8:45 am]

BILLING CODE 6717–01–M

[1] PGPB is a wholly-owned subsidiary of Petroleos Mexicanos, the Mexican national oil company. PGPB operates Mexico's interstate natural gas pipeline network and is responsible for Mexican and international natural gas, LNG and crude oil marketing.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–29–000]

Tennessee Gas Pipeline Company; Notice of Request Under Blanket Authorization

November 2, 1998.

Take notice that on October 20, 1998, Tennessee Gas Pipeline Company (Tennessee), a Delaware Corporation, P.O. Box 2511, Houston, Texas 77252, tendered filing a request in Docket No. CP99–29–000, pursuant to Sections 157.205, 157.208 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 18 CFR 157.208, and 18 CFR 157.212), for authorization to construct and operate a meter, a lateral and a bi-directional point to provide transportation service to Pemex Gas y Petroquímica Básica (PGPB), under Tennessee's blanket certificate authority granted September 1, 1982, in Docket No. CP82–413–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request on file with the Commission and open for public inspection.

Tennessee proposes to construct and operate an approximately 9.3 mile 24-inch outside diameter lateral with a proposed MAOP of 1000 psi extending from Side Valve No. 409A–401 of Tennessee's Donna Lateral Line at Mile Post 9.02 in Hidalgo County, Texas, to the proposed Border Crossing Facilities that are the subject of a Section 3 and Presidential Permit application that Tennessee filed contemporaneously in Docket No. CP99–28–000. In addition, Tennessee will install a bi-directional 12-inch ultrasonic meter at the Donna Lateral take-off (the intersection of the Donna Lateral and the 9.3-mile lateral). Further, Tennessee proposes to construct approximately 1500 feet of 24-inch pipe which constitutes the aforementioned Border Crossing Facilities. Of the total amount of the Border Crossing Facilities, 486 feet will be on the U.S. side of the International Boundary. The remaining amount, approximately 951 feet will be constructed from the International Boundary to a PGPB meter station in Reynosa, Mexico. PGPB will own, operate, and maintain the Border Crossing Facilities in Mexico. The total estimated cost of Tennessee's facilities, including the 486 feet of Border Crossing Facilities in the U.S., is $9.35 million.

Tennessee will use the meter as the back-up for custody transfer measurements at PGPB's meter station in Reynosa, Mexico. The proposed bi-directional point will be designated as the midpoint of the Rio Grande/Rio Bravo River at the International Boundary. Tennessee proposes to operate this point as a delivery point on its system and make it available for use by its customers on a firm and interruptible basis. In addition, Tennessee proposes to operate this point as a receipt point pursuant to the automatic authorization provisions of 18 CFR 157.208.

Tennessee states that (i) the total quantities to be received and/or delivered at the delivery point after it is installed will not exceed previously authorized total quantities; (ii) that the proposed modification is not prohibited by its tariff; and (iii) that it has sufficient capacity to accomplish receipt and/or deliveries at the proposed point without detriment or disadvantage to Tennessee's other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file, pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.234), a motion to intervene or notice of intervention and, pursuant to Section 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a request. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 98–29762 Filed 11–5–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–34–000]

Williams Gas Pipelines Central, Inc.; Notice of Request Under Blanket Authorization

November 2, 1998.

Take notice that on October 23, 1998, Williams Gas Pipelines Central, Inc. (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP99–34–000 a request pursuant to Sections 157.205, 157.212 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212 and 157.216) for authorization (1) to replace the Missouri Gas Energy (MGE), a division of Southern Union Company, Anderson town border meter setting and appurtenant facilities and relocate it to the site of the existing high pressure regulator, and (2) to abandon in place by sale to MGE approximately 1.05 miles of the Anderson 3-inch lateral pipeline (Line HR–2) located in McDonald County, Missouri, under Williams's blanket authorization issued in Docket No. CP82–479–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

The project cost according to Williams is estimated at $12,957. Williams states that the change is not prohibited by its existing tariff and that it has sufficient capacity to accomplish deliveries without detriment or disadvantages to other customers. The proposed changes will not have an effect on Williams' peak day and annual deliveries and the total volumes delivered will not exceed total volumes authorized prior to this request.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 98–29763 Filed 11–5–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–3169–001, et al.]

Consolidated Edison Company of New York, Inc., et al.; Electric Rate and Corporate Regulation Filings

October 27, 1998.

Take notice that the following filings have been made with the Commission:

1. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–3169–001]

Take notice that on October 22, 1998, Consolidated Edison Company of New York, Inc., made its compliance filing as required under the Commission's order of September 22, 1998.

Comment date: November 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. American Power Exchange, Inc., Power Providers Inc., Energy Resource Management Corporation, TexPar Energy, Inc., Vitol Gas & Electric LLC, The Cleveland Electric Illuminating Company, The Toledo Edison Company

[Docket No. ER94–1578–016, Docket No. ER96–2303–009, Docket No. ER96–358–009, Docket No. ER95–62–015, Docket No. ER94–155–023, Docket No. ER99–264–000, Docket No. ER99–265–000]

Take notice that the following informational filings have been made with the Commission and are available for public inspection and copying in the Commission's Public Reference Room:

On October 19, 1998, American Power Exchange, Inc. filed certain information as required by the Commission's October 19, 1994 order in Docket No. ER94–1578–000.

On October 20, 1998, Power Providers Inc. filed certain information as required by the Commission's September 3, 1996 order in Docket No. ER96–2303–000.

On October 20, 1998, Energy Resource Management Corporation filed certain information as required by the Commission's December 20, 1995 order in Docket No. ER96–358–000.

On October 20, 1998, TexPar Energy, Inc. filed certain information as required by the Commission's December 27, 1994 order in Docket No. ER95–62–000.

On October 20, 1998, Vitol Gas & Electric LLC filed certain information as required by the Commission's January 14, 1994 order in Docket No. ER94–155–000.

On October 20, 1998, the Cleveland Electric Illuminating Company filed certain information as required by the Commission's September 27, 1996 order in Docket No. ER96–371–000.

On October 20, 1998, the Toledo Edison Company filed certain information as required by the Commission's January 10, 1997 order in Docket No. ER97–455–000.

3. Starghill Alternative Energy Corporation, Astra Power, LLC, Energy Clearinghouse Corporation, Howell Power Systems, Inc., WPS Power Development, Inc., Questar Energy Trading Company, Current Energy, Inc., Equinox Energy, LLC, Nicole Energy Services, Yadkin, Inc., South Jersey Energy Company, HQ Energy Services (U.S.) Inc., Kincaid Generation LLC, WPS Energy Services, Inc., Old Dominion Electric Cooperative, Watt Works, LLC., Texas-New Mexico Power Company, Delmarva Power & Light Company

[Docket No. ER97–4680–003, Docket No. ER98–3378–001, Docket No. ER98–2020–001, Docket No. ER94–178–016, Docket No. ER96–1088–020, Docket No. ER96–404–012, Docket No. ER98–102–003, Docket No. ER98–1486–002, Docket No. ER98–2683–001, Docket No. ER99–247–000, Docket No. ER97–1397–003, Docket No. ER97–851–006, Docket No. ER97–30–003, Docket No. ER96–1088–019, Docket No. ER97–4314–005, Docket No. ER97–2592–006, Docket No. ER99–285–000, Docket No. ER99–235–000]

Take notice that the following informational filings have been made with the Commission and are available for public inspection and copying in the Commission's Public Reference Room:

On October 19, 1998, Starghill Alternative Energy Corporation filed certain information as required by the Commission's November 24, 1997 order in Docket No. ER97–4680–000.

On October 19, 1998, Astra Power, LLC filed certain information as required by the Commission's July 14, 1995 order in Docket No. ER98–3378–000.

On October 19, 1998, Energy Clearinghouse Corporation filed certain information as required by the Commission's June 1, 1998 order in Docket No. ER98–2020–000.

On October 19, 1998, Howell Power Systems, Inc. filed certain information as required by the Commission's January 14, 1994 order in Docket No. ER94–178–000.

On October 19, 1998, WPS Power Development, Inc. filed certain information as required by the Commission's April 16, 1996 order in Docket No. ER96–1088–000.

On October 19, 1998, Questar Energy Trading Company filed certain information as required by the Commission's January 29, 1996 order in Docket No. ER96–404–000.

On October 19, 1998, Current Energy, Inc. filed certain information as required by the Commission's December 4, 1997 order in Docket No. ER98–102–000.

On October 19, 1998, Equinox Energy, LLC filed certain information as required by the Commission's March 2, 1998 order in Docket No. ER98–1486–000.

On October 19, 1998, Nicole Energy Services filed certain information as required by the Commission's June 12, 1998 order in Docket No. ER98–2683–000.

On October 19, 1998, Yadkin, Inc. filed certain information as required by the Commission's September 30, 1996 order in Docket No. ER96–2603–000.

On October 19, 1998, South Jersey Energy Company filed certain information as required by the Commission's February 28, 1997 order in Docket No. ER97–1397–000.

On October 19, 1998, HQ Energy Services (U.S.) Inc. filed certain information as required by the Commission's November 12, 1998 order in Docket No. ER97–851–001.

On October 19, 1998, Kincaid Generation LLC filed certain information as required by the Commission's January 30, 1997 order in Docket No. ER97–30–000.

On October 19, 1998, WPS Energy Services, Inc. filed certain information as required by the Commission's April 16, 1996 order in Docket No. ER96–1088–000.

On October 19, 1998, Old Dominion Electric Cooperative filed certain information as required by the Commission's October 17, 1997 order in Docket No. ER97–4314–000.

On October 19, 1998, Watt Works, LLC filed certain information as required by the Commission's June 24, 1997 order in Docket No. ER97–2592–000.

On October 19, 1998, Texas-New Mexico Power Company filed certain information as required by the Commission's October 15, 1997 order in Docket No. ER97–4185–000.

On October 19, 1998, Delmarva Power & Light Company filed certain information as required by the Commission's July 31, 1996 order in Docket No. ER96–501–000.

4. Boston Edison Company

[Docket No. ER99–35–000]

Take notice that on October 22, 1998, Boston Edison Company (Boston Edison), tendered for filing a Standstill agreement with Wellesley Municipal Light Department.

Boston Edison states that copies of this filing have been posted and served upon the customers involved in Docket No. ER99–35–000, and the Massachusetts Department of Telecommunications and Energy.

Comment date: November 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Southern Indiana Gas and Electric Company, PacifiCorp, Preferred Energy Services, Inc., Superior Electric Power Corporation, Phibro Inc., Tractebel Energy Marketing, Inc.

[Docket No. ER99–225–000, Docket No. ER99–216–000, Docket No. ER96–2141–009, Docket No. ER95–1747–012, Docket No. ER95–430–017, Docket No. ER94–142–020]

Take notice that the following informational filings have been made with the Commission and are available for public inspection and copying in the Commission's Public Reference Room:

On October 16, 1998, Southern Indiana Gas and Electric Company filed certain information as required by the Commission's October 15, 1996 order in Docket No. ER96–2734–000.

On October 16, 1998, PacifiCorp filed certain information as required by the Commission's June 26, 1997 order in Docket No. ER97–2801–000.

On October 16, 1998, Preferred Energy Services, Inc. filed certain information as required by the Commission's August 13, 1996 order in Docket No. ER96–2141–000.

On October 16, 1998, Superior Electric Power Corporation filed certain information as required by the Commission's October 23, 1995 order in Docket No. ER95–1747–000.

On October 16, 1998, Phibro Inc. filed certain information as required by the Commission's June 9, 1995 order in Docket No. ER95–430–000.

On October 16, 1998, Tractebel Energy Marketing, Inc. filed certain information as required by the Commission's December 30, 1993 order in Docket No. ER94–142–000.

6. Consolidated Edison Company Of New York, Inc.

[Docket No. ER99–267–000]

Take notice that on October 22, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Supplement to its Rate Schedule, Con Edison Rate Schedule FERC No. 129, a facilities agreement with Orange and Rockland Utilities, Inc., (O&R). The Supplement provides for an increase in the monthly carrying charges.

Con Edison states that a copy of this filing has been served by mail upon O&R.

Comment date: November 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Consolidated Edison Company Of New York, Inc.

[Docket No. ER99–268–000]

Take notice that on October 22, 1998, Consolidated Edison Company of New

York, Inc. (Con Edison), tendered for filing a Supplement to its Rate Schedule, Con Edison Rate Schedule FERC No. 2, a facilities agreement with Central Hudson Gas and Electric Corporation (CH). The Supplement provides for a decrease in the monthly carrying charges.

Con Edison has requested that this decrease take effect as of October 1, 1998.

Con Edison states that a copy of this filing has been served by mail upon CH.

Comment date: November 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Kansas City Power & Light Company

[Docket No. ER99–269–000]

Take notice that on October 22, 1998, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated October 2, 1998, between KCPL and TransAlta Energy Marketing (U.S.) Inc. This Agreement provides for the rates and charges for Short-term Firm Transmission Service. In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order 888–A in Docket No. OA97–636–000.

KCPL proposes an effective date of October 13, 1998 and requests a waiver of the Commission's notice requirement to allow the requested effective date.

Comment date: November 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Kansas City Power & Light Company

[Docket No. ER99–270–000]

Take notice that on October 22, 1998, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated October 2, 1998, between KCPL and TransAlta Energy Marketing (U.S.) Inc. This Agreement provides for the rates and charges for Non-Firm Transmission Service. In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order No. 888–A in Docket No. OA97–636.

KCPL proposes an effective date of October 13, 1998, and requests waiver of the Commission's notice requirement.

Comment date: November 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Wisconsin Electric Power Company

[Docket No. ER99–271–000]

Take notice that on October 22, 1998, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an electric service agreement under its Market Rate Sales Tariff (FERC Electric Tariff, Original Volume No. 8) with NorAm Energy Services, Inc., (NorAm).

Wisconsin Electric respectfully requests an effective date of October 21, 1998, to allow for economic transactions.

Copies of the filing have been served on NorAm, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: November 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Wisconsin Electric Power Company

[Docket No. ER99–272–000]

Take notice that on October 22, 1998, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an electric service agreement under its Market Rate Sales Tariff (FERC Electric Tariff, Original Volume No. 8) with MidAmerican Energy Co., (MidAmerican).

Wisconsin Electric respectfully requests an effective date of October 21, 1998, to allow for economic transactions.

Copies of the filing have been served on MidAmerican, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: November 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Kentucky Utilities Company

[Docket No. ER99–273–000]

Take notice that on October 22, 1998, Kentucky Utilities Company (KU), tendered for filing an unexecuted Power Services Agreement between KU and El Paso Power Services Company under KU's Power Services Tariff, Rate PS.

Comment date: November 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Kentucky Utilities Company

[Docket No. ER99–274–000]

Take notice that on October 22, 1998, Kentucky Utilities Company (KU), tendered for filing an unexecuted Power Services Agreement between KU and PP&L, Inc., under KU's Power Services Tariff, Rate PS.

Comment date: November 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Commonwealth Electric Company, Cambridge Electric Light Company

[Docket No. ER99–275–000]

Take notice that on October 22, 1998, Commonwealth Electric Company (Commonwealth) and Cambridge Electric Light Company (Cambridge), collectively referred to as the Companies, tendered for filing with the Federal Energy Regulatory Commission executed Service Agreements between the Companies and Southern Company Energy Marketing L.P.

These Service Agreements specify that the Customer has signed on to and has agreed to the terms and conditions of the Companies' Market-Based Power Sales Tariffs designated as Commonwealth's Market-Based Power Sales Tariff (FERC Electric Tariff Original Volume No. 7) and Cambridge's Market-Based Power Sales Tariff (FERC Electric Tariff Original Volume No. 9). These Tariffs, accepted by the FERC on February 27, 1997, and which have an effective date of February 28, 1997, will allow the Companies and the Customer to enter into separately scheduled short-term transactions under which the Companies will sell to the Customer capacity and/or energy as the parties may mutually agree.

The Companies request an effective date as specified on each Service Agreement.

Comment date: November 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Kentucky Utilities Company

[Docket No. ER99–276–000]

Take notice that on October 22, 1998, Kentucky Utilities Company (KU), tendered for filing an unexecuted Power Services Agreement between KU and Associated Electric Cooperative, Inc., under KU's Power Services Tariff, Rate PS.

Comment date: November 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. ONEOK Power Marketing Company, Inc.

[Docket No. ER99–295–000]

Take notice that on October 22, 1998, ONEOK Power Marketing Company, Inc., tendered for filing a letter from the Executive Committee of the Western Systems Power Pool (WSPP), indicating that ONEOK Power Marketing Company, Inc., had completed all of the steps for pool membership. ONEOK Power Marketing Company, Inc., requests that the Commission amend the WSPP Agreement to include it as a member.

ONEOK Power Marketing Company, Inc., requests an effective date of November 1, 1998 for the proposed amendment. Accordingly, ONEOK Power Marketing Company, Inc., requests waiver of the Commission's notice requirements for good cause shown.

Copies of the filing were served upon the WSPP Executive Committee and WSPP's General Counsel.

Comment date: November 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98–29754 Filed 11–5–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. EC99–6–000, et al.]

Lake Benton Power Partners L.L.C., et al.; Electric Rate and Corporate Regulation Filings

October 28, 1998.

Take notice that the following filings have been made with the Commission:

1. Lake Benton Power Partners L.L.C.

[Docket No. EC99–6–000]

Take notice that on October 26, 1998, Lake Benton Power Partners L.L.C. (Lake Benton) filed a Notification of Changed Facts to reflect GECC Windco's intention to acquire a member interest in Lake Benton.

Comment date: November 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. ECK Generating, s.r.o.

[Docket No. EG99–14–000]

On October 23, 1998, ECK Generating, s.r.o. (Applicant), with its principal offices at Kladno, Dubska, Teplarna 272 03, filed with the Federal Energy Regulatory Commission (Commission) an Application for Determination of Exempt Wholesale Generator Status pursuant to Part 365 of the Commission's regulations. Applicant states that it will be engaged directly, or indirectly through one or more affiliates, as defined in Section 2(a)(11)(B) of PUHCA, and exclusively in the business of owning and or/operating, an undivided interest in an eligible facility and selling electric energy at wholesale and making permitted foreign retail electric sales.

Applicant is a limited liability company organized under the laws of the Czech Republic that will own a portion of and lease a portion of a 344 MW generating plant near the City of Kladno in the Czech Republic.

Comment date: November 18, 1998, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Sigma Energy et. al.

[Docket Nos. ER97–4145–001, ER98–3433–001, ER96–1–012, ER91–195–027 thru 033, ER99–266–000, ER94–1061–018, ER95–1441–015, ER97–4116–002]

Take notice that the following informational filings have been made with the Commission and are available for public inspection and copying in the Commission's Public Reference room:

On October 21, 1998, Sigma Energy filed certain information as required by the Commission's October 8, 1997 order in Docket No. ER97–4145–000.

On October 21, 1998, JMF Power Marketing filed certain information as required by the Commission's July 17, 1998 order in Docket No. ER98–3433–000.

On October 21, 1998, PowerTec International, LLC filed certain information as required by the Commission's December 1, 1995 order in Docket No. ER96–1–000.

On October 21, 1998, Western Systems Power Pool filed certain information as required by the Commission's June 1, 1992 and May 13, 1993 orders as well as a deficiency letter dated September 22, 1998 from FERC's Division of Rate Applications, in Docket No. ER91–195–000.

On October 21, 1998, Wisconsin Electric Power Company filed certain information as required by the Commission's January 29, 1998 in Docket No. ER98–855–000.

On October 21, 1998, Rainbow Energy Marketing Corporation filed certain information as required by the Commission's June 10, 1994 letter order in Docket No. ER94–1061–000.

On October 21, 1998, Dupont Power Marketing Inc. filed certain information as required by the Commission's August 30, 1995 letter order in Docket No. ER95–1441–000.

On October 21, 1998, Inventory Management and Distribution Company, Inc. filed certain information as required by the Commission's September 25, 1997 order in Docket No. ER97–4116–000.

4. Boralex Stratton Energy, Inc.

[Docket No. ER98–4652–000]

Take notice that on October 23, 1998, Boralex Stratton Energy, Inc. (Boralex Stratton), petitioned the Commission for acceptance of Boralex Stratton Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

Boralex Stratton intends to engage in the wholesale sale of electric power from a 47 MW small power production facility, fueled by biomass, which it is acquiring in the United States. Boralex Stratton is a wholly-owned subsidiary of Boralex Industries Inc., which is a wholly-owned subsidiary of Boralex Inc., a Canadian corporation which has registered as a Foreign Utility Company with the Securities & Exchange Commission. Boralex Inc., owns in whole or in part eight hydroelectric facilities and one gas-fired cogeneration facilities located in Canada, with an aggregate generation capacity of 61.4 MW. None of the electricity generated by Boralex Inc., is sold in or transmitted to the United States.

Comment date: November 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Boston Edison Company

[Docket No. ER99–35–000]

Take notice that on October 23, 1998, Boston Edison Company (Boston Edison), filed an executed Standstill Agreement with Wellesley Municipal Light Department in the above-captioned proceeding.

Boston Edison states that copies of this filing have been posted and served upon the customers involved in Docket No. ER99-35–000 and the Massachusetts Department of Telecommunications and Energy.

Comment date: November 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. New York State Electric & Gas Corporation

[Docket No. ER99–277–000]

Take notice that on October 23, 1998, New York State Electric & Gas

Corporation (NYSEG), tendered for filing executed Network Service and Network Operating Agreements between NYSEG and National Fuel Resources, Inc. These Agreements specify that the Transmission Customer has agreed to the rates, terms and conditions of NYSEG's currently effective open access transmission tariff and other revisions to the OATT applicable to all customers who take service under its retail access program.

NYSEG requests waiver of the Commission's 60-day notice requirements and an effective date of September 23, 1998, for the Service Agreements.

NYSEG has served copies of the filing on the New York State Public Service Commission and the Transmission Customer.

Comment date: November 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. PacifiCorp

[Docket No. ER99–278–000]

Take notice that on October 23, 1998, PacifiCorp tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, a Letter Agreement between PacifiCorp and Eugene Water & Electric Board (EWEB).

Copies of this filing were supplied to EWEB, the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: November 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Consolidated Edison Company of New York, Inc.

[Docket No. ER99–279–000]

Take notice that on October 23, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide firm transmission service pursuant to its Open Access Transmission Tariff to the New York Power Authority (NYPA).

Con Edison states that a copy of this filing has been served by mail upon NYPA.

Comment date: November 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Consolidated Edison Company of New York, Inc.

[Docket No. ER99–280–000]

Take notice that on October 23, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide firm transmission service pursuant to its Open Access Transmission Tariff to the New York Power Authority (NYPA).

Con Edison states that a copy of this filing has been served by mail upon NYPA.

Comment date: November 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Columbus Southern Power Company

[Docket No. ER99–281–000]

Take notice that on October 21, 1998, Columbus Southern Power Company (CSP), tendered for filing with the Commission a Facilities, Operations, Maintenance and Repair Agreement (Agreement) dated September 21, 1998, between CSP and South Central Power Company (hereinafter called SCP) and Buckeye Power, Inc., (hereinafter called Buckeye).

Buckeye has requested CSP provide a delivery point, pursuant to provisions of the Power Delivery Agreement between CSP, Buckeye Power, Inc. (hereinafter called Buckeye), The Cincinnati Gas & Electric Company, The Dayton Power and Light Company, Monongahela Power Company, Ohio Power Company and Toledo Edison Company, dated January 1, 1968.

CSP requests an effective date of January 15, 1999, for the tendered agreements.

CSP states that copies of its filing were served upon South Central Power Company, Buckeye Power, Inc., and the Public Utilities Commission of Ohio.

Comment date: November 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. PacifiCorp

[Docket No. ER99–282–000]

Take notice that on October 23, 1998, PacifiCorp, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, a Mutual Netting/Closeout Agreements between PacifiCorp and British Columbia Power Exchange Corporation, City of Glendale, City of Idaho Falls, The Montana Power Trading & Marketing Company, Tucson Electric Power Company and Silicon Valley Power.

Copies of this filing were supplied the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: November 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. The Dayton Power and Light Company

[Docket No. ER99–283–000]

Take notice that on October 23, 1998, The Dayton Power and Light Company (Dayton), submitted service agreements establishing Coral Power L.L.C., as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of the this filing were served and Coral Power, L.L.C., and the Public Utilities Commission of Ohio.

Comment date: November 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. The Dayton Power and Light Company

[Docket No. ER99–284–000]

Take notice that on October 23, 1998, The Dayton Power and Light Company (Dayton), tendered for filing a service agreements establishing with Coral Power, L.L.C., as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of the this filing were served upon with Coral Power, L.L.C., and the Public Utilities Commission of Ohio.

Comment date: November 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Tucson Electric Power Company

[Docket No. ER99–286–000, ER99–290–000, ER95–692–015, ER96–2408–010, ER97–3888–005, ER97–4240–001, ER99–287–000, ER99–288–000, ER97–2517–005, ER97–2517–006, ER94–1475–014, ER96–105–012 and ER99–289–000]

Take notice that the following informational filings have been made with the Commission and are available for public inspection and copying in the Commission's Public Reference Room:

On October 22, 1998, Tucson Electric Power Company filed certain information as required by the Commission's February 13, 1998 order in Docket No. ER98–1150–000.

On October 22, 1998, Commonwealth Electric Company and Cambridge Electric Light Company filed certain information as required by the Commission's February 27, 1997 order in Docket No. ER97–1068–000.

On October 22, 1998, TransCanada Power filed certain information as required by the Commission's June 9, 1995 order in Docket No. ER95–692–000.

On October 22, 1998, Avista Energy, Inc. filed certain information as required by the Commission's September 12, 1996 letter order in Docket No. ER96–2408–000.

On October 22, 1998, The Green Power Connection, Inc. filed certain information as required by the Commission's July 1, 1996 order in Docket No. ER97–3888–000.

On October 22, 1998, Granger Energy, L.L.C. filed certain information as required by the Commission's September 29, 1997 order in Docket No. ER97–4240–000.

On October 22, 1998, Tucson Electric Power Company filed certain information as required by the Commission's October 31, 1997 order in Docket No. ER97–4514–000.

On October 22, 1998, Central Illinois Light Company filed certain information as required by the Commission's June 2, 1998 order in Docket No. ER98–2440–000.

On October 22, 1998, Xenergy Inc. filed certain information as required by the Commission's June 9, 1997 order in Docket No. ER97–2517–000.

On October 22, 1998, Xenergy Inc. filed certain information as required by the Commission's June 9, 1997 order in Docket No. ER97–2517–000.

On October 22, 1998, Illinova Energy Partners, Inc. filed certain information as required by the Commission's May 18, 1995 order in Docket No. ER94–1475–000.

On October 22, 1998, U. S. Power & Light, Inc. filed certain information as required by the Commission's December 6, 1995 letter order in Docket No. ER96–105–000.

On October 22, 1998, Wisconsin Public Service Corporation filed certain information as required by the Commission's April 30, 1996 order in Docket No. ER96–780–000.

15. Wisconsin Power and Light Company

[Docket No. ER99–292–000]

Take notice that on October 23, 1998, Wisconsin Power and Light Company (WP&L), tendered for filing a signed Service Agreement under WP&L's Bulk Power Tariff between itself and Merchant Energy Group of the Americas, Inc.

WP&L respectfully requests a waiver of the Commission's notice requirements, and an effective date of October 9, 1998.

Comment date: November 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Niagara Mohawk Power Corporation

[Docket No. ER99–293–000]

Take notice that on October 23, 1998, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and Amerada Hess Corporation. This Transmission Service Agreement specifies that Amerada Hess Corporation has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and Amerada Hess Corporation to enter into separately scheduled transactions under which NMPC will provide transmission service for Amerada Hess Corporation as the parties may mutually agree.

NMPC requests an effective date of October 15, 1998. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and Amerada Hess Corporation.

Comment date: November 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. California Independent System Operator Corporation

[Docket No. ER99–294–000]

Take notice that on October 23, 1998, the California Independent System Operator Corporation (ISO), tendered for filing an amendment to Appendix A, to the Responsible Participating Transmission Owner Agreement between the ISO and the Pacific Gas and Electric Company (PG&E). The ISO states that the amendment revises the Appendix to clarify an agreement listed under the Existing Contracts for a number of Existing Right holders and adds an agreement to the list of Existing Contracts for the City of Santa Clara.

The ISO states that this filing has been served on all parties listed on the Restricted Service List in the above-referenced dockets.

Comment date: November 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Commonwealth Edison Company

[Docket No. ER99–296–000]

Take notice that on October 23, 1998, Commonwealth Edison Company (ComEd), tendered for filing a Short-Term Firm Service Agreement with PECO Energy (PECO), under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of September 30, 1998, for the service agreements, and accordingly, seeks waiver of the Commission's notice requirements.

Copies of this filing were served on PECO and the Illinois Commerce Commission.

Comment date: November 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Public Service Company of New Mexico

[Docket No. ER99–298–000]

Take notice that on October 23, 1998, Public Service Company of New Mexico (PNM), submitted for filing an executed service agreement with PacifiCorp Power Marketing, Inc., dated October 21, 1998, for non-firm point-to-point transmission service under the terms of PNM's Open Access Transmission Tariff. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Comment date: November 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Carolina Power & Light Company

[Docket No. ER99–299–000]

Take notice that on October 23, 1998, Carolina Power & Light Company tendered for filing a power purchase agreement with the South Carolina Public Service Authority. The sale will be made pursuant to CP&L Market Based Rate Tariff.

Copies of the filing were served upon the North Carolina Utilities Commission, the South Carolina Public Service Commission and the South Carolina Public Service Authority.

Comment date: November 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Michael E. Rescoe and Bruce R. Worthington

[Docket No. ID–3247–000 and ID–3248–000]

Take notice that on October 23, 1998, Michael E. Rescoe and Bruce R. Worthington (Applicants) tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions:

Director—PG&E Power Services Company

Director—PG&E Energy Trading Power Holdings Corporation

Comment date: November 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of

Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98–29753 Filed 11–5–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1759]

Wisconsin Electric Power Company; Notice of Availability of Draft Application and Preliminary Draft Environmental Assessment (DEA)

November 2, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 1759.[1]

c. *Applicant:* Wisconsin Electric Power Company.

d. *Name of Project:* Peavy Falls Hydroelectric Project.

e. *Location:* Michigamme River near Crystal Falls, Iron Mountain, and Kingsford, in Iron County, Michigan.

f. *Applicant Contact:* Ms. Rita L. Hayen, P.E., Wisconsin Electric Power Company, 333 W. Everett Street, P.O. Box 2046, Milwaukee, WI 53201–2046.

g. *FERC Contact:* Patti Leppert-Slack, (202) 219–2767.

h. Wisconsin Electric Power Company (Wisconsin Electric) mailed a copy of the Draft License Application and Preliminary DEA to all entities on October 20, 1998. The Commission received a copy of the Draft License Application and Preliminary DEA on October 22, 1998. Copies of these documents, as well as the resource study reports previously distributed for review and comment, are available for review at Wisconsin Electric's Office, 800 Industrial Park Drive, Iron Mountain, Michigan.

Copies are also available at the following libraries: Crystal Falls District Community Library, 401 Superior Ave., Crystal Falls, Michigan; Dickinson County Library, 401 Iron Mountain St., Iron Mountain, Michigan; and Dickinson County Library-Norway Branch, 620 Section St., Norway, Michigan.

i. As discussed in the Commission's June 14, 1996, letter to all parties, with this notice we are soliciting preliminary terms, conditions, and recommendations on the Draft License Application and Preliminary DEA.

j. All comments on the Draft License Application and Preliminary DEA should be sent to the address noted above in Item (f), with an original and five copies filed with the Commission at the following address: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street, NE, Dockets—Room 1A, Washington, DC 20426.

All comments must include the project name and number, and bear the heading "Preliminary Comments," "Preliminary Recommendations," "Preliminary Terms and Conditions," or "Preliminary Prescriptions." Any party interested in commenting must do so on or before January 22, 1999.

David P. Boergers,

Secretary.

[FR Doc. 98–29755 Filed 11–5–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1759]

Wisconsin Electric Power Company; Notice of Availability of Draft Application and Preliminary Draft Environmental Assessment (DEA)

November 2, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 1759.

c. *Applicant:* Wisconsin Electric Power Company.

d. *Name of Project:* Way Dam Hydroelectric Project.

e. *Location:* Michigamme River near Crystal Falls, in Iron and Dickinson Counties, Michigan.

f. *Applicant Contact:* Ms. Rita L. Hayen, P.E., Wisconsin Electric Power Company, 333 W. Everett Street, P.O. Box 2046, Milwaukee, WI 53201–2046.

g. *FERC Contact:* Patti Leppert-Slack, (202) 219–2767.

h. Wisconsin Electric Power Company (Wisconsin Electric) mailed a copy of the Draft License Application and Preliminary DEA to all entities on October 20, 1998. The Commission received a copy of the Draft License Application and Preliminary DEA on October 22, 1998. Copies of these documents, as well as the resource study reports previously distributed for review and comment, are available for review at Wisconsin Electric's Office, 800 Industrial Park Drive, Iron Mountain, Michigan.

Copies are also available at the following libraries: Crystal Falls District Community Library, 401 Superior Ave., Crystal Falls, Michigan; Dickinson County Library, 401 Iron Mountain St., Iron Mountain, Michigan; and Dickinson County Library—Norway Branch, 620 Section St., Norway, Michigan.

i. As discussed in the Commission's June 14, 1996, letter to all parties, with this notice we are soliciting preliminary terms, conditions, and recommendations on the Draft License Application and Preliminary DEA.

j. All comments on the Draft License Application and Preliminary DEA should be sent to the address noted above in Item (f), with an original and five copies filed with the Commission at the following address: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street, NE., Dockets—Room 1A, Washington, DC 20426.

All comments must include the project name and number, and bear the heading "Preliminary Comments," "Preliminary Recommendations," "Preliminary Terms and Conditions," or "Preliminary Prescriptions." Any party interested in commenting must do so on or before January 22, 1999.

David P. Boergers,

Secretary.

[FR Doc. 98–29756 Filed 11–5–98; 8:45 am]

BILLING CODE 6717–01–M

[1] Project No. 1759 currently consists of three developments, Way Dam, Twin Falls, and Peavy Falls Hydroelectric Projects. Wisconsin Electric intends to file separate license applications for each development.

[1] Project No. 1759 currently consists of three developments, Way Dam, Twin Falls, and Peavy Falls Hydroelectric Projects. Wisconsin Electric intends to file separate license applications for each development.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1759]

Wisconsin Electric Power Company; Notice of Availability of Draft Application and Preliminary Draft Environmental Assessment (DEA)

November 2, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 1759.[1]

c. *Applicant:* Wisconsin Electric Power Company.

d. *Name of Project:* Twin Falls Hydroelectric Project.

e. *Location:* Menominee River near Iron Mountain, Kingsford, and Norway, in Dickinson County, Michigan and Florence County, Wisconsin.

f. *Applicant Contact:* Ms. Rita L. Hayen, P.E., Wisconsin Electric Power Company, 333 W. Everett Street, P.O. Box 2046, Milwaukee, WI 53201–2046.

g. *FERC Contact:* Patti Leppert-Slack, (202) 219–2767.

h. Wisconsin Electric Power Company (Wisconsin Electric) mailed a copy of the Draft License Application and Preliminary DEA to all entities on October 20, 1998. The Commission received a copy of the Draft License Application and Preliminary DEA on October 22, 1998. Copies of these documents, as well as the resource study reports previously distributed for review and comment, are available for review at Wisconsin Electric's Office, 800 Industrial Park Drive, Iron Mountain, Michigan.

Copies are also available at the following libraries: Crystal Falls District Community Library, 401 Superior Ave., Crystal Falls, Michigan; Dickinson County Library, 401 Iron Mountain St., Iron Mountain, Michigan; and Dickinson County Library-Norway Branch, 620 Section St., Norway, Michigan.

i. As discussed in the Commission's June 14, 1996, letter to all parties, with this notice we are soliciting preliminary terms, conditions, and recommendation on the Draft License Application and Preliminary DEA.

j. All comments on the Draft License Application and Preliminary DEA should be sent to the address noted above in Item (f), with an original and five copies filed with the Commission at the following address: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street, NE, Dockets—Room 1A, Washington, DC 20426.

All comments must include the project name and number, and bear the heading "Preliminary Comments," "Preliminary Recommendations," "Preliminary Terms and Conditions," or "Preliminary Prescriptions." Any party interested in commenting must do so on or before January 22, 1999.

David P. Boergers,

Secretary.

[FR Doc. 98–29757 Filed 11–5–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2072]

Wisconsin Electric Power Company; Notice of Availability of Draft Application and Preliminary Draft Environmental Assessment (DEA)

November 2, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* 2072.

c. *Applicant:* Wisconsin Electric Power Company.

d. *Name of Project:* Lower Paint Hydroelectric Project.

e. *Location:* Paint River near Crystal Falls, in Iron County, Michigan.

f. *Applicant Contact:* Ms. Rita L. Hayen, P.E., Wisconsin Electric Power Company, 333 W. Everett Street, P.O. Box 2046, Milwaukee, WI 53201–2046.

g. *FERC Contact:* Patti Leppert-Slack, (202) 219–2767.

h. Wisconsin Electric Power Company (Wisconsin Electric) mailed a copy of the Draft License Application and Preliminary DEA to all entities on October 20, 1998. The Commission received a copy of the Draft License Application and Preliminary DEA on October 22, 1998. Copies of these documents, as well as the resource study reports previously distributed for review and comment, are available for review at Wisconsin, Electric's Office, 800 Industrial Park Drive, Iron Mountain, Michigan.

Copies are also available at the following libraries: Crystal Falls District Community Library, 401 Superior Ave., Crystal Falls, Michigan; Dickinson County Library, 401 Iron Mountain St., Iron Mountain, Michigan; and Dickinson County Library-Norway Branch, 620 Section St., Norway, Michigan.

i. As discussed in the Commission's June 14, 1996, letter to all parties, with this notice we are soliciting preliminary terms, conditions, and recommendations on the Draft License Application and Preliminary DEA.

j. All comments on the Draft License Application and Preliminary DEA should be sent to the address noted above in Item (f), with an original and five copies filed with the Commission at the following address: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street, NE, Dockets—Room 1A, Washington, DC 20426.

All comments must include the project name and number, and bear the heading "Preliminary Comments," "Preliminary Recommendations," "Preliminary Terms and Conditions," or "Preliminary Prescriptions." Any party interested in commenting must do so on or before January 22, 1999.

David P. Boergers,

Secretary.

[FR Doc. 98–29758 Filed 11–5–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2074]

Wisconsin Electric Power Company; Notice of Availability of Draft Application and Preliminary Draft Environmental Assessment (DEA)

November 2, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 2074.

c. *Applicant:* Wisconsin Electric Power Company.

d. *Name of Project:* Hemlock Falls Hydroelectric Project.

e. *Location:* Michigamme River near Crystal Falls, in Iron County, Michigan.

f. *Applicant Contact:* Ms. Rita L. Hayen, P.E., Wisconsin Electric Power Company, 333 W. Everett Street, P.O. Box 2046, Milwaukee, WI 53201–2046.

g. *FERC Contact:* Patti Leppert-Slack, (202) 219–2767.

[1] Project No. 1759 currently consists of three developments, Way Dam, Twin Falls, and Peavy Falls Hydroelectric Projects. Wisconsin Electric intends to file separate license applications for each development.

h. Wisconsin Electric Power Company (Wisconsin Electric) mailed a copy of the Draft License Application and Preliminary DEA to all entities on October 20, 1998. The Commission received a copy of the Draft License Application and Preliminary DEA on October 22, 1998. Copies of these documents, as well as the resource study reports previously distributed for review and comment, are available for review at Wisconsin Electric's Office, 800 Industrial Park Drive, Iron Mountain, Michigan.

Copies are also available at the following libraries: Crystal Falls District Community Library, 401 Superior Ave., Crystal Falls, Michigan; Dickinson County Library, 401 Iron Mountain St., Iron Mountain, Michigan; and Dickinson County Library-Norway Branch, 620 Section St., Norway, Michigan.

i. As discussed in the Commission's June 14, 1996, letter to all parties, with this notice we are soliciting preliminary terms, conditions, and recommendations on the Draft License Application and Preliminary DEA.

j. All comments on the Draft License Application and Preliminary DEA should be sent to the address noted above in Item (f), with an original and five copies filed with the Commission at the following address: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street, NE., Dockets—Room 1A, Washington, DC 20426.

All comments must include the project name and number, and bear the heading "Preliminary Comments," "Preliminary Recommendations," "Preliminary Terms and Conditions," or "Preliminary Prescriptions." Any party interested in commenting must do so on or before January 22, 1999.

David P. Boergers,

Secretary.

[FR Doc. 98–29759 Filed 11–5–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2131]

Wisconsin Electric Power Company; Notice of Availability of the Draft Application and Preliminary Draft Environmental Assessment (DEA)

November 2, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 2131.

c. *Applicant:* Wisconsin Electric Power Company.

d. *Name of Project:* Kingsford Hydroelectric Project.

e. *Location:* Menominee River near Iron Mountain, Kingsford, and Norway, the Dickinson County, Michigan and Florence County, Wisconsin.

f. *Applicant Contact:* Ms. Rita L. Hayen, P.E., Wisconsin Electric Power Company, 222 W. Everett Street, P.O. Box 2046, Milwaukee, WI 53201–2046.

g. *FERC Contact:* Patti Leppert-Slack, (202) 219–2767.

h. Wisconsin Electric Power Company (Wisconsin Electric) mailed a copy of the Draft License Application and Preliminary DEA to all entities on October 20, 1998. The Commission received a copy of the Draft License Application and Preliminary DEA on October 22, 1998. Copies of these documents, as well as the resource study reports previously distributed for review and comment, are available for review at Wisconsin Electric's Office, 800 Industrial Park Drive, Iron Mountain, Michigan.

Copies are also available at the following libraries: Crystal Falls District Community Library, 401 Superior Ave., Crystal Falls, Michigan; Dickinson County Library, 401 Iron Mountain St., Iron Mountain, Michigan; and Dickinson County Library-Norway Branch, 620 Section St., Norway, Michigan.

i. As discussed in the Commission's June 14, 1996, letter to all parties, with this notice we are soliciting preliminary terms, conditions, and recommendations on the Draft License Application and Preliminary DEA.

j. All comments on the Draft License Application and Preliminary DEA should be sent to the address noted above in Item (f), with an original and five copies filed with the Commission at the following address: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street, NE, Dockets—Room 1A, Washington, DC 20426.

All comment must include the project name and number, and bear the heading "Preliminary Comments," "Preliminary Recommendations," "Preliminary Terms and Conditions," or "Preliminary Prescriptions." Any party interested in commenting must do so on or before January 22, 1999.

David P. Boergers,

Secretary.

[FR Doc. 98–29760 Filed 11–5–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Filed With the Commission

November 2, 1998.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

a. *Type of Application:* Transfer of License.

b. *Project No.:* 11243–015.

c. *Date Filed:* September 21, 1998.

d. *Applicant:* Whitewater Engineering Corporation, Cordova Electric Cooperative, Inc.

e. *Name of Project:* Power Creek Hydroelectric.

f. *Location:* On Power Creek, near the town of Cordova, in southeast Alaska.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Thom A. Fischer, Whitewater Engineering Corporation, 625 Cornwall Avenue, Bellingham, WA 98225, (360) 733–3008.

i. *FERC Contact:* Regina Saizan, (202) 219–2673.

j. *Comment Date:* December 14, 1998.

k. *Description of the Request:* Whitewater Engineering Corporation and Cordova Electric Cooperative, Inc. jointly request that the license be transferred to Cordova Electric Cooperative, Inc. to facilitate the development and financing of project activities.

l. *This notice also consists of the following standard paragraphs:* B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 C.F.R. sections 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "RECOMMENDATIONS FOR TERMS AND CONDITIONS," "PROTEST" or "MOTION TO INTERVENE," as

applicable, and the project number of the particular application to which the filing is in response. Any of these documents must be filed by providing the original and 8 copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Motions to intervene must also be served upon each representative of the applicant specified in the particular application.

D2. Agency Comments—The Commission invites federal, state, and local agencies to file comments on the described application. (Agencies may obtain a copy of the application directly from the applicant.) If an agency does not file comments within the time specified for filing comments, the Commission will presume that the agency has none. One copy of an agency's comments must also be sent to the applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 98–29767 Filed 11–5–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

November 3, 1998

The following notice of meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: November 10, 1998, 10:00 A.M.

PLACE: Room 2C, 888 First Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note: Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, Secretary Telephone (202) 208–0400 For A Recording Listing Items Stricken From or Added to the Meeting, Call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

CONSENT AGENDA—HYDRO

708TH MEETING—NOVEMBER 10, 1998

REGULAR MEETING (10:00 A.M.)

CAH–1.
DOCKET# P–2458, 028, GREAT NORTHERN PAPER COMPANY
OTHER#S P–2572, 012, GREAT NORTHERN PAPER COMPANY

CAH–2.
DOCKET# P–2486, 030, WISCONSIN ELECTRIC POWER COMPANY

CAH–3.
DOCKET# P–10856, 003, UPPER PENINSULA POWER COMPANY

CAH–4.
DOCKET# UL96–16, 003, CHIPPEWA AND FLAMBEAU IMPROVEMENT COMPANY
OTHER#S UL96–17, 002, CHIPPEWA AND FLAMBEAU IMPROVEMENT COMPANY

CAH–5.
OMITTED

CAH–6.
DOCKET# P–2523, 011, N.E.W. HYDRO, INC.
OTHER#S P–11496, 001, CITY OF OCONTO FALLS, WISCONSIN

Consent Agenda—Electric

CAE–1.
DOCKET# ER98–4582, 000, CU POWER CANADA LIMITED

CAE–2.
DOCKET# ER98–4540, 000, LOUISVILLE GAS AND ELECTRIC COMPANY AND KENTUCKY UTILITIES COMPANY

CAE–3.
DOCKET# ER98–3511, 000, FPL ENERGY MAINE HYDRO, INC.
OTHER#S ER98–3562, 000, FPL ENERGY MASON, LLC; ER98–3563, 000, FPL ENERGY WYMAN, LLC; ER98–3564, 000, FPL ENERGY WYMAN IV, LLC; ER98–3565, 000, FPL ENERGY AVEC, LLC; ER98–3566, 000, FPL ENERGY POWER MARKETING, INC.

CAE–4.
DOCKET# TX96–1, 000, CITIZENS UTILITIES COMPANY

CAE–5.
DOCKET# ER98–1033, 004, AUTOMATED POWER EXCHANGE, INC.

CAE–6.
DOCKET# EC98–50, 000, CAMBRIDGE ELECTRIC LIGHT COMPANY, CANAL ELECTRIC COMPANY, COMMONWEALTH ELECTRIC COMPANY AND MONTAUP ELECTRIC COMPANY
OTHER#S ER98–4088, 000, CAMBRIDGE ELECTRIC LIGHT COMPANY, CANAL ELECTRIC COMPANY, COMMONWEALTH ELECTRIC COMPANY AND MONTAUP ELECTRIC COMPANY
ER98–4115, 000, SOUTHERN ENERGY CANAL, L.L.C.
ER98–4116, 000, SOUTHERN ENERGY KENDALL, L.L.C.
ER98–4118, 000, SOUTHERN ENERGY NEW ENGLAND, L.L.C.

CAE–7.
DOCKET# ER97–3189, 011, PJM INTERCONNECTION, L.L.C.

CAE–8.
DOCKET# OA97–573, 000, ATLANTIC CITY ELECTRIC COMPANY
OTHER#S EL98–27, 000, DELMARVA POWER & LIGHT COMPANY; ER97–3189, 010, ATLANTIC CITY ELECTRIC COMPANY; OA97–586, 000, DELMARVA POWER & LIGHT COMPANY

CAE–9.
DOCKET# OA97–251, 000, WESTERN RESOURCES, INC.

CAE–10.
DOCKET# ER95–854, 000, KENTUCKY UTILITIES COMPANY

CAE–11.
OMITTED

CAE–12.
DOCKET# EL97–1, 000, OLD DOMINION ELECTRIC COOPERATIVE V. DELMARVA POWER & LIGHT COMPANY

CAE–13.
DOCKET# EL98–46, 001, LAGUNA IRRIGATION DISTRICT

CAE–14.
DOCKET# OA97–24, 001, CENTRAL POWER AND LIGHT COMPANY, WEST TEXAS UTILITIES COMPANY; PUBLIC SERVICE CO. OF OKLAHOMA AND SOUTHWESTERN ELECTRIC POWER CO.
OTHER#S ER98–4609, 000, CENTRAL POWER AND LIGHT COMPANY, WEST TEXAS UTILITIES COMPANY, PUBLIC SERVICE CO. OF OKLAHOMA AND SOUTHWESTERN ELECTRIC POWER CO.; ER98–4611, 000, CENTRAL POWER AND LIGHT COMPANY, WEST TEXAS UTILITIES COMPANY, PUBLIC SERVICE CO. OF OKLAHOMA AND SOUTHWESTERN ELECTRIC POWER CO.; OA97–24, 002, CENTRAL POWER AND LIGHT COMPANY, WEST TEXAS UTILITIES COMPANY, PUBLIC SERVICE CO. OF OKLAHOMA AND SOUTHWESTERN ELECTRIC POWER CO.

CAE–15.
DOCKET# EC97–5, 002, OHIO EDISON COMPANY, PENNSYLVANIA POWER COMPANY, CLEVELAND ELECTRIC ILLUMINATING

COMPANY AND TOLEDO EDISON COMPANY
CAE–16.
DOCKET# EC97–35, 001, NEW ENGLAND POWER POOL
CAE–17.
DOCKET# ER92–595, 004, PACIFIC GAS AND ELECTRIC COMPANY
OTHER#S ER92–596, 003, PACIFIC GAS AND ELECTRIC COMPANY; ER92–626, 004, SOUTHERN CALIFORNIA EDISON COMPANY, PACIFIC GAS AND ELECTRIC COMPANY AND SAN DIEGO GAS & ELECTRIC COMPANY
CAE–18.
DOCKET# ER98–2746, 001, FLORIDA POWER & LIGHT COMPANY
CAE–19.
DOCKET# OA96–18, 003, ALLEGHENY POWER SYSTEM, INC.
OTHER#S ER95–1468, 002, SOUTHERN COMPANY SERVICES, INC.; ER96–1085, 002, SOUTH CAROLINA ELECTRIC & GAS COMPANY; OA96–21, 001, PUBLIC SERVICE COMPANY OF COLORADO AND CHEYENNE LIGHT, FUEL AND POWER COMPANY; OA96–27, 001, SOUTHERN COMPANY SERVICES, INC.; OA96–33, 002, SOUTHWESTERN PUBLIC SERVICE COMPANY; OA96–39, 002, FLORIDA POWER & LIGHT COMPANY; OA96–42, 002, MIDAMERICAN ENERGY COMPANY; OA96–49, 003, SOUTH CAROLINA ELECTRIC & GAS COMPANY; OA96–64, 003, DAYTON POWER & LIGHT COMPANY; OA96–73, 002, FLORIDA POWER CORPORATION; OA96–74, 004, NEW ENGLAND POWER COMPANY; OA96–158, 003, ENTERGY SERVICES, INC.; OA96–162, 002, WASHINGTON WATER POWER COMPANY; OA96–193, 001, KENTUCKY UTILITIES COMPANY; OA96–202, 001, PUBLIC SERVICE COMPANY OF NEW MEXICO; OA96–203, 002, WESTERN RESOURCES, INC.
CAE–20.
DOCKET# ER98–1285, 001, PUBLIC SERVICE COMPANY OF NEW MEXICO
CAE–21.
DOCKET# EL97–10, 000, ALLEGHENY ELECTRIC COOPERATIVE, INC. V. PENNSYLVANIA ELECTRIC COMPANY AND METROPOLITAN EDISON COMPANY
CAE–22.
DOCKET# EL98–70, 000, EMERALD PEOPLE'S UTILITY DISTRICT V. BONNEVILLE POWER ADMINISTRATION
CAE–23.
DOCKET# EL97–55, 000, INDECK NORTH AMERICAN POWER FUND, L.P.
OTHER#S QF92–166, 006, GORDONSVILLE ENERGY, L.P.; QF92–167, 006, GORDONSVILLE ENERGY, L.P.; QF93–29, 005, AUBURNDALE POWER PARTNERS, L.P.
CAE–24.
DOCKET# OA98–12, 000, ALLIANT SERVICES, INC., INTERSTATE POWER COMPANY, WISCONSIN POWER & LIGHT COMPANY AND IES UTILITIES, INC.
OTHER#S OA97–130, 001, MINNESOTA POWER & LIGHT COMPANY; OA97–173, 001, CAMBRIDGE ELECTRIC LIGHT COMPANY AND COMMONWEALTH ELECTRIC COMPANY; OA97–185, 001, OKLAHOMA GAS & ELECTRIC COMPANY; OA97–234 001, WISCONSIN PUBLIC SERVICE COMPANY; OA97–294, 001, POTOMAC ELECTRIC POWER COMPANY; OA97–318, 001, ALLIANT SERVICES, INC., INTERSTATE POWER COMPANY, WISCONSIN POWER & LIGHT COMPANY AND IES UTILITIES, INC.; OA97–400, 001, SOUTHWESTERN PUBLIC SERVICE COMPANY; OA97–415, 001, ALLIANT SERVICES, INC., INTERSTATE POWER COMPANY, WISCONSIN POWER & LIGHT COMPANY AND IES UTILITIES, INC.; OA97–421, 001, ALLIANT SERVICES, INC., INTERSTATE POWER COMPANY, WISCONSIN POWER & LIGHT COMPANY AND IES UTILITIES, INC.; OA97–423, 001, PP&L, INC.; OA97–441, 001, MONTANA POWER COMPANY; OA97–443, 001, FLORIDA POWER & LIGHT COMPANY; OA97–447, 001, FLORIDA POWER CORPORATION; OA97–453, 001, MONTAUP ELECTRIC COMPANY; OA97–455, 001, IDAHO POWER COMPANY; OA97–457, 001, GPU ENERGY, JERSEY CENTRAL POWER & LIGHT COMPANY, METROPOLITAN EDISON COMPANY AND PENNSYLVANIA ELECTRIC COMPANY; OA97–515, 001, PACIFIC GAS & ELECTRIC COMPANY; OA97–590, 001, IDAHO POWER COMPANY; OA97–594, 001, PP&L, INC.; OA98–14, 000, EDISON SAULT ELECTRIC COMPANY

Consent Agenda—Gas and Oil

CAG–1.
DOCKET# RP99–89, 000, COLUMBIA GAS TRANSMISSION CORPORATION
CAG–2.
OMITTED
CAG–3.
DOCKET# RP99–94, 000, WILLISTON BASIN INTERSTATE PIPELINE COMPANY
CAG–4.
DOCKET# TM99–1–166, 001, KANSAS PIPELINE COMPANY
CAG–5.
OMITTED
CAG–6.
DOCKET# RP99–25, 001, NORTHWEST PIPELINE CORPORATION
CAG–7.
OMITTED
CAG–8.
DOCKET# RP94–43, 016, ANR PIPELINE COMPANY
CAG–9.
DOCKET# RP98–220, 001, ENRON ENERGY SERVICES, INC. AND ENRON CAPITAL AND TRADE RESOURCES CORPORATION
OTHER#S RP98–220, 000, ENRON ENERGY SERVICES, INC. AND ENRON CAPITAL AND TRADE RESOURCES CORPORATION
CAG–10.
DOCKET# RP98–371, 003, WILLIAMS GAS PIPELINES CENTRAL, INC.
CAG–11.
DOCKET RP97–373, 015, KOCH GATEWAY PIPELINE COMPANY
CAG–12.
DOCKET# RP95–197, 033, TRANSCONTINENTAL GAS PIPE LINE CORPORATION
CAG–13.
DOCKET# RP98–40, 011, PANHANDLE EASTERN PIPE LINE COMPANY
OTHER#S GP98–6, 002, ANADARKO PETROLEUM CORPORATION
GP98–7, 002, OXY USA, INC.; GP98–9, 002, AMOCO PRODUCTION COMPANY
CAG–14.
DOCKET# RP98–52, 010, WILLIAMS GAS PIPELINES CENTRAL, INC.
OTHER#S GP98–3, 002, OXY USA, INC.; GP98–4, 002, AMOCO PRODUCTION COMPANY; GP98–13, 002, MOBIL OIL CORPORATION; GP98–16, 002, UNION PACIFIC RESOURCES COMPANY; GP98–18, 002, ANADARKO PETROLEUM CORPORATION
CAG–15.
DOCKET# RP98–53, 011, K N INTERSTATE GAS TRANSMISSION COMPANY
OTHER#S GP98–2, 002, AMOCO PRODUCTION COMPANY; GP98–15, 002, OXY USA, INC.; GP98–19, 002, UNION PACIFIC RESOURCES COMPANY
CAG–16.
DOCKET# OR95–7, 001, LONGHORN PARTNERS PIPELINE, L.P.
CAG–17.
DOCKET# OR98–12, 001, LONGHORN PIPELINE PARTNERS, L.P.
CAG–18.
DOCKET# RP96–209, 004, KOCH GATEWAY PIPELINE COMPANY
CAG–19.
DOCKET# MG98–15, 000, MARITIMES & NORTHWEST PIPELINE, L.L.C.
CAG–20.
DOCKET# CP98–167, 003, PG&E TRANSMISSION NORTHWEST CORPORATION
CAG–21.
DOCKET# CP96–790, 001, NAUTILUS PIPELINE COMPANY, L.L.C.
OTHER#S CP96–791, 001, NAUTILUS PIPELINE COMPANY, L.L.C.; CP96–792, 001, NAUTILUS PIPELINE COMPANY, L.L.C.
CAG–22.
DOCKET# CP97–724, 001, NORAM GAS TRANSMISSION COMPANY
CAG–23.
DOCKET# CP98–49, 002, K N WATTENBERG TRANSMISSION LIMITED LIABILITY COMPANY
CAG–24.
DOCKET# CP98–74, 001, TRANSCONTINENTAL GAS PIPE LINE CORPORATION
CAG–25.
DOCKET# CP98–247, 001, MIDCOAST INTERSTATE TRANSMISSION, INC.
CAG–26.
DOCKET# CP98–305, 000, FLORIDA GAS TRANSMISSION COMPANY
CAG–27.
DOCKET# CP98–649, 000, NORTHERN NATURAL GAS COMPANY
OTHER#S CP98–652, 000, CONOCO, INC.
CAG–28.
DOCKET# CP98–747, 000, KOCH GATEWAY PIPELINE COMPANY AND MOBILE BAY PIPELINE COMPANY
CAG–29.
DOCKET# CP98–70, 000, UNION LIGHT, HEAT & POWER COMPANY
OTHER#S CP98–245, 000, COLUMBIA GAS TRANSMISSION CORPORATION
CAG–30.
DOCKET# CP98–530, 000, EQUITRANS, L.P.

HYDRO AGENDA

H–1.
RESERVED

ELECTRIC AGENDA

E–1.
DOCKET# EC98–40, 000, AMERICAN ELECTRIC POWER COMPANY AND CENTRAL AND SOUTHWEST CORPORATION
OTHER#S ER98–2770, 000, AMERICAN ELECTRIC POWER COMPANY AND CENTRAL AND SOUTHWEST CORPORATION; ER98–2786, 000, AMERICAN ELECTRIC POWER COMPANY AND CENTRAL AND SOUTHWEST CORPORATION
ORDER ON MERGER APPLICATION.

Oil and Gas Agenda

I.
PIPELINE RATE MATTERS
PR–1.
DOCKET# RP97–431, 005, NATURAL GAS PIPELINE COMPANY OF AMERICA
ORDER ON SETTLEMENT.
II.
PIPELINE CERTIFICATE MATTERS
PC–1.
RESERVED

David P. Boergers,

Secretary.

[FR Doc. 98–29901 Filed 11–4–98; 10:44 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southeastern Power Administration

Notice of Rate Order, Correction

AGENCY: Southeastern Power Administration, DOE.

ACTION: Notice; Correction.

SUMMARY: The Southeastern Power Administration published a document in the **Federal Register** of October 5, 1998, containing notice of interim approval of new rate schedules for Southeastern's Georgia-Alabama-South Carolina System. The document omitted the new rate schedules.

FOR FURTHER INFORMATION CONTACT: Leon Jourolmon, Assistant Administrator, Finance & Marketing, Southeastern Power Administration, Samuel Elbert Building, 2 South Public Square, Elberton, GA 30635.

Dated: October 29, 1998.

Timothy J. Meeks,

Assistant Administrator for Power Marketing Liaison.

Wholesale Power Rate Schedule SOCO–1

Availability

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in Georgia, Alabama, Mississippi, and Florida to whom power may be transmitted and scheduled pursuant to contracts between the Government and Southern Company Services, Incorporated (hereinafter called the Company) and the Customer. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service

The electric capacity and energy supplied hereunder will be delivered at the delivery points of the Customer on the Company's transmission and distribution system.

Monthly Rate

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:
$2.66 Per kilowatt of total contract demand per month.
Energy Charge:
7.21 Mills per kilowatt-hour.
Generation Services:
$0.03 Per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission of the Company's rate.

Transmission

$1.71 Per kilowatt of total contract demand per month as of February 1998 is presented for illustrative purposes.

The initial transmission charge will be the Customer's ratable share of the Transmission and Distribution Charges paid by the Government. The initial monthly transmission demand charge

shall be determined by multiplying the Government's Load Ratio Share time one twelfth (1/12) of Southern Companies' Annual Transmission Costs as specified in Schedule 1 of the Government-Company Contract. The transmission charges are governed by and subject to refund based upon the determination in proceedings before the Federal Energy Regulatory Commission (FERC) involving Southern Companies' Open Access Transmission Tariff (OAT). The distribution charges may be modified by FERC pursuant to application by the Company under Section 205 of the Federal Power Act or the Government under Section 206 of the Federal Power Act.

Proceedings before FERC involving the OAT or the Distribution charge may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission and distribution charges paid by the Government in behalf of the Customer.

Scheduling, System Control and Dispatch Service:
$0.07658 × (1154/1464) Per kilowatt of total contract demand per month.
Reactive Supply and Voltage Control from Generation Sources Service:
$0.16627 Per kilowatt of total contract demand per month.
Regulation and Frequency Response Service:
$0.24714 Per kilowatt of total contract demand per month.

Transmission, System Control, Reactive, and Regulation Services

The charges for Transmission, System Control, Reactive, and Regulation Services shall be governed by and subject to refund based upon the determination in the proceeding involving Southern Companies' Open Access Transmission Tariff.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less applicable losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system. Applicable energy losses are as follows:
Transmission facilities: 3.0%
Distribution Substations: 0.9%
Distribution Lines: 2.25%

These losses shall be effective until modified by the Federal Energy Regulatory Commission, pursuant to application by Southern Companies under Section 205 of the Federal Power Act or SEPA under Section 206 of the Federal Power Act or otherwise.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule SOCO–2

Availability

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in Georgia, Alabama, Mississippi, and Florida to whom power may be transmitted pursuant to contracts between the Government and Southern Company Services, Incorporated (hereinafter called the Company) and the Customer. The Customer is responsible for providing a scheduling arrangement with the Government. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service

The electric capacity and energy supplied hereunder will be delivered at the delivery points of the Customer on the Company's transmission and distribution system.

Monthly Rate

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:
Capacity Charge:
$2.66 Per kilowatt of total contract demand per month.
Energy Charge:
7.21 Mills per kilowatt-hour.
Generation Services:
$0.03 Per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission of the Company's rate.

Transmission

$1.71 Per kilowatt of total contract demand per month as of February 1998 is presented for illustrative purposes.

The initial transmission charge will be the Customer's ratable share of the Transmission and Distribution Charges paid by the Government. The initial monthly transmission demand charge shall be determined by multiplying the Government's Load Ratio Share time one twelfth (1/12) of Southern Companies' Annual Transmission Costs as specified in Schedule 1 of the Government-Company Contract. The transmission charges are governed by and subject to refund based upon the determination in proceedings before the Federal Energy Regulatory Commission (FERC) involving Southern Companies' Open Access Transmission Tariff (OAT). The distribution charges may be modified by FERC pursuant to application by the Company under Section 205 of the Federal Power Act or the Government under Section 206 of the Federal Power Act.

Proceedings before FERC involving the OAT or the Distribution charge may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission and distribution charges paid by the Government in behalf of the Customer.

Scheduling, System Control and Dispatch Service:
$0.07658 X (1154/1464) Per kilowatt of total contract demand per month.
Reactive Supply and Voltage Control from Generation Sources Service:
$0.16627 Per kilowatt of total contract demand per month.

Transmission, System Control, Reactive, and Regulation Services

The charges for Transmission, System Control, Reactive, and Regulation Services shall be governed by and subject to refund based upon the determination in the proceeding involving Southern Companies' Open Access Transmission Tariff.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less applicable losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system. Applicable energy losses are as follows:
Transmission facilities: 3.0%
Distribution Substations: 0.9%
Distribution Lines: 2.25%

These losses shall be effective until modified by the Federal Energy Regulatory Commission, pursuant to application by Southern Companies under Section 205 of the Federal Power Act or SEPA under Section 206 of the Federal Power Act or otherwise.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule SOCO–3

Availability

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in Georgia, Alabama, Mississippi, and Florida to whom power may be scheduled pursuant to contracts between the Government and Southern Company Services, Incorporated (hereinafter called the Company) and the Customer. The Customer is responsible for providing a transmission arrangement. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects (hereinafter referred to collectively as the Projects) and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service

The electric capacity and energy supplied hereunder will be delivered at the Projects.

Monthly Rate

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:
Capacity Charge:
$2.66 Per kilowatt of total contract demand per month.
Energy Charge:
7.21 Mills per kilowatt-hour.
Generation Services:
$0.03 Per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission of the Company's rate.
Scheduling, System Control and Dispatch Service:
$0.07658 X (1154/1464) Per kilowatt of total contract demand per month.
Regulation and Frequency Response Service:
$0.24714 Per kilowatt of total contract demand per month.

Transmission, System Control, Reactive, and Regulation Services

The charges for Transmission, System Control, Reactive, and Regulation Services shall be governed by and subject to refund based upon the determination in the proceeding involving Southern Companies' Open Access Transmission Tariff.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less applicable losses). The Customer's contract demand and accompanying energy will be allocated proportionately to the individual delivery points served from the Company's system. Applicable energy losses are as follows:
Transmission facilities: 3.0%
Distribution Substations: 0.9%
Distribution Lines: 2.25%

These losses shall be effective until modified by the Federal Energy Regulatory Commission, pursuant to application by Southern Companies under Section 205 of the Federal Power Act or SEPA under Section 206 of the Federal Power Act or otherwise.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule SOCO–4

Availability

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in Georgia, Alabama, Mississippi, and Florida served through the transmission facilities of Southern Company Services, Inc. (hereinafter called the Company) or the Georgia Integrated Transmission System. The Customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects (hereinafter referred to collectively as the Projects) and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service

The electric capacity and energy supplied hereunder will be delivered at the Projects.

Monthly Rate

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:
Capacity Charge
$2.66 Per kilowatt of total contract demand per month.
Energy Charge
7.21 Mills per kilowatt-hour.
Generation Services
$0.03 Per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission of the Company's rate.

Scheduling, System Control and Dispatch Service
$0.07658 X (1154/1464) Per kilowatt of total contract demand per month.

Transmission, System Control, Reactive, and Regulation Services

The charges for Transmission, System Control, Reactive, and Regulation Services shall be governed by and subject to refund based upon the determination in the proceeding involving Southern Companies' Open Access Transmission Tariff.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less applicable losses).

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule ALA–1-I

Availability

This rate schedule shall be available to the Alabama Electric Cooperative, Incorporated (hereinafter called the Cooperative).

Applicability

This rate schedule shall be applicable to power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters, and Richard B. Russell Projects and sold under contract between the Cooperative and the Government. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz and shall be delivered at the Walter F. George, West Point, and Robert F. Henry Projects.

Monthly Rate

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge
$2.66 Per kilowatt of total contract demand per month.
Energy Charge:
7.21 Mills per kilowatt-hour.
Generation Services:
$0.03 Per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Southern Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission of the Company's rate.

Scheduling, System Control and Dispatch Service
$0.07658 x (1154/1464) Per kilowatt of total contract demand per month.

Transmission, System Control, Reactive, and Regulation Services

The charges for Transmission, System Control, Reactive, and Regulation Services shall be governed by and subject to refund based upon the determination in the proceeding involving Southern Companies' Open Access Transmission Tariff.

Energy to be Furnished by the Government

The Government will sell to the Cooperative and the Cooperative will purchase from the Government those quantities of energy specified by contract as available to the Cooperative for scheduling on a weekly basis.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule MISS–1–I

Availability

This rate schedule shall be available to the South Mississippi Electric Power Association (hereinafter called the Customer) to whom power may be wheeled pursuant to contracts between the Government and Alabama Electric Cooperative, Inc. (hereinafter called AEC).

Applicability

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at the delivery points of the Customer on AEC's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:
$2.66 Per kilowatt of total contract demand per month.
Energy Charge:
7.21 Mills per kilowatt-hour.
Generation Services:
$0.03 Per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission of the Company's rate.

Transmission

$1.83 Per kilowatt of total contract demand per month as of February 1998 is presented for illustrative purposes.

This rate is subject to annual adjustment on January 1, and will be computed subject to the Appendix A attached to the Government-AEC contract.

Scheduling, System Control and Dispatch Service:
$0.07658 × (1154/1464) Per kilowatt of total contract demand per month.

Transmission, System Control, Reactive, and Regulation Services

The charges for Transmission, System Control, Reactive, and Regulation Services shall be governed by and subject to refund based upon the determination in the proceeding involving Southern Companies' Open Access Transmission Tariff.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government

The Government will sell to the Cooperative and the Cooperative will purchase from the Government those quantities of energy specified by contract as available to the Cooperative for scheduling on a weekly basis.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule Duke–1

Availability

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in North Carolina and South Carolina to whom power may be transmitted and scheduled pursuant to contracts between the Government and Duke Power Company (hereinafter called the Company) and the Customer. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedules does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service

The electric capacity and energy supplied hereunder will be delivered at the delivery points of the Customer on the Company's transmission and distribution system.

Monthly Rate

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:
$2.66 Per kilowatt of total contract demand per month.
Energy Charge:
7.21 Mills per kilowatt-hour.
Generation Services:
$0.03 Per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission of the Company's rate.

Transmission

$1.15 Per kilowatt of total contract demand per month as of February 1998 is presented for illustrative purposes.

The initial transmission charge will be the Customer's ratable share of the Transmission Distribution Charges paid by the Government. The initial monthly transmission demand charge shall reflect the Government's Load Ratio Share Responsibility. The Load Ratio Share shall be computed each month and shall be the ratio of the Network Load to the average of the Company's Transmission System load for each of the 12 preceding months. The Company's Transmission System Load shall be the load as determined in Section 34.3 of the Company's Pro Forma Open Access Transmission Tariff (the Tariff). The Government shall pay a monthly demand charge which shall be determined by multiplying its Load Ratio Share by 1/12 of the Annual Transmission Revenue Requirement set forth in Attachment H of the Company's Tariff.

Proceedings before FERC involving the Tariff may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission and distribution charges paid by the Government in behalf of the Customer.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less applicable losses of three per cent (3%)). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system. These losses shall be effective until modified by the Federal Energy Regulatory Commission, pursuant to application by the Company under Section 205 of the Federal Power Act or SEPA under Section 206 of the Federal Power Act or otherwise.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule Duke–2

Availability

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in North Carolina and South Carolina to whom power may be transmitted pursuant to contracts between the Government and Duke Power Company (hereinafter called the Company) and the Customer. The Customer is responsible for providing a scheduling arrangement with the Government. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service

The electric capacity and energy supplied hereunder will be delivered at the delivery points of the Customer on

the Company's transmission and distribution system.

Monthly Rate

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:
$2.66 Per kilowatt of total contract demand per month.
Energy Charge:
7.21 Mills per kilowatt-hour.
Generation Services:
$0.03 Per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission of the Company's rate.

Transmission

$1.15 Per kilowatt of total contract demand per month as of February 1998 is presented for illustrative purposes.

The initial transmission charge will be the Customer's ratable share of the Transmission Distribution Charges paid by the Government. The initial monthly transmission demand charge shall reflect the Government's Load Ratio Share Responsibility. The Load Ratio Share shall be computed each month and shall be the ratio of the Network Load to the average of the Company's Transmission System load for each of the 12 preceding months. The Company's Transmission System Load shall be the load as determined in Section 34.3 of the Company's Pro Forma Open Access Transmission Tariff (the Tariff). The Government shall pay a monthly demand charge which shall be determined by multiplying its Load Ratio Share by 1/12 of the Annual Transmission Revenue Requirement set forth in Attachment H of the Company's Tariff.

Proceedings before FERC involving the Tariff may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all the separate transmission and distribution charges paid by the Government in behalf of the Customer.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less applicable losses of three per cent *3%)). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system. These losses shall be effective until modified by the Federal Energy Regulatory Commission, pursuant to application by the Company under Section 205 of the Federal Power Act or SEPA under Section 206 of the Federal Power Act or otherwise.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule Duke-3

Availability

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in North Carolina and South Carolina to whom power may be scheduled pursuant to contracts between the Government and Duke Power Company (hereinafter called the Company) and the Customer. The Customer is responsible for providing a transmission arrangement. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service

The electric capacity and energy supplied hereunder will be delivered at the Savannah River Projects.

Energy to be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less applicable losses).

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale power Rate Schedule Duke-4

Availability

This rate schedule shall be available to public goodies and cooperatives (any one of whom is hereinafter called the Customer) in North Carolina and South Carolina served through the transmission facilities of Duke Power Company (hereinafter called the Company) and the Customer. The Customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement with the Company. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell projects and sold under appropriate contracts between the Government and the customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service

The electric capacity and energy supplied hereunder will be delivered at the Savannah River Projects.

Monthly Rate

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:
$2.66 Per kilowatt of total contract demand per month.
Energy Charge:
7.21 Mills per kilowatt-hour.
Generation Services:
$0.03 Per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Further adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission of the Company's rate.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less applicable losses).

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule Santee-1

Availability

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in South Carolina to whom power may be wheeled and scheduled pursuant to contracts between the Government and South Carolina Public Service Authority (hereinafter called the Authority). Nothing in this rate schedule shall preclude an eligible customer from electing service under another rate schedule.

Applicability

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service

The electric capacity and energy supplied hereunder will be delivered at the delivery points of the Customer on the Authority's transmission and distribution system.

Monthly Rate

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:
$2.66 Per kilowatt of total contract demand per month.
Energy Charge:
7.21 Mills per kilowatt-hour.
Generation Services:
$0.03 Per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Authority. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission of the Authority's rate.

Transmission

$1.53 Per kilowatt of total contract demand per month as of February 1998 is presented for illustrative purposes.

The initial transmission rate is subject to annual adjustment on July 1 of each year, and will be computed subject to the formula contained in Appendix A to the Government-Authority Contract.

Proceedings before the Federal Energy Regulatory Commission involving the Authority's Open Access Transmission Tariff may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission and distribution charges paid by the Government in behalf of the Customer.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contact which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Authority (less applicable losses of two per cent (2%)). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Authority's system.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Service Interruption

When energy delivery to the Customer's system for the account of the Government is reduced or interrupted, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced as to kilowatts of such capacity which have been interrupted or reduced for each day in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly Capacity Charge}}{\text{Number of days in billing month}}$$

Availability

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter call the Customer) in South Carolina to whom power may be wheeled pursuant to contracts between the Government and South Carolina Public Service Authority (hereinafter called the Authority). The customer is responsible for providing a scheduling arrangement with the Government. Nothing in this rate schedule shall preclude an eligible customer from electing service under another rate schedule.

Applicability

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, Westpoint, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service

The electric capacity and energy supplied hereunder will be delivered at the delivery points of the Customer on the Authority's transmission and distribution system.

Monthly Rate

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:

$2.66 Per kilowatt of total contact demand per month.

Energy Charge:

7.21 Mills per kilowatt-hour.

Generation Services:

$0.03 Per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Authority. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission of the Authority's rate.

Transmission

$1.53 Per kilowatt of total contract demand per month as of February 1998 is presented for illustrative purposes.

The initial transmission rate is subject to annual adjustment on July 1 of each year, and will be computed subject to the formula contained in Appendix A to the Government-Authority Contract.

Proceedings before the Federal Energy Regulatory Commission involving the Authority's Open Access Transmission Tariff may result in the separation of charges currently included in the transmission rate. In this event, the Government pay charge the Customer . for any and all separate transmission and distribution charges paid by the Government in behalf of the Customer.

Wholesale Rate Schedule Santee-2

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive. Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Authority (less applicable losses of two per cent (2%)). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Authority's system.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Service Interruption

When energy delivery to the Customer's system for the account of the Government is reduced or interrupted, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced as to kilowatts of such capacity which have been interrupted or reduced for each day in accordance with the following formula:

Wholesale Power Rate Schedule Santee-3

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly Capacity Charge}}{\text{Number of days in billing month}}$$

Availability

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in South Carolina to whom power may be scheduled pursuant to contracts between the Government and South Carolina Public Service Authority (hereinafter called the Authority). The customer is responsible for providing a transmission arrangement. Nothing in this rate schedule shall preclude an eligible customer from electing service under another rate schedule.

Applicability

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Choracter of Service

The electric capacity and energy supplied hereunder will be delivered at the Projects.

Monthly Rate

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:

$2.66 Per kilowatt of total contract demand per month.

Energy Charge:

7.21 Mills per kilowatt-hour.

Generation Services:

$0.03 Per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Authority. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission of the Authority's rate.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Authority (less applicable losses).

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Service Interruption

When energy delivery to the Customer's system for the account of the Government is reduced or interrupted, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced as to kilowatts of such capacity which have been interrupted or reduced for each day in accordance with the following formula:

Wholesale Power Rate Schedule Santee-4

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly Capacity Charge}}{\text{Number of days in billing month}}$$

Availability

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in South Carolina served through the transmission facilities of South Carolina Public Service Authority (hereinafter called the Authority). The customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement. Nothing in this rate schedule shall preclude an eligible customer from electing service under another rate schedule.

Applicability

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service

The electric capacity and energy supplied hereunder will be delivered at the Projects.

Monthly Rate

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:

$2.66 Per kilowatt of total contract demand per month.

Energy Charge:

7.21 Mills per kilowatt-hour.

Generation Services:

$0.03 Per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Authority. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission of the Authority's rate.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Authority (less applicable losses).

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Service Interruption

When energy delivery to the Customer's system for the account of the Government is reduced or interrupted, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced as to kilowatts of such capacity which have been interrupted or reduced for each day in accordance with the following formula:

Wholesale Power Rate Schedule SCE&G–1

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly Capacity Charge}}{\text{Number of days in billing month}}$$

Availability

This rate schedule shall be available public bodies and cooperatives (any one of which is hereinafter called the Customer) in South Carolina to whom power may be wheeled and scheduled pursuant to contracts between the Government and the South Carolina Electric & Gas Company (hereinafter called the Company). Nothing in this rate schedule shall preclude an eligible customer from electing service under another rate schedule.

Applicability

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping

operations at the Carters and Richard B. Russell Projects.

Character of Service

The electric capacity and energy supplied hereunder will be delivered at the delivery points of the Customer on the Company's transmission and distribution system.

Monthly Rate

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:
$2.66 Per kilowatt of total contract demand per month.
Energy Charge:
7.21 Mills per kilowatt-hour.
Generation Services:
$0.03 Per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission of the Company's rate.

Transmission

$2.22 Per kilowatt of total contract demand per month as of February 1998 is presented for illustrative purposes.

The initial rate will be subject to annual adjustment on June 1 of each year and will be computed subject to the formula in Appendix A attached to the Government-Company contract.

Proceedings before the Federal Energy Regulatory Commission involving the Company's Open Access Transmission Tariff may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission and distribution charges paid by the Government in behalf of the Customer.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less five and one-half (5.5) percent losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service

The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Wholesale Power Rate Schedule SCE&G–2

Availability

This rate schedule shall be available public bodies and cooperatives (any one of which is hereinafter called the Customer) in South Carolina to whom power may be wheeled pursuant to contracts between the Government and the South Carolina Electric & Gas Company (hereinafter called the Company). The customer is responsible for providing a scheduling arrangement with the Government. Nothing in this rate schedule shall preclude an eligible customer from electing service under another rate schedule.

Applicability

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service

The electric capacity and energy supplied hereunder will be delivered at the delivery points of the Customer on the Company's transmission and distribution system.

Monthly Rate

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:
$2.66 Per kilowatt of total contract demand per month.
Energy Charge:
7.21 Mills per kilowatt-hour.
Generation Services:
$0.03 Per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission of the Company's rate.

Transmission

$2.22 Per kilowatt of total contract demand per month as of February 1998 is presented for illustrative purposes.

The initial rate will be subject to annual adjustment on June 1 of each year and will be computed subject to the formula in Appendix A attached to the Government-Company contract.

Proceedings before the Federal Energy Regulatory Commission involving the Company's Open Access Transmission Tariff may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission and distribution charges paid by the Government in behalf of the Customer.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less five and one-half (5.5) percent losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service

The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Wholesale Power Rate Schedule SCE&G–3

Availability

This rate schedule shall be available public bodies and cooperatives (any one of which is hereinafter called the Customer) in South Carolina to whom power may be scheduled pursuant to contracts between the Government and the South Carolina Electric & Gas Company (hereinafter called the Company). The customer is responsible for providing a transmission arrangement. Nothing in this rate schedule shall preclude an eligible customer from electing service under another rate schedule.

Applicability

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service

The electric capacity and energy supplied hereunder will be delivered at the Projects.

Monthly Rate

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:
$2.66 Per kilowatt of total contract demand per month.
Energy Charge:
7.21 Mills per kilowatt-hour.
Generation Services:
$0.03 Per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission of the Company's rate.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less applicable losses).

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service

The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Wholesale Power Rate Schedule SCE&G–4

Availability

This rate schedule shall be available public bodies and cooperatives (any one of which is hereinafter called the Customer) in South Carolina served through the transmission facilities of South Carolina Electric & Gas Company (hereinafter called the Company). The customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement. Nothing in this rate schedule shall preclude an eligible customer from electing service under another rate schedule.

Applicability

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service

The electric capacity and energy supplied hereunder will be delivered at the Projects.

Monthly Rate

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:
$2.66 Per kilowatt of total contract demand per month
Energy Charge:
7.21 Mills per kilowatt-hour
Generation Services
$0.03 Per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission of the Company's rate.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less applicable losses).

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service

The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and

control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Wholesale Power Rate Schedule Pump-1

Availability

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in Georgia, Alabama, Mississippi, Florida, South Carolina, or North Carolina to whom power is provided pursuant to contracts between the Government and the customer.

Applicability

This rate schedule shall be applicable to the sale at wholesale energy generated from pumping operations at the Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer.

Character of Service

The energy supplied hereunder will be delivered at the delivery points provided for under appropriate contracts between the Government and the Customer.

Monthly Rate

The rate for energy sold under this rate schedule for the months specified shall be:

$$\text{Energy Rate} = \left(C_{wav} + F_{wav}\right) \div \left(1 - L_d\right)$$

[computed to the nearest $.00001 (1/100 mill) per kwh]

(The weighted average cost of energy for pumping divided by the energy conversion factor, quantity divided by one minus losses for delivery.)

Where:

$$C_{wav} = C_T + E_t$$

(The weighted average cost of energy for pumping is equal to the total cost of energy for pumping divided by the total energy for pumping.)

$$C_T = C_p + C_s$$

(Total cost of energy for pumping is equal to the energy purchased, after losses, plus the energy for pumping in storage as of the end of the month preceding the specified month.)

$$C_s = C_{wav}^{t-1} \times E_s^{t-1}$$

(Cost of energy in storage is equal to the weighted average cost of energy for pumping for the month preceding the specified month times the energy for pumping in storage at the end of the month preceding the specified month.)

C_p

=Dollars cost of energy purchased for pumping during the specified month, including all direct costs to deliver energy to the project.

E_p

=Kilowatt-hours of energy purchased for pumping during the specified month.

L_p

=Energy loss factor for transmission on energy purchased for pumping (Expected to be .03 or three percent.)

E_s^{t-1}

=Kilowatt-hours of energy in storage as of the end of the month immediately preceding the specified month.

C_{wav}^{t-1}

=Weighted average cost of energy for pumping for the month immediately preceding the specified month.

$$F_{wav} = E_G + E_T$$

(Weighted average energy conversion factor is equal to the energy generated from pumping divided by the total energy for pumping)

E_G

=Energy generated from pumping.

L_d

=Weighted average energy loss factor on energy delivered by the facilitator to the customer. (This value will be a constant, currently estimated to be .01 or 1.0 percent.)

Energy To Be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Facilitator (less any losses required by the Facilitator). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Facilitator's system.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

[FR Doc. 98–29804 Filed 11–5–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Notice of Availability of the Sutter Power Project Draft Environmental Impact Statement

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Availability and Notice of Public Hearings.

SUMMARY: In accordance with Section 102(2) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332, the Western Area Power Administration (Western) announces that the Sutter Power Project (SPP) Draft Environmental Impact Statement (EIS) is available for public review and comment. Calpine Corporation (Calpine) has submitted an application to the California Energy Commission (CEC) for the development, construction, and operation of the SPP, a 500-megawatt (MW) gas fueled, combined cycle, electric generating facility located north of Sacramento, California. This project would involve the construction of additional transmission facilities, as well as new natural gas pipelines. Calpine has approached Western concerning an interconnection with Western's Keswick-Elverta and Olinda-Elverta double-circuit 230-kilovolt (kV) transmission lines.

Western and CEC are "joint lead agencies" for purposes of satisfying the requirements of NEPA and the California Environmental Quality Act (CEQA), respectively. Western and CEC prepared this joint Draft EIS/Final Staff Assessment (FSA) to satisfy the requirements of both agencies, and will hold joint public hearings to receive formal comments on the Draft EIS/FSA according to the schedule below. Western and CEC will accept written and oral comments during the public review period.

DATES: Written comments on the draft EIS/FSA should be sent to the Environmental Project Manager or CEC Project Manager by December 14, 1998, at the addresses provided below. Those wishing to make oral comments may do so at the scheduled public hearings. Western and CEC will respond to all comments, both written and oral, in Western's final EIS and CEC's Presiding Member Proposed Decision. The hearings will be held at the Veteran's Memorial Community Building, 425 Circle Drive, Yuba City, CA, on November 2, 10, 12, and 16, 1998. Each hearing will begin at 9:00 a.m., with the exception of an additional hearing to be held on November 10, at 6:30 p.m. at the same location.

ADDRESSES: Comments on the Draft EIS/FSA may be directed to the following persons. For Western, address comments to: Ms. Loreen McMahon, Environmental Project Manager, Sierra Nevada Customer Service Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630–4710, telephone (916) 353–4460, E-mail: mcmahon@wapa.gov. For CEC, address comments to Paul Richins, Project Manager, Energy Facilities Siting and Environmental Protection Division, California Energy Commission, 1516 Ninth Street, MS–15, Sacramento, CA 95814, Telephone: (916) 654–4074, E-mail: prichins@energy.state.ca.us.

FOR FURTHER INFORMATION CONTACT: For further information, to submit written comments, or to request a copy or summary of the Draft EIS, please call or write Western's Sierra Nevada Customer Service Regional Office or CEC at the addresses shown above. Additional information on the project and the CEC may be found on CEC's website at www.energy.ca.gov/sitingcases/sutterpower/index.html.

For general information on DOE's NEPA review process, please contact Ms. Carol Borgstrom, Director, NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585, telephone (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: Calpine proposes to construct SPP in Sutter County, California, on a portion of a 77-acre parcel of land owned by Calpine, that also houses its Greenleaf 1 cogeneration plant. Yuba City, California, is approximately 7 miles to the northeast; Oswald, California, is approximately 3.5 miles to the east; and Sacramento, California, is approximately 36 miles to the southeast of the proposed project site. The land surrounding the project area is farmland used to grow rice, walnuts, almonds, and other orchard crops. The SPP project would consist of a nominal 500 MW net electrical output natural gas-fired, combined cycle generating facility, a 230–kV switching station, and a new 230–kV transmission line to connect with Western's Keswick-Elverta and Olinda-Elverta double-circuit 230–kV transmission lines at some point south and west of the plant. A new 12-mile natural gas pipeline would be constructed to provide fuel for the project. Potable water and cooling water would be provided by an on site well system that will be developed as part of the project. Sanitary waste will be treated on-site. The treated and other waste water generated in the operation of the plant would be discharged to an existing surface drainage system.

SPP would be a "merchant plant'; it would sell power on a short and midterm basis to customers, and on the spot market. Power purchases by customers would be voluntary, and all economic costs will be borne by Calpine. Calpine approached Western regarding an interconnection for the power produced by SPP. This interconnection would require Western to make facility additions to its existing system to incorporate additional power from new generation.

CEC, a regulatory agency of the State of California, has the statutory authority to license thermal powerplants of 50 MW or greater. CEC's review process ensures that needed energy facilities are authorized in an expeditious, safe, and environmentally acceptable manner. CEC prepares all environmental documentation by following CEQA, and maintains a staff of experts in more than 20 environmental and engineering disciplines to perform balanced, independent evaluations of complex projects. CEC has prepared this document in compliance with California Public Resources Code (Cal. Pub. Res. §§ 25500, *et seq.*); CEQA (Cal. Pub. Res. §§ 21000, *et seq.*) and its guidelines found at California Code of Regulations (Cal. Code Regs. tit. 14 §§ 15000, *et seq.*); and the regulations of CEC (Cal. Code Regs. tit. 20 §§ 1742.5, 1743, and 1744). The CEC process mirrors that of the Federal process; CEC's FSA document is equivalent to the Draft EIS.

Western, a power marketing agency of the U.S. Department of Energy (DOE), is responsible for the transmission and marketing of electric power in 15 western States through an extensive, complex, and integrated high-voltage power transmission system. Western has prepared this document in compliance with NEPA (42 U.S.C. 4321, *et seq.*), the Council on Environmental Quality regulations for implementing NEPA (40 CFR Parts 1500–1508), and the DOE regulations for compliance with NEPA (10 CFR Part 1021).

Because CEC has licensing responsibilities as well as responsibilities under CEQA, Western agreed to be a joint lead agency with CEC and to utilize CEC's expertise in siting issues. The review process was initiated when Calpine filed an Application for Certification (AFC) with CEC on December 15, 1997. On January 21, 1998, CEC accepted the AFC as complete which began CEC's 1-year review process. On February 13, 1998, Western published a Notice of Intent to Prepare an Environmental Impact Statement in the **Federal Register** (63 FR 7412–7413). A scoping meeting was held in Yuba City, California, on March 3, 1998. Additional public workshops that addressed various issues of concern were held on March 25, March 31, June 3, July 14, August 4, August 6, and August 12, 1998.

CEC maintains a mailing list of those interested in SPP. All persons and groups on that mailing list have been notified of the availability of the Draft EIS/FSA. A distribution has been made to various libraries and other repositories in the project area, as well as those agencies and persons that have already requested a copy. Copies of the Draft EIS/FSA are available for public review at the Sierra Nevada Customer Service Regional Office, Western Area Power Administration, 114 Parkshore Drive, Folsom, California; or at the Corporate Services Office, Western Area Power Administration, 1627 Cole Boulevard, Building 18, Golden, Colorado. This information is also available at the DOE Reading Room at the following address: U.S. Department of Energy Reading Room 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. CEC maintains copies for review at the Energy Commission Library, 1516 9th Street, Sacramento, California. Copies for review are also available at the Sutter County Community Service Department, 1160 Civic Center Boulevard, Yuba City, California, and at the Main Branch of the Sutter County Library, 705 Forbs Avenue, Yuba City, California.

During this time, Western and CEC have coordinated closely with other Federal, State, and local agencies such as the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, the California State Department of Water Resources, the California State Department of Fish and Game, the Sacramento Municipal Utility District, the California Public Utilities

Commission, Pacific Gas and Electric Company, and several local authorities.

The results of these meetings have allowed Western and CEC to identify areas of concern raised by the public and other agencies. The visual and noise impacts of the plant and the new transmission line were a major concern of the people who live in the immediate area of the plant site. Other more general issues concerned water resources—the impact to nearby wells by a potential draw-down by SPP; water quality impacts to downstream users and fisheries; the use of surface ditches by the project; and potential impacts caused by localized flooding. Other concerns raised include air quality impacts, land use issues, impacts to agricultural operations, and the need for rezoning the site.

The Draft EIS/FSA presents analyses of the no action (no project) alternative, as well as four siting alternatives to the proposed site. These alternate sites were compared to the unmitigated impacts of the SPP proposed location. The potential impacts to each sensitive issue (water, air, natural resources, cultural resources, visual, noise, etc.) were analyzed and discussed in some detail in the Draft EIS/FSA. However, each of these alternate sites were found to have environmental problems. Alternatives to the proposed project, as well as individual mitigation measures, are proposed and applied where impacts approach a threshold of significance. Environmentally preferred options are detailed for each issue.

CEC will hold hearings on Calpine's proposal. These are held as evidentiary hearings with two commissioners present. All witnesses are sworn in and present information to the Commissioners. Each technical area will be discussed in this manner, so that the length of the hearing process depends on the amount of testimony that needs to be taken for each technical area. Following each portion of the hearing process, the public may comment on the evidence presented. A full transcript will be available following the hearings.

A decision on the proposed action will be made after considering comments on the Draft EIS/FSA, both written and those presented at the hearings announced above. The final EIS will present the full analysis of these comments and project alternatives that are proposed in the Draft EIS/FSA and present the final alternative that will be the subject of Western's and CEC's decisions on SPP.

Dated: October 20, 1998.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 98–29803 Filed 11–5–98; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5496–6]

Environmental Impact Statements; Notice of Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly receipt of Environmental Impact Statements Filed October 26, 1998 Through October 30, 1998 Pursuant to 40 CFR 1506.9.

EIS No. 980439, LEGISLATIVE DRAFT EIS, USA, NM, McGregor Range Military Land Withdrawal Renewal, Fort Bliss, Otera County, NM and TX, Due: February 09, 1999, Contact: Anthony Rekas (703) 614–4991.

EIS No. 980440, DRAFT EIS, AFS, MT, Taylor Fork Timber Sale and Road Restoration, Implementation, Buck Creek, Taylor Fork Creek and Eldridge Creek, Gallatin National Forest, Madison Ranger, Hebgen Lake Ranger District, Yellow Stone, Gallatin County, MT, Due: December 21, 1998, Contact: Julie Neff-Shea (406) 587–6706.

EIS No. 980441, DRAFT EIS, NPS, WA, Lake Roosevelt National Recreation Area, General Management Plan, Implementation, Ferry, Grant, Lincoln, Okanogan and Stevens Counties, WA, Due: January 31, 1999, Contact: Vaughn Baker (509) 633–9441.

EIS No. 980442, FINAL EIS, NPS, MI, Isle Royale National Park General Management Plan, Implementation, Keweenaw County, MI, Due: December 07, 1998, Contact: Michael Madell (402) 221–3493.

EIS No. 980443, FINAL EIS, COE, MN, ND, East Grand Forks, Minnesota and Grand Forks, North Dakota Flood Control and Flood Protection, Red River Basin, MN and ND, Due: December 07, 1998, Contact: John T. Shyne (651) 290–5270.

EIS No. 980444, DRAFT EIS, BLM, OR, Southeastern Oregon Resource Management Plan, Implementation, Comprehensive Framework of Managing Public Land, Malheur, Jordan and Andrew Resource Areas, Vale and Burns Districts, Malheur, Harney and Grant Counties, OR, Due: March 01, 1999, Contact: Gary Copper (541) 473–3144.

EIS No. 980445, DRAFT EIS, DOE, AZ, Griffith Energy Project, Construction and Operation, 520-Megawatt (MW) Natural Gas-Fired and Combined Cycle Power Plant, Right-of-Way Grant, Operating Permit and COE Section 404 Permit, Kingman, AZ, Due: December 21, 1998, Contact: John Holt (602) 352–2692.

EIS No. 980446, REVISED DRAFT EIS, USN, CA, Hunters Point (Former) Naval Shipyard Disposal and Reuse, Implementation, Revised Information, City of San Francisco, San Francisco County, CA, Due: January 05, 1999, Contact: Gary J. Munekawa (650) 244–3022.

EIS No. 980447, FINAL EIS, CGD, CA, I–880/CA–92 Interchange Reconstruction, I–880 from Winton Avenue to Tennyson Road and CA–92 from Hesperian Boulevard to Santa Clara Street, Funding, City of Hayward, Alameda County, CA, Due: December 07, 1998, Contact: Wayne Till (510) 437–3514.

EIS No. 980448, DRAFT EIS, AFS, OR, Beaver Creek Fuels Reduction and Associated Restoration Activities Project, Wallowa-Whitman National Forest, La Grande Ranger District, Union County, OR, Due: December 21, 1998, Contact: Cindy Whitlock (541) 962–8501.

EIS No. 980449, DRAFT EIS, AFS, WY, Cold Springs Ecosystem Management Project, Implementation, Enhancement of Tree Harvesting and Sale, Medicine Bow-Routt National Forests, Douglas Ranger District, Converse and Albany Counties, WY, Due: December 21, 1998, Contact: Malcolm R. Edward (307) 358–4690.

EIS No. 980450, FINAL EIS, COE, MD, Ocean City, Restoration of Assateague Island, Water Resources Study, Town of Ocean City, Worcester County, MD, Due: December 07, 1998, Contact: Stacey Underwood (410) 962–4977.

EIS No. 980451, FINAL EIS, COE, FL, Jacksonville Harbor Navigation Channel Deepening Improvements, Construction, St. Johns River, Duval County, FL, Due: December 07, 1998, Contact: Rea Boothby (904) 232–3453.

Amended Notices

EIS No. 980425, FINAL EIS, FHW, IL, Federal Aid Route 310/US 67 Expressway Study, Godfrey to Jacksonville, Funding and COE Section 404 Permit, Madison, Jersey, Greene, Morgan and Scott Counties, IL, Due: November 23, 1998, Contact: William C. Jones (708) 283–3510. Published FR—10–23–98—Due Date Correction.

EIS No. 980437, DRAFT SUPPLEMENT, EPA, CA, International Wastewater Treatment Plant and South Bay Ocean Outfall, Updated Information, Interim Operation, Tijuana River, San Diego, CA, Due: November 30, 1998, Contact: Elizabeth Borowiec (415) 744–1165.

U.S. EPA had applied to the Council on Environmental Quality (CEQ) under Section 1502(c)(4) of the CEQ Regulations for the Approval of Alternative Procedures. CEQ has approved the request by EPA for a 30-day Review Period.

Dated: November 3, 1998.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 98–29841 Filed 11–5–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5496–7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared October 19, 1998 Through October 23, 1998 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1998 (62 FR 17856).

Draft EISs

ERP No. D–DOA–G36149–OK. Rating LO, Double Creek Watershed Plan, Implementation, Watershed Protection and Flood Prevention, National Economic Development (NED), Town of Ramona, Washington and Osage Counties, OK.

Summary: EPA had no objection to the selection of the lead agency's preferred alternative as described in the DEIS.

ERP No. D–FAA–E51046–NC. Rating EC2, Charlotte/Douglas International Airport, Construction and Operation, New Runway 17/35 (Future 18L/36R) Associated Taxiway Improvements, Master Plan Development, Approval Airport Layout Plan (ALP) and COE Section 404 Permit, Mecklenburg County, NC.

Summary: EPA's review found that the noise analysis was deficient and needs to be redone. Both general and transportation conformity criteria must be met for the project to go forward.

ERP No. D–FHW–L40209–WA. Rating EC2, WA–16/Union Avenue Vicinity to WA–302 Vicinity of Tacoma Improvements, Construction, Funding, Coast Guard Permit, COE Section 10 and 404 Permits, Pierce County, WA.

Summary: EPA had concerns with the likely increase of urban growth and the resulting impact. EPA requested that these issues be fully discussed in the final EIS.

ERP No. D–NOA–E39044–FL. Rating LO, Guana, Tolomato, Matanizas, Site Designation, National Estuarine Research Reserve, Management Plan, City of Jacksonville, St. Johns and Flagler Counties, FL.

Summary: EPA supports the proposed action.

ERP No. D–NOA–E39045–MS. Rating EC2, Grand Bay National Estuarine Research Reserve (NERR), Designation, To Conduct Research, Educational Project and Construction, East of the City of Biloxi, Jackson County, MS.

Summary: EPA requested additional information on phosphogypsum waste storage facility impacts on ground surface water quality. Comments were made on rock reed wastewater cell maintenance problems compared to conventional septic tank systems.

ERP No. DS–NOA–A64057–00. Rating EC2, Comprehensive Amendment Addressing Essential Fish Habitat in Fishery Management Plans for the South Atlantic Region for Shrimp, Red Drum, Coral, Coral Reefs and Live/Hard Bottom Habitat, Spiny Lobster, Snapper-Grouper, Coastal Migratory Pelagics and Golden Crab, South Atlantic Region.

Summary: EPA expressed environmental concerns that the Calico Scallop Fishery Management Plan contained data that was too old to fully assess impact of the fishery and collateral impacts threatened and endangered species. EPA requested that these issues be fully discussed in the next environmental document.

Final EISs

ERP No. F–BLM–G65021–00. Rio Grande Corridor Coordinated Resource Management Plan and Taos Management Plan Amendment, Activity-Level-Plans, Implementation, NM and CO.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–DOE–L08053–00. Lower Valley Transmission Project, Construction of a New 115 kV Transmission Line from Swan Valley Substation near Swan Valley, Special-Use-Permits, Bonneville and Teton Counties, ID and Teton County, WY.

Summary: Review of the final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–JUS–K80035–CA. Service Processing Center (SPC) for Detainees, Construction and Operation, Possible Sites, Stockton and Tracy Sites, San Joaquin Counties, CA.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

Dated: November 3, 1998.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 98–29842 Filed 11–5–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6183–4]

Extension of the Policy on Enforcement of RCRA Section 3004(j) Storage Prohibition at Facilities Generating Mixed Radioactive/Hazardous Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Policy statement.

SUMMARY: EPA is announcing a limited extension of its policy (56 FR 42730, August 29, 1991) on the civil enforcement of the storage prohibition in sec. 3004(j) of the Resource Conservation and Recovery Act (RCRA) at facilities that generate "mixed waste" regulated under both the RCRA subtitle C hazardous waste program and the Atomic Energy Act of 1954, as amended (AEA). The policy affects only mixed wastes that are prohibited from land disposal under the RCRA land disposal restrictions (LDR) and for which there are no available options for treatment or disposal. EPA has determined that for a few of these mixed wastes, treatment technology and disposal capacity still is not commercially available. Based on this determination, EPA is hereby renewing for three years the August 1991 policy for those mixed wastes. For purposes of this policy statement, "available treatment technology and disposal capacity" means that a facility is commercially available to treat or dispose of a particular waste and the facility has either (1) a RCRA permit or interim status; (2) a research, development, and demonstration permit under 40 CFR 270.65; or (3) a land treatment permit under 40 CFR 270.63.

Pursuant to the terms of this policy, EPA will continue to treat violations of RCRA sec. 3004(j) as reduced priorities among EPA's potential civil enforcement actions. EPA's primary concerns are with mixed waste facilities (1) that are storing wastes for which treatment technology is commercially available, and (2) that are not managing their stored mixed waste in an environmentally responsible manner. Generators must regularly explore all treatment and disposal alternatives during the extension because new technologies may come on line at any time. If treatment technology or disposal capacity is available or becomes available, the generator must use it. EPA will employ RCRA enforcement authorities to ensure that this policy is not abused, with particular focus on ensuring that emerging treatment technologies are fully utilized and on confirming that those wastes for which no treatment exists are stored safely.

EFFECTIVE DATE: October 31, 1998.

FOR FURTHER INFORMATION CONTACT: Leslie Bell, Federal, State and Tribal Programs Branch, Office of Solid Waste; Telephone (703) 308–8888 or Mary Andrews, RCRA Enforcement Division, Office of Regulatory Enforcement; Telephone (202) 564–4011.

SUPPLEMENTARY INFORMATION:

I. Background

A. Mixed Waste and the LDR Storage Prohibition

"Mixed wastes" are wastes that contain both a hazardous waste component regulated under Subtitle C of RCRA and a radioactive component consisting of source, special nuclear, or byproduct material regulated under the AEA. On July 3, 1986, EPA clarified that RCRA applies to the hazardous component of these wastes (51 FR 24504). The hazardous component of mixed wastes is subject to the land disposal restrictions in 40 CFR Part 268. The LDR requires generators to treat hazardous wastes to specified treatment standards.

The aspect of the LDR affected by the policy extension set forth in this notice is the "storage prohibition" enacted in the Hazardous and Solid Waste Amendments (HSWA), RCRA section 3004(j), 42 U.S.C. 6924(j), and 40 CFR 268.50. This provision prohibits any storage of a waste prohibited from land disposal (including mixed waste) except "for the purpose of the accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal." EPA has concluded that storage of a waste pending development of treatment technology does not constitute storage to accumulate sufficient quantities to facilitate proper treatment or disposal. This interpretation was upheld by the U.S. Court of Appeals for the District of Columbia Circuit in *Edison Electric Institute* v. *EPA*, 996 F.2d 326 (D.C. Cir. 1993).

However, treatment and disposal options are limited for some mixed wastes, both currently generated and generated in the past. Therefore, commercial generators may have no option but to store those wastes for which treatment technology or disposal capacity is not yet available.

B. Mixed Waste Treatment Technology and Disposal Capacity

In the past year, EPA has visited hospitals, laboratories, nuclear power plants, universities, and treatment and disposal facilities. The Agency has also conducted research on emerging mixed waste treatment technologies, and has employed RCRA information gathering authority to collect information from several facilities regarding the treatment and disposal of their mixed wastes. The purpose of these efforts was to determine the extent to which generators have utilized available treatment and disposal alternatives, to ascertain whether there are mixed wastes that can not be treated, and to confirm that those wastes for which no treatment exists are stored safely and in compliance with interim status or a RCRA storage permit. As a result of its investigation, EPA believes that (1) currently treatment is available for most low level mixed wastes, but treatment continues to be unavailable for a few wastes, such as mixed wastes containing dioxins, PCBs, and lead based paint solids, and wastes with very high levels of radioactivity; and (2) where treatment technology is available, there is excess capacity at the commercial mixed waste treatment facilities.

In an effort to help generators locate mixed waste treatment, storage, and disposal facilities, EPA has developed an Internet HomePage that lists some commercially available mixed waste treatment, storage, and disposal facilities based on information received from vendors. The EPA Mixed Waste HomePage can be found at "http://www.epa.gov/radiation/mixed-waste." This list should not be seen as complete or as a recommendation or endorsement of any of these facilities. This list only represents those companies that have expressed an interest in participating in EPA's Mixed Waste Internet HomePage. EPA does not endorse or promote technologies or companies that provide treatment, storage, or disposal capacity for any waste, including mixed waste. Companies that wish to participate should contact EPA's Office of Solid Waste at the number listed for this **Federal Register** notice.

II. Summary of Policy

A. Storage Prohibition Policy Extension

In this notice, EPA is announcing a limited extension of its policy (56 FR 42730, August 29, 1991) on civil enforcement of the storage prohibition in RCRA section 3004(j) at facilities that generate mixed wastes. This policy extension is limited to three years from October 31, 1998. Note that this extended policy applies only to those waste streams for which no treatment technology or disposal capacity is available. If treatment technology and disposal capacity are available, the generator must use it. This policy is not a final agency action, but is intended solely as guidance. This policy is not intended, nor can it be relied upon, to create any rights enforceable by any party in litigation with the United States. EPA officials may decide to follow the policy provided in this extension or to act at variance with the policy, based on an analysis of specific site circumstances. The Agency also reserves the right to change this policy at any time.

The intent of this policy is to explain how RCRA section 3004(j) storage violations involving mixed wastes fit within the Agency's civil enforcement priorities. For generators that are storing mixed wastes for which no viable treatment technology or disposal capacity exists, EPA considers the violations of RCRA section 3004(j) to be a relatively low priority among EPA's potential civil enforcement actions so long as the wastes are stored in accordance with a RCRA permit or interim status and are stored in an environmentally responsible manner. Any enforcement activity arising from violations of RCRA section 3004(j) will generally focus on those facilities that store mixed wastes for which treatment technology is commercially available or fail to manage any mixed waste in an environmentally responsible manner.

In addition, generators of the affected mixed waste must be following prudent waste management practices to store their mixed wastes in a manner that minimizes risk to public health and the environment. In determining the civil enforcement priority of RCRA section 3004(j) storage violations at particular mixed waste generator facilities, the Agency recognizes a variety of indicators of environmentally responsible operation. These factors are described in Section IV of this document.

EPA is currently developing an Advance Notice of Proposed Rulemaking that will request comment on several strategies to address overlapping regulatory requirements for mixed waste with low levels of radioactivity that is subject to both Nuclear Regulatory Commission and EPA oversight. The Agency expects to request comments on options for mixed waste storage and treatment, including storage for decay, and alternative suggestions for providing regulatory flexibility for mixed waste management.

B. Limitations on Scope

This policy affects only the priority placed on potential civil judicial and administrative enforcement actions that would arise from storing mixed wastes subject to the LDR in contravention of RCRA section 3004(j). This policy does not limit the Agency's enforcement authority, including its authority under RCRA section 7003 relating to imminent and substantial endangerment. The policy also is limited to those mixed waste streams for which treatment technology or disposal capacity is not commercially available. The mixed wastes covered by this policy must be mixed wastes when generated; a generator may not commingle radioactive waste streams with hazardous waste in order to come within the scope of this policy.

EPA intends that this policy apply both to mixed wastes generated during the term of the policy, and to existing inventories of mixed wastes already in storage. The policy does not cover other violations of RCRA storage requirements, such as the storage facility standards of Subparts I through L and DD of 40 CFR Parts 264 (permitted facility standards) or 265 (interim status facility standards), or their state equivalents. EPA emphasizes that this policy does not affect any requirement under RCRA to obtain a storage permit, which is generally required if mixed wastes are stored for greater than 90 days. The policy does not extend to potential criminal violations of RCRA, for which prosecutorial discretion rests solely with the United States Attorney General.

EPA intends to apply this policy to executive branch federal facilities, except facilities owned or operated by the Department of Energy (DOE) or by the joint Navy/DOE Naval Nuclear Propulsion Program (NNPP). The Federal Facilities Compliance Act of 1992 (FFCA), 42 U.S.C. 6912, 6939c and 6961, section 102(c)(3)(B) requires DOE and NNPP to be in compliance with (1) an approved plan to develop capacities and technologies to treat a facility's mixed waste; and (2) any order requiring compliance with such plan issued in accordance with RCRA section 3021(b), 42 U.S.C. 6939c. With respect to DOE and NNPP, EPA enforcement of RCRA section 3004(j) will be based on the terms contained in the plans and orders developed pursuant to RCRA section 3021, and not on the terms of this policy.

III. Applicability

Mixed waste is regulated by EPA in states that are not authorized for the RCRA base program. As of June 30, 1998, three states and four territories have not received RCRA base authorization. These states and territories are Alaska, American Samoa, Hawaii, Iowa, Northern Mariana Islands, Puerto Rico, and Virgin Islands. In these states and territories, EPA alone administers the RCRA program and therefore this policy applies in these states.

This policy is not applicable in states that are authorized for the RCRA "base" program but are not authorized for mixed waste because in these states, mixed waste is not subject to RCRA jurisdiction. As of June 30, 1998, those states are the District of Columbia, Maryland, Massachusetts, New Jersey, Pennsylvania, Rhode Island, Virginia, and West Virginia.

Mixed waste is regulated by EPA and the state in those states that are authorized for both the base program and for mixed waste. In states authorized for mixed waste that are not authorized to implement any or all of the LDR regulations, EPA implements the LDR provisions for all waste codes which the state has not yet been authorized. As of June 30, 1998, Indiana, Kentucky, Louisiana, Montana, Nebraska, New Hampshire, South Dakota, and Washington do not have authorization for a significant portion of the LDR program and thus this policy is applicable to many wastes generated in these states.

In states that are authorized for both mixed waste and portions of the LDR program, the state, as well as EPA, has authority to enforce those portions of the LDR program for which the state is authorized. This policy affects only the EPA enforcement programs. States that are authorized for both mixed waste and the LDR may choose to follow this federal policy, however, it is not binding on them. Therefore, generators should consult with their states for clarification of the state's policy with respect to storage of LDR prohibited mixed waste.

During the term of this policy, additional states may receive authorization for mixed waste or portions of the LDR program. Facility owners and operators should track the authorization status of their state programs in order to ascertain whether they are covered by this policy, or whether other restrictions based on state law might apply to mixed waste storage. Information on a state's authorization status for mixed waste can be found on the EPA Mixed Waste HomePage previously cited. EPA's State Authorization HomePage at "http://www.epa.gov/epaoswer/hazwaste/state/index.htm" also provides information on the status of authorization for mixed waste and LDR.

IV. Responsible Management of Mixed Waste

In order to demonstrate that they are pursuing environmentally responsible management of their mixed wastes (and therefore should be accorded a reduced civil enforcement priority for RCRA section 3004(j) violations), owners and operators of facilities generating and storing mixed wastes should undertake at least the following steps.

A. Inventory and Compliance Assessment of Storage Areas

RCRA regulations applicable to hazardous waste storage require facilities to maintain a record identifying each physical location or unit where mixed waste is stored and the method of storage, i.e., container or tank, see 40 CFR 264.73(b) or 265.73(b). The regulations also require regular inspection of these storage areas for compliance with applicable RCRA standards and permit requirements, including an assessment of compliance with the storage facility standards of 40 CFR Part 264 or Part 265, Subparts I–J and DD, or the state counterparts to these standards (see 40 CFR 264.15 or 265.15). Facilities must maintain records containing the results of the inspections as required by 40 CFR 264.73(b)(5) or 265.73(b)(5). EPA encourages facility owner/operators to take action promptly to correct any deficiencies, since EPA expects to focus its enforcement efforts regarding RCRA section 3004(j) violations on situations that indicate a disregard for compliance with the RCRA Subtitle C requirements.

B. Identification of Mixed Wastes

Facility owner/operators should maintain sufficient information to identify their mixed wastes. The identification should include the RCRA

waste codes for the hazardous components, the source of the hazardous constituents and discussion of how the waste was generated (if known), the generation rate and volumes of mixed wastes in storage, and any process information relied upon to identify mixed wastes or make determinations that wastes are subject to the LDR (see 40 CFR 264.73 or 265.73).

C. Waste Minimization Plans

EPA understands that many mixed waste generators have undertaken active measures to avoid the generation of mixed wastes. EPA continues to encourage mixed waste generators to develop a waste minimization plan (see 58 FR 31114, May 28, 1993, for guidance) to reduce or eliminate mixed wastes, to minimize the volume of regulated wastes generated, and to substitute non-hazardous materials.

D. Good Faith Efforts

This policy is limited in scope to those LDR-prohibited mixed wastes for which no treatment technology or disposal capacity is commercially available. Because additional treatment technology or disposal capacity may become available at any time in the future, facility owner/operators should be prepared to demonstrate ongoing good faith efforts to locate treatment technology and disposal capacity for each of their mixed wastes and to utilize any and all such treatment technology and disposal capacity.

Dated: October 31, 1998.

Timothy Fields, Jr.,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

Sylvia Lowrance,

Acting Assistant Administrator, Office of Enforcement and Compliance Assurance.

[FR Doc. 98–29819 Filed 11–5–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6186–3]

National Advisory Council for Environmental Policy and Technology; Environmental Capital Markets Committee; Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: Under the Federal Advisory Committee Act, Public Law 92463, EPA gives notice of a meeting of the Environmental Capital Markets Committee of the National Advisory Council for Environmental Policy and Technology (NACEPT), which provides advice and recommendations to the Administrator of EPA on a broad range of environmental policy issues.

The Environmental Capital Markets Committee has been evaluating practical ways for the financial services industry to include the environmental performance of its clients as an integral part of its core credit, investment, and underwriting processes. Some of the major issues the Committee has been addressing are:

- The extent to which—and why—the financial services industry currently takes environmental factors into account in its credit, investment, and underwriting processes.
- The characteristics of current (and projected) environmental management systems (EMS) and practices that could help correlate environmental performance and financial performance.
- How information flowing from these EMSs/practices might be quantified in a manner that could be integrated into the financial service industry's credit, investment, and underwriting processes.

The ultimate goal of the Committee is to identify concrete actions that EPA, on its own or in cooperation with other Federal or state agencies, could take to help the financial services industry incorporate this environmental information into its core decision-making processes.

DATES: The Environmental Capital Markets Committee will hold a one day public meeting on Tuesday, December 1, 1998 from 9:00 a.m. to 6:00 p.m.

ADDRESSES: The meeting will be held at the Sheraton City Centre Hotel, 1143 New Hampshire Avenue N.W., Washington, D.C. Materials or written comments may be transmitted to the Committee through Mark Joyce, Designated Federal Officer, U.S. EPA, Office of Cooperative Environmental Management (1601F), 401 M Street S.W., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mark Joyce, Designated Federal Officer, Environmental Capital Markets Committee, at 202–260–6889.

Dated: October 28, 1998.

Mark Joyce,

Designated Federal Officer.

[FR Doc. 98–29815 Filed 11–5–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6186–5]

National Advisory Council for Environmental Policy and Technology Reinvention Criteria Committee; Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: Under the Federal Advisory Committee Act, Public Law 92463, EPA gives notice of a meeting of the National Advisory Council for Environmental Policy and Technology's (NACEPT) Reinvention Criteria Committee. NACEPT provides advice and recommendations to the Administrator of EPA on a broad range of environmental policy issues.

The NACEPT Reinvention Criteria Committee(RCC) has been asked to help the Agency understand how incentives can be used most successfully to inspire firms, companies, communities, and individuals to go beyond mere compliance with existing regulations and to begin the process of addressing outstanding environmental problems. In particular, the committee is focusing on the following questions:

- What opportunities exist for EPA to use incentives to promote environmental stewardship in industry? In local communities? In the general public?
- How can EPA evaluate the effectiveness of incentives to encourage environmental stewardship that leads to improved environmental results? How can EPA measure the impact that incentives have on public confidence? What criteria should be used to decide whether the use of incentives is appropriate?
- How can the concept of performance ladders be used to tailor incentives most effectively?

This meeting is being held to provide the EPA with perspectives from representatives of state, local, and tribal governments, environmental organizations, academia, industry, and NGOs.

DATES: A two-day public meeting will be held Tuesday, December 8 and Wednesday, December 9, 1998 from 8:30 am to 5:00 pm.

ADDRESSES: The RCC will hold a two-day public meeting at the Embassy Suites Hotel, located at 1900 Diagonal Road in Alexandria,VA. Materials or written comments may be transmitted to the committee through Gwendolyn Whitt, Designated Federal Officer, NACEPT RCC, U.S. EPA, Office of Cooperative Environmental Management (1601F), 401 M Street, SW, Washington, D.C. 20460. There will also be an opportunity for the public to make comments directly to the committee during the first day of the meeting. Requests to make public comments must be submitted no later than November 18, 1998 to Gwendolyn Whitt, at the address above or faxed to (202)–260–6882.

FOR FURTHER INFORMATION CONTACT: Gwendolyn Whitt, Designated Federal Officer, NACEPT, at (202)–260–9484.

Dated: October 29, 1998.

Gwendolyn Whitt,

Designated Federal Officer.

[FR Doc. 98–29816 Filed 11–5–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6186–4]

National Advisory Council for Environmental Policy and Technology: Full Council Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: Under the Federal Advisory Committee Act, Public Law 92–463, EPA gives notice of a one-day meeting of the National Advisory Council for Environmental Policy and Technology (NACEPT). NACEPT provides advice and recommendations to the Administrator of EPA on a broad range of environmental policy issues. This plenary meeting is being held to provide the EPA with perspectives from representatives of state, local, and tribal governments, environmental organizations, academia, industry and NGOs. The NACEPT Council will focus on strategic planning for the 1999 NACEPT agenda, discuss the preliminary results of the NACEPT Self Study, and obtain updates on the activities of the NACEPT committees.

DATES: The one-day public meeting will be held on Thursday, December 10, 1998, from 8:45 a.m. to 5:00 p.m.

ADDRESSES: The meeting will be held at the Embassy Suites Hotel, 1900 Diagonal Road, Alexandria, Virginia. Material or written comments may be transmitted to the Council through Gwendolyn Whitt, Designated Federal Officer, NACEPT, U.S. EPA, Office of Cooperative Environmental Management (1601–F), 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Gwendolyn Whitt at the address shown above and 202–260–9484.

Dated: October 29, 1998.

Gwendolyn Whitt,

Designated Federal Officer.

[FR Doc. 98–29817 Filed 11–5–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34152; FRL–6039–1]

Oryzalin: Amendment to the Reregistration Eligibility Decision (RED)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Amendment to the Oryzalin Reregistration Eligibility Decision (RED) Document

SUMMARY: This notice amends the Oryzalin Reregistration Eligibility Decision (RED) Document, Case 0186, pursuant to section 4(g)(2) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) 7 U.S.C. 136 et seq. This amendment revises the Personal Protective Equipment (PPE) requirements established in the RED for handlers of oryzalin end-use products. All handlers loaders of oryzalin liquid formulations will be required to wear: chemical-resistant gloves, shoes, socks, long-sleeved shirt, and long pants. In addition, mixers and loaders of liquid formulations will be required to wear a chemical-resistant apron. PPE for all other non-homeowner use scenarios will be determined based on the toxicity of the end-use product, as per guidance provided by the Worker Protection Standard (WPS). This notice does not apply to the homeowner uses of oryzalin.

DATES: Written comments on the RED decisions must be submitted by December 7, 1998.

ADDRESSES: Submit three copies of written comments identified with the docket control number "OPP–34152" by mail to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm 119, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under "SUPPLEMENTARY INFORMATION" of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice (including comments and data submitted electronically). The public docket and docket index, including printed paper versions of electronic comments that does not include any information claimed as CBI, will be available for public inspection in Rm. 119 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

The Oryzalin RED and Fact Sheet are available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161. Attn: Order Desk; Telephone No. (703) 487–4650. To obtain a copy of the Oryzalin RED, request publication number PB95–1791721; for the Oryzalin RED Fact Sheet request PB95–187670. This notice is also being forwarded to NTIS.

FOR FURTHER INFORMATION CONTACT: Carmelita White, Chemical Review Manager, Reregistration Branch III, Special Review and Reregistration Division (7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington, DC 20460. Office location and telephone number: Sixth floor, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. (703) 308–7038.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of this document and various support documents are available from the EPA home page at the Federal Register-Environmental Documents entry for this document under "Laws and Regulations" (http://www.epa.gov/fedrgstr/).

EPA published a notice in the **Federal Register** of on March 8, 1995, (60 FR 12763)(FRL–4940–6), announcing the availability of the Oryzalin RED. In the RED, EPA provided its regulatory position on the registered uses of oryzalin based on the information and data available at that time. The RED set forth specific requirements for product reregistration eligibility. The Agency required certain PPE (coveralls over long-sleeved shirt and long pants,

chemical-resistant gloves, chemical-resistant footwear and chemical-resistant headgear for overhead exposures) for all non-homeowner uses of oryzalin. The RED also required a chemical-resistant apron for mixers and loaders of all non-homeowner, end-use oryzalin liquid products. The additional PPE were required to mitigate exposure to oryzalin due to carcinogenicity concerns.

In the Oryzalin RED, the Agency used the Pesticide Handler Exposure Database (PHED), Version 1.0, to derive exposure estimates for mixers, loaders and applicators. In August 1995, DowElanco requested that the Agency reconsider the additional PPE requirements. In responding to this request, the Agency conducted a new risk and exposure assessment using an updated version of this same database (PHED 1.1) that contained more accurate information. The updated PHED database became available after the Oryzalin RED document had been published. The refined assessment indicated that the PPE requirements in the RED were overly restrictive, however, the refined risk estimates still showed that baseline PPE (i.e., long-sleeved shirt, long pants, socks and shoes) were not adequately protective of mixers and loaders of the liquid formulations and applicators using hand-held equipment.

For mixers and loaders of oryzalin liquids and applicators using hand-held equipment, the Agency is now requiring, chemical-resistant gloves, long-sleeved shirt, long pants, shoes, and socks. Additionally, for mixers and loaders of oryzalin liquids, a chemical-resistant apron is required. PPE for all other formulations will be determined based on the acute toxicity of the end-use product, as per guidance provided by the Worker Protection Standard (WPS).

For the low-pressure handwand use scenario, the refined oryzalin exposure and risk assessment used the high-pressure handwand data set rather than the low-pressure handwand data set. The Agency believes that the high-pressure handwand data set more closely approximates the type of spray equipment used to apply oryzalin to ornamentals and turfgrass. The risk estimates for applicators with the high-pressure handwand scenario were 3.5 x 10–5 with the baseline PPE and chemical-resistant gloves, which is in the acceptable range for applicators.

Electronic copies of the REDs and RED fact sheets can be downloaded from the Pesticide Special Review and Reregistration Information System at (703) 308–7224, and also can be reached on the Internet via EPA's website at: http//www.epa.gov/REDs/.

The official record for this notice, as well as the public version, has been established for this notice under docket control number "OPP–34152" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in WordPerfect 5.1 or 6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number (OPP–34152). Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection.

Dated: October 23, 1998.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 98–29809 Filed 11–5–98; 8:45 am]
BILLING CODE 6560–60–F

ENVIRONMENTAL PROTECTION AGENCY

[PB–402404–DE; FRL–6037–3]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; the State of Delaware's Authorization Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comments and opportunity for public hearing.

SUMMARY: On August 27, 1998, the State of Delaware submitted an application for EPA approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA). This notice announces the receipt of Delaware's application, provides a 45–day public comment period, and provides an opportunity to request a public hearing on the application.

DATES: Comments on the authorization application must be received on or before December 21, 1998. Public hearing requests must be received on or before December 7, 1998.

ADDRESSES: Submit all written comments and/or requests for a public hearing identified by docket control number "PB–402404–DE (in duplicate) to: U.S. Environmental Protection Agency, Region III, Waste and Chemicals Management Division, Toxics Programs and Enforcement Branch (3WC33), 1650 Arch St., Philadelphia, PA 19103-2029.

Comments, data, and requests for a public hearing may also be submitted electronically to: johnson.artencia@epa.gov. Follow the instructions under Unit IV. of this document. No information claimed to be Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: Artencia R. Johnson (3WC33), Waste and Chemicals Management Division, U.S. Environmental Protection Agency, Region III, 1650 Arch St., Philadelphia, PA 19103, Telephone: (215) 814–5754; e-mail: johnson.artencia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 28, 1992, the Housing and Community Development Act of 1992, Pub. L. 102-550, became law. Title X of that statute was the Residential Lead-Based Paint Hazard Reduction Act of 1992. That Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV (15 U.S.C. 2681-92), entitled "Lead Exposure Reduction."

Section 402 of TSCA authorizes and directs EPA to promulgate final regulations governing lead-based paint activities in target housing, public and commercial buildings, bridges and other structures. Those regulations are to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that individuals engaged in these activities are certified and follow documented work practice standards. Under section 404, a State may seek authorization from EPA to administer and enforce its own lead-based paint activities program.

On August 29, 1996 (61 FR 45777) (FRL-5389-9), EPA promulgated final TSCA section 402/404 regulations governing lead-based paint activities in target housing and child-occupied facilities (a subset of public buildings). Those regulations are codified at 40 CFR part 745, and allow both States and Indian Tribes to apply for program authorization. Pursuant to section 404(h) of TSCA, EPA is to establish the Federal program in any State or Tribal Nation without its own authorized program in place by August 31, 1998.

States and Tribes that choose to apply for program authorization must submit a complete application to the appropriate Regional EPA Office for review. Those applications will be reviewed by EPA within 180 days of receipt of the complete application. To receive EPA approval, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program, and provides for adequate enforcement (section 404(b) of TSCA, 15 U.S.C. 2684(b)). EPA's regulations (40 CFR part 745, subpart Q) provide the detailed requirements a State or Tribal program must meet in order to obtain EPA approval.

A State may choose to certify that its lead-based paint activities program meets the requirements for EPA approval, by submitting a letter signed by the Governor or Attorney General stating that the program meets the requirements of section 404(b) of TSCA. Upon submission of such certification letter, the program is deemed authorized. This authorization becomes ineffective, however, if EPA disapproves the application.

Pursuant to section 404(b) of TSCA, EPA provides notice and an opportunity for a public hearing on a State or Tribal program application before authorizing the program. Therefore, by this notice EPA is soliciting public comment on whether Delaware's application meets the requirements for EPA approval. This notice also provides an opportunity to request a public hearing on the application. If a hearing is requested and granted, EPA will issue a **Federal Register** notice announcing the date, time, and place of the hearing. EPA's final decision on the application will be published in the **Federal Register**.

II. State Program Description Summary

The following summary of Delaware's proposed program has been provided by the applicant.

The State of Delaware, Department of Health and Social Services (DHSS), Division of Public Health (DPH), Office of Lead Poisoning Prevention (OLPP), under whose jurisdiction Delaware's childhood lead reduction initiatives reside, is the entity within State government that has promulgated the required regulations. The program will be at least as protective of human health and the environment as future Federal programs and will provide for adequate enforcement. The main thrust of Delaware's OLPP Program will be devoted to implement and enforce the required regulations based upon enacted legislation authorizing the establishment of a statewide lead prevention program. These required regulations, entitled "State of Delaware Regulations Governing Lead-Based Paint Hazards," became effective August 11, 1998. DPH's OLPP staff; Delaware State Housing Authority and other local housing authorities; Division of Professional Regulations; Department of Natural Resources and Environmental Control; City of Wilmington's Housing Inspections Department; private industry and industry trade associations (realtors, contractors, etc.); and other local and community-based outreach groups. The combined and coordinated efforts of these agencies will continue to play a vital role in the implementation of DPH's Office of Lead Poisoning Prevention Program.

Delaware has a total population of approximately 739,337 people located in three counties. The most heavily populated county is New Castle with a population of 478,068. The population of Kent County is 123,528 and of Sussex County 137,741. Wilmington is the largest city with a population of 71,517. Delaware's birth through 5–year old population is 60,284.

Universal screening legislation in Delaware, the Childhood Lead Poisoning Prevention Act, implemented in March 1995, requires private health care providers to order blood lead screening on all children at or around 12 months of age. All screening services are covered by third party insurance. Uninsured children and those without a medical home will continue to be screened at DPH Child Health Clinics. Environmental inspections and lead hazard reduction will occur at least in the homes of children with elevated blood lead levels >20 mcg/dL. In addition, targeted screening and investigations will occur in high risk neighborhoods, in day care centers, and the Head Start centers.

The lack of lead-safe housing is a problem in Delaware. Based on 1990 census information, it is estimated that approximately 144,000 owner and renter occupied homes in Delaware built prior to 1980 contain some level of lead-based paint. The DPH OLPP Program has been monitoring blood lead levels in children since 1975. Utilizing existing OLPP data and 1990 U.S. Census information, the DPH has identified target areas with the City of Wilmington. However, the existence of lead-based paint in these target areas has not been confirmed. In addition, there is insufficient data on housing in the remainder of the State to conclusively identify other high risk areas.

III. Federal Overfiling

TSCA section 404(b) makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

IV. Public Record and Electronic Submissions

The official record for this action, as well as the public version, has been established under docket control number "PB–402404–DE." Copies of this notice, the State of Delaware's authorization application, and all comments received on the application are available for inspection in the Region III office, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The docket is located at U.S. Environmental Protection Agency, Region III, Waste and Chemicals Management Division, Toxics Programs and Enforcement Branch (3WC33), 1650 Arch St., Philadelphia, PA.

Electronic comments can be sent directly to EPA at:
johnson.artencia@epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6/1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number "PB–402404–DE." Electronic comments on this document may be filed online at many Federal Depository Libraries. Information claimed as CBI should not be submitted electronically.

Commenters are encouraged to structure their comments so as not to contain information for which CBI claims would be made. However, any information claimed as CBI must be marked "confidential," "CBI," or with some other appropriate designation, and a commenters submitting such

information must also prepare a nonconfidential version (in duplicate) that can be placed in the public record. Any information so marked will be handled in accordance with the procedures contained in 40 CFR part 2. Comments and information not claimed as CBI at the time of submission will be placed in the public record.

V. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

EPA's actions on State or Tribal lead-based paint activities program applications are informal adjudications, not rules. Therefore, the requirements of the Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*), Executive Order 12866 ("Regulatory Planning and Review," 58 FR 51735, October 4, 1993), and Executive Order 13045 ("Protection of Children from Environmental Health Risks and Safety Risks," 62 FR 1985, April 23, 1997), do not apply to this action. This action does not contain any Federal mandates, and therefore is not subject to the requirements of the Unfunded Mandates Reform Act (2 U.S.C. 1531-1538). In addition, this action does not contain any information collection requirements and therefore does not require review or approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

B. Executive Order 12875

Under Executive Order 12875, entitled, "Enhancing Intergovernmental Partnerships" (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or Tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representative of affected State, local, and Tribal governments, the nature of their concerns, copies of any written communications from the governments and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and Tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant mandates."

Today's action does not create and unfunded Federal mandate on State, local, or Tribal governments. This action does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this action.

C. Executive Order 13984

Under Executive Order 13084, entitled, "Consultation and Coordination with Indian Tribal Governments" (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute and that significantly or uniquely effects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the Tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's action does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

Authority: 15 U.S.C 2682, 2684.

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: October 27, 1998.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 98-29810 Filed 11-5-98; 8:45 am]

BILLING CODE 6560-50-F

ENVIRONMENTAL PROTECTION AGENCY

[PB-402404-MD; FRL-6037-4]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; The State of Maryland Authorization Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comments and opportunity for public hearing.

SUMMARY: On July 31, 1998, the State of Maryland submitted an application for EPA approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA). This notice announces the receipt of Maryland's application, provides a 45-day public comment period, and provides an opportunity to request a public hearing on the application.

DATES: Comments on the authorization application must be received on or before December 21, 1998. Public hearing requests must be received on or before December 7, 1998.

ADDRESSES: Submit all written comments and/or requests for a public hearing identified by docket control number "PB-402404-MD" (in duplicate) to: Environmental Protection Agency, Region III, Waste and Chemicals Management Division, Toxics Programs and Enforcement Branch (3WC33), 1650 Arch St., Philadelphia, PA 19103-2029. Comments, data, and requests for a public hearing may also be submitted electronically to: johnson.artencia@epa.gov. Follow the instructions under Unit IV. of this document. No information claimed to be Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: Artencia R. Johnson (3WC33), Waste and Chemicals Management Division, U.S. Environmental Protection Agency, Region III, 1650 Arch St., Philadelphia, PA 19103, Telephone: (215) 814-5754, e-mail address: johnson.artencia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 28, 1992, the Housing and Community Development Act of 1992, Pub. L. 102-550, became law. Title X of that statute was the Residential Lead-Based Paint Hazard Reduction Act of 1992. That Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV (15 U.S.C. 2681-92), entitled "Lead Exposure Reduction."

Section 402 of TSCA authorizes and directs EPA to promulgate final regulations governing lead-based paint activities in target housing, public and commercial buildings, bridges and other structures. Those regulations are to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that individuals engaged in these activities are certified and follow documented work practice standards. Under section 404, a State may seek authorization from EPA to administer and enforce its own lead-based paint activities program.

On August 29, 1996 (61 FR 45777) (FRL-5389-9), EPA promulgated final TSCA section 402/404 regulations governing lead-based paint activities in target housing and child-occupied facilities (a subset of public buildings). Those regulations are codified at 40 CFR part 745, and allow both States and Indian Tribes to apply for program authorization. Pursuant to section 404(h) of TSCA, EPA is to establish the Federal program in any State or Tribal Nation without its own authorized program in place by August 31, 1998.

States and Tribes that choose to apply for program authorization must submit a complete application to the appropriate Regional EPA Office for review. Those applications will be reviewed by EPA within 180 days of receipt of the complete application. To receive EPA approval, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program, and provides for adequate enforcement (section 404(b) of TSCA, 15 U.S.C. 2684(b)). EPA's regulations (40 CFR part 745, subpart Q) provide the detailed requirements a State or Tribal program must meet in order to obtain EPA approval.

A State may choose to certify that its lead-based paint activities program meets the requirements for EPA approval, by submitting a letter signed by the Governor or Attorney General stating that the program meets the requirements of section 404(b) of TSCA. Upon submission of such certification letter, the program is deemed authorized. This authorization becomes ineffective, however, if EPA disapproves the application.

Pursuant to section 404(b) of TSCA, EPA provides notice and an opportunity for a public hearing on a State or Tribal program application before authorizing the program. Therefore, by this notice EPA is soliciting public comment on whether Maryland's application meets the requirements for EPA approval. This notice also provides an opportunity to request a public hearing on the application. If a hearing is requested and granted, EPA will issue a **Federal Register** notice announcing the date, time, and place of the hearing. EPA's final decision on the application will be published in the Federal Register.

II. State Program Description Summary

The following summary of Maryland's proposed program has been provided by the applicant.

During the past decade, Maryland has developed lead-based paint activities programs which anticipated the standards of 40 Code of Federal Regulations (CFR) part 745. The Maryland program, as incorporated in State laws and regulations, also covers a substantially broader scope of activities than the current Federal standards. This application clearly demonstrates that the Maryland program meets the conditions for accreditation of TSCA 404(b) in that "(1) the state program is at least as protective of human health and the environment as the Federal program under section 402. . . , and (2) such state program provides adequate enforcement." A letter certifying that the State program meets these criteria is included in the application package.

The Maryland Department of the Environment (MDE), Environmental Lead Division includes the equivalent elements and functions provided for in the model lead-based paint activities program of TSCA sections 402 and 404 and 40 CFR part 745. The Environmental Lead Division and the Lead Coordination Division are included in the Regulatory and Technical Assistance Program of the MDE Waste Management Administration.

Lead paint abatement regulations, adopted as COMAR 26.02.07 in 1988, anticipated many of the provisions of later Federal guidelines and regulations, such as the use of surface dust clearance standards; prohibition of open flame burning and uncontained abrasive paint removal methods; containment and cleanup of dust and debris; occupant protection; and worker training.

From the inception of the Maryland program in 1995, there has been a continuing effort to link procedures and standards to current research. Maryland regulations were the first to incorporate surface dust clearance standards. The federally funded lead-in-soil study was the largest research project in which MDE was directly engaged. MDE has also participated in smaller scale projects involving, for example, evaluation of encapsulant coatings and other alternative abatement methodologies.

MDE implemented new training and accreditation standards in 1996. In the absence of promulgated federal standards, Maryland adopted standards based on program experience as well as unique features of Maryland law. Specific training and accreditation criteria are published in COMAR 26.16.01 and are discussed in the text of this application. Experience gained in regulating lead paint abatement worker training, as presented by more than 20 different training providers under the earlier standards of COMAR 26.02.0711, provided a basis for the policies and procedures included in the final section of the application.

MDE experience during the past 10 years provides a pragmatic basis for regulatory compliance and enforcement. MDE staff functions include conducting environmental case management for lead-poisoned children; reviewing and monitoring abatement projects; developing enforcement cases for violations of lead paint inspection and abatement standards, and reviewing training course applications and auditing the delivery of training courses. Program policies and procedures are included in the final section of this application.

III. Federal Overfiling

TSCA section 404(b) makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

IV. Public Record

The official record for this action, as well as the public version, has been established under docket control number "PB-402404-MD." Copies of this notice, the State of Maryland's authorization application, and all comments received on the application are available for inspection in the Region III office, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The docket is located at U.S. Environmental Protection Agency, Region III, Waste and Chemicals Management Division, Toxics Programs and Enforcement Branch (3WC33), 1650 Arch St., Philadelphia, PA.

Electronic comments can be sent directly to EPA at:
johnson.artencia@epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6/1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number "PB–402404–MD." Electronic comments on this document may be filed online at many Federal Depository Libraries. Information claimed as CBI should not be submitted electronically.

Commenters are encouraged to structure their comments so as not to contain information for which CBI claims would be made. However, any information claimed as CBI must be marked "confidential," "CBI," or with some other appropriate designation, and a commenter submitting such information must also prepare a nonconfidential version (in duplicate) that can be placed in the public record. Any information so marked will be handled in accordance with the procedures contained in 40 CFR part 2. Comments and information not claimed as CBI at the time of submission will be placed in the public record.

V. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

EPA's actions on State or Tribal lead-based paint activities program applications are informal adjudications, not rules. Therefore, the requirements of the Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*), Executive Order 12866 ("Regulatory Planning and Review," 58 FR 51735, October 4, 1993), and Executive Order 13045 ("Protection of Children from Environmental Health Risks and Safety Risks," 62 FR 1985, April 23, 1997), do not apply to this action. This action does not contain any Federal mandates, and therefore is not subject to the requirements of the Unfunded Mandates Reform Act (2 U.S.C. 1531-1538). In addition, this action does not contain any information collection requirements and therefore does not require review or approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

B. Executive Order 12875

Under Executive Order 12875, entitled, "Enhancing Intergovernmental Partnerships" (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or Tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representative of affected State, local, and Tribal governments, the nature of their concerns, copies of any written communications from the governments and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and Tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant mandates."

Today's action does not create and unfunded Federal mandate on State, local, or Tribal governments. This action does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this action.

C. Executive Order 13984

Under Executive Order 13084, entitled, "Consultation and Coordination with Indian Tribal Governments" (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute and that significantly or uniquely effects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the Tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's action does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

Authority: 15 U.S.C 2682, 2684.

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: October 27, 1998.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 98–29811 Filed 11–5–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1249–DR]

Florida; Amendment No. 6 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida, (FEMA–1249–DR), dated September 28, 1998, and related determinations.

EFFECTIVE DATE: October 26, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Florida, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 28, 1998:

Jackson County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 98–29792 Filed 11–5–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1254–DR]

Kansas; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Kansas, (FEMA–1254–DR), dated October 14, 1998, and related determinations.

EFFECTIVE DATE: October 26, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Kansas, is hereby amended to include the Public Assistance program for the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 14, 1998:

Cherokee, Franklin, Jefferson, Johnson, and Wyandotte Counties for Public Assistance (Johnson and Wyandotte already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–29794 Filed 11–5–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1253–DR]

Missouri; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Missouri, (FEMA–1253–DR), dated October 14, 1998, and related determinations.

EFFECTIVE DATE: October 26, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Missouri, is hereby amended to include the Public Assistance program for the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 14, 1998:

Andrew, Caldwell, Carroll, Clay, Dade, DeKalb, Jackson, Livingston, Macon, Miller, Moniteau, Morgan, Platte, Polk, and Ray Counties for Public Assistance (Carroll, Clay, and Jackson already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–29793 Filed 11–5–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1256–DR]

Missouri; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Missouri (FEMA–1256–DR), dated October 19, 1998, and related determinations.

EFFECTIVE DATE: October 19, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 19, 1998, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Missouri, resulting from severe storms and flooding on July 10–31, 1998, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 93–288, as amended ("the Stafford Act").

I, therefore, declare that such a major disaster exists in the State of Missouri.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. If at a later date Public Assistance is warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Curtis D. Musgrave of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Missouri to have been affected adversely by this declared major disaster: Jackson and St. Louis Counties and the City of St. Louis for Individual Assistance.

All counties within the State of Missouri are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing

Program; 83.548, Hazard Mitigation Grant Program)

James L. Witt,

Director.

[FR Doc. 98–29795 Filed 11–5–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1257–DR]

Texas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Texas (FEMA–1257–DR), dated October 21, 1998, and related determinations.

EFFECTIVE DATE: October 21, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 21, 1998, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Texas, resulting from severe storms, flooding, and tornadoes beginning on October 17, 1998, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 93–288, as amended ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Texas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Public Assistance is later requested and warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert E. Hendrix of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Texas to have been affected adversely by this declared major disaster:

Bastrop, Bexar, Burleson, Caldwell, Calhoun, Colorado, Comal, DeWitt, Fayette, Goliad, Gonzales, Guadalupe, Hays, Jackson, Karnes, Refugio, Travis, Victoria, Wharton, and Wilson Counties for Individual Assistance.

All counties within the State of Texas are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

James L. Witt,

Director.

[FR Doc. 98–29796 Filed 11–5–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street NW., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 203–011305–005.

Title: United Alliance Agreement.

Parties: Hanjin Shipping Co., Ltd., DSR-Senator Lines GmbH, Cho Yang Shipping Company, Ltd., United Arab Shipping Co. (S.A.G.)

Synopsis: The proposed amendment consolidates into the Tricontinental Service Agreement the vessel-sharing authorities and trade areas of three other agreements involving two or more of the parties: (1) The AMA Agreement, FMC Agreement No. 232–011481; the Tricon/Hanjin Agreement, FMC Agreement No. 232–011519; and the Hanjin/Tricon Slot Charter Agreement, FMC Agreement No. 232–0011521. When this amendment becomes effective, the three other agreements will be cancelled, and the parties will operate under this single consolidated agreement as the United Alliance.

Agreement No.: 202–011576–002.

Title: South American Independent Lines Association.

Parties: Interocean Lines, Inc., Seaboard Marine, Ltd., Trinity Shipping Line, S.A.

Synopsis: The proposed amendment would add Panama to the geographic scope of the Agreement.

Dated: November 2, 1998.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 98–29740 Filed 11–5–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

[Docket No. R–0974]

Enhancement of Federal Reserve Net Settlement Payment Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of service enhancement.

SUMMARY: The Board of Governors has approved enhancements to the net settlement services that the Federal Reserve Banks offer to financial institutions with Federal Reserve accounts that participate in multilateral settlements for private-sector clearing arrangements. The enhanced service combines and improves selected features from the Reserve Banks' existing net settlement services and may be used for either gross or net multilateral settlements. The service is fully automated and provides finality of settlement intraday on the settlement day to participants in clearing arrangements using the service. The service is intended to facilitate improvements in the operational efficiency of clearinghouses and reduce operational and settlement risk for participants.

EFFECTIVE DATE: March 29, 1999.

FOR FURTHER INFORMATION CONTACT: Paul W. Bettge, Assistant Director (202/452–3174); Myriam Y. Payne, Senior Financial Services Analyst (202/452–3219); for the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Diane Jenkins (202/452–3544).

SUPPLEMENTARY INFORMATION:

I. Background

The Reserve Banks offer net settlement services to depository institutions that participate in clearinghouses and clearing arrangements for checks, as well as Automated Clearing House (ACH), automated teller machine (ATM), point-of-sale (POS) networks, and other transactions. The arrangements are typically organized as groups of three or more participating depository institutions that exchange payment instructions, account for the value exchanged, and settle balances multilaterally. Typically, the agent [1] for the arrangement computes the net amounts owed to or by each participant [2] after netting all the transactions on a multilateral basis. The calculated net amounts represent either a net debit or a net credit for each participant. If the clearinghouse uses the Reserve Banks' net settlement services, the multilateral differences may be settled by transferring funds between the accounts of the settling participants on the books of the Reserve Banks.

Currently, the Reserve Banks offer two basic types of net settlement services. In the traditional model, the clearinghouse agent provides a settlement sheet (in either paper or electronic form) to a Reserve Bank on the settlement date. The Reserve Bank then posts a net debit or a net credit to the Federal Reserve account of each settling participant. Posted credits represent available funds for the purpose of intraday cash management and overnight reserve management.[3] The Reserve Banks, however, do not provide settlement finality until the business day after the settlement day. They reserve the right to reverse settlement debits and credits if a participant is unable to cover its settlement debit. This methodology creates the possibility of a settlement failure by a clearinghouse on the day following the settlement day. Because these dating conventions refer to banking days, reversals may occur on the third or even the fourth calendar day following settlement.

The traditional settlement sheet service offers clearinghouses a familiar and inexpensive mechanism to achieve settlement. This service, however, increases the duration of settlement risk to clearinghouse participants and their customers because settlement entries are provisional until the banking day after the settlement day. Another disadvantage is that some versions of the service lack the security controls needed to ensure the authenticity of settlement information provided to the Reserve Bank and to safeguard the integrity of the settlement. In addition, the design of the traditional service does not include automated risk-management controls for verifying the Federal Reserve account balances of participants with net debit positions. To help control credit risk, the Reserve Banks rely on the right to reverse net settlement entries on the banking day following the settlement day if a participant is not able to cover its net debit obligation. As a result, the traditional service does not provide effective tools for monitoring or controlling risk to the Reserve Banks at the point the risk is incurred.

In 1990, the Board approved an interdistrict net settlement service with settlement-day finality for a national ACH clearinghouse. In this type of service, individual participants with net debit positions send Fedwire funds transfers to a settlement account at a designated Reserve Bank. Once funds transfers have been received into the settlement account to cover all net debits, the clearing arrangement's agent sends Fedwire funds transfers from the settlement account to the accounts of participants in net credit positions. Under normal circumstances, this process is completed on the settlement day. Because the service uses Fedwire funds transfers, settlement payments are final and irrevocable on the settlement day.

The Fedwire-based net settlement service provides intraday finality on the settlement day, thereby reducing the duration of credit risk to clearinghouse participants. It also offers Reserve Banks significantly greater control over credit risk because of the use of Fedwire and the associated real-time verification of Federal Reserve account balances performed through the Account Balance Monitoring System (ABMS). Fedwire funds transfers initiated by clearinghouse participants that would cause overdrafts beyond established parameters can be rejected. These capabilities permit Reserve Banks to perform automated intraday risk management on the settlement day, when settlement information becomes available and before settlement entries are posted to Federal Reserve accounts.

Relying on the initiation of individual Fedwire funds transfers to conduct multilateral settlement, however, increases the logistical complexity of settlement for certain clearing arrangements. For example, a settlement for a clearinghouse with a large number of participants could involve coordinating hundreds of individual Fedwire funds transfers that have to be sent and received within narrow time frames in order to complete scheduled settlements.

II. The June 1997 Proposal

In June 1997, the Board requested comments on a proposal that Reserve Banks offer an enhanced net settlement service to depository institutions that participate in clearinghouse arrangements (62 FR 32118, June 12, 1997). The proposed service would combine and improve selected features from the Reserve Bank's existing net settlement services. Under the proposal, the Reserve Banks would offer a fully automated settlement service with finality of settlement intraday on the settlement day. The agent for the clearinghouse would submit an electronic file containing the settlement information for each settling participant. The enhanced service would accept and process settlement files during a predefined settlement period. The service would include edits and controls to ensure the authenticity and validity of the settlement file. Once all initial edits have been completed, the service would check the account balance of settling participants that fall within established risk parameters in the ABMS and that have debit settlement positions. If the debit participants have available account balances [4] sufficient to cover their settlement obligations, their Federal Reserve accounts would be debited and funds would be transferred to a settlement account held on the books of a designated Reserve Bank. The transfer of funds from the account of a participant with a debit position would be treated as a final and irrevocable transaction. When all funds have been transferred from the account of the debit participants to the settlement account, the enhanced service would transfer final funds out of the settlement account and credit the Federal Reserve account

[1] The agent is the party designated by the participants to act on behalf of the clearinghouse.

[2] A settling participant in a clearinghouse that uses a Reserve Bank net settlement service is a financial institution with a Federal Reserve account that is debited or credited to transfer the funds needed to complete the settlement. In contrast, non-settling participants typically settle through a settling participant.

[3] The posting time for net settlement entries is chosen by each clearinghouse within the requirements of the Board's *Daylight Overdraft Transaction Posting Rules.*

[4] The available account balance is defined as the institution's Federal Reserve account balance plus any available intraday credit.

of each participant with a credit position.

If a participant with a debit position did not have an available account balance sufficient to cover its settlement obligation, the Federal Reserve would notify the participant and the agent. The agent would then be expected to take action as determined by the rules of the clearing organization. For example, the organization could choose to fund the settlement account to complete the settlement by drawing on a preestablished line of credit. Alternatively, the agent might request that the Reserve Bank cancel the settlement and return all funds in the settlement account to the participants with debit positions. After a defined period, if the organization had not been able to complete or cancel the settlement, the Reserve Bank would return all the funds in the settlement account to the participants with debit positions. The terms of the enhanced service would permit the agent to submit a revised settlement file in the event of a settlement failure.

III. Enhanced Settlement Service

The Board is approving an enhanced settlement service that retains the essential characteristics described in the proposal issued for comment in 1997. First, by providing settlement-day finality, the enhanced service will reduce the duration of credit risk to private-sector clearinghouse participants relative to the Federal Reserve's traditional net settlement service. Second, the enhanced service will improve operational efficiency and reduce operational risk for clearinghouse participants by offering a settlement mechanism that does not require the origination of individual Fedwire funds transfers to achieve settlement-day finality. In addition, the enhanced service enables the Reserve Banks to manage and limit risk by incorporating risk controls that are as robust as those used currently in the Fedwire-based net settlement service.

Service Availability and Features—The enhanced service will be available to financial institutions with Federal Reserve accounts that participate in multilateral settlements for private-sector clearing arrangements. The enhanced service will provide clearing arrangements with the capability to settle the obligations that result from their payments exchange on either a net or gross basis. In addition, the service approved by the Board incorporates the following features:

1. The Federal Reserve will provide settlement services during a business day beginning at 8:30 a.m. Eastern Time (ET) and concluding before 6:00 p.m. ET (the settlement window). A file-submission deadline will be established approximately thirty to sixty minutes before the end of the settlement window (the file-submission window) to ensure that all files received by the file-submission window can be processed before the close of the settlement window. The specific hours of operation of the service, however, will be reviewed periodically and may be modified to reflect changes in the operating hours of the Fedwire system or the business needs of settlement participants.

2. Agents will submit settlement files electronically during the predefined file-submission window. The initial release of the application software will support file submission using a standard Fedline terminal or computer interface bulk data connection. Preformatted Fedline screens will also be provided for clearinghouse arrangements that wish to key in the settlement information. In addition, internet browser capability for file submission and access to the service is being considered for a future release.

3. Agents may transmit any number of settlement files per settlement day. The service will process the settlement files for a particular settlement arrangement one at a time in the order they are received. Files received after the close of the settlement window will be held in a queue to be processed in the order received at the opening of the following day's settlement window, as long as the settlement date on the file corresponds with the following settlement date.

4. Controls and edits in the application will ensure, among other things, that the file has been transmitted by an agent authorized by the participants in the clearing arrangement, that the file has been transmitted from an authorized terminal, that the file contains settlement entries from authorized participants only, and that the sum of all the settlement debits equals the sum of all the settlement credits.

5. Settlement debit entries will be passed to the ABMS for posting to each settling participant's Federal Reserve account. The ABMS will check the available account balance of all participants that fall within established risk parameters to determine if the settlement debits can be covered. If the available account balance is sufficient to cover the participant's settlement debit, the participant's account will be debited and an offsetting credit will be posted immediately to a settlement account held on the books of a Reserve Bank. The debit to the Federal Reserve account will be a final and irrevocable transaction. When all settlement debits have been covered and the arrangement's settlement account has been fully funded, credit settlement balances will be passed to the ABMS for posting to the relevant participants' Federal Reserve accounts. The credit entries will also be final and irrevocable transactions.

The ABMS account balance report available to institutions via Fedline will include a new line that will show the net settlement debit or credit entries that have been posted to the participants' Federal Reserve accounts. For purposes of measuring the daylight overdraft positions of participants, the net debit and net credit entries will be posted to participants' Federal Reserve accounts on a flow basis, as they are processed.

Exception Processing—If a settlement cannot be completed because a participant with a debit position is unable to cover its settlement obligation, the Federal Reserve will notify the participant and the agent for the clearing arrangement. The participant with the insufficient balance will be notified immediately. The agent will be notified on either an immediate or a delayed basis, depending on the notification option that the settlement arrangement has selected. If the clearinghouse chooses immediate notification, the Federal Reserve will automatically transmit a notification of the failed debit to the agent. If the deferred option is chosen, the Federal Reserve will defer notifying the agent for a brief interval after the participant's debit is rejected. This brief interval will be defined by the Federal Reserve, initially the interval will be approximately thirty to forty-five minutes long. The interval is intended to allow the participant some time to provide funding before the agent is notified. The length of the interval may be reviewed periodically based on perceived business needs. If the participant is unable to provide sufficient funds in its account before the end of the deferral interval, the Federal Reserve will automatically send a notification to the agent. When notified of the failed debit, the agent may choose to initiate actions to complete the settlement as determined by the rules of the clearing arrangement. Pending action by the agent, the settlement will remain open and the collected funds will remain in the settlement account. The enhanced service will provide settlement agents with the capability to:

1. Instruct the Federal Reserve to retry the failed debit. That is, the agent would notify Reserve Bank staff that the participant in question has received the funds needed to fulfill its settlement obligation. The Federal Reserve would then retry debiting the participant's account and crediting the settlement account once more.

2. Fund the settlement account from an alternative source, such as a preestablished line of credit.

3. Instruct the Federal Reserve to cancel the settlement and allow the agent to submit a revised or "recast" settlement file that excludes the transactions of the participant in question and provides recalculated settlement positions for the remaining participants.

4. Instruct the Federal Reserve to cancel the settlement. If the agent selects this option, the funds in the settlement account will be returned to the Federal Reserve accounts of the debit participants that had covered their settlement obligations.

If processing of a settlement file has not been completed by the close of the settlement window because a participant is unable to cover its settlement obligation, the settlement will be cancelled by the Federal Reserve and all funds in the settlement account will be returned to the relevant participants. Extensions of the settlement window might be granted to accommodate operational disruptions or temporary funding problems. These occurrences, however, are expected to be rare and not to extend beyond the operating hours of the Fedwire funds transfer service.

Implementation and Conversion Schedule—Early in 1999, the Reserve Banks will conduct a pre-implementation pilot of the enhanced settlement service with two or three settlement arrangements. The pilot will be conducted in a test environment designed to simulate the production environment. The pilot will provide an opportunity for both Reserve Banks and participating arrangements to test the enhanced service and to refine operating procedures prior to implementation. The Reserve Banks will begin phased implementation of the enhanced settlement service on March 29, 1999.

The current Fedwire-based net settlement service used by a few national clearinghouses will continue to be offered in conjunction with the enhanced settlement service as long as a reasonable level of demand for the Fedwire-based service exists. The traditional settlement sheet service, however, will be phased out gradually. Clearinghouses and settlement arrangements that currently use the traditional net settlement service will be able to work with the Federal Reserve to develop a migration plan that is not in conflict with other critical efforts that the clearinghouses and participants may have under way. Specifically, because conversion to the enhanced settlement service may require clearinghouses to implement internal software changes, it may not be possible or desirable to address the required changes until after year 2000 system efforts have been completed. The Board expects that clearinghouses and settlement arrangements that currently use the traditional service will be able to convert to the enhanced settlement service by the end of 2001. The Board will consider extending the conversion deadline on a case-by-case basis for systems that can demonstrate significant resource demands due to other critical efforts.

Service Pricing—The planned price structure for the enhanced service has been designed to recognize both the fixed costs of providing a settlement service and the variable costs associated with the number of settlement transactions processed. This will be accomplished by assessing a charge for each settlement file transmitted by an arrangement and a charge for each settlement entry in the file. The actual price for the service will be announced in the fourth quarter of 1998 as part of the Federal Reserve's 1999 fee schedule.

IV. Summary of Comments

The Board received twenty public comment letters on its proposed enhanced settlement service.[5] The commenters included nine clearinghouse organizations and associations, six commercial banking organizations, four trade associations, and one retail payment network.

General Comments—Most commenters supported the proposed enhancements to the Federal Reserve's net settlement services. Over half of the commenters that supported the proposed service requested that the Board provide a pricing structure for the proposed service or specify the risk management policy to which institutions would be required to adhere in order to use this service. One commenter proposed that the Board convene a meeting of clearing arrangement operators to review these issues. On December 15, 1997, Federal Reserve staff held a meeting with private-sector organizations in order to answer questions and provide additional details regarding the enhanced settlement service. All organizations that submitted comment letters and other interested organizations were invited to the meeting.

A few commenters expressed concerns regarding the schedule for implementation of the proposed service. One commenter stated that if the Federal Reserve were going to require clearing and settlement arrangements to use the new service, then such a requirement should not be imposed on participants until after the year 2000. In light of the resources devoted to year 2000 issues, the Board will not require clearing and settlement arrangements to use the new service before the year 2000.

Issues Discussed at the December 15, 1997 Meeting—At the December meeting, Federal Reserve staff gave an overview of the proposed risk management policy that would apply to certain multilateral settlement systems regardless of whether they use Federal Reserve settlement services. A final policy was adopted by the Board in its *Policy Statement on Privately Operated Multilateral Settlement Systems* (63 FR 34888, June 26, 1998) and will become effective on January 4, 1999. In adopting that policy statement, the Board also emphasized that compliance with the policy does not require use of the Federal Reserve's enhanced settlement service. The planned pricing structure for the enhanced settlement service was also discussed with the private-sector representatives.

The Federal Reserve staff also briefly described pilot testing and the likely transition to the enhanced settlement service. As noted above, a pre-production pilot of the service will be conducted early in 1999. Phased implementation of the service will begin by the end of the first quarter of 1999.

One private-sector representative expressed concern regarding the proposed method of posting debits and credits to participants' Federal Reserve accounts on a flow basis, as they are processed, for purposes of measuring daylight overdraft positions. The representative felt that such a procedure would cause inequities among participants because participants would be debited or credited based on where the entry was located in the settlement file. The Board believes that, in most instances, debits and credits will be posted almost simultaneously, as soon as the settlement entries are processed. Delays in the posting of all debits and credits in a settlement file may occur if a participant is unable to cover its settlement obligation. These situations and the related consequences should be addressed in the clearinghouse rules.

[5] This total does not include comment letters from Federal Reserve Banks.

A few representatives wanted to know whether daylight overdrafts could be used to support a debit position by a settling participant. One of these representatives also requested clarification on how these debits and credits would affect a participant's daylight overdraft position. In general, a settling participant will normally be able to use its available account balance, which includes any authorized intraday credit, to fund its debit position. In addition, settlement debits and credits will be posted to the account of participants on a flow basis, as they occur.

Specific Issues on which the Board Sought Comment—The Board also sought comment on a number of other issues discussed below:

A. Continuation of Traditional Settlement Sheet Service With Next-Day Finality

Nine of the thirteen respondents to this question believed that the Federal Reserve should continue to offer its existing net settlement service with next-day finality. One commenter felt that the time and equipment investment necessary for the proposed service might prove to be a financial burden for small-volume clearinghouses. Two commenters indicated that some clearing arrangements might prefer the simplicity and low cost of the existing next-day finality service. Three commenters felt that the Federal Reserve should not continue to offer its existing net settlement service with next-day finality if the proposed service were offered. One of the commenters noted that "there are no reasons, operational or otherwise, to allow ongoing and unnecessary temporal risk in the payments system as a result of next-day finality."

The Board believes that the benefits to clearinghouse participants and the Federal Reserve provided by the enhanced service are significant. The enhanced service not only offers increased efficiency and security, but also significantly reduces settlement risk. The Board believes that the benefits of providing a more efficient and secure service that incorporates better risk controls outweigh the potential cost increase to the users of the traditional Federal Reserve net settlement service. In addition, it would not be cost effective to the Reserve Banks to continue to provide and support the current traditional settlement sheet service in addition to the enhanced service. As a result, the Board intends to phase out the traditional settlement sheet service with next-day finality. To be sensitive to the commenters' concerns regarding potential costs and resources that may have to be invested to convert to the enhanced service, the Board is adopting a flexible migration plan. Clearinghouses and their participants will have until the end of 2001 to convert to the enhanced service.

B. Continuation of the Fedwire-based Service

Nine of the fourteen commenters believed that the Federal Reserve should continue to offer the Fedwire-based net settlement service with same-day finality. One commenter felt that the Fedwire-based service provides greater opportunities for the settlement agent to manage the settlement actively and reduce the risk of a settlement failure.

Two commenters felt that the Federal Reserve should not continue to offer its Fedwire-based net settlement service because there would be no demand for this service with the introduction of the enhanced service. The commenters viewed the reduction in operational complexity from the Fedwire-based service as the justification for eliminating it.

The Board will continue to offer the Fedwire-based service as long as a reasonable level of demand for the service exists. The Fedwire-based service has robust risk management features. Because finality is granted when the settlement entries are posted via the use of Fedwire funds transfers, the Fedwire-based service also reduces settlement risk to private-sector participants.

C. Length of Settlement Window and Provision of a Warehousing Mechanism

There was no consensus among respondents as to whether the period between 8:30 a.m. and 4:00 p.m. ET would be adequate to support current and future needs of potential users of the service. Two commenters expressed a preference for the service to begin processing settlement files during the very early morning hours, with 12:30 a.m. suggested by one of the commenters. Two other commenters felt that, at a minimum, a 6:00 p.m. ET closing deadline should be implemented.

The Board recognizes that the Fedwire funds transfer service is the primary alternative for orderly and efficient settlement of bilateral obligations in case a settlement arrangement is unable to complete its multilateral settlement through the enhanced service. As a result, the Board has determined that settlement file processing should generally be completed before 6:00 p.m. to allow at least a thirty minute period before the standard close of the Fedwire funds transfer system. To ensure that processing of the settlement files is completed by the close of the settlement window, the Federal Reserve will establish a cut-off time for submission of settlement files that is approximately thirty to sixty minutes in advance of the settlement window deadline. Extensions of the settlement deadlines may be permitted under extenuating circumstances. Experience gained during the pilot period will be used to review and, if necessary, redefine settlement deadlines. At this time, the Board does not believe that a compelling business need has been expressed to start processing settlement files before 8:30 a.m. ET. This issue may be reviewed as experience is gained with the operation of the enhanced service.

With respect to the warehousing option, seven of the eleven commenters felt that this feature should be offered. One commenter claimed that settlement files should be received in a "flow processing mode" twenty-four hours a day, seven days a week. Four commenters did not support a warehousing option because they thought such an option would not be useful or thought warehousing should be handled by the clearing association's settlement agent rather than the Federal Reserve.

The enhanced settlement service will queue settlement files received after the close of the settlement window for processing at the opening of the following day's settlement window, provided the settlement date on the file corresponds with the following business date. More sophisticated warehousing capabilities will not be offered in the initial release due to cost and time constraints.

D. Submission of Settlement Data Through an Electronic Mechanism

All but one of the fifteen commenters that responded to this question felt it would be reasonable to require clearing arrangements or settlement agents to use an electronic mechanism to submit settlement data. The commenters felt that such an electronic mechanism would ensure that data are sent and received by authorized persons and not tampered with during transmission. One commenter, while agreeing that electronic devices should be used, recommended that the Federal Reserve be able to receive valid settlement data and enter the data manually into the settlement system in emergencies. One commenter did not believe that it would be reasonable to require the electronic submission of data and encouraged the Federal Reserve to offer a manual procedure for submitting data.

The Board shares the concerns of the commenters and will provide an electronic mechanism for settlement data transmission to increase the efficiency and security of the settlement process. Settlement files may be transmitted via a standard Fedline terminal or a computer interface bulk data connection. Preformatted Fedline screens for settlement data input will also be provided.

Clearing and settlement systems are encouraged to have contingency arrangements to reduce the risk of a failed settlement resulting from operational problems. The Reserve Banks will be able to accept and process non-electronic files on behalf of a settlement agent in situations in which an arrangement is experiencing severe operational disruptions and is unable to access the enhanced service directly or through its contingency channels.

E. Providing Monitoring Capabilities to the Agent

All but one of the fourteen commenters that responded to this question felt it would be appropriate to offer a monitoring capability that would allow the settlement agent to determine whether settlement entries for individual participants had been successfully posted. One commenter felt that this service should be offered to settlement agents because they represent their member financial institutions as unbiased facilitators in all aspects of the settlement process. Another commenter believed that the settlement agent must have access to information that will allow it to determine whether individual participants have fulfilled their settlement obligations.

The enhanced service will provide the agent with the capability to view the settlement account balance by using the ABMS. Automated inquiries for monitoring the progress and the status of a settlement file by the agent will be provided in a later release of the application.

F. Value-added Services That Provide Non-settling Participant Information

Eight of the ten respondents to this question did not believe that the Federal Reserve should offer a value-added service that would provide non-settling participant information. The general consensus was that such services are more appropriate for the settlement agent to offer to its participants. One commenter stated that it does not see a need for the Federal Reserve to provide these services, as the settlement agent would have this information in order to calculate the settling participant's aggregate position. The settlement agent should, therefore, be able to communicate this information to the settling participants and any non-settling participants. Two commenters felt that the value-added services should be offered by the Federal Reserve because such information would be of assistance to settling and non-settling participants in analyzing their daily obligations.

The Board agrees that, in most cases, the agent can provide the non-settling participant information more efficiently. As a result, the enhanced service will not include these value-added features in the near term.

G. Provision of a Retry Feature

The fourteen respondents that addressed this issue felt that a retry feature should be included in the proposed net settlement service. Eight of these respondents believed that the service should include a retry feature that automatically attempts to debit the account of a participant following a predefined interval after the participant fails to cover its debit obligation. The respondents also requested a retry feature that could be controlled by the agent. Four respondents felt that only an automatic retry feature should be available, whereas two others felt that only a retry feature that can be controlled by the agent should be offered. A proponent of the controlled retry feature claimed that such a system would provide the greatest flexibility and maximum operational effectiveness because a retry would be attempted only when the settlement agent felt that the settlement was likely to succeed.

A retry feature will be available in the enhanced settlement service. In cases where an arrangement has selected the deferred notification option, the Federal Reserve will retry the failed debit after a predefined interval before the Federal Reserve notifies the agent that a participant is unable to cover the debit. Once the agent has been notified, it will be able to instruct the Federal Reserve to retry a debit entry to a participant's account. Further automation of the retry function may be included in a future release of the application software.

H. Length of the Retry Window and Maximum Number of Retries

There was no consensus among the thirteen respondents that commented on this question as to how long the retry window should be. Four commenters suggested a period of anywhere from one hour up to three hours. One commenter felt that the retry capability should have no time limits other than being restricted to the operating hours of the net settlement service. Two others believed that the retry window time limit should be left to the discretion of the clearing arrangements.

In the event that a settlement account cannot be fully funded because the initial attempt to post a settlement debit to a participant's account has failed, the Federal Reserve may retry the debit after a short predefined interval. The interval is likely to be approximately thirty to forty-five minutes after the failed debit occurred. If the debit continues to remain unfunded, the agent will automatically be notified. A relatively short interval to retry a debit will give the agent as much time as possible to take alternative action to avoid unnecessary settlement failures if the retry fails. The length of the interval will be reviewed periodically based on perceived business needs. Further, retry instructions from settlement agents will be honored at any time during which the settlement service is open.

There was no consensus among the respondents as to the maximum number of retries that should be allowed. Five respondents stated that there should be a limited number of attempts but did not specify a number. Two commenters felt that a maximum of two retries should be made. Two commenters believed that the maximum number of retries allowed should be decided by the clearing arrangements.

If the clearing arrangement chooses the delayed notification option, the Federal Reserve will automatically retry the debit once following a short interval after the initial debit failed. The Federal Reserve will review periodically after the initial release whether, for clearing arrangements choosing the delayed notification option, the service should provide more than one automated retry following an initial failure to post a settlement debit. The Board has imposed no formal limit on the number of times that a settlement agent can request that a failed debit be retried.

I. Legal Status of the Debit and Credit Settlement Entries

Of the eleven commenters that responded to this question, seven believed that the debit and credit entries to the Federal Reserve accounts of the settling participants should not be considered funds transfers under Regulation J (12 CFR part 210) and other laws applicable to funds transfers. One respondent stated that the proposed service does not use Fedwire funds transfers and thus cannot rely on the same legal basis. Many suggested that the Federal Reserve amend Regulation J

to address the status of the entries posted by the enhanced settlement service. One commenter suggested that debit and credit entries to the reserve accounts of the settling participants be considered funds transfers under Regulation J and pertinent sections of Article 4A of the Uniform Commercial Code. Another felt that although Regulation J did not apply to the debit and credit entries of the proposed service, Article 4A did apply.

The Board has not amended Regulation J to cover explicitly debit and credit entries associated with the enhanced settlement service. Although certain provisions of Article 4A may apply to the debit and credit entries, the extent to which these entries would be considered "payment orders" under Article 4A is not clear. Therefore, the Reserve Bank operating circulars will establish the rules governing the debit and credit entries to the Federal Reserve accounts of the settling participants, including when those debits and credits will become final.

J. Capability to Transfer Funds Into the Settlement Account

All but one of the twelve commenters that responded to this question indicated that it would be beneficial for the service to provide the capability for a participant or another institution to transfer additional funds into the settlement account in order to complete the settlement. One commenter stated that such a feature could facilitate quick resolution of problems and prevent temporary problems from becoming permanent defaults.

Only one commenter thought that the Federal Reserve should not offer the capability for another participant or depository institution to transfer funds into the settlement account to complete the settlement process. This commenter stated that a failed debit for a settling participant should be resolved by that participant and that the settling participants can set up bilateral funding arrangements if they so choose.

The enhanced settlement service will allow another settling participant or depository institution to transfer additional funds into the settlement account in order to complete the settlement. The agent or another authorized depository institution will be able to transfer funds into the settlement account to complete settlement in accordance with the clearinghouse association rules.

K. Clearing Arrangements That Should be Eligible for the Enhanced Settlement Service

Seven out of the twelve respondents that addressed this issue felt that the Federal Reserve should offer the proposed service to any type of clearing arrangement. Three of these commenters wanted to clarify that direct settlement participants would have to be entities that are eligible for Federal Reserve accounts. Another commenter stated that the proposed service should "accommodate any type of clearing arrangement" because of the rapidly changing payment systems environment and the increasing need for new services in the industry.

Two commenters believed that the proposed service should be available only to small-dollar clearing arrangements. One of these respondents felt that large-dollar clearing arrangements, such as CHIPS, should not have access to the new service because the settlement agents should have a very active role in managing the settlements for large-dollar systems, and the Fedwire-based settlement is best suited for these purposes.

The Board is confident that the enhanced service offers an efficient and secure settlement service with strong risk management features. As a result, the Federal Reserve will make the enhanced settlement service available to financial institutions with Federal Reserve accounts that participate in multilateral settlements for private-sector clearing arrangements.

V. Competitive Impact Analysis

The Board has established procedures for assessing the competitive impact of rule or policy changes that have a substantial impact on payments system participants.[6] Under these procedures, the Board will assess whether a change would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services due to differing legal powers or constraints or due to a dominant market position of the Federal Reserve deriving from such differences. If no reasonable modifications would mitigate the adverse competitive effects, the Board will determine whether the expected benefits are significant enough to proceed with the change despite the adverse effects.

The Board's proposed enhancements to the net settlement service are intended to improve the clearance and settlement process for payments by increasing the efficiency of the services currently offered by the Federal Reserve and by reducing the uncertainty and disruption to private-sector participants from the potential reversal of settlement on the following business day. From this standpoint, the enhanced settlement service should help reduce risk as well as operational burden for private-sector settlement arrangements. In addition, risk controls that would be developed in order to provide finality of settlements to clearinghouse participants on the settlement date would help protect the Federal Reserve from the risk of loss. As a result, the Board believes that the proposed enhancements to the Federal Reserve's net settlement services would enable depository institutions to continue to take advantage of the benefits of netting, while increasing operational efficiency and reducing credit risk to the private sector.

By order of the Board of Governors of the Federal Reserve System, November 2, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–29709 Filed 11–5–98; 8:45 am]

BILLING CODE 6210–01–P

[6] These procedures are described in the Board's policy statement "The Federal Reserve in the Payments System," as revised March 1990. (55 FR 11648, March 29, 1990).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Agency for Toxic Substances and Disease Registry; Senior Executive Service; Performance Review Board Members

AGENCY: Centers for Disease Control and Prevention (CDC), and Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: Title 5, U.S. Code, Section 4314(c)(4) of the Civil Service Reform Act of 1978, Public Law 95–454, requires that appointment of Performance Review Board members be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Connie Clayton, Human Resources Management Office, Office of Program Support, Centers for Disease Control and Prevention, 4770 Buford Highway, Mailstop K–07, Atlanta, Georgia 30341–3724, telephone 770–488–1874.

SUPPLEMENTARY INFORMATION: The following persons will serve on the Performance Review Board which oversees the evaluation of performance appraisals of Senior Executive Service members of the Department of Health and Human Services in the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry:

Claire V. Broome, M.D., Chairperson
Stephen B. Blount, M.D., M.P.H.
James M. Hughes, M.D.
Arthur C. Jackson
Richard J. Jackson, M.D., M.P.H.
James S. Marks, M.D., M.P.H.
Peter J. McCumiskey
Linda Rosenstock, M.D., M.P.H.
Stephen B. Thacker, M.D.

Dated: November 3, 1998.

Claire V. Broome,

Deputy Director, Centers for Disease Control and Prevention (CDC) and Deputy Administrator, Agency for Toxic Substances and Disease Registry (ATSDR).

[FR Doc. 98–29736 Filed 11–5–98; 8:45 am]

BILLING CODE 4163–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[INFO–99–02]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS-D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

1. Proposed Project. 2000 National Health Interview Survey, Basic Module (0920–0214)—Revision—The National Center for Health Statistics. The annual National Health Interview Survey (NHIS) is a basic source of general statistics on the health of the U.S. population. Due to the integration of health surveys in the Department of Health and Human Services, the NHIS also has become the sampling frame and first stage of data collection for other major surveys, including the Medical Expenditure Panel Survey, the National Survey of Family Growth, and the National Health and Nutrition Examination Survey. By linking to the NHIS, the analysis potential of these surveys increases. The NHIS has long been used by government, university, and private researchers to evaluate both general health and specific issues, such as cancer, AIDS, and childhood immunizations. Journalists use its data to inform the general public. It will continue to be a leading source of data for the Congressionally-mandated "Health US" and related publications, as well as the single most important source of statistics to track progress toward the National Health Promotion and Disease Prevention Objectives, "Healthy People 2000."

Because of survey integration and changes in the health and health care of the U.S. population, demands on the NHIS have changed and increased, leading to a major redesign of the annual core questionnaire, or Basic Module, and a redesign of the data collection system from paper questionnaires to computer assisted personal interviews (CAPI). Those redesigned elements were implemented in 1997 and are expected to be in the field until 2006. Ad hoc Topical Modules on various health issues are provided for in the redesigned NHIS. This clearance is for the fourth full year of data collection, planned for January-December 2000. The Basic Module on CAPI will result in publication of new national estimates of health statistics, release of public use micro data files, and a sampling frame for other integrated surveys. It will also include a "Topical Module" (or supplement) on Cancer. The cancer module will repeat similar surveys conducted in 1987 and 1992, and will help track many of the Healthy People 2000 Objectives for cancer.

At a rate of $15 per hour, the total cost to respondents is estimated at $1,062,900 for the whole survey.

Respondents	Number of Respondents	Number of Responses/Respondent	Avg. Burden/per Response (in hrs.)	Total Burden (in hrs.)
Family	42,000	1	0.5	21,000
Sample adult	42,000	1	1.08	45,360
Sample child	18,000	1	0.25	4,500
Total				70,860

2. Validation of Self-reported Health Outcomes from the Health Assessment of Persian Gulf War Veterans From Iowa: Follow-up on Asthma—(0920–0425)—Extension—The National Center for Environmental Health—The purpose of this study is to collect additional data to validate health outcomes reported by participants in the Health Assessment of Persian Gulf War Veterans from Iowa. The original data collection consisted of a telephone survey of 3,695 military personnel who served during the time of the Persian Gulf War and listed Iowa as their home of residence. Data will be collected from subjects who participated in the telephone survey to validate the self-report of asthma. Lung function assessment, tests of airways hyperactivity, and standard respiratory health questionnaires will be administered. Review of medical records, standard physical examination, and laboratory evaluation will be conducted to validate multi systemic conditions, including chronic fatigue syndrome and fibromyalgia. The total cost to the respondents is $0.

Respondents	Number of respondents	Number of responses/respondent	Avg. burden per response (in hrs)	Total burden (in hrs.)
PGW Exposed and Non-PGW Veterans self-reporting asthma. Questionnaire (ATS and Adult Respiratory Health); Pulmonary Function Tests (spirometry, DLCO, lung volumes); Histamine Challenge.	50	1	2.25	112.5
Normal Controls. (PGW/Non-PGW Vets denying symptoms of asthma). Questionnaire (ATS and Adult Respiratory Health); Pulmonary Function Tests (spirometry, DLCO, lung volumes); Histamine Challenge	50	1	2.25	112.5
Total				225

Dated: October 29, 1998.

Kathy Cahill,

Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 98–29733 Filed 11–5–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee for Energy-Related Epidemiologic Research and Subcommittee for Community Affairs Meetings Notice; Correction

SUMMARY: The Centers for Disease Control and Prevention published a document in the **Federal Register**, Volume 63, Number 212, Page 59315, on November 3, 1998, announcing meetings of the Advisory Committee for Energy-Related Epidemiologic Research (ACERER) and the Subcommittee for Community Affairs meetings. The document contained incorrect dates. Please note the correct dates as follows:

Name: Advisory Committee for Energy-Related Epidemiologic Research.

Time and Date: 8:30 a.m.–5:15 p.m., November 19, 1998.

Name: ACERER Subcommittee for Community Affairs.

Time and Date: 8:30 a.m.–5 p.m., November 20, 1998.

CONTACT PERSON FOR MORE INFORMATION: Michael J. Sage, Deputy Chief, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway, NE (F–35), Atlanta, Georgia 30341–3724, telephone 770/488–7040, fax 770/488–7044.

Dated: November 2, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–29900 Filed 11–4–98; 11:44 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

Title: Information Collection for the Welfare to Work Data Collection Requirements.

OMB No.: New.

Description: The Balanced Budget Act of 1997, Pub. L. 105–33, amended title IV–A of the Social Security Act (the Act) to add the Welfare-to-Work (WtW) program. Section 411 of the Act specifies the WtW participant data collection and reporting requirements that must be submitted by those States and Indian tribes administering a WtW program. This information will be used in the evaluation that Section 413(j) of the Act requires DHHS to report to Congress in January 1999 and in January 2001.

Respondents: State, Local or Tribal Govt.

Annual Burden Estimates

Instrument	Number of Respondents	Number of Responses per Respondent	Average Burden Hours per Response	Total Burden Hours
WtW	61	4	164	40,016
ACF–198&343	61	4	248	60,512
Estimated Total Annual Burden Hours				100,528

Additional Information

ACF is requesting that OMB grant a 180 day approval for this information collection under procedures for emergency processing by November 13, 1998. A copy of this information collection, with applicable supporting documentation, may be obtained by calling the Administration for Children and Families, Reports Clearance Officer, Bob Sargis at (202) 690–7275.

Comments and questions about the information collection described above should be directed to the following address by November 13, 1998: Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ACF, Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, (202) 395–7316.

Dated: November 2, 1998.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 98–29711 Filed 11–5–98; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0924]

Medical Devices Containing Materials Derived From Animal Sources (Except for In Vitro Diagnostic Devices), Guidance for FDA Reviewers and Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled "Medical Devices Containing Materials Derived From Animal Sources (Except for In Vitro Diagnostic Devices), Guidance for FDA Reviewers and Industry." This guidance is intended to provide recommendations for information that is to be included in premarket submissions—investigational device exemption (IDE), premarket approval application (PMA), and 510(k) submisions for medical devices that either contain or are exposed to animal-derived materials during manufacturing.

DATES: Written comments concerning this guidance must be received by February 4, 1999. Comments submitted after February 4, 1999, must be submitted to one of the contact persons.

ADDRESSES: Submit written requests for single copies of the guidance document entitled "Medical Devices Containing Materials Derived From Animal Sources (Except for In Vitro Diagnostic Devices), Guidance for FDA Reviewers and Industry" to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. Written comments concerning this guidance must be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Karen F. Warburton, Office of Device Evaluation (HFZ–460), or Kiki B. Hellman, Office of Science and Technology (HFZ–113), Center for Devices and Radiological Health, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–7158.

SUPPLEMENTARY INFORMATION:

I. Background

FDA believes that an animal disease such as bovine spongiform encephalopathy (BSE) is a concern in the manufacture of FDA-regulated products intended for administration to humans. In 1993 and, more recently, on May 6, 1996, FDA issued letters to manufacturers to request that bovine-derived materials from cattle which have resided in or originated from countries where BSE has been diagnosed (as designated by the U.S. Department of Agriculture) not be used in the manufacture of FDA-regulated products. To identify medical devices which either contain or are exposed to animal-derived materials during manufacturing, CDRH developed the biomaterials database that contains an inventory of these devices, including type of material, animal species and county of origin, and target organ or tissue for each device. Originally proposed in response to the BSE issue, the database was expanded to include all animal-derived products (including human) in order to respond to other animal-based sourcing concerns that may arise in the future.

II. Significance of Guidance

This guidance document represents the agency's current thinking on medical devices containing materials derived from animal sources. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

The agency has adopted good guidance practices (GGP's) which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This guidance document is issued as a Level 1 guidance consistent with GGP's. The agency is accepting public comments, but it is implementing this guidance immediately because of public health concerns related to the use of bovine-derived materials in medical devices and the agency's previous communication to manufacturers on this subject.

III. Electronic Access

In order to receive "Medical Devices Containing Materials Derived From Animal Sources (Except for In Vitro Diagnostic Devices), Guidance for FDA Reviewers and Industry" via your fax machine, call the CDRH Facts–On–Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number (2206) followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the World Wide Web (WWW). CDRH maintains an entry on the WWW for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Web. Updated on a regular basis, the CDRH home page includes "Medical Devices Containing Materials Derived From Animal Sources (Except In Vitro Diagnostic Devices), Guidance for FDA Reviewers and Industry," device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. "Medical Devices Containing Materials Derived From Animal Sources (Except for In Vitro Diagnostic Devices), Guidance for FDA Reviewers and Industry" will be available at http://www.fda.gov/cdrh/ode/guid.html.

IV. Comments

Interested persons may, on or before February 4, 1999, submit to Dockets Management Branch (address above) written comments regarding this immediately in effect guidance. At any time after 90 days from the date of publication in the **Federal Register**, submit to the contact person (address above) written comments regarding this guidance. Such comments will be considered when determining whether to amend the current guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 28, 1998.

D.B. Burlington,

Director, Center for Devices and Radiological Health.

[FR Doc. 98–29750 Filed 11-5-98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0896]

Guidances for the Medical Device Industry on PMA Shell Development and Modular Review; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled "Guidances for the Medical Device Industry on PMA Shell Development and Modular Review." This guidance describes a new program for the submission and review of premarket approval applications (PMA's) in a modular format, termed the "PMA Shell." FDA is issuing this document as part of its commitment to improve the PMA development and review processes.

DATES: Written comments concerning this guidance must be received by February 4, 1999.

ADDRESSES: Submit written requests for single copies of the guidance document entitled "Guidances for the Medical Device Industry on PMA Shell Development and Modular Review" (on a 3.5" diskette) to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–443–8818. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments on this guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Ashley A. Boulware or Kathy M. Poneleit, Center for Devices and Radiological Health (HFZ–460 or HFZ–402), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2053 or 301–594–2186.

SUPPLEMENTARY INFORMATION:

I. Background

Despite a marked improvement in device approval times, FDA's Center for Devices and Radiological health (CDRH) is committed to substantial improvement of the PMA development and review processes. Often FDA's involvement with the product has been greatest during review of the PMA, which is at the end of the process. This new program involves the development of a plan for modular submission, termed the "PMA Shell," and the submission of sections of the PMA, termed modules, to increase early and effective interactions with applicants.

The essence of the modular concept for data development, submission, review, and closure is to break the contents of a PMA into well delineated components (modules) that can be submitted over time; this is expected to be particularly applicable to the preclinical information as the clinical data are being developed. The PMA Shell is a document that is proposed by the potential PMA applicant and agreed to by CDRH. The PMA Shell is used to identify the proposed modules and the proposed contents for each module. The PMA Shell allows CDRH to prospectively determine whether each proposed module will be appropriate as a document that can be reviewed separately from other information needed to evaluate the PMA. For example, the toxicology data may be appropriate as a module, whereas labeling may not be appropriate as a module independent of the clinical study data. Modules will be submitted to CDRH for review. Once they are complete and acceptable to FDA, modules will not generally be reevaluated unless a significant safety and effectiveness issue later develops that bears on the previously reviewed module.

Through increased interaction with applicants and earlier review of data and analyses, CDRH expects this program to increase the efficiency of PMA review by reviewing and bringing to closure modules nearer to when the data are developed and when the corporate staff who developed the data should most easily be able to respond to any need for clarification of the reports.

II. Significance of Guidance

This guidance document represents the agency's current thinking on improving the PMA process. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfied the applicable statute, regulations, or both.

The agency has adopted Good Guidance Practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This guidance document is issued as a Level 1 guidance consistent with GGP's.

III. Comments

Interested persons may, on or before February 4, 1999, submit to the Dockets Management Branch (address above) written comments regarding this guidance. After February 4, 1999, submit written comments regarding this guidance to the contact persons (address above). Such comments will be considered when determining whether to amend the current guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

In order to receive "Guidances for the Medical Device Industry on PMA Shell Development and Modular Review" via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number (835) followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the World Wide Web (WWW). CDRH maintains an entry on the WWW for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Web. Updated on a regular basis, the CDRH home page includes "Guidances for the Medical Device Industry on PMA Shell Development and Modular Review," device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information.

The CDRH home page may be accessed at "http://www.fed.gov/cdrh". "Guidances for the Medical Device Industry on PMA Shell Development and Modular Review" will be available at "http://www.fda.gov/cdrh/ode".

Dated: October 28, 1998.

D.B. Burlington,

Director, Center for Devices and Radiological Health

[FR Doc. 98-29752 Filed 11-5-98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4341–N–34]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: ARMY: Mr. Jeff Holste, U.S. Army Corps of Engineers, Installation Support Center, 7701 Telegraph Road, Alexandria, VA 22315; (703) 428–6318; (these are not toll-free numbers).

Dated: October 29, 1998.

Fred Karnas, Jr.,

Deputy Assistont Secretory for Economic Development.

Title V, Federal Surplus Property Program Federal Register Report for 11/06/98

Unsuitable Properties

Building (by State)

Alabama

Bldg. S162
Anniston Army Depot
Anniston AL 36201–
Landholding Agency: Army
Property Number: 21984001
Status: Unutilized
Reason: Extensive deterioration

Bldg. S179
Anniston Army Depot
Anniston AL 36201–
Landholding Agency: Army
Property Number: 219840002
Status: Unutilized
Reason: Extensive deterioration

Bldg. 217
Anniston Army Depot
Anniston AL 36201–
Landholding Agency: Army
Property Number: 21984003
Status: Unutilized
Reason: Extensive deterioration

Bldg. 609
Anniston Army Depot
Anniston AL 362091–
Landholding Agency: Army
Property Number: 21984004
Status: Unutilized
Reason: Extensive deterioration

Bldg. 610
Anniston Army Depot
Anniston AL 36201–
Landholding Agency: Army
Property Number: 219840005
Status: Unutilized
Reason: Extensive deterioration

7 Bldgs.
Fort Rucker
#6007–6011, 6013–6014
Ft. Rucker Co: Dale Al 36362–
Landholding Agency: Army
Property Number: 219840006
Status: Unutilized
Reason: Extensive deterioration

4 Bldgs.
Fort Rucker
#24501, 30306, 30309, 30310
Ft. Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 219840007
Status: Unutilized
Reason: Extensive deterioration

Bldg. 3309
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219840008
Status: Unutilized
Reason: Secured Area

Bldg. 3525
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219840009
Status: Unutilized
Reason: Secured Area

Bldg. 5673
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219840010
Status: Unutilized
Reason: Secured Area

Bldg. 7569
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219840011
Status: Unutilized
Reason: Secured Area Extensive deterioration

Bldg. 7669
Redstone Arsenal;
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219840012
Status: Unutilized
Reason: Secured Area Extensive deterioration

Bldg. 8978
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219840013
Status: Unutilized
Reason: Secured Area

California

Bldg. 127
Sierra Army Depot
Herlong Co: Lassen CA 96113–
Landholding Agency: Army
Property Number: 219840015
Status: Unutilized
Reason: Secured Area

Bldg. 191
Sierra Army Depot
Herlong Co: Lassen CA 96113–
Landholding Agency: Army
Property Number: 219840016
Status: Unutilized
Reason: Secured Area

Bldg. 192
Sierra Army Depot
Herlong Co: Lassen CA 96113–
Landholding Agency: Army
Property Number: 219840017
Status: Unutillzed
Reason: Secured Area

Bldg. 193
Sierra Army Depot
Herlong Co: Lassen CA 96113–
Landholding Agency: Army
Property Number: 219840018
Status: Unutilized
Reason: Secured Area

Bldg. 194
Sierra Army Depot
Herlong Co: Lassen CA 96113–
Landholding Agency: Army
Property Number: 219840019
Status: Unutilized
Reason: Secured Area

Bldg. 195
Sierra Army Depot
Herlong Co: Lassen CA 96113–
Landholding Agency: Army
Property Number: 219840020
Status: Unutilized
Reason: Secured Area

Bldg. 560
Sierra Army Depot
Herlong Co: Lassen CA 96113–
Landholding Agency: Army
Property Number: 219840021
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 561
Sierra Army Depot
Herlong Co: Lassen CA 96113–
Landholding Agency: Army
Property Number: 219840022
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Hawaii

Bldg. T–1088
Schofield Barracks Military Reservation
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219840023
Status: Unutilized
Reason: Extensive deterioration

Bldg. T–1092
Schofield Barracks Military Reservation
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219840024
Status: Unutilized
Reason: Extensive deterioration

Kentucky

Bldg. T00737
Fort Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219840025
Status: Unutilized
Reason: Extensive deterioration

Bldg. T00760
Fort Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219840026
Status: Unutilized
Reason: Extensive deterioration

Bldg. T02322
Fort Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219840027
Status: Unutilized
Reason: Extensive deterioration

Bldg. T02327
Fort Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219840028
Status: Unutilized
Reason: Extensive deterioration

Bldg. T02423
Fort Campbell Co. Christian KY 42223–
Landholding Agency: Army
Property Number: 219840029
Status: Unutilized
Reason: Extensive deterioration

Bldg. T02901
Fort Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219840030
Status: Unutilized
Reason: Extensive deterioration

Bldg. T03106
Fort Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219840031
Status: Unutilized
Reason: Extensive deterioration

Bldg. T03107
Fort Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219840032
Status: Unutilized
Reason: Extensive deterioration

Louisiana

Bldg. 3704
Fort Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219840033
Status: Unutilized
Reason: Floodway

Bldg. 3707
Fort Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219840034
Status: Unutilized
Reason: Floodway

Bldg. 3708
Fort Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219840035
Status: Unutilized
Reason: Floodway

Bldg. 3709
Fort Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219840036
Status: Unutilized
Reason: Floodway

Bldg. 3710
Fort Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219840037
Status: Unutilized
Reason: Floodway

Bldg. 3713
Fort Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219840038
Status: Unutilized
Reason: Floodway

Bldg. 3714
Fort Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219840039
Status: Unutilized
Reason: Floodway

Bldg. 3715
Fort Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219840040
Status: Unutilized
Reason: Floodway

Bldg. 3719
Fort Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219840041
Status: Unutilized
Reason: Floodway

Bldg. 3720
Fort Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219840042
Status: Unutilized
Reason: Floodway

Bldg. 3721
Fort Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219840043
Status: Unutilized
Reason: Floodway

Bldg. 3722
Fort Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219840044
Status: Unutilized
Reason: Floodway

Bldg. 5931
Fort Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219840045
Status: Unutilized
Reason: Floodway

Bldg. 6181
Fort Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219840046
Status: Unutilized
Reason: Floodway, Extensive deterioration

Bldg. 6250
Fort Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219840047
Status: Unutilized
Reason: Floodway Extensive deterioration

Maryland

Bldg. TM1
Fort George G. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219840048
Status: Unutilized
Reason: Within airport runway clear zone Secured Area Extensive deterioration

Bldg. TM2
Fort George G. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219840049
Status: Unutilized
Reason: Within airport runway clear zone Secured Area Extensive deterioration

Bldg. TM3
Fort George G. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219840050
Status: Unutilized
Reason: Within airport runway clear zone Secured Area Extensive deterioration

Bldg. TM6
Fort George G. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219840051
Status: Unutilized
Reason: Within airport runway clear zone Secured Area Extensive deterioration

Bldg. TM7
Fort George G. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219840052
Status: Unutilized
Reason: Within airport runway clear zone Secured Area Extensive deterioration

Bldg. TM10
Fort George G. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219840053
Status: Unutilized
Reason: Within airport runway clear zone Secured Area Extensive deterioration

Bldg. TM11
Fort George G. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219840054
Status: Unutilized
Reason: Within airport runway clear zone Secured Area Extensive deterioration

Bldg. TM12
Fort George G. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219840055
Status: Unutilized
Reason: Within airport runway clear zone Secured Area Extensive deterioration

Bldgs. 02515–02521
Aberdeen Proving Ground Co: Harford Md 21005–5001
Landholding Agency: Army
Property Number: 219840056
Status: Unutilized
Reason: Extensive deterioration

Bldg. 00651
Aberdeen Proving Ground Co: Harford Md 21005–5001
Landholding Agency: Army
Property Number: 219840057
Status: Unutilized
Reason: Extensive deterioration

Bldg. 1090
Aberdeen Proving Ground Co: Harford Md 21005–5001
Landholding Agency: Army
Property Number: 219840058
Status: Unutilized
Reason: Extensive deterioration

Bldg. 05444
Aberdeen Proving Ground Co: Harford Md 21005–5001
Landholding Agency: Army
Property Number: 219840059
Status: Unutilized
Reason: Extensive deterioration

Minnesota

Bldgs. 117A & 117B
Twin Cities Army Ammunition Plant
Arden Hills Co: Ramsey MN 55112–3928
Landholding Agency: Army
Property Number: 219840060
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

New Mexico

Bldg. 20200
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219840061
Status: Unutilized
Reason: Extensive deterioration

Bldg. 20300
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219840062
Status: Unutilized
Reason: Extensive deterioration

Bldg. 20452
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219840063
Status: Unutilized
Reason: Extensive deterioration

Bldg. 23102
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219840064
Status: Unutilized
Reason: Extensive deterioration

Bldg. 23104
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219840065
Status: Unutilized
Reason: Extensive deterioration

Bldg. 23114
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219840066
Status: Unutilized
Reason: Extensive deterioration

Bldg. 32795
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219840067
Status: Unutilized
Reason: Extensive deterioration

New York

Bldg. 134
Watervliet Arsenal
Watervliet Co: Albany NY 12189–4050
Landholding Agency: Army
Property Number: 219840068
Status: Unutilized
Reason: Secured Area

Ohio

Bldg. S3403
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840069
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. S3401
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840070
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. S4452
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840071
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. FJ904
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840072
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. S4513
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840073
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Areas

Bldg. IWT01
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840074
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldgs. DC001, DB27B
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840075
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 0251A
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840076
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldgs. DB008, DB08A, DB022
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840077
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. DB002
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840078
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. DB019
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840079
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 00251
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840080
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

6 Bldgs.
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Location: #DA005, DA007, DB009, DB09A, DB011, DA021
Landholding Agency: Army
Property Number: 219840081
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

29 Bldgs.
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Location: #DB003, DB004, DB04A/N/S, DB04V, DB4AN, DB4AS, 22635, DB4AV, DA006, DA06A, DB010, DB10B, DB10C, DB013, DB13A/B, DB020, DB025–27, DB27A/C, DA028/28A, DB029–DB030, DB802
Landholding Agency: Army
Property Number: 219840082
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

24 Bldgs.
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Location: #EB003, EB004, EB04A/N/S, EB04V, EB4AN, EB4AS, EB4AV, EA006, EA06A, EB010, EB10A/B/C, EB013, EB13A/B, EB020, EB025, EB026, EA028, EA28A, EB803
Landholding Agency: Army
Property Number: 219840083
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 00351
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840084
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 00351A
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840085
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. EB019
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840086
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. EB002
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840087
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldgs. EB008, EB08A, EB022
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840088
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

6 Bldgs.
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Location: #EA005, EA007, EB009, EB09A, EB011, EA021
Landholding Agency: Army
Property Number: 219840089
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

4 Bldgs.
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Location: #55701, 53201, 53001, 54101
Landholding Agency: Army
Property Number: 219840090
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldgs. 54301, 55301
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840091
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 0251A
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840092
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

26 Bldgs.
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Location: #CB025, CB13B/A, CB013, CB10D/C/B, CB010, CB04V, CB04S, CB4AV, CB04N/B/A, CB004, CB4AS, CB4AN, CB002, CB003, CA28A, CA014, CA06A, CA006, CA06V, CA6AV, 22640
Landholding Agency: Army
Property Number: 219840093
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. F0015
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840094
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 1032
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840095
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

5 Bldgs.
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Location: #CB008, CB023, CB012, CB022, CA015
Landholding Agency: Army
Property Number: 219840096
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldgs. CB026, CB801, CB020
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840097
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldgs. 54801, CC001
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840098
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldgs. 0151A, 00151
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840099
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. CB19
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840100
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

8 Bldgs.
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Location: #CA007, CA005, CA017, CA028, CB009, CA021, CB011, CB016
Landholding Agency: Army
Property Number: 219840101
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. SD002
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840102
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. S3410
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840103
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. WW001
Ravenna Army Ammunition Plant Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219840104
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 99
Defense Supply Center
Columbus Co: Franklin OH 43216–5000
Landholding Agency: Army
Property Number: 219840105
Status: Unutilized
Reason: Secured Area

Bldg. 100
Defense Supply Center
Columbus Co: Franklin OH 43216–5000
Landholding Agency: Army
Property Number: 219840106
Status: Unutilized
Reason: Secured Area

Oregon

Bldg. 116.
Umatilla Chemical Depot Co: Umatilla OR 98738–
Landholding Agency: Army
Property Number: 219840107
Status: Unutilized
Reason: Secured Area

Bldgs. 122, 123, 125
Umatilla Chemical Depot Co: Umatilla OR 97838–
Landholding Agency: Army
Property Number: 219840108
Status: Unutilized
Reason: Secured Area

Bldgs. 202, 204, 205
Umatilla Chemical Depot Co: Umatilla OR 97838–
Landholding Agency: Army
Property Number: 219840109
Status: Unutilized
Reason: Secured Area

Bldg. 346
Umatilla Chemical Depot Co: Umatilla OR 97838–
Landholding Agency: Army
Property Number: 219840110
Status: Unutilized
Reason: Secured Area

Pennsylvania

Bldgs. 1017, 1018, 1019
Tobyhanna Army Depot Co: Monroe PA 18466–
Landholding Agency: Army
Property Number: 219840111
Status: Unutilized
Reason: Extensive deterioration

Tennessee

Bldg. 205
Volunteer Army Ammunition Plant
Chattanooga Co: Hamilton TN
Landholding Agency: Army
Property Number: 219840112
Status: Unutilized
Reason: Extensive deterioration

Virginia

Bldgs. 405, 771
Fort Story Ft. Story VA 23459–5000
Landholding Agency: Army
Property Number: 219840114
Status: Unutilized
Reason: Extensive deterioration

12 Bldgs.
Fort Eustis
Ft. Eustis VA 23604–
Location: #203–204, 924, 1510, 1514–1515, 1521–1523, 1526, 1528–1529
Landholding Agency: Army
Property Number: 219840115
Status: Unutilized
Reason: Extensive deterioration

14 Bldgs.
Fort Eustis
Ft. Eustis VA 23604–
Location: #1532, 1534, 1538–1539, 1545, 1553–1554, 1562, 1564, 1569, 1702, 1706, 1708, 1710
Landholding Agency: Army
Property Number: 219840116
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 1561, 1568
Fort Eustis
Ft. Eustis VA 23604–
Property Number: 219840117
Status: Unutilized
Reason: Extensive deterioration

Washington

Bldg. 4550
Fort Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219840118
Status: Unutilized
Reason: Extensive deterioration

Bldg. 4551
Fort Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219840119
Status: Unutilized
Reason: Extensive deterioration

Bldg. 4558
Fort Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219840120
Status: Unutilized
Reason: Extensive deterioration

Bldg. 4559
Fort Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219840121
Status: Unutilized
Reason: Extensive deterioration

Bldg. 4560
Fort Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219840122
Status: Unutilized
Reason: Extensive deterioration

Bldg. 4561
Fort Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219840123
Status: Unutilized
Reason: Extensive deterioration

Land (by State)

Texas

5.2 Acres
Fort Sam Houston
Off Winans Road
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219840113
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material

[FR Doc. 98–29444 Filed 11–5–98; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Proposed Extension of Information Collection; Comment Request

AGENCY: Office of American Indian Trust, Interior.

ACTION: Notice.

SUMMARY: This notice announces that the Department of the Interior is requesting comments on information collection, "Evaluation of the Performance of Trust Functions Performed by Tribes under Self Governance Compacts" currently cleared under OMB Number 1076–0146. This extension request seeks public comment as required by regulation at 5 CFR 1320.5(a)(1)(iv).

Specifically, the Department of the Interior invites comments by the public on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have a practical use; the accuracy of the Department's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; ways to enhance the quality, usefulness, and clarity of the information to be collected; and minimizing the burden of collection on those who are to respond.

DATES: Written comments on this collection of information will be accepted on or before January 5, 1999.

ADDRESSES: Further information may be secured from, and comments should be sent to: United States Department of the Interior, Office of American Indian Trust, 1849 C Street, NW, MS 2472 MIB, Washington, DC, Attention Elizabeth Lohah Homer, Director.

SUPPLEMENTARY INFORMATION:

Respondents: For the 1998 funding year there are 63 respondents.

Burden: There is no preliminary work nor is any follow-up work required of the respondents. There are no forms to complete. The annual hour burden is calculated by the amount of time that the reviewer spends at each program site interviewing the respondents and collecting file information. The time required ranges from 4 person/hours to 80 person/hours. Based on the size and complexity of the current programs, the average hours spent for each annual evaluation is estimated at 24 person/hours. 63 × 24 = 1,512 person/hours per year for the collection of information.

Dated: October 30, 1998.

Kevin Gover,

Assistant Secretary-Indian Affairs.

[FR Doc. 98–29741 Filed 11–5–98; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Tribal-State Compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988, Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Tribal-State Gaming Compact between the State of California and the Viejas Band of Kumeyaay Indians, which was executed on August 24, 1998.

DATES: This action is effective November 6, 1998.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4066.

Dated: October 29, 1998.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 98–29743 Filed 11–5–98; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–050–7122–00–824G]

Intent To Prepare an Environmental Impact Statement (EIS) and Conduct Public Scoping Meetings for the Proposed St. Johns, Arizona CO_2-Helium Project

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Intent to Prepare an EIS and to Conduct Public Scoping Meetings.

SUMMARY: Pursuant to section 102(20)(C) of the National Environmental Policy Act of 1969 (NEPA), Council on Environmental Quality regulations (40 CFR Parts 1500–1508), the BLM, Socorro Field Office, New Mexico, will be preparing an EIS regarding the proposal to develop a carbon dioxide (CO_2) and helium field in Apache County, Arizona, and Catron County, New Mexico. The CO_2-helium field appears to underlie approximately 500 square miles of private, state, and federal lands. The EIS will identify the potential impacts that the development of a CO_2-helium field and subsequent activities could have on the environment and identify appropriate measures to mitigate those impacts. A **Federal Register** Notice dated October 2, 1998, announced the intent to prepare the EIS. In this notice, BLM announces public information and scoping meetings for the proposed action and EIS.

DATES: BLM's public information and scoping meetings will include: notification of the public, federal, state, tribal, and local agencies of the proposed action; identification by the public of issues to be considered in the EIS, and the solicitation of assistance from the public to identify reasonable alternatives. In addition, the public will have the opportunity to ask questions regarding the proposed project.

The BLM will conduct four public scoping meetings in the area of the project. All of the public meetings will be informal to encourage public attendance and input. The dates, times, and locations for these meetings are as follows:

Date	Location
Monday, December 7, 1998, 6 p.m. to 8 p.m.	St. Johns Council Chambers, 245 W. Bursell Street, St. Johns, AZ.
Tuesday, December 8, 1998, 6 p.m. to 8 p.m.	Senior Citizens Center, 356 S. Papago Drive, Springerville, AZ.
Wednesday, December 9, 1998, 6 p.m. to 8 p.m.	Village Community Center, 4th Street (Across from High School), Reserve, NM.
Thursday, December 10, 1998, 6 p.m. to 8 p.m.	Quemado School Highway 60, Quemado, NM.

Also, a press release announcing the meeting dates and times will be submitted to newspapers in each area where the meetings will be held.

Comments: Comments on the EIS will be accepted throughout the NEPA process; however, comments specific to this early stage of scoping for the EIS will be accepted until the end of the scoping period, which is December 21, 1998. Comments should address: (1) Issues to be considered, (2) feasible and reasonable alternatives to examine, and (3) relevant information having a bearing on the EIS. Comments should be sent to the Field Manager, Bureau of Land Management, Socorro Field Office, 198 Neel Ave., Socorro, NM 87801.

FOR FURTHER INFORMATION CALL: BLM will maintain a mailing list of parties and persons interested in being kept informed about the progress of the EIS. If you are interested in obtaining more information about the scoping meetings, EIS, or receiving future information, please call Carol Van Dorn, Team Leader, at (505) 835–0412.

SUPPLEMENTARY INFORMATION: The St. Johns, Arizona CO_2-Helium Project is a proposal of Ridgeway Arizona Oil Corporation, a wholly owned subsidiary of Ridgeway Petroleum Corporation. The purpose of the proposal is to develop the CO_2-helium field that appears to underlie approximately 500 square miles of lands in Apache County, east central Arizona and Catron County, west-central New Mexico. Ridgeway has been exploring the field since 1994 and results of the technical studies to date indicate that a large scale production of CO_2 is viable. Ridgeway intends to develop the field primarily for enhanced oil recovery. To obtain and process the large volume of CO_2, Ridgeway proposes to develop approximately 200 wells, a network of access roads and gathering pipelines, and a gas processing plant.

In both, Apache and Catron counties, some lands are privately owned, but the majority of lands in the project area are administered by state and federal agencies. The federal lands in the project area are administered by the BLM. In order to conduct development and production activities, the BLM, as lead federal agency, has determined that an EIS will be required in accordance with NEPA. The EIS will analyze the entire proposed action and associated cumulative effects. The EIS studies also will refine the proposed action and will develop alternatives, including no action and others that are identified through the scoping process. In addition, potential resource sensitivities and environmental impacts will be identified, as well as a mitigation plan to guide development and production. Resource concerns to be addressed include soils, water resources, hazardous materials, geology, minerals, air quality, noise, vegetation, wildlife, special status species, range resources, land use and access, recreation, wilderness study areas, visual resources, social and economic values, and cultural resources.

It is anticipated that the EIS process will require approximately 18 to 24 months to complete and will include public and agency scoping, coordination and consultation with Federal, state, tribal and local agencies, public review and possible hearings on the published draft EIS, and a published proposed final EIS. Publication of the Record of Decision is anticipated in mid-year 2000.

Dated: November 3, 1998.

Jon Hertz,

Assistant Field Manager.

[FR Doc. 98–29933 Filed 11–5–98; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–360–1200–00]

Supplementary Rules

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Closure of certain public lands to camping and campfires in Shasta County, California.

SUMMARY: The BLM is prohibiting persons from camping and operating campfires on certain BLM lands adjacent to Keswick Reservoir. On September 8, 1998 the Shasta County Board of Supervisors voted to enact amendments to Chapter 8.52 of the Shasta County Code. The amendment prohibits camping and campfires on BLM lands that are cooperatively managed as a "Rails-To-Trails" project. This Supplementary Rule will allow the BLM to enforce the intent of the County Code on BLM lands under 43 CFR 8365.1–6.

Action

It is unlawful to camp, construct, maintain, begin the operation of, or operate a house court, campsite, or tent camp space upon any BLM property within Township 33 North, Range 5 West, sections 20, 21, 28, 29, 31, 32; and Township 32 North, Range 5 West, sections 4, 5, 6, 7, 8, 9, 16, 17, 20, and 21 of Mount Diablo Meridian as herein otherwise specified; and it shall be unlawful to occupy for living and/or sleeping purposes to reside in any established house court, campsite, or tent camp space without written permission of the BLM.

Notwithstanding the above, camping is permitted when permission has been given in writing by an authorized officer of the BLM. Said written permission shall be in the possession of a person occupying the campsite and must permit camping in the location of the campsite and for the time the campsite is occupied. Failure to possess said written permission at the campsite shall be deemed a violation of this regulation.

Furthermore, it is unlawful to build or maintain any fire, campstove, or other incendiary device so as to endanger automobiles or other property in any house court, tent camp space, squatter camp, or campsite on BLM property within Township 33 North, Range 5 West, sections 20, 21, 28, 29, 31, 32; and Township 32 North, Range 5 West, sections 4, 5, 6, 7, 8, 9, 16, 17, 20, and 21 of the Mount Diablo Meridian. It is unlawful to leave any fire, lighted and burning campstove, or other lighted and burning incendiary device unattended at any time on the premises of any house court, tent camp space, squatter camp, or campsite.

The authority for these closures and rule makings is 43 CFR 8365.1–6. Any person who fails to comply with a supplemental rule is subject to arrest and fines of up to $100,000 and/or imprisonment not to exceed 12 months.

Definitions

"Camp" means to set up, use, or remain in or at a campsite.

"Campsite" means any place where camping facilities are used.

"Camping Facilities" include, but are not limited to, tents, tarpaulins, temporary shelters, motor vehicles or parts thereof, trailers, cooking facilities, cots, ground covers, bedding, hammocks, sleeping bags, and other similar equipment used to live temporarily in the outdoors or temporarily in, upon, under, or about any structure.

"Squatter Camp" means an area of land occupied by a squatter.

DATES: This supplementary rule will take effect November 6, 1998.

FOR FURTHER INFORMATION CONTACT: Charles M. Schultz, Field Manager, Bureau of Land Management, 355 Hemsted Drive, Redding, CA 96002.

Charles M. Schultz,

Redding Area Manager.

[FR Doc. 98–29715 Filed 11–5–98; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–360–1220–00]

Supplementary Rules

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Establishment of open hours for the Reading Island Recreation Site in Shasta County, California.

SUMMARY: The BLM is prohibiting persons from occupying the Reading Island Recreation Site between 11:00 p.m. and 5:00 a.m. (Pacific Standard Time) without written authorization from a BLM authorized officer.

SUPPLEMENTARY INFORMATION: Reading Island is a 40 acre recreation site within Shasta County, California that is adjacent to a residential area. Although most public use at the site is lawful and orderly, night time vandalism, littering and drug use has been a problem. The night time activity deters lawful public use, damages natural resources, and creates a public nuisance. The BLM can reduce this type of unlawful activity and enhance the setting for valid recreation use by requiring a permit for night time occupation of the premises and/or overnight camping.

The Reading Island Recreation Site is open to the general public between the hours of 5:00 a.m. and 11:00 p.m. Pacific Standard Time. After those hours, visitors to the site must obtain written authorization from a BLM authorized officer. Written authorization will be in the form of a Special Recreation Use Permit or equivalent instrument as determined by the BLM authorized officer. Law enforcement personnel and other public servants specifically authorized by the BLM are exempt from this closure.

The authority for these closures and rule makings is 43 CFR 8365.1–6. Any person who fails to comply with a supplemental rule is subject to arrest and fines of up to $100.000 and/or imprisonment not to exceed 12 months. Unauthorized vehicles left at the Reading Island Recreation Site while it is closed will be subject to towing at the owners expense.

DATES: This supplementary rule will take effect November 6, 1998.

FOR FURTHER INFORMATION CONTACT: Charles M. Schultz, Field Manager, Bureau of Land Management, 355 Hemsted Drive, Redding, CA 96002.

Charles M. Schultz,

Redding Area Manager.

[FR Doc. 98–29716 Filed 11–5–98; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–957–1050–00]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., October 28, 1998.

The plat representing the dependent resurvey of portions of the West boundary and the subdivisional lines, and the subdivision of section 18, T. 7 S., R. 40 E., Boise Meridian, Idaho, Group 998, was accepted October 28, 1998. This survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho 83709–1657.

Dated: October 28, 1998.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 98–29797 Filed 11–5–98; 8:45 am]

BILLING CODE 4310–GG–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–957–1020–00]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., October 28, 1998.

The plat representing the dependent resurvey of portions of the East and North boundaries, and the subdivisional lines, and the subdivision of section 1, T. 5 S., R. 6 E., Boise Meridian, Idaho, Group 1017, was accepted October 28, 1998. This survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho 83709–1657.

Dated: October 28, 1998.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 98–29799 Filed 11–5–98; 8:45 am]

BILLING CODE 4310–GG–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–957–1020–00]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of land Management, Boise, Idaho, effective 9:00 a.m., October 28, 1998.

The plat representing the dependent resurvey of portions of the subdivisional lines, and the subdivision of sections 20, 26, 27, 28, and 29, T. 1 S., R. 1 W., Boise Meridian, Idaho, Group 986, was accepted October 28, 1998. The survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho 83709–1657.

Dated: October 28, 1998.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 98–29798 Filed 11–5–98; 8:45 am]

BILLING CODE 4310–GG–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–926–09–1420–00]

Montana: Filing of Plat of Survey

AGENCY: Bureau of Land Management, Montana State Office, Interior.

Correction

In the notice document published October 29, 1998 (63 FR 58065), on page 58065, correct the paragraph under "Black Hills Meridian" to read as follows:

"The plat, in two sheets, representing the dependent resurvey of a portion of the north boundary, a portion of the subdivisional lines, and the subdivision of section 5, Township 1 North, Range 7 East, Black Hills Meridian, South Dakota, was accepted October 19, 1998."

Dated: October 26, 1998.

Daniel T. Mates,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 98–29714 Filed 11–5–98; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–952–09–1420–00]

Notice of Filing of Plat of Survey; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey described below will be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, on November 30, 1998.

New Mexico Principal Meridian, New Mexico

T. 17 N., R. 5 E., accepted September 28, 1998, for Group 960 NM; T. 32 N., R. 16 W., accepted September 28, 1998, for Group 922 NM; T. 32 N., R. 19 W., accepted September 24, 1998, for Group 922 NM; T. 16 N., R. 18 W., accepted September 18, 1998, for Group 961 NM., T. 31 N., R. 19 W., accepted September 18, 1998, for Group 922 NM., T. 32 N., R. 17 W., accepted September 18, 1998, for Group 922 NM; T. 32 N., R. 18 W., accepted September 18, 1998, for Group 922 NM; and Supplemental Plat, T. 30 N., R. 12 W., accepted September 28, 1998, NM.

If a protest against a survey, as shown on any of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against any of these surveys must file a written protest with the NM State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed.

The above-listed plats represent dependent resurveys, surveys, and subdivisions.

These plats will be available for inspection in the New Mexico State Office, Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico, 87502–0115. Copies may be obtained from this office upon payment of $1.10 per sheet.

Dated: October 30, 1998.

John P. Bennett,

Chief Cadastral Surveyor For New Mexico.

[FR Doc. 98–29723 Filed 11–5–98; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Environmental Assessment Prepared for Proposed Central Gulf Sale 172 on the Gulf of Mexico Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of the environmental assessment on Proposed Central Gulf of Mexico Lease Sale 172.

SUMMARY: The Minerals Management Service (MMS) has prepared an environmental assessment (EA) for the proposed annual Lease Sale 172 for the Central Planning Area of the Gulf of Mexico Outer Continental Shelf.

In this EA, MMS has reexamined the potential environmental effects of the proposed action and alternatives based on any new information regarding potential impacts and issues that was not available at the time the Final Environmental Impact Statement (FEIS) for Lease Sales 169, 172, 175, 178, and 182 was prepared.

In summary, no new significant impacts were identified for proposed Lease Sale 172 that were not already assessed in the FEIS for Lease Sales 169, 172, 175, 178, and 182. As a result, MMS determined that a supplemental EIS is not required and prepared a Finding of No New Significant Impact.

FOR FURTHER INFORMATION CONTACT: Public Information Unit, Information Services Section at number below. You may obtain single copies of the EA from the Minerals Management Service, Gulf of Mexico OCS Region, Attention: Public Information Office (MS 5034), 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana 70123–2394 or by calling 1–800–200–GULF.

Dated: November 2, 1998.

Chris C. Oynes,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 98–29735 Filed 11–5–98; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Preparation of an Environmental Assessment for Proposed Lease Sale 174 in the Western Gulf of Mexico (1999)

AGENCY: Minerals Management Service.

ACTION: Preparation of an Environmental Assessment.

SUMMARY: The Minerals Management Service (MMS) is beginning preparation of an environmental assessment (EA) for proposed lease Sale 174 (scheduled for August 1999) in the Western Gulf of Mexico Planning Area. In January 1997, MMS issued a Call for Information and Nominations/Notice of Intent to Prepare an EIS (Call/NOI) for the four proposed Western Gulf of Mexico sales in the current 5-year leasing program. In 1998, MMS prepared a single environmental impact statement (EIS) for all four seles. The multisale Final EIS, filed in May 1998, included an analysis of a single, "typical" sale, and a cumulative analysis that included the effects of holding all four sales, as well as the cumulative effects of the long-term development of the planning area. The MMS stated in the EIS that an EA would be prepared for each lease sale after the first sale covered in the EIS (Sale 171).

The preparation of this EA is the first step in the prelease decision process for Sale 174. The proposal and alternatives for Sale 174 were identified by the Director of MMS in January 1997 following the Call/NOI and were analyzed in the Western Gulf multisale EIS, which is available from the Gulf of Mexico OCS Region's Public Information Office at 1–800–200–GULF. The proposed action analyzed in the multisale EIS was the offering of all available unleased acreage in the Western Gulf of Mexico Planning Area, with the following exceptions: Blocks A–375 (East Flower Garden Bank) and A–398 (West Flower Garden Bank) in the High Island Area, East Addition, South Extension, designated as a national marine sanctuary; and Blocks 793, 799, and 816 in the Mustang Island Area, identified by the Navy as needed for testing equipment and for training mine warfare personnel. The proposal to be addressed in this EA has been revised to the following extent: two additional blocks or portions of these blocks (High Island Area, East Addition, South Extension, Block A–401 and High Island, South Addition, Block A–513), which lie partially within the Flower Gardens National Marine Sanctuary, are deferred from the proposed action in

light of the President's June 1998 withdrawal of all Marine Sanctuaries from oil and gas leasing. The proposed action includes existing regulations and proposed lease stipulations designed to reduce environmental risks. The EA will also analyze alternatives to exclude blocks near biologically sensitive topographic features, as well as the no action alternative. The MMS may also consider deferring blocks beyond the U.S. Exclusive Economic Zone, in the area referred to as the northern portion of the Western Gap, as talks between the U.S. and Mexico are currently underway regarding the establishment of a continental shelf boundary in this area. The analysis in the EA will reexamine the potential environmental effects of the proposal and alternatives based on any new information regarding potential impacts and issues that was not available at the time the Final EIS was prepared.

The MMS requests interested parties to submit comments regarding any such new information or issues that should be addressed in the EA to Minerals Management Service, Gulf of Mexico OCS Region, Office of Leasing and Environment, Attention: Regional Supervisor (MS 5400), 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394 by December 7, 1998. After completion of the EA, MMS will determine whether to prepare a Finding of No New Significant Impact (FONNSI) or a supplemental EIS. The MMS will then prepare and send consistency determinations to the affected States to determine whether the proposed sale is consistent with federally-approved State coastal zone management programs, and will send a proposed Notice of Sale to the Governors for their comments on the size, timing, and location of the proposed sale. The tentative schedule for the steps in the prelease decision process for Sale 174 are listed below:

Comments due to MMS, December 7, 1998;

EA/FONNSI or Supplemental EIS, March 1999;

Proposed Notice of Sale sent to Governors, March 1999;

Consistency Determinations sent to States, March 1999;

Final Notice of Sale in **Federal Register**, July 1999;

Sale, August 1999.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Mr. George Hampton, telephone (504) 736–2465.

Dated: November 2, 1998.

Chris C. Oynes,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 98–29734 Filed 11–5–98; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Announcement of Minerals Management Service Meeting on Natural Gas Royalty-In-Kind Pilot Program in the Federal Gulf of Mexico Region (GOMR)

AGENCY: Minerals Management Service, Interior.

ACTION: Correction to address—notice of meeting.

A notice of the subject meeting, to be held November 10, 1998, was published Wednesday, October 28, 1998 as notice document 98–28910. On page 57703, make the following correction:

In the **ADDRESSES** section, add the word "East" after the words "N. Sam Houston Parkway".

All other information in the October 28, 1998 notice remains the same.

Dated: November 2, 1998.

Walter D. Cruickshank,

Associate Director, for Policy and Management Improvement.

[FR Doc. 98–29712 Filed 11–5–98; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 31, 1998. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by November 23, 1998.

Carol D. Shull,

Keeper of the National Register.

CONNECTICUT

New Haven County
Johnson, Franklin, House, 153 S. Main St., Wallingford, 98001420

LOUISIANA

Assumption Parish
Belle Alliance, LA 308, appprox. 4 mi. N of jct. with LA 70, Donaldsonbille vicinity, 98001425

Caddo Parish
Dunn House, 9403 Greenwood Rd., Greenwood, 98001423
Highland Sanitarium, 1006 Highland Ave., Shreveport, 98001424

Lafourche Parish
Golden Meadow High School, 630 S. Bayou Dr., Golden Meadow, 98001426

Madison Parish
Hermione, 307 N. Mulberry St., Tallulah, 98001422

NEW YORK

Putnam County
St. Andrew's Episcopal Church, 26 Prospect St., Brewster, 98001427

PENNSYLVANIA

Somerset County
Hite House (Lincoln Highway Heritage Corridor Historic Resources: Franklin to Westmoreland Co. MPS) 121 W. Main St., Stoystown Borough, 98001428

TEXAS

Bexar County
Monte Vista Residential Historic District, Roughly bounded by Hildebrand, Stadium, N. St. Mary's, Asby, and San Pedro Sts., San Antonio, 98001421

VERMONT

Rutland County
Laurel Glen Mausoleum—Laurel Hall, VT 103, 0.5 mi. SE of Cuttingsville, Shewsbury vicinity, 98001429

WEST VIRGINIA

Braxton County
Weston and Gauley Bridge Turnpike, Section between Stonewell Jackson Lake and Burnsville Lake, Burnsville vicinity, 98001430

WISCONSIN

Walworth County
Warner, Anson, Farmstead, N9334 Warner Rd., Whitewater, 98001431

A Request for Removal has been made for the following resource:

LOUISIANA

Madison Parish
Herione, Parish Rd. 3030, Tallulah, 88002652

[FR Doc. 98–29837 Filed 11–5–98; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–380 Enforcement Proceeding]

Certain Agricultural Tractors Under 50 Power Take-Off Horsepower; Notice of Referral of Formal Enforcement Proceeding to an Administrative Law Judge for Issuance of an Initial Determination

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has referred the formal enforcement proceeding instituted on September 28, 1998, in the above-captioned investigation to an administrative law judge for appropriate proceedings and the issuance of an initial determination.

FOR FURTHER INFORMATION CONTACT: Shara L. Aranoff, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3090.

SUPPLEMENTARY INFORMATION: On February 25, 1997, at the conclusion of the original investigation, the Commission issued, inter alia, cease and desist orders directed to respondents Gamut Trading Co., Inc. and Gamut Imports. The cease and desist orders prohibit Gamut Trading Co., Inc. and Gamut Imports, as well as their "principals, stockholders, officers, directors, employees, agents, licensees distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors and assigns," from importing or selling for importation into the United States, or selling, marketing, distributing, offering for sale, or otherwise transferring (except for exportation) in the United States agricultural tractors under 50 power take-off horsepower manufactured by Kubota Corporation of Japan that infringe the KUBOTA trademark.

On July 16, 1998, Kubota Corporation, Kubota Tractor Corporation, and Kubota Manufacturing of America Corporation (collectively "Kubota"), complainants in the original investigation, filed a complaint seeking institution of a formal enforcement proceeding against Gamut Trading Co., Inc., Gamut Imports, Ronald A. DePue (Chief Executive Officer and Chairman of the Board of Directors of Gamut Trading), and Darrel J. Du Puy (Chief Financial Officer, President, and member of the Board of Directors of Gamut Trading) (collectively "the Gamut respondents"), alleging that they are violating the cease and desist orders. Kubota supplemented its complaint on August 26, 1998. On September 28, 1998, the Commission issued an order instituting a formal enforcement proceeding and instructing the Secretary to transmit the enforcement proceeding complaint to the Gamut respondents and their counsel for a response. On October 19, 1998, the Gamut respondents filed a joint response to the enforcement complaint denying violation of any of the Commission's remedial orders and infringement of the KUBOTA trademark, asserting that the Commission lacks jurisdiction to address the enforcement complaint, and requesting that the Commission strike the complaint as "meritless" and order Kubota to pay the Gamut respondents $100,000.

Having examined the Gamut respondents' response to the formal enforcement proceeding complaint filed by Kubota, and having found that issues concerning possible violation of the Commission's cease and desist orders remain, the Commission determined to refer the enforcement proceeding to Judge Paul J. Luckern for issuance, no later than six (6) months from the date of the Commission Order referring this matter, of an initial determination concerning whether Gamut Trading Co., Inc., Gamut Imports, Ronald A. DePue, and/or Darrel J. Du Puy are in violation of one or more of the Commission's cease and desist orders.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and section 210.75 of the Commission's Rules of Practice and Procedure (19 CFR 210.75).

Copies of the Commission's Order and all other nonconfidential documents filed in connection with this enforcement proceeding are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

Issued: October 28, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–29788 Filed 11–5–98; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, As Amended

Consistent with Departmental policy, 28 CFR 50.7, 38 FR 19029, and 42 U.S.C. § 9622(d), notice is hereby given that on October 19, 1998, a proposed Consent Decree in *United States* v. *Alpine Aromatics International, Inc. et al.*, Civil Action No. 98–4813 (DRD), was lodged with the United States District Court for the District of New Jersey. The proposed Consent Decree will resolve the United States' claims under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9601, *et seq.*, on behalf of the U.S. Environmental Protection Agency ("EPA") against defendants relating to the Custom Distribution Services Superfund Site ("Site") located in Perth Amboy, New Jersey. The Complaint alleges that each of the defendants is liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

Pursuant to the Consent Decree, the settling defendants will reimburse the United States $1,174,000 in past response costs.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Any comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Alpine Aromatics International, Inc., et al.*, Civil Action No. 98–4813 (DRD), D.J. Ref. 90–11–3–1750.

The proposed consent decree may be examined at the Office of the United States Attorney, District of New Jersey, 970 Broad Street, Newark, New Jersey 07102 and at Region II, Office of the Environmental Protection Agency, 290 Broadway, New York, NY 10007–1866 and at the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check (there is a 25 cent per page reproduction cost) in the amount of $11.00 payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–29703 Filed 11–5–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 C.F.R. 50.7, and Section 122 of CERCLA, 42 U.S.C § 9622, notice is hereby given that on October 8, 1998, a proposed Consent Decree in *United States* v. *Archer-Daniels-Midland Company, et al.*, Civ. Action No. 198CV 2302 was lodged with the United States District Court for the Northern District of Ohio. This Consent Decree represents a settlement of claims of the United States against: (1) Archer-Daniels-Midland Company; (2) Ashland Chemical Company; (3) Baltimore-Ennis Land Company, Inc. (formerly known as Gibson-Homans); (4) Brookside Auto Parts; (5) Lincoln Electric Company; (6) Technical Products, Inc.; and (7) Warner G. Smith (collectively "Settling Defendants"), for reimbursement of response costs in connection with the Ohio Drum Reconditioning Superfund Site ("Site") pursuant to the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 96–01 *et seq.*

Under this settlement with the United States, Settling Defendants will pay $100,000, plus interest, in reimbursement of response costs incurred by the United States at the Site. In addition, Settling Defendants will finance and perform the removal action at a portion of the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to the *United States* v. *Archer-Daniels-Midland Company, et al.*, D.J. Ref. 90–11–2–1300.

The proposed Consent Decree may be examined at the Office of the United States Attorney, 1800 Bank One Center, 600 Superior Ave., East Cleveland, Ohio 44114, at the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Street, Chicago, Illinois 60604–3590, and at the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005. In requesting a copy of the Consent Decree, please enclose a check payable to the Consent Decree Library in the amount of $11.75 (25 cents per page reproduction cost) for a copy of the Consent Decree without attachments or $22.75 for a copy of the Consent Decree with attachments.

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–29708 Filed 11–5–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under Clean Water Act

In accordance with Departmental policy, 28 C.F.R. 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Cool Valley Mining, Inc.*, C.A. No. 5:97–0763, was lodged on October 22, 1998, with the United States District Court for the Southern District of West Virginia. The United States' Complaint alleges that Coal Valley operated the old mine refuse area site, near Whitby, Raleigh County, West Virginia ("Site"). Further, the Complaint alleges that Coal Valley in operation of the Site violated the clean Water Act and its National Pollutant Discharge Elimination System ("NPDES") Permit by discharging pollutants into the navigable waters of the United States. The consent decree resolves the United States' claims for civil penalties and injunctive relief, pursuant to the Clean Water Act, 33 U.S.C. §§ 1251 *et seq.* Under the consent decree, the defendant must maintain compliance with its NPDES Permit and will pay a civil penalty of $20,000 to the United States within thirty days after entry of the consent decree by the Court. Upon the completion of reclamation activities at the Site, Coal Valley is required to pay an additional cash penalty if bond funds posted with the State of West Virginia are released to Coal Valley.

The United States filed a related case, Civil Action Number 5:97–0762, against the Ridgeway Development Corporation, which operated a mine site, and Coal Valley sub-leased the mineral and surface rights of such mine to Ridgeway. Ridgeway violated the Clean Water Act and its NPDES Permit in operating the mine, and Coal Valley was named as a defendant in the Ridgeway case. The consent decree resolves the United States' claims against Coal Valley for civil penalties and injunctive relief in this related case.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Cool Valley Mining, Inc.*, DOJ Reference No. 90–5–2–1–2093.

The proposed consent decree may be examined at the office of the United States Attorney, room 4000, 300 Virginia Street-East, Charleston, West Virginia 25301; the Region III Office of the Environmental Protection Agency, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029; and the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $6.75 (.25 cents per page production costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–29706 Filed 11–5–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, notice is hereby given that a proposed consent decree in *United States* v. *Sadeane Lang, Independent Executrix of the Estate of Donald R. Lang*, Civil Action No. 1:94CV57, was lodged on October 27, 1998 with the United States District Court for the Eastern District of Texas, Beaumont Division.

In the First Amended Complaint, the United States alleges that Atlantic Richfield Company ("ARCO") and ARCO Chemical Company ("ACC") are successors to and assumed liability for persons who by contract, agreement, or otherwise arranged for disposal or treatment, of hazardous substances at the Turtle Bayou Superfund Site (also known as the Petro-Chemical Systems, Inc. Site) ("Site"), located in Liberty County, Texas. The United States alleges that ARCO and ACC are liable under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9607 for costs incurred and to be incurred by the United States in response to the release of hazardous substances at the Site.

The proposed Consent Decree requires ARCO and ACC to perform nearly all of the remedial action for the Site, at a cost of approximately $20 million. The remedial action includes in-situ aquifer bioremediation, bioventing, aqueous phase soil bioremediation, soil excavation and off-site treatment and/or disposal, soil excavation and biotreatment, thermal desorption, soil washing, containment, monitored natural attenuation, institutional controls, soil vapor extraction, installation of storm water management controls, monitoring ground water, and restoration of the Site surface upon completion of the remedial action.

The proposed Consent Decree also provides that the United States covenants not to sue or take administrative action against ARCO and ACC under Sections 106, 107(a) of CERCLA, 42 U.S.C. §§ 9606, 9607(a) and Section 7003 of the Resource Conservation and Recovery Act ("RCRA") except as specifically provided in the consent decree.

The Department of Justice will provide a RCRA public meeting in the affected area if requested and will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments and/or a request for a RCRA public meeting should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Sadeane Lang, Independent Executrix of the Estate of Donald R. Lang*, DOJ Ref. #90–11–3–709.

The proposed consent decree may be examined at the Office of the United States Attorney, 350 Magnolia Avenue, Suite 150, Beaumont, Texas 77701; the Region VI Office of the Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202; and at the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $99.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel Gross,

Chief, Environmental Enforcement Section.

[FR Doc. 98–29705 Filed 11–5–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decrees Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy and 28 CFR 50.7, the Department of Justice gives notice that two proposed consent decrees in *United States* v. *Midwest Metallics, L.P., et al.*, Civil Action No. 2:98CV203JM (N.D. Ind.), were lodged with the United States District Court for the Northern District of Indiana, Hammond Division, on October 21, 1998, pertaining to the H&H Enterprises Superfund Site (the "Site"), located in Gary, Lake County, Indiana. The proposed consent decrees would resolve certain civil claims of the United States under Sections 106(b) and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. §§ 9606(b) and 9707, against three defendants named in the action.

The first proposed consent decree, captioned "Partial Consent Decree with Settling Defendant Midwest Metallics, L.P.," would require that settling defendant Midwest Metallics, L.P. (1) continue and complete an ongoing CERCLA removal action involving the treatment and off-Site disposal of accumulated waste material at the Site, and reimburse the United States' future response costs relating to the Site, including future oversight costs, (2) pay $335,000 as reimbursement of past response costs incurred by the United States, and (3) pay an additional $255,000 in penalties for alleged violations of two prior Administrative Orders on Consent relating to the Site. The second proposed consent decree, captioned "Partial Consent Decree with Settling Defendants Cozzi Iron & Metal, Inc. and General Iron Industries, Inc.," would require that (1) Cozzi Iron & Metal, Inc. and General Iron Industries, Inc. pay the United States $744,000, and (2) Cozzi Iron & Metal, Inc. pay the United States an additional $12,000 in penalties for alleged violations of a prior Administrative Order on Consent relating to the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decrees. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resource Division, United States Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Midwest Metallics, L.P., et al.*, Civil Action No. 2:98CV203JM (N.D. Ind.), and DOJ Reference No. 90–11–2–1092A, and the proposed consent decree(s) which the comments address.

The proposed consent decrees may be examined at: (1) the Office of the United States Attorney for the Northern District of Indiana, 1001 Main Street, Suite A, Dyer, Indiana 46311–1234 (contact Carol Davilo (219–322–8576)); (2) the United States Environmental Protection Agency (Region 5), 77 West Jackson Boulevard, Chicago, Illinois 60604–3590 (contact Thomas Krueger (312–886–0562)); and (3) the U.S. Department of Justice, Environment and Natural Resources Division Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, D.C. 20005 (202–624–0892). Copies of the proposed consent decrees may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, D.C. 20005. In requesting copies, please refer to the referenced case and DOJ Reference Number, the proposed consent decree(s) requested, and enclose a check for the amount(s) described below, made payable to the Consent Decree Library. The cost for a copy of the "Partial Consent Decree with Settling Defendant Midwest Metallics, L.P." only is $15.00 (60 pages at 25 cents per page reproduction costs), or $39.25 for that consent decree and all appendices (157 pages). The cost for a copy of the "Partial Consent Decree with Settling Defendants Cozzi Iron & Metal, Inc. and General Iron Industries, Inc." only is $6.50 (26 pages at 25 cents per page reproduction costs), or $28.50 for that consent decree and all appendices (114 pages).

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–29704 Filed 11–5–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that an October 9, 1998 a proposed Consent Decree in *United States* v. *Pacific Mechanical Insulators Inc., et el.*, Civil Action No. CV–94–0043–N–EJL, was lodged with the United

States District Court for the District of Idaho.

In this action the United States sought penalties and injunctive relief for claims under the Asbestos National Emissions Standard for Harzardous Air Pollutants ("NESAHP"), 40 CFR pt. 61, Subpart M, promulgated under Section 112 of the Clean Air Act ("Act"), 42 U.S.C. 7412, for inspection, notice, work practice, and waste disposal violations. The claims arose in connection with asbestos abatement activities performed during a renovation/demolition at the Potlatch pulp and paper mill in Lewiston, Idaho. Under the Consent Decree, Pacific Technologies Inc. will pay a civil penalty of $30,000 and will comply with the Asbestos NESHAP, including designating an Asbestos Site Coordinator, training all supervisors, inspectors, and workers, providing monthly reports of its activities to U.S. EPA and local air pollution control authorities, and undertaking work practices to assure ease of monitoring of activities.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Pacific Mechanical Insulators Inc., et al.*, D.J. Ref. No. 90–5–2–1–1606.

Copies of the proposed Consent Decree may be examined at the Office of the United States Attorney, 877 W. Main, Boise ID 82702; EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101; and at the Consent Decree Library 1120 G Street, NW., 3rd Floor, Washington, D.C. 20005. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, D.C. 20005, (202) 624–0892. When requesting a copy of the proposed Consent Decree, please enclose a check in the amount of $3.50 (25 cents per page reproduction cost) payable to the Consent Decree.

Joel M. Gross,

Chief, Environmental Enforcement Section. Environment and Natural Resources Division.

[FR Doc. 98–29707 Filed 11–5–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a consent decree that would resolve the liability of Rueth Development Company and Harold G. Rueth, the two defendants in *United States of America* v. *Rueth Development Company, et al.*, Civil Action No. 2:96CV540–JM (N.D. Ind.), was lodged with the United States District Court for the Northern District of Indiana on October 23, 1998.

The proposed consent decree concerns alleged violations of the Clean Water Act, 33 U.S.C. § 1311, as a result of the unauthorized discharge of dredged and fill material into approximately three acres of wetlands which are alleged to constitute "waters of the United States." The subject wetlands are part of the Castlewood subdivision, a single-family residential development located in Dyer, Lake County, Indiana. The consent decree permanently enjoins the two defendants from taking any actions, or causing others to take any actions, which result in the discharge of dredged or fill material into waters of the United States. The consent decree further requires the two defendants (1) to pay a $23,500.00 civil penalty and (2) to complete a full freshwater wetland restoration on the violation site in order to replace the lost functions and values of the filled wetlands.

The Department of Justice will receive written comments relating to the consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, Attention: Steven E. Rusak, Trial Attorney, Environmental Defense Section, P.O. Box 23986, Washington, D.C. 20026–3986, and should refer to *United States of America* v. *Rueth Development Company, et al.*, DJ Reference No. 90–5–1–6–556.

The proposed consent decree may be examined at the Clerk's Office, United States District Court, 136 Federal Building, 507 State Street, Hammond, Indiana 46320.

Letitia J. Grishaw,

Chief, Environmental Defense Section, Environment and Natural Resources Division, Department of Justice.

[FR Doc. 98–29702 Filed 11–5–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *County of San Luis Obispo, California*, Case No. 97–6176 ABC (Ex) (C.D. Cal.), was lodged with the United States District Court for the Central District of California on October 27, 1998. The proposed Decree concerns alleged violations of sections 301(a) and 404 of the Clean Water Act, 33 U.S.C. §§ 1311(a) and 1344, resulting from Defendant's unauthorized discharge of dredged and/or fill material into waters of the United States at numerous locations within the County of San Luis Obispo during the course of road, culvert and bridge repair construction projects conducted between January 1, 1995 and April 30, 1996.

The proposed Consent Decree would require the payment of a civil penalty of $240,000.

The United States Department of Justice will receive written comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of publication of this notice. Comments should be addressed to Naikang Tsao, Attorney, United States Department of Justice, Environmental Defense Section, P.O. Box 23986, Washington, D.C. 20026–3986, and should refer to *United States* v. *County of San Luis Obispo, California*, Case No. 97–6176 ABC (Ex) (C.D. Cal.).

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Central District of California, 312 North Spring Street, Los Angeles, California 90012.

Letitia J. Grishaw,

Chief, Environmental Defense Section, Environment and Natural Resources Division, Department of Justice.

[FR Doc. 98–29701 Filed 11–5–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request; Correction

AGENCY: Office of the Secretary, DOL.

ACTION: Correction.

SUMMARY: This document contains corrections to the Department of Labor, Submission for OMB Review; Comment request. In notice document 98–26884 beginning on page 53930 in the issue of Wednesday, October 7, 1998, make the following corrections:

On page 53931, in the third column, for OMB Control number 1205–0321 (revision) in the Frequency the entry "Quarterly" is corrected to read "Annually".

On page 53935, in the third column, for OMB Number 1210–0062 (extension), in the Description the entry "Class Exemption 81–8 permits . . ." is corrected to read "Class Exemption 82–63 permits . . .".

On page 53936, in the second column, for OMB Number 1210–0084 (extension), in the Description the entry "ERISA Technical Release 9101 . . ." is corrected to read "ERISA Technical Release 91–1 . . .".

Dated: November 2, 1998.

Todd R. Owen,

Departmental Clearance Officer.

[FR Doc. 98–29828 Filed 11–5–98; 8:45 am]

BILLING CODE 4510–23–M

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and House Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3013, Washington, D.C. 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Connecticut:
- CT980001 (Feb. 13, 1998)
- CT980003 (Feb. 13, 1998)
- CT980004 (Feb. 13, 1998)

New Hampshire:
- NH980001 (Feb. 13, 1998)
- NH980002 (Feb. 13, 1998)
- NH980003 (Feb. 13, 1998)
- NH980005 (Feb. 13, 1998)
- NH980007 (Feb. 13, 1998)
- NH980008 (Feb. 13, 1998)

New Jersey:
- NJ980002 (Feb. 13, 1998)
- NJ980003 (Feb. 13, 1998)
- NJ980004 (Feb. 13, 1998)
- NJ980005 (Feb. 13, 1998)
- NJ980007 (Feb. 13, 1998)

Volume II

District of Columbia:
- DC980001 (Feb. 13, 1998)
- DC980002 (Feb. 13, 1998)
- DC980003 (Feb. 13, 1998)

Maryland:
- MD980002 (Feb. 13, 1998)
- MD980008 (Feb. 13, 1998)
- MD980017 (Feb. 13, 1998)
- MD980031 (Feb. 13, 1998)
- MD980034 (Feb. 13, 1998)
- MD980035 (Feb. 13, 1998)
- MD980036 (Feb. 13, 1998)
- MD980046 (Feb. 13, 1998)
- MD980047 (Feb. 13, 1998)
- MD980048 (Feb. 13, 1998)
- MD980055 (Feb. 13, 1998)
- DC9800056 (Feb. 13, 1998)
- MD980057 (Feb. 13, 1998)
- MD980059 (Feb. 13, 1998)

Virginia:
- VA980008 (Feb. 13, 1998)
- VA980012 (Feb. 13, 1998)
- VA980013 (Feb. 13, 1998)
- VA980015 (Feb. 13, 1998)
- VA980022 (Feb. 13, 1998)
- VA980025 (Feb. 13, 1998)
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- VA980080 (Feb. 13, 1998)
- VA980081 (Feb. 13, 1998)
- VA980104 (Feb. 13, 1998)
- VA980105 (Feb. 13, 1998)

Volume III

Alabama:
AL980003 (Feb. 13, 1998)
AL980004 (Feb. 13, 1998)
AL980006 (Feb. 13, 1998)
AL980008 (Feb. 13, 1998)
AL980018 (Feb. 13, 1998)
AL980034 (Feb. 13, 1998)
AL980044 (Feb. 13, 1998)
North Carolina:
NC980008 (Feb. 13, 1998)

Volume IV

Illinois:
IL980001 (Feb. 13, 1998)
IL980002 (Feb. 13, 1998)
IL980004 (Feb. 13, 1998)
IL980006 (Feb. 13, 1998)
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IL980068 (Feb. 13, 1998)
IL980069 (Feb. 13, 1998)
Michigan:
MI980002 (Feb. 13, 1998)
MI980030 (Feb. 13, 1998)
MI980067 (Feb. 13, 1998)
MI980072 (Feb. 13, 1998)
MI980075 (Feb. 13, 1998)
MI980077 (Feb. 13, 1998)
MI980083 (Feb. 13, 1998)
Wisconsin:
WI980005 (Feb. 13, 1998)
WI980019 (Feb. 13, 1998)

Volume V

Iowa:
IA980004 (Feb. 13, 1998)
IA980005 (Feb. 13, 1998)
IA980012 (Feb. 13, 1998)
IA980013 (Feb. 13, 1998)
IA980014 (Feb. 13, 1998)
IA980016 (Feb. 13, 1998)

Volume VI

North Dakota:
ND980001 (Feb. 13, 1998)
ND980002 (Feb. 13, 1998)
ND980019 (Feb. 13, 1998)
ND980026 (Feb. 13, 1998)
ND980027 (Feb. 13, 1998)
ND980029 (Feb. 13, 1998)
ND980049 (Feb. 13, 1998)
ND980050 (Feb. 13, 1998)

Volume VII

California:
CA980001 (Feb. 13, 1998)
CA980002 (Feb. 13, 1998)
CA980028 (Feb. 13, 1998)
CA980031 (Feb. 13, 1998)
CA980032 (Feb. 13, 1998)
CA980033 (Feb. 13, 1998)
CA980034 (Feb. 13, 1998)
CA980035 (Feb. 13, 1998)
CA980036 (Feb. 13, 1998)
CA980037 (Feb. 13, 1998)
CA980038 (Feb. 13, 1998)
CA980039 (Feb. 13, 1998)
CA980040 (Feb. 13, 1998)

General Wage Determination Publication

General Wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts." This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C., This 30th Day of October 1998.

Margaret J. Washington,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 98–29570 Filed 11–5–98; 8:45 am]

BILLING CODE 4510–27–M

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors

Time and Date. The Board of Directors of the Legal Services Corporation will meet on November 16, 1998. The meeting will begin at 9:30 a.m. and continue until conclusion of the Board's agenda.

Locotion. 9th Floor Conference Room of 750 First Street NE, Washington, DC 20002.

Status of Meeting. Open, except that a portion of the meeting may be closed pursuant to a vote of the Board of Directors to hold an executive session. At the closed session, the Corporation's General Counsel will report to the Board on litigation to which the Corporation is or may become a party, and the Board may act on the matters reported. The closing is authorized by the relevant provisions of the Government in the Sunshine Act [5 U.S.C. 552b(c)(10)] and the corresponding provisions of the Legal Services Corporation's implementing regulation [45 CFR § 1622.5(h)]. A copy of the General Counsel's Certification that the closing is authorized by law will be available upon request.

Matters To Be Considered

Open Session

1. Approval of agenda.
2. Approval of minutes of the Board's meeting of September 12, 1998.
3. Approval of minutes of the Board's executive session of September 12, 1998.
4. Chairman's and Members' Reports.
5. President's Report.
6. Inspector General's Report.
7. Consider and act on the report of the Board's Provision for the Delivery of Legal Services Committee.
8. Consider and act on the report of the Board's Operations and Regulations Committee.
9. Consider and act on schedule and location of meetings for calendar year 1999, including whether to change the date of the Board's 1999 annual meeting and, if so, to what date.
10. Consider and act on the Board's draft *Semi-annual Report to the Congress* for the period of April 1, 1998 through September 30, 1998.

11. Consider and act on delegation to the Board Chair of authority to establish a panel and appointment the membership thereof to study and report back to the board on an issue relating to LSC grantees' representation of H–2A Workers.
12. Consider and act on renewal of John McKay's contract of employment as President of the Corporation.
13. Consider and act on President McKay's recommendation of Karen Sarjeant for appointment to the office of Vice President for Programs.

Closed Session

14. Briefing [1] by the Inspector General on the activities of the OIG.
15. Consider and act on the General Counsel's report on potential and pending litigation involving the Corporation.

Open Session

16. Public comment.
17. Consider and act on other business.

Contact Person for Information: Victor M. Fortuno, General Counsel and Secretary of the Corporation, at (202) 336–8810.

Special Needs

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Shannon Nicko Adaway, at (202) 336–8810.

Dated: November 2, 1998.

Victor M. Fortuno,

General Counsel.

[FR Doc. 98–30003 Filed 11–4–98; 3:41 pm]

BILLING CODE 7050–01–U

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Civil and Mechanical Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Civil and Mechanical Systems (1205).

Date and Time: November 20, 1998; 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 580, Arlington, VA.

Contact person: Dr. Clifford Astill, Program Director, Hazard Reduction Program Cluster, Division of Civil and Mechanical Systems, Room 545, NSF, 4201 Wilson Blvdlk Arlington, VA 22230 703/306–1316.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Siting and Geotechnical Systems proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government Sunshine Act.

Dated: November 2, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–29710 Filed 11–5–98; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 30–16055–ML; ASLBP No. 99–756–01–ML]

Advanced Medical Systems; Designation of Presiding Officer

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.1207 of the Commission's Regulations, a single member of the Atomic Safety and Licensing Board Panel is hereby designated to rule on requests for hearing and/or petitions to intervene, and, if necessary, to serve as the Presiding Officer to conduct an informal adjudicatory hearing in the following proceeding.

Advanced Medical Systems

[Denial of Materials License]

The hearing, if granted, will be conducted pursuant to 10 CFR part 2 Subpart L of the Commission's Regulations, "Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings." This proceeding is established as a result of the petitioner, Advanced Medical Systems, requesting a hearing on October 15, 1998, in response to an NRC letter dated September 28, 1998. The letter informs Advanced Medical Systems that its application for renewal of its license to possess and use nuclear materials has been denied due to a finding of the NRC Staff that it lacked the requisite financial assurance necessary for decommissioning the facility.

The Presiding Officer in this proceeding is Administrative Judge B. Paul Cotter, Jr. Pursuant to the provisions of 10 CFR 2.722, the Presiding Officer has appointed Administrative Judge Thomas D. Murphy to assist the Presiding Officer in taking evidence and in preparing a suitable record for review.

All correspondence, documents and other materials shall be filed with Judge Cotter and Judge Murphy in accordance with 10 CFR 2.701. Their addresses are:

Administrative Judge B. Paul Cotter, Jr., Presiding Officer, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Thomas D. Murphy, Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Issued at Rockville, Maryland, this 28th day of October 1998.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 98–29785 Filed 11–5–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Dockets 72–1008 and 72–1014]

Holtec International; Issuance of Environmental Assessment and Finding of No Significant Impact Regarding the Request for Exemption From Certain Regulatory Requirements

By letter dated August 3, 1998, as supplemented on September 4, 1998, Holtec International (Holtec or applicant) requested an exemption, pursuant to 10 CFR 72.7, from the requirements of 10 CFR 72.234(c). Holtec, located in Marlton, New Jersey, is seeking Nuclear Regulatory Commission (NRC or the Commission) approval to procure materials for four MPC–68 canisters, four HI–STAR 100 overpacks, four HI–STORM 100 overpacks and one HI–TRAC transfer cask (for use with the HI–STORM 100 system) prior to receipt of Certificates of Compliance (CoCs) for either the HI–STAR or the HI–STORM cask systems.

[1] Any portion of the closed session consisting solely of staff briefings does not fall within the Sunshine Act's definition of the term "meeting" and, therefore, the requirements of the Sunshine Act do not apply to any such portion of the closed session. 5 U.S.C. 552(b)(a)(2) and (b). See also 45 CFR §§ 1622.2 & 1622.3.

In addition, Holtec seeks an exemption to authorize fabrication of four MPC–68 canisters and four HI–STAR 100 overpacks. Together, the MPC–68 canisters and the overpacks are one configuration of the HI–STAR 100 cask system. The casks are intended for use under the general license provisions of Subpart K of 10 CFR Part 72 by Southern Nuclear Operating Company (Southern Nuclear) at the Hatch Nuclear Station (Hatch) in southern Georgia.

Separately, the staff is considering issuance of an exemption from the requirements of 10 CFR 72.124(b) which states, in part, that: "Where solid neutron absorbing materials are used, the design shall provide for positive means to verify their continued efficacy." Specifically, the staff is considering granting an exemption from the requirement to verify continued efficacy of neutron absorbing materials.

Environmental Assessment (EA)

Identification of Proposed Action

By letter dated October 23, 1995, as supplemented, and pursuant to 10 CFR Part 72, Holtec submitted an application to NRC for a CoC for the HI–STAR 100 cask system. Separately, on the same date, Holtec submitted an application for a CoC for the HI–STORM cask system which includes the HI–TRAC transfer cask. These applications are currently under consideration by the NRC staff. The applicant is seeking Commission approval to procure materials for four MPC–68 canisters, four HI–STAR 100 overpacks, four HI–STORM 100 overpacks, and one HI–TRAC transfer cask prior to the Commission's issuance of CoCs for either the HI–STAR or the HI–STORM cask systems. In addition, Holtec seeks an exemption to authorize fabrication of four MPC–68 canisters and four HI–STAR 100 overpacks. Together, the MPC–68 canisters and the overpacks are one configuration of the HI–STAR 100 cask system. The casks are intended for use under the general license provisions of Subpart K of 10 CFR Part 72 by Southern Nuclear at Hatch in southern Georgia. The applicant requests an exemption from the requirements of 10 CFR 72.234(c), which state that "Fabrication of casks under the Certificate of Compliance must not start prior to receipt of the Certificate of Compliance for the cask model."

As stated above, the staff is also considering issuance of an exemption from the requirements of 10 CFR 72.124(b) which states, in part, that: "Where solid neutron absorbing materials are used, the design shall provide for positive means to verify their continued efficacy." Specifically, the staff is considering granting an exemption from the requirement to verify continued efficacy of neutron absorbing materials.

The proposed action before the Commission is whether to approve procurement of the materials and whether to grant these exemptions pursuant to 10 CFR 72.7.

Need for the Proposed Action

Holtec requested the exemption to 10 CFR 72.234(c) to ensure the availability of storage casks so that Southern Nuclear can maintain full core off-load capability at Hatch. Hatch Unit 1 will lose full core off-load capability in August 2000. Hatch has proposed an initial cask loading in September 2000. To support training and dry runs prior to the initial loading, Southern Nuclear requests the delivery of the first cask by February 2000. Holtec states that to meet this schedule, purchase of cask components must begin promptly and fabrication must begin by November 1998.

The HI–STAR 100 and HI–STORM applications, dated October 23, 1995, are under consideration by the Commission. It is anticipated that, if approved, the HI–STAR 100 CoC may be issued in late 1999 and the HI–STORM 100 by Summer of 2000. Southern Nuclear's preferred storage cask for Hatch is the HI–STORM, but Southern Nuclear is willing to use the HI–STAR 100, if the HI–STORM is not available when needed. Therefore, in recognition of the schedular differences in the certification process for the two cask systems, Holtec is requesting approval for procurement of materials for the interchangeable MPC–68 as well as for the HI–STAR, HI–STORM, and HI–TRAC. In its request, however, Holtec confirms that its current plans are only to fabricate four HI–STAR units. The proposed procurement and fabrication exemption will not authorize use of any Holtec cask to store spent fuel. That will occur only when, and if, a CoC is issued. NRC approval of the procurement and granting of the fabrication exemption request should not be construed as an NRC commitment to favorably consider any Holtec application for a CoC. Holtec will bear the risk of all activities conducted under the exemption, including the risk that the four casks Holtec plans to construct may not be usable because they may not meet specifications or conditions placed in a CoC that NRC may ultimately approve.

The exemption to 10 CFR 72.124(b) is necessary to ensure that the certification process for the HI–STAR, HI–STORM, and HI–TRAC casks takes into account previous staff conclusions that fixed neutron poisons in the similar storage casks will remain effective over the 20-year period of the license. Periodic verification of neutron poison effectiveness is not possible for these Holtec casks and, consistent with the staff's conclusion described above, is not necessary.

Environmental Impacts of the Proposed Action

Regarding the procurement approval and fabrication exemption, the Environmental Assessment for the final rule, "Storage of Spent Nuclear Fuel in NRC-Approved Storage Casks at Nuclear Power Reactor Sites" (55 FR 29181 (1990)), considered the potential environmental impacts of casks which are used to store spent fuel under a CoC and concluded that there would be no significant environmental impacts. The proposed action now under consideration would not permit use of the casks, but only procurement and fabrication. There are no radiological environmental impacts from procurement or fabrication since cask material procurement and cask fabrication do not involve radioactive materials. The major non-radiological environmental impacts involve use of natural resources due to cask fabrication. Each MPC–68 canister weighs approximately 44 tons and is made of steel. Each HI–STAR 100 overpack weighs approximately 77 tons and is fabricated mainly from steel. Each HI–STORM overpack weighs approximately 100 tons and is constructed of metal and concrete. The HI–TRAC transfer cask weighs approximately 125 tons and is made of structural steel and lead. The amount of materials required to fabricate these casks is expected to have very little impact on the associated industry. Fabrication of the metal components would be at a metal fabrication facility, not at the reactor site. While fabrication of the concrete overpacks is not contemplated at this time, it should be noted that concrete overpacks would be partially fabricated at the same fabrication facility, with only the concrete pours being done at the reactor. Fabrication of these casks is insignificant compared to the amount of metal and concrete fabrication performed annually in the United States. If the casks are not usable, the casks could be disposed of or recycled. The amount of material disposed of is insignificant compared to the amount of steel and concrete that is disposed of annually in the United States. Based upon this information, the fabrication of these casks will have no significant impact on the environment since no radioactive materials are involved, and the amount of natural resources used is minimal.

Regarding the second exemption, in NRC's September 30, 1998, draft safety evaluation of the HI–STAR 100 cask Topical Safety Analysis Report, the NRC staff concluded that fixed neutron poisons in the HI–STAR 100 cask will remain effective for the 20-year storage period. The staff concluded that the criticality design for the HI–STAR 100 cask is based on favorable geometry and fixed neutron poisons. An appraisal of the fixed neutron poisons has shown that they will remain effective for the 20-year storage period. In addition, the staff concluded that there is no credible way to lose the fixed neutron poisons; therefore, there is no need to provide a positive means to verify their continued efficacy as required by 10 CFR 72.124(b).

Consistent with the staff conclusions in the safety evaluation, the applicant did not propose any verification of the continued efficacy of the HI-STAR 100 cask's neutron absorber.

Alternative to the Proposed Action

Since there is no significant environmental impact associated with the proposed actions, any alternatives with equal or greater environmental impact are not evaluated. The alternative to the proposed actions would be: (a) to deny approval of the exemption and, therefore, not allow cask fabrication until a CoC is issued and (b) to deny approval of the exemption and, therefore, not allow elimination of the requirement to verify the continued efficacy of neutron absorbing materials. These alternatives would have the same, or greater, environmental impacts.

Given that there are no significant differences in environmental impacts between the proposed action and the alternatives considered and that the applicant has a legitimate need to procure materials and fabricate the casks prior to certification and is willing to assume the risk that any fabricated casks may not be approved or may require modification, the Commission concludes that the preferred alternative is to approve the procurement request and grant the exemption from the prohibition on fabrication prior to receipt of a CoC. Similarly, the Commission concludes that since there is no significant difference in the environmental impacts between the proposed action and the alternatives for the elimination of the requirement to verify the continued efficacy of neutron absorbing materials, the Commission concludes that the preferred alternative is to grant that exemption.

Agencies and Persons Consulted

An official from the State of Georgia Department of Environmental Protection was contacted about the EA for the proposed action and had no concerns.

Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR Part 51. Based upon the foregoing EA, the Commission finds that the proposed action of (1) approving procurement of materials for four MPC–68 canisters, four HI-STAR 100 overpacks, four HI-STORM 100 overpacks, and one HI-TRAC transfer cask, and granting an exemption from 10 CFR 72.234(c) so that Holtec may fabricate four MPC–68 canisters and four HI-STAR 100 overpacks prior to issuance of a CoC will not significantly impact the quality of the human environment and, (2) granting an exemption from 10 CFR 72.124(b) so that Holtec need not verify the continued efficacy of the neutron absorbing material in storage casks will not significantly impact the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemptions.

The request for the exemption to 10 CFR 234(c) was filed on August 3, 1998, and supplemented on September 4, 1998. For further details with respect to this action, see the applications for CoC for the HI-STAR 100 and HI-STORM 100 cask systems, both dated October 23, 1995. On September 30, 1998, a preliminary Safety Evaluation Report and a proposed CoC for the HI-STAR 100 cask system were issued by the NRC staff to initiate the rulemaking process. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555.

Dated at Rockville, Maryland, this 28th day of October 1998.

For the Nuclear Regulatory Commission.

William F. Kane,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98–29787 Filed 11–5–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–458; License No. NPF–47]

Entergy Operations, Inc.; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by Petition dated September 25, 1998, David A. Lochbaum (Petitioner), acting on behalf of the Union of Concerned Scientists (UCS), has requested that the U.S. Nuclear Regulatory Commission (NRC) take action with regard to the River Bend Station (RBS), operated by Entergy Operations, Incorporated. Petitioner requests that enforcement action be taken to require an immediate shutdown of the RBS, and that the facility remain shut down until all failed fuel assemblies are removed from the reactor core. As an alternate action, UCS also stated that following the requested shutdown, RBS could be restarted after its design and licensing bases were updated to permit operation with failed fuel assemblies. Additionally, the Petition requested a public hearing to present new plant-specific information regarding the operation of RBS, as well as to discuss a UCS report dated April 2, 1998, entitled "Potential Nuclear Safety Hazard/Reactor Operation With Failed Fuel Cladding."

As the basis for the request, examples were cited in the Petition (summarized below) where, in the Petitioner's opinion, the RBS Updated Safety Analysis Report (USAR) does not allow for operation with pre-existing fuel failures:

(1) Integrity of the fuel barrier is an explicit criterion in addition to radiation requirements, and RBS is violating "the spirit, if not the letter, of [USAR Section 15A, Table 15A.2–4] Criterion 4–2 since the fuel barrier has already failed, albeit to a limited extent."

(2) The USAR description for six design-bases events includes either the statement that the fuel barrier maintains its "integrity and functions as designed," or that "no radioactive material is released from the fuel," as a consequence of the event. It is the Petitioner's view that the analyses associated with these events "appear[s] valid only when the River Bend Station is operated with no failed fuel assemblies."

The Petitioner further reasserted the UCS position that nuclear power plants operating with fuel cladding failures were potentially unsafe and were in violation of Federal regulations. In its April 1998 report, the UCS stated that it has not been demonstrated that the effects from design-bases transients and accidents (i.e., hydrodynamic loads, fuel enthalpy changes, etc.) prevent pre-

existing fuel failures from propagating. Therefore, the Petitioner concluded that it was possible that "significantly more radioactive material will be released to the reactor coolant system during a transient or accident than that experienced during steady state operation." In addition, the Petitioner also stated that, by operating with possible failed fuel cladding, RBS is violating its licensing basis for the radiation worker protection (as low as reasonably achievable [ALARA]) program as it is described in USAR Sections 12.1.1, "Policy Considerations," and 12.1.2.1, "General Design Considerations for ALARA Exposures."

The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by Section 2.206, appropriate action will be taken on this petition within a reasonable time. By letter dated October 29, 1998, the Director denied Petitioner's request for enforcement action to require Entergy Operations, Inc., to immediately shut down RBS. In addition, the Director also extended an offer to the Petitioner for an informal public hearing at a date to be determined. A copy of the petition is available for inspection at the Commission's Public Document Room at 2120 L Street, N.W., Washington, D.C. 20555–0001.

Dated at Rockville, Maryland, This 29th day of October 1998.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–29786 Filed 11–5–98; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23515; 812–10554]

Ranson & Associates, Inc., et al.; Notice of Application

November 2, 1998.

AGENCY: Securities and Exchange Commission (the "SEC" or the "Commission").

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from sections 2(a)(32), 2(a)(35), 14(a), 19(b), 22(d), and 26(a)(2) of the Act and rules 19b–1 and 22c–1 under the Act, and under section 11(a) of the Act for an exemption from section 11(c) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain unit investment trusts ("UITs") to: (a) impose sales charges on a deferred basis and waive the deferred sales charges in certain cases; (b) conduct certain offers of exchange of units; (c) publicly offer units without requiring the sponsor of the UIT to take for its own account or place with others $100,000 worth of units; and (d) distribute capital gains resulting from the sale of portfolio securities within a reasonable time after receipt.

APPLICANTS: Ransom & Associates, Inc. (the "Sponsor"), The Random Municipal Trust-Multi-State Series, Ranson Unit Investment Trusts (formerly, EVEREN Unit Investment Trusts), The Kansas Tax-Exempt Trust, Kemper Tax-Exempt Income Trust, Ohio Tax-Exempt Bond Trust, Kemper Government Securities Trust, Kemper Bond Enhanced Securities Trust, any future UIT sponsored by the Sponsor (collectively, the "Trusts"), and their respective series (each, a "Series").[1]

FILING DATES: The application was filed on March 7, 1997, and amended on July 30, 1997. Applicants have agreed to file an amendment to the application, the substance of which is incorporated in this notice, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 24, 1998, and should be accompanied by proof or service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of the date of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549. Applicants, 250 N. Rock Road, Suite 150, Wichita, KS 67206.

FOR FURTHER INFORMATION, CONTACT: Lawrence W. Pisto, Senior Counsel, at (202) 942–0527, or Christine Y. Greenlees, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

[1] Any future Trust that relies on the relief will comply with the terms and conditions of the application.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549 (tel. 202–942–8090).

Applicants' Representations

1. Each Series will be a series of one of the Trusts, each a UIT registered under the Act. The Sponsor will be the sponsor of the Trusts. Each Series is created by a trust indenture among the Sponsor, an evaluator, and a banking institution or trust company serving as trustee (the "Trustee").

2. The Sponsor acquires a portfolio of securities, which it deposits with the Trustee in exchange for certificates representing units of fractional undivided interests in the portfolio ("Units"). The Units are offered to the public by the Sponsor, underwriters, and dealers at a price which, during the initial offering period, is based upon the aggregate market value of the underlying securities plus a front-end sales charge. The sales charge currently ranges from 1% to 4.9% of the public offering price. The maximum charge usually is subject to reduction in compliance with rule 22d–1 under the Act under certain stated circumstances disclosed in the prospectus, such as for volume purchases.

3. The Sponsor maintains a secondary market for Units, and continually offers to purchase these Units at prices based upon the bid side evaluation of the underlying securities. Investors may purchase Units on the secondary market at the current public offering price plus a front-end sales charge. If the Sponsor discontinues maintaining such a market at any item for any Series, holders or Units ("Unitholders") of such a Series may redeem their Units through the Trustee.

A. Deferred Sales Charge ("DSC") and Waiver of DSC Under Certain Circumstances

1. Applicants request an order to the extent necessary to permit them to impose a DSC, and waive the DSC under certain circumstances. Under applicants' proposal, a portion of the DSC would be collected "up front," *i.e.*, at the time an investor purchases Units, and the balance would be collected subsequently in equal installments ("Installment Payments") from Unitholders' distributions on the Units. The Trustee will withdraw the Installment Payment from the distribution income and pay the amount directly to the Sponsor. If distribution income is insufficient to pay an Installment Payment or if a Series' portfolio consists of non-income producing securities, the Trustee will have the authority to sell portfolio securities in an amount necessary to pay the Installment Payment.

2. When a Unitholder redeems or sells Units, the balance of the Unit holder's Installment Payments on the redeemed Units will be deducted from the proceeds of the redemption or sale. When calculating the amount due, it will be assumed that Units on which the DSC has been paid in full are redeemed first. With respect to Units on which the DSC has not been fully paid, the DSC will be applied on the assumption that Units held for the longest time are redeemed or sold first. Under certain circumstances, the Sponsor may waive the DSC in connection with redemptions or sales of Units. These circumstances will disclosed in the prospectus for the relevant Series and implemented in accordance with rule 22d–1 under the Act.

3. Each Series offering Units subject to a DSC will include in its prospectus the disclosure required in Form N–1A relating to deferred sales charges, modified as appropriate to reflect the differences between UITs and open-end investment companies. The prospectus will state the maximum amount of DSC per Unit. The prospectus also will disclose that portfolio securities may be sold to pay the DSC if distribution income is insufficient to pay the DSC, and that the securities will be sold *pro rata* or that a specific security will be designated for sale.

B. Exchange Option and Rollover Option

1. Applicants request an order to the extent necessary to permit Unitholders of a Series to exchange their Units for Units of another Series (the "Exchange Option"), and Unitholders of a Series that is terminating (each, a "Rollover Series") to exchange their Units for Units of a new Series of the same type (the "Rollover Option"). The Exchange Option and Rollover Option would apply to all exchanges of Units sold with a front-end sales charge or a DSC.

2. A Unitholder who purchased Units under the Exchange Option or Rollover Option would pay a lower sales charge than that which would be paid for the Units by a new investor. The reduced sales charge imposed will be reasonably related to the expenses incurred in connection with the administration of the DSC program, which may include an amount that will fairly and adequately compensate the Sponsor and the participating underwriters and brokers for their services in providing the DSC program.

3. Pursuant to the Exchange Option, an adjustment would be made if Units of any Series are exchanged within five months of their acquisition for Units of a Series with a higher sales charge (the "Five Months Adjustment"). An adjustment also would be made if Units on which a DSC is collected are exchanged for Units of a Series that imposes a front-end sales charge and the exchange occurs before the DSC collected at least equals the per Unit sales charge on the acquired Units (the "DSC Front-End Exchange Adjustment"). If an exchange involves either the Five Months Adjustment or the DSC Front-End Exchange Adjustment, the Unitholder would pay the greater of: (a) the reduced sales charge, or (b) an amount which, together with the sales charge already paid on the exchanged Units, equals the normal sales charge on the Units of a Series being acquired (the "Exchange Series") on the date of the exchange. With appropriate disclosures, the Sponsor may waive such payment. Further, the Sponsor would reserve the right to vary the sales charge normally applicable to a Series, vary the charge applicable to exchanges, and modify, suspend, or terminate the Exchange Option or Rollover Option as set forth in the conditions to the application.

Applicants' Legal Analysis

A. DSC and Waiver of DSC

1. Section 4(2) of the Act defines a "unit investment trust" as an investment company which "issues only redeemable securities." Section 2(a)(32) of the Act defines a "redeemable security" as a security which, upon its presentation to the issuer, entitles the holder to receive approximately his or her proportionate share of the issuer's current net assets or the cash equivalent of those assets. Rule 22c–1 under the Act requires that the price of a redeemable security issued by a registered investment company for purposes of sale, redemption, and repurchase be based on the security's current net asset value ("NAV"). To the extent that an Installment Payment may be deemed to cause Unitholders to receive less than NAV upon redemption, applicants request relief from section 2(a)(32) and rule 22c–1.

2. Section 22(d) of the Act and rule 22d–1 under the Act require an investment company and its principal underwriter and dealer to sell securities only at the current public offering price described in the investment company's prospectus, with the exception of sales of redeemable securities at prices which reflect scheduled variations in the "sales load." Section 2(a)(35) defines the term "sales load" as the difference between the sales price and the portion of the proceeds invested by the depositor or trustee. Applicants request relief from sections 2(a)(35) and 22(d) to the extent that the DSC may be paid in installments rather than upon purchase.

3. Under section 6(c), the SEC may exempt classes of transactions, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants state that their proposal meets the standards of section 6(c). Applicants state that the provisions of section 22(d), rule 22d–1, and section 2(a)(35), taken together, are intended to prevent (i) riskless trading in investment company securities due to backward pricing, (ii) disruption of orderly distribution by dealers selling shares at a discount, and (iii) discrimination among investors resulting form different prices charged to different investors. Applicants assert that the proposed DSC program will present none of these abuses. Applicants contend that the deduction of the Installment Payments is consistent with the policy of forward pricing. Applicants also contend that the amount, computation, and timing of the DSC will promote fair treatment of all Unitholders, while permitting the Trusts to offer Unitholders the advantage of having a large portion of their purchase amount invested immediately. Applicants further note that the DSC program will be disclosed in the prospectus of each Series and available on the same terms to all investors. Finally, applicants state that any waiver of the DSC will be disclosed in the prospectus of each Series and implemented in accordance with rule 22d–1.

5. Section 26(a)(2), in relevant part, prohibits a trustee or custodian of a UIT from collecting from the UIT as an expense any payment to the trust's depositor or principal underwriter. Because the Trustee's payment of the DSC to the Sponsor may be deemed to be an expense under section 26(a)(2)(C), applicants request relief under section 6(c) from section 26(a)(2) to the extent necessary to permit the Trustee to collect DSC payments and disburse them to the Sponsor. Applicants submit that the relief is appropriate because the DSC is more properly characterized as a sales load than as an "expense."

B. Exchange Option and Rollover Option

Section 11(a) and (c) of the Act prohibit any offer of exchange by a registered UIT for the securities of any other investment company on any basis other than the relative NAV of the securities to be exchanged, unless the terms of the offer have been approved in advance by the SEC or meet the requirements of any rules adopted to regulate exchange offers. Applicants request an order under section 11(a) for an exemption from section 11(c) to permit the Exchange Option and the Rollover Option. Applicants state that the Five Months Adjustment and the DSC Front-End Exchange Adjustment in certain circumstances are appropriate in order to maintain the equitable treatment of various investors in each Series.

C. Net Worth Requirement

1. Section 14(a) of the Act requires in substance that investment companies have $100,000 of net worth prior to making a public offering. Applicants state that each Series would comply with this requirement because the Sponsor will deposit substantially more than $100,000 of debt or equity securities or a combination thereof, depending on the objective of the particular Series. Applicants assert, however, that the SEC has interpreted section 14(a) as requiring that the initial capital investment in an investment company be made without any intention to dispose of the investment. Applicants state that, under this interpretation, a Series would not satisfy section 14(a) because of the Sponsor's intention to sell all the Units of the Series.

2. Rule 14a–3 under the Act exempts UITs from section 14(a) if certain conditions are met, one of which is that the UIT invest only in "eligible trust securities," as defined in rule 14a–3. Applicants state that they may not rely on rule 14a–3 because certain future Series (collectively, the "Equity Series") will invest all or a portion of their assets in equity securities, which do not meet the definition of eligible trust securities.

3. Applicants request an exemption under section 6(c) from section 14(a) to the extent necessary to exempt the Series from the net worth requirement in section 14(a). Applicants state that they will comply in all respects with rule 14a–3, except that the Equity Series will not restrict their portfolio investments to eligible trust securities.

D. Capital Gains Distribution

1. Section 19(b) of the Act provides that a registered investment company may not, in contravention of such rules, regulations, or orders as the SEC may prescribe, distribute long-term capital gains more than once every twelve months. Rule 19b–1(a) under the Act permits a registered investment company, with respect to any one taxable year, to make one capital gains distribution, as defined in section 852(b)(3)(C) of the Internal Revenue Code of 1986, as amended (the "Code"). Rule 19b–1(a) also permits a supplemental distribution to be made pursuant to section 855 of the Code not exceeding 10% of the total amount distributed for the year. Rule 19b–1(f) permits one additional long-term capital gains distribution to be made to avoid the excise tax under section 4982 of the Code. Rule 19b–1(c), under certain circumstances, excepts a UIT investing in "eligible trust securities" (as defined in rule 14a–3) from the provisions of rule 19b–1. Because, as noted above, the Equity Series will not limit their investments to "eligible trust securities," they will not qualify for the exemption in paragraph (c) of rule 19b–1.

2. Applicants request an exemption under section 6(c) from section 19(b) and rule 19b–1 to the extent necessary to permit capital gains earned in connection with the sale of portfolio securities to be distributed to Unitholders along with the Equity Series' regular distributions. In all other respects, applicants will comply with Section 19(b) and rule 19b–1.

3. Applicants state that their proposal meets the standards of section 6(c). Applicants assert that any sales of portfolio securities would be triggered by the need to meet Series expenses, DSC installments, or by requests to redeem Units, events over which the Sponsor and the Equity Series do not have control. Applicants further state that reports to Unitholders that will accompany each distribution pursuant to rule 19b–1 will disclose the sources of the distribution.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

A. DSC and Waiver of DSC

1. Each Series offering Units subject to a DSC will include in its prospectus the disclosure required in Form N–1A relating to deferred sales charges, modified as appropriate to reflect the differences between UITs and open-end investment companies.

2. Any DSC imposed on Units issued by a Series will comply with the requirements of rule 6c–10(a) (1) through (3) under the Act.

B. Exchange Option and Rollover Option

1. Whenever the Exchange Option or Rollover Option is to be terminated or its terms are to be amended materially, any holder of a security subject to that privilege will be given prominent notice of the impending termination or amendment at least 60 days prior to the date of termination or the effective date of the amendment, provided that: (a) no such notice need be given if the only material effect of an amendment is to reduce or eliminate the sales charge payable at the time of an exchange, to add one or more new Series eligible for the Exchange Option or Rollover Option, or to delete a Series that has terminated; and (b) no notice need be given if, under extraordinary circumstances, either (i) there is a suspension of the redemption of Units of the Exchange Series or Rollover Series under section 22(e) of the Act and the rules and regulations promulgated under the Act, or (ii) an Exchange Series or Rollover Series temporarily delays or ceases the sale of its Units because it is unable to invest amounts effectively in accordance with applicable investment objectives, policies and restrictions.

2. An investor who purchases Units under the Exchange Option or Rollover Option will pay a lower sales charge than that which would be paid for the Units by a new investor.

3. The prospectus of each Series and any sales literature or advertising that mentions the existence of the Exchange Option or the Rollover Option will disclose that the Exchange Option and Rollover Option are subject to modification, termination or suspension, without notice except in certain limited cases.

C. Net Worth Requirement

Applicants will comply in all respects with the requirements of rule 14a–3, except that the Equity Series will not restrict their portfolio investments to "eligible trust securities."

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–29784 Filed 11–5–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Rel. No. 23513; International Series Rel. No. 1166; 812–10558]

Ranson Unit Investment Trusts, et al.; Notice of Application

October 30, 1998.

AGENCY: Securities and Exchange Commission (the "SEC").

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 12(d)(3) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Order requested to permit: (a) Certain series of a unit investment trust ("UIT") to invest up to 10.5% and certain other series of a UIT to invest up to 20.5% of their respective total assets in securities of issuers that derived more than 15% of their gross revenues in their most recent fiscal year from securities related activities; and (b) a terminating series of a UIT to sell portfolio securities to a new series of the UIT.

APPLICANTS: Ranson Unit Investment Trusts (the "Trust") and certain subsequent series (each, a "Series" or "Trust Series"), and Ranson & Associates, Inc. (the "Sponsor").

FILING DATES: The application was filed on March 13, 1997. Applicants have agreed to file an amendment to the application, the substance of which is incorporated in this notice, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 23, 1998, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549. Applicants, 250 N. Rock Road, Suite 150, Wichita, KS 67206–2241.

FOR FURTHER INFORMATION CONTACT: Lawrence W. Pisto, Senior Counsel, at (202) 942–0527, or Christine Y. Greenlees, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549 (tell. 202–942–8090).

Applicants' Representations

1. Each Series will be a series of the Trust, a UIT registered under the Act. The Sponsor is the Trust's depositor. Each Series will be created under the laws of one of the United States pursuant to a trust agreement, which will contain information specific to that Series, and which will incorporate by reference a master trust agreement between the Sponsor and a financial institution that is a bank within the meaning of section 2(a)(5) of the Act and that satisfies the criteria in section 26(a) of the Act (the "Trustee").

2. Each Series will hold a portfolio of common stocks which represents a portion of a specific index (each, an "Index"). The investment objective of each Series is to seek a greater total return than that achieved by the stocks comprising the entire related Index over the life of the Series.

3. Certain Series (each, a "Defined Ten Series") will invest approximately 10%, but no more than 10.5%, of their total assets in each of the ten common stocks in the Dow Jones Industrial Average ("DJIA"), the Financial Times Ordinary Share Index ("FT Index"), or the Hang Seng Index, as the case may be, having the highest dividend yields no more than three business days prior to the Defined Ten Series' initial date of deposit. Certain other Series (each, a "Defined Five Series") will invest approximately 20%, but in no event more than 20.5%, of their total assets in each of the five lowest dollar price per share stocks of the ten common stocks in the DJIA, the FT Index, or the Hang Seng Index, as the case may be, having the highest dividend yields not more than three business days prior to the Series' initial date of deposit.[1]

[1] The Sponsor strives to purchase equal values of each of the common stocks in a Series' portfolio. However, it is more efficient to purchase securities in 100 share lots and 50 share lots. As a result, applicants may choose to purchase securities of a Securities Related Issuer (as defined below) which represent more than 10%, but in no event more than 10.5%, of a Defined Ten Series' assets, and more than 20%, but in no event more than 20.5%, of a Defined Five Series' assets on the initial date of deposit to the extent necessary to enable the Sponsor to meet its purchase requirements and to obtain the best price for the securities.

4. Each of the DJIA, the FT Index, and the Hang Seng Index is a recognized indicator of the stock market in its respective country.[2] The publishers of the Indices are not affiliated with any Series or the Sponsor, and do not participate in any way in the creation of any Series or the selection of its stocks. The common stocks included in the Indices may include stocks of issuers that derive more than 15% of their gross revenues from securities related activities, as that term is defined in rule 12d3–1 under the Act, discussed below ("Securities Related Issuers").

5. The securities deposited in each Series will be chosen solely according to the formula described above, and will not necessarily reflect the research opinions or buy or sell recommendations of the Sponsor. The Sponsor is authorized to determine the date of deposit, to purchase securities for deposit in the Series, and to supervise each Series' portfolio. The Sponsor will have no discretion as to which securities are purchased.

6. The Series' portfolios will not be actively managed. Sales of portfolio securities will be made in connection with redemptions of units, payment of expenses, and the termination of a Series. The Sponsor has no discretion as to when securities will be sold except that it is authorized to sell securities in extremely limited circumstances, such as when an issuer defaults on the payment of any of its outstanding obligations, or when the price of a security has declined to such an extent or other credit factors exist so that in the opinion of the Sponsor, it would be detrimental to the Series to retain the securities. The adverse financial condition of an issuer will not necessarily require the sale of its securities from a Series' portfolio.

7. Each Series will have a contemplated date (a "Rollover Date") on which holders of units in that Series (a "Rollover Trust Series") may at their option redeem their units in the Rollover Trust Series and receive in return units of a subsequent Series of the same type (a "New Trust Series"). The New Trust Series will be created on or about the Rollover Date. The securities in each Rollover Trust Series will be: (a) Actively traded (*i.e.*, have had an average daily trading volume in

[2] The DJIA, which is owned by Dow Jones & Company, Inc., comprises 30 widely-held common stocks listed on the New York Stock Exchange, which are chosen by the editors of *The Wall Street Journal*. The FT Index comprises 30 widely-held common stocks listed on the London Stock Exchange, which are chosen by the editors of *The Financial Times*. The Hang Seng Index comprises 33 common stocks listed on the Stock Exchange of Hong Kong, Ltd.

the preceding six months of at least 500 shares equal in value to at least U.S. $25,000) on (i) an exchange (an "Exchange") which is either a national securities exchange which meets the qualifications of section 6 of the Securities Exchange Act of 1934, or a foreign securities exchange that meets the qualifications set forth in the proposed amendments to rule 12d3–1(d)(6) under the Act [3] and that releases daily closing prices, or (ii) the Nasdaq National Market System (the "Nasdaq-NMS"), and (b) included in a published Index, including but not limited to the DJIA, the FT Index, or the Hang Seng Index (the securities meeting these requirements are referred to in this notice as "Equity Securities").

8. Applicants anticipate that there will be some overlap in the Equity Securities selected for the portfolios of a Rollover Trust Series and the related New Trust Series. Upon termination, absent the requested relief, a Rollover Trust Series would sell all of its Equity Securities on the applicable Exchange or Nasdaq-NMS. Likewise, a New Trust Series would acquire its Equity Securities on the applicable Exchange or Nasdaq-NMS. This procedure would result in the unitholders of both the Rollover Trust Series and the New Trust Series incurring brokerage commissions on the same Equity Securities.

Applicants' Legal Analysis

A. Purchases of Stocks of Securities Related Issuers in Excess of Rule 12d3–1 Limits

1. Section 12(d)(3) of the Act, with limited exceptions, prohibits an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter, or investment adviser. Rule 12d3–1 under the Act exempts the purchase of securities of a Securities Related Issuer, provided that, among other things, immediately after the acquisition, the acquiring company has invested not more than five percent of the value of its total assets in securities of the Securities Related Issuer.[4]

2. As noted above, applicants state that some of the stocks comprising the DJIA, the FT Index, and the Hang Seng Index include securities of Securities Related Issuers. Applicants assert that, in order to comply with rule 12d3–1, absent the requested relief, each Defined Ten Series and Defined Five Series may be precluded from most effectively implementing the Series' investment objective.

3. Under section 6(c), the SEC may exempt classes of transactions, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants request an exemption under section 6(c) from section 12(d)(3) to permit a Defined Ten Series to invest up to approximately 10%, but in no event more than 10.5%, of the value of its total assets in securities of a Securities Related Issuer, and to permit a Defined Five Series to invest up to approximately 20%, but in no event more than 20.5%, of the value of its total assets in securities of a Securities Related Issuer.

5. Applicants state that the proposed transactions satisfy the requirements of sections 6(c). Applicants state that section 12(d)(3) was intended to prevent investment companies from exposing their assets to the entrepreneurial risks of securities related businesses, to prevent potential conflicts of interest, and to eliminate certain reciprocal practices between investment companies and securities related businesses. One potential conflict could occur if an investment company purchased securities or other interests in a broker-dealer to reward that broker-dealer for selling fund shares, rather than solely on investment merit. Applicants state that this concern does not arise in connection with the Defined Five or Defined Ten Series because neither the Series nor the Sponsor has discretion in choosing the securities of a Securities Related Issuer or the amount purchased; rather, the Securities Related Issuer must qualify as either one of the ten highest dividend yielding stocks or one of the five lowest dollar price per share stocks of the ten highest dividend yielding stocks in the DJIA.

6. Applicants also state that the effect of a Defined Five or Defined Ten Series' purchase on the stock of a Securities Related Issuer would be *de minimis*. Applicants assert that the Securities Related Issuers represented in the DJIA, the FT Index and the Hang Seng Index are widely held, have active markets, and potential purchases by any Defined Five or Defined Ten Series would represent an insignificant amount of the outstanding common stock and the trading volume of any of these Securities Related Issuers.

7. Another potential conflict of interest could occur if an investment company directed brokerage to a broker-dealer in which the company has invested to enhance the broker-dealer's profitability or to assist it during financial difficulty, even though that broker-dealer may not offer the best price and execution. To preclude this type of conflict, applicants agree, as a condition to the order, that no company held in the portfolio of a Defined Ten or Defined Five Series nor any affiliate of the company will act as a broker for any Series in the purchase or sale of any security for the Series' portfolio.

B. Purchases and Sales Between Trust Series

1. Section 17(a) of the Act prohibits an affiliated person of a registered investment company from selling securities to, or purchasing securities from, the company. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include, in pertinent part, any person directly or indirectly controlling, controlled by, or under common control with, the other person. Each Trust Series will have a common sponsor. Since the Sponsor of a Trust Series may be deemed to control the Trust Series, all of the Trust Series may be deemed to be under common control and, thus, affiliated persons of each other.

2. Rule 17a–7 under the Act permits registered investment companies that might be deemed affiliates solely by reason of having common investment advisers, directors, and/or officers, to purchase securities from, or sell securities to, one another at an independently determined price, provided certain conditions are met. Applicants represent that they will comply with all of the provisions of rule 17a–7, other than paragraph (e).

3. Paragraph (e) of the rule requires an investment company's board of directors to adopt and monitor certain procedures to assure compliance with the rule. Since a UIT does not have a board of directors, the Trust Series would be unable to comply with this requirement.

4. Section 17(b) of the Act provides that the SEC will exempt a proposed transaction from section 17(a) if evidence establishes that: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. As noted above, section 6(c) of the Act provides that the SEC may exempt classes of transactions if the exemption is necessary or appropriate in the public interest, and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request relief under sections 6(c) and 17(b) to permit a Rollover Trust Series to sell Equity Securities to a New Trust Series and to permit the New Trust Series to purchase the Equity Securities.

5. Applicants state that the proposed transactions satisfy the standards of sections 6(c) and 17(b). Applicants represent that purchases and sales between Trust Series will be consistent with the policy of each Trust Series. Applicants further state that permitting the proposed transactions would result in savings on brokerage fees for the Trust Series.

6. Applicants state that the condition that the Equity Securities must be actively traded on an Exchange or the Nasdaq-NMS protects against overreaching. In addition, applicants state that the Sponsor will certify to the Trustee, within five days of each sale of Equity Securities from a Rollover Trust Series to a New Trust Series: (a) that the transaction is consistent with the policy of both the Rollover Trust Series and the New Trust Series, as recited in their respective registration statements and reports filed under the Act, (b) the date of the transaction, and (c) the closing sales price on the Exchange or on the Nasdaq-NMS for the sale date of the Equity Securities. The Trustee will then countersign the certificate, unless, in the unlikely event that the Trustee disagrees with the closing sales listed on the certificate, the Trustee immediately informs the Sponsor orally of any such disagreement and returns the certificate within five days to the Sponsor with corrections duly noted. Upon the Sponsor's receipt of a corrected certificate, if the Sponsor can verify the corrected price by reference to an independently published list of closing sales prices for the date of the transactions, the Sponsor will ensure that the price of the units of the new Trust Series, and distributions to holders of the Rollover Trust Series, accurately reflect the corrected price. To the extent that the Sponsor disagrees with the Trustee's corrected price, the Sponsor and the Trustee will jointly determine the correct sales price by reference to a mutually agreeable, independently published list of closing sales prices for the date of the transaction.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

A. Purchases of Stocks of Securities Related Issuers in Excess of Rule 12d3–1 Limits

No company held in a Defined Ten Series portfolio or a Defined Five Series portfolio, nor any affiliate of the company, will act as broker for any Defined Ten Series or any Defined Five Series in the purchase or sale of any security for the Series' portfolio.

B. Purchases and Sales Between Trust Series

1. Each sale of Equity Securities by a Rollover Trust Series to a New Trust Series will be effected at the closing price of the Equity Securities sold on the applicable Exchange or the Nasdaq-NMS on the sale date, without any brokerage charges or other remuneration except customary transfer fees, if any.

2. The nature and conditions of the transactions will be fully disclosed to investors in the prospectus of each Rollover Trust Series and New Trust Series.

3. The Trustee of each Rollover Trust Series and New Trust Series will: (a) review the procedures relating to the sale of securities from a Rollover Trust Series and the purchase of those securities for deposit in a New Trust Series, and (b) make such changes to the procedures as the Trustee deems necessary that are reasonably designed to comply with paragraphs (a) through (d) of rule 17a–7.

4. A written copy of these procedures and a written record of each transaction pursuant to the order will be maintained as provided in rule 17a–7(f).

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–29719 Filed 11–5–98; 8:45 am]

BILLING CODE 8010–01–M

[3] Investment Company Act Release No. 17096 (Aug. 3, 1989) (proposing amendments to rule 12d3–1). The proposed amended rule defined a "Qualified Foreign Exchange" to mean a stock exchange in a country other than the United States where: (1) Trading generally occurred at least four days a week; (2) there were limited restrictions on the ability of acquiring companies to trade their holdings on the exchange; (3) the exchange had a trading volume in stocks for the previous year of at least U.S. $7.5 billion; and (4) the exchange had a turnover ratio for the preceding year of at least 20% of its market capitalization. The version of the amended rule that was adopted did not include the part of the proposed amendment defininig the term "Qualified Foreign Exchange."

[4] Under rule 12d3–1, a Securities Related Issuer is a person that derives more than 15% of its gross revenues from activities as a broker, dealer, underwriter, investment adviser registered under the Investment Advisers Act of 1940, or investment adviser to a registered investment company.

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of November 9, 1998.

A closed meeting will be held on Tuesday, November 10, 1998, at 11:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Hunt, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, November 10, 1998, at 11:00 a.m., will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: November 2, 1998.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–29864 Filed 11–3–98; 4:57 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40621; File No. SR–NYSE–98–38]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc., Extending the Pilot Governing the Reimbursement of Member Organizations for Costs Incurred in the Transmission of Proxy and Other Shareholder Communication Material

October 30, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 29, 1998, the New York Stock Exchange, Inc. (the "Exchange" or "NYSE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks to extend the current pilot period regarding Exchange Rule 451, "Transmission of Proxy Material," and Exchange Rule 465, "Transmission of Interim Reports and Other Material" (collectively the "Rules"). The Rules establish guidelines for the reimbursement of expenses by NYSE issuers to NYSE member organizations for the processing and delivery of proxy materials and other issuer communications to security holders whose securities are held in street name. The present pilot period regarding the Rules is scheduled to expire on October 31, 1998. The Exchange proposes to extend the pilot period through February 12, 1999.

The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The "Initial Filing"[3] revised the rules to lower certain reimbursement guidelines, create incentive fees to eliminate duplicative mailings, and establish a supplemental fee for intermediaries that coordinate multiple nominees. The Commission approved the Initial Filing as a one-year pilot, and designated May 13, 1998, as the date of expiration. In the "February Filing,"[4] the Exchange extended the pilot period through July 31, 1998, and lowered the rate of reimbursement for mailing each set of initial proxies and annual reports from $.55 to $.50. In the "July Filing,"[5] the Exchange extended the pilot period through October 31, 1998, and kept intact the five cent fee reduction implemented by the February Filing. This proposed rule change would extend the pilot through February 12, 1999, and likewise keep intact the five cent fee reduction.

The extension of the pilot period would give the Commission additional time to consider the "March Filing,"[6] without a lapse in the current rules. In the March Filing, the Exchange proposed a change to the Rules regarding "householding" and proposed extending the pilot period through June 30, 2001. Thus, absent an extension of the pilot period, the fees in effect prior to the Initial Filing[7] would return to effectiveness, creating confusion among NYSE member organizations and issuers. Furthermore, the extension will provide the Exchange's independent auditor with additional time to finish its review of the impact of the pilot fee structure and will provide the Commission with an opportunity to review the auditor's Audit Report.[8]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act[9] in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The Exchange further believes that the proposed rule change satisfies the requirement under Section 6(b)(5)[10] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices; promote just and equitable principles of trade; foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date; the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Exchange Act[11] and Rule 19b–4(e)(6)[12] thereunder.

A proposed rule change filed under Rule 19b–4(e)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(e)(6)(iii)[13] permits the Commission to designate such shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission designate such shorter time period so that the proposed rule change may take effect immediately upon its filing. The immediate effectiveness would: (i) continue to make available the five cent fee reduction regarding the distribution of each set of initial proxies and annual reports; (ii) provide the Commission with sufficient time to complete its review of the March Filing and analyze the Audit Report concerning the pilot fee structure that will be prepared by the Exchange's independent auditor; and (iii) allow the current pilot fee structure to continue uninterrupted.

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change effective immediately upon filing for the following reasons. The proposed rule change would continue to make available the five cent fee reduction regarding the distribution of each set of initial proxies and annual reports. This fee reduction should continue to benefit NYSE issuers and public investors in the form of lower costs and expenses. As the Commission noted in the March Filing, the fee reduction is based upon the Exchange's experience with the reimbursement guidelines and better reflects the actual costs incurred by NYSE member organizations.

The proposed rule change also extends the expiration date of the pilot period from October 31, 1998, through February 12, 1999. The extension of the pilot period will provide the Commission with additional time to complete its review of the March Filing[14] and the opportunity to further evaluate the proposal. Furthermore, the current pilot period is due to expire about the same time as the estimated date on which the Exchange hopes to deliver to the Commission the Audit Report examining the proxy distribution process with respect to securities held in street name. The extension will therefore provide the Commission with the necessary time to review the Audit Report in connection with its review of the pending March Filing.

The Commission notes that unless the current pilot period's expiration date is extended, the reimbursement rates for proxy materials distributed after October 31, 1998, will revert to those in effect prior to the pilot period. The Commission believes such a result would be confusing and counterproductive, especially given that the March Filing proposing to extend the pilot period through June 30, 2001, is still pending with the Commission.

For all of the reasons set forth above, the Commission believes it is reasonable that the proposed rule change become immediately effective upon the date of filing, October 29, 1998. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–98–38 and should be submitted by November 27, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Jonathan G. Katz,
Secretary.

[FR Doc. 98–29718 Filed 11–5–98; 8:45 am]
BILLING CODE 8010–01–M

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 38406 (Mar. 14, 1997), 62 FR 13922 (Mar. 24, 1997). The Initial Filing contains a detailed description regarding the background and history of the Rules.

[4] *See* Securities Exchange Act Release No. 39672 (Feb. 17, 1998), 63 FR 9034 (Feb. 23, 1998).

[5] *See* Securities Exchange Act Release No. 40289 (July 31, 1998), 63 FR 42652 (Aug. 10, 1998).

[6] *See* Securities Exchange Act Release No. 39774 (Mar. 19, 1998), 63 FR 14745 (Mar. 26, 1998).

[7] The Exchange's filing mistakenly references the February Filing rather than the Initial Filing. The Exchange confirmed that its reference to the February Filing was an oversight and that it intended to refer to the Initial Filing. Telephone conversation between Michael J. Simon, Attorney, Milbank Tweed Hadley & McCloy, and Michael Loftus, Attorney, Division of Market Regulation, Commission (October 29, 1998).

[8] As noted in the March Filing, the Exchange committed to undertake an independent audit of the pilot fee structure during the 1998 proxy season.

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(e)(6).

[13] 17 CFR 240.19b–4(e)(6)(iii).

[14] The Commission received approximately 46 comment letters on the March Filing. As part of its review of the March Filing, the Commission will consider the substance of those comment letters.

[15] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3142; Amendment #1]

State of Missouri

In accordance with a notice from the Federal Emergency Management Agency dated October 29, 1998, the above-numbered Declaration is hereby amended to include Platte and Ray Counties, Missouri as a disaster area due to damages caused by severe storms and flooding which occurred October 4 through October 11, 1998.

In addition, applications for economic injury loans from small businesses located in the contiguous county of Buchanan in the State of Missouri may be filed until the specified date at the previously designated location. Any other counties contiguous to the above-named primary counties and not listed herein have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is December 13, 1998 and for economic injury the termination date is July 14, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: November 2, 1998.

Bernard Kulik,
Associate Administrator for Disaster Assistance.

[FR Doc. 98–29805 Filed 11–5–98; 8:45 am]
BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending on October 30, 1998

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–98–4649.
Date Filed: October 26, 1998.
Parties: Members of the International Air Transport Association.
Subject: PTC123 0050 dated October 20, 1998 r1–002kk. PTC123 0051 dated October 20, 1998 r2–002pp. Mid/South Atlantic Expedited Resos. Intended effective date: November 15, 1998.

Docket Number: OST–98–4655.
Date Filed: October 28, 1998.
Parties: Members of the International Air Transport Association.
Subject: CAC/Reso/190 dated June 5, 1998, Finally Adopted Resolutions r1–6, CAC/Meet/123 dated April 20, 1998—Minutes, Intended effective date: October 1/January 1, 1999.

Docket Number: OST–98–4656.
Date Filed: October 28, 1998.
Parties: Members of the International Air Transport Association.
Subject: COMP Telex Reso 024f—Pakistan; Local Currency Fare Changes; Intended effective date: November 1, 1998.

Docket Number: OST–98–4657.
Date Filed: October 28, 1998.
Parties: Members of the International Air Transport Association.
Subject: PTC123 0053 dated October 23, 1998 r1; PTC123 0054 dated October 23, 1998 r2; Mid/South Atlantic Expedited Resos; Intended effective date: January 1, 1998.

Docket Number: OST–98–4658.
Date Filed: October 28, 1998.
Parties: Members of the International Air Transport Association.
Subject: PTC123 0052 dated October 23, 1998; North Atlantic Expedited Reso 002hh; Intended effective date: January 1, 1999.

Dorothy W. Walker,
Federal Register Liaison.
[FR Doc. 98–29827 Filed 11–5–98; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending October 30, 1998

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–98–4660.
Date Filed: October 28, 1998.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: November 25, 1998.
Description: Application of Continental Micronesia Inc., pursuant to 49 U.S.C. 41102 and Subpart Q, applies for renewal of Segment 7 of its Route 171 authority for at least a five-year period.

Dorothy W. Walker,
Federal Register Liaison.
[FR Doc. 98–29826 Filed 11–5–98; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular; Manufacturing Process of Premium Quality Titanium Alloy Rotating Engine Components

AGENCY: Federal Aviation Administration, DOT.
ACTION: Notice of issuance of Advisory Circular (AC).

SUMMARY: This notice announces the issuance of Advisory Circular (AC), No. 33.15–1, Manufacturing Process of Premium Quality Titanium Alloy Rotating Engine Components. This AC provides guidance and information for compliance pertaining to the materials suitability and durability requirements, § 33.15, as applicable to the manufacture of titanium alloy high energy rotating parts of aircraft engines. Like all AC material, this AC is not, in itself, mandatory and does not constitute a regulation. It is issued to provide an acceptable means, but not the only means, of compliance with § 33.15. While these guidelines are not mandatory, they are derived from extensive Federal Aviation Administration (FAA) and industry experience in determining compliance with the pertinent regulations.

DATES: Advisory Circular No. 33.15–1, was issued by the New England Aircraft Certification Service, Engine and Propeller Directorate on September 22, 1998.

FOR FURTHER INFORMATION CONTACT: Tim Mouzakis, Engine and Propeller Standards Staff, ANE–110, 12 New England Executive Park, Burlington, MA, 01803, telephone (781) 238–7114, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Background

Advisory Circulars 21–1B, 21–6A, 21–9A, 21–27, and 21.303–1A, provide a means to obtain and maintain production approvals; however, these documents do not fully cover the manufacturing processes used in the manufacture of premium quality titanium alloy forged rotating components for type certificated turbine engines. This AC, therefore, provides supplemental guidance for the establishment of manufacturing processes, in process material and component inspections, and finished component inspections, for manufacture of premium quality titanium alloy forged rotating components, such as disks, spacers, hubs, shafts, spools and impellers, but not blades.

Interested parties were given the opportunity to review and comment on the draft AC during the proposal and development phases. Notice was published in the **Federal Register** on July 17, 1997 (62 FR 38338), to announce the availability of, and comment to the draft AC.

This advisory circular, published under the authority granted to the Administrator by 49 U.S.C. 106(g), 4113, 44701–44702, 44704, provides guidance for these requirements.

Issued in Burlington, Massachusetts, on September 22, 1998.

Jay J. Pardee,
Manager, Engine and Propeller Directorate, Aircraft Certification Service.
[FR Doc. 98–29783 Filed 11–5–98; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular 23.1419–2A, Certification of Part 23 Airplanes for Flight in Icing Conditions

AGENCY: Federal Aviation Administration, DOT.
ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of Advisory Circular (AC) 23.1419–2A, Certification of Part 23 Airplanes for Flight in Icing Conditions. This AC sets forth an acceptable means, but not the only means of demonstrating compliance with the ice protection requirements in Title 14 of the Code of Federal Regulations (14 CFR) Part 23. The Federal Aviation Administration (FAA) will consider other methods of demonstrating compliance that an applicant may elect to present.

DATES: Advisory Circular 23.1419–2A was issued by Acting Manager, Small Airplane Directorate, Aircraft Certification Service, ACE–100, on August 19, 1998.

How to obtain copies: A copy may be obtained by writing the U.S. Department of Transportation, Subsequent Distribution Office, DOT Warehouse SVC–121.23, Ardmore East Business Center, 3341 Q 75th Avenue, Landover, MD 20785, or by faxing your request to that office at 301–386–5394.

Issued in Kansas City, Missouri, on October 29, 1998.

Michael Gallagher,
Manager, Small Airplane Directorate, Aircraft Certification Service.
[FR Doc. 98–29779 Filed 11–5–98; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Douglas County, CO

AGENCY: Federal Highway Administration (FHWA), DOT.
ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advice the public that an environmental impact statement/4(f) evaluation will be prepared for transportation improvements in Douglas County, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Joe Duran, FHWA, Colorado Division, 555 Zang Street, Room 250, Lakewood, CO, 80228, Telephone: (303) 969–6730 extension 385, or Ms. Theresa Tiehen, Colorado Department of Transportation, Region 1, 18500 East Colfax Avenue, Aurora, CO 80011, Telephone: (303) 757–9285.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Colorado Department of Transportation (CDOT) will prepare an environmental impact statement (EIS)/Section 4(f) evaluation for transportation improvements on Interstate 25 (I–25) between the I–25/Lincoln Avenue interchange (I–25 Milepost 193) and south of Castle Rock (I–25 Milepost 178) a distance of approximately 15 miles and on Colorado State Highway 85 (SH 85) as an alternative route between the Colorado 470 (C–470) (SH 85 Milepost 200) and the SH 85/I–25 interchange in Castle Rock (SH 85 Milepost 184) a distance of approximately 16 miles. The EIS will be conducted in conjunction with a major investment study (MIS) for the I–25 and SH 85 north-south corridor between Castle Rock and Denver. The proposed improvements will be identified in the MIS and the EIS/Section 4(f) evaluation.

The MIS and EIS/Section 4(f) evaluation will evaluate improvement alternatives to compare to the No-Build Alternative. These alternatives include additional general purpose lanes on I–25 and SH 85, toll facility lanes on I–25, exclusive bus/carpool lanes on I–25, rail alternatives along I–25 and SH 85, transportation management options (such as transportation systems management, transportation demand management and intelligent transportation systems), new or improved interchanges on I–25, and combinations of the various alternatives. The EIS will satisfy the requirements of the 1990 Clean Air Act Amendments.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies. Project scoping will be accomplished through coordination with affected parties, organizations, federal, state, and local agencies and through public meetings in the project corridor. Information on the time and place of the public scoping meetings will be provided in the local newspapers. To be placed on the public mailing list to receive additional project information, contact Theresa Tiehen at the address previously provided. The MIS and draft EIS/Section 4(f) evaluation will be available for public and agency review and comment prior to the public hearing.

To ensure that a full range of issues related to the proposed action are addressed and all significant issues identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS/Section 4(f) evaluation should be directed to Theresa Tiehen at the CDOT address previously provided.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: October 20, 1998.

Ronald A. Speral,
Environmental/ROW Program Manager, Colorado Division, Federal Highway Administration, Lakewood, Colorado.
[FR Doc. 98–29713 Filed 11–5–98; 8:45 am]
BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33666]

Belt Line Division of Tacoma Public Utilities—Operation Exemption—In Pierce, Thurston and Lewis Counties, WA

Belt Line Division of Tacoma Public Utilities (Belt Line), an existing Class III carrier,[1] has filed a verified notice of exemption under 49 CFR 1150.41 to operate approximately 131.5 miles of the City of Tacoma, WA (City), rail line (the line) in Pierce, Thurston, and Lewis Counties, WA: (1) between milepost 2192.0, at Tacoma, and milepost 17.7, at Chehalis; and (2) between milepost 2192.0, at Tacoma, and milepost 64.2, at Morton. The lines have been operated previously by Tacoma Eastern Railway Company (TE).[2]

Pursuant to 49 CFR 1150.42(e), Belt Line certified on October 23, 1998, that its annual revenues exceed $5 million and that it has, as of September 23, 1998, served the national offices of the labor unions with a copy of a notice of its intent to undertake this transaction and posted such notice at the workplace of the employees on the affected lines on September 23, 1998.

The transaction was expected to be consummated on or after October 30, 1998.[3]

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance

[1] Applicant represents that the Charter of the City divides its operations into Public Utilities and General Government. The General Government portion of the City evidently owns the lines discussed in this notice and is negotiating with the Public Utilities portion of the City, which is evidently responsible for operations. Belt Line currently operates a shortline railroad in support of the Port of Tacoma.

[2] The Board recently granted the City's application under 49 U.S.C. 10903 permitting the discontinuance of operations by TE over the line. *See Tacoma Eastern Railway Company—Adverse Discontinuance of Operations Application—a Line of City of Tacoma, in Pierce, Thurston and Lewis Counties, WA*, STB Docket No. AB–548 (STB served Oct. 16, 1998).

[3] The date of consummation under normal circumstances would be December 22, 1998 (60 days after Belt Line's certification to the Board that it had complied with the Board's rule at 49 CFR 1150.42(e)). In a decision in this proceeding served on October 30, 1998, the Board found that sufficient notice to rail employees and their representatives had been given under the circumstances of this case and, at the request of Belt Line, waived, in part, the 60-day period to allow consummation on October 30, 1998.

Docket No. 33666 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, D.C. 20423–0001. In addition, a copy of each pleading must be served upon Peter A. Greene, Esq., Thompson Hine & Flory LLP, 1920 N Street, N.W., Suite 800, Washington, DC 20036.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: November 2, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–29822 Filed 11–5–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33675]

Minnesota Commercial Railway Company—Lease and Operation Exemption—Canadian Pacific Railway Company (Soo Line District)

Minnesota Commercial Railway Company (MC), a Class III rail carrier, has filed a notice of exemption under 49 CFR 1150.41 to acquire by long-term lease from the Canadian Pacific Railway Company (Soo Line District) (CP) and operate (1) approximately 22 miles of trackage in an area known as the South Minneapolis Switching District from approximately milepost 416+/–to the end of track maintenance, at about 48th Street, South, Minneapolis, MN (no milepost); and (2) one mile of incidental trackage over CP's trackage east of Merriam Park.

Because MC's projected annual revenues after the transaction will exceed $5 million, MC has certified to the Board that the required notice of the transaction was sent to the national offices of the labor unions representing employees on the line and posted at the workplace of the employees on the affected lines on July 31, 1998. *See* 49 CFR 1150.42(e).[1] The transaction was scheduled to be consummated on November 1, 1998.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33675, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eugenia Langan, Esq., Shea and Gardner, 1800 Massachusetts Avenue, N.W., Washington, DC 20036.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: November 2, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–29823 Filed 11–5–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33676]

Minnesota Commercial Railway Company—Lease and Operation Exemption—Union Pacific Railroad Company

Minnesota Commercial Railway Company (MC), a Class III rail carrier, has filed a notice of exemption under 49 CFR 1150.41 to acquire by long-term lease from the Union Pacific Railroad Company (UP) and operate approximately 2.95 miles +/–of industrial trackage in an area known as the Southeast Minneapolis Switching District.[1]

Because MC's projected annual revenues after the transaction will exceed $5 million, MC has certified to the Board that the required notice of the transaction was sent to the national offices of the labor unions representing employees on the line and posted at the workplace of the employees on the affected lines on August 31 1998. *See* 49 CFR 1150.42(e).[2] The transaction was scheduled to be consummated on November 1, 1998.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33675, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eugenia Langan, Esq., Shea and Gardner, 1800 Massachusetts Avenue, N.W., Washington, DC 20036.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: November 2, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–29824 Filed 11–5–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub-No. 203X)][1]

Norfolk Southern Railway Company—Abandonment Exemption—in Madison and Bond Counties, IL

On October 16, 1998, Norfolk Southern Railway Company (NSR) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a 39.1-mile branch line of railroad known as the Madison-Sorento Line or the Madison Branch, extending between milepost TS–406.6 at Sorento, IL, and milepost TS–445.7 at Madison, IL, in Madison and Bond Counties, IL.[2] The line traverses U.S. Postal Service Zip Codes 62001, 62025, 62060, 62074, and 62086, and includes the stations of Madison, Stallings, Glen Carbon, Leclaire, Edwardsville, White (Town of Alhambra), New Douglas, and Sorento.

The line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it. The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abondonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by February 3, 1999.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than November 27, 1998. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–290 (Sub-No. 203X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001, and (2) James R. Paschall, Three Commercial Place, Norfolk, VA 23510–2191. Replies to the NSR petition are due on or before November 27, 1998.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at WWW.STB.DOT.GOV."

Decided: November 2, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–29825 Filed 11–5–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

[Treasury Directive Number 11–02]

Delegation of Authority for Administering the Community Development Financial Institutions Fund

1. *Delegation.* a. Pursuant to Treasury Order (TO) 101–20, this Directive delegates to the Director, Community Development Financial Institutions Fund, all duties, powers, rights, and obligations vested by TO 101–20 in the Under Secretary (Domestic Finance) for purposes of administering the Community Development Financial Institutions Fund, a wholly owned government corporation within the Department of the Treasury.

b. The Director, Community Development Financial Institutions Fund, is designated as an officer of the Community Development Financial Institutions Fund pursuant to section 104(b)(3) of the Community Development Banking and Financial Institutions Act of 1994, subtitle A of title I of the Riegle Community Development and Regulatory Improvement Action of 1994, Pub. L. 103–325 (12 U.S.C. 4703 (b)(3)).

2. The Director, Community Development Financial Institutions Fund, shall report to the Under Secretary (Domestic Finance).

3. The Director, Community Development Financial Institutions Fund, may redelegate in writing to officers of the Community Development Financial Institutions Fund such of the authority granted under this Directive as the Director deems appropriate. For purposes of such redelegation of authority, the Director, Community Development Financial Institutions Fund, may designate as officers, in writing, such individuals as the Director deems appropriate.

4. *Authority.* TO 101–20, "Administering the Community Development Financial Institutions Fund," dated August 14, 1995.

5. *Expiration Date.* This Directive shall expire three years from the date of issuance unless superseded or canceled prior to that date.

6. *Office of Primary Interest.* Office of the Under Secretary (Domestic Finance).

John D. Hawke, Jr.,

Under Secretary (Domestic Finance).

[FR Doc. 98–29721 Filed 11–5–98; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

[Treasury Order Number 145–10]

Remission or Waiver of Liquidated Damages

Dated: October 29, 1998.

1. By virtue of authority vested in the Secretary of the Treasury, including the authority in 31 U.S.C. § 321(b), I hereby delegate to the Commissioner, Financial Management Service, (the "Commissioner"), the authority of the Secretary:

a. upon a recommendation from the head of a contracting agency, to remit or waive all or part, as in his discretion may be just and equitable, of liquidated damages for delay assessed against a contractor, in conformity with provisions of 10 U.S.C. § 2312 or 41 U.S.C. § 256a; and

b. to exercise any right or power, make any finding or determination, or perform any duty or obligation which the Secretary is authorized to exercise, make or perform under 10 U.S.C. § 2312 and 41 U.S.C. § 256a.

2. The authority delegated to the Commissioner by paragraph 1 further includes any matter in which the Secretary's authority to remit or waive liquidated damages under the cited

[1] While the required notice to employees had been given on July 31, 1998, MC did not certifiy to the Board that it had done so until October 22, 1998, when it filed its notice of exemption. The exemption would normally become effective 60 days after MC's certification to the Board that it had complied with the Board's rule at 49 CFR 1150.42(e). In a decision in this proceeding served on October 30, 1998, however, the Board found that sufficient notice to rail employees and their representatives had been given in this case and, at the request of MC, waived, in part, the 60-day period to allow consummation on November 1, 1998.

[1] MC notes that the trackage is all yard limit industrial switching territory and that no mileposts are assigned this area by UP.

[2] While the required notice to employees had been given on August 31, 1998, MC did not certify to the Board that it had done so until October 22, 1998, when it filed its notice of exemption. The exemption would normally become effective 60 days after MC's certification to the Board that it had complied with the Board's rule at 49 CFR 1150.42(e). In a decision in this proceeding served on October 30, 1998, however, the Board found that sufficient notice to rail employees and their representatives had been given in this case and, at the request of MC, waived, in part, the 60-day period to allow consummation on November 1, 1998.

[1] NSR has filed with the Board two related petitions for exemption. In *Norfolk Southern Railway Company—Purchase Exemption—Union Pacific Railroad Company*, STB Finance Docket No. 33609 (STB served Oct. 29, 1998), NSR is proposing to purchase from UP, and to operate approximately 15.3 miles of rail line between Monterey Junction, IL (including the southwest leg of the wye track at Monterey Junction), and DeCamp, IL, plus certain yard tracks at Madison, IL. In *Norfolk Southern Railway Company—Lease and Operation Exemption—Union Pacific Railroad Company*, STB Finance Docket No. 33610 (pending), NSR is proposing to lease from UP, and to operate, approximately 4.7 miles of rail line between Monterey Mine No. 1 near Carlinville, IL, and Monterey Junction, IL, and a leg of the wye track and related trackage at Monterey Junction.

[2] NSR indicates that the end point of the branch line at Sorento has been shown on its system diagram map as milepost TS–444.2 rather than TS–445.7. NSR requests an exemption or waiver from the requirement that it list the 1.5 miles of the line between those mileposts on its system diagram map. Because NSR has provided no reasons for the Board to grant either exemption or waiver here, the request will not be granted. It should be noted, however, that failure to comply with 49 U.S.C. 10903(c)(2) is not grounds for denial of this abandonment petition.

statutes is premised upon the delegation to the Secretary from the Acting Director, Office of Management and Budget, set forth in the Acting Director's "Determination with Respect to Transfer of Functions Pursuant to Public Law 104–53," dated June 28, 1996.

3. The Commissioner may redelegate in writing within the Financial Management Service the authority delegated by this order.

Robert E. Rubin,

Secretary of the Treasury.

[FR Doc. 98–29722 Filed 11–5–98; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Federal Firearms and Ammunition Excise Tax Return.

DATES: Written comments should be received on or before January 5, 1999, to be assured of consideration.

ADDRESS: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Robert Ruhf, Revenue Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Federal Firearms and Ammunition Excise Tax Return.

OMB Number: 1512–0507.

Form Number: ATF F 5300.26.

Abstract: A Federal excise tax is imposed by 26 U.S.C. 4181 on the sale of pistols and revolvers, other firearms, shells and cartridges (ammunition) sold by firearms manufacturers, producers, and importers. The information on the form is necessary to establish the taxpayer's identity, the amount and type of taxes due, and the amount of payments made.

Current Actions: There is an increase in the number of respondents resulting in an increase in burden hours. Also, the form has a few minor changes. A check box has been added to 1. for the address and the wording has been changed to help clarify 3.

Type of Review: Extension.

Affected Public: Individuals or households, Business or other for-profit.

Estimated Number of Respondents: 965.

Estimated Time Per Respondent: 7 hours.

Estimated Total Annual Burden Hours: 27,020 .

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 29, 1998.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 98–29744 Filed 11–5–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Gang Resistance Education and Training Funding Application.

DATES: Written comments should be received on or before January 5, 1999, to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to James Scott, Gang Resistance Education and Training, P.O. Box 50414, Washington, DC 20091, (800) 726–7070.

SUPPLEMENTARY INFORMATION:

Title: Gang Resistance Education and Training Funding Application.

OMB Number: 1512–0548.

Form Number: ATF F 6410.1.

Abstract: State and local law enforcement agencies desiring financial assistance for the G.R.E.A.T. Program will submit ATF F 6410.1 to the ATF, G.R.E.A.T. Branch. The information collected will be used by ATF to evaluate the applicants' funding needed. The information will also be used to determine funding priorities and levels of funding, as required by law.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: State, Local or Tribal Government.

Estimated Number of Respondents: 400.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 800.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity

of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 29, 1998.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 98–29745 Filed 11–5–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Customs Service

Notice of Issuance of Final Determination Concerning Surgical Instruments

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that Customs has issued a final determination concerning the country of origin of certain surgical instruments which are being offered to the Department of Veterans Affairs under a Federal Supply contract. The final determination found that based upon the facts presented, the country of origin of the surgical instruments is Germany.

DATES: The final determination was issued on November 2, 1998. A copy of the final determination will be published in "Customs Bulletin and Decisions." Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination within 30 days of November 6, 1998.

FOR FURTHER INFORMATION CONTACT: Monika Brenner, Special Classification and Marking Branch, Office of Regulations and Rulings (202–927–1675).

SUPPLEMENTARY INFORMATION: Notice is hereby given that on November 2, 1998, pursuant to Subpart B of Part 177, Customs Regulations (19 CFR Part 177, Subpart B), Customs issued a final determination concerning the country of origin of certain surgical instruments which are being offered to the Department of Veterans Affairs under a Federal Supply contract. This final determination was issued at the request of one of the offerors under procedures set forth at 19 CFR Part 177, Subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). The final determination concluded that, based upon the facts presented, German surgical instrument forgings are not substantially transformed in Malaysia as a result of various machining and some assembly processes. Accordingly, the country of origin of the surgical instruments is Germany. This document gives notice pursuant to section 177.29, Customs Regulations (19 CFR 177.29), of that final determination. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination within 30 days of November 6, 1998.

Dated: November 2, 1998.

John Durant,

Acting Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 98–29774 Filed 11–5–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T. D. 98–85]

Annual User Fee for Customs Broker Permit; General Notice

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of due date for broker user fee.

SUMMARY: This is to advise Customs brokers that for 1999 the annual user fee of $125 that is assessed for each permit held by an individual, partnership, association or corporate broker is due by January 8, 1999. This announcement is being published to comply with the Tax Reform Act of 1986.

DATES: Due date for fee: January 8, 1999.

FOR FURTHER INFORMATION CONTACT: Adline Tatum, Entry & Broker Compliance (202) 927–0380.

SUPPLEMENTARY INFORMATION: Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99–272) established that an annual user fee of $125 is to be assessed for each Customs broker permit held by an individual, partnership, association, or corporation. This fee is set forth in the Customs Regulations in § 111.96 (19 CFR Part 111.96).

Customs Regulations provides that this fee is payable for each calendar year in each Broker district where the broker was issued a permit to do business by the due date which will be published in the **Federal Register** annually. Broker districts are defined in the General Notice published in the **Federal Register**, Volume 60, No.187, September 27, 1995 (60 FR 49971).

Section 1893 of the Tax Reform Act of 1986 (Pub. L. 99–514), provides that notices of the date on which a payment is due of the user fee for each broker permit shall be published by the Secretary of the Treasury in the **Federal Register** by no later than 60 days before such due date. This document notifies brokers that for 1999, the due date for payment of the user fee is January 8, 1999. It is expected that annual user fees for brokers for subsequent years will be due on or about the third of January of each year.

Dated: November 3, 1998.

Philip Metzger,

Director, Trade Compliance.

[FR Doc. 98–29773 Filed 11–5–98; 8:45 am]

BILLING CODE 4820–02–P

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations: "Pieter de Hooch, 1629–1684"

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects on the list specified below, to be included in the exhibit, "Pieter de Hooch, 1629–1684," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at the Wadsworth Atheneum, in Hartford, Connecticut, from on or about December 17, 1998, to on or about February 27, 1999, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Carol Epstein, Assistant General Counsel, Office of the General Counsel, 202/619–6981, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW, Washington, DC 20547–0001.

Dated: November 2, 1998.
Les Jin,
General Counsel.
[FR Doc. 98–29738 Filed 11–5–98; 8:45 am]
BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determination: "Project 66: Campana/Ingo Maurer"

AGENCY: United States Information Agency.
ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Project 66: Campana/Ingo Maurer," imported from abroad for the temporary exhibition without profit within the United States, is of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the exhibition or display of the listed objects at The Museum of Modern Art, New York, New York, from on or about November 27, 1998, to on or about January 19, 1999, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Neila Sheahan, Assistant General Counsel, Office of the General Counsel, 202/619–5030, and the address is Room 700, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547–0001.

Dated: November 2, 1998.
Les Jin,
General Counsel.
[FR Doc. 98–29737 Filed 11–5–98; 8:45 am]
BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

Summer Institutes in American Studies for Foreign University Teachers; Request for Proposals (RFP)

SUMMARY: The Branch for the Study of the United States of the U.S. Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for four (4) assistance awards. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(C) may apply to develop and implement one of the following four post-graduate level American Studies programs designed for multinational groups of 18 experienced foreign university faculty:

1. Summer Institute on Contemporary American Literature
2. Summer Institute on Change and Reform in American History
3. Summer Institute on the Foundations of U.S. Foreign Policy
4. Summer Institute on the U.S. Constitution

These programs are intended to provide participants with a deeper understanding of American life and institutions, past and present, in order to promote the development and improvement of courses and teaching about the United States at universities abroad.

Program are six weeks in length, and will be conducted during the Summer of 1999.

USIA is seeking detailed proposals from colleges, universities, consortia of colleges and universities, and other non-for-profit academic organizations that have an established reputation in one or more of the following fields: political science, international relations, law, history, sociology, literature, American studies, and/or other disciplines or sub-disciplines related to the program theme. Applicant institutions must demonstrate expertise in conducting post-graduate programs for foreign educators, and *must have a minimum of four years experience in conducting international exchange programs.* The project director or one of the key program staff responsible for the academic program must have an advanced degree in one of the fields listed above. Staff escorts traveling under the USIA cooperative agreement must have demonstrated qualifications for this service.

Programs must conform with Agency requirements and guidelines outlined in the Solicitation Package. USIA programs are subject to the availability of funds.

Program Information

Overview and Objectives: The "Summer Institutes in American Studies" are intended to offer foreign scholars and teachers whose professional work focuses on the United States the opportunity to deepen their understanding of American institutions and culture. Their ultimate goal is to improve curricula and the quality of teaching about the U.S. in universities abroad.

Program should be six weeks in length, must include an academic residency segment of at least four weeks at a U.S. college or university campus (or other appropriate location), and a study tour segment of not more than two weeks which directly complements the academic program and includes visits to one or more additional regions of the United States.

All institutes should be designated as intensive academically rigorous programs that are organized through an integrated series of lectures, readings, seminar discussions, research and independent study opportunities, faculty consultations, site visits and regional travel.

Institutions submitting proposals are encouraged to design thematically coherent programs in ways that draw upon the particular strengths and resources of their institutions as well as upon the nationally recognized expertise of scholars and other experts throughout the United States. Within the limits of the program's thematic focus and organizing frameworks, proposals should also be designed to:

A. Provide participants with a survey of current scholarship and scholarly trends within the institute's governing academic discipline, indicating how current academic practice and debate represent both a continuation of and, where appropriate, a departure from past practices within that discipline;

B. Bring an interdisciplinary or multi disciplinary approach to bear on the subject when appropriate;

C. Give participants a multi-dimensional view of U.S. society and institutions that reflects a board range of perspectives, including the views of scholars and of experts outside the university, such as government officials, public intellectuals and cultural critics, journalists, and other relevant professionals; and,

D. Insure access to extensive bibliographic and materials resources that will enable grantees to continue their research, study and curriculum development after returning to their home institutions.

Program Description

1. Summer Institute on Contemporary American Literature (E/AES–99–01)

This institute should survey contemporary American literature and criticism, examining how major writers, schools and movements have both continued in the tradition of the American literary canon, and at the same time established new directions for American literature. Program may be organized thematically, historically, by genre, or by any combination thereof that serves to suggest the variety, richness and complexity of contemporary American writing.

2. Summer Institute on Change and Reform in American History (E/AEA–99–02)

This institute should examine the history of reform in the United States from the Colonial period to the present. Attention should be given to major periods (e.g., 1830s, 1890s, 1930s), themes (e.g., abolition, women's rights, civil rights) and leading figures and to the larger political, social and economic currents that contributed to and were in turn affected by the various reform movements examined. Attention should also be given to the literature that posits recurring patterns of reform in American life as a way of understanding American institutions generally.

3. Summer Institute on the Foundations of U.S. Foreign Policy (E/AES–99–03)

This institute should examine the foundations—political, social, economic and cultural—of U.S. foreign policy in the Post-Cold War era. Principal themes, critical policy debates and contemporary issues should be examined within the historical context of U.S. international relations since World War II and within the larger framework of U.S. diplomatic history as a whole. The program should be structured to give attention to U.S. policies both in a global context and in major geographic areas.

4. Summer Institute on the U.S. Constitution (E/AES–99–04)

This institute should examine the U.S. Constitution in terms of its origins, its historical evolutions and its significance in contemporary American life. The program should examine the Constitution in terms of its fundamental political principles—federalism, republicanism, checks and balances, separation of powers, individual rights—and also in terms of how the Constitution has served as a defining text through which the central values of American society and institutions have been defined and redefined throughout American history.

Program Dates: Tentative program dates are June 26 to August 6, 1999. Based on these dates, participants would be booked to arrive in the U.S. on or about June 25, and depart on August 7, 1999. USIA is willing to consider adjustment of these program dates, based on the needs of the host institution. However, the institute must be 42 program days in length, and should take place sometime between June 12 and August 28, 1999.

Participants: programs should be designed for a total of 18 highly-motivated and experienced foreign university faculty who are interested in participating in an intensive seminar on aspects of U.S. civilization as a means to develop or improve courses and teaching about the United States at their home institutions. Most participants can be expected to come from educational institutions where the study of the U.S. is relatively well-developed. Thus, while they may not have in-depth knowledge of the particular institute program theme, most will have had some experience in teaching about the United States. Many will have had sustained professional contact with American scholars and American scholarship, and some may have had substantial prior experience studying in the U.S. Participants will be drawn from all regions of the world and will be fluent in English.

Participants will be nominated by U.S. Information Service posts abroad, and selected by the staff of USIA's Branch of the Study of the United States in Washington, DC. USIA will cover all international travel costs directly.

Program Guidelines: The conception, structure and content of the institute program is entirely the responsibility of the organizers. However, given the multiple possibilities for the successful design of such a program, organizers are expected to submit proposals that articulate in concrete detail how they intend to organize and implement the institute.

Programs must comply with J–1 visa regulations. Please refer to the Solicitation Package for further details on program design and implementation, as well as additional information on all other requirements.

Budget Guidelines: Unless special circumstances warrant, based on a group of 18 participants, the total USIA-funded budget (program and administrative) should not exceed $170,000, and USIA-funded administrative costs as defined in the budget details section of the solicitation package should not exceed $51,000. Justifications for any costs above these amounts must be clearly indicated in the proposal submission. Any grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000. Applicant proposals should try to maximize cost-sharing in all facets of the program and to stimulate U.S. private sector, including foundation and corporate, support. Applicants must submit a comprehensive budget for the entire program. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program, and availability of U.S. government funding.

Please refer to the "POGI" in the Solicitation Package for complete budget guidelines and formatting instructions for the institute program.

Announcement Name and Number: All communications with USIA concerning this announcement should refer to the following titles and reference numbers:

1. Summer Institute on Contemporary American Literature (E/AES–99–01)

2. Summer Institute on Change and Reform in American History (E/AES–99–02)

3. Summer Institute on the Foundations of U.S. Foreign Policy (E/AES–99–03)

4. Summer Institute on the U.S. Constitution (E/AES–99–04)

FOR FURTHER INFORMATION: To request a Solicitation Package containing more detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation, applicants should contact: U.S. Information Agency, Office of Academic Programs, Branch of the Study of the United States, E/AES—Room 252, 301 4th Street, S.W., Washington, D.C. 20547, Attention: Richard Taylor, Telephone number: (202) 619–4557, Fax number: (202) 619–6790, Internet address: rtaylor@usia.gov.

Please specify USIA Program Officer Richard Taylor on all inquiries and correspondence. Interested applicants should read the complete **Federal Register** announcement before addressing inquiries to the office listed above or submitting their proposals. Once the RFP deadline has passed, USIA staff may not discuss this competition in any way with applicants until after the proposal review process has been completed.

To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from USIA's website at http://www/usia/gov/education/rfps. Please read all information before downloading.

To Receive a Solicitation Package via Fax on Demand

The entire Solicitation Package may be required from the Bureau's Grants Information Fax on Demand System," which is accessed by calling 202/401–7616/ The "Table of Contents" listing available documents and order numbers

should be the first order when entering the system.

Deadline for Proposals: All proposal copies must be received at the U.S. Information Agency by 5:00 p.m. Washington D.C. time on Friday, January 29, 1999. Faxed documents will not be accepted, nor will documents postmarked January 29, 1999 but received at a later date. It is the responsibility of each applicant to ensure that proposal submissions arrive by the deadline.

Submissions: Applicants must follow all instructions in the Solicitation Package. The original and 13 copies of the complete application should be sent to: U.S. Information Agency, Reference: (insert appropriate reference number from above, e.g. E/AES–99–xx), Office of Grants Management, E/XE, Room 326, 301 4th Street, S.W., Washington, D.C. 20547.

Applicants should also submit the "Executive Summary" and Proposal Narrative" sections of the proposal on a 3.5" diskette, formatted for DOS. This material must be provided in ASCII text (DOS) format with a maximum line length of 65 characters.

Diversity, Freedom and Democracy Guidelines: Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the "Support for Diversity" section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," USIA "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Proposals should reflect advancement of this goal in their program contents, to the full extent deemed feasible.

Year 2000 Compliance Requirement (Y2K Requirement): The Year 2000 (Y2K) issue is a broad operational and accounting problem that could potentially prohibit organizations from processing information in accordance with Federal management and program-specific requirements, including data exchange with USIA. The inability to process information in accordance with Federal requirements could result in grantees being required to return funds that have not been accounted for properly.

USIA therefore requires all organizations use Y2K compliant systems including hardware, software, and firmware. Systems must accurately process data and dates (calculating, comparing and sequencing) both before and after the beginning of the year 2000 and correctly adjust for leap years.

Additional information addressing the Y2K issue may be found at the General Service Administration's Office of Information Technology website at http://www.itpolicy.gsa.gov.

Review Process: USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the USIA Geographic Area Offices. Eligible proposals will then be forwarded to panels of senior USIA officers for advisory review. Proposals may also be reviewed by the Office of the General Counsel or by other Agency elements. Final funding decisions are at the discretion of the USIA Associated Director for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the USIA Grants Officer.

Review Criteria: Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered, and all carry equal weight in the proposal evaluation:

1. Overall Quality: Proposals should exhibit originality and substance, consonant with the highest standards of American teaching and scholarship. Program design should reflect the main currents as well as the debates within the subject discipline of each institute. Program should reflect an overall design whose various elements are coherently and thoughtfully integrated. Lectures, panels, field visits and readings, taken as a whole, should offer a balanced presentation of issues, reflecting both the continuity of the American experience as well as the diversity and dynamism inherent in it.

2. Program Planning: Proposals should demonstrate careful planning. The organization and structure of the institute should be clearly delineated and be fully responsive to all program objectives. A program syllabus (noting specific sessions and topical readings supporting each academic unit) should be included, as should a calendar of activities. The travel component should not simply be a tour, but should be an integral and substantive part of the program, reinforcing and complementing the academic segment.

3. Institutional Capacity: Proposed personnel, including faculty and administrative staff as well as outside presenters, should be fully qualified to achieve the project's goals. Library and media resources should be accessible to participants; housing, transportation and other logistical arrangements should be fully adequate to the needs of participants and should be conducive to a collegial atmosphere.

4. Support for Diversity: Proposals should demonstrate substantive support of the Bureau's policy on diversity. This can be accomplished through documentation, such as a written statement, summarizing past and/or on-going activities and efforts that further the principle of diversity within the organization and its activities. Program activities that address this issue should be highlighted.

5. Experience: The proposal should demonstrate an institutional record of successful exchange program activity, indicating the experience that the organization and its professional staff have had in working with foreign educators.

6. Evaluation and Follow-up: The proposal should include a plan for evaluating activities during the Institute and at its conclusion. Proposals should comment on provisions made for follow-up with returned grantees as a means of establishing longer-term individual and institutional linkages.

7. Administration and Management: The proposals should indicate evidence of continuous on-site administrative and managerial capacity as well as the means by which program activities will be implemented.

8. Cost Effectiveness: The proposals should maximize cost-sharing through direct institutional contributions, in-kind support, and other private sector support. Overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible.

Authority: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world."

Notice: The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification: Final awards cannot be made until funds have been appropriated by Congress, and allocated and committed through internal USIA procedures.

Dated: October 30, 1998.

John P. Loiello,

Associate Director for Educational and Cultural Affairs.

[FR Doc. 98–29717 Filed 11–5–98; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INSTITUTE OF PEACE

Sunshine Act Meeting

DATE/TIME: Thursday, November 19, 1998, 9:00 a.m.–5:30 p.m.

LOCATION: 1200 17th Street, NW, Suite 200—Conference Room, Washington, DC 20036..

STATUS: Open Session—Portions may be closed pursuant to Subsection (c) of Section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.

AGENDA: November 1998 Board Meeting. Approval of Minutes of the Eighty-Sixth Meeting (September 17, 1998) of the Board of Directors; Chairman's Report; President's Report; Committee Reports; Reports on Fiscal Years 1999 and 2000 Budgets; Other General Issues.

CONTACT: Dr. Sheryl Brown, Director, Office of Communications, Telephone: (202) 457–1700.

Dated: November 4, 1998.

Charles E. Nelson,

Vice President for Management and Finance, United States Institute of Peace.

[FR Doc. 98–29947 Filed 11–4–98; 1:33 pm]

BILLING CODE 6820–AR–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0216]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, without change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine the appropriate claimant eligible for accrued benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 5, 1999.

ADDRESSES: Submit written comments on the.collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0216" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Reimbursement from Accrued Amounts Due a Deceased Beneficiary, VA Form 21–601.

OMB Control Number: 2900–0216.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The form is used to file a claim for accrued benefits available at the time of the veteran's death. The information is used by the Veterans Benefits Administration to determine the appropriate claimant eligible for accrued benefits.

Affected Public: Individuals or households—Business or other for-profit.

Estimated Annual Burden: 1,875 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: One time for most beneficiaries.

Estimated Number of Respondents: 3,750.

Dated: October 8, 1998.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 98–29839 Filed 11–5–98; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Performance Review Board Members

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Under the provisions of 5 U.S.C. 4314(c)(4) agencies are required to publish a notice in the **Federal Register** of the appointment of Performance Review Board (PRB) members. This notice revises the list of members of the Department of Veterans Affairs (VA) Performance Review Boards which was published in the **Federal Register** on October 15, 1997 (62 FR 53686).

EFFECTIVE DATE: November 6, 1998.

FOR FURTHER INFORMATION CONTACT:
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Dated: October 28, 1998.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

[FR Doc. 98–29840 Filed 11–5–98; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 63, No. 215
Friday, November 6, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 200

Organization, Functions, and Procedures; Freedom of Information Act

Correction

In rule document 98–26813, beginning on page 53811, in the issue of Wednesday, October 7, 1998, make the following corrections:

1. On page 53811, in the first column, under the heading **EFFECTIVE DATE:**, in the second line, "October 1, 1998" should read "October 7, 1998"

§ 200.8 [Corrected]

2. On page 53812, in the first column, in §200.8 (a), in the first line, "form" should read "from".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Announcement of Minerals Management Service Meeting on Naurtal Gas Royalty-in-Kind Pilot Program in the Federal Gulf of Mexico Region

Correction

In notice document 98–28910 appearing on page 57703 in the issue of Wednesday, October 28, 1998, make the following correction:

On page 57703, in the third column, in the first line, "communication/unit" should read "communitization/unit".

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

Correction

In notice document 98–28881 beginning on page 57280, in the issue of Tuesday, October 27, 1998, in the third column, the agency name should read as set forth above.

BILLING CODE 1505-01-D

Federal Register

Friday
November 6, 1998

Part II

Department of Transportation

Federal Transit Administration

FTA Fiscal Year 1999 Apportionments, Allocations and Program Information; Notice

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

FTA Fiscal Year 1999 Apportionments, Allocations and Program Information

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: The Omnibus Consolidated and Emergency Supplemental Appropriations Act, Fiscal Year 1999 includes Appropriations for Department of Transportation (DOT) and Related Agencies for fiscal year 1999 (Pub. L. 105–277), signed into law by President Clinton on October 21, 1998, and provides fiscal year 1999 appropriations for the Federal Transit Administration (FTA) transit assistance programs. Based upon this Act, the Transportation Equity Act for the 21st Century (TEA–21), and 49 U.S.C. Chapter 53, this Notice contains a comprehensive list of apportionments and allocations of the various transit programs.

This Notice includes the apportionment of fiscal year 1999 funds in the 1999 Omnibus Appropriations Act for the Metropolitan Planning Program and State Planning and Research Program, the Urbanized Area Formula Program, the Nonurbanized Area Formula Program, the Elderly and Persons with Disabilities Program, the Rural Transit Assistance Program, and the Capital Program for Fixed Guideway Modernization. This Notice also contains the allocations of funds for the New Starts and Bus categories under the Capital Program in the 1999 Omnibus Appropriations Act. Also it contains general information about new programs established under TEA–21: the Clean Fuels Formula Program, the Over-the-Road Bus Accessibility Program, the Job Access and Reverse Commute Program, and the Transportation and Community and System Preservation Pilot Program.

Information regarding TEA–21 funding authorization levels for use in developing Metropolitan Transportation Improvement Programs (TIPS) and State Transportation Improvement Programs (STIP) is also included. For informational purposes, this Notice contains the apportionment of fiscal year 1999 funds for the Federal Highway Administration (FHWA) Metropolitan Planning Program and the estimated apportionment of the fiscal year 1999 State Planning and Research Program.

Included in this Notice is a listing of prior year unobligated allocations for the Section 5309 New Starts and Bus Programs as in previous year notices. In addition, the FTA policy regarding pre-award authority to incur project costs, the Letter of No Prejudice Policy, as well as other pertinent program information is included.

FOR FURTHER INFORMATION CONTACT: The appropriate FTA Regional Administrator for grant-specific information and issues; Patricia Levine, Director, Office of Resource Management and State Programs, (202) 366–2053, for general information about the Urbanized Area Formula Program, the Nonurbanized Area Formula Program, the Elderly and Persons with Disabilities Program, the Rural Transit Assistance Program, the Clean Fuels Formula Program, the Over-the-Road Bus Accessibility Program, or the Capital Program; or Robert Stout, Director, Office of Planning Operations, (202) 366–6385, for general information concerning the Metropolitan Planning Program, the State Planning and Research Program, and the Transportation and Community and System Preservation Pilot Program.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
II. Overview of Appropriations for Grant Programs
  A. General
  B. TEA–21 Authorized Levels
  C. Project Management Oversight
III. Outreach
  A. FTA-Sponsored TEA–21 Listening Sessions
  B. Revised Program Guidance Circulars
IV. Emphasis Areas
  A. Americans with Disabilities Act Compliance
  B. National ITS Architecture and Standards Requirements
V. Transportation Electronic Awards and Management System
  A. Background
  B. Transportation of Electronic Awards and Management System
  C. Fiscal Year 1999 Emphasis
VI. Expanded Definition of Capital
  A. Preventive Maintenance
  B. ADA Complementary Paratransit Service
  C. Capital Cost of Contracting
VII. Section 5303 Metropolitan Planning Program and Section 5313(b) State Planning and Research Program
  A. Metropolitan Planning Program
  B. State Planning and Research Program
  C. Data Used for Metropolitan Planning Apportionments and State Planning and Research Apportionments
  D. FHWA Metropolitan Planning Program and State Planning and Research Program
  E. Local Match Waiver for Job Access Planning Activities
  F. Planning Emphasis Areas
  G. Federal Planning Certification Reviews
  H. Consolidated Planning Grant
  I. New Starts Evaluation and Criteria
  J. Metropolitan Transportation Improvement Programs (TIPs) and State Transportation Improvement Programs (STIPs)
  K. Metropolitan Planning
VIII. Section 5307 Urbanized Area Formula Program
  A. Total Urbanized Area Formula Apportionments
  B. Data Used for Urbanized Area Formula Apportionments
  C. Adjustments for Energy and Operating Efficiencies
  D. Urbanized Area Formula Fiscal Year 1999 Apportionments to Governors
  E. Transit Enhancements
  F. Fiscal Year 1999 Operating Assistance
  G. Carryover Funds for Operating Assistance
  H. Designated Transportation Management Areas
  I. Urbanized Area Formula Funds Used for Highway Purposes
IX. Section 5311 Nonurbanized Area Formula Program and Section 5311(b) Rural Transit Assistance Program (RTAP)
  A. Nonurbanized Area Formula Program
  B. Rural Transit Assistance Program (RTAP)
X. Section 5310 Elderly and Persons With Disabilities Program
XI. Surface Transportation Program Flexible Funds Used for Transit Purposes (Title 23, U.S.C.)
  A. Transfer Process
  B. Matching Share for Flexible Funds
  C. Other Funds Transferred to FTA
XII. Section 5309 Capital Program
  A. Fixed Guideway Modernization
  B. New Starts
  C. Bus
XIII. New Programs
  A. Section 5308 Clean Fuels Formula Program
  B. Over-the-Road Bus Accessibility Program
  C. Job Access and Reverse Commute Program
  D. Transportation and Community and System Preservation Pilot Program
XIV. Unit Values of Data for Section 5307 Urbanized Area Formula Program, Section 5311 Nonurbanized Area Formula Program, and Section 5309 Fixed Guideway Modernization Program
XV. Period of Availability of Funds
XVI. Automatic Pre-award Authority To Incur Project Costs
  A. Background
  B. Conditions
  C. Environmental, Planning, and Other Federal Requirements
XVII. Letter of No Prejudice Policy (Prior Approval of Pre-Award Authority)
  A. Policy
  B. Conditions
  C. Environmental, Planning, and Other Federal Requirements
  D. Request for LONP
XVIII. State Infrastructure Banks
XIX. FTA Home Page on the Internet
XX. 1999 Annual List of Certifications and Assurances
XXI. Grant Application Procedures Tables
  1. FTA Fiscal Year 1999 Appropriations for Grant Programs
  2. FTA Fiscal Year 1999 Section 5303 Metropolitan Planning Apportionments and Section 5313(b) State Planning and Research Apportionments
  3. FHWA Fiscal Year 1999 Apportionment for the Metropolitan Planning Program and Estimated Fiscal Year 1999 Apportionment for the State Planning and Research Program
  4. FTA Fiscal Year 1999 Section 5307 Urbanized Area Formula Apportionments
  5. FTA Fiscal Year 1999 Section 5311 Nonurbanized Area Formula Apportionments, and Section 5311(b) Rural Transit Assistance Program (RTAP) Allocations
  6. FTA Fiscal Year 1999 Section 5310 Elderly and Persons With Disabilities Apportionments
  7. FTA Fiscal Year 1999 Section 5309 Fixed Guideway Modernization Apportionments
  8. FTA Fiscal Year 1999 Section 5309 New Start Allocations
  8A. FTA Prior Year Unobligated Section 5309 New Start Allocations
  9. FTA Fiscal Year 1999 Section 5309 Bus Allocations
  9A. FTA Prior Year Unobligated Section 5309 Bus Allocations
  10. FTA TEA–21 Authorization Levels (Guaranteed Funding Only)
  10A. FTA TEA–21 Authorization Levels (Guaranteed and Nonguaranteed Funding)
  11. FTA Fiscal Years 1999–2003 Apportionment Formula for Section 5307 Urbanized Area Formula Program
  12. FTA Fiscal Years 1998–2003 Apportionment Formula for Section 5309 Fixed Guideway Modernization Program
  13. Unit Values of Data—FTA FY 1999 Formula Grant Apportionments

I. Background

Metropolitan Planning funds are apportioned by a statutory formula to the Governors for allocation by them to Metropolitan Planning Organizations (MPOs) in urbanized areas or portions thereof. State Planning and Research funds also are apportioned to states by a statutory formula. Urbanized Area Formula Program funds are apportioned by statutory formula to urbanized areas and to the Governors to provide capital, operating and planning assistance in urbanized areas. Nonurbanized Area Formula Program funds are apportioned by statutory formula to the Governors for capital, operating and administrative assistance in nonurbanized areas. The Elderly and Persons with Disabilities Program funds are apportioned by statutory formula to the Governors to provide capital assistance to organizations providing transportation service for the elderly and persons with disabilities. Fixed Guideway Modernization funds are apportioned by statutory formula to specified urbanized areas for capital improvements in rail and other fixed guideways. New Start and Bus funds identified in the Omnibus Appropriations Act are also included in this Notice.

II. Overview of Appropriations for Grant Programs

A. General

The fiscal year 1999 appropriations for the FTA program is $5,390,000,000, the guaranteed funding level under TEA–21, plus an additional $25,000,000 above the guaranteed level to support the Administration's proposed and TEA–21 adopted Job Access and Reverse Commute Program.

In fiscal year 1999, the appropriation for the Metropolitan Planning Program is $43,841,600 and $9,158,400 for the State Planning and Research Program. The appropriation for formula grants totals $2,850,000,000. Under statutory authority, the distribution of the total formula funds available is as follows: $4,849,950 is set aside for the Alaska Railroad, $50,000,000 for the Clean Fuels Formula Program is transferred to the Capital Investment Bus program, and $2,000,000 is for the Over-the-Road Bus Accessibility Program. Of the remaining amount of $2,793,150,050, 91.23 percent ($2,548,190,791) is made available to the Urbanized Area Formula Program, 6.37 percent ($177,923,658) is made available to the Nonurbanized Area Formula Program, and 2.4 percent ($67,035,601) is made available to the Elderly and Persons with Disabilities Program.

The other program appropriations contained in this Notice are as follows: $5,250,000 for the Rural Transit Assistance Program (RTAP); and $2,257,000,000 for the Capital Program. Of the Capital Program amount, $902,800,000 is for Fixed Guideway Modernization, $902,800,000 is for New Starts, and $451,400,000 is for Bus Capital. In addition, $50,000,000 of formula funds for Clean Fuels was transferred to and merged with the Bus Capital Program increasing that program to $501,400,000. $75,000,000 is for the Job Access and Reverse Commute Program.

Table 1 displays the amounts appropriated for these programs, including adjustments and final apportionment and allocation amounts. The following text provides a narrative explanation for the funding levels and other factors affecting these apportionments and allocations.

B. TEA–21 Authorized Program Levels

TEA–21 provides a combination of trust and general fund authorizations that total $6,542,000,000 for fiscal year 1999 FTA program. Of this amount, $5,365,000,000 is guaranteed under the discretionary spending cap. See Table 9 for fiscal years 1998–2003 guaranteed fund levels by program, and Table 9A for the total of guaranteed and non-guaranteed levels by program.

Information regarding estimates of the fundings levels for 1999–2003 by state and urbanized area is available on the FTA home page at www.fta.dot.gov. These numbers are for planning purposes only as they will be revised in the future but may be used for programming metropolitan transportation improvement programs and statewide transportation improvement programs.

C. Project Management Oversight

49 U.S.C. Section 5327 allows the Secretary of Transportation to use not more than one-half percent of the funds made available under the Urbanized Area Formula Program, the Nonurbanized Area Formula Program; the National Capital Transportation Act, as 1 amended; and three-quarters percent of funds made available under the Capital Program to contract with any person to oversee the construction of any major project under these statutory programs; to conduct safety, procurement, management and financial reviews and audits; and to provide technical assistance to correct deficiencies identified in compliance reviews and audits. Therefore, one-half percent of the funds appropriated for the Urbanized Area Formula Program, the Nonurbanized Area Formula Program and the National Capital Transportation Act, as amended, for fiscal year 1999, and three-quarters percent of Capital Program funds have been reserved for these purposes before apportionment of funds.

III. Outreach

A. FTA-Sponsored TEA–21 Listening Sessions

Over a thirty-day period that began in early September of 1998, the FTA conducted eight listening sessions for its customers and constituents. Sessions were held in Dallas, Portland, San Francisco, Atlanta, Kansas City, Chicago, Philadelphia, and New York.

The sessions were designed to allow FTA leadership and staff to hear the concerns and issues that people had with respect to the implementation of TEA–21. The overwhelming majority of people who spoke during the sessions asked questions about new provisions, implementation schedules and funding levels. The principal issues in all of the

sessions were changes in the New Start evaluation process, the new preventive maintenance provision, and the three new programs: Job Access and Reverse Commute; Clean Fuel Formula; and Over-the-Road Bus Accessibility.

B. Revised Program Guidance Circulars

To incorporate changes introduced in TEA–21, FTA has issued revised program guidance circulars. New circulars, which are all effective October 1, 1998, include C9030.1C, Urbanized Area Formula Program: Grant Application Instructions; C9040.1E, Nonurbanized Area Formula Program Guidance and Grant Application Instructions; C9070.1E, Elderly and Persons with Disabilities Program Guidance and Grant Application Instructions; C9300.1A, Capital Program: Grant Application Instructions; and C5010.1C, Grant Management Guidelines.

IV. Emphasis Areas

A. Americans With Disabilities Act Compliance

With eight years since the passage of the Americans with Disabilities Act (ADA), compliance with all aspects of ADA is one of FTA's highest priorities. FTA will continue to focus on grantees' compliance with ADA. Several grantees have entered into voluntary compliance agreements (VCAs) which represent their commitment to come into full compliance. FTA will continue to monitor the milestones in the VCAs and expects the grantees to meet them.

TEA–21 and the fiscal year 1999 Omnibus Appropriations Act provide unprecedented levels of funding for public transportation and these increased funds should be utilized to ensure speedy and full compliance with all aspects of the ADA.

Grantees that may have difficulties with ADA compliance should contact their FTA regional office as soon as they are aware of any problems.

B. National ITS Architecture and Standards Requirements

Section 5206(e) of TEA–21 requires that Intelligent Transportation Systems (ITS) projects using funds from the Highway Trust Fund (including the Mass Transit Account) conform to the National ITS Architecture and Standards. Interim guidance on conformity with National ITS Performance Standards was issued October 2, 1998 jointly by FTA and FHWA. This document provides guidance for meeting this provision of TEA–21 and is available from the FTA regional office or on the internet at www.its.dot.gov. These standards and requirements apply to fiscal year 1999 bus allocations included in this notice which contain ITS components.

Questions regarding the applicability of these standards and requirements should be addressed to the FTA regional office or Ronald Boenau, FTA Office of Research, Demonstration and Innovation at (202) 366–0195.

V. Transportation Electronic Awards and Management System

A. Background

The FTA Grants Management Information System (GMIS) became operational 10 years ago. In 1994 FTA began the Electronic Grant Making and Management (EGMM) initiative. The EGMM program is a paperless electronic grant application, review, approval, acceptance and management process. This program started as a pilot effort and involved 20 grantees nationwide who served as pilots. By fiscal year 1998, 191 grantees were participating in the FTA EGMM program. Over 800 grantees were on line for various management activities such as filing of financial and narrative status reports. In addition, grantees could use EGMM for the electronic signature of annual certifications and assurances. During the assessment of the GMIS, FTA became aware that the GMIS was not Year 2000 compliant.

B. Transportation Electronic Awards and Management System (TEAM)

On November 2, 1998, FTA will introduce its third generation of electronic enhancements when the Transportation Electronic Awards and Management System, the TEAM system, becomes operational. This will make FTA's mission critical grant management systems Year 2000 compliant, and the FTA grant delivery process will not be interrupted. The TEAM system utilizes graphical user interface (GUI) technology providing point and click "Smart" selections that aid the grant recipients with their business process for submitting applications and management reporting.

During fiscal year 1999, the TEAM system will use a dual grant numbering system which includes the current system and one that reflects the codification of Federal transit laws. For example, a current number may be NY–90–X321; the new number would be NY–5307–0321. Starting with fiscal year 2000, only the numbers reflecting the codification will be used.

FTA outreach to the industry has been extensive and thorough. FTA personnel have traveled to 30 cities to conduct hands-on training sessions, which have attracted over 1,200 transit industry professionals—with more sessions underway until everyone who uses FTA programs can access the TEAM system. On September 30, 1998, FTA began distributing the TEAM system software to grantees at no charge and expects all grantees to apply for grants electronically in fiscal year 1999.

C. Fiscal Year 1999 Emphasis

In fiscal year 1999 FTA expects grantees to use the TEAM system grantees for grant application and approval, as well as for grant management activities if they have not already done so. FTA also expects all grantees to file the fiscal year 1999 Certifications and Assurances electronically using the TEAM system.

VI. Expanded Definition of Capital

A. Preventive Maintenance

Preventive maintenance, an expense that became eligible for FTA capital assistance for one year with the DOT 1998 Appropriations Act, was established as permanently eligible for FTA capital assistance under TEA–21; therefore, FY 1998 funds and subsequent fiscal year appropriations may be used for preventive maintenance. Preventive maintenance costs are defined as all maintenance costs. For general guidance regarding eligible maintenance costs, the grantee should refer to the definition of maintenance in the most recent National Transit Database reporting manual. A grantee may continue to request assistance for capital expenses under the FTA policies governing associated capital maintenance items (spare parts), vehicle overhaul as 20 percent of maintenance, maintenance of vehicle leased under contract, and vehicle rebuilds (major re-work); or a grantee may choose to capture all maintenance under preventive maintenance. If a grantee purchases service instead of operating service directly, and maintenance is included in the contract for that purchased service, then the grantee may apply for preventive maintenance capital assistance under the capital cost of contracting policy. The capital cost of contracting policy is discussed below.

For accounting purposes, the grantee is cautioned not to confuse the fact that an item generally considered to be an operating expense is eligible for FTA capital assistance. Generally accepted accounting principles and the grantee's accounting system detemine those costs that are to be accounting for as operating costs. The National Transit Database Reporting System (NTD) follows generally accepted accounting principles, so a grant recipient reporting to the NTD must report the operating costs the grant recipient has incurred as operating costs regardless of its eligibility for FTA capital assistance. Nevertheless, under provisions of TEA–21 and earlier under provision of the fiscal year 1998 Approriations Act, some of those operating costs, while continuing to be accounted for as operating costs in the grant recipient's accounting records, are now eligible for FTA capital assistance. Grantees may not count the same costs twice.

B. ADA Complimentary Paratransit Service

TEA–21 expanded the definition of an eligible capital project to include: "* * * the provision of nonfixed route paratransit transportation in accordance with Section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only for grant recipients that are in compliance with the applicable requirements of the Act, including both fixed route and demand responsive service, and only for amounts not to exceed 10 percent of such recipient's annual formula apportionment under sections 5307 and 5311."

Recipients of formula funds under the Urbanized Area Formula Program and the Nonurbanized Area Formula Program may now use up to 10 percent of their annual formula apportionment to pay for ADA paratransit operating costs. Section 223 of the ADA defines the specific type of paratransit service that is eligible for this new provision which is implemented in Subpart F of the Department of Transportation's ADA regulation, which (at 49 CFR Part 37) explains the ADA paratransit eligibility process, and the service criteria (service area, response time, fares, trip purpose restrictions, hours and days of service and capacity constraints).

a. *ADA Compliance.* Eligibility for using this expanded definition of capital is dependent upon compliance with ADA requirements. Currently, FTA grantees are required to certify compliance with ADA on an annual basis. Non-compliance with ADA is the result of a formal determination by FTA. Transit systems determined as being in non-compliance are not eligible to use this provision. Grantees who do not make satisfactory progress in negotiating voluntary compliance agreements or who do not achieve milestones within signed agreements will lose their eligibility for funds for paratransit operating expenses.

b. *Non-ADA Paratransit.* Operating costs associated with paratransit services which are not required by the ADA are not eligible for this funding option.

c. *Time of Costs Incurred.* FTA reimbursement at the 80 percent Federal share for ADA paratransit costs under this provision must be by means of a grant awarded after June 9, 1998. Eligible costs must have been incurred in a local fiscal year ending after June 9, 1998.

d. *Implementation in UZA's with More than One Grantee.* For those urbanized areas with more than one ADA paratransit provider, it will be the responsibility of the Metropolitan Planning Organization (MPO), working with the transit operators, to program up to 10 percent of the urbanized area's apportionment should it want to utilize this eligibility.

C. Capital Cost of Contracting

Some FTA grantees contract for transit service, for maintenance service, or for vehicles that the grantee will use in transit service. FTA traditionally provides assistance for the capital consumed in the course of the contract. The concept of assisting with capital consumed is referred to as the "capital cost of contracting." FTA provides assistance at the 80/20 FTA/local share ratio for the capital cost of contracting.

To incorporate the fact that preventive maintenance is now an eligible capital cost, FTA has changed the admininstration of the Capital Cost of Contracting policy, effecitive with fiscal year 1998 funds. Preventive maintenance costs are now included within the capital cost of contracting category, along with the capital charges for the use of assets (capital consumed). Consequently, revisions have been made to the schedule of precentages and type of contract used in the past. The new schedule appears in the revised Circular 9030.1C.

VII. Section 5303 Metropolitan Planning Program and Section 5313(b) State Planning and Research Program

A. Metropolitan Planning Program

The fiscal year 1999 Metropolitan Planning apportionment to states for MPOs to be used in urbanized areas totals $43,901,198. This amount includes $43,841,600 in fiscal year 1999 appropriated funds, and $59,598 in prior year deobligated funds which have become available for reallocation for this program. A basic allocation of 80 percent of this amount ($35,120,958) is distributed to the states based on the state's urbanized area population as defined by the U.S. Census Bureau for subsequent state distribution to each urbanized area, or parts thereof, within each state. A supplemental allocation of the remaining 20 percent ($8,780,240) is also provided to the States based on an FTA administrative formula to address planning needs in the larger, more complex urbanized areas. Table 2 contains the final state apportionments for the combined basic and supplemental allocations. Each state, in cooperation with the MPOs, must develop an allocation formula for the combined apportionment which distributes these funds to MPOs representing urbanized areas, or parts thereof, within the State. This formula, which must be approved by the FTA, must ensure to the maximum extent practicable that no MPO is allocated less than the amount it received by administrative formula under the Metropolitan Planning Program in fiscal year 1991 (minimum MPO allocation). Each state formula must include a provision for the minimum MPO allocation. Where the State and MPOs desire to use a new formula not previously approved by FTA, it must be submitted to the appropriate FTA Regional Office for prior approval.

B. State Planning and Research Program

The fiscal year 1999 apportionment for the State Planning and Research Program totals $9,257,248. This amount includes $9,158,400 in fiscal year 1999 appropriated funds, and $98,848 in prior year deobligated funds which have become available for reallocation to this program. Final state apportionments for this program are also contained on Table 2. These funds may be used for a variety of purposes such as planning, technical studies and assistance, demonstrations, management training, and cooperative research. In addition, a state may authorize a portion of these funds to be used to supplement planning funds allocated by the state to its urbanized areas as the state deems appropriate.

C. Data Used for Metropolitan Planning and State Planning and Research Apportionments

Population data from the 1990 Census is used in calculating these apportionments. The Metropolitan Planning funding provided to urbanized areas in each state by administrative formula in fiscal year 1991 was used as a "hold harmless" base in calculating funding to each State.

D. FHWA Metropolitan Planning Program and State Planning and Research Program

For informational purposes, the fiscal year 1999 apportionment for the FHWA

Metropolitan Planning Program and estimated apportionment for fiscal year 1999 State Planning and Research Program are contained in Table 3.

E. Local Match Waiver for Job Access Planning Activities

Federal, state, and local welfare reform initiatives may require the development of new and innovative public and other transportation services to ensure that former welfare recipients have adequate mobility for reaching employment opportunities. In recognition of the key role that transportation plays in ensuring the success of welfare-to-work initiatives, FTA and FHWA are continuing the policy established last year to permit waiver of the local match requirement for job access planning activities undertaken with metropolitan Planning Program and State Planning and Research Program funds. FTA and FHWA will support requests for waivers when they are included in metropolitan Unified Planning Work Programs and State Planning and Research Programs and meet all other appropriate requirements.

F. Planning Emphasis Areas

(1) The Concept: The FTA and FHWA have cooperatively developed Planning Emphasis Areas (PEA) for fiscal years 1999 and 2000. Emphasis areas promote priority themes for consideration, as appropriate, in metropolitan and statewide transportation planning processes.

(2) An Emphasis on System Management and Operation: TEA–21 identifies system management and operation as a focal theme and context for transportation investment nationwide. The Conference Report supporting TEA–21 contains language that places high priority on Operations and Management, as indicated by the following excerpt. "It is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and through urbanized areas * * *"

TEA–21 identifies seven planning areas to be considered in metropolitan and statewide planning. These include:

(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety and security of the transportation system for motorized and nonmotorized users;

(C) increase the accessibility and mobility options available to people and for freight;

(D) Protect and enhance the enviroment, promote energy conservation, and improve quality of life;

(E) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

(F) promote efficient system management and operation; and

(G) emphasize the preservation of the existing transportation system.

Planning area (F) promotes the consideration of efficient system management and operation in transportation planning processes and recognizes that we cannot always build our way out of congestion but need to better manage and operate the existing system. Many agencies that use a traditional capital intensive, capacity-enhancing programming process to address the area's transportation problems will need to review and revise their planning and programming process to consider system management and operations.

(3) DOT Activities in Support of Management and Operations: FTA and FHWA will work to support metropolitan areas and states in their efforts to incorporate system management and operation strategies in their local planning processes.

DOT is spearheading an effort to develop a collaborative dialogue among a broad range of transportation stakeholders leading to a consensus of the role of management and operations in transportation decision-making. This dialogue would identify customer needs for training and technical assistance. Support for integrated planning and application of Intelligent Transportation Systems (ITS) strategies, including the role of ITS National Architecture, is another effort supporting system management and operation.

(4) Next Steps: FTA and FHWA will be working over the coming months to support further development of the added emphasis on System Management and Operation and outline a comprehensive approach for consideration and use by MPOs.

G. Federal Planning Certification Reviews

Federal certification of the planning process is conducted in a Transportation Management Area (TMA), which is an urbanized area with a population of 200,000 and above or other urbanized areas designated by the Secretary of Transportation (the Secretary). The Secretary is responsible for certifying, at least once every three years, that the metropolitan transportation planning process in the TMA is being carried out under applicable provisions of Federal law.

Dates for site visits for the TMAs to be reviewed in fiscal year 1999 are being established and will be available on the FTA Home Page at http://www.fta.gov/office/planning.

For further information regarding Federal certifications of the planning process contact: For FTA: Mr. Charles Goodman, FTA Metropolitan Planning Division (TPL–12), 202–366–1944; or Scott Biehl, FTA Office of Chief Counsel (TCC–30), 202–366–4063. For FHWA: Mr. Sheldon Edner, FHWA Metropolitan Planning Division (HEP–20), 202–366–4066; or Reid Alsop, FHWA Office of the Chief Counsel (HCC–31), 202–366–1371.

H. Consolidated Planning Grant

In fiscal year 1997, FTA and FHWA began offering states the option of participating in a pilot Consolidated Planning Grant (CPG) program. Eleven states are participating in the pilot so far. Since the first CPG grant was awarded in April 1997, more than $95,000,000 has been obligated by the pilot states. Of this total, more than $69,700,000 is from FHWA sources. Of the eleven participants, nine have completed at least one full year under the pilot. Of the nine, two states have elected to continue the pilot with new, separate CPG grants for the second year. This approach treats the CPG much as FHWA funds are treated currently; that is, as basically annual apportionments with a yearly close-out of project activities and a deobligation and reobligation cycle. Seven states have elected to amend the original CPG grant to add new fiscal year funds to treat the CPG more like an FTA grant, but with even greater flexibility. Under the multi-year approach option, the CPG grant would stay open for a period of years to be determined by the state (and MPO, jointly, for Metropolitan Planning funds) with the approval of the Federal Government. New apportionments can be added by grant amendment as funds become available. The ease with which a state can opt for the single year or the multi-year approach to the CPG grant speaks to the flexibility intended for the program.

One of our original goals in developing the CPG Pilot was to give states and MPOs more control over their planning resources with a combination of broader financial controls and greater flexibility in the management of their planning activities. After more than one full year's experience under the pilot, FTA's annual review of planning program fund balances and potential lapsing funds revealed that none of the pilot states had funds in danger of lapsing (under FTA's planning programs, funds that are unobligated after four years' time lapse to the state). Further, only two of the eleven pilot states have any FTA planning funds available that were appropriated before fiscal year 1998. As in previous years, pre-award authority is granted to both of FTA's planning programs as part of this annual Notice. This pre-award authority enables states to continue planning program activities from year to year with the assurance that eligible costs can later be converted to a regularly funded Federal project without the need for prior approval or authorization from the granting agency.

This November, FTA will be providing an enhancement to its electronic grant system (TEAM system) that can be used to request planning grants, obligate funds, monitor fund balances and grant status, and file financial and status reports for the CPG. While benefiting all grants, these enhancements are particularly well suited to the very streamlined funding request format of the CPG Pilot. As part of the pilot, FTA will continue to work with participating states to increase the flexibility and further streamline the consolidated approach to planning grants. For further information on participating in the CPG Pilot, contact Ms. Candace Noonan, Intermodal and Statewide Planning Division, FTA, at (202) 366–1648 or Anthony Solury, Metropolitan Planning Division, FHWA, at (202) 366–5003.

I. New Starts Evaluation and Criteria

TEA–21 includes several changes to the evaluation process and criteria for New Starts fixed guideway projects. The Secretary shall consider several additional criteria in the Department's review and evaluation of candidate New Starts projects. FTA will be required to evaluate each project authorized for New Starts funding by each criterion, as well as provide an overall project rating of "highly recommended," "recommended," and "not recommended." In addition to its annual report to Congress on Funding Levels and Allocations of Funds for Transit Major Capital Investments, FTA will be required to issue a supplemental report in August of each year which rates all projects that have completed alternatives analysis and preliminary engineering since the date of the last report. FTA must also approve candidate New Starts project's entry into final design. FTA also continues its prior approval authority for entrance into preliminary engineering.

TEA–21 requires that no less than 92 percent of the annual New Starts program must be used for final design and construction.

FTA will soon issue regulations implementing the New Starts provision of TEA–21.

J. Metropolitan Transportation Improvement Programs (TIPs) and State Transportation Improvement Programs (STIPs)

Both the TIPs and STIPs, major products of the metropolitan and State transportation planning processes, continue to be required under TEA–21 and 23 CFR part 450. TEA–21 has provided new authorization levels as well as new programs for the FTA and FHWA. Development of 3-year TIPs and STIPs requires knowledge of Federal FTA and FHWA funding amounts and sources. With respect to Federal funding sources, "available" or "committed" funds identified in TIPs and STIPs are to be taken to mean authorized and/or appropriated funds. Authorized amounts for the purposes of TEA–21 include the total of guaranteed and nonguaranteed funding. FTA and FHWA funding amounts and sources for the six years of TEA–21 are provided by State and/or urbanized areas on the Internet at the following locations: (1) FTA, http://www.fta.dot.gov/library/policy/t21toc.htm and (2) FHWA, http://www.fhwa.dot.gov/tea21/98appor.htm.

K. Metropolitan Planning

TEA–21 retains much of the basic structure of the metropolitan and statewide planning process, as established by ISTEA, with a few significant changes. The set of sixteen metropolitan planning factors has been reduced to seven factors: economic vitality; safety and security; accessibility and mobility; environment, energy conservation and quality of life; integration and connectivity; efficient operation and management; and preservation of existing transportation resources. Freight shippers and users of public transit are added to the explicit set of stakeholders to be given opportunities to comment on metropolitan plans and transportation improvement programs (TIPs).

Metropolitan planning organizations (MPOs) may include in their TIPs an "illustrative" list of projects that could be implemented if additional resources were made available. MPOs will also be encouraged to coordinate the planning for Federally-funded non-emergency transportation services as part of the metropolitan planning process. FTA and FHWA will be revising the Joint Planning Regulations (23 CFR part 450 and 49 CFR part 613) to formally incorporate changes to the planning program.

VIII. Section 5307 Urbanized Area Formula Program

A. Total Urbanized Area Formula Apportionments

In addition to the appropriated fiscal year 1999 Urbanized Area Formula funds of $2,548,190,791, the apportionment also includes $5,055,703 in deobligated funds which have become available for reapportionment for the Urbanized Area Formula Program as provided by 49 U.S.C. 5336(i).

Table 4 displays the amount apportioned for the Urbanized Area Formula Program. After the one-half percent for oversight is set-aside ($12,740,954), the amount appropriated for this program is $2,543,135,088. The funds to be reapportioned, described in the previous paragraph, have then been added. Thus, the total amount apportioned for this program is $2,540,505,540.

An additional $4,849,950 is appropriated for the Alaska Railroad for improvements to its passenger operations. After the one-half percent for oversight is reserved ($24,250), $4,825,700 is available for the Alaska Railroad.

Table 2 contains the fiscal years 1999–2003 apportionment formula for the Section 5307 Urbanized Area Formula Program.

B. Data Used for Urbanized Area Formula Apportionments

Data from the 1997 NTD (49 U.S.C. 5335) Report Year submitted in late 1997 and early 1998 have been used to calculate the fiscal year 1999 Urbanized Area Formula apportionments for urbanized areas 200,000 in population and over. The population and population density figures used in calculating the Urbanized Area Formula are from the 1990 Census.

C. Adjustments for Energy and Operating Efficiencies

49 U.S.C. 5336(b)(2)(E) provides that, if a recipient of Urbanized Area Formula Program funds demonstrates to the satisfaction of the Secretary that energy or operating efficiencies would be achieved by actions that reduce revenue vehicle miles but provide the same frequency of revenue service to the same number of riders, the recipient's apportionment under 49 U.S.C. 5336(b)(2)(A)(i) shall not be reduced as

a result of such actions. One recipient has submitted data acceptable to FTA in accordance with this provision. Accordingly, the revenue vehicle miles used in the Urbanized Area Formula database to calculate the fiscal year 1999 Urbanized Area Formula apportionment reflect the amount the recipient would have received without the reductions in mileage.

D. Urbanized Area Formula Fiscal Year 1999 Apportionments to Governors

The total Urbanized Area Formula apportionment to the Governor for use in areas under 200,000 in population for each state is shown on Table 4. Table 4 also contains the total apportionment amount attributable to each of the urbanized areas within the state. The Governor may determine the allocation of funds among the urbanized areas under 200,000 in population with one exception. As further discussed below in Section H, funds attributed to an urbanized area under 200,000 in population, located within the planning boundaries of a transportation management area, must be obligated in that area.

E. Transit Enhancements

For urbanized areas with populations 200,000 and over, TEA–21 established a minimum annual expenditure requirement of one percent for transit projects and project elements that qualify as enhancements under the Urbanized Area Formula Program. Table 4 indicates the amount set aside for enhancements in these areas. The term "transit enhancement" includes projects or project elements that are designed to enhance mass transportation service or use and are physically or functionally related to transit facilities.

(1) *Eligible enhancements.* Following are the transit projects and project elements that may be counted to meet the minimum enhancement expenditure requirement.

(a) Historic preservation, rehabilitation, and operation of historic mass transportation buildings, structures, and facilities (including historic bus and railroad facilities);

(b) Bus shelters;

(c) Landscaping and other scenic beautification, including tables, benches, trash receptacles, and street lights;

(d) Public art;

(e) Pedestrian access and walkways;

(f) Bicycle access, including bicycle storage facilities and installing equipment for transporting bicycles on mass transportation vehicles;

(g) Transit connections to parks within the recipient's transit service area;

(h) Signage; and

(i) Enhanced access for persons with disabilities to mass transportation.

(2) *Requirements.* One percent of the Urbanized Area Formula Program apportionment in each urbanized area with a population of 200,000 and over must be made available only for transit enhancements. When there are several grantees in an urbanized area, it is not required that each grantee spend one percent of its Urbanized Area Formula Program funds on transit enhancements. Rather, one percent of the urbanized area's apportionment must be expended on projects and project elements that qualify as enhancements. If these funds are not obligated for transit enhancements within three years following the fiscal year in which the funds are apportioned, the funds will lapse and no longer be available to the urbanized area, and will be reapportioned under the Urbanized Area Formula Program.

It will be the responsibility of the MPO to determine how the one percent will be allotted to transit projects. The one percent minimum requirement does not preclude more than one percent being expended in an urbanized area for transit enhancements. Items that are only eligible as enhancements, however—in particular, operating costs for historic facilities—may only be assisted within the one percent fund level.

(3) *Project Budget.* The project budget for each grant application that includes enhancement funds must include a scope code for transit enhancements and specific budget activity line items for transit enhancements.

(4) *Enhancement Report.* The recipient must submit a report to the appropriate FTA Regional Office listing the projects or elements of projects carried out with those funds during the previous fiscal year and the amount expended. The report must be submitted in the Federal fiscal year's final quarterly report, using activity line item codes from the approved project budget.

(5) *Bicycle Access.* TEA–21 provides that projects providing bicycle access to transit assisted with the FTA enhancement apportionment shall be eligible for a 95 percent Federal share.

(6) *Enhanced Access for Persons with Disabilities.* Enhancement projects or elements of projects designed to enhance access for persons with disabilities must go beyond the requirements contained in the Americans with Disabilities Act.

F. Fiscal Year 1999 Operating Assistance

Fiscal year 1999 funding for operating assistance is available only to urbanized areas with populations under 200,000. For these smaller areas, there is no limitation on the amount of the state apportionment that may be used for operating assistance, and the Federal/local share ratio is 50/50. In addition, for all areas, many of the activities formerly funded by FTA with operating assistance are now eligible capital items under the category of preventive maintenance at the Federal/local share ratio of 80/20. TEA–21 provides one exception to the non-availability of funds for operating assistance to areas with populations 200,000 and above. Operating assistance is available to any urbanized area with a populations of 200,000 and above if the number of total bus revenue vehicle miles operated in or directly serving the area is under 900,000, and if the number of buses operated in or directly serving the area does not exceed 15.

This provision is not available to small operators within a large urbanized area in which the total number of vehicles that provide service is more than 15 and the total number of bus revenue vehicle miles operated in or directly servicing the area is 900,000 or more.

The Omnibus Appropriations Act amended Section 3027 of TEA–21 (which in turn amended 49 U.S.C. 5336 regarding use of operating assistance in larger urbanized areas) to allow transit providers of services to the elderly and disabled that operate 20 or fewer vehicles and are located in urbanized areas with a population of at least 200,000 to use Federal funds to finance the operating costs of equipment and facilities used by the transit provider in providing mass transit services to elderly persons and persons with disabilities, providing that such assistance to all entities should not exceed $1,000,000,000 annually.

G. Carryover Funds for Operating Assistance

The operating assistance limitations remain on the unused fiscal years 1996–1998 funds. These funds continue to be available for obligation at the Federal/local share ratio of 50/50 in fiscal year 1999 and throughout the period of availability. For unused fiscal year 1998 funds for areas under 200,000, operating assistance as a capital project with an 80 percent federal match ratio (without limitation) will continue to be available in fiscal year 1999 and throughout the period of availability.

H. Designated Transportation Management Areas

All urbanized areas over 200,000 in population have been designated as transportation management areas (TMAs), in accordance with 49 U.S.C. Section 5305. These designations were formally made in a **Federal Register** Notice dated May 18, 1992 (57 FR 21160), signed by the Federal Highway Administrator and the Federal Transit Administrator. Additional areas may be designated as TMAs upon the request of the Governor and the MPO designated for such area or the affected local officials. As of October 1, 1998, two additional TMAs have been formally designated: Petersburg, Virginia, comprised solely of the Petersburg, Virginia, urbanized area; and Santa Barbara, Santa Maria, and Lompoc, California, which were combined and designated as one TMA.

Guidance for setting the boundaries of TMAs is contained in the joint transportation planning regulations codified at 23 CFR part 450 and 49 CFR part 613. In some cases, the TMA boundaries, which have been established by the MPO for the designated TMA, also include one or more urbanized areas with less than 200,000 in population. Where this situation exists, the discretion of the Governor to allocate Urbanized Area Formula program "Governor's Apportionment" funds for urbanized areas with less than 200,000 in population is restricted.

As required by 49 U.S.C. 5307(a)(2), a recipient(s) must be designated to dispense the Urbanized Area Formula funds attributable to TMAs. Those urbanized areas that do not already have a designated recipient must name one and notify the appropriate FTA regional office of the designation. This would include those urbanized areas with less than 200,000 in population that may receive TMA designation independently, or those with less than 200,00 in population which are currently included within the boundaries of a larger designated TMA. In both cases, the Governor would only have discretion to allocate Governor's Apportionment funds attributable to areas which are outside of designated TMA boundaries. In order for the FTA and Governors to know which urbanized areas under 200,000 in population are included within the boundaries of an existing TMA, and so that they can be identified in future **Federal Register** notices, each MPO whose TMA planning boundaries include these smaller urbanized areas is asked to identify such areas to the FTA. This notification should be made in writing to the Associate Administrator for Program Management, Federal Transit Administration, 400 Seventh Street, SW, Washington, DC 20590, no later than July 1 of each fiscal year. To date, FTA has been notified of the following urbanized areas with less than 200,000 in population that are included within the planning boundaries of designated TMAs:

Designated TMA	Small urbanized area included in TMA boundaries
Baltimore, Maryland	Annapolis, Maryland.
Dallas-Fort Worth, Texas	Denton, Texas; Lewisville, Texas.
Houston, Texas	Galveston, Texas; Texas City, Texas.
Orlando, Florida	Kissimmee, Florida.
Philadelphia, Pennsylvania	Pottstown, Pennsylvania.
Pittsburgh, Pennsylvania	Monessen, Pennsylvania; Steubenville-Weirton, OH–WV–PA (PA portion)
Seattle, Washington	Bremerton, Washington.
Washington, DC–MD–VA	Frederick, Maryland (MD portion).

I. Urbanized Area Formula Funds Used for Highway Purposes

Urbanized Area Formula funds apportioned to a TMA are also available for highway projects if the following three conditions are met: (1) Such use must be approved by the MPO in writing after appropriate notice and opportunity for comment and appeal are provided to affected transit providers; (2) in the determination of the Secretary, such funds are not needed for investments required by the Americans with Disabilities Act of 1990 (ADA); and (3) the MPO determines that local transit needs are being addressed.

Urbanized Area Formula funds which are designated for highway projects will be transferred to and administered by the FHWA. The MPO should notify FTA of its intent to program FTA funds for highway purposes.

IX. Section 5311 Nonurbanized Area Formula Program and Section 5311(b) Rural Transit Assistance Program (RTAP)

A. Nonurbanized Area Formula Program

The fiscal year 1999 Nonurbanized Area Formula apportionments to the states totaling $177,856,722 are displayed in Table 5. Of the $177,923,658 appropriated, one-half percent ($889,618) was reserved for oversight. In addition to the current appropriation, the funds available for apportionment included $822,682 in deobligated funds from fiscal years prior to 1999.

The population figures used in calculating these apportionments are from the 1990 Census.

The Nonurbanized Formula Program provides capital, operating and administrative assistance for areas under 50,000 in population. Each state must spend no less than 15 percent of its fiscal year 1999 Nonurbanized Area Formula apportionment for the development and support of intercity bus transportation, unless the Governor certifies to the Secretary that the intercity bus service needs of the state are being adequately met. Fiscal year 1999 Nonurbanized Area Formula grant applications must reflect this level of programming for intercity bus or include a certification from the Governor.

Funding for the Nonurbanized Area Formula Program is significantly higher under TEA–21 than it was under the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). FTA encourages the states to use the increase to begin to expand the coverage of transit service into rural and small urban areas currently unserved and to improve levels of service in those areas which currently have only minimal transit service.

B. Rural Transit Assistance Program (RTAP)

The fiscal year 1999 RTAP allocations to the states totaling $5,401,831 are also displayed on Table 5. This amount includes $5,250,000 in fiscal year 1999 appropriated funds, and $151,831 in

prior year deobligated funds, which have become available for reallocation for this program.

The funds are allocated to the states to undertake research, training, technical assistance, and other support services to meet the needs of transit operators in nonurbanized areas. These funds are to be used in conjunction with the states' administration of the Nonurbanized Area Formula Program.

Effective with fiscal year 1999, FTA has revised the administrative formula used to allocate RTAP funds to the states, by increasing the minimum allocation each state receives from $50,000 to $65,000. The minimum allocation for the insular areas remains at $10,000. The effect of this change is to distribute the increase in RTAP funds more equitably to the smaller states, to enable them to continue to provide effective RTAP services. Due to the increase in program funding, no state receives an allocation in fiscal year 1999 that is less than in fiscal year 1998.

X. Section 5310 Elderly and Persons with Disabilities Program

A total of $67,136,222 is apportioned to the states for fiscal year 1999 for the Elderly and Persons with Disabilities Program. In addition to the fiscal year 1999 appropriation of $67,035,601, the fiscal year 1999 apportionment also includes $100,621 in prior year unobligated funds which have become available for reapportionment for the Elderly and Persons with Disabilities Program. Table 6 shows each state's apportionment.

The formula for apportioning these funds uses 1990 Census population data for persons aged 65 and over and for persons with disabilities.

The funds provide capital assistance for transportation for elderly persons and persons with disabilities. Eligible capital expenses may include, at the option of the recipient, the acquisition of transportation services by a contract, lease, or other arrangement.

While the assistance is intended primarily for private non-profit organizations, public bodies that coordinate services for the elderly and persons with disabilities, or any public body that certifies to the state that non-profit organizations in the area are not readily available to carry out the service, may receive these funds.

These funds may be transferred by the Governor to supplement the Urbanized Area Formula or Nonurbanized Area formula capital funds during the last 90 days of the fiscal year.

XI. Surface Transportation Program Flexible Funds Used for Transit Purposes (Title 23, U.S.C.)

A. Transfer Process

TEA–21 made changes in how funds are to be transferred from FHWA to FTA. Under ISTEA, obligation authority was not transferred to and from FTA. TEA–21 provides that obligation authority will be transferred to and from FHWA to FTA. In order to accommodate this change, FHWA and FTA are revising internal transfer procedures. The external process from transferring funds may also be revised. Until these revised procedures are developed, the two agencies have agreed to use the transfer process that was established under ISTEA which is described below.

Flexible DOT funds, such as Surface Transportation Program (STP) funds, Congestion Mitigation and Air Quality (CMAQ) funds, or others, which are designated for use in transit projects, are transferred from the FHWA to FTA after which FTA approves the project and awards a grant. Flexible funds designated for transit projects must result from the metropolitan and state planning and programming process, and must be included in an approved State Transportation Improvement Program (STIP) before the funds can be transferred. In order to initiate the transfer process, the grantee must submit a completed application to the FTA Regional Office, and must notify the state highway/transportation agency that it has submitted an application which requires a transfer of funds. Once the state highway/transportation agency determines that the state has sufficient obligation authority, the state agency notifies the FHWA Division Office that the funds are to be used for transit purposes. FHWA then notifies the FTA of the transfer project for processing and obligation. The flexible funds transferred to FTA will be placed in an urbanized area or state account for one of the three existing formula programs—Urbanized Area, Nonurbanized Area, or Elderly and Persons with Disabilities.

The flexible funds are then treated as FTA formula funds, although they retain a special identifying code. They may be used for any purpose eligible under these FTA programs. All FTA requirements are applicable to transferred funds. Flexible funds should be combined with regular FTA formula funds in a single annual grant application.

B. Matching Share for Flexible Funds

The provisions of Title 23, U.S.C. regarding the non-Federal share apply to Title 23 funds used for transit projects. Thus, flexible funds transferred to FTA retain the same matching share that the funds would have if used for highway purposes and administered by the FHWA.

There are three instances in which a higher than 80 percent Federal share would be maintained. First, in states with large areas of Indian and certain public domain lands, and national forests, parks and monuments, the local share for highway projects is determined by a sliding scale rate, calculated based on the percentage of public lands within that state. This sliding scale, which permits a greater Federal share, but not to exceed 95 percent, is applicable to transit projects funded with flexible funds in these public land states. FHWA develops the sliding scale matching ratios for the increased Federal share.

Secondly, commuter carpooling and vanpooling projects and transit safety projects using flexible funds administered by FTA may retain the same 100 percent Federal share that would be allowed for ride-sharing or safety projects administered by the FHWA. The third instance includes the 100 percent Federal safety projects; however, these are subject to a nationwide 10 percent program limitation.

C. Other Funds Transferred to FTA

Certain demonstration projects authorized in title 23 are specified to be used for transit projects and are more appropriately administered by FTA. In such cases, FHWA has transferred the funds to FTA for administration. Since these funds are not STP flexible funds, they are transferred into the appropriate Capital Program category (Bus, New Starts, or fixed Guideway Modernization) for obligation and are administered as Capital projects.

XII. Section 5309 Capital Program

A. Fixed Guideway Modernization

TEA–21 modified the formula for allocating the Fixed Guideway Modernization funds. The new formula contains seven tiers. The allocation of funding under the first four tiers, through fiscal year 2003, will be allocated based on data used to apportion the funding in fiscal year 1997. Funding in the three new tiers will be apportioned based on the latest available route miles and revenue vehicle miles on segments at least seven years old as reported to the National Transit Database.

Table 7 displays the fiscal year 1999 Fixed Guideway Modernization apportionments. Fixed Guideway

Modernization funds apportioned for this section must be used for capital projects to maintain, modernize, or improve fixed guideway systems.

All urbanized areas with fixed guideway systems that are at least seven years old are eligible to receive Fixed Guideway Modernization funds. A request for the start-up service dates for fixed guideways has been incorporated into the National Transit Database reporting system to ensure that all eligible fixed guideway data is included in the calculation of these apportionments. A threshold level of more than one mile of fixed guideway is required to receive Fixed Guideway Modernization funds. Therefore, urbanized areas reported one mile or less of Fixed Guideway mileage under the National Transit Database are not included.

For fiscal year 1999, $902,800,000 was appropriated for fixed guideway modernization. After deducting the three-fourth percent for Oversight ($6,771,000), $896,029,000 is available for apportionment to the specified urbanized areas.

Each year, the new fixed guideway modernization formula will allocate funds by seven tiers as follows:

Tier 1

The first $497,700,000 shall be apportioned to the following urbanized areas as follows: Baltimore $8,372,000; Boston $38,948,000; Chicago/Northwestern Indiana $78,169,000; Cleveland $9,509,500; New Orleans $1,730,588; New York $176,034,461; Northeastern New Jersey $50,604,653; Philadelphia/Southern New Jersey $58,924,764; Pittsburgh $13,662,463; San Francisco $33,989,571; Southwestern Connecticut $27,755,000.

Tier 2

The next $70,000,000 shall be apportioned as follows: 50 percent to areas identified in Tier I and 50 percent to other urbanized areas with fixed guideway segments which have been in operation at least seven years. These funds are apportioned using the Urbanized Area Formula Program fixed guideway tier formula factors that were used to apportion funds for the Fixed Guideway Modernization Program in fiscal year 1997.

Tier 3

The next $5,700,000 shall be apportioned to the following urbanized areas as follows: Pittsburgh, 61.76 percent; Cleveland, 10.73 percent; New Orleans, 5.79 percent; the remaining 21.72 percent is apportioned to all other cities using the same fixed guideway tier data used for Tier II.

Tier 4

The next $186,600,000 shall be apportioned to all eligible areas using the same year fixed guideway tier data that was used for Tiers II and III.

Tier 5

The next $70,000,000 shall be apportioned as follows: 65 percent to the eleven areas specified in Tier I, and 35 percent to other urbanized areas with fixed guideway system segments in revenue service for at least seven years. Allocations will be based on the latest available route miles and revenue vehicle miles for fixed guideway segments at least seven years old as reported to the National Transit Database.

Tier 6

The next $50,000,000 shall be apportioned as follows: 60 percent to the eleven areas specified in Tier I, and 40 percent to the other urbanized areas with fixed guideway system segments in revenue service for at least seven years. Allocations will be based on the latest available route miles and revenue vehicle miles for fixed guideway segments at least seven years old as reported to the National Transit Database.

Tier 7

Any remaining amounts shall be apportioned as follows: 50 percent to the eleven urbanized areas specified in Tier I, and 50 percent to the other urbanized areas with fixed guideway system segments in revenue service for at least seven years. Allocations will be based on the latest available route miles and revenue vehicle miles for fixed guideway segments at least seven years old as reported to the National Transit Database.

Table 12 contains the fiscal years 1998–2003 apportionment formula for the Section 5309 Fixed Guideway Modernization Program.

B. New Starts

The fiscal year 1999 appropriation for New Starts is $902,800,000 which was fully allocated in the fiscal year 1999 DOT Appropriations Act. However, by statute, this amount is reduced by three-fourth percent ($6,771,000) for Oversight activities, leaving $896,029,000 available for allocations to areas. The Oversight reduction was applied on a prorata basis to all 95 projects specified in the fiscal year 1999 Omnibus Appropriations Act yielding the final allocation for each of these projects (contain in Table 8 of this **Federal Register** Notice).

Prior year unobligated appropriations for New Starts in the amount of $430,856,230 remain available for obligation in fiscal year 1999. These carryover amounts are displayed in Table 8A, along with explanatory notes.

Since New Starts funds are used for design and construction of new systems or extensions to existing systems, preventive maintenance is not an eligible cost under this program.

C. Bus

The fiscal year 1999 appropriation for Bus is $451,400,000 for the purchase of buses, bus-related equipment and paratransit vehicles, and for the construction of bus-related facilities. TEA–21 established a $100,000,000 Clean Fuels Formula Program under Section 5308. The program is authorized to be funded with $50,000,000 from the Bus category of the Capital Program, and $50,000,000 from the Formula Program. However, the fiscal year 1999 Omnibus Appropriations Act directs FTA to transfer $50,000,000 Appropriated under the Formula Program to and merge it with funding provided for the Bus category of the Capital Program. Thus, $501,400,000 is available for funding the Bus category of the Capital Program. After deducting the three-fourth percent for oversight ($3,760,500), $497,639,500 remains available for projects.

The 1999 Omnibus Appropriations Act earmarked all of the fiscal year 1999 Bus funds to specified states or localities for bus and bus-related projects.

Because the three-fourth percent for oversight was subtracted from the amount appropriated, each bus project identified in the Conference Report receives three-fourth percent less than the funding level contained in the report. No funds remain available for discretionary allocation by the Federal Transit Administrator. Table 9 displays the allocations of the fiscal year 1999 Bus funds by area and also shows prior year unobligated earmarks for the Bus Program. The fiscal year 1999 bus allocations include the funding which would have been available for the Clean Fuels Formula Program under TEA–21.

Prior year unobligated appropriations for Bus in the amount of $379,813,842 remain available for obligation in fiscal year 1999, and are displayed in Table 9A.

XIII. New Programs

A. Section 5308 Clean Fuels Formula Program

TEA–21 established a $100,000,000 Clean Fuels Formula Program under Section 5308, to be funded with $50,000,000 from the Bus category of the Capital Program, and $50,000,000 from the Formula Program. However, the fiscal year 1999 Omnibus Appropriations Act transfers $50,000,000 appropriated under the Formula Program to and merges it with funding provided for the replacement, rehabilitation and purchase of buses and related equipment and the construction of bus related facilities under the Bus category of the Capital Program. In addition, in fiscal year 1999 Congress allocated the entire Bus category, including the $100,000,000, which TEA–21 provides for funding of the Clean Fuels Formula Program. These appropriation actions override the provisions established in TEA–21 for the Clean Fuels Formula Program. Therefore, FTA cannot implement this new program. A rulemaking to implement the Clean Fuels Formula program is being developed for use in fiscal year 2000. The fiscal year 1999 Bus Allocations on Table 9 include the funding which would have been available for the Clean Fuels Formula Program under TEA–21.

B. Over-the-Road Bus Accessibility Program

The Over-the-Road Bus Accessibility Program (OTRB) authorizes FTA to make grants to operators of over-the-road buses to finance the incremental capital and training costs of complying with the DOT over-the-road bus accessibility final rule, published on September 24, 1998. The legislation calls for national solicitation of applications, with grantees to be selected on a competitive basis. Federal funds are available for up to 50 percent of the project cost. A total of $2,000,000 is apportioned for intercity fixed route operators in fiscal year 1999.

FTA is exploring two approaches for implementation of the capital portion of the program. One approach would be to enter into a cooperative agreement with an intermediate entity which represents the over-the-road bus industry. This entity would serve as the funding distribution mechanism. This approach has the merit of consolidating numerous small grants and would allow a group familiar with the over-the-road bus industry to carry out the program. The entity would accept and review grant applications and make recommendations for funding based on the criteria in TEA–21 and in coordination with FTA and enter into agreements with over-the-road bus providers. The entity would also pass on all Federal requirements to the over-the-road bus operators. TEA–21 provides that all Federal requirements applicable to the Section 5311 Nonurbanized Area Formula Program are applicable to the Over-the-Road Bus Program. Federal requirements include but are not limited to competitive procurement, labor protections, Buy America, and civil rights requirements.

Alternately, FTA may implement the program with individual grants to over-the-road bus operators. With this approach, there would be a national solicitation of applications and FTA would review applications against the criteria in TEA–21 and make recommendations for funding. The appropriate FTA regional office would review the application and approve the grant.

In addition, FTA is proposing to enter into an agreement with a single agency which represents the disability community to take the lead on a national training initiative.

FTA will issue further guidance and application instructions for this program.

C. Job Access and Reverse Commute Program

A total of $75,000,000 is appropriated for the Job Access and Reverse Commute Program in fiscal year 1999. Of this amount, $50,000,000 is guaranteed under the discretionary spending cap and $25,000,000 was made available from other discretionary spending offsets. This program, established under TEA–21, provides funding for the provision of transportation services designed to increase access to jobs and employment-related activities. Job Access projects are those which transport welfare recipients and low-income individuals in urban, suburban, or rural areas to and from jobs and activities related to their employment. Reverse Commute projects provide transportation services for the general public from urban, suburban, and rural areas to suburban employment opportunities.

One of the major goals of the Job Access and Reverse Commute program is to increase collaboration among transportation providers, human service agencies, employers, metropolitan planning organizations, states, and affected communities and individuals. All projects funded under this program must be derived from a regional Job Access and Reverse Commute Transportation Plan, developed through a regional approach which supports the implementation of a variety of transportation services designed to connect welfare recipients to jobs and related activities. A key element of the program is making the most efficient use of existing public, nonprofit and private transportation service providers.

A Federal Register Notice will be published by the end of October which will provide program guidance and application procedures. The notice will also be available on the FTA website.

D. Transportation and Community and System Preservation Pilot Program (TCSP)

Section 1221 of TEA–21 established a pilot program that will enable grantees to plan or implement activities that investigate and address the relationship between transportation and community and system preservation. Eligible grantees are State agencies, metropolitan planning organizations (MPOs) and units of local governments, including public transit agencies. TCSP will provide $20,000,000 in fiscal year 1999 and $25,000,000 per year for fiscal years 2000 through 2003 for planning and implementation grants, as well as research, which address transportation efficiency while meeting community preservation and environmental goals.

TCSP activities must be eligible under Title 23 (the Federal highway program) of Chapter 52 of Title 49 (the Federal transit program) of the United States Code, or must be activities which the Secretary of Transportation determines to be appropriate. TCSP discretionary grants will be used to plan and implement strategies which (1) improve the efficiency of the transportation system; (2) reduce the impacts of transportation on the environment; (3) reduce the need for costly future public infrastructure; (4) ensure efficient access to jobs, services and centers of trade, and (5) encourage private sector development patterns which achieve these goals. Grants will be directed to new and innovative activities that are eligible but under the current Federal-aid program. TCSP activities must be coordinated with the MPO and/or state transportation planning processes.

The FHWA is administering this program and has established an interagency working group, which includes the FTA, to design and implement TCSP. On September 16, 1998, a Federal Register Notice requested comments within 60 days on TCSP implementation in fiscal year 2000 and beyond. The Notice also requested that eligible entities interested in applying for fiscal year 1999 planning and implementation grants should submit letters of intent within 60 days. The DOT expects to select about 50 letters of intent to be developed into full proposals, and to fund 20 to 30 planning and implementation grants in fiscal year 1999. TCSP research activities will begin in fiscal year 2000. The voice mail for information on TCSP is (800) 488–6034.

XIV. Unit Values of Data for the Section 5307 Urbanized Area Formula Program, Section 5311 Nonurbanized Area Formula Program, and Section 5309 Capital Fixed Guideway Modernization

For technical assistance purposes, the dollar unit values of data derived from the computations of the Urbanized Area Formula Program, the Nonurbanized Area Formula Program, and the Capital Program—Fixed Guideway Modernization apportionments are included in this Notice in Table 13. To determine how a particular apportionment amount was developed, areas may multiply their population, population density, and data from the NTD by these unit values.

XV. Period of Availability of Funds

The funds apportioned under the Metropolitan Planning Program and the State Planning and Research Program, the Urbanized Area Formula Program, and the Fixed Guideway Modernization Program, in this notice, will remain available to be obligated by FTA to recipients for three fiscal years following fiscal year 1999. Any of these apportioned funds unobligated at the close of business on September 30, 2002 will revert to FTA for reapportionment under these respective programs.

Funds apportioned to nonurbanized areas under the Nonurbanized Area Formula Program, including RTAP funds, will remain available for two fiscal years following fiscal year 1999. Any such funds remaining unobligated at the close of business on September 30, 2001, will revert to FTA for reapportionment among the states under the Nonurbanized Area Formula Program. Funds allocated to States under the Elderly and Persons with Disabilities Program in this Notice must be obligated by September 30, 1999. Any such funds remaining unobligated as of this date will revert to FTA for reapportionment among the states under the Elderly and Persons with Disabilities Program. The fiscal year 1999 Omnibus Appropriations Act includes a provision requiring that fiscal year 1999 New Starts and Bus funds not obligated for their original purpose as of September 30, 2001, shall be made available for other discretionary projects within the respective categories of the Capital Program. Similar provisions in the 1998 and 1997 DOT Appropriations Acts required that fiscal year 1998 Bus and New Starts funds that are not obligated by September 30, 2000 also be made available for other discretionary Bus or New Starts projects, respectively; and fiscal year 1997 Bus and New Starts funds unobligated by September 30, 1999 shall be made available for other discretionary Bus or New Starts projects, respectively.

XVI. Automatic Pre-Award Authority to Incur Project Cost

A. Background

Since fiscal year 1994, FTA has provided pre-award authority to cover certain planning and capital costs prior to grant award. This automatic pre-award spending authority permits a grantee to incur costs on an eligible transit capital or planning project without prejudice to possible future Federal participation in the cost of the project or projects. Prior to exercising pre-award authority, grantees must comply with the conditions and environmental planning and other Federal requirements outlined in paragraphs B and C immediately below. Failure to do so will render an otherwise eligible project ineligible for FTA financial assistance. In addition, grantees are strongly encouraged to consult with the appropriate regional office if there could be any question regarding the eligibility of the project for future FTA funds or the applicability of the conditions and Federal requirements.

Authority to incur costs for fiscal year 1998 Fixed Guideway Modernization, Metropolitan Planning, Urbanized Area Formula, Elderly and Persons with Disabilities, Nonurbanized Area Formula, STP or CMAQ flexible funds to be transferred from the FHWA and State Planning and Research Programs in advance of possible future Federal participation was provided in the December 5, 1997, **Federal Register** Notice. Pre-award authority was extended in the June 24, 1998 **Federal Register** Notice on TEA–21 to all formula funds and flexible funds that will be apportioned during the authorization period of TEA–21, 1998–2003. Pre-award authority also applies to Capital Bus funds identified in this notice. Pre-award authority does not apply to Capital New Start funds, or to Capital Bus projects not specified in this or previous notices. Pre-award authority also applies to preventive maintenance costs incurred within a local fiscal year ending during calendar year 1997, or thereafter, under the formula programs cited above.

B. Conditions

Similar to the FTA Letter of No Prejudice (LONP) authority, the conditions under which this authority may be utilized are specified below:

(1) This pre-award authority is not a legal or moral commitment that the project(s) will be approved for FTA assistance or that FTA will obligate Federal funds. Furthermore, it is not a legal or moral commitment that all items undertaken by the applicant will be eligible for inclusion in the project(s).

(2) All FTA statutory, procedural, and contractual requirements must be met at the appropriate time.

(3) No action will be taken by the grantee that prejudices the legal and administrative findings which the Federal Transit Administrator must make in order to approve a project.

(4) Local funds expended by the grantee pursuant to and after the date of this authority will be eligible for credit toward local match or reimbursement if FTA later makes a grant for the project(s) or project amendment(s).

(5) The Federal amount of any future FTA assistance to the grantee for the project will be determined on the basis of the overall scope of activities end the prevailing statutory provisions with respect to the Federal/local match ratio at the time the funds are obligated.

(6) For funds to which this authority applies, the authority expires with the lapsing of the fiscal year funds.

C. Environmental, Planning, and Other Federal Requirements

FTA emphasizes that all of the Federal grant requirements must be met for the project to remain eligible for Federal funding. Some of these requirements must be met before pre-award costs are incurred, notably the requirements of the National Environmental Policy Act (NEPA), and the planning requirements. Compliance with NEPA and other environmental laws or executive orders (e.g., protection of parklands, wetlands, historic properties) must be completed *before* state or local funds are spent on implementing activities such as final design, construction, and acquisition for a project that is expected to be subsequently funded with FTA funds. Depending on which class the project is included under in FTA environmental regulations (23 CFR part 771), the grantee may not advance the project beyond planning and preliminary engineering before FTA has approved either a categorical exclusion (refer to 23 CFR part 771.117(d)), a finding of no

significant impact, or a final environmental impact statement. The conformity requirements of the Clean Air Act (40 CFR part 93) also must be fully met before the project may be advanced with non-Federal funds.

Similiarly, the requirement that a project be included in a locally adopted metropolitan transportation improvement program and federally approved statewide transportation improvement program must be followed before the project may be advanced with non-Federal funds. In addition, Federal procurement procedures, as well as the whole range of Federal requirements, must be followed for projects in which Federal funding will be sought in the future. Failure to follow any such requirements could make the project ineligible for Federal funding. In short, this increased administrative flexibility requires a grantee to make certain that no Federal requirements are circumvented through the use of pre-award authority. If a grantee has questions or concerns regarding the environmental requirements, or any other Federal requirements that must be met before incurring costs, it should contact the appropriate regional office.

Before an applicant may incur costs either for activities expected to be funded by New Start funds, or for Bus Capital projects not listed in this notice or previous notices, it must first obtain a written LONP from FTA. To obtain an LONP, a grantee must submit a written request accompanied by adequate information and justification to the appropriate FTA regional office.

XVII. Letter of No Prejudice Policy (Prior Approval of Pre-Award Authority)

A. Policy

The latest guidance on Letters of No Prejudice (LONP) policy and procedures is contained in an October 21, 1982 **Federal Register** Notice. Since the issuance of that notice in 1982 there have been many changes to the FTA program including automatic pre-award authority for formula funds, flexible funds transferred from the FHWA and for bus earmarks. The 1982 policy was based on the philosophy that LONPs would only be issued under the most extenuating circumstances. With substantial experience with automatic pre-award authority, this philosophy is no longer an accurate reflection of FTA policy. This **Federal Register** Notice supersedes the Letter of No Prejudice (LONP) policy issued October 21, 1982.

LONP authority allows an applicant to incur costs on a future project utilizing non-Federal resources with the understanding that the costs incurred subsequent to the issuance of the LONP may be reimbursable as eligible expenses or eligible for credit toward the local match should the FTA approve the project at a later date. LONPs are applicable to projects not covered by automatic pre-award authority. The majority of LONPs will be for New Starts not covered under a full funding grant agreement or for Section 5309 bus funds not yet appropriated by Congress. At the end of an authorization period, there may be LONPs for formula funds beyond the life of the current authorization.

Under most circumstances the LONP will cover the total project. Under certain circumstances the LONP may be issued for local match only. In such cases the local match would be to permit real estate to be used for match for the project at a later date.

B. Conditions

The following conditions apply to all LONPs.

(1) LONP pre-award authority is not a legal or moral commitment that the project(s) will be approved for FTA assistance or that FTA will obligate Federal funds. Furthermore, it is not a legal or moral commitment that all items undertaken by the applicant will be eligible for inclusion in the project(s).

(2) All FTA statutory, procedural, and contractual requirements must be met.

(3) No action will be taken by the grantee that prejudices the legal and administrative findings which the Federal Transit Administrator must make in order to approve a project.

(4) Local funds expended by the grantee pursuant to and after the date of the LONP will be eligible for credit toward local match or reimbursement if FTA later makes a grant for the project(s) or project amendment(s).

(5) The Federal amount of any future FTA assistance to the grantee for the project will be determined on the basis of the overall scope of activities and the prevailing statutory provisions with respect to the Federal/local match ratio at the time the funds are obligated.

(6) For funds to which this pre-award authority applies, the authority expires with the lapsing of the fiscal year funds.

C. Environmental, Planning, and Other Federal Requirements

As with automatic pre-award authority, FTA emphasizes that all of the Federal grant requirements must be met for the project to remain eligible for Federal funding. Some of these requirements must be met before pre-award costs are incurred, notably the requirements of the National Environmental Policy Act (NEPA), and the planning requirements. Compliance with NEPA and other environmental laws or executive orders (e.g., protection of parklands, wetlands, historic properties) must be completed before state or local funds are spent on implementation activities such as final design, construction, or acquisition for a project expected to be subsequently funded with FTA funds. Depending on which class the project is included under in FTA's environmental regulations (23 CFR part 771), the grantee may not advance the project beyond planning and preliminary engineering before FTA has approved either a categorical exclusion (refer to 23 CFR part 771.117(d)), a finding of no significant impact, or a final environmental impact statement. The conformity requirements of the Clean Air Act (40 CFR part 93) also must be fully met before the project may be advanced with non-Federal funds.

Similarly, the requirement that a project be included in a locally adopted metropolitan transportation improvement program and federally approved statewide transportation improvement program must be followed before the project may be advanced with non-Federal funds. In addition, Federal procurement procedures, as well as the whole range of Federal requirements, must be followed for projects in which Federal funding will be sought in the future. Failure to follow any such requirements could make the project ineligible for Federal funding. In short, this pre-award authority requires a grantee to make certain that no Federal requirements are circumvented. If a grantee has questions or concerns regarding the environmental requirements, or any other Federal requirements that must be met before incurring costs, it should contact the appropriate regional office.

D. Request for LONP

Before an applicant may incur costs for a project not covered by automatic pre-award authority, it must first submit a written request for an LONP to the appropriate regional office. This written request must include a description of the project for which pre-award authority is desired and a justification for the request.

XVIII. State Infrastructure Banks

The State Infrastructure Bank (SIB) pilot program was authorized in the National Highway System Designation Act of 1995. It allows the creation of state-level institutions that can use Federal Highway Administration (FHWA) and FTA funds to make loans and loan guarantees (and other forms of credit enhancement) to transit and highway projects. The SIBs may earn interest on deposits of Federal funds, and they may charge below-market interest rates on long-term loans.

While 31 states established SIBs under the NHS Act authorizations, TEA–21 only renewed this authority to four states—California, Florida, Missouri, and Rhode Island. Thus, the original SIBs may continue to function with funds appropriated for their use in 1996 and 1997, but only the four SIBs authorized in TEA–21 will be allowed to use fiscal year 1998 and subsequent year grant funds for capitalization. These states may use up to 100 percent of their highway or transit formula funds for capitalization, but there are no additional funds apportioned specifically to SIBs. TEA–21 also allowed the four authorized SIBs to use any Federal capital funds to make loans to highway, transit, and rail projects—a significant increase in flexibility.

XIX. FTA Home Page on the Internet

FTA provides extended customer service by making available transit information on the FTA Home Page web site, including this Apportionment Notice. Also posted on the web site are FTA program circulars: C9030.1C, Urbanized Area Formula Program: Grant Application Instructions, dated October 1, 1998; C9040.1E, Nonurbanized Area Formula Program Guidance and Grant Application Instructions, dated October 1, 1998; C9070.1E, Elderly and Persons with Disabilities Program Guidance and Application Instructions, dated October 1, 1998; C9300.1A, Capital Program: Grant Application Instructions, dated October 1, 1998; 4220.1D, Third Party Contracting Requirements, dated April 15, 1996; C5010.1C, Grant Management Guidelines, dated October 1, 1998; and C8100.1B, Program Guidance and Application Instructions for Metropolitan Planning Program Grants, dated October 25, 1996. The fiscal year 1999 Annual List of Certifications and Assurances is also posted on the FTA web site. Other documents on the FTA web site of particular interest to public transit providers and users include the 1997 Statistical Summaries of FTA Grant Assistance Programs, and the National Transit Database Profiles.

The FTA Home Page may be accessed at: http://www.fta.dot.gov. FTA circulars and other guidance are at: http://www.fta.dot.gov/program.

Grantees should check our web site frequently to keep up to date on new postings.

XX. 1999 Annual List of Certifications and Assurances

The Fiscal Year 1999 Annual List of Certifications and Assurances is published in conjunction with the Apportionments, as per 49 U.S.C. section 5307(k). It appears as a separate Part of the **Federal Register** on the same date whenever possible. The 1999 list contains several changes to the previous year's **Federal Register** publication. (1) All applicants for FTA Capital Program or Formula Program assistance, and current grantees with an active project financed with FTA Capital Program or Formula Program assistance, will be required to provide the Appendix A Certifications and Assurances within 90 days from the date of the above **Federal Register** publication or with its first grant application in fiscal year 1999, whichever comes first. (2) The attorney signature from previous years on the single signature page is not acceptable. A current attorney's affirmation is required to certify applicant's legal authority to comply with fiscal year 1999 FTA funding assistance. (3) As in previous years, the grant applicant should (when possible) certify electronically, indicating that a current attorney's signature is on file. (4) The applicant is advised that Transit Enhancement activities (49 U.S.C. 5307(k)) require an annual report listing projects carried out during the previous year.

The fiscal year 1999 Annual List of Certifications and Assurances is accessible on the Internet at www.fta.dot.gov. Any questions regarding this document may be addressed to the appropriate Regional Office or to Pat Berkley, Office of Program Management, Federal Transit Administration, (202) 366–6470.

XXI. Grant Application Procedures

All applications for FTA funds should be submitted to the appropriate FTA Regional Office. As described in Section V, FTA is expecting that most applications will be filed electronically in FY 1999 using the new TEAM system. Formula grant applications should be prepared in conformance with the following FTA Circulars: Program Guidance and Application Instructions for Metropolitan Planning Program Grants—C8100.1B, October 25, 1996; Urbanized Area Formula Program: Grant Application Instructions—C9030.1C, October 1, 1998; Nonurbanized Area Formula Program Guidance and Grant Application Instructions—C9040.1E, October 1, 1998; Section 5310 Elderly and Persons with Disabilities Program Guidance and Application Instructions C9070.1E, October 1, 1998; and Section 5309 Capital Program: Grant Application Instructions—C9300.1A, October 1, 1998. Applications for STP "flexible" fund grants should be prepared in the same manner as the apportioned funds under the Urbanized Area Formula, Nonurbanized Area Formula, or Elderly and Persons with Disabilities Programs. Guidance on preparation of applications for State Planning and Research funds may be obtained from each FTA Regional Office. Copies of circulars are available from FTA Regional Offices as well as the FTA Home Page on the Internet.

Issued on: October 29, 1998.

Gordon J. Linton,

Administrator.

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TABLE 1

FEDERAL TRANSIT ADMINISTRATION

FY 1999 APPROPRIATIONS FOR GRANT PROGRAMS

SOURCES OF FUNDS	FY 1999 APPROPRIATIONS
TRANSIT PLANNING AND RESEARCH PROGRAMS	
Planning:	
Section 5303 Metropolitan Planning Program	$43,841,600
Reapportioned Funds Added	59,598
Total Apportioned	$43,901,198
Section 5313(b) State Planning and Research Program	$9,158,400
Reapportioned Funds Added	98,848
Total Apportioned	$9,257,248
Research:	
Section 5311(b) Rural Transit Assistance Program (RTAP)	$5,250,000
Reapportioned Funds Added	151,831
Total Apportioned	$5,401,831
FORMULA PROGRAMS	$2,850,000,000
Alaska Railroad (Section 5307)	4,849,950
Less Oversight (one-half percent)	(24,250)
Total Available	4,825,700
Section 5308 Clean Fuels Formula Program	50,000,000 a/
Over-the-Road Bus Accessibility Program	2,000,000
Section 5307 Urbanized Area Formula Program	
91.23% of Total Available for Sections 5307, 5311, and 5310	$2,548,190,791
Less Oversight (one-half percent)	(12,740,954)
Reapportioned Funds Added	5,055,703
Total Apportioned	$2,540,505,540
Section 5311 Nonurbanized Area Formula Program	
6.37% of Total Available for Sections 5307, 5311, and 5310	$177,923,658
Less Oversight (one-half percent)	(889,818)
Reapportioned Funds Added	822,882
Total Apportioned	$177,856,722
Section 5310 Elderly and Persons with Disabilities Formula Program	
2.4% of Total Available for Sections 5307, 5311, and 5310	$67,035,601
Reapportioned Funds Added	100,621
Total Apportioned	$67,136,222
CAPITAL PROGRAM	$2,257,000,000
Section 5309 Fixed Guideway Modernization	$902,800,000
Less Oversight (three-fourth percent)	(6,771,000)
Total Apportioned	$896,029,000
Section 5309 New Starts	$902,800,000
Less Oversight (three-fourth percent)	(6,771,000)
Total Allocated	$896,029,000
Section 5309 Bus	$501,400,000 b/
Less Oversight (three-fourth percent)	(3,760,500)
Total Allocated	$497,639,500
JOB ACCESS AND REVERSE COMMUTE PROGRAM (Section 3037, TEA-21)	$75,000,000
TOTAL APPROPRIATIONS (Above Grant Programs)	$5,240,250,000

TPM-10/98FR-T1/4

a/ The FY 1999 Appropriations Act transfers $50,000,000 to the Bus Category of the Capital Program.
b/ Includes $451,400,000 plus $50,000,000 transferred from the Clean Fuels Formula Program.

TABLE 2

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5303 METROPOLITAN PLANNING PROGRAM AND SECTION 5313(b) STATE PLANNING AND RESEARCH PROGRAM APPORTIONMENTS

STATE	FY 1999 SECTION 5303 APPORTIONMENT	FY 1999 SECTION 5313(b) APPORTIONMENT
Alabama	$384,440	$101,355
Alaska	175,605	46,286
Arizona	699,026	146,306
Arkansas	175,605	46,286
California	7,482,037	1,402,810
Colorado	571,100	130,982
Connecticut	512,969	135,272
Delaware	175,605	46,286
District of Columbia	236,694	46,286
Florida	2,392,714	560,635
Georgia	847,148	179,614
Hawaii	175,605	46,286
Idaho	175,605	46,286
Illinois	2,564,877	467,049
Indiana	622,689	148,326
Iowa	196,974	51,926
Kansas	227,672	56,110
Kentucky	272,747	70,336
Louisiana	471,350	122,731
Maine	175,605	46,286
Maryland	1,019,100	197,285
Massachusetts	1,242,933	260,573
Michigan	1,601,331	320,181
Minnesota	650,198	130,603
Mississippi	175,605	46,286
Missouri	718,958	153,287
Montana	175,605	46,286
Nebraska	175,605	46,286
Nevada	190,387	50,188
New Hampshire	175,605	46,286
New Jersey	2,175,970	365,189
New Mexico	175,605	46,286
New York	4,418,750	777,583
North Carolina	524,905	138,421
North Dakota	175,605	46,286
Ohio	1,512,725	366,700
Oklahoma	282,947	74,604
Oregon	317,882	78,224
Pennsylvania	1,962,133	397,026
Puerto Rico	475,583	117,070
Rhode Island	175,605	46,286
South Carolina	298,025	78,592
South Dakota	175,605	46,286
Tennessee	463,404	122,179
Texas	2,982,127	626,441
Utah	275,638	72,688
Vermont	175,605	46,286
Virginia	980,769	210,961
Washington	781,819	177,084
West Virginia	175,605	46,286
Wisconsin	567,792	135,769
Wyoming	175,605	46,286
TOTAL	$43,901,198	$9,257,248

99FR-T2/2

TABLE 3

FEDERAL HIGHWAY ADMINISTRATION

FY 1999 METROPOLITAN PLANNING PROGRAM (PL)
AND ESTIMATED STATE PLANNING AND RESEARCH (SP&R) PROGRAM APPORTIONMENTS

STATE	FY 1999 PL APPORTIONMENT	ESTIMATED FY 1999 SP&R APPORTIONMENT
Alabama	$2,076,485	$8,902,792
Alaska	935,077	5,941,876
Arizona	2,997,412	7,821,349
Arkansas	935,077	6,417,059
California	28,739,677	44,490,903
Colorado	2,683,477	5,794,862
Connecticut	2,771,365	7,423,413
Delaware	935,077	2,239,588
District/Col	935,077	1,931,292
Florida	11,485,908	22,828,491
Georgia	3,679,818	16,881,838
Hawaii	935,077	2,503,519
Idaho	935,077	3,634,029
Illinois	9,568,581	16,206,732
Indiana	3,038,806	11,521,315
Iowa	1,063,827	5,870,297
Kansas	1,149,541	5,703,445
Kentucky	1,440,989	7,605,645
Louisiana	2,514,419	7,642,968
Maine	935,077	2,587,789
Maryland	4,041,840	7,182,248
Massachusetts	5,338,449	8,955,734
Michigan	6,559,638	15,272,015
Minnesota	2,675,707	7,168,189
Mississippi	935,077	5,829,406
Missouri	3,140,445	11,422,463
Montana	935,077	5,058,513
Nebraska	935,077	3,918,951
Nevada	1,028,212	3,606,877
New Hampshire	935,077	2,459,889
New Jersey	7,481,735	12,346,515
New Mexico	935,077	4,851,457
New York	15,930,590	24,430,587
North Carolina	2,835,883	13,349,356
North Dakota	935,077	3,307,642
Ohio	7,512,695	16,140,061
Oklahoma	1,528,437	7,606,520
Oregon	1,602,601	5,840,992
Pennsylvania	8,133,985	21,187,529
Rhode Island	930,524	2,989,826
South Carolina	1,610,139	7,893,992
South Dakota	935,077	3,500,172
Tennessee	2,503,121	9,935,503
Texas	12,834,093	35,661,580
Utah	1,489,173	3,778,372
Vermont	935,077	2,279,663
Virginia	4,322,033	12,356,714
Washington	3,627,977	8,582,923
West Virginia	935,077	3,931,098
Wisconsin	2,781,549	9,764,256
Wyoming	935,077	3,502,738
TOTAL	$167,015,440	$478,038,539

Page 1 of 12 pages

TABLE 4

99FR-T4/4
28-Oct-98

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5307 URBANIZED AREA FORMULA APPORTIONMENTS

URBANIZED AREA/STATE	FY 1999 ONE PERCENT TRANSIT ENHANCEMENT	FY 1999 APPORTIONMENT
OVER 1,000,000 IN POPULATION	$18,686,665	$1,868,666,460
200,000-1,000,000 IN POPULATION	4,275,886	427,588,610
50,000-200,000 IN POPULATION		244,250,470
NATIONAL TOTAL	$22,962,551	$2,540,505,540

URBANIZED AREA/STATE	FY 1999 ONE PERCENT TRANSIT ENHANCEMENT	FY 1999 APPORTIONMENT
Amounts Apportioned to Urbanized Areas Over 1,000,000 in Population:		
Atlanta, GA	$396,558	$39,655,773
Baltimore, MD	299,507	29,950,715
Boston, MA	709,339	70,933,901
Chicago, IL-Northwestern IN	1,671,136	167,113,625
Cincinnati, OH-KY	128,262	12,826,177
Cleveland, OH	221,096	22,109,564
Dallas-Fort Worth, TX	384,788	38,478,792
Denver, CO	232,029	23,202,920
Detroit, MI	314,808	31,480,777
Ft Lauderdale-Hollywood-Pompano Beach, FL	195,505	19,550,458
Houston, TX	383,207	38,320,702
Kansas City, MO-KS	85,838	8,583,754
Los Angeles, CA	1,718,494	171,849,410
Miami-Hialeah, FL	332,670	33,266,984
Milwaukee, WI	167,651	16,765,116
Minneapolis-St. Paul, MN	230,775	23,077,459
New Orleans, LA	139,207	13,920,676
New York, NY-Northeastern NJ	5,346,716	534,671,553
Norfolk-Virginia Beach-Newport News, VA	113,044	11,304,420
Philadelphia, PA-NJ	948,638	94,863,784
Phoenix, AZ	202,335	20,233,534
Pittsburgh, PA	269,344	26,934,356
Portland-Vancouver, OR-WA	208,272	20,827,206
Riverside-San Bernardino, CA	153,995	15,399,481
Sacramento, CA	119,279	11,927,923
San Antonio, TX	163,258	16,325,781
San Diego, CA	357,152	35,715,164
San Francisco-Oakland, CA	983,628	98,362,792
San Jose, CA	260,842	26,084,237
San Juan, PR	292,240	29,223,983
Seattle, WA	490,406	49,040,591
St. Louis, MO-IL	216,826	21,682,750
Tampa-St. Petersburg-Clearwater, FL	139,421	13,942,148
Washington, DC-MD-VA	810,400	81,039,952
TOTAL	$18,686,665	$1,868,666,460

TABLE 4

99FR-T4/4
28-Oct-98

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5307 URBANIZED AREA FORMULA APPORTIONMENTS

URBANIZED AREA/STATE	FY 1999 ONE PERCENT TRANSIT ENHANCEMENT	FY 1999 APPORTIONMENT
Amounts Apportioned to Urbanized Areas 200,000 to 1,000,000 in Population:		
Akron, OH	$51,899	$5,189,924
Albany-Schenectady-Troy, NY	57,573	5,757,348
Albuquerque, NM	47,656	4,765,584
Allentown-Bethlehem-Easton, PA-NJ	41,321	4,132,116
Anchorage, AK	21,487	2,148,748
Ann Arbor, MI	30,713	3,071,271
Augusta, GA-SC	17,124	1,712,358
Austin, TX	110,708	11,070,829
Bakersfield, CA	31,182	3,118,240
Baton Rouge, LA	26,268	2,626,751
Birmingham, AL	36,735	3,673,523
Bridgeport-Milford, CT	54,158	5,415,845
Buffalo-Niagara Falls, NY	105,436	10,543,566
Canton, OH	16,931	1,693,143
Charleston, SC	27,948	2,794,798
Charlotte, NC	52,318	5,231,811
Chattanooga, TN-GA	20,566	2,056,646
Colorado Springs, CO	34,812	3,481,215
Columbia, SC	24,714	2,471,396
Columbus, GA-AL	14,394	1,439,372
Columbus, OH	97,186	9,718,611
Corpus Christi, TX	33,086	3,308,575
Davenport-Rock Island-Moline, IA-IL	24,822	2,482,183
Dayton, OH	102,436	10,243,601
Daytona Beach, FL	28,411	2,841,098
Des Moines, IA	32,736	3,273,626
Durham, NC	28,839	2,883,911
El Paso, TX-NM	72,462	7,246,167
Fayetteville, NC	15,174	1,517,435
Flint, MI	35,061	3,506,091
Fort Myers-Cape Coral, FL	20,929	2,092,870
Fort Wayne, IN	17,280	1,727,970
Fresno, CA	47,336	4,733,622
Grand Rapids, MI	36,238	3,623,812
Greenville, SC	11,763	1,176,317
Harrisburg, PA	19,857	1,985,693
Hartford-Middletown, CT	78,804	7,880,363
Honolulu, HI	187,559	18,755,942
Indianapolis, IN	80,793	8,079,324
Jackson, MS	17,108	1,710,793
Jacksonville, FL	68,795	6,879,494
Knoxville, TN	22,704	2,270,441
Lansing-East Lansing, MI	29,249	2,924,937
Las Vegas, NV	121,276	12,127,602
Lawrence-Haverhill, MA-NH	28,687	2,868,684
Lexington-Fayette, KY	17,493	1,749,275
Little Rock-North Little Rock, AR	25,353	2,535,304
Lorain-Elyria, OH	11,875	1,187,450
Louisville, KY-IN	95,488	9,548,770
Madison, WI	41,154	4,115,362

TABLE 4

99FR-T4/4
28-Oct-98

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5307 URBANIZED AREA FORMULA APPORTIONMENTS

URBANIZED AREA/STATE	FY 1999 ONE PERCENT TRANSIT ENHANCEMENT	FY 1999 APPORTIONMENT
Amounts Apportioned to Urbanized Areas 200,000 to 1,000,000 in Population (Continued):		
McAllen-Edinburg-Mission, TX	12,353	1,235,281
Melbourne-Palm Bay, FL	29,990	2,999,044
Memphis, TN-AR-MS	82,401	8,240,086
Mobile, AL	18,555	1,855,467
Modesto, CA	25,581	2,558,100
Montgomery, AL	11,391	1,139,097
Nashville, TN	43,583	4,358,321
New Haven-Meriden, CT	93,962	9,396,199
Ogden, UT	28,831	2,883,135
Oklahoma City, OK	44,330	4,432,983
Omaha, NE-IA	50,402	5,040,205
Orlando, FL	129,812	12,981,167
Oxnard-Ventura, CA	61,070	6,106,959
Pensacola, FL	17,940	1,794,044
Peoria, IL	18,773	1,877,306
Providence-Pawtucket, RI-MA	136,356	13,635,647
Provo-Orem, UT	26,902	2,690,192
Raleigh, NC	26,792	2,679,242
Reno, NV	29,832	2,983,208
Richmond, VA	52,429	5,242,875
Rochester, NY	63,388	6,338,752
Rockford, IL	16,956	1,695,578
Salt Lake City, UT	113,105	11,310,465
Sarasota-Bradenton, FL	35,223	3,522,324
Scranton-Wilkes-Barre, PA	28,433	2,843,266
Shreveport, LA	23,717	2,371,683
South Bend-Mishawaka, IN-MI	19,689	1,968,874
Spokane, WA	53,461	5,346,148
Springfield, MA-CT	56,356	5,635,592
Stockton, CA	32,373	3,237,281
Syracuse, NY	41,060	4,105,993
Tacoma, WA	93,890	9,388,974
Toledo, OH-MI	43,130	4,313,030
Trenton, NJ-PA	37,739	3,773,888
Tucson, AZ	73,681	7,368,088
Tulsa, OK	40,689	4,068,932
West Palm Beach-Boca Raton-Delray Bch, FL	141,108	14,110,838
Wichita, KS	26,588	2,658,823
Wilmington, DE-NJ-MD-PA	59,475	5,947,520
Worcester, MA-CT	38,827	3,882,744
Youngstown-Warren, OH	22,215	2,221,452
TOTAL	$4,275,886	$427,588,610

TABLE 4

99FR-T4/4
28-Oct-98

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5307 URBANIZED AREA FORMULA APPORTIONMENTS

URBANIZED AREA/STATE	FY 1999 APPORTIONMENT
Amounts Apportioned to State Governors for Urbanized Areas 50,000 to 200,000 in Population:	
ALABAMA:	$4,582,699
Anniston, AL	442,033
Auburn-Opelika, AL	354,643
Decatur, AL	404,757
Dothan, AL	339,964
Florence, AL	473,623
Gadsden, AL	418,603
Huntsville	1,328,831
Tuscaloosa, AL	820,245
ALASKA:	$0
ARIZONA:	$1,199,549
Flagstaff, AZ	471,905
Yuma, AZ-CA (AZ)	727,644
ARKANSAS:	$1,750,921
Fayetteville-Springdale, AR	483,223
Fort Smith, AR-OK (AR)	657,799
Pine Bluff, AR	444,527
Texarkana, TX-AR (AR)	165,372
CALIFORNIA:	$26,820,118
Antioch-Pittsburg, CA	1,516,742
Chico, CA	662,241
Davis, CA	803,918
Fairfield, CA	976,388
Hemet-San Jacinto, CA	814,596
Hesperia-Apple Valley-Victorville, CA	1,039,187
Indio-Coachella, CA	492,564
Lancaster-Palmdale, CA	1,747,941
Lodi, CA	684,310
Lompoc, CA	420,272
Merced, CA	747,162
Napa, CA	780,703
Palm Springs, CA	972,625
Redding, CA	562,388
Salinas, CA	1,479,937
San Luis Obispo, CA	700,846
Santa Barbara, CA	2,289,533
Santa Cruz, CA	1,183,891
Santa Maria, CA	1,077,116
Santa Rosa, CA	2,088,408
Seaside-Monterey, CA	1,403,387
Simi Valley, CA	1,328,387
Vacaville, CA	806,429
Visalia	921,118
Watsonville, CA	507,460
Yuba City, CA	809,706

TABLE 4

99FR-T4/4
28-Oct-98

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5307 URBANIZED AREA FORMULA APPORTIONMENTS

URBANIZED AREA/STATE	FY 1999 APPORTIONMENT
CALIFORNIA (Continued):	
Yuma, AZ-CA (CA)	2,883
COLORADO:	$4,941,869
Boulder, CO	1,099,640
Fort Collins, C0	915,895
Grand Junction, CO	521,475
Greeley, CO	732,548
Longmont, CO	667,563
Pueblo, CO	1,004,748
CONNECTICUT:	$16,212,075
Bristol, CT	778,914
Danbury, CT-NY (CT)	2,715,801
New Britain, CT	1,458,510
New London-Norwich, CT	1,173,673
Norwalk, CT	2,872,513
Stamford, CT-NY (CT)	3,658,880
Waterbury, CT	3,553,784
DELAWARE:	$372,828
Dover, DE	372,828
FLORIDA:	$11,362,965
Deltona, FL	377,814
Fort Pierce, F	905,046
Fort Walton Beach, FL	877,324
Gainesville, FL	1,124,346
Kissimmee, FL	523,686
Lakeland, FL	1,149,424
Naples, FL	756,477
Ocala, FL	508,161
Panama City, FL	762,810
Punta Gorda, FL	498,701
Spring Hill, FL	381,230
Stuart, FL	665,182
Tallahassee, FL	1,261,699
Titusville, FL	366,897
Vero Beach, FL	464,661
Winter Haven, FL	719,707
GEORGIA:	$4,974,993
Albany, GA	616,216
Athens, GA	590,809
Brunswick, GA	339,990
Macon, GA	1,104,470
Rome, GA	346,601

TABLE 4

98FR-T4/4
28-Oct-98

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5307 URBANIZED AREA FORMULA APPORTIONMENTS

URBANIZED AREA/STATE	FY 1999 APPORTIONMENT
GEORGIA (Continued):	
Savannah, GA	1,445,082
Warner Robins, GA	531,825
HAWAII:	$1,322,222
Kailua, HI	1,322,222
IDAHO:	$2,616,914
Boise City, ID	1,601,327
Idaho Falls, ID	574,044
Pocatello, ID	441,543
ILLINOIS:	$11,986,789
Alton, IL	647,802
Aurora, IL	1,614,304
Beloit, WI-IL (IL)	82,794
Bloomington-Normal, IL	1,043,611
Champaign-Urbana, IL	1,472,738
Crystal Lake, IL	591,321
Decatur, IL	829,010
Dubuque, IA-IL (IL)	19,311
Elgin, IL	1,308,750
Joliet, IL	1,513,295
Kankakee, IL	593,925
Round Lake Beach-McHenry, IL-WI (IL)	861,841
Springfield, IL	1,208,087
INDIANA:	$6,991,216
Anderson, IN	565,089
Bloomington, IN	843,252
Elkhart-GosheN, IN	845,152
Evansville, IN-KY (IN)	1,565,638
Kokomo, IN	569,065
Lafayette-West Lafayette, IN	1,131,334
Muncie, IN	831,673
Terre Haute, IN	640,013
IOWA:	$3,805,936
Cedar Rapids, IA	1,162,758
Dubuque, IA-IL (IA)	575,692
Iowa City, IA	681,475
Sioux City, IA-NE-SD (IA)	629,410
Waterloo-Cedar Falls, IA	736,601
KANSAS:	$1,847,900
Lawrence, KS	699,761
St. Joseph, MO-KS (KS)	5,776
Topeka, KS	1,142,363
KENTUCKY:	$1,456,447
Clarksville, TN-KY (KY)	177,717
Evansville, IN-KY (KY)	218,231

TABLE 4

98FR-T4/4
29-Oct-98

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5307 URBANIZED AREA FORMULA APPORTIONMENTS

URBANIZED AREA/STATE	FY 1999 APPORTIONMENT
KENTUCKY (Continued):	
Huntington-Ashland, WV-KY-OH ((KY)	435,190
Owensboro, KY	625,309
LOUISIANA:	$4,313,404
Alexandria, LA	629,449
Houma, LA	442,753
Lafayette, LA	1,089,098
Lake Charles, LA	874,854
Monroe, LA	831,853
Slidell, LA	445,397
MAINE:	$1,877,272
Bangor, ME	385,748
Lewiston-Auburn, ME	448,233
Portland, ME	958,425
Portsmouth-Dover-Rochester, NH-ME (ME)	84,866
MARYLAND	$2,087,616
Annapolis, MD	679,940
Cumberland, MD-WV (MD)	361,629
Frederick, MD	490,610
Hagerstown, MD-PA-WV (MD)	555,437
MASSACHUSETTS	$8,267,918
Brockton, MA	1,510,303
Fall River, MA-RI (MA)	1,473,036
Fitchburg-Leominster, MA	596,940
Hyannis, MA	426,278
Lowell, MA-NH (MA)	1,869,516
New Bedford, MA	1,820,029
Pittsfield, MA	385,881
Taunton, MA	385,933
MICHIGAN:	$7,055,510
Battle Creek, MI	589,268
Bay City, MI	658,307
Benton Harbor, MI	476,171
Holland, MI	534,415
Jackson, MI	657,945
Kalamazoo, MI	1,420,803
Muskegon, MI	866,631
Port Huron, MI	570,347
Saginaw, MI	1,281,623
MINNESOTA:	$2,514,376
Duluth, MN-WI (MN)	611,857
Fargo-Moorhead, ND-MN (MN)	353,780
Grand Forks, ND-MN (MN)	77,536
La Crosse, WI-MN (MN)	37,982
Rochester, MN	690,112
St. Cloud, MN	743,109

TABLE 4

99FR-T4/4
29-Oct-98

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5307 URBANIZED AREA FORMULA APPORTIONMENTS

URBANIZED AREA/STATE	FY 1999 APPORTIONMENT
MISSISSIPPI:	$2,158,644
Biloxi-Gulfport, MS	1,336,479
Hattiesburg, MS	416,541
Pascagoula, MS	405,624
MISSOURI:	$2,974,641
Columbia, MO	587,270
Joplin, MO	412,426
Springfield, MO	1,385,436
St. Joseph, MO-KS (MO)	589,509
MONTANA:	$1,980,223
Billings, MT	763,692
Great Falls, MT	712,158
Missoula, MT	504,373
NEBRASKA:	$2,201,399
Lincoln, NE	2,106,170
Sioux City, IA-NE-SD (NE)	95,229
NEVADA:	$0
NEW HAMPSHIRE:	$2,673,292
Lowell, MA-NH (NH)	5,472
Manchester, NH	1,120,686
Nashua, NH	896,176
Portsmouth-Dover-Rochester, NH-ME (NH)	650,958
NEW JERSEY:	$2,025,512
Atlantic City, NJ	1,459,929
Vineland-Millville, NJ	565,583
NEW MEXICO:	$1,103,002
Las Cruces, NM	612,722
Santa Fe, NM	490,280
NEW YORK:	$6,119,802
Binghamton, NY	1,536,094
Danbury, CT-NY (NY)	20,820
Elmira, NY	630,769
Glens Falls, NY	433,770
Ithaca, NY	437,794
Newburgh, NY	568,490
Poughkeepsie, NY	1,194,188
Stamford, CT-NY (NY)	141
Utica-Rome, NY	1,297,736
NORTH CAROLINA:	$9,934,916
Asheville, NC	766,849
Burlington, NC	556,284
Gastonia, NC	814,533

TABLE 4

99FR-T4/4
29-Oct-98

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5307 URBANIZED AREA FORMULA APPORTIONMENTS

URBANIZED AREA/STATE	FY 1999 APPORTIONMENT
NORTH CAROLINA (Continued):	
Goldsboro, NC	423,006
Greensboro, NC	1,751,898
Greenville, NC	487,046
Hickory, NC	464,508
High Point, NC	783,333
Jacksonville, NC	756,277
Kannapolis, NC	545,967
Rocky Mount, NC	436,434
Wilmington, NC	713,848
Winston-Salem, NC	1,434,933
NORTH DAKOTA:	$1,930,338
Bismarck, ND	556,628
Fargo-Moorhead, ND-MN (ND)	805,027
Grand Forks, ND-MN (ND)	568,683
OHIO:	$5,307,535
Hamilton, OH	1,097,021
Huntington-Ashland, WV-KY-OH (OH)	279,360
Lima, OH	599,557
Mansfield, OH	576,849
Middletown, OH	754,261
Newark, OH	459,562
Parkersburg, WV-OH (OH)	68,051
Sharon, PA-OH (OH)	44,874
Springfield, OH	872,476
Steubenville-Weirton, OH-WV-PA (OH)	313,685
Wheeling, WV-OH (OH)	239,639
OKLAHOMA:	$826,089
Fort Smith, AR-OK (OK)	14,492
Lawton, OK	811,597
OREGON:	$4,306,032
Eugene-Springfield, OR	2,027,685
Longview, WA-OR (OR)	13,486
Medford, OR	626,710
Salem, OR	1,639,951
PENNSYLVANIA:	$11,261,967
Altoona, PA	769,349
Erie, PA	1,979,133
Hagerstown, MD-PA-WV (PA)	6,780
Johnstown, PA	709,460
Lancaster, PA	1,789,392
Monessen, PA	486,965
Pottstown, PA	462,103
Reading, PA	2,088,802
Sharon, PA-OH (PA)	323,516
State College, PA	673,313
Steubenville-Weirton, OH-WV-PA (PA)	2,352

TABLE 4

98FR-T4/4
28-Oct-98

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5307 URBANIZED AREA FORMULA APPORTIONMENTS

URBANIZED AREA/STATE	FY 1999 APPORTIONMENT
PENNSYLANIA (Continued):	
Williamsport, PA	564,417
York, PA	1,406,385
PUERTO RICO:	$10,403,677
Aguadilla, PR	910,181
Arecibo, PR	850,450
Caguas, PR	2,227,209
Cayey, PR	658,503
Humacao, PR	569,922
Mayaguez, PR	1,224,476
Ponce, PR	2,724,832
Vega Baja-Manati, PR	1,238,104
RHODE ISLAND:	$662,223
Fall River, MA-RI (RI)	151,810
Newport, RI	510,413
SOUTH CAROLINA:	$2,804,442
Anderson, SC	377,175
Florence, SC	387,954
Myrtle Beach, SC	406,842
Rock Hill, SC	431,979
Spartanburg, SC	753,035
Sumter, SC	447,457
SOUTH DAKOTA:	$1,392,487
Rapid City, SD	443,486
Sioux City, IA-NE-SD (SD)	12,434
Sioux Falls, SD	936,567
TENNESSEE:	$2,155,124
Bristol, TN-Bristol, VA (TN)	201,439
Clarksville, TN-KY (TN)	491,143
Jackson, TN	371,749
Johnson City, TN	566,666
Kingsport, TN-VA (TN)	524,127
TEXAS:	$19,954,468
Abilene, TX	707,952
Amarillo, TX	1,313,093
Beaumont, TX	903,122
Brownsville, TX	1,312,657
Bryan-College Station, TX	879,269
Denton, TX	474,957
Galveston, TX	503,821
Harlingen, TX	645,136
Killeen, TX	1,233,967
Laredo, TX	1,558,455
Lewisville, TX	548,297
Longview, TX	539,455

TABLE 4

98FR-T4/4
28-Oct-98

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5307 URBANIZED AREA FORMULA APPORTIONMENTS

URBANIZED AREA/STATE	FY 1999 APPORTIONMENT
TEXAS (Continued):	
Lubbock, TX	1,536,339
Midland, TX	673,147
Odessa, TX	748,765
Port Arthur, TX	814,606
San Angelo, TX	599,989
Sherman-Denison, TX	350,390
Temple, TX	397,790
Texarkana, TX-AR (TX)	320,984
Texas City, TX	853,238
Tyler, TX	667,208
Victoria, TX	462,523
Waco, TX	1,007,622
Wichita Falls, TX	803,686
UTAH:	$398,827
Logan, UT	398,827
VERMONT:	$699,824
Burlington, VT	699,824
VIRGINIA:	$4,645,393
Bristol, TN-Bristol, VA (VA)	143,411
Charlottesville, VA	667,960
Danville, VA	379,321
Fredericksburg, VA	445,333
Kingsport, TN-VA (VA)	27,075
Lynchburg, VA	635,465
Petersburg, VA	805,595
Roanoke, VA	1,541,233
WASHINGTON:	$4,389,977
Bellingham, WA	517,225
Bremerton, WA	1,001,963
Longview, WA-OR (WA)	437,656
Olympia, WA	779,534
Richland-Kennewick-Pasco, WA	815,227
Yakima, WA	840,372
WEST VIRGINIA	$3,373,920
Charleston, WV	1,357,272
Cumberland, MD-WV (WV)	16,233
Hagerstown, MD-PA-WV (WV)	4,100
Huntington-Ashland, WV-KY-OH (WV)	762,026
Parkersburg, WV-OH (WV)	490,080
Steubenville-Weirton, OH-WV-PA (WV)	210,854
Wheeling, WV-OH (WV)	533,355
WISCONSIN:	$9,236,235
Appleton-Neenah, WI	1,691,318
Beloit, WI-IL (WI)	362,538
Duluth, MN-WI (WI)	158,801

TABLE 4

99FR-T4/4
28-Oct-98

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5307 URBANIZED AREA FORMULA APPORTIONMENTS

URBANIZED AREA/STATE	FY 1999 APPORTIONMENT
WISCONSIN (Continued):	
Eau Claire, WI	662,467
Green Bay, WI	1,284,567
Janesville, WI	487,538
Kenosha, WI	887,712
La Crosse, WI-MN (WI)	704,740
Oshkosh, WI	615,040
Racine, WI	1,371,072
Round Lake Beach-McHenry, IL-WI (WI)	514
Sheboygan, WI	579,479
Wausau, WI	430,449
WYOMING:	
Casper, WY	$966,944
Cheyenne, WY	443,561
	523,383
TOTAL	$244,250,470

TABLE 5

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5311 NONURBANIZED AREA FORMULA APPORTIONMENTS, AND SECTION 5311(b) RURAL TRANSIT ASSISTANCE PROGRAM (RTAP) ALLOCATIONS

STATE	FY 1999 SECTION 5311 APPORTIONMENT	FY 1999 SECTION 5311(b) RTAP APPORTIONMENT
Alabama	$4,248,431	$113,892
Alaska	633,533	72,291
America Samoa	90,298	11,039
Arizona	1,859,852	86,404
Arkansas	3,396,444	104,087
California	8,289,613	150,399
Colorado	1,769,501	85,364
Connecticut	1,605,104	83,472
Delaware	400,436	69,608
Florida	5,328,925	126,327
Georgia	6,211,659	136,486
Guam	257,058	12,958
Hawaii	697,164	73,023
Idaho	1,406,508	81,187
Illinois	5,698,950	130,584
Indiana	5,504,960	128,363
Iowa	3,540,844	105,749
Kansas	2,816,629	97,416
Kentucky	4,649,640	118,510
Louisiana	3,845,689	109,266
Maine	1,855,647	86,365
Maryland	2,316,686	91,661
Massachusetts	2,482,783	93,573
Michigan	6,723,802	142,380
Minnesota	3,969,158	109,528
Mississippi	3,776,797	108,453
Missouri	4,506,574	116,863
Montana	1,139,382	78,112
Nebraska	1,719,183	84,786
Nevada	661,287	71,459
New Hampshire	1,496,141	82,103
New Jersey	2,124,867	89,464
New Mexico	1,670,467	84,224
New York	7,479,788	151,080
North Carolina	7,945,744	156,442
North Dakota	842,624	74,897
Northern Marianas	83,680	10,963
Ohio	8,089,320	158,094
Oklahoma	3,458,101	104,797
Oregon	2,745,762	95,599
Pennsylvania	9,023,720	168,848
Puerto Rico	2,696,572	96,033
Rhode Island	345,435	68,976
South Carolina	3,976,885	110,767
South Dakota	1,027,093	76,820
Tennessee	5,133,703	124,080
Texas	10,838,678	189,737
Utah	778,693	73,960
Vermont	918,310	75,858
Virgin Islands	196,548	12,262
Virginia	4,661,626	117,380
Washington	3,189,187	101,702
West Virginia	2,711,736	96,208
Wisconsin	4,685,662	118,923
Wyoming	655,329	72,542
TOTAL	$177,856,722	$5,401,831

99FR-T5/2

TABLE 6

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5310 ELDERLY AND PERSONS WITH DISABILITIES APPORTIONMENTS

STATE	FY 1999 SECTION 5310 APPORTIONMENT
Alabama	$1,162,378
Alaska	186,973
America Samoa	52,401
Arizona	1,025,265
Arkansas	813,232
California	6,281,547
Colorado	796,036
Connecticut	911,652
Delaware	278,916
District of Columbia	276,873
Florida	4,239,930
Georgia	1,506,200
Guam	132,966
Hawaii	363,839
Idaho	362,024
Illinois	2,742,062
Indiana	1,440,366
Iowa	873,989
Kansas	733,260
Kentucky	1,114,127
Louisiana	1,117,719
Maine	451,757
Maryland	1,122,989
Massachusetts	1,615,932
Michigan	2,346,547
Minnesota	1,138,772
Mississippi	790,171
Missouri	1,460,639
Montana	332,442
Nebraska	518,062
Nevada	386,321
New Hampshire	365,158
New Jersey	1,939,313
New Mexico	456,044
New York	4,489,066
North Carolina	1,712,480
North Dakota	283,521
Northern Marianas	52,193
Ohio	2,861,507
Oklahoma	961,937
Oregon	894,558
Pennsylvania	3,430,103
Puerto Rico	848,793
Rhode Island	402,491
South Carolina	929,939
South Dakota	306,884
Tennessee	1,371,842
Texas	3,642,449
Utah	425,226
Vermont	253,482
Virgin Islands	136,138
Virginia	1,426,983
Washington	1,280,162
West Virginia	680,486
Wisconsin	1,306,904
Wyoming	216,148
TOTAL	$67,136,222

TABLE 7

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5309 FIXED GUIDEWAY MODERNIZATION APPORTIONMENTS

AREA	FY 1999 APPORTIONMENT
AZ Phoenix	$1,276,627
CA Los Angeles	14,941,327
CA Sacramento	2,028,850
CA San Diego	5,443,049
CA San Francisco	56,673,547
CA San Jose	7,206,601
CO Denver	1,072,768
CT Hartford	798,943
CT Southwestern Connecticut	33,739,745
DE Wilmington	661,929
DC Washington	31,797,959
FL Ft. Lauderdale	2,296,438
FL Jacksonville	55,928
FL Miami	6,789,118
FL Tampa	36,639
FL West Palm Beach	1,833,555
GA Atlanta	14,855,414
HI Honolulu	528,313
IL Chicago/Northwestern Indiana	113,008,639
LA New Orleans	2,305,868
MD Baltimore	4,491,596
MD Baltimore Commuter Rail	15,309,485
MA Boston	58,752,122
MA Lawrence-Haverhill	1,011,106
MI Detroit	318,620
MN Minneapolis	2,433,932
MO Kansas City	15,337
MO St. Louis	1,501,083
NJ Northeastern New Jersey	73,118,448
NJ Trenton	933,499
NY Buffalo	868,600
NY New York	300,814,329
OH Cleveland	11,840,591
OH Dayton	2,965,142
PA Philadelphia/Southern New Jersey	81,842,522
PA Pittsburgh	19,350,730
PR San Juan	1,326,488
OR Portland	2,267,470
RI-MA- Providence	1,800,384
TN Chattanooga	58,594
TX Dallas	602,792
TX Houston	3,852,288
VA Norfolk	464,097
WA Seattle	11,618,706
WA Tacoma	609,080
WI Madison	510,702
TOTAL	$896,029,000

TABLE 8

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5309 NEW START ALLOCATIONS

	PROJECT LOCATION AND DESCRIPTION	FY 1999 ALLOCATION
AK/HI	Alaska or Hawaii Ferry Projects	$10,322,550
AL	Birmingham- Alternatives Analysis & Preliminary Engineering	992,550
AZ	Phoenix- Metropolitan Area Transit Project	4,962,765
AR	Little Rock- Arkansas River Rail Project	992,550
CA	Sacramento- South LRT Extension Project	23,305,140
CA	San Francisco- BART Extension to the Airport	39,702,110
CA	San Jose- Tasman West LRT	26,798,925
CA	San Diego- Mission Valley East Light Rail Transit Project	1,488,830
CA	San Diego- Mid-Coast Corridor Project	1,985,100
CA	San Diego- Oceanside-Escondido Passenger Rail Project	2,977,660
CA	Los Angeles- MOS-3 Project	37,717,000
CA	Los Angeles- Mid-City and East Side Projects	7,940,420
CA	Orange County-Transitway Project	2,481,380
CA	Riverside County- San Jacinto Branch Line Project	496,280
CA	San Bernardino- Metrolink Extension Project	992,550
CO	Denver- Southwest Corridor LRT Extension Project	39,702,110
CO	Denver- Southeast Multimodal Corridor Project	496,280
CO	North Front Range Corridor Feasibility Study	496,280
CT	Hartford Light Rail Project	1,488,830
CT	Hartford - Old Saybrook Project	496,280
CT	New London- Waterfront Access Project	496,280
CT	Stamford- Fixed Guideway Connector	992,550
FL	FortLauderdale- Tri-County Commuter Rail Project	3,970,210
FL	Miami Metro-Dade Transit East-West Corridor Project	2,977,660
FL	Miami Metro Dade- North 27th Avenue Corridor Project	2,977,660
FL	Tampa Bay- Regional Rail Project	992,550
FL	Orlando- Lynx Light Rail Project	17,369,675
GA	Atlanta- South DeKalb-Lindbergh Corridor LRT Project	992,550
GA	Atlanta-North Springs Project	51,721,925
GA	Savannah- Water Taxi	496,280
HI	Honolulu- Major Investment Analysis of Transit Alternatives	2,977,660
IA	Sioux City- Micro Rail Trolley System	248,140
IL	Chicago- CTA Ravenswood and Douglas Branch Lines Projects	2,977,660
IL	Chicago- Metra Commuter Rail Exts. & Upgrades Projects	5,955,320
IN	Northern Indiana- South Shore Commuter Rail Project	2,977,660
KS	Kansas City Area- Johnson County, KS, I-35 Commuter Rail Project	992,550
LA	New Orleans- Canal Street Corridor Project	21,836,160
LA	New Orleans- Desire Streetcar Project	1,985,100
MA	Boston- South Boston Piers MOS-2 Project	53,580,975
MA	Boston- Urban Ring Project	744,415

TABLE 8

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5309 NEW START ALLOCATIONS

	PROJECT LOCATION AND DESCRIPTION	FY 1999 ALLOCATION
MA	Boston- North-South Rail Link	496,280
MA	Boston- North Shore Corridor Project	$992,550
MD	MARC Commuter Rail Project	16,914,100
MD	Baltimore- Central Downtown Transit Alternatives MIS	496,280
MD	Baltimore- Light Rail Double Track Project	992,550
MD	Wash.DC/MD- Metrorail - Largo Blue Line Extension Project	992,550
MD	Wash, DC/MD- Route 5 Corridor	992,550
MN	Twin Cities- Transitways Project	16,873,400
MI	Southeast Michigan Commuter Rail Viability Project	198,510
MO/IL	St. Louis- St. Clair MetroLink Extension Project	34,739,350
MO	St. Louis-Jefferson City-Kansas City Commuter Rail Project	496,280
MO	Kansas City- Commuter Rail Study	496,280
NC	Charlotte- North-South Corridor Transitway Project	2,977,660
NC	Raleigh-Durham-Chapel Hill- Triangle Transit Project	9,925,525
NE	Omaha- Trolley System	992,550
NJ	New Jersey Urban Core Newark-Elizabeth Rail Link Project	5,955,320
NJ	New Jersey Urban Core- Hudson-Bergen LRT Project	69,478,700
NJ	West Trenton Rail Project	992,550
NM	Albuquerque Light Rail Project	4,962,765
NV	Las Vegas- Clark County, Nevada Fixed Guideway System	3,970,210
NY	New York- LIRR East Side Access Project	23,821,265
OH	Dayton- Light Rail Study	992,550
OH	Cincinnati- Northeast/Northern Kentucky Rail Line Project	1,786,595
OH	Cleveland- Berea Red Line Extension to Hopkins International Airport Project	992,550
OH	Cleveland- Euclid Corridor Improvement Project	1,985,100
OH	Canton-Akron-Cleveland Commuter Rail Project	2,183,615
OH	Northeast Ohio Commuter Rail Study, Phase 2	496,280
OR	Portland- Westside-Hillsboro Project	25,526,475
PA	Harrisburg- Capitol Area Transit/Corridor One Project	992,550
PA	Pittsburgh- Allegheny County Stage II Light Rail Project	3,970,210
	Pittsburgh- North Shore CBD Transit Options MIS	992,550
PA	Philadelphia- SEPTA Cross County Metro Project	992,550
PA	Philadelphia-Reading -SEPTA Schuylkill Valley Metro Project	2,977,660
PR	San Juan- Tren Urbano	19,851,055
SC	Charleston- Monobeam Rail Project	2,183,615
TN	Memphis- Medical Center Rail Extension Project	2,183,615
TN	Nashville- Regional Commuter Rail Project	992,550
TN	Knoxville- Electric Transit Project	1,488,830
TX	Austin- Capital Metro Project	992,550

Page 3 of 3 Pages

TABLE 8

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5309 NEW START ALLOCATIONS

	PROJECT LOCATION AND DESCRIPTION	*FY 1999 ALLOCATION*
TX	Dallas- DART North Central Light Rail Extension Project	15,880,850
TX	Dallas-Forth Worth- RAILTRAN Project	11,910,635
TX	Houston- Regional Bus Project	$59,225,625
TX	Houston- Advanced Regional Transit Project	1,985,100
UT	Salt Lake City- South LRT Project	69,478,700
UT	Salt Lake City- Airport to University(West-East)Light Rail Project	4,962,765
VT	Burlington-Essex- Commuter Rail Project	1,985,100
VA	Norfolk-Virginia Beach Regional Rail Project	7,940,425
VA	Dulles Corridor Project	16,873,400
VA	Virginia Railway Express-Woodbridge Station Improvements Project	1,985,100
WA	King County- Elliot Bay Water Taxi	248,140
WA	Seattle- Puget Sound RTA Link Light Rail Project	4,962,765
WA	Seattle- Puget Sound RTA Sounder Commuter Rail Project	40,694,660
WA	Spokane- Light Rail Project	992,550
WI	Kenosha-Racine-Milwaukee Commuter Rail Project	496,280
WV	Morgantown- Fixed Guideway Modernization Project	3,970,210
	Total (All Allocations Above):	$896,029,000

Table 8A

FEDERAL TRANSIT ADMINISTRATION

PRIOR YEAR UNOBLIGATED SECTION 5309 NEW START ALLOCATIONS

	PROJECT LOCATION AND DESCRIPTION	FY 1997 CARRYOVER	FY 1998 CARRYOVER	PRIOR YEAR UNOBLIGATED ALLOCATION
AK	Hollis- Ketchikan Ferry Project	$6,345,416	$0	$6,345,416
AZ	Phoenix- Metropolitan Area Transit	0	3,987,062	3,987,062
AR	Little Rock- Junction Bridge Project	1,806,046	0	1,806,046
CA	Los Angeles- Metrorail- MOS-3	0	23,907,426	23,907,426
CA	San Bernardino- Metrolink Extension	0	996,766	996,766
CA	San Diego Mission Valley East Extension	0	996,766	996,766
CA	San Diego Mid-Coast Extension	1,489,534	1,495,150	2,984,684
CA	San Diego Oceanside-EscondidoPassenger Rail	0	2,990,300	2,990,300
CO	Roaring Fork Valley Rail Project	0	1,993,530	1,993,530
CT	Hartford- Griffin Light Rail Project	993,023	0	993,023
FL	Miami- North 27th Avenue Project	993,023	4,983,828	5,976,851
FL	Miami- Metro Dade East-West Corridor Project	1,489,534	4,983,828	6,473,362
FL	Orlando- Lyxn Light Rail Project	0	9,095,587	9,095,587
IL	Chicago- Wisconsin Central Cmmuter Rail	0	2,990,300	2,990,300
IN	South Shore Commuter Rail Project	0	3,987,062	3,987,062
LA	New Orleans- Canal Street Corridor Project	7,944,183	5,980,594	13,924,777
LA	New Orleans- Desire Streetcar Project	0	1,993,530	1,993,530
MA	Boston- S. Boston Piers Transitway (MOS-2)	0	46,100,413	46,100,413
MD	MARC- Commuter Rail Improvements	0	30,899,736	30,899,736
MN	Twin Cities- Transitways Projects	0	10,461,188	10,461,188
MO	St. Louis- Metrolink Project	3,405,809	0	3,405,809
MS	Jackson- Intermodal Corridor	5,461,626	2,990,300	8,451,926
NC	Research Triangle Park- Regional Transit Plan	693,384	11,961,188	12,654,572
NJ	Burlington-Gloucester Line [*]	0	0	1,488,750
NY	New York- LIRR Eastside Access Project	0	19,936,314	19,936,314
NY	New York- Whitehall Ferry Terminal	1,676,037	2,491,914	4,166,951
NY	New York- St. George Ferry	3	2,491,914	2,491,917
NY	New York- Nassau Hub Rail Link EIS	0	498,383	498,383
NV	Las Vegas, Clark County Fixed Guideway Project	0	4,983,828	4,983,828
OH	Cincinnati- NE/N. KY Rail Line Project	0	498,383	498,383
OH	Cleveland- Berea Red Line Extension to Airport	0	697,736	697,736
OH	Canton-Akron-Cleveland Commuter Rail	0	1,993,530	1,993,530
OH	Toledo- Rail Project	0	996,766	996,766
OK	Oklahoma City- MAPS Corridor Transit System	0	1,594,825	1,594,825
PA	Pittsburgh- Airport Busway Phase I	0	4,983,828	4,983,828
PA	Scranton- Laurel Rail Line Project	0	498,383	498,383
PR	San Juan- Tren Urbano	0	14,951,485	14,951,485
SC	Charleston Monobeam Project	0	1,496,150	1,495,150
TN	Memphis- Regional Rail Plan	0	2	2
TX	Austin- Capital Metro	0	996,766	996,766
TX	Dallas- North Central LRT Extension	3	10,964,424	10,964,427
TX	Dallas- Ft. Worth RAILTRAN	15,143,599	7,974,126	23,117,725
TX	Galveston- Rail Trolley System Project	0	1,993,530	1,993,530
TX	Houston- Regional Bus Plan	40,306,799	50,934,727	91,241,526
UT	Salt Lake City- Regional Commuter Rail		3,987,062	3,987,062
VA	Virginia Railway Express- Commuter Rail Project	2,979,069	1,993,530	4,972,599
VA	Norfolk-Virginia beach Regional Rail Project		1,993,530	1,993,530
VT	Burlington-Charlotte Commuter Rail	993,023	0	993,023
VT	Burlington-Essex Commuter Rail		4,983,828	4,983,828
WA	Seattle-Renton-Tacoma Light Rail Project	2,979,069	17,941,782	20,920,851
	TOTAL (All Allocations Above).....	$94,698,180	$334,669,300	$430,856,230

[*] Carryover totals include FY 95 funds in the amount of $1,488,750 extended for obligation by the FY 99 Appropriations Conference Report for Burlington - Glouchester, NJ Commuter Rail.

99FR-T8/4

TABLE 9

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5309 BUS ALLOCATIONS

STATE/AREA	PROJECT	FY 1999 ALLOCATIONS
ALASKA		
Anchorage	Ship Creek intermodal facility	$4,267,750
Fairbanks	Intermodal rail/bus transfer facility	1,985,000
North Slope Borough	Buses	496,250
Whittier	Intermodal facility and pedestrian overpass	694,750
ALABAMA		
Birmingham	Intermodal facility	1,985,000
Birmingham-Jefferson County	Buses	1,240,625
Dothan Wiregrass Transit Authority	Demand response shuttle vehicles and transit facility	496,250
Huntsville	Intermodal space centers	4,962,500
Huntsville	Transit facility	992,500
Jasper	Jasper buses	49,625
Lee-Russell Council	Buses	784,075
Mobile	GM&O building	4,962,500
Montgomery	Union Station intermodal center and buses	4,962,500
Pritchard	Bus transfer facility	496,250
Tuscaloosa	Intermodal center	1,935,375
University of North Alabama	Pedestrian walkways	794,000
ARKANSAS		
Statewide	Bus needs	1,488,750
Arkansas Highway and Transit Department	Buses	198,500
Fayetteville	University of Arkansas Transit System buses	496,250
Hot Springs	Transportation depot and plaza	555,800
Little Rock	Buses	297,750
ARIZONA		
Phoenix	Bus and bus facilities	3,970,000
Tucson	Alternatively fueled buses	1,985,000
Tucson	Intermodal facility	992,500
CALIFORNIA		
Central Contra Costa County	Transit vans	198,500
Culver City	CityBus buses	1,240,625
Davis	Unitrans transit maintenance facility	620,313
Davis/Sacramento Area	Hydrogen bus technology program	942,875
Folsom	Multimodal facility	992,500
Healdsburg	Intermodal facility	992,500
Humboldt	Intermodal facility	992,500
Huntington Beach	Buses	198,500
I-5 corridor	Intermodal transit centers	2,481,250
Lake Tahoe	Intermodal transit centers	496,250
Livermore	Automatic vehicle locator program	992,500
Los Angeles County Metropolitan Transportation Authority	Buses	2,977,500
Los Angeles Foothills Transit	Maintenance facility	992,500
Los Angeles	Municipal transit operators consortium	2,481,250
Los Angeles	Union Station Gateway Intermodal Transit Center	1,240,625
Modesto	Bus maintenance facility	1,344,838
Monterey, Monterey-Salinas	Buses	620,313
Morongo Basin	Transit Authority bus facility	645,125
North San Diego County Transit District	Buses	1,736,875
Perris	Bus maintenance facility	1,240,625
Riverside Transit Agency	Buses and facilities and ITS applications	992,500
Sacramento	CNG buses	1,240,625
San Bernardino	Buses	992,500
San Diego	City College multimodal center (12th Avenue/College Station)	992,500
San Fernando Valley	Smart shuttle buses	297,750
San Francisco	Isiais Creek maintenance facility	1,240,625
San Joaquin (Stockton)	Buses and bus facilities	992,500
Santa Clara Valley Transportation Authority	Buses and bus facilities	992,500
Santa Clarita	Transit maintenance facility	2,233,125
Santa Cruz	Metropolitan bus facilities	620,313
Santa Cruz	Transit facility	992,500
Santa Rosa, Cotati, and Rohnert Park	Facilities	744,375

TABLE 9

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5309 BUS ALLOCATIONS

STATE/AREA	PROJECT	FY 1999 ALLOCATIONS
CALIFORNIA (cont'd)		
Santa Rosa/Cotati	Intermodal transportation facilities	$744,375
Solano Links	Links intercity transit consortium	992,500
Ukiah	Transit Center	496,250
Windsor	Intermodal Facility	744,375
Woodland Hills	Warner Center Transportation Hub	322,563
Yolo County	Bus facility	1,191,000
COLORADO		
Boulder/Denver	RTD buses	620,313
Colorado	Buses and bus facilities	6,749,000
Denver	Stapleton Intermodal Center	1,240,625
CONNECTICUT		
Hartford	Transportation Access Project	794,000
New Haven	Bus facility	2,233,125
Norwich	Buses	2,233,125
Waterbury	Bus facility	2,233,125
DISTRICT /COLUMBIA		
	Fuel cell bus and bus facilities program (section 3015(b))	4,813,625
Washington, D.C.	Intermodal Transportation Center	2,481,250
DELAWARE Statewide	Buses	992,500
FLORIDA		
Broward County	Buses	992,500
Clearwater	Multimodal facility	2,481,250
Daytona Beach	Intermodal Center	2,481,250
Gainesville	Buses and equipment	1,488,750
Jacksonville	Buses and bus facilities	992,500
Lakeland	Citrus Connection transit vehicles and related equipment	1,240,625
Lynx	Buses and bus facilities	992,500
Miami	Bus security and surveillance	992,500
Miami Beach	Multimodal transit center	992,500
Miami Beach	Electric Shuttle Service	744,375
Miami-Dade	Buses	2,233,125
Orlando	Intermodal Facility	2,481,250
Tampa	Hartline buses	1,240,625
GEORGIA		
Atlanta	MARTA buses	11,909,994
Savannah/Chatham Area Transit	Bus transfer centers and buses	3,473,750
HAWAII		
Honolulu	Bus facility and buses	3,226,625
ILLINOIS		
Statewide	Buses and bus-related equipment	5,749,000
Rock Island	Buses	2,481,250
INDIANA		
City of East Chicago	Buses	198,500
Gary	Transit Consortium buses	1,240,625
Indianapolis	Buses	4,962,500
South Bend	Urban Intermodal Transportation Facility	1,240,625
IOWA		
Fort Dodge	Intermodal Facility (Phase II)	878,363
Statewide	Buses and bus facilities	2,977,500
Iowa/Illinois Transit Consortium	Bus safety and security	992,500
Sioux City	Park and ride facility	1,786,500
KANSAS		
Johnson County	Bus maintenance/ operations facility	1,985,000
KENTUCKY		
Louisville, Kentucky University of Louisville and River City	Buses	2,977,500
Northern Kentucky Area Development District	Senior citizen buses	99,250
Owensboro	Buses	198,500
Southern and Eastern Kentucky	Buses and bus facilities	1,985,000
LOUISIANA Statewide	Buses and bus-related facilities	
Baton Rouge	Buses and bus-related facilities	198,500

TABLE 9

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5309 BUS ALLOCATIONS

STATE/AREA	PROJECT	FY 1999 ALLOCATIONS
LOUISIANA Statewide (cont'd)		
Jefferson Parish	Buses and bus-related facilities	$347,375
Lafayette	Buses and bus-related facilities	421,813
Louisiana DOTD	Including vans	645,125
Monroe	Buses and bus-related facilities	446,625
New Orleans	Buses and bus-related facilities	8,014,438
Shreveport	Buses and bus-related facilities	397,000
State infrastructure bank, transit account	Buses and bus-related facilities	347,375
St. Tammany Parish	Buses and bus-related facilities	99,250
MASSACHUSETTS		
Essex and Middlesex	Buses	3,104,540
New Bedford/Fall River	Mobile Access to health care	248,125
Pittsfield	Intermodal center	4,566,500
Springfield	Union Station	1,240,625
Westfield	Intermodal center	1,966,000
Worcester	Union Station Intermodal Transportation Center	2,481,250
MARYLAND statewide	Bus facilities and buses	9,925,000
MICHIGAN		
Lansing	CATA bus technology improvements	595,500
Michigan statewide	Buses	9,926,000
MINNESOTA		
Duluth Transit Authority	Community circulation vehicles	992,500
Duluth Transit Authority	Intelligent transportation systems	496,250
Duluth Transit Authority	Transit Hub	496,250
Northstar Corridor	Intermodal Facilities and buses	5,955,000
Twin Cities Area Metro Transit	Buses and bus facilities	9,428,750
MISSOURI		
Kansas City	Union Station redevelopment	2,481,250
OATS Transit		2,481,250
Southwest Missouri State University	Park and ride facility	992,500
St. Louis	Bi-state intermodal Center	1,240,625
Statewide	Bus and bus facilities	4,466,250
MISSISSIPPI		
Harrison County	Multimodal center/hybrid electric shuttle buses	1,886,750
High Street, Jackson	Intermodal Center	1,966,000
Jackson	Buses and facilities	1,588,000
Butte	Bus replacements	1,488,750
NEW HAMPSHIRE		
Berlin	Tri-County Community Action transit garage	119,100
Carroll County	Transportation alliance buses	196,500
Concord Area Transit	Buses	744,375
Greater Laconia Transit Agency	Buses	446,625
Keene HCS community care	Buses and equipment	99,250
Lebanon	Advance transit buses	148,875
Statewide	Transit systems	992,500
NEW JERSEY		
New Jersey Transit	Jitney shuttle buses	1,736,875
Newark, Morris & Essex Station	Access and buses	1,240,625
South Amboy	Regional Intermodal Transportation Initiative	1,240,625
Statewide	Alternatively fueled vehicles	7,443,750
NEW MEXICO		
Albuquerque	Buses, paratransit vehicles, and bus facility	3,721,875
Northern New Mexico	Park and ride facilities	1,985,000
NEVADA		
Clark County Regional Transportation Commission	Buses and bus facilities	2,595,386
Reno	RTC transit passenger and facility security improvements	1,240,625
Washoe County	Transit improvements	2,233,125
NEW YORK		
Babylon	Intermodal Center	1,240,625
Brookhaven Town	Elderly and disabled buses and vans	223,313
Brooklyn-Staten Island	Mobility Enhancement buses	794,000
Broome County	Buses and fare collection equipment	893,250

TABLE 9

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5309 BUS ALLOCATIONS

STATE/AREA	PROJECT	FY 1999 ALLOCATIONS
NEW YORK (cont'd)		
Buffalo	Auditorium Intermodal Center	$2,977,500
Dutchess County	Loop System buses	517,093
East Hampton	Elderly and disabled buses and vans	99,250
Ithaca	TCAT bus technology improvements	1,240,625
Long Beach	Central bus facility	744,375
Long Island	CNG transit vehicles and facilities and bus replacement	1,240,625
Mineola/Hicksville	LIRR Intermodal Centers	1,240,625
Nassau County	CNG buses	992,500
New York City	Midtown West Ferry Terminal	1,488,750
New York	New York, West 72nd St. Intermodal Station	1,736,875
Niagara Frontier Transportation Authority	Hublink	496,250
Rensselaer	Intermodal bus facility	992,500
Riverhead	Elderly and disabled buses and vans	124,063
Rochester	Central bus facility	992,500
Rome	Intermodal Center	397,000
Shelter Island	Elderly and disabled buses and vans	99,250
Smithtown	Elderly and disabled buses and vans	124,063
Southampton	Elderly and disabled buses and vans	124,063
Southold	Elderly and disabled buses and vans	99,250
Suffolk County	Elderly and disabled buses and vans	99,250
Syracuse	CNG buses and facilities	1,986,000
Ulster County	Bus facilites and equipment	992,500
Utica and Rome	Bus facilities and buses	496,250
Utica	Union Station	2,084,250
Westchester County	Bee-Line transit system fareboxes	971,658
Westchester County	Bee-Line transit system shuttle buses	992,500
Westchester County	DOT articulated buses	1,240,625
NORTH CAROLINA		
Greensboro	Multimodal Center	3,314,950
Greensboro	Transit Authority buses	1,488,750
Greensboro	Transit Authority small buses and vans	318,593
Statewide	Buses and bus facilities	4,962,500
NORTH DAKOTA		
Statewide	Buses and related facilities	1,986,000
OHIO		
Cleveland	Triskett Garage bus maintenance facility	620,313
Dayton	Multimodal Transportation Center	620,313
Statewide	Buses and bus facilities	11,909,994
Toledo Mud Hens transit center study	Mud Hens transit center study	196,500
OKLAHOMA statewide	Bus facilities and buses	4,962,500
OREGON		
Lane County	Bus Rapid Transit	4,367,000
Portland	Tri-Met buses	1,736,875
Rogue Valley Transit District	Bus purchase	992,500
Salem Area Mass Transit System	Buses	992,500
Wilsonville	Buses and shelters	397,000
PENNSYLVANIA		
Altoona	Bus testing facility (section 3009)	2,977,500
Altoona	Metro Transit Authority buses and transit system improvements	835,685
Altoona	Metro Transit Authority Logan Valley Mall Suburban Transfer Center	79,400
Altoona	Metro Transit Authority Transit Center improvements	420,820
Altoona	Pedestrian crossover	794,000
Armstrong County-Mid-County	Bus facilities and buses	148,875
Beaver County	Bus facility	992,500
Bradford County	Endless Mountain Transportation Authority buses	992,500
Cambria County	Bus facilities and buses	570,688
Centre Area Transportation Authority	Buses	1,240,625
Chambersburg Transit Authority	Buses	297,750
Chambersburg Transit Authority	Intermodal Center	992,500

TABLE 9

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5309 BUS ALLOCATIONS

STATE/AREA	PROJECT	FY 1999 ALLOCATIONS
PENNSYLVANIA (cont'd)		
Chester County	Paoli Transportation Center	$992,500
Crawford Area Transportation	Buses	496,250
Erie	Metropolitan Transit Authority buses	992,500
Fayette County	Intermodal Facilities and buses	1,260,475
Lackawanna County Transit System	Buses	596,500
Mercer County	Buses	744,375
Monroe County Transportation Authority	Buses	992,500
Philadelphia	Frankford Transportation Center	4,962,500
Philadelphia	Intermodal 30th Street Station	1,240,625
Philadelphia	Regional Transportation System for Elderly and Disabled	744,375
Reading	BARTA Intermodal Transportation Facility	1,736,875
Red Rose	Transit Bus Terminal	992,500
Robinson Towne Center	Intermodal Facility	1,488,750
Schuylkill County	Buses	218,350
Somerset County	Bus facilities and buses	173,688
Towamencin Township	Intermodal Bus Transportation Center	1,488,750
Washington County	Intermodal Facilities	625,275
Westmoreland County	Intermodal Facility	198,500
Wilkes-Barre	Intermodal Facility	1,240,625
Williamsport	Bus Facility	1,191,000
PUERTO RICO		
San Juan	Intermodal Access	942,875
RHODE ISLAND		
Providence	Buses and bus maintenance facility	2,233,125
Rhode Island Public Transit Authority	Buses	3,176,000
SOUTH CAROLINA		
Columbia	Bus replacement	1,091,750
Pee Dee	Buses and facilities	1,240,625
South Carolina statewide	Virtual Transit Enterprise	1,210,850
Spartanburg	Buses and facilities	992,500
SOUTH DAKOTA		
Sioux Falls	Computerized bus dispatch system, radios, money boxes, and lift repl.	794,000
South Dakota	Buses	992,500
TENNESSEE	Bus facilities and buses	3,473,750
Statewide	Buses and bus facilities	992,500
Chattanooga	Alternatively fueled buses	992,500
TEXAS		
Austin	Buses	2,233,125
Brazos Transit Authority	Buses and facilities	1,488,750
Corpus Christi Transit Authority	Buses and facilities	992,500
Dallas Area Rapid Transit	Buses	2,729,375
Fort Worth	Bus and paratransit vehicle project	2,481,250
Galveston	Buses and facilities	992,500
Texas statewide	Small urban and rural buses	5,955,000
UTAH		
Ogden	Intermodal Center	794,000
	Utah Hybrid electric vehicle bus purchase	1,488,750
Utah Transit Authority	Intermodal Facilities	1,488,750
Utah Transit Authority/Park City Transit	Buses	5,451,250
VIRGINIA		
Alexandria	Bus maintenance facility and Crystal City canopy project	992,500
Alexandria	King Street Station access	1,091,750
Harrisonburg	Buses	198,500
Lynchburg	Buses	198,500
Richmond	GRTC bus maintenance facility	1,240,625
Roanoke	Buses	198,500
Statewide	Buses and bus facilities	4,014,663
Falls Church	Electric bus and bus facilities	397,000

TABLE 9

FEDERAL TRANSIT ADMINISTRATION

FY 1999 SECTION 5309 BUS ALLOCATIONS

STATE/AREA	PROJECT	FY 1999 ALLOCATIONS
VIRGINIA Statewide (cont'd)		
Franconia-Springfield	Bus and bus facilities	$648,125
Manassas Transit Depot	Park and ride lot expansion	277,900
Potomac and Rappahannock Transportation Commission	Fleet replacement	1,588,000
Richmond	Main Street Station	1,985,000
Stringfellow Road/Interstate 66	Park and ride lot improvements	992,500
Warrenton Circuit Rider		24,813
VERMONT		
Brattleboro	Union Station multimodal center	2,481,250
Burlington	Multimodal center	992,500
Deerfield Valley Transit authority		496,250
WASHINGTON		
Anacortes	Ferry terminal information system	496,250
	Ben Franklin transit operating facility	992,500
Bremerton	Transportation center	992,500
Central Puget Sound Seattle	Bus program	7,940,000
Chelan-Douglas	Multimodal center	993,250
Everett	Multimodal Transportation Center	1,936,375
Grant County	Buses and vans	595,500
Mount Vernon	Multimodal Center	1,736,875
Port Angeles center	Port Angeles center	992,500
Seattle	Intermodal Transportation Terminal	1,240,625
Snohomish County	Community transit buses	992,500
Tacoma Dome	Buses and bus facilities	1,736,875
Thurston County	Intercity buses	992,500
Vancouver Clark County (C-Tran)	Bus facilities	992,500
WISCONSIN		
Milwaukee County	Buses	3,970,000
Wisconsin statewide	Bus facilities and buses	3,970,000
Appleton, Green Bay, Shawano, Menominee Tribe and Oneida Tribe	Bus facilities and buses	2,068,438
LaCrosse, Onalaska, Prairie Du Chien, Rice Lake, Viroqua and Ho Chuck Nation	Bus facilities and buses	992,500
Ashland, Chippewa Falls, Eau Claire, Ladysmith, Marshfield, Rhinelander, Rusk County	Bus facilities and buses	297,750
Milwaukee	Intermodal facility rehabilitation	992,500
Milwaukee County		3,970,000
Waukesha	Transit center	496,250
WEST VIRGINIA		
Huntington	Intermodal Facility	7,940,000
West Virginia statewide	Intermodal Facility and buses	6,451,250
TOTAL		$497,639,500

TABLE 9A

FEDERAL TRANSIT ADMINISTRATION

PRIOR YEAR SECTION 5309 BUS UNOBLIGATED ALLOCATIONS

STATE/AREA	PRIOR YEAR UNOBLIGATED ALLOCATION
FY 1998:	
AL Birmingham/Jefferson County	$2,931,588
AL Birmingham	5,863,178
AL Gadsden	97,730
AL Huntsville	4,885,981
AL Mobile	977,196
AL Mobile	977,196
AL Mobile	1,465,794
AL Mobile	5,374,579
AL Tuscaloosa	977,196
AZ Phoenix	4,397,383
AZ Tuscon	977,196
CA Folsom	1,465,794
CA Foothill	8,794,766
CA I-5 Consortium Cities Joint Powers Authority	4,885,981
CA Inglewood	488,598
CA Lake Tahoe	977,196
CA Long Beach	1,465,794
CA Marina/Ft. Ord	977,196
CA Mendocino County	781,757
CA Modesto	1,710,093
CA Rialto	1,074,916
CA Riverside County	2,296,411
CA Riverside County	977,196
CA Sacramento	977,196
CA San Joaquin (Stockton)	1,954,393
CA Santa Clara	2,442,991
CA Santa Cruz Metropolitan Transit District	977,196
CA Solano County	1,172,636
CA Sonoma County	977,196

TABLE 9A

FEDERAL TRANSIT ADMINISTRATION

PRIOR YEAR SECTION 5309 BUS UNOBLIGATED ALLOCATIONS

STATE/AREA	PRIOR YEAR UNOBLIGATED ALLOCATION
FY 1998 (cont'd):	
CA Unitrans	$412,166
CA Woodland	195,439
CA Yolo County	977,196
CA Yosemite area	206,083
CO Statewide	98,353
CT Bridgeport	1,954,393
CT Bridgeport	3,664,486
CT New Haven	1,172,636
DE Statewide	1,465,794
FL Daytona Beach	1,954,393
FL Florida Citrus Connection	1,465,794
FL Lakeland	977,196
FL Lakeworth	977,196
FL Metro-Dade County	4,885,981
FL Palm Beach County	966,753
FL Tampa (Hillsborough County)	1,465,794
GA Chatham	3,908,785
GA MARTA	2,060,830
HI Honolulu	4,885,981
IL Statewide	2,049,152
IN Indianapolis	1,954,393
IN South Bend	1,954,393
IA Statewide	1,133,457
IA Sioux City	1,221,495
KS Statewide	977,196
LA Baton Rouge	586,318
LA Lafayette	732,897
LA Lake Charles	146,579
LA Monroe	781,757
LA New Orleans	8,794,766

Page 3 of 7 pages

TABLE 9A

FEDERAL TRANSIT ADMINISTRATION

PRIOR YEAR SECTION 5309 BUS UNOBLIGATED ALLOCATIONS

STATE/AREA	PRIOR YEAR UNOBLIGATED ALLOCATION
FY 1998 (cont'd):	
LA Shreveport	$390,879
LA St. Tammany Parish	293,159
MD Statewide	7,817,570
MA South Station	977,196
MI Statewide	7,328,971
MN Metropolitan Council transit Operations	8,794,766
MN St. Paul	1,465,794
MS Jackson	1,954,393
NV Clark County	7,817,570
NV Reno, Washoe County RTC	1,465,794
NJ Statewide	5,863,178
NM Albuquerque	977,196
NM Las Cruces, Santa Fe and Albuquerque	977,196
NM Statewide	3,664,486
NY New Rochelle	1,465,794
NY New York City	7,328,971
NY NFTA	977,196
NY Poughkeepsie	1,954,393
NY Staten Island/Brooklyn	977,196
NY Suffolk County	2,100,972
NY Syracuse	4,201,944
NY Westchester County	4,885,981
NY Yonkers	1,954,393
NC Chapel Hill University of North Carolina	977,196
NC Statewide	3,340,000
OR Eugene-Springfield-Land County	977,196
OR Lane Transit District	977,196
OR Salem and Corvallis	977,196
PA Fayette and Somerset	586,318
PA Indiana County	488,598

Page 4 of 7 pages

TABLE 9A

FEDERAL TRANSIT ADMINISTRATION

PRIOR YEAR SECTION 5309 BUS UNOBLIGATED ALLOCATIONS

STATE/AREA	PRIOR YEAR UNOBLIGATED ALLOCATION
FY 1998 (cont'd):	
PA Lackawanna County	$293,159
PA Lawrence County	977,196
PA Lehigh and Northampton	977,196
PA New Castle area transit authority	732,897
PA Schuykill County	195,439
PA Scranton	1,465,794
PA SEPTA	7,328,972
PA Towanda Borough	1,954,393
PA Wilkes-Barre	1,465,794
PA Statewide	1,221,496
SC Columbia	1,954,393
SC Pee Dee Regional Planning Authority	2,038,060
SC Virtual Transit Enterprise	977,196
SD Statewide	2,198,692
TN Statewide	5,617,570
TX Austin	2,931,588
TX Brazos Transit Authority	2,931,588
TX Corpus Christi	1,905,533
TX El Paso	977,196
TX Galveston	1,954,393
TX Rural Texas	2,442,991
UT Utah Transit Authority Olympic	1,954,393
UT Park City Transit	390,879
UT Utah Transit Authority	824,332
UT Utah Transit Authority Olympic	2,442,991
UT Statewide	1,728,362
VT Burlington	1,465,794
VT Statewide	977,196
VA Clarendon canopy project	244,299
VA Dulles corridor	2,442,991

TABLE 9A

FEDERAL TRANSIT ADMINISTRATION

PRIOR YEAR SECTION 5309 BUS UNOBLIGATED ALLOCATIONS

STATE/AREA	PRIOR YEAR UNOBLIGATED ALLOCATION
FY 1998 (cont'd):	
VA Richmond	$2,442,991
WA Bremerton	412,166
WA Chelan- Douglas	977,196
WA Community Transit	1,465,794
WA Everett	2,442,991
WA King County	977,196
WA King County	1,465,794
WA King County	4,885,981
WA Olympic Peninsula International Gateway	977,196
WA Snohomish County	2,442,991
WA Tacoma Dome station project	618,249
WV Huntington	6,840,374
WV Statewide	9,039,066
WI Milwaukee	977,196
WI Wisconsin Transit System	1,434,458
Fuel Cell powered transit bus program	4,850,000
Bus testing facility	3,000,000
TOTAL FY 1998 Allocations	$301,571,105
FY 1997:	
AR Little Rock	$992,500
CA Fairfield City	1,389,500
CA Foothill	4,053,837
CA North Orange County	198,500
CA Norwalk	192,500
CA Riverside County	992,500
CA San Joaquin	2,729,375
CA Santa Cruz (MTD)	1,985,000
CA Sonoma County	992,500

TABLE 9A

FEDERAL TRANSIT ADMINISTRATION

PRIOR YEAR SECTION 5309 BUS UNOBLIGATED ALLOCATIONS

STATE/AREA	PRIOR YEAR UNOBLIGATED ALLOCATION
FY 1997 (cont'd):	
CA Thousand Oaks	$595,500
DE Statewide	5,195,478
FL Miami Beach	992,500
GA Chatham	1,052,050
IA Sioux City	2,143,800
IN South Bend	5,455,322
KS Statewide	622,500
KS Johnson City	2,090,314
LA Statewide	9,794,315
MA Boston	672,500
MA Lowell	992,500
MI Statewide	4,122,500
MS Jackson	992,500
MS Jackson	3,473,750
MO St. Louis	1,736,875
NY Buffalo	992,500
NY New Rochelle	1,235,000
NY Syracuse	1,985,000
OR Hood River	173,688
OR Salem	1,836,125
PA Erie	1,985,000
PA Indiana County	674,900
SC Spartanburg	1,488,750
TX El Paso	139,988
TX Galveston	496,250
TX Liberty, Montgomery, Polk Counties	1,013,170
UT Salt Lake City	5,458,750
VT Statewide	188,125
VT Burlington	1,488,750
VT Urban & Rural	169,375

Page 7 of 7 pages

TABLE 9A

FEDERAL TRANSIT ADMINISTRATION

PRIOR YEAR SECTION 5309 BUS UNOBLIGATED ALLOCATIONS

STATE/AREA	PRIOR YEAR UNOBLIGATED ALLOCATION
FY 1997 (cont'd):	
VA Reston	$496,250
VA Virginia Beach	992,500
WA Everett	2,977,500
WA Port Angeles	992,500
TOTAL FY 1997 Allocations	$78,242,737
TOTAL (All Allocations Above)	$379,813,842

TABLE 10

FEDERAL TRANSIT ADMINISTRATION

TEA-21 AUTHORIZATION LEVELS (GUARANTEED FUNDING ONLY)

APPROPRIATION / PROGRAM	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	28-Oct-98 Total
Urbanized Area Formula (Section 5307)	2,298,852,727	2,548,190,791	2,772,890,281	2,997,316,061	3,220,601,506	3,445,939,606	17,283,790,992
Nonurbanized Area Formula (Section 5311)	134,077,934	177,923,658	193,612,968	209,283,168	224,873,743	240,607,643	1,180,379,114
Elderly and Persons with Disabilities (Section 5310)	62,219,389	67,035,601	72,946,801	78,850,801	84,724,801	90,652,801	456,430,195
Clean Fuels Formula Program (Section 5308)	0	50,000,000	50,000,000	50,000,000	50,000,000	50,000,000	250,000,000
Over the Road Bus Accessibility Program (new)	0	2,000,000	3,700,000	4,700,000	6,950,000	6,950,000	24,300,000
Alaska Railroad (Section 5307)	4,849,950	4,849,950	4,849,950	4,849,950	4,849,950	4,849,950	29,099,700
Bus and Bus Related (Section 5309)	400,000,000	451,400,000	490,200,000	529,200,000	568,200,000	607,200,000	3,046,200,000
Fixed Guideway Modernization (Section 5309)	800,000,000	902,800,000	980,400,000	1,058,400,000	1,136,400,000	1,214,400,000	6,092,400,000
New Starts (Section 5309)	800,000,000	902,800,000	980,400,000	1,058,400,000	1,136,400,000	1,214,400,000	6,092,400,000
Job Access and Reverse Commute Program (new)	0	50,000,000	75,000,000	100,000,000	125,000,000	150,000,000	500,000,000
Metropolitan Planning (Section 5303)	39,500,000	43,841,600	49,632,000	52,113,600	55,422,400	60,385,600	300,895,200
State Planning & Research (Section 5313(b))	8,250,000	9,158,400	10,368,000	10,886,400	11,577,600	12,614,400	62,854,800
National Planning & Research (Section 5314)	32,750,000	27,500,000	29,500,000	29,500,000	31,500,000	31,500,000	182,250,000
Rural Transit Assistance (Section 5311(b)(2))	4,500,000	5,250,000	5,250,000	5,250,000	5,250,000	5,250,000	30,750,000
Transit Cooperative Research (Section 5313(a))	4,000,000	8,250,000	8,250,000	8,250,000	8,250,000	8,250,000	45,250,000
National Transit Institute (Section 5315)	3,000,000	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000	23,000,000
University Transportation Centers (Section 5317(b))	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	36,000,000
Administrative Expenses	45,738,000	54,000,000	60,000,000	64,000,000	67,000,000	73,000,000	363,738,000
FEDERAL TRANSIT ADMINISTRATION TOTAL:	4,643,738,000	5,315,000,000	5,797,000,000	6,271,000,000	6,747,000,000	7,226,000,000	35,999,738,001

Fiscal Years 1999-2003 funding for the Clean Fuels Formula Program, established under TEA-21, equals $100,000,000. $50,000,000 is shown under the Clean Fuels Formula Program (Section 5308); and $50,000,000 is included under the Bus and Bus Related (Section 5309).

TABLE 10A

FEDERAL TRANSIT ADMINISTRATION

TEA-21 AUTHORIZATION LEVELS (GUARANTEED AND NONGUARANTEED FUNDING)

APPROPRIATION / PROGRAM	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	28-Oct-98 Total
Urbanized Area Formula (Section 5307)	2,298,852,727	2,698,190,791	2,922,890,281	3,147,316,081	3,370,601,506	3,595,939,606	18,033,790,992
Nonurbanized Area Formula (Section 5311)	134,077,934	177,923,658	193,612,968	209,283,168	224,873,743	240,607,643	1,180,379,114
Elderly and Persons with Disabilities (Section 5310)	62,219,389	67,035,601	72,946,801	78,850,801	84,724,801	90,652,801	456,430,194
Clean Fuels Formula Program (Section 5308)	0	150,000,000	150,000,000	150,000,000	150,000,000	150,000,000	750,000,000
Over the Road Bus Accessibility Program (new)	0	0	3,700,000	4,700,000	6,950,000	6,950,000	24,300,000
Alaska Railroad (Section 5307)	4,849,950	4,849,950	4,849,950	4,849,950	4,849,950	4,849,950	29,099,700
Bus and Bus Related (Section 5309)	400,000,000	551,400,000	590,200,000	629,200,000	668,200,000	707,200,000	3,546,200,000
Fixed Guideway Modernization (Section 5309)	800,000,000	1,002,800,000	1,080,400,000	1,158,400,000	1,236,400,000	1,314,400,000	6,592,400,000
New Starts (Section 5309)	800,000,000	1,302,800,000	1,390,400,000	1,478,400,000	1,566,400,000	1,644,400,000	8,182,400,000
Job Access and Reverse Commute Program (new)	0	150,000,000	150,000,000	150,000,000	150,000,000	150,000,000	750,000,000
Metropolitan Planning (Section 5303)	39,500,000	70,312,000	76,929,600	80,238,400	84,374,400	90,184,800	441,519,200
State Planning & Research (Section 5313(b))	8,250,000	14,688,000	16,070,400	16,761,600	17,625,600	18,835,200	92,230,800
National Planning & Research (Section 5314)	32,750,000	58,500,000	60,500,000	62,500,000	64,500,000	65,500,000	344,250,000
Rural Transit Assistance (Section 5311(b)(2))	4,500,000	5,250,000	5,250,000	5,250,000	5,250,000	5,250,000	30,750,000
Transit Cooperative Research (Section 5313(a))	4,000,000	8,250,000	8,250,000	8,250,000	8,250,000	8,250,000	45,250,000
National Transit Institute (Section 5315)	3,000,000	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000	23,000,000
University Transportation Centers (Section 5317(b))	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	36,000,000
Administrative Expenses	45,738,000	67,000,000	74,000,000	80,000,000	84,000,000	91,000,000	441,738,000
FEDERAL TRANSIT ADMINISTRATION TOTAL:	4,643,738,000	6,341,000,000	6,810,000,000	7,274,000,000	7,737,000,000	8,194,000,000	40,999,738,000

Table 10A of Fed Reg

TABLE 11

FEDERAL TRANSIT ADMINISTRATION - Fiscal Years 1999-2003
Apportionment Formula for Section 5307 Urbanized Area Formula Program

Percent of Formula Funds Available--

Section 5310: 2.4% States (Allocated to states based on state's population of elderly and persons with disabilities)

Section 5311: 6.37% Nonurbanized Areas (Allocated to states based on each state's nonurbanized area population)

Section 5307: 91.23% Urbanized Areas

(UZA) Population - Weighting Factors

50,000-199,000 9.32%
(Apportioned to Governors)
- 50% - population
- 50% - population x density
  [density = inhabitants / square mile]

>200,000 90.68%
(Apportioned to UZAs)

33.29% ("Fixed Guideway" Tier*)
- 95.61% [at least 0.75% of these funds for each UZA with commuter rail & pop. > 750,000]
  - 60% - fixed guideway revenue vehicle miles
  - 40% - fixed guideway route miles
- 4.39% ("Incentive" Portion of Tier)
  [at least 0.75% of these funds for each UZA with commuter rail & pop. > 750,000]
  -- fixed guideway passenger miles x fixed guideway passenger miles/operating cost

66.71% ("Bus" Tier)
- 90.8%
  - 73.39% for UZAs with pop. >1,000,000
    - 50% - bus revenue vehicle miles
    - 25% - population
    - 25% - population x density
  - 26.61% for UZAs pop. < 1,000,000
    - 50% - bus revenue vehicle miles
    - 25% - population
    - 25% - population x density
- 9.2% ("Incentive" Portion of Tier)
  -- bus passenger miles x bus passenger miles / operating cost

*Includes all fixed guideway modes, such as heavy rail, commuter rail, light rail, trolleybus, aerial tramway, inclined plane, cable car, automated guideway transit, ferryboats, exclusive busways, and HOV lanes.

63FR-T11/4

TABLE 12

FEDERAL TRANSIT ADMINISTRATION - Fiscal Years 1998-2003
Apportionment Formula for Section 5309 Fixed Guideway Modernization Program

Tier 1 — First $497,700,000 to the following areas:

Baltimore	$ 8,372,000
Boston	38,948,000
Chicago/N.W. Indiana	78,169,000
Cleveland	9,509,500
New Orleans	1,730,588
New York	176,034,461
N. E. New Jersey	50,604,653
Philadelphia/So. New Jersey	58,924,764
Pittsburgh	13,662,463
San Francisco	33,989,571
SW Connecticut	27,755,000

Tier 2 — Next $70,000,000 as follows: Tier 2(A): 50 percent is allocated to areas identified in Tier 1 and Tier 2(B): 50 percent to other urbanized areas with fixed guideway tiers in operation at least seven years. Funds are allocated by the Urbanized Area Formula Program fixed guideway tier formula factors that were used to apportion funds for the fixed guideway modernization program in FY 1997.

Tier 3 — Next $5,700,000 as follows: Pittsburgh 61.76%; Cleveland 10.73%; New Orleans 5.79% and 21.72% is allocated to all other areas in Tier 2(B) by the same fixed guideway tier formula factors used in fiscal year 1997.

Tier 4 — Next $186,600,000 as follows: All eligible areas using the same year fixed guideway tier formula factors used in fiscal year 1997.

Tier 5 — Next $70,000,000 as follows: 65% to the 11 areas identified in Tier 1, and 35% to all other areas using the most current Urbanized Area Formula Program fixed guideway tier formula factors. Any segment that is less than 7 years old in the year of the apportionment will be deleted from the data base.

Tier 6 — Next $50,000,000 as follows: 60% to the 11 areas identified in Tier 1, and 40% to all other areas using the most current Urbanized Area Formula Program fixed guideway tier formula factors. Any segment that is less than 7 years old in the year of the apportionment will be deleted from the data base.

Tier 7 — Remaining amounts as follows: 50% to the 11 areas identified in Tier 1, and 50% to all other areas using the most current Urbanized Area Formula Program fixed guideway formula factors. Any segment that is less than 7 years old in the year of the apportionment will be deleted from the data base.

96FR-T12/4

TABLE 13

FEDERAL TRANSIT ADMINISTRATION - Unit Values of Data
Fiscal Year 1999 Formula Grant Apportionments

	FY 1999 APPORTIONMENTS
Section 5307 Urbanized Area Formula Program - Bus Tier	
Urbanized Areas Over 1,000,000:	
Population	$2.68830106
Population x Density	$0.00068950
Bus Revenue Vehicle Mile	$0.37046436
Urbanized Areas Under 1,000,000:	
Population	$2.42947985
Population x Density	$0.00106993
Bus Revenue Vehicle Mile	$0.45538015
Bus Incentive (PM denotes Passenger Mile):	
Bus PM x Bus PM = Operating Cost	$0.00445117
Section 5307 Urbanized Area Formula Program - Fixed Guideway Tier	
Fixed Guideway Revenue Vehicle Mile	$0.49724989
Fixed Guideway Route Mile	$28,266
- Commuter Rail Floor $5,499,333	
Fixed Guideway Incentive:	
Fixed Guideway PM x Fixed Guideway PM = Operating Cost	$0.00043044
- Commuter Rail Incentive Floor $252,506	
Section 5307 Urbanized Area Formula Program - Areas Under 200,000	
Population	$3.96867133
Population x Density	$0.00198314
Section 5311 Nonurbanized Area Formula Program	
Areas Under 50,000	
Population	$1.93056023

Section 5309 Capital Program - Fixed Guideway Modernization

	Tier 2	Tier 3	Tier 4	Tier 5	Tier 6	Tier 7
Legislatively Specified Areas:			All Areas:			
Revenue Vehicle Mile	$0.03043443		$1.13683131	$0.03919213	$0.02584096	$0.00690341
Route Mile	$2,122.43		$7,832.52	$2,811.77	$1,853.91	$495.27
Other Areas:						
Revenue Vehicle Mile	$0.16377360	$0.00579309		$0.14876666	$0.12144217	$0.04866491
Route Mile	$4,772.78	$168.83		$5,666.71	$4,625.88	$1,853.71

96FR-T13/4

[FR Doc. 98–29683 Filed 11–5–98; 8:45 am]
BILLING CODE 4910–57–C

Federal Register

Friday
November 6, 1998

Part III

Department of Transportation

Federal Transit Administration

Fiscal Year 1999 Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements; Notice

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Fiscal Year 1999 Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice.

SUMMARY: This Notice contains FTA's comprehensive compilation of the Federal Fiscal Year 1999 certifications and assurances to be used in connection with all Federal assistance programs administered by FTA during Federal Fiscal Year 1999. (See Appendix A.) These certifications and assurances include all annual certifications required by 49 U.S.C. 5307(d)(1) for FTA's Urbanized Area Formula Program as well as other certifications and assurances needed for compliance with various other Federal statutes and regulations affecting FTA's assistance programs.

EFFECTIVE DATE: November 6, 1998.

FOR FURTHER INFORMATION CONTACT: Pat Berkley, Office of Program Management, Federal Transit Administration, (202) 366–6470; the FTA Web Site at http://www.fta.dot.gov; or contact FTA staff in the appropriate Regional Office listed below. For copies of other related documents, contact the Office of Public Affairs, Federal Transit Administration (202) 366–4019.

Region 1: Boston

States served: Maine, New Hampshire, Vermont, Connecticut, Rhode Island, and Massachusetts, Telephone #617–494–2055

Region 2: New York

States served: New York, New Jersey, and Virgin Islands, Telephone #212–264–8162

Region 3: Philadelphia

States served: Pennsylvania, Delaware, Maryland, Virginia, West Virginia, and District of Columbia, Telephone #215–656–7100

Region 4: Atlanta

States served: Kentucky, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, and Puerto Rico, Telephone #404–562–3500

Region 5: Chicago

States served: Minnesota, Wisconsin, Michigan, Illinois, Indiana, and Ohio, Telephone #312–353–2789

Region 6: Dallas/Ft.Worth

States served: Arkansas, Louisiana, Oklahoma, Texas, and New Mexico, Telephone #817–860–9663

Region 7: Kansas City

States served: Missouri, Iowa, Kansas, and Nebraska, Telephone #816–523–0204

Region 8: Denver

States served: Colorado, Utah, Wyoming, Montana, North Dakota, South Dakota, Telephone #303–844–3242

Region 9: San Francisco

States served: California, Hawaii, Guam, Arizona, Nevada, American Samoa, and the Northern Mariana Islands, Telephone #415–744–3133

Region 10: Seattle

States served: Idaho, Oregon, Washington, and Alaska, Telephone #206–220–7954

SUPPLEMENTARY INFORMATION: Before FTA may award a Federal grant or cooperative agreement, the applicant must provide to FTA all certifications and assurances required by Federal laws and regulations for the applicant or its project.

This Notice provides the text of certifications and assurances that may be required by Federal law, regulations, or directives for the various Federal assistance programs administered by FTA including the Capital Program, the Urbanized Area Formula Program, the Nonurbanized Area Formula Program, the Metropolitan Planning Program, the Rural Transit Assistance Program, the Elderly and Persons With Disabilities Program, the Human Resource Program, the National Training Institute Program, the State Planning and Research Program, the National Planning and Research Program, the *Joint Partnership Program for Deployment of Innovation Program and the International Mass Transportation Program*, all codified at 49 U.S.C. chapter 53. When administering Federal assistance programs authorized by other Federal statutes, such as Title 23, United States Code, FTA uses these same certifications and assurances during Federal Fiscal Year 1999. In addition FTA will also use these certifications in administering the new Job Access and Reverse Commute Program, the Over-the-road Bus Accessibility Program, the State Infrastructure Bank Pilot Program, and the Pilot Program for Intercity Rail Infrastructure authorized by the Transportation Equity Act for the 21st Century (TEA–21).

This Notice provides the applicant with a single Signature Page on which the applicant and its attorney certifies compliance with all certifications and assurances applicable to each grant or cooperative agreement for which the applicant wishes to apply in Federal Fiscal Year 1999. (See Signature Page of Appendix A.)

An applicant's Annual Certifications and Assurances applicable to a specific grant or cooperative agreement generally remain in effect for the life of the grant or cooperative agreement to closeout, or the life of the project or project property when a useful life or standard industry life is in effect. If in a later year, however, the Applicant provides certifications and assurances that differ from the certifications and assurances previously made, the later certifications and assurances will apply to the grant, cooperative agreement, project, or project property, except as FTA otherwise permits.

Electronic Submission

FTA has expanded the use of the electronic programs for applicants, first introduced in 1995. Beginning with Fiscal Year 1999, FTA expects applicants to submit their applications as well as certifications and assurances electronically by means of the FTA electronic grant award and management system. If an applicant is not able to submit the certifications electronically, the applicant should use the Signature Page form in Appendix A of this **Federal Register** Notice. The Signature Page contains the current fiscal year's certifications and, when properly attested to and submitted to FTA, assures FTA that the applicant intends to comply with the requirements for the specific program involved. Applicants may contact the appropriate Regional Office shown above for more information.

1999 Changes

(1) All Applicants for FTA capital program or formula program assistance, and current Grantees with an active project financed with FTA capital program or formula program assistance, will be required to provide the Appendix A Certifications and Assurances within 90 days from the date of this publication or with its first grant application in Fiscal Year 1999, whichever comes first. (2) The attorney signature from previous years on the Single Signature Page will not be acceptable. FTA requires a current attorney's affirmation of the Applicant's legal authority to certify compliance with the funding obligations in this document. Additional changes include clarification and reference sources. It is important that each applicant be familiar with all fifteen certification and assurance categories contained in this document as they may be a prerequisite for receiving FTA financial assistance. (3) Recipients of funds apportioned under Section 5336 serving a population of 200,000 or more are required by Section 5307(k) to make 1 per cent of their funds available for transit enhancement activities. In addition, those recipients are also required to submit a report annually listing the projects carried out during the preceding fiscal year with those funds. (See Signature Page.) (4) A recipient of funds under sections 5312(d) *Joint Partnership Program for Deployment of Innovation* and 5312(e), *International Mass Transportation Program* will be required to comply with the requirements of the 1999 Annual Certifications and Assurances. (5) A recipient of funds under the Transportation Equity Act for the 21st Century programs under section 3021, *Pilot Program for Intercity Rail Infrastructure* (only Oklahoma); *Job Access and Reverse Commute Grant Program (section 3037);* and *Over-the-road Bus Accessibility Program (3038)* will be required to comply with the requirements of the 1999 Annual Certification Program.

FTA directs your attention to Appendix C in FTA Circular 9300.1A, "Capital Program Grant Application Instructions," which was published on October 1, 1998; to Exhibit D in FTA Circular 9040.1E, dated October 1, 1998, "Nonurbanized Area Formula Program Guidance and Grant Application Instructions; and Appendix G of FTA Circular 9030.1C, dated October 1, 1998, Urbanized Area Formula Program: Grant Application Instructions. These circulars contain a previous version of the Annual Certifications and Assurances which includes some but not all of the most current and valid changes. Do not use the document contained in these circulars. They are examples only and will not be considered acceptable or valid. Therefore the provisions of this Notice supersede conflicting statements in those circulars. Note especially that the Applicant must use the most current Signature Pages shown in this Federal Fiscal Year *1999* **Federal Register** document or provide the signature concurrently through the transportation electronic award and management system for all applicants. A copy of an earlier fiscal year's Certification Signature page is not acceptable.

Background

With the publication of the Federal Fiscal Year 1995 version of this Notice, certifications and assurances for Federal assistance programs administered by FTA were for the first time consolidated into one document. This marked the beginning of an effort to assist applicants in reducing time and paper work in certifying compliance with various Federal laws and regulations. It coincided with the on-line program and the electronic initiative described above, which also reduced the time and paper required to process an application.

FTA intends to continue publishing this document annually with any changes or additions specifically highlighted, in conjunction with its publication of the FTA annual apportionment Notice, which allocates funds in accordance with the latest U.S. Department of Transportation (U.S. DOT) annual appropriations act.

Procedures

Following is a detailed compilation of Certifications and Assurances and the Signature Page (Appendix A). The Signature Page is to be signed by the applicant's authorized representative and its attorney. It is to be electronically transmitted through the FTA computerized on-line system, to the appropriate FTA Regional office within 90 days of this **Federal Register** publication date or with the applicant's first Federal assistance application in Federal Fiscal Year 1999, whichever comes first.

All applicants are advised to read the entire 1999 Certifications and Assurances to be confident of their responsibilities and commitments. The applicant may signify compliance with all Categories by placing a single "X" in the appropriate space at the top of the Signature Selection Page in Appendix A. However, the applicant's Attorney Affirmation continues to be required as indicated on the Signature Page at the end of Appendix A, regardless of the applicant's selection of a single selection for all fifteen Categories, or individual options selected from the fifteen Categories.

The Signature Page, when electronically transmitted to FTA or properly signed and submitted, assures FTA that the applicant intends to comply with the requirements for the specific program(s) involved, should they apply for an FTA grant during this fiscal year. All applicants must read the selection portion and the signature portion of this document and signify compliance by marking, where appropriate, with an "X" on the category selection side, and then signifying compliance as indicated. (See Appendix A.) An applicant participating in the electronic award and management program, described above, may submit its Signature Page (both the selection side and the signature side) electronically. The applicant should not hesitate to consult with the appropriate Regional Office or Headquarters Office before submitting its certifications and assurances.

References

The Transportation Equity Act for the 21st Century, Pub. L. 105–178, June 9, 1998, as amended by the TEA–21 Restoration Act 105–206, 112 Stat. 685, July 22, 1998, 49 U.S.C. chapter 53, Title 23 U.S.C., U.S. DOT and FTA regulations under 49 CFR, and FTA Circulars.

Issued on: October 29, 1998.

Gordon J. Linton,

Administrator.

Appendix A

Federal Fiscal Year 1999 Certifications and Assurances for Federal Transit Administration Assistance Programs

In accordance with 49 U.S.C. 5323(n), the following certifications and assurances have been compiled for the various Federal Transit Administration (FTA) programs. FTA requests each Applicant provide as many of the following certifications and assurances as needed to cover the various types of programs for which the Applicant intends to seek FTA assistance in Federal Fiscal Year 1999. A state providing certifications and assurances on behalf of its prospective subrecipients is expected to obtain sufficient documentation from those subrecipients needed to provide informed certifications and assurances. The fifteen categories of certifications and assurances are listed by Roman numerals I through XV on the other side of the Signature Page of this document. Categories II through XV will apply to some, but not all, applicants. The designation of the categories corresponds to the circumstances mandating submission of specific certifications, assurances, or agreements.

I. Certifications and Assurances Required of Each Applicant

Each Applicant for Federal assistance awarded by FTA *must* provide all certifications and assurances in this Category I. Accordingly, FTA may not award any Federal assistance until the Applicant provides assurance of compliance by selecting Category I on the Signature Page at the end of this document.

A. Authority of Applicant and Its Representative

The authorized representative of the Applicant and legal counsel who sign these certifications, assurances, and agreements attest that both the Applicant and its authorized representative have adequate authority under state and local law and the

by-laws or internal rules of the Applicant organization to:

(1) Execute and file the application for Federal assistance on behalf of the Applicant,

(2) Execute and file the required certifications, assurances, and agreements on behalf of the Applicant binding the Applicant, and

(3) Execute grant and cooperative agreements with FTA on behalf of the Applicant.

B. Standard Assurances

The Applicant assures that it will comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal administrative requirements in carrying out any project supported by an FTA grant or cooperative agreement. The Applicant acknowledges that it is under a continuing obligation to comply with the terms and conditions of the grant or cooperative agreement issued for its project with FTA. The Applicant understands that Federal laws, regulations, policies, and administrative practices might be modified from time to time and affect the implementation of the project. The Applicant agrees that the most recent Federal requirements will apply to the project, unless FTA issues a written determination otherwise.

C. Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

As required by U.S. DOT regulations on Governmentwide Debarment and Suspension (Nonprocurement) at 49 CFR 29.510:

(1) The Applicant (Primary Participant) certifies, to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not, within a three-year period preceding this certification, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) transaction or contract under a public transaction, violation of Federal or state antitrust statutes, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, state, or local) with commission of any of the offenses listed in subparagraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this certification had one or more public transactions (Federal, state, or local) terminated for cause or default.

(2) The Applicant also certifies that, if it later becomes aware of any information contradicting the statements of paragraph (1) above, it will promptly provide that information to FTA.

(3) If the Applicant (Primary Participant) is unable to certify to the statements in paragraphs (1) and (2) above, it shall indicate so on its Signature Page and provide a written explanation to FTA.

D. Drug-Free Workploce Agreement

As required by U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants)," 49 CFR Part 29, Subpart F, as modified by 41 U.S.C. 702, the Applicant agrees that it will provide a drug-free workplace by:

(1) Publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace and specifying the actions that will be taken against its employees for violation of that prohibition;

(2) Establishing an ongoing drug-free awareness program to inform its employees about:

(a) The dangers of drug abuse in the workplace,

(b) Its policy of maintaining a drug-free workplace,

(c) Any available drug counseling, rehabilitation, and employee assistance programs, and

(d) The penalties that may be imposed upon its employees for drug abuse violations occurring in the workplace;

(3) Making it a requirement that each of its employees to be engaged in the performance of the grant or cooperative agreement be given a copy of the statement required by paragraph (1);

(4) Notifying each of its employees in the statement required by paragraph (1) that, as a condition of employment financed with Federal assistance provided by the grant or cooperative agreement, the employee will be required to:

(a) Abide by the terms of the statement, and

(b) Notify the employer (Applicant) in writing of any conviction for a violation of a criminal drug statute occurring in the workplace no later than 5 calendar days after that conviction;

(5) Notifying FTA in writing, within 10 calendar days after receiving notice required by paragraph (4)(b) above from an employee or otherwise receiving actual notice of that conviction. The Applicant, as employer of any convicted employee, must provide notice, including position title, to every project officer or other designee on whose project activity the convicted employee was working. Notice shall include the identification number(s) of each affected grant or cooperative agreement.

(6) Taking one of the following actions within 30 calendar days of receiving notice under paragraph (4)(b) above with respect to any employee who is so convicted:

(a) Taking appropriate personnel action against that employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended, or

(b) Requiring that employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, state, or local health, law enforcement, or other appropriate agency;

(7) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), (5), and (6) above.

The Applicant agrees to maintain a list identifying its headquarters location and each workplace it maintains in which project activities supported by FTA are conducted, and make that list readily accessible to FTA.

E. Intergovernmental Review Assurance

The Applicant assures that each application for Federal assistance submitted to FTA has been or will be submitted, as required by each state, for intergovernmental review to the appropriate state and local agencies. Specifically, the Applicant assures that it has fulfilled or will fulfill the obligations imposed on FTA by U.S. DOT regulations, "Intergovernmental Review of Department of Transportation Programs and Activities," 49 CFR part 17.

F. Nondiscrimination Assurance

As required by 49 U.S.C. 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity), Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7, the Applicant assures that it will comply with all requirements of 49 CFR part 21; FTA Circular 4702.1, "Title VI Program Guidelines for Federal Transit Administration Recipients", and other applicable directives, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Applicant receives Federal assistance awarded by the U.S. DOT or FTA as follows:

(1) The Applicant assures that each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements of 49 U.S.C. 5332 and 49 CFR part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.

(2) The Applicant assures that it will take appropriate action to ensure that any transferee receiving property financed with Federal assistance derived from FTA will comply with the applicable requirements of 49 U.S.C. 5332 and 49 CFR part 21.

(3) The Applicant assures that it will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Applicant assures that it will submit the required information pertaining to its compliance with these requirements.

(4) The Applicant assures that it will make any changes in its 49 U.S.C. 5332 and Title VI implementing procedures as U.S. DOT or FTA may request.

(5) As required by 49 CFR 21.7(a)(2), the Applicant will include in each third party contract or subagreement appropriate provisions to impose the requirements of 49 U.S.C. 5332 and 49 CFR part 21, and include appropriate provisions imposing those requirements in deeds and instruments recording the transfer of real property, structures, improvements.

G. Assurance of Nondiscriminotion on the Bosis of Disability

As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," at 49 CFR part 27, implementing the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended, the Applicant assures that, as a condition to the approval or extension of any Federal assistance awarded by FTA to construct any facility, obtain any rolling stock or other equipment, undertake studies, conduct research, or to participate in or obtain any benefit from any program administered by FTA, no otherwise qualified person with a disability shall be, solely by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity receiving or benefiting from Federal assistance administered by the FTA or any entity within U.S. DOT. The Applicant assures that project implementation and operations so assisted will comply with all applicable requirements of U.S. DOT regulations implementing the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.* at 49 CFR parts 27, 37, and 38, and any applicable regulations and directives issued by other Federal departments or agencies.

H. Procurement Complionce

The Applicant certifies that its procurements and procurement system will comply with all applicable requirements imposed by Federal laws, executive orders, or regulations and the requirements of FTA Circular 4220.1D, "Third Party Contracting Requirements," and other implementing requirements FTA may issue. The Applicant certifies that it will include in its contracts financed in whole or in part with FTA assistance all clauses required by Federal laws, executive orders, or regulations, and will ensure that each subrecipient and each contractor will also include in its subagreements and contracts financed in whole or in part with FTA assistance all applicable clauses required by Federal laws, executive orders, or regulations.

I. Certificotions Prescribed by the Office of Management and Budget (SF–424B and SF–424D)

The Applicant certifies that it:

(1) Has the legal authority to apply for Federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in its application.

(2) Will give FTA, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

(3) Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain.

(4) Will initiate and complete the work within the applicable project time periods following receipt of FTA approval.

(5) Will comply with all statutes relating to nondiscrimination including, but not limited to:

(a) Title VI of the Civil Rights Act, 42 U.S.C. 2000d, which prohibits discrimination on the basis of race, color, or national origin;

(b) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681, 1683, and 1685 through 1687, which prohibits discrimination on the basis of sex;

(c) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of handicaps;

(d) The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 through 6107, which prohibit discrimination on the basis of age;

(e) The Drug Abuse Office and Treatment Act of 1972, Pub. L. 92–255, March 21, 1972, and amendments thereto, relating to nondiscrimination on the basis of drug abuse;

(f) The Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, Pub. L. 91–616, Dec. 31, 1970, and amendments thereto, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;

(g) The Public Health Service Act of 1912, as amended, 42 U.S.C. 290dd–3 and 290ee–3, related to confidentiality of alcohol and drug abuse patient records;

(h) Title VIII of the Civil Rights Act, 42 U.S.C. 3601 *et seq.*, relating to nondiscrimination in the sale, rental, or financing of housing;

(i) Any other nondiscrimination provisions in the specific statutes under which Federal assistance for the project may be provided including, but not limited to section 1101(b) of the Transportation Equity Act for the 21st Century, 23 U.S.C. 101 note, which provides for participation of disadvantaged business enterprises in FTA programs; and

(j) The requirements of any other nondiscrimination statute(s) that may apply to the project.

(6) Will comply, or has complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (Uniform Relocation Act) 42 U.S.C. 4601 *et seq.*, which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases. As required by U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," at 49 CFR 24.4, and sections 210 and 305 of the Uniform Relocation Act, 42 U.S.C. 4630 and 4655, the Applicant assures that it has the requisite authority under applicable state and local law and will comply or has complied with the requirements of the Uniform Relocation Act, 42 U.S.C. 4601 *et seq.*, and U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR part 24 including, but not limited to the following:

(a) The Applicant will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24;

(b) The Applicant will provide fair and reasonable relocation payments and assistance required by 42 U.S.C. 4622, 4623, and 4624; 49 CFR part 24; and any applicable FTA procedures, to or for families, individuals, partnerships, corporations or associations displaced as a result of any project financed with FTA assistance;

(c) The Applicant will provide relocation assistance programs offering the services described in 42 U.S.C. 4625 to such displaced families, individuals, partnerships, corporations or associations in the manner provided in 49 CFR part 24 and FTA procedures;

(d) Within a reasonable time before displacement, the Applicant will make available comparable replacement dwellings to displaced families and individuals as required by 42 U.S.C. 4625(c)(3);

(e) The Applicant will carry out the relocation process in such a manner as to provide displaced persons with uniform and consistent services, and will make available replacement housing in the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin;

(f) In acquiring real property, the Applicant will be guided to the greatest extent practicable under state law, by the real property acquisition policies of 42 U.S.C. 4651 and 4652;

(g) The Applicant will pay or reimburse property owners for necessary expenses as specified in 42 U.S.C. 4653 and 4654, understanding that FTA will participate in the Applicant's costs of providing those payments and that assistance for the project as required by 42 U.S.C. 4631;

(h) The Applicant will execute such amendments to third party contracts and subagreements financed with FTA assistance and execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement the assurances provided herein; and

(i) The Applicant agrees to make these assurances part of or incorporate them by reference into any third party contract or subagreement, or any amendments thereto, relating to any project financed by FTA

involving relocation or land acquisition and provide in any affected document that these relocation and land acquisition provisions shall supersede any conflicting provisions.

(7) Will comply, as applicable, with provisions of the Hatch Act, 5 U.S.C. 1501 through 1508, and 7324 through 7326, which limit the political activities of state and local agencies and their officers and employees whose principal employment activities are financed in whole or part with Federal funds including a Federal loan, grant, or cooperative agreement, but does not apply to a nonsupervisory employee of a transit system (or of any other agency or entity performing related functions) receiving FTA assistance to whom the Hatch Act does not otherwise apply.

(8) To the extent applicable will comply with the Davis-Bacon Act, as amended, 40 U.S.C. 276a through 276a(7), the Copeland Act, as amended, 18 U.S.C. 874 and 40 U.S.C. 276c, and the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 327 through 333, regarding labor standards for federally-assisted subagreements.

(9) To the extent applicable, will comply with flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012a(a), which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

(10) Will comply with environmental standards that may be prescribed to implement the following Federal laws and executive orders:

(a) Institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.* and Executive Order No. 11514, as amended, 42 U.S.C. 4321 note;

(b) Notification of violating facilities pursuant to Executive Order No. 11738, 42 U.S.C. 7606 note;

(c) Protection of wetlands pursuant to Executive Order No. 11990, 42 U.S.C. 4321 note;

(d) Evaluation of flood hazards in floodplains in accordance with Executive Order 11988, 42 U.S.C. 4321 note;

(e) Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 *et seq.*

(f) Conformity of Federal actions to State (Clean Air) Implementation Plans under section 176(c) of the Clean Air Act of 1955, as amended, 42 U.S.C. 7401 *et seq.*;

(g) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300h *et seq.*;

(h) Protection of endangered species under the Endangered Species Act of 1973, as amended, Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*; and

(i) Environmental protections for Federal transit programs, including, but not limited to protections for a park, recreation area, or wildlife or waterfowl refuge of national, state, or local significance or any land from a historic site of national, state, or local significance used in a transit project as required by 49 U.S.C. 303.

(11) Will comply with the Wild and Scenic Rivers Act of 1968, as amended, 15 U.S.C. 1271 *et seq.* relating to protecting components of the national wild and scenic rivers systems.

(12) Will assist FTA in assuring compliance with section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470f, Executive Order No. 11593 (identification and protection of historic properties), 16 U.S.C. 470 note, and the Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. 469a–1 *et seq.*

(13) Will comply with the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4801, which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

(14) Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities on which a construction project supported with FTA assistance takes place without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with FTA directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.

(15) Will comply with FTA requirements concerning the drafting, review, and approval of construction plans and specifications of any construction project supported with FTA assistance. As required by U.S. DOT regulations, "Seismic Safety," 49 CFR 41.117(d), before accepting delivery of any building financed with FTA assistance, it will obtain a certificate of compliance with the seismic design and construction requirements of 49 CFR part 41.

(16) Will provide and maintain competent and adequate engineering supervision at the construction site of any project supported with FTA assistance to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by FTA or the State.

(17) Will comply with the National Research Act, Pub. L. 93–348, July 12, 1974, as amended, regarding the protection of human subjects involved in research, development, and related activities supported by the FTA assistance.

(18) Will comply with the Laboratory Animal Welfare Act of 1966, as amended, 7 U.S.C. 2131 *et seq.* pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by FTA assistance.

(19) Will have performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996, 31 U.S.C. 7501 *et seq.* and OMB Circular No. A–133, "Audits of States, Local Governments, and Non-Profit Organizations."

(20) Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing the project.

II. Lobbying Certification for an Application Exceeding $100,000

An Applicant that submits, or intends to submit this fiscal year, an application for Federal assistance exceeding $100,000 must provide the following certification. FTA may not provide Federal assistance for an application exceeding $100,000 until the Applicant provides this certification by selecting Category II on the Signature Page.

A. As required by U.S. DOT regulations, "New Restrictions on Lobbying," at 49 CFR 20.110, the Applicant's authorized representative certifies to the best of his or her knowledge and belief that for each application for a Federal assistance exceeding $100,000:

(1) No Federal appropriated funds have been or will be paid, by or on behalf of the Applicant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress pertaining to the award of any Federal assistance, or the extension, continuation, renewal, amendment, or modification of any Federal assistance agreement; and

(2) If any funds other than Federal appropriated funds have been or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any application to FTA for Federal assistance, the Applicant assures that it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," including the information required by the form's instructions, which may be amended to omit such information as permitted by 31 U.S.C. 1352.

B. The Applicant understands that this certification is a material representation of fact upon which reliance is placed and that submission of this certification is a prerequisite for providing Federal assistance for a transaction covered by 31 U.S.C. 1352. The Applicant also understands that any person who fails to file a required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

III. Effects on Private Mass Transportation Companies

An Applicant that is a state or local government seeking Federal assistance under 49 U.S.C. chapter 53 to acquire property or an interest in property of a private mass transportation company or operate mass transportation equipment or a facility in competition with or in addition to transportation service provided by an existing mass transportation company must provide the following certification. FTA may not award Federal assistance for that project until the Applicant provides this certification by selecting Category III on the Signature Page.

As required by 49 U.S.C. 5323(a)(1), the Applicant certifies that before it acquires

property or an interest in property of a private mass transportation company or operates mass transportation equipment or a facility in competition with or in addition to transportation service provided by an existing mass transportation company it has or will have:

A. Found that the assistance is essential to carrying out a program of projects as determined by the plans and programs of the metropolitan planning organization;

B. Provided for the participation of private mass transportation companies to the maximum extent feasible; and

C. Paid or will pay just compensation under state or local law to a private mass transportation company for its franchises or property acquired.

D. The assistance falls within the labor standards compliance requirements of 49 U.S.C. 5333(a) and 5333(b).

IV. Public Hearing Certification for a Capital Project That Will Substantially Affect a Community or its Transit Service

An Applicant seeking Federal assistance under 49 U.S.C. chapter 53 for a capital project that will substantially affect a community or the transit service of a community must provide the following certification. FTA may not award Federal assistance for that project until the Applicant provides this certification by selecting Category IV on the Signature Page.

As required by 49 U.S.C. 5323(b), the Applicant certifies that it has, or before submitting its application, will have:

A. Provided an adequate opportunity for a public hearing with adequate prior notice of the proposed project published in a newspaper of general circulation in the geographic area to be served;

B. Held that hearing and provided FTA a transcript or detailed report summarizing the issues and responses, unless no one with a significant economic, social, or environmental interest requests a hearing;

C. Considered the economic, social, and environmental effects of the project; and

D. Determined that the project is consistent with official plans for developing the urban area.

V. Certification of Pre-Award and Post-Delivery Reviews Required for Acquisition of Rolling Stock

An Applicant seeking FTA assistance to purchase rolling stock must provide the following certification. FTA may not provide assistance for any rolling stock acquisition until the Applicant provides this certification by selecting Category V on the Signature Page.

As required by 49 U.S.C. 5323(m), and implementing FTA regulations at 49 CFR 663.7, the Applicant certifies that it will comply with the requirements of 49 CFR part 663, in the course of purchasing revenue service rolling stock. Among other things, the Applicant will conduct or cause to be conducted the prescribed pre-award and post-delivery reviews, and will maintain on file the certifications required by 49 CFR part 663, subparts B, C, and D.

VI. Bus Testing Certification Required for New Bus Acquisitions

An Applicant seeking FTA assistance to acquire new buses must provide the following certification. FTA may not provide assistance for the acquisition of new buses until the Applicant provides this certification by selecting Category VI on the Signature Page.

As required by FTA regulations, "Bus Testing," at 49 CFR 665.7, the Applicant certifies that before expending any Federal assistance to acquire the first bus of any new bus model or any bus model with a new major change in configuration or components or authorizing final acceptance of that bus (as described in 49 CFR part 665):

A. The model of the bus will have been tested at a bus testing facility approved by FTA; and

B. It will have received a copy of the test report prepared on the bus model.

VII. Charter Service Agreement

An Applicant seeking FTA assistance to acquire or operate transportation equipment or facilities acquired with Federal assistance authorized by 49 U.S.C. chapter 53 or Title 23 U.S.C. (except 49 U.S.C. 5310) must enter into the following charter service agreement. FTA may not provide assistance for those projects until the Applicant enters into this agreement by selecting Category VII on the Signature Page.

A. As required by 49 U.S.C. 5323(d) and FTA regulations, "Charter Service," at 49 CFR 604.7, the Applicant agrees that it and its recipients will: (1) provide charter service that uses equipment or facilities acquired with Federal assistance authorized for 49 U.S.C. 5307, 5309, or 5311 or Title 23 U.S.C., only to the extent that there are no private charter service operators willing and able to provide the charter service that it or its recipients desire to provide, unless one or more of the exceptions in 49 CFR 604.9 applies, and (2) comply with the provisions of 49 CFR part 604 before they provide any charter service using equipment or facilities acquired with Federal assistance authorized for the above statutes.

B. The Applicant understands that the requirements of 49 CFR part 604 will apply to any charter service provided, the definitions in 49 CFR part 604 apply to this agreement, and violation of this agreement may require corrective measures and the imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

VIII. School Transportation Agreement

An Applicant seeking FTA assistance to acquire or operate transportation facilities and equipment acquired with Federal assistance authorized by 49 U.S.C. chapter 53 must agree as follows. FTA may not provide assistance for transportation facilities until the Applicant enters into this Agreement by selecting Category VIII on the Signature Page.

A. As required by 49 U.S.C. 5323(f) and FTA regulations, "School Bus Operations," at 49 CFR 605.14, the Applicant agrees that it and all its recipients will:

(1) Engage in school transportation operations in competition with private school transportation operators only to the extent permitted by an exception provided by 49 U.S.C. 5323(f), and implementing regulations, and

(2) Comply with the requirements of 49 CFR part 605 before providing any school transportation using equipment or facilities acquired with Federal assistance awarded by FTA and authorized by 49 U.S.C. chapter 53 or Title 23.U.S.C. for transportation projects.

B. The Applicant understands that the requirements of 49 CFR part 605 will apply to any school transportation it provides, the definitions of 49 CFR part 605 apply to this school transportation agreement, and a violation of this agreement may require corrective measures and the imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

IX. Certification Required for the Direct Award of FTA Assistance to an Applicant for its Demand Responsive Service

An Applicant seeking direct Federal assistance to support its demand responsive service must provide the following certification. FTA may not award Federal assistance directly to an Applicant to support its demand responsive service until the Applicant provides this certification by selecting Category IX on the Signature Page.

As required by U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," at 49 CFR 37.77, the Applicant certifies that its demand responsive service offered to persons with disabilities, including persons who use wheelchairs, is equivalent to the level and quality of service offered to persons without disabilities. When viewed in its entirety, the Applicant's service for persons with disabilities is provided in the most integrated setting feasible and is equivalent with respect to: (1) response time, (2) fares, (3) geographic service area, (4) hours and days of service, (5) restrictions on trip purpose, (6) availability of information and reservation capability, and (7) constraints on capacity or service availability.

X. Substance Abuse Certifications

If the Applicant is required by Federal regulations to provide the following substance abuse certifications, FTA may not provide Federal assistance to that Applicant until it provides these certifications by selecting Category X on the Signature Page.

A. Alcohol Testing Certification

As required by FTA regulations, "Prevention of Alcohol Misuse in Transit Operations," at 49 CFR 654.83, the Applicant certifies that it has established and implemented an alcohol misuse prevention program complying with the requirements of 49 CFR part 654; and if the Applicant has employees regulated by the Federal Railroad Administration (FRA), the Applicant also certifies that it has for those employees an alcohol misuse prevention program complying with FRA regulations, "Control of Alcohol and Drug Use," 49 CFR part 219.

B. Anti-Drug Program Certification

As required by FTA regulations "Prevention of Prohibited Drug Use in

Transit Operations," at 49 CFR 653.83, the Applicant certifies that it has established and implemented an anti-drug program and has conducted employee training complying with the requirements of 49 CFR part 653; and if the Applicant has employees regulated by the U.S. Federal Railroad Administration (FRA), the Applicant also certifies that it has for those employees an anti-drug program complying with FRA regulations, "Control of Alcohol and Drug Use," 49 CFR part 219.

XI. Certification for a Project Involving Interest or Other Financing Costs

The Applicant must provide the following certification in connection with requests for reimbursements of interest or other financing costs of capital projects. FTA may not provide assistance to support those costs until the Applicant provides this certification by selecting Category XI on the Signature Page.

As required by 49 U.S.C. 5307(g), 49 U.S.C. 5309(g)(2)(B), 49 U.S.C. 5309(g)(3)(A), and 49 U.S.C. 5309(n), the Applicant certifies that it will not seek reimbursement for interest and other financing costs unless its records demonstrate it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA might require.

XII. Certifications for the Urbanized Area Formula Program and the Job Access and Reverse Commute Program

Each Applicant to FTA for Urbanized Area Formula Program assistance authorized for 49 U.S.C. 5307 and each Applicant for Job Access and Reverse Commute Program assistance authorized for Section 3037 of the Transportation Equity Act for the 21st Century, 49 U.S.C. 5309 note, must provide the following certifications in connection with its application. FTA may not award Urbanized Area Formula Program assistance or Job Access and Reverse Commute Program assistance to the Applicant until the Applicant provides these certifications and assurances by selecting Category XIV on the Signature Page.

In addition, each Applicant with a population of 200,000 or more awarded funds apportioned under 49 U.S.C. 5307(k) after June 9, 1998, must submit a report listing the Transit Enhancement projects carried out during Federal fiscal year 1998 with those funds. FTA may not award Urbanized Area Formula Program assistance to any Applicant with a population of 200,000 or more until that Applicant indicates that it has submitted this Report by selecting "Transit Enhancement Activities Report Submitted" on the Signature Page under Category XII.

A. Certifications Required by Statute

As required by 49 U.S.C. 5307(d)(1) (A) through (J), the Applicant certifies that:

(1) It has or will have the legal, financial, and technical capacity to carry out the proposed program of projects;

(2) It has or will have satisfactory continuing control over the use of the equipment and facilities;

(3) It will adequately maintain the equipment and facilities;

(4) It will ensure that the elderly and handicapped persons, or any person presenting a Medicare card issued to himself or herself under title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*), will be charged during non-peak hours for transportation using or involving a facility or equipment of a project financed with Federal assistance authorized for 49 U.S.C. 5307 or Section 3037 of the Transportation Equity Act for the 21st Century (TEA–21), 49 U.S.C. 5309 note, not more than 50 percent of the peak hour fare;

(5) In carrying out a procurement financed with Federal assistance authorized for the Urbanized Area Formula Program at 49 U.S.C. 5307 or Section 3037 of TEA–21, 49 U.S.C. 5309 note, it will use competitive procurement (as defined or approved by the Secretary), it will not use a procurement using exclusionary or discriminatory specifications, and it will comply with applicable Buy America laws in carrying out a procurement;

(6) It has complied or will comply with the requirements of 49 U S.C. 5307(c); specifically, it has or before submitting its application it will: (a) make available to the public information on amounts available for the Urbanized Area Formula Program at 49 U.S.C. 5307 and, if applicable, the Job Access and Reverse Commute Grant Program, 49 U.S.C. 5309 note, and the program of projects it proposes to undertake with those funds; (b) develop, in consultation with interested parties, including private transportation providers, a proposed program of projects for activities to be financed; (c) publish a proposed program of projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the performance of the Applicant; (d) provide an opportunity for a public hearing to obtain the views of citizens on the proposed program of projects; and (e) ensure that the proposed program of projects provides for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by another Federal Government source; (f) consider comments and views received, especially those of private transportation providers, in preparing the final program of projects; and (g) make the final program of projects available to the public;

(7) It has or will have available and will provide the amount of funds required by 49 U.S.C. 5307(e) and applicable FTA policy (specifying Federal and local shares of project costs);

(8) It will comply with: (a) 49 U.S.C. 5301(a) (requirements to develop transportation systems that maximize mobility and minimize fuel consumption and air pollution); (b) 49 U.S.C. 5301(d) (requirements for transportation of the elderly and persons with disabilities); (c) 49 U.S.C. 5303 through 5306 (planning requirements); and (d) 49 U.S.C. 5310 (a) through (d) (programs for the elderly and persons with disabilities);

(9) It has a locally developed process to solicit and consider public comment before raising fares or implementing a major reduction of transportation; and

(10) As required by 49 U.S.C. 5307(d)(1)(J), unless the Applicant has determined that it is not necessary to expend one percent of the amount of Federal assistance it receives for this fiscal year apportioned in accordance with 49 U.S.C. 5336 for transit security projects, it will expend at least one percent of the amount of that assistance for transit security projects, including increased lighting in or adjacent to a transit system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned transit system.

B. Certification Required for Capital Leasing

As required by FTA regulations, "Capital Leases," at 49 CFR 639.15(b)(1) and 639.21, to the extent the Applicant uses Federal assistance authorized for 49 U.S.C. 5307 or Section 3037 of TEA–21, 49 U.S.C. 5309 note, to acquire any capital asset by lease, the Applicant certifies that:

(1) It will not use Federal assistance authorized for 49 U.S.C. 5307 or Section 3037 of TEA–21, 49 U.S.C. 5309 note, to finance the cost of leasing any capital asset until it performs calculations demonstrating that leasing the capital asset would be more cost-effective than purchasing or constructing a similar asset;

(2) It will complete these calculations before entering into the lease or before receiving a capital grant for the asset, whichever is later; and

(3) It will not enter into a capital lease for which FTA can only provide incremental funding unless it has the financial capacity to meet its future obligations under the lease in the event Federal assistance is not available for capital projects in subsequent years.

C. Certificotion Required for Sole Source Purchase of Associated Capital Maintenance Item

As required by 49 U.S.C. 5325(c), to the extent that the Applicant procures an associated capital maintenance item under the authority of 49 U.S.C. 5307(b)(1), the Applicant certifies that it will use competition to procure an associated capital maintenance item unless the manufacturer or supplier of that item is the only source for the item and the price of the item is no more than the price similar customers pay for the item, and maintain sufficient records pertaining to each such procurement on file easily retrievable for FTA inspection.

XIII. Certifications and Assurances for the Elderly and Persons with Disabilities Program

An Applicant that intends to administer, on behalf of the state, the Elderly and Persons with Disabilities Program must provide the following certifications and assurances. FTA may not award assistance for the Elderly and Persons with Disabilities Program until the Applicant provides these certifications and assurances by selecting Category XIII on the Signature Page.

Based on its own knowledge and, as necessary, on information submitted by the subrecipient, the Applicant administering on behalf of the state the Elderly and Persons with Disabilities Program authorized by 49 U.S.C. 5310 certifies and assures that the following requirements and conditions will be fulfilled:

A. The state organization serving as the Applicant and each subrecipient has or will have the necessary legal, financial, and managerial capability to apply for, receive, and disburse Federal assistance authorized for 49 U.S.C. 5310; and to implement and manage the project.

B. The state assures that each subrecipient either is recognized under state law as a private nonprofit organization with the legal capability to contract with the state to carry out the proposed project, or is a public body that has met the statutory requirements to receive Federal assistance authorized for 49 U.S.C. 5310.

C. The subrecipient's application for 49 U.S.C. 5310 assistance contains information from which the state concludes that the transit service provided or offered to be provided by existing public or private transit operators is unavailable, insufficient, or inappropriate to meet the special needs of the elderly and persons with disabilities.

D. The state assures that sufficient non-Federal funds have been or will be committed to provide the required local share.

E. The subrecipient has, or will have by the time of delivery, sufficient funds to operate and maintain the vehicles and equipment purchased with Federal assistance awarded for this project.

F. The state assures that before issuing the state's formal approval of a project, its Elderly and Persons with Disabilities Formula Program is included in the Statewide Transportation Improvement Program as required by 23 U.S.C. 135; all projects in urbanized areas recommended for approval are included in the annual element of the metropolitan Transportation Improvement Program in which the subrecipient is located; and any public body that is a prospective subrecipient of capital assistance has provided an opportunity for a public hearing.

G. The subrecipient has, to the maximum extent feasible, coordinated with other transportation providers and users, including social service agencies authorized to purchase transit service.

H. The subrecipient is in compliance with all applicable civil rights requirements, and has signed the Nondiscrimination Assurance. (Category I.F., "Certifications and Assurances Required of Each Applicant.")

I. The subrecipient will comply with applicable requirements of U.S. DOT regulations on participation of disadvantaged business enterprises in U.S. DOT programs.

J. The state will comply with all existing Federal requirements regarding transportation of elderly persons and persons with disabilities. Each subrecipient has provided to the state an Assurance of Nondiscrimination on the Basis of Disability, as set forth in the Certifications and Assurances required of each applicant for FTA assistance at Category 1.G of this document. If non-accessible vehicles are being purchased for use by a public entity in demand responsive service for the general public, the state will obtain from the subrecipient a "Certification of Equivalent Service," which states that when viewed in its entirety the public entity's demand responsive service offered to persons with disabilities, including persons who use wheelchairs, meets the standard of equivalent service set forth in 40 CFR section 37.77(c).

K. The subrecipient has certified to the state that it will comply with applicable provisions of 49 CFR part 605 pertaining to school transportation operations. (See Category VIII, "School Transportation Agreement.")

L. Unless otherwise noted, each of the subrecipient's projects qualifies for a categorical exclusion and does not require further environmental approvals, as described in the joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," at 23 CFR 771.117(c). The state certifies that financial assistance will not be provided for any project that does not qualify for a categorical exclusion described in 23 CFR 771.117(c) until FTA has made the required environmental finding. The state further certifies that no financial assistance will be provided for a project requiring a conformity finding in accordance with the Environmental Protection Agency's Clean Air Conformity regulations at 40 CFR parts 51 and 93, until FTA makes the required conformity finding.

M. The subrecipient has submitted (or will submit) all applicable certifications and assurances currently required, including, but not limited to: a certification that its procurements and procurement system will comply with all applicable requirements imposed by Federal laws, executive orders, or regulations and the requirements of FTA Circular 4220.1D, "Third Party Contracting Requirements," and other implementing requirements FTA may issue; a certification that its project provides for the participation of private mass transportation companies to the maximum extent feasible; a certification it has paid or will pay just compensation under state or local law to each private mass transportation company for its franchise or property acquired under the project; a nonprocurement suspension and debarment certification; a bus testing certification for new models; a pre-award and post-delivery review certification; and a lobbying certification for each application exceeding $100,000. Certifications and assurances applicable to and submitted by the subrecipient should be substantially similar to the text of parallel certifications and assurances text of Categories I–XI of this document, but modified as necessary to accommodate the subrecipient's circumstances.

N. The state will enter into a written agreement with each subrecipient stating the terms and conditions of assistance by which the project will be undertaken and completed.

O. The state recognizes FTA's authority to conduct audits and reviews to verify compliance with the foregoing requirements and stipulations.

XIV. Certifications and Assurances for the Nonurbanized Area Formula Program

An Applicant that intends to administer, on behalf of the state, the Nonurbanized Area Formula Program must provide the following certifications and assurances. FTA may not award Nonurbanized Area Formula Program assistance to the Applicant until the Applicant provides these certifications and assurances by selecting Category XIV on the Signature Page.

Based on its own knowledge and, as necessary, on information submitted by the subrecipient, the Applicant administering on behalf of the state the Nonurbanized Area Formula Program authorized by 49 U.S.C. 5311 certifies and assures that the following requirements and conditions will be fulfilled:

A. The state organization serving as the Applicant and each subrecipient has or will have the necessary legal, financial, and managerial capability to apply for, receive and disburse Federal assistance authorized for 49 U.S.C. 5311; and to implement and manage the project.

B. The state assures that sufficient non-Federal funds have been or will be committed to provide the required local share.

C. The subrecipient has, or will have by the time of delivery, sufficient funds to operate and maintain the vehicles and equipment purchased with Federal assistance authorized for this project.

D. The state assures that before issuing the state's formal approval of the project, its Nonurbanized Area Formula Program is included in the Statewide Transportation Improvement Program as required by 23 U.S.C. 135; to the extent applicable, projects are included in a metropolitan Transportation Improvement Program.

E. The state has provided for a fair and equitable distribution of Federal assistance authorized for 49 U.S.C. 5311 within the state, including Indian reservations within the state.

F. The subrecipient has, to the maximum extent feasible, coordinated with other transportation providers and users, including social service agencies authorized to purchase transit service.

G. The subrecipient is in compliance with all applicable civil rights requirements, and has signed the Nondiscrimination Assurance. (See Category I.F, "Certifications and Assurances Required of Each Applicant.")

H. The subrecipient will comply with applicable requirements of U.S. DOT regulations on participation of disadvantaged business enterprise in U.S. DOT programs.

I. The state will comply with all existing Federal requirements regarding transportation of elderly persons and persons with disabilities. Each subrecipient has provided to the state an Assurance of Nondiscrimination on the Basis of Disability, as set forth in the Certifications and Assurances required of each applicant for FTA assistance at Category 1.G of this document. If non-accessible vehicles are

being purchased for use by a public entity in demand responsive service for the general public, the state will obtain from the subrecipient a "Certification of Equivalent Service," which states that when viewed in its entirety the public entity's demand responsive service offered to persons with disabilities, including persons who use wheelchairs, meets the standard of equivalent service set forth in 40 C.F.R. section 37.77(c).

J. The subrecipient has complied with the transit employee protective provisions of 49 U.S.C. 5333(b), by one of the following actions: (1) signing the Special Warranty for the Nonurbanized Area Formula Program, (2) agreeing to alternative comparable arrangements approved by the Department of Labor (DOL), or (3) obtaining a waiver from DOL; and the state has certified the subrecipient's compliance to DOL.

K. The subrecipient has certified to the state that it will comply with 49 CFR part 604 in the provision of any charter service provided with equipment or facilities acquired with FTA assistance, and will also comply with applicable provisions of 49 CFR part 605 pertaining to school transportation operations. (See Category VII, "Charter Service Agreement," and Category VIII, "School Transportation Agreement.")

L. Unless otherwise noted, each of the subrecipient's projects qualifies for a categorical exclusion and does not require further environmental approvals, as described in the joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," at 23 CFR 771.117(c). The state certifies that financial assistance will not be provided for any project that does not qualify for a categorical exclusion described in 23 CFR 771.117(c) until FTA has made the required environmental finding. The state further certifies that no financial assistance will be provided for a project requiring a conformity finding in accordance with the Environmental Protection Agency's Clean Air Conformity regulations at 40 CFR parts 51 and 93, until FTA makes the required conformity finding.

M. The subrecipient has submitted (or will submit) all applicable certifications and assurances currently required, including but not limited to: a certification that its procurements and procurement system will comply with all applicable requirements imposed by Federal laws, executive orders, or regulations and the requirements of FTA Circular 4220.1D, "Third Party Contracting Requirements," and other implementing requirements FTA may issue; a certification that its project provides for the participation of private mass transportation companies to the maximum extent feasible; a certification it has paid or will pay just compensation under state or local law to each private mass transportation company for its franchise or property acquired under the project; a nonprocurement suspension and debarment certification; a bus testing certification for new bus models; a pre-award and post-delivery review certification; and a lobbying certification for each application exceeding $100,000. Certifications and assurances applicable to and submitted by the subrecipient should be substantially similar to the text of parallel certifications and assurances text of Categories I-XI of this document, but modified as necessary to accommodate the subrecipient's circumstances.

N. The state will enter into a written agreement with each subrecipient stating the terms and conditions of assistance by which the project will be undertaken and completed.

O. The state recognizes FTA's authority to conduct audits and reviews to verify compliance with the foregoing requirements and stipulations.

P. As required by 49 U.S.C. 5311(f), it will expend not less than fifteen percent of the Federal assistance authorized for 49 U.S.C. 5311(f) it receives during this fiscal year to carry out a program to develop and support intercity bus transportation, unless the chief executive officer of the state or his or her duly authorized designee certifies that the intercity bus service needs of the state are being adequately met.

XV. Certifications and Assurances for the State Infrastructure Bank Program

A state Applicant for a grant of Federal assistance for deposit in the Transit Account of the State Infrastructure Bank (SIB) within that state must provide the following certifications and assurances. The Federal Transit Administration (FTA) may not award Federal assistance to capitalize a SIB until the state Applicant provides these certifications and assurances by selecting Category XV on the Signature Page.

Based on its own knowledge and, as necessary, on information submitted by the participating parties, the state Applicant for Federal assistance for the Transit Account of its state SIB program authorized by either section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 101 note, or the State Infrastructure Bank Pilot Program, 23 U.S.C. 181 note, certifies and assures that the following requirements and conditions will be fulfilled pertaining to any project financed with Federal assistance derived from the Transit Account of the SIB:

A. The state organization serving as the Applicant (state) agrees and assures the agreement of the SIB and each recipient of Federal assistance derived from the Transit Account of the SIB within the state (subrecipient) that each Project financed with Federal assistance derived from the Transit Account will be administered in accordance with: (1) the requirements of section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 101 note, or the State Infrastructure Bank Pilot Program, 23 U.S.C. 181 note, (2) the provisions of FTA's SIB Guidelines, and any amendments thereto, (3) the provisions of FHWA and FTA Cooperative Agreement with the state to establish the state's SIB program, and (4) the provisions of the FTA Grant Agreement with the state that obligating Federal assistance for the SIB, except that any provision of the Federal Transit Administration Master Agreement incorporated by reference into that Grant Agreement will not apply if it conflicts with any provision of National Highway System Designation Act of 1995, as amended, 23 U.S.C. 101 note, or section 1511 of TEA-21, as amended, and FTA SIB Guidelines, the provisions of the Cooperative Agreement establishing the SIB program within the state, or the text within the FTA Grant Agreement.

B. The state agrees to comply with and assures the compliance of the SIB and each subrecipient of all applicable requirements for the SIB program, as those requirements may be amended from time to time. Pursuant to subsection 1511(h)(2) of TEA-21, applicants for assistance authorized by the State Infrastructure Bank Pilot Program, 23 U.S.C. 181 note, agree that previous cooperative agreements entered into with States under section 350 of the National Highway System Designation Act of 1995, as amended, will be revised to comply with new requirements.

C. The state assures that the SIB will provide Federal assistance from its Transit Account only for transit capital projects eligible under section 1511 of TEA-21, and that those projects will fulfill all requirements imposed on comparable capital transit projects financed by FTA.

D. The state understands that the total amount of funds to be awarded for a Grant Agreement will not be immediately available for draw down. Consequently, the state assures that it will limit the amount of Federal assistance it draws down for deposit in the Transit Account of its SIB to amounts that do not exceed the limitations specified in the underlying Grant Agreement or the Approved Project Budget for that Grant Agreement.

E. The state assures that each subrecipient has or will have the necessary legal, financial, and managerial capability to apply for, receive, and disburse Federal assistance authorized by Federal statute for use in the Transit Account of the SIB, including the ability to comply with Year 2000 (Y2K) management of funds and investments, and to implement, manage, operate, and maintain the project and project property for which such assistance will support.

F. The state assures that the SIB will provide Federal assistance derived from the Transit Account only to a subrecipient that is either a public or private entity recognized under state law as having the legal capability to contract with the state to carry out its proposed project.

G. The state assures that sufficient non-Federal funds have been or will be committed to provide the required local share.

H. The state assures that the SIB will enter into a written agreement with each subrecipient stating the terms and conditions of assistance by which the project will be undertaken and completed, including specific provisions that any security or debt financing instrument the SIB may issue will contain an express statement that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

I. The state assures that before the SIB enters into an agreement with a subrecipient under which Federal assistance within the Transit Account of the SIB will be disbursed to the subrecipient, the subrecipient's project is included in the Statewide Transportation Improvement Program; all projects in urbanized areas recommended for approval are included in the annual element of the metropolitan Transportation Improvement Program in which the subrecipient is located; and it has obtained from each subrecipient of capital assistance that is also a public body a certification that an opportunity for a public hearing has been provided.

J. The state assures that the subrecipient has, to the maximum extent feasible, coordinated with other transportation providers and users, and other interested parties within the area.

K. The state assures that the subrecipient is in compliance with all applicable civil rights requirements, and has signed the Nondiscrimination Assurance. (See Category I.F, "Certifications and Assurances Required of Each Applicant," of the Federal Fiscal Year 1999 Certifications and Assurances for the Federal Transit Administration Programs.)

L. The state assures that the subrecipient will comply with applicable requirements of U.S. DOT regulations on participation of disadvantaged business enterprises in U.S. DOT programs.

M. To the extent applicable, the state will comply with all existing Federal requirements regarding transportation of elderly persons and persons with disabilities. The state assures that the SIB will provide to the state an Assurance of Nondiscrimination on the Basis of Disability from each subrecipient, as set forth in the Certifications and Assurances required of each Applicant for FTA assistance. (See Category I.G, "Certifications and Assurances Required of Each Applicant," of the Federal Fiscal Year 1999 Certifications and Assurances for the Federal Transit Administration Programs.) If non-accessible vehicles are being purchased for use by a public entity in demand responsive service for the general public, the state will obtain from the subrecipient a "Certification of Equivalent Service," which states that the public entity's demand responsive service offered to persons with disabilities, including persons who use wheelchairs, is equivalent to the level and quality of service the public entity offers to persons without disabilities. (See Category IX, "Certifications Required for the Direct Award of FTA Assistance to an Applicant for its Demand Responsive Service," of the Federal Fiscal Year 1999 Certifications and Assurances for the Federal Transit Administration Programs.) This "Certification of Equivalent Service" must also state that the public entity's demand responsive service, when viewed in its entirety, is provided in the most integrated setting feasible and has equivalent: (1) response time, (2) fares, (3) geographic service area, (4) hours and days of service, (5) restrictions or restraints on trip purpose, (6) availability of information and reservation capability, and (7) constraints on capacity or service availability.

N. The state assures that before the SIB provides Federal assistance from the Transit Account, each subrecipient will have complied with the applicable transit employee protective provisions of 49 U.S.C. 5333(b) as required for that subrecipient and its project.

O. The state assures that each subrecipient has certified or will certify to the state that it will comply with applicable provisions of 49 CFR part 604 in the provision of any charter service provided with equipment or facilities acquired with FTA assistance, and will also comply with applicable provisions of 49 CFR part 605 pertaining to school transportation operations. (See Category VII, "Charter Service Agreement," and Category VIII, "School Transportation Agreement," of the Federal Fiscal Year 1999 Certifications and Assurances for the Federal Transit Administration Programs.)

P. Unless otherwise noted, the state assures that each of the subrecipient's projects qualifies for a categorical exclusion and does not require further environmental approvals, as described in paragraph Q of this Category XVI. Unless otherwise noted, the state assures that each of the subrecipient's projects qualifies for a categorical exclusion and does not require further environmental approvals, as described in the joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," at 23 CFR 771.117(c). The state certifies that the SIB will not provide financial assistance from the Transit Account for any project that does not qualify for a categorical exclusion described in 23 CFR 771.117(c) until FTA has made the required environmental finding. The state further certifies that the SIB will provide no financial assistance from its Transit Account for a project requiring a conformity finding in accordance with the Environmental Protection Agency's Clean Air Conformity regulations at 40 CFR parts 51 and 93, until FTA makes the required conformity finding.

Q. The state assures that the subrecipient has submitted (or will submit), when applicable, all certifications and assurances currently required, including, but not limited to: a certification that its procurements and procurement system will comply with all applicable requirements imposed by Federal laws, executive orders, or regulations and the requirements of FTA Circular 4220.1D, "Third Party Contracting Requirements," and other implementing requirements FTA may issue; a certification that its project provides for the participation of private mass transportation companies to the maximum extent feasible; a certification it has paid or will pay just compensation under state or local law to each private mass transportation company for its franchise or property acquired under the project; a nonprocurement suspension and debarment certification; a bus testing certification for new models; a pre-award and post-delivery review certification; and a lobbying certification for each application exceeding $100,000; assurances FTA requires for projects involving real property; and if required by FTA, an anti-drug program certification and an alcohol testing certification. Certifications and assurances applicable to and submitted by the subrecipient should be substantially similar to the text of parallel certifications and assurances of Categories I-XI of the Federal Fiscal Year 1999 Certifications and Assurances for the Federal Transit Administration Programs, but modified as necessary to accommodate the SIB and the subrecipient's circumstances.

R. The state agrees and assures that the SIB and each subrecipient will agree to permit FTA, U.S. DOT, and the Comptroller General to conduct audits to verify compliance with the foregoing requirements and stipulations.

Selection and Signature Pages follow.

BILLING CODE 4910-13-U

Appendix A

FEDERAL FY 1999 CERTIFICATIONS AND ASSURANCES FOR FTA ASSISTANCE

Name of Applicant: _____

The Applicant agrees to comply with applicable requirements of Categories I - XV. ____
(The Applicant may make this selection in lieu of individual selections below.)
OR
The Applicant agrees to comply with the applicable requirements of the following categories it has selected:

I. Certifications and Assurances Required of Each Applicant. ____

II. Lobbying Certification ____

III. Effects on Private Mass Transportation Companies ____

IV. Public Hearing Certification for a Project with Substantial Impacts ____

V. Certification for the Purchase of Rolling Stock ____

VI. Bus Testing Certification. ____

VII. Charter Service Agreement. ____

VIII. School Transportation Agreement. ____

IX. Certification for Demand Responsive Service ____

X. Substance Abuse Certifications ____

XI. Certification for a Project Involving Financing Costs ____

XII. Certifications for the Urbanized Area Formula Program and the Job Access and Reverse Commute Program
Transit Enhancement Activities Report Submitted ____
(Required for Recipients with 200,000 or more population) ____

XIII. Certifications for the Elderly and Persons with Disabilities Program ____

XIV. Certifications for the Nonurbanized Area Formula Program ____

XV. Certifications for the State Infrastructure Bank (SIB) Program ____

(Both sides of this Signature Page must be appropriately completed and signed where indicated.)

Appendix A

FEDERAL FISCAL YEAR 1999 FTA CERTIFICATIONS AND ASSURANCES

(Required of all Applicants for FTA assistance and all FTA Grantees with an active capital or formula project)

Name of Applicant: _____

Name and Relationship of Authorized Representative: _____

BY SIGNING BELOW I, _____ (name), on behalf of the Applicant, declare that the Applicant has duly authorized me to make these certifications and assurances and bind the Applicant's compliance. Thus, the Applicant agrees to comply with all Federal statutes, regulations, executive orders, and administrative guidance required for each application it makes to the Federal Transit Administration (FTA) in Federal Fiscal Year 1999.

FTA intends that the certifications and assurances the Applicant selects on the other side of this document, as representative of the certifications and assurances in Appendix A, should apply, as required, to each project for which the Applicant seeks now, or may later, seek FTA assistance during Federal Fiscal Year 1999.

The Applicant affirms the truthfulness and accuracy of the certifications and assurances it has made in the statements submitted herein with this document and any other submission made to FTA, and acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801 *et seq.*, as implemented by U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31 apply to any certification, assurance or submission made to FTA. The criminal fraud provisions of 18 U.S.C. 1001 apply to any certification, assurance, or submission made in connection with the Urbanized Area Formula Program, 49 U.S.C. 5307, and may apply to any other certification, assurance, or submission made in connection with any other program administered by FTA.

In signing this document, I declare under penalties of perjury that the foregoing certifications and assurances, and any other statements made by me on behalf of the Applicant are true and correct.

Signature _____ Date: _____
Name _____
Authorized Representative of Applicant

AFFIRMATION OF APPLICANT'S ATTORNEY

for _____ (Name of Applicant)

As the undersigned legal counsel for the above named Applicant, I hereby affirm to the Applicant that it has authority under state and local law to make and comply with the certifications and assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the certifications and assurances have been legally made and constitute legal and binding obligations on the Applicant.

I further affirm to the Applicant that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these certifications and assurances, or of the performance of the project. Furthermore, if I become aware of circumstances that change the accuracy of the foregoing statements, I will notify the Applicant promptly, which may so inform FTA.

Signature _____ Date: _____
Name _____
Applicant's Attorney

Each Applicant for FTA financial assistance (except 49 U.S.C. 5312(b) assistance) and each FTA Grantee with an active capital or formula project must provide an Attorney's affirmation of the Applicant's legal capacity. The Applicant may enter its PIN number in lieu of the electronic signature of its Attorney, provided the Applicant has on file this Affirmation of its Attorney in writing dated this Federal fiscal year.

[FR Doc. 98–29684 Filed 11–5–98; 8:45 am]
BILLING CODE 4910–13–C

Federal Register

Friday
November 6, 1998

Part IV

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 26

Mutual Recognition of Pharmaceutical Good Manufacturing Practice Inspection Reports, Medical Device Quality System Audit Reports, and Certain Medical Device Product Evaluation Reports Between the United States and the European Community; Final Rule

Memorandum of Understanding Between the Food and Drug Administration and the Office of the United States Trade Representative; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 26

[Docket No. 98N–0185]

RIN 0910–ZA11

Mutual Recognition of Pharmaceutical Good Manufacturing Practice Inspection Reports, Medical Device Quality System Audit Reports, and Certain Medical Device Product Evaluation Reports Between the United States and the European Community

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations pursuant to an international agreement between the United States and the European Community (EC). The agreement is entitled "Agreement on Mutual Recognition Between the United States of America and the European Community" (MRA). Under the terms of that agreement, the importing country authority may normally endorse good manufacturing practice (GMP) inspection reports for pharmaceuticals provided by the exporting authority determined by the importing authority to have an equivalent regulatory system. Likewise, the importing country authority may normally endorse medical device quality system evaluation reports and certain medical device product evaluation reports provided by conformity assessment bodies (CAB's) determined by the importing country authority to have equivalent assessment procedures. FDA is taking this action to enhance its ability to ensure the safety and effectiveness of pharmaceuticals and medical devices through more efficient and effective utilization of its regulatory resources. The proposed rule which published in the **Federal Register** on April 10, 1998 (63 FR 17744), carried an incorrect docket number in its heading. This final rule carries the correct docket number.

DATES: This regulation is effective on December 7, 1998. The Director of the Office of the Federal Register approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of a certain publication listed in new § 26.60(b), effective December 7, 1998. Written comments and information relevant to implementation of the MRA and this regulation may be submitted at anytime.

ADDRESSES: Submit written comments and information relevant to implementation of the MRA and this regulation to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Merton V. Smith, Office of International Affairs (HFG–1), Office of External Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0910, or E-mail: "MSmith@oc.fda.gov".

SUPPLEMENTARY INFORMATION:

I. Background

On June 20, 1997, the United States and the EC concluded an agreement on the MRA. The MRA includes two sectoral annexes covering products regulated by FDA. The sectoral annex on medical devices covers medical device quality system-related inspection reports and certain product evaluation reports. The sectoral annex for pharmaceutical GMP's covers pharmaceutical GMP inspection reports. The MRA also includes sectoral annexes covering products regulated by other U.S. regulatory agencies, including telecommunication equipment, electromagnetic compatibility, electrical safety, and recreational craft. Finally, the MRA includes a "framework" agreement that contains general provisions.

At the conclusion of negotiations, the United States and the EC submitted the text of the MRA to their respective authorities to complete the necessary procedures for approval and implementation. For FDA, these procedures included publishing a proposed rule that was published in the **Federal Register** of April 10, 1998 (63 FR 17744). The proposed rule was based on the provisions contained in the two FDA sectoral annexes and the "framework" agreement of the MRA concluded on June 20, 1997. FDA received comments from 14 persons in response to this proposed rule. Many of these comments supported the proposed rule. Some comments raised significant issues but none that, in FDA's view, necessitated any substantive changes to the proposed rule. On May 14, 1998, FDA informed the Office of the U.S. Trade Representative (USTR) that it supported the signing of the MRA. The MRA was signed in London on May 18, 1998. Provisions of the MRA are between the United States and EC, and do not create rights in third parties.

II. Summary of Comments

A. General Comments and Issues

Most comments by industry associations and pharmaceutical and medical device manufacturers generally were supportive of the MRA and the proposed rule. Some comments by others expressed concern about possible diminished public health and safety if certain precautions are not taken.

1. Five comments strongly supported the MRA and the proposed rule, citing its potential to improve patient access to safe and effective technologies, reduce unnecessary regulatory redundancies, enhance the access of United States and EC companies to each other's markets, provide significant savings to both companies and regulators, and set the stage for further regulatory cooperation and harmonization. They indicated that the proposed rule and the MRA allow for incorporation of the best regulatory attributes.

FDA agrees with these comments. FDA takes the view that equivalence of GMP reports and other conformity assessment reports and evaluations between the FDA and EC Member State authorities and CAB's can be relied on to help ensure the safety, quality, and effectiveness of products exported to the United States while also reducing the regulatory burden on manufacturers. For the United States, the MRA and this regulation also permit FDA to redirect some of its inspectional resources from countries whose systems are found equivalent to, or higher to, risk priorities not covered under the MRA. The agency may thus better target its limited foreign inspection and other resources devoted to imports and other regulatory concerns. Thus, FDA will be able to leverage its resources by relying on information from its counterpart regulatory authorities in foreign countries that have demonstrated equivalence. Under the MRA and this regulation, as equivalence is achieved between regulatory systems of EC Member State authorities, or CAB's, and FDA, there will be reduced need for importing countries to engage in resource-intensive foreign inspection, sampling, and examination of products being for entry from countries with equivalent systems. This can assist in speedier approvals of safe and effective products and in more comprehensive and effective surveillance of GMP's and quality systems. In addition, during the transition period, collaborative confidence-building activities between FDA and EC Member State authorities and CAB's can result in harmonization of requirements at a high level of consumer protection, thus enhancing regulatory controls.

2. One comment described three fundamental principles which underlie the comment's concerns about the MRA and the proposed rule: (1) The paramount goal for FDA implementation of the MRA and the proposed rule must be to safeguard public health of U.S. consumers; (2) equivalence determinations performed by FDA must improve or at least maintain current U.S. public health protections; and (3) the United States' democratically accountable, policy-making process must be maintained.

FDA agrees with these comments. FDA has consistently articulated these same principles in its policies relating to international cooperative agreements over the last decade. In 1988, the FDA and Directorate-General III (Industrial Affairs) of the European Commission began early discussions in consideration of agreements in the areas of pharmaceutical and medical device GMP inspections. The FDA's primary motivation in seeking such agreements was at that time, and still is, a desire to leverage its limited inspectional resources and to enhance public health protection through increased assurance that regulatory counterparts are applying similar controls. FDA described the value of pursuing international cooperative agreements with selected foreign regulatory bodies in its 1992 "Report of the Task Force on International Harmonization" (Ref. 1). The Task Force concluded that such international agreements are an effective means of facilitating the safety, effectiveness, and/or quality of products that are offered for import into the United States and of efficiently setting priorities for the agency's inspectional resources. The Task Force concluded that a properly conceived and executed agreement would permit FDA's use of foreign government inspectional information to assist in the agency's regulatory decision-making and could help FDA to set priorities for foreign inspection or import surveillance programs. As a result of specific Task Force recommendations, in 1995 FDA revised its Compliance Policy Guide (Ref. 2) to emphasize that the agency's primary goals for entering into agreements with foreign governments are for the purposes of better utilizing its regulatory resources and furthering its mission of protecting the U.S. consumer.

The significant increase of international commerce in pharmaceuticals and medical devices and the question of how FDA can continue to ensure the safety and effectiveness of these medical products prompted the agency to convene a Foreign Inspection Working Group in 1995 to evaluate the agency's foreign inspection program and related import product monitoring. In 1997, this group issued its "Summary Report of the Foreign Inspection Working Group" (Ref. 3) that recognized the need for inspectional approaches that involve cooperative activities such as the development of international agreements between FDA and counterpart regulatory authorities in other countries.

Section 26.21 of this rule provides that the importing country has the right to fulfill its legal responsibilities by taking actions necessary to ensure the protection of human and animal health at the level of protection it deems appropriate. In addition, under § 26.74 nothing in this part limits the authority of FDA to take appropriate and immediate measures that it determines necessary to prevent compromising human health and safety, or to fulfill its legislative, regulatory, or administrative responsibilities.

To ensure a democratic and open process, the FDA will make available in a public docket the complete administrative file that constitutes the basis for FDA's equivalence determinations. In addition, any other related documents the agency receives under the MRA and this regulation will be releasable to the public (or not releasable) according to current Freedom of Information Act (FOIA) provisions. FDA also will assess the degree to which a foreign regulatory system or CAB is accountable to consumers and other interested parties as part of its equivalence determinations. (App. D of subpart A, criteria I.F.). A regulatory system that is not sufficiently transparent to assess accountability may not be found equivalent.

3. One comment stated that the MRA and the proposed rule would replace FDA-conducted inspections of foreign pharmaceutical plants and FDA reviews of foreign medical devices with inspections and evaluations performed by EC Member State authorities and CAB's located in EC Member States.

The implementation of the MRA and this regulation may or may not result in the replacement of some FDA inspections and product evaluations of medical devices produced by manufacturers located in EC Member States. Inspection reports and product evaluations may normally be endorsed under certain conditions only if, after a comprehensive assessment during the 3-year transition period, FDA determines that such reports will provide the information that FDA needs for its regulatory decision making.

4. One comment stated that the MRA negotiation took place primarily for trade facilitation purposes. Evidence of this conclusion was offered by the fact that the negotiations were co-chaired by USTR and the Department of Commerce (DOC) and that press releases and other public statements have characterized the discussions as "trade negotiations."

FDA participated in the negotiations leading to the MRA under its own authority to enter agreements with foreign authorities (see, inter alia, sections 519 and 803 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360(i), 383)). Furthermore, the agency believes that the MRA and this regulation, properly based on a rigorous determination of equivalence of regulatory systems, can help ensure the safety, quality, and effectiveness of these imports while also reducing the regulatory burden on manufacturers, thereby facilitating availability of these important medical products. The goals of facilitating trade and protection of the public health are not necessarily incompatible. The role of USTR and DOC was one of coordination. FDA's ability to reach decisions on the basis of its public health priorities was upheld, and never compromised, during the negotiations. FDA officials led the negotiations concerning the FDA annexes, and FDA's views were incorporated into the portions of the "framework" agreement where FDA's interests were affected. USTR and DOC as well as European trade counterparts undoubtedly desired an MRA for trade reasons. Those agencies, however, supported FDA's position in the negotiations and did not interfere with FDA's desire to maintain health and safety protections. FDA believes that this degree of FDA autonomy will continue as the MRA and this regulation are implemented.

Furthermore, FDA has entered into an interagency Memorandum of Understanding (MOU) with the USTR that ensures that any decisions about the MRA that relate to matters under FDA's jurisdiction will be made only by FDA (see the notice of availability for this MOU published elsewhere in this issue of the **Federal Register**). Specifically, the MOU requires that USTR notify FDA of matters that the Joint Committee will be considering. The MOU states that while USTR would normally speak and vote for the U.S. Government in the Joint Committee, subject to arrangements with other agencies covered by the MRA, FDA will speak for, and vote on behalf of, the U.S.

Government on any matter pertaining to FDA's statutory or regulatory authority raised within the Joint Committee or within any other bodies established under the MRA. In addition, the Sectoral Annex for Pharmaceutical GMP's is specifically exempted from certain provisions of the "framework" agreement, in order to avoid any possible confusion about the use of CAB's that are not utilized in the Annex. Finally, throughout the "framework" agreement and the FDA product-related annexes there are clear safeguard requirements that stipulate if there are health and safety concerns on the part of the importing authority, the importing authority may take appropriate action.

5. One comment stated that the goal of the MRA and the proposed rule appears to be to harmonize health, safety, and environmental standards to the lowest acceptable levels.

While the process of confidence-building and equivalence determination may lead to harmonization of some standards, FDA disagrees that lowest common denominator standards will result. During the transition period, collaborative activities and joint equivalence determinations by FDA-EC Member State authorities and CAB's may result in harmonization of requirements that will enhance consumer protection. By law, section 803(c)(1) of the act requires the Commissioner of Food and Drugs (by delegation under 21 CFR 5.10) to work to "harmonize regulatory requirements," but conditions these actions on findings by the Commissioner that "such harmonization continues consumer protections consistent with the purposes of this Act." FDA's experience in working as a party to the Global Harmonization Task Force (GHTF), the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use, and the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products has demonstrated that regulatory public health authorities do not compromise health and safety as standards are harmonized, because the relevant discussions and and the resulting documents have been thorough, science-based, and protective of public health. (Harmonization can lead to higher standards because in instances where one regulator has a requirement that others lack, the ensuing discussions of why one regulator has such a requirement often leads to understanding, acceptance, and inclusion of a corresponding provision in the harmonized standard.)

6. One comment expressed the belief that the MRA and the proposed rule put U.S. consumer protection at risk of compromise and cited as evidence the fact that the negotiations extended well beyond their original deadlines, and were reportedly near collapse due to concerns about whether EC regulation is as stringent for pharmaceuticals and medical devices as U.S. regulation.

The comment is correct in stating that the MRA negotiations took longer than expected and that FDA had concerns during the early stages of MRA discussions that early MRA drafts would not provide appropriate public health protections for U.S. consumers. For example, the provision for a 3-year confidence-building transition period was not considered during early MRA discussions. Acceptance of the need for a transition period during which time equivalence would be assessed was one of the keys to moving the MRA negotiations ahead. Indeed, Article 2 of the Sectoral Annex for Pharmaceutical GMP's states that the determination of equivalence of the regulatory systems by the parties is the cornerstone of that Annex. FDA believes that the requirement of a comprehensive assessment of equivalence before inspection reports and product evaluations will be normally accepted, and other safeguard clauses such as §§ 26.21 and 26.74, as discussed previously, provide strong public health protections. In the medical device provisions, EC acceptance that FDA must, as a matter of law and policy, maintain final decision making authority over premarket notifications, and that the MRA could cover premarket notifications only for certain devices, enabled conclusion of the MRA.

7. One comment stated that FDA must make a commitment to seek additional resources to accomplish the activities required by the MRA and the proposed rule.

In the preamble to the proposed rule, FDA acknowledged that neither startup costs nor operational costs are being covered by additional FDA funding in FDA's current budget and that startup costs will have to be absorbed by current funding. Certain key activities of the MRA and this regulation, such as joint inspections of manufacturers located in EC Member States, may be accomplished as part of FDA's inspections of these manufacturers that have been scheduled for the next fiscal year as part of FDA's normal budget process. Other activities of the MRA and this regulation will likely result in new costs. These additional costs are difficult to estimate because they depend significantly on the initial findings from FDA's equivalence assessments of EC Member State authorities and CAB's. FDA will likely be better able to estimate these additional costs as experience is gained during the first year of the transition period. After the first year, FDA will reassess its need to seek additional funding for the activities required by the MRA and this regulation.

8. One comment stated that a failure to devote adequate resources to the programs of the MRA and the proposed rule during the implementation stage would endanger their success.

FDA agrees with this comment. FDA will engage in activities during implementation as its resources permit. FDA recognizes the critical need to undertake a number of activities during the transition process as part of its assessment of the equivalence of CAB's located in EC Member States, including participating in seminars, workshops, joint training exercises, and observed inspections, as well as the analysis required for the equivalence determination process. In addition, any significant problem that is identified may require additional activities to address and resolve it. Finally, the parties will need to develop a consensus on what must be present in quality system and product evaluation reports (or, where harmonization cannot be achieved, each side will need to identify what it needs). Further, the parties will develop a notification and alert system for defects, recalls, and similar problems. All of these activities will require resources, and FDA recognizes their completion is critical to the success of the MRA and the implementation of this regulation.

9. One comment stated that the number of repetitive inspections must actually decrease if the potential value of the MRA and the proposed rule is to be realized.

FDA's interest in the MRA is its view that public health protection can be better assured through enhanced regulatory cooperation. Although FDA agrees that cost savings to industry and to government regulatory authorities can be realized by an actual decrease in the number of inspections that are unnecessarily duplicative, there are additional benefits that may be achieved by the activities required under the MRA and this regulation that make the MRA endeavor worthwhile. For example, the cooperative activities between FDA and EC Member State authorities that will of necessity be part of the equivalence determination process may result in harmonization or congruence of requirements resulting in strengthened consumer protection, more effective regulatory approaches, and reduced regulatory burden on each side of the Atlantic.

10. One comment suggested that FDA must use the inspectional savings anticipated by the MRA and the proposed rule for increased surveillance activities.

Any resource savings resulting from the MRA and this regulation will be used by FDA as necessary and appropriate to enhance the effectiveness of FDA's regulatory programs.

11. One comment stated that FDA should complete confidence building activities as expeditiously as possible and should devote adequate resources to that job.

FDA agrees with this comment and, as stated previously, will devote resources to this program to the best of its ability.

12. One comment noted that the proposed rule did not address FDA guidance documents and asked how guidance documents would be handled under the MRA and this regulation. The comment implied that some FDA guidance documents contain requirements.

FDA will handle guidance documents under this MRA as it handles all guidance documents, according to FDA's Good Guidance Practices (62 FR 8961, February 27, 1997). If FDA determines that there is a need for guidance documents under the MRA, it will publish them or refer to them as appropriate. FDA periodically makes available to the public lists of guidance documents and those that are relevant to the implementation of the MRA or this regulation will be referred to during such implementation. Guidance documents do not themselves contain requirements; they do sometimes refer to or explain requirements that exist in statutes or regulations.

13. One comment expressed concern that the MRA and the proposed rule might result in lower health, safety, and environmental standards in both the United States and the EC. The comment expressed concern that the "framework" agreement might allow undue pressure to relax regulation in one sector of commercial activity in order to secure market access in another unrelated sector. Consequently, the comment asked FDA to seek "the elimination of the umbrella framework agreement" to ensure that U.S. health and safety standards are not compromised.

FDA declines to take the action requested by the comment. The "framework" agreement will not result in lower health or safety standards for FDA-regulated products. The MRA and this regulation expressly preserve the authority of a party to determine, "through its legislative, regulatory, and administrative measures, the level of protection it considers appropriate for safety; for protection of human, animal, or plant life or health; for the environment; for consumers; and otherwise with regard to risks" (MRA Article 15, "Preservation of Regulatory Authority," and § 26.74 of this regulation).

Additionally, this regulation expressly recognizes, at several places, that statutory and regulatory requirements applicable to drugs and devices remain in place unchanged (see, e.g., § 26.1(b) (definition of "equivalence") see also § 26.32(c) and § 26.62(c) and that each party may take actions necessary to ensure the protection of human and animal health "at the level of protection it deems appropriate" (see § 26.21; see also § 26.74(a) and (b) (preservation of regulatory authority)).

This position is consistent with both the statutes FDA administers and international agreements such as the Agreement on Technical Barriers to Trade which expressly recognizes that "no country should be prevented from taking measures necessary to ensure the quality of its imports, or for the protection of human, animal or plant life or health, of the environment, or for the prevention of deceptive practices, at the levels it considers appropriate, subject to the requirement that they are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail or a disguised restriction on international trade * * *." (See paragraph 6 of the preamble to the Agreement on Technical Barriers to Trade).

FDA further notes that, under an MOU with USTR concerning the MRA (see the notice of availability for this MOU published elsewhere in this **Federal Register**), USTR will notify FDA of matters to be considered by the Joint Committee, which will be established to consider issues relating to the effective functioning of the MRA. While USTR normally will speak and vote for the United States in the Joint Committee, subject to arrangements with other agencies covered by the MRA, FDA will speak for and vote on behalf of the United States on any matter pertaining to FDA's statutory and regulatory authority. FDA will also represent the U.S. Government on such matters in any other committee or bodies with similar functions established under the MRA or its annexes. This MOU will ensure that, insofar as FDA-regulated products and issues are concerned, public health and safety issues are adequately considered and addressed.

14. One comment strongly disagreed with FDA's position that a 30-day comment period for the proposed rule was adequate. The comment was characterized as "a preliminary identification of key issues involved in the [MRA or the proposed rule] process" and requested that the comments be viewed as "the beginning of an ongoing open process in which public comments will be considered at later junctures" with future opportunities to discuss issues with FDA and other government officials.

As stated in the preamble to the proposed rule (63 FR at 17744 at 17747), FDA provided a 30-day comment period because a longer comment period was unnecessary in light of the numerous opportunities for public input the agency provided during the MRA negotiations. These opportunities included the creation of a public docket for MRA-related issues on May 9, 1996, dissemination of a document concerning the MRA on October 18, 1996 (including an opportunity for public comment on that document), public exchange meetings on March 31, 1995, and October 30, 1996, a Transatlantic Business Dialogue (TABD) meeting on November 8 and 9, 1996, which included a discussion of the MRA, and other public meetings on March 14, 1997, and September 23, 1997. The MRA itself was initialed by governmental representatives on June 20, 1997, and has been available on the World Wide Web (WWW) for over a year. Therefore, the agreement upon which the proposed rule was based had been available for analysis and comment by interested members of the public for some months. In view of these opportunities for public discussion and consideration of the MRA, the 30-day comment period for the proposed rule was adequate.

FDA also stated that it was in the public interest to proceed expeditiously to implement the MRA, and that the 30-day comment period was not contrary to Executive Order 12889 (63 FR 17744 at 17747).

As for the comment's remarks concerning future opportunities for public comment, the agency shares this interest and notes that the public has many avenues for contacting FDA on almost any issue. For example, a person may send a letter to the agency, request a meeting, submit a citizen petition to request issuance or revision of a

regulation or to request agency action or reconsideration on a particular matter, or submit comments on a document published in the **Federal Register** (see, e.g, 21 CFR 10.20, 10.30, 10.33, 10.65).

In sum, FDA agrees that the agency will need to communicate with the public, on a regular basis, as the MRA is being implemented. Interested persons may submit comments on the MRA, or implementation of the MRA, to the agency at any time. In addition, as noted previously FDA's administrative practices and procedures regulations (21 CFR part 10) provide a range of processes for interaction with the agency. Furthermore, the agency contemplates frequent meetings and other communications with the public as MRA implementation progresses.

B. Composition and Operation of the Joint Committees

Several comments encouraged, or would revise the rule to provide for, opportunities for public, industry, or specific agency involvement in various programs or bodies established by the MRA and the proposed rule or by their operation.

1. Four comments said that FDA should ensure industry or public access to and participation in the activities of the MRA and the proposed rule. Three comments advocated industry participation and suggested that FDA and the EC consult the industry during the transitional and operational phases of the confidence building stage. Two of these three comments specifically identified TABD as being critical or essential to implementing the MRA and the proposed rule. Another comment expressed the opposite view, i.e., concern about what the comment described as the TABD's involvement in the MRA negotiations. One comment asked FDA to ensure greater public participation and access for nongovernmental organizations in future mutual recognition agreement negotiations and throughout their implementation.

The agency appreciates and values public and industry input and advice on many matters and intends to employ a variety of means to seek input from the public on the implementation of the MRA and this regulation. However, the MRA and its sectoral annexes represent an agreement between governments that contemplates examination of one another's equivalence in specific areas of regulation. Although FDA believes it would be inappropriate to amend the rule to require industry or consumer participation or the participation of specific industry or consumer representatives on delegations to meetings or to require FDA or the EC to consult industry, FDA plans to consult interested persons—whether they represent the industry, public interest groups, or any other interested person—at appropriate stages of implementation of the MRA and this regulation.

As for the comment requesting greater public participation in future mutual recognition agreement negotiations and implementation, that request is outside the scope of this rule. However, we refer interested persons to "A Plan that Establishes a Framework for Achieving Mutual Recognition of Good Manufacturing Practices Inspections," dated May 20, 1998 (see "What's New on the FDA Website") ("www.fda.gov/opacom/newonweb.html").

2. Four comments discussed representatives to either the Joint Committee or the Joint Sectoral Committee in proposed §§ 26.17 and 26.47 ("Role and Composition of the Joint Sectoral Committee") and 26.73 ("Joint Committee"). Three comments requested clarification as to which U.S. Government agencies would be represented on the Joint Committee or the Joint Sectoral Committees; two comments advocated including officials of USTR and the Department of Commerce on the Joint Sectoral Committees; and one comment recommended including EC trade offices on the Joint Sectoral Committees. All four comments advocated industry representation, or regular participation, in the Joint Committee and/or the Joint Sectoral Committees.

FDA declines to amend the rule to describe which U.S. or EC governmental bodies will send representatives to meetings of the Joint Committee or Joint Sectoral Committees as requested by the comments. In general, the government representatives to either the Joint Committee or the Joint Sectoral Committees will vary depending upon the issues presented to those committees (see, e.g., § 26.73(a) (stating that the Joint Committee consists of "representatives" of both parties) and § 26.73(b) (authorizing the Joint Committee to establish Joint Sectoral Committees "comprised of appropriate regulatory authorities and others deemed necessary"). Thus, each party has the flexibility to determine which government authorities should be present and to match a particular governmental authority's expertise to the issue or issues before a committee. Amending the rule so that either committee would have to include specific representatives of U.S. Government authorities would unnecessarily impair such flexibility, and it would be especially inappropriate for FDA to amend the rule to specify what representatives the EC would send to the committees.

In any case, as explained in section II of this document, the USTR will normally speak for and vote on behalf of the United States in the Joint Committee, subject to arrangements with other agencies covered by the MRA, and FDA will speak for and vote on behalf of the United States on any matter pertaining to FDA's statutory or regulatory authority. Furthermore, the Joint Committee (when FDA is representing the United States) and the Joint Sectoral Committee likely will be addressing technical issues of the sort that FDA, not USTR or DOC, will be considering. The agency is confident that, in all cases, the composition of the Joint Committee or Joint Sectoral Committees will be appropriate for the topics being discussed.

As for the comments seeking industry representation or participation in the Joint Committee or the Joint Sectoral Committees, FDA declines to revise the rule to require such industry representation or participation. Because the MRA, including its sectoral annexes, is an agreement between governments, it is neither necessary nor appropriate to amend the rule to include or to require nongovernmental entities or organizations on the Joint Committee or the Joint Sectoral Committees.

3. One comment asked for clarification about the composition of the Joint Committee and asked whether U.S. citizenship is required for U.S. members.

U.S. representatives addressing FDA topics will be FDA officials. Except in extremely rare circumstances, U.S. citizenship is a requirement for employment by FDA. European representatives will be European Commission officials, possibly accompanied by officials of member country regulatory authorities.

C. Transparency and Confidentiality Issues

Several comments discussed the need for ensuring public or industry participation in equivalence or other regulatory matters under the rule. Other comments emphasized a need for withholding certain information, such as trade secrets and confidential commercial information, from public disclosure.

1. One comment suggested that the rule contain a mechanism for public participation in the equivalence determination process. The comment would provide the opportunity for public comment or input throughout the 3-year transition period, as soon as FDA decides which foreign regulatory systems and CAB's it will review to determine whether they are equivalent, and again when FDA makes a preliminary determination of equivalence. The comment also called for public notice in the **Federal Register** and a response to any public comments when FDA issues a final determination.

FDA intends to hold periodic meetings with interested parties. FDA also plans to prepare and to make public summaries of key meetings held with its EC counterparts concerning implementation of the MRA and this regulation. Further, FDA will make available to the public the administrative file that constitutes the basis for any of FDA's equivalence determinations subject to exemptions from disclosure provided in the FOIA and restrictions in related statutory provisions discussed in the response to comment 2 in section II.C of this document. These approaches should give interested persons insight as to the information FDA considered when making an equivalence determination.

FDA also will use the **Federal Register** and its Internet home page to make available information on equivalence determinations under the MRA and this regulation. Interested persons can submit comments on these determinations.

The agency believes it is important that all interested parties have an opportunity to contribute to the equivalence assessment process. To facilitate such contribution, FDA intends to hold public meetings during the 3-year transition period. In addition, FDA invites all interested persons to provide the agency with information that is: (1) Generally relevant to implementation of the MRA and this regulation; and, (2) of particular relevance to equivalence criteria in Appendix D of subpart A of this rule, and their application to the authorities listed in Appendix B of subpart A of this rule. Information should be sent to the Dockets Management Branch (address above), and should be identified with docket number 95N–0185.

2. Three comments would revise the proposed rule to ensure that the public has access to: Draft programs for assessing equivalence of a regulatory system under proposed § 26.6(b); information provided by a foreign government concerning that government's regulatory activities under proposed § 26.6(c); "audit" reports by European authorities submitted to FDA; or records of CAB's reviewed by a foreign government to the extent that such records would be publicly available if they were reviewed by FDA. One comment explained that public disclosure would ensure accountability and enable U.S. consumers to maintain confidence in an "equivalent" inspection system. One comment would also revise the proposed rule to state expressly that neither party may obstruct public access to information that is publicly available under the laws or regulations of that party.

In contrast, four comments sought clarification concerning disclosure or confidentiality issues and proposed § 26.76, such as whether reports between the parties would be subject to public disclosure under the FOIA; whether information provided to the EC would be subject to EC confidentiality policies; and whether alert or vigilance reports (required by proposed § 26.50) exchanged between the parties as part of an ongoing investigation would be subject to public disclosure.

FDA declines to revise the rule as suggested by the comments. Under § 26.76(a) of this regulation and Article 17 of the MRA, each party agrees to maintain, to the extent required under its laws, the confidentiality of information exchanged under this regulation and the MRA. Trade secrets, confidential commercial or financial information, and information relating to an ongoing investigation are not subject to public disclosure (see § 26.76(b)). Additionally, the parties may designate portions of information that it considers to be exempt from disclosure, and parties are to take all precautions reasonably necessary to protect information exchanged under the MRA and this regulation from public disclosure (see § 26.76(c) and (d)).

Those receiving information under the MRA will treat the information according to their domestic laws and policies. FDA will treat information it receives consistent with the FOIA, Privacy Act, and FDA's regulations and policies. EC Member States will treat information they receive according to the applicable laws in their respective territories. Therefore, information supplied to FDA by a foreign government or CAB and other information or documents discussed by the comments are subject to the rules on public disclosure (or nondisclosure) in the FOIA, the Privacy Act, parts 20 and 21 (21 CFR parts 20 and 21). FDA further notes that other laws, regulations, and agreements may provide additional safeguards against public disclosure of trade secrets and confidential commercial information. For example, section 301(j) of the act (21 U.S.C. 331(j)), in brief, prohibits any person from using to his or her own advantage or revealing trade secret information acquired by FDA under various provisions of the act. Article 39 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (better known as the "TRIPS" agreement), to which the United States is a signatory, states that:

> Members, when requiring, as a condition of approving the marketing of pharmaceutical or of agricultural chemical products which utilize new chemical entities, the submission of undisclosed test or other data, the origination of which involves a considerable effort, shall protect such data against unfair commercial use. In addition, Members shall protect such data against disclosure, except where necessary to protect the public, or unless steps are taken to ensure that the data are protected against unfair commercial use.

These laws and agreements would also be applicable to information and documents acquired by FDA under the MRA and this regulation. Consequently, given the existence of various agreements, laws, and regulations pertaining to public disclosure and confidentiality, no revision to this rule is necessary.

The public availability of the documents or information identified in the comments would, therefore, depend on whether they contained information that, under U.S. laws, regulations, or other obligations, is exempt from public disclosure. In some instances, portions of a document may be publicly available. For example, alert or vigilance reports under § 26.50, when provided to FDA, would be available for public disclosure under § 20.111 if the investigation of the reported incident has been completed; however, personal identifiers would be redacted, as FDA currently does under § 20.111.

3. Two comments would revise proposed § 26.76 so that a person submitting information to FDA could decide whether all or part of the information is confidential or trade secret and therefore not subject to public disclosure.

FDA declines to revise the rule as suggested by the comments. The agency believes this issue is handled adequately under current FDA regulations and policies. FDA policy is to make the fullest possible disclosure of records to the public, consistent with the rights of individuals to privacy, property rights in trade secrets and confidential commercial or financial information, and FDA's need to promote frank internal policy deliberations and to pursue regulatory activities without disruption (see § 20.20). Under FDA regulations, marking records submitted to FDA as confidential raises no obligation by FDA to regard such records as confidential, to return them

to the person submitting the records, to review the records to determine whether all or part of them are available for public disclosure, or to withhold them from public disclosure (see § 20.27). FDA determines whether data or other information are confidential and not subject to public disclosure, consistent with § 20.28.

4. One comment would revise proposed § 26.76 so that trade secrets, ongoing investigations, and patient records are confidential.

FDA declines to amend the rule as requested by the comment. Such a revision is unnecessary given current statutory and regulatory requirements involving public disclosure and confidentiality, including the prohibition in section 301(j) of the act against disclosure of trade secrets, all of which apply to information FDA receives from the regulatory authorities and CAB's.

5. One comment would revise the rule so that a foreign country receiving documents from FDA would have to make those documents available to the U.S. public, even if the foreign country's laws would not make those documents publicly available. The comment would make information submitted to a foreign country available to the public if that information were publicly available in the United States.

FDA declines to revise the rule as suggested by the comment. Requiring a foreign country to make information available to U.S. citizens when such disclosure would be contrary to the foreign country's own laws and regulations is beyond the scope of this rulemaking and beyond FDA's regulatory authority. In addition, the public availability in the United States of information provided to EC officials is already dealt with in FDA's regulations, particularly § 20.89. (Under § 20.89, disclosure of nonpublic information to foreign officials does not automatically result in that information being available to the public generally.)

6. One comment would revise proposed § 26.20 as it pertains to the application of the alert system against individual companies. The comment expressed concern about lack of transparency and due process before a company is placed in or removed from "a negative regulatory status" and suggested that the elements to be considered as part of the alert system be described.

The comment misunderstands the purpose of the alert system provisions of the MRA and this regulation. The agency wishes to clarify that the purpose of the alert system is to implement a timely exchange of product quality information and not information on the regulatory status of inspected firms. The agency is keenly aware of the need to avoid predecisional or otherwise inappropriate regulatory classification of a firm or product. In implementing § 26.20, FDA intends to apply the same standard of fairness and due process it currently affords to manufacturers with respect to regulatory matters. While keeping in mind the need to be fair to manufacturers, however, the agency must keep public health and safety paramount in ensuring that the alert system functions effectively to protect consumers from unsafe or ineffective products. Regarding "transparency," as discussed in section II of this document, FDA will apply to the alert system established by the MRA and this regulation the applicable requirements as to disclosure and nondisclosure.

The proposed rule did set forth the elements to be considered in developing a two-way alert system (see 63 FR 17744 at 17752), and the alert system is designed to serve as a means for notifying each party of crises and emergencies. For example, the documentation element for the two-way alert system refers to elements such as "definition of crisis/emergency and under what circumstances an alert is required" and "mechanism of health hazards evaluation and classification" (id.). The crisis management system element mentions "crisis management and communication mechanisms," "establishment of contact points," and "reporting mechanisms." In short, the alert system does not place specific firms in a "negative regulatory status" or otherwise punish firms as the comment suggests.

7. One comment asked about the confidentiality of submissions under the MRA, particularly submissions to medical device CAB's.

Confidentiality by FDA and EC regulatory authorities is addressed under Article 17 of the MRA. Confidentiality concerns are also addressed in FDA's regulations (e.g., part 20) and guidance materials. FDA urges manufacturers to include clear and definitive language regarding their views on the confidentiality of submissions in contracts developed with CAB's. Just as submitters currently identify information they believe to be confidential commercial or trade secret information in submissions to the agency, they should clearly mark the same types of information in submissions to CAB's. Although FDA needs to make the final decisions as to confidentiality, as discussed previously in comment 3 in section II.C of this document, the contractual agreement between submitters and the CAB's should address the desired handling of information marked in this manner and contractual provisions should specifically address the need to share information with regulatory agencies participating in the MRA, including FDA.

D. Equivalence issues

1. One comment recommended that equivalence determinations and suspensions of equivalence determinations should be made by the importing authority only, rather than jointly by the parties to the MRA and the proposed rule. The exporting country should develop the case for equivalence, while the importing country should have complete control over the final equivalence decision. This would maintain the importing country's sovereign prerogative to protect the health and safety of its citizens.

FDA agrees that the importing authority must have control over the decision as to whether the exporting authority is equivalent, and the agency believes that the decision-making process set up by the MRA and this regulation provides adequately for this. The MRA and this regulation stipulate that equivalence determinations will be made by the Joint Sectoral Committee, which consists of representatives of the parties. This regulation states that decisions of the Joint Sectoral Committee "will be taken by unanimous consent" (§§ 26.17(b) and 26.47(b)). Therefore, no equivalence determinations can be reached in the Joint Sectoral Committee without concurrence by both sides. Hence, in all cases, the relevant authority of the importing country (FDA, in the case of imports into the United States) will have definitive decision making authority.

Similarly, the importing party's right to determine that an equivalence determination should be suspended is also protected by the MRA and this regulation. Decisions to suspend equivalence are taken in the Joint Sectoral Committee, and when that Committee cannot reach unanimous consent on the appropriate action, the matter is referred to the Joint Committee. (As discussed earlier, FDA officials will speak for, and vote on behalf of, the U.S. Government on any matter pertaining to FDA's statutory or regulatory authority raised within the Joint Committee or Joint Sectoral Committees.) If unanimous consent is not reached within a set time period in the Joint Committee, the contested authority must be suspended. Thus, if during these deliberations, the importing authority remains convinced that an exporting authority's equivalence determination should be suspended, the contested authority will be suspended even if the other party disagrees.

Furthermore, the importing country's sovereign prerogative to protect the health and safety of its citizens is further protected for pharmaceuticals by § 26.21 and for medical devices by § 26.67(f). Section 26.21 provides that a party may, if necessary to ensure the protection of human and animal health at the level of protection it deems appropriate, take actions such as suspension of the distribution of the pharmaceutical, product detention at the border of the importing country, withdrawal of the batches and any request for additional information or inspection as provided in § 26.12. Section 26.67(f) provides that a party may, prior to the suspension of a CAB, cease accepting the results of conformity assessment procedures performed by that CAB if the decision for such action is made on the basis of health, safety or environmental considerations, among others. The "framework" of the MRA and this regulation also contain a provision (Article 15 and § 26.74, respectively) preserving domestic legislation.

2. One comment stated that equivalence determinations must be based on an exacting review of the foreign regulatory system. This comment emphasized that equivalence should be determined to exist only where a finding can be made that the foreign system meets or exceeds the level of public health protection, enforceability, transparency, and effectiveness of the U.S. system.

FDA agrees with this comment, and intends to carry out a careful, detailed, and complete review of foreign regulatory systems in order to determine whether equivalence does, in fact, exist. FDA's review will examine whether the foreign system, as it is implemented by the exporting authority, provides the same (or a higher) level of public health assurance as the FDA system. The enforcement activities of the foreign regulatory system and the foreign system's effectiveness in assuring public health protection are very important components of the overall equivalence analyses. For pharmaceuticals, they are specifically covered in subpart A of this regulation, Appendix D, Subsection I (Criteria for Assessing Equivalence for Post- and Preapproval). Criterion I. (Ability to enforce requirements and to remove products found in violation of such requirements from the market) and Criterion V. (Execution of regulatory enforcement actions to achieve corrections, designed to prevent future violations, and to remove products found in violation of requirements from the market) focus on the execution of regulatory enforcement actions. All of the criteria taken as a whole cover the public health protection and effectiveness of the foreign system. In addition, Criterion I. F. (Accountability of the regulatory authority) relates to transparency, in that there must be a system through which the regulatory authority is accountable for its actions. Similar criteria will be developed and applied for competent authority oversight of medical devices. FDA expectations as to medical device CABs' reviews of premarket evaluations are set forth in a guidance document announced in the **Federal Register** of July 2, 1998 (63 FR 36240).

3. One comment requested clarification of equivalence assessment (§ 26.6) and asserted that enforcement and regulatory compliance systems between the United States and the EC need to be comparable. The comment explained further that, before assessments can be made, local regulations for pharmaceutical manufacturing should be in place. The comment added that EC countries have not issued and made public such regulatory documents as warning letters, to identify unacceptable manufacturers.

The agency emphasizes that, as stated in the definition of equivalence, to be equivalent to the United States, EC regulatory authorities need to be "sufficiently comparable to assure that the process of inspection and the ensuing inspection reports will provide adequate information to determine whether respective statutory and regulatory requirements of the authorities have been fulfilled." (§ 26.1(c)). However, "[E]quivalence does not require that the respective regulatory systems have identical procedures." Furthermore, among the criteria for assessing equivalence, contained in Appendix D of subpart A, is the "[A]bility to enforce requirements and to remove products found in violation of such requirements from the market" and "[A]ccountability of the regulatory authority." The agency expects that these two criteria, in combination with others in Appendix D, should address the comment's concerns.

The agency does not understand the comment's apparent premise that, before assessment can commence, regulatory systems must already be comparable. The agency intends to assess the equivalence of an authority based upon the criteria in Appendix D of subpart B as they exist at the time the agency makes the assessment, and needed steps can be taken to address any shortcoming noted.

4. One comment emphasized the need to assure a level playing field in terms of inspectional activity (i.e., the length and frequency of inspections and the number of auditors). This comment recommended collection of statistics about these activities during the transition period and then steps to ensure a reasonable harmonization in approaches between European and FDA audits.

FDA agrees with this comment. Equivalence must exist not only in the foreign authority's legislation and written procedures (including those concerning audits), but also in the manner in which these policies are actually implemented. Under the MRA and this regulation, the conduct of inspections is one of the criteria (Criteria IV) that must be considered in reaching equivalence determinations for pharmaceuticals.

5. One comment questioned how the MRA and the proposed rule would stop a country from relaxing its standards to create an industry-friendly regulatory environment within its jurisdiction, resulting in movement of industry from countries with strict enforcement to countries of less strict enforcement.

There are limits to what governments can do to influence corporate choices about location or relocation of manufacturing sites; many factors play a part in these corporate choices. In any case, the MRA and this regulation have several mechanisms to help prevent "a race to the bottom" with respect to regulatory controls. First, the process for ascertaining equivalence will be rigorous. Second, after an equivalence determination has been made, Article 18 of the Sectoral Annex for Pharmaceutical GMP's (§ 26.18 of this regulation) and Article 19 of the Sectoral Annex for Medical Devices (§ 26.49 of this regulation) provide that the parties and authorities are to inform and consult one another, as permitted by law, on proposals to introduce new controls or to change existing technical regulations or inspection procedures, and to provide the opportunity to comment on such proposals. Furthermore, the parties must notify each other in writing of any changes to relevant legislation, regulations, and procedures. Third, Article 15 of the MRA and § 26.15 of this regulation provide for monitoring activities for the purpose of maintaining equivalence. Fourth, either side may refrain from "normally endorsing" audit reports or device evaluation reports if regulation is

insufficiently strict. Fifth, if FDA believes that the foreign authority has made changes to its control system that lessen the equivalence of that system, FDA has the right to contest the equivalence of that regulatory authority.

Although the MRA and this regulation cannot prevent an exporting country from relaxing its standards, the MRA and this regulation ensure that the importing country must be notified, the equivalence determination of the exporting country can be suspended, and importing countries can take needed actions to protect their citizens.

6. One comment offered support for the proposed rule's recognition that an equivalence assessment must include joint training and joint inspections. This comment emphasized that the MRA and the proposed rule should provide for monitoring and verification of on-going equivalence, including on-going training, on-going joint inspections, and periodic on-going visits.

FDA agrees with this comment. This regulation, as currently drafted, provides for such monitoring and verification in § 26.15 for pharmaceuticals and § 26.69 for medical devices. In the case of medical devices, § 26.69 does not specifically mention training, but also does not exclude it. Joint training exercises are listed in § 26.37 as a confidence building activity during the transition period, and FDA considers monitoring and verification of on-going training to be an essential element of verifying that equivalence continues to exist.

7. One comment stated that the MRA and the proposed rule should provide for periodic expiration of an equivalence determination within 3 to 5 years following the initial determination. FDA should then publish a notice in the **Federal Register** for public comment on whether the equivalence determination has worked and should be renewed. Before renewing the equivalence determination, the United States should verify that the foreign country's or CAB's procedure continues to be equivalent.

FDA agrees that periodic reexamination of a foreign system that has been found equivalent is a prudent practice to ensure that equivalence continues to exist. The agency intends to provide for monitoring of continued equivalence in its implementation of equivalence determinations arrived at under the MRA and this regulation. However, the agency does not believe it necessary to require a "sunset" provision for periodic reexamination of equivalence in the MRA or this regulation. FDA will consider how to provide for reexamination of equivalence during implementation of the MRA.

E. "Piggy back" Agreements

1. One comment suggested that the MRA and the proposed rule should prohibit the development of what the comment called the "piggy-back dilemma" because they would set a precedent for these types of arrangements. The comment described an example of such a "piggy-back" arrangement as FDA establishing a mutual recognition agreement with country A, country A then establishing a mutual recognition agreement with country B, and then FDA automatically granting a mutual recognition with country B on the basis of its mutual recognition agreement with country A.

FDA disagrees with the comment's conclusion that the MRA and this regulation would set a precedent for entering into such "piggy-back" arrangements. The MRA and this regulation require a determination of equivalence be made by FDA of each EC Member State regulatory authority and each device CAB located in EC Member States before any inspectional or evaluation reports would be "normally endorsed" by FDA under certain conditions. There are no provisions in the MRA or this regulation for the "normal endorsement" of reports from any countries or CAB's that have not been determined to be equivalent by FDA.

2. One comment strongly opposed what the comment called "piggy back equivalence" as described in the proposed rule under § 26.11(b) because it would take away FDA's authority to make its own equivalence determinations and otherwise compromise its ability to ensure public health.

The so-called "piggy-back" or "surrogate" inspections described in § 26.11(b) provide that FDA may "normally endorse" inspection reports resulting from joint inspections by an equivalent authority and a nonequivalent authority of manufacturers located in the nonequivalent authority's territory. Under the provisions of the MRA and this regulation, FDA has the option of participating in all "surrogate" inspections and expects to exercise this right as necessary. Furthermore, the MRA and this regulation have other safeguards in place for these types of inspections, and more generally as described previously, that ensure public health protections are maintained.

F. Pharmaceutical issues

1. One comment stated that if FDA has confidence that the EC can regulate drug substances, biologics should also be included in the scope of the document.

Many biological products, such as vaccines and therapeutic drug products, are included in the scope of the MRA and this regulation. Other biological products, specifically human blood, plasma, tissues and organs, were excluded from the scope of the MRA. In order for there to be a finding of equivalence, the parties to the MRA and this regulation must have sufficiently comparable regulatory systems for the products. Not all EC Member States have established regulatory systems for human blood, plasma, tissues, and organs at this time, so it would not be possible to have a finding of equivalence during the transition period for these products. Plasma derivatives were excluded from initial consideration because the U.S. regulation of plasma derivative products has recently undergone intense scrutiny and regulatory change; therefore, the FDA did not believe it appropriate at this time to include plasma derivatives within the scope of the MRA and this regulation.

2. One comment suggested that § 26.1 of the proposed rule be amended to include a definition for the term "normally endorsed."

The agency believes that a codified definition of "normally endorsed" is not needed because the rule (at § 26.12) exemplifies circumstances in which the reports would not be normally endorsed. However, FDA wishes to clarify that normal endorsement generally means that an authority will accept the information contained in the inspection report to evaluate and determine a manufacturer's compliance with that authority's requirements, and FDA expects to endorse the finding in the reports most of the time. FDA is not, however, prevented from reaching different conclusions in appropriate circumstances.

3. One comment suggested revisions to the definition of GMP's (§ 26.1(c)(1)) to explicitly include packaging, labeling, testing, and quality control.

FDA believes the suggested revisions are unnecessary. Labeling, testing, quality control, and packaging are part of manufacturing. FDA believes that the proposed definition meets the needs of part 26 because it is consistent with FDA's statutes and regulations.

4. One comment said that the proposed definition of "inspection report" (§ 26.1(e)) was inconsistent with the definition of "inspection" because it lacked reference to report coverage of commitments made as part of the approval to market a product. The comment suggested added wording to include such commitments.

The agency believes it unnecessary to modify the definition of "inspection report," as suggested, because it should be clear from other sections of the rule (such as §§ 26.2, 26.3, and 26.14), that FDA fully expects that reports covering preapproval inspections of drug manufacturers will, as a matter of course, include information relating to commitments made as part of the marketing approval. In addition, as stated in § 26.8, the agency intends to work quickly with counterpart authorities under the MRA to determine inspection report contents and format.

5. One comment suggested that the proposed rule clarify that it would apply only to inspection of firms that are exporting covered pharmaceutical products from either of the two regions to the other.

The agency believes that the current wording in § 26.3 is sufficiently clear to limit the scope of inspections to only those firms located in the two regions. The rule states in relevant part that the "provisions of this subpart shall apply to pharmaceutical inspections carried out in the United States and Member States of the European Community* * *." Furthermore, § 26.12 refers to inspection reports being normally endorsed by the importing (emphasis added) party. Clearly, the importing party is interested in only inspection reports because of products being imported into its territory.

6. One comment suggested changing the word "both" to "either" in § 26.4(a) on the grounds that a product regulated as a drug by one party but not the other should not be excluded from this regulation because at least one party will apply current GMP standards to the product.

The agency disagrees with the suggestion. If an importing country regulates an article as a drug, but the exporting country does not, the importing country would likely hold the article to a different (higher) set of manufacturing standards. In such a situation, it is unlikely that the importing country would find the exporting country's inspection report of value in assessing the manufacturer's compliance.

7. One comment objected to the provision in § 26.6(c) that equivalence assessments mandate joint inspections. The comment suggested that they be minimized or replaced by "accompanied inspections" where the lead authority is clearly designated.

FDA believes that the conduct of joint inspections is an essential part of the equivalence assessment process. Such assessments would be incomplete without first hand observation of how an authority conducts an inspection. The agency wishes to clarify that, as stated in the rule, the conduct of joint inspections is "for the purpose of assessing regulatory systems and the authorities' capabilities." The actual format of the joint inspections has not yet been determined, and may include inspections where one party observes the other party's inspectional conduct or where each party has responsibility for part of the inspection. As part of the preparation for implementation of the MRA and this regulation, FDA expects to jointly develop with the EC a standard operating procedure for joint inspection that embodies this approach.

8. One comment said the second sentence in § 26.6(a) (stating that the EC will provide information pertaining to criteria under EC competence) was problematic because the equivalence criteria in Appendix D should be complete, as is, or else augmented, as needed.

The agency believes the comment may have misinterpreted the proposed rule to mean the EC will be held to different, yet to be specified, equivalence criteria. The agency wishes to clarify that the equivalence criteria in Appendix D apply equally and fully to both parties. The sentence at issue addresses information (e.g., European Commission Directives) that the EC will provide relating to these criteria that applies to all Member State authorities, versus information that is specific to a particular Member State as to how Member State authorities meet these criteria.

9. One comment said § 26.6(b) should address the mechanism by which the parties establish and communicate their draft equivalence assessment programs. The comment called for interested parties to have the opportunity to comment on the draft programs before they become official. The comment also suggested that the phrase "as deemed necessary" would for FDA be in conflict with legislative mandates that require certain pre- and postapproval inspections.

The agency does not believe it is necessary to codify the mechanism by which the parties establish and communicate their draft equivalence assessment programs. The parties have yet to establish those logistics. Regarding the opportunity for public input on such programs, as discussed in section II of this document, the agency intends to provide for such input in a manner consistent with current policy development and FOIA requirements. The agency is fully aware of its legislative mandates regarding establishment inspections and does not believe the wording of the MRA or the rule is inconsistent with those responsibilities. FDA intends to carry out all activities that it deems necessary to be consistent with its responsibilities.

10. One comment suggested adding wording to § 26.8 to state that FDA will use its current inspection report format, or some modification thereof, until the parties develop and agree upon an inspection report format.

The agency believes the suggested wording is unnecessary because it is confident that the parties will develop and agree upon a mutually acceptable report format in a timely manner.

11. One comment suggested that § 26.9(a) be revised to explicitly require FDA to use International Organization for Standardization (ISO) 9000 and ISO 10000 standards to determine that an authority has demonstrated a pattern of consistent performance with the criteria in Appendix D.

The agency believes it is unnecessary to apply precise statistical methods in demonstrating a pattern of consistent performance, in the context of complying with Appendix D. The agency intends to apply objective and fair criteria in evaluating whether an authority has demonstrated a pattern of consistent performance but does not believe its already rigorous GMP and inspection requirements need an added "layer" of requirements based upon the ISO standards mentioned.

12. One comment suggested that § 26.11(c) be amended to include a manufacturer's certification that the product was manufactured in accordance with applicable GMP's.

FDA's view is that such a certification is unwarranted. The agency expects that, in the context of this agreement, authorities would rely upon inspectional reports to determine a manufacturer's current GMP compliance rather than relying upon the manufacturer's own declaration. The agency therefore declines to adopt the suggestion.

13. One comment suggested adding a new paragraph, to complement § 26.11(c), that would exempt U.S. manufacturers from carrying out all of the quality controls specified in the current GMP regulations, provided that the controls specified in Article 22 paragraph 1(b) of Council Directive 73/319/EEC have been carried out in the EC and each batch or lot is accompanied by

certificates of current GMP and marketing authorization compliance.

FDA does not believe it is in the public interest to exempt manufacturers from performing currently required current GMP quality control measures, or to allow products to be released for distribution without requisite laboratory determination of conformance to established specifications. The suggested changes are not adopted.

14. One comment suggested revisions to § 26.13 to explicitly require that: (1) Requests for postapproval inspections include the product and the requester's areas of special concern; and (2) when new inspections are needed the authority receiving the request should state the reasons why a new inspection is needed along with the estimated completion date.

The agency does not believe it is necessary to make the suggested modifications. The agency anticipates that, as a matter of course, inspection requests and corresponding communication will identify products, areas of concern, and other relevant information, as needed.

15. One comment suggested revising § 26.14(b) to require the notified authority to advise the requesting authority of approximately when the inspection will be completed, and to require the requesting authority at that point to detail what issues need to be addressed during the inspection.

The agency declines to accept the suggestion because it believes such operational logistics will be performed as a matter of course, and need not be codified.

16. One comment suggested revising § 26.15 to specify that review of reports includes evaluation mechanisms such as tracking trends and problems and to state that review studies be used to focus on needed training and program improvements.

The agency agrees that report evaluation and trending, along with coordination among the authorities to ensure program improvements, have merit. The agency does not, however, believe it is necessary to codify details of how equivalence monitoring will be performed.

17. With regard to § 26.18, one comment asked how changes in current GMP regulations and initiation of new programs, such as the First Party Audit Program (FPAP), would affect the implementation of the MRA and the proposed rule.

The agency advises that, under § 26.18, FDA will inform, consult with, and offer the opportunity for comment by, the other party, as permitted by law, regarding changes in current GMP regulations or inspection procedures. The mechanisms for conducting that collaboration have yet to be developed. Regarding the FPAP, the subject of an FDA public meeting held on June 23, 1998 (see 63 FR 27583, May 19, 1998), the agency advises that this initiative is currently in very early stages of development. However, conceptually, FPAP is intended to gather information from selected human use pharmaceutical manufacturers regarding their quality assurance measures; the information would be submitted to FDA by those firms and could substitute, in some measure, for information the agency would otherwise obtain from its direct inspectional activities. The agency cannot predict how these initiatives will affect the nature and volume of current GMP inspections performed under the MRA and this regulation. However, the agency will consult with the other party, in accordance with the provisions of this rule and the MRA itself.

18. One comment suggested revising § 26.18(b) to establish a 30-day timeframe for the United States to notify the EC of any changes to Appendix B, and a 5-day timeframe where such notification can be made electronically.

The agency intends to promptly notify the EC of changes to Appendix B, and to use electronic means of doing so whenever feasible. However, FDA believes it is unnecessary to codify specific timeframes.

19. One comment suggested revising § 26.19 to add reporting timeframes of 15 days for paper correspondence or 3 days for electronic correspondence.

FDA shares the comment's concern regarding the timeliness of exchanging information relating to quality problems, and intends to implement such exchange in a prompt manner to be arranged in concert with the EC. FDA does not, however, believe it is necessary to codify a specific timeframe.

20. One comment suggested revising § 26.20(a) to establish reporting timeframes of 5 days for paper correspondence or 3 days for electronic communications.

As discussed in response to comments on § 26.19, the agency agrees that reporting needs to be done promptly, but does not agree with the suggestion.

21. One comment asked if, and how, the MRA and the proposed rule will accommodate the collection of regulatory samples during pharmaceutical inspections.

The agency advises that the MRA and this regulation do not specify how regulatory samples collected during establishment inspections will be handled. However, FDA anticipates that both parties will handle such samples as they currently do, and that information about such samples would be contained in the inspection report or related documents. The agency is prepared to work with the regulatory authorities should it become necessary to develop procedures relating to sample collection.

22. One comment noted that a recent U.S. General Accounting Office (GAO) report on FDA's foreign inspection program included recommendations intended to improve management of the agency's overseas inspection program. The comment asked if FDA's consideration of the report would affect the MRA or the proposed rule.

The agency has, in response to the GAO report, already initiated several modifications in the management of its overseas inspection program. The agency does not at this point anticipate that implementation of those changes will have a significant effect on the MRA or this regulation.

23. One comment suggested adding a new paragraph to subpart C, § 26.76 that would explicitly prohibit the parties from obstructing public access to information which, by U.S. law, is disclosable to the public.

The agency does not agree that this section is needed because part 26 does not conflict with U.S. laws regarding public access to information. The agency is fully aware of its legal obligations to abide by those applicable statutes, as discussed in section II of this document.

24. One comment suggested numerous editorial changes to add clarity throughout the rule.

The agency has carefully considered the suggested revisions and believes that although some have merit, on balance, the need to retain wording in part 26 that is as close as possible to the MRA itself outweighs the advantages that the changes might afford.

G. Medical Device Issues

The Food and Drug Administration Modernization Act of 1997 (FDAMA), Pub. L. 105–115, 111 Stat. 2296 (1997), included a number of amendments to the act relevant to the MRA's Sectoral Annex on Medical Devices (Medical Devices Annex). First, an FDA pilot program for third-party review of medical devices (see 61 FR 14789, April 3, 1996) was codified in the act as new section 523 (21 U.S.C. 360m), entitled "Accredited Persons." In the **Federal Register** of May 22, 1998 (63 FR 28392), FDA published a notice of availability of a draft guidance on its third-party

accredited persons program under this new section of the act.

Interested persons should also refer to a related notice of availability published in the **Federal Register** of July 2, 1998 (63 FR 36240), entitled "Draft Guidance for Staff, Industry and Third Parties, Third Party Programs under the Sectoral Annex on Medical Devices to the Agreement on Mutual Recognition Between the United States of America and the European Community; Availability" (MRA). This guidance document is also available in FDA's Home Page on the WWW ("www.fda.gov").

Second, due to amendments made by FDAMA, FDA has exempted a number of devices from premarket notifications under section 510(k) of the act (21 U.S.C. 360(k)) (see 63 FR 3142, January 21, 1998 (Class II devices), and 63 FR 5387, February 2, 1998 (Class I devices)). On May 20, 1998, FDA made available a list of devices which are eligible for third party review under new section 523 of the act. FDA plans to propose to the European Commission that the tables attached to the Medical Devices Annex to the MRA, listing devices eligible for review during the transitional period of the MRA, be revised to reflect the changes in U.S. requirements made by FDAMA and the FDA implementing actions described previously. The EC may also suggest changes concerning devices eligible for the MRA. These adjustments will be made during the transitional period under the MRA.

Third, as discussed in comment 9 of section II.F of this document, FDA now has explicit authority to recognized voluntary consensus standards for devices due to a FDAMA amendment to section 514 (c) of the act (21 U.S.C. 360d(c)).

1. One comment identified a typographical error in Table 1 of the Sectoral Annex on Medical Devices (Annex) of the proposed rule concerning radiographic screens § 892.1960 (21 CFR 892.1960).

FDA agrees with the comment and in the final rule has corrected this typographical error. Also, several minor typographical errors in the device lists were identified by the European Commission and FDA just prior to the signing of the MRA on May 18, 1998. These corrections are also being made in corresponding provisions in this rule.

2. One comment from a manufacturer questioned whether condoms are covered by the MRA.

The list of devices that FDA made available on May 20, 1998, for eligibility in the accredited persons program under section 523 of the act includes condoms, with and without spermicidal lubricant. Therefore, FDA is willing to consider condoms with or without spermicidal lubricant as eligible for participation in the premarket assessment component of the device MRA, if the EC agrees. Condoms without spermicidal lubricant are listed in Table 3 of the Annex for possible inclusion in the scope of product coverage during the Operational Period. However, condoms with spermicidal lubricants may be regulated by the EC, or certain EC Member States, as pharmaceuticals and hence may be outside the scope of the Medical Devices Annex.

3. One comment asked whether clearance of a 510(k) will be equivalent to CE marking.

Clearance of a 510(k) will not be considered equivalent to the CE marking, nor will CE marking be considered equivalent to a 510(k). Under the MRA and this regulation, the exporting country's CAB's perform specified conformity assessments in accordance with the importing country's requirements. The MRA and this regulation are intended to enable determinations: (1) Whether CAB's in the EC are capable of conducting certain premarket and quality system evaluations in accordance with U.S. regulatory requirements in a manner equivalent to how those evaluations are conducted by FDA (with FDA making the final decision, but with an expectation that FDA would "normally endorse" a CAB's assessment), and (2) whether CAB's in the United States are capable of conducting certain premarket and quality system evaluations in accordance with EC regulatory requirements in a manner equivalent to those conducted by European CAB's, also referred to as "notified bodies."

4. One comment requested implementation of a system by which U.S. manufacturers can obtain government documents for presentation to the EC.

Appendix A of subpart B contains addresses the relevant legislation, regulations, and procedures for the EC and the United States. In addition, the European Commission has a site on the WWW for direct access to EC documents ("http://Europa.eu.int/eur-lex"). Also, just as European notified bodies are frequently a manufacturer's first point of contact regarding the process for meeting the European requirements, it is expected that, under the MRA and this regulation, U.S.-based CAB's will be able to provide manufacturers with information on EC requirements and copies of necessary European documents needed to meet European requirements.

5. One comment stated that industry would like to encourage observed audits. The comment explained that, in an observed audit, a U.S. manufacturer would allow an EC Notified Body representative to accompany an FDA inspector during an inspection of its plant.

FDA agrees that joint industry audits are necessary to demonstrate that CAB's are competent to assess medical devices to each country's requirements and level of public health protection. FDA encourages manufacturers to support observed audits.

6. One comment suggested that, to further strengthen confidence in CAB's, training on auditing should be conducted by the United States and EC, and industry should be encouraged to participate in FDA's third party system, i.e., the accredited persons program.

FDA agrees with the suggestions. Training on premarket and quality system evaluations is planned for CAB's participating in the MRA and in FDA's third-party accredited persons program. FDA has made tentative plans to conduct training for EC CAB's on October 14 to 16, 1998, in the Washington, DC area. Representatives of EC CAB's interested in participating in the MRA should begin making plans to attend this training, which is also being provided to participants in the accredited persons program. This training is intended to address the scope, content, and expectations of the evaluations sufficient to determine the equivalence of the assessments.

7. One comment requested that FDA consider IV catheters, under 21 CFR 880.5200, for inclusion in Table 2, "Class II Medical Devices Included in Scope of Product Coverage at Beginning of Transition Period."

During the negotiation of the Annex, there were no expressions of interest in adding IV catheters to any of the tables of eligible medical devices. FDA is willing to consider that issue in the future, but at this time does not intend to include IV catheters in Table 2 at this time.

8. Several comments suggested that the MRA be expanded to include more devices, including class II devices.

As discussed previously, FDA plans to propose expansion of the list of eligible devices to include all devices eligible for third party review under FDAMA, except those medical devices regulated as in vitro diagnostics. (The EC does not yet have legislation in place on in vitro diagnostics.) The agency is considering specific suggestions by industry comments for inclusion of specific devices. These suggestions are extremely useful for future decisions,

although neither the FDA nor the European Commission can, at this time, respond to these industry suggestions by including additional devices under the MRA. Revision of the list will, however, be a step taken early during the transition stage. The pace at which devices can be added to the device premarket assessment aspect of the MRA depends on the availability of guidance documents or FDA-recognized standards, as discussed in comment 8 of section II.G of this document.

9. Several comments urged FDA to accept international standards, instead of developing FDA guidance documents, for the third party review of class II devices. One comment proposed use of 81 international and regional standards to support premarket evaluations and quality system evaluations.

FDA, under FDAMA, has begun to recognize consensus standards for use in its various medical device activities (see 63 FR 9561, February 25, 1998). FDA very much appreciates the submission identifying potentially useful standards. Communications such as this that relate to the use of standards in MRA implementation and other device activities are being considered in regard to FDA's consensus standards initiative announced on February 25, 1998. FDA plans to update the guidance for the recognition and use of consensus standards, as described in the February 25, 1998, document, and in doing so the agency will take into account the suggestions received and the information and experience to be gained during the implementation of the MRA.

FDA's views on the appropriateness of including a device under the premarket evaluation component of the MRA will depend, in part, on whether FDA-recognized standards or review guidance documents exist to provide a basis for product evaluation. Recognized standards or review guidance do not currently exist for many of the additional devices suggested for inclusion in the MRA by certain industry comments. FDA plans to develop guidance documents only where recognized consensus standards fail to address sufficiently the requirements for demonstrating substantial equivalence or other U.S. requirements.

10. One comment suggested that FDA take aggressive steps to identify and designate third party review organizations.

FDA is proceeding in a timely and transparent manner to describe processes and expectations for third parties to participate in both the accredited persons program and the MRA. For example, the agency, in the **Federal Register** of July 2, 1998 (63 FR 36240), issued a comprehensive guidance document entitled "Draft Guidance for Staff, Industry and Third Parties, Third Party Programs Under the Sectoral Annex on Medical Devices to the Agreement on Mutual Recognition Between the United States of America and the European Community (MRA)," to assist interested parties to understand the designation process for CAB's and to prepare their applications. This document has been made available on the CDRH Home Page on the WWW. FDA officials also have discussed the third party programs under FDAMA and the MRA at trade shows and public meetings.

11. Two comments suggested that both quality system evaluation reports and premarket evaluation reports should be harmonized between the United States and EC. Another comment stated that one of the issues to be resolved is determining what duration of an audit is satisfactory to the designating authorities as well as the scope, content, and degree of rigor expected from such audits. One comment further suggested incorporating efforts by an international harmonization group known as the GHTF and its Study Groups I and IV in developing the format for reports. FDA officials, European government officials, and industry representatives are among those active in the GHTF, which is comprised of government and industry representatives from North America, Europe, Asia, and Australia, as well as observers from other countries and international organizations (see International Harmonization; Policy on Standards, in the **Federal Register** of October 11, 1995 (60 FR 53081)).

The comment also suggested that, in the interest of efficiency and to minimize translation costs, such reports should be in an abbreviated form in most circumstances. It further suggested that the reporting forms be limited to certification by the CAB that applicable requirements of the other party's regulations are met and that this certification may reference those documents which were examined to demonstrate compliance. The comment also recommended use of FDA's initiative known as the "510(k) Paradigm" that offers other ways of streamlining decisions on 510(k)'s.

FDA expects to use relevant GHTF documents, as appropriate, in implementing the MRA. Study Group I of GHTF is developing a universal format which provides guidance on technical documentation with a view to first identifying similarities and divergences among various regulatory systems and then striving to achieve, to the extent possible, harmonization of requirements. At this time, this study group has reviewed requirements of existing systems and is now developing the essential principles which could facilitate harmonization of requirements, particularly as to premarket submissions. FDA is hopeful that it will be able to use guidance developed by Study Group I as guidance to MRA participants on the development of premarket evaluation reports.

Study Group IV of GHTF is preparing guidelines for auditing quality systems of medical device manufacturers. These GHTF guidelines are now being made available for comments by principal participants in GHTF, e.g., by the EC United Kingdoms' Medical Devices Agency's Home Page and the United States through a future publication as a guidance in the **Federal Register** and in the FDA Home Page. FDA anticipates using audit guidance developed by Study Group IV in the implementation of the MRA.

It is too soon to say precisely what formats will be used for premarket evaluation reports and quality system evaluation reports under the MRA. FDA intends to take into account the concerns expressed in the comment about minimizing the required documentation to that which is necessary. The formats for such reports will be developed during the MRA transition period, and FDA expects guidance from the GHTF study groups to be extremely helpful in this respect. During format development, FDA will work to develop formats that will not be unduly burdensome, so that forms and reports will include information sufficient for the parties to determine if normal endorsement is warranted. FDA will consider the use by third parties of FDA streamlining initiatives such as the 510(k) Paradigm in review of applications under the accredited persons program and the MRA. Information on the 510(k) paradigm can be accessed on the CDRH Home Page under "Re-engineering Efforts" (www.fda.gov/cdrh).

12. Two comments raised the concern that the exchange of post market vigilance reports might create an administrative burden for industry if reports are not kept simple. One of the comments noted that industry has wanted to avoid multiple reporting and wishes to report only when there is a real and imminent danger to public health.

FDA believes that adverse event reports need to be clear, concise, and

addressed to public health needs. FDA, through its participation in the GHTF Study Group II, is working toward a streamlined and harmonized system of reporting adverse events that are required by EC and U.S. laws and regulations. This effort is initially focused on harmonizing the guidelines for the types of adverse events that medical device manufacturers need to report. This guidance will make it easier for a manufacturer to decide which events need to be reported to the appropriate bodies in the EC and in the United States. The guidance developed by Study Group II will also be used to institute a mechanism for sharing adverse event data between the EC and United States under the MRA.

13. Two comments expressed support for § 26.48, "Harmonization," and one suggested that FDA should continue to participate in the efforts of the GHTF.

FDA agrees with this comment and intends to continue to participate in these efforts, as resources allow.

14. One comment suggested that the FDA consider provisions by which U.S. CAB's would perform domestic inspections under the act.

This comment addresses issues outside of the scope of the MRA and of this rulemaking. Under the MRA and this regulation, U.S. CAB's will be designated only to conduct product type-examination and verification and/or quality system evaluations for products produced for export to the EC.

15. One comment asked if the "post market vigilance reports" addressed under § 26.33(a)(3) were the same as Medical Device Reports (MDR's).

Post market vigilance reports and MDR's are similar mechanisms for reporting adverse incidents in the EC and the United States respectively. A system will be set up during the transition period and maintained thereafter by which the parties will notify each other when there is an immediate danger to public health. (See § 26.50.) As part of the alert system, each party shall notify the other party of any confirmed problem reports, corrective actions, or recalls. The United States and EC plan to develop the data elements of such reports during the transition period, making use of draft documents already being prepared by the GHTF's Study Group II.

16. One comment asked if the regulatory authorities mentioned in § 26.34 and the designating authorities mentioned in § 26.65 are the same.

"Regulatory Authority" is defined in § 26.60(a)(3) and "Designating Authority" is defined in § 26.60(a)(1) of the final rule. It is possible for these authorities to be different, or they may be the same. For the purpose of the Sectoral Annex on Medical Devices, regulatory authorities have the responsibility to implement the provisions of the Annex, including the designation and monitoring of CAB's.

17. One comment asked if the criteria to be used by FDA to determine technical competence for product reviews is identical to that which is to be used in the U.S. third party program for accredited persons.

The technical competence, qualifications, and freedom from conflict of interest for the product review (510(k)) part of the MRA are essentially the same as those being applied in FDA's third-party program for accredited persons. However, the MRA also includes quality systems audits, and CAB's performing quality systems audits under the MRA will need to have the additional training, expertise, and experience to perform quality systems audits. In this respect, the MRA is broader than the FDA third party accredited persons program.

18. One comment supported § 26.31, which states that the Sectoral Annex on Medical Devices should evolve and that the parties will periodically review the program to assess progress and identify enhancements. This comment also requested that timeframes be established for specific actions during the transition period. The comment also recommended that the regulatory authorities establish a schedule for the execution of the specified confidence building activities, under § 26.35, that can serve to "benchmark" progress.

FDA finds these comments extremely useful. Specific confidence building activities will depend on the nature of product evaluation and the extent of CAB utilization, and available resources. A process for scheduling confidence building activities and the schedule for accomplishing them will be developed by the United States and EC.

19. One comment stressed the importance of defining the supporting evidence necessary to demonstrate the technical competence and independence of CAB's. This comment also requested that FDA make known to the general public the date and process by which the CAB's will be designated.

FDA issued a **Federal Register** of July 2, 1998 (63 FR 36240) announcing the availability of a draft guidance entitled "Draft Guidance for Staff, Industry, and Third Parties, Third Party Programs Under the Sectoral Annex on Medical Devices to the Agreement on Mutual Recognition between the United States of America and the European Community (MRA)." This draft guidance addresses the criteria and qualifications expected to demonstrate technical competence and independence of CAB's. In addition, the draft guidance outlines the process for designation of CAB's under the Medical Devices Annex to the MRA. FDA will keep the public informed through the home page on the WWW of events under the MRA, such as designation of CAB's.

20. One comment expressed concern that FDA stated that the operational period will start at the end of the transition period, and that FDA did not state that the transition period will be for a period of 3 years. The comment sought clarification.

FDA disagrees that further clarification is needed. The duration of the Transition Period is 3 years. This is clearly stated in § 26.35 and in the Annex, Article 5.

21. One comment supported the process of the importing party's regulatory authority routinely accepting or "normally endorsing" reports.

FDA observes that this was the criterion agreed to in the Annex and stated in the regulation (§ 26.41(d), Exchange and endorsement of quality system reports, and § 26.42(c), Exchange and endorsement of product evaluation reports).

22. One comment sought clarification of the term "normally endorse" and expected that the importing party will endorse the vast majority of quality system evaluation and premarket evaluation reports.

FDA anticipates that, once CAB's are designated, the importing party (FDA, in the case of devices to be imported into the United States) it is likely to endorse most reports. Sections 26.41(d) and 26.42(c) describe the expectation that reports will normally be endorsed by the authority of the importing party, except under circumstances delineated in those provisions.

23. One comment supported the need to continue to accept the results of conformity assessment procedures performed by a CAB prior to its suspension as a listed body, except in specified situations as identified in § 26.67(f).

FDA agrees with the comment's description of the Annex and the regulation but would also point out the provisions in the framework agreement and in § 26.74 of this regulation allowing authorities on either side to take appropriate and immediate measures to protect public health.

24. One comment expressed concern that the conformity assessment procedures performed by a CAB prior to

withdrawal remain valid subsequent to withdrawal.

FDA notes that § 26.68, "Withdrawal of Listed Conformity Assessment Bodies," clearly delineates the circumstances under which a party is no longer required to accept or recognize results of conformity assessment procedures performed by CAB's (or, in the case of this Annex, to no long normally endorse reports provided by CAB's). As noted in the response in the preceding comment, however, nothing in the MRA or this regulation supersedes a participating country's ability to preclude shipments of products that present a concern under its laws. Whether there will be "normal endorsement" of assessments done by a CAB before its suspension or withdrawal would be determined, on the merits, based on the facts in the particular case (see, also, the discussion in comment 13 in section II.A of this document under the heading "General Comments and Issues")

25. One comment suggested a definition section for subpart B.

FDA does not believe that it is necessary to change the regulation to add a definition section. Guidance may be provided in the future, if necessary.

26. One comment expected the list of CAB's would be published along with the final rule, or that the final rule would state when the list will be published.

At this time, FDA is not certain of the date when the designation of CAB's will be made under the MRA. Once this occurs, however, the list will be made public on the FDA Home Page on the WWW.

27. One comment requested availability of a description of the information which must be presented in quality system and premarket evaluation reports to be produced by CAB's. The comment suggested that this information is needed in order to judge the adequacy of the work of various CAB's.

FDA agrees. The information that FDA expects to be present in quality system and product evaluation reports will be made public through the FDA Home Page on the WWW during the transition period. Comment 4 of the section II.F of this document describes how to obtain EC documents.

28. One comment commented on the 90-day period provided for obtaining an inspection and requested provision for extension of this period for good cause.

FDA realizes that the CAB's may not be able to accommodate all inspection requests within 60 or 90 days. Time extensions may be needed, for good cause, but FDA believes procedures for such a request need not be codified in this section.

29. One comment strongly recommended that FDA conduct an on-going verification of the evaluation reports produced by the CAB's because they are vital to ensuring the safety and effectiveness of medical devices. This comment also raised concerns about the potential for conflicts of interest in a system of private review. (Some EC CAB's are private sector bodies.)

FDA is sensitive to the concerns raised in this comment and recognizes the importance of adequate reports from CAB's regarding product evaluations and quality system evaluations as well as FDA's verifications. It is anticipated that FDA will rigorously evaluate both the reports and the CAB's that produce them. In addition, FDA has issued a notice announcing the availability of a draft guidance entitled "Draft Guidance for Staff, Industry, and Third Parties, Third Party Programs Under the Sectoral Annex on Medical Devices to the Agreement on Mutual Recognition between the United States of America and the European Community (MRA)," published in the **Federal Register** of July 2, 1998 (63 FR 36240). This document addresses conflict of interest concerns as well as technical competence criteria.

Also, it should be kept in mind that final decisions on 510(k)'s will be made by FDA, "normally endorsing" submissions by CAB's, during both the transitional stage and the operational stage of the Medical Devices Annex.

33. One comment suggested that the wording of §§ 26.39(b) and 26.46(b) be clarified. These sections address equivalence and listing of CAB's.

FDA believes the wording of these sections is sufficiently clear. Further clarification, if necessary, could be considered in the future after experience is gained under these provisions.

34. One comment stated that CAB's should be designated within the first 2 years of the transition period because sufficient accumulation of evidence supporting equivalence would be unlikely if designation occurred in the last year of the transition period.

FDA points out that Article 6 of the Annex and § 26.36 of this regulation states that "each Party shall designate [CAB's] to participate in confidence-building activities by transmitting to the other Party a list of CAB's* * *." This transmission will be done at the start of the transition period. However, determinations of equivalence will be made following this exchange of lists and, indeed, will be a continuous feature of MRA implementation.

35. One comment suggested that § 26.37 be revised to include the frequency of workshops and seminars throughout the transitional and operational phases.

FDA agrees that workshops and seminars are important. However, provisions for the frequency of workshops and seminars are not appropriate for inclusion in a rule. Furthermore, available resources will determine the frequency of joint training and seminars. FDA will continue to explore cost effective means, such as audio/video conferences and videotape training, to enhance the expertise of the CAB representatives. As stated earlier, an FDA training program for EC CAB's has been tentatively scheduled for October 14 to 16, 1998, in the Washington, DC area.

36. One comment said that § 26.46(c) implies that the designation of additional CAB's in the operational phase will occur only once each year. This comment went on to suggest that, if expansion of the CAB list is expected to be an annual event, then § 26.66(b) should so state.

FDA believes the language in § 26.46(b) is sufficiently clear, and that there is no need for change in the regulatory provisions cited.

37. One comment suggested that § 26.65 be revised to state that, "Designating authorities shall only designate CAB's where the primary place of business is in the territory of the designating authority."

FDA disagrees with the suggestion, as it would introduce an unwarranted restriction into FDA's implementation of the MRA and this regulation. In any case, even if FDA were to adopt the comment's suggestion, the intended purpose of the suggested change could easily be overcome if a U.S. division of a foreign CAB simply formed a new corporation, under the law of a U.S. State, with the United States as the principal place of business.

38. One comment noted that medical devices principally regulated by FDA's Center for Biologics Evaluation and Research (CBER) appear to have been excluded from the MRA.

The comment is correct in noting that no CBER-regulated devices are included in the lists appended to the Sectoral Annex on Medical Devices. CBER has the lead responsibility for 510(k) review for 23 medical device classifications. Adding some of these devices to the list of devices that FDA wishes to make eligible for review under the Annex, at this time, would require establishment of special handling procedures, training, and monitoring within CBER without the expectation of a meaningful number of third party reviews. However, devices regulated by CBER under the device premarket notification provisions of the act (21 CFR 360(k)) might be considered for eligibility in the MRA program as experience and confidence develops.

39. A comment addressed issues of grammar and format and did not deal with substantive matters relevant to the MRA that would have any bearing on its content, issues, or outcome.

FDA declines to alter the text of the proposed rule in response to this comment. Throughout this rulemaking process FDA has attempted to adhere to the language contained in the MRA unless serious substantive matters were identified having bearing on the content, issues, or outcome of the MRA or this regulation. The nonsubstantive issues raised by this comment do not justify any amendments to this regulation.

III. Summary of Changes

1. In response to a comment, the title of the proposed regulation has been changed to the following: "Part 26—Mutual Recognition of Pharmaceutical Good Manufacturing Practice Reports, Medical Device Quality System Audit Reports, and Certain Medical Device Product Evaluation Reports: the United States and the European Community."

2. On its own initiative, FDA has determined that the language of proposed § 26.0 should be amended to provide additional and more precise explanation about the applicability of this regulation with regard to other U.S. agencies and the EC. Therefore, proposed § 26.0 has been amended to read as follows:

Section 26.0 General.

This part substantially reflects relevant provisions of the framework agreement and its sectoral annexes on pharmaceutical good manufacturing practices (GMP's) and medical devices entitled "Agreement on Mutual Recognition Between the United States of America and the European Community" (the MRA), signed in London on May 18, 1998. For codification purposes, certain provisions of the MRA have been modified for use in this part. This modification is done for purposes of clarity only and shall not affect the text of the MRA concluded between the United States and the European Community (EC), or the rights and obligations of the United States or the EC under that agreement. Whereas the parties to the MRA are the United States and the European Community (EC), this part is relevant only to the Food and Drug Administration's (FDA's) implementation of the MRA, including the sectoral annexes reflected in subparts A and B of this part. This part does not govern implementation of the MRA by the EC, which will implement the MRA in accordance with its internal procedures, nor does this part address implementation of the MRA by other concerned U.S. Federal agencies. For purposes of this part, the terms "party" or "parties," where relevant to FDA's implementation of the MRA, should be considered as referring to FDA only. If the parties to the MRA subsequently amend or terminate the MRA, FDA will modify this part accordingly, using appropriate administrative procedures.

3. On its own initiative FDA has amended several sections of the proposed rule to more accurately describe the relationship between the provisions of this part and the provisions of the MRA. Specifically, §§ 26.6(d), 26.61, 26.73, 26.78, 26.79, and 26.81(d) have been appropriately changed to accomplish this purpose.

4. In response to one comment, Table 1 of the proposed rule concerning the product code for radiographic screens, § 892.1960, is amended in the final rule to reflect the correction of a typographical error: "WAM" is changed to read "EAM."

5. Other typographical errors and nonsubstantive changes in the MRA have been identified by FDA and the EC since the FDA proposed rule was published on April 10, 1998. Because FDA has endeavored to have this regulation reflect the text of the MRA as accurately as possible, the final rule has been amended to reflect all of these nonsubstantive changes. For example, in § 26.4, the reference is now "European Community (EC), rather than "European Union" or "EU," in accordance with the preference of the EC. The EC is the correct entity, as the EU is not a juridical entity.

6. The agency has amended the authority citation to refer to U.S. statutes on confidentiality (5 U.S.C. 552, 18 U.S.C. 1905, and 21 U.S.C. 331) as well as the new accredited persons provisions of the act (section 523, 21 U.S.C. 360m) added by FDAMA.

7. Under Appendix E of Subpart A (Elements to be Considered in Developing a Two-Way Alert System), for administrative reasons the contact points for FDA are changed from "FDA's Division of Emergency and Investigational Operations" to the following:

Biologics: Director, Office of Compliance and Biologics Quality (HFM–600), 1401 Rockville Pike, Rockville, MD 20852, phone: 301–827–6190, fax: 301–594–1944.

Human Drugs: Director, Office of Compliance (HFD–300), MPN I, 7520 Standish Pl., Rockville, MD 20855–2737, phone: 301–594–0054, fax: 301–594–2114.

Veterinary Drugs: Director, Office of Surveillance and Compliance (HFV–200), MPN II, 7500 Standish Pl., Rockville, MD 20855–2773, phone: 301–827–6644, fax: 301–594–1807.

8. Under § 26.1(c), the definition of Good Manufacturing Practices (GMP's) has been changed from the following:

(c) *Good Manufacturing Practices* (GMP's): [These GMP conceptual definitions are to be merged by the parties at a future date.]

(1) GMP's mean the requirements found in the respective legislations, regulations, and administrative provisions for methods to be used in, and the facilities or controls to be used for, the manufacturing, processing, packing, and/or holding of a drug to assure that such drug meets the requirements as to safety, and has the identity and strength, and meets the quality and purity characteristics that it purports or is represented to possess.

(2) GMP's are that part of quality assurance which ensures that products are consistently produced and controlled to quality standards. For the purpose of this subpart, GMP's include, therefore, the system whereby the manufacturer receives the specifications of the product and/or process from the marketing authorization/product authorization or license holder or applicant and ensures the product is made in compliance with its specifications (qualified person certification in the European Community (EC)).

to the following:

(c) *Good Manufacturing Practices* (GMP's): [The United States has clarified its interpretation that under the MRA, that only paragraph (c)(1) of this section has to be understood as the U.S. definition and paragraph (c)(2) as the EC definition.]

(1) GMP's mean the requirements found in the legislations, regulations, and administrative provisions for methods to be used in, and the facilities or controls to be used for, the manufacturing, processing, packing, and/or holding of a drug to assure that such drug meets the requirements as to safety, and has the identity and strength, and meets the quality and purity characteristics that it purports or is represented to possess.

(2) GMP's are that part of quality assurance which ensures that products are consistently produced and controlled to quality standards. For the purpose of this subpart, GMP's include, therefore, the system whereby the manufacturer receives the specifications of the product and/or process from the marketing authorization/product authorization or license holder or applicant and ensures the product is made in compliance with its specifications (qualified person certification in the EC).

The previous changes reflect discussions between FDA and European Commission officials. As a result of those discussions, the United States has clarified its interpretation that the first paragraph of Article 1(3) of the Sectoral Annex for Pharmaceutical GMP's, has to be understood as the U.S. definition and the second as the EC definition. The agency believes that these changes are appropriate because they clarify that the applicable definition under the MRA

will be consistent with the act and regulations (see, e.g., section 501(a)(2)(B) of the act; 21 U.S.C. 351(a)(2)(B)). Furthermore, the Sectoral Annex on Pharmaceutical GMP's, including its core concept of "equivalence," does not require either party to change its definition or application of GMP's.

9. Changes have been made to the list of regulatory authorities contained in Appendix B of Subpart A (List of Authorities) as a result of the legal review carried out in the EC prior to finalizing the MRA. The European Commission amended its list of regulatory authorities contained in Appendix 2 of the Pharmaceutical GMP Annex of the MRA because the changes more correctly reflect the allocation of administrative competencies in the EC and its Member States and do not alter the activities to be carried out under the MRA.

10. Changes have been made to Table 2. of Appendix B of Subpart B of the rule. That table listed 42 class II medical devices to be included within the scope of product coverage at the beginning of the transition period. Four of the devices that were on the list cannot be reviewed by conformity assessment bodies under the MRA and this rule, because of a statutory prohibition in the act. Accordingly, the agreement will be brought into force without application to those four devices. Section 523 of the act prohibits "accredited persons" from performing review of a class II device that is intended to be permanently implantable, life sustaining, or life supporting, and review of such devices must be performed by FDA. This provision was recently added to the act by FDAMA. The agency recently determined that the following four devices are within the scope of the prohibition and have been removed from Table 2: AN 868.5925, powered emergency ventilator; OR 888.3020, intramedullary fixation rod; OR 888.3030, single/multiple component metallic bone fixation appliances and accessories; and OR 888.3040, smooth or threaded metallic bone fixation fastener. The United States has informed the EC of this situation and of the need to make appropriate amendments to the MRA promptly after its entry into force.

IV. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866, under the Regulatory Flexibility Act (Pub. L. 96–354, as amended by Pub. L. 104–121), and under the Unfunded Mandates Reform Act (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant economic impact of a rule on a substantial number of small entities. The Unfunded Mandates Reform Act requires agencies to prepare an assessment of anticipated costs and benefits before enacting any rule that may result in an expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation) in any 1 year.

The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order and in these two statutes. Through this regulation, the agency sets out requirements through which it may normally endorse certain conformity assessment procedure reports. Such reports would be provided by equivalent EC Member State regulatory authorities for manufacturing site inspections to ascertain conformity with pharmaceutical GMP's and by equivalent CAB's for quality system audits and certain medical device premarket evaluations. Obtaining conformity assessment information in the manner described in the final rule is more efficient and cost-effective than the existing approach, where additional inspection efforts by FDA in foreign countries are necessary because foreign regulatory systems have not been found equivalent. The primary benefit of the final rule is to provide credible assurance that the increasing volume of EC Member States' imports into the United States meet pharmaceutical GMP requirements, and medical device quality system evaluation and certain premarket evaluation requirements, as specified in U.S. statutes and regulations. In the future, this credible assurance must be achievable with FDA resource expenditures that rise less than proportionately to the volume of trade.

In recent years, the credibility of the current approach has been strained as FDA's essentially constant foreign inspection capacity has been stretched over an expanding volume of imports from the EC. In the 3-year interval between 1994 and 1997, the value of EC pharmaceutical and medical device imports into the United States has nearly doubled from $5.5 billion to more than $10.7 billion. Growth has been greatest in pharmaceuticals, where annual EC exports have increased by more than $2 billion in each of the last 2 years. In 1997, FDA conducted one inspection in the EC for every $60 million in pharmaceutical exports to the United States, which is less than half the coverage intensity of 1994. In addition, the majority of these inspections have been preapproval in nature. Continuation of the current trend would further decrease FDA's coverage intensity to less than one inspection per $100 million in EC pharmaceutical exports by the year 2000. Equivalence with EC Member State regulatory systems would leverage FDA's regulatory resources so that necessary conformity assessments can be ensured despite higher volumes of future trade.

In addition to helping FDA cope with higher trade volumes, mutual recognition or equivalence-based agreements with exporting nations may permit FDA to redirect some of its inspectional resources to risk priorities not covered by such agreements. This flexibility would provide a more responsive level of U.S. consumer protection in the face of a changing global marketplace with inherently variable risk management priorities.

Another important benefit of the final rule would be the cost savings realized by the regulated industry, largely as a result of the sharing of inspection reports among equivalent regulatory authorities. This exchange, in turn, will minimize the need for duplicative inspections and permit individual firms to undergo fewer inspections of manufacturing sites. FDA does not have data on the average administrative cost incurred by manufacturers of pharmaceuticals (including biologicals) or medical devices as they participate in regulatory inspections, but it is likely that the avoidance of redundant inspections would generate cost savings. The final rule also may shorten product review times for regulated products as a result of the increased efficiency of premarket approval inspection activities and the third-party evaluation of certain medical devices. Quantification of these savings will be highly dependent on the specific countries that achieve equivalence and on the number of medical device audits and evaluations performed by CAB's under the MRA.

The costs of this regulation will have a greater impact on governmental regulatory agencies than on the regulated industry. These governmental costs involve both startup and operational components. FDA has not received additional government funding earmarked for achieving mutual recognition agreements and, therefore, must proceed to implement these agreements as a concurrent function within normal day-to-day regulatory activities. The 3-year transition period reflects the necessity to absorb these startup costs within existing regulatory budgets. Some activities such as joint inspections may be reasonably easy to absorb as concurrent functions that do not require additional funding, while others such as developing and maintaining systems for routine information exchange may involve new activities. These absorbed governmental costs will fall heavily on FDA, as it must assess equivalence of multiple EC Member States and notified bodies.

For FDA, the absorption of these startup costs will be easier with respect to those EC Member States with which the United States already has a large volume of trade in the products in question, where FDA already conducts enough inspections to have gathered a general understanding of the requirements and regulatory practices of the exporting country. From this perspective, the pace and priorities for mutual recognition agreements during the transition period will be affected by FDA's ability to conduct these processes as concurrent functions within current activities.

In the longer run, an operational system of mutual recognition agreements could pose additional costs or problems for regulatory authorities of exporting countries if equivalence requires a frequency, focus or content of inspections not presently included in regulatory requirements of the exporting nation. For example, Country A may not be able to provide the frequency of medical device inspections desired by Country B without conducting inspections beyond those required for Country A's domestic inspection strategy. Conversely, Country B may not be able to provide to Country A adequate details of the quality of pharmaceutical source materials, because Country B does not have inspectional authority over pharmaceutical starting materials. To the extent that such costs or problems are insignificant or offset by other savings, they will not be obstacles to reaching agreement on equivalence.

This rule is not expected to involve any new incremental costs to the affected industries. Although joint inspections during the transition period may create the appearance of more regulatory effort, they would not impose additional costs on the firms inspected. FDA does not anticipate an increase in the total number of EC inspections, and in fact, the coverage intensity of FDA inspections in the EC would be expected to continue to fall during the transition period, as it has for the past several years. Other activities related to equivalence determinations, such as the procedures for exchanging information and reports, focus on the interface and coordination among regulatory agencies and, as such, will not affect industry in a cost context.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities unless the rule is not expected to have a significant economic impact on a substantial number of small entities. As this final regulation is not expected to impose costs on the regulated industry, and FDA has received no comments that would indicate otherwise, the agency certifies that this rule will not have a significant impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

The Unfunded Mandates Act of 1995 requires that agencies prepare an assessment of the anticipated costs and benefits before issuing any final rule that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any 1 year. This rule does not impose any mandates on State, local or tribal governments, or the private sector that would result in an annual expenditure of $100 million or more. Therefore, no further analysis is appropriate for this requirement.

V. Paperwork Reduction Act of 1995

This final rule does not contain any information collection provisions that would be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

VI. References

1. The 1992 "Report of the Task Force on International Harmonization" is available from the National Technical Information Service, Vienna, VA; Order # PB93128155.

2. FDA's Compliance Policy Guides "Sec. 100.900, International Memoranda of Understanding (CPG 7150.19)" is available from the National Technical Information Service, Vienna, VA 22161 (Order # PB 96–915499INZ) or can be found on FDA's website at the following location: "www.fda.gov/ora/compliance_ref/cpg/cpgch1.htm#sec.100.900".

3. The 1997 "Summary Report of the Foreign Inspection Working Group" is available from the Freedom of Information Staff (HFI–35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

VII. Comparison Table

The following table shows the relationship of the MRA Articles and the sections of the Code of Federal Regulations (CFR) under this rule:

TABLE 1.— RELATIONSHIP OF THE MRA ARTICLES TO SECTIONS IN THE CFR

MRA Article	CFR Section
Sectoral Annex for Pharmaceutical GMP's	Subpart A
Article 1	26.1
Article 2	26.2
Article 3	26.3
Article 4	26.4
Article 5	26.5
Article 6	26.6
Article 7	26.7
Article 8	26.8
Article 9	26.9
Article 10	26.10
Article 11	26.11
Article 12	26.12
Article 13	26.13
Article 14	26.14
Article 15	26.15

TABLE 1.— RELATIONSHIP OF THE MRA ARTICLES TO SECTIONS IN THE CFR—Continued

MRA Article	CFR Section
Sectoral Annex for Pharmaceutical GMP's	Subpart A
Article 16	26.16
Article 17	26.17
Article 18	26.18
Article 19	26.19
Article 20	26.20
Article 21	26.21
Appendix 1	Appendix A
Appendix 2	Appendix B
Appendix 3	Appendix C
Appendix 4	Appendix D
Appendix 5	Appendix E

MRA Article	CFR Section
Sectoral Annex on Medical Devices	Subpart B
Article 1	26.31
Article 2	26.32
Article 3	26.33
Article 4	26.34
Article 5	26.35
Article 6	26.36
Article 7	26.37
Article 8	26.38
Article 9	26.39
Article 10	26.40
Article 11	26.41
Article 12	26.42
Article 13	26.43
Article 14	26.44
Article 15	26.45
Article 16	26.46
Article 17	26.47
Article 18	26.48
Article 19	26.49
Article 20	26.50
Appendix 1	Appendix A
Appendix 2 and Tables 1–3	Appendix B and Tables 1–3
Appendix 3 [Reserved]	Appendix C [Reserved]
Appendix 4 [Reserved]	Appendix D [Reserved]
Appendix 5 [Reserved]	Appendix E [Reserved]
Appendix 6 [Reserved]	Appendix F [Reserved]

MRA Article	CFR Section
Framework Agreement	Subpart C
Article 1	26.60
Article 2	26.61
Article 3	26.62
Article 4	26.63
Article 5	26.64
Article 6	26.65
Article 7	26.66
Article 8	26.67
Article 9	26.68
Article 10	26.69
Article 11	26.70
Article 12	26.71
Article 13	26.72
Article 14	26.73
Article 15	26.74
Article 16	26.75
Article 17	26.76
Article 18	26.77

MRA Article	CFR Section
Framework Agreement	Subpart C
Article 19	26.78
Article 20	26.79
Article 21	26.80
Article 22	26.81

List of Subjects in 21 CFR Part 26

Animal and human drugs, Biologicals, Devices, Exports, Imports, Incorporation by reference, and Inspections.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR chapter I is amended by adding part 26 to read as follows:

PART 26—MUTUAL RECOGNITION OF PHARMACEUTICAL GOOD MANUFACTURING PRACTICE REPORTS, MEDICAL DEVICE QUALITY SYSTEM AUDIT REPORTS, AND CERTAIN MEDICAL DEVICE PRODUCT EVALUATION REPORTS: UNITED STATES AND THE EUROPEAN COMMUNITY

Sec.

26.0 General.

Subpart A—Specific Sector Provisions for Pharmaceutical Good Manufacturing Practices

26.1 Definitions.
26.2 Purpose.
26.3 Scope.
26.4 Product coverage.
26.5 Length of transition period.
26.6 Equivalence assessment.
26.7 Participation in the equivalence assessment and determination.
26.8 Other transition activities.
26.9 Equivalence determination.
26.10 Regulatory authorities not listed as currently equivalent.
26.11 Start of operational period.
26.12 Nature of recognition of inspection reports.
26.13 Transmission of postapproval inspection reports.
26.14 Transmission of preapproval inspection reports.
26.15 Monitoring continued equivalence.
26.16 Suspension.
26.17 Role and composition of the Joint Sectoral Committee.
26.18 Regulatory collaboration.
26.19 Information relating to quality aspects.
26.20 Alert system.
26.21 Safeguard clause.
Appendix A of Subpart A—List of Applicable Laws, Regulations, and Administrative Provisions.
Appendix B of Subpart A—List of Authorities.
Appendix C of Subpart A—Indicative List of Products Covered by Subpart A.
Appendix D of Subpart A—Criteria for Assessing Equivalence for Post- and Preapproval.
Appendix E of Subpart A—Elements to be Considered in Developing a Two-Way Alert System.

Subpart B—Specific Sector Provisions for Medical Devices

26.31 Purpose.
26.32 Scope.
26.33 Product coverage.
26.34 Regulatory authorities.
26.35 Length and purpose of transition period.
26.36 Listing of CAB's.
26.37 Confidence building activities.
26.38 Other transition period activities.
26.39 Equivalence assessment.
26.40 Start of the operational period.
26.41 Exchange and endorsement of quality system evaluation reports.
26.42 Exchange and endorsement of product evaluation reports.
26.43 Transmission of quality system evaluation reports.
26.44 Transmission of product evaluation reports.
26.45 Monitoring continued equivalence.
26.46 Listing of additional CAB's.
26.47 Role and composition of the Joint Sectoral Committee.
26.48 Harmonization.
26.49 Regulatory cooperation.
26.50 Alert system and exchange of postmarket vigilance reports.
Appendix A of Subpart B—Relevant Legislation, Regulations, and Procedures.
Appendix B of Subpart B—Scope of Product Coverage.
Appendix C of Subpart B [Reserved].
Appendix D of Subpart B [Reserved].
Appendix E of Subpart B [Reserved].
Appendix F of Subpart B [Reserved].

Subpart C—"Framework" Provisions

26.60 Definitions.
26.61 Purpose of this part.
26.62 General obligations.
26.63 General coverage of this part.
26.64 Transitional arrangements.
26.65 Designating authorities.
26.66 Designation and listing procedures.
26.67 Suspension of listed conformity assessment bodies.
26.68 Withdrawal of listed conformity assessment bodies.
26.69 Monitoring of conformity assessment bodies.
26.70 Conformity assessment bodies.
26.71 Exchange of information.
26.72 Sectoral contact points.
26.73 Joint Committee.
26.74 Preservation of regulatory authority.
26.75 Suspension of recognition obligations.
26.76 Confidentiality.
26.77 Fees.
26.78 Agreements with other countries.
26.79 Territorial application.
26.80 Entry into force, amendment, and termination.
26.81 Final provisions.

Authority: 5 U.S.C. 552; 15 U.S.C. 1453, 1454, 1455; 18 U.S.C. 1905; 21 U.S.C. 321, 331, 351, 352, 355, 360, 360b, 360c, 360d, 360e, 360f, 360g, 360h, 360i, 360j, 360l, 360m, 371, 374, 381, 382, 383, 393; 42 U.S.C. 216, 241, 242l, 262, 264, 265.

§ 26.0 General.

This part substantially reflects relevant provisions of the framework agreement and its sectoral annexes on pharmaceutical good manufacturing practices (GMP's) and medical devices of the "Agreement on Mutual Recognition Between the United States of America and the European Community" (the MRA), signed at London May 18, 1998. For codification purposes, certain provisions of the MRA have been modified for use in this part. This modification is done for purposes of clarity only and shall not affect the text of the MRA concluded between the United States and the European Community (EC), or the rights and obligations of the United States or the EC under that agreement. Whereas the parties to the MRA are the United States and EC, this part is relevant only to the Food and Drug Administration's (FDA's) implementation of the MRA, including the sectoral annexes reflected in subparts A and B of this part. This part does not govern implementation of the MRA by the EC, which will implement the MRA in accordance with its internal procedures, nor does this part address implementation of the MRA by other concerned U.S. Federal agencies. For purposes of this part, the terms "party" or "parties," where relevant to FDA's implementation of the MRA, should be considered as referring to FDA only. If the parties to the MRA subsequently amend or terminate the MRA, FDA will modify this part accordingly, using appropriate administrative procedures.

Subpart A—Specific Sector Provisions for Pharmaceutical Good Manufacturing Practices

§ 26.1 Definitions.

(a) *Enforcement* means action taken by an authority to protect the public from products of suspect quality, safety, and effectiveness or to assure that products are manufactured in compliance with appropriate laws, regulations, standards, and commitments made as part of the approval to market a product.

(b) *Equivalence* of the regulatory systems means that the systems are sufficiently comparable to assure that the process of inspection and the ensuing inspection reports will provide adequate information to determine whether respective statutory and regulatory requirements of the authorities have been fulfilled. Equivalence does not require that the respective regulatory systems have identical procedures.

(c) *Good Manufacturing Practices* (GMP's). [The United States has clarified its interpretation that under the MRA, that only paragraph (c)(1) of this section has to be understood as the U.S. definition and paragraph (c)(2) as the EC definition.]

(1) GMP's mean the requirements found in the legislations, regulations, and administrative provisions for methods to be used in, and the facilities or controls to be used for, the manufacturing, processing, packing, and/or holding of a drug to assure that such drug meets the requirements as to safety, and has the identity and strength, and meets the quality and purity characteristics that it purports or is represented to possess.

(2) GMP's are that part of quality assurance which ensures that products are consistently produced and controlled to quality standards. For the purpose of this subpart, GMP's include, therefore, the system whereby the manufacturer receives the specifications of the product and/or process from the marketing authorization/product authorization or license holder or applicant and ensures the product is made in compliance with its specifications (qualified person certificatior. in the EC).

(d) *Inspection* means an onsite evaluation of a manufacturing facility to determine whether such manufacturing facility is operating in compliance with GMP's and/or commitments made as part of the approval to market a product.

(e) *Inspection report* means the written observations and GMP's compliance assessment completed by an authority listed in Appendix B of this subpart.

(f) *Regulatory system* means the body of legal requirements for GMP's, inspections, and enforcements that ensure public health protection and legal authority to assure adherence to these requirements.

§ 26.2 Purpose.

The provisions of this subpart govern the exchange between the parties and normal endorsement by the receiving regulatory authority of official good manufacturing practices (GMP's) inspection reports after a transitional period aimed at determination of the equivalence of the regulatory systems of the parties, which is the cornerstone of this subpart.

§ 26.3 Scope.

(a) The provisions of this subpart shall apply to pharmaceutical inspections carried out in the United States and Member States of the European Community (EC) before products are marketed (hereafter referred to as "preapproval inspections") as well as during their marketing (hereafter referred to as "postapproval inspections").

(b) Appendix A of this subpart names the laws, regulations, and administrative provisions governing these inspections and the good manufacturing practices (GMP's) requirements.

(c) Appendix B of this subpart lists the authorities participating in activities under this subpart.

(d) Sections 26.65, 26.66, 26.67, 26.68, 26.69, and 26.70 of subpart C of this part do not apply to this subpart.

§ 26.4 Product coverage.

(a) The provisions of this subpart will apply to medicinal products for human or animal use, intermediates and starting materials (as referred to in the European Community (EC)) and to drugs for human or animal use, biological products for human use, and active pharmaceutical ingredients (as referred to in the United States), only to the extent they are regulated by the authorities of both parties as listed in Appendix B of this subpart.

(b) Human blood, human plasma, human tissues and organs, and veterinary immunologicals (under 9 CFR 101.2, "veterinary immunologicals" are referred to as "veterinary biologicals") are excluded from the scope of this subpart. Human plasma derivatives (such as immunoglobulins and albumin), investigational medicinal products/new drugs, human radiopharmaceuticals, and medicinal gases are also excluded during the transition phase; their situation will be reconsidered at the end of the transition period. Products regulated by the Food and Drug Administration's Center for Biologics Evaluation and Research as devices are not covered under this subpart.

(c) Appendix C of this subpart contains an indicative list of products covered by this subpart.

§ 26.5 Length of transition period.

A 3-year transition period will start immediately after the effective date described in § 26.80(a).

§ 26.6 Equivalence assessment.

(a) The criteria to be used by the parties to assess equivalence are listed in Appendix D of this subpart. Information pertaining to the criteria under European Community (EC) competence will be provided by the EC.

(b) The authorities of the parties will establish and communicate to each other their draft programs for assessing the equivalence of the respective regulatory systems in terms of quality assurance of the products and consumer protection. These programs will be carried out, as deemed necessary by the regulatory authorities, for post- and preapproval inspections and for various product classes or processes.

(c) The equivalence assessment shall include information exchanges (including inspection reports), joint training, and joint inspections for the purpose of assessing regulatory systems and the authorities' capabilities. In conducting the equivalence assessment, the parties will ensure that efforts are made to save resources.

(d) Equivalence assessment for authorities added to Appendix B of this subpart after the effective date described in § 26.80(a) will be conducted as described in this subpart, as soon as practicable.

§ 26.7 Participation in the equivalence assessment and determination.

The authorities listed in Appendix B of this subpart will actively participate in these programs to build a sufficient body of evidence for their equivalence determination. Both parties will exercise good faith efforts to complete equivalence assessment as expeditiously as possible to the extent the resources of the authorities allow.

§ 26.8 Other transition activities.

As soon as possible, the authorities will jointly determine the essential information which must be present in inspection reports and will cooperate to develop mutually agreed inspection report format(s).

§ 26.9 Equivalence determination.

(a) Equivalence is established by having in place regulatory systems covering the criteria referred to in Appendix D of this subpart, and a demonstrated pattern of consistent performance in accordance with these criteria. A list of authorities determined as equivalent shall be agreed to by the Joint Sectoral Committee at the end of the transition period, with reference to any limitation in terms of inspection type (e.g., postapproval or preapproval) or product classes or processes.

(b) The parties will document insufficient evidence of equivalence, lack of opportunity to assess equivalence or a determination of nonequivalence, in sufficient detail to allow the authority being assessed to know how to attain equivalence.

§ 26.10 Regulatory authorities not listed as currently equivalent.

Authorities not currently listed as equivalent, or not equivalent for certain types of inspections, product classes or processes may apply for reconsideration of their status once the necessary corrective measures have been taken or additional experience is gained.

§ 26.11 Start of operational period.

(a) The operational period shall start at the end of the transition period and its provisions apply to inspection reports generated by authorities listed as equivalent for the inspections performed in their territory.

(b) In addition, when an authority is not listed as equivalent based on adequate experience gained during the transition period, the Food and Drug Administration (FDA) will accept for normal endorsement (as provided in § 26.12) inspection reports generated as a result of inspections conducted jointly by that authority on its territory and another authority listed as equivalent, provided that the authority of the Member State in which the inspection is performed can guarantee enforcement of the findings of the inspection report and require that corrective measures be taken when necessary. FDA has the option to participate in these inspections, and based on experience gained during the transition period, the parties will agree on procedures for exercising this option.

(c) In the European Community (EC), the qualified person will be relieved of responsibility for carrying the controls laid down in Article 22 paragraph 1(b) of Council Directive 75/319/EEC (see Appendix A of this subpart) provided that these controls have been carried out in the United States and that each batch/lot is accompanied by a batch certificate (in accordance with the World Health Organization Certification Scheme on the Quality of Medicinal Products) issued by the manufacturer certifying that the product complies with requirements of the marketing authorization and signed by the person responsible for releasing the batch/lot.

§ 26.12 Nature of recognition of inspection reports.

(a) Inspection reports (containing information as established under § 26.8); including a good manufacturing practice (GMP) compliance assessment, prepared by authorities listed as equivalent, will be provided to the authority of the importing party. Based on the determination of equivalence in light of the experience gained, these inspection reports will normally be endorsed by the authority of the importing party, except under specific and delineated circumstances. Examples of such circumstances include indications of material inconsistencies or inadequacies in an inspection report, quality defects identified in the postmarket surveillance or other specific evidence of serious concern in relation to product quality or consumer safety. In such cases, the authority of the importing party may request clarification from the authority of the exporting party which may lead to a request for reinspection. The authorities will endeavor to respond to requests for clarification in a timely manner.

(b) Where divergence is not clarified in this process, an authority of the importing country may carry out an inspection of the production facility.

§ 26.13 Transmission of postapproval inspection reports.

Postapproval good manufacturing practice (GMP) inspection reports concerning products covered by this subpart will be transmitted to the authority of the importing country within 60-calendar days of the request. Should a new inspection be needed, the inspection report will be transmitted within 90-calendar days of the request.

§ 26.14 Transmission of preapproval inspection reports.

(a) A preliminary notification that an inspection may have to take place will be made as soon as possible.

(b) Within 15-calendar days, the relevant authority will acknowledge receipt of the request and confirm its ability to carry out the inspection. In the European Community (EC), requests will be sent directly to the relevant authority, with a copy to the European Agency for the Evaluation of Medicinal Products (EMEA). If the authority receiving the request cannot carry out the inspection as requested, the requesting authority shall have the right to conduct the inspection.

(c) Reports of preapproval inspections will be sent within 45-calendar days of the request that transmitted the appropriate information and detailed the precise issues to be addressed during the inspection. A shorter time may be necessary in exceptional cases and these will be described in the request.

§ 26.15 Monitoring continued equivalence.

Monitoring activities for the purpose of maintaining equivalence shall include review of the exchange of inspection reports and their quality and timeliness; performance of a limited number of joint inspections; and the conduct of common training sessions.

§ 26.16 Suspension.

(a) Each party has the right to contest the equivalence of a regulatory authority. This right will be exercised in an objective and reasoned manner in writing to the other party.

(b) The issue shall be discussed in the Joint Sectoral Committee promptly upon such notification. Where the Joint Sectoral Committee determines that verification of equivalence is required, it may be carried out jointly by the parties in a timely manner, under § 26.6.

(c) Efforts will be made by the Joint Sectoral Committee to reach unanimous consent on the appropriate action. If agreement to suspend is reached in the Joint Sectoral Committee, an authority may be suspended immediately thereafter. If no agreement is reached in the Joint Sectoral Committee, the matter is referred to the Joint Committee as described in § 26.73. If no unanimous consent is reached within 30 days after such notification, the contested authority will be suspended.

(d) Upon the suspension of authority previously listed as equivalent, a party is no longer obligated to normally endorse the inspection reports of the suspended authority. A party shall continue to normally endorse the inspection reports of that authority prior to suspension, unless the authority of the receiving party decides otherwise based on health or safety considerations. The suspension will remain in effect until unanimous consent has been reached by the parties on the future status of that authority.

§ 26.17 Role and composition of the Joint Sectoral Committee.

(a) A Joint Sectoral Committee is set up to monitor the activities under both the transitional and operational phases of this subpart.

(b) The Joint Sectoral Committee will be cochaired by a representative of the Food and Drug Administration (FDA) for the United States and a representative of the European Community (EC) who each will have one vote. Decisions will be taken by unanimous consent.

(c) The Joint Sectoral Committee's functions will include:

(1) Making a joint assessment, which must be agreed by both parties, of the equivalence of the respective authorities;

(2) Developing and maintaining the list of equivalent authorities, including any limitation in terms of inspecting type or products, and communicating the list to all authorities and the Joint Committee;

(3) Providing a forum to discuss issues relating to this subpart, including concerns that an authority may be no longer equivalent and opportunity to review product coverage; and

(4) Consideration of the issue of suspension.

(d) The Joint Sectoral Committee shall meet at the request of either party and, unless the cochairs otherwise agree, at least once each year. The Joint Committee will be kept informed of the agenda and conclusions of meetings of the Joint Sectoral Committee.

§ 26.18 Regulatory collaboration.

(a) The parties and authorities shall inform and consult one another, as permitted by law, on proposals to introduce new controls or to change existing technical regulations or inspection procedures and to provide the opportunity to comment on such proposals.

(b) The parties shall notify each other in writing of any changes to Appendix B of this subpart.

§ 26.19 Information relating to quality aspects.

The authorities will establish an appropriate means of exchanging information on any confirmed problem reports, corrective actions, recalls, rejected import consignments, and other regulatory and enforcement problems for products subject to this subpart.

§ 26.20 Alert system.

(a) The details of an alert system will be developed during the transitional period. The system will be maintained in place at all times. Elements to be considered in developing such a system are described in Appendix E of this subpart.

(b) Contact points will be agreed between both parties to permit authorities to be made aware with the appropriate speed in case of quality defect, recalls, counterfeiting, and other problems concerning quality, which could necessitate additional controls or suspension of the distribution of the product.

§ 26.21 Safeguard clause.

Each party recognizes that the importing country has a right to fulfill its legal responsibilities by taking actions necessary to ensure the protection of human and animal health at the level of protection it deems appropriate. This includes the suspension of the distribution, product detention at the border of the importing country, withdrawal of the batches and any request for additional information or inspection as provided in § 26.12.

Appendix A of Subpart A—List of Applicable Laws, Regulations, and Administrative Provisions.

1. For the European Community (EC):

[Copies of EC documents may be obtained from the European Document Research, 1100 17th St. NW., suite 301, Washington, DC 20036. EC documents may be viewed on the European Commission Pharmaceuticals Units web site at "http://dg3.eudra.org".]

Council Directive 65/65/EEC of 26 January 1965 on the approximation of provisions laid down by law, regulation, or administrative action relating to proprietary medicinal products as extended, widened, and amended.

Council Directive 75/319/EEC of 20 May 1975 on the approximation of provisions laid down by law, regulation or administrative action relating to proprietary medicinal products as extended, widened and amended.

Council Directive 81/851/EEC of 28 September 1981 on the approximation of the laws of the Member States relating to veterinary medicinal products, as widened and amended.

Commission Directive 91/356/EEC of 13 June 1991 laying down the principles and guidelines of good manufacturing practice for medicinal products for human use.

Commission Directive 91/412/EEC of 23 July 1991 laying down the principles and guidelines of good manufacturing practice for veterinary medicinal products.

Council Regulation EEC No 2309/93 of 22 July 1993 laying down Community procedures for the authorization and supervision of medicinal products for human and veterinary use and establishing a European Agency for the Evaluation of Medicinal Products.

Council Directive 92/25/EEC of 31 March 1992 on the wholesale distribution of medicinal products for human use.

Guide to Good Distribution Practice (94/C 63/03).

Current version of the Guide to Good Manufacturing Practice, Rules Governing Medicinal Products in the European Community, Volume IV.

2. For the United States:

[Copies of FDA documents may be obtained from the Government Printing Office, 1510 H St. NW., Washington, DC 20005. FDA documents, except the FDA Compliance Program Guidance Manual, may be viewed on FDA's Internet web site at "http://www.FDA.gov".]

Relevant sections of the United States Federal Food, Drug, and Cosmetic Act and the United States Public Health Service Act.

Relevant sections of Title 21, United States Code of Federal Regulations (CFR) Parts 1–99, Parts 200–299, Parts 500–599, and Parts 600–799.

Relevant sections of the FDA Investigations Operations Manual, the FDA Regulatory Procedures Manual, the FDA Compliance Policy Guidance Manual, the FDA Compliance Program Guidance Manual, and other FDA guidances.

Appendix B of Subpart A—List of Authorities.

1. For the United States: In the United States, the regulatory authority is the Food and Drug Administration.

2. For the European Community: In the European Community, the regulatory authorities are the following:

Belgium: Inspection générale de la Pharmacie, Algemene Farmaceutische Inspectie.

Denmark: Laegemiddelstyrelsen.

Germany: Bundesministerium für Gesundheit for immunologicals: Paul-Ehrlich-Institut, Federal Agency for Sera and Vaccines.

Greece: Εθνικος Οργανισμος Φαρμακου, Ministry of Health and Welfare, National Drug Organization (E.O.F).

Spain: For medicinal products for human use: Ministerio de Sanidad y Consumo, Subdirección General de Control Farmacéutico. For medicinal products for veterinary use: Ministerio de Agricultura, Pesca y Alimentación (MAPA), Dirección General de la Producción Agraria.

France: For medicinal products for human use: Agence du Médicament. For veterinary medicinal products: Agence Nationale du Médicament Vétérinaire.

Ireland: Irish Medicines Board.

Italy: For medicinal products for human use: Ministero della Sanità, Dipartimento Farmaci e Farmacovigilanza. For medicinal products for veterinary use: Ministero della Sanità, Dipartimento alimenti e nutrizione e sanità pubblica veterinaria–Div. IX.

Luxembourg: Division de la Pharmacie et des Médicaments.

Netherlands: Staat der Nederlanden.

Austria: Bundesministerium für Arbeit, Gesundheit und Soziales.

Portugal: Instituto da Farmácia e do Medicamento (INFARMED).

Finland: Lääkelaitos/Läkemedelsverket (National Agency for Medicines).

Sweden: Läkemedelsverket–Medical Products Agency.

United Kingdom: For human use and veterinary (non-immunologicals): Medicines Control Agency. For veterinary immunologicals: Veterinary Medicines Directorate.

European Community: Commission of the European Communities. European Agency for the Evaluation of Medicinal Products (EMEA).

Appendix C of Subpart A—Indicative List of Products Covered by Subpart A.

Recognizing that precise definition of medicinal products and drugs are to be found in the legislation referred to above, an indicative list of products covered by this arrangement is given below:

- human medicinal products including prescription and nonprescription drugs;
- human biologicals including vaccines, and immunologicals;
- veterinary pharmaceuticals, including prescription and nonprescription drugs, with the exclusion of veterinary immunologicals (Under 9 CFR 101.2 "veterinary immunologicals" are referred to as "veterinary biologicals");
- premixes for the preparation of veterinary medicated feeds (EC), Type A medicated articles for the preparation of veterinary medicated feeds (United States);
- intermediate products and active pharmaceutical ingredients or bulk pharmaceuticals (United States)/starting materials (EC).

Appendix D of Subpart A—Criteria for Assessing Equivalence for Post- and Preapproval.

I. Legal/Regulatory authority and structures and procedures providing for post- and preapproval:

A. Appropriate statutory mandate and jurisdiction.
B. Ability to issue and update binding requirements on GMP's and guidance documents.
C. Authority to make inspections, review and copy documents, and to take samples and collect other evidence.
D. Ability to enforce requirements and to remove products found in violation of such requirements from the market.
E. Substantive current good manufacturing requirements.
F. Accountability of the regulatory authority.
G. Inventory of current products and manufacturers.
H. System for maintaining or accessing inspection reports, samples and other analytical data, and other firm/product information relating to matters covered by subpart A of this part.

II. Mechanisms in place to assure appropriate professional standards and avoidance of conflicts of interest.

III. Administration of the regulatory authority:

A. Standards of education/qualification and training.
B. Effective quality assurance systems measures to ensure adequate job performance.
C. Appropriate staffing and resources to enforce laws and regulations.

IV. Conduct of inspections:

A. Adequate preinspection preparation, including appropriate expertise of investigator/team, review of firm/product and databases, and availability of appropriate inspection equipment.
B. Adequate conduct of inspection, including statutory access to facilities, effective response to refusals, depth and competence of evaluation of operations, systems and documentation; collection of evidence; appropriate duration of inspection and completeness of written report of observations to firm management.
C. Adequate postinspection activities, including completeness of inspectors' report, inspection report review where appropriate, and conduct of followup inspections and other activities where appropriate, assurance of preservation and retrieval of records.

V. Execution of regulatory enforcement actions to achieve corrections, designed to prevent future violations, and to remove products found in violation of requirements from the market.

VI. Effective use of surveillance systems:

A. Sampling and analysis.
B. Recall monitoring.
C. Product defect reporting system.
D. Routine surveillance inspections.
E. Verification of approved manufacturing process changes to marketing authorizations/approved applications.

VII. Additional specific criteria for preapproval inspections:

A. Satisfactory demonstration through a jointly developed and administered training program and joint inspections to assess the regulatory authorities' capabilities.
B. Preinspection preparation includes the review of appropriate records, including site plans and drug master file or similar documentation to enable adequate inspections.
C. Ability to verify chemistry, manufacturing, and control data supporting an application is authentic and complete.
D. Ability to assess and evaluate research and development data as scientifically sound, especially transfer technology of pilot, scale up and full scale production batches.
E. Ability to verify conformity of the onsite processes and procedures with those described in the application.
F. Review and evaluate equipment installation, operational and performance qualification data, and evaluate test method validation.

Appendix E of Subpart A—Elements to be Considered in Developing a Two-Way Alert System.

1. Documentation

- Definition of a crisis/emergency and under what circumstances an alert is required
- Standard Operating Procedures (SOP's)
- Mechanism of health hazards evaluation and classification
- Language of communication and transmission of information

2. Crisis Management System

- Crisis analysis and communication mechanisms
- Establishment of contact points
- Reporting mechanisms

3. Enforcement Procedures

- Followup mechanisms
- Corrective action procedures

4. Quality Assurance System

- Pharmacovigilance programme
- Surveillance/monitoring of implementation of corrective action

5. Contact Points

For the purpose of subpart A of this part, the contact points for the alert system will be:

A. For the European Community:

the Executive Director of the European Agency for the Evaluation of Medicinal Products, 7, Westferry Circus, Canary Wharf, UK - London E14 4HB, England. Telephone 44–171–418 8400, Fax 418–8416.

B. For the United States :

Biologics: Director, Office of Compliance and Biologics Quality (HFM–600), 1401 Rockville Pike, Rockville, MD 20852, phone: 301–827–6190, fax: 301–594-1944.

Human Drugs: Director, Office of Compliance (HFD–300), MPN I, 7520 Standish Pl., Rockville, MD 20855–2737, phone: 301–594–0054, fax: 301–594–2114.

Veterinary Drugs: Director, Office of Surveillance and Compliance (HFV–200), MPN II, 7500 Standish Pl., Rockville, MD 20855–2773, phone: 301–827–6644, fax: 301–594–1807.

Subpart B—Specific Sector Provisions for Medical Devices

§ 26.31 Purpose.

(a) The purpose of this subpart is to specify the conditions under which a party will accept the results of quality system-related evaluations and inspections and premarket evaluations of the other party with regard to medical devices as conducted by listed conformity assessment bodies (CAB's) and to provide for other related cooperative activities.

(b) This subpart is intended to evolve as programs and policies of the parties evolve. The parties will review this subpart periodically, in order to assess progress and identify potential enhancements to this subpart as Food and Drug Administration (FDA) and European Community (EC) policies evolve over time.

§ 26.32 Scope.

(a) The provisions of this subpart shall apply to the exchange and, where appropriate, endorsement of the following types of reports from conformity assessment bodies (CAB's) assessed to be equivalent:

(1) Under the U.S. system, surveillance/postmarket and initial/preapproval inspection reports;

(2) Under the U.S. system, premarket (510(k)) product evaluation reports;

(3) Under the European Community (EC) system, quality system evaluation reports; and

(4) Under the EC system, EC type examination and verification reports.

(b) Appendix A of this subpart names the legislation, regulations, and related procedures under which:

(1) Products are regulated as medical devices by each party;

(2) CAB's are designated and confirmed; and

(3) These reports are prepared.

(c) For purposes of this subpart, equivalence means that: CAB's in the EC are capable of conducting product and quality systems evaluations against U.S. regulatory requirements in a manner equivalent to those conducted by FDA; and CAB's in the United States are capable of conducting product and quality systems evaluations against EC regulatory requirements in a manner equivalent to those conducted by EC CAB's.

§ 26.33 Product coverage.

(a) There are three components to this subpart each covering a discrete range of products:

(1) *Quality System Evaluations.* U.S.-type surveillance/postmarket and initial/preapproval inspection reports and European Community (EC)-type quality system evaluation reports will be exchanged with regard to all products regulated under both U.S. and EC law as medical devices.

(2) *Product Evaluation.* U.S.-type premarket (510(k)) product evaluation reports and EC-type-testing reports will be exchanged only with regard to those products classified under the U.S. system as Class I/Class II-Tier 2 medical devices which are listed in Appendix B of this subpart.

(3) *Postmarket Vigilance Reports.* Postmarket vigilance reports will be exchanged with regard to all products regulated under both U.S. and EC law as medical devices.

(b) Additional products and procedures may be made subject to this subpart by agreement of the parties.

§ 26.34 Regulatory authorities.

The regulatory authorities shall have the responsibility of implementing the provisions of this subpart, including the designation and monitoring of conformity assessment bodies (CAB's). Regulatory authorities will be specified in Appendix C of this subpart. Each party will promptly notify the other party in writing of any change in the regulatory authority for a country.

§ 26.35 Length and purpose of transition period.

There will be a 3-year transition period immediately following the date described in § 26.80(a). During the transition period, the parties will engage in confidence-building activities for the purpose of obtaining sufficient evidence to make determinations concerning the equivalence of conformity assessment bodies (CAB's) of the other party with respect to the ability to perform quality system and product evaluations or other reviews resulting in reports to be exchanged under this subpart.

§ 26.36 Listing of CAB's.

Each party shall designate conformity assessment bodies (CAB's) to participate in confidence building activities by transmitting to the other party a list of CAB's which meet the criteria for technical competence and independence, as identified in Appendix A of this subpart. The list shall be accompanied by supporting evidence. Designated CAB's will be listed in Appendix D of this subpart for participation in the confidence building activities once confirmed by the importing party. Nonconfirmation would have to be justified based on documented evidence.

§ 26.37 Confidence building activities.

(a) At the beginning of the transitional period, the Joint Sectoral Group will establish a joint confidence building program calculated to provide sufficient evidence of the capabilities of the designated conformity assessment bodies (CAB's) to perform quality system or product evaluations to the specifications of the parties.

(b) The joint confidence building program should include the following actions and activities:

(1) Seminars designed to inform the parties and CAB's about each party's regulatory system, procedures, and requirements;

(2) Workshops designed to provide the parties with information regarding requirements and procedures for the designation and surveillance of CAB's;

(3) Exchange of information about reports prepared during the transition period;

(4) Joint training exercises; and

(5) Observed inspections.

(c) During the transition period, any significant problem that is identified with a CAB may be the subject of cooperative activities, as resources allow and as agreed to by the regulatory authorities, aimed at resolving the problem.

(d) Both parties will exercise good faith efforts to complete the confidence building activities as expeditiously as possible to the extent that the resources of the parties allow.

(e) Both the parties will each prepare annual progress reports which will describe the confidence building activities undertaken during each year of the transition period. The form and content of the reports will be determined by the parties through the Joint Sectoral Committee.

§ 26.38 Other transition period activities.

(a) During the transition period, the parties will jointly determine the necessary information which must be present in quality system and product evaluation reports.

(b) The parties will jointly develop a notification and alert system to be used in case of defects, recalls, and other problems concerning product quality that could necessitate additional actions (e.g., inspections by the parties of the importing country) or suspension of the distribution of the product.

§ 26.39 Equivalence assessment.

(a) In the final 6 months of the transition period, the parties shall proceed to a joint assessment of the equivalence of the conformity assessment bodies (CAB's) that participated in the confidence building activities. CAB's will be determined to be equivalent provided they have demonstrated proficiency through the submission of a sufficient number of adequate reports. CAB's may be determined to be equivalent with regard to the ability to perform any type of quality system or product evaluation covered by this subpart and with regard to any type of product covered by this subpart. The parties shall develop a list contained in Appendix E of this subpart of CAB's determined to be equivalent, which shall contain a full explanation of the scope of the equivalency determination, including any appropriate limitations, with regard to performing any type of quality system or product evaluation.

(b) The parties shall allow CAB's not listed for participation in this subpart, or listed for participation only as to certain types of evaluations, to apply for participation in this subpart once the necessary measures have been taken or sufficient experience has been gained, in accordance with § 26.46.

(c) Decisions concerning the equivalence of CAB's must be agreed to by both parties.

§ 26.40 Start of the operational period.

(a) The operational period will start at the end of the transition period after the parties have developed the list of conformity assessment bodies (CAB's) found to be equivalent. The provisions of §§ 26.40, 26.41, 26.42, 26.43, 26.44, 26.45, and 26.46 will apply only with regard to listed CAB's and only to the extent of any specifications and limitations contained on the list with regard to a CAB.

(b) The operational period will apply to quality system evaluation reports and product evaluation reports generated by CAB's listed in accordance with this subpart for the evaluations performed in the respective territories of the parties, except if the parties agree otherwise.

§ 26.41 Exchange and endorsement of quality system evaluation reports.

(a) Listed European Community (EC) conformity assessment bodies (CAB's) will provide FDA with reports of quality system evaluations, as follows:

(1) For preapproval quality system evaluations, EC CAB's will provide full reports; and

(2) For surveillance quality system evaluations, EC CAB's will provide abbreviated reports.

(b) Listed U.S. CAB's will provide to the EC Notified Body of the manufacturer's choice:

(1) Full reports of initial quality system evaluations;

(2) Abbreviated reports of quality systems surveillance audits.

(c) If the abbreviated reports do not provide sufficient information, the importing party may request additional clarification from the CAB.

(d) Based on the determination of equivalence in light of the experience gained, the quality system evaluation reports prepared by the CAB's listed as equivalent will normally be endorsed by the importing party, except under specific and delineated circumstances. Examples of such circumstances include indications of material inconsistencies or inadequacies in a report, quality defects identified in postmarket surveillance or other specific evidence of serious concern in relation to product quality or consumer safety. In such cases, the importing party may request clarification from the exporting party which may lead to a request for reinspection. The parties will endeavor to respond to requests for clarification in a timely manner. Where divergence is not clarified in this process, the importing party may carry out the quality system evaluation.

§ 26.42 Exchange and endorsement of product evaluation reports.

(a) European Community (EC) conformity assessment bodies (CAB's) listed for this purpose will, subject to the specifications and limitations on the list, provide to FDA 510(k) premarket notification assessment reports prepared to U.S. medical device requirements.

(b) U.S. CAB's will, subject to the specifications and limitations on the list, provide to the EC Notified Body of the manufacturer's choice, type examination, and verification reports prepared to EC medical device requirements.

(c) Based on the determination of equivalence in light of the experience gained, the product evaluation reports prepared by the CAB's listed as equivalent will normally be endorsed by the importing party, except under specific and delineated circumstances. Examples of such circumstances include indications of material inconsistencies, inadequacies, or incompleteness in a product evaluation report, or other specific evidence of serious concern in relation to product safety, performance, or quality. In such cases, the importing party may request clarification from the exporting party which may lead to a request for a reevaluation. The parties will endeavor to respond to requests for clarification in a timely manner. Endorsement remains the responsibility of the importing party.

§ 26.43 Transmission of quality system evaluation reports.

Quality system evaluation reports covered by § 26.41 concerning products covered by this subpart shall be transmitted to the importing party within 60-calendar days of a request by the importing party. Should a new inspection be requested, the time period shall be extended by an additional 30-calendar days. A party may request a new inspection, for cause, identified to the other party. If the exporting party cannot perform an inspection within a specified period of time, the importing party may perform an inspection on its own.

§ 26.44 Transmission of product evaluation reports.

Transmission of product evaluation reports will take place according to the importing party's specified procedures.

§ 26.45 Monitoring continued equivalence.

Monitoring activities will be carried out in accordance with § 26.69.

§ 26.46 Listing of additional CAB's.

(a) During the operational period, additional conformity assessment bodies (CAB's) will be considered for equivalence using the procedures and criteria described in §§ 26.36, 26.37, and 26.39, taking into account the level of confidence gained in the overall regulatory system of the other party.

(b) Once a designating authority considers that such CAB's, having undergone the procedures of §§ 26.36, 26.37, and 26.39, may be determined to be equivalent, it will then designate those bodies on an annual basis. Such procedures satisfy the procedures of § 26.66(a) and (b).

(c) Following such annual designations, the procedures for confirmation of CAB's under § 26.66(c) and (d) shall apply.

§ 26.47 Role and composition of the Joint Sectoral Committee.

(a) The Joint Sectoral Committee for this subpart is set up to monitor the activities under both the transitional and operational phases of this subpart.

(b) The Joint Sectoral Committee will be cochaired by a representative of the Food and Drug Administration (FDA) for the United States and a representative of the European Community (EC) who will each have one vote. Decisions will be taken by unanimous consent.

(c) The Joint Sectoral Committee's functions will include:

(1) Making a joint assessment of the equivalence of conformity assessment bodies (CAB's);

(2) Developing and maintaining the list of equivalent CAB's, including any limitation in terms of their scope of activities and communicating the list to all authorities and the Joint Committee described in subpart C of this part;

(3) Providing a forum to discuss issues relating to this subpart, including concerns that a CAB may no longer be equivalent and opportunity to review product coverage; and

(4) Consideration of the issue of suspension.

§ 26.48 Harmonization.

During both the transitional and operational phases of this subpart, both parties intend to continue to participate in the activities of the Global Harmonization Task Force (GHTF) and utilize the results of those activities to the extent possible. Such participation involves developing and reviewing documents developed by the GHTF and jointly determining whether they are applicable to the implementation of this subpart.

§ 26.49 Regulatory cooperation.

(a) The parties and authorities shall inform and consult with one another, as permitted by law, of proposals to introduce new controls or to change existing technical regulations or inspection procedures and to provide the opportunity to comment on such proposals.

(b) The parties shall notify each other in writing of any changes to Appendix A of this subpart.

§ 26.50 Alert system and exchange of postmarket vigilance reports.

(a) An alert system will be set up during the transition period and maintained thereafter by which the parties will notify each other when there is an immediate danger to public health. Elements of such a system will be described in an Appendix F of this subpart. As part of that system, each party shall notify the other party of any confirmed problem reports, corrective actions, or recalls. These reports are regarded as part of ongoing investigations.

(b) Contact points will be agreed between both parties to permit authorities to be made aware with the appropriate speed in case of quality defect, batch recalls, counterfeiting and other problems concerning quality, which could necessitate additional controls or suspension of the distribution of the product.

Appendix A of Subpart B—Relevant Legislation, Regulations, and Procedures.

1. For the European Community (EC) the following legislation applies to § 26.42(a) of this subpart:

[Copies of EC documents may be obtained from the European Document Research, 1100 17th St. NW., suite 301, Washington, DC 20036.]

a. Council Directive 90/385/EEC of 20 June 1990 on active implantable medical devices OJ No. L 189, 20.7. 1990, p. 17. Conformity assessment procedures.
Annex 2 (with the exception of section 4)
Annex 4
Annex 5

b. Council Directive 93/42/EEC of 14 June 1993 on Medical Devices OJ No. L 169,12.7.1993, p.1. Conformity assessment procedures.
Annex 2 (with the exception of section 4)
Annex 3
Annex 4
Annex 5
Annex 6

2. For the United States, the following legislation applies to § 26.32(a):

[Copies of FDA documents may be obtained from the Government Printing Office, 1510 H St. NW., Washington, DC 20005. FDA documents may be viewed on FDA's Internet web site at "http://www.fda.gov".]

a. The Federal Food, Drug and Cosmetic Act, 21 U.S.C. 321 *et seq.*
b. The Public Health Service Act, 42 U.S.C. 201 *et seq.*
c. Regulations of the United States Food and Drug Administration found at 21 CFR, in particular, Parts 800 to 1299.
d. Medical Devices; Third Party Review of Selected Premarket Notifications; Pilot Program, 61 FR 14789–14796 (April 3, 1996).
e. Draft Guidance Document on Accredited Persons Program, 63 FR 28392 (May 22, 1998).
f. Draft Guidance for Staff, Industry and Third Parties, Third Party Programs under the Sectoral Annex on Medical Devices to the Agreement on Mutual Recognition Between the United States of America and the European Community (MRA), 63 FR 36240 (July 2, 1998).
g. Guidance Document on Use of Standards, 63 FR 9561 (February 25, 1998).

Appendix B of Subpart B—Scope of Product Coverage.

1. Initial Coverage of the Transition Period

Upon entry into force of this subpart as described in § 26.80 (it is understood that the date of entry into force will not occur prior to June 1, 1998, unless the parties decide otherwise), products qualifying for the transitional arrangements under this subpart include:

a. All Class I products requiring premarket evaluations in the United States—see Table 1.
b. Those Class II products listed in Table 2.

2. During the Transition Period

The parties will jointly identify additional product groups, including their related accessories, in line with their respective priorities as follows:

a. Those for which review may be based primarily on written guidance which the parties will use their best efforts to prepare expeditiously; and
b. Those for which review may be based primarily on international standards, in order for the parties to gain the requisite experience.

The corresponding additional product lists will be phased in on an annual basis. The parties may consult with industry and other interested parties in determining which products will be added.

3. Commencement of the Operational Period

a. At the commencement of the operational period, product coverage shall extend to all Class I/II products covered during the transition period.
b. FDA will expand the program to categories of Class II devices as is consistent with the results of the pilot, and with FDA's ability to write guidance documents if the device pilot for the third party review of medical devices is successful. The MRA will cover to the maximum extent feasible all Class II devices listed in Table 3 for which FDA-accredited third party review is available in the United States.

4. Unless explicitly included by joint decision of the parties, this part does not cover any U.S. Class II-tier 3 or any Class III product under either system.

[The lists of medical devices included in these tables are subject to change as a result of the Food and Drug Administration Modernization Act of 1997.]

Table 1.—Class I Products Requiring Premarket Evaluations in the United States, Included in Scope of Product Coverage at Beginning of Transition Period[1]

21 CFR Section No.	Regulation Name Product Code—Device Name
Anesthesiology Panel (21 CFR Part 868)	
868.1910	Esophageal Stethoscope BZW—Stethoscope, Esophageal
868.5620	Breathing Mouthpiece BYP—Mouthpiece, Breathing
868.5640	Medicinal Nonventilatory Nebulizer (Atomizer) CCQ—Nebulizer, Medicinal, Nonventilatory (Atomizer)
868.5675	Rebreathing Device BYW—Device, Rebreathing
868.5700	Nonpowered Oxygen Tent FOG—Hood, Oxygen, Infant BYL—Tent, Oxygen
868.6810	Tracheobronchial Suction Catheter BSY—Catheters, Suction, Tracheobronchial
Cardiovascular Panel	
(None)	
Dental Panel (21 CFR Part 872)	
872.3400	Karaya and Sodium Borate With or Without Acacia Denture Adhesive KOM—Adhesive, Denture, Acacia and Karaya With Sodium Borate

Table 1.—Class I Products Requiring Premarket Evaluations in the United States, Included in Scope of Product Coverage at Beginning of Transition Period[1]—Continued

21 CFR Section No.	Regulation Name Product Code—Device Name
872.3700	Dental Mercury (U.S.P.) ELY—Mercury
872.4200	Dental Handpiece and Accessories EBW—Controller, Food, Handpiece and Cord EFB—Handpiece, Air-Powered, Dental EFA—Handpiece, Belt and/or Gear Driven, Dental EGS—Handpiece, Contra- and Right-Angle Attachment, Dental EKX—Handpiece, Direct Drive, AC-Powered EKY—Handpiece, Water-Powered
872.6640	Dental Operative Unit and Accessories EIA—Unit, Operative Dental
Ear, Nose, and Throat Panel (21 CFR Part 874)	
874.1070	Short Increment Sensitivity Index (SISI) Adapter ETR—Adapter, Short Increment Sensitivity Index (SISI)
874.1500	Gustometer ETM—Gustometer
874.1800	Air or Water Caloric Stimulator KHH—Stimulator, Caloric-Air ETP—Stimulator, Caloric-Water
874.1925	Toynbee Diagnostic Tube ETK—Tube, Toynbee Diagnostic
874.3300	Hearing Aid LRB—Face Plate Hearing-Aid ESD—Hearing-aid, Air-Conduction
874.4100	Epistaxis Balloon EMX—Balloon, Epistaxis
874.5300	ENT Examination and Treatment Unit ETF—Unit, Examining/Treatment, ENT
874.5550	Powered Nasal Irrigator KMA—Irrigator, Powered Nasal
874.5840	Antistammering Device KTH—Device, Anti-Stammering
Gastroenterology—Urology Panel (21 CFR Part 876)	
876.5160	Urological Clamp for Males FHA—Clamp, Penile
876.5210	Enema Kit FCE—Kit, Enema, (for Cleaning Purpose)
876.5250	Urine Collector and Accessories FAQ—Bag, Urine Collection, Leg, for External Use
General Hospital Panel (21 CFR Part 880)	
880.5270	Neonatal Eye Pad FOK—Pad, Neonatal Eye
880.5420	Pressure Infusor for an I.V. Bag KZD—Infusor, Pressure, for I.V. Bags
880.5680	Pediatric Position Holder FRP—Holder, Infant Position
880.6250	Patient Examination Glove LZB—Finger Cot FMC—Glove, Patient Examination LYY—Glove, Patient Examination, Latex LZA—Glove, Patient Examination, Poly LZC—Glove, Patient Examination, Speciality LYZ—Glove, Patient Examination, Vinyl
880.6375	Patient Lubricant KMJ—Lubricant, Patient
880.6760	Protective Restraint BRT—Restraint, Patient, Conductive FMQ—Restraint, Protective
Neurology Panel (21 CFR Part 882)	
882.1030	Ataxiagraph GWW—Ataxiagraph
882.1420	Electroencephalogram (EEG) Signal Spectrum Analyzer GWS—Analyzer, Spectrum, Electroencephalogram Signal
882.4060	Ventricular Cannula HCD—Cannula, Ventricular
882.4545	Shunt System Implantation Instrument GYK—Instrument, Shunt System Implantation
882.4650	Neurosurgical Suture Needle HAS—Needle, Neurosurgical Suture

Table 1.—Class I Products Requiring Premarket Evaluations in the United States, Included in Scope of Product Coverage at Beginning of Transition Period[1]—Continued

21 CFR Section No.	Regulation Name Product Code—Device Name
882.4750	Skull Punch GXJ—Punch, Skull
Obstetrics and Gynecology Panel	
(None)	
Ophthalmology Panel (21 CFR Part 886)	
886.1780	Retinoscope HKM—Retinoscope, Battery-Powered
886.1940	Tonometer Sterilizer HKZ—Sterilizer, Tonometer
886.4070	Powered Corneal Burr HQS—Burr, Corneal, AC-Powered HOG—Burr, Corneal, Battery-Powered HRG—Engine, Trephine, Accessories, AC-Powered HFR—Engine, Trephine, Accessories, Battery-Powered HLD—Engine, Trephine, Accessories, Gas-Powered
886.4370	Keratome HNO—Keratome, AC-Powered HMY—Keratome, Battery-Powered
886.5850	Sunglasses (Nonprescription) HQY—Sunglasses (Nonprescription Including Photosensitive)
Orthopedic Panel (21 CFR Part 888)	
888.1500	Goniometer KQX—Goniometer, AC-Powered
888.4150	Calipers for Clinical Use KTZ—Caliper
Physical Medicine Panel (21 CFR Part 890)	
890.3850	Mechanical Wheelchair LBE—Stroller, Adaptive IOR—Wheelchair, Mechanical
890.5180	Manual Patient Rotation Bed INY—Bed, Patient Rotation, Manual
890.5710	Hot or Cold Disposable Pack IMD—Pack, Hot or Cold, Disposable
Radiology Panel (21 CFR Part 892)	
892.1100	Scintillation (Gamma) Camera IYX—Camera, Scintillation (Gamma)
892.1110	Positron Camera IZC—Camera, Positron
892.1300	Nuclear Rectilinear Scanner IYW—Scanner, Rectilinear, Nuclear
892.1320	Nuclear Uptake Probe IZD—Probe, Uptake, Nuclear
892.1330	Nuclear Whole Body Scanner JAM—Scanner, Whole Body, Nuclear
892.1410	Nuclear Electrocardiograph Synchronizer IVY—Synchronizer, Electrocardiograph, Nuclear
892.1890	Radiographic Film Illuminator IXC—Illuminator, Radiographic-Film
892.1910	JAG—Illuminator, Radiographic-Film, Explosion-Proof Radiographic Grid
892.1960	IXJ—Grid, Radiographic Radiographic Intensifying Screen
892.1970	EAM—Screen, Intensifying, Radiographic Radiographic ECG/Respirator Synchronizer
892.5650	IXO—Synchronizer, ECG/Respirator, Radiographic Manual Radionuclide Applicator System
	IWG—System, Applicator, Radionuclide, Manual
General and Plastic Surgery Panel (21 CFR Part 878)	
878.4200	Introduction/Drainage Catheter and Accessories KGZ—Accessories, Catheter GCE—Adaptor, Catheter FGY—Cannula, Injection GBA—Catheter, Balloon Type GBZ—Catheter, Cholangiography GBQ—Catheter, Continuous Irrigation GBY—Catheter, Eustachian, General & Plastic Surgery JCY—Catheter, Infusion GBX—Catheter, Irrigation GBP—Catheter, Multiple Lumen

Table 1.—Class I Products Requiring Premarket Evaluations in the United States, Included in Scope of Product Coverage at Beginning of Transition Period[1]—Continued

21 CFR Section No.	Regulation Name Product Code—Device Name
	GBO—Catheter, Nephrostomy, General & Plastic Surgery GBN—Catheter, Pediatric, General & Plastic Surgery GBW—Catheter, Peritoneal GBS—Catheter, Ventricular, General & Plastic Surgery GCD—Connector, Catheter GCC—Dilator, Catheter GCB—Needle, Catheter
878.4320	Removable Skin Clip FZQ—Clip, Removable (Skin)
878.4460	Surgeon's Gloves KGO—Surgeon's Gloves
878.4680	Nonpowered, Single Patient, Portable Suction Apparatus GCY—Apparatus, Suction, Single Patient Use, Portable, Nonpowered
878.4760	Removable Skin Staple GDT—Staple, Removable (Skin)
878.4820	AC-Powered, Battery-Powered, and Pneumatically Powered Surgical Instrument Motors and Accessories/Attachments GFG—Bit, Surgical GFA—Blade, Saw, General & Plastic Surgery DWH—Blade, Saw, Surgical, Cardiovascular BRZ—Board, Arm (With Cover) GFE—Brush, Dermabrasion GFF—Bur, Surgical, General & Plastic Surgery KDG—Chisel (Osteotome) GFD—Dermatome GFC—Driver, Surgical, Pin GFB—Head, Surgical, Hammer GEY—Motor, Surgical Instrument, AC-Powered GET—Motor, Surgical Instrument, Pneumatic Powered DWI—Saw, Electrically Powered KFK—Saw, Pneumatically Powered HAB—Saw, Powered, and Accessories
878.4960	Air or AC-Powered Operating Table and Air or AC-Powered Operating Chair & Accessories GBB—Chair, Surgical, AC-Powered FQO—Table, Operating-Room, AC-Powered GDC—Table, Operating-Room, Electrical FWW—Table, Operating-Room, Pneumatic JEA—Table, Surgical with Orthopedic Accessories, AC-Powered
880.5090	Liquid Bandage KMF—Bandage, Liquid

[1]Descriptive information on product codes, panel codes, and other medical device identifiers may be viewed on FDA's Internet Web Site at "http://www.fda.gov/cdrh/prodcode.html".

Table 2.—Class II Medical Devices Included in Scope of Product Coverage at Beginning of Transition Period (United States to develop guidance documents identifying U.S. requirements and European Community (EC) to identify standards needed to meet EC requirements)[1]

Panel	21 CFR Section No.	Regulation Name Product Code—Device Name
RA	892.1000	Magnetic Resonance Diagnostic Device MOS—COIL, Magnetic Resonance, Specialty LNH—System, Nuclear Magnetic Resonance Imaging LNI—System, Nuclear Magnetic Resonance Spectroscopic
Diagnostic Ultrasound:		
RA	892.1540	Nonfetal Ultrasonic Monitor JAF—Monitor, Ultrasonic, Nonfetal
RA	892.1550	Ultrasonic Pulsed Doppler Imaging System IYN—System, Imaging, Pulsed Doppler, Ultrasonic
RA	892.1560	Ultrasonic Pulsed Echo Imaging System IYO—System, Imaging, Pulsed Echo, Ultrasonic
RA	892.1570	Diagnostic Ultrasonic Transducer ITX—Transducer, Ultrasonic, Diagnostic

Table 2.—Class II Medical Devices Included in Scope of Product Coverage at Beginning of Transition Period (United States to develop guidance documents identifying U.S. requirements and European Community (EC) to identify standards needed to meet EC requirements)[1]—Continued

Panel	21 CFR Section No.	Regulation Name
		Product Code—Device Name
Diagnostic X-Ray Imaging Devices (except mammographic x-ray systems):		
RA	892.1600	Angiographic X-Ray System IZI—System, X-Ray, Angiographic
RA	892.1650	Image-Intensified Fluoroscopic X-Ray System MQB—Solid State X-Ray Imager (Flat Panel/Digital Imager) JAA—System, X-Ray, Fluoroscopic, Image-Intensified
RA	892.1680	Stationary X-Ray System KPR—System, X-Ray, Stationary
RA	892.1720	Mobile X-Ray System IZL—System, X-Ray, Mobile
RA	892.1740	Tomographic X-Ray System IZF—System, X-Ray, Tomographic
RA	892.1750	Computed Tomography X-Ray System JAK—System, X-Ray, Tomography, Computed
ECG-Related Devices:		
CV	870.2340	Electrocardiograph DPS—Electrocardiograph
CV	870.2350	MLC—Monitor, ST Segment Electrocardiograph Lead Switching Adaptor DRW—Adaptor, Lead Switching, Electrocardiograph
CV	870.2360	Electrocardiograph Electrode DRX—Electrode, Electrocardiograph
CV	870.2370	Electrocardiograph Surface Electrode Tester KRC—Tester, Electrode, Surface, Electrocardiographic
NE	882.1400	Electroencephalograph GWQ—Electroencephalograph
HO	880.5725	Infusion Pump (external only) MRZ—Accessories, Pump, Infusion FRN—Pump, Infusion LZF—Pump, Infusion, Analytical Sampling MEB—Pump, Infusion, Elastomeric LZH—Pump, Infusion, Enteral MHD—Pump, Infusion, Gallstone Dissolution LZG—Pump, Infusion, Insulin MEA—Pump, Infusion, PCA
Ophthalmic Instruments:		
OP	886.1570	Ophthalmoscope HLI—Ophthalmoscope, AC-Powered HLJ—Ophthalmoscope, Battery-Powered
OP	886.1780	Retinoscope HKL—Retinoscope, AC-Powered
OP	886.1850	AC-Powered Slit-Lamp Biomicroscope HJO—Biomicroscope, Slit-Lamp, AC-Powered
OP	886.4150	Vitreous Aspiration and Cutting Instrument MMC—Dilator, Expansive Iris (Accessory) HQE—Instrument, Vitreous Aspiration and Cutting, AC-Powered HKP—Instrument, Vitreous Aspiration and Cutting, Battery-Powered MLZ—Vitrectomy, Instrument Cutter
OP	886.4670	Phacofragmentation System HQC—Unit, Phacofragmentation
SU	878.4580	Surgical Lamp HBI—Illuminator, Fiberoptic, Surgical Field FTF—Illuminator, Nonremote FTG—Illuminator, Remote HJE—Lamp, Fluorescein, AC-Powered FQP—Lamp, Operating-Room FTD—Lamp, Surgical GBC—Lamp, Surgical, Incandescent FTA—Light, Surgical, Accessories FSZ—Light, Surgical, Carrier FSY—Light, Surgical, Ceiling Mounted FSX—Light, Surgical, Connector FSW—Light, Surgical, Endoscopic FST—Light, Surgical, Fiberoptic FSS—Light, Surgical, Floor Standing

Table 2.—Class II Medical Devices Included in Scope of Product Coverage at Beginning of Transition Period (United States to develop guidance documents identifying U.S. requirements and European Community (EC) to identify standards needed to meet EC requirements)[1]—Continued

Panel	21 CFR Section No.	Regulation Name
		Product Code—Device Name
NE	882.5890	FSQ—Light, Surgical, Instrument Transcutaneous Electrical Nerve Stimulator for Pain Relief GZJ—Stimulator, Nerve, Transcutaneous, For Pain Relief
CV	870.1120	Noninvasive Blood Pressure Measurement Devices: Blood Pressure Cuff . DXQ—Cuff, Blood-Pressure
CV	870.1130	Noninvasive Blood Pressure Measurement System (except nonoscillometric) DXN—System, Measurement, Blood-Pressure, Noninvasive
HO	880.6880	Steam Sterilizer (greater than 2 cubic feet) FLE—Sterilizer, Steam
Clinical Thermometers:		
HO	880.2910	Clinical Electronic Thermometer (except tympanic or pacifier) FLL—Thermometer, Electronic, Clinical
AN	868.5630	Nebulizer CAF—Nebulizer (Direct Patient Interface)
AN	868.5925	Powered Emergency Ventilator
Hypodermic Needles and Syringes (except antistick and sell-destruct):		
HO	880.5570	Hypodermic Single Lumen Needle MMK—Container, Sharpes FMI—Needle, Hypodermic, Single Lumen MHC—Port, Intraosseous, Implanted
HO	880.5860	Piston Syringe FMF—Syringe, Piston
OR	888.3020	Intramedullary Fixation Rod HSB—ROD, Fixation, Intramedullary and Accessories
External Fixators (except devices with no external components):		
OR	888.3030	Single/Multiple Component Metallic Bone Fixation Appliances and Accessories KTT—Appliance, Fixation, Nail/Blade/Plate Combination, Multiple Component
OR	888.3040	Smooth or Threaded Metallic Bone Fixation Fastener JEC—Component, Traction, Invasive HTY—Pin, Fixation, Smooth JDW—Pin, Fixation, Threaded
Selected Dental Materials:		
DE	872.3060	Gold-Based Alloys and Precious Metal Alloys for Clinical Use EJT—Alloy, Gold Based, For Clinical Use EJS—Alloy, Precious Metal, For Clinical Use
DE	872.3200	Resin Tooth Bonding Agent KLE—Agent, Tooth Bonding, Resin
DE	872.3275	Dental Cement EMA—Cement, Dental EMB—Zinc Oxide Eugenol
DE	872.3660	Impression Material ELW—Material, Impression
DE	872.3690	Tooth Shade Resin Material EBF—Material, Tooth Shade, Resin
DE	872.3710	Base Metal Alloy EJH—Metal, Base
Latex Condoms:		
OB	884.5300	Condom HIS—Condom

[1]Descriptive information on product codes, panel codes, and other medical device identifiers may be viewed on FDA's Internet Web Site at "http://www.fda.gov/cdrh/prodcode.html".

Table 3.—Medical Devices for Possible Inclusion in Scope of Product Coverage During Operational Period[1]

Product Family	21 CFR Section No	Device Name	Tier
Anesthesiology Panel			
Anesthesia Devices	868.5160	Gas machine for anesthesia or analgesia	2
	868.5270	Breathing system heater	2

Table 3.—Medical Devices for Possible Inclusion in Scope of Product Coverage During Operational Period[1]—Continued

Product Family	21 CFR Section No	Device Name	Tier
	868.5440	Portable oxygen generator	2
	868.5450	Respiratory gas humidifier	2
	868.5630	Nebulizer	2
	868.5710	Electrically powered oxygen tent	2
	868.5880	Anesthetic vaporizer	2
Gas Analyser	868.1040	Powered Algesimeter	2
	868.1075	Argon gas analyzer	2
	868.1400	Carbon dioxide gas analyzer	2
	868.1430	Carbon monoxide gas analyzer	2
	868.1500	Enflurane gas analyzer	2
	868.1620	Halothane gas analyzer	2
	868.1640	Helium gas analyzer	2
	868.1670	Neon gas analyzer	2
	868.1690	Nitrogen gas analyzer	2
	868.1700	Nitrous oxide gas analyzer	2
	868.1720	Oxygen gas analyzer	2
	868.1730	Oxygen uptake computer	2
Peripheral Nerve Stimulators	868.2775	Electrical peripheral nerve stimulator	2
Respiratory Monitoring	868.1750	Pressure plethysmograph	2
	868.1760	Volume plethysmograph	2
	868.1780	Inspiratory airway pressure meter	2
	868.1800	Rhinoanemometer	2
	868.1840	Diagnostic spirometer	2
	868.1850	Monitoring spirometer	2
	868.1860	Peak-flow meter for spirometry	2
	868.1880	Pulmonary-function data calculator	2
	868.1890	Predictive pulmonary-function value calculator	2
	868.1900	Diagnostic pulmonary-function interpretation calculator	2
	868.2025	Ultrasonic air embolism monitor	2
	868.2375	Breathing frequency monitor (except apnea detectors)	2
	868.2480	Cutaneous carbon dioxide ($PcCO_2$) monitor	2
	868.2500	Cutaneous oxygen monitor (for an infant not under gas anesthesia)	2
	868.2550	Pneumotachomometer	2
	868.2600	Airway pressure monitor	2
	868.5665	Powered percussor	2
	868.5690	Incentive spirometer	2
Ventilator	868.5905	Noncontinuous ventilator (IPPB)	2
	868.5925	Powered emergency ventilator	2
	868.5935	External negative pressure ventilator	2
	868.5895	Continuous ventilator	2
	868.5955	Intermittent mandatory ventilation attachment	2
	868.6250	Portable air compressor	2
Cardiovascular Panel			
Cardiovascular Diagnostic	870.1425	Programmable diagnostic computer	2
	870.1450	Densitometer	2
	870.2310	Apex cardiograph (vibrocardiograph)	2
	870.2320	Ballistocardiograph	2
	870.2340	Electrocardiograph	2
	870.2350	Electrocardiograph lead switching adaptor	1
	870.2360	Electrocardiograph electrode	2
	870.2370	Electrocardiograph surface electrode tester	2
	870.2400	Vectorcardiograph	1
	870.2450	Medical cathode-ray tube display	1
	870.2675	Oscillometer	2
	870.2840	Apex cardiographic transducer	2
	870.2860	Heart sound transducer	2

Table 3.—Medical Devices for Possible Inclusion in Scope of Product Coverage During Operational Period[1]—Continued

Product Family	21 CFR Section No	Device Name	Tier
Cardiovascular Monitoring		Valve, pressure relief, cardiopulmonary bypass	
	870.1100	Blood pressure alarm	2
	870.1110	Blood pressure computer	2
	870.1120	Blood pressure cuff	2
	870.1130	Noninvasive blood pressure measurement system	2
	870.1140	Venous blood pressure manometer	2
	870.1220	Electrode recording catheter or electrode recording probe	2
	870.1270	Intracavitary phonocatheter system	2
	870.1875	Stethoscope (electronic)	2
	870.2050	Biopotential amplifier and signal conditioner	2
	870.2060	Transducer signal amplifier and conditioner	2
	870.2100	Cardiovascular blood flow-meter	2
	870.2120	Extravascular blood flow probe	2
	870.2300	Cardiac monitor (including cardiotachometer and rate alarm)	2
	870.2700	Oximeter	2
	870.2710	Ear oximeter	2
	870.2750	Impedance phlebograph	2
	870.2770	Impedance plethysmograph	2
	870.2780	Hydraulic, pneumatic, or photoelectric plethysmographs	2
	870.2850	Extravascular blood pressure transducer	2
	870.2870	Catheter tip pressure transducer	2
	870.2880	Ultrasonic transducer	2
	870.2890	Vessel occlusion transducer	2
	870.2900	Patient transducer and electrode cable (including connector)	2
	870.2910	Radiofrequency physiological signal transmitter and receiver	2
	870.2920	Telephone electrocardiograph transmitter and receiver	2
	870.4205	Cardiopulmonary bypass bubble detector	2
	870.4220	Cardiopulmonary bypass heart-lung machine console	2
	870.4240	Cardiovascular bypass heat exchanger	2
	870.4250	Cardiopulmonary bypass temperature controller	2
	870.4300	Cardiopulmonary bypass gas control unit	2
	870.4310	Cardiopulmonary bypass coronary pressure gauge	2
	870.4330	Cardiopulmonary bypass on-line blood gas monitor	2
	870.4340	Cardiopulmonary bypass level sensing monitor and/or control	2
	870.4370	Roller-type cardiopulmonary bypass blood pump	2
	870.4380	Cardiopulmonary bypass pump speed control	2
	870.4410	Cardiopulmonary bypass in-line blood gas sensor	2
Cardiovascular Therapeutic	870.5050	Patient care suction apparatus	2
	870.5900	Thermal regulation system	2
Defibrillator	870.5300	DC-defibrillator (including paddles)	2
	870.5325	Defibrillator tester	2
Echocardiograph	870.2330	Echocardiograph	2
Pacemaker & Accessories	870.1750	External programmable pacemaker pulse generator	2
	870.3630	Pacemaker generator function analyzer	2

Table 3.—Medical Devices for Possible Inclusion in Scope of Product Coverage During Operational Period[1]—Continued

Product Family	21 CFR Section No	Device Name	Tier
	870.3640	Indirect pacemaker generator function analyzer	2
	870.3720	Pacemaker electrode function tester	2
Miscellaneous	870.1800	Withdrawal-infusion pump	2
	870.2800	Medical magnetic tape recorder	2
	None	Batteries, rechargeable, class II devices	
Dental Panel			
Dental Equipment	872.1720	Pulp tester	2
	872.1740	Caries detection device	2
	872.4120	Bone cutting instrument and accessories	2
	872.4465	Gas-powered jet injector	2
	872.4475	Spring-powered jet injector	2
	872.4600	Intraoral ligature and wire lock	2
	872.4840	Rotary scaler	2
	872.4850	Ultrasonic scaler	2
	872.4920	Dental electrosurgical unit and accessories	2
	872.6070	Ultraviolet activator for polymerization	2
	872.6350	Ultraviolet detector	2
Dental Material	872.3050	Amalgam alloy	2
	872.3060	Gold-based alloys and precious metal alloys for clinical use	2
	872.3200	Resin tooth bonding agent	2
	872.3250	Calcium hydroxide cavity liner	2
	872.3260	Cavity varnish	2
	872.3275	Dental cement (other than zinc oxide-eugenol)	2
	872.3300	Hydrophilic resin coating for dentures	2
	872.3310	Coating material for resin fillings	2
	872.3590	Preformed plastic denture tooth	2
	872.3660	Impression material	2
	872.3690	Tooth shade resin material	2
	872.3710	Base metal alloy	2
	872.3750	Bracket adhesive resin and tooth conditioner	2
	872.3760	Denture relining, repairing, or rebasing resin	2
	872.3765	Pit and fissure sealant and conditioner	2
	872.3770	Temporary crown and bridge resin	2
	872.3820	Root canal filling resin (other than chloroform use)	2
	872.3920	Porcelain tooth	2
Dental X-ray	872.1800	Extraoral source x-ray system	2
	872.1810	Intraoral source x-ray system	2
Dental Implants	872.4880	Intraosseous fixation screw or wire	2
	872.3890	Endodontic stabilizing splint	2
Orthodontic	872.5470	Orthodontic plastic bracket	2
Ear/Nose/Throat Panel			
Diagnostic Equipment	874.1050	Audiometer	2
	874.1090	Auditory impedance tester	2
	874.1120	Electronic noise generator for audiometric testing	2
	874.1325	Electroglottograph	2
	874.1820	Surgical nerve stimulator/locator	2
Hearing Aids	874.3300	Hearing aid (for bone-conduction)	2
	874.3310	Hearing aid calibrator and analysis system	2
	874.3320	Group hearing aid or group auditory trainer	2
	874.3330	Master hearing aid	2
Surgical Equipment	874.4250	Ear, nose, and throat electric or pneumatic surgical drill	1
	874.4490	Argon laser for otology, rhinology, and laryngology	2

Table 3.—Medical Devices for Possible Inclusion in Scope of Product Coverage During Operational Period[1]—Continued

Product Family	21 CFR Section No	Device Name	Tier
	874.4500	Ear, nose, and throat microsurgical carbon dioxide laser	2
Gastroenterology/Urology Panel			
Endoscope (including angioscopes, laparscopes, ophthalmic endoscopes)	876.1500	Endoscope and accessories	2
	876.4300	Endoscopic electrosurgical unit and accessories	2
Gastroenterology	876.1725	Gastrointestinal motility monitoring system	1
Hemodialysis	876.5600	Sorbent regenerated dialysate delivery system for hemodialysis	2
	876.5630	Peritoneal dialysis system and accessories	2
	876.5665	Water purification system for hemodialysis	2
	876.5820	Hemodialysis system and accessories	2
	876.5830	Hemodialyzer with disposable insert (kiil-type)	2
Lithotriptor	876.4500	Mechanical lithotriptor	2
Urology Equipment	876.1620	Urodynamics measurement system	2
	876.5320	Nonimplanted electrical continence device	2
	876.5880	Isolated kidney perfusion and transport system and accessories	2
General Hospital Panel			
Infusion Pumps and Systems	880.2420	Electronic monitor for gravity flow infusion systems	2
	880.2460	Electrically powered spinal fluid pressure monitor	2
	880.5430	Nonelectrically powered fluid injector	2
	880.5725	Infusion pump	2
Neonatal Incubators	880.5400	Neonatal incubator	2
	880.5410	Neonatal transport incubator	2
	880.5700	Neonatal phototherapy unit	2
Piston Syringes	880.5570	Hypodermic single lumen needle	1
	880.5860	Piston syringe (except antistick)	1
	880.6920	Syringe needle introducer	2
Miscellaneous	880.2910	Clinical electronic thermometer	2
	880.2920	Clinical mercury thermometer	2
	880.5100	AC-powered adjustable hospital bed	1
	880.5500	AC-powered patient lift	2
	880.6880	Steam sterilizer (greater than 2 cubic feet)	2
Neurology Panel			
	882.1020	Rigidity analyzer	2
	882.1610	Alpha monitor	2
Neuro-Diagnostic	882.1320	Cutaneous electrode	2
	882.1340	Nasopharyngeal electrode	2
	882.1350	Needle electrode	2
	882.1400	Electroencephalograph	2
	882.1460	Nystagmograph	2
	882.1480	Neurological endoscope	2
	882.1540	Galvanic skin response measurement device	2
	882.1550	Nerve conduction velocity measurement device	2
	882.1560	Skin potential measurement device	2
	882.1570	Powered direct-contact temperature measurement device	2
	882.1620	Intracranial pressure monitoring device	2
	882.1835	Physiological signal amplifier	2
	882.1845	Physiological signal conditioner	2

Table 3.—Medical Devices for Possible Inclusion in Scope of Product Coverage During Operational Period[1]—Continued

Product Family	21 CFR Section No	Device Name	Tier
	882.1855	Electroencephalogram (EEG) telemetry system	2
	882.5050	Biofeedback device	2
Echoencephalography	882.1240	Echoencephalograph	2
RPG	882.4400	Radiolrequency lesion generator	2
Neuro Surgery	none	Electrode, spinal epidural	2
	882.4305	Powered compound cranial drills, burrs, trephines, and their accessories	2
	882.4310	Powered simple cranial drills burrs, trephines, and their accessories	2
	882.4360	Electric cranial drill motor	2
	882.4370	Pneumatic cranial drill motor	2
	882.4560	Stereotaxic instrument	2
	882.4725	Radiofrequency lesion probe	2
	882.4845	Powered rongeur	2
	882.5500	Lesion temperature monitor	2
Stimulators	882.1870	Evoked response electrical stimulator	2
	882.1880	Evoked response mechanical stimulator	2
	882.1890	Evoked response photic stimulator	2
	882.1900	Evoked response auditory stimulator	2
	882.1950	Tremor transducer	2
	882.5890	Transcutaneous electrical nerve stimulator for pain relief	2
Obstetrics/Gynecology Panel			
Fetal Monitoring	884.1660	Transcervical endoscope (amnioscope) and accessories	2
	884.1690	Hysteroscope and accessories (for performance standards)	2
	884.2225	Obstetric-gynecologic ultrasonic imager	2
	884.2600	Fetal cardiac monitor	2
	884.2640	Fetal phonocardiographic monitor and accessories	2
	884.2660	Fetal ultrasonic monitor and accessories	2
	884.2675	Fetal scalp circular (spiral) electrode and applicator	1
	884.2700	Intrauterine pressure monitor and accessories	2
	884.2720	External uterine contraction monitor and accessories	2
	884.2740	Perinatal monitoring system and accessories	2
	884.2960	Obstetric ultrasonic transducer and accessories	2
Gynecological Surgery Equipment	884.1720	Gynecologic laparoscope and accessories	2
	884.4160	Unipolar endoscopic coagulator-cutter and accessories	2
	884.4550	Gynecologic surgical laser	2
	884.4120	Gynecologic electrocautery and accessories	2
	884.5300	Condom	2
Ophthalmic Implants	886.3320	Eye sphere implant	2
Contact Lens	886.1385	Polymethylmethacrylate (PMMA) diagnostic contact lens	2
	886.5916	Rigid gas permeable contact lens (daily wear only)	2
Diagnostic Equipment	886.1120	Opthalmic camera	1
	886.1220	Corneal electrode	1
	886.1250	Euthyscope (AC-powered)	1
	886.1360	Visual field laser instrument	1
	886.1510	Eye movement monitor	1
	886.1570	Ophthalmoscope	1
	886.1630	AC-powered photostimulator	1
	886.1640	Ophthalmic preamplifier	1

Table 3.—Medical Devices for Possible Inclusion in Scope of Product Coverage During Operational Period[1]—Continued

Product Family	21 CFR Section No	Device Name	Tier
	886.1670	Ophthalmic isotope uptake probe	2
	886.1780	Retinoscope (AC-powered device)	1
	886.1850	AC-powered slit lamp biomicroscope	1
	886.1930	Tonometer and accessories	2
	886.1945	Transilluminator (AC-powered device)	1
	886.3130	Ophthalmic conformer	2
(Diagnostic/Surgery Equipment)	886.4670	Phacofragmentation system	2
Ophthalmic Implants	886.3340	Extraocular orbital implant	2
	886.3800	Scleral shell	2
Surgical Equipment	880.5725	Infusion pump (performance standards)	2
	886.3100	Ophthalmic tantalum clip	2
	886.3300	Absorbable implant (scleral buckling method)	2
	886.4100	Radiofrequency electrosurgical cautery apparatus	2
	886.4115	Thermal cautery unit	2
	886.4150	Vitreous aspiration and cutting instrument	2
	886.4170	Cryophthalmic unit	2
	886.4250	Ophthalmic electrolysis unit (AC-powered device)	1
	886.4335	Operating headlamp (AC-powered device)	1
	886.4390	Ophthalmic laser	2
	886.4392	Nd:YAG laser for posterior capsulotomy	2
	886.4400	Electronic metal locator	1
	886.4440	AC-powered magnet	1
	886.4610	Ocular pressure applicator	2
	886.4690	Ophthalmic photocoagulator	2
	886.4790	Ophthalmic sponge	2
	886.5100	Ophthalmic beta radiation source	2
	none	Ophthalmoscopes, replacement batteries, hand-held	1
Orthopedic Panel			
Implants	888.3010	Bone fixation cerclage	2
	888.3020	Intramedullary fixation rod	2
	888.3030	Single/multiple component metallic bone fixation appliances and accessories	2
	888.3040	Smooth or threaded metallic bone fixation fastener	2
	888.3050	Spinal interlaminal fixation orthosis	2
	888.3060	Spinal intervertebral body fixation orthosis	2
Surgical Equipment	888.1240	AC-powered dynamometer	2
	888.4580	Sonic surgical instrument and accessories/attachments	2
	none	Accessories, fixation, spinal interlaminal	2
	none	Accessories, fixation, spinal intervertebral body	2
	none	Monitor, pressure, intracompartmental	1
	none	Orthosis, fixation, spinal intervertebral fusion	2
	none	Orthosis, spinal pedicle fixation	
	none	System, cement removal extraction	1
Physical Medicine Panel			
Diagnostic Equipment or (Therapy) Therapeutic Equipment	890.1225	Chronaximeter	2
	890.1375	Diagnostic electromyograph	2
	890.1385	Diagnostic electromyograph needle electrode	2

Table 3.—Medical Devices for Possible Inclusion in Scope of Product Coverage During Operational Period[1]—Continued

Product Family	21 CFR Section No	Device Name	Tier
	890.1450	Powered reflex hammer	2
	890.1850	Diagnostic muscle stimulator	2
or (Therapy)	890.5850	Powered muscle stimulator	2
Therapeutic Equipment	890.5100	Immersion hydrobath	2
	890.5110	Paraffin bath	2
	890.5500	Infrared lamp	2
	890.5720	Water circulating hot or cold pack	2
	890.5740	Powered heating pad	2
Radiology Panel			
MRI	892.1000	Magnetic resonance diagnostic device	2
Ultrasound Diagnostic	884.2660	Fetal ultrasonic monitor and accessories	2
	892.1540	Nonfetal ultrasonic monitor	
	892.1560	Ultrasonic pulsed echo imaging system	2
	892.1570	Diagnostic ultrasonic transducer	2
	892.1550	Ultrasonic pulsed doppler imaging system	
Angiographic	892.1600	Angiographic x-ray system	2
Diagnostic X-Ray	892.1610	Diagnostic x-ray beam-limiting device	2
	892.1620	Cine or spot fluorographic x-ray camera	2
	892.1630	Electrostatic x-ray imaging system	2
	892.1650	Image-intensified fluoroscopic x-ray system	2
	892.1670	Spot film device	2
	892.1680	Stationary x-ray system	2
	892.1710	Mammographic x-ray system	2
	892.1720	Mobile x-ray system	2
	892.1740	Tomographic x-ray system	1
	892.1820	Pneumoencephalographic chair	2
	892.1850	Radiographic film cassette	1
	892.1860	Radiographic film/cassette changer	1
	892.1870	Radiographic film/cassette changer programmer	2
	892.1900	Automatic radiographic film processor	2
	892.1980	Radiologic table	1
CT Scanner	892.1750	Computed tomography x-ray system	2
Radiation Therapy	892.5050	Medical charged-particle radiation therapy system	2
	892.5300	Medical neutron radiation therapy system	2
	892.5700	Remote controlled radionuclide applicator system	2
	892.5710	Radiation therapy beam-shaping block	2
	892.5730	Radionuclide brachytherapy source	2
	892.5750	Radionuclide radiation therapy system	2
	892.5770	Powered radiation therapy patient support assembly	2
	892.5840	Radiation therapy simulation system	2
	892.5930	Therapeutic x-ray tube housing assembly	1
Nuclear Medicine	892.1170	Bone densitometer	2
	892.1200	Emission computed tomography system	2
	892.1310	Nuclear tomography system	1
	892.1390	Radionuclide rebreathing system	2
General/Plastic Surgery Panel			
Surgical Lamps	878.4630	Ultraviolet lamp for dermatologic disorders	2
	890.5500	Infrared lamp	2
	878.4580	Surgical lamp	2

Table 3.—Medical Devices for Possible Inclusion in Scope of Product Coverage During Operational Period[1]—Continued

Product Family		21 CFR Section No	Device Name	Tier
Electrosurgical Equipment	Cutting	878.4810	Laser surgical instrument for use in general and plastic surgery and in dermatology	2
		878.4400	Electrosurgical cutting and coagulation device and accessories	2
Miscellaneous		878.4780	Powered suction pump	2

[1]Descriptive information on product codes, panel codes, and other medical device identifiers may be viewed on FDA's Internet Web Site at "http://www.fda.gov/cdrh/prodcode.html".

Appendix C of Subpart B [Reserved].

Appendix D of Subpart B [Reserved].

Appendix E of Subpart B [Reserved].

Appendix F of Subpart B [Reserved].

Subpart C—"Framework" Provisions

§ 26.60 Definitions.

(a) The following terms and definitions shall apply to this subpart only:

(1) *Designating Authority* means a body with power to designate, monitor, suspend, remove suspension of, or withdraw conformity assessment bodies as specified under this part.

(2) *Designation* means the identification by a designating authority of a conformity assessment body to perform conformity assessment procedures under this part.

(3) *Regulatory Authority* means a government agency or entity that exercises a legal right to control the use or sale of products within a party's jurisdiction and may take enforcement action to ensure that products marketed within its jurisdiction comply with legal requirements.

(b) Other terms concerning conformity assessment used in this part shall have the meaning given elsewhere in this part or in the definitions contained in "Guide 2: Standardization and Related Activities—General Vocabulary of the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC)" (ISO/IEC Guide 2) (1996 edition), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the International Organization for Standardization, 1, rue de Varembé, Case postale 56, CH–1211 Genève 20, Switzerland, or on the Internet at "http://www.iso.ch" or may be examined at the Food and Drug Administration's Medical Library, 5600 Fishers Lane, rm. 11B–40, Rockville, MD 20857, or the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC. In the event of an inconsistency between the ISO/IEC Guide 2 and definitions in this part, the definitions in this part shall prevail.

§ 26.61 Purpose of this part.

This part specifies the conditions by which each party will accept or recognize results of conformity assessment procedures, produced by the other party's conformity assessment bodies (CAB's) or authorities, in assessing conformity to the importing party's requirements, as specified on a sector-specific basis in subparts A and B of this part, and to provide for other related cooperative activities. The objective of such mutual recognition is to provide effective market access throughout the territories of the parties with regard to conformity assessment for all products covered under this part. If any obstacles to such access arise, consultations will promptly be held. In the absence of a satisfactory outcome of such consultations, the party alleging its market access has been denied may, within 90 days of such consultation, invoke its right to terminate the "Agreement on Mutual Recognition Between the United States of America and the European Community," from which this part is derived, in accordance with § 26.80.

§ 26.62 General obligations.

(a) The United States shall, as specified in subparts A and B of this part, accept or recognize results of specified procedures, used in assessing conformity to specified legislative, regulatory, and administrative provisions of the United States, produced by the other party's conformity assessment bodies (CAB's) and/or authorities.

(b) The European Community (EC) and its Member States shall, as specified in subparts A and B of this part, accept or recognize results of specified procedures, used in assessing conformity to specified legislative, regulatory, and administrative provisions of the EC and its Member States, produced by the other party's CAB's and/or authorities.

(c) Where sectoral transition arrangements have been specified in subparts A and B of this part, the obligations in paragraphs (a) and (b) of this section will apply following the successful completion of those sectoral transition arrangements, with the understanding that the conformity assessment procedures utilized assure conformity to the satisfaction of the receiving party, with applicable legislative, regulatory, and administrative provisions of that party, equivalent to the assurance offered by the receiving party's own procedures.

§ 26.63 General coverage of this part.

(a) This part applies to conformity assessment procedures for products and/or processes and to other related cooperative activities as described in this part.

(b) Subparts A and B of this part may include:

(1) A description of the relevant legislative, regulatory, and administrative provisions pertaining to the conformity assessment procedures and technical regulations;

(2) A statement on the product scope and coverage;

(3) A list of designating authorities;

(4) A list of agreed conformity assessment bodies (CAB's) or authorities or a source from which to obtain a list of such bodies or authorities and a statement of the scope of the conformity assessment procedures for which each has been agreed;

(5) The procedures and criteria for designating the CAB's;

(6) A description of the mutual recognition obligations;

(7) A sectoral transition arrangement;

(8) The identity of a sectoral contact point in each party's territory; and

(9) A statement regarding the establishment of a Joint Sectoral Committee.

(c) This part shall not be construed to entail mutual acceptance of standards or technical regulations of the parties and, unless otherwise specified in subpart A or B of this part, shall not entail the

mutual recognition of the equivalence of standards or technical regulations.

§ 26.64 Transitional arrangements.

The parties agree to implement the transitional commitments on confidence building as specified in subparts A and B of this part.

(a) The parties agree that each sectoral transitional arrangement shall specify a time period for completion.

(b) The parties may amend any transitional arrangement by mutual agreement.

(c) Passage from the transitional phase to the operational phase shall proceed as specified in subparts A and B of this part, unless either party documents that the conditions provided in such subpart for a successful transition are not met.

§ 26.65 Designating authorities.

The parties shall ensure that the designating authorities specified in subpart B of this part have the power and competence in their respective territories to carry out decisions under this part to designate, monitor, suspend, remove suspension of, or withdraw conformity assessment bodies (CAB's).

§ 26.66 Designation and listing procedures.

The following procedures shall apply with regard to the designation of conformity assessment bodies (CAB's) and the inclusion of such bodies in the list of CAB's in subpart B of this part:

(a) The designating authority identified in subpart B of this part shall designate CAB's in accordance with the procedures and criteria set forth in subpart B of this part;

(b) A party proposing to add a CAB to the list of such bodies in subpart B of this part shall forward its proposal of one or more designated CAB's in writing to the other party with a view to a decision by the Joint Committee;

(c) Within 60 days following receipt of the proposal, the other party shall indicate its position regarding either its confirmation or its opposition. Upon confirmation, the inclusion in subpart B of this part of the proposed CAB or CAB's shall take effect; and

(d) In the event that the other party contests on the basis of documented evidence the technical competence or compliance of a proposed CAB, or indicates in writing that it requires an additional 30 days to more fully verify such evidence, such CAB shall not be included on the list of CAB's in subpart B of this part. In this instance, the Joint Committee may decide that the body concerned be verified. After the completion of such verification, the proposal to list the CAB in subpart B may be resubmitted to the other party.

§ 26.67 Suspension of listed conformity assessment bodies.

The following procedures shall apply with regard to the suspension of a conformity assessment body (CAB) listed in subpart B of this part.

(a) A party shall notify the other party of its contestation of the technical competence or compliance of a CAB listed in subpart B of this part and the contesting party's intent to suspend such CAB. Such contestation shall be exercised when justified in an objective and reasoned manner in writing to the other party;

(b) The CAB shall be given prompt notice by the other party and an opportunity to present information in order to refute the contestation or to correct the deficiencies which form the basis of the contestation;

(c) Any such contestation shall be discussed between the parties in the Joint Sectoral Committee described in subpart B of this part. If there is no Joint Sectoral Committee, the contesting party shall refer the matter directly to the Joint Committee. If agreement to suspend is reached by the Joint Sectoral Committee or, if there is no Joint Sectoral Committee, by the Joint Committee, the CAB shall be suspended;

(d) Where the Joint Sectoral Committee or Joint Committee decides that verification of technical competence or compliance is required, it shall normally be carried out in a timely manner by the party in whose territory the body in question is located, but may be carried out jointly by the parties in justified cases;

(e) If the matter has not been resolved by the Joint Sectoral Committee within 10 days of the notice of contestation, the matter shall be referred to the Joint Committee for a decision. If there is no Joint Sectoral Committee, the matter shall be referred directly to the Joint Committee. If no decision is reached by the Joint Committee within 10 days of the referral to it, the CAB shall be suspended upon the request of the contesting party;

(f) Upon the suspension of a CAB listed in subpart B of this part, a party is no longer obligated to accept or recognize the results of conformity assessment procedures performed by that CAB subsequent to suspension. A party shall continue to accept the results of conformity assessment procedures performed by that CAB prior to suspension, unless a regulatory authority of the party decides otherwise based on health, safety or environmental considerations or failure to satisfy other requirements within the scope of subpart B of this part; and

(g) The suspension shall remain in effect until agreement has been reached by the parties upon the future status of that body.

§ 26.68 Withdrawal of listed conformity assessment bodies.

The following procedures shall apply with regard to the withdrawal from subpart B of this part of a conformity assessment body (CAB):

(a) A party proposing to withdraw a CAB listed in subpart B of this part shall forward its proposal in writing to the other party;

(b) Such CAB shall be promptly notified by the other party and shall be provided a period of at least 30 days from receipt to provide information in order to refute or to correct the deficiencies which form the basis of the proposed withdrawal;

(c) Within 60 days following receipt of the proposal, the other party shall indicate its position regarding either its confirmation or its opposition. Upon confirmation, the withdrawal from the list in subpart B of this part of the CAB shall take effect;

(d) In the event the other party opposes the proposal to withdraw by supporting the technical competence and compliance of the CAB, the CAB shall not at that time be withdrawn from the list of CAB's in subpart B of this part. In this instance, the Joint Sectoral Committee or the Joint Committee may decide to carry out a joint verification of the body concerned. After the completion of such verification, the proposal for withdrawal of the CAB may be resubmitted to the other party; and

(e) Subsequent to the withdrawal of a CAB listed in subpart B of this part, a party shall continue to accept the results of conformity assessment procedures performed by that CAB prior to withdrawal, unless a regulatory authority of the party decides otherwise based on health, safety, and environmental considerations or failure to satisfy other requirements within the scope of subpart B of this part.

§ 26.69 Monitoring of conformity assessment bodies.

The following shall apply with regard to the monitoring of conformity assessment bodies (CAB's) listed in subpart B of this part:

(a) Designating authorities shall assure that their CAB's listed in subpart B of this part are capable and remain capable of properly assessing conformity of products or processes, as applicable, and as covered in subpart B of this part. In this regard, designating authorities shall maintain, or cause to maintain, ongoing surveillance over their CAB's by means of regular audit or assessment;

(b) The parties undertake to compare methods used to verify that the CAB's listed in subpart B of this part comply with the relevant requirements of subpart B of this part. Existing systems for the evaluation of CAB's may be used as part of such comparison procedures;

(c) Designating authorities shall consult as necessary with their counterparts, to ensure the maintenance of confidence in conformity assessment procedures. With the consent of both parties, this consultation may include joint participation in audits/inspections related to conformity assessment activities or other assessments of CAB's listed in subpart B of this part; and

(d) Designating authorities shall consult, as necessary, with the relevant regulatory authorities of the other party to ensure that all technical requirements are identified and are satisfactorily addressed.

§ 26.70 Conformity assessment bodies.

Each party recognizes that the conformity assessment bodies (CAB's) listed in subpart B of this part fulfill the conditions of eligibility to assess conformity in relation to its requirements as specified in subpart B of this part. The parties shall specify the scope of the conformity assessment procedures for which such bodies are listed.

§ 26.71 Exchange of information.

(a) The parties shall exchange information concerning the implementation of the legislative, regulatory, and administrative provisions identified in subparts A and B of this part.

(b) Each party shall notify the other party of legislative, regulatory, and administrative changes related to the subject matter of this part at least 60 days before their entry into force. Where considerations of safety, health or environmental protection require more urgent action, a party shall notify the other party as soon as practicable.

(c) Each party shall promptly notify the other party of any changes to its designating authorities and/or conformity assessment bodies (CAB's).

(d) The parties shall exchange information concerning the procedures used to ensure that the listed CAB's under their responsibility comply with the legislative, regulatory, and administrative provisions outlined in subpart B of this part.

(e) Regulatory authorities identified in subparts A and B of this part shall consult as necessary with their counterparts, to ensure the maintenance of confidence in conformity assessment procedures and to ensure that all technical requirements are identified and are satisfactorily addressed.

§ 26.72 Sectoral contact points.

Each party shall appoint and confirm in writing contact points to be responsible for activities under subparts A and B of this part.

§ 26.73 Joint Committee.

(a) A Joint Committee consisting of representatives of the United States and the European Community (EC) will be established. The Joint Committee shall be responsible for the effective functioning of the "Agreement on Mutual Recognition Between the United States of America and the European Community," from which this part is derived.

(b) The Joint Committee may establish Joint Sectoral Committees comprised of appropriate regulatory authorities and others deemed necessary.

(c) The United States and the EC shall each have one vote in the Joint Committee. The Joint Committee shall make its decisions by unanimous consent. The Joint Committee shall determine its own rules and procedures.

(d) The Joint Committee may consider any matter relating to the effective functioning of that agreement. In particular it shall be responsible for:

(1) Listing, suspension, withdrawal and verification of conformity assessment bodies (CAB's) in accordance with that agreement;

(2) Amending transitional arrangements in the sectoral annexes to that agreement;

(3) Resolving any questions relating to the application of that agreement not otherwise resolved in the respective Joint Sectoral Committees;

(4) Providing a forum for discussion of issues that may arise concerning the implementation of that agreement;

(5) Considering ways to enhance the operation of that agreement;

(6) Coordinating the negotiation of additional sectoral annexes to that agreement; and

(7) Considering whether to amend that agreement in accordance with § 26.80.

(e) When a party introduces new or additional conformity assessment procedures affecting a sectoral annex to that agreement, the parties shall discuss the matter in the Joint Committee with a view to bringing such new or additional procedures within the scope of that agreement and the relevant sectoral annex.

§ 26.74 Preservation of regulatory authority.

(a) Nothing in this part shall be construed to limit the authority of a party to determine, through its legislative, regulatory, and administrative measures, the level of protection it considers appropriate for safety; for protection of human, animal, or plant life or health; for the environment; for consumers; and otherwise with regard to risks within the scope of the applicable subpart A or B of this part.

(b) Nothing in this part shall be construed to limit the authority of a regulatory authority to take all appropriate and immediate measures whenever it ascertains that a product may:

(1) Compromise the health or safety of persons in its territory;

(2) Not meet the legislative, regulatory, or administrative provisions within the scope of the applicable subpart A or B of this part; or

(3) Otherwise fail to satisfy a requirement within the scope of the applicable subpart A or B of this part. Such measures may include withdrawing the products from the market, prohibiting their placement on the market, restricting their free movement, initiating a product recall, and preventing the recurrence of such problems, including through a prohibition on imports. If the regulatory authority takes such action, it shall inform its counterpart authority and the other party within 15 days of taking such action, providing its reasons.

§ 26.75 Suspension of recognition obligations.

Either party may suspend its obligations under subpart A or B of this part, in whole or in part, if:

(a) A party suffers a loss of market access for the party's products within the scope of subpart A or B of this part as a result of the failure of the other party to fulfill its obligations under this part;

(b) The adoption of new or additional conformity assessment requirements as referenced in § 26.73(e) results in a loss of market access for the party's products within the scope of subpart B of this part because conformity assessment bodies (CAB's) designated by the party in order to meet such requirements have not been recognized by the party implementing the requirements; or

(c) The other party fails to maintain legal and regulatory authorities capable of implementing the provisions of this part.

§ 26.76 Confidentiality.

(a) Each party agrees to maintain, to the extent required under its laws, the confidentiality of information exchanged under this part.

(b) In particular, neither party shall disclose to the public, nor permit a conformity assessment body (CAB) to disclose to the public, information exchanged under this part that constitutes trade secrets, confidential commercial or financial information, or information that relates to an ongoing investigation.

(c) A party or a CAB may, upon exchanging information with the other party or with a CAB of the other party, designate the portions of the information that it considers to be exempt from disclosure.

(d) Each party shall take all precautions reasonably necessary to protect information exchanged under this part from unauthorized disclosure.

§ 26.77 Fees.

Each party shall endeavor to ensure that fees imposed for services under this part shall be commensurate with the services provided. Each party shall ensure that, for the sectors and conformity assessment procedures covered under this part, it shall charge no fees with respect to conformity assessment services provided by the other party.

§ 26.78 Agreements with other countries.

Except where there is written agreement between the parties, obligations contained in mutual recognition agreements concluded by either party with a party not a party to the agreement from which this part is derived (a third party) shall have no force and effect with regard to the other party in terms of acceptance of the results of conformity assessment procedures in the third party.

§ 26.79 Territorial application.

The agreement from which this part is derived shall apply, on the one hand, to the territories in which the Treaty establishing the European Community (EC) is applied, and under the conditions laid down in that Treaty and, on the other hand, to the territory of the United States.

§ 26.80 Entry into force, amendment, and termination.

(a) The "Agreement on Mutual Recognition Between the United States of America and the European Community," from which this part is derived, including its sectoral annexes on telecommunication equipment, electromagnetic compatibility, electrical safety, recreational craft, pharmaceutical Good Manufacturing Practices (GMP) inspections, and medical devices shall enter into force on the first day of the second month following the date on which the parties have exchanged letters confirming the completion of their respective procedures for the entry into force of that agreement.

(b) That agreement including any sectoral annex may, through the Joint Committee, be amended in writing by the parties to that agreement. Those parties may add a sectoral annex upon the exchange of letters. Such annex shall enter into force 30 days following the date on which those parties have exchanged letters confirming the completion of their respective procedures for the entry into force of the sectoral annex.

(c) Either party to that agreement may terminate that agreement in its entirety or any individual sectoral annex thereof by giving the other party to that agreement 6-months notice in writing. In the case of termination of one or more sectoral annexes, the parties to that agreement will seek to achieve by consensus to amend that agreement, with a view to preserving the remaining Sectoral Annexes, in accordance with the procedures in this section. Failing such consensus, that agreement shall terminate at the end of 6 months from the date of notice.

(d) Following termination of that agreement in its entirety or any individual sectoral annex thereof, a party to that agreement shall continue to accept the results of conformity assessment procedures performed by conformity assessment bodies under that agreement prior to termination, unless a regulatory authority in the party decides otherwise based on health, safety and environmental considerations or failure to satisfy other requirements within the scope of the applicable sectoral annex.

§ 26.81 Final provisions.

(a) The sectoral annexes referred to in § 26.80(a), as well as any new sectoral annexes added pursuant to § 26.80(b), shall form an integral part of the "Agreement on Mutual Recognition Between the United States of America and the European Community," from which this part is derived.

(b) For a given product or sector, the provisions contained in subparts A and B of this part shall apply in the first place, and the provisions of subpart C of this part in addition to those provisions. In the case of any inconsistency between the provisions of subpart A or B of this part and subpart C of this part, subpart A or B shall prevail, to the extent of that inconsistency.

(c) The agreement from which this part is derived shall not affect the rights and obligations of the parties under any other international agreement.

(d) In the case of subpart B of this part, the parties shall review the status of such subpart at the end of 3 years from the date described in § 26.80(a).

Dated: July 23, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–29609 Filed 11–5–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA 225–98–8002]

Memorandum of Understanding Between the Food and Drug Administration and the Office of the United States Trade Representative

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a memorandum of understanding (MOU) between FDA and the Office of the United States Trade Representative. The purpose of the MOU is to set forth the understandings and procedures which will guide their cooperative execution of the Joint Committee provisions of the Agreement on Mutual Recognition between the United States of America and the European Community.

DATES: The MOU became effective May 1, 1998.

FOR FURTHER INFORMATION CONTACT: Merton Smith, Office of International Affairs (HFG–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4480.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and understanding between FDA and other departments, agencies, and organizations shall be published in the **Federal Register** (except those between FDA and State and local government agencies that are cooperative work-sharing agreements), the agency is publishing notice of this MOU.

Dated: September 28, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

BILLING CODE 4160–01–F

225-98-8002

MEMORANDUM OF UNDERSTANDING REGARDING THE JOINT COMMITTEE UNDER THE FRAMEWORK AGREEMENT ON MUTUAL RECOGNITION BETWEEN THE UNITED STATES OF AMERICA AND THE EUROPEAN COMMUNITY

The United States and the European Community have negotiated an Agreement on Mutual Recognition (the "Agreement"), consisting of an umbrella agreement and several sectoral annexes. Products covered in the Sectoral Annex for Pharmaceutical Good Manufacturing Practices ("GMPs") and the Sectoral Annex on Medical Devices are regulated by the United States Food and Drug Administration ("FDA").

The umbrella agreement establishes a Joint Committee responsible for the effective functioning of the Agreement as a whole, and the sectoral annexes on pharmaceutical GMPs and medical devices establish separate Joint Sectoral Committees responsible for the operation of the respective sectoral annexes. Under the Agreement, issues discussed in the Joint Sectoral Committees regarding, among other things, equivalence determinations of authorities or conformity assessment bodies, may be referred to the Joint Committee.

In recognition of the relationship between the Agreement and FDA's core domestic statutory and regulatory responsibilities relating to protection of health and safety under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and related statutes, execution of which is committed to FDA, and in light of the United States Trade Representative's (USTR) role under section 141 of the Trade Act of 1974 and Reorganization Plan #3 of 1979, FDA and USTR set forth in this Memorandum of Understanding ("MOU") the understandings and procedures which will guide their cooperative execution of the Joint Committee provisions of the Agreement.

Upon establishment of the Joint Committee pursuant to Article 14 of the Agreement, USTR shall notify FDA of matters to be considered by the Joint Committee. Subject to arrangements with other agencies covered by the Agreement, USTR normally shall speak for and vote on behalf of the United States in the Joint Committee. A representative of FDA shall speak for and vote on behalf of the United States on any matter pertaining to FDA's statutory or regulatory authority. The representative of FDA shall also represent the USG on such matters in any other committees or bodies with similar functions established under the Agreement or its annexes.

Susan G. Esserman
General Counsel
United States Trade Representative

Date: April 16, 1998
April 16, 1998

Michael A. Friedman, M.D.
Lead Deputy Commissioner,
United States Food and Drug Administration

Date: 5/1/98
May 1, 1998

[FR Doc. 98-29608 Filed 11-5-98; 8:45 am]
BILLING CODE 4160-01-C

federal register

Friday
November 6, 1998

Part V

Department of Transportation

Federal Transit Administration

Job Access and Reverse Commute Competitive Grants; Notice

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Job Access and Reverse Commute Competitive Grants

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of availability of funds; solicitation for grant applications.

SUMMARY: the U.S. Department of Transportation's (DOT) Federal Transit Administration (FTA) announces the first round of competitive grants under the Job Access and Reverse Commute grant program, authorized under Section 3037 of the Transportation Equity Act for the 21st Century (TEA–21). The Job Access and Reverse Commute grant program is intended to establish a regional approach to job access challenges through the establishment of a Regional Job Access and Reverse Commute Transportation Plan. Projects derived from this plan support the implementation of a variety of transportation services that may be needed to connect welfare recipients to jobs and related employment activities. All projects funded under the Job Access and Reverse Commute grant program must be derived from this regional plan. The Job Access and Reverse Commute Program has two major goals: to provide transportation services in urban, suburban and rural areas to assist welfare recipients and low income individuals access employment opportunities, and to increase collaboration among the transportation providers, human service agencies, employers, metropolitan planning organizations (MPOs), states, and affected communities and individuals.

While the projects must be planned in coordination with traditional transit authorities and transportation planning organizations, other interested organizations could take the lead in establishing the collaborative planning process or project application. The Job Access and Reverse Commute grant program will support projects that are implemented by a wide range of transportation providers. One key element is making the most efficient use of existing public, nonprofit and private transportation service providers.

A Job Access project is designed to transport welfare recipients and low-income individuals in urban, suburban, or rural areas to and from jobs and activities related to their employment. Job Access projects implement new transportation services or extend existing services to fill the gaps that exist in many areas between where welfare recipients and low-income persons live and employment opportunities. A Reverse Commute Project is designed to transport the general public from urban, suburban, and rural areas to suburban employment opportunities. Job Access and Reverse Commute grants funded under this program may not be used for planning or coordinating activities and cannot supplant existing sources of funding.

Funding for Job Access grants is authorized at $150 million annually. $50 million of this amount is guaranteed in fiscal year (FY) 1999. The guaranteed portion rises by $25 million a year, reaching the full authorized $150 million in FY 2003. Funding above the guaranteed level depends on congressional appropriations. No more than $10 million annually can be used for grants designated as Reverse Commute projects. In FY 1999, $75 million is available for the Job Access and Reverse Commute grant program. A 50 percent non-DOT match is required. Other Federal funds that are eligible to be expended for transportation can be used as part of the match. Applicants should submit projects that can be implemented quickly. The increasing funding levels provide ample opportunity for areas to submit future applications as Regional Job Access and Reverse Commute Transportation Plans are further developed.

This announcement describes the conditions under which applications will be received for the Job Access and Reverse Commute competitive grants program and how FTA will determine which applications it will fund. It includes all of the information needed to apply for Job Access and Reverse Commute competitive grants.

This announcement is available on the Internet on the U.S. Department of Transportation's FTA website at http://www.fta.dot.gov/wtw/. The website will also have commonly asked questions and answers. FTA will announce final selections on the website and in the **Federal Register**.

DATES: FTA will make funding commitments for the Job Access and Reverse Commute program through a two-stage process. Applications must be submitted to the appropriate FTA regional office (see Appendix A) by the close of business December 31, 1998. After evaluation, those whose projects are selected for funding will be required to submit supplementary documentation demonstrating compliance with all of FTA's Section 5307, "Urbanized Area Formula Grants" requirements. FTA will announce grant selections in February 1999.

FTA will accept comments on this notice until November 23, 1998. Based on this input, FTA may provide amending and clarifying information. At a later date, FTA intends to solicit comments from all interested parties to determine if program adjustments are merited in future solicitations.

ADDRESSES: Comments on or questions about this Notice can be made at FTA's web site http://www.fta.dot.gov/wtw/japc.html or can be sent or faxed to the following address: *Doug Birnie, Federal Transit Administration, Room 6423, 400 7th Street, S.W., Washington, D.C. 20590 (FAX (202) 366–3765).*

FOR FURTHER INFORMATION: Contact the appropriate FTA Regional Administrator for application specific information and issues (Appendix A). For general program information, contact Doug Birnie, Office of Research Management, (202) 366–1666, email douglas.birnie@fta.dot.gov. A TDD is available at 1–800–877–8339 (TDD/FIRS).

SUPPLEMENTARY INFORMATION

Table of Contents

I. General Program Information
II. Guidelines for Preparing Grant Application
III. Application Submission
IV. Grant review Process
Appendix A FTA Regional Offices
Appendix B Definitions
Appendix C Sample Project Budget
Appendix D Application Checklist
Appendix E Summary of FTA's Section 5307 Requirements

I. General Program Information

A. Authority

Section 3037 of the Transportation Equity Act for the 21st Century (TEA–21).

B. Background

While two-thirds of all new jobs are in the suburbs, three-quarters of welfare recipients live in rural areas or in central cities. Even in metropolitan areas with extensive transit systems, studies have shown that less than half of the jobs are accessible by transit. In particular, many entry-level workers have difficulty reaching jobs during evening or weekend shifts when transit services are frequently diminished or non-existent. Work trips can also be complex, involving several destinations including child care providers. The problems are equally challenging in rural areas: approximately 40 percent of rural counties lack public transit systems.

Auto ownership among welfare recipients and low income persons is also low. As many as 94 percent of welfare recipients do not own cars and nearly 40 percent of workers with annual incomes below $10,000 do not commute by car. In 1991, the median price of a new car was equivalent to 25 weeks of salary for the average worker and considerably more for the low-income worker.

Transportation is clearly a key barrier to those moving from welfare to work. Providing a variety of new or expanded transportation options for low-income workers, especially those who are receiving or who have recently received welfare benefits, will increase the likelihood that those workers will get and retain jobs.

C. Scope

Improving mobility and shaping America's future by ensuring that the transportation system is accessible, integrated, efficient and offers flexibility of choices is a key strategic goal of the Department of Transportation. Job Access projects provide financial assistance to improve mobility for welfare recipients and other low-income people through implementing new or expanded transportation activities. Reverse Commute projects provide financial assistance to improve mobility to suburban employment opportunities for the general public as well as for welfare recipients and low income people.

D. Eligible Applicants

Local agencies and authorities, non-profit organizations and designated recipients under the FTA section 5307 program (usually a state entity or a regional transit authority) are eligible applicants for Job Access and Reverse Commute grant program funds. Local agencies and authorities include states, local governments, metropolitan planning organizations (MPOs), public transit agencies and tribal organizations.

In urbanized areas with 200,000 population or more, MPOs select the applicant(s). In small urbanized areas under 200,000 population and in non-urbanized, rural, areas states select the applicant(s). Tribal governments must go through the state process that, once selected, can choose to be sub-recipients of the state or apply directly to FTA. FTA urges MPOs to designate a single recipient, who would submit a consolidated application. States are urged to serve as the designated recipient for grants to small urbanized areas and non-urbanized areas. The selected grant recipient can suballocate funds to other project participants.

E. Eligible Projects

1. In general

Job Access or Reverse Commute projects derived from a Regional Job Access and Reverse Commute Transportation Plan are eligible. Please note that grants awarded under the Job Access and Reverse Commute program may *not* be used for planning or coordinating activities. However, planning funds made available under the FTA Section 5303 and 5113(b) programs and the Federal Highway Administration's metropolitan and statewide planning funds (PL) and state planning and research funds (SPR) can be used to fund welfare to work transportation planning activities at a 100 percent Federal share. Other funds, including Department of Health and Human Services Temporary Assistance for Needy Families (TANF) and Department of Labor's Welfare-to-Work (WtW) administrative funds, can also be used for planning.

2. Job Access Project

A Job Access project focused on implementing new or expanded transportation services targeted at filling transportation gaps and designed to transport welfare recipients and low income individuals to and from jobs and other employment-related activities such as child care or training. The Job Access Grant Program will focus on financing the capital and operating costs of new or expanded transportation services providing access to jobs and employment-related services. Employment-related support services are services such as child care, job readiness, job training, and retention services.

Localities have wide flexibility in selecting which service strategies are appropriate for their region, including but not limited to: adding late night and weekend service, providing guaranteed ride home service, initiating shuttle service, extending fixed route mass transit services, providing demand responsive van service, sponsoring ridesharing and carpooling activities, and encouraging bicycling. Localities are encouraged to implement innovative approaches to service management such as the establishment of regional mobility managers or transportation brokerage activities, application of geographic information systems (GIS) tools, implementation of intelligent transportation systems including customer trip information technologies, the integration of automated regional public and human service transit information scheduling and dispatch functions, vehicle position monitoring systems and electronic fare cards.

Job Access and Reverse Commute grants also may be made for promoting the use of: transit by workers with non-traditional work schedules, transit vouchers by appropriate agencies for welfare recipients and eligible low-income individuals; or employer-provided transportation such as shuttles, ridesharing, carpooling or transit pass and benfits under Section 132 of the Internal Revenue Code of 1986. Marketing and advertising are examples of promotional activities that could be undertaken to increase awareness of these transportation options and their benefit to welfare recipients and low-income individuals. Other locality-specific actions, strategies and linkages that further the program goals, but are not captured in the preceding description, also may be eligible.

Activities such as funding transit passes and construction of child care centers and other employment support facilities at transit hubs will not be elibible for Job Access grants. Transit-oriented construction activities are eligible under FTA's Section 5307, 5309 and 5311 Formula Grant programs. Transit passes are eligible expenses under Temporary Assistance for Needy Families (TANF) and Welfare-to-Work (WtW) programs.

Programs for private automobile ownership and repair are not legally eligible under this grant funding. However, programs supporting carpooling and other forms of mass transportation and shared-ride use, such as jitneys or special paratransit service, are eligible. In cases where vehicle acquisition is part of the program, vehicles must remain under the continuing control of the agency receiving the grant.

3. *Reverse Commute Project*

A Reverse Commute project facilitates the provision of new or expanded public mass transportation services from urban areas, suburban and rural areas to suburban work places.

Reverse Commute services include, but are not limited to subsidizing, the costs associated with adding bus, train, car and van pooling, van routes, or service; and the purchase or lease by a nonprofit organization or public agency of a van or bus dedicated to shuttling employees from their residence to a suburban work place and return.

F. Funding Availability

TEA–21 authorizes the Job Access and Reverse Commute program at $150 million annually, subject to

appropriations. The guaranteed funding levels start at $50 million in FY 1999 and increase by $25 million annually to $150 million in FY 2003. No more than $10 million annually can be used for Reverse Commute projects. Urbanized areas with populations of at least 200,000 are allocated 60 percent of each fiscal year's funding. The remaining 40 percent is divided evenly between urbanized areas with populations between 50,000 and 200,000, which receive 20 percent, and non-urbanized, rural, areas with populations below 50,000, which also receive 20 percent.

The FY 1999 Department of Transportation Appropriations Act provides $75 million for the Job Access and Reverse Commute Program, including no more than $10 million for Reverse Commute activities. Therefore, in accordance with the allocation percentages specified in TEA–21, for FY 1999: $45 million is available for urbanized areas with populations of at least 200,000; $15 million is available for urbanized areas with populations between 50,000 and 200,000; and $15 million is available for non-urbanized, rural, areas with population of less than 50,000.

G. Cost Sharing

The Job Access and Reverse Commute grant program is intended to fill gaps in existing services and leverage other state and local transportation-related funding to address the unmet needs of individuals moving from welfare to work and other low income populations. The Job Access and Reverse Commute grant program is not large enough to fund all the critical transportation needs associated with meeting these needs. FTA's program, including the funds used to match the grants, is not intended to replace any existing source of funds. The maximum DOT share of a grant under the Job Access and Reverse Commute program may not exceed 50 percent of the total project cost. The non-DOT share shall be provided in cash. If funds are matched from other Federal programs, the funds may be applied directly to project expenses by the recipients of those funds. Revenues from service agreements are an eligible match, but revenues from individual fares cannot be used as a match.

Transportation-eligible funding from Federal programs other than the Department of Transportation may be used as match. These include but are not limited to: Temporary Assistance for Needy Families (TANF), Community Services Block Grants (CSBG) and Social Services Block Grants (SSBG) administered by the U.S. Department of Health and Human Services; Welfare-to-Work (WtW) formula and competitive grants administered by the U.S. Department of Labor; Community Development Block grants (CDBG) and HOPE VI grants administered by the U.S. Department of Housing and Urban Development. The prohibitions on the use of WtW funds for matching requirements under section 403(a)(5)(C)(ii) of the Social Security Act does no apply to Federal or state funds to provide transportation services. TANF and WtW grants, when used as match, may be expended only for new or expanded transportation services and cannot be used for construction or to subsidize current transit operating expenses. Such funds also must supplement rather than supplant other state expenditures or transportation. ("Child Support Performance and Incentives Act of 1998," Pub. L. 105–200, Sec. 403, "Limitations on Use of TANF Funds for Matching Under Certain Federal Transportation Programs.")

More extensive guidance on the use of TANF and WtW funds for transportation will be provided shortly. Guidance provided in a May 4, 1998, letter from the Secretaries of Health and Human Services, Labor, and Transportation is currently being updated.

H. Federal Coordination/Outreach

To help guide implementation of the Job Access and Reverse Commute program, DOT has conducted an extensive public outreach process. To ensure that the Job Access and Reverse Commute program complements other Federal welfare to work initiatives, DOT has worked closely with other Federal agencies in writing this program notice and will establish an interagency work group to assist in the application review process.

I. Planning

1. Coordinated Transportation/Human Services Planning Process

Proposed Job Access and Reverse Commute projects must be derived from a Regional Job Access and Reverse Commute Transportation Plan (see below) which results from a coordinated public transit/human services transportation planning process. The planning process may be initiated by any interested stakeholder group in the area. FTA encourages MPOs to serve as the regional forum.

The planning process must include local transit agencies, the agencies administering TANF and WtW formula and competitive grants, welfare recipients and low-income people. The planning process also should include other stakeholders such as:

Regional planning officials; human service, private, non-profit and other appropriate transportation and support service providers; community residents and organizations; faith-based organization; disability groups and representatives; local and state workforce development organizations including One-Stop Career Centers; recipients of TANF and WtW grants; public and assisted housing providers and community development agencies; economic development agencies; employers and employer groups (such as transportation management organizations and Chambers of Commerce); Private Industry Councils; and political officials including mayors, county supervisors, state legislators, governors and other state and local officials.

2. Regional Job Access and Reverse Commute Transportation Plan

The purpose of collaboration is to develop a comprehensive regional approach to Job Access and Reverse Commute programs targeted at moving welfare recipients and low income people to jobs regarding of jurisdictional boundaries. Any project proposed for funding should be identified in the Regional Job Access Transportation Plan resulting from the above process. This plan is not meant to supersede but to build upon existing area welfare-to-work transportation planning activities. The Regional Job Access and Reverse Commute Transportation Plan must:

a. Identify the geographic distributions of welfare recipients and low-income people in the region;

b. Identify the geographic distributions of employment centers and employment-related activities in the region;

c. Identify existing public, private, non-profit and human service transportation services in the region;

d. Identify transportation gaps between the geographic distributions of people, as specified in section a, and employment, as specified in section b, which are not currently served by the transportation services, as specified in section c;

e. Identify activities and projects to address the gaps identified in section d. Each project or activity identification should include:

(1) Proposed goals and objectives of the project or activity.

(2) Estimated cost of the project or activity.

(3) explanation of how the project or activity would maximize use of existing transportation service providers and how the project or activity would be intergrated into existing transportation network

f. A list, in priority order for funding and implementation, of the activities and projects identified in section e.

Plans will vary in complexity according to area location and size. The Regional Job Access and Reverse Commute Transportation Plan should build on and incorporate existing welfare to work transportation planning activities. During this first year of program implementation, FTA recognizes that some areas may have had a cross-jurisdictional collective process to identify the location of welfare recipients, areas of employment and training opportunities, and necessary new transportation links but may not have a full Regional Job Access and Reverse Commute Transportation Plan in place. Communities should document this work to comply with the plan requirements and continue to develop these plans in future years.

3. The Role of Metropolitan Planning Organizations

MPOs are comprised of elected officials, representing local governments, and transportation service providers within the metropolitan area. They are responsible for adopting transportation plans and improvement programs to address a region's unique transportation needs and working with states to include these priorities in statewide plans.

In regions with populations of more than 200,000, MPOs are responsible for selecting applicants to be considered for Federal Job Access and Reverse Commute grant funds. In regions with populations between 50,000 and 200,000, MPOs will recommend projects to the state, which will select the applicants to be considered for Federal Job Access and Reverse Commute grants.

This means that MPOs are responsible for the following:

a. Determining that Job Access and Reverse Commute projects are consistent with the regional long-range transportation plan.

b. Endorsing and subsequently programming Job Access and Reverse Commute projects into the area Transportation Improvement Program.

In all regions with MPOs, individual Job Access and Reverse Commute projects must be adopted into the MPO's Transportation Program prior to receiving the grant. *Because this entails a formal review and project approved by the MPO Policy Board, FTA strongly urges the partners developing the Job Access and Reverse Commute Transportation Plan to communicate with the MPO from an early stage.* Further, as financial sustainability of a project is one of the evaluation criteria, coordination with the agencies participating in the MPO forum could be a critical factor in ensuring long term support for Job Access and Reverse Commute activities.

4. Statewide Transportation Planning Requirements

In all regions with populations of less than 200,000, the state is responsible for selecting applicants, based on recommendations by the MPO, to be considered for Federal Job Access and Reverse Commute grant funds. In addition, Job Access and Reverse Commute projects selected for funding must be endorsed by the state and incorporated into the statewide transportation improvement program. Because this requires approval, FTA strongly urges the partners to communicate with state officials including the State DOT from an early stage. In selecting projects in rural areas, states should give priority to projects providing service to places that are not currently served or are underserved by public transit systems.

5. Improved Transportation Planning

The statewide and metropolitan transportation planning processes mandated by TEA–21 promote ongoing, cooperative, and active involvement of public transportation providers; the public; and state, metropolitan and local government agencies in the development of state-wide and metropolitan transportation plans and improvement programs. DOT expects that the Job Access and Reverse Commute grant program will facilitate and be a catalyst for broadening the transportation planning process to better integrate employment and social equity considerations.

J. General Grant Requirements

After an application has been selected based on the program-specific requirements outlined in this notice, the applicant will be required to submit appropriate background certifications, assurances, and other documentation necessary to meet the requirements of FTA's Urbanized Area Formula Grant Program (Section 5307 program under Title 49, United States Code). These include planning, environmental, school bus, charter, procurement, labor protections and civil rights requirements, including ADA, Title VI, and DBE. Any information technology purchased with these program: funds that is used for a period of time that extends beyond December 31, 1999, must be year 2000 compliant. Applicants must have the financial, legal and technical capacity to apply for and administer projects. Copies of the Section 5307 program guidance (circular FTA 9030.1B "Urbanized Area Formula Program; Grant Application Instructions," Oct. 10, 1996) can be obtained from any FTA Regional Office or electronically through the FTA website. (See Appendix E for summary list.)

K. Performance Monitoring

FTA expects grant recipients to monitor the performance of their Job Access and Reverse Commute services and to cooperate with the legislatively-mandated FTA and GAO national evaluations. Performance monitoring indicators are necessary for both the applicant's project implementation and for the national program evaluation. FTA will work with grantees to standardize performance monitoring indicators for all Job Access and Reverse Commute Grant recipients. At a minimum, FTA will expect information to be reported on a regular basis in the following categories:

1. New/expanded service.
a. Route miles of travel.
b. Hours of operation.
c. Frequency (or headway) of service.
2. Increased Accessibility to Target Market.
a. Approximate number of low-income/welfare persons within a given distance from service.
b. Approximate measurement of employment opportunities and employment-related support services within a given distance from the service.
3. Use and Productivity of Service.
a. Number of riders.
b. Comparison of baseline estimates of ridership for welfare recipients and low-income individuals to current ridership based on periodic surveys or actual count.
c. Customer Satisfaction.
4. Collaboration.
a. List of organizations involved in the Job Access and Reverse Commute planning process.
b. Number of meetings or other activities held.
c. Listing of transportation services provided through collaboration.
d. New financial arrangements developed.
e. Additional cooperative initiatives.

II. Guidelines for Preparing Grant Application

FTA is conducting a national solicitation for applications under the Job Access and Reverse Commute

Program. Grant awards will be made on a competitive basis. FTA encourages both traditional and non-traditional grantees in urban, suburban, and rural areas to participate in the development of projects.

A. Grant Funding Amounts

Due to the relatively limited funding in FY 1999 and consistent with the legislatively-mandated funding distribution categories, FTA suggests the grant sizes identified below. Applicants may request smaller amounts from FTA.

I. For urbanized areas with populations of over one million, FTA expects to make average grants of $1 million.

2. For urbanized areas with populations greater than 200,000 and less than one million, FTA expects to make average grants of $500,000.

3. For urbanized areas with populations between 50,000 and 200,000, FTA expects to make average grants of $200,000. States should generally not submit applications that collectively exceed $1 million for this category.

4. For rural areas (areas with populations of less than 50,000), individual area grant applications generally should not exceed $150,000. Collective state grant applications for rural areas generally should not exceed $1 million.

B. Project Scope

Proposed projects must be drawn from a Regional Job Access and Reverse Commute Transportation Plan and focus on new or expanded transportation services. For FY 1999, grantees should focus on projects that can be implemented quickly.

FTA recognizes that some grantees may have well-developed plans that extend over several years and that have implementation costs that exceed the suggested FY 1999 grant size. These applicants may request a multi-year funding commitment to implement their plans. In these cases, applicants may elect to use the FY 1999 grant to fully fund high priority items of the regional plan, with subsequent grants used to phase in additional elements of the plan. Alternatively, applicants may elect to use the FY 1999 grant to cover the initial costs of a more comprehensive program, with subsequent grants used to fund carry-on activities. There may be other viable multi-year funding alternatives. In deciding on an approach that best meets local needs, applicants must note that any multi-year commitments are subject to an annual review of demonstrated progress in meeting program objectives and milestones identified in the application, as well as the conditions of match, the annual budget process, and congressional appropriations.

For planning purposes, future year funding in multi-year commitment requests should conform to the FY 1999 grant size guidelines.

III. Application Submission

A. Application Development

To promote collaboration and reduce administrative paperwork, FTA strongly encourages the submission of a consolidated application by a single entity in urbanized areas and the submission of a consolidated application by the state for rural areas. In both cases, funds may be passed on to subrecipients. Tribal projects selected by the state may choose to allow the state to include their program in the state's application or to apply directly to FTA. Furthermore, FTA encourages states and local transit authorities, which have experience in developing and administering FTA grant programs to serve as the single entity submitting applications on behalf of other entities, as these existing FTA grantees may have already met, or have on file information that will satisfy many of the FTA requirements that apply to this program.

B. Application

An original and two copies of the application must be submitted to the appropriate FTA Regional Office. The application should provide information on all project(s) for which you are requesting funding in FY 1999. If a multi-year commitment is sought, the information should cover all years for which funding is sought. The information provided in support of this application may vary with the size of the area applying and the grant being sought. Applicants should develop brief narratives on the information sought. Project narratives should not exceed 10–15 pages.

The application should include the following elements:

1. *Transmittal Letter.*

This addresses basic identifying information including:

a. Grant Applicant.
b. Contact name and phone number.
c. Population size of region.
d. Location of proposed project(s).
e. Amount of grant request.

2. *Project Eligibility.*

Every application must:

a. Describe applicant's organizational capacity to implement the proposed project(s).

b. Document matching funds, including amount and source.

c. Attach Regional Job Access and Reverse Commute Transportation Plan.

d. Document approval by affected transit authorities.

e. For urbanized areas with populations over 200,000, document MPO selection and intention to amend the Transportation Improvement Plan (TIP) if project is selected for funding.

f. For urbanized areas with populations between 50,000 and 200,000, document state selection and MPO intention to amend the TIP if project is selected for funding.

g. For areas with populations below 50,000, document state selection and intention to amend the state-wide transportation improvement plan (STIP) if project is selected for funding.

3. *Project Information.*

Provide a summary of project activities from the Regional Job Access and Reverse Commute Transportation Plan for which your application is requesting funding. The summary should include:

a. Each project's time line, including significant milestones.

b. Designation of project as a Job Access or Reverse Commute service. If applying under both, indicate how you will divide the funds.

c. Project budget (See Appendix C).

4. *Project Narrative.*

Provide the information identified below to support your application. More descriptive information has been provided in Section I of this notice.

a. Document the coordinated human services/transportation planning process. This should include:

1. Description of the collaborative transportation/human services process used in developing the Regional Job Access and Reverse Commute Transportation Plan.

2. List of the participants and their respective roles.

3. Identification of new partnerships and cooperative relationships developed.

4. Description of specific coordination with legislatively-mandated partners: transportation providers and transit agencies, state agencies administering the TANF and WtW funds.

5. Description of consultation with and public involvement of the community to be served, including welfare recipients and low income residents.

6. Sign-offs or letters of endorsement from planning partners.

b. Describe the unmet need for additional transportation services to transport welfare recipients and low income individuals to jobs, training and other employment services. This should include:

1. Definition of the proposed service areas and the population and communities to be served.

2. The number of welfare recipients and low income persons and the percentage of the population that they represent.

3. Description of the existing transportation resources, if any, including human services, nonprofit and public transportation providers.

4. Description of transportation gaps in existing services.

5. For Reverse Commute projects, information on the need for additional transportation services.

c. Describe how the proposed services will meet the unmet need described above. This should include or address the following:

1. Specify project goals and objectives.

2. Identify employment potential in the proposed service area.

3. For Job Access projects, estimate low income and welfare recipient ridership.

4. For Reverse Commute projects, estimate ridership by the general public and by welfare recipients and low income individuals.

5. Specify type of capital investments to be funded.

6. Specify type of operating costs to be funded.

7. Provide operation-specific data (e.g., miles/hours of service, new routes, route extensions, etc.).

8. Specify how use of all existing transportation service providers is being maximized.

9. Describe how these services will address the needs of persons with disabilities and how the requirements of ADA will be met.

10. Present indicators that will be used to monitor project performance and make subsequent adjustments in project implementation.

d. Document financial commitments, including prospects for sustainability.

1. Identify how human service (such as TANF, WtW, other Federal, state or local) financial resources have been leveraged.

2. Identify the financial commitment of existing transportation providers.

3. Identify long term financing that may be proposed or available to support continuation of the proposed project or other aspects of the regional plan.

e. Variable Factors. Please specify how each of the following factors applies to your project(s). If any are not applicable, explain why not.

1. Innovative Approaches—Identify innovative techniques in and approaches to the proposed project.

2. Use of Employer-based Strategies—Describe any commitment by employers that will contribute to the success of the project.

3. Linkages to Other Employment Support Services—Identify available employment support services that complement the transportation activities and are critical to ensuring that welfare recipients get and retain jobs.

4. Other Strategies—Describe other locality-specific actions, strategies and linkages, about which FTA should be aware, that were not captured in the preceding criteria.

The checklist in Appendix D should be used to ensure that you have developed a complete application.

IV. Grant Review Process

Applications are to be submitted to the appropriate FTA Regional Office by the close of business December 31, 1998. FTA will screen all applications to determine whether all required eligibility elements, as described in Section 2 of the Application, are present. A multi-agency task force will evaluate each application according to the criteria described in this announcement. FTA will select projects based on what is most advantageous to the government, considering, in addition to the award criteria, the time frame for implementation, the availability of funds, and geographic distribution.

A. Award Criteria

Once eligibility is established, the merit of each application will be evaluated based on the following factors. The number of points in parentheses indicates the maximum level of points for a given factor.

1. Coordinated human services/ transportation planning process and Regional Job Access and Reverse Commute Transportation plan (25 Points)

Evaluated based on the extent to which the applicant:

(A) Demonstrates a collaborative planning process, including:

(1) coordination with, and the financial commitment of, existing transportation service providers;

(2) coordination with the state or local agencies that administer the state program funded under part A of title IV of the Social Security Act (TANF and WtW grant programs);

(3) coordination with public housing agencies (including Indian tribes and their tribally designated housing entities as defined by the Secretary of HUD) if any, which intend to apply for Welfare to Work Housing Vouchers from the Department of Housing and Urban Development;

(4) consultation with the community to be served; and

(5) consultation with other area stakeholders.

(B) Presents a Regional Job Access and Reverse Commute Transportation Plan addressing the transportation needs of welfare recipients and low-income individuals.

2. Demonstrated Need for Additional Transportation Services (30 Points)

Evaluated based on the extent to which the applicant demonstrates:

(A) in the case of an applicant seeking assistance to finance a Job Access project, the relative need for additional services in the area to be served to transport welfare recipients and eligible low-income individuals to and from specified jobs, training and other employment support services; and

(B) in the case of an applicant seeking assistance to finance a Reverse Commute project, the need for additional services to transport individuals to suburban employment opportunities.

3. Extent to Which Proposed Services Will Meet the Need for Services (35 Points)

Evaluated based on the extent to which:

(A) The proposed service will meet the need.

(B) To which the applicant demonstrates the maximum use of existing transportation service providers and expands transit networks or hours of service, or both.

4. Financial Commitments (10 Points)

Evaluated based on the extent to which the applicant:

(A) Identifies long-term financing strategies to support proposed services.

(B) Identifies financial commitments by human service providers.

(C) Identifies financial commitments by existing transportation providers.

FTA also will consider the extent to which the applicant addresses the following variable factors: (10 Bonus Points Total)

1. Innovative approaches that are responsive to identified service needs;

2. Use of employer-based strategies;

3. Linkages to other employment-related support services; and

4. Other strategies that are effective in meeting program goals.

B. Notification

FTA will notify applicants in February 1999. Those selected must then submit appropriate background certifications, assurances, and other

documentation necessary to meet the applicable FTA Section 5307 Urbanized Area Formula Grant Program requirements and be included in the TIP or STIP as appropriate. Technical assistance regarding these requirements is available in each FTA regional office. Complete documentation must be submitted to the appropriate FTA regional office no later than March 31, 1999.

FTA is committed to obligating FY 1999 Job Access and Reverse Commute funding expeditiously. Therefore, FTA urges applicants to develop documentation in accordance with the Section 5307 program guidance as soon as possible. This allows the information necessary for grant approval to be readily available for submission to FTA when projects are selected for funding. FTA will approve final applications as soon as they are complete.

Issued on: November 3, 1998.

Gordon J. Linton,

Administrator.

APPENDIX A—(FTA) REGIONAL OFFICES

Region I—Massachusetts, Rhode Island, Connecticut, New Hampshire, Vermont and Maine, Richard H. Doyle, FTA—Regional Administrator, Volpe National Transportation Systems Center, Kendall Square, 55 Broadway, Suite 920, Cambridge, MA 02142–1093, (617) 494–2055

Region II—New York, New Jersey, Virgin Islands, Letitia Thompson, FTA—Regional Administrator, 26 Federal Plaza, Suite 2940, New York, NY 10278–0194, (212) 264–8162

Region III—Pennsylvania, Maryland, Virginia, West Virginia, Delaware, Washington, D.C., Sheldon Kinbar, FTA—Regional Administrator, 1760 Market Street, Suite 500, Philadelphia, PA 19103–4124, (215) 656–7100

Region IV—Georgia, North Carolina, South Carolina, Florida, Mississippi, Tennessee, Kentucky, Alabama, Puerto Rico, Susan Schruth, FTA—Regional Administrator, 61 Forsyth Street, S.W., Suite 17T50, Atlanta, GA 30303, (404) 562–3500

Region V—Illinois, Indiana, Ohio, Wisconsin, Minnesota, Michigan, Joel Ettinger, FTA—Regional Administrator, 200 West Adams Street, Suite 2410, Chicago, IL 60606–5232, (312) 353–2789

Region VI—Texas, New Mexico, Louisiana, Arkansas, Oklahoma, Lee Waddleton, FTA—Regional Administrator, 819 Taylor Street, Room 8A36, Ft. Worth, TX 76102, (817) 978–0550

Region VII—Iowa, Nebraska, Kansas, Missouri, Mokhtee Ahmad, FTA—Regional Administrator, 6301 Rockhill Road, Suite 303, Kansas City, MO 64131–1117, (816) 523–0204

Region VIII—Colorado, North Dakota, South Dakota, Montana, Wyoming, Utah, Louis Mraz, FTA—Regional Administrator, Columbine Place, 216 16th Street, Suite 650, Denver, CO 80202–5120, (303) 844–3242

Region IX—California, Arizona, Nevada, Hawaii, American Samoa, Guam, Leslie Rogers, FTA—Regional Administrator, 201 Mission Street, Suite 2210, San Francisco, CA 94105–1831, (415) 744–3133

Region X—Washington, Oregon, Idaho, Alaska, Helen Knoll, FTA—Regional Administrator, Jackson Federal Building, 915 Second Avenue, Suite 3142, Seattle, WA 98174–1002, (206) 220–7954

Appendix B—Definitions

1. *Welfare Recipient*—An individual, who receives or received aid or assistance under a state program funded under Part A of Title IV of the Social Security Act (whether in effect before or after the effective date of the amendments made by Title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193); 110 Stat 2110) at any time during the 3-year period before the date on which the applicant applies for a grant.
2. *Elibible Low-Income Individual*—An individual whose family income is at or below 150 percent of the poverty line (as that term is defined in Section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) including any revisions required by that section for a family of the size involved. These are calculated by HHS; the 1998 guidelines were published in the February 24, 1998, (Volume 63, Number 36) *Federal Register*, page 9235–9238.
3. *Existing Transportation Service Provider*—Public transportation providers including public, private and non-profit fixed route and paratransit operators, and governmental agencies and nonprofit organizations that receive assistance from Federal, state, or local sources for nonemergency transportation services.
4. *Human Services Provider*—Agencies and organizations involved in helping welfare recipients and low income populations to make the transition to work and providing supportive employment services. These agencies and organizations include state and local workforce development organizations, agencies administering TANF and WtW formula and competitive funds, public and assisted housing providers and community development agencies, and where appropriate, faith-based and community-based organizations providing employment support services.
5. *Qualified Entity*—(A) With respect to any proposed eligible project in an urbanized area with a population of at least 200,000, the applicant(s) selected by the appropriate metropolitan planning organization that meets the program eligibility requirements, including planning and coordination requirements, from among local governmental authorities and agencies and nonprofit organizations; and (B) With respect to any proposed eligible project in an urbanized area with a population of greater than 50,000 and less than 200,000, or an area other than an urbanized area, the applicant(s) selected by the chief executive officer of the state in which the area is located that meets the program eligibility requirements, including the planning and coordination requirements, from among local governmental authorities and nonprofit organizations.
6. *Transit Capital and Operating Assistance Projects*—This term means projects to finance acquisition, construction, improvement, and operating costs of facilities, equipment and associated capital maintenance items used in mass transportation service, including crime prevention and security of and for such equipment and facilities. Direct administrative expenses associated with the provision of job access and reverse commute services are also eligible operating expenses.

Appendix C—Sample Project Budget

FY 99 FUNDING

Applicant: _____ Area Size: _____

	Federal amount	Total amount
A. Job Access Project		
Capital Costs		
Activity	_____	_____
Quantity	_____	_____
Activity	_____	_____

FY 99 FUNDING—Continued

Applicant: _____ Area Size: _____

	Federal amount	Total amount
Quantity	_____	_____
Example		
Activity	_____	_____
Vans	_____	_____
Quantity 4		
Operating Costs		
Activity	_____	_____
Activity	_____	_____
Example		
Activity	_____	_____
Late Night	_____	_____
Service (3 Routes)		
Total	_____	_____
B. Reverse Commute Project		
Capital Costs		
Activity	_____	_____
Quantity	_____	_____
Activity	_____	_____
Quantity	_____	_____
Example		
Activity	_____	_____
Vans	_____	_____
Quantity 4	_____	_____
Operating Costs		
Activity	_____	_____
Activity	_____	_____
Example		
Activity	_____	_____
Two new routes	_____	_____
Total	_____	_____
Grand Total (A or B or A & B) for those applicants seeking a multi-year commitment, provide this information for subsequent years of reference budget material from your Job Access Transportation Plan.		

Appendix D—Application Check List (To Meet December 31 Deadline)

☐ TRANSMITTAL LETTER
☐ PROJECT ELIGIBILITY
- Organizational Capacity
- 50 Percent Non-DOT Match
- Regional Job Access and Reverse Commute Transportation Plan
- Approval of Affected Transit Authorities
- MPO/State Endorsement and Programming as Appropriate

☐ PROJECT INFORMATION
- Activity Summaries/Timelines/Milestones
- Designation As Job Access Or Reverse Commute Project
- Project Budget

☐ PROJECT NARRATIVE
- Documentation of Coordinated Human Services/Transportation Planning Process
  - ✔ Coordination with Agencies Administering TANF & WtW
  - ✔ Coordination with Existing Transportation Operators
  - ✔ Consultation with Affected Communities
  - ✔ Consultation with Employers
- Documentation of Unmet Needs
- Description of How Proposed Services Will Meet Needs
- Documentation of Financial Commitments
- Response to Variable Factors (Bonus Points)
  - ✔ Innovative Approaches
  - ✔ Employer-Based Strategies
  - ✔ Linkages to Other Employment Support Services
  - ✔ Other Strategies

Appendix E—Summary of FTA's Section 5307 Requirements

This is the full range of 5307 requirements. Some of these items are covered in the application, in which case you will not need to submit information twice.

APPROVAL PREREQUISITES:
(On file with FTA, or to be submitted with application and updates as appropriate)
Opinion of Counsel
Authorizing Resolution
Current annual Certification and Assurances
Civil rights submissions up-to-date

Title VI
Annual DBE Goal
DBE Program
EEO Program
ADA
National Transit Database reports-up-to-date
Any outstanding oversight findings resolved or resolution plan and schedule set
Additional Information:
Project Budget
Project Description
Project Justification/Supporting Information as necessary
Project Milestone Schedule
Labor Union Description(s) (including information about earlier DOL certifications that may apply to this project)
Environmental Review
Date of FTA's signing of FONSI (Finding of No Significant Impact), or
Date of FTA's signing of ROD (Record of Decision) closing out the EIS process, or
Grant applicant's Categorical Exclusion recommendation if neither (a) nor (b) above applies
Air Quality
Date of project level conformity determination by FTA, or
Applicant's recommendation concerning list of exemptions in the conformity regulation (40 CFR Part 51)
STIP—Date of Approved by FTA
Request for copy of Master Agreement
(If applicant does not have latest one on file)

[FR Doc. 98–29777 Filed 11–5–98; 8:45 am]
BILLING CODE 4910–57–M

federal register

Friday,
November 6, 1998

Part VI

Department of Health and Human Services

Centers for Disease Control and Prevention

Implementation of the Fertility Clinic Success Rate and Certification Act of 1992; Proposed Model Program for the Certification of Embryo Laboratories; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Implementation of the Fertility Clinic Success Rate and Certification Act of 1992; Proposed Model Program for the Certification of Embryo Laboratories

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice and request for comments.

SUMMARY: The Fertility Clinic Success Rate and Certification Act of 1992 (Pub. L. 102–493, 42 U.S.C. 263a–1 et seq.) requires that the Secretary, HHS, through CDC, develop a model program for the certification of embryo laboratories, to be carried out voluntarily by interested States. The model certification program is to be developed in consultation with appropriate consumer groups and professional organizations with knowledge and expertise in assisted reproductive technology.

This notice sets forth a description of the proposed model certification program, including the proposed definitions, administrative requirements, and embryo laboratory standards. Accordingly, CDC solicits comments on the proposed model certification program and reserves the right to revise the program based upon the comments it receives.

DATES: To assure consideration, written comments on the proposed model certification program for embryo laboratories as described in this notice must be received at the address indicated below on or before January 5, 1999.

ADDRESSES: Address all written comments to: Model Certification Program—**Federal Register** Notice, Centers for Disease Control and Prevention, Mail Stop K–66, 4770 Buford Highway N.E., Atlanta, Georgia 30341–3724.

Due to staffing and resourcing limitations, we cannot accept facsimile (FAX) copies of comments nor can we accept comments by telephone.

FOR FURTHER INFORMATION CONTACT: Nancy Anderson or Carol Cook, Division of Laboratory Systems, telephone (770) 488–8047 or (770) 488–8029.

SUPPLEMENTARY INFORMATION:

Introduction

The Fertility Clinic Success Rate and Certification Act of 1992 (FCSRCA), Public Law 102–493 (42 U.S.C. 263a–1 et seq.), was intended to provide the public with comparable information concerning the effectiveness of infertility services and to assure the quality of such services by providing for the certification of embryo laboratories.

Section 2 of the statute requires that the Secretary, HHS, through CDC, define pregnancy success rates, and seek public comment on the proposed definitions. In addition, Section 2 requires each assisted reproductive technology (ART) program to annually report its pregnancy success rates to CDC, along with the identity of each embryo laboratory used by the program, and whether the laboratory is certified under Section 3 or has applied for such certification. Section 2 was addressed in a **Federal Register** notice published on August 26, 1997 (62 FR 45259).

Section 3(a) of the FCSRCA requires that the CDC "develop a model program for the certification of embryo laboratories . . . to be carried out by the States." In developing the model certification program, CDC is to consult with "appropriate consumer and professional organizations with expertise in using, providing, and evaluating professional services and embryo laboratories associated with assisted reproductive technology programs."

Section 3(b) lists State official who are to received a description of the model certification program, and requires that the Secretary encourage States to adopt such a program.

Section 3(c) includes the requirements for administration of the certification program by the States, with provisions for the inspection and certification of embryo laboratories by States or approved accreditation organizations, and the requirement for application to the State by an embryo laboratory that seeks certification.

Section 3(d) specifies the embryo laboratory standards that are to be in the model certification program. These include a standard to assure consistent performance of laboratory procedures; a standard for a quality assurance and quality control program; standards for the maintenance of all laboratory records (including laboratory tests and procedures performed, as well as personnel and equipment records); and a standard for personnel qualifications.

Section 3(e) includes provisions for a State to adopt the model certification program if it applies to the Secretary, and is approved, and Section 3(f) allows for the use of accreditation organizations, approved under the requirements described in Section 4, to inspect and certify embryo laboratories in States that have adopted the program.

Section 3(g) requires that States which qualify to adopt the model certification program conduct embryo laboratory inspections to determine if the laboratories meet the requirements of the program. Section 3(g) also requires the Secretary to seek public comment on the conditions under which announced inspections may be conducted without diminishing the likelihood of discovering deficiencies in the operations of an embryo laboratory. In addition, inspection results (including deficiencies and any subsequent corrections to those deficiencies) are to be reported and made available to the public.

Section 3(h) provides for the Secretary to conduct validation inspections of embryo laboratories certified by a State or an approved accreditation organization to determines if the laboratories are being operated in accordance with the standards in the model certification program. If a validation survey demonstrates that an embryo laboratory is not in compliance with such standards, the statute specifies requirements for notification of the State, or as applicable, the accreditation organization. A subsequent investigation and inspection of additional certified embryo laboratories are to be conducted to determine if the State or accreditation organization is reliably identifying laboratory deficiencies. The Secretary may revoke the approval of the State certification program or accreditation organization if requirements applicable to the program are not being met.

Section 3(i) limits the Secretary is developing the model certification program, and the States in adopting such program, from establishing any regulation, standard, or requirement that has the effect of exercising supervision or control over the practice of medicine in ART programs.

Section 3(j) states that the Secretary may define the term of the certification issued by a State or an accreditation organization in a State, through the public comment process, and provides for application for recertification to be submitted when there is a change in ownership or administration of a certified embryo laboratory.

Section 4 calls for the Secretary, through CDC, to promulgate criteria and procedures for the approval and use of accreditation organizations to inspect and certify embryo laboratories in States which have adopted the model certification program, as well as in States which have not adopted the program. The section also includes

provisions for annual evaluation of approved accreditation organizations by the Secretary, through the inspection of a representative sample of accredited embryo laboratories and other such appropriate means.

Section 5 specifies the conditions under which a certification issued by a State or an accreditation organization shall be revoked or suspended, and the effect that such revocation or suspension would impose on the certification and application for recertification of the laboratory.

Section 6 mandates that the Secretary, through CDC, annually publish pregnancy success rates as reported by ART programs (Section 2); the names of ART programs that fail to report pregnancy success rates; the identity and certification status of each embryo laboratory located in a State which has adopted the model certification program; the identity of each embryo laboratory in a State which has not adopted the certification program and which has been certified by an approved accreditation organization; and in the case of an embryo laboratory which is not certified, whether the laboratory has applied for certification. The annual publication is to be distributed to States and the public. This section was also addressed in the previously mentioned **Federal Egister** notice published on August 26, 1997 (62 FR 45259). The first report, 1995 Assisted Reproductive Technology Success Rates: National Summary and Fertility Clinic Reports, was published in December 1997. Copies of the report may be obtained by contacting RESOLVE, a national consumer organization helping infertile couples and individuals, at 1–888–299–1585 or via the Internet at www.resolve.org.

Section 7 authorizes the Secretary to charge sufficient fees to cover the cost of administering the FCSRCA and authorizes States adopting the certification program to charge sufficient fees to cover the cost of administering their program.

Section 8 includes a definition of assisted reproductive technology and provides for seeking public comment on any proposed expansion of the definition.

Actions Taken To Develop the Proposed Model Certification Program

In accordance with the FCSRCA, CDC consulted with individuals, professional organizations and consumer groups with expertise and interest in ART throughout the development of the proposed model certification program for embryo laboratories. Consultation was provided by organizations representing reproductive medicine, including the American Society for Reproductive Medicine (ASRM) and the Society for Assisted Reproductive Technology, laboratory organizations such as the College of American Pathologists (CAP) and the American Association of Bioanalysts, and a consumer group that serves to educate the public on infertility diagnosis and treatment (RESOLVE). CDC also worked closely with several State programs throughout the process to ensure that the proposed model certification program, when finalized, could easily be adopted and implemented by interested States, and sought input from Federal agencies with regulatory responsibilities related to laboratory practice, tissue banking and ART.

A useful example in developing the proposed model certification program was the voluntary accreditation program for reproductive laboratories that is currently administered by the CAP. This program was developed jointly between the CAP and the ASRM, and has been in existence since 1993. More than one third of the embryo laboratories associated with ART programs in the United States currently participate in this voluntary program. As CDC began drafting the proposed model certification program, an initial step was to meet with representatives from the CAP to gather information on the CAP/ASRM Reproductive Laboratory Accreditation Program, including the laboratory standards and inspection checklists used by CAP inspectors and reproductive laboratories. CDC also used a variety of guidelines and standards from other professional organizations, State, Federal, and international programs as resources (see References), and made a number of site visits to embryo laboratories to observe the daily operation of these facilities.

Between November 1996 and August 1997, CDC held several work sessions with technical consultants to obtain input on specific issues related to the embryo laboratory and the proposed model certification program, including personnel qualifications and responsibilities, quality assurance and quality control (quality management), recordkeeping, specific definitions as they apply to the model certification program, and State administration of the program. The individuals who participated in these work sessions were asked to provide consultation because of their expertise and interest in ART laboratory procedures, or experience with clinical laboratory testing. The input provided by each consultant was used by CDC to assist in its internal deliberations to develop a practical and effective model certification program for embryo laboratories. No group consensus was sought at any of the sessions.

On-going Review of Embryo Laboratories

In passing the FCSRCA, Congress anticipated that the cost of Federal and State monitoring and oversight of embryo laboratories would be covered by the fees they pay. Section 7 of the statute provides for the collection of sufficient fees from participating embryo laboratories to cover these costs. However, participation by embryo laboratories is voluntary; laboratories not willing to pay these fees would not be limited in their ability to operate.

CDC plans to implement oversight and monitoring under the FCSRCA to the extent the roughly 350 embryo laboratories are willing to voluntarily pay sufficient fees to cover oversight costs. At this time, embryo laboratories have not indicated they would opt into such an oversight program. CDC will continue to review embryo laboratories' interest in, and willingness to pay for, a formalized Federal oversight program, and adjust CDC's plans accordingly.

CDC has, however, developed these proposed model certification standards, incorporating the definitions, administrative requirements and laboratory standards that are called for in the FCSRCA, and is publishing them to provide an opportunity for public comment. The model certification program will be revised as necessary, based on these comments, published as a final notice in the **Federal Register**, and the final model will be distributed to State officials and health authorities as outlined in the statute.

At this time, CDC will defer implementation of the approval of state certification programs or accreditation organizations. In addition, Federal validation inspections of embryo laboratories certified by States adopting the model or accredited by an accreditation program for embryo laboratories will also be deferred until a sufficient number of laboratories are willing to opt into a self-supporting system. In this proposed model, implementation of these activities would be the responsibility of States that choose to adopt the model certification program.

To summarize, CDC proposes a model certification process for embryo laboratories performing assisted reproductive technology (ART). In developing this proposal, we have carefully reviewed an existing program, the CAP/ASRM Reproductive Laboratory Accreditation Program

(RLAP) which was developed by the professional community and provides oversight of embryo laboratories affiliated with ART programs and clinics. We have also taken note that there are existing voluntary programs in other areas of laboratory practice, such as the American Society of Clinical Pathologists and the American Board of Bioanalysts' laboratory personnel certification programs, that have had a beneficial impact on laboratory quality, without Federal oversight.

As mentioned previously in this preamble, the CAP/ASRM's RLAP provided the basis for many of the laboratory standards specified in the proposed model. We believe that this existing ART laboratory accreditation program likely will meet the standards we have proposed in the model and will provide an excellent resource for States which wish to develop their own certification program. In addition, other professional organizations have expressed an interest in establishing and/or adopting standards for the embryo laboratory; the proposed certification process should benefit those other groups.

While the model certification program for embryo laboratories proposed in this model does not provide for a Federal oversight role until a sufficient number of laboratories would opt into a self-supporting system, we welcome public comment on the need, desirability and specific benefits of Federal oversight.

Request for Comments on the Proposed Model Certification Program

Written comments on any aspect of the proposed model certification program included in this notice may be submitted to CDC during the public comment period at the address specified for receipt of comments. In addition, the FCSRCA requires the Secretary to facilitate public comment on specific aspects of the model certification program and the definitions as they relate to the model. To ensure appropriate consideration by commenters, the following issues are highlighted:

- Based on the comments received during the previously mentioned work sessions with technical consultants, the proposed model's definitions for "assisted reproductive technology" and "embryo laboratory", have been elaborated from the definitions specified in the FCSRCA. The issue is whether the revised definitions are appropriate and accurate for use in the model certification program.
- The proposed model permits announced initial and routine inspections and unannounced inspections for complaint investigations. The issues are under what circumstances should announced inspections be permitted so as not to diminish the likelihood of discovering deficiencies in the operation of an embryo laboratory, and whether there are circumstances that should require unannounced inspections.
- The proposed model specifies a 2-year term for embryo laboratory certification. The issue is whether this is an appropriate period of time for the term of certification of a laboratory (i.e., renew biennially).

In addition, we are interested in receiving comments on the following issue which is not specifically addressed in the proposed model certification program but may be considered for inclusion in the finalized model:

- Proficiency testing (PT) currently available for the embryo laboratory is limited to determining whether culture media samples provided by the PT program are suitable for in vitro mouse embryo culture. While the performance of PT is not required in the proposed model, the model's standards do require a laboratory to perform quality control procedures to monitor the reliability of the ART procedures performed (including culture media checks). Equipment and instrument maintenance and function checks are also required to ensure their adequate performance. In addition, the laboratory must track and evaluate procedural outcomes such as fertilization rates, cleavage rates and embryo quality as a means of monitoring the quality of the procedures and services provided by the laboratory. The issue is whether these standards provide a sufficient means for monitoring laboratory performance or if a standard requiring PT should be included in the model.

Organization of Proposed Model Certification Program

This notice describes the proposed model certification program for embryo laboratories and includes the proposed definitions (Part I), proposed administrative requirements (Part II), and proposed embryo laboratory standards (Part III). References are also provided as an addendum to this notice for background and educational purposes.

Dated: October 28, 1998.

Jeffrey P. Koplan,

Director, Centers for Disease Control and Prevention (CDC).

PROPOSED MODEL CERTIFICATION PROGRAM FOR EMBRYO LABORATORIES

Contents

Part I. Definitions
Part II. Administrative Requirements
Part III. Embryo Laboratory Standards
Addendum References

Part I. Definitions

Accredited institution. A school or program which——

(a) Admits as a regular student only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate;

(b) Is legally authorized within the State to provide a program of education beyond secondary education;

(c) Provides an educational program for which it awards a bachelor's degree or provides not less than a 2-year program which is acceptable toward such a degree, or provides an educational program for which it awards a master's or doctoral degree; and

(d) Is accredited by a nationally recognized accrediting agency or association.

This definition includes any foreign institution of higher education that HHS or its designee determines meets substantially equivalent requirements.

Approved accreditation organization. An accreditation organization that has formally applied for and received the State's approval based on the organization's compliance with this model certification program and other requirements as specified by the State.

ART. Assisted reproductive technology.

Assisted hatching. A micromanipulation technique which involves making a small opening in the zona wall of the embryo to enhance implantation.

Assisted reproductive technology. All clinical treatments and laboratory procedures which include the handling of human oocytes and sperm, or embryos, with the intent of establishing a pregnancy. This includes, but is not limited to, in vitro fertilization, gamete intrafallopian transfer, zygote intrafallopian transfer, embryo cryopreservation, oocyte or embryo donation, and gestational surrogacy.

Assisted reproductive technology cycle. Any cycle in which (1) ART has been used, (2) in which the woman has undergone ovarian stimulation or monitoring with the intent of undergoing ART, (3) a woman has donated oocytes, or (4) in the case of cryopreserved embryos, in which embryos have been thawed with the intent of transfer. ART cycles can be stimulated (use of ovulation induction) or unstimulated (natural cycle).

Assisted reproductive technology laboratory procedures. All laboratory procedures for handling and processing of human oocytes and sperm, or embryos, with the intent of establishing a pregnancy. These procedures include, but are not limited to, the examination of follicular aspirates, oocyte classification, sperm preparation, oocyte insemination, assessment of fertilization, assessment of embryo development, preparation of embryos for embryo transfer, and cryopreservation of specimens.

Assisted reproductive technology program or clinic. A legal entity practicing under State law, recognizable to the consumer, that provides ART to couples who have experienced infertility or are undergoing ART for other reasons. This can be an individual physician or a group of physicians who practice together, and share resources and liability.

Authorized person. An individual authorized under State law to order ART procedures.

CDC. The Centers for Disease Control and Prevention.

CLIA. The Clinical Laboratory Improvement Amendments of 1988.

Certification. The certification of an embryo laboratory by a State certification program or through accreditation by an approved accreditation organization.

Certification program. The model certification program for embryo laboratories described in this notice or a State certification program for embryo laboratories which meets or exceeds the requirements of the model certification program.

Cryopreservation. A technique to preserve biologic material through freezing.

Doctoral scientist. An individual holding an earned doctoral degree in a chemical, physical, biological or medical laboratory science from an accredited institution. As defined here, doctoral scientist also includes individuals holding an earned doctoral degree in veterinary medicine.

Embryo. The normal (2 pronuclei) fertilized egg that has undergone one or more divisions.

Embryo laboratory. A facility in which human oocytes and sperm, or embryos, are subject to ART laboratory procedures.

Embryo transfer. Introduction of an embryo(s) into a woman's uterus after in vitro fertilization.

Fertilization. The penetration of the egg by the sperm and fusion of genetic materials to result in the development of a fertilized egg (or zygote).

Gamete intrafallopian transfer. An ART procedure that involves removing eggs from the woman's ovary, combining them with sperm, and immediately injecting the eggs and sperm into the fallopian tube. Fertilization takes place inside the fallopian tube.

HHS. The U.S. Department of Health and Human Services, or its designee.

Intracytoplasmic sperm injection. The placement of a single sperm into the ooplasm of an oocyte by micro-operative techniques.

In vitro fertilization. A method of assisted reproduction that involves removing eggs from a woman's ovaries, combining them with sperm in the laboratory and, if fertilized, replacing the resulting embryo(s) into the woman's uterus.

Laboratory. Unless otherwise specified in this notice, means embryo laboratory.

Micromanipulation. Microtechniques such as intracytoplasmic sperm injection and assisted hatching commonly used to overcome fertilization disorders.

Physician. An individual with a doctor of medicine or doctor of osteopathy degree who is licensed by the State to practice medicine or osteopathy within the State in which the embryo laboratory is located.

Procedural outcome. The outcome of the assisted reproductive technology laboratory procedure performed e.g., fertilization assessment—the presence of two pronuclei in the ooplasm.

Oocyte. The female reproductive cell, also called an egg.

Specimen. Human biologic material (includes human reproductive tissue such as oocytes, sperm, zygotes and embryos).

Sperm. The male reproduction cell that has completed the process of meiosis and morphological differentiation.

State. Includes, for purposes of this model certification program, each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and other territories of the United States, and a political subdivision of a State where the State, acting pursuant to State law, has expressly delegated powers to the political subdivision sufficient to authorize the political subdivision to act for the State in enforcing requirements equal to or more stringent than the model certification program.

Zygote. A normal (2 pronuclei) fertilized egg before cell division begins.

Zygote intrafallopian transfer. Eggs are collected and fertilized, and the resulting zygote is then transferred to the fallopian tube.

Part II. Administrative Requirements

A. Overview

The certification program for embryo laboratories is a model program developed by the Centers for Disease Control and Prevention (CDC) in accordance with Pub. L. 102–493 (42 U.S.C. 263a–1 *et seq.*) and is to be administered by interested States.

B. Requirements for State Administration of the Model

Certification Program for Embryo Laboratories. The State may adopt and administer the model certification program for embryo laboratories described in this notice of administer a State certification program for embryo laboratories that meets or exceeds the requirements of the model certification program, and must, at a minimum, meet the following provisions—

1. Certification Under State Programs. A State may qualify to adopt and administer the model certification program if the State submits an attestation to CDC (contact to be provided in final notice) providing—

a. Assurances that the certification program for embryo laboratories administered by the State meets or exceeds the requirements of the model certification program specified in this notice.

b. An agreement that in administering the certification program, a State will not establish any regulation, standard, or requirement which has the effect of exercising supervision or control over the practice of medicine in assisted reproductive technology programs or clinics.

c. An agreement that the term of State certification/recertification issued to an embryo laboratory is for a period of not more than two years.

d. An agreement to investigate, when appropriate and to the extent necessary, complaints received about an embryo laboratory certified under the State's program.

e. An agreement to annually report to CDC, (contact to be provided in final notice) the identity and certification status of each embryo laboratory in the State as well as any such laboratory which has applied for certification, and the assisted reproductive technology programs, or clinics with which each embryo laboratory is associated, for annual publication by CDC.

f. Information about any proposed use and approval and revocation of approval of accreditation organizations in accordance with paragraph 2. and 5. of this section.

g. An agreement to make such reports as the Secretary of the Department of Health and Human Services (through CDC) may require.

2. Use and Approval of Accreditation Organizations. Accreditation organizations approved by the State may be used to inspect and accredit embryo laboratories for the purpose of State certification and such accreditation shall constitute certification. The criteria and procedures used by the

State to approve accreditation organizations must include, at a minimum, the following:

a. The accreditation organization must provide assurances satisfactory to the State that its standards and requirements for accreditation of embryo laboratories meet or exceed the requirements of the certification program;

b. The accreditation organization must, at a minimum, conduct inspections of embryo laboratories in accordance with the requirements under paragraph 4. of this section which includes making available to the public, upon request, the specific findings (with any explanatory information required to interpret the findings), including deficiencies identified in an inspection, and any subsequent corrections to those deficiencies, no later than 60 days after the date of the inspection;

c. The accreditation organization must agree to revoke or suspend a laboratory's accreditation for one year, if the accreditation organization finds, on the basis of inspections, that the owner or operator of the laboratory, or any employee of the laboratory—

A. Has been guilty of misrepresentation in obtaining the accreditation.

B. Has failed to comply with any standards of the accreditation program.

C. Has refused a request of the accreditation organization or State for permission to inspect the laboratory, its operations, and records; and

d. The accreditation organization must agree to submit such reports and maintain such records as the State, or HHS, may require, to include, but not be limited to, the following:

i. Notification to the State of each newly accredited embryo laboratory within the State within 30 days of the laboratory obtaining accreditation;

ii. Notification to the State of any embryo laboratory within the State that has its accreditation denied, suspended, withdrawn or revoked, or that has had any other adverse action taken against it by the accreditation organization within 30 days of the action taken;

iii. Notification to the State within 10 days of a deficiency identified in any accredited embryo laboratory within the State where the deficiency poses an immediate jeopardy to the laboratory's patients or a hazard to the general public;

iv. Notification to the State if the accreditation organization finds, on the basis of inspections, that the owner or operator of the laboratory, or any employee of the laboratory—

A. Has been guilty of misrepresentation in obtaining the accreditation.

B. Has failed to comply with any standards of the accreditation program.

C. Has refused a request of the accreditation organization for permission to inspect the laboratory, its operations, and records;

v. Provide inspection schedules as requested by the State for the purposes of conducting onsite validation inspections of laboratories; and

vi. Provide the State written notification at least 30 days in advance of the effective date of any proposed changes in its requirements.

3. Embryo Laboratory Application Requirements. The State must provide for the submission of an application to the State by an embryo laboratory requesting certification, in such form as may be specified by the State. Such an application must include the following:

a. Assurance satisfactory to the State that the embryo laboratory will be operated in accordance with the standards of the certification program;

b. An agreement by the embryo laboratory to—

i. Annually report to the State the assisted reproductive technology programs or clinics with which the laboratory is associated.

ii. Submit changes in the ownership or the administration of the laboratory to the State within 30 days of the change.

iii. Permit the State to conduct onsite inspections including, as applicable, initial, routine, validation and complaint inspections, upon presentation of identification to the owner, operator, or agent in charge of the laboratory, during the laboratory's regular hours of operation to determine compliance with the certification program.

iv. Permit the State to have access to all facilities, equipment, materials, records, and information which the State requires to determine if the laboratory is being operated in accordance with the standards of the certification program.

v. Permit the State to copy any material, record, or information inspected, or submit such, upon request by the State.

vi. Permit the State to make available, upon request, to the public, the laboratory's specific inspection findings (with any explanatory information required to interpret the findings), including deficiencies identified in an inspection, and any subsequent corrections to those deficiencies;

c. If the State allows certification of an embryo laboratory on the basis of the laboratory's accreditation by an approved accreditation organization (i.e., issues a certificate of accreditation), the laboratory must, in addition to the requirements of subparagraphs 3.a. and 3.b. of this section—

i. Submit proof of current accreditation;

ii. Permit the accreditation organization to have access to all facilities, equipment, materials, records, and information which the accreditation organization requires to determine if the laboratory is being operated in accordance with the standards of the accreditation organization program;

iii. permit the accreditation organization to copy any material, record, or information inspected, or submit such, upon request by the accreditation organization;

iv. Permit the accreditation organization to make available, upon request, to the public, the laboratory's specific inspection findings (with any explanatory information required to interpret the findings), including deficiencies identified in an inspection, and any subsequent corrections to those deficiencies; and

v. Agree to authorize the accreditation organization to submit to the State or HHS such laboratory-specific information or reports as the State or HHS may require; and

d. Such other information, agreements and assurances as the State finds necessary.

4. Initial, Routine and Complaint Inspections. Inspections must be conducted to determine if embryo laboratories applying for or renewing their certification meet the requirements of the certification program. In addition, inspections may be performed as part of the State's investigation of complaints received about a certified embryo laboratory. The inspections may be carried out by the State or, as applicable, by an accreditation organization approved by the State in accordance with paragraph 2. of this section.

a. Initial inspections for embryo laboratory certification must be performed during the laboratory's regular hours of operation and may be announced. Initial inspections are performed when the laboratory applies for certification and may be performed for recertification after the laboratory has had a change in ownership or administration.

b. Routine inspections for renewal of the laboratory's certification must be performed biennially, during the laboratory's regular hours of operation and may be announced.

c. Inspections to investigate complaints received by the State about a laboratory may be performed unannounced, during the laboratory's regular hours of operation.

d. Inspection of a laboratory may be made only upon the presentation of identification to the owner, operator, or agent in charge of the laboratory being inspected.

e. In conducting an inspection, the State or approved accreditation organization must have access to all facilities, equipment, materials, records, and information which the State or approved accreditation organization requires to determine if the laboratory is being operated in accordance with the standards of the certification program.

f. The State or approved accreditation organization may copy any material, record, or information inspected or require it to be submitted to the State or, as applicable, to the approved accreditation organization.

g. The specific findings (with any explanatory information required to interpret the findings), including deficiencies identified in an inspection, and any subsequent corrections to those deficiencies must be made available to the public upon request beginning no later than 60 days after the date of the inspection.

5. Validation Inspections. The State must annually evaluate the performance of each approved accreditation organization by performing validation inspections of a sufficient number of embryo laboratories within the State accredited by the organization, to allow a reasonable estimate of the performance of such organization.

a. The State may enter and inspect, during regular hours of operation, embryo laboratories which have been accredited by an approved accreditation organization for the purpose of determining whether the laboratory is being operated in accordance with the standards of the certification program.

b. A validation inspection of a laboratory may be announced and be made only upon the presentation of identification to the owner, operator, or agent in charge of the laboratory being inspected.

c. In conducting a validation inspection, the State must have access to all facilities, equipment, materials, records, and information which the State requires to determine if the laboratory is being operated in accordance with the standards of the certification program.

d. The State may copy any material, record, or information inspected or require it to be submitted to the State.

e. If the State determines as a result of a validation inspection that the embryo laboratory is not in compliance with the standards of the certification program, the State must—

i. Notify the accreditation organization which accredited the laboratory.

ii. Make available to the public the inspection findings (with any explanatory information required to interpret the findings), including deficiencies identified in the inspection, and any subsequent corrections to those deficiencies.

iii. Conduct additional inspections of other embryo laboratories accredited by the accreditation organization is reliably identifying the deficiencies of the laboratories.

f. If the State determines that the accreditation organization has not met the requirements of paragraph 2. of this section, the State may (under such notice and hearing standards to be developed by the State) revoke the approval of the accreditation program.

6. Revocation of an Accreditation Organization's State Approval. If the State revokes approval of an accreditation organization under subparagraph 5.f., of this section—

a. The State must notify each laboratory, accredited by the organization under the State certification

b. The certification of any embryo laboratory accredited by the organization will continue in effect for 60 days after the laboratory is notified by the State of the withdrawal of approval, except that the State may extend the period during which the certification may remain in effect if the State determines that the laboratory submitted an application to another approved accreditation organization for accreditation or to the State, as applicable, in a timely manner after receipt of such notice.

7. Embryo Laboratory Certification Revocation and Suspension.

a. A certification issued by a State for an embryo laboratory must be revoked or suspended if the State or, as applicable, approved accreditation organization finds, on the basis of inspections and after reasonable notice and opportunity for hearing (under such notice and hearing standards to be developed by the State) to the owner or operator of the laboratory, that the owner or operator or any employee of the laboratory—

i. Has been guilty of misrepresentation in obtaining the certification.

ii. Has failed to comply with any standards of the certification program.

iii. Has refused a request of the State or approved accreditation organization for permission to inspect the laboratory, its operations, and records.

b. If the certification of an embryo laboratory is revoked or suspended, the certification of the laboratory shall continue in effect for 60 days after the laboratory receives notice of the revocation or suspension, unless there is a finding that the laboratory's continued operation may constitute a public health threat, in which case the certification shall be immediately revoked or suspended.

c. If the certification of an embryo laboratory is revoked or suspended, the laboratory may apply for recertification after one year after the date of the revocation or suspension.

8. Fees. The State may require the payment of fees for the purpose of, and in an amount sufficient to cover the costs of, administering the certification program.

Part III. Embryo Laboratory Standards

A. Personnel Qualificotions and Responsibilities

The embryo laboratory must have a sufficient number of individuals, who meet the qualification requirements, to perform the functions necessary to provide timely services appropriate for the size and volume of the assisted reproductive technology program(s) or clinic(s) served by the laboratory. As a guideline, for every 90–150 assisted reproductive technology cycles performed annually, the laboratory should employ one individual who is capable of performing all assisted reproductive technology laboratory procedures provided by the embryo laboratory. Regardless of workload, at a minimum, two qualified individuals should be available to provide the appropriate laboratory services.

1. Laboratory Director Qualifications. The laboratory director must be qualified to manage and direct the laboratory personnel and the performance of assisted reproductive technology laboratory procedures. The laboratory director must—

a. Possess a current license as an embryo laboratory director issued by the State in which the laboratory is located, if such licensing is required.

b. Be a physician or a doctoral scientist with a broad knowledge of the biochemistry, biology, and physiology of reproduction, and laboratory operations including experimental design, statistics, and problem solving and meet the following.

i. Have two years documented pertinent experience in a laboratory

performing assisted reproductive technology procedures. This experience should induce familiarity with laboratory quality control, sterile technique and cell culture; and

ii. Have documented training of at least 1,000 hours in an embryo laboratory which includes performing, at a minimum, each laboratory component of the human assisted reproductive technology cycle 60 times.

Note: Documented experience and training may be acquired concurrently.

c. If not qualified under paragraph 1.b. of this section, be the director of an embryo laboratory on or before [date of publication of final notice] and meet the following:

i. Have two years documented pertinent experience in a laboratory performing assisted reproductive technology procedures. This experience should induce familiarity with laboratory quality control, sterile technique and cell culture; and

ii. Have documented training of at least 1,000 hours in an embryo laboratory which includes performing, at a minimum, each laboratory component of the human assisted reproductive technology cycle 60 times.

Note: Documented experience and training may be acquired concurrently.

d. In addition to meeting the qualification requirements above, obtain at least 12 contact hours of continuing education annually in assisted reproductive technology or clinical laboratory practice.

2. Laboratory Director Responsibilities. The laboratory director is responsible for the overall operation, administration, and technical and scientific oversight of the embryo laboratory, including the employment of personnel who are qualified to perform assisted reproductive technology laboratory procedures, and record and report procedural outcomes promptly, accurately and proficiently. If the laboratory director delegates performance of his or her responsibilities, he or she must do so in writing. The laboratory director remains responsible for ensuring that all delegated duties are properly performed. The laboratory director must—

a. Be accessible to the laboratory to provide onsite, telephone or electronic consultations as needed.

b. Ensure that the physical plant (space, facilities and equipment) and environmental conditions of the laboratory are appropriate for the laboratory procedures performed and provide a safe environment in which employees and other occupants are protected from physical, chemical, electrical and biological hazards.

c. Establish and monitor a program to ensure that aseptic conditions are maintained in the laboratory, as appropriate, for the assisted reproductive laboratory procedures to be performed.

d. Ensure that assisted reproductive technology laboratory procedures selected or developed by the laboratory are appropriate to provide quality patient care.

e. Ensure that adequate systems are in place to maintain patient confidentiality throughout those parts of the assisted reproductive technology process under the laboratory's control.

f. Ensure that an approved procedure manual is available to all personnel responsible for performing assisted reproductive technology laboratory procedures.

g. Establish and monitor a quality management program to assure the quality of laboratory services provided and to identify failures in quality as they occur.

h. Ensure that all necessary corrective actions are taken, documented and reviewed for effectiveness whenever failures in quality are identified.

i. Provide consultation to physicians and others, as appropriate, regarding the clinical significance of laboratory findings.

j. Employ a sufficient number of qualified personnel with the appropriate education and documented experience or training to supervise and perform the work of the laboratory. Written records of the qualifications of all personnel must be maintained.

k. Ensure that all personnel receive appropriate training for the assisted reproductive technology laboratory procedures to be performed, and have demonstrated that they can perform the procedures reliably prior to working on patients' specimens. All training activities must be documented.

l. Ensure that all personnel acquire, on an annual basis, the required number of continuing education contact hours. A record of each employee's continuing education participation must be maintained.

m. Specify, in writing, the responsibilities and duties of each person who performs assisted reproductive technology laboratory procedures, identifying which procedures each individual is authorized to perform and whether supervision is required.

n. Ensure that policies and procedures are established for monitoring each employee's continued competence to perform assisted reproductive technology laboratory procedures, and whenever necessary, provide remedial training or additional continuing education to improve skills.

o. Ensure that performance evaluations for each employee are performed and documented, at a minimum, annually.

3. Laboratory Supervisor Qualifications. The embryo laboratory must have one or more qualified supervisors who, under the direction of the laboratory director, provide day-to-day supervision of laboratory personnel performing assisted reproductive technology laboratory procedures. In the absence of the director, the laboratory supervisor must be responsible for the proper performance of all assisted reproductive technology laboratory procedures. The laboratory supervisor must—

a. Possess a current license issued by the State in which the laboratory is located, if such licensing is required.

b. Meet the qualification requirements for an embryo laboratory director under paragraph 1. of this section, or meet the following:

i. Have an earned master's or bachelor's degree in a chemical, physical, biological, clinical laboratory or medical technology science from an accredited institution; and

ii. Have documented training which includes performing, at a minimum, each laboratory component of the human assisted reproductive technology cycle 60 times.

c. If not qualified under subparagraph 3.b. of this section, be the supervisor of an embryo laboratory on or before [date of publication of final notice] and have documented training which includes performing, at a minimum, each laboratory component of the human assisted reproductive technology cycled 60 times.

d. In addition to meeting the qualification requirements above, obtain at least 12 contact hours of continuing education annually in assisted reproductive technology or clinical laboratory practice. If also serving as the laboratory director, continuing education obtained to meet the laboratory director qualification requirements may be used to meet this requirement.

4. Laboratory Supervisor Responsibilities. The laboratory supervisor is responsible for day-to-day supervision or oversight of the embryo laboratory operation and personnel performing assisted reproductive technology laboratory procedures. The laboratory supervisor must—

a. Be accessible to laboratory personnel at all times when assisted reproductive technology laboratory procedures are performed to provide on-site, telephone or electronic consultation to resolve technical problems in accordance with policies and procedures established by the laboratory director.

b. Provide day-to-day supervision of laboratory personnel performing assisted reproductive technology laboratory procedures.

c. Ensure direct and constant supervision of personnel undergoing training in assisted reproductive technology laboratory procedures to fulfill the qualification requirements for a reproductive biologist.

d. Perform laboratory director responsibilities as authorized in writing by the laboratory director.

5. Reproductive Biologist Qualifications. Each individual performing assisted reproductive technology laboratory procedures must—

a. Possess a current license issued by the State in which the laboratory is located, if such licensing is required.

b. Meet the qualification requirements for an embryo laboratory director under paragraph 1. of this section, laboratory supervisor requirements under paragraph 3. of this section, or meet the following:

i. Have an earned bachelor's degree in a chemical, physical, biological, clinical laboratory or medical technology science from an accredited institution; and

ii. Have documentation of training appropriate for the assisted reproductive technology laboratory procedure(s) to be performed before performing the procedure(s) without direct and constant supervision on patient specimens. Training must include performing the assisted reproductive technology laboratory procedure(s), at a minimum, 30 times under direct and constant supervision.

c. If not qualified under subparagraph 5.b. of this section, be performing assisted reproductive technology laboratory procedures in an embryo laboratory on or before [date of publication of final notice] and have documentation of training appropriate for the assisted reproductive technology laboratory procedure(s) to be performed before performing the procedure(s) without direct and constant supervision on patient specimens. Training must include performing the assisted reproductive technology laboratory procedure(s), at a minimum, 30 times under direct and constant supervision.

d. In addition to meeting the qualification requirements above, obtain at least 12 contact hours of continuing education annually in assisted reproductive technology or clinical laboratory practice. If also serving as the laboratory director or laboratory supervisor, continuing education obtained to meet the laboratory director or laboratory supervisor qualification requirements may be used to meet this requirement.

6. Reproductive Biologist Responsibilities. The reproductive biologist is responsible for performing assisted reproductive technology laboratory procedures, and recording and reporting procedural outcomes promptly, accurately and proficiently. The reproductive biologist must—

1. Perform only those assisted reproductive technology laboratory procedures that are authorized by the laboratory director, and for which training has been documented. If appropriate training has not been documented, perform assisted reproductive technology laboratory procedures only under direct and constant supervision.

b. Follow the laboratory's established policies and procedures for performing assisted reproductive technology laboratory procedures, and recording and reporting procedural outcomes.

c. Adhere to the laboratory's quality management policies, document all specimen and procedure management, quality control and quality assurance activities, and equipment and instrument calibration, function verification and maintenance performed.

d. Identify problems that may adversely affect the performance of assisted reproductive technology laboratory procedures and either immediately notify the laboratory supervisor or director, or correct the problem(s) in accordance with the laboratory's established policies and procedures and notify the laboratory supervisor or director of the problem(s) and the corrective action(s) taken.

e. Document all corrective actions taken when failures in quality are identified.

B. Facilities and Safety

The embryo laboratory must provide adequate space and the appropriate environmental conditions to ensure safe working conditions and quality performance of assisted reproductive technology laboratory procedures.

1. Requirements for Physical Space and Utilities. The laboratory must be constructed and arranged so that—

a. The laboratory space, ventilation, and utilities are adequate for the volume of assisted reproductive technology laboratory procedures performed during peak periods of activity.

b. Assisted reproductive technology laboratory procedures are carried out in a secure area with access limited to authorized personnel.

c. Movement of patient specimens and traffic around sensitive work areas is limited in order to reduce the potential for spilled or lost specimens.

d. Incubator and storage space are configured to ensure positive specimen identification and minimize the potential for errors due to misplaced specimens or retrieval of the wrong specimen.

e. Activities requiring sterile technique such as the handling, assessment and culturing of human oocytes and embryos, are performed under aseptic conditions in an area that is physically isolated from other laboratory activities.

f. All laboratory work areas (does not include administrative areas) are easily washed and disinfected.

g. The laboratory and administrative space are conveniently located, but are separate from patient areas.

h. Immediate communication can occur with the oocyte retrieval and transfer room(s).

2. Safety Requirements. Safety precautions, policies, and procedures must be established and posted, or readily available to all personnel, to ensure protection from physical, chemical, electrical and biological hazards.

a. All personnel must be knowledgeable about and abide by applicable Federal, State and local regulations regarding protection from physical, chemical, electrical and biological hazards.

b. Disposable materials should be used wherever possible for all procedures that involve exposure to tissue and body fluids.

c. The laboratory must store and dispose of tissue, body fluids, or other potentially biohazardous materials as outlined in Federal, State and local regulations.

d. Toxic chemicals, including toxic cleaning materials, must be used in a manner that is not harmful to patient specimens.

e. Radioisotopes must not be used in a laboratory that performs assisted reproductive technology procedures.

f. The laboratory must have an emergency plan appropriate for its geographical location which specifies the actions to be taken to protect employees, patients, visitors and specimens in case of a natural disaster or other potentially devastating event.

3. Laboratory Animals. If laboratory animals are used, all applicable Federal, State and local regulations regarding animal care and use must be met. Animal specimens must be—

a. Handled and stored separately from human specimens.

b. Incubated separately from human specimens, unless program/institutional approval is given for an application involving specific cell lines, i.e., animal coculture.

C. Quality Management

The embryo laboratory must establish and follow written policies and procedures for a comprehensive quality management program that is designed to monitor and evaluate the ongoing and overall quality of the assisted reproductive technology laboratory procedures performed and services provided. All quality management activities must be documented.

1. Procedure Manual. A written procedure manual including instructions for all assisted reproductive technology laboratory procedures performed must be available in the embryo laboratory and followed by all laboratory personnel. The written procedures must be in sufficient detail to assure reproducibility and competence in the performance of the laboratory procedures.

a. The procedure manual include the following, when applicable to the assisted reproductive technology laboratory procedure performed:

i. Principle (scientific basis) of the assisted reproductive technology laboratory procedure;

ii. Clinical significance of the assisted reproductive technology laboratory procedure;

iii. Requirements for specimen collection and handling;

iv. Step-by-step instructions for performance of the assisted reproductive technology laboratory procedure;

v. Preparation of required reagents, culture media, solutions, or other special supplies;

vi. Equipment and instrumentation required for the performance of the procedure, including necessary function checks and calibration protocols;

vii. Quality control procedures to be performed, including frequency of control testing, and criteria for acceptability;

viii. Remedial action to be taken when function checks, calibration or control results do not meet the laboratory's criteria for acceptability;

ix. Calculations and interpretation of procedural outcomes, including criteria for acceptable and unacceptable outcomes, and procedural outcomes requiring special notification;

x. The laboratory's system for recording and reporting procedural outcomes;

xi. Limitations in methodologies, including interfering substances and precautions;

xii. Pertinent literature references;

xiii. Description of the course of action to be taken if required equipment or instrumentation malfunctions or is inoperable;

xiv. Criteria for the referral or transfer of specimens to another embryo laboratory for the performance of an assisted reproductive technology laboratory procedure, including procedures for specimen submission and handling; and

xv. Procedure for safe and appropriate specimen disposal.

b. Manufacturers' instrument/equipment manuals and package inserts may be used, when applicable, to meet the requirements of this section.

i. Any of the items listed under subparagraph 1.a. of this section, not provided by the manufacturer must be provided by the laboratory.

ii. Any modifications to, or deviations from, the manufacturer's instructions, must be clearly documented and provided in the procedure manual.

c. Appropriate reference materials (e.g., slides, pictures, textbooks, etc.) should be available in the laboratory to allow, as needed, comparison with patient specimens.

d. Procedures must initially be approved, signed and dated by the laboratory director, and must thereafter, be reviewed by the laboratory director on an annual basis.

e. Procedures must be re-approved, signed and dated if the directorship of the laboratory changes.

f. Each change in a procedure must be approved, signed and dated by the current laboratory director.

g. The laboratory must retain a copy of each procedure with the dates of initial use and discontinuance in accordance with the requirements of section D., Maintenance of Records, of this part.

2. Equipment and Instrument Maintenance/Calibration. The embryo laboratory must perform and document equipment and instrument maintenance and, as applicable, calibration, and function verification that include(s) electronic, mechanical and operational checks necessary for the proper performance of assisted reproductive technology laboratory procedures. The laboratory must—

a. Have sufficient equipment for the type and volume of assisted reproductive technology laboratory procedures performed, which may include but is not limited to, incubators, freezers, refrigerators, hoods, thermometers, centrifuges, microscopes, pipettes, and warming devices.

b. Establish and follow written policies and procedures for equipment and instrument maintenance and, as applicable, calibration, and function checks, that ensure proper performance of the equipment and instruments used in assisted reproductive technology laboratory procedures.

The laboratory must—

i. Define acceptable limits for equipment and instrument maintenance and, as applicable, calibration, and function checks prior to their use in assisted reproductive technology laboratory procedures.

ii. Perform maintenance and, as applicable, calibration, and function checks in accordance with the equipment/instrument manufacturer's instructions and at the frequency required to ensure adequate performance of the equipment and instruments used in assisted reproductive technology laboratory procedures.

iii. Monitor environmental conditions, using an independent measuring device, in critical equipment, including but not limited to, incubators, controlled-rate freezers and liquid nitrogen storage tanks, at a frequency that ensures timely detection of conditions that are deleterious to specimens. These conditions include, if applicable:

A. Temperature;

B. Humidity;

C. Gas concentration; and

D. Liquid nitrogen levels.

iv. Maintain an alarm system on critical equipment that will immediately detect when pre-established limits for the environmental conditions listed in subparagraph 2.b.iii. (excluding humidity), of this section, are exceeded. The alarm system must be:

A. Checked periodically to ensure that it will be triggered when preestablished limits for environmental conditions are exceeded; and

B. Monitored 24 hours a day in the laboratory or at a remote site.

v. Protect critical equipment and instrumentation from fluctuations and interruptions in electrical current.

vi. Have available emergency back-up capability for critical equipment, including but not limited to, incubators, refrigerators and controlled-rate freezers.

vii. Document all maintenance, calibration, and function checks performed.

c. Identify, investigate, and correct problems with equipment or instrumentation that may adversely affect the performance of assisted reproductive technology laboratory procedures.

d. Document all corrective actions taken when problems with equipment or instrumentation are identified.

3. Labeling, Handling, and Storage of Chemicals, Reagents, Solutions, Culture Media, Materials and Supplies. The embryo laboratory must label, handle and store chemicals, reagents, solutions, culture media, materials and supplies in a manner that ensures their positive identification, optimum integrity and appropriate reactivity in assisted reproductive technology laboratory procedures. The laboratory must—

a. Have a mechanism for ensuring sufficient chemicals, reagents, solutions, culture media, materials and supplies for the type and volume of assisted reproductive technology laboratory procedures performed (e.g., inventory maintenance program).

b. Define criteria that are essential for proper storage of chemicals, reagents, solutions, and culture media, including the following, as applicable:

i. Temperature;

ii. Humidity; and

iii. Other conditions necessary for proper storage.

c. Label all chemical, reagents, solutions, and culture media to indicate the following, as applicable:

i. Identity, and when significant, batch or lot number, titer, strength, or concentration;

ii. Recommended storage conditions;

iii. Expiration date; and

iv. Other pertinent information required for proper use.

d. Verify that materials which come in contact with sperm, oocytes, and embryos have been tested and found to be non-toxic to sperm, oocytes, and embryos. Documentation supplied by the manufacturer may be used to meet this requirement.

e. Maintain records documenting the batch or lot number, date of receipt or preparation, and date placed in use, for all chemicals, reagents, solutions, and culture media.

f. Prepare, store, and handle chemicals, reagents, solutions, and culture media in a manner to ensure that they are not used when they have exceeded their expiration date, have deteriorated, or are of substandard quality.

4. Specimen and Procedure Management. The embryo laboratory must have written protocols and criteria for the laboratory procedures performed and employ and maintain a system that provides for proper patient identification and preparation; specimen collection, identification, and handling (transportation, processing, storage, preservation); and accurate recording and reporting of laboratory procedural outcomes.

a. The laboratory must have available and follow written policies and procedures for each of the following:

i. Instructions for patient preparation, if applicable;

ii. Methods used for the positive identification of patients;

iii. Specimen collection;

iv. The labeling of patient specimens to ensure positive identification from the time of specimen collection through final disposition or disposal;

v. Criteria for maintaining specimen integrity and viability during transport, storage and the performance of assisted reproductive technology laboratory procedures including, as applicable, requirements for:

A. Temperature;

B. Humidity; and

C. Gas concentration; and

vi. Criteria for specimen acceptability and, as appropriate, instructions for special handling of suboptimal specimens.

b. The laboratory must have adequate systems in place to ensure patient confidentiality throughout those parts of the assisted reproductive technology process that are under the laboratory's control.

c. The laboratory may perform assisted reproductive technology laboratory procedures only at the written or electronic request of an authorized person. Oral requests for changes to the original written or electronic request must be documented by the laboratory and followed by receipt of written or electronic documentation from an authorized person within 24 hours of the oral request. The patient's chart or medical record may be used for written authorization, but must be available to the laboratory at the time of the laboratory procedure. Written or electronic authorization must include the following:

i. The patient's name and unique identifier;

ii. When applicable, the partner's or donor's name or other unique identifier;

iii. The name and address or other suitable identifiers of the authorized person requesting the procedure, and the name of the individual communicating the request;

iv. The procedure(s) to be performed;

v. The date(s) and time(s) the procedures(s) is to be performed; and

vi. Any additional information relevant and necessary to the performance of the procedure(s) including verification of informed patient consent, and as applicable, special handling instructions and any instructions stipulated by the patient.

d. As applicable, the laboratory must establish and follow written protocols, including documented criteria, for—

i. Evaluation and assessment of oocyte morphology and maturity, fertilization, and embryo quality.

ii. Insemination schedule relative to oocyte maturity.

iii. Volume, numbers, and quality of sperm used for insemination of each oocyte.

iv. Disposition of oocytes with an abnormal number of pronuclei.

v. Disposition of excess oocytes.

vi. The time period following insemination for examination of oocytes to determine fertilization.

vii. Micromanipulation of oocytes and embryos.

viii. Re-insemination of oocytes.

ix. Cryopreservation of specimens.

x. Embryo transfer procedures, which include the following:

A. The length of time embryos are cultured prior to transfer;

B. The medium and protein supplementation used for transfer, as applicable;

C. Disposition of excess embryos;

D. Types of catheters available, with circumstances for use of each;

E. Method of transfer; and

F. Technique for post transfer catheter check.

e. The laboratory must maintain a record system, for each patient's assisted reproductive technology cycle, to ensure reliable identification and control of the patient's specimens as they are received and the laboratory procedure(s) performed. The record system must include documentation of the information specified in subparagraph 4.c. of this section, and—

i. The laboratory accession number, or other unique identification of the specimen.

ii. The date and time of specimen receipt into the laboratory and, as applicable, the number of oocytes retrieved and assessment of each oocyte or cumulus corona complex.

iii. The condition and disposition of all specimens including those that do not meet the laboratory's criteria for acceptability.

iv. The records and dates of all laboratory handling and procedures, including the following, as applicable:

A. Semen assessment before and after washing and concentration for insemination;

B. Outcome of insemination or micromanipulation procedures (e.g., fertilization);

C. Outcome of any culture (e.g., cleavage);
D. Relative timing of protocol events (incubation hours, etc.);
E. Assessment of the developmental status and quality of all embryos at transfer;
F. Verification that no embryos remain in the catheter following completion of transfer;
G. The identity and lot numbers of the media and media supplements used in each phase of the procedure; and
H. The identity of the laboratory personnel who handled the specimens and performed the procedures.

f. The laboratory must have a mechanism in place for promptly providing the authorized person who ordered the procedure a complete summary of all procedural outcomes and the occurrence of any unusual or abnormal events, including the condition and disposition of specimens that do not meet the laboratory's criteria for acceptability.

g. The laboratory must have an accurate and reliable method of tracking cryopreserved specimens ensuring positive identification of each cryopreservation container. In addition, the cryopreservation container must be labeled with the patient's name or unique identifier, and the date the specimen(s) was frozen. All labeling must be of a permanent nature. Documentation must be maintained in duplicate log books or files for each liquid nitrogen storage tank and include the following:
i. The patient's name or other unique identifier;
ii. A description of each cryopreservation container's contents;
iii. The freezing protocol used;
iv. Date frozen;
v. Type and location of cryopreservation container (e.g., straw, vial); and
vi. Final disposition/disposal of the cryopreserved specimen(s).

h. If cryopreserved specimens are received from or transferred to other facilities, the laboratory must have written policies and procedures for the receipt/transfer of cryopreserved specimens. Policies and procedures must include appropriate methods of transportation and the method for verifying the identification and number of cryopreservation containers received/transferred. In addition, documentation of the freezing protocol used, and copies of patient release forms and applicable log sheets must accompany the cryopreserved specimens.

i. Clinical laboratory testing on specimens obtained by the embryo laboratory must be performed in accordance with the regulations implementing CLIA at 42 CFR Part 493. In addition—
i. The referring embryo laboratory must not revise results or information directly related to the interpretation of results provided by the testing laboratory.
ii. The referring embryo laboratory may permit the testing laboratory to send the test result(s) directly to the authorized person who initially requested the testing. The embryo laboratory must retain or be able to produce an exact duplicate of the testing laboratory report.
iii. The authorized person who orders a clinical laboratory test must be notified by the referring embryo laboratory of the name and address of the testing laboratory.

5. Method Validation. All assisted reproductive technology procedures selected or established by the embryo laboratory must be validated by the laboratory prior to routine patient use. The laboratory must determine appropriate performance measures and demonstrate that the procedure, when performed by the laboratory's staff, meets or exceeds acceptable levels of performance as defined by the laboratory. In addition, the laboratory must periodically verify, through its quality management activities (as specified in this part), each procedure's continued acceptable level of performance. All validations must be documented.

6. Quality Control. The embryo laboratory must establish and follow written quality control procedures at a frequency appropriate to monitor the reliability of the assisted reproductive technology laboratory procedures performed. All quality control activities must be documented. The laboratory must—
a. Establish acceptability criteria for all quality control procedures.
b. Perform and document the remedial action(s) taken when problems are identified or quality control procedures do not meet the laboratory's criteria for acceptability.
c. For each laboratory procedure performed and, as applicable, culture media preparation—
i. Define and use the appropriate grade of water required.
ii. Periodically monitor water quality to ensure that its quality continues to meet the laboratory's specifications for its intended use. As applicable, adherence to manufacturers' storage and handling requirements, and expiration dates may meet this requirement.
d. As applicable, have and follow a written procedure for the preparation, washing and sterilization of glassware used in the laboratory's procedures that includes the following:
i. Rinsing all washable glassware with distilled or deionized water prior to drying; and
ii. If detergent is used, testing washed items for detergent removal.
e. Have and follow a written procedure for the quality control of culture media which includes a visual check for physical damage to the media container and evidence of media contamination prior to its use and—
i. For each batch of culture media prepared in-house, document the quality of the media by testing—
A. pH.
B. Osmolality.
C. Culture suitability using an appropriate bioassay system.
ii. For each batch of commercially prepared culture media—
A. Verify and document the quality of the media with an appropriate bioassay system. Documentation of quality control performed by the manufacturer may meet this requirement.
B. Follow the manufacturer's specifications for using the media.
iii. Test and document the quality of any media supplementation (e.g., protein), when appropriate, using a bioassay system.
iv. Test blood based media supplements (e.g., human fetal cord serum) prepared in-house with a FDA licensed, approved, or cleared test and show the supplement to be negative/nonreactive for the following communicable diseases prior to use:
A. Human immunodeficiency virus, Type 1 (e.g., anti-HIV-1);
B. Human immunodeficiency virus, Type 2 (e.g., anti-HIV-2);
C. Hepatitis B virus (e.g., HbsAg);
D. Hepatitis C virus (e.g., anti-HCV);
E. Human T-cell lymphotrophic virus, Type I (e.g., anti-HTLV-I); and
F. Such other diseases that may be later added to this list.

NOTE: A batch of media (solid, semi-solid, or liquid) consists of all tubes, plates, or containers of the same medium prepared at the same time in the laboratory; or, if received from an outside source of commercial supplier, consists of all of the plates, tubes or containers of the same medium that have the same lot numbers and are received in a single shipment.

7. Quality Assurance. The embryo laboratory must establish and follow written policies and procedures for a quality assurance program to monitor the quality of services provided by the laboratory, and resolve problems that are identified. The laboratory must have a mechanism to evaluate the effectiveness of its policies and procedures; identify and correct problems; and assure the adequacy and competency of the staff. As necessary, the laboratory must revise its policies and procedures based on the results of those evaluations. All quality assurance activities must be documented.

a. The laboratory must have an ongoing mechanism for monitoring, evaluating and revising, if necessary, based on the results of its evaluations, the following:
i. The criteria established for patient identification and specimen collection, identification, and handling;
ii. The information requested and maintained on each patient and for each laboratory procedure performed for its completeness, relevance and necessity;
iii. The timeliness and accuracy of recording and reporting procedural outcomes;
iv. The accuracy and reliability of tracking cryopreserved specimens;
v. The appropriate storage and retrieval of laboratory records such as procedural outcomes, and other data recorded and maintained; and
vi. The corrective actions taken for—
A. Problems identified during the evaluation of equipment and instrument maintenance, calibration, and function check data.
B. Problems identified during the evaluation of quality control data.
C. Errors detected in patient or specimen identification and handling.
D. Clerical or analytical errors detected in laboratory records.

b. The embryo laboratory must have an ongoing mechanism to—
i. Identify and evaluate laboratory procedural outcomes that appear inconsistent with the patient or donor history.
ii. Track and evaluate laboratory procedural outcomes including, but not limited to, fertilization rates, cleavage rates and embryo quality.
iii. Maintain a file of adverse reactions occurring as a result of errors made during the performance of assisted reproductive technology laboratory procedures.
iv. Evaluate the effectiveness of its policies and procedures for assuring employee competence in performing assisted reproductive technology laboratory procedures.
v. Document problems that occur as a result of a breakdown in communication between the laboratory and referring physicians or others involved in the assisted reproductive technology procedures, and take corrective actions to resolve the problems and minimize future communications breakdowns.
vi. Assure that all complaints and problems reported to the laboratory are documented. Investigations of complaints must be made, when appropriate, and as necessary, corrective actions must be instituted.
vii. Document and assess problems identified during quality assurance reviews, and discuss them with the laboratory staff and, as appropriate, referring physicians and others involved in the assisted reproductive technology procedures. The laboratory must take the necessary corrective actions to prevent recurrences.

D. Maintenance of Records

The embryo laboratory must retain records of all of its policies and procedures; personnel employment, training, evaluations and continuing education activities; and quality management activities specified in this part.

1. Record Format. Laboratory records must be accurate, indelible, and legible. Records may be retained electronically, or as original paper records, or as true copies such as photocopies, microfiche, or microfilm.

2. Retention Period. Laboratory records must be retained in accordance with time frames specified by applicable Federal, State and local laws or for ten years beyond the date of final disposition or disposal of all specimens obtained during each patient's assisted reproductive technology cycle, whichever is later. Records must be retained on site for two years. Note: Transfer of cryopreserved specimens to another facility constitutes final disposition for the transferring facility.

3. Record Retrieval. Laboratory records must be maintained in a manner which ensures timely, accurate and reliable retrieval.

4. Laboratory Closure. In the event that the laboratory ceases operation, the laboratory must make provisions for these records to be maintained for the time frame required above.

Addendum

References

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6. Centers for Disease Control and Prevention. Reporting of Pregnancy Success Rates from Assisted Reproductive Technology Programs. 62 FR 45259, Aug. 26, 1997.
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11. Rules and Regulations of the State of New York, Part 52 of Title 10 (Health). Tissue Banks and Non-transplant Anatomic Banks. State of New York Department of Health, Albany, New York, 1992.
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[FR Doc. 98–29374 Filed 11–5–98; 8:45 am]
BILLING CODE 4163–18–M

federal register

Friday
November 6, 1998

Part VII

Department of Commerce

National Telecommunications and Information Administration

Public Telecommunications Facilities Program: Closing Date; Notice

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No. 981028269–8269–01]

RIN 0660–ZA05

Public Telecommunications Facilities Program: Closing Date

AGENCY: National Telecommunications and Information Administration (NTIA), Commerce.

ACTION: Notice of availability of funds.

SUMMARY: The National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce, announces the solicitation of applications for planning and construction grants for public telecommunications facilities under the Public Telecommunications Facilities Program (PTFP).

Applicants for matching grants under the PTFP must file their applications on or before January 14, 1999. NTIA anticipates making grant awards by September 30, 1999. NTIA shall not be liable for any proposal preparation costs.

Approximately $21 million is available for FY 1999 for PTFP grants pursuant to P.L. 105–277, the "Department of Commerce and Related Agencies Appropriations Act, 1999." The amount of a grant award by NTIA will vary, depending on the approved project. For fiscal year 1998, NTIA awarded $19.8 million in funds to 115 projects. The awards ranged from $3,000 to $978,033.

The applicable Rules for the PTFP were published on November 8, 1996. These rules, 15 CFR Part 2301 *et seq.* will be in effect for FY 1999 PTFP applications. Certain requirements of the PTFP at 15 CFR Part 2301 are modified in this Notice. Copies of the 1996 Rules will be distributed as part of the PTFP Application Kit and applicants are cautioned not to use older versions of the PTFP Rules which were published in 1991.

Parties interested in applying for financial assistance should refer to these rules and to the authorizing legislation (47 U.S.C. §§ 390–393, 397–399b) for additional information on the program's goals and objectives, eligibility criteria, evaluation criteria, and other requirements.

DATES: Pursuant to 15 CFR § 2301.8(b), the Administrator of NTIA hereby establishes the closing date for the filing of applications for grants under the PTFP. The closing date selected for the submission of applications for 1999 is January 14, 1999. Applications must be received prior to 8 p.m. on or before January 14, 1999. Applicants sending an application should submit an original and five copies to the place indicated in the ADDRESS section below. Applicants sending applications by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the Closing Date and Time. NTIA will not accept mail delivery of applications posted on the Closing Date or later and received after the above deadline. However, if an application is received after the Closing Date due to (1) carrier error, when the carrier accepted the package with a guarantee for delivery by the Closing Date, or (2) significant weather delays or natural disasters, NTIA will, upon receipt of proper documentation, consider the application as having been received by the deadline. Applicants submitting applications by hand delivery are notified that, due to security procedures in the Department of Commerce, all packages must be cleared by the Department's security office. Entrance to the Department of Commerce Building for security clearance is on the 15th Street side of the building. Applicants whose applications are not received by the deadline are hereby notified that their applications will not be considered in the current grant cycle and will be returned to the applicant. See 15 CFR § 2301.8(c); but see also 15 CFR § 2301.26. NTIA will also return any application which is substantially incomplete, or when the Agency finds that either the applicant or project is ineligible for funding under 15 CFR § 2301.3 or § 2301.4. The Agency will inform the applicant of the reason for the return of any application.

ADDRESSES: To obtain an application package, submit completed applications, or send any other correspondence, write to: NTIA/PTFP, Room H–4625, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Dennis R. Connors, Director, Public Broadcasting Division, telephone: (202) 482–5802; fax: (202) 482–2156. Information about the PTFP can also be obtained electronically via Internet (http://www.ntia.doc.gov).

SUPPLEMENTARY INFORMATION:

I. Application Forms and Regulations

To apply for a PTFP grant, an applicant must file an original and five copies of a timely and complete application on a current form approved by the Agency. The current application form will be provided to applicants as part of the application package. This form expires on November 30, 2000, and no previous versions of the form may be used. (In accordance with the Paperwork Reduction Act, the current application form has been cleared under OMB control no. 0660–0003.) Applications submitted by facsimile or electronic means are not acceptable.

All persons and organizations on the PTFP's mailing list will be sent a copy of the current application form and the Final Rules. Those not on the mailing list may obtain copies by contacting the PTFP at the telephone and fax numbers or at the Internet or mailing addresses noted above. Prospective applicants should read the Final Rules carefully before submitting applications. Applicants whose applications were deferred in FY 1998 will be mailed pertinent PTFP materials and instructions for requesting reactivation of their applications.

Based upon NTIA's experience in implementing the PTFP during the 1998 grant round, NTIA has determined that it is in the best interests of NTIA and applicants to modify or waive certain requirements contained in the PTFP regulations at 15 CFR Part 2301. These changes, which are applicable to the FY 1999 PTFP applications and resulting awards only, are indicated in italics below. Dependent upon the effectiveness of these changes, amendments may be made to the PTFP regulations to implement these changes.

Section 2301.10 Applications Resulting From Catastrophic Damage or Emergency Situations

Section 2301.10 provides for submission of applications resulting from catastrophic damage or emergency situations. Section 2301.10(a) requires that an emergency "application may be filed with a request for a waiver of the Closing Date." Section 2301.10(f) requires that emergency "applications will be subject to the same evaluation and selection process followed for applications received in the normal application cycle." This section has been revised for FY 1999 PTFP applicants to clarify that (1) an emergency application may be filed at any time, (2) an emergency application will be evaluated according the evaluation criteria set forth on § 2301.17(b) and the degree to which the application satisfies the purposes of this section, and (3) the selection process that will be used in determining a grant award.

(a) For FY 1999 PTFP applicants, when an eligible broadcast applicant suffers catastrophic damage to the basic equipment essential to its continued operation as a result of a natural or manmade disaster, or as the result of significant equipment failure, and is in dire need of assistance in funding replacement of the damaged equipment, it may file an emergency application for PTFP funding at any time. This section is limited to equipment essential to a station's continued operation such as transmitters, tower, antennas, STL's or similar equipment which, if the equipment failed, would result in a complete loss of service to the community.

(b) The emergency application must set forth the circumstances that prompt the request and be accompanied by appropriate supporting documentation.

(c) An application may be granted an award only if it is determined that (1) the emergency satisfies the requirements of subparagraph (a) of this section, and (2) the applicant either carried adequate insurance or had acceptable self-insurance coverage.

(d) Applicants claiming significant failure of equipment must document the circumstances of the equipment failure and demonstrate that the equipment has been maintained in accordance with standard broadcast engineering practices.

(e) Applications filed and accepted pursuant to this section must contain all of the information required by the Agency application materials and must be submitted in the number of copies specified by the Agency.

(f) The application will be subject to the evaluation criteria set forth in 2301.17(b). The PTFP Director takes into account program staff evaluations (including the outside reviewers) the availability of funds, the type of project and broadcast priorities set forth at 2301.4(b), and whether the applicant has any current NTIA grants. The Director presents recommendations to the OTIA Associate Administrator for review and approval. Upon approval by the OTIA Associate Administrator, the Director's recommendation will be presented to the Selecting Official, the NTIA Administrator. The Administrator makes final award selections taking into consideration the Director's recommendation and the degree to which the application satisfies the program's stated purposes set forth at 2301.1(a) and (c) and this section.

Section 2301.11 Service of Applications

Section 2301.11 provides that: "On or before the closing date, all new or deferred applicants must serve a summary copy of the application on the following Agencies:

(a) In the case of an application for a construction grant for which FCC authorization is necessary, the Secretary, Federal Communications Commission * * *

(b) The state telecommunications agency(-ies) if any, having jurisdiction over the development of broadcast and/or non broadcast telecommunications in the state(s) and community(-ies) to be served by the proposed project * * *

(c) The state office established to review applications under Executive Order 12372.

§ 2301.11(a)

For the FY 1999 PTFP, applicants are not required to submit copies of their PTFP applications to the FCC, nor will they be required to submit copies of the FCC transmittal cover letters as part of their PTFP applications. NTIA routinely notifies the FCC of applications submitted for funding which require FCC authorizations.

§ 2301.11(b)

For the FY 1999 PTFP, applicants for distance learning projects are not required to notify every state telecommunications agency in a potential service area. NTIA has found that state telecommunication agency input has been useful with regard to broadcast projects, but has received little input from state agencies with regard to distance learning projects. Since many distance learning applications propose projects which are nationwide in nature, NTIA believes that the requirement to provide a summary copy of the application in every state telecommunications agency in a potential service area is unduly burdensome to applicants. NTIA, however, does expect that distance learning applicants will submit documentation that they have coordinated their project with appropriate state telecommunications agencies in their service area.

Section 2301.12 Federal Communications Commission Authorizations

Section 2301.12(a) provides, in part, that "Each applicant whose project requires FCC authorization must file an application for that authorization on or before the closing date. NTIA recommends that its applicants submit PTFP-related FCC applications to the FCC at least 60 days prior to the PTFP closing date."

For the FY 1999 PTFP, applicants may submit applications to the FCC after the closing date, but do so at their own risk. Applicants are urged to submit their FCC applications with as much time before the PTFP closing date as possible. No grant will be awarded for a project requiring FCC authorization until confirmation has been received by NTIA from the FCC that the necessary authorization will be issued.

Section 2301.12(b) provides that "In the case of FCC authorizations where it is not possible or practical to submit the FCC application with the PTFP application, such as C-band satellite uplinks * * * a copy of the FCC application as it will be submitted to the FCC, or the equivalent engineering data, must be included in the PTFP application."

For the FY 1999 PTFP applications, since there is no potential for terrestrial interference with Ku-band satellite uplinks, grant applicants for Ku-band satellite uplinks may submit FCC applications after a PTFP award is made. Grant recipients for Ku-band satellite uplinks will be required to document receipt of FCC authorizations to operate the uplink prior to the release of Federal funds.

Section 2301.12(d) provides that "Any FCC authorization required for the project must be in the name of the applicant for the PTFP grant."

For the FY 1999 PTFP applications, NTIA may accept FCC authorizations that are in the name of an organization other than the PTFP applicant in certain circumstances. Applicants requiring the use of FCC authorizations issued to another organization should discuss in the application Program Narrative why the FCC authorization must be in the other organization's name. NTIA believes that such circumstances will be rare and, in our experience, are usually limited to authorizations such as those for microwave interconnections or satellite uplinks.

Section 2301.12(g) provides that "If the applicant fails to file the required FCC application(s) by the closing date * * * the Agency may reject or return the application."

As noted above, for the FY 1999 PTFP applications, NTIA does not require that the FCC applications must be filed by the closing date. While NTIA is permitting submission of FCC applications after the closing date, applicants are reminded that they must continue to provide copies of FCC applications, as they were filed or will be filed, or equivalent engineering data, in the PTFP application so NTIA can properly evaluate the equipment request. These include applications for permits, construction permits and licenses already received for: (1) Construction of broadcast station

(including a digital broadcasting facility), or translator, (2) microwave facilities, (3) ITFS authorizations, (4) SCA authorizations, and (5) requests for extensions of time.

Applicants should note that they must continue to comply with the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order requires applicants for financial assistance under this program to file a copy of their application with the Single Points of Contact (SPOC) of all states relevant to the project. Applicants are required to provide a copy of their completed application to the appropriate SPOC on or before January 14, 1999. Applicants are encouraged to contact the appropriate SPOC well before the PTFP closing date.

Indirect costs for *construction* applications are not supported by this program. The total dollar amount of the indirect costs proposed in a *planning* application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct costs dollar amount in the application, whichever is less.

You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice.

All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension, and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations are hereby provided:

(1) *Nonprocurement Debarment and Suspension.* Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

(2) *Drug Free Workplace.* Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, "Government-wide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

(3) *Anti-lobbying.* Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applicants/bidders for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

(4) *Anti-lobbying Disclosures.* Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," (OMB Control Number 0348–0046) as required under 15 CFR Part 28, Appendix B.

Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the grant award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to the Department. SF–LLL submitted by any tier recipient or subrecipient should be submitted to the Department in accordance with the instructions contained in the award document.

If an application is selected for funding, the Department of Commerce has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department.

Recipients and subrecipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal assistance awards. In addition, unsatisfactory performance by the applicant under prior Federal awards may result in the application not being considered for funding.

If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that they have received, there is no obligation on the part of the Department to cover preaward costs.

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either: (1) the delinquent account is paid in full; (2) a negotiated repayment schedule is established and at least one payment is received, or (3) other arrangements satisfactory to the Department are made.

Applicants are reminded that a false statement on the application may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Special Note: NTIA has established a policy which is intended to encourage stations to increase from 25 percent to 50 percent the matching percentage for those proposals that call for equipment replacement, improvement, or augmentation (PTFP Policy Statement, (56 FR 59168 (1991)). The presumption of 50 percent funding will be the general rule for the replacement, improvement or augmentation of equipment A showing of extraordinary need (i.e. small community-licensee stations or a station that is licensed to a large institution [e.g., a college or university] documenting that it does not receive direct or in-kind support from the larger institution) or an emergency situation will be taken into consideration as justification for grants of up to 75 percent of the total project cost for such projects.

A point of clarification is in order: NTIA expects to continue funding projects to activate stations or to extend service at up to 75 percent of the total project cost. NTIA will do this because applicants proposing to provide first service to a geographic area ordinarily incur considerable costs that are not eligible for NTIA funding. The applicant must cover the ineligible costs including those for construction or renovation of buildings and other similar expenses.

Since NTIA has limited funds for the PTFP program, the PTFP Final Rules published November 8, 1996 modified NTIA's policy regarding the funding of planning applications. Our policy now includes the general presumption to fund planning projects at no more than 75 percent of the project costs. NTIA notes that most of the planning grants awarded by PTFP in recent years include matching in-kind services and funds contributed by the grantee. The new NTIA policy therefore codifies what already has become PTFP practice. NTIA, however, is mindful that planning grants are sometimes the only resource that emerging community groups have with which to initiate the planning of new facilities in unserved areas. We therefore will continue to award up to 100 percent of total project costs in cases of extraordinary need (e.g. small community group proposing to initiate new public telecommunication service).

We wish to take this opportunity to restate the policy published in the November 22, 1991, PTFP Policy Statement (56 FR 59168 (1991)), regarding applicants' use of funds from the Corporation for Public Broadcasting (CPB) to meet the local match requirements of the PTFP grant. NTIA continues to believe that the policies and purposes underlying the PTFP requirements could be significantly frustrated if applicants routinely relied upon another Federally supported grant program for local matching funds. Accordingly, NTIA has limited the use of CPB funds for the non-Federal share of PTFP projects to circumstances of "clear and compelling need" (15 CFR § 2301.6(c)(2)). NTIA intends to maintain that standard and to apply it on a case-by-case basis.

II. Digital Broadcasting

The FCC's adoption of the Fifth Report and Order in April 1997 requires that all public television stations begin the broadcast of a digital signal by May 1, 2003. NTIA believes that it is critical that all public television applicants fully consider digital technology in any request for equipment replacement submitted to PTFP. Any public television applicant must describe whether it has a plan for digital conversion to meet the FCC's mandate and whether the requested equipment is consistent with that plan. If the applicant is developing a plan for digital conversion, the application should address how the requested equipment will be consistent with the overall objective of converting the facility for digital broadcasting.

NTIA recognizes that digital technology will be an important means for the more efficient creation and distribution of programming in the future. Consequently, public broadcasters seeking to replace, upgrade, and buy new equipment that employs digital technology will be permitted, when appropriate, to use PTFP funds for such purposes.

For fiscal year 1998, NTIA awarded $12.5 million in funds to 50 projects which assisted public television stations in the conversion to digital technologies. The awards ranged from $36,405 to $967,400. The use of digital technologies is also appropriate for public radio facilities. NTIA funded projects for digital STL's and audio production equipment which will assist public radio stations as they prepare for conversion to digital technologies. These digital projects are funded as equipment replacement, improvement or augmentation projects with the presumption of a 50 percent Federal share as noted earlier, unless a showing of extraordinary need for a higher percentage has been made pursuant to § 2301.6(b)(ii) of the PTFP Rules.

III. Distance Learning Projects

The growth of digital technologies provides new opportunities for distance learning projects using both broadcast (e.g., the multi-channel capabilities of DTV) or nonbroadcast facilities. Since 1979, NTIA has funded nonbroadcast distance learning projects through the "Special Applications" category as established in § 2301.4(a) of the PTFP Rules. In 1996, NTIA established a similar category for broadcast projects, "Broadcast/other" in § 2301.4(b)(6). NTIA encourages applications in either category for innovative or unique distance learning projects which address demonstrated and substantial community needs.

For fiscal year 1998, NTIA awarded $3.67 million in funds to 12 grants for distance learning projects. The awards ranged from $55,452 to $594,936.

The November 22, 1991, PTFP Policy Statement (56 FR 59168 (1991)) mentioned in the Application Forms and Regulations section discussed a number of issues of particular relevance to applicants proposing *nonbroadcast* educational and instructional projects and potential improvement of nonbroadcast facilities. These policies remain in effect and will be available to all PTFP applicants as part of the Guidelines for preparing FY 1999 PTFP applications.

IV. Eligible and Ineligible Costs

Eligible equipment for the 1999 grant round includes apparatus necessary for the production, interconnection, captioning, broadcast, or other distribution of programming, including but not limited to studio equipment; audio and video storage, processing, and switching equipment; terminal equipment; towers; antennas; transmitters; remote control equipment; transmission line; translators; microwave equipment; mobile equipment; satellite communications equipment; instructional television fixed service equipment; subsidiary communications authorization transmitting and receiving equipment; cable television equipment; and optical fiber communications equipment.

The following list provides clarification regarding several equipment and other cost areas that will be helpful in preparing applications. NTIA also reserves the right to eliminate any costs, whether specified here or not, that it determines are not appropriate prior to the awarding of a grant.

A. Equipment and Supplies

(1) Buildings and Modifications to Buildings. (a) Eligible: Small equipment shelters that are part of satellite earth stations, translators, microwave interconnection facilities, and similar facilities. (b) Ineligible: Purchase or lease of buildings and modifications to buildings, including the renovation of space for studios intended to house eligible equipment; costs associated with removing old equipment.

(2) Land and Land Improvements. (a) Eligible: Site preparation necessary to construct towers and guy anchors for transmission and interconnection equipment. (b) Ineligible: Purchase or lease of land.

(3) Moving Costs. (a) Eligible: Shipping and delivery charges for equipment acquired within the award. (b) Ineligible: Moving costs required by relocation of any facilities.

(4) Reception Equipment. (a) Eligible: Fixed frequency demodulator, as required by good engineering practice for monitoring the off-air transmission of signals; subcarrier demodulator; telemetry transmitters and receivers; satellite receivers; and subcarrier decoders for the handicapped. (b) Ineligible: Consumer-type TV sets and FM receivers.

(5) Tower Modifications. (a) Eligible: Strengthening or modifying a commercial entity's tower to accommodate a public broadcasting entity (structural modifications on towers and/or antenna changes must meet EIA (Electronic Industries Association) and any required local standards). (b) Ineligible: Modifying or strengthening the applicant's tower to accommodate a commercial entity.

(6) Production and Control Room Equipment. (a) Eligible: Standard production studio and control room equipment for TV or radio program production. (b) Ineligible: Consumer-type mixers, tape recorders, turntables, CD players, etc; ancillary production devices such as stopwatches and stop-clocks, building lights, sound effects, scenery and props, cycloramas, sound insulation devices and materials, draperies and related equipment for production use, film and still photography processing, film sound synchronization editing.

(7) Video Equipment. (a) Eligible: Videotape editing and processing equipment that conforms to broadcast-standard quality equipment for field recording and production editing. (b) Ineligible: Consumer level videotape recording formats not accepted in the industry as broadcast-standard quality.

(8) Furniture and Office Equipment. (a) Eligible: Consoles required to mount

equipment such as audio consoles and video switchers. (b) Ineligible: Such items as office furniture, office equipment, studio clocks and systems, blackboards, office intercoms, equipment inventory labels and label-makers, word processors, telephone systems, and printing and duplication equipment.

(9) Expendable Items and Spare Parts. (a) Eligible: A transmitter spare parts kit and one set of final and driver tubes for a transmitter awarded in the grant; a spare parts kit for video tape recorders awarded in the grant. (b) Ineligible: Spare lenses, spare circuit components, spare parts kits for studio equipment, except as noted above; recording tape, film, reels, cartridge tapes, records, compact discs, and record or tape cleaning equipment; art and graphics supplies; maintenance supplies, including replacement final and driver tubes normally considered in the industry as normal maintenance-budget-provided items and similar items.

(10) Backup Equipment. (a) Eligible: Hot standby or backup microwave for the main studio-to-transmitter link only; a backup or spare exciter for a television transmitter, as required by good engineering practice. (b) Ineligible: Redundant equipment, such as spare transmitters, or costs associated with them, as well as backup microwave equipment (except as noted above).

(11) Electric Power. (a) Eligible: Generally, all primary power costs from the output of the main power meter panel; regulators and surge protectors, as required by good engineering practice, to stabilize transmitter RF output. Where primary power is not available or is unusable for broadcast, then PTFP may provide funding for those devices needed to power the facility if the need for that equipment is fully documented in the application. (b) Ineligible: Costs of installing primary power to the facility, including transformers, power lines, gasoline or diesel powered generators, and related equipment.

(12) Test and Maintenance Equipment. (a) Eligible: Required test equipment, as indicated by good engineering practice for the maintenance of the project equipment. (b) Ineligible: Maintenance equipment such as hand and power tools, storage cabinets, and maintenance services.

(13) Air Conditioning and Ventilation. (a) Eligible: The costs to provide ventilation of eligible project equipment, such as ducting for transmitters and transmitter air conditioning, as required by good engineering practice. (b) Ineligible: Unless exceptionally well-documented, air conditioning for control rooms, or equipment rooms, studios, mobile units, and other operational rooms and offices.

(14) Remote Vans. (a) Eligible: Items to equip a remote van for audio/video production. (b) Ineligible: All vehicles.

B. Other Costs

(1) Construction Applications: NTIA generally will not fund salary expenses, including staff installation costs, and pre-application legal and engineering fees. Certain "pre-operational expenses" are eligible for funding. (See 15 CFR § 2301.2.) Despite this provision, NTIA regards its primary mandate to be funding the acquisition of equipment and only secondarily funding of salaries. A discussion of this issue appears in the PTFP Final Rules under the heading *Support for Salary Expenses* in the introductory section of the document.

(2) Planning Applications. (a) Eligible: Salaries are eligible expenses for all planning grant applications, but should be fully described and justified within the application. Planning grant applicants may lease office equipment, furniture and space, and may purchase expendable supplies under the terms of 47 U.S.C. § 392 (c). (b) Ineligible: Planning grant applications cannot include the cost of constructing or operating a telecommunications facility.

(3) Audit Costs. Audits shall be performed in accordance with audit requirements contained in Office of Management and Budget Circular A–133, Audits of States, Local Governments, and Non-Profit Organizations, revised June 30, 1997. OMB Circular A–133 requires that non-profit organizations, government agencies, Indian tribes and educational institutions expending more than $300,000 in federal funds during a one-year period conduct a single audit in accordance with guidelines outlined in the circular. Applicants are reminded that other audits may be conducted by the Office of Inspector General.

NTIA recognizes that most of its grant recipients are divisions of state and local governments or are public broadcasting facilities, all of which routinely conduct annual audits. In order to make the maximum amount of monies available for equipment purchases and planning activities, NTIA will therefore only fund audit costs in exceptional circumstances.

V. Notice of Applications Received

In accordance with 15 CFR § 2301.13, NTIA will publish a notice in the **Federal Register** listing all applications received by the Agency. Listing an application in such a notice merely acknowledges receipt of an application to compete for funding with other applications. Publication does not preclude subsequent return of the application for the reasons discussed under the Dates section above, or disapproval of the application, nor does it assure that the application will be funded. The notice will also include a request for comments on the applications from any interested party.

VI. Evaluation Process

See 15 CFR § 2301.16 for a description of the Technical Evaluation and 15 CFR § 2301.17 for the Evaluation Criteria.

VII. Selection Process

Based upon the above cited evaluation criteria, the PTFP program staff prepares summary recommendations for the PTFP Director. These recommendations incorporate outside reviewers rankings and recommendations, engineering assessments, and input from the National Advisory Panel, State Single Point of Contacts and state telecommunications agencies. Staff recommendations also consider project impact, the cost/benefit of a project and whether review panels have consistently applied the evaluation criteria. The PTFP Director will consider the summary recommendations prepared by program staff, will recommend the funding order of the applications, and will present recommendations to the OTIA (Office of Telecommunications and Information Applications) Associate Administrator for review and approval. The PTFP Director recommends the funding order for applications in three categories: "Recommended for Funding," "Recommended for Funding if Funds Available," and "Not Recommended for Funding." See 15 CFR § 2301.18 for a description of the selection factors retained by the Director, OTIA Associate Administrator, and the Assistant Secretary for Telecommunications and Information.

Upon review and approval by the OTIA Associate Administrator, the Director's recommendations will then be presented to the Selection Official, the NTIA Administrator. The NTIA Administrator selects the applications for possible grant award taking into consideration the Director's recommendations and the degree to which the slate of applications, taken as a whole, satisfies the program's stated purposes set forth at 15 CFR § 2301.1(a) and (c). Prior to award, applications may be negotiated between PTFP staff and the applicant to resolve whatever differences might exist between the original request and what PTFP proposes to fund. Some applications may be dropped from the proposed slate due to lack of Federal Communications Commission licensing authority, an applicant's inability to make adequate assurances or certifications, or other reasons. Negotiation of an application does not ensure that a final award will be made. The PTFP Director recommends final selections to the NTIA Administrator applying the same factors as listed in 15 CFR § 2301.18. The Administrator then makes the final award selections taking into consideration the Director's recommendations and the degree to which the slate of applications, taken as a whole, satisfies the program's stated purposes in 15 CFR § 2301.1 (a) and (c).

VIII. Project Period

Planning grant award periods customarily do not exceed one year, whereas construction grant award periods commonly range from one to two years. Although these time frames are generally applied to the award of all PTFP grants, variances in project periods may be based on specific circumstances of an individual proposal.

Authority: The Public Telecommunications Financing Act of 1978, as amended, 47 U.S.C. §§ 390–393, 397–399(b).

(Catalog of Federal Domestic Assistance No. 11.550)

Bernadette McGuire-Rivera,

Associate Administrator, Office of Telecommunications and Information Applications.

[FR Doc. 98–29776 Filed 11–5–98; 8:45 am]

BILLING CODE 3510–60–P

Federal Register

Friday
November 6, 1998

Part VIII

The President

Executive Order 13105—Open Enrollment Season for Participants in the Foreign Service Retirement and Disability System and the Central Intelligence Agency Retirement and Disability System

Federal Register
Vol. 63, No. 215
Friday, November 6, 1998

Presidential Documents

Title 3—

The President

Executive Order 13105 of November 2, 1998

Open Enrollment Season for Participants in the Foreign Service Retirement and Disability System and the Central Intelligence Agency Retirement and Disability System

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 827 of the Foreign Service Act of 1980 (22 U.S.C. 4067) and section 292 of the Central Intelligence Agency Retirement Act of 1964 (50 U.S.C. 2141), and in order to conform further the Foreign Service Retirement and Disability System and the Central Intelligence Agency Retirement and Disability System to the Civil Service Retirement and Disability System, it is hereby ordered as follows:

Section 1. In conjunction with section 860 of the Foreign Service Act of 1980 (22 U.S.C. 4071i), the Secretary of State shall issue regulations providing for an open enrollment period from November 1, 1998, to April 30, 1999, during which employee participants in the Foreign Service Retirement and Disability System may elect to become subject to the Foreign Service Pension System.

Sec. 2. In conjunction with section 307(a) of the Central Intelligence Agency Retirement Act of 1964 (50 U.S.C. 2157(a)), the Director shall provide for an open enrollment period from November 1, 1998, to April 30, 1999, during which employee participants in the Central Intelligence Agency Retirement and Disability System may elect to become subject to the Federal Employees' Retirement System, comparable to the election for civil service employees provided for by the Federal Employees' Retirement System Open Enrollment Act of 1997, Public Law 105–61.

William J. Clinton

THE WHITE HOUSE,
November 2, 1998.

[FR Doc. 98–30054
Filed 11–5–98; 8:45 am]
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Federal Register

Vol. 63, No. 215

Friday, November 6, 1998

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Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	202–523–5227
Laws	523–5227
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The United States Government Manual	523–5227
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FEDERAL REGISTER PAGES AND DATES, NOVEMBER

58619–59202	2
59203–59456	3
59457–59690	4
59691–59874	5
59875–60202	6

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7144 59199
7145 59203
Executive Orders:
13105 60201
Administrative Orders:
Presidential Determinations:
No. 99–1 of October 21, 1998 59201

5 CFR

317 59875
335 59875
890 59457
2634 58619
Proposed Rules:
532 58659

7 CFR

17 59691
723 59205
1499 59876
Proposed Rules:
984 ..... 59246, 59891
1216 ..... 59893, 59907
1755 59248

10 CFR

835 59662

12 CFR

208 58620
211 58620
215 58620
225 58620
262 58620
263 58620
265 58620
Proposed Rules:
701 59742

14 CFR

25 59692
39 ..... 58622, 58624, 58625, 59206, 59460, 59695, 59696, 59697, 59699
71 ..... 58627, 58628, 58629, 58811, 59701, 59702, 59703, 59704, 59705, 59842, 59878
97 ..... 59878, 59879, 59881
Proposed Rules:
23 58660
39 ..... 59252, 59743
71 ..... 59255, 59256, 59257
91 59494
121 ..... 59192, 59494
135 ..... 59192, 59494
145 59192

16 CFR

Proposed Rules:
305 58671

17 CFR

10 58811
200 59862
240 ..... 58630, 59208, 59362
249 59862
Proposed Rules:
240 59911

18 CFR

Proposed Rules:
4 59916
153 59916
157 59916
375 59916

21 CFR

26 60122
175 59706
176 59707
178 ..... 59213, 59709
211 59463
314 59710
510 59215
520 ..... 59712, 59713
522 ..... 59215, 59714
524 59715
556 59715
558 59216
814 59217
862 59222
864 59222
866 59222
872 59715
876 59222
880 ..... 59222, 59717
882 59222
886 59222
890 59222
892 59222
Proposed Rules:
310 59746
314 59746
600 59746
880 59917
900 59750
1308 59751
1312 59751

24 CFR

Proposed Rules:
5 58675

26 CFR

1 58811
Proposed Rules:
1 58811

27 CFR

Proposed Rules:
4 59921
19 59921
24 59921

194 59921
250 59921
251 59921

30 CFR

Proposed Rules:
46 59258
915 59627
938 59259

31 CFR

585 59883

Proposed Rules:
34 CFR Ch. VI

32 CFR

199 59231
311 59718

33 CFR

100 59232
165 ..... 58635, 59719

Proposed Rules:
117 58676

36 CFR

200 60049

37 CFR

201 ..... 59233, 59235

38 CFR

Proposed Rules:
14 59495
17 58677

40 CFR

52 ..... 58637, 59471, 59720, 59884
62 59887
81 ..... 58637, 59722

Proposed Rules:
52 ..... 58678, 59754, 59923, 59924
62 59928
81 58678
745 59754

41 CFR

60–250 59630
60–741 59657

42 CFR

405 58814
410 58814
413 58814
414 58814
415 58814
424 58814
485 58814

Proposed Rules:
5 58679
51c 58679

44 CFR

64 59236

46 CFR

2 59472

Proposed Rules:
45 58679

47 CFR

2 58645
73 ..... 59238, 59239
90 58645

Proposed Rules:
Ch. 1 59755
54 58685
73 ..... 59262, 59263, 59928
90 58685

48 CFR

Proposed Rules:
Ch. 7 59501
712 59501
727 59501
742 59501
752 59501

49 CFR

1 59474
195 59475
571 ..... 59482, 59755

Proposed Rules:
171 59505
177 59505
178 59505
180 59505
243 59928
1420 59263

50 CFR

17 59239
679 ..... 58658, 59244

Proposed Rules:
17 58692
222 58701
227 58701
648 59492
660 59758

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT NOVEMBER 6, 1998

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
User fees:
- Veterinary diagnostic services; published 10-7-98

AGRICULTURE DEPARTMENT
Commodity Credit Corporation
Export programs:
- Foreign donation of agricultural commodities—
  - Changes, corrections, and clarifications; published 11-6-98
  - Ocean transportation procurement procedures; published 11-6-98

ENERGY DEPARTMENT
Federal Energy Regulatory Commission
Electric utilities (Federal Power Act):
- Fuel purchases from company-owned or controlled source; fuel cost adjustment clause; published 10-7-98

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Class B airspace; published 11-6-98

TRANSPORTATION DEPARTMENT
National Highway Traffic Safety Administration
Anthropomorphic test devices:
- Occupant crash protection—
  - Hybrid III test dummy; modifications; published 10-7-98

TREASURY DEPARTMENT
Foreign Assets Control Office
Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb-controlled areas of Republic of Bosnia and Herzegovina sanctions regulations:
- Blocked Montenegrin vessels; claims resolutions; published 11-6-98¶

RULES GOING INTO EFFECT NOVEMBER 8, 1998

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and promulgation; various States:
- Virginia; published 10-8-98

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Milk marketing orders:
- Nebraska-Western Iowa; comments due by 11-9-98; published 10-9-98

AGRICULTURE DEPARTMENT
Food and Nutrition Service
Child nutrition programs:
- School breakfast program and national school lunch program—
  - Menu planning alternatives; republication; comments due by 11-12-98; published 5-15-98

COMMERCE DEPARTMENT
Export Administration Bureau
Export administration regulations:
- Foreign policy-based export controls; effects; comments due by 11-12-98; published 10-13-98

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
- Caribbean, Gulf, and South Atlantic fisheries—
  - South Atlantic snapper-grouper; comments due by 11-9-98; published 9-8-98

Marine mammals:
- Commercial fishing operations—
  - Commercial fisheries authorization; list of fisheries categorized according to frequency of incidental takes; comments due by 11-9-98; published 8-11-98

DEFENSE DEPARTMENT
Acquisition regulations:
- Contract financing; flexible progress payments; comments due by 11-9-98; published 9-8-98

Federal Acquisition Regulation (FAR):
- Competition under multiple award task and delivery order contracts; comments due by 11-9-98; published 9-9-98

ENERGY DEPARTMENT
Federal Energy Regulatory Commission
Natural Gas Policy Act:
- Interstate natural gas pipelines—
  - Transportation services regulation; comments due by 11-9-98; published 8-11-98

ENVIRONMENTAL PROTECTION AGENCY
Air pollutants, hazardous; national emission standards:
- Petroleum refineries
  - Catalytic cracking (fluid and other) units, catalytic reforming units, and sulfur plant units; comments due by 11-10-98; published 9-11-98

Air quality implementation plans; approval and promulgation; various States:
- Alabama; comments due by 11-9-98; published 10-8-98
- California; comments due by 11-13-98; published 10-23-98
- Minnesota; comments due by 11-12-98; published 10-13-98
- Pennsylvania; comments due by 11-9-98; published 10-8-98
- Tennessee; comments due by 11-9-98; published 10-8-98

Hazardous waste:
- Land disposal restrictions—
  - Alternate treatment standards; intent to grant site-specific treatment variance to Chemical Waste Management, Inc.; comments due by 11-13-98; published 10-23-98

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Bacillus sphaericus; comments due by 11-10-98; published 9-11-98
- Cypermethrin; comments due by 11-10-98; published 9-11-98
- Esfenvalerate; comments due by 11-10-98; published 9-11-98
- Metolachlor; comments due by 11-10-98; published 9-11-98
- Sulfosate; comments due by 11-10-98; published 9-11-98

Toxic substances:
- Significant new uses—
  - Phenol, 2,4-dimethyl-6-(1-methylpentadecyl), etc.,; comments due by 11-9-98; published 10-26-98

FEDERAL COMMUNICATIONS COMMISSION
Common carrier services:
- Truth-in-billing and billing format; comments due by 11-13-98; published 10-14-98

GENERAL SERVICES ADMINISTRATION
Federal Acquisition Regulation (FAR):
- Competition under multiple award task and delivery order contracts; comments due by 11-9-98; published 9-9-98

HEALTH AND HUMAN SERVICES DEPARTMENT
Health Care Financing Administration
Medicare:
- Ambulatory surgical centers; ratesetting methodology, payment rates and policies, and covered surgical procedures list; comments due by 11-9-98; published 10-1-98

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Lead-based paint hazards in federally owned residential property and housing receiving Federal assistance; notification, evaluation, and reduction; comments due by 11-9-98; published 10-9-98

Public and Indian housing:
- Indian housing loan guarantees; direct guarantee processing; comments due by 11-10-98; published 9-11-98

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:
- Devils River minnow; comments due by 11-12-98; published 10-13-98

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office
Permanent program and abandoned mine land reclamation plan submissions:
Iowa; comments due by 11-13-98; published 10-14-98
JUSTICE DEPARTMENT
Executive Office for Immigration Review:
Immigration Appeals Board; streamlined appellate review procedure; comments due by 11-13-98; published 9-14-98
Grants:
Juvenile accountability incentive block grants program; comments due by 11-13-98; published 10-14-98
LABOR DEPARTMENT
Occupational Safety and Health Administration
Construction safety and health standards:
Steel erection; comments due by 11-12-98; published 8-13-98
LABOR DEPARTMENT
Pension and Welfare Benefits Administration
Employee Retirement Income Security Act:
Summary plan description regulations; comments due by 11-9-98; published 9-9-98
Employment Retirement Income Security Act:
Summary plan description regulations; comments due by 11-9-98; published 9-9-98
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Federal Acquisition Regulation (FAR):
Competition under multiple award task and delivery order contracts; comments due by 11-9-98; published 9-9-98
NATIONAL CREDIT UNION ADMINISTRATION
Credit unions:
Organization and operations—
Chartering and field of membership policy update; comments due by 11-13-98; published 9-14-98
NUCLEAR REGULATORY COMMISSION
Byproduct material; medical use:
Policy statement; comments due by 11-12-98; published 8-13-98
Revision; comments due by 11-12-98; published 8-13-98
Production and utilization facilities; domestic licensing:
Nuclear power reactors—
Permanent shutdown; financial protection requirements; comments due by 11-9-98; published 9-23-98
PERSONNEL MANAGEMENT OFFICE
Prevailing rate systems
Environmental differential pay for working at high altitudes; comments due by 11-12-98; published 10-13-98
SECURITIES AND EXCHANGE COMMISSION
Securities:
Brokers and dealers; books and records requirements—
Sales practices; comments due by 11-9-98; published 10-9-98
TRANSPORTATION DEPARTMENT
Coast Guard
Drawbridge operations:
North Carolina; comments due by 11-9-98; published 9-10-98
Marine occupational safety and health standards:
Commercial diving operations; comments due by 11-9-98; published 9-23-98
Ports and waterways safety:
First Coast Guard District navigable waters; regulated navigation area; comments due by 11-12-98; published 10-13-98
TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Airbus; comments due by 11-9-98; published 10-14-98
British Aerospace; comments due by 11-13-98; published 10-14-98
CFM International; comments due by 11-10-98; published 9-11-98
Dornier; comments due by 11-9-98; published 10-8-98
Empresa Brasileira de Aeronautica S.A.; comments due by 11-13-98; published 10-14-98
Pratt & Whitney; comments due by 11-9-98; published 9-9-98
Textron Lycoming; comments due by 11-10-98; published 9-11-98
Williams International; comments due by 11-9-98; published 9-9-98
Airworthiness standards:
Special conditions—
Raytheon Aircraft Co. model 300 airplane; comments due by 11-13-98; published 10-14-98
Class D and E airspace; comments due by 11-9-98; published 10-9-98
Class E airspace; comments due by 11-9-98; published 9-24-98
TRANSPORTATION DEPARTMENT
Federal Railroad Administration
Magnetic levitation transportation technology deployment program; comments due by 11-12-98; published 10-13-98
TRANSPORTATION DEPARTMENT
Surface Transportation Board
Rate procedures:
Service inadequacies; expedited relief; comments due by 11-13-98; published 10-30-98
TREASURY DEPARTMENT
Internal Revenue Service
Income taxes:
Foreign partnerships and corporations; property transfers by U.S. persons; information reporting requirements; comments due by 11-9-98; published 9-9-98
Foreign partnerships, U.S. persons owning interests in; return requirements; comments due by 11-9-98; published 9-9-98
Foreign partnerships; information reporting requirements; comments due by 11-9-98; published 9-9-98
Foreign partnerships; information reporting requirements; correction; comments due by 11-9-98; published 10-31-98
Widely held fixed investment trusts; reporting requirements; comments due by 11-12-98; published 8-13-98
VETERANS AFFAIRS DEPARTMENT
Freedom of Information Act; implementation; comments due by 11-9-98; published 9-10-98

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

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H.R. 678/P.L. 105–331
Thomas Alva Edison Commemorative Coin Act (Oct. 31, 1998; 112 Stat. 3073)

H.R. 1853/P.L. 105–332
Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998 (Oct. 31, 1998; 112 Stat. 3076)

H.R. 2000/P.L. 105–333
ANCSA Land Bank Protection Act of 1998 (Oct. 31, 1998; 112 Stat. 3129)

H.R. 2327/P.L. 105–334
Drive for Teen Employment Act (Oct. 31, 1998; 112 Stat. 3137)

H.R. 3830/P.L. 105–335
Utah Schools and Lands Exchange Act of 1998 (Oct. 31, 1998; 112 Stat. 3139)

H.R. 3874/P.L. 105–336
William F. Goodling Child Nutrition Reauthorization Act of 1998 (Oct. 31, 1998; 112 Stat. 3143)

H.R. 4259/P.L. 105–337
Haskell Indian Nations University and Southwestern Indian Polytechnic Institute Administrative Systems Act of 1998 (Oct. 31, 1998; 112 Stat. 3171)

H.R. 4655/P.L. 105–338
Iraq Liberation Act of 1998 (Oct. 31, 1998; 112 Stat. 3178)

S. 1021/P.L. 105–339
Veterans Employment Opportunities Act of 1998 (Oct. 31, 1998; 112 Stat. 3182)

S. 1722/P.L. 105–340
Women's Health Research and Prevention Amendments of 1998 (Oct. 31, 1998; 112 Stat. 3191)

S. 2285/P.L. 105–341
Women's Progress Commemoration Act (Oct. 31, 1998; 112 Stat. 3196)

S. 2240/P.L. 105–342
Adams National Historical Park Act of 1998 (Nov. 2, 1998; 112 Stat. 3200)

S. 2246/P.L. 105–343
To amend the Act which established the Frederick Law Olmsted National Historic Site, in the Commonwealth of Massachusetts, by modifying the boundary, and for other purposes. (Nov. 2, 1998; 112 Stat. 3203)

S. 2413/P.L. 105–344
Prohibiting the conveyance of Woodland Lake Park tract in Apache-Sitgreaves National Forest in the State of Arizona unless the conveyance is made to the town of Pinetop-Lakeside or is authorized by Act of Congress. (Nov. 2, 1998; 112 Stat. 3204)

S. 2427/P.L. 105–345
To amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the legislative authority for the Black Patriots Foundation to establish a commemorative work. (Nov. 2, 1998; 112 Stat. 3205)

S. 2505/P.L. 105–346
To direct the Secretary of the Interior to convey title to the Tunnison Lab Hagerman Field Station in Gooding County, Idaho, to the University of Idaho. (Nov. 2, 1998; 112 Stat. 3206)

S. 2561/P.L. 105–347
Consumer Reporting Employment Clarification Act of 1998 (Nov. 2, 1998; 112 Stat. 3208)

S.J. Res. 51/P.L. 105–348
Granting the consent of Congress to the Potomac Highlands Airport Authority Compact entered into between the States of Maryland and West Virginia. (Nov. 2, 1998; 112 Stat. 3212)

S.J. Res. 58/P.L. 105–349
Recognizing the accomplishments of Inspectors General since their creation in 1978 in preventing and detecting waste, fraud, abuse, and mismanagement, and in promoting economy, efficiency, and effectiveness in the Federal Government. (Nov. 2, 1998; 112 Stat. 3216)

H.J. Res. 138/P.L. 105–350
Appointing the day for the convening of the first session of the One Hundred Sixth Congress. (Nov. 3, 1998; 112 Stat. 3218)

S. 538/P.L. 105–351
To authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District, and for other purposes. (Nov. 3, 1998; 112 Stat. 3219)

S. 744/P.L. 105–352
Fall River Water Users District Rural Water System Act of 1998 (Nov. 3, 1998; 112 Stat. 3222)

S. 1260/P.L. 105–353
Securities Litigation Uniform Standards Act of 1998 (Nov. 3, 1998; 112 Stat. 3227)

S. 2524/P.L. 105–354
To codify without substantive change laws related to Patriotic and National Observances, Ceremonies, and Organizations and to improve the United States Code. (Nov. 3, 1998; 112 Stat. 3238)

Last List November 5, 1998

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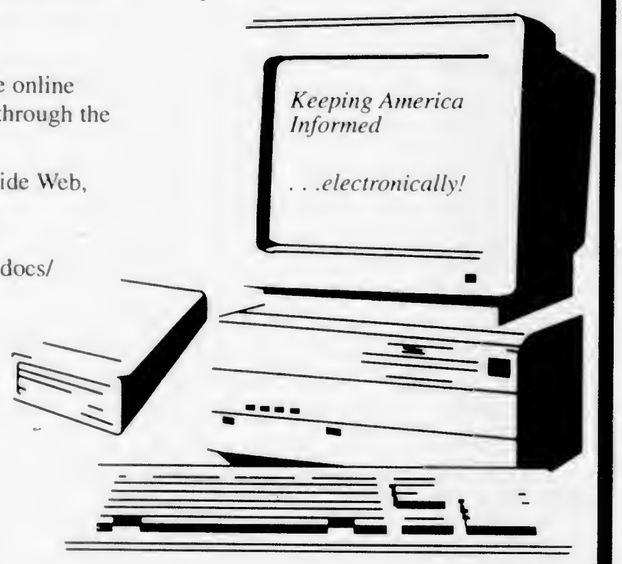
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Contents

Federal Register
Vol. 63, No. 216
Monday, November 9, 1998

Advisory Council on Historic Preservation
See Historic Preservation, Advisory Council

Agency for International Development
PROPOSED RULES
Semi-annual agenda, 62333–62336

Agricultural Marketing Service
RULES
Limes and avocados grown in—
Florida, 60204–60209
Nectarines and and peaches grown in—
California, 60209–60212
NOTICES
Meetings:
Flue-Cured Tobacco Advisory Committee, 60292

Agriculture Department
See Agricultural Marketing Service
See Farm Service Agency
See Grain Inspection, Packers and Stockyards Administration
PROPOSED RULES
Semi-annual agenda, 61421–61520

Architectural and Transportation Barriers Compliance Board
PROPOSED RULES
Semi-annual agenda, 62337–62340

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Bonneville Power Administration
NOTICES
Floodplain and wetlands protection; environmental review determinations; availability, etc.:
Mid-Columbia Coho Restoration Feasibility Project, WA, 60311

Centers for Disease Control and Prevention
NOTICES
Ryan White CARE Act; implementation:
HIV testing of newborns; HHS Secretary's determination, 60351–60352

Civil Rights Commission
PROPOSED RULES
Semi-annual agenda, 62341–62342

Coast Guard
RULES
Drawbridge operations:
Florida, 60213–60214
PROPOSED RULES
Drawbridge operations:
Florida, 60226–60227

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration
PROPOSED RULES
Semi-annual agenda, 61521–61607
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 60292–60293

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Jamaica, 60305
Mauritius, 60306
Oman, 60306–60307
Ukraine, 60307–60308
United Arab Emirates, 60308–60309

Commodity Futures Trading Commission
PROPOSED RULES
Semi-annual agenda, 62647–62651

Consumer Product Safety Commission
PROPOSED RULES
Semi-annual agenda, 62653–62660

Corporation for National and Community Service
PROPOSED RULES
Semi-annual agenda, 62343–62345

Defense Department
RULES
Acquisition regulations:
Contract action reporting, 60217–60218
Contract action reporting; affirmative action reform, 60216–60217
Organization, functions, and authority delegations:
Defense Threat Reduction Agency; name change from Defense Special Weapons Agency, 60212–60213
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Semi-annual agenda, 62633–62645
Semi-annual agenda, 61609–61646

Education Department
PROPOSED RULES
Semi-annual agenda, 61647–61655

Energy Department
See Bonneville Power Administration
See Federal Energy Regulatory Commission
PROPOSED RULES
Acquisition regulations:
Performance guarantees, 60268–60270
Semi-annual agenda, 61657–61677
NOTICES
Meetings:
Environmental Management Site-Specific Advisory Board—
Hanford Site, WA, 60309
Nevada Test Site, NV, 60309
International Energy Agency Industry Supply Advisory Group, 60310
Natural gas exportation and importation:
Renaissance Energy (U.S.) Inc., 60310

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
California, 60214–60216
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
California, 60256
Semi-annual agenda, 62347–62478
NOTICES
Toxic and hazardous substances control:
Persistent, bioaccumulative, and toxic (PBT) chemicals and chemical categories; list; Resource Conservation and Recovery Act waste minimization policy, 60332–60343

Equal Employment Opportunity Commission
PROPOSED RULES
Semi-annual agenda, 62479–62483

Executive Office of the President
See Management and Budget Office
See Trade Representative, Office of United States

Farm Credit Administration
PROPOSED RULES
Farm credit system:
Loan policies and operations—
Chartered territories, 60219–60222
Semi-annual agenda, 62661–62666
NOTICES
Meetings; Sunshine Act, 60343

Farm Credit System Insurance Corporation
PROPOSED RULES
Semi-annual agenda, 62667–62668

Farm Service Agency
RULES
Warehouses:
Tobacco auction warehouses; licensing requirements, 60203–60204

Federal Aviation Administration
RULES
Air traffic operating and flight rules, etc.:
Airport security areas, unescorted access privileges; employment history, verification, and criminal history records check
Correction, 60448
PROPOSED RULES
Airworthiness directives:
Boeing, 60222–60224
Schempp-Hirth K.G., 60224–60226
NOTICES
Meetings:
Global Positioning System/Wide Area and Local Area Augmentation Systems; capabilities, 60440

Federal Communications Commission
PROPOSED RULES
Semi-annual agenda, 62669–62696

Federal Deposit Insurance Corporation
PROPOSED RULES
Semi-annual agenda, 62697–62705

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 60344

Federal Emergency Management Agency
PROPOSED RULES
Semi-annual agenda, 62487–62491
NOTICES
Grants and cooperative agreements; availability, etc.:
Project Impact communities and States with Project Impact communities, 60344

Federal Energy Regulatory Commission
PROPOSED RULES
Semi-annual agenda, 62707–62711
NOTICES
Electric rate and corporate regulation filings:
Northern Indiana Public Service Co. et al., 60322–60327
Wisconsin Electric Power Co. et al., 60327–60330
Hydroelectric applications, 60330–60332
Applications, hearings, determinations, etc.:
Algonquin Gas Transmission Co., 60311
ANR Pipeline Co., 60312
Columbia Gas Transmission Corp., 60312–60313
Columbia Gulf Transmission Co., 60313
Cranberry Pipeline Corp., 60313
Crossroads Pipeline Co., 60313–60314
Destin Pipeline Co., L.L.C., 60314
East Tennessee Natural Gas Co., 60314–60315
Florida Gas Transmission Co., 60315
Granite State Gas Transmission Co., 60315
Great Lakes Gas Transmission L.P., 60315–60316
Iroquois Gas Transmission System, L.P., 60316
KN Interstate Gas Transmission Co., 60316
KN Wattenberg Transmission Liability Co., 60317
Koch Gateway Pipeline Co., 60317
Midwestern Gas Transmission Co., 60317–60318
Natural Gas Pipeline Co. of America, 60318
Northern Border Pipeline Co., 60319
Northern Natural Gas Co., 60319
Northwest Pipeline Corp., 60319–60320
Panhandle Eastern Pipe Line Co., 60320
Tennessee Gas Pipeline Co., 60320–60321
Transcontinental Gas Pipe Line Corp., 60321–60322

Federal Housing Enterprise Oversight Office
PROPOSED RULES
Semi-annual agenda, 62533–62535

Federal Housing Finance Board
PROPOSED RULES
Semi-annual agenda, 62713–62717

Federal Maritime Commission
PROPOSED RULES
Semi-annual agenda, 62719–62722
NOTICES
Investigations, hearings, petitions, etc.
World Line Shipping, Inc., et al., 60345–60346

Federal Mediation and Conciliation Service
PROPOSED RULES
Semi-annual agenda, 62493–62494

Federal Railroad Administration
NOTICES
Traffic control systems; discontinuance or modification:
CSX Transportation, Inc., et al., 60440–60441

Federal Reserve System
PROPOSED RULES
Semi-annual agenda, 62723–62736
NOTICES
Banks and bank holding companies:
Formations, acquisitions, and mergers, 60346–60347
Formations, acquisitions, and mergers; correction, 60346
Permissible nonbanking activities, 60347
Meetings; Sunshine Act, 60347

Federal Trade Commission
PROPOSED RULES
Semi-annual agenda, 62737–62746
NOTICES
Prohibited trade practices:
Koninklijke Ahold nv et al., 60347–60350

Fish and Wildlife Service
PROPOSED RULES
Migratory bird hunting:
Mid-continent light geese; harvest increase, 60271–60278
Mid-continent light goose populations reduction; conservation order establishment, 60278–60287
NOTICES
Environmental statements; availability, etc.:
Incidental take permits—
Kern County, CA; habitat conservation plan, 60368–60370

Food and Drug Administration
NOTICES
Medical devices:
Mammography Quality Standards Act—
Alternative requirement approval, 60352
Protection of human subjects:
Institutional Review Board; research categories list; expedited review procedure, 60353–60356

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
California, 60293
Ohio, 60294
Wisconsin
Mercury Marine (Inc.); marine propulsion products manufacturing facilities, 60293–60294
Polaris Industries, Inc.; internal-combustion engines manufacturing facilities, 60294

General Accounting Office
NOTICES
Meetings:
Federal Accounting Standards Advisory Board, 60350–60351

General Services Administration
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Semi-annual agenda, 62633–62645
Semi-annual agenda, 62497–62507

Geological Survey
NOTICES
Privacy Act:
Systems of records, 60370–60380

Government Ethics Office
PROPOSED RULES
Semi-annual agenda, 62537–62544

Grain Inspection, Packers and Stockyards Administration
NOTICES
Stockyards; posting and deposting:
Crawford County Livestock Auction, AR, et al., 60292

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Care Financing Administration
See Inspector General Office, Health and Human Services Department
See National Institutes of Health
PROPOSED RULES
Semi-annual agenda, 61679–61786

Health Care Financing Administration
See Inspector General Office, Health and Human Services Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 60356–60357
Submission for OMB review; comment request, 60357

Historic Preservation, Advisory Council
PROPOSED RULES
Semi-annual agenda, 62331–62332

Housing and Urban Development Department
See Federal Housing Enterprise Oversight Office
PROPOSED RULES
Semi-annual agenda, 61787–61817
NOTICES
Privacy Act:
Computer matching programs, 60367–60368

Inspector General Office, Health and Human Services Department
NOTICES
Program exclusions; list, 60357–60361

Interior Department
See Fish and Wildlife Service
See Geological Survey
See Minerals Management Service
See National Indian Gaming Commission
See National Park Service
PROPOSED RULES
Semi-annual agenda, 61819–61905

Internal Revenue Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 60446–60447

International Development Cooperation Agency
See Agency for International Development
See Overseas Private Investment Corporation

International Trade Administration
NOTICES
Antidumping:
Corrosion-resistant carbon steel flat products and cut-to-length carbon steel plate from—
Canada, 60294–60295
Extruded rubber thread from—
Malaysia, 60295–60299
Gray portland cement and clinker from—
Mexico, 60299

Helical spring lock washers from—
China, 60299–60302
Industrial nitrocellulose from—
Korea, 60302–60303
United Kingdom, 60303
Manganese metal from—
China, 60303–60304
Silicon metal from—
Brazil, 60304
Antidumping and countervailing duties:
Administrative review requests; correction, 60448
Export trade certificates of review, 60304–60305

Justice Department
PROPOSED RULES
Semi-annual agenda, 61907–61965
NOTICES
Committees; establishment, renewal, termination, etc.:
Global Criminal Justice Information Network Advisory Committee, 60385–60386
Meetings:
Global Criminal Justice Information Network Advisory Committee, 60386
Violence Against Women National Advisory Council, 60386

Labor Department
See Pension and Welfare Benefits Administration
PROPOSED RULES
Semi-annual agenda, 61967–62017

Management and Budget Office
PROPOSED RULES
Semi-annual agenda, 62545–62549
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 60414–60416

Minerals Management Service
NOTICES
Outer Continental Shelf Lands Act:
Oil and gas lease of submerged lands (Form MMS-2005); revision, 60380–60383

National Aeronautics and Space Administration
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Semi-annual agenda, 62633–62645
Semi-annual agenda, 62509–62512

National Archives and Records Administration
PROPOSED RULES
Semi-annual agenda, 62513–62519
NOTICES
Agency records schedules; availability, 60410–60411

National Credit Union Administration
PROPOSED RULES
Semi-annual agenda, 62747–62752

National Foundation on the Arts and the Humanities
PROPOSED RULES
Semi-annual agenda:
Institute of Museum and Library Services, 62521–62522
National Endowment for the Arts, 62523–62525
National Endowment for the Humanities, 62527–62528
NOTICES
Meetings:
Humanities National Council, 60412

National Highway Traffic Safety Administration
PROPOSED RULES
Motor vehicle safety standards:
Occupant crash protection—
Air bag sensor design; petition denied, 60270–60271

National Indian Gaming Commission
PROPOSED RULES
Semi-annual agenda, 62753–62757

National Institutes of Health
NOTICES
Grants and cooperative agreements; availability, etc.:
Leukemia, lymphoma, hairy cell leukemia, Hodgkin's disease, and other hematologic malignancies; therapeutic treatment, 60361–60362
Meetings:
Alternative Medicine Program Advisory Council, 60362–60363
National Cancer Institute, 60363
National Institute of Diabetes and Digestive and Kidney Diseases, 60364
National Institute on Drug Abuse, 60363–60364
Protection of human subjects:
Institutional Review Board; research categories list; expedited review procedure, 60364–60367

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Atka mackerel, 60288–60291
Caribbean, Gulf, and South Atlantic fisheries—
Gulf of Mexico essential fish habitat designations, 60287

National Park Service
NOTICES
Boundary establishment, descriptions, etc.:
Piscataway Park, MD, 60383–60384
Environmental statements; availability, etc.:
Lake Roosevelt National Recreation Area, WA, 60384
Meetings:
Maine Acadian Culture Preservation Commission, 60384
Reports and guidance documents; availability, etc.:
Wetland protection; director's order and procedural manual, 60384–60385

National Science Foundation
PROPOSED RULES
Semi-annual agenda, 62529–62531

Nuclear Regulatory Commission
PROPOSED RULES
Semi-annual agenda, 62759–62779
NOTICES
Applications, hearings, determinations, etc.:
Southern California Edison Co., 60412–60414
STP Nuclear Operating Co., 60414

Office of Federal Housing Enterprise Oversight
See Federal Housing Enterprise Oversight Office

Office of Management and Budget
See Management and Budget Office

Office of the Special Counsel
PROPOSED RULES
Semi-annual agenda, 62575–62576

Office of United States Trade Representative
See Trade Representative, Office of United States

Overseas Private Investment Corporation
PROPOSED RULES
Semi-annual agenda, 62577–62578

Panama Canal Commission
PROPOSED RULES
Semi-annual agenda, 62579–62581

Peace Corps
PROPOSED RULES
Semi-annual agenda, 62583–62585

Pension and Welfare Benefits Administration
NOTICES
Employee benefit plans; prohibited transaction exemptions:
Moody-Day, Inc., et al., 60386–60391
Salomon Smith Barney, Inc., 60391–60398
U.S. West, Inc., et al., 60398–60410

Pension Benefit Guaranty Corporation
PROPOSED RULES
Semi-annual agenda, 62587–62592

Personnel Management Office
PROPOSED RULES
Semi-annual agenda, 62551–62574

Postal Service
NOTICES
Domestic rates, fees, and mail classifications:
Domestic mail classification schedule changes and accompanying rate and fee changes, 60416–60418

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health

Railroad Retirement Board
PROPOSED RULES
Semi-annual agenda, 62593–62598

Regulatory Information Service Center
PROPOSED RULES
Unified agenda of Federal regulatory and deregulatory actions, 61201–61419

Securities and Exchange Commission
PROPOSED RULES
Semi-annual agenda, 62781–62806
NOTICES
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., 60429–60430
Boston Stock Exchange, 60430–60431
National Association of Securities Dealers, Inc., 60431–60435
Philadelphia Stock Exchange, Inc., 60435–60436
Applications, hearings, determinations, etc.:
CD Radio Inc., 60418–60419
John Hancock Bond Trust et al., 60419–60422
Public utility holding company filings, 60422–60424
Wright Managed Blue Chip Series Trust et al., 60424–60428

Selective Service System
PROPOSED RULES
Semi-annual agenda, 62599–62600

Small Business Administration
PROPOSED RULES
Semi-annual agenda, 62601–62608

Social Security Administration
PROPOSED RULES
Semi-annual agenda, 62609–62628

Special Counsel Office
See Office of the Special Counsel

State Department
PROPOSED RULES
Semi-annual agenda, 62019–62024
NOTICES
Foreign passports validity; list of countries, 60436–60437
Meetings:
Fine Arts Committee, 60437
International Economic Policy Advisory Committee, 60437

Surface Transportation Board
PROPOSED RULES
Semi-annual agenda, 62807–62811
NOTICES
Railroad operation, acquisition, construction, etc.:
Canadian National Railway Co. et al., 60441–60442
Railroad services abandonment:
Pioneer Valley Railroad Co., Inc., 60442–60443

Tennessee Valley Authority
PROPOSED RULES
Semi-annual agenda, 62629–62630

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Trade Representative, Office of United States
NOTICES
Trade Policy Staff Committee:
World Trade Organization—
Sanitary and phytosanitary issues in foreign trade measures; comment request, 60437–60440

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Railroad Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board
PROPOSED RULES
Semi-annual agenda, 62025–62202

Treasury Department
See Internal Revenue Service
PROPOSED RULES
Semi-annual agenda, 62203–62302
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 60443–60445

United States Information Agency
PROPOSED RULES
Semi-annual agenda, 62631–62632

Veterans Affairs Department
PROPOSED RULES
Acquisition regulations:
Health care resources; simplified acquisition procedures, 60256–60268
Medical benefits:
Nursing home care of veterans in State homes; per diem payments, 60227–60255
Semi-annual agenda, 62303–62330

Vice President of the United States
PROPOSED RULES
Regulatory Plan statement, 61201–61203

Separate Parts In This Issue

Parts II through LXIV

The Unified Agenda of Federal Regulatory and Deregulatory actions, 61201–62918

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
737 60203
911 60204
915 60204
916 60209
917 60209

12 CFR
Proposed Rules:
611 60219
614 60219
618 60219

14 CFR
107 60448
108 60448
Proposed Rules:
39 (2 documents) 60222, 60224

32 CFR
318 60214

33 CFR
117 60212
Proposed Rules:
117 60226

38 CFR
Proposed Rules:
17 60227
51 60227

40 CFR
52 60214
Proposed Rules:
52 60257

48 CFR
253 (2 documents) 60216, 60217
Proposed Rules:
801 60257
806 60257
812 60257
837 60257
852 60257
873 60257
909 60269
970 60269

49 CFR
Proposed Rules:
571 60271

50 CFR
Proposed Rules:
20 60278
21 60278
622 60287
679 60288

Rules and Regulations

Federal Register
Vol. 63, No. 216
Monday, November 9, 1998

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 737

RIN 0560–AD92

Tobacco Warehouses

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations governing tobacco warehouses under the United States Warehouse Act (USWA). A proposed rule was published in the July 28, 1995, **Federal Register** (60 FR 38766). On June 20, 1997, a final rule covering only administrative changes to various commodity regulations was published in the **Federal Register** (62 FR 33539). Included in that final rule were two administrative changes which had been included in the tobacco warehouse proposed rule. Therefore, this final rule does not address those two administrative changes. In the proposed rule the Farm Service Agency (FSA) proposed excluding tobacco auction warehouses from USWA licensing requirements. This final rule adopts the position taken in the proposed rule and excludes those tobacco auction warehouses from licensure under the USWA. FSA has determined that it is not necessary to define "warehouse" as suggested in the proposed rule. The USWA, as amended (7 U.S.C. 241 *et seq.*), provides the Secretary of Agriculture with the discretion to establish a voluntary licensing program for public warehouses that store agricultural commodities under a bailment relationship with its depositors. Accordingly, the Secretary will exercise this discretion and through FSA will discontinue licensing tobacco auction warehouses under the USWA and all licenses issued to tobacco auction warehouses covered by this rule will be administratively canceled by Secretarial determination on October 31, 1999. October 31, 1999, was selected as the effective date so as to allow the affected tobacco auction warehouses sufficient notice and time to seek a State license or changes in State law to the extent that this rule may have an effect on warehouse rates. In addition, this final rule makes some minor "housekeeping" amendments.

EFFECTIVE DATE: November 9, 1998.

FOR FURTHER INFORMATION CONTACT: Steve Gill, Director, Warehouse and Inventory Division, Farm Service Agency, STOP 0553, 1400 Independence Avenue, S.W., Washington, DC 20250–0553; telephone 202–720–2121 or FAX 202–690–3123, e-mail: Steve__Gill@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be not significant for the purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988. The provisions of this final rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will not have a significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Executive Order 12612

It has been determined that this rule is consistent with the Federalism principles espoused in Executive Order 12612, and does not warrant the preparation of a Federalism Assessment.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Paperwork Reduction Act

The amendments set forth in this final rule do not affect information collection or recordkeeping requirements.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule because this rule will not have a significant effect on a substantial number of small businesses. Licensing under the USWA is strictly voluntary on the warehouse operator's part.

Unfunded Mandate Reform Act of 1995

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Background

The USWA, as amended (7 U.S.C. § 241 *et seq.*), provides that the Secretary of Agriculture may issue a license for the conduct of public warehouses that store agricultural commodities. The USWA is implemented, as it pertains to tobacco warehouses, by regulations at 7 CFR part 737 and is administered by FSA. Approximately, 1,500 entities hold licenses under the USWA to store one or more of eight different agricultural commodities. Presently, there are six tobacco auction warehouses licensed under the USWA.

Summary of Comments

A proposed rule was published in the **Federal Register** (60 FR 38766) on July 28, 1995. The proposed rule excluded tobacco auction warehouse from licensure under the USWA. Comments from interested parties were due on or before August 28, 1995. A total of 3,242 comments were received from 14 different sectors as follows: 2 Cotton Associations; 1 Chamber of Commerce; 15 Farm Bureaus; 20 Grain Warehouse Associations; 1 High School (FFA Chapter); 60 Interested Parties; 1 Legal Counsel; 3 Law Makers (State or Federal); 3,113 Tobacco Producers; 7 State Agriculture Departments; 3 Stabilization Corporations; 4 Tobacco Producer Associations; 5 Tobacco Warehouse Associations; and 7 Tobacco

Warehouses. Of the above comments 2,964 were against the proposed rule, 275 were in favor of the proposed rule and 3 had no opinion. Of the comments received in opposition to the proposal, 2,236 were in the form of preprinted postcards that were submitted by tobacco producers in Virginia.

Producers not in favor of the proposed rule expressed confidence in the security offered by the USWA and therefore, asked that tobacco warehouses to which they deliver tobacco be allowed to remain licensed under the USWA. Producers in favor of the proposed rule expressed a common concern about the charges assessed by warehouses licensed under the USWA.

The primary functions of tobacco auction warehouses are currently regulated by several USDA agencies. Tobacco auction warehouses approved by the Agricultural Marketing Service (AMS) and FSA may sell producer-owned and dealer-owned tobacco. AMS strictly regulates the manner in which the tobacco must be presented for sale and graded for sale. Further, AMS regulations include detailed recordkeeping requirements. Further, AMS has representatives on-site during all sales of tobacco.

In addition, the Agricultural Adjustment Act of 1938, as amended, and the Agricultural Act of 1949, as amended, strictly regulate the sale of tobacco. The Commodity Credit Corporation (CCC) and FSA regulate auction warehouses through the Tobacco Marketing Quota and Price Support Programs they administer. These regulations are codified at 7 CFR part 723 and 1464. Under these regulations, CCC and FSA require that warehouse operators retain detailed records of all tobacco handled by them. The tobacco and the transactions associated with it must be tracked and recorded from the time the tobacco is brought into the warehouse by producers, to the time it leaves the warehouse.

The type and level of regulation by AMS, CCC, and FSA are unique to tobacco auction warehouses. Producers who believe they have not been treated fairly by the warehouse operator may seek relief directly from the on-site representatives of the various Government Agencies. If such allegations are confirmed, under the provisions of 7 CFR parts 723 and 1464, CCC or FSA has the right to take appropriate actions against the tobacco auction warehouse to protect the interests of producers. Accordingly, because tobacco auction warehouses are sufficiently regulated by other USDA regulations, and involve sales, primarily, rather than storage, FSA will discontinue licensing tobacco auction warehouses under the USWA. Additionally, those licenses currently held by tobacco auction warehouse operators will be administratively canceled by Secretarial determination effective October 31, 1999.

List of Subjects in 7 CFR Part 737

Administrative practice and procedure, Agricultural Commodities, Surety Bonds, Tobacco, Warehouses.

Accordingly, the provisions of 7 CFR part 737 are amended as follows:

PART 737—TOBACCO WAREHOUSES

1. The authority citation for part 737 continues to read as follows:

Authority: 7 U.S.C. 241 *et seq.*

2. Section 737.2 is amended by revising the introductory text and paragraph (j) to read as follows:

§ 737.2 Terms defined.

For the purposes of this part, unless otherwise provided, the following terms shall mean:

* * * * *

(j) *Warehouseman.* Any person lawfully engaged in the business of storing tobacco and holding a warehouse license.

* * * * *

3. Section 737.4 is revised to read as follows:

§ 737.4 Grounds for not issuing license.

A license for the conduct of a warehouse shall not be issued if it be found by the Secretary, or his designated representative, that the warehouse is not suitable for the proper storage of tobacco, that the warehouseman is insolvent or is incompetent to conduct such warehouse in accordance with the act and the regulations in this part, or that there is any other sufficient reason within the purposes of the act for not issuing such license. Further, a license shall not be issued for any place to which tobacco is delivered by the producers or their agents for the purposes of obtaining CCC price support advances and for the display and auction of tobacco.

4. Section 737.34 is revised to read as follows:

§ 737.34 Package arrangement.

(a) Each warehouseman shall arrange the packages of tobacco so that the identification number thereon as required by § 737.33 is visible, readily accessible, and arranged so as to permit an accurate check thereof, unless waived in writing by the Administrator.

(b) If, at any time, a warehouseman shall be offered tobacco in such quantity for storage so as to exceed the capacity of this warehouse, as shown in his license, he shall not accept such tobacco until he has first secured authority through an amended license, and after such authority has been granted the warehouseman shall continue to arrange the tobacco in accordance with paragraph (a) of this section.

Signed at Washington, DC, on November 3, 1998.

Keith Kelly,

Administrator, Farm Service Agency.

[FR Doc. 98–29898 Filed 11–6–98; 8:45 am]

BILLING CODE 3410–05–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 911 and 915

[Docket No. FV98–911–2 FIR]

Limes and Avocados Grown in Florida; Relaxation of Container Dimension, Weight, and Marking Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule changing the container requirements prescribed under the Florida lime and avocado marketing orders. The marketing orders regulate the handling of limes grown in Florida and avocados grown in South Florida and are administered locally by the Florida Lime Administrative Committee and the Avocado Administrative Committee (Committees). This rule continues in effect changes to simplify container marking requirements for both limes and avocados by reducing the number of times the size for limes and the grade for avocados need to appear on a container. This rule also continues in effect the removal of weight limits on lime and avocado containers packed within a master container, and the relaxation of certain minimum weight requirements on containers of avocados. In addition, this rule continues in effect the elimination of specific container dimension requirements for both limes and avocados, but maintains net weight requirements. These changes are needed to reduce handling costs and provide greater flexibility in lime and avocado packing operations.

EFFECTIVE DATE: December 9, 1998.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Marketing Specialist, Southeast Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883; telephone: (941) 299–4770, Fax: (941) 299–5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–5456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 205–6632, or E-mail: Jay_N_Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: http://www.ams.usda.gov/fv/moab.html.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 126 and Marketing Order No. 911, both as amended (7 CFR part 911), regulating the handling of limes grown in Florida, and Marketing Agreement No. 121 and Marketing Order No. 915, both as amended (7 CFR part 915), regulating the handling of avocados grown in Florida, hereinafter referred to as the "orders." The marketing agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

This rule continues in effect several changes to the orders' pack and container rules and regulations. It continues in effect changes in container marking requirements for both limes and avocados that reduce the number of times the size for limes and the grade for avocados need to appear on a container. In addition, this rule continues in effect the removal of net weight limits on lime and avocado containers packed within a master container, and the relaxation of certain minimum net weight requirements on containers of avocados. This rule also continues in effect the elimination of specific container dimension requirements for both limes and avocados. Therefore, this rule reduces handling costs and provides greater flexibility in lime and avocado packing operations. The committees met several times to discuss and recommend changes needed in the container regulations. The committees met and unanimously recommended these changes on July 9, 1997, August 13, 1997, and February 11, 1998.

Sections 911.48 and 915.51 of the orders provide authority to issue regulations establishing specific pack and container requirements for limes and avocados, respectively. These requirements are specified under sections 911.311, 911.329 and 911.344 for limes, and under sections 915.305 and 915.306 for avocados. These sections specify, in part, container size, weight, and marking requirements.

This rule makes several changes to the pack and container provisions under the orders. The first change reduces the number of times the size for limes and the grade for avocados need to appear on a container. Sections 911.311(5)(d) and 915.306(a)(6) of the rules and regulations outline the container marking requirements for limes for size and avocados for grade, respectively. Prior to this change, requirements specified that the size for limes be marked in letters at least one inch in height on two sides of the container. For avocados, the grade was to be stamped in letters at least one inch in height on the top and two sides of the lid. This rule relaxes these requirements by establishing that containers be stamped only once, anywhere except the bottom of the container.

The size and grade information on a container is usually applied automatically by machine, or stamped individually by hand. Each time a container is stamped, there is an associated cost. The committees recommended reducing the number of times a container must be stamped, as well as expanding the possible stamp location, to provide handlers additional flexibility, and to reduce costs.

The committees believe this change will benefit both large and small packing operations. Larger operations use automated stamping. Former stamping requirements meant that each packing line needed to have at least two in-line stamp rollers or ink jet printers. In cases where the line had only one stamping device, the containers had to be reversed and run through the line a second time for limes, and three times for avocados. This could take a considerable amount of time. This change allows containers to move more rapidly through the packing line, reduces the number of stamping machines required, and decreases the costs associated with these activities.

Most smaller operations stamp the containers by hand. To meet the prior requirements, each box had to be rotated and stamped in more than one location. This increased the time and effort needed to pack each box. Reducing the number of times a container must be stamped will decrease the amount of labor needed and the associated stamping costs required to meet these requirements.

The requirement that containers be stamped more than once with size or grade information originated from the way limes and avocados were marketed by retailers in the past. Limes and avocados were, at one time, marketed and sold out of the containers in which the fruit was originally packed. Having the information on the container appear in several locations was done so that the customer could read it. However, the way limes and avocados are marketed has changed. Rather than being presented in the shipping container, retailers move the fruit to display bins.

The stamping of containers with required information benefits the retailer and helps the committees check that the lots (shipments) meet order requirements. Retailers tend to buy in large lots, purchasing a specified size and grade. The number of times an individual box needs to be stamped is less important. The committees anticipate that this change will reduce costs and give handlers additional flexibility under the rules and

regulations. Therefore, the committees recommended relaxing the stamping requirements for both limes and avocados.

The next change this rule makes is to the weight limits on individual containers that are packed inside larger master containers. Prior to this rule, sections 911.329(a)(3) and 915.305(b) specified that individual packages of limes or avocados contained within master containers were not to exceed four pounds in weight. This rule relaxes this weight limit, allowing packaged limes or avocados contained within master containers to exceed four pounds in weight.

The committees are always looking for ways to strengthen and expand the market for limes and avocados. One way they do this is through the approval of experimental containers not currently included under the regulations. This is done for market research purposes. The committees use such research to determine the benefits and acceptance of different containers in the marketplace.

The use of master containers packed with limes and avocados in packages in excess of 4 pounds has been approved on an experimental bases. The approvals were made to allow handlers to meet specific requests from their customers. Consequently, these larger sized packages within a master container have been shown to have a market potential.

The committees both discussed the merits of eliminating the four pound limit on packages within a master container. The committees believe this change will provide handlers with additional marketing flexibility, increased sales potential, and with more opportunities to satisfy customers with special needs. Based on the information collected from the use of the trial containers, the committees recommended that the four pound limit on packages within a master container be removed.

This rule also lowers certain minimum net weight requirements for containers of avocados. Section 915.305 specifies minimum weight requirements for avocados packed under the marketing order for avocados grown in Florida. Prior to this rule, regulations specified that avocados be packed in containers of 8.5, 12½, 25, 32, or 34 pounds designated net weights. This rule reduces the net weight requirements of 12½, 25, 32, and 34 pounds to 12, 24, 31, and 33 pounds, as recommended by the Avocado Administrative Committee (AAC). AAC members agreed that the problems prompting this change were more prevalent in the containers associated with the last four weights. Therefore, no change was recommended for the 8.5 pound designated net weight.

Handlers use containers that are associated by size with the minimum weights listed under the rules and regulations. These weight requirements closely match the capacity of the containers. These containers are inspected by the Federal-State Inspection Service (FSIS). One of the things FSIS checks is whether the packed containers meet the established minimum weight requirements.

An allowable tolerance for variation from the requirements is specified under the rules and regulations. With respect to each lot of containers of minimum weights 12½ and 25 pounds, only 5 percent or less, by count, of the individual containers in the lot may fail to meet the applicable specified weight. The tolerance is 10 percent for minimum weights of 32 and 34 pounds. If the allowable tolerances are exceeded, the lot fails inspection and would need to be reworked and repacked before it could meet inspection.

Failing inspection and having to rework a lot after it has been packed results in a considerable loss of time and money for the individual handler. One AAC member used the example of a 12½ pound net weight container packed with 16 ounce avocados in a single layer with 12 avocados per layer to illustrate the problem. He said that when FSIS found the minimum weight to be 8 ounces short in enough boxes to exceed the tolerance, they would fail the lot, requiring it to be redone. Handlers then are forced to make a choice between adding an additional avocado to each container, or risk the possibility of failing the minimum net weight requirement. AAC members concurred with the problem presented by this particular situation. Several handlers stated that rather than risk being underweight, they would force an additional avocado into the container. The handlers agreed that in many cases, this meant that they were literally giving one avocado per pack away.

In addition, members stated that this practice of over packing the containers was having a negative effect on the avocados during shipment. The AAC discussed that some shipments were being received out of the production area in poor condition due to the over filling of containers to ensure compliance with the minimum net weight requirements. The containers were so tightly packed that the avocados were bruised or damaged in transit.

The AAC understands the benefits of a uniform pack. However, in this case, the requirements were having a negative effect on the condition of the avocados. Changing container sizes to better accommodate the required weights would be difficult and costly. Handlers have containers in inventory, and have their equipment adjusted to those containers. By lowering the minimum net weights, handlers will be able to use the boxes they have. This change will also reduce the need to add additional avocados to meet net weight requirements. In addition, it will help reduce the possibility of containers failing the minimum weight requirement, and save handlers the expense of reworking failed lots of avocados. This change also will benefit growers by providing greater packouts and additional grower revenue. Therefore, the AAC recommended lowering the minimum net weights of 12½, 25, 32, and 34 pounds to 12, 24, 31, and 33 pounds designated net weights. However, this action does not change the established tolerances or the requirement for a fairly tight pack.

The final change made by this rule is the elimination of specific container dimension requirements from both orders' rules and regulations. Prior to this rule, requirements included dimensions for all authorized containers of limes and avocados, specifying specific measurements for height, width, and depth. This rule eliminates the specific dimension constraints, but maintains the container net weight requirements.

Sections 911.329 and 915.305 of the rules and regulations outlined container dimension requirements for limes and avocados, respectively. These sections established specific interior dimensions in inches for containers approved for use under the orders. The dimensions varied from a small 5.5 pound container with measurements of $7\frac{1}{2} \times 11\frac{7}{8} \times 4\frac{1}{4}$ inches to a large 42 pound container with measurements of $12\frac{3}{4} \times 15\frac{1}{4} \times 10\frac{3}{4}$ inches for limes. Avocados also had similar specific interior dimensions, from a small 8.5 pound container with dimensions of $16\frac{1}{2} \times 13\frac{1}{2} \times 3\frac{1}{4}$ inches to a large 34 pound container with dimensions of $11 \times 16\frac{1}{4} \times 10\frac{3}{4}$ inches.

A recent review of the containers in use throughout the industry revealed that interior dimensions varied from handler to handler, and in many cases, were different than those specified in the rules and regulations. Some of the differences occurred in the box manufacturing process, where tolerances were granted to allow for equipment adjustments.

While the dimensions of containers have varied throughout the industry, the adherence to the net weight requirements has not. Under current inspection procedures, the containers are being weighed and checked for compliance with net weight requirements. This means that even though container dimensions may vary somewhat among individual handlers, the essential volume among like containers is the same. Therefore, rather than revising the rules and regulations to incorporate numerous additional containers with specific dimensions, the committees voted to eliminate the references to set measurements while maintaining the container net weight requirements.

The committees concluded that requiring handlers to use containers with specific dimensions is not necessary as long as the containers used contain a net weight specified in the requirements. The committees believe that even with this change, the rules and regulations continue to promote the shipment of a uniform product. The committees also anticipate that this change will reduce costs by allowing handlers to use boxes in inventory, rather than ordering new containers and making adjustments to equipment. They thought that removing specific container dimension requirements provided handlers with additional packing flexibility under the rules and regulations. They also agreed this change made more sense than trying to add the dimensions of all the containers currently in use to the requirements. Therefore, the committees recommended removing the regulations requiring specific interior dimensions for containers. However, all containers must continue to meet the specific net weight requirements as they appear in the rules and regulations.

Section 8e of the Act provides that when certain domestically produced commodities, including limes and avocados, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. This rule changes the container marking and minimum net weight requirements currently issued under these orders. Therefore, no change is necessary in the lime or avocado import regulations.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 111 lime producers and 141 avocado producers in the production area and approximately 33 lime handlers and 49 avocado handlers subject to regulation under the marketing orders. Small agricultural producers have been defined by the Small Business Administration (SBA) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000 (13 CFR 121.601).

Based on the Florida Agricultural Statistical Service and committee information, the average on-tree price for fresh limes during the 1996–97 season was $7.10 per 88 pound box equivalent and shipments totaled 398,279 bushels (55 pound bushel). Approximately 20 percent of all handlers handled 86 percent of Florida lime shipments.

The average price for fresh avocados during the 1997–98 season was $14.60 per 55 pound bushel box equivalent for all domestic shipments and the total shipments were 937,568 bushels. Approximately 10 percent of all handlers handled 90 percent of Florida avocado shipments. Many lime and avocado handlers ship other tropical fruit and vegetable products which are not included in the committees' data but would contribute further to handler receipts.

Using these prices, about 90 percent of lime and avocado handlers could be considered small businesses under the SBA definition and about 10 percent of the handlers could be considered large businesses. The majority of Florida lime and avocado producers and handlers may be classified as small entities.

Under § 911.48 and § 915.51 of the marketing orders for limes and avocados grown in Florida, the committees have the authority to establish and modify pack and container requirements for limes and avocados handled under the order. Pack and container requirements outline the types of information and the number of times this information needs to appear on a container. The requirements also list the specific requirements as to container size and weight restrictions the packed container must meet.

This rule makes several changes to §§ 911.311 and 911.329, and §§ 915.305 and 915.306 of the rules and regulations concerning the pack and container requirements for limes and avocados, respectively. This rule simplifies container marking requirements for both limes and avocados by reducing the number of times the size for limes and the grade for avocados need to appear on a container. This rule also removes net weight limits on lime and avocado containers packed within a master container, and relaxes certain minimum net weight requirements on packed avocados. In addition, this rule eliminates specific container dimension requirements for both limes and avocados. These changes will reduce handling costs and provide greater flexibility in lime and avocado packing operations.

This rule will have a positive impact on affected entities. The changes were recommended to reduce costs and provide additional flexibility in packing limes and avocados. None of the changes are expected to increase costs associated with the pack and container requirements.

The change in the stamping requirement will allow containers to move more rapidly through the packing line, reduce the number of stamping machines and labor needed, and decrease costs associated with complying with the marking requirements.

The committees believe this change will benefit both large and small packing operations. Larger operations use automated stamping. The former stamping requirements meant that each packing line needed to have at least two in-line stamp rollers or ink jet printers. In cases where the line had only one stamping device, the containers had to be reversed and run through the line a second time for limes, and three times for avocados. This took a considerable amount of time. This change will allow containers to move more rapidly through the packing line, reduce the number of stamping machines required, and decrease the costs associated with these activities.

Most smaller operations stamp the containers by hand. To meet the prior requirements, each box had to be rotated and stamped in more than one location. This increased the time and effort needed to pack each box. Reducing the number of times a container must be stamped will decrease the amount of labor needed and the associated stamping costs required to meet these requirements.

The change in net weight of a container packed within a master container will provide handlers with more options in how they use a master

container, and provide handlers greater flexibility in addressing the needs of customers.

Lowering certain minimum net weight requirements for avocados will reduce the practice of over filling containers to ensure compliance with the minimum net weight requirements. Some handlers have been packing the containers so tightly that the avocados were bruised or damaged in transit. This change will reduce the need to add additional avocados to meet net weight requirements, thus, saving on costs from adding additional fruit to the containers and damaged fruit. This change also will help reduce the possibility that containers will fail the minimum weight requirement, saving the handler the expense of reworking failed lots of avocados. Growers also might benefit from this change. If less fruit damage results in increased customer satisfaction and higher f.o.b. prices, some additional revenue might be passed on to the growers.

A recent review of the containers in use throughout the industry revealed that the interior dimensions varied with each packer, and in many cases, were different than those specified in the rules and regulations. Absent this change eliminating specific container dimensions, some handlers would need to bear the expense of ordering new boxes, and take a loss on the boxes they have in inventory, or petition the committees to expand the list of approved container dimensions. The elimination of specific container dimension requirements from both orders' rules and regulations will reduce costs to handlers by allowing handlers to use boxes in inventory, rather than having to order new containers.

As long as the containers contain enough limes or avocados to meet net weight requirements, the committees believe that different container dimensions are not necessary. The committees believe that even with this change, the rules and regulations will continue to promote the shipment of uniform product, while providing handlers additional latitude in their choice of containers.

These changes are intended to reduce costs and provide additional flexibility for all those covered under the orders. The opportunities and benefits of this rule are expected to be equally available to all lime and avocado handlers and growers regardless of their size of operation.

Other alternatives to the actions approved were considered by the committees prior to making the recommendations. One alternative discussed by the committees regarding the stamping question was to require containers to continue to be stamped on two sides for limes, and on the top and two sides of the lid for avocados. The committees believed that this is a duplicate effort that provides little benefit and increases associated packing costs. They rejected this alternative.

The committees also considered an alternative to the change recommended regarding the weight of containers packed within a master container. The committees discussed establishing another net weight limitation above the current four pound restriction. However, the committees believed that just increasing the weight limit would still limit flexibility and rejected that option.

The AAC considered several alternatives to relaxing specific minimum net weight requirements. One alternative discussed was increasing the percentage tolerance in terms of the number of containers that could fail to meet the weight requirements before the entire lot would fail. Members were concerned that raising the allowable tolerance would have a negative impact on the uniformity of the pack, allowing for too much variance from the standard. There was also concern that this may not fully address the problem. Even with the increased tolerance, to avoid reaching the limit, there would still be cause to over pack containers. Another alternative considered was to change the way the tolerance was measured, changing from containers per lot to an average of containers packed on a given day. Under this alternative, a handler would not know if they had exceeded the allowable tolerance until the end of the packing day. This would mean that if a handler was found to be out of compliance, they would be out of compliance for the whole day, requiring a rework of all the fruit packed that day rather than only the lots that failed. The AAC also considered changing the container requirements to specify containers that were wider and longer than present containers. Discussion concluded that there were already numerous containers and that adding or changing several containers to cover all the weights, sizes, and varieties would make things more complicated. It would also increase the financial burden by requiring the purchase of new boxes, and the modifying of equipment and pallets to accommodate the change. Therefore, the AAC dismissed these alternatives.

Two alternatives to eliminating specific container dimension requirements were presented for discussion. One alternative was to leave all lime and avocado containers as they are now. A review of the containers in use throughout the industry revealed that interior dimensions varied from handler to handler and in many cases, were different than those specified in the rules and regulations. However, not making this change could result in additional costs for handlers. The second alternative centered on adjusting the regulations to accommodate all the containers currently in use. The committees rejected the idea of adding more containers to the regulations as making things overly complicated with little discernible benefit. The committees believed that the recommended change will continue to promote the shipment of uniform product, require no additional cost, and allow handlers additional flexibility in choice of containers. Based on this discussion, this alternative was rejected.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large lime or avocado handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the committees' meetings were publicized throughout the lime and avocado industries and all interested persons were invited to attend the meetings and participate in the committees' deliberations. Like all the committees' meetings, the July 9, 1997, August 13, 1997, and February 11, 1998, meetings were public meetings and all entities, both large and small, were able to express their views on these issues. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

An interim final rule concerning this action was published in the **Federal Register** on July 13, 1998. Copies of the rule were mailed by the committees' staff to all committee members and lime and avocado handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register. That rule provided for a 60-day comment period which ended September 11, 1998. No comments were received.

After consideration of all relevant material presented, including the committees' recommendations, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (63 FR 37475, July 13, 1998) will tend to effectuate the declared policy of the Act.

List of Subjects

7 CFR Part 911

Limes, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

PART 911—LIMES GROWN IN FLORIDA

Accordingly, the interim final rule amending 7 CFR part 911 which was published at 63 FR 37475 on July 13, 1998, is adopted as a final rule without change.

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Accordingly, the interim final rule amending 7 CFR part 915 which was published at 53 FR 37475 on July 13, 1998, is adopted as a final rule without change.

Dated: November 4, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–29936 Filed 11–6–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Docket No. FV98–916–2 FIR]

Nectarines and Peaches Grown in California; Relaxation of Quality Requirements for Fresh Nectarines and Peaches

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule relaxing "CA Utility" quality requirements for California nectarines and peaches for the remainder of the 1998 season. The "CA Utility" quality requirements are based on minimum quality requirements established under the California Agricultural Code, with a limitation on the amount of fruit meeting U.S. No. 1 or higher grade requirements that may be present in each container marked "CA Utility." The interim final rule increased that percentage to not more than 40 percent except that at least one-quarter of the fruit grading U.S. No. 1 in such containers must have non-scoreable blemishes. A non-scoreable blemish is a defect that does not cause fruit to fail U.S. No. 1 grade requirements. This rule continues in effect this relaxation for the remainder of the 1998 season. This rule allows more U.S. No. 1 nectarines and peaches to be packed in containers marked "CA Utility." The added packing flexibility provided by this rule is expected to benefit growers, handlers, and consumers.

EFFECTIVE DATE: November 10, 1998.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487–5901; Fax: (209) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, D.C. 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632, or E-mail: Jay_N_Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: http://www.ams.usda.gov/fv/moab.html.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement Nos. 124 and 85, and Marketing Order Nos. 916 and 917 (7 CFR Parts 916 and 917) regulating the handling of nectarines and peaches grown in California, respectively, hereinafter referred to as the "orders." The orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12866, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule continues in effect, for the remainder of the 1998 season, the modification to the orders' administrative rules and regulations relaxing the "CA Utility" quality requirement by allowing more U.S. No. 1 grade nectarines and peaches in containers marked "CA Utility." Prior to the publication of an interim final rule (63 FR 50461, September 22, 1998), the term "CA Utility" meant that not more than 30 percent of the nectarines and peaches in any container could meet or exceed the requirements of the U.S. No. 1 grade, and that the fruit meet other specified requirements. The interim final rule increased that percentage to 40 percent except that at least one-quarter of the fruit grading U.S. No. 1 in such containers must have non-scoreable blemishes. A non-scoreable blemish is a defect that will not cause the fruit to fail to meet the requirements of U.S. No. 1. This relaxation is in effect for the remainder of the 1998 season only, and allows more No. 1 grade fruit to be packed as "CA Utility" quality.

The Nectarine Administrative Committee (NAC) and Peach Commodity Committee (PCC) (committees) met on September 15, 1998, to discuss this relaxation. At that time, the NAC voted without opposition to recommend the increased percentage of U.S. No. 1 nectarines with non-scoreable blemishes. The PCC voted with eight in favor and one opposed to recommend a similar change. The member opposed believed that it was too late in the season to make such a change, that such a change would disadvantage those who had already

shipped "CA Utility" fruit in 1998, and that more study and analysis of the situation was needed.

Sections 916.52 and 917.41 of the orders authorize the establishment of grade and quality requirements for nectarines and peaches, respectively. Prior to the 1996 season, § 916.356 of the order's rules and regulations required nectarines to meet a modified U.S. No. 1 grade. Specifically, nectarines were required to meet U.S. No. 1 grade requirements, except there was a slightly tighter requirement for scarring and a more liberal allowance for misshapen fruit. Under § 917.459 of the order's rules and regulations prior to the 1996 season, peaches were also required to meet the requirements of a U.S. No. 1 grade, except there was a more liberal allowance for open sutures that were not "serious damage."

The minimum grade, size, and maturity requirements in § 916.356 applicable to shipments of California nectarines apply during the period April 1 through October 31 each year. The minimum grade, size, and maturity requirements in § 917.459 applicable to shipments of California peaches apply during the period April 1 through November 23 each year.

Since the 1996 shipping season, the nectarine and peach regulations have allowed "CA Utility" quality to be shipped during the regulatory periods. Utility quality is a lower-quality fruit than U.S. No. 1.

Containers marked as "CA Utility" must be inspected by the Federal or Federal-State Inspection Service and certified as meeting the "CA Utility" quality requirements. Part of the inspection process is to evaluate containers of fruit in accordance with the requirements of the U.S. Standards for Grades of Nectarines, the U.S. Standards for Grades of Peaches, and the orders. In conducting inspections, inspectors are required to evaluate various blemishes. Some blemishes are serious or severe enough to be "scored" as defects which are damaging to the grade of the fruit, while some other blemishes are not serious or severe enough to affect the grade of the fruit. In the first instance, the blemishes are termed "scoreable" defects; and in the second instance, the blemishes are termed "non-scoreable." It was the recommendation of the committees that such non-scoreable blemishes must be present on at least one-quarter of the 40 percent of the fruit grading U.S. No. 1 in boxes marked "CA Utility."

While containers marked "CA Utility" fruit are subject to relaxed quality requirements, all other requirements of the orders must be met.

In addition to the grade requirements, §§ 916.350 and 917.442 require each package or container of nectarines and peaches, respectively, shipped which meets the requirements of "CA Utility," to be conspicuously marked with the words "CA Utility" on a visible display panel.

Through August 31 of the 1998 season, shipments of "CA Utility" quality nectarines and peaches averaged about 4 percent of total shipments. In prior seasons, utility quality shipments have been less than 2 percent. The increase this season has been attributed to quality problems resulting from heavy early season rains. Also, hail storms later during the season damaged some fruit and rendered it unsalable, while some fruit sustained only moderate scarring. This was especially true for nectarines, whose smooth skin does not provide the same protection as the fuzzy exterior of peaches.

Preliminary studies conducted by the NAC and PCC indicate that some consumers, retailers, and foreign buyers found the lower-quality fruit acceptable in some markets. Shipments of "CA Utility" nectarines represented 1.1 percent of all nectarine shipments, or approximately 210,000 boxes in 1996. In 1997, shipments of "CA Utility" nectarines represented 1.1 percent of all nectarine shipments, or approximately 230,000 boxes. Shipments of "CA Utility" peaches represented 1.9 percent of all peach shipments, or 366,000 boxes in 1996. In 1997, shipments of "CA Utility" peaches represented 1.0 percent of all peach shipments, or approximately 217,000 boxes. By contrast, shipments of "CA Utility" nectarines represented 4.0 percent of all nectarine shipments, or approximately 694,881 boxes by August 31 of the 1998 season. Shipments of "CA Utility" peaches represented 4.0 percent of all peach shipments, or approximately 544,065 boxes by August 31 of the 1998 season.

The interim final rule amended §§ 916.356 and 917.459 by revising paragraph (a)(1) under each section to allow not more than 40 percent U.S. No. 1 grade fruit to be packed in containers marked as "CA Utility" except that at least one-quarter of the fruit grading U.S. No. 1 in such container must have non-scoreable blemishes. This final rule continues in effect that revision.

At the September 15, 1998, committee meetings, comments supporting the recommendation were made by handlers who had experienced incidents where the percentage of U.S. No. 1 fruit contained in their "CA Utility" boxes was found to be higher than permitted by the orders' rules and regulations. In those instances, they were forced to repack the boxes, move blemished fruit to boxes containing all U.S. No. 1 fruit, or discard or donate the fruit.

At least one handler complained that the fruit with non-scoreable blemishes was unsightly in the type of U.S. No. 1 box he offered to the marketplace and to his customers. His preference was to place the fruit with non-scoreable blemishes in boxes marked "CA Utility." The limitation of not more than 30 percent U.S. No. 1 fruit in boxes marked "CA Utility" became a greater hindrance as the season progressed. The handler also noted that an unseasonable morning rain in late summer caused dark stains on the skin of nectarines, rendering them unsuitable for inclusion in his U.S. No. 1 boxes. He preferred including such fruit in the "CA Utility" boxes, but doing so caused the "CA Utility" boxes to contain more than the 30 percent U.S. No. 1 fruit permissible.

A niche market exists for utility quality fruit and the relaxation provided by the interim final rule presented an opportunity for handlers to market somewhat better quality "CA Utility" fruit to meet demand. Allowing ten percent more U.S. No. 1 grade fruit to be packed as "CA Utility" quality requirements allowed more fruit to be marketed as "CA Utility" if handlers prefer to do so. "CA Utility" quality fruit is generally made available at lower prices to especially benefit lower-income consumers.

Some committee members initially continued to support limiting the amount of U.S. No. 1 grade fruit that can be included in a utility pack to 30 percent of the total in any container to maintain distinct differences between U.S. No. 1 containers and "CA Utility" containers. However, after further discussion, it was agreed that a greater percentage of U.S. No. 1 in a "CA Utility" container would not be confusing if such fruit were also blemished. It was, therefore, agreed that an additional 10 percent U.S. No. 1 would be permitted except that every piece of fruit in that 10 percent must possess a non-scoreable blemish. This relaxation is in effect for the remainder of the 1998 season. Boxes marked "CA Utility" should be clearly distinct from boxes containing U.S. No. 1 grade. Failure to provide a clear distinction could cause confusion in the marketplace and would not meet the goal of providing low-cost fruit to low-income consumers. It was the opinion of the committees that this relaxation would not cause confusion among buyers.

Data on recent production and shipments of California nectarines and peaches appear to indicate that "CA Utility" quality fruit can be marketed successfully without interfering with sales of higher quality fruit. In fact, some handlers noted that they used the "CA Utility" box as a "safety net." Fruit which was not good enough to meet their own criteria for packing in U.S. No. 1 boxes could be better utilized in boxes of "CA Utility." The advent of "CA Utility" quality requirements has given handlers the increased flexibility to improve the overall appearance of their U.S. No. 1 shipments.

For these reasons, the NAC and PCC recommended, for the remainder of the 1998 season, that the percentage of U.S. No. 1 nectarines and peaches permitted in containers marked as "CA Utility" quality be increased from 30 percent to 40 percent except that at least one-quarter of the fruit grading U.S. No. 1 in such containers must have non-scoreable blemishes. This relaxation remains in effect for the remainder of the 1998 season. The committees also voted to review the percentages during the winter.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 300 California nectarine and peach handlers subject to regulation under the orders covering nectarines and peaches grown in California, and about 1,800 producers of these fruits in California. Small agricultural service firms, which include handlers, are defined by the Small Business Administration [13 CFR 121.601] as those whose annual receipts are less than $5,000,000. Small agricultural producers have been defined as those having annual receipts of less than $500,000. A majority of these handlers and producers may be classified as small entities.

Under §§ 916.356 and 917.459 of the orders, grade and size requirements are established for fresh shipments of California nectarines and peaches, respectively. Such requirements are in effect during the period April 1 through October 31 each year for nectarines, and April 1 through November 23 for peaches. The interim final rule relaxed, for the remainder of the 1998 season only, the definition of "CA Utility" quality for California nectarines and peaches. The "CA Utility" quality requirements are based on minimum quality requirements established under the California Agricultural Code, with a limitation on the amount of fruit meeting U.S. No. 1 or higher grade requirements that may be contained in the utility pack. Prior to the publication of the interim final rule, the "CA Utility" quality requirement permitted not more than 30 percent of the nectarines or peaches in any container to meet or exceed the requirements of a U.S. No. 1. The interim final rule increased that percentage to not more than 40 percent except that at least one-quarter of the fruit grading U.S. No. 1 in such container must have non-scoreable blemishes. A non-scoreable blemish is a defect that does not cause the fruit to fail to meet U.S. No. 1 grade requirements. This rule continues this relaxation and is expected to benefit growers, handlers, and consumers.

Since the 1996 shipping season, the nectarine and peach regulations have allowed "CA Utility" quality fruit to be shipped during the regulatory periods. Prior to the 1996 season, § 916.356 of the order's rules and regulations required nectarines to meet a modified U.S. No. 1 grade. Specifically, nectarines were required to meet U.S. No. 1 grade requirements, except there was a slightly tighter requirement for scarring and a more liberal allowance for misshapen fruit. Under § 917.459 of the order's rules and regulations prior to the 1996 season, peaches were also required to meet the requirements of a U.S. No. 1 grade, except there was a more liberal allowance for open sutures that were not "serious damage." "CA Utility" quality is a lower-quality fruit than U.S. No. 1 and has been regulated since its inception in the 1996 season. Through August 31 of the 1998 season, shipments of utility quality for both nectarines and peaches have averaged about 4 percent of total shipments. In prior seasons, utility quality shipments have been in the 1 to 2 percent range. The increase so far this season is mostly attributed to quality problems resulting from heavy early season rains.

A niche market exists for "CA Utility" quality fruit and the relaxation provided by the interim final rule presented an opportunity for handlers to market somewhat better quality "CA Utility" fruit to meet demand.

According to comments made at the meeting on September 15, 1998, changing the requirements to allow additional U.S. No. 1 fruit to be packed in "CA Utility" containers did not disadvantage those handlers who had already finished for the season. Those handlers were able to put fruit grading U.S. No. 1 into their U.S. No. 1 containers. Since they would have likely wanted to pack such fruit in these containers to receive the higher return anticipated for U.S. No. 1 fruit, they have not been harmed economically. Therefore, no harm was done by implementing this relaxation that late in the season.

Therefore, the NAC and PCC recommended changing the "CA Utility" quality at their September 15, 1998, meetings by modifying the percentage of U.S. No. 1 fruit in each box. The committees also voted to review the percentages during the winter.

In §§ 916.350 and 917.442 of the orders regulating nectarines and peaches, respectively, lower-quality nectarines and peaches were authorized for shipment as "CA Utility" as an experiment for the 1996 season only. Such authorization was continued during the 1997 and 1998 seasons. The interim final rule increased the percentage of U.S. No. 1 nectarines and peaches which could be packed in a container marked "CA Utility" for the remainder of the 1998 season except that the fruit grading U.S. No. 1 must have a specified percentage of non-scoreable blemishes.

During the 1996 season, the Department authorized the shipment of nectarines and peaches which were of a lower quality than the minimum permitted for previous seasons. During 1996, there were approximately 210,000 boxes of nectarines and approximately 366,000 boxes of peaches packed as "CA Utility," or 1.1 percent and 1.9 percent of fresh shipments, respectively. During 1997, there were approximately 230,000 boxes of nectarines and 217,000 boxes of peaches packed as "CA Utility," or 1.1 percent and 1.0 percent of fresh shipments, respectively. By contrast, shipments of "CA Utility" nectarines represented 4.0 percent of all nectarine shipments, or approximately 694,881 boxes by August 31 of the 1998 season. Shipments of "CA Utility" peaches represented 4.0 percent of all peach shipments, or approximately 544,065 boxes by August 31 of the 1998 season. Continued availability of "CA Utility" quality fruit with the increased percentage of non-scoreable defects is expected to have a positive impact on producers, handlers, and consumers by

permitting more nectarines and peaches to be shipped into fresh market channels, without adversely impacting the market for higher quality fruit.

The committees considered several alternatives at the meeting. One alternative was to leave the percentage of U.S. No. 1 nectarines and peaches permitted in "CA Utility" containers unchanged. It was determined that alternative would not address the problem which faced the industry. The NAC and PCC also considered increasing the 30 percent U.S. No. 1 tolerance to not more than 40 percent or to not more than 50 percent, but determined that such a relaxation could render "CA Utility" boxes less distinctive from U.S. No. 1 and create confusion in the marketplace. Another alternative included a requirement that at least 90 percent of the individual fruits in all boxes marked with "CA Utility" possess defects. Such a requirement would create a box of fruit which would be distinct from U.S. No. 1 due to a greater number of defects present. However, this alternative was determined to be unacceptable because it represented too radical a change of "CA Utility" quality given the emergency nature of the recommendation. This alternative failed to offer a sound basis for comparison with the requirement of not more than 30 percent U.S. No. 1 because it did not reference the U.S. No. 1 grade. Such comparison may be necessary as the committees continue to study marketplace reaction to changes in quality requirements of "CA Utility."

This action does not impose any additional reporting and recordkeeping requirements on either small or large handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements that are contained in Parts 916 and 917 have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB Nos. 0581–0072 and 0581–0080, respectively.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. However, as previously stated, nectarines and peaches under the orders have to meet certain requirements set forth in the standards issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 through 1627). Standards issued under the Agricultural Marketing Act of 1946 are otherwise voluntary.

In addition, the committees' meetings were widely publicized throughout the nectarine and peach industries and all interested parties were invited to attend the meetings and participate in committee deliberations on all issues. Like all committee meetings, the September 15, 1998, meetings were public meetings and all entities, both large and small, were able to express views on these issues. The committees themselves are composed of producers, the majority of whom are small entities.

An interim final rule concerning this action was published in the **Federal Register** on September 22, 1998. Copies of the rule were made available to all committee members and nectarine and peach handlers by the committees' staff. The rule was also made available through the Internet by the Office of the Federal Register. That rule provided for a 15-day comment period which ended October 7, 1998. No comments were received.

After consideration of all relevant matter presented, including the information and recommendations submitted by the committees, and other available information, it is hereby found that finalizing the interim final rule, without change, as published in the **Federal Register** (63 FR 50461, September 22, 1998) will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the changes made to the regulations were to relax the "California Utility" quality requirements for California nectarines and peaches for the remainder of the 1998 season and the season has ended or will end shortly for these commodities. Accordingly, this rule should be made final as soon as possible. Also, a 15-day comment period was provided for in the interim final rule and no comments were received.

List of Subjects

7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

PART 916—NECTARINES GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 916 which was published at 63 FR 50461 on September 22, 1998, is adopted as a final rule without change.

PART 917—FRESH PEARS AND PEACHES GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 917 which was published at 63 FR 50461 on September 22, 1998, is adopted as a final rule without change.

Dated: November 4, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–29937 Filed 11–6–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 318

Defense Threat Reduction Agency (DTRA)

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This rule changes the name "Defense Special Weapons Agency" to "Defense Threat Reduction Agency (DTRA)". This name change is made to reflect the organization restructuring as defined in DoD Directive 5105.62.

EFFECTIVE DATE: November 9, 1998.

FOR FURTHER INFORMATION CONTACT: L. Bynum or P. Toppings, 703–697–4111.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 318

Privacy.

PART 318—[AMENDED]

1. The authority citation for part 318 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

2. The heading of 32 CFR part 318 is revised to read "Defense Threat Reduction Agency (DTRA)"

3. Sections 318.1(b)(1), 318.4(a), 318.5(a), 318.6(a), 318.9(a), 318.11(a) are amended by revising "Defense Special Weapons Agency" to read "Defense Threat Reduction Agency".

4. Sections 318.1 (b)(1) and (d), 318.2, 318.3 (b), (c), and (d), 318.9 (a), (b) introductory text, (b)(1) and (b)(4), 318.10, 318.11 (b), (d) introductory text, and (d)(3)(1), are amended by revising "DSWA" to read "DTRA".

5. Sections 318.1(c), 318.2, and 318.3(a) are amended by revising "Headquarters, Defense Special Weapons Agency" to read "Defense Threat Reduction Agency".

6. In § 318.3 footnote (1) in paragraph (d) is amended by revising "Headquarters Defense Special Weapons Agency, Washington, DC 20305–1000" to read "Defense Threat Reduction Agency, 45045 Aviation Drive, Dulles, VA 20166–7517".

7. Sections 318.4(d), 318.6(b), 318.8(b) are amended by revising "Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398" to read "Defense Threat Reduction Agency, 45045 Aviation Drive, Dulles, VA 20166–7517".

8. Section 318.2 is amended by removing the acronyms "HQ" and "FC" and the words "Field Command".

Dated: November 2, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–29848 Filed 11–6–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–97–020]

RIN 2115–AE47

Drawbridge Regulations; Atlantic Intracoastal Waterway, Florida

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulations governing the operation of the Flagler Memorial, Royal Park, and Southern Boulevard drawbridges across the Atlantic Intracoastal Waterway at Palm Beach County, Florida. This rule has been established as a result of complaints about extensive highway traffic delays caused by bridge openings. This rule is intended to relieve highway congestion while still meeting the reasonable needs of navigation.

DATES: This rule becomes effective on October 26, 1998.

FOR FURTHER INFORMATION CONTACT: Miss Evelyn Smart, Project Manager, Bridge Section, (305) 536–6546.

SUPPLEMENTARY INFORMATION:

Regulatory History

On August 12, 1997, the Coast Guard published a Notice of Proposed Rulemaking entitled Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Florida, in the **Federal Register** (62 FR 43131). On June 30, 1998, the Coast Guard published a Supplemental Notice of Proposed Rulemaking entitled Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Florida, in the **Federal Register** (63 FR 35552). The Coast Guard received 14 letters commenting on the supplemental proposal. No public hearing was requested, and none was held.

Background and Purpose

The Coast Guard completed an analysis of highway traffic data, traffic analysis and bridge logs provided by the Florida Department of Transportation in 1997. The analysis indicated that the reduced highway level of service and limited number of bridge openings for all three bridges does not warrant additional bridge opening restrictions during the off season summer months. In addition, the analysis and subsequent investigations during 1998 indicate the significant increase in vessel traffic experienced on weekends during the Winter season is beneficial to the local community and should not be unreasonably impacted by bridge opening restrictions which do not provide clearly offsetting benefits to the seasonal traffic across the bridge. The changes to the seasonal weekday opening schedules have been modified to remove the existing 8 a.m. opening on the Flagler Memorial Bridge and the 8 a.m. and 5 p.m. openings on the Royal Park Bridge which will reduce highway traffic delays during commuter periods.

These revised regulations will maintain the existing seasonal weekday 30 minute opening schedules for Flagler Memorial and Royal Park Bridges, and will add a seasonal weekday 30 minute opening schedule to the Southern Boulevard Bridge which now operates on signal. The seasonal restriction for all three bridges will start one month earlier on 1 October to help reduce traffic congestion created by earlier arrival of seasonal visitors to the Palm Beach areas. These changes will relieve seasonal highway congestion while still meeting the reasonable needs of navigation. The amended regulations will still provide an exception to the opening schedules for public vessels of the United States, tugs with tows, and vessels in situations where a delay would endanger life or property.

In accordance with 5 U.S.C. 553, good cause exists for making these regulations effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The regulations were changed to allow for seasonal bridge schedules to begin on October 1 each year, and there was not sufficient time remaining after the comment period to provide for a delayed effective date.

Discussion of Comments and Changes

Fourteen letters were received in response to the public notice. The National Marine Fisheries Service and the U.S. Fish and Wildlife Service stated in their letters that the proposal would not adversely affect fishery resources and offered neither support nor objection. U.S. Environmental Protection Agency concluded in their letter that this rulemaking would not negatively impact the principal water source in the vicinity of the bridge. The Florida State Historic Preservation Officer stated that the rulemaking would have no effect on any sites listed, or eligible for listing in the National Register. Four letters were in opposition to the proposed rule because they felt that the bridge should not open to the passage of vessels at any time during morning and afternoon rush hours. Although complete closure of 3 bridges over the Intracoastal Waterway for over 3 hours each weekday is considered unreasonable to navigation, two openings during peak traffic periods have been eliminated with this rulemaking. In addition, a 30 minute schedule has been established at the Southern Boulevard Bridge because of increased in-season traffic demands during morning and afternoon rush hour. Four letters were in opposition to the proposed rule because they felt that the existing in-season weekday regulations should be extended to the off-season. However, the lack of highway traffic levels (LOS C) during the off-season and only one opening or less per hour doesn't justify placing additional restrictions on navigation. Two letters were in favor of the rulemaking and recommended that these changes be enforced.

Regulatory Evaluation

This revised rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under Section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation. (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. We conclude this

because this revised rule does not effect the exemptions for tugs with tows and emergency situations already contained in the regulations.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this revised rule will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their field, and governmental jurisdictions with populations of less than 50,000.

Because it expects the impact of this revised rule to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because of the exemption for tugs with tows.

Collection of Information

This revised rule contains no collection of information requirements under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this revised rule under the principles and criteria contained in Executive Order 12612, and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this revised rule and has determined pursuant to Figure 2–1, paragraph 32(e) of Commandant Instruction M16475.1C, that this action is categorically excluded from further environmental documentation. A categorical exclusion determination for this rulemaking is available in the public docket for inspection and copying.

List of Subjects in 33 CFR Part 117

Bridges.

Final Regulations

In consideration of the foregoing, the Coast Guard amends 33 CFR part 117, as follows:

PART 117—[Amended]

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. § 117.261 is amended by revising paragraphs (u), (v) and (w) to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Mary's River to Key Largo.

* * * * *

(u) Flagler Memorial (SR A1A) bridge, mile 1021.9 at Palm Beach. The draw shall open on signal, except that from October 1 to May 31, Monday through Friday except Federal holidays, from 7:30 a.m. to 9:30 a.m. and from 4 p.m. to 5:45 p.m., the draw need open only at 8:30 a.m. and 4:45 p.m.; and from 9:30 a.m. to 4 p.m., the draw need open only on the hour and half-hour.

(v) Royal Park (SR 704) bridge, mile 1022.6 at Palm Beach. The draw shall open on signal, except that from October 1 through May 31, Monday through Friday except Federal holidays, from 7:45 a.m. to 9:45 a.m. and from 3:30 p.m. to 5:45 p.m., the draw need open only at 8:45 a.m., 4:30 p.m., and 5:15 p.m. and from (9:30 a.m. to 3:30 p.m., the draw need open only on the quarter-hour and three-quarter hour.

(w) Southern Boulevard (SR 700/80) bridge, mile 1024.7 at Palm Beach. The draw shall open on signal, except that, from October 1 through May 31, Monday through Friday except Federal holidays, from 7:30 a.m. to 9:15 a.m. and from 4:30 p.m. to 6:30 p.m., the draw need open only at 8:15 a.m. and 5:30 p.m. and from 9:15 a.m. to 4:30 p.m., the draw need open only on the quarter-hour and three-quarter hour.

* * * * *

Dated: October 20, 1998.

Norman T. Saunders,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 98–29948 Filed 11–6–98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 210–0103a FRL–6185–1]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Sacramento Metropolitan Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan. This action is an administrative change which revises the definition of volatile organic compounds (VOC) and updates the Exempt Compound list in rules from the Sacramento Metropolitan Air Quality Management District (SMAQMD). The intended effect of approving this action is to incorporate changes to the definition of VOC and to update the Exempt Compound list in SMAQMD rules to be consistent with the revised federal and state VOC definitions.

DATES: This rule is effective on January 8, 1999, without further notice, unless EPA receives adverse comments by December 9, 1998. If EPA receives such comment, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments must be submitted to Cynthia G. Allen at the Region IX office listed below. Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812

Sacramento Metropolitan Air Quality Management District, 8411 Jackson Rd., Sacramento, CA 95826

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1189.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules with definition revisions being approved into the California SIP include the following SMAQMD Rules: Rule 101, General Provisions and Definitions; Rule 442, Architectural Coatings; Rule 443, Leaks From Synthetic Organic Chemical and Polymer Manufacturing; Rule 447, Organic Liquid Loading; Rule 452, Can Coating; Rule 456, Aerospace Assembly and Component Coating Operations; and Rule 458, Large Commercial Bread Bakeries. These rules were submitted by the California Air Resources Board to EPA on May 18, 1998.

II. Background

On June 16, 1995 (60 FR 31633) EPA published a final rule excluding acetone from the definition of VOC. On February 7, 1996 (61 FR 4588) EPA published a final rule excluding perchloroethylene from the definition of VOC. On October 8, 1996 (61 FR 52848) EPA published a final rule excluding HFC 43–10mee and HCFC 225ca and cb from the definition of VOC. These compounds were determined to have negligible photochemical reactivity and thus, were added to the Agency's list of Exempt Compounds.

The State of California submitted many revised rules for incorporation into its SIP on May 18, 1998, including the rules being acted on in this administrative action. This action addresses EPA's direct-final action for SMAQMD Rule 101, General Provisions and Definitions; Rule 442, Architectural Coatings; Rule 443, Leaks From Synthetic Organic Chemical and Polymer Manufacturing; Rule 447, Organic Liquid Loading; Rule 452, Can Coating; Rule 456, Aerospace Assembly and Component Coating Operations; Rule 458, Large Commercial Bread Bakeries. Sacramento Metropolitan AQMD adopted these rules on September 5, 1996. These submitted rules were found to be complete on July 17, 1998, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 Appendix V [1] and is being finalized for approval into the SIP.

This administrative revision adds acetone, perchloroethylene, HFC 43–10mee and HCFC 225ca and cb to the list of compounds which make a negligible contribution to tropospheric ozone formulation. Thus, EPA is finalizing the approval of the revised definitions to be incorporated into the California SIP for the attainment of the national ambient air quality standards (NAAQS) for ozone under Title I of the Clean Air Act (CAA or the Act).

III. EPA Evaluation and Action

This administrative action is necessary to make the VOC definition in SMAQMD rules consistent with federal and state definitions of VOC. This action will result in more accurate assessment of ozone formation potential, will remove unnecessary control requirements and will assist States in avoiding exceedences of the ozone health standard by focusing control efforts on compounds which are actual ozone precursors.

[1] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

The SMAQMD rules being affected by this action to revise the definition of VOC include:

Rule 101—General Provisions and Definitions
Rule 442—Architectural Coatings
Rule 443—Leaks From Synthetic Organic Chemical and Polymer Manufacturing
Rule 447—Organic Liquid Loading
Rule 452—Can Coating
Rule 456—Aerospace Assembly and Component Coating Operations
Rule 458—Large Commercial Bread Bakeries

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective January 8, 1999, without further notice unless the Agency receives adverse comments by December 9, 1998.

If the EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on January 8, 1999, and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and

other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 8, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: October 26, 1998.

Sally Seymour,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(255)(i)(A)(*2*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(255) * * *

(i) * * *

(A) * * *

(*2*) Rules 101, 442, 443, 447, 452, 456, and 458, adopted on September 5, 1996.

* * * * *

[FR Doc. 98–29965 Filed 11–6–98; 8:45 am]

BILLING CODE 6560–50–U

DEPARTMENT OF DEFENSE

48 CFR Part 253

[DFARS Case 98–D018]

Defense Federal Acquisition Regulation Supplement; Contract Action Reporting—Reform of Affirmative Action

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update contract action reporting requirements relating to programs for small business and small disadvantaged business concerns.

EFFECTIVE DATE: November 9, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Rider, Defense Acquisition Regulations Council, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0131; telefax (703) 602–0350. Please cite DFARS Case 98–D018.

SUPPLEMENTARY INFORMATION:

A. Background

Dod uses DD Form 350, Individual Contracting Action Report, to collect data on contracting actions that obligate or deobligate more than $25,000. This final rule removes certain data collection requirements at DFARS 253.204–70(e) to reflect recent changes to DFARS guidance concerning programs for small disadvantaged business concerns (63 FR 41972, August 6, 1998), and the expiration of statutory provisions that permitted nonprofit agencies employing people who are blind or severely disabled to participate in acquisitions set aside for small business concerns.

B. Regulatory Flexibility Act

The final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98–577 and publication for public comment is not required. However, comments from small entities concerning the affected DFARS subpart will be considered in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 98–D018.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the final rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 253

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 253 is amended as follows:

1. The authority citation for 48 CFR Part 253 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 253—FORMS

2. Section 253.204–70 is amended by revising paragraphs (e)(1), (2), and (3) to read as follows:

253.204–70 DD Form 350, Individual Contracting Action Report.

* * * * *

(e) * * *

(1) BLOCK E1. Reserved.

(2) BLOCK E2. Reserved.

(3) BLOCK E3. Reserved.

* * * * *

[FR Doc. 98–29772 Filed 11–6–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Part 253

[DFARS Case 98–D009]

Defense Federal Acquisition Regulation Supplement; Contract Action Reporting—1998

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update and clarify contract action reporting requirements relating to awards to Federal Prison Industries and government agencies, use of letter contracts, definitization of contracts, orders under agreements and Federal Supply Schedules, simplified acquisition procedures, and women-owned business status.

EFFECTIVE DATE: November 9, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Rider, Defense Acquisition Regulations Council, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0131; telefax (703) 602–0350. Please cite DFARS Case 98–D009.

SUPPLEMENTARY INFORMATION:

A. Background

DoD uses DD Form 350, Individual Contracting Action Report, to collect data on contracting actions that obligate or deobligate more than $25,000. This final rule updates and clarifies the DD Form 350 coding instructions at DFARS 253.204–70 (b) and (d).

B. Regulatory Flexibility Act

The final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98–577 and publication for public comment is not required. However, comments from small entities concerning the affected DFARS subpart will be considered in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 98–D009.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the final rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 253

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 253 is amended as follows:

1. The authority citation for 48 CFR Part 253 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 253—FORMS

2. Section 253.204–70 is amended by revising paragraphs (b)(5)(ii)(A), (b)(5)(ii)(B)*(1)*, (b)(13)(i)(A), (b)(13)(i)(B) introductory text, (b)(13)(i)(C), (b)(13)(i)(E), (b)(13)(i)(G), (b)(13)(iv)(I), (b)(14)(iii), (b)(14)(iv), and (d)(5)(vi) to read as follows:

253.204–70 DD Form 350, Individual Contracting Action Report.

* * * * *

(b) * * *

(5) * * *

(ii) * * *

(A) BLOCK B5A, CONTRACTOR IDENTIFICATION NUMBER. Enter the contractor's 9-position Data Universal Numbering System (DUNS) number (see FAR 4.602(d) and 4.603). For all actions with UNICOR/Federal Prison Industries, use DUNS number 62–662–7459.

(B) * * *

(1) Code Y—Yes. Enter code Y when the contractor is a Federal/State/local government agency of the United States and outlying areas (see 204.670–1(d)). Do not use code Y when the government agency is an educational institution.

* * * * *

(13) * * *

(i) * * *

(A) *Code 1—Letter Contract.* Enter code 1 when the contracting action is a letter contract or a modification to a letter contract that has not been definitized.

(B) *Code 3—Definitive Contract.* Enter code 3 when the contracting action is the award or modification of a definitive contract or a modification that definitizes a contract. Code 3 includes the following:

* * * * *

(C) *Code 4—Order under an Agreement.* Enter code 4 when the contracting action is an order or definitization of an order under an agreement other than a blanket purchase agreement. Examples include an order exceeding $25,000 under a basic ordering agreement or a master ship repair agreement and a job order when the contract is created by issuing the order. A call under a blanket purchase

agreement associated with a Federal Supply Schedule, pursuant to FAR 8.404(b)(4), is coded 6. A call under other blanket purchase agreements, pursuant to FAR 13.303, is coded 9. When the contracting action is a modification to an order described in code 4 instructions, enter code 4 in B13A.

* * * * *

(E) *Code 6—Order/Call under Federal Schedule.* Enter code 6 if the contracting action is an order under a GSA or VA Federal Supply Schedule, or a call against a blanket purchase agreement established under a GSA or VA Federal Supply Schedule (see FAR 8.404). Code 6 includes orders under Federal Supply Schedules for items on the Procurement List. When the contracting action is a modification to an order/call described in code 6 instructions, enter code 6 in B13A.

* * * * *

(G) *Code 9—Purchase Order/Call.* Enter code 9 if the contracting action, including an action in a designated industry group under the Small Business Competitiveness Demonstration Program (see FAR Subpart 19.10), is an award pursuant to FAR Part 13, except when the contracting action is a blanket purchase agreement call pursuant to FAR 8.404(b)(4) (see code 6). When the contracting action is a modification to a purchase order/call described in code 9 instructions, enter code 9 in B13A.

* * * * *

(iv) * * *

(I) *Code J—Definitization of a Letter Contract.* Eneter code J if the contracting action is the definitization of a letter contract, and enter code 3 in Block B13A.

(14) * * *

(iii) *Code C—Simplified Acquisition Procedures Other than FAR Subpart 13.5.* Enter code C if the action resulted from use of the procedures in FAR Part 13, other than those in Subpart 13.5.

(iv) *Code D—Simplified Procedures Pursuant to FAR Subpart 13.5.* Enter code D if the action resulted from use of the procedures in FAR Subpart 13.5.

* * * * *

(d) * * *

(5) * * *

(vi) BLOCK D6, WOMEN-OWNED BUSINESS. Enter one of the following codes:

(A) *Code Y—Yes.* Enter code Y if the response to FAR 52.204–5, 52.212–3(c), or 52.219–1(b) indicates that it is a women-owned business.

(B) *Code N—No.* Enter code N if the contractor's response to FAR 52.204–5, 52.212–3(c), or 52.219–1(b) indicates that it is not a women-owned business.

(C) *Code U—Uncertified.* Enter code U if the information is not available because the contractor did not complete the representation under FAR 52.204–5, 52.212–3(c), or 52.219–1(b).

* * * * *

[FR Doc. 98–29771 Filed 11–6–98; 8:45 am]
BILLING CODE 5000–04–M

Proposed Rules

Federal Register
Vol. 63, No. 216
Monday, November 9, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FARM CREDIT ADMINISTRATION

12 CFR Parts 611, 614, and 618

RIN 3052–AB87

Organization; Loan Policies and Operations; General Provisions; Chartered Territories

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule will amend Farm Credit Administration (FCA or Agency) regulations to provide customers of the Farm Credit System (FCS, Farm Credit, or System) with the opportunity to do business with the FCS lender of their choice. The rule proposes to amend regulations to permit farmers, ranchers, and other eligible customers to seek financing and related services from any association or FCS bank operating under title I or II of the Farm Credit Act of 1971, as amended (Act). The rule proposes to eliminate geographic barriers that often prevent an FCS lender from serving customers with operations beyond its designated territory. At the same time, the rule proposes to ensure every eligible customer's continued access to FCS credit and services. It also continues to obligate each Farm Credit Bank (FCB), agricultural credit bank (ACB), and association to extend sound, adequate, and constructive credit and offer related services to eligible customers within its chartered territory. An institution that extends credit or offers related services to borrowers beyond its designated territory must adopt a board policy and a business plan that adequately guide these activities. The rule also proposes to make conforming amendments to other regulations.

DATES: Please send your comments to us on or before February 8, 1999.

ADDRESSES: You may mail or deliver written comments to Patricia W. DiMuzio, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090 or send them by facsimile transmission to (703) 734–5784. You may also submit comments via electronic mail to "*reg-comm@fca.gov*" or through the Pending Regulations section of our website at "www.fca.gov." You may review copies of all comments we receive in the Office of Policy and Analysis, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

S. Robert Coleman, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444;

or

Richard A. Katz, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

I. General

The FCA proposes to repeal the restrictions in several existing regulations so eligible customers can seek financing and related services from the System institution of their choice. This is the first major step to implement the FCA Board's Philosophy Statement on Intra-System Competition adopted July 14, 1998. We believe that the existing notice and consent restrictions on lending and related services have become burdensome to both borrowers and System institutions. This has been heightened by significant changes in agriculture and the financial markets. The removal of these restrictions will allow associations and System banks operating under title I or II of the Act to increase operating efficiencies and offer better service to creditworthy and eligible borrowers. With the removal of these existing restrictions, System lenders must modify their policies and business plans as necessary to ensure that they continue to operate in a safe and sound manner.

We believe that the most efficient and least disruptive way to provide customers greater flexibility in selecting their FCS lender and service provider is through modification of existing regulations. The rule proposes to amend the regulations in parts 611, 614, and 618 to:

- Repeal the existing notification and consent requirements for lending and related services in §§ 614.4070 and 618.8030;
- Allow eligible customers to apply for credit and related services from any association or Farm Credit bank operating under title I or II of the Act;
- Require each association or Farm Credit bank operating under title I or II of the Act to continue to fulfill its obligation to serve all eligible and creditworthy customers within its designated territory; and
- Continue to promote safety and soundness by requiring each System lender to develop appropriate policies and revise its business plans before material amounts of credit or related services are extended beyond its designated territory.

II. History and Background

Section 1.1 of the Act states that the mission of the FCS is to furnish, on an ongoing basis, sound, adequate, and constructive credit and related financial services to America's agricultural and aquatic producers, their cooperatives, and other eligible rural residents. The FCS is organized as a nationwide network of cooperative banks, associations, and service corporations that are owned and controlled by the farmers, ranchers, aquatic producers or harvesters, and cooperatives that borrow from them. The charter of each System bank and association designates a geographic territory in which the institution will exercise its authorities. Although the two System banks that operate under title III of the Act have national charters to furnish credit and related services to cooperatives and rural utilities, all other System banks and associations have designated territories that cover a specified geographic region.

In the past, the FCA has used its broad power to charter, regulate, and examine System institutions in a way that generally promoted exclusive territories. This policy, which worked well for the agricultural sector in earlier times, now unnecessarily restricts customers' choice of lenders and service providers and hinders the System's ability to provide ample, efficient, and high-quality credit and related services. Consolidations in many sectors of the agricultural economy have created fewer, larger, and more vertically integrated producers that operate in several locations and require more diversified financial services.

Additionally, consolidations in the financial services markets and rapidly changing technologies are creating new sources and methods of delivery for credit and related services that transcend geographic boundaries.

The positive aspects of the former policy have eroded over the past decade as agriculture, in general, and the FCS, in particular, have restructured in response to significant economic changes. As a result of this restructuring, a notable amount of geographic competition has come about in the System. Both title III banks now operate nationally, providing cooperative customers with a choice of lender. In over 130 counties across the country more than one FCS association now offers the same type of financing to eligible borrowers. Thus, in many parts of the country we have seen substantial departures from the notion of exclusive territories. Customers have benefited from this change. Furthermore, no safety and soundness concerns have arisen from FCS institutions that jointly serve these shared designated territories.

Existing § 614.4070 is an obstacle to the ability of consumers to transact business with the System lender that best fits their needs. The current rule details a complex and burdensome set of notice and consent requirements that depend on the location of the customer's operations and headquarters. In most instances, the customer may do business only with the FCS lender that serves the territory in which the customer conducts operations. As a general rule, existing § 614.4070 prohibits an FCS lender from serving customers operating beyond the institution's designated territory unless the FCS institution designated to serve that territory consents. The existing regulation requires notice whenever a System lender finances the out-of-territory activities of an existing borrower who also conducts operations and maintains headquarters in its chartered territory. Another provision of existing § 614.4070 specifies that out-of-territory lending should not constitute a significant shift of loan volume away from the institution's designated territory.

Although some System lenders give the necessary consent freely upon a customer's request, others do not. The burden of obtaining consent and, at times not receiving it, impede the System's ability to serve the needs of eligible customers as Congress intended.

III. Customer Choice for Credit and Related Services

We believe that each FCS institution operating under title I or II of the Act needs greater flexibility to serve all eligible customers, without regard to the location of the customer's operations so long as the services are conducted safely and soundly. For this reason, the FCA proposes to amend § 614.4070 so that eligible customers can freely apply for credit and financial services from the FCS institution of their choice. This approach will benefit the public by increasing the sources and availability of credit and improving the quality of services available from System lenders. Additionally, this rule proposes to provide System institutions with a more flexible regulatory environment so they can improve their operating efficiencies and better serve their customers.

Designating service territories through the chartering process has been, and will remain, the principal method of ensuring that every eligible customer has access to an FCS lender, as Congress intended. Proposed § 614.4070(a) reaffirms that each association and FCS bank that operates under title I or II of the Act is obligated to serve eligible and creditworthy farmers, ranchers, aquatic producers or harvesters, farm-related businesses, and rural homeowners in its designated territory. This obligation encompasses the responsibility to offer an appropriate array of loan products and related services to all types of agricultural and aquatic operations within the bounds of safety and soundness. The designated territory also defines each lender's obligation under the Act to be responsive to the needs of young, beginning, and small farmers. Proposed § 614.4070(a) will ensure that every eligible customer will continue to have an FCS lender that is committed to providing credit and related services in that customer's area.

Proposed § 614.4070(b) permits eligible farmers, ranchers, aquatic producers or harvesters, farm-related businesses, and rural homeowners to seek financing and related services from any association or FCS bank operating under title I or II of the Act. The proposed regulation also allows a bank or association to extend credit, participate in loans, and provide related services to any eligible applicant under its respective title I or II authorities. Implementing this authority for loan participations should help strengthen the System's safety and soundness. In particular it will benefit an FCS lender that has a high concentration of loans in only a few agricultural commodities in its designated territory. These institutions are especially vulnerable to fluctuations in commodity prices and downturns in the agricultural economy. Additionally, geographic restrictions raise concerns because institutions face increased risk to their loan portfolios from adverse weather, disease, and pest damage. Buying and selling participations in loans with other FCS institutions and lenders in other regions of the country help institutions diversify their loan portfolios and limit their exposure to risk in a single commodity and in a specific geographic area. This proposal includes conforming amendments that repeal restrictions on loan participations in existing §§ 614.4000(d), 614.4010(e), 614.4030(b), 614.4040(b), and 614.4050(c).

Proposed § 614.4070 also enhances customer choice for related services. Some associations and FCS banks operating under title I or II of the Act offer their customers related services while other institutions offer none. This proposal will repeal § 618.8030, which contains the same consent and notice restrictions applicable to loans. This change will enable FCS customers to obtain related services even if their local FCS association does not offer the service they require.

Sound business principles dictate the importance of developing and adopting a well-reasoned policy and business plan before any company implements a new or expanded program. New programs for FCS institutions, including the offering of credit and related services provided by this proposed rule, present new opportunities and new risks for System lenders. Proposed § 614.4070(c) is designed to ensure that such programs are operated under the appropriate direction and control of each institution's board of directors.

The FCA Board expects that each FCS institution board will adopt a policy, or revise its existing policy, to address any additional risks created by new programs before an institution conducts a material amount of business with customers in new geographic markets. In considering whether the new business is material, an institution should aggregate the volume of its loans, leases, participations and other interests, and related services. Additionally, each institution should integrate the opportunities and risks created by the new programs into its operational and strategic business plans, as discussed in § 618.8040. In general, the policy and business plan should assess the institution's risk-bearing capacity and servicing capabilities to meet the needs of customers who reside in or conduct operations beyond the institution's designated territory. The institution board, in developing its policy and revising its business plan, should specifically:

- Consider how programs for providing credit and related services to a broader customer base will affect organizational efficiency, customer service, risk management, and operational capabilities;
- Establish specific operating objectives and strategies for such programs;
- Direct and control the institution's lending and related service activities conducted beyond its designated territory, ensuring that such activities are conducted in a safe and sound manner;
- Establish the types and amount of loans, loan participations, and related service activity to be permitted in new geographic markets;
- Assess risk associated with providing loans and related services in the new markets, establish risk-tolerance levels in relation to the institution's risk-bearing capacity, and consider loan portfolio concentrations; and
- Ensure existing loan underwriting criteria for loans and related services that will be offered in new geographic markets are appropriate, taking into consideration the institution's management capabilities and credit expertise, and the servicing requirements of loans made outside its designated territory.

We expect the institution's board, as part of its obligations under the Act, to continue to ensure that the institution sufficiently meets the credit and related services needs of eligible customers within its designated territory, as required by proposed § 614.4070(a). At the same time, we also expect each institution to maintain safe and sound operations, including adequate risk-bearing capacity for any new programs. As part of the board's responsibilities to ensure the continued safe and sound operations of its institution, we encourage each board to monitor, through periodic reporting requirements, the amount, quality, risk, and profitability of loans made to customers located in new geographic markets.

FCA examiners will evaluate each program in view of the potential risks and possible effects on the institution's financial condition, its asset quality, capital, and earnings capacity. To help implement these regulatory revisions in the most safe and sound manner, we will issue additional guidance to our examiners and FCS institutions once the rule becomes final.

IV. Conforming Amendments

Two additional FCA regulations, §§ 611.1124 and 614.4525, contain consent requirements that limit the ability of customers to choose their FCS lender. We propose to revise these regulations.

Section 611.1124 addresses loan transfers that occur when the FCA modifies association charters to transfer territory from one association to another. Under existing § 611.1124(f)(6), loans are usually transferred to the association that acquires the territory, unless the associations agree otherwise. With the proposed change to § 614.4070, there is no reason to assume that any territory transfer would necessarily result in the sale of loans in that territory. As amended, proposed § 611.1124(f)(6) simply requires the association to advise its shareholders whether loans will be sold in connection with the transfer of territory and, if so, the terms of the sale.

The FCA also proposes to repeal provisions in § 614.4525(b) so that cooperation may be enhanced on special loan programs between System lenders and dealers and cooperatives that serve different geographical markets. Additionally, we are proposing to eliminate paragraphs (c) and (d) because the permissive provisions of these two paragraphs are unnecessary. FCS lenders do not need regulatory authority to make contracts with others to facilitate loan applications and closings, because this authority is clearly within their express powers under the Act. This proposal would retain existing paragraph (a) and the remainder of paragraph (b), recognizing that institutions developing and implementing special lending programs should have appropriate policies in place providing board direction and control.

Additionally, the FCA is proposing to delete § 614.4080 in its entirety. This regulation originally addressed cross-territory lending by the banks for cooperatives, but is no longer applicable since both banks that have title III authorities now have national charters as authorized by the Act.

The FCA is also aware that System institutions have entered into a wide variety of agreements to serve customers in different geographic markets. Given the proposed changes to § 614.4070 and related regulations, the FCA requests comment on whether such agreements raise issues that should be addressed in the final rule.

List of Subjects

12 CFR Part 611

Agriculture, Banks, banking, Rural areas.

12 CFR Part 614

Agriculture, Banks, banking, Flood insurance, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 618

Agriculture, Archives and records, Banks, banking, Insurance, Reporting and recordkeeping requirements, Rural areas, Technical assistance.

For the reasons stated in the preamble, parts 611, 614, and 618 of chapter VI, title 12 of the Code of Federal Regulations are proposed to be amended to read as follows:

PART 611—ORGANIZATION

1. The authority citation for part 611 continues to read as follows:

Authority: Secs. 1.3, 1.13, 2.0, 2.10, 3.0, 3.21, 4.12, 4.15, 4.21, 5.9, 5.10, 5.17, 7.0–7.13, 8.5(e) of the Farm Credit Act (12 U.S.C. 2011, 2021, 2071, 2091, 2121, 2142, 2183, 2203, 2209, 2243, 2244, 2252, 2279a–2279f–1, 2279aa–5(e)); secs. 411 and 412 of Pub. L. 100–233, 101 Stat. 1568, 1638; sec. 409 and 414 of Pub. L. 100–399, 102 Stat. 989, 1003 and 1004.

Subpart G—Mergers, Consolidations, and Charter Amendments of Associations

2. Section 611.1124 is amended by removing the phrase "Each borrower whose real estate or operations is located in a territory that will be transferred" in the first sentence of paragraph (l) and adding in its place, the phrase "Each borrower whose loan is sold as described in paragraph (f)(6) of this section,"; by removing the last sentence of paragraph (l); and by revising paragraph (f)(6) to read as follow:

§ 611.1124 Territorial adjustments.

* * * * *

(f) * * *

(6) A statement of whether loans will be sold in connection with the transfer of territory and, if so, the terms of the sale.

* * * * *

PART 614—LOAN POLICIES AND OPERATIONS

3. The authority citation for part 614 is revised to read as follows:

Authority: 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128; secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 1.11, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.3A, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.18A, 4.19, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.8, 7.12, 7.13, 8.0, 8.5, 8.9 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018,

2019, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2097, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2154a, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2206a, 2207, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a–2, 2279b, 2279c–1, 2279f, 2279f–1, 2279aa, 2279aa–5, 2279aa–9); sec. 413 of Pub. L. 100–233, 101 Stat. 1568, 1639.

Subpart A—Lending Authorities

§ 614.4000 [Amended]

4. Section 614.4000 is amended by removing paragraph (d)(2); by removing the words "and paragraph (d)(2) of this section" in paragraph (d)(1); and by redesignating paragraphs (d)(1), (d)(1)(i), and (d)(1)(ii) as paragraphs (d) introductory text, (d)(1) and (d)(2), respectively.

§ 614.4010 [Amended]

5. Section 614.4010 is amended by removing paragraph (e)(2); by removing the words "and paragraph (d)(2) of this section" in paragraph (e)(1); and by redesignating paragraphs (e)(1), (e)(1)(i), and (e)(1)(ii) as paragraphs (e) introductory text, (e)(1) and (e)(2), respectively.

§ 614.4030 [Amended]

6. Section 614.4030 is amended by removing paragraph (b)(2); by removing the words "and paragraph (b)(2) of this section" in paragraph (b)(1); and by redesignating paragraphs (b)(1), (b)(1)(i), and (b)(1)(ii) as paragraphs (b) introductory text, (b)(1) and (b)(2), respectively.

§ 614.4040 [Amended]

7. Section 614.4040 is amended by removing paragraph (b)(2); by removing the words "and paragraph (b)(2) of this section" in paragraph (b)(1); and by redesignating paragraphs (b)(1), (b)(1)(i), and (b)(1)(ii) as paragraphs (b) introductory text, (b)(1) and (b)(2), respectively.

§ 614.4050 [Amended]

8. Section 614.4050 is amended by removing paragraph (c)(2); by removing the words "and paragraph (c)(2) of this section" in paragraph (c)(1); and by redesignating paragraphs (c)(1), (c)(1)(i), and (c)(1)(ii) as paragraphs (c) introductory text, (c)(1) and (c)(2), respectively.

9. Subpart B is revised to read as follows:

Subpart B—Credit Extensions, Related Services and Designated Territories

§ 614.4070 Credit extensions, related services, and designated territories—Farm Credit Banks, agricultural credit banks, Federal land bank associations, Federal land credit associations, production credit associations, and agricultural credit associations.

(a) Each association or Farm Credit bank operating under title I or II of the Act must furnish sound, adequate, and constructive credit and related services pursuant to section 1.1(a) of the Act to creditworthy and eligible borrowers who reside in or conduct operations in its designated territory.

(b) Eligible customers may seek financing and related services from any association or Farm Credit bank operating under title I or II of the Act, and the Farm Credit bank or association may exercise its powers under subpart A of this part and part 618 of this chapter to make loans, participate in loans, and provide related services to any eligible borrower.

(c) Each association or Farm Credit bank that conducts a material amount of business beyond its designated territory must adopt a board policy and business plan that address such activities.

Subpart O—Special Lending Programs

§ 614.4525 [Amended]

10. Section 614.4525 is amended by removing paragraphs (c) and (d); and by removing the second sentence in paragraph (b).

PART 618—GENERAL PROVISIONS

11. The authority citation for part 618 continues to read as follows:

Authority: Secs. 1.5, 1.11, 1.12, 2.2, 2.4, 2.5, 2.12, 3.1, 3.7, 4.12, 4.13A, 4.25, 4.29, 5.9, 5.10, 5.17 of the Farm Credit Act (12 U.S.C. 2013, 2019, 2020, 2073, 2075, 2076, 2093, 2122, 2128, 2183, 2200, 2211, 2218, 2243, 2244, 2252).

Subpart A—Related Services

§ 618.8030 [Removed]

12. Section 618.8030 is removed.

Date: November 4, 1998.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 98–29998 Filed 11–6–98; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–222–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747–400 series airplanes. This proposal would require installation of strap assemblies on the ceiling panels and rails that support the video monitors. This proposal is prompted by reports of the video monitor ceiling panels falling into the cabin area due to the failure of certain latch assemblies during turbulence. The actions specified by the proposed AD are intended to prevent such failure, which could cause the ceiling panels to fall into the cabin area, and consequent injury to the crew and passengers.

DATES: Comments must be received by December 24, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–222–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Jan Risheim, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1675; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket Number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–222–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–222–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received two reports of video monitor ceiling panels falling into the passenger cabin area; these ceiling panels weigh approximately 80 pounds. In both incidents, the cause of the falling video monitor ceiling panels has been attributed to the failure of certain latch assemblies on the subject ceiling panels during turbulence. This condition, if not corrected, could result in ceiling panels falling into the cabin area, and consequent injury to the crew and passengers.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletins 747–25A3142, dated October 16, 1997, and Revision 1, dated August 6, 1998, which describe procedures for installation of strap assemblies to provide backup support for the ceiling panels with video monitors. Accomplishment of the action specified in the alert service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the alert service bulletins described previously, except as discussed below.

Differences Between Proposed Rule and Alert Service Bulletins

Operators should note that, although the alert service bulletins recommend installing the subject strap assemblies at the first maintenance opportunity, the FAA has determined that an unspecified interval would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the installation (476 hours). In light of all of these factors, the FAA finds a 24-month compliance time for completing the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

There are approximately 280 airplanes of the affected design in the worldwide fleet. The FAA estimates that 40 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 476 work hours per airplane to accomplish the proposed installation, and that the average labor rate is $60 per work hour. Required parts would cost approximately $9,575 per airplane. Based on these figures, the cost impact of the installation proposed by this AD on U.S. operators is estimated to be $1,525,400, or $38,135 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The FAA recognizes that the proposed installation of strap assemblies would require a large number of work hours to accomplish. However, the 24-month compliance time specified in paragraph (a) of this proposed AD should allow ample time for the installation of strap assemblies to be accomplished simultaneously with scheduled major airplane inspection and maintenance activities, thereby minimizing the costs associated with special airplane scheduling.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 98–NM–222–AD.

Applicability: Model 747–400 series airplanes, as listed in Boeing Alert Service Bulletin 747–25A3142, Revision 1, dated August 6, 1998; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been

modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of certain latch assemblies on the ceiling panels, which could cause the ceiling panels to fall into the cabin area, and consequent injury to the crew and passengers, accomplish the following:

(a) Within 24 months after the effective date of this AD, install strap assemblies on the ceiling panels and rails that support the video monitors, in accordance with Boeing Alert Service Bulletin 747–25A3142, dated October 16, 1997, or Revision 1, dated August 6, 1998.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on November 2, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–29866 Filed 11–6–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–52–AD]

RIN 2120–AA64

Airworthiness Directives; Schempp-Hirth K.G. Models Standard-Cirrus, Nimbus-2, JANUS, and Mini-Nimbus HS–7 Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); Reopening of the comment period.

SUMMARY: This document proposes to revise an earlier proposed airworthiness directive (AD) that would have required installing a safety device for the tailplane locking hook on certain Schempp-Hirth K.G. (Schempp-Hirth) Models Standard-Cirrus, Nimbus-2, JANUS, and Mini-Nimbus HS–7 sailplanes. The proposed AD was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by the proposed AD are intended to prevent the locking hook on the tailplane attachment bracket from disengaging, which could result in the horizontal tailplane coming loose from the fin with possible loss of longitudinal control of the sailplane. Since issuing the NPRM, the Federal Aviation Administration (FAA) realized that it inadvertently omitted serial number 176 of the Schempp-Hirth Model Nimbus-2 sailplanes from the NPRM. The FAA has determined that this sailplane should be incorporated into the proposed AD, and that the comment period for the proposal should be reopened and the public should have additional time to comment.

DATES: Comments must be received on or before December 11, 1998.

ADDRESSES: Submit comments in triplicate to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–52–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Schempp-Hirth Flugzeugbau GmbH, Postbox 14 43, D–73222 Kirchheim unter Teck, Federal Republic of Germany. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this supplemental notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this supplemental notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–CE–52–AD." The postcard will be date stamped and returned to the commenter.

Availability of Supplemental NPRM's

Any person may obtain a copy of this supplemental NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–52–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Schempp-Hirth Models Standard-Cirrus, Nimbus-2, JANUS, and Mini-Nimbus HS–7 sailplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on June 17, 1998 (63 FR 33014). The NPRM proposed to require installing a safety device for the tailplane locking hook. Accomplishment of the proposed action as specified in the NPRM would be in accordance with Schempp-Hirth Appendix to Technical Note No. 278–36, 286–33, 295–26, 328–11, 798–3, dated November 11, 1994.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

Events Since Issuance of the NPRM

Since issuance of the NPRM, the FAA realized that it inadvertently omitted serial number 176 of the Schempp-Hirth Model Nimbus-2 sailplanes from the NPRM.

The FAA's Determination

After examining all information related to the subject described in this document, the FAA has determined that:

—Serial number 176 of the Schempp-Hirth Model Nimbus-2 sailplanes should be added to the AD; and

—AD action should be taken to incorporate these changes to continue to prevent the locking hook on the tailplane attachment bracket from disengaging, which could result in the horizontal tailplane coming loose from the fin with possible loss of longitudinal control of the sailplane.

The Supplemental NPRM

Since adding this additional serial number sailplane to the NPRM proposes actions that go beyond the scope of what was already proposed, the FAA is reopening the comment period to allow the public additional time to comment on this proposed action.

Cost Impact

The FAA estimates that 91 sailplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 3 workhours per sailplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $35 per sailplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $19,565, or $215 per sailplane.

The only cost difference between this proposal and the original NPRM is the addition of 1 sailplane, or $215.

Compliance Time of the Proposed AD

Although the unsafe condition identified in this proposed AD occurs during flight and is a direct result of sailplane operation, the FAA has no way of determining how much time will elapse before the tailplane is not securely attached to the fin. For example, the condition could exist on a sailplane with 200 hours time-in-service (TIS), but could be developing on a sailplane with 50 hours TIS and not actually exist on this sailplane until 300 hours TIS. For this reason, the FAA has determined that a compliance based on calendar time should be utilized in the proposed AD in order to assure that the unsafe condition is addressed on all sailplanes in a reasonable time period.

Differences Between the Technical Note, German AD, and This Proposed AD

Both Schempp-Hirth Technical Note No. 278–36, 286–33, 295–26, 328–11, 798–3, dated November 11, 1994, and German AD 95–015, dated December 15, 1994, apply to the Model Nimbus-2M sailplanes. This sailplane model is not type certificated for operation in the United States and therefore is not covered by the applicability of the proposed AD.

The Model Nimbus-2M sailplanes could be operating in the United States with an experimental certificate. The FAA is including a NOTE in the proposed AD to recommend that any person operating a Model Nimbus-2M sailplane in the United States with an experimental certificate accomplish the actions specified in the technical note.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Schempp-Hirth K.G.: Docket No. 98–CE–52–AD.

Applicability: The following sailplane models and serial numbers, certificated in any category:

Models	Serial Nos.
Standard Cirrus.	573, 586, 593, 595, 597 through 599, 601 through 701.
Nimbus-2 ...	86, 93, and 96 through 116, 118 through 129, 131, and 176.
JANUS	1 through 55, and 59.
Mini-Nimbus HS–7.	1 through 60, and 65.

Note 1: Both Schempp-Hirth Technical Note No. 278–36, 286–33, 295–26, 328–11, 798–3, dated November 11, 1994, and German AD 95–015, dated December 15, 1994, apply to the Model Nimbus-2M sailplanes. This sailplane model is not type certificated for operation in the United States, and therefore is not covered by the applicability of this AD. The Model Nimbus-2M sailplanes could be operating in the United States with an experimental certificate. The FAA recommends that any person operating a Model Nimbus-2M sailplane in the United States with an experimental certificate accomplish the actions specified in the technical note.

Note 2: This AD applies to each sailplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For sailplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 6 calendar months after the effective date of this AD, unless already accomplished.

To prevent the locking hook on the tailplane attachment bracket from disengaging, which could result in the horizontal tailplane coming loose from the fin with possible loss of longitudinal control of the sailplane, accomplish the following:

(a) Install a safety device for the tailplane locking hook in accordance with Schempp-Hirth Appendix to Technical Note No. 278–

36, 286–33, 295–26, 328–11, 798–3, dated November 11, 1994.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the sailplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Aircraft Certification Office.

(d) Questions or technical information related to the service information referenced in this document should be directed to Schempp-Hirth Flugzeugbau GmbH, Postbox 14 43, D–73222 Kirchheim unter Teck, Federal Republic of Germany. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 4: The subject of this AD is addressed in German AD 95–015, dated December 15, 1994.

Issued in Kansas City, Missouri, on October 30, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–29865 Filed 11–6–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–98–054]

RIN 2115–AE47

Drawbridge Operation Regulations; Suwannee River, Florida

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes to amend the regulations governing the operation of the CSX Railroad drawbridge (formerly owned by the Seaboard System Railroad) across the Suwannee River, mile 35.0, at Old Town, Dixie/Levy Counties, Florida, to allow the bridge to remain permanently closed. The railroad Right of Way was sold to the State of Florida in 1997 for development of the Nature Coast Trail, a public facility for non-motorized recreational activities. The bridge has not received an opening request since 1981. This action should accommodate the needs of recreational land traffic and still provide for the reasonable needs of navigation.

DATES: Comments must be received on or before January 8, 1999.

ADDRESSES: Comments may be mailed to Commander (oan) Seventh Coast Guard District, 909 SE 1st Avenue, Miami, Florida 33131–3050, or may be delivered to room 406 at the above address between 7:30 a.m. and 4:00 p.m. Monday through Friday, except federal holidays. The telephone number is (305) 536–4103.

The District Commander maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, Project Manager, Bridge Section, (305) 536–4103.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views or arguments. Persons submitting comments should include their names and addresses, identify the rulemaking [CGD7 98–054] and the specific section of this proposal to which each comment applies, and give the reason for each comment. Persons wanting acknowledgement of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments received. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the address listed in **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The CSX Railroad bridge is currently governed by 33 CFR 117.333 approved July 20, 1948, which provides for an opening if 5 days advance notice is given. The State of Florida purchased the rail corridor from CSX Transportation, Inc. in December 1997. The bridge was included in this purchase. CSX maintained written records for five years prior to the sale. There is no written evidence of the bridge being opened during this period. Conversations with CSX staff by the State of Florida indicate the bridge has not opened for more than 12 years. Conversations with nearby residents indicate it was last opened in 1981. The State of Florida has requested permission to permanently close the swing bridge due to a continued lack of navigation requiring an opening. Therefore, the Coast Guard has agreed to propose amending the regulations to allow the bridge to remain closed.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of executive order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation. (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary as there has not been a demand for an opening in the last 17 years.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" may include, small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Because it expects the impact of the proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because the absence of any vessel traffic in the area of the bridge will not require the bridge to be opened in the future.

Collection of Information

This rule contains no collection-of-information requirements under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed the rule under the principles and criteria contained in Executive Order 12612, and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this proposal and has concluded under Figure 2–1, paragraph (32)(e) of Commandant Instruction M16475.1C, that the promulgation of operating requirements or procedures for drawbridges is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection and copying.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—[AMENDED]

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.333 is revised to read as follows:

§ 117.333 Suwannee River.

The draw of the Suwannee River bridge, mile 35, at Old Town, need not be opened for the passage of vessels.

Dated: October 22, 1998.

Norman T. Saunders,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 98–29949 Filed 11–6–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 17 and 51

RIN 2900–AE87

Per Diem for Nursing Home Care of Veterans in State Homes

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to revise regulations setting forth a mechanism for paying per diem to State homes providing nursing home care to eligible veterans. The intended effect of the proposed regulations is to ensure that veterans receive high quality care in State homes.

DATES: Comments must be received by VA on or before January 8, 1999.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900–AE87." All written comments will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: L. Nan Stout, Chief, State Home Per Diem Program (114), Veterans Health Administration, 202–273–8538.

SUPPLEMENTARY INFORMATION: This document proposes to establish a new part 51 setting forth a mechanism for paying per diem to State homes providing nursing home care to eligible veterans. Under the proposal, VA would pay per diem to a State for providing nursing home care to eligible veterans in a facility if the Under Secretary for Health recognizes the facility as a State home based on a current VA certification that the facility meets the standards set forth in proposed subpart D.

This new part would cover material currently in manuals. Also, it would supersede the regulations currently contained in 38 CFR 17.190 through 17.199 that pertain to payment of per diem for nursing home care in State homes.

The standards in proposed subpart D are patterned after the standards of the Department of Health and Human Services that nursing homes must meet to participate in the Medicare and Medicaid programs (see 42 CFR part 483). The standards are intended to set forth minimum requirements necessary to ensure that VA pays per diem for eligible veterans only if the State homes provide high quality care.

The proposed regulations include application and inspection provisions that are designed to ensure that per diem is paid only to facilities that have been inspected and found to meet the proposed standards. Also, in order to ensure continued compliance with the standards, the proposed regulations include an ongoing review and certification program. Further, the proposed regulations contain provisions for withdrawing recognition and stopping payment of per diem if a facility fails to meet the proposed standards.

The proposed rule sets forth the statutory list of veterans for whom per diem may be paid. The proposed rule also contains provisions for determining payment amounts.

The proposed rule would incorporate by reference the 1997 edition of the National Fire Protection Association Life Safety Code entitled "NFPA 101, Life Safety Code" and the 1996 edition of "NFPA 99, Standards for Health Care Facilities." The regulations are designed to ensure that State homes meet the fire and safety provisions of the Life Safety Code.

Regulatory Flexibility Act

The Secretary hereby certifies that the adoption of this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. All of the entities that would be subject to this proposed rule are State government entities under the control of State governments. Of the 93 State homes, all are operated by State governments except for 16 that are operated by entities under contract with State governments. These contractors are not small entities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirement of §§ 603 and 604.

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), proposed collections of information are set forth in the provisions of §§ 51.20, 51.30, 51.40, 51.70, 51.80, 51.90, 51.100, 51.110, 51.120, 51.150, 51.160, 51.180, 51.190 and 51.210 of this proposed rule.

The information collections in this document concern various activities related to the operation of a State home providing nursing home care to eligible veterans. As required under section 3507(d) of the Act, VA has submitted a copy of this proposed rulemaking action to the Office of Management and Budget (OMB) for its review of the collections of information.

OMB assigns control numbers to collections of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments on the collection of information should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue,

NW, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900–AE87."

Title: Aid to States for Care of Veterans in State Homes—Nursing Home Per Diem.

Summary of collection of information: VA is proposing to establish the mechanism for paying per diem to State homes providing nursing home care to eligible veterans. VA proposes to require facilities to supply various kinds of information regarding facilities providing nursing home care to ensure that high quality care is furnished to veterans who are residents in such facilities. The information includes an application for recognition based on certification; appeal information; application and justification for payment; records and reports which facility management must maintain regarding activities of residents; to include information relating to whether the facility meets standards concerning residents' rights and responsibilities prior to admission, during admission, and upon discharge; the records and reports which facility management and health care professionals must maintain regarding residents and employees; various types of documentation pertaining to the management of the facility; food menu planning; pharmaceutical records; and life safety documentation.

Description of need for information and proposed use of information: The collections of information contained in the proposed rule appear to be necessary to ensure that VA per diem payments are limited to facilities providing high quality care. Without access to such information VA would not be able to determine whether high quality care is being provided.

Description of likely respondents: State home officials who receive per diem for nursing home care for veterans.

Estimated number of respondents: 13,136.

Estimated frequency of responses: 52,872.

Estimated average burden per collection: 14 minutes.

Estimated total annual reporting and record keeping burden: 12,467 hours.

The Department considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the proposed collection of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulation.

List of Subjects in 38 CFR Parts 17 and 51

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Government programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing home care, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: October 26, 1998.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reason set out in the preamble, 38 CFR Chapter I is proposed to be amended as follows:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

§ 17.190 [Amended]

2. In § 17.190, the introductory text is amended by removing "hospital, domiciliary or nursing home" and adding, in its place, "hospital or domiciliary"; paragraph (a) is amended by removing "or nursing home care"; paragraph (b) is amended by removing "nursing home care patients or"; and paragraph (d) is removed.

§ 17.191 [Amended]

3. Section 17.191 is amended by removing "domiciliary, nursing home" and adding, in its place, "domiciliary".

§ 17.192 [Amended]

4. Section 17.192 is amended by removing "nursing home or".

§ 17.193 [Amended]

5. Section 17.193 is amended by removing the second sentence thereof.

§ 17.195 [Removed]

6. Section 17.195 is removed.

§ 17.197 [Amended]

7. Section 17.197 is amended by removing "section 1741(a)(2) for nursing home care".

§ 17.198 [Amended]

8. Section 17.198 is amended by removing "hospital, domiciliary or nursing home" and adding, in its place, "hospital or domiciliary".

9. A "Note" is added immediately following the authority citation for § 17.200 to read as follows:

§ 17.200 Audit of State homes.

* * * * *

Note: Sections 17.190 through 17.200 do not apply to nursing home care in State homes. The provisions for nursing home care in State homes are set forth in 38 CFR part 51.

10. Part 51 is added to read as follows:

PART 51—PER DIEM FOR NURSING HOME CARE OF VETERANS IN STATE HOMES

Subpart A—General

Sec.

51.1 Purpose.
51.2 Definitions.

Subpart B—Obtaining Per Diem for Nursing Home Care in State Homes

51.10 Per diem based on recognition and certification.
51.20 Application for recognition based on certification.
51.30 Recognition and certification.

Subpart C—Per Diem Payments

51.40 Monthly payment.
51.50 Eligible veterans.

Subpart D—Standards

51.60 Standards applicable for payment of per diem.
51.70 Resident rights.
51.80 Admission, transfer and discharge rights.
51.90 Resident behavior and facility practices.
51.100 Quality of life.
51.110 Resident assessment.
51.120 Quality of care.
51.130 Nursing services.
51.140 Dietary services.
51.150 Physician services.
51.160 Specialized rehabilitative services.
51.170 Dental services.
51.180 Pharmacy services.
51.190 Infection control.
51.200 Physical environment.
51.210 Administration.
51.220 VA Form 10–3567—State Home Inspection: Staffing Profile.
51.221 VA Form 10–5588—State Home Report and Statement of Federal Aid Claimed.
51.222 VA Form 10–10EZ—Application for Health Benefits.
51.223 VA Form 10–10SH—State Home Program Application for Veteran Care—Medical Certification.
51.224 VA Form 10–0143A—Statement of Assurance of Compliance with Section 504 of The Rehabilitation Act of 1973.
51.225 VA Form 10–0143—Department of Veterans Affairs Certification Regarding Drug-Free Workplace Requirements for Grantees Other Than Individuals.
51.226 VA Form 10–0144—Certification Regarding Lobbying.
51.227 VA Form 10–0144A—Statement of Assurance of Compliance with Equal Opportunity Laws.

Authority: 38 U.S.C. 101, 501, 1710, 1741–1743.

Subpart A—General

§ 51.1 Purpose.

This part sets forth the mechanism for paying per diem to State homes providing nursing home care to eligible veterans and is intended to ensure that veterans receive high quality care in State homes.

§ 51.2 Definitions.

For purposes of this part—

Clinical nurse specialist means a licensed professional nurse with a master's degree in nursing with a major in a clinical nursing specialty from an academic program accredited by the National League for Nursing and at least 2 years of successful clinical practice in the specialized area of nursing practice following this academic preparation.

Facility means a building or any part of a building for which a State has submitted an application for recognition as a State home for the provision of nursing home care or a building or any part of a building which VA has recognized as a State home for the provision of nursing home care.

Nurse practitioner means a licensed professional nurse who is currently licensed to practice in the State; who meets the State's requirements governing the qualifications of nurse practitioners; and who is currently certified as an adult, family, or gerontological nurse practitioner by the American Nurses' Association.

Nursing home care means the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care, but who require skilled nursing care and related medical services.

Physician means a doctor of medicine or osteopathy legally authorized to practice medicine or surgery in the State.

Physician assistant means a person who meets the applicable State requirements for physician assistant, is currently certified by the National Commission on Certification of Physician Assistants (NCCPA) as a physician assistant, and has an individualized written scope of practice that determines the authorization to write medical orders, prescribe medications and other clinical tasks under appropriate physician supervision which is approved by the primary care physician.

Primary physician or primary care physician means a designated generalist physician responsible for providing, directing and coordinating all health care that is indicated for the residents.

State means each of the several States, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

State home means a home approved by VA which a State established primarily for veterans disabled by age, disease, or otherwise, who by reason of such disability are incapable of earning a living. A State home may provide domiciliary care, nursing home care, adult day health care, and hospital care. Hospital care may be provided only when the State home also provides domiciliary and/or nursing home care.

VA means the U.S. Department of Veterans Affairs.

Subpart B—Obtaining Per Diem for Nursing Home Care in State Homes

§ 51.10 Per diem based on recognition and certification.

VA will pay per diem to a State for providing nursing home care to eligible veterans in a facility if the Under Secretary for Health recognizes the facility as a State home based on a current certification that the facility and facility management meet the standards of subpart D of this part. Also, after recognition has been granted, VA will continue to pay per diem to a State for providing nursing home care to eligible veterans in such a facility for a temporary period based on a certification that the facility and facility management provisionally meet the standards of subpart D of this part.

(Authority: 38 U.S.C. 101, 501, 1710, 1741–1743)

§ 51.20 Application for recognition based on certification.

To apply for recognition and certification of a State home for nursing home care, a State must:

(a) Send a request for recognition and certification to the Under Secretary for Health(10), VA Headquarters, 810 Vermont Avenue, NW, Washington, DC 20420. The request must be in the form of a letter and must be signed by the State official authorized to establish the State home,

(b) Allow VA to survey the facility as set forth in § 51.30(c), and

(c) Upon request from the director of the VA medical center of jurisdiction, submit to the director all documentation required under subpart D of this part.

(Authority: 38 U.S.C. 101, 501, 1710, 1741–1743)

§ 51.30 Recognition and certification.

(a)(1) The Under Secretary for Health will make the determination regarding recognition and the initial determination regarding certification, after receipt of a tentative determination from the director of the VA medical center of jurisdiction regarding whether, based on a VA survey, the facility and facility management meet or do not meet the standards of subpart D of this part. The Under Secretary for Health will notify the official in charge of the facility, the State official authorized to oversee operations of the State home, the VA Network Director (10N 1–22), Chief Network Officer (10N), and the Chief Consultant, Geriatrics and Extended Care Strategic Healthcare Group (114) of the action taken.

(2) For each facility recognized as a State home, the director of the VA medical center of jurisdiction will certify annually whether the facility and facility management meet, provisionally meet, or do not meet the standards of subpart D of this part (this certification should be made every 12 months during the recognition anniversary month or during a month agreed upon by the VA medical care center director and officials of the State home facility). A provisional certification will be issued by the director only upon a determination that the facility or facility management does not meet one or more of the standards in subpart D of this part, that the deficiencies do not jeopardize the health or safety of the residents, and that the facility management and the director have agreed to a plan of correction to remedy the deficiencies in a specified amount of time (not more time than the VA medical center of jurisdiction director determines is reasonable for correcting the specific deficiencies). The director

of the VA medical center of jurisdiction will notify the official in charge of the facility, the State official authorized to oversee the operations of the State home, the VA Network Director (10N 1–22), Chief Network Officer (10N) and the Chief Consultant, Geriatrics and Extended Care Strategic Healthcare Group (114) of the certification, provisional certification, or noncertification.

(b) Once a facility has achieved recognition, the recognition will remain in effect unless the State requests that the recognition be withdrawn or the Under Secretary for Health makes a final decision that the facility or facility management does not meet the standards of subpart D of this part. Recognition of a facility will apply only to the facility as it exists at the time of recognition; any annex, branch, enlargement, expansion, or relocation must be separately recognized.

(c) Both during the application process for recognition and after the Under Secretary for Health has recognized a facility, VA may survey the facility as necessary to determine if the facility and facility management comply with the provisions of this part. Generally, VA will provide advance notice to the State before a survey occurs; however, surveys may be conducted without notice. A survey, as necessary, will cover all parts of the facility, and include a review and audit of all records of the facility that have a bearing on compliance with any of the requirements of this part (including any reports from State or local entities). For purposes of a survey, at the request of the director of the VA medical center of jurisdiction, the State home facility management must submit to the director a completed VA Form 10–3567, Staffing Profile, set forth at § 51.220. The director of the VA medical center of jurisdiction will designate the VA officials to survey the facility. These officials may include physicians; nurses; pharmacists; dietitians; rehabilitation therapists; social workers; representatives from health administration, engineering, environmental management systems, and fiscal officers.

(d) If the director of the VA medical center of jurisdiction determines that the State home facility or facility management does not meet the standards of this part, the director will notify the State home facility in writing of the standards not meet. The director will send a copy of this notice to the State official authorized to oversee operations of the facility, the VA Network Director (10N 1–22), the Chief Network Officer (10N), and the Chief Consultant, Geriatrics and Extended Care Strategic Healthcare Group (114). The letter will include the reasons for the decision and indicate that the State has the right to appeal the decision.

(e) The State must submit the appeal to the Under Secretary for Health in writing, within 30 days of receipt of the notice of failure to meet the standards. In its appeal, the State must explain why the determination is inaccurate or incomplete and provide any new and relevant information not previously considered. Any appeal that does not identify a reason for disagreement will be returned to the sender without further consideration.

(f) After reviewing the matter, including any relevant supporting documentation, the Under Secretary for Health will issue a written determination that affirms or reverses the previous determination. If the Under Secretary for Health decides that the facility does not meet the standards of subpart D of this part, the Under Secretary for Health will withdraw recognition and stop paying per diem for care provided on and after the date of the decision. The decision of Under Secretary for Health will constitute a final VA decision. The Under Secretary for Health will send a copy of this decision to the State home facility and to the State official authorized to oversee the operations of the State home.

(g) In the event that a VA survey team or other VA medical center staff identifies any condition that poses an immediate threat to public or patient safety or other information indicating the existence of such a threat, the director of VA medical center of jurisdiction will immediately report this to the VA Network Director (10N 1–22), Chief Network Officer (10N), Chief Consultant, Geriatrics and Extended Care Strategic Healthcare Group (114) and State official authorized to oversee operations of the State home.

(Authority: 38 U.S.C. 101, 501, 1710, 1741–1743)

Subpart C—Per Diem Payments

§ 51.40 Monthly payment.

(a)(1) During Fiscal Year 1999, VA will pay monthly one-half of the cost of each eligible veteran's nursing home care for each day the veteran is in a facility recognized as a State home for nursing home care, not to exceed $43.92 per diem.

(2) Per diem will be paid only for the days that the veteran is a resident at the facility. For purposes of paying per diem, VA will consider a veteran to be a resident at the facility during each full day that the veteran is receiving care at the facility. VA will not deem the veteran to be a resident at the facility if the veteran is receiving care outside the State home facility at VA expense. Otherwise, VA will deem the veteran to be a resident at the facility during any absence from the facility that lasts for no more than 96 consecutive hours. This absence will be considered to have ended when the veteran returns as a resident if the veteran's stay is for at least a continuous 24-hour period.

(3) As a condition for receiving payment of per diem under this part, the State must submit a completed VA form 10–5588, State Home Report and Statement of Federal Aid Claimed. This form is set forth in full at § 51.221 of this part.

(4) Initial payments will not be made until the Under Secretary for Health recognizes the State home. However, payments will be made retroactively for care that was provided on and after the date of the completion of the VA survey of the facility that provided the basis for determining that the facility met the standards of this part.

(5) As a condition for receiving payment of per diem under this part, the State must submit to the VA medical center of jurisdiction for each veteran the following completed VA forms 10–10EZ, Application for Medical Benefits, and 10–10SH, State Home Program Application for Care—Medical Certification, at the time of admission and with any request for a change in the level of care (domiciliary care or hospital care). These forms are set forth in full at § 51.222 and § 51.223, respectively, of this part. If the facility is eligible to receive per diem payments for a veteran, VA will pay per diem under this part from the date of receipt of the completed forms required by this paragraph, except that VA will pay per diem from the day on which the veteran was admitted to the facility if the completed forms are received within 10 days after admission.

(b) Total per diem costs for an eligible veteran's nursing home care consist of those direct and indirect costs attributable to nursing home care at the facility divided by the total number of patients at the nursing home. Relevant cost principles are set forth in the Office of Management and Budget (OMB) Circular number A–87, dated May 4, 1995, "Cost Principles for State, Local, and Indian Tribal Governments."

(Authority: 38 U.S.C. 101, 501, 1710, 1741–1743)

§ 51.50 Eligible veterans.

A veteran is an eligible veteran under this part if VA determines that the veteran needs nursing home care and the veteran is within one of the following categories:

(a) Veterans with service-connected disabilities;

(b) Veterans who are former prisoners of war;

(c) Veterans who were discharged or released from active military service for a disability incurred or aggravated in the line of duty;

(d) Veterans who receive disability compensation under 38 U.S.C. 1151;

(e) Veterans whose entitlement to disability compensation is suspended because of the receipt of retired pay;

(f) Veterans whose entitlement to disability compensation is suspended pursuant to 38 U.S.C. 1151, but only to the extent that such veterans' continuing eligibility for nursing home care is provided for in the judgment or settlement described in 38 U.S.C. 1151;

(g) Veterans who VA determines are unable to defray the expenses of necessary care as specified under 38 U.S.C. 1722(a);

(h) Veterans of the Mexican border period or of World War I;

(i) Veterans solely seeking care for a disorder associated with exposure to a toxic substance or radiation or for a disorder associated with service in the Southwest Asia theater of operations during the Persian Gulf War, as provided in 38 U.S.C. 1710(e);

(j) Veterans who agree to pay to the United States the applicable co-payment determined under 38 U.S.C. 1710(f) and 1710(g), if they seek VA hospital, nursing home, or outpatient care.

(Authority: 38 U.S.C. 101, 501, 1710, 1741–1743)

Subpart D—Standards

§ 51.60 Standards applicable for payment of per diem.

The provisions of this subpart are the standards that a State home and facility management must meet for the State to receive per diem for nursing home care.

§ 51.70 Resident rights.

The resident has a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility. The facility management must protect and promote the rights of each resident, including each of the following rights:

(a) *Exercise of rights.* (1) The resident has the right to exercise his or her rights as a resident of the facility and as a citizen or resident of the United States.

(2) The resident has the right to be free of interference, coercion, discrimination, and reprisal from the facility management in exercising his or her rights.

(3) The resident has the right to freedom from chemical or physical restraint.

(4) In the case of a resident determined incompetent under the laws of a State by a court of jurisdiction, the rights of the resident are exercised by the person appointed under State law to act on the resident's behalf.

(5) In the case of a resident who has not been determined incompetent by the State court, any legal-surrogate designated in accordance with State law may exercise the resident's rights to the extent provided by State law.

(b) *Notice of rights and services.* (1) The facility management must inform the resident both orally and in writing in a language that the resident understands of his or her rights and all rules and regulations governing resident conduct and responsibilities during the stay in the facility. Such notification must be made prior to or upon admission and periodically during the resident's stay.

(2) The resident or his or her legal representative has the right—

(i) Upon an oral or written request, to access all records pertaining to himself or herself including current clinical records within 24 hours (excluding weekends and holidays); and

(ii) After receipt of his or her records for review, to purchase at a cost not to exceed the community standard photocopies of the records or any portions of them upon request and with 2 working days advance notice to the facility management.

(3) The resident has the right to be fully informed in language that he or she can understand of his or her total health status;

(4) The resident has the right to refuse treatment, to refuse to participate in experimental research, and to formulate an advance directive as specified in paragraph (b)(7) of this section; and

(5) The facility management must inform each resident before, or at the time of admission, and periodically during the resident's stay, of services available in the facility and of charges for those services to be billed to the resident.

(6) The facility management must furnish a written description of legal rights which includes—

(i) A description of the manner of protecting personal funds, under paragraph (c) of this section;

(ii) A statement that the resident may file a complaint with the State (agency) concerning resident abuse, neglect, misappropriation of resident property in the facility, and non-compliance with the advance directives requirements.

(7) The facility management must have written policies and procedures regarding advance directives (e.g., living wills). These requirements include provisions to inform and provide written information to all residents concerning the right to accept or refuse medical or surgical treatment and, at the individual's option, formulate an advance directive. This includes a written description of the facility's policies to implement advance directives and applicable State law. If an individual is incapacitated at the time of admission and is unable to receive information (due to the incapacitating conditions) or articulate whether or not he or she has executed an advance directive, the facility may give advance directive information to the individual's family or surrogate in the same manner that it issues other materials about policies and procedures to the family of the incapacitated individual or to a surrogate or other concerned persons in accordance with State law. The facility management is not relieved of its obligation to provide this information to the individual once he or she is no longer incapacitated or unable to receive such information. Follow-up procedures must be in place to provide the information to the individual directly at the appropriate time.

(8) The facility management must inform each resident of the name and way of contacting the primary physician responsible for his or her care.

(9) Notification of changes. (i) Facility management must immediately inform the resident; consult with the primary physician; and if known, notify the resident's legal representative or an interested family member when there is—

(A) An accident involving the resident which results in injury and has the potential for requiring physician intervention;

(B) A significant change in the resident's physical, mental, or psychosocial status (i.e., a deterioration in health, mental, or psychosocial status in either life-threatening conditions or clinical complications);

(C) A need to alter treatment significantly (i.e., a need to discontinue an existing form of treatment due to adverse consequences, or to commence a new form of treatment); or

(D) A decision to transfer or discharge the resident from the facility as specified in § 51.80(a) of this part.

(ii) The facility management must also promptly notify the resident and, if known, the resident's legal

representative or interested family member when there is—

(A) A change in room or roommate assignment as specified in § 51.100(f)(2); or

(B) A change in resident rights under Federal or State law or regulations as specified in paragraph (b)(1) of this section.

(iii) The facility management must record and periodically update the address and phone number of the resident's legal representative or interested family member.

(c) *Protection of resident funds.* (1) The resident has the right to manage his or her financial affairs, and the facility management may not require residents to deposit their personal funds with the facility.

(2) Management of personal funds. Upon written authorization of a resident, the facility management must hold, safeguard, manage, and account for the personal funds of the resident deposited with the facility, as specified in paragraphs (c)(3)–(6) of this section.

(3) Deposit of funds. (i) Funds in excess of $50. The facility management must deposit any residents' personal funds in excess of $50 in an interest bearing account (or accounts) that is separate from any of the facility's operating accounts, and that credits all interest earned on resident's funds to that account. (In pooled accounts, there must be a separate accounting for each resident's share.)

(ii) Funds less than $50. The facility management must maintain a resident's personal funds that do not exceed $50 in a non-interest bearing account, interest-bearing account, or petty cash fund.

(4) Accounting and records. The facility management must establish and maintain a system that assures a full and complete and separate accounting, according to generally accepted accounting principles, of each resident's personal funds entrusted to the facility on the resident's behalf.

(i) The system must preclude any commingling of resident funds with facility funds or with the funds of any person other than another resident.

(ii) The individual financial record must be available through quarterly statements and on request to the resident or his or her legal representative.

(5) Conveyance upon death. Upon the death of a resident with a personal fund deposited with the facility, the facility management must convey within 30 days the resident's funds, and a final accounting of those funds, to the individual or probate jurisdiction administering the resident's estate.

(6) Assurance of financial security. The facility management must purchase a surety bond, or otherwise provide assurance satisfactory to the Under Secretary for Health, to assure the security of all personal funds of residents deposited with the facility.

(d) *Free choice.* The resident has the right to—

(1) Be fully informed in advance about care and treatment and of any changes in that care or treatment that may affect the resident's well-being; and

(2) Unless determined incompetent or otherwise determined to be incapacitated under the laws of the State, participate in planning care and treatment or changes in care and treatment.

(e) *Privacy and confidentiality.* The resident has the right to personal privacy and confidentiality of his or her personal and clinical records.

(1) Residents have a right to personal privacy in their accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings of family and resident groups. This does not require the facility management to give a private room to each resident.

(2) Except as provided in paragraph (e)(3) of this section, the resident may approve or refuse the release of personal and clinical records to any individual outside the facility;

(3) The resident's right to refuse release of personal and clinical records does not apply when—

(i) The resident is transferred to another health care institution; or

(ii) Record release is required by law.

(f) *Grievances.* A resident has the right to—

(1) Voice grievances without discrimination or reprisal. Residents may voice grievances with respect to treatment received and not received; and

(2) Prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents.

(g) *Examination of survey results.* A resident has the right to—

(1) Examine the results of the most recent VA survey with respect to the facility. The facility management must make the results available for examination in a place readily accessible to residents, and must post a notice of their availability; and

(2) Receive information from agencies acting as client advocates, and be afforded the opportunity to contact these agencies.

(h) *Work.* The resident has the right to—

(1) Refuse to perform services for the facility;

(2) Perform services for the facility, if he or she chooses, when—

(i) The facility has documented the need or desire for work in the plan of care;

(ii) The plan specifies the nature of the services performed and whether the services are voluntary or paid;

(iii) Compensation for paid services is at or above prevailing rates; and

(iv) The resident agrees to the work arrangement described in the plan of care.

(i) *Mail.* The resident has the right to privacy in written communications, including the right to—

(1) Send and promptly receive mail that is unopened; and

(2) Have access to stationery, postage, and writing implements at the resident's own expense.

(j) *Access and visitation rights.* (1) The resident has the right and the facility management must provide immediate access to any resident by the following:

(i) Any representative of the Under Secretary for Health;

(ii) Any representative of the State;

(iii) Physicians of the resident's choice;

(iv) The State long term care ombudsman;

(v) Immediate family or other relatives of the resident subject to the resident's right to deny or withdraw consent at any time; and

(vi) Others who are visiting subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time.

(2) The facility management must provide reasonable access to any resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time.

(3) The facility management must allow representatives of the State Ombudsman Program, described in paragraph (j)(1)(iv) of this section, to examine a resident's clinical records with the permission of the resident or the resident's legal representative, subject to State law.

(k) *Telephone.* The resident has the right to reasonable access to use a telephone where calls can be made without being overheard.

(l) *Personal property.* The resident has the right to retain and use personal possessions, including some furnishings, and appropriate clothing, as space permits, unless to do so would infringe upon the rights or health and safety of other residents.

(m) *Married couples.* The resident has the right to share a room with his or her spouse when married residents live in the same facility and both spouses consent to the arrangement.

(n) *Self-Administration of drugs.* An individual resident may self-administer drugs if the interdisciplinary team, as defined by § 51.110(d)(2)(ii) of this part, has determined that this practice is safe.

(Authority: 38 U.S.C. 101, 501, 1710, 1741–1743)

§ 51.80 Admission, transfer and discharge rights.

(a) *Transfer and discharge*—(1) *Definition.* Transfer and discharge includes movement of a resident to a bed outside of the facility whether that bed is in the same physical plant or not. Transfer and discharge does not refer to movement of a resident to a bed within the same facility.

(2) *Transfer and discharge requirements.* The facility management must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless—

(i) The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the nursing home;

(ii) The transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the nursing home;

(iii) The safety of individuals in the facility is endangered;

(iv) The health of individuals in the facility would otherwise be endangered;

(v) The resident has failed, after reasonable and appropriate notice to pay for a stay at the facility; or

(vi) The nursing home ceases to operate.

(3) *Documentation.* When the facility transfers or discharges a resident under any of the circumstances specified in paragraphs (a)(2)(i) through (a)(2)(vi) of this section, the primary physician must document in the resident's clinical record.

(4) *Notice before transfer.* Before a facility transfers or discharges a resident, the facility must—

(i) Notify the resident and, if known, a family member or legal representative of the resident of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand.

(ii) Record the reasons in the resident's clinical record; and

(iii) Include in the notice the items described in paragraph (a)(6) of this section.

(5) *Timing of the notice.* (i) The notice of transfer or discharge required under paragraph (a)(4) of this section must be made by the facility at least 30 days before the resident is transferred or discharged, except when specified in paragraph (a)(5)(ii) of this section,

(ii) Notice may be made as soon as practicable before transfer or discharge when—

(A) The safety of individuals in the facility would be endangered;

(B) The health of individuals in the facility would be otherwise endangered;

(C) The resident's health improves sufficiently so the resident no longer needs the services provided by the nursing home;

(D) The resident's needs cannot be met in the nursing home;

(6) Contents of the notice. The written notice specified in paragraph (a)(4) of this section must include the following:

(i) The reason for transfer or discharge;

(ii) The effective date of transfer or discharge;

(iii) The location to which the resident is transferred or discharged;

(iv) A statement that the resident has the right to appeal the action to the State official designated by the State; and

(v) The name, address and telephone number of the State long term care ombudsman.

(7) *Orientotion for transfer or discharge.* A facility management must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.

(b) *Notice of bed-hold policy and readmission.*—(1) *Notice before transfer.* Before a facility transfers a resident to a hospital or allows a resident to go on therapeutic leave, the facility management must provide written information to the resident and a family member or legal representative that specifies—

(i) The duration of the facility's bed-hold policy, if any, during which the resident is permitted to return and resume residence in the facility; and

(ii) The facility's policies regarding bed-hold periods, which must be consistent with paragraph (b)(3) of this section, permitting a resident to return.

(2) *Bed-hold notice upon transfer.* At the time of transfer of a resident for hospitalization or therapeutic leave, facility management must provide to the resident and a family member or legal representative written notice which specifies the duration of the bed-hold policy described in paragraph (b)(1) of this section.

(3) *Permitting resident to return to facility.* A nursing facility must establish and follow a written policy under which a resident, whose hospitalization or therapeutic leave exceeds the bed-hold period is readmitted to the facility immediately upon the first availability of a bed in a semi-private room, if the resident requires the services provided by the facility.

(c) *Equal access to quality care.* The facility management must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services for all individuals regardless of source of payment.

(d) *Admissions policy.* The facility management must not require a third party guarantee of payment to the facility as a condition of admission or expedited admission, or continued stay in the facility. However, the facility may require an individual who has legal access to a resident's income or resources available to pay for facility care to sign a contract to pay the facility from the resident's income or resources.

(Authority: 38 U.S.C. 101, 501, 1710, 1741–1743)

§ 51.90 Resident behavior and facility practices.

(a) *Restraints.* (1) The resident has a right to be free from any chemical or physical restraints imposed for purposes of discipline or convenience. When a restraint is applied or used, the purpose of the restraint is reviewed and is justified as a therapeutic intervention.

(i) Chemical restraint is the inappropriate use of a sedating psychotropic drug to manage or control behavior.

(ii) Physical restraint is any method of physically restricting a person's freedom of movement, physical activity or normal access to his or her body. Bed rails and vest restraints are examples of physical restraints.

(2) The facility management uses a system to achieve a restraint-free environment.

(3) The facility management collects data about the use of restraints.

(4) When alternatives to the use of restraint are ineffective, restraint is safely and appropriately used.

(b) *Abuse.* The resident has the right to be free from mental, physical, sexual, and verbal abuse or neglect, corporal punishment, and involuntary seclusion.

(1) Mental abuse includes humiliation, harassment, and threats of punishment or deprivation.

(2) Physical abuse includes hitting, slapping, pinching, or kicking. Also includes controlling behavior through corporal punishment.

(3) Sexual abuse includes sexual harassment, sexual coercion, and sexual assault.

(4) Neglect is any impaired quality of life for an individual because of the absence of minimal services or

resources to meet basic needs. Includes withholding or inadequately providing food and hydration (without physician, resident, or surrogate approval), clothing, medical care, and good hygiene. May also include placing the individual in unsafe or unsupervised conditions.

(5) Involuntary seclusion is a resident's separation from other residents or from the resident's room against his or her will or the will of his or her legal representative.

(c) *Staff treatment of residents.* The facility management must develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents and misappropriation of resident property.

The facility management must:

(i) Not employ individuals who —

(A) Have been found guilty of abusing, neglecting, or mistreating individuals by a court of law; or

(B) Have had a finding entered into an applicable State registry or with the applicable licensing authority concerning abuse, neglect, mistreatment of individuals or misappropriation of their property; and

(ii) Report any knowledge it has of actions by a court of law against an employee, which would indicate unfitness for service as a nurse aide or other facility staff to the State nurse aide registry or licensing authorities.

(2) The facility management must ensure that all alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source, and misappropriation of resident property are reported immediately to the administrator of the facility and to other officials in accordance with State law through established procedures.

(3) The facility management must have evidence that all alleged violations are thoroughly investigated, and must prevent further potential abuse while the investigation is in progress.

(4) The results of all investigations must be reported to the administrator or the designated representative and to other officials in accordance with State law within 5 working days of the incident, and appropriate corrective action must be taken if the alleged violation is verified.

(Authority: 38 U.S.C. 101, 501, 1710, 1741–1743)

§ 51.100 Quality of life.

A facility management must care for its residents in a manner and in an environment that promotes maintenance or enhancement of each resident's quality of life.

(a) *Dignity.* The facility management must promote care for residents in a manner and in an environment that maintains or enhances each resident's dignity and respect in full recognition of his or her individuality.

(b) *Self-determination and participation.* The resident has the right to—

(1) Choose activities, schedules, and health care consistent with his or her interests, assessments, and plans of care;

(2) Interact with members of the community both inside and outside the facility; and

(3) Make choices about aspects of his or her life in the facility that are significant to the resident.

(c) *Resident Council.* The facility management must establish a council of residents that meet at least quarterly. The facility management must document any concerns submitted to the management of the facility by the council.

(d) *Participation in resident and family groups.* (1) A resident has the right to organize and participate in resident groups in the facility;

(2) A resident's family has the right to meet in the facility with the families of other residents in the facility;

(3) The facility management must provide the council and any resident or family group that exists with private space;

(4) Staff or visitors may attend meetings at the group's invitation;

(5) The facility management must provide a designated staff person responsible for providing assistance and responding to written requests that result from group meetings;

(6) The facility management must listen to the views of any resident or family group, including the council established under paragraph (c) of this section, and act upon the concerns of residents, families, and the council regarding policy and operational decisions affecting resident care and life in the facility.

(e) *Participation in other activities.* A resident has the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility. The facility management must arrange for religious counseling by clergy of various faith groups.

(f) *Accommodation of needs.* A resident has the right to—

(1) Reside and receive services in the facility with reasonable accommodation of individual needs and preferences, except when the health or safety of the individual or other residents would be endangered; and

(2) Receive notice before the resident's room or roommate in the facility is changed.

(g) *Potient Activities.* (1) The facility management must provide for an ongoing program of activities designed to meet, in accordance with the comprehensive assessment, the interests and the physical, mental, and psychosocial well-being of each resident.

(2) The activities program must be directed by a qualified professional who—

(i) Is a qualified therapeutic recreation specialist or an activities professional who—

(A) Is licensed or registered, if applicable, by the State in which practicing; and

(B) Is certified as a therapeutic recreation specialist or as an activities professional by a recognized accrediting body.

(h) *Sociol Services.* (1) The facility management must provide medically related social services to attain or maintain the highest practicable mental and psychosocial well being of each resident.

(2) A nursing home with 100 or more beds must employ a qualified social worker on a full-time basis.

(3) Qualifications of social worker. A qualified social worker is an individual with—

(i) A bachelor's degree in social work from a school accredited by the Council of Social Work Education, and

Note: A master's degree social worker with experience in long-term care is preferred.

(ii) A social work license from the State in which the State home is located, if offered by the State, and

(iii) A minimum of one year of supervised social work experience, under the supervision of a social worker with a master's degree, in a health care setting working directly with individuals.

(4) The facility management must have sufficient support staff to meet patients' social services needs.

(5) Facilities for social services must ensure privacy for interviews.

(i) *Environment.* The facility management must provide—

(1) A safe, clean, comfortable, and homelike environment, allowing the resident to use his or her personal belongings to the extent possible;

(2) Housekeeping and maintenance services necessary to maintain a sanitary, orderly, and comfortable interior;

(3) Clean bed and bath linens that are in good condition;

(4) Private closet space in each resident room, as specified in § 51.200(d)(2)(iv) of this part;

(5) Adequate and comfortable lighting levels in all areas;

(6) Comfortable and safe temperature levels. Facilities must maintain a temperature range of 71–81 degrees F.; and

(7) For the maintenance of comfortable sound levels.

(Authority: 38 U.S.C. 101, 501, 1710, 1741–1743)

§ 51.110 Resident assessment.

The facility management must conduct initially, annually and as required by a change in the resident's condition a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity.

(a) *Admission orders.* At the time each resident is admitted, the facility management must have physician orders for the resident's immediate care and a medical assessment, including a medical history and physical examination, within a time frame appropriate to the resident's condition, not to exceed 72 hours after admission, except when an examination was performed within five days before admission and the findings were recorded in the medical record on admission.

(b) *Comprehensive assessments.* (1) The facility management must make a comprehensive assessment of a resident's needs:

(i) Using the Health Care Financing Administration Long Term Care Resident Assessment Instrument Version 2.0; and

(ii) Describing the resident's capability to perform daily life functions, strengths, performances, needs as well as significant impairments in functional capacity.

(iii) All nursing homes must be in compliance with this standard by no later than January 1, 2000.

(2) Frequency. Assessments must be conducted—

(i) No later than 14 days after the date of admission;

(ii) Promptly after a significant change in the resident's physical, mental, or social condition; and

(iii) In no case less often than once every 12 months.

(3) Review of assessments. The nursing facility management must examine each resident no less than once every 3 months, and as appropriate, revise the resident's assessment to assure the continued accuracy of the assessment.

(4) Use. The results of the assessment are used to develop, review, and revise the resident's individualized comprehensive plan of care, under paragraph (d) of this section.

(c) *Accuracy of assessments.* (1) Coordination—

(i) Each assessment must be conducted or coordinated with the appropriate participation of health professionals.

(ii) Each assessment must be conducted or coordinated by a registered nurse that signs and certifies the completion of the assessment.

(2) Certification. Each person who completes a portion of the assessment must sign and certify the accuracy of that portion of the assessment.

(d) *Comprehensive care plans.* (1) The facility management must develop an individualized comprehensive care plan for each resident that includes measurable objectives and timetables to meet a resident's physical, mental, and psychosocial needs that are identified in the comprehensive assessment. The care plan must describe the following—

(i) The services that are to be furnished to attain or maintain the resident's highest practicable physical, mental, and psychosocial well-being as required under § 51.120; and

(ii) Any services that would otherwise be required under § 51.120 of this part but are not provided due to the resident's exercise of rights under § 51.70, including the right to refuse treatment under § 51.70(b)(4) of this part.

(2) A comprehensive care plan must be—

(i) Developed within 7 calendar days after completion of the comprehensive assessment;

(ii) Prepared by an interdisciplinary team, that includes the primary physician, a registered nurse with responsibility for the resident, and other appropriate staff in disciplines as determined by the resident's needs, and, to the extent practicable, the participation of the resident, the resident's family or the resident's legal representative; and

(iii) Periodically reviewed and revised by a team of qualified persons after each assessment.

(3) The services provided or arranged by the facility must—

(i) Meet professional standards of quality; and

(ii) Be provided by qualified persons in accordance with each resident's written plan of care.

(e) *Discharge summary.* Prior to discharging a resident, the facility management must prepare a discharge summary that includes—

(1) A recapitulation of the resident's stay;

(2) A summary of the resident's status at the time of the discharge to include items in paragraph (b)(2) of this section; and

(3) A post-discharge plan of care that is developed with the participation of the resident and his or her family, which will assist the resident to adjust to his or her new living environment.

(Authority: 38 U.S.C. 101, 501, 1710, 1741–1743)

§ 51.120 Quality of care.

Each resident must receive and the facility management must provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the comprehensive assessment and plan of care.

(a) *Reporting of Sentinel Events.* (1) Definition. A sentinel event is an adverse event that results in the loss of life or limb or permanent loss of function.

(2) Examples of sentinel events are as follows:

(i) Any resident death, paralysis, coma or other major permanent loss of function associated with a medication error; or

(ii) Any suicide of a resident, including suicides following elopement (unauthorized departure) from the facility; or

(iii) Any elopement of a resident from the facility resulting in a death or a major permanent loss of function; or

(iv) Any procedure or clinical intervention, including restraints, that result in death or a major permanent loss of function; or

(v) Assault, homicide or other crime resulting in patient death or major permanent loss of function; or

(vi) A patient fall that results in death or major permanent loss of function as a direct result of the injuries sustained in the fall.

(3) The facility management must report sentinel events to the director of VA medical center of jurisdiction, VA Network Director (10N 1–22), Chief Network Officer (10N), and Chief Consultant, Geriatrics and Extended Care Strategic Healthcare Group (114) within 24 hours of identification.

(4) The facility management must establish a mechanism to review and analyze a sentinel event resulting in a written report no later than 10 working days following the event.

(i) Goal. The purpose of the review and analysis of a sentinel event is to prevent injuries to residents, visitors, and personnel, and to manage those injuries that do occur and to minimize

the negative consequences to the injured individuals and facility.

(b) *Activities of daily living.* Based on the comprehensive assessment of a resident, the facility management must ensure that—

(1) A resident's abilities in activities of daily living do not diminish unless circumstances of the individual's clinical condition demonstrate that diminution was unavoidable. This includes the resident's ability to—

(i) Bathe, dress, and groom;

(ii) Transfer and ambulate;

(iii) Toilet;

(iv) Eat; and

(v) Talk or otherwise communicate.

(2) A resident is given the appropriate treatment and services to maintain or improve his or her abilities specified in paragraph (b)(1) of this section; and

(3) A resident who is unable to carry out activities of daily living receives the necessary services to maintain good nutrition, hydration, grooming, personal and oral hygiene, mobility, and bladder and bowel elimination.

(c) *Vision and hearing.* To ensure that residents receive proper treatment and assistive devices to maintain vision and hearing abilities, the facility must, if necessary, assist the resident—

(1) In making appointments, and

(2) By arranging for transportation to and from the office of a practitioner specializing in the treatment of vision or hearing impairment or the office of a professional specializing in the provision of vision or hearing assistive devices.

(d) *Pressure sores.* Based on the comprehensive assessment of a resident, the facility management must ensure that—

(1) A resident who enters the facility without pressure sores does not develop pressure sores unless the individual's clinical condition demonstrates that they were unavoidable; and

(2) A resident having pressure sores receives necessary treatment and services to promote healing, prevent infection and prevent new sores from developing.

(e) *Urinary and Fecal Incontinence.* Based on the resident's comprehensive assessment, the facility management must ensure that—

(1) A resident who enters the facility without an indwelling catheter is not catheterized unless the resident's clinical condition demonstrates that catheterization was necessary; and

(2) A resident who is incontinent of urine receives appropriate treatment and services to prevent urinary tract infections and to restore as much normal bladder function as possible.

(3) A resident who has persistent fecal incontinence receives appropriate treatment and services to treat reversible causes and to restore as much normal bowel function as possible.

(f) *Range of motion.* Based on the comprehensive assessment of a resident, the facility management must ensure that—

(1) A resident who enters the facility without a limited range of motion does not experience reduction in range of motion unless the resident's clinical condition demonstrates that a reduction in range of motion is unavoidable; and

(2) A resident with a limited range of motion receives appropriate treatment and services to increase range of motion and/or to prevent further decrease in range of motion.

(g) *Mental and Psychosocial functioning.* Based on the comprehensive assessment of a resident, the facility management must ensure that a resident who displays mental or psychosocial adjustment difficulty, receives appropriate treatment and services to correct the assessed problem.

(h) *Enteral Feedings.* Based on the comprehensive assessment of a resident, the facility management must ensure that—

(1) A resident who has been able to adequately eat or take fluids alone or with assistance is not fed by enteral feedings unless the resident's clinical condition demonstrates that use of enteral feedings was unavoidable; and

(2) A resident who is fed by enteral feedings receives the appropriate treatment and services to prevent aspiration pneumonia, diarrhea, vomiting, dehydration, metabolic abnormalities, nasal-pharyngeal ulcers and other skin breakdowns, and to restore, if possible, normal eating skills.

(i) *Accidents.* The facility management must ensure that—

(1) The resident environment remains as free of accident hazards as is possible; and

(2) Each resident receives adequate supervision and assistance devices to prevent accidents.

(j) *Nutrition.* Based on a resident's comprehensive assessment, the facility management must ensure that a resident—

(1) Maintains acceptable parameters of nutritional status, such as body weight and protein levels, unless the resident's clinical condition demonstrates that this is not possible; and

(2) Receives a therapeutic diet when a nutritional deficiency is identified.

(k) *Hydration.* The facility management must provide each resident with sufficient fluid intake to maintain proper hydration and health.

(l) *Special needs.* The facility management must ensure that residents receive proper treatment and care for the following special services:

(1) Injections;

(2) Parenteral and enteral fluids;

(3) Colostomy, ureterostomy, or ileostomy care;

(4) Tracheostomy care;

(5) Tracheal suctioning;

(6) Respiratory care;

(7) Foot care; and

(8) Prostheses.

(m) *Unnecessary drugs*—(1) *General.* Each resident's drug regimen must be free from unnecessary drugs. An unnecessary drug is any drug when used:

(i) In excessive dose (including duplicate drug therapy); or

(ii) For excessive duration; or

(iii) Without adequate monitoring; or

(iv) Without adequate indications for its use; or

(v) In the presence of adverse consequences which indicate the dose should be reduced or discontinued; or

(vi) Any combinations of the reasons above.

(2) *Antipsychotic Drugs.* Based on a comprehensive assessment of a resident, the facility management must ensure that—

(i) Residents who have not used antipsychotic drugs are not given these drugs unless antipsychotic drug therapy is necessary to treat a specific condition as diagnosed and documented in the clinical record; and

(ii) Residents who use antipsychotic drugs receive gradual dose reductions, and behavioral interventions, unless clinically contraindicated, in an effort to discontinue these drugs.

(n) *Medication Errors.* The facility management must ensure that—

(1) Medication errors are identified and reviewed on a timely basis; and

(2) strategies for preventing medication errors and adverse reactions are implemented.

(Authority: 38 U.S.C. 101, 501, 1710, 1741–1743)

§ 51.130 Nursing services.

The facility management must provide an organized nursing service with a sufficient number of qualified nursing personnel to meet the total nursing care needs, as determined by resident assessment and individualized comprehensive plans of care, of all patients within the facility 24 hours a day, 7 days a week.

(a) The nursing service must be under the direction of a full-time registered nurse who is currently licensed by the State and has, in writing, administrative authority, responsibility, and accountability for the functions, activities, and training of the nursing services staff.

(b) The facility management must provide registered nurses 24 hours per day, 7 days per week.

(c) The director of nursing service must designate a registered nurse as a supervising nurse for each tour of duty.

(1) Based on the application and results of the case mix and staffing methodology, the director of nursing may serve in a dual role as director and as an onsite-supervising nurse only when the facility has an average daily occupancy of 60 or fewer residents in nursing home.

(2) Based on the application and results of the case mix and staffing methodology, the evening or night supervising nurse may serve in a dual role as supervising nurse as well as provides direct patient care only when the facility has an average daily occupancy of 60 or fewer residents in nursing home.

(d) The facility management must provide nursing services to ensure that there is a minimum direct care nurse staffing per patient per 24 hours, 7 days per week of no less than 2.5 hours.

(e) Nurse staffing must be based on a staffing methodology that applies case mix and is adequate for meeting the standards of this part.

(Authority: 38 U.S.C. 101, 501, 1710, 1741–1743)

§ 51.140 Dietary services.

The facility management must provide each resident with a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident.

(a) *Staffing.* The facility management must employ a qualified dietitian either full-time, part-time, or on a consultant basis.

(1) If a qualified dietitian is not employed full-time, the facility management must designate a person to serve as the director of food service who receives at least a monthly scheduled consultation from a qualified dietitian.

(2) A qualified dietitian is one who is qualified based upon registration by the Commission on Dietetic Registration of the American Dietetic Association.

(b) *Sufficient staff.* The facility management must employ sufficient support personnel competent to carry out the functions of the dietary service.

(c) *Menus and nutritional adequacy.* Menus must—

(1) Meet the nutritional needs of residents in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences;

(2) Be prepared in advance; and

(3) Be followed.

(d) *Food.* Each resident receives and the facility provides—

(1) Food prepared by methods that conserve nutritive value, flavor, and appearance;

(2) Food that is palatable, attractive, and at the proper temperature;

(3) Food prepared in a form designed to meet individual needs; and

(4) Substitutes offered of similar nutritive value to residents who refuse food served.

(e) *Therapeutic diets.* Therapeutic diets must be prescribed by the primary care physician.

(f) *Frequency of meals.* (1) Each resident receives and the facility provides at least three meals daily, at regular times comparable to normal mealtimes in the community.

(2) There must be no more than 14 hours between a substantial evening meal and breakfast the following day, except as provided in paragraph (f)(4) of this section.

(3) The facility staff must offer snacks at bedtime daily.

(4) When a nourishing snack is provided at bedtime, up to 16 hours may elapse between a substantial evening meal and breakfast the following day if a resident group agrees to this meal span, and a nourishing snack is served.

(g) *Assistive devices.* The facility management must provide special eating equipment and utensils for residents who need them.

(h) *Sanitary conditions.* The facility must—

(1) Procure food from sources approved or considered satisfactory by Federal, State, or local authorities;

(2) Store, prepare, distribute, and serve food under sanitary conditions; and

(3) Dispose of garbage and refuse properly.

(Authority: 38 U.S.C. 101, 501, 1710, 1741–1743)

§ 51.150 Physician services.

A physician must personally approve in writing a recommendation that an individual be admitted to a facility. Each resident must remain under the care of a physician.

(a) *Physician supervision.* The facility management must ensure that—

(1) The medical care of each resident is supervised by a primary care physician;

(2) Each resident's medical record must list the name of the resident's primary physician, and

(3) Another physician supervises the medical care of residents when their primary physician is unavailable.

(b) *Physician visits.* The physician must—

(1) Review the resident's total program of care, including medications and treatments, at each visit required by paragraph (c) of this section;

(2) Write, sign, and date progress notes at each visit; and

(3) Sign and date all orders.

(c) *Frequency of physician visits.*

(1) The resident must be seen by the primary physician at least once every 30 days for the first 90 days after admission, and at least once every 60 days thereafter, or more frequently based on the condition of the resident.

(2) A physician visit is considered timely if it occurs not later than 10 days after the date the visit was required.

(3) Except as provided in paragraphs (c)(4) of this section, all required physician visits must be made by the physician personally.

(4) At the option of the physician, required visits in the facility after the initial visit may alternate between personal visits by the physician and visits by a physician assistant, nurse practitioner, or clinical nurse specialist in accordance with paragraph (e) of this section.

(d) *Availability of physicians for emergency care.* The facility management must provide or arrange for the provision of physician services 24 hours a day 7 days per week, in case of an emergency.

(e) *Physician delegation of tasks.* (1) Except as specified in paragraph (e)(2) of this section, a primary physician may delegate tasks to:

(i) a certified physician assistant or a certified nurse practitioner, or

(ii) a clinical nurse specialist who—

(A) Is acting within the scope of practice as defined by State law; and

(B) Is under the supervision of the physician.

Note: A certified clinical nurse specialist with experience in long term care is preferred.

(2) The primary physician may not delegate a task when the regulations specify that the primary physician must perform it personally, or when the delegation is prohibited under State law or by the facility's own policies.

(Authority: 38 U.S.C. 101, 501, 1710, 1741–1743)

§ 51.160 Specialized rehabilitative services.

(a) Provision of services: If specialized rehabilitative services such as but not limited to physical therapy, speech

therapy, occupational therapy, and mental health services for mental illness are required in the resident's comprehensive plan of care, facility management must—

(1) Provide the required services; or

(2) Obtain the required services from an outside resource, in accordance with § 51.210(h) of this part, from a provider of specialized rehabilitative services.

(b) Specialized rehabilitative services must be provided under the written order of a physician by qualified personnel.

(Authority: 38 U.S.C. 101, 501, 1710, 1741–1743)

§ 51.170 Dental services.

A facility—

(a) Must provide or obtain from an outside resource, in accordance with § 51.210(h) of this part, routine and emergency dental services to meet the needs of each resident;

(b) May charge a resident an additional amount for routine and emergency dental services;

(c) Must, if necessary, assist the resident—

(1) In making appointments; and

(2) By arranging for transportation to and from the dental services; and

(3) Promptly refer residents with lost or damaged dentures to a dentist.

(Authority: 38 U.S.C. 101, 501, 1710, 1741–1743)

§ 51.180 Pharmacy services.

The facility management must provide routine and emergency drugs and biologicals to its residents, or obtain them under an agreement described in § 51.210(h) of this part. The facility management must have a system for disseminating drug information to medical and nursing staff.

(a) *Procedures.* The facility management must provide pharmaceutical services (including procedures that assure the accurate acquiring, receiving, dispensing, and administering of all drugs and biologicals) to meet the needs of each resident.

(b) *Service consultation.* The facility management must employ or obtain the services of a pharmacist licensed in a State in which the facility is located who—

(1) Provides consultation on all aspects of the provision of pharmacy services in the facility;

(2) Establishes a system of records of receipt and disposition of all controlled drugs in sufficient detail to enable an accurate reconciliation; and

(3) Determines that drug records are in order and that an account of all controlled drugs is maintained and periodically reconciled.

(c) *Drug regimen review.* (1) The drug regimen of each resident must be reviewed at least once a month by a licensed pharmacist.

(2) The pharmacist must report any irregularities to the primary physician and the director of nursing, and these reports must be acted upon.

(d) *Labeling of drugs and biologicals.* Drugs and biologicals used in the facility management must be labeled in accordance with currently accepted professional principles, and include the appropriate accessory and cautionary instructions, and the expiration date when applicable.

(e) *Storage of drugs and biologicals.* (1) In accordance with State and Federal laws, the facility management must store all drugs and biologicals in locked compartments under proper temperature controls, and permit only authorized personnel to have access to the keys.

(2) The facility management must provide separately locked, permanently affixed compartments for storage of controlled drugs listed in Schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1976 and other drugs subject to abuse.

(Authority: 38 U.S.C. 101, 501, 1710, 1741–1743)

§ 51.190 Infection control.

The facility management must establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment and to help prevent the development and transmission of disease and infection.

(a) *Infection control program.* The facility management must establish an infection control program under which it—

(1) Investigates, controls, and prevents infections in the facility;

(2) Decides what procedures, such as isolation, should be applied to an individual resident; and

(3) Maintains a record of incidents and corrective actions related to infections.

(b) *Preventing spread of infection.* (1) When the infection control program determines that a resident needs isolation to prevent the spread of infection, the facility management must isolate the resident.

(2) The facility management must prohibit employees with a communicable disease or infected skin lesions from direct contact with residents or their food, if direct contact will transmit the disease.

(3) The facility management must require staff to wash their hands after each direct resident contact for which hand washing is indicated by accepted professional practice.

(c) *Linens.* Personnel must handle, store, process, and transport linens so as to prevent the spread of infection.

(Authority: 38 U.S.C. 101, 501, 1710, 1741–1743)

§ 51.200 Physical environment.

The facility management must be designed, constructed, equipped, and maintained to protect the health and safety of residents, personnel and the public.

(a) *Life safety from fire.* The facility must meet the applicable provisions of the 1997 edition of the Life Safety Code of the National Fire Protection Association (which is incorporated by reference). Incorporation of the 1997 edition of the National Fire Protection Association's Life Safety Code (published February 7, 1997; ANSI/NFPA) was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 that govern the use of incorporations by reference.[1]

(b) *Emergency power.* (1) An emergency electrical power system must be provided to supply power adequate for illumination of all exit signs and lighting for the means of egress, fire alarm and medical gas alarms, emergency communication systems, and generator task illumination.

(2) The system must be the appropriate type essential electrical system in accordance with the requirements of NFPA 99, Health Care Facilities.

(3) When electrical life support devices are used, an emergency electrical power system must also be provided for devices in accordance with NFPA 99, Health Care Facilities.

(4) The source of power must be an on-site emergency standby generator of sufficient size to serve the connected load or other approved sources per NFPA 99, Health Care Facilities.

(c) *Space and equipment.* Facility management must—

(1) Provide sufficient space and equipment in dining, health services, recreation, and program areas to enable staff to provide residents with needed services as required by these standards and as identified in each resident's plan of care; and

[1] The Code is available for inspection at the Office of the Federal Register Information Center, room 8301, 1110 L Street NW., Washington, DC. Copies may be obtained from the National Fire Protection Association, Batterymarch Park, Quincy, MA 02200. If any changes in this code are also to be incorporated by reference, a notice to that effect will be published in the **Federal Register**.

(2) Maintain all essential mechanical, electrical, and patient care equipment in safe operating condition.

(d) *Resident rooms.* Resident rooms must be designed and equipped for adequate nursing care, comfort, and privacy of residents (1) Bedrooms must—

(i) Accommodate no more than four residents;

(ii) Measure at least 115 net square feet per resident in multiple resident bedrooms;

(iii) Measure at least 150 net square feet in single resident bedrooms;

(iv) Measure at least 245 net square feet in small double resident bedrooms; and

(v) Measure at least 305 net square feet in large double resident bedrooms used for spinal cord injury residents. It is recommended that the facility have one large double resident bedroom for every 30 resident bedrooms.

(vi) Have direct access to an exit corridor;

(vii) Be designed or equipped to assure full visual privacy for each resident;

(viii) Except in private rooms, each bed must have ceiling suspended curtains, which extend around the bed to provide total visual privacy in combination with adjacent walls and curtains;

(ix) Have at least one window to the outside; and

(x) Have a floor at or above grade level.

(2) The facility management must provide each resident with—

(i) A separate bed of proper size and height for the safety of the resident;

(ii) A clean, comfortable mattress;

(iii) Bedding appropriate to the weather and climate; and

(iv) Functional furniture appropriate to the resident's needs, and individual closet space in the resident's bedroom with clothes racks and shelves accessible to the resident.

(e) *Toilet facilities.* Each resident room must be equipped with or located near toilet and bathing facilities. It is recommended that public toilet facilities be also located near the resident's dining and recreational areas.

(f) *Resident call system.* The nurse's station must be equipped to receive resident calls through a communication system from—

(1) Resident rooms; and

(2) Toilet and bathing facilities.

(g) *Dining and resident activities.* The facility management must provide one or more rooms designated for resident dining and activities. These rooms must—

(1) Be well lighted;

(2) Be well ventilated;

(3) Be adequately furnished; and

(4) Have sufficient space to accommodate all activities.

(h) *Other environmental conditions.* The facility management must provide a safe, functional, sanitary, and comfortable environment for the residents, staff and the public. The facility must—

(1) Establish procedures to ensure that water is available to essential areas when there is a loss of normal water supply;

(2) Have adequate outside ventilation by means of windows, or mechanical ventilation, or a combination of the two;

(3) Equip corridors with firmly secured handrails on each side; and

(4) Maintain an effective pest control program so that the facility is free of pests and rodents.

(Authority: 38 U.S.C. 101, 501, 1710, 1741–1743)

§ 51.210 Administration.

A facility must be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well being of each resident.

(a) *Governing body.* (1) The State must have a governing body, or designated person functioning as a governing body, that is legally responsible for establishing and implementing policies regarding the management and operation of the facility; and

(2) The governing body or State official with oversight for the facility appoints the administrator who is—

(i) Licensed by the State where licensing is required; and

(ii) Responsible for operation and management of the facility.

(b) *Disclosure of State agency and individual responsible for oversight of facility.* The State must give written notice to the Chief Consultant, Geriatrics and Extended Care Strategic Healthcare Group (114), VA Headquarters, 810 Vermont Avenue, NW, Washington, DC 20420, at the time of the change, if any of the following change:

(1) The State agency and individual responsible for oversight of a State home facility;

(2) The State home administrator;

(3) The State home director of nursing; or

(4) The State employee responsible for oversight of the State home facility if a contractor operates the State home.

(c) *Required Information.* The facility management must submit the following to the director of the VA medical center of jurisdiction as part of the application for recognition and thereafter as often as necessary to be current:

(1) The copy of legal and administrative action establishing the State-operated facility (e.g., State laws);

(2) Site plan of facility and surroundings.

(3) Legal title, lease, or other document establishing right to occupy facility;

(4) Organizational charts and the operational plan of the facility;

(5) The number of the staff by category indicating full-time, part-time and minority designation;

(6) The number of nursing home patients who are veterans and non-veterans, the number of veterans who are minorities and the number of non-veterans who are minorities;

(7) Annual State Fire Marshall's report;

(8) Annual certification from the responsible State Agency showing compliance with Section 504 of the Rehabilitation Act of 1973 (Public Law 93–112) (VA Form 10–0143A set forth at § 51.224);

(9) Annual certification for Drug-Free Workplace Act of 1988 (VA Form 10–0143 set forth at § 51.225);

(10) Annual certification regarding lobbying in compliance with Public Law 101–121 (VA Form 10–0144 set forth at § 51.226);

(11) Annual certification of compliance with Title VI of the Civil Rights Act of 1964 as incorporated in Title 38 CFR 18.1–18.3 (VA Form 27–10–0144A located at § 51.227);

(d) *Percentage of Veterans.* The percent of the facility residents eligible for VA nursing home care must be at least 75 percent veterans except that the veteran percentage need only be more than 50 percent if the facility was constructed or renovated solely with State funds. All non-veteran residents must be spouses of veterans or parents all of whose children died while serving in the armed forces of the United States.

(e) *Management Contract Facility.* If a facility is operated by an entity contracting with the State, the State must assign a State employee to monitor the operations of the facility on a full-time onsite basis.

(f) *Licensure.* The facility and facility management must comply with applicable State and local licensure laws.

(g) *Staff qualifications.* (1) The facility management must employ on a full-time, part-time or consultant basis those professionals necessary to carry out the provisions of these requirements.

(2) Professional staff must be licensed, certified, or registered in accordance with applicable State laws.

(h) *Use of outside resources.* (1) If the facility does not employ a qualified professional person to furnish a specific service to be provided by the facility, the facility management must have that service furnished to residents by a person or agency outside the facility under a written agreement described in paragraph (h)(2) of this section.

(2) Agreements pertaining to services furnished by outside resources must specify in writing that the facility management assumes responsibility for—

(i) Obtaining services that meet professional standards and principles that apply to professionals providing services in such a facility; and

(ii) The timeliness of the services.

(i) *Medicol director.* (1) The facility management must designate a primary care physician to serve as medical director.

(2) The medical director is responsible for—

(i) Participating in establishing policies, procedures, and guidelines to ensure adequate, comprehensive services;

(ii) Directing and coordinating medical care in the facility;

(iii) Helping to arrange for continuous physician coverage to handle medical emergencies;

(iv) Reviewing the credentialing and privileging process;

(v) Participating in managing the environment by reviewing and evaluating incident reports or summaries of incident reports, identifying hazards to health and safety, and making recommendations to the administrator; and

(vi) Monitoring employees' health status and advising the administrator on employee-health policies.

(j) *Credentialing and privileging.* Credentialing is the process of obtaining, verifying, and assessing the qualifications of a health care practitioner, which may include physicians, podiatrists, dentists, psychologists, physician assistants, nurse practitioners, licensed nurses to provide patient care services in or for a health care organization. Privileging is the process whereby a specific scope and content of patient care services are authorized for a health care practitioner by the facility management, based on evaluation of the individual's credentials and performance.

(1) The facility management must uniformly apply credentialing criteria to licensed independent practitioners applying to provide resident care or treatment under the facility's care.

(2) The facility management must verify and uniformly apply the following core criteria: Current licensure; current certification, if applicable, relevant education, training, and experience; current competence; and a statement that the individual is able to perform the services he or she is applying to provide.

(3) The facility management must decide whether to authorize the independent practitioner to provide resident care or treatment, and each credentials file must indicate that these criteria are uniformly and individually applied.

(4) The facility management must maintain documentation of current credentials for each licensed independent practitioner practicing within the facility.

(5) When reappointing a licensed independent practitioner, the facility management must review the individual's track record.

(6) The facility management systematically must assess whether individuals with clinical privileges act within the scope of privileges granted.

(k) *Required training of nursing aides.* (1) Nurse aide means any individual providing nursing or nursing-related services to residents in a facility who is not a licensed health professional, a registered dietitian, or a volunteer who provide such services without pay.

(2) The facility management must not use any individual working in the facility as a nurse aide whether permanent or not unless:

(i) That individual is competent to provide nursing and nursing related services; and

(ii) That individual has completed a training and competency evaluation program, or a competency evaluation program approved by the State.

(3) Registry verification. Before allowing an individual to serve as a nurse aide, facility management must receive registry verification that the individual has met competency evaluation requirements unless the individual can prove that he or she has recently successfully completed a training and competency evaluation program or competency evaluation program approved by the State and has not yet been included in the registry. Facilities must follow up to ensure that such an individual actually becomes registered.

(4) Multi-State registry verification. Before allowing an individual to serve as a nurse aide, facility management must seek information from every State registry established under HHS regulations at 42 CFR 483.156 which the facility believes will include information on the individual.

(5) Required retraining. If, since an individual's most recent completion of a training and competency evaluation program, there has been a continuous period of 24 consecutive months during none of which the individual provided nursing or nursing-related services for monetary compensation, the individual must complete a new training and competency evaluation program or a new competency evaluation program.

(6) Regular in-service education. The facility management must complete a performance review of every nurse aide at least once every 12 months, and must provide regular in-service education based on the outcome of these reviews. The in-service training must—

(i) Be sufficient to ensure the continuing competence of nurse aides, but must be no less than 12 hours per year;

(ii) Address areas of weakness as determined in nurse aides' performance reviews and may address the special needs of residents as determined by the facility staff; and

(iii) For nurse aides providing services to individuals with cognitive impairments, also address the care of the cognitively impaired.

(l) *Proficiency of nurse aides.* The facility management must ensure that nurse aides are able to demonstrate competency in skills and techniques necessary to care for residents' needs, as identified through resident assessments, and described in the plan of care.

(m) *Level B Requirement Laboratory services.* (1) The facility management must provide or obtain laboratory services to meet the needs of its residents. The facility is responsible for the quality and timeliness of the services.

(i) If the facility provides its own laboratory services, the services must meet all applicable certification standards, statutes, and regulations for laboratory services.

(ii) If the facility provides blood bank and transfusion services, it must meet all applicable certification standards, statutes, and regulations.

(iii) If the laboratory chooses to refer specimens for testing to another laboratory, the referral laboratory must be certified in the appropriate specialties and subspecialties of services and meet certification standards, statutes, and regulations.

(iv) The laboratory performing the testing must have a current, valid CLIA number (Clinical Laboratory Improvement Amendments of 1988). The facility management must provide VA surveyors with the CLIA number and a copy of the results of the last CLIA inspection.

(v) Such services must be available to the resident seven days a week, 24 hours a day.

(2) The facility management must—

(i) Provide or obtain laboratory services only when ordered by the primary physician;

(ii) Promptly notify the primary physician of the findings;

(iii) Assist the resident in making transportation arrangements to and from the source of service, if the resident needs assistance; and

(iv) File in the resident's clinical record laboratory reports that are dated and contain the name and address of the testing laboratory.

(n) *Radiology and other diagnostic services.* (1) The facility management must provide or obtain radiology and other diagnostic services to meet the needs of its residents. The facility is responsible for the quality and timeliness of the services.

(i) If the facility provides its own diagnostic services, the services must meet all applicable certification standards, statutes, and regulations.

(ii) If the facility does not provide its own diagnostic services, it must have an agreement to obtain these services. The services must meet all applicable certification standards, statutes, and regulations.

(iii) Radiologic and other diagnostic services must be available 24 hours a day, seven days a week.

(2) The facility must—

(i) Provide or obtain radiology and other diagnostic services only when ordered by the primary physician;

(ii) Promptly notify the primary physician of the findings;

(iii) Assist the resident in making transportation arrangements to and from the source of service, if the resident needs assistance; and

(iv) File in the resident's clinical record signed and dated reports of x-ray and other diagnostic services.

(o) *Clinical records.* (1) The facility management must maintain clinical records on each resident in accordance with accepted professional standards and practices that are—

(i) Complete;

(ii) Accurately documented;

(iii) Readily accessible; and

(iv) Systematically organized.

(2) Clinical records must be retained for—

(i) The period of time required by State law; or

(ii) Five years from the date of discharge when there is no requirement in State law.

(3) The facility management must safeguard clinical record information against loss, destruction, or unauthorized use;

(4) The facility management must keep confidential all information contained in the resident's records, regardless of the form or storage method of the records, except when release is required by—

(i) Transfer to another health care institution;

(ii) Law;

(iii) Third party payment contract; or

(iv) The resident.

(5) The clinical record must contain—

(i) Sufficient information to identify the resident;

(ii) A record of the resident's assessments;

(iii) The plan of care and services provided;

(iv) The results of any pre-admission screening conducted by the State; and

(v) Progress notes.

(p) *Quality assessment and assurance.* (1) Facility management must maintain a quality assessment and assurance committee consisting of—

(i) The director of nursing services;

(ii) A primary physician designated by the facility; and

(iii) At least 3 other members of the facility's staff.

(2) The quality assessment and assurance committee—

(i) Meets at least quarterly to identify issues with respect to which quality assessment and assurance activities are necessary; and

(ii) Develops and implements appropriate plans of action to correct identified quality deficiencies; and

(3) Identified quality deficiencies are corrected within an established time period.

(4) The VA Under Secretary for Health may not require disclosure of the records of such committee unless such disclosure is related to the compliance with requirements of this section.

(q) *Disaster and emergency preparedness.* (1) The facility management must have detailed written plans and procedures to meet all potential emergencies and disasters, such as fire, severe weather, and missing residents.

(2) The facility management must train all employees in emergency procedures when they begin to work in the facility, periodically review the procedures with existing staff, and carry out unannounced staff drills using those procedures.

(r) *Transfer agreement.* (1) The facility management must have in effect a written transfer agreement with one or more hospitals that reasonably assures that—

(i) Residents will be transferred from the nursing home to the hospital, and ensured of timely admission to the hospital when transfer is medically appropriate as determined by the primary physician; and

(ii) Medical and other information needed for care and treatment of residents, and, when the transferring facility deems it appropriate, for determining whether such residents can be adequately cared for in a less expensive setting than either the nursing home or the hospital, will be exchanged between the institutions.

(2) The facility is considered to have a transfer agreement in effect if the facility has an agreement with a hospital sufficiently close to the facility to make transfer feasible.

(s) *Compliance with Federal, State, and local laws and professional standards.* The facility management must operate and provide services in compliance with all applicable Federal, State, and local laws, regulations, and codes, and with accepted professional standards and principles that apply to professionals providing services in such a facility. This includes the Single Audit Act of 1984 (Title 31, Section 7501 et. seq.) and the Cash Management Improvement Acts of 1990 and 1992 (Pub. L. 101–453 and 102–589, see 31 U.S.C. 3335, 3718, 3720A, 6501, 6503)

(t) *Relationship to other Federal regulations.* In addition to compliance with the regulations set forth in this subpart, facilities are obliged to meet the applicable provisions of other Federal laws and regulations, including but not limited to those pertaining to nondiscrimination on the basis of race, color, national origin, handicap, or age (38 CFR part 18); protection of human subjects of research (45 CFR part 46), section 504 of the Rehabilitation Act of 1993, Pub. L. 93–112; Drug-Free Workplace Act of 1988, 38 CFR part 44, §§ 44.100 through 44.420; section 319 of Pub. L. 101–121; Title VI of the Civil Rights Act of 1964, 38 CFR 18.1–18.3. Although these regulations are not in themselves considered requirements under this part, their violation may result in the termination or suspension of, or the refusal to grant or continue payment with Federal funds.

(u) *Intermingling.* A building housing a facility recognized as a State home for providing nursing home care may only provide nursing home care in the areas of the building recognized as a State home for providing nursing home care.

(v) *VA Management of State Veterans Homes.* Except as specifically provided by statute or regulations, VA employees have no authority regarding the management or control of State homes providing nursing home care.

(Authority: 38 U.S.C. 101, 501, 1710, 1741–1743)

BILLING CODE 8320-01-P

§ 51.220 VA Form 10–3567—State Home Inspection Staffing Profile

OMB Approved No. 2900-0180
Estimated Burden Avg. 30 min.

Department of Veterans Affairs

STATE HOME INSPECTION

NAME OF HOME				DATE OF INSPECTION

PART I	TOTAL FACILITY	HOSPITAL	NHC	DOM
OPERATING BEDS				
AUTHORIZED APPROVALS				
PATIENT CENSUS				
POSITIONS AUTHORIZED				
STAFF AVAILABLE				

PART II - STAFF	TOTAL FACILITY	HOSPITAL	NHC	DOM
PHYSICIANS:				
PHYSICIANS ASSISTANTS				
DENTISTS				
SOCIAL WORK: MSW				
BSW				
SOCIAL WORK ASSISTANT				
PHARMACY: REG. PHARMACIST				
DIETETICS: REG. DIETITIAN				
FOOD SUPERVISOR				
DIETARY ASSISTANTS				
NURSING:				
NURSING ADM./SUP.				
DIRECT CARE: CERT. N.P./C.N.S.				
R.N.				
L.P.N./L.V.N.				
N.A.				
REHABILITATION THERAPY				
REG. P.T./P.T. AIDES				
REG. O.T./O.T. AIDES				
MENTAL HEALTH: PSYCHOLOGIST				
PSYCHIATRIST				
PSYCHIATRIC SOCIAL WORKER				
COURSELOR				
SPEECH AND AUDIOLOGY				
OPHTHALMOLOGY/OPTOMETRY				
PODIATRY				
RADIOLOGY/LABORATORY				
RECREATION/ACTIVITIES				
DIRECTOR				
ASSISTANTS				
VOLUNTEERS				
CHAPLAIN				
ADMINISTRATION				
ENGINEERING				
MAINTENANCE/HOUSEKEEPING				
MEDICAL RECORDS				
OTHER *(Specify)*				

VA FORM MAY 1998 (PE) 10-3567

SEE REVERSE

NAME OF HOME	DATE OF INSPECTION

NURSING SERVICE STAFFING PATTERN

(Four Week Average)

PART III HOSPITAL *(Average hours Hosp. _____)*

SHIFT	SUNDAY			MONDAY			TUESDAY			WEDNESDAY			THURSDAY			FRIDAY			SATURDAY		
	RN	LPN	NA	RN	LPN	NA	RN	LPN	NA	RN	LPN	NA	RN	LPN	NA	RN	LPN	NA	RN	LPN	NA
DAY																					
EVENING																					
NIGHT																					

PART IV NURSING HOME *(Average hours NHC _____)*

SHIFT	SUNDAY			MONDAY			TUESDAY			WEDNESDAY			THURSDAY			FRIDAY			SATURDAY		
	RN	LPN	NA	RN	LPN	NA	RN	LPN	NA	RN	LPN	NA	RN	LPN	NA	RN	LPN	NA	RN	LPN	NA
DAY																					
EVENING																					
NIGHT																					

PART V DOMICILIARY *(Average hours Dom. _____)*

SHIFT	SUNDAY			MONDAY			TUESDAY			WEDNESDAY			THURSDAY			FRIDAY			SATURDAY		
	RN	LPN	NA	RN	LPN	NA	RN	LPN	NA	RN	LPN	NA	RN	LPN	NA	RN	LPN	NA	RN	LPN	NA
DAY																					
EVENING																					
NIGHT																					

NAME OF HOME	DATE OF INSPECTION

The Paperwork Reduction Act of 1995 requires us to notify you that this information collection is in accordance with the clearance requirements of section 3507 of the Paperwork Reduction Act of 1995. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a valid OMB number. We anticipate that the time expended by all individuals who must complete this form will average 30 minutes. This includes the time it will take to read instructions, gather the necessary facts and fill out the form.

§ 51.221 VA Form 10–5588-State Home Report and Statement of Federal Aid Claimed

OMB Approval No. 2900-0160
Estimated Burden: Avg. 30 min.

Department of Veterans Affairs

STATE HOME REPORT AND STATEMENT OF FEDERAL AID CLAIMED

TO	VA FACILITY	FROM	NAME AND ADDRESS OF STATE HOME
PAY TO			FOR MONTH ENDING

LINE NO.	ITEM		DOMICILIARY (A)	NURSING HOME CARE (B)	HOSPITAL (C)	ADULT DAY HEALTH CARE (D)
1	TOTAL VETERAN RESIDENTS REMAINING AT END OF PRIOR MONTH					
2	GAINS	ADMISSIONS *(Change of status)*				
3	GAINS	ADMISSIONS *(Other)*				
4	GAINS	RETURNS FROM LEAVE OF ABSENCE OF MORE THAN 96 HOURS				
5	LOSSES	DISCHARGES *(Change of status)*				
6	LOSSES	DISCHARGES *(Other)*				
7	LOSSES	DEATHS				
8	LOSSES	LEAVES OF ABSENCE OF MORE THAN 96 HOURS				
9	TOTAL VETERAN RESIDENTS REMAINING AT END OF THE MONTH					
10	TOTAL VETERAN DAYS OF CARE FURNISHED					
11	FEMALE VETERAN RESIDENTS REMAINING AT END OF THE MONTH					
12	NON-VETERAN RESIDENTS REMAINING AT END OF THE MONTH					

MONTHLY STATEMENT OF ACCOUNT

LINE NO.	FEDERAL AID CLAIMED UNDER SEC. 1741, TITLE 38, U.S.C., AS AMENDED	DAYS OF CARE (J)	AVERAGE DAILY CENSUS (K)	TOTAL PER DIEM COST (L)	PER DIEM CLAIMED (M)	TOTAL AMOUNT CLAIMED (N)
13	DOMICILIARY CARE			$	$	$
14	NURSING HOME CARE			$	$	$
15	HOSPITAL CARE			$	$	$
16	ADULT DAY HEALTH CARE			$	$	$
17	TOTAL AMOUNT CLAIMED					$

FOR DEPARTMENT OF VETERANS AFFAIR USE ONLY

RECEIVING REPORT - Services authorized under provisions of Sec. 1741, 1742 and 1743, Title 38, U.S.C., have been rendered in the quantity claimed and payment is recommended except as follows:	SIGNATURE AND TITLE OF STATE HOME COORDINATOR	DATE
	ACCOUNTING CERTIFICATION - AUDIT BLOCK	
	AMOUNT DUE / DATE / VOUCHER AUDITOR	

VA FORM JUL 1998 (RS) 10-5588 PAGE 1

Department of Veterans Affairs

STATE HOME REPORT AND STATEMENT OF FEDERAL AID CLAIMED CONTINUED

I certify that this report is correct, that all residents included in the report were physically present during the period for which Federal aid is claimed, except for authorized absences of 96 hours or less, and that facility management has complied with all provisions of Title VI, Public Law 88-352, entitled Civil Rights Act of 1964.

TOTAL STATE OPERATING BEDS AT END OF THE MONTH

DOMICILIARY CARE	NURSING HOME CARE	HOSPITAL CARE	ADULT DAY HEALTH CARE

BED CAPACITY APPROVED BY VA

DOMICILIARY CARE	NURSING HOME CARE	HOSPITAL CARE	ADULT DAY HEALTH CARE

SIGNATURE OF STATE HOME ADMINISTRATOR	DATE
SIGNATURE OF STATE EMPLOYEE WHEN APPLICABLE	DATE

REMARKS

The Paperwork Reduction Act of 1995 requires us to notify you that this information collection is in accordance with the clearance requirements of section 3507 of the Paperwork Reduction Act of 1995. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a valid OMB number. We anticipate that the time expended by all individuals who must complete this form will average 30 minutes. This includes the time it will take to read instructions, gather the necessary facts and fill out the form.

VA FORM JUL 1998 (RS) 10-5588 PAGE 2

§ 51.222 VA Form 10–10EZ-Application for Health Benefits

OMB Approved No. 2900-xxxx
Expiration Date: Aug. 30 xxxx

Department of Veterans Affairs

APPLICATION FOR HEALTH BENEFITS

SECTION I - GENERAL INFORMATION

1A. TYPE OF BENEFIT(S) APPLIED FOR *(You may check more than one)*
☐ HEALTH SERVICES ☐ NURSING HOME ☐ DOMICILIARY ☐ DENTAL

1B. IF APPLYING FOR HEALTH SERVICES, WHICH VA MEDICAL CENTER OR OUTPATIENT CLINIC DO YOU PREFER

2. VETERAN'S NAME *(Last, First, MI)*	3. OTHER NAMES USED	4. GENDER *(Check one)* ☐ M ☐ F
5. SOCIAL SECURITY NUMBER / 6. CLAIM NUMBER	7. DATE OF BIRTH *(mm/dd/yyyy)* / 8. RELIGION	
9A. CURRENT MAILING ADDRESS *(Street)*	9B. CITY / 9C. STATE / 9D. ZIP	
9E. COUNTY / 10. HOME TELEPHONE NUMBER ( )	11. WORK TELEPHONE NUMBER ( )	
12. CURRENT MARITAL STATUS *(Check one)* ☐ MARRIED ☐ NEVER MARRIED ☐ SEPARATED ☐ WIDOWED ☐ DIVORCED ☐ UNKNOWN		
13A. LAST BRANCH OF SERVICE / 13B. LAST ENTRY DATE / 13C. LAST DISCHARGE DATE / 13D. DISCHARGE TYPE / 13E. MILITARY SERVICE NUMBER		

14. CIRCLE YES OR NO

A. ARE YOU A FORMER PRISONER OF WAR	YES	NO	H. DO YOU HAVE A MILITARY DENTAL INJURY	YES	NO
B. DO YOU HAVE A VA SERVICE-CONNECTED RATING	YES	NO	I. DO YOU HAVE A SPINAL CORD INJURY	YES	NO
B1. IF YES, WHAT IS YOUR RATED PERCENTAGE		%	J. ARE YOU ELIGIBLE FOR MEDICAID	YES	NO
C. ARE YOU RECEIVING A VA PENSION	YES	NO	K. ARE YOU ENROLLED IN MEDICARE HOSPITAL INSURANCE PART A	YES	NO
D. ARE YOU RETIRED FROM THE MILITARY	YES	NO	K1. EFFECTIVE DATE		
D1. WAS YOUR RETIREMENT THE RESULT OF A DISABILITY	YES	NO	L. ARE YOU ENROLLED IN MEDICARE HOSPITAL INSURANCE PART B	YES	NO
D2. WERE YOU REGULARLY RETIRED - 120+ yrs.]	YES	NO	L1. EFFECTIVE DATE		
E. WERE YOU EXPOSED TO TOXINS IN THE GULF WAR	YES	NO	M. MEDICARE CLAIM NUMBER		
F. WERE YOU EXPOSED TO AGENT ORANGE	YES	NO	N. NAME EXACTLY AS IT APPEARS ON YOUR MEDICARE CARD		
G. WERE YOU EXPOSED TO RADIATION	YES	NO			

15A. VETERAN'S EMPLOYMENT STATUS *(Check one)* ☐ NOT EMPLOYED ☐ EMPLOYED ☐ RETIRED / / Date of retirement *If employed or retired, complete item 15B*	15B. COMPANY NAME, ADDRESS AND TELEPHONE NUMBER
16A. SPOUSE'S EMPLOYMENT STATUS *(Check one)* ☐ NOT EMPLOYED ☐ EMPLOYED ☐ RETIRED / / Date of retirement *If employed or retired, complete item 16B*	16B. COMPANY NAME, ADDRESS AND TELEPHONE NUMBER
17A. VETERAN'S HEALTH INSURANCE COMPANY	16A. SPOUSE'S HEALTH INSURANCE COMPANY
17B. NAME OF POLICY HOLDER	16B. NAME OF POLICY HOLDER
17C. POLICY NUMBER / 17D. GROUP CODE	16C. POLICY NUMBER / 16D. GROUP CODE
19A. NAME, ADDRESS AND RELATIONSHIP OF NEXT OF KIN	19B. NEXT OF KIN'S HOME TELEPHONE NUMBER ( ) 19C. NEXT OF KIN'S WORK TELEPHONE NUMBER ( )
20A. NAME, ADDRESS AND RELATIONSHIP OF EMERGENCY CONTACT	20B. EMERGENCY CONTACT'S HOME TELEPHONE NUMBER ( ) 20C. EMERGENCY CONTACT'S WORK TELEPHONE NUMBER ( )

21. I DESIGNATE THE FOLLOWING INDIVIDUAL TO RECEIVE POSSESSION OF ALL MY PERSONAL PROPERTY LEFT ON PREMISES UNDER VA CONTROL AFTER MY DEPARTURE OR AT THE TIME OF MY DEATH. *(Check one) (This does not constitute a will or transfer of title.)*
☐ EMERGENCY CONTACT ☐ NEXT OF KIN

22A. IS NEED FOR CARE DUE TO ON THE JOB INJURY *(Check one)* ☐ YES ☐ NO	22B. IS NEED FOR CARE DUE TO ACCIDENT *(Check one)* ☐ YES ☐ NO

APPLICATION FOR HEALTH BENEFITS, Continued	VETERAN'S NAME	SOCIAL SECURITY NUMBER

SECTION II - FINANCIAL ASSESSMENT

IIA - FINANCIAL DISCLOSURE

You are not required to provide the financial information in this Section. However, current law may require VA to consider your household financial situation to determine your eligibility for enrollment and/or cost-free care of your nonservice-connected (NSC) conditions. If you are 0% SC noncompensable or NSC (and are not an Ex-POW, WWI veteran or VA pensioner) and your annual household income (or combined income and net worth) exceeds the established threshold, you must agree to pay VA co-payments for care of your NSC conditions to be eligible for enrollment. See Section III - Consent and Signature.

☐ **YES,** I WILL PROVIDE SPECIFIC INCOME AND/OR ASSET INFORMATION TO HAVE ELIGIBILITY FOR CARE DETERMINED. *Complete all sections below that apply to you with last calendar year's information. Sign and date the application.*

☐ **NO,** I DO NOT WISH TO PROVIDE MY DETAILED FINANCIAL INFORMATION. *I understand I will be assigned the appropriate enrollment priority based on nondisclosure of my financial information. By checking NO and signing below, I am agreeing to pay the applicable VA co-payment. Sign and date the application.*

IIB - DEPENDENT INFORMATION *(Use a separate sheet for additional dependents)*

1A. SPOUSE'S NAME *(Last, First, MI)*	1B. CHILD'S NAME *(Last, First, MI)*
2A. SPOUSE'S SOCIAL SECURITY NUMBER / 2B. CHILD'S SOCIAL SECURITY NUMBER	3. CHILD'S DATE OF BIRTH *(mm/dd/yyyy)*
4A. SPOUSE'S ADDRESS AND TELEPHONE NUMBER *(Street, City, State, ZIP)*	4B. SPOUSE'S DATE OF BIRTH *(mm/dd/yyyy)*
5A. SPOUSE'S MAIDEN NAME	5B. CHILD'S RELATIONSHIP TO YOU *(Circle one)* Son Daughter Stepson Stepdaughter
6A. DATE OF MARRIAGE *(mm/dd/yyyy)*	6B. DATE CHILD BECAME YOUR DEPENDENT *(mm/dd/yyyy)*
7. IF YOUR SPOUSE OR DEPENDENT CHILD DID NOT LIVE WITH YOU LAST YEAR, ENTER THE AMOUNT YOU CONTRIBUTED TO THEIR SUPPORT SPOUSE $ CHILD $	8. EXPENSES PAID BY YOUR DEPENDENT CHILD FOR COLLEGE, VOCATIONAL REHABILITATION OR TRAINING *(tuition, books, materials, etc.)* $
9. WAS CHILD PERMANENTLY AND TOTALLY DISABLED BEFORE THE AGE OF 18? ☐ YES ☐ NO	10. IF CHILD IS BETWEEN 18 AND 23 YEARS OF AGE, DID CHILD ATTEND SCHOOL LAST CALENDAR YEAR? ☐ YES ☐ NO

IIC - GROSS ANNUAL INCOME OF VETERAN, SPOUSE AND DEPENDENT CHILDREN

	VETERAN	SPOUSE	CHILDREN
1. WHAT WAS YOUR GROSS ANNUAL INCOME FROM EMPLOYMENT *(wages, bonuses, tips, etc.)*, AS WELL AS INCOME FROM YOUR FARM, RANCH, PROPERTY OR BUSINESS	$	$	$
2. LIST OTHER INCOME AMOUNTS *(Social Security, compensation, pension, interest, dividends) Exclude welfare.*	$	$	$
3. WAS INCOME FROM YOUR FARM, RANCH, PROPERTY OR BUSINESS *(If yes, refer to page 2, Section IIC of the instructions.)* ☐ YES ☐ NO			

IID - DEDUCTIBLE EXPENSES

1. NON-REIMBURSED MEDICAL EXPENSES PAID BY YOU OR YOUR SPOUSE *(payments for doctors, dentists, drugs, Medicare, health insurance, hospital and nursing home)*	$
2. AMOUNT YOU PAID LAST CALENDAR YEAR FOR FUNERAL AND BURIAL EXPENSES FOR YOUR DECEASED SPOUSE OR DEPENDENT CHILD *(Also enter spouse or child's information in Section IIB)*	$
3. AMOUNT YOU PAID LAST CALENDAR YEAR FOR YOUR COLLEGE OR VOCATIONAL EDUCATIONAL EXPENSES *(tuition, books, fees, materials, etc.) DO NOT LIST YOUR DEPENDENTS' EDUCATIONAL EXPENSES.*	$

IIE - NET WORTH

	VETERAN	SPOUSE
1. CASH, AMOUNT IN BANK ACCOUNTS *(Checking and savings accounts, certificates of deposit, individual retirement accounts, etc.)*	$	$
2. MARKET VALUE OF LAND AND BUILDINGS MINUS MORTGAGES AND LIENS. *Do not count your primary home. Include value of farm, ranch, or business assets.*	$	$
3. STOCKS AND BONDS AND VALUE OF OTHER PROPERTY OR ASSETS *(art, rare coins, etc.)* MINUS THE AMOUNT YOU OWE ON THESE ITEMS. *Exclude household effects and family vehicles.*	$	$

SECTION III - CONSENT AND SIGNATURE

CO-PAYMENT NOTICE: If you are a 0% service-connected noncompensable or a nonservice-connected veteran (and are not an Ex-POW, WWI veteran or VA pensioner) **and** your household income (or combined income and net worth) exceeds the established threshold, you may be eligible for enrollment only if you agree to pay VA co-payments for treatment of your NSC conditions. By signing this application you are agreeing to pay the applicable VA co-payment if required by law.

I CERTIFY THE FOREGOING STATEMENT(S) ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND ABILITY	DATE *(mm/dd/yyyy)*
SIGN HERE *(Signature of applicant or applicant's representative)*	

THE LAW PROVIDES SEVERE PENALTIES FOR WILLFUL SUBMISSION OF FALSE INFORMATION.

§ 51.223 VA Form 10–10SH-State Home Program Application for Veteran Care Medical Certification

OMB Approval No. 2900-0160
Estimated Burden: Avg. 30 min.

Department of Veterans Affairs

STATE HOME PROGRAM APPLICATION FOR VETERAN CARE MEDICAL CERTIFICATION

PART I - ADMINISTRATIVE

STATE HOME FACILITY	DATE ADMITTED	GENDER ☐ M ☐ F
RESIDENT'S NAME (Last, First, Middle)	SOCIAL SECURITY NUMBER	
RESIDENT'S STREET ADDRESS	AGE	DATE OF BIRTH
CITY, STATE AND ZIP CODE	ADVANCED MEDICAL DIRECTIVE ☐ NO ☐ YES	

PART II - HISTORY AND PHYSICAL *(Use separate sheet if necessary)*

HISTORY

HEIGHT	WEIGHT	TEMP	PULSE	BP	HEAD/EYES/EAR/NOSE AND THROAT
NECK					CARDIOPULMONARY
ABDOMEN					GENITOURINARY
RECTAL					EXTREMITIES
NEUROLOGICAL					ALLERGY/DRUG SENSITIVITY

X-RAY/ LAB	CHEST X-RAY	DATE:	RESULTS	CBC	DATE:	RESULTS
	SEROLOGY					
	URINALYSIS	DATE	ALBUMEN	SUGAR		ACETONE

CHECK ALL BOXES THAT APPLY OR CIRCLE NA

IS DEMENTIA THE PRIMARY DIAGNOSIS	IS THERE A DIAGNOSIS OF MENTAL ILLNESS	HAS RESIDENT RECEIVED MENTAL SERVICES WITHIN THE PAST 2 YEARS	IS CLIENT A DANGER TO SELF OR OTHERS
☐ YES ☐ NO	☐ YES ☐ NO	☐ YES ☐ NO	☐ YES ☐ NO

IS THERE ANY PRESSING EVIDENCE OF MENTAL ILLNESS SUCH AS:
☐ SCHIZOPHRENIA ☐ PARANOIA ☐ OTHER PSYCHOTIC OR MENTAL DISORDERS LEADING TO CHRONIC DISABILITY
☐ MOOD SWINGS ☐ SOMATOFORM DISORDER ☐ PANIC OR SEVERE ANXIETY DISORDER ☐ PERSONALITY DISORDER

OXYGEN					FOLEY CATHETER
☐ MASK	☐ PRN	☐ TUBE FEEDING	☐ DECUBITUS ULCERS		☐ TEMPORARY
☐ NASAL CANULAR	☐ CONTINUOUS	☐ OSTOMY	☐ DRAINING WOUND		☐ PERMANENT
		☐ TRACHOSTOMY	☐ WOUND CULTURED		

REFERRING PHYSICIAN	PRIMARY DIAGNOSIS
SECONDARY DIAGNOSIS	TERTIARY DIAGNOSIS

TYPE OF CARE RECOMMENDED: ☐ SKILLED NURSING HOME CARE ☐ DOMICILIARY CARE ☐ ADULT DAY HEALTH CARE ☐ HOSPITAL

MEDICATION AND TREATMENT ORDERS ON ADMISSION, CONTINUE ON SEPARATE SHEET IF NECESSARY

PRINTED OR TYPED NAME OF PRIMARY PHYSICIAN ASSIGNED	SIGNATURE OF PRIMARY PHYSICIAN ASSIGNED

VA FORM JUL 1998 10-10SH

PAGE 1

STATE HOME PROGRAM APPLICATION FOR VETERAN CARE - MEDICAL CERTIFICATION, CONTINUED

RESIDENT'S NAME (Last, First, Middle)	SOCIAL SECURITY NUMBER

EVALUATION (Circle appropriate number in each category)

COMMUNICATION	1. Transmits messages/receives information 2. Limited ability 3. Nearly or totally unable	SPEECH	1. Speaks clearly with others of same language 2. Limited ability 3. Unable to speak clearly or not at all
HEARING	1. Good 2. Hearing slightly impaired. 3. Limited hearing (e.g.- must speak loudly) 4. Virtually/completely deaf	SIGHT	1. Good 2. Vision adequate - Unable to read/see details 3. Vision limited - Gross object differentiation 4. Blind
TRANSFER	1. No assistance 2. Equipment only 3. Supervision only 4. Requires human transfer w/wo equipment 5. Bedfast	AMBULATION	1. Independence w/wo assistive device 2. Walks with supervision 3. Walks with continuous human support 4. Bed to chair (total help) 5. Bedfast
ENDURANCE	1. Tolerates distances (250 feet sustained activity) 2. Needs intermittent rest 3. Rarely tolerates short activities 4. No tolerance	MENTAL AND BEHAVIOR STATUS	1. Alert 2. Confused 3. Disoriented 4. Comatose 5. Agreeable 6. Disruptive 7. Apathetic 8. Well motivated
TIOLETING	1. No assistance 2. Assistance to and from and transfer 3. Total assistance including personal hygiene, help with clothes A. Bathroom B. Bedside commode C. Bedpan	BATHING	1. No assistance 2. Supervision only 3. Assistance 4. Is bathed A. Tub B. Shower C. Sponge bath
DRESSING	1. Dresses self 2. Minor assistance 3. Needs help to complete dressing 4. Has to be dressed	FEEDING	1. No assistance 2. Minor assistance, needs tray set up only 3. Help feeding/encouraging 4. Is fed
BLADDER CONTROL	1. Continent 2. Rarely incontinent 3. Occasional - once/week or less 4. Frequent - up to once a day 5. Total incontinence 6. Catheter, indwelling	BOWEL CONTROL	1. Continent 2. Rarely incontinent 3. Occasional - once/week or less 4. Frequent, - up to once a day 5. Total incontinence 6. Ostomy
SKIN CONDITION	1. Intact 2. Dry/Fragile 3. Irritations (Rash) 4. Open wound 5. Decubitus Number _____ Stage _____	WHEEL CHAIR USE	1. Independence 2. Assistance in difficult maneuvering 3. Wheels a few feet 4. Unable to use ☐ N.A.

SIGNATURE OF REGISTERED NURSE OR REFERRING PHYSICIAN	DATE

PHYSICAL THERAPY *(To be completed by Physical Therapist or Referring Physician* ☐ NEW REFERRAL ☐ CONTINUATION OF THERAPY

SENSATION IMPAIRED	RESTRICT ACTIVITY	PRECAUTIONS	FREQUENCY OF TREATMENT
☐ YES ☐ NO	☐ YES ☐ NO	☐ CARDIAC ☐ OTHER *Specify*	

TREATMENT GOALS:
☐ STRETCHING ☐ ACTIVE ☐ COORDINATING ACTIVITIES ☐ FULL WEIGHT BEARING ☐ WHEELCHAIR INDEPENDENT
☐ PASSIVE ROM ☐ ACTIVE ASSISTIVE ☐ NON-WEIGHT BEARING ☐ PROGRESS BED TO WHEELCHAIR ☐ COMPLETE AMBULATION
☐ PROGRESSIVE RESISTIVE ☐ PARTIAL WEIGHT BEARING ☐ RECOVERY TO FULL FUNCTION

ADDITIONAL THERAPIES	SIGNATURE OF AND TITLE OF THERAPIST	DATE
☐ O.T. ☐ SPEECH ☐ DIETARY		

SOCIAL WORK ASSESSMENT *(To be completed by Social Worker)*

PRIOR LIVING ARRANGEMENTS	LONG RANGE PLAN	
ADJUSTMENT TO ILLNESS OR DISABILITY	SIGNATURE OF SOCIAL WORKER	DATE

VA AUTHORIZATION FOR PAYMENT

DATE RECEIVED BY VA	ELIGIBILITY FOR PER DIEM PAYMENT	LEVEL OF CARE RECOMMENDED	
	☐ APPROVED ☐ DISAPPROVED	☐ NHC ☐ DOMICILIARY ☐ HOSPITAL ☐ ADHC	
REASON FOR DISAPPROVAL		☐ APPROVED ☐ DISAPPROVED	REASON FOR DISAPPROVAL
SIGNATURE OF VA OFFICIAL	DATE	SIGNATURE OF VA PHYSICIAN	DATE

VA FORM JUL 1998 10-10SH

PAGE 2

§ 51.224 VA Form 10–0143A—Statement of Assurance of Compliance with Section 504 of The Rehabilitation Act of 1973

OMB Number: 2900-0160
Estimated Burden: 5 minutes

Department of Veterans Affairs

STATEMENT OF ASSURANCE OF COMPLIANCE WITH SECTION 504 OF THE REHABILITATION ACT OF 1973

The Paperwork Reduction Act of 1995 requires us to notify you that this information collection is in accordance with the clearance requirements of section 3507 of the Paperwork Reduction Act of 1995. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a valid OMB number. We anticipate that the time expended by all individuals who must complete this form will average 5 minutes. This includes the time it will take to read instructions, gather the necessary facts and fill out the form.

_____ (hereinafter called the "Signatory")
(Name and location of State Veterans Home)

HEREBY AGREES THAT

It will comply with section 504 of the Rehabilitation Act of 1973 (Pub. L. No. 93-112) and all regulations adopted pursuant to such section, for instance, VA Regulations 7800 Series (38 CFR Section 18), to the end that no person in the United States shall, on the ground of handicap, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity of the Signatory receiving Federal financial assistance or other benefits under statues administered by the VA; and HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate the agreement.

If any real property or structure thereon is provided or improved with the aid of the Federal financial assistance extended to the Signatory by the VA, this assurance shall obligate the Signatory, or in the case of transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. In all cases this assurance shall obligate the Signatory for the period during which the Federal financial assistance is extended to any of its programs by the VA.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining Federal financial assistance, including facilities furnished or payments made under Section 1741 of Title 38 USC. Federal financial assistance is understood to include benefits paid directly to the Signatory, and/or benefits paid to a beneficiary contingent upon such beneficiary being enrolled in a program offered by the Signatory.

The Signatory recognizes and agrees that such Federal financial assistance or other benefits will be extended in reliance on the representations and agreements made in this assurance, and that the VA will withhold financial assistance, facilities, or other benefits to ensure fulfillment of this assurance of compliance, and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Signatory, its successors, transferees, and assignees. The person or persons whose signatures appear below are authorized to sign this assurance.

SIGNATURE OF AUTHORIZED OFFICIAL	
TITLE	DATE
MAILING ADDRESS	

VA FORM SEP 1998 (R) 10-0143A REPRODUCE LOCALLY JetForm

§ 51.225 VA Form 10–0143—Department of Veterans Affairs Certification Regarding Drug-Free Workplace Requirements for Grantees Other Than Individuals

OMB Number: 2900-0168
Estimated Burden: 15 minutes

Department of Veterans Affairs

DEPARTMENT OF VETERANS AFFAIRS CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS FOR GRANTEES OTHER THAN INDIVIDUALS

Places of Performance: The grantee shall insert in the space provided below the site(s) for performance of work done in connection with the specific grant (street address, city, county, state, zip code)

ORGANIZATION NAME	GRANT NUMBER OR NAME
NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

VA FORM SEP 1998 (R) 10-0143 REPRODUCE LOCALLY JetForm

§ 51.226 VA Form 10–0144—Certification Regarding Lobbying

OMB Number: 2900-0160
Estimated Burden: 5 minutes

Department of Veterans Affairs

CERTIFICATION REGARDING LOBBYING

The Paperwork Reduction Act of 1995 requires us to notify you that this information collection is in accordance with the clearance requirements of section 3507 of the Paperwork Reduction Act of 1995. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a valid OMB number. We anticipate that the time expended by all individuals who must complete this form will average 5 minutes. This includes the time it will take to read instructions, gather the necessary facts and fill out the form.

This certification is made in compliance with Section 319 of Public Law 101-121; and pursuant to the Interim Final guidance published as part VII of the December 20, 1989, Federal Register (Pages 57306-52332).

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certified, to the best of their knowledge and belief, that the grantee certifies that it will provide a drug-free workplace by:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Forms-LLL, "Disclosure Form to Repot Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31 U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each

SIGNATURE OF CERTIFYING OFFICIAL	DATE
NAME AND TITLE OF CERTIFYING OFFICIAL	PROJECT (FAI NUMBER)
NAME AND ADDRESS OF STATE AGENCY	

VA FORM SEP 1998 (R) 10-0144 REPRODUCE LOCALLY JetForm

§ 51.227 VA Form 10–0144A—Statement of Assurance of Compliance with Equal Opportunity Laws

OMB Number: 2900-0160
Estimated Burden: 5 minutes

Department of Veterans Affairs

STATEMENT OF ASSURANCE OF COMPLIANCE WITH EQUAL OPPORTUNITY LAWS

The Paperwork Reduction Act of 1995 requires us to notify you that this information collection is in accordance with the clearance requirements of section 3507 of the Paperwork Reduction Act of 1995. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a valid OMB number. We anticipate that the time expended by all individuals who must complete this form will average 5 minutes. This includes the time it will take to read instructions, gather the necessary facts and fill out the form.

_____ (hereinafter called the "Signatory")
(Name of Organization, Institution, or Individual)

HEREBY AGREES THAT:

It will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and all Federal regulations adopted to carry out such laws. This assurance is directed to the end that no person in the United States shall, on the ground of race, color, national origin (Title VI), handicap (Section 504), sex (Title IX, in education programs and activities only), or age (Age Discrimination Act) be excluded from participation in , be denied the benefits of, or be subjected to discrimination under any program or activity of the Signatory receiving Federal financial assistance or other benefits under statutes administered by VA (Department of Veteran Affairs), the ED (Department of Education), or any other Federal agency. This assurance applies whether assistance is given directly to the recipient or indirectly through benefits paid to a student, trainee, or other beneficiary because of enrollment or participation in a program of the Signatory.

The Signatory HEREBY GIVES ASSURANCE that it will promptly take measures to effect this agreement.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Signatory or ED, this assurance shall obligate the Signatory, or in the case of transfer of such property any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. In all cases, this assurance shall obligate the Signatory for the period during which the Federal financial assistance is extended to any of its programs by VA, ED or any other Federal agency.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining Federal financial assistance, including facilities furnished or payments made under sections 104 and 244(1) of Title 38, U.S.C. Also, sections 1713, 1720, 1720A, 1741-1743, 2408, 5902(a)(2), 8131-8137, 8151-8156 (formerly 613, 620, 620A, 641-643, 1008, 3402(a)(2), 5031-5037, 5051-5056 respectively) and 38 U.S.C. chapters 30, 31, 32, 35, 36, 82, and 10 U.S.C. chapter 106. Under the terms of an agreement between VA and ED, this assurance also includes Federal financial assistance given by ED through programs administered by that agency. Federal financial assistance is understood to include benefits paid directly to the Signatory and/or benefits paid to a beneficiary contingent upon the beneficiary's enrollment in a program or using services offered by the Signatory.

The Signatory agrees that Federal financial assistance or other benefits will be extended in reliance on the representations and agreements made in this assurance; that VA or ED will withhold financial assistance, facilities, or other benefits to assure compliance with the equal opportunity laws; and that the United States shall have the right to seek judicial enforcement of this assurance.

THIS ASSURANCE is binding on the Signatory, its successors, transferees, and assignees for the period during which assistance is provided. The Signatory assures that all contractors, subcontractors, subgrantees, or others with whom it arranges to provide services or benefits to its students or trainees in connection with the Signatory's programs or services are not discriminating against those students or trainees in violation of the above statutes.

The person whose signature appears below is authorized to sign this assurance.

SIGNATURE OF AUTHORIZED OFFICIAL	DATE
NAME AND TITLE OF AUTHORIZED OFFICIAL	
MAILING ADDRESS OF AUTHORIZED OFFICIAL	

VA FORM SEP 1998 10-0144A REPRODUCE LOCALLY JetForm

[FR Doc. 98–29597 Filed 11–6–98; 8:45 am]
BILLING CODE 8320–01–C

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 210–0103b; FRL–6185–2]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, Sacramento Metropolitan Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is approving revisions to the California State Implementation Plan (SIP). This action is an administrative change which revises the definition of volatile organic compound (VOC) and updates the Exempt Compound list in rules from the Sacramento Metropolitan Air Quality Management District (SMAQMD).

The intended effect of proposing approval of this action is to incorporate changes to the definition of VOC and to update the Exempt Compound list in SMAQMD rules to be consistent with the revised federal and state VOC definitions. EPA is proposing approval of these revisions to be incorporated into the California SIP for the attainment of the national ambient air quality standards (NAAQS) for ozone under title I of the Clean Air Act (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATES: Written comments must be received by December 9, 1998.

ADDRESSES: Comments should be addressed to: Andrew Steckel, Chief, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812

Sacramento Metropolitan Air Quality Management District, 8411 Jackson Rd., Sacramento, CA 95826

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, Rulemaking Office (Air-4), Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1189)

SUPPLEMENTARY INFORMATION: This document concerns Sacramento Metropolitan Air Quality Management District Rule 101, General Provisions and Definitions; Rule 442, Architectural Coatings; Rule 443, Leaks From Synthetic Organic Chemical and Polymer Manufacturing; Rule 447, Organic Liquid Loading; Rule 452, Can Coating; Rule 456, Aerospace Assembly and Component Coating Operations; Rule 458, Large Commercial Bread Bakeries. These rules were submitted to EPA on May 18, 1998 by the California Air Resources Board. For further information, please see the information provided in the direct final action that is located in the rules section of this **Federal Register**.

Dated: October 26, 1998.

Sally Seymour,

Acting Regional Administrator, Region IX.

[FR Doc. 98–29966 Filed 11–6–98; 8:45 am]

BILLING CODE 6560–50–U

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Parts 801, 806, 812, 837, 852, and 873

RIN 2900–AI71

VA Acquisition Regulations: Simplified Acquisition Procedures for Health Care Resources

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs Acquisition Regulations (VAAR) to establish simplified procedures for the competitive acquisition of health-care resources, consisting of commercial services or the use of medical equipment or space, pursuant to 38 U.S.C. 8151–8153. Presently, the VAAR does not contain simplified procedures. In the absence of such procedures, the Department of Veterans Affairs (VA) follows the Federal Acquisition Regulation (FAR) and the current VAAR. Public Law 104–262, the Veterans' Health Care Eligibility Reform Act of 1996, authorized VA to prescribe simplified procedures for the procurement of health-care resources. This proposed rule prescribes those procedures.

DATES: Comments on the proposed rule should be submitted on or before January 8, 1999, to be considered in the formulation of the final rule.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900–AI71." All written comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Dennis Foley, (202) 273–9225, Office of the General Counsel, Professional Staff Group V; or Don Kaliher, (202) 273–8819, Acquisition Resources Service, Office of Acquisition and Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420.

SUPPLEMENTARY INFORMATION: Currently, the acquisition of health-care resources that consist of commercial services or the use of medical equipment or space is governed by the Department of Veterans Affairs Acquisition Regulations (VAAR) and the Federal Acquisition Regulation (FAR). Statutory provisions at 38 U.S.C. 8153 (Pub. L. 104–262) specifically authorize the Secretary of Veterans Affairs, after consultation with the Administrator for Federal Procurement Policy, to establish simplified procedures for the competitive procurement of such health-care resources. VA has consulted with the Administrator for Federal Procurement Policy and VA proposes to establish simplified procedures as set forth in this document.

Under the provisions of the law, procurements under the simplified procedures may be conducted "without regard to any law or regulation that would otherwise require the use of competitive procedures." Accordingly, the competitive procedures of any laws and regulations (including the competitive procedures of FAR and VAAR and their underlying laws) would be superseded by the simplified procedures. However, under the provisions of the law, with certain exceptions, the simplified procedures are required to "permit all responsible sources, as appropriate, to submit a bid, proposal, or quotation (as appropriate) for the resources to be procured and provide for the consideration by the Department of bids, proposals, or quotations so submitted." This allows VA to limit competition to the extent it determines reasonable for the circumstances of each particular acquisition. Consistent with the principles set forth above, this document proposes to establish a new VAAR Part 873 setting forth such simplified procedures.

Under the provisions of 38 U.S.C. 8153, health-care resources consisting of commercial services, the use of medical equipment or space, or research, acquired from an institution affiliated with VA in accordance with 38 U.S.C. 7302, including medical practice groups and other approved entities associated with affiliated institutions (entities will be approved if determined legally to be associated with affiliated institutions), blood banks, organ banks, or research centers, may be procured without regard to any law or regulation that would otherwise require the use of competitive procedures. The provisions at new VAAR Part 873.104 contain a statement explaining this sole source acquisition authority.

Proposed § 873.101, Policy, would provide that the procedures set forth in Part 873 would apply to the acquisition of health-care resources consisting of commercial services or the use of medical equipment or space. These procedures would be used in conjunction with FAR, but VAAR Part 873 would take precedence over FAR and other Parts of VAAR. Currently, VAAR implements and supplements FAR. However, Public Law 104–262 grants VA authority to procure health-care resources consisting of commercial services or the use of medical equipment or space "without regard to any other law or regulation that would require the use of competitive procedures. * * *" Therefore, it is necessary to have Part 873 of VAAR take precedence over FAR and any other part of VAAR.

Proposed § 873.102 would add definitions for "health-care resource," "commercial service," and "health-care providers." These definitions restate provisions of 38 U.S.C. 8152 and 8153. Previously, because of limitations under 38 U.S.C. 8153, procurements of commercial services or the use of medical equipment or space were limited to "specialized medical resources." Consistent with the new definitions, the simplified procedures would govern procurements of commercial services or the use of medical equipment or space.

FAR 8.001(a)(2) sets forth three levels of priority, above the base level, for the acquisition of services. The base level is Federal Prison Industries or commercial sources. Proposed § 873.103 would exempt VA from the provisions of FAR 8.001(a)(2) regarding two of these levels of priority, mandatory and optional use Federal Supply Schedule (FSS) contracts. FSS contracts ensure prices associated with volume buying and should be used, if determined to provide best value, but would not have a higher priority than any other source. It is not proposed to affect the priority status for the acquisition of services available from the Committee for Purchase from People Who Are Blind or Severely Disabled, as required by the Javits-Wagner-O'Day (JWOD) Act. JWOD Act programs offer a valuable source of services for VA and have proved to be highly beneficial for both VA and program participants. The JWOD Act programs support VA's and other Federal Government agencies' procurement needs, and generate employment and training opportunities for people who are blind or have other severe disabilities. It is in the best interest of the Government to continue to support these valuable programs.

Proposed § 873.104, paragraphs (a) and (b), would restate the authority provided in the Act to acquire commercial services or the use of medical equipment or space from entities affiliated with VA, in accordance with 38 U.S.C. 7302, or approved entities associated with an affiliate (entities will be approved if determined legally to be associated with affiliated institutions), on a sole source basis without public notice and without further justification. Proposed § 873.104, paragraph (c), would provide that, on VA acquisitions of commercial services or the use of medical equipment or space from other sources, contracting officers would be required to seek competition to the maximum extent practicable rather than using full and open competition. This is consistent with provisions of the Act which provide that procurements may be conducted without regard to any law or regulation that would otherwise require use of competitive procedures. Competition to the maximum extent practicable is required to ensure that VA's acquisitions of commercial services or the use of medical equipment or space are conducted in an efficient and expeditious manner.

Proposed § 873.104, paragraph (d), restates the requirements of the Act that sole source acquisitions from sources other than affiliates or approved associates of affiliates (entities will be approved if determined legally to be associated with affiliated institutions) be justified and approved.

Proposed § 873.105 would exempt VA acquisitions of commercial services or the use of medical equipment or space from the acquisition planning procedures in FAR Part 7. However, the section emphasizes the indispensable importance of acquisition planning when acquiring health-care resources and imposes a requirement to form a team to assure a comprehensive plan. The proposed section also would impose a requirement on the team to conduct market research. This proposed section is necessary to simplify and streamline the acquisition process.

Proposed § 873.106 would exempt VA acquisitions of commercial services or the use of medical equipment or space from the market research requirements of FAR Part 10 but would provide optional market research techniques tailored specifically for use in acquiring commercial services or the use of medical equipment or space. This information is necessary to simplify market research while ensuring that contracting officers have a full range of techniques available for use in conducting market research when acquiring commercial services or the use of medical equipment or space.

Proposed paragraph (a) of § 873.107 would require acquisitions of commercial services or the use of medical equipment or space to be set aside for small business concerns if, through market research, the contracting officer determines that there is a reasonable expectation that reasonably priced offers would be received from two or more responsible small business concerns. This proposed section would also provide additional authority, over and above that found at FAR 19.502, for waiving the requirement for small business set-asides. FAR 19.502 currently provides that contracting officers can elect to not set aside a procurement if, generally, the contracting officer determines that there is not a reasonable expectation of obtaining offers from two or more responsible small business concerns at fair market prices. Under this proposed new section, in addition to that authority in FAR, the Head of the Contracting Activity would have the authority to approve a waiver from the requirement to set aside any procurement of commercial services or the use of medical equipment or space

based on a determination that it is in the best interest of the Government. Also, this proposed section provides that acquisitions of commercial services or the use of medical equipment or space valued between $2,500 and $100,000 would be exempt from the automatic reservation of acquisitions for small business concerns. These provisions are necessary to ensure that VA can procure commercial services or the use of medical equipment or space from the highest quality sources while still supporting small business concerns to the maximum practicable extent.

The rule would make certain changes to the administration of VA's small business program as it applies to the acquisition of health-care resources to reflect the fast-moving health-care market. For example, proposed paragraph (b) of § 873.107 would establish a streamlined process for handling disagreements between VA and the Small Business Administration regarding whether a procurement should be set aside for small business. These streamlined procedures would not alter VA's ongoing commitment to strong small business participation in its acquisition of health-care resources. Nor would they affect efforts to mitigate any potential negative impacts of contract consolidations on small businesses' ability to secure work. VA's Office of Small and Disadvantaged Business Utilization and Office of Acquisition and Materiel Management would jointly monitor the impact of the new procedures on small business participation to ensure opportunities are available for competitive small businesses.

Paragraph (c) of § 873.107 restates VA's intent to follow the FAR regarding the SBA 8(a) program. Paragraph (d) provides that VA's Office of Small and Disadvantaged Business Utilization and SBA's Office of Industrial Assistance shall serve as ombudsmen to assist VA contracting officers on any issues relating to Certificates of Competency.

FAR 5.101 currently requires, with certain exceptions, that acquisitions with values exceeding $25,000 be announced in the Commerce Business Daily (CBD) for specified periods of time and states what must be included in the announcement. Proposed § 873.108 would exempt VA acquisitions of commercial services or the use of medical equipment or space below $100,000 from this requirement; would modify the requirement for publication of acquisitions above $100,000 to only require public announcement, utilizing a medium designed to obtain competition to the maximum extent practicable; would sat the time requirements for announcement to be a "reasonable time"; and would modify what must be included in the announcement. The medium to be used for announcements could be the CBD, the Internet, or any other means, as appropriate, depending on the complexity of the acquisition. This section also proposes, in accordance with authority provided in the Act, to conduct procurements for commercial services or the use of medical equipment or space without regard to any law or regulation that would otherwise require the use of competitive procedures and to exempt acquisitions from affiliates and entities associated with affiliates and sole source acquisitions from other sources from the requirement for publication of notice in the CBD. These provisions would streamline and simplify VA's acquisitions of commercial services or the use of medical equipment or space.

Proposed paragraphs (a) and (b) of § 873.109 would emphasize that the contracting officer (rather than the team) is the selecting official and would provide simplified guidance to contracting officers on statements of work and specifications. FAR requires certain documentation in contract files. Proposed paragraph (c) would provide simplified documentation requirements to be used in lieu of the FAR requirements. FAR requires specific time frames for announcing solicitations and procurement opportunities to the public and provides, for commercial solicitations, that quotations, bids, or proposals received late shall not be considered. Proposed paragraph (d)(1) would replace FAR announcement time requirements with a "reasonable" time requirement and paragraph (d)(2) would allow the contracting officer to accept late quotations or proposals if late receipt is determined by the contracting officer to be in the best interest of the Government. Late bids received in response to an Invitation for Bid (IFB) would not be considered. FAR provides certain minimum requirements that a contracting officer must meet before a solicitation can be canceled. Proposed paragraph (e) would exempt VA acquisitions of commercial services or the use of medical equipment or space from those minimum requirements and would provide that a contracting officer can cancel a solicitation if cancellation is determined to be in the best interest of the Government. All of these changes are proposed for the purpose of streamlining and simplifying VA's acquisitions of commercial services or the use of medical equipment or space.

Proposed § 873.110, paragraphs (a) through (e), would provide guidance to contracting officers on when to use the provisions and clauses in Part 852 of VAAR in VA acquisitions for commercial services or the use of medical equipment or space. Paragraph (f) would propose to require use of FAR clause 52.207–3, Right of First Refusal, in a solicitation in which current VA employees might be displaced as a result of contract award. This FAR clause ensures that those employees have a right of first refusal to any employment openings created with the contractor as a result of the contract award. This requirement is necessary to protect VA employees and to reduce the cost of contract award by reducing or avoiding unemployment compensation costs.

FAR places certain restrictions on when each type of acquisition procedure can be used. For instance, a request for quotation (RFQ) can be used for non-commercial service acquisitions costing up to $100,000 or for commercial service acquisitions costing up to $5 million. Proposed § 873.111 would remove all such restrictions, allowing use of the RFQ process for any acquisition of commercial services or the use of medical equipment or space, regardless of dollar value. This change is necessary to simplify VA's acquisition of commercial services or the use of medical equipment or space and to provide maximum flexibility to contracting officers.

For non-commercial service acquisitions exceeding the simplified acquisition threshold (SAT) (currently $100,000) or for commercial service acquisitions exceeding $5 million, FAR requires the use of full and open competition unless other statutory authority exists to limit competition. Paragraph (a)(1) of § 873.111 would provide, for acquisitions of commercial services or the use of medical equipment or space using the RFQ process, regardless of the dollar value of the acquisition, that competition to the maximum extent practicable may be used in lieu of full and open competition. FAR provides, for acquisitions below $25,000, that three quotations are considered sufficient to promote competition to the maximum extent practicable. Proposed paragraph (a)(2) would provide, for acquisitions of commercial services or the use of medical equipment or space below the SAT, that two quotations would be considered sufficient to promote competition to the maximum extent practicable. Proposed paragraph (a)(2) would also exempt VA acquisitions of commercial services or the use of medical equipment or space from any dollar value restrictions in FAR on the use of RFQs, allowing VA to use the RFQ process for all acquisitions of commercial services or the use of medical equipment or space, regardless of the dollar value of the procurement. These changes are necessary to simplify and streamline VA's acquisition of commercial services or the use of medical equipment or space by allowing use of the RFQ process in any circumstance.

Proposed paragraph (b) of § 873.111 would provide that the procedures of FAR Part 14 would be used for VA sealed bid acquisitions of commercial services or the use of medical equipment or space. Proposed paragraph (c) of § 873.111 would provide that the negotiation procedures of FAR Parts 12, 13, and 15 would be used for negotiated acquisitions of commercial services or the use of medical equipment or space, except as modified in VAAR Part 873. These two paragraphs are informational only.

Proposed paragraph (d) of § 873.111 would provide an alternative negotiation procedure using a multiphase negotiation technique. This will supersede current FAR provisions for an advisory multi-step process that does not allow the Government to exclude offerors that are unlikely to be viable competitors. Multiphase acquisitions may be appropriate when the submission of full proposals at the beginning of an acquisition would be burdensome for offerors to prepare and for Government personnel to evaluate. Under a multiphase acquisition, VA would seek limited information on vendors' first submissions, make one or more down-selects based on the initial information, and request full proposals from the offerors remaining. This technique would ensure that only those firms most likely to receive awards would be required to expend the time and effort to prepare a full proposal. It would simplify and streamline the acquisition process and would save both vendors and the Government time and money.

Proposed paragraph (e) of § 873.111 would provide two additional alternative negotiation techniques, neither of which are currently provided for in FAR, for use by VA in acquiring commercial services or the use of medical equipment or space. The first technique would allow the contracting officer to indicate to all offerors, or to one or more offerors, a price, contract term or condition, commercially available feature, or other requirement that the offeror or offerors will have to improve upon or meet, as appropriate, in order to remain competitive. The second technique would allow contracting officers to post prices received on offers electronically or otherwise, without disclosing the identity of the offerors, and allow offerors to revise their prices based on the posted information. These procedures are necessary to assist contracting officers in procuring the highest quality health-care services at best value prices.

Proposed § 873.112 sets forth the evaluation requirements that VA contracting officers must place in solicitations. Currently, FAR has rigid requirements that evaluation factors and subfactors, as appropriate, be spelled out in a solicitation. In particular, there is a requirement, over certain dollar thresholds, to include vendor past performance as an evaluation factor. The contracting officer must document the reasons why past performance would not be included in an evaluation. This proposed section relieves contracting officers from these rigid requirements and allows them the flexibility to fashion their own acquisition-specific evaluation scheme with whatever information they deem to be in the best interest of the Government. However, this proposed section retains the requirement from FAR that price or cost to the Government still must be included in any evaluation.

Proposed § 873.113 sets forth a new standard for exchanges with offerors in negotiated acquisitions. Currently, under FAR, any contact with a vendor about the vendor's proposal that goes to the substance of the offer constitutes "discussions." This causes a set of rules to go into effect, including a requirement that the Government hold "discussions" with every offeror, even if there is no need for discussions with those other offerors. Less important contact is referred to as "clarification" under existing rules. Moreover, there is another category called "communications" which goes to establishment of a competitive range. Under proposed § 873.113, the Government can have contact, called "exchanges," at any time with any vendor, as required. However, as with the current regulations, the Government cannot improperly disclose information contained in another offeror's proposal (except see proposed at § 873.111(e), Alternative negotiation techniques).

Proposed § 873.114 sets forth a new concept of the "best value pool." This is the "pool" of offeror(s) that, after initial evaluation, have the most highly rated proposals with the greatest likelihood of award. Although this is similar in concept to the "competitive range" of current regulation, the differences are that the contracting officer may limit the best value pool to a specific number of offerors among which an efficient competition can be conducted. Under the existing rules, the Government must consider every offeror that is acceptable or capable of being made acceptable. Therefore, the Government is forced to keep any number of marginal proposals in the competition even though they may have little real chance of securing an award. This proposed rule would eliminate this requirement and simplify the procurement process for both VA and vendors.

Proposed § 873.115 sets forth new procedures governing proposal revisions. Currently, once a "competitive range" has been developed, all offerors therein must be given a chance to revise their proposals. All revisions must be requested and received at the same time. Finally, at the close of "discussions," all offerors remaining in the competition must be requested to submit a "best and final offer." Under this proposed section, contracting officers may request proposal revisions as often as needed during the acquisition process. There is no need to have a common cutoff for submission of these revisions. Moreover, there is no need for a requirement to request a "best and final offer" from each and every offeror in every acquisition. The proposed section ensures that proposal submissions will be safeguarded against improper disclosures.

Proposed § 873.116 would provide guidance to contracting officers on source selection. FAR 15.308 contains specific requirements for documenting the source selection decision. This proposed section provides a less onerous procedure for documenting source selection than is described in FAR at 15.308.

Proposed § 873.117 would provide additional guidance to contracting officers on contract award, over and above that contained in FAR at 15.504, specifically on the differences between awarding RFQs and requests for proposals.

FAR 15.505 currently requires the contracting officer to provide a preaward debriefing if a written request for a debriefing is received from the offeror no later than 3 days after receipt by the offeror of notice of exclusion from the competitive range. Proposed § 873.118 would make preaward debriefings optional on the part of the contracting officer when determined to be in the best interest of the Government. This is necessary to

simplify and streamline the acquisition process.

Miscellaneous Changes

Currently, VAAR 801.602–70(a)(4) provides that proposed contracts for the mutual use or exchange of use of "specialized medical resources" above specified dollar thresholds be submitted to VA Central Office for review. This proposed rule would revise the term "specialized medical resources" to "health-care resources" pursuant to 38 U.S.C. 8152. The review threshold levels specified in VAAR have been changed by class deviation in accordance with 801.404. This document proposes to incorporate that class deviation and to raise the review thresholds. This is necessary to allow streamlined and expedited processing of proposed contracts and to reduce the administrative burden on contracting officers.

This proposed rule would make minor editorial changes to 801.602–71 and 801.601–72 to correspond with the new language used in this proposed rule.

VAAR 806.302–5(b) currently provides that contracts for the mutual use or exchange of use of specialized medical resources to be acquired from health-care facilities are approved for other than full and open competition, but requires justification and approval in accordance with FAR 6.303 and VAAR 806.303. Section 301 of Public Law 104–262 revised 38 U.S.C. 8153(a)(3)(A), restricting and modifying this authority. Under this new authority, only those acquisitions of health-care resources consisting of commercial services, the use of medical equipment or space, or research, to be acquired from institutions affiliated with the Department in accordance with 38 U.S.C. 7302, from medical practice groups and other approved entities associated with affiliated institutions (entities will be approved if determined legally to be associated with affiliated institutions), or from blood banks, organ banks, or research centers, are approved for other than full and open competition. However, justification and approval is not required for contracts with these entities. This rule proposes to revise 806.302–5, paragraph (b), to incorporate this new authority into VAAR.

In addition, § 301 of Public Law 104–262 revised 38 U.S.C. 8153(a)(3)(B)(i) to provide that contracts for the acquisition of commercial services or the use of medical equipment or space, not procured from affiliated institutions or approved entities associated with affiliated institutions (entities will be approved if determined legally to be associated with affiliated institutions), may be procured without regard to any law or regulation that would otherwise require the use of competitive procedures, provided the procurement is conducted in accordance with the simplified procedures proposed in this rule. Public Law 104–262 revised 38 U.S.C. 8153(a)(3)(B)(ii) to require that such acquisitions permit all responsible sources, as appropriate, to submit a bid, proposal, or quotation (as appropriate) and revised 38 U.S.C. 8153(a)(3)(D) to require that such acquisitions, if conducted on a sole source basis, shall be justified and approved. This rule proposes to renumber current 806.302–5, paragraph (c), as paragraph (d) and to add new paragraph (c) to incorporate these new authorities into VAAR.

Currently, VAAR Part 812 addresses the acquisition of commercial services. This rule proposes to list the Part 52.273 clauses contained herein in Part 812 for use in commercial service acquisitions, as authorized by FAR 12.301(f). This action is necessary, and is proposed based on the reasons set forth below, to permit use of these Part 52.873 clauses in VA's commercial service acquisitions.

This rule proposes to add VAAR clause 852.237–7, Indemnification and Medical Liability Insurance, as shown below in full text, to § 812.302(f) for use in VA commercial service solicitations and contracts issued under the authority of 38 U.S.C. 8151–8153. VAAR clause 852.237–7 is currently set forth in 48 CFR Part 852. VA acquisitions under the authority of 38 U.S.C. 8151–8153 are considered to be for commercial services and clause 852.237–7 is necessary for use in such acquisitions to ensure that VA contractors providing nonpersonal health-care services have adequate medical liability insurance. This insurance is required to protect both VA and veterans from medical malpractice.

Indemnification and Medical Liability Insurance (Oct 1996)

(a) It is expressly agreed and understood that this is a nonpersonal services contract, as defined in Federal Acquisition Regulation (FAR) 37.101, under which the professional services rendered by the Contractor or its health-care providers are rendered in its capacity as an independent contractor. The Government may evaluate the quality of professional and administrative services provided but retains no control over professional aspects of the services rendered, including by example, the Contractor's or its health-care providers' professional medical judgment, diagnosis, or specific medical treatments. The Contractor and its health-care providers shall be liable for their liability-producing acts or omissions. The Contractor shall maintain or require all health-care providers performing under this contract to maintain, during the term of this contract, professional liability insurance issued by a responsible insurance carrier of not less than the following amount(s) per specialty per occurrence: [*Contracting Officer insert the dollar amount value(s) of standard coverage(s) prevailing within the local community as to the specific medical specialty, or specialties, concerned, or such higher amount as the Contracting Officer deems necessary to protect the Government's interests*].

However, if the Contractor is an entity or a subdivision of a State that either provides for self-insurance or limits the liability or the amount of insurance purchased by State entities, then the insurance requirement of this contract shall be fulfilled by incorporating the provisions of the applicable State law.

(b) An apparently successful offeror, upon request of the Contracting Officer, shall, prior to contract award, furnish evidence of the insurability of the offeror and/or of all health-care providers who will perform under this contract. The submission shall provide evidence of insurability concerning the medical liability insurance required by paragraph (a) of this clause or the provisions of State law as to self-insurance, or limitations on liability or insurance.

(c) The Contractor shall, prior to commencement of services under the contract, provide to the Contracting Officer Certificates of Insurance or insurance policies evidencing the required insurance coverage and an endorsement stating that any cancellation or material change adversely affecting the Government's interest shall not be effective until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer. Certificates or policies shall be provided for the Contractor and/or each health-care provider who will perform under this contract.

(d) The Contractor shall notify the Contracting Officer if it, or any of the health-care providers performing under this contract, change insurance providers during the performance period of this contract. The notification shall provide evidence that the Contractor and/or health-care providers will meet all the requirements of this clause, including those concerning liability insurance and endorsements. These requirements may be met either under the new policy, or a combination of old and new policies, if applicable.

(e) The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts for health-care services under this contract. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraph (a) of this clause.

(End of Clause)

VAAR 837.403 currently requires the use of the above clause 852.237–7, Indemnification and Medical Liability Insurance, in lieu of FAR clause 52.237–7, in solicitations and contracts for nonpersonal health-care services. This rule proposes to clarify at 837.403 that this same VAAR clause must also be used in solicitations and contracts for nonpersonal health-care services awarded under the authority of 38 U.S.C. 8151–8153 and VAAR Part 873. The clause is necessary for use in VA solicitations and contracts to ensure that VA contractors providing nonpersonal health-care services have adequate medical liability insurance. This insurance is required to protect both VA and veterans from medical malpractice.

VAAR Part 852 does not currently contain any provisions specifically relating to the acquisition of commercial services under the simplified acquisition authority of 38 U.S.C. 8151–8153. This rule proposed to add four provisions to the VAAR, as set forth herein in Part 852. The following is an explanation of these proposed provisions.

The proposed provision at 852.273–70, Late offers, would replace paragraph (f) of FAR provision 52.212–1 in acquisitions for commercial services conducted in accordance with VAAR Part 873. Paragraph (f) of FAR provision 52.212–1 currently provides that offers or modifications of offers received after the exact time specified in the solicitation for receipt of offers will not be considered. VAAR provision 852.273–70 proposes to allow consideration of quotations, proposals, or modifications of proposals received after the time set forth in the request for quotations or request for proposals at the discretion of the contracting officer, if determined to be in the best interest of the Government. This will ensure that VA will be able to accept the best offer submitted on a solicitation, even if that offer is received after the time set forth in the solicitation.

Neither FAR nor VAAR currently contains provisions allowing alternative negotiation techniques. The provision at 852.273–71, Alternative negotiation techniques, proposes to allow the use of the alternative negotiation techniques set forth at 873.111(e). The techniques listed therein include (1) allowing the contracting officer to indicate to an offeror how the offeror must improve its offer in order to be considered for award and (2) allowing the contracting officer to post prices and permit revisions of offers based on that information. We believe these alternative negotiation techniques will allow VA to conduct acquisitions on a basis more in line with commercial practices and will result in the acquisition of improved services at reduced prices.

The proposed provision at 852.273–72, Alternative evaluation, would implement the provision at 852.273–71, Alternative negotiation techniques, by advising offerors how prices would be posted and by providing guidance to offerors on how to submit offers. In addition, this proposed provision would advise offerors on how options would be evaluated, i.e., by adding the total price of all options to the total price for the basic requirement. It would also advise offerors that the Government is not obligated to exercise the options. The "options" paragraph is included in this proposed provision because this provision might be used alone, without a separate "options" provision.

The proposed provision at 852.273–73, Evaluation—health-care resources, would replace FAR provision 52.212–2 in acquisitions for commercial services conducted in accordance with VAAR Part 873. FAR provision 52.212–2 provides guidance to offerors on what factors the Government will use to evaluate offers and on how those factors are weighted. Under proposed VAAR 873, VA would not be required to use factors to evaluate offers. Rather, VA would include information in the solicitation on how offers will be evaluated. In addition, VA would not be required to state how the evaluation information is weighted. This proposed provision is written to replace FAR 52.212–2 with these authorities in mind. Also, paragraph (c) has been drafted to clarify that notice of acceptance of an offer will create a binding contract if the solicitation is a request for proposals. If the solicitation is a request for quotations, that would not be the case, as notice of acceptance would not create a binding contract.

Provision at 852.273–74, Award without exchanges, is proposed to be added to VAAR to advise offerors that VA intends to evaluate proposals and award a contract without exchanges with offerors. This provision is necessary in order to avoid any misunderstanding regarding award and to help ensure that offerors provide their best prices and terms with their initial offer.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), collections of information are contained in clause 852.237–7, Indemnification and Medical Liability Insurance, as set forth in the Supplementary Information portion of this proposed rule. Although this document proposes to add this clause for commercial item solicitations and contracts, this Paperwork Reduction Act notice of this document seeks approval for collections of information for both commercial and non-commercial item and service contracts for this clause. The clause can be used in both commercial and non-commercial item and service solicitations and contracts. As required under § 3507(d) of the Act, VA has submitted a copy of this proposed rulemaking action to the Office of Management and Budget (OMB) for its review of the collection of information.

OMB assigns control numbers to collections of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments on the collection of information should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900–AI71."

Title and Provision/Clause Number: Clause 852.237–7, Indemnification and Medical Liability Insurance.

Summary of collection of information: This clause is used in solicitations for nonpersonal health-care services in lieu of FAR clause 52.237–7. It requires the apparent successful bidder/offeror, prior to contract award, to furnish evidence that the firm possesses the types and amounts of insurance required by the solicitation and to notify the contracting officer if there are any changes in the firm's insurance coverage during the contract period. Prior to award, this evidence is in the form of a certificate from the firm's insurance company. After award, it is in the form of a letter or other correspondence, plus additional certificates.

Description of need for information and proposed use of information: The information is required to protect VA by ensuring that the firm to which award will be made possesses the types and amounts of insurance required by the solicitation. It helps ensure that VA will not be held liable for any negligent acts of the contractor and ensures that VA beneficiaries and the public are protected by adequate insurance coverage.

Description of likely respondents: Apparent successful bidders/offerors on solicitations for nonpersonal health-care services.

Estimated number of respondents: 10,000.

Estimated frequency of responses: Once for each contract awarded, plus once each time a contractor changes its insurance coverage.

Estimated average burden per collection: 30 minutes.

Estimated total annual reporting and recordkeeping burden: 5000 hours.

The Department considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the proposed collection of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulation.

Regulatory Flexibility Act

The Secretary hereby certifies that the adoption of this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. This proposed rule would establish simplified procedures for the acquisition of health-care resources by VA. Costs, if any, to comply with the provisions of the proposed rule would be minimal. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of §§ 603 and 604.

List of Subjects

48 CFR Parts 801 and 852

Government Procurement, Reporting and recordkeeping requirements.

48 CFR Parts 806, 812, 837, and 873

Government Procurement.

Approved: November 2, 1998.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 48 CFR chapter 8 is proposed to be amended as follows:

PART 801—VETERANS AFFAIRS ACQUISITION REGULATIONS SYSTEM

1. The authority citations for Part 801 continues to read as follows:

Authority: 38 U.S.C. 501 and 40 U.S.C. 486(c).

801.602–70 [Amended]

2. In § 801.602–70, paragraphs (a)(4)(vi) and (a)(4)(vii) are proposed to be revised to read as follows:

801.602–70 Legal/technical review requirements to be met prior to contract execution.

(a) * * *

(4) * * *

(vi) Except as specified in paragraph (a)(4)(vii), competitive contracts exceeding $1.5 million and noncompetitive contracts exceeding $500,000 for scarce medical specialist services negotiated under the authority of 38 U.S.C. 7409 or for health-care resources acquired under the authority of Part 873 and 38 U.S.C. 8151–8153.

(vii) Any contract or agreement negotiated under the authority of 38 U.S.C. 8151–8153 for VA to provide inpatient services, administrative resources, the use of medical equipment or space, prosthetics, supplies, or laundry services.

* * * * *

3. In § 801.602–71, paragraph (b)(2) is proposed to be revised to read as follows:

801.602–71 Processing contracts for legal/technical review.

* * * * *

(b) * * *

(2) Proposed contracts and agreements for scarce medical specialist services or for the mutual use or exchange of use of health-care resources, as specified in 801.602–70(a)(4)(vi) and (a)(4)(vii), will be forwarded to Central Office in accordance with VHA Directive 97–015 and VA Manual M–1, Part 1, Chapter 34, for review and submission to the Office of the General Counsel (025).

* * * * *

4. In § 801.602–72, paragraph (b) is proposed to be revised to read as follows:

801.602–72 Documents to be submitted for legal review.

* * * * *

(b) For proposed contracts and agreements for scarce medical specialist services or for the mutual use or exchange of use of health-care resources, as specified in 801.602–70(a)(4)(vi) and (a)(4)(vii), the documents referred to in VA Manual M–1, Part 1, Chapter 34.

* * * * *

PART 806—COMPETITION REQUIREMENTS

5. The authority citations for Part 806 continues to read as follows:

Authority: 38 U.S.C. 501 and 40 U.S.C. 486(c).

6. In § 806.302–5, paragraph (b) is proposed to be revised to read as follows:

806.302–5 Authorized or required by statute.

* * * * *

(b) Contracts or agreements for the mutual use or exchange of use of health-care resources, consisting of commercial services, the use of medical equipment or space, or research, negotiated under the authority of 38 U.S.C. 8151–8153, are approved for other than full and open competition only when such contracts or agreements are with institutions affiliated with the Department of Veterans Affairs, pursuant to 38 U.S.C. 7302, with medical practice groups or other approved entities associated with affiliated institutions (entities will be approved if determined legally to be associated with affiliated institutions), or with blood banks, organ banks, or research centers. The justification and approval requirements of FAR 6.303 and VAAR 806.304 do not apply to such contracts or agreements.

* * * * *

7. In § 806.302–5, paragraph (c) is proposed to be redesignated as paragraph (d) and a new paragraph (c) is proposed to be added to read as follows:

806.302–5 Authorized or required by statute.

* * * * *

(c) Contracts or agreements for the mutual use or exchange of use of health-care resources, consisting of commercial services or the use of medical equipment or space, negotiated under the authority of 38 U.S.C. 8151–8153, and not acquired under the authority of paragraph (b) of this section, may be conducted without regard to any law or regulation that would otherwise require the use of competitive procedures for procuring resources, provided the procurement is conducted in accordance with the simplified procedures contained in part 873. The justification and approval requirements of FAR 6.303 and VAAR 806.304 shall apply to such contracts or agreements conducted on a sole source basis.

* * * * *

PART 812—ACQUISITION OF COMMERCIAL ITEMS

8. The authority citations for Part 812 continues to read as follows:

Authority: 38 U.S.C. 501 and 40 U.S.C. 486(c).

812.301 [Amended]

9. In § 812.301, paragraph (g) is proposed to be added to read as follows:

812.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

* * * * *

(g) When soliciting for commercial services or the use of medical equipment or space under the authority of part 873 and 38 U.S.C. 8151–8153, the provisions and clauses in the following VAAR sections may be used in accordance with the prescriptions contained in parts 837 and 873:

(1) 852.237–7, Indemnification and Medical Liability Insurance.

(2) 852.273–70, Late offers.

(3) 852.273–71, Alternative negotiation techniques.

(4) 852.273–72, Alternative evaluation.

(5) 852.273–73, Evaluation—health-care resources.

(6) 852.273–74, Award without exchanges.

PART 837—SERVICE CONTRACTING

10. The authority citations for Part 837 continues to read as follows:

Authority: 38 U.S.C. 501 and 40 U.S.C. 486(c).

837.403 [Amended]

11. Section 837.403 is proposed to be amended by adding, at the end of the first sentence, ", including solicitations and contracts for nonpersonal health-care services awarded under the authority of 38 U.S.C. 8151–8153 and VAAR Part 873".

PART 852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

12. The authority citations for Part 852 continues to read as follows:

Authority: 38 U.S.C. 501 and 40 U.S.C. 486(c).

13. Section 852.273–70 is proposed to be added to read as follows:

852.273–70 Late offers.

As prescribed in 873.110(a), insert the following provision:

Late Offers (Date)

This provision replaces paragraph (f) of FAR Provision 52.212–1. Offers or modifications of offers received after the time set forth in a request for quotations or request for proposals may be considered, at the discretion of the contracting officer, if determined to be in the best interest of the Government. Late bids submitted in response to an Invitation for Bid (IFB) will not be considered.

(End of provision)

14. Section 852.273–71 is added to read as follows:

852.273–71 Alternative negotiation techniques.

As prescribed in 873.110(b), insert the following provision:

Alternative Negotiation Techniques (Date)

The contracting officer may elect to use the alternative negotiation techniques described in section 873.111(e) in conducting this procurement. If used, offerors may respond by maintaining offers as originally submitted, revising offers, or submitting an alternative offer. The Government may consider initial offers unless revised or withdrawn, revised offers, and alternative offers in making the award. Revising an offer does not guarantee an offeror an award.

(End of provision)

15. Section 852.273–72 is added to read as follows:

852.273–72 Alternative evaluation.

As prescribed in 873.110(c), insert the following provision:

Alternative Evaluation (Date)

(a) The Government will award a contract resulting from this solicitation to the responsible offeror submitting the lowest priced offer that conforms to the solicitation. During the specified period for receipt of offers, the amount of the lowest offer will be posted and may be viewed by—[*Contracting officer insert description of how the information may be viewed electronically or otherwise*]. Offerors may revise offers anytime during the specified period. At the end of the specified time period for receipt of offers, the responsible offeror submitting the lowest priced offer will be in line for award.

(b) Except when it is determined not to be in the Government's best interest, the Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are materially unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

(End of provision)

16. Section 852.273–73 is added to read as follows:

852.273–73 Evaluation—health-care resources.

As prescribed in 873.110(d), in lieu of FAR provision 52.212–2, the contracting officer may insert a provision substantially as follows:

Evaluation—Health-Care Resources (Date)

(a) The Government will award a contract resulting from this solicitation to the responsible offeror whose offer, conforming to the solicitation, will be most advantageous to the Government, price and other factors considered. The following information or factors shall be used to evaluate offers: [*Contracting officer insert evaluation information or factors, such as technical capability to meet the Government's requirements, past performance, or such other evaluation information or factors as the contracting officer deems necessary to evaluate offers. Price shall be evaluated in every acquisition. The contracting officer may include the evaluation information or factors in their relative order of importance, such as in descending order of importance.*]

(b) Except when it is determined not to be in the Government's best interest, the Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are materially unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

(c) If this solicitation is a Request for Proposals (RFP), a written notice of award or acceptance of an offer, mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

(End of Provision)

17. Section 852.273–74 is added to read as follows:

852.273–74 Award without exchanges.

As prescribed in 873.110(e), insert the following provision:

Award Without Exchanges (Date)

The Government intends to evaluate proposals and award a contract without exchanges with offerors. Therefore, each initial offer should contain the offeror's best terms from a cost or price and technical standpoint. However, the Government reserves the right to conduct exchanges if later determined by the contracting officer to be necessary.

(End of provision)

18. Part 873 is added to read as follows:

PART 873—SIMPLIFIED ACQUISITION PROCEDURES FOR HEALTH-CARE RESOURCES

Sec.

873.101 Policy.
873.102 Definitions.
873.103 Priority sources.
873.104 Competition requirements.
873.105 Acquisition planning.
873.106 Presolicitation exchanges with industry.
873.107 Socioeconomic programs.
873.108 Publicizing contract actions.
873.109 General requirements for acquisition of health-care resources.
873.110 Solicitation provisions.
873.111 Acquisition strategies for health-care resources.
873.112 Evaluation information.
873.113 Exchanges with offerors.
873.114 Best value pool.
873.115 Proposal revisions.
873.116 Source selection decision.
873.117 Award to successful offeror.
873.118 Debriefings.

Authority: 38 U.S.C. 8151–8153.

873.101 Policy.

The simplified acquisition procedures set forth in this VAAR part apply to the acquisition of health-care resources consisting of commercial services or the use of medical equipment or space. These procedures shall be used in conjunction with the Federal Acquisition Regulation (FAR). However, when a policy or procedure in FAR or another part of VAAR is inconsistent with the procedures contained in this part, this part shall take precedence. These procedures contain more flexibility than provided in FAR or elsewhere in VAAR.

873.102 Definitions.

Commercial service means a service, except construction exceeding $2,000, that is offered and sold competitively in the commercial marketplace, is performed under standard commercial terms and conditions, and is procured using firm-fixed price contracts.

Health-care providers includes health-care plans and insurers and any organizations, institutions, or other entities or individuals who furnish health-care resources.

Health-care resource includes hospital care and medical services (as those terms are defined in § 1701 of title 38 United States Code (U.S.C.)), any other health-care service, and any health-care support or administrative resource, including the use of medical equipment or space.

873.103 Priority sources.

Without regard to FAR 8.001(a)(2), except for the acquisition of services available from the Committee for Purchase From People Who Are Blind or Severely Disabled, pursuant to the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) and FAR Subpart 8.7, there are no priority sources for the acquisition of health-care resources consisting of commercial services or the use of medical equipment or space.

873.104 Competition requirements.

(a) Without regard to FAR Part 6, if the health-care resource required is a commercial service, the use of medical equipment or space, or research, and is to be acquired from an institution affiliated with the Department in accordance with § 7302 of title 38 U.S.C., including medical practice groups and other approved entities associated with affiliated institutions (entities will be approved if determined legally to be associated with affiliated institutions), or from blood banks, organ banks, or research centers, the resource may be acquired on a sole source basis.

(b) Acquisition of health-care resources identified in paragraph (a) are not required to be publicized as otherwise required by § 873.108 or FAR 5.101. In addition, written justification, as otherwise set forth in § 303(f) of the Federal Property and Administration Services Act of 1949 (41 U.S.C. 253(f)) and FAR Part 6, is not required.

(c) Without regard to FAR 6.101, if the health-care resource required is a commercial service or the use of medical equipment or space, and is to be acquired from an entity not described in paragraph (a) of this section, contracting officers shall seek competition to the maximum extent practicable and shall permit all responsible sources, as appropriate under the provisions of this part, to submit a bid, proposal or quotation (as appropriate) for the resources to be procured and provide for the consideration by the Department of bids, proposals, or quotations so submitted.

(d) Without regard to FAR 5.101, acquisition of health-care resources identified in paragraph (c) of this section shall be publicized as otherwise required by § 873.108. Moreover, for any such acquisition described in paragraph (c) of this section to be conducted on a sole source basis, the contracting officer must prepare a justification that includes the information and is approved at the levels prescribed in § 303(f) of the Federal Property and Administration Services Act of 1949 (41 U.S.C. 253(f)) and FAR Part 6.

873.105 Acquisition planning.

(a) This section shall be used in lieu of FAR Part 7. Acquisition planning is an indispensable component of the total acquisition process. Acquisition planning may involve identifying requirements, available funding, and sources, and development of a statement or description of work, a Government estimate, and/or evaluation information.

(b) Within VA and for the acquisition of health-care resources consisting of commercial services or the use of medical equipment or space, an acquisition team shall be assembled. The team shall be tailored by the contracting officer for each particular acquisition and include the appropriate mix of contracting, fiscal, legal, administrative, and technical personnel, the small business advocate representing the contracting activity or a higher level designee, an SBA Procurement Center Representative, if available, and such other expertise to assure a comprehensive acquisition plan.

(c) Prior to determining whether a requirement is suitable for acquisition using these simplified acquisition procedures, the acquisition team shall conduct market research to identify interested businesses. It is the responsibility of the contracting officer to ensure the requirement is appropriately publicized and information about the procurement opportunity is adequately disseminated as set forth in § 873.108.

873.106 Presolicitation exchanges with industry.

(a) This section shall be used in lieu of FAR Part 10. In conducting market research, exchange of information by all interested parties involved in an acquisition, from the earliest identification of a requirement through release of the solicitation, is encouraged. Interested parties include potential offerors, end users, Government acquisition and support personnel, and

others involved in the conduct or outcome of the acquisition. The nature and extent of presolicitation exchanges between the Government and industry shall be a matter of the acquisition team's discretion, as coordinated by the contracting officer.

(b) Techniques to promote early exchange of information include—

(1) Industry or small business conferences;

(2) Public hearings;

(3) Market research;

(4) One-on-one meetings with potential offerors;

(5) Presolicitation notices;

(6) Draft Requests for Proposals (RFPs);

(7) Requests for Information (RFIs);

(8) Presolicitation or preproposal conferences;

(9) Site visits;

(10) Electronic notices (e.g., Internet); and

(11) Use of the Procurement Marketing and Access Network (PRO–NET).

873.107 Socioeconomic programs.

(a) *Implementation.* This paragraph provides additional authority, over and above that found at FAR 19.502, to waive small business set-asides. If, through market research, there is reasonable expectation that reasonably priced bids, proposals, or quotations will be received from two or more responsible small businesses, a requirement for health-care resources shall be reserved for small business participation. The Head of the Contracting Activity may approve a waiver from the requirement for any set-aside for small business participation when it is determined to be in the best interest of the Government. For acquisitions between $2,500 and $100,000, the automatic reservation for small business concerns, as provided in FAR 19.502–2(a), is not applicable.

(b) *Rejecting Small Business Administration (SBA) Recommendations.* (1) HCA's shall consider and respond to a recommendation from an SBA representative to set a procurement aside for small business within 5 working days. If the recommendation is rejected by the HCA and if SBA intends to appeal that determination, SBA shall, within 1 working day after receipt of the HCA's determination, notify the contracting officer of SBA's intention to appeal.

(2) Upon receipt of the notification of SBA's intention to appeal and pending issuance of a final appeal decision to SBA, the contracting officer shall suspend action on the acquisition unless a determination is made in writing by the contracting officer that proceeding to contract award and performance is in the public interest. The contracting officer shall promptly notify SBA of the determination to proceed with the solicitation and/or contract award and shall provide a copy of the written determination to SBA.

(3) SBA shall be allowed 10 working days after receiving the rejection notice from the HCA for acquisitions not exceeding $5 million, or 15 working days after receiving the rejection notice for acquisitions exceeding $5 million, to file an appeal. SBA shall notify the contracting officer within this 10 or 15 day period whether an appeal has, in fact, been taken. If notification is not received by the contracting officer within the applicable period, it shall be deemed that an appeal was not taken.

(4) SBA shall submit appeals to the Secretary. Decisions shall be made by the Procurement Executive, whose decisions shall be final.

(c) *Contracting with the Small Business Administration (the 8(a) Program).* The procedures of FAR Part 19.8 shall be followed where a responsible 8(a) contractor has been identified.

(d) *Determinations of Responsibility and Small Business.* The Director, Office of Small and Disadvantaged Business Utilization (OSDBU), Department of Veterans Affairs (VA), and Director, Office of Industrial Assistance, Small Business Administration (SBA) shall serve as ombudsmen to assist VA contracting officers on any issues relating to Certificates of Competency (COC). Copies of all COC referrals to SBA shall be submitted to the Director, OSDBU.

873.108 Publicizing contract actions.

(a) Without regard to FAR 5.101, all acquisitions under this Part 873 for dollar amounts in excess of the simplified acquisition threshold (SAT), as set forth in FAR Part 13, shall be publicly announced utilizing a medium designed to obtain competition to the maximum extent practicable and to permit all responsible sources, as appropriate under the provisions of this Part, to submit a bid, proposal, or quotation (as appropriate).

(1) The publication medium may include the Commerce Business Daily; the Internet; and local, regional or national publications or journals, as appropriate, at the discretion of the contracting officer, depending on the complexity of the acquisition.

(2) Without regard to FAR 5.101 or 14.202–1, notice shall be published for a reasonable time prior to issuance of a request for quotations (RFQ) or a solicitation, depending on the complexity or urgency of the acquisition, in order to afford potential offerors a reasonable opportunity to respond. If the notice includes a complete copy of the RFQ or solicitation, a prior notice is not required, and the RFQ or solicitation shall be considered to be announced and issued at the same time.

(3) The notice may include contractor qualification parameters, such as time for delivery of service, credentialing or medical certification requirements, small business or other socio-economic preferences, the appropriate small business size standard, and such other qualifications as the contracting officer deems necessary to meet the needs of the Government.

(b) The requirement for public announcement does not apply to sole source acquisitions, described in 873.104(a), from institutions affiliated with the Department in accordance with § 7302 of title 38 U.S.C., including medical practice groups and other approved entities associated with affiliated institutions (entities will be approved if determined legally to be associated with affiliated institutions), or from blood banks, organ banks, or research centers, or to sole source acquisitions of hospital care and medical services (as those terms are defined in § 1701 of title 38 U.S.C.) or any other health-care services.

(c) For acquisitions below the SAT, a public announcement is optional.

(d) Each solicitation issued under these procedures shall prominently identify that the requirement is being solicited under the authority of 38 U.S.C. 8153 and VAAR Part 873.

873.109 General requirements for acquisition of health-care resources.

(a) *Source Selection Authority.* Contracting officers shall be the source selection authority for acquisitions of health-care resources, consisting of commercial services or the use of medical equipment or space, utilizing the guidance contained in this VAAR Part 873.

(b) *Statement of work/Specifications.* Statements of work or specifications may define the requirement and include qualifications or limitations such as time limits for delivery of service, medical certification or credentialing restrictions, small business or other socio-economic preferences, or any other such terms as the contracting officer deems appropriate for each specific acquisition.

(c) *Documentation.* Without regard to FAR 13.106–3(b), 13.501(b), or 14.408–

7(a) and (b), the contract file shall include:

(1) A brief written description of the procedures used in awarding the contract;

(2) The market research, including the determination that the acquisition involves health-care resources;

(3) The number of offers received; and

(4) An explanation, tailored to the size and complexity of the acquisition, of the basis for the contract award decision.

(d) *Time for receipt of quotations or offers.* (1) Without regard to FAR 5.203, contracting officers shall set a reasonable time for receipt of quotations or proposals in requests for quotations (RFQs) and solicitations.

(2) Without regard to FAR 15.208 or 52.212–1(f), quotations or proposals received after the time set forth in a RFQ or request for proposals (RFP) may be considered at the discretion of the contracting officer if determined to be in the best interest of the Government. Contracting officers shall document the rationale for accepting quotations or proposals received after the time specified in the RFQ or RFP. This paragraph (d)(2) shall not apply to RFQs or RFPs if alternative evaluation techniques described in VAAR 873.111(e)(ii) are used. This paragraph (d)(2) does not apply to invitations for bid (IFBs).

(e) *Cancellation of procurements.* Any acquisition may be canceled by the contracting officer at any time during the acquisition process if cancellation is determined to be in the best interest of the Government.

873.110 Solicitation provisions.

(a) As provided in 873.109(d), contracting officers shall insert the provision at 852.273–70, Late offers, in all requests for quotations (RFQs) and requests for proposals (RFPs) exceeding the micro-purchase threshold.

(b) The contracting officer shall insert a provision in RFQs and solicitations, substantially the same as the provision at 852.273–71, Alternative negotiation techniques, when either of the alternative negotiation techniques described in 873.111(e)(1) will be used.

(c) The contracting officer shall insert the provision at 852.273–72, Alternative evaluation, in lieu of the provision at 52.212–2, Evaluation—Commercial Items, when the alternative negotiation technique described in 873.111(e)(1)(ii) will be used.

(d) When evaluation information, as described in 873.112, is to be used to select a contractor under an RFQ or RFP for health-care resources consisting of commercial services or the use of medical equipment or space, the contracting officer may insert the provision at 852.273–73, Evaluation—health-care resources, in the RFQ or RFP in lieu of FAR provision 52.212–2.

(e) As provided at 873.113(f), if award may be made without exchange with vendors, the contracting officer shall include the provision at 852.273–74, Award without exchanges, in the RFQ or RFP.

(f) The contracting officer shall insert the clauses at FAR 52.207–3, Right of First Refusal of Employment, and at VAAR 852.207–70, Report of employment under commercial activities, in all RFQs, solicitations, and contracts issued under the authority of 38 U.S.C. 8151–8153 which may result in a conversion, from in-house performance to contract performance, of work currently being performed by Department of Veterans Affairs employees.

873.111 Acquisition strategies for health-care resources.

Without regard to FAR 13.003 or 13.500(a), the following acquisition processes and techniques may be used, singly or in combination with others, as appropriate, to design acquisition strategies suitable for the complexity of the requirement and the amount of resources available to conduct the acquisition. These strategies should be considered during acquisition planning. The contracting officer shall select the process most appropriate to the particular acquisition. There is no preference for sealed bid acquisitions.

(a) *Request for quotations.* (1) Without regard to FAR 6.1 or 6.2, contracting officers should solicit a sufficient number of sources to promote competition to the maximum extent practicable and to ensure that the purchase is advantageous to the Government, based, as appropriate, on either price alone or price and other factors (e.g., past performance and quality). RFQs should notify vendors of the basis upon which the award is to be made.

(2) Without regard to FAR 13.104(b), for acquisitions under the simplified acquisition threshold (SAT), two quotes meet the requirement for competition to the maximum extent practicable. For acquisitions in excess of the SAT, procedures set forth in FAR Part 13 concerning RFQs may be utilized without regard to the dollar thresholds contained therein.

(b) *Sealed bidding.* FAR Part 14 provides procedures for sealed bidding.

(c) *Negotiated acquisitions.* The procedures of FAR Parts 12, 13, and 15 shall be used for negotiated acquisitions, except as modified in this VAAR part.

(d) *Multiphase acquisition technique*—(1) *General.* Without regard to FAR 15.202, multiphase acquisitions may be appropriate when the submission of full proposals at the beginning of an acquisition would be burdensome for offerors to prepare and for Government personnel to evaluate. Using multiphase techniques, the Government may seek limited information initially, make one or more down-selects, and request a full proposal from an individual offeror or limited number of offerors. Provided that the notice notifies offerors, the contracting officer may limit the number of proposals during any phase to the number that will permit an efficient competition among proposals offering the greatest likelihood of award. The contracting officer may indicate in the notice an estimate of the greatest number of proposals that will be included in the down-select phase. The contracting officer may down-select to a single offeror.

(2) *First phase notice.* In the first phase, the Government shall publish a notice (see 873.108) that solicits responses and that may provide, as appropriate, a general description of the scope or purpose of the acquisition and the criteria that will be used to make the initial down-select decision. The notice may also inform offerors of the evaluation criteria or process that will be used in subsequent down-select decisions. The notice shall contain sufficient information to allow potential offerors to make an informed decision about whether to participate in the acquisition. The notice shall advise offerors that failure to participate in the first phase will make them ineligible to participate in subsequent phases. The notice may be in the form of a Commerce Business Daily notice or a narrative letter or other appropriate method that contains the information required by this paragraph.

(3) *First phase responses.* Offerors shall submit the information requested in the notice described in paragraph (d)(2) of this section. Information sought in the first phase may be limited to a statement of qualifications and other appropriate information (e.g., proposed technical concept, past performance information, limited pricing information).

(4) *First phase evaluation and down-select.* The Government shall evaluate all offerors' submissions in accordance with the notice and make a down-select decision.

(5) *Subsequent phases.* Additional information shall be sought in the second phase so that a down-select can be performed or an award made without exchanges, if necessary. The contracting officer may conduct exchanges with remaining offeror(s), request proposal revisions, or request best and final offers, as determined necessary by the contracting officer, in order to make an award decision.

(6) *Debriefing.* Without regard to FAR 15.505, contracting officers shall debrief offerors as required by 873.118 when they have been excluded from the competition.

(e) *Alternative negotiation techniques*—(1) Contracting officers may utilize alternative negotiation techniques for the acquisition of health-care resources. Alternative negotiation techniques may be used when award will be based on either price or price and other factors. Alternative negotiation techniques include but are not limited to:

(i) Indicating to offerors a price, contract term or condition, commercially available feature, and/or requirement (beyond any requirement or target specified in the solicitation) that offerors will have to improve upon or meet, as appropriate, in order to remain competitive.

(ii) Posting offered prices electronically or otherwise (without disclosing the identity of the offerors) and permitting revisions of offers based on this information.

(2) Except as otherwise permitted by law, contracting officers shall not conduct acquisitions under this section in a manner that reveals the identities of offerors, releases proprietary information, or otherwise gives any offeror a competitive advantage (see FAR 3.104).

873.112 Evaluation information.

(a) Without regard to FAR 15.304, the criteria, factors, or other evaluation information that apply to an acquisition, and their relative importance, are within the broad discretion of agency acquisition officials as long as the evaluation information is determined to be in the best interest of the Government.

(b) Price or cost to the Government shall be evaluated in every source selection.

(c) The quality of the product or service may be addressed in source selection through consideration of information such as past performance, compliance with solicitation requirements, technical excellence, management capability, personnel qualifications, and prior experience. The information required from quoters, bidders, or offerors shall be included in notices or solicitations, as appropriate.

(d) The relative importance of any evaluation information included in a solicitation shall be set forth therein.

873.113 Exchanges with offerors.

(a) Without regard to FAR 15.201 or 15.306, negotiated acquisitions generally involve exchanges between the Government and competing offerors. Open exchanges support the goal of efficiency in Government by providing the Government with relevant information (in addition to that submitted in the offeror's initial proposal) needed to understand and evaluate the offeror's proposal. The nature and extent of exchanges between the Government and offerors is a matter of contracting officer judgment. Clarifications, communications, and discussions, as provided for in the FAR, are concepts not applicable to acquisitions under this VAAR part 873.

(b) Exchanges with all potential offerors may take place throughout the source selection process. Exchanges may start in the planning stages and continue through contract award. Exchanges should occur most often with offerors determined to be in the best value pool (see 873.114). The purpose of exchanges is to ensure there is mutual understanding between the Government and the offerors on all aspects of the acquisition, including offerors' submittals/proposals. Information disclosed as a result of oral or written exchanges with an offeror may be considered in the evaluation of an offeror's proposal.

(c) Exchanges may be conducted, in part, to obtain information that explains or resolves ambiguities or other concerns (e.g., perceived errors, perceived omissions, or perceived deficiencies) in an offeror's proposal.

(d) Exchanges shall only be initiated if authorized by the contracting officer and need not be conducted with all offerors.

(e) *Improper exchanges.* Except for acquisitions based on alternative negotiation techniques contained in 873.111(e)(1), the contracting officer and other Government personnel involved in the acquisition shall not disclose information regarding one offeror's proposal to other offerors without consent of the offeror in accordance with FAR Parts 3 and 24.

(f) Award may be made on initial proposals without exchanges if the solicitation states that the Government intends to evaluate proposals and make award without exchanges, unless the contracting officer determines that exchanges are considered necessary.

873.114 Best value pool.

(a) Without regard to FAR 15.306(c), the contracting officer may determine the most highly rated proposals having the greatest likelihood of award based on the information or factors and subfactors in the solicitation. These vendors constitute the best value pool. This determination is within the sole discretion of the contracting officer. Competitive range determinations, as provided for in the FAR, are not applicable to acquisitions under this VAAR part 873.

(b) In planning an acquisition, the contracting officer may determine that the number of proposals that would otherwise be included in the best value pool is expected to exceed the number at which an efficient, timely, and economical competition can be conducted. In reaching such a conclusion, the contracting officer may consider such factors as the results of market research, historical data from previous acquisitions for similar supplies and services, and the resources available to conduct the source selection. Provided the solicitation notifies offerors that the best value pool can be limited for purposes of making an efficient, timely, and economical award, the contracting officer may limit the number of proposals in the best value pool to the greatest number that will permit an efficient competition among the proposals offering the greatest likelihood of award. The contracting officer may indicate in the solicitation the estimate of the greatest number of proposals that will be included in the best value pool. The contracting officer may limit the best value pool to a single offeror.

(c) If the contracting officer determines that an offeror's proposal is no longer in the best value pool, the proposal shall no longer be considered for award. Written notice of this decision shall be provided to unsuccessful offerors at the earliest practicable time.

873.115 Proposal revisions.

(a) Without regard to FAR 15.307, the contracting officer may request proposal revisions as often as needed during the proposal evaluation process at any time prior to award from vendors remaining in the best value pool. Proposal revisions shall be submitted in writing. The contracting officer may establish a common cutoff date for receipt of proposal revisions. Contracting officers may request best and final offers. In any case, contracting officers and acquisition team members shall safeguard proposals, and revisions

thereto, to avoid unfair dissemination of an offeror's proposal.

(b) If an offeror initially included in the best value pool is no longer considered to be among those most likely to receive award after submission of proposal revisions and subsequent evaluation thereof, the offeror may be eliminated from the best value pool without being afforded an opportunity to submit further proposal revisions.

(c) Requesting and/or receiving proposal revisions do not necessarily conclude exchanges. However, requests for proposal revisions should advise offerors that the Government may make award without obtaining further revisions.

873.116 Source select decision.

(a) An integrated comparative assessment of proposals should be performed before source selection is made. The contracting officer shall independently determine: which proposal(s) represents the best value, consistent with the evaluation information or factors and subfactors in the solicitation; and that the prices are fair and reasonable. The contracting officer may determine that all proposals should be rejected if it is in the best interest of the Government.

(b) The source selection team, or advisory boards or panels, may conduct comparative analysis(es) of proposals and make award recommendations, if the contracting officer requests such assistance.

(c) The basis for the source selection decision shall be documented and shall reflect the rationale for any cost/technical tradeoffs. Specific tradeoffs that cannot be reasonably quantified need not be described in terms of cost/price impacts.

873.117 Award to successful offeror.

(a) The contracting officer shall award a contract to the successful offeror by furnishing the contract or other notice of the award to that offeror.

(b) If a request for proposal (RFP) process was used for the solicitation and if award is to be made without exchanges, the contracting officer may award a contract without obtaining the offeror's signature a second time. The offeror's signature on the offer constitutes the offeror's agreement to be bound by the offer. If a request for quotation (RFQ) process was used for the solicitation, the contracting officer must obtain the offeror's acceptance signature on the contract to ensure formation of a binding contract.

(c) If the award document includes information that is different than the latest signed offer, both the offeror and the contracting officer shall sign the contract award.

(d) When an award is made to an offeror for less than all of the items that may be awarded and additional items are being withheld for subsequent award, each notice shall state that the Government may make subsequent awards on those additional items within the offer acceptance period.

873.118 Debriefings.

Offerors excluded from multiphase acquisitions or best value pools may make a written request for a debriefing. Without regard to FAR 15.505, preaward debriefings will be conducted by the contracting officer when determined to be in the best interest of the Government. Post-award debriefings shall be conducted in accordance with FAR Part 15.506.

[FR Doc. 98-29838 Filed 11-6-98; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF ENERGY

48 CFR Parts 909 and 970

RIN: 1991-AB44

Acquisition Regulations; Performance Guarantees

AGENCY: Department of Energy.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Department of Energy (DOE) is proposing to amend its acquisition regulations to formally require a performance guarantee under circumstances where a prospective awardee has been created solely for the performance of the instant contract and lacks sufficient financial or other resources to fulfill its obligations under the prospective contract. In circumstances where the newly created entity likely will be dependent upon the resources of the parent organization, this proposal would allow Contracting Officers to consider the resources of the parent in a determination of the newly created entity's responsibility only when the parent provides a performance guarantee or other undertaking satisfactory to the Contracting Officer. While this situation occurs most often in the award of contracts for the management and operation of DOE facilities, this proposal would make a form of performance guarantee necessary whenever these circumstances are encountered.

DATES: Written comments on the proposed rulemaking must be received on or before close of business December 9, 1998.

ADDRESSES: Comments (3 copies) should be addressed to: Robert M. Webb at the address indicated below.

FOR FURTHER INFORMATION CONTACT: Robert M. Webb, U.S. Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 586-8264.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Section by Section Analysis.
III. Procedural Requirements.
A. Review Under Executive Order 12866.
B. Review Under Executive Order 12988.
C. Review Under the Regulatory Flexibility Act.
D. Review Under the Paperwork Reduction Act.
E. Review Under the National Environmental Policy Act.
F. Review Under Executive Order 12612.
G. Review Under Small Business Regulatory Enforcement Fairness Act of 1996.
H. Review Under the Unfunded Mandates Reform Act of 1995.

I. Background

The Department of Energy in certain cases requires that the contractor be a corporate entity organized specifically for the performance of the contract at a specific DOE site. This requirement occurs regularly in the award of management and operating contracts and is intended (1) to assure the dedication of the contractor to the performance of the contract; (2) to limit involvement of the Department with the corporate parent; (3) to isolate the contractor from the parent for purposes of security and classification matters; (4) to limit the flow of information between the contractor and its parent, limiting a potential source of organizational conflict of interest; (5) to isolate the accounting system of the contractor, since often the budget and accounting systems of such contractors are integrated into DOE's budget and accounting systems; and (6) to limit the necessity of corporate support thereby reducing or negating a basis for charging general and administrative expense to the contract.

Such dedicated contractors, however, generally have limited assets. In most cases, without consideration of the corporate assets of the parent entity(ies), the DOE Contracting Officer would not be able to make a determination that the contractor was financially responsible and had sufficient resources available to assure successful performance of the contract.

It has been a common practice of the Department in such instances for the parent entity(ies) to provide some form of guarantee of performance. While there are other means for the parent to guarantee the subsidiary's fulfillment of all its contractual obligations, such as an unconditional letter of credit, the most appropriate means under these circumstances is a contractually binding performance guarantee. Recently, the Department issued Acquisition Letter 98-05R to assure a uniform process for dealing with this circumstance. This rulemaking proposes to incorporate the requirement for a performance guarantee into the Department of Energy Acquisition Regulation.

II. Section-by-Section Analysis

This rulemaking proposes to add a subsection 909.104-3(e) to the DEAR to supplement the coverage in the Federal Acquisition Regulation at 48 CFR 9.104-3. The proposed subsection would require some binding form of performance guarantee in contracts other than management and operating contracts where the contractor has been formed specifically for performance of the contract and lacks sufficient resources to carry out performance of the prospective contract.

It further proposes to add a section 970.0902 to treat this matter in the context of the award of DOE management and operating contracts. Since this situation will occur predominately in the award of management and operating contracts, the proposed 970 coverage includes a solicitation provision for use when DOE's solicitation requires a dedicated performing entity.

III. Procedural Requirements

A. Review Under Executive Order 12866

Today's regulatory action has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," (58 FR 51735, October 4, 1993). Accordingly, this proposed rule was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

B. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, these proposed regulations meet the relevant standards of Executive Order 12988.

C. Review Under the Regulatory Flexibility Act

This proposed rule has been reviewed under the Regulatory Flexibility Act of 1980, Public Law 96-354, that requires preparation of an initial regulatory flexibility analysis for any rule that must be proposed for public comment and that is likely to have significant economic impact on a substantial number of small entities. The contracts to which this rulemaking would apply involve awards to newly formed subsidiaries organized by a parent corporations to perform specific DOE contracts. In such instances, the parent would be required to guarantee the performance of the subsidiary. There would not be an adverse economic impact on contractors or subcontractors. Accordingly, DOE certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities, and, therefore, no regulatory flexibility analysis has been prepared.

D. Review Under the Paperwork Reduction Act

No additional information or record keeping requirements are imposed by this rulemaking. Accordingly, no OMB clearance is required under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

E. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this proposed rule falls into a class of actions which would not individually or cumulatively have significant impact on the human environment, as determined by DOE's regulations (10 CFR part 1021, subpart D) implementing the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this proposed rule is categorically excluded from NEPA review because the amendments to the DEAR would be strictly procedural (categorical exclusion A6). Therefore, this proposed rule does not require an environmental impact statement or environmental assessment pursuant to NEPA.

F. Review Under Executive Order 12612

Executive Order 12612, (52 FR 41685, October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the Federal Government and the States, or in the distribution of power and responsibilities among the various levels of Government. If there are sufficient substantial direct effects, then the Executive Order requires the preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. This proposed rule merely reflects current practice relating to determinations of responsibility. States which contract with DOE will be subject to this rule. However, DOE has determined that this proposed rule would not have a substantial direct effect on the institutional interests or traditional functions of the States.

G. Review Under Small Business Regulatory Enforcement Fairness Act of 1996

As required by 5 U.S.C. 801, DOE will report to Congress promulgation of the rule prior to its effective date. The report will state that it has been determined that this proposed rule is not a "major rule" as defined by 5 U.S.C. 804(3).

H. Review Under the Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) generally requires a Federal agency to perform a detailed assessment of costs and benefits of any rule imposing a Federal Mandate with costs to State, local or tribal governments, or to the private sector, of $100 million or more. This proposed rulemaking would only affect

private sector entities, and the impact is less than $100 million.

List of Subjects in 48 CFR Parts 909 and 970

Government procurement.

Issued in Washington, D.C. on November 2, 1998.

Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

For the reasons set out in the preamble, Chapter 9 of Title 48 of the Code of Federal Regulations is proposed to be amended as set forth below.

PART 909—[AMENDED]

1. The authority citation for Part 909 continues to read as follows:

Authority: 42 U.S.C. 7254; 40 U.S.C. 486(c).

2. Subsection 909.104–3 is added as follows:

909.104–3 Application of standards. (DOE coverage-paragraph (e))

(e) DOE may select an entity which was newly created to perform the prospective contract, including, but not limited to, a joint venture or other similarly binding corporate partnership. In such instances when making the determination of responsibility pursuant to 48 CFR 9.103, the contracting officer may evaluate the financial resources of other entities only to the extent that those entities are legally bound, jointly and severally if more than one, by means of a performance guarantee or other equivalent enforceable commitment to supply the necessary resources to the prospective contractor and to assume all contractual obligations of the prospective contractor. The guaranteeing corporate entity(ies) must be found to have sufficient resources in order to satisfy its guarantee.

PART 970—[AMENDED]

3. The authority citation for Part 970 continues to read:

Authority: Sec. 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), sec. 644 of the Department of Energy Organization Act, Pub.L. 95–91 (42 U.S.C. 7254).

4. Section 970.0902 is added as follows:

970.0902 Determination of responsibility.

(a) In the award of a management and operating contract, the contracting officer shall determine that the prospective contractor is a responsible contractor and is capable of providing all necessary financial, personnel, and other resources in performance of the contract.

(b) DOE contracts with entities that have been created solely for the purpose of performing a specific management and operating contract. Such a newly created entity generally will have very limited financial and other resources. In such instances, when making the determination of responsibility required under this section, the contracting officer may evaluate the financial resources of other entities only to the extent that those entities are legally bound, jointly and severally if more than one, by means of a performance guarantee or other equivalent enforceable commitment to supply the necessary resources to the prospective contractor and to assume all contractual obligations of the prospective contractor. A performance guarantee should be the means used unless an equivalent degree of commitment can be obtained by an alternative means.

(c) The guaranteeing corporate entity(ies) must be found to have sufficient resources in order to satisfy its guarantee.

(d) Contracting officers shall insert the provision at 970.5204-XX in solicitations where the awardee is required to be organized solely for performance of the requirement.

5. Section 970.5204-XX is added as follows:

§ 970.5204-XX Requirement for guarantee of performance.

In accordance with 970.0902(d), insert the following provision in appropriate solicitations.

Requirement for Guarantee of Performance (XXX 1998)

The successful proposer is required by other provisions of this solicitation to organize a dedicated corporate entity to carry out the work under the contract to be awarded as a result of this solicitation. The successful proposer will be required, as part of the determination of responsibility of the newly organized, dedicated corporate entity and as a condition of the award of the contract to that entity, to furnish a guarantee of that entity's performance. That guarantee of performance must be satisfactory in all respects to the Department of Energy.

In order to consider the financial or other resources of the parent corporate entity(ies) or other guarantors, each of those entities must be legally bound, jointly and severally if more than one, to provide the necessary resources to the prospective contractor and to assume all contractual obligations of the prospective contractor.

[FR Doc. 98–29941 Filed 11–6–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 98–4672]

Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies a petition for rulemaking submitted by Price T. Bingham, a private individual. The petitioner requested that the agency initiate rulemaking to require air bag sensors to be designed so that data is recorded during a crash and can be read by crash investigators. The agency agrees that the recording of crash data from air bag sensors, as well as other vehicle sensors, can provide information that is very valuable in understanding crashes. This information can then be used in a variety of ways to improve motor vehicle safety. The agency is denying the petition because the auto industry is already voluntarily moving in the direction recommended by the petitioner. Further, the agency believes this area presents some issues that are, at least for the present time, best addressed in a non-regulatory context.

FOR FURTHER INFORMATION CONTACT: For non-legal issues: Mr. Clarke Harper, Chief, Light Duty Vehicle Division, NPS–11, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366–2264. Fax: (202) 366–4329.

For legal issues: J. Edward Glancy, Office of Chief Counsel, NCC–20, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366–2992. Fax: (202) 366–3820.

SUPPLEMENTARY INFORMATION: NHTSA received a petition for rulemaking from Price T. Bingham, a private individual. Mr. Bingham stated that air bag sensors are capable of collecting and recording data that could be extremely valuable to crash investigators. He stated his concern in light of air bag deployments that might be "spontaneous," but did not limit his petition to that issue. The petitioner asked the agency to initiate rulemaking to require manufacturers to design their air bag sensors so that data are collected and recorded during a crash so that they can be read by crash investigators.

NHTSA notes that the safety community in recent years has had considerable interest in the concept of crash event recorders. Such recorders can, in conjunction with the air bag and other sensors already provided on many vehicles, collect and record a variety of relevant crash data. These data include such things as vehicle speed, belt use, and crash pulse.

The additional and more accurate data about crashes that could be provided by crash event recorders would enable investigators to develop a significantly better understanding of how and why crashes occur. This information could then be used in a variety of ways to improve motor vehicle safety, e.g., the information could be used to improve vehicle designs, improve safety standards, and develop improved public education campaigns.

A more immediate safety benefit can occur if the occurrence of a crash is immediately and automatically communicated to local emergency services, thereby shortening the response time of the correct emergency services. NHTSA's Office of Vehicle Safety Research is currently testing, in the Buffalo, New York area, an Automated Collision Notification system that uses single point electronic crash sensors, a global positioning system receiver and a cellular phone to facilitate emergency services dispatch. This program has been the subject of recent press articles, copies of which are being placed in the docket.

The agency notes that on June 10, 1997, the National Transportation Safety Board (NTSB) adopted a series of recommendations concerning air bag safety and occupant restraint use which, among other things, called on NHTSA and the vehicle manufacturers "to develop and implement * * * a plan to gather better information on crash pulses and other crash parameters in actual crashes, utilizing current or augmented crash sensing and recording devices." The recommendations followed a public forum convened by the NTSB in March 1997.

Also, the Jet Propulsion Laboratory, in its April 1998 Advanced Air Bag Technology Assessment, included a recommendation that NHTSA study the feasibility of installing and obtaining crash data for safety analyses from crash recorders on vehicles.

The auto industry is already beginning to voluntarily install crash event recorders on some vehicles. For example, General Motors (GM) has had crash event recorders on some of its vehicles for several years and is planning to install more advanced systems in the future. NHTSA notes that, as part of a recent investigation carried out by its Special Crash Investigations program, it was able to use information obtained from a GM vehicle equipped with a crash event recorder.

Persons who are interested in knowing more about GM's program for crash event recorders may wish to read a recent article on that subject that was published in the Detroit News. The agency is placing a copy of that article in the docket. Also, at the agency's invitation, GM made a presentation concerning its crash event recorders at NHTSA's September 17, 1998 quarterly meeting held to answer questions from the public and the regulated industries regarding the agency's vehicle regulatory and research program. Information presented by GM at this meeting is being placed in the docket.

While NHTSA believes that crash event recorders have the potential to provide valuable information for its vehicle regulatory program, the agency believes that a rulemaking to require such recorders is not now appropriate. First, as discussed above, the industry is already moving to voluntarily provide such recorders. Second, as the development and installation of these recorders, and decisions about what data should be recorded and how they should be retrieved, are in their infancy, NHTSA believes it is premature to consider regulating such devices. Given this context, such a rulemaking would not appear to be a good use of limited agency resources.

Moreover, there are a variety of issues related to the implementation of crash event recorders that may be better addressed, at least initially, outside the rulemaking context. In addition to deciding what specific crash data to record, other issues include, among other things, possible standardization of the means for retrieving the data, access to the data by the agency and crash investigators, and privacy issues.

The agency notes that the means for retrieving data from crash event recorders is currently proprietary. This means that the involvement of the vehicle manufacturer is necessary to retrieve the data. NHTSA has not had any difficulty obtaining cooperation from vehicle manufacturers to obtain data from crash event recorders. While the retrieval of such data would be facilitated if the means for retrieving it were standardized, a number of issues may need to be addressed in order to achieve such standardization, e.g., analysis of available alternative means for retrieval and consideration of privacy and related issues.

NHTSA introduced the topic of crash event recorders (these devices are also called event data recorders or EDRs) for action to the Motor Vehicle Safety Research Advisory Committee (MVSRAC) during its April 29, 1998 meeting. MVSRAC consists of 16 members representing governments, industry, academia, the medical community and public interest groups and functions to advise NHTSA about complex technical topics. MVSRAC approved setting up a working group on EDRs under the Crashworthiness Subcommittee. The agency solicited names from the full committee and subcommittee for nomination to work on the working group. The first meeting of the working group took place in October, and others are planned for next year.

NHTSA believes that the approach of relying on the efforts of individual manufacturers to voluntarily introduce crash event recorders, coupled by the work of the MVSRAC working group on this subject, is the best way to proceed at this time. The involvement of the MVSRAC working group will ensure that issues relating to the implementation and use of crash event recorders receive the attention of a wide variety of experts, and that the agency obtains the benefit of hearing the views of those experts. Moreover, NHTSA will ensure that MVSRAC considers topics of particular interest to the agency, including access to the data by the agency.

For the reasons discussed above, the agency is denying Mr. Bingham's petition for rulemaking.

Authority: 49 U.S.C. 30162; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: November 3, 1998.

James R. Hackney,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 98–29922 Filed 11–6–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AF25

Migratory Bird Hunting; Regulations to Increase Harvest of Mid-Continent Light Geese

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Mid-continent lesser snow goose and Ross' goose population

has nearly quadrupled in the last 30 years. The Western Central Flyway lesser snow and Ross' goose population also has quadrupled in the last 23 years. Collectively, these central and eastern arctic and subarctic-nesting light goose populations are referred to as Mid-continent light geese (MCLG)

Due to high population growth rates, a decline in adult mortality, and an increase in winter survival, MCLG are now seriously injurious to their habitat and habitat important to other migratory birds which poses a serious threat to the short and long-term health and status of migratory bird populations. The U.S. Fish and Wildlife Service (Service or "we") believes that MCLG populations exceed long-term sustainable levels for their arctic and subarctic breeding habitats and the populations must be reduced. This proposed rule will authorize the use of additional hunting methods (electronic callers and unplugged shotguns) during a normal open light-goose hunting season when all other migratory bird hunting seasons are closed. We designed the program to increase MCLG harvest and to provide a biologically sound and cost effective and efficient method for the reduction and management of overabundant MCLG populations.

DATES: The comment period for this proposed rule closes January 8, 1999.

ADDRESSES: Comments should be mailed to Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of Interior, ms 634—ARLSQ, 1849 C Street NW., Washington, D.C. 20240. The public may inspect comments during normal business hours in room 634—Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Bob Blohm, Acting Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Background

Lesser snow and Ross' geese that primarily migrate through North Dakota, South Dakota, Nebraska, Kansas, Iowa, and Missouri, and winter in Arkansas, Louisiana, Mississippi, and eastern, central, and southern Texas and other Gulf Coast States are referred to as the Mid-continent population of light geese (MCP). Lesser snow and Ross' geese that primarily migrate through Montana, Wyoming, and Colorado and winter in New Mexico, northwestern Texas, and Chihuahua, Mexico are referred to as the Western Central Flyway population of light geese (WCFP). Ross' geese are often mistaken for lesser snow geese due to their similar appearance. Ross' geese occur in both the MCP and the WCFP and mix extensively with lesser snow geese on both the breeding and wintering grounds. MCP and WCFP lesser snow and Ross' geese are collectively referred to as Mid-continent light geese (MCLG) because they breed, migrate, and winter in the "Mid-continent" or central portions of North America primarily in the Central and Mississippi Flyways. They are referred to as "light" geese due to their light coloration as opposed to "dark" geese such as the white-fronted or Canada goose.

MCLG breed in the central and eastern arctic and subarctic regions of Northern Canada. MCLG populations are experiencing high population growth rates and have substantially increased in numbers within the last 30 years. MCP light geese have more than tripled within 30 years from an estimated 800,000 birds in 1969 to approximately three million birds in 1998 and have grown an average of 5% per year for the last ten years (Abraham et al. 1996, USFWS 1998b). WCFP light geese have quadrupled in 23 years from 52,000 in 1974 to 216,000 in 1997 (USFWS 1997b), and have increased an average of 9% per year for the last ten years (USFWS 1998b). The above population estimates are not true population counts and likely underestimate the true population sizes. They were derived from an index which is used to detect population growth trends by sampling a portion of a population. Breeding colony estimates, actual population counts estimated from spring and summer surveys, suggest that the actual population sizes of MCLG may be in excess of five million breeding birds (D. Caswell pers. comm. 1998). For example, in one area northwest of Hudson Bay alone, the Queen Maud Gulf, estimates for breeding and non-breeding (failed to successfully nest) adult Ross' and lesser snow geese for 1998 are 1.29 million and 1.82 million birds, respectively (Alisauskas et al. 1998). These geese are in addition to the millions of geese estimated to be nesting along west Hudson and James Bays where the geese have precipitated severe habitat degradation and on Southampton and Baffin Islands where signs of habitat degradation are becoming evident. MCLG populations have exceeded the North American Waterfowl Management Plan (NAWMP) population objective levels in both the United States and Canada. NAWMP population objective levels are used to demonstrate that MCLG populations have increased substantially over what is considered to be a healthy population level, not to suggest that MCLG be reduced to NAWMP population objective levels. Population management thresholds, however, are management thresholds that specify both an upper and lower population level objective.

Ross' geese (WCFP and MCP) currently exceed 200,000 birds (December index) and breeding colony estimates (actual counts of nesting birds) approached 400,000 birds in 1996 (Batt 1997) and exceeded 1 million birds in1998; both estimates well exceed the recommended minimum population objective level for Ross' geese of 100,000 birds (USDOI et al. 1998). MCP lesser snow geese estimates currently exceed 2.8 million birds (December index); the lower and upper population management thresholds are 800,000 and 1.2 million birds, respectively (Central and Mississippi Flyway Councils 1982) with a recommended minimum population objective level of 1 million birds (USDOI et al. 1998). WCFP lesser snow goose estimates currently exceed 200,000 birds (December index) which exceeds the recommended minimum population objective level of 110,000 birds (USDOI et al. 1998). Although our intention is to significantly reduce these populations to relieve pressures on the breeding habitats, we feel that these efforts will not threaten the long-term status of these populations as we are confident reduction efforts will not result in the populations falling below the population goal and management objective levels indicated above. Evaluation and assessment mechanisms are in place to estimate population sizes and will be used to prevent the over-harvest of these populations.

The rapid rise of MCLG populations has been influenced heavily by human activities (Sparrowe, 1998, Batt 1997). The greatest attributable factors are:

(1) The expansion of agricultural areas in the United States and prairie Canada that provide abundant food resources during migration and winter;

(2) The establishment of sanctuaries along the Flyways specifically to increase bird populations;

(3) A decline in harvest rate; and

(4) An increase in adult survival rates.

Although all of these factors contributed to the rapid rise in MCLG populations, the expansion of agriculture in prairie Canada and the United States is considered to be the primary attributable factor (Sparrowe 1998, Abraham and Jefferies 1997). Today, MCLG continue to exploit soybean, rice, and other crops during the winter primarily in the Gulf Coast States and are observed less frequently

in the natural coastal marshes they historically utilized. Similarly, MCLG migrating through the Mid-latitude and northern United States and prairie Canada during spring migration exploit cereal grain crops consisting of corn, wheat, barley, oats and rye (Alisauskas et al. 1988). For example, an estimated 1 to 2 million MCLG stage in the Rainwater Basin in Nebraska from mid-February to mid-March and primarily feed on corn left over from harvesting (USFWS 1998a). These crops provide MCLG with additional nutrients during spring migration assuring that MCLG arrive on the breeding grounds in prime condition to breed. Increased food subsidies during spring migration over the last 30 years has resulted in higher reproductive potential and breeding success (Ankney and McInnes 1978, Abraham and Jefferies 1997). Consequently, more geese survived the winter and migration and were healthier as they returned to their breeding grounds in Canada.

This is not intended to criticize the conservation efforts accomplished by the implementation of conservation-oriented agricultural practices. Such efforts have benefitted numerous wildlife species. It is merely to point out that MCLG have exploited these artificial resources which has resulted in an increase in survival.

Foraging Behavior of MCLG

The feeding behavior of MCLG is characterized by three foraging methods. Where spring thawing has occurred and above-ground plant growth has not begun, lesser snow geese dig into and break open the turf (grub) consuming the highly nutritious below-ground biomass, or roots, of plants. Grubbing continues into late spring. Lesser snow geese also engage in shoot-pulling where the geese pull the shoots of large sedges, consume the highly nutritious basal portion, and discard the rest, leaving behind large unproductive, and potentially unrecoverable areas (Abraham and Jefferies 1997). A third feeding strategy utilized by many species is grazing which in some cases, stimulates plant growth. Both lesser snow geese and Ross' geese graze. Due to their shorter bill size, Ross' geese are able to graze shorter stands of grass.

Grubbing, grazing, and shoot-pulling are natural feeding behaviors and at lower population levels have had positive effects on the ecosystem. For example, at lower numbers, geese fed on the tundra grasses and actually stimulated growth of plant communities resulting in a positive feedback loop between the geese and the vegetation. However, the rapidly expanding numbers of geese, coupled with the short tundra growing season, disrupted the balance and has resulted in severe habitat degradation in sensitive ecosystems. The Hudson Bay Lowlands salt-marsh ecosystem, for example, consists of a 1,200 mile strip of coastline along west Hudson and James Bays, Canada. It contains approximately 135,000 acres of coastal salt-marsh habitat. Vast hypersaline areas devoid of vegetation degraded by rapidly increasing populations of MCLG have been observed and documented extensively throughout the Hudson Bay Lowlands (Abraham and Jefferies 1997). Rockwell et al. (1997a) observed the decline of more than 30 avian populations in the La Pérouse Bay area due to severe habitat degradation. These declines and other ecological changes represent a decline in biological diversity and indicate the beginning of collapse of the current Hudson Bay Lowlands salt-marsh ecosystem. Much of the degraded habitat is unlikely to recover (Abraham and Jefferies 1997). In badly degraded areas, less than 20% of the vegetation within an exclosure has recovered after 15 years of protection from MCLG (Abraham and Jefferies 1997). Recovery rates of degraded areas are further slowed by the short tundra growing season and the high salinity levels in the exposed and unprotected soil.

Long-term research efforts have indicated signs of "trophic cascade" in La Pérouse Bay, Cape Henrietta Maria, and Akimiski Island (R. Rockwell pers. comm. 1998). Trophic cascade is essentially the collapse of an existing food chain indicating that the ecosystem is unable to support its inhabitants. Impacts associated with trophic cascade are indicative that MCLG populations have exceeded the carrying capacity of much of their breeding habitat. Impacts such as a decline in biological diversity and physiological stress, malnutrition, and disease in goslings have been documented and observations of such impacts are increasing. Additional observations in areas north of Hudson Bay on Southampton and Baffin Islands, northwest in the Queen Maud Gulf region, and south off the west coast of James Bay on Akimiski Island also suggest similar habitat degradation patterns from expanding colonies of MCLG. Batt (1997) reported the rapid expansion of existing colonies and the establishment of new colonies in the central and eastern arctic. In 1973, for example, Canadian Wildlife Service data indicated that approximately 400,000 light geese nested on West Baffin Island. In 1997, approximately 1.8 million breeding adults were counted. Similar colony expansions have been reported for the Queen Maud Gulf region and Southampton Island. Rapid colony expansion must be halted and the populations must be reduced to prevent further habitat degradation and to protect the remaining habitat upon which numerous wildlife species depend.

Breeding Habitat Status

MCLG breeding colonies occur over a large area encompassing eastern and central portions of Northern Canada. Habitat degradation by MCLG has been most extensively studied in specific areas where colonies have expanded exponentially and exhibit severe habitat degradation. The Hudson Bay Lowlands salt-marsh ecosystem, for example, lies within a 135,000 acre narrow strip of coastline along west Hudson and James Bays and provides important stopover sites for numerous migratory bird species. Of the 135,000 acres of habitat in the Hudson Bay Lowlands, 35% is considered to be destroyed, 30% is damaged, and 35% is overgrazed (Batt 1997). Habitats currently categorized as "damaged" or "overgrazed" are moving and will continue to move into the "destroyed" category if goose populations continue to expand. Accelerated habitat degradation has occurred on Southampton and Baffin Islands and appear to be following the same pattern as documented in the Hudson Bay Lowlands. Current research efforts are underway to confirm observations of habitat degradation by MCLG in other areas.

Migration and Wintering Habitat Conditions and Degradation

There is no evidence to suggest that wintering habitat for MCLG is threatened or that it may limit population growth. Presently, there are approximately 2.25 million acres of rice fields in Texas, Louisiana, and Arkansas, in addition to the millions of acres of cereal grain crops in the Midwest. Consequently, food availability and suitable wintering habitat are not limiting MCLG during the migration and wintering portions of the annual cycle.

Summary of Environmental Consequences of Taking No Action

At each site they occupy, MCLG will continue to degrade the plant communities until food and other resources are exhausted, forcing yet more expansion. The pattern has been, and will continue to be, that as existing nesting colonies expand, they exploit successively poorer quality habitats,

which are less able to accommodate them and which become degraded more quickly. Eventually, the coastal salt-marsh communities surrounding Hudson Bay and James Bay will become remnant with little chance of recovery as long as MCLG populations remain high and for some time after it declines from natural causes, if they do. The functioning of the whole coastal ecosystem, from consolidation of sediments by colonizing plants to provision of suitable habitats for invertebrate and vertebrate fauna, will be detrimentally and possibly irrevocably altered. Similar conditions will likely come to prevail at selected non-coastal areas where MCLG have occupied most of the suitable nesting habitats. As many as 30 other avian species, including American wigeon, Northern shoveler, stilt sandpiper, Hudsonian godwit, and others, that utilize those habitats have declined locally, presumably due to habitat degradation by MCLG. Other species, such as Southern James Bay Canada geese, a species of management concern, that breed on nearby Akimiski Island and numerous other waterfowl species that migrate and stage with MCLG, have been and will continue to be negatively impacted. Arctic mammalian herbivores will also be impacted as the vegetative communities upon which they depend become depleted.

We expect that MCLG populations will continue to grow at least 5% annually, resulting in more severe and widespread ecological impacts. Although several factors influence population dynamics, the greatest single factor in the populations' increase is high and increasing adult survival rates (Rockwell et al. 1997b). Therefore, removing adults from the populations is the most effective and efficient approach in reducing the populations. Experts feel that breaking eggs and other non-lethal techniques have been determined to be ineffective in significantly reducing the populations within a reasonable time to preserve and protect habitat (Batt 1997).

We have attempted to curb the growth of MCLG populations by increasing bag and possession limits and extending the open hunting season length for light geese to 107 days, the maximum allowed by the Migratory Bird Treaty. However, due to the rapid rise in MCLG numbers, low hunter success, and low hunter interest, harvest rate (the percentage of the population that is harvested), has declined despite evidence that the number of geese harvested has increased (USFWS 1997). The decline in harvest rate indicates that the current management strategies are not sufficient to stabilize or reduce population growth rates.

We realize that current MCLG management policies need to be re-examined and believe that alternative regulatory strategies designed to increase MCLG harvest, implemented concurrently with habitat management and other non-lethal control measures, have the potential to be effective in reducing MCLG populations to levels that the remaining breeding habitat can sustain. We prefer to implement alternative regulatory strategies designed to increase MCLG harvest afforded by the Migratory Bird Treaty and avoid the use of more drastic population control measures. More direct population control measures such as trapping and culling programs may be necessary if the current proposed action is not successful. Should the proposed action be unsuccessful in five years, we will consider more direct population control measures to reduce MCLG.

We restrict the scope of this proposed rule to Mid-continent populations of light geese (MCLG): Mid-continent and Western Central Flyway lesser snow geese *(Chen caerulescens caerulescens)* and Ross' geese *(C. rossi)* and the United States portions of the Central and Mississippi Flyways (primarily Alabama, Arkansas, Colorado, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming) where they migrate, stage, or winter. Evidence exists to support the conclusion that MCLG migrate, stage, and winter in these areas and breed in the arctic and subarctic areas that are experiencing severe habitat degradation.

We are concurrently proposing an additional but separate population reduction strategy. In addition to this proposed rule to amend 50 CFR part 20, we are also proposing to amend 50 CFR part 21 to authorize the use of a conservation order to increase take of MCLG. The conservation order will be in the nature of an order authorizing States to implement actions to harvest MCLG, by shooting in a hunting manner, inside or outside of the regular open migratory bird hunting season frameworks when all migratory bird hunting seasons are closed. This proposal is also in the nature of a proposed rule and the notice and request for comments appears in this issue of the **Federal Register**.

We do not expect this proposed action (amendment to 50 CFR part 20) implemented alone to achieve our management objective which is to reduce MCLG populations such that the December index falls within 800,000 and 1.2 million birds. The success of this strategy will hinge upon State participation, hunter participation, and hunter effectiveness. If a State does not participate, then its hunters will not be able to participate decreasing the program's potential. We do not expect some States to participate in this proposed action due to the infeasibility of implementing the action when all other migratory bird hunting seasons are closed. MCLG migrate through northern and Mid-latitude States in the fall, however, the geese typically do not reach some of those States prior to 10 March during spring migration. For those States to be able to utilize this proposed action, they would have to close all other migratory bird hunting seasons in the fall, which is highly unlikely. Conversely, many migratory bird hunting seasons in the southern States close prior to 10 March. Therefore, it is much more feasible for southern States to implement this proposed action by establishing a light-goose only season when all other migratory bird seasons are closed. We are proposing the second action (conservation order) referred to above in order to maximize the program's potential and obtain our management objective within a reasonable time-frame to avoid the use of more direct population control programs. The second proposed action, a conservation order, will allow northern States to participate in this effort and enable them to harvest MCLG during spring migration, particularly after 10 March. Harvest projections for this proposed action (amendment to 50 CFR part 20) are rolled into the harvest projections for the second proposed action (conservation order) and are not in addition to the harvest projections for the second proposed action.

Proposed Revision to 50 CFR 20

We propose to revise 50 CFR part 20.21 with the intent to increase harvest of Mid-continent light geese during the open hunting season (MCLG) by authorizing the use of electronic callers and unplugged shotguns during a light goose only season when all other migratory bird hunting seasons are closed. This is in an effort to reduce overabundant MCLG populations that have become seriously injurious to other migratory bird populations and to habitat essential to migratory bird populations. Conditions under the proposed regulation require that participating States inform all hunters acting under the authority of the proposed amendment of the conditions that apply to the utilization of this proposed amendment.

Under the authority of this proposed rule, States could develop and initiate aggressive harvest management strategies by offering hunters additional hunting methods to harvest MCLG with the intent to increase harvest of MCLG. By operating under an existing program, a regular light-goose only season, affected States would not have to create a new program to implement the proposed action, which would significantly reduce administrative burden to the State and Federal governments. In order to minimize or avoid negative impacts to non-target species and to eliminate confusion regarding enforcement of the restrictions associated with this proposed action, States may only implement this proposed action when all other migratory bird hunting seasons are closed. Although we expect this proposed action to facilitate other protection and recovery efforts,, we do not expect this proposed action (amendment to 50 CFR part 20) implemented alone to achieve our management objective. Therefore, we are concurrently proposing an additional but separate population reduction strategy (discussed above) to work in concert with this proposed action to obtain our management objective. We feel the overall strategy will result in biologically sound and more cost-effective and efficient overabundant MCLG population management and could preclude the use of more drastic, direct population control measures such as trapping and culling programs. Although the desired goal is to significantly reduce overabundant MCLG populations, we believe that this proposed action will not threaten the long-term health and status of MCLG populations or threaten the status of other species that could be impacted through the implementation of this proposed action. Evaluation and monitoring strategies are in place to assess the overall impacts of this proposed action on MCLG harvest and impacts to non-target species that may be affected by the implementation of this proposed action.

Summary of Environmental Consequences of Proposed Action

MCLG Populations and Associated Habitats

We project that we will harvest two million MCLG over the next three years without the use of this proposed action based on current MCLG harvest trends. Under certain assumptions, our most liberal estimate indicates that we can expect to harvest an additional one million MCLG within three years of implementation of this proposed action bringing the total harvest to three million MCLG within three years of implementation of this proposed action. Once the December index falls within 800,000 to 1.2 million birds, the proposed amendments to 50 CFR part 20 will be revoked. The impact is expected to be regional within the Central and western Mississippi Flyway States. MCLG winter in the southern States in the Flyways substantially longer than northern or Mid-latitude States. Therefore, the opportunity to harvest more MCLG is greatest in those States. Additional hunting methods authorized by a State under the authority of this proposed rule, will facilitate a hunter's ability to harvest more MCLG and will facilitate other efforts to increase adult mortality and therefore decrease numbers of MCLG.

Although we can expect the additional hunting methods to be effective, there is no precedent to guide us in determining to what degree they will be effective. It is equally difficult to ascertain to what degree the public will utilize the new methods, which will influence its effectiveness. However, with certain assumptions, we may project an increase in harvest using existing harvest data.

Several assumptions must be established before projecting the effect of the proposed action on harvest. We are assuming that all affected States will act under the authority of this proposed rule and allow the additional methods authorized in this proposed action, that current MCLG hunter numbers will not decrease, and that the new hunting methods authorized in this proposed action, if used, will increase hunter effectiveness and overall harvest. We do not assume that all MCLG hunters will use the new hunting methods and of those that do, we do not assume that all will increase their effectiveness. We are assuming that 25% of the current MCLG hunters will use the new hunting methods and increase his/her effectiveness in harvesting MCLG.

We determined, based on a linear regression analysis of historical harvest data, that harvest number has increased approximately 31,600 MCLG per year for the last ten years. A simple linear regression of the harvest data represents our most conservative estimate because the analysis does not take into account other factors that influence harvest such as the recent regulation changes for light geese. A more complex analysis demonstrates that harvest number has actually increased at a faster rate since the bag and possession limits for light geese have been increased (USFWS 1998c). Today, more MCLG are harvested with fewer hunters and hunter participation and light goose hunting is increasing. Therefore, conservatively, we projected that harvest will increase 31,600 per year for the next 5 years.

In 1997–98, 602,800 MCLG were harvested in the affected States (AR, CO, IL, IA, KS, LA, MS, MO, MT, NE, NM, ND, OK, SD, TX, and WY). Combined with our projection that harvest will increase by 31,600 per year without any changes to hunting regulations, we can expect to harvest 634,400 MCLG in the 1998–1999 regular light goose season in those affected States. Under the assumptions stated above, we can expect to harvest an additional 301,300 MCLG through the implementation of this proposed action during a light-goose only season bringing the total projected harvest to 935,700 MCLG in the first year of implementation of this proposed action. These figures are based on increasing harvest number. Therefore, we expect this projected harvest to increase annually. We expect to harvest 1.1 million MCLG in the second year of implementation and 1.2 million in the third year of implementation.

Central and Mississippi Flyway Council management guidelines suggest that MCLG populations should rest between approximately 800,000 and 1.2 million birds based on the December index (USFWS 1998b, Central and Mississippi Flyway Councils 1982). Batt (1997) estimate that the populations should be reduced by 50% by 2005. Based on the December index, that would suggest a reduction from approximately three million birds to approximately 1.5 million birds in the December index; a figure which coincides with the management guidelines determined by the Central and Mississippi Flyway Council. Therefore, our efforts will focus on a goal similar to those documented. It is important to understand that the December index is not a population count. It is simply used to detect population growth trends by sampling a portion of a population. The reduction of MCLG will be carefully analyzed and assessed on an annual basis using the December index and other surveys to ensure that the populations are not over-harvested.

We expect an increase in harvest to facilitate other efforts, such as habitat management on the wintering grounds and increased harvest of MCLG by Canadian aboriginals, to decrease MCLG numbers and relieve pressures on the breeding grounds. There is no evidence

to suggest that the use of additional hunting methods during a light-goose only season will result in an over-harvest of MCLG. Once the December index reflects a number within the management guidelines mentioned above (approximately 800,000–1.2 million), the proposed action will be revoked and the methods authorized will no longer be allowed. It is improbable that the use of the additional methods will threaten the long-term status of MCLG populations because we will monitor the MCLG populations and act accordingly to avoid it by modifying or revoking the proposed action.

Other Species

An increase in harvest, and subsequently a decrease in MCLG numbers, is expected to relieve pressures on other migratory bird populations that utilize MCLG breeding and wintering grounds and other areas along the migration routes. It is expected to reduce the possibility that other species will be forced to seek habitat elsewhere or abandon unsuitable degraded habitat altogether, which could potentially result in decreased reproductive success of affected populations. We expect a decrease in MCLG populations to contribute to increased reproductive success of adversely impacted populations. Further, we expect that by decreasing the numbers of MCLG on wintering and migration stopover areas, the risk of transmitting avian cholera to other species will be reduced which will reduce the threat of a widespread avian cholera outbreak. We do not expect the proposed action to result in an increased intake of non-target species. The proposed action will only be allowed when all other migratory bird hunting seasons are closed.

Socioeconomic

Any action taken has economic consequences. Continued inaction is likely to result in ecosystem failure of the Hudson Bay Lowlands salt-marsh ecosystem and potentially other ecosystems as MCLG populations expand and exploit new habitats. Without more effective population control measures to curb the populations, the populations of MCLG are expected to continue increasing and become more and more unstable as suitable breeding habitat diminishes. As population densities increase, the incidence of avian cholera among MCLG and other species is likely to increase throughout the Flyways, particularly at migration stopover sites. Losses of other species such as pintails, white-fronted geese, sandhill cranes, and whooping cranes, from avian cholera may be great. This may result in reduced hunting, birdwatching, and other opportunities. It may also result in the season closures of adversely impacted migratory game birds such as white-fronted geese, sandhill cranes, and pintails. Goose damage to winter wheat and other agricultural crops will continue and worsen. Habitat damage in the Arctic will eventually trigger density-dependent regulation of the population which likely will result in increased gosling mortality and may cause the population to decline precipitously. However, it is not clear when such population regulation will occur and what habitat, if any, will remain to support the survivors. Such a decline may result in a population too low to permit any hunting, effectively closing MCLG hunting seasons. The length of the closures will largely depend on the recovery rate of the breeding habitat which likely will take decades. Although the overall impact of closures of light-goose seasons in the Central and Mississippi Flyways that could result from continued degradation of the breeding habitat is small on a national scale, it would be concentrated where large flocks of geese stage and winter. As hunter services tend to be performed by people with low incomes, the impact of a closure would fall disproportionately on low income groups near goose concentrations. We expect the proposed action to reduce the risk of light-goose season closures in the Central and Mississippi Flyways and avoid a $70 million loss in output and reduce the possibility of increased agricultural loss. We expect special MCLG population control efforts to create additional take opportunities which is expected to add $18 million in output to local economies.

Public Comment Received

On April 6, 1998, we issued in the **Federal Register** (63 FR 16819) a notice of intent announcing that we would develop a draft Environmental Assessment to examine alternative regulatory strategies to reduce MCLG populations. This notice invited public comment on possible regulatory alternatives. The notice also advised the public that the draft Environmental Assessment along with a proposed rule would be published in the **Federal Register** later this year for public review and comment.

As a result of this invitation for public comment, 247 comments consisting of 1 from a Federal agency, 8 from State wildlife agencies, 7 from private organizations, 1 from a Flyway Council, 115 from private citizens, and 115 from people who signed a petition were received. Comments were generally dichotomized by two key points of concern.

To summarize, 186 comments were supportive of our intent to examine alternative regulatory strategies designed to increase MCLG harvest to reduce the MCLG population. These commenters agreed that there was a problem and that the resolution should entail reduction by lethal means and supported the use of additional hunting methods to increase harvest of MCLG. Comments in support of such action were received from 1 Federal agency, 8 State wildlife agencies, 1 Flyway Council, 5 private conservation agencies, 94 private citizens, and 77 from people who signed a petition. Conversely, 59 comments received were in opposition to the Service's intent to reduce MCLG populations by use of lethal means either because they believe it is not scientifically justified to reduce the populations or attempts to do so would be inhumane. Instead, these commenters offered two non-lethal recommendations to reduce the populations: (1) Hazing adults off nests and (2) egging (destroying nests) on the breeding grounds. Comments in support of no action or non-lethal action were received from 2 private animal welfare agencies, 19 private citizens, and 38 from people who signed a petition. Additionally, 2 comments were received in support of reducing the populations by use of lethal means, however, recommended use of Federal and State wildlife agency programs such as trapping and culling.

Service Response: We are also opposed to the inhumane treatment of any birds and we do not believe that authorizing additional hunting methods or by providing additional opportunities to increase harvest of MCLG is inhumane. We also prefer non-lethal control activities, such as habitat modification, as the first means of resolving this issue. However, habitat modification and other harassment tactics do not always work satisfactorily and lethal methods are sometimes necessary to increase the effectiveness of non-lethal management methods. Further, MCLG breed in remote locations in the arctic and subarctic regions of Northern Canada. Implementing control activities in those areas is cost-prohibitive and dangerous. Instead, we feel that providing States with additional opportunity and means to increase MCLG harvest while implementing non-lethal control measures concurrently is the most efficient and feasible short-term solution. We will continue to work jointly with the Canadian Wildlife Service to reduce MCLG in both the United States and in Canada.

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NEPA Considerations

We have prepared a draft Environmental Assessment (EA), as defined under the authority of the National Environmental Policy Act of 1969, in connection with this proposed regulation. The EA is available for public review at the above address.

Endangered Species Act Consideration

Section 7(a)(2) of the Endangered Species Act (ESA), as amended (16 U.S.C. 1531–1543; 87 Stat. 884) provides that " Each Federal agency shall, in consultation with the Secretary, insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of (critical) habitat * * *" Consequently, we initiated Section 7 consultation under the ESA for this proposed rulemaking. Completed results of our consultation under Section 7 of the ESA may be inspected by the public in, and will be available to the public from, the Office of Migratory Bird Management at the above address.

Regulatory Flexibility Act, Executive Order 12866, and Executive Order 12630

The economic impacts of this proposed rulemaking will fall disproportionately on small businesses because of the structure of the waterfowl hunting related industries. The proposed regulation benefits small businesses by avoiding ecosystem failure to an ecosystem that produces migratory bird resources important to American citizens. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities. Data are not available to estimate the number of small entities affected, but it is unlikely to be a substantial number on a national scale. We expect the proposed action to reduce the risk of light-goose season closures in the Central and Mississippi Flyways subsequently avoiding a $70 million loss in output and reducing the possibility of increased agricultural loss. We expect special MCLG population control efforts to create additional take opportunities which is expected to add $18 million in output to local economies. We have determined that a Regulatory Flexibility Act Analysis is not required. Migratory bird regulations are recognized as exempt from takings implication assessment under E.O. 12630. This rule was not subject to review by the Office of Management and Budget under E.O. 12866.

Paperwork Reduction Act and Information Collection

This regulation does not require any additional information collection under the Paperwork Reduction Act. The information collection is covered by an existing Office of Management and Budget approval number. The information collections contained in § 20.20 have been approved by OMB under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018–0015 for the administration of the Migratory Bird Harvest Information Survey (50 CFR 20.20). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Act (2 U.S.C. 1502 *et seq.*) that this proposed rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. This rule will not "significantly or uniquely" affect small governments. No governments below the State level will be affected by this rule. A Small Government Agency Plan is not required. This rule will not produce a Federal mandate of $100 million or

greater in any year, i.e., it is not a "significant regulatory action" under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this proposed rule, has determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988. This rule has been reviewed by the Office of the Solicitor. Specifically, this rule has been reviewed to eliminate errors and ambiguity, has been written to minimize litigation, provides a clear legal standard for affected conduct, and specifies in clear language the effect on existing Federal law or regulation. It is not anticipated that this rule will require any additional involvement of the justice system beyond enforcement of provisions of the Migratory Bird Treaty Act of 1918 that have already been implemented through previous rulemakings.

Public Comment Invited

The policy of the Department of the Interior is, whenever practical, to afford you the opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding this proposal to the location identified in the address section above. Comments must be received on or before (Insert 60 days from the date of publication of this notice). Following review and consideration of the comments, we intend to issue a final rule.

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid in or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A "section" appears in bold type and is preceded by the symbol "§ " (50 CFR 21.60) (5) Is the description of the rule in the SUPPLEMENTARY INFORMATION section of the preamble helpful in understanding the rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to " Office of Regulatory Affairs, Department of the Interior, room 7229, 1849 C Street, NW, Washington, DC 20240. You may also e-mail the comments to this address: Exsec@ios.doi.gov.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

For the reasons given in the preamble, we hereby propose to amend part 20 of subchapter B, chapter I, title 50 of the Code of Federal Regulations, as set forth below:

The authority citation for part 20 continues to read as follows:

Authority: 16 U.S.C 703–712; and 16 U.S.C. 742 a–j.

PART 20—[AMENDED]

§ 20.21 [Amended]

1. Revise paragraphs (b) and (g) of § 20.21 *Hunting methods* to read as follows:

* * * * *

(b) With a shotgun of any description capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so its total capacity does not exceed three shells. *Provided that* during a light-goose only season when all other migratory bird hunting seasons are closed, nothing in this paragraph (b) prohibits the taking of lesser snow and Ross' geese in Alabama, Arkansas, Colorado, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas and Wyoming with a shotgun that is capable of holding more than three shells. This exception is subject to an annual assessment by the Service based on harvest data collected from the previous year to determine the effectiveness of this section in meeting the management goals and objectives associated with the reduction of Mid-continent light goose (lesser snow and Ross' geese) populations. The Service will annually publish the determination of that assessment in the **Federal Register**.

* * * * *

(g) By the use or aid of recorded or electrically amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds. *Provided that* during a light goose only season when all other migratory bird hunting seasons are closed, nothing in this paragraph (g) prohibits the taking of lesser snow and Ross' geese in Alabama, Arkansas, Colorado, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, Texas, South Dakota, and Wyoming with recorded or electrically amplified bird calls or sounds or recorded or electrically amplified imitations of bird calls or sounds. This exception is subject to an annual assessment by the Service based on harvest data collected from the previous year to determine the effectiveness of this regulation in meeting the management goals and objectives associated with the reduction of Mid-continent light goose (Mid-continent lesser snow and Ross' geese) populations. The Service will annually publish the determination of that assessment in the **Federal Register**.

* * * * *

Dated: October 30, 1998.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 98–29953 Filed 11–5–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 20 and 21

RIN 1018–AF05

Migratory Bird Permits; Establishment of a Conservation Order for the Reduction of Mid-Continent Light Goose Populations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Mid-continent lesser snow goose and Ross' goose population has nearly quadrupled in the last 30 years. The Western Central Flyway lesser snow and Ross' goose population also has quadrupled in the last 23 years. Collectively, these central and eastern arctic and subarctic-nesting light goose populations are referred to as Mid-continent light geese (MCLG)

Due to high population growth rates, a decline in adult mortality, and an increase in winter survival, MCLG are now seriously injurious to their habitat and habitat important to other migratory birds which poses a serious threat to the short and long-term health and status of migratory bird populations. The U.S. Fish and Wildlife Service (Service or "we") believes that MCLG populations exceed long-term sustainable levels for their arctic and subarctic breeding habitats and the populations must be reduced. This proposed rule proposes the addition of a new subpart to 50 CFR part 21 for the management of overabundant MCLG populations. We, in cooperation with State wildlife agencies, are further proposing to implement a population control program by establishing a conservation order for MCLG under the authority of the proposed subpart. This proposed rule will increase the use and availability of additional hunting methods and will authorize take of MCLG outside of the normal open light-goose hunting season. We designed the program to increase MCLG harvest and to provide a biologically sound and cost effective and efficient method for the reduction and management of overabundant MCLG populations.

DATES: The comment period for this proposed rule closes January 8, 1999.

ADDRESSES: Comments should be mailed to Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of Interior, ms 634—ARLSQ, 1849 C Street NW, Washington, D.C. 20240. The public may inspect comments during normal business hours in room 634—Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. Comments and suggestions on the requirements should be sent directly to the Office of Information and Regulatory Affairs; Office of Management and Budget; Attention: Interior Desk Officer, Washington, DC 20503; and a copy of the comments should be sent to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, ms 224—ARLSQ, 1849 C Street NW, Washington DC 20204.

FOR FURTHER INFORMATION CONTACT: Bob Blohm, Acting Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Background

Lesser snow and Ross' geese that primarily migrate through North Dakota, South Dakota, Nebraska, Kansas, Iowa, and Missouri, and winter in Arkansas, Louisiana, Mississippi, and eastern, central, and southern Texas and other Gulf Coast States are referred to as the Mid-continent population of light geese (MCP). Lesser snow and Ross' geese that primarily migrate through Montana, Wyoming, and Colorado and winter in New Mexico, northwestern Texas, and Chihuahua, Mexico are referred to as the Western Central Flyway population of light geese (WCFP). Ross' geese are often mistaken for lesser snow geese due to their similar appearance. Ross' geese occur in both the MCP and the WCFP and mix extensively with lesser snow geese on both the breeding and wintering grounds. MCP and WCFP lesser snow and Ross' geese are collectively referred to as Mid-continent light geese (MCLG) because they breed, migrate, and winter in the "Mid-continent" or central portions of North America primarily in the Central and Mississippi Flyways. They are referred to as "light" geese due to their light coloration as opposed to "dark" geese such as the white-fronted or Canada goose.

MCLG breed in the central and eastern arctic and subarctic regions of Northern Canada. MCLG populations are experiencing high population growth rates and have substantially increased in numbers within the last 30 years. MCP light geese have more than tripled within 30 years from an estimated 800,000 birds in 1969 to approximately three million birds in 1998 and have grown an average of 5% per year for the last ten years (Abraham et al. 1996, USFWS 1998b). WCFP light geese have quadrupled in 23 years from 52,000 in 1974 to 216,000 in 1997 (USFWS 1997b), and have increased an average of 9% per year for the last ten years (USFWS 1998b). The above population estimates are not true population counts and likely underestimate the true population sizes. They were derived from an index which is used to detect population growth trends by sampling a portion of a population. Breeding colony estimates, actual population counts estimated from spring and summer surveys, suggest that the actual population sizes of MCLG may be in excess of five million breeding birds (D. Caswell pers. comm. 1998). In an area northwest of Hudson Bay alone, the Queen Maud Gulf, estimates for breeding and non-breeding (failed to successfully nest) adult Ross' and lesser snow geese for 1998 are 1.29 million and 1.82 million birds, respectively (Alisauskas et al. 1998). These geese are in addition to the millions of geese estimated to be nesting along west Hudson and James Bays where the geese have precipitated severe habitat degradation and on Southampton and Baffin Islands where signs of habitat degradation are becoming evident. MCLG populations have exceeded the North American Waterfowl Management Plan (NAWMP) population objective levels in both the United States and Canada. NAWMP population objective levels are used to demonstrate that MCLG populations have increased substantially over what is considered to be a healthy population level, not to suggest that MCLG be reduced to NAWMP population objective levels. Population management thresholds, however, are management thresholds that specify both an upper and lower population level objective.

Ross' goose estimates (WCFP and MCP) currently exceed 200,000 birds (December index) and breeding colony estimates (actual counts of nesting birds) approached 400,000 birds in 1996 (Batt 1997), and exceeded 1 million birds 1998; both estimates well exceed the recommended minimum population objective level for Ross' geese of 100,000 birds (USDOI et al. 1998d). MCP lesser snow geese estimates currently exceed 2.9 million birds (December index); the lower and upper population management thresholds are 800,000 and 1.2 million birds, respectively (Central and Mississippi Flyway Councils 1982) with a recommended minimum population objective level of 1 million birds (USDOI et al. 1998d). WCFP lesser snow goose estimates currently exceed 200,000 birds (December index) which exceeds the recommended minimum population objective level of 110,000 birds (USDOI et al. 1998d). Although our intention is to significantly reduce these populations to relieve pressures on the breeding habitats, we feel that these efforts will not threaten the long-term status of these populations as we are confident reduction efforts will not result in the populations falling below the population goal and management objective levels indicated above. Evaluation and assessment mechanisms are in place to estimate population sizes and will be used to prevent the over-harvest of these populations.

The rapid rise of MCLG populations has been influenced heavily by human activities (Sparrowe, 1998, Batt 1997). The greatest attributable factors are:

(1) The expansion of agricultural areas in the United States and prairie Canada that provide abundant food resources during migration and winter;

(2) The establishment of sanctuaries along the Flyways specifically to increase bird populations;

(3) A decline in harvest rate; and

(4) An increase in adult survival rates.

Although all of these factors contributed to the rapid rise in MCLG populations, the expansion of agriculture in prairie Canada and the United States is considered to be the primary attributable factor (Sparrowe 1998, Abraham and Jefferies 1997). Today, MCLG continue to exploit soybean, rice, and other crops during the winter primarily in the Gulf Coast States and are observed less frequently in the natural coastal marshes they historically utilized. Similarly, MCLG migrating through the Mid-latitude and northern United States and prairie

Canada during spring migration exploit cereal grain crops consisting of corn, wheat, barley, oats and rye (Alisauskas et al. 1988). For example, an estimated 1 to 2 million MCLG stage in the Rainwater Basin in Nebraska from mid-February to mid-March and primarily feed on corn left over from harvesting (USFWS 1998a). These crops provide MCLG with additional nutrients during spring migration assuring that MCLG arrive on the breeding grounds in prime condition to breed. Increased food subsidies during spring migration over the last 30 years has resulted in higher reproductive potential and breeding success (Ankney and McInnes 1978, Abraham and Jefferies 1997). Consequently, more geese survived the winter and migration and were healthier as they returned to their breeding grounds in Canada.

This is not intended to criticize the conservation efforts accomplished by the implementation of conservation-oriented agricultural practices. Such efforts have benefitted numerous wildlife species. It is merely to point out that MCLG have exploited these artificial resources which has resulted in an increase in survival.

Foraging Behavior of MCLG

The feeding behavior of MCLG is characterized by three foraging methods. Where spring thawing has occurred and above-ground plant growth has not begun, lesser snow geese dig into and break open the turf (grub) consuming the highly nutritious below-ground biomass, or roots, of plants. Grubbing continues into late spring. Lesser snow geese also engage in shoot-pulling where the geese pull the shoots of large sedges, consume the highly nutritious basal portion, and discard the rest, leaving behind large unproductive, and potentially unrecoverable areas (Abraham and Jefferies 1997). A third feeding strategy utilized by many species is grazing which in some cases, stimulates plant growth. Both lesser snow geese and Ross' geese graze. Due to their shorter bill size, Ross' geese are able to graze shorter stands of grass.

Grubbing, grazing, and shoot-pulling are natural feeding behaviors and at lower population levels have had positive effects on the ecosystem. For example, at lower numbers, geese fed on the tundra grasses and actually stimulated growth of plant communities resulting in a positive feedback loop between the geese and the vegetation. However, the rapidly expanding numbers of geese, coupled with the short tundra growing season, disrupted the balance and has resulted in severe habitat degradation in sensitive ecosystems. The Hudson Bay Lowlands salt-marsh ecosystem, for example, consists of a 1,200 mile strip of coastline along west Hudson and James Bays, Canada. It contains approximately 135,000 acres of coastal salt-marsh habitat. Vast hypersaline areas devoid of vegetation degraded by rapidly increasing populations of MCLG have been observed and documented extensively throughout the Hudson Bay Lowlands (Abraham and Jefferies 1997). Rockwell et al. (1997a) observed the decline of more than 30 avian populations in the La Pérouse Bay area due to severe habitat degradation. These declines and other ecological changes represent a decline in biological diversity and indicate the beginning of collapse of the current Hudson Bay Lowlands salt-marsh ecosystem. Experts fear that some badly degraded habitat will not recover (Abraham and Jefferies 1997). For example, in a badly degraded area, less than 20% of the vegetation within an exclosure (fenced in area where geese cannot feed) has recovered after 15 years of protection from MCLG (Abraham and Jefferies 1997). Recovery rates of degraded areas are further slowed by the short tundra growing season and the high salinity levels in the exposed and unprotected soil.

Long-term research efforts have indicated signs of "trophic cascade" in La Pérouse Bay, Cape Henrietta Maria, and Akimiski Island (R. Rockwell pers. comm. 1998). Trophic cascade is essentially the collapse of an existing food chain indicating that the ecosystem is unable to support its inhabitants. Impacts associated with trophic cascade are indicative that MCLG populations have exceeded the carrying capacity of much of their breeding habitat. Impacts such as a decline in biological diversity and physiological stress, malnutrition, and disease in goslings have been documented and observations of such impacts are increasing. Additional observations in areas north of Hudson Bay on Southampton and Baffin Islands, northwest in the Queen Maud Gulf region, and south off the west coast of James Bay on Akimiski Island also suggest similar habitat degradation patterns from expanding colonies of MCLG. Batt (1997) reported the rapid expansion of existing colonies and the establishment of new colonies in the central and eastern arctic. In 1973, for example, Canadian Wildlife Service data indicated that approximately 400,000 light geese nested on West Baffin Island. In 1997, approximately 1.8 million breeding adults were counted. Similar colony expansions have been reported for the Queen Maud Gulf region and Southampton Island. Rapid colony expansion must be halted and the populations must be reduced to prevent further habitat degradation and to protect the remaining habitat upon which numerous wildlife species depend.

Breeding Habitat Status

MCLG breeding colonies occur over a large area encompassing eastern and central portions of Northern Canada. Habitat degradation by MCLG has been most extensively studied in specific areas where colonies have expanded exponentially and exhibit severe habitat degradation. The Hudson Bay Lowlands salt-marsh ecosystem, for example, lies within a 135,000 acre narrow strip of coastline along west Hudson and James Bays and provides important stopover sites for numerous migratory bird species. Of the 135,000 acres of habitat in the Hudson Bay Lowlands, 35% is considered to be destroyed, 30% is damaged, and 35% is overgrazed (Batt 1997). Habitats currently categorized as "damaged" or "overgrazed" are moving and will continue to move into the "destroyed" category if goose populations continue to expand. Accelerated habitat degradation has been observed on Southampton and Baffin Islands and appear to be following the same pattern as documented in the Hudson Bay Lowlands. Current research efforts are underway to confirm observations of habitat degradation by MCLG in other areas.

Migration and Wintering Habitat Conditions and Degradation

There is no evidence to support that wintering habitat for MCLG is threatened or that it may limit population growth. Presently, there are approximately 2.25 million acres of rice fields in Texas, Louisiana, and Arkansas, in addition to the millions of acres of cereal grain crops in the Midwest. Consequently, food availability and suitable wintering habitat are not limiting MCLG during the migration and wintering portions of the annual cycle.

Summary of Environmental Consequences of Taking No Action

At each site they occupy, MCLG will continue to degrade the plant communities until food and other resources are exhausted, forcing yet more expansion. The pattern has been, and will continue to be, that as existing nesting colonies expand, they exploit successively poorer quality habitats, which are less able to accommodate them and which become degraded more quickly. Eventually, the coastal salt-marsh communities surrounding Hudson Bay and James Bay will become remnant with little chance of recovery as long as MCLG populations remain high and for some time after it declines from natural causes, if they do. The functioning of the whole coastal ecosystem, from consolidation of sediments by colonizing plants to provision of suitable habitats for invertebrate and vertebrate fauna, will be detrimentally and possibly irrevocably altered. Similar conditions will likely come to prevail at selected non-coastal areas where MCLG have occupied most of the suitable nesting habitats. As many as 30 other avian species, including American wigeon, Northern shoveler, stilt sandpiper, Hudsonian godwit, and others, that utilize those habitats have declined locally, presumably due to habitat degradation by MCLG. Other species, such as Southern James Bay Canada geese, a species of management concern, that breed on nearby Akimiski Island and numerous other waterfowl species that migrate and stage with MCLG, have been and will continue to be negatively impacted. Arctic mammalian herbivores will also be impacted as the vegetative communities upon which they depend become depleted. Due to the rapidly expanding populations and the associated ecological impacts identified, we have concluded that MCLG populations have become seriously injurious to themselves and other migratory birds, their habitat and habitat of other migratory birds.

We expect that MCLG populations will continue to grow at least 5% annually, resulting in more severe and widespread ecological impacts. Although several factors influence population dynamics, the greatest single factor in the populations' increase is high and increasing adult survival rates (Rockwell et al. 1997b). Therefore, removing adults from the populations is the most effective and efficient approach in reducing the populations. Experts feel that breaking eggs and other non-lethal techniques have been determined to be ineffective in significantly reducing the populations within a reasonable time to preserve and protect habitat (Batt 1997).

We have attempted to curb the growth of MCLG populations by increasing bag and possession limits and extending the open hunting season length for light geese to 107 days, the maximum allowed by the Treaty. However, due to the rapid rise in MCLG numbers, low hunter success, and low hunter interest, harvest rate (the percentage of the population that is harvested), has declined despite evidence that the number of geese harvested has increased (USFWS 1997b). The decline in harvest rate indicates that the current management strategies are not sufficient to stabilize or reduce population growth rates.

We realize that current MCLG management policies need to be re-examined and believe that alternative regulatory strategies designed to increase MCLG harvest, implemented concurrently with habitat management and other non-lethal control measures, have the potential to be effective in reducing MCLG populations to levels that the remaining breeding habitat can sustain. We prefer to implement alternative regulatory strategies designed to increase MCLG harvest afforded by the Migratory Bird Treaty and avoid the use of more drastic population control measures. More direct population control measures such as trapping and culling programs may be necessary if the current proposed action is not successful. Should the proposed action be unsuccessful in five years, we will consider more direct population control measures to reduce MCLG.

We restrict the scope of this proposed rule to Mid-continent populations of light geese (MCLG): Mid-continent and Western Central Flyway lesser snow geese (*Chen caerulescens caerulescens*) and Ross' geese (*C. rossi*) and the United States portions of the Central and Mississippi Flyways (primarily Alabama, Arkansas, Colorado, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming) where they migrate, stage, or winter. Evidence exists to support the conclusion that MCLG migrate, stage, and winter in these areas and breed in the arctic and subarctic areas that are experiencing severe habitat degradation.

We are concurrently proposing an additional but separate population reduction strategy. In addition to this proposed rule to amend 50 CFR part 21, we are also proposing to amend 50 CFR part 20 to authorize the use of new hunting methods to harvest MCLG. That proposed rule would authorize States to allow the use of new hunting methods to harvest MCLG during a light-goose only season when all other migratory bird hunting seasons are closed. The proposal is also in the nature of a proposed rule and the notice and request for comments is published in this issue of the **Federal Register**.

We do not expect the second proposed action (amendment to 50 CFR part 20) implemented alone to achieve our overall management objective which is to reduce MCLG populations such that the December index falls within 800,000 and 1.2 million birds. The success of that strategy will hinge upon State participation, hunter participation, and hunter effectiveness. If a State does not participate, then its hunters will not be able to participate, decreasing the program's potential. We do not expect some States to participate in that proposed action due to the infeasibility of implementing the action when all other migratory bird hunting seasons are closed. MCLG migrate through northern and Mid-latitude States in the fall, however, the geese typically do not reach some of those States prior to 10 March during spring migration. For those States to be able to utilize the second proposed action, they would have to close all other migratory bird hunting seasons in the fall, which is highly unlikely. Conversely, many migratory bird hunting seasons in the southern States close prior to 10 March. Therefore, it is much more feasible for southern States to implement that proposed action by establishing a light-goose only season when all other migratory bird seasons are closed. We are proposing this proposed action (conservation order) in order to maximize the overall program's potential and obtain our management objective within a reasonable time-frame to avoid the use of more direct population control programs. This proposed action, conservation order, will allow northern States to participate in this effort and enable them to harvest MCLG during spring migration, particularly after 10 March. Harvest projections for the second proposed action (amendment 50 CFR part 20) are rolled into the harvest projections for this proposed action (conservation order). Harvest projections for the second proposed action would not be in addition to the harvest projections for this proposed action.

Proposed Conservation Order for MCLG

We propose to establish a new subpart in 50 CFR part 21 for the management of overabundant MCLG populations. Under this new subpart, we propose to establish a conservation order specifically for the control and management of MCLG. Conditions under the conservation order require that participating States inform all participants acting under the authority of the conservation order of the conditions that apply to the proposed amendment.

Under the authority of this proposed rule, States could initiate aggressive

harvest management strategies with the intent to increase MCLG harvest without having to obtain an individual permit, which will significantly reduce administrative burden to the State and Federal governments. A permit process would slow efforts to reduce the populations and prolong habitat degradation on the breeding grounds. This proposed rule will enable States to use hunters to harvest MCLG, by shooting in a hunting manner, inside or outside of the regular open migratory bird hunting season frameworks. States could maximize the opportunity to increase harvest of MCLG by implementing this proposed action beyond 10 March, where historically States have been limited by hunting season framework closing dates to take migratory birds. In order to minimize or avoid take of non-target species; States may implement this proposed action only when all migratory bird hunting seasons are closed. It is expected that this proposed action will facilitate other protection and recovery efforts. This proposed rule would further result in biologically sound and more cost-effective and efficient overabundant MCLG management and could preclude the use of more drastic, direct population control measures such as trapping and culling programs. Although the desired goal is to significantly reduce overabundant MCLG populations, we believe that this proposed rule will not threaten the long-term status of MCLG populations or threaten the status of other species that could be impacted through the implementation of this proposed rule. Evaluation and monitoring strategies are in place to assess the overall impacts of this proposed action on MCLG harvest and impacts to non-target species that may be affected by the implementation of this proposed action.

Summary of Environmental Consequences of Proposed Action

MCLG Populations and Associated Habitats

We project that we will harvest two million MCLG within three years without the use of this proposed action based on current MCLG harvest trends. Under certain assumptions, our most liberal estimate projects that we can expect to harvest an additional three million MCLG within three years of implementation of this proposed action bringing the total harvest to five million MCLG within three years of implementation of this proposed action. Once the December index falls within recommended management guidelines (800,000 to 1.2 million birds), then the proposed amendment to 50 CFR part 21 will be revoked.

The impact is expected to be regional within the Central and western Mississippi Flyway States that choose to utilize the proposed action. Since the proposed action may take place between 11 March and 31 August, we expect MCLG take to increase among Mid-latitude and northern States according to migration chronology. Increased harvest will be further facilitated by the use of additional hunting methods (electronic callers and unplugged shotguns) authorized by a State under the authority of this proposed rule. Although we can expect the additional hunting methods to be effective in increasing harvest per hunter, there is no precedent to guide us in determining to what degree they will be effective. It is equally difficult to ascertain to what degree the public will participate in the implementation of this proposed action, which will influence its effectiveness. However, with certain assumptions, we may project an increase in harvest using existing harvest data.

Several assumptions must be established before projecting the effect of the proposed action on harvest. We are assuming that all affected States will act under the authority of this proposed action and will allow all new hunting methods authorized in this proposed rule (electronic callers and unplugged shotguns), including the utilization of the maximum number of days available after the regular light-goose season. We are also assuming that current MCLG hunter numbers will not decrease and that the new methods authorized in this proposed rule, if used, will increase hunter effectiveness and overall harvest. We do not assume that all MCLG hunters will participate in the implementation of this proposed action and of those that do, we do not assume that all will increase their effectiveness by using new hunting methods. We are assuming that 25% of the MCLG hunters will use the new methods and will increase his/her effectiveness in harvesting MCLG.

States that have MCLG after 10 March may choose not to harvest MCLG after 10 March. Of those that do, the number of days each State may harvest outside of their regular open light-goose season likely will vary. For purposes of this exercise, we are assuming MCLG harvest is consistent throughout the entire light-goose season and that all affected States will use the proposed action. It is important to note that the issue of just how additional days influences harvest of migratory birds continues to be extensively analyzed. In that respect, our projections regarding MCLG harvest are our best estimates based on the data that we have and represent a liberal estimate.

We determined, based on a linear regression analysis of historical harvest data, that harvest number of MCLG has increased approximately 31,600 MCLG per year for the last ten years. A simple linear regression of the harvest data represents our most conservative estimate because the analysis does not take into account other factors that may have influenced harvest such as the recent regulation changes for light geese. A more complex analysis will demonstrate that harvest number has actually increased at a faster rate since the bag and possession limits for light geese have been increased (USFWS 1998c). Today, more MCLG are harvested with fewer hunters and hunter participation in light goose hunting is increasing. Therefore, conservatively, we projected that harvest will increase 31,600 per year for the next 5 years.

In 1997–98, 602,800 MCLG were harvested in the affected States (AR, CO, IL, IA, KS, LA, MS, MO, MT, NE, NM, ND, OK, SD, TX, and WY). Combined with our projection that harvest will increase by 31,600 per year without any changes to hunting regulations, we can expect to harvest 634,400 MCLG in the 1998–1999 regular light goose season in those affected States. Under the assumptions stated above, we expect to harvest an additional 576,300 MCLG through the implementation of this proposed action (authorize electronic callers, unplugged shotguns, and additional days to harvest) bringing the total projected harvest to 1.2 million MCLG in the first year of implementation of this proposed action. These figures are based on increasing harvest number. Therefore, we expect this projected harvest to increase annually. We expect to harvest 1.8 million MCLG in the second year of implementation and 2.4 million in the third year of implementation.

Central and Mississippi Flyway Council management guidelines suggest that MCLG populations should rest between 800,000 and 1.2 million birds based on the December index (USFWS 1998b, Central and Mississippi Flyway Councils 1982). Batt (1997) estimate that the populations should be reduced by 50% by 2005. Based on the December index, that would suggest a reduction from approximately 3 million birds to approximately 1.5 million birds in the December index; a figure which coincides with the management guidelines determined by the Central and Mississippi Flyway Council. Therefore, our efforts will focus on a goal similar to those documented. It is important to understand that the December index is not a population count. It is simply used to detect population growth trends by sampling a portion of a population. The reduction of MCLG will be carefully analyzed and assessed on an annual basis using the December index and other surveys to ensure that the populations are not over-harvested.

We expect an increase in MCLG harvest to facilitate other efforts, such as habitat management on the wintering grounds and increased harvest by Canadian aboriginals, to decrease MCLG numbers and relieve pressures on the breeding grounds. There is no evidence to suggest that the implementation of this proposed action will result in an over-harvest of MCLG. Once the December index reflects a number within the management guidelines mentioned above (800,000—1.2 million), the proposed action will be revoked and the methods authorized will no longer be used. It is improbable that the implementation of this proposed action will threaten the long-term status of MCLG populations because we will monitor the MCLG populations and act accordingly to avoid it by modifying or revoking the proposed action.

Other Species

An increase in harvest, and subsequently a decrease in MCLG numbers, is expected to relieve pressures on other migratory bird populations that utilize MCLG breeding and wintering grounds and other areas along the migration routes. It is expected to reduce the possibility that other species will be forced to seek habitat elsewhere or abandon unsuitable degraded habitat altogether, which could potentially result in decreased reproductive success of affected populations. We expect a significant decrease in MCLG populations to contribute to increased reproductive success of adversely impacted populations. Further, we expect that by decreasing the numbers of MCLG on wintering and migration stopover areas, the risk of transmitting avian cholera to other species will be reduced which will reduce the threat of a widespread avian cholera outbreak.

Socio-economic

Any action taken has economic consequences. Continued inaction is likely to result in ecosystem failure of the Hudson Bay Lowlands salt-marsh ecosystem and potentially other ecosystems as MCLG populations expand and exploit new habitats. Without more effective population control measures to curb the populations, the populations of MCLG are expected to continue increasing and become more and more unstable as suitable breeding habitat diminishes. As population densities increase, the incidence of avian cholera among MCLG and other species is likely to increase throughout the Flyways, particularly at migration stopover sites. Losses of other species such as pintails, white-fronted geese, sandhill cranes, and whooping cranes, from avian cholera may be great. This may result in reduced hunting, birdwatching, and other opportunities. It may also result in the season closures of adversely impacted migratory game birds such as white-fronted geese, sandhill cranes, and pintails. Goose damage to winter wheat and other agricultural crops will continue and worsen. Habitat damage in the Arctic will eventually trigger density-dependent regulation of the population which likely will result in increased gosling mortality and may cause the population to decline precipitously.

However, it is not clear when such population regulation will occur and what habitat, if any, will remain to support the survivors. Such a decline may result in a population too low to permit any hunting, effectively closing MCLG hunting seasons. The length of the closures will largely depend on the recovery rate of the breeding habitat which likely will take decades. Although the overall impact of closures of light-goose seasons in the Central and Mississippi Flyways that could result from continued degradation of the breeding habitat is small on a national scale, it would be concentrated where large flocks of geese stage and winter. As hunter services tend to be performed by people with low incomes, the impact of a closure would fall disproportionately on low income groups near goose concentrations. We expect the proposed action to reduce the risk of light-goose season closures in the Central and Mississippi Flyways and avoid a $70 million loss in output and reduce the possibility of increased agricultural loss. We expect special MCLG population control efforts to create additional take opportunities which is expected to add $18 million in output to local economies.

Public Comments Received

On April 6, 1998, we issued in the **Federal Register** (63 FR 16819) a notice of intent announcing that we would develop a draft Environmental Assessment to examine alternative regulatory strategies to reduce MCLG populations. This notice invited public comment on possible regulatory alternatives. The notice also advised the public that the draft Environmental Assessment along with a proposed rule would be published in the **Federal Register** later this year for public review and comment. As a result of this invitation for public comment, 247 comments consisting of 1 from a Federal agency, 8 from State wildlife agencies, 7 from private organizations, 1 from a Flyway Council, 115 from private citizens, and 115 from people who signed a petition were received. Comments were generally dichotomized by two key points of concern.

To summarize, 186 comments were supportive of our intent to examine alternative regulatory strategies to reduce the MCLG population. These commenters agreed that there was a problem and that the resolution should entail reduction by lethal means and supported the use of additional methods to increase take of MCLG. Comments in support of such action were received from 1 Federal agency, 8 State wildlife agencies, 1 Flyway Council, 5 private conservation agencies, 94 private citizens, and 77 from people who signed a petition. Conversely, 59 comments received were in opposition to the Service's intent to reduce MCLG populations by use of lethal means either because they believe it is not scientifically justified to reduce the populations or attempts to do so would be inhumane. Instead, these commenters offered two non-lethal recommendations to reduce the populations: (1) Hazing adults off nests and (2) egging (destroying nests) on the breeding grounds. Comments in support of no action or non-lethal action were received from 2 private animal welfare agencies, 19 private citizens, and 38 from people who signed a petition. Additionally, 2 comments were received in support of reducing the population by use of lethal means, however, recommended use of Federal wildlife agency programs such as trapping and culling.

Service Response: We are also opposed to the inhumane treatment of any birds and we do not believe that increasing take of MCLG by providing additional opportunities or methods for take of MCLG is inhumane. We also prefer non-lethal control activities, such as habitat modification, as the first means of resolving this issue. However, habitat modification and other harassment tactics do not always work satisfactorily and lethal methods are sometimes necessary to increase the effectiveness of non-lethal management methods. Further, MCLG breed in remote locations in the arctic and

subarctic regions of Northern Canada. Implementing control activities in those areas is cost-prohibitive and dangerous. Instead, we feel that providing States with additional opportunity and means to increase take of MCLG while implementing non-lethal control measures concurrently is the most efficient and feasible short-term solution. We will continue to work jointly with the Canadian Wildlife Service to reduce MCLG in both the United States and in Canada.

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NEPA Considerations

We have prepared a draft Environmental Assessment (EA), as defined under the authority of the National Environmental Policy Act of 1969, in connection with this proposed regulation. The EA is available for public review at the above address.

Endangered Species Act Consideration

Section 7(a)(2) of the Endangered Species Act (ESA), as amended (16 U.S.C. 1531–1543; 87 Stat. 884) provides that "Each Federal agency shall, in consultation with the Secretary, insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of (critical) habitat . . ." Consequently, we initiated Section 7 consultation under the ESA for this proposed rulemaking. Completed results of our consultation under Section 7 of the ESA may be inspected by the public in, and will be available to the public from, the Office of Migratory Bird Management at the above address.

Regulatory Flexibility Act, Executive Order 12866, and Executive Order 12630

The economic impacts of this proposed rulemaking will fall disproportionately on small businesses because of the structure of the waterfowl hunting related industries. The proposed regulation benefits small businesses by avoiding ecosystem failure to an ecosystem that produces migratory bird resources important to American citizens. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities. Data are not available to estimate the number of small entities affected, but it is unlikely to be a substantial number on a national scale. We expect the proposed action to reduce the risk of light-goose season closures in the Central and Mississippi Flyways subsequently avoiding a $70 million loss in output and reducing the possibility of increased agricultural loss. We expect special MCLG population control efforts to create additional take opportunities which is expected to add $18 million in output to local economies. We have determined that a Regulatory Flexibility Act Analysis is not required. Migratory bird regulations are recognized as exempt from takings implication assessment under E.O. 12630. This rule was not subject to review by the Office of Management and Budget under E.O. 12866.

Paperwork Reduction Act and Information Collection

The collection of information described below will be submitted to OMB for approval under the provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). We will not conduct or sponsor any information collection until approved by OMB and a final regulation is published, and a person is not required to respond to a collection of information unless it displays a current valid OMB control number. The proposed information collection will be used to administer this program and, particularly in the assessment of impacts alternative regulatory strategies may have on MCLG and other migratory bird populations. The information collected will be required to authorize State wildlife management agencies responsible for migratory bird management to take MCLG within the guidelines provided by the Service. The annual number of State participants is expected to be 17. The reporting burden for this collection of information is estimated to average 30 hours per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the collection of information, yielding an annual burden of 510 hours.

BURDEN ESTIMATES FOR REPORTING REQUIREMENTS FOR THE CONSERVATION ORDER TO REDUCE MID-CONTINENT POPULATIONS OF LIGHT GEESE

Type of report	Number of reports annually	Avg. time required per report (minutes)	Burden hours
General Take or Removal*	17	1,800	510

*General take or removal includes authorized human-related mortality.

We expect a maximum of 17 annual reports per year from all participating States. We estimate that each annual report will require about 6 hours to complete, therefore, the burden assumed by the participants is 102 hours or less.

Comments are invited from you on: (1) Whether the collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate, automated, electronic, mechanical, or other technological collection techniques or other forms of information collection technology. Comments and suggestions on the requirements should be sent directly to the Office of Information and Regulatory Affairs; Office of Management and Budget; Attention: Interior Desk Officer, Washington, DC 20503; and a copy of the comments should be sent to the Information Collection Clearance Officer, US Fish and Wildlife Service, ms 224—ARLSQ, 1849 C Street NW., Washington DC 20204. A copy should also be sent directly to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, ms 224—ARLSQ, 1849 C Street NW., Washington, DC 20204 or electronically to mullinR@fws.gov.

Unfunded Mandates

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Act (2 U.S.C. 1502 et seq) that this proposed rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. This rule will not "significantly or uniquely" affect small governments. No governments below the State level will be affected by this rule. A Small Government Agency Plan is not required. This rule will not produce a Federal mandate of $100 million or greater in any year, i.e., it is not a "significant regulatory action" under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this proposed rule, has determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988. This rule has been reviewed by the Office of the Solicitor. Specifically, this rule has been reviewed to eliminate errors and ambiguity, has been written to minimize litigation, provides a clear legal standard for affected conduct, and specifies in clear language the effect on existing Federal law or regulation. It is not anticipated that this rule will require any additional involvement of the justice system beyond enforcement of provisions of the Migratory Bird Treaty Act of 1918 that have already been implemented through previous rulemakings.

Public Comment Invited

The policy of the Department of the Interior is, whenever practical, to afford you the opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding this proposal to the location identified in the address section above. Specifically, we invite comment from affected States regarding the feasibility in implementing the proposed rule within the conditions provided. Comments must be received on or before January 8, 1998. Following review and consideration of the comments, we will issue a final rule.

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid in or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A "section" appears in bold type and is preceded by the symbol "§ " (50 CFR 21.60) (5) Is the description of the rule in the "Supplementary Information" section of the preamble helpful in understanding the rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to " Office of Regulatory Affairs, Department of the Interior, room 7229, 1849 C Street, NW, Washington, DC 20240. You may also e-mail the comments to this address: Exsec@ios.doi.gov.

List of Subjects in 50 CFR Parts 20 and 21

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

For the reasons stated in the preamble, we hereby propose to amend parts 20 and 21, of the subchapter B, chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 20—[AMENDED]

The authority citation for part 20 continues to read as follows:

Authority: 16 U.S.C. 703–712; and 16 U.S.C. 742a–j.

§ 20.22 [Amended]

2. In Section 20.22, the phrase "except as provided in part 21" is added following the word "season".

PART 21—[AMENDED]

1. The authority citation for part 21 continues to read as follows:

Authority: Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712(2)).

2. Subpart E, consisting of Section 21.60, is added to read as follows:

Subpart E—Control of Overabundant Migratory Bird Populations

§ 21.60 Conservation Order for Mid-continent light geese.

Any State agency responsible for the management of wildlife and migratory birds may, without permit, kill or cause to be killed under its general supervision, lesser snow and Ross' geese (Mid-continent light geese) in Alabama, Arkansas, Colorado, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming: Provided that:

(a) Persons who take Mid-continent light geese under this section may not sell or offer for sale those birds nor their plumage, but may possess, transport, and otherwise properly use them.

(b) Persons acting under the authority of this section must permit at all reasonable times including during actual operations, any Federal or State game or deputy game agent, warden, protector, or other game law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and must promptly furnish whatever information an officer requires concerning the operation.

(c) Nothing in this section authorizes the take of Mid-continent light geese contrary to any State laws or regulations; and none of the privileges granted under this section may be exercised unless persons acting under the authority of the conservation order possesses whatever permit or other authorization(s) as may be required for such activities by the State concerned.

(d) Activities conducted under this section may not affect endangered or threatened species as designated under the Endangered Species Act.

(e) Control activities must be conducted clearly as such and are intended to relieve pressures on migratory birds and habitat essential to migratory bird populations only and are not to be construed as opening, re-opening, or extending any open hunting season contrary to any regulations promulgated under section 3 of the Migratory Bird Treaty Act.

(f) Control activities may be conducted only when all migratory bird hunting seasons are closed.

(g) Control measures employed through this section may be implemented only between the hours of ½ hour before sunrise to ½ hour after sunset.

(h) Nothing in this section may limit or initiate management actions on Federal land without concurrence of the Federal Agency with jurisdiction.

(i) States must designate participants who must operate under the conditions of this section.

(j) States must inform all participants of the requirements/conditions of this section that apply.

(k) States must keep records of activities carried out under the authority of this section, including the number of Mid-continent light geese taken under this section, the methods by which they were taken, and the dates they were taken. The State must submit an annual report summarizing activities conducted under this section on or before August 1 of each year, to the appropriate Assistant Regional Director—Refuges and Wildlife (see § 10.22).

(l) Persons acting under the authority of this section may take Mid-continent light geese by any method except those prohibited in this section. No persons may take Mid-continent light geese:

(1) With a trap, snare, net, rifle, pistol, swivel gun, shotgun larger than 10 gauge, punt gun, battery gun, machine gun, fish hook, poison, drug, explosive, or stupefying substance;

(2) From or by means, aid, or use of a sinkbox or any other type of low floating device, having a depression affording the person a means of concealment beneath the surface of the water;

(3) From or by means, aid, or use of any motor vehicle, motor-driven land conveyance, or aircraft of any kind, except that paraplegics and persons missing one or both legs may take from any stationary motor vehicle or stationary motor-driven land conveyance;

(4) From or by means of any motorboat or other craft having a motor attached, or any sailboat, unless the motor has been completely shut off and the sails furled, and its progress therefrom has ceased: Provided, That a craft under power may be used to retrieve dead or crippled birds; however, crippled birds may not be shot from such craft under power;

(5) By the use or aid of live birds as decoys; although not limited to, it shall be a violation of this paragraph for any person to take migratory waterfowl on an area where tame or captive live ducks or geese are present unless such birds are and have been for a period of 10 consecutive days before the taking, confined within an enclosure that substantially reduces the audibility of their calls and totally conceals the birds from the sight of wild migratory waterfowl;

(6) By means or aid of any motordriven land, water, or air conveyance, or any sailboat used for the purpose of or resulting in the concentrating, driving, rallying, or stirring up of any migratory bird;

(7) By the aid of baiting, or on or over any baited area. As used in this paragraph, "baiting" means the placing, exposing, depositing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed so as to constitute for such birds a lure, attraction or enticement to, on, or over any areas where hunters are attempting to take them; and "baited area" means any area where shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed capable of luring, attracting, or enticing such birds is directly or indirectly placed, exposed, deposited, distributed, or scattered; and such area shall remain a baited area for 10 days following complete removal of all such corn, wheat or other grain, salt, or other feed. However, nothing in this paragraph prohibits the taking of Mid-continent light geese on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shocked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting; or

(8) While possessing shot (either in shotshells or as loose shot for muzzleloading) other than steel shot, or bismuth-tin (97 parts bismuth: 3 parts tin with 1 percent residual lead) shot, or such shot approved as nontoxic by the Director and identified in 50 CFR 20.21(j).

(m) The Service will annually assess the overall impact and effectiveness of the conservation order to ensure compatibility with long-term conservation of this resource. If at any time evidence is presented that clearly demonstrates that there no longer exists a serious threat of injury to the area or areas involved, we will publish immediately a notice of intent to revoke the conservation order in the **Federal Register**.

Dated: October 30, 1998.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 98–29954 Filed 11–5–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 103098C]

RIN 0648–AJ17

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Amendment to the Fishery Management Plans of the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of an amendment to fishery management plans; request for comments.

SUMMARY: NMFS announces that the Gulf of Mexico Fishery Management Council (Council) has submitted for review and approval a generic amendment to the fishery management plans of the Gulf of Mexico that designates essential fish habitat (EFH). Written comments are requested from the public.

DATES: Written comments must be received on or before January 8, 1999.

ADDRESSES: Comments must be mailed to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of the generic amendment, which includes an environmental assessment, should be sent to the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619–2266; Phone: 727–228–2815; Fax: 727-225-7015.

FOR FURTHER INFORMATION CONTACT: Robert Sadler, 813-570-5305.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act, 16 U.S.C. 1801 et seq.) requires each regional fishery management council to submit any fishery management plan (FMP) or amendment to the Secretary of Commerce for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an amendment, immediately publish a document in the **Federal Register** stating that the amendment is available for public review and comment. Therefore, NMFS solicits comments on the approval, disapproval, or partial approval of this generic amendment designating EFH in the Gulf of Mexico.

Section 303(a)(7) of the Magnuson-Stevens Act requires that any FMP describe and identify EFH for the fishery, minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat. Section 305(b)(1)(A) and (B) of the Magnuson-Stevens Act require that the regional fishery management councils submit, by October 11, 1998, FMP amendments to identify and describe EFH for species under management.

NMFS published guidelines to assist regional fishery management councils in the description and identification of EFH, the identification of adverse impacts on EFH, and the identification of actions required to conserve and enhance EFH (62 FR 66531, December 19, 1997). The NMFS guidelines encourage ecosystem approaches to protecting and conserving EFH. Ecological roles of the managed species (i.e., prey, competitors, trophic links within foodwebs, and nutrient transfer between ecosystems) should be considered when identifying EFH. The guidelines also specify that sufficient EFH be protected and conserved to support sustainable fisheries and managed species' contribution to a healthy ecosystem.

The generic amendment designates EFH for species included in all seven of the Council's FMPs. EFH is identified and described based on areas where various life stages of 26 selected managed species and the coral complex commonly occur. The Council selected these 26 species because they are considered to be ecologically representative of the remaining species in the FMPs. The selected species are: Shrimp (brown shrimp, white shrimp, pink shrimp, royal red shrimp); red drum; reef fish (red grouper, gag grouper, scamp grouper, black grouper, red snapper, vermilion snapper, gray snapper, yellowtail snapper, lane snapper, greater amberjack, lesser amberjack, tilefish, and gray triggerfish); coastal migratory pelagic species (king mackerel, Spanish mackerel, cobia, dolphin, bluefish, little tunny); stone crab; spiny lobster; and the coral complex.

The selected species represent about a third of the species under management by the Council. EFH for the remaining managed species will be addressed in future FMP amendments, as appropriate.

EFH is identified based on where the individual managed species commonly occur. Collectively, these species commonly occur throughout all of the marine and estuarine waters of the Gulf of Mexico. For purposes of this generic EFH amendment, EFH is separated into estuarine and marine components. Collectively, EFH for the estuarine component includes all estuarine waters and substrates (mud, sand, shell, rock, and associated biological communities), including subtidal vegetation (seagrasses and algae) and adjacent intertidal vegetation (marshes and mangroves). Collectively, EFH in marine waters of the Gulf of Mexico includes all marine waters and substrates (mud, sand, shell, rock, and associated biological communities) from the shoreline to the seaward limit of the exclusive economic zone.

The amendment also identifies: Threats to EFH from fishing and nonfishing activities; options to conserve and enhance EFH; and research needs. No management measures and, therefore, no regulations are proposed at this time. Fishing-related management measures to minimize any identified impacts are deferred to future amendments when the Council has adequate information to decide whether measures are practicable.

Comments received by January 8, 1999 will be considered in the approval/disapproval decision on the amendment.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 3, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–29944 Filed 11–6–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 981021264–8264–01; I.D. 092998A]

[RIN 0648–AL29]

Fisheries of the Exclusive Economic Zone Off Alaska; Season and Area Apportionment of Atka Mackerel Total Allowable Catch

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations that would divide the Atka mackerel total allowable catch (TAC) specified for the Aleutian Islands Subarea into two seasonal allowances; reduce the percentage of Atka mackerel TAC taken from Steller sea lion critical habitat over a 4-year period in the Western and Central Districts of the Aleutian Islands Subarea; and extend the seaward 20 nautical miles (nm) no-trawl zone around the Seguam and Agligadak rookeries in the Eastern District of the Aleutian Islands into a year round closure. The purpose of this action is to avoid significant fishery-induced localized depletions of Atka mackerel, a primary prey species for Steller sea lions in the Aleutian Islands and to avoid potential jeopardy to the continued existence of Steller sea lion populations and their critical habitat through excessive removal of prey. This action is intended to further the conservation goals and objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP).

DATES: Comments on the proposed rule must be received no later than December 9, 1998.

ADDRESSES: Comments may be sent to Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori J. Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of the Environmental Assessment/ Regulatory Impact Review (EA/RIR) prepared for this action are available from NMFS at the same address, or by calling the Alaska Region, NMFS, at 907–586–7228.

FOR FURTHER INFORMATION CONTACT: Kent Lind, 907–586–7228, or kent.lind@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries of the Bering Sea and Aleutian Islands Management Area (BSAI) pursuant to the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The FMP is implemented by regulations appearing at 50 CFR part 679 issued under the authority of the Magnuson-Stevens Act. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

Purpose and Need for Action

In 1990, NMFS designated the Steller sea lion (Eumetopias jubatus) as a threatened species under the Endangered Species Act of 1973 (ESA). The designation followed severe declines throughout much of the Gulf of Alaska and Aleutian Islands region. In 1993, NMFS defined critical habitat for the species to include the marine areas within 20 nm of major rookeries and haulouts of the species west of 144° W. long., as well as major foraging areas. In 1997, NMFS recognized two separate populations and reclassified the western population (west of 144° W. long.) as endangered. The estimated number of Steller sea lions in the western population has declined by more than 80 percent since the mid-1960s. The ultimate cause or causes of the decline are unknown, but lack of available prey is believed to be an important contributing factor.

NMFS is the lead agency responsible for the recovery and conservation of the Steller sea lion. As such, it has periodically consulted with itself on the FMP and on the potential effects of the various groundfish fisheries on Steller sea lions. Since listing the Steller sea lion as threatened in 1990, NMFS has expressed concern in three subsequent biological opinions (the products of ESA section 7 consultations) that fisheries may reduce sea lion foraging success by causing changes in prey composition, age/size composition of available prey species, or localized depletions of prey.

Atka mackerel are an important prey species for Steller sea lions. In a recent study, NMFS researchers found that Atka mackerel were the most common prey item (based on split-sample frequency of occurrence) for Steller sea lions in portions of the Central and Western Districts of the Aleutian Islands Subarea. These results were based on scats collected in summer months and assumed to be primarily from adult females. Atka mackerel were also found in 84 percent of 241 Steller sea lion scats collected in 1989–92 in the Aleutian Islands (92 percent in the Central Aleutian Islands).

Recent statistical evaluations of catch per unit effort (CPUE) at various sites in the 1990s have indicated that the Atka mackerel fishery has led to localized depletions of Steller sea lion prey, thereby increasing evidence of competition. Thus, the first of two main objectives of this proposed rule is to modify the management of the Atka mackerel fishery to avoid such depletions.

The second objective is based on the statutory requirement of the ESA that Federal actions within the critical habitat of a listed species not jeopardize the continued existence of populations of those species or adversely modify their critical habitat. The single most important feature of critical habitat for the Steller sea lion is its prey base. Areas designated as critical habitat for this species must include sufficient food to meet the energetic demands of a stable and healthy sea lion population. Thus, the availability of prey in critical habitat is a matter of considerable concern, particularly because lack of available prey may have contributed to the decline of the western population or may be impeding its recovery.

Since 1977, the portion of Atka mackerel catch taken annually within Steller sea lion critical habitat has varied from 15 percent to 98 percent, with an average of 71 percent. A marked increase in the annual catch in the 1990s and the high percent of the catch generally taken within Steller sea lion critical habitat have resulted in a marked increase in the tonnage of Atka mackerel taken from areas considered essential to the recovery and conservation of the Steller sea lion, again increasing concerns that the fishery competes with Steller sea lions. The point at which fishery removals of prey from critical habitat jeopardize the continued existence of Steller sea lion populations or result in adverse modification of critical habitat is not clear. In spite of such uncertainty, the ESA requires that a judgment be made on the basis of the best available scientific and commercial data. To prevent potential jeopardy to the continued existence of Steller sea lion populations and adverse modification of their critical habitat, this proposed rule seeks to reduce the proportion of the annual Atka mackerel catch taken from within designated critical habitat.

The ultimate cause or causes of the decline of the western population of Steller sea lions remain uncertain.

However, NMFS believes that an important contributing factor may be the lack of available prey of which Atka mackerel are an important component. NMFS is responsible for ensuring that the Atka mackerel fishery does not jeopardize the continued existence of Steller sea lion populations or adversely modify their critical habitat. Given the apparent importance of Atka mackerel in the diet of Steller sea lions, particularly in the central and western Aleutian Islands, careful management of the Atka mackerel fishery is essential to ameliorate potential impacts of the fishery on Steller sea lions and their critical habitat.

At its June 1998 meeting, the Council considered this information and the analysis prepared by NMFS in support of this action and recommended that NMFS proceed with the development of regulations to reduce competition between the Atka mackerel fishery and Steller sea lions. Six alternatives were presented to the Council for consideration. The alternative adopted by the Council and set out in this proposed rule would (1) divide the Atka mackerel TACs specified for each subarea and district of the BSAI into two equal seasonal allowances, (2) reduce the percentage of Atka mackerel TAC taken from Steller sea lion critical habitat over a 4-year period in the Western and Central Districts of the Aleutian Islands Subarea, and (3) extend the seasonal 20 nm no-trawl zone around the Seguam and Agligadak rookeries in the Eastern District of the Aleutian Islands into a year-round closure.

Elements of the Proposed Rule

Atka Mackerel Season Split

To address the issue of localized depletions of Steller sea lion prey, this action would establish two Atka mackerel fishing seasons: The A season would run from 0001 hours, Alaska local time (A.l.t.), January 1 through 1200 hours, A.l.t., April 15 and the B season would run from 1200 hours, A.l.t., September 1 through 1200 hours, A.l.t., November 1. The TAC specified for the Atka mackerel fishery after subtraction of the jig gear allocation and reserves would be divided equally into A and B season allowances during the annual specification process. This split is proposed as an effective means to ameliorate concerns about localized depletion while still providing reasonable opportunity to the fishing industry to harvest Atka mackerel without significantly increased operational costs. The jig gear allocation and Community Development Quota (CDQ) would not be divided into seasonal allowances because jig gear and CDQ fishing occur outside the time period of the open access trawl fishery, and the jig gear and CDQ fisheries are too small, widely dispersed, and slowly paced to lead to localized depletions of Atka mackerel.

Progressive Reduction of Catch Within Critical Habitat

This action would prohibit trawling for groundfish within areas designated as Steller sea lion critical habitat in the Western or Central Districts of the Aleutian Islands when NMFS determines that the harvest of a seasonal allowance of Atka mackerel within a district reaches the following percentage identified for each year and district:

Year	Western (543)	Central (542)
1999	65	80
2000	57	67
2001	48	46
2002 and after	40	40

A critical habitat trawl closure within a district would remain in effect until NMFS closes Atka mackerel to directed fishing within the same district. Steller sea lion critical habitat areas in the Aleutian Islands are defined in Table 1, Table 2, and Figure 4 of 50 CFR part 226. The purpose of this action is to ensure that the percentage of Atka mackerel catch taken inside critical habitat does not exceed the percentages identified above. CDQ groups would be limited to the same percentages of Atka mackerel catch taken inside critical habitat. However, critical habitat closures would be imposed on CDQ groups individually when their percentage of Atka mackerel CDQ harvest reaches the limit for each year and district.

Extension of 20 nm No-Trawl Zones

This action also would extend the 20 nm no-trawl zones around the Seguam and Agligadak rookeries in the Eastern District of the Aleutian Islands into a year round closure. At present, these rookeries are protected year-round by a 10 nm no-trawl zone, and from January 1 through April 15 by a 20 nm no-trawl zone. The current 10 and 20 nm no-trawl zones are set out in Table 5 to part 679.

Additional Actions To Be Taken in the Future

Vessel Monitoring System (VMS)

The Council recommended that NMFS establish a VMS requirement to monitor the activity of vessels fishing with trawl gear after critical habitat areas are closed. NMFS hopes to implement VMS requirements for the Atka mackerel fishery prior to the start of the 1999 Atka mackerel B season, which would open on September 1, 1999. Until then, enforcement of the critical habitat closures contained in this rule would be accomplished through traditional methods, such as Coast Guard overflights and reports from vessels and on board observers.

The Council also requested that NMFS conduct an annual review of the impact and effectiveness of the management measures outlined above, i.e., the Atka mackerel season split, the progressive reduction of catch within critical habitat, the extension of 20 nm no-trawl zones, and the VMS, and develop a research plan to determine the effects of these management measures by area. NMFS intends to report annually to the Council on the impact and effectiveness of these management measures. Ongoing research on the effectiveness of these and other Steller sea lion protection measures is a critical element of NMFS' recovery program for Steller sea lions.

Classification

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

NMFS prepared an initial regulatory flexibility analysis that describes the impact this proposed rule, if adopted, would have on small entities. A copy of this analysis is available from NMFS (see **ADDRESSES**). The analysis made the following conclusions with respect to impacts on small entities:

Business entities affected directly. The actions being considered for the BSAI Atka mackerel fishery would have direct effects on fewer than 15 fishing vessels all of which are expected to be factory trawlers. In 1997, 12 factory trawlers participated in the BSAI Atka mackerel fishery and eight of these vessels accounted for 81 percent of the retained catch in that fishery. All of the factory trawlers in the Atka mackerel fishery are owned by seafood companies with annual receipts that exceed the $3 million small entity threshold by the Small Business Administration for fish harvesting businesses. The combined annual receipts for the companies involved in the Atka mackerel fishery are not known. However, based on the value of fish these companies harvest in Alaska, and the annual reports of the publically held companies, the annual worldwide receipts for the companies involved in the Atka mackerel fishery is estimated to range from $5 million to over $3 billion. In 1998, 1 percent of the Atka mackerel TAC in Area 541 (127 mt) was allocated to vessels using jig gear. However, as of September 12, 1998, NMFS has not received any Atka mackerel catch reports by

vessels using jig gear in Area 541 and the entire 127 mt TAC allocation remains unharvested. Up to 10 vessels using jig gear had expressed interest in fishing for Atka mackerel in Area 541 and all of these vessels are small entities. However, the preferred alternative would exempt vessels using jig gear from the A-B season split, critical habitat restrictions, and VMS requirements. Therefore, all small entities using jig gear to fish for Atka mackerel would be unaffected by the proposed action.

Small communities and groups affected directly. Because, very little BSAI Atka mackerel is delivered to on-shore processors and because the principal participants in this fishery are not residents of Alaska fishing communities, with the exception of the CDQ communities, few small communities would be affected directly. With the expansion of the CDQ program to include all BSAI groundfish and crab, the 50 plus CDQ communities would be affected by actions that affect the Atka mackerel CDQ. However, the effects on these communities are not expected to be significant because Atka mackerel is expected to account for less than 5% of the value of the CDQs to these communities, none of the actions would eliminate all of the value of the Atka mackerel CDQs, and the CDQs are but one source of income for these communities. To further reduce the potential impacts of this action on CDQ groups, the Council's preferred alternative would exempt CDQ groups from the A-B season split so that CDQ groups are not forced to fish small amounts of Atka mackerel CDQ during two separate time periods.

Business entities affected indirectly. A much larger number of entities would be affected indirectly if the proposed actions result in the factory trawlers, that have dominated the Atka mackerel fishery, switching effort from the Atka mackerel fishery to other groundfish fisheries. If the fishing capacity of the eight factory trawlers that were the core of the Atka mackerel fleet in 1997 were diverted to other fisheries, these vessels could take substantially larger shares of the catch in the BSAI rock sole, Pacific cod, flathead sole, or other flatfish fishery or the GOA flatfish fisheries. Much of any such increase in catch by the core Atka mackerel fleet would be at the expense of other factory trawlers in the BSAI and both catcher vessels and other factory trawlers in the GOA. In 1996, 67 factory trawlers participated in BSAI and GOA Pacific cod fisheries and 42 factory trawlers participated in the various BSAI and GOA flatfish fisheries. In 1996, 180 trawl catcher vessels participated in the Pacific cod fisheries of the BSAI and GOA and 62 trawl catcher vessels participated in the various flatfish fisheries of the BSAI and GOA. Due to inshore/offshore TAC allocations for Pacific cod in the GOA and TAC splits between catcher vessels and catcher processors in the BSAI, catcher vessels participating in the Pacific cod fishery will be unaffected if Atka mackerel factory trawlers shift into the Pacific cod fishery. However, catcher vessels fishing for flatfish in the BSAI and GOA could face impacts if effort shifts away from Atka mackerel as a result of this action. The extent to which these shifts may occur is impossible to quantify or predict.

Most of the factory trawlers operating in the BSAI and GOA Pacific cod and flatfish fisheries are owned by or affiliated with "large" entities. In addition, up to half of the catcher vessels fishing in the BSAI are believed to be owned by or affiliated with large entities. However, in a written comment to the Council submitted for this action, an industry representative for flatfish and Pacific cod factory trawlers indicated that more than 30 percent of the factory trawlers in the BSAI flatfish and Pacific cod fisheries expected 1998 annual gross revenues to be less than $3 million. NMFS does not have information to confirm or refute this figure. Furthermore, the ownership characteristics of these vessels has not been analyzed to determine if they are independently owned and operated or affiliated with a larger parent company. Because NMFS cannot quantify the number of small entities that may be indirectly affected by this action, or quantify the magnitude of those effects, NMFS concludes that it is possible that this action could have a significant economic impact on a substantial number of small entities.

Measures taken to reduce impacts on small entities. The Council considered and adopted a series of exemptions to reduce the impacts of this action on small entities. The preferred alternative contains the following elements to reduce impacts on small entities: (1) Vessels using jig gear would be exempted from all aspects of the proposed action, (2) CDQ groups would be exempted from the A–B season split to prevent having to fish for small Atka mackerel CDQ amounts during two times of the year, and (3) vessels using hook-and-line gear would be exempt from the closure to fishing inside critical habitat. The critical habitat closures would affect vessels using trawl gear only, (4) both jig and hook and line vessels would be exempted from future VMS requirements for the Atka mackerel fishery.

As stated in the preceding paragraph and in the section entitled, "Business entities affected directly," all small entities in the Atka mackerel fishery (jig boats) are exempt from all aspects of this proposed action. NMFS is not aware of additional alternatives that could further mitigate this action's economic impact on small entities.

NMFS initiated a formal section 7 consultation under the ESA for this action. A biological opinion is under preparation that will determine whether the fishing activities conducted under this rule are likely to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS or to result in the destruction or adverse modification of critical habitat.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: November 3, 1998.

Andrew A. Rosenberg,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.20, paragraphs (a)(8) and (c)(2)(ii)(A) are revised to read as follows:

§ 679.20 General limitations.

* * * * *

(a) * * *

(8) *BSAI Atka mackerel*—(i) *Jig gear.* Vessels using jig gear will be allocated up to 2 percent of the TAC of Atka mackerel specified for the Eastern Aleutian Islands District and Bering Sea subarea, after subtraction of reserves, based on the following criteria:

(A) The amount of Atka mackerel harvested by vessels using jig gear during recent fishing years;

(B) The anticipated harvest of Atka mackerel by vessels using jig gear during the upcoming fishing year; and

(C) The extent to which the jig-gear allocation will support the development of a jig-gear fishery for Atka mackerel while minimizing the amount of Atka mackerel TAC annually allocated to vessels using jig gear that remains unharvested at the end of the fishing year.

(ii) *Other geors.* The remainder of the Atka mackerel TAC, after subtraction of the jig gear allocation and reserves, will be allocated to vessels using other authorized gear types.

(A) *Seasonal allowances.* The Atka mackerel TAC specified for each subarea or district of the BSAI will be divided equally, after subtraction of the jig gear allocation and reserves, into two seasonal allowances corresponding to the A and B seasons defined at § 679.23(e)(3).

(B) *Overages and underages.* Within any fishing year, unharvested amounts of the A season allowance will be added to the B season allowance and harvests in excess of the A season allowance will be deducted from the B season allowance.

* * * * *

(c) * * *

(2) * * *

(ii) * * *

(A) The interim specifications for pollock and Atka mackerel will be equal to the first seasonal allowance for pollock and Atka mackerel that is published in the proposed specifications under paragraph (c)(1) of this section.

* * * * *

3. In § 679.22, paragraphs (a)(7) and (a)(8) are revised to read as follows:

§ 679.22 Closures.

(a) * * *

(7) *Steller sea lion protection areas, Bering Sea Subarea and Bogoslof District*—(i) *Year-round closures.* Trawling is prohibited within 10 nm of each of the eight Steller sea lion rookeries shown in Table 4a of this part.

(ii) *Seasonal closures.* During January 1 through April 15, or a date earlier than April 15, if adjusted under § 679.20, trawling is prohibited within 20 nm of each of the six Steller sea lion rookeries shown in Table 4b of this part.

(8) *Steller sea lion protection areas, Aleutian Islands Subarea*—(i) *10-nm closures.* Trawling is prohibited within 10 nm of each of the 17 Steller sea lion rookeries shown in Table 5a of this part.

(ii) *20-nm closures.* Trawling is prohibited within 20 nm of each of the two Steller sea lion rookeries shown in Table 5b of this part.

(iii) *Western and Central Aleutian Islands critical habitat closures*—(A) *General.* Trawling is prohibited within areas designated as Steller sea lion critical habitat in the Western or Central Districts of the AI (see Table 1, Table 2, and Figure 4 of 50 CFR part 226) when the Regional Administrator announces by notification in the **Federal Register** that the criteria for a trawl closure in a district set out in paragraph (a)(8)(iii)(B) of this section has been met.

(B) *Criteria for closure.* The trawl closures identified in paragraph (a)(8)(iii)(A) of this section will take effect when the Regional Administrator determines that the harvest of a seasonal allowance of Atka mackerel specified under § 679.20(a)(8)(ii)(A) reaches the following percentage identified for each year and district:

Year	Western (543) (percent)	Central (542) (percent)
1999	65	80
2000	57	67
2001	48	46
2002 and after	40	40

(C) *Duration of closure.* A Steller sea lion critical habitat area trawl closure within a district will remain in effect until NMFS closes Atka mackerel to directed fishing within the same district.

(D) *CDQ fishing.* Harvesting groundfish CDQ with trawl gear is prohibited within areas designated as Steller sea lion critical habitat in the Western and/or Central Districts of the AI (see Table 1, Table 2, and Figure 4 of 50 CFR part 226) for an eligible vessel listed on an approved CDP after the CDQ group has harvested the percent of the annual Atka mackerel CDQ specified for the year and district at paragraph (a)(8)(iii)(B) of this section.

* * * * *

4. In § 679.23, paragraph (e)(3) is redesignated as paragraph (e)(4) and a new paragraph (e)(3) is added to read as follows:

§ 679.23 Seasons.

* * * * *

(e) * * *

(3) *Directed fishing for Atka mackerel with trawl gear.* Subject to other provisions of this part, directed fishing for Atka mackerel with trawl gear in the Aleutian Islands Subarea is authorized only during the following two seasons:

(i) *A season.* From 0001 hours, A.l.t., January 1, through 1200 hours, A.l.t., April 15;

(ii) *B season.* From 1200 hours, A.l.t., September 1, through 1200 hours, A.l.t., November 1.

* * * * *

5. In part 679, Table 5 is revised to read as follows: Table 5 to Part 679—Aleutian Islands Subarea Steller Sea Lion Protection Areas

Name of Island	From		To	
	Latitude	Longitude	Latitude	Longitude
3–nm NO TRANSIT ZONES described at part 227.12(a)(2) of this title				
a. Trawling Prohibited Year-Round Within 10 nm:				
Yunaska Island	52°42.0′N	170°38.5′W	52°41.0′N	170°34.5′W.
Kasatochi Island	52°10.0′N	175°31.0′W	52°10.5′N	175°29.0′W.
Adak Island	51°36.5′N	176°59.0′W	51°38.0′N	176°59.5′W.
Gramp Rock	51°29.0′N	178°20.5′W		
Tag Island	51°33.5′N	178°34.5′W		
Ulak Island	51°20.0′N	178°57.0′W	51°18.5′N	178°59.5′W.
Semisopochnoi	51°58.5′N	179°45.5′E	51°57.0′N	179°46.0′E.
Semisopochnoi	52°01.5′N	179°37.5′E	52°01.5′N	179°39.0′E.
Amchitka Island	51°22.5′N	179°28.0′E	51°21.5′N	179°25.0′E.
Amchitka Is/Column Rocks	51°32.5′N	178°49.5′E		
Ayugadak Point	51°45.5′N	178°24.5′E		
Kiska Island	51°57.5′N	177°21.0′E	51°56.5′N	177°20.0′E.
Kiska Island	51°52.5′N	177°13.0′E	51°53.5′N	177°12.0′E.
Buldir Island	52°20.5′N	175°57.0′E	52°23.5′N	175°51.0′E.
Agattu Is./Gillion Pt	52°24.0′N	173°21.5′E		
Agattu Island	52°23.5′N	173°43.5′E	52°22.0′N	173°41.0′E.
Attu Island	52°54.5′N	172°28.5′E	52°57.5′N	172°31.5′E.
b. Trawling Prohibited Year-Round Within 20 nm:				
Seguam Island	52°21.0′N	172°35.0′W	52°21.0′N	172°33.0′W.
Agligadak Island	52°06.5′N	172°54.0′W		

Note: Each rookery extends in a clockwise direction from the first set of geographic coordinates, along the shoreline at mean lower low water, to the second set of coordinates; if only one set of geographic coordinates is listed, the rookery extends around the entire shoreline of the island at mean lower low water.

[FR Doc. 98–29945 Filed 11–6–98; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 63, No. 216
Monday, November 9, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. TB–99–01]

Flue-Cured Tobacco Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. App.) announcement is made of the following committee meeting:

Name: Flue-Cured Tobacco Advisory Committee.

Date: December 30, 1998.

Time: 9:30 a.m.

Place: United States Department of Agriculture (USDA), Agricultural Marketing Service (AMS), Tobacco Programs, Flue-Cured Tobacco Cooperative Stabilization Corporation Building, Room 223, 1306 Annapolis Drive, Raleigh, North Carolina 27608.

Purpose: To elect officers, discuss the status of the flue-cured bale experiment, and other related matters for the 1999 flue-cured tobacco marketing season.

The meeting is open to the public. Persons, other than members, who wish to address the Committee at the meeting should contact John P. Duncan III, Deputy Administrator, Tobacco Programs, AMS, USDA, Room 502 Annex Building, P.O. Box 96456, Washington, D.C. 20090–6456, (202) 205–0567, prior to the meeting. Written statements may be submitted to the Committee before, at, or after the meeting. If you need any accommodations to participate in the meeting, please contact the Tobacco Programs at (202) 205–0567 by December 21, 1998, and inform us of your needs.

Dated: November 3, 1998.

John P. Duncan III,

Deputy Administrator, Tobacco Programs.

[FR Doc. 98–29938 Filed 11–6–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Proposed Posting of Stockyards

The Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in Section 302 of the Packers and Stockyards Act (7 U.S.C. 202) and should be made subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*).

AR–174
Crawford County Livestock Auction, Mountainburg, Arkansas

CA–188
Martella Livestock Market, Inc., Tipton, California

MT–122
Montana Livestock Company, Ramsey, Montana

MO–282
The Cow Palace, Inc., Sedgewickville, Missouri

SC–157
Rocking R, Inc., Laurens, South Carolina

TN–192
Morris Brothers Auction, Pikeville, Tennessee

Pursuant to the authority under Section 302 of the Packers and Stockyards Act, notice is hereby given that it is proposed to designate the stockyards named above as posted stockyards subject to the provisions of said Act. Any person who wishes to submit written data, views or arguments concerning the proposed designation may do so by filing them with the Director, Office of Policy/Litigation Support, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Stop 3646, Room 3418–S, Washington, D.C. 20250, by November 24, 1998.

All written submissions made pursuant to this notice will be made available for public inspection in the office of the Director of the Office of Policy/Litigation Support during normal business hours.

Done at Washington, D.C. this 2nd day of November 1998.

Michael J. Caughlin, Jr.,

Director, Office of Policy/Litigation Support, Packers and Stockyards Programs.

[FR Doc. 98–29899 Filed 11–6–98; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). It has been submitted to OMB under the emergency clearance procedures. The Department is requesting OMB approval by no later than November 16, 1998.

Agency: Office of the Secretary.

Title: Survey of Business Leaders Accompanying the Secretary on Trade Missions.

Agency Form Number(s): None.

OMB Approval Number: None.

Type of Request: New collection—Emergency Submission.

Burden: 5 hours.

Number of Respondents: 100.

Avg. Hours Per Response: 3 minutes.

Needs and Uses: On every trade mission the Secretary of Commerce leads, a brief survey will be conducted assessing the participants' opinions and opportunities they see for the markets where the trade mission will be taken. This information will help the Secretary to communicate the participant's concerns and views as they look to increase business opportunities.

Affected Public: Businesses or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503 by no later than November 16, 1998.

Dated: November 2, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–29917 Filed 11–6–98; 8:45 am]

BILLING CODE 3510–65–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Office of the Inspector General/Department of Commerce.

Title: Applicant for Funding Assistance.

Agency Form Number(s): CD–346.

OMB Approval Number: 0605–0001.

Type of Request: Extension of a currently approved collection.

Burden: 500 hours.

Number of Respondents: 400 (multiple responses).

Avg. Hours Per Response: 15 minutes.

Needs and Uses: This collection is used to assist program and grants administration officials in determining the responsibility, financial integrity and management principles of principal officers and employees of organizations, firms, or recipients which will be receiving grants, loan guarantees, etc. Through the "name check" process, the Office of Inspector General collects background information on key individuals and is used to determine if they have been convicted of, or are presently facing, criminal charges for fraud, theft, perjury, etc. This information is used in making funding decisions.

Affected Public: Businesses or other for-profit organizations, individuals, not-for-profit institutions, federal government, state, local or tribal government.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: November 3, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–29918 Filed 11–6–98; 8:45 am]

BILLING CODE 3510–55–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 32–98]

Proposed Foreign-Trade Zone—Lancaster, CA; Extension of Public Comment Period

The comment period for the above case, submitted by the City of Lancaster, California, requesting authority for a new general-purpose zone in the Lancaster (Antelope Valley) area is further extended to December 4, 1998, to allow interested parties additional time in which to comment on the proposal.

Comments in writing are invited during this period. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: November 3, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–29992 Filed 11–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 47–98]

Foreign-Trade Zone 41—Milwaukee, WI, Application for Subzone Status; Mercury Marine (Inc.) (Marine Propulsion Products) Fond du Lac and Oshkosh, WI

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Foreign Trade Zone of Wisconsin, Ltd., grantee of FTZ 41, requesting special-purpose subzone status for the marine propulsion products manufacturing facilities of Mercury Marine (Inc.), located in Fond du Lac and Oshkosh, Wisconsin. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 30, 1998.

The proposed subzone would consist of 11 total sites, 10 (totaling 2.5 million sq.ft., manufacturing/warehousing) of which are in Fond du Lac (Fond du Lac County): Site 1 (12 acres)—Plant 95, 325 Larsen Drive; Site 2 (9 acres)—Plant 4,98, 660 South Hickory Street; Sites 3 and 4 (29 acres)—Plant 4, 660 South Hickory Street; Site 5 (21 acres)—Plant 17, W6207 Pioneer Road, Site 6 (11 acres)—Plant 17A, 771 South Military Road; Site 7 (79 acres)—Plants 3, 10, 12, 15, 52/"Main Plant", W6250 Pioneer Road; Site 8 (1 acre)—Adjacent south to Site 3 at Pioneer Road; Site 9 (2 acres)—Water Street Plant, along Fond du Lac River at Water Street; Site 10 (13 acres)—Plant 36, N7480 County Road UU. Site 11 (10 acres/100,000 sq.ft., warehouses)—Plants 33 and 64, located at 445–505 Marion Road in Oshkosh (Winnebago County), Wisconsin. The facilities (2,500 employees) are used to produce marine outboard and jet pump engines (up to 450 horsepower) for the U.S. market and export. The application indicates that foreign-sourced parts and materials comprise some 20 percent of the finished marine engines' material value, including: oil, alcohols, adhesives, plastic casings, adhesive sheets/plates, ethylene bags, packaging materials, rubber profiles/tubes/hoses/gaskets, belts, valves, ball/roller bearings, oil seals, antifreeze, articles of wood, paper books and labels, decals, twine, textile fabrics with PVC, fiberglass, iron or non alloy tubes/pipes/profiles/fittings, chain, fasteners, springs, wire/cable, base metal mountings, internal parts of marine engines, gears, ignition systems, electrical subcomponents, compasses, gauges, measuring and controlling instruments, starters, flywheels, pulleys, shafts, electric motors, propellers, electromagnetic couplings, electronic components, pumps, and filters (duty rates: free—9.8%).

FTZ procedures would exempt Mercury Marine from Customs duty payments on the foreign items used in production for export. On domestic shipments, the company would be able to choose the duty rates during Customs entry procedures that apply to finished marine engines (free, 2.7%) for the foreign inputs noted above. The application indicates that the savings from FTZ procedures would help

improve the facilities' international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 8, 1999. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to January 25, 1999).

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce Export Assistance Center, Room 596, 517 E. Wisconsin Avenue, Milwaukee, WI 53202.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: October 30, 1998.

Dennis Puccinelli,

Acting Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 98–29853 Filed 11–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[A(27f)–45–98]

Foreign-Trade Zone 8—Toledo, OH, Redesignation of Foreign-Trade Subzone 8F

Based on a request by the Toledo-Lucas County Port Authority, grantee of FTZ 8, for a minor modification of the grant of authority for FTZ Subzone 8F at the BP Exploration & Oil Inc., refineries in Toledo and Lima, Ohio (Board Order 822, 61 FR 27048, 5/30/96), Subzone 8F—Site 2 (the Lima refinery site) is redesignated as Subzone 8G. The Lima refinery has been sold to Clark USA and will be operated separately. The authority for the site, now designated as Subzone 8G, would continue to be based on the FTZ Board's authorization in Board Order 822, including its special conditions and restrictions.

Dated: October 30, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–29852 Filed 11–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 48–98]

Foreign-Trade Subzone 167B—Polaris Industries, Inc.; Expansion of Manufacturing Authority (Internal-Combustion Engines) Osceola, Wisconsin

An application has been submitted to the Foreign-Trade Zones Board (the Board) by Polaris Industries, Inc. (Polaris), operator of FTZ Subzone 167B, at the Polaris plant, Osceola, Wisconsin, requesting an expansion of the scope of manufacturing authority to include a new end product (motorcycle engines) and additional internal-combustion engine manufacturing capacity under FTZ procedures within Subzone 167B. It was formally filed on November 3, 1998.

Subzone 167B was approved by the Board in 1997 with activity granted for the manufacture of small internal-combustion engines for snowmobiles, personal water craft, all-terrain vehicles (Board Order 940, 62 FR 66601, 12–19–97).

Polaris has installed new manufacturing capacity at the Osceola plant (84 employees) used to produce a new model motorcycle engine (V-twin, 1,507 cc) and now requests that its FTZ manufacturing authority be extended to include the increased motorcycle engine capacity. The company plans to produce up to 20,000 motorcycle engines annually, which would be shipped to Polaris' Spirit Lake, Iowa, plant to equip motorcycles assembled there. The new engine manufacturing activity will involve casting, machining, finishing, and assembly using domestic and foreign materials and components.

The motorcycle engine production will utilize foreign-sourced pistons and cylinders (2.6% duty rate) (representing 5% of the finished engines' ex-plant value) and all other components from domestic sources.

FTZ procedures would exempt Polaris from Customs duty payments on the foreign components used in export activity (less than 5% of shipments). On its domestic sales, the company would be able to elect the duty rate that applies to finished engines (duty free) for the foreign components noted above. The application indicates that the savings from FTZ procedures help improve Polaris' international competitiveness.

The application has requested review under § 400.32(b)(1) of the FTZ Board regulations based on the previous Board approvals.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is December 24, 1998. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to January 8, 1999.)

A copy of the application will be available for public inspection at the following location: Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th Street & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: November 3, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–29991 Filed 11–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–822 A–122–823]

Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada: Notice of Extension of Final Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limits for final results of antidumping duty administrative review.

EFFECTIVE DATE: November 9, 1998.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Thomas Gilgunn, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0666 and (202) 482–0648 respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (1998).

Extension of Time Limits for Final Results

The Department of Commerce has received a request to conduct an administrative review of the antidumping duty order on certain corrosion-resistant carbon steel flat products and certain cut-to-length carbon steel plate from Canada. On September 25, 1997 (62 FR 50292), the Department initiated this antidumping administrative review covering the period August 1, 1996 through July 31, 1997.

Because of the complexity of certain issues, it is not practicable to complete this review within the time limits mandated by section 751(a)(3)(A) of the Act. Therefore, in accordance with that section, the Department is extending the time limits for the final results to December 17, 1998. This extension of time limits is in accordance with section 751(a)(3)(A) of the Act.

Dated: November 3, 1998.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for AD/CVD Enforcement III.

[FR Doc. 98–29996 Filed 11–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–557–805

Extruded Rubber Thread From Malaysia; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request by the petitioner and three producers/exporters of the subject merchandise, the Department of Commerce is conducting an administrative review of the antidumping duty order on extruded rubber thread from Malaysia. This review covers four manufacturers/exporters of the subject merchandise to the United States (Filati Lastex Sdn. Bhd., Heveafil Sdn. Bhd./Filmax Sdn. Bhd., Rubberflex Sdn. Bhd., and Rubfil Sdn. Bhd.). The period of review is October 1, 1996, through September 30, 1997.

We have preliminarily determined that sales have been made below the normal value by each of the companies subject to this review. If these preliminary results are adopted in the final results of this administrative review, we will instruct the Customs Service to assess antidumping duties on all appropriate entries.

We invite interested parties to comment on these preliminary results. Parties who wish to submit comments in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: November 9, 1998.

FOR FURTHER INFORMATION CONTACT: Shawn Thompson or Irina Itkin, Office of AD/CVD Enforcement, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–1776 or (202) 482–0656, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 2, 1997, the Department of Commerce (the Department) published in the **Federal Register** a notice of "Opportunity to Request an Administrative Review" of the antidumping duty order on extruded rubber thread from Malaysia (62 FR 51628).

In accordance with 19 CFR 351.213(b)(1), on October 20, 1997, the petitioner, North American Rubber Thread, requested an administrative review of the antidumping order covering the period October 1, 1996, through September 30, 1997, for the following producers and exporters of extruded rubber thread: Filati Lastex Sdn. Bhd. (Filati), Heveafil Sdn. Bhd./Filmax Sdn. Bhd. (Heveafil), Rubberflex Sdn. Bhd. (Rubberflex), and Rubfil Sdn. Bhd. (Rubfil). On October 31, 1997, Filati, Heveafil, and Rubberflex also requested an administrative review.

In November 1997, the Department initiated an administrative review for Filati, Heveafil, Rubberflex, and Rubfil (62 FR 63069 (Nov. 26, 1997)) and issued questionnaires to each of these companies.

In February 1998, we received responses from Filati, Heveafil, and Rubberflex. We received no response from Rubfil. Because Rubfil did not respond to the questionnaire, we have assigned a margin to Rubfil based on facts available. For further discussion, see the "Facts Available" section, below.

In June and July 1998, we issued supplemental questionnaires to Filati, Heveafil, and Rubberflex. We received responses to these questionnaires in July, August, and September 1998.

From September through November 1998, the Department conducted verifications of the data submitted by Filati, Heveafil, and Rubberflex, in accordance with 19 CFR 351.307(b)(iv).

Scope of the Review

The product covered by this review is extruded rubber thread. Extruded rubber thread is defined as vulcanized rubber thread obtained by extrusion of stable or concentrated natural rubber latex of any cross sectional shape, measuring from 0.18 mm, which is 0.007 inch or 140 gauge, to 1.42 mm, which is 0.056 inch or 18 gauge, in diameter. Extruded rubber thread is currently classifiable under subheading 4007.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this review is dispositive.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351, 62 FR 27296 (May 19, 1997).

Facts Available

A. Use of Facts Available for Rubfil

In accordance with section 776(a)(2)(A) of the Act, we preliminarily determine that the use of facts available is appropriate as the basis for Rubfil's dumping margin. Section 776(a)(2) of the Act provides that if an interested party: (1) Withholds information that has been requested by the Department; (2) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e); (3) significantly impedes a determination under the antidumping statute; or (4) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination. Specifically, Rubfil failed to respond to the Department's questionnaire, issued in November 1997. Because Rubfil did not respond to the Department's questionnaire, we must use facts otherwise available to determine Rubfil's dumping margin.

Section 776(b) of the Act provides that adverse inferences may be used with respect to a party that has failed to cooperate by not acting to the best of its ability to comply with requests for information. *See* Statement of Administrative Action accompanying the URAA, H.R. Rep. No. 316, 103rd Cong., 2d Sess. 870 (SAA). The failure of Rubfil to reply to the Department's questionnaire demonstrates that it has failed to act to the best of its ability in this review and, therefore, an adverse inference is warranted.

As adverse facts available for Rubfil, we have used the highest rate calculated for any respondent in any segment of this proceeding. This rate is 54.31 percent. We find that the rate of 54.31 percent, which was assigned in the prior administrative review, is sufficiently high as to effectuate the purpose of the facts available rule.

B. Corroboration of Secondary Information

As facts available in this case, the Department has used information derived from a prior administrative review, which constitutes secondary information within the meaning of the SAA. *See* SAA at 870. Section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate secondary information from independent sources reasonably at its disposal. The SAA provides that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870.

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike for other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. Thus, in an administrative review, if the Department chooses as total adverse facts available a calculated dumping margin from the same or a prior segment of this proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin may not be appropriate, the Department will attempt to find a more appropriate basis for facts available. *See, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (*Fresh Cut Flowers*) (where the Department disregarded the highest margin as adverse best information available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin).

For Rubfil, we examined the rate applicable to extruded rubber thread from Malaysia throughout the course of the proceeding. With regard to its probative value, the rate specified above is reliable and relevant because it is a calculated rate from the 1994–1995 administrative review. There is no information on the record that demonstrates that the rate selected is not an appropriate total adverse facts available rate for Rubfil. Thus, the Department considers this rate to be appropriate adverse facts available.

Normal Value Comparisons

To determine whether sales of extruded rubber thread from Malaysia to the United States were made at less than normal value (NV), we compared the constructed export price (CEP) to the NV for Filati, Heveafil and Rubberflex, as specified in the "Constructed Export Price" and "Normal Value" sections of this notice.

When making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the "Scope of the Review" section of this notice, above, that were in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade, based on the characteristics listed in sections B and C of our antidumping questionnaire.

Level of Trade and CEP Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade as export price (EP) or CEP. The NV level of trade is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative expenses (SG&A) and profit. For EP, the U.S. level of trade is also the level of the starting-price sale, which is usually from the exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different level of trade than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (Nov. 19, 1997).

Filati, Heveafil, and Rubberflex claimed that they made home market sales at only one level of trade (*i.e.*, sales to original equipment manufacturers). Based on the information on the record, no level of trade adjustment was warranted for any respondent. Although Filati claimed that the home market level was different, and more remote, than the level of trade of the CEP, we have found the levels of trade to be the same.

In order to determine whether NV was established at a level of trade which constituted a more advanced stage of distribution than the level of trade of the CEP, we compared the selling functions performed for home market sales with those performed with respect to the CEP transaction, which excludes economic activities occurring in the United States. We found that Filati, Heveafil, and Rubberflex performed essentially the same selling functions in its sales offices in Malaysia for both home market and U.S. sales. Therefore, the respondents' sales in Malaysia were not at a more advanced stage of marketing and distribution than the constructed U.S. level of trade, which represents an F.O.B. foreign port price after the deduction of expenses associated with U.S. selling activities. Because we find that no difference in level of trade exists between markets, we have not granted a CEP offset to any of the respondents. For a detailed explanation of this analysis, see the concurrence memorandum

issued for the preliminary results of this review, dated November 2, 1998.

Constructed Export Price

For all U.S. sales by Filati, Heveafil, and Rubberflex, we used CEP, in accordance with section 772(b) of the Act. For Filati, we have treated sales shipped directly to the U.S. customer as CEP sales because we find that the extent of the affiliate's activities performed in the United States in connection with these sales is significant. *See* the Filati USA verification report at 4.

A. Filati

We calculated CEP based on the starting price to the first unaffiliated purchaser in the United States. In accordance with section 772(c)(1)(B) of the Act, we added an amount for uncollected import duties in Malaysia. We made deductions from the starting price, where appropriate, for rebates. In addition, where appropriate, we made deductions for foreign inland freight, foreign brokerage and handling expenses, ocean freight, marine insurance, U.S. customs duty, U.S. brokerage and handling expenses, and U.S. inland freight, and U.S. warehousing expenses, in accordance with section 772(c)(2)(A) of the Act.

We made additional deductions from CEP, where appropriate, for commissions, credit expenses, U.S. indirect selling expenses, and U.S. inventory carrying costs, in accordance with section 772(d)(1) of the Act. We disallowed an offset claimed by Filati relating to imputed costs associated with financing antidumping and countervailing duty deposits, in accordance with the Department's practice. *See Extruded Rubber Thread from Malaysia; Final Results of Antidumping Duty Administrative Review*, 63 FR 12752,12758 (March 16, 1998) (*Thread Fourth Review*); and *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews*, 62 FR 54043, 54079 (Oct. 17, 1997) (*AFBs*).

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit, to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Filati and its affiliate on their sales of the subject merchandise in the United States and the foreign like product in the home market and the profit associated with those sales.

B. Heveafil

In cases where Heveafil shipped merchandise directly from Malaysia to U.S. customers, we used the bill of lading date as the date of sale for these shipments, rather than the date of the U.S. invoice as reported. For these shipments, we find that there is a long lag time between the date of shipment to the customer and the date of invoice.

We calculated CEP based on the starting price to the first unaffiliated customer in the United States. In accordance with section 772(c)(1)(B) of the Act, we added an amount for uncollected import duties in Malaysia. We made deductions from the starting price, where appropriate, for rebates. We also made deductions for foreign inland freight, foreign brokerage and handling expenses, ocean freight, marine insurance, U.S. customs duty, U.S. brokerage and handling expenses, U.S. inland freight, and U.S. warehousing expenses, in accordance with section 772(c)(2)(A) of the Act.

We made additional deductions to CEP, where appropriate, for credit expenses, repacking expenses, U.S. indirect selling expenses, and U.S. inventory carrying costs, in accordance with section 772(d)(1) of the Act. Regarding indirect selling expenses, we disallowed an offset claimed by Heveafil relating to imputed costs associated with financing antidumping and countervailing duty deposits, in accordance the Department's practice. *See Thread Fourth Review* (63 FR 12758) and *AFBs* (62 FR 54079).

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit, to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Heveafil and its affiliate on their sales of the subject merchandise in the United States and the foreign like product in the home market and the profit associated with those sales.

C. Rubberflex

We calculated CEP based on the starting price to the first unaffiliated customer in the United States. We made deductions from the starting price, where appropriate, for rebates. We also made deductions for foreign inland freight, foreign brokerage and handling expenses, ocean freight, marine insurance, U.S. customs duty, U.S. inland freight, and U.S. warehousing expenses, in accordance with section 772(c)(2)(A) of the Act.

We made additional deductions to CEP, where appropriate, for credit expenses, U.S. indirect selling expenses, and U.S. inventory carrying costs, in accordance with section 772(d)(1) of the Act.

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit, to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Rubberflex and its affiliate on their sales of the subject merchandise in the United States and the foreign like product in the home market and the profit associated with those sales.

Normal Value

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is greater than five percent of the aggregate volume of U.S. sales), we compared the volume of each respondent's home market sales of the foreign like product to the volume of U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Based on this comparison, we determined that each respondent had a viable home market during the period of review (POR). Consequently, we based NV on home market sales.

Pursuant to section 773(b)(2)(A)(ii) of the Act, there were reasonable grounds to believe or suspect that Filati, Heveafil, and Rubberflex had made home market sales at prices below their costs of production (COP)s in this review because the Department had disregarded sales below the COP for these companies in a previous administrative review. *See Thread Fourth Review*. As a result, the Department initiated an investigation to determine whether the respondents made home market sales during the POR at prices below their respective COPs.

We calculated the COP based on the sum of each respondent's cost of materials and fabrication for the foreign like product, plus amounts for SG&A and packing costs, in accordance with section 773(b)(3) of the Act.

Except as follows, we used the respondents' reported COP amounts to compute weighted-average COPs during the POR. Regarding the COP data reported by Filati, we found that, in certain instances, Filati reported multiple costs for a single control number. In those cases, we used the higher of the costs for purposes of the preliminary results.

We compared the COP figures to home market prices of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at

prices below the COP. On a product-specific basis, we compared the COP to home market prices, less any applicable movement charges and discounts.

In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made: (1) In substantial quantities within an extended period of time; and (2) at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. *See* § 773(b)(1) of the Act.

Pursuant to section 773(b)(2)(c)(i) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product were at prices below the COP, we found that sales of that model were made in "substantial quantities" within an extended period of time (as defined in section 773(b)(2)(B) of the Act), in accordance with section 773(b)(2)(C)(i) of the Act. In such cases, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product.

We found that, for certain models of extruded rubber thread, more than 20 percent of each respondent's home market sales within an extended period of time were at prices less than COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We therefore disregarded the below-cost sales and used the remaining above-cost sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. For those U.S. sales of extruded rubber thread for which there were no comparable home market sales in the ordinary course of trade, we compared CEP to CV, in accordance with section 773(a)(4) of the Act.

In accordance with section 773(e) of the Act, we calculated CV based on the sum of each respondent's cost of materials, fabrication, SG&A, profit, and U.S. packing costs. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by each respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.

Company-specific calculations are discussed below.

A. Filati

In all instances, NV for Filati was based on home market sales. Accordingly, we based NV on the starting price to unaffiliated customers. For all price-to-price comparisons, we made deductions from the starting price for rebates, where appropriate. We also made deductions, where appropriate, for foreign inland freight, pursuant to section 773(a)(6)(B) of the Act. Pursuant to section 773(a)(6)(C)(iii) of the Act, we also made deductions for home market credit expenses and bank charges. Where applicable, in accordance with 19 CFR 351.410(e), we offset any commission paid on a U.S. sale by reducing the NV by the amount of home market indirect selling expenses and inventory carrying costs, up to the amount of the U.S. commission.

In addition, we deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act. Where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

B. Heveafil

Where NV was based on home market sales, we based NV on the starting price to unaffiliated customers. We made deductions from the starting price for discounts. We also made deductions for foreign inland freight and foreign inland insurance, pursuant to section 773(a)(6)(B) of the Act. Pursuant to section 773(a)(6)(C)(iii) of the Act, we also made deductions for home market credit expenses and bank charges.

In addition, we deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act. Where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(6)(c)(ii) of the Act and 19 CFR 351.411.

For CV-to-CEP comparisons, we made circumstance-of-sale adjustments, where appropriate, for differences in credit expenses and bank charges, in accordance with sections 773(a)(6)(C)(iii) and 773(a)(8) of the Act.

C. Rubberflex

In all instances, NV for Rubberflex was based on home market sales. Accordingly, we based NV on the starting price to unaffiliated customers. We made deductions from the starting price for foreign inland freight and foreign inland insurance, pursuant to section 773(a)(6)(B) of the Act. Pursuant to section 773(a)(6)(C)(iii) of the Act, we also made deductions for home market credit expenses.

In addition, we deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act. Where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(6)(c)(ii) of the Act and 19 CFR 351.411.

Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Section 773A of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark for the daily rate, in accordance with established practice.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following margins exist for the period October 1, 1996, through September 30, 1997:

Manufacturer/exporter	Percent margin
Filati Lastex Sdn. Bhd.	8.31
Heveafil Sdn. Bhd.	
Filmax Sdn. Bhd.	3.91
Rubberflex Sdn. Bhd	1.15
Rubfil Sdn. Bhd	54.31

Interested parties may request a hearing within 30 days of the publication of this notice. Any hearing, if requested, will be held 37 days after the date of publication, or the first workday thereafter. Interested parties may submit case briefs within 30 days of publication. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such case briefs.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We have calculated an importer-specific assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total entered value of the examined sales. This rate will be assessed uniformly on all entries of that particular importer made during the POR. The Department will issue appraisement instructions directly to the Customs Service.

Further, the following deposit requirements will be effective for all shipments of extruded rubber thread from Malaysia entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rates for Filati, Heveafil, Rubberflex, and Rubfil will be the rates established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, de minimis within the meaning of 19 CFR 351.106, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 15.16 percent, the all others rate established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 351.213.

Dated: November 2, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–29850 Filed 11–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–802]

Notice of Postponement of Final Results of Antidumping Administrative Review: Gray Portland Cement and Clinker from Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 9, 1998.

FOR FURTHER INFORMATION CONTACT: Diane Krawczun, William Zapf or Richard Rimlinger, Office of AD/CVD Enforcement III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–0198, (202) 482–0180 or (202) 482–4477, respectively.

Postponement of Final Results of Review

On September 25, 1997, the Department of Commerce (the Department) initiated an antidumping administrative review of the antidumping duty order on gray portland cement and clinker from Mexico (62 FR 50292). On September 10, 1998, we issued our preliminary results of review (63 FR 48471). The final results of review are currently due January 8, 1998. Due to an increase in case assignments, we transferred this case, on October 1, 1998, to another team of Department personnel for calculation of the final results. This transfer requires time for the newly assigned team to become familiar with the case. Also, the current final due date conflicts with several existing deadlines of the new team. For these reasons, we have determined that completion of the review within 120 days from the publication of our preliminary results of review is not currently practicable and, therefore, we are postponing the deadline for issuing these final results of review until no later than March 9, 1999.

This extension is in accordance with section 751(a)(2)(C) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(h)(2).

Dated: November 2, 1998.

Susan Kuhbach,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 98–29997 Filed 11–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–822]

Certain Helical Spring Lock Washers From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: We preliminarily determine that sales of certain helical spring lock washers from the People's Republic of China were made below normal value during the period October 1, 1996 through September 30, 1997. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 9, 1998.

FOR FURTHER INFORMATION CONTACT: Sally Hastings or Vincent Kane, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3464 or 482–2815, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 et. seq. *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296 (May 19, 1997).

Background

On October 19, 1993, the Department published the antidumping duty order on certain helical spring lock washers (HSLWs) from the People's Republic of China (PRC) (58 FR 53914). The Department notified interested parties of the opportunity to request an administrative review of this order on October 2, 1997 (62 FR 51628). The

petitioner, Shakeproof Industrial Products Division of Illinois Tool Works, Inc., and the respondent, Zhejiang Wanxin Group Co. (ZWG) (also known as Hangzhou Spring Washer Plant), requested that the Department conduct an administrative review of ZWG. These requests were received on October 24 and 27, 1997, respectively. The notice of initiation of this administrative review was published on November 26, 1997 (62 FR 63069). On July 10, 1998, the Department extended the time limits for completion of the preliminary results in this proceeding until October 31, 1998 (*See* 63 FR 37328).

The Department is conducting this administrative review in accordance with Section 751 of the Act.

Scope of Review

The products covered by this review are HSLWs of carbon steel, of carbon alloy steel, or of stainless steel, heat-treated or non-heat-treated, plated or non-plated, with ends that are off-line. HSLWs are designed to: (1) Function as a spring to compensate for developed looseness between the component parts of a fastened assembly; (2) distribute the load over a larger area for screws or bolts; and, (3) provide a hardened bearing surface. The scope does not include internal or external tooth washers, nor does it include spring lock washers made of other metals, such as copper.

HSLWs subject to this review are currently classifiable under subheading 7318.21.0030 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

This review covers the period from October 1, 1996 through September 30, 1997.

Verification

As provided in section 782(i) of the Act, we verified sales and factor information provided by ZWG in Xiaoshan, PRC, using standard verification procedures, including on-site inspection of its facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. The findings at verification are detailed in the verification report dated October 15, 1998, the public version of which is on file in the Central Records Unit, Room B099 of the Main Commerce building (CRU-Public File).

Separate Rates Determination

To establish whether a company operating in a state-controlled economy is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*), as amplified by the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). Under this policy, exporters in non-market economies (NMEs) are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to export activities. Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export activities includes: (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and, (3) any other formal measures by the government decentralizing control of companies. *De facto* absence of government control over exports is based on four factors: (1) Whether each exporter sets its own export prices independently of the government and without the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and, (4) whether each exporter has autonomy from the government regarding the selection of management. (*See Silicon Carbide*, 59 FR at 22587 and *Sparklers*, 56 FR at 20589.)

In each of the previous administrative reviews of the antidumping duty order on HSLWs from the PRC, covering successive review periods from October 1, 1993 through September 30, 1996, we determined that ZWG merited a separate rate. We have found that the evidence on the record of this review also demonstrates an absence of government control, both in law and in fact, with respect to ZWG's export activities according to the criteria identified in *Sparklers*, and an absence of government control with respect to the additional criteria identified in *Silicon Carbide*. Therefore, we have continued to assign ZWG a separate rate.

Export Price

Because ZWG sold the subject merchandise to unaffiliated purchasers in the United States prior to importation into the United States and Constructed Export Price methodology is not otherwise indicated, we have used export price in accordance with section 772(a) of the Act.

We calculated export price based on the f.o.b. price to unaffiliated purchasers. From this price, we deducted amounts for foreign inland freight and brokerage and handling. We valued these deductions using surrogate country cost data. We selected India as the surrogate country for the reasons explained in the "Normal Value" section of this notice.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine normal value (NV) using a factors-of-production methodology if: (1) The merchandise is exported from an NME, and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department has treated the PRC as an NME in all previous antidumping cases. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME shall remain in effect until revoked by the administering authority. None of the parties to this proceeding has contested such treatment in this review. Moreover, parties to this proceeding have not argued that the PRC HSLWs industry is a market-oriented industry (MOI) and, consequently, we have no basis to determine that the information would permit the calculation of NV using PRC prices or costs. Therefore, we calculated NV based on factors of production (FOP) in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c).

Under the FOP methodology, we are required to value the NME producer's inputs in a comparable market economy country that is a significant producer of comparable merchandise. We determined that India is at a comparable level of economic development to that of the PRC. Also, India is a significant producer of comparable merchandise. Therefore, for this review, we have used Indian prices to value the FOP except where the factor was purchased from a market economy supplier and paid for in a market economy currency. (*See* Memorandum to Susan Kuhbach from Jeff May, dated March 5, 1998, "Certain Helical Spring Lock Washers from the PRC: Nonmarket Economy Status and Surrogate Country Selection," which is on file in the CRU-Public File.)

We selected, where possible, publicly available values from India which were: (1) Average non-export values; (2) representative of a range of prices within the POR or most contemporaneous with the POR; (3) product-specific; and, (4) tax-exclusive. We valued the factors of production as follows:

- A meaningful amount of the input carbon steel wire rod was purchased from the United Kingdom, a market economy supplier, and paid for in a market economy currency. Pursuant to 19 CFR 351.408(c)(1), we valued this factor using the price paid to the market economy supplier. Thus, for carbon steel wire rod values, we used the average cost per metric ton of carbon steel wire rod imported from the United Kingdom by ZWG during the period of review. We made further deductions to account for the freight costs incurred between the port and ZWG.
- For the value of chemicals used in the production and plating process of HSLWs, we used per kilogram values obtained from the Indian publication *Chemical Weekly* and from the *Monthly Statistics of the Foreign Trade of India-Imports (MFTI)*. We adjusted these values, where appropriate, to reflect inflation through the POR using the Wholesale Price Index (WPI) as reported in the *International Financial Statistics* published by the International Monetary Fund (IMF). We also adjusted these values to account for freight costs incurred between the supplier and ZWG.
- For labor, we used the regression-based wage rate for the PRC in "Expected Wages of Selected NME Countries," located on the Internet at http://www.ita.doc.gov/import_admin/records/wages/. Because of the variability of wage rates in countries with similar per capita GDP's, 19 CFR 351.408(c)(3) of the Department's regulations requires the use of a regression-based wage rate. The source for the regression based-wage rates is "Expected Wages of Selected NME Countries—1995 Income Data," *1996 Year Book of Labour Statistics*, International Labour Office, (Geneva: 1996) Chapter 5B: Wages in Manufacturing.
- For factory overhead, selling, general, and administrative expenses (SG&A), and profit values, we used information from the January, 1997 *Reserve Bank of India Bulletin* for the Indian industry group "Processing and Manufacturing: Metals, Chemicals, and Products Thereof." From this information, we were able to determine factory overhead as a percentage of the total cost of manufacturing, SG&A as a percentage of the total cost of manufacturing, and the profit rate as a percentage of the cost of manufacturing plus SG&A.
- For packing materials, we used the per kilogram values obtained from the *MFTI*. Where necessary, we adjusted these values to reflect inflation through the POR using the WPI published by the IMF. We also adjusted them to account for freight costs incurred between the PRC supplier and ZWG.
- To value coal, we used a per kilogram value obtained from the *MFTI*. We adjusted this value to reflect inflation through the POR using the WPI published by the IMF. We also adjusted this amount to account for freight costs incurred between the supplier and ZWG.
- To value electricity, we used the price of electricity for 1995 reported in the *1995 Confederation of Indian Industries Handbook of Statistics*. We adjusted the value to reflect inflation through the POR using the WPI published by the IMF.
- To value water, we used the November, 1993 *Water Utilities Data Book for the Asian and Pacific Region* published by the Asian Development Bank. We adjusted the value to reflect inflation through the POR using the WPI published by the IMF.
- To value foreign brokerage and handling, we used information reported in the *Less Than Fair Value Investigation of Stoinless Steel Bar from Indio* in a document dated April 22, 1994.
- To value truck freight, we used a rate derived from the April 20, 1994 issue of *The Times of India*. We adjusted the rate to reflect inflation through the POR using the WPI published by the IMF.
- To value rail freight, we used rate information published by the Indian Railway Conference Association for rates in force from April 1, 1995. We adjusted the rate to reflect inflation through the POR using the WPI published by the IMF.
- To value shipping freight, we used a rate reported to the Department in the August, 1993 cable from the U.S. Embassy in India which was submitted for and used in the *Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers from the People's Republic of China*, 58 FR 48833 (September 20, 1993). We adjusted the rate to reflect inflation through the POR using the WPI published by the IMF.

For a complete description of the factor values used, *see* "Memorandum to File: Factor Values Used for the Preliminary Results of the Fourth Administrative Review," dated November 2, 1998 (Factors Memorandum) a public version of which is available in the Public File.

Additionally, we adjusted the reported figure for indirect labor based on our findings at verification, *see* "Memorandum to File: Calculation Notes for Preliminary Results," dated November 2, 1998, a public version of which is available in the Public File.

Preliminary Results of Review

We preliminarily determine that the following dumping margin exists:

Manufacturer/exporter	Time period	Margin (percent)
Zhejiang Wanxin Group Co., Ltd	10/01/96–09/30/97	4.29

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice, in accordance with 19 CFR 351.224. Any interested party may request a hearing within 10 days of publication of this notice. Any hearing, if requested, will be held approximately 44 days after the publication of this notice. Interested parties may submit written comments (case briefs) within 30 days of the date of publication of this notice. Rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised by the parties, within 120 days of publication of these preliminary results.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we have calculated an importer-

specific *ad valorem* duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total value of the subject merchandise entered during the POR. In order to estimate the entered value, we subtracted international movement expenses from the gross sales value. This rate will be assessed uniformly on all entries of that specific importer made during the POR. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of HSLWs from the PRC entered, or withdrawn from warehouse for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For ZWG, which has a separate rate, the cash deposit rate will be the company-specific rate established in the final results of this administrative review; (2) for all other PRC exporters, the cash deposit rate will be the PRC rate, which is 128.63 percent, which is the All Other PRC Manufacturers, Producers and Exporters rate from the *Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers from the PRC*, 58 FR 48833 (September 20, 1993); and (3) for non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter.

These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 771(i)(1) of the Act.

Dated: November 3, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–29995 Filed 11–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–805]

Industrial Nitrocellulose From the Republic of Korea; Notice of Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On July 10, 1998, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on industrial nitrocellulose (INC) from the Republic of Korea (Korea). This review covers one manufacturer/exporter of the subject merchandise to the United States during the period July 1, 1996, through June 30, 1997.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have changed the final results from those presented in the preliminary results.

EFFECTIVE DATE: November 9, 1998.

FOR FURTHER INFORMATION CONTACT: Todd Peterson or Thomas Futtner, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4195 or 482–3814, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (62 FR 27296, May 19, 1997).

SUPPLEMENTARY INFORMATION:

Background

On July 10, 1998, the Department published in the **Federal Register** (63 FR 37329) the preliminary results of the administrative review of the antidumping order on industrial nitrocellulose (INC) from Korea, 55 FR 28267 (July 10, 1990). On August 10, 1998, we received a case brief from Daesang Corporation (respondent) as well as comments from Hercules Incorporated (petitioner). Based on our analysis of the comments received, we changed the final results from those presented in the preliminary results.

Scope of Review

Imports covered by this review are shipments of INC from Korea. INC is a dry, white amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. INC is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content of greater than 12.2 percent.

INC is currently classified under Harmonized Tariff System (HTS) subheading 3912.20.00. While the HTS item number is provided for convenience and Customs purposes, the written description remains dispositive as to the scope of the product coverage. This review covers one manufacturer/exporter of industrial nitrocellulose, Daesang Corporation, and period July 1, 1996, through June 30, 1997.

Analysis of Comments Received

Comment 1

Daesang states that the Department made a clerical error in its preliminary results computer programming by erroneously adding both the commission offset (OFFSETU) and U.S. indirect selling expenses (INDEXUS) in its calculation of foreign net price expressed in dollars (FUPDOL). Daesang states that OFFSETU correctly accounted for home market commissions on two of the three matching control numbers (CONNUMs) for the U.S. sales, which had no commissions. Adding the variable INDEXUS in the calculation of FUPDOL would lead to a double counting of the commission offset. While petitioner did not comment on this specific issue, petitioner supports the Department's Preliminary Determination.

Department's Position

We agree with Daesang Corporation that home market commissions or U.S. indirect selling expenses, whichever is less, have been accounted for in U.S. offsets (OFFSETU) applied to FUPDOL, and have revised our programming language accordingly for these final results.

Final Results of the Review

As a result of our review, we determine that the following margin exists:

Manufacturer/Exporter	Margin (percent)
Daesang Corporation	2.1

The Department shall determine, and the Customs Services shall assess, antidumping duties on all appropriate entires. Individual differences between export price and normal value may vary from the percentage stated above. We have calculated an importer-specific duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the same sales. The rates will be assessed uniformly on all entries of that particular company made during the POR. The Department will issue appraisement instructions directly to the Customs Service.

The following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of industrial nitrocellulose from Korea entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the reviewed company will be the rate listed above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be 66.30 percent, the "all others" rate established in the LTFV investigation (55 FR 21055, May 22, 1990). These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their reponsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.32 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 30, 1998.

Robert S. LaRussa,

Assistant Secretary, Import Administration.

[FR Doc. 98–29851 Filed 11–6–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–803]

Industrial Nitrocellulose From the United Kingdom; Extension of Time Limit for Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Extension of time limit for final results of antidumping duty administrative review of industrial nitrocellulose from the United Kingdom.

SUMMARY: The Department of Commerce ("the Department") is extending the time limit for the final results of the antidumping duty administrative review of the antidumping order on industrial nitrocellulose from the United Kingdom. This review covers one producer/exporter of industrial nitrocellulose. The period of review is July 1, 1996 through June 30, 1997.

EFFECTIVE DATE: November 9, 1998.

FOR FURTHER INFORMATION CONTACT: Todd Peterson or Thomas Futtner, AD/CVD Enforcement Group II, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230, telephone (202) 482–4195 or 482–3814, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act") are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR 351.101, et seq. (62 FR 27296—May 19, 1997).

Extension of Final Results

The Department initiated this administrative review on August 28, 1997 (62 FR 45621). Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. Because of the complexity of an issue in this case, it is not practicable to complete this review within the statutory time limit of 365 days. The Department, therefore, is extending the time limit for the final results of the aforementioned review to February 3, 1999. *See* memorandum from Holly A. Kuga to Robert S. LaRussa, which is on file in Room B–099 at the Department's headquarters.

This extension of time limit is in accordance with section 751(a)(3)(A) of the Act and § 351.213(h)(2) of the Department's regulations.

Dated: November 3, 1998.

Holly A. Kuga,

Acting Deputy Assistant Secretary, AD/CVD Enforcement Group II.

[FR Doc. 98–29994 Filed 11–6–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–840]

Manganese Metal from the People's Republic of China; Notice of Extension of Time Limit for Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limit.

SUMMARY: The Department of Commerce is extending the time limit for the preliminary results of the second review of the antidumping duty order on manganese metal from the People's Republic of China. The period of review is February 1, 1997 through January 31, 1998. This extension is made pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreement Act.

EFFECTIVE DATE: November 9, 1998.

FOR FURTHER INFORMATION CONTACT: Greg Campbell, Office 1, Import

Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–2239.

SUPPLEMENTARY INFORMATION: Because it is not practicable to complete this review within the time limit mandated by section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act") (*i.e.*, November 2, 1998), the Department of Commerce ("the Department") is extending the time limit for completion of the preliminary results to not later than March 2, 1999. *See* November 2, 1998, Memorandum from Acting Deputy Assistant Secretary for AD/CVD Enforcement Susan H. Kuhbach to Assistant Secretary for Import Administration Robert LaRussa on file in the public file of the Central Records Unit, B–099 of the Department.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 351.213(h)(2).

Dated: November 2, 1998.

Susan H. Kuhbach,

Acting Deputy Assistant Secretary for AD/CVD Enforcement.

[FR Doc. 98–29993 Filed 11–6–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–806]

Silicon Metal From Brazil; Antidumping Duty Administrative Review; Time Limits

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time Limits of final results of review.

SUMMARY: The Department of Commerce is extending the time limits of the final results of the sixth antidumping duty administrative review of the antidumping duty order on silicon metal from Brazil. The review covers five manufacturer/exporters of the subject merchandise to the United States for the period July 1, 1996, through June 30, 1997.

EFFECTIVE DATE: November 9, 1998.

FOR FURTHER INFORMATION CONTACT: Howard Smith or Cameron Werker, Office 4, Office of AD/CVD Enforcement, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–5193, or (202) 482–3874, respectively.

SUPPLEMENTARY INFORMATION: Because it is not practicable to complete this review within the initial time limits established by the Uruguay Round Agreements Act (245 days from the last day of the anniversary month for preliminary results, 120 additional days for final results), pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), the Department is extending the time limit for completion of the final results until February 2, 1999. *See Memorandum to Robert S. LaRussa*, dated October 28, 1998.

This extension is in accordance with section 751(a)(3)(A) of the Act (19 U.S.C. 1675(a)(3)(A)).

Dated: November 1, 1998.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 98–29854 Filed 11–6–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of issuance of an amended Export Trade Certificate of Review, Application No. 84–9A012.

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review ("Certificate") granted to Northwest Fruit Exporters ("NFE") on June 11, 1984. Notice of issuance of the original Certificate was published in the **Federal Register** on June 14, 1984 (49 FR 24581).

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (1998). The Office of Export Trading Company Affairs ("OETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Northwest Fruit Exporters' ("NFE") original certificate was issued on June 11, 1984 (49 FR 24581, June 14, 1984) and previously amended on May 2, 1988 (53 FR 16303, May 6, 1988); September 21, 1988 (53 FR 37628, September 27, 1988); September 20, 1989 (54 FR 39454, September 26, 1989); November 19, 1992 (57 FR 55510, November 25, 1992); August 16, 1994 (59 FR 43093, August 22, 1994); November 4, 1996 (61 FR 57850, November 8, 1996); and October 22, 1997 (62 FR 55783, October 28, 1997).

NFE's Certificate has been amended to:

1. Add the following companies as a new "Member" of the Certificate within the meaning of § 325.2 (1) of the regulations (15 CFR 325.2(1)): E. Brown & Sons Inc., Milton Freewater, Oregon; E.W. Brandt & Sons, Inc., Parker, Washington; Domex Marketing Co., Yakima, Washington; Dovex Export Co., Wenatchee, Washington; Henggeler Packing Co., Inc, Fruitland, Idaho; Rainier Fruit Sales, Selah, Washington; and

2. Delete the following companies as "Members" of the Certificate: Diamond Fruit Growers, Hood River, Oregon; Haas Fruit Co., Inc., Yakima, Washington; J.C. Watson Co., Parma, Idaho; Jenks Bros. Cold Storage Inc., Royal City, Washington; Jones Orchards, Yakima, Washington; Naumes, Inc., Medford, Oregon; Oro Fruit Co., Oroville, Washington; Perham Fruit Corp., Wapato, Washington; Squaw Creek Ranch, Inc., Pateros, Washington; The Apple House, Inc., Brewster, Washington; and

3. Change the listing of the company name for each current "Member" cited in this paragraph to the new listing cited in this paragraph in parenthesis as follows: Cascadian Fruit Shippers, Inc. (Custom Fruit Packers); Cubberly Packing Co., Inc. (CPC International Apple Co.); Barbee Orchards/Obert Cold Storage (Obert Cold Storage).

A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Dated: November 3, 1998.

Morton Schnabel,

Director, Office of Export Trading Company Affairs.

[FR Doc. 98–29916 Filed 11–6–98; 8:45 am]

BILLING CODE 3510–DR–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits and Guaranteed Access Levels for Certain Cotton, Wool, Man-Made Fiber and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Jamaica

November 3, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits and guaranteed access levels.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits and Guaranteed Access Levels (GALs) for textile products, produced or manufactured in Jamaica and exported during the period January 1, 1999 through December 31, 1999 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish limits and guaranteed access levels for the period January 1, 1999 through December 31, 1999.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Information regarding the 1999 CORRELATION will be published in the **Federal Register** at a later date.

Requirements for participation in the Special Access Program are available in **Federal Register** notice 63 FR 16474, published on April 3, 1998.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 3, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 1999, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Jamaica and exported during the twelve-month period beginning on January 1, 1999 and extending through December 31, 1999, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
331/631	745,113 dozen pairs.
338/339/638/639.	1,469,168 dozen.
340/640	687,021 dozen of which not more than 581,326 dozen shall be in shirts made from fabrics with two or more colors in the warp and/or the filling in Categories 340–Y/640–Y[1].
341/641	862,688 dozen.
345/845	212,872 dozen.
347/348/647/648.	1,585,783 dozen.
352/652	2,369,458 dozen.
445/446	53,978 dozen.

[1] Category 340–Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060; Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1998 shall be charged to the applicable category limits for that year (see directive dated November 24, 1997) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

Also pursuant to the ATC; and under the terms of the Special Access Program, as set forth in 63 FR 16474 (April 3, 1998), you are directed to establish guaranteed access levels for properly certified cotton, wool, man-made fiber and other vegetable fiber textile products in the following categories which are assembled in Jamaica from fabric formed and cut in the United States and re-exported to the United States from Jamaica during the twelve-month period which begins on January 1, 1999 and extends through December 31, 1999:

Category	Guaranteed Access Level
331/631	1,320,000 dozen pairs.
336/636	125,000 dozen.
338/339/638/639.	1,500,000 dozen.
340/640	300,000 dozen.
341/641	375,000 dozen.
342/642	200,000 dozen.
345/845	50,000 dozen.
347/348/647/648.	2,000,000 dozen.
352/652	10,500,000 dozen.
447	30,000 dozen.

Any shipment for entry under the Special Access Program which is not accompanied by a valid and correct certification in accordance with the provisions of the certification requirements established in the directive of February 19, 1987 shall be denied entry unless the Government of Jamaica authorizes the entry and any charges to the appropriate specific limits. Any shipment which is declared for entry under the Special Access Program but found not to qualify shall be denied entry into the United States.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of U.S.C.553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–29977 Filed 11–6–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Mauritius

November 3, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in the Mauritius and exported during the period January 1, 1999 through December 31, 1999 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1999 limits. The limits for Categories 338/339 and 347/348 have been reduced for carryforward applied in 1998.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Information regarding the 1999 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 3, 1998

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 1999, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Mauritius and exported during the twelve-month period beginning on January 1, 1999 and extending through December 31, 1999, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Knit Group 345, 438, 445, 446, 645 and 646, as a group.	199,072 dozen.
Levels not in a group	
237	256,715 dozen.
335/835	102,046 dozen.
336	120,083 dozen.
338/339	458,792 dozen.
340/640	782,369 dozen of which not more than 476,248 dozen shall be in Categories 340–Y/640–Y [1].
341/641	541,965 dozen.
347/348	965,737 dozen.
351/651	237,995 dozen.
352/652	2,018,188 dozen of which not more than 1,715,462 dozen shall be in Category 352.
442	12,177 dozen.
604–A [2]	427,959 kilograms.
638/639	552,852 dozen.
647/648/847	745,486 dozen.

[1] Category 340–Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060; Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

[2] Category 604–A: only HTS number 5509.32.0000.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1998 shall be charged to the applicable category limits for that year (see directive dated December 19, 1997) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–29979 Filed 11–6–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATIONS OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Oman

November 3, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The Bilateral Textile Agreement, effected by exchange of notes dated December 13, 1993 and January 15, 1994, as amended and extended, between the Governments of the United States and the Sultanate of Oman establishes limits for textile products, produced or manufactured in Oman and exported during the period January 1, 1999 and through December 31, 1999.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish limits for the 1999 period. The limit for Categories 347/348 has been reduced for carryforward applied in 1998.

These limits may be revised if Oman becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to Oman.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Information regarding the 1999 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 3, 1998.

Commissioner of Customs
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; the Bilateral Textile Agreement, effected by exchange of notes dated December 13, 1993 and January 15, 1994, as amended and extended, between the Governments of the United States and the Sultanate of Oman, you are directed to prohibit, effective on January 1, 1999, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, man-made fiber, silk blend and other vegetable fiber textile products in the following categories, produced or manufactured in Oman and exported during the twelve-month period beginning on January 1, 1999 and extending through December 31, 1999, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
334/634	154,500 dozen.
335/635	267,645 dozen.
338/339	555,364 dozen.
340/640	267,645 dozen.
341/641	200,733 dozen.
347/348	902,671 dozen.
647/648/847	410,305 dozen.

The limits set forth above are subject to adjustment pursuant to the current bilateral agreement between the Governments of the United States and the Sultanate of Oman.

Products in the above categories exported during 1998 shall be charged to the applicable category limits for that year (see directive dated December 19, 1997) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

These limits may be revised if Oman becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to Oman.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–29978 Filed 11–6–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Wool Textile Products Produced or Manufactured in Ukraine

November 3, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The Bilateral Textile Agreement of July 22, 1998, between the Governments of the United States and Ukraine establishes limits for certain wool textile products for the period January 1, 1999 through December 31, 1999.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1999 limits.

These limits may be revised if Ukraine becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to Ukraine.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Information regarding the 1999 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 3, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Bilateral Textile Agreement of July 22, 1998, between the Governments of the United States and Ukraine, you are directed to prohibit, effective on January 1, 1999, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in the following categories, produced or manufactured in Ukraine and exported during the twelve-month period beginning on January 1, 1999 and extending through December 31, 1999, in excess of the following levels of restraint:

Category	Twelve-month limit
435	91,902 dozen.
442	15,300 dozen.
444	66,300 numbers.
448	66,300 dozen.

The limits set forth above are subject to adjustment pursuant to the current bilateral agreement between the Governments of the United States and Ukraine.

These limits may be revised if Ukraine becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to Ukraine.

Products in the above categories exported during 1998 shall be charged to the applicable category limits for that year (see directive dated November 24, 1997) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such

products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–29975 Filed 11–6–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in the United Arab Emirates

November 3, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in the United Arab Emirates and exported during the period January 1, 1999 through December 31, 1999 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

Effective on January 1, 1999, a visa will no longer be required for products integrated in the second stage of the integration of textiles and clothing into GATT 1994 from WTO member countries (see 63 FR 53881, published on October 7, 1998). A visa will continue to be required for non-integrated products. For quota purposes only, products remaining in categories partially integrated will continue to be designated by the designator "pt."

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish limits for the 1999 period. The 1999 levels for Categories 315 and 361 are zero. The limits for certain categories have been reduced for carryforward applied in 1998.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notices 62 FR 66057, published on December 17, 1997). Information regarding the 1999 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 3, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 1999, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in the United Arab Emirates and exported during the twelve-month period beginning on January 1, 1999 and extending through December 31, 1999 in excess of the following levels of restraint:

Category	Twelve-month restraint limit
219	1,365,418 square meters.
226/313	2,334,898 square meters.
315	–0–.
317	37,666,652 square meters.
326	2,204,148 square meters.
334/634	263,024 dozen.
335/635/835	180,561 dozen.
336/636	227,953 dozen.
338/339	688,251 dozen of which not more than 433,697 dozen shall be in Categories 338–S/339–S [1].
340/640	403,305 dozen.
341/641	373,623 dozen.
342/642	296,822 dozen.
347/348	483,264 dozen of which not more than 241,632 dozen shall be in Categories 347–T/348–T [2].
351/651	201,652 dozen.
352	393,287 dozen.
361	–0–.
363	6,944,665 numbers.
369–S [3]	102,273 kilograms.
369–O [4]	725,451 kilograms.
638/639	278,268 dozen.
647/648	398,852 dozen.
847	250,442 dozen.

[1] Category 338–S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.8010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.9068, 6112.11.0030 and 6114.20.0005; Category 339–S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2510, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.9070, 6112.11.0040, 6114.20.0010 and 6117.90.9020.

[2] Category 347–T: only HTS numbers 6103.19.2015, 6103.19.9020, 6103.22.0030, 6103.42.1020, 6103.42.1040, 6103.49.8010, 6112.11.0050, 6113.00.9038, 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040; Category 348–T: only HTS numbers 6104.12.0030, 6104.19.8030, 6104.22.0040, 6104.29.2034, 6104.62.2006, 6104.62.2011, 6104.62.2026, 6104.62.2028, 6104.69.8022, 6112.11.0060, 6113.00.9042, 6117.90.9060, 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.69.6010, 6304.69.9010. 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9050.

[3] Category 369–S: only HTS number 6307.10.2005.

[4] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S); 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020 and 6406.10.7700.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1998 shall be charged to the applicable category limits for that year (see directive dated November 25, 1997) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

Effective on January 1, 1999, a visa will no longer be required for products integrated in the second stage of the integration of textiles and clothing into GATT 1994 from WTO member countries (see directive dated September 30, 1998). A visa will continue to be required for non-integrated products. For quota purposes only, products remaining in categories partially integrated will continue to be designated by the designator "pt."

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–29976 Filed 11–6–98; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada Test Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada Test Site.

DATES: Wednesday, December 2, 1998: 5:30 p.m.–9:00 p.m.

ADDRESSES: U.S. Department of Energy, Nevada Support Facility, Great Basin Room, 232 Energy Way, North Las Vegas, Nevada.

FOR FURTHER INFORMATION CONTACT: Kevin Rohrer, U.S. Department of Energy, Office of Environmental Management, P.O. Box 98518, Las Vegas, Nevada 89193–8513, phone: 702–295–0197.

SUPPLEMENTARY INFORMATION:

Purpose of the Boord: The purpose of the Advisory Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

5:30 p.m. Call to Order
5:40 p.m. Presentations
7:00 p.m. Public Comment/Questions
7:30 p.m. Break
7:45 p.m. Review Action Items
8:00 p.m. Approve Meeting Minutes
8:10 p.m. Committee Reports
8:45 p.m. Public Comment
9:00 p.m. Adjourn

Copies of the final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Kevin Rohrer, at the telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Kevin Rohrer at the address listed above.

Issued at Washington, DC on November 2, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–29939 Filed 11–6–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford Site.

DATES: Thursday, December 3, 1998: 9:00 a.m.—5:00 p.m. Friday, December 4, 1998: 8:30 a.m.—4:00 p.m.

ADDRESSES: DoubleTree Inn Downtown, 310 SW Lincoln, Portland, OR, ph: 509–221–0450; fax: 509–226–6260.

FOR FURTHER INFORMATION CONTACT: Gail McClure, Public Involvement Program Manager, Department of Energy Richland Operations Office, P.O. Box 550 (A7–75), Richland, WA, 99352; Ph: (509) 373–5647; Fax: (509) 376–1563.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: The Board will receive information on and discuss issues related to Hanford Waste Management; the Tank Waste Remediation System (TWRS)—board review process (formation of TWRS committee), status of proposed tri-party negotiations, discussion of public process related to privatization, and input into 90-day plan on the Office of River Protection; board self-evaluation; recommendations on Openness Panel; spent fuel—revised baseline; and the plutonium finishing plant integrated baseline.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gail McClure's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments near the beginning of the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Gail McClure, Department of Energy Richland Operations Office, P.O. Box 550, Richland, WA 99352, or by calling him at (509) 376–9628.

Issued at Washington, DC on November 3, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–29940 Filed 11–6–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

International Energy Agency Meeting

AGENCY: Department of Energy.

ACTION: Notice of Meetings.

SUMMARY: The Industry Supply Advisory Group (ISAG) to the International Energy Agency (IEA) will conduct meetings November 16–17, at the IEA's headquarters in Paris, France, to permit ISAG representatives to participate in the training phase of an Emergency Response Exercise.

FOR FURTHER INFORMATION CONTACT: Samuel M. Bradley, Acting Assistant General Counsel for International and Legal Policy, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, 202–586–6738.

SUPPLEMENTARY INFORMATION: In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)), the following notice of meetings is provided:

Meetings of the Industry Supply Advisory Group (ISAG) to the International Energy Agency (IEA) will be held on November 16–17, 1998, at the headquarters of the IEA , 9 rue de la Federation, Paris, France, beginning at approximately 9:00 a.m. on November 16. The purpose of these meetings is to permit ISAG representatives to participate in the training phase of an Emergency Response Exercise. The agenda for the meetings is as follows:

November 16, 1998

1. Review of the Agenda and Focus of the Training Program
   - Welcome to the IEA
   - Objectives of ISAG Training 1998 and Review of the Agenda
2. IEA Organization and Purpose
   - Basic Objectives of the IEA
   - Emergency Management Organization—the Agreement on an International Program, Industry Advisory Board (IAB), Standing Group on Emergency Questions (SEQ), ISAG, and Emergency Operations Team
3. Legal Issues
4. ISAG's Role, Organization and Responsibilities
   - Background on ISAG
   - General ISAG Responsibilities
5.
   - Introduction to the Emergency Management Manual (EMM) and Reference Guide
   - Introduction to Coordinated Emergency Response Measures (CERM)
6. ISAG Activities
   - Pre-operational Phase
   - Operational Phase—Base Period Final Consumption, Available Supplies, Emergency Response Drawdown Obligation, and Allocation Rights/Allocation Obligations Matrix
7. An Introduction to IEA Information and Communications Systems
   - Communication Services at the IEA and Data Security
   - Data Available at the IEA to ISAG
   - Structure and Contents of Questionnaires A and B, and Reporting Relationships
8. The Balancing Process and Voluntary Offers
   - Definitions of Voluntary Offers and their Role in the EMM Balancing Process
   - Functions of the Emergency Operations Team, National Emergency Sharing Organizations, and Reporting Companies in Generating and Processing Voluntary Offers
   - Creation of a Voluntary Offer
9. Description of Disruption Scenario and Discussion of Major Imbalances

November 17, 1998

Disruption Scenario

1. Work of Day 2
   - Review of the Objectives of Day 2
2. Definition of Main Problem Areas Resulting from Disruption Scenario and ISAG's Monitoring Role
   - Impact of Disruption on:
   - Crude oil and product streams
   - Key countries
   - Refining operations
   - Transport

Emergency Response Strategy

1. Group Discussion of Crisis Scenarios with Participants Using their Expertise to Refine Definitions of Problems and Identify Solutions (N. America, Far East, NW Europe, Mediterranean)
2. Individual Groups Present their Conclusions for General Discussion
3. Final Consideration of Technical Consequences arising from a Disruption and Possible Response Strategies
4. Prepare Summary for ISAG Manager to Present at the Emergency Response Exercise 1998
5. Practical Work on Voluntary Offers Prepared by Secretariat from Disrupted Data Base
6. Critique of Training Program and Summary
7. Further Practical Work on Voluntary Offers as Required

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), this meeting is open only to representatives of members of the ISAG and their counsel, representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of the Congress, the IEA, and the European Commission, and invitees of the ISAG or the IEA.

Issued in Washington, D.C., November 3, 1998.

Eric J. Fygi,

Acting General Counsel.

[FR Doc. 98–29843 Filed 11–6–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 98–85–NG]

Office of Fossil Energy; Renaissance Energy (U.S.) Inc.; Order Granting Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Renaissance Energy (U.S.) Inc. (Renaissance U.S.) authorization to import up to 23,404 Mcf of natural gas per day from Canada for a ten-year term beginning on November 1, 1998, through October 31, 2008, under the terms and conditions of its gas supply contract with Renaissance Energy Ltd. The natural gas will be imported at the international border between Canada and the United States at Niagara Falls, New York.

This Order may be found on the FE web site at http://www.fe.doe.gov., or on our electronic bulletin board at (202) 586–7853. It is also available for inspection and copying in the Office of Natural Gas & Petroleum Import and Export Activities Docket Room, 3E–042, FE–34, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., November 2, 1998.

John W. Glynn,

Manager, Natural Gas Regulation, Office of Natural Gas and Petroleum Import and Export Activities, Office of Fossil Energy.

[FR Doc. 98–29943 Filed 11–6–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Mid-Columbia Coho Restoration Feasibility Project

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of Floodplain and Wetlands Involvement.

SUMMARY: This notice announces BPA's proposal to implement various studies and research projects in the Methow, Wenatchee, and Entiat River watersheds, located in the State of Washington in Chelan and Okanogan Counties. These projects will focus on the feasibility of restoring coho salmon to the mid-Columbia tributaries, including the release of coho fingerlings and smolts into these tributaries and the possible initiation of a local broodstock development program. In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements, BPA will prepare a floodplain and wetlands assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplain and wetlands. The assessment will be included in the environmental assessment being prepared for the proposed project in accordance with the requirements of the National Environmental Policy Act. A floodplain statement of findings will be included in any finding of no significant impact that may be issued following the completion of the environmental assessment.

DATES: Comments are due to the address below no later than November 24, 1998.

ADDRESSES: Submit comments to Communications, Bonneville Power Administration—ACS–7, P.O. Box 12999, Portland, Oregon 97212. Internet address: comment@bpa.gov.

FOR FURTHER INFORMATION, CONTACT: Nancy Weintraub—ECN–4, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208–3621, phone number 503–230–5373, fax number 503–230–4089.

SUPPLEMENTARY INFORMATION: The project would involve work in the Wenatchee, Entiat, and Methow watersheds. The work would include mostly activities with minimal impacts, such as snorkeling, seining, electroshocking, screw trapping, spawning surveys, and placement of fish into these rivers and their tributaries. It may also involve the construction of low-impact, low-technology acclimation ponds or the netting-off of side channels to provide sites for coho acclimation. Placement of temporary weirs into streams may also occur. Exact locations for these activities have not yet been identified, but existing facilities will be used as much as possible. The only alternative identified to date is the no-action alternative.

Maps and further information are available from BPA at the address above.

Issued in Portland, Oregon, on November 2, 1998.

Thomas C. McKinney,

NEPA Compliance Officer.

[FR Doc. 98–29942 Filed 11–6–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–1–20–000]

Algonquin Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

November 3, 1998.

Take notice that on October 30, 1998, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, December 1, 1998.

Algonquin states that, pursuant to Section 32 of the General Terms and Conditions of its FERC Gas Tariff, it is filing to revise the Fuel Reimbursement Percentages (FRPs) for the four calendar periods beginning December 1, 1998. Algonquin states that company use for the actual period decreased by 34% compared to Algonquin's projected requirement from the last FRQ annual filing due primarily to decreased fuel use as a result of lower throughput and decreased unaccounted for gas. Algonquin states that the use of actual data for the latest available 12-month period yields decreased FRPs which, compared to the last FRQ annual filing, consist of a 0.03% decrease in the FRP for the Winter season and seasonal decreases for the Spring, Summer and Fall seasons ranging from 0.36% to 0.54%..Algonquin proposes to levelize the three non-winter periods in response to requests from customers for rate stability.

Algonquin requests any waivers necessary to permit the percentage calculated from the actuals for the entire 8-month period, combining Spring, Summer and Fall, to be applied during each of the three seasonal periods so that for the entire 8-month period the FRP will not change from one season to the next.

Algonquin also states that it is submitting the calculation of the fuel reimbursement quantity (FRQ) deferral allocation, pursuant to Section 32.5(c) which provides that Algonquin will calculate surcharges or refunds designed to amortize the net monetary value of the balance in the FRQ Deferred Account at the end of the previous accumulation period.

Algonquin states that for the period August 1, 1997 through July 31, 1998, the FRQ Deferred Account resulted in a net debit balance that will be surcharged to Algonquin's customers, based on the allocation of the account balance over the actual throughput during the accumulation period, exclusive of backhauls. Algonquin also states that the amounts reflected in the filing are computed on the basis of actual cash transactions, consistent with the Commission's holdings in Koch Gateway Pipeline Co., 76 F.E.R.C. ¶61,296 (1996), and ANR Pipeline Co., 80 F.E.R.C. ¶61,173 (1997), in which the Commission established its currently effective policy of requiring pipelines to use cash transactions, rather than imputed values, for purposes of calculating deferred accounts related to imbalance resolution procedures.

Algonquin states that copies of this filing were mailed to all affected customers of Algonquin and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29931 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–118–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

November 3, 1998.

Take notice that, on October 30, 1998, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to be effective December 1, 1998:

Second Revised Sheet No. 163
Third Revised Sheet No. 165

ANR states that the purpose of this filing is to comply with Section 1.7 of the Gas Research Institute (GRI) Settlement dated January 21, 1998, in Docket No. RP97–149–003, et al., to provide for a voluntary GRI contribution mechanism in ANR's tariff.

ANR states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29928 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–114–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 3, 1998.

Take notice that on October 30, 1998, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective November 1, 1998:

Thirtieth Revised Sheet No. 25
Thirtieth Revised Sheet No. 26
Thirtieth Revised Sheet No. 27
Twelfth Revised Sheet No. 30A

On December 22, 1997 Columbia submitted tariff sheets pursuant to Stipulation I, Article I, Section E, True-up Mechanism, of the Settlement (Settlement) in Docket No. RP95–408 et al., approved by the Commission on April 17, 1997 (79 FERC ¶61,044 (1997)). Pursuant to the true-up provision, Columbia is required to true-up its collections from the Settlement Component for 12-month periods commencing November 1, 1996. The initial 12-month period ended October 31, 1997. In compliance with the Settlement, Columbia filed to return an over-recovered amount of $680,404, including interest, from that initial 12-month period through an adjustment to the Settlement Component of the base rates for the period January 1, 1998 through October 31, 1998. In accordance with the Settlement, the true-up component of the Settlement Component is to be removed effective November 1, of each year. The instant filing is being made to remove such true-up component from the currently effective Settlement Component effective November 1, 1998.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29924 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–116–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 3, 1998.

Take notice that on October 30, 1998, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective January 1, 1999:

Fourth Revised Sheet No. 443

Columbia states that this filing is being submitted pursuant to the April 29, 1998, order issued by the Federal Energy Regulatory Commission (Commission) in the Gas Research Institute (GRI) proceedings in Docket Nos. RP97–149–003, et al. 83 FERC ¶61,093 (1998) (Order) approving the Stipulation and Agreement dated January 21, 1998 (Settlement). In the Settlement, Columbia agreed to be a voluntary collection agent for shippers who voluntarily choose to contribute to GRI programs through a "check-the-box" mechanism on billing invoices in addition to the settlement charges, beginning January 1, 1999. The settlement provides that, among other things, effective January 1, 2005, GRI surcharges will no longer be in effect and will reflect declining surcharge rates for the period 1998 through 2003, with adjustments in 2004, if needed. Section 1.7 of the Settlement provides for voluntary funding for the years 1998 through 2004 and that, effective no later than January 1, 2005, all GRI funding and membership will be on a voluntary basis.

Columbia agrees to collect these voluntary amounts submitted by its shippers, and states that these amounts will not be part of Columbia's jurisdictional rates. As part of the "check-the box" procedure, the shipper may state the amount of the contribution, as well as the project(s) the shipper wishes to support. Columbia proposes, consistent with the Order, that the Commission will not review or approve the amounts collected by Columbia. Columbia is adjusting Section 33 of the General Terms and Conditions of its tariff to implement the "check-the box" mechanism.

Columbia states further that copies of this filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.W., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29926 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–115–000]

Columbia Gulf Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

November 3, 1998.

Take notice that on October 30, 1998, Columbia Gulf Transmission Company (Columbia Gulf), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective January 1, 1999:

Fourth Revised Sheet No. 262

Columbia Gulf states that this filing is being submitted pursuant to the April 29, 1998, order issued by the Federal Energy Regulatory Commission (Commission) in the Gas Research Institute (GRI) proceedings in Docket Nos. RP97–149–003, et al. (83 FERC ¶61,093) (Order) approving the Stipulation and Agreement dated January 21, 1998 (Settlement). In the Settlement, Columbia Gulf agreed to be a voluntary collection agent for shippers who voluntarily choose to contribute to GRI programs through a "check-the-box" mechanism on billing invoices in addition to the settlement charges, beginning January 1, 1999. The settlement provides that, among other things, effective January 1, 2005, GRI surcharges will no longer be in effect and will reflect declining surcharge rates for the period 1998 through 2003, with adjustments in 2004, if needed. Section 1.7 of the Settlement provides for voluntary funding for the years 1998 through 2004 and that, effective no later than January 1, 2005, all GRI funding and membership will be on a voluntary basis.

Columbia Gulf agrees to collect these voluntary amounts submitted by its shippers, and states that these amounts will not be part of Columbia Gulf's jurisdictional rates. As part of the "check-the-box" procedure, the shipper may state the amount of the contribution, as well as the project(s) the shipper wishes to support. Columbia Gulf proposes, consistent with the Order, that the Commission will not review or approve the amounts collected by Columbia Gulf. Columbia Gulf is adjusting Section 33 of the General Terms and Conditions of its tariff to implement the "check-the-box" mechanism.

Columbia Gulf states further that copies of this filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29925 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR98–7–000]

Cranberry Pipeline Corporation; Notice of Informal Settlement Conference

November 3, 1998.

Take notice that an informal settlement conference in the above-captioned proceeding will be held on Tuesday, November 10, 1998, at 10:00 a.m. in Room No. 91–62 at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC.

Participation will be limited to the parties and staff. For additional information, please contact Penny Murrell at (202) 208–0531.

David P. Boergers,

Secretary.

[FR Doc. 98–29879 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–100–000]

Crossroads Pipeline Company; Notice of Compliance Filing

November 3, 1998.

Take notice that on October 29, 1998, Crossroads Pipeline Company (Crossroads) tendered for a filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets to be effective November 2, 1998:

First Revised Sheet No. 14
First Revised Sheet No. 24
Fourth Revised Sheet No. 39
Original Sheet No. 39A
Original Sheet No. 39B
First Revised Sheet No. 40
First Revised Sheet No. 41
Fifth Revised Sheet No. 76

Crossroads states that the purpose of this filing is to comply with Order No. 587–H, Final Rule Adopting Standards for Intra-day Nominations and Order Establishing Implementation Date issued on July 15, 1998 in Docket No. RM96–1–008. That order, inter alia, required that pipelines modify their tariffs to incorporate certain Gas Industry Standard Board standards regarding intro-day nominations.

Crossroads states that copies of the filing have been mailed to all affected customers and applicable state regulatory agencies and all parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a motion

to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29868 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT99–1–000]

Destin Pipeline Company, L.L.C.; Notice of Tariff Filing

November 3, 1998.

Take notice that on October 29, 1998, Destin Pipeline Company, L.L.C. (Destin) tendered for filing certain modifications to its FERC Gas Tariff, Original Volume No. 1 to become effective on December 1, 1998.

Destin states that the purpose of this filing is to update Section 20 of the General Terms and Conditions of its Tariff relating to marketing affiliates, as more particularly described in Destin's October 29, 1998 filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29882 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–109–000]

East Tennessee Natural Gas Company; Notice of Tariff Filing

November 3, 1998.

Take notice that on October 30, 1998, East Tennessee Natural Gas Company (East Tennessee), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the revised tariff sheets listed on Appendix A to the filing, to become effective November 30, 1998.

East Tennessee states that this filing proposes new tariff provisions that would enable East Tennessee and a shipper under certain limited circumstances to enter into different types of discount agreements without such agreements receiving prior approval from the Federal Energy Regulatory Commission as material deviation agreements. East Tennessee further states that the proposed tariff provisions would allow East Tennessee and a shipper to enter into agreements for specific discounts on specified volumes, during specified periods of time, and at designated points, zones or geographical areas. East Tennessee requests an effective date of November 30, 1998.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29875 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–110–000]

East Tennessee Natural Gas Company; Notice of Transportation Cost Rate Adjustment Filing

November 3, 1998.

Take notice that on October 30, 1998, East Tennessee Natural Gas Company (East Tennessee), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Fourteenth Revised Sheet No. 4, with an effective date of December 1, 1998.

East Tennessee states that because it has not incurred any demand or commodity Account 858 costs since its last Transportation Cost Rate Adjustment Filing, for the period December 1, 1998 through November 30, 1999, Fourteenth Revised Sheet No. 4 reflects a demand and commodity surcharges of $0.0 to the FT–A and FT–GS rates. East Tennessee further states that for the minimal over-recovery it has received, it will credit the actual net balance over collected as of November 30, 1998 to shipper invoices under the Affected Rate Schedules for activity in the month of December, 1998. Such crediting will include interest through the date of the invoice and will be in lieu of implementing the de minimus surcharge.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29876 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–119–000]

East Tennessee Natural Gas Company; Notice of Tariff Filing

November 3, 1998.

Take notice that on October 30, 1998, East Tennessee Natural Gas Company (East Tennessee), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Second Revised Sheet No. 167, to become effective December 1, 1998.

East Tennessee states that this filing proposes to implement a new tariff provision which would allow shippers to "check the appropriate box" on their monthly invoices and submit with their monthly payments voluntary contributions to the Gas Research Institute ("GRI"). East Tennessee further states that the proposed tariff provision is consistent with the Stipulation and Agreement approved by the Commission in Gas Research Institute, 83 FERC ¶ 61,093 (1998), order on rehearing, 83 FERC ¶ 61,331 (1998), in which signatory pipelines agreed to be voluntary collection agents for GRI.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29929 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–101–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

November 3, 1998.

Take notice that on October 29, 1998, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet, to become effective January 1, 1999:

First Revised Sheet No. 193

FGT states that in the instant filing, FGT is making revisions to its Gas Research Institute Charge Adjustment Provisions to comply with the January 21, 1998, Stipulation and Agreement Concerning GRI Funding (Settlement) as approved by the Commission's order issued April 29, 1998 in Docket No. RP97–199–003. Under the terms of the Settlement, Gas Research Institute (GRI) interstate pipeline company members agreed to be voluntary collection agents for shippers who voluntarily choose to contribute to GRI programs. Such voluntary contributions shall be made via a "check-the-box" mechanism allowing shippers to specify amounts they are contributing and the specific project(s) or project area(s) to which the amount are applicable.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29869 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–8–011 and RP98–205–002]

Granite State Gas Transmission Company; Notice of Reconversion Reserve Status Report

November 3, 1998.

Take notice that on September 30, 1998, Granite State Gas Transmission, Inc. (Granite State) tendered for filing a report and reconciliation relating to Granite State's reconversion reserve related to the lease extensions with Portland Pipe Line Corporation. The report reflects an undercollection of $101,419 which Granite State proposes to bill to its firm customers.

Granite State states that copies of its filing have been mailed to all of its firm transportation customers and to the regulatory agencies of the states of Maine, Massachusetts and New Hampshire.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before November 10, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29886 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. TM99–1–51–000 and RP99–128–000]

Great Lakes Gas Transmission Limited Partnership; Notice of Tariff Filing

November 3, 1998.

Take notice that on October 30, 1998, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective January 1, 1999:

Ninth Revised Sheet No. 7

Second Revised Sheet No. 47
Fourth Revised Sheet No. 48

Great Lakes asserts that the purpose of this filing is to comply with the Commission's Order issued April 29, 1998, in Docket Nos. RP97–149–003, RP97–149–004, RP97–391–001, and RP97–391–002 and Docket No. RM97–3–001 (not consolidated), 83 FERC ¶61,093 (1998). That Order requires the above-described tariff sheets to be filed to reflect the Gas Research Institute's (GRI) future funding methodology. The following changes are reflected on the proposed tariff sheets:

The decrease to the GRI funding surcharges for 1999, as approved by the Commission, is shown on Ninth Revised Sheet No. 7;

A "check the box" procedure for voluntary GRI contributions is reflected on Second Revised Sheet No. 47.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary

[FR Doc. 98–29932 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–112–000]

Iroquois Gas Transmission System, L.P.; Notice of Proposed Changes In FERC Gas Tariff

November 3, 1998.

Take notice that on October 30, 1998, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Original Sheet No. 75E. The proposed effective date of this tariff sheet is January 1, 1999.

Iroquois states that it is submitting the filing in accordance with the Commission's April 29, 1998 order in Gas Research Institute, Docket Nos. RP97–149–003, et al., (83 FERC ¶ 61,093) authorizing pipelines to become collection agents for shippers wishing to voluntarily contribute to GRI. Pursuant to that order, Iroquois states that it is implementing a check-the-box mechanism to permit shippers to make such contributions and to specify specific projects or project areas to which the amounts collected should be applied. According to Iroquois, any funds collected are in addition to amounts collected under Section 12.1 of its tariff and will not be part of Iroquois jurisdictional rates or reviewed by the Commission.

Iroquois further requests a waiver of section 154.207 of the Commission's regulations to permit the tariff sheet to become effective as proposed.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29878 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–103–000]

KN Interstate Gas Transmission Company; Notice of Tariff Filing

November 3, 1998.

Take notice that on October 30, 1998, KN Interstate Gas Transmission Company (KNI) tendered for filing to become a part of KNI's FERC Gas Tariff, the following revised tariff sheet(s) to be effective on January 1, 1999:

Third Revised Volume No. 1–B

First Revised Sheet No. 38
First Revised Sheet No. 39
Original Sheet No. 39A

Third Revised Volume No. 1–D

First Revised Sheet No. 30
Second Revised Sheet No. 31
Original Sheet No. 31A
Second Revised Sheet No. 32

KNI is making this filing pursuant to the January 21, 1998 Stipulation and Agreement (Settlement) approved by the FERC's order issued April 29, 1998 in Docket Nos. RP97–149–003, et al. In the Settlement, KNI and other pipelines have agreed to be voluntary collection agents for shippers who voluntarily choose to contribute to GRI programs through "check-the-box" approach on pipelines' invoices. Therefore, KNI proposed revised tariff language in Section 21.1 (Third Revised Volume No. 1–B) and Section 21.1 (Third Revised Volume No. 1–D) of the General Terms and Conditions of its Tariff to implement the "check-the-box" mechanism.

KNI states that copies of the filing were served upon all affected firm customers of KNI and applicable state agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29871 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–104–000]

KN Wattenberg Transmission Liability Co.; Notice of Tariff Filing

November 3, 1998.

Take notice that on October 30, 1998, KN Wattenberg Transmission Limited Liability Co. (KNW) tendered for filing to become a part of KNW's FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets, to be effective January 1, 1999:

First Revised Sheet No. 65
First Revised Sheet No. 66
Original Sheet No. 66A

KNW is making this filing pursuant to the January 21, 1998 Stipulation and Agreement (Settlement) approved by the FERC's order issued April 29, 1998 in Docket Nos. RP97–149–003, *et al.* In the Settlement, KNW and other pipelines have agreed to be voluntary collection agents for shippers who voluntarily choose to contribute to GRI programs through "check-the-box" approach on pipelines' invoices. Therefore, KNW proposed revised tariff language in Section 21 of the General Terms and Conditions of its Tariff to implement the "check-the-box" mechanism.

KNW states that copies of the filing were served upon all affected firm customers of KNW and applicable state agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29872 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–111–000]

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

November 3, 1998.

Take notice that on October 30, 1998, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to become effective December 1, 1998:

Twenty-fourth Revised Sheet No. 20
Twenty-first Revised Sheet No. 21
Twenty-second Revised Sheet No. 22
Twenty-fifth Revised Sheet No. 24
Second Revised Sheet No. 719
Original Sheet No. 719A
Fourth Revised Sheet No. 1414
Fifth Revised Sheet No. 1806
Seventh Revised Sheet No. 1807

Koch states that the purpose of this filing is to establish a just and reasonable incremental transportation rate associated with Koch's extension of the Bastian Bay Line to the Vesco Processing Plant. The Commission specifically denied Koch's proposal to roll in the cost of Bastian Bay in its last rate case (RP97–373) and required Koch to develop an incremental rate to recover these costs. Koch has developed an incremental transportation rate that will provide it with the opportunity to recover the cost for these facilities. This incremental rate shall apply to all firm, NNS, and interruptible transportation nominated from SLN #464 (tailgate at the Vesco Processing Plant). Koch proposes that, for those firm customers that were utilizing this receipt point prior to the extension, the incremental rate shall be discounted to zero for the remaining term of their agreement while those customers that are now using this point and the new facilities will be paying a just and reasonable incremental rate for the use of these facilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29877 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–108–000]

Midwestern Gas Transmission Company; Notice of Tariff Filing

November 3, 1998.

Take notice that on October 30, 1998, Midwestern Gas Transmission Company (Midwestern), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the revised tariff sheets listed on Appendix A to the filing, with an effective date of November 30, 1998.

Midwestern states that this filing proposes new tariff provisions that would enable Midwestern and a shipper under certain limited circumstances to enter into different types of discount agreements without such agreements receiving prior approval from the Federal Energy Regulatory Commission as material deviation agreements. Midwestern further states that the proposed tariff provisions would allow Midwestern and a shipper to enter into agreements for specific discounts on specified volumes, during specified periods of time, and at designated points, zones or geographical areas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All Such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29874 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–120–000]

Midwestern Gas Transmission Company; Notice of Tariff Filing

November 3, 1998.

Take notice that on October 30, 1998, Midwestern Gas Transmission Company (Midwestern) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Second Revised Sheet No. 83, with an effective date of December 1, 1998.

Midwestern states that this filing proposes to implement a new tariff provision which would allow shippers to "check the appropriate box" on their monthly invoices and submit with their monthly payments voluntary contributions to the Gas Research Institute ("GRI"). Midwestern further states that the proposed tariff provision is consistent with the Stipulation and Agreement approved by the Commission in Gas Research Institute, 83 FERC 61,093 (1998), order on rehearing, 83 FERC 61,331 (1998), in which signatory pipelines agreed to be voluntary collection agents for GRI.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29930 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–102–000]

Natural Gas Pipeline Company of America; Notice of Proposed Change in FERC Gas Tariff

November 3, 1998.

Take notice that on October 30, 1998, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Eleventh Revised Sheet No. 22, to be effective December 1, 1998.

Natural states that the filing is submitted pursuant to Section 21 of the General Terms and Conditions of Natural's FERC Gas Tariff, Sixth Revised Volume No. 1 (Section 21), as the eleventh semiannual limited rate filing under Section 4 of the Natural Gas Act and the Rules and Regulations of the Commission promulgated thereunder. The rate adjustments filed for are designed to recover Account No. 858 stranded costs incurred by Natural under contracts for transportation capacity on other pipelines. Costs for any Account No. 858 contracts specifically excluded under Section 21 are not reflected in this filing.

Natural requested specific waivers of Section 21 and the Commission's Regulations, including the requirements of Section 154.63, to the extent necessary to permit Eleventh Revised Sheet No. 22 to become effective December 1, 1998.

Natural states that copies of the filing are being mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc 98–29887 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP–97–469–005]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

November 3, 1998.

Take notice that on October 30, 1998, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, proposed tariff sheets to be effective December 1, 1998.

Natural states that the purpose of this filing is to implement changes in rates under Natural's gas supply realignment (GSR) cost recovery mechanism in compliance with the Commission's order issued October 20, 1998 in Docket Nos. RP97–469–000 and RP97–469–004.

Natural requested any waivers which may be required to permit the tendered tariff sheets to become effective December 1, 1998.

Natural states that copies of the filing have been mailed to Natural's customers and interested state regulatory commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc 98–29870 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–294–002]

Northern Border Pipeline Company, Notice of Request to Extend Waiver

November 3, 1998.

Take notice that on October 27, 1998, Northern Border Pipeline Company (Northern Border) tendered for filing a request for an extension of the waiver granted by Commission order issued July 30, 1998 in Docket No. RP98–294–000 of Section 284.10(c)(3)(iii) of the Commission's regulations requiring the provision of a table cross-referencing numeric designations of business parties with business party names.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before November 10, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29888 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–99–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

November 3, 1998.

Take notice that on October 28, 1998, pursuant to the Carlton Resolution in Docket No. RP96–347, Northern Natural Gas Company (Northern) has tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1 Tariff Sheet Nos. 263H and 263H.1 to reflect the Sourcers' flow obligation after the Appendix B customers' year 3 election to source or buyout.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29891 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–117–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

November 3, 1998.

Take notice that on October 30, 1998, Northern Natural Gas Company (Northern) tendered for filing changes in its FERC Gas Tariff, Fifth Revised Volume No. 1 the following tariff sheets, proposed to be effective January 1, 1999:

First Revised Sheet No. 272
First Revised Sheet No. 273

Northern states that the above-referenced tariff sheets are being filed to revise Northern's Gas Research Institute (GRI) tariff provisions to comply with the Stipulation and Agreement Concerning GRI Funding, dated January 21, 1998 in Docket Nos. RP97–391–000, et al. (GRI Settlement).

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29927 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–33–000]

Northwest Pipeline Corporation; Notice of Request Under Blanket Authorization

November 3, 1998.

Take notice that on October 23, 1998, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed a request with the Commission in Docket No. CP99–33–000, pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct and operate upgraded facilities at North Selah Meter Station in Yakima County, Washington authorized in blanket certificate issued in Docket No. CP82–433–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northwest proposes to upgrade the North Selah Meter Station at the request of Cascade Natural Gas Company (Cascade) for additional delivery capabilities. Northwest states that by installing a 4-inch turbine meter and appurtenances and converting the existing meter to operate as a bypass that the maximum design capacity of the meter station would increase from 2,333 Dth per day at a 200 psig to approximately 5,206 Dth per day at 290 psig. Northwest further states that the total cost of the proposed upgrade of the North Selah Meter Station is estimated to be $41,901, which would be reimbursed by Cascade.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the

NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

David P. Boergers,

Secretary.

[FR Doc. 98–29880 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–107–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

November 3, 1998.

Take notice that on October 30, 1998, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective December 1, 1998.

Panhandle states that this filing removes the Stranded Transportation Cost Volumetric Surcharge applicable to Rate Schedules IT and EIT for the reconciliation recovery period established in Docket No. RP97–536–000. In accordance with Section 18.13(c)(5) of the GT&C the reconciliation recovery period will terminate on November 30, 1998. Accordingly, Panhandle proposes to remove the 3.00¢ per Dt. Section 18.13 Stranded Transportation Cost Volumetric Surcharge.

Panhandle further states that this filing removes from its currently effective rates the Miscellaneous Stranded Cost Reservation Surcharge applicable to Rate Schedules FT, EFT and LFT and the Miscellaneous Stranded Cost Volumetric Surcharge applicable to Rate Schedule SCT established in a February 12, 1997 Stipulation and Agreement (February 12, 1997 Settlement) in Docket No. RP96–260–000. Accordingly, pursuant to Article I, Section 3(d)(ii) of the February 12, 1997 Settlement Panhandle proposes to remove the $0.02 per Dt. Initial Docket No. RP96–260–000 Settlement Reservation Surcharge applicable to Rate Schedules FT, EFT and LFT and the 0.13¢ per Dt. Initial Docket No. RP96–260–000 Settlement Volumetric Surcharge applicable to Rate Schedule SCT.

Panhandle also states that this filing removes from its currently effective rates the Carryover GSR Settlement Interruptible Rate Component applicable to interruptible transportation service provided under Rate Schedules IT and EIT. The Carryover GSR Settlement Interruptible Rate Component, which was established in Docket No. RP98–27–000, was approved by Commission letter order issued November 28, 1997. In accordance with the Commission's letter order issued November 28, 1997 the GSR Settlement Carryover Period will terminate on November 30, 1998.

Accordingly, Panhandle proposes to remove the 8.44¢ per Dt. Carryover GSR Settlement Interruptible Rate Component applicable to Rate Schedules IT and EIT.

Panhandle states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29873 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT99–4–000]

Tennessee Gas Pipeline Company; Notice of Tariff Filing

November 3, 1998.

Take notice that on October 29, 1998, Tennessee Gas Pipeline Company (Tennessee), filed the following: (1) a Blanket Authorization Agreement among Tennessee, Boston Gas Company ("Boston Gas") and Enron Capital & Trade Resources Corporation ("Enron"); (2) a Blanket Authorization Agreement among Tennessee, Boston Gas and El Paso Energy Marketing Company ("El Paso Marketing"); (3) a Blanket Authorization Agreement among Tennessee, Essex County Gas Company ("Essex") and Enron; (4) a Blanket Authorization Agreement among Tennessee, Essex and El Paso Marketing; (5) First Revised Sheet No. 413 of Tennessee's FERC Gas Tariff, Fifth Revised Volume No. 1 ("Volume No. 1 Tariff"); and (6) Alternate First Revised Sheet No. 413 of Tennessee's Volume No. 1 Tariff.

Tennessee states that the four Blanket Authorization Agreements are being submitted for Commission approval because the Blanket Authorization Agreements contain language which differs from Pro Forma Blanket Authorization Agreement contained in Tennessee's Volume No. 1 Tariff. Tennessee further states that, pursuant to Section 154.112(b) of the Commission's regulations, it is submitting First Revised Sheet No. 413 with an effective date of December 1, 1998. However, Boston Gas and Essex strongly desire that they be able to effectuate the terms of the four Blanket Authorization Agreements by November 1, 1998. Therefore, at their behest, Tennessee is also submitting with this filing Alternate First Revised Sheet No. 413 with an effective date of November 1, 1998 in the event that the Commission approves these customers' deemed request for a waiver of the 30-day notice requirement of the Commission's regulations.

Tennessee submits that the four Blanket Authorization Agreements contain provisions which differ from the Pro Forma Blanket Authorization Agreement in several respects. First, the Blanket Authorization Agreements allow Boston Gas and Essex (the "Contract Holders"), to delegate agency authority to both Enron and El Paso Marketing (the "Blanket Agents"), rather than to a single agent. Second, the Blanket Authorization Agreements allow the Contract Holders to delegate only some of the Contract Holders' service agreements on the Tennessee's system and for specified contract quantities for each agreement. Third, the term provisions of the Blanket Authorization Agreements have been modified to reflect an automatic termination of the Blanket Authorization Agreements on March 31, 1999. Finally, the term provision of the Blanket Authorization Agreements has also been modified to allow any Party to terminate the Blanket Authorization Agreements upon twenty-four hours written notice to the other parties, such termination to be effective upon receipt of the termination notice.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before November 10, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29881 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–113–000]

Tennessee Gas Pipeline Company; Notice of Tariff Filing

November 3, 1998.

Take notice that on October 30, 1998, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Second Revised Sheet No. 385, to become effective December 1, 1998.

Tennessee states that this filing proposes to implement a new tariff provision which would allow shippers to "check the appropriate box" on their monthly invoices and submit with their monthly payments voluntary contributions to the Gas Research Institute (GRI). Tennessee further states that the proposed tariff provision is consistent with the Stipulation and Agreement approved by the Commission in Gas Research Institute, 83 FERC (¶ 61,093 (1998)), order on rehearing, 83 FERC (¶ 61,331 (1998)), in which signatory pipelines agreed to be voluntary collection agents for GRI.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29923 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–381–000]

Transcontinental Gas Pipe Line Corporation; Notice of Technical Conference

November 3, 1998.

In the Commission's order issued on September 30, 1998, the Commission directed that a technical conference be held to address issues raised by the filing.

Take notice that the technical conference will be held on Thursday, December 17, 1998, at 10:00 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

All interested parties and Staff are permitted to attend.

David P. Boergers,

Secretary.

[FR Doc. 98–29889 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–411–001]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 3, 1998.

Take notice on October 29, 1998, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1, which tariff sheets are enumerated in the filing. The proposed effective date for the tariff sheets is November 2, 1998.

Transco states that the purpose of the instant filing is to comply with the Commission's letter order issued on October 14, 1998, as modified by the Commission's October 19, 1998 "Notice of Extension of Time," (October 14 Order). The October 14 Order directed Transco to file revised tariff sheets to rectify exceptions found in Transco's September 18, 1998 filing made to comply with the Commission's Order No. 587–H issued July 15, 1998. Specifically, the revised tariff sheets include bumping notice procedures consistent with those in Transco's OFO procedures, and remove the phrase "in advance of each day" from all its Part 284 and Part 157 rate schedules in order to make these rate schedules consistent with the intra-day procedures adopted by Order No. 587–H.

In addition, Transco states that the instant filing contains revised tariff language to clarify that Transco does not propose to limit shippers to one intraday nomination per nomination cycle per contract. Transco further states that no waivers of non-critical daily penalties are required as Transco's tariff contains no non-critical daily penalties that would apply to an interruptible transportation shipper whose scheduled volumes are bumped by a firm intra-day nomination.

Transco requests a waiver of Section 154.203(b) of the Commission's regulations in order that the conforming revisions to Transco's services performed under Part 157 of the Commission's regulations, as described in the filing, may be included in the instant filing.

Transco is serving copies of the instant filing to customers, State Commissions and other interested parties.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–29890 Filed 11–6–98; 8:45]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–300–000, et al.]

Northern Indiana Public Service Company, et al.; Electric Rate and Corporate Regulation Filings

October 29, 1998.

Take notice that the following filings have been made with the Commission:

1. Northern Indiana Public Service Company

[Docket No. ER99–300–000]

Take notice that on October 26, 1998, Northern Indiana Public Service Company (Northern Indiana), tendered for filing a Service Agreement pursuant to its Power Sales Tariff with Tractebel Energy Marketing, Inc., (TEMI).

Northern Indiana has requested an effective date of September 30, 1998.

Copies of this filing have been sent to TEMI, to the Indiana Utility Regulatory Commission, and to the Indiana Office of Utility Consumer Counselor.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Morgan Stanley Capital Group Inc., EnerZ Corporation, Tenaska Frontier Partners, Ltd., Cogentrix Energy Power Marketing, Northeast Energy Services, Inc., Lowell Cogeneration Company Limited Partnership, QST Energy Trading Inc., Enerserve, L.C., North Atlantic Utilities, Inc., Woodruff Energy, Woodruff Energy, Pepco Services, Inc. and SCANA Energy Marketing, Inc.

[Docket Nos. ER94–1384–021, ER96–3064–010, ER98–1767–004, ER95–1739–012, ER97–4347–004, ER99–297–000, ER96–553–012, ER96–182–012, ER97–1716–004, ER97–3526–002, ER97–3526–003, ER99–291–000 and ER96–1086–010]

Take notice that the following informational filings have been made with the Commission and are available for public inspection and copying in the Commission's Public Reference Room:

On October 23, 1998, Morgan Stanley Capital Group Inc. filed certain information as required by the Commission's November 8, 1994 order in Docket No. ER94–1384–000.

On October 23, 1998, EnerZ Corporation filed certain information as required by the Commission's October 21, 1996 order in Docket No. ER96–3064–010.

On October 23, 1998, Tenaska Frontier Partners, Ltd. filed certain information as required by the Commission's March 30, 1998 order in Docket No. ER98–1767–000.

On October 23, 1998, Cogentrix Energy Power Marketing, Inc. filed certain information as required by the Commission's October 13, 1995 order in Docket No. ER95–1739–000.

On October 23, 1998, Northeast Energy Services, Inc. filed certain information as required by the Commission's October 24, 1997 order in Docket No. ER97–4347–000.

On October 23, 1998, Lowell Cogeneration Company Limited Partnership filed certain information as required by the Commission's July 17, 1997 order in Docket No. ER97–2414–000.

On October 23, 1998, QST Energy Trading Inc. filed certain information as required by the Commission's March 14, 1996 order in Docket No. ER96–553–000.

On October 23, 1998, Enerserve, L.C. filed certain information as required by the Commission's December 28, 1995 order in Docket No. ER96–182–000.

On October 23, 1998, North Atlantic Utilities, Inc. filed certain information as required by the Commission's April 3, 1997 order in Docket No. ER97–1716–000.

On October 23, 1998, Woodruff Energy filed certain information as required by the Commission's August 11, 1997 order in Docket No. ER97–3526–000.

On October 23, 1998, Woodruff Energy filed certain information as required by the Commission's August 11, 1997 order in Docket No. ER97–3526–000.

On October 23, 1998, Pepco Services, Inc. filed certain information as required by the Commission's July 16, 1998 order in Docket No. ER98–3096–000.

On October 23, 1998, SCANA Energy Marketing, Inc. filed certain information as required by the Commission's May 13, 1996 order in Docket No. ER96–1086–000.

3. NIPSCO Energy Services Inc., Northrop Grumman Corporation, Energy Resources Marketing, Inc., Pacific Northwest Generating Cooperative, Sunoco Power Marketing, L.L.C., Mid-American Power, LLC, Global Energy & Technology, Inc., Central Hudson Enterprises, Northeast Empire Limited Partnership #2, Applied Resources Integrated Services, Incorporated, Washington Gas Energy Services, DC Tie, Inc., GEN–SYS Energy, Power Fuels, Inc., NGTS Energy Services, California Power Services, Northern Indiana Public Service Company, Englehard Power Marketing, Inc., PEC Energy Marketing, Inc., DePere Energy LLC, DePere Energy Marketing, Inc., Bollinger Energy Corporation, Wasatch Energy Corporation, Heartland Energy Services, Inc. and NESI Power Marketing, Inc.

[Docket Nos. ER96–1431–010, ER96–2957–008, ER94–1580–016, ER97–504–008, ER97–870–007, ER96–1858–010, ER97–3416–004, ER97–2869–005, ER98–1125–001, ER98–1125–002, ER98–1125–003, ER97–2604–005, ER96–2830–004, ER91–435–027, ER97–4335–004, ER96–1930–009, ER96–2892–007, ER97–3525–002, ER99–306–000, ER94–1690–018, ER97–1431–007, ER97–4586–002, ER97–1432–007, ER98–1821–001, ER97–1248–004, ER94–108–016 and ER97–841–007]

Take notice that the following informational filings have been made with the Commission and are available for public inspection and copying in the Commission's Public Reference Room:

On October 26, 1998, NIPSCO Energy Services Inc. filed certain information as required by the Commission's May 29, 1996 order in Docket No. ER96–1431–000.

On October 26, 1998, Northrop Grumman Corporation filed certain information as required by the Commission's November 13, 1996 order in Docket No. ER96–2957–000.

On October 26, 1998, Energy Resource Marketing, Inc. filed certain information as required by the Commission's September 30, 1994 letter order in Docket No. ER94–1580–000.

On October 26, 1998, Pacific Northwest Generating Cooperative filed certain information as required by the Commission's January 13, 1997 order in Docket No. ER97–504–000.

On October 26, 1998, Sunoco Power Marketing, L.L.C. filed certain information as required by the Commission's April 11, 1997 order in Docket No. ER97–870–000.

On October 26, 1998, Mid-American Power LLC filed certain information as required by the Commission's July 16, 1996 order in Docket No. ER96–1858–000.

On October 26, 1998, Global Energy & Technology, Inc. filed certain information as required by the Commission's August 1, 1997 order in Docket No. ER97–3416–000.

On October 26, 1998, Central Hudson Enterprises Corporation filed certain information as required by the Commission's June 26, 1997 order in Docket No. ER97–2869–000.

On October 26, 1998, Northeast Empire Limited Partnership #2 filed certain information for three different quarters as required by the Commission's February 12, 1998 order in Docket No. ER98–1125–000.

On October 26, 1998, Washington Gas Energy Services, Inc. filed certain information as required by the Commission's October 18, 1996 order in Docket No. ER96–2830–000.

On October 26, 1998, DC Tie, Inc. filed certain information as required by the Commission's July 11, 1991 order in Docket No. ER91–435–000.

On October 26, 1998, GEN–SYS Energy filed certain information as required by the Commission's October 17, 1997 order in Docket No. ER97–4335–000.

On October 26, 1998, Power Fuels, Inc. filed certain information as required by the Commission's July 5, 1996 order in Docket No. ER96–1930–000.

On October 26, 1998, NGTS Energy Services filed certain information as required by the Commission's November 1, 1996 order in Docket No. ER96–2892–000.

On October 26, 1998, California Power Services filed certain information as required by the Commission's August 1, 1997 order in Docket No. ER97–3525–000.

On October 26, 1998, Northern Indiana Public Service Company filed certain information as required by the Commission's January 10, 1997 order in Docket No. ER97–458–000.

On October 26, 1998, Englehard Power Marketing, Inc. filed certain information as required by the Commission's December 29, 1994 order in Docket No. ER94–1690–000.

On October 26, 1998, PEC Energy Marketing, Inc. filed certain information as required by the Commission's June 12, 1997 order in Docket No. ER97–1431–000.

On October 26, 1998, DePere Energy LLC filed certain information as required by the Commission's October 31, 1997 order in Docket No. ER97–4586–000.

On October 26, 1998, DePere Energy Marketing, Inc. filed certain information as required by the Commission's June 12, 1997 order in Docket No. ER97–1432–000.

On October 26, 1998, Bollinger Energy filed certain information as required by the Commission's March 17, 1998 order in Docket No. ER98–1821–000.

On October 26, 1998, Wasatch Energy Corporation filed certain information as required by the Commission's March 10, 1997 order in Docket No. ER97–1248–000.

On October 26, 1998, Heartland Energy Services, Inc. filed certain information as required by the Commission's August 9, 1994 order in Docket No. ER94–108–000.

On October 26, 1998, NESI Power Marketing, Inc. filed certain information as required by the Commission's March 13, 1997 letter order in Docket No. ER97–841–000.

4. Northern Indiana Public Service Company

[Docket No. ER99–301–000]

Take notice that on October 26, 1998, Northern Indiana Public Service Company (Northern Indiana), tendered for filing a Service Agreement pursuant to its Power Sales Tariff with El Paso Energy Marketing Company (EPEM).

Northern Indiana has requested an effective date of September 30, 1998.

Copies of this filing have been sent to EPEM, to the Indiana Utility Regulatory Commission, and to the Indiana Office of Utility Consumer Counselor.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Northern Indiana Public Service Company

[Docket No. ER99–302–000]

Take notice that on October 26, 1998, Northern Indiana Public Service Company (Northern), tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and Statoil Energy Trading, Inc., (SETI).

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to SETI pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission.

Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of October 30, 1998.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Northern Indiana Public Service Company

[Docket No. ER99–303–000]

Take notice that on October 26, 1998, Northern Indiana Public Service Company (Northern), tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and Northern States Power Company (Transmission Customer).

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to Transmission Customer pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission.

Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of October 30, 1998.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Northern Indiana Public Service Company

[Docket No. ER99–304–000]

Take notice that on October 26, 1998, Northern Indiana Public Service Company, tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and Vitol Gas and Electric L.L.C. (Transmission Customer).

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to Transmission Customer pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission.

Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of October 30, 1998.

Copies of this filing have been sent to the Indiana Utility Regulatory

Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Northern Indiana Public Service Company

[Docket No. ER99–305–000]

Take notice that on October 26, 1998, Northern Indiana Public Service Company (Northern Indiana), tendered for filing a Service Agreement pursuant to its Power Sales Tariff with Vitol Gas and Electric L.L.C., (Vitol Gas and Electric).

Northern Indiana has requested an effective date of October 30, 1998.

Copies of this filing have been sent to Vitol Gas and Electric, to the Indiana Utility Regulatory Commission, and to the Indiana Office of Utility Consumer Counselor.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Metropolitan Edison Company and Pennsylvania Electric Company

[Docket No. ER99–307–000]

Take notice that on October 26, 1998, Metropolitan Edison Company and Pennsylvania Electric Company submitted for filing an Electric Generation Supplier Coordination Tariff applicable to persons and/or entities licensed as electric generation suppliers to serve retail electricity customers under the Commonwealth of Pennsylvania's retail choice program.

Comment date: November 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Ameren Services Company

[Docket No. ER99–308–000]

Take notice that on October 26, 1998, Ameren Services Company (ASC), tendered for filing a Service Agreement for Market Based Rate Power Sales between ASC and St. Joseph Light and Power Company (SJL&P). ASC asserts that the purpose of the Agreement is to permit ASC to make sales of capacity and energy at market based rates to SJL&P pursuant to ASC's Market Based Rate Power Sales Tariff filed in Docket No. ER98–3285–000.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Ameren Services Company

[Docket No. ER99–309–000]

Take notice that on October 26, 1998, Ameren Services Company (ASC), tendered for filing Service Agreements for Non-Firm Point-to-Point Transmission Services between ASC and Florida Light & Power and TransAlta Energy Marketing (U.S.), Inc. ASC asserts that the purpose of the Agreements is to permit ASC to provide transmission service to the parties pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER96–677–004.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Ameren Services Company

[Docket No. ER99–310–000]

Take notice that on October 26, 1998, Ameren Services Company (ASC), the transmission provider, tendered for filing Service Agreements for Long-Term Firm Point-to-Point Transmission Services between ASC and Ameren CIPS, Entergy Power Marketing Corporation and Wabash Valley Power Association. ASC asserts that the purpose of the Agreements is to permit ASC to provide transmission service to the parties pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER 96–677–004.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Ameren Services Company

[Docket No. ER99–311–000]

Take notice that on October 26, 1998, Ameren Services Company (ASC), tendered for filing Service Agreements for Firm Point-to-Point Transmission Services between ASC and Florida Power & Light, Consumers Energy Company and the Detroit Edison Company referred to collectively as the Michigan Companies, and TransAlta Energy Marketing (U.S.), Inc. ASC asserts that the purpose of the Agreements is to permit ASC to provide transmission service to the parties pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER96–677–004.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Ameren Services Company

[Docket No. ER99–312–000]

Take notice that on October 26, 1998, Ameren Services Company (ASC), tendered for filing Service Agreements for Long-Term Firm Point-to-Point Transmission Services between ASC and Entergy Power Marketing Corporation (EPM). ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to EPM pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER96–677–004.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Northern States Power Company (Minnesota Company) and Northern States Power Company (Wisconsin Company)

[Docket No. ER99–313–000]

Take notice that on October 26, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively known as NSP), tendered for filing an Electric Service Agreement between NSP and PG&E Energy Trading & Power LP (Customer). This Electric Service Agreement is an enabling agreement under which NSP may provide to Customer the electric services identified in NSP Operating Companies Electric Services Tariff original Volume No. 4.

NSP requests that this Electric Service Agreement be made effective on September 28, 1998.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Tampa Electric Company

[Docket No. ER99–314–000]

Take notice that on October 26, 1998, Tampa Electric Company (Tampa Electric), tendered for filing a Contract for the Purchase and Sale of Power and Energy (Contract) between Tampa Electric and Virginia Electric and Power Company (VEPCO). The Contract provides for the negotiation of individual transactions in which Tampa Electric will sell power and energy to VEPCO.

Tampa Electric proposes an effective date of October 27, 1998, for the Contract, and therefore requests waiver of the Commission's notice requirement.

Copies of the filing have been served on VEPCO and the Florida Public Service Commission.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. New England Power Company

[Docket No. ER99–315–000]

Take notice that on October 26, 1998, New England Power Company (NEP), tendered for filing a Notice of Cancellation for its FERC Rate Schedule No. 439.

NEP requests an effective date for the cancellation of September 1, 1998.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Duke Energy Corporation

[Docket No. ER99–316–000]

Take notice that on October 26, 1998, Duke Power, a division of Duke Energy Corporation (Duke), tendered for filing a Market Rate Service Agreement (the MRSA) between Duke and DTE Energy Trading, Inc., dated as of October 7, 1998. The parties have not engaged in any transactions under the MRSA as of the date of filing.

Duke requests that the MRSA be made effective as of October 7, 1998.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Virginia Electric and Power Company

[Docket No. ER99–317–000]

Take notice that on October 26, 1998, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service with Southern Company Energy Marketing, L.P., under the Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Service Agreement, Virginia Power will provide firm point-to-point service to the Transmission Customer under the rates, terms and conditions of the Open Access Transmission Tariff.

Virginia Power requests an effective date of October 26, 1998, the date of filing the Service Agreement.

Copies of the filing were served upon Southern Company Energy Marketing, L.P., the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Dynegy Power Services, Inc.

[Docket No. ER99–318–000]

Take notice that on October 26, 1998, Dynegy Power Services, Inc., tendered for filing a notice of succession regarding Destec Power Services, Inc., Rate Schedule FERC No. 1, effective June 18, 1998.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Peco Energy Company

[Docket No. ER99–319–000]

Take notice that on October 26, 1998, PECO Energy Company (PECO), filed a Service Agreement dated September 29, 1998 with CL Power Sales Seven, L.L.C. (CL SEVEN), under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds CL SEVEN as a customer under the Tariff.

PECO requests an effective date of September 29, 1998, for the Service Agreement.

PECO states that copies of this filing have been supplied to CL SEVEN and to the Pennsylvania Public Utility Commission.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. PP&L, Inc.

[Docket No. ER99–320–000]

Take notice that on October 26, 1998, PP&L, Inc. (PP&L), filed with the Federal Energy Regulatory Commission a Form of Service Agreement for Sale of Capacity Credits.

PP&L requests an effective date of October 27, 1998, for the Form of Service Agreement For Sale of Capacity.

PP&L states that a copy of this filing has been provided to the Pennsylvania Public Utility Commission and the PJM Office of Interconnection.

Comment date: November 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. New York State Electric & Gas Corporation

[Docket No. ER99–321–000]

Take notice that on October 26, 1998, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Federal Energy Regulatory Commission's (FERC or Commission) Regulations, an amendment to Rate Schedule 72 filed with FERC corresponding to an Agreement with the Municipal Board of the Village of Bath (the Village). The proposed amendment would increase revenues by $40.49 based on the twelve month period ending December 31, 1999.

This rate filing is made pursuant to Section 2 (a) through (c) of Article IV of the December 1, 1977, Facilities Agreement between NYSEG and the Village, filed with FERC. The annual charges for routine operation and maintenance and general expenses, as well as revenue and property taxes are revised based on data taken from NYSEG's Annual Report to the Federal Energy Regulatory Commission (FERC Form 1) for the twelve month period ending December 31, 1997. The revised facilities charge is levied on the cost of the tap facility constructed and owned by NYSEG to connect its 34.5 kV transmission line located in the Village to the Village's Fairview Drive Substation.

NYSEG requests an effective date of January 1, 1999.

Copies of the filing were served upon the Municipal Board of the Village of Bath and the Public Service Commission of the State of New York.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. Illinois Power Company

[Docket No. ER99–322–000]

Take notice that on October 26, 1998, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62522, tendered for filing a Netting Agreement between Southern Company Energy Marketing, L.P. (Southern) and Illinois Power. The Netting Agreement principally provides that, during each month in which payments for wholesale power services are due, Illinois Power and "Company" will net the amounts owed by each party to the other, such that the only payment to be made will be by the party owing the difference between the two amounts.

Illinois Power has requested an effective date of October 13, 1998.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

25. New York State Electric & Gas Corporation

[Docket No. ER99–323–000]

Take notice that on October 26, 1998, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Federal Energy Regulatory Commission's (FERC or Commission) Regulations, an amendment to Rate Schedule 117 filed with FERC corresponding to an Agreement with the Delaware County Electric Cooperative (the Cooperative). The proposed amendment would increase revenues by $641.18 based on the twelve month period ending December 31, 1999.

This rate filing is made pursuant to Section 1(c) and Section 3 (a) through (c) of Article IV of the June 1, 1977 Facilities Agreement between NYSEG and the Cooperative, filed with FERC. The annual charges for routine operation and maintenance and general expenses, as well as revenue and property taxes are revised based on data taken from NYSEG's Annual Report to the Federal Energy Regulatory Commission (FERC Form 1) for the twelve month period ending December 31, 1997. The revised facilities charge is levied on the cost of the 34.5 kV tie line from Taylor Road to the Jefferson

Substation, constructed by NYSEG for the sole use of the Cooperative.

NYSEG requests an effective date of January 1, 1999.

Copies of the filing were served upon the Delaware County Electric Cooperative, Inc. and the Public Service Commission of the State of New York.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

26. Leslie H. Everett, Linda Y.H. Cheng, Eric A. Montizambert, Gabriel B. Togneri

[Docket Nos. ID–3145–002, ID–3146–002, ID–3148–002 and ID–3149–002]

Take notice that on October 23, 1998, Pacific Gas and Electric Company filed a Notice of Changes, with respect to the above-captioned dockets, pursuant to 18 CFR 45.5. The changes are as follows:

Leslie H. Everett, PG&E Energy Trading, Secretary

Linda Y.H. Cheng, PG&E Energy Trading, Assistant Secretary

Eric A. Montizambert, PG&E Energy Trading, Assistant Secretary

Gabriel B. Togneri, PG&E Energy Trading, Assistant Treasurer

Comment date: November 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

27. Consolidated Edison Company of New York, Inc.

[Docket No. OA96–138–006]

Take notice that on October 27, 1998, Consolidated Edison Company of New York, Inc. tendered for filing with the Commission its report of refunds made in compliance with the Commission's September 18, 1998 letter order in this proceeding. The letter order approved settlement rates for open access transmission service by Con Edison effective on July 9, 1996.

Comment date: November 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

28. Vulcan/BN Geothermal Power Company (Vulcan Facility)

[Docket No. QF85–199–005]

On October 26, 1998, Vulcan/BN Geothermal Power Company, 302 South 36th Street, Omaha, Nebraska 68131, filed with the Federal Energy Regulatory Commission an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207(b) and (d)(2) of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility was previously self-certified as a qualifying small power production facility in 1985 in Docket No. QF85–199–000. The Commission certified the facility in 1988, in Docket No. QF85–199–001. The facility was self-recertified in Docket Nos. QF85–199–003 and 004. Recertification is being sought to reflect a change in status of the owner of the facility.

Comment date: 30 days after publication of this notice in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

29. Elmore, L.P.

[Docket No. QF86–647–005]

On October 26, 1998, Elmore, L.P., 302 South 36th Street, Omaha, Nebraska 68131, filed with the Federal Energy Regulatory Commission an application for rectification of a facility as a qualifying small power production facility pursuant to § 292.207(b) and (d)(2) of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility was previously self-certified as a qualifying small power production facility in 1986, in Docket No. QF86–647–000. The Commission certified the facility in 1988, in Docket No. QF86–647–001. The facility was self-recertified in Docket Nos. QF86–590–002, –003 and –004. Recertification is being sought to reflect a change in status of the owner of the facility.

Comment date: 30 days after publication of this notice in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

30. Del Ranch, L.P.

[Docket No. QF86–727–006]

On October 26, 1998, Del Ranch, L.P., 302 South 36th Street, Omaha, Nebraska 68131, filed with the Federal Energy Regulatory Commission an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207(b) and (d)(2) of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility was previously self-certified as a qualifying small power production facility in 1986 in Docket No. QF86–727–000. The Commission certified the facility in 1988 in Docket No. QF86–727–001. The facility was later self-recertified in Docket No. QF86–727–002 and –005. Recertification is being sought to reflect a change in status of the owner of the facility.

Comment date: 30 days after publication of this notice in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

31. Power Resources, Inc. (PRI Project)

[Docket No. QF86–930–005]

On October 26, 1998, Power Resources, Inc., 302 South 36th Street, Omaha, Nebraska 68131, filed with the Federal Energy Regulatory Commission an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207(b) and (d)(2) of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The Commission previously certified the facility as a qualifying cogeneration facility on October 10, 1986 in Docket No. QF86–930–000 and recertified the facility on March 14, 1989 in Docket No. QF86–930–003. Recertification is being sought to reflect a change in status of the owner of the facility.

Comment date: 30 days after publication of this notice in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

32. Salton Sea Power Generation L.P. (Salton Sea III Facility)

[Docket No. QF86–1043–004]

On October 26, 1998, Salton Sea Power Generation L.P., 302 South 36th Street, Omaha, Nebraska 68131, filed with the Federal Energy Regulatory Commission an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207(b) and (2) of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility was previously self-certified as a qualifying small power production facility in 1986 in Docket No. QF86–1043–000 and again self-certified in Docket Nos. QF86–1043–002 and 003. Recertification is being sought to reflect a change in status of the owner of the facility.

Comment date: 30 days after publication of this notice in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

33. Salton Sea Power Generation L.P. (Salton Sea I Facility)

[Docket No. QF87–511–005]

On October 26, 1998, Salton Sea Power Generation L.P., 302 South 36th Street, Omaha, Nebraska 68131, filed with the Federal Energy Regulatory Commission an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207(b) and (d)(2) (1998) of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The Facility was previously self-certified as a qualifying small power production facility in 1987 in Docket No. QF87–511–000 and self-recertified in Docket Nos. QF87–511–003 and 004. Recertification is being sought to reflect a change in status of the owner of the facility.

Comment date: 30 days after publication of this notice in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

34. Leathers, L.P.

[Docket No. QF88–543–003]

On October 26, 1998, Leathers, L.P., 302 South 36th Street, Omaha, Nebraska 68131, filed with the Federal Energy Regulatory Commission an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207(b) and (d)(2) of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The Commission previously certified the facility as a qualifying small power production facility in 1989 in Docket No. QF88–543–000. The facility was self-recertified in Docket Nos. QF88–543–001 and –002. Recertification is being sought to reflect a change in status of the owner of the facility.

Comment date: 30 days after publication of this notice in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

35. Saranac Power Partners L.P.

[Docket No. QF90–114–006]

On October 26, 1998, Saranac Power Partners L.P., 302 South 36th Street, Omaha, Nebraska 68131, filed with the Federal Energy Regulatory Commission an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207(b) and (d)(2) of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The Commission previously certified the facility as a qualifying cogeneration facility on June 5, 1990, in Docket No. QF90–114–000 and recertified the facility in Docket Nos. QF90–114–002. The Facility was self-recertified in Docket Nos. QF90–114–003, –004 and –005. Recertification is being sought to reflect a change in the status of one of the owners of the facility.

Comment date: 30 days after publication of this notice in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

36. Yuma Cogeneration Associates

[Docket No. QF90–143–003]

On October 26, 1998, Yuma Cogeneration Associates, 302 South 36th Street, Omaha, Nebraska 68131, filed with the Federal Energy Regulatory Commission an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207(b) and (d)(2) of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The Commission previously certified the facility as a qualifying cogeneration facility on January 27, 1992 in Docket No. QF90–143–000 and recertified the facility on November 10, 1993 in Docket No. QF90–143–001. Recertification is being sought to reflect a change in the status of one of the owners of the facility.

Comment date: 30 days after publication of this notice in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

37. Salton Sea Power Generation, L.P. Fish Lake Power Company (Salton Sea IV Facility)

[Docket No. QF95–9–002]

On October 26, 1998, Salton Sea Power Generation, L.P., and Fish Lake Power Company, 302 South 36th Street, Suite 400, Omaha, Nebraska 68131, filed with the Federal Energy Regulatory Commission an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207(b) of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

Notices of qualifying status of a small production facility were previously filed in connection with this facility in Docket Nos. QF95–9–000 and QF95–9–001. Recertification is being sought in contemplation of changes in the ownership of the facility.

Comment date: 30 days after publication of this notice in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98–29867 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–324–000, et al.]

Wisconsin Electric Power Company, et al.; Electric Rate and Corporate Regulation Filings

October 30, 1998.

Take notice that the following filings have been made with the Commission:

1. Wisconsin Electric Power Company

[Docket No. ER99–324–000]

Take notice that on October 26, 1998, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a form of network integration transmission service agreement between itself and its merchant, Wisconsin Electric Power Marketing (WEPM). The agreement updates a similar agreement submitted in Docket No. ER97–4198, which established WEPM as a customer under Wisconsin Energy Corporation Operating Companies' transmission service tariff (FERC Electric Tariff, Original Volume No. 1).

Wisconsin Electric respectfully requests an effective date sixty days after filing. Wisconsin Electric is authorized to state that WEPM joins in the requested effective date.

Copies of the filing have been served on WEPM, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. MAC Power Marketing, L.L.C., Minnesota Power, Inc., NRG Power Marketing Inc., Wilson Power & Gas Smart, Inc., First Energy Trading and Power Marketing, Inc., Micah Tech Industries, Inc., Energetix, Inc. and IEP Power Marketing, LLC

[Docket Nos. ER98–575–002, ER99–326–000, ER97–4281–004, ER95–751–015, Docket No. ER95–1295–010, ER98–1221–001, ER97–3556–005, and ER95–802–014]

Take notice that the following informational filings have been made with the Commission and are available for public inspection and copying in the Commission's Public Reference Room:

On October 26, 1998, MAC Power Marketing, L.L.C. filed certain information as required by the Commission's December 16, 1997 order in Docket No. ER98–575–000.

On October 26, 1998, Minnesota Power, Inc. filed certain information as required by the Commission's July 15, 1996 order in Docket No. ER96–1823–000.

On October 26, 1998, NRG Power Marketing Inc. filed certain information as required by the Commission's November 12, 1997 order in Docket No. ER97–4281–000.

On October 26, 1998, Wilson Power & Gas Smart, Inc. filed certain information as required by the Commission's April 25, 1996 order in Docket No. ER95–751–000.

On October 26, 1998, FirstEnergy Trading and Power Marketing, Inc. filed certain information as required by the Commission's September 27, 1996 order in Docket No. ER95–1295–000.

On October 26, 1998, Micah Tech Industries, Inc. filed certain information as required by the Commission's March 19, 1998 order in Docket No. ER98–1221–000.

On October 26, 1998, Energetix, Inc. filed certain information as required by the Commission's September 12, 1997 order in Docket No. ER97–3556–000.

On October 26, 1998, IEP Power Marketing, LLC filed certain information as required by the Commission's March 11, 1995 order in Docket No. ER95–802–000.

3. Eastern Pacific Energy, Eastern Pacific Energy, Zapco Power Marketers, Inc., American Energy Trading, Inc., PanCanadian Energy Services Inc., Bangor Energy Resale, Inc., Indeck-Pepperell Power Associates, Inc., Rochester Gas and Electric Corporation, Westchester RESCO Company, L.P., Florida Power & Light Company, NGE Generation, Inc., Wicor Energy Services, Inc., Global Energy Services, LLC, Burlington Resources Trading, Inc., Global Petroleum Corp. and PS Energy Group, Inc.

[Docket Nos. ER98–1829–002, ER98–1829–003, ER98–689–003, ER97–360–008, ER90–168–039, ER98–459–004, ER96–1635–007, ER99–338–000, ER99–337–000, ER99–336–000, ER99–330–000, ER96–34–012, ER97–1177–006, ER96–3112–008, ER96–359–013, and ER95–266–015]

Take notice that the following informational filings have been made with the Commission and are available for public inspection and copying in the Commission's Public Reference Room:

On October 27, 1998, Eastern Pacific Energy filed certain information for the second and third quarter as required by the Commission's March 25, 1998 order in Docket No. ER98–1829–000.

On October 27, 1998, Zapco Power Marketers, Inc. filed certain information as required by the Commission's December 29, 1998 order in Docket No. ER98–689–000.

On October 27, 1998, American Energy Trading, Inc. filed certain information as required by the Commission's December 5, 1996 letter order in Docket No. ER97–360–000.

On October 27, 1998, PanCanadian Energy Services Inc. filed certain information as required by the Commission's March 20, 1990 order in Docket No. ER90–168–000.

On October 27, 1998, Bangor Energy Resale, Inc. filed certain information as required by the Commission's December 23, 1997 order in Docket No. ER98–459–000.

On October 27, 1998, Indeck-Pepperell Power Associates, Inc. filed certain information as required by the Commission's July 15, 1996 letter order in Docket No. ER96–1635–000.

On October 27, 1998, Rochester Gas and Electric Corporation filed certain information as required by the Commission's September 12, 1997 order in Docket No. ER97–3553–000.

On October 27, 1998, Westchester RESCO Company, L.P. filed certain information as required by the Commission's June 18, 1998 order in Docket No. ER98–3030–000.

On October 27, 1998, Florida Power & Light Company filed certain information as required by the Commission's October 29, 1997 order in Docket No. ER97–3359–000.

On October 27, 1998, NGE Generation, Inc. filed certain information as required by the Commission's June 9, 1997 order in Docket No. ER97–2518–000.

On October 27, 1998, Wicor Energy Services, Inc. filed certain information as required by the Commission's November 9, 1995 letter order in Docket No. ER96–34–000.

On October 27, 1998, Global Energy, Services, LLC filed certain information as required by the Commission's March 12, 1997 letter order in Docket No. ER97–1177–000.

On October 27, 1998, Burlington Resources Trading Inc. filed certain information as required by the Commission's November 14, 1996 letter order in Docket No. ER96–3112–000.

On October 27, 1998, Global Petroleum Corp. filed certain information as required by the Commission's December 20, 1995 letter order in Docket No. ER96–359–000.

On October 27, 1998, PS Energy Group, Inc. filed certain information as required by the Commission's January 18, 1995 letter order in Docket No. ER95–266–000.

4. Indiana Michigan Power Company

[Docket No. ER99–325–000]

Take notice that on October 26, 1998, Indiana Michigan Power Company (I&M), tendered for filing with the Commission a Facilities and Operations Agreement between the City of Sturgis, Michigan (Sturgis), and I&M (Agreement).

I&M requests that the Agreement be made effective as of May 23, 1998, and states that a copy of its filing was served upon Sturgis, the Indiana Utility Regulatory Commission, and the Michigan Public Service Commission.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. PJM Interconnection, L.L.C.

[Docket No. ER99–327–000]

Take notice that on October 26, 1998, PJM Interconnection, L.L.C. (PJM), tendered for filing signature pages of parties to the Reliability Assurance Agreement among Load Serving Entities in the PJM Control Area (RAA), and an amended Schedule 17 listing the parties to the RAA.

PJM states that it served a copy of its filing on all parties to the RAA, including each of the parties for which a signature page is being tendered with this filing, and each of the state regulatory commissions within the PJM Control Area.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. American Electric Power Service Corporation as Agent for the AEP Operating Companies, Ohio Power Company

[Docket No. ER99–328–000]

Take notice that on October 27, 1998, American Electric Power Service Corporation, as agent for the AEP Operating Companies (AEP), tendered for filing with the Commission executed Service Agreements with each of the following Ohio Municipal Resale Service (MRS) customers of Ohio Power Company: Arcadia, Bloomdale, Carey, Cygnet, Plymouth, Republic, St. Clairsville, Shiloh, Sycamore, Wapakoneta, Wharton, Greenwich, Ohio City, Clyde, Bryan and Deshler, under the Wholesale Market Tariff of the AEP Companies; and that Ohio Power Company (OPCO) tendered for filing with the Commission: (1) a request for waiver of the Commission's fuel adjustment clause regulations to effectuate an agreement between OPCO and the MRS customers governing the remainder of the MRS customers' service contracts with OPCO; and (2) a notice of cancellation of Ohio Power Company's Municipal Resale Electric Tariff MRS, which is on file with the Commission as FERC Rate Schedule OPCO No. 001. AEP requests that each Service Agreement be made effective as of the date following the expiration of each MRS customer's current service contract with OPCO. OPCO requests that the notice of cancellation be made effective January 1, 2000, the day after the latest termination date of OPCO's service contracts with the MRS customers.

AEP states that a copy of its filing was served upon the MRS customers, the Indiana Utility Regulatory Commission, the Public Service Commission of Kentucky, the Michigan Public Service Commission, the Public Utilities Commission of Ohio, the Tennessee Regulatory Authority, the Virginia State Corporation Commission, and the Public Service Commission of West Virginia.

Comment date: November 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Mississippi Power Company

[Docket No. ER99–329–000]

Take notice that on October 27, 1998, Mississippi Power Company and Southern Company Services, Inc., its agent, tendered for filing an amendment to its Service Agreement, pursuant to the Southern Companies Electric Tariff Volume No. 4—Market Based Rate Tariff, with South Mississippi Electric Power Association for the Wellman Delivery Point to Coast Electric Power Association. The amendment relates to wholesale electric service to South Mississippi Electric Power Association.

Copies of the filing were served upon South Mississippi Electric Power Association, the Mississippi Public Service Commission, and the Mississippi Public Utilities Staff.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)

[Docket No. ER99–331–000]

Take notice that on October 27, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (jointly NSP), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement and a Short-Term Firm Transmission Service Agreement between NSP and UtiliCorp United Inc.

NSP requests that the Commission accept both the agreements effective September 30, 1998, and requests waiver of the Commission's notice requirements in order for the agreements to be accepted for filing on the date requested.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Washington Water Power Company

[Docket No. ER99–332–000]

Take notice that on October 27, 1998, Washington Water Power (WWP), tendered for filing, with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, an executed Service Agreement under WWP's FERC Electric Tariff First Revised Volume No. 9, with WPS Energy Services.

WWP requests waiver of the prior notice requirement and requests an effective date of July 9, 1998.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. South Carolina Electric & Gas Company

[Docket No. ER99–334–000]

Take notice that on October 27, 1998, South Carolina Electric & Gas Company (SCE&G), submitted service agreements establishing Columbia Energy Power Marketing Corporation (CEPMC), and Merchant Energy Group of the Americas, Inc. (MEGA), as customers under the terms of SCE&G's Negotiated Market Sales Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreements. Accordingly, SCE&G requests waiver of the Commission's notice requirements.

Copies of this filing were served upon CEPMC, MEGA, and the South Carolina Public Service Commission.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Maine Public Service Company

[Docket No. ER99–335–000]

Take notice that on October 27, 1998, Maine Public Service Company (Maine Public), tendered for filing an executed Service Agreement for non-firm point-to-point transmission service under Maine Public's open access transmission tariff with Constellation Power Source, Inc.

Comment date: November 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Commonwealth Electric Company

[Docket No. ES99–5–000]

Take notice that on October 20, 1998, Commonwealth Electric Company filed an application under Section 204 of the Federal Power Act, seeking authorization to issue not more than $80 million of short-term debt during a two year period commencing on the effective authorization date and maturing less than one year after the date of issuance.

Comment date: November 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Northwestern Corporation

[Docket No. ES99–6–000]

Take notice that on October 22, 1998 Northwestern Corporation submitted an application under Section 204 of the Federal Power Act for authorization to issue short-term debt in an aggregate principal amount of not more than $500 million during the period of two years starting with the date of the letter order.

Comment date: November 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Oklahoma Gas and Electric Company

[Docket No. ES99–7–000]

Take notice that on October 26, 1998, Oklahoma Gas and Electric Company filed an application with the Federal Energy Regulatory Commission under Section 204 of the Federal Power Act requesting authorization to issue not more than $400,000,000 of short-term

debt on or before December 31, 2000, with a final maturity no later than December 31, 2001.

Comment date: November 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. PECO Energy Company

[Docket No. OA97–440–002]

Take notice that on October 27, 1998, pursuant to the Order on Standards of Conduct, issued by the Federal Energy Regulatory Commission on September 29, 1998, PECO Energy Company (PECO) submitted its compliance filing. PECO identifies all senior transmission/reliability and wholesale merchant function employees, as well as energy management system information its wholesale merchant arm receives.

Comment date: November 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98–29892 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis

November 3, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Major New License.

b. *Project No.:* P–2004–073.

c. *Date Filed:* September 2, 1997.

d. *Applicant:* Holyoke Water Power Company.

e. *Name of Project:* Holyoke Hydroelectric Project.

f. *Location:* On the Connecticut River in Hampden, Hampshire, and Franklin Counties, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:*

William J. Nadeau, Vice President, Holyoke Water Power Company, P.O. Box 270, Hartford, CT 06141–0270, (860) 665–5315.

James J. Kearns, Project Manager, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270, (860) 665–5936.

Catherine E. Shively, Counsel, Public Service Company of New Hampshire, 1000 Elm Street, Manchester, NH 03105, (603) 634–2326.

i. *FERC Contact:* Allan Creamer (202) 219–0365.

j. *Comment Date:* See attached paragraph D10.

k. *Status of Environmental Analysis:* This application has been accepted, and, pursuant to § 4.30(b)(25), is ready for environmental analysis at this time—see attached paragraph D10. The Commission acknowledges that information related to water quality studies in the project's bypassed reach has not been filed. However, the study itself has been completed, and is currently being reviewed by various resource agencies. This information, including agency comments, is expected to be filed by November 15, 1998. The results of the water quality study, as well as any other information asked for during the environmental analysis, will be considered during the preparation of the environmental impact statement once it's been filed with the Commission. The application and additional information is substantially complete, and the environmental analysis will proceed on the issues as set forth in Scoping Document 2 and in the application materials.

l. *Description of Project:* The proposed run-of-river project would consist of the following features: (1) an approximately 1,000-foot-long masonry dam to elevation 97.47 feet National Geodetic Vertical datum, topped with a 3.1-foot-high rubber dam; (2) upstream and downstream fish passage facilities; (3) a 2,290-acre reservoir that extends approximately 25 miles upstream; (4) a three-level canal system adjacent to the river with headgates at the dam; (5) six separate hydroelectric facilities, named Hadley Falls Station, Riverside Station, Boatlick Station, Beebe-Holbrook Units, Skinner Unit and Chemical Units, and except for the Hadley Falls Station which has its intake structure adjacent to the canal headgate structure, the facilities withdraw water from the canal system; (6) a total nameplate capacity of 43,756 kilowatts; (7) transmission line connections; and (8) appurtenant facilities. The estimated average annual generation is about 223,389 megawatt-hours.

m. *Purpose of Project:* The power generated by the project is used for station service on site and sold to industrial customers in Holyoke, with the remainder transmitted to other utilities for resale outside of Holyoke.

n. *This notice also consists of the following standard paragraphs:* D10.

o. *Available Locations of Application:* A copy of the application, as supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files and Maintenance Branch, located at 888 First Street, N.E., Room 2A–1, Washington, D.C. 20426, or by calling (202) 208–2326. A copy is also available for inspection and reproduction at Holyoke Water Power Company, 1 Canal Street, Holyoke, Massachusetts 01040, (413) 536–9428.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS", "TERMS AND CONDITIONS", or "PRESCRIPTIONS"; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

David P. Boergers,

Secretary.

[FR Doc. 98–29883 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice Application for Non-Project Use of Project Lands and Waters

November 3, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Non-Project Use of Project Lands and Waters.

b. *Project Name:* Catawba-Wateree Project.

c. *Project No.:* FERC Project No. 2232–375.

d. *Dote Filed:* October 1, 1998.

e. *Applicant:* Duke Energy Corporation.

f. *Location:* Iredell County, North Carolina on Lake Norman.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Mr. E.M. Oakley, Duke Energy Corporation, P.O. Box 1006 (EC12Y), Charlotte, NC 28201–1006, (704) 382–5778.

i. *FERC Contact:* Brian Romanek, (202) 219–3076.

j. *Comment Date:* December 12, 1998.

k. *Description of the filing:* Duke Energy Corporation proposes to lease to the Pointe on Lake Norman, LLC (The Pointe) four parcels containing a total of 25.2516 acres of project land for the construction of twenty four commercial/residential marinas with a total of 558 boat slips. The marinas would provide access to the reservoir for residents of The Pointe Subdivision. Constructing the marinas would require the dredging of 121,911 cubic yards of material and installing 9,486 linear feet of rip rap for stabilization of shoreline areas. An approximately 500-foot-long, 24-inch-diameter irrigation pipe connected to an existing pump station is also proposed to be installed into the lake bottom. The pump station (capable of withdrawing 2,000 gallons per minute) would withdraw water from the Lake to irrigate the golf course.

l. *This notice also consists of the following standard paragraphs:* B, C1, D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 98–29884 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Competing Application Ready for Environmental Analysis

November 3, 1998.

a. *Type of Application:* Major New License.

b. *Project No.:* P–11607–000.

c. *Date Filed:* August 29, 1997, as amended on January 30, 1998.

d. *Competing Applicant(s):* Holyoke Gas & Electric Department, Ashburnham Municipal Light Plant, and Massachusetts Municipal Wholesale Electric Company.

e. *Name of Project:* Holyoke Hydroelectric Project.

f. *Location:* On the Connecticut River in Hampden, Hampshire, and Franklin Counties, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Competing Applicant(s) Contact:*

George E. Leary, Manager, Holyoke Gas & Electric Department, 99 Suffolk Street, Holyoke, MA 01040 (413) 536–9311.

Roger W. Bacon, Director, Power Services Division, Mass. Municipal Wholesale Elec. Company, Randall Road, P.O. Box 426, Ludlow, MA 01056, (413) 589–1041

Stanley Herriott, General Manager, Ashburnham Municipal Light Plant, 78 Central Street, P.O. Box 823, Ashburnham, MA 01430, (508) 827–4423.

i. *FERC Contact:* Allan Creamer (202) 219–0365.

j. *Comment Date:* See attached paragraph D10.

k. *Status of Environmental Analysis:* This application, as amended, has been accepted, and, pursuant to § 4.30(b)(25), is ready for environmental at this time—see attached paragraph D10. The Commission acknowledges that information related to water quality studies in the project's bypassed reach has not been filed. However, the study itself has been completed, and is currently being reviewed by various resource agencies. This information, including agency comments, is expected to be filed by November 15, 1998. The results of the water quality study, as well as any other information asked for

during the environmental analysis, will be considered during the preparation of the environmental impact statement once it's been filed with the Commission. The application and additional information is substantially complete, and the environmental analysis will proceed on the issues as set forth in Scoping Document 2 and in the application materials.

l. *Description of Project:* The proposed run-of-river project would consist of the following features: (1) an approximately 1,000-foot-long masonry dam to elevation 97.47 feet National Geodetic Vertical datum, topped with a 3.1-foot-high rubber dam; (2) upstream and downstream fish passage facilities; (3) the Fish Lift Park adjoining the dam; (4) a 2,290-acre reservoir that extends approximately 25 miles upstream; (5) a three-level canal system adjacent to the river with headgates at the dam; (6) six separate hydroelectric facilities, named Hadley Falls Station, Riverside Station, Boatlock Station, Beebe-Holbrook Units, Skinner Unit and Chemical Units, and except for the Hadley Falls Station which has its intake structure adjacent to the canal headgate structure, the facilities withdraw water from the canal system; (7) a total nameplate capacity of 58,756 kilowatts (kW), consisting of the existing 43,756 kW project plus a 15,000 kW expansion at the Hadley Falls Station; (8) transmission line connections; and (9) appurtenant facilities. The estimated average annual generation is about 212,000 megawatt-hours (MWh), which would increase to about 262,750 MWh after completing the expansion in 2006.

m. *Purpose of Project:* The power generated by the project would be used within the Holyoke Gas & Electric Department's distribution system, with a portion sold to the Massachusetts Municipal Wholesale Electric Company.

n. *This notice also consists of the following standard paragraphs:* D10.

o. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files and Maintenance Branch, located at 888 First Street, N.E., Room 2A–1, Washington, D.C. 20426, or by calling (202) 208–2326. Copies are also available for inspection and reproduction at the Holyoke Gas & Electric Department, 99 Suffolk Street, Holyoke, Massachusetts, 01040.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

David P. Boergers,

Secretary.

[FR Doc. 98–29885 Filed 11–6–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6186–7]

Notice of Availability of Draft RCRA Waste Minimization PBT Chemical List

AGENCY: Environmental Protection Agency.

ACTION: Notice of data availability.

SUMMARY: Today's notice makes available for public comment a list of 53 persistent, bioaccumulative, and toxic (PBT) chemicals and chemical categories which may be found in hazardous wastes regulated under the Resource Conservation and Recovery Act (RCRA). This notice responds to States, industry organizations, environmental groups, and individuals who commented on the EPA's national RCRA waste minimization policy, and it will be used to promote voluntary waste minimization efforts which reduce the generation of PBT chemicals found in RCRA hazardous waste by at least half by the year 2005.

EPA requests comment on today's RCRA Waste Minimization PBT Chemical List (also referred to as the RCRA PBT List) and the methodology used to develop today's List. EPA is not seeking comment on the Waste Minimization Prioritization Tool (WMPT), which is discussed in today's notice, because the Agency has sought extensive public review and comment on the WMPT in a previous notice. Particular issues for comment are identified in the discussion that follows.

EPA will publish a final RCRA PBT List in 1999. This notice and the final RCRA PBT List are a significant component of an overall PBT strategy being developed by Agency. The overall strategy will encompass the PBT priorities and programs identified by other EPA offices, particularly those that cannot be addressed by single media controls and approaches.

DATES: Please submit written comments by January 8, 1999 to the address below.

TO OBTAIN COPIES: Copies of the draft list and all documents cited in this notice can be obtained by calling the RCRA/Superfund/CERCLA Hotline at (800) 424–9346, TDD (800) 553–7672 (hearing impaired), or (703) 412–9810 in the Washington, DC metropolitan area, from 9:00 a.m. until 6:00 p.m. Eastern time.

The draft list and supporting documents are also available in electronic format on the Internet, and can be obtained by accessing:

WWW: http://www.epa.gov/wastemin
FTP: ftp.epa/gov
Login: anonymous
Password: your Internet address

TO SUBMIT COMMENTS: Please send an original and two copies of comments, referencing docket number F–98–MMLP–FFFFF, to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, SW, Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address provided below. Comments may also be submitted electronically by sending electronic mail through the Internet to: rcra-docket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F–98–MMLP–FFFFF. All electronic comments must be submitted as an ASCII file that contains no special characters or any form of encryption.

Commenters should not submit electronically any confidential business information (CBI). CBI submissions must be sent under separate cover, and must include an original and two copies. CBI must be addressed to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street SW, Washington, DC 20460.

Public comments (not including CBI) and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page.

FOR FURTHER INFORMATION CONTACT: For further information on waste minimization, specific aspects of this notice, or public meetings regarding this notice, contact the RCRA/Superfund/EPCRA Hotline at the address and telephone numbers cited above, or Newman Smith at the U.S. Environmental Protection Agency, Office of Solid Waste, Waste Minimization Branch, 401 M Street, SW (5302W), Washington, DC 20460; telephone: (703) 308–8757, fax: (703) 308–8433.

SUPPLEMENTARY INFORMATION:

I. Background

A. Why Is EPA Taking This Action?

EPA regulates thousands of chemicals and wastes under its multiple environmental authorities, and has worked with States, the regulated community, environmental groups, and individuals to make significant progress in controlling harmful chemical releases to the environment. Notwithstanding this important progress, recent national and international attention has focused on persistent, bioaccumulative and toxic (PBT) chemicals which can pose long-term problems when released to the environment. Today's notice focuses national attention on identifying ways to reduce the generation of PBT chemicals which may be found in hazardous wastes regulated under RCRA.

Today's notice provides a mechanism for implementing the national waste minimization policy of RCRA—to reduce or eliminate the generation of hazardous waste, wherever feasible, and as expeditiously as possible. This national policy sets a clear preference for source reduction and recycling methods over end-of-pipe waste treatment and disposal methods to reduce releases of harmful chemicals to the environment. In 1988, the General Accounting Office (GAO) encouraged EPA to focus on reducing the toxicity as well as the volume of hazardous waste, and recommended that EPA "establish specific, quantifiable waste minimization goals.[1]"

Congress expanded this national policy in the Pollution Prevention Act of 1990, and in Clean Air Act amendments of 1990. As Congress stated in the Pollution Prevention Act, "there are significant opportunities for industry to reduce or prevent pollution at the source through cost effective changes in production, operation, and raw materials use. Such changes offer industry substantial savings in reduced raw material, pollution control, and liability costs as well as help protect the environment and reduce risks to worker health and safety." The Clean Air Act promotes pollution prevention as a national goal, and includes pollution prevention as an important element in setting and achieving industrial emissions control standards.

EPA recognizes that progress has been made in reducing volumes of hazardous wastes. However, today's notice expands EPA's focus to reducing the toxicity of hazardous wastes, in addition to the volume, by reducing RCRA PBT chemical generation at the source, rather than relying on reducing the volume and/or toxicity of hazardous waste through waste treatment alone. This "PBT chemical" approach, which is now being addressed at the international level, recognizes that small releases of PBT chemicals, even releases that are in compliance with existing regulations, may nevertheless cause a build up of human health or ecological problems over the long term.

Today's notice also responds to extensive comments EPA received from industry organizations, environmental groups, government agencies, and individuals during stakeholder meetings held during 1993 and 1994 to develop RCRA's Waste Minimization National Plan. Six principles for reducing hazardous waste generation on a national level emerged from those discussions:

- Focus on source reduction as the preferred means of environmental management, and recycling as the second preference, over treatment and disposal of hazardous wastes;
- Set environmental priorities based on risk;
- Focus on reducing the chemical composition of hazardous waste, not the volume of hazardous wastes, and carefully consider the interrelationships between hazardous waste reduction and the reduction of toxic releases to air and water;
- Set environmental goals for source reduction and recycling of priority chemicals, and track progress toward these goals. Promote accountability and recognition for regulated companies, government agencies, and other stakeholders involved in the process;
- Provide flexibility to industry and States in the selection of chemical priorities, goals for source reduction and recycling of priority chemicals, and in selecting approaches for achieving source reduction and recycling goals; and
- Involve the public.

As a result of these discussions, EPA published the Waste Minimization National Plan[2] (WMNP), which commits the Agency to implementing a national waste minimization program centered around these principles. Most importantly, the WMNP sets national goals to:

- Reduce, as a nation, the presence of the most persistent, bioaccumulative, and toxic (PBT) chemicals in RCRA hazardous wastes 10% by the year 2000, and at least 50 percent by the year 2005 (from a 1991 baseline);
- Promote source reduction (and recycling where RCRA PBT chemicals can not be reduced at the source) over treatment and disposal technologies; and

[1] New Approach Needed to Manage the Resource Conservation and Recovery Act; p. 57; United States General Accounting Office Report to Congress; July 1988.

[2] Waste Minimization National Plan, US EPA, 1994. EPA530–R–94–045.

• Avoid the transfer of RCRA PBT chemicals across environmental media.

EPA believes today's notice provides a strong foundation for achieving these goals. The next section describes more specifically how EPA, State governments, industry organizations, environmental groups and citizens may participate in achieving these goals.

B. What Are Persistent, Bioaccumulative, and Toxic (PBT) Chemicals, and Why Are They an Environmental Concern?

PBT chemicals exhibit varying degrees of three properties: Persistent (P) chemicals do not readily break down in the environment; bioaccumulative (B) chemicals are not easily metabolized and can accumulate in human or ecological foodchains through consumption or uptake; toxic (T) chemicals may be hazardous to human health or the environment in a variety of ways, depending on the chemical and the organism that is exposed. Examples of toxic effects include cancer and birth defects in humans and reduced populations and altered community structures within ecosystems. Individual chemicals may exhibit none, some, or all of these characteristics. Chemicals which exhibit PBT characteristics, once released to the environment, may present increasing long-term toxic effects to human health and the environment, even when these chemicals are released in small quantities.

RCRA PBT chemicals could be released to the environment from several types of sources, including: Leaks from hazardous waste treatment, storage or disposal units, authorized releases of PBTs in treated hazardous wastes (e.g., combustion emissions or residues which must be treated to levels which minimize threats to human health and the environment prior to land disposal), or the combined effect of *de minimis* releases of PBT chemicals permitted under multiple permitting authorities. Because of the potential risks posed by these chemicals, the international community recognizes the chemicals as a global environmental concern. EPA is creating a priority in its hazardous waste minimization program for these chemicals.

C. How Will EPA and Other Stakeholders Use the RCRA PBT List?

EPA will use the RCRA PBT List to:

• Measure progress toward the national goal of reducing the generation of RCRA PBT chemicals by at least half by the year 2005. EPA will measure progress using data reported to the national Toxics Release Inventory (TRI) and other nationally available data;

• Report national progress on a periodic basis;

• Identify and acknowledge industrial sectors which contribute to national progress; and

• Promote coordinated waste minimization programs at the Federal, State, and local level.

EPA's 1986 Waste Minimization Report to Congress [3] concluded that promoting voluntary (rather than mandatory) waste minimization mechanisms would be the most effective means of reducing the volume and/or toxicity of RCRA regulated hazardous waste stream generation. Therefore, EPA will rely on voluntary activities to promote the reductions of RCRA PBT chemicals in hazardous waste, recognizing that some voluntary activities may ultimately take place in conjunction with a regulatory activity (e.g., voluntarily implementing pollution prevention measures to meet permit compliance requirements).

EPA will use the TRI as its primary source of data to measure and evaluate progress toward the national goal of reducing the presence of PBT chemicals in RCRA hazardous wastes by at least half by 2005. The BRS will be used to provide supplemental information and analysis. As discussed further below, the method for reporting progress is under development, and will build on the method described in today's notice for estimating the presence of PBT chemicals in RCRA hazardous wastes.

EPA is committing to its national RCRA PBT reduction goal to meet the requirements of the Government Performance and Results Act (GPRA). The GPRA sets government-wide requirements to improve performance of government programs by "managing for results" and linking programmatic budgets to performance. EPA believes its effort to reduce long term human health and ecological problems by reducing the generation of RCRA related PBT chemicals at the source is a crucial GPRA goal.

EPA will work with interested States, industry organizations, environmental groups, and citizens to promote a variety of source reduction opportunities and programs which reduce the generation of RCRA PBT chemicals at the source. For example, during informal discussions, some States, companies, citizens, and other interested parties indicated they could use the RCRA PBT List as a guide for setting waste minimization priorities for wastes which are currently treated or disposed. Government agencies could use the List as a starting point to identify industrial sectors or particular chemicals for focusing voluntary pollution prevention technical assistance resources. Industry trade associations or individual companies could use the list for setting waste minimization priorities and reducing waste management costs. Individual organizations or a consortium of organizations could use the RCRA PBT list to develop Project XL proposals in cases where significant reductions in the generation of RCRA PBT chemicals are possible, but regulatory flexibility is needed to achieve the reductions (information on Project XL is available on the Internet at www.epa.gov/projectxl). Citizen groups might use the RCRA PBT list to promote pollution prevention as a preferred environmental solution over waste treatment or disposal at siting hearings or other public comment or waste management forums.

EPA will also report national progress toward meeting national goals publicly, on a periodic basis, to encourage accountability.

D. How Will EPA Measure Progress Toward the National RCRA Hazardous Waste PBT Reduction Goal?

EPA is considering several alternatives for developing a national RCRA hazardous waste PBT chemical reduction measurement method. One of the key factors in developing a measurement method is the selection of an appropriate national database for reporting, storing and retrieving data on PBT chemicals found in RCRA hazardous waste. EPA considered, among others, two widely used national databases, the RCRA hazardous waste Biennial Reporting System (BRS) and the Toxics Release Inventory (TRI), and selected the TRI as the primary database for measuring national PBT chemical reductions in hazardous waste. The TRI is a publicly accepted and widely used source of data on toxic chemicals being used, manufactured, treated, transported, and/or released to the environment. TRI reports information on specific chemicals which may be contained in waste. Using chemical-specific TRI information enables EPA to measure reductions of chemical quantities found in wastes over time. In contrast, the Biennial Reporting System provides information on waste stream volumes, rather than chemical specific data, and will be used for supplemental analysis in cases for chemicals which are on the RCRA PBT List, but which are not reported in the TRI.

[3] Minimization of Hazardous Waste Report to Congress, October 1986, EPA–530–SW–86–033.

The measurement method will include only those facilities which report data to the TRI data, and who are also RCRA hazardous waste generators. EPA will publish and seek public comment on its draft measurement method in 1999.

EPA will submit national interim progress reports as part of its environmental performance reporting under the Government Performance and Results Act. A final national progress report will be submitted for the year 2005.

E. How Will EPA Encourage Progress Toward the National RCRA PBT Reduction Goals?

EPA will work with States, industry, environmental groups and other stakeholders to identify and implement a variety of implementation approaches, including workshops, technical assistance, progress reporting, partnership agreements, and regulatory reinvention and pilot projects, to promote progress toward the national RCRA PBT reduction goal. To encourage stakeholder input, EPA will conduct public meetings to listen to stakeholder comments on the List and on technical and programmatic measures which could be used to reduce the generation of PBT chemicals. Information regarding public meetings can be obtained by contacting Newman Smith by phone at (703) 308–8757, or on the Internet at smith.newman@epa.gov. EPA will combine the efforts of these interested parties into a draft national RCRA PBT reduction implementation strategy in mid-1999. EPA will solicit public comment on the draft strategy and will publish a final implementation strategy later in 1999.

After publication of the final implementation strategy, EPA will continue to work with interested parties to promote and document source reduction and recycling successes, and measure and report progress, as stated above.

F. How is Today's RCRA PBT List Different From Other Chemical Lists?

Today's draft RCRA PBT list differs from other lists, including those used in the RCRA program, because of its purpose and design. Today's draft RCRA PBT list:

• Focuses on reducing RCRA PBT chemicals at the point of generation, before they are stored, transported, treated, recycled, or disposed on the land. Other regulatory lists are often used to set treatment technology standards, or concentration based limits on chemicals after treatment;

• Focuses on long-term human health and ecological problems, rather than more short term or acute human health or ecological effects.

• Will be used as a voluntary guide for identifying national waste minimization priorities and measuring national reduction progress, and may be used flexibly by other government agencies and companies. It is not a regulatory list that must be adhered to by all stakeholders.

The basis for developing the RCRA PBT list is explained in the following sections of this notice.

G. Why Focus on the Reduction of RCRA PBT Wastes at the Point of Hazardous Waste Generation Rather Than After Treatment?

Nearly all of the regulations promulgated under the RCRA program set standards for safe management or cleanup of hazardous wastes after they are generated or managed. To meet these standards, the regulated community has frequently used "end-of-pipe" treatment and control technologies. Significant progress has been made using "end-of-pipe" technologies, even though the costs are significant, and they do not completely eliminate releases of toxic chemicals to the environment.

To address these issues, government agencies and the regulated community have increased their focus on the use of source reduction and recycling measures in place of, or as a supplement to, end-of-pipe technologies to meet or exceed regulatory requirements and to reduce the costs of waste management.

The organizations and individuals involved in the development of the Waste Minimization National Plan strongly urged EPA to promote source reduction and recycling over waste treatment and disposal to reduce or eliminate the potential long term effects of RCRA PBT chemicals which may build up in the environment. They recognized that, even with stringent waste management standards, waste management units may fail, accidents may occur during transport and handling, and *de minimis* authorized releases may, nevertheless, occur. As a result, although many sources of these chemicals may individually be in compliance with hazardous waste and other regulations, RCRA PBT chemicals may continue to be released and build up in the environment. Reducing RCRA PBT chemical generation at the source is a more certain way of reducing or eliminating potential RCRA PBT risks to the environment, while reducing or eliminating the costs of managing wastes.

H. How Will EPA Work With States, Industries, and Other Interested Parties Who Have Different Priorities?

EPA encourages Federal government agencies, States, the regulated community and other organizations to incorporate the priorities contained in today's proposed RCRA PBT list in their current environmental priorities and programs. EPA is aware that some organizations have chemical reduction priorities which differ in varying degrees from today's List. Examples of chemical priority lists from 15 State, tribal and international organizations are in the docket for today's notice. Based on a comparison of these lists with today's draft RCRA PBT List, EPA believes many organizations will find chemicals that are common to their own and today's List.

EPA believes establishing common priorities provides an opportunity for progress toward the national RCRA PBT reduction goal. Therefore, EPA will actively work with States, industry, environmental groups and other interested parties to identify and integrate, to the extent possible, common RCRA PBT reduction priorities and multimedia implementation approaches to promote progress toward the national RCRA PBT chemical reduction goals.

EPA believes States should use flexibility available through the National Environmental Performance Partnership System (NEPPS) to address priorities for multi-media, multi-programmatic environmental protection, including the priorities contained in today's List. EPA has included a goal, similar to the WMNP goal, as a Core Performance Measure in the NEPPS program. This goal seeks to "decrease the quantity of waste generated, decrease the toxicity of waste generated, and increase recycling of wastes.

II. Waste Minimization Prioritization Tool Revisions and Information Stewardship

A. What is the Waste Minimization Prioritization Tool? When and How Was it Revised?

The Waste Minimization Prioritization Tool (WMPT), a Windows-based chemical hazard screening tool developed by EPA, generates relative rankings of chemicals based on their potential to cause chronic human health and ecological problems. The WMPT generates rankings based on four sets of chemical properties, including: Chemical persistence, bioaccumulation potential, chronic human and ecological toxicity, and chemical mass. The last property,

chemical mass, is an optional variable that can be used at the user's discretion to generate rankings.

This section outlines the process EPA used to seek public review of the WMPT, an outline of comments received, and a summary of the changes made to the WMPT in response to the comments. EPA used WMPT rankings based on the first three of the four properties noted above as input to the development of the RCRA PBT List. The reasons for this are described in the following sections.

EPA released Beta Version 1.0 of the WMPT software [4] and the accompanying User's Guide [5] for public comment on June 23, 1997.[6] In addition to the public comments received in the docket, EPA received comments from several other sources during the public comment period, including: peer review comments obtained from technical experts in industry, environmental groups, and states during a focus group meeting in September 1997; comments from an intra-Agency technical workgroup that reviewed the WMPT as a means of identifying "PBT" chemicals; and comments from a WMPT pilot project conducted by EPA Region 9 in the Santa Clara Valley, California. Comments were received on many facets of the WMPT. EPA received a variety of comments, including recommendations to:

- Modify the weighting and aggregation of persistence, bioaccumulation, human toxicity, and ecological toxicity scores in the WMPT.
- Modify the WMPT to better represent actual risk, as opposed to hazard.
- Revise the data quality hierarchies for persistence and bioaccumulation data to place preference on measured data (e.g., data gathered in laboratory tests and field studies) rather than predicted data (i.e., data derived from predictive models).
- Improve the quality of data that are used as the basis for scoring by updating existing Agency data sources (e.g., the Integrated Risk Information System) and by incorporating new sources of data currently available to EPA or obtainable from non-EPA sources.
- Provide the rationale behind the "fenceline values" (i.e., thresholds) that separate low, medium, and high scores.
- Score metals based on bioavailability rather than environmental persistence.
- Modify the persistence scoring approach to consider partitioning to media other than water (e.g., to air).
- Modify the current low/medium/high "binning" approach to include more than three bins and better discriminate among chemicals in scoring.
- Provide a better indication of the uncertainty associated with chemical values and scores by providing additional information on the sources of data used in the WMPT and on the quality of the data.
- Complete a peer review of the WMPT.
- Provide a process for modifying data values and scores in the WMPT as new data become available.

An intra-Agency WMPT Workgroup was established to review the comments and provide recommendations on changes to the WMPT. With the purpose in mind of preparing chemical rankings for development of the RCRA PBT List, the Workgroup focused on addressing technical and scientific comments that would potentially affect RCRA PBT chemical scores. Comments that would not affect RCRA PBT chemical scores (e.g., comments recommending improving the user-friendliness of the Tool and User's Guide) were deferred until a later time.

EPA considered the comments and recommendations. As a result, the following changes were made to the WMPT:

- For each chemical, the higher of the human health and ecological concern scores (previously referred to as human health and ecological risk potential scores) was used to indicate overall concern for the purpose of developing the RCRA PBT List, rather than adding the two scores together.
- Measured data were given preference over predicted data in deriving persistence and bioaccumulation scores. Adjustments in data preferences were made in scoring bioaccumulation potential, (i.e., bioaccumulation factors were given preference over bioconcentration factors, and the log of the octanol-water partition coefficient was no longer used).
- New persistence, bioaccumulation, human toxicity, and ecological toxicity data (which meet our data quality standards) from a number of sources were included in the WMPT.
- The fenceline values separating low, medium, and high scores for persistence, bioaccumulation, and toxicity were better documented; in some cases, the fenceline values were recalculated.
- A multimedia partitioning model was used to estimate the partitioning of chemicals to air, water, soils, and sediments and to calculate overall environmental persistence, rather than estimating persistence in surface water alone.
- Data transparency was improved by better documenting data sources and indicating the preference levels for the underlying data used for scoring; some data that could not be sufficiently documented for the purpose of the WMPT were removed.

The comments received and EPA's responses are discussed in detail in the Waste Minimization Prioritization Tool Comment Response Document for the RCRA Waste Minimization PBT Chemical List Docket (referred to as the WMPT Comment Response Document below). This document is available in RCRA docket #F–98–MMLP–FFFFF and at EPA's Internet home page at *www.epa.gov/wastemin.*

After making the changes to the WMPT outlined above, EPA prepared spreadsheets containing revised data and scoring information. This information was used as input for developing the RCRA PBT List. As a result of the expanded and improved data used in the WMPT, approximately 2,900 chemicals receive human health or ecological concern scores, compared with approximately 1,800 chemicals in the beta version of the WMPT. Of the 2,900 chemicals, 122 chemicals score from 7 to 9 (i.e., relatively high) for human health concern and 666 score from 7 to 9 for ecological concern. Some score from 7 to 9 for both criteria. Altogether, 681 chemicals score from 7 to 9 for one or both of the two scores.

EPA has placed in the docket (*F–98–MMLP–FFFFF) a document titled Waste Minimization Prioritization Tool Spreadsheet Document for the RCRA Waste Minimization PBT Chemical List Docket (referred to below as the WMPT Spreadsheet Document) that: (1) explains changes made to the WMPT as a result of the public and peer review processes, and (2) displays spreadsheets and scoring information for 1,300 chemicals which received a score of 6 or above for human health or ecological concern. This document is also available at EPA's Internet home page at *www.epa.gov/wastemin.*

Information on the approximately 3,900 chemicals that scored from 3 to 5 or that are unscored is not included in the docket, since these chemicals did not appear to be appropriate candidates for the RCRA PBT List. Information on these chemicals will be provided in a future version of the WMPT.

[4] EPA530–C–97–003.

[5] Waste Minimization Prioritization Tool (Beta Test Version 1.0): User's Guide and System Documentation (EPA530–R–97–019).

[6] 62 FR 33868.

The WMPT Comment Response Document and WMPT Spreadsheet Document are included in today's docket to provide the reader with background information on changes made to the WMPT and its use as a foundation for the development of today's draft RCRA PBT List. The WMPT spreadsheets contained in the docket are not intended to support other applications at this time. EPA is not requesting public comment on this information, since the WMPT has already received widespread and comprehensive public review. Additional applications beyond supporting the development of today's draft RCRA PBT List will be discussed when the WMPT is re-released in 1999. That release of the WMPT revisions will include the scoring changes used in today's notice and improvements to the tool's software features.

B. How Will Ensure Stewardship of the Waste Minimization Prioritization Tool and Underlying Scientific Information?

EPA is committed to coordinating the collection of environmental data and to making it available to the public through the Agency's "Reinventing Environmental Information Initiative." In 1997,[7] EPA announced three important information management reforms, which:

- Establish key data standards to improve the value of environmental information, data sharing and integration;
- Provide universal voluntary access to electronic reporting to reduce burdens and improve data quality and timeliness; and
- Implement these data standards and electronic reporting reforms in the Agency's national systems in partnership with the states through the One Stop Program.

Consistent with these principles, EPA commits to maintaining sound scientific information as a foundation for reducing RCRA PBT generation. The EPA has taken measures to practice principles of information stewardship in the development of today's draft RCRA PBT List by:

- Identifying the most up to date and documented information that is readily available;
- Excluding undocumented scientific information;
- Seeking expert advice to make assumptions, assess data quality and weigh contradictory information;
- Making information about data sources, data quality, assumptions publicly known;
- Inviting public review and comment on the data used; and
- Making appropriate adjustments to information.

The Office of Solid Waste intends to follow these principles of information stewardship to ensure the integrity of data used in the Waste Minimization Prioritization Tool. As noted above, EPA will release an updated, user-friendly version of the WMPT in 1999, and will discuss how best to maintain stewardship of this tool and the underlying data with interested organizations and individuals at that time.

III. Development of Today's Draft RCRA PBT List

The Agency followed several steps to develop today's draft RCRA Waste Minimization PBT Chemical List (referred to as the RCRA PBT List below). Each of these steps is discussed in more detail below.

A. How Were Initial Condidates for the RCRA PBT List Identified?

The first step in developing today's draft RCRA PBT List was to assemble an initial list of candidate chemicals for further examination. EPA drew from two sources to establish this initial candidate chemical list: (1) The Waste Minimization Prioritization Tool discussed above, and (2) a composite list of PBT chemicals identified as priorities by other EPA program offices. This step is discussed below, and is described in the Chemical Screening Report for the RCRA PBT List Docket (referred to below as the Screening Report), which is located in RCRA docket number F–98–MMLP–FFFFF.

1. Candidates From the Waste Minimization Prioritization Tool

EPA selected as candidates from the WMPT those chemicals which scored 7 or higher (on a scale of 3–9) for either human health concern or ecological concern. A total of 681 chemicals scored in the WMPT met this criterion. EPA then grouped certain polycyclic aromatic hydrocarbons into a single polycyclic aromatic hydrocarbons category, and grouped individually listed polychlorinated biphenyls with the existing polychlorinated biphenyls category, resulting in a total of 660 candidate chemicals and chemical groups.

EPA selected the cut-off score of 7 for human health or ecological concern in order to ensure that chemical candidates represent at least moderately high concern for PBT. In order to attain a score of 7, a chemical must receive the highest WMPT score for at least two of the three factors (P, B and T) or the highest score for one factor and moderate scores for the other two factors. EPA believes that a higher cut-off score would be overly restrictive, eliminating from further consideration many chemicals of significant RCRA PBT concern, while a lower cut-off score would be unnecessarily expansive, drawing in many chemicals which would not represent a sufficiently high level of RCRA PBT concern for this national PBT waste minimization effort.

2. PBT Priorities Identified by Other EPA Programs

In addition to drawing candidate chemicals from the WMPT, EPA considered PBT chemical priorities identified by other EPA programs through internal PBT coordination efforts. This list of 34 chemicals included 18 chemicals which scored below 7 for human health or ecological concern in the WMPT, and 16 chemicals that were either not included in the WMPT, or were included, but were not scored because there were insufficient data. These chemicals were included in the candidate pool for development of the RCRA PBT List to determine the extent to which they may also be a RCRA PBT waste minimization candidate. Including these 34 chemicals in the candidate pool brought the total number of candidate chemicals and chemical groups to 694.

B. What Inclusion/Elimination Criteria Were First Applied to the Condidate Chemicals?

After assembling the initial candidate chemical list, EPA eliminated chemicals that would not be good candidates for RCRA waste minimization efforts because they are unlikely to be present in RCRA hazardous waste in significant quantities, or are present, but are not highly toxic. Three criteria were used to screen out these chemicals: pesticides which are banned from production and use; chemicals with zero reported quantities in waste; and chemicals with low WMPT toxicity scores. This step is summarized below, and is described in detail in the Screening Report.

1. Banned Pesticides

EPA first eliminated those chemicals that are pesticides banned from use in the United States and are not known to have other, non-pesticidal sources or uses. This screen eliminated 28 chemicals from further consideration, including a number of well-known PBT chemical priorities such as DDT. EPA

[7] Administrator Carol Browner and Deputy Administrator Fred Hansen. EPA Common Sense Initiative Meeting. July 21, 1997.

did not eliminate from further consideration pesticides that are "severely restricted," but not banned in the U.S.

2. Chemicals Not Present in RCRA Wastes

EPA also eliminated from further consideration chemicals that are not likely to be found in RCRA hazardous waste, based on quantities reported in the Agency's Toxics Release Inventory (TRI) database [8] and the National Hazardous Waste Constituent Survey (NHWCS).[9] Chemical quantities reported in the TRI were adjusted to estimate quantities present in hazardous waste streams by: including only TRI reporters who had RCRA ID numbers; in the case of underground injected wastes, including only TRI reporters with RCRA ID numbers who also had RCRA UIC (Underground Injection [well] Code) ID numbers; and excluding air and water releases from TRI production-related wastes. This screen eliminated 510 candidate chemicals, leaving 156 chemicals to be considered further in developing the RCRA waste minimization list. Some highly PBT chemicals were eliminated in this step (e.g., dioxin) because they are generated in very small quantities, which are not reported in the TRI. These were flagged and re-examined in the last step, described below in Section E.

3. Chemicals With Low Toxicity

Finally, EPA checked to ensure that none of the 156 chemicals passing the above screens became a candidate based on high P and/or B scores, but had a low score for human health or ecological toxicity. The rationale for this screen was that, even though some chemicals may persist or bioaccumulate in the environment, they should not be a candidate for the national RCRA PBT List if the chemical is not likely to be at least moderately toxic in the environment. None of the 156 candidate chemicals had low toxicity scores.

C. How Were the Remaining Candidate Chemicals Ranked?

To identify the best candidate chemicals for RCRA source reduction and recycling efforts, EPA developed four "primary" criteria for ranking the remaining chemicals. These criteria included: (1) Each chemical's PBT score from the WMPT; (2) chemical quantity and prevalence (or frequency of occurrence) in hazardous waste; (3) evidence that the chemical is present in the environment, particularly at levels of concern; and (4) the degree to which the chemical is a concern to the RCRA program.

Ranking the candidate chemicals was completed by: Summing subcriteria scores within each of the four primary criteria discussed above; converting the scores for each primary criterion to a 25 point scale (i.e., the Agency gave equal weight to the four primary criteria); summing scores for each chemical; and arranging the chemicals in rank order on a scale of 1–100. The individual subcriteria were scored on a 0, 1, 2, 3 scale (except where noted). The values on this scale were assigned to different ranges of data values by examining the underlying data distributions and using natural breaks in the distributions or creating comparably sized groups. The process used to score and rank chemicals in this step is summarized below and is described in detail in the Chemical Ranking Report for the RCRA PBT List Docket (referred to below as the Ranking Report), located in RCRA docket number F–98–MMLP–FFFFF.

1. PBT Scores

In this step, each candidate chemical was scored based on the higher of its WMPT human or ecological concern scores. The scoring approach is provided in Table 1 below. Each chemical with a WMPT score was assigned a subcriterion score from 0–3. Chemicals not scored in the WMPT were ranked by summing and normalizing scores for the remaining three primary criteria, to compensate for the missing WMPT score.

TABLE 1.—PBT CHARACTERISTICS SCORING

PBT characteristics subcriterion	Subcriterion score
Higher of WMPT human health and ecological concern scores equals 9	3
Higher of WMPT human health and ecological concern scores equals 8	2
Higher of WMPT human health and ecological concern scores equals 7	1
WMPT human health and ecological concern scores are both less than 7	0

2. Quantity and Prevalence

The Agency believes that RCRA PBT chemicals which occur in greater quantities, or are more prevalent, in hazardous waste should be given a higher national priority for RCRA waste minimization than other PBT chemicals. Therefore, EPA assigned higher scores to chemicals with greater quantity, or prevalence, in hazardous waste.

EPA used TRI and NHWCS data to determine chemical quantities in waste and used Biennial Reporting System (BRS) data [10] to determine waste stream quantities associated with each chemical. EPA also used TRI, NHWCS, and BRS data to determine the number of facilities generating or managing each chemical in hazardous waste.

TRI quantity and prevalence data were adjusted to identify and estimate chemical quantities and prevalence in RCRA hazardous waste by: (1) Including only TRI reporters who had RCRA ID numbers; (2) in the case of underground injected wastes, including only TRI reporters with RCRA ID numbers who also had RCRA UIC ID numbers; and (3) excluding air and water releases from TRI production-related waste. NHWCS quantity and prevalence data were used only where TRI quantity and prevalence data were unavailable. To estimate the quantities of BRS waste streams and number of generators associated with particular chemicals, EPA used the RCRA Chemical-Waste Code Crosswalk,[11] which identifies hazardous waste codes that may be associated with particular chemicals.

The TRI reports quantity information on both metals and metal compounds. The quantity information reported for a metal compound only includes the metal component of the compound. In keeping with this approach for metal reporting, EPA added together the quantities reported in TRI as metals and metal compounds.

The TRI/NHWCS score and the BRS score were weighted equally (i.e., were added together and divided by two) in deriving both the quantity and prevalence subcriteria scores. If the BRS score was missing for a chemical, the TRI/NHWCS score was used as the quantity or prevalence subscriterion score. The quantity subcriterion score was added to the prevalence subcriterion score in deriving the

[8] U.S. EPA. 1997. 1991 and 1995 Toxic Release Inventory (TRI) Data.

[9] U.S. EPA. 1998. National Hazardous Waste Constituent Survey. Office of Solid Waste. Washington, DC. This is a survey of chemical constituent presence in hazardous waste streams managed by RCRA treatment, storage and disposal facilities.

[10] U.S. EPA. 1997. Biennial Reporting System Flat Files. Office of Solid Waste and Emergency Response, Washington, DC.

[11] The RCRA Chemical-Waste Code Crosswalk (EPA530–D–97–005) is from the beta version of the WMPT; it is included in RCRA Docket #F–98–MMLP–FFFFF. Chemicals not listed in the crosswalk were not evaluated on the BRS-based criteria.

quantity/prevalence criterion score for each chemical. The scoring for quantity and prevalence is presented in Table 2 below.

TABLE 2.—QUANTITY AND PREVALENCE SCORING

Quantity/prevalence subcriterion	Value range	Subcriterion score
TRI chemical quantity (pounds/yr)	Greater than 10,000,000	3
	1,000,000–10,000,000	2
	1–1,000,000	1
	Less than 1	0
NHWCS chemical quantity (pounds/yr)	Greater than 1,000,000	3
	100,000–1,000,000	2
	1–100,000	1
	Less than 1	0
BRS waste stream quantity (tons/yr)	Greater than 100,000,000	3
	10,000,000–100,000,000	2
	1–10,000,000	1
	Less than 1	0
TRI number of generators	More than 99	3
	10–99	2
	1–9	1
	0	0
NHWCS number of handlers [12]	More than 10	3
	5–10	2
	1–4	1
	0	0
BRS number of generators	More than 9,999	3
	1,000–9,999	2
	1–999	1
	0	0

3. Environmental Presence[12]

The Agency believes that PBT chemicals which are detected in the environment more frequently than other chemicals should be given higher priority for reduction through source reduction and recycling. EPA ranked each chemical's "presence in the environment" using measurement indicators contained in the following three national databases: (1) EPA's Fish Advisory Database [13] (EPA used the most current year of fish advisory data in the U.S.—1997); (2) EPA's National Sediment Inventory [14] (EPA used data on sediment contamination in the U.S. for all years contained in the database; and (3) the Agency for Toxic Substances and Disease Registry's Hazdat Database [15] (EPA used data on chemicals found in the toxic cleanup sites identified on the EPA's Superfund National Priority List (NPL) covered under the Comprehensive Environmental Response, Compensation and Liability Act.

Scores were developed using the scoring approach in Table 3 below. Each environmental presence subcriterion was scored from 0–3. The scores for the three subcriteria were weighted equally (in this case being added together) in deriving an environmental presence criterion score for each PBT chemical.

TABLE 3.—ENVIRONMENTAL PRESENCE SCORING

Environmental presence subcriterion	Value range	Subcriterion score
Fish Advisory Database (1997 data)	More than 99 advisories	3
	10–99 advisories	2
	1–9 advisories	1
	No advisories	0
National Sediment Inventory (1980–1993)	More than 999 detections	3
	100–999 detections	2
	1–99 detections	1
	No detections	0
ATSDR HazDat Database (all NPL sites)	More than 499 sites	3
	100–499 sites	2
	1–99 sites	1
	No sites	0

[12] The number of handlers is the number of RCRA treatment, storage, or disposal facilities that managed a chemical, rather than the number of generators of the chemical.

[13] U.S. EPA. 1998. 1997 National Listing of Fish Consumption Advisories. Office of Water, Washington, DC. www.epa.gov/OST/fishadvice. June.

[14] U.S. EPA. 1997. The Incidence and Severity of Sediment Contamination in Surface Waters of the United States; Volume 1: The National Sediment Quality Survey. Office of Science and Technology. Washington, DC. EPA/823/R–97/006.

[15] Agency for Toxic Substances and Disease Registry. 1998. Hazardous Substance Release/Health Effects Database. website: atsdr1.atsdr.cdc.gov/8080/hazdat/html.

EPA used the ATSDR data since no comparable data were readily available from RCRA corrective action sites.

4. RCRA Programmatic Concern

EPA believes PBT chemicals that are of particular concern to the RCRA program should be given higher priority in developing today's draft RCRA PBT List than PBT chemicals identified in the WMPT or other programs that are not a particular concern to the RCRA program. To identify "RCRA-relevant" PBT chemicals, EPA selected the candidate PBT chemicals which are found on one or more regulatory lists used in the RCRA hazardous waste generation, management, and corrective action programs. The scoring scheme for these chemicals is provided in Table 4 below.

EPA used a wider subcriterion scoring range (0–4) for this criterion to reflect the broad range of RCRA programmatic concerns. This wider scoring range was then normalized (i.e., was converted to a 25 point scale) so that the criterion was weighted equally with the other primary criteria.

A score of 4 was assigned to PBT chemicals that: (1) Are capable of forming dense nonaqueous phase liquids (DNAPLs) that make groundwater cleanups particularly difficult; [16] (2) are identified as "difficult to treat" chemicals under the Land Disposal Restrictions (LDR) program; [17] or (3) are targeted for co-regulation under RCRA and the Clean Air Act Section 112 in EPA's proposed maximum achievable control technology (MACT) combustion rule for hazardous waste incinerators, cement kilns or light weight aggregate kilns, or are currently regulated under the RCRA boilers and industrial furnaces (BIF) rule (since chemicals regulated under these rules could potentially be transferred to the air or soil media after combustion).[18, 19]

Chemicals which are not on any of the regulatory lists discussed in the previous paragraph, but are on the Toxicity Characteristic (TC) list (40 CFR 261.24) or the Appendix VII list of chemicals, which is used as the basis for hazardous waste listings (40 CFR part 261), are assigned a score of 3. The Agency has historically taken regulatory actions in the RCRA program based on risk assessments and damage cases involving these chemicals.

If a chemical was not on any of the lists noted above but is regulated under RCRA based on technological standards rather than risk-based standards (i.e, chemicals covered by the Universal Treatment Standards (UTS) list (40 CFR 268.48), it was assigned a score of 2. If a chemical was not on any of the lists noted above, but was on the RCRA P list of acute hazardous waste (40 CFR 261.33), the U list of toxic waste (40 CFR 261.33), the Appendix VIII hazardous waste constituent list (40 CFR part 261), or the Appendix IX ground water monitoring list (40 CFR part 264), the chemical was assigned a score of 1. These chemicals are regulated under RCRA, but are of lesser concern. For instance, Appendix IX chemicals are used to set permit parameters. However, if they are not on the lists mentioned above, are of lesser concern. In addition, although P list chemicals are of concern due to their acute hazards, they are generated infrequently and usually in small quantities.

Chemicals not found on any of the lists discussed above received a 0 score. The scoring of subcriteria for RCRA Programmatic Concern is summarized in Table 4 below.

TABLE 4.—RCRA PROGRAMMATIC CONCERN SCORING

RCRA programmatic concern subcriterion	Subcriterion score
Chemicals contained on any of the following lists: (1) Chemicals that can form dense non-aqueous phase liquids; (2) chemicals identified as "difficult to treat," or (3) chemicals regulated under the MACT rule for hazardous waste incinerators, cement kilns and light weight aggregate kilns, or the RCRA rule for boilers and industrial furnaces	4
Presence on the toxicity characteristic list or the Appendix VII list of chemicals serving as the basis for hazardous waste listings	3
Presence on the land disposal restrictions universal treatment standards list	2
Presence on the RCRA P list of acute hazardous waste, the U list of toxic waste, the Appendix VIII hazardous waste constituent list, or the Appendix IX ground water monitoring list	1
Chemical not present on any of the above RCRA lists	0

[16] See the following three references:

Cohen, R.M., J.W. Mercer, and J. Matthews. 1993. DNAPL Site Evaluation. CRC Press, Boca Raton, FL.

U.S. EPA. 1993. Evaluation of the Likelihood of DNAPL Presence at NPL Sites, National Results. Office of Solid Waste and Emergency Response, Washington, DC. EPA/540/R–93/073.

U.S. EPA. 1991. Estimating Potential for Occurrence of DNAPL at Superfund Sites. Office of Solid Waste and Emergency Response, Environmental Research Laboratory, Washington, DC. EPA publication 9355–4–07FS.

[17] Eby, E. 1998. Internal communication. Waste Treatment Branch, Office of Solid Waste, U.S. EPA. May.

[18] U.S EPA. 1991. Burning of Hazardous Waste in Boilers and Industrial Furnaces: Final Rule. 56 FR 7134. February 21.

[19] U.S. EPA. 1996. Revised Standards for Hazardous Waste Combustors: Proposed Rule. 61 FR 173858. April 19.

The Agency conducted limited sensitivity testing of the ranking methodology by observing changes in the rankings in response to modifying the ranking criteria. Several scenarios were tested, including eliminating each of the primary criteria in turn and eliminating both the RCRA Relevance and Environmental Presence criteria together.

In general, the methodology appeared to be fairly robust in its identification of the top ranking chemicals. Scenarios which alternatively dropped the RCRA Relevance, Quantity/Prevalence, and the PBT Score criteria each displaced roughly 10 chemicals from the top 50. Elimination of the Environmental Presence criterion had less of an impact on the rankings than dropping the other criteria. This indicates that, when one of the four criteria is removed from the ranking method, the remaining criteria and data support the ranking to a substantial degree.

In a more drastic sensitivity scenario, dropping two of the criteria, RCRA Relevance and Environmental Presence, together substantially altered the rankings—30 chemicals in the top 50 were displaced, and several chemicals changed by more than 50 rank positions. These results are not surprising considering the substantial change to the scoring method (half of the criteria are removed). For further information, see the report Revised Chemical Ranking Methodology Testing Results in RCRA docket number F–98–MMLP–FFFFF.

D. What Cutoff Was Applied to the Ranked Chemicals to Obtain the Draft RCRA PBT List?

After ranking the 150 candidate chemicals, EPA selected a cutoff value to identify the "top tier" of chemicals for tracking on a national level. EPA narrowed the candidate list to the 61 chemicals which had a score of 50 points (the half way point on the scoring scale) as a basis for inclusion in the draft RCRA PBT List proposed today. EPA determined that a national list of 50 to 60 chemicals was appropriate, given limited Agency, State, and private resources to reduce and measure these chemicals.

E. What Final Adjustments Were Made to the Draft RCRA PBT List?

As a final step, EPA added and removed certain chemicals from the list for the particular reasons described below. Adding and removing chemicals reduced the draft RCRA PBT List from 61 to 53 chemicals.

1. U.S./Canada Binational Agreement Level 1 Chemicals

EPA added dioxins, furans, and octachlorosytrene to the RCRA PBT List because of their high priority on the "Level 1" list of the U.S./Canada Binational Agreement.[20] Four other Level 1 chemicals were already among the top tier chemicals for the RCRA PBT List.[21] Nine chemicals on the Level 1 list, including eight banned pesticides and alkyl lead, are excluded because they are either no longer produced (e.g., banned pesticides), or are found in very limited quantities in wastes from only a few production processes (e.g., alkyl lead).[22] In either case, these chemicals are not very amenable to reductions through waste minimization. The Binational Agreement and the Level 1 list are available for review in RCRA docket number F–98–MMLP–FFFFF.

2. Chemicals With Low or no PBT Scores

The Agency initially added chemicals identified by other EPA programs to the candidate list to provide a comprehensive starting point in the RCRA PBT List development process. At this final step in the RCRA PBT List development process, six chemicals were removed for the following reasons. Five of the chemicals—tetrachlorethylene, trichlorethylene, methylene chloride, 1,2-dichloroethane, and 1,1,2,2-tetrachloroethane—were removed because their WMPT PBT scores are below 7. Although individual States may wish to pursue reductions in these chemicals, EPA determined they are not among the most highly toxic for a national list. The sixth, silver, was removed because it has no PBT score.

3. PCBs

The Agency removed the PCB chemical group from the RCRA PBT List because production of PCBs is banned in the U.S. and waste minimization opportunities for PCBs in process waste streams are believed to be very limited.

4. Di-n-octyl Phthalate and Butyl Benzyl Phthalate

The Agency previously removed both of these chemicals from the EPCRA Section 313 List of Toxic Chemicals in response to delisting petitions. Consequently, the Agency examined these chemicals more closely to determine whether to continue to include them on the draft RCRA PBT List. The Agency decided to remove di-n-octyl phthalate from the draft RCRA PBT List because data developed in response to that delisting petition indicated that the human and ecological toxicity data were not conclusive. However, EPA has retained butyl benzyl phthalate on the draft RCRA PBT List because the ecological toxicity criteria considered for delisting from the EPCRA list were different than the criteria used in the WMPT for determining high levels of concern for ecological toxicity.

5. Hexachlorocyclohexane Isomers

The Agency removed the alpha, beta, and delta hexachlorocyclohexane isomers and retained the gamma isomer. The gamma isomer is believed to be the predominant PBT isomer in waste streams, and achieving waste minimization for this isomer would result in reductions in the other isomers as well.

IV. EPA's Draft RCRA Waste Minimization PBT Chemical List and Issues for Public Comment

A. Which Chemicals Are Included on the Draft RCRA PBT List?

Table 5 below presents EPA's draft RCRA PBT List. The chemicals are listed in alphabetical order. No rank ordering is intended in this List, and, in fact, the List treats these chemicals as equal environmental priorities. The Chemical Abstract Service Registry Number (CASRN) is also shown, where available.

TABLE 5.—DRAFT RCRA PBT LIST

	CASRN
Dioxins and Furans:	

[20] U.S. EPA. 1997. Great Lakes Binational Toxics Strategy. Great Lakes National Program Office, Chicago, IL. www.epa.gov/grtlakes/p2/bnsintro.html

[21] These four chemicals include hexachlorobenzene, mercury and compounds, PCBs, and benzo(a)pyrene. PCBs were subsequently removed from the proposed RCRA PBT List (see discussion below), and benzo(a)pyrene was included in the category polycyclic aromatic hydrocarbons.

[22] The eight banned pesticides include aldrin, dieldrin, chlordane, DDT, DDD, DDE, toxaphene, and mirex.

TABLE 5.—DRAFT RCRA PBT LIST—Continued

	CASRN
Dioxins (PCDD)	
Furans (PCDF)	
Chlorinated Solvents:	
Chloroform	67–66–3
1,1-Dichloroethane	75–34–3
1,1,1-Trichloroethane	71–55–6
Chlorobenzenes:	
1,2-Dichlorobenzene	95–50–1
1,3-Dichlorobenzene	541–73–1
1,4-Dichlorobenzene	106–46–7
1,2,4-Trichlorobenzene	120–82–1
1,2,4,5-Tetrachlorobenzene	95–94–3
Pentachlorobenzene	608–93–5
Hexachlorobenzene	118–74–1
Other Halogenated Organics:	
4-Bromophenyl phenyl ether	101–55–3
Hexachlorobutadiene	87–68–3
Octachlorostyrene	29082–74–4
Pesticides	
alpha-Endosulfan	959–98–8
beta-Endosulfan	33213–65–9
Heptachlor	76–44–8
Heptachlor epoxide	1024–57–3
gamma-Hexachlorocyclohexane	58–89–9
Methoxychlor	72–43–5
Pentachloronitrobenzene	82–68–8
Pentachlorophenol	87–86–5
2,4,5-Trichlorophenol	95–95–4
Organonitrogens:	
Nitrobenzene	98–95–3
Nonhalogenated Phenolics:	
Phenol	108–95–2
2,4,6-tris-(1,1-Dimethylethyl)phenol	732–26–3
Phthalate esters:	
Bis-(2-ethylhexyl) phthalate	117–81–7
Butylbenzyl phthalate	85–68–7
Dibutyl phthalate	84–74–2
Polycyclic aromatic hydrocarbons**:	
Acenaphthene	83–32–9
Acenapthylene	208–96–8
Anthracene	120–12–7
Benzo(g,h,I)perylene	191–24–2
Fluoranthene	206–44–0
Fluorene	86–73–7
2-Methylnaphthalene	91–57–6
Naphthalene	91–20–3
PAH group (as defined in TRI).	
Phenanthrene	85–01–8
Pyrene	129–00–0
Metals	
Antimony	7440–36–0
Arsenic	7440–38–2
Beryllium	7440–41–7
Cadmium	7440–43–9
Chromium	7440–47–3
Copper	7440–50–8
Lead	7439–92–1
Mercury	7439–97–6
Nickel	7440–02–0
Selenium	7782–49–2
Zinc	7440–66–6
Cyanide	57–12–5

** The Toxics Release Inventory reports some polycyclic aromatic hydrocarbons (PAHs) as a group, and reports other PAHs individually. The 10 individual PAHs listed in this table are not included in the TRI PAH group. See the *Screening Report* for a list of PAHs included in the TRI PAH group.

B. What Issues is EPA Requesting Public Comment On?

The Agency welcomes public comment on any aspect of the methodology used to develop the draft RCRA PBT List, including the data sources, ranking criteria and scoring schemes, the cutoff criteria, and the final adjustments to the List. The Agency also requests comment on the specific issues listed below. The Agency is not requesting comment on the data or methodology used to develop the WMPT, or the scoring results of the WMPT. The WMPT went through a thorough, comprehensive and constructive public review and comment process. EPA has incorporated its response to those comments in the underpinnings of today's notice and therefore does not believe comments regarding the WMPT are generally pertinent to this effort.

Specific issues for comment include:

1. Banned Chemicals

Is it appropriate to eliminate chemicals from consideration for the draft RCRA PBT List because they are no longer used in production or generated in hazardous waste, or are generated in very limited quantities from very few production processes, and therefore are not good candidates for future reductions through waste minimization? Is it appropriate to eliminate banned pesticides, PCBs, and alkyl lead for this reason, as the Agency has done in developing the List?

2. Waste Minimization Feasibility

Should the agency eliminate from consideration PBT chemicals contained in hazardous waste for which there are few feasible waste minimization options available, or should the agency consider these as an incentive to encourage research and development of waste minimization methods for these chemicals?

3. "Non-measurable" Chemicals

The draft RCRA PBT List includes 16 chemicals that were reported in the National Hazardous Waste Constituent Survey but are not reported in the Toxics Release Inventory, and therefore, cannot be easily tracked over time. Is it appropriate to include on the List chemicals for that TRI data, or other annual chemical-specific data, are not readily available for tracking national chemical reduction progress? Are there other reliable national sources of chemical reporting data that could be used to track generation and reductions of these chemicals?

4. Chemicals With Very High P, B, and/or T Values

Should chemicals with very high data values for persistence, bioaccumulation potential, human toxicity, and/or ecological toxicity (e.g., with values at the top end of the data distributions) be considered for addition to the RCRA PBT List, even though TRI data are not available for tracking progress? How would progress be measured for these chemicals?

5. Chemicals With Low Reported Quantities

Several chemicals on the RCRA PBT List are estimated in the National Hazardous Waste Constituent Survey to be generated in quantities of less than 100 pounds per year. The Agency did not use a specific quantity cutoff in developing the RCRA PBT List. Should a quantity cutoff be used? If so, what is the appropriate value for the cutoff? Should different cutoffs be used for chemicals which are the most toxic compared to others which are less toxic? If so, what should those cutoffs be?

6. Priorities Identified by Other Organizations.

Should EPA add to the RCRA PBT List State or other organization's priority chemicals which do not already appear on the List? Among these chemicals, should those with low or no PBT scores (e.g., waste solvents), or those with low or no chemical quantities (e.g., some Level 1 U.S./Canada Binational Agreement chemicals) be included? A list of chemical priorities identified by several States is located in RCRA docket number F–98–MMLP–FFFFF.

7. Including Recycled Wastes in Determining Quantities of RCRA-Relevant Waste Associated with Chemicals

In considering the quantity and prevalence of candidates for the RCRA PBT List (step C.4 above), the Agency included quantities that were recycled in its scoring procedure. Should recycled quantities be included when determining the quantities of chemicals associated with hazardous wastes in developing the RCRA PBT List, or should EPA measure chemicals only at the point of generation?

Dated: October 30, 1998.

Elizabeth A. Cotsworth,

Acting Director, Office of Solid Waste.

[FR Doc. 98–29952 Filed 11–6–98; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board

Sunshine Act Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on November 12, 1998, from 9:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of this meeting will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

—October 8, 1998 (Open and Closed)

B. New Business

1. Regulation

—Balloting and Stockholder Reconsideration Issues (Final) [12 CFR Part 611]

2. Other

—Statement on Regulatory Burden (Notice of Intent; Comment Period Extension)

Closed Session*

C. Report

—OSMO Report

* Session Closed—Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

Date: November 5, 1998.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 98–30102 Filed 11–5–98; 1:18 pm]

BILLING CODE 6705–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

AGENCY: Federal Election Commission.

TE & TIME: *Thursday, November 12, 1998 at 10:00 a.m.*

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Advisory Opinion 1998–22: Leo Smith.

Advisory Opinion 1998–23: Status of Maine Green Party as State Committee.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer; telephone: (202) 694–1220.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 98–30064 Filed 11–5–98; 12:00 pm]

BILLING CODE 6715–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Project Impact: Building Disaster Resistant Communities

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of Funds and Grant Availability.

SUMMARY: FEMA gives notice of the availability of $30 million of appropriated grant funds to Project Impact communities and States with Project Impact communities.

DATES: Grant funds are available as of November 9, 1998.

ADDRESSES: Approved communities and States with approved Project Impact communities that have not already received grant application materials should contact: Sylvia Carroll, Federal Emergency Management Agency, 500 C Street, SW., room 350, Washington, DC 20472, 202–646–3503 or (email) sylvia.carroll@fema.gov.

FOR FURTHER INFORMATION CONTACT: Carol Transou, Federal Emergency Management Agency, 500 C Street, SW., room 402, Washington, DC 20472, (202) 646–3701, (telefax)(202) 646–3231, or (email) carol.transou@fema.gov.

SUPPLEMENTARY INFORMATION: Under Public Law 105–65, 111 Stat. 1376, Department of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriation Act, 1998, we are issuing today a Request for Applications (RFA) to implement a $30 million grant program that is limited to Project Impact communities and to States with Project Impact communities.

Community Grants

The community grant is available to designated Project Impact communities to facilitate the development and implementation of a comprehensive, long-term mitigation strategy through collaboration with private sector and non-profit organizations, and with local, State and Federal government partners. Within this framework, the community grant is to fund prevention projects that result in long-term reductions in property damage as well as contribute to the sustainability of the partnership.

State Grants

The State grant is available to States with a Project Impact community through the FEMA Performance Partnership Agreement/Cooperative Agreement process for activities that directly support Project Impact communities.

Who Is Eligible for Grants?

The community which a State has designated, with FEMA concurrence, as a Project Impact community is eligible for a community grant. Each State with a Project Impact community is eligible for a state grant.

What Are Mitigation Measures?

Mitigation measures generally are those projects and actions that reduce the potential losses to life and property from natural hazard events in a permanent or long-term manner. Communities shall categorize mitigation projects as: mitigation for existing structures; or mitigation of existing utility facilities or systems that are publicly owned and operated on a non-profit basis. Communities shall categorize measures to support mitigation goals as: (1) Adoption of policies or practices for mitigation in existing structures, new development, or redevelopment; (2) Activities that help build or sustain public/private partnerships; (3) Hazard identification and risk assessment; (4) Hazard mitigation planning and development of codes and standards; and (5) Personnel support.

What Is the Process for Applying?

For designated community assistance, communities must submit a grant application package to FEMA. FEMA regions will work with the communities to complete this application package. The community shall submit the application to the FEMA Regional Director by November 6, 1998. The Regional Director or his/her designee can grant an extension of up to 90 days upon receipt of a written justification/request from the community.

For State funding assistance, the State with a Project Impact community must submit a letter or memorandum to the Regional Director indicating its desire for funds to support the Project Impact community and its agreement to convene State-wide support for comprehensive mitigation.

What Criteria Will FEMA Apply to Grant Applications?

For a designated community, we will review and negotiate with the local jurisdiction to determine whether the proposed activities would: (1) reduce the likelihood of future disaster costs under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and (2) help sustain the community's momentum in broad-based mitigation efforts. Activities the community may pursue are described in the previous section entitled "What are Mitigation Measures."

A State with a Project Impact community must agree to use the funds in direct support of the Project Impact community and to convene statewide support for comprehensive hazard mitigation. For example, a State may use the FEMA funding to support Project Impact communities:

- To fund State activities in direct support of Project Impact communities such as costs associated with logistics and meetings, staff support, and travel costs to meetings with the community or to FEMA Project Impact meetings;
- To fund training costs, including to train State officials supporting Project Impact and to develop training packages for State and local officials;
- To provide mini-grants to Project Impact communities to augment or expedite Project Impact activities;
- To fund travel of local community officials to other communities, State meetings or national conferences at State request to share Project Impact information;
- To fund State costs in information development and dissemination to support Project Impact;
- To fund expert, short-term technical assistance support to Project Impact communities.

Dated: October 29, 1998.

Michael J. Armstrong,

Associate Director, Mitigation Directorate.

[FR Doc. 98–29980 Filed 11–6–98; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL MARITIME COMMISSION

[Docket No. 98–19]

Saeid B. Maralan (aka Sam Bustani), World Line Shipping, Inc. d/b/a World Line Shipping and World Line Shipping International Shipping Co. and Atlas World Line, Inc. d/b/a Atlas World Line and Atlas World Line International Shipping Co.—Possible Violations of Sections 8(a)(1), 10(b)(1), 19(a) and 23(a) of the Shipping Act of 1984; Order of Investigation and Hearing

World Line Shipping, Inc., also doing business as World Line Shipping and World Line Shipping International Shipping Co., is a tariffed and bonded non-vessel-operating common carrier ("NVOCC"), and holds itself out as an NVOCC pursuant to its ATFI tariff FMC No. 015099–001, effective November 20, 1997. World Line Shipping, Inc. currently maintains an NVOCC bond, No. 8941513, in the amount of $50,000 with Washington International Insurance Company. World Line Shipping, Inc. was incorporated in Delaware on September 12, 1997 and in California on April 29, 1998. Saeid B. Maralan (aka Sam Bustani) ("Bustani") is the President and sole stock owner of World Line Shipping, Inc. Although Bustani uses World Line Shipping and World Line Shipping International Shipping Co. as d/b/a's, the tariff for World Line Shipping, Inc. does not list any of these company names.

Atlas World Line, Inc., also doing business as Atlas World Line and Atlas World Line International Shipping Co., is a non-tariffed and non-bonded NVOCC located at 14415 S. Main Street, Gardena, CA 90248. Atlas World Line, Inc. was incorporated in Delaware on August 29, 1996 and in California on January 6, 1997. It appears that the Delaware corporation is no longer an active entity, but the California corporation remains active. Bustani is the President and sole stock holder of Atlas World Line, Inc.

It appears that from at least March 30, 1997 until April 21, 1998, Bustani has provided ocean transportation services to the public for shipments from the United States to foreign countries, consisting mostly of household goods, personal effects and automobiles. Bustani, using numerous company names, appears to dispatch shipments via ocean common carriers, arrange for the transportation of shipments on behalf of shippers, and prepare documentation consisting of bills of lading and export documents. Shippers appear to look to Bustani and his companies for the delivery of shipments. Therefore, it appears Bustani and his companies hold themselves out to perform transportation to the public and accept responsibility for the transportation of shipments. Shipments are contracted with ocean common carriers under the names of actual shippers as well as under the names of Atlas World Line, Inc., Atlas World Line, Atlas World Line International Shipping Company, World Line Shipping, Inc., World Line Shipping and World Line Shipping International Shipping Company.

Section 8(a) of the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. 1707(a), provides that each common carrier must file a tariff with the Commission showing all of its rates, charges, classifications, rules and practices. Section 3(6) of the 1984 Act, 46 U.S.C. app. 1702(6), in pertinent part, defines a common carrier as a person holding out to the public to provide transportation by water between the United States and a foreign country, that assumes responsibility for performing the transportation and utilizes a vessel operating on the high seas for providing the transportation. Section 3(17) of the 1984 Act, 46 U.S.C. 1702(17), defines a non-vessel-operating common carrier ("NVOCC") as a common carrier that does not operate the vessels used in providing the ocean transportation and acts as the shipper in relation with the ocean common carrier. Section 23(a) of the 1984 Act, 46 U.S.C. app. 1721(a), further provides that each NVOCC must furnish to the Commission a bond, proof of insurance or other surety, *inter alia*, to insure the financial responsibility of the carrier to pay any judgment for damages arising from its transportation-related activities. According to the records maintained by the Commission's Bureau of Tariffs, Certification and Licensing, no tariff or bond has been filed with the Commission in the name of Saeid Maralan, or his alias Sam Bustani, Atlas World Line, Inc., Atlas World Line or Atlas World Line International Shipping Company. Therefore, it appears that Bustani, by providing ocean transportation of cargo to the public for shipments between the United States and foreign countries and by contracting as a shipper for the carriage of the cargo, has acted as a NVOCC without a tariff or bond on file with the Commission, in violation of sections 8(a) and 23(a) of the 1984 Act.

Section 10(b)(1) of the 1984 Act, 46 U.S.C. app. 1709(b)(1), prohibits a common carrier from charging, collecting or receiving greater, less or different compensation for the transportation of property that the rates set forth in its tariff. It appears that World Line Shipping, Inc. failed to file a commodity rate for numerous shipments, and in other instances did not charge the rates set forth in its tariff.

Section 19(a) of the 1984 Act, 46 U.S.C. app. 1718(a), provides that no person may act as an ocean freight forwarder unless that person has obtained a license from the Commission. Section 3(19) of the 1984 Act, 46 U.S.C. app. 1702(19), defines an ocean freight forwarder as a person in the United States that dispatches shipments from the United States to a foreign country via common carriers, books or otherwise arranges space for such shipments on behalf of shippers, and processes the documentation or performs related activities incident to those shipments. In order to obtain an ocean freight forwarder license, a forwarder must furnish to the Commission a bond to insure the financial responsibility of the forwarder, and the Commission must determine that the forwarder is qualified by experience and character to render forwarding services. According to a review of records maintained by the Commission's Bureau of Tariffs, Certification and Licensing, no ocean freight forwarder license has been issued in the name of Saeid Maralan or his alias name, Sam Bustani. Therefore, it would appear that Bustani, by dispatching shipments, by booking or otherwise arranging space for the shipments, and by processing documentation incident to ocean shipments made on behalf of others from the United States, has acted as an ocean freight forwarder without a license issued by the Commission in violation of section 19(a) of the 1984 Act.

Section 13 of the 1984 Act, 46 U.S.C. app. 1712, provides that a person is subject to a civil penalty of not more than $25,000 for each violation knowingly and willfully committed, and not more than $5,000 for other violations.[1] Section 13 further provides that a common carrier's tariff may be suspended for violations of section 10(b)(1) for a period not to exceed one year.

Now therefore, it is ordered, That pursuant to sections 8, 10, 11, 13, 19 and 23 of the 1984 Act, 46 U.S.C. app. 1707, 1709, 1710, 1718 and 1721, an investigation is instituted to determine whether Saeid B. Maralan (aka Sam Bustani), World Line Shipping, Inc. d/b/a/ World Line Shipping and World

[1] The maximum penalties are raised by 10 percent for violations occurring after November 7, 1996. See Inflation Adjustment of Civil Monetary Penalties, 27 S.R.R. 809 (1996).

Line Shipping International Shipping Co. and Atlas World Line, Inc. d/b/a Atlas World Line and Atlas World Line International Shipping Co.:

(1) Violated sections 8(a) and 23(a) of the 1984 Act by acting as a NVOCC without a tariff and bond on file with the Commission;

(2) Violated section 10(b)(1) of the 1984 Act by charging, demanding, collecting or receiving less or different compensation for the transportation of property than the rates and charges showing in World Line Shipping, Inc.'s NVOCC tariff;

(3) Violated section 19(a) of the 1984 Act by acting as an ocean freight forwarder without a license issued by the Commission;

(4) Whether in the event violations of sections 8(a), 10(b)(1), 19(a) or 23(a) of the 1984 Act are found, civil penalties should be assessed against respondents, and if so, the amount of penalties to be assessed;

(5) Whether, in the event violations of section 10(b)(1) are found, the tariff of World Line Shipping, Inc. should be suspended; and

(6) Whether, in the event violations are found, an appropriate cease and desist order should be issued.

It is further ordered, That a public hearing be held in this proceeding and that this matter be assigned for hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges in compliance with Rule 61 of the Commission's rules of practice and procedure, 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Administrative Law Judge only after consideration has been given by the parties and the Presiding Administrative Law Judge to the use of alternative forms of dispute resolution, and upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

It is further ordered, that Saeid B. Maralan (aka Sam Bustani), World Line Shipping, Inc. d/b/a World Line Shipping and World Line Shipping International Shipping Co. and Atlas World Line, Inc. d/b/a Atlas World Line and Atlas World Line International Shipping Co. are designated as Respondents in this proceeding;

It is further ordered, that the Commission's Bureau of Enforcement is designated a party to this proceeding;

It is further ordered, that notice of this Order be published in the **Federal Register**, and a copy be served on parties of record;

It is further ordered, that other persons having an interest in participating in this proceeding may file petitions for leave to intervene in accordance with Rule 72 of the Commission's rules of practice and procedure, 46 CFR 502.72;

It is further ordered, that all further notices, orders and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be served on parties of record;

It is further ordered, that all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573, in accordance with Rule 118 of the Commission's rules of practice and procedure, 46 CFR 502.118, and shall be served on parties of record; and

It is further ordered, that in accordance with Rule 61 of the Commission's rules of practice and procedures, the initial decision of the Administrative Law Judge shall be issued by November 2, 1999 and the final decision of the Commission shall be issued by March 2, 2000.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 98–29739 Filed 11–6–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 98-28023) published on pages 56033 and 56034 of the issue for Tuesday, October 20, 1998.

Under the Federal Reserve Bank of Cleveland heading, the entry for First Merit Corporation, Akron, Ohio, is revised to read as follows:

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. FirstMerit Corporation, Akron, Ohio; to acquire 100 percent of the voting shares of Signal Corp., Wooster, Ohio, and thereby indirectly acquire Signal Bank, N.A., Wooster, Ohio; Summit Bank, N.A., Akron, Ohio, and NC Interim National Bank, Wooster, Ohio (in formation, successor to First Federal Savings Bank, New Castle, Pennsylvania).

In connection with this application, Applicant also has applied to acquire First Federal Savings Bank of New Castle, New Castle, Pennsylvania, and thereby engage in permissible savings association activities, pursuant to § 225.28(b)(4)(ii) of Regulation Y; Mobile Consultants, Inc., Alliance, Ohio, and thereby engage in brokering manufactured home loans to and on behalf of financial institutions and provides collection and recovery services on such loans, pursuant to §§ 225.28(b)(1) and (b)(2) of Regulation Y; and Summit Banc Investments Corp., Fairlawn, Ohio (a registered broker-dealer with NASD), and thereby engage in acting as an investment advisor, and providing securities brokerage services, pursuant to §§ 225.28(b)(6) and (b)(7) of Regulation Y.

Comments on this application must be received by November 12, 1998.

Board of Governors of the Federal Reserve System, November 3, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–29893 Filed 11–6–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 3, 1998.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. Sun Bancorp, Vineland, New Jersey; to acquire 100 percent of the voting shares of Sun National Bank, Delaware, Wilmington, Pennsylvania.

B. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Fifth Third Bancorp, Cincinnati, Ohio; to merge with Ashland Bankshares, Inc., Ashland, Kentucky, and thereby indirectly acquire Bank of Ashland, Inc., Ashland, Kentucky.

C. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Union Bankshares Corporation, Bowling Green, Virginia; to acquire 100 percent of the voting shares of The Bank of Williamsburg, Williamsburg, Virginia (in organization).

D. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Norwest Corporation, Minneapolis, Minnesota; Norwest Financial Services, Inc., Des Moines, Iowa; and Norwest Financial, Inc., Des Moines, Iowa; to convert Dial National Bank, Des Moines, Iowa, which currently operates as a credit card bank, pursuant to § 4(c)(8) of the Bank Holding Company Act.

Board of Governors of the Federal Reserve System, November 3, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–29895 Filed 11–6–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 23, 1998.

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Norwest Corporation, Minneapolis, Minnesota; Norwest Financial Services, Inc., Des Moines, Iowa; and Norwest Financial, Inc., Des Moines, Iowa; to acquire Mid-Penn Consumer Discount Co., Philadelphia, Pennsylvania, and thereby engage in lending activities, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, November 3, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–29894 Filed 11–6–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

TIME AND DATE: 9:00 a.m., Thursday, November 12, 1998.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: November 5, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–30065 Filed 11–5–98; 11:37 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 9810254]

Koninklijke Ahold NV, et al.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before January 8, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: William Baer or James Fishkin, FTC/H-374, Washington, D.C. 20580. (202) 326–2932 or 326–2663.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the

full text of the consent agreement package can be obtained from the FTC Home Page (for October 20, 1998), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of the Proposed Consent Order, Asset Maintenance Agreement, and the Draft Complaint To Aid Public Comment

I. Introduction

The Federal Trade Commission ("Commission") has accepted for public comment from Koninklijke Ahold nv ("Ahold"), Giant Good Inc. ("Giant"), and The 1244 Corporation ("1224") (collectively "the proposed Respondents") an Agreement Containing Consent Order ("the proposed consent order") and an Asset Maintenance Agreement. The proposed Respondents have also reviewed a draft complaint contemplated by the Commission. The proposed consent order is designed to remedy likely anticompetitive effects arising from Ahold's proposed acquisition of all of the Class AC voting stock of Giant from 1224 and all of the Class A non-voting common stock of Giant for $43.50 per share for cash. Respondent 1224 owns all of the Class AC voting stock of Giant, which elects five of the nine directors of Giant.

II. Description of the Parties and the Proposed Acquisition

Ahold, headquartered in Zaandam, The Netherlands, is one of the world's largest supermarket firms, operating approximately 3,000 stores in Europe, North and South America, and Asia. In the United States, Ahold is the seventh largest supermarket chain. Ahold has acquired nine supermarket chains during the 1980s and 1990s: Top's, Stop & Shop, BI–LO, Giant Food Stores, Edwards, Mel's Markets, Mayfair, Red Food, and Finast. Ahold had $14.29 billion in U.S. revenues in the fiscal year that ended on December 28, 1997. The acquisition of Giant would make Ahold the fifth largest supermarket firm in the United States.

Today, Ahold operates Ahold USA, Inc., a wholly-owned subsidiary, and, through various restructurings, four wholly-owned regional supermarket firms: BI–LO, Inc., Top's Markets, Inc., Giant Food Stores, Inc. ("Giant-Carlisle"), and The Stop & Shop Companies, Inc. Ahold's supermarkets that directly compete against Giant's supermarkets are part of the Giant-Carlisle division. The Giant-Carlisle division operates supermarkets in Maryland under the "Martin's" trade name and in Pennsylvania under the "Giant" trade name.

Giant, a Delaware corporation headquartered in Landover, Maryland, is the fifteenth largest supermarket chain in the United States and one of the nation's premier regional supermarket chains. Giant operates 179 supermarkets and three free-standing drug stores in Virginia, Maryland, Delaware, New Jersey, Pennsylvania, and the District of Columbia. Giant operates supermarkets under the "Giant" trade name in Maryland, Virginia, and the District of Columbia, and supermarkets under the "Super G" trade name in Delaware, New Jersey, and Pennsylvania. Giant had $4.23 billion in total sales for the fiscal year that ended on February 28, 1998.

Ahold proposes to acquire all of the Class AC and Class AL voting stock, and all of the outstanding Class A common stock of Giant, for approximately $2.7 billion. 1224, formed in 1995 after the death of Israel Cohen, the former Chairman and CEO of Giant, owns all of the Class AC voting stock of Giant, which elects five of the nine board seats. J Sainsbury, plc, a British firm that also owns the Massachusetts-based Shaw's supermarket chain, owns the Class AL voting shares, which elects four of the nine board seats. The Class A common stock is publicly traded.

III. The Draft Complaint

The draft complaint alleges that the relevant line of commerce (i.e., the product market) is the retail sale of food and grocery items in supermarkets. Supermarkets provide a distinct set of products and services for consumers who desire to one-stop shop for food and grocery products. Supermarkets carry a full line and wide selection of both food and nonfood products (typically more than 10,000 different stock-keeping units ("SKUs")), as well as a deep inventory of those SKUs. In order to accommodate the large number of food and nonfood products necessary for one-stop shopping, supermarkets are large stores that typically have at least 10,000 square foot of selling space.

Supermarkets compete primarily with other supermarkets that provide one-stop shopping for food and grocery products. Supermarkets primarily base their food and grocery prices on the prices of food and grocery products sold at nearby supermarkets. Supermarkets do not regularly price-check food and grocery products sold at other types of stores, and do not significantly change their food and grocery prices in response to prices at other types of stores. Most consumers shopping for food and grocery products at supermarkets are not likely to shop elsewhere in response to a small price increase by supermarkets.

Retail stores other than supermarkets that sell food and grocery products, such as neighborhood "mom & pop" grocery stores, convenience stores, specialty food stores (e.g., seafood markets, bakeries, etc.), club stores, military commissaries, and mass merchants, do not effectively constrain prices at supermarkets. These other stores operate significantly different retail formats. None of these stores offers a supermarket's distinct set of products and services that enable consumers to one-stop shop for food and grocery products.

According to the draft compliant, the relevant sections of the country (i.e., the geographic markets) in which to analyze the acquisition are the areas in and near the following cities and towns: (a) Bel Air, Maryland; (b) Eldersburg, Maryland; (c) Frederick, Maryland; (d) Westminster, Maryland; (e) Hilltown, Pennsylvania; (f) Norristown, Pennsylvania; (g) Warminster, Pennsylvania, and (h) Yardley, Pennsylvania.

Ahold and Giant are actual and direct competitors in and near Bel Air, Eldersburg, Frederick, Westminster, Norristown, Warminster, and Yardley. Ahold is an actual potential competitor against Giant in and near the Hilltown relevant market. But for the acquisition, Ahold and Giant would become direct competitors in the Hilltown relevant market. The acquisition will eliminate that competition.

According to the draft compliant, the Bel Air, Eldersburg, Frederick, Westminster, Norristown, Warminster, and Yardley relevant markets are highly concentrated, whether measured by the Herfindahl-Hirshman Index (commonly referred to as "HHI") or by two-firm and four-firm concentration ratios.[1] The acquisition would substantially increase concentration in each market. Ahold and Giant would have a combined market share of near or greater than 35% in each geographic market. The post-acquisition HHIs in the geographic markets range from 3,008 to 6,716.

[1] The HHI is a measurement of market concentration calculated by summing the squares of the individual market shares of all the participants.

The draft complaint further alleges that the Hilltown relevant market is also highly concentrated. The market will remain highly concentrated as a result of this acquisition, and will be significantly more concentrated than it would have been but for the acquisition.

According to the draft complaint, entry is difficult and would not be timely, likely, or sufficient to prevent anticompetitive effects in the relevant geographic markets.

According to the draft compliant, Ahold's proposed acquisition of the Class AC voting stock of Giant from 1224, and the Class A non-voting common stock of Giant, if consummated, may substantially lessen competition in the relevant markets in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, by eliminating direct competition between supermarkets owned or controlled by Ahold and supermarkets owned or controlled by Giant, by eliminating actual potential competition between supermarkets owned or controlled by Ahold and supermarkets owned or controlled by Giant; by increasing the likelihood that Ahold will unilaterally exercise market power; and by increasing the likelihood of, or facilitating, collusion or coordinated interaction among the remaining supermarkets firms. Each of these effects increases the likelihood that the prices of food, groceries or services will increase, and the quality and selection of food, groceries or services will decrease, in the relevant sections of the country.

IV. Terms of the Agreement Containing Consent Order ("the Proposed Consent Order")

The proposed consent order will remedy the Commission's competitive concerns about the proposed acquisition. Under the terms of the proposed consent order, the proposed Respondents must divest ten specific supermarkets in the relevant markets. Four of the supermarkets that the proposed Respondents must divest are currently owned and operated by Ahold (all operating under the "Martin's" banner), and six of the supermarkets are currently owned and operated by Giant (of which one operates under the "Giant" banner and five operate under the "Super G" banner). The proposed Respondents must divest: (1) the Ahold "Martin's" in Bel Air, Maryland, to Fleming Companies, Inc. ("Fleming"), the second largest supermarket wholesaler in the United States and an operator of many company-owned supermarkets; (2) the two Ahold "Martin's" supermarkets in Frederick, Maryland, to Frederick County Foods LLC ("Frederick County Foods"), an independent operator affiliated with Supervalu Inc. ("Supervalu"), (3) the Ahold "Martin's" supermarket in Westminster, Maryland, to Richfood Holdings, Inc.'s ("Richfood") Food-A-Rama division, a wholly-owned subsidiary that operates Richfood's "Metro" supermarkets based in Baltimore; (4) Giant's "Giant" supermarket in Eldersburg, Maryland, to Safeway Inc. ("Safeway"), the second largest supermarket chain in the United States and a major supermarket chain in Maryland; and (5) five of Giant's "Super G" supermarkets in Pennsylvania to Supervalu, the largest wholesaler to supermarkets and the thirteenth largest retail operator of supermarkets in the United States. These divestitures include every Ahold supermarket or every Giant supermarket in each relevant market. Each upfront buyer owns no supermarkets in the same market where it is acquiring one or more divested supermarkets from the proposed Respondents. The specific supermarkets that the proposed Respondents must divest to Fleming, Frederick County Foods, Richfood, Safeway, and Supervalu are listed below.

The supermarket that the proposed Respondents must divest to Fleming in accordance with the agreement between Ahold and Fleming dated September 12, 1998, is the following:

1. Ahold store no. 114 operating under the "Martin's Food Market" trade name, located at 550 West McPhail Road, Bel Air, Maryland 21014 (Harford County).

The two supermarkets that the proposed Respondents must divest to Frederick County Foods in accordance with the agreement between Ahold and Frederick County Foods dated September 11, 1998, are the following:

1. Ahold store no. 40 operating under the "Martin's Food Market" trade name, located at 66 Waverly Drive in the Frederick Towne Mall Shopping Center, Frederick, Maryland 21701 (Frederick County); and

2. Ahold store no. 96 operating under the "Martin's Food Market" trade name, located at 1305 West 7th Street in the Frederick Shopping Center, Frederick, Maryland 21701 (Frederick County).

The supermarket that the proposed Respondents must divest to Richfood in accordance with the agreement between Ahold and Richfood dated September 14, 1998, is the following:

1. Ahold store no. 36 operating under the "Martin's Food Market" trade name, located at 551 Jermor Lane, Westminster, Maryland 21157 (Carroll County).

The supermarket that the proposed Respondents must divest to Safeway in accordance with the agreement between Ahold and Safeway dated September 12, 1998, is the following:

1. Giant store no. 238 operating under the "Giant" trade name, located at 1313 Londontowne Boulevard in the Londontowne Square Shopping Center, Eldersburg, Maryland 21784 (Carroll County).

The five supermarkets that the proposed Respondents must divest to Supervalu in accordance with the agreement between Ahold and Supervalu dated September 14, 1998, are the following:

1. Giant store no. 242 operating under the "Super G" trade name, located at 1601 Big Oak Road in the Oxford Oaks Shopping Center, Lower Makefield Township, Pennsylvania 19067 (Bucks County);

2. Giant store no. 249 operating under the "Super G" trade name, located at 942 West Street Road in the Towne Square Shopping Center, Warminster, Pennsylvania 18974 (Bucks County);

3. Giant store no. 237 operating under the "Super G" trade name, located at 1591 Bethlehem Pike in the Hilltown Crossings Shopping Center, Hilltown Township, Pennsylvania 19440 (Montgomery County);

4. Giant store no. 243 operating under the "Super G" trade name, located at 2775 West Main Street in the Park-Ridge Shopping Center, Lower Providence Township, Pennsylvania 19403 (Montgomery County); and

5. Giant store no. 250 operating under the "Super G" trade name, located at 55 Germantown Pike in the Norriton Square Shopping Center, East Norriton Township, Pennsylvania 19401 (Montgomery County).

The proposed consent order specifically requires that the divestitures occur no later than twenty days after Ahold acquires the Class AC voting stock from 1224 or four months after the proposed Respondents signed the proposed consent order (September 18, 1998), whichever is earlier.[2] The proposed consent agreement also requires Ahold to include rescission provisions in its upfront buyer agreements that allow it to rescind the transaction(s) if the Commission, after

[2] Acceptance of the proposed consent agreement for public comment terminated the Hart-Scott-Rodino premerger waiting period and enables Ahold to acquire the Giant stock immediately.

the comment period, decides to reject any of the upfront buyers. If Ahold divests the supermarkets to be divested prior to the date the proposed consent order becomes final, and if, at the time the Commission decides to make the proposed consent order final, the Commission notifies Ahold that any of the upfront buyers is not an acceptable acquirer or that any of the upfront buyer agreements is not an acceptable manner of divestiture, then Ahold must immediately rescind the transaction in question and divest those assets within three months after the proposed consent order becomes final. At that time, Ahold must divest those assets only to an acquirer that receives the prior approval of the Commission and only in a manner that receives the prior approval of the Commission. In the event that any Commission-approved buyer is unable to take or keep possession of any of the supermarkets identified for divestiture, a trustee that the Commission may appoint has the power to divest any of the supermarkets or properties in the markets alleged in Paragraph 16 of the complaint that the proposed Respondents own to remedy the anticompetitive effects alleged in the complaint.

The Commission's goal in evaluating possible purchasers of divested assets is to maintain the competitive environment that existed prior to the acquisition. When divestiture is an appropriate remedy for a supermarket merger, the Commission requires the merging parties to find a buyer for the divested stores. A proposed buyer must not itself present competitive problems. For example, the Commission is less likely to approve a buyer that already has a large retail presence in the relevant geographic area than a buyer without such a presence. The Commission is satisfied that the purchasers presented by the parties are well qualified to run the divested stores and that divestiture to these purchasers poses no separate competitive issues.

For a period of ten years from the date the proposed consent order becomes final, the proposed Respondents are required to provide notice to the Commission prior to acquiring supermarkets assets located in, or any interest (such as stock) in any entity that owns or operates a supermarket located in, Carroll, Frederick, or Harford counties in Maryland, or Bucks or Montgomery counties in Pennsylvania. Respondents may not complete such an acquisition until they have provided information requested by the Commission. This provision does not restrict the proposed Respondents from constructing new supermarket facilities on their own; nor does it restrict the proposed Respondents from leasing facilities not operated as supermarkets within the previous six months.

For a period of ten years, the proposed consent order also prohibits the proposed Respondents from entering into or enforcing any agreement that restricts the ability of any person that acquires any supermarket, any leasehold interest in any supermarket, or any interest in any retail location used as a supermarket on or after January 1, 1998, to operate a supermarket at that site if such supermarket was formerly owned or operated by the proposed Respondents in Carroll, Frederick, or Harford counties in Maryland, or Bucks or Montgomery counties in Pennsylvania. In addition, the proposed Respondents may not remove fixtures or equipment from a store or property owned or leased in Carroll, Frederick, or Harford counties in Maryland, or Bucks or Montgomery counties in Pennsylvania, that is no longer in operation as a supermarket, except (1) Prior to a sale, sublease, assignment, or change in occupancy or (2) to relocate such fixtures or equipment in the ordinary course of business to any other supermarket owned or operated by Ahold.

The proposed Respondents are required to provide to the Commission a report of compliance with the proposed consent order within thirty days following the date on which they signed the proposed consent, every thirty days thereafter until the divestitures are completed, and annually for a period of ten years. The obligations of 1224 under the proposed consent order will terminate upon consummation of the proposed acquisition.

V. Terms of the Asset Maintenance Agreement

The proposed Respondents also entered into an Asset Maintenance Agreement. Under the terms of the Asset Maintenance Agreement, from the time Ahold acquires the Class AC voting stock of Giant from 1224 until the divestitures have been completed, the proposed Respondents must maintain the viability, competitiveness and marketability of the assets to be divested, must not cause their wasting or deterioration, and cannot sell, transfer, or otherwise impair their marketability or viability. The Asset Maintenance Agreement specifies these obligations in detail. The obligations of 1224 under the Asset Maintenance Agreement will terminate upon consummation of the proposed acquisition.

VI. Opportunity for Public Comment

The proposed consent order has been placed on the public record for sixty days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make the proposed consent order final.

By accepting the proposed consent order subject to final approval, the Commission anticipates that the competitive problems alleged in the complaint will be resolved. The purpose of this analysis is to invite public comment on the proposed consent order, including the proposed sale of supermarkets to Fleming, Frederick County Foods, Richfood, Safeway, and Supervalu, in order to aid the Commission in its determination of whether to make the proposed consent order final. This analysis is not intended to constitute an official interpretation of the proposed consent order or the Asset Maintenance Agreement, nor is it intended to modify the terms of the proposed consent order or Asset Maintenance Agreement in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 98–29846 Filed 11–6–98; 8:45 am]

BILLING CODE 6750–01–M

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board; Publication of Exposure Drafts

SUMMARY: The Federal Accounting Standards Advisory Board (FASAB) announces the publication of the following three Exposure Drafts of proposed Statements of Federal Financial Accounting Standards and solicits comments on them:

- *Standards For Management's Discussion and Analysis*, October 1, 1998. Written comments to the Board are requested by January 4, 1999. The Office of Management and Budget expects to use these concepts and standards for MD&A in revising its guidance on the "Overview" section of financial reports.
- *Concepts For Management's Discussion and Analysis*, October 1, 1998. Written comments to the Board are requested by January 4, 1999. The Office of Management and Budget expects to use these concepts and standards for MD&A in revising its guidance on the "Overview" section of financial reports.
- *Recognition Of Contingent Liabilities Arising From Litigation: An Amendment of SFFAS 5, Accounting For Liabilities Of The Federal Government.* Written comments to the Board are requested by November 30, 1998. This Exposure Draft contains proposed standards that address accounting for loss contingencies involving specific cases of pending or potential litigation.

Interested parties are encouraged to comment on any issues related to these three documents. The text of the documents can be viewed through the electronic Financenet on the FASAB Home Page www.financenet.gov/fasab.htm. Hard copies may be obtained from FASAB, 441 G St., NW, Suite 3B18, Washington, DC 20548. Telephone: 202–512–7350.

FOR FURTHER INFORMATION CONTACT: Wendy Comes, Executive Director, 441 G St., NW., Room 3B18, Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. 92–463, sec. 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: November 4, 1998.

Wendy M. Comes,

Executive Director.

[FR Doc. 98–29946 Filed 11–6–98; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Ryan White Care Act Requirement—Secretary's Determination on HIV Testing of Newborns

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice and request for comments.

SUMMARY: Section 2626 of P.L. 104–146 (42 U.S.C. 300ff–34), the "Ryan White CARE Act Amendments of 1996", includes a requirement for the Secretary of HHS to make a determination whether a set of activities prescribed in section 2627 of the Public Health Service (PHS) Act (42 U.S.C. 300ff–35), have become routine practice in the United States. In making this determination, the Secretary is required to consult with the States and other public or private entities that have knowledge or expertise relevant to the determination.

The purpose of this notice is to request comments from States and such other public or private entities with knowledge or expertise relevant to the practice of activities (1) through (4) in section 2627 of the PHS Act (42 U.S.C. 300ff–35). After consideration of comments submitted, the CDC will provide a summary of comments received to the Secretary as part of the process leading to the Secretary's determination required by Section 2626 of the PHS Act (42 U.S.C. 300ff–34).

DATES: The public is invited to submit comments on the practice of activities (1) through (4) in Section 2627 of the PHS Act by November 23, 1998.

ADDRESSES: Comments should be submitted to: Technical Information and Communication Branch, Division of HIV/AIDS Prevention—Intervention, Research, and Support, National Center for HIV, STD and TB Prevention, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop E–49, Atlanta, GA 30333.

FOR FURTHER INFORMATION CONTACT: Technical Information and Communication Branch, Division of HIV/AIDS Prevention—Intervention, Research, and Support, National Center for HIV, STD and TB Prevention, Centers for Disease Control and Prevention (CDC), telephone (404) 639–2072.

SUPPLEMENTARY INFORMATION: Section 2626(d) of the Public Health Service Act (42 U.S.C. 300ff–34), directs the Secretary to publish in the **Federal Register** "a determination of whether it has become a routine practice in the provision of health care in the United States to carry out each of the activities described in paragraphs (1) through (5) of section 2627. In making the determination, the Secretary shall consult with the States and with other public or private entities that have knowledge or experience relevant to the determination." The activities described in section 2627 are as follows: "(1) In the case of newborn infants who are born in the State and whose biological mothers have not undergone prenatal testing for HIV disease, that each such infant undergo testing for such disease. (2) That the results of such testing of a newborn infant be promptly disclosed in accordance with the following, as applicable to the infant involved: (A) To the biological mother of the infant (without regard to whether she is the legal guardian of the infant). (B) If the State is the legal guardian of the infant: (i) To the appropriate official of the State agency with responsibility for the care of the infant. (ii) to the appropriate official of each authorized agency providing assistance in the placement of the infant. (iii) if the authorized agency is giving significant consideration to approving an individual as a foster parent of the infant, to the prospective adoptive parent. (iv) if the authorized agency is giving significant consideration to approving an individual as an adoptive parent of the infant to the prospective adoptive parent. (C) If neither the biological mother nor the State is the legal guardian of the infant, to another legal guardian of the infant. (D) To the child's health care provider. (3) That, in the case of prenatal testing for HIV disease that is conducted in the State, the results of such testing be promptly disclosed to the pregnant woman involved. (4) That, in disclosing the test results to an individual under paragraph (2) or (3), appropriate counseling on the human immunodeficiency virus be made available to the individual (except in the case of a disclosure to an official of a State or an authorized agency)." The requirement of Section 2627 (5) was deleted for the purposes of Section 2626 through a subsequent technical amendment enacted into law.

The term routine practice provided in section 2626 (d) was not defined within the statute of Public Law 104–146 (42 U.S.C. 300ff–34) . The joint explanatory statement of the committee on conference included the following legislative history on page 46 of the Conference Report 104–545 regarding the Secretary's determination: "(2) Within 2 years following the implementation of such a system, the Secretary will make a determination whether mandatory HIV testing of all infants born in the U.S. whose mothers have not undergone prenatal HIV testing has become a routine practice. This determination will be made in consultation with States and experts."

Section 2628 of the Public Health Service Act (42 U.S.C. 300ff–36) directs the Secretary to request that the Institute of Medicine (IOM) of the National Academy of Sciences evaluate the extent to which State efforts have been effective in reducing the perinatal transmission of HIV and an analysis of the existing barriers to the further reduction in such transmission. The IOM assembled a 14-member expert committee with combined expertise in obstetrics and gynecology, pediatrics, preventive medicine, and other relevant specialties, social and behavioral sciences, public health practice, epidemiology, program evaluation, health services research, bioethics, and public health law. The IOM committee

reviewed a wide variety of quantitative and qualitative information pertaining to the prevention of perinatal HIV transmission. To augment the committee's two public workshops and a series of site visits through which the committee consulted a wide array of state and local public health officials and other policy makers, health care providers, consumers, ethicists, advocacy groups for women and children with HIV and others affected and concerned with these policy issues.

This notice will build upon the testimony and material already provided to the IOM as part of its statutorily required evaluation by seeking any additional public comment beyond that already provided to the IOM as part of its consultative process. The purpose of this notice is not to duplicate the testimony, data or other information and background material already provided to the IOM committee through its workshops, site visits, and other information gathering and consultative activities.

Dated: November 3, 1998.

Jeffrey P. Koplan,

Director, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–29903 Filed 11–6–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0633]

Approval of an Alternative Requirement of the Mammography Quality Standards Act; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a document entitled "Approval of an Alternative Requirement of the Mammography Quality Standards Act" (the MQSA). The MQSA final regulations require that the collimation of the mammography unit permit the x-ray field to extend to or beyond the edges of the image receptor. FDA has approved a request from General Electric (GE) Medical Systems for an alternative to the MQSA requirement to apply to GE Senographe mammographic systems.

ADDRESSES: Submit written requests for single copies of the "Approval of an Alternative Requirement of the Mammography Quality Standards Act" document to the Division of Mammography Quality and Radiation Programs, Center for Devices and Radiological Health (HFZ–240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–594–3306. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the alternative requirement.

FOR FURTHER INFORMATION CONTACT: Roger L. Burkhart, Center for Devices and Radiological Health (HFZ–240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–594–3332.

SUPPLEMENTARY INFORMATION:

I. Background

The MQSA final regulations in 21 CFR part 900 will become effective on April 28, 1999. Under § 900.12(e)(5)(vii)(A) (21 CFR 900.12(e)(5)(vii)(A)), the regulations will require that the collimation of a mammography unit permit the x-ray field to extend to or beyond the edges of the image receptor. This provision was made because some facilities stressed the importance of blackening the x-ray film to the edges. These facilities stated that this would help eliminate the effect of view box light passing through the unexposed edges of the film on accuracy of interpretation. However, the current Electronic Product Radiation Control (EPRC) performance standards require that mammography units be manufactured to ensure that the x-ray field does not extend beyond the nonchest wall edges of the image receptor.

Although it is possible for a mammography unit to meet both of these sets of standards, it has come to the agency's attention that certain GE models were designed to prevent the x-ray field from reaching the nonchest wall edges of the image receptor. These models, which make up a large proportion of the mammography units currently in use in facilities, were designed to meet the EPRC standard. GE requested that an alternative requirement be approved that would allow, but not require, the x-ray field to extend to or beyond the edge of the image receptor, permitting continued use of the presently installed units without modification.

Under the provisions of 21 CFR 900.18, the agency granted the request for an alternative requirement. The alternative requirement applies to all GE Senographe mammographic systems including models 500T, 600T, 700T, 800T, and DMR.

II. Electronic Access

In order to receive a copy of the "Approval of an Alternative Requirement of the Mammography Quality Standards Act" to § 900.12(e)(5)(vii)(A) via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from the touch-tone telephone. At the first voice prompt press 1 to access the Division of Small Manufacturers Assistance Facts, at second voice prompt press 2, and then enter the document number 2249 followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the alternative requirement may also do so using the World Wide Web (WWW). The Center for Devices and Radiological Health (CDRH) maintains an entry on the WWW for easy access to information including text graphic, and files that may be downloaded to a personal computer with access to the WWW. Updated on a regular basis, the CDRH home page includes the "Approval of an Alternative Requirement of the Mammography Quality Standards Act" to § 900.12(e)(5)(vii)(A), device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at "http://www. fda.gov/ cdrh". "Approval of an Alternative Requirement of the Mammography Quality Standards Act" to § 900.12(e)(5)(vii)(A) will be available at "http://www.fda.gov/cdrh/dmqrp.html".

Dated: October 28, 1998.

D.B. Burlington,

Director, Center for Devices and Radiological Health

[FR Doc. 98–29751 Filed 11–6–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0447]

Protection of Human Subjects: Categories of Research That May Be Reviewed by the Institutional Review Board (IRB) Through an Expedited Review Procedure

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: On November 10, 1997, the Food and Drug Administration (FDA), in consultation with the Office for Protection from Research Risks (OPRR) at the National Institutes of Health, requested written comments relating to the proposed republication of the list that identifies certain research activities involving human subjects that may be reviewed by the Institutional Review Board (IRB) through the expedited review procedure authorized in 21 CFR 56.110. The comment period closed on March 10, 1998. FDA and OPRR received a combined total of 108 comments. After a review of the comments, FDA and OPRR are now simultaneously publishing identical revised lists of categories of research activities that may be reviewed by the IRB through the expedited review procedure.

EFFECTIVE DATE: The revised list is effective November 9, 1998.

FOR FURTHER INFORMATION CONTACT: Paul W. Goebel, Jr., Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1685.

SUPPLEMENTARY INFORMATION: The FDA regulations for protection of human subjects can be found under part 50 (21 CFR part 50), and the regulations for the IRB's can be found under part 56 (21 CFR part 56). The regulations require, with limited exceptions, obtaining and documenting legally effective informed consent for all human subjects of research on FDA regulated products and review of research involving human subjects by an IRB.

Section 56.110 provides for expedited IRB review procedures for certain categories of research involving no more than minimal risk, and for minor changes in previously approved research during the period for which approval is authorized. The list that is referenced in § 56.110(a) was originally published in the **Federal Register** of January 27, 1981 (46 FR 8980), as a notice of a list of research activities that could be reviewed by the IRB through the expedited review procedures set forth in the FDA's regulations. OPRR has a separate codification that references the Expedited Review List for matters under the Department of Health and Human Services' (HHS) jurisdiction (45 CFR part 46). The HHS list was published in the **Federal Register** on January 26, 1981 (46 FR 8392). The FDA and HHS lists published in 1981 differ slightly, in that item nine on the HHS list, concerning research on individual or group behavior, pertains only to 45 CFR 46.110. Because behavioral research is not specifically regulated by FDA, that category was not included in the list published by FDA.

The comments received in response to the November 10, 1997 (62 FR 60607), proposal by FDA and OPRR to revise the 1981 expedited review list overwhelmingly supported the proposed revision of the list. Three comments indicated that there should be no expedited review available at all. These comments misunderstood the purpose of expedited review, expressing concern that allowing expedited IRB review also removes the requirement for informed consent of study subjects. FDA and OPRR disagree with these three comments and believe that expedited review is an appropriate part of the IRB review process. In addition, deleting the expedited review process would require a regulatory change to section 110 of the Federal Policy, which is beyond the scope of this revision. However, in response to these comments paragraph (E) has been added to the Applicability section I of this document to make it clear that the standard requirements for informed consent must be met regardless of the type of review—expedited or convened—utilized by the IRB.

The following discussion summarizes the 108 comments received and the resulting changes. In response to over 40 comments expressing concern that the general principles that apply to all research categories could be easily misinterpreted, the introductory paragraph to the 1981 list has been reformatted into six general principles that apply to the entire list. The parenthetical in the introductory sentence to the 1981 list "(carried out through standard methods)" has been deleted in response to comments that this phrase served no particular purpose in the 1981 list.

The reformatted general principles are set forth in paragraphs (A) through (G). Paragraph (C) makes it clear that the IRB must consider, for all categories, whether identification of the subjects or their responses would reasonably place them at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, insurability, reputation, or be stigmatizing, unless reasonable and appropriate protections will be implemented so that risks related to invasion of privacy and breach of confidentiality are no greater than minimal. At the time of the publication of the 1981 list, FDA routinely considered only the medical risk to subjects in determining whether a study imparted greater than minimal risk. Since that time, the scope of research projects that are under FDA purview has expanded to include activities that could place the subjects at risk for the harms listed in paragraph (C). Therefore, the IRB's reviewing studies of FDA regulated products may need to consider the listed nonmedical harms. For certain studies subject to regulation under 45 CFR part 46, these concerns have always been implicit in determining whether an activity is a minimal risk activity. The words "insurability" and "be stigmatizing" have been added to the new list to help ensure that the IRB's consider these potential risks during their review.

Two comments point out that classified research must be reviewed by the IRB at a convened meeting. FDA and OPRR agree and have added paragraph (D), which prohibits expedited review for classified research involving human subjects. This is in accordance with the March 27, 1997, Presidential memorandum that proposed the elimination of an expedited review procedure for all classified research involving human subjects.

Paragraph (E) serves as a reminder to the IRB's that informed consent and expedited review are two totally separate issues. This responds to concerns that allowing an increase in the scope of research eligible for expedited review would result in more waivers of informed consent. Research reviewed under the expedited review procedure is not necessarily eligible for waiver or alteration of informed consent. All research, regardless of whether it meets the conditions for expedited IRB review, must conform to the applicable requirements for obtaining and documenting informed consent. Informed consent must be obtained and documented unless the research meets one of the conditions for waiving, excepting, or otherwise altering the informed consent requirements that are set forth in 45 CFR 46.116 and 46.117, and §§ 50.23, 50.24, and 56.109(c).

The list of research eligible for expedited review continues to fall into nine categories. Category one,

enumerated as category nine on the 1981 list, addresses the availability of expedited review for marketed drugs and devices. This category now contains citations to the investigational drug and device regulations and provides when expedited review of research on marketed drugs (including biologics) would not be appropriate. This modification was in response to five comments that raised questions about these issues. FDA and OPRR on their own initiative have added wording to set out in greater detail the conditions that must be met in order for an IRB to review research with a medical device using expedited procedures.

Over 45 comments suggested certain changes to proposed category two, formerly category four in the 1981 list, addressing the collection of blood. The suggested changes include addition of many specific conditions, including limits on the amount withdrawn, collection procedures, and limits on the physical condition of the subjects. In response to these suggestions, the category has been reorganized to set general limits that the specific procedure must meet. The procedures for the collection of blood now include finger stick, heel stick, ear stick, and venipuncture. The four proposed subcategories were recombined as two separate subcategories. The critical issues to be considered include weight, physical condition, and amount of blood to be collected. The first subcategory (a) concerns healthy nonpregnant adults. The second subcategory (b) concerns all other adults and children. For this second subcategory, the IRB will need to make certain judgments including: Consideration for the age, weight, and health of the subjects in light of the amount of blood to be collected, the frequency with which it will be collected, and the collection procedure. The final sentence of subcategory (b) reads: "For these subjects, the amount drawn may not exceed the lesser of 50 mL or 3 mL per kg in an 8-week period and collection may not occur more than 2 times per week." While an expedited review of research involving pregnant women is permissible under the revised section, this last sentence makes it clear that the amount of blood that can be drawn is subject to limitations greater than those on healthy nonpregnant adults. Also in response to public comment, the proposed phrase "medically vulnerable adults" has been deleted.

More than 24 comments were received regarding category three, which was previously categories one and two in the 1981 list, addressing the collection of biological specimens. Some of the comments requested inclusion of specific procedures, such as throat cultures and pap smears. Some of the comments requested the category be rephrased as a general limit, setting out as examples the types of specimens and conditions for collection. In response to these comments, new category three has been reorganized to limit the manner of collection to noninvasive means. The list of specific types of biological specimens is now included as examples of the types of procedures that could fall within this category.

Categories four and five on the proposed list have been combined into one new category, category five, addressing research involving materials collected or which will be collected solely for nonresearch purposes. This new category five was formed in response to comments that raised questions about why the two categories separated out existing and prospectively collected materials. The term "nonresearch purposes" was maintained in new category five to describe the origins of the research materials.

An explanatory note has been added to categories five and seven to clarify that some research described in these categories may be exempt from the IRB review under 45 CFR 46.101 of the HHS regulations for the protection of human subjects. Thus, the listing of those categories refers only to nonexempt research.

Category six on the list proposed in November 1997 has become category four on the revised list and addresses the collection of data through noninvasive procedures. In response to several comments that raised concerns about the use of anesthesia and sedation with magnetic resonance imaging procedures, expedited review will not be allowed for any procedure employing anesthesia or sedation. In response to more than 24 comments, the general term "noninvasive procedures" now applies to all procedures in this category. The specific procedures to which expedited review was limited in proposed category six, are included in new category four as examples of the types of procedures that could qualify for expedited review. FDA and OPRR, on their own initiative, added wording to clarify that studies intended to evaluate the safety and effectiveness of medical devices or using medical devices that are not cleared or approved for marketing by FDA are generally not eligible for expedited review.

Category seven on the proposed list is now category six on the revised list and deals with the collection of data from voice, video, digital, or image recordings. In the proposal, the IRB was to consider certain risks to the subjects in this category before granting expedited review. In response to several comments that inquired why only this type of research should receive this consideration, it was incorporated as a guiding principle in the Applicability section I of this document and is no longer simply specific to this category.

Category eight on the proposed list is now category seven on the revised list. This category was added to the 1981 list with the proposal and concerns research on individual or group characteristics or behavior. At the time of the publication of the 1981 list, this category was not included in the FDA list because FDA routinely considered only the medical risk to subjects in determining whether a study imparted greater than minimal risk. Since that time, the scope of research projects that are under FDA purview has expanded to include activities that are listed in new category seven. Therefore, studies related to FDA-regulated products might employ such methodology.

Over 30 comments requested this category be simplified and rephrased so that researchers and IRB's could more readily determine whether their study is eligible for expedited review. In response, the following changes have been made. The condition that the research does not involve "stress" has been deleted; the subsections in the proposed list have been combined to eliminate the distinction between research involving adults and research involving children; research on oral history has been included in response to six comments; and specific research and research techniques have been noted. The category has been reorganized to include research involving motivation, identity, language, communication, cultural beliefs or practices, and social behavior as examples of research on individual or group characteristics or behavior. Methods of conducting such research are now separately listed and have been expanded to include oral history, program evaluation, human factors evaluation, and quality assurance methodologies. As in new category six, the qualification that requires consideration of certain kinds of risks to subjects has been deleted from this category, as it is now a general guiding principle, (C), which applies to the entire list.

Category nine on the proposed list, research previously approved by the convened IRB, received more than 50 comments explicitly applauding this category. It has now been divided into new categories eight and nine. New category eight identifies three situations in which research that is greater than minimal risk and has been initially reviewed by the convened IRB, could undergo subsequent continuing review by the expedited review procedure. The new category nine concerns continuing review of research that is not greater than minimal risk, but had to undergo initial review by a convened IRB because it did not meet the criteria of categories two through seven on this list.

Certain other minimal changes have been made for editorial purposes or to clarify certain words that were used in the proposed list. Accordingly, the list of categories of research which may be reviewed by the IRB through an expedited review procedure is amended as set forth:

Categories of Research That May Be Reviewed by the Institutional Review Board (IRB) Through an Expedited Review Procedure [1]

Applicability

(A) Research activites that (1) present no more than mimimal risk to human subjects, and (2) involve only procedures listed in one or more of the following categories, may be reviewed by the IRB through the expedited review procedure authorized by 45 CFR 46.110 and 21 CFR 56.110. The activities listed should not be deemed to be of minimal risk simply because they are included on this list. Inclusion on this list merely means that the activity is eligible for review through the expedited review procedure when the specific circumstances of the proposed research involve no more than minimal risk to human subjects.

(B) The categories in this list apply regardless of the age of subjects, except as noted.

(C) The expedited review procedure may not be used where identification of the subjects and/or their responses would reasonably place them at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, insurability, reputation, or be stigmatizing, unless reasonable and appropriate protections will be implemented so that risks related to invasion of privacy and breach of confidentiality are no greater than minimal.

(D) The expedited review procedure may not be used for classified research involving human subjects.

(E) IRBs are reminded that the standard requirements for informed consent (or its waiver, alteration, or exception) apply regardless of the type of review—expedited or convened—utilized by the IRB.

(F) Categories one (1) through seven (7) pertain to both initial and continuing IRB review.

Research Categories

(1) Clinical studies of drugs and medical devices only when condition (a) or (b) is met.

(a) Research on drugs for which an investigational new drug application (21 CFR Part 312) is not required.

(Note: Research on marketed drugs that significantly increases the risks or decreases the acceptability of the risks associated with the use of the product is not eligible for expedited review.)

(b) Research on medical devices for which (i) an investigational device exemption application (21 CFR Part 812) is not required; or (ii) the medical device is cleared/approved for marketing and the medical device is being used in accordance with its cleared/approved labeling.

(2) Collection of blood samples by finger stick, heel stick, ear stick, or venipuncture as follows:

(a) From healthy, nonpregnant adults who weigh at least 110 pounds. For these subjects, the amounts drawn may not exceed 550 ml in an 8 week period and collection may not occur more frequently than 2 times per week; or

(b) from other adults and children,[2] considering the age, weight, and health of the subjects, the collection procedure, the amount of blood to be collected, the frequency with which it will be collected. For these subjects, the amount drawn may not exceed the lesser of 50 ml or 3 ml per kg in an 8 week period and collection may not occur more frequently than 2 times per week.

(3) Prospective collection of biological specimens for research purposes by noninvasive means.

Examples: (a) hair and nail clippings in a nondisfiguring manner; (b) deciduous teeth at time of exfoliation or if routine patient care indicates a need for extraction; (c) permanent teeth if routine patient care indicates a need for extraction; (d) excreta and external secretions (including sweat); (e) uncannulated saliva collected either in an unstimulated fashion or stimulated by chewing gumbase or wax or by applying a dilute citric solution to the tongue; (f) placenta removed at delivery; (g) amniotic fluid obtained at the time of rupture of the membrane prior to or during labor; (h) supra- and subgingival dental plaque and calculus, provided the collection procedure is not more invasive than routine prophylatic scaling of the teeth and the process is accomplished in accordance with accepted prophylactic techniques; (i) mucosal and skin cells collected by buccal scraping or swab, skin swab, or mouth washings; (j) sputum collected after saline mist nebulization.

(4) Collection of data through noninvasive procedures (not involving general anesthesia or sedation) routinely employed in clinical practice, excluding procedures involving x-rays or microwaves. Where medical devices are employed, they must be cleared/approved for marketing. (Studies intended to evaluate the safety and effectiveness of the medical device are not generally eligible for expedited review, including studies of cleared medical devices for new indications.)

Examples: (a) physical sensors that are applied either to the surface of the body or at a distance and do not involve input of significant amounts of energy into the subject or an invasion of the subject's privacy; (b) weighing or testing sensory acuity; (c) magnetic resonance imaging; (d) electrocardiography, electroencephalography, thermography, detection of naturally occurring radioactivity, electroretinography, ultrasound, diagnostic infrared imaging, doppler blood flow, and echocardiography; (e) moderate exercise, muscular strength testing, body composition assessment, and flexibility testing where appropriate given the age, weight, and health of the individual.

(5) Research involving materials (data, documents, records, or specimens) that have been collected or will be collected solely for nonresearch purposes (such as medical treatment or diagnosis).

(Note: Some research in this category may be exempt from the HHS regulations for the protection of human subjects. *45 CFR 46.101(b)(4)*. This listing refers only to research that is not exempt.)

(6) Collection of data from voice, video, digital, or image recordings made for research purposes.

(7) Research on individual or group characteristics or behavior (including, but not limited to, research on perception, cognition, motivation, identity, language, communication, cultural beliefs or practices, and social behavior) or research employing survey, interview, oral history, focus group,

[1] An expedited review procedure consists of a review of research involving human subjects by the IRB chairperson or by one or more experienced reviewers designated by the chairperson from among members of the IRB in accordance with the requirements set forth in 45 CFR 46.110.

[2] Children are defined in the HHS regulations as "persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law of the jurisdiction in which the research will be conducted." 45 CFR 46.402(a).

program evaluation, human factors evaluation, or quality assurance methodologies.

(Note: Some research in this category may be exempt from the HHS regulations for the protection of human subjects. *45 CFR 46.101(b)(2) and (b)(3).* This listing refers only to research that is not exempt.)

(8) Continuing review of research previously approved by the convened IRB as follows:

(a) Where (i) the research is permanently closed to the enrollment of new subjects; (ii) all subjects have completed all research-related interventions; and (iii) the research remains active only for long-term follow-up of subjects; or

(b) Where no subjects have been enrolled and no additional risks have been identified; or

(c) Where the remaining research activities are limited to data analysis.

(9) Continuing review of research, not conducted under an investigational new drug application or investigational device exemption where categories two (2) through eight (8) do not apply but the IRB has determined and documented at a convened meeting that the research involves no greater than minimal risk and no additional risks have been identified.

Dated: November 2, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–29748 Filed 11–6–98; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–0670]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Team Composition and Workload Report and Supporting Regulations in 42 CFR 493.1–493.2001; *Form No.:* HCFA–0670 (OMB# 0938–0583); *Use:* This form requests resource utilization information on Medicare and Medicaid providers, suppliers, and CLIA laboratories. The data is used to determine Federal reimbursement for all participating health care facilities that accept Medicare and Medicaid beneficiaries.; *Frequency:* As needed; *Affected Public:* State, Local, and Tribal Government, Business or other for-profit, and Not-for-profit institutions; *Number of Respondents:* 53; *Total Annual Responses:* 449,252; *Total Annual Hours:* 71,667.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Louis Blank, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: November 2, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–29959 Filed 11–6–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–250]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection.

Title of Information Collection: Skilled Nursing Facility (SNF) Resident Assessment MDS Data and Supporting Regulations in 42 CFR 413.343 and 424.32.

Form No.: HCFA–R–250 (OMB# 0938–0739).

Use: Skilled Nursing Facilities (SNF's) are required to submit Resident Assessment Data as described at 42 CFR, 483.20 in the manner necessary to administer the payment rate methodology described in 42 CFR, 413.337. Pursuant to sections 4204(b) and 4214(d) of OBRA 1987, the current requirements related to the submission and retention of resident assessment data for the 5th, 30th and 60th days following admission, necessary to administer the payment rate methodology described in 413.337, is subject to the Paperwork Reduction Act.

Frequency: Monthly.

Affected Public: Business or other for-profit, and Not-for-profit.

Number of Respondents: 17,000.

Total Annual Responses: 204,000.

Total Annual Hours: 3,865,885.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: November 2, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–29960 Filed 11–6–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–250,254]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Medicare Secondary Payer Information Collection and Supporting Regulations 42 CFR 489.20; *Form No.:* HCFA–250,254 OMB # 0938–0214; *Use:* This questionnaire will collect information from beneficiaries on health insurance coverage that is primary to Medicare. This information is necessary in order for HCFA to identify those Medicare beneficiaries who have group health insurance that would pay before Medicare, resulting in savings to the Medicare Trust Fund. Medicare Secondary Payer (MSP) is essentially the same concept known in the private insurance industry as coordination of benefits, and refers to those situations where Medicare does not have primary responsibility for paying the medical expenses of a Medicare beneficiary. HCFA contracts with health insuring organizations, herein referred to as intermediaries and carriers, to process Medicare claims. HCFA charges its Medicare intermediaries and carriers with various tasks to detect MSP cases; develops and disseminates tools to enable them to better perform their tasks; and monitors their performance in achievement of their assigned MSP functions. Because intermediaries and carriers are also marketing health insurance products that may have liability when Medicare is secondary, the MSP provisions create the potential for conflict of interest. Recognizing this inherent conflict, HCFA has taken steps to ensure that its intermediaries and carriers process claims in accordance with the MSP provisions, regardless of what other insurer is primary. *Frequency:* One time only; *Affected Public:* Individuals or Households; *Number of Respondents:* 14,204,000; *Total Annual Responses:* 14,204,000; *Total Annual Hours:* 773,240.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: October 28, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–29961 Filed 11–6–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: October 1998

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of October 1998, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject, city, state	Effective date
PROGRAM-RELATED CONVICTIONS	
Abad, Tony, Miami, FL	11/19/1998
Anderson, Louetta Mae, Houston, TX	11/19/1998
Andrews, Charles D, Atlanta, GA	11/19/1998
Arocha, Alejandro, Miami, FL	11/19/1998

Subject, city, state	Effective date
Better Health Care, Inc., Falmouth, ME	11/19/1998
Bliss, Christopher E, Attleboro, MA	11/19/1998
Bombino, Aesthor L, Miami, FL	11/19/1998
Cash, Joann Fletcher, East Point, GA	11/19/1998
CDA Medical Transport, Atlanta, GA	11/19/1998
Clark, John Rollard, Jacksonville, NC	11/19/1998
Cott, Mary Elizabeth, Falmouth, ME	11/19/1998
Douglas, Dawn Moore, New Port Richey, FL	11/19/1998
Feliu, Omar, Miami, FL	11/19/1998
Fields, Becky D, Dickeyville, WI	11/19/1998
Glover, J Michael, Texarkana, TX	11/19/1998
Harvey, Michael, Springfield, IL	11/19/1998
Headrick, Teri Taylor, S Pittsburg, TN	11/19/1998
Johnson, Henry, Mililani, HI	11/19/1998
Lab I, Inc, Ravenna, OH	11/19/1998
Lima, Susy, Miami, FL	11/19/1998
Mayberry, Marie Victoria, Southfield, MI	11/19/1998
Nadarajan, Annamali, Birmingham, AL	11/19/1998
Neill, William A, Hiram, OH	11/19/1998
Newport Center, Inc, Battle Creek, MI	11/19/1998
Olson, Robert C, Neptune Beach, FL	11/19/1998
Parkside Mental Health, Inc, Detroit, MI	11/19/1998
Pendleton, Diane, Jonesboro, GA	11/19/1998
Peterson Enterprises, Inc, Columbus, OH	11/19/1998
Pina, Stephen A, Philadelphia, PA	11/19/1998
Podriguez, Gerardo, Miami, FL	11/19/1998
Rodriguez, Ever, Miami, FL	11/19/1998
Ruidiaz, Sori Estela, Miami, FL	11/19/1998
S & S Convalescent Transport, Decatur, GA	11/19/1998
Schreier, Steve, W Bloomfield, MI	11/19/1998
Smith, Betty A, Columbus, OH	11/19/1998
Solomon, Daryl L, Decatur, GA	11/19/1998
Stokes, Jolie, Ty Ty, GA	11/19/1998
Thomas, Dale, Tallahassee, FL	11/19/1998
Vicaria, Carlos Concepcion, Miami, FL	11/19/1998
Wagnac, Marie, Providence, RI	11/19/1998
Walsh-Donehoo, Ellen Joan, Gainesville, FL	11/19/1998
FELONY CONVICTION FOR HEALTH CARE FRAUD	
Eckert, Kellie L, Marshalltown, IA	11/19/1998
Zentner, Jane M, Green Bay, WI	11/19/1998
FELONY CONTROL SUBSTANCE CONVICTION	
Holman-Pierce, Geneva Ann, Marion, VA	11/19/1998
PATIENT ABUSE/NEGLECT CONVICTIONS	
Auten, Angela A, Des Moines, IA	11/19/1998
Bloom, Lee Roy, Jr, Mt Pleasant, IA	11/19/1998
Boyce, Marie Girtrue, Searcy, AR	11/19/1998
Burse, Tameka A, Chattanooga, TN	11/19/1998
Campbell, Barbara J, Cincinnati, OH	11/19/1998
Carson, Darlene, Corsicana, TX	11/19/1998
Crawford, Carl Thomas, Detroit, MI	11/19/1998
Douglas, Karen Suzanne, Columbia, MD	11/19/1998
Freeman, David J, Millington, TN	11/19/1998
Gerdine, Nathaniel Dett, Limon, CO	11/19/1998
Hayes, Brian Dale, Elmore City, OK	11/19/1998
Jiles, Shunja Monique, Troup, TX	11/19/1998
Lee, Felicia Gayle, Shreveport, LA	11/19/1998
Lewis, Sandra F, Galloway, TN	11/19/1998
Loggains, Christopher Jason, Jonesboro, AR	11/19/1998
Malca-Lopez, Jose M, Salt Lake City, UT	11/19/1998
Nisby, Robby Jean, Galloway, TN	11/19/1998
Patel, Narendra M, Dalton, GA	11/19/1998
Perkins, Heather E, Nevada, IA	11/19/1998
Powell, Phillip Hardy, Marshall, TX	11/19/1998
Rios, Juan A, Moline, IL	11/19/1998
Saintz, Mark Steven, Topeka, KS	11/19/1998
Sawyer, Tara D, Waterloo, IA	11/19/1998
Shelton, Joe L, Orient, OH	11/19/1998

Subject, city, state	Effective date
Singleton, Mary Catherine, Tacoma, WA	11/19/1998
Uy, Rosemary, Staten Island, NY	11/19/1998
CONTROLLED SUBSTANCE CONVICTIONS	
Petter, Douglas Jamus, Camp Connell, CA	11/19/1998
LICENSE REVOCATION/SUSPENSION/SURRENDERED	
Baker, Kathleen E, Hyannis, MA	11/19/1998
Bennett, John David, Fresno, CA	11/19/1998
Bergman, Marlena, Las Vegas, NV	11/19/1998
Bischel, Paul J, Farmington, MN	11/19/1998
Boardman, Margaret A, Somerset, MA	11/19/1998
Boulis, Markell D, Mt Lebanon, PA	11/19/1998
Brase, Susan Melinda, Visalia, CA	11/19/1998
Brown, William E, Atoka, OK	11/19/1998
Byrne, Geoffrey E, Phoenix, AZ	11/19/1998
Caffray, Mary A, S Boston, MA	11/19/1998
Casper, Jon Nathan, Bemidji, MN	11/19/1998
Centrealla, Michael, Golden Valley, MN	11/19/1998
Chancellor, Robert S, Las Vegas, NV	11/19/1998
Clem, Tammy J, Stanley, VA	11/19/1998
Collins, Gina Aline, Oroville, CA	11/19/1998
Corbett, Jason M, Brookline, MA	11/19/1998
Crawford, Mary, Milford, CT	11/19/1998
Croslin, Michael Larry, Santa Cruz, CA	11/19/1998
Culbertson, Virginia Blair, Wollaston, MA	11/19/1998
Daniels, Tara, Middletown, CT	11/19/1998
Douglas, Angela M, Lynchburg, VA	11/19/1998
Dufresne, Roland F, Coventry, RI	11/19/1998
Dukes, Deborah Renee, Hot Springs, AR	11/19/1998
Dyke, Marshall James, Magnolia, TX	11/19/1998
Eglash, Albert, San Luis Obispo, CA	11/19/1998
Eklund, Ruth Joyce, Delhi, CA	11/19/1998
Ezzell, Sueann, Cincinnati, OH	11/19/1998
Field, Thomas Joseph, Stockton, CA	11/19/1998
Flood, Karen, Wilton, CT	11/19/1998
Franklin, Roslyn Marie, E Palo Alto, CA	11/19/1998
Freeman, Kimberly W, Richmond, VA	11/19/1998
Gemoets, Thomas Henry, Houston, TX	11/19/1998
Gurneau, Manuel Raymond, Minneapolis, MN	11/19/1998
Gustafson, Eric, Covina, CA	11/19/1998
Haivala, Bret Arthur, Piedmont, SD	11/19/1998
Hakalmazian, Gregory, Palos Heights, IL	11/19/1998
Hampton, Patryce M, Roanoke, VA	11/19/1998
Harrison, John R, Haverill, MA	11/19/1998
Harvey-Porto, Donna, Pensacola, FL	11/19/1998
Horton, Rhiannon M, Hudson, NH	11/19/1998
Hutchison, Jimmie Lloyd, Othello, WA	11/19/1998
Iwejor, Christine C, Virginia Beach, VA	11/19/1998
Jensen, James C, Lexington, KY	11/19/1998
Jones, Constance L, Richmond, VA	11/19/1998
Larson, Patricia E, St Cloud, MN	11/19/1998
Leonard, Kathleen Elizabeth, Norwood, MA	11/19/1998
Lett, Dana Jo, Arkadelphia, AR	11/19/1998
Lipson, David, San Diego, CA	11/19/1998
Lynch, Janet, Oakdale, CT	11/19/1998
Markell, Mary Hope, Silverado, CA	11/19/1998
Mastro, Annette Lorraine, Quincy, MA	11/19/1998
McCain, Kathleen C, Portsmouth, VA	11/19/1998
Mecchi, Carlena Myrle, Napa, CA	11/19/1998
Mitchell, Lori F, Willowick, OH	11/19/1998
Morgan, Christine M, Derry, NH	11/19/1998
Myers, Elva F, Urbanna, VA	11/19/1998
Nguyen, Thuong VU, San Jose, CA	11/19/1998
Nuesse, William E, Camden, ME	11/19/1998
Olliver, Nancy L, Richmond, VA	11/19/1998
Pacold, Astra, Riverside, IL	11/19/1998
Pratt, Theresa, Mesquite, NV	11/19/1998
Proffitt, Stephen D, Longview, WA	11/19/1998
Quish, Peter Dennis, Arlington, MA	11/19/1998
Rissover, Howard E, Cincinnati, OH	11/19/1998

Subject, city, state	Effective date
Ritchey, Rosetta M, Robbinsdale, MN	11/19/1998
Ruby, Sharon T, Como, MS	11/19/1998
Russell, John L, Oxford, MA	11/19/1998
Schwartz, Steven, Stuart, FL	11/19/1998
Sexton, Patricia Louise, Upland, CA	11/19/1998
Sheehan, Helen Dawn, Haverhill, MA	11/19/1998
Sims, Faye, Fort Wayne, IN	11/19/1998
Singh, Rajinder, E Liverpool, OH	11/19/1998
Sorensen, Donald J, Palos Verdes Estates, CA	11/19/1998
Steinberg, Ira B, Lewiston, ME	11/19/1998
Toth, Michael S, Richmond, VA	11/19/1998
Turner, Ronald Ross, Portsmouth, OH	11/19/1998
Vaillancourt, James Alan, San Luis Obispo, CA	11/19/1998
Wells, Murlene, Clarksdale, MS	11/19/1998
Williams, Karen B, Union City, CT	11/19/1998
Williamson, Gail Helen, Woodland Hills, CA	11/19/1998
Woolingham, Dawn L, Harrisburg, PA	11/19/1998
Zervas, James John, Springfield, MA	11/19/1998
FEDERAL/STATE EXCLUSION/SUSPENSION	
Chime, Chudi Gabriel, Jamaica, NY	11/19/1998
Discovery Behavorial Health, Phillipsburg, NJ	11/19/1998
Honablue, Richard R, Williamsburg, VA	11/19/1998
Kadisha, Inc, Newark, NJ	11/19/1998
Mediscope Diagnostic Lab, Inc, Plainfield, NJ	11/19/1998
Ross, Robert N, Cliffside Park, NJ	11/19/1998
Smolin, Steve Allen, Brooklyn, NY	11/19/1998
Tindale, Celia McDonald, Brooklyn, NY	11/19/1998
FRAUD/KICKBACKS	
Manatee Medical Products, Deltona, FL	06/24/1998
OWNED/CONTROLLED BY CONVICTED/EXCLUDED	
Atlas Dental Clinic, Birmingham, AL	11/19/1998
Dynamic Medical Equipment, Inc, Miami, FL	11/19/1998
ESP Home Health, Miami, FL	11/19/1998
Experience Home Health, Miami, FL	11/19/1998
FL Impotence Clinic of Pasco, New Port Richey, FL	11/19/1998
Gieger Ambulance Service, Coleman, FL	11/19/1998
Hand in Hand Counseling SVCS, College Park, GA	11/19/1998
Health Guard Screening, Inc, Ft Myers, FL	11/19/1998
KK Pharmacy, Inc, Osage Beach, MO	11/19/1998
National Impotence Consultants, Neptune Beach, FL	11/19/1998
New Life Home Health, Miami, FL	11/19/1998
NFIC, Inc, Neptune Beach, FL	11/19/1998
Tender Guardian Home Health, Miami, FL	11/19/1998
Terdac, Inc, Tallahassee, FL	11/19/1998
DEFAULT ON HEALTH LOAN	
Baker, Yvette Ketai, Little Rock, AR	10/13/1998
Bell, Keith M, Montgomery, NY	11/19/1998
Blue, Barbara Jean, Missouri City, TX	11/19/1998
Curran, Douglas Joseph, Fresno, CA	11/19/1998
Davisson, Mark J, Napa, CA	11/19/1998
Defrank, Samuel N, Garland, TX	11/19/1998
Dotson, Herman, Dallas, TX	11/19/1998
Freeman, Hogan Bernard, Johns Island, SC	11/19/1998
Gadsby, Michael Owen, S Pasadena, CA	11/19/1998
Goldbeck, Donald E, Encino, CA	11/19/1998
Harding, Susan M, Austin, TX	11/19/1998
Ho, Wook, Los Angeles, CA	11/19/1998
Hollenbeck, Ann-Margaret Phyllis, Edmonds, WA	11/19/1998
Holloway, McDaniel, Detroit, MI	11/19/1998
Horn, Steven Craig, Oklahoma City, OK	11/19/1998
Kiser, Curtis, Newnan, GA	11/19/1998
Kokosenski, Terry J, China Lake, CA	11/19/1998
Koris, Michael A, Bernardsville, NJ	11/19/1998
Moore, Thomas A, Scarborough, ME	11/19/1998
Murphy, Roger C, Springfield, NJ	11/19/1998
Neumann, Barry Albert, Albuquerque, NM	11/19/1998

Subject, city, state	Effective date
Peart, John A, Fresno, CA	11/19/1998
Pessu-Uwah, Audrey O, New Castle, DE	11/19/1998
Porter, Rodney Wayne, Corning, AR	11/19/1998
Pyne, Keith E, Dallas, TX	11/19/1998
Rapena, Robert J, Jackson Hgts, NY	11/19/1998
Reed, Fred Lee, Jr, Long Beach, CA	11/19/1998
Reich, Stephen Geffry, Owings Mills, MD	11/19/1998
Rodriguez, Robert L, San Antonio, TX	11/19/1998
Rodriguez, Joe Henry, Dallas, TX	11/19/1998
Root, Richard A, Grand Rapids, MI	11/19/1998
Rusk, Kent A, Denmark, WI	11/19/1998
Russell, Michael R, Newburyport, MA	11/19/1998
Sabir, Rafiq Abdus, New York, NY	11/19/1998
Shay, Fred G, Chandler, AZ	11/19/1998
Smith, Rusty A, Santa Barbara, CA	11/19/1998
Snook (Allen), Debra Lynn, Dodge City, KS	11/19/1998
Staton, Sonya E, Newton, MA	11/19/1998
Stewart (Carballo), Charles W, Fayetteville, NC	11/19/1998
Terrian, Robert Joseph, Bedford, TX	11/19/1998
Torres, Jerry, Espanola, NM	11/19/1998
Tyrrel, Robert TY, Atlanta, GA	11/19/1998
Worthy, Edwin, Jr, Roxbury, MA	11/19/1998
Yoder, Terry E, Belton, MO	11/19/1998
OWNERS OF EXCLUDED ENTITIES	
Graham, Marva C, Columbia, MD	11/19/1998

Dated: November 2, 1998.

Joanne Lanahan,

Director, Health Care Administrative Sanctions, Office of Inspector General.

[FR Doc. 98–29935 Filed 11–6–98; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Licensing Opportunity and/or Cooperative Research and Development Agreement ("CRADA") Opportunity: Drug and Method for the Therapeutic Treatment of Leukemia, Lymphoma, Hairy Cell Leukemia, Hodgkin's Disease, and Other Hematologic Malignancies

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice.

SUMMARY: The NIH is seeking Licensees to further develop, evaluate, and commercialize anti-Tac (Fv)–PE38, also known as LMB2, immunotoxin for the therapeutic treatment of refractory Leukemia, Lymphoma, Hairy Cell Leukemia, Hodgkin's disease and other hematologic malignancies. Anti-Tac (Fv)–PE38 (LMB2) is a recombinant immunotoxin composed of a single-chain Fv form of the anti-Tac (anti-CD25) monoclonal antibody, which binds to the α subunit of the IL2 receptor (also called P55, Tac, or CD25), fused to PE38, a mutant form of *Pseudomonas* Exotoxin A. Anti-TAC (Fv)–PE38 (LMB2) is very cytotoxic to normal or malignant cells expressing IL2 receptors and is being developed for the therapy of chronic lymphocytic leukemia, lymphoma, Hodgkin's disease and Hairy Cell Leukemia. The goal is to move the Anti-Tac (FV)–PE38 (LMB2) immunotoxin into Phase II and III clinical trials. The inventions claimed in USPN 4,892,827, entitled: "Recombinant *Pseudomonas* Exotoxins: Construction of an Active Immunotoxin with Low Side Effects"; USSN 07/865,722, entitled: "Recombinant Antibody-Toxin Fusion Protein"; USPN 5,696,237, entitled: "Recombinant Antibody-Toxin Fusion Protein"; and USSN 08/461,825, entitled: "Recombinant Antibody-Toxin Fusion Protein"; are available for either exclusive or non-exclusive licensing for these aforementioned applications only (in accordance with 35 U.S.C. 207 and 37 CFR Part 404).

ADDRESSES: Questions about licensing opportunities may be addressed to J.R. Dixon, Ph.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; Telephone: (301)–496–7056 ext. 206; Facsimile: (301)–402–0220; E-Mail: "DixonJ@OD.NIH.GOV". Information about Patent Applications and pertinent information not yet publicly described can be obtained under the terms of a Confidential Disclosure Agreement. Respondees interested in licensing the invention(s) will be required to submit an "Application for License to Public Health Service Inventions".

Depending upon the mutual interests of the Licensee(s) and the NCI, a Cooperative Research and Development Agreement (CRADA) to collaborate to improve the properties of the Anti-Tac (Fv)–PE38 may also be negotiated. Proposals and questions about this CRADA opportunity may be addressed to Dr. Patrick Twomey, Technology Development Specialist, Technology Development & Commercialization Branch, National Cancer Institute, 6120 Executive Plaza South-Room 450, Rockville, Maryland 20852; Telephone: (301)–496–0477; Facsimile: (301)–402–2117; email: twomeyp@OTD.NCI.NIH.GOV. Respondees interested in submitting a CRADA Proposal should be aware that it may be necessary to secure a license to the above-mentioned patent rights in order to commercialize products arising from a CRADA.

EFFECTIVE DATE: Respondees interested in licensing the invention(s) will be required to submit an "Application for License to Public Health Service Inventions" on or before January 8, 1999 for priority consideration.

Interested CRADA collaborators must submit a confidential proposal summary to the NCI [attention Dr. Patrick Twomey at the aforementioned address] on or before January 8, 1999,

for consideration. Guidelines for preparing full CRADA proposals will be communicated shortly thereafter to all respondents with whom initial confidential discussions will have established sufficient mutual interest. CRADA proposals submitted thereafter may be considered if a suitable CRADA Collaborator has not been selected.

SUPPLEMENTARY INFORMATION: In a Phase I trial, patients with hematologic malignancies and CD25 expression on malignant cells based on pre-screening immunocytochemistry and radiolabeled binding studies were given anti-Tac(Fv)–PE38 (LMB2) immunotoxin intravenously qod x 3. Thirty-two (32) patients received a total of fifty-three (53) cycles. Grade III non-hematologic toxicity was considered dose-limiting. Only 5 of the 32 patients developed significant neutralizing antibodies after the first cycle. The $T_{1/2}$ was 3–7 hours. Partial responses occurred in 5 patients including cutaneous T-cell Lymphoma, hairy cell leukemia, and chronic lymphocytic leukemia. Marginal responses were observed in two patient with Hodgkin's disease and in one patient with mantle cell lymphoma. Thus LMB–2 has activity in several forms of CD25+hematologic malignancies and is relatively non-immunogenic in this patient population.

A Cooperative Research and Development Agreement or CRADA means the anticipated joint agreement to be entered into by NCI pursuant to the Federal Technology Transfer Act of 1986 and Executive Order 12591 of April 10, 1987 as amended by the National Technology Transfer Advancement Act of 1995 to collaborate to improve the properties of Anti-Tac(Fv)–PE38. The expected duration of the CRADA would be from one (1) to five (5) years.

The role of the NCI in the CRADA may include, but not be limited to:

1. Providing sufficient amounts of anti-Tac (Fv)–PE38 (LMB2) for clinical trails.
2. Conducting Phase 2 and Phase 3 clinical trials.
3. Providing significant intellectual, scientific, and technical expertise or experience to the research project.
4. Planning research studies and interpreting research results.
5. Providing technical and/or financial support to facilitate scientific goals and for further design of applications of the technology outlined in the agreement.
6. Incorporating the immunotoxin into formulations in order to increase the therapeutic efficacy and decrease immunogenicity.
7. Providing immunotoxin for laboratory and animal studies.
8. Publishing research results.

The role of the CRADA Collaborator may include, but not be limited to:

1. Providing sufficient amounts of anti-Tac (Fv)–PE38 (LMB2) for clinical trials.
2. Conducting Phase 2 and Phase 3 clinical trials.
3. Providing significant intellectual, scientific, and technical expertise or experience to the research project.
4. Planning research studies and interpreting research results.
5. Providing samples of the subject compounds to create, optimize, test and develop targeted drugs for clinical studies.
6. Providing technical and/or financial support to facilitate scientific goals and for further design of applications of the technology outlined in the agreement.
7. Incorporating the immunotoxin into formulations in order to increase the therapeutic efficacy and decrease immunogenicity.
8. Providing immunotoxin for laboratory and animal studies.
9. Publishing research results.

Selection criteria for choosing the CRADA Collaborator may include, but not be limited to:

1. The ability to collaborate with NCI on further research and development of this technology. This ability can be demonstrated through experience and expertise in this or related areas of technology indicating the ability to contribute intellectually to ongoing research and development.
2. The demonstration of adequate resources to perform the research and development of this technology (e.g., facilities, personnel and expertise) and accomplish objectives according to an appropriate timetable to be outlined in the CRADA Collaborator's proposal.
3. The willingness to commit best effort and demonstrated resources to the research and development of this technology, as outlined in the CRADA Collaborator's proposal.
4. The demonstration of expertise in the commercial development and production of products related to this area of technology.
5. The level of financial support the CRADA Collaborator will provide for CRADA-related Government activities.
6. The demonstration of expertise pertinent to the development of models to evaluate and improve the efficacy of the anti-Tac (Fv)–PE38 (LMB2) immunotoxin for the treatment of leukemias and lymphomas.
7. The demonstration of expertise in the formulation of drugs.
8. The willingness to cooperate with the NCI in the timely publication of research results.
9. The agreement to be bound by the appropriate DHHS regulations relating to human subjects, and all PHS policies relating to the use and care of laboratory animals.
10. The willingness to accept the legal provisions and language of the CRADA with only minor modifications, if any. These provisions govern the distribution of patent rights to CRADA inventions. Generally, the rights of ownership are retained by the organization that is the employer of the inventor, with (1) the grant of a license for research and other Government purposes to the Government when the CRADA Collaborator's employee is the sole inventor, or (2) the grant of an option to elect an exclusive or nonexclusive license to the CRADA Collaborator when the Government employee is the sole inventor.

Dated: October 31, 1998.

Kathleen Sybert,

Acting Director, Technology Development and Commercialization Branch, National Cancer Institute, National Institutes of Health.

Dated: October 6, 1998.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 98–29989 Filed 11–6–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Meeting of the Cancer Advisory Panel for Complementary and Alternative Medicine

Notice is hereby given of the first meeting of the Cancer Advisory Panel for Complementary and Alternative Medicine (CAP), November 16, 1998, at the DoubleTree Hotel, 1750 Rockville Pike, Rockville, Maryland 20852. The meeting is scheduled from 8:30 am to 5 pm and is open to the public. Attendance by the public will be limited to space available.

The Panel's primary responsibility is to provide expert review and evaluation of summaries of evidence for complementary and alternative medicine cancer claims by practitioners. The information compiled and evaluated by each member of the Panel will be provided to the Office of Alternative Medicine's chartered Alternative Medicine Program Advisory Council (AMPAC) to be used during its deliberations.

The agenda includes: (1) An overview of the structure and role of the CAP; (2) a presentation on the National Cancer Institute-funded research mechanism; (3) an overview of current Office of Alternative Medicine (OAM) projects; (4) a discussion of potential future cancer clinical trials initiatives related to complementary and alternative medicine; and (5) a public comment session.

The public comment session is scheduled from 3 p.m. to 5 p.m. Each speaker will be permitted 5 minutes for their presentation. Interested individuals and representatives of organizations are requested to notify D. Geoffrey Cheung, Office of Alternative Medicine, NIH, 31 Center Drive, (MSC 2182), Building 31, Room 5B37, Bethesda, MD 20892, (301) 594–2013, FAX: (301) 594–6757. Letters of intent to present comments, along with a brief description of the organization represented, should be received no later than 5:00 p.m. on Thursday, November 12. Only one representative of an organization may present oral comments. Any person attending the meeting who does not request an opportunity to speak in advance of the meeting may be considered for oral presentation, if time permits, and at the discretion of the Chairperson. In addition, written comments may be submitted to Dr. Geoffry Cheung at the address listed above up to ten days following the meeting.

For additional information please contact Ms. Odessa Colvin, Program Assistant, OAM, 31 Center Drive, MSC 2182, Building 31, Room 5B37, Bethesda, Maryland, 20892, (301–435–5175). Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Colvin in advance of the meeting.

Dated: November 2, 1998.

Ruth L. Kirschstein,

Deputy Director, National Institute of Health.

[FR Doc. 98–29984 Filed 11–6–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the President's Cancer Panel.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Nome of Committee: President's Cancer Panel.

Date: November 17, 1998.

Time: 8 AM to 5 PM.

Agenda: Cancer Prevention in the 21st Century.

Place: Arizona Cancer Center, Kiewit Conference Room, 1515 North Campbell Avenue, Room 2851, Tucson, AZ 85724.

Contact Person: Maureen O. Wilson, Executive Secretary, National Cancer Institute, National Institutes of Health, 31 Center Drive, Building 31, Room 4A48, Bethesda, MD 20892.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: November 2, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, National Institutes of Health.

[FR Doc. 98–29987 Filed 11–6–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Nome of Committee: National Cancer Institute Review Group, Subcommittee D—Clinical Studies.

Date: November 30–December 1, 1998.

Time: 8 AM to 6 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Martin H. Goldrosen, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard, room 635 C, Rockville, MD 20852–7408, (301) 496–7930.

(Catalogue of Federal Domestic Assistance Program Nos. 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control; 93.392, Cancer Construction, National Institutes of Health, HHS)

Dated: November 2, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, National Institutes of Health.

[FR Doc. 98–29988 Filed 11–6–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Research Dissemination to the Entertainment Industry Communities.

Date: November 10, 1998.

Time: 9 AM to 4 PM.

Agenda: To review and evaluate contract proposals.

Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 5600

Fishers Lane, Room 10–42, Rockville, MD 20857, (301) 443–1644.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs; 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards, National Institutes of Health, HHS)

Dated: November 2, 1998.

Anna Snouffer,

Acting Committee Management Officer, National Institutes of Health.

[FR Doc. 98–29985 Filed 11–6–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–8 (J3).

Date: December 2, 1998.

Time: 3 PM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20982 (Telephone Conference Call).

Contact Person: Roberta J. Haber, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS–37, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–8898.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: November 2, 1998.

Anna Snouffer,

Acting Committee Management Officer, National Institutes of Health.

[FR Doc. 98–29986 Filed 11–6–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Protection of Human Subjects: Categories of Research That May Be Reviewed by the Institutional Review Board (IRB) Through an Expedited Review Procedure

AGENCY: Office for Protection from Research Risks, National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: On November 10, 1997, the Office for Protection from Research Risks (OPRR), in consultation with the Food and Drug Administration (FDA), requested written comments relating to the proposed republication of the list that identifies certain research activities involving human subjects which may be reviewed by the Institutional Review Board (IRB) through the expedited review procedure authorized in 45 CFR 46.110. The comment period closed on March 10, 1998. OPRR and FDA received a combined total of 108 comments. After a review of the comments, OPRR and FDA are now simultaneously publishing identical revised lists of categories of research activities that may be reviewed by the IRB through the expedited review procedure.

EFFECTIVE DATES: The revised list is effective as of November 9, 1998.

FOR FURTHER INFORMATION CONTACT: Michele Russell-Einhorn, Director of Regulatory Affairs, Office for Protection from Research Risks (OPRR), National Institutes of Health, 6100 Executive Blvd., Suite 3B01, Rockville, MD 20892–7507 or telephone (301) 435–5649 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The Federal Policy (Common Rule) for the Protection of Human Subjects was published in the **Federal Register** on June 18, 1991 (56 FR 28003) and is employed by 17 Executive Branch agencies. This Federal Policy requires adherence to certain requirements by Federal agencies [1] and institutions receiving support from those agencies for research activities involving human subjects. The Federal Policy has three cornerstones: review of any research involving human subjects by an IRB with limited exceptions, informed consent of all research subjects; and formal, written assurance of institutional compliance with the Policy. The Department of Health and Human Services' (HHS) codification of the Federal Policy can be found at 45 CFR Part 46, Subpart A.

Section _____.110 of the Federal Policy provides for expedited review procedures for certain categories of research involving no more than minimal risk, and for minor changes in approved research. This same section gives the Secretary, HHS, the authority to amend and republish the expedited review list as needed after consultation with the departments and agencies that are subject to the Federal Policy. The expedited review list that is referenced in the Federal Policy was originally published by the Secretary, HHS in 1981 (46 FR 8392, 46 FR 8980). It listed categories of research that could be reviewed by the IRB through an expedited review procedure. The FDA also references an expedited review list (21 CFR Part 56) for matters under FDA's jurisdiction. The HHS and FDA lists have differed slightly, in that item nine (9) on the 1981 HHS expedited review list regarding certain types of behavioral research is not included in the list referenced in 21 CFR 56.110.

The comments received in response to the OPRR and FDA proposed revision of the 1981 expedited review list that was published on November 10, 1997 (62 FR 60607) overwhelmingly supported the proposed revision of the list. Three commenters suggested that there should be no expedited review available at all. OPRR and FDA disagree with these three comments and believe that expedited review is an appropriate part of the IRB review process. In addition, a deletion of the expedited review process would require a regulatory change to Section 110 which is beyond the scope of this revision. Several commenters suggested changing the exemptions found at Section 101(b), a topic also outside the scope of this revision.

[1] The following agencies have adopted the Common Rule: Department of Agriculture, Department of Energy, National Aeronautics and Space Administration, Department of Commerce, Consumer Product Safety Commission, International Development Cooperation Agency-Agency for International Development, Department of Housing and Urban Development, Department of Justice, Department of Defense, Department of Health and Human Services, Department of Education, Department of Veterans Affairs, Environmental Protection Agency, National Science Foundation, Department of Transportation, Central Intelligence Agency, Social Security Administration.

The following discussion summarizes the 108 comments received and the resulting changes. In response to over forty comments, the introductory paragraph to the 1981 list has been reformatted into five general principles. The parenthetical in the introductory sentence in the 1981 list "(carried out through standard methods)" has been deleted in response to comments that this phrase served no particular purpose.

The reformatted general principles are set forth in paragraphs (A) through (F). Paragraph (C) makes it clear that the IRB must consider, for all categories, whether identification of the subjects or their responses would reasonably place them at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, insurability, reputation, or be stigmatizing unless reasonable and appropriate protections will be implemented so that risks related to invasion of privacy and breach of confidentiality are no greater than minimal. OPRR does not consider this to be a new or additional consideration. These concerns have always been an implicit part of the determination of whether an activity is a minimal risk activity. The words "insurability" and "be stigmatizing" have been added and are designed to serve as an aid to IRBs when genetic research is presented for review in an expedited review procedure. These changes were made in response to concerns raised in several comments that genetic testing may have consequences beyond those normally considered by the IRB.

Consistent with two comments, paragraph (D) prohibits expedited review for classified research involving human subjects. This is also in accordance with a March 27, 1997 Presidential Memorandum which proposed the elimination of an expedited review procedure for all classified research involving human subjects.

Paragraph (E) serves as a reminder to IRBs that informed consent and expedited review are two totally separate issues. This responds to concerns that allowing an increase in the scope of research eligible for expedited review would result in more waivers of informed consent. Research reviewed pursuant to an expedited review procedure is not necessarily eligible for waiver or alteration of informed consent. All research, whether reviewed by the full IRB or by way of expedited review, must conform to the applicable requirements for obtaining and documenting prospective informed consent, unless the research meets the conditions for waiving, excepting, or otherwise altering the informed consent requirements that are set forth in 45 CFR 46.116 and 117, 21 CFR 50.23 and 24, or 21 CFR 56.109(c).

Category one (1) preserves category ten (10) on the 1981 list. It also contains a new sentence that addresses the availability of the expedited review procedure for marketed drugs in research as well as specific citations in response to five comments that raised questions about these issues.

The following changes have been made to category two (2) in response to over 45 comments which supported enhanced expedited review concerning collection of blood, but which suggested certain refinements. Collection of blood now includes finger stick, heel stick, or ear stick as well as venipuncture. The four proposed subcategories were recombined as two separate subcategories. The critical issues to be considered by the IRB include weight, physical condition, and amount of blood to be collected. The first subcategory (a) concerns healthy nonpregnant adults. The second subcategory, (b), concerns all other adults and children. For this second subcategory, the IRB will need to make certain judgments including: consideration for the age, weight, and health of the subjects in light of the amount of blood to be collected, the frequency with which it will be collected, and the collection procedure. The final sentence of subcategory (b) reads: For these individuals, the amount drawn may not exceed the lesser of 50 ml or 3 ml per kg in an 8 week period and collection may not occur more than 2 times per week. While an expedited review of research involving pregnant women is permissible under the revised section, this last sentence makes it clear that the amount of blood that can be drawn is subject to limitations greater than those on healthy nonpregnant adults. Also, in response to public comment, the phrase "medically vulnerable adults" that was proposed in November 1997 has been deleted.

In response to more than 24 comments, category three (3) (previously category one (1) in the 1981 list) has been changed in the following manner. The words "noninvasive means" have been added to clarify the manner of collection of research materials; and, the procedures outlined are set out as examples to the IRB of the types of procedures that could fall within this category.

Categories four (4) and five (5) on the proposed list have been combined into one new category five (5) on the 1998 list. This new section is added in response to comments that raised questions about the relationship of proposed categories four (4) and five (5) to exempt research and about separating out existing and prospectively collected materials. The term "nonresearch purposes" was maintained in new category five (5) to describe the origins of the research materials. An explanatory note has been added to categories five (5) and seven (7) to clarify that some research described in these categories may be exempt from IRB review under 45 CFR 46.101(b) of the HHS regulations for the protection of human subjects (there is no comparable exemption provision in the FDA regulations). Thus, the listing of those categories refers only to nonexempt research.

Category six (6), proposed in November 1997, is now category four (4) on the 1998 list and addresses the collection of data through noninvasive procedures. The words "noninvasive procedures" have been added and apply to all procedures that would fall within this category. Because of several comments that raised concerns about MRIs and the use of anesthesia and sedation, expedited review would not be allowed for any procedure employing either of these. In response to more than 24 comments, this category lists procedures as examples for the IRB of the types of procedures that would qualify for expedited review.

Category seven (7) on the list proposed in November 1997 is now category six (6) on the 1998 list and deals with the collection of data from voice, digital, or image recordings. The qualification that was proposed in November of 1998 requiring consideration of certain risks to subjects is now a general guiding principle. It has been incorporated into the general Applicability section in response to several comments that questioned limiting this consideration to this type of research.

Category eight (8) on the proposed list is now category seven (7) on the revised list. In response to over 30 comments, the following changes have been made. The word "stress" has been deleted; the subsections in the proposed list have been combined; research on oral history has been included in response to approximately six comments; and specific research and research techniques have been noted. As in new category six (6), the qualification that requires consideration of certain kinds of risks to subjects has been deleted as it is now a general guiding principle for the entire list.

Category nine (9) on the proposed list received more than 50 comments

explicitly applauding this additional category. It has been divided into two categories. Category eight (8) identifies three situations in which research that is greater than minimal risk and has been initially reviewed by the convened IRB, could undergo subsequent continuing review by the expedited review procedure. New category nine (9) concerns continuing review of research that is not greater than minimal risk but had to undergo initial review by a convened IRB because it did not meet the criteria of categories two (2) through seven (7) on the list.

Certain other minimal changes have been made for editorial purposes or to clarify certain words that were used in the proposed list. Accordingly, the list of categories of research which may be reviewed by the IRB through the expedited review procedure is amended as set forth below.

Categories of Research That May Be Reviewed by the Institutional Review Board (IRB) Through an Expedited Review Procedure [1]

Applicability

(A) Research activities that (1) present no more than minimal risk to human subjects, and (2) involve only procedures listed in one or more of the following categories, may be reviewed by the IRB through the expedited review procedure authorized by 45 CFR 46.110 and 21 CFR 56.110. The activities listed should not be deemed to be of minimal risk simply because they are included on this list. Inclusion on this list merely means that the activity is eligible for review through the expedited review procedure when the specific circumstances of the proposed research involve no more than minimal risk to human subjects.

(B) The categories in this list apply regardless of the age of subjects, except as noted.

(C) The expedited review procedure may not be used where identification of the subjects and/or their responses would reasonably place them at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, insurability, reputation, or be stigmatizing, unless reasonable and appropriate protections will be implemented so that risks related to invasion of privacy and breach of confidentiality are no greater than minimal.

(D) The expedited review procedure may not be used for classified research involving human subjects.

(E) IRBs are reminded that the standard requirements for informed consent (or its waiver, alteration, or exception) apply regardless of the type of review—expedited or convened—utilized by the IRB.

(F) Categories one (1) through seven (7) pertain to both initial and continuing IRB review.

Research Categories

(1) Clinical studies of drugs and medical devices only when condition (a) or (b) is met.

(a) Research on drugs for which an investigational new drug application (21 CFR Part 312) is not required. (Note: Research on marketed drugs that significantly increases the risks or decreases the acceptability of the risks associated with the use of the product is not eligible for expedited review.)

(b) Research on medical devices for which (i) an investigational device exemption application (21 CFR Part 812) is not required; or (ii) the medical device is cleared/approved for marketing and the medical device is being used in accordance with its cleared/approved labeling.

(2) Collection of blood samples by finger stick, heel stick, ear stick, or venipuncture as follows:

(a) from healthy, nonpregnant adults who weigh at least 110 pounds. For these subjects, the amounts drawn may not exceed 550 ml in an 8 week period and collection may not occur more frequently than 2 times per week; or (b) from other adults and children,[2] considering the age, weight, and health of the subjects, the collection procedure, the amount of blood to be collected, and the frequency with which it will be collected. For these subjects, the amount drawn may not exceed the lesser of 50 ml or 3 ml per kg in an 8 week period and collection may not occur more frequently than 2 times per week.

(3) Prospective collection of biological specimens for research purposes by noninvasive means.

Examples: (a) Hair and nail clippings in a nondisfiguring manner; (b) deciduous teeth at time of exfoliation or if routine patient care indicates a need for extraction; (c) permanent teeth if routine patient care indicates a need for extraction; (d) excreta and external secretions (including sweat); (e) uncannulated saliva collected either in an unstimulated fashion or stimulated by chewing gumbase or wax or by applying a dilute citric solution to the tongue; (f) placenta removed at delivery; (g) amniotic fluid obtained at the time of rupture of the membrane prior to or during labor; (h) supra- and subgingival dental plaque and calculus, provided the collection procedure is not more invasive than routine prophylactic scaling of the teeth and the process is accomplished in accordance with accepted prophylactic techniques; (i) mucosal and skin cells collected by buccal scraping or swab, skin swab, or mouth washings; (j) sputum collected after saline mist nebulization.

(4) Collection of data through noninvasive procedures (not involving general anesthesia or sedation) routinely employed in clinical practice, excluding procedures involving x-rays or microwaves. Where medical devices are employed, they must be cleared/approved for marketing. (Studies intended to evaluate the safety and effectiveness of the medical device are not generally eligible for expedited review, including studies of cleared medical devices for new indications.)

Examples: (a) Physical sensors that are applied either to the surface of the body or at a distance and do not involve input of significant amounts of energy into the subject or an invasion of the subject's privacy; (b) weighing or testing sensory acuity; (c) magnetic resonance imaging; (d) electrocardiography, electroencephalography, thermography, detection of naturally occurring radioactivity, electroretinography, ultrasound, diagnostic infrared imaging, doppler blood flow, and echocardiography; (e) moderate exercise, muscular strength testing, body composition assessment, and flexibility testing where appropriate given the age, weight, and health of the individual.

(5) Research involving materials (data, documents, records, or specimens) that have been collected or will be collected solely for nonresearch purposes (such as medical treatment or diagnosis). (Note: Some research in this category may be exempt from the HHS regulations for the protection of human subjects. *45 CFR 46.101(b)(4).* This listing refers only to research that is not exempt.)

(6) Collection of data from voice, video, digital, or image recordings made for research purposes.

(7) Research on individual or group characteristics or behavior (including, but not limited to, research on perception, cognition, motivation, identity, language, communication, cultural beliefs or practices, and social behavior) or research employing survey, interview, oral history, focus group, program evaluation, human factors evaluation, or quality assurance methodologies. (Note: Some research in this category may be exempt from the HHS regulations for the protection of human subjects *45 CFR 46.101 (b)(2) and (b)(3).* This listing refers only to research that is not exempt.)

(8) Continuing review of research previously approved by the convened IRB as follows:

(a) Where (i) the research is permanently closed to the enrollment of new subjects; (ii) all subjects have completed all research-related interventions; and (iii) the research remains active only for long-term follow-up of subjects; or

(b) Where no subjects have been enrolled and no additional risks have been identified; or

(c) Where the remaining research activities are limited to data analysis.

(9) Continuing review of research, not conducted under an investigational new drug application or investigational device exemption where categories two (2) through eight (8) do not apply but the IRB has determined and documented at a convened meeting that the research involves no greater than minimal risk and no additional risks have been identified.

Gary B. Ellis,

Director, Office for Protection from Research Risks.

[FR Doc. 98–29749 Filed 11–6–98; 8:45 am]

BILLING CODE 4140–01–P

[1] An expedited review procedure consists of a review of research involving human subjects by the IRB chairperson or by one or more experienced reviewers designated by the chairperson from among members of the IRB in accordance with the requirements set forth in 45 CFR 46.110.

[2] Children are defined in the HHS regulations as "persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law of the jurisdiction in which the research will be conducted." 45 CFR 46.402(a).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–3918–N–16]

Privacy Act of 1974; Notice of a Computer Matching Program

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice of a Computer Matching Program—HUD and the Internal Revenue Service (IRS).

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (54 FR 25818 (June 19, 1989)), and OMB Bulletin 89–22, "Instructions on Reporting Computer Matching Programs to the Office of Management (OMB), Congress and the Public," the Department of Housing and Urban Development (HUD) is issuing a public notice of its intent to conduct a computer matching program with the Internal Revenue Service (IRS). Under the terms of the agreement IRS agrees to disclose to HUD taxpayer mailing addresses as authorized by the Commissioner or her delegate pursuant to Section 6103(m)(2) of the Internal Revenue Code (IRC) for use in locating individuals to collect or compromise Federal claims in accordance with 31 United States Code (U.S.C.) 3711, 3717 and 3718. This program is called the Taxpayer Address Request Program (TAR). It was established by the IRS to facilitate the retrieval of taxpayer mailing addresses from the individual Master File on a volume basis. The volume of addresses and the method in which the IRS maintains the information make computer matching the most feasible method of extracting the data for disclosure to other agencies. Using the TAR computer matching program, current addresses can be obtained from the IRS within a one-week period, thereby avoiding the expenditure of substantial Federal resources in the manual execution of a matching process or investigations by a large workforce to ascertain the current address of individuals against whom the agency has a claim or indebtedness.

DATES: *Effective date:* Computer matching is expected to begin 40 days after publication of this notice in the **Federal Register** (December 21, 1998), unless comments are received which will result in a contrary determination, or 40 days from the date a computer matching agreement is signed, whichever is later.

COMMENTS DUE BY: December 9, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR PRIVACY ACT INFORMATION AND FOR FURTHER INFORMATION FROM RECIPIENT AGENCY CONTACT: Jeanette Smith, Departmental Privacy Act Officer, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, telephone number (202) 708–2374 or FAX (202) 708–3577. (These are not toll-free numbers.)

FOR FURTHER INFORMATION FROM SOURCE AGENCY CONTACT: M.R. Taylor, Internal Revenue Service, Office of FedState Relations, 1111 Constitution Avenue, NW, Washington, DC 20224, telephone number (202) 622–5145 or Fax (202) 622–3041. (These are not toll-free numbers.)

Reporting

In accordance with Pub. L. 100–503, the Computer Matching and Privacy Protection Act of 1988, as amended, and Office of Management and Budget (OMB), Bulletin 89–22, "Instructions on Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public;" copies of this notice and report are being provided to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget.

Authority

The matching program will be conducted under the authority of section 6103(m)(2) of the Internal Revenue Code and 31 United States Code 3711, 3717 and 3718.

Objectives to be Met by the Matching Program

HUD expects that this computer matching program will enable it to quickly and effectively identify and locate individual debtors, and to obtain current mailing addresses of defaulted debtors.

Records to be Matched

HUD will utilize its system of records entitled, Accounting Records, HUD/Dept-2. HUD will submit approximately 40,000 records annually of individuals with outstanding Federal debts for matching purposes. These records are extracted from the Privacy Act system of records, HUD/Dept-2, Accounting Records, maintained in the following programs and automated systems: (1) Title I—Debt Management Collection Systems; (2) Section 312—Loan Mortgage System; and (3) Departmental Claims—Delinquent Debt Control System. The IRS will extract taxpayer address information from Privacy Act System of Records: Individual Master File, Treas/IRS 24.030, maintained at the Martinsburg Computing Center, Martinsburg, WV. This file contains approximately 20 million records of taxpayers who have filed U.S. Individual Income Tax returns.

Notice Procedures

The IRS provides direct notice to taxpayers in the instructions to Form 1040, 1040A, and 1040EZ that information provided on U.S. Individual Income Tax Returns may be given to other Federal agencies, as provided by law. HUD agrees to ensure that each applicant, at the time of application, receives written notice that the information provided on the application is subject to verification through computer matching with other Federal agencies for the purpose of locating delinquent debtors. Direct notice consists of appropriate language printed on its application forms or a separate handout provided to the individual.

Categories of Records/Individuals Involved

The debtor records include these data elements: SSN, claim number, program code, and indication of indebtedness. Categories of records include: records of claims and defaults, repayment agreements, credit reports, financial statements, and records of foreclosures.

Period of the Match

Matching will begin at least 40 days from the date copies of the signed (by both Data Integrity Boards) computer matching agreement are sent to both Houses of Congress or at least 40 days from the date this Notice is published in the **Federal Register**, whichever is later, providing no comments are received which will result in a contrary determination. The matching program will be in effect and continue for 18 months with an option to renew for 12 additional months unless one of the parties to the agreement advises the other in writing to terminate or modify the agreement.

Dated: October 29, 1998.

Leslie H. Graham, Jr.,

Deputy Director, Office of Information Technology.

[FR Doc. 98–29983 Filed 11–6–98; 8:45 am]

BILLING CODE 4210–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for the Nuevo Energy Company/ Torch Operating Company Habitat Conservation Plan, Kern County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and receipt of application.

SUMMARY: This notice advises the public that Nuevo Energy Company (Nuevo) and Torch Operating Company (Torch) have applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended. The proposed permit would authorize the incidental take of 5 listed animal species and the future incidental take, should it become necessary, of 4 listed plant species, 9 unlisted animal species, and 7 unlisted plant species, resulting from oil and gas production in Kern County, California. The permit would be in effect for 30 years.

The Service also announces the availability of an Environmental Assessment for the incidental take permit application. The application includes the proposed Habitat Conservation Plan (Plan) fully describing the proposed project and mitigation and the accompanying Implementing Agreement. This notice is provided pursuant to section 10(a) of the Endangered Species Act and National Environmental Policy Act regulations (40 CFR 1506.6). All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

DATES: Written comments on the permit application and Environmental Assessment should be received on or before December 9, 1998.

ADDRESSES: Comments regarding the application or adequacy of the Environmental Assessment, Habitat Conservation Plan, and Implementing Agreement should be addressed to the Field Supervisor, Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 3310 El Camino, Suite 130, Sacramento, California 95821–6340. Individuals wishing copies of the application or Environmental Assessment for review should immediately contact the above office. Documents also will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Susan Jones or Peter Cross, Sacramento Fish and Wildlife Office, (916) 979–2728.

SUPPLEMENTARY INFORMATION: Section 9 of the Endangered Species Act and Federal regulation prohibit the "taking" of fish and wildlife species listed as endangered or threatened, respectively. That is, no one may harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or attempt to engage in such conduct (16 U.S.C. 1538). However, the Service may, under limited circumstances, issue permits to take listed fish and wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for threatened species are promulgated in 50 CFR 17.32; regulations governing permits for endangered species are promulgated in 50 CFR 17.22.

Section 9 of the Endangered Species Act generally does not prohibit take of federally listed plants on private lands unless the take or action resulting in take would violate State law. Nuevo/Torch have requested a permit for plants to the extent that their take would be a violation of the Endangered Species Act. Impacts to listed plants also must be addressed in the intra-Service consultation required pursuant to section 7(a) of the Endangered Species Act.

Background

The Plan addresses parcels totaling approximately 21,800 acres in western Kern County to which Nuevo/Torch holds various rights. The Plan does not address Nuevo/Torch mineral interests on Bureau of Land Management land. While the Plan Area covered by the Nuevo/Torch Plan is 21,800 acres, Nuevo/Torch estimates that only about 1,700 acres will be subject to permanent disturbance. The proposed activities addressed by the Plan include oil and gas production operations; construction, maintenance and/or abandonment of oil field equipment; maintenance and inspection of oil field equipment as required by certain regulatory agencies; and any activity required to mitigate an emergency situation, or effects of an emergency situation.

The listed species addressed in the proposed permit are the giant kangaroo rat (*Dipodomys ingens*), Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), blunt-nosed leopard lizard (*Gambelia silus*), San Joaquin kit fox (*Vulpes macrotis mutica*), and the California condor (*Gymnogyps californianus*), federally listed as endangered. The proposed permit also would authorize future incidental take of the San Joaquin antelope squirrel (*Ammospermophilus nelsoni*), short-nosed kangaroo rat (*Dipodomys nitrotoides brevinasus*), western burrowing owl (*Athene cunicularia hypugea*), San Joaquin LeConte's thrasher (*Toxostoma lecontei macmillanorum*), mountain plover (*Charadrius montanus*), California horned lizard (*Phynosoma coronatum frontale*), San Joaquin coachwhip (*Masticophis flagellum ruddocki*), Tulare grasshopper mouse (*Onychomys torridus tularensis*), and San Joaquin pocket mouse (*Perognothus inornotus inornatus*), currently unlisted species, should any of them become listed under the Endangered Species Act in the future while the permit is in effect. Nuevo/Torch has not requested authority under the Endangered Species Act for direct take of California condor. Rather, the applicants have requested that authority be given for minimal harassment of California condors that may inadvertently result if condors ever occur in the Plan Area.

Additionally, the Plan addresses avoidance, minimization, and mitigation for impacts to listed and unlisted plant species. These species are the Kern mallow (*Eremalche kernensis*), San Joaquin woolly-threads (*Lembertia congdonii*), and Bakersfield cactus (*Opuntia basilaris treleasei*), federally listed as endangered, and Hoover's eriastrum (*Eriastrum hooveri*), federally listed as threatened. The unlisted plant species are the recurved larkspur (*Delphinium recurvatum*), slough thistle (*Cirsium crassicaule*), oil neststraw (*Stylocline citroleum*), heartscale (*Atriplex cordulata*), Lost Hills crownscale (*Atriplex vallicola*), lesser saltscale (*Atriplex minuscula*), and brittlescale (*Atriplex depressa*). Collectively the listed and unlisted animal and plant species addressed in the Plan are referred to as the "covered species" for the Nuevo/Torch lands.

The Nuevo/Torch Plan is a three-fold program which includes: (1) Compensation, (2) avoidance and minimization of take, and (3) management of conservation lands. The compensation strategy for take resulting from the permanent disturbance of habitat is based on dividing Nuevo/Torch lands into four zones by a combination of habitat quality and land use. These zones are the Oil Zone, White Zone, Green Zone, and Red Zone, and are based on conservation value. The Oil Zone includes land within the administrative oil and gas field boundaries used by the California Division of Oil, Gas and Geothermal Resources. Within the Oil Zone, there is an inner area, known as the Oil Zone-Productive Area, where the currently producing wells are located and, because of the high intensity of production, where habitat value is generally low. That part of the Oil Zone which is outside the Oil Zone-Productive Area is known as the Oil Zone-Step-out Area. The Oil Zone-Step-out Area, where future oil development may occur, has much more limited current development and generally higher habitat value than the Oil Zone-Productive Area. The White Zone includes agricultural land and other areas with low habitat value; the Green Zone includes land with moderate habitat value that provides valuable linkage and corridor routes; and the Red Zone includes land with high habitat value.

While the habitat value of some Oil Zone land is such that it could be classified as Green or Red Zone land, the Oil Zone designation overrides the habitat value of the land, and the land is considered Oil Zone land for purposes of the Nuevo/Torch Plan. Most of the proposed activities covered by the Nuevo/Torch Plan are anticipated to take place in the Oil Zone-Productive Area. No compensation will be provided for permanent disturbance in the Oil Zone-Productive Area. Compensation for permanent disturbance in the Oil Zone-Step-out Area will be provided at the same rate as for White Zone land.

Nuevo/Torch will compensate for permanent habitat disturbance within the White, Green, and Red Zones by preserving high habitat value Red Zone land in the Lokern Natural Area in perpetuity. Funds will be set aside for initial improvements and long term care of preserve lands as the land is set aside to compensate for specific projects. For lands outside the Oil Zone, the Nuevo/Torch Plan assigns "conservation credits" for each acre of land disturbed and each acre acquired for preservation, based on the zone in which it is located. Lands in the Red Zone are valued at 3 credits/acre, lands in the Green Zone are valued at 2 credits/acre, and lands in the White Zone and the Oil Zone-Step-out Area are valued at 1 credit/acre. Compensation will be provided in a ratio of 3 acres of preserved land to every 1 acre of disturbed land. For example, if one acre of Red Zone land is permanently disturbed, then 3 acres of Red Zone land will be preserved in perpetuity as compensation. If 1 acre of White Zone land is permanently disturbed, then one third of an acre of Red Zone land will be preserved in perpetuity as compensation.

Nuevo/Torch estimates that 1,700 acres of habitat will be permanently disturbed, and that 81 percent of that disturbance will be in the Oil Zone-Productive Area. The remaining 29 percent of the disturbance will affect 493 acres, and be compensated for with a total of 833 Red Zone acres.

Nuevo/Torch will designate properties in the Lokern Natural Area as a preserve for use as compensation for permanent habitat disturbance. Three properties controlled by Nuevo/Torch in the Red Zone, the Mallett, Kimble, and Ransower-Vitelle properties, total 839.9 acres and would be set aside as preservation land as projects occur that require compensation. Nuevo/Torch will manage all three properties as preserve land upon initiation of the Nuevo/Torch Plan.

Nuevo/Torch will implement extensive avoidance and minimization measures which address both animal and plant species in all zones except the Oil Zone. Strict avoidance measures for covered species will be enforced by the Nuevo/Torch Environmental Department. Specific take avoidance measures are presented in Section 5 of the Nuevo/Torch Plan. Nuevo/Torch also will follow the Best Management Practices outlined in Section 5 in order to minimize effects on wildlife. In addition, Nuevo/Torch will conduct annual monitoring of both disturbed land and preservation land and provide reports to the Service and the California Department of Fish and Game.

Environmental Assessment

The Environmental Assessment considers the environmental consequences of five alternatives. Alternative 1, the proposed action, consists of the issuance of an incidental take permit to Nuevo/Torch, and implementation of the Plan and its Implementing Agreement. Alternative 2 consists of development of oil and gas facilities on the proposed preserve lands in the Lokern Natural Area. The level of incidental take under Alternative 2 would likely be greater than under the proposed action. Alternative 3 consists of development of oil production facilities on an alternative site which would have listed species concerns similar to the proposed action. Because of the presence of listed species on the lands associated with alternatives 2 and 3, an incidental take permit would be required for selection and implementation of either alternative. Alternative 4 consists of waiting until the Kern County Valley Floor Habitat Conservation Plan is approved. Under Alternative 5, the No Action Alternative, the Service would not issue an incidental take permit.

This notice is provided pursuant to section 10(a) of the Endangered Species Act and the National Environmental Policy Act of 1969 regulations (40 CFR 1506.6). The Service will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of the National Environmental Policy Act regulations and section 10(a) of the Endangered Species Act. If it is determined that the requirements are met, a permit will be

issued for the incidental take of the listed species. The final permit decision will be made no sooner than 30 days from the date of this notice.

Dated: November 3, 1998.

Michael J. Spear,

Manager, California/Nevada Operations Office, Fish and Wildlife Service, Region 1, Sacramento, California.

[FR Doc. 98–29902 Filed 11–6–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Privacy Act of 1974; as Amended; Revisions to the Existing System of Records

AGENCY: Geological Survey, Department of the Interior.

ACTION: Proposed revisions to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the U.S. Geological Survey (USGS) is issuing public notice of its intent to modify an existing Privacy Act system of records notice, USGS–4, "Employee Assistance Program Records." The revisions will update the address of the System Manager(s).

EFFECTIVE DATE: 5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment on the intended use of the information in the system of records. The Office of Management and Budget, in its Circular A–130, requires an additional 10-day period (for a total of 40 days) in which to make these comments. Any persons interested in commenting on this revised system of records may do so by submitting comments in writing to the U.S. Department of the Interior, U.S. Geological Survey, USGS Privacy Act Officer, National Center, MS–807, 12201 Sunrise Valley Drive, Reston, Va 20192. Comments received within 40 days of publication in the **Federal Register** (December 21, 1998), will be considered. The system will be effective as proposed at the end of the comment period, unless comments are received which would require a contrary determination.

ADDRESSES: Send written comments to U.S. Department of the Interior, U.S. Geological Survey, USGS Privacy Act Officer, National Center, MS–807, Reston, Virginia, 20192. Hand deliver comments to the same address.

FOR FURTHER INFORMATION CONTACT: Chief, Branch of Employee/Labor Management Relations, Office of Personnel, U.S. Geological Survey, National Center, MS–601, Reston, Virginia, 20192.

SUPPLEMENTARY INFORMATION: The USGS is proposing to amend the system notice for USGS–4, "Employee Assistance Program Records," to more accurately and clearly describe the address of the System Manager(s). The revision reflects a change of address in the Reston, Virginia, and the Atlanta, Georgia, System Managers locations.

Dated: October 28, 1998.

Paul R. Celluzzi,

Chief, Corporate Information Technology Branch, Office of Information Services.

Accordingly, the USGS proposes to amend the "Employee Assistance Program Records," USGS–4 in its entirety to read as follows:

INTERIOR/USGS–4

SYSTEM NAME:

Employee Assistance Program—Records, USGS–4.

SYSTEM LOCATION:

This system of records is located with the contractor providing counseling services.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. Geological Survey employees and their families who seek, are referred, and/or receive assistance through the Employee Assistance Program (EAP).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include documentation of visits to employee counselors (Federal, State, local government, or private), the problem assessment, the recommended plan of action to correct the major issue, referral to community or private resource for assistance with personal problems, referral to community or private resource for rehabilitation or treatment, results of referral, and other notes or records of discussions held with the employee made by the EAP counselor. Additionally, records in this system may include documentation of treatment by a therapist or at a Federal, State, local government, or private institution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 290dd–1; 42 U.S.C. 290ee–1.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are used by the Employee Assistance Program Counselor to document the nature of an individual's problem and progress made to correct the problem. The primary uses of these records are: (1) For the EAP counselor to document the nature of individual's problem and progress made to correct the problem, and, (2) record an individual's participation in and the results of community or private referrals for solution of problems, rehabilitation, or treatment programs. These records and information may be used to disclose information to qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report or otherwise disclose patient identities in any manner (when such records are provided to qualified researchers employed by the Department of the Interior all patient identifying information will be removed).

Note: Disclosure of information pertaining to an individual with a history of alcohol or drug abuse must be limited in compliance with the restrictions of the confidentiality of Alcohol and Drug Abuse Patient Records Regulations, 42 CFR part 2. Disclosure of records pertaining to the physical and mental fitness of employees are, as a matter of Department policy, afforded the same degree of confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

These records are maintained in locked file cabinets with access strictly limited to those persons employed by the contractor(s) who are directly involved in the alcohol and drug abuse prevention function of the U.S. Geological Survey's Employee Assistance Program as that term is defined in 42 CFR, part 2.

RETENTION AND DISPOSAL:

Retained and disposed of according to Bureau Records Disposition Schedule, RCS/Item 405–04 a and b.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Employee/Labor Management Relations, Office of Personnel, U.S. Geological Survey, 601 National Center, Reston, Virginia 20192; Atlanta Personnel Officer, U.S. Geological Survey, 3850 Holcomb Bridge Rd., Norcross, Georgia 30092; Rolla Personnel Officer, U.S. Geological Survey, 1400 Independence Road, Rolla, Missouri 65401; Chief, Employee Relations Section, Central Region Personnel Branch, U.S. Geological Survey, Denver Federal Center, Denver, Colorado 80225; Western Region EAP Administrator, Employee Relations and Development Section, Western Region Personnel Branch, 345 Middlefield Road, Menlo Park, California 94025.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the appropriate System Manager. Individuals must furnish their name and date of birth for their records to be located and identified.

RECORD ACCESS PROCEDURES:

Same as notification above. Any individual must also follow the Department's Privacy Act Regulations regarding verification of identity and access to records (see 43 CFR 2.62).

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the appropriate System Manager. An individual must follow the Department's Privacy Act Regulations regarding and identity and amendment of records (see 43 CFR 2.71).

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies, the supervisor of the individual if the individual was referred by a supervisor, the Employer Assistance Program staff who records the counseling session, and the therapists or institutions used as referrals or providing treatment.

[FR Doc. 98–29904 Filed 11–6–98; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Privacy Act of 1974; as Amended; Revisions to the Existing System of Records

AGENCY: Geological Survey, Department of the Interior.

ACTION: Proposed revisions to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the U.S. Geological Survey (USGS) is issuing public notice of its intent to modify an existing Privacy Act system of records notice, USGS–5, "Contract Files." The revisions will update addresses of the System Location and the System Manager.

EFFECTIVE DATE: 5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment on the intended use of the information in the system of records. The Office of Management and Budget, in its Circular A–130, requires an additional 10-day period (for a total of 40 days) in which to make these comments. Any persons interested in commenting on this revised system of records may do so by submitting comments in writing to the U.S. Department of the Interior, U.S. Geological Survey, USGS Privacy Act Officer, National Center, MS–807, 12201 Sunrise Valley Drive, Reston, VA 20192. Comments received within 10 days of publication in the **Federal Register** (December 21, 1998), will be considered. The system will be effective as proposed at the end of the comment period, unless comments are received which would require a contrary determination.

ADDRESSES: Send written comments to U.S. Department of the Interior, U.S. Geological Survey, USGS Privacy Act Officer, National Center, MS–807, Reston, Virginia, 20192. Hand deliver comments to the same address.

FOR FURTHER INFORMATION CONTACT: Chief, Office of Acquisition & Federal Assistance, U.S. Geological Survey, National Center, MS–205, Reston, Virginia 20192.

SUPPLEMENTARY INFORMATION: The USGS is proposing to amend the system notice for USGS–5, "Contract Files," to more accurately and clearly describe the addresses of the System Location and the System Manager.

Dated: October 28, 1998.

Paul R. Celluzzi,

Chief, Corporate Information Technology Branch, Office of Information Services.

Accordingly, the USGS proposes to amend the "Contract Files," USGS–5 in its entirety to read as follows:

INTERIOR/USGS–5

SYSTEM NAME:

Contract Files—Interior, USGS–5.

SYSTEM LOCATION:

The primary location of this system of records is in the Office of Acquisition & Federal Assistance, U.S. Geological Survey, National Center, MS–205, Reston, VA 20192. These records are also maintained in several Survey administrative field offices. A listing of these locations may be obtained from the Systems Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have contracts or subcontracts with the Geological Survey and certain contractor employees. The system also contains records concerning individuals in their entrepreneurial capacity, corporations and other business entities. These records are not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of contract information, from inception of requirement, through contract award, contract administration and completion of the contract. Copies of contractor technical and cost proposals, including individual employee resumés and salary data, documentation pertaining to the award, contract administration, miscellaneous correspondence, and information on debts owed by a contractor as a result of overpayment, default, disallowed costs or other contractual obligation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 481.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The primary use of the records is in awarding and administering contracts through their completion. Disclosure outside the Department of the Interior may be made to: (1) The U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department or, when represented by the Government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) disclose pertinent information to an appropriate Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, regulation, rule, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (4) a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit; (5) Federal, State or local agencies

where necessary to obtain information relevant to the hiring or retention of an employee; or the issuance of a security clearance, license, contract, grant or other benefit.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be able to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders.

RETRIEVABILITY:

By name of individual contractor and by contract number.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

Retained and disposed of according to Bureau Records Disposition Schedule, RCS/Item 802–01.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Acquisition & Federal Assistance, U.S. Geological Survey, National Center, MS–205, Reston, Virginia 20192.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her must be addressed to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Requests for access shall be addressed to the System Manager, signed by the requester and meet the content requirement of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information comes from the individual contractor.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 98–29905 Filed 11–6–98; 8:45 am]
BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Privacy Act of 1974; as Amended; Revisions to the Existing System of Records

AGENCY: Geological Survey, Department of the Interior.

ACTION: Proposed revisions to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the U.S. Geological Survey (USGS) is issuing public notice of its intent to modify an existing Privacy Act system of records notice, USGS–7, "Personal Property Accountability Records." The revisions will update addresses of the System Location and the System Manager.

EFFECTIVE DATE: 5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment on the intended use of the information in the system of records. The Office of Management and Budget, in its Circular A–130, requires an additional 10-day period (for a total of 40 days) in which to make these comments. Any persons interested in commenting on this revised system of records may do so by submitting comments in writing to the U.S. Department of the Interior, U.S. Geological Survey, USGS Privacy Act Officer, National Center, MS–807, 12202 Sunrise Valley Drive, Reston, VA 20192. Comments received within two days of publication in the **Fedeal Register** (December 21, 1998) will be considered. They system will be effective as proposed at the end of the comment period, unless comments are received which would require a contrary determination.

ADDRESSES: Send written comments to U.S. Department of Interior, U.S. Geological Survey, USGS Privacy Act Officer, National Center, MS–807, Reston, Virginia 20192. Hand deliver comments to the same address.

FOR FURTHER INFORMATION CONTACT:

Chief, Office of Program Support, U.S. Geological Survey, National Center, MS–210, Reston, Virginia 20192.

SUPPLEMENTARY INFORMATION: The USGS is proposing to amend the system notice for USGS–7, "Personal Property Accountability Records," to more accurately and clearly describe the addresses of the System Location and the System Manager.

Dated: October 28, 1998.

Paul R. Celluzzi,

Chief, Corporate Information Technology Branch, Office of Information Services.

Accordingly, the USGS proposes to amend the "Personal Property Accountability Records," USGS–7 in its entirety to read as follows:

INTERIOR/USGS–7

SYSTEM NAME:

Personal Property Accountability Records—Interior, USGS–7.

SYSTEM LOCATION:

(1) Property Management Branch, Office of Facilities and Management Services, Administrative Division, U.S. Geological Survey, National Center, MS–210, Reston, VA 20192.

(2) Administrative offices in all or substantially all field locations. (For a listing of specific locations, contact the System Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Geological Survey employees who are accountable for bureau-owned controlled property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of assignment of an internal identification number and acknowledgment of receipt by employees. Records of transfers to other accountable employees. Inventory records containing employee social security numbers and duty stations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 483(b).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are to: (a) Maintain control over bureau-owned controlled property; (b) maintain up-to-date inventory of the property and to record accountability for the property. Disclosure outside the Department of the Interior may be made: (1) To the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department or, when represented by the Government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) to disclose pertinent information to an appropriate Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, regulation, rule, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant, or other benefit; (6) to a Federal agency for the purpose of collecting a debt owed the Federal government through administrative or salary offset and to other Federal agencies conducting computer matching programs to help eliminate fraud and abuse.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are both manual and computerized.

RETRIEVABILITY:

By employee social security number.

SAFEGUARDS:

Access by authorized employees only.

RETENTION AND DISPOSAL:

Retained and disposed of according to Bureau Records Disposition Schedule, RCS/Item 307–10.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Property Management Branch, Office of Facilities and Management Services, Office of Program Support, U.S. Geological Survey, National Center, Mail Stop 210, Reston, VA 20192.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Same as above. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual employees.

[FR Doc. 98–29906 Filed 11–6–98; 8:45 am]
BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Privacy Act of 1974; as Amended; Revisions to the Existing System of Records

AGENCY: Geological Survey, Department of the Interior.

ACTION: Proposed revisions to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the U.S. Geological Survey (USGS) is issuing public notice of its intent to modify an existing Privacy Act system of records notice, USGS–11, "Security." The revisions will update addresses of the System Location and the System Manager.

EFFECTIVE DATE: 5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment on the intended use of the information in the system of records. The Office of Management and Budget, in its Circular A–130, requires an additional 10-day period (for a total of 40 days) in which to make these comments. Any persons interested in commenting on this revised system of records may do so by submitting comments in writing to the U.S. Department of the Interior, U.S. Geological Survey, USGS Privacy Act Officer, National Center, MS–807, 12201 Sunrise Valley Drive, Reston, Va. 20192. Comments received within two days of publication in the **Federal Register** (December 21, 1998), will be considered. The system will be effective as proposed at the end of the comment period, unless comments are received which would require a contrary determination.

ADDRESS: Send written comments to U.S. Department of the Interior, U.S. Geological Survey, USGS Privacy Act Officer, National Center, MS–807, Reston, Virginia 20192. Hand deliver comments to the same address.

FOR FURTHER INFORMATION CONTACT: Administrative Officer, Geologic Division, U.S. Geological Survey, National Center, MS–912, Reston, Virginia 20192.

SUPPLEMENTARY INFORMATION: The USGS is proposing to amend the system notice for USGS–11, "Security," to more accurately and clearly describe the addresses of the System Location and the System Manager.

Dated: October 28, 1998.

Paul R. Celluzzi,

Chief, Corporate Information Technology Branch, Office of Information Services.

Accordingly, the USGS proposes to amend the "Security," USGS–11 in its entirety to read as follows:

INTERIOR/USGS–11

SYSTEM NAME:

Security—Interior, USGS–11.

SYSTEM LOCATION:

Office of the Chief Geologist, Geologic Division, U.S. Geological Survey, National Center, Mail Stop 912, Reston, VA 20192.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Geologic Division employees who have been granted security clearances.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record of security clearance for Division personnel; contains name, title, organization, office location, social security number, place and date of birth, and type of security clearance of person being granted access.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10501.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to keep current records on security clearances in the Geologic Division. Disclosure outside the Department of the Interior may be made (1) to the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) to disclose pertinent information to an appropriate Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, regulation, rule, or order, where the disclosing agency becomes aware of an indication of a

violation or potential violation of civil or criminal law or regulation; (3) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee; or issuance of a security clearance, license, contract, grant, or other benefit; (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant, or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual systems maintained in locked files. Automated system maintained in dBase III file.

RETRIEVABILITY:

Indexed by individual name.

SAFEGUARDS:

Maintained with security meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Retained and disposed of according to Bureau Records Disposition Schedule, RCS/System 306–16.

SYSTEM MANAGERS(S) AND ADDRESS:

Administrative Officer, Geologic Division, U.S. Geological Survey, National Center, Mail Stop 912, Reston, VA 20192.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

[FR Doc. 98–29907 Filed 11–6–98; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Privacy Act of 1974; as Amended; Revisions to the Existing System of Records

AGENCY: Geological Survey, Department of the Interior.

ACTION: Proposed revisions to an existing system of record.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the U.S. Geological Survey (USGS) is issuing public notice of its intention to modify an existing Privacy Act system of records notice USGS-13, "Manuscript Processing." The revisions will update the address of the System Location(s), System Manager(s), and further define Retention and Disposal.

EFFECTIVE DATE: 5 U.S.C. 552a(3)(11) that the public be provided a 30-day period in which to comment on the intended use of the information in the system of records. The Office of Management and Budget, in its Circular A-130, requires an additional 10-day period (for a total of 40 days) in which to make these comments. Any persons interested in commenting on this revised system of records may do so by submitting comments in writing to the U.S. Department of the Interior, U.S. Geological Survey, USGS Privacy Act Officer, National Center MS-807, 12201 Sunset Valley Drive, Reston, Va 20192. Comments received within 40 days of publication in the **Federal Register** (December 21, 1998), will be considered. The system will be effective as proposed at the end of the comment period, unless comments are received which would require a contrary determination.

ADDRESS: Send written comments to U.S. Department of the Interior, U.S. Geological Survey, USGS Privacy Act Officer, National Center, MS-807, Reston, Virginia, 20192. Hand deliver comments to the same address.

FOR FURTHER INFORMATION CONTACT: Chief, Eastern Publications Group, Geological Survey, National Center, MS-903, Reston, Virginia 20192.

SUPPLEMENTARY INFORMATION: The USGS is proposing to amend the system notice for USGS-13, "Manuscript Processing," to more accurately and clearly describe the addresses of the System Location(s), System Manager(s). The revision reflects a change of address in the Reston, Virginia, Denver, Colorado; and Menlo Park, California, System Locations and Systems Managers locations. In addition, this revision further define the Retention and Disposal of records procedures.

Dated: October 28. 1998.

Paul R. Celluzzi,

Chief, Corporate Information Technology Branch, Office of Information Services.

Accordingly, the USGS proposes to amend the "Manuscript Processing," USGS-13 in its entirety to read as follows:

INTERIOR/USGS–13

SYSTEM NAME:

Manuscript Processing-Interior, GS–13.

SYSTEM LOCATION:

(1) Eastern Publications Group, Office of the Eastern Regional Geologist, Geologic Division, Reston, VA; (2) Central Publications Group, Office of the Central Regional Geologist, Geologic Division, Denver CO; (3) Western Publications Group, Office of the Western Regional Geologist, Geologic Division, Menlo Park, CA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Geologic Division authors of Geo-Science publications.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains record by author or title on publication plans, status and location of all manuscript maps and reports in preparation or published by Geologic Division employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

43 U.S.C. 31, et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to maintain knowledge of and track publication plans, status of manuscript maps and reports in preparation being entered by Geologic Division employees. Disclosure outside the Department of the Interior may be made: (1) To the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary for its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form on cards.

RETRIEVABILITY:

Indexed by author and Geographic area.

SAFEGUARDS:

Maintained in accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Retained and disposed of according to Bureau Records Disposition Schedule, RCS/Item 303–03a.

SYSTEM MANAGER(S) AND ADDRESS:

(1) Chief, Eastern Publications Group, Geologic Division, National Center, MS–903, Reston, VA 20192; (2) Chief, Central Publications Group, MS902, Geologic Division, Denver, CO 80225; (3) Chief, Western Publications Group, Geologic Division, MS 951, Menlo Park, CA 94025.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Same as above. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

Same as above. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Authors.

[FR Doc. 98–29908 Filed 11–6–98; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Privacy Act of 1974; as Amended; Revisions to the Existing System of Records

AGENCY: Geological Survey, Department of the Interior.

ACTION: Proposed revisions to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the U.S. Geological Survey (USGS) is issuing public notice of its intent to modify an existing Privacy Act system of records notice, USGS–15, "Earth Science Information Customer Records." The revisions will update addresses of the System Location and the System Manager.

EFFECTIVE DATE: 5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment on the intended use of the information in the system of records. The Office of Management and Budget, in its Circular A–130, requires an additional 10-day period (for a total of 40 days) in which to make these comments. Any persons interested in commenting on this revised system of records may do so by submitting comments in writing to the U.S. Department of the Interior, U.S. Geological Survey, USGS Privacy Act Officer, National Center, MS–807, 12201 Sunrise Valley Drive, Reston, Va. 20192. Comments received within two day of publication in the **Federal Register** (December 21, 1998), will be considered. The system will be effective as proposed at the end of the comment period, unless comments are received which would require a contrary determination.

ADDRESSES: Send written comments to U.S. Department of the Interior, U.S. Geological Survey, USGS Privacy Act Officer, National Center, MS–807, Reston, Virginia, 20192. Hand deliver comments to the same address.

FOR FURTHER INFORMATION CONTACT: Senior Program Advisor, Data Information Delivery Office, U.S. Geological Survey, National Center, MS–508, Reston, Virginia 20192.

SUPPLEMENTARY INFORMATION: The USGS is proposing to amend the system notice for USGS–15, "Earth Science Information Customer Records," to more accurately and clearly describe the addresses of the System Location and the System Manager.

Dated: October 28, 1998.

Paul R. Celluzzi,

Chief, Corporate Information Technology Branch, Office of Information Services.

Accordingly, the USGS proposes to amend the "Earth Science Information Customer Records," USGS–15 in its entirety to read as follows:

INTERIOR/USGS–15

SYSTEM NAME:

Earth Science Information Customer Records—Interior, USGS–15.

SYSTEM LOCATION:

(1) Data and Information Delivery Office, National Mapping Division, U.S. Geological Survey, 508 National Center, MS–508, Reston, Virginia 20192. (2) Earth Science Information Centers (for specific locations contact the System Manager).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have requested Earth Science information directly from, or whose requests have been forwarded to the Earth Science Information Office or its sponsored field centers. The system also contains records concerning individuals in their entrepreneurial capacity, corporations, and other business entities whose records are not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, address, credit card number and expiration date (as provided), customer's inquiry, response to inquiry, orders for products, appropriate accounting entries, and information on deposits with and debts owed the Bureau as a result of customer orders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 3206; OMB Circular A–16; 31 U.S.C. 3512.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records if for reference by Geological Survey (GS) and GS contract employees in processing customer inquiries, orders, and complaints. Disclosure outside the Department of the Interior may be made to: (1) The U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department or, when represented by the Government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) disclose pertinent information to an appropriate Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, regulation, rule, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders, correspondence may be recorded on microfilm and key information recorded on magnetic disk or on magnetic tape in some instances.

RETRIEVABILITY:

Stored by account number, indexed by name and zip code.

SAFEGUARDS:

Maintained in GS or GS contract areas occupied by GS or GS contract personnel during working hours with the building locked and/or guarded during off hours.

RETENTION AND DISPOSAL:

Retained and disposed of according to Bureau Records Disposition Schedule, RCS/Item 1500–07.

SYSTEM MANAGER(S) AND ADDRESS:

Senior Program Advisor, Data and Information Delivery Office, National Mapping Division, U.S. Geological Survey, National Center, MS–508, Reston, Virginia 20192.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Same as above. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Customers on whom record(s) are maintained and GS or GS contract information researchers.

[FR Doc. 98–29909 Filed 11–5–98; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Privacy Act of 1974; as Amended; Revisions to the Existing System of Records

AGENCY: Geological Survey, Department of the Interior.

ACTION: Proposed revisions to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the U.S. Geological Survey (USGS) is issuing public notice of its intent to modify an existing Privacy Act system of records notice, USGS–18, "Computer Registration System." The revisions will update addresses of the System Location(s), add language to cover email to Categories of Individuals Covered by the System, to add a routine use authorizing data access, revising the addresses of System Manager(s), and altering the language for Notification Procedure, Record Access Procedure, and Contesting Record Procedure.

EFFECTIVE DATE: 5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment on the intended use of the information in the system of records. The Office of Management and Budget, in its Circular A–130, requires an additional 10-day period (for a total of 40 days) in which to make these comments. Any persons interested in commenting on this revised system of records may do so by submitting comments in writing to the U.S. Department of the Interior, U.S. Geological Survey, USGS Privacy Act Officer, National Center, MS–807, 12201 Sunrise Valley Drive, Reston, Va. 20192. Comments received within two days of publication in the **Federal Register** (December 2, 1998), will be considered. The system will be effective as proposed at the end of the comment period, unless comments are received which would require a contrary determination.

ADDRESS: Send written comments to U.S. Department of the Interior, U.S. Geological Survey, USGS Privacy Act Officer, National Center, MS–807, Reston, Virginia, 20192. Hand deliver comments to the same address.

FOR FURTHER INFORMATION CONTACT: Chief, Enterprise Data Services Branch, Office of Program Support, U.S. Geological Survey, National Center, MS–815, Reston, Virginia 20192.

SUPPLEMENTARY INFORMATION: The USGS is proposing to amend the system notice for USGS–18, "Computer Registration System," to more accurately and clearly describe the addresses of the System Location(s), System Manager(s), add email address where applicable, add a routine use authorizing data access and revise language on notification, access, and contesting procedures.

Dated: October 28, 1998.

Paul R. Celluzzi,

Chief, Corporate Information Technology Branch, Office of Information Services.

Accordingly, the USGS proposes to amend the "Computer Registration System," USGS–18 in its entirety to read as follows:

INTERIOR/USGS–18

SYSTEM NAME:

Computer Registration System—Interior, USGS–18.

SYSTEM LOCATION:

Enterprise Data Services Branch (EDSB), Office of Program Support, National Center, U.S. Geological Survey, Mail Stop 815, Reston, Virginia 20192; Menlo Park Service Center, 345 Middlefield Road, Menlo Park, California 94025; Flagstaff Service Center, 2255 N. Gemini Drive, Flagstaff, Arizona 86001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Users of computer services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, computer user number, E-mail address where applicable, telephone number, subsystem registration, account number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 486(c); 41 CFR part 201–7.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is: (a) To record registration information for computer users; and (b) to contact computer users; and (c) to authorize data access. Disclosure outside the Department of the Interior may be made: (1) To the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or when represented by the Government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) Of information indicating a violation or potential violation of a statute, regulation, rule, order, or license to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license; (3) To a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (4) To a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; and (5) To Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant, or other benefit.

POLICES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic disk.

RETRIEVABILITY:

By user name, user number, E-mail address where applicable, telephone number, subsystem, account number.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Retained and disposed of according to Bureau Records Disposition Schedule, RCS/Item 102–01.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Enterprise Data Services Branch, Office of Program Support, U.S. Geological Survey, Mail Stop 815, National Center, Reston, Virginia 20192; Chief, Menlo Park Service Center, U.S. Geological Survey, 345 Middlefield Road, Menlo Park, California 94025; Chief, Flagstaff Service Center, U.S. Geological Survey, 2255 N. Gemini Drive, Flagstaff, Arizona 86001.

NOTIFICATION PROCEDURES:

A request for notification of the existence of records shall be addressed to the appropriate System Manager. The request shall be in writing, signed by the requester, and comply with the content requirements of 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access to records shall be addressed to the appropriate System Manager. The request shall be in writing, signed by the requester, and comply with the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A request for amendment of a record shall be addressed to the appropriate System Manager. The request shall be in writing, signed by the requester, and comply with the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual users of computer services.

[FR Doc. 98–29910 Filed 11–5–98; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Privacy Act of 1974; As Amended; Revisions to the Existing System of Records

AGENCY: Geological Survey, Department of the Interior.

ACTION: Proposed revisions to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the U.S. Geological Survey (USGS) is issuing public notice of its intent to modify an existing Privacy Act system of records notice, EGS–20, "Photo File System." The revisions will update the addresses of the System Location and System Manager. In addition it will more clearly define Retention and Disposal.

EFFECTIVE DATE: 5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment on the intended use of the information in the system of records. The Office of Management and Budget, in its Circular A–130, requires an additional 10-day period (for a total of 40 days) in which to make these comments. Any persons interested in commenting on this revised system of records may do so by submitting comments in writing to the U.S. Department of the Interior, U.S. Geological Survey, USGS Privacy Act Officer, National Center, MS–807, 12201 Sunrise Valley Drive, Reston, VA 20192. Comments received within 40 days of publication in the **Federal Register** (December 21, 1998), will be considered. The system will be effective as proposed at the end of the comment period, unless comments are received which would require a contrary determination.

ADDRESSES: Send written comments to U.S. Department of the Interior, U.S. Geological Survey, USGS Privacy Act Officer, National Center, MS–807, Reston, Virginia 20192. Hand deliver comments to the same address.

FOR FURTHER INFORMATION CONTACT: Chief, Eastern Publications Group, Geologic Division, Eastern Region Geology, U.S. Geological Survey, National Center, MS–903, Reston, Virginia 20192.

SUPPLEMENTARY INFORMATION: The USGS is proposing to amend the system notice for EGS–20, "Photo File System" to more accurately and clearly describe the addresses of the System Location, System Manager, and redefine the Retention and Diposal.

Dated: October 28, 1998.

Paul R. Celluzzi,

Chief, Corporate Information Technology Branch, Office of Information Services.

Accordingly, the USGS proposes to amend the "Photo File System," EGS–20, in its entirety to read as follows:

INTERIOR/EGS–20

SYSTEM NAME:

Photo File System—Interior, GS–20.

SYSTEM LOCATION:

U.S. Geological Survey, Geologic Division, Office of Scientific Publications, National Center, Mail Stop 790, Reston, VA 20192.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S.G.S. employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Photographs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 3101, 43 U.S.C. 1467.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to maintain photographs of USGS top level employees.

Disclosure outside the Department of the Interior may be made: (1) To the public in presentation and publications; (2) to the U.S. Department of justice when related to litigation or anticipated litigations; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or licensee; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

PIC cards 5 by 8.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained in accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Retained and disposed of according to Bureau Records Disposition Schedule, RCS/Items.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Eastern Publications Group, Geologic Division, Eastern Region Geology, National Center, MS–903, Reston, VA 20192

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records shall be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Photographs of individuals employed by the U.S.G.S.

[FR Doc. 98–29911 Filed 11–6–98; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Privacy Act of 1974; As Amended; Revisions to the Existing System of Records

AGENCY: Geological Survey, Department of the Interior.

ACTION: Proposed revisions to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the U.S. Geological Survey (USGS) is issuing public notice of its intent to modify an existing Privacy Act system of records notice, USGS–23, "Personnel Investigations Records." The revisions will update addresses of the System Location and the System Manager. There are two additions and minor language changes under Categories of Individuals Covered by the System. There is an addition to Authority for Maintenance of the System. There are minor language changes under Storage and Safeguards.

EFFECTIVE DATES: 5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment on the intended use of the information in the system of records. The Office of Management and Budget, in its Circular A–130, requires an additional 10-day period (for a total of 40 days) in which to make these comments. Any persons interested in commenting on this revised system of records may do so by submitting comments in writing to the U.S. Department of the Interior, U.S. Geological Survey, USGS Privacy Act Officer, National Center, MS–807, 12202 Sunrise Valley Drive, Reston, VA. 20192. Comments received within two days of publication in the **Federal Register** (December 21, 1998), will be considered. The system will be effective as proposed at the end of the comment period, unless comments are received which would require a contrary determination.

ADDRESSES: Send written comments to U.S. Department of the Interior, U.S. Geological Survey, USGS Privacy Act Officer, National Center, MS–807, Reston, Virginia, 20192. Hand deliver comments to the same address.

FOR FURTHER INFORMATION CONTACT: Security Officer, Office of Program Support, Office of Management Services, U.S. Geological Survey, National Center, Mail Stop 250, Reston, Virginia 20192.

SUPPLEMENTARY INFORMATION: The USGS is proposing to amend the system notice for USGS–23, "Personnel Investigation Records," to more accurately and clearly define the addresses of the System Location and the System Manager; to add some new groups of individuals in Categories, as well as update some of the language used in the descriptions; to more clearly define the Authorities; and to update the language in Storage and Safeguards.

Dated: October 28, 1998.

Paul R. Celluzzi,

Chief, Corporate Information Technology Branch, Office of Information Services.

Accordingly, the USGS proposes to amend the "Personnel Investigations Records," USGS–23 in its entirety to read as follows:

INTERIOR/USGS–23

SYSTEM NAME:

Personnel Investigations Records—Interior, USGS–23.

SYSTEM LOCATION:

Security Management Office, Office of Program Support, Office of Management Services, U.S. Geological Survey, National Center, Mail Stop 250, Reston, VA 20192.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Current Geological Survey employees and contractors who (a) are granted access to classified information; (b) are filling public trust positions not requiring access to classified information; (c) are being considered either for access to classified information or for filling public trust positions not requiring access to classified information; and (d) are found unsuitable for access to classified information or filling public trust positions because unfavorable information was revealed during the conduct of their security investigations. 2. Former Geological Survey employees and contractors who (a) were granted access to classified information; (b) were filling public trust positions not requiring access to classified information; and (c) were found unsuitable for access to classified information or filling public trust positions because unfavorable information was revealed during the conduct of their security investigations.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain investigative information regarding an individual's character, conduct, and behavior in the community where he or she lives or lived; arrests and convictions for any violations against the law; reports of interviews with present and former supervisors, co-workers, associates, educators, etc.; reports and the qualifications of an individual for a specific position; reports of inquiries with or from law enforcement agencies, employers, and educational institutions attended; foreign affiliations which may affect his or her loyalty to the United States; and other information developed from the above.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450, as amended, and Departmental manual 441, Personnel Security and Suitability Requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The contents of these records and files may be disclosed and used as follows: (1) To designated officials, officers, and employees of the USGS, DOI, OPM, DOE, CIA, FBI, and all other agencies and departments of the Federal Government who in the performance of their duties have an interest in the individual for employment purposes, including a security clearance or access determination, and a need to evaluate qualifications, suitability, and loyalty to the United States Government; (2) To the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (3) To disclose pertinent information to an appropriate Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, regulation, rule, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; and, (4) To a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All investigative records are maintained in file folders stored in file cabinets. An automated index system of all records is on a personal computer.

RETRIEVABILITY:

All records are indexed by surname in alphabetical order. The automated index system is indexed by surname or social security number.

SAFEGURDS:

The filing cabinets and the personal computer are safeguarded in a secure, windowless office with one doorway which is secured by a key locking device using an off-master key system. Access to all keys is under stringent security controls. The automated index system of all records is further protected by a password and privacy act warning.

RETENTION AND DISPOSAL:

(a) OPM investigative files are routinely destroyed within 90 days after receipt or upon completion of the adjudication action, whichever occurs last. Disposition of files is made in accordance with the Bureau Records Disposition Schedule, RCS/Item 306–15b. (b) All information, supplementing the above OPM investigative files originated by the Geological Survey, is retained for five years following termination of awarded security clearance or employment, whichever occurs first, and is then destroyed. Disposition of files if made in accordance with the Bureau Records Disposition Schedule, RCS/Item 306–15a.

SYSTEM MANAGER(S) AND ADDRESS:

Security Officer/Alternate Security Officer, Office of Program Support, Office of Management Services, U.S. Geological Survey, National Center, Mail Stop 250, Reston, VA 20192.

NOTIFICATION PROCEDURE:

Written inquires to the System Manager are required and must include the following information in order to positively identify the individual whose records are requested: (1) Full name, (2) Date of birth, (3) Place of birth, (4) Any available information regarding the type of record requested. See 43 CFR 2.60.

RECORD ACCESS PROCEDURE:

An individual can obtain information on the procedures for gaining access to and contesting the records from the above System Manager. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

Same as above. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information contained in this system is obtained from the following categories of sources: (1) Applications and order personnel and security forms furnished by the individual, (2) Results of investigations and other material furnished by Federal agencies.

[FR Doc. 98–29912 Filed 11–6–98; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Privacy Act of 1974; As Amended; Revisions to the Existing System of Records

AGENCY: Geological Survey, Department of the interior.

ACTION: Proposed revisions to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the U.S. Geological Survey (USGS) is issuing public notice of its intent to modify an existing Privacy Act system of records notice, USGS–24, "Employee Work Report Edit and Individual Employee Production Rates." The revisions will update addresses of the System Location and the System Manager. In addition, it adds, deletes, and revises language under several sections of the notice.

EFFECTIVE DATE: 5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment on the intended use of the information in the system of records. The Office of Management and Budget, in its Circular A–130, requires an additional 10-day period (for a total of 40 days) in which to make these comments. Any persons interested in commenting on this revised system of records may do so by submitting comments in writing to the U.S. Department of the Interior, U.S. Geological Survey, USGS Privacy Act Officer, National Center, MS–807, 12202 Sunrise Valley, Drive, Reston, VA 20192. Comments received within two days of publication in the **Federal Register** (December 21, 1998), will be considered. The system will be effective as proposed at the end of the comment period, unless comments are received which would require a contrary determination.

ADDRESSES: Send written comments to U.S. Department of the Interior, U.S. Geological Survey, USGS Privacy Act Officer, National Center, MS–807, Reston, Virginia, 20192. Hand deliver comments to the same address.

FOR FURTHER INFORMATION CONTACT: Chief, Programs and Partnership Branch, Mapping Applications Center, National Mapping Division, U.S. Geological Survey, National Center, MS–558, Reston, Virginia 20192.

SUPPLEMENTARY INFORMATION: The USGS is proposing to amend the system notice for USGS–24, "Employee Work Report Edit and Individual Employee Production Rates," to more accurately and clearly describe the addresses of the System Location and the System Manager; to change the word Production to All in Categories of Individual in the System; to delete several words in Categories of Records in the System; to redefine the Storage media; and to more clearly define the procedures under Notification, Record Access, and Contesting Record Procedures.

Dated: October 28, 1998.

Paul R. Celluzzi,

Chief, Corporate information Technology Branch, Office of Information Services.

Accordingly, the USGS proposes to amend the "Employee Work Report Edit and Individual Employee Production Rates," USGS–24 in its entirety to read as follows:

INTERIOR/USGS–24

SYSTEM NAME:

Employee Work Report Edit and Individual Employee Production Rates—Interior, USGS–24.

SYSTEM LOCATION:

1. Mapping Applications Center, National Mapping Division, U.S. Geological Survey, National Center, Mail Stop 558, Reston, Virginia 20192. 2. Mid-Continent Mapping Center, National Mapping Division, U.S. Geological Survey, 1400 Independence Road, Rolla, Missouri 65401. 3. Rocky Mountain Mapping Center, National Mapping Division, U.S. Geological Survey, Box 25046, Mail Stop 510, Denver, Colorado 80225. 4. Western Mapping Center, National Mapping Division, U.S. Geological Survey, 345 Middlefield Road, Mail Stop 531, Menlo Park, California 94025.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees in Mapping Centers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, social security number, and hours, by individual employees in each of the offices listed above, as well as Geological Survey professionals (geographers, cartographers, etc.) who conducted research and investigations for which results are published in Geological Survey reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 310, 3010; 43 U.S.C. 31, 1467.

ROUTINE USES FOR RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is for analysis of cost and production rates for individual employees and for units of National Mapping Division. Disclosure outside the Department of the Interior may be made: (1) To the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department or, when represented by the Government, an employee of the Department is party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) Of information indicating a violation or potential violation of a statute, regulation, rule, order, or license to the appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license; (3) To a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (4) To a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; (5) To Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on magnetic tape and disc.

RETRIEVABILITY:

By name, employee ID.

SAFEGUARDS:

Access restricted to authorized persons only from locked storage.

RETENTION AND DISPOSAL:

Retained and disposed of according to Bureau Records Disposition Schedule. RCS/Item 102–01.

SYSTEM MANAGER(S) AND ADDRESS:

1. Chief, Programs and Partnerships Branch, Mapping Applications Center, National Mapping Division, U.S. Geological Survey, National Center, Mail Stop 558, Reston, Virginia 20192. 2. Chief, Branch of Program Management, Mid-Continent Mapping Center, National Mapping Division, U.S. Geological Survey, 1440 Independence Road, Rolla, Missouri 65401. 3. Chief, Branch of Program Management, Rock Mountain Mapping Center, National Mapping Division, U.S. Geological Survey, Box 25046, Mail Stop 510, Denver, Colorado 80225. 4. Assistant Chief, Western Mapping Center, National Mapping Division, U.S. Geological Survey, 345 Middlefield Road, Mail Stop 531, Menlo Park, California 94025.

NOTIFICATION PROCEDURE:

A request for notification of the existence of records shall be addressed to the appropriate System Manager. The request shall be in writing, signed by the requester, and comply with the content requirements of 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access to records shall be addressed to the appropriate System Manager. The request shall be in writing, signed by the requester, and comply with the content requirements of 43 CFR 2.63.

CONTESTING RECORDS PROCEDURES:

A request for amendment of a record shall be addressed to the appropriate System Manager. The request shall be in writing, signed by the requester, and comply with the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Data from work prepared by individual.

[FR Doc. 98–29913 Filed 11–6–98; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Notice of Revision of Form MMS–2005, Oil and Gas Lease of Submerged Lands Under the Outer Continental Shelf Lands Act

AGENCY: Minerals Management Service, Interior.

ACTION: Notice.

SUMMARY: MMS has determined that Form MMS–2005, the lease document, needs revision due to changes in regulations since it was last reviewed in 1986. MMS has revised the form to reflect plain language and has rewritten it for clarity and organization. To reduce the need for future revisions to the document due to changes in regulations, MMS refers the Lessee to applicable laws, and rules and regulations of the Department. Much of the wording of existing Form MMS 2005 that specifically cites, incorporates by reference, or restates statutory and regulatory requirements is therefore deleted from the proposed revision.

DATES: MMS will accept comments on this document on or before December 24, 1998, and will schedule a workshop during the comment period.

ADDRESSES: Comments may be sent to Terry Holman, Minerals Management Service, Mail Stop 4230, 1849 C Street, NW, Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION: The Lease Sale Document form MMS–2005, is the written contract between the U.S. Government and those wishing to lease the submerged lands of the Outer Continental Shelf for exploration, development and production of oil and natural gas resources. Section 1 explicitly states that the lease is subject to the Notice of Lease Sale, the Outer Continental Shelf Lands Act, and all applicable rules and regulations of the Secretary of the Interior and Executive Orders issued by the President. Provisions that restate regulations have been deleted from the document. A section-by-section description of the proposed changes is presented below.

Old form	New form
Top of the form above the double line	The statement concerning information collection has been revised to indicate that the form contains information collection requirements that have been approved by the Office of Management and Budget. Headings in the upper right are revised for clarity. The Net Profit Share heading is replaced with Other to accommodate the recording of a broader range of special terms that might pertain to a lease.
Section 1: Statutes and Regulations	This section was rewritten to clarify that the lease is subject to the OCS Lands Act, the Lease Sale Notice, and all applicable laws, rules, regulations, and Executive Orders issued by the President as of the date of the lease and in the future. The revised section contains a specific reference to the Notice of Sale which was not included in the previous version of the document. Since many sections have been removed from the lease document because the requirements exist in various regulations, this statement affirms that the lessee remains responsible for elements not expressly stated in the lease.
Section 2: Rights of Lessee	Retitled Rights Granted to the Lessee. Rewritten in plain language.
Section 3: Term	Rewritten in plain language.
Section 4: Rental	Four sections combined in one renumbered and retitled Section 7 Payment of Rent and Royalty. Provisions deleted because they are redundant of 43 USC 1337; 30 CFR part 206, subpart C, 30 CFR 202.100; and 30 CFR part 218, subparts B and D. Rewritten in plain language.
Section 5: Minimun Royalty	See note on section 4 above.
Section 6: Royalty on Production	See note on section 4 above.
Section 7: Payments	See note on section 4 above. Clarifies when payments are due and how value of production is calculated. We added additional language to make express the existing implied covenant to market production for the mutual benefit of the Lessee and the Lessor. We also added that delivery of resources taken in kind shall be made to a point designated by the Lessor.
Section 8: Bonds	Provision deleted because it is redundant of 30 CFR part 256, subpart I.
Section 9: Plans	Provision deleted because it is redundant of 30 CFR part 250, subpart B.
Section 10: Performance	Renumbered and retitled Section 8 Diligent Operations. Rewritten in plain language.
Section 11: Directional Drilling	Provision deleted because it is redundant of 30 CFR 256.71.
Section 12: Safety Requirements	Provision deleted because it is redundant of 30 CFR 250.120–122 22 and 43 U.S.C. 1347 and 1348.
Sectioni 13: Suspension and Cancellation	Provision deleted because it is redundant of 30 CFR 250.110, 250.112 and 43 U.S.C. 1334.
Section 14: Indemnification	Renumbered section 4. Rewritten in plain language. Clarifies that only successful appeal of an MMS order, not mere pursuit of an appeal, could exempt the lessee from liability for loss or damage to property or injury to persons resulting from compliance with the order.
Section 15: Disposition of Production	Provision deleted because it is redundant of 43 U.S.C. 1353 and 43 U.S.C. 1337.
Section 16: Unitization, Pooling, and Drilling Agreements	Provision deleted because it is redundant of 30 CFR part 250, subpart M.
Section 17: Equal Opportunity Clause	Provision deleted because it is redundant of 41 CFR 6–1.4(a) and Executive Order 11246.
Section 18: Certification of Nonsegregated Facilities	Effective September 18, 1997, the Labor Department amended its regulations and 41 CFR 60–1.8(b) has been deleted. (See rulemaking at 62 FR 44174 (Aug. 19, 1997). The amended 60–1.8 requires the contractor maintain a non-segregated workplace, but no longer relies on certification of the contractor.
Section 19: Reservations to Lessor	Renumbered section 6. Rewritten in plain language.
Section 20: Transfer of Lease	Provision deleted because it is redundant of 30 CFR part 256, subpart J and 43 U.S.C. 1334.
Section 21: Surrender of Lease	Provision deleted because it is redundant of 30 CFR part 256.76 and 43 U.S.C. 1334.

Old form	New form
Section 22: Removal of Property on Termination of Lease	Renumbered section 9. Rewritten to specify time for submission of a plan for well abandonment and platform removal (within 3 months of lease termination). Also would authorize lessor to take title to property not removed within the prescribed time.
Section 23: Remedies in Case of Default	Renumbered section 10 and retitled Remedies for Lessee Non-Compliance. Rewritten in plain language.
Section 24: Unlawful Interest	Provision deleted because it is redundant of 41 U.S.C. 22 and 18 U.S.C. 431–433.
	Section 5 Access to Records is a new section. It implements and clarifies the requirements of 30 CFR 207.5, 212.51 and 250.121 and implements section 103 of the Federal Oil and Gas Royalty Management Act. In particular, it would require disclosure to authorize representatives of the lessor of documents in the possession of "affiliates," which have been found to be covered "other persons" under 30 CFR 212.51 in *Shell Oil Co.* v. *Babbitt*, 125 F.3d 172 (3rd Cir. 1997), affirming 945 F.Supp. 792, and *Santa Fe Mineral* v. *McCutcheon*, 90 F.3d 409 (10th Cir. 1996).

The revised form is included below:

Form MMS–2005 (1998)
(Supersedes MMS–2005 March 1986)

United States Department of the Interior
Minerals Management Service

Oil and Gas Lease of Submerged Lands Under the Outer Continental Shelf Lands Act

This form contains information collection requirements that have been approved by the Office of Management and Budget. These approvals are found at 30 CFR 210.10, and 30 CFR 250.100.
Office
Serial Number
Cash Bonus
Rent per acre of fraction thereof_____
Rent per hectare or fraction thereof_____
$
Minimum royalty rate per acre or fraction thereof_____
Minimum royalty rate per hectare or fraction thereof_____
Royalty Rate
Other

This lease contains approximately acres hectares (the "leased area"), described as follows:

It is effective as of (the "Effective Date") and will continue for an initial period of years (the "Initial Period") by and between the United States of America (the "Lessor"), by the Minerals Management Service ("MMS"), its authorized officer, and

(the "Lessee"). In consideration of any payment made by the Lessee to the Lessor and in consideration of the promises, terms, conditions, and covenants contained herein, including the attached Stipulation(s) numbered , the Lessee and Lessor agree as follows:

Sec. 1. *Statutes and Regulations.* This lease is issued under the Outer Continental Shelf Lands Act 43 U.S.C. 1331 et seq., as amended (the "Act"), and the Notice of Sale _____dated _____.

This lease is subject to the terms of that Notice, the Act, all applicable laws, and the rules and regulations of the Secretary of the Interior now or hereafter in effect, when not inconsistent with any express provision of this lease. This lease is also subject to all applicable Executive Orders issued by the President now or hereafter in effect.

Sec. 2. *Rights Granted to the Lessee.* The Lessor grants to the Lessee the exclusive right to explore for, develop, and produce oil and gas resources, except helium gas, in the submerged lands of the Outer Continental Shelf. This right is subject to the Lessor's approval of plans and permits required under the Act and regulations.

The Lessee also has the following rights:

(a) the nonexclusive right to conduct geological and geophysical explorations according to applicable regulations;

(b) the nonexclusive right to drill water wells, except wells in geopressured-geothermal and other geothermal reservoirs, and to use the water produced for operations under the Act free of cost. Drilling must be conducted according to procedures approved by the Lessor.

(c) the right to construct and maintain devices and structures necessary to the full exercise of rights under the lease, subject to compliance with applicable laws and regulations.

Sec. 3. *Term.* This lease will continue from the Effective Date of the lease for the Initial Period and as long as oil or gas is produced from the leased area in paying quantities, or drilling or well reworking operations (as approved by the Lessor) are conducted, or as otherwise extended under regulation.

Sec. 4. *Indemnification.* The Lessee must indemnify the Lessor for any claim, including claims for loss or damage to property or injury to persons resulting from any operation on the leased area conducted by or on behalf of the Lessee. However, the Lessee is not responsible to the Lessor under this section for any loss, damage, or injury caused by or resulting from:

(a) the Lessor's negligence, other than the commission or omission of a discretionary function or duty, or

(b) the Lessee's compliance with an order of the Lessor against which the Lessee filed an administrative appeal if the appeal is filed before the cause of action for the claim arose and if the Lessee prevails in the administrative appeal or subsequent action for judicial review.

Sec. 5. *Access to Records.* In accordance with regulations, if requested by the Lessor, the Lessee agrees to provide within a reasonable time to any authorized representative of the Department of the Interior all books, accounts, maps and any other records in the possession or under the control of the Lessee, its affiliates, or agents, that are relevant to operations, payments, disposition of the production, or any other activity occurring under this lease. The Lessee also agrees to keep these records open for inspection by any authorized representative at all reasonable times. This clause applies regardless of whether the records were prepared by or are under the control of the Lessee, or its affiliates, or agents. Information regarding disposition of the production includes, but is not limited to, all records regarding the sale or other disposition of oil or gas produced from the leased area by the Lessee or any of its affiliated or related entities.

Sec. 6. *Reservations to Lessor.* All rights in the leased area not expressly granted to the Lessee by the Act, the regulations, or this lease are reserved to the Lessor. Reserved rights include, but are not limited to:

(a) authorizing geological and geophysical exploration in the leased area which does not unreasonably interfere with or endanger actual operations under this lease;

(b) granting easements or rights-of-way;

(c) granting leases for any minerals other than oil and gas, provided that operations under such leases do not unreasonably interfere with or endanger operations under this lease; and

(d) suspending operations under this lease during war or national emergency as provided in section 12(c) or 12(d) of the Act. If the Lessor suspends operations or restricts activities under those sections of the Act, rent and royalty payments will be suspended and the term of this lease will be extended by adding the suspension period. The Lessor will pay the Lessee just compensation for such suspension as provided by the Act.

Section. 7. *Payment of Rent and Royalty.* The Lessee must pay the rent, minimum royalty, or royalty on the value of production saved, removed or sold at the rate specified on the face of this lease. The Lessor may require payment of the royalty in kind.

Payment must comply with applicable regulations and the following provisions:

(a) The Lessee must pay rent for each lease year which begins before determination of oil or gas in paying quantities in the leased area. Rent for the first year is due by the eleventh business day after receipt of this lease, and for subsequent years on or before the anniversary date of this lease.

(b) The Lessee must pay minimum royalty for each year which begins after a determination of oil or gas in paying quantities on the lease area is made by the Lessor. Minimum royalty is due by the day before the next anniversary of the lease. If production occurs, the Lessee must pay the greater of minimum royalty or royalty.

(c) The Lessor reserves authority to establish reasonable value of all production for royalty purposes. To establish the value of production, the Lessor may use dispositions by the Lessee, its affiliates, and others related to the Lessee, or the Lessor may use other considerations specified under applicable regulations.

(d) The Lessee must place production in marketable condition and market the production at no cost to the Lessor.

(e) The Lessee shall deliver royalty oil and gas resources taken in kind to a delivery point designated by the Lessor.

Sec. 8. *Diligent Operations.* The Lessee must properly and timely develop and produce this lease. Under normal conditions, the Lessee will explore and commence development within the primary term of this lease. After due notice in writing from the Lessor, the Lessee must drill such wells and produce at such rates consistent with sound operating principles as the Lessor may require.

Sec. 9. *Removal of Property on Termination of Leose.* In accordance with regulations, the Lessee must submit for approval a plan for well abandonment and platform decommissioning within three months after termination in whole or in part unless the Lessor approves a longer period. The Lessee must provide for the removal of all devices, works, and structures from the premises no longer subject to the lease, according to applicable regulations and orders of the Lessor. All abandonment and removal operations must be completed within one year after termination of this lease unless otherwise approved by the Lessor. Failure to comply will result in penalties under the regulations. The Lessor may take title to any property not removed within such time. With the written approval of the Lessor under a right of use and easement, the Lessee may continue to maintain devices, works, and structures on the leased area for drilling or producing on other leases or for other purposes.

Sec. 10. *Remedies for Less Non-Compliance.*

(a) Whenever the Lessee fails to comply with any provisions of the Act, the regulations issued under the Act, or the terms of this lease, the Lessor's remedies include, but are not limited to:

(1) Penalties under section 24 of the Act;

(2) Suspension or cancellation under Section 5 of the Act;

(3) Demands for payment or forfeiture of bond; or

(4) Other remedies for nonperformance of a contract available under common law or statutes.

(b) The Lessor's nonenforcement of a remedy for any violation does not prevent the Lessor from exercising any other remedies for any other violation or from exercising any other remedies for the same violation occurring at any other time.

_____
(Lessee)

_____
(Signature of Authorized Officer)

_____
(Name of Signatory)

_____
(Title)

_____
(Date)

_____
(Address of Lessee)

The United States of America, Lessor

_____
(Signature of Authorized Officer)

_____
(Name of Signatory)

_____
(Title)

_____
(Date)

If this lease is executed by a corporation, it must bear the corporate seal.

Dated: November 2, 1998.

Cynthia Quarterman,

Director.

[FR Doc. 98–29914 Filed 11–6–98; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF INTERIOR

National Park Service

Notice of Boundary Revision: Piscataway Park

SUMMARY: Notice is hereby given that the National Park Service is revising the boundary of Piscataway Park to include one additional tract of land.

FOR FURTHER INFORMATION CONTACT: Joseph A. Cook, Chief, Land Resources Program Center, National Capital Region, National Park Service, 1100 Ohio Drive, SW., Washington, D.C. 20242, (202) 619–7034; and John Hale, Superintendent, National Capital Parks—East, Piscataway Park, 1900 Anacostia Drive, SW., Washington, D.C. 20020, (202) 690–5185.

SUPPLEMENTARY INFORMATION: Public Law 87–362 enacted October 4, 1961, authorizes the Secretary of the Interior to acquire lands and interests therein for Piscataway Park. Section 7(c)(ii) of the Land and Water Conservation Fund Act, as amended by Section 814(b) of Public Law 104–333, authorizes minor boundary revisions of areas within the National Park System. Such boundary revisions may be made, when necessary, after advising the appropriate congressional committees, and following publication of a revised boundary map, drawing or other boundary description in the **Federal Register.** In order to preserve lands which comprise the principal viewshed from Mount Vernon and Fort Washington in a manner that will ensure, insofar as practicable, the natural beauty of such lands as it existed at the construction and active use of the Mount Vernon Mansion and Fort Washington, it is necessary to revise the existing boundary of Piscataway Park to include one additional tract of land comprising approximately 45 acres. The property is being acquired by donation.

Notice is hereby given that the exterior boundary of Piscataway Park is revised to include all that tract, piece, parcel or subdivision of land and premises, situated, lying and being in the Seventh Election District of Charles County, Maryland, and more particularly described as follows:

Beginning at a stake now fixed at a point on the south side of an extension of a 30 foot roadway lying between Lots 9 and 10 of Block "B" a subdivision of a part of the said William C. Gibons land "Part of Marshall Hall," the said stake being more particularly fixed 990 feet north 64 degrees 13 minutes east of the intersection of the south side of the said 30 foot roadway with the east side of the State Road leading from Bryans Road Post Office to Marshall Hall, and running thence in direct extension of the said 30 foot roadway north 64 degrees 13 minutes east 1482 feet to the intersection with the boundary line or outline of the said William C. Gibons land where a stake is fixed; thence to the said outline south 19 degrees 03 minutes east 350 feet to a cedar stake a corner of said entire tract; thence still with the outline south 86 degrees 03 minutes east 1385 feet to a stake fixed in said outline; thence leaving said outline and running a division line between the land now surveyed and the land still owned by William C. Gibons south 64 degrees 13 minutes west 2640 feet to a stake there fixed; thence running parallel with the State Road and 990 feet distant (north 64 degrees 13 minutes east thereof) north 25 degrees 47 minutes west 1050 feet to the point of beginning, containing 45 acres, more or less.

Being all and the same land and premises acquired by Howard E. Jones and June E. Jones, his wife by Deed from Sandra H. Spessard, dated July 15, 1997,

and recorded July 17, 1997, among the Land Records of Charles County, Maryland, in Liber Number 2406, folio 253.

This parcel of land is depicted as Tract Number 02–218 on Land Status Map numbered 838–80036, Segment 2, dated July 1998 and is available for inspection in the Offices of the Land Resources Program Center, National Capital Region, National Park Service, Department of Interior, 1100 Ohio Drive, SW., Washington, D.C. 20242.

Dated: October 21, 1998.

Terry R. Carlstrom,

Regional Director, National Park Service, National Capital Region.

[FR Doc. 98–29857 Filed 11–6–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Lake Roosevelt National Recreation Area Draft General Management Plan/ Environmental Impact Statement, Washington

AGENCY: National Park Service, DOT.

ACTION: Notice of availability of Draft Environmental Impact Statement.

SUMMARY: The National Park Service announces the availability of a Draft General Management Plan/ Environmental Impact Statement (GMP/EIS) for Lake Roosevelt National Recreation Area (NRA), Washington. This notice also announces public meetings for the purpose of receiving comments on the draft document.

DATES: Comments on the draft GMP/EIS should be received no later than January 31, 1999. Public meetings will be held in Coulee Dam, WA, on November 30, 1998; Spokane, WA, on December 1; Kettle Falls, WA, on December 2; and Davenport, WA, on December 3. The specific locations and times of the meetings will be announced in the local media.

SUPPLEMENTARY INFORMATION: Guidance for managing a national park system unit such as Lake Roosevelt NRA is usually done through the development of a general management plan. The current General Management Plan for Lake Roosevelt NRA was approved in 1980. However, much has changed in the past 18 years, and a new management plan is needed to guide managers and decision-makers regarding the future management and use of the national recreation area.

The draft GMP/EIS presents and analyzes two alternatives for managing Lake Roosevelt NRA for the next 15 to 20 years. Alternative 1 proposes a new plan for managing the area that would emphasize maintenance of the existing visitor experience by increasing the capacity of existing facilities where feasible and redirecting other increases in visitation to less used areas. Alternative 1 would provide a framework for decision making regarding natural and cultural resources management, visitor use and development, NRA operations, and land use. Alternative 2, a "no action" alternative, proposes a continuation of management according to the 1980 General Management Plan. The draft alternatives were developed with input from federal, tribal, state, and local governments; concerned groups and individuals; and the general public. The Environmental Impact Statement presents a full discussion of the environmental impacts associated with implementing each alternative.

ADDRESSES: Comments on the draft GMP/EIS should be submitted to: Superintendent, National Park Service, Lake Roosevelt NRA, 1008 Crest Drive, Coulee Dam, WA 99116–1259. Copies of the draft GMP/EIS are available by request from the aforementioned address. The document will also be available for review at the Office of Public Affairs, National Park Service, Department of the Interior, 1849 C St., NW, Washington, DC 20240, and on the Internet at www.nps.gov.

FOR FURTHER INFORMATION CONTACT: Harold Gibbs, Planning Coordinator, Lake Roosevelt National Recreation Area, phone (509) 633–9441, ext. 131, fax (509) 633–9332, or E-mail: harold_gibbs@nps.gov.

Dated: October 26, 1998.

Rory D. Westberg,

Superintendent, Columbia Cascades Support Office, Pacific West Region.

[FR Doc. 98–29858 Filed 11–6–98; 8:45 am]

BILLING CODE 4310–702–M

DEPARTMENT OF THE INTERIOR

National Park Service

Maine Acadian Culture Preservation Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463) that the Maine Acadian Culture Preservation Commission will meet on Friday, December 18, 1998. The meeting will convene at 6:00 p.m. at the Wisdom High School, Saint Agatha, Aroostook County, Maine.

The Maine Acadian Culture Preservation Commission was appointed by the Secretary of the Interior pursuant to the Maine Acadian Culture Preservation Act (Pub. L. 101–543). The purpose of the Commission is to advise the National Park Service with respect to:

The implementation of an interpretive program of Acadian culture in the state of Maine.

The proceedings of a joint meeting with the Maine Acadian Heritage Council.

The Agenda for this meeting is as follows:

Review of April 10 and June 12, August 21 and October 23, 1998, summary reports.

2. Speaker: Pierre Chartrand on "The Dance of Acadia and Quebec."
3. Report of the National Park Service project staff.
4. Opportunity for public comment.
5. Proposed agenda, place, and date of the next Commission meeting.

The meeting is open to the public. Further information concerning Commission meetings may be obtained from the Superintendent, Acadia National Park. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made at least seven days prior to the meeting to: Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, ME 04609–0177; telephone (207) 288–5459.

Dated: October 28, 1998.

Paul F. Haertel,

Superintendent, Acadia National Park.

[FR Doc. 98–29856 Filed 11–6–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of Final Director's Order #77–1: Wetland Protection and Final Procedural Manual #77–1: Wetland Protection

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: The National Park Service (NPS) is converting and updating its current system of internal instructions in conformance with a new system of NPS internal guidance documents. As part of this process, the NPS recently made available for public review and comment (63 FR 45254) a draft Director's Order #77–1: Wetland Protection and a draft Procedural Manual #77–1: Wetland Protection. The Director's Order will revise NPS policies, standards, and requirements for implementing Executive Order 11990: Protection of Wetlands, and the Procedural Manual will establish NPS procedures for implementing the Director's Order within units of the National Park System.

The public review period for the Director's Order and Procedural Manual ended on September 24, 1998. Comments received during this period have been carefully considered and have been incorporated into the documents, as appropriate (see **SUPPLEMENTARY INFORMATION**). The comments were mostly related to clarifying certain points in the Director's Order and Procedural Manual, and did not result in any substantive changes to the policies, requirements, standards, or procedures proposed in the draft documents.

The NPS now announces the availability of the final Director's Order #77–1 and final Procedural Manual #77–1. The previous NPS wetland protection guidance, found in the 1980 NPS Floodplain Management and Wetland Protection Guidelines (45 FR 35916, minor revisions in 47 FR 36718), is now rescinded.

SUPPLEMENTARY INFORMATION: The NPS received four sets of written comments during the public review. One commenter was concerned that Director's Order #77–1 and Procedural Manual #77–1 might apply to activities conducted by a private party on lands that are outside of NPS units. The NPS believes that Section 2.0 of the Director's Order and Section 4.1.B of the Procedural Manual clearly indicate that these policies, requirements, and procedures apply only to activities conducted by the NPS that are either on or otherwise affect lands managed by the agency. A minor wording change was incorporated into Section 4.1.B of the Procedural Manual to help clarify this point.

A state agency recognized the rationale for the 0.1 acre wetland impact threshold for required compensation (Section 5.2.C of the Procedural Manual), but expressed concern that this threshold could potentially lead to unacceptable cumulative impacts in arid areas where small wetlands are especially important. The NPS believes that these concerns are adequately addressed in several ways. First, these procedures and NPS National Environmental Policy Act (NEPA) procedures do not allow an action to be "categorically excluded" from the NEPA process if there is the potential for adverse impacts on wetlands. Therefore, such cumulative impacts would have to be addressed in an Environmental Assessment or an Environmental Impact Statement, and justified in the required wetland "Statement of Findings" (Section 5.3.D and 5.3.E of the Procedural Manual). Second, we believe that the required wetland avoidance and impact minimization steps outlined in Section 5.2 of the Procedural Manual, along with other NPS natural resources policies and procedures, make the choice of important desert aquatic habitats for development sites highly unlikely. Third, such actions would also be subject to the permitting provisions of Section 404 of the Clean Water Act. For these reasons, the NPS is convinced that such areas are adequately protected from such cumulative impacts, and no changes were made on this subject in the final documents.

A federal agency found the Director's Order and Procedural Manual to be clear and useful to NPS staff and the public, and provided a number of comments intended to further clarify information in the areas of wetland definitions, assessment methodologies, delineation manuals, compensation, inventories, and treatment of incidental wetlands. We found these suggestions to be useful, and incorporated a number of them via minor modifications of Sections 2.3 and 2.4 of the Director's Order and Sections 2.2.C, 2.2.D, 3.2, 4.1.A, 4.2.B, and 4.2.C of the Procedural Manual.

DATES: Director's Order #77–1: Wetland Protection and Procedural Manual #77–1: Wetland Protection became effective on October 22, 1998.

ADDRESSES: Director's Order #77.1: Wetland Protection and Procedural Manual #77.1: Wetland Protection are available on the Internet at the following address: http://www.nps.gov/refdesk/DOrders/index.htm Requests for copies should be sent to: Joel Wagner, National Park Service, Water Resources Division, P.O. Box 25287, Denver, CO 80225.

FOR FURTHER INFORMATION CONTACT: Joel Wagner at (303) 969–2955.

Dated: October 30, 1998.

Michael Soukup,

Associate Director, Natural Resource Stewardship and Science.

[FR Doc. 98–29859 Filed 11–6–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Justice Management Division/ Information Resources Management/ Telecommunications Services Staff; Notice of Establishment of the Global Criminal Justice Information Network Advisory Committee

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. app. 2 (1972), and 41 CFR101–6.1001–6,1035 (1992), the Deputy Assistant Attorney General for Information Resources Management, with the concurrence of the U.S. Attorney General, is establishing the Global Criminal Justice Information Network Advisory Committee to define the core requirements of the Global Criminal Justice Information Network, be the advocate to the Attorney General and to Congress, and set guiding principles to implement the Global Criminal Justice Information Network capabilities.

The Government Advisory Group is authorized by Initiative A07, "Address the Information Technology Needs of Our Nation's Criminal Justice Community," from Vice President Gore's National Performance Report entitled "Across America." The specific actions of A07 state that the Government Advisory Group will "define the core requirements of a Global Criminal Justice Information Network. Core requirements should include security and privacy protections * * * this group should also identify the challenges, such as funding, standards, and leadership, that might delay the network's implementation."

Membership

In accordance with the provisions of National Performance Review Initiative A07, this Advisory Committee will be composed of representatives from federal, state, and local government criminal justice community organizations experienced in identifying the criminal justice community's requirements for sharing information.

The Global Criminal Justice Information Network Advisory Committee will consist of approximately 25 members appointed by the U.S. Attorney General. The Advisory Committee will be advisory only and will report to the U.S. Attorney General through the Deputy Assistant Attorney General for Information Resources Management.

CONTACT PERSON: R.D. Robertson, Department of Justice, JMD/IRM/TSS, 600 E Street NW, 3rd Floor, Washington, DC 20530.

TELEPHONE: (202) 514–1600, Fax: (202) 514–1043.

Richard B. Chapman,

Director, Telecommunications Services Staff, Information Resources Management, Department of Justice.

[FR Doc. 98–30002 Filed 11–6–98; 8:45 am]

BILLING CODE 4410–AR–M

DEPARTMENT OF JUSTICE

Justice Management Division/ Information Resources Management/ Telecommunications Services Staff; Notification of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Global Criminal Justice Information Network Advisory Committee will be held on December 10–11, 1998. The Group will meet from 9:00 am—5:00 pm on December 10, 1998 and from 9:00 am—2:00 pm on December 11, 1998 at the Hyatt Dulles Hotel, 2300 Dulles Corner Boulevard, Herndon, VA, 20171. The Advisory Committee will meet to carry out its activities identified under National Performance Review "Access America" Initiative A07.

This meeting will be open to the public. Any interested person must register two (2) weeks in advance of the meeting. Registrations will then be accepted on a space available basis. For information on how to register, contact R.D. Robertson, the Designated Federal Employee (DFE), 600 E Street NW, 3rd Floor, Washington, DC 20530, or call (202) 514–1600. Interested persons whose registrations have been accepted may be permitted to participate in the discussions at the discretion of the meeting chairman and with the approval of the DFE.

If you need special accommodations due to a disability, please contact Tom Michalisko at (703) 713–1234 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from R.D. Robertson, the DFE, 600 E Street NW, 3rd Floor, Washington, DC 20530, or call (202) 514–1600.

Richard B. Chapman,

Director, Telecommunications Services Staff, Information Resources Management, Department of Justice.

[FR Doc. 98–30001 Filed 11–6–98; 8:45 am]

BILLING CODE 4410–AR–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Violence Against Women Office; Meeting

AGENCY: United States Department of Justice and United States Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: The National Advisory Council on Violence Against Women, co-chaired by the Attorney General and Secretary of Health and Human Services, will meet November 17 and 18, 1998 in the third floor conference room of the U.S. Department of Justice's Office of Justice Programs at 810 7th Street, NW, Washington, DC 20531. Scheduled to begin at 9:30 a.m. on November 17th and adjourn at 3:30 p.m. on November 18th, the meeting will include opening remarks by the Attorney General and Secretary Shalala, committee meetings, and an afternoon plenary session.

Committee meetings and the plenary session will be open to the public on a space-available basis. Reservations are required and a photo ID will be requested for admittance. To reserve a space and advise of any special needs, interested persons should call the U.S. Department of Justice Violence Against Women Office at (202) 616–8894. Sign language interpreters will be provided. Anyone wishing to submit written questions to the Council should notify the Violence Against Women Office by Thursday, November 12, 1998. The notification may be delivered by mail, telegram, or facsimile or in person. It should contain the requestor's name and his or her corporate or government designation or consumer affiliation along with a short statement describing the topic to be addressed. Interested parties may attend by calling Ms. Karen Noel at (202) 616–8894.

FOR FURTHER INFORMATION CONTACT: Questions regarding this meeting may be sent to the Violence Against Women Office, United States Department of Justice, Room 5302, 950 Pennsylvania Avenue, NW, Washington, DC 20530, by telephone to (202) 616–8894, or by facsimile to (202) 307–3911.

Bonnie J. Campbell,

Director, Violence Against Women Office, United States Department of Justice.

[FR Doc. 98–30000 Filed 11–6–98; 8:45 am]

BILLING CODE 4410–BB–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10535, et al.]

Proposed Exemptions; Moody-Day, Inc.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. _____, stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Moody-Day, Inc. Profit Sharing Plan, (the Plan), Located in Carrollton, Texas

(Application No. D–10535)

Proposed Exemption

The Department of Labor (the Department) is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).[1] If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the past sale (the Sale) by the Plan of an unimproved three-acre tract of real property located in Austin, Texas (the Property) to Metroport Realty Corporation (Metroport), an affiliate of Moody-Day, Inc., the Plan sponsor and a party in interest with respect to the Plan, provided the following conditions were satisfied:

(a) the Sale was a one-time transaction for cash;

(b) the Plan received the fair market value of the Property on the date of the Sale;

(c) the Property was appraised by qualified, independent real estate appraisers;

(d) a qualified, independent fiduciary determined that the Sale was in the best interests of the Plan; and

(e) the Plan paid no commissions or other expenses relating to the Sale.

Effective Date of Exemption: If granted, the effective date of this exemption will be May 24, 1995.

Summary of Facts and Representations

1. The Applicants are Donald J. Carter, William J. Hendrix, and M. Douglas Adkins in their capacity as trustees (Trustees) of the Moody-Day, Inc. Profit Sharing Plan, and Ronald L. Carter and Jeffery Fink who were directors of Moody-Day, Inc. (Moody-Day) on the date of the Sale.

2. The Applicants state that the Plan is a defined contribution plan which had 50 participants as of the end of the 1994 Plan year. The Applicants state further that at the time of consummation of the Sale, the fair market value of the total assets of the Plan was $217,545. The fair market value of the Property was determined to be $165,000 (see paragraph 8 below) at that time. Thus, approximately 76% of the Plan's assets was involved in the subject transaction.[2]

3. The Property was owned by the Plan at the time of the Sale free and clear of any encumbrances. The Property consists of approximately 3 acres of unimproved land at the Northeast corner of Middle Fiskville Road and Northcape Drive in the City of Austin, Travis County, Texas. The Property was not adjacent to any property owned by the Plan sponsor or a party in interest with respect to the Plan.

The Property was acquired by the Plan in 1977 from an unrelated party, for $47,154. The Applicants represent that the Property has been held by the Plan since it was acquired in 1977 and it has not been leased to or used by any party in interest or other related party during such time.[3]

4. The Applicants represent that the motivation for the Sale of the Property by the Plan to Metroport was solely to benefit the Plan's participants and beneficiaries. The Plan had been frozen since 1991 and the participants and beneficiaries were requesting that distributions of their assets be made. The Plan had tried, without success, to sell the Property on the open market since 1989. The Applicants represent that the Sale of the Property was in the best interests of the Plan and its participants and beneficiaries. At the time of the Sale, the Property was the last remaining asset of the Plan. Thus, the Sale provided the necessary liquidity to allow for a termination of the Plan and a final distribution of its assets.

Prior to the Sale, the Applicants were advised by their legal counsel (Counsel) that the Property could be sold to Metroport pursuant to Prohibited Transaction Exemption (PTE) 84–14 (49 FR 9494, March 13, 1984), a class exemption for certain prohibited transactions by a plan whose assets are managed by a "qualified professional asset manager" or "QPAM" (the QPAM Exemption).[4] The Applicants represent that they now believe that the conditions of PTE 84–14 may not have been satisfied with respect to the Sale. As a result, they request that the Department consider granting an individual exemption under section 408(a) of the Act, which would be effective as of May 24, 1995, the date of the Sale.

5. In order to fulfill what the Applicants, Moody-Day, Inc., Metroport and Counsel believed to be the requirements of PTE 84–14 with respect to the Sale, on or about December 19, 1994, the Applicants, on behalf of the Plan, hired Lucian L. Morrison (Mr. Morrison) as an independent fiduciary for the purpose of appointing a QPAM to sell the Property owned by the Plan. Prior to this time, Counsel had contacted Mr. Morrison, the past President of Heritage Trust Company in Houston, Texas, with regard to his willingness to act as an independent fiduciary for the Plan. Counsel, on behalf of the Applicants, had contacted Mr. Morrison because he had acted in a fiduciary capacity in a number of

[1] Section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978, 5 U.S.C. App. 1 (1995)) generally transferred the authority of the Secretary of the Treasury to issue exemptions under section 4975(c)(2) of the Code to the Secretary of Labor. In the discussion of the exemption, references to sections 406 and 408 of the Act should be read to refer as well to the corresponding provisions of section 4975 of the Code.

[2] It is represented that a high percentage of the Plan's assets was involved in the Sale because the Property was one of the only remaining assets of the Plan at the time of the transaction. In this regard, the Sale was carried out in connection with completing the affairs of the Plan for termination.

[3] The Department expresses no opinion herein regarding whether the acquisition and holding of the Property by the Plan violated any of the provisions of Part 4 of Title I of the Act. The Department is providing no retroactive exemptive relief herein with respect to the acquisition and holding of the Property by the Plan.

[4] PTE 84–14 provides relief from the restrictions of section 406(a) of the Act for transactions between parties in interest and plans where a QPAM (as defined in Part V(a) of that class exemption) is the decision-maker for the assets of the plan involved, and certain other conditions are met.

situations for various entities. On July 11, 1994, Counsel informed the Applicants that Mr. Morrison was willing to act on behalf of the Plan in appointing a QPAM to have investment discretion with respect to the Sale. Counsel advised Moody-Day and the Applicants that in order to comply with PTE 84–14, the Sale would proceed as follows:

(1) Mr. Morrison would appoint a QPAM to represent the Plan with respect to the potential sale of the Property;

(2) the QPAM would hire its own appraiser or appraisers and attorney to represent it in the transaction and, if appropriate, to negotiate the terms of the sale between the Plan and Metroport; and

(3) after the final terms of any transaction were negotiated and approved, the sale would close with all appropriate documents properly executed.

Therefore, on December 19, 1994, Mr. Morrison was engaged as an independent fiduciary of the Plan to select and hire a QPAM to evaluate the proposed transaction and to negotiate the terms thereof. Mr. Morrison had full authority to select the QPAM and to allocate a portion of his fiduciary authority to the QPAM. No recommendations for the selection of the QPAM were made by either Moody-Day, the Applicants, or any other party in interest with respect to the Plan.

6. On December 19, 1994, a "Limited Purpose Independent Fiduciary Agreement" (the Limited Agreement) was formally entered into between Moody-Day, the Trustees, and Mr. Morrison. The purpose of the Limited Agreement was to facilitate the Sale of the Property. The Limited Agreement stated that the Sale would be a prohibited transaction unless an exemption from the prohibited transaction rules of the Act was utilized. The Limited Agreement further specified that the QPAM Exemption was available for this purchase if the conditions of that exemption were met.[5]

Mr. Morrison accepted his appointment as a limited purpose independent fiduciary and agreed to act as provided for under the Limited Agreement, the Plan Document, and the Act. Mr. Morrison selected Sarofim Realty Advisors (SRA) as a "QPAM" to transact the Sale of the Property by the Plan. SRA, as a fiduciary of the Plan, served as investment manager with exclusive investment discretion over the Property. The Applicants represent that SRA, as fiduciary of the Plan, was not related to or otherwise affiliated with Moody-Day, Inc., Metroport, Counsel or the Applicants.

7. On December 22, 1994, Mr. Morrison, SRA and Moody-Day entered into an "Investment Management Agreement" (the IMA). As independent fiduciary, Mr. Morrison appointed SRA as an Investment Manager (IM) of the Plan for purposes of the proposed transaction. In Section 2 of the IMA, SRA acknowledged that in acting as an IM under the IMA, it would be acting as a fiduciary of the Plan as defined under section 3(21) of the Act. Section 4 of the IMA provides, in pertinent part, that the IM shall: (1) Evaluate the proposed transaction and, if appropriate; (2) negotiate the terms of the Sale. Section 4 also provides that the IM shall sell the Property to Metroport if, in the IM's judgement, the sale price negotiated by the IM represented the fair market value of the Property as determined by the IM after considering one or more appraisals obtained from qualified, independent appraisers. Finally, section 6 of the IMA provides that the agreement shall terminate on the closing date of the proposed sale in the event that the IM directs the Plan to enter into the sale of the Property to Metroport.

8. In order to determine the fair market value of the Property, SRA, in its capacity as IM, retained the independent appraisal firm of Bach Thoreen McDermott, Inc., of Houston, Texas, to appraise the Property. Mr. Steven N. Bach (Mr. Bach), MAI, prepared the appraisal that was used to establish the value of the Property for the Sale.[6] Using the Sales Comparison Approach (i.e. which relied on recent sales of similar properties in the open market) to value the Property, Mr. Bach determined that the fair market value of the Property, as of January 30, 1995, was $165,000. Mr. Bach reported his finding to SRA on the same date.

9. On February 1, 1995, SRA in its capacity as IM, opined that $165,000 represented the fair market value of the Property and determined that the Sale to Metroport at that price would be in the best interests of the Plan and its participants and beneficiaries.

10. Pursuant to SRA's findings and instructions for the Sale, the Plan sold the Property to Metroport for $165,000 in cash on May 24, 1995. In this regard, a Special Warranty Deed conveying title to the Property from the Plan to Metroport was signed on May 24, 1995 by a Trustee of the Plan. With respect to the Sale, the Plan paid no commissions or other expenses.

Moody-Day represents that all parties involved in the Sale recognized that Metroport was paying the Plan an amount which represented no less than the current fair market value of the Property.

11. In summary, the Applicants represent that the requested exemption will satisfy the criteria of section 408(a) of the Act for the following reasons: (a) The Sale was a one-time transaction for cash; (b) the Plan received the fair market value of the Property on the date of the Sale; (c) the fair market value of the Property was determined by an independent, qualified real estate appraiser at the time of the Sale; (d) a qualified, independent fiduciary acting on behalf of the Plan appointed an independent investment manager who negotiated the terms of the transaction, determined that the Sale was in the best interests of the Plan, and assured that the Plan received an amount in cash equal to the fair market value of the Property; and (e) the Plan paid no commissions or other expenses relating to the Sale.

FOR FURTHER INFORMATION CONTACT: Janet L. Schmidt of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

Mohammad J. Iqbal Employee Profit Sharing Plan and Trust (the Plan), Located in Elizabethtown, KY

(Application Number D–10614)

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990). If the exemption is granted the restrictions of 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed cash sale (the Sale) of 12 Krugerrand gold coins (the Coins) by the individually directed account (the Account) in the Plan of Dr. Mohammad J. Iqbal (Dr. Iqbal), to Dr. Iqbal, a party in interest and disqualified person with respect to the Plan, provided that the following conditions are met:

(a) The Sale is a one-time transaction for cash;

(b) The terms and conditions of the Sale are as least as favorable to the Account as those obtainable in an arm's length transaction with an unrelated party;

(c) The Account receives the fair market value of the Coins as of the date of Sale; and

(d) The Account is not required to pay any commissions, costs, or other expenses in connection with the Sale.

Summary of Facts and Representations

1. The Plan is a defined contribution profit-sharing plan that provides its 3 participants with the opportunity to direct the investment of their individual accounts. The Plan is sponsored by Dr. Iqbal, who also serves as Plan Trustee and Plan Administrator. As of December 31, 1997, the Plan held assets valued at approximately $2,199,000. As of the same date, Dr. Iqbal's Account held assets valued at approximately $2,110,000.

2. Among the assets in the Account are 12 Krugerrand gold coins. The Coins, issued by the South African government, were purchased by the Account on March 6, 1992, for $4,848 from the Gumer & Company brokerage firm located in Louisville, Kentucky.[7] As of Friday, October 23, 1998, the asking price in the Wall Street Journal was $300 per coin.

3. The applicant requests an exemption for the proposed Sale of the Coins by the Account to Dr. Iqbal. Dr. Iqbal represents that he will pay fair market value for the Coins on the date of the Sale, as determined by the asking price listed in the "Cash Prices" table in the Wall Street Journal on such date. The applicant wishes to engage in the proposed transaction because the Coins have steadily declined in value.[8] Dr. Iqbal wishes to have the Account reinvest the proceeds from the proposed Sale in assets which may generate a higher rate of return.

4. The applicant represents that the proposed transaction would be administratively feasible in that it would be a one-time transaction for cash. Furthermore, the applicant states that the transaction would be in the best interests of the Account because the Sale of the Coins would enable the Account to invest the proceeds from the Sale in other assets and potentially achieve a higher rate of return. Finally, the applicant asserts that the transaction will be protective of the rights of the participant and beneficiary as indicated by the fact that the Account will receive the fair market value of the Coins as of the date of Sale, and will incur no commissions, costs or other expenses as a result of the Sale.

5. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because: (a) The Sale will be a one-time transaction for cash; (b) the terms and conditions of the Sale will be at least as favorable to the Account as those obtainable in an arm's length transaction with an unrelated party; (c) the Account will receive the fair market value of the Coins as of the date of Sale; and (d) the Account will not be required to pay any commissions, costs, or other expenses in connection with the Sale.

Notice to Interested Persons: Because Dr. Iqbal is the only participant to be affected by the proposed transaction, it has been determined that there is no need to distribute the notice of proposed exemption to (the Notice) to interested persons. Comments and requests for a hearing are due thirty (30) days after publication of the Notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Mr. James Scott Frazier, telephone (202) 219–8881. (This is not a toll-free number.)

Individual Retirement Accounts (Collectively, the IRAs) for William N. Albright, Victor Hamre, and Richard Pearson, (Collectively, the Participants) Located in Westerville, Ohio; Chicago, Illinois; and New York, New York, Respectively

(Application No. D—10656, 10657, 10658)

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed cash sales (the Sales) of certain shares of stock (the Stock) in the First Community Bancshares Corp. (First Community) by each IRA to its respective Participant, a disqualified person with respect to the IRA,[9] provided that the following conditions are met:

(a) The terms and conditions of the Sales will be at least as favorable to each

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either the QPAM or (so long as the QPAM retains full fiduciary responsibility with respect to the transaction) a property manager acting in accordance with written guidelines established and administered by the QPAM, makes the decision on behalf of the investment fund to enter into the transaction, provided that the transaction is not part of an agreement, arrangement or understanding designed to benefit a party in interest; * * *

Part V(c)(3) of PTE 84–14 provides, in relevant part, that a named fiduciary (within the meaning of section 402(a)(2) of the Act) of a plan and an employer any of whose employees are covered by the plan will also be considered affiliates with respect to each other for purposes of Part I(a) if such an employer * * * has the authority * * * to appoint or terminate the named fiduciary or otherwise negotiate the terms of the named fiduciary's employment agreement.

Section 402(a) of ERISA provides that every employee benefit plan shall be established and maintained pursuant to a written instrument. This instrument must provide for one or more named fiduciaries who have the authority to control and manage the operation and administration of the plan. Under sections 402(c)(3) and 403(a) of ERISA, only a named fiduciary has the authority to appoint an investment manager, and such an appointment may be made only as specifically provided in the plan instrument.

The preamble to the proposed class exemption, 47 FR 56945 at 56947 (December 21, 1982), explains that the Department is prepared to grant broad exemptive relief only where an independent asset manager has, and in fact exercises, discretionary authority to cause an investment fund to enter into a transaction which is otherwise prohibited. Party in interest transactions that are negotiated by, e.g., an employer which sponsors a plan, and are then presented to a QPAM for approval would not qualify for the class exemption as proposed.

It is the view of the Department that the retention of a QPAM solely to approve a specific transaction presented for its consideration by a plan sponsor at the time of its engagement is inconsistent with the underlying intent of the exemption, i.e., the transfer of plan assets to an independent, discretionary manager free from the undue influence of the sponsor. Such a transaction also raises issues under section I(c) of the exemption which requires that the transaction not be a part of an agreement, arrangement or understanding designed to benefit a party in interest.

[5] In this regard, Part I(a) of PTE 84–14 provides that:

(a) At the time of the transaction (as defined in section V(i)) the party in interest, or its affiliate (as defined in section V(c)), does not have, and during the immediately preceding one year has not exercised, the authority to—

(1) Appoint or terminate the QPAM as a manager of any of the plan's assets, or (2) negotiate the terms of the management agreement with the QPAM (including renewals or modifications thereof) on behalf of the plan; * * *

Part I(c) of PTE 84–14 provides that:

(c) The terms of the transaction are negotiated on behalf of the investment fund by, or under the authority and general directions of, the QPAM, and

[6] SRA also secured an appraisal from Crosson Dennis, Inc., an independent real estate appraisal firm, who determined that the Property had a fair market value of $95,000 as of December 22, 1994. However, after consulting with Counsel and the Trustees, SRA selected Mr. Bach for the purpose of securing a second appraisal of the Property.

[7] The applicant represents that, at the time of the original acquisition, the Plan was not an "individually directed account plan." The Department notes that section 408(m) of the Code provides, in pertinent part, that "[t]he acquisition * * * by an individually-directed account under a plan described in section 401(a) of any collectible shall be treated (for purposes of this section and section 402) as a distribution from such account in an amount equal to the cost to such account of such collectible." Section 408(m)(2)(A) includes coins in the definition of the term collectible. In this regard, the Department is not providing any exemptive relief to the extent section 408(m) is applicable to the facts in this case.

[8] The Department expresses no opinion in this proposed exemption as to whether the acquisition and the subsequent holding of the Coins by the Account violated any of the fiduciary responsibility provisions of Part 4 of Title I of the Act.

[9] There is no jurisdiction under 29 CFR § 2510.3(b) since the IRAs have only one participant. However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

IRA as those obtainable in arm's length transactions with an unrelated party;

(b) The Sales will be one-time transactions for cash;

(c) The IRAs will receive the fair market value of the Stock as established by a qualified, independent appraiser; and

(d) The IRAs will pay no commissions, costs or other expenses with respect to the Sales.

Summary of Facts and Representations

1. The IRAs are individual retirement accounts, as described in Section 408(a) of the Code. Each IRA owns shares of Stock in First Community. First Community is a bank holding company located in Milton, Wisconsin with 230,789 shares of Stock issued and outstanding. First Community's primary assets are First Community's 100% ownership of two banks: Citizens Savings Bank located in Anamosa, Iowa with approximately $37.6 million in total assets and First Community Bank located in Milton, Wisconsin with approximately $62.7 million in total assets.

2. The Participants of the IRAs are: William N. Albright, the president of First Community Bank; Victor Hamre, the president of Citizens Savings Bank; and Richard Pearson, a director at both First Community Bank and Citizens Savings Bank. The Participants describe the IRAs as follows:

(a) The IRA of William N. Albright (the Albright IRA) currently holds total assets valued at approximately $289,538. The Albright IRA's ownership of 9,200 shares of the Stock comprises 99.74% of the Albright IRA's total assets and represents a 3.99% interest in First Community.[10] The Albright IRA acquired the Stock in 1995 for investment purposes from an existing First Community shareholder for $23.00 per share.

(b) The IRA of Victor Hamre (the Hamre IRA) currently holds total assets valued at approximately $82,907. The Hamre IRA's ownership of 1,087 shares of the Stock comprises 41.16% of the Hamre IRA's total assets and represents a 0.47% interest in First Community. The Hamre IRA acquired the Stock in 1995 for investment purposes from an existing First Community shareholder for $23.00 per share.

(c) The IRA of Richard Pearson (the Pearson IRA) currently holds total assets valued at approximately $413,084. The Pearson IRA's ownership of 5,941 shares of the Stock comprises 41.73% of the Pearson IRA's total assets and represents a 2.57% interest in First Community. The Pearson IRA acquired the Stock for investment purposes from First Community when First Community issued new shares in 1991 and 1992 for $17.15 and $19.14 per share, respectively.[11]

3. The Participants represent that business considerations have recently caused First Community to elect to be taxed as a Subchapter S corporation. This election is tentatively scheduled to become effective as of the close of business on December 31, 1998. The Participants propose to purchase the Stock from their respective IRAs to avoid the violation of section 1361 of the Code which prohibits IRAs from holding stock in a Subchapter S corporation.

4. Mr. Kent Fisher and Mr. Neal Richardson (collectively, the Appraisers) appraised the Stock on June 30, 1998. The Appraisers are both experienced business appraisers for Lindgren, Callihan, Van Osdol & Co., Ltd., an appraisal company independent of the IRAs and the Participants. The Appraisers represent that they have no present or contemplated financial interest in First Community and their fees were not contingent upon the results of their findings. In their evaluation of the Stock, the Appraisers relied solely on the Private Market Method.[12] The Appraisers concluded that the fair market value of the Participants' interest in the non-marketable, non-controlling Stock was $31.39 per share.[13]

5. The Participants propose to purchase the Stock from their respective IRAs in one-time transactions for cash. The Participants represent that the Sales will be in the best interest of the IRAs because the Sales will allow for greater diversification of the IRAs' assets and the Stock will be purchased at a price per share greater than the price per share initially paid by the IRAs. Additionally, the Participants represent that the Sales will be protective of the rights of each IRA's participant because each IRA will receive cash equal to the fair market value of the Stock, as determined by a qualified, independent appraiser, and each IRA will incur no commissions, costs, or other expenses as a result of the Sales.

6. In summary, the Participants represent that the Sales satisfy the statutory criteria of section 4975(c)(2) of the Code because:

(a) The terms and conditions of the Sales will be at least as favorable to each IRA as those obtainable in arm's length transactions with an unrelated party;

(b) The Sales will be one-time transactions for cash;

(c) The IRAs will receive the fair market value of the Stock as established by a qualified, independent appraiser; and

(d) The IRAs will pay no commissions, costs or other expenses with respect to the Sales.

Notice to Interested Persons: It has been determined that there is no need to distribute the notice of proposed exemption (the Notice) to interested persons since the Participants are the only participants in the IRAs. Comments and requests for a hearing are due thirty (30) days after publication of the Notice in the **Federal Register**.

[10] The Department notes that the Internal Revenue Service has taken the position that a lack of diversification of investments may raise questions with respect to the exclusive benefit rule under section 401(a) of the Code. See, e.g. Rev. Rul. 73–632, 1973–2 C.B. 128. The Department further notes that section 408(a) of the Code, which describes the tax qualification provisions for IRAs, mandates that a trust be created for the exclusive benefit of an individual or his beneficiaries. However, the Department is expressing no opinion in this proposed exemption regarding whether violations of the Code have taken place with respect to the purchase and subsequent retention of the Stock by the Participants.

[11] To the extent that First Community or other sellers of the Stock were not disqualified persons with respect to the IRAs under section 4975(e)(2), the purchase of the Stock by the IRAs does not constitute a prohibited transaction under section 4975(c)(1)(A) of the Code. However, the purchase and holding of the Stock raises questions under section 4975(c)(1)(D) and (E) depending on the degree (if any) of the IRA participant's interest in the transaction. Section 4975(c)(1)(D) and (E) of the Code prohibits the use by or for the benefit of a disqualified person of the assets of a plan and prohibits a fiduciary from dealing with the assets of a plan in his own interest or for his own account. The IRA sponsors, as presidents or director of the First Community Bank or Citizens Savings Bank, may have interests in the proposed transactions which may have affected their best judgment as fiduciaries of their IRAs. In such circumstances, the transactions may have violated 4975(c)(1)(D) and (E) of the Code. See Advisory Opinion 90–20A (June 15, 1990). Accordingly, to the extent there were violations of section 4975(c)(1)(D) and (E) of the Code with respect to the purchases and holdings of the Stock by the IRAs, the Department is extending no relief for these transactions herein.

[12] Although the Appraisers considered the Public Market Method in their evaluation, they determined that this method was too difficult to implement due to First Community's geographic location and financial structure. The Appraisers additionally considered the prices paid for the Stock in previous Stock purchases but determined that there were no recent purchases which would provide an accurate valuation of the Stock.

[13] The Appraisers calculated the price of the Stock by first adjusting the equity levels of a comparable group of recently sold banks to reflect 8% or "normal" capitalization levels. The Appraisers then determined the average price to "normal" equity ratio for this group of banks and multiplied this ratio against First Community's adjusted book value. After subtracting First Community's debt from this amount to calculate First Community's value, this value was then divided by the number of outstanding shares to determine the Stock's price per share. Finally, the Appraisers discounted the resulting price per share to reflect the Stock's non-marketable and non-controlling nature.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 4th day of November, 1998.

Ivan Strasfeld,

Director of Exemption Determinotions, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 98–29962 Filed 11–5–98; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10574]

Notice of Proposed Individual Exemption to Amend Prohibited Transaction Exemption (PTE) 94–50 Involving Salomon Smith, Barney Inc. (Salomon Smith Barney) Located in New York, NY

AGENCY: Pension and Welfare Benefits Administration, U.S. Department of Labor.

ACTION: Notice of proposed individual exemption to modify PTE 94–50.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed individual exemption which, if granted, would amend PTE 94–50 (59 FR 32024, June 21, 1994), an exemption granted to Smith Barney, Inc. (Smith Barney), the predecessor of Salomon Smith Barney. PTE 94–50 relates to the operation of the TRAK Personalized Investment Advisory Service product (the TRAK Program) and the Trust for TRAK Investments (subsequently renamed the Trust for Consulting Group Capital Markets Funds) (the Trust). If granted, the proposed exemption would affect participants and beneficiaries of and fiduciaries with respect to employee benefit plans (the Plans) participating in the TRAK Program.

EFFECTIVE DATE: If granted, the proposed amendments will be effective as of November 9, 1998.

DATES: Written comments and requests for a public hearing should be received by the Department on or before December 24, 1998.

ADDRESSES: All written comments and requests for a public hearing (preferably, three copies) should be sent to the Office of Exemption Determinations, Pension and Welfare Benefits Administration, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Attention: Application No. D–10574. The application pertaining to the proposed exemption and the comments received will be available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, telephone (202) 219–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption that would amend PTE 94–50. PTE 94–50 provides an exemption from certain prohibited transaction restrictions of section 406 of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1986 (the Code), as amended, by reason of section 4975(c)(1) of the Code. Specifically, PTE 94–50 provides exemptive relief from the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, for the purchase or redemption of shares in the Trust by an employee benefit plan, an individual retirement account (the IRA), or a retirement plan for a self-employed individual (the Keogh Plan). PTE 94–50 also provides exemptive relief from the restrictions of section 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(E) and (F) of the Code, with respect to the provision, by the Consulting Group of Smith Barney (the Consulting Group), of investment advisory services to independent fiduciaries of participating Plans (the Independent Plan Fiduciaries) that might result in such fiduciary's selection of an investment portfolio (the Portfolio) under the TRAK Program for the investment of Plan assets.[1]

[1] On October 5, 1992, the Department granted PTE 92–77 at 55 FR 45833. PTE 92–77 permitted Shearson Lehman Brothers, Inc. (Shearson Lehman) to make the TRAK Program available to Plans that acquired shares in the Trust. In this regard, PTE 92–77 permitted Plans to purchase or redeem shares in the Trust and allowed the Consulting Group to provide investment advisory services to an independent Fiduciary of a Plan which might result in such fiduciary's selection of a Portfolio in the TRAK Program for the investment of Plan assets.

Subsequent to the granting of PTE 92–77, on July 31, 1993, Smith Barney acquired certain assets of Shearson Lehman associated with its retail business, including the TRAK Program, and applied for and received a new exemption (PTE 94–50) for

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Besides the transactions described above, PTE 94–50 permitted Smith Barney to add a daily-traded collective investment fund (the GIC Fund) to the existing Fund Portfolios and to describe the various entities operating the GIC Fund. Further, PTE 94–50 replaced references to Shearson Lehman with references to Smith Barney. PTE 94–50 is effective as of July 31, 1993 for the transactions described in PTE 92–77 and effective as of March 29, 1994 with respect to transactions involving the GIC Fund.

As of December 31, 1997, the TRAK Program held assets that were in excess of $8.4 billion. Of those assets, approximately $1.7 billion were held in 540, 401(k) Plan accounts and approximately 57,100 employee benefit plan and IRA/Keogh-type accounts. At present, the Trust consists of 13 Portfolios that are managed by the Consulting Group and advised by one or more unaffiliated sub-advisers selected by Salomon Smith Barney.

Salomon Smith Barney has informed the Department of certain changes, which are discussed below, to the facts underlying PTE 94–50. These modifications include (1) corporate mergers that have changed the names of the parties described in PTE 94–50 and would permit broader distribution of TRAK-related products, (2) the implementation of a recordkeeping reimbursement offset system (the Recordkeeping Reimbursement Offset Procedure) under the TRAK Program, and (3) the institution of an automated reallocation option (the Automatic Reallocation Option) under the TRAK Program for which Salomon Smith Barney has requested administrative exemptive relief from the Department.

The proposed exemption has been requested in an application filed on behalf of Salomon Smith Barney pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Accordingly, the proposed exemption is being issued solely by the Department.

the ongoing operation of the TRAK Program. Essentially, PTE 94–50 amended and replaced PTE 92–77. However, because of certain material factual changes to the representations supporting PTE 92–77, the Department determined that the exemption was no longer effective for use by Smith Barney and its subsidiaries as of the date of the asset sale.

1. *The Corporate Mergers.* Salomon Smith Barney states that in November 1997, a subsidiary of the Travelers Group Inc. (the Travelers Group), the parent of Smith Barney, acquired all of the shares of Salomon Brothers, Inc. (Salomon). Subsequent to the acquisition, Salomon and Smith Barney were operated as separately-registered broker-dealers and as sister corporations with a common parent. On September 1, 1998, Salomon was merged with and into Smith Barney, with Smith Barney remaining as the surviving corporation. As a result of the merger, the corporate name of Smith Barney has been changed to "Salomon Smith Barney Inc."

Salomon Smith Barney also states that in April 1998, the Travelers Group and Citicorp Inc. (Citicorp) announced a stock merger whereby Citicorp would be merged with and into a subsidiary of the Travelers Group. As a result of the merger, the Travelers Group would become a bank holding company and change its name to "Citigroup Inc." (Citigroup).

Salomon Smith Barney represents that the purpose of the merger is to create more distribution channels for TRAK products. In this regard, registered broker-dealers associated with Citigroup will be permitted to market the TRAK Program under a different product name. However, Salomon Smith Barney explains that the terms and conditions of PTE 94–50 and this amendment will be complied with by the parties involved.

The merger, which occurred on October 8, 1998, required that the affected parties obtain approval from the Federal Reserve Board under the Bank Holding Company Act (the BHC Act). Under the BHC Act, the Federal Reserve Board does not authorize bank holding companies, such as Citigroup, to be affiliated with companies that organize, sponsor, control or distribute United States open-end mutual funds. As a bank holding company, Citigroup is required to engage an independent party to provide certain distribution services in connection with the marketing of mutual fund shares) for all United States, publicly-traded mutual funds for which any subsidiary of the Travelers Group/Citigroup acts as a distributor. Salomon Smith Barney notes that although the Funds participating in the TRAK Program will be affected by this change, no Plan will be required to pay distribution fees to the independent distributors.

On October 15, 1998, Salomon Smith Barney was merged with and into Pendex Real Estate Corp. (Pendex), a shell corporation domiciled in New York. Pendex, the survivor of the merger, was then renamed "Salomon Smith Barney Inc." Upon completion of this merger, Salomon Smith Barney became a New York corporation.

2. *Recordkeeping Reimbursement Offset Procedure.* Salomon Smith Barney states that the Board of Trustees (the Board) of the Funds approved, but has not yet implemented, a recordkeeping reimbursement offset procedure under which a Plan participating in the TRAK Program would be permitted to reduce its investment fees and expenses. The reimbursement amount would be paid solely by the Funds as a means of being competitive with other mutual funds offering similar reimbursements to investors.

In May 1998, the Board approved a recordkeeping reimbursement amount of $12.50 for each investment position held by a participant. (In other words, a participant holding positions in three different Funds would be eligible to receive a total annual reimbursement of $37.50). In addition, the Board resolved that after applying such reimbursement to recordkeeping expenses charged by recordkeepers of the Plans, any excess reimbursement amount would be applied to reduce other fees and expenses [2] payable by participating Plans, including, but not limited to, the Plan-level investment advisory fee payable to the Consulting Group for asset allocation recommendations (the Outside Fee), after the appropriate offset has been applied (the Net Outside Fee).[3] If implemented, Salomon Smith Barney explains that the Funds would pay the appropriate reimbursement amount directly to the recordkeeper of the Plan. The affected Plan would then be required to pay only the balance of the fee, which is generally charged on a quarterly basis, after the excess reimbursement amount has been deducted.

The Recordkeeping Reimbursement Offset Procedure would work as follows:

Assume that Plan A has $1 million in assets invested in the TRAK Program and 100 participants. Assume further that Plan A pays its recordkeeper $20 per participant per year in Annual Fees totaling $2,000 per year or $500 per quarter and $12 per participant per year in Other Fees, totaling $1,200 per year or $300 per quarter. In addition, Plan A pays the Consulting Group a total annual net investment advisory fee (i.e., the Net Outside Fee) of $8,500.

[2] In addition to annual recordkeeping fees (the Annual Fees) payable by a Plan participating in the TRAK Program, it is represented that a Plan might be required to pay recordkeeping fees associated with certain particular services (the Other Fees) such as initial plan set-up and conversion, preparation of annual filings, enrollment, special statement preparation and audit.

[3] Salomon Smith Barney is offsetting, quarterly, against the Outside Fee, such amount as is necessary to assure that the Consulting Group retains not more than 20 basis points (as an Inside Fee) from any Portfolio on investment assets attributable to any Plan.

At the end of each calendar quarter, Plan A's recordkeeper will determine the actual number of Fund positions held by the Plan A participants and calculate the resulting reimbursement amount. If Plan A had 300 participant positions at the end of the quarter, the Plan's total recordkeeping reimbursement amount would be 300 x $3.125 (the annual amount of $12.50 divided by 4) or $937.50. That amount would be credited as follows:

APPLICATION OF REIMBURSEMENT TO RECORDKEEPING FEES

Quarterly Portion of Annual Fees	$500.00
Quarterly Portion of Other Fees	300.00
Total Quarterly Recordkeeping Fees	800.00
Credit for Reimbursement	(937.50)
Excess Reimbursement	(137.50)

Because the reimbursement amount exceeds the recordkeeping fees due for the quarter, the Plan does not owe any recordkeeping fee for that period. Therefore, the recordkeeper will not bill the Plan.

APPLICATION OF EXCESS REIMBURSEMENT TO THE NET OUTSIDE FEE

Quarterly Net Outside Fee	$2,125.00
Excess Reimbursement	(137.50)
Total	1,987.50

The recordkeeper will advise the Consulting Group that it is entitled to bill the Plan for the $1,987.50 balance of its investment advisory fee (i.e., the Net Outside Fee).

Upon participation in the TRAK Program, an Independent Plan Fiduciary selects a recordkeeper for the Plan, from a list of recordkeepers which maintain computer links to the Funds under the TRAK Program. Salomon Smith Barney states that of the 23 recordkeepers currently providing services to TRAK Program investors, only one, Smith Barney Plan Services, is an affiliate. Because the reimbursement rate and the timing of the offset of the excess reimbursement amount against fees will be the same regardless of the identity of the recordkeeper and the Independent Plan Fiduciary is responsible for the selection of this particular recordkeeper, Salomon Smith Barney believes its affiliation with Smith Barney Plan Services does not appear to present additional potential abuses under section 406(b)(1) or 406(b)(3) of the Act in its capacity as an investment adviser in recommending investment in the Funds to Independent Plan Fiduciaries.

Salomon Smith Barney notes that the reasoning in the Frost National Bank Advisory Opinion (ERISA Advisory Opinion 97–15A, May 22, 1997) (the Frost Opinion), is relevant to this situation. Therefore, it has not requested administrative exemptive relief from the Department. Salomon Smith Barney explains that in the Frost Opinion, the bank offered a comprehensive program of administrative and investment services to Plan investors. Under this program, the Department opined that section 406(b)(1) and 406(b)(3) of the Act would not be violated if the bank received payments for services from mutual funds while recommending mutual fund investments to plans provided such payments were fully disclosed and then offset to reduce other plan expenses, with any excess payments made to the plans. Salomon Smith Barney further explains that in the Frost Opinion any benefit from payments made by the mutual funds benefitted the plans and not the bank.

With respect to the TRAK Program, Salomon Smith Barney represents that the reimbursement rates adopted by the Funds will be fully disclosed to Independent Plan Fiduciaries and the offset of the excess reimbursement amount against a Plan's expenses will be accomplished in a manner to ensure that the Plans obtain the full benefit of the reimbursement to reduce their recordkeeping and other Plan expenses. Salomon Smith Barney submits that the reasoning in the Frost Opinion would apply equally to the proposed reimbursement of expenses under the TRAK Program. Therefore, Salomon Smith Barney does not believe any change in the scope of the exemption is necessary.[4]

3. *The Automatic Reallocation Option.* Salomon Smith Barney wishes to modify the TRAK Program to institute an automated reallocation feature whereby an Independent Plan Fiduciary could elect to have his or her current asset allocation adjusted automatically whenever the Consulting Group changes the recommended asset allocation model (the Allocation Model) followed by such Plan or participant.[5] Therefore, Salomon Smith Barney proposes to amend General Condition II(f) of PTE 94–50 which requires that any recommendation or evaluation offered by the Consulting Group be implemented only upon the express direction of the Independent Plan Fiduciary. With the exception of the requested changes to General Condition II(f) of PTE 94–50, all of the existing conditions of PTE 94–50 will continue to apply to the TRAK Program.

As noted above, General Condition II(f) of PTE 94–50 provides that any recommendation or evaluation by the Consulting Group to an Independent Plan Fiduciary will be implemented only at the express direction of such fiduciary. Accordingly, under the current exemption, whenever asset allocation advice is modified by the Consulting Group, Salomon Smith Barney states that its Financial Consultants are required to contact the Independent Plan Fiduciary of each Plan who has chosen the Allocation Model, and obtain such fiduciary's consent to modification of the asset allocation applied to the Plan's account.

Salomon Smith Barney notes that many TRAK Program investors have expressly indicated that they expect reallocations to take place in the ordinary course of the provision of investment advisory services offered by the Consulting Group. However, these investors do not understand why they need to be contacted in each instance

[4] In this proposed exemption, the Department expresses no opinion on whether the Frost Opinion is applicable to the recordkeeping reimbursement procedure described above. In this regard, the Department notes that, under the facts presented in the Frost Opinion, Frost would offset the fees received from the mutual funds on a dollar-for-dollar basis against the trustee fees that the plan was otherwise obligated to pay Frost.

[5] Salomon Smith Barney notes that the Automatic Reallocation Option is to be distinguished from "rebalancing" which occurs after the passage of time from the original allocation decision and changes a participant's investment mix to bring the actual allocation among investment alternatives back in line with the participant's original allocation choices. For example, Salomon Smith Barney states that a Plan participant receives a written quarterly review that sets forth information concerning the participant's investments and includes a chart comparing the original asset allocation recommendation and the actual percentage distribution of investments held in the portfolio. Salomon Smith Barney explains that under the chart is the following legend:

TRAK is a non-discretionary investment advisory service. All investment decisions rest with you, the participant. Therefore, you are strongly urged to adhere to the Consulting Group's asset allocation recommendations. Please call your Financial Consultant should a change in allocation be warranted due to a significant difference between the portfolio originally recommended by the Consulting Group and your allocation or due to a change in your objectives.

Salomon Smith Barney further explains that the Financial Consultant is expected to contact participants at least annually to encourage a comparison of the holdings in the portfolio against the Consulting Group's original recommendation. Barney proposes to amend General Condition II(f) of PTE 94–50 which requires that any recommendation or evaluation offered by the Consulting Group be implemented only upon the express direction of the Independent Plan Fiduciary. With the exception of the requested changes to General Condition II(f) of PTE 94–50, all of the existing conditions of PTE 94–50 will continue to apply to the TRAK Program.

for this purpose. In addition, Salomon Smith Barney explains that the case-by-case contact and reallocation involves delay in implementing the change at the client's express direction, putting similarly-situated investors into the new Allocation Models at different times.

To resolve these problems, Salomon Smith Barney proposes to offer TRAK Program investors an Automatic Reallocation Option. Because Salomon Smith Barney recognizes that the Automatic Reallocation Option is outside the scope of PTE 94–50, it requests a modification of the existing terms of PTE 94–50 to the extent necessary to allow it to offer this alternative to investors. If the exemptive relief is granted, Salomon Smith Barney represents that it will fully disclose the nature of the Automatic Reallocation Option to the Independent Plan Fiduciary of each existing client Plan in a written notice (the Announcement) and permit the fiduciary to elect the Automatic Reallocation Option by responding in writing. The Announcement will describe the intended operation of the Automatic Reallocation Option and how future changes to the Allocation Model selected on behalf of the Plan will be implemented. In order to implement the Automatic Reallocation Option for new TRAK Program investors, the Independent Plan Fiduciary will be required to check a box on the form of Investment Advisory contract with Salomon Smith Barney (or on a separate document designed for this purpose for those investors who have already executed such an agreement with Salomon Smith Barney). By checking the box, the Independent Plan Fiduciary will indicate its consent to and authorization of actions to be taken by Salomon Smith Barney to reallocate automatically the asset allocation in the Plan account whenever the Consulting Group modifies the particular asset allocation recommendation which the Plan or participant has chosen. Such election will continue in effect until revoked or terminated by the Plan, in writing.

In operation, Salomon Smith Barney represents that the Automatic Reallocation Option will work as follows:

(a) The Consulting Group will release a modified version of the Allocation Model for the Plan account based upon its amended recommendation.

(b) On the day such modification is released, the Consulting Group will adjust the Plan account to fit the new Allocation Model and to reflect current market conditions.[6] Such adjustments will be effected through a series of purchases and redemptions of Portfolio shares to increase or decrease the relative investment in the various Portfolios by the Plan account.

(c) The reallocation of the Plan account will be effected on the same business day as the release of the new Allocation Model by the Consulting Group, except to the extent market conditions and orderly purchase and redemption procedures may delay such processing. For purposes of calculating the percentage changes in its asset allocation recommendation underlying the Automatic Reallocation Option for a Plan investor's account, the Consulting Group will use the net asset values at the close of business on the preceding trading day. However, the execution of trades to give effect to the changed percentages will occur on the next trading day at the then-current net asset values.

(d) Participants in the TRAK Program will receive trade confirmations of the reallocation transactions. In this regard, for all Plan investors other than Section 404(c) Plan accounts (i.e., 401(k) Plan accounts), Salomon Smith Barney will mail trade confirmations the next business day after the reallocation trades are executed. In the case of Section 404(c) Plan participants, notification will depend upon the notification provisions agreed to by the Plan recordkeeper.[7] For example, if the recordkeeper notifies Section 404(c) Plan participants (i.e., Independent Plan Fiduciaries) in writing after each trade, such participants will be notified of reallocation transactions in this manner. If, however, the recordkeeper notifies Section 404(c) Plan participants of trading activity in a quarterly statement, the reallocation activity would be included there.

In addition to the trade confirmations which Salomon Smith Barney will provide to all Plan investors except Section 404(c) Plans, disclosure of the reallocation transactions will appear in the next regular client statement. Such transactions will be reflected as a series of purchase and redemption transactions that will shift assets among the Portfolios in accordance with the Allocation Model as modified by the Consulting Group.

(e) If, however, the reallocation to be made in response to the Consulting Group's recommendation exceeds an increase or decrease of more than 10 percent in the absolute percentage allocated to any one investment medium (e.g., a suggested increase in a 15 percent allocation to greater than 25 percent or a decrease of such 15 percent allocation to less than 5 percent), Salomon Smith Barney will not automatically adjust a Plan account. Under such circumstances, Salomon Smith Barney will send out a written notice (the Notice) to the Independent Plan Fiduciary for each affected Plan, describing the proposed reallocation and the date on which such allocation is to be instituted (the Effective Date).

(f) The Notice will be mailed with the presumption of delivery within three business days to permit timely notification and adequate response time for the Independent Plan Fiduciary. The Notice will instruct the fiduciary that he or she will need to do nothing if such fiduciary decides to have his or her Plan account automatically reallocated on the Effective Date. If, on the other hand, the Independent Plan Fiduciary does not wish to follow the Consulting Group's revised asset allocation recommendation, the Notice will instruct the Independent Plan Fiduciary to inform a Financial Consultant, in writing, at least 30 calendar days prior to the proposed Effective Date that the fiduciary wishes to "opt out" of the new Allocation Model.[8]

(g) If the Independent Plan Fiduciary "opts out," his or her Plan account will not be changed on the Effective Date.

[6] Salomon Smith Barney notes that there are 12 standard Allocation Models and that two similarly-situated Plan participants who receive the same recommendation from the Consulting Group will receive the same reallocation.

[7] Under these circumstances, Salomon Smith Barney will advise the recordkeeper of the proposed reallocation of the account of a Section 404(c) Plan participant as soon as the Consulting Group has determined that a change to an asset allocation recommendation is going to be made. The communication may initially be made orally because the recordkeeper must then promptly modify its system to effect the necessary changes to a participant's account on the effective date of the new recommendation. The oral communication is customarily followed by a full written description of the changes within two business days of the verbal update.

As noted above, a Section 404(c) Plan participant who has elected the Automatic Reallocation Option would receive a trade confirmation from the recordkeeper of the resulting changes to the positions in his or her account, if that is the notification procedure agreed to for the Plan. Also as noted above, transactions occurring upon automatic reallocation and the underlying recommendation changes will be disclosed in the "Participant Quarterly Review."

[8] The Notice will be mailed with the presumption of delivery within three business days so that the 30 day calendar period will not commence until the third business day following the mailing. In addition, the Effective Date of the Automatic Reallocation Option will occur no sooner than the business day following the thirtieth calendar day. To avoid any misunderstandings or miscalculations by the Independent Plan Fiduciary, Salomon Smith Barney represents that it will conspicuously state, in the Notice, the last date for its receipt of the Independent Plan Fiduciary's written response.

Under such circumstances, the Allocation Model will remain at its current level or at such other level as the Independent Plan Fiduciary designates. However, the Automatic Reallocation Option, will remain in effect for future changes in such participant's Allocation Model.

(h) The Independent Plan Fiduciary will always have the ability to elect, terminate or reinstitute the Automatic Reallocation Option or to otherwise adjust an Allocation Model, in any way, by providing reasonably prompt notice to a Financial Consultant. Upon request by the Independent Plan Fiduciary, the Financial Consultant will send the appropriate form.

Salomon Smith Barney states that it is not possible to predict the frequency of reallocations because these changes are dictated by the Consulting Group's analysis of market conditions. However, since November 1991, Salomon Smith Barney represents that asset allocation changes of the type that would trigger automatic reallocations have been instituted by the Consulting Group on ten occasions. Eight of these changes were of a magnitude of 10 percentage points or less. The other two changes were 15 percent changes and impacted only approximately one percent and 3 percent, respectively, of the total number of clients participating in the TRAK Program at the time.[9]

Salomon Smith Barney also states that the reallocation called for under the Automatic Reallocation Option will be effected by a dollar-for-dollar liquidation and purchase of the required amounts in the respective Plan accounts. Because of the billing of Plan accounts participating in the TRAK Program is leveled with respect to the compensation received by Salomon Smith Barney and by the Financial Consultant involved in an account, Salomon Smith Barney states that the implementation of the Automatic Reallocation Option will be revenue-neutral. In addition, Salomon Smith Barney represents that neither the Plan nor the participants will pay any additional fees for electing to use the Automatic Reallocation Option.[10]

Thus, on the basis of the foregoing, General Condition II(f) has been revised to read as follows:

(f) Any recommendation or evaluation made by the Consulting Group to an Independent Plan Fiduciary will be implemented only at the express direction of such Independent Plan Fiduciary, provided, however, that—

(1) If such Independent Plan Fiduciary shall have elected in writing (the Election), on a form designated by Salomon Smith Barney from time to time for such purpose, to participate in the Automatic Reallocation Option under the TRAK Program, the affected Plan or participant account will be automatically reallocated whenever the Consulting Group modifies the particular asset allocation recommendation which the Independent Plan Fiduciary has chosen. Such Election shall continue in effect until revoked or terminated by the Independent Plan Fiduciary, in writing.

(2) Except as set forth below in paragraph II(f)(3), at the time of a change in the Consulting Group's asset allocation recommendation, each account based upon the asset allocation model (the Allocation Model) affected by such change would be adjusted on the business day of the release of the new Allocation Model by the Consulting Group, except to the extent that market conditions, and order purchase and redemption procedures may delay such processing through a series of purchase and redemption transactions to shift assets among the affected Portfolios.

(3) If the change in the Consulting Group's asset allocation recommendation exceeds an increase or decrease of more than 10 percent in the absolute percentage allocated to any one investment medium (e.g., a suggested increase in a 15 percent allocation to greater than 25 percent, or a decrease of such 15 percent allocation to less than 5 percent), Salomon Smith Barney will send out a written notice (the Notice) to all Independent Plan Fiduciaries whose current investment allocation would be affected, describing the proposed reallocation and the date on which such allocation is to be instituted (the Effective Date). If the Independent Plan Fiduciary notifies Salomon Smith Barney, in writing, at least 30 calendar days prior to the proposed Effective Date that such fiduciary does not wish to follow such revised asset allocation recommendation, the Allocation Model will remain at the current level, or at such other level as the Independent Plan Fiduciary then expressly designates, in writing. If the Independent Plan Fiduciary does not affirmatively "opt out" of the new Consulting Group recommendation, in writing, prior to the proposed Effective Date, such new recommendation will be automatically effected by a dollar-for-dollar liquidation and purchase of the required amounts in the respective account.

(4) An Independent Plan Fiduciary will receive a trade confirmation of each reallocation transaction. In this regard, for all Plan investors other than Section 404(c) Plan accounts (i.e., 401(k) Plan accounts), Salomon Smith Barney will mail trade confirmations on the next business day after the reallocation trades are executed. In the case of Section 404(c) Plan participants, notification will depend upon the notification provisions agreed to by the Plan recordkeeper.

[9] While there is no minimum percentage threshold that will trigger the Automatic Reallocation Option, other than the historical ranges specified above, Salomon Smith Barney notes that there may be future market circumstances that may justify an asset allocation adjustment of a lesser amount. Because the Consulting Group will only adjust asset allocation recommendations to reflect current market conditions, Salomon Smith Barney anticipates that triggers for the Automatic Reallocation Option will continue to be only market-related. As is currently the situation, Salomon Smith Barney represents that a Plan investor may, at any time and for any reason, contact a Financial Consultant to request a modification of an existing Allocation Model.

[10] General Condition II(c) of PTE 94–50 as well as this proposal states that no Plan will pay a fee or commission by reason of the acquisition or redemption of shares in the Trust. Since the fees paid to Salomon Smith Barney are based upon net asset values of investments and not transactions, a change of investment allocations and the net purchases and redemptions used to effect such changes do not change the payable fees.

Notice to Interested Persons

Notice of the proposed exemption will be mailed by first class mail to the Independent Plan Fiduciary Plan of each Plan currently participating in the TRAK Program, or, in the case of a Section 404(c) Plan, to the recordholder of Trust shares. Such notice will be given within 15 days of the publication of the notice of pendency in the **Federal Register**. The notice will contain a copy of the notice of proposed exemption as published in the **Federal Register** and a supplemental statement, as required pursuant to 29 CFR 2570.43(b)(2). The supplemental statement will inform interested persons of their right to comment on and/or to request a hearing with respect to the pending exemption. Written comments and hearing requests are due within 45 days of the publication of the proposed exemption in the **Federal Register**.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the

Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption can be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interest of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(4) This proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(5) This proposed exemption, if granted, is subject to the express condition that the Summary of Facts and Representations set forth in the notice of proposed exemption relating to PTE 92–77, as amended by PTE 94–50 and this notice, accurately describe, where relevant, the material terms of the transactions to be consummated pursuant to this exemption.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time frame set forth above, after the publication of this proposed exemption in the **Federal Register**. All comments will be made a part of the record. Comments received will be available for public inspection with the referenced applications at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990).

Section I. Covered Transactions

A. If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, to the purchase or redemption of shares by an employee benefit plan, an individual retirement account (the IRA), or a retirement plan for self-employed individuals (the Keogh Plan) [11] in the Trust for Consulting Group Capital Market Funds (the Trust), established by Salomon Smith Barney, in connection with such Plans' participation in the TRAK Personalized Investment Advisory Service product (the TRAK Program).

B. If the exemption is granted, the restrictions of section 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(E) and (F) of the Code, shall not apply, to the provision, by the Consulting Group, of (1) investment advisory services or (2) an automatic reallocation option (the Automatic Reallocation Option) to an independent fiduciary of a participating Plan (the Independent Plan Fiduciary), which may result in such fiduciary's selection of a portfolio (the Portfolio) in the TRAK Program for the investment of Plan assets.

This proposed exemption is subject to the following conditions that are set forth below in Section II.

Section II. General Conditions

(a) The participation of Plans in the TRAK Program will be approved by an Independent Plan Fiduciary. For purposes of this requirement, an employee, officer or director of Salomon Smith Barney and/or its affiliates covered by an IRA not subject to Title I of the Act will be considered an Independent Plan Fiduciary with respect to such IRA.

(b) The total fees paid to the Consulting Group and its affiliates will constitute no more than reasonable compensation.

(c) No Plan will pay a fee or commission by reason of the acquisition or redemption of shares in the Trust.

(d) The terms of each purchase or redemption of Trust shares shall remain at least as favorable to an investing Plan as those obtainable in an arm's length transaction with an unrelated party.

(e) The Consulting Group will provide written documentation to an Independent Plan Fiduciary of its recommendations or evaluations based upon objective criteria.

(f) Any recommendation or evaluation made by the Consulting Group to an Independent Plan Fiduciary will be implemented only at the express direction of such Independent Plan Fiduciary, provided, however, that—

(1) If such Independent Plan Fiduciary shall have elected in writing (the Election), on a form designated by Salomon Smith Barney from time to time for such purpose, to participate in the Automatic Reallocation Option under the TRAK Program, the affected Plan or participant account will be automatically reallocated whenever the Consulting Group modifies the particular asset allocation recommendation which the Independent Plan Fiduciary has chosen. Such Election shall continue in effect until revoked or terminated by the Independent Plan Fiduciary in writing.

(2) Except as set forth below in paragraph II(f)(3), at the time of a change in the Consulting Group's asset allocation recommendation, each account based upon the asset allocation model (the Allocation Model) affected by such change would be adjusted on the business day of the release of the new Allocation Model by the Consulting Group, except to the extent that market conditions, and order purchase and redemption procedures may delay such processing through a series of purchase and redemption transactions to shift assets among the affected Portfolios.

(3) If the change in the Consulting Group's asset allocation recommendation exceeds an increase or decrease of more than 10 percent in the absolute percentage allocated to any one investment medium (e.g., a suggested increase in a 15 percent allocation to greater than 25 percent, or a decrease of such 15 percent allocation to less than 5 percent), Salomon Smith Barney will send out a written notice (the Notice) to all Independent Plan Fiduciaries whose current investment allocation would be affected, describing the proposed reallocation and the date on which such allocation is to be instituted (the Effective Date). If the Independent Plan Fiduciary notifies Salomon Smith Barney, in writing, at least 30 calendar days prior to the proposed Effective Date that such fiduciary does not wish to follow such revised asset allocation recommendation, the Allocation Model will remain at the current level, or at such other level as the Independent Plan Fiduciary then expressly designates, in writing. If the Independent Plan Fiduciary does not affirmatively "opt out" of the new Consulting Group recommendation, in writing, prior to the proposed Effective Date, such new recommendation will be automatically effected by a dollar-for-dollar liquidation and purchase of the required amounts in the respective account.

(4) An Independent Plan Fiduciary will receive a trade confirmation of each reallocation transaction. In this regard, for all Plan investors other than Section 404(c) Plan accounts (i.e., 401(k) Plan accounts), Salomon Smith Barney will mail trade confirmations on the next business day after the reallocation trades are executed. In the case of Section 404(c) Plan participants, notification will depend upon the notification provisions agreed to by the Plan recordkeeper.

(g) The Consulting Group will generally give investment advice in writing to an Independent Plan Fiduciary with respect to all available Portfolios. However, in the case of a Plan providing for participant-directed investments (the Section 404(c) Plan), the Consulting Group will provide investment advice that is limited to the Portfolios made available under the Plan.

(h) Any sub-adviser (the Sub-Adviser) that acts for the Trust to exercise investment discretion over a Portfolio will be independent of Salomon Smith Barney and its affiliates.

(i) Immediately following the acquisition by a Portfolio of any securities that are issued by Salomon Smith Barney and/or its affiliates, the percentage of that Portfolio's net assets invested in such securities will not exceed one percent.

(j) The quarterly investment advisory fee that is paid by a Plan to the Consulting Group for investment advisory services rendered to such Plan will be offset by such amount as is necessary to assure that the Consulting Group retains no more than 20 basis points from any Portfolio (with the exception of the Government Money Investments Portfolio and the GIC Fund Portfolio for which the Consulting Group and the Trust will retain no investment management fee) which contains investments attributable to the Plan investor.

(k) With respect to its participation in the TRAK Program prior to purchasing Trust shares, (1) Each Plan will receive the following written or oral disclosures from the Consulting Group:

(A) A copy of the Prospectus for the Trust discussing the investment objectives of the Portfolios comprising the Trust, the policies employed to achieve these objectives, the corporate affiliation existing between the Consulting Group, Salomon Smith Barney and its subsidiaries and the compensation paid to such entities.[12]

(B) Upon written or oral request to Salomon Smith Barney, a Statement of Additional Information supplementing the Prospectus which describes the types of securities and other instruments in which the Portfolios may invest, the investment policies and strategies that the Portfolios may utilize and certain risks attendant to those investments, policies and strategies.

(C) A copy of the investment advisory agreement between the Consulting Group and such Plan relating to participation in the TRAK Program and, if applicable, informing Plan investors of the Automatic Reallocation Option.

(D) Upon written request of Salomon Smith Barney, a copy of the respective investment advisory agreement between the Consulting Group and the Sub-Advisers.

(E) In the case of a Section 404(c) Plan, if required by the arrangement negotiated between the Consulting Group and the Plan, an explanation by a Salomon Smith Barney Financial Consultant (the Financial Consultant) to eligible participants in such Plan, of the services offered under the TRAK Program and the operation and objectives of the Portfolios.

(F) A copy of PTE 94–50 as well as the proposed exemption and the final exemption pertaining to the exemptive relief described herein.

(2) If accepted as an investor in the TRAK Program, an Independent Plan Fiduciary of an IRA or Keogh Plan, is required to acknowledge, in writing, prior to purchasing Trust shares that such fiduciary has received copies of the documents described above in subparagraph (k)(1) of this Section.

(3) With respect to a Section 404(c) Plan, written acknowledgement of the receipt of such documents will be provided by the Independent Plan Fiduciary (i.e., the Plan administrator, trustee or named fiduciary, as the recordholder of Trust shares). Such Independent Plan Fiduciary will be required to represent in writing to Salomon Smith Barney that such fiduciary is (a) independent of Salomon Smith Barney and its affiliates and (b) knowledgeable with respect to the Plan in administrative matters and funding matters related thereto, and able to make an informed decision concerning participation in the TRAK Program.

(4) With respect to a Plan that is covered under Title I of the Act, where investment decisions are made by a trustee, investment manager or a named fiduciary, such Independent Plan Fiduciary is required to acknowledge, in writing, receipt of such documents and represent to Salomon Smith Barney that such fiduciary is (a) independent of Salomon Smith Barney and its affiliates, (b) capable of making an independent decision regarding the investment of Plan assets and (c) knowledgeable with respect to the Plan in administrative matters and funding matters related thereto, and able to make an informed decision concerning participation in the TRAK Program.

(l) Subsequent to its participation in the TRAK Program, each Plan receives the following written or oral disclosures with respect to its ongoing participation in the TRAK Program:

(1) The Trust's semi-annual and annual report which will include financial statement for the Trust and investment management fees paid by each Portfolio.

(2) A written quarterly monitoring statement containing an analysis and an evaluation of a Plan investor's account to ascertain whether the Plan's investment objectives have been met and recommending, if required, changes in Portfolio allocations.

(3) If required by the arrangement negotiated between the Consulting Group and a Section 404(c) Plan, a quarterly, detailed investment performance monitoring report, in writing, provided to an Independent Plan Fiduciary of such Plan showing, Plan level asset allocations, Plan cash flow analysis and annualized risk adjusted rates of return for Plan investments. In addition, if required by such arrangement, Financial Consultants will meet periodically with Independent Plan Fiduciaries of Section 404(c) Plans to discuss the report as well as with eligible participants to review their accounts' performance.

(4) If required by the arrangement negotiated between the Consulting Group and a Section 404(c) Plan, a quarterly participant performance monitoring report provided to a Plan participant which accompanies the participant's benefit statement and describes the investment performance of the Portfolios, the investment performance of the participant's individual investment in the TRAK Program, and gives market commentary and toll-free numbers that will enable the participant to obtain more information about the TRAK Program or to amend his or her investment allocations.

(5) On a quarterly and annual basis, written disclosures to all Plans of the (a) percentage of each Portfolio's brokerage commissions that are paid to Salomon Smith Barney and its affiliates and (b)

[11] The employee benefit plan, the IRA and the Keogh Plan are are collectively referred to herein as the Plans.

[12] The fact that certain transactions and fee arrangements are the subject of an edministrative exemption does not relieve the Independent Plan Fiduciary from the general fiduciary responsibility provisions of section 404 of the Act. In this regard, the Department expects the Independent Plan Fiduciary to consider carefully the totality of fees and expenses to be paid by the Plan, including the fees paid directly to Salomon Smith Barney or to other third parties and/or indirectly through the Trust to Smith Barney.

the average brokerage commission per share paid by each Portfolio to Salomon Smith Barney and its affiliates, as compared to the average brokerage commission per share paid by the Trust to brokers other than Salomon Smith Barney and its affiliates, both expressed as cents per share.

(m) Salomon Smith Barney shall maintain, for a period of six years, the records necessary to enable the persons described in paragraph (n) of this Section to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Salomon Smith Barney and/or its affiliates, the records are lost or destroyed prior to the end of the six year period, and (2) no party in interest other than Salomon Smith Barney shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (n) below.

(n)(1) Except as provided in section (2) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (m) of this Section II shall be unconditionally available at their customary location during normal business hours by:

(A) Any duly authorized employee or representative of the Department or the Service;

(B) Any fiduciary of a participating Plan or any duly authorized representative of such fiduciary;

(C) Any contributing employer to any participating Plan or any duly authorized employee representative of such employer; and

(D) Any participant or beneficiary of any participating Plan, or any duly authorized representative of such participant or beneficiary.

(2) None of the persons described above in subparagraphs (B)–(D) of this paragraph (n) shall be authorized to examine the trade secrets of Salomon Smith Barney or commercial or financial information which is privileged or confidential.

Section III. Definitions

For purposes of this proposed exemption:

(a) The term "Salomon Smith Barney" means Salomon Smith Barney Inc. and any affiliate of Salomon Smith Barney, as defined in paragraph (b) of this Section III.

(b) An "affiliate" of Salomon Smith Barney includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with Salomon Smith Barney. (For purposes of this subsection, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.)

(2) Any officer, director or partner in such person, and

(3) Any corporation or partnership of which such person is an officer, director or a 5 percent partner or owner.

(c) An "Independent Plan Fiduciary" is a Plan fiduciary which is independent of Salomon Smith Barney and its affiliates and is either—

(1) A Plan administrator, sponsor, trustee or named fiduciary, as the recordholder of Trust shares under a Section 404(c) Plan;

(2) A participant in a Keogh Plan;

(3) An individual covered under a self-directed IRA which invests in Trust shares;

(4) A trustee, investment manager or named fiduciary responsible for investment decisions in the case of a Title I Plan that does not permit individual direction as contemplated by Section 404(c) of the Act; or

(5) A participant in a Plan, such as a Section 404(c) Plan, who is permitted under the terms of such Plan to direct, and who elects to direct the investment of assets of his or her account in such Plan.

Section IV. Effective Dates

If granted, this proposed exemption will be effective as of June 21, 1994 with respect to the transactions described in Section I.A. and B.(1). With respect to Section I.B.(2) and Section II(f)(1)–(4) of the General Conditions, this proposed exemption will be effective November 9, 1998.

The availability of this proposed exemption is subject to the express condition that the material facts and representations contained in the application for exemption are true and complete and accurately describe all material terms of the transactions. In the case of continuing transactions, if any of the material facts or representations described in the applications change, the exemption will cease to apply as of the date of such change. In the event of any such change, an application for a new exemption must be made to the Department.

For a more complete statement of the facts and representations supporting the Department's decision to grant PTEs 92–77 and PTE 94–50, refer to the proposed exemptions and the grant notices which are cited above.

Signed at Washington, D.C., this 4th day of November, 1998.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 98–29964 Filed 11–6–98; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 98–51; Exemption Application No. L–9583, et al.]

Grant of Individual Exemptions; U.S. West, Inc.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

U S WEST, Inc.; Located in Englewood, Colorado

[Prohibited Transaction Exemption 98–51; Application No. L–9583]

Exemption

Section I—Transactions Involving Contributions In-kind

Effective March 31, 1994, the restrictions of sections 406(a)(1)(E), 407(a)(2), 406(b)(1), and 406(b)(2) of the Act shall not apply to voluntary contributions in-kind by U S WEST, Inc., any successor to U S WEST, Inc., and/or any affiliates of U S WEST, Inc. (collectively, U S WEST) of certain shares of publicly traded common stock of U S WEST (the Stock) and/or any replacement publicly traded shares of such Stock to certain trusts (the Trusts or Trust) for the purpose of pre-funding welfare benefits under one or more employee welfare benefit plans (the Plan or Plans) maintained by U S WEST, provided that:

(a) The Plan provisions explicitly authorize U S WEST to pre-fund benefits through in-kind contributions of Stock, and all contributions of Stock have been and will be made in conformity with such Plan provisions;

(b) Neither the Plans nor the Trusts have paid nor will pay, whether in cash or in other property or in a diminution of any funding obligation of U S WEST, any consideration for Stock contributed in-kind by U S WEST;

(c) U S WEST has no obligation to pre-fund welfare benefits provided to participants under any of the Plans, either pursuant to the plan documents, the terms of any collective bargaining agreement, or the provisions of the Act;

(d) None of the Plans have ceded, nor will cede, any right to receive cash contributions from U S WEST;

(e) None of the Plans or Trusts have paid, nor will pay, any commissions in connection with the contribution in-kind of Stock by U S WEST; and

(f) Each of the conditions, as set forth below in Section II, have been satisfied and at all times will be satisfied.

Section II—Conditions

The exemption is conditioned upon the adherence by U S WEST to the material facts and representations described in the Notice of Proposed Exemption (the Notice) as modified by this exemption and upon satisfaction of the following requirements:

(a) All Stock contributed in-kind by U S WEST to any of the Trusts or acquired by such Trusts, as a result of the recapitalization of U S WEST, constituted qualifying employer securities (QES), as defined in section 407(d)(5) of the Act; and all Stock contributed in-kind in the future and any replacement publicly traded shares of such Stock will constitute QES;

(b) Stock contributed in-kind by U S WEST or acquired as a result of the recapitalization of U S WEST has been held in Trusts, which are qualified under section 501(c)(9) of the Code, and which are established for the purpose of funding life, sickness, accident, and other welfare benefits for the participants and beneficiaries of the Plans, and all Stock contributed in-kind in the future and any replacement publicly traded shares of such Stock will be held in such Trusts;

(c) All Stock contributed in-kind by U S WEST to any Trust or acquired by any Trust as a result of the recapitalization of U S WEST has been held in a separate account (the Account or Accounts) under such Trust, and all Stock contributed in-kind in the future and any replacement publicly traded shares of such Stock will be held in an Account under such Trust. Such Accounts under a Trust have been and will be managed by an independent fiduciary (the I/F), who is an independent, qualified investment manager, or any successor independent, qualified investment manager, and who has represented and will represent the interests of the Plans which are funded by such Trust for all purposes with respect to the Stock for the duration of the Trust's holding of any of such Stock;

(d) The I/F of the Accounts in the Trusts which fund any welfare plan benefits, has accepted Stock from U S WEST, through in-kind contributions and recapitalization of U S WEST, and will accept Stock, through future in-kind contributions and through any replacement publicly traded shares of such Stock, only after such I/F determines at the time of the transactions that such transactions are feasible, in the interest of, and protective of participants and beneficiaries of the Plans funded by such Trusts;

(e) The I/F has had sole responsibility and, at all times, will have sole responsibility for the ongoing management of the Accounts under the Trusts which hold the Stock and has taken and will take whatever action is necessary to protect the rights of the Plans funded by such Trusts, including but not limited to all decisions regarding the acceptance of contributions in-kind by U S WEST, the sale or retention of such Stock, the exercise of voting rights of such Stock, and any other acquisition or dispositions of such Stock;

(f) Any contributions in-kind of Stock made by U S WEST to any Plan through any Trust and any acquisitions of Stock in connection with the recapitalization of U S WEST did not cause immediately after each such transaction, and in the future any contributions in-kind of Stock and any replacement publicly traded shares of such Stock will not cause immediately after each such transaction the aggregate fair market value of such Stock, plus the fair market value of all qualifying employer real property (QERP), as defined by section 407(d)(4) of the Act, and the fair market value of all other QES held by such Plan to exceed 25 percent (25%) of the fair market value of the assets of such Plan as determined on the date of each such transaction;

(g) The percentage limitations, as set forth above in paragraph (f) of this Section II, have been and will be applied without regard to amounts of securities issued by U S WEST that may be held by an unrelated common or collective trust fund maintained by an independent manager in which any of the Plans through the Trusts may have invested or may invest, provided that the fair market value of the securities issued by U S WEST and held in such unrelated common or collective trust fund does not exceed 5 percent (5%) of the fair market value of each such common or collective trust fund; and provided further that the conditions of Prohibited Transaction Class Exemption 91–38 (PTCE 91–38) [1] are satisfied, including the requirement that the interests of the Plans in such unrelated common or collective trust fund does not exceed 10 percent (10%) of the total

[1] The Notice of Proposed Exemption for exemption application number D–8414 was published at 56 FR 4856 on February 6, 1991. PTCE 91–38 was granted at 56 FR 31966 on July 12, 1991.

of all assets in such common or collective trust fund;

(h) Nothing in the conditions, as set forth above in paragraph (f) of this Section II, shall preclude, the holding by any Plan of Stock, any other QES and QERP, in amounts in excess of 25 percent (25%) of the assets of such Plan, if the aggregate fair market value of such Stock, other QES and QERP exceeds 25 percent (25%) of the value of the assets of such Plan solely by reason of:

(1) A greater rate of appreciation to the value of such Stock, other QES and QERP relative to the rate of appreciation to the value of the assets in such Plan, other than the Stock, other QES and QERP; or

(2) A greater decline in the value of the other assets of the Plan relative to that of such Stock, other QES and QERP;

(i) None of the assets of any of the Trusts have reverted, nor at any time will any of the assets of such Trusts revert to the use or benefit of U S WEST.

EFFECTIVE DATE: The exemption is effective as of March 31, 1994.

Written Comments

In the Notice, the Department invited all interested persons to submit written comments and requests for a hearing on the proposed exemption within ninety (90) days of the date of the publication of the Notice in the **Federal Register** on March 31, 1998. All comments and requests for hearing were due by June 29, 1998.

During the comment period, the Department received two (2) requests for a hearing. The Department has taken into consideration the concerns expressed by the individuals who requested a hearing. After a review of these concerns, the Department does not believe that any issues have been raised which would require the convening of a hearing.

The Department received letters from thirty-five (35) interested persons commenting on the subject transaction. At the close of the comment period, the Department forwarded copies of these letters to the applicant and requested that the applicant address in writing the various concerns raised by the commentators. Most of the comments fell into broad categories that the applicant responded to generally. Where a single commentator raised a specific issue, such issue was responded to individually. A description of the comments and the applicant's responses thereto are summarized below.

The applicant noted that several commentators objected to the granting of the requested exemption based on the belief that the assets of the Plans, the assets of U S WEST Pension Plan, or the assets of retirees would be used to purchase QES. In this regard, the applicant reiterated that the exemption would permit the voluntary contribution of QES by the applicant or its affiliates. Thus, it is represented that the cost of the QES contributed to the Trusts has been and will be borne solely by U S WEST. No assets of the Plans, of the U S WEST Pension Plan, or of the retirees has been or will be used to pay for the QES, nor have the Trusts ceded nor will the Trusts cede any right to receive cash contributions in exchange for the contribution by U S WEST of the QES.

Three (3) commentators expressed identical beliefs that the applicant should be required to contribute to the Trusts the cash which the applicant's affiliate, U S WEST Communications (USWC) receives from its telephone service customers (the Rate Payers), and which is attributable to the expense borne by the Rate Payers as a result of the cost of the Plans being passed along to the Rate Payers in the state rate making procedures. The three commentators that raised the rate making issue were from Arizona, which the applicant maintains does not permit accrued expenses for post-retirement welfare benefits to be taken into account for purposes of setting the rates charged by USWC in that state.

Notwithstanding the circumstances in Arizona, and in the interest of ensuring a complete response to the issues raised, the applicant considered the comments in light of each of the fourteen (14) states served by USWC. In this regard, it is represented that until recently accrued expenses for future post-retirement welfare benefits could not be included in the calculation of cost of service for rate making purposes. Instead, such expenses could be included in cost of service calculations only to the extent they were paid out in the form of benefits. Following the adoption by the Financial Accounting Standards Board of Financial Accounting Standard 106 (FAS 106) in 1990, most state regulatory jurisdictions in which USWC does business have begun permitting utilities to use some type of accrual method similar to that provided in FAS 106 for recognizing post-retirement welfare benefit expenses in the cost of service. These accrued expenses are not automatically included in rates but may be included at the request of USWC.

As part of the procedure for determining the extent to which accrued post-retirement welfare benefit expenses should be included in rates, many jurisdictions consider how these expenses are funded through trusts or other means, and certain states require U S WEST to maintain a specified minimum level of funding for benefits in one or more external accounts (*i.e.* trust accounts). More specifically, some of the states served by USWC may require a certain level of funding of benefits be designated as funded by that state's utility customers. In this regard, the applicant represents that no part of U S WEST's two prior contributions of QES was attributable to funding these designations. In the future, even if the applicant chooses to make an additional contribution attributable to a particular state's Rate Payers, rather than choose other alternatives, New U S WEST is able to ensure that no part of such contribution will consist of QES, and accordingly will do so.

The three commentators who raised the rate structuring issues, discussed in the paragraphs above, also suggested that the Stock should be discounted to protect the Plans against the potential loss of value over time. In the opinion of the applicant the intent of the commentators in making this suggestion is unclear, inasmuch as Plans are not paying for the Stock contributed by U S WEST, and the financial reporting standards of the Act require plan assets to be reported at fair market value.

Several commentators objected to permitting the Plans to invest more than the statutory limit (10%) in QES. Some of these commentators expressed their concern that the holding by the Plans of QES in excess of the statutory limit would reduce the security of Plan benefits (*e.g.* by exposing the Plans to volatility in Stock prices). In response, the applicant points out that welfare benefits under the Plans are not intended to be fully pre-funded, and that the voluntary contributions of Stock do not replace any required cash contributions of U S WEST. The applicant notes that no business purpose would be served if U S WEST were to contribute Stock that is expected to decline in value, because the cost of any benefits that are not pre-funded remain a liability of U S WEST. Accordingly, in the opinion of the applicant the exemption is in the interest of the participants and beneficiaries of the Plans in that U S WEST will be encouraged to make voluntary contributions to the Plans that would not otherwise be made.

Finally, several commentators expressed concern that the proposed exemption would affect their benefits under the Plans or their benefits under the U S WEST Pension Plan. In response, the applicant represents that the exemption will have no impact on these benefits. Further, one commentator noted that the applicant has made certain promises relating to the continuation of benefits to persons who retired prior to 1991. With respect to such promises, the applicant represents that it intends neither to enlarge nor to reduce the scope of its obligations by any representations made in connection with the requested exemption.

In addition to the comments described above, in letters dated June 29, August 10, 1998, September 17, and September 23, 1998, the Department also received comments and additional information from the applicant. In these submissions, the applicant requested certain modifications to the exemption as proposed, provided documentation for such modifications, and informed the Department of certain clarifications and changes in the Summary of Facts and Representations (SFR) in the Notice. The applicant's comments fall into four (4) categories: (1) clarification of the purpose of the contribution; (2) the application of limits on the acquisition and holding of QES; (3) information on the separation of U S WEST; and (4) the impact of such separation on the requested exemption.

With respect to category 1, above, regarding the purpose of the contribution, the applicant has requested confirmation of its interpretation of the language in Section I of the Notice. In this regard, Section I states that the contribution by U S WEST of Stock to the Trusts was "for the purpose of pre-funding post-retirement welfare benefits" under the Plans. In its comment, the applicant expressed its understanding that the exemption would not require Stock or any other specific asset contributed to a Trust to be used *solely* for the provision of post-retirement welfare benefits. In this regard, the applicant notes that where a Plan provides benefits to retirees, as well as to active employees, and such Plan holds an interest in a Trust, the terms of such Trust would permit the use of plan assets held in the Trust to pay benefits on behalf of either group, to the extent that such assets are not segregated for tax and accounting purposes for one or the other group. The Department concurs in the understanding, as expressed by the applicant, and has deleted the words, "post-retirement," from the language in Section I of the exemption.

With respect to category 2, above, regarding issues associated with the application of limits on the acquisition and holding of QES, the applicant has requested a modification of the language of Section III (f) of the Notice. In this regard, Section III (f) states that:

any contributions in-kind of Stock made by U S WEST to any Trust, any acquisitions of Stock in connection with the recapitalization of U S WEST, did not cause immediately after each such transaction, and in the future any contributions in-kind of Stock, any replacement publicly traded shares of such Stock or any Stock purchases in connection with rebalancing of a Trust's holding of Stock will not cause immediately after each such transaction the aggregate fair market value of such Stock, plus the fair market value of all qualifying employer real property (QERP), as defined by section 407(d)(4) of the Act, and the fair market value of all other QES held by such Trust to exceed 25 percent (25%) of the fair market value of the assets of such Trust as determined on the date of each such transaction.

In the opinion of the applicant the 25 percent limitation (the 25% Limitation) should be calculated at the Plan level, rather than at the Trust level. In this regard, the applicant believes that applying the 25% Limitation at the Plan level would ensure consistency with the method of accounting required under the reporting rules of the Act, and that the primary impact of applying the 25% Limitation at the Trust level would be that fewer voluntary contributions would be made to the trusts, specifically, to the U S WEST Occupational Welfare Benefit Trust (formerly the U S WEST Benefit Assurance Trust) (the Assurance Trust). Further, the applicant points out that if the final exemption were revised to provide for calculation of the 25% Limitation at the Plan level, rather than at the Trust level, the assets of the Assurance Trust that could be invested in QES would not significantly exceed 25 percent (25%) of the asset of such trust.

In support of its position, the applicant represents that the value of each Plan's interest in each Trust can be measured. In addition, the applicant represents that each Plan holds a proportionate interest in each Trust asset (that is, a Plan's interest in each Trust asset, is the same as such Plan's interest in the Trust as a whole). Because each Plan can account for its interest in the Trust and holds an undivided interest in each of the underlying assets of the Trust in the same proportion as its interest in the Trust as a whole, it is represented that each Plan's interest in a particular asset, including the Stock, can be readily determined. Because a single Plan's benefits may be funded under more than one Trust, the applicant believes that applying the 25% Limitation at the Plan level would provide a more useful and accurate measurement of each Plan's interest in the Stock.

Further, it is represented that where a single Trust funds the benefits of more than one Plan, the assets attributable to each Plan are identifiable. The applicant represents that this is achieved either by commingling plan assets for investment purposes and attributing a *pro rata* share of each asset in the commingled Account to each Plan participating in the Trust, or by establishing one or more separate investment management Accounts solely on behalf of a plan participating in the Trust, or by combining both approaches. In this regard, it is represented that a Trust that funds benefits under more than one Plan functions as a "master trust." Moreover, when assets of a Plan are utilized to pay benefits, the liquidation of the assets attributable to the benefit paying Plan funded under a Trust will not affect the assets of any other Plan funded under such Trust. Once U S WEST has determined that benefits are to be paid for a Plan from the assets in an Account that holds QES, then the Independent Fiduciary of such Account continues to be responsible for the allocation as between QES or cash equivalents in funding the benefit payment.

The Department has decided that it is in the interests of the participants and beneficiaries whose Plan benefits are funded in whole or in part by the assets in the Accounts under the Trusts, if the 25% Limitation is imposed on the Plan level. This decision is based on the representations of the applicant, as discussed in the paragraph above, and on the fact that all Stock contributed in-kind by U S WEST in the past or in the future to any Accounts under such Trusts have been and will be managed by an I/F who has had and, at all times, will have sole responsibility for the ongoing management of the Accounts under the Trusts which hold the Stock and has taken and will take whatever action is necessary to protect the rights of the Plans funded by such Trusts, including but not limited to all decisions regarding the acquisition, retention, or disposition of such Stock. Accordingly, the Department concurs with the applicant's request to modify the language, as set forth in Section III(f) of the Notice. However, the Department notes that Section III(f), has been renumbered in the final exemption, as Section II(f) which reads as follows:

any contributions in-kind of Stock made by U S WEST to any Plan through any Trust and any acquisitions of Stock in connection with the recapitalization of U S WEST did not cause immediately after each such transaction, and in the future any contributions in-kind of Stock and any replacement publicly traded shares of such

Stock will not cause immediately after each such transaction the aggregate fair market value of such Stock, plus the fair market value of all qualifying employer real property (QERP), as defined by section 407(d)(4) of the Act, and the fair market value of all other QES held by such Plan to exceed 25 percent (25%) of the fair market value of the assets of such Plan as determined on the date of each such transaction.

In addition, the Department notes that reference was made in the language of Section III(h), as set forth in the Notice, to the application, under certain conditions, of the 25% Limitation to the Trust level. In order to maintain consistency throughout the exemption the Department has renumbered Section III(h), as Section II(h) and has substituted the word, "Plan," wherever the word, "Trust," appears in the language of Section II(h). Accordingly, the language of Section II(h) reads as follows:

nothing in the conditions, as set forth above in paragraph (f) of this Section II, shall preclude, the holding by any Plan of Stock, any other QES and QERP, in amounts in excess of 25 percent (25%) of the assets of such Plan, if the aggregate fair market value of such Stock, other QES and QERP exceeds 25 percent (25%) of the value of the assets of such Plan solely by reason of:

(1) a greater rate of appreciation to the value of such Stock, other QES and QERP relative to the rate of appreciation to the value of the assets in such Plan, other than the Stock, other QES and QERP; or

(2) a greater decline in the value of the other assets of the Plan relative to that of such Stock, other QES and QERP.

With respect to category 3, above, regarding information relating to the separation of U S WEST, the applicant informed the Department that the Board of Directors of U S WEST, on April 20, 1998, submitted for shareholder approval a proposal under which U S WEST would be separated into two (2) independent companies. In this regard, pursuant to the terms of the separation, those parts of the business representing U S WEST Communications Group (the Communications Group) and U S WEST's directory services (DEX) would be known as U S WEST, Inc. (New U S WEST), and those parts of the business representing U S WEST Media Group (the Media Group) would be known as MediaOne Group, Inc. (MediaOne). It is represented that the terms of the separation were approved for fairness by two (2) independent investment banking firms, and that the opinions of these firms were provided to all shareholders of U S WEST. On June 4, 1998, shareholders of U S WEST approved the proposal to separate U S WEST, effective June 12, 1998. It is represented that after the separation of U S WEST, there is no ownership or management relationship between New U S WEST and MediaOne (other than the fact that shareholders may choose to hold shares issued by both companies).

Prior to the separation of U S WEST, the different lines of business engaged in by U S WEST through its subsidiaries were reflected in two (2) classes of stock, "C" shares and "M" shares (the "C" Shares and the "M" Shares). The "C" Shares represented the Communications Group's business involving integrated communications, entertainment, information and transactions services. The "M" Shares reflected the Media Group's business involving cable, wireless, directory, interactive and international services.

To effect the separation of U S WEST, it is represented that the businesses of the Communications Group and DEX were contributed to New U S WEST, and stock of New U S WEST was distributed to the holders of "C" Shares. It is represented that the "M" Shares continue to reflect the business of the Media Group which after the separation of U S WEST is engaged in by MediaOne. No additional shares were distributed to the holders of "M" shares, other than $850 million shares of New U S WEST stock that such holders received as compensation for the transfer of DEX from the Media Group to New U S WEST.

The Department acknowledges the separation of U S WEST into New U S WEST and MediaOne, as described by the applicant, and notes that this information has been included in the record of the exemption. For a more detailed description of the circumstances preceding the separation of U S WEST and/or a description of the steps taken to effect such separation, interested persons are encouraged to obtain a copy of the exemption application file (L–9583) which is available in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5638, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

With respect to category 4, above, it is represented that the separation of U S WEST into two distinct companies did not have an impact on the holding of the Stock contributed in-kind by U S WEST to the Assurance Trust, on March 1994, and again on March 1995. In this regard, the applicant represents that such Stock was not affected by the separation of U S WEST on June 12, 1998, because such Stock had already been sold out of the Assurance Trust by December 31, 1997. Further, it is represented that the cash proceeds from sales of "C" Shares or the "M" Shares were not used to purchase shares of Stock in connection with "rebalancing" the portfolio of "C" Shares and "M" Shares by the Assurance Trust. Accordingly, the applicant represents that the transactions, as described in Section II of the Notice and in the SFR, have not occurred and will not occur, such that relief will no longer be necessary, either on a retroactive or prospective basis. Accordingly, the applicant does not object to the removal in its entirety of Section II of the Notice from the final exemption.

The Department concurs with the applicant, has deleted Section II from the exemption, and has renumbered the former Section III, as Section II in the final exemption. In addition, the Department has deleted any reference to transactions involving "rebalancing" of a Trust's holding of Stock from the terms and conditions of the final exemption.

The separation of U S WEST into two distinct companies did cause changes in the employee welfare benefit plans sponsored by each company. In this regard, because MediaOne and New U S WEST are not affiliated, it is no longer possible to cover employees of each company under the same welfare benefit plan. Accordingly, it is represented that the respective boards of directors of each company have determined that New U S WEST will adopt the Plans previously maintained by U S WEST (the New U S WEST Plans), and that MediaOne will establish "mirror" welfare benefit plans (the MediaOne Plans) on behalf of the former employees of U S WEST who transferred to MediaOne. It is anticipated the welfare benefit plans maintained by New U S WEST and MediaOne, respectively, will provide the same benefits provided by the Plans maintained by U S WEST. In this regard, it is represented that the operation and administration of the welfare benefit plans and trusts maintained by New U S WEST and MediaOne will be the same in all material respects to the operation and administration of Plans and the Trusts established by U S WEST. It is further represented that the welfare benefits provided to employees of New U S WEST and MediaOne will have the same level of funding protection that such employees had prior to the separation of U S WEST. Each company will reserve the same right to amend or terminate, respectively, the New U S WEST Plans and the MediaOne Plans, as was reserved by U S WEST with respect to the Plans it sponsored. As described in the Notice, in order to pre-fund a portion of the welfare benefits provided under the Plans, U S WEST 60403established under section 501(c)(9) of the Code, three Trusts: (1) the Assurance Trust, (2) the U S WEST Management Benefit Assurance Trust (the Management Trust), and (3) the U S WEST Life Insurance and Welfare Trust (the Life Insurance Trust). In its comment, the applicant informed the Department of the effect of the separation of U S WEST on these three Trust and on a fourth trust, the U S WEST VEBA Trust (the VEBA Trust), maintained by U S WEST, pursuant to section 501(c)(9) of the Code, to provide short-term funding of health care benefits for any of the Plans.

In this regard, it is represented that, effective with the separation of U S WEST, New U S WEST adopted the Assurance Trust, the Management Trust, and the Life Insurance Trust to provide funding for the New U S WEST Plans, while MediaOne has adopted the VEBA Trust. Further, New U S WEST has transferred a proportionate share of the assets and liabilities of the Management Trust and the Life Insurance Trust to the VEBA Trust for the purpose of funding the MediaOne Plans. In addition, the applicant has represented that no assets of the Assurance Trust were transferred to the VEBA Trust, because the assets of the Assurance Trust are held solely on behalf employees covered under collective bargaining agreements, and none of these employees are employed by MediaOne.

Notwithstanding the changes caused by the separation of U S WEST, as described in the paragraphs above, New U S WEST and MediaOne have requested that the final exemption continue to be available prospectively to both companies; provided certain conditions are satisfied. It is represented that the conditions of the exemption will ensure that the rights of participants and beneficiaries of the New U S WEST Plan and the MediaOne Plan will be protected. In this regard, New U S WEST and MediaOne each confirm that the Department may rely on representations made in the exemption application and incorporated in the Notice, subject to those modifications necessarily resulting from the separation of U S WEST, as described herein. Specifically, New U S WEST and MediaOne have omitted representations (b) and (c) in paragraph 12 of the SFR in the Notice, because such conditions relate solely to the "rebalancing" transactions for which exemptive relief is no longer requested or required.

New U S WEST and MediaOne believe that it would be in the interest of participants of the welfare benefit plans sponsored respectively by each company to continue to receive contributions of QES. In support of this request, it is represented that the reasons that additional voluntary contribution of QES are in the best interest of participants are completely unchanged. In this regard, it is represented that the operation and administration of the welfare benefit plans and trusts that will be maintained respectively by New U S WEST and MediaOne "mirror" the terms of the Plans in existence prior to the separation of U S WEST. Further, it is represented that the level of protection afforded to participants and beneficiaries in the New U S WEST Plans and the MediaOne Plans will be unaffected, in that voluntary contributions of QES will permit a higher level of contributions and will provide greater security that assets will be available to fund future benefits.

Finally, the applicant argues that the separation of U S WEST into two (2) lines of business should not necessitate the filing of another application for exemption, as such a filing would only duplicate the information that has already been provided to the Department. Similarly, it is represented that a separate exemption application would not serve to provide notice to additional interested persons, because all persons who would be interested in such application have already been notified by the publication of Notice in the **Federal Register**.

The Department concurs that the exemption will cover future contributions in-kind of QES by New U S WEST, and accordingly, has altered Section I of the exemption by adding the italicized words to the language of Section I, as follows,

Effective March 31, 1994, the restrictions of sections 406(a)(1)(E), 407(a)(2), 406(b)(1), and 406(b)(2) of the Act shall not apply to voluntary contributions in-kind by U S WEST, Inc., *any successor to U S WEST, Inc.*, and/or any affiliates *of U S WEST, Inc.* (*collectively*, U S WEST) of certain shares of publicly traded common stock of U S WEST (the Stock) and/or any replacement publicly traded shares of such Stock to certain trusts (the Trusts or Trust) for the purpose of pre-funding post-retirement welfare benefits under one or more employee welfare benefit plans (the Plan or Plans) maintained by U S WEST.

However, with regard to the request that the exemption continue to be available prospectively to MediaOne, the Department does not believe that the Notice, as published in the **Federal Register**, contemplated future contributions in-kind of QES by MediaOne to the MediaOne Plans. In this regard, the Department notes that the MediaOne Plans are new "mirror" plans which were not in existence at the time of the publication of the Notice in the **Federal Register**. Further, the Department is not convinced that the notice to interested persons that was provided with regard to the exemption requested by U S WEST afforded sufficient opportunity for comment from persons who would be interested persons with regard to future transactions by MediaOne. As a result, the Department does not believe that the exemption can be interpreted to be available prospectively to MediaOne. MediaOne may submit another application for exemption relief should MediaOne wish to make voluntary in-kind contributions of QES in the future to MediaOne Plans.

Accordingly, after full consideration and review of the entire record, including the written comments, the Department has determined to grant the exemption, as modified and amended herein. The comments submitted by the commentators to the Department and the applicant's response thereto has been included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department, is available for public inspection in the Public Documents Room of the Pension Welfare Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210.

For a complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice published on March 31, 1998, 61 FR 15443.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 219–8883 (This is not a toll-free number.)

RREEF America L.L.C. (RREEF); Located in San Francisco, California

[Prohibited Transaction Exemption 98–52; Exemption Application No. D–9952]

Exemption

The Department is granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 C.F.R. Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990.)

Section I—Covered Transactions

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason

of section 4975(c)(1)(A) through (E) of the Code, shall not apply to:

(1) The provision of certain leasing services (the Leasing Services) by RREEF's leasing affiliates (the Leasing Affiliates, as defined in Section IV) to certain accounts established by RREEF (the Accounts, as defined in Section IV); and

(2) The payment of leasing commissions in connection with the provision of Leasing Services by the Leasing Affiliates to the Accounts;

provided that the conditions set forth in Section II are met.

Section II—Conditions

(1) The arrangement under which the Leasing Services are performed with respect to any Account is subject to the prior authorization of either (i) an independent plan fiduciary for each employee benefit plan or other plan for which RREEF serves as trustee or investment manager (a Client Plan) that invests in a Single Client Account, or (ii) independent plan fiduciaries with respect to Client Plans or other institutional investors holding at least 60 percent of the units of beneficial interest in a Multiple Client Account, following disclosure of information in the manner described in paragraph (2) below. In the case of a Client Plan whose assets are proposed to be invested in an Account subsequent to the provision of Leasing Services to the Account, the Client Plan's investment in the Account is subject to the prior written authorization of an authorizing plan fiduciary following disclosure of the information described in paragraph (2).

(2) Not less than 45 days prior to the first date it proposes to provide Leasing Services for any Account, RREEF, as investment manager, shall furnish the authorizing plan fiduciary with any reasonably available information which RREEF believes to be necessary to determine whether such approval should be given, as well as such information which is reasonably requested by the authorizing plan fiduciary. Such information will include: (a) a description of the Leasing Services to be performed by the Leasing Affiliate; (b) an explanation of the potential conflicts of interest involved in selecting the Leasing Affiliate; (c) an explanation of the selection process (including the role of the Independent Fiduciaries (as defined in Section IV)); (d) identification of properties for which Leasing Services will be required; (e) an estimate of the leasing fees to be paid to the Leasing Affiliate if it is selected to provide such services; and (f) a description of the terms upon which a Client Plan may withdraw from an Account.

(3) In the event an authorizing plan fiduciary of any Client Plan whose assets are invested in an Account submits a notice in writing to RREEF, as investment manager, at least 15 days prior to the provision of Leasing Services, objecting to the provision of the Leasing Services, and RREEF proposes to proceed with the provision of Leasing Services, the Client Plan on whose behalf the objection was tendered will be given the opportunity to terminate its investment in the Account, without penalty. With the exception of a Client Plan which has invested in a closed-end Account under which the rights of withdrawal from the Account may be limited, as provided in the Client Plan's written agreement to invest in the Account, if a written objection to the Leasing Services is submitted to RREEF any time after 15 days prior to implementation of the Leasing Services (or after implementation), the Client Plan must be able to withdraw without penalty, within such time as may be necessary to effect such withdrawal in an orderly manner that is equitable to all withdrawing and the non-withdrawing Client Plans. However, the Leasing Affiliate need not discontinue providing the Leasing Services, once implemented, by reason of a Client Plan electing to withdraw after 15 days prior to the scheduled implementation date of the Leasing Services. Any Client Plan which invests in a Single Client Account may terminate the Leasing Services arrangement and withdraw from the Account at any time (upon reasonable written notice).

(4)(a) RREEF shall furnish the Independent Fiduciary (as defined in section IV) acting on behalf of the Client Plans participating in the Account with an annual report (the RREEF Annual Report) containing the information described in this paragraph, not less frequently than once a year and not later than 45 days following the end of the period to which the report relates. The RREEF Annual Report shall disclose the total of all fees incurred by the Account during the preceding year under contracts with RREEF and its affiliates and shall include a description of all leasing activities with respect to each property under the responsibility of the Independent Fiduciary for which a Leasing Affiliate provides services, including marketing/advertising activities, leases under negotiation, lease offers rejected (and why), and such other information as shall be reasonably requested by the Independent Fiduciary. The RREEF Annual Report shall also delineate the leasing commissions that are anticipated to be paid to RREEF and its affiliates in the coming year for services provided by these entities in connection with the properties held by the Account. The RREEF Annual Report will contain a description of a method for the termination of the leasing arrangement (see Section II(5)) by the Independent Fiduciary and/or by investing Client Plans in each Account.

(b) The Independent Fiduciary shall furnish RREEF and the authorizing plan fiduciaries with an annual report (the I/F Annual Report), within 90 days following the end of the period to which the report relates, summarizing its activities for the year, indicating its opinion as to the continued validity of the leasing guidelines with respect to any property for the next year, and recommending any amendments to, or termination of, the leasing agreement with the Leasing Affiliate. The I/F Annual Report will contain a description of a method for the termination of the leasing arrangement with the Leasing Affiliate and for the confirmation and/or removal of the Independent Fiduciary by the Client Plans investing in the Accounts.

(c) RREEF implements procedures to ensure each authorizing plan fiduciary of a Client Plan investing either in a Multiple Client Account, or a Single Client Account, has an opportunity to vote on the reconfirmation of the Independent Fiduciary on an annual basis. These procedures require that the Independent Fiduciary: (i) provide each authorizing independent client plan fiduciary with a ballot [2] by certified mail (or another method of delivery pursuant to which confirmation of receipt is provided), with the ballot instructions that direct the authorizing independent client plan fiduciary to return the ballot to RREEF; (ii) ensure that the ballot clearly indicates that the authorizing plan fiduciary may vote for or against continuation of the Independent Fiduciary; (iii) ensure that the ballot must be accompanied by a statement that failure to return the ballot within 45 days following the independent plan fiduciaries' receipt of the ballots will be counted as a "for" vote (unless holders of a majority of the units of beneficial interests in the Accounts have voted against reconfirmation); and (iv) 30 days after the Independent Fiduciary mails the ballot to the authorizing plan fiduciary, RREEF must make at least one follow-up contact with the authorizing plan fiduciary that has not previously returned the ballot prior to treating the unreturned ballot as a "for" vote. If RREEF does not receive a response from the authorizing plan fiduciary within 15 days after initiating contact with the authorizing plan fiduciary, RREEF may treat the unreturned ballot as a vote for reconfirmation. The reconfirmation will become effective on the earlier of the date affirmative ballots are obtained from the holders of a majority of the units of beneficial interests in the Accounts, or 45 days following the authorizing plan fiduciaries' receipt of the ballots (unless holders of a majority of the units of beneficial interests in the Accounts have voted against reconfirmation.)

(d) The Independent Fiduciary receives confirmation, and certifies to RREEF that the notice and the ballots sent to the authorizing plan fiduciary pursuant to subparagraphs (b) and (c) regarding the continued retention of the Independent Fiduciary and RREEF have been received by the authorizing plan fiduciary. The method used to confirm notice to the authorizing plan fiduciaries must be sufficient to ensure that the authorizing Client Plan fiduciaries actually receive notice. In all cases, return receipt for certified mail, printed confirmation of facsimile transmissions and manifest or computer data entries of independent courier services will be considered acceptable methods of confirming receipt.

(5)(a) The leasing agreement for any property may also be terminated or modified at any time at the written direction of the Independent Fiduciary, and may be terminated by a vote in favor of such termination by the holders of a majority of the units of beneficial interests in the Account (or such greater percentage, not to exceed 60 percent, as shall be set out in the agreements establishing the Account). Further, any Client Plan which invests in a Single Client Account may terminate the Leasing Services arrangement and withdraw from the Account at any time (upon reasonable notice).

(b) In the event of a vote to terminate the Leasing Services arrangement pursuant to paragraph (4)(c) or (5)(a), RREEF shall cease submitting to the Independent Fiduciary any new proposals to engage in covered transactions and RREEF will not renew or extend any covered transactions. Moreover, within 180 days after the vote of the Account holders, RREEF shall cease engaging in any existing covered transactions.

(6)(a) Each Leasing Services agreement shall be in writing and shall be reviewed at least annually and approved by an Independent Fiduciary. However, prior to proposing a transaction to the Independent Fiduciary, RREEF will first determine that such transaction is in the best interest of the Account.

(b) The Independent Fiduciary shall negotiate each Leasing Services agreement. The Independent Fiduciary shall also consider the cost to the Account of such fiduciary's involvement in connection with its consideration of whether to approve a particular Leasing Services agreement.

(c) Each leasing agreement and the performance of the Leasing Affiliate under such agreement shall be reviewed at least annually by the Independent Fiduciary, who shall instruct RREEF of any action which should be taken by RREEF on behalf of the Account with respect to the continuation, termination or other exercise of rights available to the Account under the terms of the leasing agreement. RREEF will carry out such instruction from the Independent Fiduciary to the extent it is legal and permitted by the terms of the leasing agreement.

(d) In the case of any emergency circumstances, RREEF or the Leasing Affiliates may provide Leasing Services to an Account for a period not exceeding 90 days without entering into a Leasing Services agreement, but no compensation may be paid by an Account for such services without prior approval of the Independent Fiduciary.

(7) If RREEF holds Account properties, and any RREEF affiliate or principal holds for its own account any properties in the same real estate market during a period when there is leasing competition between those properties, RREEF will hire, during such period, a third party leasing agent for Account properties.

(8)(a) RREEF shall furnish the Independent Fiduciary with any reasonably available information which RREEF reasonably believes to be necessary or which the Independent Fiduciary shall reasonably request to determine whether such approval of the transactions described above should be given, or to accomplish the Independent Fiduciary's periodic reviews of RREEF's performance under such agreements.

(b) With respect to RREEF, such information will include: a description of the Leasing Services for the Account and the Client Plans investing therein; the qualifications of RREEF to do the job; a statement, supported by appropriate factual representations, of the reasons for RREEF's belief that RREEF is qualified to provide the services; a copy of the proposed Leasing Services agreement and the terms on which RREEF would provide the services; the reasons why RREEF believes the retention of RREEF would be in the best interest of the Account; information demonstrating why the fees and other terms of the arrangement are reasonable and comparable to the fees customarily charged by similar firms for similar services in comparable locales; the identities of non-affiliated service providers and the terms under which these service providers might perform the services; and whether any RREEF affiliate is a property manager to any properties that are in competition for tenants with the property for which RREEF is under consideration.

(9) Any Independent Fiduciary may be removed at any time by a vote of holders of a majority of the units of beneficial interests in an Account. In the event of the removal of an Independent Fiduciary, existing leasing agreements overseen by that Independent Fiduciary will not be affected; however, RREEF will designate a replacement Independent Fiduciary within sixty (60) days.

(10) Seventy-five percent (75%) or more of the units of beneficial interests in a Multiple Client Account must be held by Client Plans or other investors having total assets of at least $100 million. In addition, 50 percent (50%) or more of the Client Plans investing in a Multiple Client Account must have assets of at least $100 million. A group of Client Plans maintained by a single employer or controlled group of employers, any of which individually has assets of less than $100 million, will be counted as a single Client Plan if the decision to invest in the Account (or the decision to make investments in the Account available as an option for an individually directed account) is made by a fiduciary other than RREEF, who exercises such discretion with respect to Client Plan assets in excess of $100 million.

(11) No Client Plan covering employees of RREEF will be invested in an Account.

(12) Not more than 20 percent of the assets of any Client Plan on whose behalf RREEF proposes to provide Leasing Services can be invested in RREEF Accounts.

(13) At the time any leasing agreement is entered into, the terms of the agreement must be at least as favorable to the Account as the terms of an arm's-length transaction between unrelated parties. In addition, the compensation paid to the Leasing Affiliate for Leasing Services by any Account must not exceed the amount paid in an arm's-length transaction between unrelated parties for comparable properties in similar locales. In any event, such

[2] RREEF will direct the Independent Fiduciary as to the specific form of a ballot. The applicant represents that for a Single Client Account, this will not be a "ballot", but a "direction" form.

compensation will not exceed reasonable compensation within the meaning of section 408(b)(2) of the Act and regulation 29 CFR 2550.408b–2. (The Independent Fiduciary must certify that an economic advantage to the Accounts exists before consummation of any leasing agreement).

(14)(a) Within one-year of the grant of this exemption, and after the beginning of each subsequent five-year period, each Independent Fiduciary will prepare with the assistance of RREEF a survey of leasing fees for the properties that have similar geographic location and property types to those held by the Accounts for which the Independent Fiduciary is responsible. The survey will include data regarding the fees that have been charged to the Accounts by several firms that are unaffiliated with RREEF for Leasing Services during the one-year period prior to the beginning of the new five-year period. Also, the survey will include data as to the fees paid by RREEF for such services performed for the properties not held by the Accounts during the same period and other market data regarding the cost of Leasing Services by geographic location and property types.

(b) Based upon its survey and its professional resources and expertise, the Independent Fiduciary will determine a typical range of annual fees for Leasing Services for the Accounts. The average of the range, as determined from such survey, will serve as the basis of comparison for determining for the next five-year period whether continuation of the Leasing Services policy has provided cost savings or other benefits to the Accounts.

(c) RREEF will demonstrate to the Independent Fiduciary at the end of the applicable five-year period that leasing fees charged to each Account by RREEF or its affiliates, plus the cost of the services of the Independent Fiduciary under the exemption that are allocated to the Accounts, are less than the fees that would have been charged using the benchmark rate established at the beginning of the five-year period. In making its determinations, the Independent Fiduciary shall take into account, to the extent it deems necessary, property management fees paid by the Accounts to RREEF and its affiliates.[3]

(d) The Independent Fiduciary will review the data supplied by RREEF and, to the extent considered necessary by the Independent Fiduciary, data collected from the Independent Fiduciary's own surveys, and will document its findings and analysis of such cost savings in a report to be delivered to each of the Client Plans participating in the Accounts within 90 days after the end of the five-year period and each subsequent five-year period and prior to the implementation of the annual confirmation procedure described in paragraph (6) of Section II with respect to such period. In the event the Independent Fiduciary finds that cost savings have not been achieved for the Accounts, it will not approve any additional services arrangements until RREEF and its affiliates have demonstrated to the satisfaction of the Independent Fiduciary that policies intended to assure cost savings to the Accounts have been implemented by RREEF and its affiliates. The survey, the Independent Fiduciary's report reviewing the survey, and the final report of the Independent Fiduciary analyzing whether cost savings had been achieved during the five-year period to which the survey relates, will be maintained by RREEF in accordance with the recordkeeping requirements of Section III.

(15) The fees paid to RREEF and/or its affiliates for Leasing Services provided in connection with a property held for an Account shall not exceed: (a) 7 percent of the lease amount for new leases; (b) 2 percent of the lease amount for renewal leases; and (c) for leases in which outside brokers are involved, 2.75 percent of the lease amount.

(16) Before entering into any leasing arrangement pursuant to the terms of this exemption, copies of the proposed exemption and the final exemption will be delivered to each Client Plan for which RREEF or its affiliate propose to perform Leasing Services as described herein.

Section III—Recordkeeping

(1) RREEF and any Leasing Affiliate will maintain, for a period of six years, the relevant records necessary to enable the persons described in paragraph (2) of this Section III to determine whether the conditions of this exemption have been met. Included in these records will be the written records of the Independent Fiduciary which had been periodically furnished by the Independent Fiduciary to RREEF, and the records described in paragraph (14) of Section II. However, a prohibited transaction will not be considered to have occurred if, due to circumstances beyond RREEF's, the Leasing Affiliate's, or the Independent Fiduciary's control, the records are lost or destroyed prior to the end of the six-year period.[4]

(2)(a) Except as provided in subsection (b) of this paragraph and notwithstanding any provisions of section 504(a)(2) and (b) of the Act, the records referred to in paragraph (1) of this section shall be unconditionally available at their customary location for examination during normal business hours by:

(1) Any duly authorized employee or representative of the Department or the Internal Revenue Service;

(2) Any fiduciary of a Client Plan who has authority to acquire or dispose of the interests of the Client Plan in the Accounts or any duly authorized employee or representative of such fiduciary;

(3) Any contributing employer to any Client Plan that has an interest in the Accounts or any duly authorized employee or representative of such employer;

(4) Any participant or beneficiary of any Client Plan participating in the Accounts, or any duly authorized employee or representative of such participant or beneficiary; and (5) The Independent Fiduciaries.

(b) None of the persons described above in subparagraphs (2)–(5) of this paragraph shall be authorized to examine the trade secrets of RREEF or any Leasing Affiliate or commercial or financial information which is privileged or confidential.

Section IV—Definitions

(1) The Accounts—The Accounts are any future pooled accounts (i.e., Multiple Client Accounts) or any existing or future single-customer accounts (i.e., Single Client Accounts), including joint ventures, general or limited partnerships or other real estate investment vehicles established by RREEF for the investment of employee benefit Client Plan assets in real-estate related investments to the extent that (i) such Accounts hold "plan assets" within the meaning of the regulations at 29 CFR section 2510.3–101 and (ii) management of their assets is subject to the discretionary authority of RREEF.

[3] With respect to Multiple Client Accounts, property management services by RREEF are currently provided in accordance with PTE 82–51 (47 FR 14238/14241, April 2, 1982). PTE 82–51 permits collective investment funds (the Funds) managed by RREEF or any of its affiliates, in which Client Plans participate, to engage in certain transactions with parties in interest with respect to the Client Plans that are investors in the Funds, provided that certain conditions are met. Therefore, the requested exemption is necessary only for the provision of Leasing Services by RREEF's affiliates to the Multiple Client Accounts in connection with the properties held by the Accounts.

[4] RREEF represents that its contract with each Independent Fiduciary will require that the Independent Fiduciary's written records be maintained in accordance with this section.

(2) RREEF—For purposes of this exemption, the term RREEF means RREEF America L.L.C., and certain of their officers who may serve as trustees of group trusts managed by RREEF America L.L.C., or who may serve in similar fiduciary capacities with respect to other commingled investment vehicles managed by them, and/or any other affiliates of RREEF as defined in paragraph (4) of this section IV which act as investment fiduciaries with respect to any Account.

(3) Leasing Affiliate—RREEF Management Company or other affiliates of RREEF (as defined in paragraph (4) of this Section IV) retained to provide Leasing Services with respect to an Account.

(4) An "affiliate" of a person means any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person.

(5) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(6) Independent Fiduciary—A person who:

(a) Is not an affiliate of RREEF as defined in Section IV(4);

(b) Is not an officer, director, employee of, or partner in, RREEF (or affiliates thereof as defined in Section IV(4));

(c) Is not a corporation or partnership in which RREEF has an ownership interest or is a partner;

(d) Does not have an ownership interest in RREEF or any of its affiliates;

(e) Is not a fiduciary with respect to any Client Plan's investment in the Account;

(f) Has represented in writing that it is qualified to perform the services contemplated by the exemption, which qualifications shall include, among other things: (i) Demonstrated experience, generally over a period of not less than five years, in the business of commercial real estate, brokerage, management, or appraisal generally and in reviewing or negotiating leasing agreements and commissions specifically; (ii) familiarity with the relevant real estate, specifically as it relates to comparable property types with respect to the specific properties for which the Leasing Affiliate proposes to perform Leasing Services (for example, in the case of office properties, the Independent Fiduciary's experience shall relate specifically to office properties in the same market); (iii) experience in complying with the fiduciary standards of the Act in connection with the representation of the Client Plans; and

(g) Has acknowledged in writing acceptance of fiduciary obligations and has agreed not to participate in any decision with respect to any transaction in which the Independent Fiduciary has an interest that might affect its best judgement as a fiduciary. For purposes of the foregoing, each Independent Fiduciary shall represent in writing that it has no relationship with RREEF or its affiliates, or with any Account, that would affect its best judgement as a fiduciary.

For purposes of this definition of Independent Fiduciary, no organization or individual may serve as an Independent Fiduciary for any fiscal year if the gross income received by such organization or individual (or partnership or corporation of which such organization or individual is an officer, director, or 10 percent or more partner or shareholder) from RREEF or any affiliates of RREEF (including amounts received for services as Independent Fiduciary under any prohibited transaction exemption granted by the Department) for that fiscal year exceeds 5 percent of its or his annual gross income from all sources for such fiscal year.

In addition, no organization or individual who is an Independent Fiduciary, and no partnership or corporation of which such organization or individual is an officer, director or 10 percent or more partner or shareholder, may acquire any property from, sell any property to, or borrow any funds from RREEF or any affiliates of RREEF, or any Account maintained by RREEF or any affiliates of RREEF, during the period that such organization or individual serves as an Independent Fiduciary and continuing for a period of 6 months after such organization or individual ceases to be an Independent Fiduciary or negotiates any such transaction during the period that such organization or individual serves as Independent Fiduciary.

This exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 31, 1998 at 63 FR 46245 (the Notice).

Written Comments

The Department received two written comments (the Comments) with respect to the Notice and no requests for a public hearing. The Comments were filed by RREEF and generally request clarifications and modifications to the Notice. Set forth below in section I is a discussion of those aspects of the Comments which relate to the language of the final exemption (the Exemption). In addition, section II below discusses those aspects of the Comments which relate to the Summary of Facts and Representations (the Summary) contained in Notice.

I. Discussion of the Comments Regarding the Exemption

1. Section II(10) of the Notice relates to the appropriate percentage of beneficial interests in an Account which must be held by Client Plans with a certain minimum asset size. Specifically, Section II(10) of the Notice states, in relevant part, that 75% or more of the units of beneficial ownership in "an Account" must be held by Client Plans or other investors having total assets of at least $100 million. In addition, Section II(10) of the Notice states that 50% or more of the Client Plans investing in "an Account" must have assets of at least $100 million.

The Comments state that the foregoing 75% and 50% tests are relevant only in the case of, and are meant to apply to, Multiple Client Accounts (see paragraph 22 of the Summary contained in the Notice). For purposes of this Exemption, RREEF has represented that Single Client Accounts will be established only for Client Plans with at least $100 million in assets. Accordingly, RREEF requests that the foregoing references to "an Account" in the first and second sentences of Section II(10) of the Exemption be changed to "Multiple Client Account."

The Department acknowledges RREEF's request, as stated in the Comments, and has modified the language of Section II(10) of the Exemption accordingly.

2. The Comments also state that the third sentence in Section II(10) of the Notice provides that "for purposes of the 50% test", a group of Client Plans maintained by a single employer or controlled group of employers, any of which individually has assets of less than $100 million, will be counted as a single Client Plan if the decision to invest in the Account is made at the direction of an unaffiliated fiduciary who exercises discretion with respect to

total Client Plan assets in excess of $100 million..

The Comments state that the phrase ". . . . For purposes of the 50% test", as it appears in the third sentence of Section II(10) of the Notice, should be deleted. The Comments note that this reference to only the "50% test" is not completely accurate in the context of RREEF's Multiple Client Accounts, as contemplated under this Exemption. In this regard, the Comments state that if a fiduciary unaffiliated with RREEF directs the investment of multiple affiliated plans (usually through a single "master trust") into a Multiple Client Account, it is appropriate to treat the affiliated plans as a Single Client Plan for both the "75% test" and the "50% test" referred to in Section II(10). In addition, the Comments state that it is RREEF's understanding that multiple plans of a single employer, invested as a unit at the direction of a fiduciary independent of RREEF, would be treated as a single Client Plan for purposes of establishing a Single Client Account under the Exemption.

The Department acknowledges RREEF's request and has modified the Exemption by deleting the phrase ". . . . For purposes of the 50% test" in the third sentence of Section II(10) of the Exemption.

II. Discussion of the Comments Regarding the Summary

1. The Comments state that the Exemption will not be relevant to RREEF USA Fund-I because this Multiple Client Account is in liquidation. Moreover, as stated in the Notice, the Comments reaffirm that RREEF has no intention of using the Exemption for any other current Multiple Client Accounts. Therefore, the Comments note that the references to USA Fund-I in the Notice, which are located in Paragraphs 3 and 20 of the Summary, should be disregarded.

The Department acknowledges the applicant's clarification regarding the applicability of the Exemption to existing Multiple Client Accounts, including USA Fund-I. Thus, in response to this Comment, the Department has modified the definition of the term "Accounts," as it appears in Section IV(1) of the Notice, to clarify that this term does not apply to any existing Multiple Client Accounts. Section IV(1) of the Exemption states, in pertinent part, that the Accounts are any future pooled accounts (i.e., Multiple Client Accounts) or any existing or future single-customer accounts (i.e., Single Client Accounts).

2. With respect to Paragraph 9 of the Summary, the Comments state that the discussion regarding the potential for leasing competition among properties held by an Account and another property held by a RREEF affiliate for its own account in the same real estate market, is not meant to refer in any way to the potential for competition between two properties held by two different Accounts. In the latter case, RREEF and the Independent Fiduciary, subject to the veto rights of the Client Plan(s), will determine whether it would be appropriate for a Leasing Affiliate to provide Leasing Services to one or both of the properties held by such Accounts.

3. With regard to Paragraph 10 of the Summary, the Comments state that the reference to the use of the same Independent Fiduciary for all Accounts that have properties in the same real estate market is not entirely accurate. In this regard, the Comments note that RREEF proposes to use the same Independent Fiduciary for all Accounts that have properties of the same type in the same real estate market. Thus, for example, different Independent Fiduciaries may be retained in the same real estate market for retail and commercial properties.

The Department concurs with all of the Comments relating to the Summary.

Accordingly, after giving full consideration to the entire record, including the Comments, the Department has decided to grant the exemption subject to the modifications and clarifications described above. The Comments have been included as part of the public record of the exemption application.

Interested persons should note that the complete exemption file is available for public inspection in the Public Disclosure Room of the Pension and Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington DC 20210.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

Pacific Income Advisers, Inc. (PIA); Located in Santa Monica, CA

[Prohibited Transaction Exemption 98–53; Exemption Application No. D–10324]

Exemption

Section I—Exemption Involving Plans Where PIA Is Both a Fiduciary or Other Party in Interest With Respect to the Plan and Investment Adviser of Certain Trusts in Which the Plans Invest

The restrictions of sections 406(a) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (F) of the Code shall not apply to: (1) the acquisition, sale or redemption of trust units (the Units) in the Pacific Income Advisers Fixed-Income Group Investment Trust (Fixed Income Trust), the Pacific Income Advisers Short-Term Group Investment Trust (Short-Term Trust), the Pacific Income Advisers Equity Group Investment Trust (Equity Trust), and the Pacific Income Advisers Global Group Investment Trust (Global Trust; each a Trust and collectively, the Trusts), by employee benefit plans, and Individual Retirement Accounts (IRA's; collectively, the Plan(s)); and (2) the payment of fees by a Trust to Pacific Income Advisers (PIA) where PIA is a fiduciary or other party in interest with respect to a Plan investing in a Trust and the investment adviser to each of the Trusts, provided the conditions of Section II are met.

Section II—Conditions

(1) (a) The investment of a Plan's assets in the each of the Trusts and the fees to be paid by a Trust to PIA are authorized in writing by a Plan fiduciary who is independent of PIA (Independent Fiduciary).[5] Such authorization shall be consistent with the responsibilities, obligations and duties imposed on fiduciaries by Part 4 of Title I of the Act. In addition, such authorization shall be either: (1) Set forth in the investment management agreement between the Plan and PIA; (2) indicated in writing prior to each purchase or sale; or (3) indicated in writing prior to the commencement of a specified purchase or sale program in the Units of the Trusts.

(b) PIA does not provide investment advice to a Plan's Independent Fiduciary within the meaning of 29 CFR 2510.3–21(c)(1)(ii) with respect to a Plan's acquisition of Units of a Trust.

(2) Prior to making an initial investment in the Units, each Plan's Independent Fiduciary shall receive the following written disclosures from PIA:

(a) The proposed exemption and grant notice describing the exemptive relief provided herein;

(b) The applicable Trust's Offering Memorandum, outlining the investment objective(s) of the Trust and the policies employed to achieve these objectives and a description of all fees associated with investment in the Trust; and

(c) The applicable Trust's Agreement and Declaration of Trust, disclosing the structure and manner of operation of the Trust.

(d) A statement describing the relationship between PIA and the Trusts.

(3) The Independent Fiduciary shall acknowledge in writing that the Plan is an "accredited investor" as defined in Rule 501 of Regulation D of the Securities Act of 1933 (1933 Act). In addition, the Independent Fiduciary shall acknowledge in writing that it has not relied upon the advice of PIA with respect to the acquisition, sale or redemption of the Units.

(4) No Plan shall pay a sales commission or redemption fee, in connection with the acquisition, sale or redemption of the Units of the Trusts.

(5) (a) No participating Plan may invest more than 25% of its total assets in the Global Trust.

(b) No Plan, other than a multiple employer welfare arrangement (MEWA), a multiple employer trust (MET), or voluntary employee benefit association (VEBA), may acquire or hold Units representing more than 20% of the assets of a Trust.[6] A MEWA, MET, or VEBA may acquire and hold Units representing up to 35% of the assets of either the Short-Term Trust or Fixed Income Trust only. As to investment in any other Trust, a MEWA, MET, or VEBA may not acquire or hold Units representing more than 20% of the assets of such Trust.

(c) For purposes of determining the percentage of the assets of a Trust being held by a single Plan, PIA shall first make the calculation 90 days after the first Unit of a Trust is sold to such Plan.

(6)(a) At the time the transactions are entered into, the terms of the transactions shall be at least as favorable to the Plans as those obtainable in arm's length transactions between unrelated parties.

(b) PIA, including any officer or director of PIA, does not purchase or sell shares of the Trusts from or to any Plan Client.

(c) The price paid or received by a Plan Client for Units of a Trust is the net asset value per Unit at the time of the transaction and it is the same price which would have been paid or received for the Units of a Trust by any other investor at that time. For purposes of this paragraph, the term "net asset value" means the amount for purposes of pricing all purchases and sales calculated by dividing the value of all securities, determined by an objective method as set forth in each Trust's relevant Trust documents and Trust Offering Memorandum, and other assets belonging to the Trust, less the liabilities charged to such Trust, by the total number of Units of the Trust.

(7) The combined total of all fees paid by a participating Plan shall constitute no more than reasonable compensation within the meaning of section 408(b)(2)of the Act.

(8) The Plan does not pay any Plan-level investment management fees, investment advisory fees or similar fees to PIA with respect to any of the assets of such Plan which are invested in Units of a Trust. This condition does not preclude the payment of investment advisory or similar fees by the Trusts to PIA under the terms of investment management agreements between PIA and each of the Trusts.

(9) All authorizations and approvals made by the Independent Fiduciary regarding investment in a Trust and the fees paid to PIA are subject to an annual reauthorization wherein any such prior authorization shall be terminable at will by the Plan, without penalty to the Plan, upon written notice of termination. A form expressly providing an election to terminate the authorization (the Termination Form) with instructions on the use of the form must be supplied to the Independent Fiduciary no less than annually; provided that the Termination Form need not be supplied sooner pursuant to paragraph (10) below. The Termination Form must include the following information:

(a) The authorization is terminable at will by the Plan, without penalty to the Plan, upon receipt by PIA of written notice from the Independent Fiduciary; and

(b) Failure of the Independent Fiduciary to return the Termination Form will result in continued authorization of PIA to continue to engage in the transactions described in Sections I.

(10) PIA will provide, at least 30 days in advance of the implementation of an additional service to a Trust by PIA or a fee increase for investment management, investment advisory or similar services, a written notice to the Independent Fiduciary of the Plan Client explaining the nature and amount of the additional service for which a fee is charged or the increase in fees.

(11) Each Plan shall receive the following:

(a) A monthly report disclosing the performance and the value of the Plan's investment in each of the Trusts. Such monthly report shall disclose the extent to which assets of a Plan have been shifted between the Trusts by PIA and any fee differential resulting from such shifting between the Trusts;

(b) An audited financial statement of each of the Trusts in which a Plan is invested, prepared annually by a independent, certified public accountant, including a list of investments of each Trust and their valuations, provided to the Plan not later than 45 days after the end of the period to which the report relates; and

(c) An annual statement of a Plan's percentage interest in each Trust and the value of the Plan's Units, provided to the Plan not later than 45 days after the end of the period to which the report relates. Such report shall also include the total fees paid to PIA by each Trust. Further, such report shall also include the brokerage fees paid by each Trust to unrelated broker-dealers, as well as the total of all fees and expenses paid by PIA to third parties.

(12) Brokerage transactions for the Trusts are performed by entities unrelated to PIA for no more than reasonable compensation within the meaning of section 408(b)(2) of the Act.

(13) PIA shall maintain, for a period of six years, the records necessary to enable the persons described in paragraph (14) of this section to determine whether the conditions of this exemption have been satisfied, except that (a) prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of PIA, the records are lost or destroyed prior to the end of the six year period, and (b) no party in interest other than PIA shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (14) below.

(14) (a) Except as provided in section (b) of this paragraph and notwithstanding any provisions of subsection (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (13) of this section shall be unconditionally available at their

[5] A fiduciary will not be deemed independent of PIA if: (1) such fiduciary is directly or indirectly controlled by PIA or an affiliate thereof; (2) such fiduciary or any officer, director, partner, highly compensated employee, or the relative of such fiduciary is an officer, director, partner, or highly compensated employee, of PIA or an affiliate of PIA; and (3) such fiduciary directly or indirectly receives any compensation or other consideration for that fiduciary's own personal account in connection with any transaction described in this exemption.

[6] A MEWA is defined in section 3 (40)(A) of the Act and provides benefits described in section 3(1) of the Act for employees of two or more employers. Although the term "MET" is not used or defined in Title I of the Act, a MET may be covered by Title I of the Act, to the extent that it provides benefits described in section 3(1) of the Act and it is established or maintained by an employer, an employee organization, or both. A VEBA is defined in section 501(c)(9) of the Code and is subject to Title I to the extent that it provides benefits described in section 3(1) of the Act and it is established or maintained by an employer, an employee organization, or both.

customary location during normal business hours for examination by:

(1) Any duly authorized employee or representative of the Department or the Internal Revenue Service (the Service);

(2) Any Independent Fiduciary of a Plan investing in a Trust, or any duly authorized representative of such fiduciary;

(3) Any contributing employer to any Plan investing in a Trust, or any duly authorized employee representative of such employer;

(4) Any participant or beneficiary of any participating Plan investing in a Trust, or any duly authorized representative of such participant or beneficiary; and

(5) Any other person or entity investing in a Trust.

(b) None of the persons described above in subparagraphs (2)–(5) of this paragraph (14) shall be authorized to examine the trade secrets of PIA or commercial or financial information which is privileged.

EFFECTIVE DATE: This exemption is effective August 29, 1997.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 20, 1998 at 63 FR 38855.

Written Comments

The applicant submitted a letter and certain other information commenting on the notice of proposed exemption (the Notice) and the Summary of Facts and Representations contained therein (the Summary). The major points raised by such comments are summarized below.

First, the applicant states that references made in the Notice to the "Pacific Income Advisers International Group Investment Trust" should be changed to refer to the "Pacific Income Advisers Global Group Investment Trust". Thus, the applicant requests that the first reference to this Trust in the operative language of the exemption should be changed to reflect the proper name, and that references made thereafter in the exemption to the "International Trust" should be changed to refer to the "Global Trust".

The Department acknowledges the applicant's request and has so modified the language of the exemption.

Second, with respect to Paragraphs 4, 5 and 7 of the Summary, the applicant's comments seek to clarify the relationships between PIA and its clients, including the Plans. In this regard, the applicant states that it is unlikely that a Plan would discontinue a separate account investment advisory relationship with PIA and subsequently invest all of its assets under PIA's management in Units of one or more of the Trusts. The applicant states that it would be more likely that a Plan would instruct PIA to sell some of the assets separately managed by PIA and invest the proceeds in such Units.

Third, with respect to the discussion in Paragraph 10 of the Summary regarding the fees charged to Plans for investments in each of the Trusts, the applicant's comments state that the investment advisory fees payable to PIA by each Trust are subject to change. Such change must be approved in accordance with the terms and conditions set forth in the Notice and this exemption. Thus, for example, Section II(10) of this exemption requires that PIA provide, at least 30 days in advance of the implementation of any fee increase for investment management, investment advisory or similar services, a written notice to the Independent Fiduciary of the Plan explaining the increase in fees. Section II(9)(a) and (b) also requires that the Independent Fiduciary be provided with a Termination Form which allows the Plan to authorize such a fee increase under the procedures described therein.

The Department acknowledges these and other clarifications to the information contained in the Summary, as stated in the applicant's comment letter and accompanying materials.

Accordingly, the Department has determined to grant the exemption as modified.

FOR FURTHER INFORMATION CONTACT: Ms. Janet Schmidt of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 4th day of November, 1998.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 98–29963 Filed 11–6–98; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Services—Washington, DC.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before December 24, 1998. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to records.mgt@arch2.nara.gov.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Michael L. Miller, Director, Modern Records Programs (NWM), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301) 713–7110. E-mail: records.mgt@arch2.nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs the records to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Commerce, Bureau of the Census (N1–29–98–1, 3 items, 2 temporary items). Edited and unedited master files of the American Community Survey, a monthly household survey designed to provide accurate and up-to-date profiles of America's communities and replace certain data collected on the long form in the Decennial Census. Public-use microdata files are proposed for permanent retention.

2. Department of Justice, Immigration and Naturalization Service, Agency-wide (N1–85–98–2, 1 item, 1 temporary item). Bond Management Information System, a database used to track the status of immigration bonds posted by aliens. The data does not materially enhance permanent electronic data relating to aliens.

3. Environmental Protection Agency, Agency-wide (N1–412–96–1, 33 items, 31 temporary items). Electronic systems and related paper records pertaining to such matters as Superfund finances, EPA web sites, water quality monitoring in the New York City area and the U.S. Virgin Islands, the status of litigation filed against EPA, electronic bulletin boards, system backups, payrolling, and the determination of the ecological risks posed by synthetic organic chemicals. Master files and documentation associated with an electronic system relating to environmental monitoring and assessment are proposed for permanent retention.

4. Environmental Protection Agency, Environmental Appeals Board (N1–412–97–6, 3 items, 3 temporary items). Records that document review of appeals for environmental permits, enforcement appeals stemming from permit violations, and Comprehensive Environmental Response Compensation and Liability Act reimbursement petitions requesting compensation for an unjust penalty.

5. Federal Communications Commission, Common Carrier Bureau, (N1–173–98–5, 1 item, 1 temporary item). Cost allocation manuals, filed yearly, that specify how local carriers will allocate costs between regulated and nonregulated operations.

6. Federal Energy Regulatory Commission, Office of Pipeline Regulation (N1–138–98–8, 1 item, 1 temporary item). Electronic copies of records in gas pipeline rates and tariffs case files created using electronic mail or word processing applications. Recordkeeping copies were previously approved for disposal.

7. Federal Energy Regulatory Commission, Office of Pipeline Regulation (N1–138–98–10, 1 item, 1 temporary item). Electronic copies of correspondence from oil producers and oil pipeline companies created using electronic mail or word processing applications. Recordkeeping copies were previously approved for disposal.

8. Federal Energy Regulatory Commission, Office of Pipeline Regulation (N1–138–98–11, 2 items, 2 temporary items). Electronic copies of gas pipeline service agreements setting forth pipeline tariffs and rates created using electronic mail or word processing applications. Recordkeeping copies were previously approved for disposal. This schedule also covers paper copies other than the long-term recordkeeping copy.

9. United States Information Agency (N1–59–99–1, 11 items, 5 temporary items). Records from Department of State predecessor elements dealing with international broadcasting matters transferred to the custody of the United States Information Agency upon creation of USIA in 1953. The records consist of requests for copies of Voice of America recordings, status ledgers, extra copies of processed documents, budget and personnel files, and graphs relating to signal strength. Files dealing with overall programs, policies, and operations are proposed for permanent retention.

Dated: October 30, 1998.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 98–29915 Filed 11–6–98; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Humanities; Meeting

November 4, 1998.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given the National Council on the Humanities will meet in Washington, D.C. on November 19–20, 1998.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, N.W., Washington, D.C. A portion of the morning and afternoon sessions on November 19–20, 1998, will not be open to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code, because the Council will consider information that may disclose: trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature and disclosure of which will constitute a clearly unwarranted invasion of personal privacy; and information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated July 19, 1993.

The agenda for the session on November 19, 1998 will be as follows:

Committee Meetings

9:00–10:30 a.m.—(Open to the Public) Policy Discussion
Public Programs—Room 420
Preservation and Access/Challenge Grants combined meeting with Federal/State Partnership—Room 527
9:00 a.m.–10:30 a.m.—(Closed to the Public) Discussion of specific grant applications and programs before the Council
Research/Education programs—Room M07
10:30 a.m. until Adjourned—(Open to the Public) Policy Discussion
Research/Education Programs—Room M07
Federal/State Partnership—Room 507
10:30 a.m. until Adjourned—(Closed to the Public) Discussion of specific grant applications and programs before the Council
Public Programs—Room 420
Preservation and Access/Challenge Grants—Room 415
12:30–1:30 p.m.
Jefferson Lecture Committee Meeting—Room 430

The morning session on November 20, 1998 will convene at 8:00 a.m., in the 1st Floor Council Room, M–09, and will be open to the public, as set out below. The agenda for the morning session will be as follows:

Minutes of the Previous Meeting

Reports

A. Introductory Remarks
B. New Directives in Television through Digital Technology
C. Staff Report
D. Reports on Policy & General Matters
1. Overview
2. Research and Education Programs
3. Public Programs
4. Preservation and Access and Challenge Grants
5. Federal/State Partnership
6. Jefferson Lecture

The remainder of the proposed meeting will be given to the consideration of specific applications and closed to the public for the reasons stated above.

Further information about this meeting can be obtained from Ms. Nancy E. Weiss, Advisory Committee Management Officer, Washington, D.C. 20506, or call area code (202) 606–8322, TDD (202) 606–8282. Advance notice of any special needs or accommodations is appreciated.

Nancy E. Weiss,

Advisory Committee Management Officer.

[FR Doc. 98–29934 Filed 11–6–98; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–361 and 50–362]

Southern California Edison Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–10 and NPF–15 issued to Southern California Edison Company (the licensee) for operation of the San Onofre Nuclear Generating Station, Unit Nos. 2 and 3 located in San Diego County, California.

The proposed amendments would revise the turbine missile protection calculation methodology in the San Onofre Nuclear Generating Station, Unit Nos. 2 and 3 (SONGS) licensing basis.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This change is in support of a planned replacement of the existing shrunk-on disc turbines with welded-rotor turbines for Units 2 and 3. The new design is believed to be superior to the existing design in terms of the probability of generation of missiles. However, because a new missile strike-and-damage analysis has not been performed, and due to differences in the method of calculation of missile generation probability—for instance, inclusion of stress corrosion cracking as a potential failure mechanism—it is difficult to quantify the change in probability of damage to safety-related equipment due to turbine missile strikes.

However, in order to characterize the effect of the proposed change, a comparison can be made using the current turbine missile methodology for the current design and the proposed methodology for the proposed design. Using the methodology currently approved for San Onofre Units 2 and 3 for the current shrunk-on disc rotor design, the overall probability of damage to safety-related systems, structures, and components is 0.9×10^{-7}.

Using the methodology proposed by this change for the new welded rotor design, the overall probability of damage to safety-related systems, structures, and components is calculated to be 1.7×10^{-8} per year.

Ultimately, the proposed change is acceptable because the overall probability of damage to safety-related systems, structures, and components will be less than or equal to the acceptance criteria of 1×10^{-7} per year stated in Regulatory Guide (RG) 1.115. The difference between the calculated value of 1.7×10^{-8} and the acceptance criteria of 1×10^{-7} is considered margin that is available to account for any future changes to the turbine missile generation analysis.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Damage to safety-related systems, structures, and components from turbine missiles is currently evaluated in Section 3.5.1.3 of the Updated Final Safety Analysis Report (UFSAR). This proposed change merely provides an alternative method to demonstrate that the overall probability of damage to safety-related systems, structures, and components from turbine missiles will remain less than or equal to the acceptance criterion of 1×10^{-7} per year, which is the current acceptance criterion.

Therefore, this proposed change will not create a new or different kind of accident from any accident that has been previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

There is no change to the method of operation of the turbine for Units 2 and 3 as a result of this change. Turbine overspeed protection is unaffected, and provides assurance that the turbine will operate within design limits.

Therefore, there will be no significant reduction in a margin of safety as a result of this change.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By December 9, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Main Library, University of California, Irvine, California 92713. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any

hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Douglas K. Porter, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated June 12, 1998, as supplemented by letter dated October 29, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Main Library, University of California, Irvine, California 92713.

Dated at Rockville, Maryland, this 3rd day of November 1998.

For the Nuclear Regulatory Commission.

James W. Clifford,

Senior Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–29919 Filed 11–6–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–498 and 50–499]

STP Nuclear Operating Company (South Texas Project Electric Generating Stations Units 1 and 2); Exemption

I

STP Nuclear Operating Company (the licensee) is the holder of Facility Operating License Nos. NPF–76 and NPF–80, for the South Texas Project, Units 1 and 2 (STP). The licenses provide, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility consists of two pressurized water reactors located in Matagorda County, Texas.

II

Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.71 "Maintenance of records, making of reports," paragraph (e)(4) states, in part, that "Subsequent revisions [to the Updated Final Safety Analysis Report (UFSAR)] must be filed annually or 6 months after each refueling outage provided the interval between successive updates to the FSAR does not exceed 24 months." The STP two-unit site shares a common UFSAR; therefore, this rule requires the licensee to update the same document annually or within 6 months after a refueling outage for either unit.

III

Section 50.12(a) of 10 CFR, "Specific exemptions," states that

> The Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of this part, which are:
>
> (1) Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security.
>
> (2) The Commission will not consider granting an exemption unless special circumstances are present.

Section 50.12(a)(2)(ii) of 10 CFR states that special circumstances are present when "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule. . . ." The underlying purpose of the rule was to relieve licensees of the burden of filing annual FSAR revisions while assuring that such revisions are made at least every 24 months. The Commission reduced the burden, in part, by permitting a licensee to submit its FSAR revisions 6 months after refueling outages for its facility, but did not provide for multiple unit facilities sharing a common FSAR in the rule. Rather, the Commission stated that "With respect to . . . multiple facilities sharing a common FSAR, licensees will have maximum flexibility for scheduling updates on a case-by-case basis" (57 FR 39355 (1992)).

As noted in the staff's Safety Evaluation, the licensee's proposed schedule for UFSAR updates will ensure that the STP UFSAR and Operations Quality Assurance Plan will be maintained current within 24 months of the last revision and the interval for submission of the 10 CFR 50.59 design change report will not exceed 24 months. The proposed schedule fits within the 24-month duration specified by 10 CFR 50.71(e)(4). Revising the FSAR annually or 6 months after refueling outages for each unit, therefore, is not necessary to achieve the underlying purpose of the rule. Accordingly, the Commission has determined that special circumstances are present as defined in 10 CFR 50.12(a)(2)(ii). The Commission has further determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety and is consistent with the common defense and security, and is otherwise in the public interest. The Commission hereby grants the licensee an exemption from the requirement of 10 CFR 50.71(e)(4) to submit updates to the STP UFSARs within 6 months of each unit's refueling outage. The licensee will be required to submit updates to the STP UFSAR, the Operations Quality Assurance Plan, and the 10 CFR 50.59 safety evaluation summary reports to the NRC no later than 24 calendar months from the previous revision.

Pursuant to 10 CFR 51.32, the Commission has determined that granting of this exemption will have no significant effect on the quality of the human environment (63 FR 57144).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 2nd day of November 1998.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–29920 Filed 11–6–98; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Agency Information Collection Under Review by the Office of Management and Budget

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice of submission for OMB review; comment request.

SUMMARY: The Office of Management and Budget (OMB) has submitted the information collections listed at the end of this notice to the Office of Information and Regulatory Affairs (OIRA), OMB for review under provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). These forms are required by OMB Circulars A-102, "Grants and Cooperative Agreements with State and Local Government," and A-110, "Uniform Administrative Requirements for Grants and Agreements with Institution of Higher Education, Hospitals, and Other Non-Profit Organizations." In response to OMBs earlier **Federal Register** notice on July 30, 1998 (63 FR 40745), four responses were received. At this time, OMB proposes no changes to the existing forms.

DATES: Submit comments on or before December 9, 1998.

ADDRESSES: Address comments to Ed Springer, Desk Officer, Office of Information and Regulatory Affairs (OIRA), OMB, 725 17th Street NW, Room 10236, New Executive Office Building, Washington, DC 20503. E-mail comments may be submitted to springer__e@a1.eop.gov. Please include the full body of the comments in the text of the message and not as an attachment. Please include the name, title, organization, postal address, and E-mail address in the text of the message. (Comments should also be addressed to the Office of Federal Financial Management at the address listed below.)

FOR FURTHER INFORMATION CONTACT: F. James Charney, Office of Federal Financial Management, Office of Management and Budget, (202) 395–3993 (e-mail charney__f@a1.eop.gov). The standard forms can be obtained via fax by calling OMB's FAX Information Line (202–395–9068). The forms can also be downloaded from the OMB Grants Management home page (http://www.whitehouse.gov/WH/EOP/OMB/Grants).

SUPPLEMENTARY INFORMATION:

OMB Control No.: 0348–0039.
Title: Financial Status Report (Long Form).
Form No: SF–269.
Type of Review: Extension of a currently approved collection.
Respondents: States, Local Governments, Non-Profit organizations.
Number of Responses: 200,000.
Estimated Time Per Response: 90 minutes.
Needs and Uses: The SF–269 is used to monitor grantee expenditures in circumstances where grantees earn program income or contribute matching funds. The Federal awarding agencies and OMB use information reported on this form for general management of Federal assistance awards programs.

OMB Control No.: 0348–0038.
Title: Financial Status Report (Short Form).
Form No: SF–269A.
Type of Review: Extension of a currently approved collection.
Respondents: States, Local Governments, Non-Profit organizations.
Number of Responses: 200,000
Estimated Time Per Response: 30 minutes.
Needs and Uses: The SF–269A is used to monitor grantee expenditures in circumstances where grantees earn program income or contribute matching funds. The Federal awarding agencies and OMB use information reported on this form for general management of Federal assistance awards programs.

OMB Control No.: 0348–0004.
Title: Request for Advance or Reimbursement.
Form No: SF–270.
Type of Review: Extension of a currently approved collection.
Respondents: States, Local Governments, Non-Profit organizations.
Number of Responses: 100,000.
Estimated Time Per Response: 60 minutes.
Needs and Uses: The SF–270 is used to request funds for all nonconstruction grant programs when letters of credit or predetermined advance methods are not used. The Federal awarding agencies and OMB use information reported on this form for general management of Federal assistance awards programs.

OMB Control No.: 0348–0002.
Title: Outlay Report and Request for Reimbursement for Construction Programs.
Form No: SF–271.
Type of Review: Extension of a currently approved collection.
Respondents: States, Local Governments, Non-Profit organizations.
Number of Responses: 40,000.
Estimated Time Per Response: 60 minutes.
Needs and Uses: The SF–271 is used to request reimbursement for all construction programs. The Federal awarding agencies and OMB use information reported on this form for general management of Federal assistance awards programs.

OMB Control No.: 0348–0003.
Title: Federal Cash Transactions Report.
Form No: SF–272 and SF–272A.
Type of Review: Extension of a currently approved collection.
Respondents: States, Local Governments, Non-Profit organizations.
Number of Responses: 100,000.
Estimated Time Per Response: 120 minutes.
Needs and Uses: The SF–272 & 272A are used to report disbursement information for each financial assistance agreement when funds are advanced to them through letters of credit or with direct Treasury check. The Federal awarding agencies and OMB use information reported on this form for general management of Federal assistance awards programs.

OMB Control No.: 0348–0043.
Title: Application for Federal Assistance.
Form No: SF–424.
Type of Review: Extension of a currently approved collection.
Respondents: States, Local Governments, Non-Profit organizations.
Number of Responses: 400,000.
Estimated Time Per Response: 45 minutes.
Needs and Uses: The SF–424 is used to apply for Federal grants. The Federal awarding agencies and OMB use information reported on this form for general management of Federal assistance awards programs.

OMB Control No.: 0348–0044.
Title: Budget Information—Nonconstruction Programs.
Form No: SF–424A.
Type of Review: Extension of a currently approved collection.
Respondents: States, Local Governments, Non-Profit organizations.
Number of Responses: 360,000.
Estimated Time Per Response: 180 minutes.
Needs and Uses: The SF–424A is used to budget and request grant funds for nonconstruction programs. The Federal awarding agencies and OMB use information reported on this form for general management of Federal assistance awards programs.

OMB Control No.: 0348–0040.
Title: Assurances—Nonconstruction Programs.
Form No: SF–424B.
Type of Review: Extension of a currently approved collection.
Respondents: States, Local Governments, Non-Profit organizations.
Number of Responses: 360,000.
Estimated Time Per Response: 15 minutes.
Needs and Uses: The SF–424B is used to assure compliance with statutory requirements for nonconstruction grant programs. The Federal awarding agencies and OMB use information reported on this form for general management of Federal assistance awards programs.

OMB Control No.: 0348–0041.
Title: Budget Information—Construction Programs.
Form No: SF–424C.
Type of Review: Extension of a currently approved collection.

Respondents: States, Local Governments, Non-Profit organizations.
Number of Responses: 40,000.
Estimated Time Per Response: 180 minutes.
Needs and Uses: The SF–424C is used to budget and request grant funds for construction grant programs. The Federal awarding agencies and OMB use information reported on this form for general management of Federal assistance awards programs.
OMB Control No.: 0348–0042.
Title: Assurances—Construction Programs.
Form No: SF–424D.
Type of Review: Extension of a currently approved collection.
Respondents: States, Local Governments, Non-Profit organizations.
Number of Responses: 40,000.
Estimated Time Per Response: 15 minutes.
Needs and Uses: The SF–424D is used to assure compliance with statutory requirements for construction grant programs. The Federal awarding agencies and OMB use information reported on this form for general management of Federal assistance awards programs.

Issued in Washington, DC, October 19, 1998.

G. Edward DeSeve,
Controller.

[FR Doc. 98–29847 Filed 11–6–98; 8:45 am]
BILLING CODE 3110–01–P

POSTAL SERVICE

Changes in Domestic Rates, Fees, and Mail Classifications

AGENCY: Postal Service.

ACTION: Notice of implementation of changes to the Domestic Mail Classification Schedule, domestic rates, and fees and of corrections to the notice published at 63 FR 39124.

SUMMARY: This notice sets forth the rate and fee changes and the accompanying Domestic Mail Classification Schedule (DMCS) changes to be implemented as a result of the Decision of the Governors of the United States Postal Service on the Further Recommended Decision of the Postal Rate Commission on Postal Rate and Fee Changes, Docket No. R97–1 (October 5, 1998). This notice also contains minor corrections to the notice published at 63 FR 39124.

EFFECTIVE DATE: January 10, 1999.

FOR FURTHER INFORMATION CONTACT: Daniel J. Foucheaux, Jr., (202) 268–2989.

SUPPLEMENTARY INFORMATION: On July 10, 1997, pursuant to its authority under 39 U.S.C. 3621, et seq., the Postal Service filed with the Postal Rate Commission (PRC) a Request for a Recommended Decision on Proposed Changes in Rates of Postage and Fees for Postal Services (Request). The PRC designated the filing as Docket No. R97–1. The PRC published a notice of the filing, with a description of the Postal Service's proposals, on July 23, 1997, in the **Federal Register** (62 FR 39660).

On May 11, 1998, pursuant to its authority under 39 U.S.C. 3624, the PRC issued its Recommended Decision on the Postal Service's Request to the Governors of the Postal Service.

Pursuant to 39 U.S.C. 3625, the Governors of the United States Postal Service acted on the PRC's recommendations on June 29, 1998. In one decision, the Governors rejected the PRC's recommendations regarding Prepaid Reply Mail and Courtesy Envelope Mail. Decision of the Governors of the United States Postal Service on the Recommended Decisions of the Postal Rate Commission on Prepaid Reply Mail and Courtesy Envelope Mail, Docket No. R97–1 (June 29, 1998). In the second decision, the Governors acted on the remainder of the PRC's recommendations. Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Postal Rate and Fee Changes, Docket No. R97–1 (June 29, 1998). The Governors approved all of the remaining classification, fee, and rate changes (see 63 FR 39124), except that the Governors allowed under protest and returned for reconsideration recommendations related to three categories of mail. In particular, the Governors requested further action or clarification on the PRC's recommendations concerning Within County, Library Mail, and destination delivery unit Parcel Post.

In response, the PRC solicited comments on those matters from all interested parties, and thereafter issued a Further Recommended Decision upon reconsideration on September 24, 1998. On October 5, 1998, the Governors approved the relatively minor recommended changes in the rate and fee schedules for those three subclasses, along with associated classification changes, recommended by the PRC in its further Recommended Decision. Also on October 5, 1998, the Board of Governors of the Postal Service, pursuant to its authority under 39 U.S.C. 3625(f), determined to implement the rate, fee and classification changes approved by the Governors effective at 12:01 a.m. on January 10, 1999 (Resolution No. 98–12).

In accordance with the Decision of the Governors and Resolution No. 98–12, the Postal Service hereby gives notice that the classification, fee, and rate changes set forth below will become effective at 12:01 a.m. on January 10, 1999. For the affected subclasses and rate categories, the rate and fee schedules published below supersede those rate and fee schedules accepted or allowed under protest by the Governors in their Decision on the Recommended Decision of the Postal Rate Commission on Postal Rate and Fee Changes, Docket No. R97–1 (June 29, 1998) and published at 63 FR 39124.

Changes in implementation regulations published in the Domestic Mail Manual also become effective on January 10, 1999, as noted in a separate notice in the **Federal Register**.

A copy of the attachments to the Governors' Decision, setting forth the classification, fee, and rate changes ordered into effect by the Governors on the PRC's Further Recommended Decision, is set forth below.

A correction to Fee Schedule 943, which was published in the **Federal Register** on July 21, 1998 (63 FR 39143), is also published below. No substantive change is made to Fee Schedule 943; rather, the second heading entitled "Express Mail Insurance" is moved from the center to the left to clarify its applicability to the first two fee groupings for Express Mail Insurance. In addition, the Postal Service hereby gives notice that, due to complications apparently arising from word processing software conversions, the term "correction" surrounded by quotation marks in Domestic Mail Classification Schedule sections 221.24(b), 222.34(b), 321.231(c), 321.33, 321.431(c), 423.81, and 423.82 appears as "Acorrection@" in the version of Attachment B to the Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission in Docket No. R97–1 (June 29, 1998) published at 63 FR 39124.

Attachment A to the Decision of the Governors of the United States Postal Service on the Further Recommended Decision of the Postal Rate Commission in Docket No. R97–1

(October 5, 1998)

Changes to Domestic Rates and Fees

STANDARD MAIL RATE SCHEDULE 322.1E, PARCEL POST SUBCLASS, DESTINATION DELIVERY UNIT RATES (CONTINUED)

[Dollars]

Weight (pounds)	
2	1.21
3	1.26
4	1.32
5	1.37
6	1.41
7	1.45
8	1.50
9	1.55
10	1.59
11	1.63
12	1.67
13	1.72
14	1.74
15	1.78
16	1.82
17	1.85
18	1.90
19	1.92
20	1.96
21	1.99
22	2.02
23	2.06
24	2.08
25	2.12
26	2.15
27	2.19
28	2.21
29	2.25
30	2.27
31	2.31
32	2.33
33	2.36
34	2.40
35	2.43
36	2.46
37	2.47
38	2.51
39	2.54
40	2.57
41	2.60
42	2.62
43	2.65
44	2.67
45	2.70
46	2.74
47	2.77
48	2.79
49	2.82
50	2.84
51	2.87
52	2.90
53	2.92
54	2.94
55	2.98
56	3.01
57	3.03
58	3.07
59	3.07
60	3.10
61	3.13
62	3.16
63	3.18
64	3.21
65	3.24
66	3.27
67	3.29
68	3.31
69	3.34
70	3.38
Oversize parcels [1]	8.69

Schedule 322.1E Notes:
[1] See DMCS section 322.161 for oversize Parcel Post.
[2] Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.
[3] A fee of $100.00 must be paid each year for DBMC, DSCF, and DDU.

STANDARD MAIL RATE SCHEDULES 323.1 AND 323.2: SPECIAL AND LIBRARY RATE SUBCLASSES

	Rates (cents)
Schedule 323.1: Special	
First Pound:	
Not presorted [4]	113
Level A Presort (5-digits) [1 2]	64
Level B Presort (BMC) [1 3 4]	95
Each additional pound through 7 pounds	45
Each additional pound over 7 pounds	28
Schedule 323.2: Library	
First Pound:	
Not Presorted [4]	113
Level A Presort (5-Digits) [1 2]	64
Level B Presort (BMC) [1 3 4]	95
Each additional pound through 7 pounds	45
Each additional pound over 7 pounds	28

Schedule 323.1 and 323.3 Notes:
[1] A fee of $100.00 must be paid once each 12-month period for each permit.
[2] For mailings of 500 or more pieces properly prepared and presorted to five-digit destination ZIP Codes.
[3] For mailings of 500 or more pieces properly prepared and presorted to Bulk Mail Centers.
[4] For Barcoded Discount, deduct $0.03 per-piece.

PERIODICALS RATE SCHEDULE 423.2

	Rate (cents)
Within County (Full Rates)	
Per Pound:	
General	13.3
Delivery Office [1]	10.7
Per Piece:	
Required Presort	9.5
Presorted to 3-digit	8.8
Presorted to 5-digit	8.0
Carrier Route Presort	4.3
Per Piece Discount:	
Delivery Office [2]	0.4
High Density (formerly 125 piece) [3]	1.4
Saturation	1.8
Automation Discounts for Automation Compatible Mail [4]	
From Required:	
Prebarcoded Letter size	4.9
Prebarcoded Flat size	3.0
From 3-digit:	
Prebarcoded Letter size	4.4
Prebarcoded Flat size	2.6
From 5-digit:	
Prebarcoded Letter size	3.9
Prebarcoded Flat size	2.2

Schedule 432.2 Notes:
[1] Applicable only to carrier route (including high density and saturation) presorted pieces to be delivered within the delivery area of the originating post office.
[2] Applicable only to carrier presorted pieces to be delivered within the delivery area of the originating post office.
[3] Applicable to high density mail, deducted from carrier route presort rate. Mailers also may qualify for this discount on an alternative basis as provided in DMCS section 423.83.
[4] For automation compatible pieces meeting applicable Postal Service regulations.

SCHEDULE 1000

	Fee
First-Class Presorted Mailing	$100.00
Periodicals:	
A. Original Entry	305.00
B. Additional Entry	50.00
C. Re-entry	50.00
D. Registration for News Agents	50.00
Regular, Enhanced Carrier Route, Nonprofit, and Nonprofit Enhanced Carrier Route, Standard Mail Bulk Mailing	100.00
Parcel Post: Destination BMC, SCF, and DDU	100.00
Special and Library Standard Mail Presorted Mailing	100.00
Authorization to Use Permit Imprint	100.00
Merchandise Return (per family receiving merchandise return labels)	100.00
Prepaid Reply Mail Permit (see Fee Schedule 934)	
Business Reply Mail Permit (see Fee Schedule 931)	

SCHEDULE 1000—Continued

	Fee
Authorization to Use Bulk Parcel Return Service	100.00

Attachment B to the Decision of the Governors of the United States Postal Service on the Further Recommended Decison of the Postal Rate Commission in Docket No. R97–1

Changes to the Domestic Mail Classification Schedule

Amend the Domestic Mail Classification Schedule by Inserting Italicized Text and Deleting Bracketed Text as Follows:

STANDARD MAIL
CLASSIFICATION SCHEDULE

* * * * *

323.2 Library Subclass

* * * * *

[323.22 Basic Rate Category. The basic rate category applies to all Library subclass mail.]

323.22 Single-Piece Rate Category. The single-piece rate category applies to Library subclass mail not mailed under section 323.23 or 323.24.

323.23 Level A Presort Rate Category. The Level A presort rate category applies to mailings of at least 500 pieces of Library subclass mail, prepared and presorted to five-digit destination ZIP Codes as specified by the Postal Service.

323.24 Level B Presort Rate Category. The Level B presort rate category applies to mailings of at least 500 pieces of Library subclass mail, prepared and presorted to destination Bulk Mail Centers as specified by the Postal Service.

323.2[3]5 Barcoded Discount. The barcoded discount applies to Library subclass mail that is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service in a mailing of at least 50 pieces, and meets all other preparation and machinability requirements of the Postal Service.

* * * * *

382 Special *and Library* Subclasses

A presort mailing fee as set forth in Schedule 1000 must be paid once each year at each office of mailing by or for any person who mails presorted Special *or Library* subclass mail. Any person who engages a business concern or other individuals to mail presorted Special or *Library* subclass mail must pay the fee.

* * * * *

Correction to Fee Schedule 943 Published at 63 FR 39143 (July 21, 1998)

FEE SCHEDULE 943

Insurance	Fee (in addition to postage)
Express Mail Insurance	
Document Reconstruction Coverage:	
$0.01 to $500	No charge.
Merchandise Coverage:	
$0.01 to $500	No charge.
500.01 to $5000	$0.95 for each $100 (or fraction thereof) over $500 value.
General Insurance Coverage	
$ 0.01 to $50	$0.85 [1]
50.01 to 100	$1.80 [1]
100.01 to 5000	$1.80 plus $0.95 for each $100 (or fraction thereof) over $100 in coverage [1].

[1] For bulk insurance, deduct $0.40 per piece.

Stanley F. Mires,
Chief Counsel, Legislative
[FR Doc. 98–29999 Filed 11–6–98; 8:45 am]
BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23514; 812–10734]

CD Radio Inc.; Notice of Application

November 2, 1998.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act").

SUMMARY OF APPLICATION: Applicant requests an order exempting it from all provisions of the Act until the earlier of one year from the date the requested order is issued or the date applicant ceases to be an investment company.

FILING DATE: The application was filed on July 22, 1997, and amended on August 6, 1998. Applicant has agreed to file an amendment during the notice period, the substance of which is included in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 27, 1998, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW, Washington, DC 20549. Applicant, 14th Floor, 1180 Avenue of the Americas, New York, NY 10019–6064.

FOR FURTHER INFORMATION CONTACT: Lisa McCrea, Attorney Adviser, at (202) 942–0562, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 5th Street, NW, Washington, DC 20549 (tel. 202–942–8090).

Applicant's Representations

1. Applicant is a Delaware corporation formed in 1990 and engaged in the business of developing a national satellite broadcast system to provide digital audio radio service ("Service"). In October 1997, applicant was granted a license by the Federal Communications Commission ("FCC") to build, launch and operate the Service.

2. To obtain the funds needed to pay for the FCC License, in 1997 applicant completed a public stock offering, a public debt offering, and a private placement of its common stock. Pending utilization in building the Service, the proceeds of the offerings were used to pay for the FCC License and invested in a money market fund, U.S. government securities, commercial paper, and a bank certificate of deposit.

3. For applicant to continue to hold the FCC License, applicant must satisfy certain progress requirements, including meeting certain deadlines for the construction and launch of satellites, and a deadline for the Service to be in full operation. Satisfying these requirements will require significant expenditures. Applicant currently expects to commence operations of the Service by the first quarter of the year 2000.

Applicant's Legal Analysis

1. Under section 3(a)(1)(C) of the Act, an issuer is an investment company if it "is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis." Section 3(a)(2) of the Act defines "investment securities" to include all securities except government securities, and securities which are issued by majority-owned subsidiaries of the owner which are not investment companies, and are not relying on the exception from the definition of investment company in section 3(c)(1) or 3(c)(7) of the Act.

2. Applicant states that, pending utilization in building and operating the System, the proceeds of applicant's offerings of its stock may be held in "investment securities" within the meaning of section 3(a)(2) of the Act. As of June 30, 1998, approximately 44% of applicant's total assets consisted of "investment securities." Applicant states, therefore, that it may come within the definition of investment company in section 3(a)(1)(C) of the Act. Applicant also states that it anticipates raising additional funds to complete the development of the System, and will place the proceeds in U.S. government securities and shares of money market funds to be drawn down as needed to complete the construction and operate the System.

3. Section 6(c) of the Act permits the SEC to exempt any person, security, or transaction from any provision of the Act, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicant requests an exemption under section 6(c) from all provisions of the Act until the earlier of one year from the date the requested order is issued or the date applicant ceases to be an investment company. Applicant believes that within this period it will have sufficient expenditures of funds on the establishment of the Service and the acquisition of non-investment assets to cure its temporary status under section 3(a)(1)(C) of the Act.

5. Applicant asserts that, as a company that was created to build and operate the Service, applicant is not the type of entity that was intended to be governed by the Act. Applicant states that, since its inception, its principal activities have been in technology development, pursuing regulatory approval for the Service, discussions with radio manufacturers and automakers, market research, design and development, development of a mobile demonstration program, contract negotiations with satellite and launch vehicle contractors, technical efforts with respect to standards and specifications, and securing adequate working capital. Applicant thus asserts that the requested relief is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant's Conditions

Applicant agrees that the requested exemption will be subject to the following conditions:

1. Applicant will not purchase or otherwise acquire any securities other than shares of a money market fund and U.S. Government securities.

2. Applicant will not hold itself out as being engaged in the business of investing, reinvesting, owning, holding, or trading in securities.

3. Applicant will allocate and utilize its accumulated cash and securities for the purpose of funding its satellite radio system business.

For the SEC, by the Division of Investment Management, under delegated authority.
Jonathan G. Katz,
Secretary.
[FR Doc. 98–29863 Filed 11–6–98; 8:45 am]
BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23517; File No. 812–11208]

John Hancock Bond Trust, et al.; Notice of Application

November 2, 1998.

AGENCY: Securities and Exchange Commission.

ACTION: Notice of application for an order pursuant to Section 11(a) of the Investment Company Act of 1940 (the "1940 Act").

SUMMARY OF APPLICATION: Applicants seek an order approving the terms of offers of exchange by the Funds, as defined below, and John Hancock Funds, Inc. ("JHFI") to certain holders of variable annuity contracts ("Contracts") issued by Variable Annuity Accounts U and V of John Hancock and Variable Annuity Account I of JHVLICO (collectively, the "Accounts").

APPLICANTS: John Hancock Bond Trust, John Hancock Capital Series, John Hancock Current Interest, John Hancock Investment Trust, John Hancock Investment Trust II, John Hancock Investment Trust III, John Hancock Series Trust, John Hancock Bond Fund, John Hancock Special Equities Fund, John Hancock Strategic Series, John Hancock World Fund (the "Funds"), JHFI, John Hancock Variable Life Insurance Company ("JHVLICO") and John Hancock Mutual Life Insurance Company ("John Hancock," together with JHVLICO, JHFI and the Funds, "Applicants")

FILING DATES: The application was filed on June 29, 1998, and amended on October 30, 1998.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or

by mail. Hearing requests must be received by the Commission by 5:30 p.m. on November 27, 1998, and must be accompanied by proof of service on the Applicants in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, Ronald J. Bocage, Esq., John Hancock Mutual Life Insurance Company, John Hancock Place, Boston, Massachusetts 02117.

FOR FURTHER INFORMATION CONTACT: Keith E. Carpenter, Senior Counsel, or Kevin M. Kirchoff, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission (tel. (202) 942–8090).

Applicants' Representations

1. Each Fund is a business trust organized under the laws of Massachusetts, is registered under the Act as an open-end management investment company and was organized by John Hancock or an affiliated company of John Hancock. Each Fund offers up to three classes of shares: "A Shares" (which are sold with a front-end sales load of up to 5% or alternatively, for certain purchases, a reduced deferred sales charge); "B Shares" (which are sold with a deferred sales load of up to 5% that declines to 0% after the sixth year); and "C shares" (which are sold with a reduced deferred sales charge of 1% which declines to 0% after the first year) Only A Shares will be offered in the proposed exchanges.

2. JHFI is an indirect, wholly-owned subsidiary of John Hancock. JHFI is registered with the Commission as a broker-dealer and is a member of the National Association of Securities Dealers, Inc. ("NASD"). JHFI is the principal underwriter for each of the Funds.

3. Each Fund, except for John Hancock Bond Fund and John Hancock Special Equities Fund, offers its shares by series (collectively, "Series," and together with the non-series Funds, the "Exchange Funds"). The investment manager of each of the Exchange Funds is John Hancock Advisers, Inc. ("Advisers"), an indirectly wholly-owned subsidiary of John Hancock.

4. The expense ratios of the Exchange Funds on an annual basis for their last fiscal year, including management fees, 12b–1 fees and other expenses, ranged from a low of 0.35% for John Hancock U.S. Government Cash Reserve to a high of 2.06% for John Hancock Pacific Basin Equities Fund. These expense ratios reflect the impact of Advisers' and/or JHFI's temporary agreement to limit expenses, including management fees and 12b–1 fees. Without these limitations, the expense ratios would have ranged from 1.00% for the John Hancock Strategic Income Fund to 3.03% for the John Hancock International Fund.

5. The Contracts are variable annuity contracts issued by Variable Annuity Accounts U and V of John Hancock and Variable Annuity Account I of JHVLICO. The Contracts have been purchased on behalf of pension plans ("Plans") qualified under Section 401(k) of the Internal Revenue Code of 1986 ("Code") and certain target-benefit pension plans ("Target Benefit Plans"), both of which are qualified under Section 401(a) of the Code to fund pension benefits payable to eligible persons ("Participants") participating in the Plans. Under the terms of the various Plans holding the Contracts, the employer sponsoring the Plan ("Plan Sponsor") is the Contract owner, and only the Plan Sponsor is permitted to make premium payments to fund Plan benefits (either directly or through salary deductions). Further, only the Plan Sponsor is authorized to select the investment vehicle(s), such as the Contracts, in which Plan assets are to be invested. Depending on the type of Plan involved, Plan assets held under the Contracts may or may not be allocated specifically as being for the account of individual Participants. With respect to certain 401(k) Plans, the Plan Sponsor purchases individual Contracts on behalf of Plan Participants, in which case Plan assets would be allocated specifically to the Contracts owned by the Plan on behalf of such Participants, and the Participants may be entitled to provide instructions with respect to how Plan assets held in such Contracts are to be invested among the available investment options. With respect to the remaining 401(k) Plans and all Target Benefit Plans, the Plans provide that Plan assets are not allocated specifically as being for the account of individual Participants, in which case the Contract essentially serves as an "unallocated" group contract holding Plan assets for the benefit of the all Plan Participants, with the Plan Sponsor investing Plan assets among the available investment options. The Contracts, however, are no longer being offered for use on such an "unallocated" basis. Plan sponsors holding contracts issued by the Accounts in connection with target-benefit plans where plan assets are allocated specifically as being for the account of individual participants are not eligible to participate in the exchange offer that is the subject of the application.

6. The investment options underlying the Contracts consist of a fixed account investment option that is part of John Hancock's general account, and the 23 portfolios of John Hancock Variable Series Trust I ("Trust"), a series-type mutual fund advised by John Hancock. These 23 portfolios (collectively, "Portfolios") have a wide range of investment objectives.

7. All but one form of the Contracts have a contingent deferred sales charge ("CDSC"). The maximum CDSC for any Contract is 8.5%, and in all cases the CDSC declines to 0% seven years after the date of the contribution to which the CDSC applies. Moreover, for Contracts that impose a CDSC, there is also a "free corridor" provision, which, if applicable, allows certain amounts to be withdrawn annually without a CDSC. One form of Contract imposes a maximum front-end sales charge of 8% of purchase payments made. None of the Contracts provides for any sales charges that is deducted from assets.

8. Applicants state that the Contracts have an annual maintenance charge that ranges from $10 per year to $30 per year, plus a daily asset-based administrative charge. For certain Contracts, the annual maintenance charge is waived if the account value exceeds $10,000, and John Hancock or JHVLICO may reserve the right to increase the annual maintenance charge to $50, with state approval. The asset-based administrative charge ranges from 0.25% to 0.50% (on an annual basis) of the current Contract value.

9. A mortality and expense risk charge that ranges from 0.75% to 1.15% of the assets of the issuing Account may be deducted under the Contracts.

10. There is no charge for transfers under the Contracts, but such transfers are limited to twelve per Contract year, although one form of Contract limits such transfers to four per Contract year. State premium taxes are deducted at annuitization or from payments, in accordance with applicable state laws.

11. The expense rations of the Portfolios which serve as the investment vehicle for the Accounts ranged from 0.28% to 1.55% (after expense reimbursements) on an annual basis in their last fiscal year. Applicants state that when the Portfolio expenses are added to the maximum mortality and expense risks charge and applicable asset-based administration charges of the Contracts, the ongoing expense of the Contracts ranges from 1.81% to 3.05% (3.32% without expense reimbursement), excluding the up of $30 per year maintenance charge.

12. Applicants state that certain Plan Sponsors of Plans holding Contracts have determined to change the nature of their Plans and to replace the Contracts with Exchange Fund shares. To facilitate this change, Plans holding Contracts may wish to surrender them and reinvest the proceeds in Class A shares of the Exchange Funds. Any such surrender and reinvestment of proceeds will be at relative net asset values; i.e., immediately after the transaction, the aggregate value of the shares of the Exchange Funds acquired will be identical to the cash value of the Contract immediately prior to the transaction. No administrative fee or any other charge will be imposed for effecting this transaction. No CDSC on the Contracts to be surrendered will be imposed.

13. Applicants further state that, prior to surrendering a Contract, the Plan Sponsor will be responsible for determining, consistent with the terms of its Plan, the appropriate allocation of Plan assets among Plan Participants. The Plan Sponsor also will be responsible for obtaining instructions from each Plan Participant concerning the manner in which Plan assets attributable to that Plan Participant, as well as future contributions, are to be allocated among the available Exchange Funds. Once a Plan Sponsor decides to surrender a Contract and provides the necessary allocation instructions, such surrender and reinvestment of proceeds will take place immediately at relative net asset values. For 90 days following the surrender of the Contract by the Plan, Participants will be allowed unlimited, free transfer among the Exchange Funds available under the Plan, subject to the Exchange Funds' current exchange policies and any limitation imposed by a Plan. No Exchange Fund front-end load will be deducted, and no Exchange Fund deferred sales charges will become applicable at the time of any transfer from Exchange Fund shares that were acquired as a result of the surrender of the Contract, regardless of when any such transfers are effected. At present, this offer of exchange is expected to be made available to Plan Sponsors during the six-month period following the issuance of the order sought by the application.

14. Applicants state that one or more aspects of the above transactions may be deemed to involve one or more offers of exchange by a Fund or JHFI that requires Commission approval under Section 11 of the 1940 Act. All recipients of such offers will be provided current prospectuses for the Exchange Funds available to them. Accompanying such prospectuses may be sales literature, including a cover letter, that has been approved by the NASD. Such sales literature will highlight the differences between Contracts and shares of the Funds and the terms of the offer of exchange. Administrative details of effecting exchanges will be handled by JHFI.

15. The exchanges will be effected as direct transfers and will not have adverse tax consequences for offerees who accept the exchange offer.

Applicants' Legal Analysis

1. Section 11(a) of the 1940 Act makes it unlawful for a registered open-end investment company or principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission or are in accordance with such rules and regulations as the Commission may have prescribed in respect of such offers which are in effect at the time such offer is made.

2. Section 11(c) of the 1940 Act provides that, irrespective of the basis of exchange, subsection (a) shall be applicable to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

3. Applicants maintain, for the reasons summarized below, that the terms of the proposed offers of exchange do not involve any of the "switching" (*i.e.*, offer of exchange made solely for the purpose of assessing additional selling charges) abuses that led to the adoption of Section 11 of the 1940 Act.

4. Applicants state that the exchanges will be made on the basis of relative net asset value (*i.e.*, immediately after an exchange, the cash value of the Exchange Fund shares acquired will be identical to the cash value under the Contract immediately prior to the exchange). Further, no CDSC will be applicable to Exchange Fund shares acquired as part of the exchange, and no administrative fee or sales load will be deducted at the time of the exchange. Applicants state that the exchanges will not have adverse tax consequences for offerees who accept the exchange offer because the exchanges proposed would be made as direct transfers.

5. Applicants state that, as a general matter, Exchange Funds with investment objectives comparable to most of the 23 Portfolios will be available through the exchange offer, although each Plan may not offer all Exchange Funds available pursuant to the exchange offer. Certain of the Portfolios, however, are designed to fill a specific "niche," such as the Real Estate Equity Portfolio and International Balanced Portfolio, and there are no Exchange Funds comparable to these "niche" funds that are currently available under the Contracts. Accordingly, depending on the Exchange Funds made available by a Plan, the exchange offer will offer an opportunity to permit Plan Sponsors and Participants to duplicate generally the current investment objective selection under the Contracts by allocating plan assets held in their accounts among Exchange Funds with comparable investment objectives, or to expand those investment objectives by selecting Exchange Funds with investment objectives not available under the Contracts. Further, Applicants state that the expenses of the Exchange Funds are generally lower than the combined expenses and fees of the Contracts and the Portfolios in which the Accounts invest. Accordingly, those persons who accept the exchange offer should incur lower expenses than those incurred under the Contracts.

6. Applicants have consented to the following conditions:

(a) No redemption or administrative fee will be imposed in connection with the proposed exchanges.

(b) At the commencement of the exchange offer, and at all times thereafter, the prospectus or the statement of additional information, as appropriate, of the offering Exchange Fund will disclose that the exchange offer is subject to termination and its terms are subject to change.

(c) Whenever the exchange offer is to be terminated or its terms are to be amended materially, any holder of a security subject to that offer shall be given prominent notice of the impending termination or amendment at least 60 days prior to the date of termination or the effective date of the amendment, provided that no notice need be given if, under extraordinary circumstances, either—

(i) There is a suspension of the redemption of the exchanged security

under Section 22(e) of the Act and the rules and regulations thereunder, or

(ii) The offering Exchange Funds temporarily delays or ceases the sale of the security to be acquired because it is unable to invest amounts effectively in accordance with applicable investment objectives, policies and restrictions.

Other than in the circumstance set forth in (c)(i) and (c)(ii) above, Applicants would dispense with the 60-days notice requirement only upon obtaining further relief from the Commission authorizing them to do so.

Conclusion

For the reasons summarized above, Applicants submit that the proposed offer of exchange is consistent with the intent and purpose of Section 11 of the 1940 Act, and that none of the abuses which Section 11 was enacted to prevent will be present.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–29971 Filed 11–6–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26935]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

November 2, 1998.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) and any amendment is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 27, 1998, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarants(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After November 27, 1998, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Interstate Energy Corporation, et al. (70–9317)

Interestate Energy Corporation ("IEC"), a registered holding company, Wisconsin Power & Light Company, a public utility subsidiary company of IEC ("WPL"), Alliant Services Company ("Services"), a subsidiary service company of IEC, Alliant Industries, Inc., ("Alliant") a wholly owned subsidiary of IEC, Heartland Environmental Holding Company, RMT, Inc., Heartland Energy Group, Inc., Heartland Properties, Inc., Capital Square Financing Corporation, Cargill-Alliant LLC, all nonutility subsidiary companies of Alliant, and Wisconsin Power & Light Company, a public utility subsidiary company of IEC, located at 222 West Washington Avenue, Madison, Wisconsin 53703, Interstate Power Company ("Interstate Power"), a public utility subsidiary company of IEC, 1000 Main Street, PO Box 769, Dubuque, Iowa 53004–0789, IES Utilities Inc. ("IES Utilities"), a public utility subsidiary company of IEC, IES Transportation Inc., IEC Transfer Services Inc., IES Investments Inc., IES Investco Inc., Village Lakeshares Inc., Prairie Ridge Business Park, Iowa Land and Building Company, IES International Inc., all indirect nonutility subsidiary companies of Alliant, located at 200 First Street, SE, Cedar Rapids, Iowa 52401, Whiting Petroleum Company, an indirect nonutility subsidiary company of Alliant, Mile High Center, 1700 Broadway, Denver, Colorado 80290, and IEI Barge Services Inc. and Cedar Rapids and Iowa City Railroad Company, both indirect nonutility subsidiary companies of Alliant, located at 2330 12th Street, SW, Cedar Rapids, Iowa 52404, have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(b), 12(f), and 13(b) of the Act and rules 32, 33, 40, 43, 44, 45, 53, 54, 87(b)(1), 90, 91 and 93 under the Act.

IEC and Alliant propose through December 31, 2000, to form and fund a Utility Money Pool ("Utility Pool") and a Nonutility Money Pool ("Nonutility Pool") in aggregate amounts not to exceed $450 million and $600 million respectively, through the issuance and sale of commercial paper and bank borrowings.[1] IEC also proposes to finance the acquisition of foreign utility companies ("FUCOs") and exempt wholesale generators ("EWGs") through the issuance of commercial paper and bank borrowings in an amount not to exceed $300 million. IEC represents that borrowings allocated to finance FUCO and EWG acquisitions will not at any time exceed 50% of IEC's retained earnings. Lastly, IEC proposes through December 31, 2000 to enter into guarantee agreements ("Guarantee") in an amount not to exceed $600 million.

The Utility Pool participants are WPL, IES Utilities, Interstate Power and Services. The aggregate principal amount of borrowings outstanding at any one time from the Utility Pool will be limited as follows: WPL, $128 million; IES Utilities, $150 million; Interstate Power, $72 million; and Services, $100 million.[2] IEC states that participants in the Utility Pool intend to use the funds for general corporate purposes including interim funding of construction programs until permanent financing can be arranged.

IEC proposes to issue commercial paper that will have a commercial rating of at least A–1 by Standard & Poor's ("S&P") or at least P–1 by Moody's Investor Services ("Moody's"), and Alliant proposes to issue commercial paper that will have a commercial rating of at least A–2 by S&P or P–2 by Moody's. IEC proposes to issue and sell commercial paper to fund the Utility Pool and invest in and acquire EWGs and FUCOs. Alliant proposes to issue and sell commercial paper to fund the Nonutility Pool.[3]

The proceeds from the sale of the commercial paper that will be used to fund the Nonutility Pool will be added to Alliant's treasury funds in a separate nonutility account. The proceeds from the sale of commercial paper intended to fund the Utility Pool and the investment in and acquisition of FUCO's will be added to IEC's treasury funds in separate utility and FUCO investment/acquisition accounts.

IEC and Alliant propose to issue commercial paper to dealers in the form of book-entry unsecured promissory notes of varying denominations not less than $100,000. Each note will mature not more than two-hundred and seventy days from the date of issue. The notes will be issued and sold by IEC and Alliant directly to dealers at rates not to exceed the rate per annum prevailing at the time of issuance for commercial paper of comparable qualities and maturities sold by issuers thereof to commercial paper dealers. No commission or fee will be payable in connection with the issuance and sale of the commercial paper. Applicants also request authorization for IEC and Alliant to sell commercial paper directly to certain financial institutions. Sales of commercial paper directly to these institutions will occur only if the resulting cost of money would be equal to or less than that available from dealer-placed commercial or bank borrowings. The terms of directly placed notes would be similar to those of dealer-placed notes.

IEC and Alliant have also entered into credit agreements with banks to support the issuance of commercial paper and in lieu of issuing commercial paper may borrow directly from the banks if it is more cost effective.[4]

Borrowings from banks will be evidenced by promissory notes. Each note, whether issued under a term loan or an open credit line, will be for the principal amount available to be borrowed at the time from the lending bank and be payable to the order of the bank; shall be dated the date of the closing of the loan; shall bear interest at a rate no higher than the effective cost of money for unsecured prime commercial bank loans prevailing at the date of borrowing; and, shall be subject to repayment by the borrower in whole at any time or in part from time to time without premium or penalty.

The cost of compensating balances and fees paid to banks to maintain credit lines will be initially allocated to the subsidiaries of IEC on the basis of relative maximum outstanding short-term borrowings for the prior calendar year from the particular money pool in which the subsidiary participates, and the costs will be retroactively reallocated at the end of each calendar year on the basis of that year's actual relative maximum outstanding short-term borrowing of each subsidiary in the particular pool. However, during the first calendar year of operation of the money pools, the cost will initially be allocated to the subsidiaries based on the relative maximum borrowing authority of each subsidiary, and, similar to the calculations to be made in subsequent years of operations, the costs will be retroactively reallocated at the end of the first calendar year on the basis of that year's actual relative maximum outstanding short term borrowing of each subsidiary.

The funds available to the Utility Pool will be loaned by IEC on a short-term basis to applicants that are public utility subsidiaries and, to a lesser extent, will also come from the utility participants themselves, to the extent permitted by state law, through the investment of surplus funds into the Utility Pool.

Under the proposed terms of the respective money pools, from time to time, short-term funds will be made available to participants of the money pools if Services, as administrator of both money pools, determines that it will result in a lower cost of borrowing consistent with the individual borrowing needs and financial standing of the participating subsidiaries.

Services will provide each money pool participant with periodic activity and cash accounting reports that include, among other things, reports of each activity, the daily balance of loans outstanding, and the daily interest charged. No party will be required to effect a borrowing through a money pool if it is determined that it could (and had authority to) effect a borrowing at a lower cost directly from banks.

The operation of the money pools is designed to match, on a daily basis, the available cash and short-term borrowing requirements of the participants. To the extent necessary, IEC and Alliant will use the proceeds of external borrowings, up to Commission approved limits, to accommodate the short-term requirements of participants. Requirements satisfied by the money pools will be in the form of open account advances and will not exceed the approved limits contained in the financing program of IEC, Alliant and the other subsidiaries that may be subsequently authorized by the Commission.

IEC and Alliant will participate in the money pools only insofar as they have funds available for lending, either through internally generated or from external sources. Under no circumstances will IEC or Alliant be permitted to borrow funds available through the money pools. If at any time there are funds remaining in the money pools after satisfaction of the borrowing needs of the participating subsidiaries, Services, as the manager of the money pools, will invest these funds appropriately and consistent with applicable state and federal regulations and allocate the earnings of the investments between or among those applicants within each money pool according to the amount of excess funds provided by each respective applicant. The return on the funds loaned by a subsidiary into either of the money pools will essentially be equal to the cost of borrowing from the money pools. The applicable interest rate will be the average for the month of the CD yield equivalent of the 30 day Federal Reserve "AA" Industrial Commercial Paper Composite Rate ("Composite") or, if no Composite were established for that particular day, then the applicable rate would be the Composite for the next preceding day for which the Composite was established.

All borrowings from and contributions to the money pools will be adequately documented and will be evidenced on the books of each applicant that is borrowing or contributing funds through the money pools. All loans will be payable on demand, may be prepaid by any borrowing applicant at any time without premium or penalty and will be subject to interest that shall be calculated and added to the outstanding loan balance. These rates will be adjusted periodically and any participating subsidiary that contributes funds to a money pool may withdraw them at any time to satisfy its daily need for funds.

Services proposes to administer the Utility Pool on an "at cost" basis and to administer the Nonutility Pool on a basis other than cost. Services will also provide cash management and banking services to the subsidiaries of IEC that participate in the money pools.

IEC proposes to enter into guarantees, obtain letters of credit, enter into guarantee-type expense agreements or otherwise provide credit support to the obligations of its nonutility subsidiaries as may be appropriate to enable those companies to carry on in the ordinary course of their respective business in an aggregate principal amount not to exceed $600 million outstanding at any one time.

Columbia Energy Group, et al. (70–9365)

Columbia Energy Group ("Columbia"), a registered holding company, and its wholly owned subsidiary Columbia Electric Corporation ("Columbia Electric"), both located at 13880 Dulles Corner Lane, Herndon, Virginia 20171–4600, have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(b) and 13(b) of the Act and rules 45, 54, 87(b)(1), 90, and 91 under the Act.

Columbia proposes to acquire indirectly, through Columbia Electric, a 50% interest in a congeneration facility

[1] Rule 52 exempts Alliant's financial transactions from Commission jurisdiction, however, this information is provided for background purposes.

[2] The figure for WPL includes the maximum outstanding borrowing for South Beloit Water, Gas & Electric Company, a wholly owned subsidiary of WPL.

[3] The Nonutility Pool participants are all nonutility subsidiary companies, except Services, included in this Application-Declaration.

[4] Alliant has two unsecured credit facilities totaling $600 million and IEC has a $150 million credit facility. All credit facilities are available for direct borrowing or commercial paper back-up.

(Project Gregory) to be constructed in Gregory, Texas and to issue guarantees in an aggregate amount not to exceed $200 million. Project Gregory is a 550 megawatt electric and steam production facility that, once operational, will be a "qualifying facility" under the Public Utility Regulatory Policies Act of 1978 and rules thereunder.

In June, 1998, Columbia Electric and LG&E Power Inc. ("LG&E") entered into an agreement to participate in the development, construction, start-up, operation, maintenance, financing, and ownership of Project Gregory. The assets of Project Gregory will be held by Gregory Power Partners, L.P., a special purpose limited partnership that will be jointly owned by subsidiaries of Columbia Electric and LG&E. Columbia Electric Gregory General Corporation will hold a 1% interest as a general partner of Gregory Power Partners, L.P. and Columbia Electric Gregory Limited Corporation will hold a 49% interest as a limited partner on behalf of Columbia Electric. LG&E Power Gregory IV, Inc. will hold a 1% interest as a general partner and LG&E Power Gregory I, Inc. will hold a 49% interest as a limited partner on behalf of LG&E.

A second special purpose entity, Gregory Partners, LLC will provide administrative and advisory services to Project Gregory. Columbia Electric Gregory Remmington Corporation will hold a 1% interest as member-manager, and Columbia Electric Gregory Member Corporation will hold a 49% interest as a member of Gregory Partners, LLC on behalf of Columbia Electric. LG&E Power Gregory II, Inc. will hold a 1% interest as a member-manager, and LG&E Power Gregory III, Inc. will hold a 49% interest as a member of Gregory Partners, LLC on behalf of LG&E.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary

[FR Doc. 98–29972 Filed 11–6–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23516; File No. 812–11128]

The Wright Managed Blue Chip Series Trust, et al.; Notice of Application

November 2, 1998.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an order under Section 6(c) of the Investment Company Act of 1940 (the "1940 Act") granting exemptive relief from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder.

Summary of Application: Applicants seek an order to permit shares of The Wright Managed Blue Chip Series Trust and any similar investment companies for which Wright Investors' Service, Inc., or any of its affiliates may in the future serve as investment adviser, administrator, principal underwriter or sponsor to be sold to and held by: (1) Separate accounts funding variable annuity and variable life insurance contracts issued by both affiliated and unaffiliated participating life insurance companies; and (2) qualified pension and retirement plans outside of the separate account context ("Qualified Plans" or "Plans").

Applicants: The Wright Managed Blue Chip Series Trust (the "Trust") and Wright Investors' Service, Inc. ("Wright" or "the Adviser").

Filing Dates: The application was filed on April 27, 1998, and amended on August 6, 1998, and October 9, 1998.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested Persons may request a hearing on this application by writing to the Secretary of the Commission and serving Applicants with a copy of the request, in person or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on November 27, 1998, and must be accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the interest, the reason for the request and this issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549. Applicants, c/o Mr. A. M. Moody III, Wright Investors' Service, Inc., 1000 Lafayette Boulevard, Bridgeport, Connecticut 06604.

FOR FURTHER INFORMATION CONTACT: Keith E. Carpenter, Senior Counsel, or Kevin M. Kirchoff, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: the following is a summary of the application. the complete application is available for a fee from the Public Reference Branch of the SEC, 450 Fifth Street, NW, Washington, DC (tel. (202) 942–8090).

Applicants' Representations

1. the Trust is organized as a Massachusetts business trust and is registered under the 1940 Act as an open-end management investment company. It currently consists of three separate investment portfolios ("Portfolios"), each with its own investment objectives and policies.

2. Wright, a registered investment adviser under the Investment Adviser Act of 1940, is the investment adviser for each Portfolio.

3. the Trust will offer shares of its Portfolios to separate accounts of insurance companies to serve as the investment medium for variable annuity contracts and variable life insurance policies, as well as to qualified pension and retirement accounts and other appropriate investors.

4. The Trust and any other similar investment companies that the Adviser or any of its affiliates may manage or serve as investment adviser, administrator, principal underwriter or sponsor for in the future (the Trust and such similar investment companies are collectively referred to herein as the "Funds") would offer shares to separate accounts that are registered under the 1940 Act as unit investment trusts ("Separate Accounts") and that serve as investment vehicles for variable insurance contracts issued by affiliated and unaffiliated participating life insurance companies. Variable insurance contracts may include variable annuity contracts, variable life insurance contracts and variable group life insurance contracts. Separate accounts to which the shares of the Funds would in the future be offered also include separate accounts that are not registered as investment companies under the 1940 Act pursuant to the exceptions from registration in Sections 3(c)(1) and 3(c)(11) of the 1940 Act. In addition, the Funds may offer shares to separate accounts serving as investment vehicles for other types of insurance products, which may include variable annuity contracts, scheduled premium variable life insurance contracts, single premium variable life insurance contracts, modified single premium variable life insurance contracts, and flexible premium variable life insurance contracts. (All insurance contracts reference in this paragraph are collectively referred to as "Variable Contracts." insurance companies whose separate account or accounts would own share of the Funds are referred to as "participating insurance companies.")

5. The Funds also intend to offer shares directly to Qualified Plans described in Treasury Regulation § 1.817–5(f)(3)(iii).

Applicants' Legal Analysis

1. Applicants request that the Commission issue an order under Section 6(c) of the 1940 Act granting exemptive relief from Sections 9(a), 13(a), 15(a) and 15(b) thereof, and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder, to the extent necessary to: (a) permit "mixed" and "shared" funding as defined below; and (b) allow shares of the Funds to be sold to and held by Qualified Plans.

2. Section 6(c) authorizes the Commission, by order upon application, to conditionally or unconditionally exempt any person, security, or transaction, or class or classes of persons, securities, or transactions, from any provision of the 1940 Act, or the rules or regulations thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

3. In connection with the funding of scheduled premium variable life insurance contracts issued through Separate Accounts, Rule 6e–2(b)(15) under the 1940 Act provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. The exemptions granted by Rule 6e–2(b)(15) are available only where the management investment company underlying the Separate Account ("underlying fund") offers its shares "*exclusively* to variable life insurance separate accounts of the life insurer, or of any affiliated life insurance company" (emphasis supplied). Therefore, the relief granted by Rule 6e–2(b)(15) is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an underlying fund that also offers its shares to a variable annuity or a flexible premium variable life insurance separate account of the same company or of any affiliated life insurance company. The use of a common management investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts of the same life insurance company or of any affiliated life insurance company is referred to as "mixed funding." In addition, the relief granted by Rule 6e–2(b)(15) is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an underlying fund that also offers its shares to separate accounts funding Variable Contracts of one or more unaffiliated life insurance companies. The use of a common management investment company as the underlying investment medium for variable life insurance separate accounts of one insurance company and separate accounts funding Variable Contracts of one or more unaffiliated life insurance companies is referred to as "shared funding."

4. The relief granted by Rule 6e–2(b)(15) is in no way affected by the purchase of shares of the Funds by Qualified Plans. However, because the relief under Rule 6e–2(b)(15) is available only where shares are offered *exclusively* to separate accounts, additional exemptive relief is necessary if the shares of the Funds are also to be sold to Plans.

5. In connection with the funding of flexible premium variable life insurance contracts issued through a Separate Account, Rule 6e–3(T)(b)(15) under the 1940 Act provides partial exemptions from Sections 9(a), 13(a), 15(a), and 15(b) of the 1940 Act. The exemptions granted by Rule 6e–3(T) are available only where the Separate Account's underlying fund offers its shares "*exclusively* to separate accounts of the life insurer, or of any affiliated life insurance company, offering either scheduled [premium variable life insurance] contracts or flexible [premium variable life insurance] contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company" (emphasis supplied). Therefore, Rule 6e–3(T)(b)(15) permits mixed funding but does not permit shared funding.

6. The relief granted by Rule 6e–3(T) also is in no way affected by the purchase of shares of the Funds by Qualified Plans. However, because the relief under Rule 6e–3(T) is available only where shares are offered exclusively to separate accounts, additional exemptive relief is necessary if the shares of the Funds are also to be sold to Plans.

7. Section 9(a) of the 1940 Act provides that it is unlawful for any person to serve as an investment adviser to or principal underwriter for any registered open-end investment company if an affiliated person of that person is subject to a disqualification enumerated in Section 9(a)(1) or (2). Rules 6e–2(b)(15) and 6e–3(T)(b)(15) provides exemptions from Section 9(a) under certain circumstances, subject to the limitations on mixed and shared funding. These exemptions limit the application of the eligibility restrictions to affiliated individuals or companies that directly participate in the management of the underlying fund.

8. Applicants state that the partial relief from Section 9(a) provided by Rules 6e–2(b)(15) and 6e–3(T)(b)(15), in effect, limits the amount of monitoring necessary to ensure compliance with Section 9 to that which is appropriate in light of the policy and purposes of Section 9. Applicants state that those Rules recognize that it is not necessary for the protection of investors or the purposes fairly intended by the policy and provisions of the 1940 Act to apply the provisions of Section 9(a) to the many individuals in an insurance company complex, most of whom typically will have no involvement in matters pertaining to investment companies in that organization. Applicants assert, therefore, that there is no regulatory purpose in extending the monitoring requirements to embrace a full application of the eligibility restrictions of Section 9(a) because of mixed funding or shared funding.

9. Applicants state that the relief requested herein will not be affected by the proposed sale of shares of the Funds to Qualified Plans because the Qualified Plans are not investment companies and will not be deemed to be affiliates by virtue of their shareholdings in the Funds.

10. Sections 13(a), 15(a) and 15(b) of the 1940 Act require "pass-through" voting with respect to management investment company shares held by a separate account. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) provide partial exemptions from the pass-through voting requirement. More specifically, the Rules provide that the insurance company may disregard the voting instructions of its contract owners with respect to the investments of an underlying fund, or any contract between a fund and its investment adviser, when required to do so by an insurance regulatory authority and subject to certain requirements. In addition, Rules 6e–2(b)(15)(iii)(B) and 6e–3(T)(b)(15)(iii)(A)(*2*) provide that the insurance company may disregard contract owners' voting instructions if the contract owners initiate any change in such company's investment policies, principal underwriter, or any investment adviser (provided that disregarding such voting instructions is reasonable and subject to other provisions of Rules 6e–2 and 6e–3(T)).

11. Rules 6e–2 recognizes that a variable life insurance contract has important elements unique to insurance contracts, and is subject to extensive state regulation. In adopting Rule 6e–2(b)(15)(iii), the Commission expressly recognized that state insurance

regulators have authority, pursuant to state insurance laws or regulations, to disapprove or require changes in investment policies, investment advisers, or principal underwriters. The Commission also expressly recognized that state insurance regulators have authority to require an insurer to draw from its general account to cover costs imposed upon the insurer by a change approved by contract owners over the insurer's objection. Applicants assert that the Commission therefore deemed such exemptions necessary to assure the solvency of the life insurer and performance of its contractual obligations by enabling an insurance regulatory authority or the life insurer to act when certain proposals reasonably could be expected to increase the risks undertaken by the life insurer. In this respect, flexible premium variable life insurance contracts are identical to scheduled premium variable life insurance contracts; therefore, corresponding provisions of Rule 6e–3(T) were adopted in recognition of the same factors.

12. Applicants further represent that the Funds' sale of shares to Qualified Plans will not have any impact on the relief requested in this regard. Shares of the Funds sold to such Plans would be held by the trustees of such Plans as mandated by Section 403(a) of the Employee Retirement Income Security Act ("ERISA"). Section 403(a) also provides that the trustee(s) must have exclusive authority and discretion to manage and control the assets of the plan, with two exceptions: (a) when the plan expressly provides that the trustee(s) is subject to the direction of a named fiduciary who is not a trustee, in which case the trustee(s) is subject to proper directions made in accordance with the terms of the plan and not contrary to ERISA; and (b) when the authority to manage, acquire or dispose of assets of the plan is delegated to one or more investment managers pursuant to Section 402(c)(3) of ERISA. Unless one of the two exceptions stated in Section 403(a) applies, Plan trustees have the exclusive authority and responsibility for voting proxies. Where a named fiduciary appoints an investment manager, the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or the named fiduciary. In any event, there is no pass-through voting to the participants in such plans. Accordingly, unlike the case with insurance company separate accounts, the issue of the resolution of material irreconcilable conflicts with respect to voting is not present with Qualified Plans.

13. Applicants submit that shared funding does not present any issues that do not already exist where a single insurance company is licensed to do business in several or all states. In this regard, Applicants state that a particular state insurance regulatory body could require action that is inconsistent with the requirements of other states in which the insurance company offers its policies. Accordingly, Applicants submit that the fact that different insurers may be domiciled in different states does not create a significantly different or enlarged problem.

14. Applicants submit that the conditions discussed below are designed to safeguard against and provide procedures for resolving any adverse effects that differences among state regulatory requirements may produce. If a particular state insurance regulator's decision conflicts with the majority of other state regulators, then the affected insurer will be required to withdraw its separate account's investment in the affected Fund. This requirement will be provided for in agreements that will be entered into by participating insurance companies with respect to their participation in the Funds.

15. Rules 6e–2(b)(15) and 6e[3(T)(b)(15) permit an insurance company to disregard contract owners' voting instructions. Applicants submit that this does not raise any issues different from those raised by the authority of state insurance administrators over separate accounts. Applicants note that Rules 6e–2 and 6e–3(T) both require that disregard of voting instructions by an insurance company be reasonable and based on specific good faith determinations. If the insurer's judgment represents a minority position or would preclude a majority vote, the insurer may be required, at a Fund's election, to withdraw its separate account's investment in such Fund. No charge or penalty would be imposed as a result of such withdrawal.

16. Applicants submit that there is no reason why the investment policies of the Funds providing mixed funding would or should be materially different from what those policies would or should be if the Funds funded only variable annuity contracts or variable life insurance policies, whether flexible premium or scheduled premium policies. In this regard, Applicants note that each type of variable insurance product is designed as a long-term investment program. In addition, each Fund will be managed to attempt to achieve the Fund's investment objective or objectives, and not to favor or disfavor any particular participating insurer or type of variable insurance product.

17. Furthermore, Applicants submit that no one investment strategy can be identified as appropriate to a particular insurance product. Each pool of variable annuity and variable life insurance contract owners is composed of individuals of diverse financial status, age, insurance and investment goals. An underlying fund supporting even one type of insurance produce must accommodate these diverse factors in order to attract and retain purchasers.

18. Applicants note that Section 817(h) of the Internal Revenue Code of 1986, as amended (the "Code"), imposes certain diversification standards on the underlying assets of variable annuity contracts and variable life contracts held in the portfolios of management investment companies. Treasury Regulation 1.817–5(f)(3)(iii), which established diversification requirements for such portfolios, specifically permits "qualified pension or retirement plans" and separate accounts to share the same underlying management investment company. Therefore, Applicants have concluded that neither the Code, the Treasury Regulations, nor Revenue Rulings thereunder present any inherent conflicts of interest if Qualified Plans, variable annuity separate accounts and variable life separate accounts all invest in the same management investment company.

19. Applicants note that while there are differences in the manner in which distributions are taxed for variable annuity contracts, variable life insurance contracts and Qualified Plans, the tax consequences do not raise any conflicts of interest. When distributions are to be made, and the Separate Account or the Qualified Plan is unable to net purchase payments to make the distributions, the Separate Account or the Plan will redeem shares of the Funds at their respective net asset value. The Qualified Plan will then make distributions in accordance with the terms of the Plan, and the life insurance company will make distributions in accordance with the terms of the Variable Contract.

20. With respect to voting rights, Applicants submit that it is possible to provide an equitable means of giving such voting rights to Separate Account contract owners and to the trustees of Qualified Plans. Applicants represent that the transfer agent for the Funds will inform each participating insurance company of its share ownership in each Separate Account, as well as inform the trustees of Qualified Plans of their holdings. Each participating insurance company will then solicit voting instructions in accordance with the "pass-through" voting requirements of Rules 6e–2 and 6e–3(T).

21. Applicants argue that the ability of the Funds to sell their respective shares directly to Qualified Plans does not create a "senior security," as such term if defined under Section 18(g) of the 1940 Act, with respect to any contract owner as opposed to a participant under a Qualified Plan. Regardless of the rights and benefits of participants under the Qualified Plans, or contract owners under Variable Contracts, the Qualified Plans and the Separate Accounts have rights only with respect to their respective sharesof the Funds. Such shares may be redeemed only at their net asset value. No shareholder of any of the Funds will have any preference over any other shareholder with respect to distribution of assets or payment of dividends.

22. Applicants submit that there are no conflicts between the contract owners of the Separate Accounts and the participants under the Qualified Plans with respect to the state insurance commissioners' veto powers over investment objectives. The state insurance commissioners have been given the veto power in recognition of the fact that insurance companies cannot simply redeem shares of one underlying fund held by their separate accounts and invest in another underlying fund. Complex and time-consuming transactions must be undertaken to accomplish such redemptions and transfers. On the other hand, trustees of qualified Plans can make the decision quickly and implement the redemption of their shares from the Funds and reinvest in another funding vehicle without the same regulatory impediments or, as is the case with most Plans, even hold cash pending a suitable investment. Based on the foregoing, Applicants represent that even if there should arise issues where the interests of contract owners and the interests of Qualified Plans are in conflict, the issues can be resolved almost immediately because the trustees of the Qualified Plans can, on their own, redeem the shares out of the Funds.

23. Applicants submit that various factors have limited the number of insurance companies that offer variable annuities and variable life insurance policies. These factors include the costs of organizing and operating a funding medium, the lack of expertise with respect to investment management (principally with respect to stock and money market investments) and the lack of name recognition by the public of certain insurers as investment experts. Applicants submit that use of the Funds as a common investment medium for Variable Contracts would help alleviate these concerns. Applicants submit that mixed and shared funding also should benefit variable contract owners by: eliminating a significant portion of the costs of establishing and administering separate funds; creating a greater amount of assets available for investment by the Funds, thereby promoting economies of scale which permit increased safety of investments through greater diversification and make the addition of new portfolios more feasible; and encouraging more insurance companies to offer Variable Contracts, which should result in increased competition with respect to both the design and pricing of Variable Contracts, which, in turn, can be expected to result in more product variation and lower charges.

Applicants' Conditions

Applicants have consented to the following conditions:

1. A majority of the board of trustees ("Board") of each of the Funds will consist of persons who are not "interested persons" of the Funds, as defined by Section 2(a)(19) of the 1940 Act and the rules thereunder and as modified by any applicable orders of the Commission. However, if this condition is not met by reason of the death, disqualification, or bona fide resignation of any trustee(s), then the operation of this condition will be suspended: (a) for a period of 45 days if the vacancy or vacancies may be filled by the Board; (b) for a period of 60 days if a note of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

2. The Boards will monitor their respective Funds for the existence of any material irreconcilable conflict among the interests of the contract owners of all Separate Accounts investing in the Funds and all other persons investing in the Funds, including Qualified Plans. A material irreconcilable conflict may arise for a variety of reasons, including: (a) an action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax or securities laws or regulations, or a public ruling, private letter ruling, no action or interpretative letter, or any similar action by insurance, tax or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of any series of the Funds are being managed; (e) a difference in voting instructions given by variable annuity contract owners and variable life insurance contract owners; or (f) a decision by an insurer to disregard the voting instructions of contract owners.

3. Participating insurance companies and any Qualified Plan that executes a participation agreement with a Fund (collectively, "Participating Parties") and the Adviser will report any potential or existing conflicts of which it becomes aware to the Board of the relevant Fund. Participating Parties and the Adviser will be responsible for assisting the Board in carrying out its responsibilities under these conditions, by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This includes, but is not limited to, an obligation by each participating insurance company to inform the Board whenever contract owner voting instructions are disregarded. The responsibility to report such information and conflicts and to assist the Board will be a contractual obligation of all Participating Parties under their participation agreements and these agreements will provide that these responsibilities will be carried out with a view only to the interests of the contract owners and Qualified Plan participants.

4. If it is determined by a majority of the Board of a Fund, or a majority of its disinterested trustees, that a material irreconcilable conflict exists, the relevant Participating Parties will, at their expense and to the extent reasonably practicable (as determined by a majority of the disinterested trustees), take whatever steps are necessary to remedy or eliminate the material irreconcilable conflict. These steps may include: (a) withdrawing the assets allocable to some or all of the Separate Accounts of the participating insurance companies from the affected Fund or any series thereof and reinvesting these assets in a different investment medium (including another series, if any, of such Fund) or submitting the question of whether such segregation should be implemented to a vote of all affected contract owners and, as appropriate, segregating the assets of any appropriate group (*i.e.*, annuity contract owners, life insurance contract owners, or variable contract owners of one or more participating insurance companies) that votes in favor of such segregation, or offering to the affected contract owners the option of making such a change; (b) withdrawing the assets allocable to some or all of the participating Qualified Plans from the

relevant Fund and reinvesting those assets in a different investment medium; and (c) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of an insurer's decision to disregard contract owner voting instructions and that decision represents a minority position or would preclude a majority vote, the insurer may be required, at the Fund's election, to withdraw its Separate Account's investment in the Fund, and no change or penalty will be imposed as a result of the withdrawal. The responsibility to take remedial action in the event of a Board determination of a material irreconcilable conflict and to bear the cost of such remedial action will be a contractual obligation of all Participating Parties under their participation agreements and these responsibilities will be carried out with a view only to the interests of the contract owners and participating in Qualified Plans, as applicable.

5. For the purposes of condition (4), a majority of the disinterested members of the Board of the affected Fund will determine whether or not any proposed action adequately remedies any material irreconcilable conflict, but in no event will the Fund or the Adviser be required to establish a new funding medium for any Variable Contract or Qualified Plan. No participating insurance company will be required by condition (4) to establish a new funding medium for any Variable Contract if an offer to do so has been declined by vote of a majority of contract owners materially and adversely affected by the material irreconcilable conflict.

6. A Board's determination of the existence of a material irreconcilable conflict and its implications will be make known promptly in writing to the Adviser and all Participating Parties.

7. As to Variable Contracts issued by Separate Accounts, participating insurance companies will provide pass-through voting privileges to all participants so long as and to the extent that the Commission continues to interpret the 1940 Act to require pass-through voting privileges for Variable Contract owners. As to Variable Contracts issued by unregistered separate accounts, pass-through voting privileges will be extended to participants to the extent granted by the issuing insurance company. Participating insurance companies will be responsible for assuring that each of their registered Separate Accounts participating in a Fund calculate voting privileges as instructed by a Fund with the objective that each such participating insurance company calculate voting privileges in a manner consistent with other participating insurance companies. The obligation to calculate voting privileges in a manner consistent with all other Separate Accounts investing in a Fund will be a contractual obligation of all participating insurance companies under their participation agreements. Each participating insurance company will vote Fund shares held by Separate Accounts for which it has not received voting instructions, as well as shares attributable to it, in the same proportion as it votes shares for which it has received voting instructions.

8. Each Fund will comply with all provisions of the 1940 Act requiring voting by shareholders (which, for these purposes, will be the persons having a voting interest in the Fund's shares). In particular the Funds will either provide for annual meetings (except insofar as the Commission may interpret Section 16 not to require such meetings) or, if annual meetings are not held, comply with Section 16(c) of the 1940 Act (although the Trust is not, and the Funds may not be, one of the trusts described in Section 16(c) of the 1940 Act) as well as with Sections 16(a) and, if and when applicable, 16(b). Further, the Funds will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic election of Trustees and with whatever rules the Commission may promulgate with respect thereto.

9. The Funds will notify all participating insurance companies that prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. Each Fund will disclose in its registration statement that: (a) shares of the Fund are offered to insurance company separate accounts offered by various participating insurance companies which fund both variable annuity and variable life insurance contracts, and to Qualified Plans; (b) due to differences in tax treatment or other considerations, the interests of various contract owners participating in the Fund and the interests of Qualified Plans investing in the Fund might at some time conflict; and (c) the Board will monitor for any material conflicts and determine what action, if any, should be taken in response to a conflict.

10. No less often than annually, the Participating Parties and/or the Adviser will submit to the Boards such reports, materials or data as each Board may reasonably request so that the Boards may carry out fully the obligations imposed upon them by the conditions contained in the application. These reports, materials, and data will be submitted more frequently if deemed appropriate by the relevant Board. The obligations of the Participating Parties to provide these reports, materials and data to the Boards will be contractual obligations of all Participating Parties under the participation agreements.

11. All reports received by a Board of potential or existing conflicts, and all Board action with regard to determining the existence of a conflict, notifying the Adviser or Participating Parties of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the Board or other appropriate records, and these minutes or other records will be made available to the Commission upon request.

12. If and to the extent Rule 6e–2 and Rule 6e–3(T) are amended, or Rule 6e–3 is adopted, to provide exemptive relief from any provision of the 1940 Act or the rules thereunder with respect to mixed or shared funding on terms and conditions materially different from those of any exemptions granted in the order requested in this application, then the Funds and/or the Participating Parties, as appropriate, will take such steps as may be necessary to comply with Rule 6e–2 and Rule 6e–3(T), as amended, and Rule 6e–3, as adopted, to the extent these rules are applicable.

13. In the event that a Qualified Plan should ever become an owner of 10% or more of the assets of a Fund, such Qualified Plan will execute a participation agreement with the Fund. A Qualified Plan will execute an application containing an acknowledgement of this condition at the time of its initial purchase of shares of each Fund.

Conclusion

For the reasons summarized above, Applicants represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–29862 Filed 11–6–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40626; File No. SR–Amex–98–37]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc., Relating to the Listing and Trading of Index-Linked Term Notes

November 2, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 under the Act,[2] notice is hereby given that on October 13, 1998, the American Stock Exchange, Inc. ("Exchange" or "Amex") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks to list and trade separate Index-linked Term Notes ("Notes"). The value of each Note will be linked to an index comprised of a single specified domestic mutual fund portfolio ("Index" or collectively "Indexes").

The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under Section 107A of the Exchange's *Company Guide*, the Exchange may approve for listing and trading securities that cannot be readily categorized under the Exchange's listing criteria for common and preferred stock, bonds, debentures, or warrants.[3] The Exchange seeks to list Index-linked Term Notes, each of which shall be separately linked to a specified domestic mutual fund portfolio Index.[4] The mutual fund portfolios underlying the Indexes will be registered under the Investment Company Act of 1940.

The Index-linked Term Notes will be senior, unsecured debt securities that will conform to the listing guidelines under Section 107A of the *Company Guide*.[5] Although a specific maturity date will not be established until the time of the offering, the Notes will provide for a maturity of between two and seven years from the date of issuance. Each note may provide for payments at maturity based in whole or in part on changes in the value of the corresponding Index. Each Index will measure the total return of the corresponding mutual fund portfolio. The total return value shall reflect the changes in the Net Asset Value ("NAV") of the corresponding mutual fund portfolio, plus any cash dividends and/or distributions paid on those shares.[6]

The Exchange will calculate the value of each Index once each business day. Holders of the Notes will not receive any interest payments. However, holders of the Notes will receive at maturity the full principal amount of their Notes, plus a "Supplemental Redemption Amount," if any, based on a formula to be set forth in the prospectus. The Exchange notes that the formula may produce a total return at maturity that is lower than what a holder of the corresponding mutual fund portfolio might receive during the same period. At maturity, holders of the Notes will not receive less than 100% of the initial issue price.

a. *Description of the Index-linked Term Notes and the Underlying Mutual Fund Portfolios.* Similar to other notes linked to an index that trade on the Exchange, both the issue (Index-linked Term Notes) and the issuer will meet the general criteria set forth in Section 107A of the Exchange's *Company Guide*. Furthermore, the Exchange has represented that the issuer will have a minimum tangible net worth in excess of $100,000,000 and otherwise substantially exceeds the earnings requirements set forth in Section 101 of the Exchange's *Company Guide*.[7] Each mutual fund portfolio underlying an Index will include hundreds of stocks from among a wide variety of industry groups. The underlying mutual fund portfolios will range in value from $900 million to over $2 billion in total net assets. The NAV of each mutual fund portfolio will be reported each business day through the facilities of the National Association of Securities Dealers Automated Quotation System ("Nasdaq") and also will be reported in the Mutual Fund Tables of the Wall Street Journal and other newspapers. The Notes will be subject to the suspension and delisting policies of the Exchange set forth in Part 10 (Sections 1001–1011) of the Exchange's *Company Guide*.[8]

b. *Calculation and Dissemination of Net Asset Values and Index Values.* Each Index will measure the total return of its underlying mutual fund portfolio. Such amount shall be equal to the change in the mutual fund's NAV, plus

[3] *See* Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8626 (March 8, 1990).

[4] The Exchange notes that the Commission recently approved a similarly structured product for listing and trading on the Exchange—Market Index Target Term Securities linked to the Merrill Lynch EuroFund Index. *See* Exchange Act Release No. 40367 (Aug. 26, 1998), 63 FR 47052 (Sept. 3, 1998).

[5] Section 107A of the Exchange's *Company Guide* states that the Exchange will consider listing any security not otherwise covered by the Exchange's listing requirements, provided the security is suited for auction market trading and satisfies the following criteria:

(a) Assets/Equity: The issuer shall have assets in excess of $100 million and stockholders' equity of at least $10 million. In the case of an issuer which is unable to satisfy the earnings criteria set forth in Section 101 (*i.e.*, pre-tax income of at least $750,000 in its last fiscal year, or in two of its last three fiscal years), the Exchange generally will require the issuer to have the following: (i) assets in excess of $200 million and stockholders' equity of at least $10 million; or (ii) assets in excess of $100 million and stockholders' equity of at least $20 million.

(b) Distribution: Minimum public distribution of 1,000,000 trading units with a minimum of 400 public shareholders, except, if traded in thousand dollar denominations, then no minimum number of holders.

(c) Principal Amount/Aggregate Market Value: Not less than $4 million.

[6] As discussed *infra* in Section II(A)(1)(c), "Settlement of Index-linked Term Notes," the total return value may be reduced by an adjustment factor.

[7] Section 101 of the Exchange's *Company Guide* requires that an issuer have pre-tax income of at least $750,000 in its last fiscal year, or in two of its last three fiscal years.

[8] Under Section 1003(b)(iii) of the Exchange's *Company Guide*, the Exchange may consider delisting debt securities if the aggregate market value or the principal amount of debt securities publicly held is less than $400,000 or, the issuer is not able to meet its obligations on the listed debt securities.

any cash dividends and/or distributions paid on the mutual fund portfolio shares. The value for each Index will be disseminated once a day over the Consolidated Tape Association's Network B. If any mutual fund portfolio does not comply with Rule 22c–1 of the Investment Company Act of 1940,[9] which requires daily computation of a fund's current NAV, the Exchange will use the last available NAV in its calculation of the Index.

c. *Settlement of Index-linked Term Notes.* The Notes will be settled at maturity by either a cash payment or by delivering shares in the corresponding mutual fund portfolio, at the determination of the issuer. The value of the Notes at maturity will be equal to the principal amount of such Notes plus a Supplemental Redemption Amount. The Supplemental Redemption Amount, which may not be less than zero, will equal the principal amount of such Note multiplied by the percentage difference between the Adjusted Ending Index Value and the Starting Index Value. The Adjusted Ending Index Value means the ending value of the Index[10] reduced by an adjustment factor, if any, to be set forth in the prospectus.

d. *Other Exchange Rules Applicable to Index-linked Term Notes.* Because the Notes are linked to a portfolio of equity securities, the Exchange's existing equity floor trading rules and standard equity trading hours (9:30 A.M. to 4:00 P.M., Eastern Standard Time) will apply to the trading of the Notes. Further, the Notes will be subject to the equity margin rules of the Exchange.[11]

Pursuant to Exchange Rule 411, "Duty to Know and Approve Customers," the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading the Notes. In addition, consistent with Exchange practices regarding other structured products, the Exchange will distribute an informational circular to its membership prior to the commencement of trading in the Notes to provide guidance regarding member firm compliance responsibilities, including appropriate suitability criteria and/or guidelines. The circular will state that before a member, member organization, or employee of such member organization undertakes to recommend a transaction in a Note, such member or member organization should make a determination that the Note is suitable for such customer. As part of that determination, the person making the recommendation should have a reasonable basis for believing at the time of making the recommendation, that the customer has such knowledge and experience in financial matters that they may be capable of evaluating the risks and the special characteristics of the recommended transaction, including those highlighted, and that the customer is financially able to bear the risk of the recommended transaction. Lastly, as with other structured products, the Exchange will closely monitor trading activity in the Notes to identify and deter any potential improper trading activity in the Notes.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6 of the Act,[12] in general, and furthers the objectives of Section 6(b)(5),[13] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in facilitating transactions in securities, and remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will not impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange did not solicit or receive written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–98–37 and should be submitted by November 30, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–29973 Filed 11–6–98; 8:45 am]

BILLING CODE 8010–01–M

[9] 17 CFR 270.22c–1.

[10] The ending value of the Index shall represent the average of the values of the Index during a period prior to the stated maturity as specified in the prospectus.

[11] *See* Exchange Rule 462, "Minimum Margins."

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(5).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40628; File No. SR–BSE–98–8]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Boston Stock Exchange Relating to its Fee Schedule

November 2, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 29, 1998,[3] the Boston Stock Exchange ("Exchange" or "BSE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to waive Specialist Transaction fees for all BSE executed, automated order flow for the month of September, 1998.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to waive Specialist Transaction fees for the month of September 1998 to provide the Exchange's specialist community, which has borne additional costs associated with attracting order flow to the Exchange, with a reduction in transaction fees as a result of the Exchange's increased revenue stream for the fiscal year.

2. Basis

The basis for the proposed rule change is Section 6(b)(5) of the Act,[4] in that the proposed rule change is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charges imposed by the Exchange and, therefore, has become effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act[5] and Rule 19b–4(e)(2)[6] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.[7] Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–BSE–98–8 and should be submitted by November 30, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–29969 Filed 11–6–98; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The BSE initially submitted this filing on October 1, 1998; however, it did not comport with the requirements of Rule 19b–4 under the Act, and, therefore, the BSE resubmitted the filing.

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78s(b)(3)(A)(ii).

[6] 17 CFR 240.19b–4(e)(2).

[7] In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40627; File No. SR–NASD–97–89, Amendment No. 1]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Bond Mutual Fund Volatility Ratings

November 2, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 12, 1997, the National Association of Securities Dealers, Inc. ("NASD" or "Association") through its wholly-owned subsidiary, the NASD Regulation, Inc. ("NASD Regulation" or "NASDR") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. On October 5, 1998, NASDR filed Amendment No. 1 which replaces and supersedes the initial proposal.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as contained in Amendment No. 1, from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On December 12, 1997, the NASDR submitted its initial proposal which could have limited the effectiveness of the disclosure statement and prevented sales literature from containing relevant explanatory information concerning bond mutual fund volatility ratings. After discussions between NASDR and the Commission, the NASDR filed Amendment No. 1 on October 5, 1998. The revised proposal will: (1) permit ratings to be provided by non-NRSROs; (2) permit funds to provide additional information in the disclosure statement if the information would help investors understand the rating; (3) permit funds to combine information about different ratings when the information is the same for each rating; (4) clarify the prohibition against using ratings that are based on subjective factors; and (5) require the use of the most recently issued rating.

I. Self-Regulatory Organizations Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation is proposing rules that add a new interpretation to Rule 2210 of the Conduct Rules of the NASD to permit the use by members and associated persons of bond mutual fund volatility ratings in supplemental sales literature on an interim 18 month pilot basis. Proposed new language is in italics.

IM– . Requirements for the Use of Bond Mutual Fund Volatility Ratings

(This rule will expire on [18 months from approval], unless extended or permanently approved by the Association at or before such date)

(a) Definition of Bond Mutual Fund Volatility Ratings

For purposes of this Rule and any interpretation thereof, the term "bond mutual fund volatility rating" is a description issued by an independent third party relating to the sensitivity of the net asset value of a bond mutual fund portfolio to changes in market conditions and the general economy, and is based on an evaluation of objective factors, including the credit quality of the fund's individual portfolio holdings, the market price volatility of the portfolio, the fund's performance, and specific risks, such as interest rate risk, prepayment risk, and currency risk.

(b) Prohibitions on Use

Members and persons associated with a member may use a bond mutual fund volatility rating only in supplemental sales literature and only when the following requirements are satisfied:

(1) The rating does not identify or describe volatility by use of a single symbol, number or letter, and the rating is not described as a "risk" rating.

(2) The supplemental sales literature incorporates the most recently available rating and reflects information that, at a minimum, is current to the most recently completed calendar quarter ended prior to use.

(3) The criteria and methodology used to determine the rating must be based exclusively on objective, quantifiable factors. Any other factors, such as an analysis of investment philosophy or quality of the fund's management, may be considered solely for purposes of determining whether to issue the rating. The rating and the Disclosure Statement that accompanies the rating must be clear, concise, and understandable.

(4) The supplemental sales literature conforms to the disclosure requirements described in paragraph (c).

(5) The entity that issued the rating provides detailed disclosure on its rating methodology to investors through a toll-free telephone number, a web site, or both.

(c) Disclosure Requirements

(1) Supplemental sales literature containing a bond mutual fund volatility rating shall include a Disclosure Statement containing all the information required by this Rule. The Disclosure Statement may also contain any additional information that is relevant to an investor's understanding of the rating.

(2) Supplemental sales literature containing a bond mutual fund volatility rating shall contain all current bond mutual fund volatility ratings that have been issued with respect to the fund. Information concerning multiple ratings may be combined in the Disclosure Statement, provided that the applicability of the information to each rating is clear.

(3) All bond mutual fund volatility ratings shall be contained within the text of the Disclosure Statement. The following disclosures shall be provided with respect to each such rating:

(A) the name of the entity that issued the rating;

(B) the most current rating and date of the current rating, with an explanation of the reason for any change in the current rating from the most recent prior rating;

(C) a description of the rating in narrative form, containing the following disclosures:

(i) a statement that there is no standard method for assigning ratings;

(ii) a description of the criteria and methodologies used to determine the rating;

(iii) a statement that not all bond funds have volatility ratings;

(iv) whether consideration was paid in connection with obtaining the issuance of the rating;

(v) a description of the types of risks the rating measures (e.g., short-term volatility);

(vi) a statement that the portfolio may have changed since the date of the rating; and

(vii) a statement that there is no guarantee that the fund will continue to have the same rating or perform in the future as rated.

* * * * *

2200. Communications With Customers and the Public

2210. Communications With the Public

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(c) Filing Requirements and Review Procedures

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(3) Sales literature concerning bond mutual funds that include or incorporate bond mutual fund volatility ratings, as defined in Rule IM–__, shall be filed with the Department for review at least 10 days prior to use (or such shorter period as the Department may allow in particular circumstances) for approval and, if changed by the Association, shall be withheld from publication or circulation until any changes specified by the Association have been made or, if expressly disapproved, until the sales literature has been refiled for, and has received, Association approval. Members are not required to file advertising and sales literature which have previously been filed and which are used without change. The member must provide with each filing the actual or anticipated date of first use. Any member filing sales literature pursuant to this paragraph shall provide any supplemental information requested by the Department pertaining to the rating that is possessed by the member.[4]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDR included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASDR has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Background

Bond mutual fund volatility ratings are descriptions of the sensitivity of bond mutual fund portfolios to changing market conditions. The rating agencies and information vendors that issue such ratings are not NASD member firms, and mutual fund groups that purchase the ratings use them for promotional and marketing purposes. NASD rules do not apply to the use and dissemination of bond mutual fund volatility ratings by non-members.

Currently, NASD Regulation interprets its rules to prohibit the use by members and associated persons of bond mutual volatility ratings in supplemental sales literature. The prohibition is based on the analysis that judgments of how a bond mutual fund may react to changes in various market conditions may be predictive of fund performance or misleading and, therefore, prohibited for use by members and associated persons in sales literature.[5]

In Notice to Members 96–84 (December 1996) ("NTM 96–84"), NASD Regulation requested comment on the appropriations of its current prohibition. A majority of the commenters supported making the ratings available, and all of the commenters representing investor groups supported the goal of making accurate information regarding risk and volatility characteristics of bond funds available to investors.

On April 30, 1997, the Legal Advisory Board of the NASD ("LAB") reviewed and discussed bond fund volatility ratings. NASD Regulation staff proposed to the LAB that an alternative to the current prohibition would be permitting the use of bond fund volatility ratings subject to appropriate guidelines. After extended discussion, the LAB favored allowing volatility ratings to be used subject to guidelines containing sufficient prohibitions and disclosure requirements.

At its September 1997 Board meeting, NASD Regulation considered issues regarding bond mutual fund volatility ratings and adopted resolutions: (i) Affirming that investors can benefit from the availability of such information, (ii) directing the staff to draft bond fund volatility rating regulatory proposals to best serve the public interest and address the differences among interested parties, for presentation at the November Board meeting, and (iii) appointing Directors Theodore A. Levine and A.A. Sommer, Jr. ("Subcommittee") to assist the staff in this effort. After the September Board meeting, NASD Regulation staff and the Subcommittee met and worked to reach a solution that was sensitive to and reflective of the concerns and differences of all interested parties.

At its November 1997 Board meeting, NASD Regulation approved: (i) A modification to NASD Regulation's current prohibition on the use of bond mutual fund volatility ratings in supplemental sales literature to permit such use by members and associated persons according to proposed rules designed to prevent such ratings from being misleading, predictive, or otherwise inappropriate, and (ii) the submission of the proposed rules to the SEC for approval.

At its December 1997 Board meeting, the NASD ratified the NASD Regulation Board's approval of the proposed rules, without change, and their submission to the SEC for approval.

At its August 1998 Board Meeting, NASD Regulation approved amendments to the proposed rule change as originally filed with the SEC, and the submission of the amendments to the SEC for approval. The amendments, incorporated in this submission: (i) Delete the requirement that ratings be issued exclusively by nationally recognized statistical rating organizations; (ii) add the requirement that the rating and the Disclosure Statement be clear, concise, and understandable; (iii) permit the Disclosure Statement to contain any additional information that is relevant to an investor's understanding of the rating; (iv) permit repetitive information in multiple ratings for the same fund to be combined in the Disclosure Statement, provided the applicability of the information to each rating is clear; and (v) delete the requirement to use a "Required Disclosure Statement."

Description

Trial Period. The proposed rule change would permit, on an 18-month pilot basis, the use of the ratings in conformance to rules that prohibit the use of ratings unless certain requirements and disclosures are met. After the 18-month trial term, the rules would be evaluated to determine their efficacy in ensuring that comprehensible and useful information is provided to investors, and in preventing the dissemination of inappropriate or misleading information by members and associated persons. After the evaluation, the staff will consider all options, including prohibiting the use of ratings, permitting their use or permitting their use with modifications to the rule.

Definition of Bond Mutual Fund Volatility Rating. Paragraph (a) of the proposed rule change defines the term "bond mutual fund volatility rating" to mean, in part, a description issued by an independent third party relating to the sensitivity of a bond mutual fund's net asset value to changes in market conditions and the general economy, based on an evaluation of objective factors regarding the fund's current characteristics and its past performance. The definition recognizes that the rating is an opinion of a fund's potential share price movement in response to various economic conditions or market situations, and not a prediction of the actual movement of a fund's share price. The definition applies only to bond mutual fund volatility ratings provided by an independent third party. However, NASD Regulation understands that many mutual fund complexes currently provide various descriptions of risk and volatility for their own funds. These descriptions may involve some of the same processes and considerations that are used by independent rating agencies. NASD Regulation specifically solicits comment on whether such descriptions are similar in derivation and purpose to ratings that are issued by independent agencies, and whether their use in supplemental sales literature by members and their associated persons should also be subject to the provisions of the proposed rule change.

Prohibitions. Subparagraph (b) of the proposed rule change permits members and associated persons to use a bond mutual fund volatility rating only in supplemental sale literature and only when certain requirements are satisfied.

Subparagraph (b)(1) of the proposed rule change prohibits the use of a bond mutual fund volatility rating that identifies or describes volatility by use of a single symbol, number or letter. At the same time, the proposed rules refrain from imposing a specific standard on descriptions or calculations in recognition of the fact that there is no specified or uniform range of information used by all rating entities, and that rating entities should be free to develop completing methods and models of assessing volatility. Subparagraph (b)(1) also prohibits the use of a bond mutual fund volatility rating that uses the word "risk" to describe the rating. Because the word "risk" is capable of multiple meanings and interpretations, NASD Regulation believes that it is more accurate to refer to such ratings as "volatility" rather than "risk" ratings.

Subparagraph (b)(2) of the proposed rule change prohibits the use of a bond mutual fund volatility rating that does not incorporate the most recently available rating and is not current to the most recent calendar quarter ended prior to use. This prohibition is intended to ensure that stale or dated

[4] NASDR proposes to add this language to the existing text of Rule 2210(c). The existing sections of this rule will remain unchanged and will be renumbered, beginning with Rule 2210(c)(3)(A). Telephone conversation between Robert J. Smith, Office of General Counsel, NASD Regulation, Inc., and Mignon McLemore, Division of Market Regulation, Commission, on October 30, 1998.

[5] NASD Conduct Rule 2210 prohibits the use by members and associated persons of information that is misleading, that contains exaggerated, unwarranted or misleading statements or claims, or that predicts or projects investment results.

ratings are not provided to investors and reflects a common denominator time frame that can be used by rating entities currently to update their ratings.

Subparagraph (b)(3) of the proposed rule change prohibits the use of a bond mutual fund volatility rating that is not based exclusively on objective, quantifiable factors. Non-quantifiable, subjective factors, such as an analysis of investment philosophy and quality of the fund's management[6] could be considered solely for purposes of determining whether to issue the rating. Eliminating subjectivity from the volatility calculation reduces the potential variability of ratings, and thus helps eliminate the ability of funds to "shop around" for the most favorable rating.

Subparagraph (b)(3) of the proposed rule change also requires that the rating and the Disclosure Statement that accompanies it be clear, concise, and understandable. This addresses the need to deliver the rating information in a way that is accessible and informative.

Subparagraph (b)(4) of the proposed rule change prohibits the use of bond mutual fund volatility rating unless the supplemental sales literature containing the rating conforms to the disclosure requirements.

Subparagraph (b)(5) of the proposed rule change prohibits the use of a bond mutual fund volatility rating unless the entity that issued the ratings provides detailed disclosure on its rating methodology to investors through a toll-free telephone number, a web site, or both. NASD Regulation believes that access to such supplemental information will enable investors to obtain answers to question regarding the meaning of the rating or how it is calculated or derived.

Disclosure Requirements. Paragraph (c) of the proposed rule change requires that certain disclosures accompany any bond mutual fund volatility rating used in supplemental sales literature by members or associated persons of members.

Subparagraph (c)(1) requires that supplemental sales literature containing a bond mutual fund volatility rating include a Disclosure Statement containing all the information required by the rule, but also permits the Disclosure Statement to contain any additional information that is relevant to an investor's understanding of the rating. Permitting the Disclosure Statement to contain additional relevant information could help explain the meaning of the rating. In particular, supplemental sales literature that contains multiple ratings could benefit from additional information that could distinguish and clarify different methodologies and measurements of volatility.

Subparagraph (c)(2) requires that supplemental sales literature containing a bond fund volatility rating contain all other current volatility ratings that have been issued with respect to the same fund. Subparagraph (c)(2), however, permits information concerning multiple ratings to be combined in the Disclosure Statement, provided that the applicability of the information to each rating is clear. This serves the purpose of avoiding redundant and potentially confusing information, and reduces the possibility that the rating could be buried or hidden in excess information.

Subparagraph (c)(3) requires that all bond mutual fund volatility ratings be contained within the text of the Disclosure Statement. NASD Regulation believes it is important that the rating not be located separately from the Disclosure Statement to avoid the danger that either could be read separately, or not at all, which would increase the possibility that the rating would not be understood in the context of the required disclosures.

Subparagraphs (c)(3)(A)–(B) of the proposed rule change require that supplemental sales literature containing a bond mutual fund volatility rating disclose the name of the rating entity, the most current rating accompanied by the date of the rating and, if there is any change in the current rating from the most recent prior rating, an explanation of the change. NASD Regulation believes it is important for investors to see how a fund's rating may have changed and understand the reasons for the change.

Subparagraph (c)(3)(C) of the proposed rule change requires that supplemental sales literature containing a bond mutual fund volatility rating describe the rating in narrative form. Under subparagraphs (c)(3)(C)(i)–(vii), the narrative description must also include: (i) a statement that there is no standard method for assigning ratings; (ii) a description of the criteria and methodologies used to determine the rating; (iii) a statement that not all bond funds have volatility ratings; (iv) whether consideration was paid in connection with obtaining the issuance of the rating; (v) a description of the types of risks the rating measures, such as short-term volatility, for example; (vi) a statement that there is no guarantee that the fund will continue to have the same rating or perform in the future as rated.

The disclosures required by subparagraphs (c)(3)(C)(i)–(vii) help inform investors of certain potential limitations of a rating (*i.e.*, that a rating may have been paid for, may measure only a certain type of risk or volatility, may not reflect a comparison with all funds of a given class or peer group, and may not be current).

NASDR intends to include in the NTM that will accompany publication of the final rule the following Disclosure Statement as a sample to assist members in drafting Disclosure Statements that comply with the requirements of the rule:

> The volatility rating for this fund issued by [XYZ rating entity] ("XYZ") is [insert narrative rating]. The rating seeks to measure [description of what risks the rating measures, e.g., "how the value of the fund's current portfolio might respond to changing market conditions"]. XYZ arrived at his rating in the following way: [insert description of methodology]. There is no standard method for determining volatility ratings. The rating is current as of [date]. The fund's portfolio may have changed since this date and there is no guarantee that the fund will continue to have the same rating or perform in the future as rated. Not all bond mutual funds have volatility ratings and those that do may have paid for them. The fund [paid for][did not pay for] the volatility rating issued by XYZ. The fact that a fund has a rating is not an indication that it is more or less risky or volatile than a fund that does not. If you would like more specific information on the rating or the methodology used to determine the rating, call XYZ at 1–800–000–000 or visit XYZ's web site address at www.[address].

Filing Requirement. The proposed rule change amends NASD Rule 2210 regarding communications with the public by adding new subparagraph (c)(3) to require sales literature containing bond mutual fund volatility ratings to be filed with the Advertising Regulation Department for review and approval at least 10 days prior to use. Members would not be required to file advertising and sales literature which had previously been filed and approved, and used without change. Members filing sales literature containing bond mutual fund sales literature also must provide any supplemental information requested by the Department pertaining to the rating that is possessed by the member.

NASD Regulation believes that the proposed rule change is consistent with

[6] Volatility or risk rating analysis has been described as being comprised of three elements: (i) an analysis of the effective duration of the fund's current portfolio—*i.e.*, the sensitivity of the current portfolio to interest rate changes, (ii) a comparison of the historical risk profile of the bond fund with the risk of its current portfolio, and (iii) an assessment of the fund manager's policies and management style, including whether management has established policies and systems that comport with stated objectives for the fund, including levels of risk.

the provisions of Section 15A(b)(6)[7] of the Act, which require that the Association adopt and amend its rules to promote just and equitable principles of trade, and generally provide for the protection of investors and the public interest. The proposed rule change, by imposing certain prohibitions, disclosure and filing requirements, is designed to permit members and associated persons of a member to disseminate bond mutual fund volatility ratings in supplemental sales literature according to standards designed to prevent such ratings from being misleading, predictive, or otherwise inappropriate.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received. However, NTM 96–84 requested comment on the appropriateness of the NASDR's current prohibition on the use by members and persons associated with a member of bond mutual fund volatility ratings in supplemental sales literature. A copy of NTM 96–84 and a summary of the comments received in response to NTM 96–84 are available for inspection and copying in the Commission's Public Reference Room.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by November 30, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–29970 Filed 11–6–98; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78*o*–3(b)(6).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40625; File No. SR–PHLX–98–41]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Extension of a Pilot Program for a System Enhancement to the X-Station Electronic Book on the Options Floor

November 2, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 6, 1998, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

On a pilot basis, the Phlx previously implemented an enhancement to its X-Station electronic book. The Exchange seeks to extend that pilot through April 23, 1999.[3] Under the pilot, a system enhancement was made to the X-Station electronic book on the options floor, which matches incoming orders eligible for the Automatic Execution System ("AUTO–X") feature of the Phlx Automated Options Market ("AUTOM") system with orders residing on the specialist's book.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On April 24, 1998, the Exchange filed with the Commission a proposed rule change to implement, on a pilot basis, an enhancement to the X-Station electronic book on the Exchange's options floor, which became effective immediately upon filing.[4] As described in Phlx Rule 1080, Commentary .02, the electronic order book is an automated mechanism for specialists to hold and display orders based on price/time priority. The Exchange is currently preparing floor-wide deployment of the new X-Station electronic book on the options floor. The new X-Station provides certain improvements such as expedited non-AUTO–X order execution, as well as expedited cancel replacement processing.

AUTO–X is the automatic execution feature of the AUTOM System, the electronic order delivery and routing system for options orders. Previously,

[3] Letter from Richard S. Rudolph, Legal Counsel, Phlx, to Anitra T. Cassas, Attorney, Division of Market Regulation, Commission, dated October 21, 1998.

[4] Exchange Act Release No. 39972 (May 7, 1998) 63 FR 26666 (May 13, 1998).

AUTO–X orders were executed against a "shadow account" for which the specialist was ultimately responsible. The execution was immediately reported back to the sending firm and the specialist was then required to manually input the contra-side interest representing the booked order that became due as a result of the AUTO–X trade.

At this time, the Phlx proposes to extend the pilot program, a system enhancement to the electronic book that matches incoming AUTO–X orders with booked orders, for an additional six months. The matching ability allows the specialist to match two participants directly, without the specialist participating in the trade, by dropping the order to manual status. The match is not automatic, as the specialist must ensure that crowd participation under current parity/priority rules is not due before executing the trade; thus, the specialist must "select" the orders to execute the trade. Since the AUTO–X order drops to manual status (meaning it is not automatically executed), the sending firm will only receive an execution report after the specialist selects and executes the trade.

The enhancement implemented through the current pilot program affords specialists relief from the manual burden of inserting trade participant and clearing information by writing an order ticket for the booked order. Without the X-Station itself, the booked order appeared on an actual order ticket, which the specialist submitted for key punch entry. Thus, implementing the X-Station without the matching feature is more burdensome than the process required without the existence of the X-Station because the X-Station requires more ticket-writing. The enhancement has reduced the amount of paper processed on the options floor, which in turn has reduced handling and processing time, including the likelihood of errors, thereby facilitating more prompt and accurate trade reporting.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)[5] of the Act, in general, and furthers the objectives of Section 6(b)(5),[6] in particular, in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest by enhancing efficiency through automation in the market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and subparagraph (e)(5) of Rule 19b–4 thereunder.[8] The proposal effects a change in an existing order-entry or trading system of a self-regulatory organization that (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not have the effect of limiting the access to or availability of the system.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–PHLX–98–41 and should be submitted by November 30, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–29974 Filed 11–6–98; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(e)(5).

[9] In reviewing this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 17 CFR 200.30–3(e)(12).

DEPARTMENT OF STATE

Bureau of Consular Affairs

[Public Notice 2920]

Extension of Passport Validity

In accordance with the Immigration and Nationality Act, an alien who makes an application, either for a visa or for admission into the United States, is required to possess a passport that: (1) Is valid for a minimum of six months beyond the date of the expiration of the initial period of the alien's admission into the United States or contemplated initial period of stay and, (2) authorizes the alien to return to the place from which he or she came, or to proceed to and enter some other country during such period. Because of the foregoing requirement, certain competent authorities have agreed that their passports will be recognized as valid for the return of the bearer for a period of six months beyond the expiration date specified in the passport, thereby effectively extending the validity period of the foreign passport an additional six months beyond its expiration date.

This public notice adds Slovenia to the list of countries that have concluded passport-extension agreements with the Government of the United States. In addition, the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in the United States have reached such an agreement with respect to passports issued by their respective authorities. The updated list of competent authorities is set forth below:

Table of Foreign Passports Recognized for Extended Validity

ALGERIA
ANTIGUA & BARBUDA
ARGENTINA
AUSTRALIA
AUSTRIA
BAHAMAS, THE
BANGLADESH
BARBADOS
BELGIUM
BRAZIL
CANADA
CHILE
COLOMBIA
COSTA RICA
COTE D'IVOIRE
CUBA
CYPRUS
CZECH REPUBLIC
DENMARK
DOMINICA
DOMINICAN REPUBLIC
ECUADOR
EGYPT
EL SALVADOR
ETHIOPIA
FINLAND
FRANCE
GERMANY
GREECE
GRENADA
GUINEA
HONG KONG (Certificates of identity & passports)
HUNGARY
ICELAND
INDIA
IRELAND
ISRAEL
ITALY
JAMAICA
JAPAN
JORDAN
KOREA
KUWAIT
LAOS
LEBANON
LIECHTENSTEIN
LUXEMBOURG
MADAGASCAR
MALAYSIA
MALTA
MAURITIUS
MEXICO
MONACO
NETHERLANDS
NEW ZEALAND
NICARAGUA (Diplomatic & official only)
NIGERIA
NORWAY
OMAN
PAKISTAN
PANAMA
PARAGUAY
PERU
PHILIPPINES
POLAND
PORTUGAL
QATAR
SENEGAL
SINGAPORE
SLOVAK REPUBLIC
SLOVENIA (ADDED)
SOUTH AFRICA
SPAIN
SRI LANKA
ST. KITTS & NEVIS
ST. LUCIA
ST. VINCENT & THE GRENADINES
SUDAN
SURINAME
SWEDEN
SWITZERLAND
SYRIA
TAIWAN (ADDED)
THAILAND
TOGO
TRINIDAD & TOBAGO
TUNISIA
TURKEY
UNITED ARAB EMIRATES
UNITED KINGDOM
URUGUAY
VENEZUELA

Public Notice 2902 of October 9, 1998 issued at 63 FR 54512 is hereby superseded.

Dated: October 24, 1998.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 98–29861 Filed 11–6–98; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 2923]

Fine Arts Committee; Notice of Meeting

The Fine Arts Committee of the Department of State will meet on Friday, November 13, 1998 at 2:00 p.m. in the John Quincy Adams State Drawing Room. The meeting will last until approximately 3:00 p.m. and is open to the public.

The agenda for the committee meeting will include a summary of the work of the Fine Arts Office since its last meeting on April 4, 1998 and the announcement of gifts and loans of furnishings as well as financial contributions from January 1, 1998 through September 30, 1998. Public access to the Department of State is strictly controlled. Members of the public wishing to take part in the meeting should telephone the Fine Arts Office by Monday, November 9, 1998, telephone (202) 647–1990 to make arrangements to enter the building. The public may take part in the discussion as long as time permits and at the discretion of the chairman.

Dated: October 28, 1998.

Gail F. Serfaty,

Vice Chairman, Fine Arts Committee.

[FR Doc. 98–29860 Filed 11–6–98; 8:45 am]

BILLING CODE 4710–38–M

DEPARTMENT OF STATE

[Public Notice #2928]

Advisory Committee on International Economic Policy; Public Meeting Notice

Members of the Advisory Committee on International Economic Policy (ACIEP) will meet from 9:00–11:30 am on Monday, November 23, 1998, in Room 1105, U.S. Department of State, 2201 C Street, N.W., Washington, DC 20520 to discuss on-going work in the OECD on multilateral rules on investment. The Department regrets shorter notice necessitated by last minute conflicts in schedule of senior officials.

Admittance of public members will be limited to the seating available. As access to the Department of State is controlled, persons wishing to attend the meeting should notify the ACIEP Executive Secretary by Thursday, November 21, 1998.

Each person must provide his or her name, company or organization affiliation, date of birth, and social security number and a valid photo ID (U.S. driver's license with picture, U.S. passport, or U.S. government identification) for entrance into the building at the C Street diplomatic entrance, to the ACIEP Secretariat at (202) 647–5968 or fax (202) 647–5713 (Attn: Sharon Rogers). A list will be made and the Reception personnel will direct attendees to Room 1105.

For further notification or information, contact Sharon Rogers, ACIEP Secretariat, U.S. Department of State, Bureau of Economic and Business Affairs, Room 6828, Main State, Washington, DC 20520. She may be reached at telephone (202) 647–5968 or fax number (202) 647–5713.

Dated: November 4, 1998.

Alan P. Larson,

Assistant Secretary for Economic and Business Affairs.

[FR Doc. 98–30101 Filed 11–5–98; 8:45 am]

BILLING CODE 4710–07–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Sanitary and Phytosanitary Issues

AGENCY: Trade Policy Staff Committee, USTR.

ACTION: Request for written comments on "Information for Evaluation of the Consistency of Foreign Trade Measures with the Provisions of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures."

SUMMARY: The Trade Policy Staff Committee (TPSC) is publishing a set of questions developed to elicit information on foreign trade measures that may be inconsistent with the provisions of the World Trade Organization (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). This set of questions, "Information for Evaluation of the Consistency of Foreign Trade Measures with the Provisions of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures," was developed by a subcommittee of the TPSC which focuses on issues related to the WTO SPS Agreement. These questions are attached as an annex to this **Federal Register** notice. They will be used by the TPSC in collecting and organizing information for analysis and for prioritizing potential U.S. Government action on trade barriers raised by sanitary or phytosanitary measures that appear to be inconsistent with the SPS Agreement.

The purpose of this notice is to solicit written public comments on the set of questions developed by the inter-agency TPSC committee. Comments are specifically invited to address the appropriateness and comprehensiveness of the questions as they are set forth in the annex to this **Federal Register** notice. If there are areas of concern or issues which commentors feel have not been fully addressed they should provide their rationale for inclusion or exclusion of such concerns.

DATES: Written comments should be submitted by December 9, 1998.

FOR FURTHER INFORMATION CONTACT: John Payne, Director for SPS Affairs, USTR, telephone (202) 395–6127; or e-mail: jpayne@ustr.gov.

SUPPLEMENTARY INFORMATION: It was recommended in a United States General Accounting Office (GAO) report, entitled "Agricultural Exports: U.S. Needs a More Integrated Approach to Address Sanitary/Phytosanitary Issues" (NSIAD–98–32 December 11, 1997) that the U.S. Government should:

• • • establish a more systematic process by which USDA entities evaluate complaints they receive about SPS measures, determine which ones they should address, prioritize their efforts, develop unified approaches, and determine when to recommend consideration of dispute settlement procedures to USTR. This process should be developed and implemented in consultation with the U.S. Trade Representative, the Commissioner of Food and Drugs, the Administrator of EPA, and the Secretary of State, or their designees.

The USTR in its response to the GAO report stated that the SPS subcommittee of the TPSC would develop a methodology for evaluating SPS issues brought to its attention and that methodology would be used to determine policy options for addressing specific SPS issues which appear to violate the WTO SPS Agreement. USDA in its response to the GAO report stated that a **Federal Register** notice would be published that invited public comment on factors to be taken into account in evaluating and prioritizing trade-related SPS measures.

The SPS subcommittee of the TPSC (comprised of representatives from USTR, the United States Department of Agriculture, the Food and Drug Administration, the Environmental Protection Agency, the State Department, and representatives of other interested Departments and Agencies) developed a set of questions to guide the collection of information to evaluate the consistency of foreign trade measures with the provisions of the SPS Agreement. This set of questions will be amended based on comments provided from this notice and, over time, through experience as new issues are identified that would lead to improving the collection of information for analysis of SPS measures which appear to violate the WTO SPS Agreement.

In order to assist the TPSC in its analysis of specific SPS measures, government Agencies intend to use the set of questions as a tool to systematically collect and organize their information on issues. It is understood that the information responsive to these questions may be provided from a number of sources, including Agencies of the U.S. Government and information voluntarily provided by industry or consumer groups. Failure of the TPSC to obtain answers to some of the questions does not mean that the issue will not be addressed, but the more complete the information, the sooner the evaluation can be completed, and potentially, the sooner the issue could be resolved. This set of questions is intended to ensure that the TPSC is aware of all available information that is pertinent to an issue. It does not imply any particular judgment regarding the relative importance of any specific item of information provided.

Submission of Written Comments

Those persons wishing to submit written comments should provide twenty (20) copies (in English) to Gloria Blue, Executive Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, Room 501, 600 17th Street Northwest, Washington, DC 20508. Comments should state clearly the position taken and should describe the specific information supporting that position.

If the submission contains business confidential information, twenty copies of a confidential version must also be submitted. A justification as to why the information contained in the submission should be treated confidentially must be included in the submission. In addition, any submissions containing business confidential information must be clearly marked "Confidential" at the top and bottom of the cover page (or letter) and of each succeeding page of the submission. The version that does not contain confidential information should also be clearly marked, at the top and bottom of each page, "public version" or "non-confidential."

Written comments submitted in connection with this request, except for information granted "business confidential" status pursuant to 15 CFR 20003.6, will be available for public inspection in the USTR Reading Room, Room 101, Office of the United States Trade Representative, 600 17th Street Northwest, Washington, DC. An appointment to review the file may be made by calling Brenda Webb (202) 395–6186. The Reading Room is open to the public from 9:30 a.m. to 12 noon, and from 1 p.m. to 4 p.m., Monday through Friday.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

Annex: The Consistency of Foreign Trade Measures With the Provisions of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures

In order to assist the TPSC in its analysis of the SPS measure in question, please provide as much information as possible in response to the following questions. It is understood that the information requested may be provided from several other sources, including the U.S. Government. Failure to answer questions does not mean that the issue will not be addressed by the TPSC, but the more complete the information, the sooner the evaluation can be completed. If any of the information provided is business confidential, please ensure that specific business confidential information on all copies is so marked.

Please note that this set of questions is intended to ensure that the TPSC is aware of all available information that is pertinent to this issue. It does not imply any judgment regarding the relative importance of any specific questions or specific elements of the information provided.

I. Description of The SPS Barrier

A. What country has imposed a trade restriction or SPS barrier?

B. What product or commodity is affected?

C. What claim (e.g., health, safety, etc.) is the government making as the reason for its measure?

D. Has this issue been brought to the attention of the U.S. Government before? If so, what was the date of the previous communication and to what Agency?

E. Who may have information available to answer more fully questions in this questionnaire? U.S. Government Agencies? Others?

II. Market Impact

A. Which export markets (i.e., countries, territories, regions) are affected by this measure?

B. Which foreign government agencies are responsible for developing, implementing, and enforcing the measure?

C. When was the measure adopted, publicized and implemented? Please provide as complete a chronology as possible.

D. Which U.S. export products are affected? Please provide as detailed a description as possible, including harmonized tariff schedule numbers (If known).

E. What other countries' imports of products into the country taking the measure are (might be) impacted by this measure?

F. What is the approximate value of the actual lost export earnings resulting from the application of this measure? (or) The estimate of lost export earnings which would result if the proposed measure were implemented?

(1) What is the approximate value of U.S. exports of the affected products to the affected markets in recent years?

(2) What is the approximate value of all U.S. exports of the affected products to the world in recent years?

(3) If there is no trade because of the measure (import bans, etc.), what is your estimate of potential market value if the current restriction were removed?

III. Health Objective of the Measure

A. Has the government applying the measure identified that it is doing so to protect human, animal or plant life or health? If so, provide the specific health concern the measure is intended to address. Please provide any available documentation.

B. If the measure is intended to mitigate against a disease or pest, which specifically?

(1) Do the pests or diseases of concern exist in the U.S.?

(2) If the pest or disease exist in the U.S., are there relevant surveillance or monitoring data to demonstrate that the pest or disease does not affect the product for which the measure is taken?

(3) Is the pest or disease known to occur in the country that has applied the measure? If so, is the pest or disease limited or widespread in that countries territory? Is the pest or disease under an official control program or quarantine in that country?

IV. Scientific Basis for the Measure

A. Are there any international standards, guidelines or recommendations which address the same or similar health concerns? Please identify and describe. Would use of those international standards, guidelines or recommendations be more or less trade restrictive than application of the measure in question?

B. Has the government that has applied (or is proposing) the measure conducted a risk assessment which provides a scientific basis for the measure? Are you aware of any other risk assessment upon which the measure may be based?

C. Is there strong scientific evidence that the measure is or is not based on scientific principles or maintained on the basis of sufficient scientific evidence? Does the scientific evidence indicate that application of this measure is necessary to achieve the intended level of health protection (as determined by the government applying the measure)? Please attach a technical summary of the relevant scientific evidence.

D. Have U.S. government or private sector scientists evaluated the scientific basis for the measure in question? If so, what is their view?

E. Does the measure take into account the sanitary and phytosanitary characteristics of the areas from which the affected products originate and the areas to which they are destined (e.g., does in recognize post harvest risk mitigation techniques and pest-free or disease-free production areas)?

F. How much technical analysis and research are required to generate conclusions regarding the other county's SPS measure (low, medium, high)? What are the research costs, current activity, and funding sources?

V. Consistency of the Measure

A. Has the measure been enforced consistently and in a non-discriminatory manner?

(1) Is the measure applied in a non-discriminatory way to all international suppliers, where identical or similar conditions prevail?

(2) Does the government applying the measure apply the measure in a non-discriminatory way to both imported and domestic products, where identical or similar conditions prevail? If not, has the government given a reason why it does not?

(3) Is the measure applied seasonally? If so, is there a scientific justification for seasonal implementation? How does seasonal implementation relate to seasonal U.S. export patterns?

VI. Transparency and Other Procedural Issues

A. To your knowledge, has the measure been formally notified through WTO notification procedures to the SPS Committee? Other WTO Committees?

B. Did the government applying the measure provide an opportunity for U.S. firms to comment on the measure before its adoption and implementation? Were any comments provided in response? If so, were they taken into account in the development of the final measure?

C. Did the government applying the measure provide sufficient time for U.S. exporters to adjust to the measure prior to its implementation?

VII. Previous or Ongoing Consultations

A. Have there been any consultations between the government applying the measure and affected (private sector) U.S. exporters? If so, when did those consultations take place, which foreign government agencies were involved, and what were the results? Please attach as detailed a chronology as possible.

B. Have there been any official bilateral consultations between the government applying the measure and the U.S. government regarding the application of the measure? When did those consultations take place, and which U.S. and foreign government agencies were involved?

C. Have any third parties sought or conducted consultations with the government applying the measure on this issue? If so, what were the results?

D. Are issues relevant to the application of this measure currently on the agenda of any relevant international standards setting bodies or other regional or international organizations?

VIII. Comparable Measures

A. What SPS measures, if any, does the United States apply in order to address the same or similar health concerns in association with the same or comparable products? In other words, What are the comparable U.S. measures, including related domestic and interstate regulations, to protect against the same or comparable risks?

(1) Are those U.S. measures more or less trade restrictive than the foreign measure in question?

(2) Are there any known scientific or other legitimate reasons for any difference between the foreign measure in question and the comparable U.S. measures?

B. What SPS measures, if any, do other governments apply in order to address the same or similar health concerns? Are these measures more or less restrictive than the measure in question?

C. Is there any other reasonably available measure or risk mitigation strategy which, taking into account technical and economic feasibility, would achieve the intended level of health protection (as determined by the government applying the measure) in a less trade-restrictive manner? Please provide any available scientific evidence which would demonstrate the efficacy of such alternatives.

IX. Other Information

A. Is there any other relevant information not asked for in previous questions, or information you believe to be pertinent that has not been provided in response to the previous questions?

B. Information in the following categories is particularly useful:

(1) Chronology of actions leading to the adoption and implementation of the measure.

(2) Chronology of any consultations between U.S. traders or U.S government representatives and the government applying the measure in question.

(3) Any available documentation of the specific requirements imposed under the measure and of the health justification identified by the government applying the measure.

(4) A technical summary of any available scientific evidence which calls into question the scientific basis for the measure.

[FR Doc. 98–29990 Filed 11–6–98; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

The Federal Aviation Administration (FAA) Satellite Operational Implementation Team (SOIT) Hosted Forum on the Capabilities of the Global Positioning System (GPS)/Wide Area Augmentation System (WAAS) and Local Area Augmentation System (LAAS)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA SOIT will be hosting a public forum to discuss the FAA's GPS approvals and WAAS/LAAS operational implementation plans. This meeting will be held in conjunction with a regularly scheduled meeting of the FAA SOIT and in response to aviation industry requests to the FAA Administrator. Formal presentations by the FAA will be followed by a question and answer session. Those planning to attend are invited to submit proposed discussion topics. Requests to make presentations to the assembled forum should be made to the point of contact listed.

DATES: November 16–17, 1998, 9 a.m.–5 p.m.

ADDRESSES: The meeting will be held at the Holiday Inn Fair Oaks Hotel, 11787 Lee Jackson Memorial Highway, Fairfax, VA 22033, adjacent to the Fair Oaks Mall.

POINT OF CONTACT: Registration, submission of suggested discussion topics and requests to make presentations may be made to Mr. Steven Albers, phone (202) 267–7301, fax (202) 267–5086, or e-mail at steven.albers@faa.gov.

SUPPLEMENTARY INFORMATION: Open to the aviation industry with attendance limited to space available. Participants are requested to register their intent to attend this meeting by October 30, 1998. Names, affiliations, telephone and facsimile numbers should be sent to the point of contact listed.

Dated: September 22, 1998.

Hank Cabler,

SOIT Co-Chairman.

[FR Doc. 98–29950 Filed 11–6–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236 as detailed below.

Docket No. FRA–1998–4694

Block Signal Application (BS–AP)–No. 3484

Applicant: CSX Transportation, Incorporated, Mr. R.M. Kadlick, Chief Engineer Train Control, 500 Water Street (S/C J–350), Jacksonville, Florida 32202

CSX Transportation Incorporated seeks approval of the proposed modification of the traffic control system, on the two main tracks, at South Yard, milepost S–1.7, Richmond, Virginia, on the Bellwood Subdivision, Florence Service Lane, consisting of the conversion of the power-operated crossover to hand operation equipped with an electric locked turnout, and the discontinuance and removal of absolute controlled signals L10, R10, L14, and R14.

The reason given for the proposed changes is that present day traffic does not warrant the retention of the remote controlled location.

Docket No. FRA–1998–4695

BS–AP–No. 3485

Applicant: Port of Pend Oreille, dba Pend Oreille Valley Railroad, Mr. Clifford G. Robbins, Port Operations Manager, 1981 Black Road, Usk, Washington 99180

Port of Pend Oreille, dba Pend Oreille Valley Railroad seeks approval of the proposed discontinuance and removal of all slide detectors and indicators, on the former Burlington Northern and Santa Fe Railway Company's Newport Branch, between Dover, Idaho, milepost 1406 and Newport, Washington, milepost 1431, at five separate locations. The proposed changes include the installation of permanent "restricted speed" signs at proper locations.

The reasons given for the proposed changes are: the lack and prohibitive installation costs of A.C. power, replacement and disposal costs of primary batteries every 18 months, high vandalism rates, and to facilitate the cleaning of debris from the ditches.

Docket No. FRA–1998–4696

BS–AP–No. 3486

Applicant: Burlington Northern and Santa Fe Railway Company, Mr. William G. Peterson, Director Signal Engineering, 4515 Kansas Avenue, Kansas City, Kansas 66106

Burlington Northern and Santa Fe Railway seeks approval of the proposed retirement of Tower 16 Interlocking, milepost 645.6, and the approximately 400-foot reduction of the traffic control system limits, on the single main track, near South Sherman, Texas, milepost 645.5, on the Texas Division, Madill Subdivision, associated with the removal of the TNER crossing diamond. The proposed changes consist of the discontinuance and removal of all associated controlled and interlocked signals, conversion of the Old Frisco Main, power-operated switch to a spring switch, conversion of existing TNER power-operated switch to hand operation, discontinuance and removal of the power-operated derail on the TNER connection, and designation of the existing "Restricted Limits" operations between South Sherman, milepost 645.5 and Hank, milepost 647.7, to Track Warrant Control.

The reason given for the proposed changes is that the switches involved are presently controlled by the Interlocking operator, which will be retired with removal of the diamond.

Docket No. FRA–1998–4697

BS–AP–No. 3487

Applicant: CSX Transportation, Incorporated, Mr. R.M. Kadlick, Chief Engineer Train Control, 500 Water Street (S/C J–350), Jacksonville, Florida 32202

CSX Transportation, Incorporated seeks approval of the proposed modification of the traffic control system, on the single main, between milepost Z–37.0 and milepost Z–38.0, near Dante, Virginia, on the KP Subdivision, Appalachian Division, consisting of the conversion discontinuance and removal of controlled signals 38L and 38R.

The reason given for the proposed changes is to increase operating efficiency.

Docket No. FRA–1998–4698

BS–AP–No. 3488

Applicant: CSX Transportation, Incorporated, Mr. R.M. Kadlick, Chief Engineer Train Control, 500 Water Street (S/C J–350), Jacksonville, Florida 32202

CSX Transportation, Incorporated seeks approval of the proposed discontinuance and removal of the automatic block signal system, on the single and two main tracks, between FD Cabin, milepost CLS–65.2 and Huff Junction, milepost CLS–78.9, West Virginia, on the Logan Subdivision, C&O Business Unit, a distance of approximately 13.7 miles. The proposed method of operation will be by a Direct Traffic Control Block System between milepost CLS–67.1 and milepost CLS–78.9, and Rule 105 between milepost CLS–65.2 and milepost CLS–67.1.

The reason given for the proposed changes is to eliminate facilities no longer needed for present day operation.

Docket No. FRA–1998–4699

BS–AP–No. 3489

Applicant: CSX Transportation, Incorporated, Mr. R.M. Kadlick, Chief Engineer Train Control, 500 Water Street (S/C J–350), Jacksonville, Florida 32202

CSX Transportation, Incorporated seeks approval of the proposed modification of the traffic control and automatic block signal systems, on the two main tracks, between a milepost BG–89 and milepost BG–107, near Newton Falls, Ohio, on the New Castle Subdivision, Cumberland Division, consisting of the following:

1. Discontinuance and removal of absolute controlled signals 3R, L3A, and L3B, at West Switch, milepost BG–105.31, and conversion of the power-operated switch to hand operation;
2. Discontinuance and removal of absolute controlled signals R5A, L5, R11, L11A, and L11B, at FS Tower, milepost BG–103.90, and conversion of the three power-operated switches to hand operation;
3. Discontinuance and removal of absolute controlled signals R13A, R13B, and LB, at East Switch, milepost BG–102.52, and conversion of the power-operated switch to hand operation;
4. Discontinuance and removal of absolute controlled signals 2R, 2L, and E, near milepost BG–98.5, and conversion of the existing spring switch to hand operation;
5. Discontinuance and removal of absolute controlled signals 6RA, 6RB, and 6L, near milepost BG–96.2, and conversion of the power-operated switch to hand operation;
6. Discontinuance and removal of absolute controlled signals 18LA, 18LB, and 14R, near milepost BG–95.65, and conversion of the power-operated switch to hand operation; and
7. Discontinuance and removal of absolute controlled signals 20RA, 20RB, W1, near milepost BG–94.5, and conversion of the existing spring switch to hand operation.

The reason given for the proposed changes is to increase efficiency and eliminate facilities no longer needed in present day operation.

Docket No. FRA–1998–4700

BS–AP–No. 3491

Applicant: Consolidated Rail Corporation, CSX Transportation, Incorporated, and Norfolk Southern Corporation, Mr. J.F. Noffsinger, Chief Engineer—C&S Assets, 2001 Market Street, P.O. Box 41410, Philadelphia, Pennsylvania 19101–1410.

The Consolidated Rail Corporation (Conrail), CSX Transportation, Incorporated, and Norfolk Southern Corporation, jointly seek approval of the proposed discontinuance and removal of "CP Short" Interlocking, milepost 17.9, near Cleveland, Ohio, on Conrail's Dearborn Division, where two main tracks of the Short Line, cross at grade, the single main track of the Clark Branch. The proposal consists of the discontinuance and removal of all controlled signals, and conversion of the all remaining switches to hand operation.

The reason given for the proposed changes is to retire facilities no longer needed for present operation.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. The original and two copies of the protest shall be filed with the Associate Administrator for Safety, FRA, 400 Seventh Street, S.W., Mail Stop 25, Washington, D.C. 20590 within 30 calendar days of the date of publication of this notice. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, D.C. on October 30, 1998.

Grady C. Cothen, Jr.

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 98–29896 Filed 11–6–98; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Finance Docket No. 33556]

Canadian National Railway Company, Grand Trunk Corporation, and Grand Trunk Western Railroad Incorporated—Control—Illinois Central Corporation, Illinois Central Railroad Company, Chicago, Central and Pacific Railroad Company, and Cedar River Railroad Company

AGENCY: Surface Transportation Board.

ACTION: Decision No. 19; Notice of Availability of Draft Environmental Assessment and 30-day public comment period.

SUMMARY: The Surface Transportation Board's (Board) Section of Environmental Analysis (SEA) issued a Draft Environmental Assessment (Draft EA) for the proposed acquisition of control of Illinois Central Corporation and its railroad affiliates (IC) by Canadian National Railway Company (CN). The Draft EA is available for public review and comment for 30 days. Public comments are due by December 11, 1998. Any interested party may request a copy of the Draft EA or submit comments on the Draft EA by following the procedures discussed below. The Draft EA addresses potential acquisition-related environmental impacts and includes SEA's preliminary environmental mitigation recommendations. In addition, the Draft EA includes a Safety Integration Plan prepared by CN and IC that explains how they propose to safely integrate their separate operations if the Board approves the proposed acquisition. After fully considering all public comments, SEA will consult with appropriate public agencies and conduct additional environmental analysis, as appropriate, in preparing a Final Environmental Assessment (Final EA). SEA plans to issue the Final EA prior to the Board's Oral Argument and Voting Conference, which are currently scheduled for March 1999. In making its final decision on the proposed acquisition, the Board will consider the entire environmental record, including all public comments; the Draft EA; and the Final EA, including SEA's environmental mitigation recommendations. The Board plans to serve the final written decision on May 25, 1999. Any party may file an administrative appeal within 20 days of the Board's final written decision.

DATES: The Draft EA is available for public review and comment for 30 days. Public comments are due by December 11, 1998.

ADDRESSES: All interested agencies, organizations, and individuals are encouraged to comment on the Draft EA by submitting written comments (include an original plus 10 copies) to the address listed below by December 11, 1998, the close of the comment period:

Office of the Secretary, Case Control Unit, Finance Docket No. 33556, Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423–001, Attn: Elaine K. Kaiser, Environmental Project Director, Environmental Filing

FOR FURTHER INFORMATION CONTACT: To request a copy of the Draft EA or further information on the proposed CN/IC acquisition, interested parties may call SEA's toll-free Environmental Hotline at 1–888–869–1997 (TDD for the hearing impaired: (202) 565–1695), or access SEA's website for the CN/IC acquisition at http://www.cnicacquisition.com. For additional information regarding environmental issues, or the environmental review process, contact SEA's Project Manager for the proposed CN/IC acquisition, Michael Dalton, at (202) 565–1530.

SUPPLEMENTARY INFORMATION: On July 15, 1998, CN and IC, collectively referred to as CN/IC or applicants, filed a joint application [1] with the Board seeking authority for CN to acquire control of IC. The proposed CN/IC system would extend to both the east and west coasts of North America and the Gulf of Mexico. The Chicago area would serve as the hub of the combined system. This new system would cover approximately 18,670 miles of rail lines and related facilities, of which approximately 4,520 miles would be in the United States. The applicants state that integrating CN and IC operations would allow both rail systems to provide more reliable, efficient, and competitive service. The applicants also state that they anticipate relatively minor changes in rail operations as a result of the proposed acquisition. The applicants have proposed no rail line abandonments and only five minor construction projects (one rail line connection and four rail yard bypass tracks) as part of the proposed acquisition.

By the Board, Elaine K. Kaiser, Chief of the Section of Environmental Analysis.

Vernon A. Williams,

Secretary.

[FR Doc. 98–29981 Filed 11–6–98; 8:45 am]

BILLING CODE 4915–00–P

[1] *Canadian National Railway Company, Grand Trunk Corporation, and Grand Trunk Western Railroad Incorporated—Control—Illinois Central Corporation, Illinois Central Railroad Company, Chicago, Central and Pacific Railroad Company, and Cedar River Railroad Company*, STB Finance Docket No. 33556.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–531 (Sub–No. 2X)]

Pioneer Valley Railroad Company, Inc.—Abandonment Exemption—in Hampshire County, MA

Pioneer Valley Railroad Company, Inc. (PVRR) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon an approximately 0.26-mile line of railroad from milepost 9.40 at the Easthampton/Southampton border to milepost 9.14 at the south side of Coleman Road in Southampton, Hampshire County, MA. The line traverses United States Postal Service Zip Code 01073.

PVRR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic formerly handled on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on December 10, 1998, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 20, 1998. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 30, 1998, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

A copy of any petition filed with the Board should be sent to applicant's representative: Thomas J. Litwiler, Oppenheimer Wolff & Donnelly, Two Prudential Plaza, 45th Floor, 180 North Stetson Avenue, Chicago, IL 60601.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

PVRR has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by November 13, 1998. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), PVRR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by PVRR's filing of a notice of consummation by November 10, 1999, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: November 3, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–29982 Filed 11–6–98; 8:45 am]

BILLING CODE 4915–00–P

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 2, 1998.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before December 9, 1998 to be assured of consideration.

Departmental Offices/Office of Foreign Assets Control

OMB Number: 1505–0169.

Form Number: None.

Type of Review: Extension.

Title: Sudanese Sanctions Regulations.

Description: Submissions will provide the United States Government with information to be used in implementing Executive Order 13067 and enforcing sanctions against the Government of Sudan. These information collections will assist in controlling financial transactions involving the Government of Sudan.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions.

Estimated Number of Respondents/Recordkeepers: 50.

Estimated Burden Hours Per Respondent/Recordkeeper: 2 hours.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 100 hours.

Clearance Officer: Lois K. Holland (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–29955 Filed 11–6–98; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 2, 1998.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before December 9, 1998 to be assured of consideration.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0546.

Form Number: None.

Type of Review: Extension.

Title: Certification on Agency Letterhead Authorizing Purchase of Firearm for Official Duties of Law Enforcement Officer.

Description: This letter is used by a law enforcement officer to purchase handguns to be used in his/her official duties from a licensed firearm dealer anywhere in the country. The letter shall state that the firearm is to be used in the official duties of the officer and that he/she has been checked that he/she has not been convicted of a misdemeanor crime of domestic violence. The letter will be retained for at least five years in the licensee's records.

Respondents: State, Local or Tribal Government.

Estimated Number of Recordkeepers: 50,000.

Estimated Burden Hours Per Recordkeeper: 5 seconds.

Frequency of Response: Other (5 years).

Estimated Total Recordkeeping Burden: 25 hours.

Clearance Officer: Robert N. Hogarth, (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW, Washington, DC 20226.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New

Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–29956 Filed 11–6–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 27, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before December 9, 1998 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0016.

Form Number: IRS Form 706–A.

Type of Review: Revision.

Title: United States Additional Estate Tax Return.

Description: Form 706–A is used by individuals to compute and pay the additional estate taxes due under Code section 2032A(c). IRS uses the information to determine that the taxes have been properly computed. The form is also used for the basis election of section 1016(c)(1).

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 130,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—40 min.
Learning about the law or the form—1 hr., 6 min.
Preparing the form—1 hr., 52 min.
Copying, assembling, and sending the form to the IRS—1 hr., 3 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 608,400 hours.

OMB Number: 1545–0021.

Form Number: IRS Form 709–A.

Type of Review: Extension.

Title: United States Short Form Gift Tax Return.

Description: Form 709–A is used to report gifts that would be taxable that they are "split" between husband and wife. The form is a simplified version of Form 709, designed to relieve these gift/ taxpayers of the burden of filing Form 709. IRS uses the information to assure that "gift-splitting" was properly elected.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: Annually.

Estimated Burden Hours Per Respondent/Recordkeeper: 45,100 hours.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 44,100 hours.

OMB Number: 1545–0023.

Form Number: IRS Form 720.

Type of Review: Extension.

Title: Quarterly Federal Excise Tax Return.

Description: The information supplied on Form 720 is used by the IRS to determine the correct tax liability. Additionally, the data is reported by the IRS to Treasury so that funds may be transferred from the general revenue fund to the appropriate trust funds.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government

Estimated Number of Respondents/ Recordkeepers: 50,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law or the form	Preparing and sending the form to the IRS
720	23 hr., 41 min.	2 hr., 23 min.	6 hr., 29 min.
Schedule A	2 hr., 52 min.	3 min..	
Schedule C:.			
Part I	1 hr., 55 min.	6 min.	8 min.
Part II	20 hr., 20 min.	6 min.	20 min.
Part III	14 min.	6 min.	7 min.

Frequency of Response: Quarterly.

Estimated Total Reporting/ Recordkeeping Burden: 3,691,999 hours.

OMB Number: 1545–0150.

Form Number: IRS Form 2848.

Type of Review: Extension.

Title: Power of Attorney and Declaration of Representative.

Description: Form 2848 is used to authorize someone to act for the respondent in tax matters. It grants all powers that the taxpayer has except signing a return and cashing refund checks. Data is used to identify representatives and to ensure that confidential information is not divulged to unauthorized persons. Also used to input representative on CAF (Central Authorization File).

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, Farms.

Estimated Number of Respondents/ Recordkeepers: 800,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—20 min.
Learning about the law or the form—29 min.
Preparing the form—29 min.
Copying, assembling, and sending the form to the IRS—35 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 1,504,000 hours.

OMB Number: 1545–0531.

Form Number: IRS Form 706–NA.

Type of Review: Extension.

Title: United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of Nonresident Not a Citizen of the United States.

Description: Under section 6018, executors must file estate tax returns for nonresident noncitizens who had property in the United States. Executors use Form 706–NA for this purpose. IRS uses the information to determine correct tax and credits.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 300.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—1 hr., 38 min.
Learning about the law or the form—32 min.
Preparing the form—1 hr., 46 min.
Copying, assembling, and sending the form to the IRS—41 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 1,307 hours.

OMB Number: 1545–0790.

Form Number: IRS Form 8082.

Type of Review: Extension.

Title: Notice of Inconsistent Treatment or Administrative Adjustment Request (AAR).

Description: Internal Revenue Code (IRC) sections 6222 and 6227 require partners to notify ITS by filing Form 8082 when they (1) treat partnership items inconsistent with the partnership's treatment (6222), and (2) change previously reported partnership items (6227). Sections 6244 and 860F extend this requirement to shareholders of S corporations and residuals of REMICs. Also, sections 6241 and 6034A(c) extend this requirement to partners in electing large partnerships and beneficiaries of estates and trust.

Respondents: Business or other for-profit, Individuals or households, Farms.

Estimated Number of Respondents/ Recordkeepers: 10,600.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—4 hr., 18 min.
Learning about the law or the form—42 min.
Preparing and sending the form to the IRS—48 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 61,480 hours.

OMB Number: 1545–1038.

Form Number: IRS Form 8703.

Type of Review: Extension.

Title: Annual Certification of a Residential Rental Project.

Description: Operators of qualified residential projects will use this form to certify annually that their projects meet the requirements of Internal Revenue Code (IRC) section 142(d). Operators are required to file this certification form under section 142(d)(7).

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 6,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—3 hr., 50 min.
Learning about the law and the form—1 hr. 17 min.
Preparing and sending the form to the IRS—1 hr., 25 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 39,180 hours.

OMB Number: 1545–1135.

Form Number: IRS Form 8817.

Type of Review: Extension.

Title: Allocation of Patronage and Nonpatronage Income Deductions.

Description: Form 8817 is used by taxable Farmer Cooperatives to indicate their income deductions by patronage and nonpatronage source. IRS uses this information to improve the classification of returns for examination, and to enhance taxpayer compliance.

Respondents: Business or other for profit, Farms.

Estimated Number of Respondents/ Recordkeepers: 1,650.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—16 hr., 44 min.
Learning about the law or the form—36 min.
Preparing and sending the form to the IRS—53 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 21,978 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5571 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–29957 Filed 11–6–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 2, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before December 9, 1998 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1349.

Form Number: None.

Type of Review: Extension.

Title: Cognitive and Psychological Research.

Description: The proposed research will improve the quality of data collection by examining the psychological and cognitive aspects of methods and procedures such as: Interviewing processes, forms redesign, survey and tax collection technology and operating procedures (internal and external in nature).

Respondents: Business and other for-profit, Individuals or households.

Estimated Number of Respondents: 22,000.

Estimated Burden Hours Per Respondent: 27 minutes.

Frequency of Response: Other (one-time only).

Estimated Total Reporting Burden: 10,000 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–29958 Filed 11–6–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 98–52

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 98–52, Notice on Nondiscriminatory Safe Harbors.

DATES: Written comments should be received on or before January 8, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the notice should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Notice on Nondiscriminatory Safe Harbors.

OMB Number: 1545–1624.

Notice Number: Notice 98–52.

Abstract: This notice provides guidance to plan administrators, plan sponsors, etc., regarding nondiscriminatory safe harbors with respect to Internal Revenue Code sections 401(k)(12) and 401(m)(11), as amended by the Small Business Job Protection Act of 1996. The safe harbor provisions pertain to the actual deferral percentage test and the actual contribution percentage test for cash or deferred arrangements and for defined contribution plans. To take advantage of the safe harbor provisions, plan sponsors must amend their plans to reflect the new law and must provide plan participants with an annual notice describing the benefits available under the plan.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 60,000.

Estimated Time Per Respondent: 1 hour, 20 minutes.

Estimated Total Annual Burden Hours: 80,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 30, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–29844 Filed 11–6–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8866

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8866, Interest Computation Under the Look-Back Method for Property Depreciated Under the Income Forecast Method.

DATES: Written comments should be received on or before January 8, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Interest Computation Under the Look-Back Method for Property Depreciated Under the Income Forecast Method.

OMB Number: 1545–1622.

Form Number: Form 8866.

Abstract: Taxpayers depreciating property under the income forecast method and placed in service after September 13, 1995, must use Form 8866 to compute and report interest due or to be refunded under Internal Revenue Code 167(g)(2). The Internal Revenue Service uses the information on Form 8866 to determine if the interest has been figured correctly.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 12 hours, 36 minutes.

Estimated Total Annual Burden Hours: 63,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 30, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–29845 Filed 11–6–98; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 63, No. 216

Monday, November 9, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Review, Requests for Revocation in Part and Deferral of Administrative Reviews

Correction

In notice document 98–29047, beginning on page 58009, in the issue of Thursday, October 29, 1998, make the following correction.

On page 58010, in the table, in the first entry for the People's Republic of China, "A–570–920" should read "A–570–820".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 107 and 108

[Docket No. 28859; Amendment No. 107-12, 108-17]

RIN 2120-AG32

Employment History, Verification and Criminal History Records Check

Correction

In rule document 98–25210 beginning on page 51204, in the issue of Thursday, September 24, 1998, make the following corrections:

1. On page 51204, in the third column, in the tenth line from the bottom, "that" should read "the".

2. On page 51206, in the first column, in the first full paragraph, in the fourth line from the bottom, "of" should read "or".

§ 107.31 [Corrected]

3. On page 51218, in the third column, § 107.31 (c), in the third line, "competed" should read "completed".

4. On page 51219, in the third column, in § 107.31 (h)(2), in the first line, "not" should read "no".

§ 108.33 [Corrected]

5. On page 51222, in the second column, in § 108.33 (j)(2), in the third line, "(d)" should read "(a)".

BILLING CODE 1505-01-D

Reader Aids

Federal Register

Vol. 63, No. 216

Monday, November 9, 1998

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The United States Government Manual — 523–5227

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FEDERAL REGISTER PAGES AND DATES, NOVEMBER

58619–59202 2
59203–59456 3
59457–59690 4
59691–59874 5
59875–60202 6
60203–60448 9

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR
Proclamations:
7144 59199
7145 59203
Executive Orders:
13105 60201
Administrative Orders:
Presidential Determinations:
No. 99–1 of October 21, 1998 59201

5 CFR
317 59875
335 59875
890 59457
2634 58619
Proposed Rules:
532 58659

7 CFR
17 59691
723 59205
737 60203
911 60204
915 60204
916 60209
917 60209
1499 59876
Proposed Rules:
984 ..... 59246, 59891
1216 ..... 59893, 59907
1755 59248

10 CFR
835 59662

12 CFR
208 58620
211 58620
215 58620
225 58620
262 58620
263 58620
265 58620
Proposed Rules:
611 60219
614 60219
618 60219
701 59742

14 CFR
25 59692
39 ..... 58622, 58624, 58625, 59206, 59460, 59695, 59696, 59697, 59699, 60222, 60224
71 ..... 58627, 58628, 58629, 58811, 59701, 59702, 59703, 59704, 59705, 59842, 59878
97 ..... 59878, 59879, 59881
107 60448
108 60448
Proposed Rules:
23 58660
39 ..... 59252, 59743, 60222, 60224
71 ..... 59255, 59256, 59257
91 59494
121 ..... 59192, 59494
135 ..... 59192, 59494
145 59192

16 CFR
Proposed Rules:
305 58671

17 CFR
10 58811
200 59862
240 ..... 58630, 59208, 59362
249 59862
Proposed Rules:
240 59911

18 CFR
Proposed Rules:
4 59916
153 59916
157 59916
375 59916

21 CFR
26 60122
175 59706
176 59707
178 ..... 59213, 59709
211 59463
314 59710
510 59215
520 ..... 59712, 59713
522 ..... 59215, 59714
524 59715
556 59715
558 59216
814 59217
862 59222
864 59222
866 59222
872 59715
876 59222
880 ..... 59222, 59717
882 59222
886 59222
890 59222
892 59222
Proposed Rules:
310 59746
314 59746
600 59746
880 59917
900 59750
1308 59751
1312 59751

24 CFR
Proposed Rules:
5 58675

26 CFR

1 58811

Proposed Rules:

1 58811

27 CFR

Proposed Rules:

4 59921
19 59921
24 59921
194 59921
250 59921
251 59921

30 CFR

Proposed Rules:

46 59258
915 59627
938 59259

31 CFR

585 59883

Proposed Rules:

34 CFR Ch. VI

32 CFR

199 59231
311 59718
318 60214

33 CFR

100 59232
117 60212
165 ..... 58635, 59719

Proposed Rules:

117 ..... 58676, 60226

36 CFR

200 60049

37 CFR

201 ..... 59233, 59235

38 CFR

Proposed Rules:

14 59495
17 ..... 58677, 60227
51 60227

40 CFR

52 ..... 58637, 59471, 59720, 59884, 60214
62 59887
81 ..... 58637, 59722

Proposed Rules:

52 ..... 58678, 59754, 59923, 59924, 60257
62 59928
81 58678
745 59754

41 CFR

60–250 59630
60–741 59657

42 CFR

405 58814
410 58814
413 58814
414 58814
415 58814
424 58814
485 58814

Proposed Rules:

5 58679
51c 58679

44 CFR

64 59236

46 CFR

2 59472

Proposed Rules:

45 58679

47 CFR

2 58645
73 ..... 59238, 59239
90 58645

Proposed Rules:

Ch. 1 59755
54 58685
73 ..... 59262, 59263, 59928
90 58685

48 CFR

253 ..... 60216, 60217

Proposed Rules:

Ch. 7 59501
712 59501
727 59501
742 59501
752 59501
801 60257
806 60257
812 60257
837 60257
852 60257
873 60257
909 60269
970 60269

49 CFR

1 59474
195 59475
571 ..... 59482, 59755

Proposed Rules:

171 59505
177 59505
178 59505
180 59505
243 59928
571 60271
1420 59263

50 CFR

17 59239
679 ..... 58658, 59244

Proposed Rules:

17 58692
20 60278
21 60278
222 58701
227 58701
622 60287
648 59492
660 59758
679 60288

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT NOVEMBER 9, 1998

ADVISORY COUNCIL ON HISTORIC PRESERVATION
Historic Preservation, Advisory Council
Conflict of interests; published 10-9-98

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Apricots grown in—
Washington; published 10-9-98
Onions grown in Idaho and Oregon, and imported; published 10-19-98
Potatoes (Irish) grown in—
Colorado; published 10-9-98

AGRICULTURE DEPARTMENT
Farm Service Agency
Warehouses:
Tobacco auction warehouses; licensing requirements; published 11-9-98

DEFENSE DEPARTMENT
Acquisition regulations:
Federal procurement; affirmative action reform; published 11-9-98
Individual contracting action reporting; DD Form 350; published 11-9-98
Organization, functions, and authority delegations:
Defense Threat Reduction Agency; name change from Defense Special Weapons Agency; published 11-9-98

ENERGY DEPARTMENT
Federal Energy Regulatory Commission
Natural Gas Policy Act:
Interstate natural gas pipelines—
Short-term transportation services regulation; published 8-11-98

ENVIRONMENTAL PROTECTION AGENCY
Air programs; approval and promulgation; State plans for designated facilities and pollutants:
Virginia; published 9-8-98
Air quality implementation plans; approval and promulgation; various States:
Illinois; published 9-8-98
Louisiana; published 9-8-98

FEDERAL COMMUNICATIONS COMMISSION
Common carrier services:
218-219 MHz service; installment payment portfolio and redesignation from interactive video and data service; published 10-8-98
Telecommunications Act of 1996; implementation—
Customer proprietary network information and other customer information; telecommunications carrier use; published 10-9-98

FEDERAL RESERVE SYSTEM
Securities credit transactions (Regulations G, T, U, and X):
OTC margin stocks and foreign stocks lists; published 10-27-98

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Food for human consumption:
Beverages—
Bottled water; chemical contaminants; quality standards; published 5-11-98
Medical devices:
Premarket approval applications—
30-day notices and 135 PMA supplement review; published 10-8-98

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Land registration:
Interstate land sales registration fees; mailing address change and electronic payment authority; published 10-8-98

LABOR DEPARTMENT
Pension and Welfare Benefits Administration
Employment Retirement Income Security Act:
Summary plan description regulations; published 9-9-98

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Pratt & Whitney; published 9-10-98
S.N. Centrair; published 9-15-98
Superior Air Parts, Inc.; published 9-10-98

TRANSPORTATION DEPARTMENT
National Highway Traffic Safety Administration
Transportation Equity Act for 21st Century; implementation:
State highway safety data and traffic records improvements; published 10-8-98

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Walnuts grown in—
California; comments due by 11-18-98; published 11-3-98

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Plant-related quarantine, foreign:
Solid wood packing material from China; comments due by 11-17-98; published 9-18-98

AGRICULTURE DEPARTMENT
Rural Utilities Service
Electric system construction policies and procedures:
Electric program standard contract forms; revision; comments due by 11-16-98; published 9-16-98

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Gulf of Alaska and Bering Sea and Aleutian Islands groundfish; comments due by 11-16-98; published 9-16-98
Vessel moratorium program; comments due by 11-17-98; published 9-18-98
Northeastern United States fisheries—
Summer flounder, scup, and black sea bass; comments due by 11-16-98; published 10-21-98

ENERGY DEPARTMENT
Federal Energy Regulatory Commission
National Environmental Policy Act:
Landowner notification, residential area designation, and other environmental filing requirements; technical conference; comments due by 11-16-98; published 10-16-98

ENVIRONMENTAL PROTECTION AGENCY
Air programs:
Accidental release prevention—
Risk management programs; comments due by 11-19-98; published 10-20-98
Air quality implementation plans; approval and promulgation; various States:
New Jersey; comments due by 11-19-98; published 10-20-98
Pennsylvania; comments due by 11-16-98; published 10-21-98
South Dakota; comments due by 11-18-98; published 10-19-98
Texas; comments due by 11-20-98; published 10-21-98
Hazardous waste program authorizations:
Idaho; comments due by 11-20-98; published 10-21-98
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Desmedipham; comments due by 11-16-98; published 9-16-98
Myclobutanil; comments due by 11-16-98; published 9-16-98
Propyzamide; comments due by 11-16-98; published 9-16-98
Trichoderma harzianum strain T-39; comments due by 11-16-98; published 9-16-98
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update; comments due by 11-19-98; published 10-20-98
National priorities list update; comments due

by 11-19-98; published 10-20-98

FARM CREDIT ADMINISTRATION

Farm credit system:
Federal regulatory review; comments due by 11-20-98; published 8-18-98

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:
Massachusetts; comments due by 11-16-98; published 10-2-98
New Mexico; comments due by 11-17-98; published 10-2-98
Oregon; comments due by 11-16-98; published 10-2-98
Texas; comments due by 11-16-98; published 10-2-98

HEALTH AND HUMAN SERVICES DEPARTMENT

Children and Families Administration

Personal Responsibility and Work Opportunity Reconciliation Act of 1996; implementation:
Tribal temporary assistance for needy families and Native employment works programs; comments due by 11-20-98; published 9-23-98

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Biological products:
In vivo radiopharmaceuticals used for diagnosis and monitoring—
Evaluation and approval; comments due by 11-16-98; published 10-14-98

Medical devices:
Class III preamendment devices; lung water monitor, powered vaginal muscle stimulator for therapeutic use, and stairclimbing wheelchair; comments due by 11-16-98; published 8-18-98

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:
Canada lynx; comments due by 11-16-98; published 10-19-98
Northern Idaho ground squirrel; comments due by 11-20-98; published 10-21-98
Pecos pupfish; comments due by 11-20-98; published 3-27-98

Migratory bird hunting:
Tungsten-matrix shot; temporary and conditional approval as nontoxic for 1998-1999 season; comments due by 11-18-98; published 10-19-98

INTERIOR DEPARTMENT

National Park Service

National Park System:
Personal watercraft use; comments due by 11-16-98; published 9-15-98

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:
Oklahoma; comments due by 11-19-98; published 10-20-98

JUSTICE DEPARTMENT

Drug Enforcement Administration

Records, reports, and exports of listed chemicals:
Chemical mixtures that contain regulated chemicals; comments due by 11-16-98; published 9-16-98

NUCLEAR REGULATORY COMMISSION

Gaseous diffusion plants; certification renewal and amendment processes; comments due by 11-16-98; published 9-15-98

PRESIDIO TRUST

Management of the Presidio; general provisions, etc.; comments due by 11-17-98; published 9-18-98

TRANSPORTATION DEPARTMENT

Coast Guard

Regattas and marine parade:
Gasparilla Marine Parade; comments due by 11-20-98; published 9-21-98

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
Airbus; comments due by 11-16-98; published 10-16-98
Boeing; comments due by 11-16-98; published 10-2-98
British Aerospace; comments due by 11-16-98; published 10-15-98
Dassault; comments due by 11-16-98; published 10-15-98
Fokker; comments due by 11-16-98; published 10-15-98
General Electric Aircraft Engines; comments due by 11-17-98; published 9-18-98
New Piper Aircraft, Inc.; comments due by 11-20-98; published 9-21-98
Saab; comments due by 11-16-98; published 10-15-98

Class E airspace; comments due by 11-16-98; published 10-15-98

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:
New lines of business prohibited; Puerto Rico and possession tax credit termination; cross reference and public hearing; comments due by 11-17-98; published 8-19-98
S corporations; pass through of items to shareholders; comments due by 11-16-98; published 8-18-98

TREASURY DEPARTMENT

Thrift Supervision Office

Lending and investments:
Letters of credit issuance and suretyship and guaranty agreements restrictions; comments due by 11-17-98; published 9-18-98

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

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H.R. 678/P.L. 105–331
Thomas Alva Edison Commemorative Coin Act (Oct. 31, 1998; 112 Stat. 3073)

H.R. 1853/P.L. 105–332
Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998 (Oct. 31, 1998; 112 Stat. 3076)

H.R. 2000/P.L. 105–333
ANCSA Land Bank Protection Act of 1998 (Oct. 31, 1998; 112 Stat. 3129)

H.R. 2327/P.L. 105–334
Drive for Teen Employment Act (Oct. 31, 1998; 112 Stat. 3137)

H.R. 3830/P.L. 105–335
Utah Schools and Lands Exchange Act of 1998 (Oct. 31, 1998; 112 Stat. 3139)

H.R. 3874/P.L. 105–336
William F. Goodling Child Nutrition Reauthorization Act of 1998 (Oct. 31, 1998; 112 Stat. 3143)

H.R. 4259/P.L. 105–337
Haskell Indian Nations University and Southwestern Indian Polytechnic Institute Administrative Systems Act of 1998 (Oct. 31, 1998; 112 Stat. 3171)

H.R. 4655/P.L. 105–338
Iraq Liberation Act of 1998 (Oct. 31, 1998; 112 Stat. 3178)

S. 1021/P.L. 105–339
Veterans Employment Opportunities Act of 1998 (Oct. 31, 1998; 112 Stat. 3182)

S. 1722/P.L. 105–340
Women's Health Research and Prevention Amendments of 1998 (Oct. 31, 1998; 112 Stat. 3191)

S. 2285/P.L. 105–341
Women's Progress Commemoration Act (Oct. 31, 1998; 112 Stat. 3196)

S. 2240/P.L. 105–342
Adams National Historical Park Act of 1998 (Nov. 2, 1998; 112 Stat. 3200)

S. 2246/P.L. 105–343
To amend the Act which established the Frederick Law Olmsted National Historic Site, in the Commonwealth of Massachusetts, by modifying the boundary, and for other purposes. (Nov. 2, 1998; 112 Stat. 3203)

S. 2413/P.L. 105–344
Prohibiting the conveyance of Woodland Lake Park tract in Apache-Sitgreaves National Forest in the State of Arizona unless the conveyance is made to the town of Pinetop-Lakeside or is authorized by Act of Congress. (Nov. 2, 1998; 112 Stat. 3204)

S. 2427/P.L. 105–345
To amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the legislative authority for the Black Patriots Foundation to establish a commemorative work. (Nov. 2, 1998; 112 Stat. 3205)

S. 2505/P.L. 105–346
To direct the Secretary of the Interior to convey title to the Tunnison Lab Hagerman Field Station in Gooding County, Idaho, to the University of Idaho. (Nov. 2, 1998; 112 Stat. 3206)

S. 2561/P.L. 105–347
Consumer Reporting Employment Clarification Act of 1998 (Nov. 2, 1998; 112 Stat. 3208)

S.J. Res. 51/P.L. 105–348
Granting the consent of Congress to the Potomac Highlands Airport Authority Compact entered into between the States of Maryland and West Virginia. (Nov. 2, 1998; 112 Stat. 3212)

S.J. Res. 58/P.L. 105–349
Recognizing the accomplishments of Inspectors General since their creation in 1978 in preventing and detecting waste, fraud, abuse, and mismanagement, and in promoting economy, efficiency, and effectiveness in the Federal Government. (Nov. 2, 1998; 112 Stat. 3216)

H.J. Res. 138/P.L. 105–350
Appointing the day for the convening of the first session of the One Hundred Sixth Congress. (Nov. 3, 1998; 112 Stat. 3218)

S. 538/P.L. 105–351
To authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District, and for other purposes. (Nov. 3, 1998; 112 Stat. 3219)

S. 744/P.L. 105–352
Fall River Water Users District Rural Water System Act of 1998 (Nov. 3, 1998; 112 Stat. 3222)

S. 1260/P.L. 105–353
Securities Litigation Uniform Standards Act of 1998 (Nov. 3, 1998; 112 Stat. 3227)

S. 2524/P.L. 105–354
To codify without substantive change laws related to Patriotic and National Observances, Ceremonies, and Organizations and to improve the United States Code. (Nov. 3, 1998; 112 Stat. 3238)

Last List November 5, 1998

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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3 (1997 Compilation and Parts 100 and 101)	(869–034–00002–9)	19.00	[1] Jan. 1, 1998
4	(869–034–00003–7)	7.00	[5] Jan. 1, 1998
5 Parts:			
1–699	(869–034–00004–5)	35.00	Jan. 1, 1998
700–1199	(869–034–00005–3)	26.00	Jan. 1, 1998
1200–End, 6 (6 Reserved)	(869–034–00006–1)	39.00	Jan. 1, 1998
7 Parts:			
1–26	(869–034–00007–0)	24.00	Jan. 1, 1998
27–52	(869–034–00008–8)	30.00	Jan. 1, 1998
53–209	(869–034–00009–6)	20.00	Jan. 1, 1998
210–299	(869–034–00010–0)	44.00	Jan. 1, 1998
300–399	(869–034–00011–8)	24.00	Jan. 1, 1998
400–699	(869–034–00012–6)	33.00	Jan. 1, 1998
700–899	(869–034–00013–4)	30.00	Jan. 1, 1998
900–999	(869–034–00014–2)	39.00	Jan. 1, 1998
1000–1199	(869–034–00015–1)	44.00	Jan. 1, 1998
1200–1599	(869–034–00016–9)	34.00	Jan. 1, 1998
1600–1899	(869–034–00017–7)	58.00	Jan. 1, 1998
1900–1939	(869–034–00018–5)	18.00	Jan. 1, 1998
1940–1949	(869–034–00019–3)	33.00	Jan. 1, 1998
1950–1999	(869–034–00020–7)	40.00	Jan. 1, 1998
2000–End	(869–034–00021–5)	24.00	Jan. 1, 1998
8	(869–034–00022–3)	33.00	Jan. 1, 1998
9 Parts:			
1–199	(869–034–00023–1)	40.00	Jan. 1, 1998
200–End	(869–034–00024–0)	33.00	Jan. 1, 1998
10 Parts:			
0–50	(869–034–00025–8)	39.00	Jan. 1, 1998
51–199	(869–034–00026–6)	32.00	Jan. 1, 1998
200–499	(869–034–00027–4)	31.00	Jan. 1, 1998
500–End	(869–034–00028–2)	43.00	Jan. 1, 1998
11	(869–034–00029–1)	19.00	Jan. 1, 1998
12 Parts:			
1–199	(869–034–00030–4)	17.00	Jan. 1, 1998
200–219	(869–034–00031–2)	21.00	Jan. 1, 1998
220–299	(869–034–00032–1)	39.00	Jan. 1, 1998
300–499	(869–034–00033–9)	23.00	Jan. 1, 1998
500–599	(869–034–00034–7)	24.00	Jan. 1, 1998
600–End	(869–034–00035–5)	44.00	Jan. 1, 1998
13	(869–034–00036–3)	23.00	Jan. 1, 1998
14 Parts:			
1–59	(869–034–00037–1)	47.00	Jan. 1, 1998
60–139	(869–034–00038–0)	40.00	Jan. 1, 1998
140–199	(869–034–00039–8)	16.00	Jan. 1, 1998
200–1199	(869–034–00040–1)	29.00	Jan. 1, 1998
1200–End	(869–034–00041–0)	23.00	Jan. 1, 1998
15 Parts:			
0–299	(869–034–00042–8)	22.00	Jan. 1, 1998
300–799	(869–034–00043–6)	33.00	Jan. 1, 1998
800–End	(869–034–00044–4)	23.00	Jan. 1, 1998
16 Parts:			
0–999	(869–034–00045–2)	30.00	Jan. 1, 1998
1000–End	(869–034–00046–1)	33.00	Jan. 1, 1998
17 Parts:			
1–199	(869–034–00048–7)	27.00	Apr. 1, 1998
200–239	(869–034–00049–5)	32.00	Apr. 1, 1998
240–End	(869–034–00050–9)	40.00	Apr. 1, 1998
18 Parts:			
1–399	(869–034–00051–7)	45.00	Apr. 1, 1998
400–End	(869–034–00052–5)	13.00	Apr. 1, 1998
19 Parts:			
1–140	(869–034–00053–3)	34.00	Apr. 1, 1998
141–199	(869–034–00054–1)	33.00	Apr. 1, 1998
200–End	(869–034–00055–0)	15.00	Apr. 1, 1998
20 Parts:			
1–399	(869–034–00056–8)	29.00	Apr. 1, 1998
400–499	(869–034–00057–6)	28.00	Apr. 1, 1998
500–End	(869–034–00058–4)	44.00	Apr. 1, 1998
21 Parts:			
1–99	(869–034–00059–2)	21.00	Apr. 1, 1998
100–169	(869–034–00060–6)	27.00	Apr. 1, 1998
170–199	(869–034–00061–4)	28.00	Apr. 1, 1998
200–299	(869–034–00062–2)	9.00	Apr. 1, 1998
300–499	(869–034–00063–1)	50.00	Apr. 1, 1998
500–599	(869–034–00064–9)	28.00	Apr. 1, 1998
600–799	(869–034–00065–7)	9.00	Apr. 1, 1998
800–1299	(869–034–00066–5)	32.00	Apr. 1, 1998
1300–End	(869–034–00067–3)	12.00	Apr. 1, 1998
22 Parts:			
1–299	(869–034–00068–1)	41.00	Apr. 1, 1998
300–End	(869–034–00069–0)	31.00	Apr. 1, 1998
23	(869–034–00070–3)	25.00	Apr. 1, 1998
24 Parts:			
0–199	(869–034–00071–1)	32.00	Apr. 1, 1998
200–499	(869–034–00072–0)	28.00	Apr. 1, 1998
500–699	(869–034–00073–8)	17.00	Apr. 1, 1998
700–1699	(869–034–00074–6)	45.00	Apr. 1, 1998
1700–End	(869–034–00075–4)	17.00	Apr. 1, 1998
25	(869–034–00076–2)	42.00	Apr. 1, 1998
26 Parts:			
§§ 1.0–1–1.60	(869–034–00077–1)	26.00	Apr. 1, 1998
§§ 1.61–1.169	(869–034–00078–9)	48.00	Apr. 1, 1998
§§ 1.170–1.300	(869–034–00079–7)	31.00	Apr. 1, 1998
§§ 1.301–1.400	(869–034–00080–1)	23.00	Apr. 1, 1998
§§ 1.401–1.440	(869–034–00081–9)	39.00	Apr. 1, 1998
§§ 1.441–1.500	(869–034–00082–7)	29.00	Apr. 1, 1998
§§ 1.501–1.640	(869–034–00083–5)	27.00	Apr. 1, 1998
§§ 1.641–1.850	(869–034–00084–3)	32.00	Apr. 1, 1998
§§ 1.851–1.907	(869–034–00085–1)	36.00	Apr. 1, 1998
§§ 1.908–1.1000	(869–034–00086–0)	35.00	Apr. 1, 1998
§§ 1.1001–1.1400	(869–034–00087–8)	38.00	Apr. 1, 1998
§§ 1.1401–End	(869–034–00088–6)	51.00	Apr. 1, 1998
2–29	(869–034–00089–4)	36.00	Apr. 1, 1998
30–39	(869–034–00090–8)	25.00	Apr. 1, 1998
40–49	(869–034–00091–6)	16.00	Apr. 1, 1998
50–299	(869–034–00092–4)	19.00	Apr. 1, 1998
300–499	(869–034–00093–2)	34.00	Apr. 1, 1998
500–599	(869–034–00094–1)	10.00	Apr. 1, 1998
600–End	(869–034–00095–9)	9.00	Apr. 1, 1998
27 Parts:			
1–199	(869–034–00096–7)	49.00	Apr. 1, 1998

Title	Stock Number	Price	Revision Date
200–End	(869–034–00097–5)	17.00	[6] Apr. 1, 1997
28 Parts:			
0–42	(869–034–00098–3)	36.00	July 1, 1998
43–end	(869–034–00099–1)	30.00	July 1, 1998
29 Parts:			
0–99	(869–034–00100–9)	26.00	July 1, 1998
100–499	(869–034–00101–7)	12.00	July 1, 1998
500–899	(869–034–00102–5)	40.00	July 1, 1998
900–1899	(869–034–00103–3)	20.00	July 1, 1998
1900–1910 (§§ 1900 to 1910.999)	(869–034–00104–1)	44.00	July 1, 1998
*1910 (§§ 1910.1000 to end)	(869–034–00105–0)	27.00	July 1, 1998
1911–1925	(869–034–00106–8)	17.00	July 1, 1998
1926	(869–034–00107–6)	30.00	July 1, 1998
1927–End	(869–034–00108–4)	41.00	July 1, 1998
30 Parts:			
1–199	(869–034–00109–2)	33.00	July 1, 1998
200–699	(869–034–00110–6)	29.00	July 1, 1998
700–End	(869–034–00111–4)	33.00	July 1, 1998
31 Parts:			
0–199	(869–034–00112–2)	20.00	July 1, 1998
200–End	(869–032–00113–8)	42.00	July 1, 1997
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–034–00114–9)	47.00	July 1, 1998
191–399	(869–032–00115–4)	51.00	July 1, 1997
400–629	(869–034–00116–5)	33.00	July 1, 1998
630–699	(869–034–00117–3)	22.00	July 1, 1998
*700–799	(869–034–00118–1)	26.00	July 1, 1998
800–End	(869–034–00119–0)	27.00	July 1, 1998
33 Parts:			
1–124	(869–032–00120–1)	27.00	July 1, 1997
125–199	(869–034–00121–1)	38.00	July 1, 1998
200–End	(869–034–00122–0)	30.00	July 1, 1998
34 Parts:			
1–299	(869–034–00123–8)	27.00	July 1, 1998
*300–399	(869–034–00124–6)	25.00	July 1, 1998
400–End	(869–034–00125–4)	44.00	July 1, 1998
*35	(869–034–00126–2)	14.00	July 1, 1998
36 Parts			
1–199	(869–034–00127–1)	20.00	July 1, 1998
200–299	(869–034–00128–9)	21.00	July 1, 1998
300–End	(869–034–00129–7)	35.00	July 1, 1998
*37	(869–034–00130–1)	27.00	July 1, 1998
38 Parts:			
0–17	(869–034–00131–9)	34.00	July 1, 1998
*18–End	(869–034–00132–7)	39.00	July 1, 1998
39	(869–034–00133–5)	23.00	July 1, 1998
40 Parts:			
1–49	(869–034–00134–3)	31.00	July 1, 1998
50–51	(869–034–00135–1)	24.00	July 1, 1998
52 (52.01–52.1018)	(869–034–00136–0)	28.00	July 1, 1998
52 (52.1019–End)	(869–034–00137–8)	33.00	July 1, 1998
53–59	(869–034–00138–6)	17.00	July 1, 1998
60	(869–032–00139–1)	52.00	July 1, 1997
61–62	(869–034–00140–8)	18.00	July 1, 1998
63	(869–034–00141–6)	57.00	July 1, 1998
64–71	(869–034–00142–4)	11.00	July 1, 1998
*72–80	(869–034–00143–2)	36.00	July 1, 1998
*81–85	(869–034–00144–1)	31.00	July 1, 1998
86	(869–034–00144–9)	53.00	July 1, 1998
*87–135	(869–034–00146–7)	47.00	July 1, 1998
136–149	(869–032–00146–4)	35.00	July 1, 1997
*150–189	(869–034–00148–3)	34.00	July 1, 1998
*190–259	(869–034–00149–1)	23.00	July 1, 1998
260–265	(869–034–00150–9)	29.00	July 1, 1998
266–299	(869–032–00150–2)	24.00	July 1, 1997
*300–399	(869–034–00152–1)	26.00	July 1, 1998
400–424	(869–032–00152–9)	33.00	[5] July 1, 1996
425–699	(869–032–00153–7)	40.00	July 1, 1997
700–789	(869–032–00154–5)	38.00	July 1, 1997
790–End	(869–034–00156–4)	22.00	July 1, 1998
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–034–00157–2)	13.00	July 1, 1998
*101	(869–034–00158–1)	37.00	July 1, 1998
102–200	(869–034–00158–9)	15.00	July 1, 1998
201–End	(869–032–00159–6)	15.00	July 1, 1997
42 Parts:			
1–399	(869–032–00160–0)	32.00	Oct. 1, 1997
400–429	(869–032–00161–8)	35.00	Oct. 1, 1997
430–End	(869–032–00162–6)	50.00	Oct. 1, 1997
43 Parts:			
1–999	(869–032–00163–4)	31.00	Oct. 1, 1997
1000–end	(869–032–00164–2)	50.00	Oct. 1, 1997
44	(869–032–00165–1)	31.00	Oct. 1, 1997
45 Parts:			
1–199	(869–032–00166–9)	30.00	Oct. 1, 1997
200–499	(869–032–00167–7)	18.00	Oct. 1, 1997
500–1199	(869–032–00168–5)	29.00	Oct. 1, 1997
1200–End	(869–032–00169–3)	39.00	Oct. 1, 1997
46 Parts:			
1–40	(869–032–00170–7)	26.00	Oct. 1, 1997
41–69	(869–032–00171–5)	22.00	Oct. 1, 1997
70–89	(869–032–00172–3)	11.00	Oct. 1, 1997
90–139	(869–032–00173–1)	27.00	Oct. 1, 1997
140–155	(869–032–00174–0)	15.00	Oct. 1, 1997
156–165	(869–032–00175–8)	20.00	Oct. 1, 1997
166–199	(869–032–00176–6)	26.00	Oct. 1, 1997
200–499	(869–032–00177–4)	21.00	Oct. 1, 1997
500–End	(869–032–00178–2)	17.00	Oct. 1, 1997
47 Parts:			
0–19	(869–032–00179–1)	34.00	Oct. 1, 1997
20–39	(869–032–00180–4)	27.00	Oct. 1, 1997
40–69	(869–032–00181–2)	23.00	Oct. 1, 1997
70–79	(869–032–00182–1)	33.00	Oct. 1, 1997
80–End	(869–032–00183–9)	43.00	Oct. 1, 1997
48 Chapters:			
1 (Parts 1–51)	(869–032–00184–7)	53.00	Oct. 1, 1997
1 (Parts 52–99)	(869–032–00185–5)	29.00	Oct. 1, 1997
2 (Parts 201–299)	(869–032–00186–3)	35.00	Oct. 1, 1997
3–6	(869–032–00187–1)	29.00	Oct. 1, 1997
7–14	(869–032–00188–0)	32.00	Oct. 1, 1997
15–28	(869–032–00189–8)	33.00	Oct. 1, 1997
29–End	(869–032–00190–1)	25.00	Oct. 1, 1997
49 Parts:			
1–99	(869–032–00191–0)	31.00	Oct. 1, 1997
100–185	(869–032–00192–8)	50.00	Oct. 1, 1997
186–199	(869–032–00193–6)	11.00	Oct. 1, 1997
200–399	(869–032–00194–4)	43.00	Oct. 1, 1997
400–999	(869–032–00195–2)	49.00	Oct. 1, 1997
1000–1199	(869–032–00196–1)	19.00	Oct. 1, 1997
1200–End	(869–032–00197–9)	14.00	Oct. 1, 1997
50 Parts:			
1–199	(869–032–00198–7)	41.00	Oct. 1, 1997
200–599	(869–032–00199–5)	22.00	Oct. 1, 1997
600–End	(869–032–00200–2)	29.00	Oct. 1, 1997

Title	Stock Number	Price	Revision Date
CFR Index and Findings Aids	(869–034–00049–6)	46.00	Jan. 1, 1998
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Individual copies		1.00	1998
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period July 1, 1996 to June 30, 1997. The volume issued July 1, 1996, should be retained.

[5] No amendments to this volume were promulgated during the period January 1, 1997 through December 31, 1997. The CFR volume issued as of January 1, 1997 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 1997, through April 1, 1998. The CFR volume issued as of April 1, 1997, should be retained.

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11–9–98
Vol. 63 No. 216

federal register

Monday
November 9, 1998

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11–9–98
Vol. 63 No. 216

BOOK 2:
Pages 61201–61786

Federal Register

Monday, November 9, 1998
Book 2 of 4 Books

The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions

61203 II—Regulatory Information Service Center
61422 III—Department of Agriculture
61522 IV—Department of Commerce
61610 V—Department of Defense
61648 VI—Department of Education
61658 VII—Department of Energy
61680 VIII—Department of Health and Human Services

183–247 (PT. 2) O—98—1

Federal Register

Monday
November 9, 1998

Part II

Regulatory Information Service Center

Statement by the Vice President

Introduction to The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions

Agency Regulatory Plans

Federal Register
Vol. 63, No. 216
Monday, November 9, 1998

The Regulatory Plan

Statement by the Vice President

A key measure of success by which this Administration will be judged is our progress in improving the regulatory process. This, the Administration's fifth Regulatory Plan, describes the most significant upcoming regulatory actions. It documents the continuing efforts of agencies to develop regulations the right way—regulating only when necessary and tailoring regulations to achieve their purpose in the least costly manner.

Whether developing new regulations or modifying existing ones, agencies are committed to working with the regulated community to identify workable approaches. They are carefully analyzing the likely effects of various alternatives. Most importantly, regulations must be made as flexible and as clear as possible by writing them in plain language. This is vital to creating a government that works better and costs less, and to reinventing a regulatory system that benefits the American people.

Today, this Regulatory Plan is published along with a more comprehensive catalogue of other regulatory activities—the Unified Agenda of Federal Regulatory and Deregulatory Actions. Taken together, these documents provide a wealth of information about regulations being developed. They empower concerned citizens to be more fully involved in the process by informing them of upcoming regulatory proposals. It also encourages them to register their comments and thoughts.

This fifth Regulatory Plan reflects the hard work being done by all agencies. It highlights many examples of regulation being done the right way—evidence of a regulatory system that works for the American people by providing more benefits with fewer burdens. It also charts the progress that we have made in reinventing the regulatory process since 1993. Thank you for all of your efforts.

Al Gore

[FR Doc. 98-30120
Filed 11-06-98 8:45 am]
Billing Code 3110-01-F

REGULATORY INFORMATION SERVICE CENTER

Introduction to The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Regulatory Information Service Center.

ACTION: Introduction to The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions.

SUMMARY: The Regulatory Flexibility Act requires that agencies publish semiannual regulatory agendas describing regulatory actions they are developing (5 U.S.C. 602). Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735; October 4, 1993) and Office of Management and Budget memoranda implementing section 4 of that Order establish minimum standards for agencies' agendas, including specific types of information for each entry.

The Unified Agenda helps agencies fulfill all of these requirements. All Federal regulatory agencies have chosen to publish their regulatory agendas as part of this publication.

Section 4 of Executive Order 12866 also directs that, as part of their submissions to the October edition of the Unified Agenda, agencies prepare a regulatory plan of the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form during the upcoming fiscal year. The agency plans appear as the first section of this joint publication; the agency agendas follow.

The Regulatory Plan begins with Vice President Gore's statement, followed by an introduction, and then the regulatory plans of 29 Federal departments and agencies. Each of these agencies has also submitted a regulatory agenda describing its other regulatory actions. The regulatory agendas for these and 33 other Federal agencies appear in Parts III-LXIV of this issue of the **Federal Register**, followed by indexes to both Plan and Agenda entries.

We welcome your comments on this joint publication and your suggestions for improving future ones.

ADDRESSES: Regulatory Information Service Center (MI), General Services Administration, 1800 F Street NW., Suite 3033, Washington, DC 20405.

Electronic Availability

All editions of **The Regulatory Plan** and the **Unified Agenda of Federal Regulatory and Deregulatory Actions** since October 1995 are available in electronic form. You can search the Plan and the Agenda on the World Wide Web at:

http://reginfo.gov

You may also search the Plan and the Agenda on the Government Printing Office's GPO Access, which is accessible through:

http://www.access.gpo.gov

FOR FURTHER INFORMATION CONTACT: For further information about specific regulatory actions, please refer to the Agency Contact listed for each entry.

To provide comment on or to obtain further information about this publication, contact: Mark G. Schoenberg, Executive Director, Regulatory Information Service Center (MI), General Services Administration, 1800 F Street NW., Suite 3033, Washington, DC 20405, (202) 482-7350. You may also send comments to us by e-mail at:

RISC@gsa.gov

SUPPLEMENTARY INFORMATION:

TABLE OF CONTENTS

Page

Statement by the Vice President 61203

Introduction to The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions

I. What Are the Unified Agenda and The Regulatory Plan? 61206
A. What Are the Limitations of the Information? 61206
II. Why Are the Unified Agenda and The Regulatory Plan Published? 61206
III. How Are The Regulatory Plan and the Unified Agenda Organized? 61207
IV. What Information Appears for Each Entry? 61207
V. Abbreviations 61209
VI. How Can Users Get Copies of the Plan and the Agenda? 61209

AGENCY REGULATORY PLANS

Cabinet Departments

Department of Agriculture 61210
Department of Commerce 61224
Department of Defense 61231
Department of Education 61235
Department of Energy 61237
Department of Health and Human Services 61242
Department of Housing and Urban Development 61259
Department of the Interior 61269
Department of Justice 61278
Department of Labor 61284
Department of Transportation 61315
Department of the Treasury 61331
Department of Veterans Affairs 61339

Other Executive Agencies

Environmental Protection Agency 61340
Equal Employment Opportunity Commission 61383
General Services Administration 61386
National Aeronautics and Space Administration 61387
National Archives and Records Administration 61388
Office of Personnel Management 61391
Pension Benefit Guaranty Corporation 61394
Small Business Administration 61396
Social Security Administration 61397

Independent Regulatory Agencies

Commodity Futures Trading Commission 61402
Consumer Product Safety Commission 61405
Federal Housing Finance Board 61408
Federal Maritime Commission 61412
Federal Trade Commission 61413
National Indian Gaming Commission 61416
Nuclear Regulatory Commission 61418

AGENCY AGENDAS

Cabinet Departments

Department of Agriculture 61422
Department of Commerce 61522
Department of Defense 61610
Department of Education 61648
Department of Energy 61658
Department of Health and Human Services 61680
Department of Housing and Urban Development 61788
Department of the Interior 61820
Department of Justice 61908
Department of Labor 61968
Department of State 62020
Department of Transportation 62026
Department of the Treasury 62204
Department of Veterans Affairs 62304

Other Executive Agencies

Advisory Council on Historic Preservation 62332
Agency for International Development 62334
Architectural and Transportation Barriers Compliance Board 62338
Commission on Civil Rights 62342
Corporation for National and Community Service 62344
Environmental Protection Agency 62348
Equal Employment Opportunity Commission 62480
Federal Emergency Management Agency 62486
Federal Mediation and Conciliation Service 62494
General Services Administration 62496
National Aeronautics and Space Administration 62510
National Archives and Records Administration 62514
National Foundation on the Arts and the Humanities
Institute of Museum and Library Services 62522
National Endowment for the Arts 62524
National Endowment for the Humanities 62528

National Science Foundation	62530
Office of Federal Housing Enterprise Oversight	62534
Office of Government Ethics	62538
Office of Management and Budget	62546
Office of Personnel Management	62552
Office of Special Counsel	62576
Overseas Private Investment Corporation	62578
Panama Canal Commission	62580
Peace Corps	62584
Pension Benefit Guaranty Corporation	62588
Railroad Retirement Board	62594
Selective Service System	62600
Small Business Administration	62602
Social Security Administration	62610
Tennessee Valley Authority	62630
United States Information Agency	62632

Joint Authority

Department of Defense/General Services Administration/National Aeronautics and Space Administration (Federal Acquisition Regulation)	62634

Independent Regulatory Agencies

Commodity Futures Trading Commission	62648
Consumer Product Safety Commission	62654
Farm Credit Administration	62662
Farm Credit System Insurance Corporation	62668
Federal Communications Commission	62670
Federal Deposit Insurance Corporation	62698
Federal Energy Regulatory Commission	62708
Federal Housing Finance Board	62714
Federal Maritime Commission	62720
Federal Reserve System	62724
Federal Trade Commission	62738
National Credit Union Administration	62748
National Indian Gaming Commission	62754
Nuclear Regulatory Commission	62760
Securities and Exchange Commission	62782
Surface Transportation Board	62808

INDEXES TO REGULATORY PLAN AND UNIFIED AGENDA ENTRIES

Regulatory Flexibility Analysis Index	62813
Small Entities Index (Regulatory Flexibility Analysis Not Required)	62823
Government Levels Index	62831
Regulatory Flexibility Act Section 610 Review Index	62857
Subject Index	62859

INTRODUCTION TO THE UNIFIED AGENDA AND THE REGULATORY PLAN

I. What Are the Unified Agenda and The Regulatory Plan?

The **Unified Agenda of Federal Regulatory and Deregulatory Actions** (Unified Agenda) provides information, in a uniform format, about regulations that the Government is considering or reviewing. The Unified Agenda has appeared in the **Federal Register** twice each year since 1983. This edition includes regulatory agendas from 62 Federal departments and agencies. Agencies of the United States Congress are not included.

The Regulatory Plan (Plan) serves as a defining statement of the Administration's regulatory and deregulatory policies and priorities. The Plan is part of the fall edition of the Unified Agenda. The regulatory plan of each participating agency contains two sections: (1) A narrative statement of its regulatory priorities and (2) a description of the most important significant regulatory and deregulatory actions that the agency reasonably expects to issue in proposed or final form during the upcoming fiscal year. This edition includes the regulatory plans of 30 departments and agencies.

The Regulatory Information Service Center (the Center) compiles Unified Agenda and the Plan for the Office of Information and Regulatory Affairs (OIRA), part of the Office of Management and Budget. OIRA is responsible for overseeing the Federal Government's regulatory, paperwork, and information resource management activities, including implementation of E.O. 12866. The Center also provides information about Federal regulatory activity to the President and his Executive Office, the Congress, agency managers, and the public.

The activities included in the Agenda are, in general, those that will have a regulatory action within the next 12 months. Agencies may include activities that will have a longer timeframe than 12 months. Agency agendas also show actions or reviews completed or withdrawn since the last agenda. The agendas do not contain regulations that were excluded under Executive Order 12866, such as those concerning military or foreign affairs functions or regulations related to agency organization, management, or personnel matters.

A. What Are the Limitations of the Information?

Agencies prepared entries for this publication to give the public notice of their plans to review, propose, and issue regulations. They have tried to predict their activities over the next 12 months as accurately as possible, but dates and schedules are subject to change. Agencies may withdraw some of the regulations now under development, and they may issue or propose other regulations not included in their agendas. Agency actions in the rulemaking process may occur before or after the dates they have listed.

The Regulatory Plan and the Unified Agenda do not create a legal obligation on agencies to adhere to schedules within them or to confine their regulatory activities to those regulations that appear in these publications. The information in this edition is accurate as of October 1, 1998, in the judgment of the submitting agencies, except as otherwise noted by the agencies. In addition, some agencies submitted updates after that date.

Where applicable, individual actions will be subject to review for compliance with applicable Executive orders, the Regulatory Flexibility Act, and the Paperwork Reduction Act at appropriate points in the regulatory process.

II. Why Are the Unified Agenda and The Regulatory Plan Published?

The Unified Agenda helps agencies comply with their obligations under the Regulatory Flexibility Act and various Executive orders and other statutes.

Regulatory Flexibility Act

The *Regulatory Flexibility Act* requires agencies to identify those rules that may have a significant economic impact on a substantial number of small entities (5 U.S.C. 602). Agencies meet that requirement by including the information in their submissions for the Unified Agenda. Agencies may also indicate those regulations that they are reviewing as part of their periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610).

Executive Order 12866

Executive Order 12866 entitled "Regulatory Planning and Review" (September 30, 1993; 58 FR 51735) requires covered agencies to prepare an agenda of all regulations under development or review. The Order also requires that certain agencies prepare annually a regulatory plan of their "most important significant regulatory actions," which appears as part of the October Unified Agenda.

Executive Order 12875

Executive Order 12875 entitled "Enhancing the Intergovernmental Partnership" (October 26, 1993; 58 FR 58093) directs agencies to reduce the imposition of unfunded mandates upon State, local, and tribal governments. The Order directs agencies that are proposing to impose nonstatutory unfunded mandates to consult with affected governmental officials and document their concerns, report those concerns to the Director of the Office of Management and Budget, and explain the agency's position supporting the continuing need to issue the regulation in light of those concerns. As part of this effort, agencies include in their submissions for the Unified Agenda information on whether their regulatory actions may have an effect on the various levels of government.

Unfunded Mandates Reform Act of 1995

The *Unfunded Mandates Reform Act of 1995* (P.L. 104-4, title II) requires agencies to prepare written assessments of the costs and benefits of significant regulatory actions "that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more . . . in any 1 year . . . ." The requirement does not apply to independent regulatory agencies, nor does it apply to certain subject areas excluded by section 4 of the Act. Affected agencies identify in the Unified Agenda those regulatory actions they believe are subject to title II of the Act.

Small Business Regulatory Enforcement Fairness Act

The *Small Business Regulatory Enforcement Fairness Act* (P.L. 104-121, title II) established a procedure for congressional review of rules (5 U.S.C. 801 *et seq.*), which defers, unless exempted, the effective date of a "major" rule for at least 60 days from the publication of the final rule in the **Federal Register**. The Act specifies that a rule is "major" if it has resulted or is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in that Act. If the issuing agency believes that a rule may be major, it indicates this under the "Priority" heading of the entry. The Act provides that the Administrator of OIRA will make the final determination as to whether a rule is major.

III. How Are The Regulatory Plan and the Unified Agenda Organized?

The Regulatory Plan appears in Part II of this edition of the **Federal Register**. Following the Plan, each agency's agenda appears as a separate part. The sections of the Plan and the parts of the Unified Agenda are organized alphabetically in four groups: Cabinet departments; other executive agencies; the Federal Acquisition Regulation, a joint authority (Agenda only); and independent regulatory agencies. Departments may in turn be divided into subagencies.

Each department's or agency's section of the Plan contains a narrative statement of regulatory priorities followed by a description of the department's or agency's most important significant regulatory and deregulatory actions. Each part of the Agenda begins with a preamble providing information specific to that part.

In the Agenda, each agency presents its entries under one of five headings according to the rulemaking stage of the entry. In the Plan, only the first three stages are applicable. The stages are:

1. *Prerule Stage*—actions agencies will undertake to determine whether or how to initiate rulemaking. Such actions occur prior to a Notice of Proposed Rulemaking (NPRM) and may include Advance Notices of Proposed Rulemaking (ANPRMs) and reviews of existing regulations.

2. *Proposed Rule Stage*—actions for which agencies plan to publish a Notice of Proposed Rulemaking as the next step in their rulemaking process or for which the closing date of the NPRM Comment Period is the next step.

3. *Final Rule Stage*—actions for which agencies plan to publish a final rule or an interim final rule or to take other final action as the next step in their rulemaking process.

4. *Long-Term Actions*—items under development but for which the agency does not expect to have a regulatory action within the 12 months after publication of this edition of the Unified Agenda. Some of the entries in this section may contain abbreviated information.

5. *Completed Actions*—actions or reviews the agency has completed or withdrawn since publishing its last agenda. This section also includes items the agency began and completed between issues of the Agenda.

In the Agenda, an agency may use subheadings to identify regulations that it has grouped according to particular topics. When these subheadings are used, they appear above the title of the first regulation in each group.

A bullet (•) preceding an entry indicates that the entry appears in this publication for the first time.

All entries are numbered sequentially from the beginning of the Plan to the end of the Unified Agenda. The sequence number preceding the title of each entry identifies the location of the entry in this edition. The same number is used in the indexes to enable readers to find entries on specific subjects.

For each agency that requests it, the Center provides a table of contents that appears in the Agenda after the agency preamble. In addition to listing all the agency's Agenda entries, the tables of contents identify each Plan entry by a cross-reference in bold type.

This publication contains five indexes. The first two indexes list the regulatory actions that agencies believe may have effects on small entities. The first lists the regulatory actions for which agencies believe that the Regulatory Flexibility Act may require a Regulatory Flexibility Analysis. The second lists additional regulatory actions for which agencies have chosen to indicate that some impact on small entities is likely though a Regulatory Flexibility Analysis may not be required. The third index lists entries that agencies believe may have effects on levels of government. The fourth index lists entries for which agencies have indicated that they are conducting a periodic review under section 610(c) of the Regulatory Flexibility Act. The fifth is a subject index based on the **Federal Register Thesaurus of Indexing Terms**.

Congress generally authorizes a single Federal agency to implement, through regulation, a specific policy objective. Sometimes, however, a statute may require that several agencies issue regulations to accomplish the objective. In such cases, the agencies, working with a central coordinator, jointly publish the rulemaking documents. These regulations are known as Governmentwide common rules. Agencies participating in developing common rules report them in their individual sections of the Unified Agenda.

This edition of the Unified Agenda contains four Governmentwide common rules:

- New Restrictions on Lobbying
- Administrative Requirements for Grantees To Reflect Single Audit Act Amendments
- Nondiscrimination on the Basis of Sex in Federally Assisted Programs and Activities
- Protection of Human Subjects

IV. What Information Appears for Each Entry?

All entries in the Unified Agenda contain uniform data elements including, at a minimum, the following information:

Title of the Regulation. The notation "Section 610 Review" following the title indicates that the agency has selected the rule for its periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610(c)).

Priority. Agencies assign each entry to one of the following five categories of significance.

(1) Economically Significant

As defined in Executive Order 12866, a rulemaking action that will have an annual effect on the economy of $100 million or more or will adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The definition of an "economically significant" rule is similar but not identical to the definition of a "major" rule under 5 U.S.C. 801 (P.L. 104-121). (See below.)

(2) Other Significant

A rulemaking that is not economically significant but is considered significant by the agency. This category includes rules that the agency anticipates will be reviewed under E.O. 12866 or rules that are a priority of the agency head. These rules may or may not be included in the agency's regulatory plan.

(3) Substantive, Nonsignificant

A rulemaking that has substantive impacts but is neither Significant, nor Routine and Frequent, nor Informational/Administrative/Other.

(4) Routine and Frequent

A rulemaking that is a specific case of a multiple recurring application of a regulatory program in the Code of Federal Regulations and that does not alter the body of the regulation.

(5) Informational/Administrative/Other

A rulemaking that is primarily informational or pertains to agency matters not central to accomplishing the agency's regulatory mandate but that the agency places in the Unified Agenda to inform the public of the activity.

In addition, if an agency believes that a rule may be "major" under 5 U.S.C. 801 (P.L. 104-121) because it has resulted or is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in that Act, the agency indicates this under the "Priority" heading. (The Act provides that the Administrator of the Office of Information and Regulatory Affairs will make the final determination as to whether a rule is major.)

Unfunded Mandates—whether the rule is covered by section 202 of the Unfunded Mandates Reform Act of 1995 (P.L. 104-4). The Act requires that, before issuing an NPRM likely to result in a mandate that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector of more than $100 million in 1 year, agencies, other than independent regulatory agencies, shall prepare a written statement containing an assessment of the anticipated costs and benefits of the Federal mandate. If the agency believes the entry is not subject to the Act, this data element will not be printed.

Reinvention—whether the action is part of the Administration's Reinventing Government effort and, if so, whether the result will be elimination of existing text in the Code of Federal Regulations (CFR) or revision of text in the CFR to reduce burden or duplication or to streamline requirements. If the action is not specifically part of this effort, the data element will not be printed.

Legal Authority—the section(s) of the United States Code (U.S.C.) or Public Law (P.L.) or the Executive order (E.O.) that authorize(s) the regulatory action. Agencies may provide popular name references to laws in addition to these citations.

CFR Citation—the section(s) of the Code of Federal Regulations that will be affected by the action.

Legal Deadline—whether the rule is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to an NPRM, a Final Action, or some other action.

Abstract—a brief description of the problem the regulation will address; the need for a Federal solution; to the extent available, alternatives that the agency is considering to address the problem; and potential costs and benefits of the action.

Timetable—the dates and citations (if available) for all past steps and a projected date for at least the next step for the regulatory action. If a date appears in this section as 00/00/00, the date of the action is currently undetermined. A date printed in the form 01/00/99 means the agency is predicting the month and year the action will take place but not the day it will occur. "Undetermined" indicates the agency does not know what action it will take next. Dates after 1999 are printed in the same form as other dates, using the last two digits of the year. (Note that 00/00/00 refers to an unspecified date some time in the future, with no specific relation to the year 2000.)

Regulatory Flexibility Analysis Required—whether an analysis is required by the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because the rule is likely to have a significant economic impact on a substantial number of small entities as defined by the Act.

Small Entities Affected—the types of small entities (businesses, governmental jurisdictions, or organizations) on which the rule is likely to have an impact as defined by the Regulatory Flexibility Act. Some agencies have chosen to indicate likely effects on small entities even though they believe that a Regulatory Flexibility Analysis will not be required.

Government Levels Affected—whether the rule is expected to affect levels of government and, if so, whether the governments are State, local, tribal, or Federal.

Agency Contact—the name, title, address, and phone number of a person in the agency who is knowledgeable about the regulation. If available, the agency may also provide the fax number, e-mail address, and TDD for the agency contact.

Procurement—whether the action is related to procurement and, if so, whether it is required by statute and whether it involves a paperwork burden. The Procurement heading appears only if the entry is related to procurement.

Some agencies have provided the following optional information:

Compliance Cost to the Public—the estimated gross compliance cost of the action.

Affected Sectors—the industrial sectors that the action may most affect, either directly or indirectly. Affected Sectors are identified by North American Industry Classification System (NAICS) codes.

Entries appearing in **The Regulatory Plan** should also contain the following information:

Statement of Need—a description of the need for the regulatory action.

Summary of the Legal Basis—a description of the legal basis for the action, including whether any aspect of the action is required by statute or court order.

Alternatives—a description of the alternatives the agency has considered or will consider as required by section 4(c)(1)(B) of E.O. 12866.

Anticipated Costs and Benefits—a description of preliminary estimates of the anticipated costs and benefits of the action.

Risks—a description of the magnitude of the risk the action addresses, the amount by which the agency expects the action to reduce this risk, and the relation of the risk and this risk reduction effort to other risks and risk reduction efforts within the agency's jurisdiction.

V. Abbreviations

The following abbreviations appear throughout this publication:

ANPRM—An Advance Notice of Proposed Rulemaking is a preliminary notice, published in the **Federal Register**, announcing that an agency is considering a regulatory action. The agency issues an ANPRM before it develops a detailed proposed rule. The ANPRM describes the general area that may be subject to regulation and usually asks for public comment on the issues and options being discussed. An ANPRM is issued only when an agency believes it needs to gather more information before proceeding to a notice of proposed rulemaking.

CFR—The Code of Federal Regulations is an annual codification of the general and permanent regulations published in the **Federal Register** by the departments and agencies of the Federal Government. The Code is divided into 50 titles, and each title covers a broad area subject to Federal regulation. The CFR is keyed to and kept up to date by the daily issues of the **Federal Register**.

EO—An Executive order is a directive from the President to executive agencies, issued under constitutional or statutory authority. Executive orders are published in the **Federal Register** and in title 3 of the Code of Federal Regulations.

FR—The **Federal Register** is a daily Federal Government publication that provides a uniform system for publishing Presidential documents, all proposed and final regulations, notices of meetings, and other official documents issued by Federal departments and agencies.

FY—The Federal fiscal year runs from October 1 to September 30.

NPRM—A Notice of Proposed Rulemaking is the document an agency issues and publishes in the **Federal Register** that describes and solicits public comments on a proposed regulatory action. Under the Administrative Procedure Act (5 U.S.C. 553), an NPRM must include, at a minimum:

- a statement of the time, place, and nature of the public rulemaking proceeding;
- a reference to the legal authority under which the rule is proposed; and
- either the terms or substance of the proposed rule or a description of the subjects and issues involved.

PL—A Public Law is a law passed by Congress and signed by the President or enacted over his veto. It has general applicability, unlike a private law that applies only to those persons or entities specifically designated. Public laws are numbered in sequence throughout the 2-year life of each Congress; for example, PL 105-4 is the fourth public law of the 105th Congress.

RFA—A Regulatory Flexibility Analysis is a description and analysis of the impact of a rule on small entities, including small businesses, small governmental jurisdictions, and certain small not-for-profit organizations. The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires each agency to prepare an initial RFA for public comment when it is required to publish an NPRM and to make available a final RFA when the final rule is published, unless the agency head certifies that the rule would not have a significant economic impact on a substantial number of small entities.

RIN—The Regulation Identifier Number is assigned by the Regulatory Information Service Center to identify each regulatory action listed in the Unified Agenda and **The Regulatory Plan**, as directed by E.O. 12866 (section 4(b)). Additionally, OMB has asked agencies to include RINs in the headings of their Rule and Proposed Rule documents when publishing them in the **Federal Register**, to make it easier for the public and agency officials to track the publication history of regulatory actions throughout their development.

Seq. No.—The Sequence Number identifies the location of an entry in this publication. Note that a specific regulatory action will have the same RIN throughout its development but will generally have different sequence numbers in different editions of the Unified Agenda and **The Regulatory Plan**.

USC—The United States Code is a consolidation and codification of all general and permanent laws of the United States. The USC is divided into 50 titles, and each title covers a broad area of Federal law.

VI. How Can Users Get Copies of the Plan and the Agenda?

Printed copies of this edition of the **Federal Register** are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9325, (202) 512-1800.

Copies of individual agency materials may be available directly from the agency. Please contact the particular agency for further information.

All editions of **The Regulatory Plan** and the **Unified Agenda of Federal Regulatory and Deregulatory Actions** since October 1995 are also available in electronic form. You can search the Plan and the Agenda on the World Wide Web at:

http://reginfo.gov

or through the U.S. Business Advisor at:

http://www.business.gov

You may also search the Plan and the Agenda on the Goverment Printing Office's GPO Access, which is accessible through:

http://www.access.gpo.gov

Dated: October 27, 1998.

Ronald C. Kelly,

Acting Executive Director.

[FR Doc. 98-29180 Filed 11-06-98; 8:45 am]

BILLING CODE 6820-27-F

DEPARTMENT OF AGRICULTURE (USDA)

Statement of Regulatory Priorities

To comply with the National Performance Review (NPR) directive to achieve regulatory reform, the Department of Agriculture is continuing an important project to eliminate unnecessary regulations and improve those remaining by making them easier to understand and more user friendly. To date, the Department's review and revision effort has resulted in actions on over 60 percent of our NPR commitment to regulatory reform. When the results are fully implemented, the Department will have eliminated or reinvented 81 percent of its regulatory holdings in the CFR.

Positive changes resulting from regulatory actions proposed as well as completed by the Department will reach into every corner of the country and, both directly and indirectly, touch the lives of most Americans. Those programs that offer support to specific rural and urban segments of the economy are being simplified so that persons who qualify for assistance, or some other form of participation, will find less burdensome rules. Yet high standards will be set for efficient and effective program management that makes the best use of taxpayer dollars. Farmers, ranchers, and others involved in U.S. agriculture will find significant changes in all aspects of regulations that govern their interaction with the Department and its programs. Farm credit, a mainstay of the Nation's rural economy, will be significantly streamlined by the merger of cumbersome loan-making regulations with forms and certifications simplified to facilitate the application process. The Department is undertaking a number of actions in the regulation of commodities that will increase efficiency, improve customer service, reduce intervention in markets, and allow States to assume greater responsibility in controlling the spread of plant pests or disease. The Department is also improving the regulations that serve rural communities. Several changes are being made in the rural housing programs. Nutrition programs are also being strengthened, their efficiency improved, and their integrity enhanced through regulatory reform. In the area of food safety, the Department has undertaken a significant reinvention of all policies and relationships with industry and the public. There are several important reinvention plans in the natural resources and conservation area.

Reducing Paperwork Burden on Farmers

The Department has made substantial progress under the guidance of the Chief Information Officer in implementing the goal of the Paperwork Reduction Act of 1995 to reduce the burden of information collection on the public by 25 percent by 1999. Further reductions will result from program changes, improved efficiency in the collection and management of information, and adjustments in the burden.

The Department established a Paperwork Reduction Implementation Team (PRIT), under the guidance of the Food and Agriculture Council, based on direction from the Secretary of Agriculture, to create a plan to reduce the paperwork burden on farmers. The PRIT has developed a USDA Paperwork Reduction Framework—a set of standards and guidelines for the Service Center agencies. Agencies and other teams will use the framework in their execution of their paperwork reduction initiatives.

Simultaneously, the PRIT, working with the Service Center agencies, continue ongoing initiatives to reduce burden as quickly as possible. These agencies are working together through business process reengineering initiatives to address customer needs by integrating Agency processes to streamline information collected from the farmer. This will eliminate redundant data collection, provide direct access to benefit and eligibility information, and reduce and simplify the number of regulations and forms.

The Role of Regulations

The programs of the Department are diverse and far reaching, as are the regulations that attend their delivery. Regulations codify how the Department will conduct its business, including the specifics of access to, and eligibility for, USDA programs. Regulations also specify the behavior of State and local governments, private industry, businesses, and individuals that is necessary to comply with their provisions. The diversity in purpose and outreach of our programs contributes significantly to the USDA being at or near the top of the list of departments that produce the largest number of regulations annually. These regulations range from nutrition standards for the school lunch program, to natural resource and environmental measures governing national forest usage and soil conservation, to regulations protecting American agribusiness (the largest dollar value contributor to exports) from the ravages of domestic or foreign plant or animal pestilence and they extend from farm to supermarket to ensure the safety, quality, and availability of the Nation's food supply. Many regulations function in a dynamic environment which requires their periodic modification. The factors determining various entitlement, eligibility, and administrative criteria often change from year to year. Therefore, many significant regulations must be revised annually to reflect changes in economic and market benchmarks. Almost all legislation that affects departmental programs has accompanying regulatory needs, often with a significant impact. The Farm Bill of 1996, Public Law 104-127, has considerable regulatory consequences. This key legislation affects most agencies of USDA and will result in the addition of new programs, the deletion of others, and modification to still others.

Administration Guidance—USDA Response

In developing and implementing regulations, the Department has been guided by the regulatory principles and philosophy set forth by the President in Executive Order 12866 "Regulatory Planning and Review." As prescribed in the Order, the USDA is committed to "promulgate only those regulations that are required by law, are necessary to interpret the law, or are made necessary by compelling public need." When considering a rulemaking action, the Department will assess the costs and benefits of available regulatory alternatives, including the alternative of not regulating. Our analysis will consider the costs and benefits of both quantifiable and qualitative measures and opt for approaches that maximize net benefits.

Major Regulatory Priorities

Five agencies are represented in this regulatory plan. They include the Farm Service Agency, the Food and Nutrition Service, the Forest Service, the Food Safety and Inspection Service, and the Risk Management Agency.

This document represents summary information on prospective significant regulations as called for in Executive Order 12866. A brief comment on each of the five agencies appears below, which summarizes the Agency mission and its key regulatory priorities. The Agency summaries are followed by the regulatory plan entries.

Farm Service Agency

Mission: The Farm Service Agency (FSA) administers contract commodity, conservation, farm loan, commodity purchase, and emergency loan programs, as prescribed by various statutes, in order to support farming certainty and flexibility while ensuring compliance with farm conservation and wetland protection requirements and to assist owners and operators of farms and ranches to conserve and enhance soil, water, and related natural resources.

Priorities: FSA's priority for 1999 will be to continue to implement these programs with emphasis on enhanced service to our customers.

The most significant FSA regulations are those that operate the contract commodity programs and farm loans. The farm programs were significantly changed by the 1996 Farm Bill. The Farm Bill instituted the contract commodity programs, which utilize production flexibility contracts and marketing assistance loans in place of the deficiency payments and production adjustment of past programs. The contracts removed the link between income support payments and farm prices by providing for seven annual fixed but declining payments. FSA's farm loan programs make and guarantee loans to family farmers and ranchers to purchase farm land and finance agricultural production. While the contract commodity and farm loan programs have significant economic impact, they are driven by specific statutory requirements. Therefore, they are noted here to acknowledge their significance in the overall USDA regulatory plan, but are not further listed in the body of the plan which appears below.

In addition to its normal program operations, FSA has initiated a business process reengineering project to streamline its farm loanmaking and servicing regulations and reduce the information collection burden associated with the programs. FSA plans to reduce the number of CFR parts containing its farm loan program regulations by approximately 70 percent. In addition, FSA hopes to achieve a significant reduction in the total number of CFR pages by removing administrative provisions and internal policy and eliminating duplicative material. Furthermore, FSA intends to improve the clarity of the farm loan program regulations by following the guidelines established in the President's Plain Language in Government Writing Initiative. Current plans are to publish as a final rule the first revised CFR part, containing the guaranteed loanmaking and servicing requirements, in December 1998.

Food and Nutrition Service

Mission: The Food and Nutrition Service (FNS) provides children and needy families better access to food and a more healthful diet through food assistance programs and comprehensive nutrition education efforts.

Priorities: In addition to responding to provisions of legislation authorizing its programs and recent welfare reform provisions, FNS has established broad strategic policy goals aimed at improving the nutritional well being of its clients and improving program integrity. These goals are:

- Healthful diets for school-age children. The two major programs serving this goal are the National School Lunch Program (NSLP) and the School Breakfast Program (SBP). This goal reflects the Agency's recognition of its national health and nutrition education responsibilities for school-age children.
- Enhanced food and nutrition security for low-income Americans. This goal represents both the continuation of the Food Stamp Program's traditional role in providing food assistance, as well as improving program administration to meet future challenges. Welfare reform legislation modified the eligibility criteria for food stamp benefits, increased State design options, and maintained the overall mission to provide food and nutrition security for low-income Americans participating in the program.
- Improved nutritional status and health of low-income women, infants, and children. This goal reflects the mission of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). It emphasizes nutrition education, healthy infant feeding practices, and positive health outcomes while seeking to enhance program efficiency and integrity.
- Improved nutritional status of childen in day-care settings. FNS seeks to improve the nutritional quality of meals served under its Child and Adult Care Food Program (CACFP), program access for children from low-income families, and program integrity.
- Low-income children consume nutritious lunches when school meals are not available. Through its Summer Food Service Program, FNS seeks to extend its commitment to children from low-income households during summer months when school meals are not available.
- Improved quality of food distribution commodities and service. FNS continues its support for agricultural markets with an emphasis on more healthful commodities and improved program efficiency through automation, reduced Federal and State inventories, and timely deliveries in its food distribution. It also takes the lead in USDA's gleaning intitiative for foods used in the FNS feeding and food distribution programs.

Forest Service

Mission: The mission of the Forest Service is to sustain the health, productivity, and diversity of the Nation's forest and rangelands to meet the needs of present and future generations. This includes protecting and managing the National Forest and Grasslands; providing technical and financial assistance to States, communities, and private forest landowners; and developing and providing scientific and technical assistance and scientific exchanges in support of international forest and range conservation.

Priorities: The President's environmental program includes incorporation of the principles of ecosystem management in natural resource planning for all units of the National Forest System. In support of that effort, proposed regulations will be published governing how future changes in direction will be made and how those changes will be documented. Guided by the recommendations of a recently chartered Committee of Scientists, the regulation also will streamline planning and update planning procedures and requirements to reflect Agency and public experience gained over the last 15 years. Emphasis will be placed on assessing ecosystem health through ecoregional and watershed-level assessments. The rule also will strengthen public participation opportunities in planning, as well as give greater emphasis to interaction and dialog with Federal, State, local, and Indian tribal governments.

Food Safety and Inspection Service

Mission: The Food Safety and Inspection Service (FSIS) is responsible for ensuring the Nation's meat, poultry, and egg products are safe, wholesome, and properly packaged and labeled.

Priorities: FSIS is continuing its comprehensive review of its existing regulations in light of the July 25, 1996,

final rule, "Pathogen Reduction; Hazard Analysis and Critical Control Points (HACCP) Systems," requiring that official meat and poultry establishments develop and implement HACCP, a science-based process control system for food safety. Establishments are responsible for developing and implementing HACCP plans incorporating the controls they have determined are necessary and appropriate to produce safe products. HACCP places the responsibility for food safety firmly on meat and poultry establishments but enables them to tailor their control systems to the needs of particular plants and processes and to take advantage of the latest technological innovations.

FSIS must revise its existing regulations to be consistent with HACCP principles; many are "command-and-control" regulations, prescribing the exact means establishments must use to ensure the safety of their products. Some specify, for example, precise cooking time-and-temperature combinations. Further, many of these regulations require prior approval of equipment and procedures by FSIS, thereby assigning the Agency responsibility for the means used by establishments to comply with the regulations. As a general matter, command-and-control regulations are incompatible with HACCP because they deprive plants of the flexibility to innovate and undercut the clear delineation of responsibility for food safety. Therefore, to prepare for the implementation of HACCP, FSIS is conducting a thorough review of its current regulations and, to the maximum extent possible, converting its command-and-control regulations to performance standards. Some of the Agency's recent and planned initiatives, both to convert command-and-control regulations to performance standards and to generally streamline and simplify the regulations, follow:

- FSIS is converting to performance standards the current regulations governing the production of cooked beef products, uncured meat patties, and certain poultry products.
- FSIS has proposed streamlining, consolidating, and making consistent with HACCP the rules of practice regarding suspension and withdrawal of inspection.
- FSIS has proposed to consolidate the sanitation regulations into a single part of the Code of Federal Regulations applicable to both meat and poultry establishments, eliminate unnecessary differences between the meat and poultry sanitation requirements, and convert many of the highly prescriptive requirements to performance standards.
- FSIS will be proposing to remove most requirements pertaining to partial quality control programs.

Risk Management Agency

Mission: The Risk Management Agency (RMA) provides and supports cost-effective means of managing risk for agricultural producers in order to improve the economic stability of agriculture.

Priorities: RMA's priority for 1999 will be to strengthen the safety net for agricultural producers through sound risk management programs and education by:

- Developing new programs and improving existing programs to ensure producers have economically sound risk management tools available to meet their needs;
- Promoting a risk management education effort to increase producers' awareness and effective utilization of risk management tools;
- Fostering a better public-private partnership with the crop insurance industry to facilitate the delivery of actuarially sound and affordable risk management products to the Nation's farmers;
- Providing reinsurance in circumstances where private crop insurance companies cannot accept excessive program risk; and
- Improving existing management programs to ensure wise management and protection of taxpayer funds.

USDA—Federal Crop Insurance Corporation (FCIC)

FINAL RULE STAGE

1. GENERAL ADMINISTRATIVE REGULATIONS; NONSTANDARD UNDERWRITING CLASSIFICATION SYSTEM

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

7 USC 1506(l); 7 USC 1506(p)

CFR Citation:

7 CFR 400

Legal Deadline:

None

Abstract:

The Federal Crop Insurance Corporation proposes to remove and reserve subpart O of the General Administrative Regulations, effective for the 1999 (2000 for Texas and Arizona and California Citrus) and succeeding crop years. This proposed action is intended to eliminate the unintended adverse effects of the Nonstandard Classification System (NCS), simplify and update program underwriting rules consistent with the program's current and future anticipated experience, and ensure that crop insurance premiums are applied to all producers in a fair and consistent manner.

Statement of Need:

This rule is being published as an initiative to respond to the needs of areas suffering repeated disasters and the complaints that the current system: (1) does not adequately exclude widespread causes of loss (disaster adjustment); (2) fails to recognize diverse conditions within a county; (3) unfairly hits new or struggling producers caught by repetitive disasters; (4) sets too high a premium for those producers listed on the NCS; and (5) applies unfairly to non-NCS insureds through share arrangements with insureds selected for NCS. Additionally, the current NCS process can be complicated to explain to insureds and agents who service crop insurance policies. The NCS process is also labor intensive for the Risk Management Agency and insurance providers at a time of increasingly smaller budgets and reduced resources. Reducing or eliminating program regulations that provide little benefit or can be accomplished through other more appropriate or cost efficient means is consistent with the Federal Crop Insurance Act requirement for simplification and the Administration's emphasis for regulatory reduction. It is for these reasons that this subpart is being suspended. FCIC will, during this suspension, consider and propose for comments an alternate method to the NCS program for the purpose of fairly and accurately determining coverage and premium consistent with the risk conditions under which the insurance offer is made.

Summary of the Legal Basis:

7 USC 1506(l); 7 USC 1506(p)

Alternatives:

None at this time.

Anticipated Costs and Benefits:

The review indicated that NCS had been applied to only a small percentage of the total number of insureds who had collected at least three losses, had adverse loss ratios, and were responsible for a significant share of the losses paid. The analysis also indicated that the number of active NCS policies had declined 52 percent from 1996 to 1997 (4,800 to 2,300) and that the liability associated with NCS policies declined from $37 million in 1996 to only $20 million in 1997. The results indicated that many insureds selected for NCS canceled their insurance policies because, in general, NCS was applied after losses had reached a point where the cost was too high for these insureds to continue to participate in the program. In summary, the analysis indicates that the costs of replacing NCS with a more efficient and effective process affects producers, taxpayers, and insurance providers differently. Estimated costs to producers increased by about $35 million for out-of-pocket premium costs. This amount is in lieu of premiums that ultimately would be assessed under the NCS procedures if producers elected to insure once they were identified under the system. Costs about equal the benefits to taxpayers as the increased subsidies associated with the higher premiums are offset by reduced excess losses. Taxpayers might have a small gain. Insurance providers gain additional administrative and operating subsidies and underwriting gains with the higher premiums.

Risks:

Any risks with eliminating the NCS program are minimal. Producers previously identified by the program will be able to purchase crop insurance at standard premium rates. Eliminating the program will assist the Risk Management Agency's effort to simplify the crop insurance program.

Timetable:

Action	Date	FR Cite
ANPRM	09/17/97	62 FR 48798
ANPRM Comment Period End	10/17/97	
NPRM	09/02/98	63 FR 46703
Final Action	12/00/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

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USDA—FCIC

2. • GENERAL ADMINISTRATIVE REGULATIONS; SUBPART T - REGULATIONS FOR THE 1999 AND SUBSEQUENT REINSURANCE YEARS

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

7 USC 1506(l); 7 USC 1506(p)

CFR Citation:

7 CFR 400; 7 CFR 457

Legal Deadline:

Final, Statutory, July 1, 1998.

Abstract:

The Federal Crop Insurance Corporation (FCIC) amends subpart T in the General Administrative Regulations and the Common Crop Insurance Regulations, Basic Provisions, to conform with the statutory mandates of the Agricultural Research, Extension, and Education Reform Act of 1998 and to move those provisions that are terms of insurance from subpart T into the Basic Provisions. FCIC will also remove those provisions of subpart T that have been moved to the Basic Provisions.

Statement of Need:

On Thursday, July 30, 1998, the Federal Crop Insurance Corporation (FCIC) published an interim rule to amend subpart T in the General Administrative Regulations, to conform with the statutory mandates of the Agricultural Research, Extension, and Education Reform Act of 1998 (1998 Research Act), and to move provisions that are terms of insurance from subpart T into the Common Crop Insurance Regulations, Basic Provisions. The rule changes the administrative fee charged to producers who elect the Catastrophic Risk Protection (CAT) level of coverage or additional coverage. The effective date of the interim rule was July 1, 1998. Written comments and opinions on this rule will be accepted until the close of business September 28, 1998, and will be considered when the rule is to be made final. Producers that are affected by this rule must make critical risk management decisions and the deadline for the first 1999 crop year decisions is less than 60 days from the July 1, 1998, effective date of the 1998 Research Act. Further, FCIC was required to revise the Standard Reinsurance Agreement before the July 1, 1998, start of the 1999 reinsurance year to implement the provisions of the 1998 Research Act.

Summary of the Legal Basis:

7 USC 1506(l); 7 USC 1506 (p)

Alternatives:

None at this time.

Anticipated Costs and Benefits:

To be determined. The interim rule published on Thursday, July 30, 1998, stated that FCIC will complete the required cost-benefit analysis within 90 days of publication of the interim rule.

Risks:

The increased fees, as mandated by the 1998 Research Act, will either encourage producers to purchase higher levels of crop insurance coverage or may result in some producers declining to participate in the program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/30/98	63 FR 40632
Final Action	12/00/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

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USDA—FCIC

3. • GENERAL ADMINISTRATIVE REGULATIONS; SUBPART U; AND CATASTROPHIC RISK PROTECTION ENDORSEMENT - REGULATIONS FOR THE 1999 AND SUBSEQUENT REINSURANCE YEARS

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

7 USC 1506(l); 7 USC 1506(p)

CFR Citation:

7 CFR 400; 7 CFR 402

Legal Deadline:

Final, Statutory, July 1, 1998.

Abstract:

The Federal Crop Insurance Corporation amends the General Administrative Regulations, subpart U - Ineligibility for Programs Under the Federal Crop Insurance Act and the Catastrophic Risk Protection Endorsement to conform with the statutory mandates of the Agricultural Research, Extension, and Education Reform Act of 1998.

Statement of Need:

On Thursday, July 30, 1998, the Federal Crop Insurance Corporation (FCIC) published an interim rule to amend subpart U in the General Administrative Regulations and part 402 to conform with the statutory mandates of the Agricultural Research, Extension, and Education Reform Act of 1998 (1998 Research Act). The rule allows unpaid administrative fees as required by the 1998 Research Act to be treated as debt. Therefore, producers who fail to pay applicable administrative fees may have their crop insurance policy canceled. The rule also changes the administrative fees charged to producers who elect the Catastrophic Risk Protection (CAT) level of coverage. The effective date of the interim rule was July 1, 1998. Written comments and opinions on this rule will be accepted until the close of business September 28, 1998, and will be considered when the rule is to be made final. Producers that are affected by this rule must make critical risk management decisions and the deadline for the first 1999 crop year decisions is less than 60 days from the July 1, 1998, effective date of the 1998 Research Act. Further, FCIC was required to revise the Standard Reinsurance Agreement before the July 1, 1998, start of the 1999 reinsurance year to implement the provisions of the 1998 Research Act.

Summary of the Legal Basis:

7 USC 1506(l); 7 USC 1506(p)

Alternatives:

None at this time.

Anticipated Costs and Benefits:

To be determined. The interim rule published on Thursday, July 30, 1998 stated that FCIC will complete the required cost-benefit analysis within 90 days of publication of the interim rule.

Risks:

Subpart U - Producers who fail to pay their administrative fees may have their crop insurance policy canceled for subsequent crop years. This could result in such producers being ineligible for other USDA program benefits. Part 402 - The increased fees, as mandated by the 1998 Research Act, will either encourage CAT producers to purchase higher levels of crop insurance coverage or may result in some CAT producers declining to participate in the program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/30/98	63 FR 40630
Final Action	12/00/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

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USDA—Food and Nutrition Service (FNS)

PROPOSED RULE STAGE

4. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): FOOD DELIVERY SYSTEMS INTEGRITY

Priority:

Other Significant

Legal Authority:

42 USC 1786

CFR Citation:

7 CFR 246

Legal Deadline:

Final, Statutory, March 31, 2000.

Abstract:

A proposed rule addressing WIC Food Delivery Systems was published on December 28, 1990 (55 FR 53446). The Department provided a 120-day comment period for the proposed rule, which closed on April 28, 1991. Nearly 1,100 comments were received from a wide variety of sources. Despite the degree of preliminary input to the December 28, 1990, proposed rule, many of the commenters responding during the formal comment period suggested that the Department's food delivery regulations needed to be proposed again, rather than proceeding directly to a final rule. In addition, several members of Congress requested that the rule be reproposed in light of its impact on State agency food delivery systems. Therefore, the Department intends to issue a second proposed rule addressing WIC food delivery systems and requirements. This second rule will address all of the provisions contained in the previous rulemaking, but will contain significant modifications to some of the proposed provisions, as well as clarifications of several provisions that may not have been clearly understood in the earlier rule.

Statement of Need:

On December 28, 1990, the Department published a proposed rule designed primarily to strengthen State agency operations in vendor management and related food delivery areas for the WIC Program. This proposal was developed with input over several years' time from State agency experts in food delivery, and with the full support of and encouragement from Congress and the Department's Office of Inspector General (OIG). The Department provided a 120-day comment period for the proposed rule, which closed on April 28, 1991. During this comment period, nearly 1,100 comments were received from State and local WIC agencies, vendors, and associated groups, public interest groups, members of Congress, members of the public, and WIC participants.

Despite the degree of preliminary input to the December 28, 1990, proposed rule, many of the commenters suggested that the Department's food delivery regulations needed to be proposed again, rather than proceeding directly to a final rule. In addition, several members of Congress requested that the rule be reproposed in light of its impact on State agency food delivery systems.

The Department has therefore drafted a second proposed rule addressing WIC food delivery systems integrity and procedural requirements. This second rule addresses all of the provisions contained in the previous rulemaking, and contains significant modifications to some of the proposed revisions, as well as clarifications to a number of provisions that may not have been clearly understood in the earlier rule. The rule will provide for more cost effective and efficient management of WIC vendors by State agencies. A 120-day public comment period will be provided with this proposed rule. The Department intends to publish a final rule, based on all of the comments received, by the end of fiscal year 1999.

Although this rule does not have a direct impact on reducing risks to public health, safety, or the environment, it will significantly improve the operation and accountability of the WIC Program nationwide.

Alternatives:

Given the intensive input that has been gathered for the development of this rule since it was recommended by the General Accounting Office in 1988, and the comments that were received pertaining to the first proposed version of the rule in December 1990, the Department has determined that there are no viable alternatives to the provisions included in this reproposal. The alternative of proceeding directly to promulgation of a final rule based on the 1990 proposal has been rejected by Congress.

Anticipated Costs and Benefits:

The costs of this action include costs due to vendor overcharges and costs associated with the proposal. The estimated costs for implementation of the proposal include a shift of not more than $2.0 million in WIC Program Nutrition Services and Administration (NSA) funds within the 87 State agencies, partially from reduced requirements for management evaluations of local agencies and reduced costs due to elimination of representative on-site monitoring. They also include $0.5 million in additional costs to vendors to meet the proposed minimum training and authorization requirements. It should be noted that all the vendors are currently required to participate in some type of training and complete an application form for program authorization. The estimated $0.5 million in additional costs therefore represents those instances where current training and authorization requirements are below the level established in the proposal. In these instances, vendors may incur costs in attending more frequent training sessions or may be required to complete an application form at more frequent intervals. The estimated cost does not represent charges to the vendor for training or authorization. Rather, the cost represents the estimated cost of the vendor's time to participate in the training session and to complete the application form.

The gross benefit results from a significant reduction in vendor overcharges. A significant net benefit of $37 million is expected, as vendor overcharges are estimated at $39.5 million and costs associated with the proposal are a maximum of $2.5 million.

Risks:

This rule is intended to reduce and minimize the risk of vendor fraud and abuse of the WIC program.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
NPRM Comment Period End	06/00/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Tribal

Sectors Affected:

None

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USDA—FNS

5. FOOD STAMP PROGRAM: REVISIONS TO THE RETAIL FOOD STORE DEFINITION AND PROGRAM AUTHORIZATION GUIDANCE

Priority:

Other Significant

Legal Authority:

PL 103-225; 7 USC 2012; 7 USC 2018

CFR Citation:

7 CFR 271; 7 CFR 278

Legal Deadline:

Final, Statutory, March 25, 1994.

Abstract:

This proposed rule would implement provisions of Public Law 103-225 requiring firms to offer a variety of staple food items for sale or to have more than 50 percent of gross retail sales in staple foods. This rule also addresses the requirement in Public Law 103-225 to provide periodic notices to participating firms, clarifying certain eligibility criteria.

Statement of Need:

Public Law 103-225 amends the Food Stamp Act of 1977, to make changes in eligibility requirements for retail food stores to participate in the Food Stamp Program. Prior to enactment of these changes, a retail food store qualified to participate in the Food Stamp Program if more than 50 percent of its total eligible food sales were in staple foods. The new law changes that to require 50 percent of its total gross sales in staple foods. It also provides another option for stores not meeting the new 50 percent rule. Those stores can now qualify if they offer for sale, on a continuous basis, a variety of food in each of four categories of staple foods. The staple food categories are defined as "(1) meat, poultry, or fish; (2) bread or cereals; (3) vegetables or fruits; or (4) dairy products." This statutory change in eligibility will require developing policy definitions for the terms "continuous basis," "variety," and "perishable."

Alternatives:

None. The new law also requires the Secretary to issue new rules providing for the periodic reauthorization of retail food stores and wholesale food concerns. This must include providing periodic notice of the definitions for "retail food stores," "staple foods," and "perishable foods."

Anticipated Costs and Benefits:

It is not anticipated that this proposed rule will impact program costs. It is anticipated that the clarifications of program eligibility criteria in this proposed rule will make it easier for firms to understand and for the Food and Consumer Service to administer.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses

Government Levels Affected:

None

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USDA—FNS

6. FSP: PERSONAL RESPONSIBILITY PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority:

Economically Significant. Major under 5 USC 801.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

PL 104-193

CFR Citation:

7 CFR 271; 7 CFR 272; 7 CFR 273

Legal Deadline:

Other, Statutory, August 22, 1996.

Stat. implementation deadline of 8/22/96 for sec 813, 814, 820, 821, 837, and 911 of PL 104-193; stat. implementation deadline of 7/1/97 for sec 115, and 11/22/96 for sec 824 of PL 104-193.

Abstract:

This rule will implement 13 provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Statement of Need:

P.L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, amends the Food Stamp Act of 1977, to add some new eligibility requirements and disqualifiers and increase some existing penalties for noncompliance with food stamp rules. The new law: (1) makes individuals convicted of drug-related felonies ineligible for food stamps; (2) doubles the penalties for violating food stamp program requirements; (3) permanently disqualifies individuals convicted of trafficking in food stamp benefits of $500 or more; (4) allows States to disqualify an individual from food stamps if the individual is disqualified from another means-tested program for failure to perform an action required by that program; (5) makes individuals ineligible for 10 years if they misrepresent their identity or residence in order to receive multiple food stamp benefits; (6) makes fleeing felons and probation and parole violators ineligible for the food stamp program; (7) allows States to require food stamp recipients to cooperate with child support agencies as a condition of food stamp eligibility; (8) allows States to disqualify individuals who are in arrears in court-ordered child support payments; (9) limits the food stamp participation of most able-bodied adults without dependents to three months in a three-year period during times the individual is not working or participating in a work program; (10) prohibits an increase in food stamp benefits when households' income is reduced because of a penalty imposed under a Federal, State, or local means-tested public assistance program for failure to perform a required action; (11) requires States to provide households' addresses, social security numbers, or photographs to law enforcement officers to assist them in locating fugitive felons or probation or parole violators; and (12) prohibits an increase in food stamp benefits when households' income is reduced because of a penalty imposed under a Federal, State, or local means-tested public assistance program for an act of fraud by the individual under the program.

Summary of the Legal Basis:

All of the provisions of this rule are mandated by P.L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Alternatives:

None.

Anticipated Costs and Benefits:

Over 7 years, the provisions are expected to reduce the cost of the Food Stamp Program by approximately $5.565 billion.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Local, Federal

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USDA—FNS

7. FSP: STATE FLEXIBILITY AND CERTIFICATION PROVISIONS OF PUBLIC LAW 104-193

Priority:

Economically Significant. Major under 5 USC 801.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

PL 104-193; PL 104-208; 7 USC 2011 to 2032

CFR Citation:

7 CFR 272.3; 7 CFR 273.1; 7 CFR 273.2; 7 CFR 273.4; 7 CFR 273.9(c); 7 CFR 273.9(d); 7 CFR 273.10(a); 7 CFR 273.10(c) to 273.10(f); 7 CFR 273.11(a) to 273.11(c); 7 CFR 273.11(e); 7 CFR 273.11(j); 7 CFR 273.13; 7 CFR 273.14(b); 7 CFR 273.14(e)

Legal Deadline:

Other, Statutory, August 22, 1996.

For provisions effective upon enactment, the statutory implementation date is August 22, 1996.

Abstract:

This rule proposes to amend Food Stamp Program regulations to implement 14 provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and one provision of the Omnibus Consolidated Appropriations Act of 1996. These provisions would increase State agency flexibility in processing applications for the Food Stamp Program and allow greater use of standard amounts for determining deductions and self-employment expenses. The provisions would also give State agencies options to issue partial allotments for households in treatment centers, count all of the income of an ineligible noncitizen in determining the benefits of the rest of the household, issue combined allotments to certain expedited service households, and certify elderly or disabled households for 24 months. Other changes would revise requirements for determining noncitizen eligibility and the eligibility and benefits of sponsored noncitizens, eliminate the exclusion of certain transitional housing payments and State and local energy assistance, exclude the earnings of students under 18, and require proration of benefits following any break in certification.

Statement of Need:

This action is required by P. L. 104-193, P. L. 104-208, P. L. 105-53, and P. L. 105-185.

Summary of the Legal Basis:

This rule is required to implement the provisions of sections 402, 421, 801, 807, 808, 809, 811, 812, 818, 827, 828, 830, and 835 of P. L. 104-193; section 552 of P. L. 104-208; sections 5302, 5305, 5306, 5562, 5563, 5571, 5572, and 5573 of P. L. 105-53; and section 503 of P. L. 105-185.

Anticipated Costs and Benefits:

The provision of this rule would reduce Food Stamp Program costs for FY 1997-2002 by approximately $6.605 billion.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	
NPRM Comment Period End	04/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Local, Federal

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USDA—FNS

8. FSP: NONDISCRETIONARY PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority:

Economically Significant. Major under 5 USC 801.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

PL 104-193, sec 803; PL 104-193, sec 804; PL 104-193, sec 805; PL 104-193, sec 809; PL 104-193, sec 810; PL 104-193, sec 838; PL 104-193, sec 109; PL 104-193, sec 826

CFR Citation:

7 CFR 271.2; 7 CFR 273.1; 7 CFR 273.2; 7 CFR 273.8; 7 CFR 273.9; 7 CFR 273.10; 7 CFR 276.2(e)

Legal Deadline:

Other, Statutory.

Statutory Implementation Dates: PL 104-193, sec 809 - 1/1/97; PL 104-193, sec 803, 805 and 838 - 08/22/96; PL 104-193, sec 804 and 810 - 10/01/96.

Abstract:

This proposed rule amends the Food Stamp Program regulations to implement 8 provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. These provisions require no interpretation or discretion: 1) freeze the minimum allotment at $10; 2) change the way the maximum allotments are calculated to use 100% of the Thrifty Food Plan as opposed to 103%; 3) freeze the standard deduction at current level and eliminate the adjustment procedures; 4) cap the excess shelter expense deduction; 5) change the household composition definition so that children under 22 years of age and living with their parents cannot be a separate household; 6) increase the time frame from 5 to 7 days for expedited service; 7) set a time limit of not more than 90 days living in another person's house for considering a person homeless; and 8) set the fair market value of vehicles at $4,600 through 9/30/96 and raise it to $4,650 effective 10/1/96 and eliminate future adjustments.

Statement of Need:

This action is required by P.L. 104-193.

Summary of the Legal Basis:

This rule is required to implement the provisions of sections 109, 803, 804, 805, 809, 810, 826, and 838 of P.L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Alternatives:

None. The provisions are mandated by statute.

Anticipated Costs and Benefits:

The provisions of this rule would reduce Food Stamp Program costs for FY 1997-2002 by $11.2 billion.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local

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USDA—FNS

9. FOOD STAMP PROGRAM: WORK PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

PL 104-193

CFR Citation:

7 CFR 273.7; 7 CFR 273.22

Legal Deadline:

None

Abstract:

This proposed rule will implement revisions to the Food Stamp Program's work and employment and training requirements, as well as new provisions for a work supplementation or support program and an employment initiative program.

Statement of Need:

This rule is necessary to implement revisions to the Food Stamp Program's work requirements.

Summary of the Legal Basis:

All provisions of this proposed rule are mandated by Public Law 104-193.

Alternatives:

The alternative is not to revise current rules. This is not practical. The current rules have been superseded by changes brought about by Public Law 104-193.

Anticipated Costs and Benefits:

Federal costs will increase by $15 million between Fiscal Year 1997 and Fiscal Year 2002. State agencies will benefit by achieving greater flexibility to encourage work and foster personal responsibility and independence.

Risks:

An increase in food stamp rolls would result by not implementing this rule.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Local

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USDA—FNS

FINAL RULE STAGE

10. FOOD STAMP PROGRAM: FOOD STAMP RECIPIENT CLAIM ESTABLISHMENT AND COLLECTION STANDARDS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

7 USC 2011 to 2032

CFR Citation:

7 CFR 272; 7 CFR 273

Legal Deadline:

None

Abstract:

The Food and Nutrition Service is revising Food Stamp Program regulations which cover the establishment and collection of recipient claims. This action is the result of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) and is consistent with the President's regulatory reform effort. In addition, this rule revises existing discretionary areas to improve claim establishment and promote effective management. The inability of State agencies to establish and collect claims has continuously been cited as a deficiency by the Department's Office of Inspector General. The last significant revision to these regulations was in 1983. Subsequent activities, such as technological advances and general debt management regulations, have rendered many portions of the current rule obsolete. In addition, the current rule has been found to place unnecessary burdens on State agencies. State agencies are responsible for establishing and collecting recipient claims.

Statement of Need:

In addition to implementing PRWORA, this rule is necessary to improve the establishment and collection of recipient claims. The last significant revision to these regulations was in 1983. Subsequent activities, such as technological advances and general debt management regulations, have rendered many portions of the current rule obsolete. The current rule has also been found to place unnecessary burdens on State agencies. State agencies are responsible for establishing and collecting recipient claims. This rule will address two dimensions of the overissuance problem: establishing claims on excess allowances, and recovering overages where possible. Data from the food stamp quality control system for 1997 show that overissuances to recipients totaled over $1.4 billion, 7.28 percent of the $19.5 billion in total food stamp issuances that year. Claims against recipients are a direct means to recover overissuances and, to the extent that recipients know that recovery of overissuances will be sought, represent a deterrent to households who quietly accept the extra food benefits.

Alternatives:

The alternative is not to revise the current rule governing this aspect of the Program. In addition, the existing regulations must be changed to conform with the new legislative requirement. The current rule is not adequate to facilitate effective and efficient debt management. The inability of State agencies to establish and collect claims has continuously been cited as a deficiency by the Department's Office of Inspector General.

Anticipated Costs and Benefits:

Nationwide, as of October 1, 1997, there was over $1.2 billion in uncollected recipient claims. Inspector General reports have also noted that, in addition to large accounts receivable for established, uncollected claims, there are backlogs of hundreds of millions of claims that have not yet been established. These unestablished claims represent the most current, and typically the most collectable losses to the program. Updated regulations that incorporate recent debt management rules and technological advances, as well as practical suggestions and feedback received from State agencies, should improve the establishment and collection of recipient claims in the Food Stamp Program. In addition, efforts will be made to increase the degree of conformity with claims-related issues and procedures currently used in other social programs.

Risks:

The tolerance of program abuse or even the perception of such undermines the fundamental mission of the Food Stamp Program. The efficient and effective establishment and collection of recipient claims, which this rulemaking addresses, is essential in ensuring that this does not occur.

Timetable:

Action	Date	FR Cite
NPRM	05/28/98	63 FR 29303
NPRM Comment Period End	08/26/98	
Final Action	09/00/99	
Final Action Effective	03/00/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Local

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USDA—Food Safety and Inspection Service (FSIS)

PROPOSED RULE STAGE

11. ELIMINATION OF REQUIREMENTS FOR PARTIAL QUALITY CONTROL PROGRAMS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority:

21 USC 451 et seq; 21 USC 601 et seq

CFR Citation:

9 CFR 317; 9 CFR 318; 9 CFR 319; 9 CFR 381

Legal Deadline:

None

Abstract:

This proposed rule would amend the meat and poultry inspection regulations by removing most requirements pertaining to partial quality control (PQC) programs. A PQC program controls a single product, operation, or part of an operation in a meat or poultry establishment. The proposal would remove the design requirements affecting most PQC programs that establishments have and most requirements for establishments to have PQC programs for certain products or processes. The proposal would also remove from the thermal processing regulations the requirements for FSIS prior approval, or approval before use, of systems and devices not specified in the regulations and all requirements concerning PQC programs. The proposal would expand the alternatives available to establishments under the thermal processing regulations for ensuring the safety of their products. However, the requirements for establishments to have quality control programs to control food irradiation processing and certain slaughtering inspection systems for poultry and the requirements concerning the design and content of those programs would be unaffected by this rulemaking. This proposal is intended to allow establishments under inspection additional flexibility, consistent with the Pathogen Reduction/Hazard Analysis and Critical Control Points (HACCP) regulations, to adopt new technologies and methods that will improve food safety and other consumer protections.

Statement of Need:

FSIS carries out programs designed to ensure that meat, poultry, and egg products are wholesome, not adulterated, and properly marked, labeled, and packaged. FSIS is implementing the "Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems" final rule promulgated July 25, 1996 (61 FR 38806), to reduce the risk of foodborne illness associated with consumption of meat and poultry products to the maximum extent possible. Under the Pathogen Reduction/HACCP final rule, establishments are to accomplish this objective by taking appropriate and feasible measures to prevent or reduce the likelihood of physical, chemical, and microbiological hazards in the production of meat and poultry products.

FSIS is reviewing its other regulations to determine how they can be made more consistent with the Pathogen Reduction/HACCP regulations and the regulations and the regulatory approach they embody. Included in this review are regulations concerning sanitation standards, the exclusion from the food supply of meat and poultry products with visible defects affecting safety or quality, and preventing the economic adulteration of meat and poultry products.

As stated in the December 29, 1995, advance notice of proposed rulemaking (ANPRM) "FSIS Agenda for Change" (60 FR 67469), FSIS plans to eliminate regulations that are unnecessary and, to the extent possible, modify or replace command-and-control prescriptions with performance standards. Command-and-control requirements specify, often in great detail, how a plant is to achieve particular food safety or other regulatory objectives, while performance standards state the objectives or levels of performance to be achieved, and the plant can then choose how to achieve them. Replacing command-and-control requirements with performance standards will afford inspected establishments the flexibility to adopt technological innovations that can yield food safety benefits.

This change is also compelled by the philosophy underlying HACCP systems. Under the HACCP approach, plant management builds into its food production processes science-based controls and related measures--the HACCP plans--required to ensure food safety. The HACCP plans can vary from plant to plant.

Where appropriate, command-and-control regulations must be changed to provide greater flexibility for industry to design and implement processes and HACCP systems of control, tailored to the circumstances of each plant. This is consistent with the HACCP approach, which clearly delineates industry and Government responsibility for food safety, with plants establishing procedures they will follow to ensure the production of safe food.

Among the regulations FSIS has identified as candidates for modification or elimination to be consistent with HACCP are restrictive, command-and-control-type regulations which delimit processing and treatment methods intended to eliminate specific food safety hazards and requirements concerning PQC programs. Among these are requirements that establishments have such programs for their products or processes and

requirements concerning the design of such programs.

Summary of the Legal Basis:

Under the Federal Meat Inspection Act (21 USC 601 et seq.) and the Poultry Products Inspection Act (21 USC 451 et seq.), FSIS issues regulations governing the production of meat and poultry products prepared for distribution in interstate commerce. The Agency also issues regulations concerning the sanitation conditions under which such products are prepared.

Alternatives:

The alternatives to this proposed rulemaking that FSIS considered were, in addition to the alternative of no rulemaking, market sampling of finished products, mandating additional in-plant controls, sampling finished products for chemical analysis, general requirements and standards for PQC programs, and the elimination of all TQC and PQC requirements.

Anticipated Costs and Benefits:

The proposed rule could save the regulated industry up to $14,000,000 in costs associated with developing PQC programs according to FSIS specifications and in operating PQC programs that are mandated by the regulations.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

State, Federal

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USDA—FSIS

FINAL RULE STAGE

12. PERFORMANCE STANDARDS FOR CERTAIN MEAT PRODUCTS AND POULTRY PRODUCTS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

21 USC 451 et seq; 21 USC 60 et seq

CFR Citation:

9 CFR 301; 9 CFR 318; 9 CFR 320; 9 CFR 381

Legal Deadline:

None

Abstract:

The Food Safety and Inspection Service (FSIS) is amending the Federal meat and poultry inspection regulations by converting the current regulations governing the production of cooked beef products, uncured meat patties, and certain poultry products into performance standards. The performance standards spell out the objective level of performance establishments must meet during their operations in order to produce safe products, but allow the use of plant-specific processing procedures other than the procedures prescribed in the current regulations. All of the provisions in the previous regulations meet the proposed performance standards. Therefore, establishments probably would not be required to change any current practices in response to this proposed rule. Establishments that do not wish to change their processing practices may continue following the previous requirements for these products, which will be disseminated as "safe harbors" in Agency guidance materials.

Statement of Need:

Under the Federal Meat Inspection Act (21 USC 601 et seq.) and the Poultry Products Inspection Act (21 USC 451 et seq.), FSIS issues regulations governing the production of meat and poultry products prepared for distribution in interstate commerce. Many of these regulations employ the command-and-control approach, prescribing a precise sequence of steps to be followed when producing food that is safe and not adulterated. The command-and-control approach to rulemaking has ensured that all establishments are subject to the same rules and that no establishment has a technological advantage over another. However, this approach has several drawbacks: it can stifle innovation in meat and poultry processing technology; it does not account for the uniqueness of individual processing procedures and needs within different establishments; and it produces regulations that can have a negative economic impact on small businesses Command-and-control rulemaking often fails to account for the development of innovative processing technologies. By prescribing specific steps establishments must take during processing, command-and-control regulations often do not allow establishments to employ innovations in processing technology that may produce meat and poultry products that are as safe as, or even safer than, those produced in accordance with the command-and-control regulations. While FSIS endeavors to account for technological innovation when rulemaking, new processing technologies are developed at a faster pace than the Agency can amend the regulations. Also, command-and-control regulations often do not account for the uniqueness of individual processing procedures and needs within different establishments. FSIS command-and-control regulations require all establishments to produce meat and poultry products in the same manner. Such prescriptive regulations are impractical in many settings. Further, they can have disparate economic effects on establishments producing different volumes of the same product. By promulgating command-and-control regulations mandating the use of specific processes or technologies, FSIS often inadvertently imposes significant economic burdens on small businesses. Small establishments producing meat and poultry products at low volumes often must pay a high cost per product unit when required to employ a specific process or technology. Large establishments, however, are able to spread the cost of a required process or technology over their higher production volumes. While FSIS has attempted to incorporate prevailing industry processing practices into its command-and-control regulations in order to lessen the economic burden imposed on small establishments, many small establishments often find prevailing industry processing practices to be impractical and/or expensive. In light of these general problems, FSIS is substituting performance standards for the current command-and-control regulations governing the production of cooked beef products, uncured meat patties, and certain fully and partially cooked poultry products. The performance standards spell out the objective level of performance that establishments must meet during their operations in order to produce safe and nonadulterated products, but allow the use of plant-specific processing procedures other than the procedures prescribed in the current regulations. Accordingly, establishments may employ innovative or unique processing procedures customized to the nature and volume of their production, as long as their products meet the proposed performance standards for safe, nonadulterated food. Furthermore, all of the prescriptive, command-and-control provisions in the current regulations governing cooked beef products, uncured meat patties, and certain fully and partially cooked poultry products meet the proposed standards. Therefore, establishments producing these products will not be required to change any current practices in response to this proposed rule. By making final performance standards that may be met through adherence to the previous regulations, FSIS creates a "safe harbor" for establishments content with the previous regulations and mitigates any negative impact this proposal could have on such establishments.

Summary of the Legal Basis:

Under the Federal Meat Inspection Act (21 USC 601 et seq.) and the Poultry Products Inspection Act (21 USC 451 et seq.), FSIS issues regulations governing the production of meat and poultry products prepared for distribution in interstate commerce.

Alternatives:

FSIS could have maintained the command-and-control regulations governing cooked beef products, uncured meat patties, and certain poultry products. However, as explained above, these regulations have several drawbacks: they stifle innovation in meat and poultry processing technology; they do not account for the uniqueness of individual processing procedures and needs within different establishments; and they can have a negative economic impact on small businesses.

Anticipated Costs and Benefits:

By allowing establishments to meet performance standards for cooked beef products, uncured meat patties, and certain poultry products by means other than those prescribed in the current regulations, FSIS hopes to encourage innovation in meat and poultry processing technology and allow establishments to customize processes to meet their individual needs. Because employing alternative means to meet the proposed performance standards would be optional, FSIS concludes that this action would not have a significant economic impact on small or large establishments.

Risks:

The proposed performance standards would maintain a level of food safety equivalent to that which is ensured by the current regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/02/96	61 FR 19564
Comment Period Extended to	09/09/96	61 FR 35990
Final Action	11/00/98	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

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USDA—FSIS

13. RULES OF PRACTICE

Priority:

Substantive, Nonsignificant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority:

21 USC 601; 21 USC 451

CFR Citation:

9 CFR 304; 9 CFR 305; 9 CFR 306; 9 CFR 327; 9 CFR 335; 9 CFR 381; 9 CFR 460

Legal Deadline:

None

Abstract:

The Food Safety and Inspection Service (FSIS) is proposing to revise and consolidate the regulations that address the rules of practice FSIS follows when inspection services are refused, suspended, or withdrawn. FSIS is proposing to add specific language regarding the refusal, suspension, or withdrawal of inspection when the Agency determines that an establishment's Hazard Analysis and Critical Control Points (HACCP) system is inadequate, an establishment is not meeting the Salmonella pathogen reduction performance standards, an establishment's Sanitation Standard Operating Procedure is inadequate, or an establishment is not conducting generic E. coli testing. Additionally, FSIS proposes to revise and consolidate the regulations regarding the procedures for appealing Agency decisions.

Statement of Need:

For the most part, FSIS's Supplemental Rules of Practice duplicate the Department's Uniform Rules of Practice regulations. FSIS's regulations do, however, establish procedures related to the suspension of inspection. However, these regulations are difficult to read and do not clearly outline the process.

Therefore, as part of FSIS's ongoing efforts to simplify, consolidate, and streamline the meat and poultry inspection regulations, FSIS is proposing to revise these regulations. FSIS intends to eliminate redundancy between its regulations and the Department's regulations and to more clearly identify the process and situations involved when FSIS suspends inspection prior to filing a complaint to withdraw the grant of inspection.

Summary of the Legal Basis:

Under the Federal Meat Inspection Act (21 USC 601 et seq.) and the Poultry Products Inspection Act (21 USC 451 et seq.), FSIS issues regulations governing the production of meat and poultry products prepared for distribution in interstate commerce. The Agency also issues regulations concerning the sanitation conditions

under which such products are prepared.

Alternatives:

No action.

Anticipated Costs and Benefits:

There are no direct costs or benefits associated with this proposal. At present time, there is no way to predict whether industry "down time" will increase or decrease under the proposed rules of practice. To the extent that disputes can be resolved in a timely and more efficient manner, there are potential benefits to both industry and the government. To the extent that clear rules of practice promote timely regulatory action there would be consumer protection benefits.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	01/12/98	63 FR 1797
NPRM Comment Period End	03/13/98	
Final Action	11/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

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USDA—FSIS

14. SANITATION REQUIREMENTS FOR OFFICIAL MEAT AND POULTRY ESTABLISHMENTS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

21 USC 451 et seq; 21 USC 601 et seq

CFR Citation:

9 CFR 303; 9 CFR 308; 9 CFR 381; 9 CFR 416

Legal Deadline:

None

Abstract:

FSIS is consolidating the sanitation regulations into a single part applicable to both meat and poultry establishments, eliminating unnecessary differences between the meat and poultry sanitation requirements, and converting many of the highly prescriptive sanitation requirements to performance standards.

Statement of Need:

In the course of its ongoing regulatory review, FSIS identified the need to revise its sanitation requirements for official meat and poultry establishments. A number of the existing sanitation requirements are difficult to understand, redundant, or outdated. Also, there are unnecessary differences between the sanitation requirements for meat and poultry establishments. Further, some of the existing sanitation requirements are no longer needed in light of the Agency's recently finalized HACCP and Sanitation Standard Operating Procedure (SOP) requirements. Finally, some of the current sanitation regulations are unnecessarily prescriptive, may impede innovation, and blur the distinction between establishment and inspector responsibilities for maintaining sanitary conditions.

Summary of the Legal Basis:

Under the Federal Meat Inspection Act (21 USC 601 et seq.) and the Poultry Products Inspection Act (21 USC 451 et seq.), FSIS issues regulations governing the production of meat and poultry products prepared for distribution in interstate commerce. The Agency also issues regulations concerning the sanitation conditions under which such products are prepared.

Alternatives:

FSIS could put into place more comprehensive and prescriptive sanitation regulations. The requirements would then include very specific definitions of terms, such as definitions for food contact surfaces or premises; more prescriptive performance standards, such as microbial criteria for recently cleaned and sanitized food contact surfaces; detailed requirements currently contained in Agency guidance materials, such as an ambient temperature requirement for rooms in which certain processes are conducted; and a list of specific regulatory prohibitions, again largely drawn from existing regulatory and guidance material.

Anticipated Costs and Benefits:

In general, the streamlining, clarification, and consolidation of the sanitation regulations will benefit FSIS, the regulated industry, and consumers. User-friendly regulations simplify compliance and therefore bring about food safety enhancements in individual establishments. Further, consolidation of the separate sanitation requirements for meat and poultry products and the consequent elimination of unnecessary inconsistencies could enhance competition.

This rule allows individual establishments to develop and implement customized sanitation procedures other than those currently mandated, as long as those procedures produced sanitary conditions meeting the proposed performance standards. Establishments taking advantage of the performance standards to innovate thus can benefit from savings accrued through increased efficiency. However, since the currently mandated sanitation procedures meet the proposed performance standards, establishments lacking the resources to innovate could choose to continue employing current procedures. Such establishments should incur no additional expenses as a result of this rule. FSIS therefore anticipates that sanitation performance standards will have a generally favorable economic impact on all establishments, regardless of size.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	08/25/97	62 FR 45045
NPRM Comment Period End	10/24/97	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

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BILLING CODE 3410-90-F

DEPARTMENT OF COMMERCE (DOC)

Statement of Regulatory and Deregulatory Priorities

Sustainable, long-term economic growth is a central focus of the President's policies and priorities. The mission of the Department of Commerce is to promote job creation, economic growth, sustainable development, and improved living standards for all Americans by working in partnership with business, universities, communities, and workers to:

- Build for the future and promote U.S. competitiveness in the global marketplace by strengthening and safeguarding the Nation's economic infrastructure;
- Keep America competitive with cutting-edge science and technology and an unrivaled information base; and
- Provide effective management and stewardship of our Nation's resources and assets to ensure sustainable economic opportunities.

The Commerce mission statement, containing our three strategic themes, provides the vehicle for understanding Commerce's aims, how they interlock, and how they are to be implemented through our programs. Working collectively, the bureaus of the Department (including the Office of the Secretary) developed it with the intent that it serve as both a statement of departmental philosophy and as the guiding force behind the Department's programs.

The importance that this mission statement and these strategic themes have for the Nation is amplified by the vision they pursue for America's communities, businesses, and families. Commerce is the smallest Cabinet agency, yet our presence is felt, and our contributions are found, in every State.

The Commerce Department touches Americans daily in many ways—we make possible the weather reports that all of us hear every morning; we facilitate the technology that all of us use in the workplace and in the home each day; we support the development, gathering, and transmitting of information essential to competitive business; we make possible the diversity of companies and goods found in America's (and the world's) marketplace; we support environmental and economic health for the communities in which Americans live.

The Department of Commerce has a clear and powerful vision for itself, for its role in the Federal Government, and for its roles supporting the American people, now and in the future. We confront the intersection of trade promotion, civilian technology, economic development, sustainable development, and economic analysis, and we want to provide leadership in these areas for the Nation. As a Department, we aspire to provide programs and services which serve our country's businesses, communities, and families, as initiated and supported by the President and the Congress. We are dedicated to making those programs and services as effective as possible and to their being delivered in cost-effective ways. We seek to function in close concert with other agencies having complementary responsibilities so that, collectively, our impact can be accurate and powerful. We seek to meet the needs of our customers quickly and efficiently with the programs, information, and services they require and deserve.

As a permanent part of the Federal Government, but serving an Administration and Congress that can vary with election results, we seek to serve the unchanging needs of the Nation, according to the priorities of the President and the Congress. We are able to do this effectively by functioning in accordance with the legislation that undergirds our programs and by working closely with the President and the committees in Congress which have program and financial oversight for our programs.

In his 1996 State of the Union message, the President said: "Now we move to an age of technology, information, and global competition. These changes have opened vast new opportunities, but they have also presented us with stiff challenges." The Vice President sounded a similar call: "Americans also understand that in a global economy, the only way to maintain America's competitive edge is to lead the world in innovation and new technologies. Investments in science and technology mean better jobs, higher wages, and a growing economy." In the 1997 State of the Union address, the President said: "Over the last four years, we have brought new economic growth by investing in our people, expanding our exports, cutting our deficits, creating over 11 million new jobs, a four-year record.... We face no imminent threat, but we do have an enemy. The enemy of our time is inaction." He continued: "To prepare America for the 21st century, we must harness the powerful forces of science and technology to benefit all Americans."

Again, in the 1998 State of the Union message, the President said: "Rarely have Americans lived through so much change, in so many ways, in so short a time. Quietly, but with gathering force, the ground has shifted beneath our feet as we have moved into an Information Age, a global economy, a truly new world. ... As we enter the 21st century, the global economy requires us to seek opportunity not just at home, but in all the markets of the world. We must shape this global economy, not shrink from it. ... Today, record high exports account for fully one-third of our economic growth. I want to keep them going, because that's the way to keep America growing and to advance a safer, more stable world."

These words help to make clear the role of the Commerce Department: To help keep America as the world's technology leader, to help American companies compete globally, to enable communities to conquer economic challenges, to stimulate the growth of high-pay, high-quality jobs, to preserve and protect the environment and our natural resources as well as safeguarding the public from the adverse impacts of undesirable environmental changes, and to provide information vital for good business and policy decisions.

Commerce promotes and expedites American exports, helps nurture business contacts abroad, protects our firms from unfair foreign competition, and makes how-to-export information accessible to small- and mid-sized companies throughout the Nation so that market opportunities span the globe.

Commerce encourages development in every community by clearing the way for private sector growth by building or rebuilding economically deprived and distressed communities. We promote minority entrepreneurship to establish businesses that frequently anchor neighborhoods and create new job opportunities. We work with the private sector to enhance competitive assets.

As the Nation looks to revitalize our industries and communities, Commerce works as a partner with private entities to build America with an eye on the future. So through technology, research and development, and innovation, we are making sure America is on the winning side.

Commerce's considerable information capacities help businesses understand clearly where our national and world economies are going and to take advantage of that knowledge by planning the road ahead. Armed with this information, businesses can undertake the new ventures, investments, and expansions that make our economy grow.

The capacity for managing the Nation's assets and resources is another key policy driver for Commerce, an essential one in our ability to help the Nation succeed in the future. These activities—ranging from protecting our fisheries to controlling the radio frequency spectrum to protecting intellectual property—affect the economy directly.

This Department of Commerce has instituted the programs and policies that mean cutting-edge, competitive, better paying jobs. We work everyday to boost exports, to deregulate business, to help smaller manufacturers battle foreign competition, to advance the technologies critical to our future prosperity, to invest in our communities, and to fuse economic and environmental goals.

The Department of Commerce is American business' surest ally in job creation, serving as a vital resource base, a tireless advocate, and its Cabinet-level voice.

The Department's regulatory plan directly tracks these policy and program priorities, only a few of which involve regulation of the private sector by the Department.

Responding to the Administration's Regulatory Philosophy and Principles

The vast majority of the Department's programs and activities do not involve regulation. Of the Department's 12 primary operating units, only 5—the Bureau of Export Administration, the International Trade Administration (ITA), the National Institute of Standards and Technology, the National Oceanic and Atmospheric Administration (NOAA), and the Patent and Trademark Office—plan significant preregulatory or regulatory actions for the Regulatory Plan year. Only two of these operating units—ITA and NOAA—have a regulatory action rising to the level of the most important of the Department's significant regulatory actions planned for the Regulatory Plan year.

Though not principally a regulatory agency, the Department of Commerce has long been a leader in advocating and using market-oriented regulatory approaches in lieu of traditional command-and-control regulations when such approaches offer a better alternative. All regulations are designed and implemented to maximize societal benefits while placing the smallest possible burden on those being regulated.

The Commerce Department is also refocusing on its regulatory mission by taking into account, among other things, the President's regulatory principles. To the extent permitted by law, all preregulatory and regulatory activities and decisions adhere to the Administration's statement of regulatory philosophy and principles, as set forth in section 1 of Executive Order 12866. Moreover, we have made bold and dramatic changes, never being satisfied with the status quo. Over the past 5 years, we have emphasized, initiated, and expanded programs that work in partnership with the American people to secure the Nation's economic future. At the same time, we have down-sized, cut regulations, closed offices, and eliminated programs and jobs that are not part of our core mission. The bottom line is that, after much thought and debate, we have made many hard choices needed to make this Department "state of the art."

The Secretary has prohibited the issuance of any regulation that discriminates on the basis of race, religion, gender, or any other suspect category and requires that all regulations be written in simple, plain English and be understandable to those affected by them. The Secretary also requires that the Department afford the public the maximum possible opportunity to participate in departmental rulemakings, even where public participation is not required by law.

Compliance with the Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) requires, among other things, that agencies regulating the activities of small businesses establish two related programs. Section 213 of SBREFA requires each such agency to have a program for providing regulatory compliance guidance to small businesses. Section 223 requires agencies regulating the activities of small businesses to establish a program for reduction and, in appropriate cases, waiver of civil penalties for violations of a statutory or regulatory requirement by a small entity.

Within the Commerce Department, two agencies regulate the activities of small business, the National Oceanic and Atmospheric Administration (NOAA) and the Bureau of Export Administration (BXA). Both NOAA and BXA have established programs to comply with the requirements of SBREFA.

With respect to section 223, NOAA has established a Fix-It Notice (FIN) program for the reduction or waiver of civil penalties under several of the natural resource protection statutes NOAA enforces, including the Marine Mammal Protection Act, the Endangered Species Act, and the Magnuson-Stevens Fishery Conservation and Management Act. Under the FIN program, dozens of minor, first-time violations, which are of a technical nature and which do not have a direct natural resource impact, receive a Fix-It Notice which allows the violation to be corrected in lieu of a penalty. The Fix-It Notice identifies the violation and allows the violator a specified amount of time to "fix" the violation. At this time, there are over 130 types of violations that have been included in the FIN program. NOAA's Civil Administrative Penalty Schedule has been amended to reflect the FIN program.

Fix-It Notices may be issued by either the National Marine Fisheries Service Office for Law Enforcement or by U.S. Coast Guard Boarding Officers operating in their deputized capacity. Since March 1996, approximately 208 Fix-It Notices were issued in lieu of penalties, many to small entities. The FIN program has helped NOAA achieve compliance and has had a positive response from the regulated community, many of whom are small entities.

NOAA issues written warnings rather than penalties for many minor violations. Since March 1996, NOAA issued approximately 908 written warnings. In addition, NOAA has a "Summary Settlement System" which allows violators, including small entities, to choose not to contest an alleged violation and to pay a reduced penalty within a specified time period following receipt of the Summary Settlement Notice. Since March 1996, approximately 392 Summary Settlement offers were extended by NOAA.

With respect to section 213, NOAA has a comprehensive program for providing regulatory guidance to small entities, which comprise much of NOAA's regulated community. It has long been NOAA's practice to answer inquiries by small entities whenever appropriate in the interest of administering statutes and regulations. Inquiries are received via telephone, mail, and electronic mail; during public hearings, town hall meetings, and workshops held by NOAA throughout

the year; and in the day-to-day interactions that small entities have with NOAA personnel. As a result, NOAA answers tens of thousands of inquiries from small entities each year.

BXA administers a classification and advisory opinion program. Under the Export Administration Regulations (EAR), which sets the criteria for export of dual-use items, commercial items with potential military or weapons proliferation applications, an exporter has a responsibility to classify the item it seeks to export to determine if an export license is required. In light of this responsibility, BXA has established a program whereby an exporter can ask BXA whether the item is subject to the EAR and, if so, the correct classification of that item. Further, for a given end-use, end-user, or destination, BXA will advise an exporter whether an export license is required or likely to be granted. The regulations describing this program can be found at 15 CFR 748.3.

In addition, BXA spends a great deal of time working with industry to educate them about the export control provisions of the EAR. BXA has an aggressive outreach program which has trained over 3,000 exporters during fiscal year 1998. For example, as a standard part of the seminar, BXA provides guidelines entitled "Export Management System Guidelines" to assist firms in ensuring that their exports and export decisions are consistent with the EAR. The EAR also contain "Know Your Customer" guidelines and "red flag" indicators, designed to assist exporters in complying with regulatory requirements.

As violations of the EAR have significant national security and foreign policy implications, we do not believe it appropriate for BXA to develop a penalty reduction or waiver program for violations of the provisions of the EAR. Small and large businesses alike bear responsibility for safeguarding this Nation's overall security and foreign policy interests.

Description of Agency Regulations

International Trade Administration

The International Trade Administration (ITA) is responsible for most nonagricultural trade promotion and enforcement activities of the Federal Government. It works with the Office of the U.S. Trade Representative in coordinating U.S. trade policy. A large component of ITA's activities do not involve regulation. However, ITA has important regulatory authority under a number of U.S. trade laws.

ITA administers programs to strengthen domestic export competitiveness and to promote U.S. industry's increased participation in international markets. ITA's trade development program includes policy development, industry analysis, and promotion organized by industrial sectors such as science and electronics, basic industries, chemicals and allied products, energy, and textiles and apparel. Among its regulatory activities, ITA issues certificates of review providing export trading companies with limited immunity from liability under antitrust laws.

ITA helps achieve the major departmental goal of opening and expanding foreign markets and promoting increased exports of U.S. goods and services in markets with the highest potential for growth, such as Asia and Latin America, and in important growing sectors, such as computers, telecommunications, and environmental technologies. The report of the Trade Promotion Coordinating Committee outlined more than 60 specific actions to strengthen U.S. export promotion efforts. Many of these actions, such as increasing U.S. businesses' awareness of sources of and access to trade finance and the establishment of one-stop U.S. Export Assistance Centers, directly involve ITA but do not involve regulation.

ITA also enforces our trade laws to ensure free and fair competition in our domestic market between U.S.- and foreign-manufactured goods. It administers and enforces the antidumping and countervailing duty laws of the United States. It investigates whether exports to the United States are subsidized or sold at less than fair value; when it finds that they are, and the U.S. International Trade Commission finds that a U.S. industry has been injured or threatened with material injury as a result, it issues an order to the U.S. Customs Service to impose offsetting duties. In addition, ITA administers the Foreign Trade Zone and Watch Quota Programs and the Educational, Scientific, and Cultural Materials Importation Act.

Antidumping and Countervailing Duties Regulations

The top regulatory priority of ITA is completing revision of the countervailing duty regulations to conform to legislation implementing the results of the Uruguay Round multilateral trade negotiations.

The Subsidies/Countervailing Measures Agreement of the Uruguay Round (Agreement) establishes general principles regarding the administration of the countervailing duty law. In order to facilitate the administration of this law and to provide greater predictability for private parties affected by this law, it will be necessary to promulgate regulations which, where appropriate and feasible, translate the principles of the Agreement and the implementing legislation into specific and predictable rules. By clarifying the methodologies and procedures used in administering the countervailing duty law, the efficiency and fairness of this law will be enhanced at little, if any, additional cost. The manner in which these regulations are drafted could have a significant impact on various important sectors of the economy, including steel and lumber.

National Oceanic and Atmospheric Administration

The National Oceanic and Atmospheric Administration establishes and administers Federal policy for the conservation and management of the Nation's oceanic, coastal, and atmospheric resources. It provides a variety of essential environmental services vital to public safety and to the Nation's economy, such as weather forecasts and storm warnings. It is a source of objective information on the state of the environment. NOAA plays the lead role in achieving the departmental goal of promoting stewardship and assessment of the global environment.

In recognition that economic growth must go hand-in-hand with environmental stewardship, the Commerce Department, through NOAA, conducts programs designed to provide a better understanding of the connections between environmental health, economics, and national security. Commerce's emphasis on "sustainable fisheries" is saving fisheries and confronting short-term economic dislocation, while boosting long-term economic growth. The Department of Commerce is where business and environmental interests intersect, and the classic debate on the use of natural resources is transformed into a "win-win" situation for the environment and the economy.

Three of NOAA's major components, the National Marine Fisheries Service (NMFS), the National Ocean Service (NOS), and the National Environmental Satellite, Data, and Information Service (NESDIS), exercise regulatory authority.

NMFS oversees the management and conservation of the Nation's marine

fisheries, protects marine mammals, and promotes the economic development of the U.S. fishing industries. NOS assists the coastal States in their management of land and ocean resources in their coastal zones, including estuarine research reserves; manages the Nation's national marine sanctuaries; monitors marine pollution; and directs the national program for deep-seabed minerals and ocean thermal energy. NESDIS administers the civilian weather satellite program and licenses private organizations to operate commercial land-remote sensing satellite systems.

The Administration is committed to an environmental strategy that promotes sustainable economic development and rejects the false choice between environmental goals and economic growth. The intent is to have the Government's economic decisions be guided by a comprehensive understanding of the environment. The Department of Commerce through NOAA has a unique role in promoting stewardship of the global environment through effective management of the Nation's marine and coastal resources and in monitoring and predicting changes in the Earth's environment, thus linking trade, development, and technology with environmental issues. NOAA has the primary Federal responsibility for providing the sound scientific observations, assessments, and forecasts of environmental phenomena on which resource management and other societal decisions can be made.

In the environmental stewardship area, NOAA's goals include rebuilding U.S. fisheries by refocusing policies and fishery management planning on increased scientific information; increasing the populations of depleted, threatened, or endangered species of marine mammals by implementing recovery plans that provide for their recovery while still allowing for economic and recreational opportunities; promoting healthy coastal ecosystems by ensuring that economic development is managed in ways that maintain biodiversity and long-term productivity for sustained use; and modernizing navigation and positioning services. In the environmental assessment and prediction area, goals include modernizing the National Weather Service; implementing reliable seasonal and interannual climate forecasts to guide economic planning; providing science-based policy advice on options to deal with very long term (decadal to centennial) changes in the environment; and advancing and improving short-term warning and forecast services for the entire environment.

Magnuson-Stevens Act Rulemakings

Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) rulemakings concern the conservation and management of fishery resources in the U.S. 3-to-200-mile Exclusive Economic Zone (EEZ). Among the several hundred rulemakings that NOAA plans to issue in the Regulatory Plan year, a number of the preregulatory and regulatory actions will be significant. The exact number of such rulemakings is unknown, since they are usually initiated by the actions of eight regional Fishery Management Councils (FMCs) that are responsible for preparing fishery management plans (FMPs) and FMP amendments and for drafting implementing regulations for each managed fishery and by other circumstances which cannot be predicted. Once a rulemaking is triggered by a FMC, the Magnuson-Stevens Act places stringent deadlines upon NMFS in which it must exercise its rulemaking responsibilities. Most of these rulemakings will be minor, involving only the opening or closing of a fishery under an existing FMP. While no one Magnuson-Stevens Act rulemaking is among the Department's most important significant regulatory actions, and therefore none is specifically described below, the sum of these actions, and a few of the individual actions themselves, are highly significant.

The Magnuson-Stevens Act, which is the primary legal authority for Federal regulation to conserve and manage fishery resources, establishes eight regional FMCs responsible for preparing FMPs and FMP amendments. NMFS issues regulations to implement FMPs and FMP amendments. FMPs address a variety of fishery matters, including depressed stocks, over-fished stocks, gear conflicts, and foreign fishing. One of the problems that FMPs may use is preventing overcapitalization (preventing excess fishing capacity) of fisheries by limiting access to those dependent on the fishery in the past and/or by allocating the resource through individual transferable quotas which can be sold on the open market to other participants or those wishing access. Quotas set on good scientific information whether as a total fishing limit for a species in a fishery or as a share assigned to each vessel participant enable stressed stocks to rebuild. Other measures include staggering fishing seasons or limiting gear types to avoid gear conflicts on the fishing grounds and establishing seasonal and area closures to protect fishery stocks.

NMFS favors the concept of framework FMPs where applicable. Such FMPs provide ranges, boundaries, and decision rules within which NMFS can change management measures without formally amending the FMP. Further, consistent with the recommendations on improving regulatory systems accompanying the Report of the National Performance Review, NMFS favors using market-oriented approaches in managing fisheries. Open-access fisheries are destined to have too many people investing too much money in vessels and equipment. Access controls (e.g., a limited number of permits) represent a rational approach for managing fishery resources; they can be used to control fishing mortality levels and to prevent over-fishing, economic dissipation, and subsequent economic and social dislocation. Of course overall quotas will need to be set based on the best scientific information available as to such things as stock status and optimum yields.

The FMCs provide a forum for public debate and, using the best scientific information available, make the judgments needed to determine optimum yield on a fishery-by-fishery basis. Optional management measures are examined and selected in accordance with the national standards set forth in the Magnuson-Stevens Act. This process, including the selection of the preferred management measures, constitutes the development, in simplified form, of an FMP. The FMP, together with draft implementing regulations and supporting documentation, is submitted to NMFS for review against the national standards set forth in the Magnuson-Stevens Act, in other provisions of the Act, and other applicable laws. The same process applies to amending an existing approved FMP.

The Magnuson-Stevens Act contains 10 national standards against which fishery management measures are judged. NMFS has supplemented the standards with guidelines interpreting each standard and is currently in the process of updating and adding to those guidelines. One of the national standards requires that management measures, where practicable, minimize costs and avoid unnecessary duplication. Under the guidelines, NMFS will not approve management measures submitted by an FMC unless the fishery is in need of management.

Together, the standards and the guidelines correspond to many of the Administration's principles of regulation as set forth in section 1(b) of Executive Order 12866. One of the national standards establishes a qualitative equivalent to the Executive Order's "net benefits" requirement—one of the focuses of the Administration's statement of regulatory philosophy as stated in section 1(a) of the Order.

Licensing of Private Commercial Remote-Sensing Satellite Systems

NOAA/NESDIS is planning to issue final regulations revising its procedures governing the licensing of private commercial Earth remote-sensing space systems under title II of the Land Remote Sensing Policy Act of 1992, 15 U.S.C. 5601 et seq. (1992 Act).

Title II of the 1992 Act requires that any person subject to the jurisdiction or control of the United States obtain a license from the Secretary of Commerce before operating a private remote-sensing space system. The authority to issue licenses has been delegated to the Administrator of NOAA and redelegated to the Assistant Administrator for Satellite and Information Services.

On July 10, 1987, NOAA published final regulations implementing title IV of the Land Remote Sensing Act of 1984 (the 1984 Act) setting forth the procedural requirements for obtaining a license. In 1988, the Radio Television News Directors Association (RTNDA) filed a Petition for Rulemaking requesting NOAA to reopen these regulations in light of the President's January 5, 1988, Decision Directive encouraging commercial space development. On January 18, 1989, NOAA responded to this Petition, agreeing to reopen the regulations and incorporate certain principles favorable to commercial development that were consistent with the Directive. (See 54 FR 1945.)

Shortly thereafter, Congress began to review the 1984 Act and, on October 28, 1992, enacted the 1992 Act, which repealed and succeeded the 1984 Act. The 1992 Act made significant changes to the 1984 Act, particularly with regard to the latter's requirement that all unenhanced data must be provided on a nondiscriminatory basis. The 1992 Act also provided for judicial review of certain licensing and enforcement actions. NOAA has issued 10 licenses under the regime established in the 1992 Act.

On March 9, 1994, the President issued a Policy Decision to "support and enhance U.S. competitiveness in the field of remote-sensing space capabilities while at the same time protecting U.S. interests in national security and international obligations." This policy established a number of policies that promote an appropriate balance between these interests. Specifically, the President's policy announced the goal of enhancing U.S. competitiveness in a market that is projected to be worth approximately $2 billion worldwide by the year 2000, while at the same time addressing the national security concerns brought up by other Government agencies. The President's policy covers foreign access to remote-sensing systems, technology, products, and data. It states that there is a presumption that systems whose capabilities are already available in the global marketplace will be "favorably considered." It also elaborated eight more conditions that are to be applied to any license. The most significant of these conditions are:

1) During periods when national security or international obligations and/or foreign policies may be compromised, as defined by the Secretary of Defense or the Secretary of State respectively, the Secretary of Commerce may, after consultation with the appropriate agencies, require the licensee to limit data collection and/or distribution by the system to the extent necessitated by the given situation. Decisions to impose such limits only will be made by the Secretary of Commerce in consultation with the Secretary of Defense or Secretary of State, as appropriate. Disagreements between Cabinet Secretaries may be appealed to the President;

2) that the licenses are not subject to foreign ownership, above a specified threshold, without the explicit permission of the Secretary of Commerce; and

3) licensees must notify the U.S. Government of its intent to enter into significant or substantial agreements with new foreign customers. Interested agencies are to be given advance notice of such agreements to allow them to review the proposed agreement in light of national security, international obligations, and foreign policy concerns. The President's policy stated that the definition of a significant or substantial agreement, as well as the time frames and other details of this process, were to be defined by the Commerce Department in regulations.

On December 4, 1995, a Notice of Inquiry and Request for Public Comment was published in the Federal Register, wherein NOAA sought public comment to decide whether, and to what extent, the 1987 regulations needed revision in light of the President's Policy and the 1992 Act and, if so, which issues should be addressed. NOAA received seven sets of comments. Additionally, NOAA held a public hearing at the Department of Commerce on June 14, 1996, at which it received additional input from interested parties. The main theme that emerged at the public hearing was the need for transparency and predictability in the regulations.

On November 3, 1997, NOAA issued a proposed rule to revise its remote-sensing licensing procedures. The proposed regulations would update the 1987 regulations to reflect the above described intervening events and information gathered through the public process, as well as the experience gained during recent licensing procedures. The intent of the proposed regulations would be to help promote the development of the commercial remote-sensing industry by keeping Government oversight to the minimum necessary to ensure protection of U.S. national security and foreign policy interests and by making that role predictable and transparent to the affected applicants and licensees. An underlying premise is that the long-term national security and foreign policy interests of the United States are best served by helping the U.S. industry to lead this emerging market.

The November 3, 1997, proposed regulations incorporate the basic regulatory principle that any restrictions on a licensee, including those required for national security and foreign policy purposes, must be the least burdensome possible to achieve the stated objective. Further, the proposed rule would establish a notice mechanism for allowing up to 49 percent foreign ownership in the licensee and monitoring domestic investment so that control of the remote-sensing system cannot be transferred without a formal amendment to the license. As required by the President's 1994 policy, the rule sought to define what foreign agreements are significant or substantial and must be submitted for review. Agency actions under the regulation would be reviewable by an administrative law judge.

On April 1, 1998, NOAA held a public meeting to listen to public comments on the proposed regulations. The public comment period ended the next day, April 2, 1998. NOAA received 18 sets of substantive comments on the regulations and is currently reviewing these and revising the proposed regulations accordingly.

DOC—International Trade Administration (ITA)

FINAL RULE STAGE

15. ANTIDUMPING DUTIES; COUNTERVAILING DUTIES

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

19 USC 1671 et seq; 19 USC 1673 et seq; 19 USC 1303

CFR Citation:

19 CFR 351; 19 CFR 353; 19 CFR 355

Legal Deadline:

Other, Statutory, January 1, 1996.

Section 103(b) of the Uruguay Round Agreements Act establishes January 1, 1996, as the deadline for interim final regulations.

Abstract:

Revisions of the countervailing duty regulations are necessary due to enactment of legislation implementing the results of the Uruguay Round multilateral trade negotiations. By clarifying the methodologies and procedures used in administering the countervailing duty law, the efficiency and fairness of this law will be enhanced at little, if any, additional cost.

Statement of Need:

Regulations are needed to implement the results of the Uruguay Round with respect to the administration of the countervailing duty laws. The Subsidies/Countervailing Measures Agreement establishes general principles regarding the administration of this law. In order to facilitate the administration of this law and to provide greater predictability for private parties affected by it, it will be necessary to promulgate regulations which, where appropriate and feasible, translate the principles of the Agreement and the implementing legislation into specific and predictable rules. Amendments conforming the antidumping regulations with the Uruguay Round Agreements Act were issued in May 1997.

Summary of the Legal Basis:

The Secretary of Commerce is responsible for administering the countervailing duty laws pursuant to 19 USC 1671 et seq. The law conforms to the Agreement and reflects internationally agreed rules regarding unfair trade. The Secretary, acting through the Import Administration of the International Trade Administration, is responsible for processing petitions from firms that allege they have been harmed by unfair competition from imports, making preliminary and final determinations about whether such competition was subsidized and conducting periodic administrative reviews of countervailing duty orders. Merchandise found to be benefiting from subsidies is subject to duties in the amount of the subsidization.

Alternatives:

The Subsidies/Countervailing Measures Agreement establishes clearer rules and stronger disciplines in the subsidies area while also making certain subsidies nonactionable, provided they are subject to conditions designed to limit distorting effects. The Agreements create three categories of subsidies and remedies: (1) prohibited subsidies; (2) permissible subsidies which are actionable if they cause adverse trade effects; and (3) permissible subsidies which are nonactionable if they are structured according to criteria intended to limit their potential for distortion.

Anticipated Costs and Benefits:

The Uruguay Round agreements are anticipated to create hundreds of thousands of high-wage, high-skilled jobs in the United States. Further, economists estimate that the Uruguay Round will increase trade and will add between $100 and $200 billion to the United States economy after the Round is fully implemented. Finally, the Uruguay Round agreements create an effective set of rules for the prompt settlement of disputes by eliminating shortcomings in the current system that allows parties to prolong the process and block adverse determinations.

The costs of administering the countervailing duty system will be increased pursuant to the rules established in the Uruguay Round and the implementing legislation. The agreements dictate a number of new obligations in the investigation of petitions and the conduct of administrative reviews. Binding dispute settlement under the World Trade Organization (WTO) will also increase legal costs because substantially more challenges to ITA determinations will be brought to the WTO forum.

Timetable:

Action	Date	FR Cite
ANPRM	01/03/95	60 FR 80
ANPRM Comment Period End	02/24/95	
Interim Final Rule	05/11/95	60 FR 25130
NPRM - Antidumping Duties	02/27/96	61 FR 7308
NPRM Comment Period End	06/17/96	
NPRM - Countervailing Duties	02/26/97	62 FR 8818
Final Rule - Antidumping Regulations	05/19/97	62 FR 27296
Final Rule - Countervailing Duties	11/00/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

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DOC—National Oceanic and Atmospheric Administration (NOAA)

FINAL RULE STAGE

16. LICENSING OF PRIVATE COMMERCIAL REMOTE-SENSING SATELLITE SYSTEMS

Priority:

Other Significant

Legal Authority:

15 USC 5601 et seq

CFR Citation:

50 CFR 960.1 et seq

Legal Deadline:

None

Abstract:

The final regulations would update the 1987 regulations to reflect the intervening events and information gathered through the public process, as well as the experience gained during recent licensing procedures. The intent of the regulations is to help promote the development of the commercial remote-sensing industry by keeping Government oversight to the minimum necessary to ensure protection of U.S. national security and foreign policy interests and by making that role predictable and transparent to the affected applicants and licensees. An underlying premise is that the long-term national security and foreign policy interests of the United States are best served by helping the U.S. industry to lead this emerging market.

Statement of Need:

On July 10, 1987, NOAA published final regulations implementing title IV of the Land Remote Sensing Act of 1984 (the 1984 Act) setting forth the procedural requirements for obtaining a license. In 1988, the Radio Television News Directors Association (RTNDA) filed a Petition for Rulemaking requesting NOAA to reopen these regulations in light of the President's January 5, 1988 Decision Directive encouraging commercial space development. On January 18, 1989, NOAA responded to this Petition, agreeing to reopen the regulations and incorporate certain principles favorable to commercial development that were consistent with the Directive (see 54 FR 1945).

Shortly thereafter, Congress began to review the 1984 Act and, in October 1992, enacted the 1992 Act, which repealed and succeeded the 1984 Act. The 1992 Act made significant changes to the 1984 Act, particularly with regard to the latter's requirement that all unenhanced data must be provided on a nondiscriminatory basis. The 1992 Act also provided for judicial review of certain licensing and enforcement actions.

On November 3, 1997, NOAA issued proposed regulations revising its procedures governing the licensing of private commercial Earth remote-sensing space systems under title II of the Land Remote Sensing Policy Act of 1992, 15 U.S.C. 5601 et seq. (1992 Act). On April 1, 1998, NOAA held a public meeting to listen to public comments on the proposed regulations. The public comment period ended the next day, April 2, 1998. NOAA received 18 sets of substantive comments on the regulations, and is currently reviewing these and revising the proposed regulations accordingly.

Summary of the Legal Basis:

Title II of the 1992 Act requires that any person subject to the jurisdiction or control of the United States obtain a license from the Secretary of Commerce (Secretary) before operating a private remote-sensing space system. The authority to issue licenses has been delegated to the Administrator of NOAA and redelegated to the Assistant Administrator for Satellite and Information Services.

Alternatives:

The November 3, 1997, proposed regulations incorporate the basic regulatory principle that any restrictions on a licensee, including those required for national security and foreign policy purposes, must be the least burdensome possible to achieve the stated objective. Further, the proposed rule would establish a notice mechanism for allowing up to 49 percent foreign ownership in the licensee and monitoring domestic investment so that control of the remote-sensing system can not be transferred without a formal amendment to the license. As required by the President's 1994 policy, the proposed rule would define what foreign agreements are significant or substantial and must be submitted for review. Agency actions would be reviewable by an administrative law judge.

The fundamental goal of the proposed rule was to support and enhance U.S. industrial competitiveness in the field of remote-sensing space capabilities while at the same time protecting U.S. national security and foreign policy interests. The measures included in the proposed rule are those necessary to protect U.S. interests. The alternatives to the measures proposed would be the establishment of national security and foreign policy controls that would hinder or prevent growth of the commercial market or allowing unrestricted commercial operations that could harm U.S. national security and foreign policy interests. The final regulations will achieve this goal.

Anticipated Costs and Benefits:

The intent of the regulations is to help promote the development of the commercial remote-sensing industry by keeping Government oversight to the minimum necessary to ensure protection of U.S. national security and foreign policy interests and by making that role predictable and transparent to the affected applicants and licensees. An underlying premise is that the long-term national security and foreign policy interests of the United States are best served by helping the U.S. industry to lead this emerging market. Failure to provide a regulatory regime which nurtures and fosters the development of this high-skilled, high-wage industry is likely to result in the United States losing not only its advantage in this technology, but also a great percentage of the projected growth in economic value of this industry. The costs of the licensing procedures would be borne, for the most part, by the Federal Government and would not be significant.

Timetable:

Action	Date	FR Cite
ANPRM	12/04/95	60 FR 62054
Notice of Public Meeting	05/14/96	61 FR 24480
NPRM	11/03/97	62 FR 59317
Notice of Public Meeting	03/05/98	63 FR 10785
NPRM Comment Period End	04/02/98	62 FR 65384
Final Action	12/00/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal

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BILLING CODE 3510-BW-F

DEPARTMENT OF DEFENSE (DOD)

Statement of Regulatory Priorities

Background

The Department of Defense (DoD) is the largest Federal department consisting of 3 military departments (Army, Navy, and Air Force), 9 unified combatant commands, 15 Defense agencies, and 8 DoD field activities. It has over 1,395,000 military personnel and 725,000 civilians assigned as of May 31, 1998, and over 500 military installations and properties in the continental United States, U. S. territories, and foreign countries. The overall size, composition, and dispersion of the Department of Defense, coupled with an innovative regulatory program, presents a challenge to the management of the Defense regulatory efforts under Executive Order 12866 "Regulatory Planning and Review" of September 30, 1993.

Because of its diversified nature, DoD is impacted by the regulations issued by regulatory agencies such as the Departments of Energy, Health and Human Services, Housing and Urban Development, Labor, Transportation, and the Environmental Protection Agency. In order to develop the best possible regulations that embody the principles and objectives embedded in Executive Order 12866, there must be coordination of proposed regulations among the regulating agencies and the affected Defense components. Coordinating the proposed regulations in advance throughout an organization as large as DoD is straightforward, yet a formidable undertaking.

DoD is not a regulatory agency but occasionally issues regulations that have an impact on the public. These regulations, while small in number compared to the regulating agencies, can be significant as defined in Executive Order 12866. In addition, some of DoD's regulations may impact the regulatory agencies. DoD, as an integral part of its program, not only receives coordinating actions from the regulating agencies, but coordinates with the agencies that are impacted by its regulations, as well.

The Regulatory Program within DoD fully incorporates the provisions of the President's priorities and objectives under Executive Order 12866. Promulgating and implementing the regulatory program throughout DoD presents a unique challenge to the management of our regulatory efforts.

Coordination

Interagency

DoD annually receives regulatory plans from those agencies that impact the operation of the Department through the issuance of regulations. A system for coordinating the review process is in place, regulations are reviewed, and comments are forwarded to the Office of Management and Budget. The system is working in the Department, and the feedback from the Defense components is most encouraging since they are able to see and comment on regulations from the other agencies before they are required to comply with them. The coordination process in DoD continues to work as outlined in Executive Order 12866.

Internal

Through regulatory program points of contact in the Department, we have established a system that provides information from the Vice President and the Administrator of the Office of Information and Regulatory Affairs (OIRA) to the personnel responsible for the development and implementation of DoD regulations. Conversely, the system can provide feedback from DoD regulatory personnel to the Administrator, OIRA. DoD continues to refine its internal procedures, and this ongoing effort to improve coordination and communication practices is well received and supported within the Department.

Overall Priorities

The Department of Defense needs to function at a reasonable cost, while ensuring that it does not impose ineffective and unnecessarily burdensome regulations on the public. The rulemaking process should be responsive, efficient, cost-effective, and both fair and perceived as fair. This is being done at a time when there is a significant ongoing downsizing in the Department and it must react to the contradictory pressures of providing more services with fewer resources.

The Department of Defense, as a matter of overall priority for its regulatory program, adheres to the general principles set forth in Executive Order 12866 as amplified below.

Problem Identification

Congress typically passes legislation to authorize or require an agency to issue regulations and often is quite specific about the problem identified for correction. Therefore, DoD does not generally initiate regulations as a part of its mission.

Conflicting Regulations

Since DoD does not plan to issue any significant regulations this year, the probability of developing conflicting regulations is low. Conversely, DoD is impacted to a great degree by the regulating agencies. From that perspective, DoD is in a position to advise the regulatory agencies of conflicts that appear to exist using the coordination processes that exist in the DoD and other Federal agency regulatory programs. It is a priority in the Department to communicate with other agencies and the affected public to identify and proactively pursue regulatory problems that occur as a result of conflicting regulations both within and outside the Department.

Alternatives

DoD will identify feasible alternatives that will obtain the desired regulatory objectives. Where possible, the Department encourages the use of incentives to include financial, quality of life, and others to achieve the desired regulatory results.

Risk Assessment

Assessing and managing risk is a high priority in the DoD regulatory program. The Department is committed to risk prioritization and an "anticipatory" approach to regulatory planning which focuses attention on the identification of future risk. Predicting future regulatory risk is exceedingly difficult due to rapid introduction of new technologies, side effects of Government intervention, and changing societal concerns. These difficulties can be mitigated to a manageable degree through the incorporation of risk prioritization and anticipatory regulatory planning into DoD's decisionmaking process which results in an improved regulatory process and increases the customer's understanding of risk.

Cost-Effectiveness

One of the highest priority objectives of DoD is to obtain the desired regulatory objective by the most cost-effective method available. This may or may not be through the regulatory process. When a regulation is required, DoD considers incentives for innovation to achieve desired results, consistency in the application of the regulation, predictability of the activity outcome (achieving the expected results), and the costs for regulation development, enforcement, and compliance. These will include costs to the public, Government, and regulated entities, using the best available data or parametric analysis methods, in the

cost-benefit analysis and the decisionmaking process.

Cost-Benefit

Conducting cost-benefit analyses on regulation alternatives is a priority in the Department of Defense so as to ensure that the potential benefits to society outweigh the costs. Evaluations of these alternatives are done quantitatively or qualitatively or both, depending on the nature of the problem being solved and the type of information and data available on the subject. DoD is committed to considering the most important alternative approaches to the problem being solved and providing the reasoning for selecting the proposed regulatory change over the other alternatives.

Information-Based Decisions

The Defense Department uses the latest technology to provide access to the most current technical, scientific, and demographic information in a timely manner through the world-wide communications capabilities which are available on the "information highway." Realizing that increased public participation in the rulemaking process improves the quality and acceptability of regulations, DoD is committed to exploring the use of Information Technology (IT) in rule development and implementation. IT provides the public with easier and more meaningful access to the processing of regulations. Furthermore, the Department endeavors to increase the use of automation in the Notice and Comment Rulemaking process in an effort to reduce time pressures in the regulatory process.

Performance-Based Regulations

Where appropriate, DoD is incorporating performance-based standards that allow the regulated parties to achieve the regulatory objective in the most cost-effective manner.

Outreach Initiatives

DoD endeavors to obtain the views of appropriate State, local, and tribal officials and the public in implementing measures to enhance public awareness and participation both in developing and implementing regulatory efforts. Historically, this has included such activities as receiving comments from the public, holding hearings, and conducting focus groups. This reaching out to organizations and individuals who are affected by or involved in a particular regulatory action remains a significant regulatory priority of the Department and, we feel, results in much better regulations.

Coordination

DoD has enthusiastically embraced the coordination process between and among other Federal agencies in the development of new and revised regulations. Annually, DoD receives regulatory plans from key regulatory agencies and has established a systematic approach to providing the plans to the appropriate policy officials within the Department. Feedback from the DoD components indicates that this communication among the Federal agencies is a major step forward in improving regulations and the regulatory process, as well as in improving Government operations.

Minimize Burden

In the regulatory process, there are more complaints concerning burden than anything else. In DoD, much of the burden is in the acquisition area. Over the years, acquisition regulations have grown and become burdensome principally because of legislative action. But, in coordination with Congress, the Office of Federal Procurement Policy, and the public, DoD is initiating significant reforms in acquisition so as to effect major reductions in the regulatory burden on personnel in Government and the private sector.

DoD implemented a multi-year strategy for reducing the paperwork burden imposed on the public. This plan shows that DoD has met and will exceed the goals set forth in the Paperwork Reduction Act, which requires a 25 percent reduction in each agency's burden by the end of FY 1998. The Department achieved a 25 percent reduction by the end of FY 1996, and an additional 9 percent in FY 1997. During FY 1998, DoD achieved its second largest reduction ever, for a single collection, by reducing the paperwork burden by 17.2 million hours through program changes. Another significant reduction in the burden imposed on the public was achieved as a result of the review of the information collection requirement in support of the solicitation phase of the Department of Defense acquisition process. The information collection requirement pertains to information that an offeror must submit to DoD in response to DoD solicitations not covered by another OMB clearance. As a result of recent revisions to the duty-free entry information collection requirements, DoD reduced the burden hours imposed on the public under this information collection requirement by 530,884 hours per year. Further, DoD reduced 88,711 hours per year from the burden imposed on the public to support foreign acquisitions. This reduction is based on the most current data available in DoD data bases, as well as other information from other sources, such as the number of duty-free entry certificates processed and the number of reports received relating to contract performance outside the United States. It is the goal of the Department of Defense to impose upon the public the smallest burden viable, as infrequently as possible, and for no longer than absolutely necessary.

Plain Language

Ensuring that regulations are simple and easy to understand is a high regulatory priority in the Department of Defense. All too often, the regulations are complicated, difficult to understand, and subject to misinterpretation, all of which can result in the costly process of litigation. The objective in the development of regulations is to write them in clear, concise language that is simple and easy to understand.

DoD recognizes that it has a responsibility for drafting clearly written rules that are reader-oriented and easily understood. Rules will be written for the customer using natural expressions and simple words. Stilted jargon and complex construction will be avoided. Clearly written rules will tell our customers what to do and how to do it. DoD is committed to a more customer-oriented approach and uses Plain Language rules thereby improving compliance and reducing litigation. The Department will adhere to the timetable established in the President's memorandum of June 1, 1998, regarding Plain Language in Government Writing, for incorporation of plain writing techniques in official documents.

In summary, the rulemaking process in DoD should produce a rule that addresses an identifiable problem, implements the law, incorporates the President's policies defined in Executive Order 12866, is in the public interest, is consistent with other rules and policies, is based on the best information available, is rationally justified, is cost-effective, can actually be implemented, is acceptable and enforceable, is easily understood, and stays in effect only as long as is necessary. Moreover, the proposed rule or the elimination of a rule should simply make sense.

Specific Priorities

For this regulatory plan, there are three specific DoD priorities, all of which reflect the established regulatory principles. In those areas where rulemaking or participation in the regulatory process is required, DoD has studied and developed policy and regulation which incorporate not only the provisions of the President's priorities and objectives under the Executive order but also the National Performance Review, dated September 1993.

DoD has focused its regulatory resources on the most serious environmental, health, and safety risks. Perhaps most significant is that each of the three priorities described below promulgates regulations to offset the resource impacts of Federal decisions on the public or to improve the quality of public life such as those regulations concerning wetlands, acquisition, and health care delivery.

Preserve Quality and Quantity of Wetlands

During FY 1999, the U.S. Army Corps of Engineers is not proposing any significant regulations as defined by Executive Order 12866. The Office of the Assistant Secretary of the Army (Civil Works) and the Corps will propose and complete two regulations initiated as part of the President's August 24, 1993, Wetlands Protection Plan and the President's 1995 Regulatory Reinvention Initiative. The wetlands protection plan provides for a fair, flexible, and effective approach to protecting America's wetlands through both regulatory and nonregulatory mechanisms. The regulatory reinvention initiative reinforced those provisions and included additional regulatory reform and streamlining provisions.

During 1998 and 1999, the Corps will propose and finalize two regulations pursuant to its authorities under section 404 of the Clean Water Act and section 10 of the Rivers and Harbors Act of 1899. The first regulation will establish an administrative appeal process whereby permit applicants and landowners can appeal permit denial decisions. This regulation was proposed on July 19, 1995, with a similar regulation on appealing jurisdictional determinations. The permit denial appeal regulation will be finalized in 1999. The administrative appeal process will increase fairness to applicants and landowners in the permitting process by establishing a recourse to Corps permit denial decisions without pursuing litigation. The process will also provide for interested party involvement when the Corps reconsiders a previous denial. The jurisdictional determination appeal regulation has been deferred, pending adequate funding from Congress.

The second regulation will be to clarify the scope of analysis that the Corps has responsibility for under the Endangered Species Act (ESA). The Corps scope of analysis for the National Environmental Policy Act and the National Historic Preservation Act is established in 33 CFR part 325, appendices B and C, respectively. This regulation will adopt the Corps ESA scope of analysis consistent with the ESA, the ESA regulations, and the Corps authorities.

Reform Defense Acquisition

The Department continues its efforts to reengineer its acquisition system to achieve its vision of an acquisition system which is recognized as being the smartest, most efficient, most responsive buyer of best value goods and services which meet the warfighter's needs from a globally competitive base. To achieve this vision, the Department will focus in the acquisition regulations arena during this next year on implementing and institutionalizing initiatives which may include additional changes to existing and recently modified regulations to ensure that we are achieving the outcomes we desire (continuous process improvement). The Department will focus on reengineering the process by which it acquires services, focusing on the use of performance-based work statements. The Department also intends to improve its use of electronic commerce/electronic data interchange.

The Department is committed to acquisition reform and continues to make significant improvements in this area, consistent with the National Performance Review and Executive Order 12866. DoD is leading the following initiatives to reform the acquisition process, which include integrating commercial and military facilities and expanding the ability to buy commercial products and expanding the use of commercial procedures.

Integration of commercial and military facilities is critical to enable the Department to capitalize on and access commercial technology and generate funds for modernization, all within a balanced-budget environment. To accomplish civil-military integration, DoD is developing a plan to remove the current barriers to this integration and provide guidelines and incentives for industry to achieve the desired objective. The 1994 Coopers & Lybrand (C&L)/TASC, Inc., report "The DoD Cost Premium: A Quantitative Assessment" formed the basis for expectations of possible future cost reductions by defining the cost premium differential between the commercial and military sectors. The Department's plan is to capitalize on the foundation established by this effort.

The C&L/TASC, Inc., report identified the regulatory cost drivers that contributed to the average 18 percent premium that DoD pays for goods and services. In 1996, DoD developed comprehensive action plan assessments for the top 24 cost drivers and addressed the next 35 cost drivers. These assessments were last updated in June 1996. DoD is currently updating those regulatory cost driver plans. In those updates, the Department will address unresolved implementation challenges and other collateral reform efforts, as well as integrate Defense Reform Initiative, Management Reform Memorandum, and National Performance Review activities. In the fall of 1998, the Department will select a number of regulatory candidates designed to further integrate commercial and military facilities.

In addition to the need to integrate commercial and military facilities, the Department must expand on the ability to buy commercial products and expand the use of commercial procedures. DoD continuously reviews its supplement to the Federal Acquisition Regulation and continues to lead Governmentwide efforts to simplify the following acquisition processes:

- Rewrite of FAR part 45, Government Property. The goals of the FAR part 45 rewrite are to reduce contractor and Government costs to manage property in the possession of contractors by streamlining recordkeeping requirements; to eliminate requirements to track, report, and inventory property valued at $1,500 or less during contract performance; to replace five inventory schedules with a single inventory disposal schedule; and to shorten screening times prior to property disposal. The FAR part 45 rewrite also encourages the dual use of Government property introducing commercial rental practices and reducing property rental costs.
- Rewrite the FAR guidance pertaining to Progress Payments. The goal of this initiative is to simplify the progress payments process and to minimize the burdens imposed on contractors and contracting officers.
- Review of FAR representations. The goal of this initiative is to remove or reduce certain requirements for

representations and other statements from offerors and contractors. Removing or reducing these requirements will eliminate unnecessary burdens that are placed on offerors and contractors.

- Review of various FAR cost principles. The goal of this initiative is to determine whether certain FAR cost principles are still relevant in today's business environment, whether they place an unnecessary administrative burden on contractors and the Government, and whether they can be streamlined or simplified. For example, we are considering: (1) Revising the Relocation Cost Principle to remove ceilings imposed on specific relocation costs and to recognize the growing commercial practice of reimbursing relocation costs on a lump-sum basis; (2) deleting the Civil Defense Cost Principle since, with the end of the Cold War, the special guidance provided is no longer deemed necessary; (3) revising the Recruitment/Public Relations and Advertising Cost Principle to remove excessive wording and details for streamlining purposes; and (4) revising the Insurance and Indemnification Cost Principle to streamline the guidance.

Improve Health Care Delivery in the Defense Department

The Department of Defense is able to meet its dual mission of wartime readiness and peacetime healthcare by operating an extensive network of medical treatment facilities. This network includes DoD's own military treatment facilities and the civilian healthcare providers, facilities, and services under contract to DoD through the TRICARE program. TRICARE is a major healthcare initiative designed to improve the management and integration of DoD's healthcare delivery system. The program's goal is to increase access to healthcare services, improve healthcare quality, and control healthcare costs. TRICARE offers enrollment in an HMO-like option (Prime) and two options that do not require enrollment: A preferred provider-like option (Extra) and a fee for service option (Standard), formally known as CHAMPUS. Like the old CHAMPUS program, under TRICARE, DoD continues to share the cost of civilian healthcare with its eligible beneficiaries when services are not available in the military medical treatment facility. DoD initiated the TRICARE Senior Prime Demonstration Project with the Health Care Financing Administration (HCFA). This program enables DoD to offer beneficiaries over the age of 65 years the ability to enroll in the TRICARE HMO option. Once DoD meets the prescribed level of effort in providing healthcare to this population, HCFA will share the cost of the benefit with DoD. This demonstration project is conducted under the authority of section 1896 of the Social Security Act, as added by section 4015 of the Balanced Budget Act of 1997 (Pub. L. 105-33).

The principal health-related regulatory publications of the Department are based on CHAMPUS, the Civilian Health and Medical Program of the Uniformed Services (32 CFR part 199). CHAMPUS regulations are comprehensive and address issues such as: Eligibility, benefits, authorized providers, claims payment, appeals procedures, and the healthcare delivery options available under TRICARE.

DoD coordinates changes to CHAMPUS regulations with the Departments of Transportation (U. S. Coast Guard), Health and Human Services (Public Health Service), and Commerce (National Oceanic and Atmospheric Administration) whose beneficiaries are also eligible for CHAMPUS.

Revisions in the TRICARE/CHAMPUS Program's statutory base or DoD initiatives to improve the program may result in amendments to the regulation. DoD's regulatory priorities for the upcoming year include: Promulgation of regulations governing enrollment in military health system managed care programs and the management of high cost health care cases.

BILLING CODE 5000-04-F

DEPARTMENT OF EDUCATION (ED)

Statement of Regulatory and Deregulatory Priorities

General

The Department supports States, local communities, institutions of higher education, and others to improve education nationwide. The Department's roles include leadership and financial support for education to agencies, institutions, and individuals in situations where there is a national interest; monitoring and enforcing of civil rights in the area of education; and supporting research, evaluation, and dissemination of findings to improve the quality of education. ED works in partnership with parents, neighborhoods, schools, colleges, educators, business leaders, communities, and States across the country.

Since the announcement of President Clinton's "Regulatory Reinvention Initiative" on March 4, 1995, the Department has conducted a comprehensive review of its programs, legislation, and implementing regulations to enhance partnerships, increase flexibility, and improve accountability. In response to the initiative, the Department has eliminated approximately 39 percent of the pages of its regulations published in the Code of Federal Regulations—including a full 2/3 of the regulations applicable to elementary and secondary education programs—and simplified another third. Changes in additional regulations have also been proposed as a result of recently enacted or currently pending legislation.

The Department has accomplished these results through a departmentwide effort that recognizes that students and educational partners are best served by regulations that focus on critical steps and results, allow as much flexibility as possible consistent with statutory and program goals, and impose the least possible burden.

As part of its regulatory reinvention efforts and in response to the President's memorandum of June 1, 1998, on "Plain Language in Government Writing," the Department also seeks to draft all of its regulations and related documents clearly and concisely in plain language, so that potential program beneficiaries will better understand benefits and requirements.

Woven throughout the Department's reinvention is a commitment to provide quality customer service in the spirit of continuous improvement to assure that we are truly "putting people first." The Department listens to our customers to identify their needs and incorporates their suggestions into program goals and strategies.

In order to provide information and support enhanced exchange, the Department instituted 1-800-USA-LEARN to connect our customers to a "one-stop-shopping" center for information about departmental programs and initiatives; 1-800-4FED-AID for information on student aid; and an on-line library of information on education legislation, research, statistics, and promising programs. Internet address: http://www.ed.gov. More than 10,000 people take advantage of these resources every week.

The Department has forged effective partnerships with customers and others to develop policies, regulations, guidance, technical assistance, and compliance approaches. The Department has an impressive record of successful communication and shared policy development with affected persons and groups, including parents, representatives of State and local government, institutions of higher education, school administrators, teachers, students, special education and rehabilitation service providers, professional associations, advocacy organizations, business, and labor.

In particular, the Department continues to seek greater and more useful customer participation in its rulemaking activities through the use of consensual rulemaking and new technology. When rulemaking is determined to be absolutely necessary, customer participation is essential and sought at all stages—in advance of formal rulemaking, during rulemaking, and after rulemaking is completed in anticipation of further improvements through statutory or regulatory changes. The Department has expanded its outreach efforts through the use of satellite broadcasts, electronic bulletin boards, and teleconferencing. For example, the Department invites comments on all proposed rules through the Internet.

The Department is streamlining information collections, reducing burden on information providers involved in ED programs, and making information maintained by the Department easily available to the public. Coordinating similar information collections across programs may be one approach to reduce overlapping and inconsistent paperwork requirements. To the extent permitted by statute, regulations will be revised to eliminate barriers that inhibit coordination across programs (such as by creating common definitions), to reduce the frequency of reports, and to eliminate unnecessary data requirements. ED has reduced the information collection burden imposed on the public by 14.7 percent in fiscal year (FY) 1996, by 11 percent in FY 1997, and expects to achieve its goal of another 5 percent reduction in FY 1998.

The Department's Principles for Regulating, developed in October 1994 during planning to implement the Improving America's Schools Act of 1994, determine when and how it will regulate. Through aggressive application of the following principles, the Department has eliminated outdated or unnecessary regulations and identified situations in which major programs could be implemented without any regulations or with only limited regulations.

Principles for Regulating

The Department will regulate only if regulating improves the quality and equality of services to the Department's customers, learners of all ages. The Department will regulate only when absolutely necessary and then in the most flexible, most equitable, and least burdensome way possible.

Whether to Regulate:

- When essential to promote quality and equality of opportunity in education.
- When a demonstrated problem cannot be resolved without regulation.
- When necessary to provide legally binding interpretation to resolve ambiguity.
- Not if entities or situations to be regulated are so diverse that a uniform approach does more harm than good.

How to regulate:

- Regulate no more than necessary.
- Minimize burden and promote multiple approaches to meeting statutory requirements.
- Encourage federally funded activities to be integrated with State and local reform activities.
- Ensure that benefits justify costs of regulation.
- Establish performance objectives rather than specify compliance behavior.
- Encourage flexibility so institutional forces and incentives achieve desired results.

Regulatory and Deregulatory Priorities for the Next Year

Individuals with Disabilities Education Act Amendments of 1997

On June 4, 1997, the President signed into law Public Law 105-17, the

Individuals with Disabilities Education Act Amendments of 1997, amending the Individuals with Disabilities Education Act (IDEA). Enactment of these amendments provides an opportunity to consider improvements in all of the regulations implementing the IDEA, including both formula and discretionary grant programs, that would strengthen the Federal effort to give every child a world-class education based on high standards. The Department is also reviewing the impact of these regulations on small entities in accordance with section 610(c) of the Regulatory Flexibility Act. The Secretary invited public comment on the development of the regulations for educating all children with disabilities in a notice published in the Federal Register on June 27, 1997 (62 FR 35052), and published a notice of proposed rulemaking on October 22, 1997 (62 FR 55026). The comment period ended on January 20, 1998, and more than 4,500 written comments were received.

Higher Education Amendments of 1998

Legislation reauthorizing the Higher Education Act has recently been enacted (Pub. L. 105-244, enacted October 7, 1998). Development of any regulations necessary to implement the new law will be a Department priority in 1999. However, no specific regulations can be scheduled or anticipated at this time. To the extent regulations are necessary, they will be developed through regulatory negotiation with the participation of interested parties.

ED—Office of Special Education and Rehabilitative Services (OSERS)

FINAL RULE STAGE

17. ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES (SECTION 610 REVIEW)

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

20 USC 1400 et seq

CFR Citation:

34 CFR 300; 34 CFR 301; 34 CFR 303

Legal Deadline:

None

Abstract:

These regulations would implement the Individuals with Disabilities Education Act Amendments of 1997 (Pub. L. 105-17, enacted June 4, 1997). This regulatory action includes a review of existing regulations in 34 CFR parts 300 and 301 pursuant to the Regulatory Flexibility Act (5 USC 610), although the proposed regulatory changes have been determined not to have a significant economic impact on a substantial number of small entities. Regulations are needed to ensure that the rights of children with disabilities and their parents under this statute are protected. Public comments are invited respecting the current regulations as well as the regulatory changes needed to implement Pub. L. 105-17.

Statement of Need:

These regulations would implement new legislation and are expected to reduce regulatory burden and increase flexibility by improving the regulations implementing the Individuals with Disabilities Education Act (IDEA). The Department is also completing its scheduled review of these regulations under section 610(c) of the Regulatory Flexibility Act.

Summary of the Legal Basis:

Pub. L. 105-17, enacted June 4, 1997.

Alternatives:

In addition to implementing new legislation, the purpose of reviewing these regulations is to determine whether there are appropriate alternatives.

Anticipated Costs and Benefits:

Existing regulatory provisions may be eliminated or improved as a result of this review.

Risks:

These proposed regulations would not address a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Notice	06/27/97	62 FR 35052
NPRM	10/22/97	62 FR 55026
Final Action	11/00/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

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BILLING CODE 4000-01-F

DEPARTMENT OF ENERGY (DOE)

Statement of Regulatory Priorities

The Department makes vital contributions to the Nation's welfare through its extraordinary scientific and technical capabilities in energy research, environmental remediation, and national security. The Department's top priorities are:

- Enhancing the Nation's energy security by developing and deploying clean and affordable energy supplies and by improving the energy efficiency of our economy;
- Ensuring a safe and reliable nuclear weapons stockpile and reducing the global nuclear danger;
- Cleaning up former nuclear weapons sites and addressing the complex challenge of disposing of nuclear wastes; and
- Leveraging science and technology to advance fundamental knowledge and our country's competitiveness with stronger partnership with the private sector.

The Department of Energy's 1998 regulatory plan reflects the Department's continuing commitment to enhance safety, cut costs, reduce regulatory burden, and increase responsiveness to the public. While not primarily a major Federal regulatory agency, the Department's regulatory activities are essential to achieving its critical mission and priorities.

Energy Efficiency Program for Consumer Products and Commercial Equipment

In April 1997, the Department published a final rule (62 FR 23101) to revise energy efficiency standards for refrigerators and freezers manufactured after January 1, 2001. The energy savings from the new efficiency standards for refrigerators are expected to be 6.7 quadrillion BTUs or more than 580 billion kilowatt hours of electricity over 30 years. "That is equivalent to 4 years of electric power generated by the Tennessee Valley Authority, the Nation's largest public utility. It represents a mountain of coal a half mile high that doesn't have to be burned," said Vice President Al Gore. The new refrigerators, which will use 30 percent less energy, will save consumers over $1 billion in 2010 and over $2 billion in 2020.

In September 1997, the Department published a final rule (62 FR 50122) to establish energy efficiency standards for room air conditioners, which will result in a 10 percent energy saving. With more than 4.8 million room air conditioners sold annually in the United States, the new standards will save consumers up to 450 million dollars by 2030. The new room air conditioner standards are the result of a cooperative effort among industry, environmentalists, consumer advocates, utilities, and the Department. The new standards will reduce carbon dioxide emissions by 54 million metric tons over 30 years—or the equivalent of burning a football field full of coal three-and-a-half miles high. Saving the Nation the equivalent of 110 million barrels of oil over a 30-year period, the new standards are good for industry, good for consumers, and good for the environment.

In a final rule published in September 1998, the Department determined that new or revised energy efficiency standards for electric cooking products (i.e., kitchen ranges, ovens, and microwaves) could not be economically justified.

The Department established an Advisory Committee on Appliance Energy Efficiency Standards in January 1997. The advisory committee is made up of interested stakeholders and is chaired by the Assistant Secretary for Energy Efficiency and Renewable Energy. In April 1998, the committee made its most recent recommendations to the Department. The Department will be collecting data to implement these recommendations in future rulemaking analyses, including the use of marginal energy rates, a range of future energy prices, and primary energy conversion factors.

The Department's rulemaking activities related to energy efficiency standards and determinations have been categorized as high, medium, or low priority. The schedules in this regulatory plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions reflect priorities established with significant input from the public. The standards rulemakings will incorporate the process improvements established in July 1996, including more workshops to collect public input and new, more transparent forecasting models developed with the help of industry experts, including manufacturers.

During fiscal year 1999, the Department expects to take substantial action with respect to the high priority standards rulemakings (i.e., clothes washers, fluorescent lamp ballasts, water heaters, and residential central air conditioning and central air conditioning heat pumps). Additional information and timetables for these actions are presented below. Information concerning the medium priority rulemakings (i.e., small electric motors and high intensity discharge lamps) and low priority rulemakings (i.e., clothes dryers, dishwashers, mobile home furnaces, residential furnaces and boilers, pool heaters, direct heating equipment, 1-200 HP motors, and fluorescent and incandescent lamps) and the test procedures rulemakings can be found in the Department's regulatory agenda, which appears elsewhere.

Nuclear Safety Regulations

The Department is committed to openness and public participation as it addresses one of its greatest challenges—managing the environment, health, and safety risks posed by its nuclear activities. A key element in the management of these risks is to establish the Department's expectations and requirements relative to nuclear safety and to hold its contractors accountable for safety performance. The 1988 Price-Anderson Amendments Act revisions to the Atomic Energy Act required the Department to enforce contractor violations of nuclear safety requirements through the imposition of civil and criminal penalties. As a result, new nuclear safety requirements were initiated with the publication of four notices of proposed rulemaking for review and comment in 1991. The Department's nuclear safety procedural regulations (10 CFR part 820) were published as a final rule in 1993. The Department is revising two rules on radiation protection (10 CFR parts 834 and 835) to establish additional reporting, monitoring, and discharge requirements and a dose limitation system for protecting the environment and the public, as well as the Department's Federal and contractor work force. Part 835 was published as a final rule in December 1994. Revisions to part 835 based on a comprehensive evaluation of the Department's radiation protection program are expected to be finalized this fall. The new nuclear safety management rule (10 CFR part 830) will codify and strengthen requirements applicable to contractors and subcontractors who manage and operate the Department's nuclear facilities. The quality assurance regulations of this rule (10 CFR 830.120) were published as a final rule in April 1995.

In August 1995, the Department published a notice of limited reopening of the comment period to request public

comments on the remaining part 830 and part 834 rulemakings. The Department has substantially completed the comment resolution process and has addressed the major issues raised by the Defense Nuclear Facilities Safety Board snd the Environmental Protection Agency (EPA). The Department expects to complete final action on the part 834 rulemaking before July 1999.

The Department recently established an integrated safety management initiative to ensure that safety activities at a DOE site or facility are integrated and appropriate for the work and hazards. One outcome of this initiative, incorporated as part of the contract reform final rule published on June 27, 1997, requires contractors to manage and perform work in accordance with a documented safety management system that ensures that safety is integrated into all phases of work. Part 830 is being reviewed to ensure its regulatory framework is consistent with integrated safety management and to avoid duplication and counterproductive efforts. The part 830 rulemaking will be completed in 2 phases. Phase 1 will address such issues as the conduct of operations, technical safety training, and safety reporting. Phase 2 will establish requirements for nuclear design criteria, fire protection, natural phenomena hazards mitigation, and nuclear criticality safety. The Department expects to complete final action on phase 1 and to issue a proposed rule on phase 2 of part 830 by the middle of 1999.

Additionally, the Department is conducting pilot projects to assess the feasibility of external regulation of its nuclear facilities and activities by the Nuclear Regulatory Commission (NRC). Both DOE and NRC are reviewing their respective nuclear safety rules as part of an ongoing pilot program. These reviews will determine (a) whether DOE facilities, which were designed, built, and operated under DOE requirements, could be operated and regulated under current NRC requirements and (b) whether any transition would be facilitated by revisions to either DOE or NRC rules. The time necessary to conduct these reviews is reflected in the revised schedule for completing the part 830 rule, which addresses facilities safety requirements.

In May 1997, the Department issued a notice of intent to form an advisory committee on beryllium. The purpose of this committee was to provide advice, information, and recommendations for a proposed rulemaking on occupational exposures to beryllium, which the Department expects to publish for comment in November 1998. As an interim measure, the Department issued an administrative directive to establish a chronic beryllium disease prevention program that enhances an existing worker protection program.

Regulatory Reform

The Department is committed to making its regulations less burdensome, more cost-effective, and more responsive to the needs of our stakeholders. Since 1995, the Department has eliminated over one-third of its regulations and reduced by one-quarter the paperwork burden it imposes on the public. In addition, the Department has revised over the past 3 years more than half of its existing regulations in an effort to make them simpler and easier to understand.

In June 1998, the President directed agencies to use plain language in regulations issued after January 1, 1999. In response to this initiative, the Department is including the use of plain language in its rulemaking development training program. The Department also is conducting a sunset review of its internal regulations (i.e., directives, manuals, and guides), which will provide an opportunity to either cancel old documents or revise them to make them more understandable.

DOE—Energy Efficiency and Renewable Energy (EE)

PRERULE STAGE

18. ENERGY EFFICIENCY STANDARDS RULEMAKINGS AND DETERMINATIONS FOR HIGH PRIORITY CONSUMER PRODUCTS AND COMMERCIAL EQUIPMENT

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 6295

CFR Citation:

10 CFR 430

Legal Deadline:

Final, Statutory, January 1, 1992, (fluorescent lamp ballasts and water heaters).

Final, Statutory, January 1, 1994, (central air conditioners and heat pumps).

Final, Statutory, May 14, 1996, (clothes washers).

Abstract:

The Energy Policy and Conservation Act (EPCA), as amended, establishes initial energy efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the current standard for a covered product should be amended.

This is the initial review of the statutory standards for fluorescent lamp ballasts, water heaters, and central air conditioners and heat pumps. This is the second review of the standard for clothes washers.

These actions are covered by RINs 1904-AA67, 1904-AA75, 1904-AA76, and 1904-AA77.

Statement of Need:

These rulemakings are required by statute. Experience has shown that the choice of residential appliances and commercial equipment being purchased by both builders and building owners is generally based on the initial cost rather than on life-cycle cost. Thus, the law requires minimum energy efficiency standards for appliances to eliminate inefficient appliances and equipment from the market.

Summary of the Legal Basis:

The Energy Policy and Conservation Act (EPCA), as amended, establishes initial energy efficiency standard levels for most types of major residential appliances and certain types of commercial equipment and generally requires DOE to undergo rulemakings, at specified times, to determine whether the standard for a covered product should be made more stringent.

Alternatives:

The statute requires DOE to conduct rulemakings to review standards and to revise standards to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. In making this determination, the Department conducts a thorough analysis of alternative standard levels, including the existing standard, based on criteria specified by statute. The process improvements that were recently announced (61 FR 36974, July 15, 1996) further enhance the analysis of alternative standards. For example, DOE will ask stakeholders and private sector technical experts to review its analyses of the likely impacts, costs, and benefits of alternative standard levels. In addition, the Department will solicit and consider information on non-regulatory approaches for encouraging the purchase of energy efficient products.

Anticipated Costs and Benefits:

The specific costs and benefits for these rulemakings have not been established because the final standard levels have not been determined. Nevertheless, existing appliance standards are projected to save 23 quadrillion Btu's of energy from 1993 to 2015, resulting in estimated consumer savings of $1.7 billion per year in the year 2000 and estimated annual emission reductions of 107 million tons of carbon dioxide and 280 thousand tons of nitrogen oxides in the year 2000. Under the existing standards, the discounted energy savings for consumers are 2.5 times greater than the up-front price premium paid for the appliance.

Risks:

Without appliance efficiency standards, energy use will continue to increase with resulting damage to the environment caused by atmospheric emissions. Enhancing appliance energy efficiency reduces atmospheric emissions of carbon dioxide and nitrogen oxides. Establishing standards that are too stringent could result in excessive increases in the cost of the product, possible reductions in product utility and may place an undue burden on manufacturers that could result in a loss of jobs or other adverse economic impacts.

Timetable:

1904-AA67 (Clothes Washers)
ANPRM 11/14/94 (59 FR 56423)
Screening Workshop 11/15/96
Supplemental ANPRM 10/00/98
Impact Workshop 01/00/99
NPRM 03/00/99
Final Action 10/00/99

1904-AA75 (Fluorescent Lamp Ballasts)
ANPRM 09/28/90 (55 FR 39624)
NPRM 03/04/94 (59 FR 10464)
Impact Workshop 03/18/97
Reissue NPRM 02/00/99
Final Action 10/00/99

1904-AA76 (Water Heaters)
ANPRM 09/28/90 (55 FR 39624)
NPRM 03/04/94 (59 FR 10464)
Screening Workshop 06/24/97
Notice of Availability 01/14/98 (63 FR 2186)
Impact Workshop 11/00/98
Reissue NPRM 12/00/98
Final Action 12/00/99

1904-AA77 (Central Air Conditioners and Heat Pumps)
ANPRM 09/08/93 (58 FR 47326)
Screening Workshop 06/30/98
Supplemental ANPRM 07/00/99
NPRM 03/00/00
Final Action 11/00/00

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Local

Additional Information:

Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a high priority, and the Department is working actively on this action.

Agency Contact:

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Director
Office of Codes and Standards
Department of Energy
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Phone: 202 586-9127

RIN: 1904–AA67

DOE—Departmental and Others (ENDEP)

PROPOSED RULE STAGE

19. CHRONIC BERYLLIUM DISEASE PREVENTION PROGRAM

Priority:

Other Significant

Legal Authority:

42 USC 2201; 42 USC 7191

CFR Citation:

10 CFR 850

Legal Deadline:

None

Abstract:

This action will add requirements for the control of occupational exposures to beryllium at DOE and DOE contractor facilities and operations. This action reflects the Department's ongoing commitment to strengthen the protection of health, safety, and the environment from the hazards posed by its facilities.

Statement of Need:

The purpose of this rule is to ensure that the Department's obligation to provide a safe and healthy workplace is fulfilled.

Summary of the Legal Basis:

Under the Atomic Energy Act of 1954, as amended, the Department of Energy has the authority to regulate activities at facilities under its jurisdiction. The Department is committed to honoring its obligation to ensure the health and safety of workers and the public affected by its operations.

Alternatives:

The Department could continue to impose health and safety requirements through directives made applicable to DOE contractors through the terms of their contracts.

Anticipated Costs and Benefits:

The incremental costs of the proposed rule should be minimal. Full compliance with these requirements will enhance occupational health and safety at certain DOE facilities.

Risks:

This rulemaking would reduce the risk of an occupational hazard by clarifying worker protection program requirements applicable to DOE contractors.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

Agency Contact:
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RIN: 1901–AA75

DOE—ENDEP

FINAL RULE STAGE

20. NUCLEAR SAFETY MANAGEMENT

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 2201; 42 USC 7191

CFR Citation:

10 CFR 830

Legal Deadline:

None

Abstract:

This action will add regulations under 10 CFR 830 to establish nuclear safety management requirements for the Department's nuclear facilities. These requirements stem from the Department's obligations to assure adequate protection and to hold contractors who manage and operate these facilities accountable and responsible for safe operations. Under phase 1 of this action, major requirements will include conduct of operations, safety analysis reports, technical safety requirements training, maintenance, unreviewed safety questions and occurrence reporting. Under phase 2 of this action, major requirements will include nuclear design criteria, fire protection, natural phenomena hazards mitigation, and nuclear criticality safety. An initial phase adopted a quality assurance rule and definitions.

Statement of Need:

The purpose of this rule is to ensure that the Department's obligation to protect health and safety is fulfilled and to provide, if needed, a basis for the assessment of civil and criminal penalties consistent with the Price-Anderson Amendments Act of 1988. This action is consistent with the Department's commitment to the issuance of all new nuclear safety requirements using notice and comment rulemaking.

Summary of the Legal Basis:

Under the Atomic Energy Act of 1954, as amended, the Department of Energy has the authority to regulate activities at facilities under its jurisdiction. The Department is committed to honoring its obligation to ensure the health and safety of the public and the protection of the environs around its facilities.

Alternatives:

The Department could continue to impose nuclear safety requirements through directives made applicable to DOE contractors through the terms of their contracts.

Anticipated Costs and Benefits:

The incremental costs of the proposed rules should be minimal because contractors are currently bound by comparable contractual obligations. Full compliance by contractors with nuclear safety standards will result in substantial societal benefits.

Risks:

This rulemaking should reduce the risk of nuclear safety problems by clarifying safety requirements applicable to DOE contractors and improving compliance.

Timetable:

Initial Phase	
NPRM	12/09/91 (56 FR 64316)
Final Action	04/05/94 (59 FR 15843)
Phase 1	
NPRM	12/09/91 (56 FR 64316)
Notice Reopening Comment Period	08/31/95 (60 FR 45381)
Final Action	12/00/98
Phase 2	
NPRM	06/00/99
Final Action	12/00/00

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

Agency Contact:
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RIN: 1901–AA34

DOE—ENDEP

21. RADIATION PROTECTION OF THE PUBLIC AND THE ENVIRONMENT

Priority:

Other Significant

Legal Authority:

42 USC 2201; 42 USC 7191

CFR Citation:

10 CFR 834

Legal Deadline:

None

Abstract:

This action would add a new 10 CFR 834 to DOE's regulations establishing a body of rules setting forth the basic requirements for ensuring radiation protection of the public and environment in connection with DOE nuclear activities. These requirements stem from the Department's ongoing effort to strengthen the protection of health, safety, and the environment from the nuclear, radiological, and chemical hazards posed by these DOE activities. Major elements of the proposal included a dose limitation system for protection of the public; requirements for liquid discharges; reporting and monitoring requirements; and residual radioactive material requirements.

Statement of Need:

The purpose of this rule is to ensure that the Department's obligation to protect health and safety is fulfilled and to provide, if needed, a basis for the assessment of civil and criminal penalties consistent with the Price-Anderson Amendments Act of 1988. This action is consistent with the Department's commitment to the issuance of all new nuclear safety requirements using notice and comment rulemaking.

Summary of the Legal Basis:

Under the Atomic Energy Act of 1954, as amended, the Department of Energy has the authority to regulate activities at facilities under its jurisdiction. The Department is committed to honoring its obligation to ensure the health and safety of the public and workers affected by its operations and the protection of the environs around its facilities.

Alternatives:

The Department could continue to impose nuclear safety requirements through directives made applicable to DOE contractors through the terms of their contracts.

Anticipated Costs and Benefits:

The incremental costs of the proposed rules should be minimal because contractors are currently bound by comparable contractual obligations. Full compliance by contractors with nuclear safety standards will result in substantial societal benefits.

Risks:

This rulemaking should reduce the risk of nuclear safety problems by clarifying safety requirements applicable to DOE contractors and improving compliance.

Timetable:

Action	Date	FR Cite
NPRM	03/25/93	58 FR 16268
NPRM Comment Period End	06/22/93	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal

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RIN: 1901–AA38

BILLING CODE 6450-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Statement of Regulatory and Deregulatory Priorities

The Department of Health and Human Services (HHS) is the Federal Government's principal agency for protecting the health of all Americans and for providing essential human services, especially to those least able to help themselves.

The Department manages more than 300 programs, including some of the largest in the Federal Government such as Medicare and Medicaid, and some of the smallest. These programs range from efforts to improve infant health to programs providing home-delivered meals for the elderly; from the collecting of basic national health statistics to the providing of front-line clinical services; from the conduct of cutting-edge biomedical research to the ensuring of the safety of the Nation's food and drug products—25 percent of the Nation's GNP. HHS is of course heavily involved in assisting the States in the historic effort to help all former welfare recipients who can work to go to work.

For the foreseeable future, the Department's regulatory priorities, as presented in the individual plan entries that follow, reflect primarily the imperatives for Medicare restructuring mandated by numerous provisions of the Balanced Budget Act of 1997; the streamlining of programs and practices within the Food and Drug Administration (FDA) resulting from 1997's FDA Modernization Act; and implementation of welfare reform.

In addition, the Health Insurance Portability and Accountability Act of 1996 gave the Department major new responsibilities concerning health data standards and health record privacy; HHS has issued four notices of proposed rulemaking relating to the standards to be adopted. An additional NPRM and a Notice of Intent are under development.

Underlying our efforts to move forward in these areas in FY 1999 and beyond, there remains the new focus and discipline in regulatory policy established by the President's September 30, 1993, issuance of Executive Order 12866 "Regulatory Planning and Review." Under the principles enunciated in this Order and through the Administration's subsequent regulatory reform initiatives, the Department assures that its rules:

- Emphasize performance standards and market incentives over prescriptive, command-and-control requirements;
- Regularly use benefit-cost analysis to achieve policy objectives in the most efficient manner;
- Are developed in consultation with those most affected, especially our partners in the Federal system at the State and local levels; and
- Focus specifically on clearly identified problems and avoid overly broad, one-size-fits-all approaches to these problems.

Efforts to comply with these principles have been a continuing HHS priority since 1993. The resulting changes in our rulemaking approaches are leading to reduced burden, better communication with our customers, solid consensus building, and a less adversarial environment, while maintaining the stewardships that the Department is statutorily obligated to provide.

A few recent illustrative examples of such regulatory actions include:

- A final rule published on July 24, 1998, after consulting widely with grantees and other affected organizations, to clarify, streamline, simplify, and unify the Federal child care and development block grant program. Under this rule, the Department revised existing regulations in light of the child care amendments contained in the welfare reform legislation, thus assuring the health and safety of children in child care, achieving a balance between program flexibility and accountability, and recognizing that child care is a key support for work as envisioned in the Temporary Assistance for Needy Families program.
- A regulation implementing the new Medicare+Choice program, published on June 26, 1998, under which, starting January 1999, a broader array of health plans will join Medicare, including preferred provider organizations, provider-sponsored organizations, private fee-for-service plans, and a Medical Savings Account demonstration project. These expanded health plan choices, known as Medicare+Choice, will provide Medicare beneficiaries with expanded opportunities to tailor their choice of health care plan to their own needs.
- A proposal published on May 7, 1998, to streamline the processing of health care claims and reduce the amount of paperwork in the U.S. health care system. Under the proposal, hospitals, doctors, nursing homes, and other providers would use a unique alpha-numeric identifier when filing claims for reimbursement. In addition, a standard format for the electronic filing of these claims was proposed. It is estimated that these measures will lead to savings of at least $1.5 billion over the first 5 years they are in effect.
- A final rule published on October 15, 1997, pertaining to biologics establishments. Under preexisting regulations, biological product manufacturers had to name a "responsible head" who would exercise control of the manufacturing establishment in all matters and would represent the manufacturer in all pertinent matters with the Food and Drug Administration. However, because biological product manufacturing encompasses a range of complex functions, each with its own specific expertise, it became impractical to expect manufacturers to find a "responsibile head." Thus, to reduce unnecessary regulatory burdens on the biologics industry, the requirement was eliminated.

The bulk of HHS's regulatory activity emanates from programs of the Food and Drug Administration, the Health Care Financing Administration, and the Administration for Children and Families. There follow statements of regulatory priorities pertaining to these three HHS components, followed by their regulatory plan entries.

Food and Drug Administration

The Food and Drug Administration's regulatory strategy involves three main goals: (1) To reflect new technologies or programs that will benefit the public, affected industries, and the Agency or further protect the public health; (2) to provide more information to consumers so that they may use FDA-regulated products more safely or effectively; and (3) to eliminate unnecessary burdens on industry.

For example, on February 2, 1998, FDA issued regulations requiring the sponsor of any drug, including a biological product, or device marketing application (applicant), to submit certain information concerning the compensation to, and financial interests of, any clinical investigator conducting certain clinical studies. This requirement will apply to any covered clinical study of a drug or device submitted in a marketing application that the applicant or FDA relies on to establish that the product is effective, including studies that show equivalence to an effective product, or that make significant contribution to the demonstration of safety. This final rule requires applicants to certify to the absence of certain financial interests of clinical investigators and/or disclose those financial interests, as required, when covered clinical studies are submitted to FDA in support of product marketing. This regulation is intended to ensure that financial interests and arrangements of clinical investigators that could affect reliability of data submitted to FDA in support of product marketing are identified and disclosed by the sponsor of any application.

On October 28, 1997, FDA published final Mammography Quality Standards Act (MQSA) regulations in the Federal Register. Most of these regulations will take effect on April 28, 1999, while some (equipment, quality control tests) will be phased in from a period of 18 months to 5 years. The purpose of the regulations is to ensure high quality mammography for early breast cancer detection. The final regulations fulfill FDA's responsibility under MQSA to establish national quality standards for mammography services. All mammography facilities, except those of the Veterans Administration (VA), must meet these requirements. Facilities that do only interventional mammography are exempt at this time. The regulations establish criteria designed to enhance the quality of mammography services in a manner that is reasonably achievable by mammography facilities. The regulations substantially raise the standards for mammography personnel, equipment, quality assurance and control, patient notification of results, the mammography medical report, and performance of the accreditation body.

Better consumer information was the goal of the Juice Labeling final rule, which appeared in the Federal Register on July 8, 1998 (63 FR 37029). In this rule, FDA is revising its food labeling regulations to require a warning statement on fruit and vegetable juice products that have not been processed to prevent, reduce, or eliminate pathogenic microorganisms that may be present. FDA is taking this action to inform consumers, particularly those at greatest risk, of the hazard posed by such juice products. FDA expects that providing this information to consumers will allow them to make informed decisions on whether to purchase and consume such juice products, thereby reducing the incidence of foodborne illness and deaths caused by the consumption of these products.

In addition to the relief provided to the biologics industry in the rulemaking on a "responsible head" of biologics establishments noted above, FDA proposed to reduce unnecessary burden on the device industry as well. On March 5, 1998, FDA proposed to reclassify over-the-counter (OTC) test sample collection systems for drugs of abuse testing from class III (premarket approval) into class I (general controls) and to exempt them from the premarket notification (501(k)) and current good manufacturing practice (CGMP) requirements. FDA also proposed to designate OTC test sample collection systems for drugs of abuse testing as restricted devices under the Federal Food, Drug, and Cosmetic Act (the Act) and to establish restrictions intended to assure consumers that: The underlying laboratory test(s) are accurate and reliable; the laboratory performing the test(s) has adequate expertise and competency: and the product has adequate labeling and methods of communicating test results to consumers Finally, FDA proposed a conforming amendment to the existing classification regulation for specimen transport and storage containers to clarify that it does not apply to specimen transport and storage containers that are part of an OTC test sample collection system for the purpose of testing for the presence of drugs of abuse or their metabolites in a laboratory.

Plan Entries

FDA's plan continues to reflect the Agency's goals of using new programs to benefit the public and affected industries and protecting the public, providing more information to consumers so that they may use FDA-regulated products more safely or effectively, and eliminating unnecessary burdens on the industry.

The plan includes a final rule that would establish requirements for a comprehensive food safety assurance program for domestically produced and imported juices based on Hazard Analysis Critical Control Points (HACCP) principles. This initiative is a response to several outbreaks of illness associated with juice products. FDA's current view is that a HACCP system of preventative controls would be an effective and efficient way to ensure that these products are safe.

Another final rule would require manufacturers of human cellular and tissue-based products to register with FDA and to submit a list of all products. The rule is designed to provide a rational, comprehensive, and clear framework for a rapidly growing industry that produces human cellular and tissue-based products.

A third final rule would establish procedures and requirements pertaining to the dissemination of information on unapproved uses (also referred to as "new uses" and "off-label uses") for marketed drugs, including biologics, and devices. The final rule would include requirements concerning submissions to the Food and Drug Administration, requests to extend the time period for completing studies needed to submit a supplemental application for a new use, applications for an exemption from the requirement to conduct studies, recordkeeping, and reporting. The final rule would also cover Agency actions on such submissions, requests, and applications, as well as orders to cease or to terminate dissemination of information.

Also included in the plan is a proposal that would amend the regulation for hearing aids. Current regulations require consumers to be examined by a physician before they purchase a hearing aid but also allow for a waiver. Because this waiver provision may be misused, FDA is considering whether to eliminate the waiver provision and instead require a medical evaluation when certain previously undiagnosed conditions are found or when the prospective hearing aid user is under 18 years of age. Additionally, the proposal would restrict the dispensing of a hearing aid to patients who have undergone a comprehensive hearing assessment within the past 12 months. This proposal reflects changes in the nature of hearing aids because, in the past, hearing loss often was caused by medically treatable conditions. Due to advances in health care, such cases of hearing loss are less common today, so there may be less need for a medical examination. However, advances in hearing aid technology necessitate proper testing in order for a hearing aid to be effective.

In multiple rulemakings, the Food and Drug Administration is proposing to amend the biologics regulations by removing, revising, or updating specific regulations applicable to blood derivative products to be more consistent with current practices and to remove unnecessary or outdated requirements. This initiative is based on a comprehensive review of the regulations that has been performed. A key action is the "Lookback" requirements for hepatitis C virus (HCV). In this rulemaking, FDA will propose to amend the biolgics regulations to require that blood establishments prepare and follow written procedures for appropriate action when it is determined that blood and blood components at increased risk

for transmitting HCV infection have been collected from a donor who, at a later date, tested repeatedly reactive for evidence of HCV. For a complete listing of the rulemakings associated with the Blood Initative, see the Unified Agenda section. These actions are intended to help ensure the continued safety of the Nation's blood supply.

Another FDA final rule would create a standardized format and content requirements for over-the-counter (OTC) drug product labeling. As health costs increase and OTC drugs—including some drugs that were once available only by prescription—become increasingly available, consumers are engaging in self-medication. Consequently, it is increasingly important that consumers read and understand OTC drug product labeling, and so FDA's rule is intended to enable consumers to better read and understand OTC drug product labeling and to apply this information so they can use OTC drug products safely and effectively.

Lastly, a proposed rule highlighted in the Plan would amend the regulations governing the format and content of professional labeling for human prescription drug and biologic products. The proposal would also eliminate certain unnecessary statements that are currently required to appear on prescription drug labels and move certain information to patient labeling.

Administration for Children and Families

The Administration for Children and Families (ACF) continues to pursue regulatory reform as an integral part of the Agency's mission to improve the lives of children and families. With the passage of major welfare reform legislation in August 1996 (the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), ACF is committed to meeting its responsibilties to implement this comprehensive law in ways that reflect both the letter and spirit of the President's Regulatory Reinvention Initiative.

For example, in developing proposed and final regulations on the Temporary Assistance for Needy Families (TANF) program, as well as on child care program, the child support enforcement program, and other welfare reform-related provisions, ACF conducted extensive consultations with hundreds of State and local government officials, advocates, labor organizations, academics, researchers, and technical experts. ACF also met with other Federal agencies and held a series of policy discussions within the Department. These productive consultations have informed our work through the regulatory development process. Once the proposed regulations were published, ACF considered carefully all the public comments received in developing final regulations. As a result, the proposed and final welfare reform regulations published to date have benefited from the broad input we received.

The following plan entry describes a final rule that will govern key provisions of the new welfare block grant program known as the Temporary Assistance for Needy Famililes—or TANF—program. The regulation addresses the work, accountability, 5-year time limit, and data collection and reporting provisions of the TANF program. It provides States with a basic set of rules which will assist them in implementing welfare reform; emphasizes the importance of work participation and the potential impact of TANF on needy children and families; demonstrates our good faith in implementing the law and assuming our new Federal role; and encourages and supports States' flexibility, innovation, and creativity.

ACF is committed to continuing this important process of consultation as we work with our partners in the coming year to develop and publish final regulations to implement the welfare reform law.

Health Care Financing Administration

The Balanced Budget Act

The short timeframe between the enactment of the Balanced Budget Act of 1997 (BBA) on August 5, 1997, and the effective date of the legislation, October 1, 1997, required HCFA and other offices of the Department to work at a furious pace to put forth the necessary guidance and regulations to implement the provisions of the Act.

Children's Health Insurance Program

As part of the BBA, the Children's Health Insurance Program (CHIP) provided for an optional program to allow States to initiate and expand child health assistance to uninsured, low-income children. Regulations to implement these provisions (HCFA-2114, State Child Health Initiative: State Allotments and Payments) will be published in the near future.

However, it is noteworthy that all of the guidance related to the Children's Health Insurance Program (CHIP), as authorized in the BBA, has been developed in less than a year's time and in the absence of formal regulations. Due to these extensive and continuing efforts, CHIP is now in operation prior to the completion of regulations.

While implementation of the new program involves a crosscutting effort throughout the Department, HCFA's Center for Medicaid and State Operations is administering the program. To assist States with developing their plans, a model application template was furnished that provides information on the requirements and options under the law. HCFA has developed and implemented a budget and expenditure reporting system and associated report forms for States to submit CHIP financial and statistical information. HCFA and the Department have also issued procedures for plan submittal and approval and for ensuring coordination with Medicaid programs.

To ensure clarity of program requirements and to foster enhanced State understanding of the complexity of statutory provisions, HCFA and the Department have worked with States as they develop their plans in accordance with the new law. HCFA sponsored nine regional conferences to help inform States of all the options available to cover children under CHIP. HCFA has also conducted onsite training for States in all 10 HCFA Regional Offices on the CHIP allotment and payment processes, the CHIP-related budget and expenditure system, and State financial and statistical reporting requirements. In addition, HCFA and the Department have been soliciting input and feedback from interested consumer and advocacy groups, the National Governors' Association and other State and local government groups, as well as individual States, throughout the process. This input and feedback has been sought to continuously improve HCFA processes and to be responsive to State needs. Indicative of HCFA's goal to approve CHIP plans expeditiously, plans have been approved for 22 States or territories as of June 29, 1998. Amendments have been approved for 2 States, and 19 States have submitted plans that are under review.

Medicare+Choice

Another significant program mandated by the BBA is the Medicare+Choice program. HCFA published an interim final regulation implementing the new Medicare+Choice program on June 26, 1998. Starting in January 1999, in addition to original fee-for-service Medicare and health maintenance organizations, a broader array of health plans will join Medicare, including preferred provider organizations, provider-sponsored organizations, private fee-for-service plans, and a Medical Savings Account demonstration project. Recognizing the myriad of health care delivery options that are emerging, Medicare+Choice provides Medicare beneficiaries with expanded opportunities to tailor their choice of health care plans to their own needs. The regulation established policies and standards for health plans and organizations to participate in the Medicare+Choice program. The standards cover enrollment, benefits, access and beneficiary protections, quality assurance, provider protections, payments, premiums, and sanctions. Access to Medicare+Choice options will depend on where the beneficiary lives and what types of plans are available in that community.

Given the array of new options that Medicare beneficiaries will soon have available to them, we are strongly committed to providing beneficiaries all the information they need to make the best possible decision about their health care. In the BBA, Congress directed us to embark on a broad educational effort, which we have named the National Medicare Education Campaign. This Campaign is designed to ensure that beneficiaries receive accurate and unbiased information about their benefits, rights, and health care options. This is the largest, most complex, and ambitious educational effort in the history of Medicare. We are committed to working with beneficiaries and their families, members of Congress, aging advocacy organziations, providers, and other experts to ensure that our educational program is the best that it can be.

This National Medicare Educational Program includes the mailing of the Medicare handbook "Medicare & You" and the establishment of a national 1-800 toll-free telephone number, which is being tested this year in five States and will be operating nationally by October 1999. In addition, a consumer-friendly Internet site, www.Medicare.gov, is already in place. This web-site offers information called Medicare Compare, which enables beneficiaries or those who assist them to compare health plans' benefits, out-of-pocket costs, and other important features.

PSO Solvency Standards

As part of its general implementation of the BBA, HCFA published three rules in 1998 concerning Provider-Sponsored Organizations ("PSOs"), a form of managed care entity that can now contract directly with Medicare. The BBA authorizes certain specifically defined types of PSOs to serve Medicare enrollees for up to 3 years without a State license as a risk-bearing entity. Under the terms of the exemption from State licensure (the "Waiver"), HCFA assumes the responsibility for monitoring the financial solvency and other factors that affect the quality of care provided to Medicare enrollees.

On April 14, 1998, HCFA issued an interim final rule with comment period that established the definition requirements that PSOs must meet to obtain a Waiver.

On May 7, 1998, HCFA published an interim final rule with comment period that establish the Waiver application process and the solvency standards that entities must meet to obtain a Waiver. This rule was developed through the negotiated rulemaking process. Over 50 individuals, representing over 25 different associations, coalitions, or companies were interviewed in order to identify relevant issues and to establish the negotiated rulemaking committee. The committee then met seven times from October 1997 to March 1998 to deliberate on relevant issues.

As mentioned earlier, HCFA published an interim final rule with comment period regarding the Medicare+Choice program on June 26, 1998. This rule, which enumerated the comprehensive provisions of the Medicare+Choice program, also defined the minimum enrollment requirements for PSOs and slightly modified the April and May rules mentioned previously.

HCFA anticipates signficiant implementation-related activity in fiscal year 1999. Such activity would include: Conducting beneficiary and provider information campaigns to clarify uncertainties about PSOs; developing administrative and operational policy; and communicating that policy via further regulation, policy statements, opinion letters, and statements of operating procedures. Note also that allowing certain PSOs to operate under a Federal Waiver without a State license will change the traditional model of shared Federal-State oversight and accountability for managed care organizations to a model of prinicipally Federal oversight and accountability. This change also represents a major increase in HCFA's responsibility.

Skilled Nursing Facilities

On May 12, 1998, HCFA published an interim final rule with a comment period (63 FR 26252) to implement changes made by section 4432 of the BBA with regard to skilled nursing facility (SNF) services. The rule establishes an SNF Prospective Payment System (PPS) for Part A stays, which makes a global per diem payment that is case-mix adjusted. The rule also describes the resident assessment procedures used in determining the appropriate classification for each resident. In addition, it establishes a consolidated billing requirement for SNFs under which almost all of the services that an SNF resident receives are billed to Medicare by the SNF itself, rather than by an outside supplier.

Other Current BBA Priorities

In addition to these efforts, HCFA currently has a number of other regulations under development to implement other provisions of the BBA.

One such regulation expands Medicare coverage for diabetes outpatient self-management training services. More than 16 million Americans have diabetes and nearly 75,000 new cases are reported every year. Newly expanded benefits will help provide people with the skills and resources that most diabetics need to control their diabetes.

Other BBA-related HCFA regulations included in the Department priorities include regulations to implement the Prospective Payment System (PPS) for Hospital Outpatient Services and for Home Health Agencies and regulations establishing rules related to quality of care and services under Medicaid managed care programs.

Additional Regulations

In addition to the activities related to the BBA, HCFA has also continued to work towards agency objectives such as increasing organ donations and combating fraud and abuse.

Organ Procurement

On June 22, 1998, HCFA-3005-F, Hospital Conditions of Participation; Identification of Potential Organ, Tissue, and Eye Donors and Transplant Hospitals Provision of Transplant-Related Data, was published in the Federal Register. This regulation is designed to increase organ donation and thus, lifesaving transplants, for individuals who need them. More than 10 individuals in the United States die every day while waiting for a transplant.

The provisions of the regulations are based on State "routine referral" laws, which have increased organ donations significantly in the States in which such

laws have been enacted. It is expected that the regulation will increase the Nation's organ donation and transplantation rates 20 percent in the 2 years following the effective date of the rule.

Fraud and Abuse

On March 20, 1998, HCFA published its proposed rule to implement the Medicare Integrity Program. Under this rule, HCFA will contract with eligible entities who meet certain requirements and comply with conflict of interest standards. Medicare Integrity Program contractors will perform program integrity functions including medical review; fraud and utilization review; cost report audits; Medicare secondary payor activities; education of providers, suppliers, and beneficiaries regarding integrity and developing a list of durable medical equipment subject to prior authorization.

In addition, on July 8, 1998, HCFA published HCFA-6144-C Medicare Program; Incentive Programs-Fraud and Abuse. This regulation establishes a program to encourage individuals to report information on individuals and entities that are engaged in or have engaged in acts or omissions that constitute grounds for the imposition of a sanction or who have otherwise engaged in sanctionable fraud and abuse against the Medicare program. By increasing the incentives for concerned citizens to report evidence of suspected fraudulent behavior, Congress hopes to protect beneficiaries and the Medicare Trust Funds. It is specified that a monetary reward can be made only for information that leads to a minimum recovery of $100 of Medicare funds.

HHS—Food and Drug Administration (FDA)

PROPOSED RULE STAGE

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22. HEARING AIDS; PROFESSIONAL AND PATIENT LABELING; CONDITIONS FOR SALE

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

This action may affect State, local or tribal governments and the private sector.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

21 USC 351; 21 USC 352; 21 USC 360d; 21 USC 371; 21 USC 360j(e)

CFR Citation:

21 CFR 801.420; 21 CFR 801.421

Legal Deadline:

None

Abstract:

FDA is considering revising its present regulation governing the labeling and conditions for sale of hearing aids. The present rule requires an examination by a physician before purchase of a hearing aid, but permits an informed adult to waive that requirement. There is some evidence that this waiver provision is being misused. FDA is considering eliminating the waiver provision and instead requiring a medical evaluation when certain previously undiagnosed medical conditions are found or when the prospective hearing aid user is under 18 years of age. In addition, FDA is considering restricting the dispensing of a hearing aid to patients who have undergone a comprehensive hearing assessment within the past 12 months and an evaluation to select and fit a hearing aid, both of which would be required to be conducted by hearing care professionals licensed by the States as competent to conduct such assessments and evaluations. FDA is also considering revisions to its professional and patient labeling requirements to require updated information.

Statement of Need:

FDA has become aware of changes in the nature of the causes of hearing loss and the technology of hearing aids that necessitate reconsideration of the regulations governing the types of testing needed before a hearing aid purchase and the labeling for health professionals and patients. In the past, hearing loss often was caused by medically treatable conditions. Today, medical and/or surgical intervention will correct hearing loss in only 5 to 10 percent of the cases. Therefore, there may be less of a need for medical evaluation. FDA believes, however, that patients should receive proper testing in order for a hearing aid to be effective.

Summary of the Legal Basis:

Under 21 USC 360j(e), FDA has the authority to restrict the sale, distribution, or use of a medical device, if FDA determines that, without such restrictions, there cannot be reasonable assurance of its safety and effectiveness. Under 21 USC 352, FDA has the authority to require that the labeling of a medical device include adequate directions for use.

Alternatives:

FDA considered applying the rule only to first time purchasers of hearing aids. FDA believes, however, that this would not adequately protect present users of inappropriate or unneeded hearing aids. FDA also considered requiring additional tests, but has preliminarily determined to list these tests as recommended only in order to provide additional flexibility.

Anticipated Costs and Benefits:

FDA has estimated the costs of the mandatory testing required by the rule would add an additional $24.8 million to $51.7 million depending upon the assumptions concerning present practices. On the average, FDA estimates that this would add about $24 to the cost of a hearing aid. FDA expects that the benefits from the rule would include: (1) Improving the quality of life of hearing aid users; (2) avoiding the cost of inappropriate hearing aid purchase; (3) reducing doctor visits for hearing aid evaluations; (4) lowering treatment costs due to early detection of serious conditions; and (5) encouraging the dissemination of accurate information concerning the benefits and limitations of hearing aids.

Risks:

If the hearing aid purchaser inappropriately waives the medical evaluation requirement under the existing rule, treatable causes of hearing loss may go undetected. Many purchasers who have not had proper testing before a hearing aid purchase will forego the use of a hearing aid because the one purchased does not adequately improve their hearing ability. At this time, FDA believes that many hearing impaired people who may benefit from a hearing aid do not purchase one because they fear that they will not benefit from one due to inaccurate information.

Timetable:

Action	Date	FR Cite
ANPRM	11/10/93	58 FR 59695

Action	Date	FR Cite
ANPRM Comment Period End	01/10/94	
NPRM	11/00/98	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

State

Additional Information:

Previously reported under RIN 0905-AE46.

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RIN: 0910–AA39

HHS—FDA

23. LABELING FOR HUMAN PRESCRIPTION DRUGS; REVISED FORMAT

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 358; 21 USC 360; 21 USC 360b; 21 USC 360gg to 360ss; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation:

21 CFR 201

Legal Deadline:

None

Abstract:

The proposed regulation would amend the regulations governing the format and content of professional labeling for human prescription drug and biologic products, 21 CFR 201.56 and 201.57. The proposal would require that professional labeling include a section containing highlights of prescribing information, a section containing an index to prescribing information, reorder currently required information and make minor changes to its content, and establish minimum graphical requirements for professional labeling. The proposal would also eliminate certain unnecessary statements that are currently required to appear on prescription drug labels and move certain information to patient labeling.

Statement of Need:

The current format and content requirements in sections 201.56 and 201.57 were established to help ensure that labeling includes adequate information to enable health care practitioners to prescribe drugs safely and effectively. However, various developments in recent years, such as technological advances in drug product development, have contributed to an increase in the amount, detail, and complexity of labeling information. This has made it harder for practitioners to find specific information and to discern the most critical information in product labeling.

FDA took numerous steps to evaluate the usefulness of prescription drug labeling for its principle audience and to determine whether, and how, its format and content can be improved. The agency conducted focus groups and a national survey of office-based physicians to ascertain how prescription drug labeling is used by health care practitioners, what labeling information is most important to practitioners, and how professional labeling should be revised to improve its usefulness to prescribing practitioners.

Based on the concerns cited by practitioners in the focus groups and physician survey, FDA developed and tested two prototypes of revised labeling formats designed to facilitate access to important labeling information. Based on this testing, FDA developed a third revised prototype that it made available to the public for comment. Ten written comments were received on the prototype. FDA also presented the revised prototype at an informal public meeting held on October 30, 1995. At the public meeting, the agency also presented the background research and provided a forum for oral feedback from invited panelists and members of the audience. The panelists generally supported the prototype.

The proposed rule attempts to establish format and content standards for prescription drug labeling that incorporate information and ideas gathered during this process.

Summary of the Legal Basis:

The agency has broad authority under sections 502, 505, and 701 of the Federal Food, Drug, and Cosmetic Act (the act)(21 USC 352, 355, 371) and section 351 of the Public Health Service Act (42 USC 262) to regulate the content and format of prescription drug labeling to help ensure that products are safe and effective for their intended uses. A major part of FDA's efforts regarding the safe and effective use of drug products involves FDA's review, approval, and monitoring of drug labeling. Under section 502(f)(1) of the act, a drug is misbranded unless its labeling bears "adequate directions for use" or it is exempted from this requirement by regulation. Under section 201.100 (21 CFR 201.100), a prescription drug is exempted from the requirement in section 502(f)(1) only if, among other things, it contains the information required, in the format specified, by sections 201.56 and 201.57.

Under section 502(a) of the act, a drug product is misbranded if its labeling is false or misleading in any particular. Under section 505(d) and 505(e) of the act, FDA must refuse to approve an application and may withdraw the approval of an application if the labeling for the drug is false or misleading in any particular. Section 201(n) of the act provides that in determining whether the labeling of a drug is misleading, there shall be taken into account not only representations or suggestions made in the labeling, but also the extent to which the labeling fails to reveal facts that are material in light of such representations or material with respect to the consequences which may result from use of the drug product under the conditions of use prescribed in the labeling or under customary usual conditions of use.

These statutory provisions, combined with section 701(a) of the act and section 351 of the Public Health Service Act, clearly authorize FDA to promulgate a regulation designed to help ensure that practitioners prescribing drugs (including biological products) will receive information essential to their safe and effective use

in a format that makes the information easier to access, read, and use.

Alternatives:

The alternatives to the proposal include not amending the content and format requirements in sections 201.56 and 201.57 at all, or amending them to a lesser extent. The agency has determined that although drug product labeling, as currently designed, is useful to physicians, many find it difficult to locate specific information in labeling, and some of the most frequently consulted and most important information is obscured by other information. In addition, the agency's research showed that physicians strongly support the concept of including a summary of the most important prescribing information, an index and numbering system that permits specific information to be easily located, and other proposed requirements, such as the requirement for a minimum type size. Thus, the agency believes that the proposed requirements will greatly facilitate health care practitioners' access and use of prescription drug and biological labeling information.

Anticipated Costs and Benefits:

The expected benefits from the proposed rule include reduced time needed for health care professionals to read or review labeling for desired information, increased effectiveness of treatment, and a decrease in adverse events resulting from avoidable drug-related errors. For example, the proposed revised format is expected to significantly reduce the time spent on reading labeling by highlighting often used information at the beginning of labeling and facilitating access to detailed information.

The potential costs associated with the proposed rule include the cost of redesigning labeling for previously approved products to which the proposed rule would apply and submitting the new labeling to FDA for approval. In addition, one-time and ongoing incremental costs would be associated with printing the longer labeling that would result from additional required sections. These costs would be minimized by applying the amended requirements only to newer products and by staggering the implementation date for previously approved products.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	04/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

Additional Information:

Legal Authority continued: 42 USC 216; 42 USC 241; 42 USC 262; 42 USC 264

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RIN: 0910–AA94

HHS—FDA

24. • CURRENT GOOD MANUFACTURING PRACTICES FOR BLOOD AND BLOOD COMPONENTS: NOTIFICATION OF CONSIGNEES RECEIVING BLOOD AND BLOOD COMPONENTS AT INCREASED RISK FOR TRANSMITTING HCV INFECTION

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360; 21 USC 371; 21 USC 374; 42 USC 216; 42 USC 262; 42 USC 263; 42 USC 263a; 42 USC 264; 42 USC 300aa-25

CFR Citation:

21 CFR 606; 21 CFR 610

Legal Deadline:

None

Abstract:

This rulemaking is one of a number of actions being taken to amend the biologics regulations to remove, revise, or update the regulations applicable to blood, blood components, and blood derivatives. These actions are based on a comprehensive review of the regulations performed by FDA, and are also based on reports by the U.S. House of Representatives Committee on Government Reform and Oversight, Subcommittee on House Resources and Intergovernmental Relations; the General Accounting Office; the Institute of Medicine, as well as public comments. In this rulemaking, FDA will propose to amend the biologics regulations to require that blood establishments prepare and follow written procedures for appropriate action when it is determined that blood and blood components at increased risk for transmitting hepatitis C virus (HCV) infection have been collected from a donor who, at a later date, tested repeatedly reactive for evidence of HCV.

Statement of Need:

In the Federal Register of March 20, 1998 (63 FR 13675), FDA announced the availability of guidance, which updated previous guidance, providing recommendations for donor screening and further testing for antibody to HCV, notification of consignees, transfusion recipient tracing and notification, and counseling by physicians regarding transfusion with blood components at increased risk for transmitting HCV (often called "Lookback"). While available evidence indicates that blood establishments are following these recommendations, FDA believes that regulations should be codified, consistent with the previous recommendations, to assure there is clear enforcement authority in case deficiencies in an establishment's lookback program are found and to provide clear instructions for continuing lookback activities.

Summary of the Legal Basis:

The Public Health Service Act (21 USC 216 et seq.) and the Federal Food, Drug, and Cosmetic Act (21 USC 321 et seq.) authorize FDA to regulate biological products and to ensure that the products are safe, pure, potent, and effective. The Public Health Service Act also contains the authority under which FDA can promulgate regulations to prevent the spread of communicable diseases. These regulations would assure that appropriate action is taken when blood components have been transfused which may potentially be capable of transmitting HCV, that persons who may have been transfused with such blood components receive proper counseling and treatment, and to help prevent the further transmission of HCV.

Alternatives:

FDA has considered permitting the continued voluntary compliance with the recommendations that have already issued. However, the ability of FDA to enforce appropriate lookback procedures would be unclear. In addition, because lookback will remain appropriate for the foreseeable future, FDA believes that the procedures should be clearly established in the regulations.

Anticipated Costs and Benefits:

FDA is in the process of analyzing the costs related to the rulemaking. Monetary burdens will be associated to the tracing of previous donations of donors, identifying the recipients of these previous blood donations, and notifying these recipients, as appropriate. FDA believes these costs will be more than compensated by the public health benefits, including benefits related to the notification of past transfusion recipients who may be unaware that they may be infected with HCV.

Risks:

FDA believes there are minimum risks posed by requiring that appropriate lookback procedures for HCV be prepared and followed.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

See RIN 0910-AB26.

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RIN: 0910–AB76

HHS—FDA

FINAL RULE STAGE

25. FRUIT AND VEGETABLE JUICES: DEVELOPMENT OF HACCP AND LABEL WARNING STATEMENTS FOR JUICES

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

21 USC 321 et seq; 42 USC 264

CFR Citation:

21 CFR 120

Legal Deadline:

None

Abstract:

The Food and Drug Administration (FDA) announced in an advance notice of proposed rulemaking of August 4, 1994, its plans to consider the development of regulations establishing requirements for a new comprehensive food safety assurance program for both domestically produced and imported foods that would be based on the principles of Hazard Analysis Critical Control Points (HACCP). The new food safety program would respond to new challenges, such as new food processing and packaging technologies, new food distribution and consumption patterns, exposure to industrial chemicals and chemical waste, the increasing importation of foods, new microbial pathogens, and resource constraints. Current information shows that the most serious of these challenges is presented by food-borne pathogens. The number of recognized food-borne pathogens has broadened considerably, as has the awareness of long-term complications from certain food-borne illnesses--such as arthritis, heart disease, and kidney and neurological damage. To meet such challenges, FDA intends to shift the focus of its food safety assurance program away from periodic visual inspection and end-product testing and toward prevention of food safety risks and problems, utilizing the state-of-the-art HACCP preventive approach. A first step was taken when FDA published a HACCP regulation for fish and fishery products on December 18, 1995. Consistent with FDA's HACCP efforts, USDA published a HACCP regulation for meat and poultry on July 25, 1996. As a next step in this food safety program, FDA proposed on April 24, 1998 to adopt a HACCP regulation for the processing of juice. As part of the development of this document, FDA considered information obtained during agency HACCP pilot activities, and comments and scientific and technological information relating to fresh juices provided during and after an agency public meeting on juice held on December 16 and 17, 1996. On July 8, 1998, the agency finalized regulations requiring warning statements on the labels or in labeling for juice products that have not been processed to reduce, control, or eliminate the presence of harmful bacteria. Such labeling will serve to reduce the risk of food-borne illness, pending development of a final HACCP rule for juice.

Statement of Need:

FDA is adopting regulations that would establish requirements for a new comprehensive food safety assurance program for both domestically produced and imported fruit and vegetable juices that would be based on the principles of Hazard Analysis Critical Control Points (HACCP). FDA intends to adopt a juice HACCP regulation because there have been a number of outbreaks of illnesses associated with juice products, including some directly affecting children, and because the agency believes that a system of preventive controls is the most effective and efficient way to ensure that these products will be safe.

Summary of the Legal Basis:

Failure of a processor to have and implement a HACCP system will render the food products of that processor adulterated under section 402(a)(4) of the Federal Food, Drug, and Cosmetic Act. Whether a processor's actions are consistent with ensuring the safety of food will be determined through an evaluation of the overall implementation of the firm's HACCP system.

Alternatives:

The two principal alternatives to HACCP are end-product testing and comprehensive current good manufacturing practices (CGMPs). FDA has concluded, based on information available at this time, that these alternatives lack the distinct advantages of a HACCP-based approach. End-product testing does not address the root causes of food safety problems, is not preventive by design, and requires that a large number of samples be analyzed to ensure product integrity. CGMPs are not practical because they are plant-wide operating procedures and do not concentrate on the identification and prevention of food hazards.

Anticipated Costs and Benefits:

In general terms, HACCP focuses on prevention and is designed to prevent the occurrence of hazards affecting food; HACCP permits more effective and efficient oversight by Federal, State, and local governments; and HACCP appropriately places primary responsibility for ensuring food safety on the food manufacturer/distributor to analyze, in a rational, scientific manner, its production processes in order to identify critical control points and establish critical limits and monitoring procedures. FDA anticipates that costs to industry generated by implementation of HACCP would be offset in four ways: (1) by reducing the amount of food-borne illnesses (for example, total illness reduction benefits estimated to result from FDA's HACCP-based requirements for seafood regulation are between $15 and $75 million per year); (2) by increasing public confidence in the Nation's food supply; (3) by enabling U.S. food companies to compete more effectively in the world market (for example, current recommendations of the Codex Alimentarius Commission's Committee on Food Hygiene encourage the use of the HACCP system, and the European Community (EC) has begun to require that foods produced within the EC be processed under HACCP requirements); and (4) by decreasing the number of future product recalls.

Risks:

Any potential for contamination of the food supply with industrial chemicals or microbial pathogens must be considered a very serious risk because of the possibility that such contamination could be widespread, affecting whole segments of the population, causing some severe long-term effects and even loss of life. FDA made a decision to adopt a HACCP-based approach to regulate seafood, based on a considerable body of literature and expertise in this area. Likewise, FDA has reviewed current information on hazards associated with unprocessed juice, and intends to propose that processors use HACCP in the manufacture of certain juice products.

Timetable:

Action	Date	FR Cite
ANPRM	08/04/94	59 FR 39888
ANPRM Comment Period End	12/02/94	
Economic Analysis for Juice HACCP and Labeling		
PRIA 05/01/98 (63 FR 24254)		
PRIA Comment Period End 06/22/98		
HACCP for Juice		
NPRM 04/24/98 (63 FR 20450)		
NPRM Comment Period End 08/07/98		
Final Action 04/00/99		
Label Warning Statements for Juice		
Notice of Intent 08/28/97 (62 FR 45593)		
NPRM 04/24/98 (63 FR 20496)		
NPRM Comment Period End 06/21/98		
Final Action 07/08/98 (63 FR 37029)		

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

Additional Information:

Previously reported under RIN 0905-AE60.

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RIN: 0910–AA43

HHS—FDA

26. OVER-THE-COUNTER HUMAN DRUGS; LABELING REQUIREMENTS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

21 USC 321; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360; 21 USC 371

CFR Citation:

21 CFR 201; 21 CFR 330

Legal Deadline:

None

Abstract:

The final rule will provide standardized format and content requirements for over-the-counter (OTC) drug product labeling, including legibility and design features of such information as the uses for the drug, directions for use, warnings, drug interactions, active ingredients, and other information that the consumer would need to know to use the product safely and effectively.

Statement of Need:

Currently, the design, format, and placement of required labeling information varies considerably among OTC drug products. As a result, consumers often have difficulty finding, reading, and understanding this important labeling information. Modifying and simplifying the manner in which the information is presented can improve the legibility and understandability of OTC drug product labeling. Therefore, this final rule will establish a standardized format for the labeling of all marketed OTC drug products. This action is intended to enable consumers to better read and understand OTC drug product labeling and to apply this information to the safe and effective use of OTC drug products.

Summary of the Legal Basis:

FDA's legal authority to modify and simplify the manner in which certain information is presented in OTC drug product labeling derives from sections 201, 502, 505, and 701 of the Federal Food, Drug, and Cosmetic Act (the act). Regulating the order, appearance, and format of OTC drug product labeling is consistent with the agency's authority to ensure that drug labeling convey all material information to the consumer (21 USC 321(n) and 352(a)), and that the labeling communicates this information in a manner that is "likely to be read and understood by the ordinary individual under customary conditions of purchase and use." (21 USC 352(c)). Regulating the content of OTC drug product labeling is consistent with FDA's authority to ensure that the products are safe and effective for use (sections 201(n) and (p), 502, and 505 of the act).

Alternatives:

FDA considered several alternatives. First, the agency considered but rejected a voluntary labeling scheme, since previous industry efforts have been unsuccessful in achieving both a uniform format and an acceptable minimum print size for a majority of the products on the market. Second, the agency considered but rejected revising all OTC monographs on an individual basis because this approach would not achieve a standardized labeling format for a majority of the marketed products in a timely manner. Third, the agency considered alternative implementation periods but chose the option proposed because it believed that the chosen approach provides significant reduction in cost while meeting the agency objective of achieving a standardized labeling format for a majority of the products in a timely manner.

Anticipated Costs and Benefits:

The proposed rule was estimated to cost a total of $14 million when implemented. This cost includes a 1-year extension for implementation time of individual OTC drug products having sales of less than $25,000 per year. However, based on comments received for the proposed rule and amendments contained in the final rule, the agency is currently re-evaluating the estimated costs.

In general, the rule will benefit consumers by allowing them to make more appropriate choices for self-treatment, and to reduce trial and error approaches to self-medication. Consequently, this could lead to decreased overall health care costs resulting from reduced visits to the doctor or hospital for treatment. Additionally, the easy to read, standardized format will directly benefit consumers by helping ensure the safe and effective use of the product.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	02/27/97	62 FR 9024
NPRM Comment Period End	10/06/97	62 FR 33379
Reopening of Comment Period (Study B)	12/30/97	62 FR 67770
Reopening of Comment Period (Study A)	02/13/98	63 FR 7331
Final Action	12/00/98	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 0910–AA79

HHS—FDA

27. ESTABLISHMENT REGISTRATION AND LISTING OF HUMAN CELLULAR AND TISSUE-BASED PRODUCTS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 264

CFR Citation:

21 CFR 207; 21 CFR 807; 21 CFR 1271

Legal Deadline:

None

Abstract:

This action is a continuation of FDA's approach for the regulation of human tissues and is part of FDA's reinventing government initiative. The final rule requires manufacturers of human cellular and tissue-based products to register with the agency and submit a list of all such products produced. Future regulations would include the promulgation of good tissue practices (GTP) that will provide good manufacturing standards and regulations for donor screening and testing, promotion and labeling, and compliance and procedural issues. The proposed approach would provide a rational, comprehensive, and clear framework under which tissue processors can develop and market their products without being subjected to unnecessary regulation and without sacrificing the protection of the public health.

Statement of Need:

Presently, FDA can only approximate the numbers of manufacturers involved in the production of human cellular and tissue-based products. Recent innovations in the methods of manipulating human cells and tissues for therapeutic purposes have resulted in the rapid growth of the industry producing human cellular and tissue-based products. The growth has occurred in industry segments that normally communicate with the agency as well as in segments that have not previously had any contact with FDA. In order to characterize the industry and establish a basis for communication with that industry, FDA is requiring that all manufacturers of human cellular and tissue-based products register with FDA and submit lists of all their products to the agency.

Summary of the Legal Basis:

The Public Health Service Act (42 USC 216 et seq.) and the Federal Food, Drug, and Cosmetic Act (21 USC 321 et seq.) authorize FDA to regulate biological products and to ensure that the products are safe, pure, potent, and effective. The Public Health Service Act also contains the authority under which FDA can promulgate regulations designed to prevent the spread of communicable diseases. In order to meet these objectives, FDA must be able to identify those manufacturers participating in activities that may be subject to regulation. FDA is establishing the registration and listing as a simple and efficient means of acquiring the needed information.

Alternatives:

FDA has considered two alternatives. The first alternative would be an information collection undertaken by the agency that would be entirely dependent on voluntary compliance. FDA considers this alternative inefficient and lacking in inducements to ensure compliance.

The second alternative is to compel the registration of manufacturers and require registrants to list their products with the agency. Such a system has been proposed to industry and gained

general acceptance. Manufacturers would simply fill out an electronically available registration and listing form and fax or mail the completed form to the agency with periodic updates. No other paperwork should be required.

Anticipated Costs and Benefits:

Registration and listing will enable FDA to characterize the industry without imposing any significant procedural or monetary burdens. Registration and listing would provide effective means by which FDA can monitor the production of human cellular and tissue-based products. The costs of registration and listing are expected to be minimal because, as stated above, the process will require only the information necessary for FDA to identify the affected industry.

Risks:

FDA believes that the risks posed by requiring registration and listing of human cellular and tissue-based products are minimal. In contrast, failure to identify manufacturers involved in the production of human cellular and tissue-based products would subject the public to the great and avoidable risk of contracting debilitating communicable diseases. Without any mechanism to target regulations intended to reduce the risk of transmission of communicable diseases through the use of human cellular and tissue-based products, FDA's oversight of the industry would be severely hindered and the protection of the public health jeopardized.

Timetable:

Action	Date	FR Cite
NPRM	05/14/98	63 FR 26744
NPRM Comment Period End	08/12/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 0910–AB05

HHS—FDA

28. DISSEMINATION OF TREATMENT INFORMATION ON UNAPPROVED USES FOR MARKETED DRUGS AND DEVICES

Priority:

Other Significant

Legal Authority:

21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 360c; 21 USC 360e; 21 USC 371; 21 USC 374; PL 105-115 sec. 401

CFR Citation:

21 CFR 99

Legal Deadline:

Final, Statutory, November 21, 1998.

Abstract:

The final rule would establish the procedures and requirements for the dissemination of information on unapproved new uses of marketed drugs, biologics, and devices. The final rule would include requirements concerning submissions to the Food and Drug Administration, requests to extend the time period for completing studies needed to submit a supplemental application for a new use, applications for an exemption from the requirement to conduct studies, recordkeeping, and reporting. The final rule would also cover agency actions on such submissions, requests, and applications, as well as orders to cease or to terminate dissemination of information.

Statement of Need:

The final rule would implement section 401 of the Food and Drug Administration Modernization Act of 1997 (FDAMA) by describing the new/unapproved use information that a manufacturer may disseminate to health care practitioners, pharmacy benefit managers, health insurance issuers, group health plans, and Federal and State agencies and setting forth the procedures that manufacturers must follow before disseminating information on the new use.

FDA has long recognized that in certain circumstances new/unapproved uses of approved products are appropriate, rational, and accepted medical practice. There are important unapproved uses of approved products. In the past, however, the concept of allowing manufacturers to disseminate unapproved use information raised concerns about diminishing a manufacturers' incentive to develop the safety and efficacy data about these uses that would lead to their approval. There were also concerns about the reliability and balance of such information. FDAMA and the proposed rule address these concerns by tying the dissemination of the unapproved use information to a commitment to do the research and submit a supplemental application on the new use and by limiting the information that can be disseminated to information that is both reliable and balanced. The statute and regulation set forth narrow exemptions to the requirement to submit a supplemental application.

The implementation of these regulations will ensure that the statutory provisions are properly implemented, that exemptions from the requirement to submit a supplemental application are granted only in appropriate circumstances, and that the agency can best respond to submissions regarding the dissemination of information on unapproved uses.

Summary of the Legal Basis:

Section 401 of FDAMA established a comprehensive scheme for the dissemination of information about unapproved uses to health care practitioners, pharmacy benefit managers, health insurance issuers, group health plans, and Federal and State agencies. Section 401 directed FDA to issue regulations to implement the new scheme by November 21, 1998.

Alternatives:

The statute is prescriptive and does not allow for a substantially different regulatory approach than is being taken by FDA. It allows for discretion in some of the details regarding procedural requirements for submissions relating to the new use information and it allows FDA to define the limited exemptions to the requirement for submission of a supplemental application. FDA believes that the procedural requirements included in the proposed regulation are consistent with the statutory scheme and that the proposed exemption criteria reflect Congressional intent to make such exemptions rare.

Anticipated Costs and Benefits:

The benefits of the final rule will derive from the public health gains associated with the earlier dissemination of objective, balanced, accurate information about important new uses of approved products. In addition, the final rule may actually stimulate new studies or the collection of evidence about these new uses.

The costs of the final rule are modest. Firms typically conduct clinical studies in support of supplemental applications for new uses only where the firm believes that the added revenues associated with the new use would exceed the cost of the supporting studies. Because this rule will accelerate the receipt of these revenues, it is possible that some new use supplemental applications that would not have been economically justified in the absence of this rule will now be submitted. FDA cannot estimate the number or cost of the additional clinical studies that would accompany these applications, but emphasizes that they would be undertaken voluntarily by the affected firms in the expectation that they would raise company profitability.

Risks:

The risk from the final rule is that, despite the protections set forth in the statute and regulation, health care practitioners will not receive reliable information about these unapproved uses and patients will accordingly, not receive the appropriate treatments. There is also a risk that, despite the requirement that the dissemination be tied to the commitment to complete the studies needed for submission of a supplemental application, the studies will not be completed and it will never be known if these unapproved uses really work. In recognition of these lingering concerns, Congress included a sunset of the provision and a requirement for a study of the effect of this new scheme to determine if it should be extended beyond the sunset date. The study will look at issues relating to the effectiveness of the provision in providing useful scientific information to health care practitioners, the quality of the information being disseminated, and the impact of the new scheme on research in the area of new uses.

Timetable:

Action	Date	FR Cite
NPRM	06/08/98	63 FR 31143
NPRM Comment Period End	07/23/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

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HHS—Health Care Financing Administration (HCFA)

PROPOSED RULE STAGE

29. MEDICARE PROGRAM; PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT (HCFA-1005-P)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

PL 105-33, sec 4521; PL 105-33, sec 4522; PL 105-33, sec 4523; PL 99-509, sec 9343(c)

CFR Citation:

42 CFR 409.10; 42 CFR 410.2; 42 CFR 410.27; 42 CFR 410.28; 42 CFR 410.30; 42 CFR 411.15; 42 CFR 412.50; 42 CFR 413.118; 42 CFR 413.122; 42 CFR 413.124; 42 CFR 413.130; 42 CFR 413; 42 CFR 489.20; 42 CFR 1003.101 to 102; 42 CFR 1003.105

Legal Deadline:

Final, Statutory, November 1, 1998.

Abstract:

The Balanced Budget Act of 1997 (BBA) (Public Law 105-33), enacted on August 5, 1997, provides for implementation of a Prospective Payment System (PPS) for hospital outpatient services (and for part B services furnished to inpatients who have no Part A coverage) furnished on or after January 1, 1999. This system will also apply to partial hospitalization services furnished by community mental health centers. The BBA also requires a new method for calculating beneficiary copayments for the hospital outpatient services included under the PPS. The PPS will consist of about 340 groups of services, called "Ambulatory Payment Classifications" or APCs, that are related clinically and in terms of their resource use. We will assign a group weight to each group, based on the median cost (operating and capital) of the services included in the group. We will convert the weights for each group to payment rates using a national conversion factor, taking into account group weights and the projected volume of services for each group. In addition, this proposed rule would establish in regulations the requirements for designating certain entities as provider based or as a department of a hospital.

Statement of Need:

The law was later amended to limit payment to the lesser of a hospital reasonable costs or to its customary charges. In 1983, section 601 of the Social Security Amendments of 1983 (Public Law 98-21) completely revised the cost based payment system for most hospital inpatient services by enacting section 1886(d) of the Social Security Act (the Act). This section provided for a PPS for acute inpatient hospital stays, effective with hospital cost reporting periods beginning on or after October 1, 1983.

Although payment for most inpatient services became subject to PPS, hospital outpatient services continue to be paid based on hospital-specific costs which provided little incentive for hospital efficiency for outpatient services. At the same time, advances in medical technology and changes in practice patterns were bringing about a shift in the site of medical care from the inpatient to the outpatient setting. During the 1980's, the Congress took steps to control the escalating costs of providing outpatient care. The Congress amended the statute to implement across-the-board reductions of 5.8 percent and 10 percent to the amounts otherwise payable for hospital operating costs and capital costs, respectively, and legislated a number of

different payment methods for specific types of hospital outpatient services. These methods included fee schedules for clinical diagnostic laboratory tests, orthotics, prosthetics, and durable medical equipment (DME); composite rate payment for dialysis for persons with end-stage renal disease; and payments based on blends of hospital costs in the rates paid in other ambulatory settings, such as separately certified ambulatory surgical centers (ASCs) or physician offices for certain surgery, radiology, and other diagnostic procedures. Nevertheless, Medicare payment for services performed in the hospital outpatient setting remains largely cost-based.

Summary of the Legal Basis:

In section 9343 of the Omnibus Budget Reconciliation Act of 1986 (OBRA 1986) (Public Law 99-509) and in section 4151(b)(2) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), the Congress required the Secretary to develop a proposal to replace the current hospital outpatient payment system with a PPS and to submit a report to Congress on the system. In section 9343 of OBRA 1986, the Congress paved the way for development of a PPS by requiring hospitals to report claims for services under the HCFA Common Procedure Coding System (HCPCS), and by extending the prohibition against unbundling of hospital services under section 1862(a)(14) of the Social Security Act (the Act) to include outpatient services as well as inpatient services. HCPCS coding enabled us to determined what specific procedures and services were being billed, while the extension of the prohibition against unbundling ensured that all non-practitioner services provided to hospital outpatient would be billed only by the hospital not by an outside supplier, and therefore, would be reported on hospital bills and captured in the hospital outpatient data used in developing an outpatient PPS.

The Secretary submitted a Report to Congress on March 17, 1995. The report summarized the research HCFA conducted in searching for a way to classify outpatient services for purposes of developing an outpatient PPS. The report cited Ambulatory Patient Groups (APGs), developed by 3M-Health Information Systems under a cooperative grant with HCFA, as the most promising classification system for grouping outpatient services and recommended that the APG-like groups be used in designing a hospital outpatient PPS.

The report also presented a number of options that could be used, once the PPS was in place, for addressing the issue of rapidly growing beneficiary copayment. As a separate issue we recommended that the Congress amend the provisions of the law pertaining to the blended payment methods for ASC surgery, radiology, and other diagnostic services to correct an anomaly that resulted in a less than full recognition of the amount paid by the beneficiary in calculating program payment (referred to as the formula-driven overpayment).

The Balanced Budget Act of 1997 (BBA) (Public Law 105- 33), enacted on August 5, 1997, contains a number of provisions that affect Medicare payment for hospital outpatient services. The purpose of this proposed rule is to implement sections 4521, 4522, and 4523 of the BBA. Section 4521 of the BBA eliminates the formula-driven overpayment, effective for services furnished on or after October 1, 1997. Section 4522 extends the current cost reduction of 5.8% and 10% (applicable to hospital outpatient operating cost and hospital capital costs, respectively) through December 31, 1999. Section 4523 provides for implementation of a PPS for hospital outpatient services (and for part B services furnished to inpatients who have no part A coverage) furnished on or after January 1, 1999. This system will also apply to partial hospitalization services furnished by community mental health centers. Section 4523 also requires a new method for calculating beneficiary copayments for the hospital outpatient services included under the PPS.

This proposed rule would also implement section 9343(c) of the Omnibus Reconciliation Act of 1986, which prohibits Medicare payment for non-physician services furnished to a hospital outpatient by a provider or supplier other than a hospital, unless the services are furnished under an arrangement with a hospital. This section also authorizes HHS's Office of Inspector General to impose a civil money penalty against any individual or entity who knowingly or willfully presents a bill for non-physician or other bundled services not provided directly or under such an arrangement.

The Secretary has the authority under the BBA to determine which services are included (with the exception of ambulance services and physical, occupational, and speech therapies, for which fee schedules are being separately created). We will continue to pay for laboratory services and for orthotics and prosthetics on their perspective fee schedules, and for chronic dialysis using the composite rate. The 10 cancer centers exempt from inpatient PPS will not come under this system until the year 2000.

Alternatives:

If this final rule were not published, we would not implement the Balanced Budget Act of 1997 provision mandating a prospective payment system for hospital outpatient services. In addition, there would be no relief for beneficiaries from the large coinsurance burdens that they have been bearing for outpatient services.

Anticipated Costs and Benefits:

The primary benefit of this rule is the elimination of a cost based system, which provides little incentive for hospital efficiency for outpatient services. In addition, the regulation will provide considerable relief overtime to beneficiaries from high coinsurance payments under the current system. Finally, the proposed rules governing provider based status will alleviate an important area of program abuse.

Timetable:

Action	Date	FR Cite
NPRM	09/08/98	63 FR 47551
NPRM Comment Period End	11/09/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

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HHS—HCFA

30. MEDICAID MANAGED CARE; REGULATORY PROGRAM TO IMPLEMENT CERTAIN MEDICAID PROVISIONS OF THE BALANCED BUDGET ACT OF 1997 (HCFA-2001-P)

Priority:

Other Significant. Major under 5 USC 801.

Legal Authority:

PL 105-33, sec 4701(a); 42 USC 1396w

CFR Citation:

42 CFR 438

Legal Deadline:

None

Abstract:

This notice of proposed rulemaking establishes rules for Medicaid managed care programs which involve quality of care and services under Medicaid managed care programs. It implements certain provisions in sections 4701 through 4710 of the Balanced Budget Act of 1997 (BBA) (Pub. L. 105-33).

Statement of Need:

The BBA significantly modifies Medicaid managed care programs by providing a new state plan amendment vehicle for States to furnish managed health care to beneficiaries, enhanced enrollee protections; and an emphasis on the quality of health care delivered to Medicaid enrollees.

Summary of the Legal Basis:

Section 1903(m) of the Social Security Act and implementing regulations at 42 CFR part 434 contain a number of requirements related to Medicaid managed care contracts. Among other things, the requirements relate to contract provisions involving enrollment and disenrollment in a Medicaid managed care organization (MCO), marketing, choice of health professionals within an MCO, quality assurance systems, grievance procedures, and plan solvency. Statutory amendments made by sections 4701 through 4710 of the BBA modify those requirements.

To control cost while enhancing quality of care, States are increasingly delivering services to their Medicaid populations through Medicaid managed care organizations (MCOs) and other managed care arrangements. These arrangements vary according to the comprehensiveness of the services they provide and the degree to which they accept risk. Fully capitated plans contract on a risk basis to provide beneficiaries with a comprehensive set of covered services in return for a monthly capitation payment. In general, partially capitated plans provide a less than comprehensive set of services on a risk basis; services not included in the contract are reimbursed on a fee-for-service basis. In addition, some States implement a primary care case management (PCCM) system in which a Medicaid beneficiary selects or is assigned to a single primary care provider that provides or arranges for all covered services and is reimbursed on a fee-for-service basis. Under each of these managed care arrangements, beneficiaries have a regular source of coordinated care and States have predictable, controlled spending per beneficiary.

The BBA creates a new section of the Social Security Act relating to managed care arrangements. The new section 1932 establishes increased enrollee protections, quality assessment and performance improvement strategies for States, and enrollee rights and responsibilities.

Alternatives:

If this rule is not published, we would not implement many of the provisions in the Balanced Budget Act of 1997 related to Medicaid managed care.

Anticipated Costs and Benefits:

Estimates of the economic impact (if any) that will stem from these rules have not yet been completed.

Risks:

This rule will potentially improve the quality of health care provided to Medicaid managed care enrollees and provide States with new tools to become more effective purchasers of health care services. Failure to publish this rule would jeopardize broad-based improvement in the quality of care our beneficiaries receive and would deprive States of many tools that would improve their managed care programs.

Timetable:

Action	Date	FR Cite
NPRM	09/29/98	63 FR 52021
NPRM Comment Period End	11/30/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Federal

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HHS—HCFA

31. • EXPANDED COVERAGE FOR DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES HCFA-3002-P

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

42 USC 1302; 42 USC 1395hh; 42 USC 1395x

CFR Citation:

42 CFR 410; 42 CFR 414; 42 CFR 476

Legal Deadline:

None

Abstract:

This rule would provide for uniform coverage of Diabetes outpatient self-management training services. These services include educational and training services furnished to a beneficiary with diabetes by an entity approved to furnish the services. The physician or qualified nonphysician practitioner treating the beneficiary's diabetes would certify that these services are needed as part of a comprehensive plan of care. This rule proposes the quality standards that an entity would be required to meet in order to participate in furnishing diabetes outpatient self-management training services. It sets forth proposed payment amounts that have been established in consultation with appropriate diabetes organizations. It would implement section 4105 of the Balanced Budget Act of 1997 (BBA).

Statement of Need:

Section 4105 of the BBA provided for coverage of diabetes self-management training to include services provided in non-hospital-based-programs. This proposed rule would expand Medicare coverage for diabetes outpatient self-management training; define who may

be a certified provider of services that may provide diabetes outpatient management training services; explain that the physician managing the patient's diabetes must certify that the services are needed under a comprehensive plan of care; and sets standards for certified providers that have been established in consultation with appropriate diabetes organizations.

Summary of the Legal Basis:

Section 4105(a) of the BBA provides coverage for diabetes outpatient self-management training. Under this coverage training would include educational and training services furnished in an outpatient setting (according to frequency standards established by the Secretary) to a beneficiary with diabetes by a "certified provider" that meets certain quality standards.

Alternatives:

Coverage is provided for in section 4105(a) of the BBA, therefore, no alternatives to issuing this regulation exist.

Anticipated Costs and Benefits:

Projected Budget Impact of New Benefit ($ in millions): FY 1998 -- $60 FY 1999 -- $560 FY 2000 -- $230 FY 2001 -- $80 FY 2002 -- $80 An estimate of benefits has not been established.

Risks:

If the diabetes self-management training is not implemented, our diabetic beneficiaries will not receive information for improving their long term health that would result from this rule.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

Undetermined

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RIN: 0938–AI96

HHS—HCFA

FINAL RULE STAGE

32. MEDICARE PROGRAM; REVISIONS TO PAYMENT POLICIES UNDER THE PHYSICIAN FEE SCHEDULE FOR CALENDAR YEAR 1999 (HCFA-1006-FC) (HCFA-1006-P)

Priority:

Other Significant

Legal Authority:

42 USC 1395w(4); PL 105-33, sec 4505; PL 105-33, sec 4507; PL 105-33, sec 4511; PL 105-33, sec 4512; PL 105-33, sec 4541; PL 105-33, sec 4556

CFR Citation:

42 CFR 410; 42 CFR 414

Legal Deadline:

NPRM, Statutory, January 1, 1999.

Abstract:

This final rule will update physician payments by Medicare as required by section 1848 of the Social Security Act. It includes a provision to change the method of determining practice expense relative value units from the current charge-based system to a resource based system. In addition, new procedure codes for 1999 have been added. It also will include several policy changes involving medical direction of anesthesia services, and separate payment for abnormal papanicolaou smears. A provision to make some minor rebasing and revisions to the Medicare Economic Index is also included. Several changes are being made to clarify some provisions of the Balanced Budget Act of 1997 (BBA).

Statement of Need:

As pertinent to this regulation, the BBA requires implementation of resource-based practice expense relative value units on January 1, 1999. In addition, the BBA provided for the payment of drugs and biologicals on a new payment basis, implemented private contracting with Medicare beneficiaries, and provided for a new payment system for outpatient rehabilitation services. The BBA expanded the Medicare scope of practice for nurse practitioners and physician assistants.

Furthermore, since we established the physician fee schedule on January 1, 1992, our experience indicates that some of our part B payment policies need to be reconsidered. This final rule is intended to correct some of these payment policies. Also, we are rebasing and revising the Medicare Economic Index, which is used in formulas to update payments for physicians services and other part B services. In addition, we are finalizing the 1998 interim work RVUs and are issuing interim work RVUs for new and revised codes for 1999.

Summary of the Legal Basis:

Since January 1, 1992, Medicare has paid for physician services under section 1848 of the Social Security Act (the Act), "Payment for Physician Services." This section contains three major elements: (1) A fee schedule for the payment of physician services; (2) a sustainable growth rate system for the rate of increase in Medicare expenditures for physician services; and (3) limits on the amounts that nonparticipating physicians can charge beneficiaries. The Act requires that payment under the fee schedule be based on national uniform RVUs based on the resources used in furnishing a service. Section 1848(c) of the Act requires that national RVUs be established for physician work, practice expense, and malpractice expense. Section 1848(c)(2)(ii)(II) of the Act provides that adjustments in RVUs because of charges resulting from a review of those RVUs may not cause total physician fee schedule payments to differ by more than $20 million from what they would have been had the adjustments not been made. If this tolerance is exceeded, we must make adjustments to the conversion factors (CFs) to preserve budget neutrality.

Alternatives:

If this final rule is not published, we would not implement the BBA provisions related to physician services, physician assistants, nurse practitioners, payment for drugs and biologicals, and payment for outpatient rehabilitation services. In addition, known payment problems would not be resolved for the 1999 physician fee schedule and for other payment policies that need to be further clarified.

Anticipated Costs and Benefits:

The practice expense provision is, by statute, budget neutral. The statute requires that revisions to payment policies not cause total annual physician fee schedule payments to differ by more than $20 million from what they would have been had the revisions not been made. If this threshold is exceeded, we would make adjustments to the conversion factor to preserve budget neutrality.

Risks:

We expect a reaction to the practice expense proposal since there is a reallocation of relative value units for practice expenses between physician specialties and between codes. We expect that some physicians will argue that the relative value units are too low for them to provide the service. Also, we expect comments about the fundamental methodology used to calculate the practice expense relative values.

Timetable:

Action	Date	FR Cite
NPRM	06/05/98	63 FR 30818
NPRM Comment Period End	09/03/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

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HHS—HCFA

33. • HOME HEALTH PROSPECTIVE PAYMENT SYSTEM (HCFA-1102-FC)

Priority:

Other Significant

Legal Authority:

PL 105-33, sec 4603

CFR Citation:

42 CFR ch IV

Legal Deadline:

NPRM, Statutory, October 1, 1999.

Abstract:

This interim final rule will establish requirements for the new prospective payment system (PPS) for home health agencies as governed by section 4603 of the Balanced Budget Act of 1997 (BBA) (Pub. L. 105-33).

Statement of Need:

The BBA significantly changed the way we pay for Medicare home health services. It requires the establishment of a facility-specific PPS and provide for interim steps until the PPS is established. Under the interim system HHAs will receive payment under the interim payment system in accordance with section 4602 of the Balanced Budget Act of 1997. The interim payment system establishes two sets of cost limits for home health agencies. The long-standing home health per visit cost limits are reduced from 112 percent of the mean labor-related and non-labor per visit costs for freestanding agencies to 105 in percent the median. In addition, home health agency costs will be subject to an aggregate per-beneficiary cost limitation. For those providers with a cost report ending in Federal fiscal year 1994, the per-beneficiary cost limitation is based on a blend of costs (75 percent on 98 percent of the agency-specific costs and 25 percent on 98 percent of the standardized regional average of the costs for the agency's census region). For new providers and those providers without a 12-month cost reporting period ending in fiscal year 1994, the per-beneficiary limitation will be the national median of the per beneficiary limits for HHAs. Under the interim system, HHAs will be paid the lesser of 1) actual costs; 2) the per visit limits; 3) the per-beneficiary limits. The result of the interim system will be to create a strong incentive for HHAs to reduce utilization to at least 1994 levels to fall within the aggregate cost limit. Effective 10/1/97, the interim payment system will exist until prospective payment for home health agencies is implemented.

Section 4603 of the BBA establishes section 1895 of the Social Security Act, which specifies the authority for the development of a prospective payment system for home health services effective 10/1/99 which will ultimately be based on units of payment, most likely episodes of care. In developing the PPS, the Secretary will consider: an appropriate unit of service, the number of visits provided within the unit, and their cost. Payment for a unit of home health service will be modified by a case mix adjustor, set by the Secretary, to explain a significant amount of the variation in the cost of different units of service. The HHA would have the potential of profit or loss on each individual patient. Over many patients, the HHA would presumably make or lose money based on its ability to provide needed care effectively and efficiently.

Summary of the Legal Basis:

Section 1861(v)(1)(A) of the Social Security Act requires the limits that comprise the interim system. Under this authority, HCFA has maintained limitations on home health agency per-visit costs since 1975. Additional statutory provisions specifically governing limitations applicable to home health agencies are contained at section 1861(v)(1)(L) of the Social Security Act. These limits will be replaced by the establishment of a prospective payment system as defined in section 4603 of the BBA that requires the Secretary to establish and implement the interim payment system of payment limitations prior to establishment and implementation of the prospective payment system.

Alternatives:

Section 4603 of the BBA specifies the authority for the development of a prospective payment system for home health services effective 10/1/99. However, there is contingency language for the home health prospective payment system provided in BBA. If the Secretary for any reason does not establish and implement the prospective payment system for home health services, the Secretary shall provide for a reduction by 15% the cost limits and per-beneficiary limits, as those limits would otherwise be in effect on September 30, 1999.

Anticipated Costs and Benefits:

The Congress anticipates that the implementation of a PPS for home health services will achieve the combined benefits of establishing a system which will enable HCFA to find the provision of medically necessary HHA care to beneficiaries consistent with the HHA's own case mix and will also prevent the development of further

unsustainable growth in HHA costs. The combined effects of the "interim" and final systems are required to achieve this result.

Risks:

The statutory contingency for reducing cost caps under the interim system by 15% if the PPS is not implemented timely is not the preferred method for achieving the desired savings because the interim system does not adjust fully for case mix, as the PPS is required to do. Therefore, the longer the delay in implementation of the PPS, the greater the potential disparity between the case mix of an individual HHa and its payments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

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RIN: 0938–AJ24

HHS—Administration for Children and Families (ACF)

FINAL RULE STAGE

34. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

Priority:

Other Significant

Legal Authority:

42 USC 601; 42 USC 601 note; 42 USC 603 to 604; 42 USC 606 to 611; 42 USC 613; 42 USC 617; 42 USC 619; 42 USC 862a; 42 USC 1302; 42 USC 1308

CFR Citation:

45 CFR 260 to 265 (new)

Legal Deadline:

None

Abstract:

This regulation governs key provisions of the new welfare block grant program enacted in August 1996 as part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). This new program, called the Temporary Assistance for Needy Families -- or TANF -- program, replaced the national welfare program known as Aid to Families with Dependent Children (AFDC) and the related programs known as the Job Opportunities and Basic Skills Training Program (JOBS) and the Emergency Assistance (EA) program. The regulation addresses the five-year time limit, work, accountability, and data collection and reporting provisions of the new TANF program.

Statement of Need:

This regulation is necessary to provide States with a basic set of rules which will assist them in implementing the TANF program.

Alternatives:

There are no viable alternatives.

Anticipated Costs and Benefits:

This regulation reflects the intent of PRWORA to achieve a balance between granting States the flexibility they need to develop and operate effective and responsive programs, and ensuring that the objectives of the programs are met. The financial impacts of these rules should be minimal because of the fix level of funding provided through the block grant. A State's Federal grant could be affected by the penalty decisions made under the law in these rules, and State expenditures on needy families could be affected by the rules on caseload reduction. Otherwise, the regulation should not affect the overall level of expenditures. However, it could have minor impacts on the nature and distribution of such expenditures. The impacts of these rules on needy individuals and families will depend on the choices the State makes in implementing the new law.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	11/20/97	62 FR 62124
NPRM Comment Period End	02/18/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Tribal, Federal

Additional Information:

This action includes information previously reported under RIN 0970-AB64 and RIN 0970-AB76. The CFR citation for the NPRM was 45 CFR 270 to 275.

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RIN: 0970–AB77

BILLING CODE 4150-04-F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Statement of Regulatory Priorities

Linkage to the HUD 2020 Management Reform Plan

The regulatory plan of the Department of Housing and Urban Development for fiscal year 1999 continues to reflect the revitalized mission that Secretary Andrew Cuomo established for HUD upon assuming the leadership of HUD and further reflects the fundamental redesign of HUD under the HUD 2020 Management Reform Plan. On June 26, 1997, Secretary Cuomo released his plan for significant management reforms at HUD—the "HUD 2020 Management Reform Plan." The HUD 2020 Management Reform Plan is directed to (1) empowering people and communities to improve themselves and (2) restoring HUD's reputation and credibility by improving the efficiency and effectiveness of the Department's programs, operations, and delivery of services.

To improve the efficiency and effectiveness of HUD's programs, operations, and delivery of services, the HUD 2020 Management Reform Plan calls for the restructuring of HUD's internal operations to reallocate resources and consolidate major functions. The HUD 2020 Management Reform Plan also calls for the resources to be allocated in a way that is designed to align HUD's resources with its long-term mission of empowering people and communities to improve themselves and succeed in today's world. Consolidation of functions is designed to avoid duplication of effort, achieve consistency and uniformity in the performance of those functions, and ensure fairness.

In fiscal year 1998, HUD began implementing the management reforms called for by the HUD 2020 Management Reform Plan. These reforms include the establishment of several centers at which key functions and operations have been consolidated and are now being carried out. Since issuance of the HUD 2020 Management Reform Plan, HUD has moved from discussion of the reforms to on-the-ground operations. The following describes some of the new HUD centers.

The Real Estate Assessment Center is charged with responsibility for assessing and scoring the condition of properties in which HUD has an interest and the performance of entities that manage and own those properties. The Enforcement Center assumes responsibility for the majority of HUD's existing enforcement operations. The Enforcement Center is the central departmental focus for taking aggressive action against HUD's troubled housing and public housing portfolios. The Troubled Agency Recovery Center will assist public housing agencies designated as troubled to reach improved performance through development and implementation of sustainable solutions. The Section 8 Financial Management Center provides a unified center for Section 8 payments processing. HUD also has established a new Office of Procurement and Contracts which will perform all operational contracting activities except simplified acquisitions and contract ordering. The consolidation of all operational activity within a single office, which reports directly to the Chief Procurement Officer will assure the Department's procurement reform initiatives and policies are implemented in a consistent manner. These are some of the key management reform changes that have already been instituted under the HUD 2020 Management Reform Plan.

Consolidation of functions and the resulting consistency and uniformity that is brought about through the consolidation not only make these functions easier for HUD employees to perform but make the HUD programs simpler, more comprehensible, and more fair for HUD's program participants. Several regulations issued by HUD in fiscal year 1998 reflect how consolidation of functions has achieved a key objective of HUD 2020 Management Reform and that is to strive to treat program participants fairly, on the basis of uniform standards, not on the basis of which HUD program office administers the program. Examples of such regulations are as follows:

Public Housing Assessment System. In FY 1998, HUD issued regulations to establish a revised performance evaluation system for public housing that expanded and improved on the previous assessment system—the Public Housing Management Assessment Program (PHMAP). The new system—the Public Housing Assessment System (PHAS) provides for the evaluation of the performance of public housing agencies (PHAs) in four critical areas: (1) The physical condition of the public housing; (2) the financial stability of the PHA; (3) the management capabilities of the PHA; and (4) the resident satisfaction with PHA services. This new system answers criticisms of the former PHMAP by placing greater emphasis on the physical condition of properties, objective evidence and third-party verification, basic real estate functions, and input from those served directly by the system (the "customers"). This new assessment system for public housing should increase the confidence of everyone involved—HUD, PHAs, residents, the Congress, the public—that it accurately determines whether PHAs are doing an acceptable or outstanding job and are providing decent, safe, and sanitary housing to their residents. This is critical because the consequences of that determination are significant—less scrutiny and additional flexibility for PHAs to be determined performing well and intensive technical assistance and short term deadlines to show improvement for those PHAs determined to be troubled. The new system should better indicate to everyone the degree of success of the public housing program under current levels.

Uniform Physical Condition Standards for Certain HUD Housing. This rule establishes for housing assisted under certain HUD programs uniform physical condition standards. These standards are intended to ensure that such housing is decent, safe, sanitary, and in good repair. HUD's Section 8 housing, public housing, HUD-insured multifamily housing, and other HUD assisted housing must currently meet certain standards and must undergo an annual physical inspection to determine that the housing qualifies as decent, safe, sanitary, and in good repair. Before issuance of this rule, the description or components of what constitutes acceptable physical housing quality varied from HUD program to HUD program. To the extent possible, HUD's position is that housing assisted under its programs should be subject to uniform physical standards regardless of the source of the subsidy or assistance. Additionally, to the extent feasible, HUD believes that the physical inspection procedures by which the standards will be assessed should be uniform in the covered programs. This rule provides for certain HUD housing to meet uniform physical condition standards to ensure that the housing is decent, safe, sanitary, and in good repair.

Uniform Financial Reporting Requirements. This rule establishes for HUD's public housing, Section 8 housing, and multifamily insured housing programs uniform annual financial reporting standards. The rule requires public housing agencies and project owners of HUD-assisted housing

to submit electronically to HUD, on an annual basis, certain financial information in a standardized format. Electronic submission was determined necessary because the manual submission of annual financial information to HUD has become a significant administrative burden to housing authorities, project owners, and mortgagees, as well as to HUD. This rule also provides that the annual financial information to be submitted to HUD must be prepared in accordance with generally accepted accounting principles.

Section 8 Certificate and Voucher Conforming Rule. This final rule completed the process of combining and conforming the regulations for tenant-based rental assistance under the Section 8 Certificate and Voucher programs. The merger of the Section 8 Certificate and Voucher programs and implementation of steamlining measures will make tenant-based assistance easier for HUD, housing authorities, and private landlords to administer.

These are some of the rules issued in fiscal year 1998 that reflect the HUD 2020 management reforms already instituted and underway at HUD.

Implementation of the HUD 2020 Management Reform Plan ensures HUD's relevance and effectiveness for the 21st century and focuses HUD resources and energy on two distinct yet interrelated missions:

The Departmental Mission: Empower communities and their residents, particularly the poor and disadvantaged, so that, together with HUD, they can develop viable urban communities, provide decent housing and suitable living environment for all citizens, without discrimination, in order to improve themselves, both as individuals and as a community, to succeed in today's time of transition.

The Secretary's Personal Mission: Restore the public trust by achieving and demonstrating competence.

Under the empowerment mission, HUD focuses on shifting: (1) From top-down programs with flexible mandates to bottom-up, community-driven partnerships that demonstrate a comprehensive community development strategy, (2) from long-term dependence programs to those that nurture self-sufficiency and self-reliance, (3) from working in isolation to collaboration with other Federal agencies to provide vital community resources, (4) from working against the free market to harnessing market forces wherever possible to use these forces to help people become self-sufficient.

Under the public trust mission, HUD focuses on moving from process and perpetuation to performance and product. HUD will continue to consolidate programs and reorganize and retrain staff to align the agency's resources; develop and implement stringent internal controls; and increase program monitoring and measurement to ensure higher performance.

To continue efforts directed at accomplishing these two revitalizing missions, the Secretary has directed HUD to focus on the following strategic objectives that are designed to reflect the core business of HUD:

1. Fight for fair housing.

2. Increase affordable housing and homeownership.

3. Reduce homelessness.

4. Promote jobs and economic opportunity.

5. Empower people and communities.

6. Restore public trust.

The regulatory priorities in HUD's regulatory plan for fiscal year 1999 and the regulations in HUD's semiannual regulatory agenda are designed to implement HUD's mission and address the core business of HUD. HUD's regulatory priorities for fiscal year 1999 may change if new legislation affecting HUD programs is enacted.

Regulatory Action: CDBG National Objective to Eliminate Slums or Blighting Conditions

This rule is designed to facilitate the redevelopment of underutilized property for housing or economic development purposes. The rule will increase CDBG recipients' flexibility to undertake activities which meet the national objective of preventing or eliminating slums or blighting conditions. The criteria for meeting the slum/blight national objective will be revised to specifically recognize economic obsolescence of buildings and the presence of environmental contaminants as blighting influences on an area or property.

(Furthers Strategic Objectives 2 and 4)

Regulatory Action: Clarification of the Nature of Required CDBG Expenditure Documentation

The rule will clarify the level of expenditure documentation that is needed to meet the financial management requirement that grantees and subrecipients maintain adequate records to identify the use of funds provided for assisted activities. This rule ensures better grantee and subrecipient accounting for all CDBG expenditures, as well as applicable credits to those expenditures.

(Furthers Strategic Objective 5)

Regulatory Action: Sanctions for Underreporting of Income in the Assisted Housing Programs

This rule is designed to promote program integrity and encourage housing assistance recipients to accurately report their income by imposing sanctions on them when they underreport their income. The entities that administer the low rent public housing program, the Section 8 housing assistance payments programs, and other HUD-subsidized housing programs will be required to take action against program participants when there is a discrepancy between the amount of income reported by the participant and by another source that exceeds a threshold amount. The actions to be taken will range from reporting the deficiency in rental payment based on the underreported income to a credit bureau to garnishment of wages of the amount owed. Action will be taken only after the program participant has been given an opportunity to contest the existence and amount of a reported discrepancy in income, as well as being given the opportunity to execute a repayment agreement. The purpose of this rule is to prevent potential losses to HUD and taxpayers from substantial underreported income and to assure that worthy participants benefit from HUD housing programs.

(Furthers Strategic Objective 6)

Regulatory Action: Assessment of the Reasonable Revitalization of Certain Public Housing

On September 26, 1996, the Department published at 61 FR 50632 a notice to implement section 202 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104-134, approved April 26, 1996) (OCRA). Section 202 requires PHAs to identify certain distressed public housing developments that cost more than Section 8 rental assistance and cannot be reasonably revitalized. Households in occupancy that will be affected by the activities will be offered tenant-based or project-based assistance (that can include other public housing units) and will be relocated to other decent, safe, sanitary, and affordable housing which is, to the maximum extent practicable, housing of their choice. After residents are relocated, the distressed developments (or affected buildings) for which no reasonable means of revitalization exists will be removed from the public housing inventory. The September 26, 1996, notice invited public comments, which were taken into consideration in the interim rule published on September 22, 1997. The interim rule also invited public comments. The final rule to be issued in fiscal year 1999 will take into consideration the public comments received on the September 22, 1997, interim rule.

(Furthers Strategic Objectives 2 and 5)

Regulatory Action: Multifamily Housing Restructuring Program (Mark-to-Market)—Preserving Low-Income Rental Housing While Reducing Long-Term Costs of Project-Based Rental Assistance

This rule implements the FHA-Insured Multifamily Housing Mortgage and Housing Assistance Restructuring Program. This program was enacted in the Department's FY 1998 Appropriations Act. The legislation gives HUD permanent authority to address the problem of expiring project based Section 8 assistance contracts. The program, which provides for mortgage restructuring plans, is intended to reduce long-term costs while maintaining the units as affordable housing.

(Furthers Strategic Objectives 2 and 6)

Regulatory Action: Public Housing Admission and Occupancy Reforms and Streamlining

This rule includes provisions that help make public housing a more desirable place to live. It provides Public Housing Agencies (PHAs) the authority to screen out applicants and to terminate tenancies of tenants who are engaged in criminal and antisocial behavior. Specifically, PHAs will take action against those involved in drug or alcohol abuse that "may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents of the project" or who have been evicted previously for drug-related criminal activity. The screening process is to include appropriate criminal background checks. These changes implement the Housing Opportunity Program Extension Act of 1996 (Pub. L. 104-120, 110 Stat. 834). Additional changes are being made to streamline the rule and to respond to relevant recommendations contained in the report issued by the statutorily created Public and Assisted Housing Occupancy Task Force.

(Furthers Strategic Objectives 2, 5, and 6)

Regulatory Action: Strengthening the Title I Property Improvement Loan Insurance Program

This rule would amend the Department's title I regulations to require that a certain amount of the proceeds of property improvement loans must be used for correcting code violations, health and safety defects, accessibility improvements, or energy improvements. This rule would establish time limits for completing improvements.

(Furthers Strategic Objectives 2 and 6)

Regulatory Action: Disclosure of Fees Paid to Mortgage Brokers

This rule would provide consumers with increased disclosure concerning the mortgage broker's function and fees and would provide mortgage brokers with greater clarity regarding application of the Real Estate Settlement Procedures Act (RESPA) to mortgage broker fees. The mortgage brokers would be encouraged to enter into a contract with the consumer early in a mortgage financing transaction in order to provide the consumer with information about the mortgage broker's duties and compensation.

(Furthers Strategic Objectives 2 and 6)

Regulatory Action: Fair Housing Planning Performance Standard

This rule will assist communities in complying with the legal requirement to certify that they are affirmatively furthering fair housing. It will provide a standard by which the Department will assess grantees' performance in affirmatively furthering fair housing. Thus, communities will have a clear idea of what is expected of them and the standards HUD will use in reviewing their certifications.

(Furthers Strategic Objectives 1 and 5)

Regulatory Action: Lead-Based Paint Poisoning Prevention in Certain Residential Structures

This rule will implement sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, which establishes significant new requirements concerning lead-based paint hazard notification, evaluation, and reduction for federally owned residential property and housing receiving Federal assistance.

(Furthers Strategic Objective 2)

HUD—Office of the Secretary (HUDSEC)

PROPOSED RULE STAGE

35. SANCTIONS FOR UNDERREPORTING OF INCOME IN THE ASSISTED HOUSING PROGRAMS (FR-4334)

Priority:

Other Significant

Legal Authority:

42 USC 3543; 42 USC 3544; 42 USC 11901 et seq; 42 USC 3535(d)

CFR Citation:

24 CFR 5

Legal Deadline:

None

Abstract:

This rule proposes to amend HUD's regulations for disclosure and verification of income information submitted by participants in its assisted housing programs to inciude sanctions for inaccurate reporting. The amount participants pay for their housing is dependent on their income, and any underpayment of rent by them generally results in overpayment of housing assistance by HUD. This rule is being undertaken to assure that there are adequate measures in place to assure that participants in these programs will fully report their income and to reduce overpayments by HUD from scarce taxpayer dollars. It would require housing agencies or owners to take action against program participants when they find a discrepancy between the amount of annual income reported by the participant and by another reliable source, if the discrepancy exceeds a threshold amount.

Statement of Need:

HUD's Inspector General and the General Accounting Office (GAO) have indicated that HUD has not taken enough measures to assure accurate income reporting and housing assistance payments in its public housing and section 8 rental assistance programs. This finding has contributed to GAO's classification of HUD as a "high risk" agency with respect to financial management. This rulemaking is part of a coordinated effort by HUD to reduce the incidence of fraud, waste, and abuse in its assisted housing programs and to restore public trust in the Department.

Summary of the Legal Basis:

The statutory provision entitled, "Preventing fraud and abuse in housing and urban development programs", 42 U.S.C. 3544, requires periodic review of a participant's income to assure that the level of benefits provided under the program is correct. It authorizes use of a consent form to request various kind of information pertinent to the participant's eligibility or level of benefits, including information from State agencies with wage data and from the Social Security Administration and Internal Revenue Service.

Alternatives:

A number of initiatives were considered to reduce the incidence of fraud, waste, and abuse in the housing assistance programs of HUD. A number of them are being pursued as separate initiatives. The scope of this rule is to require the entities that administer HUD's assisted housing programs--including Federal Housing Administration insured, subsidized projects as well as public housing and section 8 assisted housing--to impose sanctions on participants found to have underreported their annual income by more than $3,000. The sanctions to be imposed are reporting of the resulting deficiency in rental payment to a credit bureau, charging interest and/or penalty on the amount owed, and--to the extent such actions are cost effective and consistent with State law--seeking an offset against any State income tax refund or garnishment of wages.

Other alternatives considered were to revise HUD regulations to require: (1) tenants to sign a consent from permitting the IRS to disclose tax data to administrators of HUD-assisted housing; (2) administrators to garnish the wages of Federal employees participating in these programs who have underreported income.

Anticipated Costs and Benefits:

The first two actions included in the rule, credit bureau reporting and charging interest and penalties, are expected to involve minimal cost to program administrators. Reporting on debts owed to a credit bureau is expected to be very beneficial as an incentive to report income accurately, since use of credit is so pervasive in our society and affects even the participant's future attempts to rent a housing unit. The assessment of interest and/or penalties also will involve minimal cost to the program administrators. Its primary benefit is in encouraging a participant who has a rental deficiency attributable to underreporting of income to agree to repay the amounts owed before the enforcement activity reaches this stage.

The second two actions, State refund offsets and garnishment, are likely to involve more cost to the program administrators; hence, the rule permits them to be undertaken only where they are cost-effective for the administrator. Of the two alternatives that were considered but not included in the rule, the second one--limiting the garnishment action to Federal employees--was rejected as being unnecessarily limited. Instead, the garnishment option was expanded to include not only Federal employees but any employed person who owes a rental deficiency based on underreported income. The other alternative that was not included in the rule -- broadening the scope of entities to which income verification data would be revealed -- was subject to some policy concerns, so the rule was limited to the four initiatives.

Risks:

The rule poses no threat to public safety, health or the environment.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Local

Agency Contact:

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Office of Public and Indian Housing
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RIN: 2501–AC55

HUD—HUDSEC

FINAL RULE STAGE

36. LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES (FR-3482)

Priority:

Economically Significant

Unfunded Mandates:

Undetermined

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 4822; 42 USC 3535(d)

CFR Citation:

24 CFR 35

Legal Deadline:

Final, Statutory, January 1, 1995.

Abstract:

The Office of Lead Hazard Control was established by Congress within the Office of the Secretary of HUD. The Office provides overall direction to HUD's lead-based paint activities.

Currently, 24 CFR part 35 addresses the Department's requirements on lead hazards in housing. Additional requirements are specified for each housing program in the CFR part pertaining to each program. Sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, which is title X of the Housing and Community Development Act of 1992 (title X) require substantial revisions to HUD's current regulations for the evaluation and control of lead-based paint hazards in federally assisted and federally owned housing. The legislation evidences a concern with developing a national strategy to build the infrastructure necessary to eliminate lead-based paint hazards in all pre-1978 housing that may be occupied by young children. Because of the scope of the problem, the strategy will be implemented on a priority basis and, in part, is to be based on guidelines issued by the Department on August 25, 1995, on the conduct of federally supported work involving risk assessments inspections, interim controls and abatement of lead-based paint hazards ("Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing"). The revisions required by title X will affect HUD's housing programs and the housing programs of other Federal agencies.

HUD is consolidating in a revised part 35 of title 24 of the Code of Federal Regulations the multitude of lead-based paint regulations found throughout HUD programs and will make them consistent, creating a single point of reference for the Department's lead-based paint requirements. Proposed regulations were published for public comment on June 7, 1996.

Statement of Need:

The Centers for Disease Control and Prevention (CDC), the American Academy of Pediatrics, and the National Academy of Sciences have labeled lead poisoning as the leading environmental health hazard facing America's children. Childhood lead exposure has been shown to cause damage to the brain and nervous system which causes behavior and learning problems; reduced IQ; slowed growth; hearing problems; hypertension and heart disease; reproductive problems for both men and women; kidney damage; and many other adverse health effects, in some cases even seizures coma, and death. These effects result in increased medical care costs, increased special education costs, and decreased lifetime earnings. The reductions in IQ appear to be irreversible, and because lead is stored primarily in bone, internal exposures can occur for decades, even if environmental exposures are controlled.

The results of CDC's third National Health and Nutrition Examination Survey indicate that population blood lead levels have continued to decrease dramatically as a result of the de-leading of gasoline and the elimination of lead in solder in food canning, as well as the ban on lead in household paint (which was effective in 1978). Nevertheless, CDC found that during the period 1991-1994, 4.4 percent of all American children aged 1-5, or 930,000 children, had blood lead levels greater than the CDC level of concern (10 ug/dl). CDC has concluded that the most serious remaining sources of lead exposure are lead in deteriorated paint in older housing and dust and soil contaminated by paint and residues from past emissions of leaded gasoline. These sources must be controlled to assure continued declines in childhood lead poisoning.

The prevalence of elevated blood lead levels is statistically associated with low family income, older housing, and African-American or Mexican-American race/ethnicity. For instance, approximately 8.6 percent of children aged 1-5 living in housing built before 1946 had elevated blood lead levels during the 1991-1994 period, compared to 4.4 percent for all children of that age. For children in low income families living in pre-1946 housing, the percentage was 16.4; and among non-Hispanic black children living in pre-1946 housing, the percentage was 21.9.

Summary of the Legal Basis:

Title X amends the Lead-Based Paint Poisoning Prevention Act (42 USC 4822) to focus attention and resources on identifying and controlling lead-based paint hazards in federally assisted and federally owned housing before children are poisoned.

Alternatives:

The statute is generally prescriptive in requiring regulatory action to be taken by HUD. For certain HUD programs the Department has some discretion in the level of hazard evaluation and control measures to be undertaken. Alternatives being considered are related primarily to: (1) the amount of on-site work that is required for hazard evaluation and control; (2) targeting by year of construction; and (3) likelihood of occupancy by families with children.

Anticipated Costs and Benefits:

The Department has estimated the present value of some of the major benefits of protecting children from lead exposure that would flow from first-year activities required under the regulations proposed on June 7, 1996. These quantified benefits included increased lifetime earnings associated with higher IQs for children with lower blood lead levels, and avoided costs of special education and medical treatment. Estimated benefits also included market-value increases resulting from housing renovation associated with lead-based paint hazard controls. Using a three percent discount rate for lifetime earnings, total estimated benefits were approximately $1.5 billion; using a seven percent rate, the estimate was approximately $500 million. Costs of activities that would be newly required in the first year of the proposed regulations were estimated at approximately $460 million, for a net benefit of over $1 billion using a three percent discount rate and $40 million using seven percent.

Additional possible benefits not included in these estimates are: reduced infant mortality; reduced hypertension; improvements to children's stature, hearing and vitamin D metabolism; reductions in juvenile delinquency and the burden on the educational system; avoidance of the parental and family time expense and emotional costs of caring for poisoned children; and reductions in personal injury claims and court cases.

This analysis may be modified for the final rule.

Risks:

Without the regulatory changes required by title X, childhood lead exposures will continue at or near current levels.

Timetable:

Action	Date	FR Cite
NPRM	06/07/96	61 FR 29170
NPRM Comment Period End	09/05/96	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Local, Federal

Agency Contact:

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RIN: 2501–AB57

HUD—HUDSEC

37. MULTIFAMILY HOUSING MORTGAGE AND HOUSING ASSISTANCE RESTRUCTURING PROGRAM (MARK TO MARKET) AND RENEWAL OF EXPIRING SECTION 8 PROJECT-BASED ASSISTANCE (FR-4298)

Priority:

Other Significant

Legal Authority:

12 USC 1715z-1; 42 USC 1436f note.

CFR Citation:

24 CFR 401; 24 CFR 402

Legal Deadline:

Final, Statutory, Final rule issued by the later of 10/27/98 or 3 months following the appointment of a Director of OMHAR.

Abstract:

This rule will implement recently enacted legislation that created a Mark-to-Market Program through which section 8 rents for multifamily projects with HUD-insured or HUD-held mortgages will be reduced in order to preserve low-income rental housing affordability while reducing the long-term costs of project-based rental assistance and minimizing the adverse effect on the FHA insurance funds. The rule also implements legislation for renewal of section 8 project-based assistance contracts for projects outside of the Mark-to-Market Program.

Statement of Need:

Regulations are necessary to implement the new authority and the statute requires the issuance of regulations.

Summary of the Legal Basis:

The Multifamily Assisted Housing Reform and Affordability Act of 1997 (title V of Pub.L. 105-65, approved October 27, 1997).

Alternatives:

There is no alternative. The program, created by statute, is designed to address the problem of expiring section 8 contracts, while preserving affordable housing. The statute requires the issuance of regulations.

Anticipated Costs and Benefits:

The anticipated benefits are section 8 discretionary outlays are reduced, losses to the FHA insurance fund are reduced and affordable housing is preserved.

Risks:

The rule poses no threat to public safety, health, or the environment.

Timetable:

Action	Date	FR Cite
Final Action	01/00/99	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Local

Agency Contact:

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RIN: 2501–AC57

HUD—Office of Housing (OH)

PROPOSED RULE STAGE

38. STRENGTHENING THE TITLE I PROPERTY IMPROVEMENT LOAN INSURANCE PROGRAM (FR-4246)

Priority:

Other Significant

Legal Authority:

12 USC 1703; 42 USC 1436a; 42 USC 3535(d)

CFR Citation:

24 CFR 201

Legal Deadline:

None

Abstract:

This rule proposes to amend HUD's regulations for the title I Property Improvement Loan Insurance Program. This rule would require that at least some of the loan proceeds must be used for correcting code violations, health and safety defects accessibility improvements, or energy improvements. This rule would also require the lender to certify that no party that is debarred or subject to a limited denial of participation will be involved in connection with the loan; that the property has been inspected and the proposed work meets the eligibility requirements; and that a post-completion inspection and verification of completion of the work has occurred. This rule would also establish time limits for completing improvements and streamline requirements, where appropriate. HUD anticipates that this rule will be finalized in conjunction with FR-3718.

Statement of Need:

This rule will propose changes to the title I Property Improvement Loan Program necessary to reflect the market and economic changes in home improvement lending in this country. With regard to the market, many new conventional no-equity or low-equity loan products have been introduced in the last few years. Economically, the Department wants to reduce fraud and abuse in the program to mitigate the financial impact on the FHA Insurance Fund. In addition, changes are needed to ensure that use of the program complies with the Congressional intent of the program.

Summary of the Legal Basis:

Title I of the National Housing Act, as amended.

Alternatives:

There has been too much abuse and fraud in the existing program to leave the current rules unchanged. Insufficient information is available to judge the merits and disadvantages of terminating the whole program.

Anticipated Costs and Benefits:

Lenders will incur some minor additional costs for additional documentation and review of borrower and contractor performance. However, the benefits of the reduced defaults that are projected should offset these additional costs. A program with less fraud and abuse should attract additional lenders to the program making the program more readily available to borrowers.

Risks:

Some existing lenders have already decided to reduce their participation in the current program by focusing on alternative loan products. These changes could accelerate this situation and reduce the availability of title I loans in some markets.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

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RIN: 2502–AG95

HUD—OH

FINAL RULE STAGE

39. RESPA: DISCLOSURE OF FEES PAID TO RETAIL LENDERS (BROKERS) (FR-3780)

Priority:

Economically Significant

Legal Authority:

12 USC 2601; 42 USC 3535(d)

CFR Citation:

24 CFR 3500

Legal Deadline:

None

Abstract:

A final rule will provide consumers with increased disclosure concerning the mortgage broker's function and fees and would provide mortgage brokers with greater clarity regarding application of the Real Estate Settlement Procedures Act (RESPA) to mortgage broker fees.

Statement of Need:

Confusion about how RESPA applies to mortgage broker fees has led to litigation and numerous requests for clarification. The proposed rule was developed after receiving comments on a prior proposed rule and after parties to a negotiated rulemaking process, including consumer and industry groups, could not reach a consensus.

In order to benefit from greater clarity about permissibility of fees, mortgage brokers would be encouraged to provide information to the consumer early in a mortgage financing transaction. The information would include a statement regarding information about the mortgage broker's duties and compensation.

Summary of the Legal Basis:

The Real Estate Settlement Procedures Act, 12 U.S.C. 2601 et seq., prohibits the payment of certain fees which are unearned or for the referral of business. Under this rule, HUD will clarify the circumstances when certain fees to mortgage brokers are permissible and when they are prohibited under RESPA.

Alternatives:

The Department attempted to reach consensus through the negotiated rulemaking process, however, a consensus was not achieved.

Anticipated Costs and Benefits:

There are some costs for mortgage brokers associated with the additional disclosure. However, these may be offset by the benefits of greater certainty about which fees are permitted and which are prohibited. Consumers will benefit because increased clarity about the mortgage broker's rule and fees associated with the transaction will allow them to more effectively shop for a competitive loan.

Risks:

This rule poses no threat to public safety, health, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	09/13/95	60 FR 47650
Notice	10/25/95	60 FR 54794
NPRM Comment Period End	11/13/95	
Notice Comment Period End	11/24/95	
NPRM	10/16/97	62 FR 53912
NPRM Comment Period End	12/15/97	
Final Action	10/00/98	
Final Action Effective	11/00/98	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Federal

Agency Contact:

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RIN: 2502–AG40

HUD—Office of Community Planning and Development (CPD)

PROPOSED RULE STAGE

40. CDBG SLUM/BLIGHT NATIONAL OBJECTIVE RULE (FR-4260)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 3535; 42 USC 5300 to 5320

CFR Citation:

24 CFR 570.208; 24 CFR 570.483

Legal Deadline:

None

Abstract:

This rule will be a key step in the implementation of the Department's Brownfields Initiative. (The Brownfields Initiative will stimulate economic development through the redevelopment of contaminated industrial properties.) It will increase Community Development Block Grant (CDBG) recipients' flexibility to undertake activities which meet the national objective of preventing or eliminating slums or blighting conditions. The criteria for meeting the slum/blight national objective will be revised to specifically recognize economic obsolescence of buildings and the presence of environmental contaminants as blighting influences on an area or property. This rule also will propose clarifications of the standards for meeting the slum/blight national objective criteria on a spot basis.

Statement of Need:

Current CDBG regulations concerning the slum/blight national objective only recognize the presence of physically deteriorated buildings or public improvements as blighting influences on an area or property. Professional practice and thinking in the community development field is evolving toward a more encompassing view of the factors which influence urban decay. Failure to update and streamline CDBG program rules would hinder grantees' efforts to redevelop underutilized properties and improve physical conditions in neighborhoods. At the same time, an audit report by the Office of the Inspector General has recommended that HUD consider revising its definition of what constitutes spot blight to resolve possible ambiguities.

Summary of the Legal Basis:

Section 104 of the Housing and Community Development Act of 1974 establishes certain national objectives for CDBG assisted activities. Among other goals, section 104 makes the prevention or elimination of slums or blight a national objective for the CDBG program.

Alternatives:

Regulations are needed to provide clear and uniform criteria for meeting the national objective to address the slum/blight issue.

Anticipated Costs and Benefits:

Costs: None. Benefits: Grantees will gain the flexibility to use CDBG funds to assist in redeveloping a larger universe of properties whose conditions negatively influence the condition of the surrounding area.

Risks:

This rule poses no threat to public safety, health or the environment. Any cleanup of contaminated sites will be governed by existing Federal and State standards for environmental remediation.

Timetable:

Action	Date	FR Cite
NPRM	12/C0/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Local

Agency Contact:

Steve Johnson
Director, State and Small Cities Division
Department of Housing and Urban Development
Office of Community Planning and Development
Phone: 202 708-1322

RIN: 2506–AB94

HUD—CPD

41. CLARIFICATION OF THE NATURE OF REQUIRED CDBG EXPENDITURE DOCUMENTATION (FR-4261)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 3535 (d); 42 USC 5300 to 5320

CFR Citation:

24 CFR 570.200; 24 CFR 570.502; 24 CFR 570.506

Legal Deadline:

None

Abstract:

This rule will clarify the level of expenditure documentation that is needed to meet the financial management requirement that grantees and subrecipients maintain adequate records to identify the use of funds provided for assisted activities.

Statement of Need:

Office of Inspector General (OIG) audits have found various cases in which grantees and subrecipients were not maintaining sufficient documentation to clearly identify the actual use of CDBG funds provided to assisted projects. This issue has particularly arisen in regard to special economic development projects where the funds are ultimately expended by for-profit businesses. Such findings increase the potential for misuse of CDBG funds.

Summary of the Legal Basis:

Section 104 of the Housing and Community Development Act of 1974 provides the statutory authority for this rule.

Alternatives:

None considered.

Anticipated Costs and Benefits:

Costs: None. Benefits: The public will be more assured that CDBG funds are used only for allowable purposes.

Risks:

This rule poses no threat to public safety, health or the environment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Local

Agency Contact:

Deirdre Maguire-Zinni
Director, Entitlement Communities Division
Department of Housing and Urban Development
Office of Community Planning and Development
Phone: 202 708-1577

RIN: 2506–AB95

HUD—Office of Fair Housing and Equal Opportunity (FHEO)

PROPOSED RULE STAGE

42. FAIR HOUSING PLANNING PERFORMANCE STANDARD (FR-4133)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 3535(d); 42 USC 3600 to 3620

CFR Citation:

24 CFR 91; 24 CFR 570

Legal Deadline:

None

Abstract:

This rule will assist communities in complying with the legal requirement to certify that they are affirmatively furthering fair housing. It will provide a standard for determining the accuracy of the certification so that communities will have a clear idea of what is expected of them and how HUD will review their certifications as well as measure performance for determining compliance with fair housing requirements.

Statement of Need:

Currently, the CDBG regulation provides for HUD review and oversight. However, the regulation does not contain a performance standard for grantee actions to affirmatively further fair housing. Without such a performance standard, HUD cannot adequately assess compliance with fair housing requirements. This revision to the existing CDBG regulation would provide a clearer standard for assessing performance of grantee actions to affirmatively further fair housing.

Furthermore, the Consolidated Plan regulations at 24 CFR part 91 require grantees to certify that they are affirmatively furthering fair housing. This will provide a standard for determining the accuracy of the certification.

Summary of the Legal Basis:

Section 104 of the Housing and Community Development Act of 1974,

HUD's regulations at 24 CFR part 570, subpart O, section 105 of the Cranston-Gonzalez National Affordable Housing Act and HUD's regulations at 24 CFR part 91 establish the legal basis for this rule.

Alternatives:

None considered.

Anticipated Costs and Benefits:

Costs: None.

Benefit: The benefit is that there will be more certainty for grantees about the standards that HUD will use to review their certifications and assess performance.

Risks:

This rule poses no threat to public safety, health, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Local

Agency Contact:

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Department of Housing and Urban Development
Office of Community Planning and Development
Phone: 202 708-1577

RIN: 2529–AA81

HUD—Office of Public and Indian Housing (PIH)

FINAL RULE STAGE

43. PUBLIC HOUSING ADMISSION AND OCCUPANCY REFORMS AND STREAMLINING (FR-4084)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 1437a; 42 USC 1437c; 42 USC 1437d; 42 USC 1437n; 42 USC 3535(d)

CFR Citation:

24 CFR 960; 24 CFR 966

Legal Deadline:

None

Abstract:

This rule streamlines admission and occupancy regulations, and implements relevant parts of the Housing Opportunity Program Extension Act of 1996.

Additional administrative flexibility is provided to housing authorities through this rule: HAs can verify information about an applicant's disability to determine appropriate accommodations, to verify information relative to qualification for a preference, and to determine deductions for calculating adjusted income. It clarifies that the HA makes the final determination of whether an applicant's failure to meet the HA's tenant selection criteria is outweighed with respect to these issues. The rule also provides explicit authorization for HAs to adopt income limits for continued occupancy and removes language that required a tenant's approval for direct payment of a utility reimbursement to a utility provider.

The Housing Opportunity Program Extension Act of 1996 amended the U.S. Housing Act of 1937 to make drug-related criminal activity a criterion for denial of admission to housing assisted under the 1937 Act and make drug use and/or alcohol abuse a criterion for eviction from housing assisted under the 1937 Act.

Statement of Need:

On March 4, 1995, President Clinton issued a memorandum to all Federal departments and agencies regarding regulatory reinvention. In response to this memorandum, HUD determined that the regulations under 24 CFR parts 960 and 966 could be improved and streamlined by eliminating unnecessary language and by simplifying remaining requirements. On March 28, 1996, the Housing Opportunity Program Extension Act of 1996 was passed.

Summary of the Legal Basis:

The Housing Opportunity Program Extension Act of 1996 and the U.S. Housing Act of 1937, as amended.

Alternatives:

None considered.

Anticipated Costs and Benefits:

This rule will have the benefit of increasing administrative flexibility for housing authorities. Additional costs will be negligible.

Risks:

This rule does not pose a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	05/09/97	62 FR 25728
NPRM Comment Period End	07/08/97	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Local

Agency Contact:

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Department of Housing and Urban Development
Office of Public and Indian Housing
Phone: 202 619-8201

RIN: 2577–AB67

HUD—PIH

44. ASSESSMENT OF THE REASONABLE REVITALIZATION POTENTIAL OF CERTAIN PUBLIC HOUSING REQUIRED BY LAW (FR-4120)

Priority:

Other Significant

Legal Authority:

PL 104-134 Sec. 202 of the OCRA of 1996

CFR Citation:

24 CFR 971

Legal Deadline:

None

Abstract:

Section 202 of the Omnibus Consolidated Rescissions Act (OCRA) of 1996 requires PHAs to identify certain distressed public housing developments which may be required to be converted to section 8 vouchers or certificates. The requirement covers developments that are on the same or contiguous sites, are more expensive

than tenant-based assistance, and cannot be revitalized through reasonable programs. To be subject to these requirements, the developments must have more than 300 dwelling units and have a vacancy rate of at least ten percent for dwelling units not in funded on-schedule modernization programs.

Statement of Need:

Based on public comments received, the rule provides further information on statutory provisions that are already in effect through a notice published on September 26, 1996, and an interim rule published on September 22, 1997.

Summary of the Legal Basis:

Section 202 of the Omnibus Consolidated Rescissions Act of 1996 requires PHAs to identify certain distressed public housing developments that will be required to be replaced with tenant-based assistance if they cannot be revitalized by any reasonable means.

Alternatives:

None considered.

Anticipated Costs and Benefits:

The rule will have the benefit of speeding and making more rational the reduction and restructuring of the public housing inventory. Additional costs to the PHA or to HUD would be negligible.

Risks:

The rule poses no risk to public health, safety, or to the environment. A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. To the extent the new rule hastened the reduction of non-viable units it would improve public health and safety.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/22/97	62 FR 49572
Interim Final Rule Effective	10/22/97	
Interim Final Rule Comment Period End	11/21/97	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Local

Agency Contact:

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Office of Policy, Program and Legislative Initiatives
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RIN: 2577–AB79

BILLING CODE 4210-01-F

DEPARTMENT OF THE INTERIOR (DOI)

Statement of Regulatory Priorities

The Department of the Interior (DOI) is the principal steward of natural resources for the American public and serves as trustee to Native Americans and Alaska Natives. In total the Department manages more than 450 million acres of Federal lands, approximately 3 billion acres of the Outer Continental Shelf, and more than 57,000 buildings. Also, DOI has a directorate responsible for activities concerning island territories under the jurisdiction of the United States. In carrying out its many responsiblities in conservation, land management, natural resource protection, and as trustee, the Department has increasingly embraced creative options to ensure the long-term viability of our resources and the environment in which they are found. The Department has used the same creative approach to maximize benefits to society and minimize negative effects.

DOI is also the steward of many of our Nation's cultural resources and serves as trustee to Native Americans and Alaska Natives.

Interior's bureaus and offices seek to ease the burdens imposed by regulations while increasing the protection of resources under their jurisdiction. Examples of this include:

- Establishing a community approach to maintaining the environmental systems which support native species. The expected result is a reduction in the rate by which individual species become threatened and endangered. This approach enlists the voluntary support of land owners to achieve environmental goals while potentially reducing the regulatory cost.
- Using performance-based regulations rather than process-based regulations. This gives local entities the option of using the most cost effective method to meet the spirit and letter of the law while providing the best result tailored to the specific instance and location.
- Incorporating scientific standards, where applicable into regulations.
- Continuing to reduce the number of regulations and converting those that remain to plain language. This will improve the public's ability to understand regulatory requirements and will result in improved compliance.

The Department's overall goal is to maintain or improve the quality of the environment while:

- Reducing the financial burden on the general public;
- Increasing the flexibility of the public to use the best means available to ensure that the laws are met; and
- Making regulations easy to understand and administer.

This approach to improving regulations will help DOI better execute its mission and meet the requirements of the eight bureaus and the following objectives:

- Conserve, protect, and enhance the Nation's national parks, wilderness, and fish and wildlife resources;
- Manage, develop, and protect the quality of water resources;
- Promote economic opportunity and improve the trust assets of Native Americans, Native American tribes, Alaska Natives, and people of the U.S. territorial governments; and
- Enhance America's ability to meet its needs for domestic energy and mineral resources.

Major Regulatory Areas

Among the Department's bureaus and offices, the Office of Surface Mining Reclamation and Enforcement (OSM) has the highest concentration of regulatory responsibilities. OSM, in partnership with the States and Indian tribes, has the responsibility for setting and enforcing environmental standards during coal mining and reclamation operations. OSM is considering an innovative approach to facilitate the reclamation of abandoned mine lands by allowing the party conducting the reclamation to offset the cost of reclamation through the sale of coal extracted as an incidental part of the reclamation project.

Other DOI bureaus rely on regulations to implement legislatively mandated programs by focusing on the management of natural resources and public or trust lands. Some of these regulatory activities include:

- Management of migratory birds and preservation of certain marine mammals and endangered species;
- Management of dedicated lands, such as national parks, wildlife refuges, and American Indian trust lands;
- Management of public lands open to multiple use;
- Leasing and oversight of development of Federal energy, minerals, and renewable resources;
- Management of revenues from American Indian and Federal minerals;
- Fulfillment of trust and other responsibilities pertaining to American Indian tribes;
- Natural resource damage assessments; and
- Management of financial and nonfinancial assistance programs.

Regulatory Policy

How DOI Regulatory Procedures Relate to the Administration's Regulatory Policies

Within the general requirements and guidance in Executive Orders 12866, 12612, and 12630, DOI's regulatory program seeks to:

- Fulfill all legal requirements as specified by statutes or court orders;
- Perform essential functions that cannot be handled by non-Federal entities;
- Minimize regulatory costs to society while maximizing societal benefits; and
- Operate programs openly, efficiently, and in cooperation with Federal and non-Federal entities.

DOI bureaus have taken the initiative in working with other Federal agencies, non-Federal government agencies, and public entities to make DOI regulations easier to comply with and understand. Because regulatory reform is a continuing process that requires the participation of all affected parties, DOI is continually enhancing its efforts to include affected entities in the decisionmaking process and to better coordinate the rulemaking process.

In order to facilitate better overall management and review of the regulatory process, DOI revised Part 318 of the Departmental Manual (318 DM), the Department's comprehensive and definitive guidance on promulgating regulations. Results have included:

- Increased awareness by the bureaus of responsibilities under the Small Business Regulatory Enforcement Fairness Act (SBREFA) and the incorporation of the requirements of SBREFA into new and updated rules and regulations;
- A Departmentwide effort to evaluate the economic impacts of rules and regulations that are planned; and
- Issuance of new guidance in the Departmental Manual to ensure the use of plain language in Government writing.

DOI is committed to improving the regulatory process through the use of plain English, and simplifying regulations has resulted in a major rewrite of the regulations for onshore oil and gas leasing and operations in an easily understandable form that: a) Puts previously published rules into one location in a logical sequence; b) eliminates duplication by consolidating existing regulations and onshore orders and national notices to lessees; c)

incorporates industry standards by reference; and d) implements performance standards in some of the operating regulations.

DOI's regulatory process ensures that bureaus responsible for regulations share ideas on how to reduce regulatory burden while meeting the requirements of the laws they enforce and improving their stewardship of the environment and resources under their purview.

Encouraging Responsible Management of the Nation's Resources

The Department's mission is to protect and provide access to our Nation's natural and cultural heritage and to honor our trust responsibilities to tribes. DOI is committed to this mission and to applying laws and regulations fairly and effectively. The Department's priorities are compliance, enforcement, prevention, solving problems, and protecting public health and safety. To this end, DOI bureaus encourage users of public resources to adopt long-term strategies designed to meet current needs while preserving resources for future generations.

An example of this is the "no suprises" policy of the U.S. Fish and Wildlife Service (FWS). This policy gives property owners an incentive to implement voluntary conservation measures for a proposed or candidate species, or a species likely to become a candidate or proposed in the near future. These property owners will receive assurances from FWS that additional conservation measures will not be required and additional land, water, or resource use restrictions will not be imposed should the species become listed in the future. This policy results in fewer fines, no "suprises" (in the form of unexpected fines) for conforming landowners, and better overall compliance with the Endangered Species Act.

Minimizing Regulatory Burdens

DOI is using the regulatory process to ease the burdens on various entities throughout the country. For instance, the Endangered Species Act (ESA) allows for the delisting of threatened and endangered species if they no longer need the protection of the ESA. DOI has identified approximately 40 species for which delisting or downlisting (reclassification from endangered to threatened) may be appropriate. In FY 99, DOI intends to delist the American peregrine falcon (due to species recovery) and the Dismal Swamp southeastern shrew (due to new information regarding the taxonomy and abundance of the species).

Experience has shown us that changing the planning process for land use and water development can reduce unnecessary delays and paperwork associated with agency decisionmaking. For some projects, an improved planning process has dramatically reduced the time required for paperwork.

We have attempted to use performance standards in a variety of regulations. These allow the affected entity to choose the most economical method to accomplish a goal provided it meets the requirements of the regulations. An example of this is Minerals Management Service's (MMS) proposed training rule, which will allow companies with operations in the Outer Continental Shelf (OCS) to select their own training courses or programs for employees. Currently MMS has a prescriptive program where employees working on the OCS must attend an MMS-certified school. This rule will put the responsibility on lessees and contractors to properly train the employees by any method they choose as long as the employees are competent. We anticipate that this will result in new and innovative training techniques and allow companies added flexibility in tailoring their training to employees' specific duties.

Encouraging Public Participation and Involvement in the Regulatory Procedure Process

One of the goals of Executive Order 12866 is to ensure that the public has adequate opportunities to participate in developing new regulations. Under this Administration, encouraging increased public participation in the regulatory process to make regulatory policies more responsive to our customers' needs is a priority.

The Department is reaching out to communities to seek their input on a variety of regulatory issues. For example, every year the FWS establishes migratory bird hunting seasons in partnership with "flyway councils," which are made up of State fish and wildlife agencies. As the process evolves each year, FWS holds a series of public meetings to give other interested parties, including hunters and other groups, adequate opportunity to participate in establishing the upcoming season's regulations.

Likewise, the Bureau of Land Management (BLM) uses Resource Advisory Councils (RACs) made up of affected parties to help prepare the regulations promulgated under the Rangeland Reform Act.

We also encourage public consultation in the regulatory process. For example:

- OSM is continuing its outreach to interested groups to improve the substance and quality of rules and, to the greatest extent possible, achieve a consensus on regulatory issues;
- The National Park Service (NPS) used negotiated rulemaking to amend its rules governing off-road vehicle use at Cape Cod National Seashore; and
- The Bureau of Indian Affairs is developing its roads program rule using the negotiated rulemaking process. Because of the importance of the roads program to the individual tribes and because of the varying needs of the tribal governments, the negotiated rulemaking process will result in a rule that better serves the diverse needs of the Native American community.

The Future of DOI

In compliance with the Government Performance and Results Act of 1993 (GPRA), DOI has developed a comprehensive agencywide strategic plan to prepare DOI for the 21st century. The strategic plan covers the period from 1997 through 2002. It provides employees and managers with clear goals and strategies to help the Department meet its mission and fulfill its commitment to the Nation. The strategic plan includes a departmental overview, goals, and initiatives for the indivdual bureaus. We believe that this plan must evolve in response to the changing natural and human environments. For this reason, DOI bureaus have already begun their strategic plans to respond to those changes and to prepare for others that may take place in the future.

A copy of DOI's strategic plan (including updates that have been made during FY 1998) can be seen on our web site at this address:

http://www.doi.gov/master2.html

Bureaus and Offices Within DOI

The following are brief descriptions of the regulatory functions of DOI's major regulatory bureaus and offices.

Office of the Secretary, Office of Environmental Policy and Compliance

The regulatory functions of the Office of Environmental Policy and Compliance (OEPC) stem from requirements under section 301(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). Section 301(c) requires the development of natural resource damage assessment rules and the biennial review and revision, as appropriate, of these rules. Rules have been promulgated for the optional use of natural resource trustees to assess compensation for damages to natural resources caused by hazardous substances. OEPC is overseeing the study and possible promulgation of additional rules pursuant to section 301(c)(2) and the review and possible revision of the existing rules in compliance with section 301(c)(3).

In undertaking DOI's responsibilities under section 301(c), OEPC is striving to meet three regulatory objectives: (a) That the minimum amount of regulation necessary be developed; (b) that the assessment process provide for tailoring to specific discharges or releases; and (c) that the process not be considered punitive, but rather a system to achieve fair and just compensation for injuries sustained.

Bureau of Indian Affairs

The philosophy of the Bureau of Indian Affairs (BIA) is to encourage the development and management of human and other resources among American Indians and Alaska Natives, to encourage tribal assumption of BIA programs, and to fulfill trust and other responsibilities of the U.S. Government. BIA regulatory actions serve to balance its dual role as: (a) Advocate in assisting tribes and encouraging their participation in BIA programs and (b) trustee protecting and/or enhancing American Indian trust resources.

Important BIA programs are promulgated through regulations, rather than informal guidelines, so that American Indians are aware of and have an opportunity to participate in the development of standards and procedures affecting them. BIA regulatory policies seek to accomplish the following: (a) Ensure consistent policies throughout American Indian country; (b) promote American Indian involvement in the operation, management, planning, and evaluation of BIA programs and services; (c) provide guidance to applicants for BIA services; and (d) govern the development of American Indian lands and provide for the protection of American Indian treaty and statutory rights.

BIA's regulatory program is designed (a) to promote American Indian self-determination, (b) to provide American Indians and Alaska Natives with high-quality education and tribal development opportunities, (c) to meet BIA's trust responsibilities, and (d) to meet the needs of tribes and their members.

Bureau of Land Management

The Bureau of Land Management manages about 268 million acres of land surface and about 570 million acres of mineral estate in the 17 coterminous western States and Alaska and the 31 States east of or adjoining the Mississippi River. These lands consist of extensive grasslands, forests, mountains, arctic tundra, and deserts. Resources on the lands include energy and minerals, timber, forage, wild horse and burro populations, habitat for fish and wildlife, wilderness areas, and archeological and cultural sites. BLM manages these lands and resources for multiple use and the sustained yield of renewable resources. Primary statutes under which the Agency must operate include: The Federal Land Policy and Management Act of 1976; the General Mining Law of 1872; the Mineral Leasing Act of 1920, as amended; the Recreation and Public Purposes Act; the Taylor Grazing Act; and the Wild, Free-Roaming Horses and Burros Act.

The regulatory program mirrors statutory responsibilities and Agency objectives. Agency objectives include:

- Providing for a wide variety of public uses without compromising the long-term health and diversity of the land and without sacrificing significant natural, cultural, and historical resource values;
- Understanding the arid, semi-arid, arctic, and other ecosystems we manage and committing to using the best scientific and technical information to make resource management decisions;
- Understanding the needs of the public that use BLM-managed lands and providing them with quality service;
- Committing to recovering a fair return for using publicly owned resources and avoiding the creation of long-term liabilities for American taxpayers; and
- Resolving problems and implementing decisions in cooperation with other agencies, States, tribal governments, and the public.

The regulatory program contains its own objectives. These include preparing regulations that:

- Are the product of coordination and consultation with all affected members of the public;
- Are understandable to the general public, especially those to whom they are directly applicable; and
- Are reviewed periodically to determine whether or not BLM still needs them and whether or not they need to be updated to reflect statutory and policy changes.

Minerals Management Service

The Minerals Management Service (MMS) has two major responsibilities: (1) Timely and accurate collecting, distributing, accounting for, and auditing of revenues owed by holders of Federal onshore, offshore, and tribal land mineral leases in a manner that meets or exceeds Federal financial integrity requirements and recipient expectations and (2) management of the resources of the Outer Continental Shelf in a manner that provides for safety, protection of the environment, and conservation of natural resources. These responsibilities are carried out under the provisions of the Federal Oil and Gas Royalty Management Act, the Minerals Leasing Act, the Outer Continental Shelf Lands Act, the Indian Mineral Leasing Act, and other related statutes.

The regulatory philosophy of MMS is to develop clear, enforceable rules that support the missions of each program. For the Offshore Program, MMS will issue final regulations implementing the Deep Water Royalty Relief Act. MMS will also publish a final rule to address financial responsibility under the Oil Pollution Act of 1990. MMS will continue to review rules and issue amendments in response to new technology and new industry practices.

MMS also plans to continue its review of existing regulations and to issue rules to refine the royalty management regulations in chapter II of 30 CFR. Revisions to the royalty management regulations cover oil and gas valuation of Federal and Indian leases. The Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 will require numerous additional changes to the royalty management regulations, including the delegation of royalty collection and related activities to States.

Office of Surface Mining Reclamation and Enforcement

The Office of Surface Mining Reclamation and Enforcement (OSM) was created by the Surface Mining Control and Reclamation Act of 1977 (SMCRA) to "strike a balance between protection of the environment and agricultural productivity and the Nation's need for coal as an essential source of energy."

The principal regulatory provisions contained in title V of SMCRA set minimum requirements for obtaining a

permit for surface coal mining operations, set standards for surface coal mining operations, require land reclamation once mining ends, and require rules and enforcement procedures to ensure that the standards are met. Under SMCRA, OSM serves as the primary enforcer of SMCRA until the States achieve "primacy"; that is, until they demonstrate that their regulatory programs meet all the specifications in SMCRA and have regulations consistent with those issued by OSM.

A primacy State takes over the permitting, inspection, and enforcement activities of the Federal Government. OSM then changes its role from regulating mining activities directly to overseeing and evaluating State programs. Today, 24 of the 27 key coal-producing States have primacy. In return for assuming primacy, States are entitled to regulatory grants and to grants for reclaiming abandoned mine lands. In addition, under cooperative agreements, some primacy States have agreed to regulate mining on Federal lands within their borders. Thus, OSM regulates mining directly only in nonprimacy States, on Federal lands in States where no cooperative agreements are in effect, and on American Indian lands.

SMCRA charges OSM with the responsibility of publishing rules as necessary to carry out the purposes of the Act. The most fundamental mechanism for ensuring that the purposes of SMCRA are achieved is the basic policy and guidance established through OSM's permanent regulatory program and related rulemakings. Its regulatory framework is developed, reviewed, and applied according to policy directives and legal requirements.

Litigation by the coal industry and environmental groups is responsible for some of the rules now being considered by OSM. Others are the result of efforts by OSM to address areas of concern that have arisen during the course of implementing OSM's regulatory program, and one is the result of legislation.

OSM has sought to develop an economical, safe, and environmentally sound program for the surface mining of coal by providing a stable and consistent regulatory framework.

At the same time, however, OSM has recognized the need (a) to respond to local conditions, (b) to provide flexibility to react to technological change, (c) to be sensitive to geographic diversity, and (d) to eliminate burdensome recordkeeping and reporting requirements that over time have proved unnecessary to ensure an effective regulatory program.

Major regulatory objectives regarding the mining of surface coal include:

- Continuing outreach activities with interested groups during the rulemaking process to increase the quality of the rulemaking process, improve the substance of the rules, and, to the greatest extent possible, reflect consensus on regulatory issues;
- Minimizing the recordkeeping and regulatory compliance burden during rulemaking; and
- Publishing final rules to implement the Energy Policy Act of 1992, Public Law 102-486.

U.S. Fish and Wildlife Service

The U.S. Fish and Wildlife Service has three basic mission objectives:

- To assist in the development and application of an environmental stewardship ethic based on ecological principles and scientific knowledge of fish and wildlife;
- To guide the conservation, development, and management of the Nation's fish and wildlife resources; and
- To administer a national program to provide the public with opportunities to understand, appreciate, and wisely use fish and wildlife resources.

These objectives are met through the following regulatory programs:

- Management of Service lands, primarily national wildlife refuges;
- Management of migratory bird resources;
- Conservation of certain marine mammals and endangered species;
- Allowance of certain activities that would otherwise be prohibited by law; and
- Administration of grant and assistance programs.

The Service maintains a comprehensive set of regulations in the first category—those that govern public access, use, and recreation on more than 500 national wildlife refuges and in national fish hatcheries. Such uses are authorized only if they are compatible with the purpose for which each area was established, are consistent with State and local laws where practicable, and afford the public economic and recreational opportunity as appropriate. These regulations are developed and continually reviewed for improvements, with a substantial amount of public input, and are typically of limited geographical interest.

Management of migratory bird resources is covered by the second category of regulations, required by various international treaties. Annually, the Department issues a regulation on migratory bird hunting seasons and bag limits, developed in partnership with the States, American Indian tribal governments, and the Canadian Wildlife Service. Although issued annually, regulations such as these have been in existence for more than 50 years and have not significantly changed over that period of time. The regulations are necessary to permit migratory bird hunting that would otherwise be prohibited. Although recent declines in waterfowl populations have reduced the numbers of such birds that may be harvested, the regulations generally do not change significantly from one year to another.

The third category includes regulations to fulfill the statutory obligation to identify and conserve species faced with extinction. The basis for determining endangered species is limited by law to biological considerations, although priorities for allocating Service resources are established consistent with the President's policies (by directing the Service's efforts to species most threatened and those whose protection is of the most benefit to the natural resource). Included in this program are regulations to enhance the conservation of listed species and of marine mammals for which DOI has management responsibility. This program also contains regulations that provide guidance to other Federal agencies to assist them in complying with section 7 of the Endangered Species Act, which requires them not to conduct activities that would jeopardize the existence of endangered species or adversely modify critical habitat of listed species. In designating critical habitat, the Service considers biological information and economic and other impacts of the designation. Areas may be excluded from the designation where the benefits of exclusion outweigh the benefits of inclusion, provided that the exclusion will not result in the extinction of the species.

The fourth category—the Service's regulatory program that permits activities otherwise prohibited by law—entails regulating possession, sale or trade, scientific research, and educational activities involving fish and wildlife and their parts or products. Generally, these regulations are supplemental to State protective regulations and cover activities that involve interstate or foreign commerce, which must comply with various laws and international obligations. The Service is continually working with foreign and State governments, the industry and individuals affected, and other interested parties to minimize the burdens associated with Service-related activities. The easing of such burdens through regulatory actions continues to balance the benefits that may be made available with the necessity to ensure adequate protection to the natural resource. Most of the regulatory activities are permissive in nature, and the concerns of the public generally center on technical issues.

The last category—the Service's assistance programs—includes a limited number of regulations necessary to ensure that assistance recipients comply with applicable laws and Office of Management and Budget (OMB) Circulars. Regulations in this program help the affected parties to obtain assistance and to comply with requirements imposed by Congress and OMB.

National Park Sevice

The National Park Service is dedicated to conserving the natural and cultural resources and values of the National Park System for the enjoyment, education, and inspiration of this and future generations. The Service is also responsible for managing a great variety of national and international programs designed to help extend the benefits of natural and cultural resource conservation and outdoor recreation throughout this country and the world.

There are more than 375 units in the National Park System, including national parks and monuments; scenic parkways, preserves, trails, riverways, seashores, lakeshores, and recreation areas; and historic sites associated with important movements, events, and personalities of the American past.

The National Park Service develops and implements park management plans and staffs the areas under its administration. It relates the natural values and historical significance of these areas to the public through talks, tours, films, exhibits, and other interpretive media. It operates campgrounds and other visitor facilities and provides, usually through concessions, lodging, food, and transportation services in many areas.

The National Park Service also administers the following programs: The State portion of the Land and Water Conservation Fund, Nationwide Outdoor Recreation coordination and information and State comprehensive outdoor recreation planning, planning and technical assistance for the National Wild and Scenic Rivers System, and the National Trails System, natural area programs, the National Register of Historic Places, national historic landmarks, historic preservation, technical preservation services, Historic American Buildings survey, Historic American Engineering Record, and interagency archeological services.

The National Park Service maintains a set of regulations that help manage public use, access, and recreation in units of the National Park System. The Service provides visitor and resource protection to ensure public safety and prevent derogation of resources. The regulatory program develops and reviews regulations, maintaining consistency with State and local laws, to allow such uses only if they are compatible with the purpose for which each area was established.

Bureau of Reclamation

The Bureau of Reclamation's mission is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public. To accomplish this mission, Reclamation applies management, engineering, and scientific skills that result in effective and environmentally sensitive solutions.

Reclamation projects provide for some or all of the following concurrent purposes: Irrigation water service, municipal and industrial water supply, hydroelectric power generation, water quality improvement, groundwater management, fish and wildlife enhancement, outdoor recreation, flood control, navigation, river regulation and control, system optimization, and related uses.

The Bureau's regulatory program is designed to ensure that its mission is carried out expeditiously and efficiently.

DOI—Bureau of Indian Affairs (BIA)

FINAL RULE STAGE

45. TRIBAL SELF-GOVERNANCE

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

PL 103-413

CFR Citation:

25 CFR 1000

Legal Deadline:

None

Abstract:

This rule will clarify how the Department and tribes will carry out their respective responsibilities under the Tribal Self-Governance Act of 1994. At the request of a majority of Indian tribes with self-governance agreements, the Secretary has established a negotiated rulemaking committee to negotiate and promulgate such regulations as are necessary to carry out the Act.

Statement of Need:

The Department of the Interior (DOI) needs to clarify how it and the tribes will carry out their respective responsibilities under the Tribal Self-Governance Act of 1994. Provisions are needed to clarify or establish:

- Procedures for conducting negotiations, defining stable base budgets, time lines for the transfer of funds for tribes, and the amount of residual funds to be retained;
- The processes for accepting new tribes into the self-governance program planning and negotiation process, for awarding planning and negotiation grants, for approving waiver requests, and for determining and negotiating tribal shares of BIA and eligible non-BIA programs;
- Mechanisms for reviewing tribal trust functions;
- Retrocession procedures;
- Procedures for ensuring that proper health and safety standards exist in construction projects and are included in annual funding agreements;
- Reporting requirements of tribes and DOI; and
- A mechanism for negotiating the inclusion of specific provisions of Federal procurement regulations into annual funding agreements.

DOI expects that the rulemaking process will identify other components of the program that require clarification.

Summary of the Legal Basis:

The Tribal Self-Governance Act of 1994 requires DOI, upon request of a majority of self-governance tribes, to negotiate and promulgate regulations to carry out the tribal self-governance program. The Act calls for a negotiated rulemaking committee under 5 USC

565, composed of Federal and tribal representatives, with a majority of the tribal representatives from self-governance tribes. The Act also authorizes DOI to adapt negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and the Indian tribes. On November 1, 1994, a majority of self-governance tribes wrote the Secretary requesting the immediate initiation of negotiated rulemaking.

Alternatives:

There is a range of alternatives for each of the program components, from maintaining discretion and flexibility at the local level to standardizing requirements and procedures on the national level.

Anticipated Costs and Benefits:

The rule is expected to promote greater efficiency of Federal and tribal government operations. It is also expected to reduce opportunity costs resulting from untimely Federal actions. The rule will improve the ability of Federal and tribal governments to plan their self-governance activities. This should lead to greater stability of operations. Clarifying procedures for conducting operations will improve the ability of governments to plan for the time and cost of conducting negotiations. Clarifying time lines for transfer of base funding and other funds to tribes will improve planning and reduce the opportunity costs resulting from the untimely transfer of funds under the self-governance program. Budget and operation planning will be improved by specifying the process for accepting additional tribes into the self-governance program planning and negotiating process as well as the process for awarding planning and negotiation grants. Since retrocession procedures will be specified, governments will be better able to plan for retrocessions. Standardization of tribal shares will allow the self-governance program to comply with statutory requirements not to limit or reduce the services, contracts, or funds that any other Indian tribe or tribal organization is eligible to receive.

Risks:

By removing uncertainty and promoting a more stable framework for the program, the rule will greatly lower the risk of not achieving the stated goals of tribal self-governance. It will change the role of Federal agencies that serve tribes by shifting their responsibilities from day-to-day management of tribal affairs to those concerned with protecting and advocating tribal interests.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish a Negotiated Rulemaking Committee	02/15/95	60 FR 8806
NPRM	02/12/98	63 FR 7202
Final Action	12/00/98	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Governmental Jurisdictions

Government Levels Affected:

Tribal, Federal

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RIN: 1076–AD20

DOI—Minerals Management Service (MMS)

FINAL RULE STAGE

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46. VALUATION OF OIL FROM FEDERAL MINERAL LEASES

Priority:

Other Significant

Legal Authority:

30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1701 et seq; 30 USC 1001 et seq; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation:

30 CFR 206

Legal Deadline:

None

Abstract:

This rule would modify the valuation procedures for both arm's-length and non-arm's-length crude oil transactions, establish a new MMS form for collecting value differential data, and amend the valuation procedures for the sale of Federal royalty oil. These changes would decrease reliance on oil posted prices and assign a value to crude oil that better reflects market value.

Statement of Need:

Current oil valuation regulations rely primarily on posted prices and prices under arm's-length sales. Recently, posted prices have become increasingly suspect as a fair measure of market value. This rulemaking would modify valuation regulations to eliminate any direct reliance on posted prices.

Summary of the Legal Basis:

The primary legal basis for this rulemaking is the Federal Oil and Gas Royalty Management Act of 1982, as amended, which defines the Secretary of the Interior's authority to implement and maintain a royalty management system for Federal oil and gas leases.

Alternatives:

MMS considered a range of valuation alternatives such as making minor adjustments to the current gross proceeds valuation method using futures prices adjusted for location and quality, using spot prices tabulated by various publications, using the P-plus market, and taking oil in-kind. MMS chose to rely primarily on arm's-length sales prices and spot market prices as market value indicators. To account for regional and geographic differences this rule establishes different valuation procedures for each of three regions: California and Alaska, the Rocky Mountain region and the rest of the country.

Anticipated Costs and Benefits:

MMS estimates compliance with this rulemaking would cost the oil and gas industry approximately $160,000 in the first year. Annual burden will decline as industry becomes more familiar with the reporting requirements. The benefits of this rulemaking would be an estimated $66 million increase in annual royalties collected on oil produced from Federal leases. Additional benefits would include simplification and increased certainty of oil pricing, reduced audit efforts, and reduced valuation determinations. These changes should also reduce litigation.

Risks:

The risk of not modifying current oil valuation regulations is that royalty recipients such as State and local governments and the U.S. Treasury would not receive royalties based on the true market value of oil produced from Federal leases.

Timetable:

Action	Date	FR Cite
ANPRM	12/20/95	60 FR 65610
ANPRM Comment Period End	03/19/96	
NPRM	01/24/97	62 FR 3742
Comment Period Extended	02/18/97	62 FR 7189
NPRM Comment Period Extended to	02/24/97	62 FR 19966
NPRM Comment Period End	03/25/97	
Supplemental NPRM	07/03/97	62 FR 36030
Comment Period End	08/04/97	
Comment Period Extended	09/22/97	62 FR 49460
Comment Period Extended	10/23/97	62 FR 49460
Comment Period Extended	10/23/97	62 FR 55198
Supplementary NPRM	02/06/98	63 FR 6113
Comment Period Extended	03/24/98	63 FR 14057
Comment Period Extended	07/08/98	63 FR 36868
Supplementary Proposed Rule	07/16/98	63 FR 38355
Comment Period Extended	07/27/98	63 FR 40073
NPRM Comment Period End	07/31/98	
Final Action	11/00/98	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State

Agency Contact:

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DOI—MMS

47. VALUATION OF OIL FROM INDIAN LEASES

Priority:

Other Significant. Major under 5 USC 801.

Legal Authority:

25 USC 396 et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq

CFR Citation:

30 CFR 206

Legal Deadline:

None

Abstract:

This rule would modify the regulations that establish royalty value for oil produced from Indian leases and create a new form for collecting value and value differential data. These changes would decrease reliance on oil posted prices and make Indian oil royalty valuation more consistent with the terms of Indian leases.

Statement of Need:

Current oil valuation regulations rely primarily on posted prices and prices under arm's-length sales. Recently, posted prices have become increasingly suspect as a fair measure of market value. This rulemaking would modify valuation regulations to place substantial reliance on the highest of crude oil futures prices, major portion prices, or gross proceeds. It would eliminate any direct reliance on posted prices. This rulemaking would also add more certainty to valuation of oil produced from Indian leases.

Summary of the Legal Basis:

The primary legal basis for this rulemaking is the Federal Oil and Gas Royalty Management Act of 1982, as amended, which defines the Secretary of the Interior's (1) authority to implement and maintain a royalty management system for oil and gas leases on Indian lands, and (2) trust responsibility to administer Indian oil and gas resources.

Alternatives:

MMS considered a range of valuation alternatives. Among these were: (1) Making minor adjustments to the current gross proceeds valuation method using spot prices; (2) using index-based prices with fixed adjustments for production from specific geographic zones; (3) relying on some type of field pricing other than posted prices; and (4) taking oil in-kind.

Anticipated Costs and Benefits:

MMS estimates compliance with this rulemaking would cost the oil and gas industry approximately $46,000 annually. Additional costs to industry and MMS would be up-front computer programming and other administrative costs associated with processing the new form. The benefits of this rulemaking would be an estimated $3.6 million increase in annual royalties collected on oil produced from Indian leases. Additional benefits would include simplification and increased certainty of oil pricing, reduced audit efforts, and reduced valuation determinations and associated litigation.

Risks:

The risk of not modifying current oil valuation regulations is that Indian recipients may not receive royalties based on the highest paid price or offered for the major portion of oil produced--a common requirement in most Indian leases. These modifications ensure that the Department fulfills its trust responsibilities for administering Indian oil and gas leases under governing mineral leasing laws, treaties, and lease terms.

Timetable:

Action	Date	FR Cite
ANPRM	12/20/95	60 FR 65610
ANPRM Comment Period End	03/19/96	
NPRM	02/12/98	63 FR 7089
NPRM Comment Period Extended	04/09/98	63 FR 17349
NPRM Comment Period End	05/13/98	
Final Action	01/00/99	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

Tribal

Agency Contact:

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DOI—Bureau of Land Management (BLM)

PROPOSED RULE STAGE

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48. OIL AND GAS LEASING AND OPERATIONS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will

revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

30 USC 181 et seq

CFR Citation:

43 CFR 3100 to 3160

Legal Deadline:

None

Abstract:

This rule will revise BLM's current Federal oil and gas leasing and operations regulations, except those concerning drainage (section 3100.2-2), combined hydrocarbon leasing (part 3140), and oil and gas leasing in the National Petroleum Reserve--Alaska (part 3130), to: (1) use performance standards in certain places instead of prescriptive requirements, to allow more flexibility for operators and protect the environment and Federal royalty interests; (2) cite industry standards and incorporate them by reference rather than repeating those standards in the rule itself; (3) incorporate the requirements of the Onshore Oil and Gas Orders and national notices to lessees into the regulations to eliminate their overlap with the current regulations; (4) revise and replace BLM's current unitization regulations with a more flexible unit agreement process; and (5) eliminate redundancies, clarify procedures and regulatory requirements and streamline procedures.

Statement of Need:

This rulemaking complies with the requirements of the Government Performance and Results Act, the recommendations of the National Performance Review, and other initiatives. It will be presented in a user-friendly format, presented by process rather than than by subject matter.

Summary of the Legal Basis:

The Mineral Leasing Act gives BLM the authority to issue and administer the terms of oil and gas leases on Federal lands, to conduct inspections of drilling operations and to promulgate and enforce regulations pertaining to oil and gas leasing and operations. BLM is the only Federal agency with authority to issue leases for publicly owned oil and gas resources.

Alternatives:

The only alternative to the proposed regulations would be to continue to operate under the existing regulations. These regulations are not performance-based and are at times ambiguous and hard to understand. Further, the important information found in Onshore Operating Orders is published separately from the regulations and at irregular intervals. The proposed rule is preferable.

Anticipated Costs and Benefits:

BLM anticipates the following benefits: (1) more clearly written rules will be better understood by both oil and gas lessees and operators and members of the general public; (2) performance standards, rather than prescriptive requirements, will allow lessees and operators and BLM greater flexibility to deal with unique geological or engineering circumstances within the standards set by the rule; and (3) streamlining and clarifying procedures will result in better customer service and decreased time and money for both BLM and the user public.

Risks:

The public may misunderstand one or more performance standards. BLM will publish user guides that explain in detail the standards and will provide examples of how operators might meet specific standards.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Local, Federal

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DOI—BLM

49. SURFACE MANAGEMENT (LOCATABLE MINERALS)

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

18 USC 1001; 30 USC 22; 30 USC 42; 30 USC 612; 43 USC 1061 et seq; 18 USC 3571 et seq

CFR Citation:

43 CFR 3809

Legal Deadline:

None

Abstract:

The proposed rule would: (1) redefine "unnecessary and undue degradation" to require the use of the "best available technology and practices" or other technology-based standards during the mining of locatable minerals and during the reclamation of mined lands, (2) incorporate performance standards for locatable mineral exploration and development, and (3) treat mining operations involving disturbance to 5 acres or less in a more stringent fashion.

Statement of Need:

Current locatable mineral mining regulations provide insufficient environmental protection and insufficient enforcement authority for BLM to regulate mining activities which disturb 5 acres or less of public lands. The proposed regulations would strengthen environmental protection and would increase BLM's oversight of mining operations on 5 acres or less of public lands.

Summary of the Legal Basis:

Section 302(b) of the Federal Land Policy and Management Act gives the Secretary of the Interior or his or her delegated representative the authority to regulate the use, occupancy, and development of public lands. Although the Secretary may not impair the rights of mining claimants by regulating these activities, he or she may take any action necessary to prevent the unnecessary and undue degradation of the public lands.

Alternatives:

The proposed rule could consider three alternatives for increasing oversight on mining activities which disturb 5 acres or less of public lands: (1) repeal the current notice provision and treat these small operations like large ones; (2) narrow the scope of the notice exception so that it does not apply in areas of environmental sensitivity; and (3) better protect the environment against abuse by measures such as requiring more information from operators, giving BLM a longer time to review the notices, and imposing greater penalties for not meeting notice requirements.

Anticipated Costs and Benefits:

A cost-benefit analysis has not yet been prepared. On balance the general public is expected to benefit by decreasing the public health and safety costs associated with the clean-up of hazardous and toxic substances generated by the mining of various locatable minerals (acid, draining, etc.). There may or may not be increased costs to operators on mining claims from their exploration, development, and reclamation activities, if the surface management regulations require using the best available technology in exploration, mining, and reclamation activities.

Risks:

Claimants unable to comply with increased mining costs could cease operations and go out of business. Some portion of the mining industry could cease exploration and mining operations in the United States and begin or increase mining operations in other countries whose policies are less stringent.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

State, Local, Federal

Agency Contact:

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BILLING CODE 4310-RK-F

DEPARTMENT OF JUSTICE (DOJ)

Statement of Regulatory Priorities

The Department of Justice is not a major regulatory agency, and it carries out its vital investigative, prosecutorial, and other law enforcement activities principally through means other than the regulatory process. Even so, the Department does have significant responsibilities for implementing the Americans with Disabilities Act (ADA), as well as the immigration laws, including the Immigration Reform and Control Act of 1986 and the Immigration Act of 1990. The Department's key regulatory goals and initiatives are set forth in detail below.

The Department has worked actively to implement the general regulatory principles of Executive Order 12866. Relatively few of the Department's rules are significant regulatory actions requiring review by the Office of Management and Budget (OMB) under the Executive order. Accordingly, the orientation of the OMB review process to focus on significant rules has required the Department to increase its own efforts to ensure that all of its regulations are carefully reviewed for consistency with the Administration's regulatory principles, including the large majority of rules that are not reviewed directly by OMB as significant regulatory actions.

Pursuant to section 4(c) of Executive Order 12866, the Department of Justice provides the following statement of regulatory priorities, focusing in particular on four regulatory initiatives in the areas of civil rights and immigration.

In addition to the specific initiatives set forth below, several other components of the Department carry out important responsibilities through the regulatory process. Although their regulatory efforts are not singled out for specific attention in this regulatory plan, those components carry out key roles in implementing the Department's law enforcement priorities. In particular, the Drug Enforcement Administration (DEA) is responsible for controlling abuse of narcotics and dangerous drugs by restricting the aggregate supply of those drugs. DEA accomplishes its objectives through coordination with State, local, and other Federal officials in drug enforcement activities, development and maintenance of drug intelligence systems, regulation of legitimate controlled substances, and enforcement coordination and intelligence-gathering activities with foreign government agencies. DEA has various regulatory actions under development relating to the diversion control requirements and to the requirements of the Comprehensive Methamphetamine Control Act of 1996 which regulates certain drug products that are being diverted for the production of methamphetamine.

Also, on March 20, 1997, the Federal Bureau of Investigation promulgated final cost recovery regulations under the Communications Assistance to Law Enforcement Act of 1994 (CALEA). Congress enacted CALEA to address the recent and continuing advances in telecommunications technology, which have impaired and, in some instances, precluded law enforcement agencies from fully conducting various types of court-authorized electronic surveillance. The Attorney General is authorized to reimburse carriers for all of the reasonable costs directly associated with the modifications they perform on equipment, facilities, and services deployed on or before January 1, 1995. These regulations provide the cost accounting standards for reimbursements.

In response to public comments during the cost recovery rulemaking, the FBI has published on April 20, 1998, a proposed rule defining the terms "significant upgrade" and "major modification." The FBI is considering the comments it has received and anticipates publishing a final rule in the first calendar quarter of 1999. On March 12, 1998, the FBI, on behalf of law enforcement, published a final Notice of Capacity (following two previously published notices on the same subject) informing telecommunications carriers offering local exchange services and certain commercial mobile radio services (specifically cellular service and broadband PCS) of the estimated actual and maximum number of simultaneous interceptions that law enforcement might conduct on or after specified dates. Later this year, the FBI will publish a Notice of Inquiry (NOI) soliciting information and suggestions from interested parties for developing reasonable methodologies for characterizing the capacity requirements for telecommunications services other than those covered by the March 12, 1998, final notice. Comments received on this NOI will assist the FBI in developing future Notice(s) of Capacity requirements for these other services, as the FBI is obligated to do by CALEA.

Civil Rights

The Department and its Civil Rights Division are deeply committed to a rigorous and revitalized approach to the enforcement of this Nation's civil rights laws. In keeping with that commitment, the Division will be reviewing, updating, and improving its civil rights regulations; implementing the Americans with Disabilities Act of 1990 (ADA); and promulgating regulations implementing the prohibition against sex discrimination in federally assisted education programs and activities that is contained in title IX of the Education Amendments of 1972. The Department's regulatory plan has two civil rights initiatives.

The Department is planning to make revisions in its regulations implementing titles II and III of the ADA to amend the ADA Standards for Accessible Design to be consistent with the revised accessibility guidelines for State and local facilities and children's facilities that have been developed by the Architectural and Transportation Barriers Compliance Board (Access Board) and to make conforming changes in the Department's rules. Title II of the ADA prohibits discrimination on the basis of disability by public entities and title III prohibits such discrimination by places of public accommodation and requires accessible design and construction of places of public accommodation and commercial facilities. The Access Board's new accessibility guidelines for State and local facilities and children's facilities are the subject of related, pending rulemakings that are expected to be completed during fiscal year 1999. These rulemakings have been the subject of considerable scrutiny through the Board's regulatory process. The Department of Justice, which is required by statute to promulgate standards that are consistent with the guidelines developed by the Access Board, has proposed to incorporate them in the Department's regulations.

These amendments to the ADA regulations are an important step forward in fulfilling the promise of the ADA in ushering in a new era of opportunity and dignity for the many millions of Americans with disabilities. These regulations will open doors that have shut out people with disabilities in the past.

In addition, the Department will be promulgating regulations implementing the prohibition against sex discrimination in federally assisted education programs and activities that is contained in title IX of the Education Amendments of 1972. The Department will be issuing this regulation as part of a joint rulemaking by several Federal agencies in the coming year.

The Department's promulgation of a regulation implementing title IX will provide guidance to its recipients who administer education programs or activities. Since all departments and agencies should interpret title IX consistently, it is important that they all be governed by similar regulatory standards. The Department's regulation will closely follow that of the Department of Education, which funds most educational institutions covered by title IX. A regulation is essential for adequate enforcement of title IX because a regulation contains administrative requirements (such as promulgation of grievance procedures, designation of a coordinator, and processing of complaints), as well as essential statutory interpretations.

Immigration

The Immigration and Naturalization Service (INS) is responsible for facilitating the entry of persons legally admissible as visitors or as immigrants to the United States, for preventing unlawful entry or receipt of immigration benefits by those who are not entitled to receive them, and for apprehending or removing those aliens who enter or remain illegally in the United States. Though many of the Administration's goals for more effective immigration process flow from either new statutory authority or increased resources, the regulatory process is a vital aspect of carrying out the goals of the immigration laws.

Certainly, one of the regulatory challenges facing the Department of Justice is to improve the effectiveness of those regulatory efforts. Commissioner Meissner established three fundamental goals at the time of her confirmation: To increase the professionalism of the Service, to provide immigration control with compassion, and to build the Service's role in immigration policy leadership and communication. The regulatory priorities for the Service follow those priorities, though other desired improvements may require legislative action. Two INS initiatives are included in this regulatory plan.

First, the Service will publish a proposed rule to implement the new grounds of inadmissibility and their waivers, especially those established under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). This regulation will clarify the interplay between the new grounds of inadmissibility and existing law and will set forth changes in procedures and policies. Second is the Service's ongoing effort to facilitate the U.S. business community's ability to comply with the employer sanctions provisions of the Immigration Control and Reform Act.

The Service anticipates additional progress in its efforts to simplify the employers' compliance with employment verification (Form I-9) requirements of the Act. The Service published a proposed rule on February 2, 1998. This proposal reflected numerous changes stemming from IIRIRA and from a comprehensive review of the 10-year-old verification regulations, as required by the Regulatory Flexibility Act. The result was a comprehensive overhaul of the regulations. The Service adopted a "plain language" approach and simplified the structure of the regulation. Both steps were well received by the public. In addition, the list of documents acceptable for employment verification was shortened, and several other requirements were clarified. The Service received thoughtful comments from the public on the proposal. Those are now being reviewed, and the Service anticipates publishing a final rule during the coming fiscal year.

DOJ—Civil Rights Division (CRT)

PROPOSED RULE STAGE

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50. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES—IMPLEMENTATION OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Priority:

Other Significant

Legal Authority:

20 USC 1682 et seq

CFR Citation:

28 CFR 54 (New)

Legal Deadline:

None

Abstract:

On June 17, 1980, the Department published a proposed regulation to implement the requirements of title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of an individual's sex in federally assisted educational programs. That regulation was never issued in final form. As a result of subsequent statutory amendments, it is necessary to revise the prior proposed title IX regulation and begin a new rulemaking process. The Department's regulation will be published as a common rule with other agencies that need title IX regulations.

Statement of Need:

Title IX directs each department and agency that provides Federal financial assistance to effectuate its provisions by issuing rules, regulations, or orders of general applicability, 20 U.S.C. 1682. The Department must issue a title IX regulation because it funds many educational programs. Since all departments and agencies should interpret title IX consistently, it is important that they all be governed by similar regulatory standards. The Department's regulation will closely follow that of the Department of Education, which funds most educational institutions covered by title IX. A regulation is essential for adequate enforcement of title IX because a regulation contains administrative requirements (such as promulgation of grievance procedures, designation of a coordinator, and processing of complaints) as well as essential statutory interpretations.

Summary of the Legal Basis:

Title IX specifically authorized the promulgation of regulations to effectuate the statute, 20 U.S.C. 1682.

Alternatives:

Because title IX requires an agency (such as the Department of Justice) that funds educational programs to issue an implementing regulation, issuance of a title IX regulation is mandatory. With respect to the contents of a title IX regulation, the Department will consider all comments received during the public comment period before issuing a final regulation.

Anticipated Costs and Benefits:

In order to carry out this Administration's commitment to equal educational opportunity for women, it is essential that the Department of Justice issue its own regulation implementing title IX. Currently, the Department has no regulation in place to provide guidance to recipients on compliance or identify formal procedures for addressing complaints of sex discrimination in funded programs. In providing Federal financial

assistance to educational programs, the Department and its recipients have been subject to the requirements of title IX since it was enacted in 1972. Therefore, promulgating this regulation should not impose any new costs upon recipients of Federal financial assistance.

Risks:

Without a regulation, individuals who are granted protection from discrimination on the basis of sex will not have their rights protected in the Department's programs to the same extent as if they participated in programs funded by agencies with title IX regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Local

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DOJ—CRT

FINAL RULE STAGE

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51. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES; PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES; ACCESSIBILITY STANDARDS

Priority:

Other Significant

Legal Authority:

42 USC 12134; 42 USC 12186; 5 USC 301; 28 USC 509; 28 USC 510; PL 101-336

CFR Citation:

28 CFR 35; 28 CFR 36; 28 CFR 38

Legal Deadline:

None

Abstract:

On July 26, 1991, the Department published its final rules implementing titles II and III of the Americans with Disabilities Act (ADA), which prohibits discrimination on the basis of disability by public entities (title II) and in places of public accommodation and commercial facilities (title III). Those regulations included accessibility guidelines required for facilities covered by title III -- the ADA Standards for Accessible Design (ADA Standards) -- but did not specifically include guidelines for facilities covered by title II, such as courthouses or prisons. Title II entities now have the option of using the ADA Standards (without certain exceptions applicable only to title III facilities) or another existing standard, the Uniform Federal Accessibility Standards.

The final rule will amend titles II and III to adopt a revised version of the ADA Standards, which incorporates new guidelines for facilities typically covered by title II. The new guidelines were issued as the interim final ADA Accessibility Guidelines (ADAAG) by the Architectural and Transportation Barriers Compliance Board (Access Board) and were published on the same day as the Department's proposed rule.

Statement of Need:

Section 504 of the ADA requires the Access Board to issue supplemental minimum guidelines and requirements for accessible design of buildings and facilities subject to the ADA, including titles II and III. Sections 204(c) and 306(c) of the ADA provide that the Attorney General shall promulgate regulations implementing titles II and III that are consistent with the Access Board's ADA guidelines. Because the Department of Justice is required by statute to promulgate regulations that do not go below the Access Board's minimum guidelines, and because this rule will adopt standards that are consistent with the guidelines issued by the Access Board, as also required by statute, this rule is required by statute.

Summary of the Legal Basis:

The summary of the legal basis of authority for this regulation is set forth above in the Legal Authority and in the Statement of Need.

Alternatives:

The Department is required by the ADA to issue this regulation as described in the Statement of Need above. All comments (including those that suggest alternatives to the current proposed guidelines) received by the Department on the proposed rule and by the Access Board on its current interim rule and its guidelines published December 21, 1992, have been thoroughly analyzed and considered by the Department.

Anticipated Costs and Benefits:

The Clinton Administration is deeply committed to ensuring that the goals of the ADA are met. Promulgating this amendment to the Department's ADA regulations will ensure that entities subject to the ADA will have one comprehensive regulation to follow. Currently, entities subject to title II of the ADA (State and local governments) have a choice between following the Department's ADA standards for title III, which were adopted for places of public accommodation and commercial facilities and which do not contain standards for common State and local government buildings (such as courthouses and prisons), or the Uniform Federal Accessibility Standards (UFAS). By developing one comprehensive standard, the Department will eliminate the confusion that arises when governments try to mesh two different standards. As a result, the overarching goal of improving access to the built environment to persons with disabilities will be better served.

The Access Board has analyzed the impact of applying its proposed amendments to ADAAG to entities covered by titles II and III of the ADA and has determined that they are a significant regulatory action for purposes of Executive Order 12866. The Access Board has prepared a Regulatory Assessment, which includes a cost impact analysis for certain accessibility elements and a discussion of the regulatory alternatives considered.

The Access Board's proposed rule contained provisions that would have had a significant economic impact on a substantial number of small entities. Therefore, the Board included a regulatory flexibility analysis in its regulatory assessment. Because of significant changes that were made to the final rule pursuant to public comment, the final rule published by the Access Board does not have a significant economic impact on small entities. The Access Board's determination will apply as well to the revised ADA Standards published by the Department. The Department's proposed procedural amendments will not have a significant impact on small entities.

The Access Board has made every effort to lessen the impact of its proposed guidelines on State and local governments, but recognizes that the guidelines will have some federalism impacts. These impacts are discussed in the Access Board's Regulatory Assessment, which also applies to the Department's proposed rule.

Risks:

Without this amendment to the Department's ADA regulations, regulated entities will be subject to confusion and delay as they attempt to sort out the requirements of conflicting design standards. This amendment should eliminate the costs and risks associated with that process.

Timetable:

Action	Date	FR Cite
NPRM	06/20/94	59 FR 31808
NPRM Comment Period End	08/19/94	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Governmental Jurisdictions

Government Levels Affected:

State, Local

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DOJ—Immigration and Naturalization Service (INS)

PROPOSED RULE STAGE

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52. REVISED GROUNDS OF INADMISSIBILITY, WAIVERS FOR IMMIGRANTS AND NONIMMIGRANTS, AND EXCEPTIONS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1157; 8 USC 1158; 8 USC 1159; 8 USC 1160; 8 USC 1182; 8 USC 1183; 8 USC 1184

CFR Citation:

8 CFR 103; 8 CFR 207; 8 CFR 208; 8 CFR 209; 8 CFR 210; 8 CFR 212; 8 CFR 214; 8 CFR 232; 8 CFR 235; 8 CFR 240; 8 CFR 241; 8 CFR 245; 8 CFR 245a; 8 CFR 248; 8 CFR 249; ...

Legal Deadline:

None

Abstract:

This regulation covers the grounds of inadmissibility applicable to those aliens seeking admission to the United States temporarily or permanently. On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) which substantially revised most grounds of inadmissibility under section 212 of the Act and the waivers available to both immigrants and nonimmigrants. The Immigration and Naturalization Service will publish regulations implementing these new grounds of inadmissibility and new/revised waiver provisions. In addition, this rule will incorporate the changes made to the grounds of inadmissibility and waivers provided for in the Immigration Act of 1990 (IMMACT 90), Pub. L. 101-649; the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (MTINA), Pub. L. 102-232; the National Institutes of Health Revitalization Act of 1993, Pub. L. 103-43; the Immigration and Nationality Technical Corrections Act of 1991 (INTCA), Pub. L. 103-416; and the Anti-Terrorism and Effective Death Penalty Act of 1996 (AEDPA), Pub. L. 104-132.

Statement of Need:

This regulation is necessary to implement the IIRIRA and IMMACT 90, Pub. L. 101-649; the MTINA, Pub. L. 102-232; the National Institutes of Health Revitalization Act of 1996, Pub. L. 103-43; and the AEDPA, Pub. L. 104-132.

Summary of the Legal Basis:

See Statement of Need.

Alternatives:

None

Anticipated Costs and Benefits:

The INS anticipates a relatively low cost for staff time and resources necessary to conduct training and disseminate new guidelines to the field on implementation of the revised grounds of inadmissibility and waivers available to both immigrants and nonimmigrants. With respect to certain waivers for the new vaccination requirements that fall under the health-related grounds of inadmissibility, the blanket waiver procedures (that entail a delegation of authority from INS to Department of State consular officers) minimize the administrative burdens not only on the agencies responsible for administering this requirement--Center for Disease Control, Department of State, and INS--but also the administrative burden on the alien applicant for such waiver. This, in turn, reduces the incentive for fraud, that enhances the public health initiative contemplated by the newly enacted vaccination requirements. Moreover, the new application for waiver, Form I-724, that will be implemented concurrently with the promulgation of the regulation will consolidate numerous forms currently used to determine eligibility for such classes of aliens.

Risks:

This regulatory initiative is critical for complete and clear implementation of the new grounds of inadmissibility and their waivers, especially those established under IIRIRA. The regulation will clarify the confusion that presently exists due to the interplay between the new grounds of inadmissibility and existing law. It will also clarify changes in procedures or policies.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1232) Comment Period End 2/5/90	01/05/90	55 FR 438
NPRM	05/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal

Additional Information:

INS No. 1413-92

Consolidated INS Rules 1304, RIN 1115-AC01; 1235, RIN 1115-AB39; 1232, RIN 1115-AB45; and 1648, RIN 1115-AD62.

8 CFR 274a, 8 CFR 299.

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RIN: 1115–AB45

DOJ—INS

FINAL RULE STAGE

53. REDUCTION OF THE NUMBER OF ACCEPTABLE DOCUMENTS AND OTHER CHANGES TO EMPLOYMENT VERIFICATION REQUIREMENTS (SECTION 610 REVIEW)

Priority:

Other Significant. Major under 5 USC 801.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

8 USC 1324a; PL 104-208

CFR Citation:

8 CFR 274a

Legal Deadline:

Final, Statutory, March 31, 1998.

An interim rule, published Sept. 30, 1997, makes the minimal changes required by statute. The provisions will remain in effect until completion of this rulemaking.

Abstract:

On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). Section 412(a) of IIRIRA requires a reduction in the number of documents that may be accepted in the employment verification process. Section 412(d) clarifies the applicability of section 274A to the Federal Government. Section 610 of the Regulatory Flexibility Act requires agencies to review rules that have a significant economic impact on a substantial number of small entities every 10 years. The Service is conducting this review in conjunction with IIRIRA implementation. The proposed rulemaking published 2/12/98 implements sections 212(a) and (d) of IIRIRA and proposes other changes to the employment verification process identified through that review. A revised Form I-9 was included with the proposed rulemaking.

The comment period closed on 4/3/98. The Service is analyzing the comments. It should be noted that this action supersedes the previously published regulatory plan titled "Reduction in the Number of Documents Accepted for Employment Verification." In order to avoid confusion, this regulatory action is being referenced under the current RIN, which captures all prior actions related to employment verification.

Statement of Need:

The Immigration Reform and Control Act of 1986 amended the Immigration and Nationality Act (INA) to require employers to hire only persons who are eligible to work in the United States and to verify the work eligibility of all new hires. Form I-9 was designated for that purpose. Newly hired individuals must attest to the status that makes them eligible to work and present documents that establish their identity and eligibility to work. In its third review of employer sanctions regulations, the GAO reported that employer confusion over the "multiplicity" of acceptable documents contributed to discrimination against authorized workers. See GAO/GGD Report No. 90-62, dated March 29, 1990. Section 412(a) of IIRIRA requires a reduction in the number of documents that may be accepted in the employment verification process. Implementation of these provisions along with other simplifications and clarifications will reduce potential employment discrimination based upon misapplication of the verification requirements.

Summary of the Legal Basis:

The legal basis of authority for this regulation is set forth above in Legal Authority. Parts of this regulatory action are required by IIRIRA.

Alternatives:

The lists of documents for employment verification have been controversial throughout the 10 years that employer sanctions have been in effect. When the INS first published implementing regulations in 1987, the supplementary information noted that the list of identity documents had been expanded in response to public comment. When the law was new, a consensus emerged that an inclusive list of documents would ensure that all persons who are eligible to work could easily meet the requirements. As early as 1990, there was evidence that some employers found the list confusing. As noted in the "Statement of Need," GAO linked employer confusion over the "multiplicity" of acceptable documents to discrimination against authorized workers. The INS has taken steps to address this criticism. In July 1988, INS committed to the establishment of a uniform employment authorization policy. First the INS limited the number and types of "paper" documents on which employment could be authorized. Second, a standardized Employment Authorization Document (EAD) I-688B was introduced in 1989. In February 1997, a more secure EAD Form (I-766) was produced with state of the art technology.

Anticipated Costs and Benefits:

Employment is often the magnet that attracts individuals to come to or stay in the United States illegally. The employer sanctions provisions help reduce the strength of this magnet by requiring employers to hire only those individuals who may legally work in the United States. This rule, by reducing the number of documents that are acceptable for employment eligibility verification purposes and clarifying other requirements, will reduce confusion on the part of employers. This in turn, will increase employer compliance, preserving jobs for persons who are eligible to work in the United States.

Risks:

An employment eligibility verification system that relies on a wide range of documents may result in employment discrimination based upon misapplication of the employment eligibility verification requirements. In addition, a complicated system may encourage fraud and result in individuals who are authorized to work in the United States being displaced by unauthorized individuals.

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1399 Comment Period End 12/23/93	11/23/93	58 FR 61846
NPRM-INS No. 1339S Comment Period End 07/24/95	05/22/95	60 FR 32472
Notice-INS No. 1713 INS No. 1713 Applications Due 01/29/96	11/30/95	60 FR 61630
Appl. Extension Through 3/8/96 Notice Pilot Demonstration Program-INS No. 1713	02/06/96	61 FR 4378
Final Rule INS No. 1399E	09/04/96	61 FR 46534
Interim Final Rule INS No. 1818	09/30/97	62 FR 51001
NPRM-INS No. 1890-97 Comment Period End 04/03/98	02/02/98	63 FR 5287
Final Rule INS No. 1980-97	12/00/98	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

The deadline for implementing section 412(a) of IIRIRA was extended to March 31, 1998 by P.L. 105-54. This rulemaking has been delayed by the need to coordinate implementation with other provisions of IIRIRA, by several complex policy and regulatory issues that have taken time to resolve, and by the review required by section 610 of the Regulatory Flexibility Act.

INS No. 1890-97; PL 104-208, title 4.

INS Nos. 1399 and 1399S-94, Control of Employment of Aliens, Supplemental Rule; Action for INS No. 1399 and 1399S is canceled as a result of IIRIRA requirements.

INS No. 1399E is an extracted portion of INS No. 1399, published separately to allow for the production of a new, more secure Employment Authorization Document.

INS No. 1713-95, Demonstration Project for Electronic I-9s, contact Bob Reed, (202) 514-2998.

Interim Rule INS No. 1818 was published on 9/30/97 at 62 FR 51001 to maintain the status quo as much as possible until the Service completes the more comprehensive document reduction initiative designated by INS No. 1890-97.

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BILLING CODE 4410-BP-F

DEPARTMENT OF LABOR (DOL)

Statement of Regulatory Priorities

Executive Summary

The Secretary of Labor has set three strategic goals for the Department: First, to enhance opportunities for America's workforce; second, to promote the economic security of workers and their families; and third, to foster quality workplaces that are safe, healthy, and fair. The 180 labor laws and related regulations that the Department of Labor (DOL) administers advance these goals.

Regulations that implement newly enacted legislation help DOL and its stakeholders work together to achieve that statute's goal by providing clear, effective, flexible plans of action for the regulated community. Rules that revise existing regulations also facilitate the achievement of DOL's goals by updating old or ineffective standards or by making them easier to understand and use. DOL has always recognized that changes in the workplace, such as new business practices, improved or safer technologies, or new hazards, may render existing rules ineffective or demand the creation of new ones.

In keeping with the President's plain language memorandum of June 1, 1998, the Department remains committed to issuing regulations that are easy to understand, effective, and that minimize burdens on the regulated community. Regulations that are easy to understand help promote voluntary compliance and improve customer satisfaction. Most of the regulated community would comply with workplace regulations if given the information and knowledge they need. When writing or revising rules, DOL will explore new approaches to achieve our regulatory goals at lower costs and with greater flexibility for the regulated community. DOL will also ensure that those who are protected by the new rules or must abide by them have been given the opportunity to participate in the rulemaking process and that they have been provided timely, user-friendly compliance assistance materials.

DOL's 1998 regulatory plan highlights the Department's 29 most important, significant regulations from five of our major regulatory agencies: Employment Standards Administration (ESA), Mine Safety and Health Administration (MSHA), Occupational Safety and Health Administration (OSHA), Pension and Welfare Benefits Administration (PWBA), and Employment and Training Administration (ETA). The entries in the regulatory plan were carefully selected as the most important; that is, they are essential to the fulfillment of the Department's three strategic goals.

The Secretary of Labor's Strategic Goals

A Prepared Workforce: This first goal is to assure that American workers have the opportunity to obtain the information and tools they will need throughout their careers to enhance their productivity and raise their standard of living. The new economy requires workers to continue their education beyond a high school diploma or even a college degree—education must mean lifelong learning and continuous development of new skills.

A Secure Workforce: The rapidly changing global economy imposes economic security concerns on both employers and employees. The life cycles of many products are shorter and shorter, requiring quick adjustments by both industry and labor. Competitive forces can lead to plant closures and layoffs, plant and employee relocations, and in some cases, to an attempt to avoid legal obligations. The Department will continue to do all it can to increase compliance with worker protection laws, protect workers' benefits, and provide workers with retraining.

Quality Workplaces: The intensely competitive global economy offers unparalleled opportunities for both business and labor, but also can pressure some unscrupulous employers to shrink from their responsibilities to their employees. Smart employers recognize that they must utilize all of the talent that is available to them and that a quality workplace is a productive workplace. The Department works with employers to prevent workplace discrimination and to help them recognize the benefits of ensuring equal opportunity for all workers. DOL also is committed to doing all it can to guarantee safety and health in the workplace and to obtain compliance with other important labor standards such as the minimum wage, overtime, and family and medical leave requirements. The Department is particularly committed to reducing the exploitation of child labor. The Department's ultimate goal is full compliance with employment laws which will ensure workers a safe, healthy, and fair workplace.

The Department's Regulatory Priorities

The Employment Standards Administration's (ESA's) Wage and Hour Division enforces several statutes establishing minimum labor standards that protect the Nation's work force, including the Fair Labor Standards Act (FLSA), the Migrant and Seasonal Agricultural Worker Protection Act, the Family and Medical Leave Act, the Service Contract Act, the Davis-Bacon Act, the Employee Polygraph Protection Act, and certain provisions of the Immigration and Nationality Act. These labor standards include requirements for payment of minimum wages and overtime pay, protections for working youth under child labor standards, job protection for employees who take leave for certain family or medical reasons, and minimum working conditions for agricultural workers. The regulatory activities required to implement these statutory responsibilities represent an important aspect of the Division's work—affecting over 100 million employees in the workforce. When developing regulatory proposals, the Division's focus is to assure fair, safe, and healthful workplaces for the Nation's workers, while at the same time providing clear compliance guidance and minimizing burdens on the regulated community.

Updating the child labor regulations issued under the FLSA will help guarantee a safe, healthy, and fair workplace for the Nation's working youth to balance their education with job-related experiences. Many workers first gain job-related skills through their initial exposure to work as teenagers. Updated child labor regulations that better reflect today's workplace will assist young workers in having safe jobs and enhance their opportunity to gain the skills to find and hold good jobs with the potential to increase their earnings over time. Ensuring safe and reasonable work hours for working youth will also ensure that top priority is given to education while allowing young workers to contribute to the economic security of their family.

Updating and clarifying the criteria that define the minimum wage and overtime exemptions for "executive," "administrative," "professional," and "outside sales" employees under the FLSA and clarifying when "helpers" may be used on federally funded and assisted construction contracts covered by the prevailing wage requirements of the Davis-Bacon and related acts will help guarantee workers a secure and quality workplace. Revising and updating these regulations will help employers meet their obligations voluntarily and enhance employees' understanding of their rights and benefits.

ESA's Office of Federal Contract Compliance Programs (OFCCP) is charged with enforcing the requirements of Executive Order 11246, selected provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), and section 503 of the Rehabilitation Act of 1973. Regulations issued under the Executive Order and the two acts cover nondiscrimination and affirmative action obligations for Federal contractors and subcontractors. They help to ensure that workplace policies and practices are fair and provide equal opportunity to all workers. OFCCP's regulatory plan entry, the proposed amendments to regulations implementing Executive Order 11246, some of which became effective in 1997, will streamline and clarify the existing regulatory language and reduce paperwork requirements of covered Federal contractors while ensuring that their obligations under the Executive Order and the two acts are met.

The mission of the Mine Safety and Health Administration (MSHA) is to protect the safety and health of the Nation's miners. The Federal Mine Safety and Health Act of 1977 (Mine Act) places primary responsibility for preventing unsafe and unhealthful working conditions in mines on the operators, with the assistance of the miners. The Mine Act requires MSHA to determine compliance with Federal safety and health standards through inspections and investigations and to work cooperatively with States and the mining industry to improve training programs aimed at preventing accidents and occupationally caused diseases.

MSHA is committed to providing the Nation's miners with a safer and healthier workplace. Despite MSHA's past efforts, miners face safety and health hazards daily at levels unknown in most other occupations. Government intervention alone cannot eliminate occupational deaths, injuries, and illnesses in mining. The commitment of miners, mine operators, and Government is needed. MSHA's 1998 regulatory plan reflects this commitment. It will continue to concentrate on improving existing health standards and addressing emerging health hazards in mining—especially occupational exposure to coal mine dust, noise, and diesel exhaust particulate. These health hazards are pervasive in all types of mines; that is, surface and underground mines and large and small mines.

Several significant regulatory actions exemplify MSHA's commitment to improving workplace health for miners. The first action addresses the need to update the Agency's existing standard for exposure to noise. The noise final rule will improve the level of protection provided by existing standards. Many miners are currently exposed to the maximum noise levels currently permitted by MSHA regulations and, as a result, may be suffering hearing impairments.

To complement the recently finalized diesel-powered equipment standard, MSHA has issued a proposed rule for diesel particulate for underground coal miners to reduce the potential health hazards associated with the exhaust emitted by diesel-powered equipment in the mining environment. MSHA soon plans to issue a proposed rule for diesel particulate for underground metal and nonmetal miners.

While there have been significant reductions in levels of respirable coal mine dust over the years, some miners exposed to respirable coal mine dust at certain mine operations continue to develop coal workers' pneumoconiosis (black lung) and silicosis. In February 1996, the Secretary convened a Federal Advisory Committee (Advisory Committee) to assess the adequacy of MSHA's current coal dust program and standards, as well as other ways to eliminate black lung and silicosis among coal miners. The Advisory Committee submitted its report to the Secretary in November 1996. MSHA is continuing its efforts to implement the Advisory Committee's recommendations, which involve both regulatory and administrative actions. Based on the recommendations of the Advisory Committee and other findings, the Agency is considering rulemaking to lower the exposure limit to coal mine dust, to extend the x-ray medical surveillance program to surface coal miners, and to provide a means to verify operators' dust control plans.

MSHA identified the above actions for the 1998 regulatory plan because occupational lung diseases and hearing loss are the most serious and pervasive occupational illnesses in mining. Together, MSHA believes that these expanded health initiatives will greatly improve health protection for miners, thereby helping achieve the Secretary's goals of a safe and secure workplace.

Several years ago, the Occupational Safety and Health Administration (OSHA) recognized the need to find a better way to carry out its mission—to save the lives and improve the safety and health of America's working men and women. In the regulatory arena, this meant that OSHA had to define a regulatory approach to support its Strategic Plan objectives, establish clear and sensible priorities, emphasize consensus-based approaches to rulemaking, focus on developing a basic safety and health programs rule, and rewrite difficult-to-follow rules in plain language.

The 10 regulations in OSHA's regulatory plan directly support OSHA's mission, as well as the Secretary's goal of assuring America's workers a quality workplace by fostering workplaces that are safe, healthy, and fair. Each regulation is designed to reduce occupational deaths, injuries, and illnesses among America's workers or to enhance compliance through "plain language" revision of detailed, out-dated, and confusing regulations. OSHA's plan entries address the causes of the most dangerous occupational injuries; i.e., those with fatal or disabling consequences, those affecting large numbers of workers, those for which recognized solutions are available, and those identified as top priorities by the Agency's Strategic Plan. In addition, some entries, such as OSHA's revision to its reporting and recordkeeping system, are included because employers, employees, academics, and safety and health professionals have long recognized these efforts as essential to obtaining better data on workplace injuries, fatalities, and illnesses.

Some of OSHA's standards, particularly those adopted wholesale from national consensus standards in 1971, are written in highly detailed, specification-driven language that limits compliance flexibility and makes it difficult for employers and employees to comply. To address these problems, OSHA has launched a series of initiatives aimed at streamlining and rationalizing the Agency's regulations and ensuring that all future OSHA rules will pass plain language and common sense tests. In addition, the Agency is actively soliciting input from stakeholders—business, labor, small employers, professional associations, and affected government entities—as it moves forward on these rulemaking initiatives. The OSHA rules in the 1998 regulatory plan reflect the rulemaking approach that is being followed by the "New OSHA." For example, the Agency is actively working with stakeholders to develop permissible exposure limits (PELs) for a group of air contaminants that both OSHA and the regulated community recognize as hazardous to worker health. The rulemaking requires

the development of new risk assessment methods for linking exposure to these substances to such potentially life-threatening effects as neurological damage, occupational asthma, and heart disease.

One of the most important regulatory initiatives ever undertaken by OSHA—development of a safety and health programs rule—is the centerpiece of the Agency's current regulatory plan. This rule will ensure that employers in the general and maritime industries treat worker protection as a fundamental goal of their business and will help employers identify job-related hazards in the workplace, correct those so identified, and prevent others from occurring. Evidence of the effectiveness of safety and health programs in achieving OSHA's ultimate goal—the prevention of deaths, injuries, and illnesses on the job—is widespread and growing daily, as more and more companies report that their accident rates and their workers' compensation costs have fallen after the implementation of such programs. OSHA has held a series of stakeholder meetings designed to identify ways of meeting the business community's need for a strong but simple rule and of recognizing existing safety and health programs that are demonstrably effective. Included among these was a series of regional meetings with small businesses, and employees at small businesses, to gain input on the rule at the grassroots level. The Department believes that, by actively involving both employers and employees in the implementation of safety and health programs, this rule will help to produce the high-performance workplaces of tomorrow. In summary, OSHA's regulatory strategy is designed to achieve a body of rules that will make sense to ordinary people and protect the safety and health of the U.S. work force.

The Pension and Welfare Benefits Administration (PWBA) administers and enforces the provsions of the Employee Retirement Income Security Act of 1974, as amended (ERISA). ERISA establishes reporting, disclosure, and other standards applicable to an estimated 700,000 private-sector employee pension benefit plans, covering approximately 85 million participants, and an estimated 6 million employee welfare benefit plans, including group health plans covering approximately 185 million participants. PWBA's regulatory priorities for 1998 continue to focus on efforts to simplify and otherwise facilitate compliance with benefit laws, to improve pension and welfare plan coverage, and to protect the benefits of American workers. PWBA's top regulatory priorities involve implementation of the President's directive to adopt regulatory changes for group health plans, consistent with the recommendations of the President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry; to improve the disclosure of health care benefit information; and to strengthen the claims review processes to ensure timely claim determinations and full and fair reviews of denied claims. A continuing high regulatory priority for PWBA is implementation of the Health Insurance Portability and Accountability Act of 1996 and the Newborns' and Mothers' Health Protection Act of 1996, amendments to ERISA.

PWBA's other top regulatory priority is to work with the Department of Health and Human Services to develop regulations under the Child Support Performance and Incentive Act of 1998, establishing a model qualified medical child support order for use by State child support agencies to facilitate the extension of health care coverage to children under their jurisdiction.

Section 5001 of the Balanced Budget Act of 1997 authorized the Department of Labor to provide Welfare-to-Work Grants to State and local communities to create additional job opportunities for the hardest-to-employ recipients of the Temporary Assistance for Needy Families (TANF)—the new system of block grants created by passage of the new welfare reform legislation. The Employment and Training Administration (ETA) has issued interim planning guidance under this legislation. Moving people from welfare to work is not only a primary goal of Federal welfare to work opportunities but also responds to the Secretary's goal of a Prepared Workforce. Guidance and regulations reflect minimal amplification of the law and were written only when further information or clarification was needed to make the program operational. Reporting requirements assure program integrity and provide timely information for tracking performance against established measures. Performance measures will be consistent with long-term goals. Wherever possible, existing regulations and systems will be used.

The Workforce Investment Act of 1998, signed into law by President Clinton on August 7, 1998, makes significant changes to employment and training programs. The Act establishes a single delivery system for adult employment and training and for dislocated worker employment and training that maximizes worker choice in the selection of occupations and training providers. The Employment and Training Administration will issue regulations and other guidance and provide technical assistance designed to permit maximum State and local government flexibility in implementing the Act.

DOL—Employment Standards Administration (ESA)

PROPOSED RULE STAGE

54. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS, EXECUTIVE ORDER 11246 (ESA/OFCCP) (SECTION 610 REVIEW)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

EO 11246, as amended

CFR Citation:

41 CFR 60-1; 41 CFR 60-2

Legal Deadline:

None

Abstract:

These regulations cover nondiscrimination and affirmative action obligations of Federal contractors under Executive Order 11246, as amended. The part 60-1 Final Rule, published 8/19/97, revised parts of the regulations implementing E.O. 11246. OFCCP's review of regulatory options continues with emphasis on streamlining and clarifying the regulatory language and reducing paperwork requirements associated with compliance. OFCCP plans to propose revisions to written affirmative action program (AAP) requirements to reduce burdens on the regulated community and to improve the enforcement of the Executive Order.

Statement of Need:

Parts of the regulations implementing Executive Order 11246 need to be revised to reflect changes in the law that have occurred over time, streamlined, and clarified. Executive Order 11246 requires all Federal contractors and subcontractors and federally assisted construction contractors and subcontractors to apply a policy of nondiscrimination and affirmative action in employment with respect to race, color, religion, sex, and national origin. The regulatory revisions are necessary in order to allow the DOL to effectively and efficiently enforce the provisions of the Executive Order. As a first step in updating its Executive Order regulations, the Department published changes to the provisions that govern preaward review requirements; recordkeeping and record retention requirements; certification requirements; and related provisions. In addition, other revisions have been made that conform Executive Order 11246 regulations to the recent changes made in the Department's regulations implementing Section 503 of the Rehabilitation Act.

A second phase of revision will contain proposals to change provisions that govern requirements for written affirmative action plans and the provisions concerning evaluation of contractor procedures.

Summary of the Legal Basis:

No aspect of this action is required by statute or court order.

Alternatives:

After careful review, it was decided that the most effective way to improve compliance with the Executive Order 11246 provisions and reduce burdens on contractors, was to propose revisions to these regulations. Administrative actions alone could not produce the desired results.

Anticipated Costs and Benefits:

It is anticipated that the net effect of the proposed changes will increase compliance with the nondiscrimination and affirmative action requirements of the Executive Order and reduce compliance costs to Federal contractors. The Department will also be able to utilize its resources more efficiently and more effectively.

Risks:

Failure to move forward with OFCCP's regulatory agenda would cause the continuation of outdated methods of evaluating contractor compliance and impede effective enforcement of the E.O. 11246.

Timetable:

Action	Date	FR Cite
NPRM Affirmative Action Plans (60-2)	03/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Additional Information:

Under the reinventing government initiative, OFCCP's emphasis is on regulatory reform, e.g., to revise the Executive Order 11246 regulations to reduce paperwork burdens, eliminate unnecessary regulations, and simplify and clarify the regulations while improving the efficiency and effectiveness of the contract compliance program.

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RIN: 1215–AA01

DOL—ESA

55. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION (ESA/W-H)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

29 USC 203(e)

CFR Citation:

29 CFR 570

Legal Deadline:

None

Abstract:

Section 3(l) of the Fair Labor Standards Act requires the Secretary of Labor to issue regulations with respect to minors between 14 and 16 years of age ensuring that the periods and conditions of their employment do not interfere with their schooling, health, or well-being. The Secretary is also directed to designate occupations that may be particularly hazardous for minors 16 and 17 years of age. Child Labor Regulation No. 3 sets forth the permissible industries and occupations in which 14- and 15-year-olds may be employed, and specifies the number of hours in a day and in a week, and time periods within a day, that such minors may be employed. The Department has invited public comment in considering whether changes in technology in the workplace and job content over the years require new hazardous occupation orders, and whether changes are needed in some of the applicable hazardous occupation orders. Comment has also been solicited on whether revisions should be considered in the permissible hours and time of day standards for 14- and 15-year-olds. Comment has been sought on appropriate changes required to implement school-to-work transition programs. Additionally, Congress enacted Public Law 104-174 (August 6, 1996), which amended FLSA section 13(c) and requires changes in the regulations under Hazardous Occupation Order No. 12 regarding power-driven paper balers and compactors, to allow 16- and 17-year-olds to load, but not operate or unload, machines meeting applicable American National Standards Institute (ANSI) safety standards and certain other conditions.

Statement of Need:

Because of changes in the workplace and the introduction of new processes and technologies, the Department is undertaking a comprehensive review of the regulatory criteria applicable to child labor. Other factors necessitating a review of the child labor regulations are changes in places where young workers find employment opportunities, the existence of differing Federal and State standards, and the divergent views on how best to correlate school and work experiences.

Under the Fair Labor Standards Act, the Secretary of Labor is directed to provide by regulation or by order for the employment of youth between 14 and 16 years of age under periods and conditions which will not interfere with their schooling, health and well-being. The Secretary is also directed to designate occupations that may be particularly hazardous for youth between the ages of 16 and 18 years

or detrimental to their health or well-being. The Secretary has done so by specifying, in regulations, the permissible industries and occupations in which 14- and 15-year-olds may be employed, and the number of hours per day and week and the time periods within a day in which they may be employed. In addition, these regulations designate the occupations declared particularly hazardous for minors between 16 and 18 years of age or detrimental to their health or well-being.

Public comment has been invited in considering whether changes in technology in the workplace and job content over the years require new hazardous occupation orders or necessitate revision to some of the existing hazardous orders. Comment has also been invited on whether revisions should be considered in the permissible hours and time-of-day standards for the employment of 14- and 15-year-olds, and whether revisions should be considered to facilitate school-to-work transition programs. When developing regulatory proposals (after receipt of public comment on the advance notice of proposed rulemaking), the Department's focus will be on assuring healthy, safe and fair workplaces for young workers, and at the same time promoting job opportunities for young people and making regulatory standards less burdensome to the regulated community.

Summary of the Legal Basis:

These regulations are issued under sections 3(1), 11, and 12 of the Fair Labor Standards Act, 29 USC Secs. 203(1), 211, and 212, which require the Secretary of Labor to issue regulations prescribing permissible time periods and conditions of employment for minors between 14 and 16 years old so as not to interfere with their schooling, health, or well-being, and to designate occupations that may be particularly hazardous or detrimental to the health or well-being of minors under 18 years old.

Alternatives:

Regulatory alternatives will be developed based on the public comments responding to the advance notice of proposed rulemaking. Alternatives likely to be considered include specific additions or modifications to the hazardous occupation orders and changes to the hours 14- and 15-year-olds may work.

Anticipated Costs and Benefits:

Preliminary estimates of the anticipated costs and benefits of this regulatory action will be developed once decisions are reached on particular proposed changes in the child labor regulations. Benefits will include safer working environments and the avoidance of injuries with respect to young workers.

Risks:

An assessment of the magnitude of the risk addressed by this action will be prepared once decisions are reached on particular proposed changes in the child labor regulations.

Timetable:

Action	Date	FR Cite
Final Rule on HOS 2, 10, 12	11/20/91	56 FR 58626
Final Rule Effective	12/20/91	
ANPRM	05/13/94	59 FR 25167
ANPRM Comment Period End	08/11/94	59 FR 40318
NPRM	12/00/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

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DOL—ESA

56. DEFINING AND DELIMITING THE TERM "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY" (ESA/W-H)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, local or tribal governments and the private sector.

Legal Authority:

29 USC 213(a)(1)

CFR Citation:

29 CFR 541

Legal Deadline:

None

Abstract:

These regulations set forth the criteria for exemption from the Fair Labor Standards Act's minimum wage and overtime requirements for "executive," "administrative," "professional" and "outside sales employees." To be exempt, employees must meet certain tests relating to duties and responsibilities and be paid on a salary basis at specified levels. A final rule increasing the salary test levels was published on January 13, 1981 (46 FR 3010), to become effective on February 13, 1981, but was indefinitely stayed on February 12, 1981 (46 FR 11972). On March 27, 1981, a proposal to suspend the final rule indefinitely was published (46 FR 18998), with comments due by April 28, 1981. As a result of numerous comments and petitions from industry groups on the duties and responsibilities tests, and as a result of recent case law developments, the Department concluded that a more comprehensive review of these regulations was needed. An ANPRM reopening the comment period and broadening the scope of review to include all aspects of the regulations was published on November 19, 1985, with the comment period subsequently extended to March 22, 1986.

The Department has revised these regulations since the ANPRM to address specific issues. In 1991, as the result of an amendment to the Fair Labor Standards Act (FLSA), the regulations were revised to permit certain computer systems analysts, computer programmers, software engineers, and other similarly skilled professional employees to qualify for the exemption, including those paid on an hourly basis if their rates of pay exceed 6-1/2 times the applicable minimum wage. Also, in 1992 the Department issued a final rule which provided, in part, that an otherwise exempt public sector employee would not be disqualified from the exemption's requirement for payment on a "salary basis" solely because the employee is paid according to a public pay and leave system that, absent the use of paid leave, requires the employee's pay to be reduced for absences of less than one workday. In addition, a number of court rulings have caused confusion on the factors

to consider in meeting the regulation's "salary basis" criteria, in both the public and private sectors.

Statement of Need:

These regulations set forth the criteria used in the determination of the application of the FLSA exemption for "executive," "administrative," "professional," and "outside sales employees." The existing salary test levels used in determining which employees qualify as exempt from the minimum wage and overtime rules were adopted in 1975 on an interim basis. These salary level tests are outdated and offer little practical guidance in the application of the exemption. In addition numerous comments and petitions have been received in recent years from industry groups regarding the duties and responsibilities tests in the regulations. These factors, as well as recent case law developments, have led the Department to conclude that a review of these regulations is needed.

These regulations have been revised in recent years to deal with specific issues. In 1991, as the result of an amendment to the FLSA, the regulations were revised to permit certain computer systems analysts, computer programmers, software engineers, and other similarly skilled professional employees to qualify for the exemption, including those paid on an hourly basis if their rates of pay exceed 6 1/2 times the applicable minimum wage. Also in 1991, the Department undertook separate rulemaking on another aspect of the regulations, the definition of "salary basis" for public-sector employees. This interim final rule provided, in part, that an otherwise exempt public-sector employee would not be disqualified from the exemption's requirement for payment on a "salary basis" solely because the employee is paid according to a public pay and leave system that, absent the use of paid leave, requires the employee's pay to be reduced for absences of less than one workday. In 1992, the Department issued its final rule on this matter.

Because of the limited nature of these revisions, the regulations are still in need of updating and clarification. In addition, recent court rulings have caused confusion as to what constitutes compliance with the regulation's "salary basis" criteria in both the public and private sectors.

Summary of the Legal Basis:

These regulations are issued under the statutory exemption from minimum wage and overtime pay provided by section 13(a)(1) of the Fair Labor Standards Act, 29 USC 213(a)(1), which requires the Secretary of Labor to issue regulations that define and delimit the terms "any employee employed in a bona fide executive, administrative, or professional capacity ..., or in the capacity of outside salesman...," for purposes of applying the exemption to employees who meet the specified criteria.

Alternatives:

The Department will involve affected interest groups in developing regulatory alternatives. Following completion of these outreach and consultation activities, full regulatory alternatives will be developed.

Although legislative proposals have been introduced in the Congress to address certain aspects of these regulations, the Department will continue to pursue revisions to the regulations as the appropriate response to the concerns raised. Alternatives likely to be considered include particular changes to address "salary basis" and salary level issues to a comprehensive overhaul of the regulations that also addresses the duties and responsibilities tests.

Anticipated Costs and Benefits:

Some 23 million employees are estimated to be within the scope of these regulations. Legal developments in court cases are causing progressive loss of control of the guiding interpretations under this exemption and are creating law without considering a comprehensive analytical approach to current compensation concepts and workplace practices. These court rulings are creating apprehension in both the private and public sectors. Clear, comprehensive, and up-to-date regulations would provide for central, uniform control over the application of these regulations and ameliorate this apprehension. In the public sector, State and local government employers contend that the rules are based on production workplace environments from the 1940s and 1950s, and that they do not readily adapt to contemporary government functions. The Federal government also has concerns regarding the manner in which the courts and arbitration decisions are applying the exemption to the Federal workforce. Resolution of confusion over how the regulations are to be applied in the public sector will ensure that employees are protected, that employers are able to comply with their responsibilities under the law, and that the regulations are enforceable. Preliminary estimates of the specific costs and benefits of this regulatory action will be developed once the various regulatory alternatives are identified.

Risks:

This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Indefinite Stay of Final Rule	02/12/81	46 FR 11972
Proposal To Suspend Rule Indefinitely	03/27/81	46 FR 18998
ANPRM	11/19/85	50 FR 47696
Extension of ANPRM Comment Period From 01/21/86 to 03/22/86	01/17/86	51 FR 2525
ANPRM Comment Period End	03/22/86	51 FR 2525
NPRM	09/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Federal

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RIN: 1215–AA14

DOL—ESA

57. PROCEDURES FOR PREDETERMINATION OF WAGE RATES (29 CFR PART 1) AND LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (29 CFR PART 5)

Priority:

Other Significant

Legal Authority:

40 USC 276a to 276a(7)

CFR Citation:

29 CFR 1; 29 CFR 5

Legal Deadline:

None

Abstract:

The Department attempted to implement revised rules governing the circumstances in which "helpers" may be used on federally funded and assisted construction contracts subject to the Davis-Bacon Act in May 1982 (see 47 FR 23644, 23658 (May 28, 1982); 47 FR 32090 (July 20, 1982)). After protracted litigation, a final rule was published in January 1989 (see 54 FR 4234) which became effective on February 4, 1991. Thereafter, on two occasions, Congress acted to prevent the Department from expending any funds to implement these revised helper regulations--through the Dire Emergency Supplemental Appropriations Act of 1991, PL 102-27, 105 Stat. 130,151 (1991), and then through section 104 of the DOL Appropriations Act of 1994, PL 103-112. There is no such prohibition in the DOL's Appropriations Act for fiscal year 1998, Public Law 105-78 (November 13, 1997). Given the uncertainty of continuation of such moratoriums, the Department has determined that the helper issue needs to be addressed through further rulemaking. A notice inviting public comment on a proposal to continue the suspension of the former helper regulations while the Department conducts additional rulemaking proceedings was published August 2, 1996 (61 FR 40366). A final rule continuing the suspension while further rulemaking is considered was published December 30, 1996 (61 FR 68641).

Statement of Need:

The current helper rules are difficult to administer and enforce and--as evidenced by the prolonged litigation history and subsequent Congressional actions--are highly controversial. In May 1982, the Department attempted to implement revised rules governing the circumstances in which "helpers" may be used on federally funded and assisted construction contracts subject to the Davis-Bacon Act. After protracted litigation, a final rule was published in January 1989 and became effective on February 4, 1991. Thereafter, on two occasions, Congress acted to prevent the Department from expending any funds to implement these revised helper regulations through appropriations riders. Given the uncertainty of continuation of such moratoriums, the Department has determined that the helper issue needs to be addressed through further rulemaking.

Summary of the Legal Basis:

These regulations are issued under the authority conferred upon the Secretary of Labor by Reorganization Plan No. 14 of 1950 (64 Stat. 1267, 5 USC Appendix) and the Copeland Act (40 USC 276c), in order to provide coordinated enforcement of the prevailing wage provisions of the Davis-Bacon Act (40 USC 276a-276a-7) and several additional Federal statutes that require payment of prevailing wages as determined by the Secretary of Labor according to the Davis-Bacon Act to laborers and mechanics working on federally funded or assisted construction contracts (see list of statutes in 29 CFR Sec. 5.1).

Alternatives:

The Administration has determined that there are only limited alternatives to addressing this issue through rulemaking, in addition to possible legislative changes.

Anticipated Costs and Benefits:

A new rulemaking regarding the helper criteria will seek to make administration of the Davis-Bacon Act more efficient by establishing reasonable "helper" criteria and methodology--thus resolving the controversy and uncertainty currently experienced by interested parties. Changes in the helper regulations may affect prior estimates of potential construction procurement cost savings anticipated from the earlier rulemaking. Estimates of the financial impacts of revised "helper" regulations will be prepared for inclusion in the NPRM.

Risks:

This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM Continue Suspension	08/02/96	61 FR 40367
Final Continue Suspension	12/30/96	61 FR 68641
NPRM	11/00/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Local, Tribal, Federal

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RIN: 1215–AA94

DOL—Employment and Training Administration (ETA)

FINAL RULE STAGE

58. WELFARE-TO-WORK (WTW) GRANTS

Priority:

Other Significant

Legal Authority:

42 USC 601 to 619

CFR Citation:

20 CFR 645

Legal Deadline:

Final, Statutory, November 3, 1997, 90 days from enactment.

Abstract:

The Employment and Training Administration published interim final regulations on November 18, 1997, implementing the Welfare-to-Work Grants Program. The Personal Responsibility and Work Opportunity Reconciliation Act reformed the Nation's welfare laws, when enacted in August 1996, by creating a new system of block grants to the States for Temporary Assistance for Needy Families (TANF). Moving people from welfare to work is one of the primary goals of Federal welfare policy as well as one of five goals the Secretary of Labor has identified for the Department of Labor. Section 5001 of the Balanced Budget Act of 1997 authorized the Department of Labor to provide Welfare-to-Work Grants to States and local communities to create additional job opportunities for the hardest-to-employ recipients of TANF. The Welfare-to-Work Grants will be provided to the States through the use of a formula, and in a competitive process to local communities. A small amount of total grant funds will be set aside for special purposes: one percent for Indian tribes; 0.8 percent for evaluation; and $100 million for performance bonuses to successful States.

The interim final regulations and other guidance focus on providing maximum local flexibility. Guidance and regulations reflect minimal amplification of the law and provide further information or clarification as needed to make the program operational. Existing regulations and systems are used wherever possible. Reporting requirements will assure program integrity and provide timely information for tracking performance. Performance measures will be established and will serve as the basis for the award of FY 2000 bonus grants to the States based on successful performance. Products provided link welfare agencies and workforce development system agencies at the operational level in order to maximize resources available and avoid duplication and overlap. Leveraging of non-Federal resources at the State and local level is encouraged.

These funds will allow States and local communities to help move eligible individuals into jobs by: job creation through public or private sector wage subsidies; on-the-job training; contracts with public or private providers of job readiness, job placement, and post-employment services; job vouchers for similar services; community service or work experience; or job retention and supportive services (if such services are not otherwise available).

Statement of Need:

Since the passage of the Personal Responsibility and Work Opportunity Reconciliation Act, the President and the Congress recognized the need for a measure to complement the Temporary Assistance for Needy Families (TANF) block grant created as a result of the Act. On August 5, 1997, President Clinton signed into law the Balanced Budget Act of 1997, which authorized the Department of Labor to provide Welfare-to-Work Grants to States and local communities to create additional job opportunities for the hardest-to-employ recipients of TANF. The basic goal of the program is to move welfare recipients into unsubsidized jobs with good career potential for economic self-sufficiency. Welfare-to-Work formula and competitive grants provide States and local communities with an array of tools to help them accomplish this goal in ways that make sense and are most effective for their particular population needs. The Employment and Training Administration will issue final regulations and other guidance, provide technical assistance, and establish performance standards which will drive State and local efforts towards the program's goal while still allowing maximum local flexibility.

Summary of the Legal Basis:

Promulgation of these regulations is authorized by SSA section 403 (a)(1)(5)(C)(viii).

Alternatives:

Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance which will be necessary to carry out the new provisions.

Anticipated Costs and Benefits:

Preliminary estimates of the anticipated costs of this regulatory action have not been determined at this time and will be determined at a later date. Welfare recipients will receive job placement and temporary, transitional employment opportunities leading to lasting employment and self-sufficiency. Employers will have ready access to a large pool of motivated hard-working entry-level workers who will be eligible for job retention and support services to maintain employment. Businesses will be eligible to receive wage and on-the-job training subsidies when they hire the hard-to-employ welfare recipients.

Risks:

This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/18/97	62 FR 61587
Final Action	12/00/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Local, Tribal

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RIN: 1205–AB15

DOL—ETA

59. • WORKFORCE INVESTMENT ACT OF 1998

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

Workforce Investment Act of 1998, section 506c

CFR Citation:

20 CFR 660

Legal Deadline:

Other, Statutory, February 7, 1999, Interim Final Rule.

Final, Statutory, December 31, 1999.

Abstract:

The Workforce Investment Act of 1998 was signed into law by President Clinton on August 7, 1998. titles I, III and V of the Act fall under the purview of the Employment and Training Administration. The Act makes significant changes in the way this country's employment and training programs do business. The Act will ensure that Americans have the information and training they need to qualify for good jobs and successfully manage their careers. The interim final regulations, final regulations, and other guidance will focus on providing maximum local flexibility. Guidance and regulations will reflect minimal amplification of the law and will provide further information or clarification as needed to make the program operational. Reporting requirements will assure program integrity and provide timely information for tracking performance.

Statement of Need:

The purpose of title I of the Workforce Investment Act of 1998 is to provide workforce investment activities, through statewide and local workforce investment systems, that increase the

employment, retention, and earnings of participants, and skill attainment of participants, and as a result, improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness of the Nation. The Employment and Training Administration will issue regulations and other guidance and provide technical assistance that will focus State and local efforts towards the program's goal while allowing maximum local flexibility. The Department of Labor and its partners must move quickly to implement the reforms contained in the legislation. The law requires that interim final regulations be published no later than 180 days after the date of enactment, and that final regulations be published no later than December 31, 1999.

Alternatives:

Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance necessary to carry out new provisions under the new legislation, the Workforce Investment Act of 1998.

Anticipated Costs and Benefits:

Preliminary estimates of the anticipated costs of this newly enacted legislation have not been determined at this time, but will be at a later date. It is anticipated, however, that successful implementation of this legislation will result in changes in the way this country's employment and training programs do business, and will ensure that Americans have the training they need to qualify for good jobs and successfully manage their careers. The Act consolidates more than 60 Federal programs. It will significantly enhance the ability of State and local areas to effectively implement welfare reform and move welfare recipients from welfare to work. It establishes a single delivery system for adult employment and training and for dislocated worker employment and training that maximizes choice in the selection of occupations and training providers. Under the Act, individuals with disabilities will have access to a comprehensive job training system capable of serving all. Unemployed individuals with disabilities will have broader job opportunities allowing them to re-enter or in some cases enter the workforce for the first time.

Risks:

This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

State, Local, Tribal, Federal

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RIN: 1205–AB20

DOL—Pension and Welfare Benefits Administration (PWBA)

PROPOSED RULE STAGE

60. REVISION OF THE FORM 5500 SERIES AND IMPLEMENTING AND RELATED REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

29 USC 1021; 29 USC 1022; 29 USC 1023; 29 USC 1024; 29 USC 1025; 29 USC 1026; 29 USC 1027; 29 USC 1029; 29 USC 1030; 29 USC 1059; 29 USC 1135; 29 USC 1166; 29 USC 1168

CFR Citation:

29 CFR 2520

Legal Deadline:

None

Abstract:

Under title I of ERISA, title IV of ERISA, and the Internal Revenue Code, as amended, pension and other employee benefit plans are generally required to file returns/reports annually concerning, among other things, the financial condition and operations of the plan. These annual reporting requirements are satisfied generally by filing the Form 5500 series in accordance with its instructions and related regulations. The Department of Labor, IRS, and PBGC have undertaken a comprehensive review of the annual return/report forms in an effort to streamline the information required to be reported and the methods by which such information is filed and processed.

Statement of Need:

This project was included in prior PWBA regulatory plans. The Form 5500 Series is the primary source of information concerning the operation funding, assets and investments of pension and other employee benefit plans, and is both an important compliance and research tool for the Department, and a disclosure document for plan participants and beneficiaries and a source of information and data for use by other Federal agencies, Congress, and the private sector in assessing employee benefit, tax, and economic trends and policies.

Summary of the Legal Basis:

Title I of ERISA, sections 101 through 105, 107, 209, and 606 impose specific reporting and disclosure obligations on administrators of employee benefit plans. Sections 104(a)(2), 104(a)(3) and 110 of ERISA provide the Secretary with the authority to prescribe simplified reports, exemptions and alternative methods of compliance for employee welfare benefit plans and employee pension benefit plans. Section 505 provides the Secretary with general authority to prescribe regulations necessary or appropriate to carry out the provisions of title I of ERISA.

Alternatives:

Amendments to the annual report regulations implementing the revisions to the Form 5500 Series are in development.

Anticipated Costs and Benefits:

By simplifying the Form 5500 Series and creating an automated processing system for the filed reports, it is anticipated that filer costs of preparing forms and Government processing costs will be reduced. These measures will eliminate reporting requirements for information that is not needed for the discharge of the Department's statutory responsibilities, while ensuring that participants and beneficiaries have access to the information they need to protect their rights and benefits under ERISA.

Risks:

Failure to revise the Form 5500 Series Annual Reports for Employee Benefit Plans could deprive plans, sponsors and participants and beneficiaries, as well as the Government, of the cost savings and related benefits associated with streamlining the forms and their processing.

Timetable:

Action	Date	FR Cite
Proposed Forms Revisions	09/03/97	62 FR 46556
Proposed Forms Comment Period End	11/03/97	
NPRM Implementing/ Related Regulations	11/00/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Additional Information:

Public hearing held November 17, 1997. Hearing comment period ended 12/03/97.

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DOL—PWBA

61. AMENDMENTS TO SUMMARY PLAN DESCRIPTION REGULATIONS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

29 USC 1024; 29 USC 1135

CFR Citation:

29 CFR 2520.102-3; 29 CFR 2520.102-5

Legal Deadline:

None

Abstract:

These proposed amendments to the regulations governing the contents of summary plan descriptions are intended to ensure that all participants in group health plans are provided, consistent with the recommendations of the President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry, understandable information concerning their plan; provider network composition; preauthorization and utilization review procedures; whether, and under what circumstances, coverage is provided for existing and new drugs; and whether, and under what circumstances, coverage is provided for experimental drugs devices and procedures. These amendments will include the repeal of special rules limiting the information that must be included in summary plan descriptions with respect to certain health maintenance organizations. In addition, the proposed amendments will include provisions that are intended to update or clarify the application of certain SPD content requirements affecting both pension and welfare benefit plans.

Statement of Need:

This regulation is necessary to improve the disclosure of group health plan benefit information, consistent with the recommendations of the President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry, as set forth in its November 20, 1997, report. The amendments will also update the general SPD content requirements and update other relevant regulatory provisions.

Summary of the Legal Basis:

Promulgation of this regulation is authorized by sections 101(a), 102(b), and 505 of ERISA

Alternatives:

Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the amendments which are necessary to improve the disclosure of benefit information to participants and beneficiaries of group health plans under the applicable ERISA regulations.

Anticipated Costs and Benefits:

The Department estimates that the aggregate additional costs associated with the proposed regulation would average approximately $76 million per year for the years 1999, 2000, and 2001, although the Department believes that this estimate may be conservatively high. However, the Department believes that the proposed regulation would assure that participants have better access to more complete information on their benefit plans. Better information will lead both participants and plan sponsors to make more economically efficient decisions regarding benefit plans. This enhanced value and efficiency from better information constitute the benefits of the regulation.

Risks:

Failure to issue the regulation would deprive participants, beneficiaries, and plan sponsors of the improvements in health care market efficiency which would be generated by the regulatory amendments specified therein.

Timetable:

Action	Date	FR Cite
NPRM	09/09/98	63 FR 48376
NPRM Comment Period End	11/09/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

None

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RIN: 1210–AA69

DOL—PWBA

FINAL RULE STAGE

62. REGULATIONS IMPLEMENTING THE HEALTH CARE ACCESS, PORTABILITY AND RENEWABILITY PROVISIONS OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

PL 104-91 section 101; 29 USC 1027; 29 USC 1059; 29 USC 1135; 29 USC 1171; 29 USC 1172; 29 USC 1177

CFR Citation:

29 CFR 2590

Legal Deadline:

Other, Statutory, April 1, 1997, Per Section 734 of ERISA as added by Section 101 of HIPAA.

Abstract:

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) amended title I of ERISA by adding a new part 7, designed to improve health care access, portability and renewability. This rulemaking will provide regulatory guidance to implement these provisions.

Statement of Need:

HIPAA added a new part 7 to title I of ERISA, containing provisions designed to improve the availability and portability of health insurance coverage. Part 7 includes provisions limiting exclusions for preexisting conditions and providing credit for prior coverage, guaranteeing availability of health coverage for small employers, prohibiting discrimination against employees and dependents based on health status, and guaranteeing renewability of health coverage to employers and individuals.

Summary of the Legal Basis:

Promulgation of these regulations is authorized by sections 505 and 734 of ERISA.

Alternatives:

Regulatory alternatives will be developed once determinations have been made, in conjunction with other concerned agencies with regard to the scope and nature of the final regulatory guidance which will be necessary to carry out the new provisions.

Anticipated Costs and Benefits:

Preliminary estimates of the anticipated costs and benefits of the regulatory actions found to be necessary to implement the new provision will be developed once decisions are reached on which specific actions are necessary.

Risks:

Failure to provide regulatory guidance necessary to carry out these important health care reforms would adversely impact the availability and portability of health insurance coverage for American families.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16894
Interim Final Rule Effective	06/07/97	
Interim Final Rule Comment Period End	07/07/97	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

None

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DOL—PWBA

63. AMENDMENT OF SUMMARY PLAN DESCRIPTION AND RELATED ERISA REGULATIONS TO IMPLEMENT STATUTORY CHANGES IN THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

PL 104-191 section 101; PL 104-204 section 603

CFR Citation:

29 CFR 2520.102-3; 29 CFR 2520.104b-1; 29 CFR 2520.104b-3

Legal Deadline:

NPRM, Statutory, April 1, 1997, Per Section 707 of ERISA as added by Section 101 of HIPAA.

Abstract:

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) amended ERISA's summary plan description (SPD) and related reporting and disclosure provisions to require that participants and beneficiaries receive from their group health plans: (i) more timely notice if there is a material reduction in services or benefits under the plan; (ii) more information regarding the financing and administration of the plan; and (iii) specific identification of Department of Labor offices through which they can seek assistance or information about HIPAA. The Newborns' and Mothers' Health Protection Act of 1996 (NMHPA) also amended ERISA's SPD and related reporting and disclosure provisions. This rulemaking will amend the Department's SPD and related regulations to implement those statutory changes.

Statement of Need:

The existing SPD and related reporting and disclosure provisions need to be revised to reflect the changes made by HIPAA. HIPAA's statutory changes modify the requirements concerning the manner and timing of how certain important plan information is communicated to participants and beneficiaries by plan administrators. Without revised regulatory guidance, administrators may not be able to improve the timely disclosure of plan information on both a quantitative and qualitative basis. HIPAA also requires the Secretary to issue regulations within 180 days after its enactment providing alternative mechanisms to delivery by mail through which group health plans may notify participants and beneficiaries of material reductions in covered services or benefits.

Summary of the Legal Basis:

Promulgation of these regulations is authorized by sections 104(b), 505 and 734 of ERISA.

Alternatives:

Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance which will be necessary to carry out the new provisions.

Anticipated Costs and Benefits:

There is estimated to be no capital/start-up cost. Total burden cost for operating maintenance is to average $73,000,000 annually for the years 1997, 1998, and 1999. However, the Department believes that the regulation assures that participants have better access to more complete information about their benefit plans.

Risks:

The SPD is a critical plan document for participants and beneficiaries. Without access to accurate and timely information participants and beneficiaries will not be able to protect their rights under ERISA. Improved disclosure requirements also should serve to facilitate compliance by plan administrators, thereby reducing litigation and penalty risks to plan administrators. The failure to issue revised disclosure regulations also may result in a failure to achieve HIPAA's objective of improving the disclosure of plan information.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16979
Interim Final Rule Comment Period End	05/31/97	
Interim Final Rule Effective	06/01/97	
Interim Final Rule Second	09/09/98	63 FR 48372
Interim Final Rule Effective	11/09/98	
Comment Period End	11/09/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

None

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DOL—PWBA

64. AMENDMENTS TO EMPLOYEE BENEFIT PLAN CLAIMS PROCEDURES REGULATION

Priority:

Other Significant

Legal Authority:

29 USC 1133; 29 USC 1135

CFR Citation:

29 CFR 2560.503-1

Legal Deadline:

None

Abstract:

The Department is proposing to amend the regulation governing the establishment and maintenance of benefit claims procedures by employee benefit plans covered by title I of the Employee Retirement Income Security Act (ERISA). The proposal would establish new standards for the processing of group health and other employee benefit plan claims filed by participants and beneficiaries. In the case of group health plans, as well as certain plans providing disability benefits, the new standards are intended to ensure more timely benefit determinations, improved access to information on which a benefit determination is based, and greater assurance that participants and beneficiaries will be afforded a full and fair review of denied claims.

Statement of Need:

This regulation is necessary to insure more timely benefit determinations, improve access to information on which a benefit determination is made, and provide greater assurance that participants and beneficiaries will be afforded a full and fair review of denied claims.

Summary of the Legal Basis:

Promulgation of this regulation is authorized by sections 503 and 505 of ERISA.

Alternatives:

Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the amendments which are necessary to update the rules which implement section 503 of ERISA.

Anticipated Costs and Benefits:

On the basis of available data, the Department believes that the projected benefits of this proposed regulation would outweigh its projected costs. In particular, updating the existing regulation to address recent changes in the delivery and financing of health care services would improve health care quality by averting harmful, inappropriate delays and denials of health benefits, thereby yielding substantial social benefits.

Risks:

Failure to issue this regulation would deprive many plan participants and beneficiaries of the benefits of an improved claims review process.

Timetable:

Action	Date	FR Cite
Request for Information–Amendment of Regulations on Plan Claims Procedures	09/08/97	62 FR 47262
Comment Period End	11/07/97	
NPRM	09/09/98	63 FR 48340
Final Action	03/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

None

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DOL—PWBA

65. HEALTH CARE STANDARDS FOR MOTHERS AND NEWBORNS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

29 USC 1181 (PL 104-204; 110 Stat 2935); 29 USC 1135; 29 USC 1194

CFR Citation:

29 CFR 2590.711

Legal Deadline:

None

Abstract:

The Newborns' and Mothers' Health Protection Act of 1996 (NMHPA) was enacted on September 26, 1996 (PL 104-204). NMHPA amended the Public Health Service Act (PHSA) and the Employee Retirement Income Security Act of 1974, as amended, (ERISA) to provide protection for mothers and their newborn children with regard to the length of hospital stays following the birth of a child. NMHPA provisions are set forth in title XXVII of the PHSA and part 7 of subtitle B of title I of ERISA. The interim rules will provide guidance with regard to the provisions of the NMHPA.

Statement of Need:

These regulations are needed to provide guidance to the public concerning the application of the provisions of section 711 of ERISA, which establishes requirements for group health plan standards for minimum hospital stays following birth.

Summary of the Legal Basis:

Promulgation of these regulations is authorized by sections 505 and 734 of ERISA.

Alternatives:

Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance which will be necessary to implement Section 711 of ERISA.

Anticipated Costs and Benefits:

Preliminary estimates of the anticipated costs and benefits of the regulatory actions found to be necessary to implement the new provision will be developed once decisions are reached on which specific actions are necessary.

Risks:

Failure to issue these regulations would be likely to impair compliance by group health plans with the new standards established by section 711 of ERISA for mothers' and newborns' health care.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/98	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

None

Additional Information:

LEGAL AUTHORITY CONT: Secs. 107, 209, 505, 701-703, 711, 712 731-734 of ERISA (29 U.S.C. 1027, 1059, 1135, 1171-1173, 1181 1182, 1191-1194), and amended by HIPAA (Pub. L. 104-191, 101 Stat. 1936) and NMHPA (Pub. L. 104-204) and Secretary of Labor's Order No. 1-87, 52 FR 13139, April 21, 1987.

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DOL—PWBA

66. • NATIONAL MEDICAL SUPPORT NOTICE

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

PL 105-200, section 401(b); 29 USC 1135; 29 USC 1169

CFR Citation:

29 CFR 2565

Legal Deadline:

Other, Statutory, May 16, 1999, Interim Final Rule.

Final, Statutory, May 16, 2000.

Abstract:

The purpose of this rulemaking is to develop regulations which establish a model qualified medical child support order for use by State child support agencies to facilitate the extension of health care coverage to children under their jurisdiction. This initiative is mandated by the Child Support Performance and Incentive Act of 1998, P.L.105-200.

Statement of Need:

These regulations are needed to provide guidance to the public concerning the application of the provisions of section 401 of the Child Support Performance and Incentive Act of 1998 (CSPIA) and section 609 of ERISA, which require, respectively, the promulgation of a National Medical Support Notice to be used by State child support agencies to order health care coverage for children under their jurisdiction, and that such notice is to be deemed a qualified medical child support order for purposes of section 609 of ERISA.

Summary of the Legal Basis:

Promulgation of these regulations is mandated by section 401 of CSPIA, and authorized by sections 505 and 609 of ERISA.

Alternatives:

Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance which will be necessary to implement section 401 of CSPIA and section 609 of ERISA. Section 401 of CSPIA mandates the promulgation of a National Medical Support Notice.

Anticipated Costs and Benefits:

Preliminary estimates of the anticipated costs and benefits of the regulatory actions found necessary to implement the new provisions will be developed once decisions are reached on which specific actions are necessary.

Risks:

Failure to issue these regulations would be likely to impair compliance by State child support agencies with the new standards established by section 401 of CSPIA and by group health plans with the requirements of section 609 of ERISA for the extension of health care coverage to children of plan participants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

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DOL—Mine Safety and Health Administration (MSHA)

PRERULE STAGE

67. OCCUPATIONAL EXPOSURE TO COAL MINE DUST (LOWERING EXPOSURE LIMIT)

Priority:

Other Significant

Legal Authority:

30 USC 811; 30 USC 812

CFR Citation:

30 CFR 70; 30 CFR 71; 30 CFR 75; 30 CFR 90

Legal Deadline:

None

Abstract:

The Federal Coal Mine Health and Safety Act of 1969 established the first comprehensive respirable dust standards for coal mines. These standards were designed to reduce the incidence of coal workers' pneumoconiosis (black Lung) and silicosis and eventually eliminate these diseases. While significant progress has been made toward improving the health conditions in our Nation's coal mines, miners continue to be at risk of developing occupational lung disease, according to the National Institute for Occupational Safety and Health (NIOSH) . In September 1995, NIOSH issued a Criteria Document in which it recommended that the respirable coal mine dust permissible exposure limit (PEL) be cut in half. In February 1996, the Secretary of Labor convened a Federal Advisory Committee on the Elimination of Pneumoconiosis Among Coal Miners (Advisory Committee) to assess the adequacy of MSHA's current program and standards to control respirable dust in underground and surface coal mines, as well as other ways to eliminate black lung and silicosis among coal miners. The Committee represented the labor, industry, and academic communities. The Committee submitted its report to the Secretary of Labor in November 1996, with the majority of the recommendations unanimously supported by the Committee members. The Committee recommended that MSHA consider lowering the coal dust PEL.

Statement of Need:

Respirable coal mine dust levels in this country are significantly lower than they were over two decades ago. Despite this progress, there continues to be concern about the respirable coal mine dust sampling program and its effectiveness in presenting an accurate picture of exposure levels in mines. Coal workers exposed after the implementation of the current PEL continue to develop pneumoconiosis. In response to this concern, MSHA undertook an extensive review of the Agency's respirable coal mine dust program. The MSHA Coal Mine Respirable Dust Task Group, which issued its report in June 1992, found that vulnerabilities exist which could impact miner health protection and made recommendations for improving the monitoring program. The Advisory Committee also addressed this issue and made recommendations.

The Agency has carefully reviewed the NIOSH Criteria Document Occupational Exposure to Respirable Coal Mine Dust and the recommendations of the Advisory Committee on Elimination of Pneumoconiosis among Coal Mine Workers. MSHA finds that there remains unacceptable risk to miners' health at the current exposure limit for dust in coal mines. Therefore, the Agency is in the preliminary rulemaking process for seeking information to lower this risk.

Alternatives:

MSHA will consider all recommendations carefully and will seek the public's input into alternatives through the use of an Advance Notice of Proposed Rulemaking (ANPRM). In the ANPRM, the Agency includes suggestions of alternative approaches, e.g., operation specific PEL, or an action level to trigger certain protective measures.

Anticipated Costs and Benefits:

Benefits sought are reduced dust levels over a miner's working lifetime, the key to eliminating black lung and silicosis as a risk to coal miners. Enhanced protection of miners from these diseases also will reduce the cost of future black lung benefits and lead to lower operator insurance premiums. MSHA is considering a rule to reduce the amount of respirable coal mine dust permitted in mines but has not yet developed cost estimates. As the Agency proceeds with the rulemaking, however, estimates will be developed and made available for public review.

Risks:

Respirable coal mine dust is one of the most serious occupational hazards in the mining industry. Long-term exposure to excessive levels of respirable coal mine dust can cause black lung and silicosis, which are both potentially disabling and can cause death.

Timetable:

Action	Date	FR Cite
Recommendations Completed	11/26/96	61 FR 60120
Policy Document-Phase 2	02/03/98	63 FR 5664
ANPRM	12/00/98	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

This rulemaking is related to 1219-AA81.

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DOL—MSHA

PROPOSED RULE STAGE

68. DIESEL PARTICULATE (UNDERGROUND COAL)

Priority:

Other Significant

Legal Authority:

30 USC 811; 30 USC 813; 30 USC 957; 30 USC 961

CFR Citation:

30 CFR 72; 30 CFR 75

Legal Deadline:

None

Abstract:

Several epidemiological studies have found that diesel exhaust presents potential health risks to workers. These possible health effects range from headaches and nausea to respiratory disease and cancer. In 1988, the National Institute for Occupational Safety and Health recommended that "whole diesel exhaust be regarded as a potential occupational carcinogen." In addition, in 1989 the International Agency for Research on Cancer concluded that "diesel engine exhaust is probably carcinogenic to humans."

In 1988, an advisory committee made recommendations to the Secretary of Labor concerning safety and health standards for the use of diesel-powered equipment in underground coal mines. One of the recommendations was that the Secretary of Labor set in motion a mechanism whereby a diesel particulate standard could be set. Based on that recommendation, MSHA published an advance notice of proposed rulemaking, in January 1992, seeking information relative to exposure limits, risk assessment, sampling and monitoring methods, and control feasibility. In April 1998, MSHA issued a proposed rule to control diesel particulate matter in underground coal mines.

Statement of Need:

The use of diesel-powered equipment in underground mines has increased significantly and rapidly during the past decade. MSHA estimates that approximately 13,000 miners are occupationally exposed to diesel exhaust emissions in underground mines.

Several epidemiological studies have shown a positive carcinogenic risk associated with exposure to diesel exhaust. Other reported health effects associated with exposure to diesel exhaust include dizziness, drowsiness, headaches, nausea decreased visual acuity, and forced expiratory volume. In addition, studies by MSHA and the former Bureau of Mines show that miners working in underground mining operations that use diesel equipment are probably the most heavily exposed workers of any occupational group. Based on the levels of diesel particulate measured in underground mining operations and the evidence of adverse health effects associated with exposure to diesel exhaust, MSHA is concerned about the potential health risk to miners. The proposed rule would control exposure of miners to diesel particulate matter by requiring the installation of high-efficiency filters on diesel powered equipment to trap diesel particulates before they enter the mine atmosphere.

Alternatives:

In the fall of 1995, MSHA held a series of public workshops to gather suggestions for possible approaches to limit miners' exposure to diesel particulate. In addition, over the past 10 years, MSHA and the former Bureau of Mines have conducted research on methodologies for the measurement and control of diesel particulate in the mining environment. This research has demonstrated that the use of low sulfur fuel, good engine maintenance, exhaust after-treatment, new engine technology, and optimized application of ventilating air all play a role in reducing miners' exposure to diesel exhaust particulate matter.

MSHA considered establishing a PEL for diesel particulate, but found that technology for measuring it in the presence of coal mine dust is not currently feasible. MSHA encourages the mining community to continue to voluntarily use protective measures to address exposure to diesel exhaust. In addition, the proposal provides for MSHA technical assistance to operators and a phased-in period for compliance.

Anticipated Costs and Benefits:

MSHA estimates that the per year compliance costs are just over $10 million, of which underground coal mine operators would incur about $10 million and manufacturers of diesel engines and equipment would incur about $30,000.

The proposed rule would reduce a significant health risk to underground miners, reducing the potential for acute sensory irritations and respiratory symptoms, lung cancer, and premature death, along with the attendant suffering and costs thereof to their employees, their families, and society.

Risks:

Several epidemiological studies have found that exposure to diesel exhaust presents potential health risks to workers. In addition, laboratory tests have shown diesel exhaust to be carcinogenic in rats, as well as toxic and mutagenic. These potential adverse health effects range from headaches and nausea to respiratory disease and cancer. In the confined space of the underground mine environment, occupational exposure to diesel exhaust may present a greater hazard due to ventilation limitations and the presence of other airborne contaminants, such as toxic mine dusts or mine gases. The Agency believes that the health evidence forms a reasonable basis for exploring possible methods to reduce miners' exposure to diesel particulate.

Timetable:

Action	Date	FR Cite
ANPRM	01/06/92	57 FR 500
ANPRM Comment Period End	07/10/92	57 FR 7906
NPRM	04/09/98	63 FR 17492
Extension of Comment Period	08/05/98	63 FR 41755
Comment Period End	08/07/98	63 FR 17492
Public Hearings	12/00/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

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DOL—MSHA

69. X-RAY SURVEILLANCE PROGRAM FOR SURFACE COAL MINERS

Priority:

Other Significant

Legal Authority:

30 USC 811; 30 USC 812

CFR Citation:

30 CFR 70; 30 CFR 72; 30 CFR 90

Legal Deadline:

None

Abstract:

The Federal Coal Mine Health and Safety Act of 1969 established the first comprehensive respirable dust standards for coal mines. These standards were designed to reduce the incidence of coal workers' pneumoconiosis (black lung) and silicosis and eventually eliminate these diseases. While significant progress has been made toward improving the health conditions in our Nation's coal mines, miners continue to be at risk of developing occupational lung disease, according to the National Institute for Occupational Safety and Health (NIOSH). In February 1996, the Secretary of Labor convened a Federal Advisory Committee on the Elimination of Pneumoconiosis Among Coal Miners (Advisory Committee) to assess the adequacy of MSHA's current program and standards to control respirable dust in underground and surface coal mines, as well as other ways to eliminate black lung and silicosis among coal miners. The Committee represented the labor, industry, and academic communities. The Committee submitted its report to the Secretary of Labor in November 1995, with the majority of the recommendations unanimously supported by the Committee members.

MSHA has completed an indepth review of the Advisory Committee's recommendations. There are 20 principal recommendations set out in the Advisory Committee report, which are further subdivided into a total of approximately 100 distinct action items. The recommendations are both extensive and significant. The Agency is giving each careful consideration and has prioritized them for regulatory or administrative action.

The Agency will provide information to the mining community as it determines how to implement the Advisory Committee recommendations.

Statement of Need:

Respirable coal mine dust levels in this country are significantly lower than they were over two decades ago. Despite this progress, there continues to be concern about the respirable coal mine dust sampling program and its effectiveness in presenting an accurate picture of exposure levels in mines. Such exposure levels are linked directly to the development of pneumoconiosis. In response to this concern, MSHA undertook an extensive review of the Agency's respirable coal mine dust program. The MSHA Coal Mine Respirable Dust Task Group, which issued its report in June 1992, found that vulnerabilities exist which could impact miner health protection and made recommendations for improving the monitoring program. The Advisory Committee also addressed this issue and made recommendations.

Recommendations contained in the NIOSH Criteria Document Occupational Exposure to Respirable Coal Mine Dust, and the Advisory Committee's report state that surface coal miners should be included in the x-ray medical surveillance program. Therefore, the Agency is considering regulatory action.

Alternatives:

MSHA will consider all related recommendations carefully. MSHA is considering extending the x-ray surveillance program to surface coal miners. MSHA is also considering programs for greater outreach, training and education, and approaches to increase participation in the program.

Anticipated Costs and Benefits:

Benefits sought are detection of black lung and silicosis because of the significance of health risk to coal miners. Enhanced protection of miners from progression of these diseases also will reduce the cost of future black lung benefits and lead to lower operator insurance premiums. MSHA is developing a proposed rule; however, at this stage, MSHA does not have cost estimates. As we proceed, however, we will develop estimates and make them available for public review.

Risks:

Respirable coal mine dust is one of the most serious occupational hazards in the mining industry. Long-term exposure to excessive levels of respirable coal mine dust can cause black lung and silicosis, which are both potentially disabling and can cause death. MSHA recognizes the continuing risks presented to miners by inhalation of coal mine dust and is developing an integrated approach to reduce this risk.

Timetable:

Action	Date	FR Cite
Recommendations Completed	11/26/96	61 FR 60120
Policy Document-Phase 2	02/03/98	63 FR 5664
NPRM	02/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

In a companion rulemaking the National Institute for Occupational Safety and Health, HHS, would revise related regulations contained in 42 CFR part 37. This rulemaking is related to 1219-AA81.

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DOL—MSHA

70. DIESEL PARTICULATE (UNDERGROUND METAL AND NONMETAL MINES)

Priority:

Other Significant

Legal Authority:

30 USC 811; 30 USC 813; 30 USC 961; 30 USC 957

CFR Citation:

30 CFR 57

Legal Deadline:

None

Abstract:

Several epidemiological studies have found that diesel exhaust presents potential health risks to workers. These possible health effects range from headaches and nausea to respiratory disease and cancer. In 1988, the National Institute for Occupational Safety and Health recommended that "whole diesel exhaust be regarded as a potential occupational carcinogen." In addition, in 1989, the International Agency for Research on Cancer concluded that "diesel engine exhaust is probably carcinogenic to humans."

In 1988, an advisory committee made recommendations to the Secretary of Labor concerning safety and health standards for the use of diesel-powered equipment in underground coal mines. One of the recommendations was that

the Secretary of Labor set in motion a mechanism whereby a diesel particulate standard could be set. Based on that recommendation, MSHA published an Advance Notice of Proposed Rulemaking (ANPRM) in January 1992, seeking information relative to exposure limits, risk assessment, sampling and monitoring methods, and control feasibility. In April 1998, MSHA issued a proposed rule to control diesel particulate matter in underground coal mines. The underground coal proposal would require the use of a very effective control technology (filters) to reduce exposures, because of a problem with measuring diesel particulate matter in coal mines. Due to differences in mining conditions, MSHA will be proposing a rule for underground metal and nonmetal mines that is different from the proposed rule for underground coal mines.

The proposed rule for underground metal nonmetal mines would establish a concentration limit for diesel particulate matter.

Statement of Need:

The use of diesel-powered equipment in underground mines has increased significantly and rapidly during the past decade. MSHA estimates that about 7,500 miners working in production or development areas are occupationally exposed to diesel exhaust emissions in underground metal and nonmetal mines.

Several epidemiological studies have shown a positive carcinogenic risk associated with exposure to diesel exhaust. Other reported health effects associated with exposure to diesel exhaust include dizziness, drowsiness, headaches, nausea, decreased visual activity, and decreased forced expiratory volume. In addition, studies by MSHA and the former Bureau of Mines show that miners working in underground mining operations that use diesel equipment are probably the most heavily exposed workers of any occupational group. Based on the levels of diesel particulate measured in underground mining operations and the evidence of adverse health effects associated with exposure to diesel exhaust, MSHA is concerned about the potential health risk to miners. The proposed rule for underground metal and nonmetal mines would establish a concentration limit for diesel particulate matter.

Alternatives:

In the fall of 1995, MSHA held a series of public workshops to gather suggestions for possible approaches to limit miners' exposure to diesel particulate. In addition, over the past 10 years, MSHA and the former Bureau of Mines have conducted research on methodologies for the measurement and control of diesel particulate in the mining environment. This research has demonstrated that the use of low sulfur fuel, good engine maintenance, exhaust after-treatment, new engine technology, and optimized application of ventilating air all play a role in reducing miners' exposure to diesel exhaust particulate matter.

MSHA encourages the mining community to continue to voluntarily use protective measures to address exposure to diesel exhaust. In addition, the proposal provides for MSHA technical assistance to operators and a phase-in period for compliance.

Anticipated Costs and Benefits:

MSHA estimates that the compliance costs for underground metal and nonmetal operators would be approximately $19 million. The compliance costs to manufacturers are assumed to be passed through to underground metal and nonmetal operators and, therefore, they would not incur any direct costs as a result on the rule. The proposed rule would reduce a significant health risk to underground miners, reducing the potential for acute sensory irritations and respiratory symptoms, lung cancer, and premature death, along with the attendant suffering and costs thereof to their employees, their families, and society. In addition to savings related to acute health effects, MSHA estimates that some lung cancer would also be avoided.

Risks:

Several epidemiological studies have found that exposure to diesel exhaust presents potential health risks to workers. Laboratory tests have shown diesel exhaust to be carcinogenic in rats, as well as toxic and mutagenic. Potential adverse health effects range from headaches and nausea to respiratory disease and cancer. In the confined space of the underground mine environment, occupational exposure to diesel exhaust may present a greater hazard due to ventilation limitations and the presence of other airborne contaminants, such as toxic mine dusts or mine gases. The Agency believes that the health evidence forms a reasonable basis for reducing miners' exposure to diesel particulate.

Timetable:

Action	Date	FR Cite
ANPRM	01/06/92	57 FR 500
ANPRM Comment Period End	07/10/92	57 FR 7906
National Environmental Policy Act	07/14/98	63 FR 37797
NPRM	11/00/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

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DOL—MSHA

71. VERIFICATION OF DUST CONTROL PLAN

Priority:

Other Significant

Legal Authority:

30 USC 811; 30 USC 812

CFR Citation:

30 CFR 70; 30 CFR 75

Legal Deadline:

None

Abstract:

The Federal Mine Safety and Health Act of 1969 established the first comprehensive respirable dust standards for coal mines. These standards were designed to reduce the incidence of coal workers' pneumoconiosis (black lung) and silicosis and eventually eliminate these diseases. While significant progress has been made toward improving the health conditions in our Nation's coal mines, miners continue to be at risk of developing occupational lung disease,

according to the National Institute for Occupational Safety and Health (NIOSH). In February 1996, the Secretary of Labor convened a Federal Advisory Committee on the Elimination of Pneumoconiosis Among Coal Miners (Advisory Committee) to assess the adequacy of MSHA's current program and standards to control respirable dust in underground and surface coal mines, as well as other ways to eliminate black lung and silicosis among coal miners. The Committee represented the labor, industry, and academic communities. The committee submitted its report to the Secretary of Labor in November 1996, with the majority of the recommendations unanimously supported by the Committee members.

MSHA has completed an in-depth review of the Advisory Committee's recommendations. There are 20 principal recommendations set out in the Advisory Committee report, which are further subdivided into a total of approximately 100 distinct action items. The recommendations are both extensive and significant. The Agency is giving each recommendation careful consideration and has prioritized them for regulatory or administrative action.

The Agency will provide information to the mining community as it determines how to implement the Advisory Committee recommendations.

Statement of Need:

Respirable coal mine dust levels in this country are significantly lower than they were over two decades ago. Despite this progress, there continues to be concern about the respirable coal mine dust sampling program and its effectiveness in presenting an accurate picture of exposure levels in mines. MSHA regulations require that all underground coal mine operators develop and follow a mine ventilation plan approved by the Agency. The dust control portion of the mine ventilation plan is the key element of an operator's strategy to control respirable dust in the work environment. Although such plans are required to be designed to control respirable dust, there is no current requirement that provides for early in-mine verification of the proposed plan's effectiveness under typical mining conditions. Consequently, plans may be implemented that may later be shown as inadequate to control respirable dust. To minimize this from occurring, the Advisory Committee recommended that MSHA should require coal mine operators to verify the adequacy of the dust control provisions in new or revised plans by demonstrating that the plan will be effective under typical mining conditions.

Therefore, MSHA is considering regulatory actions which would require mine operators to verify a plan's adequacy in controlling respirable dust.

Alternatives:

In developing the proposed rule, MSHA will consider alternatives related to typical production levels and the use of appropriate dust control strategies.

Anticipated Costs and Benefits:

Benefits sought are reduced dust levels over a miner's working lifetime, the key to eliminating black lung and silicosis as a risk to coal miners. Enhanced protection of miners from these diseases also will reduce the cost of future black lung benefits and lead to lower operator insurance premiums. MSHA is in the early stages of developing proposed rules and does not have cost estimates. As we proceed, however, we will develop estimates and make them available for public review.

Risks:

Respirable coal mine dust is one of the most serious occupational hazards in the mining industry. Long-term exposure to excessive levels of respirable coal mine dust can cause black lung and silicosis, which are both potentially disabling and can cause death. MSHA is pursuing both regulatory and nonregulatory actions to eliminate pneumoconiosis through the control of coal mine respirable dust levels in mines and the reduction of miners' exposure.

Timetable:

Action	Date	FR Cite
Recommendations Completed	11/26/96	61 FR 60120
Policy Document-Phase 2	02/03/98	63 FR 5664
NPRM	12/00/98	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

This rulemaking is related to 1219-AA81

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DOL—MSHA

FINAL RULE STAGE

72. NOISE STANDARD

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

30 USC 811; 30 USC 813

CFR Citation:

30 CFR 56; 30 CFR 57; 30 CFR 62; 30 CFR 70; 30 CFR 71

Legal Deadline:

None

Abstract:

Notwithstanding MSHA's firm enforcement of its current noise regulations, miners are continuing to incur hearing impairment. Data indicate that hearing impairment can be reduced significantly, however, if effective protective action is used both to reduce or eliminate the noise and to minimize exposure to the noise. MSHA has published a proposed rule applicable to all types of mining which would require that protective measures be taken where exposure to noise is at a level lower than that which is currently permitted. The final rule would address, for example, a hearing conservation plan and an "action level."

Consistent with the Mine Act and in response to comments, the final rule would include a new provision providing affected miners and their representatives with an opportunity to observe required operator monitoring.

Statement of Need:

MSHA's existing standards, in spite of enforcement efforts, do not provide adequate protection against exposure to hazardous occupational noise levels. Several factors have shown that there is a need to replace the existing standards so that miners are adequately protected. One factor is that miners are continuing to incur occupational, noise-induced hearing loss. Another factor is that existing MSHA standards no longer reflect the opinions of experts or the current scientific evidence. In addition, MSHA's current noise standards for coal mines differ from those for metal and nonmetal mines. MSHA's final rule will provide consistent requirements for all mines.

Section 103(c) of the Mine Act requires, among other things, that when the Secretary issues regulations requiring operator monitoring, such regulations "shall provide the miners' or their representatives with an opportunity to observe such monitoring or measuring, and to have access to the records thereof." The final rule would implement section 103(c) of the Mine Act.

Summary of the Legal Basis:

Section 101(a) of the Mine Act requires that MSHA's promulgation of health standards adequately assure, on the basis of the best available evidence, that no miner will suffer material impairment of health or functional capacity over the miner's working lifetime. In addition to the attainment of the highest degree of health and safety protection for the miner, the Mine Act requires that factors, such as the latest scientific data in the field, the feasibility of the standard, and the experience gained under the Mine Act and other health and safety laws, be considered when promulgating mandatory standards pertaining to toxic materials or harmful physical agents.

Alternatives:

MSHA published a proposed rule which requested comments and data on a number of regulatory alternatives. In addition, MSHA held six public hearings providing the public an opportunity to comment on the noise proposal and submit data. Based upon its own research and experience, and data and information submitted to the record, MSHA is considering the respective roles of engineering controls and administrative controls and the use of personal hearing protection in controlling noise exposure; lowering the permissible exposure level and implementing a new action level; the lowering of the exchange rate; and the parameters and criteria for audiometric testing, exposure monitoring, and miner training. The proposed rule reflected the Agency's tentative decisions on these alternatives, mindful of their economic impact on small mines. The final rule will derive from MSHA's deliberations and decisions on the issues and alternatives.

Anticipated Costs and Benefits:

MSHA prepared an analysis of benefits which compared the numbers of miners projected to incur a material impairment of hearing under the existing standards and under the proposal. At this stage in the development of the final rule, MSHA anticipates that the rule would reduce the risk of impairment by 67 percent protecting about 709 incidents of occupationally related material impairments of hearing per year. MSHA anticipates that the incremental annual cost of the final rule would be about $5.56 million. Since the final rule is still under development, these estimates are preliminary.

Risks:

Noise is a serious occupational hazard in the mining industry. Occupational exposure to loud noises results in hearing loss and hearing impairment, which affect both quality of life and functional capacity. In addition, cases of hearing loss reported to MSHA indicate that a significant number of these miners received all of their noise exposure under existing standards. The Agency believes that the health evidence forms a reasonable basis for revising MSHA's existing noise standards.

Timetable:

Action	Date	FR Cite
ANPRM	12/04/89	54 FR 50209
ANPRM Comment Period End	06/22/90	55 FR 6011
NPRM	12/17/96	61 FR 66348
Extension of Comment Period to 4/21/97; Notice of Public Hearings	02/06/97	62 FR 5554
Hearings - Date Change Extension of Comment Period to 6/20/97	03/03/97	62 FR 9404
Extension of Comment Period to 8/1/97	06/13/97	62 FR 32252
NPRM Comment Period End	08/01/97	62 FR 32252
Availability of Report	12/16/97	62 FR 65777
Request for Comments Availability	12/23/97	62 FR 67013
Extension of Comment Period	01/16/98	63 FR 2642
National Environmental Policy Act	05/26/98	63 FR 28496
Final Action	02/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Tribal

Additional Information:

On December 31, 1997, MSHA issued a proposed rule on Observation of Operator Noise Monitoring (RIN 1219-AB05) (62 FR 68468). On April 10, 1998, the Agency issued a notice announcing extension of comment period and close of record (63 FR 17781). The Agency has combined this rulemaking with the Noise rule (RIN 1219-AA53).

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DOL—Occupational Safety and Health Administration (OSHA)

PRERULE STAGE

73. STANDARDS ADVISORY COMMITTEE ON METALWORKING FLUIDS

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

29 USC 655(b)(1); 29 USC 656(b)

CFR Citation:

29 CFR 1910

Legal Deadline:

None

Abstract:

In December 1993, the International Union, United Automobile Aerospace and Agricultural Implement Workers of America petitioned OSHA to take emergency regulatory action to protect workers from the risks of occupational cancers and respiratory illnesses due to exposure to metalworking fluids. OSHA sent an interim response to the UAW stating that the decision to proceed with rulemaking would depend on the results of the OSHA Priority Planning Process. Following the Priority Planning Process report, which identified metalworking fluids as an issue worthy of Agency action, the Assistant Secretary asked the National Advisory Committee on Occupational Safety and Health (NACOSH) for a recommendation about how to proceed with metalworking fluids. NACOSH unanimously recommended that OSHA form a Standards Advisory Committee (SAC) to address the health risks caused by occupational exposure to metalworking fluids. The Assistant Secretary accepted the recommendation of NACOSH; OSHA has established a 15-member SAC to make recommendations regarding a standard, a guideline, or other appropriate response to the dangers of occupational exposures to metalworking fluids. The Committee has a balanced membership, including individuals appointed to represent the following affected interests: industry; labor; Federal and State safety and health organizations; professional organizations; and national standards-setting groups.

Statement of Need:

Under Table Z-1 of the 1971 air contaminants rule, OSHA enforces a permissible exposure limit of 5 mg/m3 for mineral oil mists, but evidence suggests this level is outdated and that exposure to metalworking fluids can lead to cancer, non-malignant lung disease, and dermatitis. Giving a SAC the opportunity to examine and comment upon current studies and data concerning the risks associated with all metalworking fluid mixtures (straight oils, synthetic, and semisynthetic) will provide valuable information the Agency can use to develop a proposed rule for metalworking fluids or other appropriate response to hazards posed by occupational exposure to metalworking fluids. The SAC will also report on related issues such as fluid management, engineering controls, medical surveillance, and economic and technological feasibility.

Summary of the Legal Basis:

The legal basis for convening this standards advisory committee is found at section 7(b) of the OSH Act.

Alternatives:

The Agency recognizes the complex and difficult nature of the issues surrounding the regulation of metalworking fluids and believes a SAC can best alleviate some areas of confusion. The Committee has a unique opportunity to provide needed data and academic and professional expertise, as well as large and small industry and labor perspectives. Through OSHA's exhaustive Priority Planning Process and NACOSH recommendations, metalworking fluids were identified as a regulatory candidate that could be handled most successfully through a SAC. The option of going directly to 6(b) rulemaking has been bypassed in favor of a SAC, which will give beneficial input to the agency as to how best to deal with the problems and the opportunity to build some consensus before a proposal is issued.

Anticipated Costs and Benefits:

Because the SAC is still considering the issues, the form of the Committee's recommendations is unknown at the present time. However, once the SAC report is written, OSHA will review it and determine how to proceed with a proposed rule and other actions to protect employees. Quantitative estimates of costs and benefits will be made only after the proposed rule has been drafted.

Risks:

OSHA has not yet assessed the risks confronting workers exposed to metalworking fluids, although the National Institute for Occupational Safety and Health has published risk estimates for some of the adverse health effects of interest to the SAC.

Timetable:

Action	Date	FR Cite
Appointed Members	07/11/97	
Charter Approved	08/15/97	
Committee Meeting	09/18/98	
SAC Information to Asst Secy	09/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Additional Information:

The Agency is particularly concerned with the potential impact a metalworking fluids rule would have on small businesses. OSHA has been working closely with the Small Business Administration to reach small employers in order to involve them in the process at the earliest possible time. At least 30 small business interests have been identified to date. The Agency is required to have balanced committee representation and small business is represented on the SAC.

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RIN: 1218–AB58

DOL—OSHA

74. OCCUPATIONAL EXPOSURE TO CRYSTALLINE SILICA

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

29 USC 655(b); 29 USC 657

CFR Citation:

29 CFR 1910; 29 CFR 1926; 29 CFR 1915; 29 CFR 1916; 29 CFR 1917; 29 CFR 1918

Legal Deadline:

None

Abstract:

Silica exposure remains a serious threat to nearly 2 million U.S. workers, including more that 100,000 workers in high risk jobs such as abrasive blasting, foundry work, stonecutting, rock drilling, quarry work and tunneling. The seriousness of the health hazards associated with silica exposure is demonstrated by the fatalities and disabling illnesses that continue to occur in sandblasters and rock drillers and by recent studies that demonstrate

a statistically significant increase in lung cancer among silica-exposed workers. In October 1996, the International Agency for Research on Cancer classified crystalline silica as "carcinogenic to humans." Exposure studies indicate that some workers are still exposed to very high levels of silica. Although OSHA currently has a permissible exposure limit for crystalline silica (10mg/m3 divided by the percent of silica in the dust + 2, respirable), more than 30 percent of OSHA-collected silica samples from 1982 through 1991 exceeded this limit. Additionally, recent studies suggest that the current OSHA standard is insufficient to protect against silicosis. For example, a recent study concluded that a 45-year exposure under the current OSHA standard would lead to a lifetime risk of silicosis of 35 percent to 47 percent.

OSHA plans to publish a proposed rule on crystalline silica because the agency has preliminarily concluded that there will be no significant progress in the prevention of silica-related diseases without the adoption of a full and comprehensive silica standard, including provisions for exposure monitoring, engineering and work practice controls, training and education, respiratory protection, and medical surveillance. A comprehensive standard will improve worker protection, ensure adequate prevention programs, and further reduce the incidence of silica-related diseases.

Statement of Need:

The current OSHA permissible exposure limit for silica is 10mg/m3 divided by the percent of silica in the dust + 2 (respirable) and 30 mg/m3 divided by the percent of silica in the dust + 2 (total dust). In the interval since this limit was promulgated, there have been a number of studies of workers that have estimated that close to 50 percent of workers exposed to silica at the current limit for a 45-year working lifetime would develop silicosis, a disabling, progressive and sometimes fatal disease involving scarring of the lung, coughing, and shortness of breath. There are currently about 300 deaths reported per year from silicosis. However, the actual number of cases and the true risk is unknown due to inadequate case ascertainment, which means that the number of deaths is probably under-reported. Also, since the promulgation of OSHA's permissible exposure limit studies have demonstrated a statistically significant, dose-related increase in lung cancer in several occupational groups.

Because of these recent findings, OSHA believes that it will be necessary to conduct a risk assessment to determine whether the current permissible exposure limit is protective of worker health. OSHA also believes that, in addition to the permissible exposure limit, the ancillary provisions, such as engineering controls, provided by a comprehensive standard will be necessary to reduce worker exposure to crystalline silica.

Summary of the Legal Basis:

The legal basis for the proposed rule is a preliminary determination by the Secretary of Labor that exposure to silica at the Agency's current permissible exposure limits poses a significant risk of material impairment of health and that a standard will substantially reduce that risk.

Alternatives:

OSHA has considered or conducted several programs designed to reduce worker exposure to crystalline silica. The OSHA Special Emphasis Program for Silicosis provides inspection targeting to reduce or eliminate workplace exposures to crystalline silica. The National Campaign to Eliminate Silicosis being conducted by OSHA (in conjunction with the National Institute for Occupational Safety and Health, the Mine Safety and Health Administration, and the American Lung Association) is an ongoing program involving outreach and education and the dissemination of materials on methods to reduce worker exposure to crystalline silica. Other nonregulatory approaches might include the issuance of nonmandatory guidelines, enforcing lower limits through the "general duty" clause of the OSH Act in cases where substantial evidence exists that exposure presents a recognized hazard of death or serious physical harm, and the issuance of hazard alerts. Although these approaches may be partially effective in reducing worker exposure to crystalline silica and reducing disease risk, OSHA believes that progress in the prevention of silica-related diseases demands the issuance of a comprehensive silica standard.

Anticipated Costs and Benefits:

The scope of the proposed rule is currently under development, and thus quantitative estimates of costs and benefits have not been determined at this time.

Risks:

OSHA has not yet completed an assessment of the risks of exposure to crystalline silica. Other studies have shown risks ranging from 35 to 47 percent among workers exposed over a working lifetime and have additionally identified silica as a potential occupational carcinogen.

Timetable:

Action	Date	FR Cite
Public Meeting	10/00/98	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

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RIN: 1218–AB70

DOL—OSHA

PROPOSED RULE STAGE

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75. STEEL ERECTION (PART 1926) (SAFETY PROTECTION FOR IRONWORKERS)

Priority:

Economically Significant. Major under 5 USC 801.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

29 USC 655; 40 USC 333

CFR Citation:

29 CFR 1926.750 (Revision); 29 CFR 1926.751 (Revision); 29 CFR 1926.752 (Revision)

Legal Deadline:

None

Abstract:

On December 29, 1992, the Occupational Safety and Health Administration (OSHA) announced its intention to form a negotiated rulemaking advisory committee to negotiate issues associated with a revision of the existing steel erection standard. The Steel Erection Negotiated Rulemaking Advisory Committee (SENRAC), a 20-member committee, was established, and the SENRAC charter was signed by Secretary Reich on May 26, 1994 and was recently re-chartered for a 2-year period. The primary issues the committee negotiated include the need to expand the scope and application of the existing standard to include construction specifications and work practices, written construction safety erection plans, and fall protection. The Committee met 11 times over an 18-month period and completed work on the draft regulatory text for the proposed steel erection standard on December 1, 1995.

The negotiated rulemaking process has been successful in bringing together the interested parties that will be affected by the proposed revision to the steel erection rule to work out contrasting positions, find common ground on the major issues, and develop language for a proposed rule. The use of this process and a neutral facilitator allowed the stakeholders to develop an ownership stake in the proposal that they would not have had without the use of this process.

The process has led to a proposed revision to subpart R of 29 CFR 1926 that contains innovative provisions that will help to minimize the major causes of steel erection injuries and fatalities. Many of these provisions could not have been developed without this process, which has brought together industry and labor experts, via face-to-face negotiations, to discuss different approaches to resolving the issues. This process has proved mutually beneficial to all the parties involved (including OSHA), with each Committee member participating in resolving the issues and developing practical and effective rules to make the steel erection industry safer.

Statement of Need:

In 1989, OSHA was petitioned by the Ironworkers Union and National Erectors Association to revise its construction safety standard for steel erection through the negotiated rulemaking process. OSHA asked an independent consultant to review the issues involved in a steel erection revision, render an independent opinion, and recommend a course of action to revise the standard. The consultant recommended that OSHA address the issues through negotiated rulemaking. Based on the consultant's findings and the continued requests for negotiated rulemaking, OSHA decided to use the negotiated rulemaking process to develop a proposed revision of subpart R. The use of negotiated rulemaking was thought to be the best approach to resolving steel erection safety issues, some of which have proven intractable in the past.

Summary of the Legal Basis:

The legal basis for the proposed steel erection rule is a preliminary finding that workers engaged in steel erection work are at significant risk of serious injury or death as a result of that work.

Alternatives:

An alternative to using the negotiated rulemaking process is to publish a notice of proposed rulemaking developed by Agency staff and consider the concerns of the affected interests through the public comment and public hearing process. OSHA anticipated that this alternative would result in an extremely long and contentious rulemaking proceeding, with subsequent challenge in the Court of Appeals. Another alternative would be not to revise the Agency's current steel erection rules for construction. This alternative was rejected because it would permit steel erection-related injuries and fatalities to continue.

Anticipated Costs and Benefits:

The estimated compliance costs of the proposal are approximately $50 million per year, and the Agency believes that the benefits of the standard would include the prevention of an estimated 14 fatalities and 824 lost workday injuries per year.

Risks:

The risk associated with steel erection activities is great. OSHA estimates that 28 workers are killed every year during steel erection activities. Falls are currently the number one killer of construction workers, and since the erection of buildings necessarily involves high exposure to fall hazards, the central focus of this rule will be to eliminate or reduce the risks associated with falls.

Timetable:

Action	Date	FR Cite
Notice of Committee Establishment	05/11/94	59 FR 24389
NPRM	08/13/98	63 FR 43451
NPRM Comment Period End	11/17/98	
Public Hearing	12/00/98	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 1218–AA65

DOL—OSHA

76. PREVENTION OF WORK-RELATED MUSCULOSKELETAL DISORDERS

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

29 USC 651; 29 USC 652; 29 USC 655; 29 USC 657; 33 USC 941; 40 USC 333

CFR Citation:

29 CFR 1910; 29 CFR 1915

Legal Deadline:

None

Abstract:

Work-related musculoskeletal disorders (MSDs) are a leading cause of pain, suffering, and disability in American workplaces. Since the 1980's, the Occupational Safety and Health Administration (OSHA) has had a number of initiatives related to addressing these problems, including enforcement under the general duty clause, issuance of guidelines for the meatpacking industry, and

development of other compliance-assistance materials.

Ultimately, the Agency decided that, given the increasing magnitude of the problem, a regulatory approach should be explored to ensure that the largest possible number of employers and employees become aware of the problems and ways of preventing work-related musculoskeletal disorders. OSHA has examined and analyzed the extensive scientific literature documenting the problem of work-related musculoskeletal disorders, the causes of the problem, and effective solutions; conducted a telephone survey of over 3,000 establishments regarding their current practices to prevent work-related musculoskeletal disorders; and completed a number of site visits to facilities with existing programs. The Agency has also held numerous stakeholder meetings to solicit input from individuals regarding the possible contents of a standard to prevent work-related musculoskeletal disorders. Agency representatives have delivered numerous outreach presentations to people who are interested in this subject and consulted professionals in the field to obtain expert opinions on the options considered by the Agency. Information obtained from these activities is undergoing Agency review. Options for regulatory action are being developed.

The Agency believes that the scientific evidence supports the need for a standard and that the availability of effective and reasonable means to control these hazards has been demonstrated. The criteria that have been developed for setting OSHA priorities support the need to reduce the incidence of work-related musculoskeletal disorders. The Agency is currently developing a proposed rule for ergonomics. The National Institute for Occupational Safety and Health (NIOSH) has issued a report evaluating the scientific basis for the relationship of workplace stressors to MSDs. The report concludes that such a relationship exists for many stressors.

Statement of Need:

OSHA estimates that work-related musculoskeletal disorders in the United States account for over 600,000 injuries and illnesses (34 percent of all lost workdays reported to the Bureau of Labor Statistics (BLS)). These disorders now account for one out of every three dollars spent on workers' compensation. It is estimated that employers spend $20 billion a year on direct costs for MSD-related workers' compensation, and up to five times that much for indirect costs, such as those associated with hiring and training replacement workers. In addition to these monetary effects, MSDs often impose a substantial personal toll on affected workers who can no longer work or perform simple personal tasks like buttoning their clothes or brushing their hair.

Scientific evidence associates MSDs with stresses to various body parts caused by the way certain tasks are performed. The positioning of the body and the type of physical work that must be done to complete a job may cause persistent pain and lead to deterioration of the affected joints, tissues, and muscles. The longer the worker must maintain a fixed or awkward posture, exert force, repeat the same movements, experience vibration, or handle heavy items, the greater the chance that such a disorder will occur. These job-related stresses are referred to as "workplace risk factors," and the scientific literature demonstrates that exposure to these risk factors, particularly in combination, significantly increases an employee's risk of developing a work-related musculoskeletal disorder. Jobs involving exposure to workplace risk factors appear in all types of industries and in all sizes of facilities.

Musculoskeletal disorders occur in all parts of the body-- the upper extremity, the lower extremity, and the back. An example of the increasing magnitude of the problem involves repeated trauma to the upper extremity, or that portion of the body above the waist, in forms such as carpal tunnel syndrome and shoulder tendinitis. In 1996, employers reported 281,000 repeated trauma cases to the BLS. As a point of comparison, the number of reported cases in this category was only 22,700 in 1981. When the data are adjusted to reflect changes in the size of the employee population, they indicate that such cases have increased more than 7-fold in the last ten years. In industries such as meatpacking and automotive assembly, approximately 10 out of 100 workers report work-related MSDs from repeated trauma each year. The number of work-related back injuries occurring each year is even larger than the number of upper extremity disorders. Industries reporting a large number of cases of back injuries include hospitals and personal care facilities.

The evidence OSHA has assembled and analyzed indicates that technologically and economically feasible measures are available to significantly reduce exposures to workplace risk factors and the risk of developing work-related musculoskeletal disorders. Many companies that have voluntarily implemented ergonomics programs have demonstrated that effective ergonomic interventions are available to reduce MSDs. Many of these interventions are simple and inexpensive, but nevertheless have a significant effect on the occurrence of work-related musculoskeletal disorders. Benefits include substantial savings in workers' compensation costs, increased productivity, and decreased turnover.

Summary of the Legal Basis:

The legal basis for this proposed rule is a preliminary finding by the Secretary of Labor that workers in workplaces within OSHA's jurisdiction are at significant risk of incurring work-related musculoskeletal disorders.

Alternatives:

OSHA is considering many different regulatory alternatives. These include variations in the scope of coverage, particularly with regard to industrial sectors, work processes, and degree of hazard. The Agency has also considered various phase-in options related to the size of the facility. The agency is still developing and refining its regulatory alternatives.

Anticipated Costs and Benefits:

Implementation costs of a regulation would include those related to identifying and correcting problem jobs using engineering and administrative controls. Benefits expected include reduced pain and suffering, both from prevented disorders as well as reduced severity in those disorders that do occur, decreased numbers of workers' compensation claims, and reduced lost work time. Secondary benefits may accrue from improved quality and productivity due to better designed work systems.

Risks:

The data OSHA has obtained and analyzed indicate that employees are at a significant risk of developing or aggravating musculoskeletal disorders due to exposure to risk factors in the workplace. In addition, information from site visits, the scientific literature, the Agency's compliance experience, and other sources indicates that there are economically and technologically feasible means of addressing and reducing these risks to prevent the development or aggravation of such disorders, or to reduce their severity. These data and analyses will be presented in the preamble to any proposed standard published in the Federal Register.

Timetable:

Action	Date	FR Cite
ANPRM	08/03/92	57 FR 34192
ANPRM Comment Period End	02/01/93	
NPRM	09/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

Undetermined

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RIN: 1218–AB36

DOL—OSHA

77. SAFETY AND HEALTH PROGRAMS (FOR GENERAL INDUSTRY AND THE MARITIME INDUSTRIES)

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

29 USC 655; 29 USC 652; 29 USC 654; 29 USC 657

CFR Citation:

29 CFR 1910; 29 CFR 1915; 29 CFR 1917; 29 CFR 1918

Legal Deadline:

None

Abstract:

The Occupational Safety and Health Administration (OSHA), many of the States, members of the safety and health community, insurance companies, professional organizations, companies participating in the Agency's Voluntary Protection Program, and many proactive employers in all industries have recognized the value of worksite-specific safety and health programs in preventing job-related injuries, illnesses, and fatalities. The effectiveness of these programs is seen most dramatically in the reductions in job-related injuries and illnesses, workers' compensation costs, and absenteeism that occur after employers implement such programs. To assist employers in establishing safety and health programs, OSHA in 1989 (54 FR 3904) published nonmandatory guidelines that were based on a distillation of the best safety and health management practices observed by OSHA in the years since the Agency was established. OSHA's decision to expand on these guidelines by developing a safety and health programs rule is based on the Agency's recognition that occupational injuries, illnesses, and fatalities are continuing to occur at an unacceptably high rate; for example, an average of about 17 workers were killed each day in 1997 in occupational fatalities.

The safety and health programs required by the proposed rule will include at least the following elements: management leadership of the program; active employee participation in the program; analysis of the worksite to identify serious safety and health hazards of all types; and requirements that employers eliminate or control those hazards in an effective and timely way. In addition, in response to extensive stakeholder involvement, OSHA has, among other things, focused the rule on significant hazards and reduced burdens on small business to the extent consistent with the goals of the OSH Act.

Statement of Need:

Worksite-specific safety and health programs are increasingly being recognized as the most effective way of reducing job-related accidents, injuries, and illnesses. Many States have to date passed legislation and/or regulations mandating such programs for some or all employers, and insurance companies have also been encouraging their client companies to implement these programs, because the results they have achieved have been dramatic. In addition, all of the companies in OSHA's Voluntary Protection Program have established such programs and are reporting injury and illness rates that are sometimes only 20 percent of the average for other establishments in their industry. Safety and health programs apparently achieve these results by actively engaging front-line employees, who are closest to operations in the workplace and have the highest stake in preventing job-related accidents, in the process of identifying and correcting occupational hazards. Finding and fixing workplace hazards is a cost-effective process, both in terms of the avoidance of pain and suffering and the prevention of the expenditure of large sums of money to pay for the direct and indirect costs of these injuries and illnesses. For example, many employers report that these programs return between $5 and $9 for every dollar invested in the program, and almost all employers with such programs experience substantial reductions in their workers' compensation premiums. OSHA believes that having employers evaluate the job-related safety and health hazards in their workplace and address any hazards identified before they cause occupational injuries, illnesses, or deaths is an excellent example of "regulating smarter," because all parties will benefit: workers will avoid the injuries and illnesses they are currently experiencing; employers will save substantial sums of money and increase their productivity and competitiveness; and OSHA's scarce resources will be leveraged as employers and employees join together to identify, correct, and prevent job-related safety and health hazards.

Summary of the Legal Basis:

The legal basis for the proposed rule is a preliminary finding by the Secretary of Labor that employees in industries within OSHA's jurisdiction are at significant risk of injury, illness, and death as a result of their work and that the safety and health programs required by the rule are necessary and appropriate to reduce that risk.

Alternatives:

In the last few years, OSHA has considered both nonregulatory and regulatory alternatives in the area of safety and health program management. First, OSHA published, in 1989, a set of voluntary management guidelines designed to assist employers to establish and maintain programs such as the one envisioned by the proposed safety and health programs rule. Although these guidelines have received widespread praise from many employers and professional safety and health associations, they have not been adequately effective in reducing job-related deaths, injuries, and illnesses, which have continued to occur at unacceptably high levels. Many of the States have also recognized the value

of these programs and have mandated that some or all covered employers establish them; this has led to inconsistent coverage from State to State, with many States having no coverage and others imposing stringent program requirements.

Anticipated Costs and Benefits:

Costs and benefits have not been determined at this time.

Risks:

Workers in all major industry sectors in the United States continue to experience an unacceptably high rate of occupational fatalities, injuries, and illnesses. In 1996 the Bureau of Labor Statistics reports that 6.2 million injuries and illnesses occurred within private industry, and in 1997, 6,218 workers lost their lives on the job. There is increasing evidence that addressing hazards in a piecemeal fashion, as employers tend to do in the absence of a comprehensive safety and health program, is considerably less effective in reducing accidents than a systematic approach. Dramatic evidence of the seriousness of this problem can be found in the staggering workers' compensation bill paid by America's employers and employees: approximately $54 billion annually. These risks can be reduced by the implementation of safety and health programs, as evidenced by the experience of OSHA's Voluntary Protection Program participants, who regularly achieve injury and illness rates averaging one-fifth to one-third those of competing firms in their industries. Other benefits of reducing accidents include enhanced productivity, improved employee morale, and reduced absenteeism. Because these programs address all significant job-related hazards--including those that are covered by OSHA standards as well as those not currently addressed by these standards--the proposed rule will be effective in ensuring a systematic approach to the control of long-recognized hazards, such as lead, and emerging hazards, such as lasers and violence in the workplace.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

State

Additional Information:

A separate rule is being developed for the construction industry (29 CFR 1926). OSHA will coordinate the development of the two rules.

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DOL—OSHA

78. OCCUPATIONAL EXPOSURE TO TUBERCULOSIS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

29 USC 655(b)

CFR Citation:

29 CFR 1910.1035

Legal Deadline:

None

Abstract:

On August 25, 1993, the Occupational Safety and Health Administration (OSHA) was petitioned by the Labor Coalition to Fight TB in the Workplace to initiate rulemaking for a permanent standard to protect workers against occupational transmission of tuberculosis (TB). Although the Centers for Disease Control and Prevention (CDC) have developed recommendations for controlling the spread of TB in several work settings (e.g., correctional institutions, health-care facilities, and homeless shelters), the petitioners stated that in every recent TB outbreak investigated by the CDC, noncompliance with CDC's TB control guidelines was evident. After reviewing the available information, OSHA preliminarily concluded that a significant risk of occupational transmission of TB exists for some workers and has accordingly issued a proposed rule. OSHA already regulates the exposure to the biological hazard of bloodborne pathogens (e.g. HIV, hepatitis B) under 29 CFR 1910.1030 and believes that development of a TB standard is consistent with the Agency's mission and previous activity. On October 17, 1997, OSHA published its proposed standard for occupational exposure to tuberculosis (62 FR 54160). The proposed rule covers workers in hospitals, nursing homes, hospices, correctional facilities, homeless shelters, and certain other work settings where workers are at significant risk of incurring TB infection while caring for their patients and clients or performing certain procedures. The proposed standard would require employers to protect TB-exposed employees by means of infection prevention and control measures that have been demonstrated to be highly effective in reducing or eliminating job-related TB infections. Such measures include procedures for early identification of individuals with infectious TB, isolation of individuals with infectious TB using appropriate ventilation, use of respiratory protection in certain situations, skin testing and training of employees with occupational exposure, and medical management and follow-up after exposure incidents or skin test conversions.

The written comment period ended on February 17, 1998. Subsequently, informal public hearings were held in Washington, DC (April 7-17), Los Angeles, CA (May 5-7), New York City, NY (May 19-21) and Chicago, IL (June 2-4). At the end of the hearings a post-hearing comment period was established. The deadline for final summation, briefs and written comments is October 5, 1998.

In addition to the public hearings, OSHA consulted with parties outside of the Agency with regard to the proposal. The preliminary Risk Assessment was peer-reviewed by four individuals with specific knowledge in the areas of tuberculosis and risk assessment. In addition, OSHA conducted stakeholder meetings with representatives of relevant professional organizations, trade associations, labor unions, and other groups. The proposal was also reviewed and commented on by affected small business entities under the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). In addition, the draft proposed standard and preamble were reviewed by the Office of Management and Budget.

Statement of Need:

For centuries, TB has been responsible for the deaths of millions of people throughout the world. TB is a contagious disease caused by the bacterium *Mycobacterium tuberculosis*. Infection is generally acquired by the inhalation of airborne particles carrying the bacterium. These airborne particles, called droplet nuclei, can be generated when persons with pulmonary or laryngeal tuberculosis in the infectious state of the disease cough, sneeze, speak, or sing. In some individuals exposed to droplet nuclei, TB bacilli enter the alveoli and establish an infection. In most cases, the bacilli are contained by the individual's immune response. However, in some cases, the bacilli are not contained by the immune system and continue to grow and invade the tissue, leading to the progressive destruction of the organ involved. Although in most cases this organ is the lung (i.e., pulmonary tuberculosis), other organs outside of the lung may also be infected and become diseased (i.e. extrapulmonary tuberculosis).

From 1953, when active cases began to be reported in the United States, until 1984, the number of annual reported cases declined 74 percent, from 84,304 to 22,255. However, this steady decline in TB cases has not continued. Instead, from 1985 through 1992, the number of reported TB cases increased 20.1 percent. In 1992, more than 26,000 new cases of active TB were reported in the United States. In New York City alone, 3,700 cases of active TB were reported in 1991. While a decrease in active cases has been observed recently, there were still 21,337 reported cases in 1996. A large portion of the decrease occurred in high incidence areas where intervention efforts have been focused. However, over twenty states showed an increase or no change in the number of reported cases in 1996. In addition, the factors that led to the recent resurgence of TB (e.g., increases in homelessness, HIV infection, immigration from countries with high rates of infection) still exist and the job duties of certain workers require them to be exposed to patients and clients with suspected or confirmed infectious TB. In addition, strains of tuberculosis have emerged that are resistant to several of the first-line anti-TB drugs. This multidrug-resistant TB (MDR-TB) is often fatal due to the difficulty of halting the progression of the disease. Individuals with MDR-TB often remain infectious for longer periods of time due to delays in diagnosing resistance patterns and initiating proper treatment. This lengthened period of infectiousness increases the risk that the organism will be transmitted to other persons coming in contact with such individuals.

Providing health care for individuals with TB increases the risk of occupational exposure among health care workers. In fact, several outbreaks of tuberculosis, including MDR-TB, have recently occurred in health care facilities, resulting in transmission to both patients and health care workers. CDC found that factors contributing to these outbreaks included delayed diagnosis of TB, delayed recognition of drug resistance, delayed initiation of effective therapy, delayed initiation and inadequate duration of TB isolation, inadequate ventilation in TB isolation rooms, lapses in TB isolation practices, inadequate precautions for cough-inducing procedures, and lack of adequate respiratory protection. CDC analyzed data from three of the health care facilities involved in the outbreaks, and determined that transmission of TB decreased significantly or ceased entirely in areas where recommended TB control measures were implemented. In addition workers outside of health care may provide services to patient or client populations that have an increased rate of TB. For example, occupational transmission of TB has been documented in correctional facilities.

Summary of the Legal Basis:

The legal basis for the proposed TB standard is a preliminary finding by the Secretary of Labor that workers in hospitals, nursing homes, hospices, correctional facilities, homeless shelters, and certain other work settings are at significant risk of incurring TB infection while caring for their patients and clients or performing certain procedures.

Alternatives:

Prior to a decision to publish a proposal, OSHA considered a number of options, including whether or not to develop an emergency temporary standard, publish an advance notice of proposed rulemaking, or to enforce existing regulations.

Anticipated Costs and Benefits:

Costs will be incurred by employers for engineering controls, respiratory protection, medical surveillance, training, exposure control, recordkeeping, and work practice controls. Benefits will include the prevention of occupationally-related TB transmissions and infections, and a corresponding reduced risk of exposure among the general population. OSHA estimates that more than 5 million workers are exposed to TB in the course of their work. The Agency estimates that the proposed provisions will result in an annual cost of 245 million dollars. Implementation of the standard is estimated to reduce the number of job-related cases of TB by 70-90 percent in the work settings covered, thus preventing approximately 21,400 to 25,800 work-related infections per year, 1,500 to 1,700 active cases of TB resulting from these infections, and 115 to 136 deaths resulting from these active cases.

Risks:

From 1985 to 1992, the number of reported cases of TB in the U.S. increased, reversing a previous 30-year downward trend. While there has been a recent decrease in the reported number of cases of TB in the general population, a large part of this decrease can be attributed to focused intervention efforts in areas of high incidence of TB. Over 20 states showed an increase or no change in the number of reported TB cases in 1996, and the factors that contributed to the resurgence continue to exist, along with exposure of certain workers to patient and client populations with an increased rate of TB. In addition, strains of multidrug-resistant TB have emerged which are more often fatal. Therefore, employees in work settings such as health care or correctional facilities, who have contact with infectious individuals, are at high risk of occupational transmission. TB is a contagious disease spread by airborne particles known as droplet nuclei. Active disease can cause signs and symptoms such as fatigue, weight loss, fever, night sweats, loss of appetite, persistent cough, and shortness of breath, and may possibly result in serious respiratory illness or death.

Timetable:

Action	Date	FR Cite
SBREFA Panel	09/10/96	
NPRM	10/17/97	62 FR 54160
NPRM Comment Period End	02/17/98	62 FR 65388
Post Hearing Comment End	10/05/98	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

During the rulemaking, OSHA has met with small business stakeholders to discuss their concerns, and has conducted an initial Regulatory Flexibility Analysis to identify any significant impacts on a substantial number of small entities. In addition, OSHA has conducted a special study of homeless shelters and has set aside certain hearing dates for persons who wished to testify on homeless shelter issues.

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DOL—OSHA

79. PERMISSIBLE EXPOSURE LIMITS (PELS) FOR AIR CONTAMINANTS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

29 USC 655 (b)

CFR Citation:

29 CFR 1910.1000

Legal Deadline:

None

Abstract:

OSHA enforces hundreds of permissible exposure limits (PELs) for toxic air contaminants found in U.S. workplaces. These PELs set OSHA-enforceable limits on the magnitude and duration of employee exposure to each contaminant. The amount of exposure permitted by a given PEL depends on the toxicity and other characteristics of the particular substance. OSHA's PELs for air contaminants are codified in 29 CFR 1910.1000, Tables Z-1, Z-2, and Z-3. The air contaminant limits were adopted by OSHA in 1971 from existing national consensus standards issued by the American Conference of Governmental Industrial Hygienists and the American National Standards Institute. These PELs, which have not been updated since 1971, thus reflect the results of research conducted in the 1950s and 1960s. Since then, much new information has become available that indicates that, in most cases, these early limits are outdated and insufficiently protective of worker health. To correct this situation, OSHA published a proposal in 1988 updating the air contaminant limits in general industry. That proposal became a final rule in 1989 (54 FR 2332); it lowered the existing PELs for 212 toxic air contaminants and established PELs for 164 previously unregulated air contaminants. On June 12, 1992 (57 FR 26001), OSHA proposed a rule that would have extended these limits to workplaces in the construction, maritime, and agriculture industries. However, on July 10, 1992, the Eleventh Circuit Court of Appeals vacated the 1989 final rule on the grounds that "(1) OSHA failed to establish that existing exposure limits in the workplace presented significant risk of material health impairment or that new standards eliminated or substantially lessened the risk; (2) OSHA did not meet its burden of establishing that its 428 new permissible exposure limits (PELs) were either economically or technologically feasible." The Court's decision to vacate the rule forced the Agency to return to the earlier, insufficiently protective limits.

OSHA continues to believe that establishing a rulemaking approach that will permit the Agency to update existing air contaminant limits and establish new ones as toxicological evidence of the need to do so becomes available is a high priority. The rulemaking described in this Regulatory Plan entry reflects OSHA's intention to move forward with this process. In determining how to proceed, OSHA is being guided by the OSH Act and the Eleventh District Court decision regarding the extent of the risk and feasibility analyses required to support revised and new air contaminant limits. The Agency will rely on a risk-based prioritization system to identify those air contaminants that present significant risks to exposed employees and for which technologically and economically feasible controls exist. State-of-the-art risk assessment methodologies will be utilized for both carcinogens and noncarcinogens, and the determinations of feasibility contained in the economic analysis accompanying the proposal will be extensive. OSHA published (61 FR 1947) the substances selected for proposed new PELs for the first update of the air contaminants rule: carbon disulfide, carbon monoxide, chloroform, dimethyl sulfate, epichlorohydrin, ethylene dichloride, glutaraldehyde, n-hexane, 2-hexanone, hydrazine, hydrogen sulfide, manganese and compounds, mercury and compounds, nitrogen dioxide, perchloroethylene, sulfur dioxide, toluene, toluene diisocyanate, trimellitic anhydride, and vinyl bromide. The specific hazards associated with the air contaminants preliminarily selected for regulation include cancer, neurotoxicity, respiratory sensitivity, etc. Using the same criteria as those used in the Priority Planning Process, OSHA evaluated each substance: severity of the health effect, the number of exposed workers, toxicity of the substance, uses and prevailing exposure levels of the substance, the potential risk reduction, availability and quality of information useful in quantitative risk assessment to ensure that significant risks are addressed and that workers will experience substantial benefits in the form of enhanced health and safety. Publication of the proposal will allow OSHA to institutionalize a mechanism for updating and extending its air contaminant limits, which will, at the same time, provide added protection to many workers who are currently being overexposed to toxic substances in the workplace. OSHA is also considering supplemental mechanisms proposed by stakeholders to increase the effectiveness of the process.

Statement of Need:

OSHA's current Tables Z-1, Z-2, and Z-3 contain approximately 470 PELs for various forms (e.g., dust, fumes, vapors) of the regulated contaminants, many of which are widely used in industrial settings. These PELs, which were adopted wholesale by OSHA in 1971 and have not been revised since then, often lead to adverse effects when workers are exposed to them. In addition, new chemicals are constantly being introduced into the working environment, and exposure to these substances can result in both acute and chronic health effects. Acute effects include respiratory and sensory irritation, chemical burns, and ocular damage; chronic effects include cardiovascular disease, respiratory, liver and kidney disease, reproductive effects, neurological damage, and cancer. For these reasons, it is a high OSHA priority to establish an ongoing regular process that will allow OSHA routinely to update existing PELs and establish limits for previously unregulated substances. The first step in achieving this goal is to publish an air contaminants proposal for a number of substances that will establish streamlined but scientifically sound and defensible procedures for conducting risk assessments and performing feasibility analyses that will permit regular updating and review of permissible exposure limits for air contaminants. The ability to lower existing limits and establish limits for new contaminants is an essential component of OSHA's mandate to protect the health and functional well-being of America's workers.

Summary of the Legal Basis:

The legal basis for the proposed PELs for selected air contaminants is a preliminary determination by the Secretary of Labor that the substances for which PELs are being proposed pose a significant risk to workers and that the new limits will substantially reduce that risk.

Alternatives:

OSHA has considered a variety of nonregulatory approaches to address the problem of the Agency's outdated exposure limits for air contaminants. These include the issuance of nonmandatory guidelines, enforcing lower limits through the "general duty" clause of the OSH Act in cases where substantial evidence exists that exposure presents a recognized hazard of serious physical harm, and the issuance of hazard alerts. OSHA believes, however, that the problem of overexposure to hazardous air contaminants is so widespread, and the Agency's current limits are so out of date, that only a regulatory approach will achieve the necessary level of protection. The regulatory approach also has advantages for employers, because it gives them the information they need to establish appropriate control strategies to protect their workers and reduce the costs of job-related illnesses. This first phase of an ongoing air contaminants updating and revision process will begin to resolve a problem of long-standing and major occupational health import.

Anticipated Costs and Benefits:

The scope of the proposed rule is currently under development, and thus quantitative estimates of costs and benefits have not been determined at this time. Implementation costs associated with the proposed standard include primarily those related to identifying and correcting over-exposures using engineering controls and work practices. Additional costs may be incurred for the implementation of administrative controls and the purchase and use of personal protective equipment. Estimates of the magnitude of the problem of occupational illnesses, both acute and chronic, vary considerably. In 1989, OSHA concluded that its Air Contaminants rule in general industry, which lowered 212 exposure limits and added 164 where none had previously existed, would result in a reduction of approximately 700 deaths, 55,000 illnesses and over 23,300 lost-workday illnesses annually. Chronic effects include cardiovascular disease, respiratory, liver and kidney disease, reproductive effects, neurological damage, and cancer. Acute effects include respiratory and sensory irritation, chemical burns, and ocular effects.

Risks:

Risk assessments for the substances under consideration for this first phase of the air contaminants updating and revision process have not yet been completed.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Additional Information:

During the rulemaking, OSHA will meet with small business stakeholders to discuss their concerns, and will conduct an initial Regulatory Flexibility Screening Analysis to identify any significant impacts on a substantial number of small entities.

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DOL—OSHA

80. PLAIN LANGUAGE REVISION OF EXISTING STANDARDS (PHASE I)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

29 USC 655(b); 5 USC 553

CFR Citation:

29 CFR 1910.107; 29 CFR 1910.94(c); 29 CFR 1910.94(d); 29 CFR 1910.35; 29 CFR 1910.36; 29 CFR 1910.37; 29 CFR 1910.38

Legal Deadline:

None

Abstract:

The Occupational Safety and Health Administration (OSHA) adopted its initial package of workplace safety and health standards in the 1970's. Section 6(a) of the Act directed OSHA to adopt nationally recognized consensus standards, developed by groups such as the National Fire Protection Association (NFPA) and the American National Standards Institute (ANSI), and existing Federal standards as OSHA standards without public participation or other public comment. Many of these standards have been identified by the regulated community as being overly complex, difficult to read and follow, and out of date with current technology.

This project is part of a Presidential initiative to respond to concerns about the complexity and obsolescence of certain Federal regulations. OSHA believes that some of the Agency's section 6(a) standards in subpart E and subpart H of part 1910 meet the criteria

for critical review set forth in the Presidential initiative. OSHA is initiating two separate rulemakings that will revise two of OSHA's most complex and out-of-date section 6(a) standards. These specific standards address means of egress (exit routes) and spray finishing using flammable and combustible liquids. Section 1910.107 (spray finishing using flammable and combustible liquids) also contains substantive ventilation requirements that duplicate ventilation requirements contained in section 1910.94, paragraphs (c) and (d). The purpose of these rulemakings is to simplify and clarify these standards and to write them in "plain language," as directed by the President's report and the June 1998 Executive Memorandum on Plain Language.

Statement of Need:

These two OSHA standards are being revised as part of the President's initiative on Federal regulations discussed in the U.S. Department of Labor report of June 15, 1995 and in response to the June 1998 Executive Memorandum.

Exposure to flammable and combustible liquids during spray applications creates a variety of safety and health problems, including thermal burns, chemical burns, smoke inhalation, respiratory inflammations and infections, nausea, dizziness, including respiratory allergies, heart disease, lung cancer, decreases in pulmonary function, and other serious injuries and illnesses.

In case of an emergency, proper exit routes are needed both to protect employees from being trapped in hazardous work areas and to guide employees to safety.

Summary of the Legal Basis:

The legal basis for issuing these plain language rules derives from the OSH Act and responds to the Executive Memo issued by the President in June 1998.

Alternatives:

OSHA has considered two alternatives to rewriting these rules in plain language: leaving the rules unchanged and initiating a comprehensive revision and updating of these rules. The first alternative has been rejected because it would leave these complex and specification-driven rules in place, a situation that has led to confusion and misinterpretations in the past. Carrying out the second alternative--conducting comprehensive rulemaking--would take many years, and would, again, allow the current situation to continue. The approach OSHA has taken--conducting rulemaking for the limited but important purpose of rewriting these rules in plain language--is the fastest and least resource-intensive approach to the problems presented by these rules.

Anticipated Costs and Benefits:

Because these plain language revisions are not substantively changing these rules, no cost impacts will be associated with these revisions.

Risks:

Because these revisions are designed solely to simplify and clarify these standards, no assessment of risks is required.

Timetable:

Action	Date	FR Cite
NPRM Exit Routes (Means of Egress)	09/10/96	61 FR 47712
Hearing on Exit Routes	04/29/97	62 FR 9402
NPRM Spray Finishing	11/00/98	
Final Action Exit Routes (Means of Egress)	12/00/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

Additional Information:

Means of Egress, 29 CFR 1910 subpart E, and Spray Finishing Using Flammable and Combustible Materials, 29 CFR 1910.107, are two standards selected for revision under a Presidential Initiative to revise outdated, duplicative, or obsolete Federal regulations. These standards will be rewritten in plain language to make them easier to read. 29 CFR 1910.94(c) will be combined with 29 CFR 1910.107 to eliminate duplicative standards. Flammable and Combustible Liquids, 29 CFR 1910.106, has been moved to RIN 1218-AB61.

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DOL—OSHA

81. REQUIREMENT TO PAY FOR PERSONAL PROTECTIVE EQUIPMENT

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

29 USC 655(b); 29 USC 657; 33 USC 941; 40 USC 333

CFR Citation:

29 CFR 1910 .132; 29 CFR 1915.152; 29 CFR 1917.96; 29 CFR 1918.106; 29 CFR 1926.95

Legal Deadline:

None

Abstract:

Generally, OSHA standards require that protective equipment (including personal protective equipment (PPE)) be provided and used when necessary to protect employees from hazards which can cause them injury, illness, or physical harm. In this discussion, OSHA uses the abbreviation "PPE" to cover both personal protective equipment and other protective equipment. The Agency is proposing to revise its PPE standards to clarify who is required to pay for required PPE and under what circumstances. According to the proposal, employers would be required to provide all OSHA-required PPE at no cost to employees, with the following exceptions: the employer would not need to pay for safety-toe protective footwear or prescription safety eyewear if all three of the following conditions are met: (1) the employer permits such footwear or eyewear to be worn off the job-site; (2) the footwear or eyewear is not used in a manner that renders it unsafe for use off the job-site (for example, contaminated safety-toe footwear would not be permitted to be worn off a job-site); and (3) such footwear or eyewear is not designed for special use on the job. Employers are also not required to pay for the logging boots required by 29 CFR 1910.266(d)(1)(v).

Statement of Need:

OSHA has been issuing health, safety, and construction standards requiring appropriate PPE over a 28-year period. The regulatory language used in OSHA standards has generally clearly stated that the employer must provide PPE and ensure that employees wear it. However, the regulatory language used regarding the employer's obligation to pay for the PPE has varied.

OSHA attempted to clarify its position on the issue of payment for required PPE in a compliance memorandum to its field staff dated October 18, 1994. The memorandum stated that it was the employer's obligation to provide and pay for PPE except in limited situations.

Very recently, the Occupational Safety and Health Review Commission declined to accept this interpretation (Secretary of Labor v. Union Tank Car, OSHRC No. 96-0563). The Commission vacated a citation against an employer who failed to pay for OSHA-required PPE, finding that the Secretary had failed to adequately explain the policy outlined in the 1994 memorandum in light of several inconsistent earlier letters of interpretation from OSHA.

Therefore, the Agency needs to clarify who is to pay for PPE under what conditions, to eliminate any confusion and unnecessary litigation.

Summary of the Legal Basis:

The legal basis for this proposed rule is the need to clarify OSHA's intent with regard to the payment for protective equipment required by OSHA standards promulgated under section 6 of the OSH Act.

Alternatives:

OSHA has considered several alternative approaches to resolving this issue, including leaving this as a labor-management issue, issuing compliance directives to identify what PPE the employer must pay for, or requiring the employer to pay for all PPE. OSHA believes that, in this case, revising the standard to clarify who is to pay for the PPE is the most appropriate way to proceed. It is the only approach that will assure significant public participation in the resolution of this issue, and the codification of that resolution.

Anticipated Costs and Benefits:

At this stage of rulemaking, the Agency has not determined costs or benefits, and will not be able to do this until the language of the proposal is finalized.

Risks:

Substantive requirements for protective equipment are impacted by other standards. This proposed rule is designed solely to clarify OSHA's intent as to what protective equipment must be paid for by the employer. Accordingly, no assessment of risk is required for this proposal.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Federal

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DOL—OSHA

FINAL RULE STAGE

82. RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES (SIMPLIFIED INJURY/ILLNESS RECORDKEEPING REQUIREMENTS)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

29 USC 657; 29 USC 673

CFR Citation:

29 CFR 1904; 29 CFR 1952.4

Legal Deadline:

None

Abstract:

OSHA requires employers to keep records of illness and injuries. These records are used by OSHA and the Bureau of Labor Statistics (BLS), among others, to develop data on workplace safety and health by industry and across industries. Over the years, concerns about the reliability and utility of these data have been raised by Congress, the National Institute for Occupational Safety and Health (NIOSH), the National Academy of Sciences, the Office of Management and Budget (OMB), the General Accounting Office, business and labor, as well as BLS and OSHA. In the late 1980's, OSHA contracted with the Keystone Center to bring together representatives of industry, labor, government, and academia in a year-long effort to discuss problems with OSHA's injury and illness recordkeeping system. Keystone issued a report with specific recommendations on how to improve the system. In 1995, OSHA held several meetings with stakeholders from business, labor and government in order to obtain feedback on a draft OSHA recordkeeping proposal and to gather related information.

OSHA published a Notice of Proposed Rulemaking (NPRM) in the February 2, 1996 Federal Register that contained revised recordkeeping requirements and recordkeeping forms. The original 90-day public comment period was extended another 60 days and ended July 2, 1996. In addition, two public meetings were held in Washington, DC (March 26-29 and April 30-May 1). Over 450 written comments were entered into the Docket R-02, along with 1,200 pages of input derived from nearly 60 presentations given at the public meetings.

OSHA is now planning to issue a final rule that incorporates changes based on an analysis of the public comments and testimony.

Statement of Need:

The occupational injury and illness records maintained by employers are an important component of OSHA's

program. The records are used by employers and employees to identify and evaluate workplace safety and health hazards, and they provide OSHA personnel with necessary information during workplace inspections. The records also provide the source data for the Annual Survey of Occupational Injuries and Illnesses conducted by the BLS.

All of these uses of the data are affected by the quality of the records employers maintain. Higher quality data lead to higher quality analyses, which in turn lead to better decisions about occupational safety and health matters. To improve the quality of the records and enhance the utility of the information for all the entities using the data, OSHA needs to provide clearer guidance to employers, simplify the recordkeeping forms, and provide employees with access to the information.

Summary of the Legal Basis:

The legal basis for issuance of this final rule is Section 8(c)(1) of the Act, which requires employers to record and report such records as are necessary for the enforcement of the Act and for developing information on the cases and prevention of occupational accidents and illnesses, as required by regulation, and section 24(a) of the Act, which requires OSHA to develop an effective program of occupational safety and health statistics to further the purposes of the Act.

Alternatives:

One alternative to publication of a final rule is to take no action and continue to administer the injury and illness recordkeeping system using the current regulation, forms and guidelines. Another alternative is to revise the current rule to expand its coverage and scope (i.e., eliminate the current rule's small employer and Standard Industrial Classification exemptions).

The first alternative is unacceptable because it does not address the problems with the current system identified by participants in the Keystone dialogue and other OSHA stakeholders. The second alternative is also unacceptable because it would require many employers, especially small-business employers, in low hazard industries to keep OSHA injury and illness data. This could impose a substantial paperwork burden on those employers without commensurate benefit.

Anticipated Costs and Benefits:

The costs and benefits of the final rule have not yet been determined.

Risks:

Benefits of the proposal would include: (a) a system that is more compatible with and easier for government and employers to use; (b) more reliable and useful records; (c) information for entire construction sites; and (d) greater employee involvement.

Timetable:

Action	Date	FR Cite
NPRM	02/02/96	61 FR 4030
NPRM Comment Period End	07/02/96	
Final Action	03/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

Sectors Affected:

All

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BILLING CODE 4510-23-F

DEPARTMENT OF TRANSPORTATION (DOT)

Statement of Regulatory Priorities

The Department of Transportation (DOT) consists of nine operating administrations, the Office of the Secretary, and the Bureau of Transportation Statistics (BTS), each of which has statutory responsibility for a wide range of regulations. For example, DOT regulates safety in the aviation, motor carrier, railroad, mass transit, motor vehicle, maritime, commercial space, and pipeline transportation areas. DOT regulates aviation consumer and economic issues and provides financial assistance and writes the necessary implementing rules for programs involving highways, airports, mass transit, the maritime industry, railroads, and motor vehicle safety. It writes regulations carrying out such disparate statutes as the Americans with Disabilities Act and the Uniform Time Act. It regulates the construction and operation of bridges over navigable waters, the prevention of oil pollution, and the security of commercial aviation and passenger vessels. Finally, DOT has responsibility for developing policies that implement a wide range of regulations that govern internal programs such as acquisition and grants, access for the disabled, environmental protection, energy conservation, information technology, property asset management, seismic safety, security, and the use of aircraft and vehicles.

Although it carries this heavy regulatory workload, the Department has long been recognized as a leader in Federal efforts to improve and streamline the regulatory process and ensure that regulations do not impose unnecessary burdens. A comprehensive internal management and review process for new and existing regulations is codified in the Department's regulatory policies and procedures, which ensure that the Secretary and other appropriate appointed officials review and concur in all significant DOT rules.

For virtually all DOT rules, the initiating office must prepare an analysis that includes a discussion of the problem intended to be addressed, the major alternatives, the reasons for choosing one alternative over another, and the economic and other consequences of the action. The Department has a management process that permits key officials to follow closely the development of significant regulatory projects. The process is intended to ensure that these rulemakings are completed in a timely manner, and it facilitates top management's involvement in these actions.

The Department has adopted a regulatory philosophy that applies to all its rulemaking activities. This philosophy is articulated as follows: DOT regulations must be clear, simple, timely, fair, reasonable, and necessary. They will be issued only after an appropriate opportunity for public comment, which must provide an equal chance for all affected interests to participate, and after appropriate consultation with other governmental entities. The Department will fully consider the comments received. It will assess the risks addressed by the rules and their costs and benefits, including the cumulative effect. The Department will consider appropriate alternatives, including nonregulatory approaches. It will also make every effort to ensure that legislation does not impose unreasonable mandates.

DOT continually seeks ways of improving the way it conducts its regulatory work. The creation of an electronic, internet-accessible docket for the Department; the use of direct final rulemaking; and the increased use of regulatory negotiation are three examples of this.

In responding to other Presidential initiatives, the Department is ensuring that compliance efforts reward results and deemphasize red tape. It is stressing results, and education and training programs, to assist regulators and customers to work together to achieve compliance.

The Department has engaged in a wide variety of activities to help cement the partnerships between its agencies and its customers that will produce good results for transportation programs and safety. These have included summits with front-line regulators and representatives of regulated industries. In addition, the Department's agencies have established a number of continuing partnership mechanisms in the form of rulemaking advisory committees.

The Department of Transportation was a pioneer in creating the regulatory negotiation concept, and it conducted the Federal Government's first negotiated rulemaking. Since that time, DOT has conducted regulatory negotiations on a variety of subjects, such as the Air Carrier Access Act and aspects of the Oil Pollution Act. The Department has also used advisory committees to obtain customer input on regulatory projects, such as the Americans with Disabilities Act rule. Regulatory negotiation projects currently planned, underway, or completed concern such subjects as roadway worker safety (FRA), oxygen use by airline passengers (OST), certification requirement for multistage vehicles (the National Highway Traffic Safety Administration (NHTSA)), incorporating physical fitness determinations in the commercial drivers' license program (FHWA), and qualifications for pipeline personnel and hazardous material standards for unloading cargo tanks in compressed gas service (RSPA).

Throughout the Department, we are also actively engaged in the review of our existing rules to determine whether they need to be revised or revoked. These reviews are in accordance with section 610 of the Regulatory Flexibility Act, the Department's regulatory policies and procedures, Executive Order 12866, and/or the President's directive to "consider writing existing regulations in plain language...."

Office of the Secretary of Transportation (OST)

The Office of the Secretary (OST) oversees the regulatory process for the Department. OST implements the Department's regulatory policies and procedures and is responsible for ensuring the involvement of top management in regulatory decisionmaking. Through the General Counsel's office, OST is also responsible for ensuring that the Department complies with Executive Order 12866 and other legal and policy requirements affecting rulemaking, including a number of new statutes and Executive orders. Although OST's principal role concerns the review of the Department's significant rulemakings, this office also plays an important role in the substance of projects concerning aviation economic rules and those having cross-modal significance.

OST provides guidance for use by regulatory personnel throughout the Department on compliance with requirements concerning the regulatory process. For example, OST provided guidance concerning implementation of the regulatory portions of the Unfunded Mandates Act, the Paperwork Reduction Act of 1995, and the Small Business Regulatory Enforcement Fairness Act of 1996 (including congressional review of rules). It also provides updated information on such matters as compliance with Executive orders, economic analyses, the regulatory agenda and plan, and other regulatory

policy matters. OST provides guidance and training concerning cost-benefit analyses and risk assessments, as well as offering DOT personnel periodic training on regulatory development and process.

OST also leads and coordinates the Department's response to Administration and congressional proposals that concern the regulatory process. The General Counsel's office works closely with representatives of other agencies, the Office of Management and Budget, the White House, and congressional staff to provide information on how various proposals would affect the ability of the Department to perform its safety, infrastructure, and other missions.

OST is incorporating new technology into its rulemaking process. OST initiated the effort to consolidate nine Department rulemaking (and adjudicatory) docket facilities into one centrally managed facility. OST worked with the other DOT agencies to accomplish the consolidation and the phased transition from a paper-based docket system to storage of electronic images in unalterable form. This includes all rulemaking and support documents, public comments, and other documents included in the public docket. This electronic docket is accessible via the internet, and we expect to permit electronic filing in the near future.

OST is redesigning its internet home page and the General Counsel's office now includes hyperlinks to other useful DOT regulatory websites, including the public rulemaking dockets, and contacts for many issues of special interest to the public. (http://www.dot.gov/ost/ogc/regulation/c-50/)

Finally, some OST offices provide commonly requested regulations, informational documents, guidance, and updates through fax on-demand systems.

United States Coast Guard (USCG)

The United States Coast Guard performs multimission functions which include protecting the marine environment, enforcing U.S. laws and international treaties, performing search and rescue, and ensuring marine safety and security. The Coast Guard maintains over 200 separate parts in titles 33 and 46 of the CFR and publishes hundreds of regulatory actions in the Federal Register each year. The majority of these are routine and frequent regulations, often effective for only a limited time, that allow local Coast Guard units to ensure safety during marine events, respond to accidents and natural disasters, or maintain the operation of the U.S. maritime transportation system.

The Coast Guard issues approximately 30 regulations annually that set national requirements or respond to specific statutory mandates. The Coast Guard's Marine Safety Council, a group of Coast Guard Admirals, approves each of these rulemaking projects, monitors the Coast Guard's regulatory program, and advises the Commandant on regulatory matters.

The Coast Guard's regulatory program is aligned with the Department's regulatory philosophy. The Coast Guard is an active member of the Vice President's Plain English Network and has used plain language, including question/answer format and graphical displays, to propose changes to existing regulations on fees charged to merchant mariners for work credentials and to issue regulations implementing international safety requirements. The Coast Guard is issuing all new regulations and revisions to whole parts of the CFR in plain language to meet the Presidential Memorandum on Plain Language. Early public involvement in rulemaking is encouraged through a variety of public meetings and the ongoing work of nine advisory committees. In addition, recognizing that regulations should be issued only when necessary, the Coast Guard has developed a broad Prevention Through People Program, which develops and encourages a wide variety of voluntary actions by industry and individuals to improve marine safety. To support this effort, the Coast Guard has several Quality Partnerships. Finally, to insure that all regulations are necessary, each agenda item is identified as supporting at least one of the goals in the Coast Guard's Strategic Plan.

Federal Aviation Administration (FAA)

Title 49, United States Code, subtitle VII—Aviation Programs, charges the Administrator of the FAA with promoting safety of flight of civil aircraft in air commerce. The stated FAA mission is to provide a safe, secure, and efficient global aviation system. The agency relies on its regulatory plan to provide that system.

In response to the mandate of the Vice President's National Performance Review to streamline the regulatory process, the FAA currently is implementing a reengineered rulemaking process. The Rulemaking Business Process Reengineering approach is more efficient, ensures effective communication and decisionmaking among all parties, is flexible to manage crises, and allows for the effective use of personnel. Other related actions include:

- Supporting the FAA's Safety Agenda on Safer Skies. This agenda is based on a comprehensive review of the causes of aviation accidents and is designed to bring about a five-fold (80 percent) reduction in fatal accidents. The reengineered rulemaking process supports this agenda by giving rulemaking projects identified the agency's highest priority for resources. Projects related to controlled flight into terrain, loss of control of an aircraft, uncontrolled engine failures, runway incursions, weather, pilot decisionmaking, and cabin safety are some of the focus areas identified that may result in rulemaking, advisory and guidance materials.
- Continuing to involve the aviation community early in the regulatory process to obtain input, both on the rule and the economics, from affected parties prior to publishing a proposed regulation. The Aviation Rulemaking Advisory Committee represents members from all aviation interests and is presently working on the resolution of more than 63 issues. To date, the ARAC has accomplished the issuance of more than 35 rulemaking documents.
- Continuing to harmonize the U.S. aviation regulations with those of other countries. The harmonization of the U.S. regulations with the European Joint Aviation Regulations (JAR) is the FAA's most comprehensive long-term rulemaking effort. The differences worldwide in certification standards, practices and procedures, and operating rules must be identified and minimized to reduce the regulatory burden on the international aviation system. The differences between the FAA regulations and the requirements of other nations impose a heavy burden on U.S. aircraft manufacturers and operators. Harmonization and standardization should help the U.S. aerospace industry remain internationally competitive. While the overall effort to achieve this is global, it will be accomplished by many small, individual, nonsignificant rulemaking projects.
- Implementing the recommendations of the White House Commission on Aviation Safety and Security. FAA rulemaking actions are continuing in the areas of: 1) Revising repair station requirements and 2) an employment history rule which will require an employment background investigation, with trigger mechanisms to initiate a criminal background check for all airport and airline employees and screeners with access to secure areas.
- Continuing to recognize the needs of small businesses by complying with the Small Business Regulatory Enforcement Fairness Act by addressing small business concerns whenever appropriate in rulemaking documents. In response to the Act the FAA has established a Small Entity Contact, a web site on FAA's home page, a toll free number, and an e-mail address for receipt of inquiries. To date, the FAA has received approximately 7,950 inquiries concerning small businesses.
- Ensuring that the congressional mandates for rulemaking deadlines established by the FAA Reauthorization Act of 1996, such as the issuance of a final rule 16 months after the close of comment on the proposed rule, are met.
- Supporting the President's June 1, 1998, memorandum on "Plain Language in Government Writing." The FAA has produced a Plain English Guide (October 31, 1997) and is actively monitoring current documents to ensure that they follow the principles contained in the guide. In a related effort, the FAA has also produced guidance material on performance-based regulations to ensure that rules are written in a simplified format that is easily understood and that compliance with the regulation imposes the least burden required for the desired level of safety.

Top regulatory priorities for 1998-1999 include a background criminal history check if warranted; a duty limitations and rest requirements rule to ensure that pilots are sufficiently rested for duty; a terrain awareness and warning system requirement; and an overflight of the national parks rulemaking effort to reduce or prevent the negative effects of aircraft noise in our national parks.

Federal Highway Administration (FHWA)

The FHWA anticipates that its priority for fiscal year 1999 will be implementation of the Transportation Equity Act for the 21st Century (TEA-21), which reauthorizes the surface transportation programs administered by the FHWA. The FHWA will seek to implement this legislation in the least burdensome and restrictive way possible consistent with the FHWA's mission. The FHWA will also pursue regulatory reform in areas where project development can be streamlined or accelerated, duplicative requirements can be consolidated, recordkeeping requirements can be reduced or simplified, and the decisionmaking authority of our State and local partners can be increased.

Another major area in which the FHWA will initiate or continue significant rulemaking actions is the ongoing zero-base review of the Federal Motor Carrier Safety Regulations. The goals and objectives of the zero-base review project are to (a) focus on those areas of enforcement and compliance which are most effective in reducing motor carrier accidents, (b) reduce compliance costs, (c) encourage innovation, (d) clearly and succinctly describe what is required, and (e) facilitate enforcement. Through the zero-base review, the FHWA intends to develop a unified, performance-based regulatory system that will enhance safety on our Nation's highways while minimizing the burdens placed on the motor carrier industry. In addition, the FHWA is currently redrafting the Rules of Practice for Motor Carrier Safety and Hazardous Materials Proceedings. It plans to simplify the current process to facilitate responses by the accused motor carriers and drivers and to offer alternative means of adjudicating the claims. It also intends to promulgate comprehensive rules covering the entire enforcement process from initial contact with the motor carrier to the final disposition of the claim.

National Highway Traffic Safety Administration (NHTSA)

The statutory responsibilities of the National Highway Traffic Safety Administration (NHTSA) include reducing and mitigating motor vehicle crashes and related fatalities and injuries, providing motor vehicle information to consumers, and improving automotive fuel efficiency. The Agency pursues policies that encourage the development of nonregulatory approaches when feasible in meeting its statutory mandate; issues new standards and regulations or amendments to existing standards and regulations when appropriate; ensures that regulatory alternatives reflect a careful assessment of the problem and a comprehensive analysis of the benefits, costs, and other impacts associated with the proposed regulatory action; and considers alternatives consistent with the Administration's regulatory principles.

In addition to numerous programs that focus on the safety and performance of the motor vehicle, the Agency is engaged in a variety of programs to improve driver behavior. These programs emphasize the human aspects of motor vehicle safety and recognize the important role of the States in this common pursuit. This goal is accomplished by a number of means, including encouraging initiatives in such areas as safety belt usage, motorcycle helmet usage, child safety-seat usage, activities aimed at combating drunk driving and driving under the influence of other drugs, and consumer information activities.

NHTSA is conducting several program evaluations that are designed to review and evaluate the actual benefits, costs, and overall effectiveness of existing standards and regulations. For example, the Agency will continue evaluating Standard 208's new measures to improve the safety performance of air bags, Standard 214's dynamic side-impact requirements, and Standard 108's requirement for reflective marking on heavy truck trailers to enhance their detectability at night or under other conditions of reduced visibility. NHTSA will continue evaluating the implementaiton of the American Automobile Labeling Act, which requires new passenger cars, pickup trucks, vans, and sport utility vechicles to carry labels providing information on their domestic and foreign parts content. The agency will begin to evaluate the efficacy of child safety seat registration for increasing consumer response to recalls of defective seats.

NHTSA's regulatory program includes additional proposals that will be undertaken in order to allow design flexibility, promote new technology, and encourage market competition and consumer choice.

Federal Railroad Administration (FRA)

The Federal Railroad Administration (FRA) exercises regulatory authority over all areas of railroad safety. The Federal Railroad Safety Act of 1970 is the primary source of this authority.

FRA promotes safe, environmentally sound, and successful railroad transportation to meet the current and future needs of all its customers. It encourages policies and investment in infrastructure and technology to enable rail to reach its full potential.

FRA seeks to develop a regulatory program that is based on the regulatory principles enunciated in Executive Order 12866 and that satisfies the Order's basic criteria for such programs.

FRA's vision is of a regulatory program that protects the health and safety of all persons affected by railroading in America and enhances the environment without imposing unreasonable costs on society. FRA seeks to create regulations that are as "effective, consistent, sensible, and understandable" as those envisioned by the President in his Order.

While railroad safety has improved substantially over the past decade due to the implementation of easy and obvious risk reduction measures, significant risk remains due to the nature of rail transportation. Fashioning solutions that have favorable benefit-to-cost ratios, and that, where feasible, incorporate flexible performance standards, requires cooperative action by all affected parties. Interested parties have traditionally approached rail safety rulemakings in an adversarial manner, however, which greatly inhibited the development of the best regulatory approaches to resolve difficult safety issues.

FRA began addressing these concerns when it decided to use negotiated rulemaking to create a rule addressing the safety of roadway workers. Begun early in 1995, the negotiated rulemaking advisory committee reached a consensus agreement about how best to ensure the safety of roadway workers.

Building on its success with this collaborative rulemaking experience, FRA established the Railroad Safety Advisory Committee (RSAC) in late March 1996. Making collaborative rulemaking a new way of doing business at FRA is essential to future improvements in public and railroad employee safety. RSAC provides the foundation for accomplishing this objective because it represents a rare commitment on the part of labor unions, railroads, and private associations to work together, and with FRA, on the establishment of regulatory priorities, the gathering and analysis of safety data, and the development of standards which are necessary to ensure that maximum safety levels are both obtained and maintained. As such, it is important to the creation of trust, both between the Agency and the industry, as well as among industry members.

The purpose of RSAC is to develop consensus recommendations for regulatory action on issues referred to it by FRA. Where consensus is achieved, and FRA believes it serves the public interest, the resulting rule is very likely to be better understood, more widely accepted, more cost-beneficial, and more correctly applied. Where consensus cannot be achieved, however, FRA will fulfill its regulatory role without the benefit of RSAC's recommendations.

The RSAC has met on a quarterly basis so far and currently has working groups addressing the following tasks: (1) The development of regulations governing track, motor vehicle, and roadway worker equipment; (2) the revision of the regulations governing radio standards and procedures; (3) the revision of the regulations governing locomotive inspection standards for steam-powered locomotives; (4) the review of FRA regulations for their applicability to historic railroads; (5) the development of safety standards for locomotive crashworthiness; (6) the development of safety standards for locomotive working conditions; (7) the development of locomotive event recorder accident survivability standards; (8) the development of regulations governing the use of positive train control (PTC) systems; and (9) the revision of the regulations governing locomotive engineering certification. FRA is currently in the process of drafting NPRMs on inspection standards for steam locomotives and locomotive engineer certification based on RSAC recommendations.

In addition to RSAC, FRA continues to use collaborative rulemaking to address passenger safety issues. The Federal Railroad Safety Authorization Act of 1994 allows FRA to consult with the National Railroad Passenger Corporation (AMTRAK), public authorities, passenger organizations, and rail labor organizations without being subject to the Federal Advisory Committee Act requirements when establishing standards for the safety of cars used by railroad carriers to transport passengers. FRA established a working group to develop Passenger Equipment Safety Standards and published an NPRM in the first phase of this rulemaking initiative in September 1997 based on its recommendations. Following a public hearing in November 1997, and subsequent working group meetings, FRA expects to issue a final rule and also begin work on the second phase of the rule, with a goal of publishing an NPRM in 1999. FRA also published a final rule on Passenger Train Emergency Preparedness in May 1998 based on the recommendations of a working group.

FRA is also involved in extensive outreach to the public in an effort to develop regulations regarding the use of train whistles in certain areas and plans to publish an NPRM in late 1998 or early 1999.

Finally, in order to assure safety in connection with future mergers, consolidations, acquisitions of control and start-up operations, FRA and the Surface Transportation Board (STB) are developing a joint rulemaking to require railroads to file detailed safety integration plans for all major transactions.

Federal Transit Administration (FTA)

The Federal Transit Administration (FTA) provides financial assistance to State and local governments for mass transportation purposes. The regulatory activity of FTA focuses on establishing the terms and conditions of Federal financial assistance available under the Federal transit laws.

FTA's policy regarding regulations is to:

- Implement statutory authorities in ways that provide the maximum net benefits to society;
- Keep paperwork requirements to a minimum;
- Allow for as much local flexibility and discretion as is possible within the law;
- Ensure the most productive use of limited Federal resources;
- Protect the Federal interest in local investments; and
- Incorporate good management principles into the grant management process.

As mass transportation needs have changed over the years, so have the requirements for Federal financial assistance under the Federal transit laws and related statutes. FTA's regulatory priority for 1998 is to begin rulemakings required under the Transportation Equity Act for the 21st Century (TEA-21). FTA will initiate a rulemaking to implement the criteria prescribed by that Act for the evaluation of new starts.

FTA will also initiate a rulemaking to implement the new Clean Fuels Formula Grant Program, which requires FTA to issue grants for the purchase or lease of clean fuel vehicles and related equipment and facilities, the improvement of existing mass transportation facilities to accommodate clean fuel vehicles, to repower pre-1993 engines with clean fuel technology that meets the current urban bus emission standards, or to retrofit or rebuild pre-1993 engines if before their half-life.

FTA will amend the Capital Leases and Buy America regulations and, with FHWA, amend the Planning and Assistance Standards and the Environmental Impact and Related Procedures regulations.

Maritime Administration (MARAD)

MARAD administers Federal laws and programs designed to promote and maintain a U.S. merchant marine capable of meeting the Nation's shipping needs for both national security and domestic and foreign commerce.

MARAD's regulatory objectives and priorities reflect the Agency's responsibility for ensuring the availability of adequate and efficient water transportation services for American shippers and consumers. To advance these objectives, MARAD issues regulations, which are principally administrative and interpretive in nature, when appropriate, in order to provide a net benefit to the U.S. maritime industry.

In 1998, and continuing into 1999, priority will be given to updating existing regulations to reduce unnecessary burden on the public. For example, MARAD will be updating and streamlining existing regulations and administrative practices governing the following areas: 1) The ship financing guarantee process; 2) standards for evaluation and approval of applications; and 3) the process and documentation for closing of commitments to guarantee obligations issued under these regulations.

Research and Special Programs Administration (RSPA)

The Research and Special Programs Administration (RSPA) has responsibility for rulemaking under two programs. Through the Associate Administrator for Hazardous Materials Safety, RSPA administers regulatory programs under Federal hazardous materials transportation law and the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990. Through the Associate Administrator for Pipeline Safety, RSPA administers regulatory programs under the Federal pipeline safety laws and the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990.

In the area of hazardous materials transportation, the regulatory priority is to update and consolidate requirements in the hazardous materials regulations for the manufacture, maintenance, requalification, repair, and use of compressed gas cylinders. In this rulemaking, RSPA intends to recognize advances in cylinder manufacturing technology and to clarify and simplify regulatory requirements. Another priority is to clarify, through rulemaking action, the applicability of the regulations to the loading, unloading, and storage of hazardous materials incidental to their movement in commerce. Clarifying the applicability of the regulations will facilitate compliance with them and also clarify when other requirements of Federal, State, local, and tribal governments apply.

The regulatory priorities in the pipeline area are to manage the risks inherent in pipeline transportation through strategies directed at prevention, detection, and mitigation activities. Specific regulatory actions to implement these activities include the use of emergency flow-restricting devices and other mechanisms to detect and locate pipeline ruptures and minimize releases, excavation damage prevention programs, mandating participation in one-call notification systems, increased inspection requirements using instrumented internal inspection devices, and prescribing risk-based approaches to pipeline safety regulations.

Bureau of Transportation Statistics (BTS)

The Bureau of Transportation Statistics (BTS) is responsible for compiling, analyzing, and making accessible information on the Nation's transportation systems; collecting information on intermodal transportation and other areas as needed; and enhancing the quality and effectiveness of the statistical program of DOT through research, the development of guidelines, and the promotion of improvements in data acquisition and use.

One of BTS's regulatory priorities is to completely review its motor carriers of property financial data collection program. The data are collected under recently revised statutory authority, which requires BTS to give consideration to: (1) Safety needs; (2) the need to preserve confidential business information and trade secrets and prevent competitive harm; (3) private sector, academic, and public use of information in the reports; and (4) the public interest. Further, the statute calls for BTS to "streamline and simplify" reporting requirements to the "maximum extent practicable." Among the issues BTS plans to address are: Which motor carriers should report, what data items should be collected, and how often should data be collected.

BTS's Office of Airline Information (OAI), collects airline passenger, cargo, traffic, and financial data. This information gives the Government consistent and comprehensive economic and market data on individual airline operations and is used, for instance, in supporting policy initiatives, negotiating international bilateral aviation agreements, awarding international route authorities, and meeting international treaty obligations. The aviation, travel, and tourism communities value this information for a variety of purposes, such as conducting analyses of on-time performance, denied boardings, and market trends.

BTS's long-range regulatory priority in the aviation area is to conduct a complete review and modernization of the passenger origin and destination survey. BTS can make significant improvements by providing data for the needs of DOT and other users in a way that takes advantage of the information revolution and matches the dramatically changing airline industry.

BTS, in conjunction with the Office of the Secretary, also plans to perform a zero-base review of the financial and traffic data to determine what, if any, revisions can be made to the current data collections to ensure that these collections fully support the Department's mandated aviation responsibilities. Moreover, the review will seek to identify potential savings to the affected air carriers and the Government that can be accomplished through the application of advanced information technologies to the collection, processing, validation, and dissemination of aviation data. BTS's review and modernization of the passenger origin and destination survey will be incorporated as part of this zero-base review.

Saint Lawrence Seaway Development Corporation (SLSDC)

The Saint Lawrence Seaway Development Corporation (SLSDC) is a wholly owned Government corporation created by Congress in 1954. The primary operating service of the SLSDC is the safe transit of commercial and noncommercial vessels through the two U.S. locks and the navigation channels of the St. Lawrence Seaway System. The SLSDC works jointly with its Canadian counterpart to operate and maintain this deep draft waterway between the Great Lakes and the Atlantic Ocean.

The SLSDC also works jointly with its Canadian counterpart on all matters related to rules and regulations, overall

operations, vessel inspection, traffic control, navigation aids, safety, operating dates, and trade development programs.

The regulatory priority of the SLSDC is to provide its customers with the safest, most reliable, and most efficient Seaway System possible.

DOT—U.S. Coast Guard (USCG)

PROPOSED RULE STAGE

83. +FACILITY RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (CGD 94-048)

Priority:

Other Significant

Unfunded Mandates:

Undetermined

Legal Authority:

33 USC 1321(j); PL 101-380

CFR Citation:

33 CFR 154

Legal Deadline:

None

Abstract:

This project would implement provisions of the Oil Pollution Act of 1990 that require an owner or operator of a marine transportation-related facility transferring bulk hazardous substances to develop and operate in accordance with an approved response plan. The regulations would apply to marine transportation-related facilities that, because of their location, could cause harm to the environment by discharging a hazardous substance into or on the navigable waters or adjoining shoreline. A separate rulemaking under RIN 2115-AE88 would address hazardous response plan requirements for tank vessels. This project supports Coast Guard strategic goals of marine safety and protection of the marine environment by reducing the amount of chemicals entering the environment, as well as reducing the consequence of pollution incidents. This action is considered significant because of substantial public and industry interest.

Statement of Need:

This rulemaking is intended to reduce the impact from hazardous substance spills from vessels and marine transportation-related facilities.

Summary of the Legal Basis:

Section 4202(a) of the Oil Pollution Act of 1990 (OPA 90), codified at 33 U.S.C. 1321(j)(5), mandates that the President issue regulations requiring the preparation of oil and hazardous substance discharge response plans. Although section 4202(b)(4) of OPA 90 established an implementation schedule for these response plans for oil, it did not establish a deadline for submission or approval of hazardous substances response plans. The Coast Guard has issued separate final rules governing response plan requirements for vessels carrying oil in bulk as cargo and facilities that handle, store, or transport oil in bulk. Under 33 U.S.C. 1321, "hazardous substances" are designated by the Administrator of the Environmental Protection Agency. The Administrator has designated 297 chemicals as hazardous substances under this section. The Coast Guard has identified 84 hazardous substances currently carried in bulk by vessels, and transferred to or from marine transportation-related facilities.

Alternatives:

The Coast Guard intends to determine what types of response strategies would be required to address spills of different types of hazardous substances. For some substances, containment and recovery may be the appropriate response. However, some spilled substances may not be recoverable from the water and other actions may be necessary. Plans would be required, by statute, to address responses to a "worst case discharge." For facilities, a "worst case discharge" is "the largest foreseeable discharge in adverse weather conditions."

Anticipated Costs and Benefits:

The potential costs of this rulemaking may include the costs of developing and implementing a hazardous substance response plan, maintaining contracts for response resources, reviewing and updating hazardous substance response plans, maintaining any required equipment, and training and exercising response personnel. Potential benefits include reduced risk of human exposure and enhanced environmental quality from improved ability to respond to, contain, and recover spilled hazardous substances. The draft analysis indicates that this project will not be economically significant. The Coast Guard expects this rule's potential monetary cost to the regulated public to total less than ten million dollars. The Coast Guard anticipates benefits that include increased safety of human life and property on navigable waters of the United States.

Risks:

Response plans are required by statute. A response plan will not prevent a discharge of a hazardous substance, but it may improve the response and help to minimize personal injury and damage to the environment. This rule should not affect the economic viability of facilities involved in transferring hazardous substances in bulk or have a significant impact on the volume of hazardous substances shipped by marine transportation-related facilities. Most facilities involved in transferring hazardous substances in bulk have developed plans, but there have not been requirements for standardization.

Timetable:

Action	Date	FR Cite
ANPRM	05/03/96	61 FR 20084
Notice of Public Hearings	07/03/96	61 FR 34775
ANPRM Comment Period End	09/03/96	
NPRM	03/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

Public hearings regarding this rulemaking were held in Washington, DC on July 30, 1996; Houston, TX on August 5, 1996; and in Houston, TX on February 26 and 27, 1997.

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RIN: 2115–AE87

DOT—USCG

84. +TANK VESSEL RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (CGD 94-032)

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

33 USC 1231; 33 USC 1321(j); PL 101-380

CFR Citation:

33 CFR 155

Legal Deadline:

None

Abstract:

This project would implement provisions of the Oil Pollution Act of 1990 that require an owner or operator of a tank vessel carrying bulk hazardous substances to develop and operate in accordance with an approved response plan. The regulations would apply to vessels operating on the navigable waters or within the Exclusive Economic Zone (EEZ) of the U.S. that carry bulk hazardous substances. A separate rulemaking under RIN 2115-AE87 would address hazardous substances response plan requirements for marine transportation-related facilities. This project supports Coast Guard strategic goals by reducing the amount of chemicals entering the environment, as well as reducing the consequences of pollution incidents. This project is considered significant because of substantial public and industry interest.

Statement of Need:

This rulemaking is intended to reduce the impact from hazardous substance spills from vessels.

Summary of the Legal Basis:

Section 4202(a) of the Oil Pollution Act of 1990 (OPA 90), codified at 33 U.S.C. 1321(j)(5), mandates that the President issue regulations requiring the preparation of oil and hazardous substance discharge response plans. Although 4202(b)(4) of OPA 90 established an implementation schedule for these response plans for oil, it did not establish a deadline for submission or approval of hazardous substances response plans. The Coast Guard has issued separate final rules governing response plan requirements for vessels carrying oil in bulk as cargo and facilities that handle, store, or transport oil in bulk. Under section 1321, "hazardous substances" are designated by the Administrator of the Environmental Protection Agency. The Administrator has designated 297 chemicals as hazardous substances under this section. The Coast Guard has identified 84 hazardous substances currently carried in bulk.

Alternatives:

The Coast Guard intends to determine what types of response strategies would be required to address spills of different types of hazardous substances. For some substances, containment and recovery may be the appropriate response. However, some spilled substances may not be recoverable from the water and other actions may be necessary. Plans would be required, by statute, to address responses to a "worst case discharge." For vessels, a "worst case discharge" is "a discharge in adverse weather conditions of its entire cargo."

Anticipated Costs and Benefits:

The potential costs of this rulemaking may include the costs of developing and implementing a hazardous substance response plan, maintaining contracts for spill-response resources, reviewing and updating hazardous substance response plans, maintaining any required equipment, and training and exercising response personnel. Potential benefits include reduced risk to human health, enhanced environmental quality from improved ability to respond to, contain, and recover spilled hazardous substances and a reduction in the severity of the impact of accidental hazardous substance discharges. The Coast Guard does not yet have sufficient information to estimate the potential monetary costs and benefits of this rule. A key element in developing effective regulations for hazardous substance response plans will be the development of an approach for addressing different types of hazardous substances.

Risks:

Response plans are required by statute. A response plan will not prevent a discharge of a hazardous substance, but it may improve the response and help to minimize personal injury and damage to the environment. This rule should not affect the economic viability of vessels involved in transferring hazardous substances in bulk, or have a significant impact on the volume of hazardous substances shipped by vessel. Most vessels carrying hazardous substances in bulk have developed response plans, but there have not been requirements for standardization.

Timetable:

Action	Date	FR Cite
ANPRM	05/03/96	61 FR 20084
Notice of Public Hearings	07/03/96	61 FR 34775
ANPRM Comment Period End	09/03/96	
NPRM	11/00/98	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 2115–AE88

DOT—Federal Aviation Administration (FAA)

PROPOSED RULE STAGE

85. +OVERFLIGHTS OF UNITS OF THE NATIONAL PARK SYSTEM

Priority:

Other Significant

Legal Authority:

49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44709; 49 USC 44711 to 44713; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation:

14 CFR 91; 14 CFR 93; 14 CFR 121; 15 CFR 135

Legal Deadline:

None

Abstract:

The FAA and National Park Service (NPS) have established a joint working group which is tasked with developing a notice of proposed rulemaking to reduce or prevent adverse effects of aircraft noise over our national park system. At the same time, the working group is charged with affording those persons who wish to visit our national parks from the air the opportunity to

do so. The working group met from May to November 1997, and developed a concept paper that was approved by the Aviation Rulemaking Advisory Committee and the NPS Advisory Board in December 1997. The working group is now developing a notice of proposed rulemaking with the FAA and NPS. This rulemaking is significant because of substantial public interest.

Statement of Need:

The need to reduce or prevent the adverse effects of aircraft noise over the national parks is apparent for the preservation of a valuable national resource. In its Report to Congress, the National Park Service identified 98 parks that potentially have an overflight problem. The FAA recognizes its role both to provide for the safe and efficient use of airspace and to enhance the environment by minimizing the adverse effects of aviation in the national parks.

Summary of the Legal Basis:

The FAA has broad authority and responsibility to regulate the operation of aircraft and the use of the airspace and to establish safety standards for and regulate the certification of airmen, aircraft, and air carriers. (49 U.S.C. 40101, et. seq.) The FAA also has responsibility to protect persons and property on the ground. The President's Memorandum of April 22, 1996, directed the FAA, working with the National Park Service, to issue a notice of proposed rulemaking for the management of sightseeing aircraft in those national parks where it is deemed necessary to reduce or prevent the adverse effects of noise from such aircraft.

Alternatives:

During its working sessions, the working group considered a variety of criteria for defining an air tour, various triggering events for determining which parks are at risk, and various means for the NPS and FAA to work together to develop an air tour management plan.

Anticipated Costs and Benefits:

Undetermined.

Risks:

This rulemaking addresses the risk of destruction of valuable national resources: the right to enjoy the natural quiet in our national parks. At the same time, taking this risk has to be balanced against any potential safety problems that restrictions on overflights might create. Both the National Park Service and FAA are confident that a solution can be reached whereby all visitors to the park may be accommodated through an agreed upon park airspace management plan.

Timetable:

Action	Date	FR Cite
ANPRM	03/17/94	59 FR 12740
ANPRM Correction	04/01/94	59 FR 15350
ANPRM Comment Period End	06/15/94	
Extended ANPRM Comment Period Comment Period End 07/15/94	06/20/94	59 FR 31883
Notice: Formation of Working Group	05/22/97	62 FR 28100
Notice of Public Meeting	06/06/97	62 FR 31187
Notice of Public Meeting	04/07/98	63 FR 17040
NPRM	10/00/98	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

Refer to 1996 Regulatory Plan entry RIN 2120-AF93, Airspace Management: Special Flight Rules in the Vicinity of the Grand Canyon and also RIN 2120-AG11, Special Flight Rules in the Vicinity of the Rocky Mountain National Park. Project Number: ARM-97-318A

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact:

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RIN: 2120–AF46

DOT—FAA

86. +FLIGHT CREWMEMBER DUTY PERIOD LIMITATIONS, FLIGHT TIME LIMITATIONS, AND REST REQUIREMENTS

Priority:

Other Significant

Legal Authority:

49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44701; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation:

14 CFR 121; 14 CFR 135

Legal Deadline:

None

Abstract:

This rulemaking would amend the regulations to establish one set of duty period limitations, flight time limitations, and rest requirements for flight crewmembers engaged in air transportation. The FAA has determined that rulemaking is required as a result of public and congressional interest in regulating flight crewmember rest requirements, NTSB Safety Recommendations, petitions for rulemaking, and scientific data. The FAA has asked the Aviation Rulemaking Advisory Committee (ARAC) to accept the task of proposing recommendations for pilots on reserve status. At the same time, an internal FAA team will be developing a supplemental notice of proposed rulemaking. This action is considered significant because of substantial public interest.

Statement of Need:

The aviation community requires 24-hour activities to meet operational demands. Growths in long-haul, regional, overnight cargo, and short-haul domestic operations are increasing. Therefore, shift work, night work, irregular work schedules, and time zone changes will continue to be commonplace.

With this growth, the scientific knowledge about sleep, sleep disorders, circadian physiology, fatigue, and performance decrements has also grown. Some of the scientific knowledge has indicated that aviators experience performance-impairing fatigue from sleep loss resulting from current flight and duty practices. A primary purpose is to base the rule on scientific knowledge.

In addition, industry and individuals have told the FAA that the current regulations are confusing and difficult to enforce. Therefore, a second purpose of the rulemaking is to establish consistent and clear duty period limitations and rest requirements for all types of operations.

Summary of the Legal Basis:

Section 44701, Title 49 of the United States Code states that the Administrator shall promote safety of flight of civil aircraft in air commerce by prescribing minimum standards required in the interest of safety.

Alternatives:

One obvious alternative would be to continue with the current rules, which would be very expensive for the industry. In reviewing the comments, the FAA is also considering other reserve alternatives that would not penalize certain segments of the industry, such as the air ambulance operators. There is no overall alternative to rest and duty regulations; however, there may be some alternatives that would lend flexibility for operators. To explore these alternatives, the FAA has established a Reserve Duty/Rest Requirements Working Group under the Aviation Rulemaking Advisory Committee.

Anticipated Costs and Benefits:

Undetermined.

Risks:

Although there has been only one identifiable accident due to pilot fatigue, fatigue is increasingly becoming the focus of possible causes following all accidents. Pilot reports of being fatigued to the point of incapacity are not uncommon, and intuitively, it is reasonable, given the sheer volume of air traffic, to expect fatigue to be a factor in future accidents if the regulations are not corrected.

Timetable:

Action	Date	FR Cite
NPRM	12/20/95	60 FR 65951
NPRM Comment Period End	03/19/96	
Extended NPRM Comment Period End 6/19/96	03/20/96	61 FR 11492
SNPRM	04/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

Project Number: AFS-94-443R

ANALYSIS: Regulatory Evaluation, 12/20/95, 60 FR 65951

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RIN: 2120–AF63

DOT—FAA

87. +TERRAIN AWARENESS AND WARNING SYSTEM (TAWS)

Priority:

Other Significant

Legal Authority:

49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44712; 49 USC 44715; 49 USC 44716 to 44718; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46316; ...

CFR Citation:

14 CFR 91; 14 CFR 121; 14 CFR 135

Legal Deadline:

None

Abstract:

This rulemaking would issue rules that would prohibit the operation of turbine-powered U.S. registered civil airplanes of six or more passenger seats, exclusive of pilot and co-pilot seating, unless that airplane is equipped with an FAA-approved enhanced ground proximity warning system (GPWS). This proposed rule is intended to further reduce the risk of controlled flight into terrain (CFIT) accidents. This rule is significant because of substantial public interest.

Statement of Need:

As a result of the Gore Commission and NTSB recommendations and a number of studies, it was found that CFIT accidents could have been avoided if an enhanced warning device was used.

Summary of the Legal Basis:

49 USC 44701 empowers the Administrator to prescribe regulations and minimum standards in the interest of safety for aircraft and equipment.

Alternatives:

The FAA considered regulatory options to identify the least intrusive and most cost-effective means of achieving the goal of reducing the probability of CFIT accidents. The alternatives considered fall under two general groupings: 1) require different levels of TAWS or GPWS technologies for different subsegments of the regulated population; and 2) impose different compliance deadlines on different subsegments of the regulated population.

Anticipated Costs and Benefits:

The discounted costs of this rule are estimated at $774 million; the benefits are estimated at $2.8 billion. The benefit/cost ratio is 3.65 to 1. This total includes adding the equipment to all in-service airplanes and to all newly manufactured airplanes over the next 10 years.

Risks:

The purpose of this rulemaking is to expand and enhance the safety benefits of the current ground proximity warning system. TAWS provides an earlier time for verbal warning along with a visual warning (situational display) that will allow the flight crew to see approaching terrain. The combination of the increased warning times and situational awareness of flight crews decreases the risk of controlled flight into terrain accidents.

Timetable:

Action	Date	FR Cite
NPRM	08/26/98	63 FR 45628
NPRM Comment Period End	11/24/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

Additional Information:

Project Number: AIR-96-354R.

ANALYSIS: Regulatory Evaluation, 08/26/98, 63 FR 45628

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RIN: 2120–AG46

DOT—Federal Highway Administration (FHWA)

PROPOSED RULE STAGE

88. +HOURS OF SERVICE OF DRIVERS (SECTION 610 REVIEW)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

PL 104-88

CFR Citation:

49 CFR 395

Legal Deadline:

Other, Statutory, March 1, 1996. See sections 103 and 408 of PL 104-88.

Abstract:

This action would propose revision of the FHWA's hours of service regulations. This action is mandated by the ICC Termination Act of 1995. The rulemaking also will address NTSB Safety Recommendations, petitions for rulemaking, and scientific data. The rulemaking has a great deal of public and congressional interest in regulating medium- and heavy-duty truck and bus drivers' sleep, off-duty, and working periods of time. The FHWA will propose new rules based upon comments and scientific data submitted to the advance notice of proposed rulemaking docket, an initial regulatory flexibility analysis, a cost-benefit analysis, an unfunded mandates analysis, and a paperwork reduction analysis. This action is considered significant because of substantial public and congressional interest.

Statement of Need:

The motor carrier industry requires 24-hour activities to meet the operational demands of a healthy U.S. economy. Growth in long-haul, regional, overnight, and local operations is increasing with the growth of the U.S. economy. Therefore, night work, shift work, and irregular work schedules will continue to be commonplace.

With this growth, the scientific knowledge about sleep, sleep disorders, circadian physiology, fatigue, and performance decrements has also grown. Some of the scientific knowledge has indicated that medium- and heavy-duty truck and bus drivers may experience performance-impairing fatigue from sleep loss resulting from current motor carrier duty and operational practices. A primary purpose of this rulemaking is to incorporate as much of the scientific knowledge as possible into the applicable regulations.

In addition, industry, safety advocates, and individuals have told the FHWA that the current regulations constrain productivity, are confusing, and focus enforcement on sloppy recordkeeping practices rather than on violations of the underlying hours-of-service rules. Therefore, a second purpose of the rulemaking is to establish enforceable, consistent, and clear work duty periods and sleep requirements for all types of operations.

Summary of the Legal Basis:

Title 49 United States Code, Section 31502 allows the Secretary of Transportation to prescribe maximum hours-of-service regulations for employees of motor carriers when needed to promote the safety of operations.

Section 408 of the ICC Termination Act of 1995 (Pub. L. 104-88, December 29, 1995) requires the Federal Highway Administration to issue an advance notice of proposed rulemaking, a notice of proposed rulemaking, and a final rule dealing with a variety of fatigue-related issues pertaining to commercial motor vehicle safety (including 8 hours of continuous sleep after 10 hours of driving, loading and unloading operations automated and tamper-proof recording devices, rest and recovery cycles, fatigue and stress in longer combination vehicles, fitness for duty, and other appropriate regulatory and enforcement countermeasures for reducing fatigue-related incidents and increasing driver alertness).

Alternatives:

One alternative is to continue the current rules. Other alternatives may include replacing the current daily maximum 15-hour on-duty, maximum 10-hour-driving, minimum 8-hour-off-duty periods and weekly 60-hour-in-seven-day sliding week with an alternative set of rules based upon scientific knowledge and submitted comments. The FHWA will consider "one-size-does-not-fit-all" types of regulations. The FHWA will consider different regulations for different types of drivers, operations, or classification of vehicles.

Finally, the FHWA will consider modifying the information collection burdens upon the motor carrier industry, including the following types of record keeping methods. 1) Reducing the required items on the record of duty status (log book). 2) Adding automated on-board recording devices to commercial motor vehicles. 3) Adding global positioning system on-board recording devices to commercial motor vehicles. 4) Eliminating all FHWA hours-of-service record keeping requirements while relying exclusively on the duplicative hours-of-service record keeping system of records required by the U.S. Department of Labor under the Fair Labor Standards Act of 1938, as amended.

Anticipated Costs and Benefits:

Undetermined. A cost-benefit analysis completed in 1981 based upon a 1978 notice of proposed rulemaking calculated national costs between $10.6 and $11.5 billion with possible societal benefits of about $450 million, a benefit-to-cost ratio under one. (In 1997 dollars, this would be national costs between $20.67 and $22.43 billion with possible societal benefits of about $878 million.) A new cost-benefit analysis is underway and will be conducted and reported in compliance with OMB Circular A-94, "Discount Rates to be Used in Evaluating Time-Distributed Costs and Benefits." The FHWA believes it can develop a rule with a benefit-to-cost ratio of more than one for this rulemaking. The FHWA is planning to develop a rule that will produce a "win-win" outcome (increased safety and unchanged or increased productivity).

The FHWA will also attempt to analyze additional costs resulting from higher transportation rates and disruptions on ongoing business operations, though these costs will be difficult to assess. These might include rates and disruptions to just-in-time deliveries, manufacturing, warehousing, distribution, wholesale and retail deliveries, and individual participants' lives (e.g., increases in consumer prices and road congestion).

Risks:

The U.S. Department of Transportation's National Highway Traffic Safety Administration's databases show fatigue as a contributing factor in 306 to 1,163 annual police-reported crashes nationally. Some scientific research suggests the number may be closer to 364 to 4,070 of all crashes (police-reported and non-police-reported). Fatigue is increasingly becoming the focus of possible causes contributing to all crashes. Driver reports of being tired and sleepy to the point of incapacity are not uncommon, and it is reasonable, given the sheer volume of motor carrier traffic, to expect drowsy, unalert drivers to be a factor in future crashes.

Timetable:

Action	Date	FR Cite
ANPRM	11/05/96	61 FR 57251
Notice of Meeting	02/11/97	62 FR 6161
ANPRM Comment Period End	03/31/97	
ANPRM Extension of Comment Period	03/31/97	62 FR 15150
NPRM	10/00/98	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State

Additional Information:

Section 408 mandates that the FHWA issue an ANPRM dealing with a variety of fatigue related issues.

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DOT—National Highway Traffic Safety Administration (NHTSA)

PROPOSED RULE STAGE

89. +ROLLOVER PROTECTION

Priority:

Other Significant

Legal Authority:

49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166; 49 USC 322

CFR Citation:

49 CFR 571

Legal Deadline:

None

Abstract:

The agency has initiated research to focus on exploring whether it can develop a practicable, repeatable and appropriate dynamic emergency handling test that assesses a vehicle's propensity for involvement in an on-road, un-tripped rollover crash. The agency also has granted a petition for rulemaking on this subject. This action is considered significant because of substantial public interest.

Statement of Need:

Rollover crashes account for over 9,000 traffic fatalities annually. A portion of all rollover crashes are un-tripped or "maneuver-induced." Although past agency efforts have addressed all types of rollovers, the agency is focusing its current rollover activities on un-tripped rollover crashes. Currently, there is a requirement that most sport utility vehicles of under 10,000 pounds gross vehicle weight rating (GVWR) have a warning label. On April 13, 1998 (63 FR 17974 - RIN 2127-AG53) in a separate rulemaking, the agency proposed upgrading the label with better graphics and stronger wording. However, there is no safety standard or rating test for rollovers.

Summary of the Legal Basis:

Section 30111, Title 49 of the United States Code states that the Secretary shall prescribe motor vehicle safety standards. section 30117, title 49 of the United States Code states that the Secretary may require each manufacturer of a motor vehicle to provide technical information related to performance and safety to purchasers. Authority to take these actions has been delegated to the NHTSA Administrator by 49 CFR 501.2

Alternatives:

In addition to a potential safety standard, the rollover prevention effort could result in a consumer information or rating program which would involve notices and public comment. Another alternative might be long-term research on rollover dynamics. Long-term research would be necessary if the current effort indicates that existing test methods are inadequate for measuring rollover propensity.

Anticipated Costs and Benefits:

The anticipated costs and benefits of this action have not yet been estimated.

Risks:

Crash data (1992-1996 NASS CDS annualized national estimates) indicate that, on average, 23 percent of single vehicle crashes involving all types of light vehicles are rollovers, or approximately 178,000 rollover crashes per year. For particular types of light vehicles, the percentage of single vehicle crashes that are rollovers varies significantly: for passenger cars, it is below average (17%); for vans, it is about average (22%); and for both pickups and SUVs, it is above average (38% and 49%, respectively). Pickups and SUVs together account for 41 percent of the rollovers per year (73,500) even though they account for only 24 percent of single vehicle crashes. It is anticipated that a new rollover safety standard or consumer rating program would bring the pickup and SUV rollover rates down closer to the rates for other types of light vehicles.

Timetable:

Action	Date	FR Cite
ANPRM	01/03/92	57 FR 242
ANPRM Comment Period End	04/03/92	
NPRM	06/28/94	59 FR 33254
Correction	07/26/94	59 FR 38038
Comment Period Extended to 10/21/94	08/26/94	59 FR 44121
Comment Period Reopened to 08/05/96	06/05/96	61 FR 28560
NPRM Comment Period End	08/05/96	
Petition Grant	05/20/97	62 FR 27578
Agency Decision	12/00/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

Additional Information:

A notice of availability of a planning document for this rulemaking was published 09/29/92 (57 FR 44721). As part of its comprehensive efforts to address the problem of light vehicle rollover, the agency proposed a new consumer information regulation that would require that passenger cars and light multipurpose passenger vehicles and trucks be labeled with information about their resistance to rollover. In the NPRM, the agency terminated rulemaking to establish a vehicle stability standard. The agency denied petitions for reconsideration of this termination on 06/05/96 (61 FR 28560). The comment period for the NPRM was reopened after publication of a related study by the National Academy of Sciences (NAS). (This notice was inadvertently published under RIN 2127-AC54.) At the same time the agency published the grant notice on the petition for rulemaking, NHTSA

published, in a separate notice, its response to the NAS study and requested comments by 08/18/97 (05/20/97, 62 FR 27578). See RIN 2127-AG53 for related information on warning labels for sport utility vehicles.

ANALYSIS: Regulatory Evaluation, 06/28/94, 59 FR 33254

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RIN: 2127–AC64

DOT—NHTSA

90. +ADVANCED AIR BAGS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation:

49 CFR 571.208

Legal Deadline:

None

Abstract:

The agency is proposing to upgrade its occupant protection standard to require advanced air bags. The proposal includes performance tests for advanced air bags. The proposal would require that advancements be made in the ability of air bags to cushion and protect occupants of different sizes, belted and unbelted, and would require air bags to be designed to minimize risks to infants, children, and other occupants. This action is considered significant because of the degree of congressional and public interest in this subject and because of potential costs.

Statement of Need:

While current air bags have been shown to be highly effective in reducing overall fatalities, they sometimes cause fatalities to out-of-position occupants, especially children. As part of NHTSA's program to mitigate adverse effects of current-design air bags, the agency has stated that the next step in the evolution of air bags would be systems that automatically prevent those effects. As of June 1, 1998, the agency was aware of 61 children and 44 adults who had been killed by current air bags. The agency has already required more graphic warning labels on all new air-bag-equipped vehicles, enhanced manufacturers' flexibility to reduce the aggressivity of current-design air bags, allowed consumers in certain defined risk groups to install retrofit on-off switches for air bags, and participated in public programs to increase safety belt and child restraint use, to reduce fatalities. This program will pursue the next step: air bags incorporating advanced technologies.

Summary of the Legal Basis:

Section 30111, Title 49 of the United States Code, states that the Secretary shall prescribe motor vehicle safety standards. Section 7103 of the National Highway Traffic Safety Administration Reauthorization Act of 1998 requires the Secretary to issue amendments to improve occupant protection for occupants of different sizes, belted and unbelted, under Federal Motor Vehicle Safety Standard No. 208, while minimizing the risk to infants, children, and other occupants from injuries and deaths caused by air bags, by means that include advanced air bags. Authority to prescribe such standards is delegated to the Administrator by 49 CFR 1.50.

Alternatives:

The agency has been participating with motor vehicle manufacturers, equipment suppliers, the insurance industry, and academia through the Advanced Air Bag Technology Working Group of NHTSA's Motor Vehicle Research Advisory Committee. The agency has been utilizing the resources of this partnership in identifying alternatives for this proposed rulemaking. Moreover, the agency joined with the National Aeronautics and Space Administration in a comprehensive state-of-the-art assessment for near-term air bag technology. As a result of these partnerships and due to its own internal research efforts, the agency is aware of the various advanced air bag technologies currently being seriously considered by the vehicle manufacturers. The proposed rule would permit the use of these technologies which include: suppression systems that could include weight sensors and/or proximity or positioning sensors, low-risk air bags that could include dual or multi-stage inflators, added or redesigned crash sensors, and/or modified fold patterns.

Anticipated Costs and Benefits:

The agency estimates that the costs of the proposed rule would be up to $162 per vehicle, for an estimated total of up to $2.5 billion for 15.5 million vehicles per year. Property damage savings could exceed $2.4 billion annually depending on the extent to which manufacturers use air bag suppression systems. Several hundred lives could be saved annually, as well as a currently unquantified number of serious injuries.

Risks:

Air bags have been shown to substantially reduce fatalities in traffic crashes. When fully implemented, NHTSA estimates that air bags will save 3,000 lives per year and prevent about 34,000 moderate-to-critical injuries. However, current air bags deploy the same way for all occupants, regardless of their size or location at the time of deployment and regardless of crash severity. As a result of the designs of current air bags, there have been adult and child fatalities caused by the air bag. Therefore, the development and introduction of advanced air bags is being pursued aggressively by both the industry and the agency.

Timetable:

Action	Date	FR Cite
NPRM	09/18/98	63 FR 49957
NPRM Comment Period End	12/17/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

Additional Information:

A technical workshop was held February 11 and 12, 1997, in Washington, DC. The NPRM will respond to the petitions received for reconsideration on the final rule published for Depowering of Air Bags, RIN 2127-AG59 and Passenger-Side Manual Cutoff Switch for Air Bags, RIN 2127-AG60.

ANALYSIS: Regulatory Evaluation, 09/18/98, 63 FR 49937

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DOT—Federal Railroad Administration (FRA)

PROPOSED RULE STAGE

91. • +REGULATIONS ON SAFETY INTEGRATION PLANS GOVERNING RAILROAD CONSOLIDATIONS, MERGERS, ACQUISITIONS OF CONTROL AND START-UP OPERATIONS

Priority:

Other Significant

Legal Authority:

49 USC 20103; 49 USC 20107; 49 USC 21301; 28 USC 2461

CFR Citation:

49 CFR 244; 49 CFR 1.49

Legal Deadline:

None

Abstract:

This proposed rule would require a railroad to file a Safety Integration Plan with the Federal Railroad Administration (1) whenever a Class I railroad, the National Railroad Passenger Corporation, or a railroad providing commuter service proposes to merge, consolidate or acquire control of one another; (2) whenever a railroad proposes to start operations as a railroad; (3) whenever a Class II railroad proposes to consolidate, merge, or acquire control of another Class II railroad with which it would directly interchange freight, or (4) whenever a railroad merger, consolidation or acquisition of control would result in operations that generate revenue in excess of the Class I threshold. The proposed rule would prescribe content and subject matter areas that must be addressed in each plan before FRA may approve of such plan. FRA is working with the Surface Transportation Board to conduct coordinated rulemaking actions covering these transactions within the framework of each agency's jurisdiction.

Statement of Need:

This rule is necessary to ensure advance planning of operations to promote rail safety. Given the safety problems encountered in previous transactions and the need for the merging or acquiring railroad to integrate and harmonize information systems, training, operational practices and safety procedures on a massive scale, the need to require detailed plans setting forth the manner in which the parties intend to safely implement integration plans became apparent to FRA.

Summary of the Legal Basis:

Because this rule concerns rail safety, FRA is vested with statutory authority to issue regulations governing these regulated transactions. See 49 USC 20101 et seq.

Alternatives:

The proposed rule would authorize a railroad carrying out a regulated transaction to petition for a waiver of compliance. The railroad would have to follow the procedures prescribed in 49 CFR 211 in filing such a petition. FRA may grant the petition if waiver of compliance is consistent with the public interest and railroad safety.

Anticipated Costs and Benefits:

FRA has not yet determined the anticipated costs and benefits of this action.

Risks:

The problems that surfaced after the merger of the Union Pacific and the Southern Pacific indicated that safety could be significantly compromised in implementing a consolidation unless the parties addressed the safety issues specifically, formally and systematically, particularly if the merger was large and complex. To address safety-related problems stemming from a merger, FRA needed a projection into the future of the safety consequences of consolidating the systems. To accomplish this, in response to the proposed acquisition of Conrail by Norfolk Southern and CSX Transportation, FRA suggested, and the STB required, that the merger applicants develop and submit well-defined Safety Integration Plans (SIPs) as part of the merger application process. The proposed rule would require, as a matter of FRA regulations, that such Plans be filed by certain railroads in the context of proposed mergers and acquisitions and similar circumstances.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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DOT—FRA

FINAL RULE STAGE

92. +PASSENGER EQUIPMENT SAFETY STANDARDS

Priority:

Other Significant

Legal Authority:

49 USC 20103; 49 USC 20133; 49 USC 20111 to 20113; 49 USC 20301 to 21311; PL 103-440, sec 215

CFR Citation:

49 CFR 238

Legal Deadline:

Final, Statutory, November 2, 1997.

Final, Statutory, November 2, 1999.

Abstract:

This action will establish comprehensive Federal safety standards for railroad passenger equipment in a two-phased rulemaking effort, pursuant to the Federal Railroad Safety Authorization Act of 1994. This action will address inspection, testing, and maintenance of passenger equipment; equipment design and performance criteria related to passenger and crew survivability in the event of a train accident; and the safe operation of passenger train service, supplementing existing railroad safety standards. This

is considered significant due to public interest. A final rule in the first phase of the rulemaking is expected to be published this year. FRA will then convene a working group to help develop a second Notice of Proposed Rulemaking for publication in 1999. The second phase of the rulemaking will draw on the results of ongoing research and industry-led passenger safety efforts.

Statement of Need:

Effective Federal safety standards for freight equipment have long been in place, but equivalent Federal standards for key aspects of railroad passenger equipment do not exist. Further, the rail passenger environment is rapidly changing. Worldwide, operating speeds are increasing, and several passenger trainsets have been proposed for operation at high speeds in the United States. A clear set of Federal safety standards for passenger equipment is needed to provide for the safety of the nation's rail passenger service.

Summary of the Legal Basis:

This rulemaking is required by section 215 of the Federal Railroad Safety Authorization Act of 1994, PL 103-440.

Alternatives:

There was no alternative to initiating this rulemaking, as it is required by Federal statute. Nevertheless, FRA considers what specific safety standards to prescribe in the context of the rail passenger industry's own safety efforts. In particular, FRA expects that its consideration of what safety standards to prescribe in the second phase of the rulemaking will be significantly influenced by the American Public Transit Association's own safety standards for rail passenger equipment, currently under development.

Anticipated Costs and Benefits:

The first phase of the rulemaking is not expected to have any significant net economic impact on the rail passenger industry. FRA expects that costs will be offset by economic savings resulting from reducing current regulatory burdens involving the inspection, testing and maintenance of power brakes for passenger trains, while still ensuring safety. Further, safety benefits will accrue as rail accidents are prevented or their effects are mitigated due to the rule's requirements, including restrictions on operating passenger equipment not having necessary structural or emergency features for the safety of passengers and crewmembers.

Risks:

In the last seven years there have been at least six passenger train accidents which resulted in more than one train occupant fatality. Notably, on February 16, 1996, a Maryland Rail Commuter Service (MARC) train collided with an Amtrak train near Silver Spring, Maryland, resulting in the deaths of three crewmembers and eight passengers on board the MARC train. Further, passenger trains are exposed to risks from operating commingled with very heavy and long freight trains, as well as from operating over track with frequent grade crossings used by heavy highway equipment. However, comprehensive Federal safety standards governing the design, maintenance, and safety planning of rail passenger equipment do not currently exist.

Timetable:

Action	Date	FR Cite
ANPRM	06/17/96	61 FR 30672
NPRM	09/23/97	62 FR 49728
Notice of Public Hearing	10/23/97	62 FR 55204
NPRM Comment Period End	11/24/97	
Final Action (first phase)	11/00/98	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

A public hearing on this rulemaking was held on November 21, 1997.

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DOT—Research and Special Programs Administration (RSPA)

PROPOSED RULE STAGE

93. +REQUIREMENTS FOR CYLINDERS (SECTION 610 REVIEW)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

49 USC 5101 to 5127

CFR Citation:

49 CFR 172; 49 CFR 173; 49 CFR 178

Legal Deadline:

None

Abstract:

This rulemaking will propose to amend the Hazardous Materials Regulations (HMR) to update and consolidate requirements for the manufacture, maintenance, requalification, repair, and use of compressed gas cylinders. RSPA intends to provide for the manufacture of compressed gas cylinders to certain new DOT specifications and to revise requirements applicable to the maintenance, requalification, and repair of all DOT specification cylinders (including those cylinders that may no longer be manufactured). RSPA also proposes to simplify the requirements for filling cylinders and consolidate and revise requirements applicable to persons who requalify cylinders. This rulemaking will recognize advances in cylinder manufacturing technology and clarify and simplify regulatory requirements. This rulemaking, which will affect persons who manufacture, requalify, repair, refill and use compressed gas cylinders, is of significant interest to the compressed gas industry. As part of this action, a small entities review under 5 USC section 610 will be included.

Statement of Need:

This rulemaking action is the first comprehensive review and revision of the cylinder requirements since the first cylinder specification was adopted in the early 1900's. Since that time, additional cylinder specifications and related requirements for cylinder requalification and use have been added on a piecemeal basis in response to the development of new construction materials, accidents and incidents, shipping experience, and the development of industry consensus standards. RSPA seeks to improve the integrity of cylinders by adopting manufacturing and testing standards based more on performance than detailed design requirements. RSPA has received over 25 petitions for rulemaking and has issued numerous exemptions relating to requirements for cylinders and for the transportation of hazardous materials in cylinders. The merits of these petitions and the need to convert provisions of exemptions into regulations of general applicability will be considered in this rulemaking action.

Summary of the Legal Basis:

Section 5103 of Title 49 U.S.C. specifies that the Secretary shall prescribe regulations for the safe transportation of hazardous materials in intrastate, interstate, and foreign commerce. These regulations apply to persons transporting or causing to transport hazardous materials in commerce, and persons manufacturing, fabricating, marking, maintaining, repairing or testing packagings that are represented, marked, certified, or sold by such persons as qualified for use in transporting hazardous materials in commerce.

Alternatives:

The proposed rule is expected to incorporate a variety of alternatives to provide greater flexibility to cylinder manufacturers, refillers and users. There will be proposals to allow harmonizing of the manufacturing practices between the U.S. and other countries, to provide greater flexibility in the filling of cylinders based on performance criteria, and to simplify the regulations by streamlining the commodity sections and by standardizing the new cylinder specifications.

Anticipated Costs and Benefits:

A preliminary regulatory evaluation is being developed. The potential costs and benefits of this action have not yet been determined. A major industry association has indicated that this rulemaking could result in significant cost reductions for the cylinder manufacturing industry.

Risks:

Improving the integrity of cylinders will reduce the risk of leakage in overturns and other accidents. In addition, simplifying the regulations will reduce misunderstandings and the possibility of processing errors that may adversely affect safety.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

Formerly entitled Review: Consolidation of Specifications for High-Pressure Seamless Cylinders. Docket No. HM-220.

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DOT—RSPA

94. +HAZARDOUS MATERIALS: SAFETY STANDARDS FOR UNLOADING CARGO TANK MOTOR VEHICLES IN LIQUEFIED COMPRESSED GAS SERVICE

Priority:

Other Significant

Legal Authority:

49 USC 5101 to 5127

CFR Citation:

49 CFR 171; 49 CFR 173; 49 CFR 178; 49 CFR 180

Legal Deadline:

None

Abstract:

This rulemaking would enhance the safety of cargo tank motor vehicles in liquefied compressed gas service by clarifying and revising existing hazardous materials regulations and by adding new requirements and alternatives regarding emergency discharge control systems, hose management, and vehicle attendance requirements. This action will affect all operators of cargo tank motor vehicles in liquefied compressed gas service and is expected to generate substantial public interest; it is therefore a significant rulemaking.

Statement of Need:

This rulemaking action responds to numerous incidents involving the release of liquefied compressed gas during the unloading of cargo tank motor vehicles and resulting in injuries and deaths. It is based on comments received to an advance notice of proposed rulemaking, published in the Federal Register, on August 18, 1997, and on a Convening Report, by the Mediation Consortium, that recommended RSPA use regulatory negotiation to develop alternative safety standards for preventing and mitigating unintentional releases of hazardous materials during the unloading of cargo tank motor vehicles in liquefied compressed gas service. The negotiated rule will reflect the consensus of those persons who represent the interests affected by this action, such as businesses that transport and deliver propane, anhydrous ammonia, and other liquefied compressed gases; manufacturers of DOT specification MC 330 and MC 331 cargo tank motor vehicles used to transport liquefied compressed gases; Federal safety regulatory agencies; and state and local public safety and emergency response agencies. Section 5103 of title 49 U.S.C. requires the Secretary to prescribe regulations for the safe transportation of hazardous materials in intrastate, interstate and foreign commerce. Section 5102(a) specifies that transportation includes unloading incidental to the movement of hazardous materials.

Summary of the Legal Basis:

The negotiated rulemaking process is conducted in accordance with the Federal Advisory Committee Act and the Negotiated Rulemaking Act of 1990.

Alternatives:

The negotiated rule is expected to improve the safe unloading of liquefied compressed gases. This rulemaking action is key to proposing recommendations that can achieve DOT's safety goal as well as providing regulations that recognize industry practices. RSPA has rejected the

alternative of proceeding to write a proposed regulation itself because it believes the negotiated rulemaking process is more likely to result in a safety-promoting, practical, cost-beneficial rule. In addition this negotiated rulemaking will make it less likely that petitions for reconsideration are filed and that the final rule is legally challenged.

Anticipated Costs and Benefits:

The negotiated rulemaking committee will develop a preliminary regulatory evaluation to assess the potential costs and benefits of the negotiated rule.

Risks:

This rulemaking is intended to save lives and prevent injuries, property damage, and environmental degradation by reducing the rise of accidental release of compressed gases and of fires or explosions that can result from such releases.

Timetable:

Action	Date	FR Cite
ANPRM	08/18/97	62 FR 44059
ANPRM Comment Period End	10/17/97	
Notice of Intent to Establish a Negotiated Rulemaking Committee	06/04/98	63 FR 30572
Notice of Establishment of Advisory Committee for Negotiated Rulemaking and Notice of First Meeting	07/16/98	63 FR 38456
Notice of Negotiated Rulemaking Committee Meetings	08/20/98	63 FR 44601
NPRM	04/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

None

Additional Information:

Docket No. HM-225A. This rulemaking is related to docket HM-225 (DMS Docket No. RSPA 97-2133, RIN 2137-AC97). RSPA is establishing an advisory committee to address issues in this rulemaking (negotiated rulemaking).

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BILLING CODE 4910-62-F

DEPARTMENT OF THE TREASURY (TREAS)

Statement of Regulatory Priorities

The primary missions of the Department of the Treasury are: Protecting and collecting the revenue under the Internal Revenue Code and customs laws; supervising national banks and thrift institutions; managing the fiscal operations of the Federal Government; enforcing laws relating to counterfeiting, Federal Government securities, firearms and explosives, money laundering, foreign commerce in goods and financial instruments, and smuggling and trafficking in contraband; administering the Community Development Financial Institutions Program; protecting the President, Vice President, and certain foreign diplomatic personnel; training Federal, State, and local law enforcement officers; and producing coins and currency.

Consistent with these missions, most regulations of the Department and its constituent bureaus are promulgated to interpret and implement the laws as enacted by the Congress and signed by the President. Unless circumstances require otherwise, it is the policy of the Department to issue a notice of proposed rulemaking (NPRM) and carefully consider public comments before adopting final regulations. Also, in particular cases, the Department invites interested parties to submit views on rulemaking projects while the NPRM is being developed and to hold public hearings to discuss a proposed rule.

To the extent permitted by law, it is the policy of the Department to adhere to the regulatory philosophy and principles set forth in Executive Order 12866 and to develop regulations that maximize aggregate net benefits to society while minimizing the economic and paperwork burdens imposed on persons and businesses subject to those regulations.

During FY 1999, the Department will aggressively implement the President's June 1, 1998, memorandum directing agencies to use "plain language" in new proposed and final rulemaking documents.

Internal Revenue Service

The Internal Revenue Service (IRS), working with the Office of the Assistant Secretary for Tax Policy, promulgates regulations that interpret and implement the Internal Revenue Code and related tax statutes. In developing these regulations, every effort is made to carry out the tax policy determined by Congress in a fair, impartial, and reasonable manner, taking into account the intent of Congress, the realities of relevant transactions, the need for the Government to administer the rules and monitor compliance, and the overall integrity of the Federal tax system. The goal is to make the regulations practical and as clear and simple as possible.

Most IRS regulations interpret tax statutes to resolve ambiguities or fill gaps in the tax statutes. This includes interpreting particular words, applying rules to broad classes of circumstances, and resolving apparent and potential conflicts between various statutory provisions.

On July 22, 1998, the President signed into law the Internal Revenue Service Restructuring and Reform Act of 1998. During fiscal year 1999, the IRS will issue several regulations addressing the implementation of this law. In addition, the IRS will be addressing a number of other priority regulatory projects including the following:

- *Stock Transfer Rules Under Section 367.* Section 367 of the Internal Revenue Code governs the application of the corporate nonrecognition rules to transactions involving foreign corporations. The IRS published proposed regulations under section 367(a) and (b) of the Code on August 26, 1991. Various portions of these regulations involving transfers of stock by U.S. persons to foreign corporations were finalized on December 30, 1996, and June 19, 1998. The IRS expects to finalize the remainder of the proposed regulations in fiscal year 1999.
- *Excise Taxes on Excess Benefit Transactions.* The Taxpayer Bill of Rights 2 (Public Law 104-168, July 30, 1996) added section 4958 to the Code. Section 4958 provides for excise taxes on excess benefit transactions and is effective for transactions occurring on or after September 14, 1995. Disqualified persons and, in some instances, organization managers are liable for these new taxes. A disqualified person is any person who was, at any time during the 5-year period ending on the date of the excess benefit transaction, in a position to exercise substantial influence over the affairs of the tax-exempt organization involved in the transaction. Only transactions with section 501(c)(3) (except private foundations) or section 501(c)(4) organizations are subject to the taxes. An excess benefit transaction is any transaction in which an economic benefit is provided by an applicable organization directly or indirectly to, or for the use of, any disqualified person if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing the benefit. The taxable excess benefit amount is the excess of the benefit over the value of the consideration. On July 30, 1998, proposed regulations were issued to clarify certain definitions and rules contained in section 4958 of the Code. The IRS expects to finalize these rules in fiscal year 1999.
- *Amortization of Intangible Assets.* The Omnibus Budget Reconciliation Act of 1993 (OBRA 1993) added section 197 to the Code, which provides for a 15-year amortization of goodwill and certain other intangible assets. OBRA 1993 also amended Code section 167 to provide specified amortization periods for certain computer software and mortgage servicing rights. These provisions are generally effective for intangibles acquired after August 10, 1993. On January 16, 1997, proposed regulations were issued implementing these two Code sections and providing guidance to taxpayers on the meaning and scope of certain provisions of the statute and its anti-churning rules. The IRS expects to finalize these rules early in fiscal year 1999.
- *Credit for Increasing Research Activities.* Section 41 of the Code provides a tax credit equal to a percentage of the amount by which a taxpayer's qualified research expenses for a taxable year exceeds its base amount for that year. To be qualified research, the research activities must not only satisfy the requirements of section 174 of the Code but must be undertaken for the purpose of discovering information that is technological in nature, the application of which is intended to be useful in the development of a new or improved business component of the taxpayer, and substantially all of the activities of which must constitute a process of experimentation pertaining to the functional aspects, performance, reliability, or quality of a business component. The regulations under section 41 of the Code will explain the term "qualified research" and the exclusions from research credit eligibility. The IRS expects to propose these rules early in fiscal year 1999.
- *Euro Conversion.* On January 1, 1999, 11 members of the European Union

will replace their national currencies with the euro. On July 29, 1998, the IRS published proposed and temporary regulations relating to certain of the more significant U.S. Federal income tax consequences that arise for taxpayers operating, investing, or otherwise conducting business in a currency that is converting to the euro. The IRS expects to finalize these rules in fiscal year 1999.

- *Software.* Section 861 of the Internal Revenue Code provides general rules regarding the determination of whether income is from sources within the United States. In general, different rules apply to income from services, income from tangible property, and income from intangible property. Transactions involving computer software have been difficult to classify because such transactions do not in all cases fit neatly into one box or the other. The IRS published proposed regulations in November 1996 that would establish a comprehensive framework for characterizing computer software transactions for purposes of the international provisions of the Code. The IRS expects to finalize the regulations early in fiscal year 1999.

Office of the Comptroller of the Currency

The Office of the Comptroller of the Currency (OCC) charters, regulates, and supervises national banks to ensure a safe, sound, and competitive national banking system that supports the citizens, communities, and economy of the United States. The substantive content of the OCC's regulations reflects four organizing principles that support this mission:

- The OCC's regulations help ensure safety and soundness by establishing standards that set the limits of acceptable conduct for national banks.
- The OCC's regulations promote competitiveness by facilitating a national bank's ability to develop new lines of business, subject to any safeguards that are necessary to ensure that the bank has the expertise to manage risk effectively and adapt its business practices to deal responsibly with its customers.
- Regulations can also affect national banks' ability to compete by contributing significantly to their costs. The OCC's goal is to improve efficiency and reduce burden by updating and streamlining its regulations and eliminating those that no longer contribute significantly to the fulfillment of its mission.
- The OCC's regulations help assure fair access to financial services for all Americans by removing unnecessary impediments to the flow of credit to consumers and small businesses, by encouraging national banks' involvement in community development activities, and by implementing Federal laws designed to protect consumers of financial services.

Important final rules that the OCC has published since the preparation of the fiscal year 1998 regulatory plan (or expects to publish before October 1998) include the following:

- *Risk-Based Capital Guidelines (12 CFR part 3):*

Servicing Assets. In 1995, the Federal banking agencies published an interim rule to eliminate the distinctions between originated mortgage servicing rights and purchased mortgage servicing rights and to clarify that both originated and purchased mortgage servicing rights are subject to the deduction requirements for regulatory capital. (A reference in this regulatory plan to the "Federal banking agencies" or "the agencies" means the OCC, together with the Office of Thrift Supervision (OTS), the Federal Deposit Insurance Corporation (FDIC), and the Board of Governors of the Federal Reserve System.) This interim rule was developed in response to the Financial Accounting Standards Board (FASB) Financial Accounting Statement (FAS) 122, which addressed mortgage servicing rights. Subsequent to the interim rule, FASB published FAS 125, which eliminated the distinction between excess and normal servicing fees relating to servicing rights. Since the last regulatory plan, the agencies issued a proposed rule and final rule on capital treatment of excess servicing fees and mortgage servicing rights.

Transfers of Small Business Loan Obligations With Recourse. This rule, which implements section 208 of the Riegle Community Development and Regulatory Improvement Act of 1994, Public Law 103-325 (Sept. 23, 1994) (CDRIA), generally permits banks to hold capital against the face amount of recourse obligations (rather than the amount of the asset transferred with recourse) on qualifying small business loans if the bank establishes a reserve equal to the bank's reasonable estimated liability under the recourse obligation.

Unrealized Holding Gains on Certain Equity Securities. The OCC and the other Federal banking agencies issued a joint notice of proposed rulemaking to amend the risk-based capital guidelines to permit a bank to include up to 45 percent of unrealized revaluation gains on available-for-sale equity securities in Tier 2 capital. This proposed rule is consistent with the International Convergence of Capital Measurement and Capital Standards as adopted by the Basle Committee on Banking Regulations and Supervisory Practices (Basle Accord) and would make the risk-based capital treatment of unrealized revaluation gains uniform among the banking agencies.

Risk-Based Capital Guidelines Generally. The OCC and the other Federal banking agencies have proposed several amendments to their respective risk-based capital guidelines to eliminate certain interagency differences in capital treatment. The amendments would affect (1) junior and senior liens on one-to-four family residential mortgages, (2) presold one-to-four family construction loans, and (3) mutual funds.

- *Expanded Examination Cycle for Certain Institutions (12 CFR part 4).* This rule makes eligible for an 18-month exam cycle a national or State bank that (1) has total assets of $250 million or less; (2) is well capitalized; (3) is well managed; (4) received a CAMELS 1 or 2 at its most recent exam; (5) is not subject to a formal enforcement order; and (6) has not had a change in control during the previous 12-month period. A separate interim rule allows the OCC to examine Federal branches and agencies of foreign banks every 18 months if the branches and agencies meet criteria that are comparable to those applicable to national banks.
- *Assessment of Fees (12 CFR part 8).* The OCC has adopted two final rules since the last regulatory plan was prepared. The first imposed a surcharge on banks that receive a rating of 3, 4, or 5 under the Uniform Financial Institutions Rating System. The second adopted as final the changes made in (1) an interim rule published in 1994 governing trust fees and (2) an interim rule published in 1996 governing assessment reductions for non-lead national banks.
- *Prohibition Against Deposit Production Offices (12 CFR part 25).* This rule implemented section 109 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, which is intended to prevent banks from using their new interstate branching authority to extract deposits from communities in which they are not reasonably helping to meet credit needs. Under that law, a bank with branches in a State other than its home State must meet either a "level of lending" test in the State where the branch is located (whereby its loans to customers in the host State relative to deposits from customers in the host State is at least half the loan-to-deposit ratio for all banks based in that State) or a "credit needs" test (whereby the appropriate Federal banking agency determines if a bank is meeting the credit needs of the communities served by the branch in question).
- *International Banking Activities (12 CFR part 28).* This rule removed the lengthy discussion of the accounting treatment for fees earned on international loans found in the previous rule and inserted in its place a brief provision stating that the accounting should conform to generally accepted accounting principles (GAAP).
- *Lending Limits (12 CFR part 32).* In a final rule published in April of 1998, the OCC made several technical amendments to the lending limits rule intended to clarify, for instance, the effective date for newly calculated lending limits.

The OCC's regulatory priorities for fiscal year 1999 include the continuation of the OCC's work with the other Federal banking agencies to update the risk-based capital standards, maintain and, where necessary, improve consistency in the agencies' rules. Regulatory projects in this area include the following amendments to 12 CFR part 3:

- *Risk-Based Capital Treatment of Recourse and Direct Credit Substitutes.* The Federal banking agencies published a proposal to amend the risk-based capital guidelines to provide consistency between the capital treatment for recourse arrangements and for direct credit substitutes. The proposal described several approaches that would enable banks to match the risk-based capital assessment more closely to an institution's relative risk of loss in asset securitization.
- *Market Risk.* This rule would eliminate the 50 percent floor for specific risk under the market risk capital requirements. An interim rule was published in December of 1997.
- *Collateralized Transactions.* The rule would conform the rules of the other banking agencies to the OCC's rule regarding the risk-based capital treatment of loans collateralized in cash or OECD government securities. Consistent with existing law, the rule would assign a zero risk weight for the portion of claims collateralized by cash on deposit in a bank or securities issued or guaranteed by the U.S. Government or its agencies or the central government of an OECD country, provided that certain conditions are met.
- *Claims on Securities Firms.* This rule would reduce the risk weighting for claims on securities firms from 100 to 20 percent.

In addition, the OCC's regulatory priorities for fiscal year 1999 include projects in the following areas:

- *Know Your Customer.* The proposal, which is being prepared with the other Federal banking agencies and with the participation of Treasury's Financial Crimes Enforcement Network (FinCEN), would require each regulated institution to develop a program designed to identify its customers; determine its customers' source of funds; determine its customers' normal and expected transactions; monitor customers' transactions to determine if such transactions are consistent with their normal and expected transactions; and report any transactions of its customers that are determined to be unusual or suspicious, in accordance with the agencies' existing suspicious activity reporting regulations.
- *Codification of the Interagency Statement on Retail Sales of Nondeposit Investment Products ("Interagency Statement").* This rulemaking would codify part or all of the Interagency Statement that was adopted February 15, 1994.
- *Interpretive Rulings (12 CFR part 7).* This rulemaking would codify recent OCC interpretations concerning the following: The definition of "interest"; messenger services; ownership of stock by a director; the oaths of directors; acquisition and retention by a bank of its shares; bank holidays; the power to guaranty liabilities for foreign activities; insurance agency activities by national banks; the ability of national banks to have ATMs without being subject to geographic restrictions; and annuity sales.
- *Year 2000.* The OCC expects to publish two rules affecting banks' efforts to address computer problems associated with the year 2000 (Y2K). The first, amending 12 CFR part 4, would allow the OCC to disclose, without a request, non-public OCC information to supervised entities and other persons as necessary to carry out the OCC's statutory responsibilities. The second would add an appendix to 12 CFR part 30 to provide interagency guidelines establishing Y2K safety and soundness standards.
- *Management Official Interlocks (12 CFR part 26).* This joint proposed rule would amend each agency's regulation to conform to recent changes to the Depository Institutions Management Interlocks Act ("DIMIA"). The Economic Growth and Regulatory Paperwork Reduction Act of 1996 ("EGRPRA") amended DIMIA to permit the agencies to grant exemptions to the interlocks prohibition for any interlock that would not result in a monopoly or substantial lessening of competition. EGRPRA also amended DIMIA to raise the asset thresholds for the "major assets" prohibition to apply only to interlocks involving a depository institution having assets of at least $2.5 billion and an unaffiliated depository institution having assets of at least $1.5 billion.

Office of Thrift Supervision

As the primary Federal regulator of the thrift industry, the Office of Thrift Supervision (OTS) has established regulatory objectives and priorities to effectively and efficiently supervise thrift institutions. These objectives include maintaining and enhancing the safety and soundness of the thrift industry; a flexible, responsive regulatory structure that enables savings associations to provide credit and other financial services to their communities, particularly housing credit; and a risk-focused, proactive approach to supervision. The objectives and priorities of OTS are consistent with those established by the President.

Under the auspices of the Federal Financial Institutions Examination Council (FFIEC), OTS continues to implement, with the other Federal banking agencies, section 303(a)(2) of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRIA), which requires the Federal banking agencies to make uniform all regulations and guidelines implementing common statutory provisions or supervisory policies.

Interagency capital-related projects underway include amendments concerning:

- The leverage capital standard and the risk-based capital standards for certain loans involving residential

properties and investments in mutual funds.
- Capital standards for servicing assets.
- Risk-based capital standards for collateralized transactions.
- Risk-based capital standards for unrealized gains on equity securities.
- Risk-based capital standards for recourse obligations and direct credit substitutes that expose institutions to credit risk.
- Risk-weight of claims on securities firms.

It is anticipated that final rules will be issued regarding the first four capital-related issues outlined above by early FY 1999. A proposed or interim rule regarding the risk-weight of claims on securities firms is expected to be issued by the first quarter of fiscal year 1999. The agencies continue to consider risk-based capital requirements for recourse obligations and direct credit substitutes. A resolution of these issues is likely to be issued in fiscal year 2000.

The FFIEC member agencies are also preparing enforceable safety and soundness standards that will provide Year 2000 guidelines to insured depository institutions under section 39 of the Federal Deposit Insurance Act.

Other interagency projects are also underway on two proposed rules. The Management Official Interlocks project would implement recent statutory changes, modernize the existing rules, and reduce burden. The "Know Your Customer" rule would require institutions to develop programs designed to reduce the likelihood that they will become unwitting participants in the illicit activities of their customers. The agencies should publish a proposed rule on "Know Your Customer" and a final rule on Management Official Interlocks by the first quarter of fiscal year 1999. The OTS is also working on a final rule on Agency Disapproval of Officers and Directors, which would conform OTS rules to the rules of the other banking agencies implementing recent statutory changes, clarify the existing OTS rules, and reduce burden. A rule should be finalized by the first quarter of fiscal 1999.

Several regulatory projects issued in proposed form during fiscal year 1998 are likely to be issued in final form during fiscal year 1999. The Electronic Operations rule, published in October 1997, addresses the appropriate use of electronic banking technology. OTS would like to ensure that its rules are sufficiently flexible to accommodate technological changes in the marketplace and ensure that the regulated industry uses technology within the boundaries of safety and soundness standards. OTS expects to continue the rulemaking process in this area by issuing a supplemental notice of proposed rulemaking during the fourth quarter of fiscal year 1998 and a final rule during fiscal year 1999.

Other rules issued as proposals in fiscal year 1998 and likely to be issued in final form during fiscal year 1999 include a capital distributions rule updating and streamlining OTS regulations to reflect the implementation of prompt corrective action; a rule clarifying the treatment of reverse repurchase agreements under the transactions with affiliates prohibitions in section 11 of the Home Owners Loan Act (HOLA); a charter and bylaws rule expanding the range of votes that a Federal mutual savings association may allow a member to cast; and a financial management policies rule comprehensively revising outdated regulations on financial derivatives.

During fiscal year 1999, OTS intends to publish a number of proposed rules as part of its ongoing effort to review and streamline its regulations. These projects include revisions to OTS regulations concerning types of offices, securities brokerage, nondiscrimination, officers and directors, guarantees and letters of credit, and assessments.

A project to revise OTS regulations on types of offices would evaluate current definitions of the terms "home office," "branch office," "agency," and OTS rules on relocations and redesignations. The project is designed to ensure that OTS rules reflect how modern thrifts conduct their operations. The securities brokerage rule would revise and update OTS regulations on the sale of non-deposit investment products. The rule concerning directors and officers would streamline OTS regulations on indemnification, savings association boards of directors, compensation, employment contracts, extensions of credit to insiders, conflicts of interest, and corporate opportunity. A project updating rules on guarantees and letters of credit would clarify that a Federal savings association may act as guarantor or surety, issue letters of credit, and act as escrow agent.

OTS currently has underway a project to amend its method of calculating its assessments of savings associations. The rule would more closely tailor assessments with supervisory costs than the current regulation allows. Other assessment and fee matters would be clarified, and the entire regulation would be put into the "plain language" format.

The OTS also plans to revise its conversion regulations (12 CFR 563b) and to undertake a regulatory project on exempt multiple holding companies claiming unitary status based on acquisitions.

United States Customs Service

The United States Customs Service is responsible, among other things, for administering laws concerning the importation of goods into the United States. This includes inspecting imports, collecting applicable duties, overseeing the activities of persons and businesses engaged in importing, and enforcing the laws concerning smuggling and trafficking in contraband. The regulatory priorities of Customs for fiscal year 1999 are to continue to facilitate procedures for legitimate commercial transactions and to provide further obstacles to the flow of narcotics and other contraband into the United States.

During fiscal year 1998, one of Customs' priorities was to continue the reinvention of its regulatory procedures begun under the authority granted by the Customs Modernization provisions of the North American Free Trade Implementation Act ("Customs Mod Act"). Customs reinvention efforts, in accordance with the principles of E.O. 12866, have involved and will continue to involve much input from the importing public. Two key regulatory packages that are integral to implementation of the Customs Mod Act, after consultations with the public and proposed rulemakings, were published as final rules during the past fiscal year. These packages were a revision of the Customs regulations regarding drawback and a revision of the Customs regulations regarding the recordkeeping responsibilities of those involved with Customs transactions.

During fiscal year 1999, Customs will continue to move forward with amendments implementing the Customs Mod Act. Priority will be accorded to revising the procedures by which Customs will issue administrative rulings answering requests of prospective importers as to how Customs will treat their transactions and to revising the regulations pertaining to customs brokers.

During the fiscal year 1999, Customs also plans to undertake several other regulatory actions that will affect the traveling and importing public, customs brokers, carriers, and commercial importers. Customs will accord priority to several regulatory actions focusing on the development of a more automated environment to expedite the entry, processing, and release of imported commercial merchandise and the clearance of merchandise for export. These regulations will benefit the importing and exporting public by streamlining the work of Customs officers and the trade community. Among the actions that Customs will pursue in this regard, which will improve the efficiency of Customs operations, reduce paperwork, and administrative costs are:
- *Liquidations.* Customs will propose regulations allowing paperless procedures for extension and suspension of liquidation notices, improving and clarifying the administrative process and simplifying the regulations pertaining to liquidations and extensions and suspensions of liquidation.
- *Entry Reconciliation.* Customs will propose regulations allowing a "reconciliation" process that will allow elements of an entry (other than those relating to the admissibility of merchandise) that are undetermined at the time an entry summary or an import activity summary statement is required to be submitted, to be provided to Customs at a later date. A "reconciliation" will permit importers to submit information not available at the time of entry that is necessary for the importer and Customs to determine the correct amount of duty on a shipment. The procedure will allow Customs to finalize the duty assessment process by liquidating the underlying entry as to all merchandise covered by the entry, except the merchandise identified by the importers as requiring the submission of additional information.
- *Commercial Laboratories.* Customs will finalize regulations to provide standards and procedures for accrediting commercial laboratories that will permit them to analyze a wide range of commercial products for Customs purposes. This change will facilitate the release of merchandise because it will enable importers to receive laboratory results earlier.
- *Remote Location Filing.* Customs will propose regulations allowing electronic filing of entries with Customs from locations in the United States other than the port of arrival of the merchandise or the place at which the merchandise is examined. Remote location filing will provide entry filers (such as brokers and couriers) with greater flexibility and will allow Customs to make more efficient use of its resources.

Bureau of Alcohol, Tobacco and Firearms

The Bureau of Alcohol, Tobacco and Firearms (ATF) issues regulations to enforce the Federal laws relating to the manufacture and commerce of alcohol products, tobacco products, firearms and explosives.

ATF's regulations carry out these missions and are designed to:
- Curb illegal traffic in, and criminal use of, firearms and to assist State, local, and other Federal law enforcement agencies in reducing crime and violence;
- Facilitate investigations of violations of Federal explosives laws and arson-for-profit schemes;
- Regulate the alcohol, tobacco, firearms, and explosives industries, including the issuance of licenses and permits;
- Assure the collection of all alcohol, tobacco, firearms, and ammunition taxes and obtain a high level of voluntary compliance with all laws governing those industries;
- Suppress commercial bribery, consumer deception, and other prohibited practices in the alcoholic beverage industry;
- Suppress the illicit manufacture, sale, or diversion of alcoholic beverages and tobacco products for which Federal tax has not been paid; and
- Assist the States in their efforts to eliminate interstate trafficking in, and the sale and distribution of, cigarettes in avoidance of State taxes.

ATF has accomplished the majority of its goals under the President's regulatory reform initiative. In addition, ATF has reduced the administrative burden associated with the current basic permit application process for producers, wholesalers, and importers of alcohol beverages. A reduced and simplified basic permit application form is now in use.

ATF will continue as a top priority during fiscal year 1999 the multi-faceted regulatory project governing various modifications to its regulations governing commerce in explosives. ATF published a general notice soliciting public comments on January 10, 1997, and subsequently issued an expanded notice of proposed rulemaking that addressed additional explosives issues. Analysis of the comments received in response to both documents resulted in a final rule that clarified explosives terminology, eliminated duplication in licensing, relaxed the licensing requirements for on-site manufacturers, and updated the hotline number for reporting the theft or loss of explosives. ATF is further analyzing its regulations governing storage requirements for explosives, including fireworks explosive materials, and plans to issue a notice of proposed rulemaking as described in detail in part II of this regulatory plan.

Financial Management Service

The Financial Management Service (FMS) issues regulations to improve the quality of Government financial management and to administer its payment, collections, debt collection, and Governmentwide accounting programs. FMS' regulatory priority for fiscal year 1999 is to further implement the provisions of the Debt Collection Improvement Act of 1996 (DCIA). A key provision of the DCIA requires that, effective January 2, 1999, all Federal payments (other than payments under the Internal Revenue Code) must be made using electronic funds transfer (EFT 99). Other important provisions of the DCIA pertain to the Federal Government's debt collection efforts.

In fiscal year 1999, FMS will assist Federal program agencies in implementing the final rule that promulgates the DCIA's EFT 99 provisions. This rule establishes categories of waivers, provides for a low-cost Treasury-designated account to be made available to certain recipients, establishes requirements for accounts to which Federal payments may be sent by EFT, and sets forth responsibilities of Federal agencies and recipients with respect to the EFT mandate.

FMS also will promulgate regulations to implement the DCIA's debt collection tools, including the administrative offset of Federal payments for the collection of debts owed to Federal agencies and States and the collection of past-due child support. FMS' goal for fiscal year 1999 is to publish as final rules many of the proposed and interim debt collection rules that were published in fiscal year 1998. These rules concern, among other issues, the offset of Federal payments, including benefit payments and salary payments; the transfer of debts to Treasury for collection; and barring delinquent debtors from obtaining direct and indirect Federal loan assistance. Additionally, FMS, in conjunction with the Department of Justice, will finalize the rule concerning the Federal Claims Collection Standards that sets forth Governmentwide debt collection standards.

FMS also plans to publish a final revision to its rule governing the Federal Government's participation in the Automated Clearing House (ACH), the dominant electronic funds transfer system used by Federal agencies. These revisions will provide the basis for broader use of the ACH system to meet future payment and collection needs.

The DCIA also provided the Department of the Treasury with new program authority concerning claims brought by and against the Federal Government in connection with Treasury checks and established a permanent and indefinite appropriation for the Check Forgery Insurance Fund. FMS plans to revise its rule that governs the processing of claims on Treasury checks that are lost or stolen and then paid over forged or unauthorized endorsements.

Finally, FMS plans to issue a revised final rule to implement the DCIA provisions governing the Treasury Check Offset program, which authorizes collection by offset of amounts owed by financial institutions to the Federal Government.

Bureau of the Public Debt

The Bureau of the Public Debt (BPD) administers regulations governing transactions in Government securities by Government securities brokers and dealers and regulations that implement Treasury's borrowing authority, including rules governing the sale and issue of marketable Treasury securities. In December 1997, BPD assumed responsibility for administering the regulatory provisions governing the types and valuations of collateral that are acceptable to secure deposits of public monies and other financial interests of the Federal Government.

The Government Securities Act of 1986 (GSA) authorizes the Secretary of the Treasury to prescribe rules governing financial responsibility, the protection of customer funds and securities, recordkeeping, reporting, audit, and large position reporting for all Government securities brokers and dealers, including financial institutions. These rules fulfill the Treasury's statutory responsibility to safeguard the efficient functioning of the Government securities market and are designed to prevent fraudulent and manipulative acts and practices and to protect the integrity, efficiency, and liquidity of the market. The Department and BPD are committed to implementing rules that make sense from both a regulatory and market efficiency perspective. Accordingly, the Department and BPD seek to balance the benefits of regulation with the compliance costs imposed on the Government securities market and its participants.

The rules setting out the terms and conditions for the sale and issue by the Department to the public of marketable book-entry Treasury bills, notes, and bonds are also known as the uniform offering circular. These rules apply to securities held in accounts in the book-entry system established by the Department and operated by the Federal Reserve Banks, known as the Treasury/Reserve Automated Debt Entry System, as well as to securities held in accounts directly with Treasury in the TREASURY DIRECT system. The uniform offering circular describes the types of securities offered for sale, the auction methods by which they are sold, the process by which bidders submit bids, the process for awarding securities to successful bidders, and the authorized payment methods.

Financial Crimes Enforcement Network

The regulations of the Financial Crimes Enforcement Network (FinCEN) constitute the core of Treasury's anti-money laundering initiative and an essential component of Treasury's anti-narcotics effort. The Bank Secrecy Act (BSA) authorizes the Secretary of the Treasury to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, or regulatory proceedings and to implement counter-money laundering programs and compliance procedures.

Since mid-1994, FinCEN has been engaged in a thorough review of its regulatory policies and has been building a partnership between Government and the financial sector to fight money laundering. The keystone of that partnership is the recognition that only a cooperative relationship between Government and industry can provide a way to implement a three-pronged strategy of prevention, detection, and enforcement against those who seek to use the financial system to promote or further illegal activity. FinCEN recognizes that BSA compliance imposes costs on the financial community and that recordkeeping and reporting should be required only when the benefits to law enforcement efforts are clear.

During fiscal year 1999, FinCEN will continue to review and revise its existing regulations. FinCEN will continue to work with the financial community to reduce administrative burdens associated with complying with the law while enhancing the usefulness of BSA information for law enforcement, financial regulators, and policymakers. FinCEN is continuing a general revision and simplification of all of its regulations and will accord priority to the following projects:

- *Money Services Businesses.* FinCEN will issue final rules based on three notices of proposed rulemaking issued in May 1997. The first proposed rule, responding to a specific statutory directive, set forth the terms and conditions under which certain non-bank financial institutions—or money services businesses—must register with the Treasury Department. The second would require suspicious transactions reporting by certain money services businesses, and the third would require money transmitters and their agents to report and retain records (and verify customer identity) for currency transactions in amounts between $750 and $10,000 in connection with a transmission or other transfer of funds to a person outside the United States.
- *Suspicious Transaction Reports.* In addition to the proposed rule noted above, FinCEN will issue a final rule based on a 1998 notice of proposed rulemaking requiring the reporting of suspicious transactions by casinos and card clubs, and it will issue a notice of proposed rulemaking requiring the reporting of suspicious transactions by brokers and dealers in securities.
- *Special Currency Transaction Reporting.* FinCEN will finalize a May 1997 proposed rule to require money transmitters and their agents to report and retain records of currency transactions in amounts between $750 and $10,000 in connection with a transmission or other transfer of funds to a person outside the United States and to verify the identity of the senders of such transmissions or transfers.
- *Exemptions from Cash Transaction Reporting (CTR) Requirements.* As required by legislation enacted in 1994, FinCEN is seeking to reduce by 30 percent the number of CTRs required to be filed. In September 1997 FinCEN finalized an interim rule that exempts many transactions from the CTR filing requirement and issued a notice of proposed rulemaking to exempt additional transactions. FinCEN will finalize this proposal.
- *Foreign Bank Drafts.* FinCEN expects to finalize its rulemaking to expand the definition of "monetary instrument" to include certain foreign bank drafts for purposes of the reporting of cross-border transportation. This expansion will implement only as much of the broad authority granted by a 1994 amendment to the BSA as FinCEN believes is required to address the issue of the sale of these foreign bank drafts.
- *"Know Your Customer" and Other Anti-Money Laundering Programs.* FinCEN plans to issue proposed regulations to require banks and other financial institutions to implement certain "Know Your Customer" and other anti-money laundering programs. These programs are closely related to the requirement to report suspicious transactions.

Community Development Financial Institutions Fund

The Community Development Financial Institutions Fund (Fund) was established by the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 et seq.). The primary purpose of the Fund is to promote economic revitalization and community development through investments in and assistance to community development financial institutions (CDFIs), principally through the CDFI Program. The Fund administers the Bank Enterprise Award (BEA) Program, which encourages insured depository institutions to engage in certain eligible development activities and to make equity investments in CDFIs. The Fund also administers the Presidential Awards for Excellence in Microenterprise Development, which recognize outstanding microenterprise development and support programs in an effort to advance an understanding of "best practices" in the field of domestic microenterprise development.

The Fund's regulatory priority for fiscal year 1999 is to continue to streamline the application and review process for the CDFI and BEA programs.

TREAS—Bureau of Alcohol, Tobacco and Firearms (BATF)

PROPOSED RULE STAGE

95. REVISION OF BREWERY REGULATIONS AND ISSUANCE OF REGULATIONS FOR TAVERNS ON BREWERY PREMISES (BREWPUBS)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

26 USC 5051 to 5056; 26 USC 5401 to 5417; 27 USC 205

CFR Citation:

27 CFR 7; 27 CFR 25

Legal Deadline:

None

Abstract:

ATF intends to streamline regulations applying to breweries. ATF will eliminate obsolete regulatory provisions. A formula system for manufactured beer products will replace statements of process attached to the brewers notice. The annual notice for small brewers to pay reduced rate of tax will be eliminated. Separate regulations for brewpubs will be added to part 25. A section will be added to part 25 to authorize and regulate the alternating use of brewery premises by different brewers. Regulations authorizing the operation of brew-on-premises facilities will be added to part 25.

Statement of Need:

ATF intends to streamline its regulations applying to the brewing industry. These changes will simplify brewery reports and operations and eliminate obsolete regulatory provisions. Specific changes would include the implementation of a formula system for the breweries to replace the statement of process; the establishment of a separate subpart containing simplified regulations for brewpubs; authorizing alternating brewery premises among different proprietors; eliminating the annual notice to pay reduced rate of tax for most breweries; authorizing brewers to file the Brewer's Report of Operations on a quarterly basis; and authorizing many brewers to take inventories quarterly rather than monthly. The rule will also propose minimum production standards for beer thereby reducing formula filings and a revised statement of net contents requirement for certain container sizes.

Summary of the Legal Basis:

ATF has undertaken this review of brewery regulations as part of the President's Regulatory Initiative. These regulations are issued under the general authority of the Secretary of the Treasury to promulgate regulations to implement the Internal Revenue Code and the Federal Alcohol Administration Act.

Alternatives:

Not applicable. ATF believes that industry will support these regulatory changes because they will streamline regulatory requirements applying to the brewing industry.

Anticipated Costs and Benefits:

The proposed regulations will benefit the brewing industry by reducing required inventories, notices, and other submissions to ATF.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 1512–AB37

TREAS—BATF

96. COMMERCE IN EXPLOSIVES (INCLUDING EXPLOSIVES IN THE FIREWORKS INDUSTRY)

Priority:

Other Significant

Legal Authority:

5 USC 552(a); 18 USC 847; 18 USC 921 to 930; 18 USC 1261; 19 USC 1612 to 1613; 19 USC 1618; 26 USC 7101; 26 USC 7322 to 7326; 31 USC 9301; 31 USC 9303 to 9304; 40 USC 304(k)

CFR Citation:

27 CFR 55

Legal Deadline:

None

Abstract:

Pursuant to section 610 of the Regulatory Flexibility Act, ATF published a notice on January 10, 1997 seeking public comments on whether it should revise its regulations codified at 27 CFR part 55, governing Commerce in Explosives (Including Explosives in the Fireworks Industry). Based on comments received, ATF plans to initiate a rulemaking to revise these regulations in 1998.

Statement of Need:

This notice of proposed rulemaking will address many of the issues in part 55 - Commerce in Explosives, especially the issues in requirements for explosives, including fireworks explosive materials. Pursuant to the periodic review requirements of the Regulatory Flexibility Act (5 U.S.C. 610), ATF published on January 10, 1997 a General Notice initiating the review of a final rule published in 1990 concerning the storage of fireworks explosives materials. The 1990 rule, which was issued as a result of the number and severity of explosions occurring on the premises of special fireworks plants, amended certain regulations codified at 27 CFR part 55, generally concerning the recordkeeping and storage of fireworks explosive materials. The regulations also codified two fireworks related rulings issued in 1979 and 1985, and the provisions of Pub. L. 99-308 relating to black powder. As a result of the public comments received in response to the General Notice and further study of this issue, ATF will issue a notice of proposed rulemaking covering this and related commerce and storage of explosives issues.

Summary of the Legal Basis:

Section 847 of title 18, United States Code, grants the Secretary of the Treasury broad discretion to promulgate regulations necessary for the importation, manufacture, distribution and safe storage of explosives materials. Section 846 of title 18, United States Code, authorizes the Secretary to prescribe precautionary measures to prevent the recurrence of accidental explosions in which explosive materials were involved. The General Notice and upcoming notice of proposed rulemaking are also being issued pursuant to section 610 of the Regulatory Flexibility Act (5 U.S.C. 610), which requires an agency to review within ten years of publication rules for which an agency prepared a final regulatory flexibility analysis addressing the impact of the rule on small businesses or other small entities.

Alternatives:

Alternatives will be examined in the context of public comments to the notice of proposed rulemaking.

Anticipated Costs and Benefits:

Unknown at this time.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
General Notice of Regulatory Review	01/10/97	62 FR 1386
NPRM	12/00/98	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 1512–AB48

BILLING CODE 4810-25-F

DEPARTMENT OF VETERANS AFFAIRS (VA)

Statement of Regulatory Priorities

The Department of Veterans Affairs (VA) is the custodian and administrator of important public obligations to those who served this Nation. The VA's regulatory responsibility is almost solely confined to carrying out the mandates of the laws enacted by Congress relating to programs for veterans and their beneficiaries. The VA's major regulatory objective is to implement these laws with fairness, justice, and efficiency.

Most of the regulations issued by the VA involve three VA components: The Veterans Benefits Administration, the Veterans Health Administration, and the National Cemetery System. The basic goal of the Veterans Benefits Administration is to provide high-quality and timely nonmedical benefits to eligible veterans and their beneficiaries. The principal goal of the Veterans Health Administration is to provide high-quality health care on a timely basis to eligible veterans through its system of medical centers, nursing homes, domiciliaries, and outpatient medical and dental facilities. The National Cemetery System's primary mission is to bury eligible veterans, members of the Reserve components, and their dependents in VA National Cemeteries and to maintain those cemeteries as national shrines in perpetuity as a final tribute of a grateful Nation to honor the memory and service of those who served in the Armed Forces.

BILLING CODE 8320-01-F

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Statement of Regulatory Priorities

An Era of Opportunity

During the past 28 years, the Nation made great headway in cleaning up the air, water, and land. But as the next century approaches, we are finding that many problems remaining are more complex than those of the past, and they require more sophisticated, tailor-made remedies. EPA has begun a wholesale effort to rethink its current public health and environmental strategies to better meet the challenges of today and the future. And because this effort comes at the same time the President and Vice President are calling for a Government that works better and costs less, EPA has had an unprecedented opportunity to develop tough, new protections that not only solve today's difficult problems but do so in cheaper and smarter ways.

Building a Better System

EPA's efforts to develop a system that works better and costs less are focused on five areas: Greater public access to information; more regulatory flexibility to obtain better results; stronger partnerships with States and industries; more compliance assistance; and less paperwork and red tape. We are pursuing this through every possible venue, internally and externally, and we can already see results.

Internally, EPA has streamlined its management, restructured programs, and given EPA employees broader responsibilities. For example, enforcers are emphasizing compliance assistance, permitters are paying more attention to pollution prevention and market mechanisms, and rule writers are developing public health and environmental protections that include alternatives proposed by regulated entities. These are innovative alternatives that are less costly but which still meet environmental and public health protection goals.

Externally, EPA is bringing together stakeholders from businesses, State and local governments, tribal governments, and labor and public interest groups so that all interested parties can participate in the design of innovative, less costly approaches to environmental and public health protection. This stakeholder involvement increases flexibility, promotes local stewardship, and helps establish and strengthen partnerships between the public and private sectors—all without sacrificing environmental or public health protection. And as compliance with today's environmental laws comes to be regarded as a "floor to maintain" rather than a "ceiling to be reached," EPA is offering flexibility that encourages facilities to go beyond the minimum baseline requirements and continuously improve environmental performance.

As EPA develops this new regulatory system, it will increase its focus on protecting the health of children, taking into account their unique characteristics and vulnerabilities. EPA has developed Agency guidance for carrying out President Clinton's Executive Order 13045 "Protection of Children from Environmental Health and Safety Risks." This guidance will result in an evaluation of children's environmental health for economically significant regulations. Further, following an inclusive public process, the Children's Health Protection Advisory Committee (established under the Federal Advisory Committee Act), EPA has recommended to the Administrator five existing regulations for reevaluation to ensure that they sufficiently protect children's health.

Providing Greater Public Access to Information

With more than a million hits every business day on our Internet site, EPA has seen public demand for environmental information expand exponentially. In response, the Agency has used rulemaking as well as nonregulatory approaches to develop new information programs and tools. Through rulemaking, EPA has expanded the Toxic Release Inventory to include information on seven additional industry sectors—as a result, this year, 6,400 more facilities are reporting on toxic chemical releases in their communities. Another recent EPA rule requires realtors and landlords to give home buyers and renters information on lead hazards before they move into a home. The Agency has also proposed a rule that will require water suppliers to provide specific information—consumer confidence reports—to their customers at least once a year on the quality of their drinking water, thereby empowering consumers to make important health decisions for themselves and their families.

This past spring, Vice President Gore announced the Chemical Right-to-Know Initiative in response to the finding that most commercial chemicals have very little, if any, toxicity information on which governments and the public can make sound judgments about potential risks. This Initiative will rely on a combination of partnership programs and rule-writing to accomplish its goals.

In early August, EPA publicly launched its new online Center for Environmental Information and Statistics (CEIS), which gives users a single, convenient source of reliable, comprehensive information on environmental quality, status, and trends in their community. For the first time ever, users can request environmental profiles on air quality, drinking water systems, surface water quality, hazardous waste, and reported toxic releases—just by typing in a zip code or clicking on a State or county. These profiles are based on data from national reports EPA prepares under Federal environmental laws.

In 1996, President Clinton directed EPA to create a new program to bring up-to-date environmental information to people in ways they could understand and use every day. Through an EPA program called Environmental Monitoring for Public Access and Community Tracking—EMPACT—Americans will be able to get "real-time" answers to questions about environmental quality in 86 large metropolitan areas. EPA has already launched a number of EMPACT pilots, including AIRNOW and BEACH Watch Internet sites, which provide real-time information; EMPACT will be fully operative by the year 2001.

More Regulatory Flexibility

In an effort to obtain better results, EPA is also giving businesses and communities more flexibility with how they fulfill their public health and environmental protection responsibilities. For example, a new rule for the pulp and paper industry—the Agency's first-ever integrated, multi-media rulemaking—allows companies to delay compliance with new water-pollution control requirements if they commit to going beyond compliance and installing more advanced technologies. In a similar vein, EPA will offer increased regulatory flexibility to the synthetic organic chemical industry through a proposed rule, forthcoming late this summer, that will consolidate and simplify 16 existing rules.

Through an experimental program called Project XL, EPA encourages companies to receive flexibility to use alternative regulatory strategies if they agree to go beyond compliance—and involve stakeholders along the way.

Stronger Partnerships with States and Industry

EPA recognizes that a new and improved system of environmental protection must include stronger partnerships between the public and private sectors and between the States and the Federal Government. It would also include a greater role for citizens in local, community-based decisionmaking. The Agency has taken several steps to improve these relationships and involve citizens. For example, the Agency offers Brownfields grants and Sustainable Development Challenge grants that give communities the resources necessary to clean up contamination, especially from abandoned industrial sites, and to restore environmental quality and provide environmentally sound economic opportunities. In addition, by providing better public access to environmental data, as discussed above, EPA is working to empower citizens so that they can be informed participants in environmental decisionmaking processes at national, State, or local levels.

EPA and the States are reinventing their working relationship to strengthen management of the Nation's environmental programs. Under the National Environmental Performance Partnership System (NEPPS), EPA has negotiated agreements with 32 States. NEPPS is designed to give States greater flexibility to direct resources where they are needed most, based on environmental conditions and program needs, and to tailor EPA's oversight and technical assistance to each State's particular situation. As part of the partnership effort, EPA and States are collaborating in the development of core performance measures that should strengthen EPA's ability to measure environmental progress over the long term. The core measures include a mix of activity and environmental measures and will be refined over time, particularly to increase the focus on environmental results as environmental indicators become more available. In another move to strengthen State/EPA partnerships, in March 1998, EPA and the States approved a formal agreement on how to manage testing of innovative environmental management strategies within the current regulatory framework.

To strengthen the relationship between the private and public sectors, EPA now is consulting with regulated industries earlier in its rule development processes. EPA sometimes employs formal consensus-based rulemaking, such as regulatory negotiations. More frequently, however, the Agency depends on informal outreach to potentially affected parties. The Agency has paid particular attention to its relationship with small businesses and, in fact, EPA has long been prominent among Federal agencies in its outreach to these small entities. The Agency not only rigorously carries out the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) and the Regulatory Flexibility Act (RFA), but it also uses its Small Business Ombudsman and its Office of State and Local Relationships to reach out to small entities.

More Compliance Assistance

Once EPA establishes public health and environmental protection rules, the Agency must ensure that businesses and others can understand and comply with them. This is particularly important for small businesses and communities that have limited staff and resources. To help these small entities, EPA is taking several steps. First, the Agency is establishing compliance assistance centers to serve as direct, readily available sources of information on the latest regulatory requirements for small businesses. EPA has established five centers for five sectors: Printed wiring board manufacturing, auto service and repair, printing, agriculture, and metal finishing. Before the year is over, centers for another four sectors will have opened: Transportation, local government, chemical manufacturing, and paints and coatings.

EPA is also offering to reduce or eliminate penalties for violations if small businesses establish programs to detect, publicly disclose, and fix problems—if the violation does not involve criminal activity or a serious risk to public health or the environment. Besides making life easier for businesses and other regulated facilities, these steps can help prevent pollution and lessen the burden and expense of cleanup. As of June 1998, 247 companies had voluntarily disclosed violations at more than 760 facilities.

Streamlining Regulatory and Paperwork Burdens

The Agency continues to examine existing environmental regulations and paperwork to simplify and streamline compliance for the regulated community. This is consistent with the President's announcement in February 1995 that all Federal agencies must conduct line-by-line reviews of their regulations and eliminate those that are obsolete or redundant. EPA has already made changes to more than 70 percent of its regulations and eliminated approximately 1,400 pages of obsolete rules from the Code of Federal Regulations (CFR), some 10 percent of EPA's total CFR regulations. In March 1995, EPA set a goal of reducing by 25 percent paperwork burden associated with requirements in effect on January 1, 1995. By September 30, 1995, EPA had achieved six million hours in reductions from this baseline. Following reauthorization of the Paperwork Reduction Act starting in October 1995, EPA revised its goal while reaffirming its commitment to the reduction of paperwork burdens. In the Information Streamlining Plan of April 1997, EPA projected an additional 26 million hours of reductions during the 3-year period from October 1, 1995, through September 30, 1998, and EPA is on target to meet this goal. Reductions during this period will be offset by the addition of approximately 30 million burden hours from new regulations and upward revisions of previous burden estimates. More than two-thirds of this offset is due to strengthening of the community right-to-know initiative.

EPA is creating several opportunities for regulatory and paperwork streamlining. For example, under the umbrella of its Reinventing Environmental Information (REI) initiative, the Agency is working in partnership with the States to develop a "one-stop" environmental reporting system that will allow facilities to submit required environmental permitting and compliance data on-line. This can save businesses and other regulated facilities time and money, help bring about quicker decisions on permitting and compliance actions, improve data accuracy, and create better access to information for the public.

In the area of clean water regulation, an innovative streamlining policy allows facilities to significantly cut routine water quality monitoring and reporting, as long as they achieve and maintain strong compliance records. In pesticide regulation, a new self-certification procedure allows pesticide registrants to make limited changes to their product registration with a simple notification to the Agency rather than filing an application for a formal amendment to registration.

Highlights of EPA's Regulatory Plan for 1998

EPA's regulatory plan for 1998 reflects the Agency's continuing commitment to create new environmental protection strategies that better protect public

health and the environment at lower cost. Here are some of the highlights from each program office:

Office of Air and Radiation Highlights

EPA is committed to taking advantage of the flexibility granted by the Clean Air Act that enables companies, States, and communities to meet clean air goals with innovative, low-cost approaches. The Office of Air and Radiation continues to reinvent major existing rules and regulations and is drafting future rules to reflect the common-sense principles of the reinvention effort. Here are a few examples:

- EPA recently established more stringent air quality standards for ozone and particulate matter based on new scientific and technical information. While the new standards offer increased protection for public health and the environment, EPA is also pursuing an implementation strategy that gives States and industry flexibility with which they can meet these air quality goals. The implementation strategy:
  - Respects agreements already reached by communities and businesses and does not disrupt current progress toward improving air quality;
  - Recognizes the need to adopt regional approaches toward addressing air pollution and finds that the most cost-effective mechanism for doing so is an emissions trading plan for utilities;
  - Gives areas that adopt these regional control measures a "transitional" status and allows EPA to devise an approach that eliminates unnecessarily burdensome planning and pollution reduction requirements;
  - Provides ample time for developing cost-effective control plans and for compliance.
- EPA, building on successful State programs, has been working with stakeholders to develop a more streamlined way for facilities to get operating permit updates from State or local agencies. Depending on the environmental significance of the change, States would have greater flexibility to decide the appropriate amount of EPA and public review for most permit revisions. An example of this new approach is the issuance this July of a final rule significantly reducing emissions of air toxics from the pharmaceutical production industry. In this industry, companies frequently change their operations as their products change. In order to avoid costly, time-consuming revision of air pollution permits every time a plant changes its production process, the facility will be allowed to choose from a menu of permit options already pre-approved by the permitting authority and reviewed by EPA and the public.
- EPA will continue its program to reduce emissions of nitrogen oxides, hydrocarbons, and particulate matter from engines that power both highway and "off-highway vehicles" (called "nonroad" engines). A landmark rule on highway engines was issued in final form last November, and a related final rule covering nonroad engines will be released this fall. The Agency brought together potentially affected industries, States, regional air management organizations, and public health and environmental interest groups to participate in the development of these rules. This outreach effort included the conducting of a small-business panel review of the nonroad proposal under the Small Business Regulatory Enforcement Fairness Act (SBREFA), which yielded a number of recommendations for burden relief, which EPA accepted and incorporated into the proposal.
- The Agency has proposed changes to simplify and streamline the New Source Review Program, which requires newly built facilities or those undergoing major modification to obtain a permit to ensure that emissions will not cause or contribute to air pollution problems.
- From discussions with affected industries, EPA has learned that many companies find it difficult to know what we expect of them given the growing complexity of the regulatory system during the last 25 years. In many cases, regulations may be duplicative, overlapping, or inconsistent, especially in the areas of monitoring, recordkeeping, and reporting. In response to these problems, EPA will propose a rule intended to consolidate and synchronize all Federal air regulations that apply to the synthetic organic chemical manufacturing industry. If this pilot program proves successful, we will expand it to cover other industries.

Office of Water Highlights

- In February 1998, a team of nine Federal agencies released the Clean Water Action Plan in response to direction from the President and Vice President to revitalize the work that had started in 1972 with the passage of the original Clean Water Act. The Clean Water Action Plan was conceived as an innovative way to focus many existing Federal programs on the most important remaining problems affecting our water resources. The main theme behind the Plan is to coordinate the activities of nine key Federal agencies to better support; provide technical, educational, and financial assistance; and participate in locally led watershed restoration and protection efforts. The plan contains more than 100 action items that focus efforts on:
  - Assessing the health of all watersheds and establishing restoration priorities,
  - Reducing public health threats from fish and shellfish, beaches, and drinking water sources,
  - Improving private and public stewardship of natural resources,
  - Strengthening polluted runoff controls,
  - Restoring and protecting wetlands and coastal waters, and
  - Making water quality information more accessible to the public.

In addition, the Plan seeks to better coordinate our watershed restoration and preservation efforts with our efforts to provide safe drinking water to all Americans.

- On August 6, 1996, President Clinton signed the Safe Drinking Water Act Amendments of 1996. The amendments are bringing substantial changes to the national drinking water program for EPA, States, and water utilities and will provide greater protection and information for the 240 million Americans served by public water systems. To carry out the 1996 amendments EPA is: Working with stakeholders to develop a new program to protect water sources; helping the States implement a billion-dollar drinking water State revolving fund; and developing regulations that will protect human health by ensuring the chemical integrity of drinking water and notifying the public when that integrity may be compromised. Below are several regulatory actions required by the 1996 amendments:
  - Disinfectant/Disinfection By-Products Rule and the Interim Enhanced Surface Water Treatment Rule together address the tradeoffs between pathogens and disinfection byproducts.
  - The Ground Water Rule will establish a framework to identify public water systems that use only ground water sources and are vulnerable to microbial contamination. This rule will also develop risk control strategies for these water systems that will include but not be limited to disinfection.
  - The National Primary Drinking Water Rule for Radon will reduce the risk of radon to public health, both from ingestion via drinking water and inhalation of radon discharged through normal household water use, such as showering. This rule will also address additional requirements of the 1996 Amendments that require EPA to withdraw our 1991 proposal and to include work with the National Academy of Sciences to do an assessment of risk and an assessment of health risk reduction benefits associated with various mitigation methods of reducing radon in indoor air. It would also require EPA to develop an alternative maximum contaminant level (MCL) in certain cases.
  - Revisions to the Public Water System Public Notification Regulation will tailor the frequency and content of public notices about lapses in drinking water integrity to the relative risks to public health. This will teach consumers, at their option, to make timely choices about the risk to them from drinking water.
- To provide more regulatory flexibility, EPA is streamlining two of its water-related programs: National Pollutant Discharge Elimination System (NPDES) permits and the pretreatment program. The following are highlights of efforts underway.
  - In the NPDES permits program (part 122), EPA is removing outdated requirements; streamlining permit application, modification, and appeal procedures; and reducing monitoring and reporting requirements. For example, EPA continues to consolidate and revise industrial and municipal permit application forms and streamline the application process.
  - Through proposed changes to the existing regulations (proposal planned for fall 1998), EPA will streamline various provisions of the General Pretreatment Regulations for Existing and New Sources of Pollution codified at 40 CFR part 403 to improve the regulatory programs' effectiveness while maintaining or improving the programs' focus on protection of public health and the environment. The goal of this initiative is to provide greater flexibility, reduce burden, and achieve greater environmental results at less cost. To this end, EPA is committed to streamlining the National Pretreatment Program to reduce the burden of technical and administrative requirements that affect industrial users and Publicly Owned Treatment Work (POTW) and State Control Authorities. In addition to this streamlining effort, EPA recently published a Federal Register notice (June 23, 1998; 63 FR 34170) requesting proposals from POTWs interested in implementing alternative local pretreatment programs. EPA is not proposing a change to the regulations at this time. Instead, in response to the findings of stakeholder studies regarding measures of performance, EPA is requesting POTWs interested in carrying out environmental performance-based programs to submit Project XL proposals explaining how they would change their pretreatment program.

Office of Prevention, Pesticides, and Toxic Substances Highlights

- EPA will continue to improve the public's right to know about toxic chemicals in their community through the Toxic Release Inventory (TRI) program of the Emergency Planning and Community Right-to-Know Act (EPCRA). The TRI is a data base that gives communities information on releases to air, water, and land for approximately 600 toxic chemicals and on other waste management activities for these chemicals, such as treatment and recycling. Armed with this information, communities can better understand the nature of toxic releases at the local level, assess risk, and decide local priorities. The Chemical Right-to-Know Initiative has three key components, each of which EPA is implementing rapidly. These are: Baseline toxicity testing for 3,000 widely used commercial chemicals; additional health effects testing for chemicals to which children are disproportionately exposed; and the listing and lowering of reporting thresholds for persistent, bioaccumulative, toxic chemicals reported to TRI.
- For chemicals that are highly toxic at very low dose levels, persist for extended periods in the environment, and/or bioaccumulate through the food chain, EPA is evaluating under TRI whether to lower the reporting threshold amount—the amount of a chemical a facility uses, manufactures, or processes before it must report releases. In addition, EPA is working with stakeholders to simplify the chemical reporting forms to make them less burdensome for regulated entities. The Agency is also simplifying its annual reports to make them easier to understand.
- The Food Quality Protection Act (FQPA), signed into law on August 3, 1996, overhauls U.S. pesticide laws to regulate pesticides on foods and better protect children. EPA is engaged in an intensive implementation effort, including developing new regulations, guidance, and programs. One such effort is the Endocrine Disruptor Screening and Testing Program. EPA established an advisory committee to consider human health and ecological effects; estrogenic, androgenic, anti-estrogenic, anti-androgenic, and thyroid effects of pesticides, industrial chemicals, and drinking water contaminants. Another is the Pesticide Tolerance Reassessment Program that looks at aggregate and cumulative exposures to pesticides and emphasizes the protection of infants and children.
- Childhood lead poisoning is a pervasive problem, with almost a million young children with more than 10 ug/dl of lead, which is the Center for Disease Control's level of concern, in their blood. Elevated blood-lead levels can lead to reduced intelligence and neuro-behavioral problems in young children, and can cause other health problems in children and adults. EPA is working on a final regulation to replace the existing interim guidance that identifies lead-based paint, lead-contaminated dust, and lead-contaminated soil hazards. We are also working on rules to address lead risks from renovation and remodeling activities and to address the disposal of lead-based paint debris.
- Currently, we require chemical manufacturers to report the names of the chemicals they produce, the quantity produced, and the locations of manufacturing facilities. EPA plans to propose expanding the TSCA Inventory to include information on public exposure to the chemicals and how the chemicals are used (e.g., in manufacturing processes). This allows EPA and others to identify chemicals of highest concern so that the Agency can set goals for chemical assessment, risk management, and prevention programs. The action will also encourage pollution prevention by identifying safer chemical substitutes.

- EPA is working on proposals to clarify and reduce the burden of the Asbestos-Containing Materials Rules and to harmonize them with the Occupational Safety and Health Administration's asbestos rules.
- Because certain pesticides have high groundwater contamination potential, EPA is considering a requirement for EPA-approved Pesticide Management Plans (PMP) for these pesticides. A PMP is a State's or Tribe's commitment to EPA and the public to manage the use of a certain pesticide in a way that avoids unreasonable risks to groundwater that would otherwise warrant cancellation of the use.

Office of Solid Waste and Emergency Response Highlights

The Office of Solid Waste and Emergency Response (OSWER) is planning to propose a number of actions to streamline and simplify compliance under the Resource Conservation and Recovery Act (RCRA), the Federal law governing hazardous waste management. As part of its effort to refocus hazardous waste regulation on high-risk wastes, EPA is undertaking a number of actions to tailor standards to the nature or degree of risk posed by particular wastes. One example of this is the development of management standards for cement kiln dust. The proposed standards for this large volume waste will be tailored to protect public health and the environment while imposing minimal burden on the regulated community.

- EPA is streamlining the regulation of listed hazardous waste. Certain regulations are overly broad in that they apply regardless of the concentrations of the listed wastes or the mobility of the toxicant in the waste. As a result, they regulate certain low-risk wastes (in particular, treatment residuals) as if they posed high risk. EPA's common-sense approach would exempt these low-risk wastes from the full management requirements designed for high-risk hazardous wastes.
- EPA also plans to establish new emissions standards for hazardous waste combustors under joint Clean Air Act and RCRA authority. These revised standards will avoid duplicative Agency effort and piecemeal regulation of the hazardous waste management industry while protecting public health and the environment from chlorinated dioxins, mercury, and other hazardous air pollutants.
- The Agency is revising the RCRA Hazardous Waste Manifest system because of how much paperwork burden is associated with the manifest. Reduction in paperwork burden is part of the Administration's Regulatory Reinvention goal of cutting Government "red tape." The Agency wants to standardize the manifest program across the States by introducing a truly uniform manifest tracking form. The chief goal of the manifest system is to facilitate the safe transportation of offsite shipments of hazardous waste to appropriate RCRA management facilities.
- EPA is considering regulatory changes to the RCRA hazardous waste storage and disposal requirements for low-level mixed waste (LLMW). EPA will determine whether the disposal of LLMW in facilities designed to address radiological hazards, which are licensed by the Nuclear Regulatory Commission (NRC) (but are not self-regulated), will provide adequate protection of human health and the environment with respect to chemical hazards.
- Over the past 2 years, the Agency has worked with stakeholders from State agencies, industry, and the environmental community to develop recommendations to improve the Agency's permitting programs. These stakeholders concluded that permitting activities should be commensurate with the complexity of the activity and that permit programs should be flexible enough to allow streamlined procedures for routine permitting activities. The stakeholders recommended that regulations be developed to allow "standardized permits" for on-site storage and non-thermal treatment of hazardous waste in tanks, containers, and containment buildings. As a result of this recommendation, the Agency is proposing to revise the RCRA regulations to allow this type of permit.

Office of Administration and Resources Management Highlights

- In 1995, EPA and States agreed to develop and carry out the National Environmental Performance Partnership System (NEPPS) to: Promote joint planning and priority setting by EPA and the States; give States greater flexibility to direct resources where they need them most; foster use of integrated and innovative strategies for solving water, air, and waste problems; achieve a better balance in the use of environmental indicators and traditional activity measures for managing programs; and improve public understanding of environmental conditions and the strategies being used to address them.
- The Agency is working to change our grant rules to promote State-EPA collaboration, provide opportunities for innovation and reduce paperwork while ensuring sound fiscal management and accountability for environmental performance consistent with NEPPS. These changes will help build more effective State-EPA partnerships and improve environmental conditions by giving States increased flexibility to direct resources where they need them most to address environmental and public health needs.
- We are also developing a Performance Partnership Grant Rule for Indian Tribes. This program would provide more flexibility to Tribes to spend their resources on their top priorities and to achieve administrative savings. It would accomplish this by letting Tribes apply for and administer one environmental program grant instead of many separate grants.

Summary

In developing all of these actions, EPA is committed to flexible, cost-effective regulatory programs that offer increased protections for public health and the environment. EPA welcomes suggestions from the public to help the Agency in this effort.

EPA

PRERULE STAGE

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97. HAZARDOUS WASTE STORAGE AND DISPOSAL REGULATION RELATED TO LOW LEVEL MIXED WASTE; PROPOSED MODIFICATIONS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6924; 42 USC 6926

CFR Citation:

40 CFR 261.4; 40 CFR 262.34

Legal Deadline:

NPRM, Judicial, October 31, 1999.

Abstract:

EPA is considering a regulatory exemption from the RCRA hazardous waste disposal requirements for low level mixed waste (LLMW). EPA will determine whether the disposal of LLMW in facilities designed to address radiological hazards which are licensed by the Nuclear Regulatory Commission (NRC) will provide adequate protection of human health and the environment with respect to chemical hazards. If the Agency decides that such disposal is protective, EPA will propose that for the purposes of disposal these wastes be conditionally exempted from the RCRA subtitle C disposal requirements. EPA is formulating the scope and form of the exemption, and will propose the action in the regulatory proposal.

Commercial LLMW is regulated under multiple authorities: by RCRA, as implemented by EPA or authorized States for chemically hazardous constituents, and by the Atomic Energy Act (AEA) for radiological constituents of mixed waste, as implemented by either NRC or its agreement States. Commercial mixed waste generators, particularly nuclear power plants, have raised the concern that AEA and RCRA requirements for mixed waste overlap, and are potentially inconsistent, costly, and unnecessary. Nuclear power plants contend that NRC regulations covering design, licensing and operation of low level radioactive waste disposal facilities offer human health and environmental protection similar to that required by EPA requirements governing chemical hazards under RCRA regulations. Furthermore, there is a serious shortage of disposal capacity for LLMW. The waste acceptance criteria of the very few facilities having both a RCRA permit and an NRC license severely limit the activity levels of radionuclides they can dispose. EPA is also considering alternatives to current EPA regulations applicable to mixed waste storage. NRC regulations also apply to storage of commercial mixed waste. Current RCRA regulation prohibits indefinite storage of waste containing hazardous constituents, despite the lack of treatment technology or disposal capacity for some mixed wastes. Through this rulemaking action, EPA seeks to explore regulatory alternatives that could provide regulatory relief for LLMW from hazardous waste storage requirements while waste is subject to NRC regulations and licensing conditions.

Statement of Need:

An Advance Notice of Proposed Rulemaking (ANPRM) is needed to gather both preliminary comments to EPA's approach for regulatory relief using contingent management, and also voluntary data to be used in the regulatory impact assessment. The Proposed Rulemaking is needed due to: the lack of mixed waste treatment and disposal facilities nationwide; industry concerns regarding the potential for duplication under EPA and NRC regulatory requirements; and follow through on comments relating to mixed waste management received from industry on the Hazardous Waste Identification Rule proposal of December 1995, and the mixed waste storage guidance of August 1995.

Summary of the Legal Basis:

The Proposed Rulemaking is required by the settlement agreement reached with the Edison Electric Institute, and other litigants and intervenors, in April 1997.

Alternatives:

EPA is considering a number of alternatives including 1) use of Hazardous Waste Identification Rule (HWIR) health based exit levels for chemical constituents in conjunction with NRC disposal requirements; 2) applicability of HWIR exit concentration levels and associated requirements for chemical constituents; 3) conditional exemption for stored mixed waste subject to NRC regulatory requirements; and 4) allowing storage-for-decay as provided by NRC for some mixed wastes to limit worker exposure to radionuclides.

Anticipated Costs and Benefits:

Cost-benefit information is not available; it will be developed as part of the economic analysis for the proposed rulemaking.

Risks:

This rule would maintain current levels of risk protection for alternatives 1 through 3. For alternative 4, there would be a reduction in risk due to reduced exposure of workers to radionuclides mixed with hazardous wastes.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/98	
NPRM	10/00/99	
Final	04/00/01	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Federal

Additional Information:

SAN No. 4017

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RIN: 2050–AE45

EPA

PROPOSED RULE STAGE

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98. REVISION TO 40 CFR 35 SUBPART A AND PROMULGATION OF PERFORMANCE PARTNERSHIP (STATE) GRANT REGULATION

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

PL 104-134; PL 105-65

CFR Citation:

40 CFR 35

Legal Deadline:

None

Abstract:

This proposed regulation: (1) updates, clarifies, and streamlines requirements governing environmental program grants; (2) establishes requirements for the new Performance Partnership Grant (PPG) program; and (3) establishes

requirements for grant programs that began after the original rule was published. (A regulation governing environmental program grants to Indian tribes and tribal consortia is published elsewhere in this issue of the Federal Register.)

Statement of Need:

Since EPA was formed in 1970, State capacity and responsibility for implementing environmental and public health protection programs has grown steadily. Until 1996, State and interstate agencies could receive EPA assistance in carrying out their environmental programs only through a variety of categorical environmental grants, such as grants for water pollution control, air pollution control, and hazardous substance control. Meanwhile, environmental problems and their solutions have grown more complex and solutions to these complex problems often crossed EPA program lines. In light of this complexity, State and EPA leaders recognized that continued environmental progress could be best achieved if EPA and States worked together more effectively as partners and environmental programs were made more flexible in terms of their coverage.

In response, EPA asked Congress for new authority that would provide that needed flexibility. In 1996, Congress authorized the award of Performance Partnership Grants (PPGs), in which State and interstate agencies can choose to combine two or more environmental program grants.

This proposed rule will implement the PPG program which promotes State-EPA collaboration; provides opportunities for innovation; and reduces paperwork. EPA expects the rule will foster joint planning and priority-setting by explicitly requiring that State priorities and needs be considered, along with national and Regional guidance, in negotiating grant work plans, consistent with the National Environmental Performance Partnership System (NEPPS). Under this rule, a State can choose to organize its grant work plans in accord with environmental goals and objectives or in other new ways rather than using categories pre-defined by EPA. The length of a grant budget period will be negotiable. These opportunities afforded by the PPG program and this rule are available to all States.

This rule accommodates all potential variations in how EPA and individual States work to build partnerships. The rule also minimizes duplicative effort by allowing for multiple uses of information or processes wherever appropriate. The regulation advances ongoing efforts to build more effective State-EPA partnerships and to improve environmental conditions by providing States with increased flexibility to direct resources where they are needed most to address environmental and public health needs.

Summary of the Legal Basis:

Not required by law or court order.

Alternatives:

EPA can continue to award PPGs under guidance prepared by the agency and announced in the Federal Register.

Anticipated Costs and Benefits:

The rule does not result in any new costs. It is expected to allow cost and administrative savings for States by reducing the amount of grant paperwork and by simplifying accounting requirements that do not require recipients to account for expenditures in accordance with their original funding sources. With PPGs, recipients can negotiate work plans with EPA that direct Federal funds where the recipients need them most to address environmental and public health problems. Recipients can also try new multi-media approaches and initiatives, such as children's health protection programs, multi-media inspections, compliance assistance programs, and ecosystem management, that were difficult to fund under traditional categorical grants.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
Final Rule	04/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Federal

Additional Information:

SAN No. 3736

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EPA

99. REVISION TO 40 CFR 35 SUBPART A AND PROMULGATION OF PERFORMANCE PARTNERSHIP (TRIBAL) GRANT RULE

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

PL 104-134; PL 105-65

CFR Citation:

40 CFR 35

Legal Deadline:

None

Abstract:

This proposed regulation will: (1) update, clarify, and streamline requirements governing environmental program grants; (2) establish requirements for the new Performance Partnership Grant (PPG) program; and (3) establish requirements for grant programs that were developed after the original rule was published. (EPA is also issuing a regulation governing environmental program grants to State and Interstate agencies.)

Statement of Need:

This regulation provides a tribal-specific subpart which is intended to be easy to use; optimizes the administration of tribal assistance programs through increased flexibility; and removes procedural impediments to effective environmental programs for Indian tribes.

Since EPA was formed in 1970, tribal capacity and responsibility for implementing environmental and public health protection programs has grown steadily. Until 1996, tribes and Intertribal Consortia could receive EPA assistance in carrying out their environmental programs only through a variety of categorical environmental grants, such as grants for water pollution control, air pollution control, and safe drinking water. During that time, environmental problems and their solutions grew more complex and solutions to those complex problems often crossed EPA program lines. In light of this complexity, tribal and EPA leaders recognized that continued environmental progress could be best achieved if EPA and the tribes worked together more effectively as partners and environmental programs were made more flexible in terms of their coverage.

In response, EPA asked Congress for new authority that would provide that needed flexibility. In 1996, Congress authorized the award of Performance Partnership Grants (PPGs), in which tribes and Intertribal Consortia can choose to combine two or more environmental program grants.

This proposed rule will implement the PPG program which promotes tribal-EPA collaboration; provides opportunities for innovation; and reduces paperwork. EPA expects the rule will foster joint planning and priority-setting by explicitly requiring that tribal priorities and needs be considered, along with national and regional guidance, in negotiating grant work plans, consistent with the National Environmental Performance Partnership System (NEPPS). Under this rule, a tribe can choose to organize its grant work plans in accord with environmental goals and objectives or in other new ways rather than using categories pre-defined by EPA. The length of a grant budget period will be negotiable. These opportunities afforded by the PPG program and this rule are available to all tribes which receive grants under more than one EPA environmental program.

This rule accommodates all potential variations in how EPA and individual tribes work to build partnerships. The rule is also minimizes duplicative effort by allowing for multiple uses of information or processes wherever appropriate. The regulation advances ongoing efforts to build more effective tribal-EPA partnerships and to improve environmental conditions by providing tribes with increased flexibility to direct resources where they are needed most to address environmental and public health needs.

Summary of the Legal Basis:

Not required by law or court order.

Alternatives:

EPA can continue to award PPGs under guidance prepared by the agency and announced in the Federal Register.

Anticipated Costs and Benefits:

The rule does not result in any new costs. It is expected to achieve cost and administrative savings for tribes by reducing the amount of grant paperwork and by simplifying accounting requirements that do not require recipients to account for expenditures in accordance with their original funding sources. With PPGs, recipients can negotiate work plans with EPA that direct Federal funds where the recipients need them most to address environmental and public health problems. Recipients can also try new multi-media approaches and initiatives, such as children's health protection programs, multi-media inspections, compliance assistance programs, and ecosystem management, that were difficult to fund under traditional categorical grants.

Risks:

There are no known risks.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
Final Rule	04/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Governmental Jurisdictions, Organizations

Government Levels Affected:

Tribal, Federal

Additional Information:

SAN No. 4128

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EPA

100. IMPLEMENTATION OF OZONE AND PARTICULATE MATTER (PM) NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS) AND REGIONAL HAZE REGULATIONS

Priority:

Other Significant

Legal Authority:

PL 95-95; PL 101-549

CFR Citation:

40 CFR 51; 40 CFR 81

Legal Deadline:

None

Abstract:

EPA recently issued new, updated air quality standards for ozone (62 FR 38856) and particulate matter (PM) (62 FR 38652). Pursuant to President Clinton's implementation strategy as outlined in a memorandum to EPA Administrator Carol Browner, EPA is developing guidance and rules for sensibly and cost-effectively meeting the new standards. To help develop the guidance and rules, EPA, between September 1995 and December 1997, sought significant stakeholder involvement through a committee established under the Federal Advisory Committee Act. Consistent with the schedule outlined in a memorandum from President Clinton dated July 16, 1997, EPA will publish guidance and rules by the end of 1998 designed to give States, local governments, and businesses the flexibility they'll need to meet protective public health standards in a reasonable, cost-effective manner.

For ozone, the implementation plan will emphasize a regional, State-sponsored approach that addresses the long-distance transport of ozone. On October 10, 1997, EPA issued a proposal (sometimes referred to as the OTAG SIP Call) to require broad regional emissions reductions of nitrogen oxides (NOx) gases which contribute to the formation of ozone (62 FR 60318, November 7, 1997). EPA will work with the affected States to develop a regional NOx emissions cap-and-trade program modeled after the program used to achieve sulfur dioxide reductions in the acid rain program.

In order to help areas covered by EPA's regional plan avoid burdensome measures associated with noncompliance, EPA will create a new transitional classification. Areas that attain the 1-hour standard but not the new 8-hour standard as of the time EPA

promulgates designations for the 8-hour standard could obtain this new classification if they participate in a regional strategy and/or opt to submit early plans addressing the new 8-hour standard. Because many areas will need little or no additional new local emission reductions to reach attainment, beyond the reductions that will be achieved through the regional control strategy, and will come into attainment earlier than otherwise required, EPA will exercise its discretion under the law to eliminate unnecessary local planning requirements for such areas. EPA will revise its rules for new source review (NSR) and conformity so that States will be able to comply with only minor revisions to their existing programs in areas classified as transitional. (cont)

Statement of Need:

Development of programs for ozone and PM are necessary to implement any revised NAAQS under title 1 of the Clean Air Act.

Alternatives:

This entry comprises the set of actions the Agency plans to take to implement the new ozone and fine particulate standards. The major alternative facing the Agency was whether to implement the standards strictly on a state-by-state basis, as bas been the norm in the past, or to take Federal action to address the fact that emissions from one State affect the ability of other States to achieve the standards. The Agency chose the latter course, embodied in the NOx Regional Strategy described above. The other major set of alternatives involved various possible strategies for infrastructure design, such as the designations of nonattainment areas and the requirements that will apply to them. The major issues in this area were settled by the July 1997 issuance of a Presidential Directive setting out a flexible implementation policy, the elements of which are summarized in the abstract above.

Anticipated Costs and Benefits:

EPA is in the process of preparing a regulatory impact analysis (RIA) for implementing new ozone and PM NAAQS, as well as a regional haze reduction program. The RIA will be available at the time the implementation strategy is proposed in the Federal Register. The current schedule calls for publication of the notice of proposed rulemaking on Phase I of the implementation strategy in mid-1997.

Timetable:

Action	Date	FR Cite
ANPRM	12/13/96	61 FR 65764
Notice Proposed Policy	12/13/96	61 FR 65752
NPRM Regional Haze	07/31/97	62 FR 41138
Notice Review Schedule for PM2.5 Standard	10/23/97	62 FR 55201
NPRM NOx Regional Strategy SIP Call	11/07/97	62 FR 60318
Final Rule Areas Meeting 1-hour Ozone Standard	06/05/98	63 FR 31013
Final Rule Additional Areas Meeting 1-hour Ozone Standard	07/22/98	63 FR 39432
NPRM NSR for Transitional Areas	10/00/98	
NPRM 172e Antibacksliding for PM10	10/00/98	
Final Rule NOx Regional Strategy SIP Call	10/00/98	
Final Rule Regional Haze	10/00/98	
Initial Guidance Implementation Planning	10/00/98	
Final Guidance Implementation Planning	12/00/98	
Final Rule 172e Antibacksliding for PM10	12/00/98	
Final Rule NSR for Transitional Areas	05/00/99	
Final Rule Conformity for Transitional Areas	06/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State

Additional Information:

SAN No. 3553

ABSTRACT CONT: In a final rule promulgated on June 5, 1998, EPA identified areas that have air quality meeting the 1-hour air ozone standard and revoked that standard for those areas (63 FR 31013, June 5, 1998). A subsequent final rule for additional ozone areas attaining the 1-hour standard was promulgated on July 22, 1998 (63 FR 39432).

For PM10, EPA revised the set of standards that had existed since 1987. Given that health effects from coarse particles are still of concern, the overall goal during this transition period is to ensure that PM10 control measures remain in place to maintain the progress that has been achieved toward attainment of the PM10 NAAQS (progress which also provides benefits for PM2.5) and protection of public health. To ensure that this goal is met, the pre-existing PM10 NAAQS will continue to apply until certain critical actions by EPA and by States and local agencies have been taken to sustain the progress already made. For areas not attaining the existing PM10 NAAQS when the revised standards go into effect, those existing standards remain in effect until EPA has completed a section 172(e) rulemaking to prevent backsliding. EPA will propose this rulemaking in the spring of 1998. For areas attaining the pre-existing PM10 NAAQS, EPA will retain that standard until the State submits and EPA approves the section 110 SIP which States are required to submit within 3 years of a NAAQS revision. Once those areas have an approved SIP, EPA will take action so that the pre-existing PM10 standard no longer applies. In addition, EPA will take action within 3 years to designate areas for the revised PM10 standards.

EPA's approach to addressing regional haze was proposed concurrently with the promulgation of the final ozone and PM NAAQS. The public comment period on this proposal closed on December 5, 1997. EPA plans to promulgate the regional haze rulemaking in the fall of 1998.

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RIN: 2060–AF34

EPA

101. ENVIRONMENTAL RADIATION PROTECTION STANDARDS FOR YUCCA MOUNTAIN, NEVADA

Priority:

Other Significant

Legal Authority:

Energy Policy Act sec 801

CFR Citation:

40 CFR 197

Legal Deadline:

NPRM, Statutory, August 1, 1996.

Abstract:

This rulemaking is in response to section 801 of the Energy Policy Act of 1992 which directs the Administrator to promulgate public health and safety standards for protection of the public from releases from radioactive materials stored or disposed of in the repository at the Yucca Mountain site. The only regulated entity is the U.S. Department of Energy.

Statement of Need:

In 1985, the Agency issued generic standards for the management and disposal of spent nuclear fuel and high-level radioactive waste. The Nuclear Waste Policy Amendments Act of 1987 mandated the study of Yucca Mountain, Nevada to determine its suitability to be a repository for spent nuclear fuel and high-level radioactive waste. The Waste Isolation Pilot Plant Land Withdrawal Act of 1992 exempted Yucca Mountain from coverage under the 1985 generic standards. Concurrently, the Energy Policy Act of 1992 gave EPA the responsibility of setting site-specific, radiation-protection standards for Yucca Mountain.

Summary of the Legal Basis:

The legal authority is derived from the Energy Policy Act of 1992.

Alternatives:

Since this action is legally mandated, there are no alternatives.

Anticipated Costs and Benefits:

Since the potential cost is dependent upon several factors whose determination has not yet been made, a precise assessment of the economic impact of the rulemaking is not possible at this time. Likewise, the benefits, i.e., the adverse effects averted (which are required to complete a cost-benefit analysis), cannot be determined in a meaningful manner at this time since the effect of these standards is to avert potential adverse health effects that may occur during very long periods into the future and are, therefore, quantifiable only with a high degree of uncertainty.

Risks:

The potential risks which would be allowed under these standards is dependent upon the level of protection and the regulatory time frame which is selected. Since the standards have not yet been proposed, it is not possible to estimate the potential risks.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Rule	03/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal

Additional Information:

SAN No. 3568

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RIN: 2060–AG14

EPA

102. CONSOLIDATED FEDERAL AIR RULE FOR THE SYNTHETIC ORGANIC CHEMICAL MANUFACTURING INDUSTRY

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 7401 et seq

CFR Citation:

40 CFR 60; 40 CFR 61; 40 CFR 63

Legal Deadline:

None

Abstract:

Over the past 25 years, EPA has issued a series of national air regulations, many of which affect the same facility. Some facilities are now subject to five or six national rules, sometimes affecting the same emission points. Each rule has emission control requirements as well as monitoring, recordkeeping, and reporting requirements.

These requirements may be duplicative, overlapping, difficult to understand, or inconsistent. It is often difficult for plant managers to determine compliance strategies to satisfy all requirements and for State and local permitting agencies to determine the applicability of different requirements for permitting purposes. Resources are often wasted by both industry and States and localities in sorting out and complying with the panoply of multiple requirements.

All existing Federal air rules applicable to an industry sector will be reviewed to determine whether their provisions can be consolidated into a single new rule. Affected industries, State agencies, and other stakeholders will be consulted to identify duplicative and conflicting provisions and to provide assistance in drafting the single rule. The chemical industry and State representatives have agreed to work on a pilot project with EPA's air programs to explore this approach. If the approach is successful with the chemical industry, it may be expanded to air rules for other industry sectors.

Statement of Need:

Both industry and regulatory agencies have expressed a great desire to streamline and simplify rules. This rule streamlines and simplifies by consolidating and collapsing the numerous Federal rules that apply to the chemical industry, with resulting improved compliances.

Alternatives:

The main alternative is to do nothing and let the many rules with their many provisions remain the only compliance mechanism.

Anticipated Costs and Benefits:

This rule will result in considerable savings to the affected industry. There is significant burden reduction associated with recordkeeping and reporting. The rule will be easier to follow and understand. There will be no change in applicability of the rules being consolidated.

Risks:

This rulemaking deals with consolidated reporting to simplify existing rules. The risks addressed by each of these existing rules were addressed in those individual rulemakings.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Rule	05/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Federal

Additional Information:

SAN No. 3748

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RIN: 2060–AG28

EPA

103. • TIER II LIGHT-DUTY VEHICLE, LIGHT-DUTY TRUCK, AND HEAVY-DUTY GASOLINE VEHICLE EMISSION STANDARDS AND GASOLINE SULFUR STANDARDS

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

42 USC 7521

CFR Citation:

40 CFR 86 (revision)

Legal Deadline:

Other, Statutory, December 31, 1999, Determine need - tech. feasibility and cost effectiveness of more stringent standards.

Abstract:

EPA is mandated by the Clean Air Act Amendments of 1990 to study whether or not further reductions in emissions from light-duty vehicles and light-duty trucks should be required through lowering tailpipe emissions standards. EPA submitted a report to Congress on July 31, 1998. The report determined that there was a need for further reductions in emissions and that cost-effective technology is available to meet more stringent standards. This rulemaking will propose the next generation of emission standards for light-duty vehicles, light-duty trucks, and gasoline heavy-duty vehicles. The primary focus of this action will be reducing emissions of nitrogen oxides and non-methane hydrocarbons, pollutants which contribute to ozone pollution. Highway vehicles are significant contributors to ozone pollution, though tighter standards will also have additional air quality benefits. The light-duty vehicle and light-duty truck standards cannot go into effect before the 2004 model year, as per Clean Air Act requirements. EPA is also planning on addressing more stringent standards for heavy-duty gasoline engines, effective no earlier than model year 2007, in this rulemaking since many of the technologies used to achieve better emissions performance of light-duty trucks could also be used to reduce emissions from heavy-duty gasoline engines. The rulemaking will also propose limitations on the sulfur content of gasoline available nationwide. Sulfur has a detrimental impact on catalyst performance and could be a limiting factor in the introduction of advanced technologies on motor vehicles.

Statement of Need:

Ozone pollution poses a serious threat to the health and well-being of millions of Americans and a large burden to the U.S. economy. This rulemaking will address additional national control measures to reduce emissions, including emissions of nitrogen oxides and hydrocarbons, from new motor vehicles, heavy-duty gasoline-powered trucks, and sulfur levels in gasoline in order to protect the public health and welfare. There are also additional benefits associated with new controls on these emission sources.

Summary of the Legal Basis:

New motor vehicle controls, effective no earlier than model year 2004, are authorized under section 202 of the Clean Air Act. Controls on heavy-duty engines and gasoline sulfur levels are also done under the authority of the Clean Air Act.

Alternatives:

Various control programs will be analyzed.

Anticipated Costs and Benefits:

The costs and benefits associated with this rule will be evaluated.

Risks:

The risks have not been determined at this time.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

State, Local, Tribal, Federal

Sectors Affected:

32411 Petroleum Refineries; 336111 Automobile Manufacturing; 33612 Heavy Duty Truck Manufacturing; 4227 Petroleum and Petroleum Products Wholesalers

Additional Information:

SAN No. 4211

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RIN: 2060–AI23

EPA

104. NAAQS: SULFUR DIOXIDE (REVIEW AND IMPLEMENTATION)

Priority:

Economically Significant

Legal Authority:

42 USC 7409; Clean Air Act sec 109

CFR Citation:

40 CFR 50.4; 40 CFR 50.5

Legal Deadline:

NPRM, Judicial, November 1, 1994.

Final, Judicial, April 22, 1996.

Abstract:

On November 15, 1994, the Environmental Protection Agency (EPA) proposed not to revise the existing 24-hour and annual primary standards. The EPA sought public comment on the need to adopt additional regulatory measures to address the health risk to asthmatic individuals posed by short-term peak sulfur dioxide exposure.

On March 7, 1995, EPA proposed implementation strategies for reducing short-term high concentrations of sulfur dioxide emissions in the ambient air.

On May 22, 1996, EPA published its final decision not to revise the primary sulfur dioxide NAAQS. The notice stated that EPA would shortly propose a new implementation strategy to assist States in addressing short-term peaks of sulfur dioxide. The new implementation strategy - the Intervention Level Program - was proposed on January 2, 1997. In July 1996, the American Lung Association and the Environmental Defense Fund petitioned the U.S. Court of Appeals for the D.C. Circuit for a judicial review of EPA's decision not to establish a new 5-minute NAAQS. On January 30, 1998, the court found that EPA did not adequately explain its decision and remanded the case so EPA could explain its rationale more fully. EPA published a schedule for responding to the remand in the May 5, 1998 Federal Register. The schedule calls for a final response to the remand by December 2000. Any final action on the intervention level program would occur no sooner than December 2000.

Statement of Need:

Brief exposures to elevated concentrations of sulfur dioxide cause bronchoconstriction, sometimes accompanied by symptoms (coughing, wheezing, and shortness of breath), in mild to moderate asthmatic individuals. The existing sulfur dioxide National Ambient Air Quality Standard (NAAQS) provides substantial protection against short-term peak sulfur dioxide levels. At issue is whether additional measures are needed to further reduce the health risk to asthmatic individuals.

Alternatives:

The March 7, 1995, proposal notice sought public comment on three alternatives to further reduce the public health risk to asthmatic individuals posed by short-term peak sulfur dioxide exposures. These included: (a) a new 5-minute NAAQS; (b) a new program under section 303 of the Act; and (c) a targeted monitoring program to ensure sources likely to cause or contribute to high 5-minute peaks are in attainment with the existing standard. The January 2, 1997, notice proposed an alternative program under section 303 of the Act that will assist States in addressing high 5-minute peaks.

Anticipated Costs and Benefits:

A draft regulatory impact analysis was completed and made available for public comment at the time of the January 2, 1997 proposal.

Risks:

Exposure analyses indicate from the national perspective that the likelihood of exposure to high 5-minute sulfur dioxide concentrations is very low. Asthmatic individuals in the vicinity of certain sources or source categories, however, may be at higher risk of exposure than the population as a whole.

Timetable:

Action	Date	FR Cite
NPRM NAAQS Review	11/15/94	59 FR 58958
NPRM NAAQS Implementation (part 51)	03/07/95	60 FR 12492
Final Rule NAAQS Review	05/22/96	61 FR 25566
NPRM Revised NAAQS Implementation (part 51)	01/02/97	62 FR 210
Notice Schedule for Response to NAAQS Remand	05/05/98	63 FR 24782
NPRM Response to NAAQS Remand	10/00/98	
Final Response to NAAQS Remand	12/00/00	
Final Rule NAAQS Implementation (Part 51)	01/00/01	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Local, Federal

Additional Information:

SAN No. 1002

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RIN: 2060–AA61

EPA

105. • PESTICIDE TOLERANCE REASSESSMENT PROGRAM

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

21 USC 346a(q)

CFR Citation:

40 CFR 180; 40 CFR 185; 40 CFR 186

Legal Deadline:

Other, Statutory, August 3, 1999, See additional information.

Abstract:

EPA will reassess pesticide tolerances and exemptions for raw and processed foods established prior to August 3, 1996, to determine whether they meet the "reasonable certainty of no harm" standard of the Federal Food, Drug and Cosmetic Act (FFDCA). FFDCA sec. 408(q), as amended by the Food Quality Protection Act, requires that EPA conduct this reassessment on a phased 10-year schedule. Based on its reassessment, EPA will take a series of regulatory actions to modify or revoke tolerances that do not meet the reasonable certainty of no harm standard.

Statement of Need:

The Federal Food, Drug and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996, requires EPA to reassess all pesticide tolerances and exemptions established before August 3, 1996. EPA is to reassess tolerances to determine whether they meet the statutory "reasonable certainty of no harm" standard of FFDCA sec 408(b). That standard requires that a pesticide tolerance may be established or remain in effect only if the tolerance is "safe". "Safe" means that there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, based upon all anticipated dietary exposures and all other exposures for which there is reliable information. The statute emphasizes the protection of infants and children in determining the safety of a pesticide tolerance, and requires that EPA evaluate the cumulative risks of all pesticides having a common mode of action.

Summary of the Legal Basis:

The tolerance reassessment program is mandated by FFDCA sec. 408(q).

Alternatives:

EPA is required to take action to ensure that all existing tolerances meet the safety standard. If tolerances must be modified or revoked, EPA will consider a variety of factors in determining which tolerances should be modified or revoked. These factors are yet to be determined, but could include public health considerations, minor use considerations, lack of available alternatives, or level of risks to infants and children, to workers, or to the environment.

Anticipated Costs and Benefits:

Analysis of costs will be conducted as part of an economic analysis of the revocation/modification actions proposed. The FFDCA allows EPA to consider benefits only in a very limited manner in determining whether to retain or modify a pesticide tolerance.

Risks:

Actions taken as a result of the tolerance reassessment program will ensure that dietary exposures to pesticides, taking into account aggregate exposure from food, water and non-occupational sources, and considering the cumulative effects of substances having a common mode of toxicity, will be safe. A series of regulatory actions will be issued over 10 years.

Timetable:

Action	Date	FR Cite
Notice (Outline/Schedule of Policies)	10/00/98	
Proposed Policies	11/00/98	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

Additional Information:

SAN No. 4175

EPA is required to complete reassessments on a phased schedule of: 33% by August 3, 1999, 66% by August 3, 2002, and 100% by August 3, 2006.

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RIN: 2070–AD24

EPA

106. • ENDOCRINE DISRUPTOR SCREENING AND TESTING PROGRAM

Priority:

Other Significant

Legal Authority:

21 USC 346A (P) FQPA; 7 USC 136 FIFRA; 15 USC 2603 TSCA; 42 USC 300J-17 SDWA

CFR Citation:

Not yet determined

Legal Deadline:

NPRM, Statutory, August 3, 1998.

Other, Statutory, August 3, 1998, See additional information.

Abstract:

The Food Quality Protection Act (FQPA) requires EPA to screen pesticides for estrogenic effects on human health. The Safe Drinking Water Act authorizes EPA to screen chemicals found in drinking water sources in similar manner. The FQPA mandates that EPA propose the screening program by August 1998, implement it by August 1999 and report to Congress in August 2000. EPA established the Endocrine Disrupter Screening and Testing Advisory Committee (EDSTAC) in October 1996, to provide advice and counsel to the agency in implementing the screening and testing program. EDSTAC was comprised of 43 members representing industry, government, environmental and public health groups, labor, academia, and other interested stakeholders. EPA was represented on EDSTAC by OPPTS, ORD and ODW. EDSTAC has held its final meeting in June 1998. The Committee considered human health and ecological effects; estrogenic, androgenic, anti-estrogenic, anti-androgenic and thyroid effects in its deliberations and extended its scope to include industrial chemicals, drinking water contaminants and important mixtures as well as pesticides. EDSTAC will submit its final report to EPA in August 1998. EPA will propose its screening and testing strategy in August 1998 and will propose a more detailed implementation plan for public comment in fall of 1998.

Statement of Need:

The Endocrine Disruptor Screening and Testing Program fulfills the statutory mandate to screen pesticides and drinking water contaminants for their potential to disrupt the endocrine system and adversely affect human health. This program is also needed to identify commercial chemicals that may affect human health and wildlife via disruption of their endocrine systems.

Summary of the Legal Basis:

The mandate to screen pesticides for estrogenic effects that may affect human health is in the Food Quality Protection Act (21 U.S.C. 346a(p)). Discretionary authority to test drinking water contaminants is in the Safe Drinking Water Act as amended in 1996 (42 U.S.C. 300j-17). General authority to test chemicals and pesticides is in TSCA (15 U.S.C. 2603) and FIFRA (7 U.S.C. 136) respectively.

Alternatives:

There is no alternative to leadership of the Federal government on this issue to ensure that pesticides, commercial chemicals and contaminants are screened and tested for endocrine disruption potential. A limited amount of testing may be conducted voluntarily, but this will fall far short of the systematic screening which is necessary to protect public health and the environment and ensure the public that all important substances have been adequately evaluated.

Anticipated Costs and Benefits:

It is too early to project the costs and benefits of this program accurately. However, as a rough estimate, the screening battery is estimated to cost $200,000 per chemical. It is too early to determine how many chemicals will be screened in Tier 1 much less tested in Tier 2. It is also too early to tell the benefits on how many chemicals will be identified that are endocrine disruptors and their exposure reduced either by formal risks management or by voluntary exposure reduction or product substitution.

Risks:

Evidence is continuing to mount that wildlife and humans may be at risk from exposure to chemicals operating through a endocrine mediated pathway. Preliminary studies show decreases on IQ tests and increases in aggression and hyperactivity in children. Severe malformations of the genitals of boys has increased steadily over the last two decades. Although increases in cancers of endocrine sensitive tissues have been reported, no link has been made to show that chemicals are the cause. Wildlife effects have been more thoroughly documented. Abnormalities in birds, marine mammals, fish and shellfish have been documented in the U.S., Europe, Japan, Canada, and Australia which have been linked to specific chemical exposures. Evidence is sufficient for the U.S. to proceed on a two track strategy: research on the basic science regarding endocrine disruption and screening to identify which chemicals are capable of interacting with the endocrine system. The combination of research and test data developed by this program will enable EPA to take action to reduce chemical risks.

Timetable:

Action	Date	FR Cite
Notice (Outline of Screening Program)	08/11/98	63 FR 42852
Notice (Proposed Screening Strategy)	12/00/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal

Additional Information:

SAN No. 4143

Deadlines continued: Proposed Screening Program 08/03/98, Implement Screening Program 08/03/99, Report to Congress 08/03/00.

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RIN: 2070–AD26

EPA

107. • CHEMICAL RIGHT-TO-KNOW INITIATIVE

Priority:

Other Significant

Legal Authority:

15 USC 4 TSCA; 15 USC 5 TSCA; 15 USC 8 TSCA; 7 USC 136 FIFRA; 42 USC 313 EPCRA

CFR Citation:

Not yet determined

Legal Deadline:

Other, Judicial, December 31, 1999, Final Actions must be completed by 12/31/99.

Abstract:

The Chemical RTK Initiative was announced by Vice President Gore on EPA's Earth Day 1998 in response to the finding that most commercial chemicals have very little, if any, toxicity information on which to make sound judgments about potential risks. There are three key components to this initiative, each of which is being rapidly implemented by EPA. These are: baseline toxicity testing for 3,000 widely used commercial chemicals; additional health effects testing for chemicals to which children are disproportionately exposed; and the listing and lowering thresholds for persistent, bioaccumulative, toxic chemicals reported to TRI. This Initiative will involve several separate activities, with any regulatory related actions included as separate entries in the Regulatory Agenda. This entry will not appear in the Agenda, but the Agenda items are listed below.

Statement of Need:

The Chemical Right to Know Initiative grew out of the finding of an EPA study that there is very little reliable information on the health and environmental effects of even the most widely used commercial chemicals. Less than 7 percent of the 3,000 high production volume chemicals have a full set of baseline testing information, while almost 50 percent have no information whatsoever. The Chemical Right to Know Initiative is designed to close these information gaps, and to make new information available to the public. This initiative was requested by Vice President Gore.

Summary of the Legal Basis:

To the extent that rulemaking is required to implement the chemical Right-to-Know Initiative, EPA will utilize the testing authorities available under TSCA and the chemical reporting authorities of EPCRA section 313 (the Toxics Release Inventory).

Alternatives:

The Chemical Right-to-Know Initiative will rely on a combination of partnership programs and rule-writing to accomplish its goals. For instance, an HPV Challenge Program will ask industry to voluntarily conduct testing on high production volume chemicals, while an HPV test rule would act as a backstop to require testing of those chemicals for which no company stepped forward to volunteer.

Anticipated Costs and Benefits:

The benefits of the Chemical Right-to-Know Initiative are substantial, as no one in the environmental community -- whether in industry, government, or the public -- can make reasoned risk management decisions in the absence of reliable health and environmental information. The cost of the baseline testing is well-established, and runs about $200,000 per chemical for a full set of tests. More detailed testing, as envisioned for the Children's Health testing portion of this initiative, is more expensive, but has not yet been costed out.

Risks:

None

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
Final Action - Presidential Deadline for Final Actions	12/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

Undetermined

Additional Information:

SAN No. 4176

This Initiative includes the following Regulatory Agenda activities: TRI's Reporting Threshold Rule (SAN 3880; RIN 2070-AD09); Test Rule; Multi-Chemicals Test Rule for High Production Volume Chemicals (SAN 3990; RIN 2070-AD16); Multi-Chemicals Test Rule for Developmental and Reproductive Toxicity (SAN 2865; RIN 2070-AC27).

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RIN: 2070–AD25

EPA

108. TSCA INVENTORY UPDATE RULE AMENDMENTS

Priority:

Other Significant

Legal Authority:

15 USC 2607(a)

CFR Citation:

40 CFR 710

Legal Deadline:

None

Abstract:

This action would amend the current Toxic Substances Control Act (TSCA) Inventory Update Rule (IUR) to require chemical manufacturers to report to EPA data on exposure-related information and the industrial and consumer end uses of chemicals they produce or import. Currently, EPA requires chemical manufacturers to report the names of the chemicals they produce, as well as the locations of manufacturing facilities and the quantities produced. About 3,000 facilities reported data on about 9,000 unique chemicals during the last reporting cycle under the IUR. Data obtained would be used by EPA and others to: better understand the potential for chemical exposures; screen the chemicals now in commerce and identify those of highest concern; establish priorities and goals for their chemical assessment, risk management and prevention programs, and monitor the programs' progress; encourage pollution prevention by identifying potentially safer substitute chemicals for uses of potential concern; and enhance the effectiveness of chemical risk communication efforts. EPA has held meetings with representatives of the chemical industry, environmental groups, environmental justice leaders, labor groups, State governments and other Federal agencies to ensure public involvement in the TSCA Inventory Update Rule Amendments Project.

Statement of Need:

There are more than 75,000 chemicals in commerce listed on the TSCA Inventory. EPA faces the challenge of sorting through these chemicals to identify the ones of most concern, then taking the appropriate steps to mitigate unreasonable risks of those chemicals. The current IUR collects some key data, such as production volume, used to identify the chemicals of most concern. However, other exposure-related information is essential to more accurately identify the chemicals with the greater risk potential. Information on how a chemical is manufactured, processed, and used is needed to determine possible exposure routes and scenarios of these chemicals. This action will propose to modify the inventory update process to collect the exposure-related data necessary for an effective TSCA Inventory Screening program; the information will be collected in a format that makes the information easy to use to screen thousands of chemicals.

In addition to the addition of exposure-related information, EPA will consider other amendments to the IUR. These include removing the inorganic chemical exemption; providing the information to better assess and manage risks of inorganic chemicals; improving the linkage of IUR data to other data sources to enhance the data's usefulness; and altering confidential business information (CBI) claim procedures to reduce the frequency of CBI claims, allowing the public greater access to relevant data on toxic chemicals.

A national report will make data collected via the amended IUR publicly available. This report will not contain any information claimed to be confidential.

Summary of the Legal Basis:

Toxic Substances Control Act (TSCA).

Alternatives:

Although data on the use of specific chemicals can be found in varying sources, there is no national, comprehensive, current searchable database providing consistent information on a wide variety of chemicals. EPA has examined alternate sources of the information including State information, Federal databases and privately collected information. EPA can find no information comparable to the data anticipated to be collected through amendments to the IUR.

Anticipated Costs and Benefits:

EPA anticipates costs of this action to be well under $100 million for the first year of reporting. Total costs of this action depend on the amendments to IUR that are contained in a proposed rule. The amended IUR will assist EPA in screening chemicals in commerce and identifying those of highest concern; establishing priorities and goals for its chemical assessment, risk management and prevention programs and monitoring their progress; identifying potentially safer substitute chemicals for uses of potential concern; and enhancing the effectiveness of chemical risk communication efforts.

Risks:

This action will secure data on describing how chemicals in commerce are used; this data is essential to determine possible exposure routes and scenarios. Using these exposure estimates, EPA's toxics program will be able to better focus on chemical risks of most concern.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

Additional Information:

SAN No. 3301

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RIN: 2070–AC61

EPA

109. LEAD; RULEMAKINGS UNDER TSCA SECTION 402, LEAD-BASED PAINT ACTIVITIES

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

15 USC 2683

CFR Citation:

40 CFR 745

Legal Deadline:

Final, Statutory, April 28, 1994, (Sections 402(a) - 404).

Other, Statutory, October 28, 1996, Section 402(c)(3)).

Abstract:

The Residential Lead-Based Hazard Reduction Act of 1992 (title X) amended TSCA by adding a new Title IV. TSCA section 402, Lead-Based Paint Activities Training and Certification directs EPA to promulgate a number of regulations intended to address the nation's need for a qualified and properly trained workforce to assist in the prevention, detection, and elimination of hazards associated with lead-based paint. EPA is required to promulgate (a) regulations governing lead-based paint activities to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that contractors engaged in such activities are certified (section 402(a); (b) a Model State program which may be adopted by any State which seeks to administer and enforce a State Program for the requirements established under TSCA section 402 (section 404); (c) a rule addressing lead risks from renovation and remodeling activities or state why no regulation is necessary (section 402(c)(3)); and (d) a rule establishing a fee schedule for the lead-based paint training, certification, and accreditation activities addressed in the rules developed under TSCA section 402 (section 402(a)(3)). Additionally, in response to other Federal agencies and several States and advocacy groups who were concerned that the high costs of disposing of lead-based paint debris as a RCRA hazardous waste were discouraging residential lead abatements, EPA is using its authority under TSCA section 402(a) to address the disposal of lead-based paint debris that will result from the lead-based paint activities regulated under TSCA section 402. To minimize duplication of waste management requirements, EPA is developing a companion RCRA rule to suspend temporarily hazardous waste management regulations (i.e., Toxicity Characteristic Rule) applicable to lead-based paint debris which will be subject to the new TSCA standards. These rules are listed separately in the Regulatory Agenda.

Statement of Need:

Childhood lead poisoning is a pervasive problem in the United States, with almost a million young children having more than 10 ug/dl of lead in their blood, Center for Disease Control's level of concern. Although there have been dramatic declines in blood-lead levels due to reductions of lead in paint, gasoline, and food sources, remaining paint in older houses continues to be a significant source of childhood lead poisoning. These rules will help ensure that individuals and firms conducting lead-based paint activities will do so in a way that safeguards the environment and protects the health of building occupants, especially children under 6 years old.

Summary of the Legal Basis:

These regulations are mandated by TSCA section 402.

Alternatives:

Alternatives to each of the mandated activities will be analyzed.

Anticipated Costs and Benefits:

For the section 402(a)/404 (Residential) rule, the costs have been provided in the final economic impact analysis that was prepared in conjunction with the final rule. For the remainder of the section 402 rules, costs will be estimated in the draft economic impact analyses that will be prepared for the proposed rules. Since benefits depend on private sector implementation of certain lead hazard abatement activities which are not mandated by any of these rules, benefits will be difficult to quantify.

Risks:

These rules are aimed at reducing the prevalence and severity of lead poisoning, particularly in children.

Timetable:

Action	Date	FR Cite
NPRM Sections 402(a) and 404 (Residential)	09/02/94	59 FR 45872
Final Rule Sections 402(a) and 404 (Residential)	08/29/96	61 FR 45778
NPRM Section 402(a)(3)	09/02/98	63 FR 46734
Direct Final Rule	09/02/98	63 FR 46668
Withdraw Direct Final Rule	10/16/98	63 FR 55547
NPRM Section 404(h)	10/00/98	
NPRM Section 402(a) (Debris)	11/00/98	
Final Rule Sections 402(a)(3)/404(h)	08/00/99	
NPRM Section 402(a) (Buildings & Structures)	09/00/99	
NPRM Section 402(c) (Remodeling & Renovation)	09/00/99	
Final Rule Section 402(a) (Debris)	11/00/00	
Final Rule Section 402(a) (Buildings & Structures)	09/00/01	
Final Rule Section 402(c) (Remodeling & Renovation)	09/00/01	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 3243

Lead-Based Paint Activities Rules: Training, Accreditation and Certification Rule and Model State Plan Rule (sections 402 and 404)(SAN 3244; RIN 2070-AC64); Lead-Based Paint Activities, Training, and Certification: Renovation and Remodeling (section 402(c)(3))(SAN 3557; RIN 2070-AC83); Lead Fee Rule for Lead-Based Paint Activities Training and Certification (section 402(a)(3)) (SAN 3881; RIN 2070-AD11); Lead-Based Paint: Notification of Commencement of Abatement Activities (section 404(h)) (SAN 4172; RIN 2070-AD31); Lead: TSCA Requirements for the Disposal of Lead-Based Paint Debris (section 402(a)) and Temporary Suspension of

Toxicity Characteristic Rule for Specified Lead-Based Paint Debris (RCRA sections 1006(b)(1) and 2002)(SAN 3508; RIN 2070-AC72).

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EPA

110. ASBESTOS; AMENDMENTS TO THE ASBESTOS-CONTAINING MATERIALS IN SCHOOLS RULE, MODEL ACCREDITATION PLAN, AND WORKER PROTECTION RULE

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

15 USC 2605 TSCA sec 6; 15 USC 2607 TSCA sec 8; 15 USC 2647 TSCA sec 7

CFR Citation:

40 CFR 763

Legal Deadline:

None

Abstract:

EPA is proposing to amend the Asbestos-Containing Materials in Schools Rule in order to improve harmony with the Occupational Safety and Health Administration's regulations and to provide clarifications regarding several definitions, air clearance monitoring techniques, and response actions. As a part of this effort, the Agency is also developing proposals to amend the Asbestos Model Accreditation Plan (RIN 2070-AC51) and the Asbestos Worker Protection Rule (RIN: 2070-AC66). These activities are already included in the Regulatory Agenda as separate items, but have been combined for the purposes of highlighting this reinvention activity in the Regulatory Plan for FY 1999.

Statement of Need:

EPA has become aware of several inconsistencies between the TSCA asbestos regulations and the OSHA Construction Standard for Asbestos. This rulemaking will resolve most of the inconsistencies while improving the clarity of the existing regulation and reducing burdens.

Summary of the Legal Basis:

TSCA section 203 requires EPA to promulgate regulations on the proper management of asbestos-containing materials in school buildings. TSCA section 206 requires EPA to establish a model accreditation plan for professionals who wish to conduct asbestos inspection and abatement activities in schools or public or commercial buildings. TSCA section 6 permits EPA to regulate activities which pose an unreasonable risk of injury to human health or the environment.

Alternatives:

EPA will be proposing several alternatives for the protection of state and local government workers who disturb asbestos-containing material. EPA will also be providing state program administrators with additional flexibility in designing and implementing appropriate state asbestos programs.

Anticipated Costs and Benefits:

EPA believes that the costs imposed by increased stringency in worker protection requirements will be insignificant, while upgrading protection to levels comparable to that offered the private sector by the existing OSHA regulations. In addition, EPA will be reducing the recordkeeping requirements on schools, which should result in some cost savings.

Risks:

This rulemaking will further reduce risks to state and local government workers who disturb asbestos. The health risks for general building occupants, including school children, will not change as a direct result of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 3047

Please also see Regulatory Agenda entries for the Asbestos Model Accreditation Plan Revisions (SAN 3148; RIN 2070-AC51) and the Asbestos Worker Protection Rule Amendments (SAN 2249; RIN 2070-AC66).

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RIN: 2070–AC62

EPA

111. • PCBS; POLYCHLORINATED BIPHENYL; USE AUTHORIZATIONS

Priority:

Economically Significant. Major under 5 USC 801.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

15 USC 2605(e) TSCA sec 6(e)

CFR Citation:

40 CFR 761

Legal Deadline:

None

Abstract:

The notice of proposed rulemaking that published on December 6, 1994, covered the manufacture (including import), processing, distribution in commerce, export use, disposal, and marking of PCBs. On June 29, 1998, EPA issued a final rule involving the disposal related provisions. The other provisions, regarding use authorizations and imports, will be addressed in separate actions.

Statement of Need:

This rulemaking is the result of the first comprehensive review of the PCB regulations in the 19-year history of the program. The Agency has become aware of a number of instances where

the existing regulations do not allow for activities which do not pose an unreasonable risk of injury to health and the environment or where they require unreasonable, unrealistic, or non-cost-effective solutions to PCB problems.

Summary of the Legal Basis:

TSCA section 6(e) bans the manufacture, processing, distribution in commerce and use (except in a totally enclosed manner) of PCBs. It also directs EPA to establish standards for disposal and marking of PCBs. However, section 6(e) allows the EPA to modify these bans, through rulemaking, where it finds no unreasonable risk of injury to health and the environment.

Alternatives:

On December 6, 1994, EPA proposed a number of alternatives to the existing statutory bans in section 6(e). The proposal also included new options and standards for disposal (including remediation) of PCBs.

Anticipated Costs and Benefits:

The EPA projects significant cost savings from authorizations for existing uses and the disposal of large-volume wastes such as PCB-contaminated environmental media. In addition, the relaxation of certain administrative requirements should increase the speed of remediation of contaminated sites and accelerate the removal from use of PCBs. EPA projects minimal implementation costs and is reviewing comments which highlight areas for additional cost savings over the proposal.

Risks:

The EPA estimates that millions of tons of PCB-contaminated environmental media will be remediated under this rule, thus preventing large quantities of this long-lived, bioaccumulating chemical from entering the food chain.

Timetable:

Action	Date	FR Cite
ANPRM	06/10/91	56 FR 26738
NPRM	12/06/94	59 FR 62788
Final 1 PCB Disposal Provisions	06/29/98	63 FR 35384
Supplemental NPRM Use Authorizations - Data Availability	02/00/99	
Final 2 Use Authorizations	08/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 4179

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RIN: 2070–AD27

EPA

112. TRI; POLLUTION PREVENTION ACT INFORMATION REQUIREMENTS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 11013 Pollution Prevention Act

CFR Citation:

40 CFR 372

Legal Deadline:

None

Abstract:

Section 6607(b) of the Pollution Prevention Act of 1990 (PPA) (Pub. L. 101-508) requires the addition of several data elements to the Toxic Chemical Release Inventory (TRI) reporting requirements as promulgated under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (Pub. L. 99-499). Section 313 of EPCRA requires owners or operators of certain facilities that manufacture, process, or otherwise use listed toxic chemicals to annually report their releases of these chemicals to each environmental medium. The PPA mandates that section 313 covered facilities also report on source reduction and recycling activities relating to the toxic chemicals beginning with the 1991 reporting year. Since 1991 covered facilities have been providing this information to EPA in section 8A, Source Reduction and Recycling Activities, of EPA Form R. On September 25, 1991 (56 FR 48475), EPA proposed regulations which would provide definitions and instructions for reporting the PPA data elements on the EPA Form R. In this action, EPA will amend certain aspects of the September 25, 1991, proposed rule.

Statement of Need:

TRI is the most complete and accessible source of information for the public on toxic chemical releases in communities across the United States. The intention of Congress was for TRI, and indeed all of EPCRA, to provide information to local communities. Communities need this information to better understand the nature of the releases at the local level. The intent of TRI has been to share information on toxic chemical releases with local communities to help in their assessments of the potential risks associated with such releases. This basic local empowerment is the cornerstone of the right-to-know program. Beginning with the 1991 reporting year, the PPA has mandated the collection of source reduction and recycling information on the Form R. Without complete instructions and definitions for the terms used, facilities across the nation have been reporting this information inconsistently. These inconsistencies severely compromise the data quality of the information reported. This action will improve the understanding, awareness, and decision-making related to the collection, provision, and distribution of these required data elements.

Summary of the Legal Basis:

Section 6607(b) of the Pollution Prevention Act of 1990 (PPA) (Pub. L. 101-508) requires the addition of several data elements to the Toxic Chemical Release Inventory (TRI) reporting requirements as promulgated under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (Pub. L. 99-499).

Alternatives:

EPA recognizes the reporting burden inherent in TRI and the PPA, and is continuing to take every reasonable opportunity to minimize related burdens, while ensuring the public's right-to-know. Providing guidance to facilities on how to properly report the PPA data will reduce their overall reporting burden.

Anticipated Costs and Benefits:

EPA estimates that industry currently incurs a cost of $61.3 million annually to report PPA data on the Form R. This estimate does not include the costs related to the seven industries newly subject to EPCRA 313. The cost to EPA to process source reduction and waste management data equals $2.7 million each year. This action is not expected to add to these existing costs, and may actually result in a reduction to the overall industry burden and costs.

Risks:

Because of the inconsistencies in the PPA data currently reported on the Form R, communities are unable to accurately compare the risks related to release and recycling activities between different facilities. By providing covered facilities with clear guidance for reporting this information, the public will be better equipped to determine and compare the risks associated with toxic chemicals being released and managed in their community.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48475
Supplemental NPRM	03/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Federal

Additional Information:

SAN No. 2847

Affected Sectors Include:
Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and, Solvent Recovery Services (SIC code 7389).

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RIN: 2070–AC24

EPA

113. TRI; CHEMICAL EXPANSION; FINALIZATION OF DEFERRED CHEMICALS

Priority:

Other Significant

Legal Authority:

42 USC 11013; 42 USC 11023; 42 USC 11048; 42 USC 11076; EPCRA 313

CFR Citation:

40 CFR 372

Legal Deadline:

None

Abstract:

On November 30, 1994, EPA added 286 chemicals and chemical categories to EPCRA section 313 list, including 39 chemicals as part of two delineated categories. Each chemical and chemical category was found to meet the statutory criteria described in EPCRA section 313(d)(2)(A)-(C). At this time, EPA deferred final action on 40 chemicals and one chemical category until a later date. These were deferred because the comments received on them raised difficult technical or policy issues which required additional time to address. EPA chose not to delay final action on the 286 chemicals and chemical categories because of the additional time needed to address the issues surrounding the smaller group of 40 chemicals and one chemical category; rather, EPA believed it to be in the spirit of community right-to-know to proceed with the final rulemaking of the additional chemicals and chemical categories.

Statement of Need:

The original Toxic Release Inventory (TRI) chemical list consisted of 320 chemicals and chemical categories. In an effort to provide the public with a broader picture of chemicals in their communities, EPA, in accordance with EPCRA section 313(d), is expanding the original toxic chemical list. By providing the public with information on these chemicals, they can participate in informed environmental decisionmaking to reduce risks to human health and the environment. On January 12, 1994 (59 FR 1788), EPA published a proposed rule to add 313 chemicals and chemical categories to the TRI chemical list. Of the 313 chemicals and chemical categories proposed, there are approximately 160 pesticide active ingredients. The chemicals being proposed were selected from numerous other regulatory lists and meet the criteria for human health and environmental toxicity in EPCRA section 313(d)(2). In addition, the chemicals passed a production volume screen to ensure that reports would be received if they are added to the TRI list. Part of this activity included the review of 17 chemicals, previously described in RIN 2070-AC40/SAN 3007. Sixteen of these chemicals are from a list of hazardous air pollutants subject to requirements of the Clean Air Act Amendments of 1990, and one was considered for addition due to its extreme aquatic toxicity. Of these 17 chemicals nine were included in the proposed rule.

Summary of the Legal Basis:

EPCRA section 313(d) authorizes EPA to add or delete chemicals from the TRI list and sets forth the criteria for these actions.

Alternatives:

EPA recognizes the reporting burden inherent in TRI, and is continuing to take every reasonable opportunity to minimize this burden while ensuring the public's right-to-know. As such, all alternatives will be identified and evaluated.

Anticipated Costs and Benefits:

The final total costs are not yet known, since the final listing decisions have not yet been made. However, estimates of the potential costs were provided as part of the economic analysis that was prepared for the proposed action. Undoubtedly, the addition of any of these chemicals or the chemical category will result in additional costs to the reporting community. The additional information reported in TRI increases the public's knowledge regarding the levels of pollutants released to the environment and pathways of exposure, improving scientific understanding of the health and environmental risks of toxic chemicals. It allows the public to make informed decisions on where to work and live; enhances the ability of corporate lenders and purchasers to more accurately gauge a facility's potential liabilities; and assists Federal, State, and local authorities in making better decisions on acceptable levels of toxics in communities.

Risks:

With more information, communities will be empowered to determine whether they need to take action to reduce risks potentially associated with the chemicals being released in their communities. Without such information, local communities would not be aware of potential risks to the environment and human health that may result from the chemical releases of local facilities. The public can also use this data to evaluate potential risks from these chemicals and to determine how to avoid these risks.

Timetable:

Action	Date	FR Cite
NPRM	01/12/94	59 FR 1788
Final - Finalizes Listing of 286 Chemicals and Chemical Categories	11/30/94	59 FR 61432
Supplemental NPRM Deferred Chemicals	06/00/99	
Final Action Deferred Chemicals	12/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Federal

Additional Information:

SAN No. 3007

Includes SIC codes: Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and, Solvent Recovery Services (SIC code 7389).

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RIN: 2070–AC47

EPA

114. TRI; REPORTING THRESHOLD AMENDMENT; TOXIC CHEMICALS RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

EPCRA 313; 42 USC 11013; 42 USC 11023; 42 USC 11048; 42 USC 11076

CFR Citation:

40 CFR 372

Legal Deadline:

None

Abstract:

The Toxics Release Inventory (TRI) currently requires reporting from facilities which manufacture or process at least 25,000 pounds of a listed chemical, or otherwise use 10,000 lbs of a listed chemical. These thresholds were initially established under the Emergency Planning and Community Right-to-Know Act (EPCRA) section 313(f)(1). Section 313(f)(2) of EPCRA gives the Administrator the power to establish a threshold amount for a toxic chemical different from the amount established by paragraph (1) and that such altered thresholds may be based on classes of chemicals. EPA is considering lowering the thresholds for those chemicals which it determines to be highly toxic at very low dose levels and/or have physical, chemical, or biological properties that make the chemicals persist for extended periods in the environment, and/or bioaccumulate through the food chain. Persistent bioaccumulative toxic chemicals are of particular concern in ecosystems such as the Great Lakes Basin due to the long retention time of the individual lakes and the cycling of the chemicals from one component of the ecosystem to another. EPA is currently conducting an analysis to determine which chemicals present the specific problems described above, and to determine what the altered threshold value(s) should be.

Statement of Need:

TRI is the most complete and accessible source of information for the public on toxic chemical releases in communities across the United States. The intention of Congress was for TRI, and indeed all of EPCRA, to provide information to local communities. Communities need this information to better understand the nature of the releases at the local level. The intent of TRI has been to share information on releases with local communities to help in their assessments of the risks. This basic local empowerment is the cornerstone of the right-to-know program.

Yet because of the current reporting thresholds, TRI does not collect release and transfer data on small quantities of chemicals that may persist and bioaccumulate in the environment. Even small releases of such chemicals can have significant impacts on human health and the environment. Congress gave EPA the authority to adjust reporting thresholds, because it recognized that this might be necessary in order to address the American public's right to know what is happening to the environment near their homes, schools, and businesses.

Summary of the Legal Basis:

42 USC 11013; 42 USC 11023; 42 USC 11048; 42 USC 11076; EPCRA S313

Alternatives:

EPA recognizes the reporting burden inherent in TRI, and is continuing to take every reasonable opportunity to minimize this burden while ensuring the public's right-to-know. As such, all available alternatives will be identified and evaluated.

Anticipated Costs and Benefits:

The anticipated costs related to this action are unknown at present. At this point the Agency is still unsure how low to set reporting thresholds or for what specific list of chemicals the lower reporting thresholds should apply. The information reported in TRI increases the knowledge levels of pollutants released to the environment and pathways to exposure, improving scientific understanding of the health and environmental risks of toxic chemicals; allows the public to make informed decisions on where to work and live; enhances the ability of

corporate lenders and purchasers to more accurately gauge a facility's potential liability; and assists Federal, State, and local authorities in making better decisions on acceptable levels of toxics in communities.

Risks:

Currently communities do not have access to TRI data on chemicals that, although released in relatively small quantities, pose a potential risk to human health and the environment because they persist and bioaccumulate. By lowering the reporting thresholds for such chemicals, the public will be able to determine if such chemicals are being released into their communities and whether any action should be taken to reduce potential risks.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Federal

Additional Information:

SAN No. 3880

OTHER DEADLINE: Presidential Initiative with Final Rule in place and effective by 12/31/99. AFFECTED SECTORS: Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and, Solvent Recovery Services (SIC code 7389).

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RIN: 2070–AD09

EPA

115. TRI; REVIEW OF CHEMICALS ON THE ORIGINAL TRI LIST

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 1101 et seq

CFR Citation:

40 CFR 372

Legal Deadline:

None

Abstract:

When TRI was established by Congress in 1986, the statutory language placed 309 chemicals and 20 categories of chemicals on the TRI list; that is referred to as the original TRI list. The chemicals on the original list were taken from two existing lists of toxic substances: the Maryland Chemical Inventory Report List of Toxic or Hazardous Substances, and the New Jersey Environmental Hazardous Substances list. This action constitutes the first systematic review of toxicology and environmental data for all the chemicals on the original TRI list to determine whether data for those chemicals conform with the statutory criteria for listing of chemicals on TRI. Chemicals for which data do not meet the statutory criteria will be delisted.

Statement of Need:

When chemicals on the original TRI list have been subjects of petitions for delisting, thorough reviews have been carried out of toxicity and environmental data for the chemicals to determine whether the chemicals should be retained on TRI or should be delisted. Although petitions for delisting have resulted in reviews of a substantial number of chemicals on the original TRI list, this action is the first systematic review of toxicity and environmental data for all the chemicals on the original list. This action is needed to ensure that TRI lists chemicals for which data on toxicity and environmental harm meet the statutory criteria, therefore justifying the burden placed on entities required to report for the TRI program.

Summary of the Legal Basis:

Section 313(d) of EPCRA authorizes EPA to add or delete chemicals from the TRI list, and sets forth criteria for these actions.

Alternatives:

EPA recognizes the reporting burden inherent in compliance with TRI, and takes all reasonable opportunities to minimize the burden while ensuring that the public receives information necessary for protection of health and the environment. Reporting burdens would be reduced if chemicals are taken off the TRI list as a result of the data review. The possibility that chemicals will be delisted as a result of the data review is an alternative to retaining chemicals on the TRI list.

Anticipated Costs and Benefits:

The anticipated costs to industry related to this action are unknown at present. Costs to industry would be reduced if chemicals are removed from the TRI list. Benefits would result from any reduction in reporting burden as a result of the delisting of a chemical.

Risks:

TRI provides information to industry, governments and the public on chemicals that can cause harm to health or the environment. The review of toxicology and environmental data for all chemicals on the original TRI list will ensure that the list focuses only on those chemicals that pose meaningful possibilities of risks to human health or the environment, increasing the effectiveness of the TRI.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final Rule	12/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Federal

Additional Information:

SAN No. 4015

AFFECTED SECTORS: Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939).

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RIN: 2070–AD18

EPA

116. TRI; ADDITION OF OIL AND GAS EXPLORATION AND PRODUCTION TO THE TOXIC RELEASE INVENTORY

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

42 USC 11013 EPCRA 313; 42 USC 11023; 42 USC 1108; 42 USC 11076

CFR Citation:

40 CFR 372

Legal Deadline:

None

Abstract:

The original Toxics Release Inventory (TRI) required reporting from facilities in Standard Industrial Classification (SIC) codes 20-39. These SIC codes cover facilities whose primary economic activity was classified as manufacturing. This requirement was specified under the Emergency Planning and Community Right-To-Know Act (EPCRA) section 313(b)(1)(A). EPCRA section 313(b)(1)(B) and (b)(2) provide the Administrator with the authority to add or delete SIC codes and the discretion to add particular facilities based on a broad set of factors. The Environmental Protection Agency (EPA) has recently expanded this original list of covered industries. EPA began additional analyses to determine whether facilities which perform exploration and production of oil and gas should also be added to the list of facilities covered under EPCRA section 313. Facilities recently added include certain electric generating facilities, waste management facilities, metal and coal mining, hazardous waste treatment facilities, solvent recyclers, and wholesale distributors of chemicals and petroleum products.

Statement of Need:

The Emergency Planning and Community Right-To-Know Act (EPCRA) was passed to better plan for and prevent chemical accidents and emergencies and to provide the public with access to information regarding the release and disposition of toxic chemicals in their communities. The public access requirements of EPCRA originally covered facilities operating within the manufacturing sector. It has come to EPA's attention that industry groups not classified within the manufacturing sector also manage toxic chemicals and that information concerning their management practices is limited and generally not publicly available in the manner provided by EPCRA section 313. EPA believes that activities conducted by oil and gas exploration and production facilities involve toxic chemicals and may be associated with wastes that are managed for which limited information is publicly available. EPA believes that information related to the management of wastes associated with oil and gas exploration and production activities may significantly contribute to the public's knowledge of the release and disposition of toxic chemicals in the environment.

Summary of the Legal Basis:

This requirement was specified under the Emergency Planning and Community Right-To-Know Act (EPCRA) section 313(b)(1)(A). EPCRA section 313(b)(1)(B) and (b)(2) provide the Administrator with the authority to add or delete SIC codes and the discretion to add particular facilities based on a broad set of factors. The statute as originally passed required reporting from facilities in Standard Industrial Classification (SIC) codes 20-39 only. The Environmental Protection Agency (EPA) has recently expanded this original list of covered industries.

Alternatives:

Based on currently available information, existing sources of information are incomplete and do not satisfy the need of making publicly available information on the release and disposition of toxic chemicals in communities.

Anticipated Costs and Benefits:

Based on the current status of the project, anticipated costs are unknown. Estimated costs for compliance with EPCRA section 313 reporting requirements are available, but until further evaluation is completed no estimates are available for the impact of the resulting requirements. Equally true, until further evaluations are performed, estimated benefits cannot be accurately calculated. Generally, anticipated benefits will be in the form of making available more complete information regarding the release and disposition of toxic chemicals in the environment.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Federal

Sectors Affected:

211111 Crude Petroleum and Natural Gas Extraction

Additional Information:

SAN No. 4023

Program is implemented at the Federal level. States are designated as co-recipients of the information, but are not required to manage the information in any particular manner.

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RIN: 2070–AD19

EPA

117. STANDARDIZED PERMIT FOR RCRA HAZARDOUS WASTE MANAGEMENT FACILITIES

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will

revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 6905; 42 USC 6912; 42 USC 6924; 42 USC 6925; 42 USC 6927; 42 USC 6939; 42 USC 6974

CFR Citation:

40 CFR 124; 40 CFR 267; 40 CFR 270

Legal Deadline:

None

Abstract:

This rulemaking will allow a type of general permit, called a standardized permit, for facilities that generate waste and routinely manage the waste on-site in tanks, containers, and containment buildings. Under the standardized permit, facility owners and operators would certify compliance with generic design and operating conditions set on a national basis. The permitting agency would review the certifications submitted by the facility owners or operators. The permitting agency would also be able to impose additional site-specific terms and conditions for corrective action or other purposes, as called for by RCRA. Ensuring compliance with the standardized permit's terms and conditions would occur during inspection of the facility after the permit has been issued.

Statement of Need:

The Agency convened a special task force in 1994 to look at permitting activities throughout its different programs and to make specific recommendations to improve these permitting programs. This task force, known as the Permits Improvement Team (PIT), spent two years working with stakeholders from the Agency, State permitting agencies, industry, and the environmental community. The PIT stakeholders mentioned, among other things, that permitting activities should be commensurate with the complexity of the activity. The stakeholders felt that current Agency permitting programs were not flexible enough to allow streamlined procedures for routine permitting activities.

Currently, facilities that store, treat, or dispose of hazardous waste must obtain site-specific "individual" permits prescribing conditions for each "unit" (e.g., tank, container area, etc.) in which hazardous waste is managed. Experience gained by the Agency and states over the past 15 years has shown that not all waste management activities are at the same level of complexity. Some activities, such as thermal treatment or land disposal of hazardous waste, are more complex than storage of hazardous waste. The Agency believes that thermal treatment and land disposal activities continue to warrant "individual" permits, prescribing unit-specific conditions. However, the Agency believes that some accommodation can be made for hazardous waste management practices in standardized units such as tanks, container storage areas, and containment buildings. The Agency's Permit Improvement Team tentatively recommended, among other things, that regulations be developed to allow "standardized permits" for on-site storage and non-thermal treatment of hazardous waste in tanks, containers, and containment buildings. The Agency is proposing to revise the RCRA regulations to allow this type of permit.

Summary of the Legal Basis:

Facilities that manage hazardous waste are required under RCRA to obtain a permit and carry out corrective action as necessary (see: RCRA Section 3004, 3005, 3008 and 3010). EPA has discretion under these statutory provisions to apply different permitting procedures to different types of facilities, as EPA is proposing to do here. No aspect of this streamlining action is required by court order.

Alternatives:

Several significant alternatives or options that have been considered concern the scope of the rule and corrective action alternatives. The scope of the proposed rule is expected to be limited to facilities that generate waste and manage it on-site. The Agency considered, however, and plans to ask for comment on, whether coverage of the rule should be expanded to facilities that generate waste at operations in more than one location and want to manage the waste at one location. The Agency also plans to ask for comment on the option of allowing a facility's RCRA corrective action activities to be postponed if corrective action is being carried out under an approved State remedial program.

Anticipated Costs and Benefits:

The following cost/benefit information is based on preliminary estimates and is being provided for informational purposes only; it is subject to change. The RCRA standardized permit proposal is an optional rule designed to streamline the regulatory burden to EPA/States as well as to private sector facilities covered by the rule, by reducing the amount of information collected, submitted and reviewed for permit actions (i.e. new permit applications, permit modifications, and permit renewals). Because the rule proposes to streamline existing RCRA regulation, rather than add new RCRA regulation, implementation of the rule by the EPA and by States with EPA-authorized permitting programs is expected to result in economic benefits in the form of national cost savings from reducing both government and private sector resources required for the RCRA permit process. Based on a preliminary economic analysis, the EPA estimates that the potential average annual cost savings to eligible facilities resulting from implementation of this rule, will range from approximately $1,000 to $4,600 per permit action, depending on the type of permit and the type of treatment and storage equipment. The expected national cost savings benefit to the private sector for RCRA permitting is between $4.2 and $8.8 million annually. In addition, this rule is expected to produce an average annual cost savings benefit for streamlined EPA/State administrative review of $2.0 million, representing a total annual national cost savings benefit of $6.2 to $10.8 million. Potential cost savings benefits are incremental to the average annual cost associated with the current RCRA permitting program. Compared to the magnitude of potential benefits, the costs to EPA/States of implementing the standardized permit option are considered minimal, and therefore have not been estimated by the EPA.

Risks:

A description of risks is not applicable to the rule. The purpose of this rule is to streamline existing RCRA permit application and issuance procedures. Since facilities covered by this rule are currently already required to obtain RCRA permits, this rule will have minimal effects on incremental risk reduction.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Federal

Sectors Affected:

3251 Basic Chemical Manufacturing; 325211 Plastics Material and Resin Manufacturing; 32551 Paint and Coating Manufacturing; 3252 Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and Filaments Manufacturing; 32411 Petroleum Refineries; 32532 Pesticide and Other Agricultural Chemical Manufacturing; 332813 Electroplating, Plating, Polishing, Anodizing and Coloring

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SAN No. 4028

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RIN: 2050–AE44

EPA

118. HAZARDOUS WASTE MANIFEST REGULATION

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 6922 Resource Conservation Recovery Act sec 3002; 42 USC 6923 Resource Conservation Recovery Act sec 3003; 42 USC 6926 Resource Conservation Recovery Act sec 3006

CFR Citation:

40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 270; 40 CFR 271

Legal Deadline:

None

Abstract:

The Uniform Hazardous Waste Manifest (Form 8700-22) is a multi-copy form used to identify the quantity, composition, origin, routing, and destination of hazardous waste during its transportation. The manifest system's reliance on paper results in significant paperwork and cost burden to waste handlers and States who collect manifest information. The Agency intends to pursue an optional approach to redesign the manifest system so that it utilizes automated technologies to increase access to manifest related information, and to facilitate the manifest process, including the form's preparation, transmission, and recordkeeping, thereby lessening the total burden on waste handlers and States.

Statement of Need:

The Agency is revising the RCRA manifest system because of the amount of paperwork burden associated with the manifest. Reduction in paperwork burden is part of the Administration's Regulatory Reinvention goal of cutting government "red tape." The Agency wants to standardize the manifest program across the States by introducing a truly uniform manifest tracking form. The chief goal of the manifest system is to facilitate the safe transportation of offsite shipments of hazardous waste to appropriate RCRA management facilities. Furthermore, the manifest promotes accountability throughout the generation, transportation, and disposal cycle of a hazardous waste shipment; and the manifest also provides essential hazard information to handlers and emergency responders.

Alternatives:

The Agency has looked at three alternatives to revising the manifest system. The first alternative is to revise and standardize the manifest form itself. The second alternative is to introduce the option of automated technologies (electronic commerce) to reduce paperwork and make the manifest system more efficient. The third alternative is to develop alternative requirements for certain types of hazardous waste handlers which will reduce some of the paperwork burden. The Agency has chosen to combine the three alternatives into one cohesive package which will preserve the positive features of the current manifest system (maintaining the necessary controls to protect human health and the environment) and at the same time substantially reducing the burden on industry.

Anticipated Costs and Benefits:

The overall costs of this action should be minimal to the regulated industry since the new Federal manifest system should reduce the overall number of elements on the manifest form. Additionally, uniformity in data required across the U.S. will benefit the transportation industry by reducing the burden associated with obtaining various State requirements for wastes traveling through multiple States. Other hazardous waste handlers will benefit from having the option to use automation to complete, send, receive, and store manifest information. Some States may have to modify their data systems in response to his action. The Agency is currently conducting an analysis to determine the costs and benefits of the rule.

Risks:

This rule reduces the burden of the manifest on the public without reducing protectiveness to the public.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Tribal, Federal

Additional Information:

SAN No. 3147

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RIN: 2050–AE21

EPA

119. MANAGEMENT OF CEMENT KILN DUST (CKD)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 6912(a) Resource Conservation Recovery Act sec 2002(a); 42 USC 6921(a) Resource Conservation Recovery Act sec 3001(a)

CFR Citation:

40 CFR 259; 40 CFR 261; 40 CFR 264; 40 CFR 266

Legal Deadline:

None

Abstract:

CKD is a high volume material by-product of the cement manufacturing process. While it contains potentially hazardous constituents such as lead, cadmium and chromium, it has been exempted since November 1980 from hazardous waste regulation under RCRA Subtitle C by the Bevill Amendment, which modified Section 3001 of RCRA to exempt certain special wastes until further studies could be completed and any applicable regulations were promulgated. In December 1993, EPA submitted a Report to Congress with its findings on the nature and management practices associated with CKD. This was followed in January 1995 by an EPA regulatory determination published in the Federal Register (60 FR 7366, 2/7/95), which concluded that additional control of CKD is warranted. In the regulatory determination EPA committed to develop additional tailored regulations under RCRA Subtitle C and, if necessary, the Clean Air Act. As part of its regulatory development effort, the Office of Solid Waste within EPA's Office of Solid Waste and Emergency Response has initiated further studies and has held informal discussions with stakeholders interested in regulations under RCRA Subtitle C for the management of CKD. The proposed regulations will be tailored to protect human health and the environment while limiting burden on the regulated community.

Statement of Need:

This action follows EPA's RCRA mandated regulatory determination on CKD, published in the Federal Register (60 FR 7366, 2/7/95), which concluded that additional control of CKD is warranted in order to protect human health, and to prevent environmental damage associated with current disposal practices for this waste.

Alternatives:

EPA will develop a range of landfill management standards for sensitive and non-sensitive environments, each involving protections for groundwater and air pathways. It is anticipated that the base standards would be performance based, and form the basis for a conditional exemption from Subtitle C regulation. If an owner/operator complied with the base performance standards, his CKD waste would not be subject to Subtitle C regulation. Alternatively, an owner/operator could comply with default technical requirements under Subtitle C.

It is anticipated that the conditions for exemption and the default technical requirements would be similar and would include: fugitive dust controls, provisions and restrictions for landfills located in sensitive environments, groundwater monitoring requirements, performance standards for liners and caps, metals limits for CKD used as agricultural lime, and corrective action for currently active units. The Agency hopes to afford States considerable flexibility in setting and tailoring requirements in their own programs.

Anticipated Costs and Benefits:

Analysis of costs and benefits will be conducted as part of the economic analysis for this rule as required under Executive Order 12866.

Risks:

As explained in the regulatory determination for CKD, EPA believes that subjecting CKD waste to the full RCRA Subtitle C program would be prohibitively burdensome on the cement industry. EPA believes it is appropriate to apply only those components of Subtitle C that are necessary, based on our current knowledge of the cement industry and the human health and environmental concerns associated with CKD, thereby achieving a common sense result with respect to the hazards posed by CKD on a site-specific basis. EPA anticipates that any such standards would be designed to be protective, yet minimally burdensome, and may not necessarily apply to all facilities, or may not apply to all facilities in the same manner or to the same extent.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Federal

Additional Information:

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RIN: 2050–AE34

EPA

120. BEST TECHNOLOGY AVAILABLE (BTA) FOR COOLING WATER INTAKE STRUCTURES UNDER SECTION 316(B) OF THE CLEAN WATER ACT

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

33 USC 1311 CWA sec 301; 33 USC 1316 CWA sec 306; 33 USC 1326 CWA sec 316; 33 USC 1361 CWA sec 501

CFR Citation:

40 CFR 125; 40 CFR 401

Legal Deadline:

NPRM, Judicial, July 2, 1999.

Final, Judicial, August 13, 2001.

Abstract:

EPA is developing regulations to minimize the adverse environmental impact of cooling water intake structures (e.g., to minimize the impact on aquatic organisms).

Statement of Need:

State implementation of section 316(b) of the Clean Water Act has been inconsistent, in several instances allowing significant impacts on aquatic ecosystems. Literally tons of fish and other aquatic organisms are cropped annually as a result of inadequate controls of cooling water intake.

Summary of the Legal Basis:

This action is required under consent decree in settlement of Cronin, et al. v. Reilly, 93 Civ. 0314 (AGS) (U.S.D.C., Southern District of New York, October 10, 1995).

Alternatives:

Regulatory options are being developed at this time.

Anticipated Costs and Benefits:

Undetermined.

Risks:

Undetermined.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Federal

Additional Information:

SAN No. 3444

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RIN: 2040–AC34

EPA

121. REVISION OF NPDES INDUSTRIAL PERMIT APPLICATION REQUIREMENTS AND FORM 2C—WASTEWATER DISCHARGE INFORMATION

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

33 USC 1342 Clean Water Act sec 402

CFR Citation:

40 CFR 122.21(g)

Legal Deadline:

None

Abstract:

All existing manufacturing, commercial, mining, and silvicultural operations requiring a National Pollutant Discharge Elimination System (NPDES) permit must submit an application in order to obtain a permit. The existing industrial application form has not been revised since 1984 and needs to be updated to reflect statutory and regulatory changes in the NPDES program, advances in analytical methods and an increased emphasis on toxic control. The purpose of this action is to revise and consolidate existing application forms and requirements for industries, and to streamline the permit application process for these facilities. The Agency seeks to establish a unified process that minimizes the need for additional information from applicants while providing permit writers the necessary information, including toxics data, to ensure that permits adequately address concerns of permittees and environmental protection. The Agency will seek to allow the use of existing data to the extent possible and to avoid unnecessary reporting. The Agency is also considering how to utilize electronic data submission. Although these forms will increase the burden on permittees not already required to provide these data, many other permittees are already required to submit the data. The Agency is reviewing ways to minimize the need for information from small dischargers, including tribal facilities. EPA will also seek to minimize and reduce the burden on States through improvements to the application forms.

Statement of Need:

Section 402(a) of the CWA, as amended, authorizes the EPA to issue permits under the National Pollutant Discharge Elimination System (NPDES) permits program for the discharge of any pollutants or combination of pollutants. Form 2C is the NPDES permit application for discharges from manufacturing, commercial, mining and silviculture operations. Form 2C has not been revised since 1984 despite many amendments to the CWA and to the regulations under the Act which have significantly changed the permitting strategy of the NPDES program. The proposed rule will finalize changes to the regulations at sections 122.21(d) and 122.21(g) and to Form 2C that will make a number of improvements to the Form 2C permitting process. The proposed rule will consolidate application requirements and clarify the process for permit applicants, thereby reducing redundant reporting and reducing permitting burden on facilities. It will effectively provide permit writers with the information necessary to develop appropriate NPDES permits consistent with requirements of the CWA. Additionally, the proposed rule will meet the updated NPDES requirements, scientific advancements, and current socioeconomic concerns.

Summary of the Legal Basis:

Not required by law or court order.

Alternatives:

The Form 2C workgroup identified several key issues to be addressed and revised. For each key issue several options were suggested and consensus was reached on these options during an April 1996 initial Form 2C workgroup closure meeting. The proposed rule reflects the options selected.

Anticipated Costs and Benefits:

It is anticipated that the rule will reduce permitting application burden to facilities and improve the permit writer's ability to evaluate discharges because of improvements made to information and data submission requirements. Generally, it is anticipated that the rule will clarify the permitting application requirements. As a whole, such changes to the rule and Form 2C will enable it to serve its regulatory purpose more efficiently, thereby benefiting the environment and human health.

Risks:

The application form rule will allow permit writers to better evaluate industrial discharges, and the better a permit writer can evaluate the discharge, the better EPA can protect the environment and human health.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 3234

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RIN: 2040–AC26

EPA

122. STREAMLINING THE GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

33 USC 1314 Clean Water Act sec 304; 33 USC 1317 Clean Water Act sec 307; 33 USC 1342 Clean Water Act sec 402j; 33 USC 1361 Clean Water Act sec 501

CFR Citation:

40 CFR 403

Legal Deadline:

None

Abstract:

The National Pretreatment Program was established in 1972. The Office of Water is exploring ways to reduce federally mandated activities under the program that don't result in benefits to the environment and to improve program efficiencies. For example, this rule will consider appropriate exclusions or variable requirements for numerous smaller facilities that contribute insignificant amounts of pollutants.

Statement of Need:

Many POTWs and smaller industrial users have identified problems with the effectiveness of some requirements of the Pretreatment Program. Reducing the administrative and monitoring costs for these entities will provide greater flexibility in the use of program resources to achieve environmental protection.

Summary of the Legal Basis:

This action is not required by law or court order.

Alternatives:

None known.

Anticipated Costs and Benefits:

Undetermined as of this date; a very preliminary estimate of the burden reduction is 1 percent to 10 percent of the total annual burden. The principal benefit is to provide POTWs and industrial users with additional flexibility in conducting their pretreatment program activities.

Risks:

None known.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 3663

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RIN: 2040–AC58

EPA

123. NATIONAL PRIMARY DRINKING WATER REGULATIONS: RADON

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

42 USC 300 Safe Drinking Water Act sec 1412

CFR Citation:

40 CFR 141; 40 CFR 142

Legal Deadline:

Other, Statutory, February 6, 1999, Publish radon health risk reduction and cost analysis.

NPRM, Statutory, August 6, 1999.

Final, Statutory, August 6, 2000.

Abstract:

Radon in drinking water increases risk to public health, both from inhalation of radon discharged through normal household water use, such as showering, and from ingestion of water. In 1991, EPA estimated that radon in public drinking water supplies causes about 192 avoidable cancer cases each year. EPA does not currently regulate radon in drinking water. On July 18, 1991, EPA proposed a Maximum Contaminant Level (MCL) for radon in drinking water at 300 pCi/L, to address radon in public water supplies (systems serving over 25 individuals or with greater than 15 service connections). EPA withdrew the proposed radon regulation on August 6, 1997 (62 FR 42221). This rule will impact small entities, including small public water supplies and municipalities. Tribal governments will be affected if they provide water through systems meeting the definition of public water supply. States with primacy will implement the final regulation, and will be asked to assist EPA in developing guidelines for multi-media mitigation programs.

The 1996 Amendments to the Safe Drinking Water Act add new radon requirements. Congress directed EPA to: (1) Withdraw the 1991 proposed rule; (2) Work with the National Academy of Sciences (NAS) to conduct a risk assessment for radon in drinking water and an assessment of the health risk reduction benefits associated with various mitigation methods of reducing radon in indoor air; (3) Publish a radon health risk reduction and cost analysis for possible radon MCLs for public comment, by February 1999; (4) Propose MCL Goal and National Primary Drinking Water Regulation (NPDWR) for radon by August 1999; and (5) Publish MCL Goal and Final NPDWR for radon, by August 2000.

Pursuant to 1412 (b)(13) of SDWA, EPA promulgates an MCL more stringent than necessary to reduce the contribution to radon in indoor air from drinking water to a concentration that is equivalent to the national average concentration of radon in outdoor air, the Agency must establish an alternative MCL. The level of the alternative MCL is linked to average outdoor radon levels. If an alternative MCL is established, EPA must publish guidelines for States to develop multimedia radon mitigation programs. If EPA approves a State multimedia mitigation program, public water supply systems within the State may comply with the alternative MCL. EPA shall evaluate multimedia radon mitigation programs every 5 years.

Statement of Need:

Radon in drinking water increases risk to public health, both from inhalation of radon discharged through normal water use, such as showering, and from ingestion of water.

Summary of the Legal Basis:

Pursuant to the Safe Drinking Water Act, as amended in 1996, section 1412(b)(13), EPA is required to: (1) Withdraw the 1991 proposed radon in drinking water rule; (2) Work with the National Academy of Sciences to conduct a risk assessment for radon in drinking water and an assessment of the health risk reduction benefits associated with various mitigation methods of reducing radon in indoor air; (3) Publish a radon health risk reduction and cost analysis for possible radon Maximum Contaminant Levels (MCLs) for public comment, by February 1999; (4) Propose an MCL Goal and National Primary Drinking Water Regulation (NPDWR) for radon by August 1999; and (5) Publish an MCL Goal and Final NPDWR for radon by August 2000.

In addition, if EPA promulgates an MCL more stringent than necessary to reduce the contribution to radon in indoor air from drinking water to a concentration that is equivalent to the national average concentration of radon in outdoor air, the Agency must establish an alternative MCL (AMCL). The AMCL is to be set at a level which would result in a contribution of radon from drinking water to radon levels in indoor air equivalent to the national average concentration of radon in outdoor air. If an alternative MCL is established, EPA must publish guidelines for States to develop multimedia radon mitigation programs. EPA shall approve State multimedia mitigation programs if they are expected to achieve equivalent or greater health risk reduction benefits than would be achieved through compliance with the MCL. If EPA approves a State multimedia mitigation program, public water supply systems within the State may comply with the AMCL. If a State does not have an approved multimedia mitigation program, any public water system may submit a program for approval by EPA according to the same criteria, conditions, and approval process that would apply to a State program. EPA shall evaluate multimedia mitigation programs every 5 years.

Alternatives:

EPA will consider a range of MCL options for radon in drinking water in the Health Risk Reduction and Cost Analysis (HRRCA) (to be published by February 1999). EPA will also develop guidelines for a State or public water system to develop a multimedia mitigation program in order for it to comply with the AMCL. The National Academy of Sciences will provide information on key factors (the water to air transfer factor and the national average outdoor radon level) that EPA will use in setting the AMCL.

Anticipated Costs and Benefits:

EPA is currently developing estimates of the anticipated costs and benefits. Among other things, we will be evaluating the unit risk information (with the input of the National Academy of Sciences), the occurrence of radon in public water systems, the unit costs of various types of radon in water treatment systems, the characterization of the flows associated with "model" systems, the number of systems in various size categories, the costs and benefits associated with the health effects of radon, and models for integrating much of these data. Most of this information and supporting calculations are expected to be available by the time the Health Risk Reduction and Cost Analysis is published (February 1999).

Risks:

In accordance with the Safe Drinking Water Act, the National Academy of Sciences (NAS) is conducting a risk assessment for radon in drinking water and will be producing a consensus report by August 1998. The NAS report, which is expected to include the unit risk (risk per pCi/L) associated with exposure to radon in drinking water, will be used along with other available information to develop a national risk estimate for radon in drinking water.

Timetable:

Action	Date	FR Cite
ANPRM	09/30/86	51 FR 34836
NPRM	07/18/91	56 FR 33050
Withdrawal of NPRM	08/06/97	62 FR 42221
Notice	02/00/99	
Reproposal	08/00/99	
Final	08/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 2281

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RIN: 2040–AA94

EPA

124. NATIONAL PRIMARY DRINKING WATER REGULATIONS: GROUND WATER RULE

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

42 USC 300 Safe Drinking Water Act sec 1412

CFR Citation:

40 CFR 141; 40 CFR 142

Legal Deadline:

Final, Statutory, May 31, 2002.

Abstract:

The Safe Drinking Water Act as amended in 1996 directs EPA to promulgate regulations requiring disinfection "as necessary" for ground water systems. The intention is to reduce microbial contamination risk from public water systems relying on ground water. To determine if treatment is necessary, the rule will establish a framework to identify public water supplies vulnerable to microbial contamination and to develop and implement risk control strategies including but not limited to disinfection. Development and implementation of the rule will involve local, tribal, State and Federal governments. The structure of the draft rule is a series of barriers to microbial contamination. The proposed barriers are source water protection and vulnerability assessment; assessment and maintenance of the well, treatment facility and distribution system; disinfection where necessary; and monitoring.

Statement of Need:

Public water systems (PWSs) that use ground water as their sole source of water, as opposed to surface water PWSs, are not federally regulated as to treatment for microorganisms. There is data that indicates that a number of ground water PWSs are contaminated with microorganisms of fecal origin that can and have caused illness.

Summary of the Legal Basis:

Section 1412(b)(1)(A) of the Safe Drinking Water Act (SDWA) requires EPA to establish National Primary Drinking Water Regulations for contaminants that may have an adverse public health effect and that present a meaningful opportunity for health risk reduction. This general provision is supplemented with an additional requirement under section 1412(b)(8) that EPA also develop regulations specifying the use of disinfectants for ground water systems as necessary.

Alternatives:

Not available at this time.

Anticipated Costs and Benefits:

Not available at this time.

Risks:

Not available at this time.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
Final	11/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

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EPA

125. PUBLIC WATER SYSTEM PUBLIC NOTIFICATION REGULATION

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 300f et seq

CFR Citation:

40 CFR 141.32; 40 CFR 142.14; 40 CFR 142.15; 40 CFR 142.16

Legal Deadline:

None

Abstract:

This action revises an existing regulation to incorporate the new public notification provisions in section 1414(c) of the Safe Drinking Water Act. The basic requirement for public water systems with violations of drinking water standards to give public notification is not changed by the 1996 SDWA amendments. A Public Water System is required under section 1414(c) of the SDWA to provide notification to its customers whenever: (1) a violation of certain drinking water regulations occurs (including MCL, treatment technique, and monitoring/reporting requirements); (2) a variance or exemption to those regulations is in place or the conditions of the variance or exemption are violated; or (3) results from unregulated contaminant monitoring required under section 1445 of the SDWA are received. The Administrator is required under this statute to prescribe by regulation the manner, frequency, form, and content for giving notice. The existing regulation is in 40 CFR section 141.32. States are required to adopt this rule to retain primacy under 40 CFR section 142.10.

The 1996 amendments significantly revise the public notification requirements. The amendments: (1) require notice within 24 hours for violations posing a serious public health risk from short term exposure and give EPA discretion to set the timing of the notification for all other violations; (2) give EPA discretion to set the method of delivery of the notices as long as the public notice reaches all persons served; (3) establish a specific requirement for EPA consultation with the States in issuing revised regulations; (4) allow the primary States to prescribe alternative notification requirements by rule with respect to the form and content of the notice. One other new requirement -- for public water systems to prepare an annual consumer confidence report -- is being implemented under a separate regulatory action.

The benefits of the revised public notification regulations will be to streamline the existing requirements, provide quicker and more effective notification of violations that have a serious adverse effect, and better inform the customers of public water systems of the quality of their drinking water and the risk to their health.

Statement of Need:

The public notification rule is being revised to incorporate the legislative changes contained in the 1996 SDWA amendments under sections 1414(c)(1) and (2). The new provisions require EPA to tailor the frequency and content of the public notice to the relative risks to public health and otherwise streamline the process currently in place. The statute requires EPA to promulgate regulations, after consultation with the states, to implement this section.

Summary of the Legal Basis:

The 1996 SDWA amendments require EPA to promulgate public notification regulations to implement new sections 1414(c)(1) and (2). There is no statutory deadline.

Alternatives:

Within the statutory obligation to issue revised public notification regulations, EPA is developing regulatory options that balance the need to protect public health with the need to provide flexibility in local implementation and a reduced reporting burden. Options are being considered related to the frequency of notices for violations not posing a risk to health from short term exposure, how best to ensure that notices reach all persons served, what the notice should contain to be most effective, and how the public notice provisions could be integrated into the parallel requirement for an annual consumer confidence report.

Anticipated Costs and Benefits:

Not available at this time.

Risks:

The public notification regulations require water systems to notify all persons served of any violation of drinking water standards. Consumers not notified of violations may put themselves at risk from drinking the water and otherwise will be unable to make informed choices about whether to continue drinking the water. Risks are largest when the violation is for a contaminant that poses a risk from short-term exposure or for subpopulations vulnerable to the contaminants in the drinking water. Compliance with the public notification rule allows consumers, at their option, to make timely choices about the risk from their drinking water. Public notification is one of several Federal barriers protecting consumers from exposure to harmful contaminants from their drinking water.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final	08/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 4009

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RIN: 2040–AD06

EPA

FINAL RULE STAGE

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126. NEW SOURCE REVIEW (NSR) REFORM

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

Clean Air Act Amendments of 1990, title I

CFR Citation:

40 CFR 51.160 to 51.166; 40 CFR 52.21; 40 CFR 52.24

Legal Deadline:

None

Abstract:

The purpose of this action is to revise the Clean Air Act new source review (NSR) regulations, which govern the preconstruction air quality review and permitting programs that are implemented by States and the Federal Government for new and modified major stationary sources of air pollution. This rulemaking will deregulate, that is, exclude from major NSR program requirements those activities of sources that, with respect to air pollution, have little environmental impact. The rulemaking will encourage pollution control and pollution prevention projects at existing sources. Control technology requirements will be clarified with respect to when and how they apply to sources that are covered. The action seeks to more clearly define the appropriate roles and requirements of sources, permitting authorities and Federal land managers and EPA in the protection of air-quality-related values in Federal Class I areas (i.e., certain national parks and wilderness areas) under the new source review regulations. State, local, and tribal permitting agencies will be given more flexibility to implement program requirements in a manner that meet their specific air quality management needs. Consequently, the rulemaking decreases the number of activities that are subject to NSR requirements and also expedites the permitting process for those sources that are subject to NSR. This action is designed to reduce the regulatory burden over all industries without respect to commercial size or capacity; therefore, it should have no detrimental impact on small businesses. Finally, this action also addresses several pending petitions for judicial review and administrative action pertaining to new source review applicability requirements and control technology review requirements.

Regulations that will be affected are State implementation plan requirements for review of new sources and modifications to existing sources (40 CFR 51.160-166), the Federal prevention of significant deterioration program (40 CFR 52.21), and Federal restriction on new source construction (40 CFR 52.24) to be proposed in another rulemaking action.

Statement of Need:

In August 1992, EPA voluntarily initiated a comprehensive effort to reform the NSR process. This effort was initiated to examine complaints from the regulated community that the current regulatory scheme is too complex, needlessly delays projects, and unduly restricts source flexibility. Currently there are no applicable statutory or judicial deadlines for the NSR reform rulemaking effort. The goal of this effort is to address industries' concerns without sacrificing the environmental benefits embodied in the present approach; that is, protecting and improving local air quality, and stimulating pollution prevention and advances in control technologies.

In July 1993, the New Source Review (NSR) Reform Subcommittee was formed under the auspices of the Clean Air Act Advisory Committee. The Subcommittee's purpose is to provide independent advice and counsel to EPA on policy and technical issues associated with reforming the NSR rules. The Subcommittee was composed of representatives from industry, State/local air pollution control agencies, environmental organizations, EPA headquarters and regions, and other Federal agencies (Federal Land Managers, National Park Service and Forest Service, Department of Energy, and the Office of Management and Budget).

Summary of the Legal Basis:

There are no applicable statutory or judicial deadlines for the NSR reform rulemaking effort. However, the rule will address three outstanding settlement agreements: CMA Exhibit B, Top-down BACT, and the applicability test for modifications at utilities ("WEPCO"). The pending settlement on WEPCO will impose a judicial deadline on the rulemaking.

Alternatives:

The Subcommittee discussed numerous options for implementing NSR reform. However, EPA's primary focus has been to consider the specific recommendations developed by the Subcommittee and, where appropriate, use them in this rulemaking effort. In January 1996, EPA, as part of another regulatory streamlining measure, merged portions of a separate rulemaking to implement the 1990 CAA Amendments with the Reform effort. The combined package was proposed in the Federal Register on July 23, 1996. On July 24, 1998, EPA issued another Federal Register Notice seeking comment on revised alternatives for two applicability provisions.

Anticipated Costs and Benefits:

From a cost perspective, this rulemaking represents a decrease in applications and recordkeeping costs to

industry of at least $13 million per year, as compared to the preexisting program, based primarily on the fact that fewer sources will need to apply for major source permits. In addition, the cost to State and local agencies will be reduced by approximately $1.4 million per year. The Federal Government should realize a savings of approximately $116,000 per year. Additional cost reductions, which are difficult to quantify, will be realized due to the streamlining effect of the rulemaking on the permitting process, for example, the opportunity costs for shorter time periods between permit application and project completion and reduced uncertainty in planning for future source growth.

Risks:

This is a procedural rule applicable to a wide variety of source categories. Moreover, it applies to criteria pollutants for which NAAQS have been established. This action is considered environmentally neutral. However, any potential risks are considered in the NAAQS rulemaking from a national perspective.

Timetable:

Action	Date	FR Cite
NPRM	07/23/96	61 FR 38249
Final Action	05/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State

Additional Information:

SAN No. 3259

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RIN: 2060–AE11

EPA

127. OPERATING PERMITS: REVISIONS (PART 70)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 7661 et seq

CFR Citation:

40 CFR 70; 40 CFR 51

Legal Deadline:

None

Abstract:

In response to litigation on the part 70 regulations, to provide more effective implementation of part 70, and to address comments provided in response to notices of proposed rulemaking, parts 51 and 70 are being revised. In part, the changes include the following: streamlined procedures for revising stationary-source operating permits issued by State and local permitting authorities under title V of the Clean Air Act; changes to the certification of compliance that is required to be submitted as part of the permit documentation; clarification of the title I and title V permitting requirements for research and development facilities; and changes in public participation requirements for minor new source review actions under title I of the Act.

Statement of Need:

These revised rules will allow more streamlined procedures for revising many operating permits. These revisions reflect the principles articulated in the President's and the Vice President's March 16, 1995 report Reinventing Environmental Regulation. That report established as goals for environmental regulation the building of partnerships between EPA and State and local agencies, minimizing costs, providing flexibility in implementing programs, tailoring solutions to the problem, and shifting responsibility to State and local programs.

Alternatives:

The Clean Air Act requires that EPA develop regulations which set minimum standards for State operating-permit programs. In response to concerns expressed in comments on the draft final rulemaking, the EPA talked with representatives from State and local permitting authorities, industry and environmental groups to hear their implementation concerns, and then asked for public comments on a revised draft final rule. This action will incorporate many of those comments and recommendations into a final rule.

Anticipated Costs and Benefits:

The administrative cost of implementing the final rules by permitting authorities, EPA, and permitted sources was estimated. Administrative costs include a range of costs which cover the source's preparing an application through EPA's and the permitting authority's effort to complete the process. The administrative costs are estimated to be approximately $33 million. By comparison, the cost of implementing the current part 70 permit revision system is approximately $118 million. Implementing the revised regulations will reduce costs by about $85 million.

Risks:

All major sources of air pollution are required to have a permit to operate by the Clean Air Act. No adverse effect on the public health or ecosystems should result from this action, because the rule will require permit revisions with significant environmental impact to undergo public and EPA review.

Timetable:

Action	Date	FR Cite
NPRM	08/29/94	59 FR 44460
NPRM Supplemental Proposal for Part 71	04/27/95	60 FR 20804
NPRM Supplemental Proposal for Part 70	08/31/95	60 FR 45530
Final Action	09/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State

Additional Information:

SAN No. 3412

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RIN: 2060–AF70

EPA

128. AMENDMENTS—INTEGRATED NESHAP AND EFFLUENT GUIDELINES: PULP AND PAPER

Priority:

Economically Significant

Legal Authority:

42 USC 7412 Clean Air Act Amendments of 1990 sec 112; 42 USC 7414 Clean Air Act Amendments of 1990 sec 114; 42 USC 7601 Clean Air Act Amendments of 1990 sec 301; 33 USC 1314 Clean Water Act sec 304; 33 USC 1316 Clean Water Act sec 306-308; 33 USC 1317; 33 USC 1318; 33 USC 1361 Clean Water Act sec 301; Clean Water Act sec 501

CFR Citation:

40 CFR 63; 40 CFR 430

Legal Deadline:

None

Abstract:

The Clean Air Act (CAA) Amendments of 1990 direct the Environmental Protection Agency (EPA) to set National Emission Standards for Hazardous Air Pollutants (NESHAP) for new and existing sources under section 112 and to base these standards on maximum achievable control technology (MACT). The Clean Water Act (CWA) directs EPA to develop effluent guidelines for certain categories and classes of point sources. These guidelines are used for setting discharge limits for specific facilities that discharge to surface waters or municipal sewage treatment systems. On April 15,1998, the EPA promulgated signed an integrated regulation for the pulp and paper industry that includes both effluent guidelines and air emission standards to control the release of pollutants to both the water and the air. At the same time, the EPA proposed MACT standards for the chemical recovery combustion sources. The regulations were developed jointly to provide greater protection to human health and the environment, to promote the concept of pollution prevention, and to enable the industry to more effectively plan compliance via a multimedia approach.

Next Steps will be to issue final effluent guidelines for Phase II and Phase III mills. Phase II will address the effluent from mills not covered in the Final Phase I effluent guidelines (except dissolving grade mills) plus will set limits for reserved parameters for chemical oxygen demand (COD) and chloroform at Phase I mills. Phase III will set final effluent limits for dissolving grade mills.

This Regulatory Plan entry also includes RIN 2040-AB53, Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category, reported in full in part III of this issue of the Federal Register.

Statement of Need:

This action limits surface water discharges of toxic, conventional, and nonconventional pollutants and emissions of hazardous air pollutants (HAPs) from pulp and paper mills. The NESHAP limits the release of HAPs such as chloroform, formaldehyde, acetaldehyde, and methanol. The effluent guidelines will limit the discharge of dioxin, furan, and other toxic and conventional pollutants to rivers and other surface waters. The Statutory authorities and deadlines are cited above. Additionally, EPA promulgated these effluent guidelines to satisfy a provision in a Consent Decree entered in settlement of Environmental Defense Fund and National Wildlife Federation v. Thomas, Civ. No. 85-0973 (D.D.C.).

Alternatives:

Both the CAA and the CWA specify that these regulations be established on a technology basis. The CAA specifies that MACT for existing sources can be no less stringent than the average emission limitations achieved by the best-performing similar source. The CWA specifies that effluent limitations guidelines and standards be based on specific technology levels, such as the best available technology economically achievable. For the integration of air and water standards, EPA developed regulatory alternatives from combinations of process changes and pollution control technologies. The Agency considered the combined costs and impacts of these alternatives while remaining responsive to the statutory requirements under both laws.

Anticipated Costs and Benefits:

The promulgated integrated air and water rules comprise effluent guidelines for pulp and paper mills and MACT standards for the noncombustion sources at all kraft, soda, sulfite, and semi-chemical pulp and paper mills. At the same time these standards were promulgated, the Agency proposed MACT standards for the kraft, soda, sulfite, and semi-chemical mills. For the rulemaking components that have been promulgated and proposed, the Agency estimated total annualized costs of $277 million (1995 dollars).

The types of benefits associated with the proposed integrated rule include improvements to air and water quality and reduced human health risks. The estimated reductions in HAP emissions exceed 155,000 tons per year. An estimated reduction in volatile organic compound emissions of 485,000 tons per year; a reduction in total reduced sulfur emissions of 165,000 tons per year; and a reduction in particulate matter emissions of 26,000 tons per year are also projected to occur as a result of the promulgated and proposed rules. Projected reductions in chloroform and chlorinated phenolics effluent discharges are approximately 100 tons per year; adsorbable organic halides (AOX) reductions of 31,000 tons per year are projected. Dioxins and furan effluent levels will be reduced to 12 grams nationally. Ultimately all dioxin fish consumption advisories associated with the 96 bleached paper grade mills will be eliminated. Some categories of the benefits can be expressed in monetary terms; they are in the range of $730 million to $1,500 million.

The Agency has received public comments on the proposed MACT standard for chemical recovery combustion sources and is in the process of developing the promulgation rule.

Risks:

Two types of pollutants found in pulp and paper wastestreams, dioxin and furan, are of particular concern due to their carcinogenic risk and their toxicity to aquatic life. Reducing the discharge and emission of these and other toxic pollutants reduces the exposure risks to human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM NESHAP Phase III - Nonchemical and Other Mills	03/08/96	61 FR 9383
NPRM NESHAP Phase II - Combustion Sources	04/15/98	63 FR 18754
Final NESHAP Phases I and III and Effluent Guidelines Phase I	04/15/98	63 FR 18504
Final NESHAP Phase II - Combustion Sources	04/00/99	
Final Effluent Guidelines Phase II	02/00/00	
Final All NESHAP Phases	08/00/00	
Final Effluent Guidelines Phase III - Dissolving Grade	08/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Federal

Additional Information:

SAN No. 3105

(Air), SAN No. 2712 (Water), SAN No. 4050 (Water Phase II),

ADDITIONAL AGENCY CONTACT: Jeff Telander (NESHAP Phase II - Combustion Sources)

ADDITIONAL AGENCY CONTACT: Elaine Manning (NESHAP Phase III - Nonchemical and other Pulp and Paper Mills)

See also RIN 2040-AB53

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RIN: 2060–AD03

EPA

129. VOC REGULATION FOR ARCHITECTURAL COATINGS

Priority:

Other Significant

Legal Authority:

42 USC 7401 Clean Air Act sec 183

CFR Citation:

40 CFR 59

Legal Deadline:

Final, Judicial, August 15, 1998.

Abstract:

This regulation will control volatile organic compound (VOC) emissions from architectural coatings. These coatings are applied to stationary structures and their appurtenances, to portable buildings, to pavements, or to curbs. Traditional VOC limitations, market-based approaches, and phased-in approaches are all being considered. The EPA is working with coating manufacturers and other stakeholders to ensure that this rule is based on the best possible understanding of the industry and that it affords the flexibility to achieve the necessary emission reductions in the most sensible, cost-effective ways.

Statement of Need:

This regulation will establish VOC content limits for over 50 categories of architectural coatings. These limits will reduce the VOC emissions from architectural coatings and will reflect best available controls, as defined by section 183(e) of the Clean Air Act (CAA). The architectural coatings category is a significant contributor of VOC emissions in ozone nonattainment areas.

Summary of the Legal Basis:

Section 183(e) of the CAA requires that the EPA list those categories of consumer and commercial products (CCP) that account for at least 80 percent of VOC from all CCP in ozone nonattainment areas and establish a schedule for regulating the categories. The architectural coatings category was included on the list and schedule published March 23, 1995, and is in the group of categories to be regulated by March 1997.

Alternatives:

There are many alternatives to the proposed rule that were or are being considered, including: alternative VOC content limits for some types of coatings; issuance of a control techniques guideline in lieu of a national rule; low-volume exemptions; payment of fees, if desired, to exceed the VOC content limits; variances based on economic hardship; and an incentive to recycle paint. The requirements in the proposed rule are based on product reformulation, a pollution prevention method.

Anticipated Costs and Benefits:

The rule will impose an estimated cost of $28 million per year for coating manufacturers and would reduce VOC emissions from architectural coatings by an estimated 113,500 tons per year. VOC emissions are a main component in formation of ground-level ozone which can damage lung tissue and cause serious respiratory illness.

Risks:

In the past, the CAA has focused on reducing VOC emissions from mobile sources (cars and trucks) and stationary sources, such as power plants and factories. Requiring additional controls on these sources may be very costly for the emissions reductions achieved. Regulating consumer and commercial products may prove to be a more cost-effective way of substantially reducing VOC emissions nationwide. Consumer and commercial products, such as surface coatings, personal care products, and household cleaning products, contribute about six million tons (approximately 30 percent) annually of VOC emissions nationwide. The architectural coating category is one of the largest contributors.

Timetable:

Action	Date	FR Cite
NPRM	06/25/96	61 FR 32729
Final Rule	10/00/98	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local

Additional Information:

SAN No. 3351

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RIN: 2060–AE55

EPA

130. NATIONAL VOC EMISSION STANDARDS FOR CONSUMER PRODUCTS

Priority:

Other Significant

Legal Authority:

42 USC 7401 et seq

CFR Citation:

40 CFR 59

Legal Deadline:

Final, Judicial, August 15, 1998.

Abstract:

This regulation will reduce volatile organic compound (VOC) emissions from 24 types of consumer products which are currently regulated by California and several other States. The EPA is working with consumer product manufacturers and other stakeholders to ensure that this rule is based on the best possible understanding of the industry and that it affords the flexibility to achieve the necessary emission reductions in the most sensible, cost-effective ways.

Statement of Need:

This regulation will establish VOC content limits for 24 types of consumer products. These limits will reduce the VOC emissions from these products and will reflect best available controls, as defined by section 183(e) of the Clean Air Act. The consumer products category is a significant contributor of VOC emissions in ozone nonattainment areas.

Summary of the Legal Basis:

Section 183(e) of the CAA requires that the EPA list those categories of consumer and commercial products (CCP) that account for at least 80 percent of VOC from all CCP in ozone nonattainment areas and establish a schedule for regulating the categories. The consumer products category was included on the list and schedule published March 23, 1995, and is in the group of categories to be regulated by March 1997.

Alternatives:

Alternatives to requirements in the proposed rule that were or are being considered, include alternative VOC content limits; issuance of a control techniques guideline in lieu of a national rule; variances based on economic hardship; and an incentive for innovative product development. The requirements in the proposed rule are based on product reformulation, a pollution prevention method.

Anticipated Costs and Benefits:

The rule would impose an estimated cost of $27 million per year for consumer product manufacturers and would reduce VOC emissions from the products by an estimated 90,000 tons per year. VOC emissions are a main component in formation of ground-level ozone which can damage lung tissue and cause serious respiratory illness.

Risks:

In the past, the CAA has focused on reducing VOC emissions from mobile sources (cars and trucks) and stationary sources, such as power plants and factories. Requiring additional controls on these sources may be very costly for the emissions reductions achieved. Regulating consumer and commercial products may prove to be a more cost-effective way of substantially reducing VOC emissions nationwide. Consumer and commercial products, such as surface coatings, personal care products, and household cleaning products, contribute about six million tons (approximately 30 percent) annually of VOC emissions nationwide. The consumer products category is one of the largest contributors.

Timetable:

Action	Date	FR Cite
NPRM	04/02/96	61 FR 14531
Final Action	10/00/98	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Tribal

Additional Information:

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RIN: 2060–AF62

EPA

131. CONTROL OF EMISSIONS OF AIR POLLUTION FROM HIGHWAY HEAVY-DUTY ENGINES AND DIESEL ENGINES

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

Clean Air Act sec 202(a), sec 211(c), sec 213(a), sec 301(a)

CFR Citation:

Not yet determined

Legal Deadline:

Final, Judicial, August 29, 1997.

Abstract:

The primary focus of this action will be reducing emissions of nitrogen oxides (NOx), non-methane hydrocarbon (NMHC), and particulate matter (PM) from diesel and gasoline fueled engines used in highway trucks and buses and in nonroad equipment and vehicles. Nitrogen oxides are a significant contributor to urban ozone pollution (smog), acid rain, and particulate pollution. Particulates, including those emitted directly and secondary particulates formed in the atmosphere, have been associated with increased death and illness rates as well as impaired visibility. Non-Methane hydrocarbons also contribute to ozone pollution. Highway and nonroad engines and vehicles are very significant contributors to these air-quality problems. This initiative has been marked by an unprecedented degree of cooperation between EPA, the State of California, and the engine manufacturing industry, as well as the involvement of States, regional air-management organizations, and public interest and environmental organizations. The result has been a plan for very stringent new emission standards that have the support of the industry. EPA has proposed new standards for highway truck and bus engines, as well as nonroad diesel engines. In 1999, the Agency will complete a technical review to determine whether the highway standards should be adjusted further.

Statement of Need:

Ozone pollution poses a serious threat to the health and well-being of millions of Americans and a large burden to the U.S. economy. Many ozone nonattainment areas face great difficulties in reaching and maintaining attainment of the ozone health-based air quality standards in the years ahead. Recognizing this challenge, States, local governments, and others have called on the Environmental Protection Agency (EPA) to promulgate additional national measures to reduce nitrogen oxides (NOx), hydrocarbons, and particulate matter in order to protect the public from the serious health effects of ozone pollution.

Summary of the Legal Basis:

Clean Air Act sec 202(a), Clean Air Act sec 211(c), Clean Air Act sec 213(a), Clean Air Act sec 301(a)

Alternatives:

EPA will consider alternatives for this rule as part of the notices of proposed rulemaking (NPRMs) planned for this initiative.

Anticipated Costs and Benefits:

By 2020, the proposed standards will reduce NOx by 50 percent, VOC by 15 percent, and particulate matter by 20 percent, compared with emissions under current standards. The cost-effectiveness will be about $300 per ton for VOC and NOx, and about $1500 per ton for particulate matter.

Risks:

Oxides of nitrogen comprise a family of highly reactive gaseous compounds that contribute to air pollution in both urban and rural environments. NOx is directly harmful to human health and the environment, contributes to particulate pollution, and plays a critical role in the formation of atmospheric ozone. Based on studies of human populations exposed to high concentrations of particles and laboratory studies of animals and humans, there are major human health concerns associated with PM. These include deleterious effects on breathing and respiratory systems, aggravation of existing respiratory and cardiovascular disease, alterations in the body's defense systems against foreign materials, damage to lung tissue, carcinogenesis, and premature death.

Timetable:

Action	Date	FR Cite
ANPRM	08/30/95	60 FR 45580
NPRM Highway	06/27/96	61 FR 33421
ANPRM Nonroad	01/02/97	62 FR 200
NPRM Nonroad	09/24/97	62 FR 50152
Final Action Highway	10/21/97	62 FR 54694
Final Action Nonroad	10/00/98	
NPRM Technical Review	12/00/98	
Final Action Technical Review	12/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

Additional Information:

SAN No. 3645

The rule on Nonroad Diesel Engines will be published separately under RIN# 2060-AH50 (SAN 4014).

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RIN: 2060–AF76

EPA

132. NONROAD SPARK-IGNITION ENGINES AT OR BELOW 19 KILOWATTS (25 HORSEPOWER) (PHASE 2)

Priority:

Other Significant. Major under 5 USC 801.

Legal Authority:

42 USC 7547 Clean Air Act sec 213

CFR Citation:

40 CFR 90

Legal Deadline:

None

Abstract:

This action will establish the second phase of emissions standards for new nonroad spark-ignition engines at or below 19 kilowatts (25 horsepower), as required by section 213(a)(3) of the Clean Air Act as Amended. The Environmental Protection Agency (EPA) had been developing the second phase of small-engine regulations through a negotiated rulemaking, with representation by engine manufacturers, equipment manufacturers, emissions control manufacturers, equipment dealers, environment and public health interests, and State air programs. The negotiations came to an end on February 16, 1996 with no consensus reached. EPA will now develop the rulemaking through other means.

The affected engines are used in lawn, garden, and utility equipment, such as lawnmowers, string trimmers, chain saws, and small pumps and generators. The first phase was established July 3, 1995 (60 FR 34582), effective for the 1997 model year, and was very similar to the tier 1 small-engine regulations developed by California for the same engines. Regulated pollutants are hydrocarbons, carbon monoxide, and oxides of nitrogen.

Statement of Need:

Nonroad engines contribute significantly to total ozone precursor and CO emissions in areas that have failed to attain the National ambient air quality standards (NAAQS) for ozone and CO. Requirements for emissions reductions will help many areas achieve the NAAQS. The second phase will include additional controls not achievable in the time frame of the first phase, which are necessary for continued attainment of NAAQS.

Summary of the Legal Basis:

Clean Air Act section 213

Alternatives:

Regulation of this category of engines was split into two phases on the recommendation of the regulated industry, in order to obtain some early reductions quickly while providing sufficient lead-time to develop and implement an appropriate second phase. The regulatory negotiation committee was convened for the second phase to ensure that all possible options for achieving appropriate emissions reductions from this sector were considered.

Anticipated Costs and Benefits:

The regulatory negotiation committee is developing the rule, including setting of emissions standards levels, based on a cost/benefit analysis that considers cost per ton of emissions reduced as well as cost per engine. Until that process is complete, the specific costs and benefits are unknown. The benefits of phase 1 were a 32 percent reduction in hydrocarbons and a 7 percent reduction in carbon monoxide from these engines, at a cost of $266 per ton of hydrocarbons reduced.

Risks:

Over 89 million small engines contribute to unhealthy ozone and carbon monoxide levels in nearly 100 cities across the country. An estimated 6.8 million tons of air pollution are generated from lawn and garden equipment each year. Carbon monoxide is an odorless, colorless poisonous gas. Hydrocarbons and oxides of nitrogen contribute to the formation of ground-level ozone, which is a noxious pollutant that impairs lung functioning and is a key ingredient in smog.

Timetable:

Action	Date	FR Cite
ANPRM	03/27/97	62 FR 14740
NPRM Hand-held engines	01/27/98	63 FR 3950
NPRM Non-hand-held engines	01/27/98	63 FR 3950
Final Action Hand-held engines	12/00/98	
Final Action Non-hand-held engines	12/00/98	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

Additional Information:

SAN No. 3361

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RIN: 2060–AE29

EPA

133. GROUND WATER AND PESTICIDE MANAGEMENT PLAN

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

7 USC 136a; Federal Insecticide, Fungicide, and Rodenticide Act sec 3

CFR Citation:

40 CFR 152.170

Legal Deadline:

None

Abstract:

This regulation would establish Pesticide Management Plans (PMPs) as a new regulatory requirement for certain pesticides. Absent an EPA-approved Plan specifying risk-reduction measures, use of the chemical would be prohibited. The rule would also specify procedures and deadlines for development, approval and modification of plans.

Statement of Need:

EPA proposed to make specific pesticides subject to the provisions of EPA-approved Pesticide Management Plans (PMPs) because of their strong ground-water contamination potential. The rule will establish PMPs as an "other regulatory restriction" and define the minimum requirements and procedures for developing, approving and managing PMPs. Upon promulgation of this rule, the labels of the designated pesticides will be changed to require use in conformance with EPA-approved PMPs, and to prohibit sale and use in States or Indian Country without such approved Plans (after a period allowed for development and EPA review of these Plans). A PMP is a State's or tribe's commitment to EPA and the public to manage the use of a certain pesticide in such a way as to avoid unreasonable risks to ground water that would otherwise warrant cancellation of the use. An approved plan will embody a combination of educational, scientific, and regulatory tools to fulfill the State's ground-water protection goals, developed through a process of public participation. A plan will include a process for disseminating this information to pesticide users and marketers, and for monitoring the effectiveness of the plan through the development of appropriate indicators of environmental improvement and/or protection.

Summary of the Legal Basis:

The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) generally requires EPA to regulate pesticide use in such a manner as to prevent unreasonable risks to human health and the environment. Specifically, 7 USC 136a authorizes EPA to prescribe by regulation "other regulatory restrictions" for pesticides that may generally cause unreasonable risks to the environment (such as those that are associated with ground-water contamination potential) without those restrictions.

Alternatives:

This Rule is a direct outgrowth of the Pesticides and Ground Water Strategy, published in October 1991 (after extensive consultation with States, localities, and other affected stakeholders). In publishing the Strategy EPA conducted an analysis of three different alternatives to the regulation of pesticides' ground-water risks. One option was to rely exclusively on orthodox national-level pesticide regulatory tools (tantamount to a "baseline"), which would entail tolerating or remediating a certain level of ground-water contamination. At the other extreme, outright cancellation of candidate pesticides with significant ground-water contamination potential was considered to provide full assurance that no further ground water contamination would occur (taking into account the high economic losses due to the removal of the pesticide from the market). The analysis concluded that a "partnership" approach, providing a mechanism for more tailored management of pesticide use (i.e., taking into account the prevailing influence of highly variable hydrologic "sensitivity" factors), would be simultaneously a more effective and least costly alternative.

Anticipated Costs and Benefits:

EPA anticipates four categories of costs entailed in requiring PMPs. Federal Program Costs are those of administering ground-water protection activities, such as the review of State or tribal proposals. State Program Costs entail both capital and annual costs. Registrant and user impacts are the economic losses ascribed to the reduced use of the classified pesticides, as well as the costs (to the registrants) of complying with Federal, State and tribal provisions. Benefits accrue from the reduced levels of pesticide residues in ground water, and a corresponding reduction in: 1) human and ecological risk (see below); and 2) threats to the economic and intrinsic values of the ground-water resource. Enormous uncertainties attend the quantification of these benefits, however.

Risks:

The pesticides under consideration are those most frequently detected (sometimes at concentrations exceeding health-based reference points) of currently-registered pesticides, and display physical and chemical characteristics associated with a ground-water contamination potential. The level of potential contamination (and related risk to both human health and the environment) represent a potential unreasonable risk to the environment in the absence of local management measures. State management measures are expected to avert these risks substantially. Because the Food Quality Protection Act (FQPA) requires that EPA consider drinking water as part of dietary exposure, the Agency is analyzing implications for this regulation.

Timetable:

Action	Date	FR Cite
NPRM	06/26/96	61 FR 33259
Final Action	04/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 3222

Effective Date will be 3 years after promulgation.

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RIN: 2070–AC46

EPA

134. LEAD; TSCA SECTION 403; IDENTIFICATION OF DANGEROUS LEVELS OF LEAD

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

15 USC 2683

CFR Citation:

40 CFR 745

Legal Deadline:

NPRM, Judicial, May 26, 1998.

Other, Statutory, May 26, 1998, Consent Decree: NPRM signed.

Abstract:

The Residential Lead-Based Paint Hazard Reduction Act of 1992 (title X) amended TSCA by adding a new title IV. TSCA section 403 requires EPA to promulgate regulations that identify lead-based paint hazards, lead-contaminated dust and lead-contaminated soil for the purposes of TSCA title IV as well as for the entire Title X. EPA developed an interim guidance document in July 1994, to provide public and private decision-makers with guidance on identifying and prioritizing lead-based paint hazards for control. This interim guidance, which was subsequently published in 1995 (60 FR 47248, 9/11/95), will continue to serve as EPA's official policy until the final TSCA section 403 rule is promulgated.

Statement of Need:

Childhood lead poisoning is a pervasive problem in the United States, with almost a million young children having more than 10 ug/dl of lead in their blood, Center for Disease Control's level of concern. Elevated blood-lead levels can lead to reduced intelligence and neurobehavioral problems in young children, as well as causing other adverse health effects in children and adults. Although there have been dramatic declines in blood-lead levels due to reductions of lead in paint, gasoline, and food sources, remaining paint in older houses remains the significant source of childhood lead poisoning. This regulation is a focal point of the Federal lead program and supports the implementation of regulations already promulgated (e.g., lead hazard disclosure in real estate transactions) as well as others under development (e.g., worker training and certification). By supporting the implementation of the national lead program, this rule would help prevent lead poisoning in children under the age of six.

Summary of the Legal Basis:

This action is mandated by TSCA section 403.

Alternatives:

Alternatives were discussed in the proposed rule. Alternatives will be further considered as part of the proposed rule's comment review.

Anticipated Costs and Benefits:

Although this action doesn't require any action, the costs associated with the establishment of these levels were estimated in a draft economic impact analysis that was prepared for the proposed rule. Since benefits depend on private sector implementation of certain lead hazard abatement activities which are not mandated by any of these rules, benefits will be difficult to quantify. During its review of the NPRM under EO 12866, OMB attributed the potential impact of all of the lead regulations to this rule and determined that this action should be classified as economically significant.

Risks:

This rule is aimed at reducing the prevalence and severity of lead poisoning, particularly in children.

Timetable:

Action	Date	FR Cite
NPRM	06/03/98	63 FR 30301
Notice Comment Extension	07/22/98	63 FR 39262
Notice Comment Extension	10/01/98	63 FR 52662
Final Action	09/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 3243

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RIN: 2070–AC63

EPA

135. REVISED STANDARDS FOR HAZARDOUS WASTE COMBUSTION FACILITIES

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

42 USC 6924 Resource Conservation Recovery Act sec 3004; 42 USC 6925 Resource Conservation Recovery Act sec 3005; Clean Air Act sec 112; Clean Air Act sec 114

CFR Citation:

40 CFR 60; 40 CFR 63; 40 CFR 260; 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 270; 40 CFR 271

Legal Deadline:

Final, Judicial, February 1999.

Settlement agreements: industrial furnaces and incinerators. See Additional Information.

Abstract:

The Environmental Protection Agency's (EPA's) strategy for hazardous waste minimization and combustion and a judicial settlement agreement commit EPA to upgrade its standards for burning hazardous waste in incinerators, boilers, and industrial furnaces.

Statement of Need:

Under the Clean Air Act (CAA) Amendments of 1990, EPA is required to establish National Emission Standards for Hazardous Air Pollutants (NESHAPs) for most hazardous waste combustors (HWCs) (i.e., incinerators, cement kilns, boilers, and some types of smelting furnaces). In addition, under the Resource Conservation and Recovery Act (RCRA), EPA is required to establish standards for all HWCs as necessary to ensure protection of human health and the environment. EPA is concerned that its current RCRA standards for HWCs may not be adequately protective given that the standards do not take into account indirect pathways of exposure and that there have been advances both in risk assessment and control technologies since promulgation of the current standards.

Consequently, the Agency plans to establish new emissions standards for HWCs under joint CAA and RCRA authority. This will avoid duplicative Agency effort and piecemeal regulation of the hazardous waste combustion industry.

Alternatives:

Under provisions of the CAA, the Agency plans to consider the cost-effectiveness of emission limits more stringent than the minimum limits mandated by the statute. Further, the Agency plans to evaluate approaches to reduce emissions of hazardous air pollutants by improving good operating practices (e.g., controlling the way in which problematic materials such as toxic metals are introduced into the combustor).

Anticipated Costs and Benefits:

EPA's analysis of the recommended standards for the final rule indicate that some combustion facilities may experience a substantial change in the per ton cost of burning waste, but that this change is likely to have a limited impact on the overall combustion market. In terms of effects on waste-burning cost structure, cement kilns and lightweight aggregate kilns (LWAKs) are most affected by the regulation. This is primarily a product of their relatively low baseline costs of burning, meaning that incremental compliance costs represent a large increase in their overall cost of burning waste. For incinerators, compliance costs are lower, represent smaller additions to baseline costs, and change little across regulatory options. The analysis concludes that cement kilns have the lowest waste burning costs even after regulation, and so will continue to have the greatest flexibility in marketing their services.

To the extent that compliance costs cannot be passed through to generators and fuel blenders, the profitability of waste burning in kilns will fall. Nonetheless, waste burning kilns are expected to have healthy operating profit margins after the rule. Market exit in all sectors is concentrated among facilities that burn small quantities of hazardous waste. Approximately 15 combustion facilities may stop burning hazardous wastes as a result of the planned maximum achievable control technology (MACT) options. The small quantities these facilities burn suggest that market dislocations will be minor.

Overall, the social costs of the rule are balanced by a set of potentially substantial benefits. Given the severity of the potential adverse health effects from dioxin and mercury (cancer, adverse developmental effects in children, severe neurological effects in adults, and bioaccumulation in ecosystems), EPA believes the substantial reductions of these pollutants from hazardous waste burning sources under the MACT standard justifies moving ahead with the final recommended standards.

Risks:

EPA has estimated that hazardous waste incinerators and hazardous-waste burning cement and lightweight aggregate kilns currently emit (1997 base year) a total of 40g toxicity equivalent (TEQ) of TCDD and TCDF (isomers of dioxin) per year. Therefore, hazardous waste burning sources represent about 1.5 percent of total anthropogenic emissions of dioxins in the U.S.

EPA estimates that dioxin emissions from hazardous waste-burning sources will be reduced to approximately 12g TEQ per year at the recommended standard. These reductions would result in decreases to approximately 0.4 percent of total estimated anthropogenic U.S. emissions. EPA expects that reductions in dioxin emissions will help reduce dioxin levels over time in foods used for human consumption and, therefore, reduce the likelihood of adverse health effects, including cancer, occurring in the general population.

EPA has estimated that hazardous waste incinerators and hazardous waste-burning cement and lightweight aggregate kilns currently emit a total of 6Mg of mercury per year. Based on these estimates, hazardous waste-burning sources represent about 4.4 percent of total anthropogenic emissions of mercury in the U.S.

EPA estimates that mercury emissions from hazardous waste-burning sources will be reduced to 2.3Mg per year at the current floor levels. These reductions would result in reductions of total anthropogenic U.S. emissions to approximately 1.6 percent. EPA expects that reductions in emissions from mercury-emitting sources will help reduce mercury levels in fish over time.

Timetable:

Action	Date	FR Cite
NPRM Cement Kilns & Lightweight Aggregate Kilns & Incinerators	04/19/96	61 FR 17358
Final MACT Fast-Track	06/19/98	63 FR 33782
Final Cement Kilns & LWAKs & Incinerators	02/00/99	
NPRM Boilers & Other Industrial Furnaces	12/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

State

Additional Information:

SAN No. 3333

On October 25, 1993, the Agency reached a settlement agreement with the following parties: Citizens for a Safe Environment; Saucon Association for a Viable Environment, Inc.; Citizens Aware and United for a Safe Environment; Clean Water Fund of North Carolina; Natural Resources Defense Council; Sierra Club, Inc.; Hazardous Waste Treatment Council; and National Solid Wastes Management Association. In summary, that agreement requires:

Notice and comment rulemaking on air emission standards for hazardous waste (HW) incinerators and HW-burning cement kilns and lightweight kilns by September 20, 1995;

Final rulemaking for HW incinerators and HW-burning kilns by December 15, 1996;

Notice and comment rulemaking on air emission standards for HW-burning boilers and other industrial furnaces by December 15, 1998; and

Final rulemaking for HW-burning boilers and industrial furnaces by December 15, 1999.

The Agency's current schedule is significantly behind that outlined in the

settlement agreement. The Agency has had informal discussions with the petitioners concerning the present schedule.

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RIN: 2050–AE01

EPA

136. NPDES STREAMLINING RULE—ROUND II

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

33 USC 1311 Clean Water Act sec 301;
33 USC 1314 Clean Water Act sec 304;
33 USC 1312 Clean Water Act sec 302;
33 USC 1316 Clean Water Act sec 306;
33 USC 1318 Clean Water Act sec 308;
33 USC 1342 Clean Water Act sec 402;
33 USC 1361 Clean Water Act sec 501

CFR Citation:

40 CFR 122; 40 CFR 123; 40 CFR 124; 40 CFR 125

Legal Deadline:

None

Abstract:

On February 21, 1995, President Clinton issued a directive requesting that Federal agencies review their regulatory programs to eliminate any obsolete, ineffective, or unduly burdensome regulations. In response to that directive, the Office of Wastewater Management plans to issue a comprehensive rulemaking package revising certain NPDES requirements in parts 122, 123 and 124 to eliminate redundant regulations, provide clarification, and remove or streamline unnecessary procedures which do not provide any environmental benefits. Some of these revisions include: 1) consolidating regulatory definitions; 2) removal of part 124, subpart F, non-adversary panel hearings; 3) possible removal of storm water group application requirements; 4) streamlining permit termination procedures; and 5) removing part 124 evidentiary hearing procedures.

This rulemaking is expected to affect entities who operate the NPDES program or who are regulated by it. This includes small businesses and State and local governments. Most of these effects are expected to be deregulatory or streamlining in nature.

Statement of Need:

This rule is in response to the President's directive.

Summary of the Legal Basis:

This action is not being taken as a result of a court order and is not required by law.

Alternatives:

Alternatives are being considered as part of the proposed rule's comment review.

Anticipated Costs and Benefits:

The proposed rule is expected to provide savings for the regulated entities and permit issuing authorities in respect to costs and labor. It is not expected to result in any increased costs to those entities.

Risks:

Risks to the environment are expected to be minimal.

Timetable:

Action	Date	FR Cite
NPRM	12/11/96	61 FR 65268
Final	03/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 3762

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RIN: 2040–AC70

EPA

137. EFFLUENT GUIDELINES AND STANDARDS FOR THE INDUSTRIAL LAUNDRIES POINT SOURCE CATEGORY

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

33 USC 1311 Clean Water Act sec 301;
33 USC 1317 Clean Water Act sec 307;
33 USC 1314 Clean Water Act sec 304;
33 USC 1361 Clean Water Act sec 501;
33 USC 1316 Clean Water Act sec 306;
33 USC 1318 Clean Water Act sec 308

CFR Citation:

40 CFR 441

Legal Deadline:

Final, Judicial, June 30, 1999.

Abstract:

EPA is developing pretreatment standards for industrial laundries (facilities that launder industrial textile items, such as shop and printer towels, mops, mats). These standards include limitations on toxic and nonconventional pollutants, and are anticipated to reduce the annual discharge of pollutants to waters of the United States by 5 million pounds.

Statement of Need:

Control of wastewater discharge by local authorities has been inconsistent, in some cases encouraging facilities to shift processing of the most contaminated items to localities with the least stringent requirements and allowing the unnecessary discharge of pollution that could be economically eliminated by the industry.

Summary of the Legal Basis:

This action is required under consent decree in settlement of NRDC et al v. Browner (D.D.C. Civ. No. 89-2980, January 31, 1992, as modified).

Alternatives:

Options considered in the proposed rule included a small facility exclusion (based on pounds of production); limitations applying to the treatment of all facility wastewaters or only those from the laundering of heavily contaminated items based on performance of the following technology options in addition to gravity settling, screening, equalization, pH adjustment, sludge dewatering, and pollution prevention: chemical emulsion breaking of wastewater from the washing of heavily contaminated industrial items, chemical precipitation technology, dissolved air flotation technology; and a "no regulation" option.

Anticipated Costs and Benefits:

Estimated post-tax compliance costs incurred by industry based upon the proposal are $93.9 million annually. Estimated social costs of the proposal are $139.4 million per year; estimated monetized benefits are $2.9 to $10.6 million per year. Additional benefits that could not be monetized include reduced noncancer health effects, and reduced POTW operating and maintenance costs.

Risks:

Regulation expected to result in the avoidance of no more than 1 cancer case a year and eliminate excursions of ambient water quality criteria for the protection of human health on 7 river reaches.

Timetable:

Action	Date	FR Cite
NPRM	12/17/97	62 FR 66182
Final Action	06/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Federal

Sectors Affected:

812332 Industrial Launderers; 812331 Linen Supply

Additional Information:

SAN No. 3209

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RIN: 2040–AB97

EPA

138. NPDES WASTEWATER PERMIT APPLICATION FORMS AND REGULATORY REVISIONS FOR MUNICIPAL DISCHARGES AND SEWAGE SLUDGE USE OR DISPOSAL

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

33 USC 1342 Clean Water Act sec 402;
33 USC 1314 Clean Water Act sec 304;
33 USC 1318 Clean Water Act sec 308;
33 USC 1345 Clean Water Act sec 405;
33 USC 1361 Clean Water Act sec 501

CFR Citation:

40 CFR 122.21(j); 40 CFR 122.21(q)

Legal Deadline:

None

Abstract:

The purpose of this action is to revise and consolidate existing application forms and requirements for Publicly Owned Treatment Works (POTWs) and other Treatment Works Treating Domestic Sewage (TWTDS), and to streamline the application process for these facilities. The Agency seeks to establish a unified process that minimizes the need for additional information from applicants while providing permit writers the necessary information, including toxics data, to ensure that permits adequately address concerns of permittees and environmental protection. The Agency seeks to allow the use of existing data and to avoid unnecessary reporting. The Agency is also considering how to utilize electronic data submission. Although these forms will increase the burden on permittees not already required to submit these data, the Agency is minimizing the need for information from small entities, including tribal facilities. The burden on States would be minimized because of improvements to the application forms.

Statement of Need:

Section 402(a) of the CWA, as amended, authorizes the EPA to issue permits for the discharge of any pollutant or combination of pollutants. The content of the application forms 2A (standard form A) and 2S (short form A) is derived from the requirements in proposed sections 122.21(j) and 122.21(q). Currently POTWs submit these forms (based on size) for wastewater discharges and the interim sewage sludge application form for sludge discharges. EPA has not revised the wastewater forms since 1973, despite many amendments to the CWA and to the regulations under the Act which have significantly changed the permitting strategy of the NPDES program. Increased wastewater treatment required by the CWA has resulted in increased generation of sewage sludge. The interim sludge application form was developed in 1993 in response to regulatory changes to the part 503 sewage sludge regulations.

This rule will finalize changes to the regulations at sections 122.21(j) and 122.21(q) and forms 2A and 2S to provide permit writers with sufficient data to develop appropriate permit limitations that will be effective in ensuring that permittees meet the requirements of the regulations.

Summary of the Legal Basis:

This action is not required by law or court order.

Alternatives:

In preparation of the proposed rulemaking several scenarios for data collection were evaluated for both 2A and 2S. EPA looked at several options for the collection in 2A including all POTWs reporting the maximum data elements. In the end the proposal required two levels of data collection for form 2A.

Proposed form 2S was also evaluated for various levels of data collection. In the proposed rule Class 1 facilities complete the most information and the sludge-only facilities complete the least.

Anticipated Costs and Benefits:

This rule is a streamlining rule. It is anticipated that overall the final rule will decrease burden on facilities from the existing application burden. The burden reduction will come from streamlined application procedures which will decrease the number of 308 letters necessary.

The costs of the final rule will be decreased from the proposal. The proposed rule costs included a lot of testing which will be eliminated in the final rule.

Risks:

The application forms rule will allow permit writers to better evaluate discharges from POTWs and other TWTDS. The better the permit writer can evaluate the discharge, the better EPA can protect the environment and public health with appropriate limits and necessary conditions in the permits.

Timetable:

Action	Date	FR Cite
NPRM	12/06/95	60 FR 62545
Final	11/00/98	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 2501

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RIN: 2040–AB39

EPA

139. NPDES COMPREHENSIVE STORMWATER PHASE II REGULATIONS

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

33 USC 1311 Clean Water Act sec 301; 33 USC 1318 Clean Water Act sec 308; 33 USC 1342 Clean Water Act sec 402; 33 USC 1361 Clean Water Act sec 501

CFR Citation:

40 CFR 122; 40 CFR 123

Legal Deadline:

NPRM, Judicial, December 15, 1997.

Final, Judicial, March 1, 1999.

Abstract:

EPA proposed changes to the stormwater regulations for the remaining unregulated dischargers that require regulation. Also known as Phase II dischargers, these sources potentially could have included all stormwater discharges from municipal separate storm sewer systems serving populations of less than 100,000 and construction activities resulting in the land disturbance of less than 5 acres. Data collected under sections 305(b) and 402(p)(5) of the CWA indicate that benefits will be derived from addressing these discharges under the Phase II program. Urban stormwater runoff is a real cause of water quality use impairment. EPA has invited stakeholders to participate in the development of comprehensive Phase II rules under the Federal Advisory Committee Act (FACA). This FACA subcommittee is assisting in the development of the rule. Currently, all Phase II dischargers are required to have stormwater permits by 2001. EPA proposed to limit the universe of designated Phase II sources and proposed an approach that would promote the use of general permits for most Phase II sources. The proposed changes would also provide regulatory relief by waiving Phase I facilities that have no exposure to stormwater from otherwise applicable permit requirements.

Statement of Need:

Data collected under sections 305(b) and 402(p)(5) of the CWA indicate that uncontrolled stormwater discharges from municipalities serving populations less than 100,000 and construction sites that result in the disturbance of less than 5 acres of land cause water quality use impairment. The proposed changes to the NPDES stormwater regulations would address these currently unregulated stormwater discharges. The proposed changes would also provide needed regulatory relief to Phase I facilities that have no exposure to stormwater and do not cause water quality use impairment.

Summary of the Legal Basis:

CWA sec. 402(p)(6) requires EPA, in consultation with States and local officials, to issue regulations for the designation of the remaining unregulated discharges to be regulated to protect water quality. The United States Court of Appeals for the Ninth Circuit remanded EPA's de minimis exemption of construction sites below 5 acres and the no exposure exemption for category (XI) industrial facilities under the Phase I rule (NRDC v. EPA, 966 F.2d 1292 (9th Cir. 1992)). This remand requires EPA to examine construction sites below 5 acres for possible designation. EPA is also currently subject to a court order to propose supplemental rules under CWA sec. 402(p)(6) by September 1, 1997, and finalize these rules by March 1, 1999 (NRDC v. Browner, Civ. No. 95-634 PLF (D.D.C., April 6, 1995)).

Alternatives:

The proposed changes to the NPDES stormwater regulations are being developed with significant input from the FACA subcommittee. Alternative options, as well as successive drafts of the proposed changes, were distributed to FACA members for comment. The language of the proposed changes are the result of extensive stakeholder input. The Agency plans to solicit comments on alternative approaches in the preamble to the proposed rule.

Anticipated Costs and Benefits:

EPA estimated that the proposed rule would result in a mean annual cost of $511 million, with expected mean annual monetized benefits from implementation of the requirements of $310 million. EPA also estimated that the "no exposure" waiver for Phase I industrial facilities would result in minimum annual cost savings of $88 million. EPA is in the process of revising these estimates as the Agency develops the final rule.

Risks:

The proposed changes to the NPDES stormwater regulations will reduce adverse water quality impacts from stormwater, thereby reducing risks to aquatic habitat and public health.

Timetable:

Action	Date	FR Cite
NPRM	01/09/98	63 FR 1535
Final	03/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

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EPA

140. NATIONAL PRIMARY DRINKING WATER REGULATIONS: STAGE I DISINFECTANT/DISINFECTION BY-PRODUCTS RULE

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

42 USC 300 Safe Drinking Water Act sec 1412

CFR Citation:

40 CFR 141; 40 CFR 142

Legal Deadline:

Final, Statutory, November 30, 1998.

Abstract:

The 1996 SDWA amendments require EPA to promulgate an Interim Enhanced Surface Water-Treatment Rule (IESWTR) and a Stage 1 Disinfectants/Disinfection Byproducts (DBP) Rule by November 1998. EPA proposed both rules in 1994 as a result of formal regulatory negotiations. The regulations, along with a long-term ESWTR and Stage 2 DBP Rule that will be promulgated later, are intended to expand existing public health protections and address concerns about risk trade-offs between pathogens and disinfection byproducts.

EPA is working under an expedited schedule to meet the November 1998 deadline for the final IESWTR and Stage 1 Rule. The Agency issued a Notice of Data Availability (NODA) for public comment in the fall of 1997 as part of this schedule. The NODA detailed the recommendations made by the DBP Advisory Committee (established under the Federal Advisory Committee Act (FACA)) on a number of key elements in the rule. The Agency issued another NODA in March 1998 that detailed EPA's analysis of new health effects research and possible regulatory applications.

Statement of Need:

EPA's Science Advisory Board (SAB), an independent panel established by Congress, cited drinking water contamination as one of the highest ranking environmental risks as recently as 1990. The SAB reported that microbiological contaminants (e.g., bacteria, protozoa, viruses) are likely the greatest remaining health risk management challenge for drinking water suppliers. Therefore, utilities usually apply some form of contaminant control. Disinfection is one important and widespread practice used to meet the public health goal of providing safe water to the public.

Over 200 million people in the United States are served by public water systems that apply a disinfectant (e.g., chlorine) to water in order to provide protection against microbial contaminants. While these disinfectants are effective in controlling many harmful microorganisms, they combine with organic matter in the water and form DBPs, some of which may pose health risks. Some of these byproducts, including those that are the subject of this rule (total trihalomethanes-TTHMs- and haloacetic acids-HAAs), are potentially associated with health risks, such as cancer, and reproductive and developmental effects. Therefore, EPA believes, that the Stage 1 DBR is needed for protection of public health from exposure to DBPs and meeting the requirements of the 1996 SDWA.

Alternatives:

The central requirement of regulatory analyses under Executive Order 12866 is to perform an analysis of net benefits and to consider the regulatory alternatives in light of a criterion of maximizing net benefits. The preliminary regulatory analysis focused on two options, Option 1 and Option A. Option 1 proposed a total trihalomethane (TTHM) maximum contaminant level (MCL) of 80 and a total haloacetic acid (HAA) MCL of 60 for large water systems (and a simple TTHM standard of 100 for small systems). Option A called for the use of precursor removal technology to reduce the level of total organic carbon (TOC). Alternative levels of TOC were considered, ranging from 4.0 to 0.5.

After additional analysis, two additional options, or hybrids (Option A), were added to the mix: the 80/60/4 and 80/60/5 options represented an attempt to merge concepts of TOC removal and MCLs of 80 for TTHM and 60 for HAAs. These also represented the first detailed considerations of a staged approach to DBP regulation.

Option 1 (100/80/60) and the two hybrids under Option A (80/60/4 and 80/60/5) were carried forward after a review of the reductions in exposure and a comparison of national costs arising from the options. Option 1 would have required treatment changes in 45 percent of plants, whereas the 80/60/4 option would have required changes in 56 percent of plants and the 80/60/5 option would require changes in 43 percent of plants.

National cost estimates developed at the time indicated that total capital cost of the three Stage 1 options ranged from $3.7 billion for the Option 1 to $8 to $9 billion for Option A. The small (serving populations of less than 10,000) systems share of the national capital cost of the Stage 1 options ranged from $0.8 billion for Option 1 to $3.1 to $3.2 billion for Option A. Reduced exposure to TOC was considerable in Option A hybrids but not present in Option 1. The major cost difference between Option 1 and the Option A hybrids stems from the requirement to reduce TOC.

The DBP Committee convened in 1997 to review assumptions and new data and to lay the groundwork for the promulgation of the final rule in November of 1998. Costs were modified based on new unit costs estimates and revised assumptions about the compliance forecast.

Anticipated Costs and Benefits:

Cost-benefit data is under development.

Timetable:

Action	Date	FR Cite
NPRM	07/29/94	59 FR 38668
Notice Notice of Data Availability	11/03/97	62 FR 59387
Notice Notice of Data Availability	03/31/98	63 FR 15674
Final Action	11/00/98	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

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EPA

141. NATIONAL PRIMARY DRINKING WATER REGULATIONS: INTERIM ENHANCED SURFACE WATER TREATMENT RULE

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

42 USC 300 Safe Drinking Water Act sec 1412

CFR Citation:

40 CFR 141; 40 CFR 142

Legal Deadline:

Final, Statutory, November 30, 1998.

Abstract:

The 1996 SDWA amendments require EPA to promulgate an Interim Enhanced Surface Water Treatment Rule (IESWTR) and a Stage 1 Disinfectants/Disinfection Byproducts (DBP) Rule by November 1998. EPA proposed both rules in 1994 as a result of formal regulatory negotiations. The regulations, along with a long-term ESWTR and Stage 2 DBP Rule that will be promulgated later, are intended to expand existing public health protections and address concerns about risk trade-offs between pathogens and disinfection byproducts.

EPA is working under an expedited schedule to meet the November 1998 deadline for the final IESWTR and Stage 1 Rule. The Agency issued a Notice of Data Availability (NODA) for public comment in the fall of 1997 as part of this schedule. The DBP Advisory Committee (established under the Federal Advisory Committee Act (FACA)) met from March through July 1997 to discuss, evaluate, and provide advice on data, analysis and approaches related to the two rules. On July 15, 1997, the committee formally reached consensus and signed an agreement that includes recommendations, also included in the 11/97 NODA, to EPA on a number of key rule elements.

Statement of Need:

EPA's Science Advisory Board (SAB), an independent panel established by Congress, cited drinking water contamination as one of the highest ranking environmental risks as recently as 1990. The SAB reported that microbiological contaminants (e.g., bacteria, protozoa, viruses) are likely the greatest remaining health risk management challenge for drinking water suppliers. Therefore, utilities usually apply some form of contaminant control. Disinfection is one important and widespread practice used to meet the public health goal of providing safe water to the public. Disinfection, however, may pose risks of its own. Disinfectants and their byproducts are associated with potential health risks that include cancer and reproductive and developmental effects. EPA has identified ways to significantly lessen the potential risks associated with microbial contaminants without increasing the use and potential risks posed by disinfectants at reasonable costs and minimal burden. To implement these changes, EPA is publishing a final Interim Enhanced Surface Water Treatment Rule (IESWTR) as mandated by Congress in the Safe Drinking Water Act (SDWA) Amendments of 1996.

The primary goal of the IESWTR is to improve public health by increasing the level of protection from exposure to Cryptosporidium and other pathogens in drinking water supplies. The SDWA requires the setting of drinking water standards at contaminant levels designed to avoid adverse effects on health while allowing for a margin of safety. The rule is expected to reduce the level of Cryptosporidium and other pathogen contamination in finished drinking water supplies through improvements in filtration at water systems. The rule is also expected to provide a larger margin of safety, particularly by reducing the likelihood of the occurrence of Cryptosporidium outbreaks.

Alternatives:

Because Cryptosporidium is particularly resistant to inactivation using chlorine, physical removal by filtration is extremely important in controlling this organism. Filtration requirements under the Surface Water Treatment Rule (SWTR) mandate achieving a 0.5 Nephelometric Turbidity Units (NTU) for combined filter effluent (CFE) in 95 percent of monthly samples, with levels never exceeding 5 NTU. To improve filtration performance, EPA considered alternative tightened turbidity levels and monitoring of individual filtration performance. The final IESWTR includes revised filtration requirements, individual filter monitoring, disinfection benchmarking requirements intended to prevent significant decreases in existing microbial protection while systems comply with the Stage 1 Disinfectant/Disinfection Byproducts Rule, a sanitary survey requirement, a requirement to cover all new finished water reservoirs, and the rule adds Cryptosporidium to the watershed control requirements for unfiltered systems as well as the definition of ground water under the direct influence of surface water.

Anticipated Costs and Benefits:

As reflected in the November 1997 Interim Enhanced Surface Water Treatment Rule Notice of Data Availability, EPA estimated that the national capital and annualized costs (amortized capital and annual operating costs) of possible IESWTR provisions (based on a 10 percent interest rate) would be $730 million and $312 million, respectively. These figures include costs associated with improved treatment, turbidity monitoring, a disinfection benchmark, and sanitary surveys. Mean estimated benefits of the provisions range from $244.8 million to $844.2 million, depending upon varied baseline and improved cryptosporidium removal assumptions with corresponding reduced cases of cryptosporidiosis illness ranging from 136,000 to 469,000. EPA is currently revising these estimates as part of a final Regulatory Impact Analysis that will be published this fall when the final IESWTR is promulgated.

Timetable:

Action	Date	FR Cite
NPRM	07/29/94	59 FR 38832
Notice of Data Availability	11/03/97	62 FR 59485
Final Action	11/00/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

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BILLING CODE 6560-50-F

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Statement of Regulatory and Deregulatory Priorities

The Equal Employment Opportunity Commission (EEOC) enforces six statutes prohibiting discrimination in employment. Title VII of the Civil Rights Act of 1964, as amended, prohibits employment discrimination on the basis of race, color, sex, religion, or national origin. The Equal Pay Act of 1963, as amended, prohibits the payment of different wages to women and men working in the same establishment, performing equal work that requires equal skill, effort, and responsibility under similar working conditions, unless the pay differential is based on factor(s) other than sex. The Age Discrimination in Employment Act of 1967, as amended (ADEA), prohibits employment discrimination on the basis of age against people age 40 and older. Title I of the Americans with Disabilities Act of 1990, as amended (ADA), prohibits employment discrimination against qualified individuals with disabilities. Sections 501 and 505 of the Rehabilitation Act of 1973, as amended, prohibit Federal agencies from discriminating in employment against qualified individuals with disabilities and require agencies to accommodate the special needs of persons with disabilities. The Government Employee Rights Act of 1991 extends protections against employment discrimination to certain employees who were not previously covered.

The mission of the Agency is to ensure equality of opportunity by vigorously enforcing Federal legislation prohibiting discrimination in employment. Enforcement is accomplished through investigation, conciliation, alternative methods of dispute resolution, litigation, coordination, and regulation, as well as by education, policy research, and technical assistance. In pursuing its mission of eradicating discrimination in the workplace, the Commission intends that its enforcement be certain and predictable and that its remedies be preventive and remedial in scope.

One important step toward these ends is to make sure that employees, employers, and union representatives understand their rights and obligations under the Federal laws prohibiting employment discrimination. In accordance with the President's national regulatory principles, EEOC develops regulations necessary to inform employees and employers of their rights and obligations under the statutes if enforces. EEOC further educates the public on an ongoing and proactive basis through interpretive guidelines, policy documents, management directives, and other public guidance programs.

EEOC is currently considering one significant action of a regulatory nature, which has been published for public comment.

The Commission proposes to amend 29 CFR part 1614 to change the Federal sector complaint process. The proposed changes are designed to correct the perception of unfairness or inefficiency in the Federal sector complaint process. In addition, the proposed changes accomplish the National Performance Review goals of removing unnecessary layers of review and delegating decisionmaking authority to front-line employees.

(Consistent with section 4(c) of Executive Order 12866, this statement was reviewed and approved by the Chairman of the Agency. The statement has not been reviewed or approved by the other members of the Commission.)

EEOC

FINAL RULE STAGE

142. FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY PROCEDURES

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 2000e-16; 29 USC 206(d); 29 USC 633a; 29 USC 791; 29 USC 794a

CFR Citation:

29 CFR 1614

Legal Deadline:

None

Abstract:

Commission staff has reviewed part 1614 to assess its effectiveness and conformity with National Performance Review principles. As a result, several changes are being proposed to streamline the process and eliminate unnecessary layers of review.

Statement of Need:

The Equal Employment Opportunity Commission (EEOC or Commission) is proposing to revise the Federal sector complaints process to increase its overall efficiency and integrity. Two specific goals are to motivate agencies to take early corrective action and encourage individuals to fully utilize the administrative process.

As part of an ongoing effort to evaluate and improve the effectiveness of the EEOC's operations, former Chairman Gilbert F. Casellas established the Federal Sector Workgroup to review the Federal sector equal employment opportunity process. The Workgroup, composed of representatives from offices throughout the Commission, evaluated the Commission's administrative processes governing its enforcement responsibilities in the Federal sector and developed recommendations to improve its effectiveness. In addition the review sought to implement the goals of Vice President Gore's National Performance Review (NPR), including eliminating unnecessary layers of review, delegating decisionmaking authority to front-line employees, developing partnership between management and labor, seeking stakeholder input when making decisions, and measuring performance by results.

The Federal Sector Workgroup issued a report entitled "The Federal Sector EEO Process...Recommendations for Change" in May 1997. The report contained numerous recommendations for changing the Federal sector complaint process, including changes to the part 1614 regulations, changes to EEOC's Management Directive 110 which contains additional guidance and instructions on the Federal complaint process, and changes to EEOC's internal procedures. The Commission proposes to amend part 1614 to implement the regulatory recommendations. The proposed changes address the continuing perception of unfairness and inefficiency in the Federal sector complaint process. In addition, the proposals accomplish the National Performance Review goals of removing unnecessary layers of review and delegating decisionmaking authority to front-line employees.

EEOC spent over a year and a half in the development of this NPRM. During that time period, EEOC consulted

extensively with all stakeholders in the Federal sector process. On April 22, 1996, prior to the development of any recommendations, the EEOC's Federal Sector Workgroup held a meeting with Federal EEO and Civil Rights personnel organized by the President of the Council of Federal and Civil Rights Executives. On May 21, 1996, then-Chairman Casellas wrote to the EEO Directors of all departments and agencies requesting their written comment on a number of subjects related to the Federal sector complaint process. We received comments from 27 agencies, all of which were fully considered in developing the recommendations contained in the Workgroup's report. On September 26, 1997, the Workgroup held a briefing for EEO Directors on the Workgroup's recommendations. The Commission coordinated the draft NPRM with all Federal agencies pursuant to Executive Order No. 12067 (1978).

Summary of the Legal Basis:

The proposed revisions are not required by statute or court order. The changes are proposed to improve the existing procedural regulations that were issued under the Commission's authority to issue such regulations as it deems necessary and appropriate to carry out its responsibilities under 42 USC 2000e-16, 29 USC 206(d), 29 USC 633a, 29 USC 791, 29 USC 794a, and Executive Order No. 11478.

Alternatives:

This proposal contains numerous changes to the Federal sector processing regulations. The agency has consulted widely with all stakeholders in developing these proposals and will consider all alternatives offered by them and the public commenters.

Anticipated Costs and Benefits:

The anticipated costs and benefits for each of the major changes are:

Alternative Dispute Resolution (ADR) in the pre-complaint process. Many agencies have existing ADR programs and consequently this proposal will result in no or minimal increased costs. Agencies without such programs may have start-up costs or incur costs to purchase such services. We believe that ADR will result in better and earlier resolutions, thereby saving investigation and litigation costs, and potentially result in fewer filings.

Dismissals. We propose to add two new bases for dismissals of complaints: dissatisfaction with the EEO process and abuse of the EEO process. The two new bases for dismissal will enable agencies to save administrative processing and litigation costs where complainants are dissatisfied with the processing of complaints or abuse the process. We believe this will result in a net cost savings to the agencies with no detriment to those with good faith claims.

Offer of Resolution. We propose to eliminate the dismissal for failure to accept full relief and to replace it with an offer of resolution whereby the amount of recoverable attorney's fees will be limited when a complainant rejects an agency's offer of relief but subsequently obtains less relief through the administrative process. The dismissal for failure to accept full relief has become less useful as a result of the availability of compensatory damages. We believe this alternative will provide an incentive to complainants to accept reasonable settlement offers.

Partial Dismissals. We propose to eliminate interlocutory appeals when an agency dismisses only a part of a complaint. This has resulted in fragmentation of complaints and delays in processing. As proposed, a complainant can obtain review of the agency's partial dismissal from an EEOC administrative judge if a hearing is requested, or from EEOC if an appeal is filed. We believe that eliminating these appeals will save considerable resources, and that the elimination of fragmentation and delays will benefit both parties.

Hearings. Requests for hearings will be made directly by complainants to EEOC rather than to the agency, which would then transmit it to EEOC. This will relieve the agencies of this burden and eliminate the delay incident to that two-step process. The administrative judges (AJs) will be given the authority to dismiss cases rather than having to remand the cases to the agency for dismissal. This should save time for all parties and save costs to the agency. The AJs will be able to issue decisions without hearings in appropriate cases where the record is sufficient and credibility determinations are not at issue. This will save costs and time. Finally, the AJs will issue final decisions. This will save the agencies the costs of writing their own decisions and avoid the appearance of conflict of interest that accompanies the issuance of a decision on the matter by the same agency that is accused of committing the discrimination.

Class Complaints. Because very few class complaints are filed or certified at the administrative level, some complainants wait to raise class allegations in court. This deprives the agencies of the ability to resolve these matters early in the process and denies victims a prompt remedy. The changes to these provisions are intended to remove unnecessary barriers to the filing of class complaints and to insure fairness of remedies. Any increase in costs due to increased filings should be offset by earlier resolution.

Appeals. We propose to amend some time frames to shorten the process thereby eliminating delays. We are changing the appellate standard of review from de novo to substantial evidence and revising the reconsideration standards to increase deference to administrative judges' decisions and to avoid a second level of appeal. This will eliminate duplication of EEOC's efforts and unnecessary layers of review and permit decisionmaking at an earlier stage.

Risks:

This regulation does not address risks to public health, safety, or the environment. The proposed regulatory changes, however, will lessen the risks of undue delay and of the perception of unfairness in the processing of EEO complaints. The Commission has a significant interest in addressing these risks because they undermine the integrity of the EEO process and, to the extent they deter individuals from filing EEO complaints or fully exhausting the EEO process, deprive agencies of the opportunity to take early corrective action. EEOC proposes to minimize delays by increasing the opportunities for early resolution of complaints, eliminating interlocutory appeals, dismissing complaints because of abuse or dissatisfaction with the EEO process, permitting administrative judges to issue dismissals in appropriate circumstances instead of remanding cases to the agency for dismissal, allowing offers of resolution, making hearing requests directly to EEOC, and shortening some of the appellate time frames. EEOC addresses the perception of unfairness by authorizing administrative judges to issue final decisions instead of recommendations that the agency can reject, having partial dismissals reviewed by administrative judges, eliminating unnecessary barriers to the filing of class complaints, and changing the standard of appellate review from de novo to substantial evidence.

Timetable:

Action	Date	FR Cite
NPRM	02/20/98	63 FR 8594
NPRM Comment Period End	04/21/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal

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BILLING CODE 6570-06-F

GENERAL SERVICES ADMINISTRATION (GSA)

Statement of Regulatory and Deregulatory Priorities

The General Services Administration (GSA) establishes policy for and provides economical and efficient management of Government property and records, including construction and operation of buildings, procurement and distribution of supplies, utilization and disposal of property, and transportation, traffic, and communications management.

GSA's regulatory priorities for fiscal year 1999 are to continue to ensure our regulations reflect the President's philosophy of being consistent, sensible, and understandable and do not place an undue burden on the public.

GSA issues the Federal Property Management Regulations (FPMR) to prescribe Governmentwide regulations for real property, for personal property, and for other programs and activities within GSA's regulatory authority. The FPMR is intended to keep agencies abreast of the policies, regulatory requirements, and specific procedures, information, and standards that apply to the management of property and administrative services.

An agencywide review of the FPMR found the regulation was in need of improvement to streamline and clarify its contents. As a result, the FPMR is being converted into a new Federal Property and Administrative Services Regulation (FPASR). The FPASR will contain the policies and regulatory requirements which GSA issues for managing property and administrative services. Materials will appear in a plain language question and answer format. Nonregulatory materials, such as guidance, procedures, and standards currently found in the FPMR, will be available in separate documents, such as customer guides. These content changes will help conform the FPASR to the recommendations of Vice President Gore's National Partnership for Reinventing Government to reduce regulations and use plain language in regulatory documents.

Additionally, working with Vice President Gore's National Partnership for Reinventing Government, GSA has already issued parts of the Federal Travel Regulation (FTR) in the new plain language question and answer format that is easier for customers to use and understand.

BILLING CODE 6820-34-F

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

Statement of Regulatory Priorities

The National Aeronautics and Space Administration (NASA) was established by the National Aeronautics and Space Act of 1958, which laid the foundation for NASA's mission. It directs NASA to conduct space activities devoted to peaceful purposes for the benefit of all humankind. We are to preserve the leadership of the United States in aeronautics and space science and technology, and we are to expand knowledge of the Earth and space. To carry out this mission, NASA is authorized to conduct research for the solution of problems of flight within and outside the Earth's atmosphere; to develop, construct, test, and operate aeronautical and space vehicles for research purposes; to operate a space transportation system including the space shuttle, upper stages, space station, and related equipment; and to perform such other activities as may be required for the exploration of space. NASA conducts activities required for the exploration of space with human-tended and expendable vehicles and arranges for the most effective utilization of the scientific and engineering resources of the United States with other nations engaged in aeronautical and space activities for peaceful purposes.

NASA's mission, as documented in its 1998 Strategic Plan, is to explore, use, and enable the development of space for human enterprise; to advance and communicate scientific knowledge and understanding of the Earth, the solar system, and the universe and use the environment of space for research; and to research, develop, verify, and transfer advanced aeronautics, space, and related technologies.

The following are narrative descriptions of the most important regulations being planned for publication in the **Federal Register** during fiscal year (FY) 1999.

The Federal Acquisition Regulation (FAR), 48 CFR chapter 1, contains procurement regulations that apply to NASA and other Federal agencies. NASA implements and supplements FAR requirements through the NASA FAR Supplement (NFS), 48 CFR chapter 18. Major revisions are not expected in FY 1999, except to conform to FAR changes that are currently being promulgated in part 19, Small Business Programs, and part 45, Government Property.

In a continuing effort to keep the NFS current with NASA initiatives and Federal procurement policy, minor revisions to the NFS may be published. For instance, NASA is developing a risk-centered approach to acquisition that will affect acquisition planning, contract structure, contractor surveillance, and other contract management areas. NASA's implementation is expected to result in NFS revisions.

To reduce the time and cost spent by the Agency and by our science and industry partners in the procurement of basic and applied research, NASA is focusing on streamlining our processes. To go forward in this effort, the Grant and Cooperative Agreement Handbook, 14 CFR parts 1260, 1273, and 1274 will be rewritten to incorporate improvements and streamlining initiatives.

NASA is working on revision of its regulations for implementing the National Environmental Policy Act (NEPA), which are presented at 14 CFR subparts 1216.1 and 1216.3. These changes are being contemplated to streamline and clarify the Agency's NEPA process and conserve time and other resources, while more effectively addressing the purposes of NEPA and developing more responsibility to NASA Centers.

NASA is working on technical amendments to revise, refine, and clarify the cross-waiver of liability in NASA contracts and agreements involving activities such as launch services.

NASA is also in the process of clarifying its claims regulations that implement and provide procedures for exercising its claims authority under 42 U.S.C. 2473(c)(13) of the National Aeronautics and Space Act of 1958, as amended, especially as applied to Agency functions such as launches of NASA missions.

BILLING CODE 7510-01-F

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

Statement of Regulatory Priorities

The National Archives and Records Administration (NARA) promulgates (1) regulations directed to other Federal agencies regarding adequate and proper documentation of the policies and transactions of the Federal Government and for ensuring proper records disposition and (2) regulations directed to the public relating to access to and use of the historically valuable archives, donated historical materials, Nixon Presidential materials, and Presidential records in the National Archives, regional archives, Presidential libraries, and Presidential Materials Projects operated by NARA. NARA also promulgates regulations relating to the National Historical Publications and Records Commission (NHPRC) grant programs.

NARA's regulatory priorities for fiscal year 1999 will be issuance of records management regulations concerning Federal agency electronic records and regulations relating to storage of inactive Federal records. NARA records management regulations must provide agencies with the guidance they need to fulfill their statutory obligation to make and preserve records containing adequate and proper documentation of the agency's business. NARA intends to update and expand its regulation relating to recordkeeping requirements for electronic records. The regulation will help Federal agencies to manage their Federal records created or received in electronic form, including those generated with newer technologies and those in the physical custody of contractors. Records in electronic form may contain information vital to the operation of the Government or records that must be maintained for a lengthy period of time.

NARA also intends to issue revised regulations on facility standards for agency records centers to ensure that Federal records stored in agency- or privately operated records storage facilities are stored in facilities meeting the appropriate environmental, physical security, and fire safety standards to maintain the records for their required retention period. The current regulation does not distinguish between the environmental storage conditions for temporary records and for permanently valuable records, nor does it reflect current fire safety standards. NARA's other high-priority regulation will provide policy and procedures to Federal agencies relating to conversion of NARA's records center operations to a totally reimbursable program on October 1, 1999 (FY 2000).

NARA also intends to review and revise other records management regulations relating to removal of personal documentary materials from agencies, NARA records centers storage procedures, and records declassification procedures, which are discussed in greater detail in the NARA section of the Unified Agenda of Federal Regulatory and Deregulatory Actions.

NARA plans no significant rulemakings in the area of public use of archival records and materials in NARA research rooms in FY 1999. As described in the NARA section of the Unified Agenda, NARA is revising its regulations on research room procedures and use of NARA facilities to reflect changes in policies and procedures. NARA also plans to review and update its fees for reproduction of records and other materials transferred to NARA.

NARA

PROPOSED RULE STAGE

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143. AGENCY RECORDS CENTERS

Priority:

Other Significant

Legal Authority:

44 USC 2104 (a); 44 USC 3103

CFR Citation:

36 CFR 1228.222

Legal Deadline:

None

Abstract:

NARA is revising the regulations on facility standards for records centers in 36 CFR part 1228, subpart l. The current regulation cites obsolete industry standards and has not been revised since the early 1980's. This rulemaking action revises standards for environmental conditions, with particular emphasis on storage areas for archival material; incorporates standards for the storage of nontextual records; prescribes new physical security and fire detection and suppression standards; and establishes environmental and security requirements for new agency records centers.

Statement of Need:

This regulation is required to ensure that Federal records are stored in facilities meeting the appropriate environmental, physical security and fire safety standards to maintain the records for their required retention period. Permanently valuable records need to be stored in environmental conditions that will preserve the records for extended periods of time while temporary records require a different level of environmental storage conditions. The previous standards did not distinguish between the environmental storage conditions for temporary records and for permanently valuable records. In addition, the previous standards do not reflect current information relative to fire safety or to the proper long term storage of permanently valuable records.

Summary of the Legal Basis:

This regulation reflects the legal requirements for agencies to maintain records in a manner to insure that the records are available for the appropriate retention period. The National Archives and Records Administration (NARA) is required by law to assist Federal agencies in the development of standards and guidelines for the appropriate management of Federal records storage conditions for Federal records. The Archivist of the United States is also statutorily responsible for insuring that Federal agencies are maintaining records in an appropriate manner.

Alternatives:

The current standards in 36 CFR 1228 do not adequately distinguish between storage requirements for temporary records and for permanently valuable records. Further, the draft international standards do not provide the appropriate storage conditions for the preservation and protection of Federal records. An alternative to this regulation change would be to state in the regulations only the statutory requirements for storage of Federal records in the appropriate environmental conditions. Since agencies are permitted to maintain their own records, NARA would then be required to prepare and issue a records storage guide describing the appropriate environmental conditions for records storage facilities. This alternative, however, would reduce the effectiveness of the regulation since the specific environmental limits would be contained in nonmandatory guidance.

Anticipated Costs and Benefits:

There are costs associated with bringing existing facilities up to the new standards and, in some cases, replacing existing facilities that can not be brought up to the performance requirements of the new standards. It is expected that the existing facilities that store permanently valuable records, for the most part, will have to be replaced since replacing the facility is more cost effective than attempting to renovate the facility. For facilities storing temporary records, it is expected that most of these facilities can be renovated to comply with the new standards. Agencies that arrange for their own storage of records will be required to maintain facilities meeting the new standards. The agencies that contract for this service will be required to include the standards in their contracts with private companies.

Risks:

Failure to follow these regulations could result in records that are not properly maintained and, as a result, not available for use when they are required. In the case of permanently valuable records, failure to maintain the records in facilities meeting the revised standards could result in unique, valuable information being permanently lost. Information relative to the expenditure of funds could be lost; documentation of significant decisions with wide ranging effects on the public could be unavailable; and the lack of information could result in inefficient Government operations while trying to recreate the information or in fruitless searches for the information.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	03/00/99	
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Federal

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RIN: 3095–AA81

NARA

144. • RECORDS CENTER FACILITIES REIMBURSABLE PROGRAM

Priority:

Other Significant

Legal Authority:

44 USC 2907; 44 USC 3103

CFR Citation:

36 CFR 1228

Legal Deadline:

None

Abstract:

NARA's records center program will convert to a totally reimbursable program on October 1, 1999 (FY 2000). This regulation will establish policies and procedures relating to the reimbursable program. The regulation will affect Federal agencies.

Statement of Need:

The Administration has decided that NARA's records center program will become fully reimbursable in FY 2000. In the past, only about 30 percent of NARA's records center program was reimbursable. Seventy percent of the program relied on direct appropriations to provide storage space and records center services to other Federal agencies. This change in policy is intended to ensure that NARA has sufficient resources to provide adequate storage and reference services and to meet increasing demands for records center space and services. Aligning the costs of records center services with those Federal agencies that use the services will lead to greater emphasis on records management activities throughout the Federal Government.

Summary of the Legal Basis:

Under the Federal Records Act (44 U.S.C. 2907) NARA has the authority, but is not required, to operate the records center program. The records center program will continue, but on a reimbursable basis effective October 1, 1999.

Alternatives:

This approach was adopted by the Administration after consideration of all available alternatives. OMB has stipulated that NARA is to be the sole source for agency records center services through FY 2002 for agencies currently using NARA records centers. Agencies currently storing records in agency or private sector records centers may continue to do so. After FY 2002, agencies may choose to store records with NARA, a private sector records center, another agency's records center, or establish its own agency records center pursuant to guidelines that NARA will issue.

Anticipated Costs and Benefits:

While costs will increase for individual agencies, the overall cost to the Government will not increase. The new emphasis on records management may result in lowered costs for the storage of Federal records as records retention periods are reviewed and revised. The reimbursable program will allow for more and higher quality records center storage space and improved services to agencies. NARA's goal is to provide agencies with the best balance of service and cost.

Risks:

Management controls will be established to ensure that the program is achieving its intended objectives. Legislation is required to establish a revolving fund that will be used to finance the records center operations. The reimbursable program will be monitored by NARA staff and audited by OMB.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	
NPRM Comment Period End	04/00/99	
Final Action	08/00/99	
Final Action Effective	09/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal

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NARA

145. • STANDARDS FOR AGENCY RECORDKEEPING REQUIREMENTS

Priority:

Other Significant

Legal Authority:

44 USC 2904; 44 USC 2905; 44 USC 3101; 44 USC 3102; 44 USC 3303

CFR Citation:

36 CFR 1220; 36 CFR 1222; 36 CFR 1228; 36 CFR 1234

Legal Deadline:

None

Abstract:

This regulation expands the current emphasis on electronic mail records to records created with all office automation applications, clarifies the records management requirements for electronic records maintained by contractors, and addresses records generated or received using newer electronic technologies.

Statement of Need:

This regulation is needed to ensure that agencies fully recognize the need to manage all Federal records created or received in electronic form, include those generated with newer technologies and those in the physical custody of contractors. Records in electronic form may contain information vital to the operation of the Government or records that must be maintained for a lengthy period of time, yet many times agencies adopt technologies without regard to the need to meet records management requirements that would ensure the preservation and integrity of the records.

Summary of the Legal Basis:

This regulation reflects the legal requirements for agencies to create and maintain records in a manner that ensures that the records are available for the appropriate retention period. The National Archives and Records Administration is required by law to issue standards and guidelines to Federal agencies for the appropriate management of Federal records. The statutory definition of "records" includes "machine readable materials." The law also provides that, among other goals, records management should result in creation of "accurate and complete documentation of the policies and transactions of the Federal Government" and "judicious preservation and disposal of records."

Alternatives:

An alternative to this regulatory change would be to provide guidance to agencies on creation, maintenance, and disposition of records in electronic format. NARA does provide such guidance and has plans for additional guidance addressing general electronic recordkeeping and records generated or received using newer technologies. However, NARA guidance is not mandatory, so it does not provide for adequate controls over the protection of Federal records and for ensuring the integrity of Federal records.

Anticipated Costs and Benefits:

NARA is unable to quantify the costs associated with ensuring that electronic records are properly maintained. For agencies that automate their processes and records with tools that provide records management functionality, the costs will be negligible. In other circumstances, agencies may need to acquire additional automated tools to ensure the protection and preservation of electronic records. Also unquantifiable is the need for agencies to provide training to employees who used office automation applications or other electronic systems that are not integrated with electronic recordkeeping systems.

Risks:

Failure to follow these regulations could result in loss of documentation or an inability to verify the validity of information needed to ensure accountability to oversight agencies, Congress, and the public; protect the legal and financial rights of the Government and of individuals directly affected by Government activities; and preserve institutional memory. Without proper controls over the management of electronic records held by contractors, the Government may fail to acquire useful information that belongs in the public domain.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	
Final Action	09/00/99	
Final Action Effective	10/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal

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BILLING CODE 7515-01-F

OFFICE OF PERSONNEL MANAGEMENT (OPM)

Statement of Regulatory Priorities

The Office of Personnel Management's (OPM) regulatory priorities for the coming year will continue to focus on human resource management reforms that will enable the Federal Government to meet the challenges of downsizing, increased use of technology, delayering, decentralization, improved labor-management relationships, and other changes that are reinventing the Federal workforce.

This administration has developed an outstanding record in managing the largest workforce in the Nation—a record that includes reinventing Federal human resource management systems, downsizing the Federal workforce by over 350,000 to its lowest point in 30 years, and at the same time, focusing on improving quality, effectiveness, and customer service. Continued progress toward centrally needed reform now depends largely upon the passage of legislation, which currently is in varying stages of discussion, that would provide the tools needed to make more profound improvements in Federal human resource management. Pending passage of legislation, OPM will continue to use its regulatory authority whenever regulations are the appropriate vehicle to achieve our goal of an effective, merit-based civil service system. However, we are also mindful of the dangers of over-regulating. Excessive regulation in the area of Federal human resources management creates obstacles that stand in the way of the innovation and creativity that Federal managers need to lead and motivate the workforce and to operate programs more effectively. We seek an appropriate balance of minimizing regulation to ensure flexibility, innovation, and excellence, while preserving the merit-based civil service system that serves as the cornerstone of our democracy.

Consistent with this approach and with the President's leadership to create a Government that works better and costs less, our regulatory activity will include proposing regulations to give agencies greater flexibility in designing their internal selection systems and to consolidate, streamline, and clarify the excessive number of hiring and examining authorities that currently exist in Government.

To help focus on excellence in employment, we will permit agencies in appropriate circumstances to use an initial probationary period of up to 3 years while establishing 1 year as the minimum period required to assess performance.

This Administration is justifiably proud of its progress in helping move record numbers of Americans from the hopelessness and despair of welfare to the promise of productive employment. More than 6000 people have already found employment in the Federal Government as part of the President's welfare-to-work initiative. Our regulations this year will facilitate agencies' efforts to promote many of these deserving and fully trained workers commensurate with their duties and performance.

Success in Government downsizing, though difficult, has been achieved with fairness and compassion to those affected. We will continue to balance the need for, and the effects of, downsizing with a clear understanding of equity as necessary jobs are filled in the future. In order to assist agencies in providing displaced employees with maximum reemployment opportunities, regulations will be promulgated to afford those separated by downsizing with the first opportunity for reemployment in their former agency. Similar priority will also be given to former employees who were separated or downgraded due to injury or disability but who have now fully recovered.

In our management of the Federal Employees Health Benefits Program, we will continue to look for opportunities to lead the Nation by implementing policies and regulations that ensure fair and effective treatment of those in need of health care.

Overall, the Office of Personnel Management will continue to improve existing human resource management systems in order to attract and keep the best possible talent, to promote fairness and diversity, and to create a Government that truly serves our citizens.

OPM

PROPOSED RULE STAGE

146. • PROBATION ON INITIAL APPOINTMENT TO A COMPETITIVE POSITION

Priority:

Other Significant

Legal Authority:

5 USC 3321

CFR Citation:

5 CFR 315, subpart H

Legal Deadline:

None

Abstract:

This regulation will permit agencies to use a competitive service probationary period of up to 3 years, when the work of the position cannot be properly evaluated in only 1 year. It will also establish 1 year as the minimum probationary period.

Statement of Need:

A regulatory proposal is necessary because the probationary period is now set at 1 year by regulation. We would also need to prescribe the parameters under which a longer probationary period would be permitted.

Summary of the Legal Basis:

The legal basis for these regulations is 5 U.S.C. 3321, which authorizes the President to prescribe rules, regulations, and directives for a period of probation.

Alternatives:

While it is possible to do this by legislation, it would be more efficient and effective to do it by regulation. Legislation is not really necessary, and regulation allows for future flexibility.

Anticipated Costs and Benefits:

There are no anticipated costs associated with the publication of revised regulations on Competitive Service Probationary Periods. Revised regulations would provide additional flexibility for agencies.

Risks:

None

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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OPM

147. MERIT PROMOTION AND INTERNAL PLACEMENT

Priority:

Other Significant

Legal Authority:

5 USC 3301; 5 USC 3302

CFR Citation:

5 CFR 316; 5 CFR 335

Legal Deadline:

None

Abstract:

In an effort to streamline selection procedures and provide agencies with greater flexibility, the Office of Personnel Management (OPM) is proposing to revise the regulations covering merit promotion and internal placement. These regulations will provide a framework within which agencies may develop merit-based programs for internal selections.

Statement of Need:

A regulatory proposal with request for comment is necessary to give agencies greater flexibility to design merit-based selection programs that are consistent with merit principles and other applicable statutory provisions.

Summary of the Legal Basis:

The legal bases for these regulations are 5 U.S.C. 3301 and 5 U.S.C. 3302, which authorize the President to prescribe rules governing employment in the competitive civil service.

Alternatives:

We intend to include in the regulations only a basic framework to assure agency use of merit-based selection procedures. Alternatives are not appropriate. Concerning other materials for which there is a need, OPM will use other formats, such as handbooks or pamphlets.

Anticipated Costs and Benefits:

There are no anticipated costs associated with the publication of revised regulations on Merit Promotion and Internal Placement.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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OPM

148. • TAPER EMPLOYMENT - SPECIFIC AUTHORITY FOR WORKER TRAINEE

Priority:

Other Significant

Legal Authority:

5 USC 3301; 5 USC 3302

CFR Citation:

5 CFR 316, subpart B

Legal Deadline:

None

Abstract:

The Office of Personnel Management (OPM) is proposing to revise the regulations to provide for the promotion of worker-trainees up to the GS-4, WG-5, or equivalent grades in the Federal Wage System. Promotions under this authority are currently limited to GS-3, WG-4, or equivalent.

Statement of Need:

A regulatory proposal with request for comment is necessary to update current regulations covering the worker-trainee program in order to allow for the possibility of promotion to higher levels.

Summary of the Legal Basis:

The legal bases for these regulations are 5 U.S.C. 3301 and 5 U.S.C. 3302, which authorize the President to prescribe rules governing employment in the competitive civil service.

Alternatives:

The only reasonable alternative to proposing revisions to these regulations would be to retain the existing regulations unchanged, which would not provide the maximum opportunity for individuals hired into this program.

Anticipated Costs and Benefits:

There are no anticipated costs associated with the publication of these revised regulations. Revised regulations would provide additional benefit to those hired into this program by way of providing increased opportunity for advancement.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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OPM

149. • REEMPLOYMENT PRIORITY LIST

Priority:

Other Significant

Legal Authority:

5 USC 1315; 5 USC 8151

CFR Citation:

5 CFR 330, subpart B

Legal Deadline:

None

Abstract:

The Office of Personnel Management is proposing regulations covering the operation and administration of the Reemployment Priority List (RPL). The RPL provides competitive service employees separated by reduction in force with the first opportunity for reemployment in their former agency over candidates who do not work for the agency. The RPL also provides the same priority to former employees who were separated or downgraded because of a compensable injury or disability and have fully recovered more than one year after compensation began. These proposed regulations would update RPL procedures in order to assist agencies in providing displaced employees with maximum reemployment opportunities.

Statement of Need:

A regulatory proposal with request for comment is necessary to update current Reemployment Priority List regulations.

Summary of the Legal Basis:

The legal bases for these regulations are 5 U.S.C. 3315 and 5 U.S.C. 8151, which allow veterans and injured employees who have recovered to receive preference in consideration for reemployment.

Alternatives:

The only reasonable alternative to proposing revisions to these regulations would be to retain the existing regulations unchanged, which would leave them out of date and less effective in placing former employees in positions.

Anticipated Costs and Benefits:

There are no anticipated costs associated with the publication of revised regulations on reemployment priority. Revised regulations would provide more streamlined and effective means of reemployment consideration for employees and agencies, and take full advantage of technological advances.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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OPM

150. • CLARIFICATION OF HIRING AUTHORITIES

Priority:

Other Significant

Legal Authority:

5 USC 3301; 5 USC 3302

CFR Citation:

5 CFR 330; 5 CFR 332; 5 CFR 333; 5 CFR 337

Legal Deadline:

None

Abstract:

In an effort to consolidate and streamline existing hiring authorities and to clarify existing competitive examining authorities, the Office of Personnel Management is proposing to revise the regulations covering the operation and administration of these authorities.

Statement of Need:

A regulatory proposal with request for comment is necessary to give agencies greater input regarding the structure and clarity of this consolidation effort.

Summary of the Legal Basis:

The legal bases for these regulations are 5 U.S.C. 3301 and 5 U.S.C. 3302, which authorize the President to prescribe rules governing employment in the competitive civil service.

Alternatives:

We intend to consolidate information contained in all or part of these regulations to achieve a more organized approach to regulations dealing with competitive examining. The alternative would be to retain existing regulations unchanged, which would leave them without the benefit of this consolidated approach.

Anticipated Costs and Benefits:

There are no anticipated costs associated with the publication of revised regulations clarifying hiring authorities. Revised regulations would provide more effective means of applying and administering competitive hiring authorities.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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BILLING CODE 6325-01-F

PENSION BENEFIT GUARANTY CORPORATION (PBGC)

Statement of Regulatory and Deregulatory Priorities

PBGC Insurance Programs

The Pension Benefit Guaranty Corporation (PBGC) administers two insurance programs for privately defined benefit plans under title IV of the Employee Retirement Income Security Act of 1974 (ERISA): A single-employer plan termination insurance program and a multiemployer plan insolvency insurance program. The PBGC protects the pensions of nearly 42 million working men and women in about 45,000 privately defined benefit plans, including about 2,000 multiemployer plans.

Under the single-employer program, the PBGC pays guaranteed and certain other pension benefits to participants and beneficiaries if their plan terminates with insufficient assets (distress and involuntary terminations). At the end of fiscal year 1997, the PBGC was trustee of about 2,500 plans and paid $824 million in benefits to about 206,000 people during 1997. Another 260,000 people will receive benefits when they retire in the future.

Most terminating single-employer plans terminate with sufficient assets to pay all benefits. The PBGC has administrative responsibility for these terminations (standard terminations), but its role is limited to seeing that proper procedures are followed and participants and beneficiaries receive their plan benefits.

The multiemployer program (which covers about 8.8 million workers and retirees in about 2,000 insured plans) is funded and administered separately from the single-employer program and differs in several significant ways. The multiemployer program covers only collectively bargained plans involving more than one unrelated employer. The PBGC provides financial assistance (in the form of a repayable loan) to the plan if the plan is unable to pay benefits at the guaranteed level. Guaranteed benefits are generally less than a participant's full benefit under the plan (and less than the single-employer guaranteed benefit). PBGC financial assistance occurs infrequently.

The PBGC receives no funds from general tax revenues. Operations are financed by insurance premiums, investment income, assets from pension plans trusteed by the PBGC, and recoveries from the companies formerly responsible for the trusteed plans.

To carry out these functions, the PBGC must issue regulations interpreting such matters as the termination process, establishment of procedures for the payment of premiums, and assessment and collection of employer liability.

Objectives and Priorities

PBGC regulatory objectives and priorities are developed in the context of the statutory purposes of title IV: (1) To encourage voluntary private pension plans, (2) to provide for the timely and uninterrupted payment of pension benefits to participants and beneficiaries, and (3) to maintain the premiums that support the insurance programs at the lowest possible levels consistent with carrying out the PBGC's statutory obligations (ERISA section 4002(a)).

The PBGC implements its statutory purposes by developing regulations designed (1) to assure the security of the pension benefits of workers, retirees, and beneficiaries; (2) to improve services to participants; (3) to ensure that the statutory provisions designed to minimize losses for participants in the event of plan termination are effectively implemented; (4) to encourage the establishment and maintenance of defined benefit pension plans; (5) to facilitate the collection of monies owed to plans and to the PBGC, while keeping the related costs as low as possible; and (6) to simplify the termination process.

Legislative Initiatives

On December 8, 1994, the Retirement Protection Act of 1994 was enacted. The Retirement Protection Act (1) accelerates the funding of underfunded single-employer pension plans, (2) phases out the cap on the variable rate portion of the premium paid to the PBGC by underfunded single-employer plans, (3) provides the PBGC with better tools to prevent employers from escaping their plan funding obligations through corporate transactions, (4) requires better information to participants in underfunded plans on plan funding status and PBGC guarantees, and (5) helps assure that workers do not lose pensions because they have lost contact with a terminating pension plan covered by the PBGC.

In May 1996, the President submitted the Retirement Savings and Security Act (RSSA) to Congress. The RSSA would have expanded coverage, increased portability and worker protection, and simplified pension law. The proposal included an increase in the guarantees in the multiemployer insurance program to address inflation since 1980 and expansion of the PBGC's missing participant program to include terminating defined contribution plans and non-PBGC-covered defined benefit plans. The Small Business Job Creation Act of 1996 and the Taxpayer Relief Act of 1997 included many of the RSSA provisions but did not include the increase in the multiemployer guarantee or the expansion of the missing participant program. These provisions are contained in several bills that were introduced in the House and Senate in 1997 and 1998 and remain legislative objectives.

Many workers are not saving enough, through personal savings or a 401(k) or other defined contribution plan, for a secure retirement. About half of all workers have no employment-based pension coverage. In businesses with fewer than 100 employees, only about 20 percent of workers are covered by any retirement plan. Traditional pension plans, i.e., defined benefit plans, provide a predictable lifetime benefit, guaranteed by the PBGC. Yet the defined benefit system is stagnating. We want to revitalize the system so that it can meet the retirement needs of American workers into the future.

In early 1998, the Administration proposed a new, simplified defined benefit plan—the Secure Money Annuity or Retirement Trust (SMART)—for employers with 100 or fewer employees. SMART combines the advantages of traditional defined benefit plans and defined contribution plans, while removing some of the major obstacles that discourage small business from adopting defined benefit plans. (The SMART proposal is contained in the Employee Pension Portability and Accountability Act of 1998 (H.R.3672) and the Retirement Accessibility, Security, and Portability Act of 1998 (S.2249 and H.R.4152).) For workers, SMART provides predictable benefits for life, guaranteed by PBGC, portability, and a chance to share in favorable investment experience. For employers, SMART offers more predictable contributions and reduced administrative costs. The Administration is also looking at ways to revitalize the defined benefit system for larger employers and their workers. The PBGC has made one of its priorities talking with consultants and others trying to market defined benefit plans in order to understand what are the current barriers to expansion of defined benefit plans and what changes are necessary to reinvigorate the defined benefit system.

Regulatory and Deregulatory Initiatives

The PBGC issued regulations implementing the Retirement Protection Act through the end of 1996. In FY 1997 and FY 1998, the PBGC focused on changes that would simplify the rules and reduce regulatory burden. The PBGC:

- Reduced penalties for late premiums that are paid before the PBGC notifies the plan of the delinquency (statement of policy, December 2, 1996).
- Extended the time limits for various actions required to terminate a fully funded single-employer plan in a "standard termination" (final rule, November 7, 1997).
- Stopped the reduction of monthly benefits under its actuarial recoupment method once the nominal amount of the benefit overpayment is repaid (final rule, May 29, 1998).
- Provided participants with benefits valued up to $5,000 in PBGC-trusteed plans with the choice of receiving their benefit in the form of an annuity or a lump sum (final rule, July 17, 1998).

The PBGC is continuing to review its regulations to look for further simplification opportunities.

The PBGC's regulatory plan for October 1, 1998, to September 30, 1999, consists of one significant regulatory action.

PBGC

PROPOSED RULE STAGE

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151. ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS; VALUATION OF BENEFITS AND ASSETS

Priority:

Other Significant

Legal Authority:

29 USC 1302(b)(3); 29 USC 1341; 29 USC 1301(a); 29 USC 1344; 29 USC 1362

CFR Citation:

29 CFR 4044 subpart B

Legal Deadline:

None

Abstract:

The Pension Benefit Guaranty Corporation is considering amending its benefit valuation and asset allocation regulations by adopting more current mortality tables and otherwise simplifying and improving its valuation assumptions and methods.

Statement of Need:

The PBGC's regulations prescribe rules for valuing a terminating plan's benefits for several purposes, including (1) determining employer liability and (2) allocating assets to determine benefit entitlements. The PBGC's interest assumption for valuing benefits, when combined with the PBGC's mortality assumption, is intended to reflect the market price of single-premium, nonparticipating group annuity contracts for terminating plans. In developing its interest assumptions, the PBGC uses data from surveys conducted by the American Council of Life Insurance. The PBGC currently uses a mortality assumption based on the 1983 Group Annuity Mortality Table in its benefit valuation and asset allocation regulations (29 CFR parts 4044 and 4281). In May 1995, the Society of Actuaries Group Annuity Valuation Table Task Force issued a report that recommends new mortality tables for a new Group Annuity Reserve Valuation Standard and a new Group Annuity Mortality Valuation Standard. In December 1996, the National Association of Insurance Commissioners adopted the new tables as models for determining reserve liabilities for group annuities. The PBGC is now considering incorporating the new tables into its regulations and making other modifications.

Summary of the Legal Basis:

The PBGC has the authority to issue rules and regulations necessary to carry out the purposes of title IV of ERISA.

Alternatives:

Not yet determined.

Anticipated Costs and Benefits:

Cost estimates are not yet available. However, the PBGC expects that this regulation will not have a material effect on costs.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
Notice of Intent to Propose Rulemaking	03/19/97	62 FR 12982
NPRM	04/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

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BILLING CODE 7708-01-F

SMALL BUSINESS ADMINISTRATION (SBA)

Statement of Regulatory Priorities

The Small Business Administration (SBA) continues to focus its regulatory efforts towards delivering sound economic development programs to small businesses through streamlined, customer-oriented regulations. SBA began its efforts to streamline SBA regulations in 1994 in response to a Presidential directive to all agencies to review, revise, and eliminate regulations. SBA followed the directive, thoroughly reviewed all regulations, and by 1996, revised the bulk of SBA's regulations. The revised regulations are less burdensome, more "user-friendly," and provide for more efficient operations. The regulations incorporate SBA's mission to ensure access to capital to our Nation's small businesses.

SBA's 1998 Regulatory Plan

Today, SBA regulations are streamlined and current. The SBA expects Congress to enact legislation that will require some alterations to SBA's lending and investment programs (13 CFR 107 and 120). SBA does not anticipate the need to draft substantive regulations for the Agency's 1998 initiatives and therefore submits no new regulations for the 1998 regulatory plan.

SBA's 1999 Regulatory Plan

Section 7(a) of the Small Business Act states that the Small Business Administration may provide financing to small businesses "directly or in cooperation with banks or other financial institutions." Today, SBA guarantees loans through approximately 7,000 lenders. Of these lenders, 14 currently are Small Business Lending Companies (SBLCs) that are not otherwise regulated by Federal or State chartering, licensing, or similar regulatory control. SBA examines or audits these SBLCs periodically. In view of SBA's desire to manage its guaranteed loan portfolio more effectively, along with recent increases in loan volume, SBA expects to increase its SBLC oversight. To that end, SBA will draft regulations that govern the oversight and operation of the SBLC program.

Other than the SBLC regulations, SBA does not anticipate the need to draft substantive regulations for the Agency's 1999 initiatives and therefore submits no further regulations for the 1999 regulatory plan.

SBA

PROPOSED RULE STAGE

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152. • SMALL BUSINESS LENDING COMPANY EXPANSION AND OVERSIGHT REGULATIONS

Priority:

Other Significant

Legal Authority:

15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(b)

CFR Citation:

13 CFR 120

Legal Deadline:

None

Abstract:

This rulemaking would amend 13 CFR part 120 to update the rules regarding Small Business Lending Company (SBLC) oversight and expand the SBLC Program.

Statement of Need:

Section 7(a) of the Small Business Act states that the Small Business Administration (SBA) may provide financing to small businesses "directly or in cooperation with banks or other financial institutions." Today, SBA guarantees loans through approximately 7,000 lenders. Of these lenders, 14 are Small Business Lending Companies (SBLCs) that are not otherwise regulated by Federal or State chartering, licensing, or similar regulatory control. SBA examines or audits these SBLCs periodically. Congressional and Administration policy to privatize SBA lending and recent increases in loan volume require that SBA increase its SBLC oversight. To that end, SBA will draft regulations that govern the oversight and expansion of the Small Business Lending Company Program.

Summary of the Legal Basis:

Not required by statute or court order.

Alternatives:

This rulemaking amends and expands SBA's existing regulations on the SBLC Program.

Anticipated Costs and Benefits:

This rulemaking is designed to clarify SBA's oversight responsibilities in the SBLC Program. It will also facilitate access by new potential small business lenders to the SBLC Program. No costs to the Government or the SBLCs associated with this rulemaking will result. However, benefits from improving access to the SBLC Program will accrue to the general economy through the creation of greater opportunity for small business loans, creation of jobs, and increased tax revenues.

Risks:

This regulation addresses no risks to the public health and safety or to the environment.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	02/00/99	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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BILLING CODE 8025-01-F

SOCIAL SECURITY ADMINISTRATION (SSA)

Statement of Regulatory Priorities

The Social Security Administration (SSA) administers the retirement, survivors, and disability insurance programs under title II of the Social Security Act (the Act) and the Supplemental Security Income (SSI) Program under title XVI of the Act. For the most part, SSA's regulations do not impose burdens on the private sector or on State or local governments. Our regulations codify the requirements for entitlement to benefits under the programs we administer.

Our nine entries for The Regulatory Plan represent areas of major importance in benefit program administration of the retirement, disability, and supplemental security income programs.

Included in this year's Plan are proposed regulations that will provide more choices for people with disabilities who seek Return-to-Work services so that they may become self-sufficient. These proposed regulations parallel provisions of legislation, The Work Incentives Improvement Act of 1998, presently pending in Congress.

We are currently preparing two final regulations to implement several elements of a major agency initiative known as "process unification," which is designed to produce one set of adjudicative standards for all levels of disability review within SSA. The first, Weight of Disability Determination Service (DDS) Medical Consultant Opinions, will define the specific weight to be given to DDS medical consultant opinions in hearing decisions. The second, Assessment of Residual Functional Capacity, will clarify the guidelines in our regulations used in determining whether an individual under age 50 lacks the capacity to perform less than a full range of sedentary work.

In response to the Reinventing Government Initiative to create a Federal Government that works better and costs less, we list one regulatory initiative—Permit Department of State and the Immigration and Naturalization Service to Collect Information Needed to Assign Social Security Numbers to Aliens. The goal of this process is to coordinate services to customers who, under current procedures, must deal with multiple Federal agencies to establish their status as alien residents of the United States. This regulatory authority will support a project with INS whereby it would transmit data to SSA electronically so that SSA can issue social security numbers to certain resident aliens.

We have also included in this year's Plan a regulation, Administrative Res Judicata, that will set forth principles by which SSA distinguishes its policies on administrative res judicata and administrative collateral estoppel from the common-law doctrines of res judicata and collateral estoppel that courts sometimes apply in Social Security cases.

To improve management in the area of debt collection, we plan to develop regulations to implement the new debt collection tools authorized by recent legislation. Four of the entries in this year's Plan will further our efforts in this initiative. The first, Federal Salary Offset, will enable us to collect qualifying, delinquent title II debts owed by former beneficiaries who are currently Federal employees. The second, Private Collection Agencies, permits us to refer qualifying, delinquent title II debts owed by former beneficiaries to private collection agencies for further debt collection efforts. The third, Administrative Wage Garnishment, will enable us to collect qualifying, delinquent title II and title XVI debts owed by former beneficiaries who are now employed (by other than the Federal Government). The last in this category, Interest Charging/Indexing, will provide us authority to charge interest on qualifying, delinquent title II debts owed by former beneficiaries.

Consistent with the President's Regulatory Reinvention Initiative, we are working diligently to improve our program benefit regulations and to develop partnerships with large segments of the community of stakeholders interested in Social Security programs. We expect that the partnerships will contribute to the successful development of our Regulatory Plan entries.

SSA

PROPOSED RULE STAGE

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153. ADMINISTRATIVE REVIEW PROCESS; ADMINISTRATIVE RES JUDICATA AND RELATED RULES (526P)

Priority:

Other Significant

Legal Authority:

42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 405(j); 42 USC 421; 42 USC 401(j); 42 USC 425; 42 USC 405 note; 42 USC 421 note; 42 USC 1383; 42 USC 1383b; 42 USC 1382c; 42 USC 902(a)(5); 42 USC 404(f)

CFR Citation:

20 CFR 404.903a (New); 20 CFR 404.903b (New); 20 CFR 404.950; 20 CFR 404.957; 20 CFR 404.967; 20 CFR 416.1403a (New); 20 CFR 416.1403b (New); 20 CFR 416.1450; 20 CFR 416.1457; 20 CFR 416.1467

Legal Deadline:

None

Abstract:

These proposed changes will amend our regulations governing the administrative review process for the Social Security and Supplemental Security Income (SSI) programs to update our procedures and to reflect and implement sections 205(b)(3)(A) and 1631(c)(1)(B)(i) of the Act, as added by section 5107 of Pub. L. 101-508. Section 5107 specifies certain cases in which our policy on administrative res judicata may not be applied to deny a claimant's subsequent application for benefits under the Social Security or SSI program. In general, section 5107 provides that an individual's failure to timely request review of an adverse determination (initial or reconsidered) under the Social Security or SSI program may not be used by us as a basis for a denial of the claimant's subsequent application for benefits under the same program, if the failure to request review was due to certain circumstances specified in the statute.

We are also proposing to amend our regulations to expand and clarify our policy on administrative res judicata and on collateral estoppel.

Statement of Need:

This regulation is necessary to implement provisions of Pub. L. 101-508 and make related administrative changes.

Summary of the Legal Basis:

Public Law 101-508.

Alternatives:

None.

Anticipated Costs and Benefits:

Undetermined at this time.

Risks:

We do not see any risks with these proposed changes.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal

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SSA

154. • FEDERAL SALARY OFFSET (WITHHOLDING A PORTION OF A FEDERAL EMPLOYEE'S SALARY TO COLLECT A DELINQUENT DEBT OWED TO THE SOCIAL SECURITY ADMINISTRATION) (721P)

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

42 USC 404; 42 USC 405; 42 USC 902; 5 USC 5514

CFR Citation:

20 CFR 422

Legal Deadline:

None

Abstract:

This initiative will enable the Social Security Administration (SSA) to collect qualifying, delinquent title II debts owed by former beneficiaries who are currently Federal employees. The debt collection will be accomplished by the partial reduction of the employee's disposable salary.

Statement of Need:

This regulation is required by 5 U.S.C. 5514(b) and by regulations of the Department of the Treasury (Treasury) in order for SSA to participate in the Federal Salary Offset program. Treasury's regulation 31 CFR section 285.7(d)(2) requires agencies to prescribe regulations in accordance with the requirements of 31 USC 3716 (administrative offset) and 5 USC 5514 (salary offset).

Summary of the Legal Basis:

SSA's use of the Federal Salary Offset program is authorized by 42 USC 404(f), as amended by section 31001(z)(2) of Public Law 104-134, the Debt Collection Improvement Act of 1996, and 5 USC 5514.

Alternatives:

None.

Anticipated Costs and Benefits:

Undetermined at this time.

Risks:

At this time we have not identified any risks associated with the proposal.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal

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SSA

155. • PRIVATE COLLECTION AGENCIES (USING PRIVATE COLLECTION AGENCIES TO HELP SSA COLLECT DELINQUENT TITLE II DEBTS OWED BY FORMER BENEFICIARIES) (722P)

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

42 USC 404; 42 USC 405; 42 USC 902; 31 USC 3718

CFR Citation:

20 CFR 422

Legal Deadline:

None

Abstract:

This initiative will enable the Social Security Administration (SSA) to refer delinquent title II debts owed by former beneficiaries to private collection agencies for further debt collection efforts.

Statement of Need:

This regulation will assist SSA's debt collection initiatives.

Summary of the Legal Basis:

The use of private collection agencies is authorized by 42 USC 404(f), added by section 5(a) of Public Law 103-387, the Domestic Employment Reform Act of 1994, and 31 USC 3718.

Alternatives:

We previously promulgated regulations for our debt collection program including such collection actions as tax refund offset, credit bureau reporting, and administrative offset. We feel regulations governing the use of private collection agencies are in keeping with this practice.

Anticipated Costs and Benefits:

Undetermined at this time.

Risks:

At this time we have not identified any risks associated with the proposal.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Federal

Procurement:

This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

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SSA

156. • CHARGING INTEREST (CHARGING INTEREST ON DELINQUENT DEBTS) (723P)

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

42 USC 404; 42 USC 405; 42 USC 902; 31 USC 3717

CFR Citation:

20 CFR 422

Legal Deadline:

None

Abstract:

Under this initiative, the Social Security Administration (SSA) will charge interest and penalties on qualifying, delinquent title II debts owed by former beneficiaries.

Statement of Need:

This regulation will assist SSA's efforts in its debt collection initiatives.

Summary of the Legal Basis:

SSA is authorized to charge interest and penalties on certain delinquent title II overpayment debts in accordance with 31 U.S.C. 3717, by 42 U.S.C. 404(f), as amended by section 31001(z)(2) of Pub. L. 104-134, the Debt Collection Improvement Act of 1996. Section 31001(q) of the Debt Collection Improvement Act authorizes increasing the debt by the Cost-of-Living-Adjustment in lieu of charging interest.

Alternatives:

The statute also indicates that the head of an agency may prescribe regulations identifying appropriate circumstances to waive interest entirely. The Notice of Proposed Rulemaking will propose conditions under which such actions could be taken.

Anticipated Costs and Benefits:

Undetermined at this time.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal

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SSA

157. • ADMINISTRATIVE WAGE GARNISHMENT (TO REPAY A DEBT OWED TO THE SOCIAL SECURITY ADMINISTRATION) (724P)

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

42 USC 405; 42 USC 1383; 31 USC 3720D

CFR Citation:

20 CFR 422

Legal Deadline:

None

Abstract:

This initiative will enable the Social Security Administration (SSA) to collect qualifying, delinquent titles II and XVI debts owed by former beneficiaries who are now employed (as other than Federal employees). Administrative wage garnishment allows SSA to direct an employer to deduct a percentage of the disposable wages earned by the worker/debtor, and to send that amount to SSA as payment toward the delinquent debt. Administrative wage garnishment does not require a court judgment to impose the withholding order.

Statement of Need:

This regulation is necessary in order for SSA to use administrative wage garnishment as a debt collection tool.

Summary of the Legal Basis:

SSA is authorized to use administrative wage garnishment by 31 U.S.C. 3720 D, added by section 31001(z)(2) of Public Law 104-134, the Debt Collection Improvement Act of 1996. Section (o)(1) authorizes the use of administrative offset.

Alternatives:

None--without regulatory authority we would be unable to proceed with administrative wage garnishment. SSA must either adopt by reference the Treasury Department's regulations on wage garnishment hearings or prescribe SSA regulations regarding such hearings consistent with those Treasury Department regulations. See 31 CFR 285.11(f)(1).

Anticipated Costs and Benefits:

Undetermined at this time.

Risks:

At this time we have not identified any risks associated with the proposal.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

State, Local, Tribal, Federal

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SSA

158. • SELF-SUFFICIENCY INCENTIVES FOR TITLE II AND TITLE XVI PROGRAM BENEFICIARIES (725P)

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

42 USC 405; 42 USC 1383

CFR Citation:

20 CFR 404.2101 to 404.2127; 20 CFR 416.2201 to 416.2227

Legal Deadline:

None

Abstract:

These proposed changes will amend our regulations to provide increased choice for people with disabilities who seek vocational rehabilitation services and supports so that they may return to work. These proposed regulations

will also strengthen public-private partnerships to encourage support and assistance for people with disabilities to become employed.

Statement of Need:

These regulations are necessary to promote our goal of returning disabled persons to meaningful work activity, provide an alternative to SSA's Vocational Rehabilitation Reimbursement Program, and make other improvements to SSA's work incentives and rehabilitation and employment programs.

Summary of the Legal Basis:

The changes will be necessary to implement Administration sponsored legislation presently pending in Congress. The dates projected for publication of the NPRM and final assume Congressional enactment of legislation during 1998.

Alternatives:

None.

Anticipated Costs and Benefits:

Undetermined at this time.

Risks:

At this time, we have not identified any risks associated with these proposed regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

State, Federal

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SSA

FINAL RULE STAGE

159. PERMIT DEPARTMENT OF STATE AND THE IMMIGRATION AND NATURALIZATION SERVICE TO COLLECT INFORMATION NEEDED TO ASSIGN SOCIAL SECURITY NUMBERS TO ALIENS (569F)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 405; 42 USC 1383

CFR Citation:

20 CFR 422.103; 20 CFR 422.106; 20 CFR 422.107; 20 CFR 422.110

Legal Deadline:

None

Abstract:

The regulations provide authorization for elements of the Department of State (DOS) and the Immigration and Naturalization Service (INS) to obtain, as part of the immigration process, enumeration information for SSA to assign Social Security numbers (SSN) and issue SSN cards. Currently, SSA employees review evidence and process applications for all aliens who are issued SSN cards. This new process will eliminate duplicate collection of data by SSA of the data elements already collected by the DOS and/or INS for immigration purposes and provide for better overall government efficiency.

Statement of Need:

This regulation is necessary to implement a Reinventing Government initiative.

Summary of the Legal Basis:

These changes are not required by statute or court order.

Alternatives:

None.

Anticipated Costs and Benefits:

We will need to reimburse INS for the enumeration work they perform. We estimate that there is a 20 percent greater efficiency to the government if INS gathers the information to enumerate these applicants. After reimbursing INS, we expect to save approximately $13 million for the period 1998-2002.

Risks:

At this time we have not identified any risks associated with the proposal.

Timetable:

Action	Date	FR Cite
NPRM	12/02/97	62 FR 63681
NPRM Comment Period End	02/02/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal

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SSA

160. FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE; DETERMINING DISABILITY AND BLINDNESS; REVISION TO MEDICAL-VOCATIONAL GUIDELINES (599F)

Priority:

Other Significant

Legal Authority:

42 USC 423; 42 USC 405(a); 42 USC 902(a)(5)

CFR Citation:

20 CFR 404.1500, app 2

Legal Deadline:

None

Abstract:

This rule would clarify the Social Security Medical-Vocational guidelines used to evaluate disability in individuals under age 50 who have severe impairments that do not meet or equal the criteria of any listed impairment but have a residual functional capacity for no more than the full range of sedentary work. The guidelines are contained in appendix 2 of subpart P of 20 CFR 404.

Statement of Need:

This regulation is necessary to implement one of several process unification initiatives approved by the Commissioner on July 8, 1996.

Summary of the Legal Basis:

None.

Alternatives:

None.

Anticipated Costs and Benefits:

Since these regulations merely clarify existing policy, they impose no additional program or administrative costs.

Risks:

None--Because the only purpose of these regulations is to clarify existing policy.

Timetable:

Action	Date	FR Cite
NPRM	09/23/97	62 FR 49636
NPRM Comment Period End	11/24/97	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal

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SSA

161. FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND AND DISABLED; EVALUATING OPINION EVIDENCE (624F)

Priority:

Other Significant

Legal Authority:

42 USC 405(a); 42 USC 405(b); 42 USC 902(a); 42 USC 1382C; 42 USC 221

CFR Citation:

20 CFR 404.1502; 20 CFR 404.1512; 20 CFR 404.1513; 20 CFR 404.1519; 20 CFR 404.1527; 20 CFR 416.902; 20 CFR 416.912; 20 CFR 416.913; 20 CFR 416.919; 20 CFR 416.927

Legal Deadline:

None

Abstract:

These changes will revise our disability regulations to clarify the weight administrative law judges and the appeals council are to give to opinion evidence from State agency medical and psychological consultants, other program physicians and psychologists, and medical experts in claims for disability benefits under title II and title XVI of the Social Security Act.

Statement of Need:

This regulation is necessary to implement one of several process unification initiatives approved by the Commissioner on July 8, 1996.

Summary of the Legal Basis:

None.

Alternatives:

None.

Anticipated Costs and Benefits:

We do not anticipate any additional program or administrative costs.

Risks:

At this time we have not identified any risks associated with the proposal.

Timetable:

Action	Date	FR Cite
NPRM	09/25/97	62 FR 50270
NPRM Comment Period End	11/24/97	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal

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BILLING CODE 4190-29-F

COMMODITY FUTURES TRADING COMMISSION (CFTC)

Statement of Regulatory Priorities

The mission of the Commodity Futures Trading Commission is to protect market users and the public from fraud, manipulation, and abusive practices related to the sale of commodity futures and options and to foster open, competitive, and financially sound commodity futures and option markets. The Commission's objectives are to: (1) Foster futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity; (2) oversee markets which can be used effectively by producers, processors, financial institutions, and other firms for the purposes of price discovery and risk shifting; (3) promote compliance with, and deter violations of, Federal commodities laws; (4) require commodities professionals to meet high standards; (5) provide a forum for effectively and expeditiously handling customer complaints against persons or firms registered under the Commodity Exchange Act; (6) ensure sound financial practices of clearing organizations and firms holding customer funds; (7) promote and enhance effective self-regulation of the commodity futures and option markets; (8) facilitate the continued development of an effective, flexible regulatory environment responsive to evolving market conditions; and (9) promote markets free of trade practice abuses.

CFTC

PROPOSED RULE STAGE

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162. • CONCEPT RELEASE CONCERNING FOREIGN COMPUTER TERMINAL PLACEMENT IN THE UNITED STATES

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

7 USC 2; 7 USC 4; 7 USC 6; 7 USC 6c; 7 USC 12a

CFR Citation:

17 CFR 30

Legal Deadline:

None

Abstract:

The Commission issued a Concept Release to solicit the views of the public on issues relating to the placement of computer terminals in the U.S. by foreign boards of trade. The terminals would be used for the purpose of trading products available through those boards of trade. The Release requests public comment on a variety of issues including the extent to which a foreign board of trade should be permitted to place computer terminals in the U.S. without being designated as a U.S. contract market and issues relating to electronic order routing and trade execution systems. The Release also sets forth a potential regulatory framework for a proposed rule and serves as the first stage of the Commission's rulemaking process.

Statement of Need:

The Commission received a number of inquiries regarding the ability of a foreign board of trade to place computer terminals in the U.S. for the purpose of facilitating the trading of products available on the boards of trade without being required to be designated as a U.S. contract market. In undertaking a rulemaking in this area, the Commission seeks to implement a regulatory framework that will provide certainty to foreign boards of trade that want to place terminals in the U.S., will not inhibit cross-border trading activities, will be consistent with the Commission's regulatory obligations to maintain the integrity and competitiveness of the U.S. markets, and will provide protection to U.S. customers.

Summary of the Legal Basis:

Section 4(a) of the Commodity Exchange Act (Act) states that a commodity futures contract may be traded lawfully in the U.S. if it is traded on or subject to the rules of a board of trade that has been designated as a contract market by the Commission. The concept release requests comments on a potential regulatory framework that would provide a means for a foreign board of trade to petition the Commission to place its computer terminals in the U.S. without subjecting the foreign board of trade to the requirement that it be designated as a contract market under the Act.

Alternatives:

Absent the Commission undertaking a rulemaking in this area, foreign boards of trade would be required to be designated as U.S. contract markets prior to placing terminals in the U.S. for the purpose of facilitating access to their products.

Anticipated Costs and Benefits:

As a financial regulator, the Commission is acutely aware of the costs of regulation. Throughout its history, the Commission has taken into account the costs of its proposed regulations to ensure that the benefits of its regulations outweigh the costs.

Risks:

The Commission, through its Concept Release, has asked for public comment regarding any risks from the placement and use of foreign board of trade terminals in the U.S. and whether foreign boards of trade should be subject to Commission rules in order to minimize risks.

Timetable:

Action	Date	FR Cite
Concept Release	07/24/98	63 FR 39779
NPRM	11/00/98	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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CFTC

163. • REVISION OF FEDERAL SPECULATIVE POSITION LIMITS AND ASSOCIATED RULES

Priority:

Other Significant

Legal Authority:

7 USC 1a; 7 USC 2; 7 USC 4; 7 USC 6a; 7 USC 6c; 7 USC 6f; 7 USC 6g; 7 USC 6h; 7 USC 6i; 7 USC 6k; 7 USC 6m; 7 USC 6n; 7 USC 12a; 7 USC 12a(5); 7 USC 19

CFR Citation:

17 CFR 1; 17 CFR 17; 17 CFR 18; 17 CFR 150

Legal Deadline:

None

Abstract:

The Commission is proposing rules to raise the levels of Commission speculative limits for futures contracts on various agricultural commodities for the deferred contract months, codify a number of broad exemptions from the Commission rule that exchanges set speculative position limits for all contracts not subject to Commission limits, broaden the existing speculative position limit exemption provided under the Commission rule for independent account controllers, and amend the Commission's aggregation policy.

Statement of Need:

The Commission recently reviewed its policies and rules governing speculative position limits and found that expansion of the back-month speculative position limits would be appropriate. The Commission also believes it appropriate to codify a number of Commission policies relating to exchange-set speculative position limits and to expand the existing speculative limit exemptions provided under Commission rule for independent account controllers to reflect the trends toward greater complexity in the structure of financial services companies and greater professional management of trading funds.

Summary of the Legal Basis:

Section 4a(1) of the Commodity Exchange Act provides the Commission with the authority to "fix such limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of such commodity for future delivery on or subject to the rules of any contract market as the Commission finds are necessary to diminish, eliminate, or prevent such burden."

Alternatives:

The Commission has reviewed the alternatives of not revising its speculative limit rules as proposed and believes that those alternatives do not provide for appropriate expansion of the back-month speculative position limits nor appropriate codification of a number of Commission policies relating to speculative position limits.

Anticipated Costs and Benefits:

The anticipated benefits arising from the proposed rules would be that the Commission would reflect better the changing composition of the futures markets. The Commission anticipates that the rules would not result in an increase in any costs.

Risks:

Speculative limits are an effective means of preventing unreasonable or unwarranted price fluctuations. Periodic review of these limits enables the Commission to assess their effectiveness.

Timetable:

Action	Date	FR Cite
NPRM	07/17/98	63 FR 38525
NPRM Comment Period End	10/19/98	
Interim Final Rule	12/00/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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CFTC

FINAL RULE STAGE

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164. PROHIBITION ON VOTING BY INTERESTED MEMBERS

Priority:

Other Significant

Legal Authority:

7 USC 7a(a)(17)

CFR Citation:

17 CFR 1.69

Legal Deadline:

None

Abstract:

The regulation will implement the provisions of section 217 of the Futures Trading Practices Act of 1992, which require contract markets to adopt rules to avoid conflicts of interest in deliberations and voting by members of the governing board and disciplinary and other oversight committees. The rulemaking will define the relationships between a named party in interest and a member of the governing board or committee that would require abstention from deliberations and voting. The rulemaking will also provide guidelines on situations that would require a member to abstain from voting on a significant action because of a substantial financial interest in the outcome of the vote, based on positions held personally or at an affiliated firm, as well as on other matters addressed by the statute. The action potentially impacts the selection and composition of contract market governing boards and committees.

Statement of Need:

This rulemaking will further the regulatory objective of oversight of contract markets so as to assure that the markets remain open, competitive, and efficient.

Summary of the Legal Basis:

Section 5a(a)17 of the Commodity Exchange Act states that contract markets must "provide for the avoidance of conflict of interest in deliberations by (their) governing board(s) and any disciplinary and oversight committees." The rulemaking would establish standards for contract market rules that address the requirements stated above.

Alternatives:

These rules are required by statutory mandate set forth in the Futures Trading Practices Act of 1992. The Commission intends to pursue this rulemaking to achieve rules that will fulfill this statutory mandate in a cost-effective manner.

Anticipated Costs and Benefits:

As a financial regulator, the Commission is acutely aware of the costs of regulation. Throughout its history, the Commission has taken into account the costs of its proposed regulations in order to ensure that the benefits of its regulations outweigh the costs. To date, we know of no Commission regulation that adversely affected small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601-611 (1988).

Risks:

By avoiding conflicts of interest by governing board and committee members of self-regulatory organizations, the risks of interference with open, competitive and efficient markets is reduced.

Timetable:

Action	Date	FR Cite
NPRM	01/23/98	63 FR 3492
NPRM Comment Period End	03/23/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

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CFTC

165. • ECONOMIC AND PUBLIC INTEREST REQUIREMENTS FOR CONTRACT MARKET DESIGNATION

Priority:

Other Significant

Legal Authority:

7 USC 6c; 7 USC 7; 7 USC 7a; 7 USC 8; 7 USC 12a

CFR Citation:

17 CFR 5

Legal Deadline:

None

Abstract:

The Commission is proposing revisions to its Guideline on Economic and Public Interest Requirements for Contract Market Designations, 17 CFR part 5, appendix A, Guideline No. 1. Guideline No. 1 details the information that an application for contract markets designation should include to demonstrate that the contract market meets the economic requirements for designation. In furtherance of recent Commission streamlining efforts to reduce the time for Commission review of such applications, the Commission is proposing that Guideline No. 1 be revised to reduce any unnecessary burdens associated with designation applications.

Statement of Need:

The Commission recently promulgated fast-track review procedures to reduce the time for Commission review of contract market designation applications. To further streamline efforts, the Commission believes that it is necessary to revise the form and content requirements of Guideline No. 1 to reduce any unnecessary burdens associated with the designation process.

Summary of the Legal Basis:

The statutory requirements for contract market designation are found in sections 2(a)(1)(B), 5 and 5a of the Commodity Exchange Act (Act). The Commission, as an aid to the exchanges, has provided guidance in meeting these statutory requirements including the issuance of Guideline No. 1.

Alternatives:

The Commission has reviewed the alternatives of not revising Guideline No. 1 as proposed and has determined that without revising Guideline No. 1, the reduction of unnecessary burdens associated with the designation process could not be realized.

Anticipated Costs and Benefits:

The anticipated benefits from the proposed revisions to Guideline No. 1 include the codification of Commission contract market designation practices. The Commission also anticipates that the costs associated with the designation process will be reduced.

Risks:

The contract market designation process allows the Commission to evaluate whether the terms and conditions of proposed contracts address risks including market manipulation and dissemination of false information. In this action, the Commission is proposing to further streamline the contract designation process while preserving the regulatory functions of the process.

Timetable:

Action	Date	FR Cite
NPRM	07/17/98	63 FR 38537
NPRM Comment Period End	09/15/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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BILLING CODE 6351-01-F

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Statement of Regulatory Priorities

The U.S. Consumer Product Safety Commission is charged with protecting the public from unreasonable risks of death and injury associated with consumer products. To achieve this goal, the Commission:

- Participates in the development or revision of voluntary product safety standards;
- Develops mandatory product safety standards or banning rules when other, less restrictive, efforts are inadequate to address a safety hazard;
- Obtains repair, replacement, or refund of the purchase price for defective products that present a substantial product hazard; and
- Develops information and education campaigns about the safety of consumer products.

When deciding which of these approaches to take in any specific case, the Commission gathers the best available data about the nature and extent of the hazard presented by the product. The Commission then analyzes this information to determine the best way to reduce the hazard in each case. The Commission's rules require the Commission to consider, among other factors, the following criteria when deciding the level of priority for any particular project:

- Frequency and severity of injury;
- Causality of injury;
- Chronic illness and future injuries;
- Cost and benefits of Commission action;
- Unforeseen nature of the risk;
- Vulnerability of the population at risk; and
- Probability of exposure to the hazard.

Additionally, if the Commission proposes a mandatory safety standard for a particular product, the Commission is generally required to make statutory cost-benefit findings and adopt the least burdensome requirements that adequately protect the public.

The Commission's statutory authority requires it to rely on voluntary standards rather than mandatory standards whenever a voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury and it is likely that there will be substantial compliance with the voluntary standard. As a result, much of the Commission's work involves cooperative efforts with other participants in the voluntary standard-setting process rather than promulgating mandatory standards.

In fiscal year 1999, the Commission's significant rulemaking activities will involve development of options to address risks of fire associated with upholstered furniture and development of a proposed standard for multi-purpose lighters to make those products resistant to operation by young children. These projects are described in detail below.

Both of the rulemaking proceedings in the Commission's 1999 regulatory plan are related to protection of vulnerable populations. Upholstered furniture fires kill and injure children, the elderly, and families and individuals with lower incomes disproportionately to the representation of these persons in the population. With regard to multi-purpose lighters, children younger than 5 years of age usually are incapable of dealing with a fire once it has started. Consequently, they and their families are at special risk of injury from fires started by children playing with multi-purpose lighters. Most fatalities from the fires resulting from children playing with multi-purpose lighters reported to the Commission were the children who started the fires.

The emphasis on these two rulemaking activities in the Commission's 1999 regulatory plan is consistent with the Commission's statutory mandate and its criteria for setting priorities. Additionally, the Commission's 1999 regulatory plan supports the President's goal to reduce costs of health care by preventing injuries to individuals who are among the most vulnerable to being injured in accidents associated with the use of consumer products.

CPSC

PROPOSED RULE STAGE

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166. FLAMMABILITY STANDARD FOR UPHOLSTERED FURNITURE

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

15 USC 1193 Flammable Fabrics Act

CFR Citation:

16 CFR 1640

Legal Deadline:

None

Abstract:

On June 15, 1994, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding for development of a flammability standard to address risks of death, injury, and property damage from fires associated with ignition of upholstered furniture by small open-flame sources such as matches, lighters, or candles. This ANPRM was issued after the Commission granted part of a petition requesting development of a mandatory flammability standard to address risks of injury from ignition of upholstered furniture by: (1) small open-flame sources; (2) large open-flame sources; and (3) cigarettes. The Commission voted to deny that part of the petition requesting development of a mandatory standard to address hazards associated with ignition of upholstered furniture by large open-flame sources. The Commission also voted to defer a decision on that part of the petition requesting development of a standard to address cigarette ignition, and directed the staff to report to the Commission on the effectiveness of, and the extent of industry compliance with, a voluntary program to reduce risks of ignition of upholstered furniture by cigarettes. The Commission staff developed a draft standard to address ignition of upholstered furniture by small open-flame sources. The staff also reported its findings on the efficacy of the voluntary program developed by the furniture industry to reduce the risk of cigarette ignition. On March 2, 1998, the Commission voted to defer action on small open-flame sources and gather additional information on the potential toxicity of flame-retardant chemicals that might be used to meet a standard. A public hearing on this subject was held on May 5-6, 1998. The staff is now analyzing data from the hearing and completing other technical studies. In 1999, the staff is scheduled to brief the Commission on its findings and will present alternatives for future action by the Commission.

Statement of Need:

In 1995, approximately 670 deaths, more than 1,700 injuries, and about $250 million in property damage resulted from 13,600 residential fires in the United States in which upholstered furniture was the first item to ignite. This total includes fires ignited by small open-flame sources, large open-flame sources, and cigarettes. Small open-flame fires accounted for approximately 90 deaths, 490 injuries

and $62 million in property losses in 1995.

The total societal cost attributable to upholstered furniture fires was approximately $4.0 billion in 1995. A significant portion of that total -- $625 million -- was associated with upholstered furniture fires ignited by small open-flame sources, such as matches, lighters, or candles. These fires are not addressed by any national standard or voluntary program.

Summary of the Legal Basis:

Section 4 of the Flammable Fabrics Act (FFA) (15 USC 1193) authorizes the Commission to issue a flammability standard or other regulation for a product of interior furnishing if the Commission determines that such a standard is "needed to adequately protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury, or significant property damage." No aspect of the Commission's regulatory proceeding is required by statute or court order.

The Commission's regulatory proceeding could result in several actions, one of which could be the development of a mandatory standard requiring that upholstered furniture sold in the United States meet mandatory labeling requirements, resist ignition, or meet other performance criteria under test conditions specified in the standard.

Alternatives:

The ANPRM stated that the Commission was considering the following alternatives:

(1) The Commission could issue a mandatory flammability standard if the Commission finds that such a standard is needed to address an unreasonable risk of the occurrence of fire from ignition of upholstered furniture by small open-flame sources;

(2) The Commission could issue mandatory requirements for labeling of upholstered furniture, in addition to, or as an alternative to, the requirements of a mandatory flammability standard;

(3) The Commission could terminate the proceeding for development of a flammability standard and rely on a voluntary standard if a voluntary standard would adequately address the risk of fire and substantial compliance with such a standard is likely to result; and

(4) The Commission could terminate the proceeding and withdraw the ANPRM.

Anticipated Costs and Benefits:

The estimated annual cost of imposing a mandatory standard to address ignition of upholstered furniture by small open-flame sources will depend upon the test requirements imposed by the standard and the steps manufacturers take to meet those requirements. The average annual societal cost of fires involving upholstered furniture ignited by small open-flame sources since 1990 is more than $600 million. Again, depending upon the test requirements, a small open-flame standard could also reduce cigarette-ignited fire losses, the societal cost of which was over $2 billion in 1995. For this reason, the potential benefits of a mandatory standard to address the risk of ignition of upholstered furniture by small open-flame sources could be significant, even if the standard did not prevent all such fires started by open-flame sources.

Risks:

The estimated total cost to society from all residential fires associated with upholstered furniture was $4.0 billion in 1995.

Societal costs associated with upholstered furniture fires are among the highest associated with any product subject to the Commission's authority. A standard has the potential to reduce these societal costs.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/94	59 FR 30735
ANPRM Comment Period End	08/15/94	
Staff Briefing of Commission on ANPRM	12/18/97	
Commission Voted To Defer Action Pending Results Of Toxicity Hearing	03/02/98	
Commission Hearing May 5 & 6, 1998 on Possible Toxicity of Flame Retardant Chemicals	03/17/98	63 FR 13017
Commission Decision on NPRM	12/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

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CPSC

167. REQUIREMENTS FOR CHILD-RESISTANCE OF MULTI-PURPOSE LIGHTERS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

15 USC 2051 Consumer Product Safety Act

CFR Citation:

Not yet determined

Legal Deadline:

None

Abstract:

On January 16, 1997, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding which may result in a mandatory consumer product safety rule requiring multi-purpose lighters to resist operation by children. The Commission began this proceeding after granting a petition.

A mandatory product safety rule for multi-purpose lighters would require these lighters to have a child-resistant mechanism to prevent operation by most children younger than five years of age. The standard would include lighters marketed for a wide range of general household uses, such as igniting fuel for fireplaces, charcoal or gas-fueled grills, and camping equipment.

The staff forwarded a briefing package to the Commission in July 1998. The briefing package recommended publication of a notice of proposed rulemaking (NPRM) for a rule that would require multi-purpose lighters, also called utility lighters, to be child-resistant. On September 30, 1998, a notice of proposed rulemaking (NPRM) was published in the Federal Register.

Statement of Need:

When the Commission issued the safety standard for cigarette lighters (16 CFR part 1210) in 1993, multi-purpose lighters were excluded from its requirements because the Commission lacked information to establish that multi-purpose lighters were associated with an unreasonable risk of injury from fires set by children playing with such lighters. However, since issuance of the cigarette lighter standard, the Commission staff has obtained information about 158 incidents occurring from January 1988 through April 1998 in which children younger than five years of age started fires using multi-purpose lighters. These fires resulted in 23 deaths and 58 injuries. Because these data are actual incidents rather than national estimates, the extent of the total problem may be greater.

Children younger than five years of age usually are incapable of dealing with a fire once it has started. Consequently, they and their families are at special risk of injury from fires started by child-play. About half of all of the fatalities in the fires resulting from children playing with multi-purpose lighters were the children who started the fires. About 25 percent of the 58 persons injured in fires started by children with multi-purpose lighters were hospitalized for treatment.

Annual sales of multi-purpose lighters have grown from one million in 1985 to 20 million in 1998. With sales growing at a rate estimated to be 5 percent to 10 percent a year, it is expected that fires started with these products by children under five will also increase. Staff testing of lighters currently on the market indicated child resistance levels ranging from a low of 4 percent to a high of 41 percent, still far below the 85 percent required of cigarette lighters under the Commission's cigarette lighter standard.

Fires started by young children playing with multi-purpose lighters are not addressed by any voluntary standard or other voluntary program.

Summary of the Legal Basis:

Sections 7 and 9 of the Consumer Product Safety Act (CPSA) authorize the Commission to issue a consumer product safety standard to eliminate or reduce an unreasonable risk of injury associated with a consumer product. No aspect of this proceeding is required by statute or court order.

Alternatives:

This proceeding could result in the establishment of requirements for multi-purpose lighters to reduce risks of death and injury associated with fires ignited by multi-purpose lighters operated by young children. The ANPRM discussed the following alternatives:

(1) Establishment of a mandatory standard with performance requirements for multi-purpose lighters to reduce risks of death and injury from fires ignited by multi-purpose lighters operated by young children;

(2) Establishment of mandatory labeling requirements to warn of the risks of death and injury associated with fires ignited by multi-purpose lighters operated by young children, either instead of, or in addition to, a mandatory standard with performance requirements.

(3) Development of a voluntary standard containing performance, labeling, or other requirements to address risks of death and injury associated with fires ignited by multi-purpose lighters operated by young children; and

(4) The Commission could terminate the proceeding and withdraw the ANPRM.

Anticipated Costs and Benefits:

Based on available fire incident and sales information, the estimated cost to society of fires started by children playing with multi-purpose lighters is about $36 million a year. This estimate includes the costs associated with loss of life, medical treatment, lost income, pain and suffering, and property damage. A safety standard for multi-purpose lighters with a required child-resistance of 85 percent would provide estimated gross benefits of about $27 million a year. Costs of compliance are expected to result in increased consumer expenditures of around $16 million per year, resulting in net benefits around $11 million annually. This annual net benefit will increase if, as expected, sales of multi-purpose lighters increase.

Risks:

The Commission has information indicating that from January 1988 through April 1998, children younger than five years of age started at least 158 fires using multi-purpose lighters. These fires resulted in 23 deaths and 58 injuries. Based on available fire incident and sales information, the Commission staff estimates that the total cost to society of these fires is about $36 million a year.

Timetable:

Action	Date	FR Cite
ANPRM	01/16/97	62 FR 2327
ANPRM Comment Period End	03/17/97	
Staff Briefing Package on NPRM	07/15/98	
NPRM	09/30/98	63 FR 52397
NPRM Comment Period End	12/14/98	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

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BILLING CODE 6355-01-F

FEDERAL HOUSING FINANCE BOARD (FHFB)

Statement of Regulatory and Deregulatory Priorities

The Federal Housing Finance Board (Finance Board) is an independent agency that is charged under the Federal Home Loan Bank Act (Bank Act) with supervising and regulating the Nation's Federal Home Loan Bank (FHLBank) System. The FHLBank System comprises 12 regional FHLBanks that are each owned by their member financial institutions and that provide wholesale credit to members and certain nonmembers to be used for mortgage lending and related community investment activities. The FHLBank System also includes the Office of Finance, which issues FHLBank System consolidated obligations. The Finance Board is required to prepare the following regulatory plan pursuant to section 4 of Executive Order 12866.

As always, the Finance Board's highest regulatory priorities during the coming year are to ensure the safety and soundness of the FHLBank System and to ensure that the FHLBanks fulfill their housing finance and community investment mission. In furtherance of these statutory mandates, the Finance Board plans four significant regulatory actions during 1998-99. The most important of these will be the promulgation of proposed and final rules revising the Financial Management Policy for the FHLBanks (FMP), which governs the FHLBanks' investments and other aspects of their financial management, and codifying its contents into one or more regulations (RIN 3069-AA50). As part of its safety and soundness responsibilities, the Finance Board intends to address in the regulation control of interest rate risk assumed by the FHLBanks. As part of its effort to ensure that the FHLBanks fulfill their statutory mission, the Finance Board also plans to structure the regulation to encourage the FHLBanks to focus their balance sheets away from investments that are not related to housing finance and community investment and toward a combination of advances and other assets that are mission-related.

In addition, the Finance Board plans to finalize two related rules that were issued in proposed form during 1998. The first of these, dealing with FHLBank Community Investment Cash Advance (CICA) programs (RIN 3069-AA75), will establish a general framework under which FHLBanks may establish CICA programs, in addition to their existing Affordable Housing Programs and Community Investment Programs, to provide advances to members to fund loans for low- and moderate-income housing finance and "targeted" (as defined in the regulation) economic development in urban and rural areas. The second rule, dealing with FHLBank Standby Letters of Credit (RIN 3069-AA61), will codify FHLBank letter of credit guidelines into regulatory form and will amend such guidelines to permit FHLBanks to issue and confirm letters of credit for a wider range of purposes, including the types of targeted economic development addressed in the CICA regulation and pursuant to a wider range of eligible collateral, than currently is permitted.

Finally, during the coming year, the Finance Board intends to promulgate proposed and final rules to amend the collateral provisions of the Finance Board's Advances regulation to permit FHLBanks to accept as security for advances both federally guaranteed mortgages (to the extent of the guarantee), irrespective of such mortgages' delinquency status, and eligible collateral held by member-controlled Real Estate Investment Trusts (REITs), State security corporations, or other similar business structures (RIN 3069-AA77). All of these regulatory actions are in harmony with the regulatory philosophy and principles set forth by the President in Executive Order 12866 in that they either are necessary for the Agency to carry out effectively its statutory role as safety and soundness and mission regulator of the FHLBank System or are intended to reduce regulatory restrictions now imposed upon the FHLBanks and their members.

In addition to these regulatory initiatives, the Finance Board has been working, and will continue to work, with members of Congress and their staffs to refine and promote pending FHLBank System reform legislation. This legislation, if enacted, would devolve further governance authorities to the FHLBanks, would correct several technical and structural anomalies in the Bank Act, and would position the FHLBank System to operate at maximum efficiency and effectiveness in the financial world of the 21st century. If legislation is enacted in a form similar to that now under consideration, the Agency's regulatory priorities and its anticipated program of regulatory actions for the coming year will necessarily change.

FHFB

PROPOSED RULE STAGE

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168. FHLBANK FINANCIAL MANAGEMENT

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

12 USC 1422b(a); 12 USC 1431; 12 USC 1436(a)

CFR Citation:

Not yet determined

Legal Deadline:

None

Abstract:

The Finance Board will revise its Financial Management Policy (FMP) for the Federal Home Loan Bank System and will issue a proposed rule to codify it as a regulation.

Statement of Need:

In December 1993, the Finance Board adopted the FMP to provide guidance to and establish limits for the FHLBanks in their implementation of financial programs and strategies. The Finance Board intends to amend the policy to more thoroughly address FHLBanks' assumption of interest rate risk and to direct FHLBank funds toward investments that are more closely related to their housing finance and community investment mission. The Finance Board intends for the first time to promulgate the FMP as a regulation.

Summary of the Legal Basis:

Sections 11(h) and 16(a) of the Bank Act authorize the FHLBanks to make certain types of investments. Section 11 generally authorizes the FHLBanks to seek various sources of funding for their operations. Section 2B(a) of the Bank Act authorizes the Finance Board to supervise the FHLBanks and to promulgate such regulations as are necessary to carry out the provisions of the Act.

Alternatives:

The Finance Board is considering various alternative methods for controlling FHLBank interest rate risk and encouraging investment in mission-related assets. In addition, the agency will consider all alternatives suggested by the public during the notice and comment process.

Anticipated Costs and Benefits:

The Finance Board anticipates that the new FMP provisions may result in slightly lower investment income for the FHLBanks to the extent that the interest rate risk controls and mission-related investment requirements may narrow the range of high-income assets in which the FHLBanks may invest. However, these costs are likely to be counterbalanced by FHLBanks' assumption of less interest rate risk and by the FHLBanks' greater support for the mortgage markets. The regulation would not otherwise impose any direct financial costs upon the FHLBanks or their member institutions.

Risks:

Although FHLBank interest rate risk is already well-managed under the current FMP, the proposed regulation will attempt to further minimize such risk by incorporating state-of-the-art models and methods for monitoring and controlling the risk. The Finance Board is considering whether there are any circumstances under which there should be reserve requirements against interest rate risk exposure. Because the regulation is in its preliminary stages of preparation, the agency cannot now quantify the amount by which such risk will be reduced.

Timetable:

Action	Date	FR Cite
Proposed Statement of Policy	03/19/97	62 FR 13146
Comment Period End	04/18/97	
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

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FHFB

169. • COLLATERAL ELIGIBLE TO SECURE FHLBANK ADVANCES

Priority:

Other Significant

Legal Authority:

12 USC 1430

CFR Citation:

12 CFR 935

Legal Deadline:

None

Abstract:

The Finance Board plans to issue a proposed rule to amend its Advances regulation to permit FHLBanks to accept as security for advances both federally-guaranteed mortgages (to the extent of the guarantee), irrespective of such mortgages' delinquency status, and eligible collateral held by member-controlled Real Estate Investment Trusts (REITs), State security corporations, or other similar business structures.

Statement of Need:

An increasing number of FHLBank member institutions are opting to transfer mortgage assets that were previously held directly by such members to REITs, security corporations, or other similarly structured subsidiaries, in order to gain certain tax advantages. Because many of these mortgage assets are eligible to secure FHLBank advances and, in fact, are currently being used to secure such advances, it is important that the Finance Board establish a regulatory structure under which FHLBanks will continue to be able to accept this transferred collateral--which will still be under the ultimate control of the member--as security for advances. It is anticipated that the rule will establish such a structure. In addition, through this rulemaking, the Finance Board plans to make clear that FHLBanks are permitted by statute to accept as collateral for advances federally-guaranteed mortgages (to the extent of the guarantee), irrespective of their delinquency status, although FHLBanks may not normally accept as collateral mortgages that are more than 90 days delinquent.

Summary of the Legal Basis:

Section 10 of the Bank Act sets forth requirements for FHLBank advances to members and specifies the types of member collateral that are eligible to secure such advances. While, under section 10, FHLBank members are required to assume a primary, unconditional obligation to repay any advance, such advances may be secured by pledges of collateral by affiliates of members. In addition, under section 10, FHLBanks are not precluded from obtaining an interest in eligible collateral by accepting pledges of shares of corporations or trusts whose assets comprise only eligible assets. Regarding federally-guaranteed mortgages, although section 10(a)(1) of the Bank Act requires that whole mortgage loans be not more than 90 days delinquent in order to constitute eligible collateral, section 10(a)(2) permits FHLBanks to accept any federally-guaranteed securities as collateral. Because, to the extent that it is federally-guaranteed, the delinquency status of a mortgage loan is immaterial as a matter of safety and soundness, the Finance Board may permit FHLBanks to accept delinquent federally-guaranteed mortgages as collateral for advances under section 10(a)(2) of the Bank Act. Section 2B(a) of the Bank Act authorizes the Finance Board to supervise the FHLBanks and to promulgate such regulations as are necessary to carry out the provisions of the Act. This regulatory action is not required by statute or court order.

Alternatives:

As an alternative to this rulemaking, the Finance Board could choose to prohibit FHLBanks from accepting as security for advances delinquent federally-guaranteed mortgages, or collateral held by member-controlled REITs, security corporations, or similar structures. Also, the Finance Board could decide to permit the FHLBanks to accept such collateral pursuant only to a staff legal interpretation of the statute and the existing Advances regulation, or to decide these issues on a case-by-case basis. The agency will consider all alternatives suggested by the public during the notice and comment period.

Anticipated Costs and Benefits:

Although the Finance Board cannot quantify precisely the costs and benefits of this rulemaking at this time, the agency anticipates that the regulatory amendments will benefit both FHLBanks and their members by expressly permitting the FHLBanks to accept as security for advances collateral that might not appear to be eligible under a technical reading of the current text of the Advances regulation.

Risks:

Regarding eligible collateral held by member-controlled REITs, State security corporations, or other similar business structures, the Finance Board is considering ways to minimize or eliminate any risk that a FHLBank would have more difficulty in

foreclosing upon such third-party collateral upon the default of a member than if the same assets were to be pledged by the member directly. Regarding delinquent federally-guaranteed mortgages, the Finance Board seeks to ensure that the guarantee attached to each such mortgage is sufficient to negate the credit risks associated with the delinquency status of the mortgage. The control of these risks is of paramount concern to the Finance Board, which is charged by statute with ensuring that the FHLBanks operate in a safe and sound manner.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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FHFB

FINAL RULE STAGE

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170. FHLBANK LETTER OF CREDIT ISSUANCE

Priority:

Other Significant

Legal Authority:

12 USC 1430(a); 12 USC 1431

CFR Citation:

12 CFR 938

Legal Deadline:

None

Abstract:

The Finance Board will publish a final rule codifying policies governing issuance of standby letters of credit by FHLBanks.

Statement of Need:

The issuance and confirmation of standby letters of credit by FHLBanks currently is governed by the Finance Board's Interim Policy Guidelines for FHLBank Standby Letters of Credit (Interim Guidelines), which were adopted in 1993. After a thorough review of these Interim Guidelines, the Finance Board determined that many of the restrictions imposed upon FHLBank letters of credit thereunder are not required by statute and, in addition, limit the usefulness of such letters of credit to member institutions. As a result, the Finance Board issued a proposed rule to add to its regulations a new part 938, addressing FHLBank standby letters of credit, that would permit the FHLBanks to issue letters of credit for a broader range of purposes and upon the security of a broader range of collateral.

Summary of the Legal Basis:

The Bank Act does not address directly the power of FHLBanks to issue letters of credit. In the past, the Finance Board has permitted FHLBanks to issue letters of credit as part of their authority to make advances under section 10(a) of the Bank Act. In addition, the Finance Board recently has determined that the FHLBank authority to issue letters of credit is also a part of, and incidental to, the FHLBanks' deposit-taking and payment processing powers set forth in section 11(e) of the Bank Act, and part of the FHLBanks' incidental authority to enter into commitments to make advances under sections 10 and 11(a) of the Bank Act. Section 2B(a) of the Bank Act authorizes the Finance Board to supervise the FHLBanks and to promulgate such regulations as are necessary to carry out the provisions of the Act. This regulatory action is not required by statute or court order.

Alternatives:

The Finance Board is considering various alternatives regarding both the purposes for which FHLBanks may issue letters of credit and the types of collateral that may be accepted to secure FHLBank letters of credit. The agency will consider all alternatives suggested by the public during the notice and comment period.

Anticipated Costs and Benefits:

It is not possible to quantify precisely the expected costs and benefits of the new FHLBank letter of credit regulation. In general, the Finance Board expects that, under the new regulation, the FHLBanks will issue a greater number of letters of credit than in the past and, therefore, are likely to experience a slight increase in revenues. The new regulation is likely to benefit member institutions (and, indirectly, their customers), who will be able to obtain FHLBank letters of credit for a wider range of purposes and will be permitted to secure FHLBank letters of credit with a wider range of collateral.

Risks:

The proposed letter of credit regulation addresses the credit risk assumed by a FHLBank, as issuer of a letter of credit, by requiring that all FHLBank letters of credit be secured fully for their face amount at the time of issuance. The proposed rule requests comment on whether there are any circumstances under which the FHLBanks could safely and soundly issue letters of credit that are not fully collateralized. All such comments will be considered carefully by the Finance Board in drafting the final rule.

Timetable:

Action	Date	FR Cite
NPRM	05/08/98	63 FR 25726
NPRM Comment Period End	08/08/98	
Final Action	11/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

None

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FHFB

171. • COMMUNITY INVESTMENT CASH ADVANCE PROGRAMS

Priority:

Other Significant

Legal Authority:

12 USC 1426; 12 USC 1429; 12 USC 1430; 12 USC 1430b; 12 USC 1431

CFR Citation:

12 CFR 935; 12 CFR 970

Legal Deadline:

None

Abstract:

The Finance Board plans to issue a final rule establishing a general framework under which the FHLBanks may establish community investment cash advance (CICA) programs in addition to their Affordable Housing Programs (AHP) and Community Investment Programs (CIP). The proposed rule does not require a FHLBank to establish CICA programs, but merely provides the FHLBanks with an outline of the types of FHLBank lending that the Finance Board has determined will meet the statutory requirement that CICA programs support community investment.

Statement of Need:

The Bank Act authorizes the FHLBanks to establish CICA programs in addition to the CIP and AHP to support "community investment." The Finance Board has not previously promulgated regulations or other specific guidance on the types of FHLBank lending that are permitted under this authority. The proposed rule is intended to provide the FHLBanks with such guidance and to encourage the FHLBanks to fulfill needs for long-term financing for economic development in urban and rural areas that are not being met through the AHP and the CIP.

Summary of the Legal Basis:

Section 10(j)(10) of the Bank Act authorizes the FHLBanks to establish CICA programs to support "community investment." Section 2B(a) of the Bank Act authorizes the Finance Board to supervise the FHLBanks and to promulgate such regulations as are necessary to carry out the provisions of the Act. This regulatory action is not required by statute or court order.

Alternatives:

In the proposed rule, the Finance Board has requested comment on whether it should establish CICA standards, in whole or in part, in a form other than a regulation. Substantively, in developing the final rule, the Finance Board is considering several alternatives regarding the types of "targeted" economic development that will fall within the scope of the CICA guidelines. The agency will consider all alternatives suggested by the public during the notice and comment period.

Anticipated Costs and Benefits:

It is not possible to quantify precisely the expected costs and benefits of the final FHLBank CICA Programs regulation. Because the regulation would merely encourage, but would not require, FHLBanks to establish CICA programs, any costs imposed upon, or benefits provided to, the FHLBanks or their members thereunder would be assumed at the discretion of each FHLBank. To the extent that a FHLBank chooses to establish CICA programs, such programs would likely benefit individuals and businesses in low- and moderate-income urban and rural areas by providing them, through FHLBank member institutions, with long-term credit that might not be available otherwise, or might not be available under such favorable terms and conditions. The implementation of CICA programs might also benefit the FHLBanks themselves by providing the FHLBanks with additional sources of revenue.

Risks:

By statute, the Finance Board is charged with ensuring the safe and sound operation of the FHLBanks. As with any type of loan program, there would be credit, interest rate and other types of risks involved in CICA lending. Such risks would be managed pursuant to the collateral and other provisions of the Finance Board's existing Advances regulation, as is the case with all FHLBank advances.

Timetable:

Action	Date	FR Cite
NPRM	05/08/98	63 FR 25722
NPRM Comment Period End	08/08/98	
Final Action	11/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

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BILLING CODE 6725-01-F

FEDERAL MARITIME COMMISSION (FMC)

Statement of Regulatory and Deregulatory Priorities

The Federal Maritime Commission's (Commission) regulatory objectives are guided by the Agency's basic mission. The Commission's mission is to administer the shipping statutes as effectively as possible to provide an efficient, economic, and nondiscriminatory ocean transportation system in an environment free of unfair foreign maritime trade practices. Commission regulations are designed to implement each of the various statutes the Agency administers in a manner consistent with this mission and in a way that minimizes regulatory costs, fosters economic efficiencies, and promotes international harmony.

Proposed legislation pending in Congress could alter significantly the Federal regulatory scheme regarding international ocean shipping. The Commission is monitoring this legislation closely as it obviously would affect the Agency's regulatory planning and priorities and, depending on the effective date(s) of its provisions, could require regulatory action during the coming year. If enacted in its current proposed version, this legislation will require review and rewrite of many of the Commission's substantive regulations. One of the most significant changes would be to the treatment of common carrier tariffs, the publications which contain the rates and charges for their transportation services. Currently, such tariffs are required to be filed with the Commission's Automated Tariff Filing and Information System. Under the proposed legislation, carriers no longer will have to file with the Commission, but will be required to publish their rates in private, automated tariff systems, to be made available electronically to any person. The Commission would be charged with prescribing the requirements for the "accessibility and accuracy" of these automated tariff systems. Against this background, the Commission has initiated an inquiry to solicit comments from the ocean transportation industry and the general public on how best to establish requirements for carriers' automated tariff systems, to assist the Commission in formulating proposed rules in this area.

Until any such legislation is enacted and an implementation schedule is determined, the principal objective or priority of the Agency's current regulatory plan will be to continue to assess its major existing regulations for continuing need, effectiveness, burden on the regulated industry, fairness, and clarity.

The Commission continues to have under review, inter alia, regulations regarding passenger vessel operator financial responsibility and co-loading arrangements between non-vessel-operating common carriers.

The Commission's review of existing regulations exemplifies its objective to regulate fairly and effectively while imposing a minimum burden on the regulated entities, following the principles stated by the President in Executive Order 12866.

Description of the Most Significant Regulatory Actions

The Commission currently has no actions under consideration that constitute "significant regulatory actions" under the definition in Executive Order 12866.

BILLING CODE 6730-01-F

FEDERAL TRADE COMMISSION (FTC)

Statement of Regulatory Priorities

Regulatory Priorities

Background

The Federal Trade Commission (FTC or Commission) is an independent agency charged with protecting American consumers from "unfair methods of competition" and "unfair or deceptive acts or practices" in the marketplace. The Commission strives to ensure that consumers benefit from a vigorously competitive marketplace. The Commission's work is rooted in a belief that free markets work—that competition among producers and information in the hands of consumers brings the best products at the lowest prices for consumers, spurs efficiency and innovation, and strengthens the economy.

The Commission pursues its goal of promoting competition in the marketplace through two different, but complementary, approaches. First, for competition to thrive, curbing deception and fraud is critical. Through its consumer protection activities, the Commission seeks to ensure that consumers receive accurate, not false or misleading, information in the marketplace. At the same time, for consumers to have a choice of products and services at competitive prices and quality, the marketplace must be free from anticompetitive business practices. Thus, the second part of the Commission's basic mission—antitrust enforcement—is to prohibit anticompetitive mergers or other anticompetitive business practices without unduly interfering with the legitimate activities of businesses. These two complementary parts of its mission make the Commission the Nation's only Federal agency to be given this combination of statutory authority to protect consumers.

The Commission is, first and foremost, a law enforcement agency. It pursues its mandate primarily through case-by-case enforcement of the Federal Trade Commission Act and other statutes. The Commission, however, is also charged with the responsibility of issuing and enforcing regulations under a number of statutes. In addition, under the FTC Act, the Commission currently has in place 13 trade regulation rules. The Commission also has adopted a number of voluntary industry guides. Most of the regulations and guides pertain to consumer protection matters and are generally intended to ensure that consumers receive the information necessary to evaluate competing products and make informed purchasing decisions.

Ten-Year Review Program

In 1992, the Commission implemented a 10-year review program to review its rules and guides. The Commission's review program is patterned after provisions in the Regulatory Flexibility Act. 5 U.S.C. 601 *et seq.* Under the Commission's program, however, rules are continually reviewed at least every 10 years, not just once as usually required by section 610 of the Regulatory Flexibility Act. Thus, this program provides the Commission with an ongoing systematic approach for seeking information about the costs and benefits of its rules and guides and whether there are changes that could minimize *any* adverse economic effects, not just a "significant economic impact upon a substantial number of small entities." The program's goal is to ensure that all of the Commission's rules and guides remain beneficial and in the public interest.

As part of the 10-year plan, the Commission examines the effect of rules and guides on small businesses and on the marketplace in general. These reviews often lead to the revision or rescission of rules and guides to ensure that the Commission's consumer protection and competition goals are achieved efficiently and at the least cost to business. In a number of instances, the Commission has determined that existing rules and guides were no longer necessary or in the public interest. As a result of the review program, the Commission has repealed 48 percent of its trade regulation rules and 40 percent of its guides since 1992.

Calendar Year 1998 Reviews

The CY 1998 reviews, discussed below, are part of the Commission's 10-year plan to review and seek information about all of its regulations and guides, their costs and benefits, and their regulatory and economic impact. These reviews may also address other matters or issues. This year, the Commission has initiated reviews of a Trade Regulation Rule, three guides, and one exemption: (1) The Funeral Industry Practices Rule, 16 CFR part 453; (2) Used Auto Parts Industry Guides, 16 CFR part 20; (3) Adhesive Compositions Guides, 16 CFR part 235; (4) Decorative Wall Paneling Guides, 16 CFR part 243; and (5) Procedures for State Application for Exemptions from the Fair Debt Collection Practices Act, 16 CFR part 901.

All of these matters pertain to consumer protection and are intended to ensure that consumers receive the information necessary to evaluate competing products and make informed purchasing decisions. For example, the Funeral Industry Practices Rule, 16 CFR part 453, requires that funeral service providers give price lists to consumers who visit a funeral home and provide price and other information in response to telephone inquiries. An amendment in 1994 prohibits funeral providers from charging a "casket handling" fee in addition to any nondeclinable basic-service fee. The Commission has moved the review of this Rule from CY 1999 to CY 1998 in response to requests that it examine emerging issues in the funeral industry.

The Commission reviews its rules to determine, among other things, the continuing need for the rule; possible conflicts between each rule and State, local, and other Federal laws; and the effect on each rule of any technological, economic, or other industry changes. For example, the Commission has determined to retain the rules and regulations issued under the Hobby Protection Act in their current form, 63 FR 36555 (July 7, 1998); determined to retain the Trade Regulation Rule Concerning Power Output Claims for Amplifiers Utilized in Home Entertainment Products with technical modifications, 63 FR 37234 (July 9, 1998); and recognized a potential need for substantive amendment of the same rule by issuing an Advance Notice of Proposed Rulemaking, 63 FR 37238 (July 9, 1998).

The Commission has begun a review of the Guides for the Rebuilt, Reconditioned, and Other Used Automobile Parts Industry (Used Auto Parts Guides), 16 CFR 20. The Used Auto Parts Guides, effective since 1962, advise industry members not to misrepresent the age of the product, the condition of the product, the extent of the rebuilding of the product, or that the rebuilder was the original manufacturer. Industry members must also conspicuously disclose in advertising and packaging that the products include used parts, if that is the case. The Commission's review will examine, among other things, the overall costs and benefits of the Used Auto Parts Guides and whether there is a continuing need for them. The Commission has published a Federal Register notice seeking comment on several questions concerning the Used Auto Parts Guides' provisions. *See* 63 FR 17132 (Apr. 8, 1998).

Also as part of its 10-year regulatory review, the Commission has requested comments on its Guides Against Deceptive Labeling and Advertising of Adhesive Compositions, 16 CFR part 235 (Adhesive Guides). *See* 63 FR 17348 (Apr. 9, 1998). Effective since 1967, the Adhesive Guides are designed to prevent deceptive labeling and advertising of adhesive products by addressing specific misrepresentations about the properties and effectiveness of adhesives. The Commission is requesting comments on the benefits and costs, the effect of changes in technology, industry, marketplace, and economic conditions, as well as the continuing need for the Adhesive Guides in their present form or with modifications.

In addition, the Commission has sought comments on its Guides for the Decorative Wall Paneling Industry (Wall Paneling Guides), 16 CFR part 243, effective since 1972. The Wall Paneling Guides are designed to protect consumers from being misled by the appearance of a product or by deceptive descriptions, depictions, designations, or representations in advertisements. The Wall Paneling Guides also provide examples and advise consumers that it is the seller's responsibility to provide detailed disclosures regarding the composition of the products. As with the other Guides, the Commission's Federal Register notice requests comments on whether there is a continuing need for the Guides, their costs and benefits, whether changes in technology, the marketplace or the industry suggest that the Guides should be modified, and whether they overlap or conflict with other Federal, State, or local laws or regulations. *See* 63 FR 14865 (Mar. 27, 1998).

The Commission has requested comments concerning Procedures for State Application for Exemption from the Provisions of the Fair Debt Collection Practices Act (FDCPA), 16 CFR part 901. *See* 63 FR 19859 (Apr. 22, 1998). Under part 901, a State may apply for an exemption from the provisions of sections 803 through 812 of the FDCPA if its laws provide substantially similar or greater protection for consumers than that afforded by the FDCPA and there is adequate provision for State enforcement of the requirements. These procedures have been in effect since 1979. The Commission seeks comments on several questions, including whether there is a continuing need for the exemption procedures, whether the procedures should be modified or eliminated, and the costs and benefits of the current procedures. *Id.*

Final Actions and Continuing Reviews

Since the 1997 Regulatory Plan was published, the Commission has completed the following actions:

The Commission has repealed the Dry Cell Battery Rule, 16 CFR part 403, which prohibited industry representations that dry cell batteries will not leak. In repealing the Rule, the Commission noted that changes in industry practice, and general voluntary compliance by the industry with the requirements of the American National Standards Institute Standard, effectively rendered the Rule no longer necessary or in the public interest. *See* 62 FR 61225 (Nov. 17, 1997).

The Commission amended the rules and regulations under the Textile Fiber Products Identification Act, the Wool Products Labeling Act, and the Fur Products Labeling Act. *See* 63 FR 7508 (Feb. 13, 1998). The Commission simplified the labeling requirements and modified definitions of covered publications to include those generated and disseminated electronically through the Internet or e-mail. The Commission also included more examples of country of origin disclosures that comply with both the FTCs and U.S. Customs Service origin-disclosure requirements. Also, the Commission increased the exemption from the labeling requirements for fur trim from $20 to $150.

In 1998, the Commission completed its review of the rules and regulations issued under the Hobby Protection Act, 16 CFR part 304, and decided to retain the rules in their current form. 63 FR 36555 (July 7, 1998). The Commission determined that the rules successfully protect consumers from those who would try to pass off reproductions as originals and that the costs of compliance are not significant to either small entities or others.

The Commission has decided to retain the Trade Regulation Rule Concerning Power Output Claims for Amplifiers Utilized in Home Entertainment Products, 16 CFR part 432. Specifically, the Commission issued a final rule retaining the Rule with a nonsubstantive technical amendment clarifying that the Rule applies to self-powered speakers used with home computer systems because they perform the same functions as the other amplification equipment listed in the Rule. 63 FR 37234 (July 9, 1998). The Commission has also issued an Advance Notice of Proposed Rulemaking proposing to modify the testing procedures and to eliminate certain disclosures required in advertisements, 63 FR 37238 (July 9, 1998). The Commission concluded that there was no reason to extend the Rule's requirements to automobile sound systems. Based on its review, staff found that consumers currently are able to make meaningful comparisons in the automotive sound reproduction market. *Id.* at 37240-41.

After completing its review of the Trade Regulation Rule Concerning the Use of Negative Option Plans by Sellers in Commerce (Negative Option Rule), 16 CFR 425, the Commission decided to retain the Rule in its present form with minor technical changes. 63 FR 44555 (Aug. 20, 1998). The Negative Option Rule, promulgated in 1973, applies to sellers of prenotification subscription plans who ship merchandise such as books, compact discs, or tapes automatically to their subscribers on a periodic basis. It requires, among other things, that the companies notify subscribers in advance of shipping to allow them the option of declining the merchandise. The comments received in the rulemaking suggest that the Rule is working effectively. The Commission concluded that there was presently an insufficient basis to consider amending the Rule to include sales techniques and practices not presently covered by the Rule.

The Commission issued a Notice of Proposed Rulemaking (NPRM) seeking public comment on proposed amendments to the Trade Regulation Rule on Care Labeling of Textile Wearing Apparel and Certain Piece Goods (Care Labeling Rule), 16 CFR 423, 63 FR 25417 (May 8, 1998). The Commission proposed amending the Care Labeling Rule to require home washing instructions (rather than dry cleaning instructions, except as voluntarily disclosed additional instructions) for garments for which home washing is appropriate. Through the NPRM, the Commission also seeks to clarify "what can constitute a reasonable basis for care instructions" and requests comment on whether to allow a garment that can be professionally wet cleaned to be labeled with instructions for professional wet cleaning and whether to change the definitions of "cold," "warm," and "hot" water to match those used by an independent standards and testing association.

The Commission amended section 802.70 of the rules adopted pursuant to the Hart-Scott-Rodino Act's Premerger Notification Amendments to the Clayton Act, 15 U.S.C. 18a (HSR Rules). This amendment to the HSR Rules reduces burden on parties by exempting from the HSR filing requirements divestitures included in consent agreements that are not final orders if the agreements are (1) accepted by the Commission or filed by the Commission or the Department of Justice with the District Court and (2) are subject to public comment, 63 FR 34592 (June 25, 1998). Comments on the final rule were due by July 27, 1998.

The Commission issued final amendments to the Guides for the Use of Environmental Marketing Claims, 16 CFR part 260, regarding compostable and recyclable claims. These Guides were first announced in 1992 and revised in October 1996. The 1998 revision to the Guides expanded the terms "recyclable" and "recycled content" and clarified that an unqualified compostable claim can be made if a product or package is compostable at home, even if municipal or institutional composting facilities are not available locally. 63 FR 24240 (May 1, 1998).

The Commission has taken final action on its review of the Guides for Private Vocational and Home Study Schools (Vocational School Guides), 16 CFR part 254, by deciding to retain the Vocational School Guides with modifications, under the new title Guides for Private, Vocational, and Distance Education Schools. *See* 63 FR 42570 (Aug. 10, 1998). The amendments to the Vocational Guides delete a number of provisions found to be unnecessary and address deceptive claims about future employment but do not create new requirements for vocational schools.

The Commission also rescinded the Guides for the Feather and Down Products Industry (Down Guides), 16 CFR part 253. *See* 63 FR 44553 (Aug. 20, 1998). These Guides, in effect since 1971, addressed claims for the advertising, labeling, and sales of products that are wholly or partially filled with feathers or down and all bulk stocks of processed feathers or down intended for use or used in the manufacture of such products. After extensive review of the Guides and their effect on the feather and down industry, the Commission has decided that the Guides have not promoted compliance with section 5 of the FTC Act. The Commission's Federal Register notice announcing the decision to rescind the Down Guides noted, however, that its rescission action does not signal an FTC withdrawal from its law enforcement efforts to prevent deception in the labeling and advertising of these products.

Calendar Year 1999 Reviews

In CY 1999, the Commission expects to initiate reviews of one rule, three industry guides, and one statement of interpretation. The rule scheduled for review in 1999 is the regulation under the Comprehensive Smokeless Tobacco Health Education Act of 1986, 16 CFR part 307. The guides scheduled for review in 1999 are: (1) Guides for Advertising Allowances and Merchandising Payments, 16 CFR part 240; (2) Guides for the Law Book Industry, 16 CFR part 256; and (3) Guide Concerning Fuel Economy Advertising for New Automobiles, 16 CFR part 259. The Commission also plans to begin a review of Statements of General Policy or Interpretations at 16 CFR part 600. *See* 63 FR 1802 (Jan. 12, 1998).

Summary

With regard to both content and process, the FTC's ongoing and proposed regulatory actions are compatible with the President's priorities. The actions under consideration inform and protect consumers and reduce the regulatory burden on business. The Commission will continue working toward these goals. The Commission's 10-year review program is patterned after provisions in the Regulatory Flexibility Act and complies with the Small Business Regulatory Enforcement Fairness Act of 1996. The Commission's 10-year program also is consistent with President Clinton's National Regulatory Reinvention Initiative, which, among other things, urges agencies to eliminate obsolete or unnecessary regulations. The program corresponds as well to section 5(a) of Executive Order 12866, 58 FR 51735 (Sept. 30, 1993), which directs executive branch agencies to develop a plan to reevaluate periodically all of their significant existing regulations.

As set forth in Executive Order 12866, the Commission continues to identify and weigh the costs and benefits of proposed actions and possible alternative actions and to receive the broadest practicable array of comments from affected consumers, businesses, and the public at large. As stated above, since 1992, the Commission has repealed more than 40 percent of its industry guides and more than 48 percent of its trade regulation rules that were in existence in 1992 because they had ceased to serve a useful purpose. In sum, the Commission's regulatory actions are aimed at efficiently and fairly promoting the ability of "private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people." Executive Order 12866, section 1.

Regulatory Actions

The Commission has no actions that constitute "significant regulatory actions" under the definition in Executive Order 12866.

BILLING CODE 6750-01-F

NATIONAL INDIAN GAMING COMMISSION (NIGC)

Statement of Regulatory Priorities

The Indian Gaming Regulatory Act (IGRA or the Act), 25 U.S.C. 2701 et seq., was signed into law on October 17, 1988. The Act established the National Indian Gaming Commission (NIGC or the Commission). The stated purpose of the Commission is to regulate the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments. It is the Commission's intention to provide regulation of Indian gaming to adequately shield it from organized crime and other corrupting influences, to ensure that the Indian tribe is the primary beneficiary of the gaming operation, and to assure that gaming is conducted fairly and honestly by both the operator and players.

The NIGC's regulatory priorities for the next fiscal year are to:

1. Establish regulations to implement the issuance of certificates of self-regulation for class III gaming operations.

2. Establish minimum internal control standards for tribal gaming operations, including standards for auditing, debt collection, accounting, and security.

3. Develop regulations to establish processes for the classification, review, and approval of games and devices used in tribal gaming.

NIGC

PROPOSED RULE STAGE

172. GAME CLASSIFICATION

Priority:

Other Significant

Legal Authority:

25 USC 2703; 25 USC 2706

CFR Citation:

Not yet determined

Legal Deadline:

None

Abstract:

This rule will establish processes for the classification, review, and approval of games and devices used in tribal gaming.

Statement of Need:

Over the course of the past couple of years, the NIGC has received numerous requests for advisory opinions on the classification of a particular game or device. The Commission has through an informal process issued several advisory opinions. However, given the growing number of requests and the need for some degree of predictability and certainty in the industry regarding the classification of games or devices, the Commission believes it is necessary to develop a formal process. Consequently, the Commission will use the rulemaking process to promulgate regulations in this area.

Summary of the Legal Basis:

The Indian Gaming Regulatory Act specifically defines both Class II and Class III gaming (25 USC section 2703). The Act also expressly authorizes the Commission to "promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this Act (25 USC section 2706 (b)(10))." The Commission relies on these sections of the statute to authorize the development by regulation of a process of formal classification of particular games and devices.

Alternatives:

At this time, the only identified alternative is to continue with the informal process of issuing advisory opinions regarding particular games.

Anticipated Costs and Benefits:

The potential benefits to this regulatory action are to bring more clarity and predictability to the industry regarding classification. Those engaged in Indian gaming need to have some degree of certainty regarding the legal consequences of playing a particular game. For those tribes without tribal-State compacts, the need is even greater to know with as much certainty as possible the classification of a particular game or device. The anticipated costs of implementing a classification system are unknown at this time.

Risks:

The only identifiable risk at this time is the ability to pay for a formal classification process. The Commission is trying to expand its budget by lifting the statutory fee cap. These actions may be connected because without an increase in funding, it is highly unlikely that the Commission could afford to develop a formal classification system.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

State, Tribal

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NIGC

173. SELF-REGULATION CERTIFICATION FOR CLASS III GAMING OPERATIONS

Priority:

Other Significant

Legal Authority:

25 USC 2706(b)(10); 25 USC 2717(note)

CFR Citation:

25 CFR 518 (New)

Legal Deadline:

None

Abstract:

These regulations will implement the issuance of certificates of self-regulation for class III gaming operations.

Statement of Need:

Congress recently authorized the NIGC to collect fees from Class III gaming operations. Congress also declared that self-regulating tribes are exempt from the payment of these fees. Regulations establishing the criteria for self-regulation are therefore necessary to implement this new exemption.

Summary of the Legal Basis:

IGRA authorizes the Commission to "promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this Act (25 USC 2706(b)(10))." Furthermore, PL 105-83 created an exemption from the payment of fees on Class III gaming revenues for self-regulating tribes.

Alternatives:

The Commission has no alternative but to promulgate these regulations, which will be used to determine whether a tribe is self-regulating and therefore entitled to the fee exemption.

Anticipated Costs and Benefits:

The potential benefits to this regulatory action are to establish and define for the regulated community what criteria must be met in order to be deemed self-regulating and therefore entitled to a fee exemption on Class III gaming revenues. The anticipated costs of implementing these regulations are unknown at this time.

Risks:

There are no known risks.

Timetable:

Action	Date	FR Cite
ANPRM	03/12/98	63 FR 12323
ANPRM Comment Period End	05/11/98	
NPRM	11/00/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Tribal

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NIGC

FINAL RULE STAGE

174. MINIMUM INTERNAL CONTROL STANDARDS FOR TRIBAL GAMING OPERATIONS

Priority:

Other Significant

Legal Authority:

25 USC 2702; 25 USC 2706(b)(10)

CFR Citation:

25 CFR 542; 25 CFR 573

Legal Deadline:

None

Abstract:

This rule establishes minimum internal control standards for tribal gaming operations, including standards for auditing, debt collection, accounting, and security.

Statement of Need:

In response to the inherent risks and the need for effective controls in tribal gaming operations, the Commission developed this rule to establish Minimum Internal Control Standards. The Commission has determined that it is appropriate and necessary to promulgate regulations on minimum internal control standards to implement one of the stated purposes of IGRA which is "to ensure that the Indian tribe is the primary beneficiary of the gaming operation, and to assure that gaming is conducted fairly and honestly by both the operator and players." 25 USC 2702(2).

Summary of the Legal Basis:

IGRA authorizes the Commission to "promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this Act (25 USC 2706(b)(10))." The Commission relies on this section of the statute to authorize the establishment of minimum internal control standards for tribal gaming operations.

Alternatives:

The Commission has no alternative but to promulgate these minimum internal control standards for tribal gaming operations.

Anticipated Costs and Benefits:

The start-up cost is estimated to be an average of 35 million per gaming operation. The annual recurring costs are estimated to be an average of 1-15 million per gaming operation. The benefit of the regulations is that the MICS will help protect against loss of revenues by preventing theft by employees, patrons and other persons.

Risks:

There are no determined risks to this regulatory action.

Timetable:

Action	Date	FR Cite
ANPRM	03/05/98	63 FR 10798
ANPRM Comment Period End	04/05/98	
Final Action	10/00/98	
Final Action Effective	11/00/98	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Tribal

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BILLING CODE 7565-01-F

NUCLEAR REGULATORY COMMISSION (NRC)

Statement of Regulatory Priorities

Under the authority of the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission (NRC) regulates the possession and use of source, byproduct, and special nuclear material. The NRC's regulatory mission is to ensure that civilian uses of nuclear materials and facilities are carried out in a manner that will protect public health and safety and the environment and that will not be inimical to the common defense and security of the United States. The NRC regulates the operation of nuclear power plants and fuel cycle plants; the safeguarding of nuclear materials from theft and sabotage; the safe transportation of nuclear materials; the decommissioning and return to safe use of licensed facilities that are no longer in operation; and the medical, industrial, and research applications of nuclear material.

The NRC's regulatory priority for the next fiscal year is to ensure that nuclear power plants and other licensed facilities are operated safely and that nuclear materials are possessed and used in a manner that will adequately protect public health and safety.

The NRC is addressing its regulatory initiatives in a manner that is consistent with the President's regulatory philosophy. The NRC routinely conducts comprehensive regulatory analyses that examine the costs and benefits of proposed regulations as part of its regulatory process. The NRC has developed internal procedures and programs to ensure that only necessary requirements are imposed on its licensees and to review existing regulations to determine whether the requirements imposed are still necessary.

Additionally, the NRC will continue to recover approximately 100 percent of its budget authority, less the amount appropriated from the Nuclear Waste Fund and the General Fund, as required by the Omnibus Budget Reconciliation Act of 1990, as amended.

NRC

PROPOSED RULE STAGE

175. • REVISION OF FEE SCHEDULES; 100 PERCENT FEE RECOVERY, FY 1999

Priority:

Economically Significant. Major under 5 USC 801.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 2201(w); 42 USC 2213; 42 USC 2214; 42 USC 5841; 31 USC 9701

CFR Citation:

10 CFR 170; 10 CFR 171

Legal Deadline:

Other, Statutory, September 30, 1998.

Omnibus Budget Reconciliation Act of 1990

Abstract:

The rulemaking would amend the licensing, inspection, and annual fees charged to NRC licensees and applicants for an NRC license. The amendments would be necessary to recover approximately 100 percent of the NRC budget authority for fiscal year 1999 less the amounts appropriated from the Nuclear Waste Fund and the General Fund.

Statement of Need:

This rulemaking would amend the licensing, inspection, and annual fees charged to NRC licensees and applicants for an NRC license. The amendments would be necessary to recover approximately 100 percent of the NRC budget authority for fiscal year 1999 less the amounts appropriated from the Nuclear Waste Fund and the General Fund. The OBRA-90 requires that the NRC accomplish the 100 percent recovery through the assessment of fees and recover the full cost to the NRC of all identifiable regulatory services that each applicant or licensee receives. The NRC assesses two types of fees to recover its budget authority. License and inspection fees (10 CFR part 170) are assessed under the authority of the Independent Offices Appropriation Act to recover the costs of providing individually identifiable services to specific applicants and licensees. Annual fees (10 CFR part 171) are assessed under the authority of OBRA-90 to recover generic and other regulatory costs not recovered from fees imposed under 10 CFR part 170. Annual fee charges are consistent with the guidance in the Conference Committee Report on OBRA-90 that the NRC assess the annual charge under the principle that licensees who require the greatest expenditure of the agency's resources should pay the greatest annual fee.

Summary of the Legal Basis:

The Omnibus Budget Reconciliation Act of 1990, as amended, (OBRA-90) requires that the NRC recover approximately 100 percent of its budget authority, less the amount appropriated from the Nuclear Waste Fund, for fiscal years 1991 through 1998. Legislation has been proposed to extend OBRA-90. The Act requires that the fees be collected during the fiscal year. Therefore, the final rule is to become effective by June 30, 1999.

Alternatives:

Because this action is mandated by statute and the fees must be assessed through rulemaking, the NRC did not consider alternatives to this action.

Anticipated Costs and Benefits:

The cost to NRC licensees will be approximately 100 percent of the NRC FY 1999 budget authority less the amount appropriated from the Nuclear Waste Fund and the General Fund. Based on the President's budget submission to Congress, the amount to be recovered from NRC applicants and licensees for FY 1999 would be approximately $467 million.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local

Agency Contact:

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RIN: 3150–AG08

BILLING CODE 7590-01-F

Federal Register

Monday
November 9, 1998

Part III

Department of Agriculture

Semiannual Regulatory Agenda

DEPARTMENT OF AGRICULTURE (USDA)

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Subtitle A, Chs. I-VII, IX-XII, XIV-XVIII, XXI, XXIV-XXIX

9 CFR Chs. I-IV

36 CFR Ch. II

41 CFR Ch. 4

Semiannual Regulatory Agenda, October 1998

AGENCY: Office of the Secretary, USDA.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of significant and nonsignificant regulations being developed in agencies of the U.S. Department of Agriculture (USDA) in conformance with Executive Order 12866 "Regulatory Planning and Review." The agenda also describes regulations affecting small entities as required by section 602 of the Regulatory Flexibility Act, Public Law 96-354. Further, this agenda identifies regulatory actions that are being reviewed in compliance with section 610(c) of the Regulatory Flexibility Act. We invite public comment on those actions.

USDA has attempted to list all regulations and regulatory reviews pending at the time of publication except for minor and routine or repetitive actions, but some may have been inadvertently missed. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the date shown.

FOR FURTHER INFORMATION CONTACT: For further information on any specific entry shown in this agenda, please contact the person listed for that action. Requests for copies of the agenda should include a self-addressed, stamped envelope and be directed to: Regulatory Agenda, OBPA, Office of the Secretary, Room 118-E, Jamie Whitten Building, U.S. Department of Agriculture, Washington, DC 20250, (202) 720-1272.

SUPPLEMENTARY INFORMATION: For this edition of USDA's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Dated: September 4, 1998.

Marvin J. Shapiro,

Chief, Legislative, Regulatory, and Automated Systems Division.

Agricultural Marketing Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
176	National Organic Program	0581-AA40
177	National Laboratory Accreditation Program	0581-AB42
178	Kiwifruit Research, Promotion, and Consumer Information Order	0581-AB46
179	Federal Seed Act; Amendments	0581-AB55

Agricultural Marketing Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
180	Federal Milk Order Consolidation and Reform **(Section 610 Review)**	0581-AB49
181	Egg, Poultry, and Rabbit Grading: Fee Increase	0581-AB54

Agricultural Marketing Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
182	Revision of Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products	0581-AA45

Agricultural Marketing Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
183	Federal Meat Grading and Certification Services—1997 User Fees	0581-AB44
184	Processed Fruits and Vegetables, 1998 Fee Increase	0581-AB52

USDA

Agricultural Marketing Service—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
185	Milk in the New England and Other Marketing Areas; (Class I and II Prices)	0581-AB53

Agricultural Research Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
186	Amendment of Fee Schedule, National Agricultural Library	0518-AA01

Farm Service Agency—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
187	Implementation of Preferred Lender Program and Streamlining of Guaranteed Loan Regulations	0560-AF38
188	Debt Settlement for Indian Tribal Land Acquisition Loans	0560-AF43
189	1999-Crop Peanuts National Poundage Quota, National Average Loan Rates and Minimum Export-Edible Sales Price for Additional Peanuts	0560-AF48
190	1999-Crop Marketing Quotas and Price Support Levels for Five Kinds of Tobacco	0560-AF51
191	Fee Schedule; Aerial Photographic Reproductions	0560-AF55

Farm Service Agency—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
192	Amendments to the Regulations for Cotton Warehouses Under the United States Warehouse Act—Electronic Block Warehouse Receipts, Insurance Requirements, and Other Provisions	0560-AE60
193	Dairy Recourse Loan Program	0560-AF41
194	Amendments to the Regulations Regarding Suspension and Debarment from Commodity Credit Corporation Programs	0560-AF47
195	1999-Crop Marketing Quota and Price Support Level for Flue-Cured Tobacco	0560-AF49
196	1999-Crop Marketing Quota and Price Support Level for Burley Tobacco	0560-AF50
197	Amendment to the Tobacco Importer Assessment Regulations Regulations Regarding the Definition of De Minimis Special Entries	0560-AF52
198	Remove Internal Agency Provision From FSA Farm Credit Program Regulation—Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property	0560-AF53
199	Cleaning and Reinspection of Farmers' Stock Peanuts	0560-AF56
200	Disaster Reserve Flood Compensation Program	0560-AF57

Farm Service Agency—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
201	Program Ineligibility for Noncompliance With Boll Weevil Eradication Program	0560-AD57
202	Sugar and Crystalline Fructose Information and Recordkeeping Requirements	0560-AD88
203	Amendment to the Warehouse Regulations Regarding Auction Tobacco Warehouses	0560-AD92
204	Farmer Credit Program Account Servicing Policies for Section 1816 and Other Related Sections for the 1990 FACT Act	0560-AE02
205	Implement Section 1818 (Borrower Training) of the Food, Agriculture, Conservation, and Trade Act of 1990 (FACT Act)	0560-AE04
206	Implementation of Certified Lender Program	0560-AE07
207	Insured and Guaranteed Operating and Farm Ownership Loan and Related Instructions To Implement Sections 4, 5, 7, 8, 9, and 19 of the Agricultural Credit Improvement Act of 1992	0560-AE09

USDA

Farm Service Agency—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
208	Section 14 of the Agricultural Credit Improvement Act of 1992, (Graduation) and Sections 1819 (Loan Assessment) and 1821 (Market Placement) of the "FACT Act"	0560-AE11
209	The Agricultural Credit Improvement Act of 1992	0560-AE13
210	Implement Sections 11 and 13 of the Agriculture Credit Improvement Act of 1992 (Application Processing Timeframe)	0560-AE14
211	Acquisition and Management of Real and Chattel Property	0560-AE15
212	Small Farmer Outreach Training and Technical Assistance Program	0560-AE17
213	Part 1946 Mediation; Subpart A—Agricultural Loan Mediation Program	0560-AE26
214	Amendment to Conservation Program Appeal Regulations Regarding Jurisdiction	0560-AE30
215	Selection and Functions of Farm Service Agency State and County Committees	0560-AE33
216	Implementation Procedures for Highly Erodible Land and Wetlands Conservation Provisions of the Food Security Act	0560-AE38
217	Amendments to the Farmer Account Servicing Policies	0560-AE42
218	Amendments to the Standards for Approval of Warehouse for Commodity Credit Corporation Storage Contracts	0560-AE50
219	Deletion of FSA Regulations Regarding Colorado River Basin Salinity Control Program	0560-AE54
220	Amendment to the Conservation Reserve Program Regarding Early Contract Terminations	0560-AE56
221	Suspension of the Emergency Livestock Assistance Regulations for Crop Years 1996 to 2002	0560-AE86
222	Revision to the Direct Loanmaking Regulations	0560-AE87
223	Revision of the Inventory Property Management Regulations	0560-AE88
224	Revisions to the Delinquent Account Servicing Regulations	0560-AE89
225	Direct Line of Credit Program	0560-AE90
226	Revision of Regulations Pertaining to Indian Tribes and Tribal Corporations	0560-AE91
227	Amendments to the Tobacco Marketing Quota Regulations	0560-AE96
228	Disaster Set-Aside Program	0560-AE98
229	Boll Weevil Eradication Loan Program	0560-AE99
230	Amendments To Update the Tobacco Program Regulations	0560-AF05
231	Amendments To Update the Peanut Program Regulations	0560-AF06
232	Amendments To Update Farm Program Payment Limitation and Disaster Regulations Under the National Performance Review	0560-AF10
233	Amendment to the Cotton Warehouse Regulations Regarding the Definition of "Unnecessary Delay"	0560-AF13
234	1998-Crop Marketing Quota and Price Support Level for Burley Tobacco	0560-AF18
235	1998-Crop Marketing Quotas and Price Support Level for Flue-Cured Tobacco	0560-AF19
236	1998-Crop Marketing Quotas and Price Support Levels for Eight Kinds of Tobacco	0560-AF20
237	Lender Buyback of Repurchased Guaranteed Loans	0560-AF21
238	Amendments to the Debt Settlement Policies and Procedures To Conform to the Debt Collection Improvement Act of 1996	0560-AF22
239	Amendments to the Forage Provisions of the Noninsured Crop Disaster Assistance Program	0560-AF23
240	Flood Risk Reduction Program	0560-AF24
241	Refund of Marketing Quota Penalties and Tobacco Auction Warehouse Records and Reports	0560-AF26
242	Refund of Marketing Quota Penalties and Other Peanut Program Provisions	0560-AF27
243	Contracting Additional Peanuts by Type and Segregation	0560-AF28
244	American Indian Livestock Feed Program	0560-AF29
245	Sugar Program Information Reporting and Recordkeeping Requirements	0560-AF31
246	Upland Cotton User Marketing Certificate Program; Revision of Regulations	0560-AF32
247	Cooperative Marketing Associations	0560-AF33
248	Inapplicability to FSA's Farm Loan Programs of Redundant Instructions Regarding the Collection and Depositing of Program Payments	0560-AF34
249	Revision of FSA-Guaranteed Loan Regulations—Interest Subsidy for Guaranteed Borrowers	0560-AF35
250	Amendment to the Farm Reconstitution Regulations	0560-AF36
251	Change in Warehouse Receipt Requirements for CCC's Cotton Loan and Loan Deficiency Payment Programs	0560-AF39
252	Chemical Testing of Farmers' Stock Peanuts for Aflatoxin Content	0560-AF40
253	1998 Dairy Production Disaster Assistance Program, Livestock Indemnity Program, and Tree Assistance Program	0560-AF44
254	Noninsured Crop Disaster Assistance Program Regulations for the 1998 and Succeeding Crop Years	0560-AF46
255	Debt Settlement of the Farm Loan Program's Nonprogram Loans	0560-AF54

USDA

Farm Service Agency—Completed Actions

Sequence Number	Title	Regulation Identifier Number
256	Guaranteed Loan Programs; Monitoring Liquid Accounts	0560-AE05
257	Loans to Indian Tribes and Tribal Corporations	0560-AE10
258	Disaster Assistance	0560-AE22
259	Revisions to the Direct Farm Ownership Loan Regulation (1943-A) Outreach Program for Members of Socially Disadvantaged Groups	0560-AE23
260	Socially Disadvantaged Outreach Program	0560-AE24
261	Permit FSA To Sell or Assign Farm Loan Mortgages and Notes	0560-AE35
262	Implementation of Five-Year Direct Line of Credit Program	0560-AE58
263	Post-Bankruptcy Loan Servicing Notification	0560-AE62
264	Consolidate FSA Farm Credit Programs Regulations—Miscellaneous Program Requirements	0560-AE64
265	Consolidate FSA Farm Credit Programs Direct Loan Servicing Regulations—Management and Disposal of Acquired Property	0560-AE65
266	Consolidate FSA Farm Credit Program Direct Loan Servicing Regulations—Delinquent Account Restructuring and Liquidation	0560-AE66
267	Consolidate FSA Farm Credit Programs Direct Loan Servicing Regulations—Management Advice, Tax Servicing, Collection, and Security Servicing	0560-AE67
268	Eliminate Internal Agency Provisions From FSA Farm Credit Programs Regulations—Miscellaneous Program Requirements	0560-AE68
269	Eliminate Internal Administrative Provisions From FSA Farm Credit Program Regulations—Management and Disposal of Acquired Property	0560-AE69
270	Eliminate Internal Administrative Provisions From FSA Farm Credit Program Direct Loan Regulations—Delinquent Account Servicing and Liquidation	0560-AE70
271	Eliminate Internal Administrative Provisions From FSA Farm Credit Programs Direct Loan Servicing Regulations	0560-AE71
272	Elimination of Administrative Provisions From FSA Farm Credit Program Direct Loanmaking Regulations	0560-AE73
273	Consolidation of FSA Farm Credit Programs Direct Loanmaking Regulations	0560-AE74
274	Elimination of Administrative Provisions From FSA Farm Credit Programs Guaranteed Loanmaking Regulations	0560-AE75
275	Consolidation of FSA Farm Credit Programs Guaranteed Loanmaking Regulations	0560-AE76
276	Elimination of Administrative Provisions From FSA Regulations Pertaining to Farm Credit Programs Loan Rates, Funding, and Loan Authorities	0560-AE77
277	Consolidation of FSA Farm Credit Programs Regulations Pertaining to Loan Rates, Funding, and Loan Authorities	0560-AE78
278	Elimination of Administrative Provisions From FSA Farm Credit Programs Environmental Regulations	0560-AE79
279	Consolidation of Farm Service Agency Environmental Programs Regulations	0560-AE80
280	Subordination of Direct Loan Basic Security To Secure a Guaranteed Loan	0560-AE92
281	Amendments to the Production Flexibility Contract for Wheat, Feed Grains, Rice, and Upland Cotton	0560-AF25

Animal and Plant Health Inspection Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
282	Importation Of Solid Wood Packing Material	0579-AA99

Animal and Plant Health Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
283	Animal Welfare—Standards for Marine Mammals	0579-AA59
284	Plant Pest Regulations; Update of Current Provisions	0579-AA80
285	Veterinary Services Multi-Year User Fees	0579-AA87
286	Interstate Movement of Sheep and Goats From States That Do Not Quarantine Scrapie-Infected and Source Flocks	0579-AA90
287	Importation of Grapefruit, Lemons, and Oranges From Argentina	0579-AA92
288	Licensing Requirements for Dogs and Cats	0579-AA95
289	Importation Of Poultry From Sinaloa and Sonora, Mexico	0579-AA96
290	Irradiation Phytosanitary Treatment of Imported Fresh Fruits and Vegetables	0579-AA97

USDA

Animal and Plant Health Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
291	Addition of Cervidae to the Regulations Concerning Tuberculosis in Livestock	0579-AA53
292	Phytosanitary Export Certification; Accreditation of Nongovernment Facilities	0579-AA75
293	Karnal Bunt	0579-AA83
294	Restrictions on the Importation of Ruminants, Meat and Meat Products From Ruminants, and Certain Other Ruminant Products	0579-AA98
295	Importation of Rhododendron in Growing Media	0579-AB00

Animal and Plant Health Inspection Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
296	Importation of Fruits and Vegetables	0579-AA58
297	Importation of Certain Embryos and Animal Semen	0579-AA63
298	HSTAIC Repair and Maintenance Fees	0579-AA69
299	Importation of Logs, Lumber, and Other Unmanufactured Wood Articles	0579-AA82
300	Importation of Pork From Yucatan, Mexico	0579-AA91
301	Importation of Fuji Apples From the Republic of Korea	0579-AA93
302	Requirements for Inspection Licensing Procurement of Animals; Animal Welfare	0579-AA94

Animal and Plant Health Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
303	User Fees, Veterinary Diagnostics	0579-AA70
304	Animal Welfare—Standards for Animal Auctions	0579-AA76
305	Karnal Bunt Status of the Mexicali Valley of Mexico	0579-AA88

Cooperative State Research, Education, and Extension Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
306	Agricultural Telecommunications Program Administrative Provisions	0524-AA12
307	Hispanic Education Partnership Grants Program; Administrative Provisions	0524-AA17
308	Community Food Projects Administrative Provisions	0524-AA19
309	Small Business Innovation Research Program Administrative Provisions	0524-AA20
310	Biotechnology Risk Assessment Research Grants Program Administrative Provisions	0524-AA21
311	National Research Initiative Competitive Grants Program Administrative Provisions	0524-AA22

Cooperative State Research, Education, and Extension Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
312	Higher Education Multicultural Scholars Program; Administrative Provisions	0524-AA09

Rural Housing Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
313	Civil Rights Compliance Requirements—1901-E to 1940-D	0575-AA83

USDA

Rural Housing Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
314	Direct Single-Family Housing Loans and Grants	0575-AC11
315	Multi-Family Housing Reinvention	0575-AC13
316	Guaranteed Rural Housing Loan Single Family	0575-AC18
317	Farm Labor Housing - Competitive Funding	0575-AC19

Rural Housing Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
318	Denying Credit to Applicants Delinquent on Any Federal Debt	0575-AA66
319	Reengineering and Reinvention of the Direct Section 502 and 504 Single Family Housing Program	0575-AB99
320	Community Facility Grants	0575-AC10
321	Servicing Community Programs Loans and Grants	0575-AC12
322	Section 538 Guarantee Rural Rental Housing Program	0575-AC14
323	Community Programs Guaranteed Loans	0575-AC17

Rural Housing Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
324	Environmental Program Streamline Environmental Process	0575-AB98
325	National Flood Insurance Regulations	0575-AC07

Rural Housing Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
326	Community Facility Loans	0575-AC16

Federal Crop Insurance Corporation—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
327	General Administrative Regulations; High Risk Land Regulations	0563-AA98
328	General Administrative Regulations; Subpart D; Application for Crop Insurance	0563-AB00
329	Common Crop Insurance Regulations; Cotton and ELS Cotton Crop Insurance Provisions	0563-AB62
330	Common Crop Insurance Regulations; Small Grains Crop Insurance Provisions and Wheat Winter Coverage Endorsement	0563-AB63
331	Common Crop Insurance Regulations; Coarse Grains Crop Insurance Provisions	0563-AB64
332	Common Crop Insurance Regulations; Basic Provisions	0563-AB69
333	General Administrative Regulations; Submissions of Request To Reduce Premium Charged the Insured as the Result of Operational Efficiencies	0563-AB70
334	General Administrative Regulations; Movement of Business Among Insurance Providers	0563-AB71
335	General Administrative Regulations; Reinsurance Agreement—Standards for Approval	0563-AB72
336	General Administrative Regulations; Sanctions	0563-AB73

USDA

Federal Crop Insurance Corporation—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
337	Group Risk Plan Crop Insurance Provisions; Part 407	0563-AB06
338	General Administrative Regulations; Subpart S; Regulations for Insurance Coverage by Written Agreement	0563-AB07
339	General Administrative Regulations; Subpart V; Submission of Policies and Provisions of Policies and Rates of Premium	0563-AB15
340	General Administrative Regulations; Subpart J; Appeal Procedure Regulations	0563-AB17
341	General Administrative Regulations; Subpart N; Disaster Assistance Act of 1989	0563-AB20
342	Federal Crop Insurance on Highly Erodible Land and Wetlands— Part 400	0563-AB59
343	Federal Crop Insurance on Highly Erodible Land and Wetlands— Part 401	0563-AB60
344	Dairy Options Pilot Program	0563-AB61
345	General Administrative Regulations; Nonstandard Underwriting Classification System **(Reg Plan Seq. No. 1)**	0563-AB66
346	General Administrative Regulations; Subpart T - Regulations for the 1999 and Subsequent Reinsurance Years **(Reg Plan Seq. No. 2)**	0563-AB67
347	General Administrative Regulations; Subpart U; and Catastrophic Risk Protection Endorsement - Regulations for the 1999 and Subsequent Reinsurance Years **(Reg Plan Seq. No. 3)**	0563-AB68

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Federal Crop Insurance Corporation—Completed Actions

Sequence Number	Title	Regulation Identifier Number
348	Common Crop Insurance Regulations; Tobacco (Guaranteed Plan) Crop Insurance Provisions	0563-AA84
349	Common Crop Insurance Regulations; Peanut Crop Insurance Provisions	0563-AA85
350	Common Crop Insurance Regulations; Rice, Fig, Almond, Raisin, Forage Production, Hybrid Sorghum Seed, Pear, Apple, Canning and Processing Sweet Corn, Dollar Plan Fresh Market Tomato	0563-AB03
351	Tobacco, Quota Plan Crop Insurance Regulations	0563-AB47
352	Popcorn Corn Insurance Regulations	0563-AB48
353	Nursery Crop Insurance Regulations; Common Crop Insurance Regulations; and Nursery Crop Insurance Provisions	0563-AB65

Grain Inspection, Packers and Stockyards Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
354	Regulations Under Packers and Stockyards Act (Price Reporting)	0580-AA65

Grain Inspection, Packers and Stockyards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
355	Grain Inspection General Regulations	0580-AA53
356	Review Inspection Requirements	0580-AA58
357	Regulations Issued Under Packers and Stockyards Act (Feed Weight)	0580-AA64
358	Fees for Official Inspection and Official Weighing Services (1999)	0580-AA66

Grain Inspection, Packers and Stockyards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
359	Tolerances for Dividers	0580-AA57
360	Clear Title for Purchasers of Farm Products	0580-AA63

USDA

Grain Inspection, Packers and Stockyards Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
361	Poultry Grower Contracts, Scales, Weighing	0580-AA51

Grain Inspection, Packers and Stockyards Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
362	General Regulations and Standards for Certain Agricultural Commodities	0580-AA54
363	Official/Unofficial Weighing Services	0580-AA55
364	Fees for Official Inspection and Official Weighting Services	0580-AA59
365	Tolerances for Moisture Meters Used in Grain Inspection	0580-AA60
366	Prohibition on Adding Substances to Grain	0580-AA61
367	Official Testing Service for Corn Oil, Protein, and Starch	0580-AA62

Food and Nutrition Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
368	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Delivery Systems Integrity **(Reg Plan Seq. No. 4)**	0584-AA80
369	Food Distribution Programs—Implementation of 1990 Farm Bill	0584-AB28
370	Food Stamp Program: Revisions to the Retail Food Store Definition and Program Authorization Guidance **(Reg Plan Seq. No. 5)**	0584-AB90
371	Food Stamp Program: Retailer Application Processing	0584-AC05
372	Summer Food Service Program: Program Meal Service During the School Year	0584-AC06
373	Consolidation of National School Lunch Program, School Breakfast Program and Summer Food Service Program Into a Comprehensive School Meal Program	0584-AC10
374	Disclosure of Free and Reduced Price Eligibility Information Under the School Nutrition and Child and Adult Care Food Programs	0584-AC21
375	Food Stamp Program: Welfare Reform and Regulatory Review of Program Management	0584-AC22
376	Improving Management and Program Integrity in the Child and Adult Care Food Program	0584-AC24
377	Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools: Provision 2 and Provision 3	0584-AC25
378	Food Stamp Program Regulatory Review: Certification of Eligible Households	0584-AC28
379	WIC: Food Package Adjustments and Corrections	0584-AC29
380	WIC: Bloodwork Requirements	0584-AC30
381	Part 240, Cash In Lieu of Donated Foods and Part 250, Food Distribution Regulations	0584-AC31
382	Food Stamp Program Regulatory Review: FSP Standards for Approval and Operation of Food Stamp Electronic Benefit Transfer Systems	0584-AC37
383	National School Lunch Program and School Breakfast Program: Additional Menu Planning Alternatives	0584-AC38
384	FSP: Personal Responsibility Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 **(Reg Plan Seq. No. 6)**	0584-AC39
385	FSP: State Flexibility and Certification Provisions of Public Law 104-193 **(Reg Plan Seq. No. 7)**	0584-AC40
386	FSP: Nondiscretionary Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 **(Reg Plan Seq. No. 8)**	0584-AC41
387	Electronic Benefit Transfer (EBT) Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996	0584-AC44
388	Food Stamp Program: Work Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 **(Reg Plan Seq. No. 9)**	0584-AC45
389	Regulatory Reform: Provisions Relating to Firms Participating in the Food Stamp Program	0584-AC48
390	Food Distribution Program: Regulatory Implementation of Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PL 104-193, 110 Stat 2105)	0584-AC49
391	Food Distributions Programs: Commodity Acceptability Report	0584-AC56
392	WIC: Food and Nutrition Services and Administration (NSA) Funding Formula Rule	0584-AC64
393	Food Distribution Program on Indian Reservations: Disqualification Penalties for Intentional Program Violations	0584-AC65

USDA

Food and Nutrition Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
394	Commodity Supplemental Food Program: Program Streamlining, Flexibility, and Miscellaneous Amendments	0584-AC66

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Food and Nutrition Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
395	Child and Adult Care Food Program: Authority To Collect Overclaims	0584-AB19
396	Food Stamp Program: 1995 Quality Control Technical Amendments	0584-AB38
397	WIC: Requirements for and Evaluation of WIC Program Requests for Bids for Infant Formula Rebate Contracts	0584-AB52
398	Food Distribution Program on Indian Reservations—Oklahoma Waiver Authority	0584-AB56
399	Food Stamp Program: Anticipating Income and Reporting Changes	0584-AB57
400	Food Stamp Program: Payment of Certain Administrative Costs of State Agencies	0584-AB66
401	Food Distribution Program on Indian Reservations: Definition of Indian Tribal Household	0584-AB67
402	Amendments to the Infant Meal Pattern	0584-AB81
403	Food Stamp Program: Food Stamp Recipient Claim Establishment and Collection Standards **(Reg Plan Seq. No. 10)**	0584-AB88
404	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Implementation of WIC Mandates of the Healthy Meals for Healthy Americans Act of 1994	0584-AC02
405	Child and Adult Care Food Program: Child Nutrition and WIC Reauthorization Act Amendments and Healthy Meals for Healthy Americans Act of 1994	0584-AC20
406	Implementation of Legislative Reforms in the Summer Food Service Program	0584-AC23
407	Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Disqualification of WIC Vendors Who Are Disqualified From the Food Stamp Program	0584-AC50
408	Special Supplemental Nutrition Program for WIC: Implementation of WIC-Related Provisions of PL 104-193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996	0584-AC51
409	Implementation of Legislative Changes in the Child and Adult Care Food Program	0584-AC52
410	Food Stamp Program: Electronic Benefits Transfer (EBT) Benefit Adjustments	0584-AC61
411	Food Stamp Provisions of the Balanced Budget Act of 1997	0584-AC63

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Food and Nutrition Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
412	Special Supplemental Food Program for Women, Infants, and Children (WIC): Miscellaneous Provisions	0584-AB10
413	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Cost Containment Requirements	0584-AB11
414	Permanent Agreements/Direct Certification in National School Lunch, School Breakfast, and Special Milk Programs	0584-AB35
415	Provisions of Computer Matching and Privacy Protection Act of 1988, Amendments of 1990, and Implementation of the Disqualified Recipient Subsystem	0584-AB51
416	School Nutrition Programs: Technical and Nondiscretionary Amendments	0584-AC01
417	Amendment To Remove Formulated Grain—Fruit Product Section	0584-AC09
418	Food Stamp Program: Retailer Integrity, Fraud Reduction and Penalties	0584-AC46
419	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Soy-Base Beverages (Soymilk) in WIC	0584-AC67
420	WIC Farmers Market Nutrition Program (FMNP): Expansion Funds Allocation Formula	0584-AC68

USDA

Food and Nutrition Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
421	Food Stamp Program: Quality Control Provisions of the Mickey Leland Childhood Hunger Relief Act	0584-AB75
422	FSP: Collection of Delinquent Retailer Debts: Administrative Offset	0584-AC11
423	Modification of the "Vegetable Protein Products" Portion of Appendix A of 7 CFR Parts 210, 225, and 226	0584-AC18
424	NSLP/SBP/SMP/FDP/CACFP/SFSP/WIC: Nonprocurement Debarment	0584-AC26
425	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Accommodation of Cultural Food Preferences in the WIC Program	0584-AC32
426	Nutrition Education and Training Program Requirements	0584-AC34
427	Food Stamp Program: Simplified Food Stamp Program Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996	0584-AC43
428	WIC: Evaluation of WIC Program Infant Formula Rebate Contracts	0584-AC55
429	WIC: Notice Announcing USDA's Decision To Retain the 6-Gram Sugar Limit for WIC Cereals	0584-AC59
430	Definition of Federal Means-Tested Public Benefit	0584-AC62

Food Safety and Inspection Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
431	Elimination of Accredited Laboratory Program for Food Chemistry and Residue Chemistry	0583-AC48

Food Safety and Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
432	Transportation and Storage Requirements for Potentially Hazardous Foods	0583-AC05
433	Grant and Inauguration of Inspection	0583-AC07
434	Performance Standards for the Chilling of Ready-to-Cook Poultry	0583-AC21
435	Retained Water in Raw Meat and Poultry Products; Poultry Chilling Performance Standards	0583-AC26
436	Elimination of Requirements for Partial Quality Control Programs **(Reg Plan Seq. No. 11)**	0583-AC35
437	Performance Standards for Shelf-Stable, Ready-To-Eat Products	0583-AC45
438	Performance Standards for Perishable, Ready-to-Eat Products	0583-AC46
439	Performance Standards for Bacon	0583-AC49
440	Irradiation of Meat and Meat Products	0583-AC50
441	Salmonella Enteritidis in Eggs	0583-AC52
442	Reworking of Meat and Poultry Carcasses Accidentally Contaminated During Evisceration	0583-AC53

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Food Safety and Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
443	Performance Standards for Certain Meat Products and Poultry Products **(Reg Plan Seq. No. 12)**	0583-AB94
444	Addition of Mexico to List of Countries Eligible To Export Poultry Products to the United States	0583-AC33
445	Rules of Practice **(Reg Plan Seq. No. 13)**	0583-AC34
446	Sanitation Requirements for Official Meat and Poultry Establishments **(Reg Plan Seq. No. 14)**	0583-AC39
447	Meat Produced by Advanced Meat/Bone Separation Machinery and Meat Recovery Systems	0583-AC51

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

USDA

Food Safety and Inspection Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
448	Substances Approved for Use in the Preparation of Meat and Poultry Products	0583-AB02
449	Nutrition Labeling of Ground Beef and Hamburger	0583-AB74
450	Use of Soy Protein Concentrate, Food Starch-Modified and Gelatin as Binders in Certain Meat Products	0583-AB82
451	Elimination of Prior Approval Requirements for Egg Product Plant Drawings, Specifications, and Equipment	0583-AC06
452	Beef or Pork With Barbecue Sauce; Revision of Standards	0583-AC09
453	Labeling Standards for Ovine Carcasses, Parts of Carcasses, Meat and Meat Food Products	0583-AC41
454	Ante-Mortem and Post-Mortem Inspection of Livestock and Poultry	0583-AC43
455	Requirements for Disposition and Disposal of Inspected Raw Meat and Poultry Products	0583-AC44

Food Safety and Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
456	Requirements for Foreign Country Import Certification and Live Animal Importation	0583-AA47
457	Food Standards: Requirements for Processed Meat and Poultry Products Named by Use of an Expressed Nutrient Content Claim and a Standardized Term	0583-AB51
458	Nutrition Labeling: Health Claims on Meat and Poultry Products	0583-AB64
459	Nutrition Labeling; New Product Categories and Reference Amounts	0583-AB81
460	Continuous Chilling of Split Poultry Portions	0583-AB95
461	Refrigeration and Labeling Requirements for Shell Eggs	0583-AC04
462	Nutrition Labeling; Reference Daily Intakes	0583-AC15
463	Carrageenan, Locust Bean Gum, and Xanthan Gum Blend Used as a Binder in Certain Cured Pork Products	0583-AC16
464	Performance Standards for the Production of Certain Meat and Poultry Products With Established Standards of Identity	0583-AC18
465	Performance Standards for the Thermal Processing of Meat and Poultry Products	0583-AC19
466	Prevention of Physical or Chemical Contamination of Meat and Poultry Products or Product Ingredients	0583-AC22
467	Performance Standard for Carcasses Cut Into Primal Parts Within an Establishment	0583-AC27
468	Hazard Analysis and Critical Control Point (HACCP) Systems for Egg Products	0583-AC30
469	Elimination of Prior Approval Requirements for Proprietary Substances and Nonfood Compounds	0583-AC37
470	Performance Standards for the Production of Certain Meat and Poultry Products	0583-AC38
471	Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems Sampling Collection—Technical Amendment and Corrections	0583-AC40

Foreign Agricultural Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
472	Dairy Tariff-Rate Import Quota Licensing	0551-AA53

Foreign Agricultural Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
473	Export Sales Reporting Requirement	0551-AA51

Foreign Agricultural Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
474	CCC Supplier Credit Guarantee Program	0551-AA30
475	Sugar Import Licensing	0551-AA39

USDA

Foreign Agricultural Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
476	Regulation Governing Implementation of the Market Access Program	0551-AA52
477	Regulations Governing the Financing of Commercial Sales of Agricultural Commodities	0551-AA54
478	Changes to the Regulation to Achieve More Effective Management of Foreign Donations of Agricultural Commodities	0551-AA56
479	Amend Regulations Governing Procedures for Procuring Ocean Transportation for Agricultural Commodities	0551-AA57

Foreign Agricultural Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
480	Proposed Regulations Governing Implementation of the Cooperator Market Development Program Overseas	0551-AA26
481	Dairy Tariff Rate Import Quota Licensing	0551-AA27
482	Facility Guarantee Program	0551-AA35
483	Reform of Export Bonus Program	0551-AA41

Forest Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
484	Hydropower Applications	0596-AA47
485	National Forest Prohibitions	0596-AA75
486	Small Tracts Act Regulations	0596-AA79
487	National Forest System Land and Resource Management Planning	0596-AB20
488	Species Surplus to Domestic Manufacturing Needs	0596-AB27
489	Collection of Reimbursable Costs for Processing Special-Use Applications and Administration of Special-Use Authorizations	0596-AB36
490	Appeal of Decisions Relating to Occupancy and Use of National Forest System Lands	0596-AB45
491	Sale and Disposal of National Forest System Timber; Extension of Timber Sale Contracts To Permit Urgent Removal of Other Timber	0596-AB48
492	Disposal of National Forest Timber: Timber Sale Contract Revisions	0596-AB52
493	National Environmental Policy Act; Revised Policy and Procedures; Categorical Exclusions	0596-AB54
494	Law Enforcement Support Activities	0596-AB61
495	Administration of the Forest Development Transportation System	0596-AB67
496	Noncompetitive Sale of Timber	0596-AB70

Forest Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
497	Indian Allotments on National Forest System Lands	0596-AA52
498	Disposal of National Forest Timber; Cancellation of Timber Sale Contracts	0596-AB21
499	State and Private Forestry Assistance Stewardship Incentive Program	0596-AB32
500	Special-Use Applications and Administration of Special-Use Authorizations	0596-AB35
501	Preference for Visitor Service; Alaska National Forest Conservation System Units	0596-AB57
502	Appeal of Decisions Relating to Occupancy and Use of National Forest System Lands; Mediation of Grazing Permit Disputes	0596-AB59
503	Small Business Timber Sale Set-Aside Program; Appeal Procedure on Recomputation of Shares	0596-AB62
504	Administrative, Cooperative Funds Agreements	0596-AB63
505	Categorical Exclusion for Certain Ski Area Permit Actions	0596-AB65
506	Administration of the Forest Development Transportation System: Temporary Suspension of Road Construction in Roadless Areas	0596-AB68

USDA

Forest Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
507	Notice, Comment, and Appeal Procedures for National Forest System Projects and Activities	0596-AB69

Forest Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
508	National Forest System Land and Resource Management Planning Forest Service Manual Chapter 1920	0596-AB31
509	Sale and Disposal of National Forest Timber; Market-Related Contract Term Additions	0596-AB41

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
510	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments	0503-AA16
511	Designation of Rural Empowerment Zones and Enterprise Communities	0503-AA18
512	Uniform Procedures for the Acquisition and Transfer of Excess Personal Property	0503-AA19

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
513	Nondiscrimination in USDA-Conducted Programs and Activities	0503-AA15

Rural Business-Cooperative Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
514	Rural Economic Development Loan and Grant Program	0570-AA19
515	Direct Business and Industry Direct Loan Program	0570-AA22
516	Rural Venture Capital Demonstration Program	0570-AA25

Rural Business-Cooperative Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
517	Rural Business Opportunity Grants	0570-AA05
518	Rural Business Enterprise Grants and Television Demonstration Grants	0570-AA08

Rural Business-Cooperative Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
519	National Sheep Industry Improvement Center	0570-AA21
520	Rural Business and Industrial Loan Program—Miscellaneous Changes	0570-AA23
521	Affirmative Fair Housing Marketing Plan	0570-AA24
522	Business and Industry Guaranteed Loan Program—Financing Cooperative Stock	0570-AA26

USDA

Rural Business-Cooperative Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
523	Rural and Rural Area Under the Rural Community Advancement Program	0570-AA27

Rural Utilities Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
524	Telecommunications System Construction Contract and Specifications	0572-AB41

Rural Utilities Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
525	RUS Fidelity and Insurance Requirements for Electric and Telecommunications Borrowers	0572-AA86
526	Preservation of Records Accounting Requirements for RUS Electric Borrowers	0572-AA92
527	Load Forecasts and Market Analysis	0572-AB05
528	Telecommunications Standards and Specifications for Materials, Equipment, and Construction	0572-AB40

Rural Utilities Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
529	Environmental Policies and Procedures	0572-AB33
530	Telecommunications System Construction Policies and Procedures	0572-AB34
531	Special Equipment Contract (Including Installation)	0572-AB35

Rural Utilities Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
532	Loan Security Documents—Telecommunications Program	0572-AA30
533	Loan Account Computations, Policies, and Procedures	0572-AA65
534	Electric Standards and Specifications for Materials and Construction	0572-AA67
535	Post-Loan Policies and Procedures Common to Insured and Guaranteed Electric Loans	0572-AA71
536	Civil Rights Policies Applicable to RUS Borrowers	0572-AA75
537	Loan Documents—Bank Program	0572-AA76
538	Depreciation Rates and Procedures	0572-AA80
539	Use of General Funds Investments, Loan Guarantees, and Retirement of Capital Credits by Electric Borrowers	0572-AB01
540	RUS Approval of Sale of Capital Assets by Electric Borrowers	0572-AB02
541	Community Facility Loans—Timber-Dependent Communities	0572-AB11
542	Solid Waste Management Grants	0572-AB14
543	Technical Assistance and Training Grants	0572-AB15
544	Water and Waste Loan and Grant Servicing	0572-AB23
545	RUS Approval of Additions and Extensions to Electric Plants	0572-AB38
546	Electric Program Standard Contract Forms	0572-AB42

USDA

Rural Utilities Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
547	Electric System Planning and Design—Policies and Procedures	0572-AA48
548	Long-Range Financial Forecasts of Electric Borrowers	0572-AA89
549	Liquidation of Loans and Acquisition, Management, and Disposal of Security Property	0572-AB13
550	Year 2000 Compliance, Telecommunications Program	0572-AB43

Natural Resources Conservation Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
551	Forestry Incentives Program	0578-AA26

Natural Resources Conservation Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
552	7 CFR Part 610 Technical Assistance	0578-AA22

Natural Resources Conservation Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
553	Highly Erodible Land and Wetland Conservation	0578-AA17

Natural Resources Conservation Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
554	Conservation Farm Option (CFO)	0578-AA20
555	Water Bank	0578-AA24
556	Surface Mining Specifications	0578-AA25

Office of Procurement and Property Management—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
557	Agriculture Acquisition Regulation (AGAR); Simplified Acquisition Procedures	0599-AA04

Office of Procurement and Property Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
558	Agriculture Acquisition Regulation (AGAR); Contractor Employment of Migrant and Seasonal Agricultural Workers	0599-AA05

USDA

Office of Procurement and Property Management—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
559	New Restrictions on Lobbying	0599-AA03

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)

Proposed Rule Stage

176. NATIONAL ORGANIC PROGRAM

Priority: Economically Significant

Legal Authority: PL 101-624, sec 2101 to 2123; 7 USC 6501 to 6522

CFR Citation: 7 CFR 205

Legal Deadline: NPRM, Statutory, May 28, 1992. Final, Statutory, October 1, 1993. Other, Statutory, May 28, 1991. The Organic Foods Production Act calls for the Secretary to appoint the National Organic Standards Board 180 days after enactment and convene it within 60 days thereafter.

Abstract: The program is proposed under the Organic Foods Production Act of 1990 (Title XXI of the Food, Agriculture, Conservation and Trade Act, P.L. 101-624), as amended (OFPA or Act), which requires the establishment of national standards governing the marketing of certain agricultural products as organically produced to facilitate commerce in fresh and processed food that is organically produced and to assure consumers that such products meet consistent standards. This program would establish national standards for the organic production and handling of agricultural products, which would include a national list of synthetic substances approved for use in the production and handling of organically produced products. It also would establish an accreditation program for State officials and private persons who want to be accredited to certify farms and handling operations that comply with the program's requirements and a certification program for farms and handling operations that want to be certified as meeting the program's requirements. The program additionally would include labeling requirements for organic products and products containing organic ingredients, and enforcement provisions. The rule provides for the approval of State organic programs and the importation into the United States of organic agricultural products from foreign programs determined to have equivalent requirements. Comments regarding this rule should be sent to: Eileen S. Stommes, Deputy Administrator, USDA, AMS-TM-NOP, Room 4007-So., Ag Stop 0275, P.O. Box 96456, Washington, D.C. 20090-6456. On December 16, 1997, the proposed rule was published with a public comment period that ended. On April 30, 1998. Over 185,000 comments were received and are currently being reviewed with a subsequent revised proposed rule planned for fiscal year 1999.

Timetable:

Action	Date	FR Cite
Organic Livestock Hearings	12/30/93	58 FR 69315
Notice - Procedure To Submit Names of Substances for National List	03/27/95	60 FR 15744
NPRM	12/16/97	62 FR 65850
NPRM Comment Period End	10/01/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal

Agency Contact: Eileen Stommes, Deputy Administrator, Transportation and Marketing Programs, Department of Agriculture, Agricultural Marketing Service, Room 4006 South Building, P.O. Box 96456, Washington, DC 20090-6456
Phone: 202 720-3252

RIN: 0581–AA40

177. NATIONAL LABORATORY ACCREDITATION PROGRAM

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 7 USC 138 to 138i

CFR Citation: None

Legal Deadline: None

Abstract: The 1990 Farm Bill authorized the creation of a National Laboratory Accreditation Program (NLAP) for laboratories that request accreditation and conduct residue testing of agricultural products concerning chemical residue levels on agricultural products. The program is designed to protect human health by ensuring that laboratories which make claims to the public concerning pesticide residue levels meet minimum quality and reliability standards. The standards for the NLAP will be provided by the Food and Drug Administration with the operation of the program under the Agricultural Marketing Service, USDA. The program costs will be offset by a fee schedule. The one-time appropriation was used to provide for a fully equipped pesticide laboratory to verify the findings of those laboratories applying for accreditation.

Timetable:

Action	Date	FR Cite
ANPRM	11/20/92	57 FR 54727
ANPRM Comment Period End	01/19/93	
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: I-Pin Ho, Chemist, Technical Services Branch, Department of Agriculture, Agricultural Marketing Service, USDA, AMS, Science and Technology Division, P.O. Box 96456, Room 3517-South, Washington, DC 20090-6456
Phone: 202 205-4993
Fax: 202 720-6496

RIN: 0581–AB42

USDA—AMS

Proposed Rule Stage

178. KIWIFRUIT RESEARCH, PROMOTION, AND CONSUMER INFORMATION ORDER

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 7461 to 7473

CFR Citation: 7 CFR 1214

Legal Deadline: None

Abstract: Two proposals were submitted to the Department of Agriculture for a Kiwifruit Research, Promotion, and Consumer Information Order. Under the proposals, producers and importers would pay an assessment not to exceed 10 cents per 7-pound tray of kiwifruit. The assessments would be used to conduct a general program to maintain, expand, and develop markets for kiwifruit. Seventy-five comments were received on the proposals. Most of which were negative. Therefore, the proposed program was held in abeyance until the Act could be amended. The Act was amended on 6/23/98. Subsequently, there will be a national referendum to determine if the proposed program will be implemented.

Timetable:

Action	Date	FR Cite
ANPRM	10/02/96	61 FR 51378
ANPRM Comment Period End	12/02/96	
NPRM	10/17/97	62 FR 54310
First Proposed Rule	10/17/97	62 FR 201
NPRM Comment Period End	11/00/98	
Final Action	06/00/99	
Final Action Effective	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Martha B. Ransom, Chief, Research and Promotion Branch, Department of Agriculture, Agricultural Marketing Service, USDA, AMS/F&V Division-R&P Branch, P.O. Box 96456, Room 2535-So. Bldg., Washington, DC 20090-6456
Phone: 202 720-9915
Fax: 202 205-2800

RIN: 0581–AB46

179. • FEDERAL SEED ACT; AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1551 to 1611

CFR Citation: 7 CFR 201

Legal Deadline: None

Abstract: The objective of this proposal is to update the Federal Seed Act (FSA) regulations to incorporate current seed testing and seed certification procedures and the proposal would also make seeds of Federal Noxious Weed Act (FNWA) species noxious, in interstate shipments of seed. This amendment would keep the FSA regulations consistent with present technology and prevent conflicts between Federal and State regulations that could inhibit the free movement of seed. Making the FNWA species noxious would provide the States and AMS a means to regulate and prevent the spread of these highly destructive weeds.

Timetable:

Action	Date	FR Cite
NPRM	10/20/98	63 FR 55964
NPRM Comment Period End	12/21/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James P. Triplitt, Chief, Seed Regulatory and Testing Branch, Department of Agriculture, Agricultural Marketing Service, Room 209, Building 306, BARC-East, Beltsville, MD 20705-2325
Phone: 301 504-9430
Fax: 301 504-5454
Email: james__p__triplitt@usda.gov

RIN: 0581–AB55

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)

Final Rule Stage

180. FEDERAL MILK ORDER CONSOLIDATION AND REFORM (SECTION 610 REVIEW)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 7 USC 601 to 674

CFR Citation: 7 CFR 1139

Legal Deadline: Final, Statutory, April 4, 1999.
Required by Public Law 104-127

Abstract: The Federal Agriculture Improvement and Reform Act requires that the current 32 Federal milk marketing orders be consolidated into between 10 to 14 orders by 4/4/99. The 1996 Farm Bill also directs the Secretary to designate the State of California as a Federal order if California dairy producers petition for and approve such an order. The Act specifies that USDA use informal rulemaking to implement these reforms.

Timetable:

Action	Date	FR Cite
NPRM	01/30/98	63 FR 12417
NPRM Comment Period End	04/30/98	
Final Action	12/00/98	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local

Agency Contact: John F. Borovies, Branch Chief, Department of Agriculture, Agricultural Marketing Service, USDA-AMS-Dairy-Order Formulation Branch, P.O. Box 96456, Room 2971-So. Bldg., Washington, D.C 20090-6456
Phone: 202 720-6274
Fax: 202 690-0552
Email: john__f__borovies@usda.gov

RIN: 0581–AB49

181. • EGG, POULTRY, AND RABBIT GRADING: FEE INCREASE

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1621 to 1627

CFR Citation: 7 CFR 56

Legal Deadline: None

Abstract: The Agricultural Marketing Service proposes to increase the fees and charges for Federal voluntary egg, poultry, and rabbit grading. These fees and charges need to be increased to cover the increase in salaries of Federal employees, salary increases of State employees cooperatively utilized in administering the programs, and other increased Agency costs.

Timetable:

Action	Date	FR Cite
NPRM	06/09/98	63 FR 31362
NPRM Comment Period End	08/10/98	
Final Action	12/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Holbrook, Deputy Administrator, Poultry Programs, Department of Agriculture, Agricultural Marketing Service
Phone: 202 720-4476

RIN: 0581–AB54

USDA—AMS

Final Rule Stage

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)

Long-Term Actions

182. REVISION OF REGULATIONS GOVERNING THE INSPECTION AND GRADING SERVICES OF MANUFACTURED OR PROCESSED DAIRY PRODUCTS

Priority: Routine and Frequent

CFR Citation: 7 CFR 58

Timetable:

Action	Date	FR Cite
NPRM	08/10/92	57 FR 35492
NPRM Comment Period End	10/09/92	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: F. Tracy Schonrock
Phone: 202 690-0530

RIN: 0581–AA45

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)

Completed Actions

183. FEDERAL MEAT GRADING AND CERTIFICATION SERVICES—1997 USER FEES

Priority: Routine and Frequent

CFR Citation: 7 CFR 54

Completed:

Reason	Date	FR Cite
Final Action	06/17/98	63 FR 32965
Final Action Effective	06/18/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry R. Meadows
Phone: 202 720-1246
Fax: 202 690-4119

RIN: 0581–AB44

184. PROCESSED FRUITS AND VEGETABLES, 1998 FEE INCREASE

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 52.21; 7 CFR 52.38; 7 CFR 52.42; 7 CFR 52.50; 7 CFR 52.51

Completed:

Reason	Date	FR Cite
Final Action	09/23/98	63 FR 50745
Final Action Effective	10/04/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James R. Rodeheaver
Phone: 202 720-4693
Fax: 202 690-1527

RIN: 0581–AB52

185. MILK IN THE NEW ENGLAND AND OTHER MARKETING AREAS; (CLASS I AND II PRICES)

Priority: Economically Significant

CFR Citation: 7 CFR 1001 to 1139

Completed:

Reason	Date	FR Cite
Withdrawn - Final Decision and Termination of Proceeding	06/12/98	63 FR 32147

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Connie M. Brenner
Phone: 202 720-6274
Fax: 202 690-0552
Email: connie__m__brenner@usda.gov

RIN: 0581–AB53

BILLING CODE 3410-02-F

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Research Service (ARS)

Proposed Rule Stage

186. • AMENDMENT OF FEE SCHEDULE, NATIONAL AGRICULTURAL LIBRARY

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-624, sec 104

CFR Citation: 7 CFR 1

Legal Deadline: None

Abstract: The Department of Agriculture proposes to amend the current fee schedule (appendix A, subpart A, 7 CFR part 1) for the National Agricultural Library by increasing fees for photographic reproduction, and adding fees for lending materials. These changes are necessary to offset base costs and increased reproduction costs that are being incurred by the library in responding to requests for information. The prices are applicable to the National Agricultural Library items only and do not apply to requests from USDA patrons or Federal entities, cooperators and institutions with which NAL has quid pro quo arrangements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Carol Ditxler, Head, Document Delivery Services Branch, Department of Agriculture, Agricultural Research Service, Room 300 National Agricultural Library, 10301 Baltimore Avenue, Beltsville, MD 20705
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TDD: 301 504-6856
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RIN: 0518–AA01

BILLING CODE 3410-90-F

DEPARTMENT OF AGRICULTURE (USDA)
Farm Service Agency (FSA)

Proposed Rule Stage

187. • IMPLEMENTATION OF PREFERRED LENDER PROGRAM AND STREAMLINING OF GUARANTEED LOAN REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480

CFR Citation: 7 CFR 1980

Legal Deadline: None

Abstract: This action will consolidate the Guaranteed Farm Loan program regulations in to a single, streamlined regulation. The regulation will also be removed from title 7, subtitle B, chapter XVIII of the CFR and consolidated in chapter VII. Regulations will be entirely rewritten for clarity and to eliminate internal, administrative procedures from the CFR. This action will also implement the Preferred Lender Program and incorporate several program improvements suggested by Agency employees and lenders. Program losses are not expected to change significantly as a result of these changes. Additional program flexibility and authorities granted to lenders will be limited to prevent significant increases in losses.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Ave SW., Washington, DC 20250-0572
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RIN: 0560–AF38

188. • DEBT SETTLEMENT FOR INDIAN TRIBAL LAND ACQUISITION LOANS

Priority: Other Significant

Legal Authority: 5 USC 301; 42 USC 1480

CFR Citation: 7 CFR 1823; 7 CFR 1951

Legal Deadline: None

Abstract: Indian tribes have experienced loss of Federal assistance in the last five years due to reorganization of the Bureau of Indian Affairs (BIA) and the shifting of responsibilities from the BIA to the tribes themselves. These have included waste management, as well as other mandates. The funding to fully meet these mandates has been insufficient, requiring tribes to use other financial resources to meet them. Funding for tribal Priority Allocations, which include law enforcement, housing, education, natural resource management and other tribal services, was reduced in FY 1996. This action will allow for a reduction of debt commensurate with reductions from other Federal sources. Action will be taken on a case-by-case basis in determining the amount and timing of any debt reduction. This action is intended to head off further repayment difficulties and strengthen tribal operations. Outlays are expected to be $22 million.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 0560–AF43

189. • 1999-CROP PEANUTS NATIONAL POUNDAGE QUOTA, NATIONAL AVERAGE LOAN RATES AND MINIMUM EXPORT-EDIBLE SALES PRICE FOR ADDITIONAL PEANUTS

Priority: Other Significant

Legal Authority: 7 USC 1358-1

CFR Citation: 7 CFR 729; 7 CFR 1446; 7 CFR 1421

USDA—FSA

Proposed Rule Stage

Legal Deadline: Other, Statutory, December 15, 1998.
Quota Announcement

Abstract: The objective of the peanut quota is to balance supply with demand at a level that will assure stable supplies for domestic use and assure producers a stable income. This action is required by statute, which provides a formula for computing the national quota, based on the Secretary's estimate of the amount of peanuts required for domestic food and related uses for the 1999 marketing year. The 1999 marketing year is from August 1, 1999 through July 31, 2000. This action is also needed to implement the peanut price support program, as required by statute. The price support levels provide a domestic price floor for quota and additional peanuts and a minimum export-edible sales price for additional peanuts. The Peanut Program, which includes the poundage quota, price support, and export policies, will result in gross outlays of about $30 million, which are expected to be offset by repayments and assessments in FY 1999 and subsequent years, for a net cost of 0.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF48

190. • 1999-CROP MARKETING QUOTAS AND PRICE SUPPORT LEVELS FOR FIVE KINDS OF TOBACCO

Priority: Other Significant

Legal Authority: 7 USC 1312; 7 USC 1445

CFR Citation: 7 CFR 723; 7 CFR 1464

Legal Deadline: Other, Statutory, March 1, 1999.
Marketing Quota Announcement

Abstract: Marketing quotas and price support are required by statute for these kinds of tobacco: Fire-cured (type 21), Fire-cured (types 22-23), Dark Air-cure (types 35-36) Virginia sun-cured (type 37), and Cigar Filler and Binder (types 42-44 and 53-55).. Quotas and allotments are determined by statutory formula to balance supply with demand to assure stable supplies for domestic and export. Marketing quotas are implemented if approved by producers in referenda. Producers approved quotas for the 1999 crops of fire-cured (types 21-23), dark air-cured (types 35-36), and sun-cured (type 37) in March 1997 and 1998. Referenda for the other kinds are scheduled for March, 1999. Producers of these types have historically voted for quotas. Price support levels are set by statutory formula. The Secretary may reduce the level at the request of producer associations, and may limit increases to 65 percent of the formula increase. Gross loan outlays of $1 million in FY 2000 are expected to be offset by loan repayments and no-net-cost assessments in FY 2000 and subsequent years, for a net cost of 0.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Ave. SW., Washington, DC 20250-0572
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RIN: 0560–AF51

191. • FEE SCHEDULE; AERIAL PHOTOGRAPHIC REPRODUCTIONS

Priority: Info./Admin./Other

Legal Authority: 7 USC 1387

CFR Citation: 7 CFR 1

Legal Deadline: None

Abstract: This action will revise the fees charged for some aerial photographic reproductions in order to reflect changes in costs for some products and to discontinue some products due to low demand.

Timetable:

Action	Date	FR Cite
NPRM	10/07/98	63 FR 53852
NPRM Comment Period End	11/06/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Ave. SW., Washington, DC 20250-0572
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RIN: 0560–AF55

DEPARTMENT OF AGRICULTURE (USDA)
Farm Service Agency (FSA)

Final Rule Stage

192. AMENDMENTS TO THE REGULATIONS FOR COTTON WAREHOUSES UNDER THE UNITED STATES WAREHOUSE ACT—ELECTRONIC BLOCK WAREHOUSE RECEIPTS, INSURANCE REQUIREMENTS, AND OTHER PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 241

CFR Citation: 7 CFR 735

Legal Deadline: None

Abstract: This action will amend the regulations to allow warehousemen to issue electronic cotton block warehouse receipts, revise insurance requirements for electronic warehouse receipt providers, and clarify other sections as applicable. There will be negligible costs to Government and industry.

Timetable:

Action	Date	FR Cite
NPRM	11/29/96	61 FR 60637
NPRM Comment Period End	01/28/97	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AE60

193. • DAIRY RECOURSE LOAN PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 7252

CFR Citation: 7 CFR 1430

Legal Deadline: None

Abstract: Section 142 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7252) requires USDA, through the CCC, to offer recourse loans for dairy products beginning on January 1, 2000. The objective of the program is to assist processors in managing their inventories of eligible dairy products and thereby increase price stability for the dairy industry. The current regulations were promulgated as final without public review or comment, as mandated, as part of the implementation of the Federal Agriculture Improvement and Reform Act of 1996. An Advance Notice of Proposed Rulemaking will seek a public review and comment on the terms and conditions of the dairy recourse loan program as currently provided in the regulations. Industry representatives have questioned the advisability of several provisions in the current regulation. No cost is expected.

Timetable:

Action	Date	FR Cite
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF41

194. • AMENDMENTS TO THE REGULATIONS REGARDING SUSPENSION AND DEBARMENT FROM COMMODITY CREDIT CORPORATION PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 714b

CFR Citation: 7 CFR 1407

Legal Deadline: None

Abstract: This action will set forth CCC's policies in taking regarding the debarment of suspension of individuals or firms from participation in Federal procurement and non-procurement programs. USDA has published Department-wide non-procurement debarment and suspension regulations at 7 CFR 3017. Effective 2/5/96, these regulations were amended to remove certain requirements that would have had a detrimental effect if they had been applied to CCC programs. Consequently, CCC is now proposing that 7 CFR 3017 apply to actions taken by CCC to debar or suspend participant or potential participant in CCC non-procurement programs, in order to foster uniformity and consistency with Department regulations. The procurement regulations will also be amended to change the official responsible for procurement suspension and debarment actions. No cost is expected.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF47

195. • 1999-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR FLUE-CURED TOBACCO

Priority: Other Significant

Legal Authority: 7 USC 1314; 7 USC 1445

CFR Citation: 7 CFR 723; 7 CFR 1464

Legal Deadline: Other, Statutory, December 15, 1998.
Marketing Quota Announcement

Abstract: The flue-cured tobacco marketing quota and price support are required by statute. The purpose of the quota and price support is to balance supply with demand at levels assuring stable supplies for domestic and export use at prices that are considered sufficient for producers. The national quota is based on cigarette manufacturers' intentions, 3-year average exports, loan stocks adjustment, and a discretionary adjustment of plus or minus 3 percent. The price support level is based on a formula that averages market prices (2/3 weight) and a cost index (1/3 weight), plus discretion to limit any increase to 65 percent of the formula increase. Marketing quotas were approved by producers in a referendum in January, 1998. Gross loan outlays of $19 million in FY 2000 are expected to be offset by loan repayments and no-net-cost assessments in FY 2000 and subsequent years, for a net cost of 0.

Timetable:

Action	Date	FR Cite
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF50

USDA—FSA

Final Rule Stage

196. • 1999-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR BURLEY TOBACCO

Priority: Other Significant

Legal Authority: 7 USC 1314; 7 USC 1445

CFR Citation: 7 CFR 723; 7 CFR 1464

Legal Deadline: Other, Statutory, February 1, 1999.
Marketing Quota Announcement

Abstract: The burley tobacco marketing quota and price support are required by statute. The purpose of the quota and price support is to balance supply with demand at levels assuring stable supplies for domestic and export use at prices that are considered sufficient for producers. The national quota is based on cigarette manufacturers' intentions, 3-year average exports, loan stocks adjustment, and a discretionary adjustment of plus or minus 3 percent. The price support level is based on a formula that averages market prices (2/3 weight) and a cost index (1/3 weight), plus discretion to limit any increase to 65 percent of the formula increase. Marketing quotas were approved by producers in a referendum in February, 1998. Gross loan outlays of $31 million in FY 2000 are expected to be offset by loan repayments and no-net-cost assessments in FY 2000 and subsequent years, for a net cost of 0.

Timetable:

Action	Date	FR Cite
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF49

197. • AMENDMENT TO THE TOBACCO IMPORTER ASSESSMENT REGULATIONS REGULATIONS REGARDING THE DEFINITION OF DE MINIMIS SPECIAL ENTRIES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1421

CFR Citation: 7 CFR 1464.101

Legal Deadline: None

Abstract: This action would change the number of kilograms of imported tobacco classified as a sample from five (5) kilograms or less to one hundred (100) kilograms or less. The objective is to lessen burdensome paperwork by importers and Commodity Credit Corporation (CCC) without jeopardizing revenue or violating the intent of the program. This change would save time and paperwork since late payment reports are generated for these small amounts of tobacco but late payment fees and under paid assessments of less than $10.00 are not collected. The cost would be minimal because revenue from 100 kilograms of tobacco is normally less than $5.00 and there would be some savings to CCC from less paperwork, printing and postage.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF52

198. • REMOVE INTERNAL AGENCY PROVISION FROM FSA FARM CREDIT PROGRAM REGULATION—LIQUIDATION OF LOANS SECURED BY REAL ESTATE AND ACQUISITION OF REAL AND CHATTEL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 42 USC 1480

CFR Citation: 7 CFR 1955

Legal Deadline: None

Abstract: This action will remove Exhibit G-1, "Worksheet for Determining Farm Credit Programs Maximum Bid on Real Estate Property" from the Code of Federal Regulations because it is administrative in nature and is not needed in the CFR. Administrative instructions will in field office instruction manuals and day-today management of FSA farm loan programs will not be affected. No cost is expected.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF53

199. • CLEANING AND REINSPECTION OF FARMERS' STOCK PEANUTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 714b and 714c; 7 USC 7271

CFR Citation: 7 CFR 1446

Legal Deadline: None

Abstract: This action will seek comments concerning the classification of peanuts as to availability for edible uses by visual inspection for an aflatoxin-producing mold. Currently, peanuts that have a particular mold are classified as Segregation 3, which may not be marketed as quota peanuts. This action would allow producers the

USDA—FSA — Final Rule Stage

option of cleaning farmers' stock peanuts found to have the mold to remove foreign material and loose shelled kernels (the most likely source of the mold), and have the peanuts reinspected. The second grade classification will be the final grade. Certain producers and handlers in Alabama support such a change. Other areas and segments of the peanut industry have not had the opportunity to comment on this issue. This notice will solicit comments from all segments of the peanut industry, including consumers of peanuts and peanut products. The action will assist producers who may only make limited use of transfers of additional loan peanuts to quota loan for pricing purposes. The cost of this action will be negligible.

Timetable:

Action	Date	FR Cite
NPRM	08/05/98	63 FR 41711
NPRM Comment Period End	09/04/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF56

200. • DISASTER RESERVE FLOOD COMPENSATION PROGRAM

Priority: Other Significant

Legal Authority: 7 USC 1427a

CFR Citation: 7 CFR 1439

Legal Deadline: None

Abstract: The Disaster Reserve Flood Compensation Program is a proposed program announced by Secretary Glickman on June 8, 1998, which will utilize proceeds from the sale of grain remaining in the Disaster Reserve. This Program is being established to provide monetary assistance to eligible livestock producers with flooded land that was used for the production of livestock. Long-term flooding of agricultural land has occurred in certain portions of the United States as a result of higher than normal snowfalls and excessive moisture. Benefits will be provided to livestock producers in the approved counties based on the land that is inaccessible or incapable of crop production, haying or grazing due to the flooding present in FY 98, and that have a Presidential Designation or Secretarial Declaration during the period January 1, 1997 through August 1, 1998. This action is needed to authorize the program in accordance with section 813 of the Agricultural Act of 1970 (establishes the Disaster Reserve) and S. Con. Res. 63 which authorizes use of the Disaster Reserve for livestock producers. The program will cost $12 million, which is the balance remaining in the Disaster Reserve.

Timetable:

Action	Date	FR Cite
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF57

DEPARTMENT OF AGRICULTURE (USDA) — Long-Term Actions
Farm Service Agency (FSA)

201. PROGRAM INELIGIBILITY FOR NONCOMPLIANCE WITH BOLL WEEVIL ERADICATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: None

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AD57

202. SUGAR AND CRYSTALLINE FRUCTOSE INFORMATION AND RECORDKEEPING REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1435

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AD88

203. AMENDMENT TO THE WAREHOUSE REGULATIONS REGARDING AUCTION TOBACCO WAREHOUSES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 723; 7 CFR 737

Timetable:

Action	Date	FR Cite
NPRM	07/28/95	60 FR 38766
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AD92

USDA—FSA — Long-Term Actions

204. FARMER CREDIT PROGRAM ACCOUNT SERVICING POLICIES FOR SECTION 1816 AND OTHER RELATED SECTIONS FOR THE 1990 FACT ACT

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1900 subpart B; 7 CFR 1924 subpart B; 7 CFR 1951 subpart S

Timetable:

Action	Date	FR Cite
NPRM	10/23/91	56 FR 54970
NPRM Comment Period End	11/22/91	
Interim Final Rule	04/30/92	57 FR 18612
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tom Witzig
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RIN: 0560–AE02

205. IMPLEMENT SECTION 1818 (BORROWER TRAINING) OF THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990 (FACT ACT)

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1910 subpart A; 7 CFR 1943 subpart B; 7 CFR 1924 subpart B; 7 CFR 1941 subpart A; 7 CFR 1945 subpart D; 7 CFR 1943 subpart A; 7 CFR 1951 subpart S; 7 CFR 1980 subpart B; 7 CFR 1962 subpart A; 7 CFR 1965 subpart A

Timetable:

Action	Date	FR Cite
NPRM	11/25/92	57 FR 55473
NPRM Comment Period End	12/28/92	
Interim Final Rule	12/30/93	58 FR 69190
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 0560–AE04

206. IMPLEMENTATION OF CERTIFIED LENDER PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1980 subpart A; 7 CFR 1980 subpart B

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/24/93	58 FR 34302
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 0560–AE07

207. INSURED AND GUARANTEED OPERATING AND FARM OWNERSHIP LOAN AND RELATED INSTRUCTIONS TO IMPLEMENT SECTIONS 4, 5, 7, 8, 9, AND 19 OF THE AGRICULTURAL CREDIT IMPROVEMENT ACT OF 1992

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1910; 7 CFR 1924; 7 CFR 1941; 7 CFR 1943; 7 CFR 1945; 7 CFR 1980; 7 CFR 1955

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/15/93	58 FR 48275
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: Tom Witzig
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RIN: 0560–AE09

208. SECTION 14 OF THE AGRICULTURAL CREDIT IMPROVEMENT ACT OF 1992, (GRADUATION) AND SECTIONS 1819 (LOAN ASSESSMENT) AND 1821 (MARKET PLACEMENT) OF THE "FACT ACT"

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1910; 7 CFR 1924; 7 CFR 1941; 7 CFR 1951; 7 CFR 1980; 7 CFR 1943; 7 CFR 1945; 7 CFR 1962

Timetable:

Action	Date	FR Cite
NPRM	12/30/93	58 FR 69274
NPRM Comment Period End	02/28/94	
Interim Final Rule	07/09/96	61 FR 35916
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

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RIN: 0560–AE11

209. THE AGRICULTURAL CREDIT IMPROVEMENT ACT OF 1992

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1946; 7 CFR 1980

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/17/93	58 FR 65871
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 0560–AE13

210. IMPLEMENT SECTIONS 11 AND 13 OF THE AGRICULTURE CREDIT IMPROVEMENT ACT OF 1992 (APPLICATION PROCESSING TIMEFRAME)

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1910; 7 CFR 1980

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/93	58 FR 68717
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 0560–AE14

211. ACQUISITION AND MANAGEMENT OF REAL AND CHATTEL PROPERTY

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 2.23; 7 CFR 2.70; 7 CFR 1955A; 7 CFR 1955C

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/93	58 FR 68722
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Tribal

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RIN: 0560–AE15

212. SMALL FARMER OUTREACH TRAINING AND TECHNICAL ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1943 subpart C

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/27/94	59 FR 66441
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: State

Agency Contact: Tom Witzig
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RIN: 0560–AE17

213. PART 1946 MEDIATION; SUBPART A—AGRICULTURAL LOAN MEDIATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1946 subpart A

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

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RIN: 0560–AE26

214. AMENDMENT TO CONSERVATION PROGRAM APPEAL REGULATIONS REGARDING JURISDICTION

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 780

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/95	60 FR 67298
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE30

215. SELECTION AND FUNCTIONS OF FARM SERVICE AGENCY STATE AND COUNTY COMMITTEES

Priority: Info./Admin./Other

CFR Citation: 7 CFR 7

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE33

216. IMPLEMENTATION PROCEDURES FOR HIGHLY ERODIBLE LAND AND WETLANDS CONSERVATION PROVISIONS OF THE FOOD SECURITY ACT

Priority: Other Significant

CFR Citation: 7 CFR 1940

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE38

217. AMENDMENTS TO THE FARMER ACCOUNT SERVICING POLICIES

Priority: Economically Significant

CFR Citation: 7 CFR 1900; 7 CFR 1910; 7 CFR 1924; 7 CFR 1941; 7 CFR 1943; 7 CFR 1951; 7 CFR 1955; 7 CFR 1956; 7 CFR 1962; 7 CFR 1965

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/14/88	53 FR 35638
NPRM	10/23/91	56 FR 54970
Interim Final Rule	04/30/92	57 FR 18612
Interim Final Rule	10/15/92	57 FR 47257
Interim Final Rule	03/23/93	58 FR 15418
Interim Final Rule	05/26/93	58 FR 30104
Interim Final Rule	12/30/93	58 FR 69190
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE42

218. AMENDMENTS TO THE STANDARDS FOR APPROVAL OF WAREHOUSE FOR COMMODITY CREDIT CORPORATION STORAGE CONTRACTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1421; 7 CFR 1423; 7 CFR 1427

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE50

219. DELETION OF FSA REGULATIONS REGARDING COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 702; 7 CFR 703; 7 CFR 752

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE54

220. AMENDMENT TO THE CONSERVATION RESERVE PROGRAM REGARDING EARLY CONTRACT TERMINATIONS

Priority: Other Significant

CFR Citation: 7 CFR 704

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/15/96	61 FR 10671
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE56

221. SUSPENSION OF THE EMERGENCY LIVESTOCK ASSISTANCE REGULATIONS FOR CROP YEARS 1996 TO 2002

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1475

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE86

222. REVISION TO THE DIRECT LOANMAKING REGULATIONS

Priority: Other Significant

CFR Citation: 7 CFR 1910; 7 CFR 1941; 7 CFR 1943; 7 CFR 1945; 7 CFR 1980

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/03/97	62 FR 9351
Interim Final Rule Comment Period End	03/24/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
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RIN: 0560–AE87

223. REVISION OF THE INVENTORY PROPERTY MANAGEMENT REGULATIONS

Priority: Other Significant

CFR Citation: 7 CFR 1955

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/21/97	62 FR 44393
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE88

224. REVISIONS TO THE DELINQUENT ACCOUNT SERVICING REGULATIONS

Priority: Other Significant

CFR Citation: 7 CFR 1951; 7 CFR 1956; 7 CFR 1962; 7 CFR 1965

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/05/97	62 FR 10117
Interim Final Rule Comment Period End	05/13/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
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RIN: 0560–AE89

225. DIRECT LINE OF CREDIT PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1910; 7 CFR 1924; 7 CFR 1941

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE90

226. REVISION OF REGULATIONS PERTAINING TO INDIAN TRIBES AND TRIBAL CORPORATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1823; 7 CFR 1942-F; 7 CFR 1956-C

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE91

227. AMENDMENTS TO THE TOBACCO MARKETING QUOTA REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 723

Timetable:

Action	Date	FR Cite
NPRM	03/21/97	62 FR 13546
NPRM Comment Period End	05/20/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE96

228. DISASTER SET-ASIDE PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1951, subpart S

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/01/97	62 FR 41251
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE98

229. BOLL WEEVIL ERADICATION LOAN PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1941, subpart C

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/16/97	62 FR 26918
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE99

230. AMENDMENTS TO UPDATE THE TOBACCO PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 711; 7 CFR 714; 7 CFR 717; 7 CFR 723; 7 CFR 1464

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF05

231. AMENDMENTS TO UPDATE THE PEANUT PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1446

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF06

232. AMENDMENTS TO UPDATE FARM PROGRAM PAYMENT LIMITATION AND DISASTER REGULATIONS UNDER THE NATIONAL PERFORMANCE REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 777; 7 CFR 795; 7 CFR 1400

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF10

233. AMENDMENT TO THE COTTON WAREHOUSE REGULATIONS REGARDING THE DEFINITION OF "UNNECESSARY DELAY"

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 735

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF13

234. 1998-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR BURLEY TOBACCO

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

CFR Citation: 7 CFR 723; 7 CFR 1464

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF18

235. 1998-CROP MARKETING QUOTAS AND PRICE SUPPORT LEVEL FOR FLUE-CURED TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF19

236. 1998-CROP MARKETING QUOTAS AND PRICE SUPPORT LEVELS FOR EIGHT KINDS OF TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Timetable:

Action	Date	FR Cite
NPRM	02/02/98	63 FR 5285
NPRM Comment Period End	02/13/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF20

237. LENDER BUYBACK OF REPURCHASED GUARANTEED LOANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 7 CFR 1980 subpart B

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Phillip Elder
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RIN: 0560–AF21

238. AMENDMENTS TO THE DEBT SETTLEMENT POLICIES AND PROCEDURES TO CONFORM TO THE DEBT COLLECTION IMPROVEMENT ACT OF 1996

Priority: Other Significant

CFR Citation: 7 CFR 792; 7 CFR 1403; 7 CFR 1404

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF22

239. AMENDMENTS TO THE FORAGE PROVISIONS OF THE NONINSURED CROP DISASTER ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1437

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/17/97	62 FR 53929
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF23

240. FLOOD RISK REDUCTION PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1471

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF24

241. REFUND OF MARKETING QUOTA PENALTIES AND TOBACCO AUCTION WAREHOUSE RECORDS AND REPORTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 714; 7 CFR 723; 7 CFR 729

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF26

242. REFUND OF MARKETING QUOTA PENALTIES AND OTHER PEANUT PROGRAM PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 729

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF27

243. CONTRACTING ADDITIONAL PEANUTS BY TYPE AND SEGREGATION

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1446

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF28

244. AMERICAN INDIAN LIVESTOCK FEED PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1439

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF29

245. SUGAR PROGRAM INFORMATION REPORTING AND RECORDKEEPING REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1435

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF31

246. UPLAND COTTON USER MARKETING CERTIFICATE PROGRAM; REVISION OF REGULATIONS

Priority: Other Significant

CFR Citation: 7 CFR 1427

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF32

247. COOPERATIVE MARKETING ASSOCIATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1425

Timetable:

Action	Date	FR Cite
NPRM	04/09/98	63 FR 17311
NPRM Comment Period End	05/11/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF33

248. INAPPLICABILITY TO FSA'S FARM LOAN PROGRAMS OF REDUNDANT INSTRUCTIONS REGARDING THE COLLECTION AND DEPOSITING OF PROGRAM PAYMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1951

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF34

249. REVISION OF FSA-GUARANTEED LOAN REGULATIONS—INTEREST SUBSIDY FOR GUARANTEED BORROWERS

Priority: Other Significant

CFR Citation: 7 CFR 1980

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/28/91	56 FR 8257
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF35

250. AMENDMENT TO THE FARM RECONSTITUTION REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 718

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF36

251. • CHANGE IN WAREHOUSE RECEIPT REQUIREMENTS FOR CCC'S COTTON LOAN AND LOAN DEFICIENCY PAYMENT PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 7235

CFR Citation: 7 CFR 1427

Legal Deadline: None

Abstract: This action is needed to amend CCC cotton loan and LDP program regulations to require each warehouse receipt to contain the gin code number to standardize the information required by electronic and paper receipts. No direct outlays are expected.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Ave. SW., Washington, DC 20250-0572
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RIN: 0560–AF39

252. • CHEMICAL TESTING OF FARMERS' STOCK PEANUTS FOR AFLATOXIN CONTENT

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 357 et seq; 7 USC 7271; 15 USC 714

CFR Citation: 7 CFR 729; 7 CFR 1446

Legal Deadline: None

Abstract: This action will seek comments concerning the classification of peanuts as to availability for edible uses by visual inspection for a aflatoxin-producing mold vs. chemical testing of the peanuts for aflatoxin. Currently, peanuts that have a particular mold are classified as Segregation 3, which may not be marketed as quota peanuts, therefore adversely impacting producer income and availability of peanuts that peanut processors could possibly clean to remove the aflatoxin or at least meet Food and Drug standards for aflatoxin content. Producers and handlers in Alabama support a change in testing procedures. Other areas and segments of the peanut industry have not had the opportunity to comment on this issue. This notice will solicit comments from all segments of the peanut industry, including consumers of peanuts and peanut products. Outlays have not been determined.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Ave. SW., Washington, DC 20250-0572
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RIN: 0560–AF40

253. • 1998 DAIRY PRODUCTION DISASTER ASSISTANCE PROGRAM, LIVESTOCK INDEMNITY PROGRAM, AND TREE ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-174

CFR Citation: 7 CFR 783; 7 CFR 1439

Legal Deadline: None

Abstract: The 1998 Emergency Supplemental Appropriations Act (the Act) appropriated funds for the Dairy Production Disaster Assistance Program (DPDAP), the Livestock Assistance Program (LIP), and the Tree Assistance Program (TAP). DPDAP and LIP provide monetary assistance to eligible dairy and livestock producers for livestock losses, losses of milk that was produced but not marketed, and for diminished production that occurred as a result of natural disasters that occurred between November 27, 1997 and May 1, 1998, the date of enactment of the Act, and for which a Presidential or Secretarial disaster was requested and subsequently approved. TAP provides cost-share assistance to owners to replace or rehabilitate eligible trees and vines damaged by natural disasters in FY 98, and for which a Presidential or Secretarial disaster was requested and subsequently approved. The Act appropriated $6.8 million for DPDAP, $4 million for LIP, and $14 million for TAP, subject to official budget requests. If eligible losses exceed the appropriations, benefits will be factored.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Ave. SW., Washington, DC 20250-0572
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RIN: 0560–AF44

254. • NONINSURED CROP DISASTER ASSISTANCE PROGRAM REGULATIONS FOR THE 1998 AND SUCCEEDING CROP YEARS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 7333

CFR Citation: 7 CFR 1437

Legal Deadline: None

Abstract: The provisions of the Noninsured Crop Disaster Assistance Program are being amended to (1) specify that the Deputy Administrator for Farm Programs may further delegate to a State committee authority to make determinations regarding NAP area and price and yield approvals; (2) revise the definition of eligible crop to include the criteria for defining a crop intended for use as a commercial seed; (3) include a definition of industrial crops; and (4) specify information required on acreage reports regarding producer name and shares, and crop type or variety. Outlays are expected to be $1.3 million per year.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Ave. SW., Washington, DC 20250-0572
Phone: 202 205-5851

USDA—FSA

Long-Term Actions

Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF46

255. • DEBT SETTLEMENT OF THE FARM LOAN PROGRAM'S NONPROGRAM LOANS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 1989; 31 USC 3711; 42 USC 1480

CFR Citation: 7 CFR 1956

Legal Deadline: None

Abstract: FSA plans to revise its Farm Loan Programs Debt Settlement regulations for Nonprogram loans. The change will allow the Agency to settle nonprogram loans according to RD Instruction 1956-B. Currently, the regulations covering Debt Settlement for nonprogram loans are found in FmHA Instruction 1951-J, and RD Instruction 1956-B. This final rule will consolidate the requirements for debt settlement of nonprogram loans under RD Instruction 1956-B. This rule will make debt settlement procedures for nonprogram loans easier for FSA field employees to apply. This rule will not increase losses in the nonprogram loans. The Agency will be able to debt settle delinquent nonprogram loan accounts faster, minimize unnecessary interest accrual, and thus minimize losses to the Government.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Ave. SW., Washington, DC 20250-0572
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF54

DEPARTMENT OF AGRICULTURE (USDA)
Farm Service Agency (FSA)

Completed Actions

256. GUARANTEED LOAN PROGRAMS; MONITORING LIQUID ACCOUNTS

Priority: Other Significant

CFR Citation: 7 CFR 1980 subpart A; 7 CFR 1980 subpart B

Completed:

Reason	Date	FR Cite
Final Action	08/21/96	61 FR 43147
Final Action Effective	09/20/96	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE05

257. LOANS TO INDIAN TRIBES AND TRIBAL CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1942 subpart F; 7 CFR 1823; 7 CFR 2.23; 7 CFR 2.70

Completed:

Reason	Date	FR Cite
Cancelled - Included in RIN 0560-AE91	05/01/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Tribal

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE10

258. DISASTER ASSISTANCE

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1945 subpart A

Completed:

Reason	Date	FR Cite
Cancelled	05/01/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE22

259. REVISIONS TO THE DIRECT FARM OWNERSHIP LOAN REGULATION (1943-A) OUTREACH PROGRAM FOR MEMBERS OF SOCIALLY DISADVANTAGED GROUPS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1943 subpart A

Completed:

Reason	Date	FR Cite
Cancelled	05/01/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE23

260. SOCIALLY DISADVANTAGED OUTREACH PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1941 subpart A; 7 CFR 1980 subpart B

Completed:

Reason	Date	FR Cite
Cancelled	05/01/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE24

USDA—FSA

Completed Actions

261. PERMIT FSA TO SELL OR ASSIGN FARM LOAN MORTGAGES AND NOTES

Priority: Economically Significant

CFR Citation: 7 CFR 1962; 7 CFR 1965

Completed:

Reason	Date	FR Cite
Cancelled	05/01/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE35

262. IMPLEMENTATION OF FIVE-YEAR DIRECT LINE OF CREDIT PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1941, subpart A

Completed:

Reason	Date	FR Cite
Cancelled - Included in RIN 0560-AE90	05/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE58

263. POST-BANKRUPTCY LOAN SERVICING NOTIFICATION

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1962

Completed:

Reason	Date	FR Cite
Final Action	05/29/98	63 FR 29339

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE62

264. CONSOLIDATE FSA FARM CREDIT PROGRAMS REGULATIONS—MISCELLANEOUS PROGRAM REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1806; 7 CFR 1900; 7 CFR 1901; 7 CFR 1902; 7 CFR 1910; 7 CFR 1940; 7 CFR 1950; 7 CFR 1951; 7 CFR 2018; 7 CFR 2045; 7 CFR ch XIV

Completed:

Reason	Date	FR Cite
Cancelled	05/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE64

265. CONSOLIDATE FSA FARM CREDIT PROGRAMS DIRECT LOAN SERVICING REGULATIONS—MANAGEMENT AND DISPOSAL OF ACQUIRED PROPERTY

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1955; 7 CFR 1951; 7 CFR ch XIV

Completed:

Reason	Date	FR Cite
Cancelled	05/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE65

266. CONSOLIDATE FSA FARM CREDIT PROGRAM DIRECT LOAN SERVICING REGULATIONS—DELINQUENT ACCOUNT RESTRUCTURING AND LIQUIDATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1951; 7 CFR 1955; 7 CFR 1956; 7 CFR 1962; 7 CFR 1965; 7 CFR ch XVIII

Completed:

Reason	Date	FR Cite
Cancelled	05/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE66

267. CONSOLIDATE FSA FARM CREDIT PROGRAMS DIRECT LOAN SERVICING REGULATIONS—MANAGEMENT ADVICE, TAX SERVICING, COLLECTION, AND SECURITY SERVICING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1924; 7 CFR 1925; 7 CFR 1951; 7 CFR 1962; 7 CFR 1965; 7 CFR ch XIV

Completed:

Reason	Date	FR Cite
Cancelled	05/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE67

268. ELIMINATE INTERNAL AGENCY PROVISIONS FROM FSA FARM CREDIT PROGRAMS REGULATIONS—MISCELLANEOUS PROGRAM REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 1806; 7 CFR 1900; 7 CFR 1901; 7 CFR 1902; 7 CFR 1910; 7 CFR 1940; 7 CFR 1950; 7 CFR 1951; 7 CFR 2018; 7 CFR 2045

Completed:

Reason	Date	FR Cite
Cancelled	05/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE68

269. ELIMINATE INTERNAL ADMINISTRATIVE PROVISIONS FROM FSA FARM CREDIT PROGRAM REGULATIONS—MANAGEMENT AND DISPOSAL OF ACQUIRED PROPERTY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 1951; 7 CFR 1955

Completed:

Reason	Date	FR Cite
Cancelled	05/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE69

270. ELIMINATE INTERNAL ADMINISTRATIVE PROVISIONS FROM FSA FARM CREDIT PROGRAM DIRECT LOAN REGULATIONS—DELINQUENT ACCOUNT SERVICING AND LIQUIDATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 1951; 7 CFR 1955; 7 CFR 1956; 7 CFR 1962

Completed:

Reason	Date	FR Cite
Cancelled	05/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE70

271. ELIMINATE INTERNAL ADMINISTRATIVE PROVISIONS FROM FSA FARM CREDIT PROGRAMS DIRECT LOAN SERVICING REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 1924; 7 CFR 1925; 7 CFR 1951; 7 CFR 1962; 7 CFR 1965

Completed:

Reason	Date	FR Cite
Cancelled	05/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE71

272. ELIMINATION OF ADMINISTRATIVE PROVISIONS FROM FSA FARM CREDIT PROGRAM DIRECT LOANMAKING REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 1823; 7 CFR 1901; 7 CFR 1910; 7 CFR 1924; 7 CFR 1927; 7 CFR 1940; 7 CFR 1941; 7 CFR 1943; 7 CFR 1945; 7 CFR 1951

Completed:

Reason	Date	FR Cite
Cancelled	05/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE73

273. CONSOLIDATION OF FSA FARM CREDIT PROGRAMS DIRECT LOANMAKING REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1823; 7 CFR 1901; 7 CFR 1910; 7 CFR 1924; 7 CFR 1927; 7 CFR 1940; 7 CFR 1941; 7 CFR 1943; 7 CFR 1945; 7 CFR 1951; 7 CFR ch XIV

Completed:

Reason	Date	FR Cite
Cancelled	05/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE74

274. ELIMINATION OF ADMINISTRATIVE PROVISIONS FROM FSA FARM CREDIT PROGRAMS GUARANTEED LOANMAKING REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 1980

Completed:

Reason	Date	FR Cite
Cancelled	05/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE75

275. CONSOLIDATION OF FSA FARM CREDIT PROGRAMS GUARANTEED LOANMAKING REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1980

Completed:

Reason	Date	FR Cite
Cancelled	05/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE76

276. ELIMINATION OF ADMINISTRATIVE PROVISIONS FROM FSA REGULATIONS PERTAINING TO FARM CREDIT PROGRAMS LOAN RATES, FUNDING, AND LOAN AUTHORITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 1810; 7 CFR 1901; 7 CFR 1902; 7 CFR 1940; 7 CFR 1951

Completed:

Reason	Date	FR Cite
Cancelled	05/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE77

277. CONSOLIDATION OF FSA FARM CREDIT PROGRAMS REGULATIONS PERTAINING TO LOAN RATES, FUNDING, AND LOAN AUTHORITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1810; 7 CFR 1901; 7 CFR 1902; 7 CFR 1940; 7 CFR 1951; 7 CFR ch XIV

Completed:

Reason	Date	FR Cite
Cancelled	05/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE78

278. ELIMINATION OF ADMINISTRATIVE PROVISIONS FROM FSA FARM CREDIT PROGRAMS ENVIRONMENTAL REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 1901; 7 CFR 1940

Completed:

Reason	Date	FR Cite
Cancelled	05/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE79

279. CONSOLIDATION OF FARM SERVICE AGENCY ENVIRONMENTAL PROGRAMS REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1901; 7 CFR 1940; 7 CFR ch XIV

Completed:

Reason	Date	FR Cite
Cancelled	05/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE80

280. SUBORDINATION OF DIRECT LOAN BASIC SECURITY TO SECURE A GUARANTEED LOAN

Priority: Other Significant

CFR Citation: 7 CFR 1962; 7 CFR 1965; 7 CFR 1980

Completed:

Reason	Date	FR Cite
Final Action	04/24/98	63 FR 20295
Final Action Effective	05/26/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE92

281. AMENDMENTS TO THE PRODUCTION FLEXIBILITY CONTRACT FOR WHEAT, FEED GRAINS, RICE, AND UPLAND COTTON

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1412

Completed:

Reason	Date	FR Cite
Final Action	06/08/98	63 FR 31102

Regulatory Flexibility Analysis Required: No

USDA—FSA — Completed Actions

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF25

BILLING CODE 3410-05-F

DEPARTMENT OF AGRICULTURE (USDA)
Animal and Plant Health Inspection Service (APHIS)

Prerule Stage

282. • IMPORTATION OF SOLID WOOD PACKING MATERIAL

Priority: Other Significant

Legal Authority: 7 USC 150dd to 150ff; 7 USC 151 to 167; 7 USC 450; 7 USC 2803; 7 USC 2809; 21 USC 136; 21 USC 136a

CFR Citation: 7 CFR 319.40

Legal Deadline: None

Abstract: This advance notice of proposed rulemaking is to request public input on whether we should take action to reduce the risk of introducing exotic forest pests and pathogens into the United States on imported solid wood packing materials and what actions would be most effective and appropriate. Currently, 7 CFR 319.40-3 requires 100 percent removal of bark from solid wood packing materials entering the United States from any part of the world except Canada and the Mexican States adjacent to the U.S. border. This reduces the risk of pests associated with bark from entering the United States, but it has limited effect against deep wood forest pests and pathogens often associated with untreated wood. Recent introductions into the United States of exotic forest pests such as pine shoot beetle and Asian long horn beetle have been linked with the importation of solid wood packing materials.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/98	
ANPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mr. Richard Orr, Senior Entomologist, Risk Analysis Systems, PPD, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 117, Riverdale, MD 20737-1238
Phone: 301 734-8939

RIN: 0579–AA99

DEPARTMENT OF AGRICULTURE (USDA)
Animal and Plant Health Inspection Service (APHIS)

Proposed Rule Stage

283. ANIMAL WELFARE—STANDARDS FOR MARINE MAMMALS

Priority: Other Significant

Legal Authority: 7 USC 2131 to 2159

CFR Citation: 9 CFR 3

Legal Deadline: None

Abstract: The Department regulates the treatment of certain marine mammals under the Animal Welfare Act. The present standards for treatment of these animals have been in effect for over 10 years. During this time, advances have been made and new information has been developed with regard to the housing and care of marine mammals. The Department has given notice of its review of the present standards to determine what revisions or additions might be necessary, and has requested comments on appropriate specific standards for treatment of marine mammals. The Department has conducted negotiated rulemaking (Reg Neg) and is developing proposed changes to the regulations. In addition to identifying regulatory provisions for revision based on negotiated rulemaking the Department is conducting separate rulemaking to establish standards governing "swim with the dolphins" (SWTD) programs.

Timetable:

Action	Date	FR Cite
ANPRM	07/23/93	58 FR 39458
ANPRM Comment Period End	10/06/93	
NPRM	01/23/95	60 FR 4383
NPRM Comment Period End	02/22/95	
NPRM Comment Period Extended Swim with the Dolphins (SWTD)	02/28/95	60 FR 10810
NPRM Comment Period Extended (SWTD)	03/09/95	60 FR 12908
NPRM Comment Period Extended (SWTD)	03/24/95	60 FR 15524
Notice, Establish a Committee (Reg Neg)	05/22/95	60 FR 27049
Correction (Reg Neg)	06/02/95	60 FR 28834
NPRM Animal Welfare; Marine Mammals	10/00/98	
NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Barbara Kohn, Veterinary Medical Officer, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 84, Riverdale, MD 20737-1234
Phone: 301 734-7833

RIN: 0579–AA59

284. PLANT PEST REGULATIONS; UPDATE OF CURRENT PROVISIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

USDA—APHIS — Proposed Rule Stage

Legal Authority: 7 USC 149; 7 USC 150bb; 7 USC 150dd; 7 USC 150ee; 7 USC 150ff; 7 USC 154; 7 USC 159; 7 USC 160; 7 USC 162; 7 USC 2260; 21 USC 136; 21 USC 136a; 31 USC 9701

CFR Citation: 7 CFR 330

Legal Deadline: None

Abstract: APHIS is developing a proposal to amend its plant pest regulations by: (1) Setting out the criteria that will be used by APHIS when considering whether an organism is a plant pest; (2) adding a permit category for organisms that would be released into the environment for purposes such as the biological control of weeds; (3) establishing a notification system that could be used in place of permits for the importation and interstate movement of certain low-risk organisms; and (4) revising or amending existing portions of the regulations to clarify or update requirements, eliminate redundancy, and make the regulations easier for the public to use. These proposed changes will serve as a follow-up to the advance notice of proposed rulemaking that APHIS published in the Federal Register on September 27, 1996, to solicit input on the need for regulatory changes and alternative methods of addressing plant pest risk.

Timetable:

Action	Date	FR Cite
ANPRM	09/27/96	61 FR 50767
ANPRM Comment Period End	12/26/96	
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Robert Flanders, Entomologist, PPQ Biological Assessment and Taxonomic Support, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 133, Riverdale, MD 20737-1236
Phone: 301 734-8896
Email: robert.v.flanders@usda.gov

RIN: 0579–AA80

285. VETERINARY SERVICES MULTI-YEAR USER FEES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 5542; 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 114 to 114a; 21 USC 134a to 134d; 21 USC 134f; 21 USC 135; 21 USC 136 to 136a

CFR Citation: 9 CFR 130

Legal Deadline: None

Abstract: We are proposing to amend the user fee regulations by adjusting the fees charged for veterinary services we provide for import and export related activities. We are proposing to adopt user fees for these services for fiscal year 1998 through 2003. Costs to operate the Veterinary Services import-export program increase slightly from year to year due to increase in employee costs (i.e., cost of living, etc.) and changes in other operational costs. Therefore, we have determined that the fees must be adjusted to reflect the anticipated cost of providing these services through fiscal year 2003.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Louise Lothery, Director, VS, Resource Management Support Staff, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 44, Riverdale, MD 20737
Phone: 301 734-7517

Donna Ford, Section Head, M&B, Budget and Accounting Division, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 54, Riverdale, MD 20737
Phone: 301 734-5785

RIN: 0579–AA87

286. INTERSTATE MOVEMENT OF SHEEP AND GOATS FROM STATES THAT DO NOT QUARANTINE SCRAPIE-INFECTED AND SOURCE FLOCKS

Priority: Other Significant

Legal Authority: 21 USC 111 to 114; 21 USC 114a; 21 USC 115; 21 USC 117; 21 USC 120 to 121; 21 USC 123 to 126; 21 USC 134a to 134h

CFR Citation: 9 CFR 54; 9 CFR 79

Legal Deadline: None

Abstract: We are soliciting public comment to help us develop options for potential changes to our regulations for the interstate movement of sheep and goats. We believe changes may be necessary to improve control and limit the spread of scrapie, a serious disease of sheep and goats. After evaluating public comment on the issues presented in this notice, we will determine whether proposing changes to our regulations is necessary.

Timetable:

Action	Date	FR Cite
ANPRM	01/26/98	63 FR 3671
ANPRM Comment Period End	03/27/98	
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Joseph Van Tiem, Senior Staff Veterinarian, VS, National Animal Health Programs, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Riverdale, MD 20737-1231
Phone: 301 734-7716

RIN: 0579–AA90

287. IMPORTATION OF GRAPEFRUIT, LEMONS, AND ORANGES FROM ARGENTINA

Priority: Other Significant

Legal Authority: 7 USC 150dd to 150ff; 7 USC 151 to 167; 7 USC 450; 7 USC 2803; 7 USC 2809; 21 USC 136; 21 USC 136a

CFR Citation: 7 CFR 300; 7 CFR 319.28; 7 CFR 319.56

Legal Deadline: None

Abstract: APHIS is proposing to amend its citrus fruit regulations by recognizing a citrus-growing area within Argentina as being free from citrus canker. Surveys conducted by Argentine plant health authorities in that area of Argentina have shown the area to be free from citrus canker, and Argentine authorities are enforcing

USDA—APHIS — Proposed Rule Stage

restrictions designed to protect the area from the introduction of that disease. APHIS is also proposing to amend its fruits and vegetables regulations to allow the importation of grapefruit, lemons, and oranges from the citrus canker-free area of Argentina under conditions designed to prevent the introduction into the United States of two other diseases of citrus, sweet orange scab and citrus black spot, and other plant pests. These proposed changes would modify the citrus fruits regulations to recognize the citrus canker-free area of Argentina and would add provisions to the fruits and vegetables regulations that would allow the importation, from Argentina, of grapefruit, lemons, and oranges subject to certain conditions.

Timetable:

Action	Date	FR Cite
NPRM	08/12/98	63 FR 43117
NPRM Comment Period End	10/13/98	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ronald Campbell, Import Specialist, Department of Agriculture, Animal and Plant Health Inspection Service, PPQ, Phytosanitary Issues Management Team, 4700 River Road Unit 140, Riverdale, MD 20737-1236
Phone: 301 734-6799
Fax: 301 734-5786
Email: rcampbell@aphis.usda.gov

RIN: 0579–AA92

288. • LICENSING REQUIREMENTS FOR DOGS AND CATS

Priority: Other Significant

Legal Authority: 7 USC 2131 to 2159

CFR Citation: 9 CFR 1; 9 CFR 2

Legal Deadline: None

Abstract: We are considering several changes to the Animal Welfare regulations to ensure the humane handling, care, and treatment of dogs and cats, while concentrating our regulatory efforts on those facilities that present the greatest risk of noncompliance with the regulations. Specifically, we are considering revising the definition of "retail pet store" so that it includes only nonresidential, commercial retail stores, rather than any pet retailer. Retail pet stores are not required to be licensed and inspected under the Animal Welfare Act (AWA). If the definition were revised, many pet retailers now exempt from licensing and inspection requirements would have to be licensed and inspected. We are also considering regulating dealers of hunting, breeding, and security dogs in the same manner as other dealers of dogs. Because these changes could severely strain available Federal resources for carrying out inspections and other enforcement activities under the AWA, we are considering increasing the total number of breeding female dogs and/or cats that a person may maintain on his or her premises and be exempt from licensing and inspection requirements.

Timetable:

Action	Date	FR Cite
ANPRM	06/24/98	63 FR 34333
ANPRM Comment Period End	08/24/98	
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Bettye Walters, Veterinary Medical Officer, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 84, Riverdale, MD 20737-1234
Phone: 301 734-7833

RIN: 0579–AA95

289. • IMPORTATION OF POULTRY FROM SINALOA AND SONORA, MEXICO

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 7 USC 147a; 7 USC 150cc; 7 USC 161 to 162; 7 USC 450; 19 USC 1306; 21 USC 111; 21 USC 114a; 21 USC 134a to 134c; 21 USC 134f; 21 USC 136; 21 USC 136a; 31 USC 9701

CFR Citation: 9 CFR 94.22

Legal Deadline: None

Abstract: We are proposing to amend 9 CFR part 94 to allow for the importation of fresh (chilled or frozen) poultry meat from the States of Sinaloa and Sonora, Mexico, under certain conditions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Michael David, Senior Staff Veterinarian, Animals Program, Department of Agriculture, Animal and Plant Health Inspection Service, National Center for Import and Export, VS, 4700 River Raod Unit 39, Riverdale, MD 20737
Phone: 301 734-5034

RIN: 0579–AA96

290. • IRRADIATION PHYTOSANITARY TREATMENT OF IMPORTED FRESH FRUITS AND VEGETABLES

Priority: Other Significant

Legal Authority: 7 USC 150dd to 150ff; 7 USC 151 to 167; 7 USC 450; 7 USC 2803; 7 USC 2809; 21 USC 136 to 136a

CFR Citation: 7 CFR 305; 7 CFR 319.56

Legal Deadline: None

Abstract: This proposed rule would establish irradiation as a new treatment alternative for the importation of certain fresh fruits and vegetables. Irradiation would be allowed as an alternative to other treatments that are required to control certain species of fruit flies in a variety of imported fruits and vegetables. If this proposal is adopted, importers of certain fruits and vegetables will have an additional alternative to the currently approved treatments such as fumigation and cold treatment for treating their articles. No net societal gains and losses other than small price-related changes are expected from this proposed rule change.

Timetable:

Action	Date	FR Cite
Policy Statement for Irradiation Treatment of Fresh Fruits and Vegetables	05/15/98	63 FR 24433
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	

USDA—APHIS — Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mr. Peter Grosser, Senior Import Specialist, PIMT,PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 140, Riverdale, MD 20737-1236
Phone: 301 734-6799
Email: peter.grosser@usda.gov

RIN: 0579–AA97

DEPARTMENT OF AGRICULTURE (USDA)
Animal and Plant Health Inspection Service (APHIS)

Final Rule Stage

291. ADDITION OF CERVIDAE TO THE REGULATIONS CONCERNING TUBERCULOSIS IN LIVESTOCK

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 105; 21 USC 111 to 113; 21 USC 114; 21 USC 114a; 21 USC 115 to 117; 21 USC 120 to 121; 21 USC 134b; 21 USC 134f

CFR Citation: 9 CFR 77; 9 CFR 91

Legal Deadline: None

Abstract: Bovine tuberculosis is a contagious, infectious, and communicable disease affecting cattle, bison, and other species, including humans. The spread of bovine tuberculosis in the United States could have serious consequences for the United States cattle and bison industries, as well as for human health. Currently, the regulations concerning control and eradication programs for bovine tuberculosis in livestock only regulate cattle, bison, and swine. Recent outbreaks in the United States of bovine tuberculosis in semi-domesticated herds of cervidae (such as deer and elk) have made apparent the need to also regulate captive cervids raised for agricultural purposes, sport, or exhibition, in order to prevent the spread of bovine tuberculosis.

Timetable:

Action	Date	FR Cite
NPRM	04/04/96	61 FR 14982
NPRM Comment Period End	06/03/96	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Joseph Van Tiem, Staff Veterinarian, VS, National Animal Health Program, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 43, Riverdale, MD 20737-1231
Phone: 301 734-7716

RIN: 0579–AA53

292. PHYTOSANITARY EXPORT CERTIFICATION; ACCREDITATION OF NONGOVERNMENT FACILITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 147a; 21 USC 136; 21 USC 136a; 44 USC 35

CFR Citation: 7 CFR 353

Legal Deadline: None

Abstract: APHIS is amending its export certification regulations to provide for the establishment of a program under which nongovernment facilities can become accredited to perform specific laboratory testing or phytosanitary inspection services that may serve as the basis for the issuance of Federal phytosanitary certificates. The accreditation criteria for particular laboratory testing and phytosanitary inspection services will be developed by APHIS in cooperation with other appropriate governmental, industry, academic, or research entities. Prior to this rule, only tests conducted by public laboratories or inspections carried out by Federal or State inspectors and agents could be used as the basis for the issuance of a Federal phytosanitary certificate. The accreditation program will provide a mechanism for qualified non-government facilities to become accredited to perform the testing or inspection services that may be used as supporting documentation for the issuance of phytosanitary certificates for certain plants or plant products.

Timetable:

Action	Date	FR Cite
NPRM	11/25/97	62 FR 62699
NPRM Comment Period End	01/26/98	
Final Action	11/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mr. Narcy G. Klag, Program Manager, Department of Agriculture, Animal and Plant Health Inspection Service, Phytosanitary Issues Mgmt, PPQ, 4700 River Road Unit 140, Riverdale, MD 20737-1236
Phone: 301 734-8262
Email: narcy.g.klag@usda.gov

RIN: 0579–AA75

293. KARNAL BUNT

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 7 USC 147a; 7 USC 150bb; 7 USC 150dd to 150ff; 7 USC 151 to 167; 7 USC 450; 7 USC 2803; 7 USC 2809; 21 USC 136 to 136a

CFR Citation: 7 CFR 301; 7 CFR 319

Legal Deadline: None

Abstract: Karnal bunt is a fungal disease of wheat (Triticum aestivum), durum wheat (Triticum durum), and triticale (Triticum aestivum x Secale cereale), a hybrid of wheat and rye. In the absence of measures taken by the U.S. Department of Agriculture, the establishment of Karnal bunt in the United States would have significant consequences with regard to the export of wheat to international markets. Prior to March 8, 1996, Karnal bunt was not known to exist in the United States. Since March 8, 1996, Karnal bunt has been detected within several States. In response, we have established regulations that define regulated areas in certain States because of Karnal bunt, restrict the the movement of certain articles from the regulated areas to prevent the spread of Karnal bunt, and provide compensation for certain growers, handlers, and other individuals in the regulated areas to mitigate losses and expenses incurred because of actions taken by the Secretary to prevent the spread of Karnal bunt. As part of a continuing

USDA—APHIS

Final Rule Stage

Karnal bunt program, we anticipate that the regulations concerning regulated areas, movement restrictions, and compensation will be revised as more is known about the Karnal bunt situation in the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/05/96	61 FR 35102
NPRM	08/02/96	61 FR 40354
NPRM Comment Period End	09/03/96	
Final Rule	10/04/96	61 FR 52190
Final Rule Effective	11/04/96	
Interim Rule Effective 04/25/97 Change Classification of Regulated Areas	05/01/97	62 FR 23620
Final Rule (95-96 Season) Reg. Flex. & Reg. Impact Analysis	05/06/97	62 FR 24753
Final Rule Effective 04/30/97 Compensation for 1995-96 Crop Season	05/06/97	62 FR 24746
NPRM Comments Due 09/09/97 Compensation for 1996-97 Crop Season	07/11/97	62 FR 37159
NPRM Compensation, Wheat/Seed/Straw 95-96 Season	07/30/97	62 FR 40756
NPRM Comment Period End	08/29/97	
Final Rule, Wheat/Seed/Straw 95-96 Season; Effective 12/23/97	01/09/98	63 FR 1321
NPRM Movement from Regulated Areas NPRM Comments Due 03/30/98	01/28/98	63 FR 4198
Final Rule 96-97 Season	06/10/98	63 FR 31593
Final Rule Movement from Regulated Areas	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Mike Stefan, Operations Officer, Domestic and Emergency Operations,PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 134, Riverdale, MD 20737-1236
Phone: 301 734-8247
Email: michael.b.stefan@usda.gov

RIN: 0579–AA83

294. • RESTRICTIONS ON THE IMPORTATION OF RUMINANTS, MEAT AND MEAT PRODUCTS FROM RUMINANTS, AND CERTAIN OTHER RUMINANT PRODUCTS

Priority: Other Significant

Legal Authority: 7 USC 147a; 7 USC 150ee; 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 114a; 21 USC 134a to 134d; 21 USC 134f; 21 USC 135 to 136; 21 USC 136a; 31 USC 9701

CFR Citation: 9 CFR 93.404(c); 9 CFR 94.18; 9 CFR 95.4(a); 9 CFR 96.2(b)

Legal Deadline: None

Abstract: This action recognizes levels of risk for bovine spongiform encephalopathy (BSE) in foreign regions, based on the incidence of BSE in each region and the monitoring and surveillance conducted for BSE in that region. This action also relieves restrictions with regard to BSE on the importation from certain countries of ruminants and meat, meat products, and other edible products of ruminants, and relieves restrictions under certain conditions on the importation of meat from ruminants of the family Cervidae.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, MD 20737-1231
Phone: 301 734-8590

RIN: 0579–AA98

295. • IMPORTATION OF RHODODENDRON IN GROWING MEDIA

Priority: Other Significant

Legal Authority: 7 USC 150dd to 150ff; 7 USC 151 to 167; 7 USC 450; 7 USC 2803; 7 USC 2809; 21 USC 136; 21 USC 136a

CFR Citation: 7 CFR 319.37-8

Legal Deadline: None

Abstract: We are amending our regulations to allow the importation from Europe of rhododendron established in growing media.

Timetable:

Action	Date	FR Cite
NPRM	09/07/93	58 FR 47074
NPRM Comment Period End	12/06/93	
Final Rule on All of 9/7/93 NPRM Except Rhododendron (Effective 2/13/95)	01/13/95	60 FR 3067
NPRM Comment Period Extended - Rhododendron	04/30/98	63 FR 23683
NPRM Comment Period Extended - Rhododendron	06/01/98	63 FR 29675
NPRM Comment Period End - Rhododendron	07/30/98	
Final Rule - Rhododendron	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mr. Peter M. Grosser, Senior Import Specialist, PIMT, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 140, Riverdale, MD 20737-1236
Phone: 301 734-6799
Email: peter.grosser@usda.gov

RIN: 0579–AB00

DEPARTMENT OF AGRICULTURE (USDA)
Animal and Plant Health Inspection Service (APHIS)

Long-Term Actions

296. IMPORTATION OF FRUITS AND VEGETABLES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 319.56

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jane Levy
Phone: 301 734-8259

RIN: 0579–AA58

297. IMPORTATION OF CERTAIN EMBRYOS AND ANIMAL SEMEN

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 98

Timetable:

Action	Date	FR Cite
ANPRM	07/08/93	58 FR 36625
ANPRM Comment Period End	09/07/93	
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Roger Perkins
Phone: 301 734-8170

RIN: 0579–AA63

298. HSTAIC REPAIR AND MAINTENANCE FEES

Priority: Other Significant

CFR Citation: 9 CFR 92.430; 9 CFR 92.522

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joan Montgomery
Phone: 301 734-8172

RIN: 0579–AA69

299. IMPORTATION OF LOGS, LUMBER, AND OTHER UNMANUFACTURED WOOD ARTICLES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 319

Timetable:

Action	Date	FR Cite
NPRM	07/28/98	63 FR 40193
NPRM Comment Period End	09/28/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ronald Campbell
Phone: 301 734-8295
Email: rcampbell@aphis.usda.gov

RIN: 0579–AA82

300. IMPORTATION OF PORK FROM YUCATAN, MEXICO

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 9 CFR 94

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. John Cougill
Phone: 301 734-3399
Email: john.w.cougill@usda.gov

RIN: 0579–AA91

301. IMPORTATION OF FUJI APPLES FROM THE REPUBLIC OF KOREA

Priority: Other Significant

CFR Citation: 7 CFR 319

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peter Grosser
Phone: 301 734-6799
Email: peter.grosser@usda.gov

RIN: 0579–AA93

302. • REQUIREMENTS FOR INSPECTION LICENSING PROCUREMENT OF ANIMALS; ANIMAL WELFARE

Priority: Other Significant

Legal Authority: 7 USC 2131 to 2159

CFR Citation: 9 CFR 2

Legal Deadline: None

Abstract: We are proposing to amend the regulations by revising the requirements for inspection of premises, procurement of animals, and licensure of dealers, exhibitors, and others regulated under the Animal Welfare Act (AWA). We believe this action is necessary to promote compliance with the AWA and to help clarify the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	
NPRM Comment Period End	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Dr. Bettye Walters, Staff Veterinarian, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 84, Riverdale, MD 20737-1234
Phone: 301 734-8100

RIN: 0579–AA94

DEPARTMENT OF AGRICULTURE (USDA)
Animal and Plant Health Inspection Service (APHIS)

Completed Actions

303. USER FEES, VETERINARY DIAGNOSTICS

Priority: Other Significant

CFR Citation: 9 CFR 130

Completed:

Reason	Date	FR Cite
Final Action	10/07/98	63 FR 53783
Final Action Effective	11/06/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Barbara Thompson, Chief
Phone: 301 734-5901

RIN: 0579–AA70

304. ANIMAL WELFARE—STANDARDS FOR ANIMAL AUCTIONS

Priority: Other Significant

CFR Citation: 9 CFR 1; 9 CFR 2; 9 CFR 3

Completed:

Reason	Date	FR Cite
Withdrawn - No Action Expected in the Next 12 Months	08/19/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stephen Smith
Phone: 301 734-4972
Fax: 301 734-4978

RIN: 0579–AA76

305. KARNAL BUNT STATUS OF THE MEXICALI VALLEY OF MEXICO

Priority: Other Significant

CFR Citation: 7 CFR 319

Completed:

Reason	Date	FR Cite
Final Action	06/08/98	63 FR 31097
Final Action Effective	06/08/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peter Grosser
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RIN: 0579–AA88

BILLING CODE 3410-34-F

DEPARTMENT OF AGRICULTURE (USDA)
Cooperative State Research, Education, and Extension Service (CSREES)

Proposed Rule Stage

306. AGRICULTURAL TELECOMMUNICATIONS PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 3318

CFR Citation: 7 CFR 3417

Legal Deadline: None

Abstract: We propose to establish Administrative Provisions for the Agricultural Telecommunications Program to institute procedures to be followed in preparing proposals, to outline requirements which grant recipients must meet, to provide instructions on how to apply for a grant, and to provide general information about post-award administration of grants under the program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy & Program Liaison Staff, Department of Agriculture, Cooperative State Research, Education, and Extension Service, 1400 Independence Ave. SW., STOP 2299, Washington, DC 20250-2299
Phone: 202 720-9181
Fax: 202 401-7752
Email: pcarter@reeusda.gov

RIN: 0524–AA12

307. HISPANIC EDUCATION PARTNERSHIP GRANTS PROGRAM; ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 3241

CFR Citation: 7 CFR 3412

Legal Deadline: None

Abstract: Regulation will establish the procedures to be followed annually in the solicitation of proposals, the evaluation of such proposals, and the award of project grants under the Hispanic Education Partnership Grants Program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy & Program Liaison Staff, Department of Agriculture, Cooperative State Research, Education, and Extension Service, 1400 Independence Ave. SW., STOP 2299, Washington, DC 20250-2299
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Email: pcarter@reeusda.gov

RIN: 0524–AA17

308. COMMUNITY FOOD PROJECTS ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2034

CFR Citation: 7 CFR 3416

Legal Deadline: None

Abstract: This regulation proposes to establish Administrative Provisions for the Community Food Projects to institute procedures to be followed in preparing proposals, to outline requirements which grant recipients must meet, to provide instructions on how to apply for a grant, and to provide general information about post-award administration of grants under the program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

USDA—CSREES

Proposed Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip Carter, Policy Advisor, Policy & Program Liaison Staff, Department of Agriculture, Cooperative State Research, Education, and Extension Service, 1400 Independence Ave. SW., STOP 2299, Washington DC. 20250-2299
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RIN: 0524–AA19

309. SMALL BUSINESS INNOVATION RESEARCH PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 638

CFR Citation: 7 CFR 3403

Legal Deadline: None

Abstract: The Cooperative State Research Education and Extension Service (CSREES) proposes to modify the Small Business Innovation Research Program Administrative Provisions by changing the language of when a Phase I awardee is eligible to apply for a Phase II award. Currently a Phase I awardee may apply for a Phase II award in the next fiscal year funding cycle or the second fiscal year funding cycle. CSREES intends to revise this language to allow Phase I awardees to apply in either of the two fiscal years following the end of the initial project period; this does not include any no-cost extensions of time. This revision will allow an eighteen-month Phase I awardee the same privileges as that of a six-month Phase I awardee. Privileges as used herein refers to the opportunity for a no-cost extension of time, if necessary, and two options of when a Phase I awardee may apply for a Phase II award.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip Carter, Policy Advisor, Policy and Program Liaison Staff, Department of Agriculture, Cooperative State Research, Education, and Extension Service, 1400 Independence Ave. SW., Stop 2299, Washington DC. 20250-2299
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RIN: 0524–AA20

310. BIOTECHNOLOGY RISK ASSESSMENT RESEARCH GRANTS PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 5921; 5 USC 301

CFR Citation: 7 CFR 3415

Legal Deadline: None

Abstract: The Cooperative State Research Education, and Extension Service (CSREES) proposes to revise and modify the Biotechnology Risk Assessment Research Grants Program Administrative Provisions. The revision and modification updates 7 CFR part 3415 to delete references to the Office of Agricultural Biotechnology and the Agricultural Biotechnology Research Advisory Committee clarifying the requirements for the pre-proposals, clarifying what is to be included in the 15 page limit on proposals and revising the language regarding conflicts of interests (3415.12).

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip Carter, Policy Advisor, Policy and Program Liaison Staff, Department of Agriculture, Cooperative State Research, Education, and Extension Service, 1400 Independence Ave. SW., Stop 2299, Washington DC. 20250-2299
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RIN: 0524–AA21

311. • NATIONAL RESEARCH INITIATIVE COMPETITIVE GRANTS PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 450i(b)

CFR Citation: 7 CFR 3411

Legal Deadline: None

Abstract: The Cooperative State Research, Education, and Extension Service (CSREES) proposes to revise and modify the National Research Initiative Competitive Grants Program administrative provisions. The revision and modification will update 7 CFR 3411 to reflect changes in the Agricultural Research, Extension, and Education Reform Act of 1998 (PL 105-185), and to comply with a recent OIG audit. Specifically, the equipment grant eligibility requirements need to be revised, along with other administrative changes. In addition, CSREES plans to comply with the proposed plain language requirements set out in the Presidential Memo dated June 1, 1998.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Philip A. Carter, Policy Advisor, Policy & Program Liaison, Staff, Department of Agriculture, Cooperative State Research, Education, and Extension Service, 1400 Independence Ave. SW., Stop 2299, Washington, DC 20250-2299
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RIN: 0524–AA22

DEPARTMENT OF AGRICULTURE (USDA)
Cooperative State Research, Education, and Extension Service (CSREES)

Long-Term Actions

312. HIGHER EDUCATION MULTICULTURAL SCHOLARS PROGRAM; ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 3409

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0524–AA09

BILLING CODE 3410-22-F

DEPARTMENT OF AGRICULTURE (USDA)
Rural Housing Service (RHS)

Proposed Rule Stage

313. CIVIL RIGHTS COMPLIANCE REQUIREMENTS—1901-E TO 1940-D

Priority: Other Significant

Legal Authority: PL 100-259; PL 88-352; 42 USC 2000d et seq; PL 90-284; 42 USC 3601 to 3619; PL 100-430; PL 92-318; 20 USC 1681 et seq; PL 93-112; 29 USC 794; PL 94-135; 42 USC 6101 et seq; PL 94-239; 15 USC 1601 et seq; EO 11246

CFR Citation: 7 CFR 15; 12 CFR 202; 28 CFR 42; 45 CFR 90; 41 CFR 60 to 64; 24 CFR 14; 7 CFR 1940 subpart D; 7 CFR 1901 subpart E

Legal Deadline: None

Abstract: This ruling will effectuate a comprehensive civil rights regulation implementing the following laws: The Equal Credit Opportunity Act (ECOA); title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (The Fair Housing Act); the Age Discrimination Act of 1975, and programs and activities; Amendments of 1972; and Executive Order 11246. The revised regulations will provide detailed guidelines for field offices for improved enforcement and compliance with these laws which heavily impact the Agency's programs. Mechanisms for monitoring compliance by field offices and recipients of financial assistance at all levels will decrease the Agency's vulnerability due to noncompliance with recently enacted Civil Rights legislation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Carlton L. Lewis, Chief, Program Compliance Branch, Department of Agriculture, Rural Housing Service, Stop 0703, 1400 Independence Ave. SW., Washington, DC 20250
Phone: 202 692-0097
TDD: 202 692-0107
Fax: 202 962-0095

RIN: 0575–AA83

314. DIRECT SINGLE-FAMILY HOUSING LOANS AND GRANTS

Priority: Other Significant

Legal Authority: 42 USC 1472

CFR Citation: 7 CFR 1924 subpart A; 7 CFR 1944 subpart E; 7 CFR 1980 subpart D; 7 CFR 3550 subpart B

Legal Deadline: None

Abstract: The Agency is changing the thermal requirements for manufactured housing. Manufactured homes are no longer required to meet the RHS's thermal requirements. The recent HUD increase in the thermal requirements of the building envelope for manufactured home is substantial. The thermal performance of a unit built to the requirements is comparable to the thermal performance of a unit built to the requirements of RHS climatic zones.

Timetable:

Action	Date	FR Cite
NPRM	10/06/98	63 FR 53616
NPRM Comment Period End	12/07/98	
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sam Hodges, III, Architect, Program Support Staff, Department of Agriculture, Rural Housing Service, Stop 0761, Rm. 6309 South Building, 1400 Independence Ave. SW., Washington, DC 20250
Phone: 202 720-9653
Fax: 202 690-4335

RIN: 0575–AC11

315. MULTI-FAMILY HOUSING REINVENTION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1475; 42 USC 1479; 42 USC 1480; 42 USC 1481; 42 USC 1484; 42 USC 1485; 42 USC 1486; 42 USC 1490a

CFR Citation: 7 CFR 1806 subpart A; 7 CFR 1930 subpart C; 7 CFR 1944 subpart D; 7 CFR 1944 subpart E; 7 CFR 1951 subpart C; 7 CFR 1951 subpart D; 7 CFR 1951 subpart K; 7 CFR 1951 subpart N; 7 CFR 1955 subpart A; 7 CFR 1955 subpart B; 7 CFR 1955 subpart C; 7 CFR 1956 subpart B; 7 CFR 1965 subpart B; 7 CFR 1965 subpart E

Legal Deadline: None

Abstract: Reinvention of the Rural Housing Service's Multi-Family Housing Programs will consolidate regulations pertaining to section 515 Rural Rental Housing, section 514 Farm Labor Housing Loans, section 516 Farm Labor Housing Grants and section 521 Rental Assistance Payments. Fourteen published regulations will be reduced to one regulation and handbooks for program administration. This will simplify loan origination and portfolio management for applicants, borrowers and housing operators as well as Rural

USDA—RHS

Proposed Rule Stage

Development field staff. This will also provide flexibility for program modifications to reflect current and foreseeable changes. It will also reduce regulations that address solely internal agency program administration. Finally, the regulation will be more customer friendly and responsive to the needs of the public.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	
NPRM Comment Period End	04/00/99	
Final Action	12/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Pentecost, Deputy Division Director, Multi-Family Housing Processing Div., Department of Agriculture, Rural Housing Service, 1400 Independence Ave. SW., Washington, DC 20250
Phone: 202 720-1604
Fax: 202 690-3444

RIN: 0575–AC13

316. • GUARANTEED RURAL HOUSING LOAN SINGLE FAMILY

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 3555; 7 CFR 1980 subpart D

Legal Deadline: None

Abstract: Reinvention of the Agency's regulations for guaranteeing loans on single family housing.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: David Villano, Special Assistant to the Administrator, Department of Agriculture, Rural Housing Service, 1400 Independence Ave. SW., STOP 0701, Washington, DC 20250-0701
Phone: 202 720-1628
Fax: 202 690-0500
Email: david.villano@usda.gov

RIN: 0575–AC18

317. • FARM LABOR HOUSING - COMPETITIVE FUNDING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 42 USC 1484; 42 USC 1486

CFR Citation: 7 CFR 1944 subpart D

Legal Deadline: None

Abstract: Implement a simplified application process in conjunction with an annual competitive funding cycle for the Farm Labor Housing loan and grant program. This program finances housing that serves migrant seasonal and year-round farm laborers who are U.S. citizens or admitted for permanent residency and who work a substantial portion of their time as farm workers.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	
Final Action	03/00/99	
Final Action Effective	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Pentecost, Special Assistant to Deputy Administrator, Multi-Family Housing, Department of Agriculture, Rural Housing Service, 1400 Independence Ave. SW., Washington, DC 20250
Phone: 202 720-8983
Fax: 202 690-3025
Email: john.pentecost@usda.gov

RIN: 0575–AC19

DEPARTMENT OF AGRICULTURE (USDA)
Rural Housing Service (RHS)

Final Rule Stage

318. DENYING CREDIT TO APPLICANTS DELINQUENT ON ANY FEDERAL DEBT

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1942 subpart C; 7 CFR 1944 subpart E; 7 CFR 1948 subpart B; 7 CFR 1951 subpart E; 7 CFR 1942 subpart A; 7 CFR 1942 subpart G; 7 CFR 1944 subpart D; 7 CFR 1948 subpart C; 7 CFR 1980 subpart E; 7 CFR 1980 subpart I

Legal Deadline: None

Abstract: OMB Circular A-129 dated November 25, 1988, recommends that the processing of applications for Federal direct loans be suspended and requires private lenders to suspend processing of loan guarantee applications when an applicant is found to be delinquent on a Federal debt. The Federal Debt Collections Procedures Act of 1990 also requires that credit be denied if an outstanding judgment lien obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, is found.

Timetable:

Action	Date	FR Cite
NPRM	05/04/94	59 FR 23018
NPRM Comment Period End	07/05/94	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, Tribal, Federal

Agency Contact: Sherie Hinton Henry, Director, Financial Management

USDA—RHS

Final Rule Stage

Division, Department of Agriculture, Rural Housing Service, 1400 Independence Ave. SW., Stop 0707, Washington, DC 20250
Phone: 202 692-0080
Fax: 202 692-0088

RIN: 0575–AA66

319. REENGINEERING AND REINVENTION OF THE DIRECT SECTION 502 AND 504 SINGLE FAMILY HOUSING PROGRAM

Priority: Other Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480; 31 USC 3700

CFR Citation: 7 CFR 1806; 7 CFR 1900; 7 CFR 1944; 7 CFR 1951; 7 CFR 1955; 7 CFR 1956; 7 CFR 1965; 7 CFR 3550

Legal Deadline: None

Abstract: Rural Housing Service (RHS) has purchased a state-of-the-art dedicated loan origination servicing system (DLOSS) which includes escrow capability. To conform to this new system, RHS proposes to make further amendments to the regulations to allow the agency to provide escrow services to Single Family Housing borrowers which follow industry standards. In addition, the agency proposes to amend its regulations to conform to processes and techniques currently utilized by the private sector.

Timetable:

Action	Date	FR Cite
NPRM	04/08/96	61 FR 15395
NPRM Comment Period End	06/07/96	
Interim Final Rule	11/22/96	61 FR 59762
Final Action	01/00/99	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Betsy Fletcher, Senior Loan Specialist, Single Family Housing, Department of Agriculture, Rural Housing Service, 1400 Independence Ave. SW., Stop 0783, Washington, DC 20250
Phone: 202 720-1486

RIN: 0575–AB99

320. COMMUNITY FACILITY GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 16 USC 1005; 5 USC 301

CFR Citation: 7 CFR 3570 subpart B

Legal Deadline: None

Abstract: The Agency is establishing a new grant program for community facilities. Grant purposes are the same as the Community Facilities direct and guaranteed programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/07/97	62 FR 16465
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jennifer Barton, Loan Specialist, Community Programs Division, Department of Agriculture, Rural Housing Service, 1400 Independence Ave. SW., Stop 3222, Washington, DC 20250
Phone: 202 720-1504

RIN: 0575–AC10

321. SERVICING COMMUNITY PROGRAMS LOANS AND GRANTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 7 USC 1989; 31 USC 3711; 42 USC 1480

CFR Citation: 7 CFR 3570 subpart E; 7 CFR 1951 subpart E; 7 CFR 1951 subpart O; 7 CFR 1955 subpart A; 7 CFR 1955 subpart B; 7 CFR 1955 subpart C; 7 CFR 1956 subpart C; 7 CFR 1951 subpart F

Legal Deadline: None

Abstract: The Agency is combining seven regulations affecting the servicing of Community Program loans and grants into one regulation. Justification: This is part of the Reinventing Government Initiative. There are no policy or procedural changes. The published regulation will be simplified by removing the administrative portion and will only contain the information affecting the public. Agency field staff will receive an instruction which will include the administrative portion and the published regulations.

Timetable:

Action	Date	FR Cite
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Beth Jones, Loan Specialist, Community Programs Division, Department of Agriculture, Rural Housing Service, 1400 Independence Ave. SW., Stop 3222, Washington, DC 20250
Phone: 202 720-1498
Fax: 202 690-0471

RIN: 0575–AC12

322. SECTION 538 GUARANTEE RURAL RENTAL HOUSING PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 1490p-2; 5 USC 301; 7 USC 1

CFR Citation: 7 CFR 3565

Legal Deadline: None

Abstract: Implement the Rural Rental Housing Guarantee Loan Program authorized by section 538 of the Housing Act of 1949 as amended. This program will serve moderate income rural families with incomes up to 115 percent of area median. This will increase the stock and affordable decent safe and sanitary housing for such families and individuals at reduced cost to the Government. Where current direct lending costs $50 per $100 lent, the guarantee program will cost approximately $4 per $100 guaranteed.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/22/98	63 FR 39451
Final Action	05/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carl Wagner, Senior Loan Officer, Multi-Family Housing Processing Div., Department of Agriculture, Rural Housing Service, 1400 Independence Ave. SW., Stop 0781, Washington, DC 20250
Phone: 202 720-1604
Fax: 202 690-3444
Email: cwagner@usda.gov

RIN: 0575–AC14

USDA—RHS

Final Rule Stage

323. COMMUNITY PROGRAMS GUARANTEED LOANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1980 subpart I

Legal Deadline: None

Abstract: To amend subject Regulation to provide more comprehensive guidance to lenders, borrowers and Agency staff. These changes will better organize the Regulation and make the program more accessible to Rural Lenders. Finally these changes will reflect our new Agency structure under USDA's Reorganization.

Timetable:

Action	Date	FR Cite
NPRM	10/07/97	62 FR 52277
NPRM Comment Period End	12/08/97	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mel Padgett, Senior Loan Specialist, Community Programs Division, Department of Agriculture, Rural Housing Service, 1400 Independence Ave. SW., Stop 3222, Washington, DC 20250
Phone: 202 720-1495
Fax: 202 690-0471

RIN: 0575–AC17

DEPARTMENT OF AGRICULTURE (USDA)
Rural Housing Service (RHS)

Long-Term Actions

324. ENVIRONMENTAL PROGRAM STREAMLINE ENVIRONMENTAL PROCESS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 300; 40 CFR 260; 40 CFR 700; 40 CFR 400; 7 CFR 1940

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Susan Wieferich
Phone: 202 720-9647

RIN: 0575–AB98

325. NATIONAL FLOOD INSURANCE REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1926 subpart B; 7 CFR 1806 subpart B

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Don Lander
Phone: 202 720-9656

RIN: 0575–AC07

DEPARTMENT OF AGRICULTURE (USDA)
Rural Housing Service (RHS)

Completed Actions

326. COMMUNITY FACILITY LOANS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1942

Completed:

Reason	Date	FR Cite
Withdrawn - Revision will be made in complete rewrite of 7 CFR 1942-A	08/11/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharon Douglas
Phone: 202 720-1506
TDD: 202 690-0471

RIN: 0575–AC16

BILLING CODE 3410-07-F

DEPARTMENT OF AGRICULTURE (USDA)
Federal Crop Insurance Corporation (FCIC)

Proposed Rule Stage

327. GENERAL ADMINISTRATIVE REGULATIONS; HIGH RISK LAND REGULATIONS

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation adds new regulations to be known as High Risk Land Regulations. The intended effect of this rule is to set forth rates apart from those prescribed by standard actuarial tables and coverage procedures for acreage on which actual or expected frequency and severity of loss does not reasonably conform to standard insurance coverage and rating determination methods.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0525, 1400 Independence Avenue SW., Washington, DC 20250-0525
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AA98

328. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART D; APPLICATION FOR CROP INSURANCE

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation amends the General Administrative Regulations by revising the "Collection of Information and Data (Privacy Act)" statement found on the general crop insurance application. The proposed amendments to the statement include defining "substantial beneficial interest" as those persons whose interest in the policyholder is in excess of 10 percent. Other minor changes have been made to more fully comply with provisions of the Privacy Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0525, 1400 Independence Avenue SW., Washington, DC 20250-0525
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB00

329. COMMON CROP INSURANCE REGULATIONS; COTTON AND ELS COTTON CROP INSURANCE PROVISIONS

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 457.104; 7 CFR 457.105

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation proposes to amend the Cotton Crop Insurance Provisions and the Extra Long Staple (ELS) Cotton Crop Insurance Provisions to: 1) provide a replant payment if the insured crop is damaged by excess moisture or hail and 2) revise the provision used to determine the amount of production to count for cotton and ELS cotton that is eligible for quality adjustment. FCIC also proposes that the prevented planting coverage level of 45 percent contained in the current Cotton and ELS Cotton Crop Provisions be retained for the 1999 and succeeding crop years. The intended effect of this action is to evaluate the need for and provide policy changes to better meet the needs of the insured.

Timetable:

Action	Date	FR Cite
NPRM	09/30/98	63 FR 52198
NPRM Comment Period End	10/13/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Ave. SW., Washington, DC 20250-0801
Phone: 202 720-2832
Fax: 202 690-5879

RIN: 0563–AB62

330. COMMON CROP INSURANCE REGULATIONS; SMALL GRAINS CROP INSURANCE PROVISIONS AND WHEAT WINTER COVERAGE ENDORSEMENT

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 457.101; 7 CFR 457.102

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation proposes to revise and clarify existing policy provisions, establish winter wheat coverage in certain South Dakota and Wisconsin counties, reduce coverage under Option B of the Wheat Winter Coverage Endorsement, and to require insurance on spring wheat planted to replace damaged winter wheat covered under the Wheat Winter Coverage Endorsement.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Ave. SW., Washington, DC 20250-0801
Phone: 202 720-2832
Fax: 202 690-5879

RIN: 0563–AB63

331. COMMON CROP INSURANCE REGULATIONS; COARSE GRAINS CROP INSURANCE PROVISIONS

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 457.113

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation proposes to make changes to the Coarse Grains Crop Insurance Provisions for corn, grain sorghum and soybeans for the 2000 crop year specific to the way corn grain versus corn silage is insured and to clarify the insurability of specialty corn and soybeans.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Ave. SW., Washington, DC 20250-0801
Phone: 202 720-2832
Fax: 202 690-5879

RIN: 0563–AB64

USDA—FCIC

Proposed Rule Stage

332. • COMMON CROP INSURANCE REGULATIONS; BASIC PROVISIONS

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: To revise the Common Crop Insurance Policy Basic Provisions for the 1999 crop year, including revisions to the prevented planting provisions specifically regarding the 20 acre 20 percent eligibility provision, as well as potential added requirements for insured's to correctly report acreage.

Timetable:

Action	Date	FR Cite
NPRM	09/30/98	63 FR 52194
NPRM Comment Period End	10/13/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Ave SW., Washington, DC 20250-0801
Phone: 202 720-2832
Fax: 202 690-5879

RIN: 0563–AB69

333. • GENERAL ADMINISTRATIVE REGULATIONS; SUBMISSIONS OF REQUEST TO REDUCE PREMIUM CHARGED THE INSURED AS THE RESULT OF OPERATIONAL EFFICIENCIES

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p); 7 USC 1508(e)(3)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: To provide regulatory authority for the submission of requests to reduce premium charged to producers through operational efficiencies including guidelines for the submission, review, and approval process.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Ave. SW., Washington, DC 20250-0801
Phone: 202 720-2832
Fax: 202 690-5879

RIN: 0563–AB70

334. • GENERAL ADMINISTRATIVE REGULATIONS; MOVEMENT OF BUSINESS AMONG INSURANCE PROVIDERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: To ensure that the interests of policyholders are protected, and that the policies and policyholder data are transferred in an orderly manner, the Risk Management Agency is providing comprehensive regulations that will apply to agents, managing general agents, policy issuing companies, and reinsured companies. The objective of this regulation is to prescribe uniform administrative requirements for the movement or assumption of crop insurance policies.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Ave. SW., Washington, DC 20250-0801
Phone: 202 720-2832
Fax: 202 690-5879

RIN: 0563–AB71

335. • GENERAL ADMINISTRATIVE REGULATIONS; REINSURANCE AGREEMENT—STANDARDS FOR APPROVAL

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: To provide regulatory authority for the issuance of final determinations by the Administrator. Final determinations are currently being issued by the agency official responsible for entering into Standard Reinsurance Agreements with private sector insurance companies. Final determinations made by the agency cite contract violations and also require that corrective action be taken.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Ave. SW., Washington, DC 20250-0801
Phone: 202 720-2832
Fax: 202 690-5879

RIN: 0563–AB72

336. • GENERAL ADMINISTRATIVE REGULATIONS; SANCTIONS

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(m); 7 USC 1506(p)

USDA—FCIC

Proposed Rule Stage

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: To add a new section to the Sanction regulation that will specify the conditions under which a person and affiliate may qualify for a waiver or reduction of a civil penalty imposed by the Agency.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Ave. SW., Washington, DC 20250-0801
Phone: 202 720-2832
Fax: 202 690-5879

RIN: 0563–AB73

DEPARTMENT OF AGRICULTURE (USDA)
Federal Crop Insurance Corporation (FCIC)

Final Rule Stage

337. GROUP RISK PLAN CROP INSURANCE PROVISIONS; PART 407

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 407

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation (FCIC) hereby proposes to issue provisions which will outline a new risk management tool to be known as the Group Risk Plan of Insurance (GRP). This plan will insure against the widespread loss of production of certain crops in a county and is intended primarily for use by those farmers whose yields tend to follow the county average yield. GRP pays only when the average yield of the entire county drops below the expected county yield for the insured crop set by the FCIC. Payment is based on the percentage of county or area wide loss below the insured's trigger yield. Specific GRP Crop Insurance Provisions will be proposed for cotton, wheat, barley, corn, grain, sorghum, soybeans, forage production, and peanuts.

Timetable:

Action	Date	FR Cite
NPRM	10/08/96	61 FR 52717
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0525, 1400 Independence Avenue SW., Washington, DC 20250-0525
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB06

338. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART S; REGULATIONS FOR INSURANCE COVERAGE BY WRITTEN AGREEMENT

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation (FCIC) hereby proposes regulations to allow insurance coverage by written agreement for crops in counties which have no actuarial table. Currently, FCIC provides insurance by written agreement for only program crops. By providing insurance by written agreement, FCIC will provide a risk management tool to a broader base of producers.

Timetable:

Action	Date	FR Cite
NPRM	06/20/97	62 FR 33575
NPRM Comment Period End	08/19/97	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0525, 1400 Independence Avenue SW., Washington, DC 20250-0525
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB07

339. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART V; SUBMISSION OF POLICIES AND PROVISIONS OF POLICIES AND RATES OF PREMIUM

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: This rule proposes to add a new subpart to the General Administrative Regulations which will provide guidelines for FCIC approval of supplemental and alternative crop insurance policies and policy provisions developed by FCIC approved insurance providers.

Timetable:

Action	Date	FR Cite
NPRM	09/11/97	62 FR 47772
NPRM Comment Period End	11/10/97	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0525, 1400 Independence Avenue SW., Washington, DC 20250-0525
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB15

340. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART J; APPEAL PROCEDURE REGULATIONS

Priority: Routine and Frequent

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

USDA—FCIC

Final Rule Stage

Abstract: This proposed rule will amend FCIC appeal procedures by outlining provisions that producers must follow when appealing decisions which deny them program benefits or eligibility.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/95	60 FR 67298
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0525, 1400 Independence Avenue SW., Washington, DC 20250-0525
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB17

341. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART N; DISASTER ASSISTANCE ACT OF 1988

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: This rule proposes to revise subpart N of the General Administrative Regulations by repealing obsolete disaster guidelines and requiring the mandatory purchase of catastrophic crop insurance for program crops as a prerequisite for obtaining benefits under any commodity price subpart, production adjustment, or conservation program administered by USDA, or any farmer loan program, whether these programs are administered by FCIC or CFSA.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0525, 1400 Independence Avenue SW., Washington, DC 20250-0525
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB20

342. FEDERAL CROP INSURANCE ON HIGHLY ERODIBLE LAND AND WETLANDS—PART 400

Priority: Other Significant

Legal Authority: 16 USC 3811; 16 USC 3821

CFR Citation: 7 CFR 400.47

Legal Deadline: Final, Statutory, July 3, 1996.

Abstract: This action will implement requirements of the Federal Agriculture Improvement and Reform Act of 1996 to provide that producers will no longer be required to be in compliance with the highly erodible land and wetland conservation provisions of the Food Security Act of 1985 in order to be eligible to obtain crop insurance. No cost is expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/23/96	61 FR 38057
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0525, 1400 Independence Avenue SW., Washington, DC 20250-0525
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB59

343. FEDERAL CROP INSURANCE ON HIGHLY ERODIBLE LAND AND WETLANDS—PART 401

Priority: Other Significant

Legal Authority: 16 USC 3811; 16 USC 3821

CFR Citation: 7 CFR 401.8

Legal Deadline: Final, Statutory, July 3, 1996.

Abstract: This action will implement requirements of the Federal Agricultural Improvement and Reform Act of 1996 to provide that producers will no longer be required to be in compliance with the highly erodible land and wetland conservation provisions of the Food Security Act of 1985 in order to be eligible to obtain crop insurance. No cost is expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/26/96	61 FR 39048
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0525, 1400 Independence Avenue SW., Washington, DC 20250-0525
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB60

344. DAIRY OPTIONS PILOT PROGRAM

Priority: Other Significant

Legal Authority: FAIR Act of 1996, section 191, section 226 A(b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This action seeks comments on a new Dairy Options Pilot Program (DOPP) to be funded by the Commodity Credit Corporation and administered by Risk Management Agency.

Timetable:

Action	Date	FR Cite
ANPRM	01/02/98	63 FR 00051
ANPRM Comment Period End	02/02/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Ave. SW., Washington, DC 20250-0801
Phone: 202 720-2832
Fax: 202 690-5879

RIN: 0563–AB61

USDA—FCIC

Final Rule Stage

345. GENERAL ADMINISTRATIVE REGULATIONS; NONSTANDARD UNDERWRITING CLASSIFICATION SYSTEM

Regulatory Plan: This entry is Seq. No. 1 in Part II of this issue of the Federal Register.

RIN: 0563–AB66

346. • GENERAL ADMINISTRATIVE REGULATIONS; SUBPART T - REGULATIONS FOR THE 1999 AND SUBSEQUENT REINSURANCE YEARS

Regulatory Plan: This entry is Seq. No. 2 in Part II of this issue of the Federal Register.

RIN: 0563–AB67

347. • GENERAL ADMINISTRATIVE REGULATIONS; SUBPART U; AND CATASTROPHIC RISK PROTECTION ENDORSEMENT - REGULATIONS FOR THE 1999 AND SUBSEQUENT REINSURANCE YEARS

Regulatory Plan: This entry is Seq. No. 3 in Part II of this issue of the Federal Register.

RIN: 0563–AB68

DEPARTMENT OF AGRICULTURE (USDA)
Federal Crop Insurance Corporation (FCIC)

Completed Actions

348. COMMON CROP INSURANCE REGULATIONS; TOBACCO (GUARANTEED PLAN) CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 401.129

Completed:

Reason	Date	FR Cite
Final Action	06/25/98	63 FR 34549
Final Action Effective	07/27/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AA84

349. COMMON CROP INSURANCE REGULATIONS; PEANUT CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 457

Completed:

Reason	Date	FR Cite
Final Action	06/09/98	63 FR 31331
Final Action Effective	07/09/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AA85

350. COMMON CROP INSURANCE REGULATIONS; RICE, FIG, ALMOND, RAISIN, FORAGE PRODUCTION, HYBRID SORGHUM SEED, PEAR, APPLE, CANNING AND PROCESSING SWEET CORN, DOLLAR PLAN FRESH MARKET TOMATO

Priority: Routine and Frequent

CFR Citation: 7 CFR 457

Completed:

Reason	Date	FR Cite
Final Action	04/08/98	63 FR 17050
Final Action Effective	05/08/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB03

351. TOBACCO, QUOTA PLAN CROP INSURANCE REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 435

Completed:

Reason	Date	FR Cite
Final Action	06/26/98	63 FR 34778
Final Action Effective	07/27/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB47

352. POPCORN CORN INSURANCE REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 447

Completed:

Reason	Date	FR Cite
Final Action	06/22/98	63 FR 33835
Final Action Effective	07/22/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB48

353. NURSERY CROP INSURANCE REGULATIONS; COMMON CROP INSURANCE REGULATIONS; AND NURSERY CROP INSURANCE PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 457.114

Completed:

Reason	Date	FR Cite
Final Action	09/24/98	63 FR 50965

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak
Phone: 202 720-2832
Fax: 202 690-5879

RIN: 0563–AB65

BILLING CODE 3410-08-F

DEPARTMENT OF AGRICULTURE (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)

Prerule Stage

354. • REGULATIONS UNDER PACKERS AND STOCKYARDS ACT (PRICE REPORTING)

Priority: Other Significant

Legal Authority: 7 USC 204; 7 USC 228

CFR Citation: 9 CFR 200

Legal Deadline: None

Abstract: The agency is considering a proposed regulation that would make purchasing or selling livestock with the condition that the price not be reported a violation of the Packers and Stockyards Act. To obtain more information about the effects of this practice, the agency will publish an Advance Notice of Proposed Rulemaking seeking public comment.

Timetable:

Action	Date	FR Cite
ANPRM	09/10/98	63 FR 48450
ANPRM Comment Period End	12/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 0623 South, 1400 Independence Ave, Washington, DC 20250
Phone: 202 720-0292
Fax: 202 720-4628
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA65

DEPARTMENT OF AGRICULTURE (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)

Proposed Rule Stage

355. GRAIN INSPECTION GENERAL REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 71

CFR Citation: 7 CFR 800

Legal Deadline: None

Abstract: This proposal, a housekeeping-type rulemaking, is the result of GIPSA's review, under the NPR, of regulations contained in 7 CFR 800. These regulations relate to inspection of grain under the U.S. Grain Standards Act and consist of administrative direction on how the public can request service, how Federal, State or private laboratories must provide service and what fees are charged for the service. In determining what changes to propose in this section, GIPSA consulted users of the service on what changes they felt were needed in the regulations, discussed with legal counsel information required to be in the regulations for enforcement purposes, and reviewed information taken from its day-to-day operations. These changes are being proposed to clarify the language and update the regulations to reflect current technology and operating practices.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	03/00/99	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George W. Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 0623 S. Bldg, 1400 Independence Ave. SW., Washington, DC 20250
Phone: 202 720-0292
Fax: 202 720-4628
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA53

356. REVIEW INSPECTION REQUIREMENTS

Priority: Other Significant

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 800.125; 7 CFR 800.135

Legal Deadline: None

Abstract: GIPSA is proposing to revise regulations under the US Grain Standards Act to allow interested persons to stipulate the quality factors that would be redetermined during a reinspection or appeal inspection for grade. Currently reinspections and appeal inspections for grade must include a review for all factors that (1) may determine the grade; (2) are reported on the original certificate; or (3) are required to be shown. GIPSA has determined that mandating all quality factors be reexamined during a review inspection is inefficient, time consuming and costly. Further, such a complete review of the preceding inspection service is usually not needed to confirm the true quality of the grain. This proposed action will allow interested parties to specify which official factors should be redetermined during the reinspection or appeal inspection service. However, to safeguard against inadvertent misgrading, official personnel may determine other factors, when deemed necessary.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 0623A, 1400 Independence Ave SW., Washington, DC 20250
Phone: 202 720-0292
Fax: 202 720-4628
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA58

357. • REGULATIONS ISSUED UNDER PACKERS AND STOCKYARDS ACT (FEED WEIGHT)

Priority: Other Significant

Legal Authority: 7 USC 204; 7 USC 228

CFR Citation: 9 CFR 201.49; 9 CFR 201.55; 9 CFR 201.71; 9 CFR 201.72; 9 CFR 201.73

Legal Deadline: None

Abstract: The agency is proposing to amend existing scales and weighing regulations under the Packers and Stockyards Act to include feed when the weight of the feed is a factor in determining payment to growers. The proposed amendments to existing

USDA—GIPSA

Proposed Rule Stage

regulations would require that scale tickets be issued containing certain required information and that the weight be printed by a printing device; the actual weight be printed on scale tickets or otherwise explained; scales be installed, maintained, operated and tested in accordance with National Institute of Standards and Technology Handbook 44, 1996; scales be tested twice each calendar year at intervals of approximately 6 months by competent persons, and scales be operated by qualified persons in accordance with the regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 0623 South, 1400 Independence Ave SW., Washington, DC 20250
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Fax: 202 720-4628
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA64

358. • FEES FOR OFFICIAL INSPECTION AND OFFICIAL WEIGHING SERVICES (1999)

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 800.71

Legal Deadline: None

Abstract: The agency proposes to amend regulations under the US Grain Standards Act to recover anticipated increases in operational costs created by the planned January 1, 1999 Federal salary increase by raising its hourly user fee rate and certain unit rates based on the hourly rate.

Timetable:

Action	Date	FR Cite
NPRM	10/02/98	63 FR 52987
NPRM Comment Period End	12/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 0623 South, 1400 Independence Ave SW., Washington, DC 20250
Phone: 202 720-0292
Fax: 202 720-4628
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA66

DEPARTMENT OF AGRICULTURE (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)

Final Rule Stage

359. TOLERANCES FOR DIVIDERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 801.10

Legal Deadline: None

Abstract: GIPSA proposes to remove section 801.10, Tolerance for Dividers, from the CFR. Since GIPSA no longer tests dividers, the rule is no longer needed. By using the direct final rule process GIPSA will give the public general notice of its intent to remove the rule and provide interested persons an opportunity to participate in the rulemaking through submission of comments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 0623 S, 1400 Independence Ave SW., Washington, DC 20250
Phone: 202 720-0292
Fax: 202 720-4628
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA57

360. • CLEAR TITLE FOR PURCHASERS OF FARM PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1631

CFR Citation: 9 CFR 205.209

Legal Deadline: None

Abstract: The agency proposes to amend regulations relating to establishment and management of statewide central filing systems as they pertain specifically to the filing of "effective financing statements" for farm products as defined in section 1324 of the Food Security Act of 1985 to allow continuation of an effective financing statement to be filed without the signature of the debtor. This action responds to comments received when the regulations were brought into conformity with Secs 662 and 663 of the Federal Agriculture Improvement and Reform Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	06/08/98	63 FR 31130
NPRM Comment Period End	08/07/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 0623 South, 1400 Independence Ave SW., Washington, DC 20250
Phone: 202 720-0292
Fax: 202 720-4628
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA63

DEPARTMENT OF AGRICULTURE (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)

Long-Term Actions

361. POULTRY GROWER CONTRACTS, SCALES, WEIGHING

Priority: Other Significant

CFR Citation: 9 CFR 201

Timetable:

Action	Date	FR Cite
ANPRM	02/10/97	62 FR 5935
ANPRM Comment Period End	05/12/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: George Wollam
Phone: 202 720-0292
Fax: 202 720-4628
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA51

DEPARTMENT OF AGRICULTURE (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)

Completed Actions

362. GENERAL REGULATIONS AND STANDARDS FOR CERTAIN AGRICULTURAL COMMODITIES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 868.1; 7 CFR 868.80

Completed:

Reason	Date	FR Cite
Final Action	06/01/98	63 FR 29530
Final Action Effective	07/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Wollam
Phone: 202 720-0292
Fax: 202 720-4628
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA54

363. OFFICIAL/UNOFFICIAL WEIGHING SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 800.76; 7 CFR 800.186; 7 CFR 800.195; 7 CFR 800.196

Completed:

Reason	Date	FR Cite
Final Action	08/27/98	63 FR 45676
Final Action Effective	08/28/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Wollam
Phone: 202 720-0292
Fax: 202 720-4628
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA55

364. • FEES FOR OFFICIAL INSPECTION AND OFFICIAL WEIGHTING SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 800.71

Legal Deadline: None

Abstract: The Agency proposes to increase by approximately 2.9 percent the hourly user fee rate it charges for official inspection and weighing services under the U.S. Grain Standards Act. The increase, estimated to generate an additional $517,000 in revenue, reflects only Federal employee salary increases which became effective January 1, 1998. The proposed increase will be reflected in hourly rates and certain unit rates on tests performed at other than an applicants facility.

Timetable:

Action	Date	FR Cite
NPRM	03/27/98	63 FR 14840
NPRM Comment Period End	05/26/98	
Final Action	06/16/98	63 FR 32713
Final Action Effective	07/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 0623 S., 1400 Independence Ave SW., Washington, DC 20250
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Fax: 202 720-4628
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RIN: 0580–AA59

365. • TOLERANCES FOR MOISTURE METERS USED IN GRAIN INSPECTION

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 801.6

Legal Deadline: None

Abstract: The agency is amending regulations under the U.S. Grain Standards Act by revising tolerances for moisture meters. This revision is being made to reflect tolerances for both the current official moisture meter (the Motomco Model 919) and the Dickey-john GAC 2100 moisture meter which will be phased in as the official moisture meter starting August 1, 1998. Use of the new moisture meter will begin a transition to new technology for moisture measurement under the U.S. official grain inspection system.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/25/98	63 FR 34554

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 0623 South, 1400 Independence Ave SW., Washington, DC 20250
Phone: 202 720-0292
Fax: 202 720-4628
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA60

366. • PROHIBITION ON ADDING SUBSTANCES TO GRAIN

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 800.61

Legal Deadline: None

Abstract: The agency proposes to revise regulations under the U.S. Grain Standards Act to prohibit the addition of nongrain substances to grain during post-harvest marketing.

Timetable:

Action	Date	FR Cite
Withdrawn	08/19/98	

USDA—GIPSA

Completed Actions

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 0623 South, 1400 Independence Ave SW., Washington, DC 20250
Phone: 202 720-0292
Fax: 202 720-4286
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA61

367. • OFFICIAL TESTING SERVICE FOR CORN OIL, PROTEIN, AND STARCH

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 800.71; 7 CFR 801.7

Legal Deadline: None

Abstract: The agency is amending regulations under the U.S. Grain Standards Act to provide fees for testing of corn for oil, protein and starch content as an official service at selected field locations. The agency is also amending the regulations to provide maintenance tolerances for NIRT analyzers used in performing the official inspections.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/30/98	63 FR 35502

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 0623 South, 1400 Independence Ave SW., Washington, DC 20250
Phone: 202 720-0292
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Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA62

BILLING CODE 3410-EN-F

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS)

Proposed Rule Stage

368. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): FOOD DELIVERY SYSTEMS INTEGRITY

Regulatory Plan: This entry is Seq. No. 4 in Part II of this issue of the Federal Register.

RIN: 0584–AA80

369. FOOD DISTRIBUTION PROGRAMS—IMPLEMENTATION OF 1990 FARM BILL

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: PL 101-624

CFR Citation: 7 CFR 250; 7 CFR 251

Legal Deadline: Final, Statutory, July 30, 1992.

Abstract: This rule will revise the requirements for evaluation of State warehousing and distribution systems and conversion to commercial systems. (91-004)

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
NPRM Comment Period End	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB28

370. FOOD STAMP PROGRAM: REVISIONS TO THE RETAIL FOOD STORE DEFINITION AND PROGRAM AUTHORIZATION GUIDANCE

Regulatory Plan: This entry is Seq. No. 5 in Part II of this issue of the Federal Register.

RIN: 0584–AB90

371. FOOD STAMP PROGRAM: RETAILER APPLICATION PROCESSING

Priority: Other Significant

Legal Authority: 7 USC 2011 to 2032; PL 104-193

CFR Citation: 7 CFR 278.1

Legal Deadline: None

Abstract: This rule would increase from 30 to 60 days the initial application processing time frame for stores that apply for authorization. It would also allow FCS to request specific documentation to verify applicant firms' eligibility. Such information would include, but would not be limited to, business licenses, photographic identification cards, bills of sale, deeds, leases, sales contracts, certificates of incorporation, sales records, invoice records, and tax records. This documentation would be used to confirm self-reported information provided on the application form and to obtain third-party verification. This rule also includes two provisions dealing with disclosure of retailer tax information based on changes made by Pub. L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). (95-008)

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC05

USDA—FNS

Proposed Rule Stage

372. SUMMER FOOD SERVICE PROGRAM: PROGRAM MEAL SERVICE DURING THE SCHOOL YEAR

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-448; 42 USC 1769a

CFR Citation: 7 CFR 225

Legal Deadline: None

Abstract: Implements provision of PL 103-448 which permits Summer Food Service Program (SFSP) meal service to be provided at non-school sites to children who are not in school for a period during the months of October through April due to a natural disaster, building repair, court order, or similar cause. Rule also simplifies the SFSP sponsor application and State monitoring requirements in order to eliminate unnecessary paperwork and reduce administrative burden for sponsors and State agencies. (95-011)

Timetable:

Action	Date	FR Cite
NPRM	10/13/98	63 FR 54617
NPRM Comment Period End	12/14/98	
Final Action	06/00/99	
Final Action Effective	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC06

373. CONSOLIDATION OF NATIONAL SCHOOL LUNCH PROGRAM, SCHOOL BREAKFAST PROGRAM AND SUMMER FOOD SERVICE PROGRAM INTO A COMPREHENSIVE SCHOOL MEAL PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-448; PL 104-193

CFR Citation: 7 CFR 210; 7 CFR 220; 7 CFR 225

Legal Deadline: Final, Statutory, May 2, 1996.

Abstract: Sec. 301 of P.L. 103-448 required the consolidation of the National School Lunch Program (NSLP) and the School Breakfast Program (SBP) into a comprehensive meal program in schools. Sec. 741 of P.L. 104-193 expanded the concept of a school-based comprehensive meal program to include the Summer Food Service Program (SFSP). Major provisions in the proposal will include: extending a number of provisions to the breakfast program that previously applied only to lunch (e.g., extending point of service counts to breakfast and supplements and extending "one lunch per child per day" provision to breakfast and supplements); simplifying the operation of the summer program by extending lunch/breakfast operational rules to summer meals; and permitting permanent agreements and an abbreviated review of free and reduced price applications. This rule will delete Sec. 210.28 of the existing regulations which authorizes the State food distribution advisory council and an existing SBP rule which requires the State agency to provide information to school boards concerning the availability of benefits at school. 7 CFR part 220 will be removed and 7 CFR part 225 will only apply to SFSPs administered by private nonprofit organizations. Additionally, this rule will incorporate the rules for waiver requests and for "Buy American." (95-013)

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
NPRM Comment Period End	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC10

374. DISCLOSURE OF FREE AND REDUCED PRICE ELIGIBILITY INFORMATION UNDER THE SCHOOL NUTRITION AND CHILD AND ADULT CARE FOOD PROGRAMS

Priority: Other Significant

Legal Authority: PL 103-448, sec 108

CFR Citation: 7 CFR 226; 7 CFR 245

Legal Deadline: None

Abstract: This rule would allow limited disclosure of children's free and reduced price meal eligibility status or information, as authorized under Public Law 103-448, to persons directly connected with the administration or enforcement of (1) programs under the National School Lunch Act or Child Nutrition Act of 1966; (2) Federal education programs; (3) State health and education programs administered by the education agency; (4) means-tested nutrition programs; and (5) the Comptroller General and certain law enforcement officials. The rule also proposes safeguards to protect the free and reduced price application and personal information from misuse and includes penalties for unauthorized disclosures. (95-022)

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC21

375. FOOD STAMP PROGRAM: WELFARE REFORM AND REGULATORY REVIEW OF PROGRAM MANAGEMENT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 271; 7 CFR 272; 7 CFR 273.15; 7 CFR 274; 7 CFR 275; 7 CFR 276; 7 CFR 281

Legal Deadline: None

Abstract: The Department of Agriculture is proposing substantial revisions to the Food Stamp Program regulations governing State agency administrative and management requirements. This action is being taken to incorporate certain provisions from the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Welfare Reform) and in response to the President's Regulatory Reform effort and as part of the Department's ongoing effort to expand State flexibility. This action will provide the State agencies with more flexibility in operating the Food Stamp Program by eliminating outdated or overly prescriptive requirements. This rule also proposes to implement provisions of the Government Performance and Results Act of 1993 (GPRA), which shifts the focus of Federal agencies from managing processes to achieving results. (95-023)

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
NPRM Comment Period End	12/00/99	
Final Action	09/00/00	
Final Action Effective	09/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC22

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376. IMPROVING MANAGEMENT AND PROGRAM INTEGRITY IN THE CHILD AND ADULT CARE FOOD PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1758; 42 USC 1766

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: This rulemaking proposes to incorporate in the Child and Adult Care Food Program regulations several recommendations suggested by the Department's Office of Inspector General as a result of recently conducted audits. The audits revealed high levels of noncompliance by sponsors and family day care homes in several areas of Program operations.

The Department also proposes to incorporate in the regulations several recommendations from a State-Federal task force in the areas of (1) State approval of both new and renewing institutions; (2) State oversight of institutions; and (3) training and operational requirements for child care institutions, sponsors of family day care homes, outside-school-hours care centers, and family day care home providers.

As a result of the task force's recommendations, this rulemaking also proposes other changes to the CACFP regulations which are intended to streamline the operation of the program at the State and local levels, improve its integrity, and strengthen oversight control. (95-024)

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	04/00/99	
Final Action	10/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC24

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377. DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS: PROVISION 2 AND PROVISION 3

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-448

CFR Citation: 7 CFR 245

Legal Deadline: None

Abstract: Currently, schools that serve all meals free for 3 consecutive years may determine free and reduced price school meal eligibility and take daily meal counts by category (free, reduced price and paid) once every 3 years. In years when actual meal counts by category are not taken, schools claim meals for reimbursement based on claiming percentages. This counting and claiming alternative is commonly referred to as Provision 2. This rule would allow schools to extend current procedures an additional 2 years if the socioeconomic status of the schools' population remains stable and allow subsequent 5-year cycles. This rule would also add another alternative for schools that serve all meals free for 4 consecutive years. These schools would receive the same level of cash and commodity assistance they received in the last year free and reduced price eligibility determinations were made, adjusted for inflation and changes in enrollment. For both alternatives, meal costs that exceed reimbursement must be paid for with other than Federal funds. (96-003)

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	03/00/99	
Final Action	08/00/99	
Final Action Effective	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
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RIN: 0584–AC25

378. FOOD STAMP PROGRAM REGULATORY REVIEW: CERTIFICATION OF ELIGIBLE HOUSEHOLDS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 7 USC 2011 to 2026

CFR Citation: 7 CFR 273

Legal Deadline: None

Abstract: This action proposes to amend Food Stamp Program rules governing the certification of eligible households. It results from a comprehensive, page-by-page review of all existing Food Stamp Program regulations conducted in response to the President's regulatory reform initiative. The proposed changes would empower States to set their own procedures for case management and customer service; remove overly prescriptive, outdated, and redundant provisions; and emphasize recipient responsibility for complying with Program requirements. (96-006)

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive Room 308, Alexandria VA 22302
Phone: 703 305-2246

RIN: 0584–AC28

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379. WIC: FOOD PACKAGE ADJUSTMENTS AND CORRECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This proposal would make minor adjustments and corrections in the Federal regulations for the WIC food packages, to recognize new container sizes for and physical forms of several of the allowable WIC foods. This rule would also propose allowing more alternative physical forms of the current WIC foods (e.g., shelf-stable concentrated adult juices packaged in tetra boxes which are new on the market compared to frozen concentrated forms of adult juices). (96-007)

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	04/00/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246
Fax: 703 305-2921

RIN: 0584–AC29

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380. WIC: BLOODWORK REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This rule would propose revisions to the bloodwork requirements for WIC applicants. Currently, to be certified as eligible for the Program, applicants must be determined at nutritional risk. In determining nutritional risk, at a minimum height or length and weight must be measured, and a hematological test for anemia must be performed. This rule would eliminate the requirement for a hematological test for anemia as part of the certification process if another risk factor is present that would qualify the applicant as nutritionally at risk. Hematological test data for anemia would still be required for counseling and food package purposes. (96-008)

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246
Fax: 703 305-2921

RIN: 0584–AC30

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381. PART 240, CASH IN LIEU OF DONATED FOODS AND PART 250, FOOD DISTRIBUTION REGULATIONS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-448

CFR Citation: 7 CFR 240; 7 CFR 250

Legal Deadline: None

Abstract: This rule will incorporate provisions of the Healthy Meals for Healthy Americans Act of 1994 relative to schools participating in the National School Lunch Program. (96-010)

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
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RIN: 0584–AC31

USDA—FNS

Proposed Rule Stage

382. FOOD STAMP PROGRAM REGULATORY REVIEW: FSP STANDARDS FOR APPROVAL AND OPERATION OF FOOD STAMP ELECTRONIC BENEFIT TRANSFER SYSTEMS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 TO 2034

CFR Citation: 7 CFR 274.12

Legal Deadline: None

Abstract: This rule proposes revisions to food stamp regulations affecting the standards and administration of EBT systems for food stamp issuance. Current regulations at 7 CFR 274.12 delineate the standards that EBT systems must meet in order to be approved for operation. This rule will revise those regulations to provide the State agency more flexibility in implementing and operating those systems. Clarifications and FNS settlement improvements will also be incorporated into the rule. (96-016)

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
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RIN: 0584–AC37

383. NATIONAL SCHOOL LUNCH PROGRAM AND SCHOOL BREAKFAST PROGRAM: ADDITIONAL MENU PLANNING ALTERNATIVES

Priority: Other Significant

Legal Authority: PL 104-149

CFR Citation: 7 CFR 210; 7 CFR 220

Legal Deadline: None

Abstract: Public Law 104-149, enacted on May 29, 1996, establishes additional menu planning alternatives for the school meals programs and requires the secretary to establish guidelines for the use of these additional alternatives. One alternative specified in the statute was the meal pattern in effect for the 1994-95 school year; the other was "any reasonable approach." This proposed regulation would reestablish the meal pattern as a menu planning alternative and provide guidelines for school food authorities to develop a different approach to menu planning. (96-017)

Timetable:

Action	Date	FR Cite
NPRM	05/15/98	63 FR 27162
NPRM Comment Period End	11/12/98	
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
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RIN: 0584–AC38

384. FSP: PERSONAL RESPONSIBILITY PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Regulatory Plan: This entry is Seq. No. 6 in Part II of this issue of the Federal Register.

RIN: 0584–AC39

385. FSP: STATE FLEXIBILITY AND CERTIFICATION PROVISIONS OF PUBLIC LAW 104-193

Regulatory Plan: This entry is Seq. No. 7 in Part II of this issue of the Federal Register.

RIN: 0584–AC40

386. FSP: NONDISCRETIONARY PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Regulatory Plan: This entry is Seq. No. 8 in Part II of this issue of the Federal Register.

RIN: 0584–AC41

387. ELECTRONIC BENEFIT TRANSFER (EBT) PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 104-193, sec 825

CFR Citation: 7 CFR 274.3; 7 CFR 274.12

Legal Deadline: Other, Statutory, October 1, 2002.
Statutory implementation date of EBT systems per section 825.

Abstract: On August 22, 1996, the President signed the Personal Responsibility and Work Opportunity Act of 1996 (Pub. L. 104-193). This rule proposes to implement the Electronic Benefit Transfer (EBT) provisions found in section 825 of this law which affect the Food Stamp Program. These provisions are meant to encourage implementation of EBT systems to replace food stamp coupons. (96-024)

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC44

USDA—FNS

Proposed Rule Stage

388. FOOD STAMP PROGRAM: WORK PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Regulatory Plan: This entry is Seq. No. 9 in Part II of this issue of the Federal Register.

RIN: 0584–AC45

389. REGULATORY REFORM: PROVISIONS RELATING TO FIRMS PARTICIPATING IN THE FOOD STAMP PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 278; 7 CFR 279

Legal Deadline: None

Abstract: In response to the President's regulatory reform effort, the Food and Nutrition Service is proposing to revise or eliminate certain sections of parts 278 and 279 of the Food Stamp Program (FSP) regulations which govern the authorization and sanctioning of firms which participate in the FSP. The proposed changes which will be made to parts 278 and 279 are discretionary. (96-028)

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
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RIN: 0584–AC48

390. FOOD DISTRIBUTION PROGRAM: REGULATORY IMPLEMENTATION OF PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996 (PL 104-193, 110 STAT 2105)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-193

CFR Citation: 7 CFR 250 (Revision); 7 CFR 251 (Revision)

Legal Deadline: None

Abstract: This rule proposes to amend provisions of the Food Distribution Program Regulations and the Emergency Food Assistance Program Regulations to implement the personal Responsibility and Work Opportunity Reconciliation Act of 1996, commonly known as Welfare Reform, while generally streamlining and providing greater clarity to these regulations. In accordance with the Welfare Reform legislation, the proposals contained in this rule would address various program changes required by the repeal of Section 110 of the Hunger Prevention Act of 1988, which authorized the former Soup Kitchens/Food Banks Program (SK/FB) and the amendment of definitional terms regarding organizational eligibility in the Emergency Food Assistance Program (TEFAP), contained in the Emergency Food Assistance Act of 1983, accompanying the absorption of SK/FB into TEFAP. Changes to term definitions are also proposed in order to provide greater clarity to the regulations. As required by Welfare Reform, this rule also proposes changes in the required contents and frequency of submission of the TEFAP State plan of operation, an encouragement for States to create advisory boards comprised of public and private entities with an interest in the distribution of TEFAP commodities, broadening the definition of allowable usage of TEFAP administrative funds at the State level, and greater flexibility for States in meeting the TEFAP maintenance of effort requirement. In order to reduce the paperwork burden and afford the States greater flexibility, this rule also proposes changes in TEFAP recordkeeping, monitoring, and reporting requirements. (96-029)

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC49

391. FOOD DISTRIBUTIONS PROGRAMS: COMMODITY ACCEPTABILITY REPORT

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: PL 100-237

CFR Citation: 7 CFR 250.13(k)

Legal Deadline: None

Abstract: Food Distribution Programs - Reduction of the Paperwork Burden Associated with this Requirement for State and Local Agencies. This rule proposes to reduce the paperwork burden for State and local agencies administering Food Distribution Programs by reducing the sample size needed for collecting commodity acceptability report information for the National School Lunch Program, Child and Adult Care Food Program, Commodity Supplemental Food Program, and the Food Distribution Program on Indian Reservations. A sixty-day comment period will be provided. (97-004)

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC56

USDA—FNS

Proposed Rule Stage

392. WIC: FOOD AND NUTRITION SERVICES AND ADMINISTRATION (NSA) FUNDING FORMULA RULE

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This regulation proposes to revise both the food and nutrition services and administration (NSA) funding formulas to improve the effectiveness of WIC funds distribution in a stable funding environment with limited program growth. The revised food funding formula will help to ensure food funds are allocated to States that can utilize the funds to maintain current participation as well as to direct additional funds, if available, to States that are serving a lesser proportion of their WIC eligible population as compared to other States. The revised NSA funding formula will simplify the funding formula by deleting obsolete components and will update existing components to more equitably distribute funding among WIC State Agencies. (97-013)

Timetable:

Action	Date	FR Cite
NPRM	10/13/98	63 FR 54629
NPRM Comment Period End	01/11/99	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Sharon Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
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RIN: 0584–AC64

393. FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS: DISQUALIFICATION PENALTIES FOR INTENTIONAL PROGRAM VIOLATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 253

Legal Deadline: None

Abstract: This rule proposes the establishment of disqualification penalties under the Food Distribution Program for Indian Reservations (FDPIR) for intentional program violations (IPV). It will include provisions that define IPV, establish disqualification penalties for initial and subsequent violations, and address the procedures and requirements for disqualification hearings and notices. The proposed rule will also address the establishment and handling of claims against households. This proposed rulemaking is in response to a recent audit recommendation by USDA's Office of Inspector General to adopt disqualification penalty procedures for IPVs. FDPIR is an alternative to the Food Stamp Program for eligible households living on or near Indian reservations. Food Stamp Program regulations at 7 CFR 273.16 establish disqualification penalties for IPVs and require State agencies to take appropriate action on alleged cases of IPVs. In proposing similar requirements under FDPIR, we expect to deter program abuse, thereby improving program integrity. (97-012)

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Sharon Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246
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RIN: 0584–AC65

394. • COMMODITY SUPPLEMENTAL FOOD PROGRAM: PROGRAM STREAMLINING, FLEXIBILITY, AND MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-624; PL 104-127

CFR Citation: 7 CFR 247

Legal Deadline: None

Abstract: The rule will affect program streamlining by proposing to: 1) Make the State plan and Federal/State agreement permanent, with amendments as needed; 2) Reduce the on-site review requirement of local agencies by States; 3) Change the caseload cycle to the period from January 1 to December 31; 4) Amend the determination of base caseload to consider a State's participation in the previous fiscal year or in the final quarter of the previous fiscal year, but not in the month of September; and 5) Consolidate a number of regulatory sections for the purpose of clarification and removal of redundancy.

The rule will propose to allow States to discontinue participants for physical abuse or the threat of physical abuse of program staff, for a period not to exceed three months.

The rule will incorporate legislative provisions that have been implemented through program policy including a revision of the percentage of appropriated funds and funds carried over from the previous year, for program administration, to 20 percent; and a requirement that State and local agencies provide to participants information on other programs providing assistance to low-income households. (98-001)

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	
NPRM Comment Period End	04/00/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC66

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS)

Final Rule Stage

395. CHILD AND ADULT CARE FOOD PROGRAM: AUTHORITY TO COLLECT OVERCLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1766

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: Establishes the Department's authority to collect overclaims where participating institutions fail to comply with regulatory recordkeeping requirements. (96-009)

Timetable:

Action	Date	FR Cite
NPRM	12/05/95	60 FR 62227
NPRM Comment Period End	02/05/96	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB19

396. FOOD STAMP PROGRAM: 1995 QUALITY CONTROL TECHNICAL AMENDMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 271.2; 7 CFR 275.3; 7 CFR 275.10; 7 CFR 275.11; 7 CFR 275.12; 7 CFR 275.13; 7 CFR 275.23

Legal Deadline: None

Abstract: The Food and Nutrition Service is making technical changes to the Food Stamp Program's Quality Control System which will reduce the workload on State agencies and improve the efficiency of the quality control system. The proposed changes will: (1) permit State agencies to reduce their sample sizes; (2) clarify the minimum size of the Federal subsample; (3) clarify State sampling procedures; (4) change the formulas for calculating Federal subsample sizes; (5) clarify the process of conducting a quality control review of negative subsystem cases and add suspended cases, those cases that are certified for the Program but do not receive benefits, to the sample universe of cases that are reviewed under the negative subsystem; (6) change the error dollar tolerance level; (7) modify the requirements regarding a home visit in active quality control reviews; (8) adjust the case completion standard. (92-006)

Timetable:

Action	Date	FR Cite
NPRM	09/10/96	61 FR 47680
NPRM Comment Period End	11/12/96	
Final Action	12/00/98	
Final Action Effective	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: RIN 0584-AB07 has been withdrawn, and the actions in that proposed rule have been included in this action.

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB38

397. WIC: REQUIREMENTS FOR AND EVALUATION OF WIC PROGRAM REQUESTS FOR BIDS FOR INFANT FORMULA REBATE CONTRACTS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: At the time the current cost containment regulations were published in 1989, there were only minor differences in infant formula wholesale prices and few differences in types of infant formulas offered by manufacturers, i.e., milk- and soy-based infant formula. However, current wholesale prices vary considerably among manufacturers for similar formulas and several new infant formulas have emerged on the market over the last decade. Therefore, to reflect market changes in the infant formula industry and to optimize competition in the WIC Program's infant formula rebate contracts, this proposed rule would require WIC State agencies to award infant formula rebate contracts based on the lowest net price, allowing highest gross rebate as a basis of award only when retail prices of the different brands of infant formula vary, on average, by 5 percent or less. Additionally, this proposed rule would define the types and forms of infant formula that must be included in cost containment systems. It would also expand on conditions that must be met for the issuance of infant formulas not covered by rebate contracts. (92-013)

Timetable:

Action	Date	FR Cite
NPRM	07/16/98	63 FR 38343
NPRM Comment Period End	09/14/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB52

398. FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS—OKLAHOMA WAIVER AUTHORITY

Priority: Substantive, Nonsignificant

Legal Authority: PL 97-98, Sec 1338; PL 95-113

CFR Citation: 7 CFR 253; 7 CFR 254

Legal Deadline: None

Abstract: This direct final rule will extend the Department's authority to grant waivers in Oklahoma to serve urban places in excess of 10,000 people. This authority expired on September 30, 1985. This rule will also create consistency with Food Stamp Program on the treatment of child

USDA—FNS

Final Rule Stage

support payments and make several technical corrections. (94-002)

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB56

399. FOOD STAMP PROGRAM: ANTICIPATING INCOME AND REPORTING CHANGES

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 272; 7 CFR 273

Legal Deadline: None

Abstract: This rule proposes revisions in Food Stamp Program procedures for reporting and acting on changes in earned income. The changes are designed to increase State agency flexibility and improve procedures for determining the eligibility and benefits of households whose income fluctuates unpredictably. Under this proposal, State agencies would choose from three different reporting requirements for households with earned income. The reporting requirement a State agency selects would replace the current requirement that households report a change of more than $25 in earned income. In addition to reporting a change in source of income, households would be required to report one of the following: a change in wage rate or salary and a change in part-time or full-time status, provided the household is certified for no more than 3 months; a change in wage rate or salary and a change of more than 5 hours a week that is expected to continue for more than a month; or a change in the amount earned of more than $80 a month. (93-005)

Timetable:

Action	Date	FR Cite
NPRM	12/17/96	61 FR 66233
NPRM Comment Period End	02/18/97	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB57

400. FOOD STAMP PROGRAM: PAYMENT OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

Priority: Other Significant

Legal Authority: 7 USC 2011 to 2032; PL 103-66, sec 13961

CFR Citation: 7 CFR 277

Legal Deadline: Other, Statutory, April 1, 1994.
The Act requires funding rate reduction effective 04/01/94.

Abstract: State agencies are reimbursed by FNS at standard or enhanced Federal reimbursement level for all allowable costs incurred in the State's operation of the Food Stamp Program. This proposed rule would reduce the Federal reimbursement rate for State agencies for fraud control, system development, and immigration status verification to the standard 50 percent rate. It would also limit the time period during which State agencies may file a claim for retroactive funding, and allows the cost of certifying aid to families with dependent children to be charged to the Food Stamp Program for purposes of Federal reimbursement. (93-010)

Timetable:

Action	Date	FR Cite
NPRM	11/22/94	59 FR 60079
NPRM Comment Period End	01/23/95	
Final Action	03/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB66

401. FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS: DEFINITION OF INDIAN TRIBAL HOUSEHOLD

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: PL 88-525; PL 97-98, sec 1338; PL 95-113

CFR Citation: 7 CFR 253; 7 CFR 254

Legal Deadline: None

Abstract: This final rule will amend part 253 to permit households containing a Native American living in "near areas" to participate in the Food Distribution Program on Indian Reservations (FDPIR) regardless of the Native American's tribal affiliation or age. It will also amend part 254 to permit households containing a Native American to participate in FDPIR in Oklahoma regardless of the Native American's age. (82-217)

Timetable:

Action	Date	FR Cite
NPRM	10/20/87	52 FR 39158
Interim Final Rule	01/11/94	59 FR 1447
Final Action	08/00/99	
Final Action Effective	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB67

USDA—FNS

Final Rule Stage

402. AMENDMENTS TO THE INFANT MEAL PATTERN

Priority: Other Significant

Legal Authority: 42 USC 1751 to 1760; 42 USC 1762a; 42 USC 1765; 42 USC 1766; 42 USC 1773; 42 USC 1779

CFR Citation: 7 CFR 210; 7 CFR 220; 7 CFR 226

Legal Deadline: None

Abstract: This rule amends the regulations for the National School Lunch Program (7 CFR 210), School Breakfast Program (7 CFR 220) and the Child and Adult Care Food Program (7 CFR 226) to (1) eliminate the option of serving whole cow's milk to infants between the ages of 8 months and 1 year instead of infant formula or breast milk and (2) permit reimbursement for meals containing only breast milk. The first provision responds to scientific evidence indicating that whole cow's milk is nutritionally deficient compared to breast milk and formula and is not recommended for children less than 1 year old. The second provision is intended to remove a potential disincentive to breast feeding. A related provision would permit providers to give infants that are less than 4 months old an amount of breast milk less than the minimum requirement when the infants consistently do not want the full minimum amount. (95-005)

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB81

403. FOOD STAMP PROGRAM: FOOD STAMP RECIPIENT CLAIM ESTABLISHMENT AND COLLECTION STANDARDS

Regulatory Plan: This entry is Seq. No. 10 in Part II of this issue of the Federal Register.

RIN: 0584–AB88

404. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): IMPLEMENTATION OF WIC MANDATES OF THE HEALTHY MEALS FOR HEALTHY AMERICANS ACT OF 1994

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This final rule implements the WIC-related reauthorization provisions mandated in Pub. L. 103-448, the Healthy Meals for Healthy Americans Act of 1994. All of the WIC-related provisions may be deemed nondiscretionary. These provisions include: counting the unborn child of an otherwise income-ineligible pregnant woman, allowing State agencies to deem income-eligible pregnant women presumptively eligible for a period not to exceed 60 days, an increase in the national breastfeeding promotion and support expenditure, and a requirement that Medicaid managed care providers be included in the programs to which WIC must make referrals. (95-004)

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC02

405. CHILD AND ADULT CARE FOOD PROGRAM: CHILD NUTRITION AND WIC REAUTHORIZATION ACT AMENDMENTS AND HEALTHY MEALS FOR HEALTHY AMERICANS ACT OF 1994

Priority: Other Significant

Legal Authority: 42 USC 1758; 42 USC 1766

CFR Citation: 7 CFR 226

Legal Deadline: Final, Statutory, January 1, 1997.
Only the two provisions related to administrative funds are mandated by Pub. L. 104-193 to be implemented into regulations by 01/01/97.

Abstract: This interim rule incorporates changes to the Child and Adult Care Food Program (CACFP) as required by the Child Nutrition and WIC Reauthorization Act of 1989 and the Healthy Meals for Healthy Americans Act of 1994 by: (1) providing administrative funds to family day care home sponsors for expansion into low-income or rural areas; (2) granting federally funded income-eligible Head Start participants automatic eligibility for free CACFP meals without further application or eligibility determination; and (3) allowing the use of administrative funds to assist unlicensed day care homes in becoming licensed. These revisions are intended to encourage program participation in low-income and rural areas and to reduce the level of administrative and paperwork burden for Federal, State and local program administrators and for program participants. (90-508)

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/98	63 FR 9721
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC20

USDA—FNS

Final Rule Stage

406. IMPLEMENTATION OF LEGISLATIVE REFORMS IN THE SUMMER FOOD SERVICE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1758; 42 USC 1761; 42 USC 1762a

CFR Citation: 7 CFR 225

Legal Deadline: None

Abstract: Recent legislative actions have made a number of changes to conditions affecting reimbursement, participation of certain service organizations, and State administration under the Summer Food Service Program (SFSP). This interim rule implements several nondiscretionary amendments to SFSP that are prescribed by the Healthy Meals for Healthy Americans Act of 1994 (Pub. L. 103-448) and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193). This rule also formalizes categorical eligibility for households participating in the Food Distribution Program on Indian reservations, and makes a number of technical corrections to part 225. (95-025)

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC23

407. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC): DISQUALIFICATION OF WIC VENDORS WHO ARE DISQUALIFIED FROM THE FOOD STAMP PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This rule would establish criteria for the disqualification of WIC vendors who are disqualified from the Food Stamp Program, as required by Pub. L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. As mandated in Pub. L. 104-193, such disqualifications are for the same period of time as the Food Stamp Program disqualification and are not subject to judicial or administrative review. This rule would also establish mandatory sanctions for the most serious WIC program violations. (96-030)

Timetable:

Action	Date	FR Cite
NPRM	04/20/98	63 FR 19415
NPRM Comment Period End	07/20/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC50

408. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WIC: IMPLEMENTATION OF WIC-RELATED PROVISIONS OF PL 104-193, PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This rule would implement the WIC-related provisions of Pub. L. 104-193, the Personal Responsibility and Work Opportunity Act of 1996. These provisions include: sharing of WIC information with the Immigration and Naturalization Service; revision to the definition of homeless individual; and the elimination of several current requirements including annual evaluation of nutrition education and breastfeeding promotion and support efforts, provision of written information on certain programs, and timeframes for action on local agency applications for program participation. (96-031)

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC51

409. IMPLEMENTATION OF LEGISLATIVE CHANGES IN THE CHILD AND ADULT CARE FOOD PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 104-193

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: This interim rulemaking will implement non-discretionary changes to the Child and Adult Care Food Program regulations mandated by Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This rule will not implement changes to section 708(e) of P.L. 104-193, targeting reimbursement for meals served in family day care homes, which were addressed in separate rulemakings published on January 7, 1997 (62 FR 889) and February 24, 1998 (63 FR 9087). (96-032)

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/99	
Final Action	12/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC52

USDA—FNS

Final Rule Stage

410. FOOD STAMP PROGRAM: ELECTRONIC BENEFITS TRANSFER (EBT) BENEFIT ADJUSTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 273; 7 CFR 274

Legal Deadline: None

Abstract: This proposed rule will allow States and/or their EBT processors to make adjustments to an EBT household's food stamp account under certain circumstances. Current regulations do not allow adjustments to a household's EBT account balance once the benefits have been made available to the household. Occasionally, however, system errors and other malfunctions result in out-of-balance settlement conditions which must be adjusted manually. This proposed rule describes the conditions under which an adjustment is allowed, and the accompanying notice requirements. The rule also makes changes to the representation formula. (97-009)

Timetable:

Action	Date	FR Cite
NPRM	05/19/98	63 FR 27511
NPRM Comment Period End	07/20/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246
Fax: 703 305-2921

RIN: 0584–AC61

411. FOOD STAMP PROVISIONS OF THE BALANCED BUDGET ACT OF 1997

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: PL 105-33, sec 1001; PL 105-33, sec 1002; PL 105-33, sec 1005

CFR Citation: 7 CFR 272.1(g); 7 CFR 273.7(c); 7 CFR 273.7(d); 7 CFR 273.24

Legal Deadline: Final, Statutory, August 5, 1998.
PL 105-33, sec 1005 requires publication of a rule implementing Title I provisions of that Act no later than 1 yr. after date of enactment. PL 105-33 was enacted 8/5/97.

Abstract: This rule will implement two food stamp provisions of the Balanced Budget Act of 1997. The first provision provides State agencies the authority to exempt from the food stamp time-limit at section 6(o)(2) of the Food Stamp Act up food stamp time-limit up to 15 percent of the State's caseload that is subject to the requirement. The second provision provides additional funding for administration of the Food Stamp Employment and training (E&T) programs. These two provisions enhance State flexibility in exempting portions of a State agency's caseload from the food stamp time limit and increase significantly the funding available to create work opportunities for recipients that are subject to the time limit. (97-011)

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246
Fax: 703 305-2921

RIN: 0584–AC63

DEPARTMENT OF AGRICULTURE (USDA)

Long-Term Actions

Food and Nutrition Service (FNS)

412. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): MISCELLANEOUS PROVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 246

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
NPRM Comment Period End	01/00/00	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AB10

413. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): FOOD COST CONTAINMENT REQUIREMENTS

Priority: Other Significant

CFR Citation: 7 CFR 246

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/15/90	55 FR 9709
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AB11

414. PERMANENT AGREEMENTS/DIRECT CERTIFICATION IN NATIONAL SCHOOL LUNCH, SCHOOL BREAKFAST, AND SPECIAL MILK PROGRAMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 210; 7 CFR 215; 7 CFR 220; 7 CFR 245

Timetable:

Action	Date	FR Cite
NPRM	05/28/91	56 FR 24033
NPRM Comment Period End	07/29/91	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AB35

415. PROVISIONS OF COMPUTER MATCHING AND PRIVACY PROTECTION ACT OF 1988, AMENDMENTS OF 1990, AND IMPLEMENTATION OF THE DISQUALIFIED RECIPIENT SUBSYSTEM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 7 CFR 272; 7 CFR 273

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	01/00/00	
Final Action	07/00/00	
Final Action Effective	10/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AB51

416. SCHOOL NUTRITION PROGRAMS: TECHNICAL AND NONDISCRETIONARY AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 215; 7 CFR 235; 7 CFR 245

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	
Final Action Effective	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AC01

417. AMENDMENT TO REMOVE FORMULATED GRAIN—FRUIT PRODUCT SECTION

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 220 app A

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AC09

418. FOOD STAMP PROGRAM: RETAILER INTEGRITY, FRAUD REDUCTION AND PENALTIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 271; 7 CFR 278; 7 CFR 279

Timetable:

Action	Date	FR Cite
NPRM	05/06/98	63 FR 24985
NPRM Comment Period End	07/06/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AC46

419. • SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): SOY-BASE BEVERAGES (SOYMILK) IN WIC

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 14 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: Currently, there is public interest to accommodate further those WIC participants whose dietary practices and/or food preferences are not met with existing milks available in WIC food packages. This proposed rule would provide State WIC agencies with the option of providing soy-based beverages (soymilk) to WIC participants whose dietary practices and/or food preferences are not met with existing WIC milks. By providing States with such authority, nutritionally at-risk WIC participants could better meet their daily requirements for those nutrients essential to proper growth and development. (98-002)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC67

420. • WIC FARMERS MARKET NUTRITION PROGRAM (FMNP): EXPANSION FUNDS ALLOCATION FORMULA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1786(m)

CFR Citation: 7 CFR 248

Legal Deadline: None

Abstract: The Child Nutrition Act of 1966 as amended (42 USC 1786(m)(6)) sets forth funding requirements of State agencies currently operating the program and for State agencies wishing to start a new program. The law leaves it to the discretion of the Secretary to determine the method of allocating funds to currently operating State agencies. This interim rule would implement a funding formula for the allocation of such expansion funds to existing FMNP State agencies. (98-003)

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	01/00/00	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC68

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS)

Completed Actions

421. FOOD STAMP PROGRAM: QUALITY CONTROL PROVISIONS OF THE MICKEY LELAND CHILDHOOD HUNGER RELIEF ACT

Priority: Other Significant

CFR Citation: 7 CFR 272; 7 CFR 275

Completed:

Reason	Date	FR Cite
Final Action	07/14/98	63 FR 37755

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AB75

422. FSP: COLLECTION OF DELINQUENT RETAILER DEBTS: ADMINISTRATIVE OFFSET

Priority: Other Significant

Unfunded Mandates: Undetermined

CFR Citation: 7 CFR 278.6

Completed:

Reason	Date	FR Cite
Withdrawn - Will adopt departmental rule to implement.	06/22/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AC11

423. MODIFICATION OF THE "VEGETABLE PROTEIN PRODUCTS" PORTION OF APPENDIX A OF 7 CFR PARTS 210, 225, AND 226

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 210 app A; 7 CFR 210.10(k)(3)(i); 7 CFR 210.10a(d)(2)(i); 7 CFR 225 app A; 7 CFR 225.16(f)(3); 7 CFR 226 app A; 7 CFR 220 app A

Completed:

Reason	Date	FR Cite
Withdrawn - Reconsidering policy options.	07/27/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AC18

424. NSLP/SBP/SMP/FDP/CACFP/SFSP/WIC: NONPROCUREMENT DEBARMENT

Priority: Other Significant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn - Will be included in RIN 0584-AC10 .	07/24/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Sheri Ackerman
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RIN: 0584–AC26

425. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): ACCOMMODATION OF CULTURAL FOOD PREFERENCES IN THE WIC PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 246

Completed:

Reason	Date	FR Cite
Withdrawn - Needs Additional Research and Deliberation	07/28/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Fax: 703 305-2921

RIN: 0584–AC32

USDA—FNS

Completed Actions

426. NUTRITION EDUCATION AND TRAINING PROGRAM REQUIREMENTS

Priority: Other Significant

CFR Citation: 7 CFR 227

Completed:

Reason	Date	FR Cite
Withdrawn - Due to a Shift in Priorities	07/27/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AC34

427. FOOD STAMP PROGRAM: SIMPLIFIED FOOD STAMP PROGRAM PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn - Due to Lack of State Agency Interest	10/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Sheri Ackerman
Phone: 703 305-2446

RIN: 0584–AC43

428. WIC: EVALUATION OF WIC PROGRAM INFANT FORMULA REBATE CONTRACTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 246

Completed:

Reason	Date	FR Cite
Withdrawn - Incorporated into RIN 0584-AB52	07/28/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Fax: 703 305-2921

RIN: 0584–AC55

429. WIC: NOTICE ANNOUNCING USDA'S DECISION TO RETAIN THE 6-GRAM SUGAR LIMIT FOR WIC CEREALS

Priority: Other Significant

CFR Citation: 7 CFR 246

Completed:

Reason	Date	FR Cite
Withdrawn - Incorporated into larger food package review.	12/31/97	62 FR 68233

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Fax: 703 305-2921

RIN: 0584–AC59

430. DEFINITION OF FEDERAL MEANS-TESTED PUBLIC BENEFIT

Priority: Other Significant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	07/07/98	63 FR 36653
Final Action Effective	07/07/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Fax: 703 305-2921

RIN: 0584–AC62

BILLING CODE 3410-30-F

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Prerule Stage

431. ELIMINATION OF ACCREDITED LABORATORY PROGRAM FOR FOOD CHEMISTRY AND RESIDUE CHEMISTRY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 601; 21 USC 451

CFR Citation: 9 CFR 318.21; 9 CFR 381.153

Legal Deadline: None

Abstract: FSIS is proposing to eliminate its Accredited Laboratory Program (ALP). The ALP was established in 1987 to enable meat and poultry establishments to obtain timely analytic results for product suspected of noncompliance with regulatory requirements (9 CFR 318.21 and 381.153). In such "hold-and-test" situations, plants can have samples analyzed by laboratories accredited by FSIS for certain residue chemistry analyses (e.g., chlorinated by hydrocarbons) and/or four food chemistry analyses (protein, moisture, fat, and salt content). These analyses by accredited laboratories are paid for by the meat or poultry plant, whereas samples analyzed by FSIS laboratories are at Agency expense. Despite this, accredited laboratories appeal to industry because there are only three FSIS laboratories and they carry a heavy analytic burden. Product held for testing is highly perishable, and obtaining rapid test results is frequently a high priority for plants. FSIS believes, however, that the ALP is no longer the best way to provide this service to industry and the public and that its functions would be better performed by independent third-party accreditation authorities. The implementation of HACCP systems in all FSIS-inspected plants is expected to preclude many "hold-and-test" situations and thereby reduce the primary need for the ALP. Plants needing to obtain accredited laboratory results for whatever reasons can consult an independent, third party accreditation service to determine if a specific laboratory meets appropriate standards.

Such standards are increasingly being harmonized internationally as a result of widespread adoption of the ISO 9000 Series of Standards for quality evaluation of industry performance (the ISO 9000 Standard for analytic laboratories is contained in Guide 25). The European Community, for example, has recently required that quality systems of many suppliers of products related to health, safety, and the environment be formally registered by a third party according to the ISO 9000 Standards. Moreover, such accreditation can be performed by third parties at a lower cost than the FSIS ALP, which charges each laboratory $2500 per year. Eliminating the ALP would not cause any additional expense or burden for industry, and it would place the responsibility on industry to obtain credible sample results for whatever purposes. FSIS will request comment on this proposed action.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Stolfa, Assistant Deputy Administrator, Regulations Development and Analyst Division, Department of Agriculture, Food Safety and Inspection Service, Office of Policy, Program Development, and Evaluation, Washington, DC 20250-3700
Phone: 202 205-0699

RIN: 0583–AC48

USDA—FSIS

Prerule Stage

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Proposed Rule Stage

432. TRANSPORTATION AND STORAGE REQUIREMENTS FOR POTENTIALLY HAZARDOUS FOODS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 325; 9 CFR 381

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS), in conjunction with the Food and Drug Administration (FDA), published an advance notice of proposed rulemaking (ANPRM) addressing possible transportation and storage requirements for potentially hazardous foods. (A potentially hazardous food is one, either natural or synthetic, that is in a form capable of supporting the rapid and progressive growth of infectious or toxicogenic microorganisms.) For purposes of this ANPRM, potentially hazardous foods include meat, poultry, eggs, seafood, and dairy products.

In the past, FSIS and FDA regarded their ability to control adulterated food products in commerce, combined with the standard practices of transportation and storage firms, as adequate to prevent public health problems from occurring. However, FSIS and FDA are now considering efforts to ensure that potentially hazardous foods outside food processing establishments will be handled in a way that will minimize the growth of pathogenic microorganisms and prevent the introduction of new pathogenic organisms or other hazards. The ANPRM solicited comments and information on various aspects of the transportation and storage of potentially hazardous foods.

Timetable:

Action	Date	FR Cite
ANPRM	11/22/96	61 FR 59372
ANPRM Comment Period End	02/20/97	
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ralph Stafko, Special Assistant, Federal-State Relations, OPPDE, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250-3700
Phone: 202 720-5861

RIN: 0583–AC05

433. GRANT AND INAUGURATION OF INSPECTION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 304; 9 CFR 305

Legal Deadline: None

Abstract: FSIS is proposing to streamline and clarify the regulations in 9 CFR parts 304 and 305, which provide for grant and inauguration of inspection in meat and poultry establishments.

Under the current regulations, prior to commercial operation, establishments must apply for grant of inspection by submitting for FSIS review and approval establishment floor plans and blueprints, equipment specifications, and other information. If FSIS approves this information and grants inspection, a circuit supervisor visits the establishment to inform the operator of the applicable regulations. Subsequently, FSIS inspection is inaugurated and the establishment may begin manufacturing product for commercial distribution.

FSIS is proposing to streamline and clarify these requirements in light of (1) new section 304.3, under which compliance with requirements in the Agency's regulations on sanitation standard operating procedures and hazard analysis and critical control point systems (parts 416 and 417) are conditions for receiving inspection, and (2) final action on the Agency's proposal (Docket No. 95-032P) to eliminate the requirement that floor plans, blueprints, equipment specifications be preapproved by FSIS before inspection is granted.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Assistant Deputy Administrator, Regulations and Inspection, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 205-0699

RIN: 0583–AC07

434. PERFORMANCE STANDARDS FOR THE CHILLING OF READY-TO-COOK POULTRY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: FSIS is proposing to amend the regulations in 9 CFR 381.66 governing the chilling of poultry by replacing the specific time/temperature requirements for chilling poultry of various sizes with a performance standard based on the capability of the chilling process to extend the lag-phase of bacterial growth on the raw product. Poultry that has been slaughtered and eviscerated would have to be processed by a method that would ensure that bacterial multiplication on the poultry is minimized from the time of evisceration until further processing by cooking or freezing or until shipment from the establishment. The proposal would remove the overly prescriptive features of the current poultry chilling regulations and make these regulations more consistent with the HACCP regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Assistant Deputy Administrator, Regulations and Inspection, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 205-0699

RIN: 0583–AC21

435. RETAINED WATER IN RAW MEAT AND POULTRY PRODUCTS; POULTRY CHILLING PERFORMANCE STANDARDS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 317; 9 CFR 381; 9 CFR 440

Legal Deadline: None

Abstract: FSIS is developing a proposal to limit the amount of water absorbed and retained by single-ingredient raw meat and poultry products to the amount that is unavoidable in carrying out washing or chilling procedures. Such products include immersion-chilled poultry carcasses and raw meat byproducts that are chilled in water. A requirement for raw products to bear a labeling statement on absorbed water content is being considered. However, establishments having data that demonstrate their raw products do not gain weight as a result of washing or chilling would not have to label the products with such a statement. The proposal also would replace the command-and-control provisions of the regulations on poultry chilling and moisture control with performance standards. This proposal is being made in furtherance of the Agency's regulatory reform effort and in response to a July 23, 1997, U.S. District Court order setting aside current moisture limits for frozen, cooked, or consumer-packaged whole poultry. The labeling provisions of this proposal would be intended to provide consumers with additional information for making purchasing decisions. Affected establishments would have to bear the minimal costs associated with any required labeling modifications.

Timetable:

Action	Date	FR Cite
NPRM	09/11/98	63 FR 48961
NPRM Comment Period End	12/10/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Alice Thaler, Chief, Concepts and Design Branch, Inspection Methods Design and Development Department of Agriculture, Food Safety and Inspection Service, Division, Washington, DC 20250
Phone: 202 720-3219

RIN: 0583–AC26

436. ELIMINATION OF REQUIREMENTS FOR PARTIAL QUALITY CONTROL PROGRAMS

Regulatory Plan: This entry is Seq. No. 11 in Part II of this issue of the Federal Register.

RIN: 0583–AC35

437. PERFORMANCE STANDARDS FOR SHELF-STABLE, READY-TO-EAT PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat and poultry inspection regulations by establishing food safety performance standards for shelf-stable, ready-to-eat meat and poultry products. The proposed performance standards spell out the objective level of pathogen reduction meat and poultry establishments must meet during their operations in order to produce safe products, but allow the use of customized, plant-specific processing procedures. Although FSIS routinely samples and tests some shelf-stable, ready-to-eat products for the presence of pathogens prior to distribution, currently there are no specific regulatory requirements for pathogen reduction in place for these products. Further, a 1994 outbreak of disease linked to consumption of dry fermented salami contaminated with the pathogen E. coli 0157:H7 indicates a need for performance standards for these products. The proposed performance standards would improve the safety of these products, give establishments the incentive and flexibility to adopt innovative, science-based food safety processing procedures and controls, and provide objective, measurable standards that can be verified by Agency inspectional oversight.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Assistant Deputy Administrator, Regulations and Inspection, Department of Agriculture, Food Safety and Inspection Service, Office of Policy, Program Development, and Evaluation, Washington, DC 20250-3700
Phone: 202 205-0699

RIN: 0583–AC45

438. PERFORMANCE STANDARDS FOR PERISHABLE, READY-TO-EAT PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 381; 9 CFR 430

Legal Deadline: None

Abstract: FSIS is proposing to establish pathogen reduction performance standards for all perishable, ready-to-eat meat and poultry products. The performance standards spell out the objective level of pathogen reduction that establishments must meet during their operations in order to produce safe products, but allow the use of customized, plant-specific processing procedures other than those prescribed in the earlier regulations. Along with HACCP, food safety performance standards will give establishments the incentive and flexibility to adopt innovative, science-based food safety processing procedures and controls, while providing objective, measurable standards that can be verified by Agency inspectional oversight. This set of performance standards will include and be consistent with those soon to be in place for ready-to-eat poultry products.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Assistant Deputy Administrator, Regulations and Inspection, Department of Agriculture, Food Safety and Inspection Service, Office of Policy, Program Development, and Evaluation, Washington, DC 20250-3700
Phone: 202 205-0699

RIN: 0583–AC46

439. PERFORMANCE STANDARDS FOR BACON

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 601

CFR Citation: 9 CFR 318.7(b)

Legal Deadline: None

Abstract: FSIS is proposing to revise the regulatory provisions concerning the production and testing of bacon (9 CFR 318.7(b)). FSIS is proposing to remove provisions that require the Agency to test bacon for nitrosamines and to remove provisions that prescribe the substances and amounts of such substances that must be used to produce bacon. FSIS is proposing to replace these provisions with performance standards that establishments producing bacon must meet. To meet these proposed performance standards, the process used would be required to prevent the multiplication of Clostridium botulinum and limit the multiplication Clostridium perfringens. In addition, the process would be required to limit the presence of nitrosamines when the product is cooked. All establishments not yet operating under the Hazard Analysis and Critical Control Point (HACCP) system requirements would be required to develop and have on file a process schedule documenting the control, monitoring, verification, validation, and corrective action activities associated with bacon production. Once all establishments are operating according to HACCP system requirements, a separate process schedule for producing bacon would no longer be necessary . Establishments under HACCP would be required to incorporate the proposed performance standards into their HACCP plans.

FSIS is proposing these regulations in order to allow establishments to develop alternative means of producing bacon. In addition, FSIS is proposing these regulations to remove the Agency's testing responsibilities and to require establishments producing bacon, instead, to control and monitor their own processes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia F. Stolfa, Assistant Deputy Administrator, Regulations Development and Analyst Division, Department of Agriculture, Food Safety and Inspection Service, Office of Policy, Program Development, and Evaluation, Washington, DC 20250-3700
Phone: 202 205-0699

RIN: 0583–AC49

440. IRRADIATION OF MEAT AND MEAT PRODUCTS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 7 USC 450; 21 USC 601

CFR Citation: 9 CFR 317; 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) is proposing to amend the meat inspection

USDA—FSIS

Proposed Rule Stage

regulations to permit the use of ionizing radiation for treating fresh or frozen uncooked meat, meat byproducts, and certain meat food products to reduce levels of pathogens. FSIS is proposing this action in light of the Food and Drug Administration's recent final rule amending the food additive regulations to provide for the safe use of irradiation sources to treat these same meat products. FSIS also is proposing to revise for consistency the current regulations governing the irradiation of poultry.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Assistant Deputy Administrator, Regulations Inspection Methods, Department of Agriculture, Food Safety and Inspection Service, Office of Policy, Program Development, and Evaluation, Washington, DC 20250-3700
Phone: 202 205-0699

RIN: 0583–AC50

441. SALMONELLA ENTERITIDIS IN EGGS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 7 CFR 59; 21 CFR 100

Legal Deadline: None

Abstract: FSIS is initiating action to decrease the food safety risks associated with shell eggs and egg products through joint issuance of a notice with the Food and Drug Administration (FDA). Eggs contaminated with Salmonella enteritidis (SE) are associated with increasing numbers of human illnesses and continue to be a public health concern. Although FDA has primary jurisdiction over shell eggs, the two agencies share inspection responsibility for eggs and egg products. Through joint issuance of the ANPRM, FSIS and FDA are exploring all alternatives and gathering data on the costs and benefits of various regulatory approaches.

Timetable:

Action	Date	FR Cite
ANPRM	05/19/98	63 FR 27502
ANPRM Comment Period End	08/17/98	
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Connie Suwalsky, Program Analyst, Regulations and Inspection, Department of Agriculture, Food Safety and Inspection Service, Office of Policy Development and Evaluation, Washington, DC 20250-3700
Phone: 202 720-7325

RIN: 0583–AC52

442. • REWORKING OF MEAT AND POULTRY CARCASSES ACCIDENTALLY CONTAMINATED DURING EVISCERATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 450; 21 USC 451 to 470; 21 USC 601 to 695; 7 CFR 2.18; 7 CFR 2.53

CFR Citation: 9 CFR 310; 9 CFR 381; 9 CFR 433

Legal Deadline: None

Abstract: The Food Safety and Inspection Service is proposing to amend the mandatory meat and poultry products inspection regulations concerning the reworking of carcasses accidentally contaminated during evisceration. The proposal would replace with performance standards the current prescriptive provisions governing the handling of meat carcasses and the reprocessing of poultry carcasses that have been so contaminated and would permit the on-line reprocessing of carcasses, provided the applicable performance standards are met. The proposal would permit establishments to reprocess contaminated meat and poultry carcasses on the evisceration line, rather than at separate stations, if the establishments can scientifically demonstrate a substantial improvement in the microbiological quality of the carcasses. The amended regulations would be consistent with the Agency's pathogen reduction (PR) and hazard analysis and critical control point (HACCP) regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia Stolfa, Asst. Deputy Administrator, Department of Agriculture, Food Safety and Inspection Service
Phone: 202 205-0699

RIN: 0583–AC53

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Final Rule Stage

443. PERFORMANCE STANDARDS FOR CERTAIN MEAT PRODUCTS AND POULTRY PRODUCTS

Regulatory Plan: This entry is Seq. No. 12 in Part II of this issue of the Federal Register.

RIN: 0583–AB94

444. ADDITION OF MEXICO TO LIST OF COUNTRIES ELIGIBLE TO EXPORT POULTRY PRODUCTS TO THE UNITED STATES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 7 USC 138f; 7 USC 450; 21 USC 451; 21 USC 470

CFR Citation: 9 CFR 381.96

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) is proposing to add Mexico to the list of countries eligible to export poultry products listed in the Poultry Products Inspection Act (PPIA) into the United States. Reviews of Mexico's laws, regulations, and other materials indicate that its poultry processing system is acceptable under the PPIA and its implementing regulations. Poultry slaughtered in Mexico would not be permitted to be imported into the United States. Only poultry products that have been slaughtered in federally inspected establishments in the United States and processed in certified Mexican establishments would be permitted to be imported into the United States. This action would enable processed poultry products from certified processing establishments in Mexico to be imported into the United States.

Timetable:

Action	Date	FR Cite
NPRM	11/26/97	62 FR 63284
NPRM Comment Period End	01/27/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Stolfa, Assistant Deputy Administrator, Regulations and Inspection, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250-3700
Phone: 202 205-0699

RIN: 0583–AC33

445. RULES OF PRACTICE

Regulatory Plan: This entry is Seq. No. 13 in Part II of this issue of the Federal Register.

RIN: 0583–AC34

446. SANITATION REQUIREMENTS FOR OFFICIAL MEAT AND POULTRY ESTABLISHMENTS

Regulatory Plan: This entry is Seq. No. 14 in Part II of this issue of the Federal Register.

RIN: 0583–AC39

447. MEAT PRODUCED BY ADVANCED MEAT/BONE SEPARATION MACHINERY AND MEAT RECOVERY SYSTEMS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 601 to 695

CFR Citation: 9 CFR 301.2; 9 CFR 318.24; 9 CFR 320.1(b)(10)

Legal Deadline: None

Abstract: In 1994, the Food Safety and Inspection Service amended its regulations to recognize that product resulting from advanced meat/bone separation machinery comes within the definition of meat when recovery systems are operated to assure that the characteristics and composition of the resulting product are consistent with those of meat. Subsequent compliance problems and other concerns have made it apparent that the regulations are confusing and inadequate to prevent misbranding and economic adulteration. Therefore, FSIS is developing a proposed rule to clarify the regulations and supplement the rules for assuring compliance.

Timetable:

Action	Date	FR Cite
NPRM	04/13/98	63 FR 17959
NPRM Comment Period End	06/12/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Patricia Stolfa, Assistant Deputy Administrator, Regulations and Inspection, Department of Agriculture, Food Safety and Inspection Service, Office of Policy, Program Development, and Evaluation, Washington, DC 20250-3700
Phone: 202 205-0699

RIN: 0583–AC51

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Long-Term Actions

448. SUBSTANCES APPROVED FOR USE IN THE PREPARATION OF MEAT AND POULTRY PRODUCTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 318; 9 CFR 381

Timetable:

Action	Date	FR Cite
NPRM	12/29/95	60 FR 67459
NPRM Comment Period End	05/06/96	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia Stolfa
Phone: 202 205-0699

RIN: 0583–AB02

449. NUTRITION LABELING OF GROUND BEEF AND HAMBURGER

Priority: Other Significant

CFR Citation: 9 CFR 317; 9 CFR 381

Timetable:

Action	Date	FR Cite
NPRM	05/24/94	59 FR 26916
NPRM Extension of Comment Period	07/05/94	59 FR 34396
NPRM Comment Period End	07/08/94	
NPRM Extension of Comment Period End	08/22/94	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Hudnall
Phone: 202 720-7773

RIN: 0583–AB74

450. USE OF SOY PROTEIN CONCENTRATE, FOOD STARCH-MODIFIED AND GELATIN AS BINDERS IN CERTAIN MEAT PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 318

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Post
Phone: 202 205-0279

RIN: 0583–AB82

451. ELIMINATION OF PRIOR APPROVAL REQUIREMENTS FOR EGG PRODUCT PLANT DRAWINGS, SPECIFICATIONS, AND EQUIPMENT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 55; 7 CFR 59

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Patricia Stolfa
Phone: 202 205-0699

RIN: 0583–AC06

452. BEEF OR PORK WITH BARBECUE SAUCE; REVISION OF STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 319

Timetable:

Action	Date	FR Cite
NPRM	09/03/97	62 FR 46450
NPRM Comment Period End	11/03/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Hudnall
Phone: 202 720-7773

RIN: 0583–AC09

453. LABELING STANDARDS FOR OVINE CARCASSES, PARTS OF CARCASSES, MEAT AND MEAT FOOD PRODUCTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

CFR Citation: 9 CFR 319

Timetable:

Action	Date	FR Cite
NPRM	11/21/97	62 FR 62271
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Alfred Liepold
Phone: 202 205-0292

RIN: 0583–AC41

454. ANTE-MORTEM AND POST-MORTEM INSPECTION OF LIVESTOCK AND POULTRY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 309; 9 CFR 310; 9 CFR 381

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Alice Thaler
Phone: 202 720-3219

RIN: 0583–AC43

455. REQUIREMENTS FOR DISPOSITION AND DISPOSAL OF INSPECTED RAW MEAT AND POULTRY PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 9 CFR 311; 9 CFR 314; 9 CFR 320; 9 CFR 325; 9 CFR 381; 9 CFR 428; 9 CFR 455

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Alice Thaler
Phone: 202 720-3219

RIN: 0583–AC44

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Completed Actions

456. REQUIREMENTS FOR FOREIGN COUNTRY IMPORT CERTIFICATION AND LIVE ANIMAL IMPORTATION

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 327; 9 CFR 381

Completed:

Reason	Date	FR Cite
Withdrawn	08/07/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Williams
Phone: 202 720-6933

RIN: 0583–AA47

457. FOOD STANDARDS: REQUIREMENTS FOR PROCESSED MEAT AND POULTRY PRODUCTS NAMED BY USE OF AN EXPRESSED NUTRIENT CONTENT CLAIM AND A STANDARDIZED TERM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 319; 9 CFR 381

Completed:

Reason	Date	FR Cite
Withdrawn	08/07/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: William Hudnall
Phone: 202 720-7773

RIN: 0583–AB51

458. NUTRITION LABELING: HEALTH CLAIMS ON MEAT AND POULTRY PRODUCTS

Priority: Other Significant

CFR Citation: 9 CFR 317; 9 CFR 381

Completed:

Reason	Date	FR Cite
Withdrawn	04/22/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Charles Edwards
Phone: 202 418-8900

RIN: 0583–AB64

459. NUTRITION LABELING; NEW PRODUCT CATEGORIES AND REFERENCE AMOUNTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 9 CFR 317; 9 CFR 381

Completed:

Reason	Date	FR Cite
Withdrawn	08/10/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Post
Phone: 202 418-8900

RIN: 0583–AB81

460. CONTINUOUS CHILLING OF SPLIT POULTRY PORTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 381

Completed:

Reason	Date	FR Cite
Final Action	09/11/98	63 FR 48958
Final Action Effective	11/10/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Alice M. Thaler
Phone: 202 720-3219

RIN: 0583–AB95

461. REFRIGERATION AND LABELING REQUIREMENTS FOR SHELL EGGS

Priority: Other Significant

CFR Citation: 7 CFR 56; 7 CFR 59

Completed:

Reason	Date	FR Cite
Final Action	08/27/98	63 FR 45663
Final Action Effective	08/27/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Stolfa
Phone: 202 205-0699

RIN: 0583–AC04

462. NUTRITION LABELING; REFERENCE DAILY INTAKES

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 317; 9 CFR 381

Completed:

Reason	Date	FR Cite
Withdrawn	08/10/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: William Hudnall
Phone: 202 720-7773

RIN: 0583–AC15

463. CARRAGEENAN, LOCUST BEAN GUM, AND XANTHAN GUM BLEND USED AS A BINDER IN CERTAIN CURED PORK PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 318

USDA—FSIS

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	11/19/97	62 FR 61619
Final Action Effective	01/20/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Stolfa
Phone: 202 205-0699

RIN: 0583–AC16

464. PERFORMANCE STANDARDS FOR THE PRODUCTION OF CERTAIN MEAT AND POULTRY PRODUCTS WITH ESTABLISHED STANDARDS OF IDENTITY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 319; 9 CFR 381

Completed:

Reason	Date	FR Cite
Withdrawn	08/07/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa
Phone: 202 205-0699

RIN: 0583–AC18

465. PERFORMANCE STANDARDS FOR THE THERMAL PROCESSING OF MEAT AND POULTRY PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 318; 9 CFR 381

Completed:

Reason	Date	FR Cite
Withdrawn	08/10/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa
Phone: 202 205-0699

RIN: 0583–AC19

466. PREVENTION OF PHYSICAL OR CHEMICAL CONTAMINATION OF MEAT AND POULTRY PRODUCTS OR PRODUCT INGREDIENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 318; 9 CFR 381

Completed:

Reason	Date	FR Cite
Withdrawn	08/07/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa
Phone: 202 205-0699

RIN: 0583–AC22

467. PERFORMANCE STANDARD FOR CARCASSES CUT INTO PRIMAL PARTS WITHIN AN ESTABLISHMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 381

Completed:

Reason	Date	FR Cite
Withdrawn	08/07/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa
Phone: 202 205-0699

RIN: 0583–AC27

468. HAZARD ANALYSIS AND CRITICAL CONTROL POINT (HACCP) SYSTEMS FOR EGG PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 355; 7 CFR 359

Completed:

Reason	Date	FR Cite
Withdrawn	08/07/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Hasiak
Phone: 202 501-7615

RIN: 0583–AC30

469. ELIMINATION OF PRIOR APPROVAL REQUIREMENTS FOR PROPRIETARY SUBSTANCES AND NONFOOD COMPOUNDS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 308.3; 9 CFR 308.7; 9 CFR 308.8; 9 CFR 318.15; 9 CFR 381.60; 9 CFR 381.147

Completed:

Reason	Date	FR Cite
Final Action	02/13/98	63 FR 7319

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Stolfa
Phone: 202 205-0699

RIN: 0583–AC37

470. PERFORMANCE STANDARDS FOR THE PRODUCTION OF CERTAIN MEAT AND POULTRY PRODUCTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 301; 9 CFR 317; 9 CFR 318; 9 CFR 320; 9 CFR 381

Completed:

Reason	Date	FR Cite
Withdrawn	08/07/98	

USDA—FSIS

Completed Actions

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Patricia Stolfa
Phone: 202 205-0699

RIN: 0583–AC38

471. PATHOGEN REDUCTION; HAZARD ANALYSIS AND CRITICAL CONTROL POINT (HACCP) SYSTEMS SAMPLING COLLECTION—TECHNICAL AMENDMENT AND CORRECTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 310; 9 CFR 381; 9 CFR 417

Completed:

Reason	Date	FR Cite
Final Action	01/12/98	63 FR 1735
Final Action Effective	01/12/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patrica Stolfa
Phone: 202 205-0699

RIN: 0583–AC40

BILLING CODE 3410-DM-F

DEPARTMENT OF AGRICULTURE (USDA)

Prerule Stage

Foreign Agricultural Service (FAS)

472. DAIRY TARIFF-RATE IMPORT QUOTA LICENSING

Priority: Other Significant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 624; 19 USC 1202; 31 USC 9701; PL 103-465; 19 USC 3513; 19 USC 3601

CFR Citation: 7 CFR 6.20 to 6.36

Legal Deadline: None

Abstract: Amend the existing regulation to clarify certain provisions and streamline operational requirements.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Hal Wynne, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 6083-S, 1400 Independence Avenue SW., Washington, DC 20250
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RIN: 0551–AA53

DEPARTMENT OF AGRICULTURE (USDA)

Proposed Rule Stage

Foreign Agricultural Service (FAS)

473. EXPORT SALES REPORTING REQUIREMENT

Priority: Other Significant

Legal Authority: 7 USC 5712

CFR Citation: 7 CFR 20

Legal Deadline: None

Abstract: Consideration of a proposal to add meat and meat products to the list of commodities to be reported under the Export Sales Reporting requirements. The Advance Notice of Proposed Rulemaking requested public comment on the benefits, costs, and methods for collecting meat export sales information.

Timetable:

Action	Date	FR Cite
ANPRM	11/14/96	61 FR 58343
ANPRM Comment Period End	01/13/97	
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957-S, Washington, DC 20250-1000
Phone: 202 720-6713

RIN: 0551–AA51

DEPARTMENT OF AGRICULTURE (USDA)
Foreign Agricultural Service (FAS)

Final Rule Stage

474. CCC SUPPLIER CREDIT GUARANTEE PROGRAM

Priority: Economically Significant

Legal Authority: 15 USC 714(b); 15 USC 714(f); 7 USC 5602; 7 USC 5622; 7 USC 5661; 7 USC 5663; 7 USC 5664; 7 USC 5676

CFR Citation: 7 CFR 1493

Legal Deadline: None

Abstract: The final rule will amend regulations for CCC export credit guarantee programs by adding a new subpart D, supplier credit guarantee program. Subpart D will establish the terms and conditions by which U.S. exporters of U.S. agricultural commodities and products may obtain CCC credit guarantees for short term credits extended directly to foreign buyers.

Timetable:

Action	Date	FR Cite
Final Rule	10/19/94	59 FR 52866
NPRM	07/19/95	60 FR 37025
NPRM Comment Period End	09/18/95	
Interim Final Rule	07/01/96	61 FR 33825
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250
Phone: 202 720-6713

RIN: 0551–AA30

475. SUGAR IMPORT LICENSING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 1202

CFR Citation: 7 CFR 1530 subpart A; 7 CFR 1530 subpart B; 7 CFR 1530 subpart C

Legal Deadline: None

Abstract: This rulemaking addresses some administrative changes to the sugar import licensing programs. These changes are intended to increase the regulatory efficiency, assist in verifying program compliance and provide for the adherence of the applicable sugar provisions of the North American Free Trade Agreement. The rulemaking also provide for implementation of certain changes to the lead note to chapter 17 of the Harmonized Tariff Schedule of the United States, pursuant to the Uruguay Round agreement.

Timetable:

Action	Date	FR Cite
ANPRM	05/04/94	59 FR 23017
ANPRM Comment Period End	07/08/94	
NPRM	08/06/96	61 FR 40749
NPRM Comment Period End	10/07/96	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250-1000
Phone: 202 720-6713

RIN: 0551–AA39

476. REGULATION GOVERNING IMPLEMENTATION OF THE MARKET ACCESS PROGRAM

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 7 USC 5623

CFR Citation: 7 CFR 1485

Legal Deadline: None

Abstract: The rule proposes to amend the regulations to incorporate into the level of export contributions made by US industry participants authorized reimbursement of certain travel expenses for brand participants, and certain necessary packaging and labeling design expenses; extend the activity payment deadline following the end of an activity plan year; establish a 5-year limit per country on CCC assistance for brand promotion by single companies; and permit reimbursement to participants based upon issuance of a credit memo as an alternative to a transfer of funds.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4965, 1400 Independence Avenue SW., Washington, DC 20250
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Valerie Countiss, Regulatory Coordinator, Compliance Review Staff, Department of Agriculture, Foreign Agricultural Service, Room 4965-S, 1400 Independence Avenue SW., Washington, DC 20250
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Email: countiss@usda.gov

RIN: 0551–AA52

477. • REGULATIONS GOVERNING THE FINANCING OF COMMERCIAL SALES OF AGRICULTURAL COMMODITIES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1431(b); 7 USC 1736

CFR Citation: 7 CFR 17

Legal Deadline: None

Abstract: The Commodity Credit Corporation (CCC) proposes to revise regulations applicable to the financing of the sale and exportation of agricultural commodities pursuant to title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480). The proposed rule would permit a waiver of the present requirement that only private entities with a business office or agent in the United States are eligible to enter into title I, Pub. L. 480 agreements when the General Sales Manager determines that there is adequate assurance of repayment to CCC. This change would allow additional foreign private entities to participate in title I, and thereby increase exports of U.S. agricultural commodities.

Timetable:

Action	Date	FR Cite
NPRM	08/07/98	63 FR 42283
NPRM Comment Period End	09/08/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

USDA—FAS

Final Rule Stage

Government Levels Affected: None

Agency Contact: Robert E. Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, 1400 Independence Avenue SW., Room 4965-South Building, Washington, DC 20250
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RIN: 0551–AA54

478. • CHANGES TO THE REGULATION TO ACHIEVE MORE EFFECTIVE MANAGEMENT OF FOREIGN DONATIONS OF AGRICULTURAL COMMODITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 7 USC 1701; 7 USC 1731; 7 USC 1736(b); 7 USC 1736(f); 7 USC 5676

CFR Citation: 7 CFR 1499.1; 7 CFR 1499.7(e); 7 CFR 1499.8(b); 7 CFR 1499.8(g) and (h); 7 CFR 1499.10; 7 CFR 1499.15; 7 CFR 1499.16

Legal Deadline: None

Abstract: The Commodity Credit Corporation amends the rules governing foreign donations of Agricultural commodities. This rule contains changes, corrections, and clarifications for the regulations to achieve more effective management of foreign donations of agricultural commodities.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert E. Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Department Of Agriculture, 1400 Independence Avenue SW., Room 4965-South Building, Washington, DC 20250
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Valerie Countiss, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service
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RIN: 0551–AA56

479. • AMEND REGULATIONS GOVERNING PROCEDURES FOR PROCURING OCEAN TRANSPORTATION FOR AGRICULTURAL COMMODITIES

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 7 USC 1431(b); 7 USC 1736

CFR Citation: 7 CFR 1499.8(4); 7 CFR 1499.8(c)(2)

Legal Deadline: None

Abstract: This final interim rule amends regulations governing procedures for procuring ocean transportation for agricultural commodities provide under section 416(b) of the Agricultural Act of 1949 and the Food for Progress Act of 1985. These changes are consistent with procedures applicable to title I of the Agricultural Trade Development and Assistance Act of 1954, (P.L. 480)

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/23/98	63 FR 8836
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert E. Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, 1400 Independence Avenue SW., Room 4965-South Building, Washington, DC 20250
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Email: riston@usda.gov

RIN: 0551–AA57

DEPARTMENT OF AGRICULTURE (USDA)
Foreign Agricultural Service (FAS)

Long-Term Actions

480. PROPOSED REGULATIONS GOVERNING IMPLEMENTATION OF THE COOPERATOR MARKET DEVELOPMENT PROGRAM OVERSEAS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 7 CFR 1550

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Riston
Phone: 202 720-6713

RIN: 0551–AA26

481. DAIRY TARIFF RATE IMPORT QUOTA LICENSING

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 6.20 to 6.34

Timetable:

Action	Date	FR Cite
ANPRM	06/02/94	59 FR 28495
ANPRM Comment Period End	08/01/94	
Interim Final Rule	05/02/95	60 FR 21425
Interim Final Rule	09/13/95	60 FR 47453
NPRM	01/18/96	61 FR 1233
NPRM Comment Period End	03/18/96	
Final Rule	10/09/96	61 FR 53002
NPRM	00/00/00	

USDA—FAS

Long-Term Actions

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Riston
Phone: 202 720-6713

RIN: 0551–AA27

482. FACILITY GUARANTEE PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 17; 7 CFR 1493

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	03/01/93	
Interim Final Rule Comment Period End	06/01/93	
Interim Final Rule	08/08/97	62 FR 42651
Interim Final Rule Comment Period End	10/07/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Robert Riston
Phone: 202 720-6713

RIN: 0551–AA35

483. REFORM OF EXPORT BONUS PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1494; 7 CFR 1570

Timetable:

Action	Date	FR Cite
ANPRM	06/26/95	60 FR 32923
ANPRM Comment Period End	07/26/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Riston
Phone: 202 720-6713

RIN: 0551–AA41

BILLING CODE 3410-10-F

DEPARTMENT OF AGRICULTURE (USDA)
Forest Service (FS)

Proposed Rule Stage

484. HYDROPOWER APPLICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 551; 43 USC 1761

CFR Citation: None

Legal Deadline: None

Abstract: The Forest Service is revising its current policy and procedures implemented in February 1987, concerning administration of hydropower authorizations and the processing of proposals for hydropower projects affecting National Forest System lands. These revisions are necessary to make agency policy and procedures consistent with regulatory changes by the Federal Energy Regulatory Commission (FERC). The proposed policy was published in the Federal Register on May 22, 1995 (60 FR 27153) for a 60-day public comment period, which was extended for another 45 days (60 FR 36401). As a result of the comments received, substantial changes were made to the proposed policy (60 FR 36401). Therefore, the Forest Service is publishing a revised proposed policy for public comment.

Timetable:

Action	Date	FR Cite
NPRM	05/22/95	60 FR 27153
NPRM Comment Period Extended	07/17/95	60 FR 36401
NPRM Comment Period End	09/05/95	
Second NPRM	02/00/99	
Second NPRM Comment Period End	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AA47

485. NATIONAL FOREST PROHIBITIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 683; 7 USC 1011(f); 16 USC 1246(i); 16 USC 1133(c) to 1133(d)(1); 16 USC 4306 to 4307

CFR Citation: 36 CFR 261

Legal Deadline: None

Abstract: Regulations at 36 CFR 261, subpart A, set out the acts prohibited on National Forest System (NFS) lands. These prohibitions derive from either statutes governing National Forest programs or other regulations. The regulations at subpart B authorize Regional Foresters, Forest Supervisors, or Station Directors to close National Forest System lands under their jurisdiction to certain uses or to restrict some uses of NFS lands. These closures are issued by order. Comments on the first proposed rule have been reviewed. Because of the high level of public interest in this rulemaking the Agency has decided to issue a second proposed rule for comment. This action no longer includes the minor revisions to part 262, Law Enforcement Support Activities, which is now described as a separate action.

Timetable:

Action	Date	FR Cite
NPRM	02/16/94	59 FR 7880
NPRM Comment Period End	05/18/94	
Second NPRM	03/00/99	
Second NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

USDA—FS

Proposed Rule Stage

Additional Information: RIN 0596-AA65 was combined with RIN 0596-AA75

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AA75

486. SMALL TRACTS ACT REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 521(c) to 521(i)

CFR Citation: 36 CFR 254

Legal Deadline: None

Abstract: Implementation of the Agency's Small Tracts regulations (adopted in 1984) has revealed an inadvertent inconsistency between the regulations at 36 CFR 254.35(f) and 254.41(a) and the legislative history of the Small Tracts Act of January 12, 1983. The regulations imply that the disposal of mineral fractions by sale can only be made in response to an application from an abutting landowner, thus discouraging the conveyance by sale to the public. The Act clearly authorizes sale of mineral fractions to the public through public sale, as well as individual applications, provided that certain conditions are met. The revisions will clarify the application of the Act to ensure that both individual applications and public sale are permissible means of disposing of qualifying tracts.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AA79

487. NATIONAL FOREST SYSTEM LAND AND RESOURCE MANAGEMENT PLANNING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1600 et seq; 5 USC 301

CFR Citation: 36 CFR 219

Legal Deadline: None

Abstract: The President's environmental program includes incorporation of the principles of ecosystem management in natural resource planning for all units of the National Forest System. In support of that effort, proposed regulations will be published governing how future changes in direction will be made and how those changes will be documented. Guided by the recommendations of a recently chartered Committee of Scientists, the regulation also will streamline planning and update planning procedures and requirements to reflect the Agency's and public's experience gained over the last 15 years. Emphasis will be placed on assessing ecosystem health through ecoregional and watershed-level assessments. The rule also will strengthen public participation opportunities in planning, as well as give greater emphasis to interaction and dialog with Federal, State, local, and Indian tribal governments.

Timetable:

Action	Date	FR Cite
ANPRM	02/15/91	56 FR 6508
NPRM	04/13/95	60 FR 18886
NPRM Comment Period End	08/17/95	60 FR 36767
Second NPRM	10/00/98	
Second NPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB20

488. SPECIES SURPLUS TO DOMESTIC MANUFACTURING NEEDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 620 et seq

CFR Citation: 36 CFR 223.200

Legal Deadline: None

Abstract: This proposed rule would amend 36 CFR 223.200, to list species proposed to be surplus to domestic manufacturing needs. This proposed rule would implement a portion of section 620a(b) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 USC 620 et seq). Section 620a(a) of the Act provides that no person who acquires unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States may export such timber from the United States, or sell, trade, exchange or otherwise convey such timber from the United States, unless such timber has been determined under subsection (b) to be surplus to the needs of timber manufacturing facilities in the United States. Section 620a(b) of the Act provides that the prohibition contained in section (a) shall not apply to specific quantities of grades and species of unprocessed timber originating in Federal lands which the Secretary determines, through rulemaking, to be surplus to domestic manufacturing needs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB27

489. COLLECTION OF REIMBURSABLE COSTS FOR PROCESSING SPECIAL-USE APPLICATIONS AND ADMINISTRATION OF SPECIAL-USE AUTHORIZATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 43 USC 1764; 30 USC 181

CFR Citation: 36 CFR 251

Legal Deadline: None.

Abstract: The objective of this proposal is to incorporate into regulation the authority contained in the Mineral Leasing Act and the Federal Land Policy and Management Act to reimburse the United States for reasonable administrative costs associated with the issuance and administration of special-use authorizations on National Forest System lands. It responds to a recommendation contained in GAO Audit Report RCED-97-16 (12/96).

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: Cost reimbursement for processing special-use applications and administration of special-use authorizations was originally included under RIN 0596-AA36. All provisions pertaining to the special-use application and administration process have been merged with RIN 0596-AB35. Thus, this rulemaking addresses only the cost-reimbursement provisions.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB36

490. APPEAL OF DECISIONS RELATING TO OCCUPANCY AND USE OF NATIONAL FOREST SYSTEM LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472; 16 USC 551

CFR Citation: 36 CFR 251; 36 CFR 214

Legal Deadline: None

Abstract: These proposed regulations would redesignate these appeals rules as a new part 214, thus placing all appeals and notices and comment rules in close proximity. Additionally, this proposed rule would revise a number of existing provisions. For example, changes to part 251 would clarify the application of this rule to the issuance of permits for occupancy and use of National Forest System lands. When 36 CFR part 251, subpart C, regulations were promulgated in 1989, NEPA analysis and documentation was not consistently applied to the authorization of special uses. Now the authorization and the issuance of permits and other authorization requires application of the NEPA process prior to issuance. In addition, since these regulations were implemented, Congress has passed the Appeal Reform Act. The proposed changes to the permit related appeal rules are needed to make this regulation consistent with regulations at 36 CFR part 215. Among specific proposed changes being considered are removing the second level of appeal opportunity, removing the discretionary review option, shortening timeframes for scheduling oral presentations, and changes to conform terminology and definitions with 36 CFR part 215.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB45

491. SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER; EXTENSION OF TIMBER SALE CONTRACTS TO PERMIT URGENT REMOVAL OF OTHER TIMBER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472a; 16 USC 618; 16 USC 620

CFR Citation: 36 CFR 223.50; 36 CFR 223.53

Legal Deadline: None

Abstract: This rule and policy change will provide for extension of National Forest System (NFS) timber sale contracts when such extension will permit the prompt removal and utilization of non-NFS owned timber damaged by catastrophic events. The change will define the responsibilities of the parties for requesting and approving such extensions and specify when such extension should be approved. This change will also allow for the use of scarce timber resources and the recovery of economic benefits from timber that might otherwise be lost because of contractual obligations to harvest undamaged timber.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB48

492. DISPOSAL OF NATIONAL FOREST TIMBER: TIMBER SALE CONTRACT REVISIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 472a; 16 USC 618; 16 USC 620 et seq

CFR Citation: None

Legal Deadline: None

Abstract: This proposed policy would revise form 2400-6 and the 2400-6T timber sale contracts currently used by the Forest Service to sell National Forest System timber. The proposed timber sale contract provisions will be included as part of the proposed policy. The proposed contracts reflect recent court decisions and recent natural resource and environmental legislation and would clarify the rights, responsibilities, and obligations of the contracting parties. The proposed policy also would address specific provisions in the current contract that have generated costly litigation in the past between the Government and the purchaser and would address the concerns regarding timber theft and log accountability.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Marian Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB52

493. NATIONAL ENVIRONMENTAL POLICY ACT; REVISED POLICY AND PROCEDURES; CATEGORICAL EXCLUSIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 4371

CFR Citation: None

Legal Deadline: None

Abstract: The proposed revision to Forest Service Manual and Handbook direction would be revised to clarify the environmental analysis process used by the Forest Service to implement the NEPA regulations at 40 CFR part 1500. The proposal will focus on better defining the process for determining when projects are categorically excluded and expanding the categories of action that can be excluded under NEPA.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Department of Agriculture, Forest Service, P. O. Box 96090, Washington, DC 20090
Phone: 703 235-1488

RIN: 0596–AB54

494. LAW ENFORCEMENT SUPPORT ACTIVITIES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1011(f); 16 USC 472; 16 USC 551; 16 USC 559(a) to 559(g); 40 USC 484(m)

CFR Citation: 36 CFR 262

Legal Deadline: None

Abstract: In February, 1994, the Forest Service published proposed rule changes for parts 261 and 262 of title 36 of the Code of Federal Regulations. Due to the high level of interest in and comment on part 261, the decision was made to publish a second proposed rule. The majority of the public comment on part 262 referred to the definition section which has been revised to respond to those comments. The Forest Service has decided to issue a second proposed rule for comment on part 262, Law Enforcement Support Activities. Proposed revisions to part 261 will proceed separately.

Timetable:

Action	Date	FR Cite
NPRM	02/16/94	59 FR 7880
NPRM Comment Period End	05/18/94	
Second NPRM	10/00/98	
Second NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, PO Box 96090, Washington, DC 20090
Phone: 703 235-1488

RIN: 0596–AB61

495. ADMINISTRATION OF THE FOREST DEVELOPMENT TRANSPORTATION SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: Not applicable

CFR Citation: 36 CFR 212

Legal Deadline: None

Abstract: The Forest Service proposes to revise 36 CFR part 212 to address changes in how the National Forest System transportation road system is developed, used, maintained, and funded. The proposed revisions at 36 CFR part 212 will include a comprehensive science-based policy for the future. Expected features of the proposed revision will include (1) guidance for decommissioning unneeded roads; (2) expanded policy to update road construction, design, and maintenance requirements; and (3) guidance on expenditure priorities for limited funds. The intended effect of the proposed revisions will be to reduce environmental impacts from road construction and reconstruction activities and improve the efficiency and effectiveness of road maintenance and expenditure of limited road dollars.

Timetable:

Action	Date	FR Cite
ANPRM	01/28/98	63 FR 4350
ANPRM Comment Period End	03/30/98	
Second ANPRM	11/00/98	
Second ANPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 0596–AB67

496. NONCOMPETITIVE SALE OF TIMBER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472(a)

CFR Citation: 36 CFR 223.85

Legal Deadline: None

USDA—FS

Proposed Rule Stage

Abstract: This proposed rule would revise 36 CFR 223.85 by removing references to section 2001(k) of Public Law 104-19 (109 Stat.246) and define "extraordinary conditions" to allow forest officers, without advertisement, to make modifications to timber and forest product sales, which result in the substitution of timber or forest products from outside the sale area specified in the contract. Under the proposed rule, substitute timber or forest products would have to come from the same administrative national forest and meet agency requirements for compliance with the National Environmental Policy Act and other environmental laws. This proposed rule would not compel a timber purchaser to accept a timber sale modification offered under this rule. The rule only authorizes the Forest Service to propose modifications and to enter into discussions with purchasers on such modifications.

This proposed rule will reduce timber sale cancellations and partial cancellations, thus reducing future damage claims on timber sales.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, PO Box 96090, Washington, DC 20090-6090
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RIN: 0596–AB70

DEPARTMENT OF AGRICULTURE (USDA)
Forest Service (FS)

Final Rule Stage

497. INDIAN ALLOTMENTS ON NATIONAL FOREST SYSTEM LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 1603; 43 USC 1740; 25 USC 337

CFR Citation: 36 CFR 254

Legal Deadline: None

Abstract: This rule sets forth Forest Service procedures and role in the regulation of Indian allotments on National Forest System land. The Indian Allotment Act, as amended, authorizes the Secretary of the Interior to make allotments of National Forest System lands to Indians for homesteading and agricultural and grazing purposes. The Forest Service has relied upon USDI rules and procedures at 43 CFR 2533 to govern its involvement in Indian allotment cases. Litigation and a decision by the Interior Board of Land Appeals require the Forest Service to set forth its own regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/22/87	52 FR 23473
NPRM Comment Period End	07/22/87	
Final Action	01/00/99	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AA52

498. DISPOSAL OF NATIONAL FOREST TIMBER; CANCELLATION OF TIMBER SALE CONTRACTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 472a; 16 USC 551; 16 USC 618

CFR Citation: 36 CFR 223.30; 36 CFR 223.40; 36 CFR 223.116

Legal Deadline: None

Abstract: Current regulations governing cancellation of National Forest timber sale contracts do not adequately protect the Government's financial interests in the event the Forest Service is forced to cancel contracts due to events beyond its control arising from compliance with environmental statutes. This rulemaking would remove an unworkable compensation-of-damages formula and establish a termination-for-environmental-protection clause in timber sale contracts, a standard in most Federal procurement contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68690
NPRM Comment Period End	02/13/97	
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB21

499. STATE AND PRIVATE FORESTRY ASSISTANCE STEWARDSHIP INCENTIVE PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 2101 et seq

CFR Citation: 36 CFR 230

Legal Deadline: None

Abstract: This final rule would incorporate streamlined procedural changes in response to public comments on the interim rule published December 4, 1991. The interim rule established the interim procedures for administration of the Stewardship Incentive Program. The Program is intended to encourage private landowners, through cost-share assistance, to manage their forest lands for economic, environmental, and social benefits. Only two alternatives were considered in detail: (1) to implement the Program in accordance with 16 USC 2101, et seq, and (2) not to implement the Program, in which case there would be no accelerated program for multiple resource management on nonindustrial private forest lands. The overall effects of the Program over time will be environmentally beneficial by enhancing wetlands, wildlife habitat, forest health, forest productivity, and recreation. The Program will help meet future demand for commodity and noncommodity forest resources. There are no potential negative impacts anticipated for the Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/04/91	56 FR 63581
Interim Final Rule Public Comment Period End	01/21/92	
Final Action	01/00/99	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB32

500. SPECIAL-USE APPLICATIONS AND ADMINISTRATION OF SPECIAL-USE AUTHORIZATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1764; 31 USC 483(a); 30 USC 181; 16 USC 551

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: The Department is amending the regulations governing the special use and occupancy of National Forest System lands to minimize application expenses, streamline and make more efficient environmental analysis of special use proposals, provide the ability to use one-time payments for easements as presently used in the marketplace, limit certain liability requirements to amounts determined by a risk assessment, make certain definitions more explicit, and clarify direction on renewal of existing special use regulations. The intended effect is to reduce costs to proponents and the agency, expedite decisionmaking, and administer authorizations in a more "user friendly" manner by removing certain requirements deemed unnecessary and/or outdated. This rulemaking responds to goals identified in the National Performance Review Regulatory Reform effort.

Timetable:

Action	Date	FR Cite
NPRM	08/14/92	57 FR 36618
NPRM Comment Period End	09/28/92	
Final Action	10/00/98	
Final Action Effective	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB35

501. PREFERENCE FOR VISITOR SERVICE; ALASKA NATIONAL FOREST CONSERVATION SYSTEM UNITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 3197

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: The Forest Service is issuing regulations to define and establish procedures for administering the statutory rights and preferences established by the Alaska National Interest Lands Act of 1980 for historical operators, Native Corporations, and local residents to conduct revenue producing visitor services on certain National Forest System Lands in Alaska. The regulations are necessary to comply with section 1307 of the Alaska National Interest Lands Act which requires the Secretary of Agriculture to give preference to persons he determines by rule are local residents. The regulations, which have been developed in close consultation with the other Federal land managing agencies in Alaska, will apply only to Conservation System Units administered by the Forest Service.

Timetable:

Action	Date	FR Cite
NPRM	04/25/97	62 FR 20140
NPRM Comment Period End	06/24/97	
Final Action	12/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB57

502. APPEAL OF DECISIONS RELATING TO OCCUPANCY AND USE OF NATIONAL FOREST SYSTEM LANDS; MEDIATION OF GRAZING PERMIT DISPUTES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 5101 to 5106

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: Under section 282 of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, the Secretary of Agriculture is required to offer mediation of grazing permit disputes on National Forest System lands in those States which have USDA certified mediation programs. In response to the Act, the Forest Service published proposed modifications of the Agency's administrative appeal rule at 36 CFR part 251, subpart C, to allow for mediation of grazing permit disputes on February 27, 1998 (63 FR 9987).

Timetable:

Action	Date	FR Cite
NPRM	02/27/98	63 FR 9987
NPRM Comment Period End	04/28/98	
Final Action	10/00/98	
Final Action Effective	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

USDA—FS

Final Rule Stage

USDA—FS

Final Rule Stage

Agency Contact: Marian P. Connolly, Regulatory Liaison, Department of Agriculture, Forest Service, PO Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB59

503. SMALL BUSINESS TIMBER SALE SET-ASIDE PROGRAM; APPEAL PROCEDURE ON RECOMPUTATION OF SHARES

Priority: Info./Admin./Other

Legal Authority: 16 USC 472a; 16 USC 618; 16 USC 620; PL 104-208

CFR Citation: 36 CFR 223.118

Legal Deadline: None

Abstract: This final rule provides an opportunity for timber purchasers to comment on and appeal the recomputation of small business's share of timber sales. The Conference Report accompanying the 1997 Omnibus Appropriations Act (P.L. 104-208) directs the Forest Service to reimplement an administrative appeals procedure for the Small Business Administration (SBA) timber sale set-aside program. The final rule will establish procedures for appealing decisions relating to the recomputation of SBA shares.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/24/97	62 FR 13826
Interim Final Rule Comment Period End	05/23/97	
Final Action	11/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB62

504. ADMINISTRATIVE, COOPERATIVE FUNDS AGREEMENTS

Priority: Info./Admin./Other

Legal Authority: 16 USC 498; 16 USC 472; 16 USC 551

CFR Citation: 36 CFR 211

Legal Deadline: None

Abstract: The Forest Service published a proposed revision to 36 CFR Part 211 in the Federal Register on May 18, 1998 (63 FR 27245), to implement recent amendments to the Act of June 30, 1914 (16 USC 498 et seq.). The amendments to the Act (1) expand the Forest Service's authority to use contributions on the entire National Forest System for cooperative work, (2) add the word, "management," to the list of activities for which contributions for cooperative work may be accepted, (3) allow reimbursable payments to the agency by cooperators, (4) provide specific authority to accomplish cooperative work using Forest Service funds prior to reimbursement by the cooperator pursuant to a written agreement, and (5) adequately protect the Government's interests.

The agency received six responses to the proposed rule: three from national conservation organizations, one from a State fish and wildlife agency, 1 from a utility company, and one from a Member of Congress.

The Department has considered all comments and is proceeding to publish the final rule.

Timetable:

Action	Date	FR Cite
NPRM	05/18/98	63 FR 27245
NPRM Comment Period End	07/17/98	
Final Action	03/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB63

505. CATEGORICAL EXCLUSION FOR CERTAIN SKI AREA PERMIT ACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: Not applicable

CFR Citation: None

Legal Deadline: None

Abstract: The Forest Service plans to issue interim directives (ID) to guide employees in complying with the National Environmental Policy Act when changes to or issuance of a ski area permit are purely ministerial actions and no changes are proposed in permitted activities or facilities. The ID would interpret a provision in section 701(i) of the Omnibus Parks and Public Lands Act of 1996 that reissuance of a ski area permit for activities similar in nature and amount to the activities authorized under the previous permit shall not constitute a major Federal action. The ID to sec. 31.1b of FSH 1909.15, Environmental Policy and Procedures Handbook, would add a new category to the existing list of categorical exclusions established by the Chief to include permits for existing ski areas when no changes to the Master Development Plan and no new facilities or activities are authorized.

Timetable:

Action	Date	FR Cite
NPRM	10/27/97	62 FR 55571
NPRM Comment Period End	12/26/97	
Final Action	10/00/98	
Final Action Effective	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB65

506. ADMINISTRATION OF THE FOREST DEVELOPMENT TRANSPORTATION SYSTEM: TEMPORARY SUSPENSION OF ROAD CONSTRUCTION IN ROADLESS AREAS

Priority: Other Significant

Legal Authority: 16 USC 551; 23 USC 205

CFR Citation: 36 CFR 212.13

Legal Deadline: None

Abstract: On January 28, 1998 (63 FR 4351), the Forest Service proposed to suspend temporarily road construction and reconstruction in most roadless areas of the National Forest System. The intended effect is to safeguard the significant ecological values of roadless areas from potentially adverse effects associated with road construction, while new and improved analytical tools are developed to evaluate the impact of locating and constructing roads. The temporary suspension of road construction and reconstruction would expire upon the application of the new and improved analysis tools or 18 months, whichever is sooner. This rulemaking is a component of a larger effort to address a number of National Forest system transportation issues. The agency received 35,000 comments on the interim rule. A final interim rule is in development.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/28/98	63 FR 4351
Extension of Comment Period	02/27/98	63 FR 9980
Interim Final Rule Comment Period End	02/27/98	
Interim Final Rule	10/00/98	
Final Action Effective	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0596–AB68

USDA—FS

Final Rule Stage

DEPARTMENT OF AGRICULTURE (USDA)

Forest Service (FS)

Long-Term Actions

507. NOTICE, COMMENT, AND APPEAL PROCEDURES FOR NATIONAL FOREST SYSTEM PROJECTS AND ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 215

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/28/98	63 FR 4187
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly Phone: 703 235-1488 Fax: 703 235-2523 Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB69

DEPARTMENT OF AGRICULTURE (USDA)

Forest Service (FS)

Completed Actions

508. NATIONAL FOREST SYSTEM LAND AND RESOURCE MANAGEMENT PLANNING FOREST SERVICE MANUAL CHAPTER 1920

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn - Postponed Until RIN 0596-AB20 Is Completed	10/01/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly Phone: 703 235-1488

RIN: 0596–AB31

509. SALE AND DISPOSAL OF NATIONAL FOREST TIMBER; MARKET-RELATED CONTRACT TERM ADDITIONS

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 223.52

Completed:

Reason	Date	FR Cite
Final Action	05/01/98	63 FR 24110
Final Action Effective	06/01/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly Phone: 703 235-1488

RIN: 0596–AB41

BILLING CODE 3410-11-F

DEPARTMENT OF AGRICULTURE (USDA)

Office of the Secretary (AgSEC)

Final Rule Stage

510. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Priority: Other Significant

Legal Authority: 5 USC 301

CFR Citation: 7 CFR 3016

Legal Deadline: None

Abstract: The USDA is proposing to move the administrative requirements for open-ended entitlement programs currently in 7 CFR part 3015 from part 3015 to 7 CFR part 3016 and 7 CFR part 3019 and (1) to expand the scope of part 3016 to include open-ended entitlement awards and subawards to State and local governmental organizations and (2) to include in subpart E of part 3016 any deviations or exceptions from the requirements of subparts A to D of that part to apply only to entitlement programs.

Timetable:

Action	Date	FR Cite
NPRM	02/17/98	63 FR 7734
NPRM Comment Period End	06/18/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

USDA—AgSEC

Final Rule Stage

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RIN: 0503–AA16

511. DESIGNATION OF RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

Priority: Other Significant

Legal Authority: PL 105-34, sec 951

CFR Citation: 7 CFR 25

Legal Deadline: Other, Statutory, January 1, 1999.
The Secretary of Agriculture may designate up to 5 new rural empowerment zones before January 1, 1999.

Abstract: This rule sets forth the policies and procedures for designating five additional rural empowerment zones.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/16/98	63 FR 19108
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Victor Vasquez, Deputy Administrator, Department of Agriculture, Office of the Secretary, Office of Community Development, Room 701 Reporters Building, Washington, DC 20024-3202
Phone: 202 619-7980

RIN: 0503–AA18

512. UNIFORM PROCEDURES FOR THE ACQUISITION AND TRANSFER OF EXCESS PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2206(a); 7 USC 301; 20 USC 1059c(b)

CFR Citation: 7 CFR 3200; 7 CFR 3201; 7 CFR 3202; 7 CFR 3203; 7 CFR 3204; 7 CFR 3205; 7 CFR 3206; 7 CFR 3208; 7 CFR 3209; 7 CFR 3210; 7 CFR 3211

Legal Deadline: None

Abstract: This action will set forth uniform procedures for the acquisition and transfer of excess personal property to the 1890 Land Grant Institutions (including Tuskegee University), the 1994 Land Grant Institutions and the Hispanic Serving Institutions in support of research, educational, technical and scientific activities or for related purposes.

Timetable:

Action	Date	FR Cite
NPRM	01/23/98	63 FR 3481
NPRM Comment Period End	02/23/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Linda W. Oliphant, Property Utilization Specialist, Department of Agriculture, Office of the Secretary
Phone: 202 720-3141
Fax: 202 720-3747

RIN: 0503–AA19

DEPARTMENT OF AGRICULTURE (USDA)
Office of the Secretary (AgSEC)

Long-Term Actions

513. NONDISCRIMINATION IN USDA-CONDUCTED PROGRAMS AND ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 15

Timetable:

Action	Date	FR Cite
NPRM	04/23/96	61 FR 17851
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lloyd Wright
Phone: 202 720-5212

RIN: 0503–AA15

BILLING CODE 3410-90-F

DEPARTMENT OF AGRICULTURE (USDA)
Rural Business-Cooperative Service (RBS)

Proposed Rule Stage

514. RURAL ECONOMIC DEVELOPMENT LOAN AND GRANT PROGRAM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 940c

CFR Citation: 7 CFR 1703 subpart B; 7 CFR 4280 subpart A

Legal Deadline: None

Abstract: This action is part of a reinvention laboratory initiative of the Department of Agriculture and Rural Business-Cooperative Service. The regulations will be written in a "Plain Language" style. The proposed regulation will be simpler and improve the ease of use by the public and program beneficiaries. The regulations will be written in a question and answer format from the perspective of questions from the applicant under this program. The regulations will simplify the application format, review and selection process, and recipient's recordkeeping requirements. It will also add a section on the appeal of adverse decisions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

USDA—RBS

Proposed Rule Stage

Public Compliance Cost: Initial Cost: $25,000; Yearly Recurring Cost: $25,000; Base Year for Dollar Estimates: 1995

Sectors Affected: None

Agency Contact: Mark Wyatt, Team Leader, Specialty Lenders Division, Department of Agriculture, Rural Business-Cooperative Service, Room 5413 South Building, Washington, DC 20250
Phone: 202 720-1400

RIN: 0570–AA19

515. DIRECT BUSINESS AND INDUSTRY DIRECT LOAN PROGRAM

Priority: Other Significant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1980 subpart A; 7 CFR 1980 subpart E; 7 CFR 1942 subpart A; 7 CFR 1951 subpart E; 7 CFR 4274 subpart I; 7 CFR 4287 subpart H

Legal Deadline: None

Abstract: The Agency currently utilizes RD Instructions 1980-A and E, 1942-A, 1951-E to make and service new and existing direct B&I loans. These regulations contain very limited direction in direct B&I loan making. The Agency is writing new regulations to replace the instructions for direct loan making and servicing. This program will complement the Agency's existing guaranteed (B&I) loan program.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, Tribal

Agency Contact: Richard Bonnet, Senior Loan Specialist, Business Program Processing Division, Department of Agriculture, Rural Business-Cooperative Service, 1400 Independence Ave. SW., Room 5419 South Building, Washington, DC 20250
Phone: 202 720-1804
Fax: 202 690-3808
Email: rbonnet@rurdev.usda.gov

RIN: 0570–AA22

516. RURAL VENTURE CAPITAL DEMONSTRATION PROGRAM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 309

CFR Citation: 7 CFR 4279 subpart A; 7 CFR 4279 subpart F; 7 CFR 4287 subpart G

Legal Deadline: None

Abstract: The Agency anticipates receiving funding for a pilot program in fiscal year 1998. Rather than promulgating regulations at this time, the Agency intends to guarantee investment pools for a limited number of entities utilizing Memoranda of Understanding (MOU). The provisions of the MOUs will be consistent with the authorizing statute.

Timetable:

Action	Date	FR Cite
ANPRM	04/09/97	62 FR 17107
ANPRM Comment Period End	05/09/97	
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Richard Bonnet, Senior Loan Specialist, Business Program Processing Division, Department of Agriculture, Rural Business-Cooperative Service, 1400 Independence Ave. SW., Room 5419 South Building, Washington, DC 20250
Phone: 202 720-1804
Fax: 202 690-3808
Email: rbonnet@rurdev.usda.gov

RIN: 0570–AA25

DEPARTMENT OF AGRICULTURE (USDA)
Rural Business-Cooperative Service (RBS)

Final Rule Stage

517. RURAL BUSINESS OPPORTUNITY GRANTS

Priority: Other Significant

Legal Authority: 7 USC 1989; 7 USC 1926

CFR Citation: 7 CFR 4284; 7 CFR 1951

Legal Deadline: None

Abstract: The Rural Business-Cooperative Service proposes to add a new regulation implementing a grant program to fund local technical assistance and planning activities in rural areas for the purpose of improving economic conditions. Grants will be available to public bodies and nonprofit organizations. This action is necessary to comply with P.L. 104-127. Grants may be used for technical assistance and training for small businesses, identifying and analyzing business opportunities in rural areas establishing business support centers, conducting local or multi-county economic development planning, coordination of economic development activities, and leadership development training of local government officials.

Timetable:

Action	Date	FR Cite
NPRM	02/03/98	63 FR 5474
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local

Agency Contact: Wayne Stansbery, Loan Specialist, Business Programs Specialty Lenders Division, Department of Agriculture, Rural Business-Cooperative Service, 1400 Indpendence Ave. SW., Room 5404-South, Washington, DC 20250
Phone: 202 720-6819
Fax: 202 720-6003

RIN: 0570–AA05

USDA—RBS

Final Rule Stage

518. RURAL BUSINESS ENTERPRISE GRANTS AND TELEVISION DEMONSTRATION GRANTS

Priority: Other Significant

Legal Authority: PL 102-552; 7 USC 1927; 7 USC 1939 (c)

CFR Citation: 7 CFR 1942 subpart G; 7 CFR 4284 subpart B

Legal Deadline: None

Abstract: Public Law 102-552 authorizes grants to qualified nonprofit organizations for the provision of technical assistance and training to rural communities for the purpose of improving passenger transportation services or facilities; to amend the definition for small and emerging private business enterprise to agree with the program size standards established by the Small Business Administration; to clarify certain administrative regulatory guidelines in order to effect improved program administration; and also authorizes grants for educational purposes and distance learning networks.

Timetable:

Action	Date	FR Cite
RBEG: Interim Final Rule To Provide Educational/Job Training Instruction.	05/23/94	59 FR 26585
NPRM	08/09/94	59 FR 40478
Final Action	11/00/98	
Final Action Effective	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Carole Boyko, Rural Development Specialist, Specialty Lenders Division, Department of Agriculture, Rural Business-Cooperative Service, Room 5404 South Building, Washington, DC 20250
Phone: 202 720-0661

RIN: 0570–AA08

DEPARTMENT OF AGRICULTURE (USDA)
Rural Business-Cooperative Service (RBS)

Long-Term Actions

519. NATIONAL SHEEP INDUSTRY IMPROVEMENT CENTER

Priority: Other Significant

CFR Citation: 7 CFR 4286 subpart A

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas H. Stafford
Phone: 202 690-0368
Fax: 202 690-2723
Email: thomas.stafford@usda.gov

RIN: 0570–AA21

520. RURAL BUSINESS AND INDUSTRIAL LOAN PROGRAM—MISCELLANEOUS CHANGES

Priority: Other Significant

CFR Citation: 7 CFR 4287 subpart B; 7 CFR 4279 subpart A; 7 CFR 4279 subpart B

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Bonnet
Phone: 202 720-1804
Fax: 202 690-3808
Email: rbonnet@rurdev.usda.gov

RIN: 0570–AA23

521. AFFIRMATIVE FAIR HOUSING MARKETING PLAN

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 7 CFR 1703 subpart B; 7 CFR 1942 subpart G; 7 CFR 4284 subpart D; 7 CFR 1980 subpart E; 7 CFR 4279 subpart B; 7 CFR 1980 subpart A

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: David Lewis
Phone: 202 690-0797

RIN: 0570–AA24

522. BUSINESS AND INDUSTRY GUARANTEED LOAN PROGRAM—FINANCING COOPERATIVE STOCK

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 4279 subpart B; 7 CFR 4279 subpart A; 7 CFR 4287 subpart B

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Rick Bonnet
Phone: 202 720-1804
Fax: 202 690-3808
Email: rbonnet@rurdev.usda.gov

RIN: 0570–AA26

523. • RURAL AND RURAL AREA UNDER THE RURAL COMMUNITY ADVANCEMENT PROGRAM

Priority: Other Significant

Legal Authority: PL 104-130

CFR Citation: 7 CFR 4279; 7 CFR 1980; 7 CFR 1942; 7 CFR 4284

Legal Deadline: None

Abstract: A new statutory definition of rural and rural area for programs financed under the Rural Community Advancement Program must be implemented. The new definition was contained in the 1996 Farm Bill, PL 104-130. The definition applies to the

USDA—RBS

Long-Term Actions

Business and Industry Direct and Guaranteed Loan Programs, Rural Business Enterprise Grant Program and the Rural Business Opportunity Grant Program.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Local

Agency Contact: Don Scruggs, Director, Specialty Lenders Division, Department of Agriculture, Rural Business-Cooperative Service, 1400 Independence Ave. SW., Stop 1521, Washington, DC 20250-1521
Phone: 202 720-1400

RIN: 0570–AA27

BILLING CODE 3410-07-F

DEPARTMENT OF AGRICULTURE (USDA)
Rural Utilities Service (RUS)

Prerule Stage

524. • TELECOMMUNICATIONS SYSTEM CONSTRUCTION CONTRACT AND SPECIFICATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1755

Legal Deadline: None

Abstract: The RUS is considering possible revisions to RUS Form 515, Telephone System Construction Contract. This action will amend RUS Buls. 345-150, 345-151, 345-152, and 345-154. Changes will incorporate the latest technology, remove redundant or outdated requirements, and simplify the specification format.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Development and, Regulatory Analysis, Department of Agriculture, Rural Utilities Service, 1400 Independence Ave. SW., Rm. 4036-S, Stop 1522, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB41

DEPARTMENT OF AGRICULTURE (USDA)
Rural Utilities Service (RUS)

Proposed Rule Stage

525. RUS FIDELITY AND INSURANCE REQUIREMENTS FOR ELECTRIC AND TELECOMMUNICATIONS BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1788

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) is considering revising its regulations concerning the fidelity and insurance requirements for electric and telecommunications borrowers.

Timetable:

Action	Date	FR Cite
ANPRM	04/28/93	58 FR 25786
ANPRM Comment Period End	06/28/93	
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, 1400 Independence Ave. SW., Room 4036 South Building, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA86

526. PRESERVATION OF RECORDS ACCOUNTING REQUIREMENTS FOR RUS ELECTRIC BORROWERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1767 D

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) proposes to amend its regulation by adding a new subpart on Preservation of Records. Current RUS policy on this subject is set forth in RUS Bulletin 180-2, Manual for Preservation of Borrower's Records. In addition to codifying these policies and procedures, revisions are being proposed to the existing policy that will establish the proper record media forms for record retention. Once the final is effective, RUS Bulletin 180-2 will be rescinded.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

USDA—RUS

Proposed Rule Stage

Agency Contact: F. Lamont Heppe, Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, 1400 Independence Ave. SW., Room 4036 South Building, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA92

527. LOAD FORECASTS AND MARKET ANALYSIS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 to 950(b); PL 99-591

CFR Citation: 7 CFR 1710 E

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) is proposing to update its Power Requirements currently contained in subpart E of 7 CFR part 1710, Pre-loan Policies and Procedures for Insured and Guaranteed Electric Loans. The updates to subpart E are needed to reflect the addition to 7 CFR 1710 of subpart H, Loans for Demand Side Management, Energy Conservation Programs, and On-Grid and Off-Grid Renewable Energy Systems. Subpart H was required by the Rural Electrification Loan Restructuring Act of 1993. Other changes to subpart E are intended to clarify the existing language without changing its overall intent.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, 1400 Independence Ave. SW., Room 4036 South Building, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB05

528. • TELECOMMUNICATIONS STANDARDS AND SPECIFICATIONS FOR MATERIALS, EQUIPMENT, AND CONSTRUCTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1755

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) proposes to amend 7 CFR 1755 to include requirements presently contained in RUS Bul. 345-3. This rule would establish and codify provisions for the inclusion and removal for products from I.P. 344-2. This rule also proposes to integrate the existing section on field trials in the procedures for product acceptance and inclusion in this codification, as well as clarifying the reorganizing the field trials section.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Development and, Regulatory Analysis, Department of Agriculture, Rural Utilities Service, 14th & Independence Ave. SW., Room 4036 South Bldg., Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB40

DEPARTMENT OF AGRICULTURE (USDA)
Rural Utilities Service (RUS)

Final Rule Stage

529. ENVIRONMENTAL POLICIES AND PROCEDURES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 104-127

CFR Citation: 7 CFR 1794

Legal Deadline: None

Abstract: The revision of the existing procedures shall reduce regulatory requirements on recipients of financial assistance for the planning and construction of rural electric power, telecommunications, and water and waste facilities while improving the integrity of RUS' environmental protection responsibilities.

Timetable:

Action	Date	FR Cite
NPRM	11/24/97	62 FR 62527
NPRM Comment Period End	01/23/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Support & Reg. Analysis, Department of Agriculture, Rural Utilities Service, 1400 Independence Ave. SW., Room 4036 South Building, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB33

530. TELECOMMUNICATIONS SYSTEM CONSTRUCTION POLICIES AND PROCEDURES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

USDA—RUS

Final Rule Stage

Legal Authority: 7 USC 901 et seq; 7 USC 1921; PL 103-354

CFR Citation: 7 CFR 1753

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) proposes to revise its regulations on telecommunications system construction policies and procedures. This revision includes empowering the telephone borrowers by reducing oversight by RUS with respect to preparation of plans and specifications, bid approvals and final document approvals. In addition to reducing the requirements for facilities construction, RUS will also make technical corrections and clarifications, and minor technical changes.

Timetable:

Action	Date	FR Cite
NPRM	07/17/98	63 FR 38503
NPRM Comment Period End	09/15/98	
Final Action	10/00/98	
Final Action Effective	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Development & Reg. Analysis, Department of Agriculture, Rural Utilities Service, Room 4036-S Bldg., Stop 1522, 1400 Independence Ave. SW., Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB34

531. SPECIAL EQUIPMENT CONTRACT (INCLUDING INSTALLATION)

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 et seq, 1921 et seq, 6941 et seq

CFR Citation: 7 CFR 1755.397

Legal Deadline: None

Abstract: RUS is proposing to amend its regulation on RUS Telecommunications Standards and Specifications for Material, Equipment and Construction. This action codifies RUS Form 397, Special Equipment Contract (including installation).

Timetable:

Action	Date	FR Cite
NPRM	02/20/98	63 FR 8582
NPRM Comment Period End	04/21/98	
ANPRM	07/06/98	63 FR 36377
ANPRM Comment Period End	09/04/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Development & Reg. Analysis, Department of Agriculture, Rural Utilities Service, STOP 1522, 1400 Independence Ave. SW., Room 4036, Washington, DC 20250-1522
Phone: 202 720-0736
Fax: 202 720-4120

RIN: 0572–AB35

DEPARTMENT OF AGRICULTURE (USDA)
Rural Utilities Service (RUS)

Long-Term Actions

532. LOAN SECURITY DOCUMENTS—TELECOMMUNICATIONS PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1744

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA30

533. LOAN ACCOUNT COMPUTATIONS, POLICIES, AND PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1785; 7 CFR 1786 A

Timetable:

Action	Date	FR Cite
NPRM	04/07/93	58 FR 18043
NPRM Comment Period End	05/07/93	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA65

534. ELECTRIC STANDARDS AND SPECIFICATIONS FOR MATERIALS AND CONSTRUCTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1728

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA67

535. POST-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

USDA—RUS

Long-Term Actions

CFR Citation: 7 CFR 1717, subparts A to F; 7 CFR 1717, subparts J to K

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA71

536. CIVIL RIGHTS POLICIES APPLICABLE TO RUS BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1790

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA75

537. LOAN DOCUMENTS—BANK PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1620

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA76

538. DEPRECIATION RATES AND PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1767 C

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA80

539. USE OF GENERAL FUNDS INVESTMENTS, LOAN GUARANTEES, AND RETIREMENT OF CAPITAL CREDITS BY ELECTRIC BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1717 O

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB01

540. RUS APPROVAL OF SALE OF CAPITAL ASSETS BY ELECTRIC BORROWERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1717 P

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB02

541. COMMUNITY FACILITY LOANS—TIMBER-DEPENDENT COMMUNITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 7 CFR 1942 subpart A

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB11

542. SOLID WASTE MANAGEMENT GRANTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1775 subpart B

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Agency Contact: F. Lamont Heppe, Jr.
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Fax: 202 720-4120

RIN: 0572–AB14

543. TECHNICAL ASSISTANCE AND TRAINING GRANTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1775 subpart A

USDA—RUS

Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB15

544. WATER AND WASTE LOAN AND GRANT SERVICING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1782

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB23

545. RUS APPROVAL OF ADDITIONS AND EXTENSIONS TO ELECTRIC PLANTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1717.603

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB38

546. • ELECTRIC PROGRAM STANDARD CONTRACT FORMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1724; 7 CFR 1726

Legal Deadline: None

Abstract: The RUS is proposing to amend its regulations to change the manner in which it publishes the standard forms of contracts that borrowers are required to use when contracting for construction, procurement, engineering services, or architectural services financed through loans made or guaranteed by RUS. The required contract forms are currently in text format in the CFR.

Timetable:

Action	Date	FR Cite
NPRM	08/27/98	63 FR 45767
NPRM Comment Period End	09/28/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, 1400 Independence Ave., Room 4034-South Ag Bldg., Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB42

DEPARTMENT OF AGRICULTURE (USDA)
Rural Utilities Service (RUS)

Completed Actions

547. ELECTRIC SYSTEM PLANNING AND DESIGN—POLICIES AND PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1724

Completed:

Reason	Date	FR Cite
Final Action	06/28/98	63 FR 35311
Final Action Effective	07/29/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA48

548. LONG-RANGE FINANCIAL FORECASTS OF ELECTRIC BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1710 G

Completed:

Reason	Date	FR Cite
Final Action	10/05/98	63 FR 53276
Final Action Effective	11/04/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA89

USDA—RUS

Completed Actions

549. LIQUIDATION OF LOANS AND ACQUISITION, MANAGEMENT, AND DISPOSAL OF SECURITY PROPERTY

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1696; 7 CFR 1697; 7 CFR 1951 subpart E; 7 CFR 1955 subpart A; 7 CFR 1955 subpart B; 7 CFR 1955 subpart C; 7 CFR 2.23; 7 CFR 2.70

Completed:

Reason	Date	FR Cite
Withdrawn	08/24/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB13

550. • YEAR 2000 COMPLIANCE, TELECOMMUNICATIONS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1735; 7 CFR 1753

Legal Deadline: None

Abstract: This rule amends regulations to clarify that RUS will consider telecommunications systems feasible when writing and processings loans only if the system, in addition to begin feasible in all other respects, is year 2000 compliant. The rule is being published to further ensure that RUS-financed projects pass the year 2000 date changeover without service or revenue disruption. By clarifying feasibility considerations for loan processing, RUS lays the foundation for requests to be made in response to applications submitted to satisfy year 2000 compliance demands.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/27/98	63 FR 45677

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, 1400 Independence Ave. SW., Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB43

BILLING CODE 3410-15-F

DEPARTMENT OF AGRICULTURE (USDA)
Natural Resources Conservation Service (NRCS)

Prerule Stage

551. • FORESTRY INCENTIVES PROGRAM

Priority: Other Significant

Legal Authority: 16 USC 2103

CFR Citation: 7 CFR 635

Legal Deadline: None

Abstract: The Forestry Incentives Program (FIP) supports good forest management practices on privately owned, non-industrial forest lands nationwide. FIP is designed to benefit the environment while meeting future demands for wood products. The Cooperative Forestry Assistance Act of 1978, as amended by public law 95-313 is the source of authority for FIP. FIP was reauthorized for fiscal year 2002 by public law 104-127. The interim rule sets forth FIP policies and procedures.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/98	
ANPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Peggy Willis, Regulatory Liaison, Department of Agriculture, Natural Resources Conservation Service, P.O. Box 2890 Cotton Annex, Mezz 1, Washington, DC 20013
Phone: 202 720-0450
Fax: 202 720-3174
Email: peggy.willis@usda.gov

RIN: 0578–AA26

DEPARTMENT OF AGRICULTURE (USDA)
Natural Resources Conservation Service (NRCS)

Final Rule Stage

552. 7 CFR PART 610 TECHNICAL ASSISTANCE

Priority: Other Significant

Legal Authority: PL 104-129

CFR Citation: 7 CFR 610

Legal Deadline: None

Abstract: Section 342 subtitle E of the Federal Agriculture Improvement and Reform Act of 1996 (FAIRA) expands the membership and roles of State Technical Committees set forth in section 1261 of subtitle G of the Food Security Act of 1985, as amended. Under these guidelines, the Secretary is required to establish a technical committee in each State to assist in making technical considerations relating to the implementation of conservation provisions. The Natural Resources Conservation Service (NRCS) uses these State Technical Committees in an advisory capacity. The rule will set forth the policies and procedures for the use of State Technical Committees by the United States Department of Agriculture, membership criteria, and the responsibilities assigned to these committees.

The NRCS has delivered the majority of the technical assistance provided to private landowners through the authorities provided in 7 CFR part 610.2. Section 610.2 has not yet been revised to provide for the responsibilities assigned to the NRCS beyond that of soil conservation. To more accurately reflect the broader mission of NRCS, particularly as it relates to technical assistance provided to private grazing land, section 610.2 is being amended to acknowledge that one of NRCS's missions is to improve the quality of all agricultural lands, including grazing land, pastureland, rangeland, forestland, and cropland so that the long-term sustainability of the resource base is achieved.

Timetable:

Action	Date	FR Cite
NPRM	12/04/97	
NPRM Comment Period End	01/23/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: 0578-AA23 has been withdrawn and incorporated into this regulation.

Agency Contact: Peggy Willis, Regulatory Liaison, Department of Agriculture, Natural Resources Conservation Service, PO Box 2890, Cotton Annex Mezz 1, Washington, DC 20013
Phone: 202 690-4860
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RIN: 0578–AA22

USDA—NRCS

Final Rule Stage

DEPARTMENT OF AGRICULTURE (USDA)
Natural Resources Conservation Service (NRCS)

Long-Term Actions

553. HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION

Priority: Other Significant

CFR Citation: 7 CFR 12

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/06/96	61 FR 47019
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peggy Willis
Phone: 202 720-0450
Fax: 202 690-3174
Email: peggy.willis@usda.gov

RIN: 0578–AA17

DEPARTMENT OF AGRICULTURE (USDA)
Natural Resources Conservation Service (NRCS)

Completed Actions

554. CONSERVATION FARM OPTION (CFO)

Priority: Other Significant

CFR Citation: 7 CFR 1468

Completed:

Reason	Date	FR Cite
Final Action	09/29/98	63 FR 51777
Final Action Effective	10/29/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peggy Willis
Phone: 202 720-0450
Fax: 202 690-3174
Email: peggy.willis@usda.gov

RIN: 0578–AA20

555. WATER BANK

Priority: Routine and Frequent

CFR Citation: 7 CFR 633

Completed:

Reason	Date	FR Cite
Final Action	09/16/97	62 FR 48471

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peggy Willis
Phone: 202 720-0450
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Email: peggy.willis@usda.gov

RIN: 0578–AA24

556. SURFACE MINING SPECIFICATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 652

Completed:

Reason	Date	FR Cite
Withdrawn	08/05/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peggy Willis
Phone: 202 720-0450
Fax: 202 690-3144
Email: peggy.willis@usda.gov

RIN: 0578–AA25

BILLING CODE 3410-16-F

DEPARTMENT OF AGRICULTURE (USDA)
Office of Procurement and Property Management (OPPM)

Prerule Stage

557. • AGRICULTURE ACQUISITION REGULATION (AGAR); SIMPLIFIED ACQUISITION PROCEDURES

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 413; 48 CFR 453

Legal Deadline: None

Abstract: USDA is rewriting AGAR part 413, Simplified Acquisition Procedures. Federal Acquisition Regulation part 13, which AGAR Part 413 supplements, was rewritten in December 1997. USDA is reorganizing AGAR part 413 to reflect the revision of FAR Part 13.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/98	
ANPRM Comment Period End	12/00/98	

USDA—OPPM — Prerule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: USDA intends to issue the revision of AGAR part 413 as a direct final rule. The revision is routine and non substantive.

Agency Contact: Joseph J. Daragon, Procurement Analyst, Department of Agriculture, Office of Procurement and Property Management, Room 1566 South Building, 14th and Independence Ave SW., Washington, DC 20250
Phone: 202 720-5729
Fax: 202 720-8972
Email: jdaragon@usda.gov

RIN: 0599–AA04

DEPARTMENT OF AGRICULTURE (USDA)
Office of Procurement and Property Management (OPPM)

Proposed Rule Stage

558. • AGRICULTURE ACQUISITION REGULATION (AGAR); CONTRACTOR EMPLOYMENT OF MIGRANT AND SEASONAL AGRICULTURAL WORKERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 422; 48 CFR 452

Legal Deadline: None

Abstract: USDA proposes to add clauses to the AGAR to inform offerors and contractors for forestry service contracts about immigration and labor laws applicable to employment of migrant and seasonal agricultural workers.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
NPRM Comment Period End	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joseph J. Daragon, Procurement Analyst, Department of Agriculture, Office of Procurement and Property Management, Room 1566 South Building, Washington, DC 20250
Phone: 202 720-5729
Fax: 202 720-8972
Email: jdaragon@usda.gov

RIN: 0599–AA05

DEPARTMENT OF AGRICULTURE (USDA)
Office of Procurement and Property Management (OPPM)

Long-Term Actions

559. NEW RESTRICTIONS ON LOBBYING

Priority: Routine and Frequent

CFR Citation: 7 CFR 3018

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Joseph J. Daragan
Phone: 202 720-5729
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Email: jdaragan@usda.gov

RIN: 0599–AA03

[FR Doc. 98-24578 Filed 11-06-98; 8:45 am]
BILLING CODE 3410-13-F

Monday
November 9, 1998

Part IV

Department of Commerce

Semiannual Regulatory Agenda

DEPARTMENT OF COMMERCE (DOC)

DEPARTMENT OF COMMERCE

Office of the Secretary

13 CFR Ch. III

15 CFR Subtitle A; Subtitle B, Chs. I, II, III, VII, VIII, IX, and XI

19 CFR Ch. III

37 CFR Chs. I, IV, and V

50 CFR Chs. II, III, IV, and VI

October 1998 Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Commerce.

ACTION: Semiannual regulatory agenda.

SUMMARY: In compliance with Executive Order 12866 entitled "Regulatory Planning and Review" and the Regulatory Flexibility Act, as amended, the Department of Commerce, in April and October of each year, publishes in the **Federal Register** an agenda of regulations under development or review over the next 12 months. Rulemaking actions are grouped according to prerulemaking, proposed rules, final rules, long-term actions, and rulemaking actions completed since the April 1998 agenda. The purpose of the agenda is to provide information to the public on regulations currently under review, being proposed, or issued by the Department. The agenda is intended to facilitate comments and views by interested members of the public.

The Department's October 1998 regulatory agenda includes regulatory activities that are expected to be conducted during the period October 1, 1998, through September 30, 1999.

FOR FURTHER INFORMATION CONTACT:

Specific: For additional information about specific regulatory actions listed in the agenda, contact the individual identified as the contact person.

General: Comments or inquiries of a general nature about the agenda should be directed to Michael A. Levitt, Assistant General Counsel for Legislation and Regulation, U.S. Department of Commerce, Washington, DC 20230; telephone: 202-482-0846.

SUPPLEMENTARY INFORMATION: Executive Order 12866 requires agencies to publish an agenda of those regulations that are under consideration pursuant to this order. By memorandum of July 8, 1998, the Office of Management and Budget issued guidelines and procedures for the preparation and publication of the October 1998 Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions. The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires agencies to publish, in April and October of each year, a regulatory flexibility agenda which contains a brief description of the subject area of any rule which is likely to have a significant economic impact on a substantial number of small entities. The agenda also identifies those entries that have been selected for periodic review under section 610 of the Regulatory Flexibility Act.

Department of Commerce Regulatory Plan

For this edition of the Department of Commerce's agenda, the most significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Explanation of Information Contained in the Agenda

Within the Department, the Office of the Secretary and various operating units may issue regulations. Operating units, such as the Bureau of Export Administration, the International Trade Administration, the National Oceanic and Atmospheric Administration (NOAA), and the Patent and Trademark Office, issue the greatest share of the Department's regulations.

A large number of regulatory actions reported in the agenda deal with fishery management programs of NOAA's National Marine Fisheries Service (NMFS). To avoid repetition of programs and definitions, as well as to provide some understanding of the technical and institutional elements of the NMFS programs, a section on "Explanation of Information Contained in NMFS Regulatory Entries" is provided below.

Explanation of Information Contained in NMFS Regulatory Entries

The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Act) governs the management of fisheries within the Exclusive Economic Zone (EEZ). The EEZ refers to those waters from the outer edge of the State boundaries, generally 3 nautical miles, to a distance of 200 nautical miles. Fishery Management Plans (FMPs) are to be prepared for fisheries which require conservation and management measures. Regulations implementing these FMPs regulate domestic fishing and foreign fishing where permitted. Foreign fishing can be conducted in a fishery for which there is no FMP only if a preliminary fishery management plan has been issued to govern that foreign fishing. Under the Act, eight Regional Fishery Management Councils (Councils) prepare FMPs or amendments to FMPs for fisheries within their respective areas. In the development of such plans or amendments and their implementing regulations, the Councils are required by law to conduct public hearings on the draft plans and to consider the use of alternative means of regulating.

The Council process for developing FMPs and amendments makes it difficult for NMFS to determine the significance and timing of some regulatory actions under consideration by the Councils at the time the semiannual regulatory agenda is published.

The DOC October 1998 regulatory agenda follows.

Dated: September 1, 1998.

Kathryn Lunney,

Deputy General Counsel.

DOC

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
560	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting From Federal Financial Assistance	0690-AA28

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
561	Standards of Ethical Conduct—Department of Commerce Supplemental Regulations	0690-AA23

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
562	Procedures for Handling and Settlement of Claims Under Federal Tort Claims Act	0690-AA29

Bureau of Economic Analysis—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
563	Change in Reporting Requirements for BE-15, Annual Survey of Foreign Direct Investment in the United States	0691-AA32
564	Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons—1999	0691-AA35
565	Benchmark Survey of U.S. Direct Investment Abroad—1999	0691-AA36

Bureau of Economic Analysis—Completed Actions

Sequence Number	Title	Regulation Identifier Number
566	Direct Investment Surveys: Raising Exemption Level for Two Surveys of Foreign Direct Investment in the United States	0691-AA31

Bureau of the Census—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
567	Changes to the Foreign Trade Statistical Regulations To Include Provisions and Requirements for the Electronic Reporting of Export Data Via the Automated Export System (AES)	0607-AA19
568	Changes to the Foreign Trade Statistical Regulations (FTSR) To Clarify the Definition of Exporter	0607-AA20
569	Special Services and Studies by the Bureau of the Census; General	0607-AA24
570	Furnishing Personal Census Data From Census of Population Schedules; General Requirements	0607-AA25
571	Furnishing Personal Census Data From Census of Population Schedules: General Requirements	0607-AA26
572	Special Services and Studies by the Bureau of the Census; Fee Structure for Age Search and Citizenship Information	0607-AA27

DOC

Bureau of the Census—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
573	Reporting Value on Shipper's Export Declaration for Inland Freight and Insurance Charges	0607-AA29
574	Reporting the Value of Repairs and Replacement Parts on the Shipper's Export Declaration	0607-AA30
575	Notation of the Shipper's Export Declaration Filing Exemption Statement on Manifest Documents	0607-AA31

Bureau of the Census—Completed Actions

Sequence Number	Title	Regulation Identifier Number
576	Foreign Trade Statistics Regulations; Reporting the Value of Foreign Military Sales Shipments	0607-AA22
577	Revision to the Foreign Trade Statistics Regulations; Shipper's Export Declaration Requirement for Exports Valued at Less Than $2500	0607-AA28

Economic Development Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
578	Regulations To Implement the Economic Development Administration Reform Act of 1998	0610-AA56
579	Civil Rights Guidelines	0610-AA59

Economic Development Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
580	Trade Act—Adjustment Assistance for Communities	0610-AA57

Economic Development Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
581	General Requirements for Financial Assistance—Excess Capacity	0610-AA55
582	Simplification and Streamlining of Regulations of the Economic Development Administration	0610-AA58

General Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
583	Uniform Administrative Requirement for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofits and Commercial Organizations	0605-AA09

International Trade Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
584	Antidumping Duties; Countervailing Duties **(Reg Plan Seq. No. 15)**	0625-AA45

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

DOC

International Trade Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
585	Procedures for Conducting Five-Year (Sunset) Reviews of Antidumping and Countervailing Duty Orders	0625-AA51
586	Export Trade Certificates of Review (15 CFR 325)	0625-AA52

International Trade Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
587	Antidumping and Countervailing Duty Proceedings; Administrative Protective Order Procedures and Procedures for Imposing Sanctions for Violation of a Protective Order	0625-AA43
588	Limit on Duty-Free Insular Watches in Calendar Year 1999	0625-AA53

Bureau of Export Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
589	Administration of State Log Exports Ban	0694-AB25
590	Licensing of, and Expansion of National Security and Foreign Policy Controls on, Recoverable Encryption Software	0694-AB47
591	Revisions to EAR as a Result of the Addition of Brazil and Ukraine to the Nuclear Suppliers Group	0694-AB50
592	Revisions to Commerce Control List: Addition of Technology and Software Controls for Certain Crime Control Commodities	0694-AB53
593	Revisions to Antiterrorism Controls	0694-AB63
594	Implementation of the Chemical Weapons Convention; Revisions to the Export Administration Regulations	0694-AB67
595	Exports of Firearms, Ammunition, Explosives, and Other Related Materials: Implementation of Firearms Convention	0694-AB68
596	Clarification of Reporting Requirements Under the Wassenaar Arrangement	0694-AB72
597	India and Pakistan Sanctions	0694-AB73
598	Revocations of Reexport Authorizations Issued Prior to June 15, 1996	0694-AB74
599	Revisions to the Commerce Control List: Changes in Missile Technology Controls	0694-AB75
600	Revisions to the Export Administration Regulations; Country Groups D:1 and E:2; License Exception TMP	0694-AB76
601	Revisions and Clarifications to the Export Administration Regulations; Commerce Control List	0694-AB77
602	Exports of High Performance Computers; Revisions	0694-AB78
603	Exports and Reexports of Explosive Materials; Revision of Foreign Policy Controls	0694-AB79

Bureau of Export Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
604	Revision of Foreign Boycott Provisions of Export Administration Regulations	0694-AA11
605	Transfer of Dual-Use Items From U.S. Munitions List to the Commerce Control List	0694-AA52
606	Implementation of Chemical Weapons Convention	0694-AB06
607	Transfer of Certain Remote Sensing Satellites From the U.S. Munitions List to the CCL	0694-AB09
608	Clarification of Enhanced Proliferation Control Initiative (EPCI) "Catch-All" Provision and Validated License Requirements	0694-AB10
609	Libya: Expansion of Foreign Policy Controls	0694-AB28
610	Change the Commerce Control List To Revise Controls on Communication Intercepting Devices (Export Commerce Control Number ECCN 5A980)	0694-AB41
611	Clarification of License Exception GFT (Humanitarian Donations)	0694-AB49
612	Exports of Technology and Software; Release of Technology or Source Code to Foreign Nationals in the United States	0694-AB59
613	Revisions to the Export Administration Regulations; Additions to the Entity List	0694-AB60
614	De Minimis Exclusion for Technology and Software	0694-AB62

DOC

Bureau of Export Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
615	Defense Priorities and Allocations System (DPAS)	0694-AA02
616	Revision to ECCN 1C350 (Mixtures): Removal of Solvent Free Basis Calculation Requirement and Trace Quantity Exemption	0694-AB66
617	Exports to Federal Republic of Yugoslavia (Serbia and Montenegro); Imposition of Foreign Policy Controls	0694-AB69
618	Revisions to the EAR Confirming Revision to the Wassenaar Arrangement List Dual-Use Items and Antiterrorism Controls	0694-AB70
619	Shipper's Export Declaration Requirements for Exports Valued Less Than $2500	0694-AB71

National Institute of Standards & Technology—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
620	Amendments to Advanced Technology Program Regulations	0693-AB48

National Institute of Standards & Technology—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
621	Implementation of the Fastener Quality Act	0693-AB47

National Institute of Standards & Technology—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
622	National Type Evaluation Program	0693-AB45
623	NIST Traceable Reference Materials Program	0693-AB46

National Oceanic and Atmospheric Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
624	Pacific Coast Groundfish Fishery	0648-AL87

National Oceanic and Atmospheric Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
625	Fishery Management Plan for Tilefish	0648-AF87
626	Amendment 1 to the Fishery Management Plan for Atlantic Billfish	0648-AF88
627	Regulatory Amendment for Managing Pelagic Fisheries by U.S. Vessels Beyond EEZ Throughout Pacific	0648-AG85
628	Amendment 3 to the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands	0648-AG87
629	Amendment 1 to the Fishery Management Plan for Corals and Reef-Associated Plants and Invertebrates for Puerto Rico and the U.S. Virgin Islands	0648-AG88
630	Implement Regulations Under ACFCMA To Provide for Coordinated Management of the American Lobster Resource Throughout Its Range, End Overfishing, and Rebuild the American Lobster Stock	0648-AH41
631	Amendment 1 to the Fishery Management Plan for Atlantic Bluefish	0648-AH63
632	Regulatory Amendment To Adjust the Annual Total Allowable Catch for Royal Red Shrimp in the Gulf of Mexico	0648-AI39

DOC

National Oceanic and Atmospheric Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
633	Regulatory Amendment To Require Electronic Submission by Alaska Groundfish Processors of Weekly Production Reports and Check In/Out Reports	0648-AI66
634	Amendment to the Observer Program	0648-AI69
635	Fishery Management Plan for the Atlantic Herring Fishery	0648-AI78
636	Fishery Data Reporting for Western Pacific Pelagic Fisheries	0648-AJ08
637	Regulatory Amendment To Extend California Gillnet Regulations to the EEZ	0648-AJ21
638	Consolidation of the Rules for Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic and Stone Crab Fishery of the Gulf of Mexico	0648-AJ28
639	Amendment 7 to the Fishery Management Plan for the Atlantic Sea Scallop Fishery	0648-AJ33
640	Implementation of a Fishery Management Plan for Monkfish	0648-AJ44
641	BSA/GOA/KTC/Scallop/Salmon FMP Amendments 56/56/7/6/6 Overfishing Definitions	0648-AJ50
642	Regulatory Amendment To Establish a Program for the Collection and Use of Fees in the Individual Fishing Quota Program	0648-AJ52
643	Implementation of Pacific Insular Area Fishing Agreement Provisions of the Magnuson-Stevens Act	0648-AJ60
644	Atlantic Tuna Fisheries; Regulatory Adjustments	0648-AJ66
645	Fishery Management Plan for Atlantic Highly Migratory Species	0648-AJ67
646	Atlantic Highly Migratory Species; Measures To Manage the Drift Gillnet Section of the Atlantic Swordfish Fishery	0648-AJ68
647	Proposed Rule To Implement Procedures for Issuance of Permits Under Section 204(d) of the Magnuson-Stevens Fishery Conservation and Management Act	0648-AJ70
648	Fisheries Obligation Guarantee Program—Statutory Amendments To Establish "Central Title and Lien Registry for Limited Access Permits"	0648-AJ77
649	Regulatory Amendment To Change Membership Requirements for the Regional Fishery Management Councils	0648-AJ82
650	Proposed Rule on Taking Marine Mammals Incidental to Power Plant Operations at Seabrook, New Hampshire	0648-AK00
651	Amendment 9 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic	0648-AK05
652	Rulemaking To Establish the North Pacific Loan Program	0648-AK07
653	Regulatory Amendment To Implement Rolling Closures During the Sablefish Fishery in the Gulf of Alaska	0648-AK10
654	Adjustment of Management Program for Pelagic Species Fisheries in the Western Pacific	0648-AK11
655	FMP Amendments for the Groundfish Fishery of the Bering Sea and Aleutian Islands and for the Groundfish of the Gulf of Alaska	0648-AK12
656	Regulatory Amendment To Specify Minimal Vessel Ownership Requirements for the Hired Skipper Provision in the IFQ Fisheries	0648-AK20
657	Implementation of Amendment 5 to the Fishing Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region	0648-AK21
658	Adjustment of the Management Program for Precious Corals Fisheries in the Western Pacific	0648-AK23
659	Amendment 16A to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico	0648-AK31
660	Regulatory Amendment for a Bycatch Reduction Device (BRD) Testing and Certification Protocol Under Amendment 9 to the FMP for the Shrimp Fishery of the Gulf of Mexico	0648-AK32
661	Options for 1997 Rulemaking for Banning the Sale of Undersized Atlantic Swordfish	0648-AK39
662	Amendment 6 to the Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico	0648-AK48
663	List of Gear and Fisheries Under Jurisdiction of Each Fishery Management Council or the Secretary of Commerce for Highly Migratory Species	0648-AK49
664	Amendment to Portions of Individual Fishing Quota Program Regulations	0648-AK50
665	Modification of Harvest Guideline System for Hawaiian Lobster Fishery	0648-AK61
666	Regulatory Amendment To Establish Application Period for License Limitation Program	0648-AK69
667	Amendment 54 to FMP for Groundfish Fishery of Bering Sea and Aleutian Islands Area and Amendment 54 to FMP for Groundfish of Gulf of Alaska	0648-AK70
668	Amendment 52 to FMP for Groundfish Fishery of Bering Sea and Aleutian Islands Area and Amendment 52 to FMP for Groundfish of Gulf of Alaska	0648-AK73
669	Amendment To Close an Area in the Gulf of Alaska	0648-AK74
670	Fishing Capacity Reduction Program	0648-AK76
671	Rule To Implement a Fishery Management Plan for the Spiny Dogfish Fishery	0648-AK79
672	Rule To Implement Amendment 7 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries	0648-AK80
673	Regulatory Amendment To Initiate Control for the Harvest of Bottomfish in the Exclusive Economic Zone Around the Main Hawaiian Islands	0648-AK82
674	Amendment 13 to the Pacific Coast Salmon Plan	0648-AK83
675	Revise Exempted Fishing Regulations To Specify Compensatory Fishing Under Exempted Fishing	0648-AK84
676	Amendment 9 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic	0648-AK89

DOC

National Oceanic and Atmospheric Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
677	VMS Pilot Program for Atlantic Swordfish	0648-AK90
678	Amendment 17 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico	0648-AK96
679	Proposed Rule To Adjust the Gulf of Mexico Red Snapper TAC and Associated Management Measures Under the Framework Procedure of the FMP for the Reef Fish Resources of the Gulf of Mexico	0648-AK97
680	Establish 10 SMZs in Federal Waters Off SC and Prohibit Use of Powerheads in the Ft. Pierce, FL, Offshore SMZ in the Snapper-Grouper Fishery of the South Atlantic Region	0648-AL00
681	Amend the Bluefin Statistical Document To Allow for the Attachment of Re-export Certificates	0648-AL02
682	Regulatory Amendment to Change the Limited Entry, Sablefish Fishery Season Structure Fixed Gear	0648-AL12
683	Regulatory Amendment To Establish a Sitka Sound Halibut Management Plan	0648-AL18
684	Amendment 48 to the BSAI FMP and Amendment 48 to the GOA FMP - Streamline Annual Specification Process	0648-AL19
685	Amendment 59 to the BSAI FMP, Amendment 57 to the GOA FMP, and Amendment 9 to the BSAI KTC FMP - Moratorium Extension	0648-AL20
686	Regulatory Amendment to the Halibut Community Development Quota Program - Definition of Management Measures	0648-AL21
687	Amendment 45 to the Fishery Management Plan for the Bering Sea and Aleutian Islands Area	0648-AL22
688	Regulatory Amendment To Revise the Recordkeeping and Reporting Requirements for 1999	0648-AL23
689	Whiting Amendment to the Northeast Multispecies Fishery Management Plan (FMP)	0648-AL27
690	Management of U.S. Purse Seine Fishery in the Eastern Pacific Ocean	0648-AL28
691	Regulatory Amendment To Implement Atka Mackerel Fishing Restrictions in the BSAI for Steller Sea Lion Conservation Purposes	0648-AL29
692	BSAI FMP Amendment Prohibiting Directed Fishing for Pollock With Bottom Trawl Gear	0648-AL30
693	Amendment 9 to the Northeast Multispecies FMP To Address New Sustainable Fisheries Act Requirements, and Other Management Measures	0648-AL31
694	Amdt. 11 to Northeast Multispecies FMP; Amdt. 9 to Atlantic Sea Scallop FMP; Amdt. 1 to Monkfish FMP; and Amdt. 1 to Atlantic Salmon FMP; Components of Atlantic Herring FMP	0648-AL32
695	Vessel Permit Consistency Amendment	0648-AL36
696	Atlantic Sturgeon EEZ Regulations	0648-AL38
697	BSAI/GOA/KTC/SCALLOP Fishery Management Plan (FMP) Amendments 55/55/8/5 Essential Fish Habitat Definitions	0648-AL40
698	Regulatory Amendment To Prohibit Fishing by Vessels Over 50 Feet Within 50 Nautical Miles of American Samoa	0648-AL41
699	Comprehensive Amendment Addressing Sustainable Fishery Act Definitions and Other Required Provisions in Fishery Management Plans of the South Atlantic Region	0648-AL42
700	Comprehensive Amendment Addressing Essential Fish Habitat in Fishery Management Plans of the South Atlantic Region	0648-AL43
701	Proposed Guidelines for Defining Serious Injury; Request for Comments	0648-AL44
702	Implementation of Amendment 8 to the Northern Anchovy Fishery Management Plan	0648-AL48
703	Implementation of Amendments to Four Western Pacific Fishery Management Plans To Address New Requirements of the Magnuson-Stevens Fishery Conservation and Management Act	0648-AL49
704	Regulatory Amendment To Allow "Stocking" of Multiple Limited Entry Permits in the Pacific Coast Groundfish Fisheries	0648-AL50
705	Amendment 14 to the Pacific Coast Salmon Plan	0648-AL51
706	Amendment 11 to the Pacific Coast Groundfish Fishery Management Plan	0648-AL52
707	Amendment 8 to the Fishery Management Plan for Atlantic Mackerel, Squid, and Butterfish (FMP)	0648-AL54
708	Amendment 12 to the Fishery Management Plan for Atlantic Surf Clam and Ocean Quahogs (FMP)	0648-AL55
709	Proposed Rule To Implement Amendment 12 to the Fishery Management Plan for the Summer Flounder, Scup and Black Sea Bass Fisheries (FMP)	0648-AL56
710	Amendment 16B to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico	0648-AL57
711	Regulatory Amendment To Allocate Certain Groundfish Species Between the Trawl and Fixed Gear Commercial Groundfish Fisheries	0648-AL62
712	Adjustment of Management Program: Crustacean Fisheries in the Western Pacific	0648-AL67
713	Final Specifications for 1999 Summer Flounder, Scup, and Black Sea Bass Fisheries	0648-AL74
714	Recreational Measures for 1999 Summer Flounder, Scup, and Black Sea Bass Fisheries	0648-AL75
715	1999 Initial Specifications for Atlantic Mackerel, Squid, and Butterfish Fisheries	0648-AL76
716	1999 Fishing Quotas for Atlantic Surf Clam and Ocean Quahog Fisheries	0648-AL77
717	Fishery Management Plan for Calico Scallop Fishery in the South Atlantic Region	0648-AL78
718	Atlantic Tuna Fisheries; 1999 Quotas and Effort Controls	0648-AL79
719	Regulatory Amendment To Establish Total Allowable Catch Limits for the Atlantic and Gulf of Mexico Groups of King and Spanish Mackerel for the 1998-99 Fishing Year	0648-AL80

DOC

National Oceanic and Atmospheric Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
720	Sustainable Fisheries Act Amendments to the Fishery Management Plans for Shrimp, Red Drum, Reef Fish, Stone Crab, Spiny Lobster, Coral & Coral Reefs, and Coastal Migratory Pelagics of GOM	0648-AL81
721	Comprehensive Amendment Addressing Essential Fish Habitat in Fishery Management Plans of the South Atlantic Region	0648-AL84
722	Comprehensive Amendment Addressing Sustainable Fisheries Act Definitions and Other Required Provisions in Fishery Management Plans of the South Atlantic Region	0648-AL85
723	Comprehensive Amendment Addressing Sustainable Fisheries Act Requirements Regarding Overfishing, Bycatch, Fishing Communities and provisions for Fishery Management Plans for the Caribbean	0648-AL86
724	Sea Turtle Monitoring and Conservation Measures for Nonshrimp Fisheries	0648-AE54
725	Taking and Importing of Marine Mammals: Tuna Purse Seine Vessel Observer Expenses	0648-AG35
726	Designated Critical Habitat; Pacific Steelhead	0648-AG49
727	Proposed Rule To Provide Regulations for Permits for Capture, Transport, Import and Export of Protected Species for Public Display, and for Maintaining a Captive Marine Mammal Inventory	0648-AH26
728	Proposed Rule Governing the Issuance of Permits for Marine Mammal Photography	0648-AH31
729	Amend Regulations Governing the Taking and Importing of Marine Mammals	0648-AH83
730	Implementation of 1997 MMPA Amendments Affecting Yellowfin Tuna Purse Seine Fishing in the Eastern Tropical Pacific	0648-AI85
731	Endangered and Threatened Species: Proposed Rule Governing Take of West Coast Steelhead	0648-AK94
732	List of Fisheries for 1999	0648-AK95
733	Section 4(d) of ESA Protective Regulations for Johnson Seagrass, a Threatened Species	0648-AL59
734	Determination of Critical Habitat for Johnson's Seagrass	0648-AL82
735	Revision of Federal Consistency Regulations Under the Coastal Zone Management Act	0648-AD83
736	Revision of Overflight Regulations	0648-AI91
737	Notice of Proposed Administrative Changes to Coastal Nonpoint Pollution Control Program	0648-AK62
738	Interagency Consultation for the National Marine Sanctuary Program	0648-AL06
739	Olympic Coast National Marine Sanctuary—Addition of Definition for Seabirds	0648-AL09
740	Policies and Procedures Regarding Program Evaluation and Competitive Funding Requirements Within the Office of Oceanic and Atmospheric Research	0648-AL45
741	NOAA Procedures for Implementing the National Environmental Policy Act	0648-AL58

National Oceanic and Atmospheric Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
742	Financial Disclosure of Fishery Management Council Nominees, Members, and Executive Directors	0648-AG16
743	Amendment 39 to the FMP for Groundfish Fishery of BSAI, Amendment 41 to the FMP for Groundfish of the GOA and Amendment 5 to the FMP for Commercial King & Tanner Crab Fisheries of the BSAI	0648-AH65
744	Proposed Rule To Implement Vessel Identification and Reporting Requirements under the High Seas Fishing Compliance Act of 1995	0648-AI99
745	Guidelines for the Description, Identification, Conservation, and Enhancement of Essential Fish Habitat	0648-AJ30
746	Final Definition of the Zero Mortality Rate Goal	0648-AJ84
747	Endangered and Threatened Species: Take of Threatened Southern Oregon/Northern California Coast Evolutionarily Significant Unit (ESU) Coho Salmon	0648-AJ91
748	Appointment of Members to the Regional Fishery Management Councils	0648-AJ95
749	Additional Measures of Amendment 2 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic—Procedures for Testing and Certification of Bycatch Reduction Devices (BRDS)	0648-AK29
750	Endangered and Threatened Species; Regulations Consolidation	0648-AK34
751	Proposed Highly Migratory Species Process	0648-AK40
752	Regulatory Amendment to Fishery Management Plan for Golden Crab Fishery of Southern Atlantic States	0648-AK43
753	Endangered and Threatened Species: Proposed Threatened Status and Designated Critical Habitat for West Coast Sockeye Salmon	0648-AK52
754	Endangered and Threatened Species: Proposed Endangered Status and Designated Critical Habitat for Coastwide Chum Salmon	0648-AK53
755	Atlantic Billfish Size Limits and Tournament Notification Requirements	0648-AK88
756	Fishery Disaster Relief	0648-AL13
757	Interim Rule To Certify Three Bycatch Reduction Devices (BRDs) Under Amendment 9 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico	0648-AL14

DOC

National Oceanic and Atmospheric Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
758	Interim Rule To Require Shrimp Trawl Vessel Observers, Logbooks, and Monitoring Systems in the Exclusive Economic Zone of the Gulf of Mexico	0648-AL15
759	Regulatory Amendment To Implement Stand-Down Requirement for Catcher Vessels Transiting Between Bering Sea and Aleutian Islands and Gulf of Alaska	0648-AL26
760	Vessel Tracking System Power Down Exemption Rule	0648-AL35
761	Emergency Interim Rule To Release the Remaining 1998 Recreational and Commercial Quota Reserves for Gulf of Mexico Red Snapper	0648-AL61
762	1999 Harvest Guideline for the Northwestern Hawaiian Islands Lobster Fishery	0648-AL63
763	1999-2000 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California	0648-AL64
764	Regulatory Amendment To Implement a Limited Access Program That Requires Species Endorsements To Participate in Fisheries Targeting Certain Groundfish Species	0648-AL65
765	Regulatory Amendment To Allow Limited Entry Trawlers To Retain Groundfish Taken in Excess of Cumulative Trip Limits	0648-AL68
766	Regulatory Amendment To Allocate Lingcod and Bocaccio Rockfish Between Commercial and Recreational Groundfish Fisheries	0648-AL69
767	Framework To Implement Annual Management Measures for Northeast Multispecies Fishery Management Plan	0648-AL72
768	Interim Final Rule for Atlantic Sea Scallop Fishery	0648-AK68
769	Civil Procedures	0648-AF96
770	Performance Standards for Tuna Vessel Operators	0648-AD03
771	Taking and Importing of Marine Mammals; Dolphin Mortality Limits During Purse Seine Sets on Marine Mammals in the Eastern Tropical Pacific	0648-AF07
772	Take of Marine Mammals by the U.S. Navy Incidental to Military Activities in the South Atlantic of the United States	0648-AG55
773	Designated Critical Habitat; Central California Coast and Southern Oregon/Northern California Coast Coho Salmon	0648-AG56
774	Taking and Importing of Marine Mammals: Proposed Rule Prohibiting U.S. Citizens From Encircling Marine Mammals During Tuna Fishing Operations	0648-AH04
775	Final Rule To Establish Guidelines for Nonlethally Deterring Marine Mammals From Endangering Personal Safety or Damaging Public or Private Property	0648-AH19
776	General Authorization for Scientific Research Involving Level B Harassment	0648-AH20
777	Designated Critical Habitat; Green and Hawksbill Sea Turtle	0648-AH88
778	Taking of Marine Mammals Incidental to Commercial Fishing Operations; Take Reduction Plan Regulations and Emergency Regulations	0648-AI84
779	Draft Policies for Safe Harbor and Candidate Species Conservation (CCA) Agreements	0648-AJ54
780	Endangered and Threatened Species; Status of Chinook Salmon in Washington, Idaho, Oregon and California	0648-AK02
781	North Atlantic Right Whale Protection	0648-AK41
782	Taking of Marine Mammals Incidental to Activities at Vandenberg Air Force Base, CA	0648-AK42
783	Definition of Harm Under the ESA	0648-AK55
784	Pacific Offshore Cetacean Take Reduction Plan	0648-AL70
785	Thunder Bay National Marine Sanctuary	0648-AE41
786	Prohibiting Anchoring by Vessels 50 Meters or Greater in Length on Tortugas Bank Within the Florida Keys National Marine Sanctuary	0648-AK45
787	Licensing of Private Commercial Remote-Sensing Satellite Systems **(Reg Plan Seq. No. 16)**	0648-AC64

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

National Oceanic and Atmospheric Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
788	Regulatory Amendment To Implement Permit, Reporting, and Recordkeeping Requirements for Processing Vessels Over 125 Feet and Their Catcher Vessels: Pacific Coast Groundfish	0648-AE01
789	General Provisions for Domestic Fisheries—Standard Definitions	0648-AG46
790	Regulatory Amendment To Impose Restrictions on Fishing Black Rockfish Off Oregon	0648-AG81
791	Regulatory Amendment To Revise the Product Recovery Rate Codes for Certain Alaska Groundfish Products	0648-AI87
792	Amendment 10 to the Pacific Coast Groundfish FMP Regarding Salmon Bycatch in Groundfish Trawl	0648-AJ22
793	Regulatory Amendment To Implement Bycatch Reduction Measures	0648-AJ47

DOC

National Oceanic and Atmospheric Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
794	Implementation of Data Collection and Reporting Requirements to the Fishery Management Plan for the American Lobster Fishery	0648-AJ75
795	Regulatory Amendment To Develop a C. Bairdi Vessel Incentive Program	0648-AK08
796	Regulatory Amendment To Allocate Pacific Halibut to the Halibut Subsistence Fishery	0648-AK16
797	Regulatory Amendment To Allocate Pacific Halibut to the Charter Boat Fleet	0648-AK17
798	Regulatory Amendment To Implement Observer Requirements for Processing Vessels Over 125 Feet: Pacific Coast Groundfish	0648-AK26
799	Observer Funding Policy	0648-AL08
800	Regulatory Amendment To Fund Purchase of Limited Entry Trawl Permits To Reduce Excess Capacity in Pacific Coast Groundfish Fleet	0648-AL66
801	Regulatory Amendment To Establish Program for Collection and Use of Fees in Community Development Quota Program	0648-AL71
802	Taking and Importing of Marine Mammals; "Dolphin-Safe" Tuna Labeling	0648-AF08
803	Proposed Rule To Require Certain Fish From Mexico To Retain Heads and Tails Intact in Order To Protect the Endangered Totoaba	0648-AF32
804	Taking of Marine Mammals Incidental to Fisheries-Related Research	0648-AF50
805	Direct Take of Threatened Salmon by Native Americans	0648-AG15
806	Proposed Rule To Authorize Lethal Takings of Marine Mammals by State Authorities	0648-AG79
807	Final Rule To Amend Marine Mammal Regulations To Authorize Incidental Takings of Marine Mammals by Harassment as Authorized by Public Law 103-238	0648-AG80
808	North Atlantic Right Whale Protection; Interim Final Rule	0648-AH47
809	Shrimp Vessel Registration Requirement	0648-AH87
810	Sea Turtle Conservation; Shrimp Trawling Requirements	0648-AK66
811	Operations of Motorized Personal Watercraft in the Gulf of the Farallones National Marine Sanctuary	0648-AK01
812	Monterey Bay National Marine Sanctuary—Minor Boundary Revision	0648-AL07
813	Regional Marine Research Program	0648-AF20
814	National Undersea Research Program Funding Regulations	0648-AH90

National Oceanic and Atmospheric Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
815	Secretarial Amendment to the FMP for Atlantic Swordfish	0648-AE09
816	Amendment 10 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries	0648-AF41
817	Amendment 8 to the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP)	0648-AG25
818	Amendment 8 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic	0648-AG27
819	Regulatory Amendment for the Gulf of Alaska Seamount Fisheries	0648-AG94
820	Amendment 9 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico	0648-AH52
821	Plan Amendment to FMP for Sharks of the Atlantic Ocean That Would Limit Entry	0648-AH78
822	Consolidation of Atlantic Highly Migratory Species Regulations	0648-AI28
823	Regulatory Amendment Requiring Longline Vessel Operators in the Western Pacific Pelagic Fisheries To Carry Observers at No Cost to U.S. Government	0648-AI31
824	Regulatory Amendment To Establish Total Allowable Catch Limits for the Atlantic and Gulf of Mexico Groups of King and Spanish Mackerel for the 1997-98 Fishing Year	0648-AJ12
825	Amendment 11 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico - Resubmitted Measure	0648-AJ16
826	Regulatory Amendment To Restrict Frequency of Limited Entry Permit Transfers and Require the Sorting of Catch by Species and the Retention of Fish Tickets	0648-AJ20
827	Implementation of Use of Interactive Voice Response (IVR) System To Monitor Commercial Landings of Quota Managed Species on Weekly Basis	0648-AJ37
828	Regulatory Amendment To Prevent Overfishing and Rebuild Stocks	0648-AJ46
829	Amendments to the BSAI and GOA Fishery Management Plans To Implement a Data Collection Program for Recreational, Charter, and Commercial Fishing	0648-AJ49
830	Amendment 3 to the Fishery Management Plan for the Scallop Fishery Off Alaska	0648-AJ51
831	Magnuson-Stevens Act Provisions; National Standards Guidelines	0648-AJ58
832	Atlantic Shark Fisheries; Amendment 2 (Including Rebuilding Schedule)	0648-AJ64

DOC

National Oceanic and Atmospheric Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
833	Withdrawal of the Fishery Management Plan for the American Lobster Fishery	0648-AJ73
834	Interim Final Rule to the Fishery Management Plan for the American Lobster Fishery	0648-AJ74
835	Proposed Rule To Implement Observer Provisions Required by the Magnuson-Stevens Fishery Conservation and Management Act as Amended October 11, 1996	0648-AJ76
836	Halibut Donation Program	0648-AJ87
837	Implement a Framework to the FMP for the Northeast Multispecies Fisheries To Protect Winter Flounder	0648-AJ92
838	Antarctic Marine Living Resources Convention Act of 1984; Conservation and Management Measures	0648-AJ94
839	Final Rule To Implement Framework Adjustment 24 to the Fishery Management Plan for the Northeast Multispecies Fishery	0648-AJ96
840	FMP Amendment 53 to BSAI Groundfish To Allocate Shortraker and Rougheye Rockfish Between Gear Types	0648-AJ99
841	Amendments to Fishery Management Plans To Implement Sustainable Fisheries Act Amendments to the Magnuson-Stevens Act	0648-AK03
842	Regulatory Amendment To Allow Retention of Undersized Halibut in CDQ Fishery	0648-AK06
843	Adjustment of Management Program for the Northwestern Hawaiian Islands Crustacean Fisheries	0648-AK22
844	Northern Anchovy Fishery; Quotas for the 1998-99 Fishing Year (Annual Specifications)	0648-AK24
845	1998-1999 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California	0648-AK25
846	Regulatory Amendment To Implement 1998 Nontrawl Sablefish Harvest Regime	0648-AK27
847	Regulatory Amendment To Adjust Management Measures Under the Fishery Management Plan for Reef Fish Species of the Gulf of Mexico (FMP) for the 1998 Fishing Season	0648-AK28
848	Final Rule To Modify the Regulations Implementing the Northeast Multispecies Fishery Management Plan	0648-AK35
849	Regulatory Amendment To Revise the Recordkeeping and Reporting Requirements for Groundfish Fisheries of the EEZ Off of Alaska for 1998	0648-AK36
850	Take of Threatened Central California Coast, South Central California Coast, and Snake River Basin ESUs of Steelhead Salmon Under the ESA	0648-AK54
851	Extension for Six Years of Moratorium on Fishing in Seamount Groundfish Fishery of Western Pacific Region To Promote Rebuilding of Stocks	0648-AK59
852	Implementation of Amendment 3 to Fishery Management Plan for Precious Corals Fisheries of Western Pacific Region	0648-AK60
853	Atlantic Bluefin Tuna (ABT) Fishery	0648-AK63
854	Seasonal Apportionments of Pollock Total Allowable Catch in Western and Central Gulf of Alaska	0648-AK71
855	Amendment 53 to FMP for Groundfish of Gulf of Alaska	0648-AK72
856	Regulatory Amendment To Redefine an Individual Fishing Quota Definition	0648-AK75
857	Final Rule To Implement Framework Adjustment 25 to the Fishery Management Plan for the Northeast Multispecies Fishery for Fishing Year 1998	0648-AK77
858	1998 Recreational Fishery Measures for Summer Flounder, Scup, and Black Sea Bass	0648-AK78
859	Secretarial Amendment To Standardize Fishing Vessel Transfer, Replacement, and Upgrade Regulations in the Northeast Region Fishery Management Plans	0648-AK81
860	1998 Harvest Guideline for Northwestern Hawaiian Islands Lobster Fishing	0648-AK85
861	Establish Rules To Compensate Pacific Coast Groundfish Fishermen for Assistance in Resources Assessments	0648-AK86
862	Atlantic Bluefin Tuna Annual Quota Specifications and Effort Controls	0648-AK87
863	Research and Monitoring Plan To Support the Conservation and Management of Highly Migratory Species	0648-AK92
864	Interim Final Rule to Adjust the Gulf of Mexico Red Snapper TAC and Associated Management Measures in the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico	0648-AK98
865	Interim Final Rule to Expand the Oculina HAPC by an Additional 2 Miles on All Sides to Include Existing HAPC Restrictions in the Snapper-Grouper Fishery of the South Atlantic Region	0648-AK99
866	IFR To Implement March-April Bag Limit and Commercial Catch Restrictions for Red Porgy, Gag, Black Grouper, and Greater Amberjack for the Snapper-Grouper-Fishery of the S. Atlantic	0648-AL01
867	Interim Final Rule To Adjust the Gulf of Mexico Red Snapper Total Allowable Catch and Associated Management Measures	0648-AL03
868	Compensation of Private Vessels for Their Conduct of Resource Assessments Through Exempted Fishing	0648-AL04
869	1998 Aboriginal Subsistence Whaling Quotas for Members of the Alaska Whaling Commission and the Makah Indian Tribe	0648-AL11
870	Final Rule To Implement Measures Contained in Framework Adjustment Number 10 to the Atlantic Sea Scallop FMP	0648-AL17
871	Atlantic Swordfish Fishery; South Atlantic Quotas; Quota Adjustment Procedures	0648-AL24
872	Halibut and Sablefish Quota-Share Loan Program	0648-AL25
873	Establishment of Bank/Area-Specific Harvest Guidelines for the 1998 Northwestern Hawaiian Islands Lobster Fishery	0648-AL33

DOC

National Oceanic and Atmospheric Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
874	Final Rule for the Loligo Squid/Butterfish, Scup, Black Sea Bass, and Lilex Squid Fisheries; Moratorium Vessel Permit Eligibility	0648-AL34
875	Final Rule to the Fishery Management Plan To Modify the Regulations Implementing the Northeast Multispecies Fishery Management Plan	0648-AL37
876	Atlantic Tuna Fishery; Atlantic Bluefin Tuna	0648-AL39
877	Foreign Nations' Marine Mammal Program Amendments	0648-AG05
878	Taking and Importing of Marine Mammals; Taking of Marine Mammals Under the ATA Permit After February 28, 1994	0648-AG36
879	Allowance of Small-Scale Non-Intrusive Jade Collecting in Monterey Bay National Marine Sanctuary	0648-AI06
880	National Estuarine Research Reserve Regulations—Clarification of Assistance	0648-AL16
881	NOAA Climate and Global Change Program—Proposal Submission Guidelines	0648-AG51
882	Policies and Procedures Regarding Use of the NOAA-Based Data Collection Systems	0648-AK04

National Telecommunications and Information Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
883	Improvement of Technical Management of Internet Names and Addresses	0660-AA11

National Telecommunications and Information Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
884	Elements of Effective Self Regulation and Other Questions Related to Privacy	0660-AA13

Patent and Trademark Office—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
885	Changes To Implement the Patent Business Goals	0651-AA98

Patent and Trademark Office—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
886	Changes To Implement the Standard Format for Patent Applications	0651-AA99

Patent and Trademark Office—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
887	Miscellaneous Changes to Trademark Trial and Appeal Board Rules	0651-AA87
888	Revision of Patent and Trademark Fees for Fiscal Year 2000	0651-AB01

DOC

Patent and Trademark Office—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
889	Patent Application Electronic Submission Rules	0651-AA50
890	Changes To Implement 18-Month Publication of Patent Applications	0651-AA75
891	Rules of Practice in Patent Cases; Reexamination Proceedings	0651-AA79
892	Limitations in Patent Claims	0651-AA91
893	Requirements for Registration To Practice Before the PTO in Patent Cases	0651-AA93
894	Technical Requirements for Registration To Practice Before the PTO in Patent Cases	0651-AA95
895	Trademark Law Treaty Rules Changes	0651-AB00

Patent and Trademark Office—Completed Actions

Sequence Number	Title	Regulation Identifier Number
896	Changes Implementing International Acceptable Nucleotide and/or Amino Acid Sequence Listings	0651-AA88
897	1998 Changes to Patent Practice and Procedure	0651-AA94
898	Revision of Patent and Trademark Fees for Fiscal Year 1999	0651-AA96
899	Changes to Continued Prosecution Application Practices	0651-AA97

Technology Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
900	Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements	0692-AA14
901	Acquisition and Protection of Foreign Rights in Inventions	0692-AA15

Technology Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
902	Promotion of Private Sector Industrial Technology Partnerships	0692-AA13
903	Licensing of Government-Owned Inventions	0692-AA17

DEPARTMENT OF COMMERCE (DOC)
Office of the Secretary (OS)
Proposed Rule Stage

560. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Priority: Other Significant

Legal Authority: PL 92-318, sec 901 and 902

CFR Citation: 15 CFR 8a

Legal Deadline: None

Abstract: The Department of Commerce plans to join with the Department of Justice and other agencies in a Governmentwide common rule to enforce title IX of the Education Amendments of 1972. The rule will provide guidelines for enforcing nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kimberly Walton, Acting Director, Office of Civil Rights, Department of Commerce, Office of the Secretary, Room 6010, Washington, DC 20230
Phone: 202 482-5691

RIN: 0690–AA28

DEPARTMENT OF COMMERCE (DOC)
Office of the Secretary (OS)
Long-Term Actions

561. STANDARDS OF ETHICAL CONDUCT—DEPARTMENT OF COMMERCE SUPPLEMENTAL REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lucy Chang
Phone: 202 482-8041

RIN: 0690–AA23

DEPARTMENT OF COMMERCE (DOC)
Office of the Secretary (OS)
Completed Actions

562. • PROCEDURES FOR HANDLING AND SETTLEMENT OF CLAIMS UNDER FEDERAL TORT CLAIMS ACT

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 2672

CFR Citation: 15 CFR 2

Legal Deadline: None

Abstract: The Department of Commerce is amending its procedures for handling and settlement of claims under the Federal Tort Claims Act. The amendments will bring the regulations into conformity with present practice and statutory and organizational changes that have taken place since the regulations were previously amended in 1983.

Timetable:

Action	Date	FR Cite
Final Action	06/02/98	63 FR 29945
Final Action Effective	06/02/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donald Reed, Attorney Advisor, Department of Commerce, Office of the Secretary, Washington, DC 20230
Phone: 202 482-1067

RIN: 0690–AA29

DEPARTMENT OF COMMERCE (DOC)
Bureau of Economic Analysis (BEA)
Proposed Rule Stage

563. CHANGE IN REPORTING REQUIREMENTS FOR BE-15, ANNUAL SURVEY OF FOREIGN DIRECT INVESTMENT IN THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108, Intl Investment & Trade in Svs Survey Act

CFR Citation: 15 CFR 806

Legal Deadline: None

Abstract: This action will amend existing rule 15 CFR 806.15 to bring reporting on the BE-15, Annual Survey of Foreign Direct Investment in the United States, into conformity with the proposed BE-12, Benchmark Survey of Foreign Direct Investment in the United States - 1997. The proposed changes will raise the threshold for reporting on the BE-15(LF) long form to $100 million from $50 million and on the BE-15(SF) short form to $30 million from $10 million.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	12/00/98	
Final Action	01/00/99	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: R. David Belli, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, (BE-50), Washington, DC 20230
Phone: 202 606-9800
Fax: 202 606-5318
Email: david.belli@bea.doc.gov

RIN: 0691–AA32

564. • BENCHMARK SURVEY OF FINANCIAL SERVICES TRANSACTIONS BETWEEN U.S. FINANCIAL SERVICES PROVIDERS AND UNAFFILIATED FOREIGN PERSONS—1999

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108 Intl Investment & Trade in Svcs Survey Act

CFR Citation: 15 CFR 801

Legal Deadline: None

Abstract: This action will amend existing rule 15 CFR 801.11 to provide for the conduct of the BE-80, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons--1999, as required in the International Investment and Trade in Services Survey Act, 22 USC 3101 to 3108 (see especially section 4(b) of the Act). The existing rule covers a similar survey for 1994, which has been completed and which the new survey will update.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	
Final Action	10/00/99	
Final Action Effective	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: R. David Belli, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, Washington, DC 20230
Phone: 202 606-9800
Fax: 202 606-5318

RIN: 0691–AA35

DOC—BEA

Proposed Rule Stage

565. • BENCHMARK SURVEY OF U.S. DIRECT INVESTMENT ABROAD—1999

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108 Intl Investment and Trade Svcs Survey Act

CFR Citation: 15 CFR 806

Legal Deadline: None

Abstract: This action will amend existing 15 CFR 806.16 to provide for the conduct of the BE-10, Benchmark Survey of U.S. Direct Investment Abroad–1999, as required in the International Investment and Trade in Services Survey Act, 22 USC 3101 to 3108 (see especially section 4(b) of the Act). The existing rule covers a similar survey for 1994 which has been completed and which the new survey will update.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
NPRM Comment Period End	11/00/99	
Final Action	12/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: R. David Belli, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, Washington, DC 20230
Phone: 202 606-9800
Fax: 202 606-5318
Email: david.belli@bea.doc.gov

RIN: 0691–AA36

DEPARTMENT OF COMMERCE (DOC)
Bureau of Economic Analysis (BEA)

Completed Actions

566. DIRECT INVESTMENT SURVEYS: RAISING EXEMPTION LEVEL FOR TWO SURVEYS OF FOREIGN DIRECT INVESTMENT IN THE UNITED STATES

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 806

Completed:

Reason	Date	FR Cite
Final Action	04/07/98	63 FR 16890
Final Action Effective	05/07/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: R. David Belli
Phone: 202 606-9800
Fax: 202 606-5318

RIN: 0691–AA31

DEPARTMENT OF COMMERCE (DOC)
Bureau of the Census (CENSUS)

Proposed Rule Stage

567. CHANGES TO THE FOREIGN TRADE STATISTICAL REGULATIONS TO INCLUDE PROVISIONS AND REQUIREMENTS FOR THE ELECTRONIC REPORTING OF EXPORT DATA VIA THE AUTOMATED EXPORT SYSTEM (AES)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 13 USC 301 to 307

CFR Citation: 15 CFR 30.60

Legal Deadline: None

Abstract: The Census Bureau is amending the Foreign Trade Statistics Regulations (FTSR) to incorporate provisions and requirements for the electronic reporting of export data via the Automated Export System (AES) and to conform changes and requirements with U.S. Customs Service regulations implementing and supporting operation of the AES. The AES will provide the trade community with a single automated system through which they can provide the export information required by the U.S. Government.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Frank Korpusik, Regulations Staff, Foreign Trade Division, Department of Commerce, Bureau of the Census, FB-3, Room 3148, Washington, DC 20233
Phone: 301 457-2238
Fax: 301 457-3765

RIN: 0607–AA19

568. CHANGES TO THE FOREIGN TRADE STATISTICAL REGULATIONS (FTSR) TO CLARIFY THE DEFINITION OF EXPORTER

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301 to 307

CFR Citation: 15 CFR 30.4; 15 CFR 30.7

Legal Deadline: None

Abstract: The Census Bureau proposes to amend the FTSR definition of exporter for purposes of clarifying responsibility to report trade information. The FTSR also will be amended to reinforce the requirement for filing a power of attorney when an agent acts for an exporter specifying the essential provisions to be included with additional requirements if the exporter does not have a permanent U.S. residence.

Timetable:

Action	Date	FR Cite
NPRM	08/06/98	63 FR 41979
NPRM Comment Period End	10/05/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank Korpusik, Regulations Staff, Foreign Trade Division, Department of Commerce,

DOC—CENSUS

Proposed Rule Stage

Bureau of the Census, FB3, Room 3148, Washington, DC 20233
Phone: 301 457-2238
Fax: 301 457-3765

RIN: 0607–AA20

569. SPECIAL SERVICES AND STUDIES BY THE BUREAU OF THE CENSUS; GENERAL

Priority: Info./Admin./Other

Legal Authority: 15 USC 1526; 13 USC 8

CFR Citation: 15 CFR 50.1(d)

Legal Deadline: None

Abstract: Chapter 1, part 50.1(d) should be amended to read as follows: If a search is unsuccessful and additional information for a further search is requested by the Bureau, such information must be received within 90 days of the request or the case will be considered closed. Additional information received after 90 days must be accompanied by a new fee and will be considered a new request.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	06/00/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley M. Domzalski, Assistant Chief (Services), National Processing Center, Department of Commerce, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132
Phone: 812 218-3579
Fax: 812 218-3293

RIN: 0607–AA24

570. FURNISHING PERSONAL CENSUS DATA FROM CENSUS OF POPULATION SCHEDULES; GENERAL REQUIREMENTS

Priority: Info./Admin./Other

Legal Authority: 13 USC 8

CFR Citation: 15 CFR 80.1(c)

Legal Deadline: None

Abstract: Chapter 1, part 80.1(c): Change the address from Pittsburg, Kansas 66762 to Jeffersonville, Indiana 47131.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	06/00/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley M. Domzalski, Assistant Chief (Services), National Processing Center, Department of Commerce, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132
Phone: 812 218-3579
Fax: 812 218-3293

RIN: 0607–AA25

571. FURNISHING PERSONAL CENSUS DATA FROM CENSUS OF POPULATION SCHEDULES: GENERAL REQUIREMENTS

Priority: Info./Admin./Other

Legal Authority: 13 USC 8

CFR Citation: 15 CFR 80.1(g)

Legal Deadline: None

Abstract: Chapter 1, part 80.1(g): The language may be clarified by changing it to read: Census information will not be furnished to another person unless the person to whom the information relates authorizes such release in the space provided on the Form BC-600.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	06/00/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley M. Domzalski, Assistant Chief (Services), National Processing Center, Department of Commerce, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132
Phone: 812 218-3579
Fax: 812 218-3293

RIN: 0607–AA26

572. SPECIAL SERVICES AND STUDIES BY THE BUREAU OF THE CENSUS; FEE STRUCTURE FOR AGE SEARCH AND CITIZENSHIP INFORMATION

Priority: Info./Admin./Other

Legal Authority: 15 USC 1526; 13 USC 8

CFR Citation: 15 CFR 50.5

Legal Deadline: None

Abstract: Chapter 1, part 50.5: the note following the chart of the fee structure can be eliminated since we have not had a fee increase since February 1993.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	06/00/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley M. Domzalski, Assistant Chief (Services), National Processing Center, Department of Commerce, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132
Phone: 812 218-3579
Fax: 812 218-3293

RIN: 0607–AA27

DEPARTMENT OF COMMERCE (DOC)
Bureau of the Census (CENSUS)

Final Rule Stage

573. • REPORTING VALUE ON SHIPPER'S EXPORT DECLARATION FOR INLAND FREIGHT AND INSURANCE CHARGES

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301 and 302

CFR Citation: 15 CFR 30.7(q)

Legal Deadline: None

Abstract: The Bureau of the Census is amending the Foreign Trade Statistics Regulations to clarify the provisions for reporting the value of merchandise on the Shipper's Export Declaration (SED) when the inland and freight and insurance charges are not known. Current provisions define the value to be reported on the SED as the value at the U.S. port of export including inland freight and insurance charges. In situations where inland freight and insurance charges are not known the Census Bureaus will require that the exporter add 3 percent of the value of the commodity to the value to determine the total value to be reported on the SED.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Frank Korpusik, Regulations Staff, Foreign Trade Division, Department of Commerce, Bureau of the Census, FB-3, Room 3148, Washington, DC 20233
Phone: 301 457-2238
Fax: 301 457-3765

RIN: 0607–AA29

574. • REPORTING THE VALUE OF REPAIRS AND REPLACEMENT PARTS ON THE SHIPPER'S EXPORT DECLARATION

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301 and 302

CFR Citation: 15 CFR 30.30(c)

Legal Deadline: None

Abstract: The Bureau of the Census is amending the Foreign Trade Statistics Regulations to clarify provisions for reporting the value of exports that were previously imported for repairs or alterations, and the value of replacement parts. This amendment will clarify provisions for reporting the cost of repairs and/or alterations and reporting the value of replacement parts on the Shipper's Export Declaration.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Frank Korpusik, Regulations Staff, Foreign Trade Division, Department of Commerce, Bureau of the Census, FB-3, Room 3148, Washington, DC 20233
Phone: 301 457-2238
Fax: 301 457-3765

RIN: 0607–AA30

575. • NOTATION OF THE SHIPPER'S EXPORT DECLARATION FILING EXEMPTION STATEMENT ON MANIFEST DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301 and 302

CFR Citation: 15 CFR 30.50

Legal Deadline: None

Abstract: The Bureau of the Census is amending the Foreign Trade Statistics Regulations (FTSR) to clarify provisions for notating the Shipper's Export Declaration (SED) filing exemption statement on the bill of lading, air waybill, or other loading document for carrier use, in all cases, when an SED is not required to be filed. This amendment will require the exporter to reference the specific FTSR section, explaining the exemption criteria, whenever an SED is not required to be filed with the statement "No SED Required, FTSR 30.XX" on the manifest document.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Frank Korpusik, Regulations Staff, Foreign Trade Division, Department of Commerce, Bureau of the Census, FB-3, Room 3148, Washington, DC 20233
Phone: 301 457-2238
Fax: 301 457-3765

RIN: 0607–AA31

DEPARTMENT OF COMMERCE (DOC)
Bureau of the Census (CENSUS)

Completed Actions

576. FOREIGN TRADE STATISTICS REGULATIONS; REPORTING THE VALUE OF FOREIGN MILITARY SALES SHIPMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR subpart A, 30.7

Completed:

Reason	Date	FR Cite
Final Action	08/03/98	63 FR 41186
Final Action Effective	09/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank Korpusik
Phone: 301 457-2238
Fax: 301 457-3765

RIN: 0607–AA22

577. • REVISION TO THE FOREIGN TRADE STATISTICS REGULATIONS; SHIPPER'S EXPORT DECLARATION REQUIREMENT FOR EXPORTS VALUED AT LESS THAN $2500

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301 and 302

CFR Citation: 15 CFR 30.55(h)(1)

Legal Deadline: None

Abstract: To further the Bureau of the Census efforts in harmonizing the Foreign Trade Statistics Regulations (FTSR) with the Bureau of Export Administration Regulations (FAR), this rule amends the FTSR by revising the Shipper's Export Declaration (SED) provisions to expand the country scope of the $2500 exemption for filing an SED with the Bureau of the Census.

DOC—CENSUS

Completed Actions

Timetable:

Action	Date	FR Cite
Final Action	08/27/98	63 FR 45697
Final Action Effective	08/27/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Frank Korpusik, Regulations Staff, Foreign Trade Division, Department of Commerce, Bureau of the Census, FB-3, Room 3148, Washington, DC 20233
Phone: 301 457-2238
Fax: 301 457-3765

RIN: 0607–AA28

DEPARTMENT OF COMMERCE (DOC)
Economic Development Administration (EDA)

Final Rule Stage

578. REGULATIONS TO IMPLEMENT THE ECONOMIC DEVELOPMENT ADMINISTRATION REFORM ACT OF 1998

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3121 et seq

CFR Citation: 13 CFR 300 to 318

Legal Deadline: None

Abstract: EDA will implement the requirements of the Economic Development Administration Reform Act of 1998 establishing criteria and procedures for the award of grants under the legislation, a comprehensive revision of the Public Works and Economic Development Act of 1965.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Sectors Affected: Multiple

Agency Contact: Edward M. Levin, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street and Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-4687
Fax: 202 482-5671
Email: elevin@doc.gov

RIN: 0610–AA56

579. • CIVIL RIGHTS GUIDELINES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2000d et seq; 42 USC 3123; 29 USC 794; 42 USC 6101

CFR Citation: None

Legal Deadline: None

Abstract: The Economic Development Administration is revising its civil rights guidelines. In accordance with Department of Justice regulations (28 CFR 42.404), all agencies with title VI responsibilities (title VI of the Civil Rights Act of 1964, as amended) must have civil rights guidelines. EDA developed its original guidelines in April 1979. Since that time, minor revisions were made and now EDA is updating and streamlining its guidelines to provide current civil rights requirements for its programs.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank J. Monteferrante, Director, Compliance Review Division, Department of Commerce, Economic Development Administration, Room H-7816, Washington, DC 20230
Phone: 202 482-5575

RIN: 0610–AA59

DEPARTMENT OF COMMERCE (DOC)
Economic Development Administration (EDA)

Long-Term Actions

580. TRADE ACT—ADJUSTMENT ASSISTANCE FOR COMMUNITIES

Priority: Substantive, Nonsignificant

CFR Citation: 13 CFR 315

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Edward M. Levin
Phone: 202 482-4687
Fax: 202 482-5671

RIN: 0610–AA57

DEPARTMENT OF COMMERCE (DOC)
Economic Development Administration (EDA)

Completed Actions

581. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE—EXCESS CAPACITY

Priority: Substantive, Nonsignificant

CFR Citation: 13 CFR 316

Completed:

Reason	Date	FR Cite
Withdrawn	10/20/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Edward M. Levin
Phone: 202 482-4687

DOC—EDA

Completed Actions

Fax: 202 482-5671
Email: elevin@doc.gov

RIN: 0610–AA55

582. SIMPLIFICATION AND STREAMLINING OF REGULATIONS OF THE ECONOMIC DEVELOPMENT ADMINISTRATION

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn	10/20/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Edward M. Levin
Phone: 202 482-4687
Fax: 202 482-5671
Email: elevin@doc.gov

RIN: 0610–AA58

DEPARTMENT OF COMMERCE (DOC)
General Administration (ADMIN)

Final Rule Stage

583. UNIFORM ADMINISTRATIVE REQUIREMENT FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFITS AND COMMERCIAL ORGANIZATIONS

Priority: Other Significant

Legal Authority: 5 USC 301

CFR Citation: 15 CFR 14

Legal Deadline: None

Abstract: On November 29, 1993, Office of Management and Budget (OMB) Circular A-110, "Uniform Administrative Requirements for Grants and Agreements, with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" was published in the Federal Register (58 FR 62992). In the published revised circular, OMB specified as "required action" that Federal agencies responsible for awarding and administering grants and other agreements to recipients described therein, shall adopt the language of the Circular unless other provisions are required by Federal Statute or exceptions or deviations are approved by OMB. This interim final rule adopts the provisions of the Circular and its language to the maximum extent feasible with minor language changes made to make the language apply specifically to the DOC and its operating units.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/04/98	63 FR 47155
Interim Final Rule Effective	10/01/98	
Interim Final Rule Comment Period End	11/03/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John J. Phelan III, Director, Office of Executive Assistance Management, Department of Commerce, Office of Administration, 14th Street & Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-4115

RIN: 0605–AA09

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA)

Final Rule Stage

584. ANTIDUMPING DUTIES; COUNTERVAILING DUTIES

Regulatory Plan: This entry is Seq. No. 15 in Part II of this issue of the Federal Register.

RIN: 0625–AA45

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA)

Long-Term Actions

585. PROCEDURES FOR CONDUCTING FIVE-YEAR (SUNSET) REVIEWS OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 351

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/20/98	63 FR 13516
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stacy Ettinger
Phone: 202 482-4618

RIN: 0625–AA51

DOC—ITA

Long-Term Actions

586. EXPORT TRADE CERTIFICATES OF REVIEW (15 CFR 325)

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 325

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Dr. Morton Schnabel
Phone: 202 482-5131
Fax: 202 482-1790

RIN: 0625–AA52

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA)

Completed Actions

587. ANTIDUMPING AND COUNTERVAILING DUTY PROCEEDINGS; ADMINISTRATIVE PROTECTIVE ORDER PROCEDURES AND PROCEDURES FOR IMPOSING SANCTIONS FOR VIOLATION OF A PROTECTIVE ORDER

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 19 CFR 351; 19 CFR 354

Completed:

Reason	Date	FR Cite
Final Action	05/04/98	63 FR 24391
Final Action Effective	06/03/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joan MacKenzie
Phone: 202 482-1310

RIN: 0625–AA43

588. • LIMIT ON DUTY-FREE INSULAR WATCHES IN CALENDAR YEAR 1999

Priority: Substantive, Nonsignificant

Legal Authority: PL 94-241; PL 97-446; PL 103-465

CFR Citation: 15 CFR 303

Legal Deadline: None

Abstract: This action amends the Department's ITA regulations governing duty-exemption allocations and duty-refund entitlements for watch producers in the United States' insular possessions (the Virgin Islands, Guam, and American Samoa) and the Northern Mariana Islands. The amendments would change the value limit for watches eligible for duty-exemption, update the creditable wage ceiling, modify the new entrant invitation language, and establish the total quantity and respective territorial shares of insular watches and watch movements which would be allowed to enter the United States free of duty during calendar year 1999.

Timetable:

Action	Date	FR Cite
NPRM	07/28/98	63 FR 40230
NPRM Comment Period End	08/27/98	
Final Action	09/17/98	63 FR 49666

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Faye Robinson, Program Manager, Department of Commerce, International Trade Administration, Washington, DC 20230
Phone: 202 482-3526

RIN: 0625–AA53

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Final Rule Stage

589. ADMINISTRATION OF STATE LOG EXPORTS BAN

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: Final, Statutory, June 1, 1998.
Title 6 of the Department of the Interior and Related Agencies Appropriations Act of 1998 (PL 105-03)

Abstract: The rule will provide the Department of Commerce's regulations implementing the ban on the export of unprocessed timber originating from non-Federal public lands in 17 western States, pursuant to the Forest Resource Conservation and Shortage Relief Act of 1990, as amended (FRCSRA). This rule defines the actions the Department will take to implement the State log export ban.

Timetable:

Action	Date	FR Cite
ANPRM	06/07/95	60 FR 30030
ANPRM Comment Period End	07/07/95	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Bernard Kritzer, Manager, Short Supply Programs, Chemical/Biological Control, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-0894
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RIN: 0694–AB25

590. LICENSING OF, AND EXPANSION OF NATIONAL SECURITY AND FOREIGN POLICY CONTROLS ON, RECOVERABLE ENCRYPTION SOFTWARE

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC

DOC—BXA

Final Rule Stage

2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This rule will amend the Export Administration Regulations by imposing enhanced national security and foreign policy controls on certain recoverable encryption to supplement the national security controls on those items. This rule will also amend the EAR to exclude recoverable encryption software from the de minimis provisions for exports from abroad of foreign-origin software incorporating U.S.-origin software. In addition, this rule amends the Commerce Control List by adding ECCNs to control recoverable encryption software transferred from the U.S. Munitions List.

The December 13, 1996, and December 30, 1996, rules were inadvertently published with the RIN (regulatory identifier number) 0648-AB09.

Timetable:

Action	Date	FR Cite
Licensing of Key Escrow Encryption Equipment and Software	12/13/96	61 FR 65460
Encryption Items Transferred From the USMC to the CCL	12/30/96	61 FR 68572
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Crowe, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
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RIN: 0694–AB47

591. REVISIONS TO EAR AS A RESULT OF THE ADDITION OF BRAZIL AND UKRAINE TO THE NUCLEAR SUPPLIERS GROUP

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2570 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 24091 et seq; 46 USC 466(c); EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: As a result of Brazil and Ukraine being admitted to the Nuclear Suppliers Group (NSG), this rule adds Brazil and Ukraine to Supplement Number 1 to part 740-, Country Group A, Column A:4 (Nuclear Suppliers) and removes Brazil and Ukraine from the Commerce Country Chart, NP Column 1 (Nuclear Nonproliferation). The subscribing governments have agreed to establish export licensing procedures for the transfer of items identified on the Annex to the "Nuclear-Related Dual-Use Equipment, Materials, and Related Technology List," which is published by the International Atomic Energy Agency and adhered to by the United States and other subscribing governments in the Nuclear Suppliers Group.

This action will lessen the administrative burden on U.S. Exporters by decreasing licensing requirements for exports of items controlled for nuclear nonproliferation reasons to Brazil and Ukraine.

Timetable:

Action	Date	FR Cite
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB50

592. REVISIONS TO COMMERCE CONTROL LIST: ADDITION OF TECHNOLOGY AND SOFTWARE CONTROLS FOR CERTAIN CRIME CONTROL COMMODITIES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2570 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 14 CFR 799

Legal Deadline: None

Abstract: The Bureau of Export Administration is amending the Commerce Control List (CCL) of the Export Administration Regulations (15 CFR parts 730 to 774) to add technology and software controls for certain crime control commodities.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB53

593. REVISIONS TO ANTITERRORISM CONTROLS

Priority: Other Significant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 799

Legal Deadline: None

Abstract: This rule will revise the antiterrorism provisions of the Export Administration Regulations (EAR). The rule will be published in two parts. The first part makes exports or certain reexports to entities named on the Office of Foreign Assets Control's list of Specially Designated Terrorists and Foreign Terrorist Organizations a violation of the EAR, and it is not significant. The second part of the rule, which is significant, prohibits exports of parts or components for the service or repair of civil aircraft owned or controlled by the military of a terrorist-supporting country and expands the list of items controlled for antiterrorism reasons on the Commerce Control List.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/98	

Regulatory Flexibility Analysis Required: No

DOC—BXA

Final Rule Stage

Government Levels Affected: None

Agency Contact: Hillary Hess, Director, Regulatory Policy Division, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
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RIN: 0694–AB63

594. IMPLEMENTATION OF THE CHEMICAL WEAPONS CONVENTION; REVISIONS TO THE EXPORT ADMINISTRATION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: This rule implements the Chemical Weapons Convention (CWC) that affect exports and reexports subject to the jurisdiction of the Commerce Department by amending the Export Administration Regulations. Specifically, this rule modifies an existing License Exception to permit the export of technology to foreign nationals during inspections of chemical facilities in the U.S. pursuant to the CWC and to permit the export or reexport of equipment for use in inspections in countries party to the CWC, adds licensing requirements for certain chemicals listed in the CWC, adds a requirement for an End-Use Certificate for exports of certain chemicals to those countries that are not a party to the CWC, and adds a notification and annual report requirement.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Crowe, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB67

595. • EXPORTS OF FIREARMS, AMMUNITION, EXPLOSIVES, AND OTHER RELATED MATERIALS: IMPLEMENTATION OF FIREARMS CONVENTION

Priority: Other Significant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c)EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) is revising the Export Administration Regulations (EAR) to implement the export control provisions of the Organization of American States (OAS) Model Regulations for the Control of the International Movement of Firearms, their Parts and Components and Ammunition. The OAS Model Regulations were promulgated based upon the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (Firearms Convention). Convention signatories agreed to effectively combat the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials (collectively referred to as "firearms") because of the links such activities have to drug trafficking, terrorism, transnational organized crime, and mercenary and other criminal activities by imposing an export license and import certificate requirement for the import and export of firearms.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Hillary Hess, Director, Regulatory Policy Division, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB68

596. • CLARIFICATION OF REPORTING REQUIREMENTS UNDER THE WASSENAAR ARRANGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq, 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: On January 15, 1998, the Bureau of Export Administration (BXA) published an interim final rule (63 FR 4252) implementing the Wassenaar Arrangement list of dual-use items and reporting requirements under the Wassenaar Arrangement. This rule provides clarification on the reporting requirements under the Wassenaar Arrangement.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB72

597. • INDIA AND PAKISTAN SANCTIONS

Priority: Other Significant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR CFR 730 to 774

Legal Deadline: None

Abstract: On June 18, 1998, the Administration announced additional details of the sanctions imposed on India and Pakistan in response to their recent detonation of nuclear devices. The President had previously

DOC—BXA

Final Rule Stage

determined and reported to Congress, under the authority of section 102 of the Arms Export Control Act, that the Indian and Pakistani activities had violated the Act and sanctions were required.

Under the provisions of the Arms Export Control Act, the Department of Commerce's Bureau of Export Administration (BXA) is revising the Export Administration Regulations (EAR) to expand the license requirements and set forth licensing policy for exports and reexports of most items controlled for nuclear nonproliferation and missile technology to India and Pakistan. Under the provisions of the Export Administration Act (EAA), BXA is revising the EAR to expand the license requirements and set forth licensing policy for exports and reexports of high performance computers to India and Pakistan. In addition, Indian and Pakistani government entities involved in nuclear or missile activities will be added to the Entity List. Additional military and private entities located in India and Pakistan will be added to the Entity List in the near future.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Hillary Hess, Director, Regulatory Policy Division, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
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RIN: 0694–AB73

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598. • REVOCATIONS OF REEXPORT AUTHORIZATIONS ISSUED PRIOR TO JUNE 15, 1996

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: The Bureau of Export Administration is amending the Export Administration Regulations by issuing General Order No. 1 revoking all reexport authorizations issued prior to June 15, 1996 that do not contain any license validity period.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess, Director, Regulatory Policy Division, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB74

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599. • REVISIONS TO THE COMMERCE CONTROL LIST: CHANGES IN MISSILE TECHNOLOGY CONTROLS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) maintains the Commerce Control List (CCL), which identifies those items subject to Department of Commerce export controls. This rule amends the CCL by revising a number of items subject to control for missile technology reasons. These changes to the CCL are the result of the Missile Technology Control Regime (MTCR) Technical Experts Meeting in November 1997. The changes made by this rule are intended to conform the list of missile technology-related items controlled by the United States to the list agreed to and adopted by the countries participating in the MTCR.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Crowe, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB75

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600. • REVISIONS TO THE EXPORT ADMINISTRATION REGULATIONS; COUNTRY GROUPS D:1 AND E:2; LICENSE EXCEPTION TMP

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: The interim final rule amends the Export Administration Regulations (EAR) by revising Country Group E:1 to include all terrorist-supporting countries, and replacing references to Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria with Country Group E:1 where appropriate. This rule also amends the EAR by removing restrictions on Country Group D:1 for General Prohibition Eight - Intransit Shipments and items to be unladen from vessels or aircraft, and License Exception TMP for tools of trade and exhibition and demonstration, clarifies the scope of License Exception TMP for encryption software, and provides a definition for "effective control" of tools of trade exported under License Exception TMP.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB76

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601. • REVISIONS AND CLARIFICATIONS TO THE EXPORT ADMINISTRATION REGULATIONS; COMMERCE CONTROL LIST

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 744

Legal Deadline: None

Abstract: On January 15, 1998, the Bureau of Export Administration (BXA) published an interim final rule (63 FR 2452) that implemented the Wassenaar Arrangement list of dual-use items and reporting requirements under the Wassenaar Arrangement. The interim final rule revised the Commerce Control List by making revisions to implement the Wassenaar Arrangement. This rule amends the Commerce Control List by making revisions and clarifications and, in some cases, inserts material inadvertently omitted from the January 15 interim.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
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RIN: 0694–AB77

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602. • EXPORTS OF HIGH PERFORMANCE COMPUTERS; REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: The Bureau of Export Administration is amending the Export Administration Regulations (EAR) by revising the requirements for exports of high-performance computers. This rule revises post-shipment verification reporting procedures originally implemented as a result of the National Defense Authorization Act (NDAA) for fiscal year 1998 (P.L. 105-85, 111 Stat. 1629).

Timetable:

Action	Date	FR Cite
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess, Director, Regulatory Policy Division, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB78

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603. • EXPORTS AND REEXPORTS OF EXPLOSIVE MATERIALS; REVISION OF FOREIGN POLICY CONTROLS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: This rule amends the Export Administration Regulations by imposing a new licensing requirement on the export and reexport of explosive material (not elsewhere controlled on the Commerce Control List), and products incorporating those materials as described by Export Control Classification Number 1C998 to Iran, Sudan, and Syria for antiterrorism reasons. License applications to Iran and Sudan will be subject to a general policy of denial in accordance with the comprehensive U.S. embargoes to those countries. License applications to Syria will be reviewed on a case-by-case basis, with a policy of denial to military end-uses and end-users.

Timetable:

Action	Date	FR Cite
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
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RIN: 0694–AB79

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Long-Term Actions

604. REVISION OF FOREIGN BOYCOTT PROVISIONS OF EXPORT ADMINISTRATION REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 760

Timetable:

Action	Date	FR Cite
NPRM	09/26/89	54 FR 39415
NPRM Comment Period End	10/26/89	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dexter M. Price
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RIN: 0694–AA11

DOC—BXA

Long-Term Actions

605. TRANSFER OF DUAL-USE ITEMS FROM U.S. MUNITIONS LIST TO THE COMMERCE CONTROL LIST

Priority: Other Significant

CFR Citation: 15 CFR 799.1

Timetable:

Action	Date	FR Cite
Transfer of Communications Satellites	10/23/92	57 FR 48312
Navigation and Avionics	06/23/93	58 FR 34211
Final Rule: Transfer of Commercial Communication Satellites	09/08/93	58 FR 47322
Transfer of Items From the USMI to the CCL; Imposition of Certain Foreign Policy Controls	10/26/93	58 FR 57549
Satellite Fuel	09/29/97	62 FR 50865
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James A. Lewis
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RIN: 0694–AA52

606. IMPLEMENTATION OF CHEMICAL WEAPONS CONVENTION

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
ANPRM	12/23/94	59 FR 66291
ANPRM Comment Period End	01/23/95	
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Crowe
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB06

607. TRANSFER OF CERTAIN REMOTE SENSING SATELLITES FROM THE U.S. MUNITIONS LIST TO THE CCL

Priority: Other Significant

CFR Citation: 15 CFR 700 to 799

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/21/96	61 FR 54540
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James A. Lewis
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RIN: 0694–AB09

608. CLARIFICATION OF ENHANCED PROLIFERATION CONTROL INITIATIVE (EPCI) "CATCH-ALL" PROVISION AND VALIDATED LICENSE REQUIREMENTS

Priority: Other Significant

CFR Citation: 15 CFR 700 to 799

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB10

609. LIBYA: EXPANSION OF FOREIGN POLICY CONTROLS

Priority: Other Significant

CFR Citation: 15 CFR 700 to 799

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-2440
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RIN: 0694–AB28

610. CHANGE THE COMMERCE CONTROL LIST TO REVISE CONTROLS ON COMMUNICATION INTERCEPTING DEVICES (EXPORT COMMERCE CONTROL NUMBER ECCN 5A980)

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 700 to 799

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB49

612. EXPORTS OF TECHNOLOGY AND SOFTWARE; RELEASE OF TECHNOLOGY OR SOURCE CODE TO FOREIGN NATIONALS IN THE UNITED STATES

Priority: Other Significant

CFR Citation: 15 CFR 730 to 799

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB59

613. REVISIONS TO THE EXPORT ADMINISTRATION REGULATIONS; ADDITIONS TO THE ENTITY LIST

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 744

Timetable:

Action	Date	FR Cite
Addition to Entity List	05/16/97	62 FR 26922
Addition to Entity List	06/30/97	62 FR 35334
Addition to Entity List	06/30/97	62 FR 35335
Revision to Entity List	10/01/97	62 FR 51369
Addition to Entity List Russian Entities	07/29/98	63 FR 40363
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB60

614. DE MINIMIS EXCLUSION FOR TECHNOLOGY AND SOFTWARE

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 730 to 799

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Crowe
Phone: 202 482-2440
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RIN: 0694–AB62

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Completed Actions

615. DEFENSE PRIORITIES AND ALLOCATIONS SYSTEM (DPAS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 15 CFR 700

Completed:

Reason	Date	FR Cite
Final Action	05/11/98	63 FR 31918
Final Action Effective	07/13/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0694–AA02

616. REVISION TO ECCN 1C350 (MIXTURES): REMOVAL OF SOLVENT FREE BASIS CALCULATION REQUIREMENT AND TRACE QUANTITY EXEMPTION

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 730 to 774

Completed:

Reason	Date	FR Cite
Final Action	03/24/98	63 FR 14028

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB66

617. • EXPORTS TO FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO); IMPOSITION OF FOREIGN POLICY CONTROLS

Priority: Other Significant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: Reacting to the use of excessive force by Serbian police forces against civilians in Kosovo, as well as acts of violence by the Kosovan Albanian extremists, and fulfilling United States obligations to implement an international arms embargo mandated by the United Nations Security Council, the United States has banned the sale and supply of arms and related material of all types to the Federal Republic of Yugoslavia (Serbia and Montenegro). To supplement the State Department controls on items on the U.S. Munitions List, the Bureau of Export Administration is designating certain items on the Commercial Control List that are subject to the arms embargo and establishing a policy of denial to the Federal Republic of Yugoslavia (Serbia and Montenegro) on such items. No embargoed items may be exported to the Federal Republic of Yugoslavia (Serbia and Montenegro) under any License Exception, including shipments of limited value (LVS).

Timetable:

Action	Date	FR Cite
Final Action	07/14/98	63 FR 37767

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB69

618. • REVISIONS TO THE EAR CONFIRMING REVISION TO THE WASSENAAR ARRANGEMENT LIST DUAL-USE ITEMS AND ANTITERRORISM CONTROLS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(c); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: On January 15, 1998, the Bureau of Export Administration published an interim final rule (63 FR 2452) implementing the Wassenaar Arrangement List of Dual-Use Items. Implementation of the Wassenaar List resulted in a number of changes to the Commerce Control List (CCL). The major changes involved the removal of national security controls on certain items, while maintaining controls on these items for antiterrorism reasons.

DOC—BXA — Completed Actions

Consistent with this revision, various antiterrorism Export Control Classification Numbers (ECCNs) were enlarged to accommodate the items removed from national security controls. An easy-to-follow pattern was developed to track the movement of these items. Items formerly classified as XX001 now default to an XX991 entry. In addition, the January 15 rule moved items from one ECCN into another or merged two or more ECCNs together. This was done to simplify the CCL and place together items that fall within the same general category. For example, ECCN 9A992 (off-highway tractors) was merged with ECCN 9A993 (on-highway tractors) to form part of a new ECCN 9A990 that also includes diesel engines.

This rule amends the Export Administration Regulations (EAR) by making the necessary comforming revision throughout the text of the EAR, consistent with the January 15 revisions to the CCL.

Timetable:

Action	Date	FR Cite
Final Action	08/07/98	63 FR 42225

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB70

619. • SHIPPER'S EXPORT DECLARATION REQUIREMENTS FOR EXPORTS VALUED LESS THAN $2500

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: To further the Bureau of Export Administration's efforts in harmonizing the Export Administration Regulations (EAR) with the Bureau of the Census Foreign Trade Statistics Regulations, this final rule amends the EAR by revising the Shipper's Export Declaration (SED) provisions to expand the country scope of the $2500 exemption for filing an SED with the Bureau of the Census. This final rule also clarifies that the Harmonized Tariff Schedule number may be used in lieu of the Schedule B number on the SED.

Timetable:

Action	Date	FR Cite
Final Action	08/27/98	63 FR 45698
Final Action Effective	08/27/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Crowe, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB71

DEPARTMENT OF COMMERCE (DOC)
National Institute of Standards & Technology (NIST) — Proposed Rule Stage

620. • AMENDMENTS TO ADVANCED TECHNOLOGY PROGRAM REGULATIONS

Priority: Other Significant

Legal Authority: 15 USC 278r

CFR Citation: 15 CFR 295

Legal Deadline: None

Abstract: The National Institute of Standards and Technology is amending the regulations which implement the Advanced Technology Program (ATP), found at part 295 of title 15 of the Code of Federal Regulations. Changes include modification of the ATP evaluation criteria and weights for project selection and clarifications to other sections of the rule. These changes strengthen the fundamental mission of the ATP: for Government to work in partnership with industry to foster the development and broad dissemination of challenging, high-risk technologies that offer the potential for significant, broad-based economic benefits for the nation.

Timetable:

Action	Date	FR Cite
NPRM	09/25/98	63 FR 51307
NPRM Comment Period End	10/26/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Barbara Lambis, Department of Commerce, National Institute of Standards & Technology, Room A333, Administration Building, Gaithersburg, MD 20899-0001
Phone: 301 975-4447

RIN: 0693–AB48

DEPARTMENT OF COMMERCE (DOC)
National Institute of Standards & Technology (NIST) — Final Rule Stage

621. • IMPLEMENTATION OF THE FASTENER QUALITY ACT

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-113; PL 101-592, sec 13; PL 105-234

CFR Citation: 15 CFR 280

Legal Deadline: None

Abstract: The Fastener Quality Act (P.L. 101-592, as amended by P.L. 104-113 and P.L. 105-234) requires that certain fasteners sold in commerce conform to the standards and specifications to which they are represented to be manufactured and have been inspected, tested, and certified. The final rule implementing the Fastener Quality Act (FQA) became effective on November 25, 1996, and was to apply to fasteners manufactured on or after May 27, 1997, the "implementation date." On April 18, 1997, NIST announced a one-year extension of the implementation date, because there was an insufficient number of laboratories accredited to perform the volume of inspection and testing required by the FQA and regulations. During the one-year extension, NIST published for public comment proposed amendments to the rule implementing the FQA. On April 14, 1998, based on the public comments received, NIST published amendments to the 1996 final rule, effective May 14, 1998, with an implementation date of July 26, 1998. On June 30, 1998, NIST again determined that there would not be a sufficient number of laboratories accredited to perform the volume of inspection and testing required by the FQA, and extended the implementation date of the FQA until October 25, 1998. On August 24, 1998, P.L. 105-234 amended the FQA to exempt certain aircraft fasteners. The law also requires the Department of Commerce to submit a study on the FQA to Congress. P.L. 105-234 also delayed implementation of the FQA until the later of June 1, 1999, or 120 days after the Secretary of Commerce submits the required report.

Timetable:

Action	Date	FR Cite
Final Rule	06/30/98	63 FR 35507
Study	02/00/99	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Subhan G. Malghan, FQA Manager, Technology Services, Department of Commerce, National Institute of Standards & Technology, Building 820,Room 306, Gaithersburg, MD 20894
Phone: 301 995-5120

RIN: 0693–AB47

DEPARTMENT OF COMMERCE (DOC)
National Institute of Standards & Technology (NIST) — Long-Term Actions

622. NATIONAL TYPE EVALUATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tina Butcher
Phone: 301 975-2196

RIN: 0693–AB45

623. NIST TRACEABLE REFERENCE MATERIALS PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas E. Gills
Phone: 301 975-2016

RIN: 0693–AB46

DEPARTMENT OF COMMERCE (DOC)
National Oceanic and Atmospheric Administration (NOAA) — Prerule Stage

NATIONAL MARINE FISHERIES SERVICE

624. • PACIFIC COAST GROUNDFISH FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: None

Abstract: The Pacific Fishery Management Council (Council) plans to deliberate on Pacific coast groundfish allocation between limited entry gear groups, on allocation between recreational and commercial fisheries, and on further limiting access to certain species of the limited entry groundfish fishery. In order to provide broad advanced notice of the proposals, and at the same time to discourage fishers from intensifying their fishing efforts for the purpose of amassing catch history, the Council announced on April 9, 1998 that its deliberations on future groundfish allocation may not consider catch landed after that date. If an allocation or additional limited access program is established, the Council is planning to primarily consider catch history through the 1997 fishing season.

Timetable:

Action	Date	FR Cite
ANPRM	10/06/98	63 FR 53636
ANPRM Comment Period End	11/05/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AL87

DEPARTMENT OF COMMERCE (DOC)
National Oceanic and Atmospheric Administration (NOAA)

Proposed Rule Stage

NATIONAL MARINE FISHERIES SERVICE

625. FISHERY MANAGEMENT PLAN FOR TILEFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: NPRM, Statutory.
Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This FMP would manage tilefish (Lopholatilus chamaeleonticeps) in the EEZ along the Atlantic Coast north of the Virginia/North Carolina border to rebuild the stock.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	
NPRM Comment Period End	09/00/99	
Final Action	10/00/99	
Final Action Effective	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9300
Fax: 978 281-9135

RIN: 0648–AF87

626. AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC BILLFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 644

Legal Deadline: Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This plan amendment will implement new requirements of the Sustainable Fisheries Act including stock rebuilding, designation of essential fish habitat, and measures to comply with new national standards.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-7334

RIN: 0648–AF88

627. REGULATORY AMENDMENT FOR MANAGING PELAGIC FISHERIES BY U.S. VESSELS BEYOND EEZ THROUGHOUT PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment would extend permit, reporting, and observer placement requirements on longline vessels of the U.S. that are fishing stocks in the management unit for the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region beyond the exclusive economic zone in the Pacific Ocean. The rule is necessary for comprehensive monitoring of all vessels fishing common stocks and possibly affecting the status of the shared stocks, other fishery interests, or protected resources so that the need for conservation and management measures can be determined.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	
Final Action	09/00/99	
Final Action Effective	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Regional Administrator,. Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90804-4213
Phone: 562 980-4001

RIN: 0648–AG85

628. AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory.
Final regulations to be published within 30 days of the end of the comment period.

Abstract: Amendment 3 would restrict the use of gillnets, fish traps, and other gear in the exclusive economic zone of the Caribbean.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	02/00/99	
Final Action	03/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AG87

629. AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR CORALS AND REEF-ASSOCIATED PLANTS AND INVERTEBRATES FOR PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory.
Final regulations to be published within 30 days of the end of the NPRM comment period.

DOC—NOAA

Proposed Rule Stage

Abstract: Amendment 1 would establish marine conservation districts to conserve representative reef areas and fishery habitat in the exclusive economic zone of the Caribbean.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	02/00/99	
Final Action	03/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AG88

630. IMPLEMENT REGULATIONS UNDER ACFCMA TO PROVIDE FOR COORDINATED MANAGEMENT OF THE AMERICAN LOBSTER RESOURCE THROUGHOUT ITS RANGE, END OVERFISHING, AND REBUILD THE AMERICAN LOBSTER STOCK

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1851 et seq

CFR Citation: 50 CFR 697

Legal Deadline: Final, Statutory.

Abstract: Action proposes measures in Federal waters to complement regulations in Amendment 3 to the Interstate Fishery management Plan for American lobster under the authority of the Atlantic Coastal Fisheries Cooperative Management Act. Action proposes to transfer existing measures currently identified in the American Lobster Fishery Management Plan developed by the New England Fishery Management Council under the authority of the Magnuson-Stevens Act. In addition, this action proposes to address the Sustainable Fisheries Act requirements to end overfishing of American lobster by all methods of harvest in the EEZ.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: The measures previously contained in Amendment 7 are contained in this action. Amendment 7 to the Fishery Management Plan for American Lobster will contain measures for the vessel permit consistency amendment (0648-AL36).

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AH41

631. AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC BLUEFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This amendment would revise the management of the fishery and include measures which will be specified annually for commercial quotas and recreational possession limits for Atlantic Bluefish in the U.S. EEZ.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AH63

632. REGULATORY AMENDMENT TO ADJUST THE ANNUAL TOTAL ALLOWABLE CATCH FOR ROYAL RED SHRIMP IN THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment, prepared under the framework rulemaking procedure of the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP), would amend the regulations implementing the FMP to temporarily increase the total allowable catch (TAC) for royal red shrimp by 30 percent each year for two years, thereby increasing TAC from 392,000 pounds to 509,600 pounds.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	
NPRM Comment Period End	03/00/99	
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AI39

633. REGULATORY AMENDMENT TO REQUIRE ELECTRONIC SUBMISSION BY ALASKA GROUNDFISH PROCESSORS OF WEEKLY PRODUCTION REPORTS AND CHECK IN/OUT REPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

DOC—NOAA

Proposed Rule Stage

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: Regulatory amendment to require electronic submission of catch and processing location reports by processors participating in the Alaska groundfish fisheries. The need for this action is to obtain more timely data on inseason fishing activities at less burden and cost to the industry and NMFS.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
NPRM Comment Period End	10/00/99	
Final Action	12/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AI66

634. AMENDMENT TO THE OBSERVER PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendments to FMP Amendment 47 to the Groundfish of the BSAI and FMP Amendment 47 to the Gulf of Alaska Groundfish to implement an observer program, replacing the interim Observer Program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	
Final Action	03/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AI69

635. FISHERY MANAGEMENT PLAN FOR THE ATLANTIC HERRING FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This fishery management plan would supersede the preliminary management plan and regulate fishing activity in the EEZ.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AI78

636. FISHERY DATA REPORTING FOR WESTERN PACIFIC PELAGIC FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action will ensure collection and availability of data on catch, effort, and economic values needed to develop, implement, evaluate, and modify pelagic fisheries management measures under the Magnuson-Stevens Fishery Conservation and Management Act. The regulations will require fishery participants to report to NMFS if existing State data systems are not providing data when, where, and in the format needed for management decisions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	07/00/99	
Final Action	08/00/99	
Final Action Effective	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802
Phone: 562 980-4001

RIN: 0648–AJ08

637. REGULATORY AMENDMENT TO EXTEND CALIFORNIA GILLNET REGULATIONS TO THE EEZ

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Potential extension to Federal waters of California regulations closing certain areas to use of set (gill) nets.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	
Final Action	01/00/99	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

DOC—NOAA

Proposed Rule Stage

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN, C15700 Bldg. 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AJ21

638. CONSOLIDATION OF THE RULES FOR SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC AND STONE CRAB FISHERY OF THE GULF OF MEXICO

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: NMFS had proposed to withdraw the Fishery Management Plans for Spiny Lobster and Stone Crab (FMPs). The regulations implementing these FMPs were not included in the consolidated regulations for Fisheries of the Caribbean, Gulf, and South Atlantic at 50 CFR part 622. Recently, NMFS withdrew the proposed rules that would have withdrawn the FMPs. This final rule will incorporate the rules implementing these FMPs in the consolidated regulations without substantive change.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive, N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301
Fax: 727 570-5300

RIN: 0648–AJ28

639. AMENDMENT 7 TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC SEA SCALLOP FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would amend the Atlantic Sea Scallop Fishery Management Plan to comply with the Sustainable Fisheries Act overfishing definition requirements. This amendment will also include financial mechanisms to allow the possibility of a days-at-sea leasing program in the future and for closed area management.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Duplicate RIN for the same action - RIN 0648-AI36 is being processed under this RIN (RIN 0648-AJ33).

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AJ33

640. IMPLEMENTATION OF A FISHERY MANAGEMENT PLAN FOR MONKFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Action to implement management measures for monkfish in the EEZ.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AJ44

641. BSA/GOA/KTC/SCALLOP/SALMON FMP AMENDMENTS 56/56/7/6/6 OVERFISHING DEFINITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Repeal/replace bycatch, recreational, charter and commercial fishing, discards, fishing communities, IFQ, optimum yield, and vessel definitions in FMP regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	
Final Action	01/00/99	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AJ50

DOC—NOAA

Proposed Rule Stage

642. REGULATORY AMENDMENT TO ESTABLISH A PROGRAM FOR THE COLLECTION AND USE OF FEES IN THE INDIVIDUAL FISHING QUOTA PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment would establish a program for the collection and use, including the procedures, of fees in the Individual Fishing Quota (IFQ) Program. The collection of fees would recover the costs of managing and enforcing IFQ program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	01/00/99	
Final Action	03/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AJ52

643. IMPLEMENTATION OF PACIFIC INSULAR AREA FISHING AGREEMENT PROVISIONS OF THE MAGNUSON-STEVENS ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory.

Abstract: This rule would implement provisions of the Sustainable Fisheries Act that authorizes the Secretary of State to negotiate Pacific Insular Areas Fishing Agreements (PIAFAs) under which foreign vessels could have access to portions of the U.S. exclusive economic zone around insular "States" such as Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, or around U.S. Possessions in the Pacific. Fees paid to the U.S. for such access would revert to the government of the insular area around which the fishing occurred. PIAFAs could only be entered into with the agreement of the Governor of the relevant insular area. Conservation plans, which must be prepared in consultation with the Western Pacific Fishery Management Council and must be consistent with relevant fishery management plans, would specify such things as allowable levels of fishing and activities for which funds collected would be spent. Foreign fishing permits would specify conditions and restrictions governing foreign vessel activities. The rule would revise the foreign fishing regulations at 50 CFR part 600 to allow fishing under a PIAFA and might also establish terms and conditions common to fishing under PIAFAs.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
NPRM Comment Period End	05/00/99	
Final Action	06/00/99	
Final Action Effective	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AJ60

644. ATLANTIC TUNA FISHERIES; REGULATORY ADJUSTMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 285

Legal Deadline: None

Abstract: This action will implement the ICCAT recommendation to reduce dead discards of Atlantic Bluefin Tuna.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	01/00/99	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AJ66

645. FISHERY MANAGEMENT PLAN FOR ATLANTIC HIGHLY MIGRATORY SPECIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 630

Legal Deadline: None

Abstract: This action will implement a new Fishery Management Plan for Atlantic Tuna, sharks, and swordfish and will incorporate new standards and requirements of the Magnuson-Stevens Fishery Conservation and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AJ67

DOC—NOAA

Proposed Rule Stage

646. ATLANTIC HIGHLY MIGRATORY SPECIES; MEASURES TO MANAGE THE DRIFT GILLNET SECTION OF THE ATLANTIC SWORDFISH FISHERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 630

Legal Deadline: None

Abstract: Regulations to implement the Atlantic Offshore Cetaceans Take Reduction Plan and other alternatives will be considered for management of the drift gillnet sector of the Atlantic swordfish fishery.

Timetable:

Action	Date	FR Cite
NPRM	10/20/98	63 FR 55998
NPRM Comment Period End	12/14/98	
Final Action	01/00/99	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AJ68

647. PROPOSED RULE TO IMPLEMENT PROCEDURES FOR ISSUANCE OF PERMITS UNDER SECTION 204(D) OF THE MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1824

CFR Citation: 50 CFR 600F

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: The Sustainable Fisheries Act amended the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) to, among other things, provide for the issuance of transshipment permits under the newly established section 204(d) of the MSFCMA. This action will specify procedures to be used to issue permits.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AJ70

648. FISHERIES OBLIGATION GUARANTEE PROGRAM—STATUTORY AMENDMENTS TO ESTABLISH "CENTRAL TITLE AND LIEN REGISTRY FOR LIMITED ACCESS PERMITS"

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 1271 to 1279

CFR Citation: 50 CFR 253; 50 CFR 600

Legal Deadline: None

Abstract: Advance Notice of Proposed Rulemaking and Request for Comments regarding establishment of a central title and lien registry as required by the Magnuson-Stevens Fishery Conservation and Management Act.

Timetable:

Action	Date	FR Cite
ANPRM	05/07/97	62 FR 24897
ANPRM Comment Period End	08/05/97	
NPRM	03/00/99	
NPRM Comment Period End	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles L. Cooper, Program Leader, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2396
Fax: 301 589-2686

RIN: 0648–AJ77

649. REGULATORY AMENDMENT TO CHANGE MEMBERSHIP REQUIREMENTS FOR THE REGIONAL FISHERY MANAGEMENT COUNCILS

Priority: Info./Admin./Other

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: None

Abstract: Regulations governing the operation and membership of the Regional Fishery Management Councils will be revised based on provisions in the Sustainable Fisheries Conservation and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AJ82

650. PROPOSED RULE ON TAKING MARINE MAMMALS INCIDENTAL TO POWER PLANT OPERATIONS AT SEABROOK, NEW HAMPSHIRE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: NMFS has received an application under the Marine Mammal Protection Act for the taking of seals incidental to power plant operations from North Atlantic Energy Corporation over the next five year period. In order to authorize the taking, NMFS must determine that the mortality of several species of seals will not be more than negligible.

Timetable:

Action	Date	FR Cite
ANPRM	07/24/97	62 FR 39799
ANPRM Comment Period End	08/25/97	
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

DOC—NOAA

Proposed Rule Stage

Government Levels Affected: None

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2055
Fax: 301 713-0376

RIN: 0648–AK00

651. AMENDMENT 9 TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 9 would address overfishing in the snapper grouper fishery management unit. Proposed management actions include: (1) Increase the red porgy minimum size limit from 12 inches total length (TL) to 14 inches TL for both recreational and commercial fishermen, establish a recreational bag limit of 5 red porgy per person per day, prohibit harvest and possession in excess of the bag limit during March and April, and prohibit purchase and sale during March and April; (2) increase the black sea bass minimum size limit from 8 inches TL to 10 inches TL for both recreational and commercial fishermen, and establish a recreational bag limit of 20 black sea bass per person per day; (3) require escape vents and escape panels with degradable fasteners in black bass pots; (4) establish measures for greater amberjack that will: reduce the recreational bag limit from 3 to 1 greater amberjack per person per day, prohibit harvest and possession in excess of the bag limit during April throughout the EEZ, establish a 1,000 pound daily commercial trip limit, establish a quota at 63% of 1995 landings (quota=1,169,931 pounds), begin the fishing year on May 1, prohibit sale of fish harvested under the bag limit when the season is closed, and prohibit coring; (5) increase the recreational vermillion snapper minimum size limit from 10 inches to 11 inches TL; (6) increase the gag grouper minimum size limit from 20 inches TL to 24 inches TL for both recreational and commercial fishermen, prohibit harvest and possession in excess of the bag limit during March and April, and prohibit purchase and sale during March and April; (7) increase the black grouper minimum size limit from 20 inches to 24 inches TL for both recreational and commercial fishermen, prohibit harvest and possession in excess of the bag limit during March and April, and prohibit purchase and sale during March and April; (8) specify that within the 5-fish aggregate grouper bag limit (which currently includes tilefish and excludes jewfish and Nassau grouper), no more than 2 fish may be gag or black grouper (individually or in combination); (9) establish an aggregate recreational bag limit of 20 fish per person per day inclusive of all snapper grouper species currently not under a bag limit, excluding tomtate and blue runners (there would be no bag limit on tomtate and blue runners); and (10) specify that vessels with longline gear aboard may only possess snowy grouper, warsaw grouper, yellowedge grouper, misty grouper, golden tilefish, blueline tilefish, and sand tilefish.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive, N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AK05

652. RULEMAKING TO ESTABLISH THE NORTH PACIFIC LOAN PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory. Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This rulemaking would establish a North Pacific Loan Program which would provide financing for loans to fishermen who fish from small vessels or entry level fishermen fishing IFQ fisheries.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	12/00/98	
Final Action	02/00/99	
Final Action Effective	03/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AK07

653. REGULATORY AMENDMENT TO IMPLEMENT ROLLING CLOSURES DURING THE SABLEFISH FISHERY IN THE GULF OF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory. Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Implement Rolling closures during the Sablefish fishery in the Gulf of Alaska.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	12/00/98	
Final Action	02/00/99	
Final Action Effective	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AK10

DOC—NOAA

Proposed Rule Stage

654. ADJUSTMENT OF MANAGEMENT PROGRAM FOR PELAGIC SPECIES FISHERIES IN THE WESTERN PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory action would modify the management program for the fisheries for swordfish, tuna, and associated species in the western Pacific region. Possible changes include measures to prevent or mitigate the take of seabirds or turtles in the longline fishery and to address bycatch of sharks.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	
Final Action	08/00/99	
Final Action Effective	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AK11

655. FMP AMENDMENTS FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS AND FOR THE GROUNDFISH OF THE GULF OF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory. Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Inshore/Offshore allocation of pollock and Pacific cod and reauthorization of pollock CDQ program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AK12

656. REGULATORY AMENDMENT TO SPECIFY MINIMAL VESSEL OWNERSHIP REQUIREMENTS FOR THE HIRED SKIPPER PROVISION IN THE IFQ FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final requirements to be published within 30 days of end of NPRM comment period.

Abstract: Specify minimal vessel ownership requirements for the hired skipper provision in the IFQ fisheries.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AK20

657. IMPLEMENTATION OF AMENDMENT 5 TO THE FISHING MANAGEMENT PLAN FOR THE BOTTOMFISH AND SEAMOUNT GROUNDFISH FISHERIES OF THE WESTERN PACIFIC REGION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would establish a permanent limited access program for the Mau Zone bottomfish in the northwestern Hawaiian Island. The intent of the rule is to improve the low economic returns in the fishery, prevent excessive harvest capacity, and address other conservation and economic concerns.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	12/00/98	
Final Action	01/00/99	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802
Phone: 562 980-4001

RIN: 0648–AK21

658. ADJUSTMENT OF THE MANAGEMENT PROGRAM FOR PRECIOUS CORALS FISHERIES IN THE WESTERN PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory.

DOC—NOAA

Proposed Rule Stage

Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulation would modify the management program for the fisheries for precious corals in the western Pacific region. In response to new information on changes that may occur in the fishery, possible changes to the management program include the establishment of or adjustments to fishing seasons, permit requirements, quotas, closures, area limitations, gear and coral size restrictions, etc.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	
Final Action	08/00/99	
Final Action Effective	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802
Phone: 562 980-4001

RIN: 0648–AK23

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659. AMENDMENT 16A TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 16A would: (1) prohibit the use of fish traps south of 25 degree north latitude (near Cape Sable, FL) on February 7, 2001; (2) prohibit the possession of reef fish exhibiting the condition of trap rash on board a reef fish vessel that is fishing spiny lobster or stone crab traps without a valid fish trap endorsement; (3) specify that NMFS establish a system design, implementation schedule, and protocol for a vessel monitoring system for the fish trap fishery. The system design, including costs and implementation schedule, would have to be approved by the Council prior to implementation through additional proposed and final rules; (4) provide a 1-month fish trap inspection/compliance/education period; and (5) require fish trap vessels to submit trip initiation and trip termination reports.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive, North, St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AK31

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660. REGULATORY AMENDMENT FOR A BYCATCH REDUCTION DEVICE (BRD) TESTING AND CERTIFICATION PROTOCOL UNDER AMENDMENT 9 TO THE FMP FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 9: Requires the use of BRDs certified by the National Marine Fisheries Service (NMFS) in most shrimp trawls used in the exclusive economic zone of the Gulf of Mexico shoreward of the 100-fathom depth contour west of Cape San Blas, Florida; sets the bycatch reduction criterion for the certification of BRDs (BRDs must reduce the bycatch mortality of juvenile red snapper by at least 44 percent from a prescribed baseline level); and establishes an FMP framework procedure for modifying the bycatch reduction criterion, for establishing and modifying the BRD testing protocol and its specifications, and for certifying and decertifying BRDs. Amendment 9 is intended to significantly reduce the shrimp fishery bycatch of red snapper (and other finfish) to allow rebuilding of this valuable, overfished species. The subject action would amend the final rule to implement Amendment 9 to establish, consistent with the FMP's framework procedure, a BRD testing and certification protocol to be used by NMFS for certifying new or modified BRDs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive No., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AK32

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661. OPTIONS FOR 1997 RULEMAKING FOR BANNING THE SALE OF UNDERSIZED ATLANTIC SWORDFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq

CFR Citation: 50 CFR 630

Legal Deadline: None

Abstract: A recommendation was adopted by ICCAT member nations that would reduce fishing mortality on swordfish in the entire Atlantic Ocean. The ICCAT alternate minimum size recommendation called for a ban on the sale of fish less than the minimum size. By implementing the minimum size on U.S. vessels operating in the Atlantic, the ban on sale has been effectively applied to U.S. production of Atlantic swordfish. However, the United States is a major market for imported swordfish and there is evidence that Atlantic swordfish less than the minimum size are entering U.S. markets. NMFS solicits comments on the possible implementation strategy of this ban on sale of swordfish less than the minimum size.

Timetable:

Action	Date	FR Cite
ANPRM	09/09/97	62 FR 47416
ANPRM Comment Period End	10/06/97	
NPRM	10/13/98	63 FR 59661
NPRM Comment Period End	12/07/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AK39

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662. AMENDMENT 6 TO THE FISHERY MANAGEMENT PLAN FOR THE STONE CRAB FISHERY OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: The purpose of Amendment 6 is to continue the FMP's temporary moratorium on registration of stone crab vessels by the Regional Administrator. Such moratorium shall be for 4 years duration. This action is needed to provide additional time for the industry and the State of Florida to develop and implement a limited access system for the fishery.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	12/00/98	

DOC—NOAA

Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Dr. N., St. Petersburg, FL 83702-2432
Phone: 727 570-5301

RIN: 0648–AK48

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663. LIST OF GEAR AND FISHERIES UNDER JURISDICTION OF EACH FISHERY MANAGEMENT COUNCIL OR THE SECRETARY OF COMMERCE FOR HIGHLY MIGRATORY SPECIES

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600; 50 CFR 622; 50 CFR 630; 50 CFR 644; 50 CFR 648; 50 CFR 649; 50 CFR 654; 50 CFR 660; 50 CFR 678; 50 CFR 679

Legal Deadline: None

Abstract: As required by section 305 of the Magnuson-Stevens Act, NMFS will issue a list of fisheries and fishing gear used in those fisheries under the authority of each Regional Fishery Management Council, and the Secretary of Commerce, in the case of Atlantic highly migratory species. This rule will also contain guidelines for determining when a fishery or gear is sufficiently different from those in the list so that fishermen or individuals would have to notify the appropriate authority (beginning 180 days after the final rule is published).

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AK49

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664. AMENDMENT TO PORTIONS OF INDIVIDUAL FISHING QUOTA PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulatory amendment to amend portions of the regulations implementing the Individual Fishing Quota Program for the Pacific halibut and sablefish fixed gear fisheries in and off of Alaska.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	01/00/99	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AK50

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665. MODIFICATION OF HARVEST GUIDELINE SYSTEM FOR HAWAIIAN LOBSTER FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulation will modify the current harvest guideline program for the portion of the crustacean fishery that operates in the northwestern Hawaiian Islands incorporating the latest results of research, fishery data analysis, and modeling of the stock. Possible adjustments include establishment of harvest limits for specific banks and of limits on specific species of lobster found in the area.

DOC—NOAA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	
Final Action	03/00/99	
Final Action Effective	07/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AK61

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666. REGULATORY AMENDMENT TO ESTABLISH APPLICATION PERIOD FOR LICENSE LIMITATION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of the end of NPRM comment period.

Abstract: Regulatory amendment to establish application period under the License Limitation Program (LLP). This regulatory amendment would establish the procedures for submitting applications to the agency for the LLP, would clarify what type of information would be necessary for a completed application, procedures for the transfer of licenses once those licenses were issued, and the policy for interim use licenses when an application has been denied and appealed. This action is necessary for further clarification for the exact policy and procedures of the application process for the LLP, and those particulars were not included in the original action that established the overall concept of the LLP.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AK69

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667. AMENDMENT 54 TO FMP FOR GROUNDFISH FISHERY OF BERING SEA AND ALEUTIAN ISLANDS AREA AND AMENDMENT 54 TO FMP FOR GROUNDFISH OF GULF OF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of the end of NPRM comment period.

Abstract: These FMP amendments would change sablefish use limits from percentages to quota share units; add a leasing provision to allow initial recipients of quota shares to lease 10 percent of their individual fishing quota pooled across all areas, with an option to restrict this allowance to the Bering Sea.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	03/00/99	
Final Action	05/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AK70

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668. AMENDMENT 52 TO FMP FOR GROUNDFISH FISHERY OF BERING SEA AND ALEUTIAN ISLANDS AREA AND AMENDMENT 52 TO FMP FOR GROUNDFISH OF GULF OF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: These FMP amendments would establish a vessel registration program for critical fisheries.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	03/00/99	
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AK73

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669. AMENDMENT TO CLOSE AN AREA IN THE GULF OF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations must be published within 30 days of end of NPRM comment period.

Abstract: Amendment 59 for GOA would create a groundfish refuge by closing a small area off Cape Edgecumbe to commercial fishing for groundfish and halibut. The closure would protect a unique habitat and protect rockfish and lingcod during critical phase of their life cycle.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	12/00/98	

DOC—NOAA

Proposed Rule Stage

Action	Date	FR Cite
Final Action	02/00/99	
Final Action Effective	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AK74

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670. FISHING CAPACITY REDUCTION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1861(b) to 1861(e)

CFR Citation: 50 CFR 253

Legal Deadline: None

Abstract: To establish a fishing capacity reduction program, commonly called a buyback, as required by the Sustainable Fisheries Act to address the problem of excess fishing capacity in most fisheries. This will involve paying fishermen to either surrender their fishing permits or both surrender their permits and scrap their fishing vessels.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael L. Grable, Chief, Financial Services Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 Eaast-West Highway, Silver Spring, MD 20910
Phone: 301 713-2390
Fax: 301 713-1939

RIN: 0648–AK76

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671. RULE TO IMPLEMENT A FISHERY MANAGEMENT PLAN FOR THE SPINY DOGFISH FISHERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: The Fishery Management Plan will include management measures for the Spiny Dogfish Fishery.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200
Fax: 978 281-9135

RIN: 0648–AK79

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672. RULE TO IMPLEMENT AMENDMENT 7 TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: NPRM, Statutory. Final, Statutory.
Final regulations to be published within 30 days of NPRM comment period.

Abstract: Amendment 7 would implement limited entry for the Atlantic Mackerel Fishery.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200
Fax: 978 281-9135

RIN: 0648–AK80

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673. REGULATORY AMENDMENT TO INITIATE CONTROL FOR THE HARVEST OF BOTTOMFISH IN THE EXCLUSIVE ECONOMIC ZONE AROUND THE MAIN HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulation will implement an amendment to the Fishery Management Plan for Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region. It will initiate control of the harvest of bottomfish in the exclusive economic zone around the main Hawaiian Islands to ensure rebuilding of some stocks and maintenance of other healthy stocks. Possible measures include area closures, harvest limits, size limits, and season closures. These measures will complement action by the State of Hawaii to limit fishing in State waters to prevent overfishing and rebuild stocks.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
NPRM Comment Period End	05/00/99	
Final Action	06/00/99	
Final Action Effective	07/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213

DOC—NOAA

Proposed Rule Stage

Phone: 562 980-4001

RIN: 0648–AK82

674. AMENDMENT 13 TO THE PACIFIC COAST SALMON PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations implementing Amendment 13 to the Pacific Coast Salmon Plan would change the management of Oregon coastal natural (OCN) coho salmon to use the most recent estimates of spawning escapements abundance and anticipated marine survival to ensure the protection and timely rebuilding of the stock consistent with the Oregon Coastal Salmon Initiative.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	
Final Action	02/00/99	
Final Action Effective	03/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 San Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AK83

675. REVISE EXEMPTED FISHING REGULATIONS TO SPECIFY COMPENSATORY FISHING UNDER EXEMPTED FISHING

Priority: Info./Admin./Other

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: None

Abstract: This action would revise current exempted fishing regulations to specifically authorize the use of an exempted fishing permit as the method of allowing the compensation of private vessels for their conduct of resource assessment. Specific methodology for vessel compensation would be developed on a fishery-by-fishery basis. The rule would also make other minor changes in the regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	
Final Action	02/00/99	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AK84

676. AMENDMENT 9 TO THE FISHERY MANAGEMENT PLAN FOR THE COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: Amendment 9 proposes more than 14 management options. For Gulf group king mackerel, actions are proposed to (1) change the start of the fishing year, (2) prohibit the sale of fish caught under the bag limit, (3) revise the allocation of TAC between the commercial and recreational sectors, and (4) increase the minimum size limit from 20 inches to 24 or 26 inches fork length. Also, for the eastern zone (off Florida), (5) revise the allocation of the commercial quota between the Florida east (North) and west coast (South/West Area) subzones. For the Florida west coast subzone, 6) subdivide the commercial hook-and-line quota into two separate quotas for proposed northern and southern subzones; and for the commercial run-around gillnet fishery, (7) restrict/reduce/phase-out the number of vessels holding gillnet endorsements to fish under the quota, (8) restrict the area of operation to southwest Florida, and (9) restrict the transfer of gillnet endorsements to vessels owned by the endorsement holder or his/her family members. For the western zone (Texas through Alabama), (10) subdivide the commercial quota on a seasonal or areal basis, and (11) establish a trip limit (harvest/ possession/landing limit) for commercial vessels. For both Gulf and Atlantic groups of king mackerel, (12) allow the sale of cut-off (damaged) fish taken and possessed within the established trip limits. Finally, for Gulf group Spanish mackerel, (3) establish a purse seine allocation and (14) vessel trip limits.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	
Final Action	01/00/99	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AK89

677. VMS PILOT PROGRAM FOR ATLANTIC SWORDFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 630

Legal Deadline: None

Abstract: NMFS proposes to implement a vessel monitoring system (VMS) pilot program for Atlantic swordfish in 1998. Vessels with a standard-C VMS unit on board will be issued a special permit to retain on board swordfish greater than the incidental catch limit after the directed fishery has been closed.

DOC—NOAA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	02/00/99	
Final Action	03/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Fax: 301 713-0596

RIN: 0648–AK90

678. AMENDMENT 17 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: None

Abstract: Amendment 17 contains various options to address expiration of the commercial reef fish permit moratorium (December 31, 2000). The options may be implemented prior to the moratorium expiration date, and would apply to all species in the management unit, except red snapper. In general, the options either: (1) extend the current moratorium for an additional 3 years, or (2) replace the current provisions with a system of various classes of transferable vessel licenses or endorsements, similar to that approved for red snapper under Amendment 15.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AK96

679. PROPOSED RULE TO ADJUST THE GULF OF MEXICO RED SNAPPER TAC AND ASSOCIATED MANAGEMENT MEASURES UNDER THE FRAMEWORK PROCEDURE OF THE FMP FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: None

Abstract: This action would amend the regulations implementing the FMP to establish management measures for the 1999 fishing season, in accordance with the FMP's framework procedure for setting annual total allowable catch limits and associated measures. The FMP regulates commercial and recreational fishing in the exclusive economic zone of the Gulf of Mexico and was developed by the Gulf of Mexico Fishery Management Council and approved/implemented by the National Marine Fisheries Service (NMFS). Annual management changes are proposed by the council; NMFS publishes a proposed rule to obtain public comment on these proposals for consideration in approving/disapproving/partially approving them. Approved measures are implemented by final rule.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	10/00/98	
Final Action	11/00/98	
Final Action Effective	01/01/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AK97

680. ESTABLISH 10 SMZS IN FEDERAL WATERS OFF SC AND PROHIBIT USE OF POWERHEADS IN THE FT. PIERCE, FL, OFFSHORE SMZ IN THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC REGION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of the end of NPRM comment period.

Abstract: This regulatory amendment would: (1) Establish 10 Special Management Zones (SMZs) around 10 additional existing offshore marine artificial reef sites located in Federal waters off the South Carolina coast including a 500 meter buffer zone around each site, and (2) prohibit use of powerheads in the Ft. Pierce, Florida offshore SMZ previously established by the Council. The intent of seeking SMZ status is to ensure the continued effectiveness of each site in enhancing recreational fishing opportunities, and to protect the long-term economic and biological viability of each.

Timetable:

Action	Date	FR Cite
NPRM	09/14/98	63 FR 43656
NPRM Comment Period End	10/14/98	
Final Action	11/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL00

681. AMEND THE BLUEFIN STATISTICAL DOCUMENT TO ALLOW FOR THE ATTACHMENT OF RE-EXPORT CERTIFICATES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq

CFR Citation: 50 CFR 285

Legal Deadline: None

DOC—NOAA

Proposed Rule Stage

Abstract: The International Commission for the Conservation of Atlantic Tuna (ICCAT) recommends that ICCAT Bluefin Tuna Re-export Certificates be validated by government organizations that are accredited by a contracting party's government to validate the ICCAT Bluefin Statistical Document.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	01/00/99	
Final Action	02/00/99	
Final Action Effective	03/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AL02

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682. • REGULATORY AMENDMENT TO CHANGE THE LIMITED ENTRY, SABLEFISH FISHERY SEASON STRUCTURE FIXED GEAR

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations would implement a framework to allow the Pacific Fishery Management Council to designate each year whether the limited entry, fixed gear, regular sablefish fishery would consist of a single opening, or of three separate openings. If the regular fishery is set at three separate openings, a participant would have to choose to participate in just one of the three openings.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	
Final Action	03/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg 1, Seattle, WA 98115-070
Phone: 206 526-6150

RIN: 0648–AL12

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683. • REGULATORY AMENDMENT TO ESTABLISH A SITKA SOUND HALIBUT MANAGEMENT PLAN

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: This regulatory amendment would create a local area halibut management plan for Sitka Sound. This management plan will include specified boundaries by latitude and longitude. Halibut longliners and halibut charter vessels would be prohibited from harvesting halibut in some areas of the Sitka Sound Halibut Management Area during specified times of the year. In addition, the amount of halibut on board a halibut longliner may be restricted during specified times of the year. Halibut catch in the Sitka Sound Management Area would be monitored for growth rate.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AL18

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684. • AMENDMENT 48 TO THE BSAI FMP AND AMENDMENT 48 TO THE GOA FMP - STREAMLINE ANNUAL SPECIFICATION PROCESS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1801 et seq; 16 USC 773 et seq; 16 USC 3631 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: This action would improve the annual process of setting total allowable catch for Alaska groundfish in the Bering Sea and Aleutian Islands and Gulf of Alaska.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 709 W. 9th Street, Juneau, Alaska
Phone: 907 586-7228

RIN: 0648–AL19

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685. • AMENDMENT 59 TO THE BSAI FMP, AMENDMENT 57 TO THE GOA FMP, AND AMENDMENT 9 TO THE BSAI KTC FMP - MORATORIUM EXTENSION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: BSA/GOA/KTC FMP Amendments 59/57/9 - extend the vessel moratorium. These FMP amendments would extend the Vessel Moratorium. Extending the Moratorium would prevent an open access hiatus between the end of the current Moratorium on December 31, 1998, and the planned beginning of fishing under the License Limitation program on January 1, 2000.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administration, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 W. 9th Street, Juneau, Alaska
Phone: 907 586-7228

RIN: 0648–AL20

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686. • REGULATORY AMENDMENT TO THE HALIBUT COMMUNITY DEVELOPMENT QUOTA PROGRAM - DEFINITION OF MANAGEMENT MEASURES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: This regulatory amendment would define management measures for the halibut CDQ fisheries after 1998 and remove regulations in the multispecies groundfish CDQ regulations that expire on December 31, 1998. These regulatory amendments are necessary to integrate the three CDQ fisheries that are being managed separately in 1998 (fixed gear halibut and sablefish, pollock, and the multispecies groundfish) into one CDQ program starting in 1999.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	11/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 W. 9th St., Juneau, Alaska
Phone: 907 586-7228

RIN: 0648–AL21

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687. • AMENDMENT 45 TO THE FISHERY MANAGEMENT PLAN FOR THE BERING SEA AND ALEUTIAN ISLANDS AREA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1801 et seq; 16 USC 773 et seq; 16 USC 3631 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: This action would renew the allocation of pollock in the BSAI area to the Western Alaska Community Development Program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 709 W. 9th St., Juneau, Alaska
Phone: 907 586-7228

RIN: 0648–AL22

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688. • REGULATORY AMENDMENT TO REVISE THE RECORDKEEPING AND REPORTING REQUIREMENTS FOR 1999

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: This regulatory amendment would include the following issues suggested by NMFS Management, Enforcement, the U.S. Coast Guard, and the fishing industry: revise language for surrendering fisheries or processor permit; document "pumping" of fish; combine Steller sea lion tables; create revised figures for Bering Sea and Aleutian Islands Management Area; remove Improved Retention/Improved Utilization columns in catcher vessel logbook; develop code and recording procedure for experimental fisheries; develop a new discard category for adulterated fish and for research fish; develop secondary product code level that defines condition of end product (i.e., frozen blocks, grades of surimi); add CDQ delivery number to logbooks; and develop combined NMFS/IPHC catcher vessel and catcher/processor logbooks for fixed gear.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 W. 9th St., Juneau, Alaska
Phone: 907 586-7228

RIN: 0648–AL23

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689. • WHITING AMENDMENT TO THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN (FMP)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

DOC—NOAA

Proposed Rule Stage

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This amendment would eliminate overfishing and rebuild the stock of silver hake (whiting). The proposed management measures may include limiting entry to the fishery, specifying a minimum mesh requirement and limiting the amount of whiting caught with smaller mesh, and establishing closed areas and trip limits.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	01/00/99	
Final Action	02/00/99	
Final Action Effective	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9300

RIN: 0648–AL27

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690. • MANAGEMENT OF U.S. PURSE SEINE FISHERY IN THE EASTERN PACIFIC OCEAN

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 955 et seq

CFR Citation: 50 CFR 300

Legal Deadline: None

Abstract: This rule would establish authority and procedures for the Southwest Regional Administrator, NMFS, to implement measures to carry out management recommendations of the Inter-American Tropical Tuna Commission and approved by the Department of State as provided in the Tuna Conventions Act of 1950. Actions could include closure of the purse seine fishery for yellowfin tuna, closure of the purse seine fishery for tuna associated with floating objects, prohibiting the use of tender vessels used to service fish-aggregating devices, and prohibiting the transfer-at-sea of purse seine-caught tuna in the Eastern Pacific Ocean.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	
Final Action	03/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AL28

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691. • REGULATORY AMENDMENT TO IMPLEMENT ATKA MACKEREL FISHING RESTRICTIONS IN THE BSAI FOR STELLER SEA LION CONSERVATION PURPOSES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: This rulemaking would implement Atka mackerel fishing restrictions for Steller sea lion conservation purposes. The Atka mackerel fishery would be split into "A" (January 1 to April 15) and "B" (September 1 to November 1) seasons. The percent of the Atka mackerel total allowable catch taken from Steller sea lion critical habitat in the western and central Aleutian Islands management districts would be reduced. In addition, the following management measures will be included: the trawl exclusion zone around the Sequam rookery would be extended into the "B" season; vessels would be required to obtain a vessel monitoring system; exempt CDQ fisheries from the A/B season split, but the percentage of the Atka mackerel CDQ reserve that could be harvested inside and outside critical habitat would be the same percentages established for the open access fishery; the allocation of Atka mackerel to vessels using jig gear in Area 541 would be exempt from these management measures; and the impact and effectiveness of these measures will be reviewed annually by NMFS and the Council.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 W. 9th St., Juneau, Alaska
Phone: 907 586-7228

RIN: 0648–AL29

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692. • BSAI FMP AMENDMENT PROHIBITING DIRECTED FISHING FOR POLLOCK WITH BOTTOM TRAWL GEAR

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: This FMP amendment would prohibit directed fishing for pollock with bottom trawl gear in the BSAI. This amendment would also reduce the trawl prohibited species catch limits for halibut, king crab, and tanner crab in the BSAI to account for the projected PSC bycatch savings associated with a ban on bottom trawl gear for pollock.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

DOC—NOAA

Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 W. 9th Street, Juneau, Alaska
Phone: 907 586-7228

RIN: 0648–AL30

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693. • AMENDMENT 9 TO THE NORTHEAST MULTISPECIES FMP TO ADDRESS NEW SUSTAINABLE FISHERIES ACT REQUIREMENTS, AND OTHER MANAGEMENT MEASURES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: NPRM, Statutory, October 11, 1998.
(See Additional Information)

Abstract: This action will address overfishing definitions and specifications of optimum yield; a framework process for aquaculture projects and modifications to the overfishing definitions; postponement of the Vessel Monitoring System beyond May 1999; a prohibition on street sweeper gear; measures to protect winter flounder stocks; and a one-fish halibut possession limit of 36 inches or greater.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Legal Deadline: Under 16 USC 1853 note, each Regional fishery Management Council must submit to NMFS amendments to its fishery management plans and any associated proposed regulations bringing them into compliance with the Sustainable Fisheries Act (P.L. 104-297). Final regulations to be published within 30 days of NPRM comment period.

Agency Contact: Jon Rittgers, Acting Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AL31

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694. • AMDT. 11 TO NORTHEAST MULTISPECIES FMP; AMDT. 9 TO ATLANTIC SEA SCALLOP FMP; AMDT. 1 TO MONKFISH FMP; AND AMDT. 1 TO ATLANTIC SALMON FMP; COMPONENTS OF ATLANTIC HERRING FMP

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: NPRM, Statutory, October 11, 1998.

Abstract: The amendment will describe and identify essential fish habitat (EFH) for species managed under the FMPs; minimize to the extent practicable adverse effects on EFH caused by fishing; and, identify other actions to encourage the conservation and enhancement of EFH.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: LEGAL DEADLINE CONT: Under 16 USC 1853 note, each Regional Fishery Management Council must submit to NMFS amendments to its fishery management plans and any associated proposed regulations bringing them into compliance with the Sustainable Fisheries Act (P.L. 104-297). Final regulations to be published within 30 days of NPRM comment period.

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA
Phone: 978 281-9200

RIN: 0648–AL32

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695. • VESSEL PERMIT CONSISTENCY AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment to achieve consistency among Northeast Region Fishery Management Plans regarding fishing vessel permits transfer, replacement, and upgrade provisions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: RIN 0648-AK81 will be processed under 0648-AL36.

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200
Fax: 978 281-9135

RIN: 0648–AL36

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696. • ATLANTIC STURGEON EEZ REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 5101 et seq

CFR Citation: 50 CFR 697

Legal Deadline: None

Abstract: NMFS is issuing protective regulations for Atlantic Sturgeon in the exclusive economic zone (EEZ) under the Atlantic Coastal Fisheries Cooperative Management Act. These regulations would prohibit the harvest and possession of Atlantic Sturgeon in the EEZ.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas Meyer, Fisheries Biologist, Office of Intergov./Recreational Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 8484 Georgia Avenue, Suite 425, Silver Spring, MD 20910
Phone: 301 427-2014
Fax: 301 427-2313

RIN: 0648–AL38

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697. • BSAI/GOA/KTC/SCALLOP FISHERY MANAGEMENT PLAN (FMP) AMENDMENTS 55/55/8/5 ESSENTIAL FISH HABITAT DEFINITIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final Regulations to be published within 30 days of end of NPRM Comment Period

Abstract: This action would amend each FMP to include definitions of essential fish habitat for each managed species or species complex included within the FMP. For the Alaska Region, these amendments are not considered controversial and are expected to be supported by the fishing community. A significant majority of oral and written comments received thus far has supported the amendments and suggest the inclusion of additional species within the definition. None of the EFH amendments contain regulatory measures with which the fishing and non-fishing communities must comply. If the EFH amendments are approved, Federal action agencies must consult with NMFS if a Federal Action may adversely affect EFH.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 21668
Phone: 907 586-7228

RIN: 0648–AL40

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698. • REGULATORY AMENDMENT TO PROHIBIT FISHING BY VESSELS OVER 50 FEET WITHIN 50 NAUTICAL MILES OF AMERICAN SAMOA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory action would prohibit fishing by vessels over 50 feet within 30 nautical miles of American Samoa.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	
Final Action	02/00/99	
Final Action Effective	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802
Phone: 562 980-4001

RIN: 0648–AL41

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699. • COMPREHENSIVE AMENDMENT ADDRESSING SUSTAINABLE FISHERY ACT DEFINITIONS AND OTHER REQUIRED PROVISIONS IN FISHERY MANAGEMENT PLANS OF THE SOUTH ATLANTIC REGION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: None

Abstract: The comprehensive Sustainable Fishery Act (SFA) amendment will amend existing fishery management plans (FMPs) for shrimp, red drum, snapper-grouper, coastal migratory pelagics, coral, coral reefs, and live/hard bottom resources, spiny lobster, and golden crab to ensure (1) they are in conformance with SFA section 102 definitions, (2) that bycatch provisions are in conformance with SFA section 108 provisions, (3) they address fishery impact statements that describe the likely effects of management measures on fishing communities, (4) they address overfishing provisions specifying objective and measurable criteria for identifying whether a fishery is overfished, and (5) they propose measures to rebuild overfished stocks in fisheries of the South Atlantic Region.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	02/00/99	
Final Action Effective	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AL42

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700. • COMPREHENSIVE AMENDMENT ADDRESSING ESSENTIAL FISH HABITAT IN FISHERY MANAGEMENT PLANS OF THE SOUTH ATLANTIC REGION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: None

Abstract: The comprehensive habitat amendment will identify essential fish habitat (EFH) for the shrimp, red drum, snapper-grouper, coastal migratory pelagics, coral, coral reefs, and live/hard bottom resources, spiny lobster, golden crab, sargassum, and calico scallop fisheries of the South Atlantic Region. EFH-habitat areas of particular concern will be identified and regulations designed to reduce or eliminate the impact of fisheries on EFH will be presented.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	02/00/99	
Final Action Effective	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Fax: 301 713-0596

RIN: 0648–AL43

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701. • PROPOSED GUIDELINES FOR DEFINING SERIOUS INJURY; REQUEST FOR COMMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361

CFR Citation: 50 CFR 229

Legal Deadline: None

Abstract: Under the Marine Mammal Protection Act (MMPA), the National Marine Fisheries Service (NMFS) is responsible for assessing and reducing the level of serious injury and mortality that occurs incidental to commercial fishing operations. NMFS is issuing proposed guidelines for determining what constitutes a serious injury to a marine mammal. If finalized, NMFS will use these guidelines in assessing fisheries beginning in 2000.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cathy Eisele, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322
Fax: 301 713-0376

RIN: 0648–AL44

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702. • IMPLEMENTATION OF AMENDMENT 8 TO THE NORTHERN ANCHOVY FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: NPRM, Statutory, October 11, 1998. Final, Statutory. See "Additional Information"

Abstract: This action would amend the Northern Anchovy Fishery Management Plan (FMP) to comply with new requirements of the Sustainable Fisheries Act. The amendment would rename the FMP, add several species (Pacific mackerel, jack mackerel, and Pacific sardine) to the management unit, establish procedures for annual specification of harvest limits for managed species, and implement limited entry for fishing for small coastal pelagic species of fish in the management area. The amendment provides definitions and criteria to determine if any stocks are overfished such that rebuilding plans are needed. An annual review of the fisheries is conducted to make this determination.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	
Final Action	03/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: Legal Deadline: Under 16 USC 1853 note, each Regional Fishery Management Council must submit to NMFS amendments to its fishery management plans and any associated proposed regulations bringing them into compliance with the Sustainable Fisheries Act (P.L. 104-297). Final regulations to be published within 30 days of NPRM comment period.

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90804
Phone: 562 980-4001

RIN: 0648–AL48

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703. • IMPLEMENTATION OF AMENDMENTS TO FOUR WESTERN PACIFIC FISHERY MANAGEMENT PLANS TO ADDRESS NEW REQUIREMENTS OF THE MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: NPRM, Statutory, October 11, 1998. Final, Statutory. See "Additional Information"

Abstract: This action will ensure that the definitions in all the Western Pacific Fishery Management Plans (four) conform with the Magnuson-Stevens Fishery Conservation & Management Act definitions; the FMPs address bycatch and bycatch mortality issues; the FMPs describe the likely effects of management measures on fishing communities affected by the FMPs; the FMPs include measurable criteria to determine whether a fishery is overfished; the FMPs identify commercial, recreational, and charter fishing activity in each sector, and identify pertinent data associated with the fishing activity in each sector; and the FMPs identify essential fish habitat/areas of particular concern for management unit species.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	
Final Action	02/00/99	
Final Action Effective	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Legal Deadline: Under 16 USC 1853 note, each Regional

Fishery Management Council must submit to NMFS amendments to its fishery management plans and any associated proposed regulations bringing them into compliance with the Sustainable Fisheries Act (P.L. 104-297). Final regulations to be published within 30 days of NPRM comment period.

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90804
Phone: 562 980-4001

RIN: 0648–AL49

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704. • REGULATORY AMENDMENT TO ALLOW "STOCKING" OF MULTIPLE LIMITED ENTRY PERMITS IN THE PACIFIC COAST GROUNDFISH FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations would link groundfish cumulative trip limits to limited entry permits instead of to vessels. This linkage would allow limited entry permit holders to associate more than one limited entry permit with a vessel without having to combine those permits. A vessel attached to multiple limited entry permits would be able to pursue multiple cumulative trip limits.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	
NPRM Comment Period End	10/00/99	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg 1, Seattle, WA 98115-070
Phone: 206 526-6150

RIN: 0648–AL50

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705. • AMENDMENT 14 TO THE PACIFIC COAST SALMON PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: NPRM, Statutory, October 11, 1998. Final, Statutory. See "Additional Information"

Abstract: Amendment 14 would provide a change in the management of salmon fisheries in the Exclusive Economic Zone (EEZ) (3 to 200 miles offshore) off Washington, Oregon, and California, which are managed by the Pacific Fishery Management Council (PFMC, Council) and NMFS under the Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon and California (FMP) as revised and updated in 1996 for implementation in 1997. The Amendment will revise in FMP to bring it into compliance with the recently amended Magnuson-Stevens Fishery Conservation and Management Act. The primary changes relate to issues of optimum yield, overfishing, essential fish habitat, and bycatch specifications. Editorial and organizational changes to improve and update the FMP and its environmental impact statement, in addition to refinements harvest allocation standards among the recreational fisheries north of Cape Falcon, are also part of amendment effort.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	02/00/99	
Final Action	03/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: Legal Deadline: Under 16 USC 1853 note, each Regional Fishery Management Council must submit to NMFS amendments to its fishery management plans and any associated proposed regulations bringing them into compliance with the Sustainable Fisheries Act (P.L. 104-297). Final regulations to be published within 30 days of NPRM comment period.

Agency Contact: William Stelle, Regional Administrator, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AL51

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706. • AMENDMENT 11 TO THE PACIFIC COAST GROUNDFISH FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: NPRM, Statutory, October 11, 1998. Final, Statutory. See "Additional Information"

Abstract: Draft Amendment 11 proposes to redefine "overfishing," "overfished," "optimum yield," and other terms; and would revise the procedures for setting annual harvest levels. The amendment would describe and identify essential fish habitat and establish procedures for implementing regulations to minimize adverse effects of fishing on such habitat. The amendment would also identify procedures for implementing regulations to reduce bycatch and to establish permits for fishing for or processing groundfish should the Council determine that additional permit requirements would be beneficial. The amendment would also authorize reserving a portion of the acceptable biological catch for use in scientific research.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	12/00/98	
Final Action	01/00/99	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: Under 16 USC 1853 note, each Regional Fishery Management Council must submit to NMFS amendments to its fishery management plans and any associated proposed regulations bringing them into compliance with the Sustainable Fisheries Act (P.L. 104-297). Final regulations to be published within 30 days of NPRM comment period.

Agency Contact: William Stelle, Regional Administrator, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C157000, Bldg 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AL52

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707. • AMENDMENT 8 TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC MACKEREL, SQUID, AND BUTTERFISH (FMP)

Priority: Other Significant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: NPRM, Statutory, October 11, 1998. Final, Statutory. See Additional Information.

Abstract: Amendment 8 would bring the FMP into compliance with the requirements of the Sustainable Fisheries Act. This amendment would revise the overfishing definitions for Atlantic mackerel, butterfish, Loligo squid, and Illex squid; examine methods to reduce bycatch, analyze impacts on fishing communities; examine vessel safety; and establish a definition of essential fish habitat for Atlantic mackerel, Loligo and Illex squid, and butterfish.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	01/00/99	
Final Action	02/00/99	
Final Action Effective	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: Legal Deadline: Under 16 USC 1853, each Regional Fishery Management Council must submit to NMFS amendments to its fishery management plans of any associated proposed regulations bringing them into compliance with the SFA (PL 104-297). Final regulations to be published within 30 days of NPRM comment period.

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200
Fax: 978 281-9135

RIN: 0648–AL54

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708. • AMENDMENT 12 TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC SURF CLAM AND OCEAN QUAHOGS (FMP)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: NPRM, Statutory, October 11, 1998. Final, Statutory. See "Additional Information"

Abstract: Amendment 12 would bring the FMP into compliance with the Sustainable Fisheries Act. This amendment would revise the overfishing definition for Atlantic Surf Clams and Ocean Quahogs, introduce a vessel operator permit, examine methods to reduce bycatch, analyze impacts on fishing communities, examine vessel safety and establish a definition of essential fish habitat for Atlantic Surf Clams and Ocean Quahogs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	01/00/99	
Final Action	02/00/99	
Final Action Effective	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Legal Deadline: Under 16 USC 1853, each Regional Fishery Management Council must submit to NMFS amendments to its fishery management plans and any associated proposed regulations bringing them into compliance with the SFA (PL 204-297). Final regulations to be published within 30 days of NPRM comment period.

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200
Fax: 978 281-9135

RIN: 0648–AL55

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709. • PROPOSED RULE TO IMPLEMENT AMENDMENT 12 TO THE FISHERY MANAGEMENT PLAN FOR THE SUMMER FLOUNDER, SCUP AND BLACK SEA BASS FISHERIES (FMP)

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of NPRM comment period end.

Abstract: Amendment 12 would bring the FMP into compliance with the Sustainable Fisheries Act (SFA), including measures for essential fish habitat (EFH), overfishing definitions, and stock rebuilding. The amendment will neither change management for 1999 for summer flounder nor modify the rebuilding schedule. The rebuilding schedule may be revised for the scup and black sea bass fisheries, but no the management measures. The Council anticipates addressing other SFA requirements--safety at sea, communities, and discards--through the existing annual measures.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	12/00/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

DOC—NOAA

Proposed Rule Stage

Fax: 978 281-9135

RIN: 0648–AL56

710. • AMENDMENT 16B TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: NPRM, Statutory.
Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Gulf of Mexico Fishery Management Council (Council).

Abstract: Reef fish amendment 16B: (1) establishes a "slot limit" of 14 inches (minimum) and 22 inches (maximum), fork length, for commercial and recreational harvest of lesser amberjack and banded rudderfish; (2) removes lesser amberjack and banded rudderfish from the 20-fish aggregate bag limit and establishes a 5-fish aggregate bag limit for those species; (3) removes queen triggerfish from the FMP to provide for management by Florida; (4) removes the distinction in the FMP between reef fish species in the management unit and those in the fishery but not in the management unit (NOTE: The Council does not intend to include sand perch or dwarf sand perch in the 20-fish aggregate bag limit); (5) implements minimum size limits on cubera snapper (12 inches, total length (TL)), dog snapper (12 inches, TL), mahogany snapper (12 inches, TL), schoolmaster (12 inches, TL), mutton snapper (16 inches, TL), scamp (20 inches, TL), gray triggerfish (12 inches, TL), and hogfish (12 inches, fork length); (6) removes hogfish from the 20-fish aggregate bag limit and establishes a 5-fish bag limit for that species; and (7) sets a recreational bag limit of 1 speckled hind and 1 warsar grouper per vessel (NOTE: The Council intended that sale of these species by the recreational sector be prohibited; the FMP and regulations already prohibit sale of reef fish subject to bag limit.)

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AL57

711. • REGULATORY AMENDMENT TO ALLOCATE CERTAIN GROUNDFISH SPECIES BETWEEN THE TRAWL AND FIXED GEAR COMMERCIAL GROUNDFISH FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations would set allocations of certain groundfish species (primarily rockfish) between the trawl and fixed gear commercial fisheries for Pacific Coast groundfish.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
NPRM Comment Period End	11/00/99	
Final Action	12/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg 1, Seattle, WA 98115-070
Phone: 206 526-6150

RIN: 0648–AL62

712. • ADJUSTMENT OF MANAGEMENT PROGRAM: CRUSTACEAN FISHERIES IN THE WESTERN PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory action would include the waters off the Northern Mariana Islands and U.S. Island Possessions in the Pacific within Permit Area 3 (Guam and American Samoa) and to facilitate and enable changes to management measures for the crustacean fisheries.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	
Final Action	03/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AL67

713. • FINAL SPECIFICATIONS FOR 1999 SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: NPRM, Statutory, October 1998.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would establish the allowed commercial catch limits as well as other management measures for these fisheries for 1999.

DOC—NOAA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200
Fax: 978 281-9135

RIN: 0648–AL74

714. • RECREATIONAL MEASURES FOR 1999 SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: NPRM, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would establish the possession limit, size limit, and other management measures for the recreational fisheries for 1999.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	
NPRM Comment Period End	03/00/99	
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200
Fax: 978 281-9135

RIN: 0648–AL75

715. • 1999 INITIAL SPECIFICATIONS FOR ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would specify the initial annual amounts of the initial optimum yield as well as the amounts for allowable biological catch, domestic annual harvest, domestic annual processing, joint venture processing, and total allowable levels of foreign fishing for these species.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	12/00/98	
Final Action	01/00/99	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200
Fax: 978 281-9135

RIN: 0648–AL76

716. • 1999 FISHING QUOTAS FOR ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This action would establish allowable harvests of surf clams and ocean quahogs from the exclusive economic zone for 1999.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	12/00/98	
Final Action	01/00/99	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200
Fax: 978 281-9135

RIN: 0648–AL77

717. • FISHERY MANAGEMENT PLAN FOR CALICO SCALLOP FISHERY IN THE SOUTH ATLANTIC REGION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: The FMP could include the following measures: (1) Definitions of management unit, MSY, OY, and overfishing, (2) requiring a vessel permit to harvest or possess calico scallops in or from the South Atlantic EEZ, (3) establishment of Essential Fish Habitat-Habitat Areas of particular Concern (EFH-HAEC) for Calico Scallops, (4) prohibit harvest of calico scallops in the area bounded to the West by 80 degrees W. Longitude, to the North by 28 degrees 30' N. Latitude, to the South by 27 degrees 30' N. Latitude, and to the East by the 100 fathom depth contour, and (5) require use of transponders by calico scallop vessels.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
NPRM Comment Period End	05/00/99	
Final Action	06/00/99	
Final Action Effective	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL78

718. • ATLANTIC TUNA FISHERIES; 1999 QUOTAS AND EFFORT CONTROLS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq

CFR Citation: 50 CFR 285

Legal Deadline: None

Abstract: Implement annual quota specifications and effort controls for 1999 bluefin tuna fisheries.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
NPRM Comment Period End	05/00/99	
Final Action	05/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Gary Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AL79

719. • REGULATORY AMENDMENT TO ESTABLISH TOTAL ALLOWABLE CATCH LIMITS FOR THE ATLANTIC AND GULF OF MEXICO GROUPS OF KING AND SPANISH MACKEREL FOR THE 1998-99 FISHING YEAR

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment prepared under the framework rulemaking procedure of the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP), would amend the regulations implementing the FMP to establish the total allowable catch limits and associated measures (e.g., trip and bag limits) for Atlantic and Gulf groups of King and Spanish mackerel for the 1998-1999 fishing year.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive, North, St. Petersburg, FL 55702-2432
Phone: 727 570-5301

RIN: 0648–AL80

720. • SUSTAINABLE FISHERIES ACT AMENDMENTS TO THE FISHERY MANAGEMENT PLANS FOR SHRIMP, RED DRUM, REEF FISH, STONE CRAB, SPINY LOBSTER, CORAL & CORAL REEFS, AND COASTAL MIGRATORY PELAGICS OF GOM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: The Amendment provides management measures to provide sustainable fisheries for species under Federal management in the Gulf of Mexico, as required by the Magnuson-Stevens Fishery Conservation and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	02/00/99	
Final Action	03/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive, North, St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL81

721. • COMPREHENSIVE AMENDMENT ADDRESSING ESSENTIAL FISH HABITAT IN FISHERY MANAGEMENT PLANS OF THE SOUTH ATLANTIC REGION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: NPRM, Statutory, October 11, 1998.
See Additional Information

Abstract: The comprehensive habitat amendment will identify essential fish habitat (EFH) for the shrimp, red drum, snapper-grouper, coastal migratory pelagics, coral, coral reefs, and live/hard bottom resources, spiny lobster, and golden crab fisheries of the South Atlantic Region. EFH-Habitat Areas of Particular Concern will be identified and regulations designed to reduce or eliminate the impact of fisheries on EFH may be presented.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Legal Deadline: Under 16 USC 1853 note, each Regional Fishery Management Council must submit to NMFS amendments to its fishery management plans and any associated proposed regulations bringing them into compliance with the Sustainable Fisheries Act (P.L. 104-297). Final regulations to be published within 30 days of NPRM comment period.

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL84

722. • COMPREHENSIVE AMENDMENT ADDRESSING SUSTAINABLE FISHERIES ACT DEFINITIONS AND OTHER REQUIRED PROVISIONS IN FISHERY MANAGEMENT PLANS OF THE SOUTH ATLANTIC REGION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: NPRM, Statutory, October 11, 1998.
See Additional Information.

Abstract: The comprehensive Sustainable Fisheries Act (SFA) amendment will amend existing fishery management plans (FMPs) for shrimp, red drum, snapper-grouper, coastal migratory pelagics, coral, coral reefs, and live/hard bottom resources, spiny lobster, and golden crab to ensure (1) they are in conformance with SFA section 102 definitions, (2) that bycatch provisions are in conformance with SFA section 108 provisions, (3) they address fishery impact statements that describe the likely effects of management measures on fishing communities, (4) they address overfishing provisions specifying objective and measurable criteria for identifying whether a fishery is overfished, and (5) they propose measures to rebuild overfished stocks in fisheries of the South Atlantic Region.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	
Final Action	01/00/99	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Under 16 USC 1853 note, each Regional Fishery Management Council must submit to NMFS amendments to its fishery management plans and any associated proposed regulations bringing them into compliance with the Sustainable Fisheries Act (P.L. 104-297). Final regulations to be published within 30 days of NPRM comment period.

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL85

723. • COMPREHENSIVE AMENDMENT ADDRESSING SUSTAINABLE FISHERIES ACT REQUIREMENTS REGARDING OVERFISHING, BYCATCH, FISHING COMMUNITIES AND PROVISIONS FOR FISHERY MANAGEMENT PLANS FOR THE CARIBBEAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: NPRM, Statutory, October 11, 1998.
See Additional Information.

Abstract: The comprehensive amendment will amend the Caribbean Fishery Management Council's existing fishery management plans for queen conch, coral resources, and reef fish to address the Sustainable Fisheries Act requirements regarding section 102. definitions, bycatch provisions, fishery impact statements, regarding effects of fishing communities, and preventing overfishing and rebuilding overfished stocks.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	
Final Action	01/00/99	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Under 16 USC 1853 note, each Regional Fishery Management Council must submit to NMFS amendments to its fishery management plans and any associated proposed regulations bringing them into compliance with the Sustainable Fisheries Act (P.L. 104-297). Final regulations to be published within 30 days of NPRM comment period.

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL86

724. SEA TURTLE MONITORING AND CONSERVATION MEASURES FOR NONSHRIMP FISHERIES

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 217; 50 CFR 222; 50 CFR 227

Legal Deadline: None

Abstract: NMFS proposes to protect sea turtles through the implementation of sea turtle conservation measures on nonshrimp fisheries. Bottom trawlers in the mid-Atlantic take sea turtles when not using turtle excluder devices (TEDs) and may jeopardize the continued existence of endangered sea turtles. NMFS proposes to require TEDs in all bottom trawlers operating from Texas through Delaware. Other non-shrimp fisheries using tow lines, gill nets, or other gear probably take significant numbers of sea turtles. In order to better quantify that level of take, NMFS proposes to require observers in all fisheries suspected of taking turtles in all U.S. waters.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/92	57 FR 30709
ANPRM Comment Period End	08/08/92	
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Therese Conant, Endangered Species Division, Office of Protected Resources, Department of

DOC—NOAA

Proposed Rule Stage

Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, SSMC#1, Silver Spring, MD 20910
Phone: 301 713-1401

RIN: 0648–AE54

725. TAKING AND IMPORTING OF MARINE MAMMALS: TUNA PURSE SEINE VESSEL OBSERVER EXPENSES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.24

Legal Deadline: None

Abstract: NMFS proposes to amend its regulations governing the reimbursement of tuna vessel owners for the cost of carrying NMFS observers (50 CFR 216.24(f)(4)). The regulations require that a U.S.-flag tuna purse seine vessel holding a certificate of inclusion under the general permit issued to the American Tunaboat Association carry an observer when assigned by the Director, Southwest Region, NMFS. The regulations currently require that NMFS reimburse vessel operators for all costs associated with carrying the observers. The proposed rule change would require that "the vessel owner shall incur all reasonable costs directly related to the quartering and maintaining of such observers on board such vessels."

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 301 980-4001

RIN: 0648–AG35

726. DESIGNATED CRITICAL HABITAT; PACIFIC STEELHEAD

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533

CFR Citation: 50 CFR 226

Legal Deadline: NPRM, Statutory, February 16, 1995. Final, Statutory, August 18, 1998.
Endangered Species Act section 4(b)(3)(D)(ii). If steelhead are listed under the ESA by 8/9/97, then critical habitat designation will be due 8/9/98.

Abstract: This rule will propose critical habitat for 9 stocks of Pacific Steelhead as follows: 5 stocks listed under Endangered Species Act on 8/18/97 2 stocks listed on 3/18/98, and 2 stocks proposed for listing on 3/10/98. (62 FR 43937, 63 FR 13347, 63 FR 11798 respectively)

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	
Final Action	03/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lisa Lierheimer, Fisheries Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, F/PR3, Silver Spring, MD 20910
Phone: 301 713-0376
Fax: 301 713-0376

RIN: 0648–AG49

727. PROPOSED RULE TO PROVIDE REGULATIONS FOR PERMITS FOR CAPTURE, TRANSPORT, IMPORT AND EXPORT OF PROTECTED SPECIES FOR PUBLIC DISPLAY, AND FOR MAINTAINING A CAPTIVE MARINE MAMMAL INVENTORY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1372 (c)

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: This proposed rule would revise and simplify criteria and procedures specific to permits for taking, transporting, importing, and exporting protected species for public display and provide convenient formats for reporting marine mammal captive holdings and transports as required by amendments made in 1994 to the Marine Mammal Protection Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann Hochman, Permits Analyst, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289

RIN: 0648–AH26

728. PROPOSED RULE GOVERNING THE ISSUANCE OF PERMITS FOR MARINE MAMMAL PHOTOGRAPHY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1372 (c)(6)

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: This rule will provide for the issuance of permits to take marine mammals by only level B harassment for the purpose of educational or commercial photography.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Trevor Spradlin, Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289

RIN: 0648–AH31

DOC—NOAA

Proposed Rule Stage

729. AMEND REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1371 (a)(6)

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: The proposed rule implements certain changes in the prohibitions on importing or exporting marine mammals or marine mammal parts and products that occurred with the enactment of the Marine Mammal Protection Act Amendments of 1994 (Pub. L. 104-238). This action prohibits the export of marine mammals or marine mammal products for purposes other than public display, scientific research, or enhancing the survival of a species or stock and establishes three new categories of exceptions to the prohibition on importing marine mammal parts and products. This is a noncontroversial action that is not significant as it will have only minor effects on a small number of people, most of whom will benefit by the new exceptions.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tom McIntyre, Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289

RIN: 0648–AH83

730. IMPLEMENTATION OF 1997 MMPA AMENDMENTS AFFECTING YELLOWFIN TUNA PURSE SEINE FISHING IN THE EASTERN TROPICAL PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.24

Legal Deadline: None

Abstract: This rule would implement the 1997 amendments to the Marine Mammal Protection Act (MMPA) regarding regulation of the US yellowfin tuna fishery in the eastern tropical Pacific Ocean, and the regulation of yellowfin tuna into the United States from other nations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Legislation amending the MMPA regarding the yellowfin tuna fishery will require implementation of regulations 3 months after the effective date of the legislation.

Agency Contact: Hilda Diaz-Soltero, Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AI85

731. ENDANGERED AND THREATENED SPECIES: PROPOSED RULE GOVERNING TAKE OF WEST COAST STEELHEAD

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 to 1543; 16 USC 1361 et seq

CFR Citation: 50 CFR 227

Legal Deadline: None

Abstract: The regulation will propose section 9(a) prohibitions for endangered species, with certain exceptions for certain benign and beneficial actions for threatened species of west coast steelhead.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	02/00/99	
Final Action Effective	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kellie Carter, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376
Email: kellie.carter@noaa.gov

RIN: 0648–AK94

732. LIST OF FISHERIES FOR 1999

Priority: Routine and Frequent

Legal Authority: 16 USC 1361

CFR Citation: 50 CFR 229

Legal Deadline: Final, Statutory, December 30, 1998.

Abstract: The List of Fisheries, published pursuant to section 118 of the Marine Mammal Protection Act, classifies all U.S. commercial fisheries into one of three categories based on the level of incidental serious injuries and mortality to marine mammals. Participants in fisheries placed in category I, II or III are subject to different regulatory requirements under 50 CFR 229.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cathy Eisele, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322
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Email: cathy.eisele@noaa.gov

RIN: 0648–AK95

733. • SECTION 4(D) OF ESA PROTECTIVE REGULATIONS FOR JOHNSON SEAGRASS, A THREATENED SPECIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 227

Legal Deadline: None

Abstract: NMFS will issue protective regulations for Johnson's seagrass, a threatened species under section 4(d) of the Endangered Species Act (ESA). This will allow NMFS to tailor protective measures to best fit Johnson's seagrass.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Agency Contact: Angela Somma, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, SSMC #3, Silver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376
Email: angela.somma@noaa.gov

RIN: 0648–AL59

734. • DETERMINATION OF CRITICAL HABITAT FOR JOHNSON'S SEAGRASS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 227

Legal Deadline: Final, Statutory. The Endangered Species Act requires the designation of critical habitat, if any is designated, within one year of listing a species as threatened or endangered.

Abstract: The Endangered Species Act requires that critical habitat for a threatened or endangered species be designated within one year of listing that species under the Act. NMFS will determine if it will designate critical habitat for Johnson's seagrass, and if so, will designate it.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Angela Somma, Endangered Species Division, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, SSMC-3, Silver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376
Email: angela.somma@noaa.gov

RIN: 0648–AL82

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

735. REVISION OF FEDERAL CONSISTENCY REGULATIONS UNDER THE COASTAL ZONE MANAGEMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1451 et seq

CFR Citation: 15 CFR 930

Legal Deadline: None

Abstract: This rulemaking will revise the Federal consistency regulations to streamline and clarify procedural requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Margo F. Jackson, Asst. General Counsel for Ocean Services, Office of General Counsel, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway, 6th Floor, Silver Spring, MD 20910
Phone: 301 713-2967

RIN: 0648–AD83

736. REVISION OF OVERFLIGHT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1431 to 1445

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: These regulations are being revised to clarify that they are for resource protection purposes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth Moore, Sanctuaries and Resources Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway (N/ORM 2), Silver Spring, MD 20910
Phone: 301 713-3145

RIN: 0648–AI91

737. NOTICE OF PROPOSED ADMINISTRATIVE CHANGES TO COASTAL NONPOINT POLLUTION CONTROL PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1455b

CFR Citation: None

Legal Deadline: None

Abstract: NOAA and EPA plan to make administrative changes to the Coastal Nonpoint Pollution Control Program, developed under section 6217 of the Coastal Zone Act Reauthorization Amendments, 16 USC 1455b. The Amendments require States and territories with coastal zone management programs that have received approval under section 306 of the Coastal Zone Management Act to develop and implement coastal nonpoint pollution control programs. In response to coastal States' concerns over: the ability to target the program; enforceable policies and mechanisms; timeframes; and resources to implement coastal nonpoint programs, NOAA and EPA recently completed a dialogue with the coastal States and other interested parties, and plan to make administrative changes.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph A. Uravilch, Chief, Coastal Programs Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-3155

RIN: 0648–AK62

738. INTERAGENCY CONSULTATION FOR THE NATIONAL MARINE SANCTUARY PROGRAM

Priority: Other Significant

Legal Authority: 16 USC 1432

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: NOAA plans to issue regulations to implement the Federal-agency requirements of the National Marine Sanctuaries Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephanie Campbell, Attorney-Adviser, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910
Phone: 301 713-2967
Fax: 301 713-4408

RIN: 0648–AL06

739. OLYMPIC COAST NATIONAL MARINE SANCTUARY—ADDITION OF DEFINITION FOR SEABIRDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1431 et seq

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: NOAA plans to issue regulations to add a definition of the term "seabirds" for the Olympic Coast National Marine Sanctuary. The term "seabird" is used in that sanctuary's regulatory prohibitions. The regulations will define seabird to mean a member of any avian species that spends part or all of its life cycle (e.g., feeding) in or over the sanctuary, including shorebirds, waterfowl, and birds of prey.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephanie Thornton, Chief, Sanctuaries and Reserves Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway (N/ORM2), Silver Spring, MD 20910
Phone: 301 713-3155

RIN: 0648–AL09

OFFICE OF THE ADMINISTRATOR

740. • POLICIES AND PROCEDURES REGARDING PROGRAM EVALUATION AND COMPETITIVE FUNDING REQUIREMENTS WITHIN THE OFFICE OF OCEANIC AND ATMOSPHERIC RESEARCH

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 313; 15 USC 2901 et seq; 33 USC 883e; 33 USC 1121 et seq; 49 USC 44720

CFR Citation: 15 CFR 919 (New)

Legal Deadline: None

Abstract: The Office of Oceanic and Atmospheric Research (OAR) proposes regulations on its policies and procedures for program evaluation, the solicitation, review, and approval of proposals, and conflict of interest. These proposed regulations will provide the basic principles, objectives, and procedural framework for the evaluation of OAR programs, standardize the procedures for generating, evaluating, and selecting proposals sponsored within OAR that are subject to open competition, and establish procedures for identifying and handling conflicts of interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Eugene S. Fritz, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Oceanic and Atmospheric Research, Program Development and Coordination, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-0460
Fax: 301 713-0158
Email: gene.fritz@noaa.gov

RIN: 0648–AL45

741. • NOAA PROCEDURES FOR IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: None

Legal Deadline: None

Abstract: NOAA plans to issue proposed revised environmental review procedures for implementing the National Environmental Policy Act (NEPA) within the National Oceanic and Atmospheric Administration. The proposed revisions will update the agency's procedures published in 1984, based on changing Agency direction, laws, and public concerns. The revisions reflect new initiatives and mandates for NOAA, particularly involving the Magnuson-Stevens Act, Endangered Species Act, and Marine Mammal Protection Act. The revisions provide information on preparing NEPA documents and streamlining of NEPA and other analyses or documents within NOAA.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Susan Fruchter, Acting NEPA Coordinator, Department of Commerce, National Oceanic and Atmospheric Administration, Room 5805, Washington, DC 20230
Phone: 202 482-5916

RIN: 0648–AL58

DEPARTMENT OF COMMERCE (DOC)
National Oceanic and Atmospheric Administration (NOAA)

Final Rule Stage

NATIONAL MARINE FISHERIES SERVICE

742. FINANCIAL DISCLOSURE OF FISHERY MANAGEMENT COUNCIL NOMINEES, MEMBERS, AND EXECUTIVE DIRECTORS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: None

Abstract: This rule revises the rules of conduct and financial disclosure regulations applicable to Regional Fishery Management Council nominees, appointees and voting members. The revisions would implement a provision of the Magnuson-Stevens Act that was amended by the Sustainable Fisheries Act. This provision prohibits council members from voting on matters that would have a significant and predictable effect on a financial interest disclosed in accordance with existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/07/97	62 FR 42474
NPRM Comment Period End	09/08/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AG16

743. AMENDMENT 39 TO THE FMP FOR GROUNDFISH FISHERY OF BSAI, AMENDMENT 41 TO THE FMP FOR GROUNDFISH OF THE GOA AND AMENDMENT 5 TO THE FMP FOR COMMERCIAL KING & TANNER CRAB FISHERIES OF THE BSAI

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory. Final, Statutory.
Final regulations to be published within 30 days of the end of the comment period on the proposed rule.

Abstract: This rule would implement (1) a License Limitation Program intended to halt the increase in fishing vessels and limit their fishing capacity, (2) a multi-species Community Development Quota program for certain western Alaska communities, and a BS/AT Crab Community Development (CDQ) program, CDQ reserves for the multi-species program, and a no-trawl zone in the eastern Gulf of Alaska.

Timetable:

Action	Date	FR Cite
NPRM	08/15/97	62 FR 43866
NPRM Comment Period End	09/29/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AH65

744. PROPOSED RULE TO IMPLEMENT VESSEL IDENTIFICATION AND REPORTING REQUIREMENTS UNDER THE HIGH SEAS FISHING COMPLIANCE ACT OF 1995

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 5501

CFR Citation: 50 CFR 300

Legal Deadline: None

Abstract: This action will implement vessel identification and reporting requirements for U.S. vessels licensed to fish on the high seas.

Timetable:

Action	Date	FR Cite
NPRM	06/25/98	63 FR 34624
NPRM Comment Period End	07/27/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary Matlock, Director, Office of Sustainable Fisheries, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, Md. 20910
Phone: 301 713-2334
Fax: 301 713-0596

RIN: 0648–AI99

745. GUIDELINES FOR THE DESCRIPTION, IDENTIFICATION, CONSERVATION, AND ENHANCEMENT OF ESSENTIAL FISH HABITAT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: Final, Statutory, April 11, 1997.

Abstract: Guidelines to assist Fishery Management Councils in the description and identification of essential fish habitat (EFH), including adverse impacts on EFH, and in the consideration of actions to conserve and enhance EFH, in fishery management plans.

Timetable:

Action	Date	FR Cite
ANPRM	11/08/96	61 FR 57843
ANPRM Comment Period End	12/09/96	
Second ANPRM	01/09/97	62 FR 1306
Second ANPRM Comment Period End	02/12/97	
NPRM	04/23/97	62 FR 19723
NPRM Comment Period End	07/08/97	
Interim Final Rule	12/19/97	62 FR 66531
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James P. Burgess, Director, Office of Habitat Conservation, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910-3282
Phone: 301 713-2325
Fax: 301 713-1043
Email: james.burgess@noaa.gov

RIN: 0648–AJ30

746. FINAL DEFINITION OF THE ZERO MORTALITY RATE GOAL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361

CFR Citation: 50 CFR 229

Legal Deadline: None

DOC—NOAA

Final Rule Stage

NMFS must initiate a report to Congress on fisheries progress towards the Zero Mortality Rate Goal by April 30, 1997.

Abstract: The Marine Mammal Protection Act, as amended in 1994, requires that commercial fisheries reduce incidental serious injury and mortality of marine mammals to insignificant levels approaching a zero mortality and serious injury rate by April 30, 2001. This interim final rule provides the regulatory definition of the Zero Mortality Rate Goal as part of the new management regime for the unintentional taking of marine mammals incidental to commercial fishing operators.

Timetable:

Action	Date	FR Cite
NPRM	06/15/95	60 FR 31666
NPRM Comment Period End	09/14/95	
Interim Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cathy Eisele, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Hwy., Silver Spring, MD 20910
Phone: 301 713-2322
Fax: 301 713-0376
Email: cathy.eisele@noaa.gov

RIN: 0648–AJ84

747. ENDANGERED AND THREATENED SPECIES: TAKE OF THREATENED SOUTHERN OREGON/NORTHERN CALIFORNIA COAST EVOLUTIONARILY SIGNIFICANT UNIT (ESU) COHO SALMON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq to 16 USC 1543 et seq subpart B Sec 227.12; 16 USC 1361 et seq

CFR Citation: 50 CFR 227

Legal Deadline: None

Abstract: On May 6, 1997, NMFS listed the Southern Oregon/Northern California Coast ESU of coho salmon as threatened. NMFS is now issuing protective regulations under section 4(d) of the ESA which will apply section 9(a) prohibitions to all activities within this ESU unless: in compliance with section 10 or other exemptions under the ESA; in accordance with a timely application for a permit for scientific purposes to enhance propagation or survival of the species; or within carefully circumscribed harvest hatchery, research and monitoring, or habitat restoration activity exceptions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/18/97	62 FR 38479
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lis Lierheimer, Fisheries Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
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Email: lisa.lierheimer@noaa.gov

RIN: 0648–AJ91

748. APPOINTMENT OF MEMBERS TO THE REGIONAL FISHERY MANAGEMENT COUNCILS

Priority: Info./Admin./Other

Unfunded Mandates: This action may affect State, local or tribal governments.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: None

Abstract: Reorganizes text contained in section 600.215 (Appointments) into a more logical order and makes editorial changes for readability. It also reemphasizes the requirement for each RFMC constituent state governor, tribal indian government, and each Council nominee to comply with the March 15 nomination deadline.

Timetable:

Action	Date	FR Cite
NPRM Comment Period Extension	08/05/97	62 FR 42093
Final Action Appoint Regional Fishery Mgmt Council Members (Tribal)	09/10/97	62 FR 47584
NPRM	01/30/98	63 FR 4618
NPRM Fishery Mgmt Council Members (Obligatory and at-large)	01/30/98	63 FR 4618
NPRM Comment Period End	03/02/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AJ95

749. ADDITIONAL MEASURES OF AMENDMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE SOUTH ATLANTIC—PROCEDURES FOR TESTING AND CERTIFICATION OF BYCATCH REDUCTION DEVICES (BRDS)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: All measures of Amendment 2 were approved by the National Marine Fisheries Service (NMFS) on February 24, 1997. Under Amendment 2, BRDs certified by the NMFS are required to be used in all penaeid shrimp trawls in the exclusive economic zone (EEZ) in the South Atlantic (EEZ off North Carolina to Florida inclusive). The final rule to implement Amendment 2, effective April 21, 1997, certified three BRDs for such use (73 FR 18536). Amendment 2 specifies that a testing protocol would be developed so that additional BRDs could be tested and implemented, if they meet the bycatch reduction criterion for Spanish mackerel and weakfish (must reduce bycatch by 40 percent in number of weakfish and Spanish mackerel). The testing protocol was not completed when the proposed rule to implement Amendment 2 was published but was published with the

DOC—NOAA

Final Rule Stage

final rule. This action would implement that part of Amendment 2 allowing testing of new BRDs and would specify that a person who proposes a BRD for certification must test such BRD and submit the results to the Regional Administrator, Southeast Region, NMFS, in accordance with the "Bycatch Reduction Device Testing Protocol Manual" which contains the testing protocol and the specific reporting requirements for the test results.

Timetable:

Action	Date	FR Cite
NPRM	06/03/98	63 FR 30174
NPRM Comment Period End	07/06/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive, North, St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AK29

750. ENDANGERED AND THREATENED SPECIES; REGULATIONS CONSOLIDATION

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 44 USC 3501 et seq; 16 USC 1531 et seq; 16 USC 742a et seq; 31 USC 9701 Act of August 31, 1951, 65 Stat. 290; 16 USC 1361 et seq

CFR Citation: 50 CFR 217; 50 CFR 220; 50 CFR 221; 50 CFR 222; 50 CFR 223; 50 CFR 225; 50 CFR 226; 50 CFR 227

Legal Deadline: None

Abstract: This final rule consolidates and reorganizes existing regulations regarding implementation of the Endangered Species Act. The action is part of the President's Regulatory Reinvention Initiative.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Therese Conant, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East West Highway, Sillver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376

RIN: 0648–AK34

751. PROPOSED HIGHLY MIGRATORY SPECIES PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq; 16 USC 971 et seq

CFR Citation: 50 CFR 630

Legal Deadline: None

Abstract: NMFS proposes to revise the administrative procedures it follows to prepare and issue highly migratory species (HMS) management plans (FMPs), FMP amendments and implementing regulations for the Atlantic Ocean, Gulf of Mexico and Caribbean Sea in response to recent amendments to the Magnuson-Stevens Fishery Management Act.

Timetable:

Action	Date	FR Cite
NPRM	09/18/97	62 FR 48990
NPRM Comment Period End	10/15/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AK40

752. REGULATORY AMENDMENT TO FISHERY MANAGEMENT PLAN FOR GOLDEN CRAB FISHERY OF SOUTHERN ATLANTIC STATES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulatory amendment, under the framework procedure for adjusting management measures of the Fishery Management Plan for the Golden Crab Fishery of the South Atlantic Region (FMP), that would: Extend through January 31, 1999, the authorized use of wire cable in the golden crab fishery in the South Atlantic exclusive economic zone; revise the vessel size limitations applicable when a vessel permit is transferred to another vessel; remove from final regulations implementing the FMP the eligibility criteria and procedures for obtaining initial commercial permits in the golden crab fishery.

Timetable:

Action	Date	FR Cite
NPRM	06/26/98	63 FR 34842
NPRM Comment Period End	07/13/98	
Final Action	10/00/98	
Final Action Effective	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL. 33702-2432
Phone: 813 570-5301

RIN: 0648–AK43

753. ENDANGERED AND THREATENED SPECIES: PROPOSED THREATENED STATUS AND DESIGNATED CRITICAL HABITAT FOR WEST COAST SOCKEYE SALMON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 to 1543; 16 USC 1361 et seq

CFR Citation: 50 CFR 226; 50 CFR 227

DOC—NOAA

Final Rule Stage

Legal Deadline: None

Abstract: NMFS has completed a comprehensive review of west coast sockeye salmon in Washington, Oregon and California and has identified 6 evolutionarily significant units (ESUs) within this range. NMFS is now fashioning a proposed rule to list one ESU as threatened under the Endangered Species Act. NMFS is also proposing critical habitat which will encompass the species current freshwater and estuarine range.

Timetable:

Action	Date	FR Cite
NPRM	03/10/98	63 FR 11750
NPRM Comment Period End	06/30/98	63 FR 30455
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kellie Carter, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
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Fax: 301 713-0376
Email: kelli.carter@noaa.gov

RIN: 0648–AK52

754. ENDANGERED AND THREATENED SPECIES: PROPOSED ENDANGERED STATUS AND DESIGNATED CRITICAL HABITAT FOR COASTWIDE CHUM SALMON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 to 1543; 16 USC 1361 et seq

CFR Citation: 50 CFR 226; 50 CFR 227

Legal Deadline: Final, Statutory, March 10, 1999.

Abstract: NMFS has completed a comprehensive status review for chum salmon populations in Washington, Oregon and California and has identified evolutionarily significant units (ESUs) within the range. NMFS is now issuing a proposed rule to list appropriate ESUs under the Endangered Species Act. NMFS is also proposing critical habitat for ESUs proposed for listing.

Timetable:

Action	Date	FR Cite
NPRM	03/10/98	63 FR 11773
NPRM Comment Period End	06/30/98	63 FR 30455
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kellie Carter, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376
Email: kellie.carter@noaa.gov

RIN: 0648–AK53

755. ATLANTIC BILLFISH SIZE LIMITS AND TOURNAMENT NOTIFICATION REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 644

Legal Deadline: None

Abstract: NMFS increases the minimum size limit for Atlantic White and Blue Marlins, and institutes a requirement to notify NMFS of tournaments involving any Atlantic billfish.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/29/98	63 FR 51859
Interim Final Rule Comment Period End	11/23/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Fax: 301 713-0596

RIN: 0648–AK88

756. • FISHERY DISASTER RELIEF

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: NOAA plans to issue an interpretative rule on disaster assistance under section 312(a) of the Magnuson-Stevens Act.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael L. Grable, Chief, Financial Services Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2390
Fax: 301 713-1939

RIN: 0648–AL13

757. • INTERIM RULE TO CERTIFY THREE BYCATCH REDUCTION DEVICES (BRDS) UNDER AMENDMENT 9 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: None

Abstract: Amendment 9 requires the use of NMFS-certified BRDs in shrimp trawls towed in the Gulf of Mexico exclusive economic zone (EEZ), shoreward of the 100-fm (183-m) depth contour west of 85 degree 30 minutes west longitude, the approximate longitude of Cape San Blas, Florida. This interim rule certifies three BRDs, the Jones-Davis, fisheye (5-mesh), and fisheye (offset), as meeting the red snapper bycatch reduction criterion embodied in Amendment 9 on an interim basis.

Timetable:

Action	Date	FR Cite
NPRM	05/19/98	63 FR 27499
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast

DOC—NOAA

Final Rule Stage

Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL14

758. • INTERIM RULE TO REQUIRE SHRIMP TRAWL VESSEL OBSERVERS, LOGBOOKS, AND MONITORING SYSTEMS IN THE EXCLUSIVE ECONOMIC ZONE OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: None

Abstract: This interim rule provides NMFS with the regulatory authority to implement a mandatory shrimp trawl vessel observer program, a logbook program and a vessel monitoring system (VMS) starting May 1, 1998, in the Exclusive Economic Zone (EEZ) of the Gulf of Mexico. These interim measures are needed for provide statistically valid estimates of the operational efficiency of NMFS certified bycatch reduction devices (BRDs) for reducing juvenile red snapper bycatch mortality and for estimating bycatch of that species. An intensive short-term research program will be conducted between May 1, 1998, and August 31, 1998, to measure and estimate these parameters. The results of this study will determine how much, if any, of red snapper total allowable catch (TAC) will be released for harvest for the fall season beginning September 1, 1998 under a separate interim rule. Currently 6.0 million pounds (MP) of the 9.12 MP TAC has been released for the Spring season. If BRDs reduce shrimp trawl-induced mortality of juvenile red snapper by 50 percent or less, no reserve TAC will be released in order to prevent overfishing of that species.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/19/98	63 FR 27486
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL15

759. • REGULATORY AMENDMENT TO IMPLEMENT STAND-DOWN REQUIREMENT FOR CATCHER VESSELS TRANSITING BETWEEN BERING SEA AND ALEUTIAN ISLANDS AND GULF OF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of the end of the comment period of the proposed rule.

Abstract: This action would impose a stand-down requirement for all trawl catcher vessels transiting between the Bering Sea and Aleutian Islands and Gulf of Alaska management areas during times the pollock or Pacific cod fisheries are open in either area to reduce risk of harvest overruns.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL26

760. • VESSEL TRACKING SYSTEM POWER DOWN EXEMPTION RULE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This action would change the name Vessel Tracking System to Vessel Monitoring System (VMS) and would change the VMS operating requirements for vessels to allow the VMS unit to be turned off if the vessel is out of the water continuously for more than 72 consecutive hours, provided the vessel obtains and complies with a letter of exemption.

Timetable:

Action	Date	FR Cite
NPRM	07/28/98	63 FR 40253
NPRM Comment Period End	08/27/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jon Rittgers, Acting Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AL35

761. • EMERGENCY INTERIM RULE TO RELEASE THE REMAINING 1998 RECREATIONAL AND COMMERCIAL QUOTA RESERVES FOR GULF OF MEXICO RED SNAPPER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Other, Statutory. Emergency rule effective for 180 days after publication and may be extended for one additional period of not more than 180 days.

Abstract: This rule releases the remainder of the 3.12 million pound 1998 reserved red snapper total allowable catch (TAC) to the commercial and recreational fisheries and closes the recreational fishery on September 30, 1998. Of the reserved TAC, 1.53 million pounds will be released to the commercial fishery on September 1, 1998, and 1.59 million pounds will be released to the recreational fishery upon issuance of the rule. The emergency rule is intended to prevent severe economic and social hardships in the red snapper commercial and recreational fisheries, and in the communities dependent upon them.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

DOC—NOAA

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL61

762. • 1999 HARVEST GUIDELINE FOR THE NORTHWESTERN HAWAIIAN ISLANDS LOBSTER FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: None

Abstract: This action announces the 1999 harvest guidelines for the Northwestern Hawaiian Islands crustacean fishery. The guideline is calculated according to the formula in the Fishery Management Plan for the Crustaceans Fisheries of the Western Pacific Region.

Timetable:

Action	Date	FR Cite
Final Action	02/00/99	
Final Action Effective	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AL63

763. • 1999-2000 MANAGEMENT MEASURES FOR COMMERCIAL, RECREATIONAL, AND TREATY INDIAN SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: None

Abstract: Annual management measures for the 1999-2000 fishing year would specify allowable ocean harvest levels (including quotas), allocations, management boundaries and zones, minimum size limits, gear definitions, seasons, selective fisheries, and in-season notice procedures.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AL64

764. • REGULATORY AMENDMENT TO IMPLEMENT A LIMITED ACCESS PROGRAM THAT REQUIRES SPECIES ENDORSEMENTS TO PARTICIPATE IN FISHERIES TARGETING CERTAIN GROUNDFISH SPECIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of interim final rule comment period.

Abstract: Regulations would implement species-specific permit endorsement requirements for commercial groundfish fisheries. Limited entry permit holders would be either allowed to or prohibited from landing those species, based on historic dependence on those species.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/00/99	
Final Action	10/00/99	
Final Action Effective	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AL65

765. • REGULATORY AMENDMENT TO ALLOW LIMITED ENTRY TRAWLERS TO RETAIN GROUNDFISH TAKEN IN EXCESS OF CUMULATIVE TRIP LIMITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of interim final rule comment period.

Abstract: Regulations would allow limited entry groundfish trawlers to retain groundfish taken in excess of cumulative trip limits. Groundfish in excess of trip limits, "overage," would be sold to designated processors, at no profit to the fisher. Proceeds from the sale of groundfish overages would be placed in a fund managed by the Pacific States Marine Fisheries Commission. This fund will be used to conduct research on Pacific coast groundfish stocks.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/99	
Final Action	02/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-070
Phone: 206 526-6150

RIN: 0648–AL68

DOC—NOAA

Final Rule Stage

766. • REGULATORY AMENDMENT TO ALLOCATE LINGCOD AND BOCACCIO ROCKFISH BETWEEN COMMERCIAL AND RECREATIONAL GROUNDFISH FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of interim final rule comment period.

Abstract: Regulations would set allocations of lingcod and bocaccio rockfish between the commercial and recreational fisheries for Pacific Coast groundfish.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/99	
Final Action	03/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AL69

767. • FRAMEWORK TO IMPLEMENT ANNUAL MANAGEMENT MEASURES FOR NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This regulation would implement annual management measures for the Northeast Multispecies fishery for the fishing year beginning May 1, 1999.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	
Final Action Effective	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AL72

768. INTERIM FINAL RULE FOR ATLANTIC SEA SCALLOP FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory. Final Regulations to be published within 30 days of end of NPRM comment period

Abstract: This action would amend the regulations implementing the Atlantic Sea Scallop Fishery Management Plan for 90 days to include a prohibition on all trawl and dredge vessels fishing for and retaining scallops in the newly defined Hudson Canyon South closed area and Virginia Beach closed area.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/31/98	63 FR 15324
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Action effective 04/03/98 through 09/27/98. Comments were received through April 30, 1998.

Agency Contact: Dr. Andrew A. Rosenberg, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9300

RIN: 0648–AK68

769. CIVIL PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 to 1882; 16 USC 1531 to 1543; 16 USC 1361 to 1407; 16 USC 3371 to 3378; 16 USC 1431 to 1439; 16 USC 773 to 773k; 16 USC 951 to 961; 16 USC 1021 to 1032; 16 USC 3631 to 3644; 42 USC 9101 et seq; 30 USC 1401 et seq; 16 USC 971 to 971i; 16 USC 781 et seq; 16 USC 972 to 972b; 16 USC 916 to 916l; ...

CFR Citation: 15 CFR 904

Legal Deadline: None

Abstract: This interim final rule amends NOAA's regulations to make them consistent with a Federal District Court ruling on the Agency's consideration of a respondent's ability to pay when assessing a civil penalty. The amendment removed a provision which placed the burden on the respondent to raise and prove inability to pay an assessed penalty when the statute involved requires NOAA to take ability to pay into account. A subsequent amendment to the statute in the Magnuson-Stevens Fishery Conservation and Management Act will require changes to the interim final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/02/93	58 FR 58484
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: This rule remains in interim final status. The final rule will reflect changes necessitated by recent statutory amendments enacted as part of the Magnuson-Stevens Fisheries Conservation and Management Act.

Agency Contact: Hugh Schratwieser, Attorney Adviser, Department of Commerce, National Oceanic and Atmospheric Administration, Office of the Assistant General Counsel for Enforcement and Litigation (GCEL), 8484 Georgia Ave. 4th Fl, Silver Spring, MD 20910
Phone: 301 427-2202

RIN: 0648–AF96

770. PERFORMANCE STANDARDS FOR TUNA VESSEL OPERATORS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: NOAA has established a system of performance standards for operators of U.S.-flag tuna purse seine fishing vessels that catch yellowfin tuna associated with marine mammals in the eastern tropical Pacific Ocean.

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	54 FR 46086
NPRM Comment Period End	12/01/89	
Interim Final Rule	05/17/90	55 FR 20458
Interim Final Rule Comment Period End	09/03/90	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AD03

771. TAKING AND IMPORTING OF MARINE MAMMALS; DOLPHIN MORTALITY LIMITS DURING PURSE SEINE SETS ON MARINE MAMMALS IN THE EASTERN TROPICAL PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.24

Legal Deadline: None

Abstract: This interim final rule will amend the current performance standards in the Marine Mammal Protection Act (MMPA) regulations to ensure that U.S. vessels can be legally prevented from making sets on tuna associated with dolphins in the eastern tropical Pacific Ocean once the vessel's dolphin mortality limit is reached. This rule also implements portions of the International Dolphin Conservation Act of 1992.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/19/93	58 FR 29127
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AF07

772. TAKE OF MARINE MAMMALS BY THE U.S. NAVY INCIDENTAL TO MILITARY ACTIVITIES IN THE SOUTH ATLANTIC OF THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: The U.S. Navy has petitioned NMFS for regulations that would authorize a small take of marine mammals incidental to ship shock trials in oceanic waters offshore Florida or Virginia. Under the Marine Mammal Protection Act, NMFS is allowed to authorize these takings if certain findings are made and regulations are issued that include requirements for monitoring and reporting.

Timetable:

Action	Date	FR Cite
ANPRM	06/14/96	61 FR 30212
ANPRM Comment Period End	07/15/96	
NPRM	08/02/96	61 FR 40377
NPRM Comment Period End	09/17/96	
Final Action	10/00/98	
Final Action Effective	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kenneth Hollingshead, Fishery Biologist, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2055

RIN: 0648–AG55

773. DESIGNATED CRITICAL HABITAT; CENTRAL CALIFORNIA COAST AND SOUTHERN OREGON/NORTHERN CALIFORNIA COAST COHO SALMON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533

CFR Citation: 50 CFR 226

Legal Deadline: Final, Statutory, October 31, 1997.

Critical habitat designation for central California coast coho salmon is due one year after the listing, or 10/31/97.
Critical habitat designation for Southern Oregon/Northern (cont)

Abstract: NMFS proposed to designate critical habitat for two Evolutionarily Significant Units (ESUs) of coho salmon (Oncorhynchus kisutch) pursuant to the Endangered Species Act (ESA) of 1973. Critical habitat for the Central California Coast ESU encompasses accessible reaches of all rivers (including estuarine areas and tributaries) between Punta Gorda and the San Lorenzo River (inclusive) in California. Also included are two rivers entering San Francisco Bay: Mill Valley Creek and Corte Madera Creek. Critical habitat for the Southern Oregon/Northern California Coast ESU encompasses accessible reaches of all rivers (including estuarine areas and tributaries) between the Mattole River in California and the Elk River in Oregon, inclusive.

Timetable:

Action	Date	FR Cite
NPRM	06/10/98	63 FR 23710
Final Action	10/00/98	
Final Action Effective	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Additional Information: LEGAL DEADLINE CONT: California coast coho salmon is due one year after the listing, or 5/6/98.

Agency Contact: Michelle Rogers, Fisheries Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, F/PR3, Silver Spring, MD 20910
Phone: 301 713-0376
Email: michelle.rogers@noaa.gov

RIN: 0648–AG56

774. TAKING AND IMPORTING OF MARINE MAMMALS: PROPOSED RULE PROHIBITING U.S. CITIZENS FROM ENCIRCLING MARINE MAMMALS DURING TUNA FISHING OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.24

DOC—NOAA

Final Rule Stage

Legal Deadline: NPRM, Statutory. Final, Statutory, March 1, 1994.

Abstract: This rule proposes implementation of section 307 (a)(2) of the International Dolphin Conservation Act, which makes it unlawful for any person or vessel that is subject to the jurisdiction of the United States, intentionally to set a purse seine net or to encircle any marine mammal during any tuna fishing operation, with certain exceptions.

Timetable:

Action	Date	FR Cite
NPRM	10/12/94	59 FR 51552
NPRM Comment Period End	11/14/94	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AH04

775. FINAL RULE TO ESTABLISH GUIDELINES FOR NONLETHALLY DETERRING MARINE MAMMALS FROM ENDANGERING PERSONAL SAFETY OR DAMAGING PUBLIC OR PRIVATE PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq The Marine Mammal Protection Act

CFR Citation: 50 CFR 216

Legal Deadline: Final, Statutory, January 1, 1995.

Abstract: On April 30, 1994, the President signed Pub. L. 103-238, the Marine Mammal Protection Act Amendments of 1994. One part of this law implemented a new section 101(a)(4) to authorize the nonlethal harassment takings by citizens of the United States to deter marine mammals from: (1) Damaging commercial fishing gear or catch; (2) damaging private property; (3) endangering public safety; or (4) damaging public property. The amendments require a list of guidelines for use in safely deterring marine mammals and provide for prohibiting certain deterrent measures that may have a significant adverse impact on marine mammals.

Timetable:

Action	Date	FR Cite
NPRM	05/05/95	60 FR 22345
NPRM Comment Period End	07/05/95	
Final Action	10/00/98	
Final Action Effective	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910-3226
Phone: 301 713-2055

RIN: 0648–AH19

776. GENERAL AUTHORIZATION FOR SCIENTIFIC RESEARCH INVOLVING LEVEL B HARASSMENT

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 16 USC 1151 et seq Fur Seal Act; 16 USC 1631 et seq Marine Mammal Protection Act

CFR Citation: 50 CFR 216

Legal Deadline: Final, Statutory, August 30, 1994.

Abstract: This final rule is required by the 1994 amendments to the Marine Mammal Protection Act. These regulations establish a general authorization for bona fide scientific research on non-endangered and non-threatened marine mammals that may result in harassment with only the potential to disturb. Inclusion under the general authorization is achieved by letter of intent to the National Marine Fisheries Service and a letter of confirmation from the Service.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/03/94	59 FR 50372
Interim Final Rule Comment Period End	11/17/94	
Final Action	01/00/99	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Ruth Johnson, Marine Resources Management Specialist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910-3226
Phone: 301 713-2289

RIN: 0648–AH20

777. DESIGNATED CRITICAL HABITAT; GREEN AND HAWKSBILL SEA TURTLE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533

CFR Citation: 50 CFR 226

Legal Deadline: NPRM, Statutory, November 7, 1997. Final, Statutory, December 19, 1998.
Petition to designate critical habitat was received 11/07/96. According to regulations, we have 1-year to propose rulemaking.

Abstract: NOAA proposes to designate critical habitat for the threatened green turtle (Chelonia mydas) and endangered hawksbill turtle (Eretmochelys imbricatta) pursuant to the Endangered Species Act of 1973 (ESA). The geographic area proposed for critical habitat designation comprises the coastal waters surrounding the islands of Mona, Monito, and the Culebra archipelago, from the Mean High Water line seaward to 3 nautical miles (nm). This designation provides explicit notice to Federal agencies and the public that these areas and features are vital to the conservation of the species.

Timetable:

Action	Date	FR Cite
NPRM	12/19/97	62 FR 66584
NPRM Comment Period End	02/17/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Barbara Schroeder, National Sea Turtle Coordinator, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376

RIN: 0648–AH88

DOC—NOAA

Final Rule Stage

778. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS; TAKE REDUCTION PLAN REGULATIONS AND EMERGENCY REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq The Marine Mammal Protection Act

CFR Citation: 50 CFR 229

Legal Deadline: None

Abstract: The Marine Mammal Protection Act amendments of 1994 (Public Law 103-238) provide for the development and implementation of take reduction plans to assist in the recovery or prevent the depletion of strategic marine mammal stocks. These take reduction plans shall be developed by take reduction teams, comprised of representatives of Federal, state, and other government agencies, as well as other non-governmental organizations. In some cases, take reduction plans may recommend regulatory measures for effective implementation. NMFS must publish proposed regulations to implement such plans for public review and comment during a period not to exceed 90 days.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/22/97	62 FR 39157
Interim Final Rule Atlantic Large Whale Take Reduction Plan	07/22/97	62 FR 39157
NPRM Gulf of Maine Harbor Porpoise Take Reduction Plan	08/13/97	62 FR 43302
NPRM	08/15/97	62 FR 43302
Final Action Pacific Offshore Cetacean Take Reduction Plan	10/03/97	62 FR 51805
NPRM Comment Period End	10/14/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vicki Cornish, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322
Fax: 301 713-0376

Donna Wieting, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322
Fax: 301 713-0376

RIN: 0648–AI84

779. DRAFT POLICIES FOR SAFE HARBOR AND CANDIDATE SPECIES CONSERVATION (CCA) AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 222

Legal Deadline: None

Abstract: The National Marine Fisheries Service and the Fish and Wildlife Service jointly proposed these policies to allow non-Federal landowners to obtain ESA section 10(a)(1)(A) enhancement of survival permits associated with a Safe Harbor or CSC Agreement. They would be between the Services and non-Federal landowners to provide a net conservation benefit to endangered species. After terms of the Agreement are completed, the enrolled lands could be returned to the baseline or agreed upon conditions through incidental taking authorized in the permit. These enhancement permits will provide non-Federal landowners, who take voluntary conservation activities agreed to in the agreements, assurances that future land use will not be restricted as a result of their conservation efforts. The enhancement of survival permits would authorize the incidental taking in performing management actions to achieve the net conservation benefit as well as incidental take authorized to return the land to target conditions upon the completion of all the management actions. Participating landowners will derive regulatory certainty, because the ESA will not prohibit them from returning their land to original or agreed upon conditions once the Agreement is fulfilled. The Agreements encourage beneficial land-use, which helps imperiled species. The FWS has its own permit regulations and has made a similar request under E.O. 12866; the request number is RIN 108-AD95.

Timetable:

Action	Date	FR Cite
NPRM	06/12/97	62 FR 113
NPRM Comment Period End	08/11/97	
Final Action	11/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Margaret Lorenz, ESA Policy Coordinator, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376

RIN: 0648–AJ54

780. ENDANGERED AND THREATENED SPECIES; STATUS OF CHINOOK SALMON IN WASHINGTON, IDAHO, OREGON AND CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 to 1543; 16 USC 1361 et seq

CFR Citation: 50 CFR 226; 50 CFR 227

Legal Deadline: NPRM, Judicial, February 26, 1998. Final, Statutory, March 9, 1999.

Abstract: NMFS has completed a comprehensive status review of west coast chinook salmon populations in Washington, Oregon, Idaho and California. NMFS has identified 15 evolutionarily significant units (ESUs) of chinook within this range. NMFS is now proposing critical habitat for the ESUs that will be proposed for listing under the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	03/09/98	63 FR 11482
NPRM Comment Period End	06/30/98	63 FR 30455
Final Action	03/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lisa Lierheimer, Fishery Biologist, Office of Protected

DOC—NOAA

Final Rule Stage

Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376
Email: lisa.lierheimer@noaa.gov

RIN: 0648–AK02

781. NORTH ATLANTIC RIGHT WHALE PROTECTION

Priority: Other Significant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 229

Legal Deadline: Final, Statutory, July 15, 1997.
Court mandated deadline.

Abstract: NMFS issued an interim final rule implementing a take reduction plan to reduce serious injury and mortality to large whale species on July 22, 1997 (62 FR 3915). Fisheries covered by the plan are the multispecies groundfish gillnet fisheries in the Gulf of Maine; the Gulf of Maine lobster fisheries; the mid-Atlantic coastal gillnet fisheries; and the shark driftnet fishery.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/22/97	62 FR 3915
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Greg Silber, Fisheries Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322

RIN: 0648–AK41

782. TAKING OF MARINE MAMMALS INCIDENTAL TO ACTIVITIES AT VANDENBERG AIR FORCE BASE, CA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: NMFS received a petition for regulations and an application from the 30th Space Wing, U.S. Air Force, for an incidental, small take exemption under section 101(a)(5)(A) of the Marine Mammal Protection Act (MMPA) for the potential harassment of marine mammals incidental to missile and rocket launches, aircraft flight test operations and helicopter operations at Vandenberg Air Force Base, California.

Noise generated by aircraft and by missile and rocket launches on Vandenberg may cause negligible short-term impacts to pinnipeds hauled out on the Vandenberg coastline. Because the noise may potentially result in disturbance of pinnipeds, an MMPA authorization is warranted. As a result of this request, NMFS has proposed regulations that would authorize the incidental taking of a small number of marine mammals. The taking can be authorized if certain findings are made that include requirements for monitoring and reporting the take.

Timetable:

Action	Date	FR Cite
ANPRM	11/14/97	62 FR 61077
ANPRM Comment Period End	12/14/97	
NPRM	07/21/98	63 FR 39055
NPRM Comment Period End	09/04/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2055

RIN: 0648–AK42

783. DEFINITION OF HARM UNDER THE ESA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 227

Legal Deadline: None

Abstract: This proposed rule defines the term "harm" which is contained in the Endangered Species Act. The purpose of this rulemaking is to help resolve uncertainty concerning the type of harm that may result in a take of a listed species under the ESA.

Timetable:

Action	Date	FR Cite
NPRM	05/01/98	63 FR 24148
NPRM Comment Period End	06/30/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tracy Jordan, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376
Email: tracy.jordan.@noaa.gov

RIN: 0648–AK55

784. • PACIFIC OFFSHORE CETACEAN TAKE REDUCTION PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 229

Legal Deadline: None

Abstract: This interim final rule would allow vessel operators participating in the California/Oregon drift gillnet fishery for thresher shark and swordfish to use longer lines to attach pingers to the nets.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	
Final Action Effective	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AL70

DOC—NOAA

Final Rule Stage

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

785. THUNDER BAY NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1431 to 1445

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: These regulations will protect the ecological, recreational, and esthetic resources of the waters surrounding Thunder Bay if the area is designated as a national marine sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	06/23/97	62 FR 33768
NPRM Comment Period End	09/22/97	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephanie R. Thornton, Chief, Sanctuaries and Reserve Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway (N/ORM2), Silver Spring, MD 20910
Phone: 301 713-3155

RIN: 0648–AE41

786. PROHIBITING ANCHORING BY VESSELS 50 METERS OR GREATER IN LENGTH ON TORTUGAS BANK WITHIN THE FLORIDA KEYS NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1431 et seq

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: The National Oceanic and Atmospheric Administration is planning to amend the regulations for the Florida Keys National Marine Sanctuary to prohibit anchoring by vessels 50 meters or greater in registered length on Tortugas Bank. The preamble to this rule contains an environmental assessment for this proposed action. The intent of this rule is to protect the coral reef at Tortugas Bank.

Timetable:

Action	Date	FR Cite
NPRM	02/11/98	63 FR 6883
NPRM Comment Period End	03/13/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Billy Causey, Superintendent, Florida Keys National Marine Sanctuary, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 500368, Marathon, FL 33050
Phone: 305 743-2437

RIN: 0648–AK45

OFFICE OF THE ADMINISTRATOR

787. LICENSING OF PRIVATE COMMERCIAL REMOTE-SENSING SATELLITE SYSTEMS

Regulatory Plan: This entry is Seq. No. 16 in Part II of this issue of the Federal Register.

RIN: 0648–AC64

DEPARTMENT OF COMMERCE (DOC)

Long-Term Actions

National Oceanic and Atmospheric Administration (NOAA)

NATIONAL MARINE FISHERIES SERVICE

788. REGULATORY AMENDMENT TO IMPLEMENT PERMIT, REPORTING, AND RECORDKEEPING REQUIREMENTS FOR PROCESSING VESSELS OVER 125 FEET AND THEIR CATCHER VESSELS: PACIFIC COAST GROUNDFISH

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Timetable:

Action	Date	FR Cite
NPRM	11/19/92	57 FR 54552
NPRM Comment Period End	12/21/92	
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	
Final Action	03/00/00	
Final Action Effective	04/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle
Phone: 206 526-6150

RIN: 0648–AE01

789. GENERAL PROVISIONS FOR DOMESTIC FISHERIES—STANDARD DEFINITIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 600

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard H. Schaefer
Phone: 301 427-2014
Fax: 301 427-2313

RIN: 0648–AG46

790. REGULATORY AMENDMENT TO IMPOSE RESTRICTIONS ON FISHING BLACK ROCKFISH OFF OREGON

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	
Final Action	03/00/00	
Final Action Effective	04/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Stelle
Phone: 206 526-6150

RIN: 0648–AG81

791. REGULATORY AMENDMENT TO REVISE THE PRODUCT RECOVERY RATE CODES FOR CERTAIN ALASKA GROUNDFISH PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AI87

792. AMENDMENT 10 TO THE PACIFIC COAST GROUNDFISH FMP REGARDING SALMON BYCATCH IN GROUNDFISH TRAWL

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
NPRM Comment Period End	03/00/00	
Final Action	04/00/00	
Final Action Effective	05/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle
Phone: 206 526-6150

RIN: 0648–AJ22

793. REGULATORY AMENDMENT TO IMPLEMENT BYCATCH REDUCTION MEASURES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AJ47

794. IMPLEMENTATION OF DATA COLLECTION AND REPORTING REQUIREMENTS TO THE FISHERY MANAGEMENT PLAN FOR THE AMERICAN LOBSTER FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 649

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Andrew A. Rosenberg
Phone: 978 281-9200

RIN: 0648–AJ75

795. REGULATORY AMENDMENT TO DEVELOP A C. BAIRDI VESSEL INCENTIVE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AK08

796. REGULATORY AMENDMENT TO ALLOCATE PACIFIC HALIBUT TO THE HALIBUT SUBSISTENCE FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 300

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AK16

797. REGULATORY AMENDMENT TO ALLOCATE PACIFIC HALIBUT TO THE CHARTER BOAT FLEET

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 300

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AK17

798. REGULATORY AMENDMENT TO IMPLEMENT OBSERVER REQUIREMENTS FOR PROCESSING VESSELS OVER 125 FEET: PACIFIC COAST GROUNDFISH

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Timetable:

Action	Date	FR Cite
NPRM	11/19/92	57 FR 54552
NPRM Comment Period End	12/21/92	
Final Action	01/00/00	
Final Action Effective	02/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle
Phone: 206 526-6150

RIN: 0648–AK26

799. OBSERVER FUNDING POLICY

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

CFR Citation: 50 CFR 679

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary C. Matlock
Phone: 301 713-2334

RIN: 0648–AL08

800. • REGULATORY AMENDMENT TO FUND PURCHASE OF LIMITED ENTRY TRAWL PERMITS TO REDUCE EXCESS CAPACITY IN PACIFIC COAST GROUNDFISH FLEET

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations would authorize Federal purchase of Pacific Coast groundfish limited entry trawl permits, under section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act, "Fishing Capacity Reduction Program." Federal purchase of trawl permits would be considered a "loan" to the trawl fleet, which would be repaid by that fleet through a tax on groundfish landings by limited entry trawl vessels. The goal of this program would be to match effort within the fishery more closely with available resources.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	
Final Action	03/00/00	
Final Action Effective	04/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-070
Phone: 206 526-6150

RIN: 0648–AL66

801. • REGULATORY AMENDMENT TO ESTABLISH PROGRAM FOR COLLECTION AND USE OF FEES IN COMMUNITY DEVELOPMENT QUOTA PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment would establish a program for the collection and use, including the procedures, of fees in the Community Development Quota Program. The collection of fees would recover the costs of managing and enforcing the CDQ program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	01/00/00	
Final Action	03/00/00	
Final Action Effective	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL71

802. TAKING AND IMPORTING OF MARINE MAMMALS; "DOLPHIN-SAFE" TUNA LABELING

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216; 50 CFR 247

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/19/91	56 FR 47418
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth
Phone: 562 980-4018

RIN: 0648–AF08

803. PROPOSED RULE TO REQUIRE CERTAIN FISH FROM MEXICO TO RETAIN HEADS AND TAILS INTACT IN ORDER TO PROTECT THE ENDANGERED TOTOABA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 227

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kenneth R. Hollingshead
Phone: 301 713-2055

RIN: 0648–AF32

804. TAKING OF MARINE MAMMALS INCIDENTAL TO FISHERIES-RELATED RESEARCH

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 228; 50 CFR 216

Timetable:

Action	Date	FR Cite
ANPRM	12/09/91	56 FR 64234
ANPRM Comment Period End	01/08/92	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: Kenneth Hollingshead
Phone: 301 713-2055

RIN: 0648–AF50

805. DIRECT TAKE OF THREATENED SALMON BY NATIVE AMERICANS

Priority: Other Significant

CFR Citation: 50 CFR 227.21

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lisa Lierheimer
Phone: 301 713-0376

RIN: 0648–AG15

806. PROPOSED RULE TO AUTHORIZE LETHAL TAKINGS OF MARINE MAMMALS BY STATE AUTHORITIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216

DOC—NOAA

Long-Term Actions

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kenneth R. Hollingshead
Phone: 301 713-2055

RIN: 0648–AG79

807. FINAL RULE TO AMEND MARINE MAMMAL REGULATIONS TO AUTHORIZE INCIDENTAL TAKINGS OF MARINE MAMMALS BY HARASSMENT AS AUTHORIZED BY PUBLIC LAW 103-238

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 50 CFR 216

Timetable:

Action	Date	FR Cite
NPRM	05/31/95	60 FR 28379
NPRM Comment Period End	10/16/95	60 FR 35891
Interim Final Rule	04/10/96	61 FR 15884
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Kenneth R. Hollingshead
Phone: 301 713-2055

RIN: 0648–AG80

808. NORTH ATLANTIC RIGHT WHALE PROTECTION; INTERIM FINAL RULE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 222; 50 CFR 217

Timetable:

Action	Date	FR Cite
ANPRM	12/27/94	59 FR 66513
ANPRM Comment Period End	02/27/95	
NPRM	08/07/96	61 FR 41116
NPRM Comment Period End	11/07/96	
Interim Final Rule	02/13/97	62 FR 6729
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margot Bohan
Phone: 301 713-2322

RIN: 0648–AH47

809. SHRIMP VESSEL REGISTRATION REQUIREMENT

Priority: Other Significant

CFR Citation: 50 CFR 227

Timetable:

Action	Date	FR Cite
ANPRM	09/13/95	60 FR 47597
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Therese Conant
Phone: 301 713-1401

RIN: 0648–AH87

810. SEA TURTLE CONSERVATION; SHRIMP TRAWLING REQUIREMENTS

Priority: Other Significant

CFR Citation: 50 CFR 222; 50 CFR 223

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/13/98	63 FR 17948
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Therese Conant
Phone: 301 713-1401
Fax: 301 713-0376
Email: therese.conant@noaa.gov

RIN: 0648–AK66

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

811. OPERATIONS OF MOTORIZED PERSONAL WATERCRAFT IN THE GULF OF THE FARALLONES NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 922

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stephanie R. Thornton
Phone: 301 713-3155

RIN: 0648–AK01

812. MONTEREY BAY NATIONAL MARINE SANCTUARY—MINOR BOUNDARY REVISION

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 922

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephanie Thornton
Phone: 301 713-3155

RIN: 0648–AL07

OFFICE OF THE ADMINISTRATOR

813. REGIONAL MARINE RESEARCH PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Don Scavia
Phone: 301 713-3338

RIN: 0648–AF20

814. NATIONAL UNDERSEA RESEARCH PROGRAM FUNDING REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: None

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Henry Frey
Phone: 301 713-2448

RIN: 0648–AH90

DEPARTMENT OF COMMERCE (DOC)
National Oceanic and Atmospheric Administration (NOAA)

Completed Actions

815. SECRETARIAL AMENDMENT TO THE FMP FOR ATLANTIC SWORDFISH

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 630

Completed:

Reason	Date	FR Cite
Withdrawn - Combined With Rule for HMS FMP (0648-AJ67)	08/18/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock
Phone: 301 713-2334

RIN: 0648–AE09

816. AMENDMENT 10 TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	05/19/98	63 FR 27481
Final Action Effective	05/21/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg
Phone: 978 281-9200
Fax: 978 281-9135

RIN: 0648–AF41

817. AMENDMENT 8 TO THE FISHERY MANAGEMENT PLAN FOR COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC (FMP)

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Final Action	03/04/98	63 FR 10561
Final Action Effective	04/03/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer
Phone: 727 570-5301

RIN: 0648–AG25

818. AMENDMENT 8 TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Final Action	07/16/98	63 FR 38298
Final Action Effective	08/17/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer
Phone: 727 570-5301

RIN: 0648–AG27

819. REGULATORY AMENDMENT FOR THE GULF OF ALASKA SEAMOUNT FISHERIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Withdrawn - Legal Issues Unresolved	08/17/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AG94

820. AMENDMENT 9 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Final Action	04/14/98	63 FR 18139
Final Action Effective	05/14/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer
Phone: 727 570-5301

RIN: 0648–AH52

821. PLAN AMENDMENT TO FMP FOR SHARKS OF THE ATLANTIC OCEAN THAT WOULD LIMIT ENTRY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 678

Completed:

Reason	Date	FR Cite
Combined With Rule for HMS FMP - (RIN 0648-AJ67)	08/18/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary C.Matlock
Phone: 301 713-2334

RIN: 0648–AH78

822. CONSOLIDATION OF ATLANTIC HIGHLY MIGRATORY SPECIES REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 15 CFR 902; 50 CFR 285; 50 CFR 630; 50 CFR 644; 50 CFR 678

Completed:

Reason	Date	FR Cite
Combined With Rule for HMS FMP - (RIN 0648-AJ67)	08/18/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary Matlock
Phone: 301 713-2334

RIN: 0648–AI28

823. REGULATORY AMENDMENT REQUIRING LONGLINE VESSEL OPERATORS IN THE WESTERN PACIFIC PELAGIC FISHERIES TO CARRY OBSERVERS AT NO COST TO U.S. GOVERNMENT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Withdrawn - There is no national policy for observer funding	08/11/98	

DOC—NOAA

Completed Actions

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth
Phone: 562 980-4001

RIN: 0648–AI31

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824. REGULATORY AMENDMENT TO ESTABLISH TOTAL ALLOWABLE CATCH LIMITS FOR THE ATLANTIC AND GULF OF MEXICO GROUPS OF KING AND SPANISH MACKEREL FOR THE 1997-98 FISHING YEAR

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Final Action	02/19/98	63 FR 8353
Final Action Effective	02/19/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew Kemmerer
Phone: 727 570-5301

RIN: 0648–AJ12

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825. AMENDMENT 11 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO - RESUBMITTED MEASURE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Final Action	05/04/98	63 FR 24522

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer
Phone: 813 570-5301

RIN: 0648–AJ16

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826. REGULATORY AMENDMENT TO RESTRICT FREQUENCY OF LIMITED ENTRY PERMIT TRANSFERS AND REQUIRE THE SORTING OF CATCH BY SPECIES AND THE RETENTION OF FISH TICKETS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	06/25/98	63 FR 34606
Final Action Effective	07/27/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle
Phone: 206 526-6150

RIN: 0648–AJ20

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827. IMPLEMENTATION OF USE OF INTERACTIVE VOICE RESPONSE (IVR) SYSTEM TO MONITOR COMMERCIAL LANDINGS OF QUOTA MANAGED SPECIES ON WEEKLY BASIS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	10/01/98	63 FR 52639
Final Action Effective	11/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jon Rittgers
Phone: 978 281-9200

RIN: 0648–AJ37

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828. REGULATORY AMENDMENT TO PREVENT OVERFISHING AND REBUILD STOCKS

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate RIN	08/17/98	

RIN: 0648–AJ46

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829. AMENDMENTS TO THE BSAI AND GOA FISHERY MANAGEMENT PLANS TO IMPLEMENT A DATA COLLECTION PROGRAM FOR RECREATIONAL, CHARTER, AND COMMERCIAL FISHING

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Withdrawn	08/17/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AJ49

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830. AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR THE SCALLOP FISHERY OFF ALASKA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	07/17/98	63 FR 38501
Final Action Effective	07/14/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AJ51

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831. MAGNUSON-STEVENS ACT PROVISIONS; NATIONAL STANDARDS GUIDELINES

Priority: Info./Admin./Other

CFR Citation: 50 CFR 600

Completed:

Reason	Date	FR Cite
Final Action	05/01/98	63 FR 24212

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gary C. Matlock
Phone: 301 713-2334

RIN: 0648–AJ58

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832. ATLANTIC SHARK FISHERIES; AMENDMENT 2 (INCLUDING REBUILDING SCHEDULE)

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 630

Completed:

Reason	Date	FR Cite
Combined With Rule for HMS FMP - (RIN 0648-AJ67)	08/18/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary C. Matlock
Phone: 301 713-2334

RIN: 0648–AJ64

DOC—NOAA

Completed Actions

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833. WITHDRAWAL OF THE FISHERY MANAGEMENT PLAN FOR THE AMERICAN LOBSTER FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 649

Completed:

Reason	Date	FR Cite
Withdrawn - Action Being Processed Under RIN 0648-AH41	08/17/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg
Phone: 978 281-9200

RIN: 0648–AJ73

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834. INTERIM FINAL RULE TO THE FISHERY MANAGEMENT PLAN FOR THE AMERICAN LOBSTER FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 697

Completed:

Reason	Date	FR Cite
Final Action	03/02/98	63 FR 10154
Final Action Effective	03/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg
Phone: 978 281-9200

RIN: 0648–AJ74

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835. PROPOSED RULE TO IMPLEMENT OBSERVER PROVISIONS REQUIRED BY THE MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT AS AMENDED OCTOBER 11, 1996

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 600

Completed:

Reason	Date	FR Cite
Final Action	05/18/98	63 FR 27213
Final Action Effective	06/17/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Bellows
Phone: 301 713-2344
Fax: 301 713-0596

RIN: 0648–AJ76

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836. HALIBUT DONATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	06/12/98	63 FR 32144
Final Action Effective	07/13/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7221
Fax: 907 586-7249

RIN: 0648–AJ87

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837. IMPLEMENT A FRAMEWORK TO THE FMP FOR THE NORTHEAST MULTISPECIES FISHERIES TO PROTECT WINTER FLOUNDER

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Merged With RIN 0648-AL31	08/17/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg
Phone: 978 281-9200

RIN: 0648–AJ92

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838. ANTARCTIC MARINE LIVING RESOURCES CONVENTION ACT OF 1984; CONSERVATION AND MANAGEMENT MEASURES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 300

Completed:

Reason	Date	FR Cite
Final Action	06/03/98	63 FR 30145
Final Action Effective	06/03/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robin Tuttle
Phone: 301 713-2282
Fax: 301 713-1875
Email: robin.tuttle@noaa.gov

RIN: 0648–AJ94

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839. FINAL RULE TO IMPLEMENT FRAMEWORK ADJUSTMENT 24 TO THE FISHERY MANAGEMENT PLAN FOR THE NORTHEAST MULTISPECIES FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	03/10/98	63 FR 11591
Final Action Effective	04/09/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg
Phone: 978 281-9300

RIN: 0648–AJ96

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840. FMP AMENDMENT 53 TO BSAI GROUNDFISH TO ALLOCATE SHORTRAKER AND ROUGHEYE ROCKFISH BETWEEN GEAR TYPES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	07/28/98	63 FR 40190

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AJ99

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841. AMENDMENTS TO FISHERY MANAGEMENT PLANS TO IMPLEMENT SUSTAINABLE FISHERIES ACT AMENDMENTS TO THE MAGNUSON-STEVENS ACT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622; 50 CFR 630; 50 CFR 648; 50 CFR 660; 50 CFR 679

Completed:

Reason	Date	FR Cite
Withdrawn	08/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary C. Matlock

Phone: 301 713-2334

RIN: 0648–AK03

842. REGULATORY AMENDMENT TO ALLOW RETENTION OF UNDERSIZED HALIBUT IN CDQ FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 300

Completed:

Reason	Date	FR Cite
Final Action	05/05/98	63 FR 24751
Final Action Effective	06/04/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AK06

843. ADJUSTMENT OF MANAGEMENT PROGRAM FOR THE NORTHWESTERN HAWAIIAN ISLANDS CRUSTACEAN FISHERIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	04/27/98	63 FR 20539
Final Action Effective	05/27/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth
Phone: 562 980-4001

RIN: 0648–AK22

844. NORTHERN ANCHOVY FISHERY; QUOTAS FOR THE 1998-99 FISHING YEAR (ANNUAL SPECIFICATIONS)

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	08/19/98	63 FR 44409
Final Action Effective	08/15/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth
Phone: 562 980-4001

RIN: 0648–AK24

845. 1998-1999 MANAGEMENT MEASURES FOR COMMERCIAL, RECREATIONAL, AND TREATY INDIAN SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	05/06/98	63 FR 24973
Final Action Effective	05/01/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: William Stelle
Phone: 206 526-6150

RIN: 0648–AK25

846. REGULATORY AMENDMENT TO IMPLEMENT 1998 NONTRAWL SABLEFISH HARVEST REGIME

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	07/15/98	63 FR 38101
Final Action Effective	07/10/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle
Phone: 206 526-6150

RIN: 0648–AK27

847. REGULATORY AMENDMENT TO ADJUST MANAGEMENT MEASURES UNDER THE FISHERY MANAGEMENT PLAN FOR REEF FISH SPECIES OF THE GULF OF MEXICO (FMP) FOR THE 1998 FISHING SEASON

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Withdrawn - Substituted-Interim Rule Published 04/14/98 63 FR 18145	08/18/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer
Phone: 813 570-5301

RIN: 0648–AK28

848. FINAL RULE TO MODIFY THE REGULATIONS IMPLEMENTING THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	07/29/98	63 FR 40375
Final Action Effective	07/24/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg
Phone: 978 281-9300

RIN: 0648–AK35

849. REGULATORY AMENDMENT TO REVISE THE RECORDKEEPING AND REPORTING REQUIREMENTS FOR GROUNDFISH FISHERIES OF THE EEZ OFF OF ALASKA FOR 1998

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	09/04/98	63 FR 47348
Final Action Effective	10/05/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AK36

850. TAKE OF THREATENED CENTRAL CALIFORNIA COAST, SOUTH CENTRAL CALIFORNIA COAST, AND SNAKE RIVER BASIN ESUS OF STEELHEAD SALMON UNDER THE ESA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 227

Completed:

Reason	Date	FR Cite
Incorporated Into RIN 0648-AK94	08/17/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joe Blum
Phone: 301 713-1401

RIN: 0648–AK54

851. EXTENSION FOR SIX YEARS OF MORATORIUM ON FISHING IN SEAMOUNT GROUNDFISH FISHERY OF WESTERN PACIFIC REGION TO PROMOTE REBUILDING OF STOCKS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	06/29/98	63 FR 35162
Final Action Effective	09/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth
Phone: 562 980-4001

RIN: 0648–AK59

852. IMPLEMENTATION OF AMENDMENT 3 TO FISHERY MANAGEMENT PLAN FOR PRECIOUS CORALS FISHERIES OF WESTERN PACIFIC REGION

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	10/19/98	63 FR 55809
Final Action Effective	11/18/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth
Phone: 562 980-4001

RIN: 0648–AK60

853. ATLANTIC BLUEFIN TUNA (ABT) FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 285

Completed:

Reason	Date	FR Cite
Final Action	01/07/98	63 FR 667

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary C. Matlock
Phone: 301 713-2334

RIN: 0648–AK63

854. SEASONAL APPORTIONMENTS OF POLLOCK TOTAL ALLOWABLE CATCH IN WESTERN AND CENTRAL GULF OF ALASKA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	06/11/98	63 FR 31939
Final Action Effective	06/10/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AK71

855. AMENDMENT 53 TO FMP FOR GROUNDFISH OF GULF OF ALASKA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	07/28/98	63 FR 40190
Final Action Effective	07/22/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AK72

856. REGULATORY AMENDMENT TO REDEFINE AN INDIVIDUAL FISHING QUOTA DEFINITION

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Incorporated Into RIN 0648-AK70	08/14/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AK75

857. FINAL RULE TO IMPLEMENT FRAMEWORK ADJUSTMENT 25 TO THE FISHERY MANAGEMENT PLAN FOR THE NORTHEAST MULTISPECIES FISHERY FOR FISHING YEAR 1998

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	03/31/98	63 FR 15326
Final Action Effective	05/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg
Phone: 978 281-9300

RIN: 0648–AK77

858. 1998 RECREATIONAL FISHERY MEASURES FOR SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	05/21/98	63 FR 27866
Final Action Effective	05/18/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg
Phone: 978 281-9200
Fax: 978 281-9135

RIN: 0648–AK78

DOC—NOAA

Completed Actions

859. SECRETARIAL AMENDMENT TO STANDARDIZE FISHING VESSEL TRANSFER, REPLACEMENT, AND UPGRADE REGULATIONS IN THE NORTHEAST REGION FISHERY MANAGEMENT PLANS

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate of RIN 0648-AL36	08/17/98	

RIN: 0648–AK81

860. 1998 HARVEST GUIDELINE FOR NORTHWESTERN HAWAIIAN ISLANDS LOBSTER FISHING

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	06/03/98	63 FR 30147
Final Action Effective	07/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth
Phone: 562 980-4001

RIN: 0648–AK85

861. ESTABLISH RULES TO COMPENSATE PACIFIC COAST GROUNDFISH FISHERMEN FOR ASSISTANCE IN RESOURCES ASSESSMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action - (Emergency Rule - Effective 7/1/98 to 1/4/99)	07/07/98	63 FR 36614

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Stelle
Phone: 206 526-6150

RIN: 0648–AK86

862. ATLANTIC BLUEFIN TUNA ANNUAL QUOTA SPECIFICATIONS AND EFFORT CONTROLS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 285

Completed:

Reason	Date	FR Cite
Final Action	05/21/98	63 FR 27862

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary C. Matlock
Phone: 301 713-2334
Fax: 301 713-0596

RIN: 0648–AK87

863. RESEARCH AND MONITORING PLAN TO SUPPORT THE CONSERVATION AND MANAGEMENT OF HIGHLY MIGRATORY SPECIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 630

Completed:

Reason	Date	FR Cite
Withdrawn	10/20/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary C. Matlock
Phone: 301 713-2334
Fax: 301 713-0596

RIN: 0648–AK92

864. INTERIM FINAL RULE TO ADJUST THE GULF OF MEXICO RED SNAPPER TAC AND ASSOCIATED MANAGEMENT MEASURES IN THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Final Action	04/14/98	63 FR 18144

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer
Phone: 813 570-5301

RIN: 0648–AK98

865. INTERIM FINAL RULE TO EXPAND THE OCULINA HAPC BY AN ADDITIONAL 2 MILES ON ALL SIDES TO INCLUDE EXISTING HAPC RESTRICTIONS IN THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC REGION

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Withdrawn	03/19/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer
Phone: 813 570-5301

RIN: 0648–AK99

866. IFR TO IMPLEMENT MARCH-APRIL BAG LIMIT AND COMMERCIAL CATCH RESTRICTIONS FOR RED PORGY, GAG, BLACK GROUPER, AND GREATER AMBERJACK FOR THE SNAPPER-GROUPER-FISHERY OF THE S. ATLANTIC

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Withdrawn	05/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer
Phone: 813 570-5301

RIN: 0648–AL01

867. INTERIM FINAL RULE TO ADJUST THE GULF OF MEXICO RED SNAPPER TOTAL ALLOWABLE CATCH AND ASSOCIATED MANAGEMENT MEASURES

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate of RIN 0648-AK98	08/17/98	

RIN: 0648–AL03

DOC—NOAA

Completed Actions

868. COMPENSATION OF PRIVATE VESSELS FOR THEIR CONDUCT OF RESOURCE ASSESSMENTS THROUGH EXEMPTED FISHING

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate of RIN 0648-AK84	08/10/98	

RIN: 0648–AL04

869. • 1998 ABORIGINAL SUBSISTENCE WHALING QUOTAS FOR MEMBERS OF THE ALASKA WHALING COMMISSION AND THE MAKAH INDIAN TRIBE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 916 et seq

CFR Citation: 50 CFR 230

Legal Deadline: None

Abstract: NMFS announces aboriginal subsistence whaling quotas and other limitations deriving from regulations adopted at the 1997 Annual Meeting of the International Whaling Commission. For 1998, the quotas are 77 bowhead whales struck and 5 gray whales landed. These quotas and other limitations will govern the harvest of bowhead whales by members of the Alaska Eskimo Whaling Commission and the harvest of gray whales by members of the Makah Indian tribe. These are initial quotas that will remain in effect for the 1998 season unless they are revised as a result of the completion of arrangements with the Russian Federation. Any revisions to the quotas will be published in the Federal Register.

Timetable:

Action	Date	FR Cite
Final Action	04/06/98	63 FR 16701
Final Action Effective	04/06/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Catherine Corson, Marine Mammal Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322

RIN: 0648–AL11

870. • FINAL RULE TO IMPLEMENT MEASURES CONTAINED IN FRAMEWORK ADJUSTMENT NUMBER 10 TO THE ATLANTIC SEA SCALLOP FMP

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: Regulations implemented under Framework 10 would extend the closures of a 9 mile squared site to transiting and fishing with other than handgear for an 18-month period to allow for the conduct of a NMFS-sponsored sea scallop aquaculture research project, provide for exemptions from the closures for vessels using certain gear types and for vessels participating in the project, and provide for the temporary exemptions for vessels participating in the project from certain fishing regulations that might inhibit or prevent their participation.

Timetable:

Action	Date	FR Cite
Final Action	08/28/98	63 FR 45939
Final Action Effective	08/28/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9300

RIN: 0648–AL17

871. • ATLANTIC SWORDFISH FISHERY; SOUTH ATLANTIC QUOTAS; QUOTA ADJUSTMENT PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 630

Legal Deadline: None

Abstract: NMFS proposes to amend regulations governing the Atlantic swordfish fishery to establish annual quotas for the South Atlantic Swordfish stock. Additionally, NMFS proposes changes to the quota adjustment procedures.

Timetable:

Action	Date	FR Cite
NPRM	06/10/98	63 FR 31710
NPRM Comment Period End	08/10/98	
Final Action	09/29/98	63 FR 51856
Final Action Effective	10/08/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AL24

872. • HALIBUT AND SABLEFISH QUOTA-SHARE LOAN PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 253

Legal Deadline: None

Abstract: To establish a halibut and sablefish quota-share loan program as required by the Sustainable Fisheries Act. Only entry level or fishermen who fish from small vessels are eligible.

Timetable:

Action	Date	FR Cite
Final Action	05/27/98	63 FR 28989

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael L. Grable, Chief, Financial Services Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East West Highway, Silver Spring, MD 20910
Phone: 301 713-2390
Fax: 301 713-1939
Email: michael.grable@noaa.gov

RIN: 0648–AL25

873. • ESTABLISHMENT OF BANK/AREA-SPECIFIC HARVEST GUIDELINES FOR THE 1998 NORTHWESTERN HAWAIIAN ISLANDS LOBSTER FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This final rule implements Regulatory amendment under the framework procedures of the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region. This rule allocates the overall 1998 Northwestern Hawaiian Islands (NWHI) harvest guidelines of 286,000 lobsters (spiny and slipper combined) among three individual fishing banks and a fourth combined area. Specifically, no more than 70,000 lobsters may be harvested from Necker Island; no more than 20,000 lobsters may be harvested from Gardner Pinnacles; no more than 80,000 lobsters may be harvested from Maro Reef; and no more than 116,000 lobsters may be harvested from all the other remaining NWHI banks combined within Crustaceans Permit Area 1. This rule is intended to protect the lobster resources at each fishing ground, to obtain better data on the lobster stocks, and to conserve the resource.

Timetable:

Action	Date	FR Cite
NPRM	06/09/98	63 FR 31406
NPRM Comment Period End	06/24/98	
Final Action Effective	07/23/98	
Final Action	07/29/98	63 FR 40377

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AL33

874. • FINAL RULE FOR THE LOLIGO SQUID/BUTTERFISH, SCUP, BLACK SEA BASS, AND LILEX SQUID FISHERIES; MORATORIUM VESSEL PERMIT ELIGIBILITY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This final rule was implemented so that vessel owners would be provided with a 12-month opportunity to apply for an initial moratorium permit as was originally intended by the regulations.

Timetable:

Action	Date	FR Cite
Final Action Effective	06/09/98	
Final Action	06/12/98	63 FR 32143

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jon Rittgers, Acting Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200
Fax: 978 281-9135

RIN: 0648–AL34

875. • FINAL RULE TO THE FISHERY MANAGEMENT PLAN TO MODIFY THE REGULATIONS IMPLEMENTING THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This rule would allow the retention of herring as an incidental species in addition to the list of approved species in the Cultivator Shoal Whiting Fishery. The intent of this action is to maximize fishing opportunities in a manner that is consistent with the conservation objectives of the FMP.

Timetable:

Action	Date	FR Cite
Final Action Effective	08/25/98	
Final Action	08/28/98	63 FR 45965

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jon Rittgers, Acting Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AL37

876. • ATLANTIC TUNA FISHERY; ATLANTIC BLUEFIN TUNA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq

CFR Citation: 50 CFR 285

Legal Deadline: None

Abstract: Rescission of prohibition on use of spotter aircraft in Atlantic bluefin tuna fishery. Prohibition had been implemented under RIN 0648-AJ04.

Timetable:

Action	Date	FR Cite
Final Action Effective	06/10/98	
Final Action	07/07/98	63 FR 36611

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AL39

877. FOREIGN NATIONS' MARINE MAMMAL PROGRAM AMENDMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216.24(e)(5)(v)(B)

Completed:

Reason	Date	FR Cite
Withdrawn - Merged With RIN 0648-AI85	08/17/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth
Phone: 310 980-4001

RIN: 0648–AG05

878. TAKING AND IMPORTING OF MARINE MAMMALS; TAKING OF MARINE MAMMALS UNDER THE ATA PERMIT AFTER FEBRUARY 28, 1994

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216

Completed:

Reason	Date	FR Cite
Merged With RIN 0648-AI85	08/17/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero
Phone: 310 980-4001

RIN: 0648–AG36

879. ALLOWANCE OF SMALL-SCALE NON-INTRUSIVE JADE COLLECTING IN MONTEREY BAY NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 944

Completed:

Reason	Date	FR Cite
Final Action	03/30/98	63 FR 15083
Final Action Effective	06/16/98	63 FR 36339

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth Moore
Phone: 301 713-3145

RIN: 0648–AI06

880. • NATIONAL ESTUARINE RESEARCH RESERVE REGULATIONS—CLARIFICATION OF ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1451 et seq

CFR Citation: 15 CFR 921

Legal Deadline: None

Abstract: The National Oceanic and Atmospheric Administration (NOAA) is making a correction to its regulations concerning the National Estuarine Research Reserve System (NERRS) to clarify that certain types of financial assistance awards are not subject to specified limits on amounts. The Coastal Zone Protection Act of 1996 amended the Coastal Zone Management Act (CZMA) by, among other things, eliminating the State match requirement in cases where financial assistance was coming from proceeds of a natural resource damage action. In 1997, NOAA issued a rule to amend the NERRS regulations to conform to the statutory amendments. That rule specified that the State match requirement was eliminated in cases where natural resource damage proceeds were being used to fund NERRS activities. However, the rule did not address what the effects of other limits on financial assistance (caps on funding, rather than State match) would be in these cases. This final rule clarifies that, in cases where financial assistance is coming from natural resource damage funds, the caps on financial assistance do not apply.

Timetable:

Action	Date	FR Cite
Final Action	05/14/98	63 FR 26716
Final Action Effective	05/14/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary O'Brien, Attorney Adviser, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2967

RIN: 0648–AL16

881. NOAA CLIMATE AND GLOBAL CHANGE PROGRAM—PROPOSAL SUBMISSION GUIDELINES

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn	08/28/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Irma DuPree
Phone: 301 427-2089

RIN: 0648–AG51

882. POLICIES AND PROCEDURES REGARDING USE OF THE NOAA-BASED DATA COLLECTION SYSTEMS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 911

Completed:

Reason	Date	FR Cite
Final Action	05/06/98	63 FR 24917
Final Action Effective	06/05/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Dane Clark
Phone: 301 457-5678
Email: satinfo@nesdis.noaa.gov

RIN: 0648–AK04

DEPARTMENT OF COMMERCE (DOC) Long-Term Actions

National Telecommunications and Information Administration (NTIA)

883. IMPROVEMENT OF TECHNICAL MANAGEMENT OF INTERNET NAMES AND ADDRESSES

Priority: Substantive, Nonsignificant

CFR Citation: None

Timetable:

Action	Date	FR Cite
Notice; Request for Comment Registration and Administration of Internet Domain	07/02/97	62 FR 35896
NPRM	02/20/98	63 FR 8826
NPRM Comment Period End	03/23/98	
Notice of Policy Statement	06/10/98	63 FR 31741
Notice: Request for Public Public Comment	08/04/98	63 FR 41547
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: J. Beckwith Burr
Phone: 202 482-1304
Fax: 202 482-1865
Email: bburr@ntia.doc.gov

RIN: 0660–AA11

DEPARTMENT OF COMMERCE (DOC)
National Telecommunications and Information Administration (NTIA)

Completed Actions

884. • ELEMENTS OF EFFECTIVE SELF REGULATION AND OTHER QUESTIONS RELATED TO PRIVACY

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 902(b)(2)(H)

CFR Citation: None

Legal Deadline: None

Abstract: The Clinton Administration supports private sector efforts to implement meaningful, consumer-friendly, self regulatory regimes to protect privacy. Effective self regulation involves principles of fair information practices--awareness, choice, data security, data integrity, consumer access and accountability--and enforcement mechanisms of consumer recourse, verification, and consequences.

Timetable:

Action	Date	FR Cite
Notice; Staff Discussion Paper	06/05/98	63 FR 30729
Final Action - Meetings Held June 23 and 24, 1998	06/18/98	63 FR 33355

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paula Bruening, Attorney-Advisor, Department of Commerce, National Telecommunications and Information Administration, Washington, DC 20230
Phone: 202 482-1816
Fax: 202 501-8013
Email: pbruening@ntia.doc.gov

RIN: 0660–AA13

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Prerule Stage

885. • CHANGES TO IMPLEMENT THE PATENT BUSINESS GOALS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.27; 37 CFR 1.52; 37 CFR 1.53; 37 CFR 1.75; 37 CFR 1.84; 37 CFR 1.85; 37 CFR 1.96; 37 CFR 1.98; 37 CFR 1.103; 37 CFR 1.111; 37 CFR 1.121; 37 CFR 1.141; 37 CFR 1.173; 37 CFR 1.177; 37 CFR 1.192; ...

Legal Deadline: None

Abstract: The Patent and Trademark Office (PTO) has established business goals for the organizations reporting to the Assistant Commissioner for Patents (Patent Business Goals). The Patent Business Goals have been established in response to the Vice-President's designation of the PTO as an agency that has a high impact on the public, and they are designed to make the PTO a more business-like agency. The focus of the Patent Business Goals is to increase the level of service to the public by raising the efficiency and effectiveness of the PTO's business processes. The PTO is considering a number of changes to the rules of practice and procedure to support the Patent Business Goals.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Hiram H. Bernstein, Senior Legal Advisor, Department of Commerce, Patent and Trademark Office, BOX DAC, Assistant Commissioner for Patents, Washington, DC 20231
Phone: 703 305-9285
Fax: 703 308-6916

RIN: 0651–AA98

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Proposed Rule Stage

886. • CHANGES TO IMPLEMENT THE STANDARD FORMAT FOR PATENT APPLICATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1; 37 CFR 5; 37 CFR 10

Legal Deadline: None

Abstract: The Patent and Trademark Office (PTO) has developed a standard format for patent applications and related papers. These changes to the rules of practice would permit and encourage, but not require, applicants to file patent applications and related papers in this standard format. The submission of application and related papers in this standard format will permit the PTO to automate the capture of the information contained in these papers. This will permit the PTO to improve the accuracy of information capture and speed of application processing for applicants who submit their patent applications and related papers in this standard format.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert W. Bahr, Senior Legal Advisor, Department of Commerce, Patent and Trademark Office, Box DAC, Assistant Commissioner for Patents, Washington, DC 20231
Phone: 703 305-9285
Fax: 703 308-6906

RIN: 0651–AA99

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Final Rule Stage

887. MISCELLANEOUS CHANGES TO TRADEMARK TRIAL AND APPEAL BOARD RULES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1123

CFR Citation: 37 CFR 2.76; 37 CFR 2.85; 37 CFR 2.87; 37 CFR 2.101; 37 CFR 2.102; 37 CFR 2.111; 37 CFR 2.119; 37 CFR 2.120; 37 CFR 2.121; 37 CFR 2.123; 37 CFR 2.125; 37 CFR 2.127; 37 CFR 2.134; 37 CFR 2.146; 37 CFR 3.141

Legal Deadline: None

Abstract: These changes clarify Trademark Trial and Appeal Board rules, conform the rules to current practice, make minor modifications to simplify practice, and make minor corrections.

Timetable:

Action	Date	FR Cite
NPRM	06/05/97	62 FR 30802
NPRM Comment Period End	08/04/97	
Final Action	10/00/98	
Final Action Effective	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Sams, Chief Administrative Trademark Judge, Department of Commerce, Patent and Trademark Office, 2900 Crystal Drive, BOX TTAB, Arlington, VA 22202
Phone: 703 308-9300
Fax: 703 308-9333

RIN: 0651–AA87

888. • REVISION OF PATENT AND TRADEMARK FEES FOR FISCAL YEAR 2000

Priority: Routine and Frequent

Legal Authority: 35 USC 41; 15 USC 1115; 35 USC 6; 35 USC 376; 15 USC 1051; 15 USC 1113; 15 USC 1123; PL 101-508; PL 102-204; PL 103-66

CFR Citation: 37 CFR 1.16 to 1.21; 37 CFR 1.26; 37 CFR 1.445; 37 CFR 1.482; 37 CFR 1.492; 37 CFR 2.6

Legal Deadline: Final, Statutory, October 1, 1999.

Abstract: This rulemaking revises certain patent and trademark fees to reflect fluctuations in the Consumer Price Index (CPI) consistent with the Patent and Trademark Authorization Act of 1991 (PL 102-204).

Timetable:

Action	Date	FR Cite
Final Action	08/00/99	
Final Action Effective	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Matthe Lee, Systems Analyst, Department of Commerce, Patent and Trademark Office, Washington, DC 20231
Phone: 703 305-8051

RIN: 0651–AB01

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Long-Term Actions

889. PATENT APPLICATION ELECTRONIC SUBMISSION RULES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 37 CFR 1; 37 CFR 2

Timetable:

Action	Date	FR Cite
ANPRM	11/30/92	57 FR 56537
ANPRM Comment Period End	03/01/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peter Fowler
Phone: 703 305-8600

RIN: 0651–AA50

890. CHANGES TO IMPLEMENT 18-MONTH PUBLICATION OF PATENT APPLICATIONS

Priority: Other Significant

CFR Citation: 37 CFR 1

Timetable:

Action	Date	FR Cite
Notice of Public Hearing and Request for Public Comments	12/12/94	59 FR 63966
NPRM	08/15/95	60 FR 42352
NPRM Comment Period End	09/19/95	
Procedures for Amending Patent Applications		
Final Rule 08/19/96 (61 FR 42790)		
Final Rule Effective 09/23/96		
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert W. Bahr
Phone: 703 305-8850
Fax: 703 305-8825

RIN: 0651–AA75

891. RULES OF PRACTICE IN PATENT CASES; REEXAMINATION PROCEEDINGS

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1.901 to 1.907; 37 CFR 1.909; 37 CFR 1.911; 37 CFR 1.913; 37 CFR 1.915; 37 CFR 1.917; 37 CFR 1.919; 37 CFR 1.921; 37 CFR 1.923

Timetable:

Action	Date	FR Cite
NPRM	08/11/95	60 FR 41035
NPRM Comment Period End	09/22/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gerald A. Dost
Phone: 703 305-9282
Fax: 703 305-8825

RIN: 0651–AA79

892. LIMITATIONS IN PATENT CLAIMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing

DOC—PTO — Long-Term Actions

Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 37 CFR 1.75

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth Corsello
Phone: 202 305-9041
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Email: kenneth.corsello@uspto.gov

RIN: 0651–AA91

893. REQUIREMENTS FOR REGISTRATION TO PRACTICE BEFORE THE PTO IN PATENT CASES

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1.21; 37 CFR 10.7; 37 CFR 10.11

Timetable:

Action	Date	FR Cite
ANPRM	09/30/96	61 FR 51072
ANPRM Comment Period End	12/06/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen L. Bovard
Phone: 703 306-4097

RIN: 0651–AA93

894. TECHNICAL REQUIREMENTS FOR REGISTRATION TO PRACTICE BEFORE THE PTO IN PATENT CASES

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 10.7

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen L. Bovard
Phone: 703 306-4097

RIN: 0651–AA95

895. • TRADEMARK LAW TREATY RULES CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1123; 35 USC 6

CFR Citation: 37 CFR 2.6; 37 CFR 2.20 to 2.21; 37 CFR 2.32 to 2.33; 37 CFR 2.39 to 2.40; 37 CFR 2.51 to 2.52; 37 CFR 2.66; 37 CFR 2.71; 37 CFR 2.76; 37 CFR 2.86; 37 CFR 2.88; 37 CFR 2.161 to 2.166; 37 CFR 2.168; 37 CFR 2.181 to 2.185; 37 CFR 3.11 to 3.16; 37 CFR 3.31; ...

Legal Deadline: None

Abstract: These rule changes would implement the Trademark Law Treaty (TLT) and the pending Trademark Law Treaty Implementation Act. The purpose of the TLT is to harmonize procedures of national trademark offices by establishing maximum requirements that each country can impose for trademark applications.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary Hannon, Staff Attorney, Department of Commerce, Patent and Trademark Office, 2900 Crystal Drive, Arlington, VA 22202-3513
Phone: 703 308-8900
Fax: 703 308-9395

RIN: 0651–AB00

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Completed Actions

896. CHANGES IMPLEMENTING INTERNATIONAL ACCEPTABLE NUCLEOTIDE AND/OR AMINO ACID SEQUENCE LISTINGS

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1.77; 37 CFR 1.821; 37 CFR 1.822; 37 CFR 1.823; 37 CFR 1.824; 37 CFR 1.825

Completed:

Reason	Date	FR Cite
Final Action	06/01/98	63 FR 29620
Final Action Effective	06/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Esther M. Kepplinger
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Email: esther.kepplinger@uspto.gov

RIN: 0651–AA88

897. 1998 CHANGES TO PATENT PRACTICE AND PROCEDURE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 37 CFR 1; 37 CFR 5

Completed:

Reason	Date	FR Cite
Withdrawn	08/13/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hiram H. Bernstein
Phone: 703 305-9285
Fax: 703 308-6916

RIN: 0651–AA94

898. REVISION OF PATENT AND TRADEMARK FEES FOR FISCAL YEAR 1999

Priority: Routine and Frequent

CFR Citation: 37 CFR 1.16 to 1.21; 37 CFR 1.26; 37 CFR 1.445; 37 CFR 1.482; 37 CFR 1.492; 37 CFR 2.6

Completed:

Reason	Date	FR Cite
Final Action	07/24/98	63 FR 39731
Final Action Effective	10/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Matthew Lee
Phone: 703 305-8051

RIN: 0651–AA96

DOC—PTO — Completed Actions

899. CHANGES TO CONTINUED PROSECUTION APPLICATION PRACTICES

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1

Completed:

Reason	Date	FR Cite
Final Action	07/02/98	63 FR 36184
Final Action Effective	07/02/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hiram H Bernstein
Phone: 703 305-9285

RIN: 0651–AA97

DEPARTMENT OF COMMERCE (DOC)
Technology Administration (TA)

Final Rule Stage

900. RIGHTS TO INVENTIONS MADE BY NONPROFIT ORGANIZATIONS AND SMALL BUSINESS FIRMS UNDER GOVERNMENT GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS

Priority: Other Significant

Legal Authority: 35 USC 206

CFR Citation: 37 CFR 401

Legal Deadline: None

Abstract: We are evaluating the comments and will be making minor changes to the regulation which permitted electronic reporting of inventions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/14/95	60 FR 41811
Comment Period End	09/13/95	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Jon Paugh, Acting Director, Technology Competitiveness, Department of Commerce, Technology Administration, Washington, DC 20230
Phone: 202 482-2100

RIN: 0692–AA14

901. ACQUISITION AND PROTECTION OF FOREIGN RIGHTS IN INVENTIONS

Priority: Substantive, Nonsignificant

Legal Authority: EO 10096; 15 USC 3710d

CFR Citation: 37 CFR 101; 37 CFR 501

Legal Deadline: None

Abstract: On August 7, 1996, 37 CFR part 101 was abolished and 37 CFR part 501 expanded to cover foreign rights of inventions made by Federal employees.

We are evaluating the comments received on the interim final rule and will be making minor changes to the regulation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/07/96	61 FR 4099
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: John H. Raubitschek, Patent Counsel, Department of Commerce, Technology Administration, RH4613, Washington, DC 20230
Phone: 202 482-8010
Fax: 202 482-0523

RIN: 0692–AA15

DEPARTMENT OF COMMERCE (DOC)
Technology Administration (TA)

Long-Term Actions

902. PROMOTION OF PRIVATE SECTOR INDUSTRIAL TECHNOLOGY PARTNERSHIPS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 1160 subpart A

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Bohannon
Phone: 202 482-1984

RIN: 0692–AA13

903. LICENSING OF GOVERNMENT-OWNED INVENTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 37 CFR 404

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John H. Raubitschek
Phone: 202 482-8010
Fax: 202 482-0523

RIN: 0692–AA17

[FR Doc. 98-25576 Filed 11-06-98; 8:45 am]
BILLING CODE 3510-BW-F

Federal Register

Monday
November 9, 1998

Part V

Department of Defense

Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE (DOD)

DEPARTMENT OF DEFENSE

32 CFR Chs. I, V, VI, and VII

33 CFR Ch. II

36 CFR Ch. III

Improving Government Regulations; Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of Defense (DoD).

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Defense (DoD) is publishing this semiannual agenda of regulatory documents, including those that are procurement-related, for public information and comments under Executive Order 12866 "Regulatory Planning and Review." This agenda incorporates the objective and criteria, when applicable, of the regulatory reform program under the Executive order and other regulatory guidance. It contains DoD issuances initiated by DoD components that may have economic and environmental impact on State, local, or tribal interests under the criteria of Executive Order 12866. Although most DoD issuances listed in the agenda are of negligible public impact, their nature may be of public interest and, therefore, are published to provide notice of rulemaking and an opportunity for public participation in the internal DoD rulemaking process.

This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Department of Defense's Statement of Regulatory Priorities is included in part II.

The agenda portion of this document updates the report published on April 27, 1998, and includes regulations expected to be issued and under review over the next 12 months. The next agenda is scheduled to be published in April 1999, with the next regulatory plan scheduled to be published in October 1999. In addition to this agenda, DoD components also publish rulemaking notices pertaining to their specific statutory administration requirements as required.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD regulatory improvement program and for general semiannual agenda information, contact Mr. Robert Cushing, telephone 703-604-4582, or write to Directorate for Information Operations and Reports, Washington Headquarters Services, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302, or e-mail: cushingr@osd.pentagon.mil.

For questions of a legal nature concerning the agenda and its statutory requirements or obligations, write to Office of the General Counsel, 1600 Defense Pentagon, Washington, DC 20301-1600, or call 703-697-2714.

For general information on Office of the Secretary regulations, other than those which are procurement-related, contact Mr. Dan Cragg, telephone 703-697-4111, or write to Directives and Records Division, Directorate for Correspondence and Directives, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155, or e-mail: dcragg@osd.pentagon.mil.

For general information on Office of the Secretary agenda items which are procurement-related, contact Ms. Kathleen Fenk, telephone 703-602-0131, or write to Defense Acquisition Regulations Directorate, 3062 Defense Pentagon, Washington, DC 20301-3062, or e-mail: fenkk@acq.osd.mil.

For general information on Department of the Army regulations, contact Mr. Gregory D. Showalter, telephone 703-806-3708, or write to the U.S. Army Records Management Program Division, Records Management Program Services, ATTN: TAPC-PDR-P, 6000 6th Street, Stop C55, Fort Belvoir, Virginia 22060-5576, or e-mail: showalterg@rmpo.belvoir.army.mil.

For general information on the U.S. Army Corps of Engineers regulations, contact Mr. Michael L. Davis, telephone 703-695-1370, or write to Office of the Deputy Assistant Secretary of the Army (Policy and Legislation), 108 Army Pentagon, Room 2E569, Washington, DC 20310-0108, or e-mail: davisml@hqda.army.mil.

For general information on Department of the Navy regulations, contact Commander Ralph Corey, telephone 703-604-8228, or write to Department of the Navy, Office of the Judge Advocate General, Administrative Law Division (Code 13), Washington Navy Yard, 1322 Patterson Avenue SE., Suite 3000, Washington, DC 20374-5066, or e-mail: corey.ralph@hq.navy.mil.

For general information on Department of the Air Force regulations, contact Ms. Carolyn A. Lunsford, telephone 703-697-9057, or write to Department of the Air Force, SAF/AAX, 1720 Air Force Pentagon, Washington, DC 20330-1720, or e-mail: lunsforc@af.pentagon.mil.

For specific agenda items, contact the appropriate individual indicated in each DoD component report.

SUPPLEMENTARY INFORMATION: This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions is composed of the regulatory status reports, including procurement-related regulatory status reports, from the Office of the Secretary of Defense (OSD) and the Departments of the Army, Navy, and Air Force. Included also is the regulatory status report from the U.S. Army Corps of Engineers, whose civil works functions fall under the reporting requirements of Executive Order 12866 and involve water resource projects and regulation of activities in waters of the United States.

DoD issuances range from DoD directives (reflecting departmental policy) to implementing instructions and regulations (largely internal and used to implement directives). The OSD agenda section contains the primary directives under which DoD components promulgate their implementing regulations.

To ease identification and to differentiate among the variety of issuances reported, they are identified by their DoD internal numbering system, which denotes component level of authority and type of issuance, in addition to the required CFR number.

In addition, this agenda, although published under the reporting requirements of Executive Order 12866, continues to be the DoD single-source reporting vehicle, which identifies issuances that are currently applicable under the various regulatory reform programs in progress. Therefore, DoD components will identify those rules which come under the criteria of the:

a. Regulatory Flexibility Act;

b. Paperwork Reduction Act of 1995;

c. Unfunded Mandates Reform Act of 1995.

DOD

Those DoD issuances, which are directly applicable under these statutes, will be identified in the agenda and their action status indicated. Generally, the regulatory status reports in this agenda will contain five sections: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; (4) completed actions; and (5) long-term actions. Where certain regulatory actions indicate that small entities are affected, the effect on these entities may not necessarily have significant economic impact on a substantial number of these entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601(6)).

Although not a regulatory agency, DoD will continue to participate in regulatory initiatives designed to reduce economic costs and unnecessary environmental burdens upon the public. Comments and recommendations are invited on the rules reported and should be addressed to the DoD component representatives identified in the regulatory status reports. Although sensitive to the needs of the public, as well as regulatory reform, DoD reserves the right to exercise the exemptions and flexibility permitted in its rulemaking process in order to proceed with its overall defense-oriented mission. The publishing of this agenda does not waive the applicability of the military affairs exemption in section 553 of title 5 U.S.C. and section 3 of Executive Order 12866.

Dated: August 25, 1998.

D. O. Cooke,

Director, Administration and Management.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
904	Commercial Activities Program Procedures (DoD Instruction 4100.33)	0790-AG44
905	Personnel and General Claims	0790-AG47
906	Screening the Ready Reserve (DoD Directive 1200.7)	0790-AG57
907	Public Access to Records of the NSA/CSS (Freedom of Information Act Program)	0790-AG59

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
908	Science, Mathematics, and Engineering (SME) Education	0790-AF27
909	National Security Education Program (NSEP) Grants to Institutions of Higher Education (DoD Instruction 1025.5)	0790-AF59
910	Military Recruiting and Reserve Officer Training Corps Program Access to Institutions of Higher Education	0790-AG42
911	Collection From Third Party Payers of Reasonable Costs of Healthcare Services	0790-AG51
912	Personnel Security Policies for Granting Access to Classified Information	0790-AG54
913	National Policy on Reciprocity of Facilities and Guidelines for Implementation of Reciprocity	0790-AG55
914	National Policy on Technical Surveillance Countermeasures	0790-AG56
915	DoD Freedom of Information Act Program Regulation (DoD 5400.7-R)	0790-AG58
916	Implementation of the Wildfire Suppression Aircraft Transfer Act of 1996 (Pub. L. 104-307)	0790-AG60
917	Enlisted Administrative Separations	0790-AG61

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
918	Teacher and Teacher's Aide Placement Assistance Program (Troops to Teachers)(DoD Instruction 1404.13)	0790-AF71
919	DLA Acquisition Regulation; Small Business and Small Disadvantaged Business Concerns	0790-AF72
920	DLA Acquisition Regulation; Fuel Allocation Procedures	0790-AF73
921	Military Assistance for Civil Disturbances (MACDIS) (DoD Directive 3025.12)	0790-AG21
922	Former Spouse Payments From Retired Pay; Amendment (DoD Directive 1340.16 and DoD 7000.14-R, Vol 7, Part B)	0790-AG22
923	University Research Initiative Support Program (URISP)	0790-AG26
924	Restoration Advisory Board (RABs)	0790-AG31
925	Closed, Transferred, and Transferring Ranges Containing Military Munitions	0790-AG46

DOD

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
926	Release of Acquisition-Related Information (DoD Directive 5230.aa)	0790-AC62
927	DoD Grant and Agreement Regulations (DoD 3210.6-R)	0790-AG28
928	Conduct on the Pentagon Reservation	0790-AG30
929	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments; Amendment	0790-AG49
930	Collection From Third Party Payers of Reasonable Costs of Healthcare Services	0790-AG50
931	Private Organizations on DoD Installations (DoD Instruction 1000.15)	0790-AG53
932	Standards of Conduct (DoD Directive 5500.7)	0790-AG62
933	Joint Ethics Regulation (JER) (DoD 5500.7-R)	0790-AG63
934	Defense Logistics Agency Privacy Program (Defense Logistics Agency Regulation 5400.21)	0790-AG64
935	Department of the Navy Privacy Act; Implementation (Secretary of the Navy Instruction 5211.5)	0790-AG65

Defense Acquisition Regulations Council—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
936	Contracting for Commercial Construction (DFARS Case 98-D013)	0750-AC44
937	Cargo Preference—Subcontracts for Commercial Items (DFARS Case 98-D014)	0750-AC45

Defense Acquisition Regulations Council—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
938	IR&D/B&P Costs for FY96 and Beyond (DFARS Case 95-D040)	0750-AB04
939	Antiterrorism Training (DFARS Case 96-D016)	0750-AB26
940	Streamlined R&D Test Results (DFARS Case 97-D002)	0750-AB52
941	DD Form 1155 (DFARS Case 97-D024)	0750-AB82
942	DFARS Part 215 Rewrite (DFARS Case 97-D018)	0750-AB90
943	FAR Part 30 Deviations (DFARS Case 97-D016)	0750-AB91
944	Single Process Initiative (DFARS Case 97-D014)	0750-AB94
945	Employment Prohibition on Persons Convicted of Fraud (DFARS Case 97-D020)	0750-AB96
946	Weighted Guidelines—Federally Funded Research and Development Centers (DFARS Case 97-D025)	0750-AB99
947	Contract Administration and Audit Services (DFARS Case 98-D003)	0750-AC02
948	Quality Assurance Among North Atlantic Treaty Organization Countries (DFARS Case 97-D038)	0750-AC05
949	Compliance With Spanish Laws and Insurance (DFARS Case 98-D002)	0750-AC08
950	Construction In Foreign Countries (DFARS Case 97-D307)	0750-AC12
951	Commercial Ball or Roller Bearings—Components of Noncommercial Items (DFARS Case 97-D028)	0750-AC13
952	Short Form Research Contract (DFARS Case 97-D030)	0750-AC17
953	Veterans Employment Emphasis (DFARS Case 97-D314)	0750-AC20
954	List of Firms Not Eligible for Defense Contracts (DFARS Case 97-D325)	0750-AC22
955	Service Contracts That Cross Fiscal Years (DFARS Case 97-D328)	0750-AC23
956	Comprehensive Subcontracting Plans (DFARS Case 97-D323)	0750-AC27
957	Multiyear Contracting (DFARS Case 97-D308)	0750-AC31
958	Waiver Authority to Humanitarian or Peacekeeping Operations (DFARS Case 97-D319)	0750-AC32
959	Requirement Under Competition Exception for International Agreements (DFARS Case 97-D324)	0750-AC33
960	Allowability of Costs for Restructuring Bonuses (DFARS Case 97-D312)	0750-AC34
961	Restructuring Costs (DFARS Case 97-D313)	0750-AC36
962	Electronic Signature on Receiving Reports (DFARS Case 98-D001)	0750-AC37
963	Reform of Affirmative Action in Federal Government Procurement (DFARS Case 98-D007)	0750-AC38
964	Television-Audio Support Activity (T-ASA) (DFARS Case 98-D008)	0750-AC39
965	Contract Action Reporting—1998 (DFARS Case 98-D009)	0750-AC42
966	E-Mail/Internet Addresses on Contracts and Modifications (DFARS Case 98-D010)	0750-AC43
967	Letter of Offer and Acceptance (DFARS Case 98-D015)	0750-AC46
968	Waiver of 10 USC 2534—United Kingdom (DFARS Case 98-D016)	0750-AC47

DOD

Defense Acquisition Regulations Council—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
969	Hazardous Waste Disposal (DFARS Case 98-D301)	0750-AC48

Defense Acquisition Regulations Council—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
970	Incremental Funding, Fixed Price Contracts (DAR Case 90-037)	0750-AA07
971	Demilitarization (DFARS Case 92-D024)	0750-AA09
972	Acquisition of Commercial Items (DFARS Case 95-D712)	0750-AB00
973	DFARS Commercially Available Off-the-Shelf Items (DFARS Case 96-D316)	0750-AB40
974	Distribution of Contract Financing Payment (DFARS Case 97-D011)	0750-AB87
975	DFARS Part 213 Rewrite (DFARS Case 97-D306)	0750-AC00
976	DD Form 2631, Performance Evaluation (A-E) (DFARS Case 97-D035)	0750-AC14
977	Contractor Use of Nonimmigrant Aliens—Guam (DFARS Case 97-D318)	0750-AC21
978	Uniform Procurement Instrument Identification (DFARS Case 97-D033)	0750-AC29
979	DD Forms 350 and 1057 Changes to Capture FSS Orders (DFARS Case 98-D017)	0750-AC40
980	Direct Award of 8(a) Contracts (DFARS Case 98-D011)	0750-AC41
981	Revisions to DD Form 1707, Instructions to Offerors or Quoters (DFARS Case 98-D020)	0750-AC49
982	DD Form 350 Changes Supporting Reform of Affirmative Action (DFARS Case 98-D018)	0750-AC50
983	Flexible Progress Payments (DFARS Case 98-D400)	0750-AC51
984	Electronic Funds Transfer (DFARS Case 98-D012)	0750-AC52
985	Restructuring Savings Repricing Clause (DFARS Case 98-D018)	0750-AC53
986	Reform of Affirmative Action in Federal Procurement DFARS—Phase II (DFARS Case 98-D021)	0750-AC54

Defense Acquisition Regulations Council—Completed Actions

Sequence Number	Title	Regulation Identifier Number
987	Finance (DFARS Case 95-D710)	0750-AA88
988	Cost Reimbursement Rules for Indirect Costs—Private Sector Work of Defense Contractor (DFARS Case 96-D303)	0750-AB17
989	Multiyear and Other Miscellaneous Provisions (DFARS Case 95-D703)	0750-AB42
990	Earned Value Management Systems (DFARS Case 96-D024)	0750-AB49
991	Duty-Free Entry (DFARS Case 96-D020)	0750-AB56
992	Sales Commissions and Contingent Fees—FMS (DFARS Case 96-D021)	0750-AB57
993	Central Contractor Registration (DFARS Case 97-D005)	0750-AB75
994	Binding Arbitration in Alternative Dispute Resolution (DFARS Case 97-D304)	0750-AB79
995	Certificate of Requests for Equitable Adjustment (DFARS Case 97-D302)	0750-AB80
996	Approval of Nonstatutory Certification Requirements (DFARS Case 97-D301)	0750-AB81
997	Buy American Act Waiver for Information Technology Products (DFARS Case 97-D022)	0750-AB83
998	Architect-Engineer Selection Process (DFARS Case 97-D015)	0750-AB84
999	Specialty Metals—Agreements With Qualifying Countries (DFARS Case 97-D007)	0750-AB86
1000	Contractor Insurance/Pension Review (DFARS Case 97-D012)	0750-AB93
1001	ITMRA—Telecommunications Services (DFARS Case 97-D305)	0750-AB95
1002	Research and Development Definitions (DFARS Case 97-D021)	0750-AB97
1003	Report of 10-Year-Term Contracts (DFARS Case 97-D303)	0750-AB98
1004	Title to Government Property (DFARS Case 97-D027)	0750-AC04
1005	Use of Auctions, Spot Bids, or Retail Sales of Surplus Contractor Inventory by the Contractor (DFARS Case 98-D004)	0750-AC06
1006	Waivers of Domestic Source Limitation (DFARS Case 97-D321)	0750-AC07
1007	Reporting of Contract Performance Outside the United States (DFARS Case 97-D029)	0750-AC09
1008	Overseas Architect-Engineer Services (DFARS Case 97-D034)	0750-AC10
1009	NAFTA Threshold (DFARS Case 97-D040)	0750-AC11
1010	Industrial Plant Equipment (DFARS Case 98-D005)	0750-AC16
1011	Recovered Material Certification (DFARS Case 97-D031)	0750-AC18

DOD

Defense Acquisition Regulations Council—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1012	Uncompensated Overtime (DFARS Case 97-D037)	0750-AC19
1013	Subcontracting Plans—Indian Incentives (DFARS Case 97-D309)	0750-AC24
1014	Qualified Nonprofit Agencies for the Blind or Other Severely Handicapped (DFARS Case 97-D310)	0750-AC25
1015	Extension of Pilot Mentor-Protege Program (DFARS Case 97-D322)	0750-AC26
1016	Streamlined Micro-Purchase Procedures (DFARS Case 97-D327)	0750-AC28
1017	Contract Distribution to DFAS Accounting Offices (DFARS Case 97-D039)	0750-AC30
1018	Limitation of Allowability of Compensation for Certain Contractor Personnel Under Defense Contracts (DFARS Case 97-D320)	0750-AC35

Department of the Army—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1019	The Department of the Army Freedom of Information Act Program	0702-AA30

Department of the Army—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1020	Radiation Sources on Army Land	0702-AA31

U.S. Army Corps of Engineers—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1021	Regulatory Programs of the Corps of Engineers, Endangered Species Act; Scope of Analysis	0710-AA43

U.S. Army Corps of Engineers—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1022	Regulatory Program of the Corps of Engineers—Administrative Appeals	0710-AA41

U.S. Army Corps of Engineers—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1023	Regulatory Programs of the Corps of Engineers	0710-AA30
1024	Regulatory Programs of the Corps of Engineers, Wetland Delineator Certification Program	0710-AA38
1025	Environmental Quality; Procedures for Implementing the National Environmental Policy Act (NEPA)	0710-AA42

Department of the Navy—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1026	Use of Department of the Navy Aviation Facilities by Other Than United States Department of Defense Aircraft	0703-AA48

DOD

Department of the Navy—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1027	Shipbuilding Capability Preservation Agreements	0703-AA50

Department of the Navy—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1028	Adjustments to Prices Under Shipbuilding Contracts	0703-AA34

Department of the Air Force—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1029	Environmental Impact Analysis Process	0701-AA56
1030	Air Force Rule of Professional Conduct and Standards for Criminal Justice	0701-AA57
1031	Appointment to the United States Air Force Academy	0701-AA58

Office of Assistant Secretary for Health Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1032	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Revisions to the Eligibility Requirements	0720-AA39

Office of Assistant Secretary for Health Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1033	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Former Spouse/Widow(er) and Federal Claims Collection Act (DoD 6010.8-R)	0720-AA07
1034	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Hospital Payment for Ambulatory Care (DoD 6010.8-R)	0720-AA20
1035	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Provider Certification Requirements—Corporate Services Provider Class; Occupational Therapists (DoD 6010.8-R)	0720-AA27
1036	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Transplants (DoD 6010.8-R)	0720-AA28
1037	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Individual Case Management (DoD 6010.8-R)	0720-AA30
1038	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Extension of the Active Duty Dependents Dental Plan to Overseas Areas	0720-AA36
1039	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Program; Reimbursement	0720-AA37
1040	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Exception to the CHAMPUS Dual Compensation/Conflict of Interest Provisions	0720-AA41
1041	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); State Victims of Crime Compensation Programs; Voice Prostheses	0720-AA42
1042	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Prime Balance Billing	0720-AA46
1043	Civilian Health and Medical Program for the Uniformed Services (CHAMPUS); TRICARE Prime Enrollment Procedures	0720-AA48

DOD

Office of Assistant Secretary for Health Affairs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1044	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Nonavailability Statement (DoD 6010.8-R)	0720-AA35
1045	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Waiver of Collection of Payments Due From Certain Persons Unaware of Loss of CHAMPUS Eligibility	0720-AA43

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Proposed Rule Stage

904. COMMERCIAL ACTIVITIES PROGRAM PROCEDURES (DOD INSTRUCTION 4100.33)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 5 USC 552

CFR Citation: 32 CFR 164

Legal Deadline: None

Abstract: OMB issued a revised Circular No. A-76 supplemental handbook that contained streamlined cost comparison guidance. This rule updates DoD unique policies and assigns responsibility for commercial activities as contained in OMB Circular No. A-76, Revised Supplemental Handbook, "Performance of Commercial Activities." This rule also removes 32 CFR part 169a.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Horsfall, Department of Defense, Office of the Secretary
Phone: 703 604-6735

RIN: 0790–AG44

905. PERSONNEL AND GENERAL CLAIMS

Priority: Other Significant

Legal Authority: 5 USC 5584; 10 USC 2575; 10 USC 2771; 10 USC 2774; 24 USC 420; 31 USC 3702; 32 USC 714; 32 USC 716; 37 USC 554

CFR Citation: 32 CFR 153

Legal Deadline: None

Abstract: The Legislative Branch Appropriations Act of 1996 transferred to the Director of the Office of Management and Budget (OMB) the Comptroller General's authority to settle claims. The OMB Director subsequently delegated some of these authorities to the Department of Defense (DoD). Later, the General Accounting Office Act of 1996 codified many of these delegations and transferred to the OMB Director the authority of the Comptroller General to waive uniformed service member and employee debts arising out of the erroneous payment of pay or allowances exceeding $1,500. The OMB Director subsequently delegated the authority to waive such debts of uniformed service members to DoD and the authority to waive employee debts to the employee's agency (non-DoD agencies may request an advisory opinion from DoD). The Secretary of Defense further delegated his claims settlement authority to the Defense Office of Hearings and Appeals (DOHA). This proposed rule seeks public comments on the procedures that DOHA proposes to use to implement these authorities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: Pending analysis of public comments and issuance of final regulations, DOHA intends to use the procedures and practices applicable to claims and waiver applications before the effective dates of the transfers of authority, June 30, 1996, and December 18, 1996, respectively, which are published in title 4, Code of Federal Regulations, chapter 1, subchapters C and G. See also 61 FR 50285, September 25, 1996; and 62 FR 5387, February 5, 1997.

Agency Contact: Michael Hipple, Department of Defense, Office of the Secretary
Phone: 703 696-8524
Fax: 703 696-6865

RIN: 0790–AG47

906. SCREENING THE READY RESERVE (DOD DIRECTIVE 1200.7)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 10145; 10 USC 10146; 10 USC 10149; 10 USC 10150; 10 USC 10205; 10 USC 12301; 10 USC 12302; 10 USC 12304; 10 USC 12306; 10 USC 12317; 10 USC 12645; EO 11190

CFR Citation: 32 CFR 44

Legal Deadline: None

Abstract: This rule establishes guidance governing the screening of Reserve component members of the United States Military Departments relative to their civilian employment. The requirement for screening the Ready Reserve is established in law. The purpose of the screening program is to ensure the availability of Ready Reserve members for military mobilization purposes. The intended effect of the screening is to preclude conflicts between Reserve mobilization obligations and Federal civilian employment requirements during times of war or national emergency.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	

DOD—OS

Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Daniel Kohner, Department of Defense, Office of the Secretary
Phone: 703 693-7479
Fax: 703 695-3659
Email: dkohner@osd.pentagon.mil

RIN: 0790–AG57

907. • PUBLIC ACCESS TO RECORDS OF THE NSA/CSS (FREEDOM OF INFORMATION ACT PROGRAM)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 32 CFR 299

Legal Deadline: None

Abstract: This rule proposes to revise the National Security Agency/Central Security Service (NSA/CSS) regulation governing disclosure of information under the Freedom of Information Act of 1986 (Pub. L. 99-570). As a component of the Department of Defense, the Departmental rules and schedules with respect to the Freedom of Information Reform Act will also be the policy of the NSA/CSS. The effect of the proposed rule is to conform to the requirements of the Electronic Freedom of Information Act Amendments of 1996, 5 USC 552, as amended by Public Law 104-231. It also incorporates guidance provided by the Department of Defense on implementation of this amended law.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Barbara Paisley, Department of Defense, Office of the Secretary
Phone: 301 688-6527

RIN: 0790–AG59

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Final Rule Stage

908. SCIENCE, MATHEMATICS, AND ENGINEERING (SME) EDUCATION

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 301

CFR Citation: 32 CFR 118

Legal Deadline: None

Abstract: This rule provides support to institutions of higher education through infrastructure assistance to historically black colleges and universities and minority institutions. It also defines minority institutions and establishes procedures for DoD programs and activities in science, mathematics, and engineering (SME) education.

Timetable:

Action	Date	FR Cite
NPRM	12/17/93	58 FR 65956
NPRM Comment Period End	02/15/94	
Final Action	10/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Keith Thompson, Department of Defense, Office of the Secretary
Phone: 703 696-0378
Fax: 703 696-0569
Email: thompsonk@acq.osd.mil

RIN: 0790–AF27

909. NATIONAL SECURITY EDUCATION PROGRAM (NSEP) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION (DOD INSTRUCTION 1025.5)

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1141(a)

CFR Citation: 32 CFR 206

Legal Deadline: Final, Statutory, April 5, 1994.

Abstract: The National Security Education Act provided for the National Security Education Program, the National Security Education Board, and a trust fund in the U.S. Treasury to provide all resources for the program. Under the Act the Secretary is directed to carry out a program to award undergraduate scholarships, graduate fellowships, and grants to institutions of higher education. This rule is to inform those concerned with institutional grants to be offered under the 1994-1995 pilot grants program of the preliminary guidelines.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	05/05/94	59 FR 26116
Interim Final Rule	05/19/94	59 FR 26116
Interim Final Rule Comment Period End	07/18/94	
Final Action	10/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Steve Door, Department of Defense, Office of the Secretary
Phone: 703 696-1991
Fax: 703 696-5667
Email: nsep@nsep.policy.osd.mil

RIN: 0790–AF59

910. MILITARY RECRUITING AND RESERVE OFFICER TRAINING CORPS PROGRAM ACCESS TO INSTITUTIONS OF HIGHER EDUCATION

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 983

CFR Citation: 32 CFR 216

Legal Deadline: Final, Statutory, March 29, 1997.

Abstract: The Department of Defense adopts this interim rule to implement the National Defense Authorization Act for fiscal years 1995 and 1996, and the Omnibus Consolidated Appropriations Act of 1997, which state that no funds available under appropriations acts for any fiscal year for the Departments of Defense, Transportation (with respect to recruiting), Labor, Health and Human Services, Education, and related agencies may be provided by contract or grant (including a grant of funds to be available for student aid) to a covered school that has a policy or practice (regardless of when

DOD—OS

Final Rule Stage

implemented) that either prohibits, or in effect prevents, the Secretary of Defense from obtaining, for military recruiting purposes, entry to campuses, access to students on campuses, access to directory information on students, or that has an anti-ROTC policy.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	03/29/97	62 FR 16691
Interim Final Rule	04/08/97	62 FR 16691
Interim Final Rule Comment Period End	07/07/97	
Final Action	10/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Carr, Department of Defense, Office of the Secretary
Phone: 703 697-8444

RIN: 0790–AG42

911. COLLECTION FROM THIRD PARTY PAYERS OF REASONABLE COSTS OF HEALTHCARE SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 10 USC 1095

CFR Citation: 32 CFR 220

Legal Deadline: None

Abstract: This proposed rule implements several recent statutory changes and makes other revisions to the Third Party Collection Program. The primary matters include: a new initiative to identify third party payer situations, similar to an activity currently in effect for the Medicare Program; implementation of new statutory authority to include worker's compensation programs under the Third Party Collection Program; the addition of special rules for collections from preferred provider organizations; and other program revisions.

Timetable:

Action	Date	FR Cite
NPRM	03/10/98	63 FR 11635
NPRM Comment Period End	05/11/98	
Final Action	10/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Edmund Chan, Department of Defense, Office of the Secretary
Phone: 703 681-8910

RIN: 0790–AG51

912. PERSONNEL SECURITY POLICIES FOR GRANTING ACCESS TO CLASSIFIED INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: EO 12968

CFR Citation: 32 CFR 147

Legal Deadline: None

Abstract: This rule is published to streamline security practices throughout the Government. Uniform adjudicative guidelines, investigative standards and guidelines for temporary access are being established. This initiative will simplify security processing and allow the deserving public to obtain a security clearance in a faster, more efficient manner.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/30/98	63 FR 4572
Interim Final Rule Effective	03/24/98	
Interim Final Rule Comment Period End	03/31/98	
Final Action	10/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: T. Thompson, Department of Defense, Office of the Secretary
Phone: 703 602-9969

RIN: 0790–AG54

913. NATIONAL POLICY ON RECIPROCITY OF FACILITIES AND GUIDELINES FOR IMPLEMENTATION OF RECIPROCITY

Priority: Substantive, Nonsignificant

Legal Authority: EO 12968

CFR Citation: 32 CFR 148

Legal Deadline: None

Abstract: This rule is published to make physical facilities available for reciprocal use in the storage of classified information. Once a facility has been certified as suitable for classified use by one organization, it may also be used by another for like purposes.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	09/16/97	63 FR 4580
Interim Final Rule	01/30/98	63 FR 4580
Interim Final Rule Comment Period End	03/31/98	
Final Action	10/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: T. Thompson, Department of Defense, Office of the Secretary
Phone: 703 602-9969

RIN: 0790–AG55

914. NATIONAL POLICY ON TECHNICAL SURVEILLANCE COUNTERMEASURES

Priority: Substantive, Nonsignificant

Legal Authority: EO 12968

CFR Citation: 32 CFR 149

Legal Deadline: None

Abstract: This rule is published to limit the use of technical surveillance countermeasures within the boundaries of the U.S. to cases where there is a reasonable showing of threat.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	09/16/97	63 FR 4582
Interim Final Rule	01/30/98	63 FR 4582
Interim Final Rule Comment Period End	03/31/98	
Final Action	10/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: T. Thompson, Department of Defense, Office of the Secretary
Phone: 703 602-9969

RIN: 0790–AG56

DOD—OS

Final Rule Stage

915. • DOD FREEDOM OF INFORMATION ACT PROGRAM REGULATION (DOD 5400.7-R)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 32 CFR 286

Legal Deadline: None

Abstract: This rule conforms to the requirements of the Electronic Freedom of Information Act Amendments of 1996. This revision reflects substantial and administrative changes since May 1997, as a result of Department of Defense reorganization efforts. This rule also provides guidance to the Department of Defense on the implementation of this amended law.

Timetable:

Action	Date	FR Cite
NPRM	06/08/98	63 FR 31161
NPRM Comment Period End	08/07/98	
Final Action	10/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charlie Talbott, Department of Defense, Office of the Secretary
Phone: 703 697-1171
Fax: 703 693-7341

RIN: 0790–AG58

916. • IMPLEMENTATION OF THE WILDFIRE SUPPRESSION AIRCRAFT TRANSFER ACT OF 1996 (PUB. L. 104-307)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 104-307

CFR Citation: 32 CFR 171

Legal Deadline: Final, Statutory, September 30, 1998.

Abstract: The Wildfire Suppression Aircraft Transfer Act of 1996 states that, notwithstanding section 202 of the Federal Property and Administrative Services Act of 1949 (40 USC 483) and subject to subsections (b) and (c), the Secretary of Defense may, during the period beginning October 1, 1996, and ending on September 30, 2000, sell certain aircraft and aircraft parts to persons or entities that contract with the Federal Government for the delivery of fire retardant by air to suppress wildfire. The Act states that, as soon as practicable after the date of the enactment of the Act, the Secretary of Defense shall, in consultation with the Secretary of Agriculture and the Administrator of General Services, prescribe regulations relating to the sale of aircraft and aircraft parts under this section. Regulations have been drafted as a new part of 32 CFR.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Agency Contact: Michael Stubblebine, Department of Defense, Office of the Secretary
Phone: 703 767-1537

RIN: 0790–AG60

917. • ENLISTED ADMINISTRATIVE SEPARATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 1162; 10 USC 1163; 10 USC 1169; 10 USC 1170; 10 USC 1172; 10 USC 1173

CFR Citation: 32 CFR 41

Legal Deadline: None

Abstract: This rule updates policy, responsibilities, and procedures governing the administrative separation of enlisted members from the military services.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Angelia Farnell, Department of Defense, Office of the Secretary
Phone: 703 695-6312
Fax: 703 614-6058
Email: farnella@pr.osd.mil

RIN: 0790–AG61

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Long-Term Actions

918. TEACHER AND TEACHER'S AIDE PLACEMENT ASSISTANCE PROGRAM (TROOPS TO TEACHERS)(DOD INSTRUCTION 1404.13)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 254

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/15/94	59 FR 7213
Interim Final Rule Effective	02/22/94	
Interim Final Rule Comment Period End	04/18/94	
Interim Final Rule; Amendment Effective	11/25/94	
Interim Final Rule; Amendment	06/08/95	60 FR 30188
Interim Final Rule; Amendment Comment Period End	08/07/95	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Otto Thomas
Phone: 703 614-4074
Fax: 703 697-2519
Email: thomaso@pr.osd.mil

RIN: 0790–AF71

DOD—OS

Long-Term Actions

919. DLA ACQUISITION REGULATION; SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 5419; 48 CFR 5452

Timetable:

Action	Date	FR Cite
NPRM	04/28/94	59 FR 21954
NPRM Comment Period End	06/27/94	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Holley Bailey
Phone: 703 767-1374

RIN: 0790–AF72

920. DLA ACQUISITION REGULATION; FUEL ALLOCATION PROCEDURES

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 5452

Timetable:

Action	Date	FR Cite
NPRM	04/28/94	59 FR 21956
NPRM Comment Period End	06/27/94	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Holley Bailey
Phone: 703 767-1374

RIN: 0790–AF73

921. MILITARY ASSISTANCE FOR CIVIL DISTURBANCES (MACDIS) (DOD DIRECTIVE 3025.12)

Priority: Other Significant

CFR Citation: 32 CFR 215

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: G. Warren
Phone: 703 697-5454

RIN: 0790–AG21

922. FORMER SPOUSE PAYMENTS FROM RETIRED PAY; AMENDMENT (DOD DIRECTIVE 1340.16 AND DOD 7000.14-R, VOL 7, PART B)

Priority: Info./Admin./Other

CFR Citation: 32 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	04/06/95	60 FR 17507
NPRM Comment Period End	06/06/95	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Fiti Malufau
Phone: 703 607-5061
Fax: 702 602-5271
Email: malufauf@cleveland.dfas.mil

RIN: 0790–AG22

923. UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM (URISP)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 209

Timetable:

Action	Date	FR Cite
NPRM	03/02/95	60 FR 11642
NPRM Comment Period End	05/01/95	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Evelyn Kent
Phone: 703 696-0368
Fax: 703 696-0569
Email: kente@acq.osd.mil

RIN: 0790–AG26

924. RESTORATION ADVISORY BOARD (RABS)

Priority: Other Significant

CFR Citation: 32 CFR 202

Timetable:

Action	Date	FR Cite
NPRM	08/06/96	61 FR 40764
NPRM Comment Period End	11/04/96	61 FR 40765
Proposed Rule Extension of Comment Period	11/19/96	61 FR 58803
Proposed Rule Comment Period End	01/20/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Marcia Read
Phone: 703 697-9793
Fax: 703 695-4981
Email: readmw@acq.osd.mil

RIN: 0790–AG31

925. CLOSED, TRANSFERRED, AND TRANSFERRING RANGES CONTAINING MILITARY MUNITIONS

Priority: Other Significant

CFR Citation: 32 CFR 178

Timetable:

Action	Date	FR Cite
NPRM	09/26/97	62 FR 50796
Public Meetings Begin	10/22/97	
Public Meetings End	12/10/97	
NPRM Comment Period End	12/26/97	62 FR 50796
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Agency Contact: Lydia Sanchez
Phone: 703 325-1373
Fax: 703 325-6227

RIN: 0790–AG46

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Completed Actions

926. RELEASE OF ACQUISITION-RELATED INFORMATION (DOD DIRECTIVE 5230.AA)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 286h

Completed:

Reason	Date	FR Cite
Withdrawn - Overcome by Events	08/14/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Slavsky
Phone: 703 697-8335
Fax: 703 614-1254
Email: sslavsky@acq.osd.mil

RIN: 0790–AC62

927. DOD GRANT AND AGREEMENT REGULATIONS (DOD 3210.6-R)

Priority: Other Significant

CFR Citation: 32 CFR 21; 32 CFR 22; 32 CFR 28; 32 CFR 32; 32 CFR 33; 32 CFR 34

Completed:

Reason	Date	FR Cite
Final Action	03/12/98	63 FR 12152
Final Action Effective	04/13/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark Herbst
Phone: 703 696-0372
Fax: 703 696-0569
Email: herbstm@acq.osd.mil

RIN: 0790–AG28

928. CONDUCT ON THE PENTAGON RESERVATION

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 234

Completed:

Reason	Date	FR Cite
Final Action	06/15/98	63 FR 32618
Final Action Effective	06/15/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas Brooke
Phone: 703 693-7374
Fax: 703 697-1068

RIN: 0790–AG30

929. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS; AMENDMENT

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 33

Completed:

Reason	Date	FR Cite
No Further Action Required	10/28/97	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Mark Herbst
Phone: 703 696-0372
Fax: 703 696-0569
Email: herbstm@acq.osd.mil

RIN: 0790–AG49

930. COLLECTION FROM THIRD PARTY PAYERS OF REASONABLE COSTS OF HEALTHCARE SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 220

Completed:

Reason	Date	FR Cite
Final Action - (Final Rule Comment Period End 05/11/98)	03/10/98	63 FR 11599
Final Action Effective	04/19/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: LTC Michael Montgomery
Phone: 703 681-8910

RIN: 0790–AG50

931. PRIVATE ORGANIZATIONS ON DOD INSTALLATIONS (DOD INSTRUCTION 1000.15)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 32 CFR 212

Completed:

Reason	Date	FR Cite
Final Action	06/15/98	63 FR 32616
Final Action Effective	10/23/97	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Martin Thomas III
Phone: 703 614-3112

RIN: 0790–AG53

932. • STANDARDS OF CONDUCT (DOD DIRECTIVE 5500.7)

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 10 USC 301

CFR Citation: 32 CFR 83

Legal Deadline: None

Abstract: This rule removes information in title 32 of the Code of Federal Regulations concerning the Standards of Conduct regulations. The Standards of Conduct regulations have served the purpose for which they were intended in the Code of Federal Regulations and are no longer necessary. DoD Directive 5500.7 (32 CFR part 83) is available via the internet at the the following address: http://www.defenselink.mil/dodgc/defense—ethics/.

Timetable:

Action	Date	FR Cite
Final Action	08/14/98	63 FR 43624
Final Action Effective	08/14/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda Bynum, Department of Defense, Office of the Secretary
Phone: 703 697-4111
Fax: 703 614-8532
Email: lbynum@osd.pentagon.mil

RIN: 0790–AG62

933. • JOINT ETHICS REGULATION (JER) (DOD 5500.7-R)

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing

DOD—OS

Completed Actions

Government effort. It will eliminate existing text in the CFR.

Legal Authority: 10 USC 301

CFR Citation: 32 CFR 84

Legal Deadline: None

Abstract: This rule removes information in title 32 of the Code of Federal Regulations concerning the Joint Ethics Regulations. The Joint Ethics Regulations have served the purpose for which they were intended in the Code of Federal Regulations and are no longer necessary. DoD 5500.7-R (32 CFR part 84) is available via the internet at the following address: http://www.defenselink.mil/dodgc/defense—ethics/.

Timetable:

Action	Date	FR Cite
Final Action	08/14/98	63 FR 43624
Final Action Effective	08/14/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda Bynum, Department of Defense, Office of the Secretary
Phone: 703 697-4111
Fax: 703 614-8532
Email: lbynum@osd.pentagon.mil

RIN: 0790–AG63

934. • DEFENSE LOGISTICS AGENCY PRIVACY PROGRAM (DEFENSE LOGISTICS AGENCY REGULATION 5400.21)

Priority: Substantive, Nonsignificant

Legal Authority: PL 93-579; 5 USC 552a

CFR Citation: 32 CFR 323

Legal Deadline: None

Abstract: THe Defense Logistics Agency proposes to exempt a system of records identified as S500.60 CA, entitled "DLA Complaint Program Records" from certain provisions of the Privacy Act. The exemptions are intended to increase the value of the system of records for law enforcement purposes, to comply with prohibitions against the disclosure of certain kinds of information, and to protect the privacy of individuals identified in the system of records.

Timetable:

Action	Date	FR Cite
NPRM	03/06/98	63 FR 11198
NPRM Comment Period End	05/05/98	
Final Action Effective	05/05/98	63 FR 25772
Final Action	05/11/98	63 FR 25772

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Susan Salus, Department of Defense, Office of the Secretary
Phone: 703 767-6183

RIN: 0790–AG64

935. • DEPARTMENT OF THE NAVY PRIVACY ACT; IMPLEMENTATION (SECRETARY OF THE NAVY INSTRUCTION 5211.5)

Priority: Substantive, Nonsignificant

Legal Authority: PL 93-579; 5 USC 552a

CFR Citation: 32 CFR 701

Legal Deadline: None

Abstract: The Department of the Navy is amending its Privacy Act regulation on exemptions for specific record systems. The administrative amendment consists of changing the system name of N05520-4, "NIS Investigative Files System" to "NCIS Investigative Files System."

Timetable:

Action	Date	FR Cite
Final Action	05/11/98	63 FR 25773
Final Action Effective	05/11/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Doris Lama, Department of Defense, Office of the Secretary
Phone: 202 685-6545

RIN: 0790–AG65

DEPARTMENT OF DEFENSE (DOD)
Defense Acquisition Regulations Council (DARC)

Proposed Rule Stage

936. • CONTRACTING FOR COMMERCIAL CONSTRUCTION (DFARS CASE 98-D013)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 212; 48 CFR 236.101; 48 CFR 252.212

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to provide guidance for construction using commercial procedures as outlined in FAR Part 12 and part 212 of the Defense FAR Supplement.

Timetable:

Action	Date	FR Cite
Case opened	04/07/98	
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC44

937. • CARGO PREFERENCE—SUBCONTRACTS FOR COMMERCIAL ITEMS (DFARS CASE 98-D014)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 212.504; 48 CFR 247.572; 48 CFR 252.247

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to provide exceptions to the waiver of the Cargo Preference Act for commercial subcontracts.

Timetable:

Action	Date	FR Cite
Case opened	05/05/98	
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC45

DOD—DARC

Proposed Rule Stage

DEPARTMENT OF DEFENSE (DOD)
Defense Acquisition Regulations Council (DARC)

Final Rule Stage

938. IR&D/B&P COSTS FOR FY96 AND BEYOND (DFARS CASE 95-D040)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 242.771; 48 CFR 225.7303; 48 CFR 231.205

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to treat independent research and development/bid and proposal costs for fiscal year 1996 and beyond as fully allowable, subject only to the FAR normal standards of reasonableness and allocability.

Timetable:

Action	Date	FR Cite
Case opened	12/06/95	
NPRM	01/03/97	62 FR 374
NPRM Comment Period End	03/04/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB04

939. ANTITERRORISM TRAINING (DFARS CASE 96-D016)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 225.7400; 48 CFR 225.7401; 48 CFR 225.7402; 48 CFR 252.225

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to add guidance pertaining to DoD antiterrorism/force protection policy. The rule requires DoD contractors and their subcontractors to take appropriate security precautions when performing or traveling outside the United States.

Timetable:

Action	Date	FR Cite
Case opened	08/14/96	
Interim Final Rule	06/11/98	63 FR 31936
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB26

940. STREAMLINED R&D TEST RESULTS (DFARS CASE 97-D002)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 235.70

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to provide permanent implementation of the streamlined research and development contracting procedures as a result of the 24-month test.

Timetable:

Action	Date	FR Cite
Case opened	01/15/97	
Interim Final Rule	06/25/98	63 FR 34605
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB52

DOD—DARC

Final Rule Stage

941. DD FORM 1155 (DFARS CASE 97-D024)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 253.213; 48 CFR 253.3

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to revise DD Form 2255, Order for Supplies or Services, and DD Form 1155C-1, Order for Supplies or Services (Commissary Continuation Sheet).

Timetable:

Action	Date	FR Cite
Case opened	06/24/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB82

942. DFARS PART 215 REWRITE (DFARS CASE 97-D018)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 215; 48 CFR 252.215

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to conform to FAR part 15 rewrite.

Timetable:

Action	Date	FR Cite
Case opened	05/08/97	
NPRM	11/26/97	62 FR 63050
NPRM Comment Period End	01/26/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AB90

943. FAR PART 30 DEVIATIONS (DFARS CASE 97-D016)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 201

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to conform to Cost Accounting Standards recodification and allow the Government to deviate from its own policies and procedures.

Timetable:

Action	Date	FR Cite
Case opened	04/30/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AB91

944. SINGLE PROCESS INITIATIVE (DFARS CASE 97-D014)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 211.2; 48 CFR 243.302; 48 CFR 252.211

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to establish policy and procedures to facilitate the Single Process Initiative.

Timetable:

Action	Date	FR Cite
Case opened	04/14/97	
Interim Final Rule	08/20/97	62 FR 44223
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AB94

945. EMPLOYMENT PROHIBITION ON PERSONS CONVICTED OF FRAUD (DFARS CASE 97-D020)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 2408; 41 USC 421

CFR Citation: 48 CFR 203.570; 48 CFR 252.203

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to provide the flexibility for agencies to prohibit defense-related contract felons from working on defense contracts beyond the 5 year minimum provided in 10 USC 2408.

DOD—DARC

Final Rule Stage

Timetable:

Action	Date	FR Cite
Case opened	05/13/97	
NPRM	10/02/97	62 FR 51623
NPRM Comment Period End	12/01/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AB96

946. WEIGHTED GUIDELINES—FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS (DFARS CASE 97-D025)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 215.9

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to exempt federally funded Research and Development Centers from the weighted guidelines for establishing profit and fee objectives.

Timetable:

Action	Date	FR Cite
Case opened	07/22/97	
NPRM	09/15/97	62 FR 48205
NPRM Comment Period End	11/14/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AB99

947. CONTRACT ADMINISTRATION AND AUDIT SERVICES (DFARS CASE 98-D003)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 231; 28 CFR 232; 48 CFR 242; 48 CFR 246; 48 CFR 247; 48 CFR 252

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to add policies and procedures for assigning and performing contract audit services, and clarify the policy for assigning or delegating responsibility for establishing forward pricing and billing rates and final indirect cost rates.

Timetable:

Action	Date	FR Cite
Case opened	01/15/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AC02

948. QUALITY ASSURANCE AMONG NORTH ATLANTIC TREATY ORGANIZATION COUNTRIES (DFARS CASE 97-D038)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 242.406

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to allow use of documents other than Allied Quality Assurance Publications as contractual requirements in contracts involving NATO.

Timetable:

Action	Date	FR Cite
Case opened	12/16/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AC05

949. COMPLIANCE WITH SPANISH LAWS AND INSURANCE (DFARS CASE 98-D002)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 228.370; 48 CFR 252.228

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to clarify that the clause at DFARS 252.228-7006, Compliance with Spanish Laws and Insurance, is only used in service or construction contracts and subcontracts to be performed in Spain by non-Spanish contractors.

DOD—DARC

Final Rule Stage

Timetable:

Action	Date	FR Cite
Case opened	01/13/98	
NPRM	03/27/98	63 FR 14885
NPRM Comment Period End	05/26/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 0750–AC08

950. CONSTRUCTION IN FOREIGN COUNTRIES (DFARS CASE 97-D307)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-45, Sec 112

CFR Citation: 48 CFR 236.102; 48 CFR 236.274; 48 CFR 236.570; 48 CFR 252.236

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to implement section 112 of the Fiscal Year 1998 Military Construction Appropriations Act. Section 112 provides that the 20 percent preference for United States firms, when using military construction appropriations for military construction contracts that are estimated to exceed $1,000,000 and are to be performed on Kwajalein Atoll, does not apply to contract awards for which the lowest responsive and responsible offer is submitted by a Marshallese firm.

Timetable:

Action	Date	FR Cite
Case opened	10/02/97	
Interim Final Rule	03/09/98	63 FR 11522
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC12

951. COMMERCIAL BALL OR ROLLER BEARINGS—COMPONENTS OF NONCOMMERCIAL ITEMS (DFARS CASE 97-D028)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 225.7019; 48 CFR 252.225

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to reconcile inconsistencies pertaining to ball and roller bearings and the exemption from 10 USC 2534 for commercial components of noncommercial end products in acquisitions above the simplified acquisition threshold.

Timetable:

Action	Date	FR Cite
Case opened	09/08/97	
NPRM	11/04/97	62 FR 59641
NPRM Comment Period End	01/05/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AC13

952. SHORT FORM RESEARCH CONTRACT (DFARS CASE 97-D030)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 235.015

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to delete the short form research contract.

Timetable:

Action	Date	FR Cite
Case opened	09/16/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AC17

953. VETERANS EMPLOYMENT EMPHASIS (DFARS CASE 97-D314)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-56, Sec 8117

CFR Citation: 48 CFR 209.104; 48 CFR 212.503; 48 CFR 213.005; 48 CFR 217.207; 48 CFR 222.1304; 48 CFR 252.209

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to implement a prohibition on obligation or expenditure of funds with a contractor who has not submitted a required report on employment of Vietnam veterans.

DOD—DARC

Final Rule Stage

Timetable:

Action	Date	FR Cite
Case opened	10/17/97	
Interim Final Rule	03/11/98	63 FR 11850
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC20

954. LIST OF FIRMS NOT ELIGIBLE FOR DEFENSE CONTRACTS (DFARS CASE 97-D325)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-85, Sec 843

CFR Citation: 48 CFR 209.104; 48 CFR 209.405; 48 CFR 209.409; 48 CFR 252.209

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to implement a requirement for the Department of Defense to maintain a list of firms that are ineligible for certain defense contracts because the firms are owned or controlled by the government of a terrorist country.

Timetable:

Action	Date	FR Cite
Case opened	11/14/97	
Interim Final Rule	03/27/98	63 FR 14836
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AC22

955. SERVICE CONTRACTS THAT CROSS FISCAL YEARS (DFARS CASE 97-D328)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 105-85, Sec 801; 41 USC 421

CFR Citation: 48 CFR 237.106

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to remove obsolete language regarding limitations on service contracts that cross fiscal years.

Timetable:

Action	Date	FR Cite
Case opened	12/08/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AC23

956. COMPREHENSIVE SUBCONTRACTING PLANS (DFARS CASE 97-D323)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-85, Sec 822

CFR Citation: 48 CFR 219.702

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to reflect revisions made to the Department of Defense Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans. The revisions implement section 822 of the National Defense Authorization Act for Fiscal Year 1998.

Timetable:

Action	Date	FR Cite
Case opened	11/14/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AC27

957. MULTIYEAR CONTRACTING (DFARS CASE 97-D308)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-56, Sec 8008(b); PL 105-85, Sec 806

CFR Citation: 48 CFR 217.1

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to clarify the procedure for authorizing the use of multiyear contracts for certain acquisitions.

Timetable:

Action	Date	FR Cite
Case opened	10/17/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a

statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AC31

958. WAIVER AUTHORITY TO HUMANITARIAN OR PEACEKEEPING OPERATIONS (DFARS CASE 97-D319)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-85, Sec 803

CFR Citation: 48 CFR 217.7405

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to support the use of the same thresholds for use of undefinitized contract actions supporting humanitarian and peacekeeping operations that are currently in effect for contingency operations.

Timetable:

Action	Date	FR Cite
Case opened	11/14/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC32

959. REQUIREMENT UNDER COMPETITION EXCEPTION FOR INTERNATIONAL AGREEMENTS (DFARS CASE 97-D324)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-85, Sec 841(b)

CFR Citation: 48 CFR 206.302

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to delete the requirement for the competition advocate to approve certain justifications and approvals that are prepared by the head of a contracting activity.

Timetable:

Action	Date	FR Cite
Case opened	11/14/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AC33

960. ALLOWABILITY OF COSTS FOR RESTRUCTURING BONUSES (DFARS CASE 97-D312)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-56, Sec 8083

CFR Citation: 48 CFR 231.205

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to prohibit use of fiscal year 1998 funds to reimburse a contractor for costs paid by the contractor to an employee for a bonus or other payment in excess of the normal salary paid to the employee, when such payment is part of restructuring costs associated with a business combination.

Timetable:

Action	Date	FR Cite
Case opened	10/17/97	
Interim Final Rule	11/26/97	62 FR 63035
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC34

961. RESTRUCTURING COSTS (DFARS CASE 97-D313)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-56, Sec 8092

CFR Citation: 48 CFR 231.205

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to restrict the Department of Defense from reimbursing contractors for restructuring costs unless certain conditions are met.

Timetable:

Action	Date	FR Cite
Case opened	10/17/97	
Interim Final Rule	02/13/98	63 FR 7308
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AC36

962. ELECTRONIC SIGNATURE ON RECEIVING REPORTS (DFARS CASE 98-D001)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 232.905

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to reflect the revised language in the Department of Defense's manual, Standard Contract Administration Procedures, pertaining to electronic signature of receiving reports.

Timetable:

Action	Date	FR Cite
Case opened	01/12/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AC37

963. REFORM OF AFFIRMATIVE ACTION IN FEDERAL GOVERNMENT PROCUREMENT (DFARS CASE 98-D007)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC-421

CFR Citation: 48 CFR 205; 48 CFR 206; 48 CFR 217; 48 CFR 219; 48 CFR 225; 48 CFR 226; 48 CFR 235; 48 CFR 236; 48 CFR 252; 48 CFR 253

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to revise language concerning small disadvantaged businesses programs, in accordance with the Department of Justice proposal to reform affirmative action in Federal procurement and to make the language consistent with FAR changes.

Timetable:

Action	Date	FR Cite
Case opened	02/09/98	
Interim Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AC38

964. TELEVISION-AUDIO SUPPORT ACTIVITY (T-ASA) (DFARS CASE 98-D008)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR ch 2, app B

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to move the responsibility for the partial assignments of Federal Stock Class 5820 from the Army to the Defense Logistics Agency.

Timetable:

Action	Date	FR Cite
Case opened	02/09/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AC39

965. • CONTRACT ACTION REPORTING—1998 (DFARS CASE 98-D009)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 253.204

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to update the Contracting Action Data System instructions.

Timetable:

Action	Date	FR Cite
Case opened	03/03/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC42

966. • E-MAIL/INTERNET ADDRESSES ON CONTRACTS AND MODIFICATIONS (DFARS CASE 98-D010)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 204.101

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to require that contracts

and modifications include the contracting officer's e-mail/Internet address in addition to the telephone number.

Timetable:

Action	Date	FR Cite
Case opened	03/03/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC43

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967. • LETTER OF OFFER AND ACCEPTANCE (DFARS CASE 98-D015)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 225.73; 48 CFR 253.303

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to identify the documentation of a foreign military sale as the Letter of Offer and Acceptance (LOA) rather than the DD Form 1513, United States Department of Defense Offer and Acceptance, which is no longer used.

Timetable:

Action	Date	FR Cite
Case opened	06/18/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 0750–AC46

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968. • WAIVER OF 10 USC 2534—UNITED KINGDOM (DFARS CASE 98-D016)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 2534

CFR Citation: 48 CFR 225.70; 48 CFR 252.225

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to implement the waiver of the domestic source restriction of 10 USC 2534(a) for certain items manufactured in the United Kingdom.

Timetable:

Action	Date	FR Cite
Case opened	06/30/98	
Interim Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC48

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969. • HAZARDOUS WASTE DISPOSAL (DFARS CASE 98-D301)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 223.70; 48 CFR 252.223

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to revise guidance on hazardous waste disposal in light of the expiration of the statutory requirement.

Timetable:

Action	Date	FR Cite
Case opened	03/19/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC47

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970. INCREMENTAL FUNDING, FIXED PRICE CONTRACTS (DAR CASE 90-037)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 232.7; 48 CFR 252.232

Timetable:

Action	Date	FR Cite
Case opened	09/26/90	
Interim Final Rule	09/01/93	58 FR 46091
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AA07

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971. DEMILITARIZATION (DFARS CASE 92-D024)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 245.601; 48 CFR 245.604; 48 CFR 245.7310; 48 CFR 252.245

Timetable:

Action	Date	FR Cite
Case opened	07/22/92	
NPRM	03/16/94	59 FR 12223
NPRM Comment Period End	06/30/94	
NPRM	03/23/95	60 FR 15276
NPRM Comment Period End	05/22/95	
NPRM	06/05/97	62 FR 30832
NPRM Comment Period End	08/04/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AA09

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972. ACQUISITION OF COMMERCIAL ITEMS (DFARS CASE 95-D712)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 212

Timetable:

Action	Date	FR Cite
Case opened	10/04/95	
Interim Final Rule	11/30/95	60 FR 61585
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AB00

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973. DFARS COMMERCIALLY AVAILABLE OFF-THE-SHELF ITEMS (DFARS CASE 96-D316)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 212

Timetable:

Action	Date	FR Cite
Case opened	08/28/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AB40

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974. DISTRIBUTION OF CONTRACT FINANCING PAYMENT (DFARS CASE 97-D011)

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 48 CFR 214.201; 48 CFR 215.406

Timetable:

Action	Date	FR Cite
Case Opened	03/12/97	
NPRM	06/05/97	62 FR 30829
NPRM Comment Period End	08/04/97	
NPRM	11/26/97	62 FR 63047
NPRM Comment Period End	01/26/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
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RIN: 0750–AB87

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975. DFARS PART 213 REWRITE (DFARS CASE 97-D306)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 213

Timetable:

Action	Date	FR Cite
Case opened	07/28/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AC00

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976. DD FORM 2631, PERFORMANCE EVALUATION (A-E) (DFARS CASE 97-D035)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 253

Timetable:

Action	Date	FR Cite
Case opened	10/09/97	

Action	Date	FR Cite
NPRM	07/08/98	63 FR 36883
NPRM Comment Period End	09/08/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AC14

977. CONTRACTOR USE OF NONIMMIGRANT ALIENS—GUAM (DFARS CASE 97-D318)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 222.73; 48 CFR 252.222

Timetable:

Action	Date	FR Cite
Case opened	11/14/97	
Interim Final Rule	06/11/98	63 FR 31935
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AC21

978. UNIFORM PROCUREMENT INSTRUMENT IDENTIFICATION (DFARS CASE 97-D033)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 204.70

Timetable:

Action	Date	FR Cite
Case opened	10/07/97	
ANPRM	12/16/97	62 FR 65782
ANPRM Comment Period End	02/17/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AC29

979. • DD FORMS 350 AND 1057 CHANGES TO CAPTURE FSS ORDERS (DFARS CASE 98-D017)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 253.204

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to change the DD Form 350 and DD Form 1057 to collect information regarding awards made by DoD small businesses, small disadvantaged businesses, and women-owned businesses under Federal Supply Schedule contracts.

Timetable:

Action	Date	FR Cite
Case opened	07/22/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 1D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC40

980. • DIRECT AWARD OF 8(A) CONTRACTS (DFARS CASE 98-D011)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 213.70; 48 CFR 219.800; 48 CFR 252.219; 48 CFR 253.204

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to implement a Memorandum of Understanding (MOU) between the Small Business Administration (SBA) and DoD. The MOU streamlines the process procedures for contract awards under the SBA's 8(a) Program. The revisions to the Defense FAR Supplement establish procedures for 8(a) purchase order awards under the simplified acquisition threshold.

Timetable:

Action	Date	FR Cite
Case opened	03/20/98	
Interim Final Rule	06/19/98	63 FR 33586
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulation Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC41

981. • REVISIONS TO DD FORM 1707, INSTRUCTIONS TO OFFERORS OR QUOTERS (DFARS CASE 98-D020)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 253.303

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to update the content of DD Form 1707, Instructions to Offerors or Quoters.

Timetable:

Action	Date	FR Cite
Case opened	07/29/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC49

982. • DD FORM 350 CHANGES SUPPORTING REFORM OF AFFIRMATIVE ACTION (DFARS CASE 98-D018)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 253.204

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to revise the instructions for the DD Form 350 to support collection of data regarding recent revisions to policies for small disadvantaged business preferences.

Timetable:

Action	Date	FR Cite
Case opened	07/29/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC50

983. • FLEXIBLE PROGRESS PAYMENTS (DFARS CASE 98-D400)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 232.5; 48 CFR 252.232

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to remove the flexible progress payments type of financing.

Timetable:

Action	Date	FR Cite
Case opened	07/06/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC51

984. • ELECTRONIC FUNDS TRANSFER (DFARS CASE 98-D012)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 232.11; 48 CFR 252.232

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to provide policy and procedures for the use of the electronic funds transfer (EFT) method of contract payment when the payment office uses the central contractor registration database as its source of EFT information. This revision eliminates requirements for duplicate submissions of EFT information by DoD contractors.

Timetable:

Action	Date	FR Cite
Case opened	04/08/98	
Interim Final Rule	05/20/98	63 FR 27682
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC52

985. • RESTRUCTURING SAVINGS REPRICING CLAUSE (DFARS CASE 98-D018)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 231.205

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to require contracting

officers to consider using a repricing (downward only) clause in non-competitive fixed-price contracts that are negotiated and awarded between the time a business combination is announced and the time that the contractor's forward pricing rates are adjusted to reflect the impact of restructuring.

Timetable:

Action	Date	FR Cite
Case opened	07/28/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC53

986. • REFORM OF AFFIRMATIVE ACTION IN FEDERAL PROCUREMENT DFARS—PHASE II (DFARS CASE 98-D021)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 215; 48 CFR 217; 48 CFR 219; 48 CFR 226; 48 CFR 236; 48 CFR 252.212; 48 CFR 252.219

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to revise language concerning small disadvantaged business programs, in accordance with the Department of Justice proposal to reform affirmative action in Federal procurement and to make the language consistent with FAR changes.

Timetable:

Action	Date	FR Cite
Case opened	08/05/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD (A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
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RIN: 0750–AC54

DEPARTMENT OF DEFENSE (DOD)
Defense Acquisition Regulations Council (DARC)

Completed Actions

987. FINANCE (DFARS CASE 95-D710)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 232

Completed:

Reason	Date	FR Cite
Final Action	03/09/98	63 FR 11522
Final Action Effective	03/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AA88

988. COST REIMBURSEMENT RULES FOR INDIRECT COSTS—PRIVATE SECTOR WORK OF DEFENSE CONTRACTOR (DFARS CASE 96-D303)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 231.205

Completed:

Reason	Date	FR Cite
Final Action	03/09/98	63 FR 11522
Final Action Effective	03/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AB17

989. MULTIYEAR AND OTHER MISCELLANEOUS PROVISIONS (DFARS CASE 95-D703)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 216.301; 48 CFR 217.1; 48 CFR 217.5; 48 CFR 233.204; 48 CFR 237.2; 48 CFR 252.102

Completed:

Reason	Date	FR Cite
Final Action	03/09/98	63 FR 11522
Final Action Effective	03/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
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RIN: 0750–AB42

990. EARNED VALUE MANAGEMENT SYSTEMS (DFARS CASE 96-D024)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 234.005; 48 CFR 242.302; 48 CFR 252.234; 48 CFR 252.242; 48 CFR 242.1107

Completed:

Reason	Date	FR Cite
Final Action	03/09/98	63 FR 11522
Final Action Effective	03/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AB49

991. DUTY-FREE ENTRY (DFARS CASE 96-D020)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 225.105; 48 CFR 225.109; 48 CFR 225.408; 48 CFR 225.602; 48 CFR 225.603; 48 CFR 225.605; 48 CFR 242.302; 48 CFR 252.212; 48 CFR 252.225

Completed:

Reason	Date	FR Cite
Final Action	03/09/98	63 FR 11522
Final Action Effective	03/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AB56

992. SALES COMMISSIONS AND CONTINGENT FEES—FMS (DFARS CASE 96-D021)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 225.7302; 48 CFR 225.7303; 48 CFR 225.7308; 48 CFR 252.225

Completed:

Reason	Date	FR Cite
Final Action	03/09/98	63 FR 11522
Final Action Effective	03/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AB57

993. CENTRAL CONTRACTOR REGISTRATION (DFARS CASE 97-D005)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 204; 48 CFR 212; 48 CFR 252

Completed:

Reason	Date	FR Cite
Final Action	03/31/98	63 FR 15316
Final Action Effective	03/31/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AB75

994. BINDING ARBITRATION IN ALTERNATIVE DISPUTE RESOLUTION (DFARS CASE 97-D304)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 233.214; 48 CFR 233.215

Completed:

Reason	Date	FR Cite
Closed case	05/22/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AB79

995. CERTIFICATE OF REQUESTS FOR EQUITABLE ADJUSTMENT (DFARS CASE 97-D302)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 243.204; 48 CFR 243.205; 48 CFR 252.212; 48 CFR 252.243

Completed:

Reason	Date	FR Cite
Final Action	03/09/98	63 FR 11522
Final Action Effective	03/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AB80

996. APPROVAL OF NONSTATUTORY CERTIFICATION REQUIREMENTS (DFARS CASE 97-D301)

Priority: Substantive, Nonsignificant
CFR Citation: 48 CFR 201.107; 48 CFR 201.304
Completed:

Reason	Date	FR Cite
Final Action	03/09/98	63 FR 11522
Final Action Effective	03/09/98	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: Federal
Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.
Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350
RIN: 0750–AB81

997. BUY AMERICAN ACT WAIVER FOR INFORMATION TECHNOLOGY PRODUCTS (DFARS CASE 97-D022)

Priority: Substantive, Nonsignificant
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
CFR Citation: 48 CFR 212.301; 48 CFR 225; 48 CFR 252.212; 48 CFR 252.225
Completed:

Reason	Date	FR Cite
Final Action	03/09/98	63 FR 11522
Final Action Effective	03/09/98	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: Businesses
Government Levels Affected: Federal
Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.
Agency Contact: Kathleen Fenk
Phone: 703 602-0131
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RIN: 0750–AB83

998. ARCHITECT-ENGINEER SELECTION PROCESS (DFARS CASE 97-D015)

Priority: Substantive, Nonsignificant
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
CFR Citation: 48 CFR 236.602
Completed:

Reason	Date	FR Cite
Final Action	03/09/98	63 FR 11522
Final Action Effective	03/09/98	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: Businesses
Government Levels Affected: Federal
Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.
Agency Contact: Kathleen Fenk
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RIN: 0750–AB84

999. SPECIALTY METALS—AGREEMENTS WITH QUALIFYING COUNTRIES (DFARS CASE 97-D007)

Priority: Substantive, Nonsignificant
CFR Citation: 48 CFR 252.225
Completed:

Reason	Date	FR Cite
Final Action	03/09/98	63 FR 11522
Final Action Effective	03/09/98	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: Businesses
Government Levels Affected: Federal
Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.
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Fax: 703 602-0350
RIN: 0750–AB86

1000. CONTRACTOR INSURANCE/PENSION REVIEW (DFARS CASE 97-D012)

Priority: Substantive, Nonsignificant
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
CFR Citation: 48 CFR 242.73
Completed:

Reason	Date	FR Cite
Final Action	07/29/98	63 FR 40374
Final Action Effective	07/29/98	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: Federal
Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.
Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350
RIN: 0750–AB93

1001. ITMRA—TELECOMMUNICATIONS SERVICES (DFARS CASE 97-D305)

Priority: Substantive, Nonsignificant
CFR Citation: 48 CFR 239.7405
Completed:

Reason	Date	FR Cite
Final Action	03/09/98	63 FR 11522
Final Action Effective	03/09/98	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: Federal
Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.
Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350
RIN: 0750–AB95

1002. RESEARCH AND DEVELOPMENT DEFINITIONS (DFARS CASE 97-D021)

Priority: Substantive, Nonsignificant
CFR Citation: 48 CFR 235.001
Completed:

Reason	Date	FR Cite
Final Action	03/09/98	63 FR 11522
Final Action Effective	03/09/98	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: Federal
Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.
Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350
RIN: 0750–AB97

1003. REPORT OF 10-YEAR-TERM CONTRACTS (DFARS CASE 97-D303)

Priority: Substantive, Nonsignificant
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.
CFR Citation: 48 CFR 235.002
Completed:

Reason	Date	FR Cite
Final Action	03/09/98	63 FR 11522
Final Action Effective	03/09/98	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: Federal
Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.
Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350
RIN: 0750–AB98

1004. TITLE TO GOVERNMENT PROPERTY (DFARS CASE 97-D027)

Priority: Substantive, Nonsignificant
CFR Citation: 48 CFR 216.307; 48 CFR 245; 48 CFR 252.216; 48 CFR 252.245
Completed:

Reason	Date	FR Cite
Withdrawn	06/11/98	63 FR 31959

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: Federal
Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.
Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350
RIN: 0750–AC04

1005. USE OF AUCTIONS, SPOT BIDS, OR RETAIL SALES OF SURPLUS CONTRACTOR INVENTORY BY THE CONTRACTOR (DFARS CASE 98-D004)

Priority: Substantive, Nonsignificant
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
CFR Citation: 48 CFR 245.7301
Completed:

Reason	Date	FR Cite
Final Action	06/11/98	63 FR 31937
Final Action Effective	06/11/98	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: Federal
Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.
Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350
RIN: 0750–AC06

1006. WAIVERS OF DOMESTIC SOURCE LIMITATION (DFARS CASE 97-D321)

Priority: Substantive, Nonsignificant
CFR Citation: 48 CFR 225; 48 CFR 252.225
Completed:

Reason	Date	FR Cite
Final Action	05/22/98	63 FR 28284
Final Action Effective	05/22/98	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: Federal
Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.
Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350
RIN: 0750–AC07

1007. REPORTING OF CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES (DFARS CASE 97-D029)

Priority: Substantive, Nonsignificant
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
CFR Citation: 48 CFR 252.225
Completed:

Reason	Date	FR Cite
Final Action	03/09/98	63 FR 11522
Final Action Effective	03/09/98	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: Federal
Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.
Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350
RIN: 0750–AC09

1008. OVERSEAS ARCHITECT-ENGINEER SERVICES (DFARS CASE 97-D034)

Priority: Substantive, Nonsignificant
CFR Citation: 48 CFR 236.609

Completed:

Reason	Date	FR Cite
Final Action	03/09/98	63 FR 11522
Final Action Effective	03/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0131

RIN: 0750–AC10

1009. NAFTA THRESHOLD (DFARS CASE 97-D040)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.408

Completed:

Reason	Date	FR Cite
Final Action	03/09/98	63 FR 11522
Final Action Effective	03/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC11

1010. INDUSTRIAL PLANT EQUIPMENT (DFARS CASE 98-D005)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 245.3; 48 CFR 245.4; 48 CFR 245.5; 48 CFR 245.6; 48 CFR 245.71; 48 CFR 245.72

Completed:

Reason	Date	FR Cite
Closed case	03/25/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC16

1011. RECOVERED MATERIAL CERTIFICATION (DFARS CASE 97-D031)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 223.404

Completed:

Reason	Date	FR Cite
Final Action	03/09/98	63 FR 11522
Final Action Effective	03/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC18

1012. UNCOMPENSATED OVERTIME (DFARS CASE 97-D037)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 215.608; 48 CFR 237.102; 48 CFR 237.170; 48 CFR 252.237

Completed:

Reason	Date	FR Cite
Final Action	03/09/98	63 FR 11522
Final Action Effective	03/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC19

1013. SUBCONTRACTING PLANS—INDIAN INCENTIVES (DFARS CASE 97-D309)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 226.103; 48 CFR 226.104

Completed:

Reason	Date	FR Cite
Final Action	03/09/98	63 FR 11522
Final Action Effective	03/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0131

RIN: 0750–AC24

1014. QUALIFIED NONPROFIT AGENCIES FOR THE BLIND OR OTHER SEVERELY HANDICAPPED (DFARS CASE 97-D310)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 219.703

Completed:

Reason	Date	FR Cite
Final Action	03/09/98	63 FR 11522
Final Action Effective	03/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC25

1015. EXTENSION OF PILOT MENTOR-PROTEGE PROGRAM (DFARS CASE 97-D322)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 219.7104

Completed:

Reason	Date	FR Cite
Final Action	03/09/98	63 FR 11522
Final Action Effective	03/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC26

1016. STREAMLINED MICRO-PURCHASE PROCEDURES (DFARS CASE 97-D327)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 213

Completed:

Reason	Date	FR Cite
Closed case	05/06/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC28

1017. CONTRACT DISTRIBUTION TO DFAS ACCOUNTING OFFICES (DFARS CASE 97-D039)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 204.201; 48 CFR 204.202

Completed:

Reason	Date	FR Cite
Final Action	06/11/98	63 FR 31934
Final Action Effective	06/11/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC30

1018. LIMITATION OF ALLOWABILITY OF COMPENSATION FOR CERTAIN CONTRACTOR PERSONNEL UNDER DEFENSE CONTRACTS (DFARS CASE 97-D320)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 231.205; 48 CFR 231.303; 48 CFR 231.603; 48 CFR 231.703

Completed:

Reason	Date	FR Cite
Final Action	03/26/98	63 FR 14640
Final Action Effective	03/26/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AC35

DEPARTMENT OF DEFENSE (DOD)

Department of the Army (DOA)

Proposed Rule Stage

1019. THE DEPARTMENT OF THE ARMY FREEDOM OF INFORMATION ACT PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552

CFR Citation: 32 CFR 518

Legal Deadline: None

Abstract: This proposed rule updates the Army FOIA program. This change incorporates DoD policies as required by public law.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gregory D. Showalter, Army Federal Register Liaison Officer, Department of Defense, Department of the Army, Records Management Program Services, ATTN: TAPC-PDR-P, 6000 6th Street, Stop C55, Fort Belvoir, VA 22060-5576
Phone: 703 806-3708

RIN: 0702–AA30

DEPARTMENT OF DEFENSE (DOD)
Department of the Army (DOA)

Final Rule Stage

1020. • RADIATION SOURCES ON ARMY LAND

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 10 USC 3012

CFR Citation: 32 CFR 655

Legal Deadline: None

Abstract: This proposed rule revises rules pertaining to radiation sources on Army land. The proposal delegates the approval authority from U.S. Army Materiel Command to the local installation commanders and includes descriptions of ionizing radiation sources that require Army radiation permits and criteria for application approval.

Timetable:

Action	Date	FR Cite
NPRM	07/10/98	63 FR 37296
NPRM Comment Period End	09/08/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Gregory D. Showalter, Army Federal Register Liaison Officer, Department of Defense, Department of the Army, Records Management Program Services, ATTN: TAPC-PDR-P, 6000 6th Street, Stop C55, Fort Belvoir, VA 22060-5576
Phone: 703 806-3708
Fax: 703 806-3230
Email: showalterg@rmpo.belvoir.army.mil

RIN: 0702–AA31

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Proposed Rule Stage

1021. • REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS, ENDANGERED SPECIES ACT; SCOPE OF ANALYSIS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 325

Legal Deadline: None

Abstract: The regulation will clarify the scope of analysis that the Corps has responsibility for under the Endangered Species Act (ESA). This regulation will adopt the Corps ESA scope of analysis consistent with the ESA, the ESA regulations, and the Corps authorities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	
Final Action	06/00/99	
Final Action Effective	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sam Collinson, Chief, Policy Development Section, Department of Defense, U.S. Army Corps of Engineers, ATTN: CECW-OR, Washington, DC 20314-1000
Phone: 202 761-0199

RIN: 0710–AA43

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Final Rule Stage

1022. REGULATORY PROGRAM OF THE CORPS OF ENGINEERS—ADMINISTRATIVE APPEALS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 331

Legal Deadline: None

Abstract: The regulation establishes an administrative appeal process for permit denials by permit applicants. This process is included in the President's Wetland Protection Plan to increase fairness in the permitting process by allowing landowners to seek a speedy recourse of these decisions without having to go to court.

Timetable:

Action	Date	FR Cite
NPRM	07/19/95	60 FR 37280
NPRM Comment Period End	09/05/95	
Final Action	10/00/98	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sam Collinson, Chief, Policy Development Section, Department of Defense, U.S. Army Corps of Engineers, ATTN: CECW-OR, Washington, DC 20314-1000
Phone: 202 761-0199

RIN: 0710–AA41

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Long-Term Actions

1023. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 33 CFR 320 to 330

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sam Collinson
Phone: 202 761-0199

RIN: 0710–AA30

1024. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS, WETLAND DELINEATOR CERTIFICATION PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 33 CFR 320; 33 CFR 323; 33 CFR 325; 33 CFR 328; 33 CFR 333

Timetable:

Action	Date	FR Cite
NPRM	03/14/95	60 FR 13654
NPRM Comment Period End	04/13/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Collen Charles
Phone: 202 761-1784

RIN: 0710–AA38

1025. ENVIRONMENTAL QUALITY; PROCEDURES FOR IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 230

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Forrester Einarsen
Phone: 703 428-7081
Fax: 703 428-6529

RIN: 0710–AA42

DEPARTMENT OF DEFENSE (DOD)
Department of the Navy (NAVY)

Final Rule Stage

1026. USE OF DEPARTMENT OF THE NAVY AVIATION FACILITIES BY OTHER THAN UNITED STATES DEPARTMENT OF DEFENSE AIRCRAFT

Priority: Info./Admin./Other

Legal Authority: 49 USC 1507

CFR Citation: 32 CFR 766

Legal Deadline: None

Abstract: This part establishes the policy and procedures for the use of Navy and Marine Corps aviation facilities by aircraft other than United States Department of Defense aircraft.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61561
NPRM Comment Period End	01/03/95	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Lt Col Stephen G. Harris, USMC, Department of Defense, Department of the Navy, Office of the Chief of Naval Operations, (N885) 2000 Navy Pentagon, Washington, DC 20350-2000
Phone: 703 604-7707
Fax: 703 604-6969
Email: harris.stephen@hq.navy.mil

RIN: 0703–AA48

1027. SHIPBUILDING CAPABILITY PRESERVATION AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 2501(b); 10 USC 7315; PL 105-85, sec 1027

CFR Citation: 48 CFR 5231 (New)

Legal Deadline: Other, Statutory, December 18, 1997.
The Navy was given 30 days from enactment of Public Law 105-85 to establish application procedures.

Abstract: This interim rule adds part 5231 to the Dept. of Navy Acquisition Regulations (48 CFR chapter 52) to implement section 1027 of the National Defense Authorization Act for fiscal year 1998 (Public Law 105-85). Section 1027 permits the Navy to enter into a shipbuilding capability preservation agreement where it would facilitate the achievement of the policy objectives set forth in 10 USC 2501(b). Such an agreement would permit the contractor to claim certain indirect costs attributable to its private sector work on its shipbuilding contracts.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/22/97	62 FR 66826
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Clarence Belton, Office of the Asst. Secretary of the Navy, Acquisition and Business Management, Department of Defense, Department of the Navy, 2211 South Clark Place, Arlington, VA 22244 5104
Phone: 703 602-2807
Fax: 703 602-2117
Email: belton.clarence@hq.navy.mil

RIN: 0703–AA50

DEPARTMENT OF DEFENSE (DOD)
Department of the Navy (NAVY)

Completed Actions

1028. ADJUSTMENTS TO PRICES UNDER SHIPBUILDING CONTRACTS

Priority: Info./Admin./Other

CFR Citation: 48 CFR 52

Completed:

Reason	Date	FR Cite
Withdrawn	05/01/98	63 FR 24129

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael G. Shaffer
Phone: 703 602-7704
Fax: 703 602-4514
Email: shaffer__michael__g@hq.navsea.navy.mil

RIN: 0703–AA34

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Final Rule Stage

1029. ENVIRONMENTAL IMPACT ANALYSIS PROCESS

Priority: Info./Admin./Other

Legal Authority: PL 91-190; EO 12114

CFR Citation: 32 CFR 989

Legal Deadline: None

Abstract: This rule provides policy and guidance for consideration of environmental matters in the Air Force decisionmaking process.

Timetable:

Action	Date	FR Cite
NPRM	12/24/97	62 FR 67305
NPRM Comment Period End	02/23/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth L. Reinerton, Department of Defense, Department of the Air Force, HQ USAF/ILEV, 1260 Air Force Pentagon, Washington, DC 20330-1260
Phone: 703 607-0221

RIN: 0701–AA56

1030. AIR FORCE RULE OF PROFESSIONAL CONDUCT AND STANDARDS FOR CRIMINAL JUSTICE

Priority: Info./Admin./Other

Legal Authority: EO 12473

CFR Citation: 32 CFR 847

Legal Deadline: None

Abstract: Air Force Rules of Professional Conduct and Standards for Criminal Justice give proper notice to civilian defense counsel and their assistants who do, or may, practice before an Air Force court, or in other Air Force proceedings, on what is required of them in these forums.

Timetable:

Action	Date	FR Cite
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lt Col Stephen Suetterlein, Department of Defense, Department of the Air Force, AFLSA/JACA, 1420 Air Force Pentagon, Washington, DC 20330-1420
Phone: 703 697-0413

RIN: 0701–AA57

1031. APPOINTMENT TO THE UNITED STATES AIR FORCE ACADEMY

Priority: Info./Admin./Other

Legal Authority: 10 USC 903; 10 USC 8013

CFR Citation: 32 CFR 901

Legal Deadline: None

Abstract: This rule provides instructions on processing nominations and appointments to the United States Air Force Academy.

Timetable:

Action	Date	FR Cite
NPRM	12/01/97	62 FR 63485
NPRM Comment Period End	01/30/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Parker, Department of Defense, Department of the Air Force, HQ USAFA/RRA, 1040 Air Force Pentagon, Washington, DC 20330-1040
Phone: 703 697-7116

RIN: 0701–AA58

DEPARTMENT OF DEFENSE (DOD)
Office of Assistant Secretary for Health Affairs (DODOASHA)

Proposed Rule Stage

1032. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); REVISIONS TO THE ELIGIBILITY REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule revises the comprehensive CHAMPUS regulation pertaining to basic CHAMPUS benefits in accordance with several statutory changes. This rule sets forth the requirements for reinstatement of CHAMPUS eligibility for beneficiaries under age 65 who would otherwise have lost eligibility for CHAMPUS due to eligibility for Medicare as a result of disability or end-stage renal disease (ESRD); establishes new classes of CHAMPUS eligibles; establishes the Transitional Assistance Management Program which provides transitional health care for members (and their dependents) who served on active duty in support of a contingency operation and for members (and their dependents) who are involuntarily separated from active duty; allows former spouses who buy a conversion health policy to keep CHAMPUS eligibility for twenty-four (24) months for preexisting conditions that are not covered by the conversion policy; and makes minor technical revisions to the double coverage provisions. In order to expedite compliance with the statutory requirements, all of these provisions have been implemented under interim instructions. This proposed rule also adds a new category of eligible beneficiary under the Continued Health Care Benefit Program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol Ortega, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 703 681-1745
Fax: 703 681-3678
Email: carol.ortega@tma.osd.mil

RIN: 0720–AA39

Proposed Rule Stage

DEPARTMENT OF DEFENSE (DOD)
Office of Assistant Secretary for Health Affairs (DODOASHA)

Final Rule Stage

1033. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); FORMER SPOUSE/WIDOW(ER) AND FEDERAL CLAIMS COLLECTION ACT (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule updates regulation changes to stipulate that annulled remarriages of former spouses or widows or widowers will be regarded as if the remarriage had never taken place and will reinstate their eligibility effective 12:01 a.m. of the day following the annulment; will clarify the effect of Medicare entitlement of former spouses; and will adopt the Federal Claims Collection Act and the Federal Claims Collection Standards by reference.

Timetable:

Action	Date	FR Cite
NPRM	09/24/91	56 FR 48135
NPRM Comment Period End	10/24/91	
Final Action	10/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The Federal Claims Collection portion of this rule was published as a final rule in the Federal Register on June 30, 1997 (62 FR 30586). The Former Spouse portion of this rule has been incorporated into another proposed rule (CHAMPUS; Revisions to the Eligibility Requirements) currently pending OMB review.

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RIN: 0720–AA07

1034. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); HOSPITAL PAYMENT FOR AMBULATORY CARE (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule establishes a new payment method for ambulatory care (other than ambulatory surgery) provided by hospitals to CHAMPUS beneficiaries, under which payment amounts would be based on the cost of the service rather than on the billed charge, as at present.

Timetable:

Action	Date	FR Cite
NPRM	01/20/94	59 FR 3046
NPRM Comment Period End	03/21/94	
Final Action	10/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Lillie, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA20

1035. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); PROVIDER CERTIFICATION REQUIREMENTS—CORPORATE SERVICES PROVIDER CLASS; OCCUPATIONAL THERAPISTS (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule presents requirements to permit payment of professional or technical health care services rendered by certain corporate providers and to self-employed occupational therapists; makes amendments to clarify the general requirements for individual professional providers; and adds standard provider participation agreement provisions when such agreements are otherwise required.

Timetable:

Action	Date	FR Cite
NPRM	03/08/95	60 FR 12717
NPRM Comment Period End	05/08/95	
Final Action	10/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The Occupational Therapists portion of this rule was published in the Federal Register as a final rule on June 30, 1997 (62 FR 35086).

Agency Contact: Michael Kottyan, Department of Defense, Office of Assistant Secretary for Health Affairs

DOD—DODOASHA

Final Rule Stage

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RIN: 0720–AA27

1036. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); TRANSPLANTS (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule establishes coverage for heart-lung, single or double lung, and combined liver-kidney transplantation for those patients who meet specific patient selection criteria; establishes preauthorization requirements for heart, liver, heart-lung, single or double lung, combined liver-kidney transplantation, high dose chemotherapy and stem cell transplantation, and air ambulance (in conjunction with lung or heart-lung transplantation preauthorizations); extends coverage of cardiac rehabilitation to those patients who have had heart valve surgery, heart or heart-lung transplantation; authorizes an exception to the ambulance benefit to allow organ transplantation candidates to be transported to a certified CHAMPUS organ transplant center instead of the closest appropriate facility; authorizes pulmonary rehabilitation for beneficiaries whose conditions are considered appropriate for pulmonary rehabilitation according to guidelines adopted by the Director, OCHAMPUS, or a designee; recognizes certain transplant centers that meet specific criteria as an authorized CHAMPUS institutional provider; and clarifies the CHAMPUS position on consortium programs for organ transplantation to allow individual hospitals which are members of a consortium to use the combined (pooled) experience and survival data of the consortium team to meet CHAMPUS requirements for authorization as a certified CHAMPUS organ transplant center.

Timetable:

Action	Date	FR Cite
NPRM	03/17/95	60 FR 14403
NPRM Comment Period End	05/16/95	
Final Action	10/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Col Karen Ferguson, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA30

1037. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); INDIVIDUAL CASE MANAGEMENT (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule implements provisions of the 1993 National Defense Authorization Act which allows the Secretary of Defense to establish a case management program for CHAMPUS beneficiaries with extraordinary medical or psychological disorders and to allow such beneficiaries medical or psychological services, supplies, or durable medical equipment excluded by law or regulation as a CHAMPUS benefit. Under this program, waiver of benefit limits to the Basic CHAMPUS program may be authorized for beneficiaries when the provision of such services or supplies is cost-effective and clinically appropriate, as compared to historical or projected CHAMPUS/MTF utilization of health care services. It is designed to develop a cost-effective plan of care by targeting appropriate resources to meet the individual needs of the beneficiary.

Timetable:

Action	Date	FR Cite
NPRM	01/04/96	61 FR 339
NPRM Comment Period End	03/04/96	
Final Action	10/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol Ortega, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA36

1038. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); EXTENSION OF THE ACTIVE DUTY DEPENDENTS DENTAL PLAN TO OVERSEAS AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule implements recently enacted statutory authority for the extension of the Active Duty Dependents Dental Plan to overseas areas. This rule provides for adjustments in the program in overseas areas. This rule details the implementation and operation of the program which will ensure access to dental care for family members accompanying their active duty sponsors overseas.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/25/97	62 FR 39940
Interim Final Rule Administrative Correction	08/11/97	62 FR 42905
Final Action	10/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol Ortega, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA36

1039. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); TRICARE PROGRAM; REIMBURSEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

DOD—DODOASHA

Final Rule Stage

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule proposes to revise certain requirements and procedures for reimbursement under the TRICARE program, the purpose of which is to implement a comprehensive managed health care delivery system composed of military medical treatment facilities and CHAMPUS. Issues addressed in this rule include implementation of changes made to the Medicare Prospective Payment System (PPS) upon which the CHAMPUS DRG-based payment system is modeled and required by law to follow wherever practicable, along with changes to make our DRG-based payment system operate better. Additional issues include the extension of the balance billing limitations currently in place for individual and professional providers to non-institutional, non-professional providers and adjusting the CHAMPUS maximum allowable charge (CMAC) rate in the small number cases where the CMAC rate is less than the Medicare rate. The revision would also affect the implementing of the Governmentwide debarment rule where any provider excluded or suspended from CHAMPUS shall be excluded from all other programs and activities involving Federal financial assistance, such as Medicare or Medicaid, and adding violations of our balance billing or claims filing requirements to the list of provider actions considered violations of the TRICARE/CHAMPUS program.

Timetable:

Action	Date	FR Cite
NPRM	11/14/97	62 FR 61058
NPRM Comment Period End	01/13/98	
Final Action	10/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: LtCol Kathleen Larkin, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA37

1040. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); EXCEPTION TO THE CHAMPUS DUAL COMPENSATION/CONFLICT OF INTEREST PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: Currently, any individual who is a civilian employee of the United States Government cannot be authorized by CHAMPUS as a provider of medical services. We propose to provide an exception to this prohibition to permit these individuals to be authorized CHAMPUS providers if they meet three conditions. First, they must be employed by the Government agency on a part-time basis, that is, less than twenty (20) hours per week. Second, the agency must certify that unique or special circumstances detrimental to the delivery of quality health care exist that can be overcome only by employing part-time, non-Government physicians. Third, the agency and the physician must certify that they understand and have taken appropriate measures to avoid violation of Standards of Conduct, dual compensation, and conflict of interest requirements including protection against referral of patients to the employee's private practice.

Timetable:

Action	Date	FR Cite
NPRM	08/26/97	62 FR 45196
NPRM Comment Period End	10/27/97	
Final Action	10/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen Isaacson, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA41

1041. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); STATE VICTIMS OF CRIME COMPENSATION PROGRAMS; VOICE PROSTHESES

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule establishes OCHAMPUS as a primary payer to State Victims of Crime Compensation Programs and establishes voice prostheses as a CHAMPUS benefit.

Timetable:

Action	Date	FR Cite
Interim Final Rule Amendments to 199.2 and 199.8 Effective	09/13/94	62 FR 54383
Interim Final Rule Revision of 199.4(g)(48) Effective	10/03/94	62 FR 54383
Interim Final Rule	10/20/97	62 FR 54383
Interim Final Rule Comment Period End	12/19/97	
Final Action	10/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Constance Kiese, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA42

1042. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); TRICARE PRIME BALANCE BILLING

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule establishes financial protections for TRICARE Prime enrollees in limited circumstances when they receive covered services from a non-network provider. This rule is published to provide protection for TRICARE Prime enrollees.

DOD—DODOASHA — Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/13/98	63 FR 7287
Interim Final Rule Effective	03/16/98	
Interim Final Rule Comment Period End	04/14/98	
Final Action	10/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: LtCol Kathleen Larkin, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA46

1043. • CIVILIAN HEALTH AND MEDICAL PROGRAM FOR THE UNIFORMED SERVICES (CHAMPUS); TRICARE PRIME ENROLLMENT PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule modifies the TRICARE Prime enrollment for active duty families by specifying that the enrollment period is continuous rather than a 12 month enrollment period and it allows monthly installment payments of enrollment fees for those beneficiaries required to pay an annual fee in order to enroll in TRICARE Prime. These modifications are being made because TRICARE will soon be available worldwide for active duty family members.

Timetable:

Action	Date	FR Cite
NPRM	07/07/98	63 FR 36651
NPRM Comment Period End	09/08/98	
Final Action	10/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0720–AA48

DEPARTMENT OF DEFENSE (DOD)
Office of Assistant Secretary for Health Affairs (DODOASHA) — Completed Actions

1044. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); NONAVAILABILITY STATEMENT (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Completed:

Reason	Date	FR Cite
Final Action	02/24/98	63 FR 9140
Final Action Effective	03/26/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Lillie
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RIN: 0720–AA35

1045. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); WAIVER OF COLLECTION OF PAYMENTS DUE FROM CERTAIN PERSONS UNAWARE OF LOSS OF CHAMPUS ELIGIBILITY

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Completed:

Reason	Date	FR Cite
Final Action	05/20/98	63 FR 27677
Final Action Effective	06/19/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cynthia Speight
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RIN: 0720–AA43

[FR Doc. 98-23542 Filed 11-06-98; 8:45 am]
BILLING CODE 5000-04-F

federal register

Monday
November 9, 1998

Part VI

Department of Education

Semiannual Regulatory Agenda

DEPARTMENT OF EDUCATION (ED)

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Subtitles A and B

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of the Secretary, Education.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Secretary of Education publishes a semiannual agenda of Federal regulations. The agenda is issued under the authority of section 4(b) of Executive Order 12866 "Regulatory Planning and Review." The purpose of the agenda is to encourage more effective public participation in the regulatory process by providing the public with early information about pending regulatory activities.

FOR FURTHER INFORMATION CONTACT: Questions or comments related to specific regulations listed in this agenda should be directed to the agency contact listed for the regulations. Questions or comments related to preparation of this agenda should be directed to Kenneth C. Depew, Division of Regulatory Services, Office of the General Counsel, Department of Education, Room 5112, FB-10, 600 Independence Avenue SW., Washington, DC 20202-2241; telephone: (202) 401-8300. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 4(b) of Executive Order 12866, dated September 30, 1993, requires the Department of Education (ED) to publish, at a time and in a manner specified by the Administrator of the Office of Information and Regulatory Affairs, OMB, an agenda of all regulations under development or review. The Regulatory Flexibility Act, 5 U.S.C. 602(a), requires ED to publish, in October and April of each year, a regulatory flexibility agenda. The regulatory flexibility agenda may be combined with any other agenda that satisfies the statutory requirements (5 U.S.C. 605(a)). In compliance with the Executive order and the Regulatory Flexibility Act, the Secretary publishes this agenda.

For each set of regulations listed, the agenda provides the title of the document, the type of document, a citation to any rulemaking or other action taken since publication of the most recent agenda, and planned dates of future rulemaking. In addition, the agenda provides the following information:

- An abstract, which includes a description of the problem to be addressed, any principal alternatives being considered, and potential costs and benefits of the action.
- An indication of whether the planned action is likely to have significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601(b)).
- A reference to where a reader can find the current regulations in the Code of Federal Regulations.
- A citation of legal authority.
- The name, address, and telephone number of the contact person at the Department from whom a reader can obtain additional information regarding the planned action.

In accordance with the Secretary's Principles for Regulating, listed in the Department's regulatory plan, the Department of Education is committed to regulating that improves the quality and equality of services to its customers, learners of all ages. ED will regulate only when absolutely necessary and then in the most flexible, most equitable, least burdensome way possible.

Interested members of the public are invited to comment on any of the items listed in this agenda that they believe are not consistent with the Principles for Regulating. Members of the public are also invited to comment on regulations listed on this agenda that are designated for periodic review under the Regulatory Flexibility Act (5 U.S.C. 610).

The Department also will review all regulations that will be published to ensure that, if appropriate, those regulations support the National Education Goals.

This publication in the **Federal Register** does not impose any binding obligation on the Department with regard to any specific item on the agenda. The Department may elect not to pursue any of the regulatory actions listed here, and regulatory action in addition to the items listed is not precluded. Dates of future regulatory actions are subject to revision in subsequent agendas.

For this edition of ED's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Dated: September 16, 1998.

Jamienne S. Studley,

Acting General Counsel.

Departmental Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1046	Protection of Human Subjects (Classified Research)	1880-AA79

Departmental Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1047	Student Rights in Research, Experimental Programs, and Testing	1880-AA66

ED

Departmental Management—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1048	Privacy Act Regulations	1880-AA78

Office of the Chief Financial Officer—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1049	Education Department General Administrative Regulations (EDGAR)	1890-AA00
1050	Education Department General Administrative Regulations (EDGAR)	1890-AA02

Office of Educational Research and Improvement—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1051	Standards for the Conduct and Evaluation of Activities Carried Out by the Office of Educational Research and Improvement— Evaluation of the Performance of Recipients of Grants	1850-AA54

Office of Elementary and Secondary Education—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1052	Title I—Helping Disadvantaged Children Meet High Standards	1810-AA87

Office of Postsecondary Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1053	Institutional Eligibility Under the Higher Education Act of 1965, Student Assistance General Provisions, and Federal Pell Grant Program	1840-AC54

Office of Postsecondary Education—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1054	Student Assistance General Provisions	1840-AC52
1055	Federal Family Education Loan Program	1840-AC55

Office of Postsecondary Education—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1056	Fulbright Hays Doctoral Dissertation Research Abroad Fellowship Program, Fulbright-Hays Faculty Research Abroad Fellowship Program; and Fulbright-Hays Group Projects Abroad Program	1840-AC53
1057	Federal Perkins Loan Program, Federal Family Education Loan (FFEL) Program, and William D. Ford Federal Direct Loan Program (Consolidation)	1840-AC44
1058	William D. Ford Federal Direct Loan Program	1840-AC49

ED

Office of Special Education and Rehabilitative Services—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1059	The State Vocational Rehabilitation Services Program—Evaluation Standards and Performance Indicators	1820-AB14

Office of Special Education and Rehabilitative Services—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1060	Assistance for Education of All Children With Disabilities **(Section 610 Review) (Reg Plan Seq. No. 17)**	1820-AB40
1061	Personnel Preparation To Improve Services and Results for Children With Disabilities	1820-AB46
1062	Projects With Industry	1820-AB45

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of Special Education and Rehabilitative Services—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1063	Preschool Grants for Children With Disabilities	1820-AB47
1064	Early Intervention Program for Infants and Toddlers With Disabilities **(Section 610 Review)**	1820-AB44
1065	Removal of Regulations	1820-AB43

DEPARTMENT OF EDUCATION (ED)
Departmental Management (EDMAN)

Proposed Rule Stage

1046. PROTECTION OF HUMAN SUBJECTS (CLASSIFIED RESEARCH)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 42 USC 300v-1(b)

CFR Citation: 34 CFR 97

Legal Deadline: None

Abstract: These amendments would revise existing regulations by adopting additional protection pertaining to human subjects in classified research.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Blanca Rodriguez, Department of Education, 600 Independence Ave. SW., Room 5622, ROB-3, Washington, DC 20202
Phone: 202 708-5307

RIN: 1880–AA79

DEPARTMENT OF EDUCATION (ED)
Departmental Management (EDMAN)

Final Rule Stage

1047. STUDENT RIGHTS IN RESEARCH, EXPERIMENTAL PROGRAMS, AND TESTING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1232h

CFR Citation: 34 CFR 098

Legal Deadline: None

Abstract: These regulations are needed to implement section 1017 of the Goals 2000: Educate America Act (Pub. L. 103-227, 20 U.S.C. 1232h). That provision amends the Protection of Pupil Rights Amendment (PPRA) to require schools, in certain instances, to make specific educational materials available to parents for inspection. The provision also amends the PPRA to prohibit schools from requiring a student to submit to certain surveys, analyses, or evaluations without prior parental consent. The regulations are being developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	08/28/95	60 FR 44696
NPRM Comment Period End	10/27/95	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

ED—EDMAN

Final Rule Stage

Agency Contact: Ellen Campbell, Family Policy Compliance Office, Department of Education, 600 Independence Avenue SW., Room 1366, FB-10, Washington, DC 20202-4605
Phone: 202 260-3887

RIN: 1880–AA66

1048. PRIVACY ACT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 552a

CFR Citation: 34 CFR 5b

Legal Deadline: None

Abstract: These amendments are needed to exempt a new system of records from certain provisions of the Privacy Act of 1974.

Timetable:

Action	Date	FR Cite
NPRM	11/24/97	62 FR 62670
NPRM Comment Period End	01/28/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gale Hoes, Department of Education, 600 Independence Ave. SW., Room 4200, Switzer Bldg., Washington, DC 20202-1530
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RIN: 1880–AA78

DEPARTMENT OF EDUCATION (ED)
Office of the Chief Financial Officer (OCFO)

Long-Term Actions

1049. EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS (EDGAR)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 75; 34 CFR 76; 34 CFR 77

Legal Deadline: None

Abstract: These proposed regulations would reinvent key parts of EDGAR by eliminating unnecessary, obsolete, or duplicative provisions; replacing some provisions with non-regulatory guidance; and revising other sections to improve clarity and ease of use by the Department's customers.

Timetable:

Action	Date	FR Cite
ANPRM	08/23/96	61 FR 43640
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tony Cavataio, Management Analyst, Grants Policy and Oversight Staff, Department of Education, Office of the Chief Financial Officer, 600 Independence Avenue SW., Room 3652, ROB-3, Washington, DC 20202-4248
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RIN: 1890–AA00

1050. EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS (EDGAR)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1221e-3(a)(1); 20 USC 3474

CFR Citation: 34 CFR 75

Legal Deadline: None

Abstract: These regulations are needed to implement features of the Department's redesigned discretionary grants process. These regulations will establish the procedures the Secretary may use for reviewing and selecting applications submitted for new grants under the discretionary grant programs. Several new review and selection procedures will be established and defined. These regulations will also propose a new policy to give special consideration to novice applicants and will define the procedures for reviewing and selecting applications submitted under a novice set-aside.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Valerie A. Sinkovits, Management Analyst, Department of Education, Office of the Chief Financial Officer, 600 Independence Avenue SW., Room 3652, ROB-3, Washington, DC 20202-4248
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RIN: 1890–AA02

DEPARTMENT OF EDUCATION (ED)
Office of Educational Research and Improvement (OERI)

Final Rule Stage

1051. STANDARDS FOR THE CONDUCT AND EVALUATION OF ACTIVITIES CARRIED OUT BY THE OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT—EVALUATION OF THE PERFORMANCE OF RECIPIENTS OF GRANTS

Priority: Other Significant

Legal Authority: 20 USC 6011(i)

CFR Citation: 34 CFR 702

Legal Deadline: None

Abstract: These regulations establish standards for evaluating the performance of all recipients of grants from and contracts and cooperative agreements with the Office of Educational Research and Improvement. The recipients will be evaluated both during and at the conclusion of their project. The purpose of the evaluations is to promote excellence in the performance of contractors, grantees, and recipients of cooperative agreement awards.

Timetable:

Action	Date	FR Cite
NPRM	02/24/98	63 FR 9392
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharon Bobbitt, Department of Education, Office of Educational Research and Improvement, 555 New Jersey Avenue NW., Room 508, Washington, DC 20208-5643
Phone: 202 219-2126

RIN: 1850–AA54

DEPARTMENT OF EDUCATION (ED)
Office of Elementary and Secondary Education (OESE)

Completed Actions

1052. TITLE I—HELPING DISADVANTAGED CHILDREN MEET HIGH STANDARDS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 200

Completed:

Reason	Date	FR Cite
Final Action	10/13/98	63 FR 54996
Final Action Effective	11/12/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Wendy Jo New
Phone: 202 260-0982
Fax: 202 260-7764

RIN: 1810–AA87

DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE)

Proposed Rule Stage

1053. • INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, STUDENT ASSISTANCE GENERAL PROVISIONS, AND FEDERAL PELL GRANT PROGRAM

Priority: Other Significant

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; 20 USC 1099b; 20 USC 1099c; 20 USC 1141

CFR Citation: 34 CFR 600; 34 CFR 668; 34 CFR 690

Legal Deadline: None

Abstract: These regulations would simplify and consolidate current policies and requirements governing written agreements between an eligible institution and another institution or organization under the student financial assistance programs authorized under title IV of the Higher Education Act of 1965, as amended.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Cheryl Leibovitz, Department of Education, Office of Postsecondary Education, 600 Independence Ave. SW., Room 3053, ROB-3, Washington, DC 20202
Phone: 202 708-9900
TDD: 800 877-8339

RIN: 1840–AC54

DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE)

Final Rule Stage

1054. • STUDENT ASSISTANCE GENERAL PROVISIONS

Priority: Other Significant

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; 20 USC 1099c; 20 USC 1141

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: These regulations would permit a school to appeal its Direct Loan Program cohort rate or weighted average cohort rate on the basis of improper servicing or collection of the Direct Loans included in that rate. The regulations would also clarify when a school's rate is considered final.

Timetable:

Action	Date	FR Cite
NPRM	07/13/98	63 FR 37714

ED—OPE

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	09/11/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth Smith, Department of Education, Office of Postsecondary Education, 600 Independence Ave. SW., Room 3045, ROB-3, Washington, DC 20202
Phone: 202 708-8242
TDD: 800 877-8339

RIN: 1840–AC52

1055. • FEDERAL FAMILY EDUCATION LOAN PROGRAM

Priority: Other Significant

Legal Authority: 20 USC 1071 to 1087z

CFR Citation: 34 CFR 682

Legal Deadline: None

Abstract: These regulations contain corrections and other technical amendments.

Timetable:

Action	Date	FR Cite
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Pamela Moran, Department of Education, Office of Postsecondary Education, 600 Independence Ave SW., Room 3053, ROB-3, Washington, DC 20202
Phone: 202 708-8242

RIN: 1840–AC55

DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE)

Completed Actions

1056. • FULBRIGHT HAYS DOCTORAL DISSERTATION RESEARCH ABROAD FELLOWSHIP PROGRAM, FULBRIGHT-HAYS FACULTY RESEARCH ABROAD FELLOWSHIP PROGRAM; AND FULBRIGHT-HAYS GROUP PROJECTS ABROAD PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 2452(b)(6)

CFR Citation: 34 CFR 662; 34 CFR 663; 34 CFR 664

Legal Deadline: None

Abstract: These regulations are needed as a result of changes in the program selection criteria and applicable terminology They change the names of programs, remove obsolete references, modify the selection criteria, and make other technical changes.

Timetable:

Action	Date	FR Cite
NPRM	06/19/98	63 FR 33766
NPRM Comment Period End	07/20/98	
Final Action	08/31/98	63 FR 46358

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Agency Contact: Karla Ver Bryek Brock, Department of Education, Office of Postsecondary Education, 600 Independence Ave. SW., Suite 600 C, Portals Bldg., Washington, DC 20202-5331
Phone: 202 401-9774

RIN: 1840–AC53

1057. FEDERAL PERKINS LOAN PROGRAM, FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM, AND WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM (CONSOLIDATION)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 674; 34 CFR 682; 34 CFR 685

Completed:

Reason	Date	FR Cite
Withdrawn	09/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nicki Meoli
Phone: 202 708-8242

RIN: 1840–AC44

1058. WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 34 CFR 685

Completed:

Reason	Date	FR Cite
Withdrawn	08/07/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Utz
Phone: 202 708-8242

RIN: 1840–AC49

DEPARTMENT OF EDUCATION (ED)
Office of Special Education and Rehabilitative Services (OSERS)

Proposed Rule Stage

1059. THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM—EVALUATION STANDARDS AND PERFORMANCE INDICATORS

Priority: Other Significant

Legal Authority: 29 USC 726; PL 102-569

CFR Citation: 34 CFR 361

Legal Deadline: None

Abstract: These proposed revisions to existing regulations are needed because of changes in the authorizing legislation made by the Rehabilitation Act Amendments of 1992 (Pub. L. 102-569). The 1992 Amendments require the development of standards and performance indicators. The proposed regulations are being developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
ANPRM	02/19/93	58 FR 9458
NPRM	10/14/98	63 FR 55291
NPRM Comment Period End	11/30/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Beverlee Stafford, Director, Planning, Policy, and Evaluation Services, Department of Education, Office of Special Education and Rehabilitative Services, 600 Independence Avenue SW., Room 3014, Switzer Building, Washington, DC 20202-2531
Phone: 202 205-8299

RIN: 1820–AB14

DEPARTMENT OF EDUCATION (ED)
Office of Special Education and Rehabilitative Services (OSERS)

Final Rule Stage

1060. ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES (SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 17 in Part II of this issue of the Federal Register.

RIN: 1820–AB40

1061. • PERSONNEL PREPARATION TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 20 USC 1473

CFR Citation: 34 CFR 304

Legal Deadline: None

Abstract: These regulations are needed to implement changes made by the Individuals with Disabilities Education Act Amendments of 1997 (Pub. L. 105-17, enacted June 4, 1997).

Timetable:

Action	Date	FR Cite
NPRM	07/10/98	63 FR 37465
NPRM Comment Period End	09/08/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Renee Bradley, Department of Education, Office of Special Education and Rehabilitative Services, 600 Independence Ave. SW., Washington, DC 20202-2641
Phone: 202 358-2849

RIN: 1820–AB46

1062. PROJECTS WITH INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 711(c); 29 USC 795(g)

CFR Citation: 34 CFR 379

Legal Deadline: None

Abstract: These amendments change the performance indicators for this program in order to improve project performance, enhance project accountability, better reflect statutory intent and reduce grantee burden.

Timetable:

Action	Date	FR Cite
NPRM	06/23/98	63 FR 34218
NPRM Comment Period End	08/24/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas E. Finch, Department of Education, Office of Special Education and Rehabilitative Services, 600 Independence Ave. SW., Room 3028, Switzer Bldg., Washington, DC 20202-2575
Phone: 202 205-8292
Fax: 800 877-8339

RIN: 1820–AB45

DEPARTMENT OF EDUCATION (ED)
Office of Special Education and Rehabilitative Services (OSERS)

Completed Actions

1063. • PRESCHOOL GRANTS FOR CHILDREN WITH DISABILITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1419

CFR Citation: 34 CFR 301

Legal Deadline: None

Abstract: These amendments implement changes made by the Individuals with Disabilities Education Act Amendments of 1997.

Timetable:

Action	Date	FR Cite
NPRM	10/22/97	62 FR 35052
Final Action	06/01/98	63 FR 29927

Regulatory Flexibility Analysis Required: No

ED—OSERS

Completed Actions

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joleta Reynolds, Department of Education, Office of Special Education and Rehabilitative Services, 600 Independence Ave SW., Room 3090, Switzer Bldg., Washington, DC 20202
Phone: 202 205-5507
Fax: 202 205-5465

RIN: 1820–AB47

1064. EARLY INTERVENTION PROGRAM FOR INFANTS AND TODDLERS WITH DISABILITIES (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 303

Completed:

Reason	Date	FR Cite
Final Action	04/14/98	63 FR 18290

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joleta Reynolds
Phone: 202 205-5507
Fax: 202 205-5465

RIN: 1820–AB44

1065. REMOVAL OF REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 305; 34 CFR 307; 34 CFR 309; 34 CFR 315; 34 CFR 316; 34 CFR 318; 34 CFR 319; 34 CFR 320; 34 CFR 324; 34 CFR 325; 34 CFR 326; 34 CFR 327

Completed:

Reason	Date	FR Cite
Final Action	04/29/98	63 FR 23600
Final Action Effective	10/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth C. Depew
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Email: ken__depew@ed.gov

RIN: 1820–AB43

[FR Doc. 98-25577 Filed 11-06-98; 8:45 am]
BILLING CODE 4000-01-F

federal register

Monday
November 9, 1998

Part VII

Department of Energy

Semiannual Regulatory Agenda

DEPARTMENT OF ENERGY (DOE)

DEPARTMENT OF ENERGY

10 CFR Chs. II, III, and X

48 CFR Ch. 9

Regulatory Agenda

AGENCY: Department of Energy.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Energy has prepared and today is publishing its semiannual regulatory agenda pursuant to Instructions of the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB).

FOR FURTHER INFORMATION CONTACT: For further information about any particular item on the regulatory agenda, please contact the individual listed under that item. For further information on the regulatory agenda in general, please contact: Richard L. Farman, Room 6E-078, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-8145.

SUPPLEMENTARY INFORMATION: Entries appended to this notice reflect the status of activities as of approximately August 31, 1998. They are divided into categories, first by subagencies and then according to their stage of rulemaking action: Prerule, proposed rulemaking, final rulemaking, long-term action, or completed action.

A draft of this regulatory agenda has been transmitted to the Chief Counsel for Advocacy of the U.S. Small Business Administration for comment, if any, pursuant to 5 U.S.C. 602(b).

For this edition of the Department of Energy's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Issued in Washington, DC, on September 28, 1998.

Mary Anne Sullivan,

General Counsel.

Energy Efficiency and Renewable Energy—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1066	Energy Efficiency Standards Rulemakings and Determinations for High Priority Consumer Products and Commercial Equipment **(Reg Plan Seq. No. 18)**	1904-AA67
1067	Energy Efficiency Standards for Central Air Conditioners and Heat Pumps	1904-AA77

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Energy Efficiency and Renewable Energy—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1068	Equivalent Petroleum-Based Fuel Economy Calculation for Electric and Hybrid Electric Vehicles	1904-AA40
1069	Test Procedures for Central Air Conditioners and Heat Pumps— Amendments	1904-AA46
1070	Energy Efficiency Standards for Lamp Ballasts	1904-AA75
1071	Energy Efficiency Standards for Water Heaters	1904-AA76
1072	Test Procedures for Electric Distribution Transformers	1904-AA85
1073	Test Procedures for Commercial Water Heaters	1904-AA95
1074	Test Procedures for Commercial Heating Equipment	1904-AA96
1075	Test Procedures for Commercial Air Conditioning Equipment	1904-AA97
1076	Alternate Fueled Vehicle Acquisition Requirements for Private and Local Government Fleets	1904-AA98
1077	Alternate Fuel Program: Biodiesel	1904-AB00

Energy Efficiency and Renewable Energy—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1078	Energy Efficiency Code for New Federal Residential Low Rise Buildings	1904-AA53
1079	State and Local Incentives Program: Alternative Fuels	1904-AA66
1080	Energy Code for New Federal Commercial and Multi-Family High Rise Residential Buildings	1904-AA69
1081	Energy Conservation Program for Certain Commercial and Industrial Equipment: Test Procedures, Labeling, and Certification Requirements for Electric Motors	1904-AA82
1082	Alternative Fuel Transportation Program: P-Series Fuels	1904-AA99

DOE

Energy Efficiency and Renewable Energy—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1083	National Voluntary Residential Energy Efficiency Rating Guidelines	1904-AA74
1084	Energy Efficiency Standards for Residential Furnaces, Boilers, and Mobile Home Furnaces	1904-AA78
1085	Determination for High Intensity Discharge Lamps	1904-AA86
1086	Determination for Small Electric Motors	1904-AA87
1087	Energy Efficiency Standards for Clothes Dryers and Dishwashers	1904-AA89
1088	Energy Efficiency Standards for Pool Heaters and Direct Heating Equipment	1904-AA90
1089	Energy Efficiency Standards for 1-200 HP Electric Motors	1904-AA91
1090	Energy Efficiency Standards for Fluorescent and Incandescent Lamps	1904-AA92

Energy Efficiency and Renewable Energy—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1091	Energy Efficiency Standards for Electric Cooking Appliances	1904-AA84
1092	Test Procedures for Water Heaters—Amendment	1904-AA88

Defense and Security Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1093	General Criteria and Procedures for Determining Eligibility for Access to Classified Matters or Special Nuclear Material	1992-AA22
1094	Physical Protection of Security Interests	1992-AA23

Defense and Security Affairs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1095	Personnel Assurance Program	1992-AA14

Departmental and Others—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1096	Freedom of Information Act	1901-AA32
1097	The Office of Energy Research Financial Assistance Program	1901-AA54
1098	Payments for Special Burdens and in Lieu of Taxes	1901-AA58
1099	Privacy Act System of Records Update	1901-AA69
1100	Environmental Management Financial Assistance Program	1901-AA71
1101	Chronic Beryllium Disease Prevention Program **(Reg Plan Seq. No. 19)**	1901-AA75
1102	Community Transition Activities	1901-AA77

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Departmental and Others—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1103	Nuclear Safety Management **(Reg Plan Seq. No. 20)**	1901-AA34
1104	Radiation Protection of the Public and the Environment **(Reg Plan Seq. No. 21)**	1901-AA38

DOE

Departmental and Others—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1105	Annotation of Land Records for Remediated Properties In the Uranium Mill Tailings Remedial Action Project (UMTRA)	1901-AA57
1106	Occupational Radiation Protection—Amendment	1901-AA59
1107	Criteria and Procedures for Contractor Employee Protection Program	1901-AA78
1108	Price Competitive Sale of Strategic Petroleum Reserve Petroleum Standard Sales Provisions	1901-AA81

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Departmental and Others—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1109	Electric Power System Permits and Reports; Applications; Administrative Procedures and Sanctions	1901-AA19
1110	Enforcement of Employee Safety Standards at Nuclear Weapons Facilities	1901-AA44
1111	General Guidelines for the Recommendation of Sites for Nuclear Waste Repository	1901-AA72
1112	Procedural Rules for DOE Nuclear Activities	1901-AA80

Office of Procurement and Assistance Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1113	DEAR: Financial Management Clauses	1991-AB02
1114	Acquisition Regulation: Project Management	1991-AB39
1115	Classified National Security Information- E.O. 12958	1991-AB42
1116	Acquisition Regulations: Guarantees of Performance	1991-AB44

Office of Procurement and Assistance Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1117	Fee Policy	1991-AB32
1118	DEAR: Management and Operating Contract Whistleblower Costs	1991-AB36
1119	Acquisition Regulation: Technical Amendment	1991-AB40

Office of Procurement and Assistance Management—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1120	Amendment to Workplace Substance Abuse Programs at DOE Sites	1991-AA90

Office of Procurement and Assistance Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1121	Department of Energy Property Management Regulations; Miscellaneous Personal Property	1991-AA28
1122	DEAR Amendment for Rights in Data	1991-AB33
1123	Agency Implementation of Revised OMB Circular A-133	1991-AB38
1124	Department of Energy Assistance Regulation: Technical Amendment	1991-AB41
1125	Limitation on Allowability of Compensation for Certain Contractor Personnel	1991-AB43

DOE

Office of General Counsel—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1126	Conduct of Employees	1990-AA19

Office of General Counsel—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1127	Payment of Travel Expenses of Persons Who Are Not Government Employees	1990-AA15
1128	Conduct of Employees	1990-AA24

DEPARTMENT OF ENERGY (DOE) **Prerule Stage**

Energy Efficiency and Renewable Energy (EE)

1066. ENERGY EFFICIENCY STANDARDS RULEMAKINGS AND DETERMINATIONS FOR HIGH PRIORITY CONSUMER PRODUCTS AND COMMERCIAL EQUIPMENT

Regulatory Plan: This entry is Seq. No. 18 in Part II of this issue of the **Federal Register**.

RIN: 1904–AA67

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, January 1, 1994.

Abstract: The Energy Policy and Conservation Act, as amended, establishes initial energy-efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended.

This is the initial review of the statutory standards for central air conditioners and heat pumps.

Timetable:

Action	Date	FR Cite
ANPRM	09/08/93	58 FR 47326
Screening Workshop	06/30/98	
Supplemental ANPRM	07/00/99	
NPRM	03/00/00	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited staff and financial resources, the regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a high priority, and the Department is actively working on this action.

This action is covered in the Regulatory Plan entry 1904-AA677, which appears in part II of this issue of the Federal Register.

Agency Contact: Michael Raymond, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-9611
Fax: 202 586-4617
Email: michael.raymond@ee.doe.gov

RIN: 1904–AA77

DEPARTMENT OF ENERGY (DOE) **Proposed Rule Stage**

Energy Efficiency and Renewable Energy (EE)

1067. ENERGY EFFICIENCY STANDARDS FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6295

1068. EQUIVALENT PETROLEUM-BASED FUEL ECONOMY CALCULATION FOR ELECTRIC AND HYBRID ELECTRIC VEHICLES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 96-185, sec 18; PL 94-413, sec 13(c); PL 94-163, sec 503(a)(3); PL 103-272

CFR Citation: 10 CFR 474

Legal Deadline: None

Abstract: The final rule on the inclusion of electric vehicles in the Corporate Average Fuel Economy (CAFE) program was issued by DOE on April 15, 1981. It established a methodology for determining the equivalent petroleum-based fuel economy (PEF) for electric vehicles so that they could be included in a

manufacturer's overall CAFE program. This methodology was based on several factors including the energy efficiency of the vehicle, the efficiency of electric generation and transmission, the fuels used to generate electricity, and the driving patterns of electric vehicles. It established a method for determining the PEF of electric vehicles that are recharged from stationary sources only. Hybrid electric vehicles, a type of electric vehicle, are electrically recharged by an on-board mobile generator. Hybrid vehicles are not covered by this action. This rulemaking would update the methodology for calculating the CAFE credits for electric vehicles that are recharged by stationary sources. Rulemaking authority for establishing PEF values for electric and hybrid electric vehicles is provided under Public Law 103-272 (49 USC 32904).

Timetable:

Action	Date	FR Cite
NPRM	02/04/94	59 FR 5336
Revised NPRM	03/00/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rogelio Sullivan, Program Manager, Electric and Hybrid Propulsion Division, Department of Energy, Energy Efficiency and Renewable Energy, EE-32, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-3042
Fax: 202 586-1600

RIN: 1904–AA40

1069. TEST PROCEDURES FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS—AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: These revisions to the test procedures for central air conditioners and heat pumps in accordance with the Energy Policy and Conservation Act will reorganize the document in a logical order and update the references. The revisions include an updated nomenclature compatible with the eventual test procedure for combined (domestic hot water and central air conditioners or heat pumps) appliances, additional tables listing tests tolerances, a clearer specification for the demand defrost credit, and test methods for ECM (electronically commutated motor) blowers and history-dependent defrosts.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Raymond, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-9611
Fax: 202 586-4617
Email: michael.raymond@ee.doe.gov

RIN: 1904–AA46

1070. ENERGY EFFICIENCY STANDARDS FOR LAMP BALLASTS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, January 1, 1992.

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes initial energy-efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended.

This is the initial review of the statutory standards for fluorescent lamp ballasts.

Timetable:

Action	Date	FR Cite
ANPRM	09/28/90	55 FR 39624
NPRM	03/04/94	59 FR 10464
Ballast Analysis Workshop	03/18/97	
Reissue NPRM	02/00/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a high priority, and the Department is working actively on this action. This action is covered in the Regulatory Plan entry 1904-AA67, which appears in part II of this issue of the Federal Register.

Agency Contact: Carl Adams, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-9142
Fax: 202 586-4617
Email: carl.adams@ee.doe.gov

RIN: 1904–AA75

1071. ENERGY EFFICIENCY STANDARDS FOR WATER HEATERS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, January 1, 1992.

Abstract: The Energy Policy and Conservation Act as amended, establishes initial energy-efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended.

This is the initial review of the statutory standards for electric water heaters.

Timetable:

Action	Date	FR Cite
ANPRM	09/28/90	55 FR 39624
NPRM	03/04/94	59 FR 10464
Screening Workshop	06/24/97	
Notice of Availability	01/14/98	63 FR 2186
Impact Workshop	11/00/98	
Reissue NPRM	12/00/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a high priority, and the Department is working actively on this action.

This action is covered in the Regulatory Plan entry 1904-AA67, which appears in part II of this issue of the Federal Register.

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RIN: 1904–AA76

1072. TEST PROCEDURES FOR ELECTRIC DISTRIBUTION TRANSFORMERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6317

CFR Citation: 10 CFR 430

Legal Deadline: Other, Statutory, April 24, 1995.
Determination Notice

Abstract: The Energy Policy Act of 1992 requires the Department to prescribe testing requirements for electric distribution transformers for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

Timetable:

Action	Date	FR Cite
Determination Notice	10/22/97	62 FR 54809
NPRM	10/00/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a high priority, and the Department is working actively on this action.

Agency Contact: Kathi Epping, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., 1J-018, Washington, DC 20585
Phone: 202 586-7425
Fax: 202-586-4617

RIN: 1904–AA85

1073. TEST PROCEDURES FOR COMMERCIAL WATER HEATERS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes energy conservation standards for commercial water heaters, prescribes test procedures, and requires labeling for such equipment. This action would codify the energy conservation standards and test procedures established in the EPCA for commercial water heaters. This action will incorporate by reference energy conservation standards and test procedures, revised by the Air Conditioning and Refrigerating Institute or by the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ARI/ASHRAE), and will establish certification and labeling requirements for storage water heaters, instantaneous water heaters, and unfired hot water storage tanks.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cyrus Nasseri, Program Manager, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9138
Fax: 202 586-4617
Email: cyrus.nasseri@ee.doe.gov

RIN: 1904–AA95

1074. TEST PROCEDURES FOR COMMERCIAL HEATING EQUIPMENT

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes energy conservation standards for commercial heating equipment, prescribes test procedures, and requires labeling for such equipment. This action would codify the energy conservation standards and test procedures established in the EPCA for commercial heating equipment. This action will also incorporate by reference energy conservation standards and test procedures, revised by the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), and will establish certification and labeling requirements for small and large commercial package heating equipment, warm-air furnaces, and packaged boilers.

DOE—EE

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cyrus Nasseri, Program Manager, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9138
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RIN: 1904–AA96

1075. TEST PROCEDURES FOR COMMERCIAL AIR CONDITIONING EQUIPMENT

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes energy conservation standards for commercial air conditioning equipment, prescribes test procedures, and requires labeling for such equipment. This action would codify the energy conservation standards and test procedures established in the EPCA for commercial air conditioning equipment. This action will also incorporate by reference energy conservation standards and test procedures, revised by the Air Conditioning and Refrigerating Institute or by the American Society of Heating, Refrigerating and Air Conditioning Engineers (ARI/ASHRAE), and will establish certification and labeling requirements for small and large commercial package air conditioning equipment and packaged terminal air conditioners and heat pumps.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cyrus Nasseri, Program Manager, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9138
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Email: cyrus.nasseri@ee.doe.gov

RIN: 1904–AA97

1076. ALTERNATE FUELED VEHICLE ACQUISITION REQUIREMENTS FOR PRIVATE AND LOCAL GOVERNMENT FLEETS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 13257

CFR Citation: 10 CFR 490

Legal Deadline: NPRM, Statutory, May 1, 1999. Final, Statutory, January 1, 2000.

Abstract: The Energy Policy Act of 1992 requires DOE to initiate a rulemaking to determine whether a private and local fleet program is deemed necessary to meet the fuel displacement goals of the Act. The criteria for making this determination is mandated by the Act. The Department is planning on entering into discussions with stakeholders as to whether the rule will be promulgated or whether the Department will pursue other voluntary or incentive programs.

Timetable:

Action	Date	FR Cite
ANPRM	04/17/98	63 FR 19372
NPRM	05/00/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Agency Contact: Kenneth Katz, Program Manager, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
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Email: kenneth.katz@hq.doe.gov

RIN: 1904–AA98

1077. • ALTERNATE FUEL PROGRAM: BIODIESEL

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 13211 (2); 42 USC 13211 (14); 42 USC 13252 (b)(2)

CFR Citation: 10 CFR 490

Legal Deadline: None

Abstract: This action is being taken in response to a petition filed by the National Biodiesel Board and will determine whether B-20, a blend of 20 percent biodiesel and 80 percent petroleum diesel by volume, should be designated as an "alternative fuel" under section 301 of the Energy Policy Act of 1992.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul McArdle, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
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Email: paul.mcardle@eee.doe.gov

RIN: 1904–AB00

DEPARTMENT OF ENERGY (DOE)

Energy Efficiency and Renewable Energy (EE)

Final Rule Stage

1078. ENERGY EFFICIENCY CODE FOR NEW FEDERAL RESIDENTIAL LOW RISE BUILDINGS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6834

CFR Citation: 10 CFR 435

Legal Deadline: Final, Statutory, October 24, 1994.

Abstract: Title III of the Energy Conservation and Production Act as amended by the Energy Policy Act of 1992 (PL 102-486, October 24, 1992) provides that DOE establish Federal building energy standards that require in new Federal buildings those energy efficiency measures that are technologically feasible and economically justified. The standards for Federal buildings are intended to parallel closely the voluntary building energy codes of the Energy Policy Act for private sector construction. Interim energy performance standards which DOE had issued before enactment of the Energy Policy Act are to remain in effect for the Federal sector until the new Federal building energy standards become effective.

Timetable:

Action	Date	FR Cite
NPRM	05/02/97	62 FR 24164
NPRM Comment Period End	07/14/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Stephen P. Walder, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-9209

RIN: 1904–AA53

1079. STATE AND LOCAL INCENTIVES PROGRAM: ALTERNATIVE FUELS

Priority: Other Significant

Legal Authority: 42 USC 13235

CFR Citation: 10 CFR 490

Legal Deadline: Final, Statutory, April 24, 1993.

Abstract: The Energy Policy Act of 1992 requires DOE to issue regulations establishing the State and Local Incentives Program. Under this Program DOE may grant financial assistance to States for projects in DOE-approved State plans to promote use of alternative fuels and alternative-fueled vehicles. With the publication of an integrated State Energy Program (61 FR 35890), the alternative fuel grant programs may be a part of the State grant special projects, depending on funding availability. The next action will be a cancellation notice of any separate State grant program.

Timetable:

Action	Date	FR Cite
NPRM	03/21/95	60 FR 15020
NPRM Comment Period End	05/22/95	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Marcy A. Rood (EE-34), Program Manager, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave SW., Washington, DC 20585
Phone: 202 586-8161
Fax: 202 586-1558
Email: marcy.rood@hq.doe.gov

RIN: 1904–AA66

1080. ENERGY CODE FOR NEW FEDERAL COMMERCIAL AND MULTI-FAMILY HIGH RISE RESIDENTIAL BUILDINGS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6834

CFR Citation: 10 CFR 434; 10 CFR 435 subpart A

Legal Deadline: Final, Statutory, November 14, 1997.

Abstract: Title III of the Energy Conservation and Production Act as amended by the Energy Policy Act of 1992 (PL 102-486) provides that DOE establish Federal building energy standards that require in new Federal buildings those energy efficiency measures that are technologically feasible and economically justified. The standards for Federal buildings are intended to parallel closely the voluntary building energy codes of the Energy Policy Act for private sector construction. Interim energy performance standards which DOE had issued before enactment of the Energy Policy Act are to remain in effect for the Federal sector until the new Federal building energy standards become effective.

Timetable:

Action	Date	FR Cite
NPRM	08/06/96	61 FR 40882
NPRM Comment Period End	11/04/96	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Ronald B. Majette, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
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RIN: 1904–AA69

1081. ENERGY CONSERVATION PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT: TEST PROCEDURES, LABELING, AND CERTIFICATION REQUIREMENTS FOR ELECTRIC MOTORS

Priority: Other Significant

Legal Authority: 42 USC 6311 to 6317

CFR Citation: 10 CFR 431

Legal Deadline: Final, Statutory, October 24, 1997.

Abstract: The Energy Policy and Conservation Act, as amended, establishes energy efficiency standards for commercial and industrial electric motors, prescribes test procedures, and requires labeling for such equipment. The Department proposes to create a new part (10 CFR part 431) in the Code of Federal Regulations. This action will establish procedures for energy efficiency testing, labeling, and certification requirements for certain

DOE—EE

Final Rule Stage

commercial and industrial electric motors.

Timetable:

Action	Date	FR Cite
NPRM	11/27/96	61 FR 60440
NPRM Comment Period End	03/10/97	62 FR 6888
NPRM Comment Period Reopened	06/23/98	63 FR 34758
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Raba, Energy Technology Program Specialist, Department of Energy, Energy Efficiency and Renewable Energy, EE-43, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8654
Fax: 202 586-4617
Email: jim.raba@hq.doe.gov

RIN: 1904–AA82

1082. • ALTERNATIVE FUEL TRANSPORTATION PROGRAM: P-SERIES FUELS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 13211(2)

CFR Citation: 10 CFR 490

Legal Deadline: None

Abstract: In response to a petition filed by Pure Energy Corporation, the Department proposes to amend the rules for the statutory program requiring alternative fuel providers and State government fleets to acquire an annually increasing percentage of alternative fueled vehicles from among their purchases of light duty vehicles.

The proposed revisions would add certain blends of methyltetrahydrocarbon, ethanol and hydrocarbons known as P-series fuels to the definition of "alternative fuel".

Timetable:

Action	Date	FR Cite
NPRM	07/28/98	63 FR 40202
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Kenneth Katz, Program Manager, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
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Email: kenneth.katz@hq.doe.gov

RIN: 1904–AA99

DEPARTMENT OF ENERGY (DOE)
Energy Efficiency and Renewable Energy (EE)

Long-Term Actions

1083. NATIONAL VOLUNTARY RESIDENTIAL ENERGY EFFICIENCY RATING GUIDELINES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 8236

CFR Citation: 10 CFR 437

Legal Deadline: Final, Statutory, April 24, 1994.

Abstract: DOE is required to establish by rule national voluntary guidelines for home energy rating system. The guidelines are designed to encourage uniformity with regard to systems for rating the annual energy efficiency of residential buildings. The guidelines may be used to enable and encourage the assignment of energy efficiency ratings to residential buildings and the development of criteria for attractive financial instruments for energy efficient homes.

Timetable:

Action	Date	FR Cite
NPRM	07/25/95	60 FR 37949
NPRM Comment Period End	05/09/96	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Reese, Program Manager, EE-43, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-7819

RIN: 1904–AA74

1084. ENERGY EFFICIENCY STANDARDS FOR RESIDENTIAL FURNACES, BOILERS, AND MOBILE HOME FURNACES

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430

Legal Deadline: Final, Statutory, January 1, 1994.

Abstract: The Energy Policy and Conservation Act, as amended, establishes initial energy efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended.

This is the initial review of the statutory standards for furnaces.

Timetable:

Action	Date	FR Cite
ANPRM	09/08/93	58 FR 47326
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, or low priority based on significant input from the public. This action is low priority, and the Department does not plan to begin substantive work on this action for the next two fiscal years.

Agency Contact: Cyrus Nasseri, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585

DOE—EE

Long-Term Actions

Phone: 202 586-9138
Email: cyrus.nasseri@ee.doe.gov

RIN: 1904–AA78

1085. DETERMINATION FOR HIGH INTENSITY DISCHARGE LAMPS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6317

CFR Citation: 10 CFR 430

Legal Deadline: Other, Statutory, April 24, 1995.
Determination Notice

Abstract: The Energy Policy Act of 1992 requires the Department to prescribe test procedures and efficiency standards for high intensity discharge lamps for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

Timetable:

Action	Date	FR Cite
Determination Notice	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. While this action is a medium priority, the Department does not plan to begin work on it until next year.

Agency Contact: Terry Logee, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., 1J-018, Washington, DC 20585
Phone: 202 586-1689
Fax: 202 586-4617

RIN: 1904–AA86

1086. DETERMINATION FOR SMALL ELECTRIC MOTORS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6317

CFR Citation: 10 CFR 430

Legal Deadline: Other, Statutory, April 24, 1995.
Determination Notice

Abstract: The Energy Policy Act of 1992 requires the Department to prescribe test procedures for small electric motors for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

Timetable:

Action	Date	FR Cite
Determination Notice	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a medium priority, and the Department plans to begin work on this action later this year.

Agency Contact: Jim Raba, Energy Technology Program Specialist, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., 1J-018, Washington, DC 20585
Phone: 202 586-8654
Fax: 202 586-4617

RIN: 1904–AA87

1087. ENERGY EFFICIENCY STANDARDS FOR CLOTHES DRYERS AND DISHWASHERS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, May 14, 1996.

Abstract: The statute requires the Department to revise the standards to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a low priority, and the Department does not plan to begin substantive work on this action for the next two fiscal years.

Agency Contact: Bryan Berringeri, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Room 1J-018, Washington, DC 20585
Phone: 202 586-0371
Fax: 202 586-4617

RIN: 1904–AA89

1088. ENERGY EFFICIENCY STANDARDS FOR POOL HEATERS AND DIRECT HEATING EQUIPMENT

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430

Legal Deadline: Final, Statutory, January 1, 1992.

Abstract: The statute requires the Department to revise the standards to achieve the maximum improvement in energy efficiency which the Secretary

determines is technologically feasible and economically justified.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a low priority, and the Department does not plan to begin substantive work on this action for the next two fiscal years.

Agency Contact: Cyrus Nasseri, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., 1J-018, Washington, DC 20585
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RIN: 1904–AA90

1089. ENERGY EFFICIENCY STANDARDS FOR 1-200 HP ELECTRIC MOTORS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 6313

CFR Citation: 10 CFR 431

Legal Deadline: Final, Statutory, October 24, 1999.

Abstract: The statute requires the Department to revise the standards to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a low priority, and the Department does not plan to begin substantive work on this action for the next two fiscal years.

Agency Contact: James Raba, Energy Technology Program Specialist, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., 1J-018, Washington, DC 20585
Phone: 202 586-8654
Fax: 202 586-4617

RIN: 1904–AA91

1090. ENERGY EFFICIENCY STANDARDS FOR FLUORESCENT AND INCANDESCENT LAMPS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, November 15, 1998.

Abstract: The statute requires the Department to revise the standards to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a low priority, and the Department does not plan to begin substantive work on this action for the next two fiscal years.

Agency Contact: Terry Logee, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., 1J-018, Washington, DC 20585
Phone: 202 586-1689
Fax: 202 586-4617

RIN: 1904–AA92

DEPARTMENT OF ENERGY (DOE)

Energy Efficiency and Renewable Energy (EE)

Completed Actions

1091. ENERGY EFFICIENCY STANDARDS FOR ELECTRIC COOKING APPLIANCES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, January 1, 1992.

Abstract: The Energy Policy and Conservation Act, as amended, establishes initial energy efficiency standards levels for most types of major residential appliances and generally requires the Department to determine whether the extant standards for a covered product should be amended.

This action reviews the statutory standards for electric cooking appliances to determine whether the standard needs to be amended. This is the first reanalysis of the standard levels.

Timetable:

Action	Date	FR Cite
ANPRM	09/28/90	55 FR 39624
NPRM	03/04/94	59 FR 10464
Final Action	09/08/98	63 FR 48037

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been

categorized as high, medium, and low priority based on significant input from the public. This action is a high priority, and the Department is working actively on this action.

Agency Contact: Kathi Epping, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-7425
Fax: 202 586-4617

RIN: 1904–AA84

1092. TEST PROCEDURES FOR WATER HEATERS—AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: In accordance with the Energy Policy and Conservation Act, as amended, the test procedures for water heaters were revised. Rulemaking issues included: inclusion of electric instantaneous water heaters and storage water heaters with less than 20 gallons volume and revision of the first hour rating.

Timetable:

Action	Date	FR Cite
NPRM	03/23/95	60 FR 15330
NPRM Comment Period End	08/31/95	
Final Action	05/11/98	63 FR 25996

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: This action was separated from RIN 1904-AA52.

Agency Contact: Terry Logee, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., 1J-018, Washington, DC 20585
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RIN: 1904–AA88

DEPARTMENT OF ENERGY (DOE)

Defense and Security Affairs (DSA)

Proposed Rule Stage

1093. GENERAL CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTERS OR SPECIAL NUCLEAR MATERIAL

Priority: Info./Admin./Other

Legal Authority: EO 12968; 42 USC 2201

CFR Citation: 10 CFR 710 subpart A

Legal Deadline: None

Abstract: 10 CFR part 710, which stipulates DOE access authorization "due process" procedures, will be revised to comply with Section 5.2(a) of EO 12968. This section requires three decision levels in the process of determining whether an individual's access to classified matter will be denied or revoked, with the final decision being made by a three member high level appeal panel. While the DOE decision structure will be revised, the DOE will continue to offer the individual the right to a hearing before a hearing officer in such cases. These revisions are not expected to significantly impact the costs, time intervals, or risks associated with DOE's administrative review process. There are no alternatives to the Department for assuring full compliance with the new requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Barry Dalinsky, Personnel Security Specialist, Office of Safeguards and Security, Department of Energy, Germantown, MD 20874-1290
Phone: 301 903-5010
Fax: 301 903-6545

RIN: 1992–AA22

1094. PHYSICAL PROTECTION OF SECURITY INTERESTS

Priority: Info./Admin./Other

Legal Authority: 42 USC 2011; 42 USC 7101

CFR Citation: 10 CFR 1046 subpart A; 10 CFR 1046 subpart B

Legal Deadline: None

Abstract: 10 CFR part 1046, subparts A and B, establishes DOE contractor requirements in the areas of protective force medical, physical fitness, and firearms qualifications and training. The proposed revisions are to ensure protective force personnel receive quality medical services that are consistent with the Americans with Disabilities Act of 1990. They also will enhance communications between Designated Physicians and personnel responsible for supervising physical fitness training and certification to assure better understanding of the risk of injury to Security Police Officers and Security Officers participating in physical fitness activities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Russell Showers, Security Specialist, Office of Safeguards and Security, Department of Energy, Germantown, MD 20874-1290
Phone: 301 903-5122
Fax: 301 903-8717

RIN: 1992–AA23

DEPARTMENT OF ENERGY (DOE)
Defense and Security Affairs (DSA)

Completed Actions

1095. PERSONNEL ASSURANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2012 et seq, Atomic Energy Act of 1954

CFR Citation: 10 CFR 711

Legal Deadline: None

Abstract: The Department of Energy (DOE) conducts a Personnel Assurance Program (PAP) under an interim rule published on October 9, 1996 (61 FR 53018) to assure the reliability and safety of individuals in certain critical positions involving access to DOE nuclear weapons and explosives. The PAP is a systematic program, previously established by internal DOE directive, to prevent accidental or unauthorized detonation of nuclear explosives as a result of assignment of nuclear explosive duties to employees who have become emotionally, mentally, or physically incapacitated.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/09/96	61 FR 53018
NPRM	06/04/97	62 FR 30469
Final Action	09/08/98	63 FR 48059

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dan Rhoades, Office of Weapons Surety, Defense Programs, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 301 903-3757
Fax: 301 903-8628

Randall Weidman, Office of Weapons Surety, Defense Programs, Department of Energy, 1000 Indepenence Avenue SW., Washington, DC 20585
Phone: 301 903-3154
Fax: 301 903-8628

RIN: 1992–AA14

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Proposed Rule Stage

1096. FREEDOM OF INFORMATION ACT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552

CFR Citation: 10 CFR 1004

Legal Deadline: None

Abstract: On October 23, 1991, DOE proposed to amend the procedures and principles to be applied in responding to requests for records under the Freedom of Information Act (FOIA) 5 USC 552. The proposal updated names and addresses of organizational entities, and updated guidelines for the schedule of fees associated with processing requests. A proposed section on policies clarified DOE's operation of a first-in, first-out policy in responding to FOIA requests, and the role of the Office of Hearings and Appeals was clarified. The proposal also included a statement of DOE policy on contractor records.

On December 12, 1994, DOE adopted the contractor records policy, with certain modifications. DOE expects to take final action on the remainder of the proposal in the near future.

The new regulations will clarify the FOIA process by clearly defining the roles of the FOIA Officer and the Denying Official and comply with the new requirements of the Electronic Freedom of Information Act Amendment of 1996. The new regulations will be written in a more customer-friendly manner in plain English.

Timetable:

Action	Date	FR Cite
Final Rule (Contractor Records)	12/12/94	59 FR 63882
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: All

Agency Contact: Abel Lopez, Acting Director, FOIA and Privacy Act Division, Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-5955

RIN: 1901–AA32

1097. THE OFFICE OF ENERGY RESEARCH FINANCIAL ASSISTANCE PROGRAM

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2051; 42 USC 5817; 42 USC 5901 et seq; 42 USC 7254; 42 USC 7256; 31 USC 6301 et seq

CFR Citation: 10 CFR 605

Legal Deadline: None

Abstract: Action to be taken will improve grants administration by providing a more streamlined and uniform approach to post-award requirements, yet maintain stewardship and accountability responsibilities.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: John A. Alleva, Director, Grants and Contracts Division, Department of Energy, Office of Energy Research, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 301 903-5212

RIN: 1901–AA54

1098. PAYMENTS FOR SPECIAL BURDENS AND IN LIEU OF TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2208 Atomic Energy Act of 1954, sec 168

CFR Citation: 10 CFR 610

Legal Deadline: None

Abstract: This action will revise the Department of Energy's policy on making payments for special burdens and in lieu of taxes to State and local taxing jurisdictions pursuant to the Atomic Energy Act of 1954. Prior to the 1987 issuance of DOE Order 2100.12, the Department and its predecessor agencies approved such payment requests on an ad hoc basis. To ensure all eligible taxing jurisdictions are provided appropriate opportunity to comment, the revised policy is being established through the rulemaking process. The Department anticipates no added costs by issuing the revised policy as a regulation rather than as an internal directive revision.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local

Agency Contact: Helen O. Sherman, Director, Office of Financial Policy, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-4860

RIN: 1901–AA58

DOE—ENDEP

Proposed Rule Stage

1099. PRIVACY ACT SYSTEM OF RECORDS UPDATE

Priority: Info./Admin./Other

Legal Authority: 5 USC 552a

CFR Citation: 10 CFR 1008

Legal Deadline: None

Abstract: This action will amend the Department's Privacy Act Regulations, 10 CFR 1008, by deleting Privacy Act system notices no longer used by the Department. It will also update the remaining systems, many of which require minor amendments to location, authority, purpose, storage, or system manager.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Abel Lopez, Acting Director, FOIA and Privacy Act Division, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5955
Fax: 202 586-0575
Email: gayla.sessoms@hq.doe.gov

RIN: 1901–AA69

1100. ENVIRONMENTAL MANAGEMENT FINANCIAL ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 6301 to 6308; 42 USC 7254; 42 USC 7256

CFR Citation: 10 CFR 600

Legal Deadline: None

Abstract: The purpose of this action is to establish and implement policies and procedures applicable to the award and administration of grants and cooperative agreements by the Office of Environmental Management (EM) in the areas of: environmental waste management, environmental restoration, pollution prevention and supporting technologies, decommissioning and decontamination activities, technology integration and transfer, environmental education and transportation technologies as it relates to environmental restoration and waste management.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Malika S. Hobbs, Contract Management Specialist, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-6174
Fax: 202 586-9469

RIN: 1901–AA71

1101. CHRONIC BERYLLIUM DISEASE PREVENTION PROGRAM

Regulatory Plan: This entry is Seq. No. 19 in Part II of this issue of the Federal Register.

RIN: 1901–AA75

1102. COMMUNITY TRANSITION ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7274h

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Section 3161 of the National Defense Authorization Act for Fiscal Year 1993, 42 U.S.C. 7274h, provides authority for DOE to provide impact assistance to communities that are adversely affected by work force restructuring. This action would establish the regulations governing the community transition program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Deborah Swichkow, Deputy Director, Office of Worker and Community Transition, Department of Energy, 1000 Independence SW., Washington, DC 20585
Phone: 202 586-0876
Fax: 202 586-8403

RIN: 1901–AA77

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Final Rule Stage

1103. NUCLEAR SAFETY MANAGEMENT

Regulatory Plan: This entry is Seq. No. 20 in Part II of this issue of the Federal Register.

RIN: 1901–AA34

1104. RADIATION PROTECTION OF THE PUBLIC AND THE ENVIRONMENT

Regulatory Plan: This entry is Seq. No. 21 in Part II of this issue of the Federal Register.

RIN: 1901–AA38

1105. ANNOTATION OF LAND RECORDS FOR REMEDIATED PROPERTIES IN THE URANIUM MILL TAILINGS REMEDIAL ACTION PROJECT (UMTRA)

Priority: Info./Admin./Other

Legal Authority: PL 95-604, sec 104(d); PL 104-259, sec 4(a)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Under section 104(d) of the Uranium Mill Tailings Radiation Control Act of 1978, the Department of Energy (DOE) is required to issue appropriate rules and regulations concerning the annotation of land records of designated inactive uranium mill sites and vicinity properties included for remedial action under the Act. The annotation is intended to ensure that future purchasers of remediated inactive uranium mill sites and vicinity properties will be notified, prior to such purchase, of the condition of the land.

Timetable:

Action	Date	FR Cite
NPRM	04/14/89	54 FR 29732
Interim Final Rule	10/00/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: Public Law 104-259, signed into law on October 9, 1996, amended the annotation requirement to provide for States to receive certification from the Secretary for "a program which would achieve the purposes" of the annotation under section 104(d) of the UMTRCA in regards to vicinity properties. Letters have been sent to the affected States regarding the amendment language.

Agency Contact: Loretta Fahy, Environmental Protection Spec., UMTRA Team, Department of Energy, Cloverleaf Building, 19901 Germantown Rd., Germantown, MD 20874-1290
Phone: 301 903-3895
Fax: 301 903-3877

RIN: 1901–AA57

1106. OCCUPATIONAL RADIATION PROTECTION—AMENDMENT

Priority: Other Significant

Legal Authority: 42 USC 2201; 42 USC 7191

CFR Citation: 10 CFR 835

Legal Deadline: None

Abstract: 10 CFR part 835 establishes the basic requirements for DOE contractor and subcontractor activities to ensure radiation protection of occupational workers at DOE facilities. See 58 FR 65458 (December 14, 1993). The proposed amendment to part 835 would include items not previously covered such as sealed radioactive source accountability and control, posting of areas where radioactive material is present, and surface contamination values for tritium. Several additional changes are proposed to ensure continuity in DOE's system of radiation protection standards by codifying in part 835 critical provisions of the "DOE Radiological Control Manual" which is no longer a mandatory document. DOE also proposes to exclude explicitly from part 835 radiological transportation conducted in compliance with applicable DOE Orders and certain activities conducted on foreign soil. This rulemaking stems from DOE's ongoing effort to strengthen the protection of health and safety from the nuclear and radiological hazards that may exist at these DOE facilities.

Timetable:

Action	Date	FR Cite
NPRM	12/23/96	61 FR 67600
NPRM Comment Period End	03/31/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Joel Rabovsky, Health Physicist (EH-52), Office of Worker Protection and Hazards Mgmt, Department of Energy, 19901 Germantown Rd., Germantown, MD 20874-1290
Phone: 301 903-2135

RIN: 1901–AA59

1107. CRITERIA AND PROCEDURES FOR CONTRACTOR EMPLOYEE PROTECTION PROGRAM

Priority: Info./Admin./Other

Legal Authority: 42 USC 7254

CFR Citation: 10 CFR 708

Legal Deadline: None

Abstract: This action will amend the Department's contractor employee protection program to include employees who perform work directly related to the operation of programs and activities at DOE-owned and -leased sites, even if the contractor is located, or the work is performed, off-site.

Timetable:

Action	Date	FR Cite
NPRM	01/05/98	63 FR 374
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard S. Fein, Department of Energy, Office of Employee Concerns, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-4043

RIN: 1901–AA78

1108. PRICE COMPETITIVE SALE OF STRATEGIC PETROLEUM RESERVE PETROLEUM STANDARD SALES PROVISIONS

Priority: Routine and Frequent

Legal Authority: 42 USC 7254

CFR Citation: 10 CFR 625

Legal Deadline: None

Abstract: This action is a periodic update of certain appendices to the Strategic Petroleum Reserves regulations that govern the contract terms to be used by the Federal government when selling petroleum from the reserves in response to severe energy supply interruptions or other energy obligations of the United States.

DOE—ENDEP

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/08/98	63 FR 17260
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy T. Marland, Department of Energy, Strategic Petroleum Reserve (FE-43), 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-4691
Fax: 202 586-7919
Email: nancy.marland@hq.doe.gov

RIN: 1901–AA81

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Long-Term Actions

1109. ELECTRIC POWER SYSTEM PERMITS AND REPORTS; APPLICATIONS; ADMINISTRATIVE PROCEDURES AND SANCTIONS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 95-91; PL 66-280; EO 12038

CFR Citation: 10 CFR 205.300

Legal Deadline: None

Abstract: These regulations would streamline the existing procedures for applying to the DOE for Presidential permits and electricity export authorizations by eliminating the use of FERC "trial-type" procedures and establishing a less adversarial process of decisionmaking. These regulations may also establish that DOE's decisional criterion is only electric power system reliability and not the economic or commercial viability of projects.

This action is currently being reviewed in light of open access and restructuring issues in the electric power industry.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ellen Russell, Electricity Analyst, (FE-27), Office of Coal and Power Systems, Department of Energy, Room 3H-087, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-9624
Fax: 202 586-5736
Email: ellen.russell@hq.doe.gov

RIN: 1901–AA19

1110. ENFORCEMENT OF EMPLOYEE SAFETY STANDARDS AT NUCLEAR WEAPONS FACILITIES

Priority: Other Significant

Legal Authority: PL 102-190, sec 3131

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Public Law 102-190, section 3131, directs the Department of Energy to assess civil penalties against contractors at DOE nuclear weapons facilities who fail either to provide training to employees engaged in hazardous substance response and emergency response or fail to certify that such workers have been adequately trained.

Timetable:

Action	Date	FR Cite
ANPRM	08/26/94	59 FR 44139
NPRM	10/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Harry Pettengill, Director, Occupational Health and Safety Policy, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 301 903-4343
Fax: 301 903-2582

RIN: 1901–AA44

1111. GENERAL GUIDELINES FOR THE RECOMMENDATION OF SITES FOR NUCLEAR WASTE REPOSITORY

Priority: Other Significant

Legal Authority: 42 USC 10132

CFR Citation: 10 CFR 960

Legal Deadline: None

Abstract: This action would implement the guidelines that will be used by the Department in deciding whether to recommend a site for the development of the geologic repository for the disposal of high-level radioactive waste and spent nuclear fuel. The amended guidelines will reflect statutory and policy changes that have occurred since the Nuclear Waste Policy Act was passed in 1982. The amendments will also be based on the experience the Department has gained over the last decade of investigative efforts.

Timetable:

Action	Date	FR Cite
NPRM	12/16/96	61 FR 66158
NPRM Comment Period End	05/17/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Susan Rives, Counsel, Department of Energy, Yucca Mountain Site Characterization Office, PO Box 98608, Las Vegas, NV 89193
Phone: 702 794-5519
Fax: 702 794-7907

RIN: 1901–AA72

1112. PROCEDURAL RULES FOR DOE NUCLEAR ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 7191

CFR Citation: 10 CFR 820

Legal Deadline: None

Abstract: This action will delete the exemption in section 820.20(d) for the automatic remission of any civil penalty for DOE contractors that are educational institutions but are not exempt under the Price-Anderson Amendments Act, and require Revised Rule Implementation Plans to be filed with the Office of Docketing clerk.

DOE—ENDEP

Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Howard Wilchins, Attorney(EH-10), Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 301 903-0107

RIN: 1901–AA80

DEPARTMENT OF ENERGY (DOE)

Proposed Rule Stage

Office of Procurement and Assistance Management (PR)

1113. DEAR: FINANCIAL MANAGEMENT CLAUSES

Priority: Info./Admin./Other

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This rule revises selected financial management clauses and clarifies language in existing clauses. It will strengthen M&O contractor financial management and make the regulation easier to understand.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael L. Righi, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8175

RIN: 1991–AB02

1114. ACQUISITION REGULATION: PROJECT MANAGEMENT

Priority: Info./Admin./Other

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: Revises the contractural language for management of the Department's projects and facilities by contractors to more closely reflect industry practices.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kevin M. Smith, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8189

RIN: 1991–AB39

1115. CLASSIFIED NATIONAL SECURITY INFORMATION- E.O. 12958

Priority: Info./Admin./Other

Legal Authority: 42 USC 7254; 42 USC 486(c)

CFR Citation: 48 CFR 904; 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: This action implements Executive Order 12958, which prescribes a uniform system for classifying, safeguarding, and declassifying national security information.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard Langston, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8247

RIN: 1991–AB42

1116. • ACQUISITION REGULATIONS: GUARANTEES OF PERFORMANCE

Priority: Info./Admin./Other

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 909.970

Legal Deadline: None

Abstract: This action is to amend the Department's acquisition regulations to deal with contracting officer's determinations of responsibility in cases where the prospective awardee has been created solely for performance of the instant contract in the award of all contracts, including management and operating contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert M. Webb, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8264

RIN: 1991–AB44

DEPARTMENT OF ENERGY (DOE)

Final Rule Stage

Office of Procurement and Assistance Management (PR)

1117. FEE POLICY

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This action will redefine the Department's policy regarding fees paid to nonprofit entities, incentives paid to contractors for cost avoidance and cost reduction, and the use of multiple fee arrangements. It is an integral part of the Department's contract reform initiative to improve contractor performance and reduce overall program costs.

Timetable:

Action	Date	FR Cite
NPRM	04/10/98	63 FR 17800
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael L. Righi, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8175
Fax: 202 586-0545

RIN: 1991–AB32

1118. DEAR: MANAGEMENT AND OPERATING CONTRACT WHISTLEBLOWER COSTS

Priority: Info./Admin./Other

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 922; 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: The Department's acquisition regulation is being amended to implement a recommendation of its Department-wide contract reform initiative concerning allowability of costs in whistleblower actions.

Timetable:

Action	Date	FR Cite
NPRM	01/05/98	63 FR 386
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: P. Devers Weaver, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8250

RIN: 1991–AB36

1119. ACQUISITION REGULATION: TECHNICAL AMENDMENT

Priority: Info./Admin./Other

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 901 to 970

Legal Deadline: None

Abstract: This action makes corrections and technical changes to the regulation.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: P. Devers Weaver, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8250

RIN: 1991–AB40

DEPARTMENT OF ENERGY (DOE)

Long-Term Actions

Office of Procurement and Assistance Management (PR)

1120. AMENDMENT TO WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES

Priority: Other Significant

Legal Authority: 42 USC 2012 et seq, Atomic Energy Act of 1954

CFR Citation: 10 CFR 707

Legal Deadline: None

Abstract: This action will amend the Department's rule governing the use of illegal drugs at DOE sites to ensure that substance abuse programs include provisions that also address misuse and abuse of alcohol. DOE expects to mitigate the potential for harm to the environment and to the public health and safety at DOE sites by contractor employees and other individuals performing health or safety sensitive functions. Cost incurred will affect primarily cost reimbursement type contracts for managing, operating, constructing, and servicing DOE facilities and certain other on-site contractors and subcontractors.

Timetable:

Action	Date	FR Cite
NPRM	07/22/92	57 FR 32664
NPRM Comment Period End	09/21/92	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Edmondson, Director, Office of Contractor Personnel Management, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-9008

RIN: 1991–AA90

DEPARTMENT OF ENERGY (DOE)
Office of Procurement and Assistance Management (PR)

Completed Actions

1121. DEPARTMENT OF ENERGY PROPERTY MANAGEMENT REGULATIONS; MISCELLANEOUS PERSONAL PROPERTY

Priority: Info./Admin./Other

Legal Authority: 42 USC 7254

CFR Citation: 41 CFR 109

Legal Deadline: None

Abstract: Updates the Property Management Regulations regarding management of the Department's personal property. DOE Property Management Regulations will be updated to incorporate recently developed policy in the areas of High Risk personal property, math and science equipment gifts program and the transfer of personal property identified for economic development near DOE sites that are being reconfigured or closed. Revision also includes coverage on contractor self-assessment program, and expanded duties of the Organizational Property Management Officers. Many of these changes are a result of Contract Reform, streamlining and reinvention initiatives.

Timetable:

Action	Date	FR Cite
NPRM	09/11/96	61 FR 48006
NPRM Comment Period End	11/12/96	
Final Action	04/20/98	63 FR 19614

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Julia Harman, Supply Management Representative, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-1435
Fax: 202 586-9356

RIN: 1991–AA28

1122. DEAR AMENDMENT FOR RIGHTS IN DATA

Priority: Info./Admin./Other

Legal Authority: 42 USC 7254; 42 USC 486(c)

CFR Citation: 48 CFR 915; 48 CFR 927; 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: This action will make changes to the rights in technical data provisions of the DEAR to rely more on FAR technical data coverage.

Timetable:

Action	Date	FR Cite
NPRM	03/31/97	62 FR 1513
NPRM Comment Period End	05/30/97	
Final Action	03/04/98	63 FR 10499

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert Webb, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8264
Fax: 202 586-0545

RIN: 1991–AB33

1123. AGENCY IMPLEMENTATION OF REVISED OMB CIRCULAR A-133

Priority: Info./Admin./Other

Legal Authority: PL 104-156

CFR Citation: 10 CFR 600.126; 10 CFR 600.226

Legal Deadline: None

Abstract: Agency implementation of revised OMB circular A-133 pursuant to Single Audit Act Amendments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Final Action	08/29/97	62 FR 45937

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Richard Langston, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8247
Fax: 202 586-0545

RIN: 1991–AB38

1124. DEPARTMENT OF ENERGY ASSISTANCE REGULATION: TECHNICAL AMENDMENT

Priority: Info./Admin./Other

Legal Authority: 42 USC 7254; 42 USC 7256; 42 USC 13525; 41 USC 6301 to 6308

CFR Citation: 10 CFR 600.400 to 600.417

Legal Deadline: None

Abstract: This action will remove subpart E, Audits of State and Local Governments, from 10 CFR part 600. It has been superseded by OMB Circular A-133.

Timetable:

Action	Date	FR Cite
Final Action	06/02/98	63 FR 29941

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Langston, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8247

RIN: 1991–AB41

1125. LIMITATION ON ALLOWABILITY OF COMPENSATION FOR CERTAIN CONTRACTOR PERSONNEL

Priority: Info./Admin./Other

Legal Authority: 42 USC 7254

CFR Citation: 10 CFR 970

Legal Deadline: None

Abstract: This action implements section 808 of the fiscal year 1998 Defense Department Authorization Act, which limits the compensation of certain contractor personnel as determined by the Office of Federal Procurement Policy.

Timetable:

Action	Date	FR Cite
Final Action	05/11/98	63 FR 25779

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

DOE—PR

Completed Actions

Agency Contact: Terry Sheppard, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8193

RIN: 1991–AB43

DEPARTMENT OF ENERGY (DOE)
Office of General Counsel (OGC)

Final Rule Stage

1126. CONDUCT OF EMPLOYEES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7211 et seq; PL 103-160, sec 3161; EO 12674

CFR Citation: 10 CFR 1010; 5 CFR 2635

Legal Deadline: None

Abstract: The DOE regulation on conduct of employees needs to be revised to reflect the issuance of the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR 2635) and the repeal of conflict-of-interest provisions formerly applicable to DOE employees.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/05/96	61 FR 35085
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Susan Beard, Deputy Assistant General Counsel for Standards of Conduct, Department of Energy, Office of General Counsel, 1000 Independence Ave SW., Washington, DC 20585
Phone: 202 586-1522

RIN: 1990–AA19

DEPARTMENT OF ENERGY (DOE)
Office of General Counsel (OGC)

Completed Actions

1127. PAYMENT OF TRAVEL EXPENSES OF PERSONS WHO ARE NOT GOVERNMENT EMPLOYEES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7254

CFR Citation: 10 CFR 1060

Legal Deadline: None

Abstract: The regulation needs to be revised to reflect the delegation of authority from the Office of Personnel Management to pay travel expenses of certain job applicants in traveling to preemployment interviews required by the Department.

Timetable:

Action	Date	FR Cite
Withdrawn	09/15/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: MaryAnn Shebek, Deputy Assistant General Counsel, Department of Energy, Office of General Counsel, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-1522

RIN: 1990–AA15

1128. CONDUCT OF EMPLOYEES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 7254

CFR Citation: 10 CFR 1010

Legal Deadline: None

Abstract: This action repeals a provision of the Department's Conduct of Employees regulations that has been superseded by regulations applicable to all executive branch agencies issued by the Office of Government Ethics.

Timetable:

Action	Date	FR Cite
Final Action	06/03/98	63 FR 30109

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Susan Beard, Deputy Assistant General Counsel, Standards of Conduct, Department of Energy, Office of General Counsel, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-1522

RIN: 1990–AA24

[FR Doc. 98-26712 Filed 11-06-98; 8:45 am]
BILLING CODE 6450-01-F

federal register

Monday
November 9, 1998

Part VIII

Department of Health and Human Services

Semiannual Regulatory Agenda

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

21 CFR Ch. I

42 CFR Chs. I-V

45 CFR Subtitle A, Chs. II, III, and XIII

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of the Secretary, HHS.

ACTION: Semiannual regulatory agenda.

SUMMARY: The President's Executive Order 12866 and the Regulatory Flexibility Act of 1980 require the semiannual publication of an agenda which summarizes all current, projected, and recently completed rulemakings of the Department. The agenda informs the public about regulatory actions that are under development within the components of the Department, and it provides all concerned with the opportunity to participate in this work at an early stage. The last such agenda was published on April 27, 1998.

FOR FURTHER INFORMATION CONTACT: Ann White, Department of Health and Human Services, Washington, DC 20201, (202) 690-6824, or the contact person for a specific component of the Department as listed below.

SUPPLEMENTARY INFORMATION: The agenda of regulatory actions set out below continues to reflect the Department's efforts to exemplify in its rulemaking the President's initiative to streamline the Federal regulatory system so that it affords important benefits to the American people while creating fewer burdens. The agenda also reflects emerging policy mandates for HHS involving: Numerous innovations in the Medicare and Medicaid programs, new structures for assuring the safety of the Nation's food supply, access to health services for children, welfare reform, health insurance reform, new standards for electronic data interchange in health insurance transactions, more effective regulation of drugs and medical products, and the combating of waste, fraud, and abuse in the health care system.

Underlying the Department's pursuit of its regulatory responsibilities in all of the above-mentioned programmatic areas, there endures the focus and discipline which the principles articulated in the President's Executive Order 12866 and the many subsequent regulatory reform initiatives of the Administration have brought to the Department's regulatory program. Public comments are invited to assist the Department in continuing to pursue these purposes. Comments should be sent to the addresses listed below, depending on the specific agenda entry that is of interest. Comments may be sent to the Office of the Secretary if the responsible component of the Department is not apparent or if a comment covers subjects crossing agency lines.

For this edition of the Department's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Health Care Financing Administration: Sue Brown, Director, Division of Regulations and Issuances, 7500 Security Boulevard, C5-09-27, Baltimore, Maryland 21244; phone 410-786-4473.

Food and Drug Administration: Ed Dutra, Director, Regulatory Policy and Management Staff, 5600 Fishers Lane, Rockville, Maryland 20857; phone 301-443-3480.

Administration on Children and Families: Madeline Mocko, Director, Division of Policy and Legislation, 7th Floor, 370 L'Enfant Promenade SW., Washington, DC 20447; phone 202-401-9223.

Administration on Aging: David Bunoski, Executive Secretariat, Room 4753 Wilbur H. Cohen Building, 330 Independence Avenue SW., Washington, DC 20201; phone 202-260-0669.

Health Resource Services Administration: Dolores R. Etherith, 5600 Fishers Lane, Room 14-A-08, Rockville, Maryland 20857; phone 301-443-1786.

Indian Health Service: Betty Penn, 12300 Twinbrook Parkway, Suite 450, Rockville, Maryland 20857; phone 301-443-1116.

National Institutes of Health: Jerry Moore, 6011 Executive Boulevard, Room 601, MSC 7669, Rockville, Maryland 20852; phone 301-496-4606.

Substance Abuse and Mental Health Services Administration: Joe Faha, 5600 Fishers Lane, Room 12-A-17, Rockville, Maryland 20857; phone 301-443-4640.

Office of the Secretary: Jacquelyn Y. White, Deputy Executive Secretary to the Department, Office of the Executive Secretariat, Room 603H, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

LaVarne Burton,

Executive Secretary to the Department.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1129	Health Care Fraud and Abuse Data Collection Program	0991-AA98

HHS

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1130	Clarification of the Initial OIG Safe Harbor Provisions and Establishment of Additional Safe Harbor Provisions Under the Anti-Kickback Statute	0991-AA66
1131	Reproduction and Sale of Official Forms and Publications	0991-AA83
1132	Revised OIG Civil Money Penalties Resulting From Public Law 104-191	0991-AA90
1133	Shared Risk Exception to the Safe Harbor Provisions	0991-AA91

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1134	Civil Money Penalties (CMPs) for Certain Hospital Physician Incentive Plans	0991-AA45
1135	Civil Money Penalties (CMPs) for Certain Practices Relating to Medicare Supplemental Policies	0991-AA53
1136	Civil Money Penalties for Notifying a Home Health Agency, or a Home or Community-Based Health Care Center or Provider, of a Standard Survey	0991-AA79
1137	Civil Money Penalties for False Information on Drug Manufacturer Price Surveys and Rebate Agreements	0991-AA80
1138	Senior Biomedical Research Service	0991-AA82

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1139	Revised OIG Exclusion Authorities Resulting From Public Law 104-191	0991-AA87
1140	Issuance of Advisory Opinions by the Inspector General	0991-AA94
1141	Revised OIG Sanction Authorities Resulting From Public Law 105-33	0991-AA95

Substance Abuse and Mental Health Services Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1142	Block Grants for Prevention and Treatment of Substance Abuse	0930-AA01

Departmental Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1143	Implementation of the Equal Access to Justice Act in Agency Proceedings	0990-AA02

Food and Drug Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1144	Animal Drug Approvals for Minor Species and Minor Usage	0910-AB07
1145	Electronic Submission of Adverse Drug Reaction Reports	0910-AB42
1146	Pregnancy Labeling Revision	0910-AB44
1147	Discontinuation of a Life-Saving Product	0910-AB60

HHS

Food and Drug Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1148	Over-the-Counter (OTC) Drug Review	0910-AA01
1149	Review of Warnings, Use Instructions, and Precautionary Information Under Section 314 of the National Childhood Vaccine Injury Act of 1986	0910-AA14
1150	Hearing Aids; Professional and Patient Labeling; Conditions for Sale **(Reg Plan Seq. No. 22)**	0910-AA39
1151	Bioavailability and Bioequivalence Requirements	0910-AA51
1152	Drugs Used for Treatment of Narcotic Addicts	0910-AA52
1153	Investigational New Drugs: Export Requirements for Unapproved New Drug Products	0910-AA61
1154	Adverse Drug Reaction Reporting, Recordkeeping, and Records Access Requirements for Marketed OTC Drugs	0910-AA86
1155	Informed Consent for Human Drugs and Biologics; Determination That Informed Consent Is Not Feasible	0910-AA89
1156	Direct-to-Consumer Promotion Regulations	0910-AA90
1157	Labeling for Human Prescription Drugs; Revised Format **(Reg Plan Seq. No. 23)**	0910-AA94
1158	Adverse Drug Reaction Reporting Requirements for Human Drug and Biological Products	0910-AA97
1159	Use of Ozone-Depleting Substances	0910-AA99
1160	Radioactive Drugs for Basic Research	0910-AB00
1161	Veterinary Feed Directives	0910-AB09
1162	Exports; Reporting and Recordkeeping Requirements	0910-AB16
1163	Registration of Foreign Establishments and Product Listing	0910-AB21
1164	Public Information; Communications With State and Foreign Government Officials	0910-AB22
1165	FDA Export Reform and Enhancement Act of 1996; Reporting and Recordkeeping Requirements for Unapproved or Violative Products Imported for Further Processing or Incorporation and Later Export	0910-AB24
1166	Blood Initiative	0910-AB26
1167	Suitability Determination for Donors of Human Cellular and Tissue-Based Products	0910-AB27
1168	Current Good Tissue Practice for Manufacturers of Human Cellular and Tissue-Based Products	0910-AB28
1169	Shell Eggs: Warning, Notice and Safe Handling Labeling Statements and Refrigeration Requirements	0910-AB30
1170	Antibiotic Drug Approval and Exclusivity	0910-AB33
1171	Applications for FDA Approval to Market a New Drug or Antibiotic Drug; Complete Response Letter; Amendments to Unapproved Applications	0910-AB34
1172	Expanded Access to Investigational Therapies	0910-AB37
1173	Amendment of Regulations Regarding Certain Label Statements on Prescription Drugs	0910-AB39
1174	List of Drugs That Have Been Withdrawn or Removed From the Market for Reasons of Safety and Effectiveness	0910-AB40
1175	Distinguishing Marks for Drug Products Containing Insulin	0910-AB43
1176	Progestational Drug Products for Human Use; Requirements for Labeling Directed to the Patient	0910-AB45
1177	Supplemental Manufacturing Changes for New Animal Drugs	0910-AB49
1178	Requirements for Liquid Medicated Feed and Free-Choice Medicated Feed	0910-AB50
1179	Natural Rubber-Containing Drugs; User Labeling	0910-AB56
1180	Bulk Drug Substances for Use in Pharmacy Compounding	0910-AB57
1181	Pharmacy Compounding; General Regulations	0910-AB58
1182	Drug Products That Present Demonstrable Difficulties for Compounding Because of Reasons of Safety or Effectiveness	0910-AB59
1183	Manufacturing Changes for Drugs	0910-AB61
1184	Pediatric Studies of Drugs	0910-AB62
1185	Positron Emission Tomography Drugs; Current Good Manufacturing Practices	0910-AB63
1186	Food Labeling: Trans Fatty Acids in Nutrition Labeling and Nutrient Content Claims	0910-AB66
1187	Designated Journals	0910-AB67
1188	Presubmission Conferences	0910-AB68
1189	Classification of Sheep as a Minor Species for All Data Collection Purposes	0910-AB69
1190	Implementation of the Import Tolerance Provisions of the Animal Drug Availability Act of 1996 and the Safe Level Provisions of the Animal Medicinal Drug Clarification Act of 1994	0910-AB71
1191	Mandatory HACCP Regulations for Manufacturers of Rendered Products	0910-AB72
1192	Surgeon's and Patient Examination Gloves; Reclassification; Restricted Devices	0910-AB74
1193	Current Good Manufacturing Practices for Blood and Blood Components: Notification of Consignees Receiving Blood and Blood Components at Increased Risk for Transmitting HCV Infection **(Reg Plan Seq. No. 24)**	0910-AB76

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

HHS

Food and Drug Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1194	New Animal Drug Approval Process; Implementation of Title I of the Generic Animal Drug and Patent Term Restoration Act (GADPTRA)	0910-AA02
1195	Prescription Drug Marketing Act of 1987; Policy Information, Guidance, and Clarifications	0910-AA08
1196	Biological Products: Reporting of Errors and Accidents in Manufacturing	0910-AA12
1197	Tamper-Evident Packaging Requirements for Over-the-Counter Human Drug Products	0910-AA26
1198	Prescription Drug Product Labeling; Medication Guide	0910-AA37
1199	Fruit and Vegetable Juices: Development of HACCP and Label Warning Statements for Juices **(Reg Plan Seq. No. 25)**	0910-AA43
1200	Current Good Manufacturing Practice; Amendment of Certain Requirements for Finished Pharmaceuticals	0910-AA45
1201	Parenteral Drug Products Containing Aluminum as an Ingredient or Contaminant; Labeling Requirements; Warning Statement	0910-AA74
1202	New Drug Applications; Drug Master File	0910-AA78
1203	Over-the-Counter Human Drugs; Labeling Requirements **(Reg Plan Seq. No. 26)**	0910-AA79
1204	Investigational New Drug Applications; Clinical Holds for Drugs for Life-Threatening Illnesses	0910-AA84
1205	Sterility Requirements for Inhalation Solution Products	0910-AA88
1206	Current Good Manufacturing Practice; Revision of Certain Labeling Controls	0910-AA98
1207	Establishment Registration and Listing of Human Cellular and Tissue-Based Products **(Reg Plan Seq. No. 27)**	0910-AB05
1208	Definition of Substantial Evidence	0910-AB08
1209	New Drugs for Human Use; Clarification of Requirements for Patent Holder Notification	0910-AB12
1210	Medicated Feed Mill Licenses	0910-AB18
1211	Regulations Requiring Manufacturers To Assess the Safety and Effectiveness of New Drugs and Biological Products in Pediatric Patients	0910-AB20
1212	Dissemination of Treatment Information on Unapproved Uses for Marketed Drugs and Devices **(Reg Plan Seq. No. 28)**	0910-AB23
1213	Biological Products Regulated Under Section 351 of the Public Health Service Act; Implementation of Biologics License; Elimination of Establishment License and Product License	0910-AB29
1214	Revocation of Antibiotic Certification Requirements; Conforming Revisions to Regulations	0910-AB32
1215	Clinical Hold; Streamlining Clinical Research	0910-AB41
1216	Revisions to the General Safety Requirements for Biological Products; Direct Final Rule	0910-AB51
1217	Radiopharmaceuticals Used for In Vivo Diagnosis and Monitoring	0910-AB52
1218	Medical Devices; IDE Modifications	0910-AB53
1219	Dispute Resolution	0910-AB54
1220	Effective Date of Approval of an Abbreviated New Drug Application	0910-AB64
1221	Mutual Recog. of Pharmaceutical Good Manufacturing Inspection Rpts., Med. Device Quality Sys. Audit Rpts., and Certain Medical Device Product Eval. Rpts.; the U.S. and the European Community	0910-AB75

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Food and Drug Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1222	Infant Formula: Good Manufacturing Practice, Quality Control Procedures, Quality Factors, Notification Requirements, and Records and Reports	0910-AA04
1223	Food Labeling Review	0910-AA19
1224	Medical Foods	0910-AA20
1225	Amalgam Ingredient Labeling	0910-AA33
1226	Classification of Computer Software Programs That Are Medical Devices	0910-AA41
1227	Registration of Producers of Drugs and Listing of Drugs in Commercial Distribution	0910-AA49
1228	Reinventing FDA Food Regulations	0910-AA58
1229	Dietary Supplement Regulations in Response to DSHEA	0910-AA59
1230	Long-Term Contraceptive Drug Products and Medical Devices; Informed Consent Requirements	0910-AA75
1231	Debarment Certification Regulations for Drug Applications	0910-AA76
1232	Investigational New Drug Applications; Request for Information and Comments	0910-AA83
1233	Investigational Use New Animal Drug Regulations	0910-AB02
1234	Administrative Practices and Procedures; Advisory Opinions and Guidelines	0910-AB14
1235	Requirements Pertaining to the Sale and Distribution of Cigarettes and Smokeless Tobacco To Protect Children and Adolescents; Use of Nontobacco Trade or Brand Names	0910-AB17

HHS

Food and Drug Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1236	Exemption From Preemption of State and Local Cigarette and Smokeless Tobacco Requirements; Applications for Exemption Submitted by Various State Governments; Group 1; Group 2	0910-AB19
1237	Current Good Manufacturing Practice for Medicated Feeds	0910-AB70
1238	Citizen Petitions; Actions That Can Be Requested by Petition; Summary Denial; and Referral for Other Administrative Action	0910-AB73

Food and Drug Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1239	Fees for Certification Services; Insulin and Color Additive Certification Programs	0910-AA07
1240	Reinvention of Administrative Procedures Regulations	0910-AA69
1241	Use of Ozone-Depleting Substances in Aerosol Products or Other Pressurized Dispensers	0910-AB10
1242	Revocation of Lather Brushes Regulation	0910-AB25
1243	Removal of Regulations Regarding Certification of Antibiotic Drugs	0910-AB31
1244	Removal of Regulations Regarding Certification of Drugs Composed Wholly or Partly of Insulin	0910-AB38
1245	Natural Rubber Containing Medical Devices; User Labeling	0910-AB65

Health Resources and Services Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1246	National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners: Corporate Shield	0906-AA41
1247	National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners: Reporting Adverse and Negative Actions	0906-AA43
1248	Designation of Medically Underserved Populations and Health Professional Shortage Areas	0906-AA44
1249	National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Providers: Clarification and Modernization of Regulatory Terms	0906-AA48

Health Resources and Services Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1250	Organ Procurement and Transplantation Network Rules	0906-AA32
1251	Drug Pricing Program: Prime Vendor User Charge	0906-AA45
1252	Health Care Fraud and Abuse Data Collection Program	0906-AA46
1253	National Vaccine Injury Compensation Program: Effective Date Provisions of Coverage of Certain Vaccines to the Vaccine Injury Table	0906-AA49

Indian Health Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1254	Indian Child Protection and Family Violence Prevention Act Minimum Standards of Character	0917-AA02

HHS

Indian Health Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1255	Currently Effective Indian Health Service Eligibility Regulations	0917-AA03

Indian Health Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1256	Acquisition Under the Buy Indian Act	0917-AA00

National Institutes of Health—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1257	National Institutes of Health AIDS Research Loan Repayment Program	0925-AA02
1258	Undergraduate Scholarship Program Regarding Professions Needed by the NIH	0925-AA10
1259	Traineeships	0925-AA11
1260	Additional DHHS Protections for Pregnant Women and Human Fetuses Involved as Subjects in Research, and Pertaining to Human In Vitro Fertilization	0925-AA14
1261	National Research Service Awards	0925-AA16
1262	Removal of National Cancer Institute Clinical Cancer Education Program	0925-AA17
1263	National Institutes of Health Loan Repayment Program for Research	0925-AA18
1264	National Institute of Child Health and Human Development Contraception and Infertility Research Loan Repayment Program	0925-AA19

National Institutes of Health—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1265	National Institutes of Health Construction Grants	0925-AA04
1266	National Institutes of Health Clinical Research Loan Repayment Program for Individuals From Disadvantaged Backgrounds	0925-AA09
1267	Scientific Peer Review of Research Grant Applications and Research and Development Contract Projects	0925-AA20
1268	Federal Policy (Common Rule) for the Protection of Human Subjects	0925-AA21
1269	Service Fellowships	0925-AA22

Office of Assistant Secretary for Health—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1270	Standards of Compliance for Abortion-Related Services in Family Planning Service Projects	0937-AA00

Public Health Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1271	Public Health Service Standards for the Protection of Research Misconduct Whistleblowers	0905-AE71

HHS

Health Care Financing Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1272	Prospective Fee Schedule for Ambulance Services (HCFA-1002-NR)	0938-AI72

Health Care Financing Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1273	Medicaid: Optional Coverage of TB-Related Services for Individuals Infected With Tuberculosis (HCFA-2082-P)	0938-AG72
1274	Liability for Third Parties To Pay for Care and Services (MB-080-P)	0938-AH01
1275	Medicare Coverage of Heart, Liver, and Lung Transplantation (HCFA-3835-PN)	0938-AH17
1276	Medicare Coverage of Services of Speech-Language Pathologists and Audiologists (HCFA-1843-P)	0938-AH37
1277	Supplier Participation Agreements and Limits on Actual Charges of Nonparticipating Physicians (HCFA-1862-P)	0938-AH50
1278	Medicare Technical Conforming Amendments (HCFA-1858-FC)	0938-AH67
1279	Elimination of Certain Requirements for Peer Review Organizations in the Utilization and Quality Review Process and a Change in the Length of Peer Review Organization Contracts (HCFA-3235-FC)	0938-AH68
1280	Disclosure of Peer Review Organization Information in Response to Beneficiary Complaints (HCFA-3241-P)	0938-AH85
1281	Medicaid Program; Amendment to the Preadmission Screening and Annual Resident Review Program (HCFA-2107-P)	0938-AH89
1282	Medicare and Medicaid Programs; Quarterly Listing of Program Issuances and Coverage Decissions—Second Quarter, 1998	0938-AI13
1283	Medicare Program; Prospective Payment System for Hospital Outpatient (HCFA-1005-P) **(Reg Plan Seq. No. 29)**	0938-AI56
1284	Medicaid Managed Care; Regulatory Program to Implement Certain Medicaid Provisions of the Balanced Budget Act of 1997 (HCFA-2001-P) **(Reg Plan Seq. No. 30)**	0938-AI70
1285	Coverage of Religious Non-Medical Health Care Institutions (HCFA-1909-IFC)	0938-AI93
1286	Expanded Coverage for Diabetes Outpatient Self-Management Training Services HCFA-3002-P **(Reg Plan Seq. No. 31)**	0938-AI96

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Health Care Financing Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1287	Deduction of Incurred Medical Expenses (Spenddown) (HCFA-2020-F)	0938-AB07
1288	Participation in CHAMPUS and CHAMPVA, Hospital Admissions for Veterans, Discharge Rights Notice, and Hospital Responsibility for Emergency Care (HCFA-1393-IFC)	0938-AC58
1289	Medicare Secondary Payer for Disabled Individuals (HCFA-1482-F)	0938-AD73
1290	Omnibus Nursing Home Reform Requirements (HCFA-3488-F)	0938-AD81
1291	Revisions to Regulations Implementing CLIA (HCFA-2226-F)	0938-AE47
1292	Coverage of Screening Pap Smears (BPD-705-F)	0938-AE98
1293	Medicare Coverage of, and Application of the Outpatient Mental Health Treatment Limitation to, Clinical Psychologist and Clinical Social Worker Services (HCFA-3706-F)	0938-AE99
1294	Medicaid Payment for Covered Outpatient Drugs Under Rebate Agreements (HCFA-2046-FC)	0938-AF42
1295	Retroactive Enrollment and Disenrollment in Risk Health Maintenance Organizations and Competitive Medical Plans (HCFA-1015-F)	0938-AF98
1296	Payment for Preadmission Services (HCFA-1731-F)	0938-AG00
1297	Revised Medicaid Management Information Systems (HCFA-2038-FN)	0938-AG10
1298	Description of HCFA's Evaluation Methodology for the Peer Review Organizations Fifth Scope of Work Contracts (HCFA-3207-N)	0938-AG32
1299	Medicare Program: Limitations on Medicare Coverage of Intermittent Positive Pressure Breathing Machine Therapy (HCFA-3781-FN)	0938-AG44
1300	Request for Assessment on the Salitron System for the Treatment of Xerostomia Secondary to Sjogren's Syndrome (HCFA-3782-NC)	0938-AG45
1301	Telephone Requests for Review of Part B Initial Claim Determinations (HCFA-4121-F)	0938-AG48
1302	Clinical Laboratory Improvement Amendment (CLIA) Fee Schedule Revision (HCFA-3219-GNC)	0938-AG87
1303	CLIA Program: Categorization of Waived Tests (HCFA-2225-FC)	0938-AG99
1304	Ambulance Services (HCFA-1813-F)	0938-AH13

HHS

Health Care Financing Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1305	Criteria and Procedures for Extending Coverage to Certain Devices and Related Services (HCFA-3841-F)	0938-AH21
1306	CLIA Program: Cytology Proficiency Testing (HCFA-2233-N)	0938-AH35
1307	Requirements for Enrollment of Medicaid Recipients Under Cost Effective Employer-Based Group Health Plans (HCFA-2047-FC)	0938-AH48
1308	Terms, Definitions, and Addresses: Technical Amendments (HCFA-9877-FC)	0938-AH53
1309	Changes to the Hospital Inpatient Prospective Payment System and Fiscal Year 1998 Rates (HCFA-1878-F)	0938-AH55
1310	Utilization Control and Discontinued Review Activities; Medicaid (MB-101-FC)	0938-AH64
1311	Individual Market Health Ins. Reform Portability From Group to Indiv. Coverage; Federal Rules for Access in the Indiv. Market; State Alternative Mechanisms to Federal Rules (HCFA-2882-F)	0938-AH75
1312	Medicaid Program; Redeterminations of Medicaid Eligibility Due to Welfare Reform (HCFA-2105-IFC)	0938-AH76
1313	Medicare Program; Beneficiary Incentives Programs (HCFA-6144-FC11)	0938-AH86
1314	Allocation of Enhanced Federal Matching Funds for Increased Administrative Costs (MB-103-N)	0938-AH90
1315	Medically Needy Determinations Under Welfare Reform (HCFA-2109-IFC)	0938-AH92
1316	Final Limitations on Aggregate Payments to Disproportionate Share Hospitals: Federal Fiscal Year 1998 (HCFA-2110-N)	0938-AH93
1317	Revision to the Definition of an Unemployed Parent (HCFA-2106-FC)	0938-AH98
1318	National Standard Health Care Provider Identifier (HCFA-0045-F)	0938-AH99
1319	Health Insurance Reform: Parity in the Application of Certain Limits to Mental Health Benefits (HCFA-2891-IFC)	0938-AI05
1320	Portability and Nondiscrimination in the Group Health Insurance Market (HCFA-2890-F)	0938-AI08
1321	Part A Premium for 1998 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement (HCFA-5056-N)	0938-AI10
1322	Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 1998 (HCFA-5057-N)	0938-AI12
1323	Medicaid Program: Charges for Vaccine Administration Under the Vaccines for Children (VCF) Program (HCFA-2084-FNC)	0938-AI20
1324	GME: Incentive Payments Under Plans for Voluntary Reduction in Number of Residents (HCFA-1001-IFC)	0938-AI27
1325	Medicare+Choice Program; Regulatory Program to Implement Certain Medicare Provisions of the Balanced Budget Act of 1997 (HCFA-1030-F)	0938-AI29
1326	Collection of User Fees From Medicare+Choice Plans and Risk-Sharing Contractors (HCFA-1911-IFC)	0938-AI35
1327	Medicare Program: Payments for Teleconsultations in Rural Health Professional Shortage Areas (HCFA-1906-F)	0938-AI44
1328	Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 1999 (HCFA-1006-FC) (HCFA-1006-P) **(Reg Plan Seq. No. 32)**	0938-AI52
1329	Standards for Electronic Transactions (HCFA-0149-F)	0938-AI58
1330	National Standard Employer Identifier (HCFA-0047-F)	0938-AI59
1331	Medicare Program; Definition of Provider-Sponsored Organization and Related Requirements (HCFA-1027-IFC)	0938-AI60
1332	Medicare and Medicaid Programs; Surety Bond Requirements for Home Health Agencies (HCFA-1038-NC)	0938-AI82
1333	Solvency Standards for Provider-Sponsored Organizations (HCFA-1011-IFC)	0938-AI83
1334	Schedule of Per-Beneficiary Limitations on Home Health Agency Costs for Cost Reporting Periods Beginning On or After October 1, 1997 (HCFA-1905-FC)	0935-AI84
1335	HHS' Recognition of NAIC Model Standards for Regulation of Medigap Policy (HCFA-2025-N)	0938-AJ07
1336	Reporting Outcome and Assessment Information Set (OASIS) Data as Part of the Conditions of Participation for Home Health Agencies (HCFA-3006-IFC)	0938-AJ10
1337	Request for Public Comments on Implementation of Risk Adjusted Payment for the Medicare+Choice Program and Notice of Public Meeting	0938-AJ16
1338	Home Health Prospective Payment System (HCFA-1102-FC) **(Reg Plan Seq. No. 33)**	0938-AJ24

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Health Care Financing Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1339	Payment for Clinical Diagnostic Laboratory Tests (HCFA-1309-F)	0938-AB50
1340	Criteria and Procedures for Developing Medical Services Coverage Policy (HCFA-3546-F)	0938-AD07
1341	Changes to Peer Review Organization Regulations (HCFA-3135-F)	0938-AD38
1342	"Without Fault" and Beneficiary Waiver of Recovery As It Applies to Medicare Overpayment Liability (HCFA-1719-P)	0938-AD95
1343	Protection of Income and Resources for Community Spouses of Institutionalized Individuals (HCFA-2023-P)	0938-AE12

HHS

Health Care Financing Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1344	Survey Requirements and Alternative Sanctions for Home Health Agencies (HCFA-2169-F)	0938-AE39
1345	Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Services (MB-28-F)	0938-AE72
1346	Payment for Nursing and Allied Health Science Education (HCFA-1685-F)	0938-AE79
1347	Changes to the Long-Term Care Facility Survey Process (HCFA-3175-FC)	0938-AF02
1348	Case Management (HCFA-2027-F)	0938-AF07
1349	Requirements for Certain Health Insuring Organizations and OBRA '90 Technical Amendments (HCFA-1018-F)	0938-AF15
1350	Provider Reimbursement Determinations and Appeals (HCFA-1727-P)	0938-AF28
1351	Alternative Sanctions for Psychiatric Hospitals (HCFA-2191-P)	0938-AF32
1352	Referral to Child Support Enforcement Agencies of Medicaid Families (HCFA-2051-F)	0938-AF68
1353	Medicaid: Outstationed Intake Locations for Certain Low-Income Pregnant Women, Infants, and Children Under Age 19 (HCFA-2052-F)	0938-AF69
1354	Assessing Interest Against Medicare Secondary Payer (MSP) Debts (HCFA-6108-P)	0938-AF87
1355	Revisions to Rules on Health Care Prepayment Plans (HCFA-1016-P)	0938-AF97
1356	Rural Health Clinics: Amendments to Participation Requirements and Payment Provisions and Establishment of a Quality Assessment and Performance Improvement Program (HCFA-1910-P)	0938-AG05
1357	Alternative Sanctions for Renal Dialysis Facilities (HCFA-3204-P)	0938-AG31
1358	Disclosure of Confidential PRO and ESRD Network Organization Information for Research Purposes (HCFA-3208-P)	0938-AG33
1359	Effect of Change of Ownership on Provider and Supplier Penalties, Sanctions, Underpayments and Overpayments (HCFA-2215-P)	0938-AG59
1360	Revision of Medicare/Medicaid Hospital Conditions of Participation (HCFA-3745-F)	0938-AG79
1361	Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships—Expanded to Designated Health Services (HCFA-1809-F)	0938-AG80
1362	Home Health Agency (HHA) Conditions of Participation (HCFA-3819-F)	0938-AG81
1363	End Stage Renal Disease (ESRD) Conditions for Coverage (HCFA-3818-P)	0938-AG82
1364	Distinct Part Requirements for Nursing Homes and Prohibition of Financial Screening of Applicants for Nursing Home Admission (HCFA-3815-P)	0938-AG84
1365	Categorization and Certification Requirements for a New Subcategory of Moderate Complexity Testing (HCFA-2222-F)	0938-AG98
1366	Adjustment in Payment Amounts for New Technology Intraocular Lenses (HCFA-3831-F)	0938-AH15
1367	Definition of Skilled Nursing Facility (SNF) for Coverage of Durable Medical Equipment (DME) and Home Health (HCFA-1834-P)	0938-AH16
1368	Additional Supplier Standards (HCFA-1864-F)	0938-AH19
1369	Delegation of Civil Money Penalties (HCFA-6135-FC)	0938-AH22
1370	State Plan Amendment (SPA) Reconsideration Process (HCFA-2096-P)	0938-AH24
1371	Hospice Care—Conditions of Participation (HCFA-3844-P)	0938-AH27
1372	Payment Amount if Customary Charges Are Less Than Reasonable Costs (HCFA-1860-FC)	0938-AH49
1373	Limitations on Liability (HCFA-4859-FC)	0938-AH51
1374	Medicare Secondary Payer Clarifications and Amendments (HCFA-1865-P)	0938-AH52
1375	Conditions for Certification of Community Mental Health Centers and Coverage Requirements for Partial Hospitalization Services (HCFA-1871-P)	0938-AH58
1376	Revision to Accrual Basis of Accounting Policy (HCFA-1876-P)	0938-AH61
1377	Medicaid; Estate Recoveries (HCFA-2083-P)	0938-AH63
1378	Medicaid Hospice Care (HCFA-2016-P)	0938-AH65
1379	Provider and Supplier Billing When Medicare Is Secondary Payor to Liability Insurance (HCFA-1848-P)	0938-AH66
1380	Determination of Substandard Care in SNFs and NFs (HCFA-2240-P)	0938-AH69
1381	Waiver of Staffing Requirements for End Stage Renal Disease (ESRD) Facilities Participating in an Experiment (HCFA-2236-GNC)	0938-AH72
1382	Provider and Supplier Enrollment Periodic Renewal of Eligibility Requirements (HCFA-1023-P)	0938-AH73
1383	Update of Ratesetting Methodology, Payment Rates and the List of Covered Surgical Procedures for Ambulatory Surgical Centers Effective for Calendar Year 1998 (HCFA-1885-P)	0938-AH81
1384	Revisions to Conditions for Coverage for Ambulatory Surgical Centers (HCFA-3887-P)	0938-AH83
1385	National Standard for Identifiers of Health Plans (HCFA-4145-P)	0938-AH87
1386	Medicaid Program; Coverage and Payment for Federally Qualified Health Center Services (HCFA-2043-P)	0938-AH95
1387	Medicare Coverage of Certified Nurse-Midwife Services (HCFA-1496-P)	0938-AH96
1388	Medicare Program; Medicare Integrity Program (HCFA-7020-F)	0938-AI09
1389	Medicare Program; Improvements to the Appeals Process for Medicare Beneficiaries Enrolled in HMOs, CMPs, and HCPPs (HCFA-4024-P)	0938-AI11

HHS

Health Care Financing Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1390	Medicare Program; Physician Fee Schedule Conversion Factor for Calendar Year 1998 and Sustainable Growth Rate for Fiscal Year 1998 (HCFA-1893-FN)	0938-AI16
1391	Health Insurance Portability: Newborns' and Mothers' Health Protection (HCFA-2892-IFC)	0938-AI17
1392	Medicaid: Medical Child Support (HCFA-2081-P)	0938-AI21
1393	Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1999 Rates (HCFA-1003-P)	0938-AI22
1394	Medicare Program; Notice for the Solicitation for Proposals for a Case Management Demonstration Project Focused on Congestive Heart Failure or Diabetes Mellitus (HCFA-1104-N)	0938-AI26
1395	Children's Health Insurance: Program Implementations; State Plan Approval; State Payment; Coordination With State Medicaid Program (HCFA-2006-P)	0938-AI28
1396	Medicare Program: Physicians' Referrals; Issuance of Advisory Opinions (HCFA-1902-F)	0938-AI38
1397	Medicaid Program; State Allotments for Payment of Medicare Part B Premiums for Qualified Individuals: Federal Fiscal Year 1998 (HCFA-2005-NC)	0938-AI39
1398	Medicare Program: User Fees (HCFA-6021-P)	0938-AI46
1399	Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities. (HCFA-1913-IFC)	0938-AI47
1400	Surety Bond Requirements for Comprehensive Outpatient Rehab. Facilities, Rehab. Agencies, Community Mental Health Centers, and Independent Diagnostic Testing Facilities (HCFA-1026-P)	0938-AI48
1401	Appeals of Carrier Determination That a Supplier Fails To Meet the Requirements for Medicare Billing Privileges (HCFA-1907-FC)	0938-AI49
1402	Review and Payment for Claims Filed on Behalf of Medicare/Medicaid Dually Eligible Beneficiaries (HCFA-2097-3)	0938-AI50
1403	Security and Electronic Signature Standards (HCFA-0049-P)	0938-AI57
1404	State Plan Requirements for Durable Medical Equipment Providers (HCFA-2007-P)	0938-AI63
1405	Child Health Insurance Allotments FY 1999 (HCFA-2014-N)	0938-AI64
1406	State Children's Health Insurance Program Allotments and Payments to States (HCFA-2114-FC)	0938-AI65
1407	DSH Payments - Institution for Mental Disease (HCFA-2012-N)	0938-AI66
1408	Medicaid Program; Home and Community-Based Services (HCFA-2010-FC)	0938-AI67
1409	Recognition of the Community Health Accreditation Program, Inc. (CHAP) and Joint Commission for Accreditation of Healthcare Organizations (JCAHO) for Hospices (HCFA-2029-PN)	0938-AI69
1410	New and Pending Demonstration Project Proposals Submitted Pursuant to Section 1115(a) of the Social Security Act July, August, September, October, and November 1997	0938-AI71
1411	Elimination of Application of Federal Financial Participation Limits (HCFA-2111-IFC)	0938-AI73
1412	Medicaid Program; Changes to Eligibility of Non-U.S. Citizens (HCFA-2108-P)	0938-AI74
1413	Medicare Program; Advance Refunding of Debt and Methodology for Repayment of Loan (HCFA-1777-P)	0938-AI75
1414	Medicare Program; Advertising Costs (HCFA-1880-P)	0938-AI76
1415	Medicare Hospice Care (HCFA-1022-P)	0938-AI77
1416	State Allotments for Additional Federal Funding of Emergency Health Services Furnished to Undocumented Aliens: Federal Fiscal Years 1998 Through (HCFA-2001-N)	0938-AI78
1417	Medicaid Program; Extension of Waiver To Extend Medicaid Eligibility Timeframes (HCFA-2009-N)	0938-AI79
1418	Revision of Procedures for Requesting Exceptions to Cost Limits for SNFs and Elimination of Reclassifications (HCFA-1883-P)	0938-AI80
1419	Expanded Coverage of Blood Glucose Monitors and Test Strips (HCFA-3003-IFC)	0938-AI85
1420	Hospice Wage Index Notice (HCFA-1039-N)	0938-AI87
1421	Medicare Program; Standardization of Medicare Coverage for Bone Mass Measurements (HCFA-3004-IFC)	0938-AI89
1422	Recognition of the American Association for Accreditation of Ambulatory Surgery Facilities Inc., for Ambulatory Surgical Centers Program (HCFA-2008-PN)	0938-AI90
1423	Health Insurance Reform Universal Health Care Identifier (HCFA-0048-NOI)	0938-AI91
1424	Coverage and Administrative Policies for Clinical Diagnostic Laboratory Tests; Intent To Form Negotiated Rulemaking Committee (HCFA-3250-NOI)	0938-AI92
1425	Medicaid, Medicare CLIA Program; Extension of Certain Effective Dates for Clinical Laboratory Requirements Under CLIA (HCFA 2024-IFC)	0938-AI94
1426	Hospital Conditions of Participation, Identification of Potential Organ, Tissue, and Eye Donor and Transplant Hospitals Provisions of Transplant Related Data (HCFA-3005-F)	0938-AI95
1427	Medicare Program; Monthly Actuarial Rates and Monthly Supplementary Medical Insurance Premium Rate Beginning January 1, 1999 (HCFA-8003-N)	0938-AI98
1428	Peer Review Organization Contracts: Solicitation of Statements of Interest From In-State Organizations (HCFA-3009-N)	0938-AI99
1429	Replacement of Reasonable Charge Methodology by Fee Schedules (HCFA-1010-P)	0938-AJ00
1430	Notice Announcing Revised Positron Emission Tomography (PET) Policy (HCFA-3008-NC)	0938-AJ01

HHS

Health Care Financing Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1431	Medicare Program; Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 1999 (HCFA-8001-N)	0938-AJ02
1432	Medicare Program; Part A Premium for 1999 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement (HCFA-8000-N)	0938-AJ03
1433	Inpatient Psychiatric Services Benefit for Individuals Under Age 21 (HCFA-2060-F)	0938-AJ05
1434	External Quality Review of Medicaid Managed Care Organizations (HCFA-2015-P)	0938-AJ06
1435	Physician Sustainable Growth Rate of Increase for FY 1999 (HCFA-1021-FN)	0938-AJ09
1436	Comprehensive Assessment and Use of OASIS as Part of Conditions of Participation for Home Health Agencies (HCFA-3007-F)	0938-AJ11
1437	Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—First Quarter 1998 (HCFA-9879-NC)	0938-AJ12
1438	Medicare Program; Criteria and Standards for Evaluating Intermediary and Carrier Performance: Millennium Compliance (HCFA-4002-GNC)	0938-AJ15
1439	Rural Health Clinics: Amendments to Participation Requirements and Payment Provisions, and Establishment of a Quality Assessment and Improvement Program (HCFA-1910-P)	0938-AJ17
1440	Adjustments to Payment Amount for Erythropoietin/Epoietin for End-Stage Renal Disease Patients (HCFA-1098-PN)	0938-AJ18
1441	Recognition of the Commission for Accreditation of Rehabilitation Facilities (HCFA-2036-NC)	0938-AJ25
1442	Revised Reserved Allotments to States for Fiscal Year 1998 (HCFA-2037-N)	0938-AJ26

Health Care Financing Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1443	Medicare Coverage of Outpatient Occupational Therapy Services (HCFA-1425-P)	0938-AD32
1444	Change in Provider Agreement Regulations Related to Federal Employee Health Benefits (HCFA-1748-F)	0938-AG03
1445	CLIA Program; Simplifying CLIA Regulations to Accreditation Exemption of Laboratories Under a State Licensure Program, and Proficiency Testing and Inspection (HCFA-2239-FC)	0938-AH82
1446	Medicare Program: Update of Ambulatory Surgical Center Payment Rates Effective for Services On or Before October 1, 1997 (HCFA-1897-N)	0938-AI18
1447	Solvency Standards for Provider-Sponsored Organizations (HCFA-1011-IFC)	0938-AI25
1448	Medicare/Medicaid Program: Surety Bond Requirements for Home Health Agencies (HCFA-1152.2-F)	0938-AI86
1449	Medicare and Medicaid Programs; Surety Bond Requirements for Home Health Agencies (HCFA-1152.2F)	0938-AJ08

Administration for Children and Families—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1450	Title IV-E Foster Care Eligibility Reviews and Child and Family Services State Plan Reviews, MEPA Implementation, ASFA Implementation, and Basic State Grant Program	0970-AA97
1451	Construction of Head Start Facilities	0970-AB54
1452	Methodology for Determining Whether an Increase in a State's Child Poverty Rate Is the Result of the TANF Program	0970-AB65
1453	Bonus To Reward High Performance States Under the Temporary Assistance for Needy Families Block Grant	0970-AB66
1454	Child Support Enforcement for Indian Tribes	0970-AB73
1455	Requirements for the Tribal Programs	0970-AB78
1456	Refugee Resettlement Program: Responding to TANF Replacing AFDC	0970-AB83
1457	Child Support Penalties and Incentives	0970-AB85
1458	Family Child Care Program Option for Head Start Programs	0970-AB90
1459	Implementation of Remaining Provisions of the Adoption and Safe Families Act of 1997 and Other Title IV-B/IV-E Regulatory Amendments, AFCARS Penalties, and CAPTA Amendments	0970-AB94
1460	State Self Assessments of State Plan Requirements To Determine Compliance With Federal Regulations	0970-AB96

HHS

Administration for Children and Families—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1461	Standards for Safe Transportation	0970-AB24
1462	Standards for Purchase of Facilities	0970-AB31
1463	State Law Concerning Paternity Establishment	0970-AB69
1464	Grants to States for Access and Visitation Programs	0970-AB72
1465	Temporary Assistance for Needy Families (TANF) **(Reg Plan Seq. No. 34)**	0970-AB77
1466	Bonus to Reward Decrease in Illegitimacy Ratio	0970-AB79
1467	Child Support Enforcement Program Omnibus Conforming Regulation	0970-AB81
1468	Case Closure	0970-AB82
1469	Head Start Appeal Timelines	0970-AB87
1470	Welfare-to-Work Data Collection	0970-AB92
1471	National Medical Support Notice	0970-AB97

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Administration for Children and Families—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1472	Designation of Alternative Agency To Serve Indian Tribal Children	0970-AB52
1473	Quarterly Wage and Unemployment Compensation Claims Reporting to the National Directory of New Hires	0970-AB67
1474	Automated Data Processing Requirements/State Case Registry	0970-AB70
1475	Automated Data Processing Funding Limitation	0970-AB71
1476	Child Care and Development Fund	0970-AB74
1477	Child Abuse and Neglect Prevention and Treatment	0970-AB86
1478	Title IV-E Training	0970-AB89

Administration on Aging—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1479	Grants for State and Community Programs on Aging, Intrastate Funding Formulas; Training, Research and Discretionary Programs; Vulnerable Elder Rights; and Grants to Indians & Native Hawaiians	0985-AA00

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office of the Secretary (OS)

Proposed Rule Stage

1129. HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1320a-7e

CFR Citation: 42 CFR 61 (New)

Legal Deadline: Final, Statutory, January 1, 1997.

Abstract: This proposed rule would implement the requirements of section 1128E of the Social Security Act, as added by section 221(a) of the Health Insurance Portability and Accountability Act of 1996. Section 1128E of the Act directs the Department to establish a national health care fraud and abuse data collection program for the reporting and disclosure of certain final adverse actions taken against health care providers, suppliers and practitioners. The statute also requires the Department to implement the national health care fraud and abuse data collection program in such a manner as to avoid with reporting requirements established for the National Practitioner Data Bank under the Health Care Quality Improvement Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: Was previously 0906-AA46.

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, 330 Independence Avenue SW., Washington, DC 20201

HHS—OS

Proposed Rule Stage

Phone: 202 619-0089
RIN: 0991–AA98

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Final Rule Stage

1130. CLARIFICATION OF THE INITIAL OIG SAFE HARBOR PROVISIONS AND ESTABLISHMENT OF ADDITIONAL SAFE HARBOR PROVISIONS UNDER THE ANTI-KICKBACK STATUTE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 100-93, sec 2; PL 100-93, sec 14

CFR Citation: 42 CFR 1001

Legal Deadline: None

Abstract: This final rule serves both to clarify various aspects of the original safe harbor provisions and to add new safe harbors as authorized under section 14 of PL 100-93. Specifically, this rule modifies the original set of final safe harbor provisions (56 FR 35952, 7/29/91) to give greater clarity to the rulemaking's original intent. In addition, this rule sets forth an expanded listing of safe harbor provisions designed to protect additional payment and business practices from criminal prosecution and civil sanctions under the anti-kickback statute.

Timetable:

Action	Date	FR Cite
NPRM	09/21/93	58 FR 49008
NPRM Comment Period End	11/22/93	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: This final rule incorporates the safe harbor clarification provisions previously addressed in RIN 0991-AA74 and set forth in proposed rulemaking (59 FR 37202, July 21, 1994).

Agency Contact: Joel Jay Schaer, Regulations Officer, Office of Inspector General, OCIG, Department of Health and Human Services, Office of the Secretary, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA66

1131. REPRODUCTION AND SALE OF OFFICIAL FORMS AND PUBLICATIONS

Priority: Info./Admin./Other

Legal Authority: PL 103-296, sec 312 (42 USC 1320b-10)

CFR Citation: 45 CFR 101

Legal Deadline: None

Abstract: This interim final rule with comment period will establish procedures for implementation of section 312 of the Social Security Independence Act. That section amends existing prohibitions against "misuse of symbols, emblems, or names in reference to Social Security or Medicare." Section 312 newly prohibits the "unauthorized reproduction, reprinting, or distribution for fee" of a "form, application, or other publication of the Social Security Administration or of the Department of Health and Human Services". It requires prior authorization for any such activity in accordance with the Secretary's regulations. The Department plans to distinguish between forms and publications that potentially involve misuse in contrast to benign or desirable reproductions and distributions, and to provide pre-authorization for the latter. The rule will be developed in consultation with the Social Security Administration.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Suzanne Stoiber, Deputy Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, Office of the Secretary, 200 Independence Avenue SW., Washington, DC 20201
Phone: 202 690-8291

RIN: 0991–AA83

1132. REVISED OIG CIVIL MONEY PENALTIES RESULTING FROM PUBLIC LAW 104-191

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-191, sec 231(a); PL 104-191, sec 231(b); PL 104-191, sec 231(c); PL 104-191, sec 231(d); PL 104-191, sec 231(e); PL 104-191, sec 231(h); PL 104-191, sec 232

CFR Citation: 42 CFR 1003; 42 CFR 1005; 42 CFR 1006

Legal Deadline: None

Abstract: This final rule will revise the OIG's civil money penalty provisions in conjunction with new and revised authorities set forth in the Health Insurance Portability and Accountability Act of 1996. Among other provisions, this final rulemaking would codify new civil money penalties for (1) excluded individuals retaining ownership or control interest in an entity; (2) upcoding and claims for medically unnecessary services; (3) offering inducements to beneficiaries; and (4) false certification of eligibility for home health services.

Timetable:

Action	Date	FR Cite
NPRM	03/25/98	63 FR 14393
NPRM Comment Period End	05/26/98	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of the Inspector General, OCIG, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA90

HHS—OS

Final Rule Stage

1133. SHARED RISK EXCEPTION TO THE SAFE HARBOR PROVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302 sec 216; 42 USC 1320a-7b; 42 USC 1395hh

CFR Citation: 41 CFR 1001

Legal Deadline: Final, Statutory, January 1, 1997.

Abstract: This interim final rule would establish a new statutory exception for risk-sharing arrangements under the Federal health care programs' anti-kickback provisions. The rule would set forth an exception from liability for remuneration between an eligible organization under section 1876 of the Social Security Act and an individual or entity providing items or services in accordance with a written agreement between these parties. The rule would also allow remuneration between an organization and an individual or entity if a written agreement places the individual or entity at "substantial financial risk" for the cost or utilization of the items or services which the individual or entity is obligated to provide.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/97	62 FR 28410
ANPRM Comment Period End	06/09/97	
Interim Final Rule	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OCIG, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA91

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Long-Term Actions

1134. CIVIL MONEY PENALTIES (CMPS) FOR CERTAIN HOSPITAL PHYSICIAN INCENTIVE PLANS

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-509, Sec 9313(c); PL 101-239, Sec 6003(g)(3); PL 101-508, Sec 4204(a)(3); PL 101-508, Sec 4731(b)(1)

CFR Citation: 42 CFR 1001; 42 CFR 1003

Legal Deadline: None

Abstract: This final rule will prohibit a hospital from knowingly making incentive payments to a physician as an inducement to reduce or limit services provided to Medicare or Medicaid beneficiaries who are under the direct care of that physician. The rule would also set forth standards governing the imposition of CMPs for each such individual for whom payments are made.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61571
NPRM Comment Period End	01/30/95	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OCIG, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA45

1135. CIVIL MONEY PENALTIES (CMPS) FOR CERTAIN PRACTICES RELATING TO MEDICARE SUPPLEMENTAL POLICIES

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-360, Sec 428(b); PL 101-508, Sec 4204(g)(1); PL 101-508, Sec 4351; PL 101-508, Sec 4354(a)(1)(E); PL 101-508, Sec 4354(a)(2); PL 101-508, Sec 4355(a); PL 101-508, Sec 4357

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This rule would authorize CMPs against any individual or entity who knowingly and willfully uses misleading or fraudulent practices in the advertisement, solicitation, offering for sale or delivery of Medicare supplemental health insurance (Medigap) policies. Penalties would also be established for failure to (1) meet Medigap policy loss-ratio requirements, (2) comply with policy simplification standards, or (3) obtain Secretarial certification of Medigap policies in States with non-approved regulatory programs. In addition, this rule would also set forth CMPs for the failure of sellers or issuers to solicit information, and to provide notice, about Medicaid status and eligibility before selling or issuing Medigap policies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OCIG, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA53

1136. CIVIL MONEY PENALTIES FOR NOTIFYING A HOME HEALTH AGENCY, OR A HOME OR COMMUNITY-BASED HEALTH CARE CENTER OR PROVIDER, OF A STANDARD SURVEY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395bbb; 42 USC 1395hh; 42 USC 1396t

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would set forth civil money penalties against any individual or entity that notifies, or causes to notify, a home health agency,

or a home or community-based health care center or provider, of the time or date on which a standard survey is scheduled to be conducted by a State or local agency.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OCIG, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA79

1137. CIVIL MONEY PENALTIES FOR FALSE INFORMATION ON DRUG MANUFACTURER PRICE SURVEYS AND REBATE AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1396r-8

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would set forth civil money penalties against any manufacturer of covered outpatient drugs that fails to respond to a request for information about charges or prices, or knowingly provides false information, in a survey by the Secretary to verify manufacturers' reported prices under the Medicaid drug rebate program. In addition, this rule would set forth civil money penalties against any drug manufacturer that, in accordance with section 1927(b)(3)(A) of the Social Security Act, fails to provide rebate agreement price information on a timely basis.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OCIG, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA80

1138. SENIOR BIOMEDICAL RESEARCH SERVICE

Priority: Info./Admin./Other

Legal Authority: 42 USC 228

CFR Citation: 42 CFR 24

Legal Deadline: None

Abstract: This regulation would finalize, with any necessary amendments based upon comments received, the Interim Final Rule published 2/21/96, 61 FR 6557, implements the Senior Biomedical Research Service by section 304 of Public Law 101-509. The SBRS will consist of 500 members appointed by the Secretary without regard to the provisions of title 5, U.S. Code, regarding appointment, who are outstanding in the field of biomedical research or clinical research evaluation. Appointments to the SBRS will be only of individuals with doctoral-level degrees in biomedicine or a related field. The regulation describes basic eligibility criteria, pay rates, performance appraisal system, optional retirement system, and procedures for removal from the SBRS.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/21/96	61 FR 6557
Interim Final Rule Comment Period End	03/31/96	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Rosemary Taylor, Personnel Management Specialist, Department of Health and Human Services, Office of the Secretary, 200 Independence Avenue SW., Room 522A, Washington, DC 20201
Phone: 202 690-7358
Fax: 202 690-6758

RIN: 0991–AA82

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Completed Actions

1139. REVISED OIG EXCLUSION AUTHORITIES RESULTING FROM PUBLIC LAW 104-191

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 1000; 42 CFR 1001; 42 CFR 1002; 42 CFR 1005

Completed:

Reason	Date	FR Cite
Final Action	09/02/98	63 FR 46676

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer
Phone: 202 619-0089

RIN: 0991–AA87

1140. ISSUANCE OF ADVISORY OPINIONS BY THE INSPECTOR GENERAL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 42 CFR 1008

Completed:

Reason	Date	FR Cite
Final Action	07/16/98	63 FR 38311

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joel Schaer
Phone: 202 619-0089

RIN: 0991–AA94

1141. REVISED OIG SANCTION AUTHORITIES RESULTING FROM PUBLIC LAW 105-33

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 1001; 42 CFR 1002; 42 CFR 1003

Completed:

Reason	Date	FR Cite
Final Action	09/02/98	63 FR 46736
Final Action Effective	11/02/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer
Phone: 202 619-0089

RIN: 0991–AA95

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Substance Abuse and Mental Health Services Administration (SAMHSA)

Long-Term Actions

1142. BLOCK GRANTS FOR PREVENTION AND TREATMENT OF SUBSTANCE ABUSE

Priority: Other Significant

Legal Authority: 42 USC 300-x et seq, as amended by PL 102-321

CFR Citation: 45 CFR 96

Legal Deadline: Final, Statutory, August 25, 1992.
Awards to States after January 1, 1993 cannot be made until implementing regulations are published.

Abstract: Sets requirements for block grants for prevention and treatment of substance abuse. The requirements include criteria for approval of State plans which must by statute be prescribed in regulations. These provisions would replace the existing interim final rule published March 31, 1993. Given the pending reauthorization of SAMHSA and the current Administration's FY 1996 legislative proposal to turn the block grant into a "Performance Partnership," publication of this regulation has been put on hold.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/31/93	58 FR 17062
Interim Final Rule Comment Period End	06/01/93	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Tribal

Additional Information: Previously reported under RIN 0905-AD98.

Agency Contact: Joseph D. Faha, Director, DLEA, SAMHSA, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 12C-15, Rockville, MD 20857
Phone: 301 443-4640
Jim Sayers, DSP, C SAT SAMHSA, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, 5515 Security Lane, Suite 800, Rockville, MD 20852
Phone: 301 443-3820

RIN: 0930–AA01

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Departmental Management (HHSDM)

Proposed Rule Stage

1143. IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504(c)(1)

CFR Citation: 45 CFR 13

Legal Deadline: None

Abstract: The Equal Access to Justice Act requires agencies to pay fees to parties prevailing against the government in certain administrative proceedings. The Act has been amended several times since its 1980 enactment, most recently by the Contract with America Advancement Act of 1996, which increased the amount of the hourly fees payable. The proposed rule revises 45 CFR Part 13 (HHS' regulation implementing the Equal Access to Justice Act) to conform with statutory changes.

Timetable:

Action	Date	FR Cite
NPRM	06/19/87	52 FR 23311
NPRM Comment Period End	08/17/87	
Second NPRM	11/00/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Leslie L. Clune, Associate General Counsel, Business and Administrative Law Division, Department of Health and Human Services, Room 5362, HHS Cohen Building, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0150

RIN: 0990–AA02

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Food and Drug Administration (FDA)

Prerule Stage

1144. ANIMAL DRUG APPROVALS FOR MINOR SPECIES AND MINOR USAGE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 104-250.

CFR Citation: Not yet determined

Legal Deadline: Other, Statutory, April 9, 1998.
Animal Drug Availability Act of 1996.

Abstract: The Animal Drug Availability Act of 1996 (ADAA) requires FDA to consider legislative and regulatory options for facilitating approval of new animal drugs intended for use in minor species and for minor uses, and to announce no later than April 9, 1998, proposals for legislative or regulatory change to the approval process for such drugs. Because the markets are small for approved new animal drugs intended for minor species or for minor uses, there are often insufficient economic incentives to motivate sponsors to develop the data necessary to support approvals. Manufacturers have not, in many cases, been willing to fund research to obtain these data, so only small numbers of new animal drugs intended for minor species or for minor uses have been approved and are legally marketed. Facilitating approvals for minor uses and minor species will bring about an increase in approvals of new animal drugs intended for these uses, which would be desirable to address the scarcity of approved, legally marketed new animal drugs intended for minor species or minor uses.

Timetable:

Action	Date	FR Cite
ANPRM	06/23/97	62 FR 33781
Notice of Availability	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: Request for Comments 62 FR 33789, 6/23/97.

Agency Contact: Linda Wilmot, Veterinary Medical Officer, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-114), 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-0135

RIN: 0910–AB07

1145. ELECTRONIC SUBMISSION OF ADVERSE DRUG REACTION REPORTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 216; 21 USC 262; 21 USC 263; 21 USC 263a; 21 USC 264; 21 USC 300aa; 21 USC 321; 21 USC 331; 21 USC 251 to 353; 21 USC 355 to 357; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 20; 21 CFR 310; 21 CFR 312; 21 CFR 314; 21 CFR 600

Legal Deadline: None

Abstract: This advance notice of proposed rulemaking will discuss and request comments on the electronic submission of adverse drug reaction reports using international medical terminology, electronic data format, and electronic transmission standards.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/98	
ANPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas Kuchenberg, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB42

1146. PREGNANCY LABELING REVISION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 357; 21 USC 358; 21 USC 360; 21 USC 360b; 21 USC 360gg to 360ss; 21 USC 371; 21 USC 374; 21 USC 379e; 42 USC 216; ...

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: This advance notice of proposed rulemaking will announce that the Food and Drug Administration is considering ways to revise the regulatory requirements for the pregnancy labeling subsection of the labeling requirements for human drugs and biologics. The notice will make available preliminary proposals for changing the current requirements and will invite comments on all aspects of the notice.

Timetable:

Action	Date	FR Cite
ANPRM	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph Griffin, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB44

1147. • DISCONTINUATION OF A LIFE-SAVING PRODUCT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 131

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: Section 131 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 506C to the Food, Drug, and Cosmetic Act (21 USC 356C). This ANPR will request comments on issues related to the implementation of section 131, which requires that the sole manufacturer of certain life-saving drug products notify the Secretary of the discontinuance of the manufacture of the product at least six months prior to the discontinuance of the drug.

Timetable:

Action	Date	FR Cite
ANPRM	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

HHS—FDA

Prerule Stage

Agency Contact: Andrea Masciale, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB60

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Food and Drug Administration (FDA)

Proposed Rule Stage

1148. OVER-THE-COUNTER (OTC) DRUG REVIEW

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 321p; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360a; 21 USC 371a

CFR Citation: 21 CFR 310; 21 CFR 330; 21 CFR 333; 21 CFR 334; 21 CFR 335; 21 CFR 336; 21 CFR 337; 21 CFR 338; 21 CFR 339; 21 CFR 340; 21 CFR 341; 21 CFR 342; 21 CFR 343; 21 CFR 344; 21 CFR 345; ...

Legal Deadline: None

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. NOTE: NPRM for "Antidotes, Toxic Ingestion Products" was combined with NPRM for "Emetic Products" and reproposed as "Poison Treatment Products." NPRM for "Astringent (Wet Dressings) Products" was included in the NPRM for "Skin Protectant Products." NPRM for "Diaper Rash Products" was included in NPRMs for "Antifungal," "Antimicrobial," "External Analgesic" and "Skin Protectant Products." NPRM for "Fever Blister/Cold Sore Products (External)" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Insect Bites and Stings (Relief) Products" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." "Poison Ivy/Oak/Sumac Prevention" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Mercurial (Topical) Products" was included in revised NPRM for "Antimicrobial Products." NPRM for "Alcohol (Topical) Products" was included in revised NPRM for "Antimicrobial Products." The NPRM for "Antimicrobial Products" was updated and split into two sections: First Aid Products and Health Care Antiseptic Products.

SMALL ENTITIES AFFECTED: The effects, if any, vary depending on the individual rulemaking. However, the Agency anticipates that the rules would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act.

Timetable:

Acne (Topical) Products
ANPRM 03/23/82 (47 FR 12430)
NPRM 01/15/85 (50 FR 2172)
NPRM (Amendment) 08/07/91 (56 FR 37622)
Final Action 08/16/91 (56 FR 41008)

Alcohol (Oral) in OTC Drug Products
NPRM 10/21/93 (58 FR 54466)
Final Action 03/13/95 (60 FR 13590)
NPRM (Amendment) 05/10/96 (61 FR 21392)
Final Action (Amendment) 11/18/96 (61 FR 58629)

Alcohol (Topical) Products (To be merged w/other rulemkg)
ANPRM 05/21/82 (47 FR 22324)

Anorectal Products
ANPRM 05/27/80 (45 FR 35576)
NPRM 08/15/88 (53 FR 30756)
Final Action 08/03/90 (55 FR 31776)
Final Action (LYCD) 09/02/93 (58 FR 46746)
Final Action (Witch Hazel) 06/03/94 (59 FR 28766)

Antacid Drug Products
ANPRM 04/05/73 (38 FR 8714)
NPRM 11/12/73 (38 FR 31260)
Final Action 06/04/74 (39 FR 9862)
NPRM (Amendment) (Overindulgence) 12/24/91 (56 FR 66754)
Final Action (Amendment) (Warning) 08/26/93 (58 FR 45204)
NPRM (Amendment) (Testing) 09/23/93 (58 FR 49826)
NPRM (Amendment)(Sodium Bicarb.) 02/02/94 (59 FR 5060)
Final Action (Technical Amendment) 11/25/94 (59 FR 60555)
Final Action (Amendment) (Testing) 02/08/96 (61 FR 4822)
Final Action (Amendment)(Sodium B.) 05/00/99

Anthelmintic Products
ANPRM 09/09/80 (45 FR 59541)
NPRM 08/24/82 (47 FR 37062)
Final Action 08/01/86 (51 FR 27756)

Antibiotic First Aid Products
ANPRM 04/01/77 (42 FR 17642)
NPRM 07/09/82 (47 FR 29986)
Final Action 12/11/87 (52 FR 47312)
NPRM (Amendment) 08/18/89 (54 FR 34188)
Final Action 03/15/90 (55 FR 9721)
NPRM (Amendment) 05/11/90 (55 FR 19868)
NPRM (Amendment) 06/08/90 (55 FR 23450)
Final Action (Amendment) 10/03/90 (55 FR 40379)
Final Action (Amendment) 12/05/90 (55 FR 50171)
NPRM (Amendment) (Warning) 02/14/96 (61 FR 5918)
Final Action (Amendment)(Warning) 11/15/96 (61 FR 58471)

Anticaries Products
ANPRM 03/28/80 (45 FR 20666)
NPRM 09/30/85 (50 FR 39854)
NPRM 06/15/88 (53 FR 22430)
Final Action 10/06/95 (60 FR 52474)
Final Action (Technical Amendment) 10/07/96 (61 FR 52285)

Antidiarrheal Products
ANPRM 03/21/75 (40 FR 12924)
NPRM 04/30/86 (51 FR 16138)
NPRM (Amendment)(Trav. Diar.) 06/00/99
Final Action 06/00/99

Antidotes, Toxic Ingestion Prdts (New Poison Treatment Prdts)
ANPRM 01/05/82 (47 FR 444)

Antiemetic Products
ANPRM 03/21/75 (40 FR 12934)
NPRM 07/13/79 (44 FR 41064)
Final Action 04/30/87 (52 FR 15886)
NPRM (Amendment) 08/26/93 (58 FR 45216)
Final Action 04/11/94 (59 FR 16981)
NPRM (Amendment)(Warning) 08/29/97 (62 FR 45767)

Antiflatulent Drug Products
NPRM 11/12/73 (38 FR 31260)
Final Action 06/04/74 (39 FR 19877)
NPRM (Amendment) 01/29/88 (53 FR 2716)
Final Action (Amendment) 03/05/96 (61 FR 8836)

Antifungal (Topical) Products
ANPRM 03/23/82 (47 FR 12480)
NPRM 12/12/89 (54 FR 51136)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25240)
Final Action (Amdt.)(Diaper Rash) 12/18/92 (57 FR 60430)
Final Action (Partial) 09/02/93 (58 FR 46744)
Final Action 09/23/93 (58 FR 49890)

Antimicrobial Products
ANPRM 09/13/74 (39 FR 33103)
NPRM 01/06/78 (43 FR 1210)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25246)

Antiperspirant Products
ANPRM 10/10/78 (43 FR 46694)
NPRM 08/20/82 (47 FR 36492)
Final Action 12/00/98

Aphrodisiac Products
ANPRM 10/01/82 (47 FR 43572)
NPRM 01/15/85 (50 FR 2168)
Final Action 07/07/89 (54 FR 28780)

Aspirin (Heart Labeling Warning)
NPRM 10/20/93 (58 FR 54224)

Aspirin (Heart Labeling)
Final Action 12/00/98

Astringent (Wet Dressings) Prdts (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39436)

Benign Prostatic Hypertrophy Products
ANPRM 10/01/82 (47 FR 43566)
NPRM 02/20/87 (52 FR 5406)
Final Action 02/27/90 (55 FR 6926)

Boil Ointments
ANPRM 06/29/82 (47 FR 28306)
NPRM 01/26/88 (53 FR 2198)
Final Action 11/15/93 (58 FR 60332)

Camphorated Oil Drug Products
ANPRM 09/26/80 (45 FR 63869)
Final Action 09/21/82 (47 FR 41716)

Cholecystokinetic Products
ANPRM 02/12/80 (45 FR 9286)
NPRM 08/24/82 (47 FR 37068)
Final Action 06/10/83 (48 FR 27004)
NPRM (Amendment) 08/15/88 (53 FR 30786)
Final Action (Amendment) 02/28/89 (54 FR 8320)

Corn and Callus Remover Products
ANPRM 01/05/82 (47 FR 522)
NPRM 02/20/87 (52 FR 5412)
Final Action 08/14/90 (55 FR 33258)

Cough/Cold (Anticholinergic) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 07/09/82 (47 FR 30002)
Final Action 11/08/85 (50 FR 46582)

Cough/Cold (Antihistamine) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 01/15/85 (50 FR 2200)
NPRM (Amendment) 08/24/87 (52 FR 31892)
Final Action 12/09/92 (57 FR 58356)
Final Action (Amendment)(Warning) 01/28/94 (59 FR 4216)
NPRM (Amendment)(Diphenhydramine) 08/29/97 (62 FR 45767)
Final Action 06/00/99

Cough/Cold (Antitussive) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 10/19/83 (48 FR 48576)
Final Action 08/12/87 (52 FR 30042)
NPRM (Amendment) 07/06/89 (54 FR 28442)
NPRM (Amendment) 10/02/89 (54 FR 40412)
Final Action (Amendment) 07/06/90 (55 FR 27806)
Final Action (Amendment) 10/03/90 (55 FR 40381)
NPRM (Amendment)(Warning) 06/19/92 (57 FR 27666)
NPRM (Amendment)(Ingredients) 12/09/92 (57 FR 58378)
Final Action (Amendment)(Warning) 10/20/93 (58 FR 54232)
Final Action (Amdt.)(Ingredients) 06/03/94 (59 FR 29172)
NPRM (Amendment)(Diphenhydramine) 08/29/97 (62 FR 45767)
NPRM (Amendment)(Flammability) 07/20/98 (63 FR 38762)
Final Action 06/00/99

Cough/Cold (Bronchodilator) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 10/26/82 (47 FR 47520)
Final Action 10/02/86 (51 FR 35326)
NPRM (Amendment)(Warning) 06/19/92 (57 FR 27662)
Final Action (Amendment)(Warning) 10/20/93 (58 FR 54238)
NPRM (Amendment)(MDI) 03/09/95 (60 FR 13014)
NPRM (Amendment)(Ephedrine) 07/27/95 (60 FR 38643)
Final Action (Amendment) (MDI) 05/20/96 (61 FR 25142)
NPRM (Amendment)(Ephedrine) 10/00/98

Cough/Cold (Combination) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 08/12/88 (53 FR 30522)
NPRM (Amendment)(DPH Combinations) 02/23/95 (60 FR 10286)
Final Action (Theophylline) 07/27/95 (60 FR 38636)
Final Action (Ephedrine Combo) 10/00/98
Final Action 03/00/99

Cough/Cold (Diphenhydramine) Products
Final Action/Enforcement Policy 04/09/96 (61 FR 15700)

Cough/Cold (Expectorant) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 07/09/82 (47 FR 30002)
Final Action 02/28/89 (54 FR 8494)
Final Action (Technical Changes) 06/30/92 (57 FR 29176)

Cough/Cold (Expectorant/Ipecac) Products
Final Action 09/14/92 (57 FR 41857)

Cough/Cold (Nasal Decongestant) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 01/15/85 (50 FR 2220)
NPRM (Amendment) 06/19/92 (57 FR 27658)
Final Action 08/23/94 (59 FR 43386)
Final Action; Partial Stay 03/08/96 (61 FR 9570)
NPRM (Phenylpropanolamine) 00/00/00

Dandruff, Seborrheic Dermatitis and Psoriasis Control Products
ANPRM 12/03/82 (47 FR 54646)
NPRM 07/30/86 (51 FR 27346)
Final Action 12/04/91 (56 FR 63554)
NPRM (Amendment) 04/05/93 (58 FR 17554)
Final Action 01/28/94 (59 FR 4000)

Daytime Sedatives
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 06/22/79 (44 FR 36378)

Diaper Rash Products (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39406)

Digestive Aid Products
ANPRM 01/05/82 (47 FR 454)
NPRM 01/29/88 (53 FR 2706)
Final Action 10/21/93 (58 FR 54450)

Eligibility Criteria for Additional Conditions
ANPRM 10/03/96 (61 FR 51625)
NPRM 03/00/99

Emetic Products
ANPRM 03/21/75 (40 FR 12939)
NPRM 09/05/78 (43 FR 39544)
Final Action 00/00/00

Exocrine Pancreatic Insufficiency Products
ANPRM 12/21/79 (44 FR 75666)
NPRM 11/08/85 (50 FR 46594)
NPRM (Reproposed) 07/15/91 (56 FR 32282)
Final Action 04/24/95 (60 FR 20162)

External Analgesic Products
ANPRM 12/04/79 (44 FR 69768)
NPRM 02/08/83 (48 FR 5852)
NPRM (Amendment) (Dandruff) 07/30/86 (51 FR 27360)
NPRM (Amendment) (Anorectal) 08/25/88 (53 FR 32592)
NPRM (Amendment) (Poison Ivy) 10/03/89 (54 FR 40818)
NPRM (Amendment) (Fvr Blister/Ext) 01/31/90 (55 FR 3370)
NPRM (Amendment) (1%Hydrocortisone) 02/27/90 (55 FR 6932)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25234)
Final Action (Diaper Rash) 12/18/92 (57 FR 60426)
NPRM (Amendment)(Warning) 08/29/97 (62 FR 45767)
Final Action 00/00/00

Fever Blister Products (Internal)
ANPRM 01/05/82 (47 FR 502)
NPRM 06/17/85 (50 FR 25156)
Final Action 06/30/92 (57 FR 29166)

First Aid Antiseptic
ANPRM 09/13/74 (39 FR 33103)
NPRM 01/06/78 (43 FR 1210)
NPRM (Revised) 07/22/91 (56 FR 33644)
Final Action 00/00/00

Fvr Blister/Cold Sore Prdts (Ext.) (To be merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39436)

Hair Grower and Hair Loss Prevention Products
ANPRM 11/07/80 (45 FR 73955)
NPRM 01/15/85 (50 FR 2190)
Final Action 07/07/89 (54 FR 28772)

Healthcare Antiseptic Products
ANPRM 09/13/74 (39 FR 33103)
NPRM 01/06/78 (43 FR 1210)
NPRM (Revised) 06/17/94 (59 FR 31402)

Hormone (Topical) Products
ANPRM 01/05/82 (47 FR 430)
NPRM 10/02/89 (54 FR 40618)
Final Action 09/09/93 (58 FR 57608)

Hypo/Hyperphosphatemia Products
ANPRM 12/09/80 (45 FR 81154)
NPRM 01/15/85 (50 FR 2160)
Final Action 05/11/90 (55 FR 19852)

Ingrown Toenail Relief Products
ANPRM 10/17/80 (45 FR 69128)
NPRM 09/03/82 (47 FR 39120)
Final Action 09/09/93 (58 FR 47602)

Insect Bite & Sting (Relief) Prdts (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39412)

Insect Repellent Drug Products (Internal)
ANPRM 01/05/82 (47 FR 424)
NPRM 06/10/83 (48 FR 26986)
Final Action 06/17/85 (50 FR 25170)

Internal Analgesic Products
ANPRM 07/08/77 (42 FR 35346)
NPRM 11/16/88 (53 FR 46204)
NPRM (Amendment) (Overindulgence) 12/24/91 (56 FR 66762)
NPRM (Amdt.)(Sodium Bicarbonate) 02/02/94 (59 FR 5068)
NPRM (Prof. Labeling)(Acute MI) 06/13/96 (61 FR 30002)
NPRM (Amendment)(Alcohol Warning) 11/14/97 (62 FR 61041)
Final Action (Alcohol Warning) 10/00/98
Final Action (Aspirin Prof Label) 10/00/98
Final Action (Sodium Bicarbonate) 05/00/99
NPRM (Labeling-revised indications) 10/00/99

Internal Deodorant Products
ANPRM 01/05/82 (47 FR 512)
NPRM 06/17/85 (50 FR 25162)
Final Action 05/11/90 (55 FR 19862)

Labeling of Drug Products for OTC Human Use
NPRM (Sodium Labeling) 04/25/91 (56 FR 19222)
NPRM 04/05/93 (58 FR 17553)
Final Action 01/28/94 (59 FR 3998)
NPRM (Do not mix drugs) 08/03/94 (59 FR 39499)
NPRM (Amendment) (Do not mix drugs) 10/04/95 (60 FR 52058)
NPRM (Unless a doctor tells you) 03/04/96 (61 FR 8450)
Final Action (Sodium Labeling) 04/22/96 (61 FR 17798)
NPRM (Calcium/Magnesium/Potassium) 04/22/96 (61 FR 17807)
NPRM (Unless a doc. tells you)(Wi.) 02/27/97 (62 FR 9024)
Final Action (Format/Examples) 12/00/98
Final Action (Ca/Mg/K/Na) 06/00/99

Laxative Products
ANPRM 03/21/75 (40 FR 12902)
NPRM 01/15/85 (50 FR 2124)
NPRM (Amendment) (Directions/Bulk) 10/01/86 (51 FR 35136)
NPRM (Amendment) (Docusate Salts) 09/02/93 (58 FR 46589)
NPRM (Amendment)(Sodium Phosphates) 03/31/94 (59 FR 15139)
NPRM (Phenolphthalein) 09/02/97 (62 FR 46223)
Final Action (Sodium Phosphates) 05/21/98 (63 FR 27836)
NPRM (Amendment)(Phosphates Label) 05/21/98 (63 FR 27886)
NPRM (Amendment)(Stim. Laxative) 06/19/98 (63 FR 33592)
Final Action (Phenophthalein) 11/00/98
Final Action 06/00/99
Final Action (Stim. Laxative) 06/00/00

Leg Muscle Cramps (Nocturnal Relief) Products
ANPRM 10/01/82 (47 FR 43562)
NPRM 11/08/85 (50 FR 46588)
Final Action 08/22/94 (59 FR 43234)

Male Genital Desensitizer Products
ANPRM 09/07/82 (47 FR 39412)
NPRM 10/02/85 (50 FR 40260)
Final Action 06/19/92 (57 FR 27654)

Menstrual Products
ANPRM 12/07/82 (47 FR 55075)
NPRM 11/16/88 (53 FR 46194)
Final Action 12/00/01

Mercurial (Active/Inactive)
NPRM 00/00/00

Mercurial (Topical) Products (To be merged w/other rulemkg)
ANPRM 01/05/82 (47 FR 436)

Nailbiting/Thumbsucking Deterrent Products
ANPRM 10/17/80 (45 FR 69122)
NPRM 09/03/82 (47 FR 39096)
Final Action 09/02/93 (58 FR 46749)

Nighttime Sleep Aid Products
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 02/14/89 (54 FR 6814)
NPRM (Amendment) 08/26/93 (58 FR 45217)
Final Action (Amendment) 04/11/94 (59 FR 16982)
NPRM (Amendment) (Warning) 08/29/97 (62 FR 45767)
Final Action 06/00/99

NDA Labeling Exclusivity
NPRM 11/09/93 (58 FR 59622)
Final Action 00/00/00

Ophthalmic Products
ANPRM 05/06/80 (45 FR 30002)
NPRM 06/28/83 (48 FR 29788)
Final Action 03/04/88 (53 FR 7076)
Final Action (Anti-infective) 12/18/92 (57 FR 60416)

Oral Discomfort (Relief) Products
ANPRM 05/25/82 (47 FR 22712)
NPRM 09/24/91 (56 FR 48302)

Oral Health Care Products
ANPRM 05/25/82 (47 FR 22760)
NPRM 01/27/88 (53 FR 2436)
NPRM (Amendment) (Antimicrobials) 02/09/94 (59 FR 6084)
NPRM (Plaque/Gingivitis) 06/00/99
Final Action 00/00/00

Oral Mucosal Injury Products (Merged w/Oral Health Care)
ANPRM 11/02/79 (44 FR 63270)
NPRM 07/26/83 (48 FR 33984)

Oral Wound Healing Products
ANPRM 11/02/79 (44 FR 63270)
NPRM 07/26/83 (48 FR 33984)
Final Action 07/18/86 (51 FR 26112)

Otic Products (Dry Water-Clogged Ears)
NPRM (Amendment) 12/00/98

Otic Products (Earwax)
NPRM 07/09/82 (47 FR 30012)
Final Action 08/08/86 (51 FR 28656)

Otic Products (Swimmers Ear)
NPRM 07/30/86 (51 FR 27366)
Final Action 02/15/95 (60 FR 8916)
Final Action Partial Stay 08/16/95 (60 FR 42435)

Overindulgence Remedies
ANPRM 10/01/82 (47 FR 43540)
NPRM 12/24/91 (56 FR 66742)

Overindulgence Remedies/Prevention of Inebriation
ANPRM 10/01/82 (47 FR 43540)
Final Action 07/19/83 (48 FR 32872)

Pediculicide Products
ANPRM 06/29/82 (47 FR 28312)
NPRM 04/03/89 (54 FR 13480)
Final Action 12/14/93 (58 FR 65452)
NPRM (Labeling Amendment) 12/00/99

Phenylpropanolamine Products (Labeling)
NPRM 02/14/96 (61 FR 3912)
Final Action 00/00/00

Poison Ivy/Oak/Sumac Prevention (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39412)

Poison Treatment Products
NPRM 01/15/85 (50 FR 2244)
NPRM (Amendment) 03/00/99
Final Action 06/00/99

Quinine for Malaria
NPRM 04/19/95 (60 FR 19650)
Final Action 03/20/98 (63 FR 13526)

Reporting of Adverse Reactions
NPRM 06/00/99

Salicylate (Reye Syndrome)
NPRM (Amendment)(Warning) 05/05/93 (58 FR 26886)
ANPRM 10/20/93 (58 FR 54228)
FINAL ACTION (Warning) 12/00/98

Skin Bleaching Products
ANPRM 11/03/78 (43 FR 51546)
NPRM 09/03/82 (47 FR 39108)
NPRM (Reproposed) 06/00/99

Skin Protectant Products
ANPRM 08/04/78 (43 FR 34628)
NPRM 02/15/83 (48 FR 6820)
NPRM (Amendment) (Astringent) 04/03/89 (54 FR 13490)
NPRM (Amendment) (Poison Ivy) 10/03/89 (54 FR 40808)
NPRM (Amendment) (Fvr Blister/Ext) 01/31/90 (55 FR 3362)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25204)
Final Action (Astringent) 10/21/93 (58 FR 54466)
Final Action (Witch Hazel) 06/03/94 (59 FR 28767)
Final Action (Poison Ivy) 12/00/98
Final Action 12/00/98

Smoking Deterrent Products
ANPRM 01/05/82 (47 FR 490)
NPRM 07/03/85 (50 FR 27552)
Final Action 06/01/93 (58 FR 31236)

Status of Certain Category II and III Ingredients
NPRM 05/16/90 (55 FR 20434)
Final Action 11/07/90 (55 FR 46914)
NPRM 08/25/92 (57 FR 38568)
Final Action 05/10/93 (58 FR 27636)
NPRM 04/22/98 (63 FR 19799)

Stimulant (Overindulgence) Products
NPRM (Amendment) 12/24/91 (56 FR 66758)

Stimulant Products
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 02/29/88 (53 FR 6100)

Stomach Acidifier Products
ANPRM 10/19/79 (44 FR 60316)
NPRM 01/15/85 (50 FR 2184)
Final Action 08/17/88 (53 FR 31270)

Sunscreen Products
ANPRM 08/25/78 (43 FR 38206)
NPRM 05/12/93 (58 FR 28194)
NPRM (Amendment) 06/08/94 (59 FR 29706)
NPRM (Amendment)(Avobenzone) 09/16/96 (61 FR 48645)
Final Action (Avobenzone Enf. Pol.) 04/30/97 (62 FR 23350)
Final Action 05/00/99

Sweet Spirits of Nitre
ANPRM 02/22/80 (45 FR 11846)
Final Action 06/27/80 (45 FR 43400)

Topical Drug Products Containing Benzoyl Peroxide (Labeling)
NPRM 02/17/95 (60 FR 9554)

Vaginal Contraceptive Products
ANPRM 12/12/80 (45 FR 82014)
NPRM 02/03/95 (60 FR 6892)
NPRM (Amendment) 12/00/99

Vaginal Drug Products
ANPRM 10/13/83 (48 FR 46694)
Withdrawal 02/03/95 (60 FR 5226)
NPRM (Douches) 06/00/00

Vitamin/Mineral Products
ANPRM 03/16/79 (44 FR 16126)
Withdrawal 11/27/81 (46 FR 57914)

Wart Remover Products
ANPRM 10/03/80 (45 FR 65609)
NPRM 09/03/82 (47 FR 39102)
NPRM (Amendment) 03/27/87 (52 FR 9992)
Final Action 08/14/90 (55 FR 33246)
NPRM (Amendment)(Directions) 01/28/94 (59 FR 4015)
Final Action (Amdt.)(Directions) 11/23/94 (59 FR 60315)

Water Soluble Gums
NPRM 10/30/90 (55 FR 45782)
Final Action 08/26/93 (58 FR 45194)

Weight Control Products
ANPRM 02/26/82 (47 FR 8466)
NPRM 10/30/90 (55 FR 45788)
Final Action 08/08/91 (56 FR 37792)
NPRM (Amendment) 00/00/00

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AA06.

NOTE: Reinventing government applies only to the Antacid Drug Products final action.

Agency Contact: Rosemary Cook, Supervisor, Project Management Staff, Office of Drug Evaluation V, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-105), 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-2222

RIN: 0910–AA01

1149. REVIEW OF WARNINGS, USE INSTRUCTIONS, AND PRECAUTIONARY INFORMATION UNDER SECTION 314 OF THE NATIONAL CHILDHOOD VACCINE INJURY ACT OF 1986

Priority: Other Significant

Legal Authority: PL 99-660, sec 314

CFR Citation: 21 CFR 601

Legal Deadline: Final, Statutory, February 1, 1991.

Abstract: Section 314 of the National Childhood Vaccine Injury Act of 1986 mandated that the warnings, use instructions, and precautionary information of specified childhood vaccines be reviewed and that their adequacy in warning health care professionals of the nature and extent of dangers posed by such vaccines be determined. This precautionary information is contained in the package insert of each vaccine licensed by the agency. FDA held a public meeting to receive public comment on the adequacy of these package inserts.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting; Public Comment on Package Inserts	07/31/92	57 FR 33915
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: Previously reported under RIN 0905-AD72.

A public meeting was held on 9/18/92 on section 314 Labeling Review. Presentations were made by FDA, CDC, manufacturers, parents groups, and the public on the adequacy of the current labeling.

Agency Contact: Dano B. Murphy, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-17), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448
Phone: 301 827-6210

RIN: 0910–AA14

1150. HEARING AIDS; PROFESSIONAL AND PATIENT LABELING; CONDITIONS FOR SALE

Regulatory Plan: This entry is Seq. No. 22 in Part II of this issue of the **Federal Register**.

RIN: 0910–AA39

1151. BIOAVAILABILITY AND BIOEQUIVALENCE REQUIREMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 357; 21 USC 371

CFR Citation: 21 CFR 320

Legal Deadline: None

Abstract: The proposed rule would revise and clarify certain sections of part 320 and eliminate duplication and inconsistencies.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Christine Rogers, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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RIN: 0910–AA51

1152. DRUGS USED FOR TREATMENT OF NARCOTIC ADDICTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 355; 21 USC 371; 21 USC 823; 42 USC 241; 42 USC 257a; 42 USC 290; 42 USC 300

CFR Citation: 21 CFR 291

Legal Deadline: None

Abstract: The proposed rule will revise the regulations under part 291 and title 42 to provide for the certification of narcotic treatment programs as a basis for fulfilling the Department's requirements of the Narcotic Addict Treatment Act of 1974. Certification will be based on accreditation by non-profit accrediting bodies. This new system will replace the current system which relies solely on direct FDA approval and inspection for determining whether narcotic treatment programs comply with Federal treatment standards. The proposed rule will provide for a transition period for programs operating under the existing regulatory system.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nicholas Reuter, Associate Director for International and Domestic Drug Control, Department of Health and Human Services, Food and Drug Administration, Office of Health Affairs (HFY-20), 5600 Fishers Lane, Rockville, MD 20857
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RIN: 0910–AA52

1153. INVESTIGATIONAL NEW DRUGS: EXPORT REQUIREMENTS FOR UNAPPROVED NEW DRUG PRODUCTS

Priority: Routine and Frequent

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 371; 21 USC 381; 21 USC 382; 21 USC 393; 42 USC 241; 42 USC 243; 42 USC 262

CFR Citation: 21 CFR 312.110

Legal Deadline: None

Abstract: The proposed rule would amend the regulations on the exportation of unapproved new drug products, including biological products, for investigational use. In general, the proposed rule would provide four different routes for exporting an unapproved new drug product for investigational use. One route would permit exportation if the drug is the subject of an investigational new drug application (IND) and is being exported for use in the investigation. A second route would permit exportation, without prior Food and Drug Administration (FDA) approval and without an IND, if the product is to be exported for use in a clinical investigation and has received marketing authorization in certain developed countries. The third route would permit exportation, without prior FDA approval and without an IND, if the product is to be exported for use in a clinical investigation in certain specified developed countries. The fourth route would permit exportation without an IND, to any country provided that the exporter sends a written certification to FDA at the time the drug is first exported. Drugs exported under any of the first three routes would, however, be subject to certain statutory requirements, such as not conflicting with the foreign country's laws and not being sold or offered for sale in the United States. Drugs exported under either the second or third routes would be subject to additional statutory requirements, such as being in substantial conformity with the current good manufacturing practices and certain labeling requirements. These provisions would implement recent changes in FDA's export authority resulting from the FDA Export Reform and Enhancement Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Office of Policy (HF-23), 5600 Fishers Lane, Room 15-74, Rockville, MD 20857
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RIN: 0910–AA61

1154. ADVERSE DRUG REACTION REPORTING, RECORDKEEPING, AND RECORDS ACCESS REQUIREMENTS FOR MARKETED OTC DRUGS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 358; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 375; 21 USC 379; 42 USC 216; ...

CFR Citation: 21 CFR 201; 21 CFR 211; 21 CFR 327; 21 CFR 330

Legal Deadline: None

Abstract: The proposed rule would require manufacturers of marketed nonprescription human drug products to report to FDA information they receive about adverse drug reactions, maintain records of adverse drug

reactions, and permit access by FDA to adverse drug reaction records.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Audrey Thomas, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA86

1155. INFORMED CONSENT FOR HUMAN DRUGS AND BIOLOGICS; DETERMINATION THAT INFORMED CONSENT IS NOT FEASIBLE

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 357; 21 USC 360; 21 USC 371; 21 USC 381; 42 USC 216; 42 USC 241; 42 USC 262

CFR Citation: 21 CFR 50; 21 CFR 314; 21 CFR 601

Legal Deadline: None

Abstract: The Food and Drug Administration is proposing to revoke the interim final rule which permitted the Commissioner to determine, based on a request by the Department of Defense, that obtaining informed consent from military personnel for the use of investigational products is not feasible in certain military combat situations. The rule was used to permit a waiver from the informed consent requirements for pyridostigmine bromide and the botulinum toxoid vaccine during the Gulf War. The agency is proposing this action after reviewing comments it received in response to a July 1997 Request for Comment as to whether the agency should revise or revoke the rule.

At the same time, it will propose to amend its new drug and biological product regulations to identify the kind of evidence needed to demonstrate the efficacy of drug and biological products used to treat or prevent the toxicity of potentially devastating chemical or biological substances when efficacy studies in humans ethically cannot be conducted because they would involve administering a lethal or permanently disabling toxic substance to healthy human volunteers without a proven treatment.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bonnie M. Lee, Senior Policy Analyst, Office of the Executive Secretariat (HF-40), Department of Health and Human Services, Food and Drug Administration, Office of the Commissioner, 5600 Fishers Lane, Rockville, MD 20857
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RIN: 0910–AA89

1156. DIRECT-TO-CONSUMER PROMOTION REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 334; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 358; 21 USC 360e to 360i; 21 USC 360k; 21 USC 361; 21 USC 362; 21 USC 371; ...

CFR Citation: 21 CFR 200; 21 CFR 800

Legal Deadline: None

Abstract: The Food and Drug Administration will issue proposed regulations for direct-to-consumer promotion of human and animal prescription drugs, biologics, and restricted devices. The regulations will set forth the requirements for what information shall be contained in the consumer directed advertisements for these products and how the information shall be presented.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Ostrove, Division of Drug Marketing, Advertising, and Communications, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-40), Room 17B-04, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-2828

RIN: 0910–AA90

1157. LABELING FOR HUMAN PRESCRIPTION DRUGS; REVISED FORMAT

Regulatory Plan: This entry is Seq. No. 23 in Part II of this issue of the Federal Register.

RIN: 0910–AA94

1158. ADVERSE DRUG REACTION REPORTING REQUIREMENTS FOR HUMAN DRUG AND BIOLOGICAL PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 216; 21 USC 262; 21 USC 263; 21 USC 263a; 21 USC 264; 21 USC 300aa; 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 357; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 20; 21 CFR 310; 21 CFR 312; 21 CFR 314; 21 CFR 600

Legal Deadline: None

Abstract: The proposed rule would amend the expedited and periodic safety reporting regulations for human drugs and biological products to revise certain definitions and reporting formats as recommended by the International Conference on Harmonization and to define new terms; to add to or revise current reporting requirements; to revise certain reporting time frames; and to make other revisions to these regulations to enhance the quality of adverse drug reaction reports received by FDA.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	
NPRM Comment Period End	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Audrey Thomas, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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RIN: 0910–AA97

1159. USE OF OZONE-DEPLETING SUBSTANCES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 402; 15 USC 409; 21 USC 321; 21 USC 331; 21 USC 335; 21 USC 342; 21 USC 346a; 21 USC 348; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 357; 21 USC 360b; 21 USC 361; 21 USC 371; ...

CFR Citation: 21 CFR 2

Legal Deadline: None

Abstract: FDA is proposing to amend the regulation that permits the use of ozone-depleting substances in particular circumstances to set the standard FDA will use to determine when the use of ozone-depleting substances (ODS) is no longer essential under the Clean Air Act (CAA) and set a new standard to determine when a new essential-use designation should be granted after the effective date of the rule. FDA is also proposing to amend the regulations to better conform to other statutes and regulations relating to ozone-depleting substances to eliminate potential confusion and conflicts. FDA is proposing to eliminate out-of-date transitional provisions and make other nonsubstantive housekeeping changes to its regulations on ozone-depleting substances. The intended effect of the proposed rule is to protect the health and safety of medical device users while complying with the CAA and the Montreal Protocol.

Timetable:

Action	Date	FR Cite
ANPRM	03/06/97	62 FR 10242
ANPRM Comment Period End	05/05/97	
NPRM	04/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leanne Cusumano, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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RIN: 0910–AA99

1160. RADIOACTIVE DRUGS FOR BASIC RESEARCH

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 42 USC 262

CFR Citation: 21 CFR 361

Legal Deadline: None

Abstract: The proposed rule would update FDA's regulations on the use of radioactive drugs for basic research to reflect technological changes in the field of radiopharmaceuticals. The proposed rule would also clarify and correct certain provisions.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AB00

1161. VETERINARY FEED DIRECTIVES

Priority: Other Significant

Legal Authority: PL 104-250

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Animal Drug Availability Act (ADAA) amended the Federal Food, Drug, and Cosmetic Act (the act) to create a new section 504, Veterinary Feed Directive Drugs (VFD Drugs). VFD drugs are animal drugs intended for use in or on animal feed which are limited by an approved application filed pursuant to section 512(b) of the act to use under the professional supervision of a licensed veterinarian in the course of the veterinarian's professional practice. This section requires, among other things, that the labeling, distribution and use of a VFD drug be consistent with its approval; that persons involved in the distribution and use of a VFD drug maintain copies of the VFD; and that persons distributing animal feed provide a one time notice upon first engaging in the distribution of VFD drugs. The proposed rule will provide guidance to the industry about how to comply with section 504 of the act and will serve as a basis for enforcement action.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: George Graber, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-220), 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-6651
Fax: 301 594-1812

RIN: 0910–AB09

1162. EXPORTS; REPORTING AND RECORDKEEPING REQUIREMENTS

Priority: Routine and Frequent

Legal Authority: 15 USC 1453 to 1455; 21 USC 321; 21 USC 343; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 362; 21 USC 371; 21 USC 381; 21 USC 382; 21 USC 393; 42 USC 216; 42 USC 241; 42 USC 243; 42 USC 262

CFR Citation: 21 CFR 1

Legal Deadline: None

Abstract: The proposed rule would establish the recordkeeping and notification requirements for persons exporting human drugs, animal drugs, biologics, and devices under the FDA Export Reform and Enhancement Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Office of Policy (HF-23), 5600 Fishers Lane, Room 15-74, Rockville, MD 20857
Phone: 301 827-3380
Fax: 301 443-6906
Email: pchao@bangate.fda.gov

RIN: 0910–AB16

1163. REGISTRATION OF FOREIGN ESTABLISHMENTS AND PRODUCT LISTING

Priority: Routine and Frequent

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 352; 21 USC 355; 21 USC 360; 21 USC 360b to 360c; 21 USC 360e; 21 USC 360i to 360j; 21 USC 371; 21 USC 374; 42 USC 216; 42 USC 262

CFR Citation: 21 CFR 207; 21 CFR 607; 21 CFR 807

Legal Deadline: None

Abstract: The proposal would amend the establishment registration and product listing regulations for human drugs, biologics, animal drugs, and devices to require foreign establishments engaged in the manufacture, preparation, propagation, compounding, or processing of such products that are imported or offered for import into the United States to register and to register the name of a United States agent for the foreign establishment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Office of Policy (HF-23), 5600 Fishers Lane, Room 15-74, Rockville, MD 20857
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RIN: 0910–AB21

1164. PUBLIC INFORMATION; COMMUNICATIONS WITH STATE AND FOREIGN GOVERNMENT OFFICIALS

Priority: Info./Admin./Other

Legal Authority: 18 USC 552; 18 USC 1905; 19 USC 2531 to 2582; 21 USC 321 to 393; 21 USC 1401 to 1403; 42 USC 241; 42 USC 242; 42 USC 242a; 42 USC 242e; 42 USC 242l; 42 USC 242n; 42 USC 243; 42 USC 262; 42 USC 263; 42 USC 263b to 263n; ...

CFR Citation: 21 CFR 20.88; 21 CFR 20.89

Legal Deadline: None

Abstract: The final rule would amend the regulations governing communications with State and foreign government officials. The proposed rule would permit the Food and Drug Administration (FDA) to disclose confidential commercial information to international organizations having responsibility to facilitate global or regional harmonization of standards and requirements. These disclosures would, in almost all instances, occur only with the consent of the person providing the confidential commercial information to FDA. The proposed rule would also eliminate the need for a written statement by a State or foreign government official establishing that government's ability to protect from public disclosure nonpublic, predecisional documents (such as draft rules and guidance documents) provided by FDA that do not include confidential commercial information. These changes are intended to facilitate information exchanges with State and foreign governments.

Timetable:

Action	Date	FR Cite
NPRM	07/27/98	63 FR 40069
NPRM Comment Period End	10/13/98	
Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: 5 USC 552

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Office of Policy (HF-23), 5600 Fishers Lane, Room 15-74, Rockville, MD 20857
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RIN: 0910–AB22

1165. FDA EXPORT REFORM AND ENHANCEMENT ACT OF 1996; REPORTING AND RECORDKEEPING REQUIREMENTS FOR UNAPPROVED OR VIOLATIVE PRODUCTS IMPORTED FOR FURTHER PROCESSING OR INCORPORATION AND LATER EXPORT

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1453 to 1455; 21 USC 321; 21 USC 343; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 362; 21 USC 371; 21 USC 374; 21 USC 381; 21 USC 382; 21 USC 393; 42 USC 216

CFR Citation: 21 CFR 1.84

Legal Deadline: None

Abstract: The proposed rule would establish reporting and recordkeeping requirements to implement sections 801(d)(3) and 801 (d)(4) of the Federal Food, Drug, and Cosmetic Act (the act) as amended by the Food and Drug Administration (FDA) Export Reform and Enhancement Act of 1996. Section 801(d)(3) of the act provides that, under prescribed conditions, drug and device components, food and color additives, and dietary supplements may be imported if they are to be further processed or incorporated into products that are to be exported from the United States in accordance with sections 801(e) or 802 of the act or section 351(h) of the Public Health Service (PHS) Act. Section 801(d)(4) of the act provides that blood, blood components, source plasma, or source leukocytes, or a component, accessory, or part thereof, may not be imported under section 801(d)(3) of the act unless the importation complies with section 351(a) of the PHS Act or FDA permits the importation under FDA-determined appropriate circumstances and conditions. Additionally, section 801(d)(4) of the act prohibits the importation of tissue or a component or part of tissue under section 801(d)(3) of the act unless the importation complies with section 361 of the PHS Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Office of Policy (HF-23), 5600 Fishers Lane, Room 15-74, Rockville, MD 20857
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RIN: 0910–AB24

1166. BLOOD INITIATIVE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360; 21 USC 371; 21 USC 374; 42 USC 216; 42 USC 262; 42 USC 263; 42 USC 263a; 42 USC 264; 42 USC 300aa-25

CFR Citation: 21 CFR 600; 21 CFR 601; 21 CFR 606; 21 CFR 607; 21 CFR 610; 21 CFR 640; 21 CFR 660; 21 CFR 680

Legal Deadline: None

Abstract: In multiple rulemakings, the Food and Drug Administration is proposing to amend the biologics regulations by removing, revising, or updating specific regulations applicable to blood derivative products to be more consistent with current practices and to remove unnecessary or outdated requirements. This action is based on a comprehensive review of the regulations that has been performed by FDA. It is also based on reports by the U.S. House of Representatives Committee on Government Reform and Oversight, Subcommittee on House Resources and Intergovernmental Relations; the General Accounting Office; the Institute of Medicine; as well as public comments. Some of the subjects intended to be addressed in the rulemakings include: "Lookback" requirements for hepatitis C virus; notification of consignees and end users of product safety information for plasma derivative products; notification of permanently deferred donors; requirements for donor suitability and testing; viral inactivation; and definitions for "analogous products." These actions are intended to help ensure the continued safety of the nation's blood supply.

Timetable:

Action	Date	FR Cite
Definition for "Analogous Products" NPRM	03/00/99	
Minor Changes to Reqs. for CGMP for Blood and Blood Components Direct Final Rule	12/00/98	
Notification of End Users of Plasma Derivative Products ANPRM	01/00/99	
Notification of Permanently Deferred Donors NPRM	12/00/98	
Reqs. Applicable to Albumin (Human), Plasma Protein Fraction Direct Final Rule	12/00/98	
Requirements for Donor Testing NPRM	12/00/98	
Suitability Reqs. for Whole Blood and Source Plasma Donors NPRM	01/00/99	
Viral Inactivation NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: See RIN 0910-AB76.

Agency Contact: Steven F. Falter, Director, Regulations and Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-17), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852
Phone: 301 827-6210

RIN: 0910–AB26

1167. SUITABILITY DETERMINATION FOR DONORS OF HUMAN CELLULAR AND TISSUE-BASED PRODUCTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 216; 42 USC 243; 42 USC 262; 42 USC 263a; 42 USC 264; 42 USC 271

CFR Citation: 21 CFR 210.1(c); 21 CFR 210.2(a); 21 CFR 210.2(b); 21 CFR 211.1(b); 21 CFR 820.1(a)(1); 21 CFR 820.1(c); 21 CFR 1271

Legal Deadline: None

Abstract: As part of implementing the proposed regulatory approach to human cellular and tissue-based products, the Food and Drug Administration is proposing to require manufacturers of human cellular and tissue-based products to screen and test the donors of cells and tissues used in those products for evidence of or risk factors for relevant communicable disease. As part of this action, the agency is proposing to amend the current good manufacturing practice regulations that apply to human cellular and tissue-based products regulated as drugs, medical devices, and/or biological products in order to incorporate the new donor suitability requirements into existing good manufacturing practice regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paula S. McKeever, Regulatory Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-17), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852
Phone: 301 827-6210

RIN: 0910–AB27

1168. CURRENT GOOD TISSUE PRACTICE FOR MANUFACTURERS OF HUMAN CELLULAR AND TISSUE-BASED PRODUCTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 216; 42 USC 243; 42 USC 262; 42 USC 263a; 42 USC 264; 42 USC 271

CFR Citation: 21 CFR 1271

Legal Deadline: None

Abstract: As part of implementing the proposed regulatory approach to human cellular and tissue-based products, the Food and Drug Administration (FDA) is proposing to require manufacturers of human cellular and tissue-based products to follow current good tissue practice (GTP), which includes proper handling, processing, and storage of human cellular and tissue-based products, recordkeeping, and the maintenance of a quality program. FDA is also proposing to amend the current good manufacturing practice regulations that apply to human cellular and tissue-based products regulated as drugs, medical devices, and/or biological products in order to incorporate the new GTP requirements into existing good manufacturing practice regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paula S. McKeever, Regulatory Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-17), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852
Phone: 301 827-6210

RIN: 0910–AB28

1169. SHELL EGGS: WARNING, NOTICE AND SAFE HANDLING LABELING STATEMENTS AND REFRIGERATION REQUIREMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 21 USC 321; 42 USC 264

CFR Citation: 21 CFR 101.17(g); 21 CFR 1240.63

Legal Deadline: None

Abstract: There have been numerous foodborne outbreaks of Salmonellosis, principally due to Salmonella Enteritidis (SE), that have been traced to the consumption of temperature abused and/or undercooked shell eggs. The Food and Drug Administration has received petitions from Rose Acres Farm, Inc., and the Center for Science in the Public Interest that request, in part, that FDA establish safe handling statements for shell eggs. FDA intends to propose to require safe handling statements on labeling of shell eggs that have not been treated to destroy Salmonella microorganisms that may be present. In accordance with amendments to the Egg Products Inspection Act, USDA proposed on October 27, 1992, to require that shell eggs be stored at an ambient temperature of 7 degrees Celsius (45 degrees Fahrenheit). USDA intends to finalize that requirement shortly. However, the USDA rulemaking does not include refrigeration at retail. As part of a separate rulemaking , FDA intends to propose regulations, based on recommended provisions of the Retail Food Code, to mandate that shell eggs be stored for retail sale at 5 degrees celsius (41 degrees Fahrenheit) or less. FDA is proposing this measure to ensure that shell eggs are handled in a manner to decrease the possible growth of any SE that may be present in shell eggs. All of these actions are intended to reduce the occurrence of illnesses and deaths associated with the consumption of improperly cooked shell eggs.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Geraldine A. June, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition, (HFS-158), 200 C Street SW., Washington, DC 20204
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Email: gaj@vm.cfsan.fda.gov

RIN: 0910–AB30

1170. ANTIBIOTIC DRUG APPROVAL AND EXCLUSIVITY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 105-115, sec 125

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: This proposed rule will implement the incorporation of antibiotics, which were formerly regulated under authority of section 507 of the Federal Food, Drug, and Cosmetic Act, into the new drug regulatory scheme under section 505 of the Act. The regulation will describe which antibiotics will be eligible for exclusivity under sections 505(c)(3)(D) and 505 (j)(5)(D) of the Act.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	
NPRM Comment Period End	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wayne Mitchell, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AB33

1171. APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG OR ANTIBIOTIC DRUG; COMPLETE RESPONSE LETTER; AMENDMENTS TO UNAPPROVED APPLICATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 312; 21 CFR 314

Legal Deadline: None

Abstract: This proposed rule will amend the regulations on marketing approval of new drugs to discontinue the use of approvable and not approvable letters when taking action on a marketing application and instead use complete response letters.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB34

1172. EXPANDED ACCESS TO INVESTIGATIONAL THERAPIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 402

CFR Citation: 21 CFR 312

Legal Deadline: None

Abstract: This proposed rule will revise the investigational new drug regulations to clarify the conditions under which individual patients may receive investigational drugs for treatment use; to clarify the conditions under which a small group of patients may receive investigational drugs for treatment use under an expanded access protocol; and to clarify the criteria under which sponsors can recover costs for providing investigational drugs to patients for certain treatment uses.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	
NPRM Comment Period End	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph Griffin, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB37

1173. AMENDMENT OF REGULATIONS REGARDING CERTAIN LABEL STATEMENTS ON PRESCRIPTION DRUGS

Priority: Other Significant

Legal Authority: PL 105-115, sec 126

CFR Citation: 21 CFR 201; 21 CFR 250; 21 CFR 310; 21 CFR 329; 21 CFR 361; 21 CFR 369

Legal Deadline: None

Abstract: This proposed rule would revise 21 CFR parts 201, 250, 310, and 361 by removing the requirement that prescription drugs be labeled "Caution: Federal law prohibits the dispensing without prescription" and substituting a requirement that prescription drugs be labeled "Rx only". The rule would also revise parts 201, 329, and 369 by removing the requirement that certain habit-forming narcotics or hypnotics bear the statement "Warning--May be habit forming."

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	
NPRM Comment Period End	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christine Rogers, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AB39

1174. LIST OF DRUGS THAT HAVE BEEN WITHDRAWN OR REMOVED FROM THE MARKET FOR REASONS OF SAFETY AND EFFECTIVENESS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 127

CFR Citation: 21 CFR 216

Legal Deadline: None

Abstract: Section 127 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 503A to the Food, Drug and Cosmetic Act (21 U.S.C 353a). Section 503A governs the application of Federal law to the practice of pharmacy compounding. Section 503A(b)(1)(C) directs FDA to publish a list of drug products that have been withdrawn or removed from the market for reasons of safety or effectiveness. Section 503A(d)(1) directs that the list be issued as a regulation. Drugs on the list may not be compounded by pharmacists or licensed practitioners.

Timetable:

Action	Date	FR Cite
NPRM	10/08/98	63 FR 54082
NPRM Comment Period End	11/23/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Regulatory Policy

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Phone: 301 594-2041
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RIN: 0910–AB40

1175. DISTINGUISHING MARKS FOR DRUG PRODUCTS CONTAINING INSULIN

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 357; 21 USC 358; 21 USC 360; 21 USC 360b; 21 USC 360gg to 360ss; 21 USC 371; 21 USC 374; 21 USC 379e; 42 USC 216; ...

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: This proposed rule will set forth a new system of distinctive colors and marks to identify different types of insulin-containing drug products.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AB43

1176. PROGESTATIONAL DRUG PRODUCTS FOR HUMAN USE; REQUIREMENTS FOR LABELING DIRECTED TO THE PATIENT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 360b to 360f; 21 USC 360j; 21 USC 361(a); 21 USC 371; 21 USC 374; 21 USC 375; 21 USC 379e; ...

CFR Citation: 21 CFR 310

Legal Deadline: None

Abstract: This proposed rule will revoke 21 CFR 310.516 which requires that progestational drug products be dispensed with a patient package insert containing a discussion of the risks of birth defects resulting from the use of these drugs during the first four months of pregnancy. The Food and Drug Administration is proposing to revoke this labeling requirement because of changes in the currently available scientific information.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Christine Rogers, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB45

1177. SUPPLEMENTAL MANUFACTURING CHANGES FOR NEW ANIMAL DRUGS

Priority: Other Significant

Legal Authority: PL 105-115, sec 116

CFR Citation: 21 CFR 514.8

Legal Deadline: Final, Statutory, November 21, 1999.

Abstract: Section 116 of the Food and Drug Administration Modernization Act of 1997 added a new section to the Federal Food, Drug, and Cosmetic Act that sets forth categories for the reporting of manufacturing changes to a drug product. These categories are based on the potential of the change to adversely affect the identity, strength, quality, purity, and potency of the drug as they may relate to the safety and effectiveness of the drug. The rulemaking will propose the procedures for determining what information the agency would require before drugs manufactured subject to these changes may be distributed. The Center for Veterinary Medicine is proposing to amend the regulations regarding supplementary new animal drug regulations to incorporate the requirements of section 116.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Marnane, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-140), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-0678

RIN: 0910–AB49

1178. REQUIREMENTS FOR LIQUID MEDICATED FEED AND FREE-CHOICE MEDICATED FEED

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-25; 21 USC 360(b)

CFR Citation: 21 CFR 558.5; 21 CFR 510.455

Legal Deadline: None

Abstract: In response to a citizen petition filed by the American Feed Industry Association, the Food and Drug Administration (FDA) is proposing to amend the requirements for liquid medicated animal feed to clarify what information and data are required to demonstrate chemical and positional stability. The amended regulations would also clarify the provisions for the submission of such data through a master file and the reference to master files by subsequent applicants. Additionally, FDA is proposing to amend the regulations for free-choice medicated feed in order to ensure consistency with the requirements for liquid medicated feed. Finally, FDA is proposing to amend the regulations for free -choice medicated feed and liquid medicated feed so that these provisions comply with the terms of the Animal Drug Availability Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Price, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-200), 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-6652

RIN: 0910–AB50

1179. • NATURAL RUBBER-CONTAINING DRUGS; USER LABELING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355 to 358; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 379; 42 USC 216; 42 USC 241; 42 USC 262; 42 USC 264

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: This proposed rule specifies requirements for labeling statements on products regulated as drugs (including combination products regulated under drug labeling provisions) that contain natural rubber that contacts humans.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	
NPRM Comment Period End	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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RIN: 0910–AB56

1180. • BULK DRUG SUBSTANCES FOR USE IN PHARMACY COMPOUNDING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 127

CFR Citation: 21 CFR 216

Legal Deadline: None

Abstract: Section 127 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 503A to the Food, Drug, and Cosmetic Act (21 USC 353a). Section 503A governs the application of Federal law to the practice of pharmacy compounding. Section 503A(b)(1)(A) directs FDA to issue by regulation a list of bulk drug substances that may be used in compounding that are not covered by a United States Pharmacopeia (USP) or National Formulary (NF) monograph and are not components of FDA-approved drugs. Bulk drug substances that do not appear on the list may not be used in compounding under section 127 unless such substances are covered by a USP or NF monograph or are components of approved drugs.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Schwartzbard, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB57

1181. • PHARMACY COMPOUNDING; GENERAL REGULATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 127

CFR Citation: 21 CFR 216

Legal Deadline: None

Abstract: Section 127 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 503A to the Food, Drug, and Cosmetic Act (21 USC 353A). Section 503A governs the application of Federal law to the practice of pharmacy compounding. This rule will propose regulations for the interpretation and enforcement of section 503A. The proposed regulations will delineate the conditions under which compounding is exempt from the manufacturing, misbranding, and new drug provisions of the Food, Drug, and Cosmetic Act. The proposed regulations will also set forth other definitions and conditions for distinguishing legitimate pharmacy compounding from pharmaceutical drug manufacturing performed under the guise of compounding.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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RIN: 0910–AB58

1182. • DRUG PRODUCTS THAT PRESENT DEMONSTRABLE DIFFICULTIES FOR COMPOUNDING BECAUSE OF REASONS OF SAFETY OR EFFECTIVENESS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 127

CFR Citation: 21 CFR 216

Legal Deadline: None

Abstract: Section 127 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 503A to the Food, Drug, and Cosmetic Act (21 USC 353a). Section 503A governs the application of Federal law to the practice of pharmacy compounding, and exempts

compounded drug products, under certain circumstances, from several key provisions of the Food, Drug, and Cosmetic Act. Section 503A(b)(3)(A) directs FDA to issue by regulation a list of drug products that, if compounded, will not qualify for these exemptions because their compounding would be demonstrably difficult in terms of assuring the safety or effectiveness of the compounded product.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Schwartzbard, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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Fax: 301 827-5562

RIN: 0910–AB59

1183. • MANUFACTURING CHANGES FOR DRUGS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 116

CFR Citation: 21 CFR 314

Legal Deadline: Final, Statutory, November 21, 1999.

Abstract: Section 116 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 506A to the Food, Drug, and Cosmetic Act (21 USC 356A). Pursuant to section 116, the rulemaking will propose to revise current procedures for approving manufacturing changes and generally classify such changes into three categories. Major manufacturing changes, which are of a type determined by the Secretary to have a substantial potential to adversely affect the identity, strength, quality, purity, and potency of the drug as they may relate to the safety and effectiveness of a drug, require prior approval of a supplemental application. Other changes may be made pending review of a supplemental application if FDA has not notified the company within 30 days after the submission of a supplement that prior approval is required. The proposed rule will also identify another category of changes that may be made without the submission of a supplement but which must be reported in an annual report.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas Kuchenberg, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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RIN: 0910–AB61

1184. • PEDIATRIC STUDIES OF DRUGS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 111

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: Section 111 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 505A to the Food, Drug, and Cosmetic Act (21 USC 355A). Section 505A permits certain applications to obtain an additional six months of marketing exclusivity if, in accordance with the requirements of the statute, the sponsor submits information relating to the use of the drug in the pediatric population. The proposed regulations would implement the pediatric exclusivity provisions of section 111. FDA is proposing to amend 21 CFR part 314 to add pediatric exclusivity to FDA's new drug product exclusivity regulations. FDA is also proposing to add new regulations describing the requirements an applicant must fulfill in order to qualify for pediatric exclusivity.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leanne Cusumano, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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RIN: 0910–AB62

1185. • POSITRON EMISSION TOMOGRAPHY DRUGS; CURRENT GOOD MANUFACTURING PRACTICES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 121

CFR Citation: 21 CFR 220

Legal Deadline: Final, Statutory, November 21, 1999.

Abstract: Section 121 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) directs FDA to establish requirements for current good manufacturing practices (CGMPs) for positron emission tomography (PET) drugs, a type of radiopharmaceutical. The proposed rule would adopt CGMPs that reflect the unique characteristics of PET drugs.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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Fax: 301 827-5562

RIN: 0910–AB63

1186. • FOOD LABELING: TRANS FATTY ACIDS IN NUTRITION LABELING AND NUTRIENT CONTENT CLAIMS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 343; 21 USC 371

CFR Citation: 21 CFR 101

Legal Deadline: None

Abstract: Section 403(q) of the Federal Food, Drug, and Cosmetic Act, which was added by the Nutrition Labeling and Education Act of 1990, requires that the label or labeling of food products bear nutrition information. Among other things, section 403(q) authorizes the Food and Drug Administration (FDA) to add or delete nutrients that are to be declared on the labels or labeling of food products by regulation if it finds such action necessary to assist consumers in maintaining healthy dietary practices. In response to this section, FDA published a proposal on November 27, 1991 (56 FR 60366). Among other things, FDA discussed including trans fatty acids among the nutrients that could voluntarily be listed on the nutrition label but concluded that there was no basis for doing so. On January 6, 1993, FDA issued a final rule entitled "Food Labeling: Mandatory Status of Nutrition Labeling and Nutrient Content Revision, Format for Nutrition Label" (58 FR 2079) prescribing how nutrition labeling is to be provided on the food. Based on its review of the comments to the proposal, the agency stated that it was premature to consider the listing of trans fatty acids on the nutrition label because of a lack of consensus on the dietary implications of trans fatty acids intake. However, the agency acknowledged that it might be necessary to readdress the labeling of trans fatty acids in the future. FDA subsequently received a citizen petition requesting that FDA amend the definition of saturated fatty acid in section 101.9(c)(2)(i) to include trans fatty acid. In response to this petition and based on new evidence, FDA is proposing to amend its regulations to provide for the declaration of trans fatty acids in nutrition labeling, to add a requirement that prevents foods from bearing nutrient content claims for saturated fat (i.e., saturated fatty acids) and cholesterol if they contain trans fatty acids above a specified level, and to define a "trans fatty acids free" nutrient content claim.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Susan Thompson, Chemist, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition, (HFS-165), 200 C Street SW., Washington, DC 20204
Phone: 202 205-5587
Fax: 202 205-5532
Email: snt@cfsan.fda.gov

RIN: 0910–AB66

1187. • DESIGNATED JOURNALS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 360b

CFR Citation: 21 CFR 510.95

Legal Deadline: None

Abstract: FDA intends to remove this rule. The current rule lists the veterinary and scientific journals available in FDA's library and allows sponsors to reference an article from a listed journal in applications rather than submitting a copy of the article. FDA is taking this action because the list of journals is outdated and is no longer being used by sponsors except on an extremely limited basis. Also, the application of this rule is not an efficient use of agency resources.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Margaret Miller, Deputy Director, Office of New Animal Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-100), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1620

RIN: 0910–AB67

1188. • PRESUBMISSION CONFERENCES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 360b

CFR Citation: 21 CFR 514

Legal Deadline: None

Abstract: This rule will implement section 512(b)(3) of the Federal Food, Drug, and Cosmetic Act (the act). This section of the act states that any person intending to file a new animal drug application or supplemental new animal drug application, or to investigate a new animal drug is entitled to one or more conferences with the agency prior to submission to reach an agreement establishing a submission or investigational requirement. This rule would describe how to request a presubmission conference and describe the procedures for the conduct of presubmission conferences.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gail Schmerfeld, Special Assistant, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-100), 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-0205
Fax: 301 594-2297

RIN: 0910–AB68

1189. • CLASSIFICATION OF SHEEP AS A MINOR SPECIES FOR ALL DATA COLLECTION PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 360b

CFR Citation: 21 CFR 514.1

Legal Deadline: None

Abstract: This rule would amend 21 CFR 514.1(d) to state that sheep are minor species for all data collection purposes, thereby allowing extrapolation from major species data and limited studies to fulfill the human food safety data requirements for New Animal Drug Applications. Sheep were originally classified as major species for human food safety requirements based

upon certain expectations of consumption levels. However, over the years, domestic production of sheep for food has declined drastically.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Margaret Oeller, Veterinary Medical Officer, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-130), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1650

RIN: 0910–AB69

1190. • IMPLEMENTATION OF THE IMPORT TOLERANCE PROVISIONS OF THE ANIMAL DRUG AVAILABILITY ACT OF 1996 AND THE SAFE LEVEL PROVISIONS OF THE ANIMAL MEDICINAL DRUG CLARIFICATION ACT OF 1994

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 360b

CFR Citation: 21 CFR 556

Legal Deadline: None

Abstract: Section 4 of the Animal Drug Availability Act of 1996 (Pub. L. 104-250) requires the establishment of tolerances for animal drugs used or intended for use in animals grown in an exporting nation from which an edible portion is imported into the United States. The standards used to establish tolerances are to be similar to the criteria used by the Secretary of HHS to establish tolerances for drugs administered to animals grown in the United States. The data used for establishing the tolerances may be from the manufacturer and include data upon which a foreign approval is based or data available to an international organization such as the Codex Alimentarius Commission. The Animal Medicinal Drug Clarification Act of 1994 (Pub. L. 103-396) allows the Secretary to establish a safe level for a residue of an animal drug when the drug is used in an extralabel manner, if there is a reasonable probability that an extralabel use may present a risk to the public health.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Margaret Miller, Deputy Director, Office of New Animal Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-100), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1620

RIN: 0910–AB71

1191. • MANDATORY HACCP REGULATIONS FOR MANUFACTURERS OF RENDERED PRODUCTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 589

Legal Deadline: None

Abstract: During the notice and comment rulemaking for 21 CFR 589, "Listing of Specific Substances Prohibited from Use in Animal Food or Feed; Animal Proteins Prohibited in Ruminant Feed;" FDA received several comments supporting the application of mandatory Hazard Analysis Critical Control Point (HACCP) regulations for renderers. Some of these comments were from renderers. Because of the need to expedite the rulemaking for 21 CFR 589, FDA stated that it would take up the HACCP regulations for renderers as a separate initiative. This rulemaking is to address the need expressed in the comments to 21 CFR 589 by promulgating mandatory HACCP regulations for renderers.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel G. McChesney, Team Leader, Feed Safety Team, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-222), 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-6653

RIN: 0910–AB72

1192. • SURGEON'S AND PATIENT EXAMINATION GLOVES; RECLASSIFICATION; RESTRICTED DEVICES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 334; 21 USC 351 to 352; 21 USC 355 to 357; 21 USC 360; 21 USC 360c; 21 USC 360e; 21 USC 360i; 21 USC 360j to 360l; 21 USC 361 to 362; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 800.75; 21 CFR 801.440; 21 CFR 878.4460; 21 CFR 878.4461; 21 CFR 880.6250; 21 CFR 880.6251

Legal Deadline: None

Abstract: FDA is considering revising its present regulations governing the classification of surgeon's and patient examination gloves. The present rule classifies surgeon's and patient examination gloves as class I devices. FDA is considering reclassifying surgeon's and patient examination gloves as class II devices subject to special controls and restricting the use of powdered surgeon's gloves and patient examination gloves. FDA is also considering requiring additional labeling concerning powder and protein levels for these devices.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-215), 1350 Piccard Drive, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AB74

1193. • CURRENT GOOD MANUFACTURING PRACTICES FOR BLOOD AND BLOOD COMPONENTS: NOTIFICATION OF CONSIGNEES RECEIVING BLOOD AND BLOOD COMPONENTS AT INCREASED RISK FOR TRANSMITTING HCV INFECTION

Regulatory Plan: This entry is Seq. No. 24 in Part II of this issue of the Federal Register.

RIN: 0910–AB76

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Food and Drug Administration (FDA)

Final Rule Stage

1194. NEW ANIMAL DRUG APPROVAL PROCESS; IMPLEMENTATION OF TITLE I OF THE GENERIC ANIMAL DRUG AND PATENT TERM RESTORATION ACT (GADPTRA)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 360b; 21 USC 371; 21 USC 379e; 21 USC 381

CFR Citation: 21 CFR 514

Legal Deadline: Final, Statutory, November 16, 1989.
The deadline applies to the GADPTRA sections. There is no deadline relating to the other sections.

Abstract: On December 17, 1991, the Agency published a proposed revision of the existing regulations that is consistent with the current procedural regulations for human drugs, where appropriate. The New Animal Drug Application (NADA) revisions articulate general requirements in regulations containing performance standards and would complement these regulations through detailed guidances on, among other matters, appropriate ways of meeting requirements for submission of chemistry, pharmacology, and statistical data that would better address the intricate scientific issues involved. A separate proposed rule for reporting requirements for marketed animal drugs also was published on that date. The agency intends to repropose the NADA proposed rule to incorporate some recent changes in procedure. The NADA revisions are expected to include regulations to implement the provisions of the Animal Drug Availability Act of 1996, specifically the definition of flexible labeling, and implement parts of the President's National Performance Report "Reinventing the Regulation of Animal Drugs," May 1996. In the reinventing regulations report, FDA proposed to revise its regulations to reflect numerous new process changes and programs that will maintain safety and effectiveness of new animal drugs and enable a more streamlined animal drug application review and approval process which will result in less regulatory burden upon industry and FDA. The Agency also proposes to amend its regulations to implement title I of the Generic Animal Drug and Patent Term Restoration Act, which established new standards for marketing approval of generic copies of animal drugs approved after 1962.

Timetable:

Action	Date	FR Cite
ANPRM	11/21/96	61 FR 59209
ANPRM Comment Period End	01/21/97	
New Animal Drug Approval Process		
NPRM 12/17/91 (56 FR 65544)		
NPRM 00/00/00		
Reporting Requirements for Marketed Animal Drugs		
NPRM 12/17/91 (56 FR 65581)		
Final Action 12/00/98		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AA96.

For information concerning reporting requirements for marketed animal drugs, contact William C. Keller, Director, Division of Epidemiology and Surveillance, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855, (301) 594-6642. For further information concerning generic animal drugs, contact Lonnie W. Luther, Chief, Quality Assurance Support Team, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855, (301) 827-0209.

Agency Contact: Margaret Miller, Deputy Director, Office of New Animal Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-100), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1620

RIN: 0910–AA02

1195. PRESCRIPTION DRUG MARKETING ACT OF 1987; POLICY INFORMATION, GUIDANCE, AND CLARIFICATIONS

Priority: Other Significant

Legal Authority: PL 100-293 Prescription Drug Marketing Act of 1987

CFR Citation: 21 CFR 203

Legal Deadline: None

Abstract: The Prescription Drug Marketing Act of 1987 (PDMA) amended the Federal Food, Drug, and Cosmetic Act to: (1) require State licensing of wholesale distributors of prescription human drugs under Federal guidelines including minimum standards for storage, handling, and recordkeeping; (2) ban the

reimportation of prescription human drugs produced in the United States, except when reimported by the manufacturer or for emergency use; (3) ban the sale, trade, or purchase of drug samples; (4) ban trafficking in or counterfeiting of drug coupons; (5) mandate storage, handling, and recordkeeping requirements for drug samples; (6) require licensed practitioners to request drug samples in writing; (7) prohibit, with certain exceptions, the resale of prescription human drugs purchased by hospitals or health care facilities; and (8) set forth criminal and civil penalties for violations of these provisions. In the Federal Register of September 14, 1990 (55 FR 38012), FDA issued a final rule setting forth Federal guidelines for State licensing of wholesale drug distributors. This final rule would provide information, guidance, and clarification of those sections of PDMA that are not related to State licensing of wholesale distributors.

Timetable:

Action	Date	FR Cite
NPRM	03/14/94	59 FR 11842
NPRM Comment Period End	08/01/94	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Additional Information: Previously reported under RIN 0905-AD44.

Agency Contact: Lee D. Korb, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AA08

1196. BIOLOGICAL PRODUCTS: REPORTING OF ERRORS AND ACCIDENTS IN MANUFACTURING

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 360i; 21 USC 360j; 21 USC 371; 21 USC 374; 42 USC 216; 42 USC 262 to 264; 42 USC 300aa-25

CFR Citation: 21 CFR 600; 21 CFR 606

Legal Deadline: None

Abstract: FDA is amending the regulations that require licensed manufacturers of biological products to report errors and accidents in manufacturing that may affect the safety, purity, or potency of a product. FDA defines terms used; establishes a reporting period for all licensed biological products; and amends the current good manufacturing practice (CGMP) regulations for blood and blood components to require error and accident reporting by unlicensed registered blood establishments and transfusion services currently reporting on a voluntary basis. The reporting requirements will expedite reporting of errors and accidents in manufacturing of biological products; provide FDA with a more accurate surveillance of the Nation's blood supply enabling FDA to monitor actions taken in response to the errors and accidents detected for all establishments involved in the manufacture of blood and blood components; and facilitate a rapid response where public health may be at risk. The cost to licensed establishments would be minimal, since they already are required to report. Unlicensed establishments would only have to make some changes in standard operating procedures. Unlicensed establishments are already required to keep records and conduct investigations. Under the final rule they would have to establish reporting procedures and report to FDA. The transfusion services would have to assure that their recordkeeping and investigation procedures are sufficient, and establish reporting procedures.

Timetable:

Action	Date	FR Cite
NPRM	09/23/97	62 FR 49642
NPRM Comment Period End	12/22/97	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD67.

Agency Contact: Valerie A. Butler, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-17), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448
Phone: 301 827-6210

RIN: 0910–AA12

1197. TAMPER-EVIDENT PACKAGING REQUIREMENTS FOR OVER-THE-COUNTER HUMAN DRUG PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 371

CFR Citation: 21 CFR 211

Legal Deadline: None

Abstract: FDA has required tamper-resistant packaging features for OTC drug products since 1982. The tamper-resistant packaging regulations were revised in 1989 in response to continuing tampering incidents. Despite the regulatory protection provided by the regulations, two-piece, hard gelatin capsules remain vulnerable to malicious tampering and were implicated in tampering incidents in 1991. This action is in response to the 1991 tampering incidents and requires use of the term "tamper-evident" instead of "tamper-resistant", and that all OTC human drug products marketed in two-piece, hard gelatin capsules be sealed.

Timetable:

Action	Date	FR Cite
NPRM	01/18/94	59 FR 2542
NPRM Comment Period End	03/21/94	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: Previously reported under RIN 0905-AE27.

Agency Contact: Thomas Kuchenberg, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AA26

1198. PRESCRIPTION DRUG PRODUCT LABELING; MEDICATION GUIDE

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 352; 21 USC 371; 21 USC 355; 42 USC 262

CFR Citation: 21 CFR 201; 21 CFR 208; 21 CFR 314; 21 CFR 600

Legal Deadline: None

Abstract: In August 1995 the Food and Drug Administration (FDA) published a proposed rule that specified standards for the distribution and quality of useful prescription medication information, designed for patients, that voluntary, private-sector efforts should supply to patients receiving new prescriptions. On August 6, 1996, section 601 of the Agriculture Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1997 was enacted which places the proposed rule as it relates to a voluntary program in abeyance. The legislation did not address the provisions that would have required mandatory Medication Guides in relatively rare instances (approximately five products annually) where a product poses a serious and significant public health concern requiring immediate distribution of FDA-approved patient information. FDA is in the process of finalizing the requirement for mandatory Medication Guides for these rare products.

Timetable:

Action	Date	FR Cite
NPRM	08/24/95	60 FR 44182
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: Previously reported under RIN 0905-AE43.

Agency Contact: Nancy M. Ostrove, Division of Drug Marketing, Advertising, and Communications, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-240), 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 594-6828

RIN: 0910–AA37

1199. FRUIT AND VEGETABLE JUICES: DEVELOPMENT OF HACCP AND LABEL WARNING STATEMENTS FOR JUICES

Regulatory Plan: This entry is Seq. No. 25 in Part II of this issue of the Federal Register.

RIN: 0910–AA43

1200. CURRENT GOOD MANUFACTURING PRACTICE; AMENDMENT OF CERTAIN REQUIREMENTS FOR FINISHED PHARMACEUTICALS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 351 to 352; 21 USC 355; 21 USC 360b; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 210.3; 21 CFR 211.22; 21 CFR 211.68; 21 CFR 211.82; 21 CFR 211.84; 21 CFR 211.101; 21 CFR 211.103; 21 CFR 211.110; 21 CFR 211.111; 21 CFR 211.113; 21 CFR 211.115; 21 CFR 211.160; 21 CFR 211.166; 21 CFR 211.192; 21 CFR 211.220; ...

Legal Deadline: None

Abstract: FDA is finalizing revisions to the current good manufacturing practice (CGMP) regulations at 21 CFR parts 210 and 211 regarding finished pharmaceuticals. The new regulations codify current agency policies or current industry practices. Among other things, the rule will create or clarify requirements for process and methods validation, appropriate laboratory testing procedures, and protection against contamination. The rule is designed to update the CGMP regulations in response to technological changes and the agency's experience with the regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/03/96	61 FR 20104
NPRM Comment Period End	09/30/96	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: Previously reported under RIN 0905-AE63.

Agency Contact: Thomas Kuchenberg, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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RIN: 0910–AA45

1201. PARENTERAL DRUG PRODUCTS CONTAINING ALUMINUM AS AN INGREDIENT OR CONTAMINANT; LABELING REQUIREMENTS; WARNING STATEMENT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 358; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 379; 42 USC 216; 42 USC 241; 42 USC 262; 21 USC 264

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: The rule will establish a maximum level of aluminum permitted in large volume parenterals used in total parenteral nutrition therapy; require that the maximum aluminum content present at the time of release be stated on the immediate container label of certain small volume parenterals and pharmacy bulk packages; require that the package insert of all parenterals include a warning statement on the effects of aluminum toxicity in patients with impaired kidneys receiving total parenteral nutrition therapy; and require manufacturers to develop validated assay methods for determining the aluminum content.

Timetable:

Action	Date	FR Cite
NPRM	01/05/98	63 FR 176
NPRM Comment Period End	04/06/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leanne Cusumano, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451

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RIN: 0910–AA74

1202. NEW DRUG APPLICATIONS; DRUG MASTER FILE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 357; 21 USC 371; 21 USC 374; 21 USC 379

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: The final rule eliminates Type I Drug Master Files, which contain information about manufacturing sites, facilities, operating procedures, and personnel, because these files contain outdated information, duplicate information contained in marketing applications, and are not used by application review divisions or field inspectors.

Timetable:

Action	Date	FR Cite
NPRM	07/03/95	60 FR 34486
NPRM Comment Period End	10/02/95	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas Kuchenburg, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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RIN: 0910–AA78

1203. OVER-THE-COUNTER HUMAN DRUGS; LABELING REQUIREMENTS

Regulatory Plan: This entry is Seq. No. 26 in Part II of this issue of the Federal Register.

RIN: 0910–AA79

1204. INVESTIGATIONAL NEW DRUG APPLICATIONS; CLINICAL HOLDS FOR DRUGS FOR LIFE-THREATENING ILLNESSES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 371; 42 USC 262

CFR Citation: 21 CFR 312

Legal Deadline: None

Abstract: The final rule amends the provisions governing investigational new drug applications to permit FDA to place a clinical hold on one or more studies under an IND involving a drug that is intended to treat a life-threatening disease affecting both genders if men or women with reproductive potential who have the disease are excluded from eligibility in any phase of the investigation because of a risk or potential risk of reproductive or developmental toxicity from use of the investigational drug.

Timetable:

Action	Date	FR Cite
NPRM	09/24/97	62 FR 49946
NPRM Comment Period End	12/23/97	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrea Masciale, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-5), 1451 Rockville Pike, Suite 6027, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA84

1205. STERILITY REQUIREMENTS FOR INHALATION SOLUTION PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 358; 21 USC 360; 21 USC 371; 21 USC 374 to 375

CFR Citation: 21 CFR 200

Legal Deadline: None

Abstract: The final rule requires that all inhalation solution products be manufactured to be sterile. Based on reports of adverse drug experiences from contaminated nonsterile inhalation solution products and recalls of these products, FDA is taking this action to prevent future additional adverse health consequences.

Timetable:

Action	Date	FR Cite
NPRM	09/23/97	62 FR 49638
NPRM Comment Period End	12/22/97	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carol Drew, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA88

1206. CURRENT GOOD MANUFACTURING PRACTICE; REVISION OF CERTAIN LABELING CONTROLS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 360b; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 210; 21 CFR 211

Legal Deadline: None

Abstract: The final rule amends the labeling control provisions in the current good manufacturing practice regulations to make the provisions less burdensome while still reducing the frequency of drug product mislabeling and associated drug product recalls associated with cut labeling.

Timetable:

Action	Date	FR Cite
NPRM	07/29/97	62 FR 40489

Action	Date	FR Cite
NPRM Comment Period End	10/27/97	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas Kuchenberg, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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RIN: 0910–AA98

1207. ESTABLISHMENT REGISTRATION AND LISTING OF HUMAN CELLULAR AND TISSUE-BASED PRODUCTS

Regulatory Plan: This entry is Seq. No. 27 in Part II of this issue of the Federal Register.

RIN: 0910–AB05

1208. DEFINITION OF SUBSTANTIAL EVIDENCE

Priority: Other Significant

Legal Authority: 21 USC 360(b); PL 104-250

CFR Citation: 21 CFR 514.4

Legal Deadline: NPRM, Statutory, October 9, 1997. Final, Statutory, October 9, 1998.

Abstract: The Animal Drug Availability Act (ADAA) requires FDA to issue within 24 months after the date of its enactment final regulations to encourage dose range labeling and to further define the term "substantial evidence," as the term is defined in section 512(d)(3) of the Federal Food, Drug, and Cosmetic Act, as amended by the ADAA, in a manner that encourages the submission of applications and supplemental applications.

Timetable:

Action	Date	FR Cite
ANPRM	11/21/96	61 FR 59209
NPRM	11/05/97	62 FR 59830
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gail Schmerfeld, Special Assistant, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-100), 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-0205
Fax: 301 594-2297

RIN: 0910–AB08

1209. NEW DRUGS FOR HUMAN USE; CLARIFICATION OF REQUIREMENTS FOR PATENT HOLDER NOTIFICATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 357; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: This final rule will clarify the methods by which application holders may provide notice to patent holders.

Timetable:

Action	Date	FR Cite
NPRM	03/06/98	63 FR 11174
NPRM Comment Period End	06/04/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leanne Cusumano, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB12

1210. MEDICATED FEED MILL LICENSES

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-250

CFR Citation: 21 CFR 5; 21 CFR 207; 21 CFR 225; 21 CFR 510; 21 CFR 514; 21 CFR 515; 21 CFR 558

Legal Deadline: None

Abstract: The Animal Drug Availability Act of 1996 (ADAA) amends sections 512(a) and 512(m) of the Federal Food, Drug, and Cosmetic Act (the act) to require a single facility license for the manufacture of feeds containing approved new animal drugs, rather than multiple medicated feed applications (MFAs) for each feed mill, as previously required by the act. Prior to the passage of the ADAA, an approved medicated feed application was required by the act for the manufacture of medicated feed. The ADAA eliminates the requirement that a feed mill submit a separate medicated feed application for the manufacture of each type of medicated feed and instead provides for feed mills to be licensed and allows a licensed facility to manufacture any feed containing an approved new animal drug. Additionally, the act, as amended by the ADAA, provides the agency with the authority to exempt facilities that manufacture certain types of medicated feed from the requirement of a medicated feed mill license.

The Food and Drug Administration published on July 30, 1997, a proposed rule to amend the animal drug regulations and add a new part (21 CFR 515) to provide for feed mill licensing in accordance with the ADAA. The proposed regulation implements the requirements for feed mill licensing set forth in the ADAA. Under this proposal, those medicated feeds exempted from the MFA requirement under 21 CFR 558.4 will also be exempt from the requirement of a medicated feed mill license.

Timetable:

Action	Date	FR Cite
NPRM	07/30/97	62 FR 40765
NPRM Comment Period End	10/28/97	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William D. Price, Special Assistant, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-200), 7500 Standish Place, Rockville, MD 20855

Phone: 301 827-6652

RIN: 0910–AB18

1211. REGULATIONS REQUIRING MANUFACTURERS TO ASSESS THE SAFETY AND EFFECTIVENESS OF NEW DRUGS AND BIOLOGICAL PRODUCTS IN PEDIATRIC PATIENTS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 352; 21 USC 355; 21 USC 371; 21 USC 502; 42 USC 262

CFR Citation: 21 CFR 200; 21 CFR 312; 21 CFR 314; 21 CFR 601

Legal Deadline: None

Abstract: The final rule, if promulgated, would require pediatric studies of a limited class of new drug and biological products so that the products will have sufficient data and information to support directions for pediatric use for the claimed indications.

Timetable:

Action	Date	FR Cite
NPRM	08/15/97	62 FR 43899
NPRM Comment Period End	11/13/97	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paula Botstein, Director, Office of Drug Evaluation III, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-103), 5600 Fishers Lane, Room 13B-45, Rockville, MD 20857
Phone: 301 827-3144
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Email: botstein@cder.fda.gov

RIN: 0910–AB20

1212. DISSEMINATION OF TREATMENT INFORMATION ON UNAPPROVED USES FOR MARKETED DRUGS AND DEVICES

Regulatory Plan: This entry is Seq. No. 28 in Part II of this issue of the Federal Register.

RIN: 0910–AB23

1213. BIOLOGICAL PRODUCTS REGULATED UNDER SECTION 351 OF THE PUBLIC HEALTH SERVICE ACT; IMPLEMENTATION OF BIOLOGICS LICENSE; ELIMINATION OF ESTABLISHMENT LICENSE AND PRODUCT LICENSE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 262; PL 105-115

CFR Citation: 21 CFR 3; 21 CFR 5; 21 CFR 10; 21 CFR 20; 21 CFR 207; 21 CFR 310; 21 CFR 312; 21 CFR 316; 21 CFR 600; 21 CFR 601; 21 CFR 607; 21 CFR 610; 21 CFR 640; 21 CFR 660

Legal Deadline: None

Abstract: As a "Reinventing Government" initiative and to amend regulations to implement section 123 of the Food and Drug Administration Modernization Act of 1997, FDA is eliminating the requirement and use of establishment licenses and product licenses for biological products regulated under section 351 of the Public Health Service Act. In lieu of product licenses and establishment licenses, FDA will require submission and approval of a biologics license application in order to market these biologic products in interstate commerce.

Timetable:

Action	Date	FR Cite
NPRM	07/31/98	63 FR 40858
Public Workshop	08/11/98	63 FR 42773
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert A. Yetter, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-10), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852
Phone: 301 827-0373

RIN: 0910–AB29

1214. REVOCATION OF ANTIBIOTIC CERTIFICATION REQUIREMENTS; CONFORMING REVISIONS TO REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 105-115, sec 125

CFR Citation: 21 CFR 2; 21 CFR 3; 21 CFR 5; 21 CFR 10; 21 CFR 12; 21 CFR 16; 21 CFR 20; 21 CFR 25; 21 CFR 50; 21 CFR 54; 21 CFR 56; 21 CFR 58; 21 CFR 60; 21 CFR 70; 21 CFR 71; ...

Legal Deadline: None

Abstract: This direct final rule will make conforming changes to 21 CFR to remove references to section 507 of the Federal Food, Drug, and Cosmetic Act, and references to deleted monograph sections.

Timetable:

Action	Date	FR Cite
Direct Final Rule	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christine Rogers, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB32

1215. CLINICAL HOLD; STREAMLINING CLINICAL RESEARCH

Priority: Other Significant

Legal Authority: PL 105-115, sec 117

CFR Citation: 21 CFR 312

Legal Deadline: None

Abstract: This direct final rule will amend the clinical hold regulations to require the Food and Drug Administration (FDA), in situations in which FDA has placed a clinical investigation on clinical hold, to respond in writing to a sponsor's written request to lift the clinical hold within 30 days of receipt of the request.

Timetable:

Action	Date	FR Cite
Direct Final Rule	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrea Masciale, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AB41

1216. REVISIONS TO THE GENERAL SAFETY REQUIREMENTS FOR BIOLOGICAL PRODUCTS; DIRECT FINAL RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 351

CFR Citation: 21 CFR 610.11(g)

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) issued a direct final rule and companion proposed rule to amend the biologics regulations by adding "cellular therapy products" to the list of products excepted from the general safety test (GST) and by adding an administrative procedure for obtaining an exemption from the GST requirements for other biological products. Because the agency received significant adverse comment on the administrative procedure portion of the direct final rule, FDA withdrew that portion of the rule and confirmed the remaining portion. FDA intends to finalize the companion proposed rule to respond to the significant adverse comment on the administrative procedure portion of the rule. FDA is taking this action because the GST may not be relevant or necessary for all biological products, including cellular therapy products, currently in various stages of development. This action is part of FDA's continuing effort to achieve the objectives of the President's "Reinventing Government" initiative, and is intended to reduce the burden of unnecessary regulations on biological products without diminishing the protection of the public health.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/20/98	63 FR 19399
Proposed Rule - Companion Document to Direct Final Rule	04/20/98	63 FR 19431
Direct Final Rule Confirmation in Part	08/05/98	63 FR 41718
Direct Final Rule Withdrawal in Part	08/05/98	63 FR 41718
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dano B. Murphy, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-17), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448
Phone: 301 827-6210

RIN: 0910–AB51

1217. RADIOPHARMACEUTICALS USED FOR IN VIVO DIAGNOSIS AND MONITORING

Priority: Other Significant

Legal Authority: PL 105-115, sec 122

CFR Citation: 21 CFR 315; 21 CFR 601

Legal Deadline: NPRM, Statutory, May 20, 1998. Final, Statutory, May 20, 1999.

Abstract: Section 122 of FDAMA, Requirements for Radiopharmaceuticals, requires the Secretary, HHS, after consultation with patient advisory groups, associations, physicians licensed to use radiopharmaceuticals, and the regulated industry, to issue proposed regulations governing the approval of radiopharmaceuticals. The regulations shall provide that the determination of safety and effectiveness of a radiopharmaceutical under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or section 351 of the Public Health Service Act (42 U.S.C. 262) shall include consideration of the proposed use of the radiopharmaceutical in the practice of medicine, the pharmacological and toxicological activity of the radiopharmaceutical (including any carrier or ligand component of the radiopharmaceutical), and the estimated radiation dose of the radiopharmaceutical. In addition, the indication for which a radiopharmaceutical is approved for marketing may, in appropriate cases, refer to manifestations of disease (such as biochemical, physiological, anatomical, or pathological processes) common to, or present in, one or more disease states.

Timetable:

Action	Date	FR Cite
NPRM	05/22/98	63 FR 28301
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dano B. Murphy, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-17), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448
Phone: 301 827-6210

RIN: 0910–AB52

1218. MEDICAL DEVICES; IDE MODIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 360j(g)

CFR Citation: 21 CFR 812

Legal Deadline: Final, Statutory, November 21, 1998.

Abstract: Under the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115), FDA must publish a regulation under which the sponsor of a device with an investigational device exemption that is in effect may make developmental changes to the device that do not constitute a significant change in design or basic principles of operation and that are made in response to information gathered during the course of the investigation, and changes that do not affect the validity of the data, the scientific soundness of the investigational plan or the rights, safety or welfare of the human subjects.

Timetable:

Action	Date	FR Cite
NPRM	06/15/98	63 FR 38131
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

HHS—FDA

Final Rule Stage

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-215), 1350 Piccard Drive, Rockville, MD 20850
Phone: 301 827-2974

RIN: 0910–AB53

1219. DISPUTE RESOLUTION

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 404

CFR Citation: 21 CFR 10

Legal Deadline: Final, Statutory, November 21, 1998.

Abstract: The Food and Drug Administration (FDA) is amending its regulations governing the review of agency decisions by inserting a statement that a sponsor, applicant, or manufacturer of a drug or device may request the review of a scientific controversy by an FDA advisory panel or committee. This action is being taken to clarify that review of scientific disputes by outside experts and advisory committees is available.

Timetable:

Action	Date	FR Cite
NPRM	06/16/98	63 FR 32772
Direct Final Rule	06/16/98	63 FR 32733
Withdrawal of Direct Final Rule	09/23/98	63 FR 50757
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Suzanne O'Shea, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Office of the Commissioner (HF-7), 5600 Fishers Lane, Suite 13C-26, Rockville, MD 20857
Phone: 301 827-3390

RIN: 0910–AB54

1220. • EFFECTIVE DATE OF APPROVAL OF AN ABBREVIATED NEW DRUG APPLICATION

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: The interim rule will amend FDA regulations establishing the effective date of approval of Abbreviated New Drug Applications (ANDAs) by eliminating the requirement that an ANDA applicant successfully defend a patent infringement suit to be entitled to 180 days of marketing exclusivity.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Virgina G. Beakes, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, suite 3047, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AB64

1221. • MUTUAL RECOG. OF PHARMACEUTICAL GOOD MANUFACTURING INSPECTION RPTS., MED. DEVICE QUALITY SYS. AUDIT RPTS., AND CERTAIN MEDICAL DEVICE PRODUCT EVAL. RPTS.; THE U.S. AND THE EUROPEAN COMMUNITY

Priority: Other Significant

Legal Authority: 5 USC 552; 15 USC 1453; 15 USC 1454; 15 USC 1455; 18 USC 1905; 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 353; 21 USC 360; 21 USC 360b; 21 USC 360c; 21 USC 360d; 21 USC 360e; 21 USC 360f; ...

CFR Citation: 21 CFR 26

Legal Deadline: None

Abstract: The Food and Drug Administration is codifying certain commitments and obligations contained as part of an overall agreement on Mutual Recognition (MRA) between the United States of America and the European Community (EC) which will be binding on FDA. This regulation sets forth conditions under which FDA will normally endorse certain reports prepared by EC's regulatory authorities in the case of inspections to ascertain conformity with pharmaceutical good manufacturing practices (GMPs) and by designated third-party conformity assessment bodies in the case of quality systems audits and certain medical device premarket evaluations.

Timetable:

Action	Date	FR Cite
NPRM	04/10/98	63 FR 17744
NPRM Comment Period End	05/11/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Merton V. Smith, Associate Director for International Agreements, Department of Health and Human Services, Food and Drug Administration, Office of the Commissioner (HFG-1), 5600 Fishers Lane, Room 15A-33, Rockville, MD 20857
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Email: msmith@oc.fda.gov

RIN: 0910–AB75

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Food and Drug Administration (FDA)

Long-Term Actions

1222. INFANT FORMULA: GOOD MANUFACTURING PRACTICE, QUALITY CONTROL PROCEDURES, QUALITY FACTORS, NOTIFICATION REQUIREMENTS, AND RECORDS AND REPORTS

Priority: Other Significant

Legal Authority: 21 USC 350a

CFR Citation: 21 CFR 107; 21 CFR 106

Legal Deadline: None

Abstract: The agency published a proposed rule on July 9, 1996, that will establish current good manufacturing practice regulations, quality control procedures, quality factors, notification requirements, and records and reports for the production of infant formulas. This proposal was issued in response to the Infant Formula Act of 1986.

Timetable:

Current Good Mfg. Practices; Qual Control Proc
NPRM 07/09/96 (61 FR 36154)
NPRM Comment Period End 12/06/96
Final Rule 00/00/00

Infant Form Cons Comp, Micro Test & Recd Retention Req
NPRM 01/26/89 (54 FR 3783)
NPRM Comment Period End 03/27/89
Final Rule 12/24/91 (56 FR 66566)

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AC46.

Agency Contact: Carolyn W. Miles, Nutritionist, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-456), 200 C Street SW., Washington, DC 20204
Phone: 202 401-9858

RIN: 0910–AA04

1223. FOOD LABELING REVIEW

Priority: Routine and Frequent

Legal Authority: 15 USC 1453; 15 USC 1454; 15 USC 1455; 21 USC 321; 21 USC 331; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 100; 21 CFR 101; 21 CFR 102; 21 CFR 161

Legal Deadline: None

Abstract: The Nutrition Labeling and Education Act of 1990 (NLEA) requires that most foods bear nutrition labeling. The agency issued final rules implementing most of the provisions contained in the NLEA on January 6, 1993. Subsequently, however, the agency has identified additional areas that should be the subject of rulemaking. FDA issued a proposal on January 6, 1993, to establish requirements for the identification of certain ingredients on food labels. FDA proposed on June 15, 1993, to amend its January 6, 1993, final rules on nutrient content and health claims to remove the provisions that exempted restaurant menus from the requirements for how nutrient content claims and health claims are to be made. The agency proposed on January 4, 1994, to establish reference daily intakes based on the 9th and 10th editions of the National Research Council's Recommended Dietary Allowances. On March 14, 1994, FDA published a proposal describing the provisions for exemptions for low-volume food products of small businesses that were established by the Nutrition Labeling and Education Act Amendments of 1993. On August 18, 1993, FDA published a proposal concerning the placement of the nutrition facts panel on food labels. Finally, on July 18, 1994, FDA published proposed revised guidelines for the voluntary declaration of nutrition labeling for raw produce and fish. A final rule concerning the placement of the nutrition facts panel was published on April 5, 1995. A final rule establishing reference daily intakes based on the 9th and 10th editions of Recommended Dietary Allowances was published on December 28, 1995.

FDA published a final rule on August 2, 1996, on nutrient content claims and health claims to remove the provisions that exempted restaurant menus from the requirements for how nutrient content claims and health claims are to be made. FDA published a final rule on August 7, 1996, describing provisions for an exemption for small businesses from the requirements for nutrition labeling and providing instructions on how to file a notice claiming the exemption. FDA published on August 16, 1996, final guidelines in the voluntary declaration of nutrition labeling for raw produce and fish.

Timetable:

Amend Standard of Identity for Grain Products (Folic Acid)
NPRM 10/14/93 (58 FR 53305)
Final Action 03/05/96 (61 FR 8781)

Health Claims and Label Statements
NPRM Folic Acid and Neural Tube Def 10/14/93 (58 FR 53254)
Final Action 03/05/96 (61 FR 8752)

Misleading Containers; Nonfunctional Slack Fill
NPRM 01/06/93 (58 FR 2957)
Final Action 12/06/93 (58 FR 64123)

Nutrient Content Claims and Health Claims; Restaurant Foods
NPRM 06/15/93 (58 FR 33055)
Final Action 08/02/96 (61 FR 40320)

Nutrient Content, Definition of the Term, Healthy
NPRM 01/06/93 (58 FR 2944)
Final Action 05/10/94 (59 FR 24232)

Placement of Nutrition Facts Panel
NPRM 08/18/93 (58 FR 44091)
Final Action 04/05/95 (60 FR 17202)
Final Action Effective 05/05/95
Final Action Correction 06/12/95 (60 FR 30788)

Protein Hydrolysates; Broth in Tuna; and/or Labeling
NPRM (Declaration of Ingredients) 01/06/93 (58 FR 2950)
Final Action (Dec. of Ingredients) 00/00/00

Reference Daily Intakes
NPRM 01/04/94 (59 FR 427)
Final Action 12/28/95 (60 FR 67164)

Small Business Exemption, Nutrition Labeling
NPRM 03/14/94 (59 FR 11872)
Final Action 08/07/96 (61 FR 40963)

Voluntary Guidelines for Nutrition Labeling Produce
NPRM 07/18/94 (59 FR 36379)
Final Action 08/16/96 (61 FR 42742)

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: Previously reported under RIN 0905-AD89.

Agency Contact: Elizabeth J. Campbell, Director, Office of Food Labeling, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-150), 200 C Street SW., Washington, DC 20204
Phone: 202 205-4561
Fax: 202 205-4594

RIN: 0910–AA19

1224. MEDICAL FOODS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 341; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 350; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360ee; 21 USC 371

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Food and Drug Administration is considering development of regulations for medical foods, as defined by the Orphan Drug Act Amendments of 1988 (21 USC 360ee(b)(3)) to assure, among other things, the safety and effectiveness of these products, proper labeling of the nutrient content and purported uses, including adequate and appropriate directions for use, and quality control and good manufacturing practices.

Timetable:

Action	Date	FR Cite
ANPRM	11/29/96	61 FR 60661
ANPRM Comment Period End	04/28/97	
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: Previously reported under RIN 0905-AD91.

Agency Contact: Robert Moore, Senior Regulatory Scientist, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-456), 200 C Street SW., Washington, DC 20204
Phone: 202 205-4605
Fax: 202 260-8957

RIN: 0910–AA20

1225. AMALGAM INGREDIENT LABELING

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 352

CFR Citation: 21 CFR 801

Legal Deadline: None

Abstract: Certain dental amalgams may contain ingredients which may cause some persons severe adverse reactions. Therefore, FDA would propose that labeling for dental amalgams must include the ingredients so that health professionals may choose the appropriate dental material for the patient.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE39.

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-215), 1350 Piccard Drive, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AA33

1226. CLASSIFICATION OF COMPUTER SOFTWARE PROGRAMS THAT ARE MEDICAL DEVICES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321(h); 21 USC 351; 21 USC 352; 21 USC 360; 21 USC 360c to 360l; 21 USC 371 to 374

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: FDA is considering whether to classify stand-alone computer software products that fit the definition of a medical device under the Federal Food, Drug, and Cosmetic Act. Although the Secretary has not made a final decision to initiate such a program, the agency is considering classifying these devices by using a risk-based approach as required under the Medical Device Amendments to the act. In addition, the agency would use existing exemptions from regulation where appropriate. Under this approach, low risk medical software devices would be subject only to the adulteration and misbranding provisions of the act. Moderate risk devices would additionally be subject to the registration, listing, good manufacturing practice requirements, and reporting and recordkeeping requirements. High risk devices would be the only products to require premarket submissions. FDA is also seeking comment on potential criteria related to the intended uses of medical software devices that might be used in determining the level of risk.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE58.

Agency Contact: Chuck Furfine, Regulatory Review Scientist/Software Expert, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 2098 Gaither Road, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AA41

1227. REGISTRATION OF PRODUCERS OF DRUGS AND LISTING OF DRUGS IN COMMERCIAL DISTRIBUTION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 360; 21 USC 371

CFR Citation: 21 CFR 207

Legal Deadline: None

Abstract: The proposed rule would revise the regulations under part 207 to clarify the burden on manufacturers, packers, and distributors and to consolidate, reorganize, and streamline the requirements.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lee D. Korb, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA49

1228. REINVENTING FDA FOOD REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 1453; 15 USC 1454; 15 USC 1455; 21 USC 321 et seq

CFR Citation: 21 CFR 101; 21 CFR 102; 21 CFR 103; 21 CFR 131; 21 CFR 133; 21 CFR 135; 21 CFR 136; 21 CFR 137; 21 CFR 139; 21 CFR 145; 21 CFR 146; 21 CFR 150; 21 CFR 152; 21 CFR 155; 21 CFR 156; ...

Legal Deadline: None

Abstract: In response to President Clinton's memorandum to heads of departments and agencies entitled "Regulatory Reinvention Initiative," FDA has initiated rulemaking to retain, revise, or revoke certain of its regulations for food. FDA published an advance notice of proposed rulemaking (ANPRM) on December 29, 1995, requesting information on the need to retain, revise, or revoke its food standards of identity regulations and its common or usual name regulations. In the same issue of the Federal Register FDA proposed to improve the coordination of the food additive, GRAS, and color additive approval process with USDA for substances used in meat and poultry products. FDA proposed to revoke several lower fat milk standards on November 9, 1995. On June 12, 1996, FDA published an ANPRM announcing its intention to review (1) its human food labeling regulations pertaining to the exemption for soft drinks from requirements for the type size and placement of certain information on the information panel, requirements for listing "statements of identity," and requirements for flavor labeling; (2) its infant formula regulations to ensure that they fully reflect the Federal Food, Drug, and Cosmetic Act; (3) its regulations pertaining to the discharge of waste aboard casino ships, passenger ships, and ferries; and (4) its food additive regulations to consolidate certain existing regulations. In the same June 12 issue of the Federal Register, FDA published a second ANPRM seeking public comment on possible ways to streamline various food additive regulations. FDA also proposed on June 12, 1996, to revoke certain food labeling regulations pertaining to labeling of food with number of servings and labeling Kosher and Kosher-style foods and to revoke the agency's voluntary filing of cosmetic product experiences. The latter was published August 12, 1997.

On October 13, 1995, FDA proposed to revoke certain agency regulations that were obsolete or no longer necessary to achieve public health goals. The final rule (pertaining to food regulations only) was published on June 3, 1996. A confirmation of effective date (CED) on those regulations promulgated under the formal rulemaking procedures of section 701(e) of the Federal Food, Drug, and Cosmetic Act (21 USC 371(e)) pertaining to diabetic labeling (21 CFR 105.67) and sodium intake labeling (21 CFR 105.69) was published on August 27, 1996.

In the Federal Register of April 17, 1997 (62 FR 18938), FDA proposed to establish a notification procedure for companies to use to inform FDA of a company's determination that use of a substance in food is generally recognized as safe (GRAS).

Timetable:

Exempt Infant Formula; Plan for Revisions
ANPRM 06/12/96 (61 FR 29701)
Comment Period Ended 10/10/96
NPRM 00/00/00

Food Standards of Identity, Quality, and Fill of Container
ANPRM 12/29/95 (60 FR 67492)
Comment Period Ended 06/28/96
NPRM 00/00/00

Food, Color Additive, GRAS Regulations
ANPRM 06/12/96 (61 FR 29701)
Comment Period Ended 09/10/96
NPRM 00/00/00

Food, Color, and GRAS; Simult. Pet. Rev. by USDA (Meat/Poultry)
NPRM 12/29/95 (60 FR 67490)
Comment Period Ended 03/14/96
Extension of Comment Period 06/03/96
Final Action 00/00/00

Notification Procedures for Independent GRAS Determinations
NPRM 04/17/97 (62 FR 18938)
NPRM Comment Period Ended 07/16/97
Final Action 00/00/00

Revocation of Certain Food Labeling and Cosmetic Regulations
NPRM 06/12/96 (61 FR 29708)
Comment Period Ended 08/26/96
Final Action 08/12/97 (62 FR 43071)

Revocation of Lower Fat Milk Standards
NPRM 11/09/95 (60 FR 56541)
Comment Period Ended 01/23/96
Partial Final 11/20/96 (61 FR 58991)
Confirmation of Effective Date 02/24/97 (62 FR 8163)

Revocation of Lower Fat Yogurt Standards
NPRM 11/09/95 (60 FR 56541)
Confirmation of Effective Date 00/00/00
Final Action (Yogurt) 00/00/00

Revocation of Obsolete Regulations
NPRM 10/13/95 (60 FR 53480)
Comment Period Ended 01/11/96
Final Action 06/03/96 (61 FR 27771)
Confirmation of Eff. Date 08/27/96 (61 FR 43963)

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: ABSTRACT CONT: labeling (21 CFR 105.69) was published on August 27, 1996.

In the Federal Register of April 17, 1997 (62 FR 18938), FDA proposed to establish a notification procedure for companies to use to inform FDA of a company's determination that use of a substance in food is generally recognized as safe (GRAS).

Agency Contact: L. Robert Lake, Director, Office of Policy Planning and Strategic Initiatives, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-150), 200 C Street SW., Washington, DC 20204
Phone: 202 205-4561
Fax: 202 401-7739

RIN: 0910–AA58

1229. DIETARY SUPPLEMENT REGULATIONS IN RESPONSE TO DSHEA

Priority: Other Significant

Legal Authority: 15 USC 1453; 15 USC 1454; 15 USC 1455; 21 USC 321; 21 USC 331; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 371

CFR Citation: 21 CFR 101

Legal Deadline: None

Abstract: On January 4, 1994, FDA published final rules relative to nutrition labeling, nutrient content claims and health claims for dietary supplements. The Dietary Supplement Health and Education Act (DSHEA) was enacted on October 25, 1994, modifying the statutory provisions governing labeling of dietary supplements. FDA has initiated rulemaking to modify its regulations for dietary supplements accordingly. One proposal would modify the nutrition labeling and

ingredient declaration requirements. A second proposal would provide for the use of nutrient content claims and health claims on dietary supplements and establish procedures for the use of a disclaimer to accompany statements of nutritional support. A third proposal would define the terms "high potency" and "antioxidant." These three proposals were published in the Federal Register on December 28, 1995. An ANPRM was published in February 1997 seeking public comments on issues related to the establishment of current good manufacturing practices for dietary supplements. FDA published three final rules on September 23, 1997, responding to the proposals of December 28, 1995, and entitled: (1) "Food Labeling; Statement of Identity, Nutrition Labeling and Ingredient Labeling of Dietary Supplements; Compliance Policy Guide, Revocation;" (2) "Food Labeling; Requirements for Nutrient Content Claims, Health Claims, and Statements of Nutritional Support for Dietary Supplements;" and (3) "Food Labeling; Nutrient Content Claims; Definition for "High Potency" and Definition for "Antioxidant" for Use in Nutrient Content Claims for Dietary Supplements and Conventional Foods." The agency received several petitions for reconsideration of aspects of the final rule on nutrition labeling and ingredient declaration for dietary supplements. In response to these petitions, FDA pubished a final rule revising the nutrition labeling requirements for dietary supplements that contain liquid or dried extracts.

DHSEA also established an independent agency within the Executive Branch known as the Commission on Dietary Supplement Labels. The Commission was charged with conducting a study on, and providing recommendations for, regulating label claims and statements for dietary supplements, including the use of literature in connection with the sale of dietary supplements and procedures for evaluating such claims. On November 24, 1997, the Commission's final report was released. On April 29, 1998, FDA issued a notice on its views on the Commission's report and a proposed rule that responds to guidance in the report concerning statements about the effect of dietary supplements on the structure or function of the body.

Timetable:

Action	Date	FR Cite
Comments on Report of the Commission on Dietary Supp. Labels		
Notice	04/29/98	(63 FR 23633)
CGMPs in the Manufacturing, Packing, or Holding of Dietary Supps.		
ANPRM	02/06/97	(62 FR 5700)
Comment Period End	06/06/97	
NPRM	00/00/00	
High Potency and Antioxidant Terms; Dietary Supplements		
NPRM	12/28/95	(60 FR 67184)
Comment Period End	06/10/96	
Final Action	09/23/97	(62 FR 49808)
Nutrient Content and Health Claims; Dietary Supplements		
NPRM	12/28/95	(60 FR 67176)
Comment Period End	06/10/96	
Final Action	09/23/97	(62 FR 49859)
Nutrient Labeling and Ingredient Labeling; Dietary Supplements		
NPRM	12/28/95	(60 FR 67194)
Comment Period End	06/10/96	
Final Action	09/23/97	(62 FR 49826)
Final Action	06/05/98	(63 FR 30615)
Regs on Statements Made for Diet. Supps re Effect of Product		
NPRM	04/29/98	(63 FR 23624)

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Elizabeth A. Yetley, Director, Office of Special Nutritionals, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-450), 200 C Street SW. Washington, DC 20204
Phone: 202 205-4168
Fax: 202 205-5295

RIN: 0910–AA59

1230. LONG-TERM CONTRACEPTIVE DRUG PRODUCTS AND MEDICAL DEVICES; INFORMED CONSENT REQUIREMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 358; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 379; 42 USC 216; 42 USC 241; ...

CFR Citation: 21 CFR 201; 21 CFR 801

Legal Deadline: None

Abstract: The proposed rule would require that patient labeling for long-acting contraceptive drugs and medical devices include an informed consent form that must be signed by the patient before any long-acting contraceptive is administered. The proposed rule is intended to help ensure that patients receive adequate information to enable them to make an informed decision about whether or not to use a long-acting contraceptive.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carol Drew, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA75

1231. DEBARMENT CERTIFICATION REGULATIONS FOR DRUG APPLICATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 1451 to 1461; 21 USC 321; 21 USC 331; 21 USC 335; 21 USC 351 to 353; 21 USC 355 to 357; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 379; 21 USC 381 to 382; 42 USC 216; 42 USC 241; 42 USC 262 to 263

CFR Citation: 21 CFR 314; 21 CFR 514; 21 CFR 601

Legal Deadline: None

Abstract: The proposed rule would amend the regulations to require applicants to submit a debarment certification statement in accordance with 21 U.S.C. 335a(k).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leanne Cusumano, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA76

1232. INVESTIGATIONAL NEW DRUG APPLICATIONS; REQUEST FOR INFORMATION AND COMMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 357; 21 USC 371; 42 USC 262

CFR Citation: 21 CFR 56; 21 CFR 312

Legal Deadline: None

Abstract: This rulemaking would permit certain uses of investigational new drugs by individual investigators who are not included in a commercial sponsor's application provided that, among other things, the drugs are in Phase 2 of commercial development.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph Griffin, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 594-5562

RIN: 0910–AA83

1233. INVESTIGATIONAL USE NEW ANIMAL DRUG REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 353; 21 USC 360b; 21 USC 371; 21 USC 381

CFR Citation: 21 CFR 511; 21 CFR 512

Legal Deadline: None

Abstract: FDA is proposing to revise its regulations governing investigational use of new animal drugs by proposing to delete 21 CFR 511 and establish in 21 CFR part 512 revised investigational use new animal drug regulations. The investigational use new animal drug regulations are expected to include regulations to implement provisions of the Animal Drug Availability Act of 1996, specifically presubmission conferences, and implement parts of the President's National Performance Report, "Reinventing the Regulation of Animal Drugs," May 1996. In the reinventing regulations report, FDA proposed to revise its regulations to reflect numerous new process changes and programs that will enable a more streamlined animal drug application review and approval process, and which would result in less regulatory burden upon industry and FDA while maintaining safety and effectiveness of new animal drugs.

Timetable:

Action	Date	FR Cite
ANPRM	11/21/96	61 FR 59209
ANPRM Comment Period End	01/21/97	
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marty Schoenemann, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-120), 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-0220

RIN: 0910–AB02

1234. ADMINISTRATIVE PRACTICES AND PROCEDURES; ADVISORY OPINIONS AND GUIDELINES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 1451 to 1461; 21 USC 41 to 50; 21 USC 141 to 149; 21 USC 321 to 394; 21 USC 467f; 21 USC 679; 21 USC 821; 21 USC 1034; 42 USC 201; 42 USC 262; 42 USC 263b; 42 USC 264

CFR Citation: 21 CFR 10; 21 CFR 808

Legal Deadline: None

Abstract: This proposed rule would amend FDA regulations in 21 CFR part 10 concerning advisory opinions and guidelines to provide consistency with the agency's Good Guidance Practices and applicable case law.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrea Masciale, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB14

1235. REQUIREMENTS PERTAINING TO THE SALE AND DISTRIBUTION OF CIGARETTES AND SMOKELESS TOBACCO TO PROTECT CHILDREN AND ADOLESCENTS; USE OF NONTOBACCO TRADE OR BRAND NAMES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 352; 21 USC 360; 21 USC 360(j); 21 USC 371; 21 USC 372

CFR Citation: 21 CFR 897

Legal Deadline: None

Abstract: The proposed rule would clarify the restrictions on the use of nontobacco product names and other identification on tobacco products and would modify the list of established names for smokeless tobacco products.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Office of Policy (HF-23), 5600 Fishers Lane, Room 15-74, Rockville, MD 20857
Phone: 301 827-3380
Fax: 301 443-6906
Email: pchao@bangate.fda.gov

RIN: 0910–AB17

1236. EXEMPTION FROM PREEMPTION OF STATE AND LOCAL CIGARETTE AND SMOKELESS TOBACCO REQUIREMENTS; APPLICATIONS FOR EXEMPTION SUBMITTED BY VARIOUS STATE GOVERNMENTS; GROUP 1; GROUP 2

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 360k; 21 USC 371

CFR Citation: 21 CFR 808

Legal Deadline: None

Abstract: FDA published a notice of proposed rulemaking on November 7, 1996, announcing that the agency would be accepting applications for exemption from Federal preemption for State and local cigarette and smokeless tobacco requirements. The notice explained that FDA would consider the applications in two groups and set deadlines for submitting applications. Group 1 applications, due December 9, 1996, pertain to State and local requirements governing the sale and distribution of cigarettes and smokeless tobacco that are different from, or in addition to, FDA requirements under section 897.14(a) and section 897.14(b) of the final tobacco rule (the age and identification requirements). Group 2 applications, due May 6, 1997, pertain to State and local requirements governing the sale and distribution of cigarettes and smokeless tobacco that are different from, or in addition to, all other requirements under the final tobacco rule.

Timetable:

Group 1
NPRM 02/19/97 (62 FR 7390)
NPRM Comment Period End 06/23/97
Final Action 11/28/97 (62 FR 63271)

Group 2
NPRM 00/00/00

Groups 1 and 2
Notice 11/07/96 (61 FR 57685)

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Formerly listed under RIN 0910-AB03.

Agency Contact: Anne M. Kirchner, Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Office of Policy (HFD-11), 5600 Fishers Lane, Room 14-72, Rockville, MD 20857
Phone: 301 827-5321
Fax: 301 443-5169

RIN: 0910–AB19

1237. • CURRENT GOOD MANUFACTURING PRACTICE FOR MEDICATED FEEDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 351; 21 USC 352; 21 USC 360(b); 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 225

Legal Deadline: None

Abstract: Proposal is in response to a citizen petition request to merge the separate requirements of the current good manufacturing practice (CGMP) regulations, 21 CFR part 225 applicable to licensed and unlicensed feed manufacturing facilities, respectively. The merger would produce a single set of updated, streamlined CGMPs that apply to all medicated feed manufacturers. This consolidation of existing CGMPs would preserve and strengthen food safety, be more appropriate given the changing structure of the medicated feed industry, and enhance uniformity and enforcement.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: George Graber, Director, Division of Animal Feeds, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-220), 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-6651
Fax: 301 594-1812
Email: ggraber@bangate.fda.gov.

RIN: 0910–AB70

1238. • CITIZEN PETITIONS; ACTIONS THAT CAN BE REQUESTED BY PETITION; SUMMARY DENIAL; AND REFERRAL FOR OTHER ADMINISTRATIVE ACTION

Priority: Info./Admin./Other

Legal Authority: 5 USC 551 to 558; 5 USC 701 to 706; 15 USC 1451 to 1461; 21 USC 41 to 50; 21 USC 141 to 149; 21 USC 321 to 393; 21 USC 467f; 21 USC 679; 21 USC 821; 21 USC 1034; 28 USC 2112; 42 USC 201; 42 USC 262; 42 USC 263b to 263n; 42 USC 264

CFR Citation: 21 CFR 10

Legal Deadline: None

Abstract: The proposed rule would amend the agency's regulations pertaining to citizen petitions by specifying the types of actions that could be requested through a petition. The proposal would also revise the content requirements for citizen petitions and would establish a mechanism for receiving and filing citizen petitions. These changes are intended to improve the citizen petition mechanism by focusing FDA's resources on important public health issues.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Office of Policy (HF-23), 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3380

Fax: 301 443-6906
Email: pchao@bangate.fda.gov

RIN: 0910–AB73

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) Food and Drug Administration (FDA) — Completed Actions

1239. FEES FOR CERTIFICATION SERVICES; INSULIN AND COLOR ADDITIVE CERTIFICATION PROGRAMS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 21 CFR 80; 21 CFR 429

Completed:

Reason	Date	FR Cite
Final Action	05/13/98	63 FR 26694

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David R. Petak
Phone: 301 827-5004
Fax: 301 443-6242

RIN: 0910–AA07

1240. REINVENTION OF ADMINISTRATIVE PROCEDURES REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 21 CFR 1 to 3; 21 CFR 5; 21 CFR 10; 21 CFR 12; 21 CFR 19 to 20; 21 CFR 56; 21 CFR 58

Completed:

Reason	Date	FR Cite
Withdrawn - No Action Planned at This Time	09/22/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Lisa M. Helmanis
Phone: 301 443-3480
Fax: 301 443-2946

RIN: 0910–AA69

1241. USE OF OZONE-DEPLETING SUBSTANCES IN AEROSOL PRODUCTS OR OTHER PRESSURIZED DISPENSERS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 21 CFR 2

Completed:

Reason	Date	FR Cite
Combined With RIN 0910-AA99	07/31/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leanne Cusumano
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB10

1242. REVOCATION OF LATHER BRUSHES REGULATION

Priority: Info./Admin./Other

CFR Citation: 21 CFR 1240.70

Completed:

Reason	Date	FR Cite
Final Action	05/12/98	63 FR 26077

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip L. Chao
Phone: 301 827-3380
Fax: 301 443-6906
Email: pchao@bangate.fda.gov

RIN: 0910–AB25

1243. REMOVAL OF REGULATIONS REGARDING CERTIFICATION OF ANTIBIOTIC DRUGS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 21 CFR 430; 21 CFR 431; 21 CFR 432; 21 CFR 433; 21 CFR 436; 21 CFR 440; 21 CFR 441; 21 CFR 442; 21 CFR 443; 21 CFR 444; 21 CFR 446; 21 CFR 448; 21 CFR 450; 21 CFR 452; 21 CFR 453; ...

Completed:

Reason	Date	FR Cite
Final Action	05/12/98	63 FR 26066

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christine Rogers
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB31

1244. REMOVAL OF REGULATIONS REGARDING CERTIFICATION OF DRUGS COMPOSED WHOLLY OR PARTLY OF INSULIN

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 21 CFR 3; 21 CFR 5; 21 CFR 10; 21 CFR 16; 21 CFR 25; 21 CFR 50; 21 CFR 56; 21 CFR 58; 21 CFR 71; 21 CFR 200; 21 CFR 201; 21 CFR 210; 21 CFR 211; 21 CFR 310

Completed:

Reason	Date	FR Cite
Final Action	05/13/98	63 FR 26694

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Wayne H. Mitchell
Phone: 301 594-2041

HHS—FDA

Completed Actions

Fax: 301 827-5562

RIN: 0910–AB38

1245. • NATURAL RUBBER CONTAINING MEDICAL DEVICES; USER LABELING

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 352

CFR Citation: None

Legal Deadline: None

Abstract: This "final rule; clarification" provides notice that FDA does not intend to apply to combination products currently regulated under human drug or biologic labeling provisions the September 30, 1997, final rule requiring certain labeling statements for all medical devices that contain or have packaging that contains natural rubber that contacts humans.

Timetable:

Action	Date	FR Cite
Final Action	05/06/98	63 FR 24934
Final Action Effective	09/30/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, suite 3047, Rockville MD, 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB65

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Resources and Services Administration (HRSA)

Proposed Rule Stage

1246. NATIONAL PRACTITIONER DATA BANK FOR ADVERSE INFORMATION ON PHYSICIANS AND OTHER HEALTH CARE PRACTITIONERS: CORPORATE SHIELD

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11131

CFR Citation: 45 CFR 60.7

Legal Deadline: None

Abstract: This NPRM proposes to require that in addition to reporting to the National Practitioner Data Bank medical malpractice payments made where physicians or other health care practitioners are named in final judgments or settlements, payments be reported where they are made for the benefit of physicians or other health care practitioners not named in the judgments or settlements but who furnished or failed to furnish the health care services upon which the actions or claims were based. The purpose of this NPRM is to prevent the evasion of the medical malpractice payment reporting requirement of the Data Bank through the agreement of the parties to a lawsuit to use the corporate health care entity to "shield" the parties to the health care practitioner from being reported.

It would also require malpractice payers, in very limited circumstances when it is impossible to identify the practitioner who furnished or failed to furnish the health care services upon which the actions or claims were based, to report why the practitioner could not be identified, the name of the hospital or health care organization for whose benefit the payment, and the name (if known) of any hospital or health care organization with which the practitioner is affiliated or associated with.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas C. Croft, Director, Division of Quality Assurance, Bureau of Health Professions, HRSA, Department of Health and Human Services, Health Resources and Services Administration, Parklawn Building, Room 8A-55, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-2300

RIN: 0906–AA41

1247. NATIONAL PRACTITIONER DATA BANK FOR ADVERSE INFORMATION ON PHYSICIANS AND OTHER HEALTH CARE PRACTITIONERS: REPORTING ADVERSE AND NEGATIVE ACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396r-2, note

CFR Citation: 45 CFR 60

Legal Deadline: None

Abstract: Public Law 100-93 amended section 1921 of the Social Security Act to require that each State have in effect a system of reporting discipline licensure actions taken against health care practitioners and entities. It also requires States to report any negative action or finding which a peer review organization, private accreditation entity or a State licensing agency has concluded against a health care practitioner or entity. Section 1921 directs the Secretary to provide for maximum appropriate coordination in the implementation of these reporting requirements with those of the Health Care Quality Improvement Act of 1986 (title IV of Public Law 99-660).

The NPRM provides for the Department to collect and maintain this information and make the information available to authorized parties to determine the fitness of individuals to provide health care services, to protect the health and safety of individuals receiving health care services, and to protect the physical integrity of the Medicaid/Medicare programs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas C. Croft, Director, Division of Quality Assurance, Bureau of Health Professions, Department of Health and Human Services, Health Resources and Services Administration, Parklawn Building, Room 8A-55, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-2300

RIN: 0906–AA43

HHS—HRSA

Proposed Rule Stage

1248. DESIGNATION OF MEDICALLY UNDERSERVED POPULATIONS AND HEALTH PROFESSIONAL SHORTAGE AREAS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 254b; 42 USC 254e

CFR Citation: 42 CFR 5; 42 CFR 51c

Legal Deadline: None

Abstract: This rule would consolidate the process for designating areas of health professional shortage and medical underservice that apply in several department programs, and would improve the criteria for designating medically underserved populations (MUPs) and Primary Care Health Professional Shortage Areas (HPSAs).

Timetable:

Action	Date	FR Cite
NPRM	09/01/98	63 FR 46538
NPRM Comment Period End	11/02/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Lee, Public Health Analyst, Bureau of Primary Health Care, Department of Health and Human Services, Health Resources and Services Administration, 4350 East-West Highway, Bethesda, MD 20814
Phone: 301 594-4280

RIN: 0906–AA44

1249. NATIONAL PRACTITIONER DATA BANK FOR ADVERSE INFORMATION ON PHYSICIANS AND OTHER HEALTH CARE PROVIDERS: CLARIFICATION AND MODERNIZATION OF REGULATORY TERMS

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 11101 to 11152

CFR Citation: 45 CFR 60

Legal Deadline: None

Abstract: Since the opening of the Data Bank, the Department has received feedback that several terms defined in the regulations have caused confusion. These items include "health care entity," "formal peer review process," and "clinical privileges." Based on this feedback, the Department reviewed the Health Care Quality Improvement Act of 1986 and its regulations. Through this review, the Department recognizes the need to clarify and/or broaden certain definitions in light of the rapid evolution of the health care system. This NPRM would more fully implement Congressional intent, which was to give access to Data Bank information to health care organizations reviewing the quality of physician care in order to protect patients from incompetent practitioners with previous damaging or incompetent performance.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas C. Croft, Director, Division of Quality Assurance, Bureau of Health Professions, Department of Health and Human Services, Health Resources and Services Administration, Parklawn Building, Room 8-A55, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-2300

RIN: 0906–AA48

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Resources and Services Administration (HRSA)

Completed Actions

1250. ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK RULES

Priority: Other Significant. Major under 5 USC 801.

CFR Citation: 42 CFR 121

Completed:

Reason	Date	FR Cite
Final Rule With Comment Period - (Comment Period End 08/31/98)	04/02/98	63 FR 16296

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: D.W. Chen, M.D.
Phone: 301 443-7577

RIN: 0906–AA32

1251. DRUG PRICING PROGRAM: PRIME VENDOR USER CHARGE

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 45 CFR 8

Completed:

Reason	Date	FR Cite
Withdrawn	10/06/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jimmy Mitchell
Phone: 301 594-4353
Fax: 301 594-4992

RIN: 0906–AA45

1252. HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM

Completed:

Reason	Date	FR Cite
Transfer Development to - RIN 0991-AA98	08/11/98	

RIN: 0906–AA46

1253. NATIONAL VACCINE INJURY COMPENSATION PROGRAM: EFFECTIVE DATE PROVISIONS OF COVERAGE OF CERTAIN VACCINES TO THE VACCINE INJURY TABLE

Priority: Info./Admin./Other

CFR Citation: 42 CFR 100

Completed:

Reason	Date	FR Cite
Final Action	05/11/98	63 FR 25777

HHS—HRSA

Completed Actions

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas E. Balbier
Phone: 301 443-6593

RIN: 0906–AA49

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Indian Health Service (IHS)

Proposed Rule Stage

1254. INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION ACT MINIMUM STANDARDS OF CHARACTER

Priority: Info./Admin./Other

Legal Authority: 25 USC 3201 et seq

CFR Citation: 42 CFR 36

Legal Deadline: None

Abstract: The Indian Health Service (IHS) is proposing to establish regulations as mandated by the Indian Child Protection and Family Violence Protection Act, P.L. 101-630, 25 U.S.C. 3201-3211, that prescribe minimum standards of character for individuals whose duties and responsibilities involve regular contact with, or control over, Indian children.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Ramona D. Williams, Child Protection Coordinator, Department of Health and Human Services, Indian Health Service, 5300 Homestead Road NE., Albuquerque, NM 87110
Phone: 505 837-4245

RIN: 0917–AA02

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Indian Health Service (IHS)

Final Rule Stage

1255. • CURRENTLY EFFECTIVE INDIAN HEALTH SERVICE ELIGIBILITY REGULATIONS

Priority: Info./Admin./Other

Legal Authority: 42 USC 2001; 42 USC 2003

CFR Citation: 42 CFR 36

Legal Deadline: None

Abstract: The Department of Health and Human Services is publishing in the Federal Register, final regulations governing eligibility for Indian Health Service. The regulations currently codified at 42 CFR36 are under moratorium of undetermined length. For the convenience of the public and in conformance with the Administrative Procedures Act, 5USC 552(a)(a) that the CFR contain currently effective regulations, these regulations are to be codified side by side with the regulation under moratorium.

Timetable:

Action	Date	FR Cite
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Tribal

Agency Contact: Betty J. Penn, Regulations Officer, Department of Health and Human Services, Indian Health Service, 12300 Twinbrook Parkway, Suite 450, Rockville, MD 20857
Phone: 301 443-1116
Fax: 301 443-2316
Email: bpenn@hqe.ihs.gov

RIN: 0917–AA03

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Indian Health Service (IHS)

Completed Actions

1256. ACQUISITION UNDER THE BUY INDIAN ACT

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR ch 3, app A

Completed:

Reason	Date	FR Cite
Withdrawn - ASMB Has Final Responsibility for Publication	07/31/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Robyn York
Phone: 301 443-3134

RIN: 0917–AA00

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
National Institutes of Health (NIH)

Proposed Rule Stage

1257. NATIONAL INSTITUTES OF HEALTH AIDS RESEARCH LOAN REPAYMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-1

CFR Citation: 42 CFR 68

Legal Deadline: None

Abstract: Section 487A of the Public Health Service Act creates a program through which appropriately qualified health professionals may obtain federally funded repayment of educational loans by conducting AIDS research as NIH employees.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Previously reported under RIN 0905-AD18.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 6011 Executive Blvd., Room 601, MSC 7669, Rockville, MD 20852
Phone: 301 496-4606
Fax: 301 402-0169
Email: moorej@od31emi.nih.gov

RIN: 0925–AA02

1258. UNDERGRADUATE SCHOLARSHIP PROGRAM REGARDING PROFESSIONS NEEDED BY THE NIH

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-4

CFR Citation: 42 CFR 68b

Legal Deadline: None

Abstract: Section 487D of the Public Health Service Act, as added by the National Institutes of Health Revitalization Act of 1993, creates a program offering scholarships, in an amount not to exceed $20,000 per year of academic study, to individuals from disadvantaged backgrounds who are enrolled as full-time students at accredited institutions pursuing academic programs appropriate for careers in professions needed by the NIH. For each year of scholarship support, the recipient agrees to service (employment) after graduation, at the NIH, for one year. Additionally, the individual agrees to at least ten consecutive weeks of service (employment) at the NIH during which the individual is attending the institution and receiving the NIH scholarship. The proposed new regulations will cover this program.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE57.

Agency Contact: Jerry Moore, NIH Regulations Officer Department of Health and Human Services, National Institutes of Health, 6011 Executive Blvd., Room 601, MSC 7669, Rockville, MD 20852
Phone: 301 496-4606
Fax: 301 402-0169

RIN: 0925–AA10

1259. TRAINEESHIPS

Priority: Info./Admin./Other

Legal Authority: 42 USC 216; 42 USC 283g(d)(2); 42 USC 284(b)(1)(C); 42 USC 286b-3

CFR Citation: 42 CFR 63

Legal Deadline: None

Abstract: Regulations governing NIH traineeships will be amended to set forth additional conditions under which awards may be terminated.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE62.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 6011 Executive Blvd., Room 601, MSC 7669, Rockville, MD 20852
Phone: 301 496-4606
Fax: 301 402-0169
Email: moorej@od31emi.nih.gov

RIN: 0925–AA11

1260. ADDITIONAL DHHS PROTECTIONS FOR PREGNANT WOMEN AND HUMAN FETUSES INVOLVED AS SUBJECTS IN RESEARCH, AND PERTAINING TO HUMAN IN VITRO FERTILIZATION

Priority: Other Significant

Legal Authority: 5 USC 301; 42 USC 289

CFR Citation: 45 CFR 46, subpart B

Legal Deadline: None

Abstract: Current regulations which have been in effect for two decades will be revised to reflect provisions of Public Law 103-43 and recent changes in NIH and FDA policies on the involvement of women and human fetuses in research.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michele Russell-Einhorn, J.D., Director of Regulatory Affairs, Department of Health and Human Services, National Institutes of Health, Office for Protection from Research Risks, 6100 Executive Blvd., Ste. 3B01, MSC 7507, Rockville, MD 20892-7507
Phone: 301 435-5649
Fax: 301 402-2071

RIN: 0925–AA14

1261. NATIONAL RESEARCH SERVICE AWARDS

Priority: Info./Admin./Other

Legal Authority: 42 USC 216; 42 USC 288

CFR Citation: 42 CFR 66

Legal Deadline: None

Abstract: Current HHS regulations will be amended to reflect provisions of the ADAMHA Reorganization Act and the National Institutes of Health Revitalization Act of 1993. New language concerning the service payback obligation will set forth, specifically, that a service payback obligation is incurred only during the first twelve months of postdoctoral support and individuals may pay back this service obligation by engaging in an equal period of health-related

teaching or, if the individual finished the first twelve months of support, by engaging in a second year of NRSA supported research training.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 6100 Executive Blvd., Room 601, MSC 7669, Rockville, MD 20852
Phone: 301 496-4606
Fax: 301 402-0169
Email: moorej@od31em1.nih.gov

RIN: 0925–AA16

1262. REMOVAL OF NATIONAL CANCER INSTITUTE CLINICAL CANCER EDUCATION PROGRAM

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 216

CFR Citation: 42 CFR 52d

Legal Deadline: None

Abstract: Current regulations relating to the National Cancer Institute Clinical Cancer Education Program will be rescinded because the regulations are obsolete. Current guidelines by NCI with respect to the care of cancer patients no longer reflect the type of program described in the current regulations. This action will not affect the authority of the Director, NCI, to support appropriate programs of education and training, including clinical research training set forth in section 414 of the Public Health Service Act.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 6011 Executive Blvd., Room 601, MSC 7669, Rockville, MD 20852
Phone: 301 496-4606
Fax: 301 402-0169
Email: moorej@od31em1.nih.gov

RIN: 0925–AA17

1263. NATIONAL INSTITUTES OF HEALTH LOAN REPAYMENT PROGRAM FOR RESEARCH

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-3

CFR Citation: 42 CFR 68d

Legal Deadline: None

Abstract: Regulations will be issued to govern the awarding of educational loan repayments for research authorized under section 487C of the Public Health Service Act, as added by provisions of the National Institutes of Health Revitalization Act of 1993.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 6011 Executive Blvd., Room 601, MSC 7669, Rockville, MD 20852
Phone: 301 496-4606
Fax: 301 496-0125
Email: moorej@od31em1.nih.gov

RIN: 0925–AA18

1264. NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT CONTRACEPTION AND INFERTILITY RESEARCH LOAN REPAYMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-2

CFR Citation: 42 CFR 68c

Legal Deadline: None

Abstract: Section 487B of the Public Health Service Act creates a program through which appropriately qualified health professionals may obtain federally funded repayment of education loans by conducting research with respect to contraception and/or infertility.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 6011 Executive Blvd., Room 601, MSC 7669, Rockville, MD 20852
Phone: 301 496-4607
Fax: 301 402-0169
Email: moorej@od31em1.nih.gov

RIN: 0925–AA19

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
National Institutes of Health (NIH)

Final Rule Stage

1265. NATIONAL INSTITUTES OF HEALTH CONSTRUCTION GRANTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 216; 42 USC 285a-2; 42 USC 285a-3; 42 USC 285b-3; 42 USC 285b-4; 42 USC 285d-6; 42 USC 285i; 42 USC 285m-3; 42 USC 285o-4; 42 USC 287a-2; 42 USC 287a-3; 42 USC 300cc-41

CFR Citation: 42 CFR 52b

Legal Deadline: None

Abstract: Regulations concerning NCI construction grants will be amended to make them generally applicable to all NIH extramural programs with construction grant authority. Additionally, the regulations will be amended to show new administrative and technical requirements, add new procedures for the recovery of grant funds for facilities no longer used for biomedical research, show new Public Health Service Act section numbers, and update the listing of other HHS regulations relevant to construction grants.

Timetable:

Action	Date	FR Cite
NPRM	07/06/95	60 FR 35266
NPRM Comment Period End	09/05/95	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD49.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 6011 Executive Blvd., Room 601, MSC 7669, Rockville, MD 20852
Phone: 301 496-4606
Fax: 301 402-0169
Email: moorej@od31emi.nih.gov

RIN: 0925–AA04

1266. NATIONAL INSTITUTES OF HEALTH CLINICAL RESEARCH LOAN REPAYMENT PROGRAM FOR INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-5

CFR Citation: 42 CFR 68a

Legal Deadline: None

Abstract: Regulations will be issued to govern the awarding of educational loan repayments under the NIH Clinical Research Loan Repayment Program for Individuals From Disadvantaged Backgrounds authorized by section 487E of the Public Health Service Act, as added by provisions of the National Institutes of Health Revitalization Act of 1993.

Timetable:

Action	Date	FR Cite
NPRM	02/10/97	62 FR 5953
NPRM Comment Period End	04/11/97	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE56.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 6011 Executive Blvd., Room 601, MSC 7669, Rockville, MD 20852
Phone: 301 496-4606
Fax: 301 402-0169
Email: moorej@od31emi.nih.gov

RIN: 0925–AA09

1267. SCIENTIFIC PEER REVIEW OF RESEARCH GRANT APPLICATIONS AND RESEARCH AND DEVELOPMENT CONTRACT PROJECTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 216; 42 USC 282(b)(6); 42 USC 284(c)(3); 42 USC 289a; 42 USC 290aa-3

CFR Citation: 42 CFR 52h

Legal Deadline: None

Abstract: NIH staff have been reexamining the peer review process as part of its reinvention initiatives and have found ambiguities, misstatements, and voids in the existing regulations. These regulations, which govern the first level of review, are being amended to reflect current policies and procedures.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 6011 Executive Blvd., Room 601, MSC 7669, Rockville, MD 20852
Phone: 301 496-4606
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Email: moorej@od31em1.nih.gov

RIN: 0925–AA20

1268. FEDERAL POLICY (COMMON RULE) FOR THE PROTECTION OF HUMAN SUBJECTS

Priority: Other Significant

Legal Authority: 5 USC 301; 42 USC 289; 42 USC 300v-1(b)

CFR Citation: 45 CFR 46

Legal Deadline: None
The President's Memorandum prohibits agencies from conducting or supporting classified human subject research without having proposed and promulgated the common rule and the changes.

Abstract: In compliance with the President's Memorandum of March 27, 1997, this interim final rule would amend the Federal Policy (common rule) for the Protection of Human Subjects to add a new section that applies only to classified research involving human subjects. The new section would modify the Federal Policy by (1) prohibiting any executive branch agency from engaging in classified research involving human subjects unless the agency has adopted the Federal Policy and the interim final rule; (2) eliminating the availability of waiver of informed consent and expedited review for classified research involving human subjects; (3) enhancing the informed consent requirements and allowing for disclosure of classified information if necessary; and (4) changing the composition of the institutional review board (IRB) and establishing a process for individual IRB approvals of classified research.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michele Russell-Einhorn, J.D., Director of Regulatory Affairs, Department of Health and Human Services, National Institutes of Health, Office for Protection from Research Risks, 6100 Executive Blvd., Room 3B01, MSC 7505, Rockville, MD 29852
Phone: 301 496-7005
Fax: 301 402-2071

RIN: 0925–AA21

HHS—NIH

Final Rule Stage

1269. SERVICE FELLOWSHIPS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 209; 42 USC 210; 42 USC 216

CFR Citation: 42 CFR 61, subpart B

Legal Deadline: None

Abstract: This interim final rule would amend the regulations governing service fellowships by revising the current authority citation, extending the time limitation on initial appointments from 2 to 5 years, permitting extensions of appointments for up to 5 years rather than year-to-year, and removing obsolete references to the Surgeon General and obsolete requirements regarding the qualifications of applicants. These changes are being made to provide HHS health agencies with greater flexibility to recruit and retain their talented scientists and to update obsolete references.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/27/98	63 FR 9949
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 6011 Executive Blvd., Room 601, MSC 7669, Rockville, MD 20852
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Fax: 301 402-0169
Email: moorej@od31emi.nih.gov

RIN: 0925–AA22

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office of Assistant Secretary for Health (OASH)

Long-Term Actions

1270. STANDARDS OF COMPLIANCE FOR ABORTION-RELATED SERVICES IN FAMILY PLANNING SERVICE PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300a-4

CFR Citation: 42 CFR 59

Legal Deadline: None

Abstract: This rule would return the Family Planning Service Program, funded under title X of the Public Health Service Act, to the regulatory standard operative prior to February 2, 1988, with regard to the statutory provision prohibiting abortion as a method of family planning in projects funded under that title.

Timetable:

Action	Date	FR Cite
NPRM	02/05/93	58 FR 7464
NPRM Comment Period End	08/09/93	58 FR 34024
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: Previously reported under RIN 0905-AE03.

Agency Contact: Thomas C. Kring, Acting Deputy Assistant Secretary for Population Affairs, Department of Health and Human Services, Office of Assistant Secretary for Health, East-West Towers, Suite 200, West Bldg., 4350 East-West Highway, Bethesda, MD 20814
Phone: 301 594-4001

RIN: 0937–AA00

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)

Proposed Rule Stage

1271. PUBLIC HEALTH SERVICE STANDARDS FOR THE PROTECTION OF RESEARCH MISCONDUCT WHISTLEBLOWERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 241; 42 USC 289b

CFR Citation: 42 CFR 94

Legal Deadline: None

Abstract: To implement section 493(e) of the Public Health Service Act (added by section 163 of the National Institutes of Health Revitalization Act of 1993, Public Law 103-43), the Department is proposing to add new part 94 to title 42 of the Code of Federal Regulations. Under this proposed regulation, covered institutions must follow certain requirements for preventing and responding to occurrences of retaliation against whistleblowers. The purpose of this part is to protect: (1) persons who make a good faith allegation that a covered institution or member thereof engaged in, or failed to adequately respond to an allegation of, research misconduct, and (2) persons who cooperate in good faith with an investigation of research misconduct.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State

Agency Contact: Barbara Bullman, Policy Analyst, OPHS, Office of Research Integrity, Department of Health and Human Services, Public Health Service, 5515 Security Lane, Suite 700, Rockville, MD 20852
Phone: 301 443-5300
Fax: 301 443-5351

RIN: 0905–AE71

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Health Care Financing Administration (HCFA)

Prerule Stage

1272. PROSPECTIVE FEE SCHEDULE FOR AMBULANCE SERVICES (HCFA-1002-NR)

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: PL 105-33, sec 4531(b)

CFR Citation: 42 CFR 410

Legal Deadline: Final, Statutory, January 1, 2020.

Abstract: The Balanced Budget Act of 1997 requires that the Secretary establish a fee schedule for ambulance services through negotiated rulemaking. The fee schedule is to be effective beginning with services furnished on or after January 1, 2000. In addition to setting the payment rates, the Secretary is to ensure that the aggregate amount of payment made for ambulance services in 2000 may not exceed the amount of payment that would have been made absent the fee schedule. This is a cap on payment, not a budget neutrality adjustment. The Secretary is to consult with national organizations representing individuals and entities that furnish and regulate ambulance services and share relevant data with these organizations. This provision will be met through the negotiated rulemaking process.

Timetable:

Action	Date	FR Cite
Notice of Intent To Negotiate	12/00/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Edwards, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-4531
Email: nedwards@hcfa.gov

RIN: 0938–AI72

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Health Care Financing Administration (HCFA)

Proposed Rule Stage

1273. MEDICAID: OPTIONAL COVERAGE OF TB-RELATED SERVICES FOR INDIVIDUALS INFECTED WITH TUBERCULOSIS (HCFA-2082-P)

Priority: Other Significant

Legal Authority: 42 USC 1396a(a)(10)(A)(ii); PL 103-66, Sec 13603; 42 USC 1396a(z)

CFR Citation: 42 CFR 435.219; 42 CFR 435.201; 42 CFR 440.250; 42 CFR 436.201; 42 CFR 436.219; 42 CFR 440.164

Legal Deadline: None

Abstract: This rule would provide for optional Medicaid coverage of low-income individuals infected with tuberculosis (TB). These individuals would be eligible only for specified tuberculosis related services. The rule would incorporate and interpret provisions of section 13603 of OBRA '93.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: HCFA-2082-P

Agency Contact: Ingrid Osborne, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-16-25, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4461

RIN: 0938–AG72

1274. LIABILITY FOR THIRD PARTIES TO PAY FOR CARE AND SERVICES (MB-080-P)

Priority: Other Significant

Legal Authority: 42 USC 1396a(a)(25)(A); 42 USC 1396b(o)

CFR Citation: 42 CFR 433.135 to 433.152

Legal Deadline: None

Abstract: This rule would incorporate provisions of OBRA '93 by amending the regulations governing third party liability. It would add ERISA plans, service benefit plans, and health maintenance organizations to the definition of liable third parties. It would require States to prohibit any health insurer from taking into account, when enrolling or making payments, that an individual is eligible for or receiving Medicaid. It would also require States to enact a law under which the State is deemed to have acquired a recipient's right to payment by a third party.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: MB-080

Agency Contact: Robert Nakielny, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-21-01, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4466

RIN: 0938–AH01

1275. MEDICARE COVERAGE OF HEART, LIVER, AND LUNG TRANSPLANTATION (HCFA-3835-PN)

Priority: Other Significant

Legal Authority: 42 USC 1395y(a)(1)(A)

CFR Citation: None

Legal Deadline: None

Abstract: This notice proposes to revise the criteria for approval of a facility to perform Medicare covered transplants. The revised criteria would focus on a facility's ability to perform successful transplants, rather than on a facility's policies and procedures.

Timetable:

Action	Date	FR Cite
Proposed Notice	12/00/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HCFA-3835-PN

Agency Contact: Jacqueline Sheridan, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4653

RIN: 0938–AH17

1276. MEDICARE COVERAGE OF SERVICES OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS (HCFA-1843-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395x; 42 USC 1395x(cc)(1); 42 USC 1395x(ll)

CFR Citation: 42 CFR 484; 42 CFR 485

Legal Deadline: None

Abstract: This proposed rule would implement SSA '94 provisions to provide coverage for speech-language pathology services furnished by a qualified pathologist.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPD-843

Agency Contact: Jackie Gordon, Division of Cost Reporting, Department of Health and Human Services, Health Care Financing Administration, C4-07-14, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4517

RIN: 0938–AH37

1277. SUPPLIER PARTICIPATION AGREEMENTS AND LIMITS ON ACTUAL CHARGES OF NONPARTICIPATING PHYSICIANS (HCFA-1862-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395u(h); 42 USC 1395hh; 42 USC 1395rr(b)(1)

CFR Citation: 42 CFR 400; 42 CFR 414

Legal Deadline: None

Abstract: The Deficit Reduction Act of 1984 established a voluntary participation program for physicians and suppliers under which physicians and suppliers enter into an agreement with Medicare that binds them to accept payment on an assignment-related basis for all services they furnish to Medicare beneficiaries. This proposed rule would set forth the terms and conditions of the participation agreements. This proposed rule would reflect provisions of OBRA '93 as to the suppliers subject to the charge limits, and provisions of SSA '94 as to administrative procedures for enforcing the charge limits. This rulemaking will revise text in the CFR to reduce burden or duplication, or streamline requirements. It will give beneficiaries the opportunity to make informed consumer decisions regarding the choice of Medicare Part B services.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-862

Agency Contact: Anita Heygster, Center for Health Plans & Providers, Department of Health and Human Services, Health Care Financing Administration, C4-04-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4486

RIN: 0938–AH50

1278. MEDICARE TECHNICAL CONFORMING AMENDMENTS (HCFA-1858-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395k

CFR Citation: 42 CFR 409.50; 42 CFR 409.61; 42 CFR 410.152

Legal Deadline: None

Abstract: This final rule with comment period will update our regulations to reflect that payment for durable medical equipment is on the basis of a fee schedule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPD-858

Agency Contact: Martha Kuespert, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-02-16, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4605

RIN: 0938–AH67

1279. ELIMINATION OF CERTAIN REQUIREMENTS FOR PEER REVIEW ORGANIZATIONS IN THE UTILIZATION AND QUALITY REVIEW PROCESS AND A CHANGE IN THE LENGTH OF PEER REVIEW ORGANIZATION CONTRACTS (HCFA-3235-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 462.107; 42 CFR 466.71; 42 CFR 466.73

Legal Deadline: None

Abstract: This rule would eliminate the requirement that Peer Review Organizations (PROs) conduct quarterly random sample reviews of hospital discharges. It would also change the period for PRO contracts from 2 years to 3 years and would eliminate certain notification requirements regarding contract awards.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HSQ-235-FC

Agency Contact: Bill Roskey, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, S1-09-18, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0433

RIN: 0938–AH68

1280. DISCLOSURE OF PEER REVIEW ORGANIZATION INFORMATION IN RESPONSE TO BENEFICIARY COMPLAINTS (HCFA-3241-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 466.70(a); 42 CFR 476.101; 42 CFR 476.107; 42 CFR 476.132; 42 CFR 476.133(b)(4)

Legal Deadline: None

Abstract: This proposed rule would change our policy regarding the disclosure of peer review organization (PRO) information in responding to beneficiary complaints about physicians, other practitioners, and other institutional and non-institutional providers of health care, including Health Maintenance Organizations and Competitive Medical Plans. Under the proposal, we would permit the disclosure of PRO information about physicians and other individual practitioners without their permission to the extent necessary to comply with section 1154(a)(14) of the Social Security Act. This section requires PROs to conduct reviews of beneficiary complaints about the quality of services that do not meet professionally recognized standards of health care and inform each beneficiary of the final disposition of his or her complaint.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HSQ-241-P

Agency Contact: William Roskey, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, S1-09-07, Baltimore, MD 21244-1850
Phone: 410 786-0433

RIN: 0938–AH85

1281. MEDICAID PROGRAM; AMENDMENT TO THE PREADMISSION SCREENING AND ANNUAL RESIDENT REVIEW PROGRAM (HCFA-2107-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1396r(e); 42 USC 1396r(b)

CFR Citation: 42 CFR 405; 42 CFR 431; 42 CFR 433; 42 CFR 441; 42 CFR 483

Legal Deadline: None

Abstract: This proposed rule would make changes to the preadmission screening and annual resident review program in accordance with the provisions of Public Law 104-315, which were included in the Reinventing Government effort. The rule would repeal the Medicaid program requirement for an annual review of nursing facility (NF) residents with mental illness or mental retardation. This proposed rule also would add the requirement for NFs to notify the State when there is a significant change in the physical or mental condition of a resident and add a statutory requirement that the State conduct a review promptly after notification of the resident's change in condition.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

Additional Information: HCFA-2107-P

Agency Contact: Jan Earle, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, S2-15-10, Baltimore, MD 21244
Phone: 410 786-9004
Fax: 410 786-3262

RIN: 0938–AH89

1282. MEDICARE AND MEDICAID PROGRAMS; QUARTERLY LISTING OF PROGRAM ISSUANCES AND COVERAGE DECISSIONS—SECOND QUARTER, 1998

Priority: Routine and Frequent

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: This notice lists HCFA manual instructions, substantive and interpretive regulations, and other Federal Register notices that were published during April, May, and June of 1998 that relate to Medicare and Medicaid programs.

Timetable:

Action	Date	FR Cite
Notice	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kristy Nishimoto, Office of Communications and Operations, Support, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-8517

RIN: 0938–AI13

1283. MEDICARE PROGRAM; PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT (HCFA-1005-P)

Regulatory Plan: This entry is Seq. No. 29 in Part II of this issue of the Federal Register.

RIN: 0938–AI56

HHS—HCFA

Proposed Rule Stage

1284. MEDICAID MANAGED CARE; REGULATORY PROGRAM TO IMPLEMENT CERTAIN MEDICAID PROVISIONS OF THE BALANCED BUDGET ACT OF 1997 (HCFA-2001-P)

Regulatory Plan: This entry is Seq. No. 30 in Part II of this issue of the Federal Register.

RIN: 0938–AI70

1285. • COVERAGE OF RELIGIOUS NON-MEDICAL HEALTH CARE INSTITUTIONS (HCFA-1909-IFC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395i-5; 42 USC 1395x(d)(e)(y) and (ss); 42 USC 1395ff; 42 USC 1395oo; 42 USC 1302

CFR Citation: 42 CFR 403g; 42 CFR 412.90; 42 CFR 412.98; 42 CFR 431.610; 42 CFR 440.155; 42 CFR 442.12; 42 CFR 456.351; 42 CFR 456.601; 42 CFR 466.1; 42 CFR 440.170; 42 CFR 488.2; 42 CFR 488.6; 42 CFR 489.102

Legal Deadline: Final, Statutory, July 1, 1998.

Abstract: This final rule with comment period implements section 4454 of the Balanced Budget Act of 1997, BBA '99 amended section 1861 of the Social Security Act (the Act). Section 4454 of BBA '97 removed all references to Christian Science and Christian sanatoria from the Act and substituted religious nonmedical health care institutions in their place. This change permits any religious organization to apply to be paid for furnishing nonmedical services under Medicare. The rule sets forth minimum requirements and conditions of participation to qualify as a religious nonmedical health care institution for purposes of receiving payment for services furnished under Medicare.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jean Marie Moore, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-3508

RIN: 0938–AI93

1286. • EXPANDED COVERAGE FOR DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES HCFA-3002-P

Regulatory Plan: This entry is Seq. No. 31 in Part II of this issue of the Federal Register.

RIN: 0938–AI96

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Final Rule Stage

1287. DEDUCTION OF INCURRED MEDICAL EXPENSES (SPENDDOWN) (HCFA-2020-F)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 435.831; 42 CFR 436.831

Legal Deadline: None

Abstract: This final rule amends and responds to comments on a final rule with comment period published in the Federal Register on January 12, 1994. That rule permits States flexibility to revise the process by which incurred medical expenses are considered to reduce an individual's or a family's income in order for the individual or family to become Medicaid eligible. The revisions permit States greater flexibility by offering options that will allow them to simplify the administration of their Medicaid programs.

Timetable:

Action	Date	FR Cite
Final Rule With Comment Period	01/12/94	59 FR 1659
Comment Period End	03/14/94	
Effective Date	03/14/94	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State

Additional Information: HCFA-2020

Agency Contact: Jackie Wilder, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-17-18, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4579

RIN: 0938–AB07

1288. PARTICIPATION IN CHAMPUS AND CHAMPVA, HOSPITAL ADMISSIONS FOR VETERANS, DISCHARGE RIGHTS NOTICE, AND HOSPITAL RESPONSIBILITY FOR EMERGENCY CARE (HCFA-1393-IFC)

Priority: Other Significant

Legal Authority: 42 USC 1395x; 42 USC 1395cc; 42 USC 1395dd

CFR Citation: 42 CFR 488.18; 42 CFR 489.20; 42 CFR 489.24; 42 CFR 489.25; 42 CFR 489.26; 42 CFR 489.27; 42 CFR 489.53; 42 CFR 1003

Legal Deadline: None

Abstract: This final rule will require Medicare-participating hospitals with emergency departments to provide upon request medical examinations and treatments for individuals with emergency medical conditions and women in labor. A participating hospital that has specialized capabilities or facilities (such as burn, shock trauma, or neonatal intensive care units) must accept an appropriate transfer if it has the capacity to treat the individual. Hospitals failing to meet those requirements may have their Medicare provider agreements terminated, and hospitals and responsible physicians may be subject to civil money penalties. Under section 9122 of COBRA '85, Medicare-participating hospitals are required to accept CHAMPUS and CHAMPVA payment as payment in full for services provided to CHAMPUS and CHAMPVA beneficiaries. These regulations also implement section 9305(b) of OBRA '86, which requires Medicare hospitals to give patients a notice of their discharge rights.

HHS—HCFA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/16/88	53 FR 22513
NPRM Comment Period End	08/15/88	
Final Rule With Comment Period	06/22/94	59 FR 32086
Effective Date	07/22/94	
Comment Period End	08/22/94	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-393

Agency Contact: Tzvi Hefter, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C5-08-27, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-1304

RIN: 0938–AC58

1289. MEDICARE SECONDARY PAYER FOR DISABLED INDIVIDUALS (HCFA-1482-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395y(b); 44 USC 3501 to 3511

CFR Citation: 42 CFR 400; 42 CFR 411

Legal Deadline: None

Abstract: This rule will codify in the CFR the Medicare secondary payer (MSP) provision, under the Social Security Act, for disabled individuals who are covered under large group health plans (LGHPs). Under this provision, LGHPs may not take into account that such individuals are entitled to Medicare. The rule contains procedures under which a plan can appeal a determination of nonconformance that could lead to an excise tax. It reflects statutory revisions mandated by OBRA '86, OBRA '89, and OBRA '93, some of which also affect the MSP provisions for persons who are entitled on the basis of age or end-stage renal disease.

Timetable:

Action	Date	FR Cite
NPRM	03/08/90	55 FR 8491
Comment Period End	10/30/92	
Final Rule	08/31/95	60 FR 45344
Effective Date	10/02/95	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: BPD-482

Agency Contact: Herbert Poilock, Center for Health Plans and Providers, Division of Integrated Services, Department of Health and Human Services, Health Care Financing Administration, C4-03-23, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4474

RIN: 0938–AD73

1290. OMNIBUS NURSING HOME REFORM REQUIREMENTS (HCFA-3488-F)

Priority: Other Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395i-3; 42 USC 1395x; 42 USC 1396r; 42 USC 1302

CFR Citation: 42 CFR 431; 42 CFR 482; 42 CFR 483; 42 CFR 488

Legal Deadline: None

Abstract: This final rule will implement several provisions of OBRA '87 that concern services to residents of nursing homes. This rule will implement provisions that include Federal standards for evaluating State waivers of nursing facility nurse staffing requirements, use of physical and chemical restraints in nursing facilities, qualifications of facility administrators, notice of Medicaid rights to be given to persons admitted to nursing facilities, and other technical changes.

Timetable:

Action	Date	FR Cite
NPRM	04/06/92	
NPRM Comment Period End	06/00/99	
Final Action		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-488

Agency Contact: Nancy Archer, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-0596

RIN: 0938–AD81

1291. REVISIONS TO REGULATIONS IMPLEMENTING CLIA (HCFA-2226-F)

Priority: Other Significant

Legal Authority: 42 USC 263a

CFR Citation: 42 CFR 493

Legal Deadline: None

Abstract: This rule will respond to public comments received on a final rule with comment period published on February 28, 1992. The rule revised regulations applicable to laboratories and implemented provisions of the Clinical Laboratory Improvement Amendments of 1988 (CLIA). The regulations apply to laboratories that examine human specimens for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings. They specify the performance requirements, based on test complexity and risk factors related to erroneous test results as required by CLIA. They also list requirements that permit waiver of the certification and inspection requirements for laboratories performing only limited testing.

Timetable:

Action	Date	FR Cite
NPRM	05/21/90	55 FR 20896
Comment Period End	09/21/90	
Final Rule With Comment Period	02/28/92	57 FR 7002
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HSQ-226

Agency Contact: David Cade, Family & Children's Health Programs Group, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-3870

RIN: 0938–AE47

1292. COVERAGE OF SCREENING PAP SMEARS (BPD-705-F)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 410.10; 42 CFR 410.32; 42 CFR 410.56; 42 CFR 411.15

Legal Deadline: None

Abstract: This rule establishes regulations under section 6115 of OBRA '89 to govern Medicare part B coverage of screening pap smears (including a physician's interpretation of the test results) provided to a woman for the early detection of cervical cancer.

Timetable:

Action	Date	FR Cite
NPRM	11/26/93	58 FR 62312
NPRM Comment Period End	01/24/94	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPD-705

Agency Contact: Joyce Eng, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, C4-02-26, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4619

RIN: 0938–AE98

1293. MEDICARE COVERAGE OF, AND APPLICATION OF THE OUTPATIENT MENTAL HEALTH TREATMENT LIMITATION TO, CLINICAL PSYCHOLOGIST AND CLINICAL SOCIAL WORKER SERVICES (HCFA-3706-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395l(c); 42 USC 1395x(hh)(2); 42 USC 1395x(ii)

CFR Citation: 42 CFR 410; 42 CFR 417; 42 CFR 424

Legal Deadline: None

Abstract: This rule will address provisions of OBRA '89 and OBRA '90. OBRA '89 provides the services of clinical psychologists (CPs) and clinical social workers. It requires CPs to agree to consult with the patient's primary care or attending physician. (Also, it will eliminate the dollar limitation that previously applied to mental health services, although the 62.5 percent limitation still applies). OBRA '89 also provides coverage for clinical social worker services, but places two limitations on separate payment, which apply to services provided to inpatients of hospitals and skilled nursing facilities that are Medicare participating. OBRA '90 unbundled CP services from the definition of "inpatient hospital services." It also implements two sections (psychology services in hospitals and consultation by social workers) of the Social Security Act Amendments of 1994.

Timetable:

Action	Date	FR Cite
NPRM	12/29/93	58 FR 68829
NPRM With Comment Period	02/28/94	
Final Rule	04/23/98	63 FR 20110
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HCFA-3706-F

Agency Contact: Regina Walker-Wren, Center for Health Plans and Providers, Division of Practitioner & Ambulatory Care, Department of Health and Human Services, Health Care Financing Administration, C4-08-16, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6735

RIN: 0938–AE99

1294. MEDICAID PAYMENT FOR COVERED OUTPATIENT DRUGS UNDER REBATE AGREEMENTS (HCFA-2046-FC)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1396a(a); 42 USC 1396r-8; 42 USC 1396b(a); 42 USC 1302

CFR Citation: 42 CFR 447; 42 CFR 441

Legal Deadline: None

Abstract: This final rule with comment period will incorporate section 4401 of OBRA '90 to add specific requirements for Medicaid payment for covered outpatient drugs. The requirements concern: denial of Federal financial participation unless rebate agreements and drug use review are in effect; prohibiting some State plan drug access limitations for drugs covered under a rebate agreement; and the content of the rebate agreements. (The drug rebate agreement was previously published in the Federal Register on February 21, 1991 (56 FR 7049)). This rule will reflect statutory revisions mandated by the Veteran's Health Care Act of 1992 and OBRA '93. Revision of the drug rebate dispute resolution process is part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	09/19/95	60 FR 48442
NPRM Comment Period End	11/20/95	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: HCFA-2046-FC

Agency Contact: Tami Bruce, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-1519

RIN: 0938–AF42

1295. RETROACTIVE ENROLLMENT AND DISENROLLMENT IN RISK HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS (HCFA-1015-F)

Priority: Other Significant

Legal Authority: 42 USC 1395mm; 43 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 417.448; 42 CFR 417.450; 42 CFR 417.456; 42 CFR 417.460; 42 CFR 417.461; 42 CFR 417.462; 42 CFR 417.464; 42 CFR 417.584; 42 CFR 417.436

Legal Deadline: None

Abstract: This rule implements section 4204(e) of OBRA '90. It permits HCFA to make retroactive payments for up to 90 days when there is a delay in notifying HCFA that a beneficiary has enrolled under a section 1876 (of the Social Security Act) risk contract through an employer health plan. In addition, the rule will permit the Secretary to authorize retroactive disenrollment in specific cases. We will also address related requirements of the Balanced Budget Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	12/27/93	58 FR 68366
NPRM Comment Period End	02/25/94	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: OMC-015

Agency Contact: Anne Manley, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, S3-02-01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1096

RIN: 0938–AF98

1296. PAYMENT FOR PREADMISSION SERVICES (HCFA-1731-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395ww(a)(4)

CFR Citation: 42 CFR 412.2(c); 42 CFR 413.40

Legal Deadline: None

Abstract: This rule finalizes provisions published in an interim final rule with comment period on January 12, 1994, and responds to comments received on that rule. The interim final rule implemented section 4003 of OBRA '90, entitled "Expansion of DRG Payment Window," which amended the statutory definition of "operating costs of inpatient hospital services" to include certain preadmission services.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/12/94	59 FR 1654
Interim Final Rule Effective Date	01/12/94	
Interim Final Rule Comment Period End	03/14/94	
Final Rule	02/11/98	63 FR 6864
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HCFA-1731-F

Agency Contact: Nancy Edwards, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C5-06-27, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4531

RIN: 0938–AG00

1297. REVISED MEDICAID MANAGEMENT INFORMATION SYSTEMS (HCFA-2038-FN)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396b(r)

CFR Citation: None

Legal Deadline: None

Abstract: This notice sets forth revised general functional requirements for the Medicaid Management Information Systems (MMIS). The MMIS consists of software and hardware used to process Medicaid claims and to retrieve and produce utilization and management information about services that are required by the Medicaid agency or Federal Government for administrative or audit purposes. The revised requirements allow States more flexibility to exercise variations in the implementation.

Timetable:

Action	Date	FR Cite
Proposed Notice	11/22/93	58 FR 61692
Comment Period End	01/21/94	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State

Additional Information: MB-038

Agency Contact: Richard Friedman, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4451

RIN: 0938–AG10

1298. DESCRIPTION OF HCFA'S EVALUATION METHODOLOGY FOR THE PEER REVIEW ORGANIZATIONS FIFTH SCOPE OF WORK CONTRACTS (HCFA-3207-N)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1320c; 42 USC 1320c-2(h)z

CFR Citation: 42 CFR 462

Legal Deadline: None

Abstract: This notice with a comment period would provide general criteria and standards that will be used to evaluate the effective and efficient performance of Utilization and Quality Control Peer Review Organizations (known as PROs) for contracts entered into on or after April 1, 1996.

Timetable:

Action	Date	FR Cite
NPRM	07/02/97	62 FR 35824
NPRM Comment Period End	09/02/97	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HSQ-207

Agency Contact: Heidi Gelzer, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, S1-08-24, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-9352

RIN: 0938–AG32

1299. MEDICARE PROGRAM: LIMITATIONS ON MEDICARE COVERAGE OF INTERMITTENT POSITIVE PRESSURE BREATHING MACHINE THERAPY (HCFA-3781-FN)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395x(n); 42 USC 1395y(a)(1)(A)

CFR Citation: 45 CFR 500

Legal Deadline: None

Abstract: Intermittent positive pressure breathing (IPPB) machine therapy is currently covered under Medicare as durable medical equipment for patients

whose ability to breathe is severely impaired. Based on an Office of Health Technology Assessment recommendation, we will place limitations on Medicare coverage of IPPB machine therapy.

Timetable:

Action	Date	FR Cite
Proposed Notice	06/29/94	59 FR 33520
Comment Period End	08/29/94	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPD-781

Agency Contact: Francine Spencer, Office of Clinical Standards and Quality Coverage and Analysis Group, Department of Health and Human Services, Health Care Financing Administration, C4-04-05, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4614

RIN: 0938–AG44

1300. REQUEST FOR ASSESSMENT ON THE SALITRON SYSTEM FOR THE TREATMENT OF XEROSTOMIA SECONDARY TO SJOGREN'S SYNDROME (HCFA-3782-NC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395x; 42 USC 1395y

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: This notice announces our withdrawal of a prior proposed notice. It also announces a request for the Agency for Health Care Policy and Research to conduct a new technology assessment on the salivary electrostimulation in Sjogren's syndrome which includes the use of the salitron system for the treatment of xerostomia (dry mouth) secondary to Sjogren's syndrome.

Timetable:

Action	Date	FR Cite
Final Rule	06/01/98	63 FR 29743
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: BPD-782

Agency Contact: Francine Spencer, Office of Clinical Standards and Quality Coverage and Analysis Group, Department of Health and Human Services, Health Care Financing Administration, C4-04-05, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4614

RIN: 0938–AG45

1301. TELEPHONE REQUESTS FOR REVIEW OF PART B INITIAL CLAIM DETERMINATIONS (HCFA-4121-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395ff(b); 42 USC 1395hh; 42 USC 1395ii; 42 USC 1395u(b)(3)(C)

CFR Citation: 42 CFR 405.802; 42 CFR 405.807

Legal Deadline: None

Abstract: This rule will make it easier for beneficiaries, providers, and suppliers, who are entitled to appeal Medicare part B initial claim determinations to request a review of the carrier's initial determination. Currently, these initial claim requests must be in writing. This final rule will allow those requests to be made by telephone, which will expedite the appeals process, and save time and costs for all parties. Allowing the use of telephone requests will supplement, not replace, the current procedures for initiating appeals. By providing quick and easy access to the appeals process, this rule will also improve carrier relationships with the beneficiary, physician and other suppliers.

Timetable:

Action	Date	FR Cite
NPRM	07/10/95	60 FR 35544
NPRM Comment Period End	09/08/95	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPO-121

Agency Contact: Rosalind Little, Center for Beneficiary Services, Department of Health and Human Services, Health Care Financing Administration, S1-05-18, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6972

RIN: 0938–AG48

1302. CLINICAL LABORATORY IMPROVEMENT AMENDMENT (CLIA) FEE SCHEDULE REVISION (HCFA-3219-GNC)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395x(e); 42 USC 1395x(s)(11); 42 USC 1395x(s)(12); 42 USC 1395x(s)(13); 42 USC 1395x(s)(14); 42 USC 1395x(s)(15)

CFR Citation: 42 CFR 493.638; 42 CFR 493.639

Legal Deadline: None

Abstract: This general notice with a comment period will announce updated certificate fees that laboratories must pay as required by CLIA '88. Fee increases are necessary to meet the costs of program administration, which are to be borne by the laboratories.

Timetable:

Action	Date	FR Cite
General Notice With Comment Period	08/29/97	62 FR 45815
Comment Period End	10/28/97	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: HSQ-219

Agency Contact: Judy Yost, Division of Outcomes and Improvements, Department of Health and Human Services, Health Care Financing Administration, S2-09-28, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-3531

RIN: 0938–AG87

1303. CLIA PROGRAM: CATEGORIZATION OF WAIVED TESTS (HCFA-2225-FC)

Priority: Other Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 263a

CFR Citation: 42 CFR 493.2; 42 CFR 493.7; 42 CFR 493.8; 42 CFR 493.9; 42 CFR 493.15; 42 CFR 493.20; 42 CFR 493.25; 42 CFR 493.35; 42 CFR 493.37; 42 CFR 493.39; 42 CFR 493.45; 42 CFR 493.47; 42 CFR 493.49; 42 CFR 493.53; 42 CFR 493.1775

Legal Deadline: None

Abstract: As part of the CLIA program (see RIN: 0938-AE47), this rule will revise our current process of evaluating tests against generic criteria. A waiver will be granted to any test that meets the statutory criteria, provided that scientifically valid data are submitted verifying that the criteria were met.

Timetable:

Action	Date	FR Cite
NPRM	09/13/95	60 FR 47534
NPRM Comment Period End	11/13/95	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HSQ-225

Agency Contact: Judy Yost, Division of Outcomes and Improvements, Department of Health and Human Services, Health Care Financing Administration, S2-09-28, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-3531

RIN: 0938–AG99

1304. AMBULANCE SERVICES (HCFA-1813-F)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 410.40; 42 CFR 410.41; 42 CFR 424.124

Legal Deadline: None

Abstract: This rule updates and revises policy on coverage of ambulance services. It bases coverage and payment for ambulance services on the medical services needed to treat the beneficiary's condition. It also clarifies Medicare policy on coverage of non-emergency ambulance services for Medicare beneficiaries. It defines an ambulance by describing the requirements for furnishing both basic and advanced life support levels of ambulance services. The rule would require use of additional HCFA common procedure coding systems (HCPCS) codes to show the origin and destination of the ambulance transportation on the billing form. It requires use of international classification of diseases, ninth revision, clinical modification (ICD-9-CM) codes to bill the Medicare program for basic and advanced levels of ambulance services.

Timetable:

Action	Date	FR Cite
NPRM	06/17/97	62 FR 32715
NPRM Comment Period End	08/17/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HCFA-1813-F

Agency Contact: Margot Blige, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-02-26, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4642

RIN: 0938–AH13

1305. CRITERIA AND PROCEDURES FOR EXTENDING COVERAGE TO CERTAIN DEVICES AND RELATED SERVICES (HCFA-3841-F)

Priority: Other Significant

Legal Authority: 42 USC 1395y(a)(1)(A)

CFR Citation: 42 CFR 405.201 TO 215; 42 CFR 411.15; 42 CFR 411.406

Legal Deadline: None

Abstract: We published a final rule with comment period. It provided that certain medical devices with an investigational device exemption approved by the FDA may be covered under Medicare. It set forth the process by which the FDA is to assist HCFA in identifying non-experimental investigational devices that may be potentially covered under Medicare. This final rule responds to comments on that rule and restates the policy after considering the comments.

Timetable:

Action	Date	FR Cite
Final Rule	09/19/95	60 FR 48417
Comment Period End	10/20/95	
Effective Date	11/01/95	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: BPD-841

Agency Contact: Sharon Hippler, Office of Clinical Standards & Quality, Department of Health and Human Services, Health Care Financing Administration, C4-11-04, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4633

RIN: 0938–AH21

1306. CLIA PROGRAM: CYTOLOGY PROFICIENCY TESTING (HCFA-2233-N)

Priority: Other Significant

Legal Authority: 42 USC 263a(f)(4)(B)(iv)

CFR Citation: 42 CFR 493.855

Legal Deadline: None

Abstract: This notice announces the withdrawal of a proposed rule on cytology proficiency testing that was published in the Federal Register November 30, 1995, and instead, announces a supplement to the rulemaking record of a final rule published February 28, 1992. In publishing the proposed rule, HHS complied with a Federal court order requiring publication of a proposal that would require that cytology proficiency testing be conducted to the extent practicable, under normal working conditions. As required, we proposed to revise regulations to require that proficiency testing be conducted at a pace corresponding to the maximum workload rate for individuals examining slides. We also solicited comments on the use of computer facsimile representations of cytology specimens, as an alternative to glass-slide proficiency testing. After the proposed rule was published, the appeals court revised the lower court's order, allowing us to withdraw the

HHS—HCFA

Final Rule Stage

proposed rule and supplement the record to the final rule.

Timetable:

Action	Date	FR Cite
NPRM	11/30/95	60 FR 61509
NPRM Comment Period End	01/29/96	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HSQ-233-N. We are publishing a notice to advise the public that no final rule is necessary because the court decided the case in our favor.

Agency Contact: Rhonda Whalen, Senior Health Scientist, Department of Health and Human Services, Centers for Disease Control and Prevention, 4770 Buford Highway, NE., MS F 11, Atlanta, GA 30341-3724
Phone: 770 488-7670

RIN: 0938–AH35

1307. REQUIREMENTS FOR ENROLLMENT OF MEDICAID RECIPIENTS UNDER COST EFFECTIVE EMPLOYER-BASED GROUP HEALTH PLANS (HCFA-2047-FC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a(a)(10); 42 USC 1396a(u)(1); 42 USC 1396d(a); 42 USC 1396a(a)(25); 42 USC 1396a(e); 42 USC 1396e

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None

Abstract: This rule will provide for continuation of payment of health insurance premiums for individuals who are entitled to elect COBRA continuation coverage under a group health plan provided by an employer with 75 or more employees. Medicaid recipients may be required to apply for enrollment in employer-based cost eligibility; require State agencies to pay for premiums, eligibility. This rule also requires State agencies to pay for premiums, deductibles, coinsurances and other cost sharing obligations under employer-based cost effective group health plans, and define "COBRA continuation coverage" and "COBRA beneficiaries." In addition, this rule incorporates the changes of section 1906 due to the Balanced Budget Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	06/20/94	59 FR 31569
NPRM Comment Period End	08/19/94	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: MB-047

Previously published under RIN 0938-AF64.

Agency Contact: Gwendolyn Talvert, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-20-20, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5928

RIN: 0938–AH48

1308. TERMS, DEFINITIONS, AND ADDRESSES: TECHNICAL AMENDMENTS (HCFA-9877-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 1302; 42 USC 1395x(v)(1)(A); 42 USC 1395hh

CFR Citation: 42 CFR 400 to 420; 42 CFR 421 to 430; 42 CFR 431 to 440; 42 CFR 442 to 447; 42 CFR 455 to 456; 42 CFR 462 to 466; 42 CFR 473 to 476; 42 CFR 482 to 489; 42 CFR 491 to 498

Legal Deadline: None

Abstract: This is a technical final rule with comment period that will initiate the rationalization of our system of definitions, correct outdated addresses and formulas, clarify which steps of the appeals process are binding and which are final, remove content that is duplicative or unnecessary, and make other clarifying editorial changes.

Timetable:

Action	Date	FR Cite
Final Rule With Comment Period	12/00/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPD-877

Agency Contact: Luisa V. Iglesias, Division of Regulation and Issuances, Department of Health and Human Services, Health Care Financing Administration, Room 409-B, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC
Phone: 202 690-6383

RIN: 0938–AH53

1309. CHANGES TO THE HOSPITAL INPATIENT PROSPECTIVE PAYMENT SYSTEM AND FISCAL YEAR 1998 RATES (HCFA-1878-F)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1395ww

CFR Citation: 42 CFR 412; 42 CFR 413; 42 CFR 489

Legal Deadline: NPRM, Statutory, May 1, 1997. Final, Statutory, September 1, 1997.

Abstract: This final rule responds to public comments received on those portions of a final rule with comment period published in the Federal Register on August 29, 1997, that revised the Medicare hospital inpatient prospective payment systems for operating costs and capital-related costs to implement necessary changes resulting from the Balanced Budget Act (BBA) of 1997, Public Law 105-33. This rule also addresses public comments on other BBA changes relating to cost limits for hospitals and hospital unites excluded from the prospective payment systems, as well as direct graduate medical education payments, that were included in the August 29, 1997 document. Generally, these BBA changes were applicable to hospital discharges occurring on or after October 1, 1997.

Timetable:

Action	Date	FR Cite
NPRM	06/02/97	62 FR 29902
NPRM Comment Period End	08/01/97	
Final Rule With Comment Period	08/29/97	62 FR 45968
Comment Period End	10/28/97	
Final Rule	05/12/98	63 FR 26318
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

HHS—HCFA

Final Rule Stage

Government Levels Affected: State, Federal

Additional Information: HCFA-1878-F

HCFA published a final rule with comment period on 8/29/97.

Agency Contact: Tzvi Hefter, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-07-17, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4487

RIN: 0938–AH55

1310. UTILIZATION CONTROL AND DISCONTINUED REVIEW ACTIVITIES; MEDICAID (MB-101-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(26); 42 USC 1396a(a)(30); 42 USC 1396a(a)(31); 42 USC 1396a(a)(44); 42 USC 1396b(g)

CFR Citation: 42 CFR 400; 42 CFR 431; 42 CFR 456

Legal Deadline: None

Abstract: This final rule with comment period amends current regulations to reflect statutory changes under which physician certification, plan of care, and utilization review requirements become State plan requirements and are no longer included in the quarterly "showings" of compliance that States must submit. Those showings are now limited to inspection of care reviews in institutions for mental diseases and intermediate care facilities for the mentally retarded. The rule also reflects the discontinuance of the State-operated claims processing assessment system and of regional office review of a subsample of each State's Medicaid quality control sample.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: MB-101

Agency Contact: Mike Fiore, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0623

RIN: 0938–AH64

1311. INDIVIDUAL MARKET HEALTH INS. REFORM PORTABILITY FROM GROUP TO INDIV. COVERAGE; FEDERAL RULES FOR ACCESS IN THE INDIV. MARKET; STATE ALTERNATIVE MECHANISMS TO FEDERAL RULES (HCFA-2882-F)

Priority: Other Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 300gg to 341

CFR Citation: 45 CFR 148

Legal Deadline: None

Abstract: This final rule will address comments received on the interim final rule published on April 8, 1997 and further clarifies the Departmental position on HIPAA requirements in the individual market.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16985
Interim Final Rule Effective Date	04/08/97	
Interim Final Rule Comment Period End	07/07/97	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Additional Information: BPD-882-F

Agency Contact: Gertrude Saunders, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-5888

RIN: 0938–AH75

1312. MEDICAID PROGRAM; REDETERMINATIONS OF MEDICAID ELIGIBILITY DUE TO WELFARE REFORM (HCFA-2105-IFC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 435.1003; 42 CFR 457

Legal Deadline: None

Abstract: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and the Contract With America Advancement Act of 1996 made statutory changes affecting the eligibility of large numbers of Medicaid recipients. Changes were made to the definition of disability for children and eligibility requirements of non-U.S. citizens and individuals receiving disability cash assistance based on a finding of alcoholism and drug addiction. In order to protect Federal financial participation in State Medicaid expenditures for States with unusual volumes of eligibility redeterminations caused by these statutory changes, we published a final rule with comment period on January 13, 1997. That rule changed our regulations to provide additional time for States to process redeterminations and provide services pending the redeterminations. We are analyzing the public comments to the January 13 rule in preparation of a final rule.

Timetable:

Action	Date	FR Cite
Final Rule Effective	01/13/97	
Final Rule With Comment Period	01/13/97	62 FR 1682
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Bob Tomlinson, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-08-24, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4463

RIN: 0938–AH76

1313. MEDICARE PROGRAM; BENEFICIARY INCENTIVES PROGRAMS (HCFA-6144-FC11)

Priority: Other Significant

Legal Authority: PL 104-191, sec 203

CFR Citation: 42 CFR 420.400; 42 CFR 420.405; 42 CFR 420.410

Legal Deadline: Final, Statutory, October 21, 1996.

Abstract: This proposed rule would establish a program for payment to individuals who provide information on Medicare fraud and abuse. It would also establish a program to collect suggestions to improve Medicare program efficiency and allow for payment to the individuals who provide the suggestions. Overall, it would implement sections 203(b) and 203(c) of the Health Insurance Portability and Accountability Act of 1996.

Timetable:

Action	Date	FR Cite
Final Rule With Comment Period	06/08/98	63 FR 31123
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: BPO-144-P

Agency Contact: Delilah Schmitt, Program Integrity Group, Office of Financial Management, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, S3-08-05, Baltimore, MD 21244
Phone: 410 786-4300

RIN: 0938–AH86

1314. ALLOCATION OF ENHANCED FEDERAL MATCHING FUNDS FOR INCREASED ADMINISTRATIVE COSTS (MB-103-N)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a(a)

CFR Citation: None

Legal Deadline: None

Abstract: This notice will provide a formula for the allocation of a special $500 million fund for enhanced Federal matching for State Agency's expenditures attributable to additional Medicaid administrative costs of Medicaid eligibility determinations as a result of the provisions of 1931 of the Social Security Act as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Timetable:

Action	Date	FR Cite
Notice	05/14/97	62 FR 26545
Notice Comment Period End	07/13/97	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: MB-103

Agency Contact: Richard Strauss, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, C4-18-26, Baltimore, MD 21244
Phone: 410 786-2019

RIN: 0938–AH90

1315. MEDICALLY NEEDY DETERMINATIONS UNDER WELFARE REFORM (HCFA-2109-IFC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(10)(C)

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None

Abstract: This interim final rule with comment period will revise our rules to allow States to include individuals who are described as categorically needy to be covered as medically needy. The State must specify the income and resources criteria for the medically needy group in the State plan. If an individual is also described as categorically needy, the individual would receive Medicaid as categorically needy if the State elected to cover the categorically needy group into which the individual fits. If the State has not elected to cover that group, the individual would be medically needy. This change will allow more individuals to become eligible for Medicaid as medically needy and eliminate an inequity in current regulations. This revision also allows some individuals who would otherwise lose their Medicaid benefits to retain their eligibility.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State

Additional Information: MB-109

Agency Contact: Jackie Wilder, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, S2-16-17, Baltimore, MD 21244
Phone: 410 786-4579

RIN: 0938–AH92

1316. FINAL LIMITATIONS ON AGGREGATE PAYMENTS TO DISPROPORTIONATE SHARE HOSPITALS: FEDERAL FISCAL YEAR 1998 (HCFA-2110-N)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396(a)(13); 42 USC 1396r-4(f)

CFR Citation: 42 CFR 447.297; 42 CFR 447.298; 42 CFR 447.299

Legal Deadline: Other, Statutory, April 1, 1998.
Regulatory Deadline

Abstract: This notice announces the final Federal fiscal year 1998 national target and individual State allotments for Medicaid payment adjustments made to hospitals that serve a disproportionate number of Medicaid recipients and low-income patients with special needs.

Timetable:

Action	Date	FR Cite
Notice	12/00/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State

Additional Information: MB-110

Agency Contact: Richard Strauss, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., C4-17-27, Baltimore, MD 21244
Phone: 410 786-2019

RIN: 0938–AH93

1317. REVISION TO THE DEFINITION OF AN UNEMPLOYED PARENT (HCFA-2106-FC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 607; 42 USC 1396u-1

CFR Citation: 45 CFR 233

Legal Deadline: None

Abstract: This final rule with comment period will make a change necessary for a State to further facilitate coordination of its Medicaid and foster care program in cases where coverage has been expanded under its Temporary Assistance for Needy Families beyond the definition of unemployed parent contained in existing Aid to Families with Dependent Children regulations. This rule revises the definition of unemployment of a principal wage earner for purposes of coverage of dependent children of unemployed parents. It will also allow States to eliminate inequitable policies that are a disincentive to family unity.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State

Additional Information: HCFA-2106-FC

Agency Contact: Judith Rhoades, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., S2-08-05, Baltimore, MD 21244
Phone: 410 786-4462
Fax: 410 786-3252

RIN: 0938–AH98

1318. NATIONAL STANDARD HEALTH CARE PROVIDER IDENTIFIER (HCFA-0045-F)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1320(d)2

CFR Citation: 45 CFR 142

Legal Deadline: Final, Statutory, February 21, 1998.

Abstract: This rule addresses the health care industry's need for a standardized provider identifier. It implements one of the requirements for administrative simplification in section 262 of the Health Insurance Portability and Accountability Act of 1996. A standard provider identifier will save the health insurance industry significant costs incurred in maintaining multiple identifier systems.

Timetable:

Action	Date	FR Cite
NPRM	05/07/98	63 FR 25340
NPRM Comment Period End	07/06/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: HCFA-0045-P

Agency Contact: Pat Peyton, Office of Information Services, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., N3-20-05, Baltimore, MD 212244
Phone: 410 786-1812

RIN: 0938–AH99

1319. HEALTH INSURANCE REFORM: PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS (HCFA-2891-IFC)

Priority: Other Significant

Legal Authority: 42 USC 300gg-5

CFR Citation: 45 CFR 146

Legal Deadline: None

Abstract: This interim final rule will impose requirements on the large group health plan market. It will require parity of mental health benefits with medical and surgical benefits under a group health plan in the application of aggregate lifetime limits and annual limits. It will implement sections 702 and 703 of the Mental Health Parity Act of 1996.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/22/97	62 FR 66932
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Marc Thomas, Center for Medicaid & State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-7154

RIN: 0938–AI05

1320. PORTABILITY AND NONDISCRIMINATION IN THE GROUP HEALTH INSURANCE MARKET (HCFA-2890-F)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 201

CFR Citation: 45 CFR 146

Legal Deadline: None

Abstract: This final rule will address comments received on the interim final rule published April 8, 1997. It will also further clarify the Department's position on the minimum requirements applicable with respect to group health plans and health insurance issuers offering group health insurance coverage. A group health plan or health insurance issuer offering group health coverage may provide greater rights to participants and beneficiaries than those currently provided. This rule will include the following: (1) limitations on preexisting condition exclusion periods; (2) certification and disclosure of previous coverage; (3) special enrollment periods for individuals (and dependents) losing other coverage; (4) use of affiliation period by HMOs as alternative to preexisting condition exclusion; (5) prohibited discrimination against individual participants and beneficiaries based on health status; (6) guaranteed availability in the small group market; and (7) guaranteed renewability in the large and small group markets.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16894
Interim Final Rule Effective	06/07/97	
Interim Final Rule Comment Period End	07/07/97	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: BPD-890-IFC

Agency Contact: Dave Holstein, Insurance Standards Team, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-1564

RIN: 0938–AI08

1321. PART A PREMIUM FOR 1998 FOR THE UNINSURED AGED AND FOR CERTAIN DISABLED INDIVIDUALS WHO HAVE EXHAUSTED OTHER ENTITLEMENT (HCFA-5056-N)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1395i-2; 42 USC 1395i-20

CFR Citation: 45 CFR 300

Legal Deadline: Other, Statutory, September 30, 1998.
Notice publication

Abstract: This notice announces the hospital insurance premium for calendar year 1998 under Medicare's hospital insurance program (part A) for the uninsured aged and for certain disabled individuals who have exhausted other entitlement. The uninsured aged are those individuals who are not insured under the Social Security or Railroad Retirement Acts and do not otherwise meet the requirements for entitlement to Medicare part A. The disabled beneficiaries are those who lose monthly Social Security cash payments because they returned to work even though their disability continues. Section 1818(d) of the Social Security Act specifies the method to be used to determine this amount.

Timetable:

Action	Date	FR Cite
Notice	12/00/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Wandishin, Office of Strategic Planning, Department of Health and Human Services, Health Care Financing Administration, N3-26-00, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6389

RIN: 0938–AI10

1322. INPATIENT HOSPITAL DEDUCTIBLE AND HOSPITAL AND EXTENDED CARE SERVICES COINSURANCE AMOUNTS FOR 1998 (HCFA-5057-N)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395e

CFR Citation: None

Legal Deadline: None

Abstract: This notice announces the inpatient hospital deductible and the hospital and extended care services coinsurance amounts for services furnished in calendar year 1998 under Medicare's hospital insurance program (Medicare part A). The Medicare statute specifies the formula to be used to determine these amounts.

Timetable:

Action	Date	FR Cite
Notice	12/00/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Wandishin, Deputy Director, Division of Medicare and Medicaid Cost Estimates, Department of Health and Human Services, Health Care Financing Administration, N3-36-24, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6389

RIN: 0938–AI12

1323. MEDICAID PROGRAM: CHARGES FOR VACCINE ADMINISTRATION UNDER THE VACCINES FOR CHILDREN (VCF) PROGRAM (HCFA-2084-FNC)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 42 USC 1302; 42 USC 1396(a)(62)

CFR Citation: None

Legal Deadline: None

Abstract: This notice lists, by State, the finalized regional maximum charges that providers may impose for the administration of pediatric vaccines to federally vaccine-eligible children under the Vaccines for Children (VFC) program. This notice also specifies the methodology that HCFA used to establish the revised maximum charges. In addition, this notice provides States that purchase vaccines for all children the option to use these regional maximum charges or devise their own administration fees, and clarifies that State Medicaid agencies may establish lower fees than these maximum charges if the agencies assure access to immunizations for Medicaid-eligible children to the same extent as the general population. This notice also responds to comments on the October 3, 1994 notice with comment period.

Timetable:

Action	Date	FR Cite
Notice With Comment Period	10/03/94	59 FR 50235
Notice	04/10/95	60 FR 18136
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HCFA-2084-FNC

Agency Contact: Marge Sciulli, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-22-06, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0691

RIN: 0938–AI20

1324. GME: INCENTIVE PAYMENTS UNDER PLANS FOR VOLUNTARY REDUCTION IN NUMBER OF RESIDENTS (HCFA-1001-IFC)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 1395ww(h); PL 105-33, Sec 4626

CFR Citation: 42 CFR 413

Legal Deadline: Other, Statutory, February 5, 1998.
Interim final regulations with comment period must be published within 6 months of the date of enactment of the Balanced Budget Act 1997 (August 5, 1997).

Abstract: Under current law and regulations, hospitals are paid for direct medical education based on the number of residents participating in accredited graduated medical education programs. This interim final rule would implement section 4626 of the Balanced Budget Act of 1997 which allows hospitals to apply to receive incentive payments for reducing the number of residents in training. The hospital must submit a plan to the Secretary outlining how it will make voluntary residency reductions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: HCFA-1003-IFC

Agency Contact: Marc Hartstein, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244-1850
Phone: 410 786-4539

RIN: 0938–AI27

1325. MEDICARE+CHOICE PROGRAM; REGULATORY PROGRAM TO IMPLEMENT CERTAIN MEDICARE PROVISIONS OF THE BALANCED BUDGET ACT OF 1997 (HCFA-1030-F)

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1302; 42 USC 1395w21 to 27; 42 USC 1395hh; 42 USC 1395mm; PL 105-33, sec 1876

CFR Citation: 42 CFR 400; 42 CFR 403; 42 CFR 417; 42 CFR 422; 42 CFR 471; 42 CFR 489; 42 CFR 498

Legal Deadline: Other, Statutory, June 1, 1998.
Interim Final Rule.

Abstract: This rule implements the new Medicare+Choice program established by the Balanced Budget Act (BBA) of 1997. Under the Medicare+Choice program (part C of title XVIII of the Social Security Act) eligible individuals may choose to receive their Medicare benefits under any of several types of health care plans: coordinated care plans; medical savings account plans; fee-for service plans.

Timetable:

Action	Date	FR Cite
Interim Final Rule With Comment Period	06/26/98	63 FR 34968
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State

Agency Contact: Anthony Hausner, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1093

RIN: 0938–AI29

1326. COLLECTION OF USER FEES FROM MEDICARE+CHOICE PLANS AND RISK-SHARING CONTRACTORS (HCFA-1911-IFC)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395mm(k)(4)(d); PL 105-33, sec 4002

CFR Citation: 42 CFR 417.470; 42 CFR 417.472

Legal Deadline: None

Abstract: This interim final rule with a request for comments establishes the methodology that will be employed to assess fees applicable to Medicare risk-sharing contractors for fiscal year (FY) 1998. Under section 4002 of the Balanced Budget Act of 1997, these contractors must contribute their pro rate share of costs relating to beneficiary enrollment, dissemination of information, and certain counseling and assistance programs. The Medicare+Choice regulation to be published in June of 1998 will implement this requirement for Medicare+Choice plans.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/02/97	62 FR 63669
Effective Date	01/01/98	
Comment Period End	02/02/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marty Abeln, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244-1850
Phone: 410 786-1032

RIN: 0938–AI35

1327. MEDICARE PROGRAM: PAYMENTS FOR TELECONSULTATIONS IN RURAL HEALTH PROFESSIONAL SHORTAGE AREAS (HCFA-1906-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 105-33

CFR Citation: 42 CFR 410.75; 42 CFR 414.1; 42 CFR 414.62

Legal Deadline: None

Abstract: This rule provides for payment for teleconsultation with regard to a Medicare beneficiary who resides in a rural health professional shortage area. This proposed rule would also establish a methodology for determining the amount of payment.

Timetable:

Action	Date	FR Cite
NPRM	06/22/98	63 FR 33882
Interim Final Rule	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Craig Dobyski, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD
Phone: 410 786-4584

RIN: 0938–AI44

1328. MEDICARE PROGRAM; REVISIONS TO PAYMENT POLICIES UNDER THE PHYSICIAN FEE SCHEDULE FOR CALENDAR YEAR 1999 (HCFA-1006-FC) (HCFA-1006-P)

Regulatory Plan: This entry is Seq. No. 32 in Part II of this issue of the Federal Register.

RIN: 0938–AI52

1329. STANDARDS FOR ELECTRONIC TRANSACTIONS (HCFA-0149-F)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1320d

CFR Citation: 45 CFR 142

Legal Deadline: Final, Statutory, February 1, 1998.

Abstract: The rule puts in place code set standards and standards for 8 electronic transactions to be used by health plans, certain health care providers, and health care clearing houses. It would implement requirements for administrative simplification in section 262 of the Health Insurance Portability and Accountability Act of 1996. The standards will significantly reduce costs for processing health care transactions.

Timetable:

Action	Date	FR Cite
NPRM	05/07/98	63 FR 25277
NPRM Comment Period End	07/06/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Barbara Redding, Office of Information Services, Department of Health and Human Services, Health Care Financing Administration, S1-03-27, 7500 Security Blvd, Baltimore, MD 21228
Phone: 410 786-6165
Email: bredding@hcfa.gov

RIN: 0938–AI58

1330. NATIONAL STANDARD EMPLOYER IDENTIFIER (HCFA-0047-F)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1320d-2

CFR Citation: 45 CFR 142

Legal Deadline: Final, Statutory, February 21, 1998.

Abstract: This rule institutes the employer identification number as the standard for identifying employers for purposes of administrative simplification, as required by the Health Insurance Portability and Accountability Act of 1996. Use of one standard in the health care industry will reduce the cost of identifying employers in electronic health care transactions.

Timetable:

Action	Date	FR Cite
NPRM	06/16/98	63 FR 32784
NPRM Comment Period End	08/17/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary Emerson, Office of Information Services, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, N2-12-22, Baltimore, MD 21244
Phone: 410 786-7065
Email: memerson@hcfa.goc

RIN: 0938–AI59

1331. MEDICARE PROGRAM; DEFINITION OF PROVIDER-SPONSORED ORGANIZATION AND RELATED REQUIREMENTS (HCFA-1027-IFC)

Priority: Other Significant

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 422.350; 42 CFR 422.352; 42 CFR 422.354; 42 CFR 422.356

Legal Deadline: None

Abstract: The Balanced Budget Act of 1997 establishes a new Medicare+Choice program that significantly expands the health care options available to Medicare beneficiaries. Under this program, eligible individuals may elect to receive Medicare benefits through enrollment in a provider-sponsored organization. This interim final rule with comment period defines the term "provider-sponsored organization" for purposes of the Medicare program and establishes requirements related to meeting this definition.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/14/98	63 FR 18124
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Maureen Miller, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, S3-23-07, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-1097
Email: mmiller@hcfa.gov

RIN: 0938–AI60

1332. MEDICARE AND MEDICAID PROGRAMS; SURETY BOND REQUIREMENTS FOR HOME HEALTH AGENCIES (HCFA-1038-NC)

Priority: Routine and Frequent

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: The Balanced Budget Act of 1997 requires each home health agency to secure a surety bond in order to participate in the medicare and medicaid programs. Our January 5, 1998 publication in the Federal Register required each home health agency to secure a bond that is the greater of $50,000 or 15 percent of the annual amount paid to the home health agency and submit the bond to HCFA or the states medicaid agency, or both, by February 27, 1998. This notice announces our intent to make technical changes to the January 5, 1998 document to help home health agencies secure surety bonds. These changes were brought to our attention after the publication of our January 5, 1998 final rule.

Timetable:

Action	Date	FR Cite
Notice With Comment Period	03/04/98	63 FR 10732
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Ralph Goldberg, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-4870

RIN: 0938–AI82

1333. SOLVENCY STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS (HCFA-1011-IFC)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302; 42 USC 1395w-21 to 1395w-27; 42 USC 1395hh

CFR Citation: 42 CFR 422

Legal Deadline: None

Abstract: This interim final rule with a request for comments establishes solvency standards for provider-sponsored organizations (PSO's) under the new Medicare+Choice Program. The Balanced Budget Act of 1997 requires the Secretary to establish these standards by April 1, 1998.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/07/98	63 FR 25360
Interim Final Rule Effective	06/08/98	
Interim Final Rule Comment Period End	07/06/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Aaron Brown, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-1033

RIN: 0938–AI83

1334. SCHEDULE OF PER-BENEFICIARY LIMITATIONS ON HOME HEALTH AGENCY COSTS FOR COST REPORTING PERIODS BEGINNING ON OR AFTER OCTOBER 1, 1997 (HCFA-1905-FC)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1395x; PL 105-33, Balanced Budget Act of 1997

CFR Citation: 42 CFR 413.30

Legal Deadline: Final, Statutory, April 1998.

Abstract: This final rule with comment period sets forth, in accordance with section 4602 of the Balanced Budget Act of 1997, a new schedule of limitations on home health agency costs that may be paid under the medicare program for cost reporting periods beginning on or after October 1, 1997.

Timetable:

Action	Date	FR Cite
Final Rule Effective	10/01/97	
Final Rule with Comment Period	03/31/98	63 FR 15718
Comment Period End	06/01/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Mike Bussacca, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244-1850
Phone: 410 786-4602

RIN: 0938–AI84

1335. • HHS' RECOGNITION OF NAIC MODEL STANDARDS FOR REGULATION OF MEDIGAP POLICY (HCFA-2025-N)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1395(ss)

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: This notice describes changes made by the Balanced Budget Act of 1997 and the Health Insurance Portability and Accountability Act of 1996 to section 1882 of the Social Security Act, which governs Medicare supplemental insurance. It also provides notice that the model regulation adopted by the National Association of Insurance Commissioners (NAIC) on April 29, 1998, and reprinted in its entirety as an addendum to this notice, constitutes the applicable NAIC model regulation that is incorporated by reference in section 1882.

Timetable:

Action	Date	FR Cite
Notice	09/30/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Larry Cutler, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-5903

RIN: 0938–AJ07

1336. • REPORTING OUTCOME AND ASSESSMENT INFORMATION SET (OASIS) DATA AS PART OF THE CONDITIONS OF PARTICIPATION FOR HOME HEALTH AGENCIES (HCFA-3006-IFC)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 42 USC 1302; 42 USC 1395(hh)

CFR Citation: 42 CFR 484.11; 42 CFR 484.20; 42 CFR 488.68

Legal Deadline: None

Abstract: This interim final rule with comment period requires electronic reporting of data from the Outcome and Assessment Information Set (OASIS) as a condition of participation for HHAs. Specifically, this rule provides guidelines for HAAs for the electronic transmission of the OASIS data set as well as responsibilities of the State agency or contractor in collecting and transmitting this information to HCFA. This interim final rule also sets forth provisions concerning the privacy of patient identifiable information generates by the OASIS.

Timetable:

Action	Date	FR Cite
ANPRM	08/15/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Tracey Mummert, Center for Medicaid and State

Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD
Phone: 410 786-3398

RIN: 0938–AJ10

1337. • REQUEST FOR PUBLIC COMMENTS ON IMPLEMENTATION OF RISK ADJUSTED PAYMENT FOR THE MEDICARE+CHOICE PROGRAM AND NOTICE OF PUBLIC MEETING

Priority: Info./Admin./Other

Legal Authority: PL 105-33, Sec 4011

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: This notice solicits public comments on issues related to the implementation of risk adjusted payment for Medicare+Choice organizations. This notice also informs the public of a meeting to discuss risk adjustment and the collection of encounter data.

Timetable:

Action	Date	FR Cite
Notice	09/08/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Cynthia Tudor, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-6499

RIN: 0938–AJ16

1338. • HOME HEALTH PROSPECTIVE PAYMENT SYSTEM (HCFA-1102-FC)

Regulatory Plan: This entry is Seq. No. 33 in Part II of this issue of the Federal Register.

RIN: 0938–AJ24

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Long-Term Actions

1339. PAYMENT FOR CLINICAL DIAGNOSTIC LABORATORY TESTS (HCFA-1309-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395f(b); 42 USC 1395g; 42 USC 1395k; 42 USC 1395l; 42 USC 1395x; 42 USC 1395hh; 42 USC 1395rr; 42 USC 1395tt; 42 USC 1395ww; 42 USC 1396b

CFR Citation: 42 CFR 405; 42 CFR 413; 42 CFR 414; 42 CFR 424; 42 CFR 431; 42 CFR 447

Legal Deadline: None

Abstract: This rule will incorporate provisions of the Deficit Reduction Act of 1984, COBRA '85, OBRA '86, OBRA '87, TMRA '88, OBRA '89, and OBRA '90 regarding payment and "assignment" for diagnostic clinical laboratory tests establishing in regulations the methods for implementing fee schedules. This rule will set forth the methods by which the fee schedules will be updated and will allow certain adjustments for exceptions to the fee schedule. It will also reflect a statutory revision mandated by OBRA '93.

Timetable:

Action	Date	FR Cite
NPRM	08/18/93	58 FR 43156
NPRM Comment Period End	10/18/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: BPD-309

Agency Contact: Charles Spalding, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4496

RIN: 0938–AB50

1340. CRITERIA AND PROCEDURES FOR DEVELOPING MEDICAL SERVICES COVERAGE POLICY (HCFA-3546-F)

Priority: Other Significant

Legal Authority: 42 USC 1395y

CFR Citation: 42 CFR 400.404; 42 CFR 405.201; 42 CFR 405.203; 42 CFR 405.205; 42 CFR 405.207; 42 CFR 405.211

Legal Deadline: None

Abstract: This rule will announce generally applicable criteria and procedures for determining whether a service is "reasonable and necessary" under the Medicare program. It will also announce generally applicable criteria and procedures for determining whether a service is "reasonable and necessary" under the Medicaid program.

Timetable:

Action	Date	FR Cite
NPRM	01/30/89	54 FR 4302
NPRM Comment Period End	03/31/89	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPD-432

Agency Contact: Ron Milhorn, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, C4-10-07, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-5663

RIN: 0938–AD07

1341. CHANGES TO PEER REVIEW ORGANIZATION REGULATIONS (HCFA-3135-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1320c; 42 USC 1396a(a)(30); 42 USC 1395cc(a)

CFR Citation: 42 CFR 400.200; 42 CFR 411.15; 42 CFR 431.630; 42 CFR 433.15; 42 CFR 462.1; 42 CFR 462.101; 42 CFR 462.102; 42 CFR 462.106; 42 CFR 462.107; 42 CFR 466.1; 42 CFR 466.71; 42 CFR 466.76; 42 CFR 466.78; 42 CFR 466.83

Legal Deadline: None

Abstract: This rule will set forth several changes to regulations that govern Peer Review Organizations (PROs) and is based on statutory changes contained in COBRA '85 and OBRA '86. In addition, several technical changes will be included as a result of experience gained with the PRO program by HCFA. This rule also implements the new quality review requirements for certain Medicaid health maintenance organization contracts.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 8654
NPRM Comment Period End	05/16/88	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: HSQ-135

Agency Contact: Bill Roskey, Office of Clinical Standards and Quality, Health Standards and Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, S1-09-18, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-0433

RIN: 0938–AD38

1342. "WITHOUT FAULT" AND BENEFICIARY WAIVER OF RECOVERY AS IT APPLIES TO MEDICARE OVERPAYMENT LIABILITY (HCFA-1719-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395gg

CFR Citation: 42 CFR 401; 42 CFR 403.310; 42 CFR 405; 42 CFR 410.1; 42 CFR 411.23; 42 CFR 411.28; 42 CFR 413.20; 42 CFR 413.153; 42 CFR 447.31; 42 CFR 466.86; 42 CFR 466.94; 42 CFR 473.14; 42 CFR 493.1834

Legal Deadline: None

Abstract: This rule would amend the Medicare regulations to clarify our interpretation of "without fault" as it applies to physician, provider, supplier, and beneficiary liability for overpayments. This definition would result in greater uniformity of determinations by carriers and intermediaries. Additionally, this rule would amend the Medicare regulations governing liability for overpayments to eliminate application of certain regulations of the Social Security Administration and to replace them with HCFA regulations more specific to circumstances involving Medicare overpayments.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPD-719

Agency Contact: David Walczak, Center for Health Plans and Providers, Plan & Provider Purchasing Policy Group, Department of Health and Human Services, Health Care Financing Administration, C4-07-07, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4475

RIN: 0938–AD95

1343. PROTECTION OF INCOME AND RESOURCES FOR COMMUNITY SPOUSES OF INSTITUTIONALIZED INDIVIDUALS (HCFA-2023-P)

Priority: Other Significant

Legal Authority: 42 USC 1396r-5; 42 USC 1302

CFR Citation: 42 CFR 435.650 to 674; 42 CFR 435.750 to 754

Legal Deadline: None

Abstract: This rule would interpret statutory changes made in 1988, 1989, 1990 and 1993 that allocate income and resources between an institutionalized spouse and the spouse remaining in the community. It would also provide special post-eligibility rules for institutionalized individuals who have spouses in the community to retain more income to meet living expenses.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local

Additional Information: HCFA-2023

Agency Contact: Roy Trudel, Center for Medicaid & State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-20-15, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3417

RIN: 0938–AE12

1344. SURVEY REQUIREMENTS AND ALTERNATIVE SANCTIONS FOR HOME HEALTH AGENCIES (HCFA-2169-F)

Priority: Other Significant

Legal Authority: 42 USC 1395bbb; 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 488; 42 CFR 489; 42 CFR 498

Legal Deadline: None

Abstract: These rules will establish periodic, unannounced surveys of home health agencies (HHAs) and other survey requirements and also will specify sanctions that could be used when an HHA is out of compliance with Federal requirements (as an alternative or in addition to terminating an HHA's participation in the Medicare program).

Timetable:

Action	Date	FR Cite
NPRM	08/02/91	56 FR 37054
NPRM Comment Period End	10/01/91	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: HSQ-169

TIMETABLE CONT: Pending completion of RIN 0938-AG81 (HCFA-3819-P)

Agency Contact: Patricia Miller, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-11-07, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6780

RIN: 0938–AE39

1345. EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT (EPSDT) SERVICES (MB-28-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a(a)(43); 42 USC 1396d(r)

CFR Citation: 42 CFR 441.50; 42 CFR 440.40

Legal Deadline: None

Abstract: Section 1905(r) of the Social Security Act, added by section 6403 of OBRA '89, defines the following EPSDT services: screening services, vision services, dental services and hearing services. EPSDT services also are defined to include such other necessary health care, diagnostic services, treatment, and other measures described in section 1905(a) of the Act to correct or ameliorate defects, illnesses and conditions discovered by the screening services whether or not the services are covered under the State plan. Section 1902(a)(43) of the Act requires States to report to the Secretary certain information about EPSDT services provided under the plan during each fiscal year. This rule would set forth requirements to implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	10/01/93	58 FR 51288
NPRM Comment Period End	11/30/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local

Additional Information: MB-028

Agency Contact: Cindy Ruff, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-16-08, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5916

RIN: 0938–AE72

1346. PAYMENT FOR NURSING AND ALLIED HEALTH SCIENCE EDUCATION (HCFA-1685-F)

Priority: Other Significant

Legal Authority: PL 101-239, Sec 6205; PL 101-508, Sec 4004; PL 101-508, Sec 4159; 42 USC 1395x

CFR Citation: 42 CFR 413

Legal Deadline: Final, Statutory, June 30, 1990.

Abstract: This rule will set forth our policy for the payment of the costs of approved nursing and allied health science programs, as directed by section 6205(b)(2) of OBRA '89. For the most part, the provisions set forth in this rule restate or clarify our current policies governing these costs, which were previously set forth in the provider reimbursement manual and other documents, but have never been included in the regulations. In addition, we are amending the list of approved programs and clarifying payment rules for certified registered nurse anesthetist programs. This rule will also address section 4004 of OBRA '90 which provides that, effective with cost reporting periods beginning on or after October 1, 1990, under certain conditions, costs incurred by a hospital or educational institution related to the hospital for clinical training are treated as pass-through costs and paid on the basis of reasonable cost even though the hospital does not operate the education programs.

Timetable:

Action	Date	FR Cite
NPRM	09/22/92	57 FR 43659
NPRM Comment Period End	11/23/92	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: HCFA-1685

Agency Contact: Marc Hartstein, Center for Health Plans & Providers, Department of Health and Human Services, Health Care Financing Administration, C5-08-27, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4539

RIN: 0938–AE79

1347. CHANGES TO THE LONG-TERM CARE FACILITY SURVEY PROCESS (HCFA-3175-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 101-239, Sec 6901(a); 42 USC 1395i-3; 42 USC 1395aa(d); 42 USC 1396r

CFR Citation: 42 CFR 442; 42 CFR 488

Legal Deadline: None

Abstract: This final rule with comment period will amend the Medicare and Medicaid regulations by removing obsolete long-term care survey forms, guidelines, and procedures used by State agencies when they evaluate a Medicare skilled nursing facility or a Medicaid nursing facility for compliance with Federal certification requirements. Effective October 1, 1990, the application of new Federal participation requirements for these facilities with an increased focus on actual or potential resident outcomes has made the survey forms and process in existing regulations outdated. Retention of the outdated items can cause confusion in connection with directions State survey agencies must follow in determining facility compliance. This rule is part of the Administration's reinventing government and regulatory reform initiatives. Publication of this regulation is dependent upon court approval which has been sought.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HSQ-175

TIMETABLE: This regulation may be published only with the concurrence of the U.S. District Court in Smith v. Shalala.

Agency Contact: Helene Fredeking, Director, Division of Outcomes and Improvements, Department of Health and Human Services, Health Care Financing Administration, S2-18-07, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7304

RIN: 0938–AF02

1348. CASE MANAGEMENT (HCFA-2027-F)

Priority: Other Significant

Legal Authority: 42 USC 1396d; 42 USC 1396n

CFR Citation: 42 CFR 431.51(c); 42 CFR 431.54; 42 CFR 440.169; 42 CFR 440.250; 42 CFR 441.10; 42 CFR 441.18; 42 CFR 447.327

Legal Deadline: None

Abstract: This rule will incorporate provisions of COBRA '85, OBRA '86, TEFRA '86, OBRA '87 and TMRA '88 dealing with case management services. It will provide for optimal Medicaid coverage of case management services furnished to specific groups in specific geographic areas or political subdivisions within a State.

Timetable:

Action	Date	FR Cite
NPRM	10/15/93	58 FR 53481
NPRM Comment Period End	12/14/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: HCFA-2027-F

Agency Contact: Pat Helphenstine, Disabled & Elderly Health Program Group, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-14-26, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-5900

RIN: 0938–AF07

1349. REQUIREMENTS FOR CERTAIN HEALTH INSURING ORGANIZATIONS AND OBRA '90 TECHNICAL AMENDMENTS (HCFA-1018-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396b(m); 42 USC 1396a(e)(2)(A)

CFR Citation: 42 CFR 434.20 to 72; 42 CFR 435.212; 42 CFR 435.326

Legal Deadline: None

Abstract: This final rule amends the Medicaid regulations to apply Medicaid regulations governing prepaid health plans to those health insuring organizations that provide or arrange for health care services to Medicaid recipients but are not subject to the requirements for health maintenance organizations (HMOs) set forth in section 1903(m)(2)(A) of the Social Security Act. It also incorporates technical amendments relating to HMO and/or competitive medical plan enrollment, disenrollments, guaranteed eligibility, and provisional status

included in OBRA '90 and the Balanced Budget Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	05/09/94	59 FR 23820
NPRM Comment Period End	07/08/94	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Additional Information: OMC-018

Agency Contact: Jane McClard, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S3-02-14, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4460

RIN: 0938–AF15

1350. PROVIDER REIMBURSEMENT DETERMINATIONS AND APPEALS (HCFA-1727-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395f(b); 42 USC 1395g(a); 42 USC 1395l; 42 USC 1395x(v); 42 USC 1395x(v)(1)(A); 42 USC 1395hh; 42 USC 1395ii; 42 USC 1395oo; 42 USC 1395ww; 42 USC 405; 42 USC 300e; 42 USC 300e-5; 42 USC 300e-9; 31 USC 9701

CFR Citation: 42 CFR 405.1801 to 405.1889; 42 CFR 413.30 to 413.64; 42 CFR 417.576; 42 CFR 417.810

Legal Deadline: None

Abstract: Section 1878 of the Social Security Act and 42 CFR part 405, subpart R, provide for administrative and judicial review, in accordance with prescribed requirements, of certain disputes regarding Medicare reimbursement for participating providers of services. This proposed rule would revise, update, and clarify various provisions of the regulations pertaining to provider appeals and make conforming changes to other regulations

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: BPD-727

Agency Contact: Morty Marcus, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-26-22, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4477

RIN: 0938–AF28

1351. ALTERNATIVE SANCTIONS FOR PSYCHIATRIC HOSPITALS (HCFA-2191-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395cc; 42 USC 1396a

CFR Citation: 42 CFR 488

Legal Deadline: None

Abstract: This proposed rule would provide an alternative to terminating a psychiatric hospital's participation in the Medicare and Medicaid programs for facilities found to be out of compliance with participation requirements. Alternative sanctions could be imposed instead of, or in addition to, terminating a psychiatric hospital's participation in the Medicare and Medicaid programs when deficiencies do not pose immediate jeopardy to the health and safety of psychiatric hospital patients. These amendments are necessary to conform HCFA regulations to changes made by OBRA '89 and OBRA '90. The statutory and regulatory revisions are intended to encourage correction of deficiencies that do not jeopardize patient health and safety before termination of a facility becomes necessary.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Additional Information: HSQ-191

Agency Contact: Robert Streimer, Center for Medicaid and State Operations, Disabled and Elderly Health Program Group, Department of Health and Human Services, Health Care Financing Administration, S2-14-27, 7500 Security Boulevard, Baltimore, MD 21244

Phone: 410 786-6810

RIN: 0938–AF32

1352. REFERRAL TO CHILD SUPPORT ENFORCEMENT AGENCIES OF MEDICAID FAMILIES (HCFA-2051-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396k; 42 USC 1302

CFR Citation: 42 CFR 433.135; 42 CFR 433.137; 42 CFR 433.151; 42 CFR 433.160

Legal Deadline: None

Abstract: This rule will require State Medicaid agencies to refer Medicaid families with an absent parent to child support enforcement (CSE) agencies. Section 9142 of OBRA '87 required CSE agencies to provide all CSE services to such Medicaid families who have assigned to the State their rights to medical support. The purpose of these rules is to require States to make this referral to State CSE agencies to ensure that those reciplents requiring CSE services receive them.

Timetable:

Action	Date	FR Cite
NPRM	09/22/93	58 FR 49272
NPRM Comment Period End	11/22/93	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: HCFA-2051-F

Agency Contact: Robert Nakielny, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4466

RIN: 0938–AF68

1353. MEDICAID: OUTSTATIONED INTAKE LOCATIONS FOR CERTAIN LOW-INCOME PREGNANT WOMEN, INFANTS, AND CHILDREN UNDER AGE 19 (HCFA-2052-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a(a)(55)

CFR Citation: 42 CFR 435.901; 42 CFR 435.902; 42 CFR 435.903; 42 CFR 435.904; 42 CFR 435.907; 42 CFR 436.2; 42 CFR 436.3; 42 CFR 435.3

Legal Deadline: None

Abstract: This rule will finalize the interim final rule that requires State Medicaid agencies to provide for receipt and initial processing of Medicaid applications filed by certain low-income pregnant women, infants, and children under age 19, at locations which are other than those used for receipt and processing of applications for cash assistance under title IV-A of the Social Security Act. The rule is based on section 1902(a)(55) of the Social Security Act, as added by section 4602 of OBRA '90, PL 101-508.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/23/94	59 FR 48805
Interim Final Rule Effective Date	10/24/94	
Interim Final Rule Comment Period End	11/22/94	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: HCFA-2052-F

Agency Contact: Robert Tomlinson, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-08-24, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4463

RIN: 0938–AF69

1354. ASSESSING INTEREST AGAINST MEDICARE SECONDARY PAYER (MSP) DEBTS (HCFA-6108-P)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3711; 42 USC 1395y(b)(2)(B)

CFR Citation: 42 CFR 405.378; 42 CFR 411.24(m); 42 CFR 411.39

Legal Deadline: None

Abstract: This proposed rule would amend the regulations concerning interest charges on amounts owed to the Federal government when an overpayment occurs because Medicare was billed and made payment as the primary payer, rather than as the secondary payer. We also propose to clarify the date of determination that an overpayment has occurred so that all parties would have a clear understanding of the period subject to payment of interest charges.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: BP0-108

Agency Contact: John Albert, Office of Financial Management, Department of Health and Human Services, Health Care Financing Administration, S3-02-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7457

RIN: 0938–AF87

1355. REVISIONS TO RULES ON HEALTH CARE PREPAYMENT PLANS (HCFA-1016-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 13951; 42 USC 300e; 42 USC 300e-5; 42 USC 300e-9; 31 USC 9701

CFR Citation: 42 CFR 471.800; 42 CFR 417.801; 42 CFR 417.806; 42 CFR 417.812; 42 CFR 417.814; 42 CFR 417.816; 42 CFR 417.818; 42 CFR 417.820; 42 CFR 417.822; 42 CFR 417.824

Legal Deadline: None

Abstract: This regulation would impose a range of requirements on health care prepayment plans (HCPP) corresponding to certain provisions for prepaid health plans under section 1876 of the Social Security Act. The expanded regulatory requirements would increase beneficiary protections and strengthen Federal oversight of the HCPP program. We will also address related requirements of the Balanced Budget Act of 1997.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: OMC-016

Agency Contact: Tracy Jensen, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, S3-23-25, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1033

RIN: 0938–AF97

1356. RURAL HEALTH CLINICS: AMENDMENTS TO PARTICIPATION REQUIREMENTS AND PAYMENT PROVISIONS AND ESTABLISHMENT OF A QUALITY ASSESSMENT AND PERFORMANCE IMPROVEMENT PROGRAM (HCFA-1910-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395l(a); 42 USC 1395x(aa); 42 USC 1395y(a)(14); 42 USC 1396a(a)(13)(E); 42 USC 263a; 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405; 42 CFR 491

Legal Deadline: None

Abstract: This proposed rule would amend our regulations to revise certification and payment requirements for Rural Health Clinics (RHCs). It would include new refinements of what constitutes a qualifying rural shortage area in which a Medicare RHC must be located, including the requirement that shortage areas be redesignated every three years; establish criteria for identifying RHCs essential to delivery of primary care services that can continue to be approved as Medicare RHCs in areas no longer designated as medically underserved; and include recent statutory provisions that provide a temporary waiver of certain nonphysician practitioners staffing requirement. It also would impose payment limits on provider-based RHCs and prohibit "commingling", the use of the space, equipment and other resources of a provider-based RHCs to establish a quality assessment and performance improvement program that goes beyond current regulatory requirements.

This proposed rule would implement section 4205 of the Balanced Budget Act of 1997 and makes other revisions for clarity and uniformity and to improve program administration.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: BPD-764

Agency Contact: David Worgo, Center for Health Plans and Providers, Division of Integrated Services, Department of Health and Human Services, Health Care Financing Administration, C4-15-18, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5919

RIN: 0938–AG05

1357. ALTERNATIVE SANCTIONS FOR RENAL DIALYSIS FACILITIES (HCFA-3204-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395rr(c); 42 USC 1395rr(g)

CFR Citation: 42 CFR 405; 42 CFR 488; 42 CFR 498

Legal Deadline: None

Abstract: This proposed rule would set forth circumstances under which HCFA could impose denial of payment as an alternative sanction instead of terminating coverage when an end-stage renal dialysis (ERSD) facility is not in substantial compliance with the conditions for coverage, but its deficiencies do not pose immediate jeopardy to patient health or safety. Before section 1881 of the Social Security Act was amended by section 12 of the Medicare and Medicaid Patient and Program Protection Act of 1987 (Public Law 100-93), HCFA was authorized to impose alternative sanctions only when an ESRD facility failed to cooperate in the goals and activities of the ESRD network for the area in which the facility is located.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: HSQ-204

Agency Contact: Judith Kari, Center for Medicaid and State Operations, Division of Outcomes and Improvements, Department of Health and Human Services, Health Care Financing Administration, S2-19-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6829

RIN: 0938–AG31

1358. DISCLOSURE OF CONFIDENTIAL PRO AND ESRD NETWORK ORGANIZATION INFORMATION FOR RESEARCH PURPOSES (HCFA-3208-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1320c-9; 42 USC 1302

CFR Citation: 42 CFR 405.2115; 42 CFR 476.144

Legal Deadline: None

Abstract: This rule would allow Peer Review Organizations (PROs) to disclose confidential information to researchers without the consent of the individuals who would be identified. The research must be directly related to the purposes of the PRO or ESRD program. Currently, PROs can only disclose to the public nonconfidential aggregate data where no one is specifically identified. The statute, however, provides for limited disclosure and allows the Secretary to provide for disclosure in the regulations while assuring adequate protection of the rights and interests of patients, health care practitioners, and providers. HCFA is now emphasizing the sharing of PRO data for educational and research purposes as evidenced by the implementation of the Uniform Clinical Data Set and the Health Care Quality Improvement Initiative. This regulatory revision would make confidential PRO information accessible to researchers while still protecting the identities of beneficiaries and practitioners from unwarranted disclosure.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: HSQ-208

Agency Contact: Bill Roskey, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, S1-09-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0433

RIN: 0938–AG33

1359. EFFECT OF CHANGE OF OWNERSHIP ON PROVIDER AND SUPPLIER PENALTIES, SANCTIONS, UNDERPAYMENTS AND OVERPAYMENTS (HCFA-2215-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395l(b); 42 USC 1395g(a); 42 USC 1395hh; 42 USC 1395ii; 42 USC 1395oo; 42 USC 1395xx; 42 USC 1395x(v); 42 USC 13951; 42 USC 405; 42 USC 1395ww

CFR Citation: 42 CFR 405.1803; 42 CFR 405.1811; 42 CFR 405.1835; 42 CFR 405.1843; 42 CFR 405.1805; 42 CFR 489.2; 42 CFR 489.18

Legal Deadline: None

Abstract: This rule would amend the regulations on provider and certain supplier agreements by clarifying the effect a change of ownership has on penalties and sanctions incurred by the former provider or supplier. It also would clarify our policy on changes involving leased departments.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: HSQ-215

Agency Contact: Mike Goldman, Division of Integrated Health Systems, Department of Health and Human Services, Health Care Financing Administration, S2-14-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6813

RIN: 0938–AG59

1360. REVISION OF MEDICARE/MEDICAID HOSPITAL CONDITIONS OF PARTICIPATION (HCFA-3745-F)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395x; 42 USC 1302; 42 USC 1395(cc); 42 USC 1395(hh); 42 USC 1320(b)(8)

CFR Citation: 42 CFR 416; 42 CFR 482; 42 CFR 485; 42 CFR 489

Legal Deadline: None

Abstract: This final rule will revise the requirements that hospitals must meet to participate in the Medicare and Medicaid programs. The revised requirements focus on patient care and the outcomes of that care, reflect a cross-functional view of patient treatment, encourage flexibility in meeting quality standards, and eliminate unnecessary procedural requirements. These changes are necessary to reflect advances in health care practices since the requirements were last revised in 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/19/97	62 FR 66726
NPRM Comment Period End	03/20/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: HCFA-3745-F

Agency Contact: Doris Jackson, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, S3-05-18, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4656

RIN: 0938–AG79

1361. PHYSICIANS' REFERRALS TO HEALTH CARE ENTITIES WITH WHICH THEY HAVE FINANCIAL RELATIONSHIPS—EXPANDED TO DESIGNATED HEALTH SERVICES (HCFA-1809-F)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395nn; 42 USC 1396b

CFR Citation: 42 CFR 411.350 to 411.361; 42 CFR 424.22; 42 CFR 435.1012; 42 CFR 455.108; 42 CFR 455.109

Legal Deadline: None

Abstract: This rule provides that a physician who has (or whose immediate family member has) a financial relationship with a health care entity may not make referrals to that entity for certain services (designated health services) under the Medicare program except under specified circumstances. In the Medicaid context, this rule would deny payment to a State for expenditures for designated health services furnished on the basis of a physician referral that, all things being equal, would result in denial of payment under Medicare. The provisions of the rule are based on sections 13562 and 13624 of OBRA '93 and section 152 of SSAA '94.

Timetable:

Action	Date	FR Cite
NPRM	01/09/98	63 FR 1659
NPRM Comment Period End	05/11/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: BPD-809

Agency Contact: Joanne Sinsheimer, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-02-04, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4620

RIN: 0938–AG80

1362. HOME HEALTH AGENCY (HHA) CONDITIONS OF PARTICIPATION (HCFA-3819-F)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395x; 42 USC 1395cc(a); 42 USC 1395hh; 42 USC 1395bb

CFR Citation: 42 CFR 484

Legal Deadline: None

Abstract: This final rule will revise home health agency conditions of participation to center on the patient, using outcome-oriented measures. Most of the current HHA conditions of participation have remained unchanged since home health services became a Medicare benefit in 1966. Some limited modifications have been made over the years to comply with legislative changes. As a result, most of the conditions of participation continue to be structure and process oriented. In addition, this final rule will require that HHAs use a standard core assessment data set, the "Outcome and Assessment Information Set" (OASIS), when evaluating adult, non-maternity patients receiving home health care.

Timetable:

Action	Date	FR Cite
NPRM	03/10/97	62 FR 11005
NPRM Comment Period End	06/09/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: HCFA-3819-F

Agency Contact: Mary Vienna, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, C4-05-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6940

RIN: 0938–AG81

1363. END STAGE RENAL DISEASE (ESRD) CONDITIONS FOR COVERAGE (HCFA-3818-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395rr

CFR Citation: 42 CFR 400; 42 CFR 405; 42 CFR 406; 42 CFR 409; 42 CFR 410; 42 CFR 412; 42 CFR 413; 42 CFR 414; 42 CFR 489; 42 CFR 492

Legal Deadline: None

Abstract: This proposed rule would revise the current conditions for coverage for end stage renal disease (ESRD) facilities approved to provide ESRD service under Medicare. It would update the conditions to reflect developments in technology and equipment, emphasize the total patient experience and develop performance expectations for the facility that result in quality, comprehensive care for the dialysis patient.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: HCFA-3818-P

Agency Contact: Lynn Merritt-Nixon, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, S3-04-25, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4652

RIN: 0938–AG82

1364. DISTINCT PART REQUIREMENTS FOR NURSING HOMES AND PROHIBITION OF FINANCIAL SCREENING OF APPLICANTS FOR NURSING HOME ADMISSION (HCFA-3815-P)

Priority: Other Significant

Legal Authority: 42 USC 1395i-3; 42 USC 1396r(a); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 409; 42 CFR 483

Legal Deadline: None

Abstract: This proposed rule would define "distinct part" by specifying that a distinct part is a physically identifiable unit of an institution (that is, an entire ward, wing, floor, or building) including all beds in the unit. This proposed rule would also prohibit nursing homes from financially screening private pay applicants for admission. Instead, nursing homes would be permitted to charge private pay applicants up to a 2-month deposit before admission to ensure that sufficient funds are available to pay for care which the individual may receive before discharge.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-815

Agency Contact: Deborah Schoeneman, Office of Clinical Standards & Quality, Department of Health and Human Services, Health Care Financing Administration, S2-19-04, 7500 Security Blvd., Baltimore, MD 21244
Phone: 401 786-6771

RIN: 0938–AG84

1365. CATEGORIZATION AND CERTIFICATION REQUIREMENTS FOR A NEW SUBCATEGORY OF MODERATE COMPLEXITY TESTING (HCFA-2222-F)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 263a

CFR Citation: 42 CFR 493.2; 42 CFR 493.3; 42 CFR 493.5; 42 CFR 493.18; 42 CFR 493.20; 42 CFR 493.21; 42 CFR 493.25; 42 CFR 493.43; 42 CFR 493.45; 42 CFR 493.48; 42 CFR 493.49; 42 CFR 493.51; 42 CFR 493.53; 42 CFR 493.638

Legal Deadline: None

Abstract: As part of the CLIA program (see RIN 0938-AE47), this rule will develop criteria for simple and easy-to-use test systems that have demonstrated accuracy and precision through scientific studies. We have proposed to waive the routine 2-year survey of users of accurate and precise technology (APT) tests, conducting surveys only if there are indications of problems or complaints. We also proposed that a small number of surveys be conducted to validate the criteria for determining APT and to assure quality.

Timetable:

Action	Date	FR Cite
NPRM	09/15/95	60 FR 47982
NPRM Comment Period End	11/14/95	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: HSQ-222

Agency Contact: Judy Yost, Center for Medicaid and State Operations, Division of Outcomes and Improvement, Department of Health and Human Services, Health Care Financing Administration, S2-09-28, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-3531

RIN: 0938–AG98

1366. ADJUSTMENT IN PAYMENT AMOUNTS FOR NEW TECHNOLOGY INTRAOCULAR LENSES (HCFA-3831-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395k(a)(2); 42 USC 1395l

CFR Citation: 42 CFR 416

Legal Deadline: NPRM, Statutory, October 31, 1995.

Abstract: This rule establishes a process under which interested parties could request, with respect to a class of new technology intraocular lenses (IOLs), a review of the appropriateness of the current payment amount for IOLs furnished by Medicare-participating ambulatory surgical centers. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	09/04/97	62 FR 46698
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: HCFA-3831-F

Agency Contact: Claude Mone, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, C5-04-24, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5666

RIN: 0938–AH15

1367. DEFINITION OF SKILLED NURSING FACILITY (SNF) FOR COVERAGE OF DURABLE MEDICAL EQUIPMENT (DME) AND HOME HEALTH (HCFA-1834-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395x(n); 42 USC 1395i-3(a)(1); 42 USC 1396r(a)(1)

CFR Citation: 42 CFR 409; 42 CFR 410

Legal Deadline: None

Abstract: This proposed rule would define skilled nursing facilities (SNFs) under section 1819(A)(1) of the Social Security Act for purposes of Medicare coverage of durable medical equipment (DME) and home health services. A Medicare SNF (as defined under section 1819 of the Social Security Act) cannot be considered a home under Medicare part B for DME and home health coverage. This proposed rule would presume that all Medicare nursing facilities are section 1819(A)(1) facilities and thus would not be considered a home for DME coverage. This would define non-Medicare nursing homes as skilled facilities based upon the receipt of skilled care at least once a week by a proportion of its residents population.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-834

Agency Contact: Thomas Hoyer, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-02-16, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4605

RIN: 0938–AH16

1368. ADDITIONAL SUPPLIER STANDARDS (HCFA-1864-F)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 424.57

Legal Deadline: None

Abstract: This rule will establish additional standards for entities seeking to qualify as Medicare suppliers for purposes of submitting claims for durable medical equipment and supplies. This rule is part of HCFA's regulatory reform initiative and includes changes related to surety bonds as required by the Balanced Budget Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	01/20/98	63 FR 2926
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HCFA-1864-P

Agency Contact: Charles Waldhauser, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-13-03, 7500 Security Boulevard, Baltimore, MD 21214
Phone: 410 786-6140

RIN: 0938–AH19

1369. DELEGATION OF CIVIL MONEY PENALTIES (HCFA-6135-FC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405(a); 42 USC 1302; 42 USC 1320a to 7a; 42 USC 1395cc; 42 USC 1395u(j)(2); 42 USC 1395hh; 42 USC 1395ii

CFR Citation: 42 CFR 402

Legal Deadline: None

Abstract: This final rule with comment period will contain the processes and procedures to be undertaken in the imposition of civil money penalties and assessments and in the appeals process.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: HCFA-6135-FC

Agency Contact: Joel Cohen, Office of Financial Management, Department of Health and Human Services, Health Care Financing Administration, C3-04-06, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3349

RIN: 0938–AH22

1370. STATE PLAN AMENDMENT (SPA) RECONSIDERATION PROCESS (HCFA-2096-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1316; 42 USC 1396a(a)

CFR Citation: 42 CFR 430.18; 42 CFR 430.60

Legal Deadline: None

Abstract: This proposed rule would revise and streamline the State Plan Amendment (SPA) reconsideration process. Currently, when a State requests reconsideration of a denied SPA, a hearing is held in all cases, even when the only dispute is over the interpretation of the statute. Under the proposed regulation, the State and HCFA could avoid the cost and delay of the hearing process when the only issue is interpretation of the statute by permitting the State expedited judicial review, without a full administrative hearing, after HCFA has a brief opportunity to reconsider its decision.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: HCFA-2096-P

Agency Contact: Robert Tomlinson, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-20-21, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4463

RIN: 0938–AH24

1371. HOSPICE CARE—CONDITIONS OF PARTICIPATION (HCFA-3844-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395x(dd); 42 USC 1395hh

CFR Citation: 42 CFR 418

Legal Deadline: None

Abstract: This proposed rule would revise the Medicare conditions of participation for hospices to help ensure the provision of quality care through an emphasis on patient-centered outcomes. Areas of change would include, among others, assessment of patient needs, clarification of physician roles, coordination of care for hospice patients residing in nursing homes, clarification of nursing roles, patient rights, and provision of services.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: HCFA-3844

Agency Contact: Lynn Merritt-Nixon, Office of Standard & Quality, Department of Health and Human Services, Health Care Financing Administration, C5-05-15, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4652

RIN: 0938–AH27

1372. PAYMENT AMOUNT IF CUSTOMARY CHARGES ARE LESS THAN REASONABLE COSTS (HCFA-1860-FC)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 1395f(b); 42 USC 1395l(a); 42 USC 1395m(a)

CFR Citation: 42 CFR 413.13

Legal Deadline: None

Abstract: A provider whose charges are lower than its reasonable costs for those services in any cost reporting period beginning January 1, 1974, but before April 28, 1988, may carry forward costs that are unreimbursed for two succeeding cost reporting periods. Sufficient time has passed since the publication of this provision to warrant the deletion from the regulation text of any reference to the carryover provision. Since payment for durable medical equipment (DME) provided by home health agencies (HHAs) is no longer based on the lesser of the reasonable cost or reasonable charge but rather on 80 percent of the lesser of the actual charge for the item or the payment amount recognized under the DME fee schedule and, for nominal charge HHAs, on 80 percent of the DME fee schedule amount, the lesser of costs or charges provision no longer applies and should be deleted from the CFR.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: BPD-860

Agency Contact: Ward Pleines, Chronic Care Purchasing Policy Group, Division of Cost Reporting, Department of Health and Human Services, Health Care Financing Administration, C5-02-23, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4528

RIN: 0938–AH49

1373. LIMITATIONS ON LIABILITY (HCFA-4859-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395pp

CFR Citation: 42 CFR 411.404

Legal Deadline: None

Abstract: This final rule with comment period will implement section 1879 (h) of the Social Security Act, which limits beneficiary liability for certain medical equipment and supplies. This rulemaking is part of the Reinventing Government effort. We are working with industry representatives to develop guidelines that will streamline requirements, reduce burden and duplication, and give beneficiaries the opportunity to make informed consumer decisions regarding certain medical equipment and supplies.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: BPD-859

Agency Contact: Denis Garrison, Division of Beneficiary Protections, Department of Health and Human Services, Health Care Financing Administration, C4-06-21, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5643

RIN: 0938–AH51

1374. MEDICARE SECONDARY PAYER CLARIFICATIONS AND AMENDMENTS (HCFA-1865-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 411

Legal Deadline: None

Abstract: This proposed rule would codify in regulations policies regarding liability insurance, such as structured liability settlements, future medical expenses, provider malpractice, wrongful death, and Federal Tort Claims Act policy. It would also clarify the rules dealing with group health plan bankruptcies, religious orders, and foreign group health plans, and make numerous other changes.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPD-865

Agency Contact: Herb Pollock, Center for Health Plans & Providers, Division of Integrated Services, Department of Health and Human Services, Health Care Financing Administration, C4-08-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4474

RIN: 0938–AH52

1375. CONDITIONS FOR CERTIFICATION OF COMMUNITY MENTAL HEALTH CENTERS AND COVERAGE REQUIREMENTS FOR PARTIAL HOSPITALIZATION SERVICES (HCFA-1871-P)

Priority: Other Significant

Legal Authority: 42 USC 1395k; 42 USC 1395x; 42 USC 1395cc

CFR Citation: 42 CFR 410.43; 42 CFR 410.110; 42 CFR 410.150; 42 CFR 410.172

Legal Deadline: None

Abstract: This proposed rule would establish health and safety standards that Community Mental Health Centers (CMHCs) must meet to participate in the Medicare program. It would also establish requirements for coverage of partial hospitalization services furnished by CMHCs or furnished in hospital outpatient settings. These changes would provide oversight for CMHCs, help curtail inappropriate utilization of partial hospitalization services, and ensure Medicare payment of reasonable and necessary services to eligible individuals.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: BPD-871

Agency Contact: Janet Samen, Center for Health Plans and Policy, Department of Health and Human Services, Health Care Financing Administration, C4-08-15, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-9161

RIN: 0938–AH58

1376. REVISION TO ACCRUAL BASIS OF ACCOUNTING POLICY (HCFA-1876-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395x(v); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 413.100

Legal Deadline: None

Abstract: The proposed rule would specify the providers' share of the costs of FICA and other employee payroll taxes that will be allowable under Medicare when the payroll period ends subsequent to the end of the reporting period. The proposed rule would provide that if payment would be made to an employee during a lost reporting period but for the fact that the regularly scheduled payment date is after the end of the period, that portion of employees FICA or other taxes that have accrued up to the end of the reporting period will be treated as allowable costs in the current reporting period.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HCFA-1876-P

Agency Contact: John Eppinger, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C5-03-18, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4518

RIN: 0938–AH61

1377. MEDICAID; ESTATE RECOVERIES (HCFA-2083-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a; 42 USC 1396p

CFR Citation: 42 CFR 433.36

Legal Deadline: None

Abstract: This proposed rule is being developed as a result of the OBRA 1993 provisions that mandated States to seek adjustment or recovery from the estates of Medicaid beneficiaries for amounts correctly spent by Medicaid on permanently institutionalized individuals (any age) and individuals age 55 or older for certain services. The OBRA 1993 provision also defines "estate," and further requires States to establish hardship procedures, in accordance with standards specified by the Secretary for waiver of recovery in cases where undue hardship would result.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Additional Information: HCFA-2083-P

Agency Contact: Ingrid Osborne, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-16-25, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4461

RIN: 0938–AH63

1378. MEDICAID HOSPICE CARE (HCFA-2016-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 418.24; 42 CFR 418.28; 42 CFR 418.98; 42 CFR 440.167; 42 CFR 440.250(q); 42 CFR 441; 42 CFR 447

Legal Deadline: None

Abstract: This proposed rule would provide for optional Medicaid coverage of hospice care for terminally ill recipients who elect to receive care from a participating hospice, establish eligibility requirements, covered services, reimbursement procedures, and conditions that a hospice must meet to provide services to Medicaid recipients. It would make conforming technical revisions to the Medicare regulations governing hospice care.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Additional Information: HCFA-2016-P

Agency Contact: Tom Shenk, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3295

RIN: 0938–AH65

1379. PROVIDER AND SUPPLIER BILLING WHEN MEDICARE IS SECONDARY PAYOR TO LIABILITY INSURANCE (HCFA-1848-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395cc; 42 USC 1395dd; 42 USC 1395hh; 42 USC 1395ww; 42 USC 1395x; 42 USC 1395aa

CFR Citation: 42 CFR 411; 42 CFR 489

Legal Deadline: None

Abstract: This proposed rule would revise current regulations to require that providers and suppliers attempt to collect payment from the proceeds of liability insurance during the "promptly period." This rule would also permit providers and suppliers to choose either to pursue collection of payment from the proceeds of liability insurance after the "promptly period" has ended or to bill Medicare.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-848

Agency Contact: Anita Heygster, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-08-25, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4486

RIN: 0938–AH66

1380. DETERMINATION OF SUBSTANDARD CARE IN SNFS AND NFS (HCFA-2240-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395i-3; 42 USC 1396r

CFR Citation: 42 CFR 488.301

Legal Deadline: None

Abstract: This proposed rule would revise the definition of "substandard quality of care" as it applies to skilled nursing facilities, in the Medicare program, and nursing facilities, in the Medicaid program. "Substandard quality of care" is one type of noncompliance with Federal participation requirements that carries with it statutory consequences to facilities providing such care. The purpose of this proposed revision is to improve the definition of substandard quality of care so that the process can make a more meaningful distinction between facility noncompliance that warrants the consequences mandated by the statute for a finding of substandard quality of care and noncompliance that does not.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Additional Information: HSQ-240

Agency Contact: Pat Miller, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-19-14, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6780

RIN: 0938–AH69

1381. WAIVER OF STAFFING REQUIREMENTS FOR END STAGE RENAL DISEASE (ESRD) FACILITIES PARTICIPATING IN AN EXPERIMENT (HCFA-2236-GNC)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1320; 42 USC 1395x; 42 USC 1395y; 42 USC 1395hh; 42 USC 1395rr

CFR Citation: 42 CFR 405.2136; 42 CFR 405.2161; 42 CFR 405.2162; 42 CFR 405.2163

Legal Deadline: None

Abstract: This general notice with comment period announces our intention to conduct a demonstration that would grant selected ESRD facilities a 2-year waiver of staffing requirements. The ESRD staffing requirements pertain to: the governing body and management, director of a facility, on-duty licensed health care professionals, and providing adequate laboratory, social, and dietetic services. Facilities would be given flexibility to deviate from specified regulation requirements, provided assurances are in place ensuring that quality of care standards are not being compromised.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HSQ-236

Agency Contact: William Roskey, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S1-09-07, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0433

RIN: 0938–AH72

1382. PROVIDER AND SUPPLIER ENROLLMENT PERIODIC RENEWAL OF ELIGIBILITY REQUIREMENTS (HCFA-1023-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405

Legal Deadline: None

Abstract: This proposed rule would establish conditions for enrolling providers and suppliers that furnish items or services to Medicare beneficiaries. These conditions would improve current enrollment procedures to more accurately identify providers and suppliers, and secure information and documentation necessary for the effective and efficient administration of the Medicare program. The improved identification of providers and suppliers, coupled with the collection of certain information, would facilitate the administration of many aspects of the Medicare program including, but not necessarily limited to, monitoring for compliance with program rules and combating fraud and abuse. Improvements in enrolling providers and suppliers would afford both the Medicare Trust Funds and program beneficiaries with greater protection.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HCFA-1023-P

Agency Contact: Kim Sullivan, Center for Health Plans and Providers, Provider Purchasing and Administration Group, Department of Health and Human Services, Health Care Financing Administration, C-4-12-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5374

RIN: 0938–AH73

1383. UPDATE OF RATESETTING METHODOLOGY, PAYMENT RATES AND THE LIST OF COVERED SURGICAL PROCEDURES FOR AMBULATORY SURGICAL CENTERS EFFECTIVE FOR CALENDAR YEAR 1998 (HCFA-1885-P)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 13951(i)(2)(A)

CFR Citation: 42 CFR 416.61(b); 42 CFR 416.65(a)(4); 42 CFR 416.65(c); 42 CFR 416.120(c)(1); 42 CFR 416.125; 42 CFR 416.130; 42 CFR 416.140(a); 42 CFR 416.140(b); 42 CFR 488.1

Legal Deadline: None

Abstract: This proposed rule discusses several policy changes affecting coverage of and payment for Ambulatory Surgical Center (ASC) facility services as provided under sections 1833(i)(1A) and (2A) of the Social Security Act. It would include the criteria for identifying procedures that are appropriate and safely performed in an ASC; the method used to set ASC payment rates; and the schedule for publishing and implementing payment and coverage updates.

Timetable:

Action	Date	FR Cite
NPRM	06/12/98	63 FR 32290
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-885-P

Agency Contact: Joan Sanow, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-5723

RIN: 0938–AH81

1384. REVISIONS TO CONDITIONS FOR COVERAGE FOR AMBULATORY SURGICAL CENTERS (HCFA-3887-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 416

Legal Deadline: None

Abstract: This proposed rule would revise the ambulatory surgical center conditions for coverage to reflect current innovations in healthcare delivery, quality assessment, and performance improvement. The focus would be to improve outcomes of health care and satisfaction for Medicare beneficiaries, while streamlining structural and procedural requirements where possible.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-887

Agency Contact: Judy Goldfarb, Office of Clinical Standards & Quality, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, S2-199.06, Baltimore, MD 21244
Phone: 410 786-6747

RIN: 0938–AH83

1385. NATIONAL STANDARD FOR IDENTIFIERS OF HEALTH PLANS (HCFA-4145-P)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1320d-2

CFR Citation: 45 CFR 142

Legal Deadline: Final, Statutory, February 21, 1998.

Abstract: This rule would implement a standard identifier to identify health plans that process and pay certain electronic health care transactions. It would implement one of the requirements for administrative simplification in section 262 of the Health Insurance Portability and Accountability Act of 1996.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: BPO-145

Agency Contact: Faye Broseker, Center for Beneficiary Services, Department of Health and Human Services, Health Care Financing Administration, S1-07-06, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-3342

RIN: 0938–AH87

1386. MEDICAID PROGRAM; COVERAGE AND PAYMENT FOR FEDERALLY QUALIFIED HEALTH CENTER SERVICES (HCFA-2043-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a(a)(13); 42 USC 1396d(a)

CFR Citation: 42 CFR 431; 42 CFR 440; 42 CFR 441; 42 CFR 447

Legal Deadline: None

Abstract: This proposed rule would incorporate and interpret in regulations coverage and payment requirements for services furnished by a federally qualified health center (FQHC) under the Medicaid program. This rule will include changes in the payment provisions to FQHCS made by section 4712 of the Balanced Budget Act of 1997 PL-105-33.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Tribal

Additional Information: MB-43

Agency Contact: David Worgo, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, C4-15-18, Baltimore, MD 21244
Phone: 410 786-5919

RIN: 0938–AH95

1387. MEDICARE COVERAGE OF CERTIFIED NURSE-MIDWIFE SERVICES (HCFA-1496-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395x(s); 42 USC 1395x(gg)

CFR Citation: 42 CFR 405.2411; 42 CFR 405.2414; 42 CFR 405.2415; 42 CFR 410.10; 42 CFR 410.77

Legal Deadline: None

Abstract: This proposed rule would implement section 4073 of OBRA 1987 by amending Medicare regulations to reflect part B coverage of the services of certified nurse-midwives furnished without the supervision of a physician. It would define "certified nurse-midwife" and "certified nurse-midwife services."

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPD-496-P

Agency Contact: Roberta Epps, Center for Health Plans and Providers, Division of Practitioner & Ambulatory Care, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, C4-0516, Baltimore, MD 21244
Phone: 410 786-4475

RIN: 0938–AH96

1388. MEDICARE PROGRAM; MEDICARE INTEGRITY PROGRAM (HCFA-7020-F)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: PL 104-191

CFR Citation: 42 CFR 400; 42 CFR 421

Legal Deadline: None

Abstract: This rule implements section 1893 of the Social Security Act (added by section 202 of the Health Insurance Portability and Accountability Act of 1996) by establishing the Medicare Integrity Program to carry out Medicare payment integrity activities. Under this program HCFA may enter into new contracts with entities to perform these activities. This rule will identify the services to be procured, set forth competitive requirements, establish procedures for identification, evaluation, and resolution of conflicts of interest, and rules regarding contractor liability. In addition, this rule will revise the list of intermediary and carrier functions set forth in existing regulations to make them consistent with sections 1816, 1842, and 1893 of the Social Security Act.

Timetable:

Action	Date	FR Cite
NPRM	03/20/98	63 FR 13590
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: OFH-020-P, PL 104-191, sec. 202

Agency Contact: Rodney Benson, Office of Internal Customer Support, Department of Health and Human Services, Health Care Financing Administration, C2-02-17, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-9280

RIN: 0938–AI09

1389. MEDICARE PROGRAM; IMPROVEMENTS TO THE APPEALS PROCESS FOR MEDICARE BENEFICIARIES ENROLLED IN HMOS, CMPS, AND HCPPS (HCFA-4024-P)

Priority: Other Significant

Legal Authority: 42 USC 1395mm(c)(5)

CFR Citation: 42 CFR 417

Legal Deadline: None

Abstract: This proposed rule would establish new administrative review requirements for Medicare beneficiaries enrolled in health maintenance organizations (HMOs), competitive medical plans (CMPs), and health care prepayment plans. This rule would implement section 1876(c)(5) of the Social Security Act, which specifies the appeal and grievance rights of Medicare enrollees in HMOs and CMPs. This rule would reduce time lines for nonurgent denials of care and make other improvements. We will also address related requirements of the Balanced Budget Act of 1997.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Cheryl Slay, Director, Division of Beneficiary Protections, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244-1850
Phone: 410 786-6478

RIN: 0938–AI11

1390. MEDICARE PROGRAM; PHYSICIAN FEE SCHEDULE CONVERSION FACTOR FOR CALENDAR YEAR 1998 AND SUSTAINABLE GROWTH RATE FOR FISCAL YEAR 1998 (HCFA-1893-FN)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1395w-4

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: This notice announces the calendar year 1998 Medicare physician fee schedule conversion factor and the fiscal year 1998 sustainable growth rate for expenditures for physicians' services under the Medicare Supplementary Medical Insurance (part B) program as required by sections

1848(d) and (f) of the Social Security Act.

Timetable:

Action	Date	FR Cite
ANPRM	10/31/97	62 FR 59261
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Terrence Kay, Center for Health Plans and Providers, Division of Practitioner and Ambulatory Care, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., C4-10-26, Baltimore, MD 21244
Phone: 410 786-4497

RIN: 0938–AI16

1391. HEALTH INSURANCE PORTABILITY: NEWBORNS' AND MOTHERS' HEALTH PROTECTION (HCFA-2892-IFC)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 300gg-4; 42 USC 300gg-51

CFR Citation: 45 CFR 146.136; 45 CFR 148.151

Legal Deadline: None

Abstract: This interim final rule implements the Newborns' and Mothers' Health Protection Act of 1996. It provides that a health insurance issuer that covers hospital length of stay in connection with childbirth may not restrict the stay for the mother or newborn to less than 48 hours following a normal vaginal delivery or 96 hours following a cesarean section. However, discharge may occur earlier if the attending provider in consultation with the mother decides to discharge earlier.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marc Thomas, Health Insurance Standards Team, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, C4-02-16, Baltimore, MD 21244
Phone: 410 786-7154

RIN: 0938–AI17

1392. MEDICAID: MEDICAL CHILD SUPPORT (HCFA-2081-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(60); 42 USC 1396g

CFR Citation: 42 CFR 433

Legal Deadline: None

Abstract: This proposed rule would require States to provide assurances satisfactory to the Secretary that the State has in effect laws relating to medical child support. This requirement would implement section 13623 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66), commonly cited as OBRA 1993. The medical child support laws that the States must have in effect are set forth in section 1908 of the Social Security Act (the Act). These laws would impose requirements on insurers, employers, and State Medicaid agencies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

Additional Information: HCFA-2081-P

Agency Contact: Sue Knefley, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0488

RIN: 0938–AI21

1393. CHANGES TO THE HOSPITAL INPATIENT PROSPECTIVE PAYMENT SYSTEMS AND FISCAL YEAR 1999 RATES (HCFA-1003-P)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1395ww

CFR Citation: 42 CFR 412; 42 CFR 413

Legal Deadline: NPRM, Statutory, April 1, 1998. Final, Statutory, August 1, 1998.

Abstract: Medicare pays for hospital inpatient services under a prospective payment system (PPS) in which payment is made at a predetermined specific rate for the operating and capital-related costs associated with each discharge. These rules would announce the prospective payment rates for operating and capital-related costs for FY 1999 that reflect changes made by the Balanced Budget Act of 1997. We would also revise the Medicare hospital inpatient prospective payment systems for operating and capital-related costs to implement necessary changes arising from our continuing experience with the systems.

Timetable:

Action	Date	FR Cite
NPRM	05/08/98	63 FR 25576
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: HCFA-1003

Agency Contact: Tzvi Hefter, Director, Division of Acute Care, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, C4-07-17, Baltimore, MD 21244
Phone: 410 786-4487

RIN: 0938–AI22

1394. MEDICARE PROGRAM; NOTICE FOR THE SOLICITATION FOR PROPOSALS FOR A CASE MANAGEMENT DEMONSTRATION PROJECT FOCUSED ON CONGESTIVE HEART FAILURE OR DIABETES MELLITUS (HCFA-1104-N)

Priority: Info./Admin./Other

Legal Authority: 42 USC 1395 (b)(1)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This notice announces HCFA's solicitation for proposals for a demonstration project to test the applicability of cost-effective, existing clinical case management delivery models for beneficiaries with congestive heart failure or diabetes mellitus in the Medicare fee-for-service program. Section 402(a) of the Social Security Amendments of 1967 (P.L. 90-248) authorizes projects for one of eleven specified purposes. HCFA solicits proposals for demonstrations that will use innovative case management interventions to improve clinical outcomes and quality of life for Medicare beneficiaries with congestive heart failure while saving Medicare funds.

Timetable:

Action	Date	FR Cite
Notice	06/11/98	63 FR 32015
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Catherine Jansto, Social Science Research Analyst, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7762
Email: cjansto@hcfa.gov

RIN: 0938–AI26

1395. CHILDREN'S HEALTH INSURANCE: PROGRAM IMPLEMENTATIONS; STATE PLAN APPROVAL; STATE PAYMENT; COORDINATION WITH STATE MEDICAID PROGRAM (HCFA-2006-P)

Priority: Economically Significant

Legal Authority: PL 105-33, sec 4901 to 4913

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: Several proposed rules will include regulations for States on the implementation of the new State Children's Health Insurance Program (CHIP) under title XXI of the Social Security Act and corresponding changes to title XIX (Medicaid). The CHIP program was established to provide Federal funding to help States to initiate and expand child health assistance to uninsured, low-income children. The regulations will address a variety of aspects of CHIP, including but not limited to the procedure for approving state child health plans, policies on the issuance of grants and the distribution of payments to States with approved plans and the coordination of a State's approved child health plan with its Medicaid program. The following changes related to title XIX will be included among the regulations: (1) the Medicaid option for targeted low-income children; (2) Medicaid optional presumptive eligibility for children; and (3) the Medicaid option to accelerate phase in of poverty level group for children up to 19. The regulations will also establish financial rules that would apply to the treatment of various program expenditures.

Timetable:

Action	Date	FR Cite
NPRM Allotments and State Payment Policies	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Rick Fenton, Center for Medical and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5647

RIN: 0938–AI28

1396. MEDICARE PROGRAM: PHYSICIANS' REFERRALS; ISSUANCE OF ADVISORY OPINIONS (HCFA-1902-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395nn(g)(6)

CFR Citation: 42 CFR 411.370 to 411.389

Legal Deadline: None

Abstract: This final rule will set forth the procedures HCFA will use to issue written advisory opinions to outside parties concerning whether a physician's referral of a Medicare beneficiary for certain designated health services is prohibited under section 1877 of the Social Security Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/09/98	63 FR 1646
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joanne Sinsheimer, Technical Assistant, CHPPS, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-4620

RIN: 0938–AI38

1397. MEDICAID PROGRAM; STATE ALLOTMENTS FOR PAYMENT OF MEDICARE PART B PREMIUMS FOR QUALIFIED INDIVIDUALS: FEDERAL FISCAL YEAR 1998 (HCFA-2005-NC)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 42 USC 1396a(a)(10)(E)(iv); 42 USC 1396u-3

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This notice announces the availability of individual State allotments for Federal fiscal year 1998 for the Medicaid payment of Medicare part B premiums for qualifying individuals identified under section 1902(a)(10)(E)(iv)(I) and (II) of the Act. In this notice, we are not applying precisely the statutory formula to determine the individual State allotments. A precise application of the allocation formula in the statue would require us to determine State-specific estimates of the number of individuals who are entitled to Medicare part A; have incomes in the poverty level ranges specified; have assets not exceeding twice the amount allowed under the SSI program; and would not be eligible for Medicaid but for the provisions of section 1902(a)(19)(E) of the Act regarding qualified individuals.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Miles McDermott, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-3722
Email: mmcdermott@hcfa.gov

RIN: 0938–AI39

1398. MEDICARE PROGRAM: USER FEES (HCFA-6021-P)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 9701

CFR Citation: 42 CFR 401

Legal Deadline: None

Abstract: This proposed rule would establish regulations relating to user fees for services we provide that confer benefits on specific individuals that are over and above those benefits received by the general public.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Escobedo, Office of Financial Management, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD
Phone: 410 786-5401

RIN: 0938–AI46

1399. MEDICARE PROGRAM; PROSPECTIVE PAYMENT SYSTEM AND CONSOLIDATED BILLING FOR SKILLED NURSING FACILITIES. (HCFA-1913-IFC)

Priority: Economically Significant

Legal Authority: PL 105-33, sec 4432(a)

CFR Citation: 42 CFR 409; 42 CFR 410; 42 CFR 411; 42 CFR 413; 42 CFR 483; 42 CFR 489

Legal Deadline: None

Abstract: This interim final rule implements provisions in section 4432 of the Balanced Budget Act of 1997 related to Medicare payment for skilled nursing facility services. These include the implementation of a Medicare prospective payment system for skilled nursing facilities, consolidated billing, and a number of related changes. The prospective payment system described in this rule replaces the retrospective reasonable cost based system currently utilized by Medicare for payment of skilled nursing facility services under part A of the program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/12/98	63 FR 26252
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Federal

Agency Contact: Laurence Wilson, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, C4-7-04, Baltimore, MD 21244
Phone: 410 786-4603

RIN: 0938–AI47

1400. SURETY BOND REQUIREMENTS FOR COMPREHENSIVE OUTPATIENT REHAB. FACILITIES, REHAB. AGENCIES, COMMUNITY MENTAL HEALTH CENTERS, AND INDEPENDENT DIAGNOSTIC TESTING FACILITIES (HCFA-1026-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395x(v); 42 USC 1395hh

CFR Citation: 42 CFR 413; 42 CFR 489

Legal Deadline: None

Abstract: The Balanced Budget Act of 1997 (BBA 1997) requires suppliers of durable medical equipment, home health agencies, comprehensive outpatient rehabilitation facilities, and rehabilitation agencies to furnish us with a surety bond in order to participate in the Medicare Program. The BBA 1997 also affords us the discretion to require other health care providers (other than physicians or other practitioners) to furnish us with a surety bond to participate in the Medicare program. This proposed rule discusses the implementation of these provisions to require comprehensive outpatient rehabilitation facilities, rehabilitation agencies, and certain other providers and suppliers we have selected to furnish us with a surety bond on a continuing basis in order to participate in the Medicare program.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ralph Goldberg, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-4870
Email: rgoldberg@hcfa.gov

RIN: 0938–AI48

1401. APPEALS OF CARRIER DETERMINATION THAT A SUPPLIER FAILS TO MEET THE REQUIREMENTS FOR MEDICARE BILLING PRIVILEGES (HCFA-1907-FC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395u(b)(3)(C); 42 USC 1395ff(b)

CFR Citation: 42 CFR 405.874

Legal Deadline: None

Abstract: This rule would establish an administrative appeal process whereby suppliers can request an appeal for a determination that affects their Medicare part B billing number. The purpose of this rule is to update and clarify our policy and extend administrative appeal rights to all current and prospective suppliers who are denied enrollment in the Medicare program or whose Medicare billing privileges are revoked. This rule does not apply to those suppliers covered under the appeals provisions for our regulations at 42 CFR 498.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Waldhauser, Division of Provider/Supplier Enrollment, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244-1850
Phone: 410 786-6140

RIN: 0938–AI49

1402. • REVIEW AND PAYMENT FOR CLAIMS FILED ON BEHALF OF MEDICARE/MEDICAID DUALLY ELIGIBLE BENEFICIARIES (HCFA-2097-3)

Priority: Other Significant

Legal Authority: 42 USC 1395cc

CFR Citation: 42 CFR 489.53

Legal Deadline: None

Abstract: This rule clarifies that it is the responsibility of a provider to bill Medicare appropriately, and not the responsibility of Medicaid agencies. It also clarifies that States and providers must work together to prescreen claims to determine if basic Medicare eligibility and coverage requirements are met and that all the regular Medicare claims filing rules and procedures, including time limits for filing claims, are followed.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal

Agency Contact: Robert Nakielng, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, S2-14-26, Baltimore, MD 21244
Phone: 410 786-4466

RIN: 0938–AI50

1403. SECURITY AND ELECTRONIC SIGNATURE STANDARDS (HCFA-0049-P)

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1320d

CFR Citation: 45 CFR 142

Legal Deadline: Final, Statutory, February 21, 1998.

Abstract: This rule would implement some of the requirements of the administrative simplification subtitle of the Health Insurance Portability and Accountability Act of 1996. It proposes standards for the security of individual health information and electronic signature use by health plans, health care clearing houses, and health care providers.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: John Parmigiani, Office of Internal Customer Support, Department of Health and Human Services, Health Care Financing Administration, N3-14-14, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-2976

RIN: 0938–AI57

1404. STATE PLAN REQUIREMENTS FOR DURABLE MEDICAL EQUIPMENT PROVIDERS (HCFA-2007-P)

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 42 USC 1396aa

CFR Citation: 42 CFR 441

Legal Deadline: None

Abstract: This proposed rule would establish in regulations a requirement that durable medical equipment suppliers be required to furnish Medicaid State agencies with a surety bond in order to participate in the Medicaid program. This proposed rule would implement section 4724(g) of the Balanced Budget Act of 1997.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Mary Linda Morgan, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, S2-26-12, Baltimore, MD 21244
Phone: 410 786-2011
Email: mmorgan@hcfa.gov

RIN: 0938–AI63

1405. CHILD HEALTH INSURANCE ALLOTMENTS FY 1999 (HCFA-2014-N)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 42 USC 1302; PL 105-33, sec 4901

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: This notice provides advance notification of the reserved fiscal year (FY) 1999 State allotments available to provide Federal funding to individual States, Commonwealths, and Territories for expenditures in the new State Children's Health Insurance Program established under title XXI of the Social Security Act. The reserved allotments are determined in accordance with section 2104 of the Act. These reserved State allotments are estimates of States FY 1999 title XXI allotments, assuming that each State were to submit, and receive approval for, a State child health plan. Under title XXI the amount of a State's allotment for a fiscal year is available for 3 years for States with approved child health plans.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Richard Strauss, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S3-14-06, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-2014
Email: rstrauss@hcfa.gov

RIN: 0938–AI64

1406. STATE CHILDREN'S HEALTH INSURANCE PROGRAM ALLOTMENTS AND PAYMENTS TO STATES (HCFA-2114-FC)

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 457.200; 42 CFR 457.202; 42 CFR 457.204; 42 CFR 457.206; 42 CFR 457.208; 42 CFR 457.210; 42 CFR 457.212; 42 CFR 457.216; 42 CFR 457.218; 42 CFR 457.600; 42 CFR 457.602; 42 CFR 457.606; 42 CFR 457.608; 42 CFR 457.610; 42 CFR 457.614

Legal Deadline: None

Abstract: This interim final rule with comment period will establish in regulations the methodology and procedures that HCFA will use to determine the fiscal year State allotments available to provide Federal funding to individual States, Commonwealths and Territories for expenditures for the new State Children's Health Insurance Program (CHIP) established under title XXI of the Social Security Act.

This rule also establishes in regulations the payment and grant award process that will be used for the States, the Commonwealths and Territories to claim and receive Federal financial

payment (FFP) for expenditures under the State Children's Health Insurance Program and related Medicaid expansions.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Federal

Additional Information: CFR CITATION CONT: 42 CFR 457.220; 42 CFR 457.222; 42 CFR 457.224; 42 CFR 457.226; 42 CFR 457.228; 42 CFR 457.230; 42 CFR 457.232; 42 CFR 457.234; 42 CFR 457.236; 42 CFR 457.238

Agency Contact: Richard Strauss, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S3-14-06, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-2019
Email: rstrauss@hcfa.gov

RIN: 0938–AI65

1407. DSH PAYMENTS - INSTITUTION FOR MENTAL DISEASE (HCFA-2012-N)

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: PL 105-33, sec 4721(b); 42 USC 1396r-4(a); 42 USC 1396r-4(f); 42 USC 1396r-4(h); 42 USC 1396r-4(i)

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: This notice announces the Federal share disproportionate share hospital (DSH) allotments for Federal fiscal year (FFYs) 1998 through 2002. This notice also describes the methodology for calculating the Federal share DSH allotments for FFYs 2003 and thereafter as well as announces the FFY 1998 and FFY 1999 limitations on aggregate DSH payments States may make to institutions for mental disease (IMD) and other mental health facilities. It also provides the DSH reporting requirements required by section 4721(b) of the Balanced Budget Act of 1997.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Christine Hinds, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, S2-05-27, Baltimore, MD 21244
Phone: 410 786-4578

RIN: 0938–AI66

1408. MEDICAID PROGRAM; HOME AND COMMUNITY-BASED SERVICES (HCFA-2010-FC)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 42 USC 1302; PL 105-33, sec 4743

CFR Citation: 42 CFR 440; 42 CFR 441

Legal Deadline: None

Abstract: This final rule with comment period expands State flexibility in providing prevocational, educational and supported employment services under the Medicaid home and community-based services waiver provisions of section 1915(c) of the Social Security Act.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Bill Coons, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-5921

RIN: 0938–AI67

1409. RECOGNITION OF THE COMMUNITY HEALTH ACCREDITATION PROGRAM, INC. (CHAP) AND JOINT COMMISSION FOR ACCREDITATION OF HEALTHCARE ORGANIZATIONS (JCAHO) FOR HOSPICES (HCFA-2029-PN)

Priority: Routine and Frequent

Legal Authority: 42 USC 1395bb(b)(1)

CFR Citation: 42 CFR ch IV

Legal Deadline: Other, Statutory, September 8, 1998.

The statue requires us to publish a notice within 60 days of receipt of a completed application.

Abstract: This notice announces the receipt of an application from the Community Health Accreditation Program, Inc. (CHAP) and Joint Commission for Accreditation of Healthcare Organizations (JCAHO) for recognition as a national accreditation program for hospices that wish to participate in the Medicare or Medicaid programs.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joan Barry, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244-1850
Phone: 410 786-7233
Email: jberry@hcfa.gov

RIN: 0938–AI69

1410. NEW AND PENDING DEMONSTRATION PROJECT PROPOSALS SUBMITTED PURSUANT TO SECTION 1115(A) OF THE SOCIAL SECURITY ACT JULY, AUGUST, SEPTEMBER, OCTOBER, AND NOVEMBER 1997

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1315

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This notice lists any new, pending, approved, disapproved, and withdrawn proposals for the demonstration projects.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Gloria Smiddy, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, C3-18-26, Baltimore, MD 21244
Phone: 410 786-7723

RIN: 0938–AI71

1411. ELIMINATION OF APPLICATION OF FEDERAL FINANCIAL PARTICIPATION LIMITS (HCFA-2111-IFC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 435

Legal Deadline: None

Abstract: This interim final rule with comment period eliminates the requirement that Federal financial participation income limits be applied when States use less restrictive income and resource methodologies to determine eligibility for aged, blind and disabled individuals, as well as for the optional categorically needy and the medically needy. This rule conforms the application of the FFP limits to the policy that the use of less restrictive income methodologies are not subject to FFP limits. This change will give States additional flexibility in setting Medicaid eligibility requirements.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Jackie Wilder, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, C4-22-06, Baltimore, MD 21244
Phone: 410 786-4579
Email: jwilder@hcfa.gov

RIN: 0938–AI73

1412. MEDICAID PROGRAM; CHANGES TO ELIGIBILITY OF NON-U.S. CITIZENS (HCFA-2108-P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302; PL 104-193, sec 401 to 403

CFR Citation: 42 CFR 435; 42 CFR 436; 42 CFR 440

Legal Deadline: None

Abstract: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 created changes in Federal law making most non-U.S. citizens ineligible for Supplemental Security Income (SSI). In most States, receipt of SSI confers automatic Medicaid eligibility. Although many States have elected optional eligibility, groups that provide a basis for covering persons who do not receive SSI, some States have not done so. In these States, these individuals would be left without access to Medicaid (including emergency services). To conform with the new law, we are proposing regulations that would result in the loss of Medicaid for qualified aliens in those States that cover only SSI recipients. We are also seeking comments on whether there remains any statutory basis to continue Medicaid coverage for these individuals.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Bob Tomlinson, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-4463

RIN: 0938–AI74

1413. MEDICARE PROGRAM; ADVANCE REFUNDING OF DEBT AND METHODOLOGY FOR REPAYMENT OF LOAN (HCFA-1777-P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395x(v)

CFR Citation: 42 CFR 413

Legal Deadline: None

Abstract: This proposed rule would amend current regulations to clarify our policies regarding the treatment of interest expense. The rule would require that, when only part of the interest on a loan is allowable, repayment would be made first to that portion of the loan on which expense is allowable. This rule also would clarify how this policy is to be applied in situations in which there are multiple loans and one or more of the loans are not related to patient care. In addition, we would define the allowable costs associated with advance refunding of debt, and clarify the treatment of revenue and expenses.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Ann Pash, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-4516
Email: apash@hcfa.gov

RIN: 0938–AI75

1414. MEDICARE PROGRAM; ADVERTISING COSTS (HCFA-1880-P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302; 42 USC 1395x(v); 42 USC 1395hh

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This proposed rule would clarify our long-standing policy on advertising costs that is found in section 2136 of the Medicare Provider Reimbursement Manual. Our policy is that advertising to solicit new patients is an unallowable cost under Medicare. We would add a new section that addresses issues including, but not limited to, advertising for outreach programs and recruitment of new employees, and yellow pages advertising.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Gill, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-7156
Fax: 410 786-0594

RIN: 0938–AI76

1415. MEDICARE HOSPICE CARE (HCFA-1022-P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-33, sec 4441(a); PL 105-33, sec 4442 to 4446; PL 105-33, sec 4448

CFR Citation: 42 CFR 418

Legal Deadline: None

Abstract: This proposed rule would implement section 4441(a), 4442-4446, and 4448 of the Balanced Budget Act of 1997. Specific changes include: updating hospice payment rates, specifying payment according to the site of service, modifying the hospice benefit periods, clarifying the services covered under the benefit, allowing hospices to contract for physician services, allowing waivers of certain staffing requirements for hospice care programs in non-urbanized areas, and extending the period for physician certification of an individual's terminal illness. Additionally, the proposed rule would also clarify other current policies.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Carol Blackford, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-5909
Email: cblackford@hcfa.gov

RIN: 0938–AI77

1416. STATE ALLOTMENTS FOR ADDITIONAL FEDERAL FUNDING OF EMERGENCY HEALTH SERVICES FURNISHED TO UNDOCUMENTED ALIENS: FEDERAL FISCAL YEARS 1998 THROUGH (HCFA-2001-N)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 105-33, sec 4723

CFR Citation: 42 CFR ch IV

Legal Deadline: None
notice

Abstract: This notice announces the Federal fiscal year allotments that are available to certain States to furnish emergency health services to undocumented aliens. The 12 States having the highest number of undocumented aliens residing in the State will receive limited Federal funds for fiscal years 1998 through 2001 as additional compensation for providing emergency health services to the undocumented alien population. This notice also describes the methodology used to determine each State's allotment.

This notice implements section 4723 of the Balanced Budget Act of 1997, Public Law 105-33.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: HCFA-2000-N

Agency Contact: Miles McDermott, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-3722
Email: mmcdermott@hcha.gov

RIN: 0938–AI78

1417. MEDICAID PROGRAM; EXTENSION OF WAIVER TO EXTEND MEDICAID ELIGIBILITY TIMEFRAMES (HCFA-2009-N)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Included in the passage of the Balanced Budget Act of 1997 Public Law 105-33 are the development of the Child Health Insurance Program, the extension of the Supplemental Security Income Insurance (SSI) cut off date for aliens, and the continuance of Medicaid eligibility for children who lose SSI. These are changes in Federal law that affect a large number of individuals while placing a significant additional workload on States.

This notice protects Federal financial participation (FFP) in State Medicaid expenditures for States with unusual volumes of eligibility redeterminations caused by these recent changes in the law. Under this provision, the usual FFP timeframe requirements are waived, and States are allowed up to 120 days to process the unusual volume of redeterminations.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: HCFA-2009-N

Agency Contact: Mark Ross, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, S2-08-17, Baltimore, MD 21244
Phone: 410 786-5855
Email: mross@hcfa.gov

RIN: 0938–AI79

1418. REVISION OF PROCEDURES FOR REQUESTING EXCEPTIONS TO COST LIMITS FOR SNFS AND ELIMINATION OF RECLASSIFICATIONS (HCFA-1883-P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 413.30

Legal Deadline: None

Abstract: This proposed rule would revise the procedures for granting exceptions to the cost limits for skilled nursing facilities and retain the current procedures for exceptions to the cost limits for home health agencies. It would remove the provision allowing reclassification for all providers.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Steve Raitzyk, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-4599

RIN: 0938–AI80

1419. EXPANDED COVERAGE OF BLOOD GLUCOSE MONITORS AND TEST STRIPS (HCFA-3003-IFC)

Priority: Other Significant

Legal Authority: PL 105-33, Balanced Budget Act of 1997

CFR Citation: 42 CFR 410.38

Legal Deadline: None

Abstract: This interim final rule with comment period expands Medicare coverage for blood glucose monitors and test strips, under certain conditions, to a diabetic beneficiary without regard to the beneficiary use of insulin. It implements part of section 4105 of the BBA '97.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Betty S. Burrier, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244-1850
Phone: 410 786-4649

RIN: 0938–AI85

1420. HOSPICE WAGE INDEX NOTICE (HCFA-1039-N)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1395F(i)

CFR Citation: 42 CFR 418.306(c)

Legal Deadline: None

Abstract: A revised Hospice Wage Index was published in the Federal Register on August 8, 1997. This wage index was applicable for services provided beginning on October 1, 1997 through September 1998. The revised hospice wage index will be phased in under a three year transition period. The second transition year is scheduled to begin October 1, 1998. Annual updates are required to begin with the start of the second transition year (October 1, 1998). This notice will provide the wage index values for the second transition year as required.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carol Blackford, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-5909
Fax: 410 786-0169
Email: cblockford@hcfa.gov

RIN: 0938–AI87

1421. MEDICARE PROGRAM; STANDARDIZATION OF MEDICARE COVERAGE FOR BONE MASS MEASUREMENTS (HCFA-3004-IFC)

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395rr(b)(1); 42 USC 4106

CFR Citation: 42 CFR 410; 42 CFR 414

Legal Deadline: Other, Statutory, July 1, 1998.
BBA Section 4106

Abstract: This interim final rule with comment period provides for the standardization of coverage of bone mass measurements for qualified Medicare beneficiaries for services furnished on or after July 1, 1998. It implements provisions in section 4106 of the Balanced Budget Act of 1997.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/24/98	63 FR 34320
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bill Larson, Office of Communications & Operations Support, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-4639

RIN: 0938–AI89

1422. RECOGNITION OF THE AMERICAN ASSOCIATION FOR ACCREDITATION OF AMBULATORY SURGERY FACILITIES INC., FOR AMBULATORY SURGICAL CENTERS PROGRAM (HCFA-2008-PN)

Priority: Info./Admin./Other

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 1395bb

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This notice announces the receipt of an application from the American Association of Ambulatory Surgery Facilities, Inc. for recognition as a national accreditation program for ambulatory surgical centers that wish to participate in the Medicare and Medicaid programs.

Timetable:

Action	Date	FR Cite
NPRM	04/30/98	63 FR 23790
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Joan C. Berry, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-7233

RIN: 0938–AI90

1423. • HEALTH INSURANCE REFORM UNIVERSAL HEALTH CARE IDENTIFIER (HCFA-0048-NOI)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1320d-2

CFR Citation: 42 CFR ch IV

Legal Deadline: Final, Statutory, February 28, 1998.

Abstract: This notice announces our intent to publish a proposed rule on requirements for a unique health identifier for individuals. These requirements are mandated by law and are part of a national framework for health data standards and health information privacy that will support

the efficient electronic exchange of specified administrative and financial health care transactions. This notice discusses the options for the identifier that have been put forward for consideration and asks for public comments.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary Emerson, Office of Information Services; Information, Management, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-7065

RIN: 0938–AI91

1424. • COVERAGE AND ADMINISTRATIVE POLICIES FOR CLINICAL DIAGNOSTIC LABORATORY TESTS; INTENT TO FORM NEGOTIATED RULEMAKING COMMITTEE (HCFA-3250-NOI)

Priority: Other Significant

Legal Authority: PL 105-33, sec 4554(b)(i)

CFR Citation: 42 CFR ch IV

Legal Deadline: Final, Statutory, January 1, 1999.

Abstract: The Balanced Budget Act of 1997 requires the Secretary to establish a negotiated rulemaking committee under the Negotiated Rulemaking Act and Federal Advisory Committee Act. The Negotiated Rulemaking Committee's (the Committee) purpose will be to negotiate national coverage and administrative policies for clinical diagnostic laboratory tests under part B of the Medicare program as required by the Balanced Budget Act of 1997 (BBA). The Committee will consist of representatives of interested parties that are likely to be significantly affected by the proposed rule. The Committee will be assisted by a neutral facilitator. This notice outlines the scope of issues to be negotiated by the Committee and requests public comments as to whether we have identified the interests that will be affected by the key issues.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Jackie Sheridan, Office Of Clinical Standards & Quality, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-4635
Judy Ballard, Office of Clinical Standards & Quality, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 202 690-7419

RIN: 0938–AI92

1425. • MEDICAID, MEDICARE CLIA PROGRAM; EXTENSION OF CERTAIN EFFECTIVE DATES FOR CLINICAL LABORATORY REQUIREMENTS UNDER CLIA (HCFA 2024-IFC)

Priority: Other Significant

Legal Authority: 42 USC 263a

CFR Citation: 42 CFR 493

Legal Deadline: None

Abstract: This final rule extends certain effective dates for clinical laboratory requirements that implemented provisions of CLIA. It also extends the phase-in date of certain quality control requirements and extends the date by which an individual with a doctoral degree must possess board certification to qualify as a director of a laboratory that performs high complexity testing.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Additional Information: If we fail to publish this rule, certain laboratories and individuals will not meet the requirements and, consequently, some individuals may not qualify for positions they currently hold. In addition, some laboratories will be subject to more stringent CLIA quality control regulations.

Agency Contact: Diane Milstead, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-3355

RIN: 0938–AI94

1426. • HOSPITAL CONDITIONS OF PARTICIPATION, IDENTIFICATION OF POTENTIAL ORGAN, TISSUE, AND EYE DONOR AND TRANSPLANT HOSPITALS PROVISIONS OF TRANSPLANT RELATED DATA (HCFA-3005-F)

Priority: Other Significant

Legal Authority: 42 USC 1320(b)(8); 42 USC 1395x(e); 42 USC 1396d(a)

CFR Citation: 42 CFR 482

Legal Deadline: None

Abstract: This final rule addresses only provisions relating to organ donation and transplantation, by requiring a hospital to meet several requirements designed to increase organ donation. These requirements include that the hospital have an agreement with the Organ Procurement Organization (OPO) to contact the OPO about every death or imminent death that occurs in the hospital. This final rule also requires a hospital to work with the OPO and at least one tissue bank and one eye bank in educating staff on donation issues, reviewing death records, and maintaining potential donors while necessary testing and placement of organs and tissues take place. Additionally, this final rule requires transplant hospitals to provide organ-transplant-related data, as requested by the Organ Procurement and Transplantation Network (OPTN), the Scientific Registry, and the OPOs. The hospital must also provide, if requested, such data directly to the Department.

Timetable:

Action	Date	FR Cite
NPRM	12/19/97	62 FR 66726
NPRM Comment Period End	03/03/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Marcia Newton, Office Of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing

Administration, S3-0201, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-5265

RIN: 0938–AI95

1427. • MEDICARE PROGRAM; MONTHLY ACTUARIAL RATES AND MONTHLY SUPPLEMENTARY MEDICAL INSURANCE PREMIUM RATE BEGINNING JANUARY 1, 1999 (HCFA-8003-N)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395r

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: This notice announces the monthly actuarial rates for aged (age 65 and over) and disabled (under age 65) enrollees in the Medicare Supplementary Insurance (SMI) Program for the 12 months beginning January 1, 1999. It also announces the monthly SMI premium rate to be paid by all enrollees during the 12 months beginning January 1, 1999.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Carter S. Warfield, Office of Medicare and Medicaid Cost, Estimates, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-6396

RIN: 0938–AI98

1428. • PEER REVIEW ORGANIZATION CONTRACTS: SOLICITATION OF STATEMENTS OF INTEREST FROM IN-STATE ORGANIZATIONS (HCFA-3009-N)

Priority: Other Significant

Legal Authority: 44 USC 35

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: This notice, in accordance with section 1153(i) of the Social Security Act, gives at least 6 months' advance notice of the expiration dates of contracts with out-ot-state utilization and quality control peer review organizations. It also specifies the period of time in which in-state organizations may submit a statement of interest so that they may be eligible to compete for these contracts.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Udo Nwachukwu, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, 75OO Security Blvd, Baltimore, MD 21244
Phone: 410 786-7234

RIN: 0938–AI99

1429. • REPLACEMENT OF REASONABLE CHARGE METHODOLOGY BY FEE SCHEDULES (HCFA-1010-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 13945u

CFR Citation: 42 CFR 414

Legal Deadline: None

Abstract: We are proposing to implement fee schedules to be used for payment of services, excluding ambulance services, still subject to the reasonable charge payment methodology.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joel Kaiser, Center for Health Plan and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-4499

RIN: 0938–AJ00

1430. • NOTICE ANNOUNCING REVISED POSITRON EMISSION TOMOGRAPHY (PET) POLICY (HCFA-3008-NC)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: Memorandum was published in January 1998 clarifying existing policy on PET. This notice describes the process HCFA will use to review additional uses of PET and also lists a priority list for reviewing additional uses.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Ron Milhourn, Office of Clinical Standards & Quality, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-5666
Email: rmilhorn@hcfa.gov

RIN: 0938–AJ01

1431. • MEDICARE PROGRAM; INPATIENT HOSPITAL DEDUCTIBLE AND HOSPITAL AND EXTENDED CARE SERVICES COINSURANCE AMOUNTS FOR 1999 (HCFA-8001-N)

Priority: Other Significant

Legal Authority: 42 USC 1395i to 2(d)2; 42 USC 1395i to 2a(d)2

CFR Citation: 42 CFR ch IV

Legal Deadline: Other, Statutory, September 15, 1998.
Must be published between Sept. 1, and Sept. 15, 1998

Abstract: This notice announces the inpatient hospital deductible and the hospital and extended care services Coinsurance amounts for services furnished in calendar year 1999 under Medicares' hospital insurance program (Medicare part A). This will be effective January 1, 1999. This is an annual update.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: John Wandishin, OACT, Department of Health and

Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-6389

RIN: 0938–AJ02

1432. • MEDICARE PROGRAM; PART A PREMIUM FOR 1999 FOR THE UNINSURED AGED AND FOR CERTAIN DISABLED INDIVIDUALS WHO HAVE EXHAUSTED OTHER ENTITLEMENT (HCFA-8000-N)

Priority: Other Significant

Legal Authority: 42 USC 1395i to 2(d)2; 42 USC 1395i to 2a(d)2

CFR Citation: 42 CFR ch IV

Legal Deadline: None
Must be published in September of each year.

Abstract: This notice will announce the hospital insurance premium for calendar year 1999 under Medicare's hospital insurance program (part A) for the uninsured aged and for certain disabled individuals who have exhausted other entitlement. This will be effective January 1, 1999 for the qualifying individuals. This is an annual update.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: John Wandishin, Actuary, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-6389
Fax: 410 786-1295
Email: jwandishin@hcfa.gov

RIN: 0938–AJ03

1433. • INPATIENT PSYCHIATRIC SERVICES BENEFIT FOR INDIVIDUALS UNDER AGE 21 (HCFA-2060-F)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: This rule removes the requirement for accreditation of hospitals and health care facilities by the Joint Commission for approval of Medicare coverage of the inpatient psychiatric services benefit for individuals under 21.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Winona Hocutt, Center for Medicaid and States Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21224
Phone: 410 786-4666

RIN: 0938–AJ05

1434. • EXTERNAL QUALITY REVIEW OF MEDICAID MANAGED CARE ORGANIZATIONS (HCFA-2015-P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 438

Legal Deadline: None

Abstract: This proposed rule would amend the regulation to conform with the provisions of section 4705 of the Balanced Budget Act of 1997. It would require State Agencies that contract with managed care organizations to implement quality improvement strategies that address access and other aspects of care and services directly that related to the quality of care provided by these managed care organizations, performance through annual external independent reviews conducted by accrediting organizations that are approved by HCFA.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Kathleen Headen, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-6865

RIN: 0938–AJ06

1435. • PHYSICIAN SUSTAINABLE GROWTH RATE OF INCREASE FOR FY 1999 (HCFA-1021-FN)

Priority: Other Significant

Legal Authority: 42 USC 1395w(4)(f)

CFR Citation: 42 CFR ch IV

Legal Deadline: Final, Statutory, October 1, 1998.

Abstract: This final notice announces the fiscal year 1999 sustainable growth rate (SGR) for expenditures for physician's services under the Medicare Supplementary Medical Insurance (part B) program as required by section 1848(f) of the Social Security Act.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Elizabeth Holland, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-1309

RIN: 0938–AJ09

1436. • COMPREHENSIVE ASSESSMENT AND USE OF OASIS AS PART OF CONDITIONS OF PARTICIPATION FOR HOME HEALTH AGENCIES (HCFA-3007-F)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 1302; 42 USC 1395(hh)

CFR Citation: 42 CFR 484.18; 42 CFR 484.55

Legal Deadline: None

Abstract: This final rule requires that each patient receive from the HHA a patient-specific comprehensive assessment that identifies the patient's need for home care and meets the patient's medical, nursing, rehabilitative, social and discharge planning needs. This final rule also requires that as part of the comprehensive assessment, HHAs use a standard core assessment data set, the "Outcome and Assessment Information Set" (OASIS) when evaluating adult, non-maternity patients.

Timetable:

Action	Date	FR Cite
NPRM	03/10/97	62 FR 11004
NPRM Comment Period End	06/09/97	
ANPRM Comment Period End	05/15/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Janice Stevenson, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-4882
Mary Weakland, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-6835

RIN: 0938–AJ11

1437. • MEDICARE AND MEDICAID PROGRAMS; QUARTERLY LISTING OF PROGRAM ISSUANCES—FIRST QUARTER 1998 (HCFA-9879-NC)

Priority: Routine and Frequent

Unfunded Mandates: Undetermined

Major: Undetermined

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: This notice lists regulations and notices that relate to the Medicare and Medicaid programs that were published during January, February, and March of 1998.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bridget Wilhite, Office of Communications and Operations, Support, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-5248

RIN: 0938–AJ12

1438. • MEDICARE PROGRAM; CRITERIA AND STANDARDS FOR EVALUATING INTERMEDIARY AND CARRIER PERFORMANCE: MILLENNIUM COMPLIANCE (HCFA-4002-GNC)

Priority: Info./Admin./Other

Legal Authority: 42 USC 1395(h); 42 USC 1395 (u)

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: This notice revises the criteria and standards to be used for evaluating the performance of our contractors in administering the Medicare program. The revisions establish a performance standard requiring contractors to meet requirements for millennium compliance. We require contractors to certify that they have made all necessary system(s) changes and have tested those systems in accordance with our guideline.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Sue Lathroum, Center for Beneficiary Service, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-7409

RIN: 0938–AJ15

1439. • RURAL HEALTH CLINICS: AMENDMENTS TO PARTICIPATION REQUIREMENTS AND PAYMENT PROVISIONS, AND ESTABLISHMENT OF A QUALITY ASSESSMENT AND IMPROVEMENT PROGRAM (HCFA-1910-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405

Legal Deadline: None

Abstract: This proposed rule would amend our requirements to revise certification and payment requirements for rural health clinics (RHCs) as required by section 4205 of the Balanced Budget Act of 1997 (BBA 1997). It would include new refinements of what constitutes a qualifying rural shortage area in which a medicare RHC must be located; establish criteria for identifying RHCs essential to delivery of primary care services that can continue to be approved as medicare RHCs in areas no longer designated as medically underserved; and include recent statutory provisions that provide a temporary waiver of certain nonphysician practitioner staffing requirement. It would impose payment limits on provider based RHCs, prohibit commercial use, the use of space equipment and other resources of an RHC by another entity. The rule also requires establishment of a quality assessment and performance improvement program.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: David Vorgo, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-5919
Email: dworgo@hcfa.gov

RIN: 0938–AJ17

HHS—HCFA

Long-Term Actions

1440. • ADJUSTMENTS TO PAYMENT AMOUNT FOR ERYTHROPOIETIN/EPOIETIN FOR END-STAGE RENAL DISEASE PATIENTS (HCFA-1098-PN)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1395rr(b)(11)(B)

CFR Citation: 42 CFR 413.174

Legal Deadline: None

Abstract: This proposed notice announces HCFA's proposed revision in the payment amount to Medicare-approved renal dialysis facilities and suppliers of home dialysis equipment and supplies for Erythopoietin/Epoietin (EPO), and anti-anemia drugs administered to certain patients with end-stage renal disease (ESRD).

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Henry E. Richter, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, C5-05-24, Baltimore, MD 21244
Phone: 410 786-4562

RIN: 0938–AJ18

1441. • RECOGNITION OF THE COMMISSION FOR ACCREDITATION OF REHABILITATION FACILITIES (HCFA-2036-NC)

Priority: Info./Admin./Other

Legal Authority: 42 USC 1395bb

CFR Citation: 42 CFR 785

Legal Deadline: None

Abstract: This notice with comment period announces and invites comments on the receipt of an application from the commission for accreditation of rehabilitation facilities (CARF) for recognition as a national accreditation organization with deemed status authority. The Social Security Act requires HCFA to publish this notice in which we identify the national accreditation body making the application, describe the nature of the request, and provide a 30-day comment period to solicit public comments on this request.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Susan Cuerdon, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-1146

RIN: 0938–AJ25

1442. • REVISED RESERVED ALLOTMENTS TO STATES FOR FISCAL YEAR 1998 (HCFA-2037-N)

Priority: Info./Admin./Other

Legal Authority: PL 105-174

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This notice provides notification of the revised reserved fiscal year (FY) 1998 State allotments available to provide Federal funding to individual States, Commonwealths, and Territories for expenditures in the new State Children's Health Insurance Program (CHIP) established under title XXI of the Social Security Act (the Act). The reserved FY 1998 State CHIP allotments were originally published in the Federal Register on September 12, 1997. This notice describes the methodology and process that HCFA uses to determine the reserved State CHIP allotments in accordance with section 2104 of the Act, and explains the reason for this revision to the FY 1998 reserved allotments.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Richard Strauss, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-2019
Email: rstrauss@hcfa.goc

RIN: 0938–AJ26

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Completed Actions

1443. MEDICARE COVERAGE OF OUTPATIENT OCCUPATIONAL THERAPY SERVICES (HCFA-1425-P)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 400; 42 CFR 410; 42 CFR 424; 42 CFR 484; 42 CFR 485; 42 CFR 486; 42 CFR 488; 42 CFR 489; 42 CFR 498

Completed:

Reason	Date	FR Cite
Withdrawn - Issues have been covered in HCFA-1006-P	06/05/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheridan Gladhill
Phone: 410 786-1782

RIN: 0938–AD32

1444. CHANGE IN PROVIDER AGREEMENT REGULATIONS RELATED TO FEDERAL EMPLOYEE HEALTH BENEFITS (HCFA-1748-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 42 CFR 489

HHS—HCFA

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	10/29/97	62 FR 56106
Final Action Effective	11/28/97	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: David Walczak
Phone: 410 786-4475

RIN: 0938–AG03

1445. CLIA PROGRAM; SIMPLIFYING CLIA REGULATIONS TO ACCREDITATION EXEMPTION OF LABORATORIES UNDER A STATE LICENSURE PROGRAM, AND PROFICIENCY TESTING AND INSPECTION (HCFA-2239-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 42 CFR 493

Completed:

Reason	Date	FR Cite
Final Action	05/14/98	63 FR 26722
Final Action Effective	06/15/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Judy Yost
Phone: 410 786-3531

RIN: 0938–AH82

1446. MEDICARE PROGRAM: UPDATE OF AMBULATORY SURGICAL CENTER PAYMENT RATES EFFECTIVE FOR SERVICES ON OR BEFORE OCTOBER 1, 1997 (HCFA-1897-N)

Priority: Other Significant

CFR Citation: 42 CFR 416.25

Completed:

Reason	Date	FR Cite
Final Action	02/19/98	63 FR 8462
Final Action Effective	10/01/97	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joan Sanow
Phone: 410 786-5763

RIN: 0938–AI18

1447. SOLVENCY STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS (HCFA-1011-IFC)

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate of RIN 0938-AI83	07/07/98	

RIN: 0938–AI25

1448. MEDICARE/MEDICAID PROGRAM: SURETY BOND REQUIREMENTS FOR HOME HEALTH AGENCIES (HCFA-1152.2-F)

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate of RIN 0938-AJ08	07/31/98	

RIN: 0938–AI86

1449. • MEDICARE AND MEDICAID PROGRAMS; SURETY BOND REQUIREMENTS FOR HOME HEALTH AGENCIES (HCFA-1152.2F)

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 441.16; 42 CFR 489.67

Legal Deadline: None

Abstract: This final rule revises Medicare and Medicaid regulations concerning surety bond requirements published in the Federal Register (63 FR 29648) on June 1, 1998. Those regulations specified submission compliance dates for all home health agencies (HHAs) to furnish a surety bond to HCFA and/or to the State Medicaid agency. This rule removes those submission compliance dates.

Timetable:

Action	Date	FR Cite
Final Action	07/31/98	63 FR 41169

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ralph Goldberg, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-4870
Mary Linda Morgan, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-2011

RIN: 0938–AJ08

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Administration for Children and Families (ACF)

Proposed Rule Stage

1450. TITLE IV-E FOSTER CARE ELIGIBILITY REVIEWS AND CHILD AND FAMILY SERVICES STATE PLAN REVIEWS, MEPA IMPLEMENTATION, ASFA IMPLEMENTATION, AND BASIC STATE GRANT PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 627; 42 USC 671; 42 USC 1302; 42 USC 1320a-1a

CFR Citation: 45 CFR 1355; 45 CFR 1356; 45 CFR 1357

Legal Deadline: Final, Statutory, July 1, 1995.

Abstract: This rule will contain requirements that implement the statutory provisions of the Social Security Act Amendments of 1994 on review of State programs under parts B and E of the Social Security Act for conformity with State Plan requirements including the Adoption and Safe Families Act requirements related to State plan issue. It will contain requirements that govern on-site eligibility reviews that the Administration for Children and Families conducts to assure State agencies' compliance with the statutory requirements under title IV-E of the Social Security Act for the eligibility of foster care providers and the eligibility of children in foster care. The rule will provide for enforcement of the prohibition on race-based discrimination in the foster care and adoptive placements.

Timetable:

Action	Date	FR Cite
NPRM	09/18/98	63 FR 50058
NPRM Comment Period End	12/17/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: This action was previously reported under RIN 0970-AB60.

Agency Contact: Kathleen McHugh, ACYF/Children's Bureau, Department of Health and Human Services, Administration for Children and Families, Washington, DC 20013
Phone: 202 401-5789
Email: kmchugh@acf.dhhs.gov

RIN: 0970–AA97

1451. CONSTRUCTION OF HEAD START FACILITIES

Priority: Other Significant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1309

Legal Deadline: None

Abstract: This NPRM will establish procedures to be used by Head Start agencies in requesting to use Head Start grant funds to construct or renovate a Head Start facility.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB54

1452. METHODOLOGY FOR DETERMINING WHETHER AN INCREASE IN A STATE'S CHILD POVERTY RATE IS THE RESULT OF THE TANF PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 613(i)

CFR Citation: 45 CFR 284 (New)

Legal Deadline: None

Abstract: This rule will set forth a methodology to determine whether an increase in a State's child poverty rate is the result of the TANF Program.

Timetable:

Action	Date	FR Cite
NPRM	09/23/98	63 FR 50837
NPRM Comment Period End	11/23/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Howard Rolston, Director, Office of Planning, Research, and Evaluation, Department of Health and Human Services, Administration for Children and Families, 7th Floor, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-9220
Fax: 202 205-3598

RIN: 0970–AB65

1453. BONUS TO REWARD HIGH PERFORMANCE STATES UNDER THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT

Priority: Other Significant

Legal Authority: 42 USC 603 (a)(4)

CFR Citation: 45 CFR 285 (New)

Legal Deadline: None

Abstract: The Administration for Children and Families, in consultation with the National Governor's Association and the American Public Welfare Association (now known as the American Public Human Services Association), will propose a formula for measuring State performance under the Temporary Assistance for Needy Families Block Grant as the basis for payment of a bonus to high performing States.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Howard Rolston, Director, Office of Planning, Research and Evaluation, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., 7th Floor West, Washington, DC 20447
Phone: 202 401-9220
Fax: 202 205-3598

RIN: 0970–AB66

1454. CHILD SUPPORT ENFORCEMENT FOR INDIAN TRIBES

Priority: Other Significant

Legal Authority: 42 USC 655(f)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This NPRM will specify how tribes can obtain direct payments from the Department of Health and Human Services for provision of child support enforcement services if they submit a plan meeting the objectives of title IV-D, including establishment of paternity, modification and enforcement of support orders, and location of absent parents.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Elizabeth C. Matheson, Director, Division of Policy and Planning, Department of Health and Human Services, Administration for Children and Families, OCSE, 370 L'Enfant Promenade SW., Mail Stop: OCSE/DPP, Washington, DC 20447
Phone: 202 401-9386
Fax: 202 401-5559
Email: ematheson@acf.dhhs.gov

RIN: 0970–AB73

HHS—ACF

Proposed Rule Stage

1455. REQUIREMENTS FOR THE TRIBAL PROGRAMS

Priority: Other Significant

Legal Authority: 42 USC 612

CFR Citation: 45 CFR 286 (New); 45 CFR 287 (New)

Legal Deadline: None

Abstract: This rule sets forth a process for: the completion and submission of tribal TANF plans; the determination of funding levels for tribal TANF grants; the establishement of criteria to determine minimum work participation requirements and time limits for tribal TANF programs; and the review and approval of tribal TANF plans. This rule sets forth program requirements for the application of penalties and for data collection and reporting.

The rule also sets forth procedures for planning and operating a program to make work activities available to tribal members. Funds for this program are available to Indian tribes and Alaska Native organizations that operated a Job Opportunities and Basic Skills Training (JOBS) program in fiscal year 1995. This tribal work activities program is called the Native Employment Works (NEW) Program.

Timetable:

Action	Date	FR Cite
NPRM	07/22/98	63 FR 39366
NPRM Comment Period End	11/20/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Agency Contact: John Bushman, Director, Division of Tribal Services, Department of Health and Human Services, Administration for Children and Families, Office of Community Services, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-2418
Fax: 202 205-5887
Email: jbushman@acf.dhhs.gov

RIN: 0970–AB78

1456. REFUGEE RESETTLEMENT PROGRAM: RESPONDING TO TANF REPLACING AFDC

Priority: Other Significant

Legal Authority: 8 USC 1522(a)(9)

CFR Citation: 45 CFR 400

Legal Deadline: None

Abstract: This regulation would revise refugee resettlement program regulations to respond to the Temporary Assistance for Needy Families (TANF) program replacing the Aid to Families with Dependent Children (AFDC) program; this rule proposes to establish the refugee cash assistance program as a public/private partnership between States and local resettlement agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Toyo Biddle, Director, Division of Refugee Self-Sufficiency, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-9250

RIN: 0970–AB83

1457. CHILD SUPPORT PENALTIES AND INCENTIVES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 609(a)(8); 42 USC 658A

CFR Citation: 45 CFR 305; 45 CFR 302.55; 45 CFR 304.12

Legal Deadline: NPRM, Statutory, April 1999.

Abstract: This regulation will implement the requirements in 42 USC 609(a)(8) which provide for a penalty of 1 percent to 5 percent of a State's Temporary Assistance for Needy Families (TANF) funds if the Secretary of HHS determines that the State failed to meet the paternity establishment percentages or other performance measures established by the Secretary. It will also implement a new incentive system, enacted under Pub.L. 105-200. Based on 42 USC 658A States will receive incentives according to their performance on key statutory indicators and performance standards from a capped pool of funds beginning in FY 2000. These funds must be reinvested in the IV-D program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Joyce Pitts, Division of Policy and Planning, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Mail Stop OCSE/DPP, Washington, DC 20447
Phone: 202 401-5374
Fax: 202 401-5559
Email: jpitts@acf.dhhs.gov

RIN: 0970–AB85

1458. FAMILY CHILD CARE PROGRAM OPTION FOR HEAD START PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1306

Legal Deadline: None

Abstract: This rule would allow Head Start programs to choose Family Child Care as a Head Start program option.

HHS—ACF

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start, Bureau, Department of Health and Human Services, Administration for Children and Families, ACYF, PO Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB90

1459. IMPLEMENTATION OF REMAINING PROVISIONS OF THE ADOPTION AND SAFE FAMILIES ACT OF 1997 AND OTHER TITLE IV-B/IV-E REGULATORY AMENDMENTS, AFCARS PENALTIES, AND CAPTA AMENDMENTS

Priority: Other Significant

Legal Authority: 42 USC 620 to 628; 42 USC 629 to 629(c); 42 USC 670 to 679

CFR Citation: 45 CFR 1355; 45 CFR 1356; 45 CFR 1357

Legal Deadline: None

Abstract: This NPRM implements the changes in titles IV-B and IV-E of the Social Security Act as mandated by the Adoption & Safe Families Act of 1997, Public Law 105-89. These changes include: reasonable efforts, dispositional (permanency) hearings, background checks, termination of parental rights and procedures for expediting a foster care child's permanent placement and to assure the child's safety in all aspects. In addition, the NPRM will revise the title IV-B, subpart 1 planning requirements to make the plans more accurately reflect the amount of funding available to Indian tribes/tribal organizations through the program. The NPRM will also address AFCARS penalties and the Child Abuse Prevention and Treatment Act Amendments (formerly included in RIN 0970-AB86).

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: Merge RIN 0970-AB86 with RIN 0970-AB94

Agency Contact: Kathleen McHugh, Director, Policy Division, Department of Health and Human Services, Administration for Children and Families, 330 C St. SW., Wasington, DC 20201
Phone: 202 401-5789
Email: kmchugh@acf.dhhs.gov

RIN: 0970–AB94

1460. • STATE SELF ASSESSMENTS OF STATE PLAN REQUIREMENTS TO DETERMINE COMPLIANCE WITH FEDERAL REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 654(15)(A)

CFR Citation: 45 CFR 306

Legal Deadline: None

Abstract: Would require States to conduct annual reviews on certain aspects of the State title IV-D Program and provide a report to the Secretary.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: John Seneta, Program Specialist, Office of Child Support Enforcement/DHHS, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Mail Stop: OCSE/DPP, Washington, DC 20447
Phone: 202 401-5154
Fax: 202 401-5559
Email: jseneta@acf.dhhs.gov

RIN: 0970–AB96

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Administration for Children and Families (ACF)

Final Rule Stage

1461. STANDARDS FOR SAFE TRANSPORTATION

Priority: Other Significant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1310

Legal Deadline: None

Abstract: This rule establishes Head Start Performance Standards for the safe transportation of Head Start children, including vehicle requirements, driver qualifications and training and safety rules for children and staff while en route and loading and unloading of vehicles.

Timetable:

Action	Date	FR Cite
NPRM	06/15/95	60 FR 31612
NPRM Comment Period End	08/14/95	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB24

1462. STANDARDS FOR PURCHASE OF FACILITIES

Priority: Other Significant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1309

Legal Deadline: None

Abstract: This regulation establishes standards for the purchase of facilities as required by the Head Start Improvement Act of 1992.

HHS—ACF

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61575
NPRM Comment Period End	01/30/95	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB31

1463. STATE LAW CONCERNING PATERNITY ESTABLISHMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 666(a)(5)

CFR Citation: 45 CFR 302.70; 45 CFR 303.5; 45 CFR 304.20

Legal Deadline: None

Abstract: This regulation covers voluntary paternity establishment services offered by hospitals and birth record agencies and specifies the types of other entities that may offer voluntary paternity establishment services. The provision of such services must include a requirement that such an entity use the same notice provision, materials, training, and evaluation as the ones used by the voluntary paternity establishment programs of hospitals and birth record agencies.

Timetable:

Action	Date	FR Cite
NPRM	01/05/98	63 FR 187
NPRM Comment Period End	03/06/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Jan Rothstein, Program Specialist, Division of Policy and Planning, Department of Health and Human Services, Administration for Children and Families, OCSE, DHHS, 370 L'Enfant Promenade SW., Mail Stop: OCSE/DPP, Washington, DC 20447
Phone: 202 401-5073
Fax: 202 401-5559
Email: jrothstein@acf.dhhs.gov

RIN: 0970–AB69

1464. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 669B

CFR Citation: 45 CFR 303.109 (New)

Legal Deadline: None

Abstract: This regulation specifies the monitoring, evaluating, and reporting of State grants designed to support and facilitate absent parents' access to and visitation of their children.

Timetable:

Action	Date	FR Cite
NPRM	03/31/98	63 FR 15351
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: David Arnaudo, Technical Advisor, Department of Health and Human Services, Administration for Children and Families, OCSE, 370 L'Enfant Promenade SW., Mail Stop: OCSE/DPP, Washington, DC 20447
Phone: 202 401-5364
Fax: 202 401-5559
Email: darnaudo@acf.dhhs.gov

RIN: 0970–AB72

1465. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

Regulatory Plan: This entry is Seq. No. 34 in Part II of this issue of the Federal Register.

RIN: 0970–AB77

1466. BONUS TO REWARD DECREASE IN ILLEGITIMACY RATIO

Priority: Other Significant

Legal Authority: 42 USC 603(a)(2)

CFR Citation: 45 CFR 283 (New)

Legal Deadline: None

Abstract: This regulation describes how bonuses will be awarded to those States that experience the largest decreases in out-of-wedlock childbearing and also reduce their abortion rates. The total amount of the bonus will be $100 million in each of fiscal years 1999 through 2002.

Timetable:

Action	Date	FR Cite
NPRM	03/02/98	63 FR 10264
NPRM Comment Period End	05/01/98	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Kelleen Kaye, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, Administration for Children and Families, 200 Independence Avenue SW., Washington, DC 20201
Phone: 202 401-6634
Fax: 202 690-6562
Email: kkaye@osaspe.dhhs.gov

RIN: 0970–AB79

1467. CHILD SUPPORT ENFORCEMENT PROGRAM OMNIBUS CONFORMING REGULATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302

CFR Citation: 45 CFR 304; 45 CFR 305; 45 CFR 301; 45 CFR 302; 45 CFR 303

Legal Deadline: None

Abstract: This rule eliminates child support enforcement program regulations rendered obsolete or inconsistent with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Marilyn R. Cohen, Program Specialist, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Mail Stop: OCSE/DPP, Washington, DC 20447
Phone: 202 401-5366

HHS—ACF

Final Rule Stage

Fax: 202 401-5559
Email: mcohen@acf.dhhs.gov

RIN: 0970–AB81

1468. CASE CLOSURE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 651 to 658; 42 USC 660; 42 USC 663; 42 USC 664; 42 USC 666; 42 USC 667; 42 USC 1302; 42 USC 1396a(a)(25); 42 USC 1396(d)(2); 42 USC 1396b(o); 42 USC 1396b(p); 42 USC 1396(k)

CFR Citation: 45 CFR 303.11

Legal Deadline: None

Abstract: This rule amends regulations governing the case closure process in the child support enforcement program.

Timetable:

Action	Date	FR Cite
NPRM	02/24/98	63 FR 9172
NPRM Comment Period End	04/27/98	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Elizabeth C. Matheson, Director, Division of Policy and Planning, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Mail Stop: OCSE/DPP, Washington, DC 20447
Phone: 202 401-9385
Fax: 202 401-5559
Email: ematheson@acf.dhhs.gov

RIN: 0970–AB82

1469. HEAD START APPEAL TIMELINES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1303

Legal Deadline: None

Abstract: This proposed amendment to part 1303 will provide timelines and selected procedural changes for conducting administrative hearings on adverse actions taken against Head Start agencies.

Timetable:

Action	Date	FR Cite
NPRM	06/30/98	63 FR 35554
NPRM Comment Period End	08/31/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Douglas Klafehn, Deputy Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, ACYF, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB87

1470. WELFARE-TO-WORK DATA COLLECTION

Priority: Other Significant

Legal Authority: 42 USC 611

CFR Citation: 45 CFR 276 (New)

Legal Deadline: None

Abstract: This interim final rule will specify the data elements that grantees must report for the Welfare-to-Work program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Howard Rolston, Director, Office of Planning, Research and Evaluation, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., 7th Floor West, Washington, DC 20447
Phone: 202 401-9220
Fax: 202 205-3598

RIN: 0970–AB92

1471. • NATIONAL MEDICAL SUPPORT NOTICE

Priority: Substantive, Nonsignificant

Legal Authority: Not yet determined

CFR Citation: 45 CFR 310

Legal Deadline: Final, Statutory, May 16, 2000.

Abstract: Joint DHHS/DOL regulations mandating use of a national medical support notice and including procedures for issuance and transmittal to employers by States to enforce health care coverage in a child support order.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

Agency Contact: John Seneta, Program Specialist, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Mail Stop: OCSE/DPP, Washington, DC 20447
Phone: 202 401-5154
Fax: 202 401-5559
Email: jseneta@acf.dhhs.gov

RIN: 0970–AB97

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Administration for Children and Families (ACF)

Completed Actions

1472. DESIGNATION OF ALTERNATIVE AGENCY TO SERVE INDIAN TRIBAL CHILDREN

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1302

Completed:

Reason	Date	FR Cite
Final Action	06/24/98	63 FR 34328

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations

Government Levels Affected: Tribal

Agency Contact: Douglas Klafehn
Phone: 202 205-8569

RIN: 0970–AB52

1473. QUARTERLY WAGE AND UNEMPLOYMENT COMPENSATION CLAIMS REPORTING TO THE NATIONAL DIRECTORY OF NEW HIRES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 303.108 (New)

Completed:

Reason	Date	FR Cite
Final Action	07/02/98	63 FR 36185

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Anne M. Benson
Phone: 202 401-1467
Fax: 202 401-5559
Email: abenson@acf.dhhs.gov

RIN: 0970–AB67

1474. AUTOMATED DATA PROCESSING REQUIREMENTS/STATE CASE REGISTRY

Priority: Other Significant

CFR Citation: 45 CFR 302.85; 45 CFR 304.20; 45 CFR 307

Completed:

Reason	Date	FR Cite
Final Action	08/21/98	63 FR 44795

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Michael P. Fitzgerald
Phone: 202 401-6403

RIN: 0970–AB70

1475. AUTOMATED DATA PROCESSING FUNDING LIMITATION

Priority: Other Significant

CFR Citation: 45 CFR 307.30

Completed:

Reason	Date	FR Cite
Final Action	08/19/98	63 FR 44401

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Helen Morgan Smith
Phone: 202 690-6639
Fax: 202 401-6400

RIN: 0970–AB71

1476. CHILD CARE AND DEVELOPMENT FUND

Priority: Other Significant

CFR Citation: 45 CFR 98; 45 CFR 99

Completed:

Reason	Date	FR Cite
Final Action	07/24/98	63 FR 39936

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Carmen Nazario
Phone: 202 690-6782

RIN: 0970–AB74

1477. CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1340

Completed:

Reason	Date	FR Cite
Merged With RIN 0970-AB94	08/12/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Emily Cooke
Phone: 202 205-8709
Fax: 202 260-9351
Email: ecooke@acf.dhhs.gov

RIN: 0970–AB86

1478. TITLE IV-E TRAINING

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1356.60; 45 CFR 235.63 to 235.66(a)

Completed:

Reason	Date	FR Cite
Withdrawn - Postponed Indefinitely	09/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Judith Reich
Phone: 202 205-8713

RIN: 0970–AB89

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Administration on Aging (AOA)

Proposed Rule Stage

1479. GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING, INTRASTATE FUNDING FORMULAS; TRAINING, RESEARCH AND DISCRETIONARY PROGRAMS; VULNERABLE ELDER RIGHTS; AND GRANTS TO INDIANS & NATIVE HAWAIIANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3001 et seq

CFR Citation: 45 CFR 1321; 45 CFR 1324; 45 CFR 1326; 45 CFR 1327; 45 CFR 1328

Legal Deadline: None
Unknown until law is reauthorized.

Abstract: The Administration on Aging (AoA) anticipates revising current rules to reflect the changes resulting from the pending reauthorization of the Older Americans Act which incorporates greater flexibility for the States. PURPOSE: The purpose of these revisions will be to implement new legislation on the development and provision of community-based services.

Timetable:

Action	Date	FR Cite
NPRM - OAA Amendments in FY '98	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Tribal

Additional Information: The Administration on Aging, in consultation with the Office of Management and Budget, has determined that it is no longer necessary to pursue final action on rules earlier proposed to implement the 1992 amendments to the Older Americans Act. The provisions of the Act remain in force and need no further regulations to implement them. AoA anticipates promulgating rules in the latter part of 1998 to implement the provisions to the next reauthorization of the Older Americans Act, if necessary.

Agency Contact: Edwin Walker, Director, Office of Program Operations and Development, Department of Health and Human Services, Administration on Aging, 330 Independence Avenue SW., Room 4733, Cohen Bldg., Washington, DC 20201
Phone: 202 619-0011

RIN: 0985–AA00

[FR Doc. 98-28281 Filed 11-06-98; 8:45 am]
BILLING CODE 4150-04-F

11–9–98
Vol. 63 No. 216

federal register

Monday
November 9, 1998

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(ISSN 0097–6326)

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11–9–98
Vol. 63 No. 216

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Pages 61787–62346

federal register

Monday, November 9, 1998
Book 3 of 4 Books

The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions

61788 IX—Department of Housing and Urban Development
61820 X—Department of the Interior
61908 XI—Department of Justice
61968 XII—Department of Labor
62020 XIII—Department of State
62026 XIV—Department of Transportation
62204 XV—Department of the Treasury
62304 XVI—Department of Veterans Affairs
62332 XVII—Advisory Council on Historic Preservation
62334 XVIII—Agency for International Development
62338 XIX—Architectural and Transportation Barriers Compliance Board
62342 XX—Commission on Civil Rights
62344 XXI—Corporation for National and Community Service

Federal Register

Monday
November 9, 1998

Part IX

Department of Housing and Urban Development

Semiannual Regulatory Agenda

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Subtitles A and B

[Docket No. FR-4335-02]

Semiannual Agenda of Regulations

AGENCY: Department of Housing and Urban Development.

ACTION: Semiannual regulatory agenda.

SUMMARY: In accordance with section 4(b) of Executive Order 12866 "Regulatory Planning and Review," the Department is publishing its agenda of (1) regulations already issued or expected to be issued and (2) currently effective rules that are under review. Additionally, in accordance with section 602 of the Regulatory Flexibility Act, the Department also has prepared an agenda of regulations expected to be proposed or promulgated, which are likely to have a significant economic impact on a substantial number of small entities. As permitted by Executive Order 12866 and the Regulatory Flexibility Act, the two agendas are combined for publication.

FOR FURTHER INFORMATION CONTACT: Camille E. Acevedo, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW., Washington, DC 20410, (202) 708-3055. (This is not a toll-free number.) A telecommunications device for hearing- and speech-impaired individuals (TTY) is available at 1-800-877-8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: Executive Order 12866 "Regulatory Planning and Review," published on October 4, 1993 (58 FR 51735), requires each agency to publish semiannually an agenda of (1) regulations that the agency has issued or expects to issue and (2) currently effective regulations that are under agency review. Consistent with the principles set forth in Executive Order 12866 to reduce and streamline regulations and in response to President Clinton's memorandum to Federal agencies to examine all regulations and eliminate those that are obsolete, the Department continues to examine those rules proposed to be issued under these principles.

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires each agency to publish semiannually a regulatory agenda of rules expected to be proposed or promulgated that are likely to have a significant economic impact on a substantial number of "small entities," meaning small businesses, small organizations, or small governmental jurisdictions.

Executive Order 12866 and the Regulatory Flexibility Act each permits incorporation of the agenda required with any other prescribed agenda. The agenda set out below combines the information required by Executive Order 12866 and the Regulatory Flexibility Act. In addition, the agenda contains certain information not required by either the Executive order or by the Act, which the Department considers useful, both better to inform the public and to enhance the Department's own inventory control over its body of regulations.

Section 610(c) of the Regulatory Flexibility Act requires each agency to publish annually a list of the rules that have a significant economic impact upon a substantial number of small entities and that are to be reviewed in accordance with section 610 during the succeeding 12 months. All rules under development, published in each HUD agenda, are reviewed in accordance with the principles of section 610 of the Regulatory Flexibility Act. In 1995 and 1996, all HUD regulations then codified underwent a section 610 review when these regulations were examined in accordance with President Clinton's regulatory reinvention initiative. The Department invites comments from the public on any rule listed in this agenda that the public may believe will have a significant economic impact on a substantial number of small entities. The Department specifically invites comment on HUD's rules pertaining to manufactured housing, lead-based paint hazard control, and real estate settlement procedures.

The Department also is subject to certain rulemaking requirements set forth in the Department of Housing and Urban Development Act (42 U.S.C. 3531 *et seq.*). Section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)) requires that the Secretary transmit to the congressional committees having jurisdictional oversight of HUD (the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Banking and Financial Services) a semiannual agenda of all rules or regulations which are under development or review by the Department. A rule appearing on the agenda cannot be published for comment before or during the first 15 calendar days after transmittal of the agenda. If, within that period, either committee notifies the Secretary that it intends to review any rule or regulation which appears on the agenda, the Secretary must submit to both committees a copy of the rule or regulation, in the form it is intended to be proposed, at least 15 calendar days before it is published for comment. The semiannual agenda published today is the agenda transmitted to the committees in compliance with this requirement.

For purposes of Executive Order 12866, "regulation" or "rule" is defined as "an agency statement of general applicability and future effect, which the agency intends to have the force and effect of law, that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency," subject to certain exceptions. The agenda published below focuses on regulatory material contained or expected to be contained in the Code of Federal Regulations (CFR) (or incorporated therein by reference) following publication in the **Federal Register**. As appropriate, however, issuances in the nature of general statements of policy may be published in the **Federal Register** but not for codification in the CFR.

The agenda items are divided first by program office. Within each program office, the agenda items are divided into four groups: (i) Prerulemaking actions, (ii) publication or other implementations of notices of proposed rulemaking, (iii) publications or other implementations of final rules, and (iv) completed actions. Within each grouping, rules are listed in chronological order by the part number of the CFR affected. Where a rule affects multiple parts of the CFR, the rule is listed by the first affected part number.

The agenda reflects that some rules have been withdrawn by the Department since issuance of the previous agenda. On further examination of the subject matters of these rules, the Department may determine that certain rules listed as withdrawn under this agenda are necessary, and if that determination is made, the rules will be included in a succeeding semiannual agenda.

Items listed in this agenda are from the following offices within the Department: Office of the Secretary; Office of Housing; Office of Public and Indian Housing; Office of Community Planning and Development; Office of Fair Housing and Equal Opportunity; Office of Administration; Office of Inspector General; Office of Policy Development and Research; and the Government National Mortgage Association.

For this edition of the Department's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

The Department invites all interested members of the public to comment on the rules listed in this fall 1998 agenda to assist the Department in improving its regulatory products and procedures.

Dated: August 25, 1998.

Gail W. Laster,

General Counsel.

HUD

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1480	24 CFR 3 Common Rule: Nondiscrimination in Educational Activities (FR-4301)	2501-AC42
1481	24 CFR 5 Sanctions for Underreporting of Income in the Assisted Housing Programs (FR-4334) **(Reg Plan Seq. No. 35)**	2501-AC55
1482	24 CFR 8 Nondiscrimination Based on Disability; Multifamily Homeownership Projects (FR-4317)	2501-AC47
1483	24 CFR 15 Revisions to HUD's Freedom of Information Act (FOIA) Regulations (FR-4292)	2501-AC51
1484	24 CFR 17 Procedures for the Collection of Claims by the Government (FR-4318)	2501-AC48
1485	24 CFR 24 Limited Denial of Participation in HUD Programs; Clarifying Amendments (FR-3975)	2501-AC08
1486	24 CFR 30 Amendments to HUD's Civil Money Penalty Regulations (FR-4399)	2501-AC56
1487	24 CFR 42 Revisions to Regulations Implementing Uniform Relocation Act and Other Relocation Requirements in HUD Programs (FR-4122)	2501-AC31
1488	24 CFR 56 Flood Insurance and HUD-Assisted Buildings Located Within Special Flood Hazard Areas (FR-4273)	2501-AC40
1489	24 CFR 58 Regulations Governing the Environmental Review Procedures for Entities Assuming HUD's Environmental Responsibilities; Miscellaneous Amendments (FR-4326)	2501-AC52
1490	24 CFR 81 Secretary of HUD's Regulation of Fannie Mae and Freddie Mac (FR-4297)	2501-AC41
1491	24 CFR 92 HOME Investment Partnerships Program: HOME Final Rule Revisions (FR-4329)	2501-AC53

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1492	24 CFR 000 Adoption of Revised OMB Circular A-133; Administrative Requirements for Grantees to Reflect the Single Audit Act Amendments of 1996; Technical Amendments (FR-4296)	2501-AC43
1493	24 CFR 5, subpart E Revised Restriction on Assistance to Noncitizens (FR-4154)	2501-AC36
1494	24 CFR 6 Nondiscrimination in HUD Programs and Activities Receiving Assistance Under Title I of the Housing and Community Development Act of 1974 (FR-4092)	2501-AC28
1495	24 CFR 25 Conforming Amendments to HUD's FHA-Single Family Housing and Multifamily Housing Enforcement Regulations (FR-4308)	2501-AC44
1496	24 CFR 35 Lead-Based Paint Poisoning Prevention in Certain Residential Structures (FR-3482) **(Reg Plan Seq. No. 36)**	2501-AB57
1497	24 CFR 45 Administrative Requirements for Grantees To Reflect Single Audit Act Amendments (FR-4258)	2501-AC39
1498	24 CFR 55 Floodplain Management and Protection of Wetlands (FR-4142)	2501-AC33
1499	24 CFR 91 Clarifying Amendments to Consolidated Submission for Community Planning and Development Programs (FR-4333)	2501-AC54
1500	24 CFR 92 HOME Investment Partnerships Program—Additional Streamlining (FR-4111)	2501-AC30
1501	24 CFR 401 Multifamily Housing Mortgage and Housing Assistance Restructuring Program (Mark to Market) and Renewal of Expiring Section 8 Project-Based Assistance (FR-4298) **(Reg Plan Seq. No. 37)**	2501-AC57

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

HUD

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1502	24 CFR 5 Uniform Physical Condition Standards and Physical Inspection Requirements for Certain HUD Housing (FR-4280)	2501-AC45
1503	24 CFR 5 Uniform Financial Reporting Standards for HUD Housing Programs (FR-4321)	2501-AC49
1504	24 CFR 58 Technical Amendment to HUD's Regulations Governing the Environmental Review Procedures for Entities Assuming HUD's Environmental Responsibilities (FR-4138)	2501-AC32
1505	24 CFR 91 Site and Neighborhood Standards for Development of HUD-Assisted Rental Housing (FR-3826)	2501-AC15

Office of Housing—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1506	24 CFR 3282 Procedural and Enforcement Regulations for the Manufactured Home Construction and Safety Program (FR-4319)	2502-AH14

Office of Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1507	24 CFR 200 Single-Family Mortgage Insurance Clarification Requirement Concerning Floodplains Applicable to New Construction (FR-4323)	2502-AH16
1508	24 CFR 200 UMs for Plastic Pipe, Insulation, Stucco, Glazing, and Roofing (FR-4391)	2502-AH28
1509	24 CFR 201 Strengthening the Title I Property Improvement Loan Insurance Program (FR-4246) **(Reg Plan Seq. No. 38)**	2502-AG95
1510	24 CFR 203 Builder Warranty for High Ratio Single-Family Mortgages (FR-4288)	2502-AH08
1511	24 CFR 203 Single-Family Appraisal Assessment (FR-4395)	2502-AH27
1512	24 CFR 207 Partial Payment of Claims for Health Care Facilities, Hospitals and Group Practice Facilities (FR-4387)	2502-AH25
1513	24 CFR 290 Up-Front Grants in the Disposition of Multifamily Projects (FR-4310)	2502-AH12
1514	24 CFR 3280 Updating Manufactured Housing Reference Standards (FR-4337)	2502-AH17
1515	24 CFR 3280 Manufactured Home Construction and Safety Standards (FR-4376)	2502-AH23
1516	24 CFR 3282 Special Procedures Permitting Limited Completion of Manufactured Homes On-Site (FR-4216)	2502-AG92
1517	24 CFR 3500 Real Estate Procedures Settlement Act (RESPA): Escrow Account Statement Itemization of Charges (FR-4390)	2502-AH26

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of Housing—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1518	24 CFR 200 Delegation of Insuring Authority to Direct Endorsement Mortgagees (FR-4169)	2502-AG87
1519	24 CFR 200 Use of Material Bulletins (FR-4265)	2502-AH02
1520	24 CFR 200.925 to 200.926 Update of the Model Energy Code (MEC) (FR-4272)	2502-AH03
1521	24 CFR 200 Electronic Submission of Required Data by Multifamily Mortgages (FR-4303)	2502-AH11
1522	24 CFR 201 Title I Property Improvement and Manufactured Home Loan Insurance Programs (FR-4242)	2502-AG94
1523	24 CFR 203 Single-Family Property Disposition (FR-4244)	2502-AG96
1524	24 CFR 203 Suspension of FHA Single-Family Mortgage Insurance Program for Mortgages on Indian Reservations Insured Pursuant to Section 248 of the National Housing Act (FR-4251)	2502-AH00
1525	24 CFR 203 Mortgage Insurance Premium Reduction in Central Cities (FR-4284)	2502-AH07
1526	24 CFR 203 Single Family Mortgage Insurance; Direct Endorsement and Automated Underwriting (FR-4311)	2502-AH15
1527	24 CFR 206.45(e) Home Equity Conversion Mortgages; Right of First Refusal Permitted for Condominium Associations (FR-4267)	2502-AG93
1528	24 CFR 206 Home Equity Conversion Mortgages; Consumer Protection Measures Against Excessive Fees (FR-4306)	2502-AH10

HUD

Office of Housing—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1529	24 CFR 242 Risk-Sharing Hospital Mortgage Insurance Program (FR-3914)	2502-AG53
1530	24 CFR 891 Supportive Housing for the Elderly and Persons With Disabilities; Clarification of Exemption from Rent Control (FR-4346)	2502-AH21
1531	24 CFR 3500 RESPA: Disclosure of Fees Paid to Retail Lenders (Brokers) (FR-3780) **(Reg Plan Seq. No. 39)**	2502-AG40
1532	24 CFR 3500 Amendment to RESPA; Exemption for Employer Payments to Employees Who Make Like-Provider Referrals, and Other Amendments (FR-4173)	2502-AG88
1533	24 CFR 3500 RESPA Statements of Policy Regarding Certain Private Mortgage Insurance Arrangements (FR-4342)	2502-AH19

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of Housing—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1534	24 CFR 000 Portfolio Reengineering Transition Program Guidelines - FY 1998 (FR-4162)	2502-AH13
1535	24 CFR 000 Secondary Market for Nonconforming Mortgage Loans to Low-Wealth Borrowers (FR-4348)	2502-AH20
1536	24 CFR 201 Termination of an Approved Mortgagee's Origination Approval Agreement (FR-4239)	2502-AG99
1537	24 CFR 291 Suspension of New Leases Under the Single-Family Property Disposition Homeless Program (FR-4275)	2502-AH06
1538	24 CFR 401 Multifamily Housing Mortgage and Housing Assistance Restructuring Program (Mark to Market) and Renewal of Expiring Section 8 Project-Based Assistance (FR-4298)	2502-AH09
1539	24 CFR 1720 Interstate Land Sales Disposition Fees; Change in Mailing Address and Authority to Make Electronic Payment (FR-4365)	2502-AH22
1540	24 CFR 3280 Metal Roofing for Manufactured Housing—Interpretative Bulletin (FR-4271)	2502-AH05

Office of Community Planning and Development—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1541	24 CFR 570 Community Development Block Grant Program; National Objective and Streamlining Changes (FR-4144)	2506-AB90
1542	24 CFR 570.208 CDBG Slum/Blight National Objective Rule (FR-4260) **(Reg Plan Seq. No. 40)**	2506-AB94
1543	24 CFR 570.200 Clarification of the Nature of Required CDBG Expenditure Documentation (FR-4261) **(Reg Plan Seq. No. 41)**	2506-AB95

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of Community Planning and Development—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1544	24 CFR 91 CDBG Program for States; Community Revitalization Strategy Requirements & Miscellaneous Technical Amendments (FR-4081)	2506-AB83
1545	24 CFR 570 Community Development Block Grant Program; Section 108 Application Requirements (FR-3298)	2506-AB43
1546	24 CFR 570 Section 108 Loan Guarantee Program (FR-4039)	2506-AB80
1547	24 CFR 570 Community Development Block Grant Programs for States; Program Income (FR-4067)	2506-AB82
1548	24 CFR 576 Emergency Shelter Grants Program (FR-4330)	2506-AB99

HUD

Office of Community Planning and Development—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1549	00 CFR None Administrative Guidelines for CPD Programs; Section 102(d) Limitation on Combining Other Government Assistance With CPD Housing Assistance (FR-3135)	2506-AB74

Office of Community Planning and Development—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1550	24 CFR 597 New Empowerment Zones (FR-4281)	2506-AB97

Government National Mortgage Association—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1551	24 CFR 300.3 Ginnie Mae - Finance - NAHASDA Implementation (FR-4215)	2503-AA11

Government National Mortgage Association—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1552	24 CFR 320.10 Ginnie Mae - Financial Reporting (FR-4331)	2503-AA12

Office of Fair Housing and Equal Opportunity—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1553	24 CFR 91 Fair Housing Planning Performance Standard (FR-4133) **(Reg Plan Seq. No. 42)**	2529-AA81
1554	24 CFR 115 Certification and Funding of State and Local Fair Housing Enforcement Agencies (FR-4392)	2529-AA85

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of Fair Housing and Equal Opportunity—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1555	24 CFR 100 Implementation of the Housing for Older Persons Act of 1995 (FR-4094)	2529-AA80
1556	24 CFR 135 Economic Opportunities for Low- and Very-Low-Income Persons (FR-2898)	2529-AA49
1557	24 CFR 180 Civil Money Penalties for Fair Housing Act Violations (FR-4302)	2529-AA83

Office of Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1558	48 CFR 2409 HUD Acquisition Regulation for Legal Services Contractors (FR-4291)	2535-AA25

HUD

Office of Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1559	48 CFR 2401 HUD Acquisition Regulation—II (FR-4115)	2535-AA24

Office of the Inspector General—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1560	24 CFR 2003 Privacy Act of 1974; Consolidation of Existing Systems of Records Into Single System of Records (FR-4283)	2508-AA10

Policy Development and Research—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1561	24 CFR 570 Community Development Hispanic-Serving Institutions Work Study Program (FR-4269)	2528-AA07
1562	24 CFR 570 Removal of the Repayment Requirement for Participants in the Community Development Work-Study Program (CDWSP) (FR-4324)	2528-AA08

Office of Public and Indian Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1563	24 CFR 901 Resident Survey Information Disclosure Requirements—Privacy Act (FR-4393)	2577-AB84
1564	24 CFR 901 Quality Assurance Review of Independent Public Auditors by Real Estate Assessment Center Staff (FR-4394)	2577-AB85
1565	24 CFR 945 Designated Housing Program Amendments (FR-3964)	2577-AB57
1566	24 CFR 985 Section 8 Management Assessment Program (SEMAP) New Performance Indicators (FR-4388)	2577-AB83

Office of Public and Indian Housing—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1567	24 CFR 5, subpart F Ceiling Rents for Public Housing (FR-3880)	2577-AB75
1568	24 CFR 882 Housing Opportunity Program Extension Act of 1996 Implementation Provisions and Section 8 Certificate, Voucher, & Moderate Rehabilitation Admission & Occupancy Policies Revisions (FR-4159)	2577-AB72
1569	24 CFR 901 Public Housing Assessment System (FR-4313)	2577-AB81
1570	24 CFR 941 Public Housing Development Regulations (FR-3569)	2577-AB37
1571	24 CFR 941 Public Housing Mixed-Finance Partnership Development—Streamlining (FR-4113)	2577-AB69
1572	24 CFR 960 Public Housing Admission and Occupancy Reforms and Streamlining (FR-4084) **(Reg Plan Seq. No. 43)**	2577-AB67
1573	24 CFR 968 Replacement Housing Factor in Modernization Funding (FR-4125)	2577-AB71
1574	24 CFR 971 Assessment of the Reasonable Revitalization Potential of Certain Public Housing Required by Law (FR-4120) **(Reg Plan Seq. No. 44)**	2577-AB79
1575	24 CFR 985 Section 8 Rental Voucher and Certificate Programs—Section 8 Management Assessment Program (SEMAP) (FR-3986)	2577-AB60
1576	24 CFR 990 Public Housing Performance Funding System: Incentives (FR-4072)	2577-AB65
1577	24 CFR 1005 Loan Guarantee for Indian Housing; Direct Guarantee Processing (FR-4241)	2577-AB78

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

HUD

Office of Public and Indian Housing—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1578	00 CFR None Administrative Guidelines for PIH Regarding Section 102(d) Limitations on Combining Other Government Assistance ("Subsidy Layering") (FR-3100)	2577-AB53

Office of Public and Indian Housing—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1579	24 CFR 904 Streamlining of Turnkey III Program Regulations (FR-4217)	2577-AB76
1580	24 CFR 982 Section 8 Tenant-Based Programs: Addition of Provisions on Rents and Special Housing Types (FR-4054)	2577-AB63
1581	24 CFR 982 Section 8 Program Restrictions on Leasing to Relatives (FR-4149)	2577-AB73

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Proposed Rule Stage

1480. COMMON RULE: NONDISCRIMINATION IN EDUCATIONAL ACTIVITIES (FR-4301)

Priority: Other Significant

Legal Authority: 20 USC 1681 to 1683; 20 USC 1685 to 1688

CFR Citation: 24 CFR 3

Legal Deadline: None

Abstract: This is HUD's component of a common rule coordinated by the Department of Justice to implement amendments made to title IX of the Education Amendments of 1972 to prohibit discrimination on the basis of sex in all federally funded educational activities.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: Betsy Ryan, Office of Enforcement, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 619-8041

RIN: 2501–AC42

1481. SANCTIONS FOR UNDERREPORTING OF INCOME IN THE ASSISTED HOUSING PROGRAMS (FR-4334)

Regulatory Plan: This entry is Seq. No. 35 in Part II of this issue of the Federal Register.

RIN: 2501–AC55

1482. NONDISCRIMINATION BASED ON DISABILITY; MULTIFAMILY HOMEOWNERSHIP PROJECTS (FR-4317)

Priority: Other Significant

Legal Authority: 29 USC 794

CFR Citation: 24 CFR 8

Legal Deadline: None

Abstract: This rule will clarify the applicability of HUD's requirements under section 504 of the Rehabilitation Act of 1973 to multifamily homeownership projects. It will also replace the term "handicap" with "disability" to conform to the Rehabilitation Amendments of 1992.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cheryl Kent, Director, Program Compliance and Disability Rights Support Division, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-2333

RIN: 2501–AC47

1483. REVISIONS TO HUD'S FREEDOM OF INFORMATION ACT (FOIA) REGULATIONS (FR-4292)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 42 USC 3535(d)

CFR Citation: 24 CFR 15

Legal Deadline: None

Abstract: This rule would revise HUD's FOIA regulations to include the Electronic Freedom of Information Act requirements and to simplify them. It would also make changes to reflect the Department's reorganization of the handling of production and disclosure of documents.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Barth, Managing Attorney for FOIA, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-3866

RIN: 2501–AC51

HUD—HUDSEC

Proposed Rule Stage

1484. PROCEDURES FOR THE COLLECTION OF CLAIMS BY THE GOVERNMENT (FR-4318)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 3701

CFR Citation: 24 CFR 17

Legal Deadline: None

Abstract: This rule would amend the Department's procedures for the collection of claims by (1) moving the designation of the Department's Claims Officer from the Office of Administration to the Office of the Chief Financial Officer, and (2) revising the regulations at 24 CFR part 17 pertaining to administrative offset, tax refund offset, and salary offset.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Wallace Garner, Director, Finance Planning & Analysis Div., Department of Housing and Urban Development, Office of the Secretary
Phone: 202 708-0654

RIN: 2501–AC48

1485. LIMITED DENIAL OF PARTICIPATION IN HUD PROGRAMS; CLARIFYING AMENDMENTS (FR-3975)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 24

Legal Deadline: None

Abstract: This rule would streamline and clarify the causes for a limited denial of participation (LDP) in most HUD programs; conform the provisions with Governmentwide regulations; clarify calculation of a time period; and make other technical corrections.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Emmett Roden, Deputy Chief Counsel for Administrative Proceedings, Department of Housing and Urban Development, Office of the Secretary
Phone: 202 708-2350

RIN: 2501–AC08

1486. • AMENDMENTS TO HUD'S CIVIL MONEY PENALTY REGULATIONS (FR-4399)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701q to 1; 12 USC 1703; 12 USC 1723i; 12 USC 1735f to 14; 12 USC 1735f to 15; 15 USC 1717a; 28 USC 2461 note; 42 USC 1437z to 1; 42 USC 3535(d)

CFR Citation: 24 CFR 30

Legal Deadline: None

Abstract: The Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998; Pub. L. 105-65, approved October 27, 1997) (the Act) made several amendments to strengthen HUD's enforcement authority. Among other amendments, the Act expands the list of persons and types of violations subject to a civil money penalty under HUD's multifamily insured housing programs. The Act also amends the United States Housing Act of 1937 (the statutory authority for HUD's public and assisted housing programs) to provide for the imposition of civil money penalties for noncompliance with section 8 Housing Assistance Payment contracts. In accordance with the Act, HUD is implementing these statutory amendments through issuance of a proposed rule. The rule would incorporate these amendments in HUD's civil money penalty regulations located at 24 CFR part 30.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Emmett Roden, Deputy Chief Counsel for Administrative Proceedings, Department of Housing and Urban Development, Office of the Secretary
Phone: 202 708-2350

RIN: 2501–AC56

1487. REVISIONS TO REGULATIONS IMPLEMENTING UNIFORM RELOCATION ACT AND OTHER RELOCATION REQUIREMENTS IN HUD PROGRAMS (FR-4122)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 4601; 42 USC 5304; 42 USC 12705(b)

CFR Citation: 24 CFR 42; 24 CFR 92; 24 CFR 215; 24 CFR 219; 24 CFR 221; 24 CFR 236; 24 CFR 290; 24 CFR 882; 24 CFR 511; 24 CFR 570; 24 CFR 574; 24 CFR 576; 24 CFR 582; 24 CFR 583; 24 CFR 585; ...

Legal Deadline: None

Abstract: In an effort to comply with the President's regulatory reform initiatives, HUD proposes streamlining its regulations for displacement, relocation assistance, and real property acquisition, by consolidating into part 42 similar provisions appearing throughout title 24 of the Code of Federal Regulations and by eliminating provisions that repeat statutory language or are otherwise unnecessary. HUD also proposes to include in part 42 technical corrections to certain regulations implementing Section 104(d) of Housing and Community Act of 1974. Finally, HUD proposes to issue regulations in part 42 that would

implement Section 922 of the HCD Act which prohibits lump sum payments for relocation compensation.

Timetable:

Action	Date	FR Cite
ANPRM	10/11/96	61 FR 53341
ANPRM Comment Period End	12/10/96	
NPRM	03/00/99	
NPRM Comment Period End	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marcia Dodge, Director, Office of Affordable Housing Programs, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-2685

RIN: 2501–AC31

1488. FLOOD INSURANCE AND HUD-ASSISTED BUILDINGS LOCATED WITHIN SPECIAL FLOOD HAZARD AREAS (FR-4273)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 56; 24 CFR 511.16(d); 24 CFR 570.605; 24 CFR 570.640; 24 CFR 572.425(f); 24 CFR 574.640; 24 CFR 583.330(a); 24 CFR 761.40(b); 24 CFR 882.407(c)(2); 24 CFR 886.313(c)(8); 24 CFR 891.155(c); 24 CFR 941.202(j); 24 CFR 968.110(d); 24 CFR 983.7(a)(6)

Legal Deadline: None

Abstract: This rulemaking is part of the Reinventing Government effort to remove redundancy throughout title 24 of CFR for flood insurance requirements as currently cited in the affected HUD program regulations. The rule would streamline, consolidate, and codify into a single CFR part all the flood insurance and disaster assistance requirements described separately in each of the individual HUD program regulations of title 24 of the CFR. The flood insurance and disaster assistance requirements are general and cross-cutting and applicable to all HUD programs that provide financial assistance for buildings located within Special Flood Hazard Areas. As presently described in each of the affected individual HUD program regulations, the text is redundant sometimes outdated or incomplete, uninformative, and less than user-friendly.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	
NPRM Comment Period End	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Walter Prybyla, Deputy Director for Policy Environmental Review Div., Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1201

RIN: 2501–AC40

1489. REGULATIONS GOVERNING THE ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD'S ENVIRONMENTAL RESPONSIBILITIES; MISCELLANEOUS AMENDMENTS (FR-4326)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1707; 42 USC 3535(d)

CFR Citation: 24 CFR 58

Legal Deadline: None

Abstract: This rule proposes revisions to 24 CFR part 58 that could not be made as part of the technical corrections final rule (see RIN 2501-AC32; FR-4138) because that rule did not provide for prior public comment. Among other matters, this rule would revise notice requirements when funds are needed for an emergency.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Richard Broun, Director, Office of Community Viability, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-2894

RIN: 2501–AC52

1490. SECRETARY OF HUD'S REGULATION OF FANNIE MAE AND FREDDIE MAC (FR-4297)

Priority: Other Significant

Legal Authority: PL 101-73; 12 USC 4501 to 4641

CFR Citation: 24 CFR 81

Legal Deadline: None

Abstract: Through a notice published on 12/30/97, HUD sought comments from the public regarding a possible future proposed rule on non-mortgage investments to amend HUD's regulations at 24 CFR part 81 governing the Federal Home Loan Mortgage Corporation (Freddie Mac) and Federal National Mortgage Corporation (Fannie Mae) (both are known as Government Sponsored Enterprises or GSEs). Under their respective Charters, the GSEs have broad authority to invest their funds. At the same time, the Secretary has general regulatory power over the GSEs to ensure that the purposes of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the Federal National Mortgage Association Charter Act, and the Federal Home Loan Mortgage Corporation Act are accomplished. HUD's current GSE regulations do not contain specific provisions concerning non-mortgage investments by the GSEs. Based on comments received and its analysis, HUD may issue a proposed rule on this subject.

Timetable:

Action	Date	FR Cite
ANPRM	12/30/97	62 FR 68060
ANPRM Comment Period End	03/30/98	
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Janet Tasker, Director, Office of Government Sponsored Enterprise Oversight, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2224

RIN: 2501–AC41

1491. HOME INVESTMENT PARTNERSHIPS PROGRAM: HOME FINAL RULE REVISIONS (FR-4329)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12701 to 12839; 42 USC 3535(d)

CFR Citation: 24 CFR 92

Legal Deadline: None

Abstract: This rulemaking will make certain revisions to the HOME Program regulations in an effort to improve and simplify program administration.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Kolesar, Director, Program Policy Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-2470

RIN: 2501–AC53

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) Office of the Secretary (HUDSEC) — Final Rule Stage

1492. ADOPTION OF REVISED OMB CIRCULAR A-133; ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT THE SINGLE AUDIT ACT AMENDMENTS OF 1996; TECHNICAL AMENDMENTS (FR-4296)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 000

Legal Deadline: None

Abstract: On June 30, 1997, OMB published revised Circular A-133 to implement the Single Audit Act Amendments of 1996. The Act sets forth requirements for obtaining consistency and uniformity among Federal agencies for the audit of States, local governments, and non-profit organizations expending Federal awards. HUD adopted the revised circular in November 1997. This final rule makes technical amendments throughout title 24 of the Code of Federal Regulations to correct references outdated as a result of the revised circular.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Heist, Director Financial Audits Division, Department of Housing and Urban Development, Office of the Inspector General
Phone: 202 708-0383

RIN: 2501–AC43

1493. REVISED RESTRICTION ON ASSISTANCE TO NONCITIZENS (FR-4154)

Priority: Other Significant

Legal Authority: 42 USC 1436a; 42 USC 3535(d)

CFR Citation: 24 CFR 5, subpart E

Legal Deadline: Other, Statutory, November 29, 1996, Interim.

Abstract: Section 214 of the Housing and Community Development Act of 1980 prohibits HUD from making certain financial assistance available to persons other than United States citizens, nationals, or certain categories of eligible noncitizens. On November 29, 1996 (62 FR 60535), HUD published an interim rule revising HUD's regulations governing assistance to noncitizens to incorporate the statutory amendments made to section 214 by the Use of Assisted Housing by Aliens Act of 1996 ("Immigration Reform Act"). This rule finalizes the policies and procedures described in the November 29, 1996 interim rule and addresses the public comments received on the interim rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/29/96	61 FR 60535
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Arnaudo, Acting Director, Occupancy Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 619-8201

RIN: 2501–AC36

1494. NONDISCRIMINATION IN HUD PROGRAMS AND ACTIVITIES RECEIVING ASSISTANCE UNDER TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 (FR-4092)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5309; 42 USC 3535(d)

CFR Citation: 24 CFR 6; 24 CFR 8; 24 CFR 570

Legal Deadline: None

Abstract: This rule will add a new part 6 to HUD's regulations. Part 6 will set forth HUD's procedures and policies to assure nondiscrimination in programs and activities receiving Federal financial assistance from HUD under title I of the Housing and Community Development Act of 1974.

Timetable:

Action	Date	FR Cite
NPRM	05/11/98	63 FR 26022
NPRM Comment Period End	07/10/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: Betsy Ryan, Office of Enforcement, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 619-8041

RIN: 2501–AC28

HUD—HUDSEC

Final Rule Stage

1495. CONFORMING AMENDMENTS TO HUD'S FHA-SINGLE FAMILY HOUSING AND MULTIFAMILY HOUSING ENFORCEMENT REGULATIONS (FR-4308)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701q-1; 12 USC 1703; 12 USC 1708(c) to 1708(d); 12 USC 1709(s); 12 USC 1715b; 12 USC 1723i; 12 USC 1735f-14; 12 USC 1735f-15; 15 USC 1717a; 28 USC 2461 note; 42 USC 3535(d)

CFR Citation: 24 CFR 25; 24 CFR 30

Legal Deadline: None

Abstract: The Multifamily Assisted Housing Reform and Affordability Act of 1997 (title V of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998; Pub.L. 105-65, approved October 27, 1997) (Multifamily Housing Reform Act) made several amendments to strengthen the enforcement provisions of the National Housing Act (12 U.S.C. 1701 et seq.). Among other amendments, the Multifamily Housing Reform Act provides that a suspension issued by the HUD Mortgagee Review Board is effective upon issuance, if there is sufficient evidence that immediate action is required to protect the financial interests of HUD or the public. Currently, such a suspension is effective only after HUD's issuance of 30-day written notice to the mortgagee. The Multifamily Housing Reform Act also expanded the list of persons subject to a civil money penalty for violations of Federal Housing Administration (FHA) program requirements. This rule updates HUD's FHA enforcement regulations at 24 CFR parts 25 and 30 to incorporate the amendments made by the Multifamily Housing Reform Act.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Emmett Roden, Deputy Chief Counsel for Administrative Proceedings, Department of Housing and Urban Development, Office of the Secretary
Phone: 202 708-2350

RIN: 2501–AC44

1496. LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES (FR-3482)

Regulatory Plan: This entry is Seq. No. 36 in Part II of this issue of the Federal Register.

RIN: 2501–AB57

1497. ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS (FR-4258)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); PL 104-156

CFR Citation: 24 CFR 45

Legal Deadline: None

Abstract: This rule adopts the final revision of OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations" to establish uniform audit requirements for non-Federal entities that administer Federal awards and to implement the Single Audit Act Amendments of 1996. OMB Circular A-128 "Audits of States and Local Governments" is rescinded as a result of the consolidation of audit requirements under Circular A-133.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/18/97	62 FR 61616
Interim Final Rule Effective	12/18/97	
Interim Final Rule Comment Period End	01/20/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Heist, Director Financial Audits Division, Department of Housing and Urban Development, Office of the Inspector General
Phone: 202 708-0383

RIN: 2501–AC39

1498. FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS (FR-4142)

Priority: Other Significant

Legal Authority: 42 USC 3535(d); EO 11990

CFR Citation: 24 CFR 55

Legal Deadline: None

Abstract: HUD is adopting procedures to implement Executive Order 11990 "Protection of Wetlands." HUD's proposed rule published on January 4, 1990 (55 FR 396), proposed to implement wetlands procedures, but the final rule published on April 21, 1994 (59 FR 19100) only contained procedures implementing Executive Order 11988 on Floodplain Management. References to the wetlands procedures were removed from the 1994 final rule because at that time the Administration was revising Federal policy concerning wetlands. This rule will amend part 55 to implement the procedures for wetlands protection in accordance with Executive Order 11990. The rule would also propose several other changes including expanding the number of HUD programs that would be subject to the four-step decision-making process for ensuring compliance with part 55.

Timetable:

Action	Date	FR Cite
NPRM	06/02/98	63 FR 30046
NPRM Comment Period End	08/03/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Walter Prybyla, Deputy Director for Policy Environmental Review Div., Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1201

RIN: 2501–AC33

1499. CLARIFYING AMENDMENTS TO CONSOLIDATED SUBMISSION FOR COMMUNITY PLANNING AND DEVELOPMENT PROGRAMS (FR-4333)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d)

HUD—HUDSEC

Final Rule Stage

CFR Citation: 24 CFR 91

Legal Deadline: None

Abstract: This rule would amend 24 CFR part 91 to address comments and issues raised by members of the public on the Consolidated Plan regulations in part 91. Because certain comments require further proposed rulemaking, they could not be addressed in the technical corrections to the final rule.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Salvatore Sclafani, Acting Director, Policy Division, Office of Executive Services, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1283

RIN: 2501–AC54

1500. HOME INVESTMENT PARTNERSHIPS PROGRAM—ADDITIONAL STREAMLINING (FR-4111)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d); 42 USC 12701 to 12839

CFR Citation: 24 CFR 92

Legal Deadline: None

Abstract: This rule implements the proposed rule published August 22, 1997, that amended on an interim basis, subject to public comment, section 92.252(i)(2) to limit the rents charged to tenants of HOME-assisted units whose income rises above 80 percent of area median income in HOME projects in which the HOME-assisted units "float."

Timetable:

Action	Date	FR Cite
NPRM	12/11/96	61 FR 65298
NPRM Comment Period End	02/10/97	
Final Rule	08/22/97	62 FR 44838
Final Rule Effective	09/22/97	
Comment Period End	10/21/97	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Kolesar, Director, Program Policy Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-2470

RIN: 2501–AC30

1501. MULTIFAMILY HOUSING MORTGAGE AND HOUSING ASSISTANCE RESTRUCTURING PROGRAM (MARK TO MARKET) AND RENEWAL OF EXPIRING SECTION 8 PROJECT-BASED ASSISTANCE (FR-4298)

Regulatory Plan: This entry is Seq. No. 37 in Part II of this issue of the Federal Register.

RIN: 2501–AC57

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Completed Actions

1502. UNIFORM PHYSICAL CONDITION STANDARDS AND PHYSICAL INSPECTION REQUIREMENTS FOR CERTAIN HUD HOUSING (FR-4280)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 5; 24 CFR 207; 24 CFR 266; 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 884; 24 CFR 886; 24 CFR 891; 24 CFR 965; 24 CFR 983

Completed:

Reason	Date	FR Cite
Final Action	09/01/98	63 FR 46566
Final Action Effective	10/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Thorson
Phone: 202 755-0102

RIN: 2501–AC45

1503. UNIFORM FINANCIAL REPORTING STANDARDS FOR HUD HOUSING PROGRAMS (FR-4321)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 5; 24 CFR 200; 24 CFR 236; 24 CFR 266; 24 CFR 880; 24 CFR 886; 24 CFR 982

Completed:

Reason	Date	FR Cite
Final Action	09/01/98	63 FR 46582
Final Action Effective	10/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Thorson
Phone: 202 755-0102

RIN: 2501–AC49

1504. TECHNICAL AMENDMENT TO HUD'S REGULATIONS GOVERNING THE ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD'S ENVIRONMENTAL RESPONSIBILITIES (FR-4138)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 58

Completed:

Reason	Date	FR Cite
Final Action	03/30/98	63 FR 15270

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Broun
Phone: 202 708-2894

RIN: 2501–AC32

HUD—HUDSEC

Completed Actions

1505. SITE AND NEIGHBORHOOD STANDARDS FOR DEVELOPMENT OF HUD-ASSISTED RENTAL HOUSING (FR-3826)

Priority: Other Significant

CFR Citation: 24 CFR 91; 24 CFR 92; 24 CFR 150; 24 CFR 570; 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 885; 24 CFR 889; 24 CFR 890; 24 CFR 941; 24 CFR 970; 24 CFR 983

Completed:

Reason	Date	FR Cite
Withdrawn	08/24/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: William Dudley Gregorie
Phone: 202 708-2288

RIN: 2501–AC15

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH)

Prerule Stage

1506. PROCEDURAL AND ENFORCEMENT REGULATIONS FOR THE MANUFACTURED HOME CONSTRUCTION AND SAFETY PROGRAM (FR-4319)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 28 USC 2461; 42 USC 5424; 42 USC 3535(d)

CFR Citation: 24 CFR 3282

Legal Deadline: None

Abstract: This notice announces HUD's intention to issue a proposed rule to update its procedural and enforcement regulations for the Manufactured Home Construction and Safety Standards program (24 CFR part 3282). While the current monitoring and enforcement procedures work well in most cases, HUD is interested in alternative approaches that may better serve the objectives of consumers, the manufactured home industry, and HUD. This document requests recommendations from interested members of the public on ways HUD may update, streamline, and increase the effectiveness of its regulations in 24 CFR part 3282. With better enforcement regulations, HUD will ensure that manufacturers make homes that comply with the Federal construction and safety standards. More effective and efficient regulations will also make manufactured housing an attractive source of affordable housing.

Timetable:

Action	Date	FR Cite
ANPRM	10/09/98	63 FR 54527
ANPRM Comment Period End	12/08/98	
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David R. Williamson, Director, Office of Consumer & Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6401

RIN: 2502–AH14

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH)

Proposed Rule Stage

1507. SINGLE-FAMILY MORTGAGE INSURANCE CLARIFICATION REQUIREMENT CONCERNING FLOODPLAINS APPLICABLE TO NEW CONSTRUCTION (FR-4323)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1709

CFR Citation: 24 CFR 200; 24 CFR 203

Legal Deadline: None

Abstract: This rule would revise HUD regulations to remove currently conflicting provisions. It would clarify that new construction in a FEMA-designated Special Flood Hazard Area may be eligible for single family mortgage insurance if (1) the property is located in a participating community under the FEMA flood insurance program, (2) the property has flood insurance, and (3) the first habitable floor is built above the FEMA-designated base 100 year flood level.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Mark W. Holman, Home Mortgage Insurance Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2121

RIN: 2502–AH16

1508. • UMS FOR PLASTIC PIPE, INSULATION, STUCCO, GLAZING, AND ROOFING (FR-4391)

Priority: Routine and Frequent

Legal Authority: 12 USC 1701 to 1715z to 18

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: This proposed rule would promulgate the following Use of Materials Bulletins: UM 76a CPVC and PEX Plastic Pipe and Fittings Used in Hot and Cold Water Distribution Systems at 24 CFR part 200.9; UM 80a Spray Applied Cellulosic Thermal Insulation at 24 CFR part 200.9; UM 112 Exterior Insulation Stucco Systems at 24 CFR part 200.9; UM 113 Acrylic and Polycarbonate Plastic Sheets Used in Glazing at 24 CFR part 200.9; and UM 200 Photovoltaic (PV) Solar Roofing Systems at 24 CFR part 200.9.

HUD—OH

Proposed Rule Stage

In addition, UM 111 Fenestration Products has replaced UM 39b Aluminum Windows, UM 59b and 85a and therefore, 24 CFR parts 200.938, 200.939, and 200.941 are being deleted since they are covered under 200.955.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marion Connell, Director, Manufactured Housing and Standards Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6409

RIN: 2502–AH28

1509. STRENGTHENING THE TITLE I PROPERTY IMPROVEMENT LOAN INSURANCE PROGRAM (FR-4246)

Regulatory Plan: This entry is Seq. No. 38 in Part II of this issue of the Federal Register.

RIN: 2502–AG95

1510. BUILDER WARRANTY FOR HIGH RATIO SINGLE-FAMILY MORTGAGES (FR-4288)

Priority: Other Significant

Legal Authority: 12 USC 1709(b)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: The rule would propose an additional means of obtaining property approval for a new home that will secure an FHA-insured mortgage with a loan-to-value (LTV) ratio over 90%. Currently a mortgage with a high LTV ratio will be insured only if the property was approved by HUD or VA before construction or if the property is covered by a 10-year warranty plan offered by a warranty company with an insurance backer. The proposal would also allow a 3-year builder warranty to be used.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John J. Coonts, Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3046

RIN: 2502–AH08

1511. • SINGLE-FAMILY APPRAISAL ASSESSMENT (FR-4395)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1708; 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This proposed rule would set standards and the process under which HUD will assess the accuracy of appraisals performed by the single-family industry. HUD seeks to increase the efficiency of receipt of appraisals and to monitor the appraisals' accuracy through standardization and superior quality control of the end product. Appraisals are performed for approximately 1,000,000 home purchases annually.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Wanda Funk, Real Estate Assessment Center, Department of Housing and Urban Development, Office of the Secretary
Phone: 202 755-7540

RIN: 2502–AH27

1512. • PARTIAL PAYMENT OF CLAIMS FOR HEALTH CARE FACILITIES, HOSPITALS AND GROUP PRACTICE FACILITIES (FR-4387)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1735f to 19

CFR Citation: 24 CFR 207; 24 CFR 232; 24 CFR 242; 24 CFR 244

Legal Deadline: None

Abstract: This rule would implement a statutory amendment which extended HUD's authority to make partial payments of claims on insured mortgages covering health care facilities, hospitals and group practice facilities.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Donald Kaplan, Deputy Director for Office of Insured Health Facilities, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0599

RIN: 2502–AH25

1513. UP-FRONT GRANTS IN THE DISPOSITION OF MULTIFAMILY PROJECTS (FR-4310)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701z-11; 12 USC 1701z-12; 12 USC 1713; 12 USC 1715b; 12 USC 1715z-1b; 42 USC 3535(d)

CFR Citation: 24 CFR 290

Legal Deadline: None

Abstract: This proposed rule would codify requirements governing the use of up-front grants in the disposition of HUD-owned multifamily properties. Specifically, it addresses eligibility for up-front grants and establishes limits on up-front grant amounts.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marc Harris, Office of Portfolio Management, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0216

RIN: 2502–AH12

HUD—OH

Proposed Rule Stage

1514. UPDATING MANUFACTURED HOUSING REFERENCE STANDARDS (FR-4337)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5403

CFR Citation: 24 CFR 3280

Legal Deadline: None

Abstract: The Department's Manufactured Home Construction and Safety Standards include numerous standards adopted by voluntary consensus standards bodies, which have been incorporated by reference in 24 CFR part 3280. Generally, the voluntary consensus standards bodies update their standards on a regular cycle. Before the Department can adopt the updates to these consensus standards, however, it is required to permit additional public review through notice-and-comment rulemaking. The Department intends to propose adoption of many updates to currently referenced standards, in order to more adequately meet its responsibilities under the Manufactured Housing Program.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David R. Williamson, Director, Office of Consumer & Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6401

RIN: 2502–AH17

1515. • MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS (FR-4376)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5403; 42 USC 5424; 42 USC 3535(d)

CFR Citation: 24 CFR 3280

Legal Deadline: None

Abstract: HUD is proposing to amend the Federal Manufactured Home Construction and Safety Standards (FMHCSS) to update many of the standards that are incorporated by reference therein. These reference standards, which are developed by voluntary consensus or industry groups, provide necessary technical standards for the FMHCSS. These proposed amendments would keep the FMHCSS current with the industries that use these reference standards by incorporating the latest edition of these standards and new relevant standards.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David R. Williamson, Director, Office of Consumer & Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6401

RIN: 2502–AH23

1516. SPECIAL PROCEDURES PERMITTING LIMITED COMPLETION OF MANUFACTURED HOMES ON-SITE (FR-4216)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 5424; 42 USC 3535(d)

CFR Citation: 24 CFR 3282

Legal Deadline: None

Abstract: This rule proposes a new process, under which manufacturers and State and private inspection agencies could agree to permit limited site work, under certain conditions, to complete production of manufactured homes, without prior approval by the Secretary. This new process would supplement the current process for approving alternative construction methods.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David R. Williamson, Director, Office of Consumer & Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6401

RIN: 2502–AH92

1517. • REAL ESTATE PROCEDURES SETTLEMENT ACT (RESPA): ESCROW ACCOUNT STATEMENT ITEMIZATION OF CHARGES (FR-4390)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2609; 42 USC 3535(d)

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: This rule would clarify that municipal or local taxes would be separately itemized from charges for late fee penalties in the annual escrow account statements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: David R. Williamson, Director, Office of Consumer & Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6401

RIN: 2502–AH26

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH)

Final Rule Stage

1518. DELEGATION OF INSURING AUTHORITY TO DIRECT ENDORSEMENT MORTGAGEES (FR-4169)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1709; 12 USC 1710; 12 USC 1715b; 12 USC 1715u; 42 USC 3535(d); PL 104-204

CFR Citation: 24 CFR 200; 24 CFR 202; 24 CFR 203; 24 CFR 206

Legal Deadline: None

Abstract: This rule implements the Lender Insurance program, which reflects the Secretary's new authority to delegate the issuance of Mortgage Insurance Certificates (MICs) to mortgagees that are approved under the Direct Endorsement program. This rule will provide that eligible mortgagees that participate in the Lender Insurance program will be responsible for conducting a pre-endorsement review during the origination of their single family mortgage loans, and they will be responsible for endorsing the mortgages for insurance. HUD intends that delegating this insurance authority through the Lender program will be consistent with HUD's efforts to reinvent the Federal Housing Administration (FHA) by creating a more efficient and less burdensome process for providing single family mortgage insurance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/02/97	62 FR 30222
Interim Final Rule Effective	07/02/97	
Interim Final Rule Comment Period End	08/01/97	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John J. Coonts, Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3046

RIN: 2502–AG87

1519. USE OF MATERIAL BULLETINS (FR-4265)

Priority: Routine and Frequent

Legal Authority: 12 USC 1701 to 1715z-18; 42 USC 3535(d)

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: This rule, the second of its type in two years, will permit generic acceptances of additional building products or systems. These acceptances are called "Use of Material Bulletins" (UMs) and they supersede separate approvals for individual products without having each manufacturer apply for a separate Materials Release on a specific product.

Timetable:

Action	Date	FR Cite
NPRM	02/10/98	63 FR 6798
NPRM Comment Period End	04/13/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David R. Williamson, Director, Office of Consumer & Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6401

RIN: 2502–AH02

1520. UPDATE OF THE MODEL ENERGY CODE (MEC) (FR-4272)

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-486 Energy Policy Act of 1992; 42 USC 12709 Cranston-Gonzalez National Affordable Housing Act

CFR Citation: 24 CFR 200.925 to 200.926

Legal Deadline: None

Abstract: The Energy Policy Act of 1992 (EPAct) modified section 109 of the National Affordable Housing Act so that HUD must require improved energy efficiency standards for new construction in certain HUD-insured and -assisted housing programs. HUD must adopt the updated MEC unless its requirements do not significantly increase energy efficiency or are not technologically feasible or economically justified.

Timetable:

Action	Date	FR Cite
NPRM	04/16/98	63 FR 32958
NPRM Comment Period End	08/17/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: David R. Williamson, Director, Office of Consumer & Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6401

RIN: 2502–AH03

1521. ELECTRONIC SUBMISSION OF REQUIRED DATA BY MULTIFAMILY MORTGAGES (FR-4303)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1701 to 1715z-18; 12 USC 1701z-11(e); 12 USC 1713; 12 USC 1715b; 42 USC 3535(d)

CFR Citation: 24 CFR 200; 24 CFR 207

Legal Deadline: None

Abstract: This rule would require mortgagees that hold or service multifamily mortgages insured by HUD to submit certain data electronically to HUD in a HUD-prescribed format. Electronic submission is necessary because the manual submission of HUD forms has become a burden to servicing mortgagees, as well as to HUD. This rule would apply to all multifamily mortgagees in their reporting of mortgage delinquencies, mortgage defaults, mortgage reinstatements, elections to assign mortgages to HUD, and withdrawal of assignment elections.

Timetable:

Action	Date	FR Cite
NPRM	05/13/98	63 FR 26702
NPRM Comment Period End	07/13/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

HUD—OH

Final Rule Stage

Agency Contact: Willie Spearmon, Director, Office of Business Products, Room 6134, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3000

RIN: 2502–AH11

1522. TITLE I PROPERTY IMPROVEMENT AND MANUFACTURED HOME LOAN INSURANCE PROGRAMS (FR-4242)

Priority: Other Significant

Legal Authority: 12 USC 1703; 42 USC 1436a; 42 USC 3535 (d); 12 USC 1709; 12 USC 1715b

CFR Citation: 24 CFR 201; 24 CFR 202

Legal Deadline: None

Abstract: This rule will amend HUD's regulations for the title I Property Improvement and Manufactured Home Loan Insurance Programs. In this rule, HUD will eliminate the portion of the program through which sellers,. contractors, or suppliers of goods or services assist borrowers in preparing credit applications or otherwise obtaining title I property improvement loans from HUD-insured lenders. Property improvement loans will still, however, be available directly from lenders. This rule will attempt to end the abuses and excessive claims that HUD has experienced in the dealer loan portion of the title I Property Loan Program.

Timetable:

Action	Date	FR Cite
NPRM	07/03/97	62 FR 36194
NPRM Comment Period End	09/02/97	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Home Mortgage Insurance Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2121

RIN: 2502–AG94

1523. SINGLE-FAMILY PROPERTY DISPOSITION (FR-4244)

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 12 USC 1709; 12 USC 1710; 12 USC 1715b; 12 USC 1715u; 42 USC 1441; 42 USC 1441a; 42 USC 1551a; 42 USC 3535(d)

CFR Citation: 24 CFR 203; 24 CFR 291

Legal Deadline: None

Abstract: This rule announces HUD's intent to replace its current principal method to dispose of its acquired single-family inventory with a more cost efficient, innovative and cost-effective alternative within designated geographic areas for a specific period of time. HUD's goal is to reduce the inventory of single-family properties while continuing to expand homeownership opportunities for American families and to ensure the stability of the FHA mortgage insurance fund.

Timetable:

Action	Date	FR Cite
ANPRM	06/13/97	62 FR 32251
ANPRM Comment Period End	07/14/97	
NPRM	05/29/98	63 FR 29496
NPRM Comment Period End	06/29/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph McCloskey, Director, Single Family Asset Management Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1672

RIN: 2502–AG96

1524. SUSPENSION OF FHA SINGLE-FAMILY MORTGAGE INSURANCE PROGRAM FOR MORTGAGES ON INDIAN RESERVATIONS INSURED PURSUANT TO SECTION 248 OF THE NATIONAL HOUSING ACT (FR-4251)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1709 to 1710; 12 USC 1715b; 12 USC 1715u; 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This rule proposes to suspend the authority of the HUD Secretary to provide FHA insurance pursuant to section 248 of the National Housing Act for mortgage loans made for the financing of single-family homes on Indian reservations. The suspension would be in effect whenever authority is available to the Department to guarantee additional loans under its Indian Housing Loan Guarantee program authorized by section 184 of the Housing and Community Development Act of 1992. The rule would suspend a program that has not been effective in promoting housing opportunities for Native Americans and permit HUD to focus scarce resources on the similar section 184 program, whenever authority under that program is available.

Timetable:

Action	Date	FR Cite
NPRM	02/03/98	63 FR 5660
NPRM Comment Period End	04/06/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: John J. Coonts, Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3046

RIN: 2502–AH00

1525. MORTGAGE INSURANCE PREMIUM REDUCTION IN CENTRAL CITIES (FR-4284)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1709; 12 USC 1715b

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This rule will amend HUD's regulations in 24 CFR part 203 to reduce the Up-Front Mortgage Insurance Premium from 1.75 percent to 1.50 percent for qualified first-time homebuyers with counseling located in "central cities."

Section 424 of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act of 1997 mandated that the Up-Front Mortgage Insurance Premium not exceed 2.00 percent for first-time homebuyers. The further reduction from 1.75 to 1.50 is consistent with the Administration's homeownership strategy.

Timetable:

Action	Date	FR Cite
NPRM	05/04/98	63 FR 24736

HUD—OH

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	07/06/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Agency Contact: Stephen Semelsberger, Single Family Home Mortgage Insurance Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2121

RIN: 2502–AH07

1526. SINGLE FAMILY MORTGAGE INSURANCE; DIRECT ENDORSEMENT AND AUTOMATED UNDERWRITING (FR-4311)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1709; 12 USC 1710; 12 USC 1715b; 12 USC 1715u; 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: On May 29, 1998, the Department issued an interim rule which amended the regulations on Single Family Mortgage Insurance to allow the lender to accept the classification from an automated underwriting system approved by FHA that a borrower is an accepted risk. The prior regulatory provision required the Direct Endorsement underwriter to certify that the underwriter had personally reviewed the credit application and appraisal report.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/29/98	63 FR 29506
Final Action Effective	06/29/98	
Comment Period End	07/28/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John J. Coonts, Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3046

RIN: 2502–AH15

1527. HOME EQUITY CONVERSION MORTGAGES; RIGHT OF FIRST REFUSAL PERMITTED FOR CONDOMINIUM ASSOCIATIONS (FR-4267)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1715b; 12 USC 1715z-20; 42 USC 3535(d)

CFR Citation: 24 CFR 206.45(e)

Legal Deadline: None

Abstract: This rule removes the current restriction on FHA mortgage insurance for the Home Equity Conversion Mortgage (HECM) program for a dwelling unit in a condominium project where the condominium association has a right of first refusal to purchase units that are offered for sale.

Timetable:

Action	Date	FR Cite
NPRM	04/09/98	63 FR 17654
NPRM Comment Period End	06/08/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John J. Coonts, Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3046

RIN: 2502–AG93

1528. HOME EQUITY CONVERSION MORTGAGES; CONSUMER PROTECTION MEASURES AGAINST EXCESSIVE FEES (FR-4306)

Priority: Other Significant

Legal Authority: 12 USC 1715b; 12 USC 1715z to 1720; 42 USC 3535(d)

CFR Citation: 24 CFR 206

Legal Deadline: None

Abstract: This rule amends the regulations for the FHA Home Equity Conversion Mortgage program under part 206. The HECM program offers FHA-insured first mortgages providing payments to elderly homeowners based on the accumulated equity in their home. These FHA-insured "HECMs" are commonly referred to as "reverse mortgages." The rule is designed to protect homeowners in the HECM program from becoming liable for payment of excessive fees for third-party provided services of little or no value.

Timetable:

Action	Date	FR Cite
NPRM	03/16/98	63 FR 12930
NPRM Comment Period End	05/15/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sandy Allison, Special Assistant to the Deputy Assistant Secretary for Single Family Housing, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2733

RIN: 2502–AH10

1529. RISK-SHARING HOSPITAL MORTGAGE INSURANCE PROGRAM (FR-3914)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1715z

CFR Citation: 24 CFR 242

Legal Deadline: None

Abstract: This rule implements a program under which the Secretary will be authorized to enter into risk-sharing agreements with mortgagees to facilitate the financing of hospitals. The concept of risk-sharing is one of the underpinnings of the Federal Housing Administration's (FHA's) reinvention efforts and is critical to our intensified focus on customer service. The hospital risk-sharing initiative is one component of a comprehensive risk-sharing strategy for all FHA program types to assure that FHA has a method of reducing its exposure and strengthening its financial and actuarial positions.

Timetable:

Action	Date	FR Cite
NPRM	12/04/96	61 FR 64414

HUD—OH

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	02/03/97	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John U. Sepulveda, Director, Hospital Mortgage Insurance Staff, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0599

RIN: 2502–AG53

1530. • SUPPORTIVE HOUSING FOR THE ELDERLY AND PERSONS WITH DISABILITIES; CLARIFICATION OF EXEMPTION FROM RENT CONTROL (FR-4346)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 891

Legal Deadline: None

Abstract: This final rule would clarify that local rent control laws are preempted for supportive housing projects assisted by HUD with capital advances or related rental assistance contracts under section 202 (projects for the elderly) or section 811 (projects for persons with disabilities) programs. HUD's current regulations on rent control were adopted when supportive housing for the elderly and persons with disabilities were assisted under the old section 202 direct loans program. The final rule will reflect that the successor capital grant programs serving the same purposes are not subject to local rent control.

Timetable:

Action	Date	FR Cite
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Charles Wehrwein, Deputy Assistant Secretary for Multifamily Programs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2495

RIN: 2502–AH21

1531. RESPA: DISCLOSURE OF FEES PAID TO RETAIL LENDERS (BROKERS) (FR-3780)

Regulatory Plan: This entry is Seq. No. 39 in Part II of this issue of the Federal Register.

RIN: 2502–AG40

1532. AMENDMENT TO RESPA; EXEMPTION FOR EMPLOYER PAYMENTS TO EMPLOYEES WHO MAKE LIKE-PROVIDER REFERRALS, AND OTHER AMENDMENTS (FR-4173)

Priority: Other Significant

Legal Authority: 12 USC 2601 to 2617; 42 USC 3535(d); PL 104-208

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: The Department is considering a new exemption under Regulation X, its regulation implementing the Real Estate Settlement Procedures Act of 1974 (RESPA). The exemption would allow payments by an employer to its own bona fide employees for the referral of settlement service business to an affiliated settlement service provider, provided that the settlement service business that is referred is the category of settlement service as provided by the employer of the employee making the referral, the employee makes the affiliated business arrangement disclosure as provided in 24 CFR section 3500.15, and the employee making the referral does not perform any other category of settlement service in the samo transaction. This rule also implements two amendments to RESPA in recent legislation. One concerns referrals of settlement service business through telemarketing, in writing, or through electronic media. The other concerns mortgage servicing sales or transfers.

Timetable:

Action	Date	FR Cite
NPRM	05/09/97	62 FR 25740
NPRM Comment Period End	07/08/97	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David R. Williamson,. Director, Office of Consumer & Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6401

RIN: 2502–AG88

1533. • RESPA STATEMENTS OF POLICY REGARDING CERTAIN PRIVATE MORTGAGE INSURANCE ARRANGEMENTS (FR-4342)

Priority: Other Significant

Legal Authority: 12 USC 2601 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: These four statements of policy set forth the Department's interpretation under the Real Estate Settlement Procedures Act (RESPA) (12 U.S.C. 2601 et seq.) of the legality of certain arrangements involving private mortgage insurers and lenders, and are issued under the authority of RESPA and Regulation X (24 CFR 3500.4(a)(ii)). These statements of policy analyze the applicability of section 8 of RESPA to Lender Paid Mortgage Insurance, to captive reinsurance arrangements, to the Performance Notes program and to agency pool insurance.

Timetable:

Action	Date	FR Cite
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David R. Williamson, Director, Office of Consumer & Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6401

RIN: 2502–AH19

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH)

Completed Actions

1534. PORTFOLIO REENGINEERING TRANSITION PROGRAM GUIDELINES - FY 1998 (FR-4162)

Priority: Other Significant

CFR Citation: 24 CFR 000

Completed:

Reason	Date	FR Cite
Notice	07/01/98	63 FR 36130

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dan Sullivan
Phone: 202 708-2121

RIN: 2502–AH13

1535. • SECONDARY MARKET FOR NONCONFORMING MORTGAGE LOANS TO LOW-WEALTH BORROWERS (FR-4348)

Priority: Other Significant

Legal Authority: FY 1998 Appropriations Act PL 105-65; approved 10/27/97

CFR Citation: 24 CFR 000

Legal Deadline: None

Abstract: This advance notice of proposed rulemaking solicits public input regarding a demonstration program established in HUD's FY 1998 Appropriations Act. That Act set aside $10 million in funds for use by nonprofit organizations to demonstrate methods of expanding homeownership opportunities for low-income borrowers through expanding the secondary market for nonconforming home mortgage loans.

Timetable:

Action	Date	FR Cite
ANPRM	08/04/98	63 FR 41702
ANPRM Comment Period End	09/03/98	
Withdrawn	10/19/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Home Mortgage Insurance Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2121

RIN: 2502–AH20

1536. TERMINATION OF AN APPROVED MORTGAGEE'S ORIGINATION APPROVAL AGREEMENT (FR-4239)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 201; 24 CFR 202; 24 CFR 203

Completed:

Reason	Date	FR Cite
Final Action	08/18/98	63 FR 44360
Final Action Effective	09/17/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Phillip Murray
Phone: 202 708-1515

RIN: 2502–AG99

1537. SUSPENSION OF NEW LEASES UNDER THE SINGLE-FAMILY PROPERTY DISPOSITION HOMELESS PROGRAM (FR-4275)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 291

Completed:

Reason	Date	FR Cite
Withdrawn	10/19/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Local

Agency Contact: Kitty Woodley
Phone: 202 708-0317

RIN: 2502–AH06

1538. MULTIFAMILY HOUSING MORTGAGE AND HOUSING ASSISTANCE RESTRUCTURING PROGRAM (MARK TO MARKET) AND RENEWAL OF EXPIRING SECTION 8 PROJECT-BASED ASSISTANCE (FR-4298)

Completed:

Reason	Date	FR Cite
Transfer Development to - RIN 2501-AC57	10/21/98	

RIN: 2502–AH09

1539. • INTERSTATE LAND SALES DISPOSITION FEES; CHANGE IN MAILING ADDRESS AND AUTHORITY TO MAKE ELECTRONIC PAYMENT (FR-4365)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1718

CFR Citation: 24 CFR 1720

Legal Deadline: None

Abstract: The rule will change the mailing address for fees under the Interstate Land Sales Registration Act, and permit the fees to be paid electronically.

Timetable:

Action	Date	FR Cite
Final Action	10/08/98	63 FR 54330
Final Action Effective	11/09/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth Cocke, Special Assistant, Department of Housing and Urban Development, Office of Housing, Office of Consumer and Regulatory Affairs
Phone: 202 708-6401

RIN: 2502–AH22

1540. METAL ROOFING FOR MANUFACTURED HOUSING—INTERPRETATIVE BULLETIN (FR-4271)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 3280

Completed:

Reason	Date	FR Cite
Merged - with RIN 2502-AH17 (FR-4337)	08/14/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David R. Williamson
Phone: 202 708-6401

RIN: 2502–AH05

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Proposed Rule Stage

1541. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM; NATIONAL OBJECTIVE AND STREAMLINING CHANGES (FR-4144)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 5301 to 5321

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule would make a variety of changes and clarifications to the regulations for the Community Development Block Grant (CDBG) Entitlement program. This rule would, in part, codify statutory changes made by section 225 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 and section 807(a) of the Housing and Community Development Act of 1992. This rule would also make further changes necessary to conform the CDBG and HOME programs, particularly in regard to national objective requirements, and make other changes to the national objectives regarding job retention for low- and moderate-income persons. This rule would further advise grantees and subrecipients regarding the need to net all applicable credits from costs to be paid with CDBG funds. An Office of Inspector General (OIG) audit found that applicable credits have not always been properly netted from costs before the costs were paid with CDBG funds. Other changes are needed to codify new eligible activities and to make it easier for grantees to carryout joint CDBG and HOME activities.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
NPRM Comment Period End	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Agency Contact: Deirdre Maguire-Zinni, Director, Entitlement Communities Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1577

RIN: 2506–AB90

1542. CDBG SLUM/BLIGHT NATIONAL OBJECTIVE RULE (FR-4260)

Regulatory Plan: This entry is Seq. No. 40 in Part II of this issue of the Federal Register.

RIN: 2506–AB94

1543. CLARIFICATION OF THE NATURE OF REQUIRED CDBG EXPENDITURE DOCUMENTATION (FR-4261)

Regulatory Plan: This entry is Seq. No. 41 in Part II of this issue of the Federal Register.

RIN: 2506–AB95

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Final Rule Stage

1544. CDBG PROGRAM FOR STATES; COMMUNITY REVITALIZATION STRATEGY REQUIREMENTS & MISCELLANEOUS TECHNICAL AMENDMENTS (FR-4081)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 3601 to 3619; 42 USC 5300 to 5320; 42 USC 11331 to 11388; 42 USC 12701 to 12711; 42 USC 12741 to 12756; 42 USC 12901 to 12912

CFR Citation: 24 CFR 91; 24 CFR 570

Legal Deadline: None

Abstract: This rule implements the Community Revitalization Strategies concept into the State CDBG program. This concept will provide States additional flexibility in meeting certain requirements regarding the program's national objectives and public benefit. This rule also makes several technical amendments to correct errors from previous rulemaking and to enhance and clarify the regulation. These amendments are consistent with recent changes to the Entitlement CDBG program. This rule will be merged with the "CDBG Program for States: Program Income" rule (FR-4067) when published as a final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/22/96	61 FR 54914
Interim Final Rule Effective	11/21/96	
Interim Final Rule Comment Period End	02/16/97	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Johnson, Director, State and Small Cities Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1322

RIN: 2506–AB83

1545. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM; SECTION 108 APPLICATION REQUIREMENTS (FR-3298)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 5301 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule amends the application procedures of the section 108 Loan Guarantee program in order to conform those procedures to the Consolidated Plan submission process.

Timetable:

Action	Date	FR Cite
NPRM	11/12/93	58 FR 60088
NPRM Comment Period End	01/11/94	
Second NPRM	09/26/96	61 FR 50654
Final Action	01/00/99	

HUD—CPD

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul Webster, Director, Financial Management Div., Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1871

RIN: 2506–AB43

1546. SECTION 108 LOAN GUARANTEE PROGRAM (FR-4039)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 5300 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule removes misleading and unnecessary language from the regulations that govern security requirements for loans guaranteed under the section 108 Loan Guarantee Program.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul Webster, Director, Financial Management Div., Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1871

RIN: 2506–AB80

1547. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAMS FOR STATES; PROGRAM INCOME (FR-4067)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 5300 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule will make many small changes and clarifications to the regulations for the State CDBG Program. This rule will allow States to apply additional requirements to units of general local government that are not inconsistent with statutes and regulations. It will clarify the standards for spending funds outside the recipient's jurisdiction. It will clarify the conflict of interest provisions, and update the national objective of benefit to low- and moderate-income persons. It will also make conforming changes to update the regulations based on recent statutory amendments. This rule will be merged with the "CDBG Program for States: Community Revitalization Strategy Requirements" rule (FR-4081) when published as a final rule.

Timetable:

Action	Date	FR Cite
NPRM	03/11/97	62 FR 11284
NPRM Comment Period End	05/12/97	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Johnson, Director, State and Small Cities Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1322

RIN: 2506–AB82

1548. EMERGENCY SHELTER GRANTS PROGRAM (FR-4330)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11371 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 576

Legal Deadline: None

Abstract: The regulatory changes to be made by this rule include technical corrections to the Emergency Shelter Grants (ESG) Program final rule published on October 2, 1996, and also revisions to CPD's implementation of IDIS, an automated payment and reporting system.

Timetable:

Action	Date	FR Cite
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local

Agency Contact: John Garrity, Director, Office of Special Needs Assistance Programs, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-4300

RIN: 2506–AB99

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Long-Term Actions

1549. ADMINISTRATIVE GUIDELINES FOR CPD PROGRAMS; SECTION 102(D) LIMITATION ON COMBINING OTHER GOVERNMENT ASSISTANCE WITH CPD HOUSING ASSISTANCE (FR-3135)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d)

CFR Citation: None

Legal Deadline: None

Abstract: This document sets forth the administrative guidelines the Office of Community Planning and Development will follow in determining on a case-by-case basis, that the amount of assistance being provided by HUD for a specific housing project for which other government assistance is also being made available, is not more than is necessary to make the assisted activity feasible after taking into account the other government assistance. HUD is required to make these determinations, and to so certify, under section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 for certain CPD programs.

HUD—CPD

Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Duncan, Assistant Director, Office of Block Grants, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-3587

RIN: 2506–AB74

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Completed Actions

1550. NEW EMPOWERMENT ZONES (FR-4281)

Priority: Other Significant

CFR Citation: 24 CFR 597

Completed:

Reason	Date	FR Cite
Final Action	10/02/98	63 FR 53262
Final Action Effective	11/02/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Dennis Kane
Phone: 202 708-6339

RIN: 2506–AB97

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Government National Mortgage Association (GNMA)

Proposed Rule Stage

1551. GINNIE MAE - FINANCE - NAHASDA IMPLEMENTATION (FR-4215)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-330

CFR Citation: 24 CFR 300.3; 24 CFR 320; 24 CFR 330; 24 CFR 340

Legal Deadline: None

Abstract: Section 701(c) of the Native American Housing Assistance and Self-Determination Act of 1996 permits Ginnie Mae to securitize loans guaranteed by the Secretary. This rule will make amendments to the Ginnie Mae regulations to reflect this change and to make certain technical amendments to the Ginnie Mae regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nicholas Shelley, Acting Vice President for Policy Planning and Risk Management, Department of Housing and Urban Development, Government National Mortgage Association
Phone: 202 708-4141

RIN: 2503–AA11

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Government National Mortgage Association (GNMA)

Final Rule Stage

1552. GINNIE MAE - FINANCIAL REPORTING (FR-4331)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1721(g)(1); 42 USC 3535(d)

CFR Citation: 24 CFR 320.10

Legal Deadline: None

Abstract: This final rule eliminates the physical certificate backing for each Ginnie Mae-guaranteed security and permits a true book entry system.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/24/98	63 FR 51249
Interim Final Rule Effective	10/26/98	
Interim Final Rule Comment Period End	11/23/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas R. Weakland, Vice President for Program Administration, Department of Housing and Urban Development, Government National Mortgage Association
Phone: 202 708-2884

RIN: 2503–AA12

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Proposed Rule Stage

1553. FAIR HOUSING PLANNING PERFORMANCE STANDARD (FR-4133)

Regulatory Plan: This entry is Seq. No. 42 in Part II of this issue of the Federal Register.

RIN: 2529–AA81

1554. • CERTIFICATION AND FUNDING OF STATE AND LOCAL FAIR HOUSING ENFORCEMENT AGENCIES (FR-4392)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3601 to 19; 42 USC 3535(d)

CFR Citation: 24 CFR 115

Legal Deadline: None

Abstract: This proposed rule will amend the regulation to allow for changes caused by departmental reform; FHEO reorganization, and improve program implementation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Ivy Davis, Director, FHIP/FHAP Support Division, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-1992

RIN: 2529–AA85

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Final Rule Stage

1555. IMPLEMENTATION OF THE HOUSING FOR OLDER PERSONS ACT OF 1995 (FR-4094)

Priority: Other Significant

Legal Authority: 42 USC 3601 to 3619; 42 USC 3535(d)

CFR Citation: 24 CFR 100

Legal Deadline: None

Abstract: The Housing for Older Persons Act (HOPA) of 1995 (Pub. L. 104-76), signed into law on December 28, 1995, amends the "55 and older housing" exemption to the Fair Housing Act's (the Act) prohibition against discrimination based on familial status. The HOPA eliminates the requirement that "housing for older persons" have significant services and facilities for their residents and establishes a good faith reliance defense for monetary damages based on the housing provider's legitimate belief that the housing was entitled to an exemption. In order to qualify for the "55 or over housing" exemption, a housing community must be able to meet the following criteria: 1) at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; 2) the publication and adherence to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older; and 3) verification of the ages of its residents through reliable surveys and affidavits.

Timetable:

Action	Date	FR Cite
NPRM	01/14/97	62 FR 2000
NPRM Comment Period End	03/17/97	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sara K. Pratt, Director, Office of Investigations, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-0836

RIN: 2529–AA80

1556. ECONOMIC OPPORTUNITIES FOR LOW- AND VERY-LOW-INCOME PERSONS (FR-2898)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1450; 42 USC 3301; 12 USC 1701u; 42 USC 3535(d)

CFR Citation: 24 CFR 135

Legal Deadline:
Final, Statutory, April 28, 1993.

Abstract: The regulations at 24 CFR 135 were revised substantially to incorporate the statutory amendments in the Housing and Community Development Act of 1992, to reflect certain changes in the design of the Department's programs that are subject to the section 3 regulations to clarify the obligations of individuals and entities subject to the requirements of section 3, and to simplify the Department's administration of section 3 requirements. The final rule may make further revisions in response to public comment.

Timetable:

Action	Date	FR Cite
NPRM	10/08/93	58 FR 52534
Notice	11/09/93	58 FR 59423
Notice Comment Period End	12/08/93	
Interim Final Rule	06/30/94	59 FR 33886
Interim Final Rule Effective	08/01/94	
Interim Final Rule Comment Period End	08/29/94	
Extension of Effective Period of Interim Rule	05/31/95	60 FR 28325
Extension Effective	06/30/96	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: John Waller, Program Manager, Office of Economic Opportunity, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity

HUD—FHEO — Final Rule Stage

Phone: 202 708-2251

RIN: 2529–AA49

1557. CIVIL MONEY PENALTIES FOR FAIR HOUSING ACT VIOLATIONS (FR-4302)

Priority: Other Significant

Legal Authority: 29 USC 794; 42 USC 2000d-1; 42 USC 3601 to 3619; 42 USC 5301 to 5320; 42 USC 6103; 42 USC 3535(d)

CFR Citation: 24 CFR 180

Legal Deadline: None

Abstract: This rule finalizes the policies and procedures described in HUD's December 18, 1997 proposed rule. Specifically, the final rule interprets the Fair Housing Act to clarify that an Administrative Law Judge (ALJ) may assess more than one maximum civil penalty against a respondent in a given case, where the respondent has committed separate and distinct acts of discrimination. The final rule is also part of President Clinton's "Make 'Em Pay" initiative, which is designed to fight housing-related acts of hate violence and intimidation with increased enforcement and monetary penalties. The rule describes how ALJs apply in determining the amount of a civil penalty to assess against a respondent found to have committed a discriminatory housing practice.

Timetable:

Action	Date	FR Cite
NPRM	12/18/97	62 FR 66488
NPRM Comment Period End	01/20/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen Shaw, Trial Attorney, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-1042

RIN: 2529–AA83

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Administration (OA) — Proposed Rule Stage

1558. HUD ACQUISITION REGULATION FOR LEGAL SERVICES CONTRACTORS (FR-4291)

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 42 USC 3535(d)

CFR Citation: 48 CFR 2409; 48 CFR 2452

Legal Deadline: None

Abstract: This proposed rule would amend the HUD Acquisition Regulation (HUDAR) to require offerors and contractors for the performance of legal services to identify all former and current clients in, and the facts and circumstances of, any claims against HUD, any matters involving HUD as a party, and any matters without formal parties, such as rulemaking or attempting to influence legislation or policy, in which HUD has a direct interest. HUD would use this . information in determining whether a conflict of interest is present.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Edward L. Girovasi, Jr., Director, Policy & Evaluation Div. Office of Procurement & Contracts, Department of Housing and Urban Development, Office of Administration
Phone: 202 708-0294

RIN: 2535–AA25

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Administration (OA) — Final Rule Stage

1559. HUD ACQUISITION REGULATION—II (FR-4115)

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 42 USC 3535(d); 41 USC 251

CFR Citation: 48 CFR 2401

Legal Deadline: None

Abstract: This rule will implement changes stemming from the "Federal Acquisition Reform Act of 1996" and subsequent revisions to the Federal Acquisition Regulation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Edward L. Girovasi, Jr., Director, Policy & Evaluation Div. Office of Procurement & Contracts, Department of Housing and Urban Development, Office of Administration
Phone: 202 708-0294

RIN: 2535–AA24

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Inspector General (HUDIG) — Completed Actions

1560. PRIVACY ACT OF 1974; CONSOLIDATION OF EXISTING SYSTEMS OF RECORDS INTO SINGLE SYSTEM OF RECORDS (FR-4283)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 2003

Completed:

Reason	Date	FR Cite
Withdrawn	08/19/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Philip Kesaris
Phone: 202 708-1613

RIN: 2508–AA10

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Policy Development and Research (PD&R) — Completed Actions

1561. COMMUNITY DEVELOPMENT HISPANIC-SERVING INSTITUTIONS WORK STUDY PROGRAM (FR-4269)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 570

Completed:

Reason	Date	FR Cite
Final Action	09/10/98	63 FR 48437
Final Action Effective	10/13/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jane Karadbil
Phone: 202 708-1537

RIN: 2528–AA07

1562. REMOVAL OF THE REPAYMENT REQUIREMENT FOR PARTICIPANTS IN THE COMMUNITY DEVELOPMENT WORK-STUDY PROGRAM (CDWSP) (FR-4324)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 570

Completed:

Reason	Date	FR Cite
Final Action	06/10/98	63 FR 31868

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jane Karadbil
Phone: 202 708-1537

RIN: 2528–AA08

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH) — Proposed Rule Stage

1563. • RESIDENT SURVEY INFORMATION DISCLOSURE REQUIREMENTS—PRIVACY ACT (FR-4393)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552(a); 42 USC 3535(d)

CFR Citation: 24 CFR 901

Legal Deadline: None

Abstract: This proposed rule would amend HUD's Privacy Act regulations by describing under what circumstances HUD may release information obtained from a resident survey. This rule would also describe the privacy requirements for public or private entities that have access to this data.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Christine Jenkins, Real Estate Assessment Center, Department of Housing and Urban Development, Office of the Secretary
Phone: 202 755-7540

RIN: 2577–AB84

1564. • QUALITY ASSURANCE REVIEW OF INDEPENDENT PUBLIC AUDITORS BY REAL ESTATE ASSESSMENT CENTER STAFF (FR-4394)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC ch 35; 42 USC 3535(d)

CFR Citation: 24 CFR 901

Legal Deadline: None

Abstract: This proposed rule would establish generally applicable requirements for HUD Quality Assurance reviews of parties that audit the books and records of HUD program recipients. The rule would address HUD inspections, HUD review of work paper prepared by Independent Public Auditors, and HUD enforcement of its right to such reviews.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Peter Bell, Real Estate Assessment Center, Department of Housing and Urban Development, Office of the Secretary
Phone: 202 755-7540

RIN: 2577–AB85

1565. DESIGNATED HOUSING PROGRAM AMENDMENTS (FR-3964)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1473e; 42 USC 3535(d)

CFR Citation: 24 CFR 945

HUD—PIH

Proposed Rule Stage

Legal Deadline: None

Abstract: The proposed rule would amend HUD's Designated Housing Program regulations at 24 CFR part 945 to implement certain new requirements made to this program by the Housing Opportunity Program Extension Act of 1996 (Pub. L. 104-120, approved March 28, 1996). In addition to implementing these requirements the regulations would be streamlined to allow autonomy and flexibility.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gloria Cousar, Deputy Assistant Secretary for Public and Assisted Housing Operations, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 619-8201

RIN: 2577–AB57

1566. • SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP) NEW PERFORMANCE INDICATORS (FR-4388)

Priority: Other Significant

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 985

Legal Deadline: None

Abstract: Under the section 8 Management Assessment Program (SEMAP), HUD assesses whether local agencies operate the tenant-based rental assistance programs effectively. SEMAP currently measures housing agency performance under indicators representing 15 key program areas. This rule would add three new performance indicators to SEMAP: timeliness of housing assistance payments (HAPs) to owners; implementation of screening and termination policies for certain evictions, for drug-related criminal activity, and for disruptive alcohol abuses; and for deconcentration of assisted families.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Gerald Benoit, Acting Director, Real Estate and Housing Performance Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0477

RIN: 2577–AB83

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH)

Final Rule Stage

1567. CEILING RENTS FOR PUBLIC HOUSING (FR-3880)

Priority: Other Significant

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437d; 42 USC 1437f; 42 USC 1437n; 42 USC 3535(d)

CFR Citation: 24 CFR 5, subpart F

Legal Deadline: None

Abstract: This rule would permit public housing agencies (PHA) to adopt caps on rents for projects or dwelling units that are assisted under the U.S. Housing Act of 1937 and that are owned and operated by the PHA. The Balanced Budget Downpayment Act I amended the 1937 Act to permit the establishment of caps or ceiling rents on the income-based monthly rental payment that reflect the reasonable market value of the housing, but are not less than the monthly costs (1) to operate the housing of the PHA; and (2) to make a deposit to a replacement reserve (in the sole discretion of the PHA).

Timetable:

Action	Date	FR Cite
NPRM	11/25/97	62 FR 62928
NPRM Comment Period End	01/26/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Arnaudo, Acting Director, Occupancy Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 619-8201

RIN: 2577–AB75

1568. HOUSING OPPORTUNITY PROGRAM EXTENSION ACT OF 1996 IMPLEMENTATION PROVISIONS AND SECTION 8 CERTIFICATE, VOUCHER, & MODERATE REHABILITATION ADMISSION & OCCUPANCY POLICIES REVISIONS (FR-4159)

Priority: Other Significant

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 882; 24 CFR 982

Legal Deadline: None

Abstract: This rule amends the admission and occupancy requirements for the Section 8 Rental Certificate, Rental Voucher, and Moderate Rehabilitation Programs as follows: makes certain applicants ineligible for admission if evicted from housing assisted under the United States Housing Act of 1937; terminates assistance to tenant-based certificate and voucher participants evicted for serious lease violations; screens out illegal drug users and alcohol abusers; and terminates assistance to illegal drug users and alcohol abusers.

HUD—PIH

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	03/31/97	62 FR 15346
NPRM Comment Period End	05/30/97	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gerald Benoit, Acting Director, Real Estate and Housing Performance Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0477

RIN: 2577–AB72

1569. PUBLIC HOUSING ASSESSMENT SYSTEM (FR-4313)

Priority: Other Significant

Legal Authority: 42 USC 1437(d); 42 USC 1437(j); 42 USC 3535(d)

CFR Citation: 24 CFR 901

Legal Deadline: None

Abstract: This rule would amend the Public Housing Management Assessment Program (PHMAP) at 24 CFR part 901 to establish a new system for assessing public housing and take into account the roles of HUD's Real Estate Assessment Center, Troubled Agency Recovery Center, and Enforcement Center.

Timetable:

Action	Date	FR Cite
NPRM	06/30/98	63 FR 35672
NPRM Comment Period End	08/13/98	63 FR 40682
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: William Thorson, Director, Physical Inspection Management, Real Estate Assessment Center, Department of Housing and Urban Development, Office of the Secretary
Phone: 202 755-0102

RIN: 2577–AB81

1570. PUBLIC HOUSING DEVELOPMENT REGULATIONS (FR-3569)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1437c

CFR Citation: 24 CFR 941

Legal Deadline: None

Abstract: This rule finalizes a comprehensive revision of the public housing development and acquisition program regulation at 24 CFR 941. This rule will respond to comments received on three interim rules. The first of those rules redesigned the public housing development process to give housing authorities and localities maximum flexibility in developing public housing in their communities. The second of those rules (FR-3919, RIN 2577-AB54) provided procedures to permit housing agencies to enter a partnership with an entity to develop and own public housing properties in mixed-income developments using a mixed-financed development method. The third rule (FR-4113, RIN 2577-AB69) streamlined and modified this mixed finance component.

Timetable:

Action	Date	FR Cite
Interim Final Rule (FR-3919)	05/02/96	61 FR 19708
Interim Final Rule Effective (FR 3919)	07/01/96	
Interim Final Rule (FR 3569)	07/22/96	61 FR 38014
Interim Final Rule Effective	08/21/96	
Interim Final Rule Comment Period End (FR 3569)	09/20/96	
Interim Final Rule (FR-4113)	11/00/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: William Flood, Director, Office of Capital Improvements, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1640

RIN: 2577–AB37

1571. PUBLIC HOUSING MIXED-FINANCE PARTNERSHIP DEVELOPMENT—STREAMLINING (FR-4113)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1427b; 42 USC 1437c; 42 USC 3535(d)

CFR Citation: 24 CFR 941

Legal Deadline: None

Abstract: This rule will streamline the provisions of the new subpart F of part 941, which provides for mixed-finance partnerships to develop public housing. The rule is needed because questions have arisen during implementation of the existing regulations in subpart F. The clarification afforded by this removal of duplicative language will be highly beneficial.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Sowell, Director, Office of Public Housing Partnerships, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 401-8812

RIN: 2577–AB69

1572. PUBLIC HOUSING ADMISSION AND OCCUPANCY REFORMS AND STREAMLINING (FR-4084)

Regulatory Plan: This entry is Seq. No. 43 in Part II of this issue of the Federal Register.

RIN: 2577–AB67

1573. REPLACEMENT HOUSING FACTOR IN MODERNIZATION FUNDING (FR-4125)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing

HUD—PIH — Final Rule Stage

Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1437l(k)(2)(B); 42 USC 3535(d)

CFR Citation: 24 CFR 968

Legal Deadline: None

Abstract: The replacement housing factor would offset for five years much of the loss of formula share funding due to the reduction of units as a result of demolition, disposition, or conversion from October 1, 1996, as long as the reduced units are not in developments receiving MROP or HOPE IV implementation funding and as long as the funds conserved by the offset are used for approved replacement housing.

Timetable:

Action	Date	FR Cite
NPRM	09/10/97	62 FR 47720
NPRM Comment Period End	12/09/97	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Rod J. Solomon, Senior Director, Office of Policy, Program and Legislative Initiatives, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0713

RIN: 2577–AB71

1574. ASSESSMENT OF THE REASONABLE REVITALIZATION POTENTIAL OF CERTAIN PUBLIC HOUSING REQUIRED BY LAW (FR-4120)

Regulatory Plan: This entry is Seq. No. 44 in Part II of this issue of the Federal Register.

RIN: 2577–AB79

1575. SECTION 8 RENTAL VOUCHER AND CERTIFICATE PROGRAMS—SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP) (FR-3986)

Priority: Other Significant

Legal Authority: 42 USC 1437f; 42 USC 3535(d); 42 USC 1437a; 42 USC 1437c

CFR Citation: 24 CFR 985

Legal Deadline: None

Abstract: Under the section 8 Management Assessment Program (SEMAP) established by the rule, HUD assesses whether the section 8 tenant-based assistance programs operate effectively to achieve the intended result of helping eligible families afford decent rental units at a reasonable subsidy cost. SEMAP establishes an objective system for HUD to measure HA performance in key section 8 program areas to enable the Department to ensure program integrity and accountability. SEMAP provides procedures for HUD to identify housing agency management capabilities and deficiencies in order to target monitoring and program assistance more effectively. Housing agencies can use the SEMAP performance analysis to assess and improve their own program operations.

Timetable:

Action	Date	FR Cite
NPRM	12/02/96	61 FR 63930
NPRM Comment Period End	01/31/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Gerald Benoit, Acting Director, Real Estate and Housing Performance Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0477

RIN: 2577–AB60

1576. PUBLIC HOUSING PERFORMANCE FUNDING SYSTEM: INCENTIVES (FR-4072)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1437g; 42 USC 3535(d)

CFR Citation: 24 CFR 990

Legal Deadline: None

Abstract: In addition to codifying minor changes to the Performance Funding System inspired by the continuing resolution and implemented by a Notice to Housing Agencies with respect to FYs '96, '97 and '98 this rule provides for a gradual phase-down of operating subsidy with respect to public housing units being demolished.

Timetable:

Action	Date	FR Cite
ANPRM	09/20/96	61 FR 51178
Interim Final Rule	09/20/96	61 FR 51178
Interim Final Rule Effective	10/30/96	
Interim Final Rule Comment Period End	11/29/96	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joan DeWitt, Director, Finance & Budget Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1872

RIN: 2577–AB65

1577. LOAN GUARANTEE FOR INDIAN HOUSING; DIRECT GUARANTEE PROCESSING (FR-4241)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1715z-13a

CFR Citation: 24 CFR 1005

Legal Deadline: None

Abstract: This interim rule would authorize a processing alternative known as "direct guarantee" under which HUD would not issue guarantee commitments and would not review an application for guarantee until after a loan has closed.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Jacqueline Johnson, Deputy Assistant Secretary for Native American Programs, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0950

RIN: 2577–AB78

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH)

Long-Term Actions

1578. ADMINISTRATIVE GUIDELINES FOR PIH REGARDING SECTION 102(D) LIMITATIONS ON COMBINING OTHER GOVERNMENT ASSISTANCE ("SUBSIDY LAYERING") (FR-3100)

Priority: Other Significant

Legal Authority: 42 USC 3535(d)

CFR Citation: None

Legal Deadline: None

Abstract: This notice sets forth the PIH administrative guidelines which HUD, or in certain circumstances Housing Credit Agencies (HCAs), will follow in implementing "subsidy layering" reviews in accordance with section 102(d) of the HUD Reform Act of 1989 and section 911 of the Housing and Community Development Act of 1992 for public and Indian housing programs. Such reviews are necessary to ensure that the amount of assistance being provided by HUD for a specific housing project is not more than is necessary to make the assisted activity feasible after taking into account assistance from other government sources.

Timetable:

Action	Date	FR Cite
Notice	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: G. Dewayne Kimbrough, Urban Revitalization Specialist, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0614

RIN: 2577–AB53

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH)

Completed Actions

1579. STREAMLINING OF TURNKEY III PROGRAM REGULATIONS (FR-4217)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 904

Completed:

Reason	Date	FR Cite
Withdrawn	08/13/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary Van Buskirk
Phone: 202 401-8812

RIN: 2577–AB76

1580. SECTION 8 TENANT-BASED PROGRAMS: ADDITION OF PROVISIONS ON RENTS AND SPECIAL HOUSING TYPES (FR-4054)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 982; 24 CFR 983

Completed:

Reason	Date	FR Cite
Final Action	04/30/98	63 FR 23826

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gerald Benoit
Phone: 202 708-0477

RIN: 2577–AB63

1581. SECTION 8 PROGRAM RESTRICTIONS ON LEASING TO RELATIVES (FR-4149)

Priority: Other Significant

CFR Citation: 24 CFR 982

Completed:

Reason	Date	FR Cite
Final Action	05/18/98	63 FR 27434

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gerald Benoit
Phone: 202 708-0477

RIN: 2577–AB73

[FR Doc. 98-23916 Filed 11-06-98; 8:45 am]
BILLING CODE 4210-01-F

Monday
November 9, 1998

Part X

Department of the Interior

Semiannual Regulatory Agenda

federal register

DEPARTMENT OF THE INTERIOR (DOI)

DEPARTMENT OF THE INTERIOR

Office of the Secretary

25 CFR Ch. I

30 CFR Chs. II and VII

36 CFR Ch. I

43 CFR Subtitle A, Chs. I and II

48 CFR Ch. 14

50 CFR Chs. I and IV

Semiannual Regulatory Agenda

AGENCY: Office of the Secretary, Interior.

ACTION: Semiannual regulatory agenda.

SUMMARY: This notice provides the semiannual agenda of rules scheduled for review or development between October 1998 and April 1999. The Regulatory Flexibility Act and Executive Order 12866 require publication of the agenda.

ADDRESSES: Unless otherwise indicated, all agency contacts are located at the Department of the Interior, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: You should direct all comments and inquiries with regard to these rules to the appropriate agency contact. You should direct general comments relating to the agenda to the Office of Regulatory Affairs, Department of the Interior, at the address above or on 202-208-5257 or 202-208-3071.

SUPPLEMENTARY INFORMATION: With this publication, the Department satisfies the requirement of Executive Order 12866 that the Department publish an agenda of rules that we have issued or expect to issue and of currently effective rules that we have scheduled for review.

Simultaneously, the Department meets the requirement of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) to publish an agenda in April and October of each year identifying rules that will have significant economic effects on a substantial number of small entities. We have specifically identified in the agenda rules that will have such effects.

For this edition of the Department's regulatory agenda, we have included the most important significant regulatory actions in The Regulatory Plan, which appears in part II of today's **Federal Register**. The table of contents below lists the Regulatory Plan entries and denotes them by a bracketed bold reference that directs the reader to the appropriate sequence number in part II.

Dated: October 15, 1998.

Richard A. Stephan,

Federal Register Liaison Officer.

Assistant Secretary for Policy, Management and Budget—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1582	Natural Resource Damage Assessments: Type B Procedures	1090-AA29
1583	Records and Testimony; Freedom of Information Act	1090-AA61
1584	Nondiscrimination on the Basis of Sex in Federally Assisted Education Programs or Activities	1090-AA64
1585	Department Hearings and Appeals; Special Rules Applicable to Public Land Hearings and Appeals	1090-AA68

Assistant Secretary for Policy, Management and Budget—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1586	Department Hearings and Appeals Procedures	1090-AA69

Assistant Secretary for Policy, Management and Budget—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1587	Revised Statute 2477 Rights-of-Way	1090-AA44
1588	Administrative and Audit Requirements and Cost Principles for Assistance Programs; Buy American Act	1090-AA66
1589	Administrative and Audit Requirements and Cost Principles for Assistance Programs, Seat Belt Usage	1090-AA67

Assistant Secretary for Policy, Management and Budget—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1590	Principles of Ethical Conduct	1090-AA38
1591	General Rules Relating to Procedures and Practice; Effect of Decision Pending Appeal	1090-AA63

DOI

Office of the Special Trustee—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1592	Special Deposits	1035-AA01
1593	Appealing Administrative Actions of the Office of the Special Trustee	1035-AA03

United States Fish and Wildlife Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1594	Update of Addresses for Endangered Species Permit Applications	1018-AE49
1595	Revise and Amend Hunting and Disturbance Regulations on Units of the National Wildlife Refuge System	1018-AE50
1596	Migratory Bird Hunting; Nontoxic Shot; Approval of Tin Shot as Nontoxic for Waterfowl and Coot Shooting	1018-AE61
1597	Migratory Bird Hunting; Nontoxic Shot; Approval of Molyshot as Nontoxic for Waterfowl and Coot Hunting	1018-AE67
1598	Subsistence Management Regulations for Public Lands in Alaska - Subparts C and D—1999-2000 Subsistence Taking of Fish and Wildlife Regulations	1018-AE69
1599	Migratory Bird Hunting; Reduction of the Mid-Continent Lesser Snow Goose Population	1018-AE74
1600	Endangered and Threatened Wildlife and Plants; Proposal To List as Endangered in the United States the Short-Tailed Albatross	1018-AE91
1601	Endangered and Threatened Wildlife and Plants; Proposed Establishment of Nonessential Experimental Population Status for 16 Freshwater Mussels and 1 Freshwater Snail	1018-AE92
1602	Refuge Compatibility Regulations Pursuant to the National Wildlife Refuge System Implementation Act of 1997	1018-AE98
1603	Endangered and Threatened Wildlife and Plants; Delist Dismal Swamp Southeastern Shrew	1018-AF00
1604	Marine Mammals; Incidental Take During Specified Activities of Polar Bear and Pacific Walrus	1018-AF02
1605	Endangered and Threatened Wildlife and Plants; Proposal To Remove Peregrine Falcon in North America From List of Endangered and Threatened Wildlife	1018-AF04
1606	Migratory Bird Permits; Addition of Subpart for Management of Overabundant Migratory Bird Population and Establishment of Conservation Order for Mid-Continent Light Goose Population	1018-AF05
1607	Consideration of Listing the Green Iguana (Iguana Iguana) as Injurious, Pursuant to the Lacey Act	1018-AF08
1608	Listing of U.S. Species in Appendix III to CITES	1018-AF09
1609	Reclassification of Morelet's Crocodile (Crocodylus moreleti) From Endangered to Threatened	1018-AF10
1610	Endangered and Threatened Wildlife and Plants; Proposal To List the Slender Campeloma and Armored Snail as Endangered	1018-AF13
1611	Endangered and Threatened Wildlife and Plants; Proposal To List Fourteen Hawaiian Pomace Flies as Endangered or Threatened	1018-AF16
1612	Endangered and Threatened Wildlife and Plants; Proposal To List Six Hawaiian Damselflies as Endangered or Threatened	1018-AF17
1613	Endangered and Threatened Wildlife and Plants; Proposal To List the Wet Canyon Talussnail as Endangered or Threatened	1018-AF19
1614	Proposed Reclassification and Delisting of the Gray Wolf in Certain Parts of Its Range	1018-AF20
1615	Proposed Delisting of the Bald Eagle Throughout the Lower 48 States	1018-AF21
1616	Export of River Otters Taken in Missouri in 1990-1999 and Subsequent Seasons	1018-AF23
1617	Migratory Bird Hunting; Proposed 1999-2000 Migratory Game Bird Hunting Regulations (Preliminary) With Requests for Indian Proposals	1018-AF24
1618	Migratory Bird Hunting; Regulations To Increase Harvest of Mid-Continent Light Geese	1018-AF25
1619	Taking of Marine Mammals by Level B Harassment; Issuance of General Authorization for Scientific Research and Permits for Photography, Educational, and Commercial Purposes	1018-AF26
1620	Humane and Healthful Transport of Wild Mammals, Birds, Reptiles, and Amphibians to the United States	1018-AF27

United States Fish and Wildlife Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1621	Endangered and Threatened Wildlife and Plants: Intercross Progeny Policy and Definitions	1018-AC54
1622	Migratory Bird Special Purpose Canada Goose Permit	1018-AE46
1623	Endangered and Threatened Wildlife and Plants; Endangered Status for Willamette Daisy, Fender's Blue Butterfly and Threatened Status for Kincaid's Lupine	1018-AE53
1624	Endangered and Threatened Wildlife and Plants; List Plant Zapata Bladderpod as Endangered	1018-AE54

DOI

United States Fish and Wildlife Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1625	Endangered and Threatened Wildlife and Plants; Endangered Status for the Plant Prairie Penny Cress From Coastal Northern California	1018-AE55
1626	Migratory Bird Permits; Federal Falconry Standards; Determination That Vermont and West Virginia Meet or Exceed Federal Falconry Standards	1018-AE65
1627	1998-99 Refuge-Specific Hunting and Fishing Regulations	1018-AE68
1628	Endangered and Threatened Wildlife and Plants; Proposal To List Camatta Canyon Amole as Endangered or Threatened	1018-AE76
1629	Endangered and Threatened Wildlife and Plants; Proposal To List as Endangered or Threatened La Graciosa Thistle, Lompoc Yerba Santa, Gaviota Tarplant, Nipoma Mesa Lupine,&Santa Cruz Tarplant	1018-AE81
1630	Endangered and Threatened Wildlife and Plants; Proposal To List as Endangered or Threatened Yreka Phlox	1018-AE82
1631	Endangered and Threatened Species; Proposal To List as Endangered or Threatened Blumer's Dock	1018-AE89
1632	Migratory Bird Harvest Information Programs; Participating States for the 1998-1999 Season	1018-AE96
1633	Update of Addresses and Office of Management and Budget Information Collection Numbers for FWS Permit Applications	1018-AF07

United States Fish and Wildlife Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1634	Captive-Bred Wildlife	1018-AB10
1635	Endangered and Threatened Wildlife and Plants	1018-AB66
1636	List of Migratory Birds	1018-AB72
1637	Eagle Permits	1018-AB81
1638	Endangered and Threatened Wildlife and Plants	1018-AB97
1639	Endangered and Threatened Wildlife and Plants: San Xavier Talussnail	1018-AC13
1640	Endangered and Threatened Wildlife and Plants; Reclassification of the Loch Lomond Coyote Thistle	1018-AC14
1641	Endangered and Threatened Wildlife and Plants: Parish's Alkali Grass	1018-AC21
1642	Endangered and Threatened Species: Sacramento Splittail	1018-AC26
1643	Export of American Ginseng Harvested in 1994-1996	1018-AC55
1644	General Provisions and General Permit Procedures	1018-AC57
1645	Endangered and Threatened Wildlife and Plants: Arkansas River Shiner	1018-AC62
1646	Endangered and Threatened Wildlife and Plants: Tropical Birds	1018-AC77
1647	Endangered and Threatened Wildlife and Plants: Four Southwestern California Plants	1018-AC88
1648	Seizure and Forfeiture Procedures	1018-AC89
1649	Critical Habitat Designation for the Lost River and Shortnose Suckers	1018-AC90
1650	Endangered and Threatened Wildlife and Plants: Least Chub	1018-AC91
1651	Endangered and Threatened Wildlife and Plants: Ten Plants From the California Sierra Nevada Mountains Foothills	1018-AC99
1652	Revision of Migratory Bird Hunting Regulations, 50 CFR Part 20	1018-AD01
1653	Endangered and Threatened Wildlife and Plants: Critical Habitat Designation for the Western Snowy Plover	1018-AD10
1654	Marine Mammal Protection Act; Unintentional Take of Marine Mammals by Harassment Only in Activities Other Than Commercial Fishing	1018-AD18
1655	Marine Mammal Protection Act; Measures To Safely Deter Marine Mammals, Including Threatened and Endangered Marine Mammals	1018-AD19
1656	Endangered and Threatened Wildlife and Plants; Special Rule for the Northern Spotted Owl	1018-AD20
1657	Taxonomic Change From Subspecies to Vertebrate Population Segment for the Virgin River Chub	1018-AD22
1658	Critical Habitat Proposal for Virgin River Fishes	1018-AD23
1659	Seven Plants From the Mountains of Southern California	1018-AD34
1660	Endangered and Threatened Wildlife and Plants: Four Southwestern California Plants	1018-AD38
1661	Endangered and Threatened Wildlife and Plants: Four Plants From Interior Chaparral of Southwestern California and Northwestern Baja California, Mexico	1018-AD60
1662	Export of Appendix I Specimens That Were Bred for Commercial Purposes	1018-AD64
1663	Consolidation of Lists of Wildlife of Federal Concern	1018-AD66
1664	Reclassification of Yacare Caiman From Endangered to Threatened With Special Rule	1018-AD67
1665	Subsistence Management Regulations for Public Lands in Alaska	1018-AD68
1666	Migratory Bird Hunting: Regulations Regarding Prohibition Against Artificially Altering/Manipulating Natural Vegetation in Moist Areas To Attract Waterfowl	1018-AD74

DOI

United States Fish and Wildlife Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1667	Federal Aid in Sport Fish Restoration Program for Participation for District of Columbia and Insular Territories and Commonwealths	1018-AD83
1668	Convention on International Trade in Endangered Species (CITES)	1018-AD87
1669	Endangered and Threatened Species: Removal of Lloyd's Hedgehog Cactus From Federal List of Endangered and Threatened Plants	1018-AD91
1670	Rescission of Administrative Procedures for Grants in Aid (Marine Mammal Protection Act of 1972)	1018-AD92
1671	Safe Harbor Policy and Guidance for Candidate Agreements	1018-AD95
1672	Endangered and Threatened Wildlife and Plants; Proposed Establishment of a Nonessential Experimental Population of Black-Footed Ferrets in Northwestern Colorado and Northeastern UT	1018-AD99
1673	Endangered and Threatened Wildlife and Plants; Proposed Reintroduction of a Nonessential Experimental Population of Grizzly Bears in Idaho and Montana	1018-AE00
1674	Endangered and Threatened Wildlife and Plants; Proposed Establishment of Nonessential Experimental Population of Ten Freshwater Mussels in Holston River System in TN and VA	1018-AE01
1675	Revision to Subchapter C—The National Wildlife Refuge System	1018-AE02
1676	Proposed Approval of Selected State Programs Allowing the Export of Ginseng Harvested in 1997-1999	1018-AE03
1677	Proposed Special Rule With the Reclassification of the Vicuna From Endangered to Threatened	1018-AE04
1678	Importation, Exportation, Transportation of Wildlife	1018-AE08
1679	Export of American Alligator for the 1998-2000 Harvest Seasons	1018-AE15
1680	Announcement of CITES Action Concerning Changes to Appendices to Listed Species; Service Announcement Concerning Reservations	1018-AE16
1681	Revisions to the Federal Aid Administrative Requirements	1018-AE17
1682	Endangered and Threatened Wildlife and Plants: Proposed Endangered Status for Blackburn's Sphinx Moth from the Hawaiian Islands	1018-AE20
1683	Regulations for Administrative and Visitor Facility Sites on National Wildlife Refuges	1018-AE21
1684	Endangered and Threatened Wildlife and Plants; Proposed Status for Ten Plant Taxa From Maui Nui, Hawaii	1018-AE22
1685	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Two Larkspurs From Coastal Northern California	1018-AE23
1686	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Ione Buckwheat and Threatened Status for Ione Manzanita	1018-AE25
1687	Importation of Polar Bear Trophies From Canada; Addition of Populations to the List of Areas Approved for Import	1018-AE26
1688	Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for Newcomb's Snail From the Hawaiian Islands	1018-AE27
1689	Endangered and Threatened Wildlife and Plants; Proposal to List Klamath River Population Segment of Bull Trout as Endangered and Columbia River Population Segment as Threatened	1018-AE29
1690	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Plant Keck's Sidalcea From Tulare County, California	1018-AE30
1691	Endangered and Threatened Wildlife and Plants; Proposed Rule to List the Illinois Cave Amphipod as Endangered	1018-AE31
1692	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Plant in Wenatchee Mountains of Washington	1018-AE32
1693	Exportation of Marine Mammal Products for Cultural Exchange	1018-AE33
1694	Injurious Wildlife; Addition of Brush-Tailed Possum	1018-AE34
1695	Migratory Bird Hunting; Extension of Temporary Approval of Tungsten-Iron Shot as Nontoxic for the 1998-99 Season	1018-AE35
1696	Endangered and Threatened Wildlife and Plants; List 3 Aquatic Snails as Endangered; 3 Aquatic Snails as Threatened in Mobile River Basin, Alabama	1018-AE36
1697	Endangered and Threatened Wildlife and Plants; Threatened Status for Virginia Sneezeweed; A Plant From the Shenandoah Valley of Virginia	1018-AE37
1698	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Two Cave Animals From Hawaiian Islands	1018-AE39
1699	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Two San Joaquin Valley Mammals	1018-AE40
1700	Endangered and Threatened Wildlife and Plants; Proposal To List St. Andrew Beach Mouse as Endangered	1018-AE41
1701	Endangered and Threatened Wildlife and Plants; List Topeka Shiner as Endangered	1018-AE42
1702	Endangered and Threatened Wildlife and Plants; Proposed Determination of Threatened Status for Koala	1018-AE43
1703	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Plant Rough Popcornflower	1018-AE44
1704	Endangered and Threatened Wildlife and Plants; Proposed Revision of Special Regulations for Gray Wolf	1018-AE45
1705	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Catesbaea Melanocarpa	1018-AE48
1706	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Oahu Elepaio from the Hawaiian Islands	1018-AE51

DOI

United States Fish and Wildlife Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1707	Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for Plant Howell's Spectacular Thelypody	1018-AE52
1708	Endangered and Threatened Wildlife and Plants; Determination of the Pecos Pupfish To Be Endangered	1018-AE56
1709	Endangered and Threatened Wildlife and Plants; List Desert Milk Vetch as Threatened	1018-AE57
1710	Seasonal Closure of the Moose Range Meadows Public Access Easements in the Kenai National Wildlife Refuge	1018-AE58
1711	Public Use Regulations for Kodiak National Wildlife Refuge, Alaska	1018-AE60
1712	Eagle Permits; Permits for Falconry Purposes; Permits To Take Golden Eagle Nests	1018-AE62
1713	Migratory Bird Permits; Specific Permit Provisions; Import and Export Permits; Banding or Marking Permits; and Scientific Collecting Permits	1018-AE63
1714	Migratory Bird Permits; Introduction, General Requirements and Exceptions	1018-AE64
1715	Importation, Exportation and Transportation of Wildlife Concerning International Mail, Pet Birds, Border Ports, Shellfish and Fishery Products Exemption	1018-AE70
1716	Implementation of the 1994 Amendments to the Marine Mammals Protection Act	1018-AE72
1717	Reclassification of the Namibian Population of Cheetah From Endangered to Threatened	1018-AE73
1718	Endangered and Threatened Wildlife and Plants; Proposal To List as Endangered or Threatened Gentner's Fritilaria (Mission Bells)	1018-AE75
1719	Endangered and Threatened Wildlife and Plants; Proposal To List as Endangered or Threatened Mariana Fruit Bat	1018-AE83
1720	Endangered and Threatened Species; Proposal To List Northern Idaho Ground Squirrel as Endangered or Threatened	1018-AE84
1721	Endangered and Threatened Wildlife and Plants; Proposal To List as Endangered or Threatened Cowhead Lake Tui Chub	1018-AE85
1722	Endangered and Threatened Wildlife and Plants, Proposal To List Devil's River Minnow as Endangered or Threatened	1018-AE86
1723	Endangered and Threatened Wildlife and Plants; Proposal To List Colorado Butterfly Plant as Endangered or Threatened	1018-AE87
1724	Endangered and Threatened Wildlife and Plants; Proposal To List as Endangered or Threatened Puzzle Sunflower	1018-AE88
1725	Endangered and Threatened Wildlife and Plants; Listing of Several Evolutionary Significant Units of West Coast Steelhead	1018-AE97
1726	Amendment by Brazil to Appendix III Listing of Bigleaf Mahogany	1018-AE99
1727	Endangered and Threatened Wildlife and Plants; List Coastal-Puget Sound Jarbidge River and St. Mary's-Belly River Population Segments of Bull Trout as Threatened	1018-AF01
1728	Endangered and Threatened Wildlife and Plants; Proposal To List Contiguous U.S. Distinct Population Segments of Canada Lynx as Threatened	1018-AF03
1729	Announcement of Draft Policy for Evaluation of Conservation Efforts in Making Listing Decisions	1018-AF11
1730	Endangered and Threatened Wildlife and Plants; Proposal To List the Alabama Sturgeon as Endangered	1018-AF12
1731	Endangered and Threatened Wildlife and Plants; Proposal To List the Scaleshelled Mussel as Endangered or Threatened	1018-AF14
1732	Endangered and Threatened Wildlife and Plants; Proposal To List Sclerocactus Brevispinus (Pariette Cactus) as Endangered or Threatened	1018-AF15
1733	Endangered and Threatened Wildlife and Plants; Proposal To List Allium Gooddingii (Goodding's Onion) as Endangered or Threatened	1018-AF18
1734	Proposed Delisting of the Grizzly Bear in the Yellowstone Ecosystem	1018-AF22
1735	Migratory Bird Permits; Specific Permit Provisions; Special Purpose Permits	1018-AF28

United States Fish and Wildlife Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1736	Endangered and Threatened Wildlife and Plants: California Plants and the Black Legless Lizard	1018-AD09
1737	Endangered and Threatened Wildlife and Plants: Pallid Manzanita	1018-AD35
1738	Export of River Otters Taken in Missouri in 1996-97 and Subsequent Seasons	1018-AD63
1739	Standards for the Humane and Healthful Transport of Wild Reptiles and Amphibians to the United States	1018-AD98
1740	Endangered Species Listing: Preble's Meadow Jumping Mouse	1018-AE06
1741	Subsistence Management Regulations for Public Lands in Alaska; Subparts C&D—1998-99 Subsistence Taking of Fish and Wildlife Regulations	1018-AE12
1742	No Surprises Policy	1018-AE24

DOI

United States Fish and Wildlife Service—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1743	Endangered and Threatened Wildlife and Plants; Proposed Emergency Rule Establishing Additional Manatee Sanctuary in Kings Bay Crystal River, FL	1018-AE47
1744	Endangered and Threatened Wildlife and Plants; List San Bernardino Kangaroo Rat as Endangered	1018-AE59
1745	Migratory Bird Hunting; Nontoxic Shot; Temporary Approval of Tungsten-Polymer as Nontoxic for the 1998-99 Season	1018-AE66
1746	Endangered and Threatened Wildlife and Plants; List LaGraciosa Thistle as Endangered or Threatened	1018-AE77
1747	Endangered and Threatened Wildlife and Plants; Proposed Rule To List Lompoc Yerba Santa as Endangered or Threatened	1018-AE78
1748	Endangered and Threatened Species; Proposal To List as Endangered or Threatened Gaviota Tarplant	1018-AE79
1749	Endangered and Threatened Wildlife and Plants; Proposal To List Santa Cruz Tarplant as Endangered or Threatened	1018-AE80
1750	Endangered and Threatened Wildlife and Plants; Proposal To Delist Throughout Its Range and Remove the Similarity of Appearance Provision for the American Peregrine Falcon	1018-AE90
1751	Migratory Bird Hunting; Proposed 1997-98 Migratory Game Bird Hunting Regulations (Preliminary) With Requests for Indian Tribal Proposals	1018-AE93
1752	Change in Status of Bolivian Population of Bigleaf Mahogany in Appendix III of CITES	1018-AE94
1753	Endangered and Threatened Wildlife and Plants; Removal of Critical Habitat for the Mexican Spotted Owl, Loach Minnow and Spikedace	1018-AE95

National Park Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1754	National Park Service Symbols: United States Park Police Insignia	1024-AB94
1755	Applicability and Resource Protection Revisions	1024-AC38
1756	Non-Federal Oil and Gas Rights	1024-AC53
1757	Native American Graves Protection and Repatriation Act Regulations Future Applicability	1024-AC57
1758	Denali National Park and Preserve, Special Regulations	1024-AC58
1759	Hydroelectric Power Projects in the National Park System	1024-AC64
1760	Personal Watercraft	1024-AC65
1761	Land and Water Conservation Fund of Assistance to States; Post-Completion Compliance Responsibilities	1024-AC68
1762	Vehicles and Traffic Safety; Operating Under the Influence of Alcohol or Drugs	1024-AC69
1763	Solid Waste Sites in Units of the National Park System	1024-AC70

National Park Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1764	National Natural Landmarks Program	1024-AB96
1765	Glacier Bay National Park, Alaska Fishing Regulations	1024-AB99
1766	Rights-of-Way	1024-AC01
1767	Voyageurs National Park: Aircraft Operations	1024-AC23
1768	Grand Teton National Park and John D. Rockefeller, Jr. Memorial Parkway: Snowmobile and Snowplane Routes and Regulations	1024-AC34
1769	Procedures for State, Tribal, and Local Government Historic Preservation Programs	1024-AC44
1770	Big Cypress National Preserve; Recreational Frogging	1024-AC54
1771	Delaware Water Gap NRA, Bicycle Trail	1024-AC62
1772	Kaloko-Honokohou National Historic Park: Public Nudity	1024-AC66
1773	Appalachian National Scenic Trail—Snowmobiles	1024-AC67
1774	Information Collection Activities	1024-AC71

DOI

National Park Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1775	Native American Graves Protection and Repatriation Act Regulations; Civil Penalties	1024-AC48

Bureau of Indian Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1776	Indian School Equalization Program	1076-AD09
1777	Leasing Restricted Lands of Members of the Five Civilized Tribes Oklahoma, for Mining	1076-AD33
1778	Exploration, Mining, and Reclamation of Lands	1076-AD36
1779	Tribal Reorganization Under a Federal Statute	1076-AD46
1780	Petitioning Procedures	1076-AD47
1781	Academic and Dormitory Standards	1076-AD55
1782	Education Contracts Under the Johnson-O'Malley Act	1076-AD58
1783	Loans to Indians From the Revolving Loan Fund	1076-AD59
1784	Arrangement With States, Territories, or Other Agencies for Social Welfare and Relief of Distress of Indians	1076-AD61
1785	School Construction Contracts for Public Schools	1076-AD69
1786	Adult Vocational Training	1076-AD72
1787	Loan Guarantee Program	1076-AD73
1788	Employment Assistance for Adult Indians	1076-AD75
1789	Certificates of Degree of Indian Blood	1076-AD78
1790	Mortgages and Deeds of Trust on Individually Owned Trust Land or Land Subject to a Restriction on Alienation	1076-AD85
1791	Acquisition of Title to Land in Trust	1076-AD90
1792	Financial Assistance and Social Services Program	1076-AD91

Bureau of Indian Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1793	Leasing and Permitting	1076-AA29
1794	Navajo Partitioned Lands Grazing Regulations	1076-AC81
1795	Preference in Employment	1076-AD05
1796	Grants to Tribally Controlled Community Colleges and Navajo Community College	1076-AD08
1797	Indian Tribal Justice Support	1076-AD15
1798	Tribal Self-Governance **(Reg Plan Seq. No. 45)**	1076-AD20
1799	Leasing Osage Reservation Lands for Mining of Minerals Other Than Oil and Gas	1076-AD34
1800	Lead and Zinc Mining Operations and Leases on Quapaw Indian Lands	1076-AD35
1801	Irrigation Projects and Systems	1076-AD44
1802	Indian Electric Power Utilities	1076-AD45
1803	Appeals From Administrative Actions	1076-AD50
1804	Indian Business Development Program	1076-AD70
1805	Tribal Revenue Allocation Plans	1076-AD74
1806	Courts of Indian Offenses	1076-AD76
1807	Use of Columbia River Fish Access Sites	1076-AD83
1808	Use of Columbia River In-Lieu Fishing Sites	1076-AD86
1809	Class III Gaming Procedures	1076-AD87
1810	Correction of Codification Errors in 25 CFR	1076-AD88
1811	Preparation of Rolls of Indians	1076-AD89

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

DOI

Bureau of Indian Affairs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1812	Administration of the Higher Education Program	1076-AA10
1813	Administration of the Indian Adult Education Programs	1076-AA15
1814	Roads of the Bureau of Indian Affairs	1076-AB05
1815	Range Regulations	1076-AD04
1816	Housing Improvement Program	1076-AD52
1817	Education Facilities Construction	1076-AD92

Minerals Management Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1818	Exploration or Development and Production Plans	1010-AC47

Minerals Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1819	Administrative Appeals Process	1010-AC21
1820	Refunds and Recoupment of Overpayments on OCS	1010-AC27
1821	Takes vs. Entitlements Reporting	1010-AC29
1822	Accounting Relief for Marginal Properties	1010-AC30
1823	Prepayment of Royalties	1010-AC31
1824	Chronic Erroneous Reporting	1010-AC34
1825	Training Lessee and Contractor Employees Engaged in Oil and Gas Operations in the Outer Continental Shelf	1010-AC41
1826	Reviewing Exploration Plans and Development and Production Plans for Coastal Zone Consistency	1010-AC42
1827	Oil and Gas Drilling Operations	1010-AC43
1828	Filing Fees for Required Records	1010-AC44
1829	Prospecting for Minerals Other Than Oil, Gas, and Sulphur in the Outer Continental Shelf	1010-AC48
1830	Leasing Sulphur or Oil and Gas in the Outer Continental Shelf	1010-AC49
1831	Change to Delegated State Audit Functions	1010-AC51
1832	Royalty in Kind for Oil and Gas	1010-AC52

Minerals Management Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1833	Royalty Payment Liability	1010-AB45
1834	Valuation of Gas From Indian Leases	1010-AB57
1835	Valuation of Oil From Federal Mineral Leases **(Reg Plan Seq. No. 46)**	1010-AC09
1836	Valuation of Oil From Indian Leases **(Reg Plan Seq. No. 47)**	1010-AC24
1837	Postlease Operations	1010-AC32
1838	Electronic Reporting	1010-AC40
1839	Update of Industry Electrical Standards	1010-AC50

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Minerals Management Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1840	Credit Adjustments	1010-AB73
1841	Oil and Gas Production Rates	1010-AC53

DOI

Minerals Management Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1842	Deep Water Emergency Well Control Operations	1010-AC54

Minerals Management Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1843	Seismic Reassessment of California Outer Continental Shelf Platforms	1010-AC17
1844	Amendments to Standards for Reporting and Paying Royalties on Gas and the Gas Analysis Report	1010-AC23
1845	Suspension of Orders or Decisions Pending Appeal To Allow for Self-Bonding Based Upon Financial Solvency	1010-AC28
1846	Oil Spill Responsibility for Offshore Facilities	1010-AC33
1847	Blowout Preventer Testing Requirements	1010-AC37
1848	Pipelines	1010-AC39
1849	Redesignation of 30 CFR Part 250	1010-AC45
1850	Update of Documents Incorporated by Reference	1010-AC46

Office of Surface Mining Reclamation and Enforcement—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1851	Abandoned Coal Refuse Sites—Title I	1029-AB70
1852	Contemporaneous Reclamation	1029-AB79
1853	Indian Lands	1029-AB83
1854	Dam Safety Rules	1029-AB92
1855	Ownership and Control—Redesign	1029-AB94
1856	Electronic Filing of the OSM-1 Form	1029-AB95

Office of Surface Mining Reclamation and Enforcement—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1857	Definition and Criteria for Valid Existing Rights	1029-AB42
1858	Prohibitions Under Section 522(e) of SMCRA	1029-AB82
1859	Enhancing AML Reclamation	1029-AB89

Office of Surface Mining Reclamation and Enforcement—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1860	Applicant/Violator System Permit Information	1029-AB62
1861	Alluvial Valley Floors	1029-AB85
1862	Removal of 30 CFR 870.17	1029-AB93

Bureau of Reclamation—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1863	Recovering the Value of Rights of Use and Related Administrative Costs	1006-AA39

DOI

Bureau of Reclamation—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1864	Revenues Management	1006-AA30
1865	Central Valley Project of California—Purposes, Uses, and Allocation of Water Supplies	1006-AA34
1866	Acreage Limitation Rules for Trusts	1006-AA38

Bureau of Reclamation—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1867	Offstream Storage of Colorado River Water and Interstate Marketing of Storage Credits in the Lower Division States	1006-AA40

Bureau of Land Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1868	Leases, Permits, and Easements	1004-AB51
1869	Sales—Federal Land Policy and Management Act	1004-AB77
1870	Desert Land Entries	1004-AC56
1871	Disposal of Reserved Minerals Under the Stock Raising Homestead Act	1004-AC59
1872	Land Withdrawals	1004-AC63
1873	Cost Recovery; Mineral Filings and Operations	1004-AC64
1874	Rights-of-Way Under the Mineral Leasing Act	1004-AC74
1875	Railroad Grants	1004-AC76
1876	Land Classification	1004-AC78
1877	Carey Act Grants	1004-AC80
1878	Conveyances, Disclaimers, and Correction Documents	1004-AC82
1879	Segregation and Opening of Lands	1004-AC84
1880	Oil and Gas Leasing and Operations **(Reg Plan Seq. No. 48)**	1004-AC94
1881	Appeals Procedures; Hearings Procedures	1004-AC99
1882	Color of Title and Omitted Lands	1004-AD00
1883	Paleontological Resources	1004-AD03
1884	Geothermal Resource Unit Agreement	1004-AD10
1885	Coal Management	1004-AD11
1886	Oil and Gas Leasing; National Petroleum Reserve, Alaska— Transfers, Extensions, and Consolidations	1004-AD13
1887	Surface Management (Locatable Minerals) **(Reg Plan Seq. No. 49)**	1004-AD22
1888	Financial Assistance; Local Governments	1004-AD23
1889	Use Authorizations (Recreation)	1004-AD25
1890	Advisory Committees	1004-AD26
1891	Coal Management: General (Public Participation)	1004-AD27
1892	Mineral Materials Disposal	1004-AD29
1893	Emergency Fire and Disaster Rehabilitation	1004-AD30
1894	Location of Mining Claims; Assessment Work; Public Law 359 - Mining in Powersite Withdrawals	1004-AD31
1895	Mineral Patent Applications; Adverse Claims, Protests, and Conflicts	1004-AD32

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Bureau of Land Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1896	Management of Designated Wilderness Area	1004-AB69
1897	Management of Solid Minerals Other Than Coal	1004-AC49
1898	Mineral Materials Disposal	1004-AC68
1899	Definitions	1004-AC73

DOI

Bureau of Land Management—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1900	Indian Allotments	1004-AC77
1901	Application Procedures	1004-AC83

Bureau of Land Management—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1902	Coalbed Methane Development	1004-AC27
1903	Oil and Gas Leasing; Drainage	1004-AC54
1904	Helium Contracts	1004-AD24

Bureau of Land Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1905	Public Availability of Minerals Resources Information	1004-AB55
1906	Special Areas; State Irrigation Districts	1004-AC53
1907	State Exchanges; National Park System Exchanges; Wildlife Refuge Exchanges; Miscellaneous Exchanges	1004-AC58
1908	Grazing Administration; Alaska; Livestock	1004-AC70
1909	Alaska Native Selections	1004-AC72
1910	Use; Rights-of-Way	1004-AC75
1911	Planning, Programming, and Budgeting	1004-AC86
1912	Sustained Yield Forest Units	1004-AC93
1913	National Forest Exchanges	1004-AC97
1914	Grazing Administration: Alaska; Reindeer	1004-AD06
1915	Geothermal Resources Leasing	1004-AD08
1916	Authorities/Mission Statement	1004-AD15
1917	Wild Horse and Burro Adoptions; Power of Attorney	1004-AD28

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1918	Wild and Scenic Rivers	1093-AA08

DEPARTMENT OF THE INTERIOR (DOI)

Proposed Rule Stage

Assistant Secretary for Policy, Management and Budget (ASPMB)

1582. NATURAL RESOURCE DAMAGE ASSESSMENTS: TYPE B PROCEDURES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 9651(c)

CFR Citation: 43 CFR 11

Legal Deadline: None

Abstract: CERCLA and the Clean Water Act allow natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance. CERCLA requires that natural resource damage assessment regulations be promulgated and that the regulations be reviewed, and revised as appropriate, every two years. This rulemaking is the biennial review of the administrative process for conducting assessments as well as the so-called "type B" procedures for determining injury and damages through scientific and economic studies. This rulemaking will also address the calculation of lost non-use values of natural resources, in compliance with State of Ohio v. Department of the Interior, 880 F.2d 432 (D.C. Cir. 1989), which ordered the Department to allow for the assessment of all reliably calculated values lost as a result of a natural resource injury.

DOI—ASPMB

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	07/16/96	61 FR 37031
ANPRM Comment Period End	09/16/96	
NPRM	02/00/99	
NPRM Comment Period End	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Willie R. Taylor, Director, Office of Environmental Policy, and Compliance, Department of the Interior, Assistant Secretary for Policy, Management and Budget Phone: 202 208-3891

RIN: 1090–AA29

1583. RECORDS AND TESTIMONY; FREEDOM OF INFORMATION ACT

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 5 USC 552 Freedom of Information Act

CFR Citation: 43 CFR 2

Legal Deadline: None

Abstract: 43 CFR part 2, subparts A and B, are being revised in their entirety to reflect the provisions of the new FOIA law "Electronic FOIA Amendments of 1996," Pub. L. 104-231, the recommendations of the National Performance Review lab, and other changes as necessary.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Alexandra Mallus, DOI FOIA Officer (OIRM), Department of the Interior, Assistant Secretary for Policy, Management and Budget Phone: 202 208-5342

RIN: 1090–AA61

1584. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED EDUCATION PROGRAMS OR ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: PL 92-318; PL 93-568, sec 3; 20 USC 1681; 20 USC 1682; 20 USC 1683; 20 USC 1685; 20 USC 1686

CFR Citation: 43 CFR 41

Legal Deadline: None

Abstract: The purpose of this regulatory action is to proscribe discrimination on the basis of sex in federally assisted education programs or activities of the Department of the Interior.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Melvin C. Fowler, Civil Rights Staff Assistant, Department of the Interior, Assistant Secretary for Policy, Management and Budget Phone: 202 208-3455

RIN: 1090–AA64

1585. DEPARTMENT HEARINGS AND APPEALS; SPECIAL RULES APPLICABLE TO PUBLIC LAND HEARINGS AND APPEALS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1201

CFR Citation: 43 CFR 4.415; 43 CFR 4.404; 43 CFR 4.403; 43 CFR 4.405; 43 CFR 4.406; 43 CFR 4.414; 43 CFR 4.401(c)(2); 43 CFR 4.422(c)(2); 43 CFR 4.450-5; 43 CFR 4.407; 43 CFR 4.408

Legal Deadline: None

Abstract: This document proposes to amend procedural rules governing hearings and appeals in public lands cases. The amendments are necessary to conform the rules to procedural practices contained in decisions of the Interior Board of Land Appeals. The amended rules would provide parties more complete information and more up-to-date procedures than the existing rules.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	
Final Action	02/00/99	
Final Action Effective	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Will A. Irwin, Administrative Judge, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Interior Board of Appeals, 4015 Wilson Blvd., Arlington, VA, 22203 Phone: 703 235-3750

RIN: 1090–AA68

DEPARTMENT OF THE INTERIOR (DOI)

Final Rule Stage

Assistant Secretary for Policy, Management and Budget (ASPMB)

1586. • DEPARTMENT HEARINGS AND APPEALS PROCEDURES

Priority: Info./Admin./Other

Legal Authority: 43 USC 1201

CFR Citation: 43 CFR 4.350

Legal Deadline: None

Abstract: The Office of Hearings and Appeals is amending the definition of "administrative judge" found in its procedures for heirship determinations under the White Earth Reservation Land Settlement Act of 1985.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles E. Breece, Deputy Director, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street NW., Washington, DC 20240 Phone: 703 235-3810

RIN: 1090–AA69

DEPARTMENT OF THE INTERIOR (DOI)
Assistant Secretary for Policy, Management and Budget (ASPMB)

Long-Term Actions

1587. REVISED STATUTE 2477 RIGHTS-OF-WAY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1201; 43 USC 1732(b); 43 USC 1740; 43 USC 1457; 43 USC 1782(c); 16 USC 668dd; 16 USC 460k-3; 16 USC 1 to 4

CFR Citation: 43 CFR 39

Legal Deadline: None

Abstract: This proposed rule would implement the Secretary of the Interior's June 1, 1993, recommendation to Congress that the Department promulgate regulations addressing rights-of-way pursuant to R.S. 2477 across lands now administered by the Bureau of Land Management, the National Park Service, and the U.S. Fish and Wildlife Service. R.S. 2477--a provision adopted in 1866 that granted a right-of-way for the construction of highways across public land not reserved for public uses--was repealed in 1976 but valid existing rights-of-way were not terminated. This proposed rule is intended to clarify the meaning of the statute and provide a workable administrative process and standards for recognizing valid claims.

Timetable:

Action	Date	FR Cite
NPRM	08/01/94	59 FR 39216
NPRM Comment Period End	08/01/95	60 FR 4135
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Ron Montagna, Realty Specialist, Department of the Interior, Assistant Secretary for Policy, Management and Budget
Phone: 202 452-7782

RIN: 1090–AA44

1588. ADMINISTRATIVE AND AUDIT REQUIREMENTS AND COST PRINCIPLES FOR ASSISTANCE PROGRAMS; BUY AMERICAN ACT

Priority: Info./Admin./Other

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 5 USC 301; 31 USC 6101 note; 31 USC 7501; 41 USC 252a; 41 USC 701 et seq; PL 104-256, sec 501; PL 105-62, sec 503; PL 105-62, sec 303; PL 105-83, sec 307; EO 12549; EO 12674; EO 12689; EO 12731; OMB Circular A-102; OMB Circular A-110

CFR Citation: 43 CFR 12

Legal Deadline: None

Abstract: This final rule is in response to the "Department of the Interior and Related Agencies Appropriations Act, 1998," and the "Energy and Water Development Appropriations Act, 1998." It implements provisions regarding lobbying restrictions; denial of funds for preventing ROTC access to campuses; and the purchase of American-made equipment and products.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Debra E. Sonderman, Director, Procurement and Property, Management Systems, Department of the Interior, Assistant Secretary for Policy, Management and Budget
Phone: 202 208-3336

RIN: 1090–AA66

1589. ADMINISTRATIVE AND AUDIT REQUIREMENTS AND COST PRINCIPLES FOR ASSISTANCE PROGRAMS, SEAT BELT USAGE

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 31 USC 6101 note; 31 USC 7501; 41 USC 252a; 41 USC 701 et seq; PL 104-256, sec 501; PL 105-62, sec 503; PL 105-62, sec 303; PL 105-83, sec 307; EO 12549; EO 12674; EO 12689; EO 12731; EO 13043; OMB Circular A-102

CFR Citation: 43 CFR 12

Legal Deadline: None

Abstract: This final rule will implement sections 1(c) and 2 in Executive Order 13043 of April 16, 1997, "Increasing Seat Belt Use in the United States." This rule will amend section 12.2 of subpart A of 43 CFR part 12 to add these provision and will apply to grants and cooperative agreements awarded by the Department.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: LEGAL AUTHORITY CONT: OMB Circular A-110; OMB Circular A-133

Agency Contact: Debra E. Sonderman, Director, Procurement and Property, Management Systems, Department of the Interior, Assistant Secretary for Policy, Management and Budget
Phone: 202 208-3336

RIN: 1090–AA67

DEPARTMENT OF THE INTERIOR (DOI)
Assistant Secretary for Policy, Management and Budget (ASPMB)

Completed Actions

1590. PRINCIPLES OF ETHICAL CONDUCT

Priority: Info./Admin./Other

CFR Citation: 5 CFR 3501; 43 CFR 20

Completed:

Reason	Date	FR Cite
Final Action	06/24/98	63 FR 34258

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mason Tsai
Phone: 202 208-5916

RIN: 1090–AA38

1591. GENERAL RULES RELATING TO PROCEDURES AND PRACTICE; EFFECT OF DECISION PENDING APPEAL

Priority: Substantive, Nonsignificant

CFR Citation: 43 CFR 4.21

DOI—ASPMB

Completed Actions

Completed:

Reason	Date	FR Cite
Withdrawn - No Further Action at This Time	07/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Byrnes
Phone: 703 235-3750

RIN: 1090–AA63

BILLING CODE 4310-RK-F

DEPARTMENT OF THE INTERIOR (DOI)
Office of the Special Trustee (OST)

Proposed Rule Stage

1592. SPECIAL DEPOSITS

Priority: Info./Admin./Other

Legal Authority: 42 USC 4043

CFR Citation: 25 CFR 87; 25 CFR 115; 25 CFR 122; 25 CFR 179; 25 CFR 111; 25 CFR 116; 25 CFR 123; 25 CFR 112; 25 CFR 117; 25 CFR 124; 25 CFR 114; 25 CFR 121; 24 CFR 125

Legal Deadline: None

Abstract: This rule transfers from the Bureau of Indian Affairs to the Office of the Special Trustee for American Indians (OST) 13 CFR parts relating to management of Indian trust funds. The Department is making this change to implement title II of the American Indian Trust Fund Management Reform Act of 1994. This change will clarify the questions that have arisen since the passage of the Act about the responsibilities of BIA and OST regarding trust resources and assets.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sarah Yepa, Chief, Division of Quality Assurance, Department of the Interior, Office of the Special Trustee
Phone: 505 248-5751
Fax: 505 248-5782

RIN: 1035–AA01

1593. APPEALING ADMINISTRATIVE ACTIONS OF THE OFFICE OF THE SPECIAL TRUSTEE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 103-412

CFR Citation: 25 CFR 1202

Legal Deadline: None

Abstract: This rule will establish a procedure for appealing decisions of the Office of the Special Trustee and the Office of Trust Funds Management.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Sarah Yepa, Chief, Division of Quality Assurance, Department of the Interior, Office of the Special Trustee
Phone: 505 248-5751
Fax: 505 248-5782

RIN: 1035–AA03

BILLING CODE 4310-53-F

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Proposed Rule Stage

1594. UPDATE OF ADDRESSES FOR ENDANGERED SPECIES PERMIT APPLICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service amends the regulations for endangered and threatened wildlife and plants to update the addresses for submission of endangered species permit applications.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171
Fax: 703 358-2324
Email: laverne_smith@fws.gov

RIN: 1018–AE49

1595. REVISE AND AMEND HUNTING AND DISTURBANCE REGULATIONS ON UNITS OF THE NATIONAL WILDLIFE REFUGE SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 460K; 16 USC 664; 16 USC 668dd; 16 USC 685; 16 USC 690d; 16 USC 715i; 16 USC 715s; 16 USC 725; 43 USC 315a; 5 USC 301; 5 USC 685; 5 USC 752; 5 USC 690d; PL 105-57

CFR Citation: 50 CFR 25; 50 CFR 27; 50 CFR 32

Legal Deadline: None

Abstract: The Service proposes to revise nontoxic shot provisions for hunting upland game on Waterfowl Production Areas and other units of the National Wildlife Refuge System (System), and modify certain disturbance regulations against plants, animals, and nonwildlife property on all units of the System.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rick Coleman, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, 670 ARLSQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2029
Fax: 703 358-2248
Email: rick__coleman@fws.gov

RIN: 1018–AE50

1596. MIGRATORY BIRD HUNTING; NONTOXIC SHOT; APPROVAL OF TIN SHOT AS NONTOXIC FOR WATERFOWL AND COOT SHOOTING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 to 712; 16 USC 742(a) to 742(j)

CFR Citation: 50 CFR 20.21

Legal Deadline: None

Abstract: The Service proposes to amend section 20.21(j) and approve tin shot as nontoxic for waterfowl and coot hunting. A toxicological report that includes an extensive literature review and an analysis of tin suggests that these compounds are nontoxic under assumed use and in the environment. The toxicity study reveals no adverse effects over a 30-day period on mallard ducks (Anas platyrhynehus) dosed with 8 bb-size tin shot pellets.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Paul Schmidt, Chief, Migratory Bird Management Office, Department of the Interior, United States Fish and Wildlife Service, 634 ARLSQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1714
Fax: 703 358-2217
Email: paul__schmidt@fws.gov

RIN: 1018–AE61

1597. MIGRATORY BIRD HUNTING; NONTOXIC SHOT; APPROVAL OF MOLYSHOT AS NONTOXIC FOR WATERFOWL AND COOT HUNTING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 to 712; 16 USC 742(a) to 742(j)

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service proposes to amend section 20.21(j) and approve molyshot as nontoxic for waterfowl and coot hunting. A toxicological report that includes an extensive literature review and an analysis of molyshot components suggests that these compounds are nontoxic under assumed use and in the environment. The toxicity study reveals no adverse effects over a 30-day period on mallard ducks (Anas platyrhynchus) dosed with 8 bb-sized molyshot pellets.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Paul Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, 634 ARLSQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1714
Fax: 703 358-2217
Email: paul__schmidt@fws.gov

RIN: 1018–AE67

1598. SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA - SUBPARTS C AND D—1999-2000 SUBSISTENCE TAKING OF FISH AND WILDLIFE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 3111 to 3126

CFR Citation: 50 CFR 100

Legal Deadline: None

Abstract: This rule would revise the customary and traditional use determinations and establish regulations for hunting and trapping seasons, harvest limits, methods, and means related to taking of wildlife for subsistence uses during the 1999-2000 regulatory year. The rulemaking is necessary because subpart D regulations require annual public review, and customary and traditional use determinations are also open to the same annual regulatory revision process. When final this rulemaking will replace hunting and trapping regulations in "Subsistence Management Regulations for Public Lands in Alaska; subparts C and D--1998-1999 Subsistence Taking of Fish and Wildlife Regulations," which expires on June 30, 1999. This is a joint program with the Departments of Interior and Agriculture.

Timetable:

Action	Date	FR Cite
NPRM	08/17/98	63 FR 43990
NPRM Comment Period End	10/23/98	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Pospahala, Chief, Office of Subsistence Management, Department of the Interior, United States Fish and Wildlife Service, 1011 E Tudor Road, Anchorage, AK 99503
Phone: 907 786-3467

RIN: 1018–AE69

1599. MIGRATORY BIRD HUNTING; REDUCTION OF THE MID-CONTINENT LESSER SNOW GOOSE POPULATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 601; 44 USC 3507d; 16 USC 703 to 711; 5 USC 553(d)(3); 2 USC 1502; 5 USC 8

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service plans on publishing a notice of intent followed by a proposed rule pertaining to an Environmental Assessment to review aspects of migratory bird hunting regulations and evaluate alternatives to reduce the overabundant mid-continent lesser snow goose population by 50 percent by 2005.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Paul R. Schmidt, Chief, Migratory Bird Management Office, Department of the Interior, United States Fish and Wildlife Service, 634 ARLSQ, 1840 C Street NW., Washington, DC 20240
Phone: 703 358-1714
Fax: 703 358-2217
Email: paul__schmidt@fws.gov

RIN: 1018–AE74

1600. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST AS ENDANGERED IN THE UNITED STATES THE SHORT-TAILED ALBATROSS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list as endangered in the United States the short-tailed albatross. Due to an oversight when the foreign and native species lists of the 1969 Endangered Species Conservation Act were merged, the U.S. population of this species was not listed. This proposed listing, if made final, would extend endangered status throughout the species' range. The species nests on certain Japanese islands but ranges into U.S. coastal waters.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171
Fax: 703 358-2324
Email: laverne__smith@fws.gov

RIN: 1018–AE91

1601. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ESTABLISHMENT OF NONESSENTIAL EXPERIMENTAL POPULATION STATUS FOR 16 FRESHWATER MUSSELS AND 1 FRESHWATER SNAIL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to establish nonessential experimental population (NEP) status for 16 freshwater mussels and 1 freshwater snail in the free-flowing reach of the Tennessee River below Wilson Dam, Colbert and Lauderdale Counties, Alabama. None of these species are currently known to exist in this river reach or its tributaries. Thus, to ensure that any reintroduced species that may move into the tributaries are covered by these NEP designations, we also propose that the geographic boundaries of the NEPs include the lower 5 miles (8km) of all tributaries that enter the Wilson Dam tailwater.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171
Fax: 703 358-2324
Email: laverne__smith@fws.gov

RIN: 1018–AE92

1602. • REFUGE COMPATIBILITY REGULATIONS PURSUANT TO THE NATIONAL WILDLIFE REFUGE SYSTEM IMPLEMENTATION ACT OF 1997

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 16 USC 460k; 16 USC 668dd; 16 USC 742a; 16 USC 3101; 44 USC 3501

CFR Citation: 50 CFR 25; 50 CFR 26; 50 CFR 27; 50 CFR 29; 50 CFR 32; 50 CFR 36

Legal Deadline: None

Abstract: The Service proposes to revise compatibility regulations improving management of the National Wildlife Refuge System in accordance with requirements in the National Wildlife System Improvement Act of 1997 that amends the National Wildlife System Administration Act of 1966. Its purpose is to provide guidance for determining compatibility of proposed and existing uses on units of the system and procedures for documentation and periodic review of such uses. It also ensures that proposed and existing refuge uses are administered according to laws, regulations, and policies concerning compatibility.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rick Coleman, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, 670 ARLSQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2029
Fax: 703 358-2248
Email: rick__coleman@fws.gov

RIN: 1018–AE98

1603. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DELIST DISMAL SWAMP SOUTHEASTERN SHREW

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to remove the Dismal Swamp Southeastern Shrew from the list of endangered and threatened wildlife. The Dismal Swamp Southeastern Shrew was listed as a threatened species in 1986 under the Endangered Species Act of 1973, as amended. New data indicate that this species is more widely distributed than previously believed, is fairly abundant within its range, occurs in a wide variety of habitats, and is genetically secure. The Service concludes that the data supporting the original classification

were incomplete and that the new data indicate removing the Dismal Swamp Southeastern Shrew from the list of endangered and threatened wildlife is warranted.

Timetable:

Action	Date	FR Cite
NPRM	10/21/98	63 FR 56128
NPRM Comment Period End	12/21/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171
Fax: 703 358-2324
Email: laverne__smith@fws.gov

RIN: 1018–AF00

1604. • MARINE MAMMALS; INCIDENTAL TAKE DURING SPECIFIED ACTIVITIES OF POLAR BEAR AND PACIFIC WALRUS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Service is proposing regulations that would authorize for the next five years the incidental, unintentional take of small numbers of polar bear and Pacific walrus during year-round oil and gas industry operations (exploration, development, and production) in the Beaufort Sea and adjacent Northern Coast of Alaska.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Hannibal Bolton, Chief, Division of Fish and Wildlife, Management Assistance, Department of the Interior, United States Fish and Wildlife Service, 840 ARLSQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1718
Fax: 703 358-2210
Email: hannibal__bolton@fws.gov

RIN: 1018–AF02

1605. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO REMOVE PEREGRINE FALCON IN NORTH AMERICA FROM LIST OF ENDANGERED AND THREATENED WILDLIFE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to remove the peregrine falcon in North America from the list of Endangered and Threatened Wildlife. The Service proposes this action because the available data indicate that this species has recovered following restrictions on organochlorine pesticides in the U.S. and Canada and following implementation of successful management activities, including the reintroduction of captive bred and relocated wild hatchling peregrine falcons. Currently, a minimum of 1,204 American peregrine falcon pairs are found in Alaska, Canada, and the western U.S., and a minimum of 173 falcon pairs are found in the eastern U.S. At least 31 pairs occur in 6 midwestern States not covered by the Peregrine Falcon Recovery Plan or the two recovery plans for the American peregrine falcon in the western United States. The proposed action will remove the American peregrine falcon as an endangered species and will remove the designation of endangered due to similarity of appearance for any free-flying peregrine falcons within the 48 coterminous States from the list of endangered and threatened wildlife. The proposed action removes all Endangered Species Act protections from all subspecies and populations of North American Flaco Peregrinus. There is a mandatory five-year monitoring program that follows delisting.

Timetable:

Action	Date	FR Cite
NPRM	08/26/98	63 FR 45446
NPRM Comment Period End	11/24/98	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171
Fax: 703 358-2324
Email: laverne__smith@fws.gov

RIN: 1018–AF04

1606. • MIGRATORY BIRD PERMITS; ADDITION OF SUBPART FOR MANAGEMENT OF OVERABUNDANT MIGRATORY BIRD POPULATION AND ESTABLISHMENT OF CONSERVATION ORDER FOR MID-CONTINENT LIGHT GOOSE POPULATION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 712(2)

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: The Service proposes to add a new subpart to 50 CFR part 21 for the management of overabundant migratory birds. We (in cooperation with State wildlife agencies) are further proposing to implement a population reduction program by establishing a conservation order for mid-continent light geese under the authority of the proposed subpart. Collectively, mid-continent lesser snow and Ross' geese (referred to as mid-continent light geese; MCLG) have all exceeded their population objective levels in both the U.S. and Canada. Due to the high population growth rates facilitated by abundant agricultural food resources in the mid-continent U.S. and prairie Canada, a decline in adult mortality, and an increase in winter survival, MCLG have approached population sizes that are a threat to both themselves and to other migratory bird populations. These populations must be reduced soon to avoid further habitat degradation and to avoid further negative impacts to migratory birds or their associated habitats.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, 634 ARLSQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1714
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RIN: 1018–AF05

1607. • CONSIDERATION OF LISTING THE GREEN IGUANA (IGUANA IGUANA) AS INJURIOUS, PURSUANT TO THE LACEY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: The Humane Society of the United States requested that the Service list the green iguana as injurious under the Lacey Act. Iguanas are released into the wild by their owners for various reasons. These iguanas may be carriers of Salmonella bacteria and could negatively impact native populations. A notice requesting information will be published so that data can be gathered as to the injurious nature of the iguanas. This information will be analyzed to determine whether listing is warranted.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Hannibal Bolton, Chief, Division of Fish and Wildlife, Management Assistance, Department of the Interior, United States Fish and Wildlife Service, 840 ARLSQ, 1849 C Street NW., Washington, DC 20240
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Email: hannibal__bolton@fws.gov

RIN: 1018–AF08

1608. • LISTING OF U.S. SPECIES IN APPENDIX III TO CITES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq; 16 USC 4201; PL 99-625

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: Listing of native U.S. species in appendix III to CITES for more effective monitoring of trade, to ensure that traded specimens are legally acquired in their State(s) of origin, and to obtain the cooperation of other countries that are parties to CITES, in controlling the trade in such specimens.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Susan Lieberman, Chief, Office of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, 750 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AF09

1609. • RECLASSIFICATION OF MORELET'S CROCODILE (CROCODYLUS MORELETI) FROM ENDANGERED TO THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq; 16 USC 4201; PL 99-625

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Reclassify Morelet's crocodile from endangered to threatened with a special rule to allow for the importation of specimens from captive-breeding operations that have been registered with the CITES Secretariat. Only one such facility in Mexico has been registered. Reclassification will be based on a review of the population status and management, including protected status of the species in range countries.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Susan Lieberman, Chief, Office of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, 750 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AF10

1610. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST THE SLENDER CAMPELOMA AND ARMORED SNAIL AS ENDANGERED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, December 31, 1998.

Abstract: The armored snail occurs in Piney and Limestone Creeks, Alabama. Threats include a general deterioration of water quality resulting from siltation and other pollutants. The slender campeloma is also a snail and is currently believed to occur only in the middle to lower reaches of Round Island, Piney, and Limestone Creeks, Alabama. Threats also include a general deterioration of water quality.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AF13

DOI—FWS

Proposed Rule Stage

1611. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST FOURTEEN HAWAIIAN POMACE FLIES AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, December 31, 1998.

Abstract: These fourteen species of insects are native to Hawaii and have experienced dramatic declines in abundance. Some of the primary threats facing these species are ongoing and threatened destruction and adverse modification of habitat by feral animals and alien plants.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AF16

1612. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST SIX HAWAIIAN DAMSELFLIES AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, December 31, 1998.

Abstract: These Hawaiian damselflies are all confined to the Hawaiian Islands. Historically, damselflies were among the most common and conspicuous native Hawaiian insects. Threats include the severe alteration of freshwater habitats because of past and present land and water management practices, including agriculture, urban development of groundwater, perched aquifer and surface water resources, and the introduction of alien animals.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AF17

1613. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST THE WET CANYON TALUSSNAIL AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, December 31, 1998.

Abstract: This species is known from a single population in Arizona. The exceptionally small range of this snail makes it vulnerable to minimal human activity as well as any natural catastrophic event.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AF19

1614. • PROPOSED RECLASSIFICATION AND DELISTING OF THE GRAY WOLF IN CERTAIN PARTS OF ITS RANGE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service is currently undertaking a status review and preparing a proposed rule to reclassify certain populations of the gray wolf from endangered to threatened status under the Endangered Species Act, based on the recent recovery achievements, and to delist the wolf in other parts of its range where recovery has been accomplished.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AF20

1615. • PROPOSED DELISTING OF THE BALD EAGLE THROUGHOUT THE LOWER 48 STATES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The bald eagle was reclassified to threatened status throughout the lower 48 States in 1995. Continued recovery gains and increasing population trends now make it possible to propose the removal of the eagle from the endangered species list. A comprehensive status review of eagle population data and existing protections is currently underway.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

DOI—FWS

Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AF21

1616. • EXPORT OF RIVER OTTERS TAKEN IN MISSOURI IN 1998-1999 AND SUBSEQUENT SEASONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The purpose of this rule is to announce proposed findings by CITES Scientific and Management Authorities of the United States on the export of river otters taken in the State of Missouri, and to propose to add Missouri to the list of States and Indian Nations for which the export of river otter skins is approved. This approval is on a multi-year basis. The Service proposes to apply these findings to river otters taken in Missouri during the 1998-1999 season, and subsequent seasons, subject to the conditions applying to other approved States.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Susan Lieberman, Chief, Office of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, 750 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AF23

1617. • MIGRATORY BIRD HUNTING; PROPOSED 1999-2000 MIGRATORY GAME BIRD HUNTING REGULATIONS (PRELIMINARY) WITH REQUESTS FOR INDIAN PROPOSALS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 to 712; 16 USC 742(a) to 742(j)

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service proposes to establish annual hunting regulations for certain migratory game birds. The Service also requests proposals from Indian tribes that wish to establish special migratory bird hunting regulations. The establishment of these regulations will permit the taking of the designated species during the 1999-2000 hunting season. The Service annually prescribes outside limits within which States may select hunting seasons. The Service has also employed guidelines to establish special migratory bird hunting regulations on Federal Indian reservations and ceded lands. These seasons provide hunting opportunities for recreation and subsistence; aid Federal, State, and tribal governments in the management of migratory game birds; and are designed to permit harvests at levels compatible with migratory bird population status and habitat conditions.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, 634 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AF24

1618. • MIGRATORY BIRD HUNTING; REGULATIONS TO INCREASE HARVEST OF MID-CONTINENT LIGHT GEESE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 to 712; 16 USC 742(a) to 742(j)

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service proposes to revise 50 CFR part 20 to authorize the use of additional hunting methods to increase harvest of mid continent lesser snow and Ross' geese (mid-continent light geese) during a light-goose only season when all other migratory game bird hunting seasons have closed and remain closed throughout the remaining current migratory hunting season frameworks. This revision is expected to provide a biologically sound and cost-effective and efficient method for the reduction and management of overabundant mid-continent light goose populations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, 634 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AF25

1619. • TAKING OF MARINE MAMMALS BY LEVEL B HARASSMENT; ISSUANCE OF GENERAL AUTHORIZATION FOR SCIENTIFIC RESEARCH AND PERMITS FOR PHOTOGRAPHY, EDUCATIONAL, AND COMMERCIAL PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-238; 16 USC 1361 to 1407

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Service proposes to issue regulations which would allow us to

DOI—FWS

Proposed Rule Stage

authorize harassment but not injury or death of polar bear, Northern sea otter, and walrus for scientific research, photography, and for educational or commercial purposes. This rule would further implement the 1994 Amendments to the Marine Mammal Protection Act.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Margaret Tieger, Chief, Branch of Permits, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, 700 ARLSQ, 1849 C Street NW., Washington, DC 20240
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Email: margaret__tieger@fws.gov

RIN: 1018–AF26

1620. • HUMANE AND HEALTHFUL TRANSPORT OF WILD MAMMALS, BIRDS, REPTILES, AND AMPHIBIANS TO THE UNITED STATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 18 USC 42; 16 USC 3371 to 3378

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: The proposed rule contains amendments designed to add numerous transport standards to part 14 for reptiles and amphibians. Standards have already been promulgated for mammals and birds.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Rosemarie Gnam, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, 700 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AF27

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Final Rule Stage

1621. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: INTERCROSS PROGENY POLICY AND DEFINITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Fish and Wildlife Service and the National Marine Fisheries Service propose to amend the regulations implementing the Endangered Species Act by adding definitions for intercross and intercross progeny (to include hybrids). Also, 50 CFR 17.11(g) and 17.12(g) will be amended by adding wording to indicate that the listing of a taxon as endangered or threatened would include all individuals that share characteristic traits of that taxon, including individuals produced under conditions of confinement. The amendments are necessary in order to proceed with the evaluation and implementation of intercrossing as a recovery technique for the Florida panther.

Timetable:

Action	Date	FR Cite
NPRM	02/07/96	61 FR 4710
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AC54

1622. MIGRATORY BIRD SPECIAL PURPOSE CANADA GOOSE PERMIT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 712

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: The Service proposes, in cooperation with State wildlife agencies, to establish a Canada goose wildlife damage management program. This program is designed to provide a more cost-effective and efficient method for the control of locally breeding (resident) Canada geese that pose a threat to health and human safety and are responsible for damage to personal and public property.

Timetable:

Action	Date	FR Cite
NPRM	03/31/98	63 FR 15698
NPRM Comment Period End	06/01/98	
NPRM Comment Period Reopened	07/23/98	63 FR 39553
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Paul R. Schmidt, Chief, Migratory Bird Management Office, Department of the Interior, United States Fish and Wildlife Service, 634 ARLSQ, 1849 C Street NW., Washtington, DC 20240
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RIN: 1018–AE46

1623. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ENDANGERED STATUS FOR WILLAMETTE DAISY, FENDER'S BLUE BUTTERFLY AND THREATENED STATUS FOR KINCAID'S LUPINE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

DOI—FWS

Final Rule Stage

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, April 1, 1998.

Abstract: The Service proposes endangered status pursuant to the Endangered Species Act of 1973, as amended, for Willamette daisy and Fender's blue butterfly and threatened status for Kincaid's lupine. These species are restricted to native prairie in the Willamette Valley in Oregon and currently are known from a few small remnants of a formerly widespread distribution. In addition to its Oregon occurrences, Kincaid's lupine also is known from one small site in southern Washington. The three taxa are threatened by one or more of the following: commercial and/or residential development, agriculture, silviculture, road improvement, over-collection, herbicide use, and naturally occurring demographic and random environmental events.

Timetable:

Action	Date	FR Cite
NPRM	01/27/98	63 FR 3863
NPRM Comment Period End	03/30/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE53

1624. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LIST PLANT ZAPATA BLADDERPOD AS ENDANGERED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, April 1, 1998.

Abstract: The Service proposes to list the plant Zapata bladderpod as an endangered species under the Endangered Species Act of 1973, as amended. It is known from four locations in Zapata and Starr Counties, Texas (private land, highway right-of-way, and NWR land). This species is threatened by increased urban development, highway construction, increased oil and gas activities, alteration and conversion of native plant communities to improved pastures, overgrazing, and potential vulnerability from lowered genetic diversity due to presently low population numbers.

Timetable:

Action	Date	FR Cite
NPRM	01/22/98	63 FR 3301
NPRM Comment Period End	03/23/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE54

1625. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ENDANGERED STATUS FOR THE PLANT PRAIRIE PENNY CRESS FROM COASTAL NORTHERN CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, April 1, 1998.

Abstract: The Service proposes endangered status pursuant to the Endangered Species Act of 1973, as amended, for one plant, Kneeland prairie pennycress. This plant is known from Kneeland prairie in Humboldt County, CA, where it grows in coastal prairie on serpentine outcrops. Habitat loss, potential road realignment and proposed airport expansion activities imperil the continued existence of this plant. The restricted range of this species, limited to a single population, increases the risk of extinction from naturally occurring events such as fire.

Timetable:

Action	Date	FR Cite
NPRM	02/12/98	63 FR 7112
NPRM Comment Period End	04/13/98	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE55

1626. MIGRATORY BIRD PERMITS; FEDERAL FALCONRY STANDARDS; DETERMINATION THAT VERMONT AND WEST VIRGINIA MEET OR EXCEED FEDERAL FALCONRY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 712(2)

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: The Service proposes to amend the Federal falconry standards to add Vermont and West Virginia as falconry States. This approval will lift a prohibition for these states to practice falconry. The Service is also republishing the entire list of States approved for falconry. The Service proposes to administratively correct the regulations concerning the procedures for certification of compliance. The present procedures do not clearly outline the procedures followed for the certification process.

Timetable:

Action	Date	FR Cite
NPRM	08/18/98	63 FR 44229
NPRM Comment Period End	09/17/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

DOI—FWS

Final Rule Stage

Agency Contact: Paul Schmidt, Chief, Migratory Bird Management Office, Department of the Interior, United States Fish and Wildlife Service, 634 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE65

1627. 1998-99 REFUGE-SPECIFIC HUNTING AND FISHING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 16 USC 460k; 16 USC 664; 16 USC 668dd; 16 USC 715i

CFR Citation: 50 CFR 32

Legal Deadline: None

Abstract: Refuge hunting and fishing programs are reviewed annually to determine whether additional refuges should be added or whether individual refuge regulations governing existing programs should be modified, deleted, or have additions made to them. Changing environmental conditions, State and Federal regulations, and other factors affecting wildlife populations and habitat may warrant modifications ensuring continued compatibility of hunting and fishing with the purposes for which the individual refuges and the National Wildlife Refuge System were established.

Timetable:

Action	Date	FR Cite
NPRM	07/27/98	63 FR 40080
NPRM Comment Period End	08/26/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rick Coleman, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, 670 ARLSQ, 1849 C Street NW., Washington, DC 20240
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Email: rick__coleman@fws.gov

RIN: 1018–AE68

1628. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST CAMATTA CANYON AMOLE AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, April 1, 1998.

Abstract: The Service proposes to list Camatta Canyon amole (Chlorogalum purpureum var. reductum) as endangered or threatened. This species is known from San Luis Obispo County, CA. Threats include CRV activity, cattle grazing, and predation by rodents.

Timetable:

Action	Date	FR Cite
NPRM	03/30/98	63 FR 15158
NPRM Comment Period End	05/29/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE76

1629. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST AS ENDANGERED OR THREATENED LA GRACIOSA THISTLE, LOMPOC YERBA SANTA, GAVIOTA TARPLANT, NIPOMA MESA LUPINE,&SANTA CRUZ TARPLANT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, April 1, 1998.

Abstract: The Service proposes to list as endangered or threatened Nipomo Mesa lupine (Lupinus nipomensis). This species is known from San Luis Obispo, CA. Threats include habitat modification, hazardous waste clean-up and off-road vehicle impacts.

Timetable:

Action	Date	FR Cite
NPRM	03/30/98	63 FR 15164
NPRM Comment Period End	05/29/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE81

1630. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST AS ENDANGERED OR THREATENED YREKA PHLOX

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, April 1, 1998.

Abstract: The Service proposes to list as endangered or threatened Yreka phlox (Phlox hirsuta). This species is known from Siskiyou County, northern CA. Threats include development and road maintenance activities.

Timetable:

Action	Date	FR Cite
NPRM	04/01/98	63 FR 15820
NPRM Comment Period End	06/01/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1018–AE82

DOI—FWS

Final Rule Stage

1631. ENDANGERED AND THREATENED SPECIES; PROPOSAL TO LIST AS ENDANGERED OR THREATENED BLUMER'S DOCK

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, April 1, 1998.

Abstract: The Service proposes to list as endangered or threatened Blumer's dock (Rumex orthoneurus). This species is known from Gila and Cochise Counties, AZ. Threats include habitat modification and destruction caused by mining, cattle grazing, recreation, and road construction.

Timetable:

Action	Date	FR Cite
NPRM	04/01/98	63 FR 15813
NPRM Comment Period Reopened	07/29/98	63 FR 40389
NPRM Comment Period End	07/30/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE89

1632. • MIGRATORY BIRD HARVEST INFORMATION PROGRAMS; PARTICIPATING STATES FOR THE 1998-1999 SEASON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 to 711; 16 USC 712; 16 USC 742a to 752j

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service proposes to amend the Migratory Bird Harvest Information Program regulations. The Service plans to require all States except Hawaii to participate in the program annually, beginning with the 1998-99 hunting season. This regulatory action will continue to require all licensed hunters who hunt migratory game birds in participating States to register as migratory game bird hunters and provide their name, address and date of birth to the State licensing authority.

Timetable:

Action	Date	FR Cite
NPRM	05/19/98	63 FR 27548
NPRM Comment Period End	07/20/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, 634 Arlington Square, 1849 C Street NW., Washington, DC 20240
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Email: paul__schmidt@fws.gov

RIN: 1018–AE96

1633. • UPDATE OF ADDRESSES AND OFFICE OF MANAGEMENT AND BUDGET INFORMATION COLLECTION NUMBERS FOR FWS PERMIT APPLICATIONS

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 16 USC 703 to 712; 16 USC 668(a) to 668(d); 16 USC 742a; 16 USC 742(j) to 742(l); 16 USC 1361 to 1384; 16 USC 1401 to 1407; 16 USC 1531 to 1543; 16 USC 3371 to 3378; 18 USC 42; 19 USC 1202

CFR Citation: 50 CFR 10; 50 CFR 13; 50 CFR 14; 50 CFR 15; 50 CFR 17

Legal Deadline: None

Abstract: The Service amends the regulations for wildlife and plant permits to update the addresses for submission of permit applications. Recently revised Office of Management and Budget Information Collection Numbers also are provided.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AF07

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Long-Term Actions

1634. CAPTIVE-BRED WILDLIFE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Fish and Wildlife Service regulates certain activities involving non-native endangered or threatened wildlife species that are born in captivity in the United States. Currently, this is accomplished by requiring persons who wish to conduct otherwise prohibited activities with such wildlife to register with the Service to obtain a captive-bred wildlife or CBW registration. These regulations will be reviewed to determine if further action is necessary to relieve certain restrictions on the public that may have become burdensome, counterproductive, or outmoded.

Timetable:

Action	Date	FR Cite
ANPRM	01/07/92	57 FR 548
ANPRM Comment Period End	03/09/92	
NPRM	06/11/93	58 FR 32632
NPRM Comment Period End	09/09/93	
Interim Final Rule	12/27/93	58 FR 68323
Final Action	00/00/00	

Captive-bred wildlife regulations, part 2
NPRM 12/27/93 (58 FR 68323)

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: On June 11, 1993, the Service published a proposed rule that would revise the captive-bred wildlife regulations and the definitions of the terms "harass" and "enhance the propagation or survival." During the 90-day comment period, extensive comments on the proposal were received. The Service has decided to eliminate education as the sole basis for justifying issuance of a captive-bred wildlife registration, and a final rule to that effect was published on December 27, 1993 (58 FR 68323). The Service will split this action into three final rules and reopen the comment period on the balance of the issues in the proposals, including the question of the value of education as it relates to endangered species permits.

Agency Contact: Teiko Saito, Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, 700 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AB10

1635. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Addax antelope
NPRM 11/05/91 (56 FR 56491)
Final Action 00/00/00

Dama gazelle
NPRM 11/05/91 (56 FR 56491)
Final Action 00/00/00

Ohio emerald dragonfly
Final Action 01/26/95 (60 FR 5267)

Oryx antelope
NPRM 11/05/91 (56 FR 56491)
NPRM Comment Period Reopened 06/08/92 (57 FR 24220)
Final Action 00/00/00

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AB66

1636. LIST OF MIGRATORY BIRDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 704; 16 USC 712

CFR Citation: 50 CFR 10.13

Legal Deadline: None

Abstract: The List of Migratory Birds found at 50 CFR 10.13 is being revised to (1) bring the list into conformity with generally accepted taxonomy and nomenclature--English (common) and scientific names, as reflected in four published supplements to the 6th (1983) edition of the American Ornithologists' Union Checklist of North American Birds; and (2) add species that are of regular occurrence in the United States that are not included on the current list.

Timetable:

Action	Date	FR Cite
NPRM	05/09/95	60 FR 24686
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul R. Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, 634 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AB72

1637. EAGLE PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 668

CFR Citation: 50 CFR 22

Legal Deadline: None

Abstract: Presently, the taking, possession, and transportation of bald or golden eagles, or their parts, nests, or eggs for the religious use of Native Americans is a permitted activity. The Service proposes to revise 50 CFR 22.22 to provide an import or export mechanism for eagle feathers legally possessed by Native Americans.

Timetable:

Action	Date	FR Cite
NPRM	06/16/94	59 FR 30892
NPRM Comment Period End	08/15/94	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kevin Adams, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, 500 ARLSQ, 1849 C Street NW., Washington, DC 20240
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Email: kevin__adams@fws.gov

RIN: 1018–AB81

1638. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Appalachian elktoe
NPRM 09/03/93 (58 FR 46940)
Final Action 11/23/94 (59 FR 60324)

Arroyo southwestern toad
NPRM 08/03/93 (58 FR 41378)
NPRM Comment Period Reopened 09/09/93 (58 FR 47428)
Final Action 12/16/94 (59 FR 64859)

Dugong
NPRM 08/05/93 (58 FR 41688)
Withdrawn 08/26/96

Louisiana black bear, critical habitat
NPRM 12/03/93 (58 FR 63560)
NPRM Comment Period Reopened 03/07/94 (59 FR 10607)
Final Action 00/00/00

McFarlane's four-o'clock
NPRM 08/26/93 (58 FR 45085)
Final Action 03/15/96 (61 FR 10693)

Pahrump poolfish
Final Action 08/05/93 (58 FR 41688)
NPRM 09/22/93 (58 FR 49279)

Southwestern willow flycatcher, critical habitat
Final Action 07/22/97 (62 FR 39129)

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AB97

1639. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: SAN XAVIER TALUSSNAIL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, the San Xavier talussnail under the Endangered Species Act. Where prudent, critical habitat will be identified for the endangered or threatened species. Such actions are taken only upon determination that the species is endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	03/23/94	59 FR 13691
NPRM Comment Period End	05/23/94	
NPRM Comment Period Reopened	05/22/98	63 FR 28343
NPRM Comment Period Reopened	06/23/98	63 FR 34142
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AC13

1640. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; RECLASSIFICATION OF THE LOCH LOMOND COYOTE THISTLE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which will list, reclassify, or delist, as appropriate, the Loch Lomond coyote thistle under the Endangered Species Act. Where prudent, critical habitat will be identified for the species. Such actions are taken upon determination that the species is endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	11/29/93	58 FR 62629
NPRM Comment Period End	01/28/94	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AC14

1641. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: PARISH'S ALKALI GRASS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will list, reclassify, or delist, as appropriate, Parish's alkali grass, under the Endangered Species Act. Where prudent, critical habitat will be identified for the species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	03/28/94	59 FR 14378
NPRM Comment Period End	05/27/94	
NPRM Comment Period Reopened	08/30/94	59 FR 44700
NPRM Comment Period Reopened	07/20/98	63 FR 38803
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AC21

1642. ENDANGERED AND THREATENED SPECIES: SACRAMENTO SPLITTAIL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will list, reclassify, or delist, as appropriate, the Sacramento splittail under the Endangered Species Act. Where prudent, critical habitat will be identified for the species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	01/06/94	59 FR 862
NPRM Comment Period Reopened	05/18/98	63 FR 27255
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AC26

1643. EXPORT OF AMERICAN GINSENG HARVESTED IN 1994-1996

Priority: Routine and Frequent

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: NPRM, Statutory.

Abstract: This proposed rule will announce findings on the export of American ginseng from the 1994-96 harvest season in 21 States. The Service reviews information and data as a basis for determining whether to continue approval of export from specified States for this harvest season, or to initiate changes. Also, North Dakota has applied to export cultivated ginseng under a State program, and Michigan has submitted draft legislation and is intending to apply soon to export ginseng. Acceptance of information provided by State ginseng management programs allows the Service to expedite the issuance of permits as required by the CITES treaty.

Timetable:

Action	Date	FR Cite
NPRM	09/26/94	59 FR 49046
NPRM Comment Period End	10/26/94	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Marshall Jones, Assistant Director, International Affairs, Department of the Interior, United States Fish and Wildlife Service, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AC55

1644. GENERAL PROVISIONS AND GENERAL PERMIT PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 10; 50 CFR 13; 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to amend 50 CFR part 13 which provides uniform permit procedures relating to the application, issuance, renewal, suspension, revocation, and general administration of Service permits. The Service's criteria for suspension and revocation of permits and its review procedures will also be revised. Permit fee rates are amended to increase rates for the cost of processing certain permits. This change is necessary in order to recover a larger percentage of the cost of processing the permits. Several new permit fee exemptions will be added.

Timetable:

Action	Date	FR Cite
NPRM	09/05/95	60 FR 46087
NPRM Comment Period Reopened	11/15/95	60 FR 57386
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kevin Adams, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, 500 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AC57

1645. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: ARKANSAS RIVER SHINER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the Arkansas River population of the Arkansas River shiner. This small minnow is endemic to the Arkansas River drainage in Arkansas, Kansas, New Mexico, Oklahoma, and Texas, but is presently almost entirely restricted to the Canadian/South Canadian River in Oklahoma, Texas, and New Mexico.

Timetable:

Action	Date	FR Cite
NPRM	08/03/94	59 FR 39532

Action	Date	FR Cite
NPRM Comment Period End	10/03/94	
NPRM Comment Period Reopened	12/05/97	62 FR 64337
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AC62

1646. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TROPICAL BIRDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for up to 38 species of tropical birds.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Susan Lieberman, Chief, Office of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, 750 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AC77

1647. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FOUR SOUTHWESTERN CALIFORNIA PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed to determine the appropriate status for four plants found in southwestern California and northwestern Baja California, Mexico. These species are: Munz's onion, San Jacinto Valley crownscale, Thread-leaved brodiaea, and Spreading navarretia. These four plants occur in vernal pools and other wetlands or on clay soils and moist grasslands throughout their range. Critical habitat will be proposed only for the San Jacinto Valley crownscale, at this time.

Timetable:

Action	Date	FR Cite
NPRM	12/15/94	59 FR 64794
NPRM Comment Period End	02/13/95	
NPRM Comment Period Reopened	03/07/95	60 FR 12531
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AC88

1648. SEIZURE AND FORFEITURE PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 4222 to 4241; 16 USC 4901 to 4916; 18 USC 42

CFR Citation: 50 CFR 12

Legal Deadline: None

Abstract: The Service proposes to amend regulations in 50 CFR part 12 that establish procedures relating to property seized or subject to administrative forfeiture under various laws enforced by the Service. This revision is intended to provide uniform guidance for the bonded release, appraisement, administrative proceeding, petition for remission, and disposal of items subject to forfeiture. Also these revisions are intended to provide for greater consistency of Service seizure and forfeiture procedures with those of the U.S. Customs Service.

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 58468
Interim Final Rule	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Kevin Adams, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, 500 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AC89

1649. CRITICAL HABITAT DESIGNATION FOR THE LOST RIVER AND SHORTNOSE SUCKERS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will identify critical habitat for the Lost River and Shortnose suckers, two species federally listed as endangered. Both species are endemic to the Upper Klamath River Basin of Oregon and California.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61744
NPRM Comment Period End	01/30/95	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AC90

1650. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: LEAST CHUB

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend that rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the Least chub under the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	09/29/95	60 FR 50518
NPRM Comment Period End	11/28/95	
NPRM Comment Period Reopened	06/07/96	61 FR 29047
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AC91

1651. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TEN PLANTS FROM THE CALIFORNIA SIERRA NEVADA MOUNTAINS FOOTHILLS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine appropriate status for 10 plants: Chinese Camp brodiaea, Piute Mountains navarretia, Carpenteria, Springville clarkia, Kelso Creek monkeyflower, Red Hills vervain, Rawhide Hill onion, Mariposa lupine, Mariposa pussypaws, and Greenhorn adobe lily, under the Endangered Species Act. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	10/04/94	59 FR 50540
NPRM Comment Period End	12/05/94	
NPRM Comment Period Reopened	12/29/94	59 FR 67268
NPRM Comment Period Reopened	02/14/95	60 FR 8342
NPRM Comment Period Reopened	02/04/97	62 FR 5199
NPRM Comment Period Reopened	06/30/97	62 FR 35116
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

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RIN: 1018–AC99

1652. REVISION OF MIGRATORY BIRD HUNTING REGULATIONS, 50 CFR PART 20

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 703 to 711; 16 USC 712; 16 USC 742a to 742d; 16 USC 742e to 742j

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service proposes to revise and update regulations governing migratory bird hunting. Changes will be proposed that will clarify and include all the specific prohibitions in part 20 to apply to migratory game hunting during closed and open hunting seasons.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Kevin Adams, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, 500 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AD01

1653. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: CRITICAL HABITAT DESIGNATION FOR THE WESTERN SNOWY PLOVER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, June 1, 1995.

Abstract: The Service proposes to designate critical habitat for the Pacific coast population of the Western snowy plover. The plover was listed as a threatened species on March 5, 1993. Critical habitat for the plover is proposed in coastal areas of Washington, Oregon, and California.

Timetable:

Action	Date	FR Cite
NPRM	03/02/95	60 FR 11768
NPRM Comment Period Reopened	05/15/95	60 FR 25882
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AD10

1654. MARINE MAMMAL PROTECTION ACT; UNINTENTIONAL TAKE OF MARINE MAMMALS BY HARASSMENT ONLY IN ACTIVITIES OTHER THAN COMMERCIAL FISHING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Marine Mammal Protection Act, as amended in April 1994, authorizes the Secretary to allow U.S. citizens to incidentally, unintentionally take small numbers of marine mammals by harassment only for periods up to 1 year during specified activities other than commercial fishing. This regulatory action would implement this statutory provision.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hannibal Bolton, Chief, Division of Fish and Wildlife, Management Assistance, Department of the Interior, United States Fish and Wildlife Service, 840 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AD18

1655. MARINE MAMMAL PROTECTION ACT; MEASURES TO SAFELY DETER MARINE MAMMALS, INCLUDING THREATENED AND ENDANGERED MARINE MAMMALS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Marine Mammal Act as amended in April 1994, requires the Service to develop a list of guidelines to safely deter marine mammals for which the Service has statutory management responsibility, including threatened and endangered species. Such measures of deterrence are for use in protecting: (1) fishing gear or catch; (2) private property; (3) personal human safety; or (4) public property. This regulatory action would implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hannibal Bolton, Chief, Division of Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service, 840 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AD19

1656. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; SPECIAL RULE FOR THE NORTHERN SPOTTED OWL

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service will propose a section 4(d) rule for the northern spotted owl under the Endangered Species Act that will define the conditions under which incidental take of the species through habitat modification would not be a violation of section 9 of the Act. An environmental impact statement is also being prepared, and will be available for review concurrent with the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	02/17/95	60 FR 9484
NPRM Comment Period End	05/18/95	
NPRM Comment Period Reopened	05/18/95	60 FR 26712
NPRM Comment Period Reopened	07/17/95	60 FR 36382
NPRM Comment Period Reopened	09/25/95	50 FR 49358
NPRM Comment Period Reopened	11/27/95	60 FR 58323
NPRM Comment Period Reopened	01/31/96	61 FR 3369
NPRM Comment Period Reopened	02/23/96	61 FR 6964
NPRM Comment Period Reopened	04/08/96	61 FR 15452
NPRM Comment Period Reopened	05/10/96	61 FR 21426
NPRM Comment Period Reopened	06/17/96	61 FR 30588
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AD20

1657. TAXONOMIC CHANGE FROM SUBSPECIES TO VERTEBRATE POPULATION SEGMENT FOR THE VIRGIN RIVER CHUB

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Recent taxonomic work concluded that specific rank is warranted for the Virgin River chub, a federally listed endangered species

found in the Virgin River system of Arizona, Nevada, and Utah. Additionally, researchers concluded that the chub in the Muddy River of Nevada is conspecific with the Virgin River chub. Previously this distinctive population of the Virgin River chub, a category 2 candidate for Federal listing, was considered a separate, unnamed subspecies of roundtail chub, and was referred to as the Moapa roundtail chub. Because of this recent taxonomic work, the Service accepts that specific rank is warranted for the Virgin River chub and proposes to change the listing of the Virgin River chub in the Virgin River from a subspecies to a vertebrate population segment in the List of Endangered and Threatened Wildlife. In addition, the Service initiates a status review of the Virgin River chub in the Muddy River to determine whether this vertebrate population warrants listing as a threatened or endangered species.

Timetable:

Action	Date	FR Cite
NPRM	07/24/95	60 FR 37866
NPRM Comment Period End	09/22/95	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Local

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AD22

1658. CRITICAL HABITAT PROPOSAL FOR VIRGIN RIVER FISHES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service proposes to designate critical habitat for the Virgin River Chub, the Woundfin, and Virgin spinedace. The Virgin River chub and Woundfin are listed as endangered; the Virgin spinedace has been proposed for listing as threatened (May 18, 1994), but the listing has not been finalized as yet.

Timetable:

Action	Date	FR Cite
NPRM	04/05/95	60 FR 17296
NPRM Comment Period End	06/05/95	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: This rulemaking was inadvertently published as RIN 1018-AD22. The final rule will be published with the correct RIN 1018-AD23. The rulemaking action(s) listed under this RIN has (have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AD23

1659. SEVEN PLANTS FROM THE MOUNTAINS OF SOUTHERN CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service will develop regulations that will determine the appropriate status for seven plants from the mountains of southern California: San Bernardino bluegrass, California dandelion, Johnson's rock-cress, Bear Valley sandwort, Ash-grey Indian paintbrush, Southern mountain wild buckwheat, and Hidden Lake bluecurls.

Timetable:

Action	Date	FR Cite
NPRM	08/02/95	60 FR 39337
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AD34

1660. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FOUR SOUTHWESTERN CALIFORNIA PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for four California plants: San Diego thornmint, Laguna Beach liveforever, Otay tarweed, and Willowy monardella. These species are found in San Diego County and northern Baja, California. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	08/09/95	60 FR 40549
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AD38

1661. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FOUR PLANTS FROM INTERIOR CHAPARRAL OF SOUTHWESTERN CALIFORNIA AND NORTHWESTERN BAJA CALIFORNIA, MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for four plants: Nevin's barberry, Mexican flannelbush, Vail Lake ceanothus, and Dehesa beargrass. These perennial shrubs and plants are found in chaparral habitat west of the Peninsular Ranges in southwestern California and northwestern Baja California, Mexico. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	10/02/95	60 FR 51445
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AD60

1662. EXPORT OF APPENDIX I SPECIMENS THAT WERE BRED FOR COMMERCIAL PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The regulations need to be updated to clarify the process of obtaining export permits for appendix I specimens that are bred for commercial purposes, including the procedure for becoming registered with the Convention on International Trade in Endangered Species (CITES) Secretariat.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Margaret Tieger, Chief, Branch of Permits, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, 420 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AD64

1663. CONSOLIDATION OF LISTS OF WILDLIFE OF FEDERAL CONCERN

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1531 et seq; 16 USC 703; 16 USC 1361; 16 USC 4901; 18 USC 42; 16 USC 3371

CFR Citation: 50 CFR 10

Legal Deadline: None

Abstract: The Service proposes to consolidate into part 10 lists of plants and wildlife currently contained in various parts of subchapter B (parts 14, 15, 16, 17, 18, and 23).

Timetable:

Action	Date	FR Cite
ANPRM	03/19/96	61 FR 11180
ANPRM Comment Period End	05/03/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marshall Jones, Assistant Director, International Affairs, Department of the Interior, United States Fish and Wildlife Service, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AD66

1664. RECLASSIFICATION OF YACARE CAIMAN FROM ENDANGERED TO THREATENED WITH SPECIAL RULE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service will develop regulations to declassify populations of the Yacare caiman in South America. Also included in this rulemaking is a special rule to allow commercial trade in skins, other parts, and products of Yacare caimans from South America. The combination of actions proposed will have the effect of stimulated legal and responsible trade in Yacare caiman hides and, in this respect, constitutes removal of a barrier to trade.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Susan Lieberman, Chief, Office of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, 750 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AD67

1665. SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 3101 to 3126

CFR Citation: 36 CFR 242; 50 CFR 100

Legal Deadline: None

Abstract: Identification of waters included within ANILCA definition of public lands and amendment of Federal Subsistence Board's authority.

Timetable:

Action	Date	FR Cite
ANPRM	04/04/96	61 FR 15014

Action	Date	FR Cite
ANPRM Comment Period End	06/14/96	
NPRM	12/17/97	62 FR 66216
NPRM Comment Period End	04/20/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Boyd, Office of Subsistence Management, Department of the Interior, United States Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503
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RIN: 1018–AD68

1666. MIGRATORY BIRD HUNTING: REGULATIONS REGARDING PROHIBITION AGAINST ARTIFICIALLY ALTERING/MANIPULATING NATURAL VEGETATION IN MOIST AREAS TO ATTRACT WATERFOWL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 et seq; 16 USC 712; 16 USC 742

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: This action notifies the public and invites comments regarding promulgation of a separate rulemaking that will govern the manner in which or if at all natural vegetation in moist soil areas may be altered or manipulated artificially to attract waterfowl for hunting purposes. Previously, the subject regulations had been part of the ongoing review of 50 CFR 20 but now will be considered separately.

Timetable:

Action	Date	FR Cite
ANPRM	03/22/96	61 FR 11805
ANPRM Comment Period End	06/20/96	
NPRM	03/25/98	63 FR 14415
NPRM Comment Period Reopened	05/22/98	63 FR 28343
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kevin Adams, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, 520 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AD74

1667. FEDERAL AID IN SPORT FISH RESTORATION PROGRAM FOR PARTICIPATION FOR DISTRICT OF COLUMBIA AND INSULAR TERRITORIES AND COMMONWEALTHS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 669i; 16 USC 777i

CFR Citation: 50 CFR 80

Legal Deadline: None

Abstract: The Service is proposing to define new standards for the District of Columbia and Insular Territories and Commonwealths for participation in the Federal Aid in Sport Fish Restoration program by waiving the 10 percent cap on use of these funds for education.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bob Lang, Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, 140 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AD83

1668. CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES (CITES)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This will be a revision to an existing rule that will incorporate decisions/interpretations made at the last six Conferences of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Teiko Saito, Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, 700 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AD87

1669. ENDANGERED AND THREATENED SPECIES: REMOVAL OF LLOYD'S HEDGEHOG CACTUS FROM FEDERAL LIST OF ENDANGERED AND THREATENED PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to remove Lloyd's hedgehog cactus from the Federal list of endangered and threatened plants. Lloyd's hedgehog cactus was listed as endangered on October 26, 1979, due to threats of collection and highway projects. Recent evidence indicates that Lloyd's hedgehog cactus is not a distinct species but rather a hybrid. Lloyd's hedgehog cactus is presently known from four counties in west Texas and one county in New Mexico and from Chihuahua, Mexico.

Timetable:

Action	Date	FR Cite
NPRM	06/14/96	61 FR 30209
NPRM Comment Period End	08/13/96	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AD91

1670. RESCISSION OF ADMINISTRATIVE PROCEDURES FOR GRANTS IN AID (MARINE MAMMAL PROTECTION ACT OF 1972)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 16 USC 1361 to 1407

CFR Citation: 50 CFR 82

Legal Deadline: None

Abstract: The Service is rescinding 50 CFR 82, Administrative Procedures for Grants-in-Aid (Marine Mammal Protection Act of 1972). This regulation was determined unnecessary because funding has not been provided for many years and adequate instructions are contained in the Act and in existing regulations to disseminate funds if they become available in the future. This action is part of the regulatory reinvention effort.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bob Lang, Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, 140 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AD92

1671. SAFE HARBOR POLICY AND GUIDANCE FOR CANDIDATE AGREEMENTS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 13; 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes technical amendments to its general regulations implementing its permitting program. The proposed revisions would explain and clarify applicable general permit conditions to the permitting procedures associated with habitat conservation plans and safe harbor agreements issued under section 10 of the Endangered Species Act of 1973. The Service also announces a safe harbor policy under the Act, providing incentives for private and other non-Federal landowners to restore, enhance, or maintain habitat for endangered and threatened species. The Service, in cooperation with the appropriate State agencies, may enter into safe harbor agreements with non-Federal landowners to enhance the survival of listed species with the concurrence of the landowner, include proposed or candidate species in such agreements. A procedure and guidance for providing assurances to non-Federal landowners involved in candidate conservation also is proposed.

Timetable:

Action	Date	FR Cite
NPRM	06/12/97	62 FR 32189
NPRM Comment Period End	08/11/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AD95

1672. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ESTABLISHMENT OF A NONESSENTIAL EXPERIMENTAL POPULATION OF BLACK-FOOTED FERRETS IN NORTHWESTERN COLORADO AND NORTHEASTERN UT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service, in conjunction with the Bureau of Land Management, the Colorado Division of Wildlife, and the Utah Division of Wildlife Resources, proposes to introduce black-footed ferrets into northwestern Colorado/northeastern Utah. The northwestern Colorado/northeastern Utah experimental population area is proposed to be designated a nonessential experimental population in accordance with section 10(j) of the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	04/29/97	62 FR 23202
NPRM Comment Period End	06/30/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AD99

1673. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED REINTRODUCTION OF A NONESSENTIAL EXPERIMENTAL POPULATION OF GRIZZLY BEARS IN IDAHO AND MONTANA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to establish a nonessential experimental population of grizzly bears into the Bitterroot ecosystem in central Idaho and western Montana. This experimental population is proposed to be designated a nonessential experimental population in accordance with section 10(j) of the Act.

Timetable:

Action	Date	FR Cite
NPRM	07/02/97	62 FR 35762
NPRM Comment Period End	10/09/97	

Action	Date	FR Cite
NPRM Comment Period Reopened	10/28/97	62 FR 55774
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE00

1674. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ESTABLISHMENT OF NONESSENTIAL EXPERIMENTAL POPULATION OF TEN FRESHWATER MUSSELS IN HOLSTON RIVER SYSTEM IN TN AND VA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service plans to reintroduce ten mussels (Appalachian monkeyface pearlymussel, cracking pearlymussel, Cumberland monkeyface pearlymussel, dromedary pearlymussel, fanshell, orange-foot, pimpleback pearlymussel, ring pink mussel, rough pigtoe, and tan riffleshell) into historic habitat in the next 2 to 3 years. The mussels to be used in the reintroduction will include artificially propagated juveniles and adults taken from the wild, under certain circumstances. Mussel propagation technology currently is being developed using nonendangered surrogate species. The 4(d) rule will exempt unavoidable and unintentional take, such as fishing, boating, trapping, or wading.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1018–AE01

1675. REVISION TO SUBCHAPTER C—THE NATIONAL WILDLIFE REFUGE SYSTEM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 460k

CFR Citation: 50 CFR 25; 50 CFR 26; 50 CFR 27; 50 CFR 28; 50 CFR 29; 50 CFR 30; 50 CFR 31; 50 CFR 32; 50 CFR 34; 50 CFR 35; 50 CFR 36; 50 CFR 37

Legal Deadline: None

Abstract: The Service plans to rewrite subchapter C to include new public recreation policy on National Wildlife Refuges to include opening refuges to all public recreation (hunting, fishing, wildlife observation, photography, boating, hiking, camping, and picnicking) at the time of purchase. This is an administrative action and will not involve compliance cost to the public.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rick Coleman, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, MS 670 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1744
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Email: rick__coleman@fws.gov

RIN: 1018–AE02

1676. PROPOSED APPROVAL OF SELECTED STATE PROGRAMS ALLOWING THE EXPORT OF GINSENG HARVESTED IN 1997-1999

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This rule will announce findings on the export of American ginseng from the 1997-1999 harvest season in 25 states. The Service reviews information and data as a basis for determining whether to continue approval of export from specific States for this harvest season or to initiate changes. The State of Oregon intends to apply soon to export ginseng. Acceptance of information provided by State ginseng management programs allows the Service to expedite the issuance of permits as required by the CITES treaty.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Susan Lieberman, Chief, Office of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750 Arlington Square, 1849 C Street NW., Washington, DC 20240
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Email: susan__lieberman@fws.gov

RIN: 1018–AE03

1677. PROPOSED SPECIAL RULE WITH THE RECLASSIFICATION OF THE VICUNA FROM ENDANGERED TO THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This special rule will be associated with the reclassification of vicuna from endangered to threatened under the Endangered Species Act. The rule will provide for the conservation of the species and will stipulate conditions that must be met to allow for the importation of commercial specimens of the species.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Susan Lieberman, Chief, Office of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750 Arlington Square, 1849 C Street NW., Washington, DC 20240
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Email: susan__lieberman@fws.gov

RIN: 1018–AE04

1678. IMPORTATION, EXPORTATION, TRANSPORTATION OF WILDLIFE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: This rule would revise the Service regulations providing for user fee collections from commercial importers and exporters of wildlife and wildlife products. The Service proposes a licensing and fee scheme which will exempt certain commercial importers and exporters from our inspection fee, based upon specific criteria, including country of origin, numbers of items, and permitting requirements. We propose to modify our user fee regulations to grant relief to certain individuals and small businesses, meeting the outlined criteria, from the designated port inspection fee and nondesignated administrative fee and hourly minimums only. This proposal, if implemented, will allow us to continue to collect data on fee collections in order to analyze the impact of user fees on small businesses for future decision making.

Timetable:

Action	Date	FR Cite
NPRM	01/22/98	63 FR 3298
NPRM Comment Period End	03/23/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Kevin Adams, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS500 Arlington Square, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE08

1679. EXPORT OF AMERICAN ALLIGATOR FOR THE 1998-2000 HARVEST SEASONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23.57; 50 CFR 17.42(a)

Legal Deadline: None

Abstract: This rule will make minor changes in the tagging requirements for American alligator skins to conform with the CITES tagging resolution and announces proposed findings on the effects of the export of American alligator under CITES for the 1998-2000 harvest seasons. This rule provides for the export of American alligator parts and products under CITES.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Rosemarie Gnam, Chief, Branch of Operations, Department of the Interior, United States Fish and Wildlife Service, MS 700 Arlington Square, 1849 C Street NW., Washington, DC 20240
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Email: rosemarie__gnam@fws.gov

RIN: 1018–AE15

1680. ANNOUNCEMENT OF CITES ACTION CONCERNING CHANGES TO APPENDICES TO LISTED SPECIES; SERVICE ANNOUNCEMENT CONCERNING RESERVATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The Service will announce decisions by the Conference of the Parties to CITES held in Harare, Zimbabwe, June 9-20, 1997, and request comments on possible reservations.

Timetable:

Action	Date	FR Cite
NPRM	08/22/97	62 FR 44627
NPRM Comment Period End	09/12/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Federal

Agency Contact: Susan Lieberman, Chief, Office of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750 Arlington Square, 1849 C Street NW., Washington, DC 20240
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Email: susan__lieberman@fws.gov

RIN: 1018–AE16

1681. REVISIONS TO THE FEDERAL AID ADMINISTRATIVE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 777i; 16 USC 669i; 18 USC 701

CFR Citation: 50 CFR 80

Legal Deadline: None

Abstract: The Service proposes to revise part 80 to clarify the language in the administrative requirements section and simplify some of the procedures to enable the States and the public to better understand the procedures and requirements for obtaining and administering grants under the Federal Aid in Fish and Federal Aid in Wildlife Restoration Acts.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Tribal

Agency Contact: Bob Lang, Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS 420 Arlington Square, 1849 C Street NW., Washington, DC 20240
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Email: bob__lang@fws.gov

RIN: 1018–AE17

1682. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: PROPOSED ENDANGERED STATUS FOR BLACKBURN'S SPHINX MOTH FROM THE HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw or extend the rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service is proposing to add the Blackburn's sphinx moth to the list of endangered and threatened wildlife. The single remaining population is found on the island of Maui in the Hawaiian Islands. It is the largest (in adult form) native insect with a wing span of 5 inches.

Timetable:

Action	Date	FR Cite
NPRM	04/02/97	62 FR 15640
NPRM Comment Period End	06/02/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE20

1683. REGULATIONS FOR ADMINISTRATIVE AND VISITOR FACILITY SITES ON NATIONAL WILDLIFE REFUGES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 16 USC 460k; 16 USC 668dd; 16 USC 742a; 16 USC 3101; 44 USC 3501

CFR Citation: 50 CFR 36

Legal Deadline: None

Abstract: The Service proposes this amendment to current regulations in order to provide the Service with the proper authority to enforce regulations concerning public safety, protection of government property, and applicable State of Alaska fish and wildlife regulations on administrative and visitor facility sites which commonly are located outside the approved boundaries of national wildlife refuges.

Timetable:

Action	Date	FR Cite
NPRM	06/27/97	62 FR 34681
NPRM Comment Period End	08/26/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rick Coleman, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, 670 ARLSQ, 1849 C Streets NW., Washington, DC 20240
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Fax: 703 358-2248
Email: rick__coleman@fws.gov

RIN: 1018–AE21

1684. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED STATUS FOR TEN PLANT TAXA FROM MAUI NUI, HAWAII

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service proposes endangered status pursuant to the Endangered Species Act of 1973 for 10 plant taxa without critical habitat designation. All 10 taxa are endemic to the Maui Nui group of islands in the Hawaiian Islands. This group includes Maui, Molokai, Lanai, and Kahoolawe and are found in a wide range of vegetative communities, elevation zones, and moisture regimes. The 10 plant taxa and their habitats have been variously affected or are currently threatened by one or more of the following: competition, predation or habitat degradation from alien species, natural disasters, and random environmental events.

Timetable:

Action	Date	FR Cite
NPRM	05/15/97	62 FR 26757
NPRM Comment Period End	07/14/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARL SQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE22

1685. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR TWO LARKSPURS FROM COASTAL NORTHERN CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service proposes endangered status pursuant to the Endangered Species Act of 1973 for two plants (Baker's larkspur and yellow larkspur). These species grow in a variety of habitats including coastal prairie, coastal scrub or chaparral in Sonoma and Marin counties in northern California. Habitat loss and degradation, sheep grazing, road maintenance activities, and overcollection imperil the continued existence of these plants. Random events increase the risk of extinction to the extremely small plant populations.

Timetable:

Action	Date	FR Cite
NPRM	06/19/97	62 FR 33383
NPRM Comment Period End	08/18/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARL SQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE23

1686. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR IONE BUCKWHEAT AND THREATENED STATUS FOR IONE MANZANITA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service proposed endangered status for ione buckwheat (a perennial herb) and threatened status for ione manzanita (an evergreen shrub of the heath family). These two species occur primarily on gravelly clay soils with iron oxide crust within chaparral (derived from the iron formation) in Amador or Calaveras counties in the central Sierra Nevada foothills of California. They are imperiled by one or more of the following factors: mining, clearing of vegetation for agriculture and fire protection, disease, inadequate regulatory mechanisms, habitat fragmentation, residential and commercial development, changes in fire frequency, and continued erosion due to prior off-road vehicle use. Random events increase the risk to the few, small populations of ione buckwheat. Ownership of most occurrences of these two species is private. One population of each occurs on Federal land managed by the Bureau of Land Management. Other potential Federal involvement includes the use of Federal highway funds, the permitting of lignite or coal mines through the Office of Surface Mining Reclamation and Enforcement, and the relicensing of hydro-electric projects by the Federal Energy Regulatory Commission.

Timetable:

Action	Date	FR Cite
NPRM	06/25/97	62 FR 34190
NPRM Comment Period End	08/25/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE25

1687. IMPORTATION OF POLAR BEAR TROPHIES FROM CANADA; ADDITION OF POPULATIONS TO THE LIST OF AREAS APPROVED FOR IMPORT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: This rule announces proposed findings on the import of polar bears taken in sport hunts in the areas formerly known as Parry Channel-Baffin Bay and Queen Elizabeth Islands, Northwest Territories, Canada. These findings include polar bears taken but not imported prior to enactment of the 1994 amendments to the Marine Mammal Protection Act (MMPA). The Service summarizes the new research data used by Canada to redefine these areas into five populations: Queen Elizabeth Islands, Norwegian Bay, Kane Basin, Lancaster Sound and Baffin Bay and provides a summary of the Nunavut Land Claim and the new flexible quota option. The Service proposes to find that Lancaster Sound and Norwegian Bay meet the requirements of the MMPA and to add them to the list of approved populations in the regulations. On the other hand, the Service proposes to defer the decision on the remaining three populations: Queen Elizabeth Islands, Baffin Bay and the Kane Basin. The Service intends to make these findings for multiple sport hunting seasons pending receipt of substantial new information or review as required under the MMPA.

Timetable:

Action	Date	FR Cite
NPRM	02/02/98	63 FR 5340
NPRM Comment Period End	03/04/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Maggie Tieger, Chief, Branch of Permits, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, 420 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE26

1688. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED THREATENED STATUS FOR NEWCOMB'S SNAIL FROM THE HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service proposes threatened status pursuant to the Endangered Species Act of 1973, as amended, for Newcomb's snail. This freshwater snail is restricted to the Hawaiian Island of Kauai. The known

historic distribution of this snail has greatly decreased and extant populations are presently limited to restricted habitats on five perennial streams on State land. The five known populations of this snail and its habitat are currently threatened by predation by a species of non-native predatory snail and two species of non-native marsh flies. These populations are also subject to an increased likelihood of extirpation from naturally occurring events, including natural disasters such as hurricanes and landslides. All populations of this species occur on State-owned lands.

Timetable:

Action	Date	FR Cite
NPRM	07/21/97	62 FR 38953
NPRM Comment Period End	09/19/97	
NPRM Comment Period Reopened	11/12/97	62 FR 60676
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE27

1689. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST KLAMATH RIVER POPULATION SEGMENT OF BULL TROUT AS ENDANGERED AND COLUMBIA RIVER POPULATION SEGMENT AS THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service proposes to list the Klamath River population segment of bull trout (members of the char subgroup in the salmon family) as endangered from south-central Oregon and the Columbia River population segment of bull trout as threatened from the northwestern United States and British Columbia, Canada, with a special rule pursuant to the Endangered Species Act of 1973. The Klamath River population segment, comprised of seven bull trout populations from south-central Oregon, is threatened by habitat degradation, passage restrictions at dams, and competition from non-native lake and brook trout. The special rule allows for take of bull trout within the Columbia River population segment if in accordance with applicable State fish and wildlife conservation laws and regulations. Pursuant to a court order, this rule is based on the 1994 administrative record. All available information, including current data, will be considered prior to promulgation of a final rule.

Timetable:

Action	Date	FR Cite
NPRM	06/13/97	62 FR 32268
NPRM Comment Period Reopened	08/05/97	62 FR 42092
NPRM Comment Period End	08/12/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE29

1690. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR THE PLANT KECK'S SIDALCEA FROM TULARE COUNTY, CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service proposes to list Sidalcea keckii (Keck's sidalcea) as endangered pursuant to the Endangered Species Act of 1973. This annual herb (belonging to the mallow family) is threatened by urban development, agricultural land conversion, and random events. The species (found on sparsely vegetated slopes of serpentine-derived clay in annual grasslands) is known only from one population in the south-central Tulare County on private land and is not in an approved habitat conservation plan. The likelihood of any Federal involvement is small, however, the Bureau of Reclamation's renewal of the Central Valley Project Friant water contracts may affect the species.

Timetable:

Action	Date	FR Cite
NPRM	07/28/97	62 FR 40325
NPRM Comment Period Reopened	09/24/97	62 FR 49954
NPRM Comment Period End	09/26/97	
NPRM Comment Period Reopened	01/22/98	63 FR 3301
NPRM Comment Period Reopened	08/29/98	63 FR 44417
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE30

1691. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED RULE TO LIST THE ILLINOIS CAVE AMPHIPOD AS ENDANGERED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service proposes endangered status pursuant to the Endangered Species Act of 1973 for the Illinois cave amphipod, Gammarus acherondytes. Historically, the amphipod was known from six cave streams in Monroe and St. Clair counties, Illinois. Recent surveys have found the species at only three of the original six sites. The species is believed to be threatened primarily by groundwater pollution which is likely due to the application of pesticides in cave stream recharge areas. A possible secondary threat is contamination of subsurface water by human and animal wastes from sewage and septic systems and livestock feedlots. The Monroe-Randolph Bi-County Health Department supports listing this species as a means of justifying greater protection for groundwater in the Karst area. Also the Natural Heritage Division of the Illinois Department of Conservation supports Federal listing of this species. It is currently a State-listed endangered species.

Timetable:

Action	Date	FR Cite
NPRM	07/28/97	62 FR 40319
NPRM Comment Period End	09/26/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE31

1692. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR PLANT IN WENATCHEE MOUNTAINS OF WASHINGTON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for 6 months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service proposes endangered species status pursuant to the Endangered Species Act of 1973 for the Wenatchee Mountains checker-mallow (Sidalcea oregana var calva). This plant is endemic to meadows that have surface water on saturated soil in the spring and early summer at middle elevations in the Wenatchee Mountains of Chelan county, Washington. Although five populations of this plant are known, three of these have very few individuals. The estimated total number of plants is about 3,300. The primary threats to this plant include alterations of hydrology, rural residential development and associated activities, competition from native and alien plants, recreation, fire suppression and activities associated with fire suppression. To a lesser extent, the taxon is threatened by livestock grazing, road construction and timber harvesting and associated impacts including changes in surface-runoff in the small watersheds in which the plant occurs. This proposal, if made final, would implement the Federal protection and recovery programs of the Act for this plant.

Timetable:

Action	Date	FR Cite
NPRM	08/01/97	62 FR 41328
NPRM Comment Period End	09/30/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE32

1693. EXPORTATION OF MARINE MAMMAL PRODUCTS FOR CULTURAL EXCHANGE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: This regulatory action concerns a modification to export marine mammal products and to Native exemption provisions in the Marine Mammal Protection Act. The action will be made to allow for cultural exchange of marine mammal products between Natives of Alaska, Greenland, Russia and Canada.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Kevin Adams, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, 520 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE33

1694. INJURIOUS WILDLIFE; ADDITION OF BRUSH-TAILED POSSUM

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: The Service proposes to review the economic and biological information on the brush-tailed possum of genus Trichosurus for possible addition to the list of injurious wildlife under the Lacey Act.

Timetable:

Action	Date	FR Cite
ANPRM	01/24/96	61 FR 1893
ANPRM Comment Period End	03/25/96	
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hannibal Bolton, Chief, Fish and Wildlife Management, Assistance, Department of the Interior, United States Fish and Wildlife Service, 840 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE34

1695. MIGRATORY BIRD HUNTING; EXTENSION OF TEMPORARY APPROVAL OF TUNGSTEN-IRON SHOT AS NONTOXIC FOR THE 1998-99 SEASON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 to 711; 16 USC 712; 16 USC 742a to 742j

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service is proposing to amend section 20.21(j) to grant temporary approval of tungsten-iron shot as nontoxic for the 1998-99 migratory bird hunting season, except in the Yukon-Kuskokwim (Y-K) Delta, Alaska. The Service has previously granted temporary approval of tungsten-iron shot as nontoxic for the 1997-98 season. The toxicological report, which is an extensive literature search and analysis of tungsten and tungsten-iron, suggests that these compounds are nontoxic under assumed use and in the environment. Analysis of the toxicity study reveals no adverse effects over a 30-day period when dosing mallards with 8 bb-size tungsten-iron shot. However, there is some concern that the absorption of tungsten into the femur, kidney, and liver could potentially affect the spectacled eider, a species already subject to adverse weather, predation, and lead poisoning on the Y-K Delta. Until a reproductive/chronic toxicity test has been completed and the Service has reviewed the results, tungsten-iron shot will not be approved for the Y-K Delta.

Timetable:

Action	Date	FR Cite
NPRM	07/27/98	63 FR 40777
NPRM Comment Period End	08/26/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul R. Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, 634 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE35

1696. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LIST 3 AQUATIC SNAILS AS ENDANGERED; 3 AQUATIC SNAILS AS THREATENED IN MOBILE RIVER BASIN, ALABAMA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list cylindrical lioplax, flat pebblesnail and plicate rocksnail as endangered; painted rocksnail, round rocksnail and lacy elimia as threatened species under the Endangered Species Act of 1973, as amended. These aquatic snails are found in localized portions of the Black Warrior, Cahaba, Alabama and Coosa Rivers or their tributaries in Alabama. Impoundment and water quality degradation have eliminated the 6 snails from 90 percent or more of their historic habitat. Surviving populations are currently threatened by pollutants such as sediments and nutrients that wash into streams from the land surface.

Timetable:

Action	Date	FR Cite
NPRM	10/17/97	62 FR 54020
NPRM Comment Period End	12/16/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 4401 N. Fairfax Drive, Arlington, VA 22203
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RIN: 1018–AE36

1697. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; THREATENED STATUS FOR VIRGINIA SNEEZEWEED; A PLANT FROM THE SHENANDOAH VALLEY OF VIRGINIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list Virginia Sneezeweed (Helenium Virginicum) as a threatened species, under the authority of the Endangered Species Act of 1973, as amended. This rare plant is restricted to seasonally inundated sinkhole ponds and meadows in Augusta and Rockingham Counties, Virginia. Five of the 25 known extant populations are on U.S. Forest Service land, the others are on private land. This perennial plant is threatened by residential development, incompatible agricultural practices, filling and ditching of its wetland habitat and other disruptions of its habitat and the hydrology that maintains it. At several sites, ditches have been constructed to reduce the length of time that standing water is present. This has caused the species at one of the sites to be reduced to near extinction. Virginia Sneezeweed is presently listed as endangered by the State of Virginia.

Timetable:

Action	Date	FR Cite
NPRM	09/29/97	62 FR 50896
NPRM Comment Period End	11/28/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE37

1698. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR TWO CAVE ANIMALS FROM HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes endangered status pursuant to the Endangered Species Act of 1973 for two animals, the Kauai Cave Wolf Spider and the Kauai Cave Amphipod. These two species are found on the Hawaiian Island of Kauai. The Kauai Cave Wolf Spider is known from two populations and the Kauai Cave Amphipod is known from four populations. These animals and their habitats have been variously affected or are currently threatened by the following: habitat degradation/loss from development; competition for space, water, and nutrients by naturalized introduced animals; biological/chemical pesticide use; and an increased likelihood of extinction from proposed development activities and naturally occurring events. This proposal, if made final, would extend Federal protection and recovery provisions of the Act for these animal taxa. Additionally, Hawaii State regulations protecting these animals would be triggered. All populations of these species occur on privately owned lands.

Timetable:

Action	Date	FR Cite
NPRM	12/05/97	62 FR 64340
NPRM Comment Period End	02/03/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE39

1699. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR TWO SAN JOAQUIN VALLEY MAMMALS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list the Riparian Brush Rabbit and Woodrat pursuant to the Endangered Species Act of 1973. The Brush Rabbit and Woodrat inhabit riparian communities along the lower portions of the San Joaquin and Stanislaus Rivers (within Caswell State Park) in the Northern San Joaquin Valley, California. Only a single remaining population of each species has been confirmed. Potential threats to these species include flooding, wildlife, predation, and other factors.

Timetable:

Action	Date	FR Cite
NPRM	11/21/97	62 FR 62276
NPRM Comment Period End	01/20/98	
NPRM Comment Period Reopened	04/13/98	63 FR 17981
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE40

1700. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST ST. ANDREW BEACH MOUSE AS ENDANGERED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes endangered status for the St. Andrews beach mouse pursuant to the Endangered Species Act of 1973, as amended. This subspecies is restricted to coastal sand dunes and had an historic distribution that included the northeast FL panhandle from Gulf County into portions of Bay County. Its current range is limited to a portion of the St. Joseph Peninsula in Gulf County within St. Joseph Peninsula and William J. Rish State Parks and some private lands. Habitat impacts causing loss of mice and the species' local capability to recover from such impacts are primarily responsible for the range curtailment. Threats to beach mouse habitat include severe storms, coastal land development and its associated activities, and non-storm related natural shoreline erosion. Additional threats include predation by free-ranging domestic cats and displacement by house mice. This species is State-listed as endangered.

Timetable:

Action	Date	FR Cite
NPRM	10/17/97	62 FR 54028
NPRM Comment Period End	12/16/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE41

1701. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LIST TOPEKA SHINER AS ENDANGERED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list the Topeka shiner as an endangered species under the authority of the Endangered Species Act of 1973, as amended. The Topeka shiner is a small fish, presently known from small tributary streams in the Kansas and Neosho River Basins in Kansas; the Missouri, Grand, Loamine, Chariton,

and Des Moines River Basins in Missouri; the North Racoon River Basin in Iowa; the James and Vermillion River watersheds in South Dakota; and the Rock River watershed in Minnesota. More than 95 percent of the remaining populations of the Topeka shiner occur on private lands with the remaining populations on State and Federal lands belonging to the States of Kansas and Missouri and the National Park Service. The Topeka shiner is threatened by habitat destruction, degradation, modification, and fragmentation resulting from siltation, reduced water quality, tributary impoundment, stream channelization, and stream dewatering. The species is also impacted by introduced predatious fishes.

Timetable:

Action	Date	FR Cite
NPRM	10/24/97	62 FR 55381
NPRM Comment Period End	12/23/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE42

1702. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED DETERMINATION OF THREATENED STATUS FOR KOALA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposed to determine threatened status for the Australian koala. The eucalyptus forest and woodland ecosystem on which this arboreal marsupial depends has been reduced by more than half and is continuing to deteriorate. The species also is threatened by habitat fragmentation and consequent potential loss of genetic viability, disease, and other factors. This proposal incorporates a finding that a petition requesting the listing of the koala is warranted. It is emphasized that any final rule resulting from this proposal would classify the koala or certain populations thereof as endangered or could exempt certain populations from any classification.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE43

1703. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR PLANT ROUGH POPCORNFLOWER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list the plant rough popcornflower as an endangered species under the authority contained in the Endangered Species Act of 1973, as amended. This species is restricted to wet swales and meadows in Douglas County, Oregon, where only 10 occurrences are known. Most populations are small with few individuals. The total estimated number of plants is 3,000 within a combined area of about 10 acres (most on private land). Threats to this species include destruction and/or alteration of habitat by development and hydrological changes (e.g., wetland fills, draining, construction); spring and summer grazing by domestic cattle, horses, and sheep; roadside maintenance; and competition from native and alien plant species.

Timetable:

Action	Date	FR Cite
NPRM	11/20/97	62 FR 61953
NPRM Comment Period End	01/20/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE44

1704. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED REVISION OF SPECIAL REGULATIONS FOR GRAY WOLF

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: On November 22, 1994, the Service published special rules to establish nonessential experimental populations of gray wolves in Yellowstone National Park and central Idaho. The nonessential experimental population areas include all of Wyoming, most of Idaho, and much of central and southern Montana. This proposed revision is to amend a section of the special regulations so that it clearly applies within the Yellowstone nonessential experimental population area and the central Idaho nonessential experimental population area as described in 7(ii). Ongoing litigation requires the clarification of the Service's need and authority to remove these animals from the area through live capture or lethal means in the interest of attaining gray wolf recovery goals. This proposed change will not affect any of the assumptions and earlier analysis made in the environmental impact statement or other portions of the special rules.

Timetable:

Action	Date	FR Cite
NPRM	12/11/97	62 FR 65237
NPRM Comment Period End	01/12/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1018–AE45

1705. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR CATESBAEA MELANOCARPA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to determine catesbaea melanocarpa (no common name) to be an endangered species pursuant to the Endangered Species Act of 1973, as amended. Catesbaea melanocarpa (branching shrub) is known from Puerto Rico, St. Croix in the U.S. Virgin Islands, Barbuda, Antigua, and Guadeloupe. In Puerto Rico, it is currently known from only one location in Cabo Rojo, and in the U.S. Virgin Islands it is known from one location near Christiansted, St. Croix. Both populations are located on privately owned land subject to intense pressure for development for residential tourism and industrial purposes.

Timetable:

Action	Date	FR Cite
NPRM	12/16/97	62 FR 65783
NPRM Comment Period End	02/17/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1018–AE48

1706. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR OAHU ELEPAIO FROM THE HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes endangered status pursuant to the Endangered Species Act of 1973, as amended, for the Oahu elepaio. This bird is endemic to the Island of Oahu, HI, where it was formerly found in all forested areas on the island. It is currently found in greatly reduced numbers and range in six isolated populations occurring in mid-elevation forests in the southern Koolau mountain range and parts of the Waianae mountain range. The Oahu elepaio is now thought to occupy less than 8 percent of its original, prehistoric range. It may have been affected in the past or continue to be threatened by one or more of the following: habitat degradation, including habitat fragmentation; population fragmentation; predation by introduced alien mammals; competition from introduced alien birds, and introduced avian disease. The Oahu elepaio is also subject to an increased likelihood of extinction from naturally occurring events, including natural disasters.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE51

1707. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED THREATENED STATUS FOR PLANT HOWELL'S SPECTACULAR THELYPODY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list Howell's spectacular thelypody as threatened pursuant to the Endangered Species Act of 1973, as amended. This plant is known from 11 sites in Baker and Union Counties, OR, all on privately-owned land. This taxon is threatened by a variety of factors including habitat destruction and fragmentation from agricultural and urban development, grazing by domestic livestock, competition from non-native vegetation, and alterations of wetland hydrology.

Timetable:

Action	Date	FR Cite
NPRM	01/13/98	63 FR 1948
NPRM Comment Period Reopened	03/05/98	63 FR 10817
NPRM Comment Period End	03/16/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1018–AE52

1708. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DETERMINATION OF THE PECOS PUPFISH TO BE ENDANGERED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, April 1, 1998.

Abstract: The Service proposes to list the Pecos pupfish as an endangered

species under the authority of the Endangered Species Act of 1973, as amended. The historical range of the Pecos pupfish included the mainstream Pecos River from the vicinity of Roswell, Chaves County, New Mexico, downstream to the vicinity of Sheffield, Pecos County, Texas, and included various lakes, gypsum sinkholes, saline springs, and tributaries associated with the river. The primary reason for the rapid range reduction is hybridization with and/or replacement by the Sheepshead minnow, a nonnative species introduced into the Pecos River between 1980 and 1984.

Timetable:

Action	Date	FR Cite
NPRM	01/30/98	63 FR 4608
NPRM Comment Period Reopened	03/27/98	63 FR 14892
NPRM Comment Period End	03/31/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1018–AE56

1709. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LIST DESERT MILK VETCH AS THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, April 1, 1998.

Abstract: The Service proposes to list desert milk vetch, a low-growing herbaceous plant in the bean family with white flowers and compound leaves, as threatened. This species is restricted to a sandstone outcropping near the town of Birdeye, Utah County, UT. It is threatened by cattle grazing and trampling, residential development and low numbers.

Timetable:

Action	Date	FR Cite
NPRM	01/28/98	63 FR 4207
NPRM Comment Period End	03/30/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE57

1710. SEASONAL CLOSURE OF THE MOOSE RANGE MEADOWS PUBLIC ACCESS EASEMENTS IN THE KENAI NATIONAL WILDLIFE REFUGE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 460k et seq; 16 USC 668dd et seq; 16 USC 742a et seq; 16 USC 3101 et seq; 44 USC 3501 et seq; PL 105-57

CFR Citation: 50 CFR 36

Legal Deadline: None

Abstract: The Service proposes to restrict public access and use of public easements in the Moose Range Meadows area within the boundary of the Kenai National Wildlife Refuge (Refuge). Public access and use will be prohibited on the Service-managed easements from July 1 through August 15 annually. The seasonal closure will be in effect on the 25-foot-wide streamside easements on both banks of the Kenai River, and on the 25-foot-wide access easements running from Funny River Road and Keystone Drive to the downstream ends of the stream side easements on the south and north banks of the river, respectively.

Timetable:

Action	Date	FR Cite
NPRM	03/18/98	63 FR 13158
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Pospahala, Chief, Office of Subsistence Management, Department of the Interior, United States Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503
Phone: 907 786-3467

RIN: 1018–AE58

1711. PUBLIC USE REGULATIONS FOR KODIAK NATIONAL WILDLIFE REFUGE, ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 460(k) et seq; 16 USC 668dd et seq; 16 USC 3101 et seq

CFR Citation: 50 CFR 36

Legal Deadline: None

Abstract: The Service will propose regulations to implement portions of the Public Use Management Plan (PUMP) for the Kodiak National Wildlife Refuge. Proposed regulations will include access restrictions and specific requirements and limitations related to commercial and administrative structures, camping, snow machines, pack animals, tent platforms, food containers, and fish cleaning. The PUMP was prepared with an environmental assessment and was reviewed in an appropriate public involvement process. The final document was released in November 1993. By implementing the PUMP, compatible public uses will be allowed while protecting the refuge resources.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bob Stevens, Refuges and Wildlife, Department of the Interior, United States Fish and Wildlife Service, 1011 E Tudor Road, Anchorage, AK 99503
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RIN: 1018–AE60

1712. EAGLE PERMITS; PERMITS FOR FALCONRY PURPOSES; PERMITS TO TAKE GOLDEN EAGLE NESTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 668a

CFR Citation: 50 CFR 22.24; 50 CFR 22.25

Legal Deadline: None

Abstract: The Service proposes to amend the eagle permit regulations providing for the taking, possession, and transportation of bald and golden eagles. The Service is revising the requirements for falconry purposes. The Service is adding additional requirements to allow a limited amount of take (relocation or destruction) of inactive bald eagle nests in Alaska.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 1018–AE62

1713. MIGRATORY BIRD PERMITS; SPECIFIC PERMIT PROVISIONS; IMPORT AND EXPORT PERMITS; BANDING OR MARKING PERMITS; AND SCIENTIFIC COLLECTING PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 712(2)

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: The Service proposes to amend the Migratory Bird Permit Regulations providing permits for the taking, possession, transportation, sale, purchase, importation, exportation, and banding or marking of migratory birds. The Service is revising the requirements for scientific collecting, banding or marking permits and import and export permits.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 1018–AE63

1714. MIGRATORY BIRD PERMITS; INTRODUCTION, GENERAL REQUIREMENTS AND EXCEPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 712(2)

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: The Service proposes to amend the migratory bird permit regulations providing permits for the taking, possession, transportation, sale, purchase, and barter of migratory birds. The Service is revising these permit calculations to update, simplify language, clarify and ensure consistency in text between all parts and sections.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 1018–AE64

1715. IMPORTATION, EXPORTATION AND TRANSPORTATION OF WILDLIFE CONCERNING INTERNATIONAL MAIL, PET BIRDS, BORDER PORTS, SHELLFISH AND FISHERY PRODUCTS EXEMPTION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: The Service proposes this regulatory action that will make changes to part 14, Importation, Exportation and Transportation of Wildlife concerning international mail, pet birds, border ports and shellfish and fishery products exemption. Changes will involve requiring a declaration of commercial mail wildlife shipments, requiring Wild Bird Conservation Act permitted shipments to go through a designated port, clarifying use of border ports, and clarifying current exemptions for shellfish and fishery products.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 1018–AE70

1716. IMPLEMENTATION OF THE 1994 AMENDMENTS TO THE MARINE MAMMALS PROTECTION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1374

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: Section 104 of the Marine Mammal Protection Act authorizes the Director of the Service, acting on behalf of the Secretary of the Interior, to issue permits for activities otherwise prohibited by the Act. Per the 1994 amendments to the Act, regulations will be developed for issuance of general authorizations and permits.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margaret Tieger, Chief, Branch of Permits, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, 700 ARLSQ, 1849 C Street NW., Washington, DC 20240
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Email: margaret__tieger@fws.gov

RIN: 1018–AE72

1717. RECLASSIFICATION OF THE NAMIBIAN POPULATION OF CHEETAH FROM ENDANGERED TO THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361; 16 USC 1531 et seq; 16 USC 4201; PL 99-625

CFR Citation: 50 CFR 17.11

Legal Deadline: None

Abstract: The Service proposes to reclassify the cheetah in Namibia from endangered to threatened based on a review of the population status and management, including protected status, of the species within that country. Namibia has one of the largest populations of the cheetahs within the species' extensive range (much of Africa and Iran).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Susan Lieberman, Chief, Office of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, 750 ARLSQ, 1849 C Street NW., Washington, DC 20240
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Email: susan__lieberman@fws.gov

RIN: 1018–AE73

1718. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST AS ENDANGERED OR THREATENED GENTNER'S FRITILARIA (MISSION BELLS)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, April 1, 1998.

Abstract: The Service proposes to list as endangered or threatened Gentner's fritilaria (missionbells). This species is known from Josephine and Jackson Counties, Oregon. Threats include housing development, succession, logging and collection.

Timetable:

Action	Date	FR Cite
NPRM	03/23/98	63 FR 13819
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE75

1719. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST AS ENDANGERED OR THREATENED MARIANA FRUIT BAT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, April 1, 1998.

Abstract: The Service proposes to list as endangered or threatened the Mariana fruit bat (Pteropus mariannus mariannus). This species is known from the Commonwealth of the Northern Mariana Islands, Saipan, Tinian, and Agiguan Islands. Threats include deforestation, overhunting, poaching, and snake predation.

Timetable:

Action	Date	FR Cite
NPRM	03/26/98	63 FR 14641
NPRM Comment Period Reopened	05/29/98	63 FR 29367
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE83

1720. ENDANGERED AND THREATENED SPECIES; PROPOSAL TO LIST NORTHERN IDAHO GROUND SQUIRREL AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, April 1, 1998.

Abstract: The Service proposes to list as endangered or threatened the Northern Idaho ground squirrel (Spermophilus brunneus brunneus). This species is known from Adams County, ID. Threats include agricultural land conversion, meadow invasion of conifers, grazing by domestic livestock, off-road and on-road vehicle use, campground expansion and recreational shooting.

Timetable:

Action	Date	FR Cite
NPRM	03/23/98	63 FR 13825
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE84

1721. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST AS ENDANGERED OR THREATENED COWHEAD LAKE TUI CHUB

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, April 1, 1998.

Abstract: The Service proposes to list as endangered or threatened Cowhead Lake tui chub (Gila bicolor vaccaceps). This species is known from Moduc County, CA. Threats include diversion of water, reduction of riparian vegetation, and predation from snakes and birds and pesticides.

Timetable:

Action	Date	FR Cite
NPRM	03/30/98	63 FR 15152
NPRM Comment Period End	05/29/98	
NPRM Comment Period Reopened	06/17/98	63 FR 33033
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE85

1722. ENDANGERED AND THREATENED WILDLIFE AND PLANTS, PROPOSAL TO LIST DEVIL'S RIVER MINNOW AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, April 1, 1998.

Abstract: The Service proposes to list as endangered or threatened Devil's River minnow (Dionda diaboli). This species is known from Val Verde County, TX. Threats include habitat loss from inundation at Amistad Reservoir and reduced instream flow caused by diversions or drought.

Timetable:

Action	Date	FR Cite
NPRM	03/27/98	63 FR 14885
NPRM Comment Period Reopened	05/14/98	63 FR 26764
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE86

1723. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST COLORADO BUTTERFLY PLANT AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, April 1, 1998.

Abstract: The Service proposes to list as endangered or threatened the Colorado butterfly plant (Gaura neoexicana ssp. coloradensis). This species is known from Laramie County, WY, and northern Weld County, CO. Threats include herbicide application for noxious weeds and natural succession/competition from shrubs, forbs and introduced weeds.

Timetable:

Action	Date	FR Cite
NPRM	03/24/98	63 FR 14060
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE87

1724. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST AS ENDANGERED OR THREATENED PUZZLE SUNFLOWER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, April 1, 1998.

Abstract: The Service proposes to list Puzzle sunflower (Helianthus paradoxus) as endangered or threatened. This species is known from TX and NM. Threats include falling water tables and depleted springs.

Timetable:

Action	Date	FR Cite
NPRM	04/01/98	63 FR 15808
NPRM Comment Period End	06/01/98	
NPRM Comment Period Reopened	06/15/98	63 FR 32635
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE88

1725. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING OF SEVERAL EVOLUTIONARY SIGNIFICANT UNITS OF WEST COAST STEELHEAD

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service is adding several evolutionary significant units (ESU) of west coast steelhead to the list of endangered and threatened wildlife in accordance with the Endangered Species Act of 1973, as amended. The southern California and Upper Columbia River Basin ESU are added as endangered, and the central California coast, south-central California coast Snake River Basin, lower Columbia River, and Central Valley California ESUs are added as threatened. This amendment is based on determinations by the National Marine Fisheries Service, National Oceanic Atmospheric Administration, Department of Commerce, which has jurisdiction over this species.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE97

1726. • AMENDMENT BY BRAZIL TO APPENDIX III LISTING OF BIGLEAF MAHOGANY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The Service announces an amendment to the appendix III listing of bigleaf mahogany under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The species in the Americas and its logs, sawn wood, and veneer sheets have been included in appendix III since November 1995, based on an action by the Government of Costa Rica. The Government of Brazil has supplied information to the CITES Secretariat to independently include its population in appendix III to support its national legislation for species and the need for cooperation of other CITES countries in controlling the international trade. The Service will consider any comments received on whether to enter a reservation on the Federative Republic of Brazil's action for its population.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Susan Lieberman, Chief, Office of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, 750 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE99

1727. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LIST COASTAL-PUGET SOUND JARBIDGE RIVER AND ST. MARY'S-BELLY RIVER POPULATION SEGMENTS OF BULL TROUT AS THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list the Coastal-Puget Sound population segment of Bull Trout from the coastal drainages and Puget Sound in western Washington; the Jarbidge River population segment of Bull Trout from the Jarbidge River Basin in Southern Idaho and Northern Nevada; and the St. Mary-Belly River population segment of Bull Trout in St. Mary and Belly Rivers in Northwestern Montana as threatened with a special rule, pursuant to the Endangered Species Act of 1973. The fish is threatened by one or more of the following: habitat degradation from past and ongoing land management activities such as mining, road construction and maintenance, and grazing. The special rule allows for take of Bull Trout within three population segments if in accordance with applicable State and Native American tribal fish and wildlife conservation laws and regulations, and conservation plans.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AF01

1728. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST CONTIGUOUS U.S. DISTINCT POPULATION SEGMENTS OF CANADA LYNX AS THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list the contiguous States population of the Canada lynx as threatened, with a special rule, pursuant to the Endangered Species Act of 1973, as amended. This population segment includes the States of Washington, Oregon, Idaho, Montana Utah, Wyoming, Colorado, Minnesota, Wisconsin, Michigan, Maine, New Hampshire, Vermont, New York, Pennsylvania, and Massachusetts The contiguous U.S. population segment of the Canada lynx is threatened by human alteration of forests, low numbers as a result of past overexploitation, expansion of the range of competitors (bobcats, coyotes), and elevated levels of human access into lynx habitat. This rule also lists the captive population of Canada lynx within the coterminous U.S. (lower 48) as threatened due to similarity of appearance with a special rule.

Timetable:

Action	Date	FR Cite
NPRM	07/08/98	63 FR 36994
NPRM Comment Period End	09/30/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AF03

1729. • ANNOUNCEMENT OF DRAFT POLICY FOR EVALUATION OF CONSERVATION EFFORTS IN MAKING LISTING DECISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Fish and Wildlife Service and the National Marine Fisheries Service announce a draft policy for the evaluation of conservation efforts in making listing decisions under the Endangered Species Act of 1973, as amended (Act). The policy identifies criteria to be used in determining whether conservation agreements, conservation plans, management plans, or other formalized conservation efforts remove the need to list a species as threatened or endangered under the Act.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AF11

1730. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST THE ALABAMA STURGEON AS ENDANGERED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Alabama sturgeon occurs in Alabama. The primary threat to the continued survival of the Alabama sturgeon is its limited numbers, and its apparent inability to increase its population size and range.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AF12

1731. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST THE SCALESHELLED MUSSEL AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The scaleshelled mussel is known to occur in Missouri, Arkansas, and Oklahoma. Threats include a general deterioration of water quality.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AF14

1732. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST SCLEROCACTUS BREVISPINUS (PARIETTE CACTUS) AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This species was recently described as a new species in 1994. It was previously included in Sclerocactus glaucus (Vinta Basin Hookless Cactus), a threatened species under the Endangered Species Act. This proposal is to address this change in taxonomy.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AF15

1733. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST ALLIUM GOODDINGII (GOODDING'S ONION) AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This perennial plant occurs in Arizona and New Mexico. Logging, grazing, road construction and recreation impacts are the reasons for the declining status of the species.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AF18

1734. • PROPOSED DELISTING OF THE GRIZZLY BEAR IN THE YELLOWSTONE ECOSYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The grizzly bear is classified as a threatened species in the lower 48 States. Six distinct recovery zones have been established in the States of Wyoming, Montana, Idaho and Washington. The Yellowstone Ecosystem (Yellowstone Recovery Zone) supports a growing population of grizzly bears and recovery planning efforts there are expected to result in a secure management scheme by early 1999 that will allow the Service to proceed with a proposal to delist the Yellowstone grizzly population. Other grizzly population will retain threatened status under the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AF22

1735. • MIGRATORY BIRD PERMITS; SPECIFIC PERMIT PROVISIONS; SPECIAL PURPOSE PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 712(2); PL 95-616

CFR Citation: 50 CFR 27; 50 CFR 31; 50 CFR 32; 50 CFR 33; 50 CFR 34

Legal Deadline: None

Abstract: The Service proposes to amend the migratory bird permit regulations providing permits for the taking, possession, transportation, sale, purchase, and barter of migratory birds. The Service is revising and updating the requirements for special purpose permits. Due to the large number of permits issued under "Special purpose," the Service proposes to create four new sections for specific types of the most frequently issued special purpose permit: Rehabilitation, Possession, Salvage, and Migratory Game Birds.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, 634 ARLSQ, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AF28

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Completed Actions

1736. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: CALIFORNIA PLANTS AND THE BLACK LEGLESS LIZARD

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action - (Black legless lizard withdrawn 63 FR 43129)	08/12/98	63 FR 43100
Final Action Effective	09/11/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
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RIN: 1018–AD09

1737. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: PALLID MANZANITA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	04/22/98	63 FR 19842
Final Action Effective	05/22/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
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RIN: 1018–AD35

1738. EXPORT OF RIVER OTTERS TAKEN IN MISSOURI IN 1996-97 AND SUBSEQUENT SEASONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 23

Completed:

Reason	Date	FR Cite
Withdrawn	08/13/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Marshall Jones
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RIN: 1018–AD63

1739. STANDARDS FOR THE HUMANE AND HEALTHFUL TRANSPORT OF WILD REPTILES AND AMPHIBIANS TO THE UNITED STATES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 14

Completed:

Reason	Date	FR Cite
Withdrawn	08/26/98	63 FR 45444

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rosemarie Gnam
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RIN: 1018–AD98

1740. ENDANGERED SPECIES LISTING: PREBLE'S MEADOW JUMPING MOUSE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	05/13/98	63 FR 26517
Final Action Effective	06/12/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith
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RIN: 1018–AE06

1741. SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA; SUBPARTS C&D—1998-99 SUBSISTENCE TAKING OF FISH AND WILDLIFE REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 100

Completed:

Reason	Date	FR Cite
Final Action	06/29/98	63 FR 35332
Final Action Effective	07/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Pospahala
Phone: 907 786-3467

RIN: 1018–AE12

1742. NO SURPRISES POLICY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	02/23/98	63 FR 8859
Final Action Effective	03/25/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith
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RIN: 1018–AE24

1743. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED EMERGENCY RULE ESTABLISHING ADDITIONAL MANATEE SANCTUARY IN KINGS BAY CRYSTAL RIVER, FL

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	10/16/98	63 FR 55553

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith
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RIN: 1018–AE47

1744. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LIST SAN BERNARDINO KANGAROO RAT AS ENDANGERED

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	09/24/98	63 FR 51005
Final Action Effective	09/24/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith
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RIN: 1018–AE59

1745. MIGRATORY BIRD HUNTING; NONTOXIC SHOT; TEMPORARY APPROVAL OF TUNGSTEN-POLYMER AS NONTOXIC FOR THE 1998-99 SEASON

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 20

Completed:

Reason	Date	FR Cite
Final Action	10/07/98	63 FR 54022
Final Action Effective	10/07/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1018–AE66

1746. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LIST LAGRACIOSA THISTLE AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Merged With RIN 1018-AE81	03/30/98	63 FR 15164

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith
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RIN: 1018–AE77

1747. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED RULE TO LIST LOMPOC YERBA SANTA AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Merged With RIN 1018-AE81	03/30/98	63 FR 15164

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith
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RIN: 1018–AE78

1748. ENDANGERED AND THREATENED SPECIES; PROPOSAL TO LIST AS ENDANGERED OR THREATENED GAVIOTA TARPLANT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Merged With RIN 1018-AE81	03/30/98	63 FR 15164

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith
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RIN: 1018–AE79

1749. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST SANTA CRUZ TARPLANT AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Merged With RIN 1018-AE81	03/30/98	63 FR 15142

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith
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RIN: 1018–AE80

1750. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO DELIST THROUGHOUT ITS RANGE AND REMOVE THE SIMILARITY OF APPEARANCE PROVISION FOR THE AMERICAN PEREGRINE FALCON

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate of RIN 1018-AF04	10/21/98	

RIN: 1018–AE90

1751. MIGRATORY BIRD HUNTING; PROPOSED 1997-98 MIGRATORY GAME BIRD HUNTING REGULATIONS (PRELIMINARY) WITH REQUESTS FOR INDIAN TRIBAL PROPOSALS

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 50 CFR 20

Completed:

Reason	Date	FR Cite
Final Action	09/30/98	63 FR 52348

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 1018–AE93

1752. • CHANGE IN STATUS OF BOLIVIAN POPULATION OF BIGLEAF MAHOGANY IN APPENDIX III OF CITES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This rule announces a strengthening change in the status in appendix III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) of Bigleaf Mahogany from Bolivia and its logs, sawn wood and veneer sheets only, as submitted by the government of Bolivia to the CITES Secretariat. The Service will consider any comments received on whether to enter a reservation on this changed status for this population of the species, which has been in appendix III since November 1995.

Timetable:

Action	Date	FR Cite
Final Action	05/14/98	63 FR 26739
Final Action Effective	05/14/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Susan Lieberman, Chief, Office of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, MS750 Arlington Square, 1849 C Street NW., Washington, DC 20240
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Email: susan__lieberman@fws.gov

RIN: 1018–AE94

1753. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; REMOVAL OF CRITICAL HABITAT FOR THE MEXICAN SPOTTED OWL, LOACH MINNOW AND SPIKEDACE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service amends the list of threatened and endangered wildlife to remove critical habitat designations for the Mexican spotted owl, spikedace, and loach minnow, pursuant to the Endangered Species Act of 1973, as amended. By publication of the final rule, critical habitat is also removed from Mexican spotted owl, loach minnow, and spikedace.

Timetable:

Action	Date	FR Cite
Final Action	03/25/98	63 FR 14378
Final Action Effective	03/25/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
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RIN: 1018–AE95

BILLING CODE 4310-55-F

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Proposed Rule Stage

1754. NATIONAL PARK SERVICE SYMBOLS: UNITED STATES PARK POLICE INSIGNIA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 11

Legal Deadline: None

Abstract: The rule will recognize an official United States Park Police insignia, provide for its future protection and prevent the unauthorized use of the insignia. The rule proposes to amend sections regarding authorized use and protection of the arrowhead symbol, add a section regarding the use and protection of the Park Ranger badge, and delete reference to the "Parkscape Symbol."

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis, Staff Park Ranger, Ranger Activities, Division, Department of the Interior, National Park Service, 1849 C Street NW., ms 7408, Washington, DC 20240
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RIN: 1024–AB94

1755. APPLICABILITY AND RESOURCE PROTECTION REVISIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462

CFR Citation: 36 CFR 2

Legal Deadline: None

Abstract: A major revision of 36 CFR part 2 was completed in 1983. This current review is to address clarification of the applicability of these regulations in National Park Service areas, and to update existing resource protection and visitor use regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis, Staff Park Ranger, Ranger Activities, Division, Department of the Interior, National Park Service, 1849 C Street NW., ms 7408, Washington, DC 20240
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RIN: 1024–AC38

1756. NON-FEDERAL OIL AND GAS RIGHTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 230a; 16 USC 450kk; 16 USC 459d-3; 16 USC 459h-3; 16 USC 460ee; 16 USC 460cc-2(i); 16 USC 460m; 16 USC 698c; 16 USC 698f; 16 USC 3101; 18 USC 3571; 18 USC 3581; 43 USC 600d

CFR Citation: 36 CFR 9

Legal Deadline: None

Abstract: This rule will update existing regulations that were promulgated in 1978 to make them consistent with existing laws, policies, and practices and will improve their clarity and workability. The rule will implement Congressional mandates for park resource protection contained in the Big Cypress National Preserve Act of 1988. The rule will strengthen the ability of the NPS to protect the natural, cultural, and historic resources of system units from non-Federal oil and gas and geothermal operations within park boundaries.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	
NPRM Comment Period End	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol McCoy, Chief, Policy and Regulations Section, Mining and Minerals Branch, Department of the Interior, National Park Service

Phone: 303 969-2096

RIN: 1024–AC53

1757. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT REGULATIONS FUTURE APPLICABILITY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 3001

CFR Citation: 43 CFR 10.13

Legal Deadline: None

Abstract: The proposed rule relates to one section of regulations implementing NAGPRA. This section outlines procedures for the future applicability of NAGPRA to museums and Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Francis P. McManamon, Departmental Consulting Archaeologist, Department of the Interior, National Park Service
Phone: 202 343-4101

RIN: 1024–AC57

1758. DENALI NATIONAL PARK AND PRESERVE, SPECIAL REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 462(k); 16 USC 3101 et seq

CFR Citation: 36 CFR 13.63

Legal Deadline: None

Abstract: This proposed rule will change out-of-date references to Mount McKinley National Park to Denali National Park. It will also consolidate in the special regulations existing designations closures, permit requirements, and other restrictions regarding vehicle use, vehicle traffic, oversize vehicles, snowmachines and public health, safety, and resource protection postings and closures.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Russ Wilson, Alaska Desk Officer, Department of the Interior, National Park Service
Phone: 202 208-6381

RIN: 1024–AC58

1759. HYDROELECTRIC POWER PROJECTS IN THE NATIONAL PARK SYSTEM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 791a et seq; 16 USC 797c

CFR Citation: 36 CFR 19

Legal Deadline: None

Abstract: The rule will implement section 2402 of the Energy Policy Act of 1992 (16 USC 797c). The rule will establish the procedure for the Director to follow in determining whether a new hydroelectric project located within the boundaries of any unit of the National Park System would have a direct adverse effect on Federal lands within that unit and the procedures for applicants to follow when filing with the Federal Energy Regulatory Commission.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chip H. Davis, Staff Park Ranger, Ranger Activities, Division, Department of the Interior, National Park Service, 1849 C Street NW., ms 7408, Washington, DC 20240
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RIN: 1024–AC64

1760. PERSONAL WATERCRAFT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 3

Legal Deadline: None

Abstract: This rule will provide a process for authorizing the use of personal watercraft in units of the NPS through area designations by the Superintendent using the criteria, procedures, and standards adopted by this rule. This rule will enable the NPS to better manage the burgeoning use of personal watercraft in units of the NPS.

Timetable:

Action	Date	FR Cite
NPRM	09/15/98	63 FR 49312
NPRM Comment Period End	11/16/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis, Staff Park Ranger, Ranger Activities, Division, Department of the Interior, National Park Service, 1849 C Street NW., ms 7408, Washington, DC 20240
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RIN: 1024–AC65

1761. LAND AND WATER CONSERVATION FUND OF ASSISTANCE TO STATES; POST-COMPLETION COMPLIANCE RESPONSIBILITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 460l-4

CFR Citation: 36 CFR 59

Legal Deadline: None

Abstract: This amendment to 36 CFR 59 modifies Land and Water Conservation Fund (L&WCF) post-completion requirements by: (1) clarifying the "State" planning prerequisite for conversion approval; (2) allowing the recipient of an L&WCF grant to use non-recreation land it currently owns, or non-recreation land that is transferred from one public agency to another without payment, to satisfy the replacement requirement when land acquired with L&WCF assistance is proposed for conversion to other than public outdoor recreation uses, assuming all other eligibility criteria are met; (3) eliminating the requirement to notify NPS of all instances of obsolescence and facility use changes; and (4) establishing standards for resolving premature conversions to ensure their timely resolution.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Wayne Strum, Outdoor Recreation Planner, Department of the Interior, National Park Service, Recreation Programs Division, 1849 C Street NW., Washington, DC 20240
Phone: 202 565-1129

RIN: 1024–AC68

1762. • VEHICLES AND TRAFFIC SAFETY; OPERATING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462k

CFR Citation: 36 CFR 4.23

Legal Deadline: None

Abstract: The National Park Service (NPS) is proposing to amend its regulations concerning motor vehicle operation under the influence of alcohol within units of the NPS. Current NPS regulations prohibit operation with a blood alcohol concentration (BAC) of 0.10 grams or more of alcohol per 100 milliliters of blood or 0.10 grams of alcohol per 210 liters of breath. On March 3, 1998, President Clinton directed the NPS to promulgate regulations adopting a stricter limit of 0.08 grams BAC within units of the NPS.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis, Staff Park Ranger, Ranger Activities, Division, Department of the Interior, National Park Service, 1849 C Street NW., ms.7408, Washington, DC 20240
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RIN: 1024–AC69

1763. • SOLID WASTE SITES IN UNITS OF THE NATIONAL PARK SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 460l-22(c)

CFR Citation: 36 CFR 6.7

Legal Deadline: None

Abstract: The National Park Service (NPS) proposes to amend 36 CFR 6.7 to clarify its applicability to mining-generated solid wastes in units of the NPS. The proposed amendments are not intended to change the substantive scope and goals of 36 CFR 6, which has been in effect since January 25, 1995.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Julia Brunner, Department of the Interior, National Park Service
Phone: 303 969-2012

RIN: 1024–AC70

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

*Final Rule Stage

1764. NATIONAL NATURAL LANDMARKS PROGRAM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 461 et seq

CFR Citation: 36 CFR 62

Legal Deadline: None

Abstract: This proposed rulemaking will amend the current regulations for the National Natural Landmarks Program. Proposed changes include strengthening and clarifying provisions for landowner notification, adding requirements for voluntary landowner consent for natural landmark designation, and providing for review of natural landmark nominations by the National Park System Advisory Board.

Timetable:

Action	Date	FR Cite
ANPRM	10/29/90	55 FR 43384
NPRM	11/21/91	56 FR 58790
NPRM Comment Period End	02/19/92	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Craig Shafer, NNL WASO Coordinator, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 219-8934

RIN: 1024–AB96

1765. GLACIER BAY NATIONAL PARK, ALASKA FISHING REGULATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 3101 et seq

CFR Citation: 36 CFR 13.65

Legal Deadline: None

Abstract: The proposed regulations would allow several exemptions for specific commercial fishing activities in Glacier Bay National Park's marine waters from the existing Nationwide National Park Service prohibition on such activities. Some commercial fishing activities would cease at the end of their exemption period.

DOI—NPS

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	08/05/91	56 FR 37262
NPRM Comment Period End	11/03/91	56 FR 46589
Reproposal	04/16/97	62 FR 18547
Comment Period End	06/01/98	63 FR 23706
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James M. Brady, Superintendent, Department of the Interior, National Park Service
Phone: 907 697-2230

RIN: 1024–AB99

1766. RIGHTS-OF-WAY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 3; 16 USC 5; 16 USC 79

CFR Citation: 36 CFR 14

Legal Deadline: None

Abstract: The regulations for rights-of-way found at 36 CFR part 14 subparts A to H were promulgated as interim regulations in 1980. The regulations no longer meet the needs of the Service or of rights-of-way applicants. Final regulations need to be developed through a revision of part 14.

Timetable:

Action	Date	FR Cite
NPRM	12/01/97	62 FR 63488
NPRM Comment Period End	01/30/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dick Young, Park Ranger, Department of the Interior, National Park Service
Phone: 757 898-7846

RIN: 1024–AC01

1767. VOYAGEURS NATIONAL PARK: AIRCRAFT OPERATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a

CFR Citation: 36 CFR 7.33

Legal Deadline: None

Abstract: This proposed rulemaking amends the current special regulations for Voyageurs National Park by adding a section designating areas open to aircraft use within the Park. This addition is necessary because National Park Service general regulations require such special regulatory designations for areas in parks open to the operation or use of aircraft. The intended effects are to increase safety, protect resources, and provide appropriate enjoyment to park users.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/02/95	60 FR 39257
NPRM	01/31/96	61 FR 3360
NPRM Comment Period End	09/05/96	61 FR 20775
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce McKeeman, Chief Ranger, Department of the Interior, National Park Service
Phone: 218 283-9821

RIN: 1024–AC23

1768. GRAND TETON NATIONAL PARK AND JOHN D. ROCKEFELLER, JR. MEMORIAL PARKWAY: SNOWMOBILE AND SNOWPLANE ROUTES AND REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a

CFR Citation: 36 CFR 7.22

Legal Deadline: None

Abstract: The National Park Service proposes to change the special regulations relating to the use of and designated routes for snowmobiles and snowplanes within Grand Teton National Park and John D. Rockefeller, Jr. Memorial Parkway. The proposed rule will define more clearly the use of snowmobiles, snowplanes, and designated routes. This rule can eliminate the use of snowmobiles in the Potholes-Baseline Flats area at the discretion of the Superintendent and establish special regulations allowing snowmobile use on the Continental Divide Snowmobile Trail. The proposed rule will also establish a requirement for operators of snowmobiles within Grand Teton National Park to have a valid driver's license or learner's permit.

Timetable:

Action	Date	FR Cite
NPRM	10/25/95	60 FR 54633
NPRM Comment Period End	12/26/95	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis, Staff Park Ranger, Ranger Activities, Division, Department of the Interior, National Park Service, 1849 C Street NW., ms 7408, Washington, DC 20240
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RIN: 1024–AC34

1769. PROCEDURES FOR STATE, TRIBAL, AND LOCAL GOVERNMENT HISTORIC PRESERVATION PROGRAMS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 470 et seq

CFR Citation: 36 CFR 61

Legal Deadline: None

Abstract: The National Park Service proposes to revise the requirements for State and local historic preservation programs as well as the way the NPS administers these programs. The proposed changes are intended to provide more flexibility in: (1) staffing the State historic preservation office; (2) setting standards for State Historic Preservation Review Board membership and operations; and (3) carrying out State Historic Preservation Officer responsibilities. The revision streamlines the process for certification of local governments to participate officially in the national historic preservation program. This proposed revision also officially recognizes the growing role of tribal historic preservation programs. Some of the changes are necessary because of the 1992 amendments to the National Historic Preservation Act.

Timetable:

Action	Date	FR Cite
NPRM	10/02/96	61 FR 51536

DOI—NPS

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	12/02/96	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: John W. Renaud, Department of the Interior, National Park Service
Phone: 202 343-1059

RIN: 1024–AC44

1770. BIG CYPRESS NATIONAL PRESERVE; RECREATIONAL FROGGING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a

CFR Citation: 36 CFR 7.86

Legal Deadline: None

Abstract: This rule will allow the recreational, non-commercial taking of the pig frog (Rana grylio) in the Preserve. The rule will designate seasons, times, locations, methods, and means of taking, and establish harvest limits and permit requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/22/96	61 FR 59393
NPRM Comment Period End	01/21/97	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kevin Kacer, Chief Ranger, Department of the Interior, National Park Service, Big Cypress National Preserve
Phone: 941 695-2000

RIN: 1024–AC54

1771. DELAWARE WATER GAP NRA, BICYCLE TRAIL

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(g); 16 USC 462(k)

CFR Citation: 36 CFR 7.71

Legal Deadline: None

Abstract: This rule will designate certain routes within a nondeveloped area of Delaware Water Gap NRA as open to bicycle use, and will regulate their use in this area.

Timetable:

Action	Date	FR Cite
NPRM	11/13/97	62 FR 60815
NPRM Comment Period End	01/12/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Wayne Valentine, Supervisory Park Ranger, Department of the Interior, National Park Service
Phone: 908 841-9533

RIN: 1024–AC62

1772. KALOKO-HONOKOHOU NATIONAL HISTORIC PARK: PUBLIC NUDITY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(g); 16 USC 462(k)

CFR Citation: 36 CFR 7.87

Legal Deadline: None

Abstract: This rule will prohibit public nudity within the boundaries of Kaloko-Honokohou National Historic Park, Hawaii. The existing practice of recreational public nudity is in conflict with the enabling legislation of the Park (16 U.S.C. 396d) and the traditional values of native Hawaiian culture which the Park was created to perpetuate and preserve.

Timetable:

Action	Date	FR Cite
NPRM	04/20/98	63 FR 19436
NPRM Comment Period End	06/19/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis, Staff Park Ranger, Ranger Activities, Division, Department of the Interior, National Park Service, 1849 C Street NW., ms 7408, Washington, DC 20240
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RIN: 1024–AC66

1773. APPALACHIAN NATIONAL SCENIC TRAIL—SNOWMOBILES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(l); 16 USC 462(k)

CFR Citation: 36 CFR 7.100

Legal Deadline: None

Abstract: This rule will designate trail crossings of snowmobile trails at three locations along the Appalachian National Scenic Trail. These trail crossings are part of a State-approved network of snowmobile routes that exist on adjacent State lands. These crossings existed prior to the NPS assuming management of the National Scenic Trail. Designating these crossings fulfills assurances made by the NPS at the time of land acquisition that establishment of the permanent linear trail corridor would not sever established snowmobile routes.

Timetable:

Action	Date	FR Cite
NPRM	03/19/98	63 FR 13383
NPRM Comment Period End	05/18/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis, Staff Park Ranger, Ranger Activities, Division, Department of the Interior, National Park Service, 1849 C Street NW., ms 7408, Washington, DC 20240
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RIN: 1024–AC67

1774. • INFORMATION COLLECTION ACTIVITIES

Priority: Info./Admin./Other

Legal Authority: 16 USC 1; 16 USC 3; 44 USC 3506

CFR Citation: 36 CFR 15

Legal Deadline: None

Abstract: This final rule is an administrative change to 36 CFR to condense and clarify NPS information collection activities. This change will

DOI—NPS

Final Rule Stage

remove references to OMB approvals for collections of information presently scattered throughout NPS regulations and consolidate them in one part of 36 CFR. These changes do not increase the burden of information collection as described in the Paperwork Reduction Act of 1995 or its implementing regulations at 5 CFR 1320.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis, Staff Park Ranger, Ranger Activities, Division, Department of the Interior, National Park Service, 1849 C Street NW., ms 7408, Washington, DC 20240
Phone: 202 208-4874
Fax: 202 208-6756
Email: chip h davis@rad.nps.gov

RIN: 1024–AC71

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Completed Actions

1775. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT REGULATIONS; CIVIL PENALTIES

Priority: Substantive, Nonsignificant

CFR Citation: 43 CFR 10

Completed:

Reason	Date	FR Cite
Interim Final Rule	01/13/97	62 FR 1820

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Francis P. McManamon
Phone: 202 343-4101

RIN: 1024–AC48

BILLING CODE 4310-70-F

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Proposed Rule Stage

1776. INDIAN SCHOOL EQUALIZATION PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 13; 25 USC 2008

CFR Citation: 25 CFR 39

Legal Deadline: None

Abstract: This rule will change the definitions of some disabling conditions so that they are consistent with Department of Education definitions of some disabling conditions and adjust the way schools are reimbursed for student transportation services.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rod Young, Chief, Branch of Administrative Services, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-4555

RIN: 1076–AD09

1777. LEASING RESTRICTED LANDS OF MEMBERS OF THE FIVE CIVILIZED TRIBES OKLAHOMA, FOR MINING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 356

CFR Citation: 25 CFR 213

Legal Deadline: None

Abstract: BIA is revising this rule to ensure consistency with existing law and to improve operating procedures. Issues to be addressed include authority to lease inherited restricted land, processing lease payments through the Minerals Management Service, and the approval process for division orders.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Robertson, Realty Officer Muskogee Area Office, Department of the Interior, Bureau of Indian Affairs
Phone: 918 687-2324

RIN: 1076–AD33

1778. EXPLORATION, MINING, AND RECLAMATION OF LANDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 355; 25 USC 396; 25 USC 473; 25 USC 501; 25 USC 396; 5 USC 301

CFR Citation: 25 CFR 216

Legal Deadline: None

Abstract: This rule will update part 216 to incorporate changes in regulations as well as the mining industry. It will bring the bureau into conformance with the standards of the Bureau of Land Management and the Office of Surface Mining and will protect the Indian mineral owners by giving them no less protection than what is given to Federal lands. Indian mineral owners will be protected through the regulation of exploration for minerals by adequate measures that avoid, minimize, or correct damage to the environment, land, water, and the public safety.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

DOI—BIA

Proposed Rule Stage

Agency Contact: Pete Aguilar, Geologist, Department of the Interior, Bureau of Indian Affairs
Phone: 303 969-5270

RIN: 1076–AD36

1779. TRIBAL REORGANIZATION UNDER A FEDERAL STATUTE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 473a; 25 USC 476; 25 USC 477; 25 USC 503

CFR Citation: 25 CFR 81

Legal Deadline: None

Abstract: This rule contains uniform procedures for conducting Secretarial elections for voting on proposed constitutions when tribes wish to reorganize, adopt constitutional amendments, ratify and amend charters, or revoke existing constitutions. This revision will incorporate changes to comply with Public Law 100-581.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Delores Springer, Office of Tribal Services, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-7435

RIN: 1076–AD46

1780. PETITIONING PROCEDURES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 473a; 25 USC 476; 25 USC 477; 25 USC 503

CFR Citation: 25 CFR 82

Legal Deadline: None

Abstract: This rule contains procedures for submitting petitions that request the Secretary to call elections to amend tribal constitutions, issue charters, and other actions. The revision will allow the petitioners' spokesman to make technical changes to petitions in consultation with the Bureau and to change the petition format.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Delores Springer, Office of Tribal Services, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-7435

RIN: 1076–AD47

1781. ACADEMIC AND DORMITORY STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 2001; 25 USC 2002; 25 USC 2003; PL 95-561; 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 36

Legal Deadline: None

Abstract: This rule will eliminate subparts A through G of 25 CFR 36. Of 189 Bureau schools, 179 have adopted State or regional academic standards. BIA will assist the remaining schools to achieve State or regional accreditation. This will render the rules in subparts A through G obsolete.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James C. Martin, Division Chief, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-5810

RIN: 1076–AD55

1782. EDUCATION CONTRACTS UNDER THE JOHNSON-O'MALLEY ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 455 to 457

CFR Citation: 25 CFR 273

Legal Deadline: None

Abstract: The rule will include guidelines and responsibilities related to agreements under the provisions of the Indian Self Determination Act Amendments of 1994. The new provisions will reduce the burden of reporting requirements by the tribes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Garry R. Martin, Education Specialist, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-3478

RIN: 1076–AD58

1783. LOANS TO INDIANS FROM THE REVOLVING LOAN FUND

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 25 USC 1469

CFR Citation: 25 CFR 101

Legal Deadline: None

Abstract: The direct loan program is being eliminated. We will eliminate most of 25 CFR 101 and will rewrite the rest.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Woody Sneed, Financial Analyst, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-4796

RIN: 1076–AD59

1784. ARRANGEMENT WITH STATES, TERRITORIES, OR OTHER AGENCIES FOR SOCIAL WELFARE AND RELIEF OF DISTRESS OF INDIANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 454

CFR Citation: 25 CFR 21

Legal Deadline: None

Abstract: The Bureau has never used this regulation. Other regulations in 25

CFR provide adequate authority for the Bureau to contract with other organizations to provide social services for eligible Indians. Because this regulation is not needed, we will remove it from the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/01/96	61 FR 33876
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Larry R. Blair, Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-2721

RIN: 1076–AD61

1785. SCHOOL CONSTRUCTION CONTRACTS FOR PUBLIC SCHOOLS

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: PL 104-4

CFR Citation: 25 CFR 277

Legal Deadline: None

Abstract: This rule is being eliminated because the program it governs has never been funded.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joann Sebastian Morris, Office of Indian Education Programs, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-6123

RIN: 1076–AD69

1786. ADULT VOCATIONAL TRAINING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 309; PL 88-230

CFR Citation: 25 CFR 27

Legal Deadline: None

Abstract: The rule for BIA's adult vocational training program is being rewritten in plain English as part of the President's regulatory reform initiative

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dean Poleahla, Office of Economic Development, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-2671

RIN: 1076–AD72

1787. LOAN GUARANTEE PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 1451

CFR Citation: 25 CFR 103

Legal Deadline: None

Abstract: The rule for the guaranteed loan program is being rewritten in plain English as part of the President's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Woody Sneed, Financial Analyst, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-4796

RIN: 1076–AD73

1788. EMPLOYMENT ASSISTANCE FOR ADULT INDIANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 26

Legal Deadline: None

Abstract: The rule for BIA's employment assistance program for adult Indians is being rewritten in plain English as part of the President's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dean Poleahla, Office of Economic Development, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-2671

RIN: 1076–AD75

1789. CERTIFICATES OF DEGREE OF INDIAN BLOOD

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 25 USC 9; 25 USC 13

CFR Citation: 25 CFR 70

Legal Deadline: None

Abstract: This rule establishes procedures for processing certificates of degree of Indian blood.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Tribal

Agency Contact: Bettie Rushing, Office of Tribal Services, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-4400

RIN: 1076–AD78

1790. MORTGAGES AND DEEDS OF TRUST ON INDIVIDUALLY OWNED TRUST LAND OR LAND SUBJECT TO A RESTRICTION ON ALIENATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 483a

CFR Citation: 25 CFR 152

Legal Deadline: None

Abstract: Indians may mortgage or give deeds of trust to their restricted land with approval of the Secretary of the Interior. The regulation will state the conditions under which approval will be given.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Woodrow B. Sneed, Financial Analyst, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-4796

RIN: 1076–AD85

1791. • ACQUISITION OF TITLE TO LAND IN TRUST

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 2719

CFR Citation: 25 CFR 151

Legal Deadline: None

Abstract: On September 18, 1990, we issued the first regulations for acquisition in trust by the United States of lands for Indian tribes and individual Indians. This rule simplifies the process and criteria by which we determine whether to accept in trust lands located inside reservation boundaries or inside an approved Indian land Consolidation Area. The rule also sets out the process and criteria for determining whether to accept in trust lands located outside reservation boundaries.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Terry Virden, Director, Office of Trust Responsibilities, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-5831

RIN: 1076–AD90

1792. • FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 20

Legal Deadline: None

Abstract: The Bureau is updating this rule to reflect changes in welfare programs. The principal changes are due to Public Law 104-193 which enacted welfare reform and removed welfare as an entitlement. The revised rule will reflect changes resulting from this law and other developments in national welfare policy.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Larry R. Blair, Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-2721

RIN: 1076–AD91

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Final Rule Stage

1793. LEASING AND PERMITTING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 395; 25 USC 402; 25 USC 403; 25 USC 466

CFR Citation: 25 CFR 162

Legal Deadline: None

Abstract: This rule will reorganize the existing leasing and permitting rule into subparts and incorporate the provisions on range permits and leasing required by Public Law 103-177.

Timetable:

Action	Date	FR Cite
NPRM	06/17/96	61 FR 30560
NPRM Comment Period End	10/15/96	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark Bradford, Chief, Branch of Agriculture and Range, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-3598

RIN: 1076–AA29

1794. NAVAJO PARTITIONED LANDS GRAZING REGULATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 640(d)

CFR Citation: 25 CFR 161

Legal Deadline: None

Abstract: These regulations are necessary for implementation of the livestock and grazing control provisions of 25 USC 640(d). In 1982 the Federal District Court for Arizona abolished 25 CFR 153 Grazing Regulation for the Joint Use Administrative Area and ordered the Secretary to promulgate new regulations for the control of grazing and livestock for the former Joint Use Administrative Area. Due to a lack of tribal concurrence regulations were not promulgated for lands partitioned to the Navajo tribe. Navajo tribal concurrence has been recently obtained; therefore, the BIA needs to move forward with publication of these regulations. Any cost associated with the implementation of these regulations will be assumed within the BIA annual budget. Cost associated with compliance of the provisions of these regulations will be borne by the Navajo tribe or its members. There is no associated cost to the general public.

Timetable:

Action	Date	FR Cite
NPRM	11/01/95	60 FR 55506
NPRM Comment Period End	09/06/96	61 FR 29327
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark Bradford, Chief, Branch of Agriculture and Range, Department of the Interior, Bureau of Indian Affairs

Phone: 202 208-3598

RIN: 1076–AC81

1795. PREFERENCE IN EMPLOYMENT

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 25 USC 479

CFR Citation: 25 CFR 5

Legal Deadline: None

Abstract: The Bureau is proposing to eliminate provisions relating to preference in employment because they expired on January 5, 1990.

Timetable:

Action	Date	FR Cite
NPRM	07/12/96	61 FR 36671
NPRM Comment Period End	09/10/96	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Bettie Rushing, Office of Tribal Services, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-4400

RIN: 1076–AD05

1796. GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES AND NAVAJO COMMUNITY COLLEGE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 1801 to 1852; 25 USC 640; 25 USC 1831

CFR Citation: 25 CFR 41

Legal Deadline: None

Abstract: This rule applies to the provision of financial assistance technical assistance, and endowments to tribal colleges and Navajo Community College and will strengthen requirements relating to: (1) Criteria for satisfactory programs; (2) counting Indian students; (3) developing planning grants; (4) forward funding; (5) renovation and construction of facilities; and (6) preparing construction feasibility reports.

Timetable:

Action	Date	FR Cite
NPRM	04/01/97	62 FR 15446
NPRM Comment Period End	06/02/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Garry R. Martin, Education Specialist, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-3478

RIN: 1076–AD08

1797. INDIAN TRIBAL JUSTICE SUPPORT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 103-176; 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 13; 25 USC 200; 25 USC 3601 et seq

CFR Citation: 25 CFR 92

Legal Deadline: None

Abstract: This rule will establish a base funding formula for the distribution of appropriations under the Indian Tribal Justice Act. BIA will use this formula to determine the funding levels to be awarded to eligible Indian tribes for use in establishing or enhancing traditional or contemporary justice systems.

Timetable:

Action	Date	FR Cite
Tribal Consultation	06/20/95	
NPRM	07/30/96	61 FR 39607
NPRM Comment Period End	09/30/96	
Final Action	12/00/98	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Bettie Rushing, Office of Tribal Services, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-4400

RIN: 1076–AD15

1798. TRIBAL SELF-GOVERNANCE

Regulatory Plan: This entry is Seq. No. 45 in Part II of this issue of the **Federal Register**.

RIN: 1076–AD20

1799. LEASING OSAGE RESERVATION LANDS FOR MINING OF MINERALS OTHER THAN OIL AND GAS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 59-321

CFR Citation: 25 CFR 214

Legal Deadline: None

Abstract: This revision eliminates royalties for minerals not found within the Osage Mineral Estate and gives the Osage tribal Council authority for setting applicable royalty rates. This revision also replaces outmoded methods of exchange with modern methods and designates officials responsible for management of non-oil and gas minerals within the Osage Mineral Estate. The revisions will enhance the Department's management of the production of these minerals and eliminate inaccuracies in the current regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/08/96	61 FR 41365
NPRM Comment Period End	10/07/96	
Final Action	11/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: De Sloan, Acting Superintendent, Osage Agency, Department of the Interior, Bureau of Indian Affairs
Phone: 918 287-1351

RIN: 1076–AD34

1800. LEAD AND ZINC MINING OPERATIONS AND LEASES ON QUAPAW INDIAN LANDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 66-359; PL 75-39

CFR Citation: 25 CFR 215

Legal Deadline: None

Abstract: This rule will update the procedures for leasing and discovery testing, processing, developing, and mining lead and zinc on lands under the jurisdiction of BIA's Miami Agency in Ottawa County, Oklahoma. The revisions will assist affected Indians with the efficient development of their lead and zinc deposits without waste, avoidable loss, or damage to their natural resources, the environment, or other resources. The rule will also retitle 25 CFR 215.

Timetable:

Action	Date	FR Cite
NPRM	08/27/96	61 FR 44019
NPRM Comment Period End	10/28/96	
Final Action	12/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dennis Sisco, Superintendent, Miami Agency, Department of the Interior, Bureau of Indian Affairs
Phone: 918 542-3396

RIN: 1076–AD35

1801. IRRIGATION PROJECTS AND SYSTEMS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 385

CFR Citation: 25 CFR 171

Legal Deadline: None

Abstract: This rule governs the operation and maintenance of BIA-owned irrigation projects. It is being revised as part of the President's reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	07/05/96	61 FR 35167
NPRM Comment Period End	09/03/96	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ross Mooney, Civil Engineer, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-5480

RIN: 1076–AD44

1802. INDIAN ELECTRIC POWER UTILITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 385

CFR Citation: 25 CFR 175

Legal Deadline: None

Abstract: This rule contains procedures governing the operation of BIA-owned power utilities. It is being revised as part of the President's reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	06/07/96	61 FR 29040
NPRM Comment Period End	08/06/96	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ross Mooney, Civil Engineer, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-5480

RIN: 1076–AD45

1803. APPEALS FROM ADMINISTRATIVE ACTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 2

Legal Deadline: None

Abstract: This rule changes the BIA delegations of authority and appeals process. The change will reduce burden on the tribes since there will be less confusion about how to file appeals and the processing of appeals within the Bureau. The revision will also clarify the rule and make it consistent with Bureau policy.

Timetable:

Action	Date	FR Cite
NPRM	06/21/96	61 FR 31875
NPRM Comment Period End	09/19/96	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bettie Rushing, Office of Tribal Services, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-4400

RIN: 1076–AD50

1804. INDIAN BUSINESS DEVELOPMENT PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 1524

CFR Citation: 25 CFR 286

Legal Deadline: None

Abstract: The Indian Business Development Program is being discontinued. Entities already having received grants must submit business financial statements. The rule is being rewritten in plain English to reflect this situation.

Timetable:

Action	Date	FR Cite
NPRM	01/30/97	62 FR 4497
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Woody Sneed, Financial Analyst, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-4796

RIN: 1076–AD70

1805. TRIBAL REVENUE ALLOCATION PLANS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 2; 25 USC 9; 25 USC 2710; 5 USC 301

CFR Citation: 25 CFR 290

Legal Deadline: None

Abstract: This rule notifies the public of how tribal revenues are allocated.

Timetable:

Action	Date	FR Cite
NPRM	06/07/96	61 FR 29044
NPRM Comment Period End	08/06/96	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

DOI—BIA

Final Rule Stage

Government Levels Affected: None

Agency Contact: George Skibine, Director, Indian Gaming Management Staff, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-4066

RIN: 1076–AD74

1806. COURTS OF INDIAN OFFENSES

Priority: Routine and Frequent

Major: Undetermined

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 13; 25 USC 200

CFR Citation: 25 CFR 11

Legal Deadline: None

Abstract: This rule will add offenses and clarify the authority of Courts of Indian Offenses.

Timetable:

Action	Date	FR Cite
NPRM	07/05/96	61 FR 35158
NPRM Comment Period End	09/04/96	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bettie Rushing, Office of Tribal Services, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-4400

RIN: 1076–AD76

1807. USE OF COLUMBIA RIVER FISH ACCESS SITES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 100-581

CFR Citation: 25 CFR 247

Legal Deadline: None

Abstract: This rule contains procedures for permitting tribal use of fishing access sites on the Columbia River. These sites are required to allow tribes boat access to the river so that they may exercise their treaty fishing rights. The rule defines who may use the sites, permitted and prohibited activities, and health and safety standards. It also provides rules for using facilities located on the sites.

Timetable:

Action	Date	FR Cite
NPRM	10/28/97	62 FR 55767
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chuck James, Area Archeologist, Department of the Interior, Bureau of Indian Affairs
Phone: 503 231-6229

RIN: 1076–AD83

1808. USE OF COLUMBIA RIVER IN-LIEU FISHING SITES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301

CFR Citation: 25 CFR 248

Legal Deadline: None

Abstract: This rule contains procedures for permitting tribal use of in-lieu fishing sites on the Columbia River. These sites are owned by the Federal government and are necessary to allow boat access to the river so that Indian fishers can exercise their treaty fishing rights. The rule defines who may use the sites, permitted and prohibited activities, and health and safety standards. It also provides rules for using facilities on the site.

Timetable:

Action	Date	FR Cite
NPRM	10/28/97	62 FR 55767
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chuck James, Area Archeologist, Department of the Interior, Bureau of Indian Affairs
Phone: 503 231-6229

RIN: 1076–AD86

1809. CLASS III GAMING PROCEDURES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 2; 25 USC 2710; 25 USC 9; 25 USC 301

CFR Citation: 25 CFR 291

Legal Deadline: None

Abstract: This rule establishes procedures that the Secretary of the Interior will use to promulgate rules for the conduct of Class III Indian gaming when a State and Indian tribe are unable to voluntarily agree to a compact; and the State has asserted its immunity from suit brought by an Indian tribe under 25 USC 2710(d)(7)(b).

Timetable:

Action	Date	FR Cite
NPRM	01/22/98	63 FR 3289
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paula L. Hart, Department of the Interior, Bureau of Indian Affairs, Room 2070 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 219-4066

RIN: 1076–AD87

1810. CORRECTION OF CODIFICATION ERRORS IN 25 CFR

Priority: Info./Admin./Other

Legal Authority: 5 USC 553

CFR Citation: 25 CFR 11; 25 CFR 256; 25 CFR 700; 25 CFR 11; 25 CFR 151; 25 CFR 160; 25 CFR 140

Legal Deadline: None

Abstract: We are publishing this rule at the request of the Office of the Federal Register. The rule corrects technical errors at various locations in 25 CFR. The errors we are correcting include incorrect cross references and incorrect paragraph designations. None of the corrections will affect the substance of the rules in 25 CFR.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Strylowski, Management Analyst, Department of the Interior, Office of the Secretary, Room 7229 MIB, 1849 C Street NW., Washington, DC 20240
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RIN: 1076–AD88

DOI—BIA

Final Rule Stage

1811. • PREPARATION OF ROLLS OF INDIANS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 1300d-3(b)

CFR Citation: 25 CFR 61

Legal Deadline: None

Abstract: We must reopen the enrollment application process authorized under 25 USC 1300d-3 (b) to give individuals another opportunity to file applications to share in the Sisseton and Wahpeton Mississippi Sioux Judgment Fund distribution.

Timetable:

Action	Date	FR Cite
NPRM	07/08/98	63 FR 36866
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daisy West, Tribal Relations Officer, Department of the Interior, Bureau of Indian Affairs, Room 4603 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-2475
Fax: 202 501-0679

RIN: 1076–AD89

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Completed Actions

1812. ADMINISTRATION OF THE HIGHER EDUCATION PROGRAM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 25 CFR 40

Completed:

Reason	Date	FR Cite
Withdrawn	08/03/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal, Federal

Agency Contact: Garry R. Martin
Phone: 202 208-3478

RIN: 1076–AA10

1813. ADMINISTRATION OF THE INDIAN ADULT EDUCATION PROGRAMS

Priority: Other Significant

CFR Citation: 25 CFR 46

Completed:

Reason	Date	FR Cite
Final Action	08/19/97	62 FR 44080

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Garry R. Martin
Phone: 202 208-3478

RIN: 1076–AA15

1814. ROADS OF THE BUREAU OF INDIAN AFFAIRS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 25 CFR 170

Completed:

Reason	Date	FR Cite
Withdrawn - This rule will be redeveloped as a negotiated rulemaking.	07/31/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: LeRoy Gishi
Phone: 202 208-4359

RIN: 1076–AB05

1815. RANGE REGULATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 25 CFR 162; 25 CFR 166

Completed:

Reason	Date	FR Cite
Withdrawn	08/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark Bradford
Phone: 202 208-3598

RIN: 1076–AD04

1816. HOUSING IMPROVEMENT PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 256

Completed:

Reason	Date	FR Cite
Final Action	03/02/98	63 FR 10124

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal, Federal

Agency Contact: June Henkel
Phone: 202 208-3667

RIN: 1076–AD52

1817. • EDUCATION FACILITIES CONSTRUCTION

Priority: Other Significant

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 13; 25 USC 295; 25 USC 2005(c); 29 USC 794

CFR Citation: 25 CFR 294

Legal Deadline: None

Abstract: This rule will formalize procedures for the priority ranking process for education facilities construction. The priority ranking process is under guidelines that were published in the Federal Register in May 1979 and April 1988. Under the guidelines, the Department has annually prepared a new priority ranking list and published it in the Federal Register. This process has been criticized by both Indian tribes and Congress. This rule would provide more continuity, objectivity, and accountability in the priority ranking process and address the handling of emergency needs.

Timetable:

Action	Date	FR Cite
NPRM	10/13/93	58 FR 53026
NPRM Comment Period End	01/11/94	
Withdrawn - Procedures will be published as a notice	09/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

DOI—BIA

Completed Actions

Agency Contact: Sheldon Greenbaum, Management Analyst, Department of the Interior, Bureau of Indian Affairs, Room 1361 MIB, 1849 C Street NW., Washington, DC 20420
Phone: 202 208-5653

RIN: 1076–AD92

BILLING CODE 4310-02-F

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Prerule Stage

1818. • EXPLORATION OR DEVELOPMENT AND PRODUCTION PLANS

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 43 USC 1331 et seq

CFR Citation: 25 CFR 250

Legal Deadline: None

Abstract: MMS requires companies to submit for approval their exploration and development plans for activities on the Outer Continental Shelf. The companies must submit these plans before they can begin any activities, except preliminary activities. This rule would rewrite the requirements into clearer language and organize them into discrete sections by topic, to make them easier to follow.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/98	
ANPRM Comment Period End	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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Fax: 703 787-1093
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RIN: 1010–AC47

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Proposed Rule Stage

1819. ADMINISTRATIVE APPEALS PROCESS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 2; 25 USC 9; 30 USC 189; 30 USC 285; 30 USC 359; 30 USC 1023; 30 USC 1702 et seq; 31 USC 9701; 43 USC 1334; 43 USC 1335

CFR Citation: 30 CFR 290; 30 CFR 241; 30 CFR 243; 30 CFR 250; 43 CFR 4

Legal Deadline: None

Abstract: This rule will eliminate the current regulations for MMS appeals and replace them with new regulations for appeals to the IBLA of actions taken by MMS officials. The rule will establish requirements for developing the administrative record, holding settlement consultations, paying a processing fee, and presenting arguments and documentation for use in deciding appeals.

Timetable:

Action	Date	FR Cite
NPRM	10/28/96	61 FR 55607
NPRM Comment Period End	03/27/97	
NPRM	10/00/98	
Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hugh Hilliard, Chief, Appeals Division, Department of the Interior, Minerals Management Service
Phone: 202 208-2622

RIN: 1010–AC21

1820. REFUNDS AND RECOUPMENT OF OVERPAYMENTS ON OCS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 25 USC 181 et seq; 25 USC 351 et seq; 25 USC 1001 et seq; 25 USC 1701 et seq; 25 USC 1735; 25 USC 3716; 25 USC 3720a; 25 USC 9701; 25 USC 1301 et seq; 25 USC 1331 et seq; 25 USC 1801 et seq

CFR Citation: 30 CFR 206; 30 CFR 218; 30 CFR 230

Legal Deadline: None

Abstract: This rule allows MMS to pay interest on Federal onshore and offshore oil and gas royalty overpayments and makes interest charges more equitable between the payor and the recipient. Interest will be paid on overpayments related to royalty, rent and estimates resulting from sales of Federal onshore and offshore oil and gas production.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service
Phone: 303 231-3432

RIN: 1010–AC27

1821. TAKES VS. ENTITLEMENTS REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1735

CFR Citation: 30 CFR 205

Legal Deadline: None

DOI—MMS

Proposed Rule Stage

Abstract: This rule addresses reporting and payment requirements for production removed and sold from a Federal lease, unit participating area, or communitization agreement beginning September 1996.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	03/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service
Phone: 303 231-3432

RIN: 1010–AC29

1822. ACCOUNTING RELIEF FOR MARGINAL PROPERTIES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1735

CFR Citation: 30 CFR 204

Legal Deadline: None

Abstract: This rule allows reporters to seek accounting, reporting, and auditing relief for their marginal properties in accordance with section 117(c) of the Federal Oil and Gas Royalty Management Act of 1982 as amended by the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	
Final Rule	06/00/99	
Final Action Effective	08/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service
Phone: 303 231-3432

RIN: 1010–AC30

1823. PREPAYMENT OF ROYALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1735

CFR Citation: 30 CFR 204

Legal Deadline: None

Abstract: This rule allows payors to prepay royalty in lieu of monthly royalty payments for their marginal properties with approval from the affected States. It will establish the criteria used by payors, States, and MMS to calculate, report, and monitor royalty prepayments.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service
Phone: 303 231-3432

RIN: 1010–AC31

1824. CHRONIC ERRONEOUS REPORTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 43 USC 1801 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq

CFR Citation: 30 CFR 216; 30 CFR 218

Legal Deadline: None

Abstract: This rule eliminates assessments for late reporting and failure to report and modify incorrect assessments. The new rule will define what is considered a chronic erroneous reporter and applicable assessments. Penalties for failure to report are also addressed.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
NPRM Comment Period End	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service
Phone: 303 231-3432

RIN: 1010–AC34

1825. TRAINING LESSEE AND CONTRACTOR EMPLOYEES ENGAGED IN OIL AND GAS OPERATIONS IN THE OUTER CONTINENTAL SHELF

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 133

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule would require operators and lessees to ensure that their workers (including contractors) are properly trained and can demonstrate their proficiency to MMS. Operators and lessees will determine the type of training, teaching methods, training length, and frequency. MMS will develop appropriate performance measures and indicators. These measures may include: written testing; hands-on and simulator testing; audits, interviews, or cooperative reviews; and incidence of noncompliance for civil penalty and events data.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1010–AC41

1826. REVIEWING EXPLORATION PLANS AND DEVELOPMENT AND PRODUCTION PLANS FOR COASTAL ZONE CONSISTENCY

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule proposes to amend provisions specifying how States will review exploration plans and development and production plans for coastal zone consistency.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC42

1827. OIL AND GAS DRILLING OPERATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: The rule will be written in plain English, substantive changes will be incorporated, and the rule will reflect the results of the blowout preventer study.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC43

1828. FILING FEES FOR REQUIRED RECORDS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 256

Legal Deadline: None

Abstract: The rule will address administrative changes pertaining to the former Atlantic OCS region and will require filing fees for certain lease transfer documents.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC44

1829. • PROSPECTING FOR MINERALS OTHER THAN OIL, GAS, AND SULPHUR IN THE OUTER CONTINENTAL SHELF

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 280

Legal Deadline: None

Abstract: This rule will expand the provisions governing research by requiring everyone conducting geological and geophysical scientific research without a permit to file a notice with MMS. These revisions respond to changes in technology and practice.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC48

1830. • LEASING SULPHUR OR OIL AND GAS IN THE OUTER CONTINENTAL SHELF

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 280

Legal Deadline: None

Abstract: This rule would update and clarify sections dealing with notices of sale, submission of bids, and lease awards.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC49

1831. • CHANGE TO DELEGATED STATE AUDIT FUNCTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1735; PL 104-185; PL 104-200

CFR Citation: 30 CFR 227

Legal Deadline: None

Abstract: The revised rule would allow States to conduct audits and investigations of all or selected Federal oil and gas leases within State boundaries.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service
Phone: 303 231-3432

RIN: 1010–AC51

1832. • ROYALTY IN KIND FOR OIL AND GAS

Priority: Other Significant

Legal Authority: 30 USC 192; 43 USC 1353

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: This revision will establish a process for the Federal Government to accept oil and gas in lieu of royalty payments from selected Federal leases.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service
Phone: 303 231-3432

RIN: 1010–AC52

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Final Rule Stage

1833. ROYALTY PAYMENT LIABILITY

Priority: Other Significant

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 211

Legal Deadline: None

Abstract: Responsibilities of Minerals Management Service include the collection of royalties, bonuses, rentals, and related revenues from Federal and Indian mineral leases. These monies are, for the most part, collected from the current designated payor on the lease. However, if MMS is unable to collect from the current payor, it must pursue collections from (a) prior payor(s), the lessee, or an assignee of the lease. Existing regulations are unclear as to the responsibilities and liabilities of the parties involved. Therefore, MMS is amending its regulations to clarify payor, lessee, and assignee requirements and responsibilities for Indian mineral leases and Federal solid mineral and geothermal leases.

Timetable:

Action	Date	FR Cite
NPRM	04/13/94	59 FR 17504
NPRM	06/09/95	60 FR 30492
Comment Period Extended	08/30/95	60 FR 45112
Comment Period Extended	10/03/95	60 FR 56033
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service
Phone: 303 231-3432

RIN: 1010–AB45

1834. VALUATION OF GAS FROM INDIAN LEASES

Priority: Other Significant

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: The rule will amend the regulations governing the valuation of gas produced from Indian leases. The primary purpose of these amendments is to ensure that Indian mineral lessors receive maximum revenues from mineral resources on their land consistent with the Department's trust responsibility and lease terms.

Timetable:

Action	Date	FR Cite
ANPRM	08/04/94	59 FR 39712
NPRM	09/23/96	61 FR 49894
NPRM Comment Period End	04/04/97	62 FR 10247
Final Action	10/00/98	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Tribal

Additional Information: This rule was developed using the negotiated rulemaking process which included representatives of MMS, Indian tribes, States, and industry.

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service
Phone: 303 231-3432

RIN: 1010–AB57

DOI—MMS

Final Rule Stage

1835. VALUATION OF OIL FROM FEDERAL MINERAL LEASES

Regulatory Plan: This entry is Seq. No. 46 in Part II of this issue of the Federal Register.

RIN: 1010–AC09

1836. VALUATION OF OIL FROM INDIAN LEASES

Regulatory Plan: This entry is Seq. No. 47 in Part II of this issue of the Federal Register.

RIN: 1010–AC24

1837. POSTLEASE OPERATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.1 to 250.29; 30 CFR 218.154; 30 CFR 256.1; 30 CFR 256.4; 30 CFR 256.55; 30 CFR 256.73

Legal Deadline: None

Abstract: This rule is a complete rewrite in plain English and changes the current regulation by both adding and deleting language. Although some of these changes could be considered significant when compared to the current regulations, they support the policies and procedures now in place. The proposed rule is revised to be as broad and general in scope as feasible.

Timetable:

Action	Date	FR Cite
NPRM	02/13/98	63 FR 7335
NPRM Comment Period End	06/17/98	
Final Rule	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC32

1838. ELECTRONIC REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 3101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701 et seq; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 210; 30 CFR 216

Legal Deadline: None

Abstract: This rule would modify the requirements governing forms that MMS requires for reporting sales, royalties, and production information. The revisions will specify the media required for submission of reports and broaden the use of electronic commerce reporting.

Timetable:

Action	Date	FR Cite
NPRM	04/08/98	63 FR 17133
NPRM Comment Period End	06/08/98	
Final Rule	01/00/99	
Final Action Effective	03/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service
Phone: 303 231-3432

RIN: 1010–AC40

1839. • UPDATE OF INDUSTRY ELECTRICAL STANDARDS

Priority: Routine and Frequent

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule would update a document incorporated by reference that pertains to electrical installations at petroleum facilities.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC50

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Long-Term Actions

1840. CREDIT ADJUSTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: This rule will limit adjustments on royalty payments and determine the use of administrative offset for certain collections. This rule was expanded to include post-Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 impacts on credit adjustments and administrative offsets after the initial proposed rule was published, so a new proposed rule will be issued.

Timetable:

Action	Date	FR Cite
NPRM	08/17/93	58 FR 43588
NPRM Comment Period End	11/01/93	58 FR 50301
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: Yes

DOI—MMS

Long-Term Actions

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service
Phone: 303 231-3432

RIN: 1010–AB73

1841. • OIL AND GAS PRODUCTION RATES

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule eliminates obsolete and burdensome requirements and eliminates items on three MMS forms. In addition, the rule is rewritten into plain English.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC53

1842. • DEEP WATER EMERGENCY WELL CONTROL OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule would require an operator to have available a drilling unit capable of drilling a relief well in deep water. This unit could be available either through direct control or contractual arrangement. The rule would also require an operator to provide evidence of financial capability to carry out emergency operations in deep water.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
Phone: 703 787-1600
Fax: 703 787-1093
Email: kumkum__ray.mms.gov

RIN: 1010–AC54

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Completed Actions

1843. SEISMIC REASSESSMENT OF CALIFORNIA OUTER CONTINENTAL SHELF PLATFORMS

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 250.145

Completed:

Reason	Date	FR Cite
Withdrawn - No Further Action Will Be Taken	07/31/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray
Phone: 703 787-1600
Fax: 703 787-1093
Email: kumkum__ray.mms.gov

RIN: 1010–AC17

1844. AMENDMENTS TO STANDARDS FOR REPORTING AND PAYING ROYALTIES ON GAS AND THE GAS ANALYSIS REPORT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 30 CFR 202; 30 CFR 216

Completed:

Reason	Date	FR Cite
Final Action	05/12/98	63 FR 26362
Final Action Effectivc	06/29/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David S. Guzy
Phone: 303 231-3432

RIN: 1010–AC23

1845. SUSPENSION OF ORDERS OR DECISIONS PENDING APPEAL TO ALLOW FOR SELF-BONDING BASED UPON FINANCIAL SOLVENCY

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 243

Completed:

Reason	Date	FR Cite
Merged With RIN 1010-AC21	07/31/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Tribal, Federal

Agency Contact: David S. Guzy
Phone: 303 231-3432

RIN: 1010–AC28

1846. OIL SPILL RESPONSIBILITY FOR OFFSHORE FACILITIES

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 253

Completed:

Reason	Date	FR Cite
Final Action	08/11/98	63 FR 42699

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray
Phone: 703 787-1600
Fax: 703 787-1093
Email: kumkum__ray.mms.gov

RIN: 1010–AC33

1847. BLOWOUT PREVENTER TESTING REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 250.57

DOI—MMS

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	06/01/98	63 FR 29604
Final Action Effective	06/30/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray
Phone: 703 787-1600
Fax: 703 787-1093
Email: kumkum__ray.mms.gov

RIN: 1010–AC37

1848. PIPELINES

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 250

Completed:

Reason	Date	FR Cite
Final Action	08/17/98	63 FR 43876

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray
Phone: 703 787-1600
Fax: 703 787-1093
Email: kumkum__ray.mms.gov

RIN: 1010–AC39

1849. REDESIGNATION OF 30 CFR PART 250

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 30 CFR 250

Completed:

Reason	Date	FR Cite
Final Action	05/29/98	63 FR 29478
Final Action Effective	06/30/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray
Phone: 703 787-1600
Fax: 703 787-1093
Email: kumkum__ray.mms.gov

RIN: 1010–AC45

1850. • UPDATE OF DOCUMENTS INCORPORATED BY REFERENCE

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule updates two documents incorporated by reference in regulations governing oil, gas, and sulphur operations in the outer continental shelf.

Timetable:

Action	Date	FR Cite
Final Action	07/09/98	63 FR 37066
Final Action Effective	08/10/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
Phone: 703 787-1600
Fax: 703 787-1093
Email: kumkum__ray.mms.gov

RIN: 1010–AC46

BILLING CODE 4310-MR-F

DEPARTMENT OF THE INTERIOR (DOI)

Office of Surface Mining Reclamation and Enforcement (OSMRE)

Proposed Rule Stage

1851. ABANDONED COAL REFUSE SITES—TITLE I

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 785; 30 CFR 829; 30 CFR 830; 30 CFR 845; 30 CFR 870

Legal Deadline: None

Abstract: OSM will propose new regulations governing permitting and performance standards for on-site processing of abandoned coal refuse piles and operations for removal of abandoned coal refuse piles. The rules are required to implement section 2503(e) of the Energy Policy Act of 1992.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Douglas Growitz, Hydrologist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement
Phone: 202 208-2634

RIN: 1029–AB70

1852. CONTEMPORANEOUS RECLAMATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816; 30 CFR 780; 30 CFR 773

Legal Deadline: None

Abstract: This rule will amend regulations to ensure that coal mine operators reclaim their operations in a contemporaneous manner using site-based contemporaneous standards.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Craynon, Chief, Technology Development Staff, Department of the Interior, Office of Surface Mining Reclamation and Enforcement
Phone: 202 208-2866

RIN: 1029–AB79

1853. INDIAN LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 25 CFR 200; 30 CFR 700

DOI—OSMRE

Proposed Rule Stage

Legal Deadline: None

Abstract: This rule will amend regulations to allow OSM to contract to the Navajo and Hopi tribes certain functions relating to permitting mine plan review, bonding, and other functions authorized by the Indian land provisions of SMCRA. The rule is being proposed pursuant to a settlement agreement.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Suzy Hudak, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement
Phone: 202 208-2713

RIN: 1029–AB83

1854. DAM SAFETY RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816; 30 CFR 817

Legal Deadline: None

Abstract: This rule requires the surface coal mining permittee to have an emergency action plan (EAP) at the time a dam is placed in service: This would bring OSM's regulations on EAPs into compliance with the Federal guidelines for dam safety and the Department Manual. It ensures that EAPs are in place for all Class "B" and Class "C" hazard structures that may not necessarily be regulated by the Mine Safety and Health Administration but for which OSM is responsible.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Ruchi Kohli, Civil Engineer, Department of the Interior, Office of Surface Mining Reclamation and Enforcement
Phone: 202 208-2971

RIN: 1029–AB92

1855. OWNERSHIP AND CONTROL—REDESIGN

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 30 USC 1202 et seq

CFR Citation: 30 CFR 773; 30 CFR 778; 30 CFR 843

Legal Deadline: None

Abstract: This rule would succeed the April 21, 1997, interim rule promulgated to comply with the January 31, 1997, decision of the U.S. Court of Appeals. It will further clarify the definition and application of "owned and controlled" and "owns or controls" in permitting and enforcement processes. In developing this rule, we will examine current permitting and enforcement issues that may be ripe for review in order to ensure continued effective implementation of section 520(c) of the Surface Mining Control and Reclamation Act of 1977.

Timetable:

Action	Date	FR Cite
ANPRM	11/26/97	62 FR 63044
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Earl Bandy, Team Leader, Ownership and Control, Department of the Interior, Office of Surface Mining Reclamation and Enforcement
Phone: 606 233-2796

RIN: 1029–AB94

1856. • ELECTRONIC FILING OF THE OSM-1 FORM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 870

Legal Deadline: None

Abstract: This rule would allow operators the option of electronically filing the information required by the OSM-1 Form. The form is used by coal operators to report the amount of coal sold, used or transferred during the calendar quarter; the method of coal removal; the type of coal removal; and other required information.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dennis Dechmerowski, Accountant, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Denver Federal Center, Building 20, Room B-2005, Denver, CO 80225
Phone: 303 236-0330
Email: dechmer@osmre.gov

RIN: 1029–AB95

DEPARTMENT OF THE INTERIOR (DOI)

Office of Surface Mining Reclamation and Enforcement (OSMRE)

Final Rule Stage

1857. DEFINITION AND CRITERIA FOR VALID EXISTING RIGHTS

Priority: Other Significant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 740; 30 CFR 745; 30 CFR 761; 30 CFR 772

Legal Deadline: None

Abstract: This rule will amend the portions of the permanent program which address the circumstances which constitute valid existing rights to mine coal in areas where Congress has otherwise prohibited mining under section 522(e) of the Surface Mining Control and Reclamation Act of 1977. This revision is in response to a court decision in round III of the litigation on OSM's permanent program regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/31/97	62 FR 4836

DOI—OSMRE

Final Rule Stage

Action	Date	FR Cite
Comment Period Extended	05/30/97	62 FR 29368
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Dennis Rice, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement
Phone: 202 208-2829

RIN: 1029–AB42

1858. PROHIBITIONS UNDER SECTION 522(E) OF SMCRA

Priority: Other Significant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 761

Legal Deadline: None

Abstract: This rule will clarify the applicability of section 522 (e) of SMCRA to subsidence resulting from underground coal mining. Section 522 (e) prohibits surface coal mining operations in certain areas designated by Congress, subject to existing rights.

Timetable:

Action	Date	FR Cite
NPRM	01/31/97	62 FR 4864
Comment Period Extended to 08/01/97	05/30/97	62 FR 29368
NPRM Comment Period End	06/02/97	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Broderick, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement
Phone: 202 208-2700

RIN: 1029–AB82

1859. ENHANCING AML RECLAMATION

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 707

Legal Deadline: None

Abstract: This rule will amend the definition of Government-financed construction in section 707. The definition concerns an exemption from the Surface Mining Control and Reclamation Act that is currently limited to construction funded with 50 percent or more by Government funds. This proposed change would have two impacts. It would create greater efficiency by allowing OSM to leverage limited Abandoned Mine Land Funds. It would also provide a means to address the abandoned unreclaimed refuse piles. The rule would facilitate reclamation through a new cooperative effort using resources and financing from the private sector.

Timetable:

Action	Date	FR Cite
ANPRM	11/04/97	62 FR 59639
NPRM	06/25/98	63 FR 34768
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Agency Contact: Douglas Growitz, Hydrologist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement
Phone: 202 208-2634

RIN: 1029–AB89

DEPARTMENT OF THE INTERIOR (DOI)
Office of Surface Mining Reclamation and Enforcement (OSMRE)

Completed Actions

1860. APPLICANT/VIOLATOR SYSTEM PERMIT INFORMATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 30 CFR 701; 30 CFR 773; 30 CFR 774; 30 CFR 778; 30 CFR 843

Completed:

Reason	Date	FR Cite
Withdrawn - No Further Action Will Be Taken at This Time	07/31/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Stephen Sheffield
Phone: 202 208-2883

RIN: 1029–AB62

1861. ALLUVIAL VALLEY FLOORS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 30 CFR 785

Completed:

Reason	Date	FR Cite
Withdrawn - No Further Action Will Be Taken at This Time	07/31/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Andy DeVito
Phone: 202 208-2701

RIN: 1029–AB85

1862. REMOVAL OF 30 CFR 870.17

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 870.17

Completed:

Reason	Date	FR Cite
Final Action	03/03/98	63 FR 10307

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James K. Krawchyk
Phone: 412 921-2976

RIN: 1029–AB93

BILLING CODE 4310-05-F

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Reclamation (RB)

Prerule Stage

1863. RECOVERING THE VALUE OF RIGHTS OF USE AND RELATED ADMINISTRATIVE COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 387; 31 USC 9701

CFR Citation: 43 CFR 429

Legal Deadline: None

Abstract: This rule will include new requirements to comply with OMB Circular A-25, specify procedures for appealing decisions made by the Bureau, and include administrative procedures for concession contracts and cabin site leases.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry Schluntz, Economist, Reclamation Law Contracts and, Repayments Office, Department of the Interior, Bureau of Reclamation
Phone: 303 445-2901

RIN: 1006–AA39

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Reclamation (RB)

Proposed Rule Stage

1864. REVENUES MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 191; 43 USC 375(e); 43 USC 391; 43 USC 392a; 16 USC 835; 30 USC 355; 30 USC 1019; 43 USC 374; 43 USC 375; 43 USC 394; 43 USC 521; 43 USC 501; 43 USC 562; 43 USC 525

CFR Citation: 43 CFR 403

Legal Deadline: None

Abstract: This rule specifies the appropriate crediting methods used for revenues generated by incidental use of Reclamation project lands and facilities in accordance with Federal law. It is being published so that water users have access to the legal requirements that the Bureau of Reclamation applies in the crediting of these revenues.

Timetable:

Action	Date	FR Cite
NPRM	09/12/94	59 FR 46801
NPRM Comment Period End	01/13/95	59 FR 58808
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Alonzo D. Knapp, Manager, Reclamation Law, Contracts, and, Repayment Office, Department of the Interior, Bureau of Reclamation
Phone: 303 445-2889

RIN: 1006–AA30

1865. CENTRAL VALLEY PROJECT OF CALIFORNIA—PURPOSES, USES, AND ALLOCATION OF WATER SUPPLIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 551; 5 USC 553

CFR Citation: 43 CFR 432; 50 CFR 1

Legal Deadline: None

Abstract: The rule will address water measurement, water conservation standards, water transfers, tiered pricing, renewal of long-term contracts, water banking and collection of payments into the restoration fund created by the Central Valley Project Improvement Act. This rule is being developed jointly by the Bureau of Reclamation and the Fish and Wildlife Service.

Timetable:

Action	Date	FR Cite
ANPRM	08/02/94	59 FR 39316
ANPRM Comment Period End	02/01/95	59 FR 67265
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Betty Riley Simpson, Repayment Specialist, Department of the Interior, Bureau of Reclamation
Phone: 916 978-5196

RIN: 1006–AA34

1866. ACREAGE LIMITATION RULES FOR TRUSTS

Priority: Other Significant

Legal Authority: 43 USC 390aa to 390zz

CFR Citation: 43 CFR 428

Legal Deadline: None

Abstract: During the recently completed Reclamation Reform Act of 1982 (RRA) rulemaking, the Department of the Interior received a number of comments regarding the compliance of certain large trusts with the acreage limitation provisions of the RRA. Comments expressed a variety of viewpoints, including the assertion that some trusts with landholdings (owned and leased land) in excess of 960 acres may circumvent the requirements of Federal reclamation law. The Department has received comments on this issue from various parties and is now determining how best to proceed.

Timetable:

Action	Date	FR Cite
ANPRM	12/18/96	61 FR 66827
ANPRM Comment Period End	04/17/97	62 FR 7431
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Richardson, Director, Policy and External Affairs, Department of the Interior, Bureau of Reclamation
Phone: 202 208-4291

RIN: 1006–AA38

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Reclamation (RB)

Final Rule Stage

1867. OFFSTREAM STORAGE OF COLORADO RIVER WATER AND INTERSTATE MARKETING OF STORAGE CREDITS IN THE LOWER DIVISION STATES

Priority: Other Significant

Legal Authority: 43 USC 617; 43 USC 391; 5 USC 553; 43 USC 1501; 43 USC 485; 43 USC 546; 43 USC 340

CFR Citation: 43 CFR 414

Legal Deadline: None

Abstract: This proposed rule establishes procedures for the Secretary of the Interior to follow in administering interstate storage agreements among the Lower Division States (Arizona, Colorado, and Nevada). These agreements will permit State-authorized entities to store Colorado River water offstream, develop intentionally created unused apportionment, and make intentionally unused apportionment available to be used in another Lower Division State. The rule will help satisfy regional water demands by increasing the efficiency, flexibility, and certainty in Colorado River water management.

Timetable:

Action	Date	FR Cite
NPRM	12/31/97	62 FR 68491
NPRM Comment Period End	04/04/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dale Ensminger, Contract and Repayment Specialist, Department of the Interior, Bureau of Reclamation
Phone: 702 293-8659

RIN: 1006–AA40

BILLING CODE 4310-09-F

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Proposed Rule Stage

1868. LEASES, PERMITS, AND EASEMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1732; 43 USC 1740

CFR Citation: 43 CFR 2920

Legal Deadline: None

Abstract: This rule will amend the existing regulations to provide for improved administration of leases, permits and easements under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	11/21/90	55 FR 48810
NPRM Comment Period End	01/22/91	
Second NPRM	02/09/95	60 FR 7878
Second NPRM Comment Period End	04/10/95	
Final Rule for Minimum Impact Land Use Permits Only	06/24/96	61 FR 32351
Final Rule Effective	07/24/96	
Third NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC
Phone: 202 452-7779
Fax: 202 452-7708

RIN: 1004–AB51

1869. SALES—FEDERAL LAND POLICY AND MANAGEMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1701; 43 USC 1713

CFR Citation: 43 CFR 2710

Legal Deadline: None

Abstract: This rule will amend 43 CFR part 2710 to provide for improved administration of sales of public land under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jim Paugh, Realty Specialist, Department of the Interior, Bureau of Land Management
Phone: 307 775-6306

RIN: 1004–AB77

1870. DESERT LAND ENTRIES

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2520

Legal Deadline: None

Abstract: This rule will transfer much of the regulation on entries of desert land to the BLM Manual if the underlying statute is not repealed as no longer practical.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C. Street NW., Washington, DC
Phone: 202 452-7779
Fax: 202 452-7708

RIN: 1004–AC56

1871. DISPOSAL OF RESERVED MINERALS UNDER THE STOCK RAISING HOMESTEAD ACT

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 299

CFR Citation: 43 CFR 3814

Legal Deadline:
Final, Statutory, October 13, 1993.

Abstract: This rule will establish new procedures for mineral exploration and development under the General Mining Law of 1872 on lands where the surface was patented under the Stock Raising Homestead Act of 1916 and the mineral estate remains reserved to the Federal Government.

DOI—BLM

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roger Haskins, Mining Law Specialist, Department of the Interior, Bureau of Land Management
Phone: 202 452-0355

RIN: 1004–AC59

1872. LAND WITHDRAWALS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1714; 43 USC 1740

CFR Citation: 43 CFR 2091; 43 CFR 2310; 43 CFR 2370

Legal Deadline: None

Abstract: This rule will revise the regulations on withdrawals and revocations of withdrawals to streamline operations and clarify the regulations. It will also amend the regulations to expedite the opening of formerly withdrawn lands to the operation of the public land laws.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C. Street NW., Washington, DC
Phone: 202 452-7779
Fax: 202 452-7708

RIN: 1004–AC63

1873. COST RECOVERY; MINERAL FILINGS AND OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 360; 30 USC 1001 et seq; 30 USC 22; 5 USC app; 31 USC 9701; 43 USC 1734

CFR Citation: 43 CFR 3100; 43 CFR 3200; 43 CFR 3400; 43 CFR 3500; 43 CFR 3600; 43 CFR 3700; 43 CFR 3800

Legal Deadline: None

Abstract: This rule will amend regulations for user fees for locatable minerals, mineral materials, and leasable minerals (solids and fluids) to adjust current fees or establish new fees in accordance with title V of the Independent Offices Appropriations Act of 1952 (user charges), OMB Circular A-25 "User Charges" and section 304 of the Federal Land Policy and Management Act of 1976.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Durga N. Rimal, Geologist, Department of the Interior, Bureau of Land Management
Phone: 202 452-0350
Email: drimal@wo.blm.gov

RIN: 1004–AC64

1874. RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2800; 43 CFR 2880

Legal Deadline: None

Abstract: This rule will move much of the existing regulations to manuals notices to applicants, etc. This action will ease update of cost recovery schedules. Materials will be combined with other rights-of-way guidance.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ron Montagna, Realty Specialist, Department of the Interior, Bureau of Land Management
Phone: 202 452-7782

RIN: 1004–AC74

1875. RAILROAD GRANTS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1201; 49 USC 65

CFR Citation: 43 CFR 2630

Legal Deadline: None

Abstract: This rule will remove these regulations in their entirety due to their limited usage.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ian Senio, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (WO-630), 1849 C Street NW., Washington, DC 20240, Mail Stop 401 L St.
Phone: 202 452-5049
Email: isenio@wo.blm.gov

RIN: 1004–AC76

1876. LAND CLASSIFICATION

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 43 USC 315; EO 6910; EO 6964; 43 USC 1411 to 1418; 43 USC 869

CFR Citation: 43 CFR 2400

Legal Deadline: None

Abstract: This rule will revise 43 CFR group 2400 and redesignate it as part 1620. Most of these regulations are no longer needed because they contain either statutory reiteration or internal procedures best suited to the BLM Manual. Land classification can be accomplished through the BLM planning process.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of

the Interior, Bureau of Land Management, 1849 C. Street NW., Washington, DC
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RIN: 1004–AC78

1877. CAREY ACT GRANTS

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 43 USC 641 et seq

CFR Citation: 43 CFR 2610

Legal Deadline: None

Abstract: This rule will update these regulations as they are inconsistent with present day management policies. Application of these provisions of the Carey Act is rarely feasible due to limited water and suitable lands.

Timetable:

Action	Date	FR Cite
NPRM	09/10/96	61 FR 47725
NPRM Comment Period End	10/10/96	
Supplementary NPRM	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C. Street NW., Washington, DC
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Fax: 202 452-7708

RIN: 1004–AC80

1878. CONVEYANCES, DISCLAIMERS, AND CORRECTION DOCUMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 15; 43 USC 1161; 43 USC 1201; 43 USC 1745; 43 USC 1746

CFR Citation: 43 CFR 1860

Legal Deadline: None

Abstract: This rule will update portions of the existing regulation and eliminate outdated provisions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ted Hudson, Regulatory Analyst, Department of the Interior, Bureau of Land Management
Phone: 202 452-5042
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Email: thudson@wo.blm.gov

RIN: 1004–AC82

1879. SEGREGATION AND OPENING OF LANDS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2091

Legal Deadline: None

Abstract: This rule will simplify and modernize the existing regulations on segregation and opening public lands that are involved in various transactions such as sales or exchanges.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C. Street NW., Washington, DC
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RIN: 1004–AC84

1880. OIL AND GAS LEASING AND OPERATIONS

Regulatory Plan: This entry is Seq. No. 48 in Part II of this issue of the **Federal Register**.

RIN: 1004–AC94

1881. APPEALS PROCEDURES; HEARINGS PROCEDURES

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 43 USC 1701; 43 USC 1740

CFR Citation: 43 CFR 1840; 43 CFR 1850

Legal Deadline: None

Abstract: BLM proposes to amend its regulations that govern administrative review procedures for protests of proposed decisions, contests appeals of BLM decisions, and hearings on the record. The proposed regulations would provide more consistent procedures for administrative review of BLM decisions, and would clarify when and how BLM decisions go into effect and whether an appeal will stay the effectiveness of a BLM decision.

Timetable:

Action	Date	FR Cite
NPRM	10/17/96	61 FR 54120
NPRM Comment Period End	01/17/97	61 FR 58160
Second NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher Fontecchio, Regulatory Analyst, Department of the Interior, Bureau of Land Management
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RIN: 1004–AC99

1882. COLOR OF TITLE AND OMITTED LANDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2540

Legal Deadline: None

Abstract: As part of its reinventing government effort, BLM proposes to rewrite the current color of title and omitted lands regulations in plain English. No substantive changes are proposed.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ted Hudson, Regulatory Analyst, Department of the Interior, Bureau of Land Management
Phone: 202 452-5042
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RIN: 1004–AD00

1883. PALEONTOLOGICAL RESOURCES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 3622; 43 CFR 8365; 43 CFR 6600

Legal Deadline: None

Abstract: This rule will consolidate into one part of the CFR various BLM regulatory provisions relating to paleontological resource management and rewrite them in plain English.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carl Barna, Paleontological Program Coordinator, Department of the Interior, Bureau of Land Management
Phone: 202 452-0325

RIN: 1004–AD03

1884. GEOTHERMAL RESOURCE UNIT AGREEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740; 30 USC 1001 et seq

CFR Citation: 43 CFR 3280

Legal Deadline: None

Abstract: This rule will rewrite unit agreement regulations, reduce and streamline information and permitting requirements, provide BLM maximum flexibility in permitting decision making to accommodate the full range of unitization scenarios, and reorganize the regulations to make specific requirements easier to find and understand.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher Fontecchio, Regulatory Analyst, Department of the Interior, Bureau of Land Management
Phone: 202 452-5012
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RIN: 1004–AD10

1885. COAL MANAGEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 189; 30 USC 359; 30 USC 1266; 43 USC 1733; 43 USC 1740

CFR Citation: 43 CFR 3400

Legal Deadline: None

Abstract: This rule will clarify and streamline policy on coal exploration and post-lease operations. It will reorganize and revise portions of the Federal coal management program regulations, including exploration licenses, lease suspensions, lease administration diligence, and exploration and mining operations on leased Federal coal.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bill Radden-LeSage, Mining Engineer, Department of the Interior, Bureau of Land Management
Phone: 202 452-0360

RIN: 1004–AD11

1886. OIL AND GAS LEASING; NATIONAL PETROLEUM RESERVE, ALASKA—TRANSFERS, EXTENSIONS, AND CONSOLIDATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6503; 43 USC 1740

CFR Citation: 43 CFR 3130; 43 CFR 3135

Legal Deadline: None

Abstract: This rule will make clear whether lessees may enter into unit agreements involving lands in the National Petroleum Reserve Alaska.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Erick Kaarlela, Senior Specialist, Operations and Inspection, Department of the Interior, Bureau of Land Management
Phone: 202 452-0341

RIN: 1004–AD13

1887. SURFACE MANAGEMENT (LOCATABLE MINERALS)

Regulatory Plan: This entry is Seq. No. 49 in Part II of this issue of the **Federal Register**.

RIN: 1004–AD22

1888. FINANCIAL ASSISTANCE; LOCAL GOVERNMENTS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740; 31 USC 1601 et seq

CFR Citation: 43 CFR 1880

Legal Deadline: None

Abstract: This rule will update the regulations on payments to State and local governments in lieu of taxes to reflect changes in law.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Bill Howell, Accountant, Department of the Interior, Bureau of Land Management
Phone: 202 452-7721

RIN: 1004–AD23

1889. USE AUTHORIZATIONS (RECREATION)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740; 16 USC 460l-6a

CFR Citation: 43 CFR 8370

Legal Deadline: None

Abstract: This rule will revise the regulations on the issuance of special recreation permits for purposes of clarification and updating and will add regulations on the issuance of recreation use permits for the use of fee areas.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Lee Larson, Recreation Specialist, Department of the Interior, Bureau of Land Management
Phone: 202 452-5168

RIN: 1004–AD25

1890. ADVISORY COMMITTEES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC app 1; 43 USC 1739; 43 USC 1740

CFR Citation: 43 CFR 1784

Legal Deadline: None

Abstract: This rule will remove most or all of the regulation because it duplicates advisory committee regulations elsewhere in the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher Fontecchio, Regulatory Analyst, Department of the Interior, Bureau of Land Management
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RIN: 1004–AD26

1891. COAL MANAGEMENT: GENERAL (PUBLIC PARTICIPATION)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 181 et seq

CFR Citation: 43 CFR 3420

Legal Deadline: None

Abstract: This rule will amend the Federal coal management regulations by listing all opportunities for public comment in the coal leasing process.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip Allard, Geologist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC
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RIN: 1004–AD27

1892. MINERAL MATERIALS DISPOSAL

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 601 et seq

CFR Citation: 43 CFR 3600; 43 CFR 3610; 43 CFR 3620

Legal Deadline: None

Abstract: This rule will revise completely the regulations on mineral materials disposal to make them easier to understand. It will add provisions on recordkeeping and audit inspection, inspection and production verification, cancellation and suspension, appeals and clarification of the rights of competitive or noncompetitive purchasers against subsequent claims on and users of the public lands.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Durga N. Rimal, Geologist, Department of the Interior, Bureau of Land Management
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RIN: 1004–AD29

1893. EMERGENCY FIRE AND DISASTER REHABILITATION

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 315a et seq; 43 USC 1740

CFR Citation: 43 CFR 9240

Legal Deadline: None

Abstract: This rule will make emergency rehabilitation project decisions effective upon issuance to minimize unnecessary delay in repairing damage caused by fire and other natural disasters, and avoiding erosion and other adverse impacts on public lands resulting from natural disasters.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tom Roberts, Range Conservationist, Department of the Interior, Bureau of Land Management, 1849 C. St. NW., Washington, DC
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RIN: 1004–AD30

1894. LOCATION OF MINING CLAIMS; ASSESSMENT WORK; PUBLIC LAW 359 - MINING IN POWERSITE WITHDRAWALS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 22 to 54; 43 USC 1740; 43 USC 1201

CFR Citation: 43 CFR 3730; 43 CFR 3740; 43 CFR 3810; 43 CFR 3820

Legal Deadline: None

Abstract: This rule will amend the mining claim recordation and annual fee collection procedures to conform to the Fiscal Year 1999 Interior and Related Agencies Appropriations Act. It will also consolidate duplicative portions of 43 CFR part 3700 et seq. into 43 CFR part 3800 et seq., and remove the duplicative portions of these regulations from title 43.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: The $100 annual maintenance fee and related provisions expire on 9/30/98. The fee and related provisions will likely be made permanent in the FY 1999 budget legislation. The existing regulations will have to be amended to conform to the legislation. BLM will take the opportunity to do long-delayed but necessary housekeeping of these parts of title 43 to consolidate duplicative sections.

Agency Contact: Roger Haskins, Mining Law Specialist, Department of the Interior, Bureau of Land Management
Phone: 202 452-0355

RIN: 1004–AD31

1895. MINERAL PATENT APPLICATIONS; ADVERSE CLAIMS, PROTESTS, AND CONFLICTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 22 to 54; 43 USC 1740; 43 USC 1740

CFR Citation: 43 CFR 3730; 43 CFR 3740; 43 CFR 3860; 43 CFR 3870; 43 CFR 3820

Legal Deadline: None

Abstract: This rule will revise the filing and administrative procedures for mineral patent applications. It will also revise the procedures for filing adverse claims or protests against mineral patent applications and for mineral-in-character challenges to non-mineral land entries.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: This rulemaking was ordered by the Secretary of the Interior on November 14, 1997. Much of the language of these regulations has remained unchanged since 1939 and needs modernization.

Agency Contact: Roger Haskins, Mining Law Specialist, Department of the Interior, Bureau of Land Management
Phone: 202 452-0355

RIN: 1004–AD32

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Final Rule Stage

1896. MANAGEMENT OF DESIGNATED WILDERNESS AREA

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1701 et seq; 16 USC 1131 et seq

CFR Citation: 43 CFR 8560; 43 CFR 6300

Legal Deadline: None

Abstract: This rule will amend the existing regulations to remove obsolete provisions, clarify and simplify the regulations, and add provisions on access to inholdings, rights-of-way, use of mechanized equipment by certain individuals, access by Native Americans.

Timetable:

Action	Date	FR Cite
NPRM	12/19/96	61 FR 66968
NPRM Comment Period End	02/18/97	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

DOI—BLM — Final Rule Stage

Agency Contact: Jeff Jarvis, Wilderness Specialist, Department of the Interior, Bureau of Land Management
Phone: 202 452-5189

RIN: 1004–AB69

1897. MANAGEMENT OF SOLID MINERALS OTHER THAN COAL

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 3500

Legal Deadline: None

Abstract: This rule will remove repetitive introductory material and combine the common provisions of the series of regulations of leasing of specific non-coal minerals.

Timetable:

Action	Date	FR Cite
NPRM	10/18/96	61 FR 54384
NPRM Comment Period End	03/07/97	62 FR 5373
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher Fontecchio, Regulatory Analyst, Department of the Interior, Bureau of Land Management
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RIN: 1004–AC49

1898. MINERAL MATERIALS DISPOSAL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 601 et seq

CFR Citation: 43 CFR 3600; 43 CFR 3610; 43 CFR 3620

Legal Deadline: None

Abstract: This rule will amend current regulations to simplify and make bonding requirements easier to follow. It also adds a provision under which certificates of deposit could be used as a bond. In addition, some editorial changes will be made to make the rules easier to understand.

Timetable:

Action	Date	FR Cite
NPRM	08/02/96	61 FR 40373
NPRM Comment Period End	09/03/96	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Durga N. Rimal, Geologist, Department of the Interior, Bureau of Land Management
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RIN: 1004–AC68

1899. DEFINITIONS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1201; 43 USC 1740

CFR Citation: 43 CFR 1300

Legal Deadline: None

Abstract: This rule will relocate definitions from various sections of BLM's portion of 43 CFR into a central section for general definitions. The new location will be in 43 CFR 1800. Several definitions that had been formerly repeated in various sections will appear as one consolidated definition.

Timetable:

Action	Date	FR Cite
NPRM	11/19/96	61 FR 58843
NPRM Comment Period End	01/21/97	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ted Hudson, Regulatory Analyst, Department of the Interior, Bureau of Land Management
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RIN: 1004–AC73

1900. INDIAN ALLOTMENTS

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 43 USC 1201; 25 USC 334; 25 USC 336

CFR Citation: 43 CFR 2530

Legal Deadline: None

Abstract: This rule will convert existing regulations to plain English and remove those portions that relate to procedural matters.

Timetable:

Action	Date	FR Cite
NPRM	10/16/96	61 FR 53887
NPRM Comment Period End	11/15/96	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C. Street NW., Washington, DC
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RIN: 1004–AC77

1901. APPLICATION PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 251; 43 USC 263; 43 USC 689; 43 USC 690; 43 USC 1201; 43 USC 1374; 43 USC 1740

CFR Citation: 43 CFR 1820

Legal Deadline: None

Abstract: This rule will revise the existing regulation to consolidate certain business practice rules and update to recognize modern technology.

Timetable:

Action	Date	FR Cite
NPRM	10/01/97	62 FR 51402
NPRM Comment Period End	12/01/97	
Final Action	10/00/98	

DOI—BLM — Final Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frances Watson, Regulatory Analyst, Department of the Interior, Bureau of Land Management
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RIN: 1004–AC83

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Long-Term Actions

1902. COALBED METHANE DEVELOPMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 13368

CFR Citation: 43 CFR 3170

Legal Deadline:
Final, Statutory, October 24, 1995.

Abstract: The rule will implement section 1339 of the Energy Policy Act of 1992. It will prevent conflicts in ownership of coalbed methane from impeding development of that resource by requiring pooling of development and payment of the proceeds into an escrow account until the ownership issue is resolved by a State entity of competent jurisdiction. The rule will also allow States to avoid the Federal regulations by promulgating their own regulations that substantially comply with Federal requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/15/95	60 FR 47920
NPRM Comment Period End	11/14/95	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: David R. Stewart, Assistant Deputy State Director for, Mineral Resources, Department of the Interior, Bureau of Land Management
Phone: 703 440-1728

RIN: 1004–AC27

1903. OIL AND GAS LEASING; DRAINAGE

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 3100

Legal Deadline: None

Abstract: This rule will specify who has the responsibility for drainage protection, what it constitutes, and when it begins.

Timetable:

Action	Date	FR Cite
NPRM	01/13/98	63 FR 1936
NPRM Comment Period End	05/15/98	63 FR 9171
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Donnie Shaw, Fluid Minerals Group, Department of the Interior, Bureau of Land Management
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RIN: 1004–AC54

1904. HELIUM CONTRACTS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 3750; 30 CFR 602

Legal Deadline: None

Abstract: This rule will require Federal agencies with major requirements for helium to purchase from authorized Federal helium suppliers and in turn require those suppliers to purchase a like amount of crude helium from the helium reserve, and set up reporting requirements for the agencies and suppliers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/28/98	63 FR 40175
Comment Period End	08/27/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Shirlean Beshir, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC
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RIN: 1004–AD24

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Completed Actions

1905. PUBLIC AVAILABILITY OF MINERALS RESOURCES INFORMATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 43 CFR 3000

Completed:

Reason	Date	FR Cite
Final Action	10/01/98	63 FR 52946
Final Action Effective	11/02/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sid Vogelpohl
Phone: 601 977-5402

RIN: 1004–AB55

DOI—BLM

Completed Actions

1906. SPECIAL AREAS; STATE IRRIGATION DISTRICTS

Priority: Info./Admin./Other

Major: Undetermined

CFR Citation: 43 CFR 2780

Completed:

Reason	Date	FR Cite
Final Action	09/30/98	63 FR 52185
Final Action Effective	10/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher Fontecchio
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RIN: 1004–AC53

1907. STATE EXCHANGES; NATIONAL PARK SYSTEM EXCHANGES; WILDLIFE REFUGE EXCHANGES; MISCELLANEOUS EXCHANGES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 43 CFR 2210; 43 CFR 2240; 43 CFR 2250; 43 CFR 2270

Completed:

Reason	Date	FR Cite
Final Action	09/29/98	63 FR 52615
Final Action Effective	10/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher Fontecchio
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RIN: 1004–AC58

1908. GRAZING ADMINISTRATION; ALASKA; LIVESTOCK

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 43 CFR 4200

Completed:

Reason	Date	FR Cite
Final Action	09/29/98	63 FR 51853
Final Action Effective	10/29/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Shirlean Beshir
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RIN: 1004–AC70

1909. ALASKA NATIVE SELECTIONS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 43 CFR 2650

Completed:

Reason	Date	FR Cite
Withdrawn	07/30/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher Fontecchio
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RIN: 1004–AC72

1910. USE; RIGHTS-OF-WAY

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 43 CFR 2800

Completed:

Reason	Date	FR Cite
Merged With RIN 1004-AC74	07/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ron Montagna
Phone: 202 452-7782

RIN: 1004–AC75

1911. PLANNING, PROGRAMMING, AND BUDGETING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 43 CFR 1600

Completed:

Reason	Date	FR Cite
Withdrawn - No Action Planned at This Time	10/01/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ted Milesnick
Phone: 202 452-7727

RIN: 1004–AC86

1912. SUSTAINED YIELD FOREST UNITS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 43 CFR 5040

Completed:

Reason	Date	FR Cite
Final Action	03/18/98	63 FR 13130

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lyndon Werner
Phone: 503 952-6071

RIN: 1004–AC93

1913. NATIONAL FOREST EXCHANGES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 43 CFR 2202

Completed:

Reason	Date	FR Cite
Final Action	04/30/98	63 FR 23680

DOI—BLM

Completed Actions

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher Fontecchio
Phone: 202 452-5012
Fax: 202 653-5287
Email: cfontecc@wo.blm.gov

RIN: 1004–AC97

1914. GRAZING ADMINISTRATION: ALASKA; REINDEER

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 43 CFR 4300

Completed:

Reason	Date	FR Cite
Final Action	10/16/98	63 FR 55548
Final Action Effective	11/16/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frances Watson
Phone: 202 452-5006
Fax: 202 653-5287
Email: fwatson@wo.blm.gov

RIN: 1004–AD06

1915. GEOTHERMAL RESOURCES LEASING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 43 CFR 3200

Completed:

Reason	Date	FR Cite
Final Action	09/30/98	63 FR 52356
Final Action Effective	10/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher Fontecchio
Phone: 202 452-5012
Fax: 202 653-5287
Email: cfontecc@wo.blm.gov

RIN: 1004–AD08

1916. AUTHORITIES/MISSION STATEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 43 CFR 1800

Completed:

Reason	Date	FR Cite
Withdrawn - No Action Anticipated in the Foreseeable Future	07/29/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Frances Watson
Phone: 202 452-5006
Fax: 202 653-5287
Email: fwatson@wo.blm.gov

RIN: 1004–AD15

1917. WILD HORSE AND BURRO ADOPTIONS; POWER OF ATTORNEY

Priority: Substantive, Nonsignificant

CFR Citation: 43 CFR 4700

Completed:

Reason	Date	FR Cite
Final Action	04/15/98	63 FR 18339

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patrick Boyd
Phone: 202 452-5076
Email: pboyd@blm.gov

RIN: 1004–AD28

BILLING CODE 4310-84-F

DEPARTMENT OF THE INTERIOR (DOI)

Office of the Secretary (OS)

Proposed Rule Stage

1918. WILD AND SCENIC RIVERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1278

CFR Citation: 43 CFR 39

Legal Deadline: None

Abstract: This rule would establish uniform standards and procedures by which the Department of the Interior, through its agencies that administer rivers in the National Wild and Scenic Rivers System (Bureau of Land Management, Fish and Wildlife Service, and National Park Service), will consider Federal licensing of, or assistance to, water resources projects affecting designated Wild and Scenic Rivers or congressionally authorized Study Rivers.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: John Haubert, Outdoor Recreation Planner, Department of the Interior, Office of the Secretary, 1849 C Street NW., Room 3230, Washington, DC 20240
Phone: 202 208-4290
Email: john__haubert@nps.gov

RIN: 1093–AA08

[FR Doc. 98-28280 Filed 11-06-98; 8:45 am]

BILLING CODE 4310-10-F

Federal Register

Monday
November 9, 1998

Part XI

Department of Justice

Semiannual Regulatory Agenda

DEPARTMENT OF JUSTICE (DOJ)

DEPARTMENT OF JUSTICE

8 CFR Ch. I

21 CFR Ch. I

28 CFR Ch. I

Regulatory Agenda

AGENCY: Department of Justice.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Justice is publishing its October 1998 regulatory agenda pursuant to E.O. 12866 "Regulatory Planning and Review," 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. sections 601-612 (1988).

FOR FURTHER INFORMATION CONTACT: Robert Hinchman, Senior Counsel, Office of Policy Development, Department of Justice, Room 4258, 950 Pennsylvania Avenue NW., Washington, DC 20530, (202) 514-8059.

SUPPLEMENTARY INFORMATION: For this edition of the Department of Justice's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

The Regulatory Flexibility Act (RFA) requires that, each year, the Department publish a list of those regulations that have a significant economic impact upon a substantial number of small entities and are to be reviewed under section 610 of the Act during the succeeding 12 months. This edition of the Department's unified agenda includes one regulation requiring such a review: "Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements" (RIN 1115-AB73). In accordance with the RFA, comments are specifically invited on this regulation. Those comments should be addressed to the contact person listed in the entry for this item.

Dated: September 16, 1998.

Eleanor D. Acheson,

Assistant Attorney General, Office of Policy Development.

Bureau of Prisons—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1919	Postsecondary Education Programs	1120-AA25
1920	Correspondence: Excludable Mail	1120-AA65
1921	Administrative Remedy Program: Excluded Matters	1120-AA72
1922	Visiting Regulations: Prior Relationship	1120-AA77
1923	Inmate Discipline: Prohibited Acts	1120-AA78
1924	Smoking/No Smoking Areas	1120-AA79
1925	Over-the-Counter (OTC) Medications	1120-AA81
1926	Federal Prison Industries, Inc. (FPI) Standards and Procedures Which Facilitate FPI's Ability To Accomplish Its Mission	1120-AA84

Bureau of Prisons—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1927	Volunteer Community Service Projects	1120-AA03
1928	Intensive Confinement Centers	1120-AA11
1929	Infectious Diseases	1120-AA23
1930	Birth Control, Pregnancy, Child Placement, Abortion	1120-AA31
1931	Literacy Program	1120-AA33
1932	Inmate Personal Property	1120-AA46
1933	Telephone Regulations and Inmate Financial Responsibility	1120-AA49
1934	Federal Prison Industries (FPI) Work Program: Deportation Orders	1120-AA57
1935	Good Conduct Time	1120-AA62
1936	Classification and Program Review: Team Meetings	1120-AA64
1937	Drug Abuse Treatment and Intensive Confinement Center Programs: Early Release Consideration	1120-AA66
1938	Visiting: Notification to Visitors	1120-AA67
1939	Correspondence: Return Address	1120-AA69
1940	Acceptance of Donations	1120-AA71
1941	Inmate Work and Performance Pay: Work Evaluation	1120-AA74
1942	Cost of Incarceration Fee	1120-AA75
1943	Inmate Recreation Programs and Manuscripts	1120-AA76
1944	Victim and/or Witness Notification: State Custody Transfers	1120-AA80

DOJ

Bureau of Prisons—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1945	Administrative Safeguards for Psychiatric Treatment and Medication; Military Prisoners and District of Columbia Code Violators	1120-AA83

Bureau of Prisons—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1946	Incoming Publications/Inmate Legal Activities	1120-AA15
1947	Telephone Regulations and Inmate Financial Responsibility	1120-AA39
1948	Incoming Publications: Nudity and Sexually Explicit Material or Information	1120-AA59

Bureau of Prisons—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1949	Nondiscrimination Toward Inmates	1120-AA73
1950	Bureau of Prisons Central Office, Regional Offices, Institutions, and Staff Training Centers	1120-AA82

Civil Rights Division—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1951	Nondiscrimination on the Basis of Sex in Federally Assisted Programs and Activities—Implementation of Title IX of the Education Amendments of 1972 **(Reg Plan Seq. No. 50)**	1190-AA28
1952	Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities	1190-AA44

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Civil Rights Division—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1953	Nondiscrimination on the Basis of Disability in State and Local Government Services; Public Accommodations and Commercial Facilities; Accessibility Standards **(Reg Plan Seq. No. 51)**	1190-AA26
1954	Nondiscrimination on the Basis of Disability in State and Local Government Services	1190-AA36
1955	Americans With Disabilities Act Accessibility Guidelines for Buildings and Facilities; Children's Facilities	1190-AA38
1956	Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities (Detectable Warnings)	1190-AA45

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Civil Rights Division—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1957	Amendment to Nondiscrimination in Federally Assisted Programs and Activities—Implementation of Title VI of the Civil Rights Act of 1964	1190-AA31
1958	Amendment to Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs—Implementation of Title VI of the Civil Rights Act of 1964	1190-AA32
1959	Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups	1190-AA39

DOJ

Civil Rights Division—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1960	Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, as Amended	1190-AA35

Drug Enforcement Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1961	Exemption of Chemical Mixtures	1117-AA31
1962	Guidelines for Providing Controlled Substances to Ocean Vessels	1117-AA40
1963	Sale by Federal Departments or Agencies of Chemicals Usable to Manufacture a Controlled Substance	1117-AA47
1964	Special Surveillance List of Chemical, Products, Materials and Equipment	1117-AA49

Drug Enforcement Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1965	Definition and Registration of Disposers	1117-AA19
1966	Registration and Reregistration Application Fees	1117-AA34
1967	Establishment of Freight Forwarding Facilities	1117-AA36
1968	Listed Chemicals; Proposed Thresholds for Iodine and Hydrochloric Gas (Hydrogen Chloride Gas)	1117-AA43
1969	Implementation of the MCA; Regulation of Pseudoephedrine, Phenylpropanolamine, and Combination Ephedrine Drug Products and Reports of Certain Transactions to Nonregulated Persons	1117-AA44
1970	Temporary Exemption From Chemical Registration for Distributors of Pseudoephedrine and Phenylpropanolamine and Products	1117-AA46
1971	Anhydrous Hydrogen Chloride: Categories of Distribution Regarded as Nonregulated	1117-AA48

Executive Office for Immigration Review—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1972	Rules of Practice and Procedure for Administrative Hearings Before Administrative Law Judges	1125-AA17
1973	Authority of Immigration Judges To Issue Civil Money Penalties	1125-AA18
1974	Board of Immigration Appeals: Streamlining	1125-AA22

Executive Office for Immigration Review—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1975	Rules Concerning Conditional Permanent Residence for Alien Entrepreneurs in Deportation Proceedings	1125-AA02
1976	Discipline of Attorneys and Representatives	1125-AA13
1977	Conditional Grants of Suspension of Deportation and Cancellation of Removal	1125-AA19
1978	Adjustment of Status to That of Person Admitted for Permanent Residence	1125-AA20

Executive Office for Immigration Review—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1979	Board of Immigration Appeals: Temporary Board Members and En Banc Procedures	1125-AA21
1980	Motion to Reopen: Suspension of Deportation and Cancellation of Removal	1125-AA23

DOJ

Executive Office for Immigration Review—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1981	Board of Immigration Appeals: 18 Board Members	1125-AA24

Immigration and Naturalization Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1982	Corporate Reorganizations (Mergers and Acquisitions) and E, H, L Nonimmigrant Classification	1115-AE55

Immigration and Naturalization Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1983	Revised Grounds of Inadmissibility, Waivers for Immigrants and Nonimmigrants, and Exceptions **(Reg Plan Seq. No. 52)**	1115-AB45
1984	F, J, and M Nonimmigrant Student Requirements for Admission, Tracking, Maintenance of Status and for Employment Authorization	1115-AD16
1985	Inspection of Persons Applying for Admission	1115-AD17
1986	Nonimmigrant Classes; S Classification; Law Enforcement Initiatives; Alien Witnesses	1115-AD86
1987	Update to Transit Without Visa (TWOV) Listing	1115-AD96
1988	Employment Authorization Document Applications and Process	1115-AE06
1989	Inspection of Persons Applying for Admission; Transit Without Visa (TWOV) and International-to-International Agreements Liquidated Damages	1115-AE37
1990	Judicial Review of Decisions of the Executive Office for Immigration Review and the Immigration and Naturalization Service	1115-AE46
1991	Petition for Employment Creation Aliens	1115-AE56
1992	Suspension of Privilege To Transport Aliens to the United States	1115-AE59
1993	Filing Factual Statements About Alien Prostitutes	1115-AE60
1994	Nonimmigrant Overstays	1115-AE62
1995	F-1 Visa Abusers and Foreign Students	1115-AE63
1996	Employment Verification by Employers That Are Members of a Multi-Employer Association	1115-AE67
1997	Use of Parole for Humanitarian Reason or Significant Public Benefit and Report to Congress	1115-AE68
1998	Collection of Fees Under the Dedicated Commuter Lane Program, Port Passenger Accelerated Service System (PORTPASS) Program	1115-AE71
1999	Delegation of Immigration Enforcement Authority	1115-AE76
2000	Regulations Pertaining to Battered Aliens and to Mail Order Bride Businesses, as Mandated by IIRIRA	1115-AE77
2001	Public Charge Bond Pilot Program	1115-AE78
2002	Surrender of Aliens Ordered Removed From the United States	1115-AE82
2003	Proceedings to Determine Deportability of Aliens in the United States: Apprehension, Custody, Hearing, and Appeal	1115-AE83
2004	Control of Aliens Departing From the United States	1115-AE89
2005	Enroute Inspections and the Recovery of Immigration and Naturalization Service Costs	1115-AE98
2006	Procedure for Accepting Applications for Benefits Submitted with Insufficient or Excess Fees	1115-AF06
2007	Change in Business Practices: Non-Acceptance of Cash as Remittance for Fees and Applications in Immigration and Naturalization Services Offices	1115-AF07
2008	Examinations Fee Account Schedule—Small Volume Applications	1115-AF10
2009	Classes of Aliens Authorized To Accept Employment	1115-AF16
2010	Powers of the Attorney General To Authorize State or Local Law Enforcement Officers To Carry Out Immigration Enforcement	1115-AF20
2011	Progressive Clearance Stopovers	1115-AF23
2012	Delegation of the Adjudication of Certain H-2A Petions to the Department of Labor	1115-AF29

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

DOJ

Immigration and Naturalization Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2013	Seizure and Forfeiture of Conveyances	1115-AA95
2014	Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements (Section 610 Review) (Reg Plan Seq. No. 53)	1115-AB73
2015	Visa Waiver Pilot Program	1115-AB93
2016	Adjustment of Status to That of Person Admitted for Permanent Residence: Conditional Residents and Fiance(e)s	1115-AC70
2017	Nonimmigrant Classes; B Visitor for Business or Pleasure	1115-AC89
2018	Petitions for Employment-Based Immigrants	1115-AD55
2019	Admission of Certain Nurses Seeking Nonimmigrant Classification Under the H-1A Category	1115-AD74
2020	Fees for Participation in Dedicated Commuter Lanes at Selected Ports of Entry; Collection of Fees Under the Dedicated Commuter Lane Program	1115-AD82
2021	Adjustment of Status to That of Person Admitted for Permanent Residence; Temporary Removal of Certain Restrictions on Eligibility	1115-AD83
2022	90-Day Modified Inspection of Alien Crew Members	1115-AD95
2023	Petition To Classify Alien as Immediate Relative of a U.S. Citizen or as a Preference Immigrant; Self-Petitioning for Certain Battered or Abused Alien Spouses and Children	1115-AE04
2024	Miscellaneous Modifications to Naturalization Regulations	1115-AE07
2025	Conditions on Nonimmigrant Status; Disclosure of Information	1115-AE17
2026	Employer Sanctions Modifications	1115-AE21
2027	Regulations Relating to Temporary Protected Status	1115-AE26
2028	Regulations Pertaining to Adjudications Processing	1115-AE31
2029	Orphan Petitions; Petitions To Classify Alien as Immediate Relative of a United States Citizen or Preference Immigrant; Change in Definition of Child	1115-AE33
2030	Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures	1115-AE47
2031	Agreement Promising Non-Deportation or Other Immigration Benefits	1115-AE50
2032	Definition of the Term "Lawfully Present" for Purposes of Applying for Title II Benefits Under the Social Security Act	1115-AE51
2033	Petitioning Requirements for the H Nonimmigrant Classification	1115-AE52
2034	Canadian Border Boat Landing Program	1115-AE53
2035	Affidavits of Support on Behalf of Immigrants	1115-AE58
2036	Rights of Habitual Residence Between the United States and the Governments of the Marshall Islands, Micronesia and Palau	1115-AE61
2037	Limiting Liability for Certain Technical and Procedural Violations of Paperwork Requirements	1115-AE70
2038	Ineligibility of Certain Juvenile Offenders for Family Unity Program	1115-AE72
2039	Certification of Certain Health Care Workers	1115-AE73
2040	Adjustment of Status for Certain Polish or Hungarian Parolees	1115-AE74
2041	Establishment of Preinspected Automated Lane (PAL) Program at Immigration and Naturalization Service	1115-AE80
2042	Amendment of the Regulatory Definition of Arriving Alien	1115-AE87
2043	New Rules Regarding Procedures for Asylum and Withholding of Removal	1115-AE93
2044	Adjustment of Status, Continued Validity of Nonimmigrant Status and Unexpired Employment Authorization for Applicants Maintaining Nonimmigrant H or L Status	1115-AE96
2045	Verification of Eligibility for Public Benefits	1115-AE99
2046	Changing the Name of the Alien Registration Receipt Card to the Permanent Resident Card	1115-AF01
2047	Delegation of General Authority by the Commissioner to Certain Immigration Officers	1115-AF02
2048	Fingerprinting Applicants and Petitioners for Immigration Benefits; Establishing a Fee for Fingerprinting by the Service	1115-AF03
2049	Adjustment of Status; Certain Nationals of Nicaragua and Cuba	1115-AF04
2050	Processing, Detention, and Release of Juveniles	1115-AF05
2051	Change in Business Practices: Collection of Interest, Penalties, and Handling Charges for Delinquent Payment of Employer Sanction Fines	1115-AF09
2052	Special Immigrant Juvenile—Special Immigrant Status for Certain Aliens Declared Dependent on a Juvenile Court	1115-AF11
2053	Immigrant Petitions; Religious Workers	1115-AF12
2054	Changes in the Immigration and Naturalization Service Regional Office Organization	1115-AF13
2055	Suspension of Deportation and Special Rule Cancellation of Removal for Certain Nationals of Guatemala, El Salvador, and Former Soviet Bloc Countries	1115-AF14
2056	Authorizing Suspension of Employment Authorization Requirements on the Basis of Severe Economic Hardship for F-1 Students and Emergent Circumstances	1115-AF15
2057	Change in Business Practices: Collection of Interest, Penalties, and Handling Charges for Delinquent Payment of Employer Sanctions Fines	1115-AF17

DOJ

Immigration and Naturalization Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2058	Jurisdictional Change for the Los Angeles and San Francisco Asylum Officers	1115-AF18
2059	Elimination of Immigration and Naturalization Service Issued Mexican and Canadian Border Crossing Cards	1115-AF26
2060	Filing of Proposals for Designation as a Regional Center Approved To Participate in the Immigrant Investor Pilot Program	1115-AF27

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Immigration and Naturalization Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2061	Nonimmigrant Classes; NATO-1, 2, 3, 4, 5, 6, and 7; Control of Employment of Aliens (Special Requirement for Admission, Extension and Maintenance of Status; NATO)	1115-AB52
2062	Expansion of Direct Mail Program	1115-AD73
2063	Clarification of Age Requirements for Fingerprinting Naturalization Applicants	1115-AE86
2064	Nonimmigrant Visa Exemption for Nationals of the British Virgin Islands Entering the United States Through St. Thomas, United States Virgin Islands	1115-AF28

Immigration and Naturalization Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2065	Field Officers; Powers and Duties; Subpoena	1115-AB63
2066	Nonimmigrant Classes; Diplomat and Government Representatives; Transits; Requirements for Admission, Extension and Maintenance of Status	1115-AD57
2067	Executing Final Order of Exclusion or Deportation; Conforming 72-Hour Notice Provisions	1115-AD71
2068	Screening Requirements of Carriers for Reduction, Refund, or Waiver of Fines	1115-AD97
2069	Notice of Policy Regarding Fines Imposed on Carriers Who Bring Aliens to the United States Without Proper Documentation	1115-AE09
2070	"Master Exhibits" Currently Available	1115-AE14
2071	Effect of Parole of Cuban and Haitian Nationals on Resettlement Assistance Eligibility	1115-AE29
2072	Eligibility of Persons for Refugee Status and Withholding of Deportation	1115-AE30
2073	Contracts With Transportation Lines; Limiting Transfers of Transit Without Visa Aliens in the United States to One Electronic Ticketing	1115-AE41
2074	Examinations Fee Account Schedule	1115-AE42
2075	Civil Monetary Penalty Inflation Adjustment	1115-AE79
2076	Procedures for the Detention and Release of Criminal Aliens by the Immigration and Naturalization Service and for Custody Redeterminations by the Executive Office for Immigration Review	1115-AE88
2077	Application for Replacement Alien Registration Card: Processing Under Direct Mail Program	1115-AE95
2078	Technical Change for Submission of Immigration User Fee Requirements	1115-AF21
2079	Elimination of Immigration and Naturalization Service Issued Mexican and Canadian Border Crossing Cards	1115-AF24

Legal Activities—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2080	Implementation of Sections 104 and 109 of the Communications Assistance for Law Enforcement Act	1105-AA39

DOJ

Legal Activities—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2081	Implementation of the National Stolen Passenger Motor Vehicle Information System (NSPMVIS)	1105-AA44
2082	Foreign Agents Registration Act; Regulations Revised and Clarified To Reflect Changes in the Law	1105-AA45
2083	Implementation of the Pam Lychner Sexual Offender Tracking and Identification Act	1105-AA56
2084	Revision of 28 CFR Part 15 Pertaining to the Defense of Certain Suits Against Federal Employees To Conform to the Federal Employees Liability Reform and Tort Compensation Act	1105-AA62
2085	FBI Criminal Justice Information Systems: Access by Contractors and International Law Enforcement Agencies	1105-AA63
2086	United States Marshals Service Fee for Services	1105-AA64

Legal Activities—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2087	Federal Claims Collection Standards (FCCS)	1105-AA31
2088	Civil Monetary Penalties Inflation Adjustment	1105-AA48
2089	Radiation Exposure Compensation Act: Evidentiary Requirements; Definitions and Number of Times Claims May Be Filed	1105-AA49
2090	Guidelines for Megan's Law and the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act	1105-AA50
2091	Operation of the National Instant Criminal Background Check System	1105-AA51
2092	Police Recruitment Program Guidelines	1105-AA58
2093	Whistleblower Protection for Federal Bureau of Investigation Employees	1105-AA60

Legal Activities—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2094	Criminal Fines Enforcement	1105-AA16
2095	Violent Crime and Drug Emergency Areas	1105-AA29
2096	False Claims Amendments Act of 1986—Civil Investigative Demands	1105-AA42
2097	Federal Convicted Offender DNA Database Program	1105-AA52

Legal Activities—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2098	Production or Disclosure of Material or Information	1105-AA20
2099	Procedures To Review Removals and Suspensions of Standing Trustees and Panel Trustees	1105-AA54
2100	Justice Acquisition Regulations Streamlining	1105-AA55

Office of Justice Programs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2101	Juvenile Accountability Incentive Block Grants	1121-AA46

DOJ

Office of Justice Programs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2102	Grants Program for Indian Tribes	1121-AA41
2103	Bullet Proof Vest Partnership Grant Act of 1998	1121-AA48

Office of Justice Programs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2104	Private Sector/Prison Industry Enhancement Certification	1121-AA36

DEPARTMENT OF JUSTICE (DOJ)
Bureau of Prisons (BOP)

Proposed Rule Stage

1919. POSTSECONDARY EDUCATION PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 544

Legal Deadline: None

Abstract: This document restricts eligibility for Bureau payment of tuition for inmates who are refusing participation in the Inmate Financial Responsibility Program and for inmates who have a deportation detainer.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	
Final Action	06/00/99	
Final Action Effective	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA25

1920. CORRESPONDENCE: EXCLUDABLE MAIL

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 540

Legal Deadline: None

Abstract: This document clarifies what are considered to be acceptable enclosures for general correspondence, defines excludable mail, i.e., mail which is suspected of containing a device which poses a threat to safety or which does not contain a return address, and establishes procedures for handling such excludable mail.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	
Final Action	05/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA65

1921. ADMINISTRATIVE REMEDY PROGRAM: EXCLUDED MATTERS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 542

Legal Deadline: None

Abstract: This document amends Bureau regulations on the Administrative Remedy Program to provide for the processing of certain requests or appeals which previously had been excluded. This amendment is intended to implement the provision of the Prisoner Litigation Reform Act pertaining to exhaustion of available administrative remedies.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	01/00/99	
Final Action	05/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754,

DOJ—BOP

Proposed Rule Stage

320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA72

1922. • VISITING REGULATIONS: PRIOR RELATIONSHIP

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 540.44

Legal Deadline: None

Abstract: This document revises regulations on visiting to require that visiting privileges at all institutions ordinarily shall be extended to friends and associates only when the relationship had been established prior to confinement. Previously this requirement was applicable only at Medium Security Level, High Security Level, and Administrative Institutions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	
Final Action	06/00/99	
Final Action Effective	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA77

1923. • INMATE DISCIPLINE: PROHIBITED ACTS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 541.13

Legal Deadline: None

Abstract: This document amends the Bureau's regulations on inmate discipline by establishing prohibited acts addressing use of the telephone to further criminal activity, abuses of the telephone for other than criminal activity, and violations of the no-smoking policy.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	
Final Action	06/00/99	
Final Action Effective	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA78

1924. • SMOKING/NO SMOKING AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 1512; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; EO 13058

CFR Citation: 28 CFR 551.160 to 551.163

Legal Deadline: None

Abstract: This document revises the Bureau's regulations on smoking to limit smoking in Bureau facilities to visibly designated outdoor locations, unless an indoor area has been designated as a smoking area to be used exclusively for authorized religious activities.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Penod End	01/00/99	
Final Action	06/00/99	
Final Action Effective	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA79

1925. • OVER-THE-COUNTER (OTC) MEDICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4045; 18 USC 4081 to 4082; 18 USC 4241 to 4247; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 549.30 to 549.31

Legal Deadline: None

Abstract: This document establishes procedures governing inmate access to Over-The-Counter (OTC) medications. Selected OTC medications are currently available to the inmate population through commissary purchase. The Bureau will continue to dispense OTC medications at sick call only if the inmate does not already have the OTC medications and health services staff determine the inmate has an immediate medical need which needs to be addressed before the inmate's regularly scheduled commissary visit or that the inmate is without funds.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	
Final Action	06/00/99	
Final Action Effective	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA81

DOJ—BOP

Proposed Rule Stage

1926. • FEDERAL PRISON INDUSTRIES, INC. (FPI) STANDARDS AND PROCEDURES WHICH FACILITATE FPI'S ABILITY TO ACCOMPLISH ITS MISSION

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 4122; 18 USC 4124

CFR Citation: 28 CFR 302

Legal Deadline: None

Abstract: This document codifies various Federal Prison Industries (FPI) standards and procedures which facilitate FPI's ability to accomplish its mission. These provisions include: Statement of purpose and scope; definition; a mission statement; roles and responsibilities of FPI's Board of Directors, Chief Executive Officer, Chief Operating Officer, and the Ombudsman; agency meeting procedures; inmate employment levels; provision of products as a mandatory source; provision of products as a preferential source; services to the commercial market; waiver and appeal procedures; pricing; and new product development or expansion.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	
Final Action	06/00/99	
Final Action Effective	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Marianne Cantwell, Corporate Counsel, Department of Justice, Bureau of Prisons, Room 8017/400, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA84

DEPARTMENT OF JUSTICE (DOJ)
Bureau of Prisons (BOP)

Final Rule Stage

1927. VOLUNTEER COMMUNITY SERVICE PROJECTS

Priority: Info./Admin./Other

Legal Authority: 18 USC 1512; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 551.60

Legal Deadline: None

Abstract: This document finalizes provisions for Volunteer Community Service Projects. A volunteer community service project is a project designed to provide for the public good which has been developed by local government or by a nonprofit charitable organization for approval by the Bureau.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/19/93	58 FR 5210
Final Action	11/00/98	
Final Action Effective	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA03

1928. INTENSIVE CONFINEMENT CENTERS

Priority: Info./Admin./Other

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4046; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 524.31 to 524.34

Legal Deadline: None

Abstract: This document finalizes procedures for the operation of a specialized program combining features of a military boot camp with the traditional correctional values of the Bureau of Prisons. Inmates who successfully complete this program may be placed in community-based programs for longer periods of time than ordinarily permitted.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/26/96	61 FR 18658
Final Action	11/00/98	
Final Action Effective	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA11

1929. INFECTIOUS DISEASES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 549

Legal Deadline: None

Abstract: This document finalizes regulations on the correctional management of tuberculosis,HIV, and hepatitis B.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/05/95	60 FR 52278
Interim Final Rule Comment Period End	12/04/95	
Final Action	11/00/98	
Final Action Effective	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice,

Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA23

1930. BIRTH CONTROL, PREGNANCY, CHILD PLACEMENT, ABORTION

Priority: Info./Admin./Other

Legal Authority: 18 USC 1512; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 551.22 to 551.24

Legal Deadline: None

Abstract: This document finalizes an interim rule which removed references to statutory provisions contained in appropriations legislation. The revised regulations note that the warden shall ensure compliance with applicable law regarding funding for abortions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/06/94	59 FR 62968
Final Action	11/00/98	
Final Action Effective	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA31

1931. LITERACY PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 544.70 to 544.76

Legal Deadline: None

Abstract: This document implements statutory provisions which make an inmate's vesting of good conduct time contingent upon the inmate's obtaining or making satisfactory progress toward obtaining a General Educational Degree or high school diploma. Additional changes to the regulations on the Bureau's literacy program are made for the sake of clarification or simplification.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/26/97	62 FR 50791
Final Action	12/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA33

1932. INMATE PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 553.10 to 553.15

Legal Deadline: None

Abstract: This document revises procedures governing the transfer of inmate personal property between institutions.

Timetable:

Action	Date	FR Cite
NPRM	04/01/96	61 FR 14440
NPRM Comment Period End	05/31/96	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA46

1933. TELEPHONE REGULATIONS AND INMATE FINANCIAL RESPONSIBILITY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3013; 18 USC 3571; 18 USC 3572; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 3663; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; ...

CFR Citation: 28 CFR 540.105; 28 CFR 545.11

Legal Deadline: None

Abstract: This document establishes limitations on telephone privileges and commissary privileges for inmates who refuse to participate in the inmate financial responsibility program.

Timetable:

Action	Date	FR Cite
NPRM	01/02/96	61 FR 92
NPRM Comment Period End	03/04/96	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA49

1934. FEDERAL PRISON INDUSTRIES (FPI) WORK PROGRAM: DEPORTATION ORDERS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 4126

CFR Citation: 28 CFR 345

Legal Deadline: None

Abstract: This document limits from consideration for any FPI assignment any inmate for whom a final order for deportation, removal, or exclusion has been issued. In addition, any inmate already in an FPI assignment who is currently under a final order for deportation, removal, or exclusion shall be removed immediately and shall be re-assigned to a non-FPI work assignment for which the inmate is eligible. Exceptions to these provisions may be made in instances where the Attorney General has determined that the inmate cannot be removed from the United States because the designated country of removal will not accept the inmate's return.

Timetable:

Action	Date	FR Cite
NPRM	04/30/97	62 FR 23536
NPRM Comment Period End	06/30/97	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA57

1935. GOOD CONDUCT TIME

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3568; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 523

Legal Deadline: None

Abstract: This document notes the statutory requirements for the awarding of good conduct time, including the Bureau's consideration in instances where the inmate does not have a high school diploma or GED and is not making satisfactory progress toward earning a high school diploma or GED.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/27/97	62 FR 50786
Final Action	12/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA62

1936. CLASSIFICATION AND PROGRAM REVIEW: TEAM MEETINGS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3521 to 3528; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4046; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 21 USC 848; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 524

Legal Deadline: None

Abstract: This document amends the provisions on inmate classification and program review to discontinue the practice of permitting inmates to waive appearance at classification team meetings. The purpose of this change is to ensure that inmates participate in program reviews.

Timetable:

Action	Date	FR Cite
NPRM	04/21/97	62 FR 19430
NPRM Comment Period End	06/20/97	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA64

1937. DRUG ABUSE TREATMENT AND INTENSIVE CONFINEMENT CENTER PROGRAMS: EARLY RELEASE CONSIDERATION

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3521 to 3528; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4046; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 848; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 524; 28 CFR 550

Legal Deadline: None

Abstract: This document adjusts criteria for receiving a sentence reduction under the drug abuse treatment program and the intensive confinement center program to demonstrate more clearly the discretion available to the Director of the Bureau of Prisons in making sentence reductions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/15/97	62 FR 53690
Final Action	11/00/98	
Final Action Effective	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA66

1938. VISITING: NOTIFICATION TO VISITORS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 540.51

Legal Deadline: None

Abstract: This document requires that, in instances where a background investigation is necessary for a proposed visitor, the inmate is responsible for having a release authorization form mailed to the proposed visitor.

Timetable:

Action	Date	FR Cite
NPRM	09/11/97	62 FR 47894
NPRM Comment Period End	11/10/97	
Final Action	11/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

DOJ—BOP

Final Rule Stage

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA67

1939. CORRESPONDENCE: RETURN ADDRESS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 540

Legal Deadline: None

Abstract: This document ensures that return address information on an envelope used for outgoing inmate correspondence will be completely and consistently filled out by the inmate.

Timetable:

Action	Date	FR Cite
Final Action	11/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA69

1940. ACCEPTANCE OF DONATIONS

Priority: Info./Admin./Other

Legal Authority: 18 USC 3621; 18 USC 4001; 18 USC 4003; 18 USC 4042; 18 USC 4044; 28 USC 509 to 510

CFR Citation: 28 CFR 504

Legal Deadline: None

Abstract: This document removes obsolete regulations concerning the acceptance of donations.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA71

1941. INMATE WORK AND PERFORMANCE PAY: WORK EVALUATION

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3013; 18 USC 3571 to 3572; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 3663; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4126; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 545.26

Legal Deadline: None

Abstract: This document amends Bureau regulations on inmate work and performance pay to allow for quarterly rather than monthly evaluations of inmates whose work performance is above average. This amendment is intended to streamline institution operations.

Timetable:

Action	Date	FR Cite
Final Action	11/00/98	
Final Action Effective	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA74

1942. • COST OF INCARCERATION FEE

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 18 USC 3621 to 3622

CFR Citation: 28 CFR 505

Legal Deadline: None

Abstract: This document revises the Bureau's regulations to remove obsolete references and redundant provisions.

Timetable:

Action	Date	FR Cite
Final Action	11/00/98	
Final Action Effective	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA75

1943. INMATE RECREATION PROGRAMS AND MANUSCRIPTS

Priority: Info./Admin./Other

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 544; 28 CFR 551

Legal Deadline: None

Abstract: This document consolidates within Bureau regulations on inmate recreation programs separate existing provisions pertaining to inmate manuscripts. The provisions are also being revised for the sake of clarity, particularly with respect to the impact of the Bureau's prohibition on conducting a business. There is no change in the intent of the regulations.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	
Final Action Effective	12/00/98	

DOJ—BOP

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA76

1944. • VICTIM AND/OR WITNESS NOTIFICATION: STATE CUSTODY TRANSFERS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 18 USC 1512; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 551.150 to 551.151

Legal Deadline: None

Abstract: This document provides for notification when an inmate is transferred to a State or local detention facility for service of sentence.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA80

1945. • ADMINISTRATIVE SAFEGUARDS FOR PSYCHIATRIC TREATMENT AND MEDICATION; MILITARY PRISONERS AND DISTRICT OF COLUMBIA CODE VIOLATORS

Priority: Info./Admin./Other

Legal Authority: 10 USC 876b; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4045; 18 USC 4081 to 4082; 18 USC 4241 to 4247; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 549.43

Legal Deadline: None

Abstract: This document amends the Bureau's regulations on involuntary psychiatric treatment and medication to conform with statutory authority pertaining to military prisoners and District of Columbia (DC) Code violators.

Timetable:

Action	Date	FR Cite
Final Action	11/00/98	
Final Action Effective	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA83

DEPARTMENT OF JUSTICE (DOJ)
Bureau of Prisons (BOP)

Long-Term Actions

1946. INCOMING PUBLICATIONS/INMATE LEGAL ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 540.71; 28 CFR 543.11

Timetable:

Action	Date	FR Cite
NPRM	01/18/94	59 FR 2668
NPRM Comment Period End	03/21/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA15

1947. TELEPHONE REGULATIONS AND INMATE FINANCIAL RESPONSIBILITY

Priority: Info./Admin./Other

CFR Citation: 28 CFR 540

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/02/96	61 FR 90
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655

RIN: 1120–AA39

1948. INCOMING PUBLICATIONS: NUDITY AND SEXUALLY EXPLICIT MATERIAL OR INFORMATION

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 540.70 to 540.72

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/06/96	61 FR 57568
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA59

DEPARTMENT OF JUSTICE (DOJ)
Bureau of Prisons (BOP)

Completed Actions

1949. NONDISCRIMINATION TOWARD INMATES

Priority: Info./Admin./Other

CFR Citation: 28 CFR 551.90

Completed:

Reason	Date	FR Cite
Final Action	10/16/98	63 FR 55774
Final Action Effective	10/16/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA73

1950. • BUREAU OF PRISONS CENTRAL OFFICE, REGIONAL OFFICES, INSTITUTIONS, AND STAFF TRAINING CENTERS

Priority: Info./Admin./Other

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 500.1; 28 CFR 503

Legal Deadline: None

Abstract: This document revises the listing of the Bureau of Prisons Central Office, Regional Offices, institutions, and staff training centers in order to designate new institutions and to rename or realign existing institutions. The definition of "institution" is also being revised to reflect the various types of institutions currently in operation.

Timetable:

Action	Date	FR Cite
Final Action	10/16/98	63 FR 55774
Final Action Effective	10/16/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA82

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Proposed Rule Stage

1951. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES—IMPLEMENTATION OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Regulatory Plan: This entry is Seq. No. 50 in Part II of this issue of the Federal Register.

RIN: 1190–AA28

1952. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301; 28 USC 509; 28 USC 510; 42 USC 12186(b)

CFR Citation: 28 CFR 36

Legal Deadline: None

Abstract: In 1991, the Department of Justice published regulations to implement title III of the Americans with Disabilities Act of 1990 (ADA). Those regulations include the ADA Standards for Accessible Design, which establish requirements for the design and construction of accessible facilities that are consistent with the ADA Accessibility Guidelines (ADAAG) published by the Architectural and Transportation Barriers Compliance Board (Access Board). In the time since the regulations became effective, the Department of Justice and the Access Board have each gathered a great deal of information regarding the implementation of the Standards. The Access Board is currently in the process of revising ADAAG, and it expects to publish a Notice of Proposed Rulemaking (NPRM) in 1998. In order to maintain consistency between ADAAG and the ADA Standards, the Department anticipates reviewing its ADA regulations during fiscal year 1999. In addition to maintaining the consistency between ADAAG and the Standards, the purpose of these revisions will be to more closely coordinate with voluntary standards, to clarify areas which, through inquiries and comments to the Department's technical assistance phone lines, have been shown to cause confusion, and to reflect evolving technologies in areas affected by the Standards.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
NPRM Comment Period End	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738
Phone: 800 514-0301
TDD: 202 307-1198
Fax: 800 514-0383

RIN: 1190–AA44

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Final Rule Stage

1953. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES; PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES; ACCESSIBILITY STANDARDS

Regulatory Plan: This entry is Seq. No. 51 in Part II of this issue of the Federal Register.

RIN: 1190–AA26

1954. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 12134; 5 USC 301; 28 USC 509; 28 USC 510; PL 101-336

CFR Citation: 28 CFR 35

Legal Deadline: None

Abstract: This proposed amendment would revise the Department's regulation implementing title II to clarify the requirement for installation of curb ramps at existing pedestrian walkways and to extend the time period for compliance beyond the current deadline of January 26, 1995. This amendment responds to public concerns about the unique and significant capital expense involved in the installation of curb ramps.

The amendment would establish a two-tier system under which public entities would be required to provide access to pedestrian walkways serving government offices, public transportation, public accommodations, places of employment, and the residences of individuals with disabilities by January 26, 2000. Access to existing pedestrian walkways in other areas would be required by January 26, 2005. The proposed rule would require public entities to include a schedule for the implementation of these requirements in their transition plans.

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 58462
NPRM Comment Period End	01/26/96	
Comment Period Extended to 3/1/96	02/06/96	61 FR 4389
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738
Phone: 800 514-0301
TDD: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA36

1955. AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES; CHILDREN'S FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12186; 5 USC 301; 28 USC 509; PL 101-336; 28 USC 510

CFR Citation: 28 CFR 36

Legal Deadline: None

Abstract: On July 26, 1991, the Department published its final rules implementing titles II and III of the Americans with Disabilities Act (ADA), which prohibits discrimination on the basis of disability by public entities (title II) and in places of public accommodation and commercial facilities (title III). Those regulations included accessibility guidelines but did not specifically include guidelines for facilities designed for children.

This rule amends the ADA Standards for Accessible Design to include guidelines based on children's dimensions and anthropometrics and applies to newly constructed and altered facilities that are designed for use primarily by children. The rule ensures that newly constructed and altered children's facilities are readily accessible to and usable by children with disabilities.

Timetable:

Action	Date	FR Cite
NPRM	07/22/96	61 FR 37964
NPRM Comment Period End	10/21/96	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738
Phone: 800 514-0301
TDD: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA38

1956. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES (DETECTABLE WARNINGS)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 28 USC 509; 28 USC 510; 42 USC 12186(b)

CFR Citation: 28 CFR 36

Legal Deadline: None

Abstract: In 1991, the Department of Justice published regulations to implement title III of the Americans with Disabilities Act of 1990 (ADA). Those regulations include the ADA Standards for Accessible Design, which establish requirements for the design and construction of accessible facilities that are consistent with the ADA Accessibility Guidelines (ADAAG) published by the Architectural and Transportation Barriers Compliance Board (Access Board). The Standards for Accessible Design included a requirement that small raised truncated domes be used at curb ramps, hazardous vehicular areas, and certain reflecting pool edges in order to warn pedestrians who are blind or who have vision impairments of potential hazards in the circulation path (the detectable warnings requirement). In 1996, this requirement was suspended until July 26, 1998, to allow an advisory committee to conduct a comprehensive review of sections 1 through 10 of the ADAAG published by the Access Board, which includes the detectable warnings requirement. Based on the advisory committee's recommendations, the Access Board intends to issue a separate notice of proposed rulemaking (NPRM) to revise and update ADAAG. Because the Standards for Accessible Design issued by the Departments of Justice and Transportation must be consistent with the guidelines published by the Access Board, the Departments of Justice and Transportation will propose to extend

DOJ—CRT

Final Rule Stage

the suspension of the requirement for detectable warnings until July 26, 2000, by which time it is expected that the regulatory process by which the Standards for Accessible Design are to be revised will be complete.

Timetable:

Action	Date	FR Cite
NPRM	06/01/98	63 FR 29924
NPRM Comment Period End	07/02/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738
Phone: 800 514-0301
TDD: 202 307-1198
Fax: 800 514-0383

RIN: 1190–AA45

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Long-Term Actions

1957. AMENDMENT TO NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES—IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Other Significant

CFR Citation: 28 CFR 42.101 to 42.112

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Merrily A. Friedlander
Phone: 202 307-2222
TDD: 202 307-2678
Fax: 202 307-0595

RIN: 1190–AA31

1958. AMENDMENT TO COORDINATION OF ENFORCEMENT OF NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS—IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Other Significant

CFR Citation: 28 CFR 42.401 to 42.415

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Merrily A. Friedlander
Phone: 202 307-2222
TDD: 202 307-2678
Fax: 202 307-0595

RIN: 1190–AA32

1959. IMPLEMENTATION OF THE PROVISIONS OF THE VOTING RIGHTS ACT REGARDING LANGUAGE MINORITY GROUPS

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 55

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: David H. Hunter
Phone: 202 307-2898
Fax: 202 307-3961
Email: david.h.hunter@usdoj.gov

RIN: 1190–AA39

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Completed Actions

1960. PROCEDURES FOR THE ADMINISTRATION OF SECTION 5 OF THE VOTING RIGHTS ACT OF 1965, AS AMENDED

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 51

Completed:

Reason	Date	FR Cite
Final Action	05/01/98	63 FR 24108
Final Action Effective	05/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: David H. Hunter
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Fax: 202 307-3961
Email: david.h.hunter@usdoj.gov

RIN: 1190–AA35

DEPARTMENT OF JUSTICE (DOJ)
Drug Enforcement Administration (DEA)

Proposed Rule Stage

1961. EXEMPTION OF CHEMICAL MIXTURES

Priority: Other Significant

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b)

CFR Citation: 21 CFR 1310

Legal Deadline: None

Abstract: The Domestic Chemical Diversion Control Act of 1993 removed the exemption from regulation for chemical mixtures. Chemical mixtures are now regulated, unless specifically exempted by the Administrator. In the proposed rule regarding the implementation of the Domestic Chemical Diversion Control Act of 1993, DEA proposed regulations regarding exemption of chemical mixtures. Based on industry comments, the proposed regulations were subsequently withdrawn for reassessment and consultation with industry. Based on extensive consultations with industry, DEA will publish proposed regulations intended to establish the least possible burden on industry while remaining consistent with the requirements of the law.

Timetable:

Action	Date	FR Cite
NPRM	09/16/98	63 FR 49506
NPRM Comment Period End	11/16/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA-137

Agency Contact: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7183

RIN: 1117–AA31

DOJ—DEA

Proposed Rule Stage

1962. GUIDELINES FOR PROVIDING CONTROLLED SUBSTANCES TO OCEAN VESSELS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 871(b)

CFR Citation: 21 CFR 1301.28

Legal Deadline: None

Abstract: DEA is considering whether to propose amending its regulations regarding the supply of controlled substances to ocean vessels to provide a means of supply more consistent with current industry practices for other materials. The decision on whether to propose amendments will be based on the information and comments submitted in response to this notice of proposed rulemaking and DEA's experience with the existing procedures and practices for supplying controlled substances to ocean vessels.

Timetable:

Action	Date	FR Cite
ANPRM	09/18/96	61 FR 49086
ANPRM Comment Period End	11/18/96	
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: DEA Number 142N

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7297
Fax: 202 307-8570

RIN: 1117–AA40

1963. • SALE BY FEDERAL DEPARTMENTS OR AGENCIES OF CHEMICALS USABLE TO MANUFACTURE A CONTROLLED SUBSTANCE

Priority: Other Significant

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b); 21 USC 880; 21 USC 958(f); 21 USC 965

CFR Citation: 21 CFR 1310; 21 CFR 1316

Legal Deadline: None

Abstract: DEA is proposing to amend its regulations to provide that a Federal department or agency may not sell from the stocks of the department or agency any chemical which could be used in the manufacture of a controlled substance unless the Administrator of DEA certifies in writing to the head of the department or agency that there is no reasonable cause to believe that the sale of the chemical would result in the illegal manufacture of a controlled substance. The proposed rulemaking provides regulatory guidelines and establishes a procedure for prospective bidder and/or broker to appeal if they are aggrieved by DEA's failure to provide such certification.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7297
Fax: 202 307-8750

RIN: 1117–AA47

1964. • SPECIAL SURVEILLANCE LIST OF CHEMICAL, PRODUCTS, MATERIALS AND EQUIPMENT

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-237, sec 205 Comp. Methamphetamine Control Act of 1996

CFR Citation: None

Legal Deadline: None

Abstract: On October 3, 1996, the Comprehensive Methamphetamine Control Act of 1996 (MCA) (PL 104-237) was signed into law. The MCA provides for a civil penalty of not more than $250,000 for the distribution of a laboratory supply to a person who uses, or attempts to use, that laboratory supply to manufacture a controlled substance or a listed chemical, if that distribution was made with reckless disregard for the illegal uses to which such laboratory supply will be put. The MCA defines the term "laboratory supply" as "a listed chemical or any chemical, substance, or item on a special surveillance list published by the Attorney General which contains chemicals, products, materials, or equipment used in the manufacture of controlled substances and listed chemicals." The MCA further establishes that there is a rebuttable presumption of reckless disregard at trial if a firm is notified in writing that a laboratory supply sold by the firm has been used by a customer of the notified firm, or distributed further by that customer, for the unlawful production of controlled substances or listed chemicals and that firm continues to distribute a laboratory supply to the customer. In developing the Special Surveillance List, the DEA consulted with both Federal and State/local law enforcement and forensic laboratory authorities. DEA also considered the legitimate uses and markets for these chemicals and materials.

Although the Special Surveillance List applies to all individuals and firms which distribute the laboratory supplies on the list, there are no record keeping or reporting requirements imposed on these firms. Additionally, the number of chemicals has been limited to those most frequently used in the illicit production of controlled substances. Thus the Special Surveillance List will have a negligible impact on affected parties. The notice informs individuals and firms of the potential use of the

DOJ—DEA

Proposed Rule Stage

items on the list for the production of controlled substances and listed chemicals and it also advises them that civil penalties may be imposed on them if they continue to distribute one or more of the items listed to a person after receiving notification from the DEA that the person has used or distributed the item for use in an illicit laboratory.

Timetable:

Special Surveillance List Notice
Publication of Notice for Comment 12/00/98
Comment Period End 01/00/99
Publication of Final Notice 05/00/99

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration, Washington, DC 20537
Phone: 202 307-7183

RIN: 1117–AA49

DEPARTMENT OF JUSTICE (DOJ)
Drug Enforcement Administration (DEA)

Final Rule Stage

1965. DEFINITION AND REGISTRATION OF DISPOSERS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 821; 21 USC 822; 21 USC 823; 21 USC 824; 21 USC 871(b); 21 USC 875; 21 USC 877

CFR Citation: 21 CFR 1301

Legal Deadline: None

Abstract: In years past, most pharmaceutical manufacturers and wholesalers, as a service to their customers, accepted returns of outdated/damaged merchandise. Also, agencies such as DEA and state Boards of Pharmacy accepted surrendered drugs or witnessed their disposal by controlled substance registrants. Over the past several years, environmental concerns and regulations have eliminated many of the disposal options which had been available. As a result, drug producers and government agencies alike are increasingly reluctant to be involved in the disposal process. Due to these factors and the time and resources expended by DEA and manufacturers, a disposer registration has become an essential link in the legitimate distribution chain. Therefore, DEA is proposing the establishment of a new category of controlled substance registrant as a disposer.

Timetable:

Action	Date	FR Cite
NPRM	08/23/95	60 FR 43732
NPRM Comment Period End	10/23/95	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA 108

Agency Contact: Patricia M. Good, Patricia M. Good, Chief Liaison and Policy, Office of Diversion Control, Department of Justice, Drug Enforcement Administration, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA19

1966. REGISTRATION AND REREGISTRATION APPLICATION FEES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 821; 21 USC 822; 21 USC 871(b)

CFR Citation: 21 CFR 1301

Legal Deadline: None

Abstract: In furtherance of the DEA's 1992 final rule regarding the increase of application fees (57 FR 60148), DEA is publishing this explanation of the components of the diversion control program.

Timetable:

Action	Date	FR Cite
Final Rule Republished for Further Comment	12/30/96	61 FR 68624
Comment Period End	03/31/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA Number 140P

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7297

RIN: 1117–AA34

1967. ESTABLISHMENT OF FREIGHT FORWARDING FACILITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 821 to 824; 21 USC 827; 21 USC 871(b); 21 USC 875; 21 USC 877; 21 USC 958(d); 21 USC 965

CFR Citation: 21 CFR 1301; 21 CFR 1304

Legal Deadline: None

Abstract: DEA is proposing to amend its regulations to define the term Freight Forwarding Facility and to exempt such facilities from the requirement of registration, in response to industry requests for recognition of such facilities. The proposed amendments will establish the regulatory guidelines under which registrants may utilize a freight forwarding facility while shipping controlled substances to another registrant.

Timetable:

Action	Date	FR Cite
NPRM	12/18/96	61 FR 66637
NPRM Comment Period End	02/28/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA Number 143P

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7297

RIN: 1117–AA36

DOJ—DEA

Final Rule Stage

1968. LISTED CHEMICALS; PROPOSED THRESHOLDS FOR IODINE AND HYDROCHLORIC GAS (HYDROGEN CHLORIDE GAS)

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 871(b)

CFR Citation: 21 CFR 1310

Legal Deadline: None

Abstract: The Comprehensive Methamphetamine Control Act of 1996 (MCA) establishes that, effective October 3, 1996, Iodine (in its pure crystal form; mixtures such as tincture of iodine and other household products remain exempt from regulation) and Hydrochloric Gas are List II chemicals under the Controlled Substances Act (CSA). The inclusion of these chemicals under the CSA requires that each regulated person must keep records and make reports as specified in title 21, Code of Federal Regulations part 1310. The MCA applied the recording and reporting requirements to all transactions involving Iodine and Hydrochloric Gas.

This notice proposes to establish a domestic threshold of 0.4 kilograms for iodine, thus providing an exemption for transactions below this level, which would include the vast majority of retail sales. Legitimate commerce in Hydrochloric Gas consists almost exclusively of large volume transactions to commercial customers. However, clandestine methamphetamine laboratories often make use of small volumes of this gas, and, therefore, an effective threshold could not be established. In those rare cases where legitimate users purchase small quantities, principally for research or scientific purposes, the recordkeeping and reporting requirements will apply only to the distributor; the purchasers will not be subject to the requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/30/97	62 FR 51072
NPRM Comment Period End	12/01/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA-156P

Agency Contact: Frank Sapienza, Chief, Drug & Chemical Evaluation Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7183
Fax: 202 307-8570

RIN: 1117–AA43

1969. IMPLEMENTATION OF THE MCA; REGULATION OF PSEUDOEPHEDRINE, PHENYLPROPANOLAMINE, AND COMBINATION EPHEDRINE DRUG PRODUCTS AND REPORTS OF CERTAIN TRANSACTIONS TO NONREGULATED PERSONS

Priority: Other Significant

Legal Authority: 21 USC 802; 21 USC 821 TO 824; 21 USC 830; 21 USC 871(b); 21 USC 875; 21 USC 877; 21 USC 951; 21 USC 958

CFR Citation: 21 CFR 1300; 21 CFR 1309; 21 CFR 1310

Legal Deadline: None

Abstract: DEA is proposing to amend its regulations to implement the requirements of the Comprehensive Methamphetamine Control Act of 1996 (MCA) establishing pseudoephedrine, phenylpropanolamine, and combination ephedrine drug products as List I chemicals, and the MCA requirement that reports be submitted for certain distributions to nonregulated persons involving pseudoephedrine, phenylpropanolamine, and ephedrine, including drug products containing those chemicals. The MCA establishes pseudoephedrine, phenylpropanolamine, and combination ephedrine products as regulated List I chemicals, and requires that reports of certain distributions to nonregulated persons be reported each month.

To minimize the impact of the new law, DEA is proposing to exempt retail distributors from the registration requirement. This exemption will provide the estimated 750,000 retail distributors with relief from the chemical control requirements of the regulations, including registration. Additionally, the existing exemptions from registration for CSA registrants and for distributors of prescription drug products will help minimize the impact of the requirements on other handlers of the products.

Timetable:

Action	Date	FR Cite
NPRM	10/07/97	62 FR 52294
NPRM Comment Period End	12/08/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: DEA number 163P

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7297
Fax: 202 307-8570

RIN: 1117–AA44

1970. TEMPORARY EXEMPTION FROM CHEMICAL REGISTRATION FOR DISTRIBUTORS OF PSEUDOEPHEDRINE AND PHENYLPROPANOLAMINE AND PRODUCTS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 802; 21 USC 821; 21 USC 823; 21 USC 824; 21 USC 830; 21 USC 817(b); 21 USC 875; 21 USC 877; 21 USC 958

CFR Citation: 21 CFR 1309; 21 CFR 1310

Legal Deadline: None

Abstract: Pursuant to the MCA effective October 3, 1997 persons who distribute pseudoephedrine and phenylpropanolamine drug products shall be subject to the chemical registration requirement. To avoid interruption in the legitimate distribution of the drug products pending promulgation of final regulations DEA is amending its regulations to provide certain temporary exemptions from the registration requirement.

DOJ—DEA

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/17/97	62 FR 53959
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA46

1971. • ANHYDROUS HYDROGEN CHLORIDE: CATEGORIES OF DISTRIBUTION REGARDED AS NONREGULATED

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b)

CFR Citation: 21 CFR 1310

Legal Deadline: None

Abstract: The Comprehensive Methamphetamine Control Act of 1996 established hydrogen chloride as a List II chemical. In response to comments submitted in connection with DEA's proposed rulemaking to establish a threshold for hydrogen chloride, DEA has determined that regulation of certain types of transactions involving hydrogen chloride is unnecessary for purposes of enforcement of the chemical controls under the Controlled Substances Act. However, exempting the transactions from regulation could not be' accomplished through the system of thresholds. This rulemaking will exempt the transactions from the definition of Regulated Transaction, thus removing them from regulation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Related to RIN 1117-AA43/DEA-156F Assigned DEA-177I

Agency Contact: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7183
Fax: 202 307-8570

RIN: 1117–AA48

DEPARTMENT OF JUSTICE (DOJ)
Executive Office for Immigration Review (EOIR)

Proposed Rule Stage

1972. RULES OF PRACTICE AND PROCEDURE FOR ADMINISTRATIVE HEARINGS BEFORE ADMINISTRATIVE LAW JUDGES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 554; 8 USC 1103; 8 USC 1324a; 8 USC 1324b; 8 USC 1324c

CFR Citation: 28 CFR 68.1 to 54

Legal Deadline: None

Abstract: The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), enacted on September 30, 1996, amends the employer sanctions,unfair immigration-related employment practices and document fraud sections of the Immigration and Nationality Act (INA) in several ways (sections 274A, 274B and 274C of the INA, respectively). The Debt Collection Improvement Act mandates that the civil penalties in each of these three sections of the INA be adjusted to reflect inflation. Finally, the Office of the Chief Administrative Hearing Officer has examined its regulations and is making various changes perceived as necessary in light of case-by-case experience since the 1991 amendments to its regulations. All of the changes to the OCAHO regulations set forth herein are designed to make the regulations comport with one of the aforementioned statutes, clarify an existing ambiguity, and/or similarly contribute to the fair and efficient administration of sections 274A, 274B and 274C of the INA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/11/94	59 FR 41242
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA17

1973. AUTHORITY OF IMMIGRATION JUDGES TO ISSUE CIVIL MONEY PENALTIES

Priority: Other Significant

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1252 note; 8 USC 1252b; 8 USC 1362; 28 USC 509; 28 USC 510; 28 USC 1746; Reorg. Plan No. 2 of 1950, sec 2; 3 CFR, 1949 to 1953 Comp, p 1002

CFR Citation: 8 CFR 1; 8 CFR 3

Legal Deadline: None

Abstract: This rule proposes to amend the regulations by implementing the statutory authority given to Immigration Judges to sanction by civil money penalty any action or inaction in contempt of the Judge's proper exercise of authority. This statutory authority is derived from section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. 104-208 (IIRIRA), signed by President Clinton on September 30, 1996. This rule sets forth the types of conduct for which civil money penalty sanctions may be imposed, the procedures for imposing these sanctions, the affirmative defenses which may excuse the imposition of a civil money penalty

DOJ—EOIR

Proposed Rule Stage

sanction, and the procedures for appealing such sanctions. The rule also adds an additional ground for disciplinary sanctions under 8 CFR section 3.52 for engaging in a pattern and practice of conduct which has been found to be in contempt of the Immigration Judge's proper exercise of authority. In addition, this rule amends the definition of "Immigration Judge" in part 1 to reflect the new definition in section 371(a) of IIRIRA.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470
Fax: 703 305-0443

RIN: 1125–AA18

1974. • BOARD OF IMMIGRATION APPEALS: STREAMLINING

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1252 note; 8 USC 1252b; 8 USC 1324b; 8 USC 1362; 28 USC 509; 28 USC 510; 28 USC 1746; Reorg. Plan No. 2 of 1950, sec. 2; 3 CFR, 1949 to 1953, Comp, p 1002; PL 105-100, sec 203

CFR Citation: 8 CFR 3

Legal Deadline: None

Abstract: This proposed rule would establish a streamlined appellate review procedure for the Board of Immigration Appeals. The proposed rule is in response to the enormous and unprecedented increase in the number of appeals being filed with the Board. The rule recognizes that in a significant number of the cases the Board decides, the result reached by the adjudicator below is correct and will not be changed on appeal. In these cases, a single permanent Board Member will be given authority to review the record and affirm the result reached below without issuing an opinion in the case. This procedure will promote fairness by enabling the Board to render decisions in a more timely manner, whole allowing it to concentrate its resources primarily on those cases in which the decision below may be incorrect, or where a new or significant legal or procedural issue is presented. In addition, the proposed rule provides that a single Board Member or the Chief Attorney Examiner may adjudicate certain additional types of cases, motions, or other procedural or ministerial appeals, where the result is clearly dictated by the statute, regulations, or precedent decisions.

Timetable:

Action	Date	FR Cite
NPRM	09/14/98	63 FR 49043
NPRM Comment Period End	11/13/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470
Fax: 703 305-0443

RIN: 1125–AA22

DEPARTMENT OF JUSTICE (DOJ)
Executive Office for Immigration Review (EOIR)

Final Rule Stage

1975. RULES CONCERNING CONDITIONAL PERMANENT RESIDENCE FOR ALIEN ENTREPRENEURS IN DEPORTATION PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1252 note; 8 USC 1252b; 8 USC 1362; 28 USC 509; 28 USC 510; 28 USC 1746; Reorg. Plan No. 2 of 1950, sec 2; 3 CFR, 1949 to 1953 Comp, p 1002

CFR Citation: 8 CFR 3

Legal Deadline: None

Abstract: The Immigration Act of 1990 provides that an alien entrepreneur and his or her family may obtain lawful permanent residence on a conditional basis, subject to the requirements of a timely petition and interview for removal of the condition two years after obtaining such status. Termination of such status is made reviewable in deportation proceedings before an Immigration Judge. This rule sets forth the procedures that an Immigration Judge will follow in reviewing the termination by the Immigration and Naturalization Service of conditional permanent resident status of alien entrepreneurs and their families.

Timetable:

Action	Date	FR Cite
NPRM	11/12/93	58 FR 59953
NPRM Comment Period End	12/13/93	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA02

1976. DISCIPLINE OF ATTORNEYS AND REPRESENTATIVES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1252b; 8 USC 1362

CFR Citation: 8 CFR 3; 8 CFR 292

Legal Deadline: None

Abstract: This rule amends 8 CFR parts 3 and 292 by changing both the present procedures for disciplining attorneys and representatives who practice before the Executive Office for Immigration Review, which includes the Board of

DOJ—EOIR

Final Rule Stage

Immigration Appeals and the Immigration Courts, and the procedures for disciplining attorneys and representatives who practice before the Immigration and Naturalization Service (INS). This rule also includes a provision which was promulgated as an interim rule on April 6, 1992, pursuant to section 545 of the Immigration Act of 1990, Public Law 101-649 (IMMACT), concerning sanctions against attorneys or representatives who engage in frivolous behavior in immigration proceedings. This rule outlines the authority of EOIR to investigate and impose disciplinary sanctions against attorneys and representatives who practice before its tribunals. The rule clarifies the authority of the INS to investigate complaints regarding attorneys and representatives who practice before the INS and outlines the procedures by which the INS may initiate disciplinary proceedings before EOIR against practitioners who practice before the INS.

Timetable:

Action	Date	FR Cite
NPRM	01/20/98	63 FR 2901
NPRM Comment Period End	03/23/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA13

1977. CONDITIONAL GRANTS OF SUSPENSION OF DEPORTATION AND CANCELLATION OF REMOVAL

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1224 to 1227; 8 USC 1251 to 1252

CFR Citation: 8 CFR 240

Legal Deadline: None

Abstract: On September 30, 1996 Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, PL 104-208 (IIRIRA). Under section 304(a)(3), the Attorney General may not cancel the removal and adjust the status under section 240A(b) of the Immigration and Nationality Act (Act), nor suspend the deportation and adjust the status under section 244(a) of the Act of a total of more than 4,000 aliens in a fiscal year. This rule provides the necessary procedures for the processing of suspension of deportation and cancellation of removal cases while it is determined how the numerical limitation will be implemented.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	10/01/97	62 FR 51760
Interim Final Rule Comment Period End	12/01/97	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, VA 22041
Phone: 703 527-0470

RIN: 1125–AA19

1978. ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1255

CFR Citation: 8 CFR 245

Legal Deadline: None

Abstract: On July 23, 1997, the Service published an interim rule with request for comment (62 FR 39417) concerning adjustment of status applications filed pursuant to section 245(i) of the Act. This interim rule amends the date by which aliens must file and pay for their applications for adjustment of status pursuant to section 245(i) of the Immigration and Nationality Act. Such applications are adjudicated by the Executive Office for Immigration Review, including the Board of Immigration Appeals and the Immigration Courts, or the Immigration and Naturalization Service (Service). This rule also clarifies the procedure for paying for such adjustment applications when filed in conjunction with motions to reopen or reconsider.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/23/97	62 FR 55152
Interim Final Rule Comment Period End	12/22/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470
Fax: 703 305-0443

RIN: 1125–AA20

DEPARTMENT OF JUSTICE (DOJ)

Executive Office for Immigration Review (EOIR)

Completed Actions

1979. BOARD OF IMMIGRATION APPEALS: TEMPORARY BOARD MEMBERS AND EN BANC PROCEDURES

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 3

Completed:

Reason	Date	FR Cite
Final Action	06/11/98	63 FR 31889

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Margaret M. Philbin
Phone: 703 305-0470
Fax: 703 305-0443

RIN: 1125–AA21

DOJ—EOIR

Completed Actions

1980. • MOTION TO REOPEN: SUSPENSION OF DEPORTATION AND CANCELLATION OF REMOVAL

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1252 note; 8 USC 1252b; 8 USC 1324b; 8 USC 1362; 28 USC 509; 28 USC 510; 28 USC 1746; Reorg. Plan No. 2 of 1950, sec 2; 3 CFR, 1949 to 1953, Comp, p 1002

CFR Citation: 8 CFR 3

Legal Deadline: None

Abstract: This interim rule relates to a previous notice, signed by the Attorney General on January 15, 1998, and published at 63 FR 3154, on January 21, 1998, which designated from January 16, 1998 to September 11, 1998, as the time period for filing motions to reopen to apply for suspension of deportation or special rule cancellation of removal under NACARA. This rule is simplifying the filing process for NACARA motions to reopen in two ways.

First, this rule clarifies who can file a NACARA motion to reopen. Section 309(g) of IIRIRA permits an alien who has a final order of deportation or removal to file one motion to reopen only if he or she has become eligible for cancellation of removal or suspension of deportation as a result of the amendments made by section 203 of NACARA.

Second, this rule permits any alien who is moving to reopen pursuant to section 309(g) of IIRIRA, as amended by section 203(c) of NACARA, to file such motion initially without a suspension or cancellation application and supporting documents. The rule requires the applicant to then submit the application and supporting documents by February 8, 1999.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/11/98	63 FR 31890
Final Action	06/11/98	63 FR 31890
Final Action Effective	07/13/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470
Fax: 703 305-0443

RIN: 1125–AA23

1981. • BOARD OF IMMIGRATION APPEALS: 18 BOARD MEMBERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1252 note; 8 USC 1252b; 8 USC 1362; 28 USC 509; 28 USC 510; 28 USC 1746; Reorg. Plan No. 2 of 1950, sec 2; 3 CFR 1949 to 1953 Comp, p 1002

CFR Citation: 8 CFR 3; 28 CFR 0

Legal Deadline: None

Abstract: This final rule expands the Board of Immigration Appeals to eighteen permanent members, including sixteen Board Members, a Chairman, and a Vice Chairman. This rule also acknowledges the position of Deputy Director in the organizational hierarchy of the Executive Office for Immigration Review.

Timetable:

Action	Date	FR Cite
Final Action	09/28/98	63 FR 51518
Final Action Effective	09/28/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470
Fax: 703 305-0443

RIN: 1125–AA24

DEPARTMENT OF JUSTICE (DOJ)

Immigration and Naturalization Service (INS)

Prerule Stage

1982. CORPORATE REORGANIZATIONS (MERGERS AND ACQUISITIONS) AND E, H, L NONIMMIGRANT CLASSIFICATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1282; 8 CFR 2

CFR Citation: 8 CFR 214.1(h)

Legal Deadline: None

Abstract: The Service solicits comments on establishing policy and administrative procedure for simplifying the processing of nonimmigrant temporary workers involved in mergers, acquisitions consolidations or other corporate restructurings. Streamlining Service Center procedures in this respect is in the public interest in light of increased numbers of corporate reorganizations anticipated in the future.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/98	
NPRM	06/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1797-96 Preclearance comments have been received and the regulation can move forward.

Agency Contact: Katherine A. Lorr, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 514-5014
Fax: 202 514-0198

RIN: 1115–AE55

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Proposed Rule Stage

1983. REVISED GROUNDS OF INADMISSIBILITY, WAIVERS FOR IMMIGRANTS AND NONIMMIGRANTS, AND EXCEPTIONS

Regulatory Plan: This entry is Seq. No. 52 in Part II of this issue of the Federal Register.

RIN: 1115–AB45

1984. F, J, AND M NONIMMIGRANT STUDENT REQUIREMENTS FOR ADMISSION, TRACKING, MAINTENANCE OF STATUS AND FOR EMPLOYMENT AUTHORIZATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186a; 8 USC 1324a

CFR Citation: 8 CFR 214; 8 CFR 274a

Legal Deadline: None

Abstract: This rule amends title 8 of the Code of Federal Regulations to clarify current regulations affecting F-1, J-1, and M-1 nonimmigrant students and their dependants; and to make necessary changes regarding controls over all foreign students in the United States.

This regulation re-engineers existing policies and procedures affecting the control and tracking of foreign students and the schools which are authorized to admit them. It will establish effective controls for monitoring and tracking of all nonimmigrant students (F, J, and M classifications). (INS 1458)

A pilot test will be conducted to ascertain the practical feasibility and viability of the student/school re-engineering effort.(INS 1762)

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/20/92	57 FR 31954
Interim Final Rule Eff. 7-20-92; Com. Due 9-18-92	07/20/92	57 FR 31954
Notice-INS No. 1800	01/17/97	62 FR 26851
NPRM-INS No. 1458	12/00/98	
Final Rule-INS No. 1458	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS Nos. 1458-92 and INS No. 1610 (RIN-1115-AD37) will be incorporated into this rule.

Agency Contact: Robert Wiemann, Staff Officer, Office of Adjudications, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-3228

RIN: 1115–AD16

1985. INSPECTION OF PERSONS APPLYING FOR ADMISSION

Priority: Routine and Frequent

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1353a; 8 USC 1353b; 31 USC 9701

CFR Citation: 8 CFR 235

Legal Deadline: None

Abstract: This rule provides for the reimbursement to the INS for certain direct salary costs and administrative overhead charges in its overtime billing for arriving trains and vessels under 8 USC 1353b, for all immigration inspection services rendered to crews, and for services rendered to passengers not exempt under 8 USC 1353b or 1356(g).

Timetable:

Action	Date	FR Cite
NPRM	12/22/92	57 FR 60741
NPRM Comment Period End	01/21/93	
2nd NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1512-92

Agency Contact: Brenda Garland, Office of Financial Management, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6010, Washington, DC 20536
Phone: 202 616-7683

RIN: 1115–AD17

1986. NONIMMIGRANT CLASSES; S CLASSIFICATION; LAW ENFORCEMENT INITIATIVES; ALIEN WITNESSES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 USC 1324a; 8 CFR 2

CFR Citation: 8 CFR 212; 8 CFR 214; 8 CFR 274a; 8 CFR 299; 8 CFR 103

Legal Deadline: None

Abstract: Two regulatory initiatives dealing with the processing of alien witnesses have been prepared by the INS. INS No. 1683-94 provides the application and approval process for the admission of aliens in S nonimmigrant classification. It provides guidance to the various law enforcement agencies needing alien witnesses and informants to complete critical law enforcement initiatives in the United States. INS No. 1728-95 establishes a fee for the processing of Form I-854, Inter-Agency Alien Witness and Informant Record, for Law Enforcement Agency (LEA) requests for S nonimmigrant classification for eligible alien witnesses and informants. The fee recovers the costs of the processing of requests for immigration benefits, and is needed to comply with specific Federal immigration laws and Federal user fee statute and regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule-INS No. 1683 Eff. 8/25/95; Comment Period End 12/4/95	08/25/95	60 FR 44260
Interim Final Rule-INS No. 1683 Correction	10/05/95	60 FR 52068
Interim Final Rule-INS No. 1683 Correction	10/05/95	60 FR 52248
Final Rule-INS No. 1683	12/00/98	
NPRM-INS No. 1728	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: INS No. 1683-94; and INS No. 1728-95. Form I-854 is in the initial stages of being revised and the effect of IIRIRA is being assessed. Once the form is revised, the fee can be reassessed and the fee regulation will move forward. The form and the regulation (which has been

DOJ—INS

Proposed Rule Stage

completed for some time) will remain tied together, and both will be thoroughly reviewed by the DOJ and OMB.

Agency Contact: Katherine A. Lorr, Staff Officer, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD86

1987. UPDATE TO TRANSIT WITHOUT VISA (TWOV) LISTING

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 CFR 2

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: The rule makes modifications to existing INS regulations by allowing the INS to waive the passport and visa requirement for citizens of certain former Soviet Socialist Republics and former Warsaw Pact countries who transit through the United States under the Transit Without Visa (TWOV) program. This rule also makes citizens of certain other countries ineligible for TWOV privileges because of that country's past abuse of the TWOV program level of crime and/or narcotics production, state sponsor of terrorism, or restrictions imposed by the President of the United States because the entry of its citizens would be detrimental to the interests of the United States. This rule is necessary to update 8 CFR 212.1(f)(2) and (3) to reflect the current political situation of each country. This is pending deliberations with the Department of State on determining those countries which are permitted to transit without authority. Reflect changes that occurred due to the disintegration of the former Union of Soviet Socialist Republics, the dissolution of the People's Republic of Czechoslovakia, the union of the German Democratic Republic and the Federal Republic of Germany, and the name change of the Democratic Republic of Vietnam to the Socialist Republic of Vietnam. The Union of Soviet Socialist Republics is replaced by Armenia, Azerbaijan, Belarus, Georgia, Kazakstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. Czechoslovakia is replaced with The Czech Republic and Slovakia. The Mongolian People's Republic is replaced by Mongolia. The Democratic Republic of Vietnam is replaced by the Socialist Republic of Vietnam. This rule is necessary to update 8 CFR sections 212.1 (f)(2) and (3) to reflect the current political situation of each country and should not have any adverse impact. This is pending deliberation's with the Department of State on determining those countries which are permitted to transit without a visa.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS No. 1696-95

Negotiations are underway between the Department of State and the Immigration and Naturalization Service. The target date of 07/00/99 is projected to be a realistic date.

Agency Contact: Robert Hutnick, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 514-3019

RIN: 1115–AD96

1988. EMPLOYMENT AUTHORIZATION DOCUMENT APPLICATIONS AND PROCESS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1324a; 8 CFR 2

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: A final rule (INS No. 1399-96) introducing and authorizing centralized production of a new more secure and fraud-resistant EAD Card or Form I-766 was published in the Federal Register at 61 FR 46534 on September 4, 1996. Centralized production of this new EAD card will be performed by one or more INS Service Centers. Also, an employment authorization document (EAD) application and proposed rule is planned pending Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) regulatory initiatives and related policy actions. The proposed rule will provide a more efficient process for centralized production of the new EAD card.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1707-95 The employment authorization document (EAD) applications and process proposed rule has been pending for some time (more than a year) due to document reduction issues. The Service published a proposed rule (I-9) on 2/2/98 at 63 FR 5287. The remaining policy issues on the I-765 proposed rule are expected to be worked out during the next few months. With refocused resources, the Service is optimistic and is working to meet an October 1998 publication date for the I-765 proposed rule.

Agency Contact: MayBurn Deboe, Staff Officer, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE06

1989. INSPECTION OF PERSONS APPLYING FOR ADMISSION; TRANSIT WITHOUT VISA (TWOV) AND INTERNATIONAL-TO-INTERNATIONAL AGREEMENTS LIQUIDATED DAMAGES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1221; 8 USC 1228; 8 USC 1229

CFR Citation: 8 CFR 231

Legal Deadline: None

Abstract: This rule proposes that the carriers charge and collect a user fee from every ITI passenger arriving abroad a commercial aircraft or commercial vessel from foreign locations, except those individuals arriving from Mexico, Canada, and the adjacent islands by means other than commercial aircraft. Furthermore, this rule notifies concerned parties that the

Service proposes to increase the amount of liquidated damages imposed on carriers for failure to timely transport any alien brought to the United States under the Immediate and Continuous Transit Agreement, better known as the Transit Without Visa (TWOV) Agreement, on Form I-426, in immediate and continuous transit through the United States or the International-to-International (ITI) Agreement, formerly known as the In-Transit Lounge (ITL) Agreement, to $2500.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS No. 1757 Changes to section 235 by IIRIRA of 1996 requires regulations to be altered. Discussions must be held at Headquarters, Inspections Division to determine course of action.

Agency Contact: Robert F. Hutnick, Assistant Chief Inspector, Office of Inspections, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 616-7499

RIN: 1115–AE37

1990. JUDICIAL REVIEW OF DECISIONS OF THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW AND THE IMMIGRATION AND NATURALIZATION SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1242 note; 8 USC 1324b; 28 USC 509; 28 USC 510; 28 USC 1746

CFR Citation: 8 CFR 3; 8 CFR 103

Legal Deadline: None

Abstract: This rule amends the Executive Office of Immigration Review (EOIR) and the Immigration and Naturalization Service (Service) regulations specifically when an administration decision under the Immigration and Nationality Act is final for purpose of judicial review under the Administrative Procedures Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Margaret M. Philbin, General Counsel, Executive Office of Immigration Review, Department of Justice, Immigration and Naturalization Service, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22401
Phone: 703 305-0470

RIN: 1115–AE46

1991. PETITION FOR EMPLOYMENT CREATION ALIENS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1183; 8 USC 1184; 8 USC 1186a; 8 USC 1186b; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226

CFR Citation: 8 CFR 204; 8 CFR 216; 8 CFR 235

Legal Deadline: None

Abstract: The Service solicits comments on necessary policy and administrative procedure for resolving current regulatory concerns regarding immigrant investors.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1798-96 This rule will be divided into two separate rulemakings, the one pertaining to the petition for employment-creation aliens and the other pertaining to regional centers. Both rules will have forms attached.

Agency Contact: Katharine A. Lorr, Staff Officer, Office of Adjudications, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 514-5014
Fax: 202 514-0198

RIN: 1115–AE56

1992. SUSPENSION OF PRIVILEGE TO TRANSPORT ALIENS TO THE UNITED STATES

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1252

CFR Citation: 8 CFR 103; 8 CFR 273

Legal Deadline: Final, Statutory, November 1998.
IIRIRA states that a proposed rule must be published within 90 days of the bill's enactment.

Abstract: The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) added a provision to the Immigration and Nationality Act that allows INS to suspend a commercial airline's privilege to transport aliens to the United States if the carrier has a record of bringing in aliens who have fraudulent documents. The IIRIRA states that a proposed rule must be published within 90 days of the bill's enactment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Interim Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: This rule has required coordination with several other government agencies. Re: INS # 1809-96

Agency Contact: Una Brien, Director, National Fines Office, Inspections Division, Department of Justice, Immigration and Naturalization Service, 1400 Wilson Blvd. Suite 210, Arlington, VA 22209
Phone: 202 305-7018

RIN: 1115–AE59

1993. FILING FACTUAL STATEMENTS ABOUT ALIEN PROSTITUTES

Priority: Other Significant

Legal Authority: 18 USC 2424; PL 104-208

CFR Citation: 28 CFR 94

Legal Deadline: None

Abstract: On September 30, 1996, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) was enacted. This law not only amended significant portions of title 8 of the United States Code, but also changed the provisions of title 18 United States Code (Crimes and Criminal Procedures). Because section 325 amends 18 USC, the Immigration and Naturalization Service will publish an implementing regulation dealing with the filing of statements by individuals who keep, maintain, control, support or harbor alien prostitutes.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1810-96)	12/00/98	
Final Rule (INS No. 1810-96)	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS No. 1810-96

Agency Contact: Elizabeth L. Dolan, Senior Special Agent, Headquarters Investigations, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 1000, Washington, DC 20536
Phone: 202 514-2998

RIN: 1115–AE60

1994. NONIMMIGRANT OVERSTAYS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1201; 8 USC 1202; 8 USC 1221; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1258; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214.2; 8 CFR 214.2(f); 8 CFR 236; 8 CFR 248

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). Section 632 of IIRIRA concerns authorized stay, voiding/cancellation of visas and eligibility for readmission to the United States as a nonimmigrant. The INS will amend current regulations to provide for the exclusion of nonimmigrants who have previously over stayed their nonimmigrant status in the United States to reflect the 3-year and 5-year bars to admission specified at section 222(g) of the Immigration and Nationality Act as amended by IIRIRA.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1812-96)	12/00/98	
Final Rule (INS No. 1812-96)	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: RE: INS No. 1812-96

Agency Contact: Robert Wiemann, Staff Officer, Office of Adjudications, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE62

1995. F-1 VISA ABUSERS AND FOREIGN STUDENTS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1258; 8 USC 1362; PL 104-208

CFR Citation: 8 CFR 214.1; 8 CFR 214.2 (f); 8 CFR 214.3; 8 CFR 214.4; 8 CFR 221.1; 8 CFR 235; 8 CFR 236; 8 CFR 248

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The INS will amend current regulations governing F-1 foreign students and the schools authorized to enroll F-1 students. The purpose is to bar F-1 eligibility and status for attendance at a public elementary school and publicly funded adult education programs. In addition, this rulemaking will establish the reimbursement requirements and 12 month limit for F-1 eligibility and status to attend an INS approved public secondary school. The rulemaking will implement the statutorily mandated foreign student tracking provisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: RE: INS Docket No. 1813-96

Agency Contact: Robert Wiemann, Staff Officer, Office of Adjudications, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE63

1996. EMPLOYMENT VERIFICATION BY EMPLOYERS THAT ARE MEMBERS OF A MULTI-EMPLOYER ASSOCIATION

Priority: Other Significant

Legal Authority: 8 USC 1324a; PL 104-208

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). The INS will publish amendatory regulations regarding when an employer that is a member of a multi-employer association employing an individual under a collective bargaining agreement entered into between one or more employee organizations and the multi-employer association may rely upon a Form I-9 completed for the individual by a previous employer that is a member of the same multi-employer association.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Rule INS No. 1817-96	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: RE: INS Docket No. 1817-96; PL 104-208, title 4

Agency Contact: Marguerite Przbylski, Attorney, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW-Room 6100, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AE67

DOJ—INS

Proposed Rule Stage

1997. USE OF PAROLE FOR HUMANITARIAN REASON OR SIGNIFICANT PUBLIC BENEFIT AND REPORT TO CONGRESS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1182

CFR Citation: 8 CFR 212

Legal Deadline: NPRM, Statutory, September 11, 1997.

Abstract: Changes to the current regulations are necessitated by section 602 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. This section has reworded certain parole authority by stipulating parole on a case-by-case basis for urgent humanitarian reasons or significant public benefit. Furthermore, this section mandates a Report to Congress stating numbers of such parolees, commencing on January 1, 1998.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: INS No. 1840-97

This rule effects the following section of the I&NA - section 212, as amended by sections 602 IIRIRA.

Agency Contact: James Kicfer, Acting, Director Parole Unit, Office of Field Operations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000D, Washington, DC 20536
Phone: 202 305-2455

RIN: 1115–AE68

1998. COLLECTION OF FEES UNDER THE DEDICATED COMMUTER LANE PROGRAM, PORT PASSENGER ACCELERATED SERVICE SYSTEM (PORTPASS) PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 8 USC 2869q; PL 104-208

CFR Citation: 8 CFR 103; 8 CFR 235; 8 CFR 286; 8 CFR 299

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The INS will publish amendatory regulations to remove restrictions currently in place which will limit the locations where the Service can implement dedicated commuter lanes. In addition, the proposed rule will incorporate other projects designed to enhance border security and effective traffic management at Ports-of-Entry. Finally, the regulations may adjust the fee structure in order to administer these projects.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1820-96)	10/00/98	
Final Rule (INS No. 1820-96)	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: RE: INS No. 1820-96; Pub. L. 104-208, title I.

Agency Contact: Thomas C. Campbell, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 4214, Washington, DC 20536
Phone: 202 305-9246

RIN: 1115–AE71

1999. DELEGATION OF IMMIGRATION ENFORCEMENT AUTHORITY

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1357

CFR Citation: 8 CFR 2; 8 CFR 287

Legal Deadline: NPRM, Statutory, September 11, 1997.

Abstract: The Commissioner may enter into agreements with States of their political subdivisions for the purpose of assisting in the enforcement of immigration laws as detailed in Service Policy and Memorandum of Understanding between the Service and State and local agencies who have entered into agreement with the Commissioner. This change is intended to augment the number of agents available to the Service who can enforce the immigration laws while providing State and local officers with a means of enforcing laws which were previously restricted to INS employees. This rule implements sections 133 and 373 of IIRIRA.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Rule	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: INS No. 1833-97 INS Nos. 1834-97

The rules will affect the following section of the INA: -section 103, as amended by section of IIRIRA; -section 287, as amended by section 133 of IIRIRA;

Rules are contingent upon the formal recognition of Service Policy and Memorandums of Understanding (MOU) between the Service and the State and/or political subdivisions therein which are delegated the authority to enforce the immigration laws.

Government jurisdictions affected will include local and State Police Agencies, Sheriff's Departments and detention facilities operated by the State or a political subdivision of a State.

Agency Contact: Gary D. Witt, Patrol Agent in Charge, Office of Field Operations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000D, Washington, DC 20536
Phone: 202 305-2445

RIN: 1115–AE76

2000. REGULATIONS PERTAINING TO BATTERED ALIENS AND TO MAIL ORDER BRIDE BUSINESSES, AS MANDATED BY IIRIRA

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1641(c); PL 104-208

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) included a number of provisions relating to battered aliens and to mail order bride businesses. At present, INS anticipates rulemaking in the following areas.

DOJ—INS

Proposed Rule Stage

INS No. 1845-97 is necessitated by the section 501 of IIRIRA, which provides certain types of public benefits for those aliens who have made a prima facie case for eligibility pursuant to the INS' interim rule on self-petitions by battered aliens, published at 61 FR 13061 (March 26, 1995; INS No. 1705-95). This new interim rule will define what constitutes a prima facie case.

INS No. 1838-97, an advance notice of proposed rulemaking to solicit public input into the regulation of certain functions of the international matchmaking industry (also referred to as "mail order bride businesses"), as required by section 652 of IIRIRA, was published on 7/16/97 (62 FR 38041).

The Service is currently working with DOJ on the Trafficking in People Task Force to develop a cohesive policy in this area.

Timetable:

Action	Date	FR Cite
ANPRM-INS No. 1838-97 Comments due 09/15/97	07/16/97	62 FR 38041
Interim Rule-INS No. 1845-97	11/13/97	62 FR 60769
NPRM-INS No. 1838-97	12/00/98	
Final Rule-INS NO. 1845-97	02/00/99	
Final Rule-INS No. 1838-97	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1838-97

Agency Contact: Karen Fitzgerald, Staff Officer, Adjudications and Nationality, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE77

2001. PUBLIC CHARGE BOND PILOT PROGRAM

Priority: Other Significant

Legal Authority: 8 USC 1183; PL 104-208

CFR Citation: 8 CFR 213

Legal Deadline: Final, Statutory, November 1998.

Abstract: This rule will amend the Immigration and Naturalization Service regulations by naming five district offices of the Service which will establish and conduct a pilot program to require aliens to post a bond in addition to the affidavit requirements under section 213A of the Immigration and Nationality Act and the deeming requirements under section 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This rule will establish the criteria and procedures for certifying bonding companies for participation in the program and the debarment of any such company that fails to pay a bond. It will also establish the criteria for setting the amount of the bond. This rule will stipulate that the pilot program will terminate after 3 years of operation.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1843-97)	11/00/98	
NPRM Comment Period End	01/00/99	
Final Rule (INS No. 1843-97)	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1843-97; PL 104-208, title 5, Secs. 502 and 564. The proposed rule will have a 90 day comment period ending August 1998

Agency Contact: Miriam Hetfield, Staff Officer, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street, N.W. Room 3214, Washington, DC 20536
Phone: 202 514-5014

Lisa Roney, Policy Analyst, Office of Policy and Planning, Department of Justice, Immigration and Naturalization Service, 425 I street NW., Room 6052, Washington, DC 20536
Phone: 202 514-3242

RIN: 1115–AE78

2002. SURRENDER OF ALIENS ORDERED REMOVED FROM THE UNITED STATES

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1254a; 8 USC 1245a note

CFR Citation: 8 CFR 240.13; 8 CFR 240.14; 8 CFR 240.15; 8 CFR 240.16

Legal Deadline: None
Although there is no formal legal deadline, the rule is an integral part of implementing PL 104-208.

Abstract: This rule requires aliens subject to a final order of removal to surrender to the INS. This rule also establishes procedures for surrender, and bars persons violating these procedures from obtaining discretionary immigration benefits.

Timetable:

Action	Date	FR Cite
NPRM	09/04/98	63 FR 47205
NPRM Comment Period End	11/03/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1847-97

Agency Contact: William Birkett, Assistant General Counsel, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street, Room 6100, Washington, DC 20536
Phone: 202 514-5001

RIN: 1115–AE82

2003. PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1223; 8 USC 1227; 8 USC 1251; 8 USC 1253; 8 USC 1255; 8 USC 1330; 8 CFR 2

CFR Citation: 8 CFR 241

Legal Deadline: None

Abstract: This rule establishes an administrative process whereby criminal aliens in State custody convicted of nonviolent offenses may be deported prior to completion of their sentence to imprisonment pursuant to: section 241(a)(4)(B) of the Immigration and Nationality Act, as amended by section 438 of the Antiterrorism and Effective Death Penalty Act and section 305(a)(4)(B) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

DOJ—INS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1848-97)	09/00/99	
Final Action (INS No. 1848-97)	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: INS No.1848-97

Agency Contact: Joan S. Lieberman, Attorney, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC Phone: 202 514-2895

RIN: 1115–AE83

2004. CONTROL OF ALIENS DEPARTING FROM THE UNITED STATES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 8 USC 1104

CFR Citation: 8 CFR 215

Legal Deadline: None

Abstract: IIRIRA requires the Service to implement an arrival/departure management system by October 1, 1998. This regulation will implement that system by requiring that all aliens seeking to enter the United States on or after that date, unless otherwise exempted by Service regulation, be in possession of a machine readable travel document acceptable to the Service. The regulation will establish a requirement that every person seeking to depart from the United States must travel through a Service designated Port-of-Departure and must conform to Service procedures prior to or upon departure. The regulation also will establish penalties for persons who fail to comply with the requirements of the regulation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local

Additional Information: INS No. 1869-97

Agency Contact: Andrew Taub, Assistant Chief Inspector, Office of Inspections, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536 Phone: 202 514-3019 Fax: 202 514-8345

RIN: 1115–AE89

2005. ENROUTE INSPECTIONS AND THE RECOVERY OF IMMIGRATION AND NATURALIZATION SERVICE COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1356(i)

CFR Citation: 8 CFR 235

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service (Service) regulations to define an enroute inspection. The rule will also notify all affected parties that the Service will begin to bill cruise ship, train, and bus lines or other modes of transportation, or their designated shipping agents or representatives, for all expenditures of government funds which the Service obligates in connection with the performance of en route inspections on board transportation carriers. This action is necessary in order for the Service to more accurately account for the costs associated with providing immigration inspection services on an en route basis, and to ensure their full recoupment.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1784-96

Agency Contact: Catherine Paler-Amaya, Assistant Chief Inspector, Office of Inspections, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536 Phone: 202 514-3019

RIN: 1115–AE98

2006. PROCEDURE FOR ACCEPTING APPLICATIONS FOR BENEFITS SUBMITTED WITH INSUFFICIENT OR EXCESS FEES

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 Note; 8 USC 1252b; 8 USC 1304; 8 USC 1356; 31 USC 9701; EO 12356; 3 CFR 1982 comp.; 8 CFR 2

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service (the Service) regulations by enabling the Service to accept and file applications for benefits submitted with incorrect fees. This change will affect applicants who mistakenly submit incorrect fees with their applications by enabling the Service to accept such applications and assign priority dates, while seeking the resolution of the payment disparities. Applications will not be adjudicated until the appropriate amount is submitted.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Rule	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1905-98

Agency Contact: Mark Rouse, Staff Officer, Office of Adjudications, Department of Justice, Immigration and Naturalization Service, 425 I Street NE., Room 3214, Washington, DC 20536 Phone: 202 514-2763 Fax: 202 514-8661 Email: michael.valverde@justice.usdoj.gov

RIN: 1115–AF06

2007. CHANGE IN BUSINESS PRACTICES: NON-ACCEPTANCE OF CASH AS REMITTANCE FOR FEES AND APPLICATIONS IN IMMIGRATION AND NATURALIZATION SERVICES OFFICES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5103; 31 USC 4(c)(1)

CFR Citation: 8 CFR 103.7

DOJ—INS

Proposed Rule Stage

Legal Deadline: NPRM, Statutory, March 1, 1998. Final, Statutory, May 1, 1998.

Abstract: This rule amends the Immigration and Naturalization Service (Service) regulations that govern payment methods for fees and applications by eliminating the acceptance of cash as an acceptable form of payment. This rule clarifies that the Service will only accept payments by credit card, personal check, certified check or money order in all offices, except where access to alternative payment methods is limited and where payment by cash remains the preferable method.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cheryl Kaminski, Chief, Travel and Cash Management Section, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536 Phone: 202 307-2879 Fax: 202 514-7860

RIN: 1115–AF07

2008. EXAMINATIONS FEE ACCOUNT SCHEDULE—SMALL VOLUME APPLICATIONS

Priority: Other Significant

Legal Authority: PL 82-137; PL 100-459; PL 101-515; PL 101-576; 8 USC 1356; 31 USC 9701

CFR Citation: 8 CFR 103.7

Legal Deadline: None

Abstract: This rule proposes to adjust the fee schedule of the Immigration Examinations Fee Account for four low volume applications which are the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant; Form N-300, Application to File Declaration of Intention; Form N-336, Request for Hearing on a Decision in Naturalization Procedures; and Form N-470, Application to Preserve Residence for Naturalization Purpose. The fee adjustments are necessary to comply with Federal statutes and Federal cost accounting standards. These statutes and standards require Federal Agencies to charge fees for specific services that provide a private benefit that does not accrue to the public. Federal Agencies are required to review their fees bi-annually to ensure that the fees charged recover the full cost to the Government for providing specific services. Implementation of this rule will ensure that sufficient funds are available to the Federal Government to provide the services for applications and petitions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS #1909-98

Agency Contact: Mike Natchuras, Chief, Fee Policy and Rate Setting Branch, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6240, Washington, DC 20536 Phone: 202 616-2754

RIN: 1115–AF10

2009. • CLASSES OF ALIENS AUTHORIZED TO ACCEPT EMPLOYMENT

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1324a

CFR Citation: 8 CFR 274a.12

Legal Deadline: None

Abstract: This interim rule amends the INS regulations by adding to the list of classes of aliens authorized to accept work authorization the class of aliens for whom a private bill to grant immigration benefits is pending in Congress. The rule is necessary in order to apply for immigration benefits. This rule would grant such an individual alien the authority to apply for work authorization while the bill on their behalf is pending action in Congress. Due to the small number of private bills enacted annually, this rule would not affect a large class of people, and therefore cannot be considered controversial.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM (INS No. 1922-98)	12/00/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1922-98.

Agency Contact: Michael Valverde, Program Analyst, Office of Adjudications, Department of Justice, Immigration and Naturalization Service Phone: 202 514-2763

RIN: 1115–AF16

2010. • POWERS OF THE ATTORNEY GENERAL TO AUTHORIZE STATE OR LOCAL LAW ENFORCEMENT OFFICERS TO CARRY OUT IMMIGRATION ENFORCEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 8 USC 1101; 8 USC 1103; 8 USC 1201

CFR Citation: 28 CFR 65

Legal Deadline: None

Abstract: In order to provide a more effective and efficient response to a mass migration event, this interim rule implements provisions in the Immigration and Nationality Act allowing the Attorney General to authorize any State and local law enforcement officer to perform certain functions related to the enforcement of the immigration laws during the period of an actual or imminent mass influx of aliens. This rule would place designated State/local law enforcement officers under the direction of the INS when enforcing immigration law. This rule also allows the Commissioner of Immigration to enter into advance written agreements with State and local law enforcement officials setting forth the terms and conditions of the functions to be performed during a Federal response to a mass influx of aliens, including reimbursement of expenses and ties such reimbursement to the Immigration Emergency Fund as the primary source of such funding.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: INS No. 1924-98 (See also 1115-AE76, Delegation of Immigration Enforcement Auth.)

DOJ—INS

Proposed Rule Stage

Agency Contact: George Waldroup, Field Operations, Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street,N.W., Washington, DC 20536
Phone: 202 514-4567

RIN: 1115–AF20

2011. • PROGRESSIVE CLEARANCE STOPOVERS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1221; 8 USC 1228; 8 USC 1229

CFR Citation: 8 CFR 231.1; 8 CFR 231.4

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Service (Service) regulations by establishing passenger and carrier requirements with regard to progressive clearance and stopovers. This includes passenger and carrier obligations and liabilities and the charging and collection of a user fee for each subsequent inspection of stopover passengers. This rule is intended to facilitate travel while continuing to ensure the welfare, safety and security of the United States.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: INS No. 1930-98

Agency Contact: Robert Hutnick, Assistant Chief Inspector, Office of Inspections, Department of Justice, Immigration and Naturalization Service, USINS, 425 I Street, NW rm.4064, Washington, DC 20536
Phone: 202 616-7499
Fax: 202 514-8345
Email: robert.f.hutnick@usdoj.gov

RIN: 1115–AF23

2012. • DELEGATION OF THE ADJUDICATION OF CERTAIN H-2A PETIONS TO THE DEPARTMENT OF LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Service's regulations by delegating the adjudication of certain H-2A petitions to the United States Department of Labor (DOL). The H-2A petitions affected by this action would involve only those petitions filed for initial H-2A employment where the alien is not physically present in the United States. The Service has proposed these changes in order to streamline the existing H-2A petitioning process for certain foreign agricultural workers. The proposals contained in this rule will make it easier and less burdensome for United States employers to file petitions for foreign agricultural workers.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1946-98)	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Additional Information: INS No. 1946-98

Agency Contact: John W. Brown, Adjudications Officer, Programs Divisions, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-3240

RIN: 1115–AF29

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Final Rule Stage

2013. SEIZURE AND FORFEITURE OF CONVEYANCES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1324(b); 18 USC 981; 18 USC 982; 19 USC 1613; 19 USC 1618

CFR Citation: 8 CFR 274.13; 8 CFR 274.14; 8 CFR 274.15; 8 CFR 274.16; 8 CFR 274.17; 8 CFR 274.18; 8 CFR 274.19; 8 CFR 274.8 (Revision); 8 CFR 274.9

Legal Deadline: None

Abstract: Sections 274.13 through 274.19 of 8 CFR have been superseded by the publication at 28 CFR 9 of amended regulations governing the remission or mitigation of civil and criminal forfeitures by the Department of Justice. The INS is affected by these amendments through reference in 28 CFR 9. The amendments to 8 CFR 274 will include the deletion of sections 274.13 through 274.19 and amendments in reference in sections 274.8 and 274.9 from sections 274.13 through 274.17 to 28 CFR 9.

Timetable:

Action	Date	FR Cite
Final Rule	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1391-92

DOJ published a final rule on 1/3/97 at 62 FR 314.

Cross reference INS No. 1061-88, published 10/26/88 at 53 FR 43192, effective 10/26/88.

Agency Contact: Susan T. Czerwinski, Asset Forfeiture Program Specialist, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1040, Washington, DC 20536
Phone: 202 616-2737

RIN: 1115–AA95

DOJ—INS

Final Rule Stage

2014. REDUCTION OF THE NUMBER OF ACCEPTABLE DOCUMENTS AND OTHER CHANGES TO EMPLOYMENT VERIFICATION REQUIREMENTS (SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 53 in Part II of this issue of the Federal Register.

RIN: 1115–AB73

2015. VISA WAIVER PILOT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1356; 8 USC 1187; 8 USC 1103; 8 CFR 2

CFR Citation: 8 CFR 217

Legal Deadline: None

Abstract: The Visa Waiver Pilot Program allows nationals of designated countries to apply for admission to the United States at land border ports, air and sea ports and to enter the United States for business or pleasure for up to 90 days without first obtaining a nonimmigrant visa.

INS Rule No. 1799 will finalize all those Visa Waiver Pilot Program countries which were added through the publication of interim regulations. This rule will also incorporate those statutory changes made to section 217 of the INA by IIRIRA.

Timetable:

Action	Date	FR Cite
NPRM INS No. 1406-91 Comment Period End 5/22/91	05/07/91	56 FR 21101
Interim Final Rule-INS No. 1447 Eff. 10/1/91; Comment Period End 10/15/91	09/13/91	56 FR 46716
Public Notice-INS No. 1674 Eff. 10/25/94, Comment Period End 09/30/96	02/21/95	60 FR 9699
Interim Final Rule-INS No. 1685 Eff. 4/1/95; Comment Period End 5/30/95	03/28/95	60 FR 15855
Interim Final Rule-INS No. 1777	07/08/96	61 FR 35598
Interim Final Rule-INS No. 1782-96 With Comments (Australia)	07/29/96	61 FR 39721
Interim Final Rule-INS 1786-96 With Comments (Slovenia)	09/30/97	62 FR 50998
Final Rule-INS No. 1799	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS No. 1447-91, 1622-94, 1685-95, 1777-96, and 1782 are to be consolidated into one final rulemaking which is designated as INS No. 1799.

INS No. 1799 will be jointly published by INS and the Department of State.

INS No. 1447R is cancelled. The Attorney General approved Slovenia for participation in this program and it was effective September 30, 1997.

The Visa Waiver Pilot Program was extended on September 30, 1996 for one year, until September 30, 1997. After five continuing resolutions since September 30, 1997, a temporary extension for the VWPP was added to the DOJ appropriations bill extending the program until April 30, 1998. On April 27, 1998, S.1178 was signed into Law entering the VWPP until April 30, 2000.

Agency Contact: Dominica Gutierrez, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 305-2969

RIN: 1115–AB93

2016. ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE: CONDITIONAL RESIDENTS AND FIANCE(E)S

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1257; 8 CFR 2

CFR Citation: 8 CFR 245

Legal Deadline: None

Abstract: This rule clarifies procedures for fiance(e)s who marry after the 90-day period of fiance(e) admission has ended; and also clarifies that persons who have had conditional residence terminated are not eligible to adjust status.

Timetable:

Action	Date	FR Cite
NPRM	08/20/96	61 FR 43028
NPRM Comment Period End	10/21/96	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS No. 1353-91

Agency Contact: Ramonia Law-Hill, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AC70

2017. NONIMMIGRANT CLASSES; B VISITOR FOR BUSINESS OR PLEASURE

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282; 8 CFR 2; 8 USC 1324a

CFR Citation: 8 CFR 214; 8 CFR 274a

Legal Deadline: None

Abstract: This rule incorporates into current regulations the information contained in the Service's Operations Instructions (OIs) and the interpretive note material to Volume 9 of the Department of State's Foreign Affairs Manual (FAM) relating to the B-1 (visitor for business) and B-2 (visitor for pleasure) classifications, with appropriate modifications due to the passage of the Immigration Act of 1990 and the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991. This rule clarifies the criteria for according B-1 or B-2 classification to applicants for admission to the United States. In addition, by incorporating the applicable portions of the instructions presently contained in the OIs and the FAM notes into regulations such information will be more readily available to the public.

Timetable:

Action	Date	FR Cite
NPRM	11/05/93	58 FR 58982
NPRM Comment Period End	12/06/93	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS No. 1441-93

Agency Contact: Helen V. de Thomas, Staff Officer, Office of Adjudications, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AC89

2018. PETITIONS FOR EMPLOYMENT-BASED IMMIGRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186A; 8 USC 1255; 8 CFR 2; 8 USC 1153(b)

CFR Citation: 8 CFR 204; 8 CFR 214

Legal Deadline: None

Abstract: This proposed rule will make changes to the regulations governing employment-based immigrant petitions. These regulations were promulgated in November of 1991. Since then, the Service has discovered certain provisions in the regulations which need clarification or revision. The Service also needs to incorporate certain changes made by the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 into the regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/06/95	60 FR 29771
NPRM Comment Period End	08/07/95	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1633-93

Agency Contact: John Brown, Adjudications Officer, Office of Adjudications and Nationality, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 616-7435

RIN: 1115–AD55

2019. ADMISSION OF CERTAIN NURSES SEEKING NONIMMIGRANT CLASSIFICATION UNDER THE H-1A CATEGORY

Priority: Routine and Frequent

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: The H-1A nonimmigrant classification, which provided for the temporary admission of registered nurses to the United States, expired on September 1, 1995. However, in response to concerns that geographic locations in the United States continued to experience a shortage of registered nurses after the sunset date of the H-1A classification, the president signed Pub. L. 104-302 which provided for the granting of an extension of stay until September 30, 1997, to certain H-1A nurses. On March 7, 1997, the Immigration and naturalization Service published an interim rule in the Federal Register at 62 FR 10422-10425 in order to amend the Service's regulations to reflect the provisions contained in the Pub. L. 104-302.

Since the H-1A classification and the extension period under Pub. L. 104-302 have now expired, this final rule removes all references to the H-1A classification.

Timetable:

Action	Date	FR Cite
Interim Final Rule Comment Period End 12/06/94	10/07/94	59 FR 51101
Interim Final Rule	03/07/97	62 FR 10422
Interim Final Rule-INS No. 1806 Comment Period End 5/06/97	03/07/97	62 FR 10422
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1663-94.

Cross Reference INS No. 1654-94, RIN 1115-AD66

Agency Contact: John Brown, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-3240

RIN: 1115–AD74

2020. FEES FOR PARTICIPATION IN DEDICATED COMMUTER LANES AT SELECTED PORTS OF ENTRY; COLLECTION OF FEES UNDER THE DEDICATED COMMUTER LANE PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356; 8 USC 1182; 8 USC 1183; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252

CFR Citation: 8 CFR 103; 8 CFR 235; 8 CFR 286; 8 CFR 299

Legal Deadline: None

Abstract: These rules provide for the collection of a fee at the time of application for participation in a Dedicated Commuter Lane (DCL), instead of at the time of approval of the application. The DCL program is a pilot project established at selected land border ports of entry to expedite the transborder movement of eligible, pre-screened, low-risk groups through designated traffic lanes. The first rule clarifies the requirements for the use of the DCL. (INS No. 1675). A second rule will set forth the fee required of participants in order to cover the technological costs (INS No. 1794).

Timetable:

Action	Date	FR Cite
Interim Final Rule-INS No. 1675 Eff. 9/29/95; Comment Period End 11/28/95	09/29/95	60 FR 50386
Interim Rule-INS No. 1794	10/11/96	61 FR 53303
Final Rule-INS No.1675-94 Effective 10/16/96	10/16/96	61 FR 53830
Final Rule-INS No.1794-96	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: Federal

Additional Information: INS No. 1675 and 1794-96

Agency Contact: Thomas C. Campbell, Assistant Chief Inspector, Office of Inspections, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 305-9246

RIN: 1115–AD82

2021. ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE; TEMPORARY REMOVAL OF CERTAIN RESTRICTIONS ON ELIGIBILITY

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552(a); 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356; 8 USC 1102; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228

CFR Citation: 8 CFR 103; 8 CFR 212; 8 CFR 217; 8 CFR 245

Legal Deadline: None

Abstract: This rule allows certain persons in the United States to adjust status to that of a lawful permanent resident if the application was filed before November 25, 1997 or, if the adjustment application is based on a visa petition or labor certification filed between November 26, 1997 and January 14, 1998. These persons, although eligible for immigrant visa issuance abroad, have been barred from adjustment of status because they had entered the United States without inspection or had violated the conditions of temporary nonimmigrant status. The rule allows prospective lawful permanent or conditional residents to avoid the difficulties and expense of travel to a U.S. consulate or embassy abroad. It continues to penalize these violators of the immigration laws by requiring most adult applicants to pay an additional sum in excess of the standard adjustment filing fee. After adjusting status they may lawfully live and work in the United States and may later be eligible to seek United States citizenship through naturalization. This rule also implements the new section 245(k) of the INA which permits certain employment-based immigrants who are out of status to file for adjustment under section 245(a) of 8 CFR.

Timetable:

Action	Date	FR Cite
Interim Final Rule Eff. 10-1-94; Com. Due 12-6-94	10/07/94	59 FR 51091
Interim Final Rule Correction	10/20/94	59 FR 53020
Interim Rule INS No. 1676-94 Effective 07/23/97	07/23/97	62 FR 39417
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS No. 1676 EOIR Interim Rule published 9/30/97 at 62 FR 50999. For more information 1125-AA20.

Agency Contact: Pearl Chang, Staff Officer, Adjudications and Nationality, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD83

2022. 90-DAY MODIFIED INSPECTION OF ALIEN CREW MEMBERS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1184; 8 USC 1258; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 235; 8 CFR 252

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Service (the Service) regulations by establishing a procedure whereby bona fide alien crewmen actively serving on board a maritime ferry or a maritime commercial cruise ship may, at the discretion of the Service, be inspected one time during every 90-day period during which the cruise ship conducts operations between Ports-of-Entry (POEs) in the United States and a foreign country. This rule is necessary in order for the Service to formally codify the long-standing practice of authorizing certain maritime crewmen landing privileges in the United States without further inspection during the intervening time between 90-day full-crew inspections.

Timetable:

Action	Date	FR Cite
NPRM	08/15/97	62 FR 43676
NPRM Comment Period End	10/14/97	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS No. 1695-95

Agency Contact: Catherine Paler-Amaya, Assistant Chief Inspector, Office of Inspections, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 514-3019

RIN: 1115–AD95

2023. PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A U.S. CITIZEN OR AS A PREFERENCE IMMIGRANT; SELF-PETITIONING FOR CERTAIN BATTERED OR ABUSED ALIEN SPOUSES AND CHILDREN

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2; PL 103-322

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule allows battered and abused spouses and children of United States Citizens and Lawful Permanent Residents to petition for immigrant classification. The consent of the abuser would not be required.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/26/96	61 FR 13061
Interim Final Rule Effective	03/26/96	
Interim Final Rule Comment Period End	05/28/96	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS No. 1705-95

DOJ—INS

Final Rule Stage

Agency Contact: Karen FitzGerald, Staff Officer, Adjudications and Nationality, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE04

2024. MISCELLANEOUS MODIFICATIONS TO NATURALIZATION REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1433; 8 USC 1443; 8 USC 1448

CFR Citation: 8 CFR 322; 8 CFR 337

Legal Deadline: None

Abstract: These regulations implement provisions of the Immigration and Nationality Technical Amendments Act of 1994.

INS No. 1712 implements changes to 8 CFR 322 by establishing procedures for a U.S. citizen parent to apply for the expeditious naturalization of his or her children born outside the U.S. It allows certain U.S. parents who do not meet physical presence requirements to use the physical presence of their U.S. parent (the child's U.S. grandparent). The purpose of the rule is to relax the requirements of U.S. citizenship for children born to or adopted by U.S. citizens abroad.

INS No. 1764 reserves the authority to schedule all administrative oath-taking ceremonies with the District Director. The rule will not impact the Immigration Judges' authority to administer the oath at ceremonies conducted by the Service.

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1712	09/10/96	61 FR 47690
Final Rule-INS No. 1712	10/00/98	
Final Rule-INS No. 1764	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS No. 1712 Contact, Jody Marten
INS No. 1764 Contact, Susan Arroyo

Agency Contact: Jody Martin, Staff Officer, Office of Naturalizations Operations, Department of Justice, Immigration and Naturalization Service, 801 I Street NW., Room 900, Washington, DC 20536
Phone: 202 305-4770

RIN: 1115–AE07

2025. CONDITIONS ON NONIMMIGRANT STATUS; DISCLOSURE OF INFORMATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186A; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule removes the current regulatory language conditioning an alien's nonimmigrant status on his or her providing full and truthful information requested by the INS, regardless of the requested information's materiality. This rule would clarify that the nonimmigrant's stay is conditioned on, among other things, the provision of all information deemed necessary to ensure that the alien has acquired, and is maintaining, lawful nonimmigrant status during the entire period of his or her stay, or is eligible to receive any other benefit under the INA.

Timetable:

Action	Date	FR Cite
NPRM	06/14/96	61 FR 30188
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1732-95

Agency Contact: Miriam Jawitz Hetfield, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE17

2026. EMPLOYER SANCTIONS MODIFICATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1324a; 8 CFR 2

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: The Service is considering further changes to streamline the verification and enforcement process requirements related to the Employer Sanctions provisions of the Immigration Reform and Control Act.

INS No. 1738 will allow INS to issue and serve a warning Notice upon an alleged violator after the INS has determined that a person or entity has violated section 274a of the Act. This rule will also allow interested parties to electronically generate blank copies of the Employment Eligibility Verification Form, (Form I-9).

INS No. 1737 will allow the INS to discontinue its practice of providing any person or entity required to retain Forms I-9 with at least 3 days notice prior to an inspection of the Forms I-9. This practice is not mandated by law, and the INS believes that it may have impeded investigations by giving employers the opportunity to make changes or corrections to forms or to fraudulently create or destroy Forms I-9.

Timetable:

Action	Date	FR Cite
Interim Final Rule-INS No. 1738	10/07/96	61 FR 52235
Correction (Final Rule)	10/29/96	61 FR 55840
Final Rule-INS No. 1738	01/00/99	
NPRM-INS No. 1737	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Additional Information: INS Nos. 1737 and 1738.

INS No. 1737 Proposed Rule was returned to INS unpublished due to unresolved issues. The status or anticipated publication date will not be determined until the unresolved issues are addressed.

Agency Contact: Angelo Sorrento, Special Agent, Investigations, Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536
Phone: 202 514-0747

RIN: 1115–AE21

DOJ—INS

Final Rule Stage

2027. REGULATIONS RELATING TO TEMPORARY PROTECTED STATUS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 8 USC 1103; 8 USC 1254a; 8 USC 1254a note; 8 USC 1362; 8 USC 1324a; 8 USC 1101; 8 USC 1303; 8 CFR 2; 5 USC 301; 5 USC 552; 5 USC 552a; 8 USC 1201; 28 USC 509; 31 USC 9701

CFR Citation: 8 CFR 103; 8 CFR 240; 8 CFR 299

Legal Deadline: None

Abstract: Regulations published under this RIN implement provisions of the Immigration and Nationality Act as established by section 302 of the Immigration Act of 1990, Pub. L. 101-649, which allow for the establishment and implementation of Temporary Protected Status (TPS). Currently, nationals of four countries (Liberia, Somalia, Rwanda, and Bosnia-Hercegovina) have been accorded TPS Status. Such designations are accomplished by notice published in the Federal Register.

Previously published TPS regulations were cited by RIN 1115-AC30.

Current regulatory actions:

INS No. 1608 provides for exceptions to deadlines for registering for TPS and updates the application process.

INS No. 1612 provides for the removal of obsolete TPS language.

Timetable:

Action	Date	FR Cite
TPS Final Rule (INS No. 1612) Removal of Obsolete Sections Covering TPS for Salvadorans	09/10/96	61 FR 47667
TPS Notice (INS No. 1832-97) Designation of Liberia	04/07/97	62 FR 16608
TPS Notice (INS No. 1853-97) Designation of Rwanda Eff. 06/07/97	06/19/97	62 FR 33442
TPS Notice (INS No. 1862-97) Designation of Bosnia-Hercegovina	08/01/97	62 FR 41420
TPS Notice (INS No. 1863-97) Designation of Somalia	08/01/97	62 FR 41421
TPS Notice (INS No. 1878-97) TPS Designation of Montserrat	08/28/97	62 FR 45685
TPS Notice (INS No. 1775-96) TPS Designation of Burundi	11/04/97	62 FR 59735
TPS Notice (INS No. 1780-97) TPS Designation of Sudan	11/04/97	62 FR 59737
TPS Notice (INS No. 1877-97) TPS Designation of Sierra	11/04/97	62 FR 59736
TPS Notice (INS No. 1910-98) Termination of Designation of Liberia	03/31/98	63 FR 15437
TPS Notice (INS No. 1929-98) TPS Designation of Kosovo	06/09/98	63 FR 31527
TPS Notice (INS No. 1945-98) Extension of Designation of Somalia	09/28/98	63 FR 51602
TPS Notice (INS No. 1953-98) Redesignation of Liberia	09/29/98	63 FR 51958
TPS Final Rule (INS No. 1608) Exceptions to Registration	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The Attorney General may designate other countries for TPS.

INS Nos. 1608, 1612, 1832-97, 1853-97 and 1877-97

INS No. 1608 issued as an interim rule on 11/5/93 at 58 FR 58935

Cross reference other TPS actions under RIN 1115-AC30.

Agency Contact: George Raferty, Staff Officer, Office of Adjudications, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE26

2028. REGULATIONS PERTAINING TO ADJUDICATIONS PROCESSING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 552; 5 USC 552(a); 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1155; 8 USC 1160; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1186b; 8 USC 1187

CFR Citation: 8 CFR 101; 8 CFR 103; 8 CFR 204; 8 CFR 210; 8 CFR 212; 8 CFR 214; 8 CFR 216; 8 CFR 240; 8 CFR 245a; 8 CFR 249; 8 CFR 336

Legal Deadline: None

Abstract: In response to the President's direction to each agency to undertake a review of its regulations for the purpose of reducing the regulations or, when possible, rendering them more readable and comprehensible, the Immigration and Naturalization Service engaged in a thorough line-by-line review of all regulations in title 8 of the Code of Federal Regulations (8 CFR). As a result, the Service is amending its regulations consistent with the President's directive by publishing a series of separate rulemakings in the Federal Register. Over the course of the next two fiscal years, these rulemakings will address all parts of 8 CFR by updating obsolete references; by eliminating portions dealing with terminated programs; by removing language relating to purely procedural matters involving only internal Service processes; by elimination of references which unnecessarily duplicate language contained in the statute or in other portions of the regulations; and by streamlining awkward and confusing language.

DOJ—INS

Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: INS Nos. 1753-96;1754-96;and 1789-96 Additional Legal Authority: 8 USC 1201; 8 USC 1221; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252 note; 8 USC 1252b; 8 USC 1254; 8 USC 1254a note; 8 USC 1255; 8 USC 1255 note; 8 USC 1259; 8 USC 1281; 8 USC 1282; 8 USC 1304; 1356; 8 USC 1443; 8 USC 1447; 8 USC 1448; 31 USC 9701; EO 12356; 47 FR 14874; 47 FR 15557; 3 CFR; 1982 Comp., 166; 8 CFR part 2.

Agency Contact: Lawrence J. Weinig, Director, Field Manual Project Office, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., ULLICO 4th Floor, Washington, DC 20536
Phone: 202 616-7425

RIN: 1115–AE31

2029. ORPHAN PETITIONS; PETITIONS TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR PREFERENCE IMMIGRANT; CHANGE IN DEFINITION OF CHILD

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-51

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule amends the Service's existing regulations by replacing the phrase "legitimate child" with "child born in wedlock." This change also makes the criteria for immigration, based on orphan classification and on certain other parent-child relationships, much easier to understand and apply.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS No. 1761 (Additional INS contact Ramonia Law-Hill)

Agency Contact: Ramonia Law-Hill, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE33

2030. INSPECTION AND EXPEDITED REMOVAL OF ALIENS; DETENTION AND REMOVAL OF ALIENS; CONDUCT OF REMOVAL PROCEEDINGS; ASYLUM PROCEDURES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1154; 8 USC 1158; 8 USC 1181; 8 USC 1182; 8 USC 1183; 8 USC 1184; 8 USC 1185; 8 USC 1186a; 8 USC 1187

CFR Citation: 8 CFR 1; 8 CFR 3; 8 CFR 103; 8 CFR 204; 8 CFR 207; 8 CFR 208; 8 CFR 209; 8 CFR 211; 8 CFR 212; 8 CFR 213; 8 CFR 214; 8 CFR 216; 8 CFR 217; 8 CFR 221; 8 CFR 223; ...

Legal Deadline: Final, Statutory, March 1, 1997.
The statute requires the Attorney General to promulgate implementing regulations by March 1, 1997.

Abstract: Many of the provisions of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) became effective April 1, 1997. Some provisions of the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) that were not superseded by IIRIRA became effective November 1, 1996. On March 6, 1997, INS and EOIR published an interim rule revising the asylum process; providing a mechanism for the determination and review of certain applicants who demonstrate a credible fear of persecution if returned to their own country; defining the inspection and admission process including new expedited removal procedures for aliens attempting to enter the United States through fraud or misrepresentation apprehension, detention, and removal of aliens; addressing conduct of removal proceedings; and revising many other sections of the regulations to conform with the new laws. INS is currently reviewing comments received on the interim rule prior to issuing a final rule.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1788-96) Comment Period End 2/3/97	01/03/97	62 FR 444
Interim Final Rule (INS No. 1788-96) Comment Period End 7/15/97	03/06/97	62 FR 10312
Interim Final Rule Correction (Effective 04/01/97)	04/01/97	62 FR 15362
Interim Final Rule (INS No. 1788-96) Correction	04/09/97	62 FR 17048
Final Rule (INS No. 1920-98) Correction	07/22/98	63 FR 39217
Final Action (INS No. 1788-96)	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1788-96 and 1790-96 Additional CFR cites; 8 CFR 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 248, 251, 252, 253, 274a, 286, 287, 299, 316, 318 and 329.

Additional Legal Authorities: 8 USC 1186b, 1187, 1201, 1203, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1251, 1252, 1252note, 1252a, 1252b, 1253, 1254, 1254a note, 1255, 1256, 1258, 1259, 1281, 1282, 1304, 1324a, 1330, 1356, 1357, 1362, 1429, 1440, 1443, 1447; 28 USC 509, 510, 1746; 31 USC 9701; 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

INS Rule No. 1920-98 makes a technical correction to the services regulations that govern the documentary requirements for immigrants and corresponding waivers.

Agency Contact: Linda Loveless, Assistant Chief Inspector, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 616-7489

Peggy Philbin, General Counsel, Executive Office of Immigration Review, Department of Justice, Immigration and Naturalization Service, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041

DOJ—INS

Final Rule Stage

Phone: 703 305-0470

RIN: 1115–AE47

2031. AGREEMENT PROMISING NON-DEPORTATION OR OTHER IMMIGRATION BENEFITS

Priority: Other Significant

Legal Authority: 5 USC 301; 28 USC 509; 28 USC 510; 28 USC 515; 28 USC 516; 28 USC 517; 28 USC 518; 28 USC 519

CFR Citation: 28 CFR 0.197

Legal Deadline: None

Abstract: This rule requires INS consent for agreements not to deport or agreements promising immigration benefits.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/13/96	61 FR 48405
Comment Period End	11/12/96	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1791-96

Agency Contact: Cristina Hamilton, Chief Enforcement Division, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536
Phone: 202 514-2895
Fax: 202 514-0455

RIN: 1115–AE50

2032. DEFINITION OF THE TERM "LAWFULLY PRESENT" FOR PURPOSES OF APPLYING FOR TITLE II BENEFITS UNDER THE SOCIAL SECURITY ACT

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252B; 8 USC 1304; 8 USC 1356; 31 USC 9701; EO 12356; 47 FR 14874 to 15557; 3 CFR 1982 comp.; 8 CFR 2

CFR Citation: 8 CFR 103

Legal Deadline: NPRM, Statutory, September 1, 1996.

Abstract: Section 401(a) of the Personal Responsibility and Work Reconciliation Act of 1996 provides that, with limited exceptions, only qualified aliens, as defined under section 431, may receive certain Federal public benefits. Section 401(b)(2) provides an exception which allows aliens who are "lawfully present in the United States" as determined by the Attorney General to receive Social Security benefits under title II of the Social Security Act.

This interim rule amends the Immigration and Naturalization Service (Service) regulations to define the term "an alien who is lawfully present in the United States" so that the Social Security Administration may determine which aliens are eligible for benefits under title II of the Social Security Act. Aliens who are considered "lawfully present in the United States," however, must otherwise satisfy the requirements for benefits under title II of the Social Security Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/06/96	61 FR 47039
Interim Final Rule Comment Period End	11/05/96	
Final Rule	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: INS No. 1792-96

Agency Contact: Derek C. Smith, Assistant General Counsel, Office of the General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street, Room 3214, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AE51

2033. PETITIONING REQUIREMENTS FOR THE H NONIMMIGRANT CLASSIFICATION

Priority: Routine and Frequent

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214; 8 CFR 274

Legal Deadline: None

Abstract: This rule proposes to amend the INS regulations to accommodate the need of certain U.S. workers. Specifically, this rule proposes to amend the Service's regulations with respect to the submission of itineraries and labor condition applications.

Timetable:

Action	Date	FR Cite
NPRM	06/04/98	63 FR 30419
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: INS No. 1769-96

Agency Contact: John W. Brown, Adjudications Officer, Adjudications and Nationality, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-3240

RIN: 1115–AE52

2034. CANADIAN BORDER BOAT LANDING PROGRAM

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252

CFR Citation: 8 CFR 235.1(e)

Legal Deadline: None

Abstract: This rule clarifies and standardizes procedures for the application, issuance and use of Form I-68, Canadian Border Boat Landing Card.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/11/97	62 FR 47749
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1796-96

Agency Contact: Jennifer Sava, Assistant Chief Inspector, Office of Inspections, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 307-1942

RIN: 1115–AE53

DOJ—INS

Final Rule Stage

2035. AFFIDAVITS OF SUPPORT ON BEHALF OF IMMIGRANTS

Priority: Other Significant

Legal Authority: 8 USC 1183a; PL 104-208; PL 104-193; 8 CFR 2

CFR Citation: 8 CFR 213a; 8 CFR 299

Legal Deadline: Final, Statutory, November 1998.

Abstract: This rule will amend the INS regulations by establishing that an individual (the sponsor) who files an affidavit of support under section 213A of the INA on behalf of an intending immigrant incurs an obligation that may be enforced by a civil action. This rule also specifies the requirements that Federal, State, or local agencies or private entities must meet to request reimbursement from the sponsor for provision of means-tested public benefits and provides procedures for imposing the civil penalty provided for under section 213A of the INA, if the sponsor fails to give notice of any change of address. This rule is necessary to ensure that sponsors of aliens meet their obligations under section 213A of the INA.

Timetable:

Action	Date	FR Cite
Interim Final Rule - INS No. 1807-96; Comment Period End 02/7/98	10/20/97	62 FR 52346
Final Rule	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Re: INS No. 1807-96; PL 104-208, title IV and PL 104-193, Title IV

Agency Contact: Miriam Hetfield, Staff Officer, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

Lisa Roney, Policy Analyst, Office of Policy and Planning, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6052, Washington, DC 20536
Phone: 202 353-0249

RIN: 1115–AE58

2036. RIGHTS OF HABITUAL RESIDENCE BETWEEN THE UNITED STATES AND THE GOVERNMENTS OF THE MARSHALL ISLANDS, MICRONESIA AND PALAU

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204; 8 CFR 214.2

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The statute, among other things, requires that INS issue regulations governing the rights of "habitual residence" under 1) the Compact of Free Association between the United States and the Governments of the Marshall Islands and the Federated States of Micronesia; and 2) the Compact of Free Association between the United States and the Government of Palau.

Timetable:

Action	Date	FR Cite
NPRM	06/04/98	63 FR 30415
NPRM Comment Period End	08/03/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: RE: INS No. 1811-96

Agency Contact: John Brown, Staff Officer, Office of Adjudications, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 3214, Washington, DC 20536
Phone: 202 514-3240

RIN: 1115–AE61

2037. LIMITING LIABILITY FOR CERTAIN TECHNICAL AND PROCEDURAL VIOLATIONS OF PAPERWORK REQUIREMENTS

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 8 USC 1324a; PL 104-208

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). This rule will implement section 411 of IIRIRA which allows employers that have made a good faith attempt to comply with a particular employment verification requirement to correct technical or procedural failures to meet the requirement before such failures are deemed to be violations of the Act. This rule will explain the good faith rule, define the term technical or procedural failure to meet such requirement, and explain how an employer can correct technical or procedural failures.

Timetable:

Action	Date	FR Cite
NPRM	04/07/98	63 FR 16909
NPRM Comment Period End	06/08/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: RE: INS No. 1819-96 and Public Law 104-208, title IV.

Agency Contact: Marguerite Przybylski, Attorney, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 6100, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AE70

2038. INELIGIBILITY OF CERTAIN JUVENILE OFFENDERS FOR FAMILY UNITY PROGRAM

Priority: Other Significant

Legal Authority: 8 USC 1225a note; PL 104-208

CFR Citation: 8 CFR 236.23

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The INS will publish a regulation implementing a new basis of ineligibility for Family Unity benefits for certain juvenile offenders.

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS No. 1823-96)	12/00/98	
Final Rule (INS No. 1823-96)	06/00/99	

DOJ—INS

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: RE: INS No. 1823-96; PL 104-208, title III, section 38; and this regulation will affect 8 CFR 242.5 that will be renumbered 8 CFR 236.25.

Agency Contact: Joanna London, Attorney, Office of the General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AE72

2039. CERTIFICATION OF CERTAIN HEALTH CARE WORKERS

Priority: Other Significant

Legal Authority: 8 USC 1182(a)(5); PL 104-208

CFR Citation: 8 CFR 204; 8 CFR 212; 8 CFR 214.2; 8 CFR 245; 8 CFR 248

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Section 343 provides that certain foreign health care workers are inadmissible unless they present a certificate from CGFNS (or another equivalent certifying agency as determined by the Attorney General) to the Department of State, or in the case of adjustment of status, to the Attorney General, in order to enter the United States. The certificate must address such issues as licensure, training, language skills, and education. The Service will be publishing a proposed rule to implement these requirements, including a designation of covered health care occupations, the procedures and requirements for certifying organizations, the content of the certificates, and the process for presentation of the certificates. In addition, the Service plans to issue a temporary interim rule to address shortages in key health care occupations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/14/98	63 FR 55007
Interim Final Rule Effective	12/14/98	
NPRM	09/00/99	
Final Rule	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: RE: INS No. 1824-96; PL 104-208

Agency Contact: John Brown, Staff Officer, Office of Adjudications, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-3240

RIN: 1115–AE73

2040. ADJUSTMENT OF STATUS FOR CERTAIN POLISH OR HUNGARIAN PAROLEES

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1182

CFR Citation: 8 CFR 245

Legal Deadline: None

Abstract: Section 646 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (PL 104-208) requires the Attorney General to establish procedures by which certain nationals of Poland or Hungary who were paroled into the United States from 1989 to 1991 may apply for adjustment to permanent resident status in the United States. An implementation policy memorandum and an interim rule are needed to make this new law effective.

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS No. 1825-97)	05/23/97	62 FR 28314
Final Rule (INS No. 1825-97)	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Pearl Chang, Staff Officer, Adjudications and Nationality, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE74

2041. ESTABLISHMENT OF PREINSPECTED AUTOMATED LANE (PAL) PROGRAM AT IMMIGRATION AND NATURALIZATION SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1251; 8 USC 1252; 8 USC 1357; 8 CFR 2

CFR Citation: 8 CFR 287; 8 CFR 299

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulation by establishing a Preinspected Automated Lane (PAL) Program for the use of eligible persons and vehicles at immigration checkpoints within the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule With Request for Comments by 06/17/97	04/18/97	62 FR 19024
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1830-97

Agency Contact: William Carter, Border Patrol Agent, Office of Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street, N.W. 20536, Room 4226
Phone: 202 514-3072

RIN: 1115–AE80

2042. AMENDMENT OF THE REGULATORY DEFINITION OF ARRIVING ALIEN

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 CFR 2

CFR Citation: 8 CFR 1

Legal Deadline: None

Abstract: This rule amends the INS regulations by changing the regulatory definition of an arriving alien. Under section 235(b)(1)(A)(i) of the INA, which was effective on April 1, 1997, certain arriving aliens are subject to expedited removal procedures. The existing regulatory definition of arriving aliens includes parolees. As a matter of policy, the Department has decided that it is appropriate to exempt from

the new expedited removal procedures aliens who were paroled into the United States before April, 1997. This rule clarifies that aliens who were paroled before April 1, 1997 will not be subjected to expedited removal. The rule also makes several changes in the wording of 1.1(q) to use language that is clearer and more consistent with the wording of the new statute.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/20/98	63 FR 19382
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Re: INS No. 1868-97

Agency Contact: Linda Loveless, Assistant Chief Inspector, Office of Inspections, Department of Justice, Immigration and Naturalization Service, 425 I NW., Room 4064, Washington, DC 20536
Phone: 202 616-7489

RIN: 1115–AE87

2043. NEW RULES REGARDING PROCEDURES FOR ASYLUM AND WITHHOLDING OF REMOVAL

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1252 note; 8 USC 1252b; 8 USC 1253; 8 USC 1282; 8 USC 1283; 31 USC 9701; 8 CFR 2

CFR Citation: 8 CFR 208

Legal Deadline: NPRM, Statutory, November 1998. Final, Statutory, December 1998.

Abstract: This rule proposes to amend the Immigration and Naturalization Services regulations that govern asylum and withholding of removal. This rule clarifies that, in cases where the applicant has established past persecution, the Attorney General may deny asylum in the exercise of discretion, if it is established by a preponderance of the evidence that the applicant does not face a reasonable possibility of future persecution in the applicant's country of nationality or, if stateless, the applicant's country of last habitual residence.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1865-97)	06/11/98	63 FR 31945
NPRM Comment Period Extended to 09/11/98	08/04/98	63 FR 41478
Final Rule (INS No. 1865-97)	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1865-97

Agency Contact: Christine Davidson, Senior Policy Analyst, Asylum Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Attn: Ullico Bldg. 3rd Floor, Washington DC 20536
Phone: 202 305-2663

RIN: 1115–AE93

2044. ADJUSTMENT OF STATUS, CONTINUED VALIDITY OF NONIMMIGRANT STATUS AND UNEXPIRED EMPLOYMENT AUTHORIZATION FOR APPLICANTS MAINTAINING NONIMMIGRANT H OR L STATUS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1255; 8 USC 1281; 8 USC 1282; 8 CFR 2

CFR Citation: 8 CFR 214; 8 CFR 245

Legal Deadline: None

Abstract: Over the last several years, the Service has issued numerous policy statements regarding its position on employment authorization, advance parole, and extension of nonimmigrant status for certain skilled nonimmigrant workers who have filed for adjustment to permanent resident status. This rulemaking intends to: (1) codify existing Service policy statements by incorporating them into the Service's regulations, and (2) eliminate the requirement for service permission for overseas travel for adjustment applicants who are maintaining H-1 or L nonimmigrant status.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1881-97

Agency Contact: Irene Hoffman, Policy Analyst, Office of Adjudications and Nationality, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW Room 3214, Washington, DC 20536
Phone: 202 514-5014
Fax: 202 514-0198

RIN: 1115–AE96

2045. VERIFICATION OF ELIGIBILITY FOR PUBLIC BENEFITS

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1642

CFR Citation: 8 CFR 104

Legal Deadline: NPRM, Statutory, November 3, 1997. Final, Statutory, February 22, 1998.
Statutory deadline to promulgate regulations for state and local public benefits was previously 11/03/98. Deadlines for regulations for Federal public benefits is 02/22/98.

Abstract: This regulatory action requires all entities (other than nonprofit charitable organizations) providing Federal public benefits (with certain exceptions) to verify by examining documents and using an INS automated verification system that applicants are eligible for the benefits under Federal benefit reform legislation. This rule also sets forth provisions by which State or local governments can verify whether aliens applying for State or local public benefits are eligible for such benefits under Federal laws.

The Interim Verification Guidelines published as a notice on 11/17/97 at 62 FR 61344. The guidelines set forth procedures that benefit providers can use to verify citizenship, qualified alien status, and eligibility under title IV of the PRWORA prior to issuance of the final regulations.

Timetable:

Action	Date	FR Cite
Proposed Rule (INS No. 1902-98)	08/04/98	63 FR 41662
Final Rule (INS No. 1902-98)	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Additional Information: INS # 1902-98 should be referenced for any inquiries concerning this rulemaking action.

Agency Contact: John Nahan, Director, SAVE Branch, Files and Forms Management Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Ullico-4th Floor, Washington, DC 20536
Phone: 202 514-2317
Fax: 202 514-9981

RIN: 1115–AE99

2046. CHANGING THE NAME OF THE ALIEN REGISTRATION RECEIPT CARD TO THE PERMANENT RESIDENT CARD

Priority: Info./Admin./Other

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 Note; 8 USC 1252b; 8 USC 1304; 8 USC 1356; 8 USC 1151; 5 USC 310; 5 USC 510; 5 USC 552; 5 USC 552a; 28 USC 509; 28 USC 510; 31 USC 9701

CFR Citation: 8 CFR 100; 8 CFR 101; 8 CFR 103; 8 CFR 204; 8 CFR 209; 8 CFR 210; 8 CFR 211; 8 CFR 216; 8 CFR 247; 8 CFR 264; 8 CFR 274a; 8 CFR 299; 8 CFR 316; 8 CFR 338; 8 CFR 341; ...

Legal Deadline: None

Abstract: This rule amends the Service's regulations by changing the name of the Form I-551 from "Alien Registration Receipt Card" to "Permanent Resident Card." To facilitate the name change, this final rule allows INS to continue using the two valid versions of the I-551 (titled "Alien Registration Receipt Card") while using and referring to the new generation of the I-551, the "Permanent Resident Card." This is a change in name only and will not alter any adjustment policy or procedures.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1896-97

Agency Contact: Michael Valverde, Program Analyst, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC20536
Phone: 202 514-2763
Fax: 202 514-8661
Email: michael.valverde@justice.usdoj.gov

RIN: 1115–AF01

2047. DELEGATION OF GENERAL AUTHORITY BY THE COMMISSIONER TO CERTAIN IMMIGRATION OFFICERS

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1251; 8 USC 1252; 8 USC 1357

CFR Citation: 8 CFR 287

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations, by eliminating the requirement that the Deputy Attorney General approves determinations by the Commissioner that individual and/or classes of Immigration Officers are authorized to exercise certain enforcement powers pertaining to general arrest authority. This is an administrative change only, and is consistent with the delegated authority of the Commissioner relative to the administration of the Service, as conferred by the Attorney General. The change is intended to eliminate an unnecessary layer of decision-making in matters in which the Commissioner is authorized to make such determinations.

Timetable:

Action	Date	FR Cite
Final Rule (INS No. 1892-97)	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1892-97

Agency Contact: Robert A. Aserkoff, Special Agent, Intelligence Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 5003, Washington, DC 20536
Phone: 202 514-2960

RIN: 1115–AF02

2048. FINGERPRINTING APPLICANTS AND PETITIONERS FOR IMMIGRATION BENEFITS; ESTABLISHING A FEE FOR FINGERPRINTING BY THE SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356

CFR Citation: 8 CFR 103; 8 CFR 299; 8 CFR 316; 8 CFR 335

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations relating to fingerprinting applicants and petitioners for benefits under the Immigration and Nationality Act by: canceling the Designated Fingerprinting Service program; requiring applicants and petitioners for benefits to be fingerprinted at either a Service Office, a State or local law enforcement agency, or at a United States consular or military office; establishing a fee for fingerprinting by the Service; and requiring confirmation from the Federal Bureau of Investigation (FBI) that a full criminal background check has been completed before adjudication of a naturalization application is completed.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/17/98	63 FR 12979
Interim Final Rule Effective Date	03/29/98	
Final Rule (INS No. 1891-97) Correction	04/09/98	63 FR 17489
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: INS No. 1891-97

Agency Contact: Ann Palmer, Adjudications Officer, Office of Naturalization, Department of Justice, Immigration and Naturalization Service,

DOJ—INS

Final Rule Stage

425 I Street NW., Room 935,
Washington, DC, 20536
Phone: 202 307-0891

RIN: 1115–AF03

2049. ADJUSTMENT OF STATUS; CERTAIN NATIONALS OF NICARAGUA AND CUBA

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 245; 8 CFR 3; 8 CFR 240; 8 CFR 247a; 8 CFR 299

Legal Deadline: None

Abstract: This rule implements the Nicaraguan Adjustment and Central American Relief Act (NACARA) by establishing procedures for certain nationals of Nicaragua and Cuba who have been temporarily residing in the United States to become lawful permanent residents of this country. It allows them to obtain lawful permanent resident status without applying for an immigrant visa at a United States consulate abroad and waives many of the usual requirements for this benefit.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/21/98	63 FR 27823
Correction (INS No. 1893-97)	06/29/98	63 FR 35309
Correction (INS No. 1893-97)	07/21/98	63 FR 39121
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No.1893-97

Agency Contact: Suzy Nguyen, Adjudications Officer, Adjudications Branch, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-3228

RIN: 1115–AF04

2050. PROCESSING, DETENTION, AND RELEASE OF JUVENILES

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1362

CFR Citation: 8 CFR 236.3

Legal Deadline: None
The court-approved settlement agreement in Flores v. Reno (C.D. C al.) required INS to publish regulations last July. However, the changes brought by AEDPA and IIRIRA delayed issuance of regs.

Abstract: The rule amends the Immigration and Naturalization Service regulations by establishing the procedures for processing alien juveniles from custody and the detention of unreleased juveniles in state-licensed programs and detention facilities. This rule also governs the transportation and transfer of juveniles in Service custody.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1906-98)	07/24/98	63 FR 39759
NPRM Comment Period End	09/22/98	
Final Rule	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1906-98.

Agency Contact: John J. Pogash, Juvenile Coordinator (Headquarters), Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3008, Washington, DC 20536
Phone: 202 514-1970

RIN: 1115–AF05

2051. CHANGE IN BUSINESS PRACTICES: COLLECTION OF INTEREST, PENALTIES, AND HANDLING CHARGES FOR DELINQUENT PAYMENT OF EMPLOYER SANCTION FINES

Priority: Substantive, Nonsignificant

Legal Authority: 4 CFR 101.2b; 4 CFR 101.2; 4 CFR 102.13

CFR Citation: 8 CFR 274A

Legal Deadline: None

Abstract: This rule amends the INS regulations by providing for the appropriate debt collection charges. In accordance with the requirements of the Debt Collection Act of 1982, its successor Debt Collection Improvement Act of 1996, and the Federal Claims Collection Standards, INS will charge applicable interest, penalties, and handling charges for delinquent payment of employer sanction fines.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1875-97 Joe Alvarey, INS General Counsel on 616-7974.

Agency Contact: Eugene Schulman, Systems Accountant, Office of Financial Management, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 616-9177
Fax: 202 514-7860

RIN: 1115–AF09

2052. SPECIAL IMMIGRANT JUVENILE—SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS DECLARED DEPENDENT ON A JUVENILE COURT

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-119

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule amends the Service's existing regulations by clarifying the special immigrant juvenile provisions. This rule limits the juvenile courts from considering dependency orders that would qualify juveniles for special immigrant status, without the expressed consent of the Attorney General. This rule also limits the jurisdiction of juvenile courts to consider the custody status for placement of an alien in the actual custody of the Attorney General, unless the Attorney General specifically consents to such jurisdiction.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Suzy Nguyen, Staff Officer, Adjudications and Nationality, Department of Justice, Immigration and

DOJ—INS

Final Rule Stage

Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014
Fax: 202 514-0198

RIN: 1115–AF11

2053. IMMIGRANT PETITIONS; RELIGIOUS WORKERS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule will amend the Service's regulations by providing that all persons, other than ministers, immigrating to the United States as religious workers must immigrate or adjust status to permanent resident before October 1, 2000. This rule implements section 101(a)(27)(c)(ii) of the Immigration and Nationality Act (Act), which provides that religious workers who have 2 years of membership and experience in a religious occupation or vocation may qualify as special immigrant religious workers. By statute, this immigrant category for religious workers expires on October 1, 2000. This rule codifies, in regulatory form, the October 1, 2000 statutory deadline.

Timetable:

Action	Date	FR Cite
Final Rule (INS No. 1436-94)	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1436-94

Agency Contact: Helen V. deThomas, Staff Officer, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AF12

2054. CHANGES IN THE IMMIGRATION AND NATURALIZATION SERVICE REGIONAL OFFICE ORGANIZATION

Priority: Info./Admin./Other

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1104; 8 USC 1185; 8 USC 1201; 8 USC 1221; 8 USC 1228; 8 USC 1229; 8 USC 1252; 8 USC 1252b; 8 USC 1304; 8 USC 1321; 8 USC 1324; 8 USC 1356; 8 USC 1362

CFR Citation: 8 CFR 100; 8 CFR 103; 8 CFR 215; 8 CFR 231; 8 CFR 245a; 8 CFR 271; 8 CFR 274; 8 CFR 286; 8 CFR 292; 8 CFR 299; 8 CFR 332; 8 CFR 335

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service (Service)regulations by updating existing field office titles due to the reorganization that was approved by the Attorney General on January 14, 1994. The reorganization abolished the position of "Regional Commissioner" and replaced it with that of "Regional Director." The reorganization also established four Regional Administrative positions currently known as "Administrative Center Directors." A restructuring plan of the Office of Administrative Centers is awaiting final approval. Under the restructuring plan, the titles of the four "Administrative Center Directors" are changed to "Associate Regional Directors, Management."

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1908-98

ADDITIONAL LEGAL AUTHORITIES: 8 USC 1362; 8 USC 1430; 8 USC 1443; 8 USC 1447; 8 USC 9701; 5 USC 552 and 552A; 8 USC 1182; and 8 CFR 2.

Agency Contact: Shiela Magruder, Liaison Officer, Office of Administration Centers, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7006, Washington, DC 20536
Phone: 202 514-3182
Fax: 202 514-8045

RIN: 1115–AF13

2055. • SUSPENSION OF DEPORTATION AND SPECIAL RULE CANCELLATION OF REMOVAL FOR CERTAIN NATIONALS OF GUATEMALA, EL SALVADOR, AND FORMER SOVIET BLOC COUNTRIES

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1158; 8 USC 1201; 8 USC 1252; 8 USC 1252b; 8 USC 1282; 8 USC 1304; 8 USC 1356; 31 USC 9701

CFR Citation: 8 CFR 103; 8 CFR 204; 8 CFR 208; 8 CFR 299

Legal Deadline: None

Abstract: On November 19, 1997, President Clinton signed the Nicaraguan Adjustment and Central American Relief Act (NACARA), enacted as title 2 of Pub. L. No. 105-100, 111 Stat. 2160, 2193 (1997) (as amended by Technical Corrections to the Nicaraguan Adjustment and Central American Relief Act, Pub. L. 105-139, Stat. 2644, (1997)). Section 203 of NACARA provides that certain Guatemalans, Salvadorans, and nationals of former soviet Bloc countries are eligible to apply for cancellation of removal under the standards for suspension of deportation that existed prior to enactment of the Illegal Immigration and Immigrant Responsibility Act of 1996 (IIRIRA).

To implement the new cancellation of removal provisions efficiently and expeditiously, the Attorney General has decided to integrate adjudication of cancellation of removal requests into the affirmative asylum process. Traditionally, only immigration judges have had authority to grant suspension of deportation and, after implementation of IIRIRA, cancellation or removal, to eligible aliens in the context of deportation or removal proceedings. The proposed rule authorizes asylum officers to grant cancellation of removal under section 203 of NACARA to certain qualified aliens who have asylum applications pending with the Service, and to their qualified dependents. The rule also sets forth the process for the new adjudication program.

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS No. 1915-98)	10/00/98	
Final Rule	02/00/99	

DOJ—INS

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1915-98

Agency Contact: Joanna Ruppel, Asylum Officer, International Affairs, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., ULLICO 3rd Floor, Washington, DC 20536
Phone: 202 305-2741

RIN: 1115–AF14

2056. • AUTHORIZING SUSPENSION OF EMPLOYMENT AUTHORIZATION REQUIREMENTS ON THE BASIS OF SEVERE ECONOMIC HARDSHIP FOR F-1 STUDENTS AND EMERGENT CIRCUMSTANCES

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule amends the regulations of the INS applying to on-campus employment, off-campus employment authorization, and duration of status for nonimmigrant F-1 students. The rule permits the commissioner to suspend some or all of the requirements for on-campus or off-campus employment where emergent circumstances exist as provided through notice in the Federal Register. The rule also amends the regulations to provide that an F-1 student who carries less than a full course of study as a result of this special employment authorization will be deemed to be maintaining status for the duration of the authorization, as long as the student carries a minimum course load of 6 credit hours if the student is an undergraduate, or 3 credit hours if the student is in graduate school.

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS No. 1914-98)	06/10/98	63 FR 31872
Final Rule (INS No. 1914-98)	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS No. 1914-98 (Employment Authorization for Certain F-1 Nonimmigrant Students Whose Means of Financial Support Comes From Indonesia, South Korea, Malaysia, Thailand, or the Philippines)

Agency Contact: Morrie R. Berez, Adjudications Officer, Office of Adjudications, Department of Justice, Immigration and Naturalization Service
Phone: 202 514-5014

RIN: 1115–AF15

2057. • CHANGE IN BUSINESS PRACTICES: COLLECTION OF INTEREST, PENALTIES, AND HANDLING CHARGES FOR DELINQUENT PAYMENT OF EMPLOYER SANCTIONS FINES

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1324(b)

CFR Citation: 8 CFR 274

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations by subjecting employers who are delinquent in paying employer sanctions fines, to charges for interest, handling costs, and penalties associated with late payments of the fines. The Service has previously imposed fines against employers who violate section 274A of the Immigration and Nationality Act, but has yet to charge the employer for interest and handling costs, or to impose penalties for failure to promptly pay the fines. Accordingly, to ensure consistency and comprehensive implementation of the provisions contained in the Debt Collection Improvement Act (DCIA), the Service will begin to issue bills for the fines assessed against employers who violate section 274a of the Act, and impose charges for interest, handling costs, and penalties associated with late payments of the fines.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: INS No. 1875-97

Agency Contact: Brenda Garland, Acting Chief, Debt Collection Section, Office of Financial Management, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 616-7683

RIN: 1115–AF17

2058. • JURISDICTIONAL CHANGE FOR THE LOS ANGELES AND SAN FRANCISCO ASYLUM OFFICERS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103

CFR Citation: 8 CFR 100

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations to expand the jurisdiction for all the Asylum Offices to include the State of Hawaii and the Territory of Guam. Asylums claims filed by people residing in the State of Hawaii and the Territory of Guam will no longer be handled by the San Francisco Asylum Office.

Timetable:

Action	Date	FR Cite
Final Rule (INS No. 1949-98)	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1949-98

Agency Contact: Marta Rothwarf, Asylum Officer, Office of International Affairs, Department of Justice, Immigration and Naturalization Service, 425 "I" Street NW., Washington, DC 20536
Phone: 202 305-2792

RIN: 1115–AF18

2059. • ELIMINATION OF IMMIGRATION AND NATURALIZATION SERVICE ISSUED MEXICAN AND CANADIAN BORDER CROSSING CARDS

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1201; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356

DOJ—INS

Final Rule Stage

CFR Citation: 8 CFR 103; 8 CFR 212; 8 CFR 214; 8 CFR 235; 8 CFR 247; 8 CFR 264; 8 CFR 286; 8 CFR 299

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service (Service) regulations to eliminate the use of Form I-175, Application for Nonresident Alien Canadian Border Crossing Card, and Form I-190, Application for Nonresident Alien Mexican Border Crossing Card. It also terminates the production of Form I-185, Nonresident Alien Canadian Border Crossing Card, and Form I-586, Nonresident Alien Mexican Border Crossing Card. In addition, this rule prohibits the use of Form I-186 (previous version of Mexican Border Crossing Card), Form I-185 and Form I-586 Border Crossing Cards (BCCs) after September 30, 1999, or whatever other date may be enacted for required use of a card containing a machine readable biometric identifier for entry (such as the fingerprint or handprint of the alien). Under the provisions of this rulemaking, an alien seeking entry into the United States by presentation of a BBC and must complete a biometric verification upon each entry.

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS No. 1931-98)	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: INS No. 1932-98

Agency Contact: Paul M. Morris, Assistant Chief Inspector, Office of Inspections, Department of Justice, Immigration and Naturalization Service
Phone: 202 305-2970

RIN: 1115–AF26

2060. • FILING OF PROPOSALS FOR DESIGNATION AS A REGIONAL CENTER APPROVED TO PARTICIPATE IN THE IMMIGRANT INVESTOR PILOT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1154; 8 USC 1182; 8 USC 1186a

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This regulation changes the location for the filing, and adjudication of, proposals to participate in the Immigrant Investor Pilot Program from Headquarters, Adjudication to the Texas and California Service Centers. This change is necessary to ensure the uniform and effective adjudication of these complex proposals related to economic development, export trade, and job creation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1944-98

Agency Contact: Katherine A. Lorr, Staff Officer, Office of Adjudications, Department of Justice, Immigration and Naturalization Service
Phone: 202 616-7446

RIN: 1115–AF27

DEPARTMENT OF JUSTICE (DOJ)

Long-Term Actions

Immigration and Naturalization Service (INS)

2061. NONIMMIGRANT CLASSES; NATO-1, 2, 3, 4, 5, 6, AND 7; CONTROL OF EMPLOYMENT OF ALIENS (SPECIAL REQUIREMENT FOR ADMISSION, EXTENSION AND MAINTENANCE OF STATUS; NATO)

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 214; 8 CFR 274a; 8 CFR 248; 8 CFR 299

Timetable:

Action	Date	FR Cite
NPRM	02/07/94	59 FR 5533
NPRM Comment Period End	03/09/94	
Final Action INS No 1328-98	06/12/98	63 FR 32113
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Katharine A. Lorr
Phone: 202 514-5014

RIN: 1115–AB52

2062. EXPANSION OF DIRECT MAIL PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 8 CFR 103; 8 CFR 245; 8 CFR 264; 8 CFR 274a; 8 CFR 245a

Timetable:

Action	Date	FR Cite
Interim Final Rule-INS No. 1660 Direct Mail Prog. Expan. Eff. 7/1/94; Comment Period End 8/30/94	07/01/94	59 FR 33903
Notice-INS No. 1660N Pilot Direct Mail Prog. Baltimore Office, Imple. Date 7/1/94	07/01/94	59 FR 33985
Notice-INS No. 1745 Effective 01/31/96 Comments due 04/24/96	01/25/96	61 FR 2266
Notice-INS No. 1734	10/30/96	61 FR 56060
Correction-INS No. 1887-97	04/06/98	63 FR 16909
Interim Rule-INS No. 1829-96	06/03/98	63 FR 30105
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Michael Aytes
Phone: 202 514-5014

RIN: 1115–AD73

2063. CLARIFICATION OF AGE REQUIREMENTS FOR FINGERPRINTING NATURALIZATION APPLICANTS

Priority: Other Significant

CFR Citation: 8 CFR 316

DOJ—INS

Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann Palmer
Phone: 202 307-0891

RIN: 1115–AE86

2064. • NONIMMIGRANT VISA EXEMPTION FOR NATIONALS OF THE BRITISH VIRGIN ISLANDS ENTERING THE UNITED STATES THROUGH ST. THOMAS, UNITED STATES VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service's regulations to allow nonimmigrant visitors for business or pleasure who are nationals of the British Virgin Islands to apply for admission to the United States without a visa at the ports-of-entry of St. Thomas, United States Virgin Islands. Since visas are on longer issued from the British Virgin Islands, by the Department of State all persons needing a nonimmigrant visa have to either travel or mail their applications to Barbados, the nearest visa issuing location. The Service's action will facilitate travel to the United States for nationals of the British Virgin Islands while still ensuring that the proper application provisions of the INA Act are met.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1956-98)	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Additional Information: INS No. 1956-98

Agency Contact: William Plunges, Senior Immigration Inspector, Office of Inspections, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 616-7992

RIN: 1115–AF28

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Completed Actions

2065. FIELD OFFICERS; POWERS AND DUTIES; SUBPOENA

Priority: Routine and Frequent

CFR Citation: 8 CFR 287

Completed:

Reason	Date	FR Cite
Withdrawn by HQPDI	09/14/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Ronald W. Dodson
Phone: 202 514-0747

RIN: 1115–AB63

2066. NONIMMIGRANT CLASSES; DIPLOMAT AND GOVERNMENT REPRESENTATIVES; TRANSITS; REQUIREMENTS FOR ADMISSION, EXTENSION AND MAINTENANCE OF STATUS

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 214

Completed:

Reason	Date	FR Cite
Withdrawn by program office. Covered under 274a Regulation	07/20/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Katharine A. Lorr
Phone: 202 514-5014

RIN: 1115–AD57

2067. EXECUTING FINAL ORDER OF EXCLUSION OR DEPORTATION; CONFORMING 72-HOUR NOTICE PROVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 8 CFR 237; 8 CFR 243

Completed:

Reason	Date	FR Cite
Withdrawn - Overtaken by Events per Program Office	09/04/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Cristina Hamilton
Phone: 202 514-2895

RIN: 1115–AD71

2068. SCREENING REQUIREMENTS OF CARRIERS FOR REDUCTION, REFUND, OR WAIVER OF FINES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 8 CFR 273

Completed:

Reason	Date	FR Cite
Final Action	04/30/98	63 FR 23643
Final Action Effective	06/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Robert Hutnick
Phone: 202 514-3019

RIN: 1115–AD97

DOJ—INS

Completed Actions

2069. NOTICE OF POLICY REGARDING FINES IMPOSED ON CARRIERS WHO BRING ALIENS TO THE UNITED STATES WITHOUT PROPER DOCUMENTATION

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 273

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	07/20/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Robert Hutnick
Phone: 202 514-3019

RIN: 1115–AE09

2070. "MASTER EXHIBITS" CURRENTLY AVAILABLE

Priority: Other Significant

CFR Citation: 8 CFR 208

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	07/22/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: Federal

Agency Contact: John D. Evans
Phone: 202 305-2673
Fax: 202 305-2796
Email: evans@justice.usdoj.gov

RIN: 1115–AE14

2071. EFFECT OF PAROLE OF CUBAN AND HAITIAN NATIONALS ON RESETTLEMENT ASSISTANCE ELIGIBILITY

Priority: Other Significant

CFR Citation: 8 CFR 212

Completed:

Reason	Date	FR Cite
Final Action	06/11/98	63 FR 31895

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Janice Podolny
Phone: 202 514-2895

RIN: 1115–AE29

2072. ELIGIBILITY OF PERSONS FOR REFUGEE STATUS AND WITHHOLDING OF DEPORTATION

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 208; 8 CFR 212

Completed:

Reason	Date	FR Cite
Withdrawn by HQPDI	09/14/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Dorthea Lay
Phone: 202 514-2895

RIN: 1115–AE30

2073. CONTRACTS WITH TRANSPORTATION LINES; LIMITING TRANSFERS OF TRANSIT WITHOUT VISA ALIENS IN THE UNITED STATES TO ONE ELECTRONIC TICKETING

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 238

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	07/20/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Robert Hutnick
Phone: 202 514-2694

RIN: 1115–AE41

2074. EXAMINATIONS FEE ACCOUNT SCHEDULE

Priority: Other Significant

CFR Citation: 8 CFR 103.7

Completed:

Reason	Date	FR Cite
Final Action	08/14/98	63 FR 157
Final Action Effective	10/13/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Michael Natchuras
Phone: 202 616-2754

RIN: 1115–AE42

2075. CIVIL MONETARY PENALTY INFLATION ADJUSTMENT

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 274a; 8 CFR 280

Completed:

Reason	Date	FR Cite
Withdrawn - Being Replaced by RIN 1105-AA48 Under DOJ per R. Hinchman	08/26/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Allen H. Sinsheinier
Phone: 202 616-7715
Fax: 202 514-7860

RIN: 1115–AE79

2076. PROCEDURES FOR THE DETENTION AND RELEASE OF CRIMINAL ALIENS BY THE IMMIGRATION AND NATURALIZATION SERVICE AND FOR CUSTODY REDETERMINATIONS BY THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 236; 8 CFR 3

Completed:

Reason	Date	FR Cite
Final Action	05/19/98	63 FR 27441
Final Action Effective	06/18/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brad Glassman
Phone: 202 305-0846

RIN: 1115–AE88

2077. APPLICATION FOR REPLACEMENT ALIEN REGISTRATION CARD: PROCESSING UNDER DIRECT MAIL PROGRAM

Priority: Other Significant

CFR Citation: 8 CFR 211; 8 CFR 264; 8 CFR 299

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	07/23/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

DOJ—INS

Completed Actions

Agency Contact: Gerald Casale
Phone: 202 514-5014

RIN: 1115–AE95

2078. • TECHNICAL CHANGE FOR SUBMISSION OF IMMIGRATION USER FEE REQUIREMENTS

Priority: Other Significant

Legal Authority: 8 USC 286

CFR Citation: 8 CFR 286.2; 8 CFR 286.5

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service (INS) regulations by making technical changes to the addressee where periodic summary statements of user fees collected are to be sent and revising the name of the payee to whose attention remittances shall be forwarded. These technical changes are administrative in nature and are necessary to conform to the current organizational and supervisory structure of the Service's Office of Finance.

Timetable:

Action	Date	FR Cite
Final Action	09/25/98	63 FR 51271
Final Action Effective	10/26/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1923-98

Agency Contact: Michael L. Ditkoff, Budget Analyst, Fee Policy & Rate Setting Branch, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 305-8620

RIN: 1115–AF21

2079. • ELIMINATION OF IMMIGRATION AND NATURALIZATION SERVICE ISSUED MEXICAN AND CANADIAN BORDER CROSSING CARDS

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1184; 8 USC 1201; 8 USC 1252; 8 USC 1304; 8 USC 1356; 31 USC 9701

CFR Citation: 8 CFR 103.7; 8 CFR 212.1; 8 CFR 212.2; 8 CFR 212.4; 8 CFR 212.6; 8 CFR 214.2; 8 CFR 235.1; 8 CFR 247.14; 8 CFR 264.1; 8 CFR 264.4; 8 CFR 286.9; 8 CFR 299.1; 8 CFR 299.5

Legal Deadline: Final, Statutory, October 1, 1999.

Abstract: This rule codifies section 104 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1994 to eliminate Mexican and Canadian border crossing identification documents.

Timetable:

Action	Date	FR Cite
Withdrawn by HQPDI.	09/01/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul M. Morris, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 305-2970
Fax: 202 514-8345

RIN: 1115–AF24

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Prerule Stage

2080. IMPLEMENTATION OF SECTIONS 104 AND 109 OF THE COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT

Priority: Other Significant

Legal Authority: PL 103-414 Communications Assistance for Law Enforcement Act; PL 104-208 Omnibus Consolidated Appropriations Act of 1997

CFR Citation: 28 CFR 100

Legal Deadline: Other, Statutory, October 25, 1998.
CALEA requires telecommunications carriers to be in compliance with section 103 by 10/25/98. These regulations assist carriers to meet their obligations under CALEA.

Abstract: As required by section 109 of the Communications Assistance for Law Enforcement Act (CALEA), the FBI promulgated Cost Recovery Regulations allowing telecommunications carriers to recover certain costs associated with implementing CALEA. The final rule was published on March 20, 1997 (62 FR 13307) and became effective on April 21, 1997. In response to public comment received during this rulemaking, the FBI published an ANPRM on November 19, 1996 (61 FR 58799), which solicited input on the definition of the term "significant upgrade or major modification" as used by CALEA. The "significant upgrade or major modification" NPRM was published on April 28, 1998 (63 FR 23231) and the FBI is currently reviewing the comments received. The FBI anticipates publishing the final rule defining "significant upgrade or major modification" in the first quarter of calendar year 1999.

Additionally, CALEA section 104 requires the Attorney General to publish a Notice of Actual and Maximum Capacity in order to provide telecommunications carriers with the information they will need to meet law enforcement's future simultaneous electronic surveillance requirements. For local exchange, cellular, and broadband PCS, the FBI published an Initial Notice of Capacity on October 16, 1995 (60 FR 53643) and a Second Notice of Capacity on January 14, 1997 (62 FR 1902). The FBI published the Final Notice of Capacity for local exchange, cellular, and broadband PCS on March 12, 1998 (63 FR 12218).

Currently, the FBI is developing a Notice of Inquiry (NOI) concerning capacity methodologies for telecommunications services other than local exchange, cellular, and broadband PCS. The FBI anticipates publishing this NOI in the fourth quarter of calendar year 1998. Information gathered in response to this NOI will be used in the development and promulgation of future Notices of Capacity for those services.

DOJ—LA

Prerule Stage

Timetable:

"Significant upgrade or major modification"
ANPRM Soliciting Input on Term 11/19/96 (61 FR 58799)
NPRM Proposing Definition 04/28/98 (63 FR 23231)
Final Rule Defining Term 03/00/99
Cost Recovery Rule (Telecom. Carriers)
NPRM 05/10/96 (61 FR 21396)
NPRM Comment Period End 07/09/96
Final Rule 03/20/97 (62 FR 13307)
Final Rule Effective 04/21/97
Notice of Actual and Max. Cap.-local exch, cellular, broadb PCS
Initial Notice 10/16/95 (60 FR 53643)
Second Notice 01/14/97 (62 FR 1902)
Final Notice 03/12/98 (63 FR 12217)
Notice of Actual and Max. Cap.-paging, non-bb PCS, MSS, SMR, etc.
Notice of Inquiry (Cap Methodology) 12/00/98

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Walter V. Meslar, Unit Chief, Telecommunications Contracts and Audit Unit, Department of Justice, Federal Bureau of Investigation, 14800 Conference Center Dr., Suite 300, Chantilly, VA 20151
Phone: 703 814-4900
Fax: 703 814-4730

Rozanne R. Worrell, SSA, CALEA Implementation Section, Department of Justice, Federal Bureau of Investigation, 14800 Conference Center Drive, Suite 300, Chantilly, VA 20151
Phone: 703 814-4804
Fax: 703 814-4720

RIN: 1105–AA39

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Proposed Rule Stage

2081. IMPLEMENTATION OF THE NATIONAL STOLEN PASSENGER MOTOR VEHICLE INFORMATION SYSTEM (NSPMVIS)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33109 to 33111

CFR Citation: 28 CFR 89

Legal Deadline: None

Abstract: The Attorney General is required to establish a National Stolen Passenger Motor Vehicle Information System pursuant to the Anti Car Theft Act of 1992 (49 USC 33109 to 33111). The FBI is coordinating efforts in this matter and, under delegated authority from the Attorney General, the FBI is issuing this rule to establish a national system to verify the theft status of major motor vehicle component parts. The system will include certain information about each passenger motor vehicle reported to a law enforcement agency as stolen and not recovered. The rule provides how an individual or entity may obtain information from the system on whether a vehicle or part is listed as stolen. The rule also provides verification procedures to be followed by insurance carriers and certain motor vehicle part businesses.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	
NPRM Comment Period End	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven P. Polifko, Planning Unit Chief, Department of Justice, Federal Bureau of Investigation, CJIS Division, Module C-3, 1000 Custer Hollow Road, Clarksburg, WV 26306
Phone: 304 625-2710
Fax: 304 625-3875

RIN: 1105–AA44

2082. FOREIGN AGENTS REGISTRATION ACT; REGULATIONS REVISED AND CLARIFIED TO REFLECT CHANGES IN THE LAW

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 611 et seq Foreign Agents Registration Act of 1938

CFR Citation: 28 CFR 5.5(d)(10); 28 CFR 5.5(d)(11); 28 CFR 5.100(c); 28 CFR 5.100(d); 28 CFR 5.200(b); 28 CFR 5.201(a)(1); 28 CFR 5.201(a)(2); 28 CFR 5.202(b); 28 CFR 5.202(e); 28 CFR 5.203(a); 28 CFR 5.204(a); 28 CFR 5.205(a); 28 CFR 5.206(b); 28 CFR 5.304(c); 28 CFR 5.306(a); ...

Legal Deadline: None

Abstract: As a result of the passage of the Lobbying Disclosure Act of 1995 (LDA) and the Lobbying Disclosure Technical Amendments Act of 1998 (LOTAA), the Foreign Agents Registration Unit of the Criminal Division is issuing new regulations concerning changes in the Foreign Agents Registration Act of 1938, as amended, 22 USC 611, et seq (FARA). These regulations replace the term "political propaganda" in the existing regulations with "informational materials" as provided in the LDA and make other changes to the FARA regulations required by the passage of the LDA and the LOTAA. The regulations also make other modifications to the existing regulations to facilitate the administration of FARA.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: CFR CITATIONS CONT: 28 CFR 5.307; 28 CFR 5.400(a) to (c); 28 CFR 5.401; 28 CFR 5.402(a) to (g); 28 CFR 5.500(a)(4); 28 CFR 5.600; 28 CFR 5.601(a); 28 CFR 5.601(b).

Agency Contact: Marshall R. Williams, Chief, Registration Unit, Internal Security Section, Department of Justice, Criminal Division, 1400 NY Ave., NW., Room 9300, Washington, DC 20530
Phone: 202 514-1216
Fax: 202 514-2836

RIN: 1105–AA45

DOJ—LA

Proposed Rule Stage

2083. IMPLEMENTATION OF THE PAM LYCHNER SEXUAL OFFENDER TRACKING AND IDENTIFICATION ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 104-236, sec 9

CFR Citation: Not yet determined

Legal Deadline: Other, Statutory, October 3, 1999.
The Act does not distinguish between NPRM and Final regulations.

Abstract: The FBI is issuing regulations to carry out the Pam Lychner Sexual Offender Tracking and Identification Act of 1996. These regulations include guidelines as to the operation and use of the interim national sex offender registry established by the FBI, and the notice to be provided to the FBI in the event a registered sex offender moves interstate.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Eric Alpert, Federal Bureau of Investigation, Department of Justice, 935 Pennsylvania Ave. NW., Washington, DC 20535
Phone: 202 324-2726

RIN: 1105–AA56

2084. • REVISION OF 28 CFR PART 15 PERTAINING TO THE DEFENSE OF CERTAIN SUITS AGAINST FEDERAL EMPLOYEES TO CONFORM TO THE FEDERAL EMPLOYEES LIABILITY REFORM AND TORT COMPENSATION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 2679(b)

CFR Citation: 28 CFR 15

Legal Deadline: None

Abstract: This rule revises 28 CFR part 15, pertaining to the defense of certain suits against Federal employees, to conform the regulations to changes made by the Federal Employee Liability Reform and Tort Compensation Act, PL 100-694. Under prior law, the defense of suits against Federal employees for torts committed in the scope of their employment was limited to claims involving the operation of motor vehicles. PL 100-694 expanded the coverage of the immunity provisions to include all common law torts committed by Federal employees in the scope of their employment. This rule conforms the Department's regulations to the expanded coverage of the statute.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
NPRM Comment Period End	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: James G. Touhey, Jr., Trial Attorney, Torts Branch, Department of Justice, P.O. Box 888, Benjamin Franklin Station, Washington, DC 20004
Phone: 202 616-4292
Fax: 202 616-5200

RIN: 1105–AA62

2085. • FBI CRIMINAL JUSTICE INFORMATION SYSTEMS: ACCESS BY CONTRACTORS AND INTERNATIONAL LAW ENFORCEMENT AGENCIES

Priority: Other Significant

Legal Authority: 28 USC 534

CFR Citation: 28 CFR 0.85; 28 CFR 16 (Revision); 28 CFR 20 (Revision); 28 CFR 50.12

Legal Deadline: None

Abstract: This rule updates existing regulations in 28 CFR part 16 "Production or Disclosure of Material or Information" and in part 20 "Criminal Justice Information Systems" which contain old terms and addresses. Additionally, the increasing prevalence of outsourcing by criminal justice agencies of technical and administrative functions warrants establishing express authority for contractor access to criminal history record information (CHRI) where the contractor is acting on behalf of an authorized agency and appropriate security and privacy protections exist. Also, the need for increased international cooperation in responding to law enforcement issues with multinational interest and extra territorial interest warrants providing express authority for acquisition, retention, and exchange of CHRI with foreign and international law enforcement agencies when in the best interest of the United States. Further, administrative charges of the Immigration and Naturalization Service (INS) are quite analogous to CHRI and the ready availability of this information is of sufficient interest to law enforcement authorities to expressly confirm authority for the acquisition, retention, and exchange of the information along with CHRI.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: W. A. Miller, Assistant General Counsel, FBI, Department of Justice, J. Edgar Hoover Bldg. Room 7338, 935 Pennsylvania Ave. NW., Washington, DC 20535-0001
Phone: 202 324-4523
Fax: 202 324-1039

RIN: 1105–AA63

2086. • UNITED STATES MARSHALS SERVICE FEE FOR SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 1921(b)

CFR Citation: 28 CFR 0.144 (Revision)

Legal Deadline: None

Abstract: This rule revises the United States Marshals Service fees pursuant to 28 USC 1921(b). This statute requires the Attorney General to establish fees to be taxed and collected for certain services rendered by the United States Marshals Service in connection with Federal court proceedings. These services include, but are not limited to, the serving of writs, subpoenas, or summonses, the preparing of notices or bills of sale, the keeping of attached property, and certain necessary travel. To the extent practicable, these fees shall reflect the actual and reasonable costs of the services provided. The Attorney General initially established the fee schedule in 1991, based on the actual costs, salaries, overhead, etc. of the services rendered and the hours expended. Due to an increase in the salaries and benefits of United States Marshals Service personnel over time, the current fee schedule is inadequate and no longer reflects actual and reasonable costs.

Timetable:

Action	Date	FR Cite
NPRM	• 06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joe Lazar, Associate General Counsel, United States Marshals Service, Department of Justice, 600 Army Navy Drive, CS-3, Arlington, VA 22202
Phone: 202 307-9054
Fax: 202 307-9456

RIN: 1105–AA64

DOJ—LA

Proposed Rule Stage

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Final Rule Stage

2087. FEDERAL CLAIMS COLLECTION STANDARDS (FCCS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 3711(e)(2)

CFR Citation: 31 CFR 900 to 904

Legal Deadline: None

Abstract: The Federal Claims Collection Standards (FCCS) are issued jointly by the Secretary of the Treasury and the Attorney General. These regulations prescribe the standards for the administrative collection, compromise, termination of agency collection, and the referral to the Department of Justice for litigation, of civil claims by the Federal Government for money or property. The Department of Justice and the Department of the Treasury are issuing this rule to revise and update the FCCS in order to reflect changes in the substantive law and in government procedures that have taken place since the standards were last issued in March 1984.

Timetable:

Action	Date	FR Cite
NPRM	12/31/97	62 FR 68476
NPRM Comment Period End	03/02/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Kathleen A. Haggerty, Director, Debt Collection Management, Department of Justice, Liberty Place Bldg., Second Floor South, 325 7th St. NW., Washington, DC 20530
Phone: 202 514-5343
Fax: 202 514-1965

RIN: 1105–AA31

2088. CIVIL MONETARY PENALTIES INFLATION ADJUSTMENT

Priority: Info./Admin./Other

Legal Authority: PL 101-410 Fed. Civ. Monetary Penalties Inflation Adj. Act-1990; PL 104-134, sec 31001 Debt Collection Improvement Act of 1996

CFR Citation: 28 CFR 50.22 (New)

Legal Deadline: Final, Statutory, October 23, 1996.

Abstract: The Federal Civil Monetary Penalties Inflation Adjustment Act of 1990, PL 101-410, hereinafter, Adjustment Act, provided for the regular evaluation of civil monetary penalties to ensure that they continued to maintain their deterrent value and that penalty amounts due the Federal Government were properly accounted for and collected. On April 26, 1996, President Clinton signed into law the Omnibus Consolidated Rescissions and Appropriations Act of 1996, PL 104-134, hereinafter, Omnibus Act. Section 31001 of the Omnibus Act (also known as the Debt Collection Improvement Act of 1996, hereinafter, Improvement Act) amended section 4 of the Adjustment Act to require the head of each agency to, by regulation, adjust each civil monetary penalty provided by law within the jurisdiction of the agency and to publish such regulation in the Federal Register.

Any increase in a civil monetary penalty made pursuant to the Improvement Act shall apply only to violations which occur after the date the increase takes effect. The first adjustment of a civil monetary penalty made pursuant to the Improvement Act may not exceed 10 percent of such penalty. The adjustment for inflation required by the Adjustment Act must be done every four years. This regulation fulfills the Attorney General's obligations under the Improvement Act.

Timetable:

Action	Date	FR Cite
Final Action	11/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Hinchman, Senior Counsel, Department of Justice, Office of Policy Development, 950 Pennsylvania Ave. NW., Washington, DC 20530
Phone: 202 514-8059
Fax: 202 514-9112

RIN: 1105–AA48

2089. RADIATION EXPOSURE COMPENSATION ACT: EVIDENTIARY REQUIREMENTS; DEFINITIONS AND NUMBER OF TIMES CLAIMS MAY BE FILED

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 2210 note Radiation Exposure Compensation Act of 1990

CFR Citation: 28 CFR 79

Legal Deadline: None

Abstract: The Department of Justice is amending its existing regulations implementing the Radiation Exposure Compensation Act to: (1) allow claimants to submit affidavits or declarations in support of a claim under certain circumstances; (2) allow the use of pathology reports of tissue biopsies as additional means by which

claimants can present evidence of a compensable non-malignant respiratory disease; (3) amend the definitions of "smoker" and "non-smoker"; (4) include in situ lung cancers under the definition of primary cancers of the lung; and (5) allow claimants who have filed claims prior to the implementation of these regulations and have been denied compensation to file another three times.

Timetable:

Action	Date	FR Cite
NPRM	05/23/97	62 FR 28393
NPRM Comment Period End	07/22/97	
Reopening of Comment Period (Comments Due by 09/29/97)	08/29/97	62 FR 45774
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerard W. Fischer, Assistant Director, Department of Justice, Radiation Exposure Compensation Program, P.O. Box 146, Ben Franklin Station, Washington, DC 20044-0146
Phone: 202 616-4090

RIN: 1105–AA49

2090. GUIDELINES FOR MEGAN'S LAW AND THE JACOB WETTERLING CRIMES AGAINST CHILDREN AND SEXUALLY VIOLENT OFFENDER REGISTRATION ACT

Priority: Other Significant

Legal Authority: PL 104-145, Megan's Law; PL 103-322, sec 170101, Violent Crime Cntl & Law Enf Act, 1994

CFR Citation: None

Legal Deadline: None

Abstract: The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (the Wetterling Act) is contained in the Violent Crime Control and Law Enforcement Act of 1994, PL 103-322 (codified at 42 USC 14071). The Wetterling Act encourages States to establish registration systems for persons who are: (1) convicted of a criminal offense against a victim who is a minor; or (2) convicted of a sexually violent offense. The Department of Justice published final guidelines implementing the Wetterling Act on April 4, 1996 at 61 FR 15110. Megan's Law, PL 104-145, amended subsection (d) of section 170101 of the Wetterling Act relating to the release of registration information. Megan's Law (1) eliminates a general requirement that information collected under State registration programs be treated as private data, and (2) substitutes mandatory language for previously permissive language concerning the release of relevant information that is necessary to protect the public concerning registered offenders. On July 21, 1997 at 62 FR 39009 the Department published final guidelines implementing Megan's Law and also clarifying other provisions of the Wetterling Act based upon experience gained from working with States concerning their sex offender registration systems.

The Pam Lychner Sexual Offender Tracking and Identification Act, among other things, (1) requires the Attorney General to establish a national database at the FBI to track convicted sex offenders and (2) requires the FBI to handle registration directly for sex offenders residing in States that do not have "minimally sufficient" sex offender registration programs (as defined by the Act). The FBI will be issuing regulations to carry out its responsibilities under the Lychner Act. (See RIN 1105-AA56).

The Lychner Act also amends the Wetterling Act to prescribe more stringent registration requirements in some areas. States have until October 3, 1999, to comply with the provisions of the Lychner Act that amend the Wetterling Act. The Attorney General also may grant a 2-year extension for States that are making good faith efforts to come into compliance. Section 115 of the Commerce-Justice-State Appropriations Act (CJSA), PL 105-119, amended the Wetterling and Lychner Acts to afford greater flexibility to the States in establishing registration systems and to add some additional compliance requirements. States have the immediate benefit of the provisions that afford greater flexibility and have until November 2000 to comply with the additional requirements.

The Attorney General issued proposed guidelines to implement the Wetterling Act, Megan's Law, the Lychner Act, and the CJSA Amendments on June 19, 1998. When made final, these guidelines effectively will replace the guidelines published on April 4, 1996, and on July 21, 1997.

Timetable:

Lychner Act
Proposed Guidelines 06/19/98 (63 FR 33696)
Final Guidelines 12/00/98
Megan's Law
Proposed Guidelines 04/04/97 (62 FR 16180)
Final Guidelines 07/21/97 (62 FR 39009)
Wetterling Act
Proposed Guidelines 04/12/95 (60 FR 18613)
Final Guidelines 04/04/96 (61 FR 15110)

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Bonnie J. Campbell, Director, Violence Against Women Office, Department of Justice, 950 Pennsylvania Ave. NW., Washington, DC 20530
Phone: 202 616-8894

RIN: 1105–AA50

2091. OPERATION OF THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 18 USC 922 to 925 Brady Handgun Violence Prevention Act

CFR Citation: 28 CFR 16; 28 CFR 20; 28 CFR 25

Legal Deadline: Other, Statutory, November 30, 1998.
The Brady Handgun Violence Prevention Act requires the NICS be established not later than 60 months after enactment (11/30/93).

Abstract: This rule notifies State and local law enforcement agencies and Federal Firearms Licensees of the establishment of the National Instant Check System (NICS). On June 4, 1998, the FBI published an NPRM setting forth the policies and procedures regarding use of the system, including regulations pertaining to the security and privacy of information.

On August 8, 1998, the FBI published an NPRM proposing the user fee to be charged for use of the NICS. The FBI anticipates publishing one final rule in which it will respond to comments on both of the NICS proposed rules and will finalize both rules.

Timetable:

NICS Privacy & Security Policies
NPRM 06/04/98 (63 FR 30430)
Comment Period End 09/02/98
NICS User Fee
NPRM 08/17/98 (63 FR 43893)
Comment Period End 09/16/98
Privacy & Security Policies and User Fee
Final Rule 10/00/98

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Agency Contact: Emmet A. Rathbun, Unit Chief, Research and Development Unit, Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Div., 1000 Custer Hollow Road, Clarksburg, WV 26306-0147
Phone: 304 625-2000
Fax: 304 625-5388

RIN: 1105–AA51

2092. POLICE RECRUITMENT PROGRAM GUIDELINES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 13811(i)Police Recruitment, Violent Crime Control; Law Enforcement Act of 1994

CFR Citation: 28 CFR 92

Legal Deadline: None

Abstract: The Police Recruitment Program Guidelines establish programs for training individuals to enter police department instructional programs. The Guidelines include requirements for individuals providing recruiting services, tutorials and other academic assistance programs, and retention services. The Guidelines also set forth the content and duration of recruitment, retention, and counseling programs and the means and devices used to publicize such programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/21/98	63 FR 50145
Interim Final Rule Comment Period End	10/21/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: David Walchak, Interim Police Corps Project Director, Department of Justice, COPS Office, 1110 Vermont Avenue NW., Washington, DC 20530
Phone: 202 633-1351
Fax: 202 633-1354

RIN: 1105–AA58

2093. WHISTLEBLOWER PROTECTION FOR FEDERAL BUREAU OF INVESTIGATION EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 315; 5 USC 2303; 28 USC 509; 28 USC 510; 28 USC 515 to 519; Memorandum for the Attorney General From the President, April ; 14, 1997, 'Delegation of Responsibilities Concerning FBI ; Employees Under the Civil Service Reform Act of 1978.

CFR Citation: 28 CFR 101

Legal Deadline: None

Abstract: This interim rule establishes procedure under which employees of the Federal Bureau of Investigation may make disclosures of information protected by the Civil Service Reform Act of 1978 (Pub. L. 95-454) and the Whistleblower Protection Act of 1989 (Pub. L. 101-12), codified at 5 USC 2303. It also establishes procedures under which the Department of Justice will investigate allegations by FBI employees of retaliation for making such disclosures and provide appropriate corrective action.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Stuart Frisch, General Counsel, Justice Management Division, Department of Justice, National Place Building, 1331 Pennsylvania Ave. NW., Washington, DC 20530
Phone: 202 514-3452
Fax: 202 514-4317

RIN: 1105–AA60

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Long-Term Actions

2094. CRIMINAL FINES ENFORCEMENT

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 72

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Lynne Solien
Phone: 202 616-6444

RIN: 1105–AA16

2095. VIOLENT CRIME AND DRUG EMERGENCY AREAS

Priority: Other Significant

CFR Citation: 28 CFR 92 (New)

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Robert Hinchman
Phone: 202 514-8059
Fax: 202 514-8639

RIN: 1105–AA29

2096. FALSE CLAIMS AMENDMENTS ACT OF 1986—CIVIL INVESTIGATIVE DEMANDS

Priority: Info./Admin./Other

CFR Citation: 28 CFR 28

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Michael F. Hertz
Phone: 202 514-7179

RIN: 1105–AA42

DOJ—LA

Long-Term Actions

2097. FEDERAL CONVICTED OFFENDER DNA DATABASE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Agency Contact: Dawn Herkenham
Phone: 202 324-1327
Fax: 202 324-1276
Email: lab-fssu@fbi.gov

RIN: 1105–AA52

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Completed Actions

2098. PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 28 CFR 16 subparts A and D

Completed:

Reason	Date	FR Cite
Final Action	06/01/98	63 FR 29591
Final Action Effective	07/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Janice Galli McLeod
Phone: 202 514-4453
Fax: 202 514-1009

RIN: 1105–AA20

2099. PROCEDURES TO REVIEW REMOVALS AND SUSPENSIONS OF STANDING TRUSTEES AND PANEL TRUSTEES

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 58.6

Completed:

Reason	Date	FR Cite
Withdrawn Per Program Office	10/14/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: P. Matthew Sutko
Phone: 202 307-1399
Fax: 202 307-2397

RIN: 1105–AA54

2100. JUSTICE ACQUISITION REGULATIONS STREAMLINING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 28(Revision)

Completed:

Reason	Date	FR Cite
Final Action	04/02/98	63 FR 16118
Final Action Effective	04/02/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Janis A. Sposato
Phone: 202 514-3101
Fax: 202 616-6695

RIN: 1105–AA55

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Proposed Rule Stage

2101. • JUVENILE ACCOUNTABILITY INCENTIVE BLOCK GRANTS

Priority: Routine and Frequent

Legal Authority: PL 105-119

CFR Citation: 28 CFR 31; 28 CFR 31.500; 28 CFR 31.501

Legal Deadline: None

Abstract: This part proposes procedures under which an eligible State, or unit of local government that receives a subgrant from the State, is required to provide notice to the Attorney General regarding the proposed use of funds available under the Juvenile Accountability Incentive Block Grant (JAIBG) program.

Timetable:

Action	Date	FR Cite
NPRM	10/14/98	63 FR 55069
NPRM Comment Period End	11/13/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rodney Albert, Deputy Director, State Relations and Assistance Division, Department of Justice, Office of Justice Programs, 810 7th St. NW., Washington, DC 20531
Phone: 202 307-5924
Fax: 202 307-2819
Email: albertr@ojp.usdoj.gov

RIN: 1121–AA46

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Final Rule Stage

2102. GRANTS PROGRAM FOR INDIAN TRIBES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 13701 et seq

CFR Citation: 28 CFR 91

Legal Deadline: None

Abstract: This rule outlines the requirements and procedures to award grants to Indian tribes for purposes of constructing jails on tribal lands for the incarceration of offenders subject to tribal jurisdiction. This rule implements provisions of the Violent Offender Incarceration and Truth-In-Sentencing Grants Program for Indian tribes as required by section 114 of the Fiscal Year 1998 Omnibus Consolidated Rescissions and Appropriations Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/24/96	61 FR 49969
Correction	10/18/96	61 FR 54333
Interim Final Rule Comment Period End	10/24/96	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Tribal

Agency Contact: Dr. Stephen Amos, Deputy Director, Department of Justice, Office of Justice Programs, Correction Program Office, 810 7th St. NW., Washington, DC 20531
Phone: 202 307-2019

RIN: 1121–AA41

2103. • BULLET PROOF VEST PARTNERSHIP GRANT ACT OF 1998

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 3796ll

CFR Citation: 28 CFR 33

Legal Deadline: NPRM, Statutory, September 14, 1998.

Abstract: This part proposes the process by which BJA will provide funds to eligible States, units of local government, and Indian tribes to purchase armor vests for use by law enforcement officers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/23/98	63 FR 50759
Interim Final Rule Effective	09/23/98	
Interim Final Rule Comment Period End	11/23/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Agency Contact: Lluana McCann, Program Manager, Department of Justice, Office of Justice Programs, 810 7th St. NW., Washington, DC 20053
Phone: 202 305-1772

RIN: 1121–AA48

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Completed Actions

2104. PRIVATE SECTOR/PRISON INDUSTRY ENHANCEMENT CERTIFICATION

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn - Published as Guidelines, Not as a Regulation	07/07/98	63 FR 36710

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Richard Sutton
Phone: 202 616-3214

RIN: 1121–AA36

[FR Doc. 98-26713 Filed 11-06-98; 8:45 am]
BILLING CODE 4410-BP-F

Federal Register

Monday
November 9, 1998

Part XII

Department of Labor

Semiannual Regulatory Agenda

DEPARTMENT OF LABOR (DOL)

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chs. I, IV, V, VI, VII, and IX

29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Department's semiannual agenda of regulations that have been selected for review or development during the coming year. The agenda complies with the requirements of both Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists all regulations that are expected to be under review or development between October 1998 and October 1999, as well as those completed during the past 6 months.

FOR FURTHER INFORMATION CONTACT: Roland Droitsch, Deputy Assistant Secretary for Policy, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-2312, Washington, DC 20210, (202) 219-6197.

Note: Information pertaining to a specific regulation can be obtained from the agency contact listed for that particular regulation.

SUPPLEMENTARY INFORMATION: Executive Order 12866 and the Regulatory Flexibility Act require the semiannual publication in the **Federal Register** of an agenda of regulations. As permitted by law, the Department of Labor is combining the publication of its agendas under the Regulatory Flexibility Act and Executive Order 12866.

For this edition of the Department of Labor's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Executive Order 12866 became effective September 30, 1993, and in substance, requires the Department of Labor to publish an agenda listing all the regulations it expects to have under active consideration for promulgation, proposal, or review during the coming 1-year period. The focus of all departmental regulatory activity will be on the development of effective rules that advance the Department's goals and that are understandable and usable to the employers and employees in all affected workplaces.

The Regulatory Flexibility Act became effective on January 1, 1981, and applies only to regulations for which a notice of proposed rulemaking was issued on or after that date. It requires the Department of Labor to publish an agenda listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities" (5 U.S.C. 602).

The Regulatory Flexibility Act (under section 610) also requires agencies to periodically review rules "which have or will have a significant economic impact upon a substantial number of small entities" and to annually publish a list of the rules that will be reviewed during the succeeding 12 months. The purpose of the review is to determine whether the rule should be continued without change, amended, or rescinded. In the October 29, 1997, Unified Agenda, the Department listed four rules that were to be reviewed in the succeeding 12 months.

The Employment Standards Administration (ESA) reviewed Government Contractors: Nondiscrimination and Affirmative Action Obligations (41 CFR 60-2) that was last reviewed in 1970. ESA has determined there is a continued need for 41 CFR 60-2. ESA is simplifying the regulation to lessen the impact on small entities and plans to publish a Notice of Proposed Rulemaking in March 1999.

The Occupational Safety and Health Administration (OSHA) had four items on the last two years' review lists: Control of Hazardous Energy Sources (Lockout/Tagout), Occupational Exposure to Ethylene Oxide, Grain Handling Facilities, and Cotton Dust. OSHA held public hearings in July 1998 on the Cotton Dust and Grain Handling standards. OSHA expects to make a decision on whether and what action to take regarding the Cotton Dust and Grain Handling standards in September 1999. Reports based on reviews of the Lockout/Tagout and the Occupational Exposure to Ethylene Oxide standards will be published in late 1998.

The Mine Safety and Health Administration (MSHA) conducted the 610 review of its regulations in 30 CFR part 48 addressing Training and Retraining of Miners. MSHA will be issuing final rules addressing supervisor and experienced miner training soon. In addition, based on comments received from the review and its experience, MSHA will develop an NPRM proposing more flexible training requirements.

The next 12-month review list for the Department of Labor is provided below and public comment is invited on the listing. A brief description of each rule, the legal basis for the rule, and the agency contact are provided with each agenda item. Agencies will report on the results of each review in the October 1999 regulatory agenda.

Employment Standards Administration

Government Contractors: Nondiscrimination and Affirmative Action Obligations; 41 CFR 60-2 (RIN 1215-AA01)

Occupational Safety and Health Administration

Control of Hazardous Energy Sources (Lockout/Tagout); 29 CFR 1910.147 (RIN 1218-AB59)

Occupational Exposure to Ethylene Oxide; 29 CFR 1910.1047 (RIN 1218-AB60)

Grain Handling Facilities; 29 CFR 1910.272 (RIN 1218-AB73)

Cotton Dust; 29 CFR 1910.1043 (RIN 1218-AB74)

Mine Safety and Health Administration

Training and Retraining of Miners; 30 CFR 48 (RIN 1219-AB02)

All interested members of the public are invited and encouraged to let departmental officials know how our regulatory efforts can be improved and, of course, to participate in and comment on the review or development of the regulations listed on the agenda.

Alexis M. Herman,

Secretary of Labor.

DOL

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2105	Production or Disclosure of Information or Materials	1290-AA17
2106	Equal Access to Justice Act	1290-AA18

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2107	Supplemental Standards of Ethical Conduct for Employees of the Department of Labor	1290-AA15

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2108	Coordinated Enforcement of Farm Labor Protective Statutes	1290-AA11
2109	Protection of Individual Privacy and Access to Records Under the Privacy Act of 1974	1290-AA16

Employment Standards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2110	Government Contractors: Nondiscrimination and Affirmative Action Obligations, Executive Order 11246 (ESA/OFCCP) **(Section 610 Review) (Reg Plan Seq. No. 54)**	1215-AA01
2111	Child Labor Regulations, Orders, and Statements of Interpretation (ESA/W-H) **(Reg Plan Seq. No. 55)**	1215-AA09
2112	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H) **(Reg Plan Seq. No. 56)**	1215-AA14
2113	Application of the Fair Labor Standards Act to Domestic Service	1215-AA82
2114	Procedures for Predetermination of Wage Rates (29 CFR Part 1) and Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5) **(Reg Plan Seq. No. 57)**	1215-AA94
2115	Regulations To Implement the Federal Acquisition Streamlining Act of 1994, 29 CFR Parts 4 and 5, 41 CFR Parts 50-201 and 50-206	1215-AA96
2116	Records To Be Kept by Employers Under the Fair Labor Standards Act	1215-AB03
2117	Assessment and Collection of User Fees	1215-AB06
2118	Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models	1215-AB09
2119	Exemptions Applicable to Agriculture, Processing of Agricultural Commodities, and Related Subjects Under the Fair Labor Standards Act	1215-AB11
2120	Implementation of the 1996 Amendments to the Fair Labor Standards Act	1215-AB13
2121	Minimum Wage and Overtime Violations—Civil Money Penalties (29 CFR 578); Child Labor Violations—Civil Money Penalties (29 CFR 579); Adjustment of Civil Money Penalties for Inflation	1215-AB20
2122	Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5) Definition of "Site of the Work" Under the Davis-Bacon Act	1215-AB21
2123	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals With Disabilities	1215-AB23

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Employment Standards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2124	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era	1215-AA62

DOL

Employment Standards Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2125	Standards for Waivers Under Section 503 of the Rehabilitation Act	1215-AA84
2126	Benefits Under the Federal Coal Mine Safety and Health Act of 1977, as Amended Affecting the Black Lung Benefits Act	1215-AA99
2127	Federal Employees' Compensation Act; Claims for Compensation for Work-Related Injury/Death	1215-AB07
2128	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals With Disabilities	1215-AB19

Employment Standards Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2129	Enforcement of Contractual Obligations for Temporary Alien Agricultural Workers Admitted Under Section 216 of the Immigration and Nationality Act	1215-AA43
2130	Reporting by Labor Relations Consultants and Other Persons	1215-AB14

Employment Standards Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2131	Use and Disclosure of Federal Employees' Compensation Act Claims File Material	1215-AB18
2132	Technical Amendments of Rules Relating to Labor-Management Standards and Standards of Conduct for Federal Sector Labor Organizations	1215-AB22

Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2133	Disaster Unemployment Assistance Program, Amendment to Regulations	1205-AB02
2134	Federal-State Unemployment Compensation Program; Unemployment Insurance Performance System	1205-AB10
2135	Airline Deregulation: Employee Benefit Program	1205-AB17
2136	Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the U.S.; Administrative Measures To Improve Program Performance	1205-AB19

Employment and Training Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2137	Trade Adjustment Assistance for Workers—Implementation of 1988 Amendments	1205-AB05
2138	Trade Adjustment Assistance for Workers—Transitional Adjustment Assistance NAFTA-TAA	1205-AB07
2139	Welfare-to-Work (WTW) Grants **(Reg Plan Seq. No. 58)**	1205-AB15
2140	Federal-State Unemployment Compensation Program; Confidentiality and Disclosure of State Records	1205-AB18
2141	Workforce Investment Act of 1998 **(Reg Plan Seq. No. 59)**	1205-AB20

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Employment and Training Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2142	Services to Migrant and Seasonal Farmworkers, Job Service Complaint System, Monitoring, and Enforcement	1205-AA37

DOL

Employment and Training Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2143	Labor Certification Process for the Permanent Employment of Aliens in the United States	1205-AA66
2144	Establishment of Fees for Immigration Programs Administered by the Employment and Training Administration	1205-AB14
2145	Indian and Native American Welfare-to-Work Program	1205-AB16

Employment and Training Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2146	Job Training Partnership Act: Indian and Native American Programs	1205-AA96
2147	Job Training Partnership Act: Migrant and Seasonal Farmworker Programs	1205-AA99
2148	Amendments to the Labor Certification Process for Temporary Agricultural Employment in the United States (H-2A)	1205-AB09

Pension and Welfare Benefits Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2149	Definition of Collective Bargaining Agreement (ERISA Section 3(40))	1210-AA48
2150	Revision of the Form 5500 Series and Implementing and Related Regulations Under the Employee Retirement Income Security Act of 1974 (ERISA) **(Reg Plan Seq. No. 60)**	1210-AA52
2151	Reporting Requirements for MEWAs Providing Medical Care Benefits	1210-AA64
2152	Elimination of Filing Requirements for Summary Plan Descriptions	1210-AA66
2153	Requirement to Furnish Plan Documents Upon Request by the Secretary of Labor	1210-AA67
2154	Civil Penalty for Failure to Furnish Certain Plan Documents	1210-AA68
2155	Amendments to Summary Plan Description Regulations **(Reg Plan Seq. No. 61)**	1210-AA69
2156	Electronic Disclosure of Employee Benefit Plan Information	1210-AA71
2157	Amendment of Small Plan Exemption From Audit Requirement	1210-AA73

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Pension and Welfare Benefits Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2158	Regulations Implementing the Health Care Access, Portability and Renewability Provisions of the Health Insurance Portability and Accountability Act of 1996 **(Reg Plan Seq. No. 62)**	1210-AA54
2159	Amendment of Summary Plan Description and Related ERISA Regulations To Implement Statutory Changes in the Health Insurance Portability and Accountability Act of 1996 **(Reg Plan Seq. No. 63)**	1210-AA55
2160	Enforcement Policy on AICPA SOP 92-6	1210-AA57
2161	Limitation of Liability for Insurers and Others Under Part 4 of Title I of Erisa and Section 4975 of the Internal Revenue Code	1210-AA58
2162	Amendments to Employee Benefit Plan Claims Procedures Regulation **(Reg Plan Seq. No. 64)**	1210-AA61
2163	Health Care Standards for Mothers and Newborns **(Reg Plan Seq. No. 65)**	1210-AA63
2164	Interpretive Bulletin on Payroll Deduction Programs for Contributions to Individual Retirement Accounts	1210-AA70
2165	National Medical Support Notice **(Reg Plan Seq. No. 66)**	1210-AA72

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Pension and Welfare Benefits Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2166	Adequate Consideration	1210-AA15

DOL

Pension and Welfare Benefits Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2167	Civil Penalties Under ERISA Section 502(l)	1210-AA37
2168	Reporting and Disclosure Under the Employee Retirement Income Security Act of 1974	1210-AA44
2169	Rulemaking Relating to Notice Requirements for Continuation of Health Care Coverage	1210-AA60
2170	Interim Rules Relating to Mental Health Benefits Parity	1210-AA62
2171	Individual Benefits Reporting Requirements for Defined Contribution Plans	1210-AA65

Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2172	Training and Retraining of Miners	1219-AB02
2173	Occupational Exposure to Coal Mine Dust (Lowering Exposure Limit) **(Reg Plan Seq. No. 67)**	1219-AB08

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2174	Air Quality, Chemical Substances, and Respiratory Protection Standards	1219-AA48
2175	Diesel Particulate (Underground Coal) **(Reg Plan Seq. No. 68)**	1219-AA74
2176	Belt Entry Use As Intake Aircourses To Ventilate Working Sections	1219-AA76
2177	Metal/Nonmetal Impoundments	1219-AA83
2178	Surface Haulage	1219-AA93
2179	Safety Standards for the Use of Roof-Bolting Machines	1219-AA94
2180	Safety Standard Revisions for Underground Anthracite Mines	1219-AA96
2181	Electrical Standards for Metal and Nonmetal Mines	1219-AB01
2182	Self-Contained Self-Rescue Devices in Underground Metal and Nonmetal Mines	1219-AB06
2183	X-Ray Surveillance Program for Surface Coal Miners **(Reg Plan Seq. No. 69)**	1219-AB09
2184	Diesel Particulate (Underground Metal and Nonmetal Mines) **(Reg Plan Seq. No. 70)**	1219-AB11
2185	Verification of Dust Control Plan **(Reg Plan Seq. No. 71)**	1219-AB14
2186	Training and Retraining of Miners: Supervisor Training	1219-AB16

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2187	Hazard Communication	1219-AA47
2188	Noise Standard **(Reg Plan Seq. No. 72)**	1219-AA53
2189	Longwall Equipment (Including High-Voltage)	1219-AA75
2190	Independent Laboratory Testing	1219-AA87
2191	Requirements for Approval of Flame-Resistant Conveyor Belts	1219-AA92
2192	Improving and Eliminating Regulations	1219-AA98
2193	Safety Standards for Underground Coal Mine Ventilation	1219-AB10

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Mine Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2194	Confined Spaces	1219-AA54

DOL

Mine Safety and Health Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2195	Carbon Monoxide Monitor Approval	1219-AA72
2196	Safety Standards for Methane in Metal and Nonmetal Mines	1219-AA90
2197	Respirable Crystalline Silica Standard	1219-AB12

Mine Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2198	Coal Mine Dust	1219-AA81
2199	Safety Standards for Roof Bolts in Metal and Nonmetal Mines and Underground Coal Mines	1219-AB00
2200	Criteria and Procedures for Proposed Assessment of Civil Penalties	1219-AB03
2201	Observation of Operator Noise Monitoring	1219-AB05
2202	Experienced Miner and Supervisor Training	1219-AB13
2203	Safety Standards for Reporting Daily Inspections of Surface Coal Mines	1219-AB15

Office of the Assistant Secretary for Administration and Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2204	Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance From the Department of Labor	1291-AA21
2205	Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting From Federal Financial Assistance	1291-AA28
2206	Implementation of the Nondiscrimination and Equal Opportunity Requirements of the Workforce Investment Act of 1998	1291-AA29

Office of the Assistant Secretary for Administration and Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2207	Audits of States, Local Governments, and Nonprofit Organizations	1291-AA26
2208	Audit Requirements for Grants, Contracts, and Other Agreements	1291-AA27

Office of the Assistant Secretary for Administration and Management—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2209	Department of Labor Acquisition Regulation	1291-AA20

Office of the Assistant Secretary for Administration and Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2210	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments	1291-AA25

DOL

Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2211	Standards Advisory Committee on Metalworking Fluids **(Reg Plan Seq. No. 73)**	1218-AB58
2212	Control of Hazardous Energy Sources (Lockout/Tagout)**(Section 610 Review)**	1218-AB59
2213	Occupational Exposure to Ethylene Oxide **(Section 610 Review)**	1218-AB60
2214	Fall Protection in the Construction Industry	1218-AB62
2215	Process Safety Management of Highly Hazardous Chemicals	1218-AB63
2216	Safety Standards for Scaffolds Used in the Construction Industry—Part II	1218-AB68
2217	Occupational Exposure to Crystalline Silica **(Reg Plan Seq. No. 74)**	1218-AB70
2218	Grain Handling Facilities **(Section 610 Review)**	1218-AB73
2219	Cotton Dust **(Section 610 Review)**	1218-AB74

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2220	Steel Erection (Part 1926) (Safety Protection for Ironworkers) **(Reg Plan Seq. No. 75)**	1218-AA65
2221	Access and Egress in Shipyards (Part 1915, Subpart E) (Phase I) (Shipyards: Emergency Exits and Aisles)	1218-AA70
2222	Prevention of Work-Related Musculoskeletal Disorders **(Reg Plan Seq. No. 76)**	1218-AB36
2223	Safety and Health Programs (for General Industry and the Maritime Industries) **(Reg Plan Seq. No. 77)**	1218-AB41
2224	Occupational Exposure to Hexavalent Chromium (Preventing Occupational Illness: Chromium)	1218-AB45
2225	Occupational Exposure to Tuberculosis **(Reg Plan Seq. No. 78)**	1218-AB46
2226	Confined Spaces in Construction (Part 1926): Preventing Suffocation/Explosions in Confined Spaces	1218-AB47
2227	Fire Protection in Shipyard Employment (Part 1915, Subpart P) (Phase II) (Shipyards: Fire Safety)	1218-AB51
2228	Permissible Exposure Limits (PELs) for Air Contaminants **(Reg Plan Seq. No. 79)**	1218-AB54
2229	Plain Language Revision of Existing Standards (Phase I) **(Reg Plan Seq. No. 80)**	1218-AB55
2230	Nationally Recognized Testing Laboratories Programs: Fees	1218-AB57
2231	Flammable and Combustible Liquids	1218-AB61
2232	Revocation of Certification Records for Tests, Inspections, and Training	1218-AB65
2233	Plain Language Revision of the Mechanical Power-Transmission Apparatus Standard	1218-AB66
2234	Requirement To Pay for Personal Protective Equipment **(Reg Plan Seq. No. 81)**	1218-AB77
2235	Consolidation of Records Maintenance Requirements in OSHA Standards	1218-AB78
2236	Consultation Agreements	1218-AB79

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2237	Respiratory Protection (Proper Use of Modern Respirators)	1218-AA05
2238	Recording and Reporting Occupational Injuries and Illnesses (Simplified Injury/Illness Recordkeeping Requirements) **(Reg Plan Seq. No. 82)**	1218-AB24
2239	Powered Industrial Truck Operator Training (Industrial Truck Safety Training)	1218-AB33
2240	Permit Required Confined Spaces (General Industry: Preventing Suffocation/Explosions in Confined Spaces)	1218-AB52

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Occupational Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2241	Longshoring and Marine Terminals (Parts 1917 and 1918)— Reopening of the Record (Vertical Tandem Lifts (VTLs))	1218-AA56
2242	Scaffolds in Shipyards (Part 1915—Subpart N) (Phase I)	1218-AA68
2243	Glycol Ethers: 2-Methoxyethanol, 2-Ethoxyethanol, and Their Acetates: Protecting Reproductive Health	1218-AA84

DOL

Occupational Safety and Health Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2244	Accreditation of Training Programs for Hazardous Waste Operations (Part 1910)	1218-AB27
2245	Indoor Air Quality in the Workplace	1218-AB37
2246	General Working Conditions for Shipyard Employment	1218-AB50
2247	Fire Brigades	1218-AB64
2248	Electric Power Transmission and Distribution; Electrical Protective Equipment in the Construction Industry	1218-AB67
2249	Safety and Health Programs for Construction	1218-AB69
2250	Control of Hazardous Energy (Lockout) in Construction (Part 1926) (Preventing Construction Injuries/Fatalities; Lockout)	1218-AB71
2251	Occupational Exposure to Beryllium	1218-AB76
2252	Walking Working Surfaces and Personal Fall Protection Systems (1910) (Slips, Trips and Fall Prevention)	1218-AB80

Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2253	Standards Improvement Project	1218-AB53

DEPARTMENT OF LABOR (DOL)
Office of the Secretary (OS)

Proposed Rule Stage

2105. PRODUCTION OR DISCLOSURE OF INFORMATION OR MATERIALS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 552 as amended; 5 USC Reorganization Plan No. 6 of 1950; EO 12600, 52 FR 23781 (June 25, 1987)

CFR Citation: 20 CFR 70

Legal Deadline: None

Abstract: The regulation will incorporate the provisions of the 1996 FOIA amendments. These include extending DOL processing time from 10 to 20 days for most FOIA requests and requiring that all reading room materials created since November 1, 1996, be made available by electronic means such as the Internet.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Miriam McD. Miller, Co-Counsel for Administrative Law, Division of Legislation and Legislative Counsel, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room N2428, FP Building, Washington, DC 20210
Phone: 202 219-8188
Fax: 202 219-6896
Email: miller-miriam@dol.gov

RIN: 1290–AA17

2106. EQUAL ACCESS TO JUSTICE ACT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504; 28 USC 2412

CFR Citation: 29 CFR 16

Legal Deadline: None

Abstract: The regulation will incorporate the 1996 amendments to the Equal Access to Justice Act and revise the existing regulation to conform with the case law which has evolved since 1981.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Robert A. Shapiro, Associate Solicitor for Legislation and Legal Counsel, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room N2428, FP Building, Washington, DC 20210
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RIN: 1290–AA18

DEPARTMENT OF LABOR (DOL)
Office of the Secretary (OS)

Final Rule Stage

2107. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF LABOR

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 5 USC 7301; 5 USC 7353; 5 USC app (Ethics in Government Act); EO 12674; 18 USC 208

CFR Citation: 5 CFR 5201; 29 CFR 0; 3 CFR 1989 Comp; 5 CFR 2634; 5 CFR 2635; 3 CFR 1990

Legal Deadline: None

Abstract: The Department of Labor is developing a rule for its employees that supplements the Standards of Ethical Conduct for Employees of the Executive Branch issued by the Office of Government Ethics (OGE). The rule would designate certain components of the Department as separate agencies for the purposes of provisions in the Executive Branch-wide standards regarding gifts from outside sources, the receipt of compensation for teaching, speaking, or writing, and fundraising in a personal capacity. The rule would also restrict the outside financial interests for employees of the Mine Safety and Health Administration and require approval of outside employment for employees of the Office of Inspector General. It repeals existing regulations governing outside employment and financial interests. Issuance of this rule would require OGE concurrence.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/06/96	61 FR 57281
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Robert A. Shapiro, Associate Solicitor for Legislation and Legal Counsel, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room N2428, FP Building, Washington, DC 20210
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RIN: 1290–AA15

DEPARTMENT OF LABOR (DOL)
Office of the Secretary (OS)

Completed Actions

2108. COORDINATED ENFORCEMENT OF FARM LABOR PROTECTIVE STATUTES

Priority: Info./Admin./Other

Legal Authority: 29 USC 49 et seq; 29 USC 201 et seq; 29 USC 651 et seq; 29 USC 1801 et seq; 8 USC 1188(g)(2); 5 USC 301

CFR Citation: 29 CFR 42

Legal Deadline: None

Abstract: The Department intends to revise its regulations for coordinated enforcement of farm protective statutes. The rule will clarify existing regulatory language and update the regulations by making nomenclature and other technical amendments. The sections also will be reorganized for clarification. These regulations were first promulgated in 1980 to coordinate the farm labor enforcement activities of the Department's Employment and Training Administration, the Employment Standards Administration the Occupational Safety and Health Administration, and the Office of the Solicitor of Labor (45 FR 39489). The regulations establish a National Farm Labor Coordinated Enforcement Committee, which meets quarterly, consisting of the heads of the above DOL agencies, to oversee that coordination. A Regional Farm Labor Coordinated Enforcement Committee, which meets quarterly is established in each DOL regional office. The Regional Committee is made up of the head of each of the above Agencies' regional offices. Each Regional Committee holds at least one annual public meeting to discuss farm labor issues.

Timetable:

Action	Date	FR Cite
ANPRM	07/24/92	57 FR 32939
ANPRM Comment Period End	08/24/92	
NPRM	01/19/93	58 FR 5158
NPRM Comment Period End	02/18/93	
Withdrawn	08/26/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Since 1980, a number of changes have taken place in DOL's farm labor activities, such as: The Farm Labor Contractor Registration Act has been replaced by the Migrant and Seasonal Agricultural Worker Protection Act; the title of the head of the National Committee has been changed from Under Secretary to Deputy Secretary; the Immigration Reform and Control Act of 1986 has amended the Immigration and Nationality Act, authorizing DOL to enforce work contracts executed by employers of alien (H-2A) farmworkers; the role of States in operating the Employment Service under the Wagner-Peyser Act was enhanced in 1982; regional offices of the Employment Standards Administration no longer exist and the regional farm labor enforcement role is now coordinated by the Regional Administrator for Wage and Hour; and the Assistant Secretary for Policy has assumed a role in farm labor programs at the national level. These and other changes necessitate updating the coordinated enforcement regulations.

Agency Contact: Ruth Samardick, Chief, National Farm Labor Coordinated Enforcement Committee Working Group, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room S2114, FP Building, Washington, DC 20210
Phone: 202 219-6026

RIN: 1290–AA11

2109. PROTECTION OF INDIVIDUAL PRIVACY AND ACCESS TO RECORDS UNDER THE PRIVACY ACT OF 1974

Priority: Other Significant

Legal Authority: 29 USC 552a

CFR Citation: 29 CFR 70a; 29 CFR 71

Legal Deadline: None

Abstract: This proposed regulation will revise the existing regulation under the Privacy Act of 1974. The existing regulation was promulgated over 20 years ago and is in need of revision. The proposed regulation will conform Departmental requirements with the case law which has evolved over the past years. The regulation will govern the conduct of Departmental employees and members of the public, as it pertains to the treatment of records covered by the Privacy Act. The proposal will renumber part 70a as part 71 because the Office of the Federal Register no longer permits alphabetical entries for CFR parts.

DOL—OS

Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	07/28/97	62 FR 40406
NPRM Comment Period End	09/26/97	
Final Action	10/22/98	63 FR 56739
Final Action Effective	12/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Miriam McD. Miller, Co-Counsel for Administrative Law, Division of Legislation and Legislative Counsel, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room N2428, FP Building, Washington, DC 20210
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RIN: 1290–AA16

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Proposed Rule Stage

2110. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS, EXECUTIVE ORDER 11246 (ESA/OFCCP) (SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 54 in Part II of this issue of the Federal Register.

RIN: 1215–AA01

2111. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION (ESA/W-H)

Regulatory Plan: This entry is Seq. No. 55 in Part II of this issue of the Federal Register.

RIN: 1215–AA09

2112. DEFINING AND DELIMITING THE TERM "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY" (ESA/W-H)

Regulatory Plan: This entry is Seq. No. 56 in Part II of this issue of the Federal Register.

RIN: 1215–AA14

2113. APPLICATION OF THE FAIR LABOR STANDARDS ACT TO DOMESTIC SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: Sec 13(a)(15), Fair Labor Standards Act (FLSA), as amended; Sec 13(b)(21), FLSA, as amended; 29 USC 213(a)(15); 29 USC 213(b)(21) 88 Stat 62; Sec 29(b), FLSA of 1974; PL 93-259 88 Stat 76

CFR Citation: 29 CFR 552

Legal Deadline: None

Abstract: Section 13(a)(15) of the Fair Labor Standards Act (FLSA) provides an exemption from minimum wage and overtime compensation for domestic service employees engaged in providing companionship services. Section 13(b)(21) of the FLSA provides an exemption from overtime compensation for live-in domestic service employees. DOL proposed certain technical amendments to update the regulations, 29 CFR part 552, Application of the Fair Labor Standards Act to Domestic Service, and to clarify that these exemptions are applicable to third-party employers or temporary help agencies only where the domestic service worker is jointly employed by the third-party employer or temporary help agency and the family or household using their services. (58 FR 69310) After reviewing the public comments, the Department adopted technical changes to update the regulations, including a revision necessitated by recently-enacted amendments to title II of the Social Security Act under Public Law 103-387 (Social Security Domestic Employment Reform Act) 10/22/94, (see 60 FR 46766) and reopened the public comment period on proposed revisions affecting third-party employers (section 552.109).

Timetable:

Action	Date	FR Cite
NPRM	12/30/93	58 FR 69310
NPRM Comment Period End	02/28/94	
NPRM Second	09/08/95	60 FR 46797
Final Rule	09/08/95	60 FR 46766
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: John R. Fraser, Deputy Director, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 693-0051
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RIN: 1215–AA82

2114. PROCEDURES FOR PREDETERMINATION OF WAGE RATES (29 CFR PART 1) AND LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (29 CFR PART 5)

Regulatory Plan: This entry is Seq. No. 57 in Part II of this issue of the Federal Register.

RIN: 1215–AA94

2115. REGULATIONS TO IMPLEMENT THE FEDERAL ACQUISITION STREAMLINING ACT OF 1994, 29 CFR PARTS 4 AND 5, 41 CFR PARTS 50-201 AND 50-206

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355, 108 Stat. 3243

CFR Citation: 29 CFR 4; 29 CFR 5; 41 CFR 50 to 201; 41 CFR 50 to 206

Legal Deadline:

NPRM, Statutory, May 11, 1995.
Final, Statutory, October 1, 1995.

Abstract: The Federal Acquisition Streamlining Act of 1994, signed on October 13, 1994, amends several Acts administered by the Department of Labor: (1) It amends the Contract Work Hours and Safety Standards Act (CWHSSA) to limit its applicability to contracts in an amount of $100,000 or greater. (2) It amends the Davis-Bacon Act (DB) to provide waivers from the Act's prevailing wage requirements under selected laws for volunteers performing services to a State or local government or agency and for volunteers performing services to a public or private nonprofit recipient of Federal assistance. (3) It also amends the Walsh-Healey Public Contracts Act (PCA) to eliminate the requirements that contractors on covered contracts be either manufacturers or regular dealers in the items to be supplied under the contract but retains the Secretary of Labor's authority to define the terms "regular dealer" and "manufacturer." A final rule implementing the CWHSSA and PCA changes was published on August 5, 1996 (61 FR 40714).

Timetable:

Action	Date	FR Cite
NPRM	09/07/95	60 FR 46553
NPRM Comment Period End	10/10/95	
Final Walsh-Healey/CWHSSA Rule	08/05/96	61 FR 40714
Second NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Additional Information: These legislative amendments will require revisions to Regulations, 29 CFR parts 4 and 5 with respect to CWHSSA and DB and Regulations, 41 CFR part 50-201 and part 50-206 with respect to PCA.

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RIN: 1215–AA96

2116. RECORDS TO BE KEPT BY EMPLOYERS UNDER THE FAIR LABOR STANDARDS ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 211; 29 USC 201 et seq; 29 USC 207(g); 52 Stat 1066, sec 11; 52 Stat 1060, sec 11; 103 Stat 944, sec 7

CFR Citation: 29 CFR 516 et seq

Legal Deadline: None

Abstract: This regulation gives guidance to employers on the information they must keep in records deemed essential for determining compliance with the monetary requirements of the Fair Labor Standards Act (FLSA) regarding payment of minimum wages and overtime compensation to covered and nonexempt employees, or for determining that certain statutory exemptions to FLSA's requirements for payment of the minimum wage or overtime (or both) may apply. This regulation was included in the Department's regulatory reinvention initiative as a candidate for possible simplification of regulatory language and streamlining of regulatory requirements to ensure that applicable standards are easily understandable and reasonable.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: John R. Fraser, Deputy Director, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
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RIN: 1215–AB03

2117. ASSESSMENT AND COLLECTION OF USER FEES

Priority: Info./Admin./Other

Legal Authority: PL 97-470; 96 Stat 2583; 29 USC 1801 to 1872; Secretary's Order No. 1-93 (58 FR 21190); PL 99-603, sec 210A(f); 100 Stat 3359; 8 USC 1161(f); 52 Stat 1068, sec 11 and 14; 75 Stat 74, sec 11; 29 USC 211; 29 USC 214; 52 Stat 1066, sec 11; 63 Stat 910, sec 9; 29 USC 211(d); 80 Stat 843 to 844, sec 501 and 602

CFR Citation: 29 CFR 500.45; 29 CFR 500.52; 29 CFR 519.3; 29 CFR 519.13; 29 CFR 530.4; 29 CFR 530.102

Legal Deadline: None

Abstract: In accordance with the authority provided by title V of the Independent Offices Appropriations Act of 1952, often referred to as the "user fee statute," and the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act of 1995 (PL 103-333), the Department is proposing to establish and collect user fees to recover the costs of providing certain services that are required by law and without which, the recipients of the services would not legally be allowed to engage in particular employment practices. The services for which user fees are to be collected include processing applications and issuing farm labor contractor certificates of registration under the Migrant and Seasonal Agricultural Worker Protection Act; processing applications and issuing certificates authorizing employers to employ certain students at special minimum wages under section 14(b) of the Fair Labor Standards Act; and processing applications and issuing certificates authorizing employers to employ homeworkers under section 11(d) of the Fair Labor Standards Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John R. Fraser, Deputy Director, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
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RIN: 1215–AB06

2118. LABOR CONDITION APPLICATIONS AND REQUIREMENTS FOR EMPLOYERS USING NONIMMIGRANTS ON H-1B VISAS IN SPECIALTY OCCUPATIONS AND AS FASHION MODELS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101(a)(15)(H)(i)(b); 8 USC 1182(n); 8 USC 1184; 29 USC 49 et seq; PL 102-232

CFR Citation: 20 CFR 655, subparts H & I

Legal Deadline: None

Abstract: This proposed rule is a republication for notice and public comment of various provisions of the Department's final rule implementing provisions of the Immigration and Nationality Act as it relates to the temporary employment in the United States of nonimmigrants admitted under H-1B visas. As part of the DOL regulatory reinvention efforts, Regulations, 29 CFR part 507, which duplicate 20 CFR part 655, subparts H and I, have been removed from title 29. (See 61 FR 51013.)

Timetable:

Action	Date	FR Cite
NPRM	10/31/95	60 FR 55339
NPRM Comment Period End	11/30/95	
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: John R. Fraser, Deputy Director, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
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Fax: 202 219-5122

RIN: 1215–AB09

2119. EXEMPTIONS APPLICABLE TO AGRICULTURE, PROCESSING OF AGRICULTURAL COMMODITIES, AND RELATED SUBJECTS UNDER THE FAIR LABOR STANDARDS ACT

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 201 et seq

CFR Citation: 29 CFR 780

Legal Deadline: None

Abstract: This regulation interprets various exemptions applicable to employees in agriculture, processing of agricultural commodities and related issues under the Fair Labor Standards Act (FLSA). The regulation has been targeted for updating and streamlining as part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: John R. Fraser, Deputy Director, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
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RIN: 1215–AB11

2120. IMPLEMENTATION OF THE 1996 AMENDMENTS TO THE FAIR LABOR STANDARDS ACT

Priority: Other Significant

Legal Authority: PL 104-188, sec 2101 to 2105; 29 USC 201 et seq

CFR Citation: 29 CFR 4; 29 CFR 531; 29 CFR 541; 29 CFR 778; 29 CFR 785; 29 CFR 790; 29 CFR 870; 41 CFR 50-202

Legal Deadline: None

Abstract: The "Small Business Job Protection Act of 1996" (H.R. 3448) was enacted on August 20, 1996, as Public Law 104-188. Title II of this enactment amended the Portal-to-Portal Act (PA) and the Fair Labor Standards Act (FLSA). The PA amendment excludes (under certain circumstances) from compensable "hours worked" the time spent by an employee in home-to-work travel in an employer-provided vehicle. The FLSA amendments: (1) increase the $4.25 Federal minimum hourly wage by $.90 in two steps over two years (i.e., to $4.75 on October 1, 1996, and to $5.15 on September 1, 1997); (2) provide a $4.25 subminimum wage for youth under age 20 in their first 90 calendar days of employment with an employer; (3) set the employer's direct wage payment obligation for tipped employees at $2.13 per hour (provided such employees receive the balance of the full minimum wage in tips); and (4) set the hourly compensation requirements at not less than $27.63 per hour for certain exempt professional employees in computer-related occupations. Changes will be required in the regulations to reflect these amendments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: John R. Fraser, Deputy Director, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
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RIN: 1215–AB13

2121. MINIMUM WAGE AND OVERTIME VIOLATIONS—CIVIL MONEY PENALTIES (29 CFR 578); CHILD LABOR VIOLATIONS—CIVIL MONEY PENALTIES (29 CFR 579); ADJUSTMENT OF CIVIL MONEY PENALTIES FOR INFLATION

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 216(e); PL 101-410; PL 104-134

CFR Citation: 29 CFR 578; 29 CFR 579

Legal Deadline:
Final, Statutory, October 23, 1996.

Abstract: The Debt Collection Improvement Act of 1996 (PL 104-134)

DOL—ESA — Proposed Rule Stage

amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (PL 101-410) to require Federal agencies to adjust certain civil money penalties for inflation. The Department is proposing adjustments in the civil money penalties that may be assessed under section 16(e) of the Fair Labor Standards Act for (1) repeated or willful violations of the minimum wage or overtime provisions; and (2) child labor violations. Any increase in the penalty amounts shall apply only to violations which occur after the effective date of the increase.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: John R. Fraser, Deputy Director, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
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RIN: 1215–AB20

2122. LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (29 CFR PART 5) DEFINITION OF "SITE OF THE WORK" UNDER THE DAVIS-BACON ACT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 276a to 276a-7; 40 USC 276c

CFR Citation: 29 CFR 5

Legal Deadline: None

Abstract: Two appellate court decisions have ruled that the Department of Labor's definition of "site of the work" in section 5.2(l) of the Davis-Bacon Act regulations does not conform to the statutory language of the Davis-Bacon Act, which requires payment of prevailing wages as determined under the Act to all laborers and mechanics "employed directly upon the site of the work." (See e.g., Ball, Ball and Brosamer v. Reich, 24 F.3d 1447, (D.C. Cir. 1994); L.P. Cavett Company v. U.S. Department of Labor, 101 F.3d 1111 (6th Cir. 1996).) The Department is proposing technical clarifications of Davis-Bacon coverage based on the site of the work definition as interpreted by these court decisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: John R. Fraser, Deputy Director, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
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RIN: 1215–AB21

2123. • AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS REGARDING INDIVIDUALS WITH DISABILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 706; 29 USC 793; EO 11758

CFR Citation: 41 CFR 60-741 (Revision)

Legal Deadline: None

Abstract: OFCCP proposes to revise the regulation implementing section 503 of the Rehabilitation Act of 1973, as amended, to conform to the recently revised section 60-1.20(a) of the regulation implementing E.O. 11246, as amended. The section authorizes OFCCP to use a range of methods to evaluate a contractor's compliance with the regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3325, FP Building, Washington, DC 20210
Phone: 202 693-0102
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RIN: 1215–AB23

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Final Rule Stage

2124. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 4211; 38 USC 4212; PL 93-508 Amended; PL 94-502; PL 95-520; PL 96-466; PL 101-237; EO 11758; PL 97-306; PL 98-223; PL 102-16; PL 102-127; PL 102-484

CFR Citation: 41 CFR 60-250

Legal Deadline: None

Abstract: OFCCP is planning to revise its regulations implementing 38 USC 4212 (formerly 2012) the affirmative action provision of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 to: (1) make its provisions for special disabled veterans consistent with Section 503 of the Rehabilitation Act of 1973 (2) incorporate some legislative and other changes that have occurred, and (3) generally clarify 38 USC 4212 Affirmative Action Program (AAP) requirements.

DOL—ESA — Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule Invitation to Self-Identify (41 CFR 60-250.5(d))	05/01/96	61 FR 19336
NPRM	09/24/96	61 FR 50079
NPRM Comment Period End	12/27/96	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James I. Melvin, Director, Division of Policy, Planning, Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3325, FP Building, Washington, DC 20210
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RIN: 1215–AA62

2125. STANDARDS FOR WAIVERS UNDER SECTION 503 OF THE REHABILITATION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 706; 29 USC 793, as amended by PL 99-506; PL 100-630; PL 100-259; PL 101-336; PL 102-569; EO 11758

CFR Citation: 41 CFR 60-741

Legal Deadline: None

Abstract: OFCCP is planning to issue regulations that will set forth standards for waivers (from provisions of section 503 of the Rehabilitation Act) sought by Federal contractors for facilities that they deem totally separate from and not involved in Government contract work. OFCCP is required to issue these regulations by the 1992 Rehabilitation Act amendments.

Timetable:

Action	Date	FR Cite
NPRM	02/14/96	61 FR 5902
NPRM Comment Period End	04/15/96	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3325, FP Building, Washington, DC 20210
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RIN: 1215–AA84

2126. BENEFITS UNDER THE FEDERAL COAL MINE SAFETY AND HEALTH ACT OF 1977, AS AMENDED AFFECTING THE BLACK LUNG BENEFITS ACT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 901 et seq

CFR Citation: 20 CFR 718; 20 CFR 722; 20 CFR 725; 20 CFR 726; 20 CFR 727

Legal Deadline: None

Abstract: The Division of Coal Mine Workers' Compensation reviewed its existing regulations, pursuant to Executive Order 12866, with a goal of eliminating outdated and unnecessary rules and streamlining the processes. The result is a proposal to revise existing rules to facilitate alternative dispute resolution during the informal conference; streamline the litigation process by encouraging the early development and submission of evidence; reduce the costs of copying and mailing; raise the dollar limit for prior approval for medical equipment; and rewrite existing rules to make them more customer-oriented.

There will be no additional administrative costs associated with these changes, but savings can be expected through streamlining.

Timetable:

Action	Date	FR Cite
NPRM	01/22/97	62 FR 3338
NPRM Comment Period End	03/24/97	
NPRM Comment Period End Extended to 8/22/97	05/24/97	62 FR 8201
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James L. DeMarce, Director, Coal Mine Workers' Compensation, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3520, FP Building, Washington, DC 20210
Phone: 202 693-0046
Fax: 202 219-8568

RIN: 1215–AA99

2127. FEDERAL EMPLOYEES' COMPENSATION ACT; CLAIMS FOR COMPENSATION FOR WORK-RELATED INJURY/DEATH

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 8101 et seq

CFR Citation: 20 CFR 1; 20 CFR 10; 20 CFR 25

Legal Deadline: None

Abstract: The Office of Workers' Compensation Programs will carry out a comprehensive review of and revision to the regulations implementing the Federal Employees' Compensation Act (FECA) to eliminate outdated or unnecessary rules reflecting a streamlining of the claims process, update rules to reflect legislative changes, modify the medical fee schedule to include hospital and pharmacy charges and simplify language.

Timetable:

Action	Date	FR Cite
NPRM	12/23/97	62 FR 67120
NPRM Comment Period End	02/23/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Thomas M. Markey, Director for Federal Employees' Compensation, OWCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3229, FP Building, Washington, DC 20210
Phone: 202 219-7552
Fax: 202 219-7250

RIN: 1215–AB07

DOL—ESA

Final Rule Stage

2128. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS REGARDING INDIVIDUALS WITH DISABILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 706; 29 USC 793; EO 11758

CFR Citation: 41 CFR 60-741 (Revision)

Legal Deadline: None

Abstract: This final rule revises appendix C to the regulations implementing section 503 of the Rehabilitation Act of 1973. Appendix C contains procedures that Government contractors may use to review their personnel processes to ensure that the processes are fair to disabled applicants and employees. The existing appendix recommends that contractors attach or include a description of accommodations considered or used for individuals with disabilities to application forms or personnel records. As revised, the appendix recommends that the description of accommodations be maintained in separate confidential medical files.

The revision results from a comment submitted by the Equal Employment Opportunity Commission in response to OFCCP's NPRM under the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA), which contains a similar appendix. The EEOC submitted that in most instances descriptions of accommodations constitute medical information that, under the Americans with Disabilities Act, must be maintained in separate files and treated as confidential medical records.

Accordingly, the revision is required in order to ensure that contractors complying with section 503 will not inadvertently violate the Americans with Disabilities Act. The revision also ensures continued consistency between OFCCP's rules under section 503 and VEVRAA, which minimizes contractor burdens and confusion.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3325, FP Building, Washington, DC 20210
Phone: 202 693-0102
TDD: 800 326-2577
Fax: 202 219-6195

RIN: 1215–AB19

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Long-Term Actions

2129. ENFORCEMENT OF CONTRACTUAL OBLIGATIONS FOR TEMPORARY ALIEN AGRICULTURAL WORKERS ADMITTED UNDER SECTION 216 OF THE IMMIGRATION AND NATIONALITY ACT

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-603

CFR Citation: 29 CFR 501

Legal Deadline:
Final, Statutory, June 1, 1987.

Abstract: The Immigration Reform and Control Act of 1986 contains certain labor standards requirements for foreign agricultural workers employed under the H-2A foreign agricultural worker program, as well as for U.S. workers hired by employers who utilize foreign agricultural workers. The standards relate to pay, working conditions, housing, transportation and recruitment. The Employment Standards Administration issued an interim final rule on June 1, 1987 (53 FR 20524), that incorporates the labor standards issued by the Employment and Training Administration (ETA) and sets forth procedures for enforcement of these labor standards.

Timetable:

Action	Date	FR Cite
NPRM	05/05/87	52 FR 16795
NPRM Comment Period End	05/19/87	
Interim Final Rule	06/01/87	52 FR 20524
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: John R. Fraser, Deputy Director, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 219-5122

RIN: 1215–AA43

2130. REPORTING BY LABOR RELATIONS CONSULTANTS AND OTHER PERSONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 433; 29 USC 438

CFR Citation: 29 CFR 406.3

Legal Deadline: None

Abstract: The Office of Labor-Management Standards (OLMS) is proposing to amend Receipts and Disbursements Report (Form LM-21) to narrow the scope of reporting. A Receipts and Disbursements Report is required in the circumstances specified in section 203(b) of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA). It is required to be filed by any labor relations consultant, or other individual or organization, who has made or received payment as a party to an agreement or arrangement with an employer, pursuant to which he has undertaken persuader or information-supplying activities on behalf of the employer. The proposed amendment would reflect reporting guidelines established in Donovan v. The Rose Law Firm, 768 F.2d 964 (8th Cir. 1985). This judicial decision narrowed the scope of reporting to eliminate reporting of receipts and disbursements in connection with labor relations advice and services rendered to employers for whom no persuader or information-supplying activities were undertaken.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kay H. Oshel, Chief, Division of Interpretations and Standards, OLMS, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N5605, FP Building, Washington, DC 20210
Phone: 202 219-7373
Fax: 202 219-6459

RIN: 1215–AB14

DOL—ESA

Long-Term Actions

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Completed Actions

2131. USE AND DISCLOSURE OF FEDERAL EMPLOYEES' COMPENSATION ACT CLAIMS FILE MATERIAL

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8149

CFR Citation: 20 CFR 1012

Legal Deadline: None

Abstract: Proposed rule will revise regulations relating to the release, use, and disclosure of documents relating to claims filed under the Federal Employees' Compensation Act. Rule will reserve to OWCP sole authority for ruling on requests for correction of records.

Timetable:

Action	Date	FR Cite
NPRM	07/28/97	62 FR 40418
NPRM Comment Period End	09/26/97	
Final Action	10/22/98	63 FR 56752
Final Action Effective	11/23/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Shelby Hallmark, Deputy Director, OWCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3524, FP Building, Washington, DC 20210
Phone: 202 219-7503
Fax: 202 219-4321

RIN: 1215–AB18

2132. • TECHNICAL AMENDMENTS OF RULES RELATING TO LABOR-MANAGEMENT STANDARDS AND STANDARDS OF CONDUCT FOR FEDERAL SECTOR LABOR ORGANIZATIONS

Priority: Info./Admin./Other

Legal Authority: 29 USC 401 et seq; 29 USC 7120; 29 USC 7134; Secretary's Order 5-96

CFR Citation: 29 CFR 402 to 406; 29 CFR 457 to 458; 29 CFR 408 to 409; 29 CFR 417; 29 CFR 452 to 453

Legal Deadline: None

Abstract: The final rule makes two corrections to the final rule published in the Federal Register on June 19, 1998, 63 FR 33778. These two corrections, which were inadvertently omitted from the June 19th final rule, change the OMB control number in 29 CFR section 406.10 and 408.13 to "1215-0188."

Timetable:

Action	Date	FR Cite
Final Action	06/19/98	63 FR 33778
Final Action Effective	06/19/98	
Final Action - Amendment Correction	09/03/98	63 FR 46887
Final Action Effective	09/03/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kay H. Oshel, Chief, Division of Interpretations and Standards, OLMS, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N5605, FP Building, Washington, DC 20210
Phone: 202 219-7373
Fax: 202 219-6459

RIN: 1215–AB22

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)

Proposed Rule Stage

2133. DISASTER UNEMPLOYMENT ASSISTANCE PROGRAM, AMENDMENT TO REGULATIONS

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 5177; EO 12673

CFR Citation: 20 CFR 625

Legal Deadline: None

Abstract: Experience in several recent disasters has highlighted the complexity and time-consuming nature of the monetary benefit provisions of the current regulations and brought into question other provisions of the current regulations which are perceived to be unduly restrictive and/or result in perceived inequities in some disaster situations. These issues will be addressed in two stages. First, an ANPRM was published, with a 60-day comment period, on 12/08/94 at 59 FR 63670. This ANPRM outlined provisions in the Disaster Unemployment Assistance (DUA) program regulations (20 CFR part 625), other than the monetary benefit provisions, that have come into question and solicits public comment and suggestions relative to these provisions and on other provisions for review and potential revision in a future NPRM. Second, an interim final rule was published May 11, 1995, with a 60-day comment period. This rule simplified the monetary assistance provisions by removing cumbersome administrative provisions and inconsistencies in the computation of a weekly amount.

Timetable:

Action	Date	FR Cite
ANPRM	12/08/94	59 FR 63670

DOL—ETA

Proposed Rule Stage

Action	Date	FR Cite
ANPRM Comment Period End	02/06/95	
Interim Final Rule	05/11/95	60 FR 25560
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Robert Gillham, Team Leader, Federal Programs Team, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Washington, DC
Phone: 202 219-5616

RIN: 1205–AB02

2134. FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM; UNEMPLOYMENT INSURANCE PERFORMANCE SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 503(a)(1); 42 USC 503(a)(6); 42 USC 503(b); 42 USC 1302

CFR Citation: 20 CFR 602; 20 CFR 640; 20 CFR 650; 20 CFR 609.6(f); 20 CFR 614.6(f)

Legal Deadline: None

Abstract: This regulation will formally establish a comprehensive system for helping ensure continuous improvement in UI operational performance. It will enunciate as the system's building blocks principles for Federal and State cooperation, key nationwide performance measures, criteria distinguishing satisfactory from unsatisfactory performance, an annual planning process, and actions which the Department may take when a State fails to perform satisfactorily. This regulation will be as brief and general as possible; detail and measures, standards, criteria and plans will be contained in implementing handbooks.

Timetable:

Action	Date	FR Cite
ANPRM	01/16/97	62 FR 2543
ANPRM Comment Period End	03/17/97	
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Agency Contact: Sandra King, Chief, Division Of Performance Review, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room S4522, FP Building, Washington, DC 20210
Phone: 202 219-5223
Fax: 202 219-8506
Email: sking@doleta.gov

RIN: 1205–AB10

2135. AIRLINE DEREGULATION: EMPLOYEE BENEFIT PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 1552

CFR Citation: 20 CFR 618

Legal Deadline: None

Abstract: U.S. District Court for the District of Columbia held that section 43 of the Airline Deregulation Act was unconstitutional. On July 16, 1985, the U.S. Court of Appeals decided that employee protection provisions of section 43 were severable from the legislative veto provisions. The U.S. Supreme Court ruled on March 25, 1987, that the legislative veto provisions were unconstitutional but the employee protection provisions were constitutional; therefore, rulemaking on the monetary benefits aspect of the employee protection program can proceed. In 1991 DOT determined there were no job losses due to deregulation. In September 1993, the U.S. District Court for the District of Columbia ordered DOT to develop broader guidelines to apply to air carriers, which may result in a finding of job losses. DOL has reinstituted clearance on the proposed rule. No benefits are payable to eligible workers until DOT determines that an air carrier experienced a qualifying dislocation and Congress appropriates the money to award benefits. To date, neither of these actions has occurred.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Betty E. Castillo, Chief, Division of Program Development and Implementation, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room S4514, FP Building, Washington, DC 20210
Phone: 202 219-5616

RIN: 1205–AB17

2136. • LABOR CERTIFICATION PROCESS FOR THE TEMPORARY EMPLOYMENT OF ALIENS IN AGRICULTURE IN THE U.S.; ADMINISTRATIVE MEASURES TO IMPROVE PROGRAM PERFORMANCE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 8 USC 1101 (a); 8 USC 1184 (c) (1); 8 USC 1188

CFR Citation: 20 CFR 655 subpart B; 20 CFR 654 subpart E

Legal Deadline: None

Abstract: The Amendments would improve and streamline the operation of the temporary program for the temporary employment of nonimmigrant agricultural workers in the United States.

Timetable:

Action	Date	FR Cite
NPRM	10/02/98	63 FR 53243
NPRM Comment Period End	12/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Norris, Director, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4456, FP Building, Washington, DC 20210
Phone: 202 219-5263
Fax: 202 208-5844
Email: jnorris@doleta.gov

RIN: 1205–AB19

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)

Final Rule Stage

2137. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS—IMPLEMENTATION OF 1988 AMENDMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 19 USC 2320

CFR Citation: 20 CFR 617

Legal Deadline: None

Abstract: The final rule implementing the 1988 Amendments to the TAA program was published in the Federal Register on January 6, 1994. Although published as final, comments were requested on several material changes being made in the final rule which differ from the November 1988 proposed rule and on a number of other changes which were not included in the proposed rule. Comments have been received and another final rule will be published relating to these substantive changes.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Grant D. Beale, Acting Director, Office of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
Phone: 202 219-5555

RIN: 1205–AB05

2138. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS—TRANSITIONAL ADJUSTMENT ASSISTANCE NAFTA-TAA

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 103-182, title V

CFR Citation: 20 CFR 617

Legal Deadline: None

Abstract: Title V of the North American Free Trade Agreement Implementation Act (PL 103-182) amends chapter 2 of title II of the Trade Act of 1974 by adding a new Transitional Adjustment Assistance Program (NAFTA-TAA) for workers who lose their jobs because of increased imports from or a shift of production to Mexico and Canada. Most of the provisions of title V are in the form of amendments to chapter 2, title II, of the Trade Act. While some of the provisions are not in the form of amendments to the Trade Act, they nonetheless must be given effect in implementing the NAFTA-TAA program. A proposed rule to amend the regulations on the trade adjustment assistance program for workers was published in the Federal Register on January 17, 1995.

Timetable:

Action	Date	FR Cite
NPRM	01/17/95	60 FR 3472
NPRM Comment Period End	03/20/95	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Grant D. Beale, Acting Director, Office of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
Phone: 202 219-5555

RIN: 1205–AB07

2139. WELFARE-TO-WORK (WTW) GRANTS

Regulatory Plan: This entry is Seq. No. 58 in Part II of this issue of the Federal Register.

RIN: 1205–AB15

2140. • FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM; CONFIDENTIALITY AND DISCLOSURE OF STATE RECORDS

Priority: Other Significant

Legal Authority: 42 USC 1302 (a); 42 USC 503; Secretary's Orders 4-75 and 14-75; 42 USC 132.06-7

CFR Citation: 20 CFR 603

Legal Deadline: None

Abstract: The Employment and Training Administration of the Department of Labor is preparing to issue a final rule on confidentiality and disclosure of State records in the Federal-State Unemployment Compensation program. The final rule modifies and expands the regulations implementing the Income and Eligibility Verification System (IEVS) to include all of the requirements of statutory provisions relating to confidentiality and disclosure of State records compiled or maintained for purposes of the Federal-State Unemployment Compensation program.

Timetable:

Action	Date	FR Cite
Final Rule	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: Formerly RIN 1205-AA74; was taken off regulatory agenda in 1994 due to inactivity. An NPRM was published 3/23/92 at 57 FR 100064 with comment period ending 5/22/92.

Agency Contact: Anne Gallagher, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4512, FP Building, Washington, DC 20210
Phone: 202 219-5201
Fax: 202 219-8506

RIN: 1205–AB18

2141. • WORKFORCE INVESTMENT ACT OF 1998

Regulatory Plan: This entry is Seq. No. 59 in Part II of this issue of the Federal Register.

RIN: 1205–AB20

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)

Long-Term Actions

2142. SERVICES TO MIGRANT AND SEASONAL FARMWORKERS, JOB SERVICE COMPLAINT SYSTEM, MONITORING, AND ENFORCEMENT

Priority: Other Significant

Legal Authority: 29 USC 49k

CFR Citation: 20 CFR 653; 20 CFR 658; 20 CFR 651

Legal Deadline: None

Abstract: ETA is reviewing services to migrant and seasonal farmworkers under the Wagner-Peyser Act as a result of amendments to Wagner-Peyser under title VI of the Job Training Partnership Act.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Federal

Agency Contact: John R. Beverly, Director, U.S. Employment Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4470, FP Building, Washington, DC 20210
Phone: 202 219-5257

RIN: 1205–AA37

2143. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: INA 212(a)(5)(A)

CFR Citation: 20 CFR 656

Legal Deadline: None

Abstract: The Department of Labor (DOL) is currently re-engineering the labor certification process that is set forth in DOL regulations at 20 CFR 656. DOL's goals are to make fundamental changes and refinements that will (a) better serve customers, (b) streamline the process, (c) improve effectiveness, and (d) save resources. The re-engineering effort is a collaborative effort of Federal and State staff who are involved in the administration of alien certification programs. The re-engineering effort also involves consultation throughout the process with sponsors, stakeholders State partners, and outside interest groups to solicit ideas and suggestions for change.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: James Norris, Director, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4456, FP Building, Washington, DC 20210
Phone: 202 219-5263
Fax: 202 219-5844
Email: jnorris@doleta.gov

RIN: 1205–AA66

2144. ESTABLISHMENT OF FEES FOR IMMIGRATION PROGRAMS ADMINISTERED BY THE EMPLOYMENT AND TRAINING ADMINISTRATION

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The regulation would establish a new fee charged to employers for processing of alien labor certification and attestation applications by the Department of Labor (DOL) and State Employment Security Agencies. The user fee would be proposed in the FY 1998 Reconciliation Bill. The user fee would be a government receipt and would be applied to Federal and State expenditures for Federal and State program administration in the State Unemployment Insurance and Employment Service account and the Program Operations Account in DOL's Employment and Training Administration (ETA).

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Funding of ETA immigration programs has been reduced by 39 percent since FY 1995. The fee proceeds would be used to offset the costs of administering the alien labor certification program. However, in each of Fiscal Years 1999 and 2000 regular appropriations of $41 million would be required in addition to user fees to work off a large backlog of applications already in the pipeline and future growing backlogs created primarily by appropriations reduction in FY 1996 and 1997.

Agency Contact: James Norris, Director, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4456, FP Building, Washington, DC 20210
Phone: 202 219-5263
Fax: 202 219-5844
Email: jnorris@doleta.gov

RIN: 1205–AB14

2145. INDIAN AND NATIVE AMERICAN WELFARE-TO-WORK PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 612(a)(3)(c)(iii), The Social Security Act, as amended

CFR Citation: 20 CFR 646

Legal Deadline:
Final, Statutory, November 4, 1997, Citation mandates Secretary to prescribe regulations within 90 days of enactment to publish Interim Final rule by 10/31/98.

Abstract: These are program regulations needed to implement the Indian and Native American set-aside under the Welfare-to-Work program authorized by section 412(a)(3) of the Social Security Act, as amended.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/01/98	63 FR 15985
Interim Final Rule Effective	04/01/98	
Interim Final Rule Comment Period End	06/01/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Thomas Dowd, Chief, Division of Indian and Native American Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4641, FP Building, Washington, DC 20210
Phone: 202 219-8502

DOL—ETA

Long-Term Actions

Fax: 202 219-6338
Email: dowdt@doleta.gov

RIN: 1205–AB16

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)

Completed Actions

2146. JOB TRAINING PARTNERSHIP ACT: INDIAN AND NATIVE AMERICAN PROGRAMS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Title IV, sec 401 of the JTPA

CFR Citation: 20 CFR 632; 20 CFR 636

Legal Deadline: None

Abstract: The purpose of title IV, section 401 of the Job Training Partnership Act is to provide job training and employment activities to Indians and other Native Americans. Such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives for the communities and groups served by this section, including furtherance of the policy of Indian Self-Determination. This rule would implement changes made by the 1992 amendments to JTPA.

Timetable:

Action	Date	FR Cite
Withdrawn	08/26/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Tribal

Agency Contact: Thomas Dowd, Chief, Division of Indian and Native American Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4641, FP Building, Washington, DC 20210
Phone: 202 219-8502

RIN: 1205–AA96

2147. JOB TRAINING PARTNERSHIP ACT: MIGRANT AND SEASONAL FARMWORKER PROGRAMS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Title IV, sec 402 of the JTPA

CFR Citation: 20 CFR 633; 20 CFR 636

Legal Deadline: None

Abstract: It is the purpose of title IV, section 402, of the Job Training Partnership Act to provide job training, employment opportunities, and other services for those individuals who suffer chronic seasonal unemployment and underemployment in the agriculture industry. These conditions have been substantially aggravated by continual advancements in technology and mechanization, resulting in displacement, and contribute significantly to the Nation's rural employment problem. This problem is Federal in scope. No alternative solutions are under consideration at this time. Benefits include fuller rural employment. Over $69 million is appropriated annually by Congress for this program. This rule would implement changes made by the 1992 amendments to JTPA.

Timetable:

Action	Date	FR Cite
Withdrawn	08/26/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas Dowd, Chief, Division of Indian and Native American Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4641, FP Building, Washington, DC 20210
Phone: 202 219-8502
Fax: 202 219-6338
Email: dowdt@doleta.gov

RIN: 1205–AA99

2148. AMENDMENTS TO THE LABOR CERTIFICATION PROCESS FOR TEMPORARY AGRICULTURAL EMPLOYMENT IN THE UNITED STATES (H-2A)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 8 USC 1101(a)(H)(ii)(a); 8 USC 1184(c)

CFR Citation: 20 CFR 655 subpart B

Legal Deadline: None

Abstract: Based on six years of experience with the current regulations the Department has concluded that they should be amended to clarify a number of regulatory provisions to simplify the administration of the program, and to provide additional protection to U.S. workers.

Timetable:

Action	Date	FR Cite
Withdrawn	08/31/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: James Norris, Director, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4456, FP Building, Washington, DC 20210
Phone: 202 219-5263

RIN: 1205–AB09

DEPARTMENT OF LABOR (DOL)
Pension and Welfare Benefits Administration (PWBA)

Proposed Rule Stage

2149. DEFINITION OF COLLECTIVE BARGAINING AGREEMENT (ERISA SECTION 3(40))

Priority: Other Significant

Legal Authority: 29 USC 1002(40)

CFR Citation: 29 CFR 2510.3-40

Legal Deadline: None

Abstract: The regulation will establish standards for determining whether an employee benefit plan is established or maintained pursuant to one or more collective bargaining agreements for purposes of its exclusion from the Multiple Employer Welfare Arrangement (MEWA) definition in section 3(40) of ERISA, and thus exempted from state regulation. The regulation will clarify the scope of the exception from the MEWA definition for plans maintained under or pursuant to one or more collective bargaining agreements by providing criteria which will serve to distinguish health benefit arrangements which are maintained by legitimate unions pursuant to bona fide collective bargaining agreements from health insurance arrangements promoted and marketed under the guise of ERISA-covered plans exempt from State insurance regulation. The regulation will also serve to limit the extent to which health plans maintained pursuant to bona fide collective bargaining agreements may extend plan coverage to individuals not covered by such agreements. The Department has determined to develop a revised proposal utilizing the negotiated rulemaking process.

Timetable:

Action	Date	FR Cite
NPRM	08/01/95	60 FR 39208
NPRM Comment Period Extended to 11/16/95	09/29/95	60 FR 50508
NPRM Comment Period End	10/02/95	60 FR 39208
NPRM Second	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Elizabeth Goodman, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA48

2150. REVISION OF THE FORM 5500 SERIES AND IMPLEMENTING AND RELATED REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)

Regulatory Plan: This entry is Seq. No. 60 in Part II of this issue of the Federal Register.

RIN: 1210–AA52

2151. REPORTING REQUIREMENTS FOR MEWAS PROVIDING MEDICAL CARE BENEFITS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135; 29 USC 1021(g)(h) (PL 104-191; 110 Stat 1952); 29 USC 1194

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: These proposed rules will govern certain reporting requirements under title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA) for multiple employer welfare arrangements (MEWAs) that provide benefits consisting of medical care. In part, the rules will implement recent changes made to ERISA by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The proposed rules will also set forth elements that MEWAs would be required to file with the Department of Labor for the purpose of determining compliance with the portability nondiscrimination, renewability and other requirements of part 7 of subtitle B of title I of ERISA including the requirements of the Mental Health Parity Act of 1996 and the Newborns' and Mothers' Protection Act of 1996. The proposed rules would also provide guidance with respect to section 502(c)(5) of ERISA which authorizes the Secretary of Labor to assess a civil penalty of up to $1,000 a day for failure to comply with the new reporting requirements.

The Health Insurance Portability and Accountability Act of 1996 (HIPAA), PL 104-191, was enacted on August 21, 1996. HIPAA amended the Employee Retirement Income Security Act of 1974, as amended (ERISA) to provide for, among other things, improved portability and continuity of health insurance coverage. The Newborns' and Mothers' Health Protection Act of 1996 (NMHPA), PL 104-204, and the Mental Health Parity Act of 1996 (MHPA) also PL 45-204, were enacted on September 26, 1996, to provide protection for mothers and their newborn children with regard to the length of hospital stays following birth and parity in the application of limits for certain mental health benefits with limits on medical and surgical benefits, respectively. All of the above provisions are set forth in a new part 7 of subtitle B of title I of ERISA.

Section 101(g)(h) of ERISA, as amended by HIPAA, provides that the Secretary of Labor may prescribe reporting requirements for multiple employer welfare arrangements (MEWAs) that provide benefits consisting of medical care but are not group health plans within the meaning of title I of ERISA. The reporting requirements of section 101(g)(h) of ERISA, as well as the related civil penalty provisions of section 502(c)(5) of ERISA are intended to help determine the extent to which the requirements of part 7 of subtitle B of title I of ERISA are being carried out in connection with the provision of medical care by such MEWAs.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: The Department has statutory authority to publish this rule as an interim final rule, with a request for comments. A determination has yet to be made with regard to whether the rule should be promulgated on an interim basis.

Agency Contact: Amy Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA64

2152. ELIMINATION OF FILING REQUIREMENTS FOR SUMMARY PLAN DESCRIPTIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

DOL—PWBA

Proposed Rule Stage

Legal Authority: 29 USC 1024; 29 USC 1135; PL 105-34, section 1503

CFR Citation: 29 CFR 2520.104a-2; 29 CFR 2520.104a-3; 29 CFR 2520.104a-4; 29 CFR 2520.104a-7

Legal Deadline: None

Abstract: This rulemaking will remove from the CFR certain regulations that have been superseded by amendments to title I of ERISA effected by the Taxpayer Relief Act of 1997 (PL 105-34) that eliminate the requirement for plan administrators to file summary plan descriptions (SPDs), summaries material modifications (SMMs), and updated SPDs with the Department of Labor. Under the amendments, plan administrators must continue to furnish participants and beneficiaries with copies of these documents. A separate rulemaking (RIN: 1210-AA67 and 1210-AA68) will implement the Taxpayer Relief Act amendments that require plan administrators to furnish copies of SPDs and any other documents relating to the plan to the Department on request, and authorize the Secretary of Labor to assess a civil penalty for failure to do so.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jeffrey J. Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA66

2153. REQUIREMENT TO FURNISH PLAN DOCUMENTS UPON REQUEST BY THE SECRETARY OF LABOR

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1024; 29 USC 1135; PL 105-34, section 1503

CFR Citation: 29 CFR 2520.104a-8

Legal Deadline: None

Abstract: This rulemaking will implement an amendment to title I of ERISA made by section 1503 of the Taxpayer Relief Act of 1997 (PL 105-34) which requires plan administrators to furnish copies of any documents relating to the plan to the Department on request.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jeffrey J. Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA67

2154. CIVIL PENALTY FOR FAILURE TO FURNISH CERTAIN PLAN DOCUMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-34, section 1503; 29 USC 1135; 29 USC 1132

CFR Citation: 29 CFR 2560; 29 CFR 2570

Legal Deadline: None

Abstract: This rulemaking will implement the enforcement aspects of amendments to title I of ERISA made by section 1503 of the Taxpayer Relief Act of 1997 (Public Law 105-34) which, while eliminating the requirement that plan administrators file summary plan descriptions (SPDs), summaries of material modifications (SMMs) and updated SPDs with the Department of Labor, also provided that administrators must furnish copies of any documents relating to the plan, including but not limited to SPDs, to the Department on request. In particular, this rulemaking will implement the amendments that authorize the Secretary of Labor to assess a civil penalty of up to $100 a day, up to a maximum of $1,000 per request, against a plan administrator who fails to furnish the requested documents on a timely basis.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jeffrey J. Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA68

2155. AMENDMENTS TO SUMMARY PLAN DESCRIPTION REGULATIONS

Regulatory Plan: This entry is Seq. No. 61 in Part II of this issue of the Federal Register.

RIN: 1210–AA69

2156. • ELECTRONIC DISCLOSURE OF EMPLOYEE BENEFIT PLAN INFORMATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 1024; 29 USC 1135; Taxpayer Relief Act (PL 105-34); Secretary of Labor's Order No. 1-87, April 21,1987

CFR Citation: 29 CFR 2520.104b

Legal Deadline: NPRM, Statutory, December 31, 1998.

Abstract: This rulemaking will improve the ability of sponsors and administrators of all employee benefit plans covered by title I of ERISA to make certain disclosures of plan information to participants and beneficiaries through electronic means. The rule will provide guidance with respect to the conditions under which electronic disclosures will be deemed to satisfy the disclosure requirements under title I of ERISA. The rule also will establish recordkeeping standards for maintaining or storing data in electronic form.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Rm N5669, FP Building, Washington, DC 20210

DOL—PWBA

Proposed Rule Stage

Phone: 202 219-8521

RIN: 1210–AA71

2157. • AMENDMENT OF SMALL PLAN EXEMPTION FROM AUDIT REQUIREMENT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135; 29 USC 1024; 29 USC 1191c; Secretary of Labor's Order No. 1-87, April 21,1987

CFR Citation: 29 CFR 2520.104-41; 29 CFR 2520.104.46

Legal Deadline: None

Abstract: This initiative would amend the conditions under which small pension plans (i.e., those with fewer than 100 participants) will be exempt from the requirements of section 103(a)(3)(A) to engage an independent qualified public accountant and to include the report of such accountant as part of the plan's annual report. Specifically, the amendment would condition the availability of the exemption on plan assets being held by an approved institution, the approved institution providing a certification of the assets held, and the availability of such certifications to plan participants and beneficiaries. This initiative is being undertaken to improve security and accountability with respect to assets of small employee pension benefit plans.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: John Keene, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Ave. NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8521

RIN: 1210–AA73

DEPARTMENT OF LABOR (DOL)

Pension and Welfare Benefits Administration (PWBA)

Final Rule Stage

2158. REGULATIONS IMPLEMENTING THE HEALTH CARE ACCESS, PORTABILITY AND RENEWABILITY PROVISIONS OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Regulatory Plan: This entry is Seq. No. 62 in Part II of this issue of the **Federal Register**.

RIN: 1210–AA54

2159. AMENDMENT OF SUMMARY PLAN DESCRIPTION AND RELATED ERISA REGULATIONS TO IMPLEMENT STATUTORY CHANGES IN THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Regulatory Plan: This entry is Seq. No. 63 in Part II of this issue of the **Federal Register**.

RIN: 1210–AA55

2160. ENFORCEMENT POLICY ON AICPA SOP 92-6

Priority: Other Significant

Legal Authority: 29 USC 1021; 29 USC 1023; 29 USC 1024; 29 USC 1026; 29 USC 1027; 29 USC 1029; 29 USC 1030; 29 USC 1135

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Department has received requests not to reject multiemployer welfare plan annual reports (Form 5500) or assess civil penalties solely because the opinion of an independent qualified public accountant, that is required to be included with the Form 5500, either is adverse or qualified due to a failure to comply with the American Institute of Certified Public Accountants (AICPA) Statement of Position 92-6 (SOP 92-6). Under SOP 92-6, the AICPA has modified generally accepted accounting principles to require health and other welfare plans to calculate and disclose, as part of their financial statements, the present value of their future post-retirement benefit obligations. The Department is considering comments received from the public on the burdens, costs, and benefits of accounting for post-retirement welfare benefit obligations in accordance with SOP 92-6 prior to adopting a formal position on this matter for 1999 and future plan years.

Timetable:

Action	Date	FR Cite
Request for Comments	03/13/97	62 FR 11424
NPRM Comment Period End	05/12/97	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Eric A. Raps, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8515

RIN: 1210–AA57

2161. LIMITATION OF LIABILITY FOR INSURERS AND OTHERS UNDER PART 4 OF TITLE I OF ERISA AND SECTION 4975 OF THE INTERNAL REVENUE CODE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 104-188, Sec 1460; 29 USC 1101(c)(1); 29 USC 1135; 29 USC 1021

CFR Citation: 29 CFR 2550.401(c-1); 29 CFR 2510.3-101

Legal Deadline:
NPRM, Statutory, June 30, 1997.
Other, Statutory, September 30, 1997. Specifies 6/30/99 as latest date for the regulation to take effect. Regulation not effective until 18 months after final.
Final, Statutory, December 31, 1997.

Abstract: Section 1460 of the Small Business Job Protection Act of 1991 (Public Law 104-188) amended ERISA section 401 to limit the liability of insurers and others under part 4 of title I of ERISA and section 4975 of the Internal Revenue Code with regard to certain policies or contracts issued to or for the benefit of employee benefit plans which are supported by assets in the insurers' general accounts. Subsection 401(c) specifies the timetable by which the Secretary must

DOL—PWBA

Final Rule Stage

issue regulatory guidance concerning this provision.

Timetable:

Action	Date	FR Cite
Request for Information	11/25/96	61 FR 59845
NPRM	12/22/97	62 FR 66908
NPRM Comment Period End	03/23/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ivan L. Strasfeld, Director of Exemption Determinations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5649, FP Building, Washington, DC 20210
Phone: 202 219-8194
Fax: 202 219-7291

RIN: 1210–AA58

2162. AMENDMENTS TO EMPLOYEE BENEFIT PLAN CLAIMS PROCEDURES REGULATION

Regulatory Plan: This entry is Seq. No. 64 in Part II of this issue of the **Federal Register**.

RIN: 1210–AA61

2163. HEALTH CARE STANDARDS FOR MOTHERS AND NEWBORNS

Regulatory Plan: This entry is Seq. No. 65 in Part II of this issue of the **Federal Register**.

RIN: 1210–AA63

2164. • INTERPRETIVE BULLETIN ON PAYROLL DEDUCTION PROGRAMS FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT ACCOUNTS

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 29 USC 1002 (2); 29 USC 1135

CFR Citation: 29 CFR 2509

Legal Deadline: None

Abstract: This interpretive bulletin will compile for ease of reference the views of the Department of Labor (the Department) concerning the circumstances under which the use of a payroll deduction program for forwarding employee monies to an individual retirement account annuity will not constitute an employee pension benefit plan subject to title I of the Employee Retirement Security Act of 1974 (ERISA). This guidance is intended to assist employers in their efforts to provide retirement savings opportunities to employees by clarifying the circumstances under which the use of payroll deduction programs will not implicate provisions of parts 1 (Reporting and Disclosure), 4 (Fiduciary Responsibility) and 5 (Administration and Enforcement) of title I of ERISA.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Susan G. Lahne, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-0521

RIN: 1210–AA70

2165. • NATIONAL MEDICAL SUPPORT NOTICE

Regulatory Plan: This entry is Seq. No. 66 in Part II of this issue of the **Federal Register**.

RIN: 1210–AA72

DEPARTMENT OF LABOR (DOL)

Pension and Welfare Benefits Administration (PWBA)

Long-Term Actions

2166. ADEQUATE CONSIDERATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1002(18); 29 USC 1135

CFR Citation: 29 CFR 2510

Legal Deadline: None

Abstract: This regulation would provide guidance as to what constitutes "adequate consideration" under section 3(18) of ERISA for assets other than securities for which there is a generally recognized market.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17632
NPRM Comment Period End	07/18/88	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Paul Mannina, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N4611, FP Building, Washington, DC 20210
Phone: 202 219-4592

RIN: 1210–AA15

2167. CIVIL PENALTIES UNDER ERISA SECTION 502(L)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1132

CFR Citation: 29 CFR 2570.80 (Procedural); 29 CFR 2560.502(l)-1 (Substantive)

Legal Deadline: None

Abstract: Section 502(l) of ERISA requires the Secretary of Labor to assess a civil penalty against a fiduciary who breaches a fiduciary duty under, or commits a violation of, part 4 of title I of ERISA, or any other person who knowingly participates in such breach or violation. The Department has published an interim rule setting forth the procedures for the assessment of

penalties under ERISA section 502(l) and for petitioning the Secretary to exercise his or her discretion to waive or reduce the mandated assessment, as well as a proposed rule that defines the following pivotal terms contained in section 502(l): "applicable recovery amount," "breach of fiduciary responsibility or violation," "settlement agreement," and "court order." The Department intends to finalize these two regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/20/90	55 FR 25284
Interim Final Rule	06/20/90	55 FR 25284
NPRM Comment Period End	08/20/90	55 FR 25284

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Vicki Shteir-Dunn, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N4611, FP Building, Washington, DC 20210
Phone: 202 219-8610

RIN: 1210–AA37

2168. REPORTING AND DISCLOSURE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1135; 29 USC 1029; 29 USC 1143; 29 USC 1021; 29 USC 1022; 29 USC 1024; 29 USC 1025; 29 USC 1059

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: PWBA has undertaken a comprehensive review of the current reporting and disclosure framework to identify changes that will serve to assure the disclosure of useful and timely information while eliminating any unnecessary administrative burdens and costs on plans and plan sponsors attendant to compliance with these requirements. On the basis of recommendations and information from the public concerning the need for regulatory and legislative changes in the disclosure area. PWBA concluded that only marginal changes to the disclosure requirements can be accomplished through the regulatory process and, therefore, reform efforts should focus on regulatory changes relating to the streamlining of the Form 5500 Series, and related annual reporting regulations, in addition to possible legislative changes to both the reporting and disclosure provisions.

Timetable:

Action	Date	FR Cite
ANPRM	12/27/93	58 FR 68339
ANPRM Comment Period End	02/25/94	
Complete Review	06/30/95	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8521

RIN: 1210–AA44

2169. RULEMAKING RELATING TO NOTICE REQUIREMENTS FOR CONTINUATION OF HEALTH CARE COVERAGE

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1135; 29 USC 1136

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: This rulemaking will provide guidance concerning the notification requirements pertaining to continuation coverage under the Employee Retirement Income Security Act of 1974 (ERISA). Section 606 of ERISA requires that group health plans provide employees notification of the continuation coverage provisions of the plan and imposes notification obligations upon plan administrators, employers, employees, and qualified beneficiaries relating to certain qualifying events.

Timetable:

Action	Date	FR Cite
ANPRM	09/23/97	62 FR 49894
ANPRM Comment Period End	11/24/97	
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Susan G. Lahne, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8521

RIN: 1210–AA60

2170. INTERIM RULES RELATING TO MENTAL HEALTH BENEFITS PARITY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135; 29 USC 1182 (PL 104-204; 110 Stat 2944); 29 USC 1194

CFR Citation: 29 CFR 2590

Legal Deadline: None

Abstract: The Mental Health Parity Act of 1996 (MHPA) was enacted on September 26, 1996 (P.L. 104-204). MHPA amended the Public Health Service Act (PHSA) and the Employee Retirement Income Security Act of 1974, as amended, (ERISA) to provide for parity in the application of limits on certain mental health benefits with limits on medical and surgical benefits. MHPA provisions are set forth in title XXVII of the PHSA and part 7 of subtitle B of title I of ERISA. The interim rules will provide guidance with regard to the provisions of the MHPA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/22/97	62 FR 66932
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: LEGAL AUTHORITIES CONT: Secs. 107, 209, 505, 701-703, 711, 712 731-734 of ERISA (29 U.S.C. 1027, 1059, 1135, 1171-1173, 1181 1182, 1191-1194), as amended by HIPAA (Pub. L. 104-191, 101 Stat. 1936) and NMHPA (Pub. L. 104-204) and Secretary of Labor's Order No. 1-87, 52 FR 13139, April 21, 1987.

Agency Contact: Mark Connor, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA62

2171. INDIVIDUAL BENEFITS REPORTING REQUIREMENTS FOR DEFINED CONTRIBUTION PLANS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1025; 29 USC 1059; 29 USC 1135

CFR Citation: 29 CFR 2520.105-1

Legal Deadline: None

Abstract: ERISA sections 105 and 209 require the furnishing of statements of accrued and vested pension benefits upon request of a participant or beneficiary, upon a participant's termination of service with an employer, and upon a participant's incurring a one-year break in service. This regulation will provide guidance with respect to the furnishing of individual benefit reports to participants and beneficiaries in defined contribution pension plans.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Debra M. Golding, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA65

DEPARTMENT OF LABOR (DOL)

Mine Safety and Health Administration (MSHA)

Prerule Stage

2172. TRAINING AND RETRAINING OF MINERS

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 30 USC 811; 30 USC 825

CFR Citation: 30 CFR 48

Legal Deadline: None

Abstract: The Mine Act and 30 CFR part 48 require all mine operators to have approved training plans. Those plans set forth requirements for training miners. MSHA reviewed these training requirements as part of its Regulatory Flexibility review to determine if changes are appropriate. Based on comments and MSHA's experience, the Agency will develop an NPRM to reflect more flexible requirements.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/97	
End Review	10/00/98	
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AB02

2173. OCCUPATIONAL EXPOSURE TO COAL MINE DUST (LOWERING EXPOSURE LIMIT)

Regulatory Plan: This entry is Seq. No. 67 in Part II of this issue of the Federal Register.

RIN: 1219–AB08

DEPARTMENT OF LABOR (DOL)

Mine Safety and Health Administration (MSHA)

Proposed Rule Stage

2174. AIR QUALITY, CHEMICAL SUBSTANCES, AND RESPIRATORY PROTECTION STANDARDS

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 58; 30 CFR 70; 30 CFR 71; 30 CFR 72; 30 CFR 75; 30 CFR 90

Legal Deadline: None

Abstract: MSHA's current air quality standards for exposure to hazardous airborne contaminants were promulgated over 25 years ago. They do not fully protect today's miners, who are potentially exposed to an array of toxic chemicals, including lead, cyanide, arsenic benzene, asbestos, and other well-documented hazards. Some miners have developed occupational illness (e.g., lead poisoning, acute cyanide poisoning, and silicosis) as a result of their exposure. MSHA has concluded that a gradual phase-in of provisions in the air quality rulemaking will be less burdensome for the industry and provide more immediate protection for the miners exposed to the most serious hazards. MSHA will be issuing the final rule in phases. Phase 2 addresses respiratory protection. Phase 3 will address selected PELs. MSHA is also considering subsequent phases to update PELs applicable to hazards encountered in metal and nonmetal and

coal mines, revise requirements for exposure monitoring, improve precautions for handling restricted use chemicals, provide for observation of monitoring, and establish provisions for medical surveillance and transfer of miners required to use respirators and miners exposed to certain carcinogens.

Timetable:

Action	Date	FR Cite
ANPRM	07/06/83	48 FR 31171
ANPRM	11/19/85	50 FR 47702
NPRM	08/29/89	54 FR 35760
NPRM Comment Period End	08/30/91	56 FR 29201
NPRM Phase 3 - PELs - Reproposal	06/00/99	
Final Action Phase 2 - Respiratory Protection	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AA48

2175. DIESEL PARTICULATE (UNDERGROUND COAL)

Regulatory Plan: This entry is Seq. No. 68 in Part II of this issue of the Federal Register.

RIN: 1219–AA74

2176. BELT ENTRY USE AS INTAKE AIRCOURSES TO VENTILATE WORKING SECTIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: Since 1970, MSHA regulations have generally prohibited belt haulage entries from being used to ventilate active working places. The intention of this prohibition is to prevent smoke from a belt conveyor fire from being coursed to miners in their workplace. Improved technology, including sophisticated atmospheric monitoring systems, has since made it possible to safely use "belt air" to ventilate active working places. This rulemaking would permit the use of belt air, provided that certain safety requirements are met. In many cases, the use of belt air may result in more efficient and effective ventilation systems, enhancing the health and safety of miners. Additionally because this regulation will eliminate the need for mine operators to seek regulatory variances from MSHA, costs and burdens on both industry and MSHA will be reduced.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: A public hearing was held in April 1990.

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AA76

2177. METAL/NONMETAL IMPOUNDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: Water, sediment, and slurry impoundments for metal and nonmetal mining and milling operations are located throughout the country and some are within flood range of homes and well-traveled roads. Failure of an impoundment could endanger lives and cause property damage. This rulemaking addresses, among other issues, proper design and construction of impoundments. MSHA may explore negotiated rulemaking to address this action.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
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RIN: 1219–AA83

2178. SURFACE HAULAGE

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 77

Legal Deadline: None

Abstract: Accidents involving surface haulage equipment are a leading safety problem in the mining industry. A review of fatal mining accidents during the past 3 years shows that 30% of the deaths involved surface haulage equipment. This equipment includes large 240-ton haulage vehicles, over-the-road trucks, front-end loaders, and other equipment. Causes of surface haulage accidents include brake failures, unsafe grades, overloaded vehicles, and "blind spots." The Agency issued an Advance Notice of Proposed Rulemaking (ANPRM) in July 1998 to share its ideas and to seek suggestions to reduce these surface haulage accidents. MSHA will consider all comments received on the ANPRM in developing the proposed rule.

Timetable:

Action	Date	FR Cite
ANPRM	07/30/98	63 FR 40800
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AA93

2179. SAFETY STANDARDS FOR THE USE OF ROOF-BOLTING MACHINES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57; 30 CFR 75

Legal Deadline: None

Abstract: Recent fatalities in underground coal mines involving roof-bolting machines indicate the need to both modify the design of such machines and take additional precautions in their use. MSHA has evaluated roof-bolting machines currently in use focusing on potential hazards to the machine operators during the drilling and roof-bolt installation procedures. MSHA believes that machine design features may contribute to or cause accidents and that changes in machine design and operating procedures would make operating the equipment safer for the machine operator. The Agency issued an Advance Notice of Proposed Rulemaking (ANPRM) to obtain additional information and data on mine operators' experiences with these machines. MSHA will consider all comments received on the ANPRM in developing the proposed rule.

Timetable:

Action	Date	FR Cite
ANPRM	12/09/97	62 FR 64789
ANPRM Comment Period End	02/09/98	
Extension of Comment Period to 3/9/98	02/12/98	63 FR 7089
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AA94

2180. SAFETY STANDARD REVISIONS FOR UNDERGROUND ANTHRACITE MINES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: There are two major types of coal mines -- bituminous and anthracite. The mining methods used and hazards encountered in underground anthracite mines are different from those in underground bituminous coal mines. Mining methods in anthracite mines include minimal use of mechanized equipment, slow rate of advance into the coal seam, and pitching and unduiating seams. Because of these differences, some mine operators find it difficult to comply with existing safety standards at their anthracite mines. These anthracite mine operators must request a variance from existing standards to change the requirements. The variance process costs time and money. Because anthracite mines are usually small operations, this burden can be significant. MSHA has received over 300 variance requests from anthracite mine operators since January 1993. MSHA intends to issue a proposed rule to modify several existing safety standards to address more appropriately the specific conditions of the anthracite mining industry.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219–AA96

2181. ELECTRICAL STANDARDS FOR METAL AND NONMETAL MINES

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: Electric power is widely used in the mining and processing of minerals. Large, highly productive mining equipment, such as continuous miners, loaders, shuttle cars, draglines, shovels and drills, are electrically powered. In addition, electricity is used for the transportation of material on conveyors, for electric railroads, and for processing plants. MSHA's accident records related to inadequate equipment grounding support the need for improved safety standards. The number of electrical accidents could be reduced by proper equipment grounding. The proposed rule would revise MSHA's existing safety standards addressing hazards associated with the grounding of circuits equipment, and metal enclosures at surface and underground metal and nonmetal mines. The proposed standard would specify requirements for grounding conductors to ensure that safe methods of grounding are used.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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DOL—MSHA

Proposed Rule Stage

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RIN: 1219–AB01

2182. SELF-CONTAINED SELF-RESCUE DEVICES IN UNDERGROUND METAL AND NONMETAL MINES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57

Legal Deadline: None

Abstract: The proposed rule would revise existing standards and add new standards to require certain operators of underground metal and nonmetal mines to make self-contained self-rescue devices (SCSRs) available to miners. SCSRs are emergency breathing units that generate oxygen. Existing MSHA standards require that SCSRs be available for emergencies at all underground coal mines. MSHA expects that this proposed rule would affect fewer than 20 metal and nonmetal mines where methane has been detected.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AB06

2183. X-RAY SURVEILLANCE PROGRAM FOR SURFACE COAL MINERS

Regulatory Plan: This entry is Seq. No. 69 in Part II of this issue of the **Federal Register**.

RIN: 1219–AB09

2184. DIESEL PARTICULATE (UNDERGROUND METAL AND NONMETAL MINES)

Regulatory Plan: This entry is Seq. No. 70 in Part II of this issue of the **Federal Register**.

RIN: 1219–AB11

2185. VERIFICATION OF DUST CONTROL PLAN

Regulatory Plan: This entry is Seq. No. 71 in Part II of this issue of the **Federal Register**.

RIN: 1219–AB14

2186. • TRAINING AND RETRAINING OF MINERS: SUPERVISOR TRAINING

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 825

CFR Citation: 30 CFR 48

Legal Deadline: None

Abstract: In 1991, MSHA published a proposed rule to revise portions of the existing part 48 regulations. In response to that proposal, MSHA received numerous comments from both industry and labor representatives. Some commenters recommended that supervisors who are exposed to mine hazards should receive training under part 48 beyond that required for other miners. While these comments raised concerns that extended beyond the scope of that proposed rule, MSHA has evaluated the merits of these concerns and determined that they warrant Agency consideration. For this reason, MSHA is addressing them in this proposal. MSHA is proposing to increase the number of hours of annual refresher training for supervisors from 8 hours to 12 hours. The training needs of supervisors are broader in scope and require a greater depth of understanding than that needed by other miners. MSHA expects that better trained, more knowledgeable supervisors will contribute to their own safety and that of the miners under their supervision.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AB16

DEPARTMENT OF LABOR (DOL)

Mine Safety and Health Administration (MSHA)

Final Rule Stage

2187. HAZARD COMMUNICATION

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Today's complex mining environment subjects miners to well-known hazards, such as coal mine dust and crystalline silica; to emerging hazards, including hazardous wastes burned as fuel supplements at cement kilns; and to changing hazards from the many chemicals brought onto mine property. This rule would provide miners with the means to receive necessary information on the hazards of chemicals to which they are exposed and the actions necessary to protect them from such hazards. In developing this rule, MSHA has reviewed OSHA's hazard communication standard, information collected by NIOSH, and public comments. For its final rule, MSHA intends to publish a user-friendly regulation which will facilitate compliance by mine operators, while providing increased health and safety protection to miners.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/88	53 FR 10257
ANPRM Comment Period End	07/31/88	
NPRM	11/02/90	55 FR 46400

DOL—MSHA

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	01/31/92	56 FR 48720
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219–AA47

2188. NOISE STANDARD

Regulatory Plan: This entry is Seq. No. 72 in Part II of this issue of the **Federal Register**.

RIN: 1219–AA53

2189. LONGWALL EQUIPMENT (INCLUDING HIGH-VOLTAGE)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: Since 1970, MSHA regulations have required that high-voltage cables and transformers be kept at least 150 feet from the coal extraction area. The objective of this requirement is to prohibit the use of high-voltage cables and equipment that could serve as an ignition source for methane and coal dust in close proximity to the work area.

The modern development of highly productive longwall mining systems has resulted in their widespread use in the mining industry. Mine operators, however, currently must apply to MSHA for a variance from the existing standards in order to use this high-voltage equipment. The increased use of high-voltage longwalls in underground coal mines in recent years has led to the design of safe high-voltage electrical equipment and associated cables. These improvements have occurred specifically in the area of design and construction of explosion-proof equipment; insulation, short circuit, ground fault, and mechanical protection of cables; and equipment for safe handling of cables. For these reasons, in August 1992, MSHA published a proposed rule to establish safety requirements for the design construction, installation, use, and maintenance of high-voltage longwall equipment and associated cables. The final rule will eliminate the need for a variance to use this equipment.

Timetable:

Action	Date	FR Cite
NPRM	08/27/92	57 FR 39036
NPRM Comment Period End	11/13/92	57 FR 46350
Reopen Record	10/18/95	60 FR 53891
Extension of Comment Period	11/14/95	60 FR 57203
Comment Period End	12/18/95	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: MSHA reopened the record on October 18, 1995. The comment period finally closed on December 18, 1995.

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RIN: 1219–AA75

2190. INDEPENDENT LABORATORY TESTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 6; 30 CFR 18; 30 CFR 19; 30 CFR 20; 30 CFR 22; 30 CFR 23; 30 CFR 26; 30 CFR 27; 30 CFR 28; 30 CFR 29; 30 CFR 33; 30 CFR 35

Legal Deadline: None

Abstract: To ensure that only safe products are used in mines, MSHA sets approval requirements and tests products itself. This rulemaking would allow MSHA to accept testing of certified mine equipment performed by independent laboratories which will improve the health and safety of miners. It also would allow MSHA to approve products which satisfied alternative testing and evaluation requirements, provided that the alternative requirements were equivalent to MSHA's own, or could be enhanced to be equivalent. By reducing its testing activities, MSHA could direct more resources toward verifying that products in use have been manufactured in compliance with the relevant approval. This rulemaking is consistent with a recommendation of the National Performance Review.

Timetable:

Action	Date	FR Cite
NPRM	11/30/94	59 FR 61376
NPRM Comment Period End	02/21/95	
Public Hearing Notice	10/10/95	60 FR 52640
Public Hearing	04/30/96	61 FR 15743
Comment Period End	05/31/96	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 1219–AA87

2191. REQUIREMENTS FOR APPROVAL OF FLAME-RESISTANT CONVEYOR BELTS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 957; 30 USC 811

DOL—MSHA

Final Rule Stage

CFR Citation: 30 CFR 14; 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: The final rule would implement new procedures and requirements for testing and approval of flame-resistant conveyor belts to be used in underground mines. These revisions would replace the existing flame test for conveyor belts. Current regulations require that conveyor belts be flame-resistant in accordance with specifications of the Secretary. As part of this rulemaking, the Agency also would promulgate conforming amendments to relevant safety standards.

Timetable:

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61524
NPRM Comment Period End	03/26/93	58 FR 8028
Public Hearing	05/02/95	60 FR 16589
Record Closed	06/05/95	60 FR 16558
Extension of Comment Period	02/05/96	60 FR 65509
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219–AA92

2192. IMPROVING AND ELIMINATING REGULATIONS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 1 to 199

Legal Deadline: None

Abstract: In response to the President's directive, MSHA conducted a review of its existing regulations to identify provisions that are outdated, redundant, unnecessary, or otherwise in need of changing. Many of the changes require notice and comment rulemaking while other non-substantive changes can be implemented upon publication. So far, the Agency has identified nine regulations that could be removed entirely without any adverse impact on miner safety and health. In general, these regulations are obsolete or redundant. MSHA has identified provisions in over 80 other regulations that need overhauling or the cleanup of non-substantive language. MSHA will also be considering new regulations that reflect "best practices" which are used widely in the mining industry to protect miners' safety and health. MSHA views this project to be an evolving, ongoing process and will continue to accept recommendations from the public.

Timetable:

Action	Date	FR Cite
NPRM - Phase 1 Removal of 30 CFR 21 and 24	08/30/96	61 FR 45925
Final Rule - Phase 1 Removal of 30 CFR 21 and 24	09/03/98	63 FR 47118
Final Rule Effective - Phase 1 Removal of 30 CFR 21 and 24	11/02/98	
Final Rule - Phase 2 Removal of 30 CFR 26 and 29	05/00/99	
Final Rule - Phase 3 Update of Reference IR 1240	05/00/99	
Final Rule - Phase 4 Subparts	05/00/99	
NPRM - Phase 5 Miscellaneous Technology Improvements	07/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: As part of its regulatory improvement project, MSHA published final technical amendments updating addresses in 30 CFR chapter 1 on July 11, 1995 (60 FR 35692).

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RIN: 1219–AA98

2193. SAFETY STANDARDS FOR UNDERGROUND COAL MINE VENTILATION

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.360(a)(1)

Legal Deadline: None

Abstract: MSHA is proposing to amend section 75.360(a)(1) by requiring preshift examinations to be conducted within 3 hours preceding the beginning of any 8-hour interval during which any person is scheduled to work or travel underground. MSHA's 1996 final rule revising its standards for ventilation of underground coal mines was challenged in the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit). The D.C. Circuit reviewed the validity of the rule and issued an order invalidating, on procedural grounds only, section 75.360(a)(1).

In response to the order, the Agency published a notice in the Federal Register reinstating the portion of the previous regulation requiring a preshift examination to be conducted prior to the beginning of any shift. This proposed rule is identical to the standard promulgated in the 1996 final rule which was invalidated by the D.C. Circuit.

The general practice in the mining industry at the time the Mine Act was enacted was for coal miners to work in shifts of 8 hours. Thus, the effect of the preshift examination requirement was that examiners conducted preshift examinations every 8 hours. However, over a period of time, overlapping work shifts and work shifts exceeding 8 hours have become common. MSHA continues to believe that it is necessary to address the issues surrounding the preshift examination interval. The proposal would clarify and standardize the application of the preshift examination requirements to assure that these examinations are concluded within appropriate time frames.

MSHA has determined that this proposed rule does not meet the criteria

DOL—MSHA

Final Rule Stage

of a significant regulatory action. The proposal would cost under $1 million and will only affect approximately 230 underground coal mines.

Timetable:

Action	Date	FR Cite
NPRM	07/14/98	63 FR 38066
Comment Period End	09/14/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: MSHA published a notice reinstating the portion of the previous regulation requiring a preshift examination be conducted prior to the beginning of any shift. June 30, 1997 (62 FR 35085).

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RIN: 1219–AB10

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Long-Term Actions

2194. CONFINED SPACES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 70; 30 CFR 71; 30 CFR 75; 30 CFR 77

Legal Deadline: None

Abstract: In mining operations, the majority of the fatalities associated with confined spaces occur in storage bins, hoppers, tanks, and stockpiles. The primary hazards to miners occur from being trapped by shifting piles of loose materials, falling into materials, and being struck by overhanging materials. Due to the many chemicals used and stored in mining, the toxic and physical hazards encountered in mining are identical to those confined space hazards that exist in general industry. MSHA intends to explore both regulatory and non-regulatory options to address the hazards associated with working in confined spaces at mines.

Timetable:

Action	Date	FR Cite
ANPRM	12/30/91	56 FR 67364
ANPRM Comment Period End	05/01/92	57 FR 8102
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219–AA54

2195. CARBON MONOXIDE MONITOR APPROVAL

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 12

Legal Deadline: None

Abstract: The use of carbon monoxide monitoring systems in underground coal mines can be effective in monitoring mine atmospheres to detect fires in the early stages of development. This rulemaking would address minimum performance criteria for these systems. MSHA may explore the use of negotiated rulemaking to address this regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AA72

2196. SAFETY STANDARDS FOR METHANE IN METAL AND NONMETAL MINES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57

Legal Deadline: None

Abstract: Current MSHA regulations place metal and nonmetal mines with a history of, or a potential for, methane liberation (gassy mines) into several categories. Safety standards for methane detection and prevention apply to a mine depending on its category. Recent legal decisions have narrowed the application of existing gassy mine standards, leading MSHA to conclude that the standards may need to be revised to protect adequately all miners who work in gassy mines. This action would revise the existing safety standards for methane in metal and nonmetal mines to address dangerous levels of methane in outburst cavities in abandoned idled, and worked-out areas of category II-A mines. It would further address the use of approved equipment in category III mines. The Agency is exploring the use of negotiated rulemaking to address this issue.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1219–AA90

2197. RESPIRABLE CRYSTALLINE SILICA STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 70.101 et seq; 30 CFR 90.101 et seq; 30 CFR 71.101 et seq; 30 CFR 72.101 et seq

Legal Deadline: None

Abstract: Existing respirable dust standards limit respirable dust when quartz (crystalline silica) is present. MSHA is considering a new standard specifying a separate exposure limit for silica (not tied to the respirable dust standard). This is in response to recommendations of the Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers who felt that separate standards for coal mine dust and for silica "should aid in targeting mining situations where silica exposure constitutes a significant hazard."

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219–AB12

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Completed Actions

2198. COAL MINE DUST

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 812

CFR Citation: 30 CFR 70; 30 CFR 71; 30 CFR 72; 30 CFR 90

Legal Deadline: None

Abstract: The Federal Coal Mine Health and Safety Act of 1969 established the first comprehensive respirable dust standards for coal mines. These standards were designed to reduce the incidence of coal workers' pneumoconiosis ("black lung") and silicosis and eventually eliminate these diseases. While significant progress has been made toward improving the health conditions in our Nation's coal mines, miners continue to be at risk of developing occupational lung disease, according to the National Institute for Occupational Safety and Health. In February 1996, the Secretary convened a Federal Advisory Committee on the Elimination of Pneumoconiosis Among Coal Miners (Advisory Committee) to assess the adequacy of MSHA's current program and standards to control respirable dust in underground and surface coal mines, as well as other ways to eliminate black lung and silicosis among coal miners. The Committee submitted its report to the Secretary in November 1996, with the majority of the recommendations unanimously supported by the Committee members.

MSHA has completed a preliminary review of the Advisory Committee's recommendations. There are 20 principal recommendations set out in the Advisory Committee report, which are further subdivided into a total of approximately 100 distinct action items. The recommendations are both extensive and significant, and warrant thorough consideration by the Agency. MSHA, therefore, is proceeding with an in-depth evaluation of the recommendations and will respond to them in an orderly fashion.

MSHA has issued issued five Procedure Instruction Letters implementing some of the recommendations of the Advisory Committee. The Agency will notify the mining community as it determines how to implement other Advisory Committee

Timetable:

Action	Date	FR Cite
Availability of Recommendations	11/26/96	61 FR 60120
Agency Response to Advisory Committee Recommendations	01/24/97	62 FR 3717
Policy Document - Phase 1 Press Release - Effective 6/15/97	05/05/97	
Policy Document - Phase 2	12/31/97	62 FR 68372
Withdrawn - Split Into Three Regs - 1219-AB08, 1219-AB09, 1219-AB14	08/17/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: X-ray surveillance is a separate regulation (1219-AB09).

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RIN: 1219–AA81

2199. SAFETY STANDARDS FOR ROOF BOLTS IN METAL AND NONMETAL MINES AND UNDERGROUND COAL MINES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811; 30 USC 957; 30 USC 961

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 75

Legal Deadline: None

Abstract: MSHA has revised its safety standards for metal and nonmetal mines and underground coal mines to reference the 1995 ASTM standard for roof bolts and accessories (ASTM F432-95). The new standard reflects technological advances in the design of roof and rock bolts and support materials and will improve the level of protection provided to miners. The safety standards for ground control and roof control at mines currently require that mine operators obtain a certification from the manufacturer that rock bolts and accessories are manufactured and tested in accordance with an American Society for Testing and Material (ASTM) publication "Standard Specification for Roof and Rock Bolts and Accessories." MSHA regulations reference the 1983 revision (ASTM F432-83) for metal and nonmetal mines and the 1988 revision (ASTM 432-88) for coal mines. The ASTM standard is a consensus standard used throughout the United States. It contains specifications for the chemical, mechanical, and dimensional requirements for roof and rock bolts and accessories used for ground support systems.

Timetable:

Action	Date	FR Cite
NPRM	04/28/97	62 FR 22998
NPRM Comment Period End	07/14/97	62 FR 35113
Final Action	04/22/98	63 FR 20026
Correction Notice for Final Rule	06/22/98	63 FR 28485
Final Action Effective	06/22/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910
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RIN: 1219–AB00

2200. CRITERIA AND PROCEDURES FOR PROPOSED ASSESSMENT OF CIVIL PENALTIES

Priority: Info./Admin./Other

Legal Authority: 30 USC 957; PL 104-134 Debt Collection Improvement Act of 1996

CFR Citation: 30 CFR 100

Legal Deadline:
Final, Statutory, October 26, 1996.

Abstract: This final rule revises MSHA's statutory penalties found in sections 110(a), 110(b), 110(c), and 110(g) of the Mine Act and the specific penalty amounts established in 30 CFR part 100 as mandated by the Debt Collection Improvement Act of 1996 (DCIA). The DCIA requires that civil penalties be increased by up to 10 percent within 6 months of its enactment. It also requires subsequent increases at least once every 4 years using a formula based on the Consumer Price Index.

Timetable:

Action	Date	FR Cite
NPRM	09/08/97	62 FR 47330
NPRM Comment Period End	11/07/97	
Final Action	04/22/98	63 FR 20032
Correction Notice for Final Rule	05/14/98	63 FR 26719
Final Action Effective	06/22/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AB03

2201. OBSERVATION OF OPERATOR NOISE MONITORING

Priority: Other Significant

Legal Authority: 30 USC 813

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 62; 30 CFR 70; 30 CFR 71

Legal Deadline: None

Abstract: Section 62.120(f) of MSHA's comprehensive proposed rule on occupational noise exposure would require operators to establish a system of monitoring which effectively evaluates each miner's noise exposure. Consistent with the Federal Mine Safety and Health Act of 1977 (Mine Act), and in response to comments, MSHA published a supplemental noise proposal to include a new provision providing affected miners and their representatives with an opportunity to observe this monitoring.

Section 103(c) of the Mine Act requires, among other things that when the Secretary issues regulations requiring operator monitoring, "such regulations shall provide the miners or their representatives with an opportunity to observe such monitoring or measuring, and to have access to the records thereof." The supplemental noise proposal would implement section 103(c) of the Mine Act.

Timetable:

Action	Date	FR Cite
NPRM	12/31/97	62 FR 68468
NPRM Comment Period End	02/07/98	
Public Hearing	03/10/98	62 FR 68497
Combined With RIN 1219-AA53	08/17/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking has been combined with Noise, RIN 1219-AA53.

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AB05

2202. EXPERIENCED MINER AND SUPERVISOR TRAINING

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 825

CFR Citation: 30 CFR 48.2(b); 30 CFR 48.22(b); 30 CFR 48.6; 30 CFR 48.26; 30 CFR 48.5(a); 30 CFR 48.25(d); 30 CFR 48.8(c); 30 CFR 48.28(c)

Legal Deadline: None

Abstract: MSHA proposed to amend the definition of "experienced miner" to mean a miner who has had one year of mining experience and, for new miners hired after October 13, 1978, has completed new miner training. MSHA proposed to strengthen the training requirements for experienced miners by adding course requirements. Also, MSHA proposed to delete the supervisory personnel exemption from the training requirements. The comments received by MSHA on its September 1991 proposed rule addressed such issues as the appropriate training for different types

DOL—MSHA

Completed Actions

of mining, the need for training of contractors, training for construction workers, and other suggested training changes. MSHA reviewed these comments to determine the appropriateness of any further changes to the Agency's training regulations. Public hearings on the proposed rule were held in July 1992. The final rule will address the proposed changes.

Timetable:

Action	Date	FR Cite
NPRM	09/21/91	56 FR 48376
NPRM Comment Period End	08/24/92	57 FR 29853
Final Action	10/06/98	63 FR 53750
Final Action Effective	10/06/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AB13

2203. • SAFETY STANDARDS FOR REPORTING DAILY INSPECTIONS OF SURFACE COAL MINES

Priority: Info./Admin./Other

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 77.1713

Legal Deadline: None

Abstract: MSHA is making a nonsubstantive technical amendment to 30 CFR 77.1713. Currently the rule provides that all recorded examination reports of daily inspections for hazardous conditions at surface coal mines include the action taken to abate hazardous conditions and be signed or countersigned each day by at least one of the following persons: (1) the surface mine foreman; (2) the assistant superintendent of the mine; (3) the superintendent of the mine; or (4) the person designated by the operator as responsible for health and safety at the mine.

The persons specified are responsible for health and safety in the mine, to suspend operations and allocate resources to correct health and safety problems as they develop. However, the terms "mine foreman," "superintendent," and "assistant superintendent" may no longer describe the person with the authority to correct problems within certain mine management structures in the coal industry. This technical amendment updates the standard to allow a mine official with authority and responsibility equivalent to the mine officials specified in the existing standard to sign or countersign the daily inspection reports. MSHA has determined that the cost of this rule is the same as the existing rule. The benefit is that it reflects changes in terminology in the industry.

Timetable:

Action	Date	FR Cite
Final Action	10/30/98	63 FR 58611
Final Action Effective	12/29/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AB15

DEPARTMENT OF LABOR (DOL)

Office of the Assistant Secretary for Administration and Management (OASAM)

Proposed Rule Stage

2204. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM THE DEPARTMENT OF LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6101 et seq Age Discrimination Act of 1975

CFR Citation: 45 CFR 90

Legal Deadline:
NPRM, Statutory, September 10, 1979, Requires publication of the NPRM within 90 days of publication and submission to HHS of final rule within 120 days of NPRM.

Abstract: The proposed regulatory action is necessary to comply with the Department's statutory and regulatory obligations under the Age Discrimination Act of 1975, as amended (the Act). The Act and the general, Governmentwide implementing rule issued by the Department of Health and Human Services (HHS) (45 CFR 90) require each Federal agency providing financial assistance to any program or activity to publish proposed regulations implementing the Act no later than 90 days after the publication date of the Governmentwide rule, and to submit final agency regulations to HHS no later than 120 days after publication of the NPRM. As a practical matter, while DOL has not issued proposed or final regulations under the Age Discrimination Act, it has complied with its enforcement obligations. Furthermore, discrimination on the basis of age is prohibited under section 167 of the Job Training Partnership Act of 1982 and the implementing regulations at 29 CFR 34.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Annabelle T. Lockhart, Director, Civil Rights Center, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room N4123, FP Building, Washington, DC 20210
Phone: 202 219-8927

RIN: 1291–AA21

DOL—OASAM

Proposed Rule Stage

2205. • NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 794 Rehabilitation Act of 1973, as amended

CFR Citation: 29 CFR 32

Legal Deadline: None

Abstract: Section 504 of the Rehabilitation Act of 1973, as amended prohibits discrimination on the basis of disability in federally financed programs and activities. The Department last published a final rule implementing section 504 on October 7, 1980. Since that time, section 504 has been amended several times, generally to update terminology and provide new definitions. The Department is undertaking this rulemaking to update 29 CFR part 32 to incorporate those changes.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Annabelle T. Lockhart, Director, Civil Rights Center, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room N4123, FP Building, Washington, DC 20210
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RIN: 1291–AA28

2206. • IMPLEMENTATION OF THE NONDISCRIMINATION AND EQUAL OPPORTUNITY REQUIREMENTS OF THE WORKFORCE INVESTMENT ACT OF 1998

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-220, sec 188 Workforce Investment Act

CFR Citation: 29 CFR 37

Legal Deadline:
Final, Statutory, August 7, 1999.

Abstract: The Workforce Investment Act of 1988 (WIA) was signed into law by President Clinton on August 7, 1998. Section 188 prohibits discrimination on the grounds of race, color, national origin, sex, age, disability, religion, political affiliation or belief, participant status, and against certain noncitizens. Section 188(e) requires that the Secretary of Labor issue regulations necessary to implement section 188 not later than one year after the date of the enactment of the WIA. Such regulations will include standards for determining compliance and procedures for enforcement that are consistent with the Acts referred to in section 188(a)(1), as well as procedures to ensure that complaints filed under section 188 and such acts processed in a manner that avoids duplication of effort.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Annabelle T. Lockhart, Director, Civil Rights Center, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room N4123, FP Building, Washington, DC 20210
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RIN: 1291–AA29

DEPARTMENT OF LABOR (DOL)

Office of the Assistant Secretary for Administration and Management (OASAM)

Final Rule Stage

2207. AUDITS OF STATES, LOCAL GOVERNMENTS, AND NONPROFIT ORGANIZATIONS

Priority: Info./Admin./Other

Legal Authority: PL 104-156 110 Stat.136; OMB Circular A-110; OMB Circular A-133

CFR Citation: 29 CFR 99

Legal Deadline: None

Abstract: The Department of Labor hereby adds title 29 CFR 99 "Audits of States, Local Governments, and Non-Profit Organizations" as a new regulation which codifies the revised Office of Management and Budget (OMB) Circular A-133 in its entirety. The Single Audit Act Amendments of 1996 (Public Law 104-156, 110 Stat. 136) and the June 24, 1997, revision of OMB Circular A-133, "Audits of States Local Governments, and Non-Profit Organizations," required agencies to adopt in codified regulations the standards in the revised OMB Circular A-133 by August 29, 1997, so that they will apply to audits of fiscal years beginning after June 30, 1996. The revised OMB Circular A-133 co-located audit requirements for States, local governments, and non-profit organizations. As a consequence, the OMB rescinded OMB Circular A-128, "Audits of States and Local Governments." On August 29, 1997, the Department of Labor amended its grants common rules at 29 CFR 95 and 29 CFR 97 in accordance with OMB guidance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Al Stewart, Director, Office of the Acquisition Advocate, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room N5425, FP Building, Washington, DC 20210
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RIN: 1291–AA26

DOL—OASAM

Final Rule Stage

2208. AUDIT REQUIREMENTS FOR GRANTS, CONTRACTS, AND OTHER AGREEMENTS

Priority: Info./Admin./Other

Legal Authority: 31 USC 7500 et seq; OMB Circular A-183

CFR Citation: 29 CFR 96

Legal Deadline: None

Abstract: The Department of Labor hereby revises title 29 of the Code of Federal Regulations (CFR) part 96 "Audit Requirements for Grants Contracts, and Other Agreements" to consolidate various provisions and ensure consistency, continuity, and ameliorate conflicts with subtitle A of 29 CFR parts 95 and 97.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 1291–AA27

DEPARTMENT OF LABOR (DOL)

Long-Term Actions

Office of the Assistant Secretary for Administration and Management (OASAM)

2209. DEPARTMENT OF LABOR ACQUISITION REGULATION

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 2900 to 2999

Legal Deadline: None

Abstract: Revisions to the DOLAR reflect changes in the Federal Acquisition Regulations and organizational changes within DOL.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Additional Information: Revision of the Department of Labor Acquisition Regulation is awaiting the final publication of revisions to the Federal Acquisition Regulations as a result of changes being implemented pursuant to passage of the Federal Acquisition Streamlining Act of 1994 enacted October 13, 1994 and the Federal Acquisition Reform Act of 1995.

Agency Contact: Al Stewart, Director, Office of the Acquisition Advocate, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room N5425, FP Building, Washington, DC 20210
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RIN: 1291–AA20

DEPARTMENT OF LABOR (DOL)

Completed Actions

Office of the Assistant Secretary for Administration and Management (OASAM)

2210. ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; OMB Circular A-110; OMB Circular A-102

CFR Citation: 29 CFR 95 (Revision); 29 CFR 97 (Revision)

Legal Deadline: Other, Statutory, August 29, 1997, Interim Final Rule.

Abstract: Interim Final Rule to amend DOL's Administrative Requirements for Grants To Reflect Single Audit Act Amendments of 1996 and the June 24, 1996 revision of OMB Circular A-133, "Audits of States Local Governments and Non-Profit Organizations." The amendment will provide uniform fiscal and administrative requirements applicable to all types of grants and cooperative agreements to State and local governments, institutions of higher education hospitals, and other nonprofit organizations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Interim Final Rule Effective	09/29/97	
Interim Final Rule Comment Period End	10/28/97	
No Further Action Required	10/28/97	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Al Stewart, Director, Office of the Acquisition Advocate, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room N5425, FP Building, Washington, DC 20210
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RIN: 1291–AA25

DEPARTMENT OF LABOR (DOL)

Prerule Stage

Occupational Safety and Health Administration (OSHA)

2211. STANDARDS ADVISORY COMMITTEE ON METALWORKING FLUIDS

Regulatory Plan: This entry is Seq. No. 73 in Part II of this issue of the Federal Register.

RIN: 1218–AB58

2212. CONTROL OF HAZARDOUS ENERGY SOURCES (LOCKOUT/TAGOUT)(SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 29 USC 655(b); 5 USC 553; 5 USC 610

CFR Citation: 29 CFR 1910.147

Legal Deadline: None

Abstract: As required by section 610 of the Regulatory Flexibility Act and section 5 of Executive Order 12866, OSHA has reviewed the Agency's standard for the protection of employees from exposure to lockout/tagout hazards, 29 CFR 1910.147, to determine whether the rule should be continued without change or should be amended or rescinded, consistent with the objectives of the rule and of the Occupational Safety and Health Act, to minimize any significant impact on a substantial number of small entities. After a thorough review of the Agency's experience in enforcing this standard, the available literature, and comments received in connection with this review, OSHA has determined that there is a continued need for the rule, that the rule does not appear to overlap, duplicate, or conflict with other Federal rules or with other State and local rules, and that no technological, economic or other factors have arisen since the rule was published that would necessitate amendment or rescission of the rule at this time. OSHA has also concluded that no change that is consistent with the objectives of the OSH Act can be made to the rule that will further minimize any significant impact on a substantial number of small entities. OSHA will be responding to comments received during this review of the standard by preparing materials to assist employers in complying with the rule.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/96	
Complete Review	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Deputy Director, Directorate of Policy, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3641, FP Building, Washington, DC 20210
Phone: 202 219-4690
Fax: 202 219-4383

RIN: 1218–AB59

2213. OCCUPATIONAL EXPOSURE TO ETHYLENE OXIDE (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 29 USC 655(b); 5 USC 553; 5 USC 610

CFR Citation: 29 CFR 1910.1047

Legal Deadline: None

Abstract: OSHA has undertaken a review of the ethylene oxide (ETO) standard in accordance with the requirements of the Regulatory Flexibility Act and section 5 of EO 12866. The review has considered the continued need for the rule, the impacts of the rule, comments on the rule received from the public, the complexity of the rule, whether the rule overlaps, duplicates or conflicts with other Federal, State or local regulations, and the degree to which technology, economic conditions or other factors may have changed since the rule was last evaluated. The Agency's findings with respect to this review will be published in a report available to the public in 1998.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/96	
Complete Review	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Deputy Director, Directorate of Policy, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3641, FP Building, Washington, DC 20210
Phone: 202 219-4690
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RIN: 1218–AB60

2214. FALL PROTECTION IN THE CONSTRUCTION INDUSTRY

Priority: Info./Admin./Other

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: OSHA is considering whether to propose amendments to its existing standards for fall protection in construction. OSHA is also considering raising a number of issues about the fall protection rules as they now apply to roofing work, residential construction operations, climbing reinforcement steel and vendors delivering materials (for example, roofing materials). These issues have arisen since OSHA revised the fall protection standard in August 1994.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Russel B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room S1506, FP Building, Washington, DC 20210
Phone: 202 219-8644
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RIN: 1218–AB62

2215. PROCESS SAFETY MANAGEMENT OF HIGHLY HAZARDOUS CHEMICALS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.119

Legal Deadline: None

Abstract: OSHA is considering two regulatory actions concerning the Process Safety Management of Highly

DOL—OSHA — Prerule Stage

Hazardous Chemicals (PSM) standard. One action is to publish an Advance Notice of Proposed Rulemaking to address the issue of covering additional reactive chemicals that are not currently covered by PSM. Another action is a proposal to add chemicals that were not included in the OSHA standard but were included in the Environmental Protection Agency's (EPA) Risk Management Program (RMP) rule (one part of the RMP rule addresses compliance with the OSHA Process Safety Management rule). OSHA has been asked by representatives of the regulated community to bring its chemical list into closer alignment with the RMP rule.

Timetable:

Action	Date	FR Cite
ANPRM Reactives	04/00/99	
NPRM Process Safety Management	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218–AB63

2216. SAFETY STANDARDS FOR SCAFFOLDS USED IN THE CONSTRUCTION INDUSTRY—PART II

Priority: Info./Admin./Other

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.450; 29 CFR 1926.451; 29 CFR 1926.452; 29 CFR 1926.453; 29 CFR 1926.454

Legal Deadline: None

Abstract: Since the promulgation of a final rule for scaffolds used in construction in August 1996, OSHA has learned of several issues that have arisen under the new standard. The agency is considering whether to propose changes to the scaffolds standard to address these issues. These issues include: (1) providing access to platforms where decking extends past the ends of the scaffold; (2) changing the minimum width for roof brackets to less than 12 inches; (3) changing the requirements for grounding of the scaffold during welding operations; (4) requiring the use of scaffold grade planks. This Advance Notice of Proposed rulemaking will raise these issues for informational purposes.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Russel B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room S1506, FP Building, Washington, DC 20210
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RIN: 1218–AB68

2217. OCCUPATIONAL EXPOSURE TO CRYSTALLINE SILICA

Regulatory Plan: This entry is Seq. No. 74 in Part II of this issue of the Federal Register.

RIN: 1218–AB70

2218. GRAIN HANDLING FACILITIES (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 29 USC 655(b); 5 USC 553; 5 USC 610

CFR Citation: 29 CFR 1910.272

Legal Deadline: None

Abstract: OSHA is undertaking a review of its grain handling standard (29 CFR 1910.272) in accordance with the requirements of section 610 of the Regulatory Flexibility Act and section 5 of EO 12866. The review will cover the continued need for the rule; the nature of complaints or comments received from the public concerning the rule; the complexity of the rule; the extent to which the rule overlaps, duplicates or conflicts with other Federal rules and to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in the industries affected by the rule.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/97	
Complete Review	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Deputy Director, Directorate of Policy, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3641, FP Building, Washington, DC 20210
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RIN: 1218–AB73

2219. COTTON DUST (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 29 USC 655 (b); 5 USC 553; 5 USC 610

CFR Citation: 29 CFR 1910.1043

Legal Deadline: None

Abstract: OSHA is undertaking a review of its cotton dust standard (29 CFR 1910.1043) in accordance with the requirements of section 610 of the Regulatory Flexibility Act and section 5 of EO 12866. The review will cover the continued need for the rule; the nature of complaints or comments received from the public concerning the rule; the complexity of the rule; the extent to which the rule overlaps, duplicates or conflicts with other Federal rules and to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in the industries affected by the rule.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/97	
Complete Review	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Deputy Director, Directorate of Policy, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3641, FP Building, Washington, DC 20210
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RIN: 1218–AB74

DOL—OSHA — Prerule Stage

DEPARTMENT OF LABOR (DOL)
Occupational Safety and Health Administration (OSHA)

Proposed Rule Stage

2220. STEEL ERECTION (PART 1926) (SAFETY PROTECTION FOR IRONWORKERS)

Regulatory Plan: This entry is Seq. No. 75 in Part II of this issue of the Federal Register.

RIN: 1218–AA65

2221. ACCESS AND EGRESS IN SHIPYARDS (PART 1915, SUBPART E) (PHASE I) (SHIPYARDS: EMERGENCY EXITS AND AISLES)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.72; 29 CFR 1915.74; 29 CFR 1915.75; 29 CFR 1915.76

Legal Deadline: None

Abstract: In the 1980s, OSHA embarked on a project to update and consolidate OSHA standards that applied to the shipbuilding, shiprepair, and shipbreaking industry. Shipyard employers have been subject to both the "shipyard" standards and OSHA's general industry standards. This has resulted in inconsistent and contradictory requirements for essentially the same operations.

Phase 1 of this project aimed at establishing a vertical standard for shipyard employment and addressed six subparts (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these subparts were issued in November 1988 (53 FR 48092). The remaining subparts were categorized as Phase II of the consolidation project (including general working conditions and fire protection). This action was endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards.

This particular standard will revise the existing shipyard employment standards covering access and egress and will consolidate all related and applicable 29 CFR part 1910 provisions into 29 CFR part 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions. 75,000 workers are potentially exposed to these hazards annually.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48130
NPRM Comment Period End	02/27/89	
Reopen Record	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218–AA70

2222. PREVENTION OF WORK-RELATED MUSCULOSKELETAL DISORDERS

Regulatory Plan: This entry is Seq. No. 76 in Part II of this issue of the Federal Register.

RIN: 1218–AB36

2223. SAFETY AND HEALTH PROGRAMS (FOR GENERAL INDUSTRY AND THE MARITIME INDUSTRIES)

Regulatory Plan: This entry is Seq. No. 77 in Part II of this issue of the Federal Register.

RIN: 1218–AB41

2224. OCCUPATIONAL EXPOSURE TO HEXAVALENT CHROMIUM (PREVENTING OCCUPATIONAL ILLNESS: CHROMIUM)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: In July 1993, the Occupational Safety and Health Administration (OSHA) was petitioned for an emergency temporary standard (ETS) to reduce the permissible exposure limit (PEL) for occupational exposures to hexavalent chromium. The Oil, Chemical, and Atomic Workers International Union (OCAW) and Public Citizen's Health Research Group (HRG) petitioned OSHA to promulgate an ETS to lower the PEL for chromium (CrVI) compounds to 0.5 micrograms per cubic meter of air (ug/m3) as an eight-hour, time-weighted average (TWA). This represents a significant reduction in the current PEL. The current PEL in general industry is found in 29 CFR 1910.1000 Table Z and is a ceiling value of 100 ug/m3 for "Chromic acid and chromates (as CrO3)." These are measured as chromium (VI) and reported as chromic anhydride (CrO3). The amount of chromium in the compound equates to a PEL of 52 ug/m3 of chromium (VI) measured and reported as chromium (VI). This ceiling limit applies to all forms of hexavalent chromium (VI) including chromic acid and chromates, lead chromate, and zinc chromate. The

current PEL for chromium (VI) in the construction industry is 100 ug/m3 as a TWA PEL, which also equates to a PEL of 52 ug/m3.

The major illnesses associated with occupational exposures to hexavalent chromium are lung cancer and dermatoses. OSHA estimates that approximately one million workers are exposed to hexavalent chromium on a regular basis in all industries. The major uses of hexavalent chromium are: as a structural and anti-corrosive element in the production of stainless steel, ferrochromium, iron and steel, and in electroplating, welding and painting. After reviewing the petition, OSHA denied the request for an ETS and initiated a section 6(b) rulemaking. Work on a proposed rule continues.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3718, FP Building, Washington, DC 20210
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RIN: 1218–AB45

2225. OCCUPATIONAL EXPOSURE TO TUBERCULOSIS

Regulatory Plan: This entry is Seq. No. 78 in Part II of this issue of the Federal Register.

RIN: 1218–AB46

2226. CONFINED SPACES IN CONSTRUCTION (PART 1926): PREVENTING SUFFOCATION/EXPLOSIONS IN CONFINED SPACES

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.36

Legal Deadline: None

Abstract: In January 1993, OSHA issued a general industry rule to protect employees who enter confined spaces (58 FR 4462). This standard does not apply to the construction industry because of differences in the nature of the worksite. In discussions with the United Steel Workers of America on a settlement agreement for the general industry standard, OSHA agreed to issue a proposed rule to extend the protection to construction workers, appropriate to their work environment. One million construction workers are exposed to the hazards of confined space entry each year. OSHA intends to issue a proposed rule addressing this construction industry hazard in the summer of 1999, after extensive discussion with the Advisory Committee on Construction Safety and Health and other stakeholders.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Russel B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room S1506, FP Building, Washington, DC 20210
Phone: 202 219-8644
Fax: 202 219-6599

RIN: 1218–AB47

2227. FIRE PROTECTION IN SHIPYARD EMPLOYMENT (PART 1915, SUBPART P) (PHASE II) (SHIPYARDS: FIRE SAFETY)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915, supbart P

Legal Deadline: None

Abstract: During the 1980s, OSHA embarked on a project to update and consolidate the various OSHA shipyard standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. A shipyard employer is subject to both the "shipyard" standards and OSHA's general industry standards. Phase 1 of this project aimed at establishing a vertical standard for shipyard employment and addressed six shipyard employment safety standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these hazards were issued in November 1988 (53 FR 48092). The remaining hazards were categorized as Phase II of the consolidation project (including general working conditions and fire protection in shipyard employment). This action was endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards.

The operations that are addressed in this particular rulemaking relate to fire brigades, fire extinguishers, sprinkler systems, detection systems, alarm systems, fire watches, and emergency plans. One hundred thousand workers are potentially exposed to these hazards annually. This proposed standard is being developed using the negotiated rulemaking process.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Martinok, Acting Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061
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RIN: 1218–AB51

2228. PERMISSIBLE EXPOSURE LIMITS (PELS) FOR AIR CONTAMINANTS

Regulatory Plan: This entry is Seq. No. 79 in Part II of this issue of the Federal Register.

RIN: 1218–AB54

2229. PLAIN LANGUAGE REVISION OF EXISTING STANDARDS (PHASE I)

Regulatory Plan: This entry is Seq. No. 80 in Part II of this issue of the Federal Register.

RIN: 1218–AB55

2230. NATIONALLY RECOGNIZED TESTING LABORATORIES PROGRAMS: FEES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 9701; 29 USC 653; 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.7

Legal Deadline: None

Abstract: A number of OSHA standards require that certain products and equipment used in the workplace be tested and certified by a laboratory that has been recognized and accredited by OSHA. Through the Nationally Recognized Testing Laboratory Program, OSHA has, to date, recognized 15 laboratories operating 37 sites in the U.S., Canada, and the Far East as NRTLs. OSHA is proposing to revise 29 CFR 1910.7 to allow OSHA to charge fees to NRTLs for services that are provided to the NRTLs. The fees will be computed on the basis of the cost of the services to the Government. In determining the amount of such fees, OSHA will follow the guidelines established by the Office of Management and Budget in Circular Number A-25.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Witt, Director, Directorate of Technical Support, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3653, FP Building, Washington, DC 20210
Phone: 202 219-7056

RIN: 1218–AB57

2231. FLAMMABLE AND COMBUSTIBLE LIQUIDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 5 USC 553

CFR Citation: 29 CFR 1910.106

Legal Deadline: None

Abstract: This project responds to a Presidential initiative of March 1995 to revise confusing or overly detailed standards by rewriting them in plain language and to the President's Executive Memo of June 1998. With this project, OSHA is initiating rulemaking that will revise the regulations contained in 29 CFR 1910.106 addressing flammable and combustible liquid storage. The purpose of this rulemaking will be to revise this standard into plain language.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The Flammable and Combustible Liquids Plain Language Revision Project 29 CFR 1910.106 was originally one of four projects listed under RIN 1218-AB55.

Agency Contact: John Martinok, Acting Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
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RIN: 1218–AB61

2232. REVOCATION OF CERTIFICATION RECORDS FOR TESTS, INSPECTIONS, AND TRAINING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 29 USC 655(b); 40 USC 333; 33 USC 941

CFR Citation: 29 CFR 1910; 29 CFR 1915; 29 CFR 1926; 29 CFR 1917; 29 CFR 1918

Legal Deadline: None

Abstract: OSHA is proposing to revoke certain requirements for employers to prepare and maintain records (certification records) which certify that employers have performed certain tests or inspections of equipment or machinery or that the employer has conducted certain training specified in the standards. The purpose of proposing to revoke these certification records is to minimize the paperwork burdens imposed on employers. OSHA preliminarily finds that there will be no reduction in employee safety and health as a result of reducing requirements to fill out and maintain these certification records.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Deputy Director, Directorate of Policy, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3641, FP Building, Washington, DC 20210
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RIN: 1218–AB65

2233. PLAIN LANGUAGE REVISION OF THE MECHANICAL POWER-TRANSMISSION APPARATUS STANDARD

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 29 USC 655(b); 5 USC 553

CFR Citation: 29 CFR 1910.219

Legal Deadline: None

Abstract: OSHA has identified one standard in part 1910 that needs to be

DOL—OSHA

Proposed Rule Stage

revised as part of the President's initiative on Federal regulations discussed in the U.S. Department of Labor Report of June 15, 1995 and to respond to the President's June 1998 Executive Memo on Plain Language. This standard is 29 CFR 1910.219, Mechanical Power-Transmission Apparatus. OSHA intends to issue a plain language rule that will address the following: Mechanical power-transmission apparatus guarding and maintenance.

Timetable:

Action	Date	FR Cite
NPRM - Mechanical Power-Transmission Apparatus	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Martinok, Acting Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
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RIN: 1218–AB66

2234. REQUIREMENT TO PAY FOR PERSONAL PROTECTIVE EQUIPMENT

Regulatory Plan: This entry is Seq. No. 81 in Part II of this issue of the Federal Register.

RIN: 1218–AB77

2235. CONSOLIDATION OF RECORDS MAINTENANCE REQUIREMENTS IN OSHA STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 40 USC 333; 29 USC 655; 33 USC 941; 5 USC 553

CFR Citation: 29 CFR 1910; 29 CFR 1915 to 1918; 29 CFR 1926; 29 CFR 1928

Legal Deadline: None

Abstract: OSHA is initiating a rulemaking to simplify and consolidate many of its requirements for employers to maintain records of training, testing, medical surveillance, and other activities conducted to comply with OSHA health and safety standards. These records maintenance requirements appear in many OSHA standards and are codified at 29 CFR 1910 (General Industry), 29 CFR 1915-1918 (Maritime), 29 CFR 1926 (Construction), and 29 CFR 1928 (Agriculture). The final rule, when published, will facilitate compliance with these requirements and reduce the amount of paperwork associated with these records, but will leave employee protections unchanged.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Deputy Director, Directorate of Policy, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3641, FP Building, Washington, DC 20210
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RIN: 1218–AB78

2236. CONSULTATION AGREEMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 670

CFR Citation: 29 CFR 1908

Legal Deadline: None

Abstract: This proposed amendment to 29 CFR 1908 is intended to provide for full employee involvement in the consultative process in line with the President's directive to enhance worker participation in the 7(c)(1) consultation program (The New OSHA: Reinventing Worker Safety and Health, May 1995).

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paula O. White, Director, Directorate of Federal State Operations, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3700, FP Building, Washington, DC 20210
Phone: 202 219-7251

RIN: 1218–AB79

DEPARTMENT OF LABOR (DOL)
Occupational Safety and Health Administration (OSHA)

Final Rule Stage

2237. RESPIRATORY PROTECTION (PROPER USE OF MODERN RESPIRATORS)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941; 40 USC 333

CFR Citation: 29 CFR 1910.134; 29 CFR 1915.152; 29 CFR 1918.102; 29 CFR 1926.103

Legal Deadline: None

Abstract: In January 1998, OSHA published the final respiratory protection standard, except for the reserved provision on assigned protection factors (APFs). APFs are numbers that estimate the degree of performance of the various classes of respirators. OSHA has developed a statistical model for analyzing available data that will be used to derive APFs. Accordingly, OSHA will request further public comment on the analyses conducted using that model, the ANSI Z88.2-1992 APFs, the NIOSH Respirator Decision Logic APFs and other relevant methods for deriving APFs. This will assure that OSHA receives and fully considers public input before issuing final APFs. OSHA expects to complete the rulemaking on APFs in 1999.

Timetable:

Action	Date	FR Cite
ANPRM	05/14/82	47 FR 20803
ANPRM Comment Period End	09/13/82	
NPRM	11/15/94	59 FR 58884
Final Rule	01/08/98	63 FR 1152
Final Rule Effective	01/08/98	
Final Assigned Protection Factors	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

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Phone: 202 219-7075
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RIN: 1218–AA05

2238. RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES (SIMPLIFIED INJURY/ILLNESS RECORDKEEPING REQUIREMENTS)

Regulatory Plan: This entry is Seq. No. 82 in Part II of this issue of the Federal Register.

RIN: 1218–AB24

2239. POWERED INDUSTRIAL TRUCK OPERATOR TRAINING (INDUSTRIAL TRUCK SAFETY TRAINING)

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 29 USC 655; 33 USC 941; 40 USC 333

CFR Citation: 29 CFR 1910.178; 29 CFR 1915.120; 29 CFR 1917.1; 29 CFR 1918.1; 29 CFR 1910.16

Legal Deadline: None

Abstract: Operation of powered industrial trucks, such as forklifts, is the second leading cause of fatalities in the private sector, second only to highway vehicle fatalities. On average, there are 107 fatalities and 38,330 injuries annually in the workplace.

The present standard has proven to be ineffective in reducing the number of accidents involving powered industrial trucks. As a result, there has been strong interest that OSHA issue a new standard to more effectively address this hazard. OSHA has revised the present standard to increase its effectiveness by requiring, in performance language, initial and refresher training and evaluation as necessary. The frequency of the refresher training will be based upon the vehicle operator's knowledge, skills, and abilities to perform the job safely. OSHA will also state what information the training should include. This rule will apply to general industry, the maritime industries and construction.

Timetable:

Action	Date	FR Cite
NPRM	03/14/95	60 FR 13782
NPRM Second and Hearing	01/30/96	61 FR 3092
NPRM Comment Period End	08/15/96	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1218–AB33

2240. PERMIT REQUIRED CONFINED SPACES (GENERAL INDUSTRY: PREVENTING SUFFOCATION/EXPLOSIONS IN CONFINED SPACES)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.146

Legal Deadline: None

Abstract: OSHA issued a final standard governing employee entry into confined spaces in general industry on January 14, 1993 (58 FR 4462). The standard was challenged by a number of parties including the United Steelworkers of America. OSHA reached a settlement agreement with the steelworkers in June 1994. As part of this settlement agreement, OSHA issued a proposal on November 28, 1994 (59 FR 60735), to clarify paragraph (k) of the rule, Rescue and Emergency Services. OSHA also proposed to allow more flexibility in the point of retrieval line attachment and asked whether the standard should provide affected employees or their representatives with the opportunity to observe the evaluation of confined spaces, including atmospheric testing, and to have access to evaluation results. Hearings were held September 27-28 1995. The post-hearing comment period ended on December 20, 1995. In February 1996, the record was closed. A final rule is expected in calendar year 1998.

Timetable:

Action	Date	FR Cite
NPRM	11/28/94	59 FR 60735
NPRM Comment Period End	02/27/95	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Martinok, Acting Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
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RIN: 1218–AB52

DOL—OSHA

Final Rule Stage

DEPARTMENT OF LABOR (DOL)
Occupational Safety and Health Administration (OSHA)

Long-Term Actions

2241. LONGSHORING AND MARINE TERMINALS (PARTS 1917 AND 1918)—REOPENING OF THE RECORD (VERTICAL TANDEM LIFTS (VTLS))

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 941; 29 USC 655

CFR Citation: 29 CFR 1918.11; 29 CFR 1918.85

Legal Deadline: None

Abstract: OSHA issued a final rule on Longshoring on July 25, 1997 (62 FR 40142). However, OSHA is considering the issue of vertical tandem lifts. Vertical tandem lifts (VTLs) involve the lifting of two intermodal containers, secured together with twist locks, at the same time. Because some commenters to the record questioned the safety of allowing such tandem lifts and the record does not contain adequate information to allow the Agency to address this issue, OSHA is gathering additional information on this issue.

Timetable:

Action	Date	FR Cite
NPRM	06/06/94	59 FR 28594
NPRM Comment Period End	09/23/94	
Final Rule on Longshoring	07/25/97	62 FR 40142
Public Meeting	01/27/98	62 FR 52671
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Martinok, Acting Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
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RIN: 1218–AA56

2242. SCAFFOLDS IN SHIPYARDS (PART 1915—SUBPART N) (PHASE I)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.71

Legal Deadline: None

Abstract: During the 1980s, OSHA embarked on a project to update and consolidate the various OSHA standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. Shipyard employers have been subject to both shipyard and general industry standards.

Phase 1 of this project aimed at establishing a vertical standard for shipyard employment and addressed six shipyard employment safety standards (Confined Spaces, Welding Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these subparts were issued in November 1988 (53 FR 48092). The remaining subparts were categorized as Phase II of the consolidation project (including general working conditions and fire protection). This action was endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards.

This particular regulatory action will revise the existing shipyard employment standards covering scaffolds and will consolidate all related and applicable 29 CFR part 1910 provisions. It will develop, in part, performance-oriented standards, address current gaps in coverage, and address new technologies.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48182
NPRM Comment Period End	02/27/89	
Reopened Record Comment Period Ended 6/13/94	04/12/94	59 FR 17290
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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Phone: 202 219-8061
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RIN: 1218–AA68

2243. GLYCOL ETHERS: 2-METHOXYETHANOL, 2-ETHOXYETHANOL, AND THEIR ACETATES: PROTECTING REPRODUCTIVE HEALTH

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.1000

Legal Deadline: None

Abstract: On May 20, 1986, the Environmental Protection Agency (EPA) issued a report to OSHA, under section 9(a) of the Toxic Substance Control Act, stating that EPA has reasonable basis to conclude that the risk of injury to worker health from exposure to four glycol ethers during their manufacture, processing and use is unreasonable, and that this risk may be prevented or reduced to a significant extent by OSHA regulatory action. EPA gave OSHA 180 days in which to respond to its report. OSHA published its response on December 11, 1986, stating that OSHA had preliminarily concluded that occupational exposures to the subject glycol ethers at the current OSHA permissible exposure limits may present significant risks to the health of workers. OSHA published an Advance Notice of Proposed Rulemaking (ANPRM) on April 2, 1987 (52 FR 10586). OSHA used the information received in response to the ANPRM, as well as other information and analysis, and published a proposal, March 23, 1993 (58 FR 15526), that would reduce the permissible exposure limits for four glycol ethers and provide protection for approximately 46,000 workers exposed to the substances. OSHA is working toward promulgation of a final rule in 1999.

DOL—OSHA

Long-Term Actions

Timetable:

Action	Date	FR Cite
ANPRM	04/02/87	52 FR 10586
ANPRM Comment Period End	07/31/87	
NPRM	03/23/93	58 FR 15526
NPRM Comment Period End	06/07/93	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3718, FP Building, Washington, DC 20210
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RIN: 1218–AA84

2244. ACCREDITATION OF TRAINING PROGRAMS FOR HAZARDOUS WASTE OPERATIONS (PART 1910)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); PL 101-549 (November 15, 1990); 5 USC 552(a); 5 USC 553

CFR Citation: 29 CFR 1910.121

Legal Deadline: None

Abstract: The Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499) established the criteria under which OSHA should develop and promulgate the Hazardous Waste Operations and Emergency Response standard. OSHA issued an interim final standard on December 19, 1986 (51 FR 45654) to comply with the law's requirements. OSHA issued a permanent final rule for provisions on training to replace this interim rule on March 9, 1989 (29 CFR 1910.120).

On December 22, 1987, as part of an omnibus budget reconciliation bill (PL 100-202), Congress amended section 126(d)(3) of SARA to include accreditation of training programs for hazardous waste operations. OSHA issued a proposal on January 26, 1990 (55 FR 2776) addressing this issue. OSHA received public comments following the issuance of the proposal. OSHA also reopened the record in June 1992 to allow additional public comment on an effectiveness of training study that the Agency had conducted. OSHA has also developed nonmandatory guidelines to further address minimum training criteria.

Timetable:

Action	Date	FR Cite
NPRM	01/26/90	55 FR 2776
NPRM Comment Period End	04/26/90	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Martinok, Acting Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061
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RIN: 1218–AB27

2245. INDOOR AIR QUALITY IN THE WORKPLACE

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: OSHA was petitioned in May 1987 by Action on Smoking and Health (ASH), Public Citizen, and the American Public Health Association to issue an emergency temporary standard on environmental tobacco smoke (ETS) in the workplace. In March 1992, OSHA was petitioned by the AFL-CIO to establish workplace IAQ standards. In December 1992, ASH again petitioned for rulemaking on ETS.

Every day, more than 20 million American workers face an unnecessary health threat because of indoor air pollution in the workplace. Thousands of heart disease deaths, hundreds of lung cancer deaths, respiratory disease, Legionnaire's disease, asthma, and other ailments are estimated to be linked to this occupational hazard. Further, America's workers are at risk of developing thousands of upper respiratory symptoms and severe headaches from indoor air pollutants. EPA estimates that 20 to 35 percent of all workers in modern mechanically ventilated buildings may experience air-quality problems.

After reviewing and analyzing available information, OSHA published a proposed rule on April 5, 1994. The proposal would require employers to write and implement indoor air quality compliance plans that would include inspection and maintenance of current building ventilation systems to ensure they are functioning as designed. In buildings where smoking is allowed the proposal would require designated smoking areas that would be separate, enclosed rooms where the air would be exhausted directly to the outside. Other proposed provisions would require employers to maintain healthy air quality during renovation, remodeling, and similar activities. The provisions for indoor air quality would apply to 70 million workers and more than 4.5 million nonindustrial indoor work environments, including schools and training centers, offices, commercial establishments, health care facilities, cafeterias and factory break rooms. ETS provisions would apply to all 6 million industrial and nonindustrial work environments under OSHA's jurisdiction. OSHA preliminarily estimates that 5,583 to 32,502 cancer deaths and 97,700 to 577,818 coronary heart diseases related to occupational exposure to ETS will be prevented over the next 45 years. This represents 140 to 722 cancer deaths and 2,094 to 13,001 heart diseases each year. OSHA preliminarily estimates that the proposed standard will prevent 4.5 million air-quality related illnesses per year.

Timetable:

Action	Date	FR Cite
Request for Information	09/20/91	56 FR 47892
NPRM	04/05/94	59 FR 15968
NPRM Comment Period End	08/13/94	59 FR 30560
Record Closed	02/09/96	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200

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RIN: 1218–AB37

2246. GENERAL WORKING CONDITIONS FOR SHIPYARD EMPLOYMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915, subpart F

Legal Deadline: None

Abstract: During the 1980s, OSHA embarked on a project to update and consolidate the various OSHA shipyard standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. Shipyard employers have been subject to both the "shipyard" standards and OSHA's general industry standards for landside operations. Phase 1 of this project aimed at establishing a vertical standard for shipyard employment and addressed six shipyard employment safety standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these Subparts were issued in November 1988 (53 FR 48092). The remaining subparts were categorized as Phase II of the consolidation project (including general working conditions and fire protection). This action was endorsed by the Shipyard Advisory Committee, which was chartered in 1989 to update and consolidate existing shipyard standards.

The operations that are addressed in this particular rulemaking relate to housekeeping, illumination, sanitation, first aid, and lockout/tagout. About 75,000 workers are exposed annually to these hazards.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: John Martinok, Acting Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061
Fax: 202 219-7477

RIN: 1218–AB50

2247. FIRE BRIGADES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.156

Legal Deadline: None

Abstract: Firefighting exposes members of fire brigades to a significant risk of harm. To mitigate these risks, OSHA promulgated a standard for fire brigades in 1980. However, the standard is now more than 18 years old, and does not reflect current advances in technology and safety. This action would revise the existing fire brigade standard to reflect the latest technology in safety, particularly with respect to personal protective equipment and emergency procedures. It would also address gaps in coverage, since the existing fire brigade standard does not cover wildland fire fighting or crash-rescue type fire fighting. OSHA will be working closely with State Plan States to assess the potential impact of the proposed rule on municipal fire departments.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Martinok, Acting Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061
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Email: jmartonik@dol.gov

RIN: 1218–AB64

2248. ELECTRIC POWER TRANSMISSION AND DISTRIBUTION; ELECTRICAL PROTECTIVE EQUIPMENT IN THE CONSTRUCTION INDUSTRY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1910.136; 29 CFR 1910.137; 29 CFR 1910.269; 29 CFR 1926.97; 29 CFR 1926.950 to 968

Legal Deadline: None

Abstract: The annual fatality rate for power line workers is over 50 deaths per 100,000 employees. The construction industry standard addressing the safety of these workers during the construction of electric power transmission and distribution lines is over 20 years old. OSHA is developing a revision of this standard that will prevent many of these fatalities, that will add flexibility to the standard, and that will update and streamline the standard. In addition, OSHA intends to amend the corresponding standard for general industry so that requirements for work performed during maintenance of electric power transmission and distribution installations are the same as those for similar work in construction.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Martinok, Acting Director, Directorate of Safety

Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061
Fax: 202 219-7477

RIN: 1218–AB67

2249. SAFETY AND HEALTH PROGRAMS FOR CONSTRUCTION

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655; 29 USC 657; 40 USC 333

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: In response to industry requests and OSHA's Advisory Committee on Construction Safety and Health (ACCSH) recommendation, OSHA has determined that the current safety and health program standards contained in subpart C of the construction standards, 29 CFR 1926, need to be revised to provide construction employers with a more comprehensive set of requirements to assist them in establishing safety and health programs. Safety and health programs have proven to be an effective, systematic method of identifying and correcting existing workplace safety and health hazards, as well as preventing those that might arise in the future.

The ACCSH has been working to develop recommendations for OSHA on safety and health programs and training in construction for many years. After its April 1996 meeting, ACCSH began to develop language and concepts to submit to OSHA for consideration as a proposed rule. Over 130 stakeholders representing small, medium and large contractors and host employers and stakeholders (such as petroleum producers; contractor associations; labor unions; other governmental agencies; and non-profit institutions) have participated in these ACCSH discussions.

Although OSHA is still developing the details of a new proposed safety and health program standard, the proposal will require employers to set up a program for managing workplace safety and health in order to reduce the incidence of occupational deaths, injuries, and illnesses. The standard will not impose duties on employers to control hazards that they are not already required to control. Instead, the standard will provide a basic framework for systematically identifying and controlling workplace hazards already covered by the OSH Act under section 5(a)(1) and current OSHA standards.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: A separate standard is being developed for general industry (29 CFR 1910) and the maritime (29 CFR 1915, 1917 and 1918) industries.

Agency Contact: Russel B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room S1506, FP Building, Washington, DC 20210
Phone: 202 219-8644
Fax: 202 219-6599

RIN: 1218–AB69

2250. CONTROL OF HAZARDOUS ENERGY (LOCKOUT) IN CONSTRUCTION (PART 1926) (PREVENTING CONSTRUCTION INJURIES/FATALITIES; LOCKOUT)

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: OSHA issued a general industry rule on September 1, 1989 (54 FR 36644) to address the hazards posed to workers by the failure to control hazardous energy (i.e., the failure to properly lock out or tag out machines and equipment) during repair and servicing activities. OSHA has not yet issued a standard to prevent these accidents during equipment repair and maintenance activities in the construction industry. Four million workers annually may be exposed to this hazard in construction workplaces. As a result, OSHA intends to issue a proposal to address this hazard in this industry.

Construction sites often do not have effective lockout/tagout procedures to control hazardous energy because of several factors, all associated with the nature of the construction industry. These factors basically relate to the types of machines and equipment found in construction; the makeup of the industry (i.e., employment is relatively "short term," lasting only as long as the length of the current project); multiple employers having different employer/employee relationships are present at the same site; and "in-the-field" maintenance activity is usually temporary.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Russel B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room S1506, FP Building, Washington, DC 20210
Phone: 202 219-8644
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RIN: 1218–AB71

2251. OCCUPATIONAL EXPOSURE TO BERYLLIUM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: Beryllium is a lightweight metal that is used for nuclear weapons, for atomic energy, and for metal alloys such as beryllium-copper and beryllium-aluminum. The metal alloys are found in sectors for dental appliances, golf clubs, non-sparking tools, wheel chairs, etc. Beryllium is also used in the ceramics industry. The

current permissible exposure limits for beryllium are: an 8-hour TWA of 2 ug/m3; a 5 ug/m3 ceiling concentration not to be exceeded over a 30-minute period; and a 25 ug/m3 maximum peak exposure never to be exceeded.

In 1977, OSHA proposed to reduce the 8-hour TWA exposure to beryllium from 2 ug/m3 to 1 ug/m3 based on evidence that beryllium caused lung cancer in exposed workers. A hearing followed the proposal, but a final standard was never published. Since the previous OSHA hearing, NIOSH has updated its studies on beryllium exposed workers. The study results again demonstrate a significant excess of lung cancer among exposed workers. The International Agency for Research on Cancer (IARC) has concluded that beryllium is a carcinogen in humans. (Category I)

In addition to lung cancer, a new OSHA beryllium standard would address chronic beryllium disease (CBD), a fatal disease involving lung fibrosis and other organ toxicity. Based on several recent studies involving workers employed in the beryllium ceramics industry, in beryllium production, and in Department of Energy facilities, there is now evidence that very low level beryllium exposure (less than 0.5 ug/m3) may cause CBD. A recent (1997) study from Japan concludes that the level necessary to protect workers from developing CDB cannot exceed 0.01 ug/m3. A new medical surveillance tool is now available that allows for the early detection of workers with CBD prior to any signs of clinical disease or symptoms. Beryllium-sensitized workers convert to CBD at an estimated rate of about 10 percent per year. This "beryllium sensitization" test is being used in clinical studies of current and past exposed workers. Recent study results indicate that between 5 percent and 15 percent of beryllium-exposed workers are sensitized and will eventually develop CBD. In 1997, DOE issued interim guidelines to protect beryllium-exposed workers at all DOE facilities. The guidelines include provisions for exposure monitoring, medical surveillance and re-location of beryllium-sensitized workers.

The DOE guidelines, however, do not affect workers outside DOE facilities. Thus, OSHA needs to initiate rulemaking to protect beryllium-exposed workers from contracting CBD and lung cancer.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3718, FP Building, Washington, DC 20210
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RIN: 1218–AB76

2252. • WALKING WORKING SURFACES AND PERSONAL FALL PROTECTION SYSTEMS (1910) (SLIPS, TRIPS AND FALL PREVENTION)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655 (b)

CFR Citation: 29 CFR 1910, subpart D

Legal Deadline: None

Abstract: OSHA has had under consideration standards for walking working surfaces and personal fall protection systems. OSHA is analyzing the record to determine if it is appropriate to repropose the standard or issue a final rule based on the existing record.

Timetable:

Action	Date	FR Cite
NPRM	04/10/90	55 FR 13360
NPRM Comment Period End	08/22/90	
Hearing	09/11/90	55 FR 29224
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Martinok, Acting Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AB80

DEPARTMENT OF LABOR (DOL)
Occupational Safety and Health Administration (OSHA)

Completed Actions

2253. STANDARDS IMPROVEMENT PROJECT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657; 40 USC 333

CFR Citation: 29 CFR 1910; 29 CFR 1926

Legal Deadline: None

Abstract: OSHA has made a continuing effort to eliminate confusing, outdated, and duplicative regulations. In 1978 and again in 1984 the Agency conducted comprehensive revocation and revision projects that resulted in the elimination of hundreds of unnecessary rules. In 1995, OSHA developed a list of standards it proposed to revoke or revise. These standards were deemed to be out of date, duplicative, inconsistent with other OSHA standards or preempted by the regulations of other Federal agencies. The agency began this process in March 1996 by revoking various non-substantive provisions that the Agency believed were unnecessary or ineffective in protecting worker health or safety. The Agency followed up this effort by issuing a final and a proposed rule addressing substantive changes. The first of these, issued on June 20, 1996, eliminated duplicative standards by replacing them with cross references to eliminate any possible confusion and to reduce the volume of the rules. The second one, published on July 22, 1996, proposed to reduce the burden imposed on employers by selected medical surveillance provisions of existing rules, change the emergency-response provisions of the vinyl chloride standard, and eliminate a number of duplicative or unnecessary provisions. OSHA issued a final rule addressing these changes in June of 1998. This Standards Improvement Project had two other components: elimination of requirements and appendices associated with the Agency's Longshoring and Marine Terminals Standards (completed in July 1997) and revision and streamlining of the Agency's respirator standard and appendices, which was completed in January 1998.

Timetable:

Action	Date	FR Cite
Final Miscellaneous Minor & Technical Amendments	03/07/96	61 FR 9228
NPRM - Consolidation of Repetitive Provisions; Technical Amendments	06/20/96	61 FR 31427
NPRM - Miscellaneous Changes to General Industry & Construction Standards	07/22/96	61 FR 37849
Final Longshoring	07/25/97	62 FR 40141
Final Action	06/18/98	63 FR 33450
Final Action Effective	08/17/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Martinok, Acting Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
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RIN: 1218–AB53

[FR Doc. 98-25578 Filed 11-06-98; 8:45 am]
BILLING CODE 4510-23-F

Federal Register

Monday
November 9, 1998

Part XIII

Department of State

Semiannual Regulatory Agenda

DEPARTMENT OF STATE (STATE)

DEPARTMENT OF STATE

22 CFR Ch. I

[Public Notice 2885]

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of State.

ACTION: Semiannual regulatory agenda.

SUMMARY: Consistent with the Regulatory Flexibility Act of 1980, 5 U.S.C. 602, and OMB guidance to the Department of State pursuant to Executive Order 12866, the October 1998 agenda of the Department of State is set forth below. The purpose of this publication is to provide information to the public on the Department's regulatory plans. Consistent with OMB guidance, this agenda includes active continuing items from prior agendas.

FOR FURTHER INFORMATION CONTACT: D. Stephen Mathias, Assistant Legal Adviser for Legislation and General Management, Department of State, Room 5425, 2201 C Street NW., Washington, DC 20520-6310; telephone (202) 647-5154.

Dated: September 18, 1998.

Bonnie Cohen,

Under Secretary of State for Management.

DEPARTMENT OF STATE (STATE) — Proposed Rule Stage

2254. FOREIGN PROHIBITIONS ON LONGSHORE WORK BY U.S. NATIONALS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1288(d)

CFR Citation: 22 CFR 89 (Revision)

Legal Deadline: Final, Statutory, December 31, 1998.
Legal deadline reflects the statutory requirement that the list be updated on an annual basis.

Abstract: The above-mentioned statute requires the Secretary of State to compile, and update annually through Notice-and-Comment rulemaking procedures, a list, by particular longshore activity, of countries where performance of such activity is prohibited by law, regulation, or in practice in the country concerned. According to the statute cited above, the Attorney General will use this list for enforcing restrictions on work performed by crewmembers of vessels from such countries. Compilation of the list itself does not involve any significant costs and is based upon information being provided to the Department of State by U.S. diplomatic missions overseas as well as by the public. Questions regarding the policy justification for the list and its use are best directed to the Departments of Labor, Transportation, and Justice.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/30/91	56 FR 24338
Final Rule	12/27/91	56 FR 66970
Final Rule Effective	01/01/92	
Final Rule Correction	01/04/92	57 FR 1384
Updated List of Countries		
NPRM 11/04/92 (57 FR 52600)		
NPRM Comment Period End 12/04/92		
Final Rule 12/13/93 (58 FR 65118)		
Final Rule Effective 12/13/93		
NPRM 03/24/94 (59 FR 13904)		
NPRM Comment Period End 04/25/94		
NPRM 11/24/95 (60 FR 58026)		
NPRM Comment Period End 12/26/95		
NPRM Comment Period Extended to 01/26/96 (60 FR 65609)		
NPRM Comment Period Extended to 02/02/96 (61 FR 2915)		
NPRM 06/06/96 (61 FR 29115)		
Final Rule 06/13/96 (61 FR 29941)		
Notice of Rulemaking 11/00/98		
Final Rule 12/00/98		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: In accordance with the mandate to maintain annually the list of countries, the Department will issue Final Rules to amend the list as appropriate.

Agency Contact: Stephen Miller, Office of Maritime and Land Transport, Bureau of Economic and Business Affairs, Department of State, 2201 C Street NW., Washington, DC 20520-5816
Phone: 202 647-6961

RIN: 1400–AA34

DEPARTMENT OF STATE (STATE) — Final Rule Stage

2255. TRANSIT WITHOUT VISA (TWOV)

Priority: Substantive, Nonsignificant

Legal Authority: Section 212(d)(4)(C) of the Immigration & Nationality Act (INA)

CFR Citation: 22 CFR 41.2(i)

Legal Deadline: None

Abstract: Under the provision of section 212(d)(4)(C), the Secretary of State and the Attorney General acting jointly have the authority to waive nonimmigrant visa requirements for aliens in continuous and direct transit through the United States. Yugoslavia was removed from the list of countries participating in this program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/16/93	58 FR 43438
Interim Final Rule Comment Period End	09/15/93	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

STATE — Final Rule Stage

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA48

2256. VISA WAIVER PILOT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-603, sec 313; PL 101-649, sec 201; PL 102-232, sec 303

CFR Citation: 22 CFR 41.2(l)

Legal Deadline: None

Abstract: Section 313 of PL 99-603 amended the Immigration and Nationality Act by adding section 217 which established the nonimmigrant Visa Waiver Pilot Program (VWPP). This program waives the nonimmigrant visa requirements, to facilitate the admission of certain nonimmigrant alien visitors under the VWPP. Section 217, as amended by PL 101-649 and PL 102-232, revises from time to time the list of countries designated by the Secretary of State and the Attorney General, acting jointly, to participate in the Visa Waiver Pilot Program. Brunei, Argentina, Australia, Ireland, and Slovenia have been added to the list. Probationary status has been eliminated.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/29/93	58 FR 40585
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0113
Phone: 202 663-1204
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RIN: 1400–AA49

2257. B-1 VISA CLASSIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-649, Immigration Act of 1990

CFR Citation: 22 CFR 41.31

Legal Deadline: NPRM, Statutory, October 1, 1991.

Abstract: B Visa Regulation revisions, which incorporate 9FAM notes and INS OI, reflect changes in interpretation of B Visa classes resulting from enactment of Immigration and Naturalization Act of 1990 and MATINA.

Timetable:

Action	Date	FR Cite
NPRM	07/26/93	58 FR 40024
NPRM Comment Period Extended to 11/23/93	09/23/93	58 FR 49456
NPRM Comment Period End	09/24/93	
NPRM Comment Period Extended to 12/06/93	11/23/93	58 FR 61856
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA54

2258. REVISION OF U.S. MUNITIONS LIST

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 2778

CFR Citation: 22 CFR 121.1; 22 CFR 121.16

Legal Deadline: None

Abstract: Review and revision as appropriate of USML on compliance with AECA.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip Rhoads, Chief, Compliance and Enforcement Branch, Department of State, Room 200, SA-6, Washington, DC 20522-0602
Phone: 703 875-6650
Fax: 703 875-5663

RIN: 1400–AA64

2259. IMMIGRATION AND NATURALIZATION ACT: GROUNDS OF INELIGIBILITY, 212(G) WAIVER

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104; PL 104-208, sec 341(b); PL 104-208, sec 345(a)(i); PL 104-208, sec 346; PL 104-208, sec 301(6)

CFR Citation: 22 CFR 40.11; 22 CFR 40.66; 22 CFR 40.67; 22 CFR 40.91; 22 CFR 40.92; 22 CFR 40.93; 22 CFR 40.104; 22 CFR 40.105

Legal Deadline: None

Abstract: This regulation provides new grounds of visa ineligibility. This regulation also provides for a waiver of 212(a)(1)(A)(ii) inadmissibility.

This regulation now incorporates RIN 1400-AA80, Inadmissible Grounds: Alien Subject to Civil Penalties, RIN 1400-AA81, Inadmissible Grounds: Student Visa Abusers, and RIN 1400-AA82, Grounds of Inadmissibility: Aliens Removed and Unlawfully Present.

Timetable:

Action	Date	FR Cite
ANPRM	12/29/97	62 FR 67564
ANPRM Comment Period End	02/27/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA78

2260. INADMISSIBLE GROUNDS: PUBLIC CHARGE

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, sec 551; 8 USC 1104

CFR Citation: 22 CFR 40.41

Legal Deadline: None

STATE

Final Rule Stage

Abstract: This rule incorporates provisions making petitioning sponsor contractually responsible.

Timetable:

Action	Date	FR Cite
ANPRM	12/29/97	62 FR 67563
ANPRM Comment Period End	02/27/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0113
Phone: 202 663-1204
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RIN: 1400–AA79

2261. DOCUMENTATION OF NONIMMIGRANTS: BORDER CROSSING IDENTIFICATION CARDS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, sec 104

CFR Citation: 22 CFR 41.2(a); 22 CFR 41.32; 22 CFR 41.122

Legal Deadline: None

Abstract: This regulation implements sec. 104 of PL 104-208 which requires the inclusion of a machine-readable identifier in Border Crossing cards.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/07/98	63 FR 16892
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Regulation and Legislation Division, Visa Office, Department of State, 2401 E Street NW., SA-1, Washington, DC 20520-0113
Phone: 202 663-1204

RIN: 1400–AA90

2262. • ADDITION OF "S" NONIMMIGRANT VISA CLASSIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.83

Legal Deadline: None

Abstract: Implements sec. 130003 of Pub. L. 103-322 by adding a new nonimmigrant visa classification (S) under INA 101(a)(15)(S). This visa classification provides for the admission of certain alien witnesses and informants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/24/96	61 FR 1837
Interim Final Rule Comment Period End	03/25/96	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Regulation and Legislation Division, Visa Office, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA91

2263. • WAIVER OF VISA FEES FOR ALIENS COMING TO ENGAGE IN CHARITABLE ACTIVITIES

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.107

Legal Deadline: None

Abstract: Authorization to waive or reduce the application fee for aliens coming to the United States temporarily to engage in charitable activities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/01/98	63 FR 24107
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Regulation and Legislation Division, Visa Office, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA92

2264. • ENTITLEMENT TO IR STATUS FOR SPOUSE (AND CHILD OF SPOUSE) OF DECEASED U.S. CITIZEN AND FOR SELF-PETITIONING SPOUSE/CHILD OF ABUSIVE U.S. CITIZEN

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 42.21

Legal Deadline: None

Abstract: Entitlement to IR status for spouse of deceased U.S. citizen (and the child of the spouse) and for the self-petitioned spouse/child of an abusive U.S. citizen.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Regulation and Legislation Division, Visa Office, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA93

2265. • PHOTOGRAPHS FOR NONIMMIGRANT VISA APPLICANTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.105

Legal Deadline: None

Abstract: Requirements for headcoverings for alien's photographs for nonimmigrant visas.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Regulation and Legislation Division, Visa Office, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA94

STATE

Final Rule Stage

2266. • INTERNATIONAL TRAFFIC IN ARMS REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2278

CFR Citation: 22 CFR 126.5, "Canadian exemptions"

Legal Deadline: None

Abstract: Change will require prior written approval from Office of Defense Trade Controls for defense trade transactions which do not involve exports for the Canadian government or certain temporary exports to U.S. facilities in Canada. Expect to publish the final rule change in August 1999.

Timetable:

Action	Date	FR Cite
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rose Biancaniello, Deputy Director, Office of Defense Trade Controls, Department of State, Room 200, SA-6, PM-DTC, Washington, DC 20522-0602
Phone: 703 812-2568
Fax: 703 875-6647

RIN: 1400–AA95

2267. • AUTHORITY TO ISSUE VISAS: ISSUANCE OF O&P VISAS IN THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.111

Legal Deadline: None

Abstract: Authorizes officers in the visa office of the Department of State to revalidate O&P visas in the United States.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Regulation and Legislation Division, Visa Office, Department of State, 2401 E Street NW., Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA96

DEPARTMENT OF STATE (STATE)

Long-Term Actions

2268. ESTABLISHING OF REGISTRY IN STATE DEPARTMENT FOR INFORMATION ABOUT EXECUTION OF INTERNATIONAL WILLS

Priority: Substantive, Nonsignificant

Legal Authority: International Legal Material, vol XII, no. 6, Nov. 1973, p 1302

CFR Citation: 22 CFR 92.81(b)(3)

Legal Deadline: None

Abstract: By resolution of the international diplomatic conference that adopted the final text of the 1973 convention on the forms of international wills, there was a recommendation that States establish an internal system to permit the optional registration of information to facilitate the discovery of international wills. The President transmitted the convention to the Senate on July 2, 1986, with the recommendation that the Senate give its advice and consent to U.S. ratification of the convention, and information about the intention to establish the Registry in the Department of State (Senate Treaty Doc. 99-29). The Senate gave advice and consent on August 2, 1991. Implementing legislation (the International Wills Act) is required before the United States can take further action to ratify the convention.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Additional Information: U.S. ratification of the 1973 convention providing a uniform law on the form of an international will provides the basis for establishment of the registry.

Agency Contact: Edward A. Betancourt, Director, Office of Policy Review and Interagency Liaison, Department of State, Bureau of Consular Affairs, 2201 C Street NW., Washington, DC 20520-5816
Phone: 202 647-3666
Fax: 202 647-0103

RIN: 1400–AA56

2269. REVISION TO DEPARTMENT OF STATE ACQUISITION REGULATION (DOSAR)

Priority: Substantive, Nonsignificant

Legal Authority: PL 93-400; PL 96-83

CFR Citation: 48 CFR 6

Legal Deadline: None

Abstract: The Department is revising the DOSAR to comply with changes to the procurement system as a result of the Federal Acquisition Streamlining Act and the Federal Acquisition Reform Act. The Department also plans to make several administrative changes and technical corrections.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Gladys Gines, Procurement Analyst, Department of State, Office of the Procurement Executive, Room 603, SA-6, Washington, DC 20520-0602
Phone: 703 516-1691
Fax: 703 875-6155
Email: gladys.g.gines@dos.us-state.gov

RIN: 1400–AA71

2270. ADDITION OF COUNTRIES ELIGIBLE TO PARTICIPATE IN THE VISA WAIVER PILOT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.2(l)

Legal Deadline: None

STATE — Long-Term Actions

Abstract: Addition of countries eligible to participate in the Visa Waiver Pilot Program.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA75

2271. HAGUE INTERCOUNTRY ADOPTION CONVENTION IMPLEMENTATION

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Regulations will implement the Hague Convention on protection of children and cooperation in respect of intercountry adoption and the Hague intercountry adoption convention and legislation will be sent to the Senate and Congress sometime during the next Congressional session. Health and Human Services and the Immigration and Naturalization Service will also write regulations regarding this convention and legislation.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Edward A. Betancourt, Director, Office of Policy Review and Interagency Liaison, Department of State, Bureau of Consular Affairs, 2201 C Street NW., Washington, DC 20520-5816
Phone: 202 647-3666
Fax: 202 647-0103

RIN: 1400–AA88

DEPARTMENT OF STATE (STATE) — Completed Actions

2272. NORTH AMERICAN FREE TRADE AGREEMENT

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 41.51; 22 CFR 41.52; 22 CFR 41.59 (New)

Completed:

Reason	Date	FR Cite
Final Action	03/03/98	63 FR 10304

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom
Phone: 202 663-1204

RIN: 1400–AA51

2273. MISCELLANEOUS REGULATIONS BEING ELIMINATED OR REINVENTED AS PART OF REGULATORY REINVENTION INITIATIVE

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 22 CFR 2a; 22 CFR 2; 22 CFR 4; 22 CFR 9b; 22 CFR 10; 22 CFR 31; 22 CFR 33; 22 CFR 111; 22 CFR 112; 22 CFR 133; 22 CFR 171; 22 CFR 181

Completed:

Reason	Date	FR Cite
Interim Final Rule	10/02/97	62 FR 48757

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: D. Stephen Mathias
Phone: 202 647-5154
Fax: 202 647-6794

RIN: 1400–AA67

2274. DENIAL OF PASSPORTS FOR NONPAYMENT OF CHILD SUPPORT

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 51.70; 22 CFR 51.75; 22 CFR 51.80 to 51.89

Completed:

Reason	Date	FR Cite
Interim Final Rule	11/25/97	62 FR 62694

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharon E. Palmer-Royston
Phone: 202 955-0222
Fax: 202 955-0230

RIN: 1400–AA77

2275. DOCUMENTATION OF NONIMMIGRANTS: PLACE OF APPLICATION

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 40.68; 22 CFR 41.101; 22 CFR 41.121

Completed:

Reason	Date	FR Cite
Final Action	07/06/98	63 FR 36365

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom
Phone: 202 663-1204

RIN: 1400–AA89

[FR Doc. 98-26714 Filed 11-06-98; 8:45 am]
BILLING CODE 4710-08-F

Federal Register

Monday
November 9, 1998

Part XIV

Department of Transportation

Semiannual Regulatory Agenda

DEPARTMENT OF TRANSPORTATION (DOT)

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Chs. I-III

23 CFR Chs. I-III

33 CFR Chs. I and IV

46 CFR Chs. I-III

48 CFR Ch. 12

49 CFR Subtitle A, Chs. I-VI

[OST Docket No. 59; Notice 98-18]

Department Regulatory Agenda; Semiannual Summary

AGENCY: Office of the Secretary, DOT.

ACTION: Semiannual regulatory agenda.

SUMMARY: The regulatory agenda is a semiannual summary of all current and projected rulemakings, reviews of existing regulations, and completed actions of the Department. The agenda provides the public with information about the Department of Transportation's regulatory activity. It is expected that this information will enable the public to be more aware of and allow it to more effectively participate in the Department's regulatory activity. The public is also invited to submit comments on any aspect of this agenda.

ADDRESSES: The mailing address for the initiating offices of the Department that appear in the agenda is 400 7th Street SW., Washington, DC 20590; except for the Federal Aviation Administration, which is located at 800 Independence Avenue SW., Washington, DC 20591, and the U.S. Coast Guard, which is located at 2100 2nd Street SW., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT:

General

For further information on the agenda in general, contact: Neil R. Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 366-4723.

Specific

For further information about any particular item on the agenda, contact the individual listed in the column headed "Agency Contact" for that item.

Table of Contents

Supplementary Information:
- Background
- Regulatory Flexibility Act
- Economic Assessment/Evaluation
- Definitions
- Office of Management and Budget (OMB)/Secretarial Review
- Explanation of Information on the Agenda
- Request for Comments
- Purpose
- Appendix A - Instructions for Obtaining Copies of Regulatory Documents
- Appendix B - General Rulemaking Contact Persons
- Appendix C - Public Rulemaking Dockets
- Appendix D - Review Plans for Section 610 and Other Requirements

Agenda

SUPPLEMENTARY INFORMATION:

Background

Improvement of Government regulations is a prime goal of the Clinton Administration. There should be no more regulations than necessary, and those that are issued should be simpler, more comprehensible, and less burdensome. Regulations should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed.

To help the Department of Transportation (Department) achieve these goals and in accordance with Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735; October 4, 1993) and the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), the Department prepares a semiannual regulatory agenda for publication in the **Federal Register**. The agenda summarizes all current and projected rulemaking, reviews of existing regulations, and completed actions of the Department. These are matters on which action has begun or is projected during the succeeding 12 months or such longer period as may be anticipated or for which action has been completed since the last agenda.

The agendas are based on reports submitted by the initiating offices and are reviewed by the Department Regulations Council. The Department's last agenda was published in the **Federal Register** on April 27, 1998 (63 FR 22286). The next one is scheduled for publication in the **Federal Register** in April 1999.

For this edition of the Department's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Regulatory Flexibility Act

In 1980, Congress passed the Regulatory Flexibility Act (RFA), Public Law 96-354, which requires the designation of those regulations for which a Regulatory Flexibility Analysis will be prepared; i.e., those regulations that would have a significant economic impact on a substantial number of small entities. The RFA also requires that, each year, the Department publish a list of those regulations that are to be reviewed under the Act during the succeeding 12 months. The agenda includes those regulations to be reviewed under the RFA or those for which review has been concluded since the last agenda. The phrase (Section 610 Review) appears at the end of the title for any such review. However, it should be noted that, after further assessment of the regulations listed for RFA review, it may be found that the regulations, in fact, do not have a significant economic impact on a substantial number of small entities. The Department has also added an Appendix D to this agenda, which contains the Department's 10-year plan for the review of its existing rules, including the reviews required by the RFA.

Economic Assessment/Evaluation

DOT requires an economic analysis for all its rulemakings. A preliminary and final economic assessment is required for each proposed and final regulation, respectively, that is likely to be very costly. For other rulemakings, a regulatory evaluation is prepared.

Definitions

The agenda covers all rules and regulations of the Department, including those that establish conditions for financial assistance. The following definitions are provided for ease in understanding the information in this document.

Initiating office means an operating administration or other organizational element within the Department that formulates regulations.

Significant rulemaking is now being referred to in this agenda as an agency priority. This means a rulemaking that is very costly, controversial, or of substantial public interest; would have a major impact on another Federal agency; would have a substantial effect on State and/or local or tribal governments; would have a substantial impact on a major transportation safety problem; would initiate a substantial regulatory program or change in policy; would be substantially different from international requirements or standards; would materially alter budgetary impacts; or otherwise involves important legal or policy issues.

Office of Management and Budget (OMB)/Secretarial Review

Any rulemaking document OMB identifies as significant is subject to its review and will be classified as significant by DOT. A few rulemakings identified as agency priority by DOT, but not significant by OMB, and some rulemaking documents (e.g., extensions of compliance dates), although part of an otherwise significant rulemaking, are not subject to OMB review. All DOT agency priority rulemaking documents are subject to review by the Secretary of Transportation.

Explanation of Information on the Agenda

The format for this agenda is required by Office of Management and Budget memorandum of July 8, 1998.

First, the agenda is divided by initiating offices. Then, the agenda is divided into five categories: (1) Prerule stage, (2) proposed rule stage, (3) final rule stage, (4) long-term actions, and (5) completed actions. For each entry, the agenda provides the following information: (1) Its "significance"; (2) a short descriptive title; (3) its legal basis; (4) the related regulatory citation in the Code of Federal Regulations; (5) any legal deadline and, if so, for what action (e.g., NPRM, final rule); (6) an abstract; (7) a timetable, including the earliest expected date for a decision on whether to take the action; (8) whether the rulemaking will affect small entities and/or levels of government and which categories of small entities or governments will be impacted; (9) whether a Regulatory Flexibility Analysis is required; (10) a listing, where determined, of any analyses an initiating office will prepare or has prepared for the action; e.g., an Economic Assessment, an Environmental Impact Statement (EIS), or a Regulatory Flexibility Analysis; (11) an agency contact office or official who can provide further information, including advice on how to obtain documents referenced in the agenda; (12) a Regulation Identifier Number (RIN) assigned to identify an individual rulemaking in the agenda and facilitate tracing further action on the issue in the **Federal Register** that may occur between agenda publications; (13) whether the item is part of the Reinventing Government effort and, if so, whether it would revise existing text in the Code of Federal Regulations or eliminate text; (14) whether the action is subject to the Unfunded Mandates Act; and (15) whether the action is major under the congressional review of rulemaking procedures established by the Small Business Regulatory Enforcement Fairness Act. If there is information that does not fit in the other categories, it will be included under a separate heading entitled "Additional Information."

For nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules), to keep those requirements operationally current, only the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations are included; individual regulations are not listed.

If a regulatory docket number has already been established, it may be provided under the "Additional Information" heading. If a member of the public desires further information regarding a particular proposal or regulation, reference should be made to this docket number.

In the "Timetable" column, abbreviations are used to indicate the particular documents being considered for issuance by that date. ANPRM stands for Advance Notice of Proposed Rulemaking, SNPRM for Supplemental Notice of Proposed Rulemaking, NPRM for Notice of Proposed Rulemaking, and FR for Final Rule. Listing a future date in this column is not an indication that a proposed or a final rule will be issued on that date; it is the earliest date on which a decision is expected to be made on whether to issue the document listed. Submittal of any proposed or final rule to the Office of Management and Budget for review under Executive Order 12866 must follow such a decision. If any document is issued, publication in the **Federal Register** would follow within a few days of completion of this review. In addition, these dates are based on current schedules. Information received subsequent to the issuance of this agenda could result in a decision not to take regulatory action or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

Finally, a dot (•) preceding an entry indicates that the entry appears in the agenda for the first time.

Request for Comments

General

Our agenda is intended primarily for the use of the public. Since its inception, we have made modifications and refinements that we believe provide the public with more helpful information, as well as make the agenda easier to use. We would like you, the public, to make suggestions or comments on how the agenda could be further improved.

In an effort to comply further with the spirit of Executive Order 12866, the Regulatory Flexibility Act, DOT's regulatory policies and procedures, and the President's directive on plain language, we are also seeking suggestions on which existing regulations issued by an operating administration of the Department or the Office of the Secretary you believe need to be reviewed to determine whether they should be revised or revoked. We particularly draw your attention to the Department's review plan in Appendix D.

Regulatory Flexibility Act

The Department is especially interested in obtaining information on requirements that have a "significant economic impact on small entities" and, therefore, must be reviewed under the

Regulatory Flexibility Act. If you have any suggested regulations, please send them, along with your explanation of why they should be reviewed, to the concerned operating administration or the Office of the Secretary.

In accordance with the Regulatory Flexibility Act, comments are specifically invited on regulations that are targeted for review under section 610 of the RFA. Please see Appendix D for the Department's section 610 review plans and information. Those comments should be addressed to the contact person of the operating administration involved.

Plain Language

The President's "Plain Language in Government Writing" memorandum of June 1, 1998, requires that by January 1, 1999, we must use plain language in all proposed and final rulemaking documents published in the **Federal Register**. The exception is if we proposed the rule before that date. We try to write clearly. However, we solicit your comments and suggestions for how to improve the clarity of our regulations and specific existing or proposed rules that need improvement.

Year 2000 Computer Problem

We are requesting public comment to assist us in identifying rulemaking actions that would affect the private sector or governmental entities' ability to fix their year 2000 computer date problem. If we consider a requirement that would mandate business process changes and require modifications to computer systems between September 30, 1998, and July 1, 2000, as part of the development of the proposed and final rule, we will analyze the effect of our action and our discretion to consider other approaches. If we impose a requirement, a summary of the analysis will be included in the preamble that will clearly explain why we are imposing it, why there are no acceptable alternatives, and why it cannot be delayed. If you see actions identified in this agenda that you believe would impose such requirements, we encourage you to let us know.

Purpose

The Department is publishing this regulatory agenda in the **Federal Register** to share with interested members of the public the Department's preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department's regulatory activity and should result in more effective public participation. This publication in the **Federal Register** does not impose any binding obligation on the Department or any of the offices within the Department with regard to any specific item on the agenda. Regulatory action, in addition to the items listed, is not precluded. If further information is desired on any of the items listed in the agenda, the public is encouraged to contact the individual listed for the particular item. Additional information concerning the agenda in general or the Department's Regulatory Policies and Procedures may be obtained from Neil R. Eisner, whose address and telephone number appear above.

Issued in Washington, DC, on October 8, 1998.

Rodney E. Slater,

Secretary of Transportation.

Appendix A - Instructions for Obtaining Copies of Regulatory Documents

Some Administrations within the Department differ in procedures or as to inclusion on a mailing list. For the offices listed below, persons desiring to obtain a copy of a specific regulatory document to be issued that is listed in this agenda should communicate, either by telephone or by letter, with the contact person listed with the regulation at the addresses below.

United States Coast Guard (USCG)

(Name of contact person), United States Coast Guard, 2100 2nd Street SW., Washington, DC 20593.

Federal Highway Administration (FHWA)

(Name of contact person), Federal Highway Administration, 400 7th Street SW., Washington, DC 20590.

Federal Railrood Administration (FRA)

(Name of contact person), Federal Railroad Administration, 400 7th Street SW., Washington, DC 20590.

National Highway Troffic Sofety Administration (NHTSA)

(Name of contact person), National Highway Traffic Safety Administration, 400 7th Street SW., Washington, DC 20590.

Federal Transit Administration (FTA)

(Name of contact person), Federal Transit Administration, 400 7th Street SW., Washington, DC 20590.

Saint Lawrence Seaway Development Corporation (SLSDC)

(Name of contact person), Saint Lawrence Seaway Development Corporation, 400 7th Street SW., Room 5424, Washington, DC 20590.

Research and Special Programs Administration (RSPA)

(Name of contact person), Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590.

Maritime Administration (MARAD)

Joel C. Richard, Secretary, Maritime Administration, 400 7th Street SW., Room 7210, Washington, DC 20590, (202) 366-5746.

Federal Aviation Administration (FAA)

The FAA has a mailing list system for notices and advance notices of proposed rulemaking (NPRMs and ANPRMs). Persons interested in obtaining future copies of all of those documents to be issued by the FAA or only of those concerning certain parts of the Federal Aviation Regulations should request a copy of Advisory Circular No. 11-2, which describes the application procedure, by calling (202) 267-3484 or by writing to: Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591.

Office of the Secretary (OST)

Persons desiring to receive future copies of the Department's regulatory agenda should submit their request to: Assistant General Counsel for Regulation and Enforcement, C-50, Office of the General Counsel, Department of Transportation, Washington, DC 20590, (202) 366-4723.

Persons who have an interest in specific regulatory documents to be issued by the Office of the Secretary should forward requests for copies of those documents to the same address. These requests should fully identify the document desired.

Appendix B - General Rulemaking Contact Persons

The following is a list of persons who can be contacted within the Department for general information concerning the rulemaking process within the various operating administrations.

USCG - Pam Pelcovits, Office of Chief Counsel, USCG Headquarters Building,

Room 3406, 2100 2nd Street SW., Washington, DC 20593; telephone: (202) 267-1534.

FAA - Donald Byrne, Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Avenue SW., Room 915A, Washington, DC 20591; telephone: (202) 267-3073.

FHWA - Thomas Holian, Office of Chief Counsel, 400 7th Street SW., Room 4223, Washington, DC 20590; telephone: (202) 366-1383.

FRA - Colleen Brennan, Office of Chief Counsel, 400 7th Street SW., Room 8128, Washington, DC 20590; telephone: (202) 632-3169.

NHTSA - Nicole H. Fradette, Office of Chief Counsel, 400 7th Street SW., Room 5219, Washington, DC 20590; telephone: (202) 366-2992.

FTA - Nancy Zaczek, Office of Chief Counsel, 400 7th Street SW., Room 9316, Washington, DC 20590; telephone: (202) 366-4011.

SLSDC - Marc Owen, General Counsel's Office, 400 7th Street SW., Room 5424, Washington, DC 20590; telephone: (202) 366-0108.

RSPA - Edward Bonekemper, Office of Chief Counsel, 400 7th Street SW., Room 8405, Washington, DC 20590; telephone: (202) 366-4400.

MARAD - Edmund T. Sommer, Jr., Assistant Chief Counsel, Maritime Administration, 400 7th Street SW., Room 7230, Washington, DC 20590; telephone: (202) 366-5746.

BTS - David Mednick, 400 7th Street SW., Room 3430, Washington, DC 20590; telephone: (202) 366-8871.

OST - Neil Eisner, Office of Regulation and Enforcement, 400 7th Street SW., Room 10424, Washington, DC 20590; telephone: (202) 366-4723.

Appendix C - Public Rulemaking Dockets

The Department has a consolidated electronic rulemaking and adjudicatory dockets system. It is Internet accessible at the following address: http://dms.dot.gov. The dockets for the operating administrations are available through the central dockets facility with the exception of the FRA docket.

The docket location where the public may review regulatory dockets and hand-deliver comments on proposed rulemakings:

FRA - Docket Clerk, 400 7th Street SW., Mail Stop 10, Washington, DC 20590. Working Hours: 8:30-5:00.

USDOT - Docket, 400 7th Street SW., Room PL 401, Washington, DC 20590. Working Hours: 10:00-5:00.

DOT

Appendix D - Review Plans for Section 610 and Other Requirements

Part I - The Plan

General

The Department of Transportation has long recognized the importance of regularly reviewing its existing regulations to determine whether they need to be revised or revoked. Our 1979 Regulatory Policies and Procedures require such reviews. We also have responsibilities under E.O. 12866 ("Regulatory Planning and Review") and section 610 of the Regulatory Flexibility Act to conduct such reviews. Finally, on June 1, 1998, the President also directed agencies to use plain language in new rules and to consider rewriting existing rules when we have the opportunity and resources permit. The Department is currently conducting a number of reviews of existing rules and is engaged in rulemaking actions resulting from reviews.

Section 610 Review Plan

Section 610 requires that we conduct reviews of rules that (1) have been published within the last ten years and (2) have a "significant economic impact on a substantial number of small entities" (SEIOSNOSE). It also requires that we publish in the Federal Register each year a list of any such rules that we will review during the next year. To better comply with section 610, the Department is updating its regulatory review plan published on June 29, 1981, to accomplish a more systematic review of all of its regulations. The Office of the Secretary and each of the Department's Operating Administrations, except for the Federal Highway Administration (FHWA), developed a 10-year plan for the analysis and review of all their rules. The agencies with smaller regulatory programs expect to complete their reviews over a shorter period of time. These reviews will comply with section 610 of the Regulatory Flexibility Act. FHWA's approach to section 610 reviews is described in Part II to this Appendix.

Other Review Plans

All elements of the Department, except for FHWA and the Federal Aviation Administration (FAA), have also elected to use this 10-year plan process to comply with the review requirements of the Department's Regulatory Policies and Procedures, Executive Order 12866, and the President's directive on plain language. FHWA and FAA are using different approaches, which are described in Part II to this Appendix.

Changes to the Review Plan

Some reviews may be conducted earlier than scheduled. For example, to the extent resources permit, the plain language reviews will be conducted more quickly. Other events, such as accidents, may result in the need to conduct earlier reviews of some rules. Other factors may also result in the need to make changes; for example, we may make changes in response to public comment on this plan or in response to a Presidentially-mandated review. If there is any change to the review plan, we will note the change in the following Unified Agenda. For any section 610 review, we will provide the required notice prior to the review.

Part II - The Review Process

Except as specifically noted for FHWA and FAA at the end of this part of the Appendix, each element of the DOT will use the following process to review its existing rules.

Year 1 - Analysis

Generally, the agencies have divided their rules into 10 different groups and plan to analyze one group each year. The analysis for group 1 will take place from fall 1998 to fall 1999, group 2 from fall 1999 to fall 2000, and so on. We request public comment on the timing of the reviews. For example, is there a reason for scheduling an analysis and review for a particular rule earlier than we have? Any comments concerning the plan or particular analyses can be submitted to the regulatory contacts listed in Appendix B, General Rulemaking Contact Persons.

Section 610

The agency will analyze each of the rules in that year's group to determine whether any rule published in the last ten years has a SEIOSNOSE, which triggers the need for a review under section 610 of the Regulatory Flexibility Act. The level of analysis will, of course, depend on the nature of the rule and its applicability. We request that public comments be submitted to us early in the analysis year concerning the small entity impact of the rules to help us in making our determinations. In each October's Agenda, the agency will publish information on the results of the analyses that it has completed during the previous year. For rules that had a negative finding on SEIOSNOSE, we will give a short explanation (e.g., "these rules only establish petition processes that have no cost impact" or "these rules do not apply to any small entities"). For parts, subparts or other discrete sections of rules that do have a SEIOSNOSE, we will indicate that during the next twelve months, we are going to do a section 610 review to determine whether we can lessen the impact. At this stage, we will add an entry to the Agenda in the prerulemaking section describing the review in more detail. We also will ask for public comment on how best to lessen the impact for specific rules and provide a name or docket to which public comments can be submitted. In some cases, the section 610 review may be part of another unrelated review of the rule. In such a case, we plan to clearly indicate which parts of the review are being conducted under section 610.

Other Reviews

During this analysis year, the agency will also examine the specified rules to determine whether any other reasons exist for revising or revoking the rule or for rewriting the rule in plain language. In each October's Agenda, the agency will also publish information on the results of the examinations completed during the previous year.

Year 2 - Section 610 Review

During this year we will conduct the review to determine whether to revise or revoke the rule to lessen the impact or whether we must keep the rule unchanged. At the end of the review year, we plan to publish the results of our review. If no changes are warranted, we will publish a short explanation. If we are going to make a change, we will explain that. In most cases, this will involve changing the review entry to the Unified Agenda noting that we now plan rulemaking action.

FHWA

Because of its ongoing zero-based review of its safety rules and the need to review many of its financial assistance rules in response to the Transportation Efficiency Act for the 21st Century, FHWA has not developed a 10-year review plan. In Part IV, it describes its ongoing or planned reviews.

FAA

The Federal Aviation Administration, rather than review a portion of its rules each year, has established a process by which the public is asked for its comments on which rules need review the most. Any information that the FAA receives in connection with its annual section 610 analyses would, of course, also be reviewed in the spirit of E.O. 12866. In addition, in response to a recommendation of the White House Commission on Aviation Safety and Security, the FAA has completed a review of all its existing regulations to identify those in need of rewriting as performance-based or plain language regulations. The agency also reviewed ongoing regulatory projects and proposals to identify additional candidates for revision. In all, the agency reviewed 68 parts of the CFR, containing 3,884 sections, appendices, and Special Federal Aviation Regulations. In addition to using plain language in its future regulations, the FAA intends to revise those regulations identified in its study when it has the opportunity and resources to do so.

Part III - List of Pending Section 610 Reviews

The Agenda identifies the pending DOT section 610 reviews by inserting "(Section 610 Review)" after the title for the specific entry. Also, a Governmentwide list of section 610 reviews can be located in an Index at the end of the Agenda. For further information on the pending reviews, see the Agenda entries.

Part IV - The Schedules

DOT

OFFICE OF THE SECRETARY
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	14 CFR parts 200 through 212	1998	1999
2	14 CFR parts 213 through 232	1999	2000
3	14 CFR parts 234 through 254	2000	2001
4	14 CFR parts 255 through 298 and part 40	2001	2002
5	14 CFR parts 300 through 373	2002	2003
6	14 CFR parts 374 through 398	2003	2004
7	14 CFR part 399 and 49 CFR parts 1 through 11	2004	2005
8	49 CFR parts 17 through 28	2005	2006
9	49 CFR parts 29 through 39 and parts 41 through 89	2006	2007
10	49 CFR parts 91 through 99, 48 CFR parts 1201 through 1253, and new parts and subparts	2007	2008

Year 1 (Fall 1998) List of Rules that will be analyzed during the next year
14 CFR part 200 - Definitions and instructions
14 CFR part 201 - Air carrier authority under subtitle VII of title 49 USC
14 CFR part 203 - Waiver of Warsaw Convention liability limits and defenses
14 CFR part 204 - Data to support fitness determinations
14 CFR part 205 - Aircraft accident liability insurance
14 CFR part 206 - Certificates of public convenience and necessity: Special authorizations and exemptions
14 CFR part 211 - Applications for permits to foreign air carriers
14 CFR part 212 - Charter rules for U.S. and foreign air carriers

UNITED STATES COAST GUARD
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	33 CFR parts 1 through 124	1998	1999
2	33 CFR parts 125 through 199	1999	2000
3	46 CFR parts 41 through 69	2000	2001
4	46 CFR parts 1 though 49	2001	2002
5	46 CFR parts 70 through 89	2002	2003
6	46 CFR parts 90 through 139	2003	2004
7	46 CFR parts 140 through 155	2004	2005
8	46 CFR parts 156 through 165	2005	2006
9	46 CFR parts 166 through 199	2006	2007
10	New parts and subparts	2007	2008

Year 1 (Fall 1998) List of Rules that will be analyzed during the next year
33 CFR part 1 - General Provisions
33 CFR part 2 - Jurisdiction
33 CFR part 3 - Coast Guard areas, districts, marine inspection zones, and captain of the port zones
33 CFR part 4 - OMB control numbers assigned pursuant to the Paperwork Reduction Act
33 CFR part 5 - Coast Guard Auxiliary
33 CFR part 6 - Protection and security of vessels, harbors, and waterfront facilities

DOT

33 CFR part 8 - United States Coast Guard Reserve
33 CFR part 13 - Decorations, medals, ribbons, and similar devices
33 CFR part 17 - United States Coast Guard general gift fund
33 CFR part 19 - Waivers of navigation and vessel inspection laws and regulations
33 CFR part 20 - Class II Civil Penalties
33 CFR part 23 - Distinctive markings for Coast Guard vessels and aircraft
33 CFR part 25 - Claims
33 CFR part 26 - Vessel bridge-to-bridge radiotelephone regulations
33 CFR part 27 - Adjustment of civil monetary penalties for inflation
33 CFR part 40 - Cadets of the Coast Guard
33 CFR part 45 - Enlistment of personnel
33 CFR part 49 - Payment of amounts due mentally incompetent Coast Guard personnel
33 CFR part 50 - Coast Guard Retiring Review Board
33 CFR part 51 - Coast Guard Discharge Review Board
33 CFR part 52 - Board for Correction of Military Records of the Coast Guard
33 CFR part 53 - Coast Guard whistleblower protection
33 CFR part 54 - Allotments from active duty pay for certain support obligations
33 CFR part 60 - [Reserved]
33 CFR part 62 - United States aids to navigation system
33 CFR part 64 - Marking of structures, sunken vessels, and other obstructions
33 CFR part 66 - Private aids to navigation
33 CFR part 67 - Aids to navigation on artificial islands and fixed structures
33 CFR part 70 - Interference with or damage to aids to navigation
33 CFR part 72 - Marine information
33 CFR part 74 - Charges for Coast Guard aids to navigation work
33 CFR part 76 - Sale and transfer of aids to navigation equipment
33 CFR part 80 - COLREGS demarcation lines
33 CFR part 81 - 72 COLREGS: Implementing rules
33 CFR part 82 - 72 COLREGS: Interpretative rules
33 CFR part 84 - Annex I: Positioning and technical details of lights and shapes
33 CFR part 85 - Annex II: Additional signals for fishing vessels fishing in close proximity
33 CFR part 86 - Annex III: Technical details of sound signal appliances
33 CFR part 87 - Annex IV: Distress signals
33 CFR part 88 - Annex V: Pilot Rules
33 CFR part 89 - Inland navigation rules: Implementing rules
33 CFR part 90 - Inland rules: Interpretative rules
33 CFR part 95 - Operating a vessel while intoxicated
33 CFR part 100 - Marine Events
33 CFR part 109 - General
33 CFR part 110 - Anchorage regulations
33 CFR part 114 - General
33 CFR part 115 - Bridge locations and clearances; administrative procedures
33 CFR part 116 - Alteration of unreasonably obstructive bridges
33 CFR part 117 - Drawbridge operation regulations
33 CFR part 118 - Bridge lighting and other signals
33 CFR part 120 - Security of passenger vessels

FEDERAL AVIATION ADMINISTRATION
SECTION 610 REVIEW PLAN

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	14 CFR parts 1 through 21	1998	1999
2	14 CFR parts 23 through 34	1999	2000
3	14 CFR parts 35 through 49	2000	2001
4*	14 CFR parts 61 through 77	2001	2002
5	14 CFR parts 91 through 10	2002	2003
6	14 CFR parts 107 through 133	2003	2004
7	14 CFR parts 135 through 147	2004	2005
8	14 CFR parts 150 through 169	2005	2006
9	14 CFR parts 170 through 198	2006	2007
10	14 CFR parts 400 through 415	2007	2008

DOT

Year 1 (Fall 1998) List of Rules that will be analyzed during the next year
14 CFR part 1 - Definitions and abbreviations
14 CFR part 11 - General rulemaking procedures
14 CFR part 13 - Investigative and enforcement procedures
14 CFR part 14 - Rules implementing the Equal Access to Justice Act of 1980
14 CFR part 15 - Administrative claims under Federal Tort Claims Act
14 CFR part 16 - Rules of practice for Federally-assisted airport enforcement proceedings
14 CFR part 21- Certification procedures for products and parts
*FAA will also review all other rules dealing with alcohol and drugs.

FEDERAL HIGHWAY ADMINISTRATION

SECTION 610 AND OTHER REVIEWS

I. Federal-Aid Highway Program

The FHWA has adopted regulations in title 23 of the CFR, chapter I, related to the Federal-aid highway program. These regulations implement and carry out the provisions of Federal law relating to the administration of Federal aid for highways. The primary law authorizing Federal aid for highways is chapter 1 of title 23 of the USC. Section 145 of title 23 expressly provides that chapter 1 provides for a federally assisted State program. For this reason, the regulations adopted by the FHWA in title 23 of the CFR primarily relate to requirements that States must meet to receive Federal funds for the construction and other work related to highways.

Because the regulations in title 23 primarily relate to States, which are not defined as small entities under the Regulatory Flexibility Act, the FHWA believes that its regulations in title 23 do not have a significant economic impact on a substantial number of small entities, with limited exceptions discussed below. The FHWA solicits public comment on this preliminary conclusion.

In title 23 of the CFR, part 450, "Planning assistance and standards," and part 500, "Management and monitoring systems," may impact small local governments. The FHWA intends to review parts 450 and 500 of title 23 during the next year as part of its efforts to implement the Transportation Equity Act for the 21st Century (Pub. L. 105-78, June 9, 1998, TEA-21), which reauthorizes Federal surface transportation programs. The FHWA solicits public comment on whether and how parts 450 and 500 may be amended to reduce or eliminate burdens on small entities, including small governments.

Similarly, part 657, "Certification of size and weight enforcement," Part 658, "Truck size and weight, route designations - length, width and weight limitations," and part 669, "Enforcement of heavy vehicle use tax," of title 23 may have impacts on small governments or small businesses. The FHWA also intends to review these regulations in 1999, and public comment is solicited on whether and how these regulations may be revised to reduce burdens on small entities.

Implementation of TEA-21 may offer further opportunities to reduce the burden of existing regulations on small entities, and comment on this possibility is requested.

II. Federal Motor Carrier Safety Regulations

The FHWA has underway a comprehensive, multi-year project to develop modern, uniform safety regulations that are up-to-date, clear, concise, easier to understand, and more performance oriented. The FHWA has held 11 public outreach meetings, announced in the Federal Register, to solicit public involvement in this review; a total of 110 industry and government safety representatives participated in 14 one-day focus group sessions; over 2,000 comments have been received in the public docket so far.

On November 23, 1994, the FHWA published a final rule removing obsolete and redundant regulations identified through this review. In addition, on June 18, 1998, the FHWA published another final rule (63 FR 33254) removing and amending additional provisions of the Federal Motor Carrier Safety Regulations identified through the zero-base review.

The FHWA is now developing a notice of proposed rulemaking that would propose a complete revision of the Federal Motor Carrier Safety Regulations implementing the results of the FHWA's zero-base review of those regulations. The FHWA intends to propose a complete reorganization of the safety regulations and a rewrite of those regulations using plain language and a question and answer format to enhance the clarity and understandability of those regulations. In addition, the FHWA intends to better focus the regulations on safety while adopting a performance-based approach to the regulations and reducing the paperwork associated with compliance with the regulations. The FHWA believes that this effort will produce regulations which are simpler to understand and to comply with, especially for small motor carriers. Small entities will be specifically invited in this rulemaking to comment on the agency's proposal and to suggest additional ways in which the FHWA can reduce burdens on small entities through this or related rulemakings to revise the Federal Motor Carrier Safety Regulations.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	49 CFR parts 501 through 526 and 571.213	1998	1999
2	49 CFR parts 571.131 and 571.220 through 571.222	1999	2000
3	49 CFR parts 591 through 594	2000	2001
4	49 CFR parts 571.101 through 571.110 and 571.135	2001	2002

DOT

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION (Continued)
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
5	49 CFR parts 529 through 579, except part 571	2002	2003
6	49 CFR parts 571.111 through 571.129 and parts 580 through 590	2003	2004
7	49 CFR parts 571.201 through 571.212	2004	2005
8	49 CFR parts 571.214 through 571.219	2005	2006
9	49 CFR parts 571.223 through 571.304, part 500 and new parts and subparts under 49 CFR	2006	2007
10	23 CFR parts 1200's and 1300's and new parts and subparts under 23 CFR	2007	2008

Year 1 (Fall 1998) List of Rules that will be analyzed during the next year
49 CFR part 501 - Organization and delegation of powers and duties
49 CFR part 509 - OMB control numbers for information collection requirements
49 CFR part 510 - Information gathering powers
49 CFR part 511 - Adjudicative procedures
49 CFR part 512 - Confidential business information
49 CFR part 520 - Procedures for considering environmental impacts
49 CFR part 523 - Vehicle Classification
49 CFR part 525 - Exemptions from average fuel economy standards
49 CFR part 526 - Petitions and plans for relief under the Automobile Fuel Efficiency Act of 1980

FEDERAL RAILROAD ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	49 CFR parts 200 through 201	1998	1999
2	49 CFR parts 207, 209, 211, 215, and 256	1999	2000
3	49 CFR parts 210, 212, 214, and 217	2000	2001
4	49 CFR part 219	2001	2002
5	49 CFR parts 218 and 221	2002	2003
6	49 CFR parts 216 and 228 through 229	2003	2004
7	49 CFR parts 223 and 233	2004	2005
8	49 CFR parts 225, 231, and 234	2005	2006
9	49 CFR parts 235 through 236, 250, 260, and 266	2006	2007
10	49 CFR parts 213, 220, 230, 232, 239, 240, and 265	2007	2008

Year 1 (Fall 1998) List of Rules that will be analyzed during the next year
49 CFR part 200 - Informal rules of practice for passenger service
49 CFR part 201 - Formal rules of practice for passenger service

FEDERAL TRANSIT ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	None	1998	1999
2	None	1999	2000
3	49 CFR part 661	2000	2001
4	49 CFR parts 653 and 654	2001	2002
5	49 CFR part 665	2002	2003

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	49 CFR sections 171.15, 171.16 (incident reports) and parts 172, 173, 178, and 180 (cylinders)	1998	1999

DOT

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION (Continued)
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
2	49 CFR parts 106 and 107 (hazardous materials safety procedures); 171 (general hazmat requirements), and 190 (pipeline safety procedures)	1999	2000
3	49 CFR parts 174, 177 (rail and highway carriage) and 191 (gas pipeline transportation reports)	2000	2001
4	49 CFR parts 176 (vessel carriage) and 199 (pipeline employee drug and alcohol testing)	2001	2002
5	49 CFR parts 172 through 178 (radioactive materials) and 192 (gas pipeline transportation minimum safety standards)	2002	2003
6	49 CFR parts 172, 173, 174, 176, and 178 (explosives) and 193 (liquefied natural gas facilities)	2003	2004
7	49 CFR parts 173 (shipper requirements) and 194 (onshore oil pipeline response plans)	2004	2005
8	49 CFR parts 178 (non-bulk packaging) and 195 (hazardous liquid pipeline transportation)	2005	2006
9	49 CFR parts 178 through 180 (bulk packaging) and 198 (State pipeline safety grants)	2006	2007
10	49 CFR parts 172 (communications, emergency response, training and hazmat table) and 175 (air carriage)	2007	2008

Year 1 (Fall 1998) List of Rules that will be analyzed during the next year
49 CFR sections 171.15 and 171.16 - Hazardous Materials Incident Reports
49 CFR parts 172, 173, 178, 180 - Requirements for Cylinders
A section 610 review was initiated in 1997, and publication of an NPRM is anticipated in 1998. See RIN 2137-AA92.

MARITIME ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	46 CFR parts 201 through 207	1998	1999
2	46 CFR parts 221 through 232	1999	2000
3	46 CFR parts 249 through 295	2000	2001
4	46 CFR part 298	2001	2002
5	46 CFR parts 307 through 310	2002	2003
6	46 CFR parts 315 through 339	2003	2004
7	46 CFR parts 340 and 347	2004	2005
8	46 CFR parts 349 through 380	2005	2006
9	46 CFR parts 381 through 387	2006	2007
10	46 CFR parts 390 through 391	2007	2008

Year 1 (Fall 1998) List of Rules that will be analyzed during the next year
46 CFR part 201 - Rules of practice and procedure
46 CFR part 202 - Procedures relating to review by DOT Secretary of actions by Maritime Subsidy Board
46 CFR part 203 - Procedures relating to conduct of certain hearings under the Merchant Marine Act, 1936, as amended
46 CFR part 204 - Claims against the Maritime Administration under the Federal Tort Claims Act
46 CFR part 205 - Audit appeals; policy and procedure
46 CFR part 207 - Statistical data for use in operating-differential subsidy application hearings

BUREAU OF TRANSPORTAION STATISTICS
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	14 CFR part 241, Form 41	1998	1999
2	14 CFR part 241, Schedule T-100, and part 217	1999	2000
3	14 CFR part 298, 49 CFR 1249	2000	2001
4	14 CFR part 241, section 19-7	2001	2002
5	14 CFR part 291	2002	2003
6	14 CFR part 234	2003	2004
7	14 CFR part 249	2004	2005
8	14 CFR part 248	2005	2006
9	14 CFR part 250	2006	2007

DOT

BUREAU OF TRANSPORTAION STATISTICS (Continued)
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
10	14 CFR part 374a, ICAO	2007	2008

Year 1 (Fall 1998) List of Rules that will be analyzed during the next year
14 CFR part 241, Form 41 - Report of Financial and Operating Statistics for Large Certificated Air Carriers

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	33 CFR parts 401 through 403	1998	1999

Year 1 (Fall 1998) List of Rules that will be analyzed during the next year
33 CFR part 401 - Seaway regulations and rules
33 CFR part 402 - Tariff of Tolls
33 CFR part 403 - Rules of procedure of the Joint Tolls Review Board

DOT

Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2276	+ Aviation Data Requirements Review and Modernization Program	2105-AC71

+ DOT-designated significant regulation.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2277	Domestic Baggage Liability	2105-AC07
2278	Fees and Charges for Special Services: Reinvention	2105-AC47
2279	+ Update of Drug and Alcohol Procedural Rules **(Section 610 Review)**	2105-AC49
2280	+ Computer Reservations System Regulations Comprehensive Review **(Section 610 Review)**	2105-AC65
2281	Amendment to Traffic Restrictions to North Korea	2105-AC70

+ DOT-designated significant regulation.

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2282	Direct Air Carrier Responsibility for Returning Stranded Charter Passengers	2105-AA40
2283	Air Travelers: Age Discrimination	2105-AA45
2284	Direct Flights	2105-AA73
2285	Diversion of Flights Within a Metropolitan Area	2105-AA78
2286	Simplified Aviation Exemption Procedures	2105-AA82
2287	Baggage Liability Notices in International Air Transportation	2105-AA84
2288	Simplified Airline Counter-Sign Notices	2105-AA88
2289	+ Price Advertising	2105-AB50
2290	+ New Restrictions on Lobbying	2105-AB57
2291	+ Procedures for Transportation Workplace Drug-Testing Programs	2105-AB71
2292	+ Disadvantaged Business Enterprise (DBE) Regulation; General Update	2105-AB92
2293	Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations	2105-AC02
2294	+ Disclosure of Code-Sharing Arrangements and Long-Term Wet Leases	2105-AC10
2295	Use of Direct Final Rulemaking	2105-AC11
2296	Disclosure of Change-of-Gauge Services	2105-AC17
2297	Overbooking of Flights: Elimination of Airport Notice Signs	2105-AC45
2298	Rules of Practice in Aviation Economic Proceedings: Reinvention	2105-AC48
2299	Amendments to Modal Alcohol Testing Rules: Pre-Employment Testing	2105-AC50
2300	Passenger Tariff-Filing Requirements Exemption	2105-AC61
2301	Uniform Administrative Requirements for Grants and Cooperative Agreements: Common Rule	2105-AC66

+ DOT-designated significant regulation.

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2302	Policy Statement on Airline Preemption	2105-AA46
2303	+ Statement of Enforcement Policy on Rebating	2105-AB39
2304	Smoking Aboard Aircraft	2105-AB58
2305	+ Accessibility of Passenger Vessels to Individuals With Disabilities	2105-AB87
2306	+ Transportation for Individuals With Disabilities (Accessibility Guidelines)	2105-AC06
2307	Use of Oxygen by Air Carrier Passengers	2105-AC29
2308	+ Domestic Passenger Manifest Information	2105-AC62
2309	+ Enforcement Policy: Unfair Exclusionary Conduct in the Air Transportation Industry	2105-AC72

DOT

Office of the Secretary—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2310	Filing Periods for Responsive Pleadings; Rules of Practice in Aviation Economic Proceedings	2105-AC73

+ DOT-designated significant regulation.

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2311	Aviation Charter Rules	2105-AB91
2312	+ Transportation for Individuals With Disabilities (Over the Road Buses)	2105-AC00
2313	Public Availability of Information: Electronic FOIA Amendment	2105-AC69

+ DOT-designated significant regulation.

U.S. Coast Guard—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2314	Vessel Identification System (CGD 89-050)	2115-AD35
2315	Reporting Marine Casualties (CGD 91-216)	2115-AD98
2316	Handling of Explosives or Other Dangerous Cargoes Within or Contiguous to Waterfront Facilities (CGD 92-026)	2115-AE22
2317	Amendments to Hull Identification Number Regulations (CGD 92-065)	2115-AE37
2318	+ Facility Response Plans for Hazardous Substances (CGD 94-048) **(Reg Plan Seq. No. 83)**	2115-AE87
2319	+ Tank Vessel Response Plans for Hazardous Substances (CGD 94-032) **(Reg Plan Seq. No. 84)**	2115-AE88
2320	Numbering of Undocumented Barges (CGD 93-091)	2115-AF13
2321	Limited Service Domestic Voyage Load Lines for River Barges on Lake Michigan (CGD 95-015)	2115-AF38
2322	Outer Continental Shelf Activities (CGD 96-068)	2115-AF39
2323	Child Development Services (CGD 97-039)	2115-AF48
2324	User Fees for Marine Licensing, Certificates of Registry, and Merchant Mariner Documents (USCG-97-2799)	2115-AF49
2325	Oil Pollution Prevention for Oceangoing Ships and Certain Vessels in Domestic Service (CGD 97-072)	2115-AF56
2326	Revise Fees to Number Undocumented Vessels in Alaska (USCG-98-3386)	2115-AF62
2327	Deep Water Ports (CGD 97-050) **(Section 610 Review)**	2115-AF63
2328	Commercial Diving Operations (USCG-98-3786) **(Section 610 Review)**	2115-AF64

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.
+ DOT-designated significant regulation.

U.S. Coast Guard—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2329	Tank Level or Pressure Monitoring Devices (CGD 90-071)	2115-AD69
2330	Regattas and Marine Parades (CGD 95-054)	2115-AF17
2331	Licensing and Manning for Officers of Towing Vessels (CGD 94-055)	2115-AF23
2332	Streamlined Inspection Program (CGD 96-055)	2115-AF37
2333	Coast Guard Vessel Inspection User Fees (CGD 96-067)	2115-AF40
2334	Traffic Separation Scheme in the Approaches to Delaware Bay (CGD 97-004)	2115-AF42
2335	Carriage of Bulk Solid Materials Requiring Special Handling (CGD 97-037)	2115-AF47
2336	Amendment of State Waters for Private Aids to Navigation in Wisconsin and Alabama (USCG-98-3604)	2115-AF50
2337	Advance Notice of Arrivals, Vessels Bound for Ports or Places in the United States (CGD 97-067)	2115-AF54
2338	Implementation of the National Invasive Species Act of 1996 (CGD 97-068)	2115-AF55
2339	Federal Pilotage for Vessels in Foreign Trade in North Carolina (USCG-98-3323)	2115-AF57
2340	Maritime Training Course Approval Procedures (USCG-98-3824)	2115-AF58
2341	+ Emergency Control Measures for Tank Barges (USCG-98-4443)	2115-AF65
2342	+ Fire Protection Measures for Towing Vessels (USCG-98-4445)	2115-AF66

+ DOT-designated significant regulation.

DOT

U.S. Coast Guard—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2343	Safety/Security Zone Regulations	2115-AA97
2344	Special Anchorage Areas/Anchorage Grounds Regulations	2115-AA98
2345	Permits for the Transportation of Municipal and Commercial Wastes (CGD 89-014)	2115-AD23
2346	+ Discharge-Removal Equipment for Vessels Carrying Oil (CGD 90-068)	2115-AD66
2347	Claims Procedures Under the Oil Pollution Act of 1990 (CGD 91-035)	2115-AD90
2348	+ Escort Vessels for Certain Tankers (CGD 91-202)	2115-AE10
2349	+ State Access to the Oil Spill Liability Trust Fund (CGD 92-014)	2115-AE19
2350	Regatta Regulations	2115-AE46
2351	Drawbridge Regulations	2115-AE47
2352	+ Escort Vessels in Certain U.S. Waters (91-202a)	2115-AE56
2353	Regulated Navigation Areas	2115-AE84
2354	+ Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW) (CGD 95-062)	2115-AF26
2355	Propeller Injury Prevention Aboard Rental Boats (CGD 95-041)	2115-AF28
2356	+ Towing Vessel Safety (CGD 97-064)	2115-AF53
2357	Consolidation of Rules for Proceedings Against Merchant Mariners' Licenses, Certificates, and Documents (94-111)	2115-AF59
2358	+ Salvage and Firefighting Equipment; Vessel Response Plans (USCG-98-3417)	2115-AF60
2359	+ Emergency Response Plans for Passenger Vessels (USCG-98-3473)	2115-AF61

+ DOT-designated significant regulation.

U.S. Coast Guard—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2360	Qualifications for Tankermen and for Persons in Charge of Transfers of Dangerous Liquids and Liquified Gases (CGD 79-116)	2115-AA03
2361	Lifesaving Equipment-Implementation of 1983 Amendments to SOLAS 1974 (CGD 84-069)	2115-AB72
2362	+ Implementation of the Commercial Fishing-Industry Vessel Safety Act (CGD 88-079)	2115-AD12
2363	+ Security for Passenger Vessels and Passenger Terminals (CGD 91-012)	2115-AD75
2364	Notice of Hazardous Conditions (CGD 94-027)	2115-AE82
2365	Immediate Reporting of Casualties (CGD 94-030)	2115-AE89
2366	Conformance of the Uniform State Waterway Marking System With the United States Aids to Navigation System (USCG-97-3112)	2115-AF45

+ DOT-designated significant regulation.

Federal Aviation Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2367	Review of Part 47, Aircraft Registration, and Part 49, Recording of Aircraft Titles and Security Documents	2120-AC17
2368	+ Part 145 Review: Repair Stations	2120-AC38
2369	+ Drug Enforcement Assistance	2120-AD16
2370	+ Aging Aircraft Safety	2120-AE42
2371	+ Corrosion Control Program	2120-AE92
2372	+ Flight Operational Quality Assurance Program	2120-AF04
2373	+ Air Tour Standards	2120-AF07
2374	Revision of Certification Requirements: Mechanics and Repairmen	2120-AF22
2375	+ Overflights of Units of the National Park System **(Reg Plan Seq. No. 85)**	2120-AF46
2376	+ Flight Crewmember Duty Period Limitations, Flight Time Limitations, and Rest Requirements **(Reg Plan Seq. No. 86)**	2120-AF63
2377	+ Submission to Drug Tests	2120-AF64
2378	+ Passenger Facility Charges	2120-AF69
2379	Bird Ingestion Standards	2120-AF84
2380	Revision of Certification Requirements: Aircraft Dispatchers	2120-AG04

DOT

Federal Aviation Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2381	+ Duration Between Examinations for First- and Second-Airman Medical Certificates	2120-AG06
2382	Fees for Aeromedical Education Training Services	2120-AG07
2383	+ False and Misleading Statements Regarding Aircraft Parts	2120-AG08
2384	+ Security Programs of Foreign Air Carriers and Foreign Operators of U.S. Registered Air Carriers Engaged in Common Carriage	2120-AG13
2385	+ Licensing Operation of a Non-Federal Launch Site	2120-AG15
2386	Procedures for Protests and Contract Disputes; Amendment of Equal Access to Justice Act Regulations	2120-AG19
2387	+ Prohibition of the Transportation of Devices Designed as Chemical Generators as Cargo in Aircraft	2120-AG35
2388	+ Protection of Voluntarily Submitted Information	2120-AG36
2389	+ Licensing of Launch From Non-Federal Launch Site	2120-AG37
2390	+ Terrain Awareness and Warning System (TAWS) **(Reg Plan Seq. No. 87)**	2120-AG46
2391	Civil Penalties: Streamlined Enforcement Test and Evaluation Program; Security; Drug and Alcohol Abatement	2120-AG49
2392	+ High Density Airports; Allocation of Slots	2120-AG50
2393	+ Screening of Checked Baggage on Flights Within the United States	2120-AG51
2394	Parachute Operations	2120-AG52
2395	Flight Plan Requirements for Helicopter Operations Under Instrument Flight Rules	2120-AG53
2396	+ Policy Regarding Airport Rates and Charges	2120-AG58
2397	Rotorcraft Load Combination Safety Requirements	2120-AG59
2398	Harmonization of Critical Parts Rotorcraft Regulations	2120-AG60
2399	+ Transport Airplane Fleet Fuel Tank Ignition Source Review	2120-AG62
2400	Use of Electronic Signatures	2120-AG63
2401	Special Federal Aviation Regulation No. 36, Development of Major Repair Data	2120-AG64
2402	Noise Certification Standards for Propeller-Driven Small Airplanes	2120-AG65

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.
+ DOT-designated significant regulation.

Federal Aviation Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2403	Objects Affecting Navigable Airspace	2120-AA09
2404	Miscellaneous Amendments	2120-AA50
2405	+ Improved Survival Equipment for Inadvertent Water Landings	2120-AC72
2406	+ Retrofit of Improved Seats in Air Carrier Transport Category Airplanes	2120-AC84
2407	+ Sole Radio Navigation System; Minimum Standards for Certification	2120-AD26
2408	+ Aircraft Ground De-Icing and Anti-Icing Program	2120-AE70
2409	Air Traffic Control Radar Beacon System and Mode S Transponder Requirements in the National Airspace System	2120-AE81
2410	Civil Penalty Assessment Procedures	2120-AE84
2411	Cincinnati, OH, Class B Airspace	2120-AE97
2412	Flight Attendant English Language Proficiency	2120-AE98
2413	+ Revised Access to Type III Exits	2120-AF01
2414	+ Training and Checking in Ground Icing Conditions	2120-AF09
2415	Los Angeles, CA, Class B Airspace	2120-AF16
2416	+ Suspension of Certain Aircraft Operations From the Transponder With Automatic Pressure Altitude Reporting Capability Requirement	2120-AF30
2417	Normal Category Rotorcraft Maximum Weight and Passenger Seat Limitation	2120-AF33
2418	Type Certification Procedures for Changed Products	2120-AF68
2419	Miscellaneous Cabin Safety Changes	2120-AF77
2420	Revision of Hydraulics Systems Airworthiness Standards To Harmonize With European Airworthiness Standards for Transport Category Airplanes	2120-AF79
2421	Repair Assessment for Pressurized Fuselages	2120-AF81
2422	Revision of Gate Requirements for High-Lift Device Controls	2120-AF82
2423	+ Licensing Commercial Space Launch Activities	2120-AF99
2424	+ Policy and Procedures Concerning the Use of Airport Revenue	2120-AG01
2425	Revised Precision Approach Landing Systems Policy	2120-AG16
2426	+ Fees for Air Traffic Services for Certain Flights Through U.S.-Controlled Airspace and for Aeronautical Studies	2120-AG17
2427	+ Employment History, Verification and Criminal History Records Check	2120-AG32

DOT

Federal Aviation Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2428	+ Air Tour Operations in the State of Hawaii	2120-AG44
2429	Part 93 Subpart D - Anchorage, Alaska, Terminal Area	2120-AG45
2430	Licensing and Training of Foreign Pilots, Flight Instructors, and Ground Instructors Outside the United States	2120-AG66

+ DOT-designated significant regulation.

Federal Aviation Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2431	+ Fuel System Vent Fire Protection	2120-AA49
2432	Airworthiness Standards; Crash-Resistant Fuel Systems	2120-AA57
2433	IFR Altitudes; Miscellaneous Amendments	2120-AA63
2434	Airworthiness Directives:	2120-AA64
2435	Standard Instrument Approach Procedures; Miscellaneous Amendments	2120-AA65
2436	Airspace Actions	2120-AA66
2437	Low Fuel Quantity Alerting System	2120-AB46
2438	Aircraft Engines: Fuel and Induction Systems	2120-AB76
2439	Installation of Crashworthy Fuselage Fuel Tanks and Fuel Lines	2120-AC87
2440	Airplane Engine Cowling Retention	2120-AD34
2441	1-G Stalling Speed as a Basis for Compliance With Part 25 of the Federal Aviation Regulations	2120-AD40
2442	+ Revision of Part 108, Airplane Operator Security	2120-AD45
2443	+ Revision of Part 107, Airport Security	2120-AD46
2444	+ Cost of Services and Transfer of Fees to Part 187 From Parts 47, 49, 61, 63, 65, and 143	2120-AD91
2445	Type Certificates for Some Surplus Aircraft of the Armed Forces	2120-AE41
2446	+ Airport Noise Compatibility Planning	2120-AE64
2447	+ Anti-Drug and Alcohol Misuse Prevention Programs for Employees of Foreign Air Carriers Engaged in Specified Aviation Activities	2120-AE79
2448	+ Revision of Emergency Evacuation Demonstration Procedures To Improve Participant Safety	2120-AF21
2449	+ Controlled Rest on the Flight Deck	2120-AF54
2450	Operational and Structural Difficulty Reports	2120-AF71
2451	Bird Strike	2120-AF80
2452	Harmonization of Miscellaneous Rotorcraft Regulations	2120-AG23
2453	+ Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park	2120-AG34
2454	+ Revised Standards for Cargo or Baggage Compartments in Transport Category Airplanes	2120-AG42
2455	+ Child Restraint Systems	2120-AG43
2456	Revision of Air Carrier Crewmember and Training Regulations	2120-AG57

+ DOT-designated significant regulation.

Federal Aviation Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2457	+ Improved Standards for Determining Rejected Takeoff and Landing Performance	2120-AB17
2458	+ Airworthiness Standards; Occupant Protection Standards for Commuter Category Airplanes	2120-AD27
2459	+ Fatigue Evaluation of Structure	2120-AD42
2460	Visual Descent Points	2120-AE34
2461	Aviation Insurance	2120-AF23
2462	Rain and Hail Ingestion Standards	2120-AF75
2463	Braked Roll Conditions	2120-AF83
2464	Two Approach Charts	2120-AF86
2465	Non-Federal Air Traffic Control Facilities	2120-AF91
2466	Criteria for an Explosive Detection System (EDS), Standards for Detonator Detection	2120-AF95
2467	National Security Areas	2120-AF97
2468	+ Commercial Space Transportation: Financial Responsibility Requirements for Licensed Launch Activities	2120-AF98
2469	VFR/IFR Fuel Reserve Requirements: Island Destination Airports for Which No Alternate Airport Is Available	2120-AG29

DOT

Federal Aviation Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2470	Certification of Security Screening Companies	2120-AG31
2471	+ Establishment of Corridors in the Grand Canyon National Park Special Flight Rules Area	2120-AG38
2472	Commercial Passenger-Carrying Operations in Single Engine Aircraft Under Instrument Flight Rules	2120-AG55
2473	+ Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan	2120-AG56
2474	Proposed Airspace and Flight Operations Requirements for the Kodak Albuquerque International Balloon Fiesta; Albuquerque, NM	2120-AG61
2475	+ Prohibition Against Certain Flights Within the Territory and Airspace of Sudan	2120-AG67

+ DOT-designated significant regulation.

Federal Highway Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2476	+ Advanced Technology in Commercial Motor Vehicle Operations **(Section 610 Review)**	2125-AD65
2477	+ Federal Motor Carrier Safety Regulations; Definition of Commercial Motor Vehicle	2125-AE22
2478	National Standards for Traffic Control Devices; MUTCD; Minimum Retroreflectivity Requirements for Traffic Signs	2125-AE39
2479	+ General Requirements; Inspection, Repair, and Maintenance; Intermodal Container Chassis and Trailers	2125-AE40

+ DOT-designated significant regulation.

Federal Highway Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2480	Acquisition of Real Property for Rights-of-Way	2125-AC17
2481	Periodic Inspection Requirements	2125-AC47
2482	Commercial Learner Permits and CDL Effectiveness	2125-AC54
2483	Certification of Size and Weight Enforcement	2125-AC60
2484	Revision of Medical Examination Form and Procedures	2125-AC63
2485	+ Minimum Training Requirements for Operators and Training Instructors of Multiple Trailer Combination Vehicles	2125-AC92
2486	+ Training for Entry-Level Drivers of Commercial Motor Vehicles	2125-AD05
2487	+ Commercial Driver Physical Fitness as Part of the CDL Process	2125-AD20
2488	+ Department of Transportation (FHWA and FTA) NEPA and Related Procedures for Transportation Decisionmaking	2125-AD32
2489	Rules of Practice for Motor Carrier Proceedings; Investigations; Disqualifications and Penalties	2125-AD64
2490	Safety Performance History of New Drivers	2125-AD66
2491	+ Railroad Grade Crossing Safety	2125-AD75
2492	Parts and Accessories Necessary for Safe Operation; Television Receivers and Data Display Units	2125-AD76
2493	+ Hours of Service of Drivers **(Section 610 Review) (Reg Plan Seq. No. 88)**	2125-AD93
2494	Electronic Filing of Surety Bonds, Trust Fund Agreements, Insurance Certificates; Cancellations	2125-AD94
2495	+ Development of a North American Standard for Protection Against Shifting and Falling Cargo	2125-AE05
2496	+ Qualifications of Motor Carriers to Self-Insure Their Operations and Fees To Support the Approval and Compliance Process	2125-AE06
2497	+ Federal Motor Carrier Safety Regulations; Hours-of-Service and CDL Exemptions	2125-AE09
2498	Minimum Levels of Financial Responsibility for Mexican Motor Carriers	2125-AE14
2499	+ Application of the National Transportation Communications for ITS Protocol (NTCIP) Standards in ITS Projects	2125-AE21
2500	Emergency Relief Program—$500,000 Disaster Eligibility Threshold	2125-AE27
2501	Commercial Driver Disqualification Provisions	2125-AE28
2502	Work Zone Safety	2125-AE29
2503	Transportation of Household Goods; Consumer Protection Regulations	2125-AE30
2504	+ Revision of Application Form for Mexican Motor Carriers: Commercial Zones	2125-AE31
2505	+ Revision of Application Form for Mexican Motor Carriers: NAFTA	2125-AE32
2506	+ Accelerated Safety Monitoring System and Compliance Initiative for Mexican Motor Carriers Operating in the United States	2125-AE33
2507	Out-of-Service Criteria	2125-AE35
2508	Safety Fitness Procedures	2125-AE37

DOT

Federal Highway Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2509	Revision of the Manual on Uniform Traffic Control Devices; Part II—Signs	2125-AE38

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.
+ DOT-designated significant regulation.

Federal Highway Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2510	+ Parts and Accessories Necessary for Safe Operation; Lighting Devices, Reflectors, and Electrical Equipment	2125-AD27
2511	+ Federal Motor Carrier Safety Regulations; General; Motor Vehicle Marking	2125-AD49
2512	National Standards for Traffic Control Devices; Metric Conversion	2125-AD63
2513	Standards for Center Line and Edge Line Markings on Streets and Highways	2125-AD68
2514	Federal-Aid Highway Systems	2125-AD74
2515	Mitigation of Impacts to Wetlands	2125-AD78
2516	Uniform Procedures for State Highway Safety Programs	2125-AD79
2517	Railroad Highway Projects	2125-AD86
2518	Registration of For-Hire Motor Carriers, Property Brokers, and Freight Forwarders	2125-AE01
2519	+ Parts and Accessories Necessary for Safe Operation; Rear Impact Guards and Rear Impact Protection	2125-AE15
2520	Regulations Governing Fees for Services Performed in Connection With Motor Carrier Licensing and Insurance	2125-AE24
2521	Exemption of Commonly-Owned Motor Carriers From Equipment Identification and Receipt Requirements Applicable to Leased and Interchanged Vehicles	2125-AE26
2522	Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs	2125-AE34
2523	Truck Size and Weight; National Network; North Dakota	2125-AE36

+ DOT-designated significant regulation.

Federal Highway Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2524	+ Qualification of Drivers; Diabetes	2125-AB91
2525	+ Commercial Driver's License Standards; Biometric Identifier	2125-AC24
2526	+ Federal Motor Carrier Safety Regulations; General; Periodic Registration Requirements for Motor Carriers	2125-AC28
2527	Truck Length and Width Exclusive Devices	2125-AC30
2528	+ Qualification of Drivers; Vision	2125-AC62
2529	Parts and Accessories Necessary for Safe Operation: Intermodal Cargo Containers	2125-AC74
2530	+ Federal Motor Carrier Safety Regulations; General Transportation of Hazardous Materials	2125-AC78
2531	+ Qualifications of Drivers: Hearing Deficiencies	2125-AD22
2532	Highway Beautification	2125-AD24
2533	Parts and Accessories Necessary for Safe Operation; Sleeper Berths on Motor Coaches	2125-AD25
2534	Motor Carrier Safety Assistance Program (MCSAP) Allocation Formula	2125-AD30
2535	+ Hours of Service of Drivers; Supporting Document Recordkeeping	2125-AD52
2536	Advanced Construction of Federal Aid Projects	2125-AD59
2537	+ Transportation of Migrant Workers	2125-AD81
2538	Inspection, Repair, and Maintenance	2125-AD82
2539	+ Motor Carrier Replacement Information/Registration System	2125-AD91
2540	General Jurisdiction Over Freight Forwarder Service	2125-AE00
2541	Traffic Control Devices, Markings, Signals, and Systems for Railroad-Highway Grade Crossings	2125-AE11
2542	English Language Requirement; Qualifications of Drivers	2125-AE19
2543	Revision of Manual on Uniform Traffic Control Devices; General Provisions and Traffic Control for School Areas	2125-AE25

+ DOT-designated significant regulation.

DOT

Federal Highway Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2544	Transportation of Hazardous Materials; Technical Amendments	2125-AD00
2545	Antilock Brake Systems	2125-AD42
2546	Zero-Base Review of the Federal Motor Carrier Safety Regulations: Regulatory Removals and Substantive Amendments	2125-AD72
2547	National Standards for Traffic Control Devices; Pedestrian, Bicycle, and School Warning Signs	2125-AD89
2548	Federal Motor Carrier Regulations; Authority Corrections	2125-AE41

National Highway Traffic Safety Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2549	Review: Lamps, Reflective Devices, and Associated Equipment	2127-AB76
2550	Review: Passenger-Car Back Seat Occupant Protection	2127-AE95
2551	Review: Odometer Fraud	2127-AF53
2552	Review: Theft Prevention—5-Year Report to Congress	2127-AF55
2553	Add-On Seat Belt Devices	2127-AG49
2554	Booster Seats for Older Children	2127-AH14

National Highway Traffic Safety Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2555	Procedures for Considering Environmental Impacts	2127-AB79
2556	+ Rollover Protection **(Reg Plan Seq. No. 89)**	2127-AC64
2557	+ Wheelchair Lifts	2127-AD50
2558	Radiator Safety Cap	2127-AE59
2559	Upgrade Performance Requirements	2127-AF36
2560	Electric Vehicle Safety	2127-AF43
2561	Alternative Geometric Visibility Requirements for Lamps	2127-AF75
2562	Door Latch Exemption for Vehicles Equipped With Wheelchair Lifts and Ramps	2127-AG16
2563	Dealer Notification of Defect or Noncompliance Determination	2127-AG27
2564	Modified Vehicles to Accommodate a Person's Disability	2127-AG40
2565	Convex Cross View Mirrors	2127-AG41
2566	Upgrade Roof Crashworthiness	2127-AG51
2567	Fifth Percentile Female Dummy	2127-AG66
2568	+ Advanced Air Bags **(Reg Plan Seq. No. 90)**	2127-AG70
2569	Advanced Air Bag Dummy Rule for Hybrid III Type 3-Year-Old Size	2127-AG77
2570	Advanced Air Bag Dummy Rule for CRABI 12-Month-Old Size	2127-AG78
2571	Advanced Air Bag Dummy Rule for Hybrid III 95th Percentile Male	2127-AG79
2572	Administrative Rewrite for Headlamp Requirements	2127-AG87
2573	Signal Lamps Used With Light Emitting Diodes	2127-AG88
2574	State Issued Identification Documents	2127-AG91
2575	Motorcycle Mounted Reflex Reflector Height	2127-AG92
2576	Uniform Tire Quality Grading Test Procedures	2127-AG96
2577	+ Allocation of Fuel Economy Credits	2127-AG97
2578	Buy American Requirements	2127-AG99
2579	Political Subdivision Participation in State Highway Safety Programs and State Highway Safety Agency	2127-AH00
2580	Uniform Procedures for State Highway Safety Programs	2127-AH01
2581	Placement of Wheelchair Restraints on Buses	2127-AH03
2582	Incorporate the 1996 Revision of the American National Standards Institute (ANSI)	2127-AH08
2583	Harmonization of Head Restraints	2127-AH09
2584	Tire Identification Symbols	2127-AH10
2585	Truck Air Braking Requirements	2127-AH11
2586	Motorcycle Braking Requirements	2127-AH15
2587	Heavy Vehicle Antilock Brake System (ABS) Performance Requirement	2127-AH16

DOT

National Highway Traffic Safety Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2588	Functional Equivalence of Headlamp Concealment With European Regulations	2127-AH18
2589	Functional Equivalence of Windshield Washing and Wiping Systems with European Regulations	2127-AH20
2590	Functional Equivalence of Windshield Defrosting and Defogging Systems with European Regulations	2127-AH22
2591	Definition of Community Transportation Vehicles	2127-AH23
2592	Metric Conversion - Phase III	2127-AH27
2593	Public Participation in Activities Relating to the Agreement on Global Technical Regulations: Statement of Policy	2127-AH29
2594	Motor Vehicle Content Labeling Calculation	2127-AH33
2595	Upgrade Door Retention Performance	2127-AH34
2596	Theft Data for Calendar Year 1997	2127-AH35
2597	Administrative Rewrite of the Lighting Requirements Other Than Headlamps	2127-AH37

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.
+ DOT-designated significant regulation.

National Highway Traffic Safety Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2598	+ School Bus Body Joint Strength	2127-AC19
2599	Brake Lining	2127-AC66
2600	Seating Systems Performance	2127-AD08
2601	Seat Adjustment Position	2127-AE22
2602	Driving Range Determination for Dual Fuel Electric Passenger Automobiles	2127-AF37
2603	Test Device Placement	2127-AF40
2604	Cylinder Requirements	2127-AF51
2605	Power-Operated Windows: Roof Panels	2127-AF83
2606	Automotive Fuel Economy Reports	2127-AG00
2607	Power Window Safety Switches	2127-AG36
2608	Auxiliary Signal Lamps	2127-AG38
2609	Hybrid III Dummy Specifications - Clothing	2127-AG39
2610	Pelvic Restraints	2127-AG48
2611	+ Uniform Child Anchorages	2127-AG50
2612	Utility Vehicle Label	2127-AG53
2613	Certification Labels for Multipurpose Passenger Vehicles and Light Duty Trucks	2127-AG65
2614	Consumer Information on Tire Grading	2127-AG67
2615	Transition Procedures From Current to New National Driver Register	2127-AG68
2616	Advanced Air Bag Dummy Rule for Hybrid III Type 6-Year-Old Size	2127-AG76
2617	Glare Reduction From Daytime Running Lamps	2127-AG86
2618	Extend Participation in the National Driver Register Program	2127-AG90
2619	+ Fuel Economy Calculations	2127-AG95
2620	Insurer Reporting Requirements for October 1998	2127-AH05
2621	Depowering of Air Bags: Technical Amendment	2127-AH24
2622	Warning Light Requirements for Air Bag On-Off Switch	2127-AH25
2623	List of Nonconforming Vehicles Eligible for Importation	2127-AH28
2624	Extension of Passenger Car Brake System Standard to Light Trucks and Vans (LTVs) With Gross Vehicle Weight Rating Between 3,500 and 4,536kg	2127-AH30
2625	Thermal Test Procedure for Passenger Car Brake System Standard	2127-AH31
2626	High-Theft Lines for Model Year 2000	2127-AH36
2627	+ Safety Incentive Grants for Use of Seat Belts	2127-AH38
2628	+ State Incentives to Prevent Operation of Motor Vehicles by Intoxicated Persons	2127-AH39
2629	Occupant Protection Incentive Grants	2127-AH40
2630	Open Container Requirements	2127-AH41
2631	Alcohol-Impaired Driving Countermeasures Incentive Grants	2127-AH42
2632	State Highway Safety Data Improvements Incentive Grants	2127-AH43
2633	Importation of Vehicles and Equipment Suppliers - Technical Amendment	2127-AH45
2634	+ Uniform Criteria for State Observational Surveys of Seat Belt Use	2127-AH46
2635	Minimum Penalties for Repeat Offenders	2127-AH47

DOT

National Highway Traffic Safety Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2636	Adjustment of Civil Penalties	2127-AH48

+ DOT-designated significant regulation.

National Highway Traffic Safety Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2637	+ Crashworthiness Ratings	2127-AA03
2638	+ Flammability of Interior Materials - School Buses	2127-AA44
2639	Certification Requirements of Multistage Vehicles	2127-AE27
2640	+ Review: Side Impact Protection	2127-AF54
2641	Review: American Automobile Labeling Act	2127-AG18
2642	Review: Heavy Truck Conspicuity	2127-AG19
2643	Review: Child Safety Seat Registration	2127-AG93
2644	Review: Air Bag On-Off Switches	2127-AH12
2645	Review: Depowered Air Bags	2127-AH13
2646	Nontraditional Transmission Control Levers	2127-AH21

+ DOT-designated significant regulation.

National Highway Traffic Safety Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2647	Film Transmittance of Glazing Materials	2127-AC85
2648	Tires on New Trailers	2127-AF05
2649	Conversion of Vehicles to Compressed Natural Gas	2127-AF50
2650	Seat Belt Exemption for Law Enforcement Vehicles	2127-AF66
2651	Automatic Drain Valve for Air Reservoir Tanks	2127-AF72
2652	Sealed Beam Headlamps	2127-AF89
2653	Voluntarily Installed Shoulder Belts	2127-AF91
2654	Heavy Duty Vehicle Brake Systems	2127-AF96
2655	Exemption From Rearward Displacement Requirements	2127-AG01
2656	Federal Motor Vehicle Safety Standards: Head Impact Protection	2127-AG07
2657	+ Upgraded Request for Aircraft-Certified Child Seats	2127-AG12
2658	Dummy Containment During Compliance Testing	2127-AG17
2659	Plastic Spacer-Inserts for Test Dummies	2127-AG37
2660	Remove Obsolete Provisions to Occupant Crash Standard	2127-AG42
2661	Metric Conversion - Phase II	2127-AG55
2662	Low-Speed Vehicles	2127-AG58
2663	Determination of Functional Equivalency on Harmonization	2127-AG62
2664	Manufacturing Incentives for Alternative Fuel Vehicles	2127-AG63
2665	+ Light Truck Fuel Economy Standards for Model Year 2000	2127-AG72
2666	Anthropomorphic Test Dummy for Head Impact Protection	2127-AG74
2667	Compliance Test Dummy Measurements	2127-AG75
2668	Depower Exclusions From Requirements for Vehicles Certified to the Alternative Sled Test	2127-AG80
2669	Diodes Used on School Bus Stop Signal Arms	2127-AG81
2670	Air Bag Warning Label for Rear-Facing Child Seats	2127-AG82
2671	Exemptions to Odometer Disclosure Requirements	2127-AG83
2672	Motorcycle Headlamp Location Requirement	2127-AG84
2673	+ Use of Unbelted and Belted Test Dummies	2127-AG85
2674	Retarders and Stop Lights Operation	2127-AG89
2675	Head Impact Requirements Relating to Depowering	2127-AG94
2676	Additional Wording for Warning Labels for Child Restraints	2127-AH02
2677	Theft Data for Calendar Year 1996	2127-AH04
2678	High-Theft Lines for Model Year 1999	2127-AH06

DOT

National Highway Traffic Safety Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2679	Metric Conversion - Tires	2127-AH07
2680	Exemption of Motor-Driven Cycles	2127-AH17
2681	Fast Illumination Stop Lamps	2127-AH19
2682	Changes in Motor Vehicle Import Fees for FY99	2127-AH26
2683	Replaceable Light Source Dimensional Information Docket	2127-AH32
2684	Temporary Exemption From Motor Vehicle Safety Standards - Technical Amendment	2127-AH44

+ DOT-designated significant regulation.

Federal Railroad Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2685	+ Hours of Service Electronic Recordkeeping Project	2130-AB04

+ DOT-designated significant regulation.

Federal Railroad Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2686	+ Whistle Bans at Highway-Rail Grade Crossings	2130-AA71
2687	Qualification and Certification of Locomotive Engineers	2130-AA74
2688	+ Locomotive Cab Working Conditions	2130-AA89
2689	+ Environmental Impact and Related Procedures (FRA, FTA, FHWA)	2130-AA93
2690	+ Positive Train Control	2130-AA94
2691	Reinvention of Steam Locomotive Inspection Regulations	2130-AB07
2692	+ Power Brake Regulations: Freight Power Brake Revisions	2130-AB16
2693	+ Locomotive Crashworthiness	2130-AB23
2694	+ Regulations on Safety Integration Plans Governing Railroad Consolidations, Mergers, Acquisitions of Control and Start-Up Operations **(Reg Plan Seq. No. 91)**	2130-AB24
2695	Crane Safety Standards	2130-AB27
2696	Roadway Maintenance Machine Safety	2130-AB28

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.
+ DOT-designated significant regulation.

Federal Railroad Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2697	Local Rail Freight Assistance to States	2130-AA60
2698	+ Freight Car Safety Standards: Maintenance-of-Way Equipment	2130-AA68
2699	+ Passenger Equipment Safety Standards **(Reg Plan Seq. No. 92)**	2130-AA95
2700	Maintenance, Inspection, and Testing of Grade-Crossing Signal Systems	2130-AA97
2701	Statement of Policy Regarding Safety of Railroad Bridges	2130-AA99
2702	Reinvention of Regulations Addressing Discontinuance or Modification of Signal Systems	2130-AB05
2703	Reinvention of Signal System Reporting Requirements	2130-AB06
2704	Florida Overland Express High Speed Rail Rule of Particular Applicability	2130-AB14
2705	Small Railroads; Policy Statement on Enforcement Program	2130-AB15
2706	Use of Remotely Controlled Locomotives in Rail Operations	2130-AB17
2707	Use of One-Person Crews in Rail Operations	2130-AB18
2708	Bridge Worker Safety Standards	2130-AB25
2709	Amendment of Regulations Governing Railroad Rehabilitation and Improvement Financing	2130-AB26
2710	Planning Activities Under the Magnetic Levitation Transportation Technology Deployment Program	2130-AB29

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

DOT

+ DOT-designated significant regulation.

Federal Railroad Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2711	AMTRAK Waste Disposal	2130-AA84
2712	Protection of Utility Employees	2130-AA90
2713	Tourist and Historic Working Group Regulatory Review	2130-AB12

Federal Railroad Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2714	+ Track Safety Standards	2130-AA75
2715	+ Rail Passenger Service: Emergency Preparedness	2130-AA96
2716	Reinvention of Regulations Addressing Railroad User Fees	2130-AB09
2717	Railroad Communications	2130-AB19
2718	Advanced Civil Speed Enforcement System; Northeast Corridor Railroads	2130-AB20
2719	Two-Way End-of-Train Telemetry Devices and Certain Passenger Train Operations	2130-AB22

+ DOT-designated significant regulation.

Federal Transit Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2720	Proposed Expanded Reporting of Safety and Security Portion of the National Transit Database	2132-AA60

Federal Transit Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2721	+ Department of Transportation (FTA, FHWA, FRA, and USCG) and Related Procedures for Transportation Decisionmaking	2132-AA43
2722	Buy America Requirements; Amendment to Rolling Stock and Certification Procedures	2132-AA62
2723	+ Major Capital Investment Projects	2132-AA63
2724	Planning	2132-AA66
2725	School Bus Operations	2132-AA67

+ DOT-designated significant regulation.

Federal Transit Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2726	+ Bus Testing	2132-AA30
2727	Prevention of Alcohol Misuse in Transit Operations; Prevention of Prohibited Drug Use in Transit Operations	2132-AA56
2728	Charter Services Demonstration Program	2132-AA58
2729	"Maintenance" Under Definition of Safety-Sensitive Functions in Drug and Alcohol Rules	2132-AA61
2730	Clean Fuels Formula Grant Program	2132-AA64
2731	Capital Leases	2132-AA65

+ DOT-designated significant regulation.

DOT

Research and Special Programs Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2732	Hazardous Materials: Revision of Requirements for Carriage by Aircraft	2137-AD18
2733	Hazardous Materials: Revisions to the Incident Reporting Regulations and Incident Report Form 5800.1	2137-AD21

Research and Special Programs Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2734	+ Requirements for Cylinders **(Section 610 Review) (Reg Plan Seq. No. 93)**	2137-AA92
2735	Gas Gathering Line Definition	2137-AB15
2736	+ Qualification of Pipeline Personnel	2137-AB38
2737	DOT 3AL Aluminum Cylinders; Safety Problems	2137-AB51
2738	Underwater Abandoned Pipeline Facilities	2137-AC33
2739	Areas Unusually Sensitive to Environmental Damage (USAs)	2137-AC34
2740	Hazardous Materials: Labeling Requirements for Poisonous Materials	2137-AC47
2741	Regulated Gas and Hazardous Liquid Gathering Lines	2137-AC53
2742	Periodic Underwater Inspections	2137-AC54
2743	Hazardous Materials: Requirements for Cargo Tanks	2137-AC90
2744	+ Hazardous Materials: Safety Standards for Unloading Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service **(Reg Plan Seq. No. 94)**	2137-AD07
2745	Pipeline Safety: Adoption of Industry Standards for Liquefied Natural Gas Facilities	2137-AD11
2746	Hazardous Materials: Infectious Substances	2137-AD13
2747	Transportation of Hazardous Materials; Miscellaneous Amendments	2137-AD16
2748	+ Hazardous Materials Transportation: Registration and Fee Assessment Program	2137-AD17
2749	Hazardous Materials: Revision and Consolidation of Requirements for Carriage by Rail Car and Motor Vehicle	2137-AD19
2750	Hazardous Materials: Revised and Clarified Hazardous Materials Safety Rulemaking and Program Procedures	2137-AD20
2751	Pipeline Safety: Enforcement Procedures	2137-AD22
2752	Pipeline Safety: Periodic Updates to Pipeline Safety Regulations (1998)	2137-AD23
2753	Pipeline Safety: Corrosion Control on Gas and Hazardous Liquid Pipelines	2137-AD24
2754	Pipeline Safety: Gas Pipeline Repair	2137-AD25
2755	Pipeline Safety: Pressure Testing Older Pipelines in Terminals	2137-AD26

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.
+ DOT-designated significant regulation.

Research and Special Programs Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2756	Quantity Limitations Aboard Aircraft	2137-AA85
2757	Determining the Extent of Corrosion on Exposed Gas Pipelines	2137-AB50
2758	Passage of Internal Inspection Devices	2137-AB71
2759	Pipeline Safety: Adoption of Industry Standards for Breakout Tanks	2137-AC11
2760	Tank Cars and Cargo Tank Motor Vehicles: Attendance Requirements	2137-AC24
2761	+ Response Plans for Onshore Oil Pipelines	2137-AC30
2762	+ Risk-based Alternative to Pressure Testing Rule	2137-AC78
2763	Filling of Propane Cylinders	2137-AC86
2764	Pipeline Safety: Periodic Updates to Pipeline Safety Regulations (1997)	2137-AD03
2765	Hazardous Materials: Editorial Corrections and Clarifications	2137-AD27

+ DOT-designated significant regulation.

Research and Special Programs Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2766	+ Maps and Records of Pipeline Locations and Characteristics; Notification of State Agencies; Pipe Inventory	2137-AB48

DOT

Research and Special Programs Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2767	+ Safeguarding Food From Contamination During Transportation	2137-AC00
2768	+ Increased Inspection Requirements	2137-AC38
2769	+ Emergency Flow Restricting Devices	2137-AC39
2770	Retention of Shipping Papers	2137-AC64
2771	Applicability of the Hazardous Materials Regulations	2137-AC68
2772	+ Prohibition of Oxidizers Aboard Aircraft	2137-AC92
2773	Further Regulatory Review; Gas Pipeline Safety Standards	2137-AD01
2774	+ Pipeline Safety: Recommendations to Change Hazardous Liquid Pipeline Safety Standards	2137-AD10
2775	1998 Harmonization of Hazardous Materials Regulations with International Standards	2137-AD15

+ DOT-designated significant regulation.

Research and Special Programs Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2776	Hazardous Materials; Miscellaneous Amendments and Corrections	2137-AC41
2777	Control of Foreign Drug Use and Alcohol Misuse in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations	2137-AC67
2778	Drug and Alcohol Testing: Substance Abuse Professional Evaluation for Drug Use	2137-AC84
2779	Low-Stress Hazardous Liquid Pipelines Serving Plants and Terminals	2137-AC87
2780	Metrication of Pipeline Safety Standards	2137-AC98
2781	Regulations Implementing Memorandum of Understanding With the Department of the Interior	2137-AC99
2782	Pipeline Safety: Incorporation by Reference of Industry Standard on Leak Detection	2137-AD06
2783	Pipeline Safety: Change in Response Plan Review Cycle	2137-AD12
2784	Hazardous Materials: Radiation Protection Program Requirement	2137-AD14

Maritime Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2785	Approval of Underwriters for Marine Hull Insurance	2133-AB36

Maritime Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2786	Approval of Certain Transactions Before Vessel Documentation	2133-AB30
2787	Putting Customers First in the Title XI Program: Ship Financing Guarantees	2133-AB32

Maritime Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2788	Use of Brokerage Firms as Depositories Under the Capital Construction Fund Program	2133-AB35

DOT

Maritime Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2789	Transfer of Marine Equipment To Ship Operators and Shipyards: Removal	2133-AB34

Bureau of Transportation Statistics—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2790	Modernizing the Passenger Origin-Destination Survey	2139-AA01

Bureau of Transportation Statistics—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2791	Modernizing the Motor Carriers of Property Financial Data Collections	2139-AA05

Bureau of Transportation Statistics—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2792	+ Amendments to the On-Time Disclosure Rule	2139-AA00

+ DOT-designated significant regulation.

Bureau of Transportation Statistics—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2793	Motor Carrier Transportation; Redesignation of Regulations	2139-AA06

DEPARTMENT OF TRANSPORTATION (DOT)

Prerule Stage

Office of the Secretary (OST)

2276. +AVIATION DATA REQUIREMENTS REVIEW AND MODERNIZATION PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 40101; 49 USC 41101; 49 USC 41708; 49 USC 41709; 49 USC 41301; 49 USC 41501; 49 USC 41701

CFR Citation: 14 CFR 234; 14 CFR 241; 14 CFR 250; 14 CFR 298; 14 CFR 374a

Legal Deadline: None

Abstract: The Department is instituting an aviation data requirements review and modernization program. The review is designed to harmonize the Department's aviation data systems with current regulatory and statutory needs; improve the quality of the Department's aviation databases; and eliminate obsolete data reporting and processing systems. This is the first step in an outreach program to review aviation data collected by the Department and the measures that should be taken to modernize and improve aviation data reporting and processing systems. The Department is soliciting public comments from aviation data users on the nature, scope, source, and means for collecting, processing, and distributing airline traffic, fare, and financial data. Specifically, the Department is inviting comments to determine whether existing aviation data should be amended, supplemented, or replaced; whether selected forms and reports should be retained, modified, or eliminated; whether the Department should require all aviation data to be filed electronically; and how the aviation data system should be reengineered to enhance efficiency and to reduce costs for both the Department and airline industry. This action is significant due to substantial public and industry interest.

Timetable:

Action	Date	FR Cite
ANPRM	07/15/98	63 FR 38128
ANPRM Comment Period End	09/14/98	

DOT—OST

Prerule Stage

Action	Date	FR Cite
Reply Comment Period End	10/13/98	
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Agency Contact: Regis P. Milan, Chief, Economic and Financial Analysis Division, X-55, Office of Aviation Analysis, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2344
Fax: 202 366-7638

RIN: 2105–AC71

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Proposed Rule Stage

2277. DOMESTIC BAGGAGE LIABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 40101 et seq

CFR Citation: 14 CFR 254.4; 14 CFR 254.5

Legal Deadline: None

Abstract: The Department is proposing to amend its rule governing the amount by which certain U.S. air carriers may limit their liability to passengers for lost, damaged, and delayed baggage. This action is in response to a petition by Public Citizen and Aviation Consumer Action Project to increase the minimum liability limit from $1,250 to $1,850 per passenger. The Department is also requesting comment on two alternate proposals: (1) to raise the limit to $1,850 with a mechanism that automatically provides for periodic future increases, or (2) to raise the minimum liability limit to $2,000. On May 1, 1998, the Aviation Consumer Action Project filed a supplemental petition for a higher limitation that would be periodically updated for inflation.

Timetable:

Action	Date	FR Cite
NPRM	09/30/94	59 FR 49867
NPRM Comment Period End	11/29/94	
Comment Period Extended	11/29/94	59 FR 60926
Notice Summarizing Aggregated Data	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Carrier data was due 11/29/94. The comment period would end 30 days after the data has been aggregated and placed in the docket.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC07

2278. FEES AND CHARGES FOR SPECIAL SERVICES: REINVENTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 9701; 49 USC 40101; 49 USC 46101

CFR Citation: 14 CFR 389

Legal Deadline: None

Abstract: This action would remove or update obsolete provisions and organizational references, and adjust the fee schedule for certain special services related to aviation economic proceedings that the Department makes available to the public. The regulation has not been comprehensively updated since 1985 and the revisions will take the form of a complete reissuance of part 389.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information:

ANALYSIS: Regulatory Evaluation, 04/00/99

Agency Contact: John Miller, Analyst, Planning and Special Projects Office, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4868

RIN: 2105–AC47

2279. +UPDATE OF DRUG AND ALCOHOL PROCEDURAL RULES (SECTION 610 REVIEW)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 102; 49 USC 301; 49 USC 5331; 49 USC 20140; 49 USC 31306; 49 USC 45101; 49 USC 45106

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: The Department is reviewing its procedural rules for drug and alcohol testing. This review is intended to lead to a notice of proposed rulemaking that will not include major substantive changes to how we test but rather to update and clarify provisions of the rules. This ANPRM asked for suggestions for possible changes to the regulation and the focus is expected to be on drug testing. As part of this action, a small entities review under 5 USC section 610 will be included.

Timetable:

Action	Date	FR Cite
ANPRM	04/29/96	61 FR 18713
ANPRM Comment Period End	07/29/96	
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

DOT—OST

Proposed Rule Stage

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: This change would apply to regulated parties through each of the six DOT operating administrations' rules (FAA, FHWA, FTA, FRA, USCG, and RSPA). It is expected that the NPRM to be issued in this action will withdraw an NPRM in a related action, RIN 2105-AB71, Procedures for Transportation Workplace Drug-Testing Programs.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC49

2280. +COMPUTER RESERVATIONS SYSTEM REGULATIONS COMPREHENSIVE REVIEW (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 49 USC 41712; 49 USC 40101(a); 49 USC 40113(a); 49 USC 40105

CFR Citation: 14 CFR 255

Legal Deadline: Final, Statutory, December 31, 1997, current regulation expires.

Abstract: The Department regulates computer reservations systems owned by airlines or airline affiliates that are used by travel agencies. The current rules are designed to prevent the systems from unreasonably prejudicing the competitive position of other airlines and to ensure that travel agencies can provide accurate and unbiased information to the public. The Department is reexamining its rules to see whether they should be readopted and, if so, whether they should be changed. As part of this action, a small entities review under 5 USC section 610 will be included.

Timetable:

Action	Date	FR Cite
ANPRM	09/10/97	62 FR 47606
Notice Extending Comment Period	10/30/97	62 FR 58700
Request for Comments	11/07/97	62 FR 60195
ANPRM Comment Period End	11/10/97	
Extended Comment Period End	12/09/97	
ANPRM Comment Period Extended	01/23/98	63 FR 3491
Notice Extending Reply Comment Period	01/23/98	63 FR 3491
Extended Reply Comment Period End	02/02/98	
Extended Comment Period End	02/03/98	
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Ray, Office of General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4731
Fax: 202 366-7152

RIN: 2105–AC65

2281. AMENDMENT TO TRAFFIC RESTRICTIONS TO NORTH KOREA

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 1653; 50 USC app 2154; 50 USC app 2071; EO 12919

CFR Citation: 44 CFR 403; 49 CFR 1

Legal Deadline: None

Abstract: The Departments of Commerce and Transportation are proposing to amend their restrictions on shipping to North Korea. Currently, United States ships and aircraft are prohibited from traveling to or transporting goods to, or destined for, North Korea. In view of the U.S. policy to facilitate the gradual improvement of relations with North Korea, the two departments are proposing to provide for waivers under narrowly defined circumstances such as shipments for humanitarian relief. Shipments such as routine commercial trade would remain prohibited. This action includes a delegation of authority from the Secretary of Transportation to the Assistant Secretary of Transportation for Aviation and International Affairs to grant waivers of these restrictions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher T. Tourtellot, Office of the General Counsel for International Law, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20593
Phone: 101 366-9183

RIN: 2105–AC70

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Final Rule Stage

2282. DIRECT AIR CARRIER RESPONSIBILITY FOR RETURNING STRANDED CHARTER PASSENGERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371

CFR Citation: 14 CFR 207; 14 CFR 208

Legal Deadline: None

Abstract: This action proposed to make direct air carriers responsible for returning charter passengers stranded by strikes or other service interruptions, by eliminating the force majeure clause from charter contracts. However, the CAB subsequently issued an interpretive rule (ER-1387, 49 FR 33436) which was affirmed in court. (Arrow Air, Inc. v. Dole, 784 F2d 1118 (1986)) Therefore, this action is now moot; the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	07/11/80	45 FR 46812
NPRM Comment Period End	09/25/80	

DOT—OST

Final Rule Stage

Action	Date	FR Cite
Reply Comment Period End	10/10/80	
To Be Withdrawn	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: EDR 405, Docket 37169.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA40

2283. AIR TRAVELERS: AGE DISCRIMINATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6102

CFR Citation: 14 CFR 376

Legal Deadline: None

Abstract: This rulemaking action was initiated by the Civil Aeronautics Board to implement the Age Discrimination Act of 1975. A draft final rule was submitted to HHS, as required by that Act, and was approved. However, in view of current airline practices with respect to travel by the elderly, and the absence of complaints of discrimination based on age, there no longer appears to be a need for further rulemaking action, and the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	09/26/79	44 FR 55383
Final Action Adopted by the Board	04/10/80	
HHS Approved Final Rule With Changes	07/13/84	
To Be Withdrawn	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SPDR-74, Docket 36639.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA45

2284. DIRECT FLIGHTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1381

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: Donald L. Pevsner petitioned the CAB to institute a rulemaking proceeding to ban use of the term "direct flight" because it is deceptive, and to declare use of the term to be a prima facie violation of section 411 of the Federal Aviation Act of 1958. The Department is now considering what action to take in response to the petition.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The petition is filed in Docket 41217.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA73

2285. DIVERSION OF FLIGHTS WITHIN A METROPOLITAN AREA

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1305; 49 USC 1324; 49 USC 1371; 49 USC 1375; 49 USC 1377 to 1379; 49 USC 1381; 49 USC 1382; 49 USC 1386; 49 USC 1461; 49 USC 1481; 49 USC 1482; 49 USC 1502; 49 USC 1504

CFR Citation: 14 CFR 253; 14 CFR 399

Legal Deadline: None

Abstract: The CAB proposed to amend its rules requiring notice of contract terms for domestic travel to require that actual notice be given to passengers of terms absolving carriers from any responsibility to transport a passenger to the destination named on the ticket, or to reimburse the passenger for expenses in reaching the airport noted on the ticket when a flight is diverted to another airport in the same metropolitan area. Alternatively, the Board proposed to declare it to be an unfair and deceptive practice to divert a passenger without arranging and paying for alternate transportation to the destination airport named on the passenger's ticket. The Board considered a final rule but did not decide what action to take. DOT is withdrawing the NPRM as unnecessary since it appears that carriers no longer have the policies that promoted the CAB's concern.

Timetable:

Action	Date	FR Cite
NPRM	09/23/83	48 FR 43343
NPRM Comment Period End	11/07/83	
To Be Withdrawn	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: ADDITIONAL LEGAL AUTHORITIES: PL 96-354; 5 USC 601. Docket 41683, EDR 468/PSDR-81.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA78

2286. SIMPLIFIED AVIATION EXEMPTION PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1371; 49 USC 1372; 49 USC 1386

CFR Citation: 14 CFR 302; 14 CFR 389; 14 CFR 399

Legal Deadline: None

Abstract: A Civil Aeronautics Board rulemaking proposed to revise and simplify the requirements and procedures for applying for exemptions under section 416(b) of the Federal Aviation Act. This action has become unnecessary since the Department included most of its provisions in its rule transferring the CAB's rules to DOT. Therefore, the NPRM will be withdrawn.

DOT—OST

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/05/84	49 FR 39337
NPRM Comment Period End	12/04/84	
To Be Withdrawn	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: PDR-88/ODR-27/PSDR-83.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA82

2287. BAGGAGE LIABILITY NOTICES IN INTERNATIONAL AIR TRANSPORTATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481 to 1482

CFR Citation: 14 CFR 221

Legal Deadline: None

Abstract: In response to a petition by Mr. Howard Boros, the CAB proposed to amend the baggage liability notices provided to passengers in foreign air travel. The NPRM proposed to eliminate the disclaimer of liability for fragile and perishable items because that notice is false and misleading. Because of the amount of time that has elapsed since the proposal was issued, the Department is withdrawing it.

Timetable:

Action	Date	FR Cite
NPRM	12/18/84	49 FR 49111
NPRM Comment Period End	03/19/85	
To Be Withdrawn	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket 41690; EDR-477.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA84

2288. SIMPLIFIED AIRLINE COUNTER-SIGN NOTICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221; 14 CFR 250; 14 CFR 256

Legal Deadline: None

Abstract: The American Association of Airport Executives, the Airport Operators Council International, and the Air Transport Association of America petitioned the CAB to simplify its counter-sign requirements. Presently, airlines are required to display four different consumer protection notices on their ticket counters. The petitioners alleged that the current notices are hard to read and, therefore, do not provide much notice to passengers. They proposed replacing the four notices with one simplified counter sign. A CAB NPRM proposed a number of alternatives, such as a long and/or short notice, where the notices would be required to be posted, and whether a smoking notice should be included. DOT decided not to act on these "counter signs" separately, but rather to consider whether there should be a comprehensive re-examination of all forms of notice to passengers, including notices on tickets. This NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	08/01/84	49 FR 30742
NPRM Comment Period End	09/17/84	
Reply Comment Period End	10/02/84	
To Be Withdrawn	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket 41971; EDR-474

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA88

2289. +PRICE ADVERTISING

Priority: Other Significant

Legal Authority: 49 USC 1371; 49 USC 1381

CFR Citation: 14 CFR 380; 14 CFR 399

Legal Deadline: None

Abstract: The Department proposed in 1989 to amend its rule and policy statement with respect to air transportation price advertising. This rulemaking is significant because of substantial public interest. Because of the amount of time that has elapsed since the proposal was issued, the Department is withdrawing it.

Timetable:

Action	Date	FR Cite
NPRM	07/26/89	54 FR 31052
Extended Comment Period End 9/25/89	08/23/89	54 FR 35005
NPRM Comment Period End	08/25/89	
To Be Withdrawn	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 07/26/89, 54 FR 31052

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB50

2290. +NEW RESTRICTIONS ON LOBBYING

Priority: Other Significant

Legal Authority: 49 USC 322(a); 31 USC 1352

CFR Citation: 49 CFR 20

Legal Deadline:
Final, Statutory, March 22, 1990.

Abstract: This regulation will implement the provisions of a new section 1352 to title 31, United States Code, that prohibits the use of

DOT—OST

Final Rule Stage

appropriated funds to influence certain Federal contracting and financial transactions. Organizations that use their own funds to pay for lobbying activities are required to disclose such activity. Guidance was issued by the Office of Management and Budget 12/20/89 (54 FR 52305). Additional OMB guidance based on changes to section 1352 in the Lobbying Disclosure Act of 1995 was published 1/19/96 (61 FR 1412). This action is considered significant because it involves agencies or departments governmentwide.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Comment Period End	04/27/90	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: OMB has control of development of the final rule.

Agency Contact: Robert G. Taylor, Chief, Grants Management Division, M-62, Office of Acquisition and Grant Management, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4289

RIN: 2105–AB57

2291. +PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG-TESTING PROGRAMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 101; 49 USC 102; 49 USC 301; 49 USC 302; 49 USC 322

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: The NPRM in 1990 concerned the question of to whom reports of negative drug test results may be sent. It will be formally withdrawn when the Department issues an NPRM under RIN 2105-AC49, Update of Drug and Alcohol Procedural Rules. This action is significant because of substantial public and congressional interest, and multimodal impact.

Timetable:

Action	Date	FR Cite
NPRM	07/13/90	55 FR 28782
NPRM Comment Period End	08/13/90	
To Be Withdrawn	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: A small entities review under section 5 USC 610 will be conducted as part of the action being taken under a similar rulemaking title, RIN 2105-AC49, for which an ANPRM was published 4/29/96 (61 FR 18713).

ANALYSIS: Regulatory Evaluation, 07/13/90, 55 FR 28782

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB71

2292. +DISADVANTAGED BUSINESS ENTERPRISE (DBE) REGULATION; GENERAL UPDATE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Intermodal Surface Transportation Efficiency Act; PL 102-240; 49 USC 47017(e); 49 USC 47113

CFR Citation: 49 CFR 23

Legal Deadline: None

Abstract: This rule would revise the Department's regulations for the disadvantaged business enterprise program to clarify regulatory provisions and revise program elements in light of experience in administering the program since 1980 and the Administration's review of affirmative action programs. The SNPRM also includes proposed amendments to the airport concession portion of the DBE program on which a separate NPRM was issued 10/6/93 under RIN 2105-AB99, Participation by Disadvantaged Business Enterprises in Airport Concessions, (58 FR 52050). This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/09/92	57 FR 58288
Extended NPRM Comment Period End 4/8/93	03/03/93	58 FR 12207
NPRM Comment Period End	03/09/93	
SNPRM	05/30/97	62 FR 29548
SNPRM Comment Period Extended	07/18/97	62 FR 38952
Extended SNPRM Comment Period End	09/29/97	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: This action addresses the requirements of the Supreme Court's Adarand V. Pena decision. A related RIN 2105-AB99, had a statutory deadline of 4/30/93 for a final rule. Its legal authority came from PL 102-581 and PL 97-248. It was combined with this action in the October 29, 1997 Agenda.

ANALYSIS: Regulatory Evaluation, 12/09/92, 57 FR 58288

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB92

DOT—OST

Final Rule Stage

2293. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322(a)

CFR Citation: 49 CFR 19

Legal Deadline: None

Abstract: This action implements OMB Circular A-110, providing uniform guidance for administering grants to institutions of higher education, hospitals, and other nonprofit organizations. The regulation is essentially a word-for-word issuance of the requirements in OMB Circular A-110. An interim final rule was issued because of the limited ability to change the requirements from those in the Circular.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/04/94	59 FR 15637
Comment Period End	06/03/94	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Robert G. Taylor, Chief, Grants Management Division, M-62, Office of Acquisition and Grant Management, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4289

RIN: 2105–AC02

2294. +DISCLOSURE OF CODE-SHARING ARRANGEMENTS AND LONG-TERM WET LEASES

Priority: Other Significant

Legal Authority: 49 USC 40113; 49 USC 41712

CFR Citation: 14 CFR 257

Legal Deadline: None

Abstract: The action would strengthen the Department's current rules requiring airlines to notify passengers of a code-sharing arrangement or long-term wet lease. In these operations, the operator of the aircraft differs from the airline in whose name the transportation was sold. The Department would require that the name of the transporting carrier be disclosed. This action is being undertaken to ensure that consumers have pertinent information about airline code-sharing arrangements on domestic and international flights. This is significant because of congressional and industry.

Timetable:

Action	Date	FR Cite
NPRM	08/10/94	59 FR 40836
NPRM Comment Period End	10/11/94	
SNPRM	01/17/95	60 FR 3359
SNPRM Comment Period End	02/16/95	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: See related action, Disclosure of Change-of-Gauge Services, RIN 2105-AC17.

Agency Contact: Laura Trejo, Attorney Advisor, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9183

RIN: 2105–AC10

2295. USE OF DIRECT FINAL RULEMAKING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1657

CFR Citation: 49 CFR 5.21; 49 CFR 5.35

Legal Deadline: None

Abstract: The Department is considering a new rulemaking procedure to expedite the processing of noncontroversial changes to its regulations. Rules that the Secretary judges to be unlikely to result in public comment would be published as "direct final" rules. Such direct final rules would advise the public that no adverse comment is anticipated and that, unless written adverse comment or notice of intent to submit such comment is received within a specified number of days, the rule will become effective 60 days from the date of publication in the Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	08/04/95	60 FR 39919
NPRM Comment Period End	10/03/95	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Neil Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC11

2296. DISCLOSURE OF CHANGE-OF-GAUGE SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41712

CFR Citation: 14 CFR 257

Legal Deadline: None

Abstract: To ensure that consumers are given pertinent information on the nature of change-of-gauge services, the Department is proposing to codify and augment its current disclosure requirements for itineraries with one flight number that involve a change of aircraft. The Department requested comments on the following three proposed requirements, which would apply to U.S. air carriers, foreign air carriers, and, where appropriate, ticket agents (including travel agents) doing business in the United States: (1) that transporting carriers include notice of aircraft changes in their written or electronic schedule information provided to the public, in the Official Airline Guide, and in computer reservation systems; (2) that consumers be given reasonable and timely notice before they book transportation that a particular service with a single flight number entails a change of aircraft en route; and (3) that written notice of the aircraft change be provided on or with each ticket for such service. This proposal, in part, responds to the petition of American Airlines in Docket

DOT—OST

Final Rule Stage

47546 to ban the practice of "funnel flights."

Timetable:

Action	Date	FR Cite
NPRM	01/19/95	60 FR 3778
NPRM Comment Period End	03/20/95	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Further action on this rule will be taken at the same time as action on a related code share issue in RIN 2105-AC10.

Agency Contact: Betsy L. Wolf, Senior Trial Attorney, Office of General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9356

RIN: 2105–AC17

2297. OVERBOOKING OF FLIGHTS: ELIMINATION OF AIRPORT NOTICE SIGNS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 401; 49 USC 411; 49 USC 413; 49 USC 417

CFR Citation: 14 CFR 250

Legal Deadline: None

Abstract: This action would eliminate a consumer notice about airline overbooking of flights that is required to appear on signs at airports, city ticket offices, and travel agencies. However, that information would be available to consumers because it must accompany every ticket.

Timetable:

Action	Date	FR Cite
NPRM	06/03/96	61 FR 27818
NPRM Comment Period End	07/18/96	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Other rulemakings: RIN 2105-AA88, Simplified Airline Counter-Sign Notices, and RIN 2105-AC36, Ticketless Travel: Passenger Notices.

Agency Contact: Tim Kelly, Aviation Consumer Protection Division, Office of the General Counsel, C-75, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5952

RIN: 2105–AC45

2298. RULES OF PRACTICE IN AVIATION ECONOMIC PROCEEDINGS: REINVENTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 511; 39 USC 5402; 42 USC 4321; 49 USC 40101; 49 USC 41101; 49 USC 41301; 49 USC 41501; 49 USC 41701; 49 USC 41901; 49 USC 46101; 49 USC 46301

CFR Citation: 14 CFR 302

Legal Deadline: None

Abstract: This action would reorganize in a more logical fashion, regulations that govern the conduct of all aviation economic proceedings before the Department. It would also streamline the regulation to remove redundancies. Procedures relating only to oral evidentiary hearings are being grouped together separate from procedures pertaining only to non-hearing cases. Updates to terminology will be made to reflect the revision and recodification of the Federal Aviation Act. This rule has not been comprehensively updated since 1985 and the revisions will take the form of a complete reissuance of part 302. In response to the NPRM, comments were received. They seek changes in the filing periods for responsive pleadings to various types of applications. Since these were outside the scope of the original notice, a supplemental notice will be issued. See RIN 2105-AC73.

Timetable:

Action	Date	FR Cite
NPRM	02/03/97	62 FR 5094
NPRM Comment Period End	04/04/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Carol A. Woods, Analyst, Air Carrier Fitness Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2340

RIN: 2105–AC48

2299. AMENDMENTS TO MODAL ALCOHOL TESTING RULES: PRE-EMPLOYMENT TESTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 102; 49 USC 301; 49 USC 5331; 49 USC 20140; 49 USC 31306; 49 USC 45101; 49 USC 45106

CFR Citation: 49 CFR 121; 49 CFR 219; 49 CFR 382; 49 CFR 653; 49 CFR 654

Legal Deadline: None

Abstract: This rule would implement a recent statutory change required by the National Highway Systems Act of 1995, section 342, to the existing pre-employment alcohol testing provisions. It would make pre-employment testing voluntary for employers.

Timetable:

Action	Date	FR Cite
NPRM	05/09/96	61 FR 21149
NPRM Comment Period End	07/08/96	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This action involves four operating administrations: FAA, FHWA, FTA, and FRA. On May 10, 1995 (60 FR 24765), DOT suspended its pre-employment alcohol testing requirements after a court decision vacated the requirements of the FHWA alcohol testing rule.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC50

DOT—OST

Final Rule Stage

2300. PASSENGER TARIFF-FILING REQUIREMENTS EXEMPTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 40101; 49 USC 40105; 49 USC 40109; 49 USC 40113 to 40114; 49 USC 41504; 49 USC 41701; 49 USC 41707 to 41709; 49 USC 41712; 49 USC 46101

CFR Citation: 14 CFR 221; 14 CFR 156(j)

Legal Deadline: None

Abstract: This action would exempt U.S. and foreign air carriers from the statutory and regulatory duty to file with DOT international passenger tariffs in certain instances subject to the reimposition of the duty in specific cases when consistent with the public interest. In addition, the Department proposes to reissue a new version of part 221 that eliminates most of the traditional paper format and filing procedures set forth in the present version.

Timetable:

Action	Date	FR Cite
Direct Final Rule	03/10/98	63 FR 10758
Direct Final Rule Comment Period End	05/01/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 03/10/97, 62 FR 10758

Agency Contact: John H. Kiser, Chief, Pricing and Multilateral Affairs Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2435

RIN: 2105–AC61

2301. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS: COMMON RULE

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 7501 to 7507

CFR Citation: 49 CFR 18.26; 49 CFR 19.26; 49 CFR 322(a)

Legal Deadline: None

Abstract: The Department is participating in a voluntary Governmentwide common regulatory effort to amend its regulations because OMB amended its circular A-133 regarding audits of States, local governments, and non-profit organizations, and also rescinded its circular A-128. OMB made these changes to comply with the Single Audit Act Amendments of 1996.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Comment Period End	10/28/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The interim final rule was required to be published not later than 60 days from June 30, 1997, the date of publication of OMB's notice of revision of OMB circular A-133 and rescission of circular A-128.

Agency Contact: Robert G. Taylor, Chief, Grants Management Division, M-62, Office of Acquisition and Grant Management, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4289

RIN: 2105–AC66

DEPARTMENT OF TRANSPORTATION (DOT)

Office of the Secretary (OST)

Long-Term Actions

2302. POLICY STATEMENT ON AIRLINE PREEMPTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41713

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: The Civil Aeronautics Board in 1979 issued an interim Policy Statement on preemption. It discusses the policy of the Department with respect to three areas in which State law has been preempted by the Airline Deregulation Act of 1978: regulation of commuter air carriers and air taxis, the rights of airport proprietors, and general State authority as it directly or indirectly affects air transportation competition. The Supreme Court subsequently ruled that section 105 of the ADA preempts even indirect State regulation that "has a connection with or reference to" airline rates, routes, or services. Recently the Supreme Court issued another decision on this provision of the law, ruling that it does not preempt State contract law with respect to interpretation and enforcement of agreements voluntarily entered into by air carriers. The Department is considering the effect of these two holdings on the future course and content of the Policy Statement and whether there is a need for such a policy statement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/15/79	44 FR 9948
Request for Comments on Interim Rule	02/15/79	44 FR 9953
Comment Period End	04/16/79	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: PSDR-56, Docket 34684 The 1995 decision issued by the Supreme Court is American Airlines v. Wolens (S. Ct. No. 93-1286).

Agency Contact: Paul Smith, Attorney, Department of Transportation, Office of

the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9285

RIN: 2105–AA46

2303. +STATEMENT OF ENFORCEMENT POLICY ON REBATING

Priority: Other Significant

Legal Authority: 5 USC 601; 49 USC 1301 to 1302; 49 USC 1305; 49 USC 1324(a); 49 USC 1371 to 1379; 49 USC 1381 to 1382; 49 USC 1384; 49 USC 1386; 49 USC 1461; 49 USC 1481 to 1482; 49 USC 1502; 49 USC 1504

CFR Citation: 14 CFR 399.80; 14 CFR 399.85

Legal Deadline: None

Abstract: The Department is proposing to provide formal notice to the public of its enforcement policy concerning the rebating of international air fares by adopting that policy as a Policy Statement in the regulations. No change in the substance of that policy is intended. The Department also proposes to revoke an existing Policy Statement on the advertising of rebates that is contrary to DOT's current enforcement policy. The proposal responds to a request for such action by the American Society of Travel Agents. The proposed regulation is significant because it involves important departmental policies and substantial industry interest.

Timetable:

Action	Date	FR Cite
NPRM	10/21/88	53 FR 41353
NPRM Comment Period End	12/20/88	
Extended Comment Period End 2/21/89	02/03/89	54 FR 5497
Correction	02/10/89	54 FR 6475

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 10/21/88, 53 FR 41353

Agency Contact: Betsy Wolf, Senior Trial Attorney, Office of the General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9349

RIN: 2105–AB39

2304. SMOKING ABOARD AIRCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1374; 49 USC 1377; 49 USC 1386; PL 101-164

CFR Citation: 14 CFR 252

Legal Deadline: None

Abstract: This interim final rule amends the rules governing smoking aboard aircraft to incorporate a statutory ban on smoking aboard most U.S. flight segments. The statutory ban applies to both U.S. and foreign air carriers. This rulemaking proposed to clarify the current rule and make other minor changes. The interim final rule was significant because of substantial public interest. The present action would merely finalize that already taken and is, therefore, not considered significant.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/13/90	55 FR 4991

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The interim final rule was effective 02/25/90; the comments were due by 04/16/90.

ANALYSIS: Regulatory Evaluation, 02/13/90, 55 FR 4991

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB58

2305. +ACCESSIBILITY OF PASSENGER VESSELS TO INDIVIDUALS WITH DISABILITIES

Priority: Other Significant

Legal Authority: 42 USC 12101 et seq; PL 101-336, Americans with Disabilities Act

CFR Citation: 49 CFR 37

Legal Deadline: None

Abstract: The Department's Americans with Disabilities Act (ADA) final rule, published September 6, 1991 (56 FR 45584), reserved portions of the rule concerning passenger vessels. The ADA covers passenger vessels, but issuing accessibility requirements for vessels involves complex issues unlike those affecting land transportation. This action will address these issues and propose feasible requirements to make passenger vessels accessible to, and usable by, individuals with disabilities. This rulemaking is considered significant because of substantial public and congressional interest.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB87

2306. +TRANSPORTATION FOR INDIVIDUALS WITH DISABILITIES (ACCESSIBILITY GUIDELINES)

Priority: Other Significant,

Legal Authority: 5 USC 552a

CFR Citation: 49 CFR 27; 49 CFR 37

Legal Deadline: None

Abstract: This action would amend the rules implementing the Americans with Disabilities Act by adopting the revised accessibility guidelines issued by the Architectural and Transportation Barriers Compliance Board, published June 20, 1994 (59 FR 31676) as interim final rules. The proposed rule would also conform the Department's rule implementing section 504 of the Rehabilitation Act of 1973. Further DOT action is pending ATBCB/Justice Department action. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/20/94	59 FR 31818
NPRM Comment Period End	08/19/94	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC06

2307. USE OF OXYGEN BY AIR CARRIER PASSENGERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41705

CFR Citation: 14 CFR 382

Legal Deadline: None

Abstract: The Department is considering the use of regulatory negotiation to seek consensus among air carriers, consumers, airports, equipment manufacturers, oxygen suppliers, and safety regulators concerning the use of oxygen by passengers on air carriers when individuals need special private supplies. The need for action stems from a current situation where all carriers do not allow passengers to bring their own oxygen aboard. Issues involve conformance with RSPA and FAA hazardous materials rules and the question of providing oxygen during long layovers. The Department is considering whether to begin a regulatory negotiation.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC29

2308. +DOMESTIC PASSENGER MANIFEST INFORMATION

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 49 USC 40101; 49 USC 40113 to 40114; 49 USC 41702; 49 USC 41708 to 41709; 49 USC 41711; 49 USC 46301; 49 USC 46310; 49 USC 46316

CFR Citation: 14 CFR 243

Legal Deadline: None

Abstract: This notice requested comments concerning operational and cost issues related to U.S. air carriers collecting information such as full name, date of birth and/or social security number, emergency contact and telephone number from passengers traveling on flights within the United States. This notice was issued on the Department's initiative in response to difficulties with notification in the aftermath of domestic aviation disasters and to comply with a recommendation contained in the initial report of the White House Commission on Aviation Safety and Security (1996) that urged the Department to explore immediately the costs and effects of a comprehensive passenger manifest requirement on the domestic aviation system. DOT will review the implementation of the international passenger manifest requirements (RIN 2105-AC78, 2/18/98, 63 FR 8258) as it determines how to proceed with this rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	03/13/97	62 FR 11789
ANPRM Comment Period End	05/12/97	
Comment Period Reopened	05/30/97	62 FR 29313
Comment Period End	06/20/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernard Gaillard, Director, Office of International Transportation and Trade, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4368

RIN: 2105–AC62

2309. • +ENFORCEMENT POLICY: UNFAIR EXCLUSIONARY CONDUCT IN THE AIR TRANSPORTATION INDUSTRY

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This proposed statement was developed in consultation with the Department of Justice and sets forth tentative findings and guidelines for use by DOT in evaluating whether major air carriers' competitive responses to new entry warrant enforcement action.

Timetable:

Action	Date	FR Cite
Request for Comments	04/10/98	63 FR 17919
Comment Period Extended	05/21/98	63 FR 28021
Comment Period End	06/09/98	
Extended Comment Period End	07/24/98	
Reply Comment Period End	09/08/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jim Craun, Director, Office of the Assistant Secretary for Aviation and International Affairs, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2032

RIN: 2105–AC72

2310. • FILING PERIODS FOR RESPONSIVE PLEADINGS; RULES OF PRACTICE IN AVIATION ECONOMIC PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5111; 39 USC 5402; 42 USC 4321; 49 USC 40101; 49 USC 41101; 49 USC 41301; 49 USC 41501; 49 USC 41701; 49 USC 41901; 49 USC 46101; 49 USC 46301

CFR Citation: 14 CFR 302

Legal Deadline: None

Abstract: This action stems from an NPRM to revise rules of practice in aviation economic proceedings published 2/3/97 (63 FR 5094) RIN 2105-AC48. The Department received a number of comments seeking changes in filing periods for responsive pleadings to various types of applications. Based on comments there will be a reevaluation of the time periods for filing documents. Since changes in the time periods were

DOT—OST

Long-Term Actions

outside the scope of the original notice, a supplemental notice will be published on this narrow question.

Timetable:

Action	Date	FR Cite
SNPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Carol A. Woods, Analyst, Air Carrier Fitness Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2340

RIN: 2105–AC73

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Completed Actions

2311. AVIATION CHARTER RULES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 85-726, as amended

CFR Citation: 14 CFR 207 to 208; 14 CFR 212; 14 CFR 294; 14 CFR 298; 14 CFR 380; 14 CFR 389

Legal Deadline: None

Abstract: This rule governs the activities of public charter operators, a type of indirect air carrier that sells charter air transportation to consumers, and airlines that perform the direct air transportation. DOT is revising and updating the rules to recognize: (1) current usage of credit cards for payment to charter operators, and (2) certain changes in procedural practices.

Timetable:

Action	Date	FR Cite
NPRM	09/16/92	57 FR 42864
NPRM Comment Period End	10/16/92	
Extended Comment Period End 11/16/92	10/22/92	57 FR 48193
Final Action	05/22/98	63 FR 28225
Final Action Effective	06/22/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 09/16/92, 57 FR 42864

Agency Contact: C. W. McGuire, Chief, Regulatory Affairs Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1037

RIN: 2105–AB91

2312. +TRANSPORTATION FOR INDIVIDUALS WITH DISABILITIES (OVER THE ROAD BUSES)

Priority: Other Significant

Legal Authority: 49 USC 322; PL 101-336, Americans with Disabilities Act (ADA)

CFR Citation: 49 CFR 27

Legal Deadline:
Final, Statutory, May 16, 1994.

Abstract: This action requires the accessibility of new over the road buses (OTRBs) and also requires accessible service. It applies to both intercity and other fixed-route bus operators and to charter and tour operators. This project is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	10/12/93	58 FR 52735
ANPRM Comment Period End	11/26/93	
NPRM	03/25/98	63 FR 14560
NPRM Comment Period End	05/26/98	
Final Action	09/28/98	63 FR 51670
Final Action Effective	10/28/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: A related joint NPRM on accessibility guidelines was published 3/25/98, 63 FR 14570, RIN 3014-AA23, and a joint final rule with the Architectural and Transportation Barriers Compliance Board was issued on the same day as the DOT final rule above. See 63 FR 51694.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306
TDD: 202 755-7687

RIN: 2105–AC00

2313. PUBLIC AVAILABILITY OF INFORMATION: ELECTRONIC FOIA AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 31 USC 9701; 49 USC 322; EO 21600

CFR Citation: 49 CFR 7

Legal Deadline: None

Abstract: This action revises regulations implementing the Freedom of Information Act to conform to the requirements of the Electronic Freedom of Information Act Amendments of 1996, PL 104-231. New provisions concern electronic reading room requirements, deletion markings and volume estimation, timing of responses, multi-track and expedited processing, and unusual circumstances. This action also provides changes to the Department's fee schedule. The Department will charge fees at rates based on an average of hourly rates for three pay scale levels.

Timetable:

Action	Date	FR Cite
NPRM	04/16/98	63 FR 18855
NPRM Comment Period End	06/15/98	
Final Action	07/16/98	63 FR 38331
Final Action Effective	08/17/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert I. Ross, Office of General Counsel, C-10, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9156
Fax: 202 366-9170

RIN: 2105–AC69

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Proposed Rule Stage

2314. VESSEL IDENTIFICATION SYSTEM (CGD 89-050)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 12501

CFR Citation: 33 CFR 187

Legal Deadline: None

Abstract: 46 U.S.C. 12501 requires the Secretary of Transportation to establish a Vessel Identification System (VIS). This rulemaking prescribes the manner and form for participating States to make information available for VIS; to establish guidelines for State vessel titling systems; and to establish procedures for certifying compliance with those guidelines. This rulemaking supports the Coast Guard's strategic goal of mobility of commercial and recreational vessels.

Timetable:

Action	Date	FR Cite
ANPRM	09/15/89	54 FR 38358
Comment Period End	12/14/89	
NPRM	10/05/93	58 FR 51920
Correction	10/15/93	58 FR 53624
Comment Period End	01/03/94	
Reopening of Comment Period	02/24/94	59 FR 8881
Comment Period End	03/28/94	
Interim Rule	04/25/95	60 FR 20310
Comment Period End	07/24/95	
Reopening of Comment Period	10/17/95	60 FR 53727
Comment Period End	12/31/95	
Interim Rule Change in Effective Date	02/23/96	61 FR 6943
Interim Rule Re-Opening of Comment Period	10/20/97	62 FR 54385
Interim Rule Change in Effective Date	04/21/98	63 FR 19657
SNPRM	10/00/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The effective date of April 24, 1996, applies to all provisions in this interim final rule other than 33 CFR part 187, subpart D, which is suspended through April 23, 1998. The change in effective date of the interim final rule was published February, 23, 1996, 61 FR 6943.

ANALYSIS: Regulatory Evaluation, 10/05/93, 58 FR 51920

Agency Contact: ENS Brian Ly, Project Manager, G-MRI-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0452

RIN: 2115–AD35

2315. REPORTING MARINE CASUALTIES (CGD 91-216)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 6101; 33 USC 1901 et seq

CFR Citation: 33 CFR 151; 46 CFR 4

Legal Deadline: None

Abstract: This action would add to the definition of a reportable marine casualty "significant harm to the environment." Some casualty reporting requirements are extended to include foreign tank vessels operating in U.S. waters, including the exclusive economic zone. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the consequence of pollution incidents and further supports the Coast Guard's strategic goal of protection of natural resources.

Timetable:

Action	Date	FR Cite
Notice of Meeting Request for Comments	12/20/94	59 FR 65522
Comment Period End	02/20/95	
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: ENS Ellis Moose, Project Manager, G-MSR-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1100

RIN: 2115–AD98

2316. HANDLING OF EXPLOSIVES OR OTHER DANGEROUS CARGOES WITHIN OR CONTIGUOUS TO WATERFRONT FACILITIES (CGD 92-026)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1231

CFR Citation: 33 CFR 126

Legal Deadline: None

Abstract: This rulemaking is intended to revise existing regulations covering waterfront facilities handling dangerous cargoes. The present regulations are outdated and do not reflect improved safety procedures and modern transportation methods, such as the use of containers. Where appropriate, the regulations would incorporate industry standards regarding the handling of hazardous materials at waterfront facilities. This project also supports the Vice Commandant's workload reduction initiative, and also supports Coast Guard strategic goals by reducing deaths and injuries in the maritime industry.

Timetable:

Action	Date	FR Cite
ANPRM	01/13/93	58 FR 4127
Comment Period End	04/13/93	
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Independent study has been completed and incorporated with comments from the public in the preparation of the proposed rulemaking.

Agency Contact: LCDR John Farthing, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-2498

RIN: 2115–AE22

2317. AMENDMENTS TO HULL IDENTIFICATION NUMBER REGULATIONS (CGD 92-065)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 4302; 46 USC 12501

CFR Citation: 33 CFR 181

Legal Deadline: None

Abstract: This rulemaking would expand the existing 12 character Hull Identification Number (HIN) applicable to manufacturers of recreational boats by at least two characters to indicate the country of origin (to align to the HIN format with the newly adopted International Organization for Standards format). Several minor amendments to the HIN regulations are also proposed. This rulemaking supports the Coast Guard's strategic goal of marine safety.

DOT—USCG

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	05/06/94	59 FR 23651
Comment Period End	09/06/94	
Notice of Workshop	11/09/94	59 FR 55823
Reopening of Comment Period	11/09/94	59 FR 55823
Comment Period End	01/09/95	
SNPRM	02/21/97	62 FR 7971
Comment Period End	05/22/97	
SNPRM	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 02/21/97, 62 FR 7975

Agency Contact: Alston Colihan, Project Manager, G-OPB-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0984

RIN: 2115–AE37

2318. +FACILITY RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (CGD 94-048)

Regulatory Plan: This entry is Seq. No. 83 in Part II of this issue of the Federal Register.

RIN: 2115–AE87

2319. +TANK VESSEL RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (CGD 94-032)

Regulatory Plan: This entry is Seq. No. 84 in Part II of this issue of the Federal Register.

RIN: 2115–AE88

2320. NUMBERING OF UNDOCUMENTED BARGES (CGD 93-091)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 12301

CFR Citation: 33 CFR 189

Legal Deadline: None

Abstract: Title 46 U.S.C. 12301, as amended by the Abandoned Barge Act of 1992, requires all undocumented barges more than 100 gross tons operating on the navigable waters of the United States be numbered. This rulemaking would establish a numbering system for these barges. The numbering of undocumented barges will allow identification of owners of barges found abandoned and help prevent future marine pollution. This rulemaking supports the Coast Guard's strategic goal of protection of the marine environment.

Timetable:

Action	Date	FR Cite
Request for Comments	10/18/94	59 FR 52646
Comment Period End	01/17/95	
ANPRM	07/06/98	63 FR 36384
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Willis, Project Manager, National Vessel Documentation Center, Department of Transportation, U.S. Coast Guard, 2039 Stonewall Jackson Drive, Falling Waters, WV 25419-9502
Phone: 304 271-2506

RIN: 2115–AF13

2321. LIMITED SERVICE DOMESTIC VOYAGE LOAD LINES FOR RIVER BARGES ON LAKE MICHIGAN (CGD 95-015)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 51

CFR Citation: 46 CFR 45

Legal Deadline: None

Abstract: This regulatory project will allow certain unmanned dry cargo river barges operating on Lake Michigan to be exempted from the normal Great Lakes load line requirements provided instead that they obtain a limited domestic service load line for two specific routes (Chicago to Milwaukee, and Chicago to Muskegon). This will allow certain non-hazardous cargoes originating at inland river ports to be transported as far as Milwaukee and Muskegon by river barge, thereby benefiting from the relatively low cost per ton-mile of river barge transportation. Compliance is not mandatory other than for those river barge operators who voluntarily seek this special load line for their barges. This rulemaking supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Thomas Jordan, Project Manager, G-MSE-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-2988

RIN: 2115–AF38

2322. OUTER CONTINENTAL SHELF ACTIVITIES (CGD 96-068)

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1333(d)(1); 43 USC 1348(c); 43 USC 1356

CFR Citation: 33 CFR 140 to 147

Legal Deadline: None

Abstract: This project would revise the regulations on Outer Continental Shelf (OCS) activities to: add new requirements for lifesaving, fire protection, training, hazardous materials used as stores on fixed OCS facilities, and accommodation spaces; require foreign vessels engaged in OCS activities to comply with requirements similar to those imposed on U.S. vessels similarly engaged; and allow all mobile inland drilling units (MIDUs) to operate on the OCS out to a defined boundary line, if they meet requirements for lifesaving, firefighting, operations similar to those for fixed OCS facilities. This project would affect the owners and operators of facilities and vessels engaged in offshore activities associated with the exploration for, or development or production of, the resources of the OCS. The preliminary estimate of costs imposed by these amendments would vary according to the unit. The Coast Guard is consulting with the Minerals Management Service, part of the Department of the Interior. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal of reducing deaths and injuries and the amount of oil discharged into the marine environment. It also supports the Coast Guard's strategic goal of safety.

DOT—USCG

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
Request for Comments	06/27/95	60 FR 33185
Comment Period End	09/25/95	
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The Notice of Request for Comments published 27 June 1995, was assigned Coast Guard docket number 95-016. Following the request for comments this docket was terminated. This project continues under docket CGD 96-068, and RIN number 2115-AF39.

Agency Contact: James Magill, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1082

RIN: 2115–AF39

2323. CHILD DEVELOPMENT SERVICES (CGD 97-039)

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 515

CFR Citation: 33 CFR 55

Legal Deadline: None

Abstract: This project will establish a fee subsidy that will result in lower fees for child care provided by Coast Guard Child Development Centers and Coast Guard certified Family Child Care Providers. This project is mandated by 14 U.S.C. 515, which requires development of regulations that establish fees for child care, which take into account total family income. The rulemaking will make child care more affordable for Coast Guard members and civilian employees.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: It is necessary to establish the Child Development Services program immediately because funds are currently available, and eligible members and employees can take advantage of the program at the earliest possible date.

Agency Contact: Elaine Sweetland, Project Manager, G-WPW-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6727

RIN: 2115–AF48

2324. USER FEES FOR MARINE LICENSING, CERTIFICATES OF REGISTRY, AND MERCHANT MARINER DOCUMENTS (USCG-97-2799)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2110; 14 USC 664; 31 USC 9701

CFR Citation: 46 CFR 10; 46 CFR 12; 49 CFR 1.46

Legal Deadline: None

Abstract: This project would revise user fees for Coast Guard services relating to the issuance of merchant mariner licenses, certificates of registry and MMDs. This rulemaking was ordered by the District Court for the D.C. Circuit. The litigation was settled on 9/17/97, but the terms of the settlement require the Coast Guard to complete the rulemaking. The user fees are based on direct and indirect personnel costs and overhead costs associated with specific services, and will affect all mariners obtaining or renewing marine licenses, certificates of registry and Merchant Mariner Documents.

Timetable:

Action	Date	FR Cite
NPRM	04/01/98	63 FR 16024
NPRM Comment Period End	10/01/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: The previous docket number for this rulemaking was CGD 97-049. Annual compliance costs to the public are $9.2 million. Related Dockets are CGD 96-053 and USCG-97-2798.

Agency Contact: CDR Mark McEwen, Project Manager, G-MRP-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1409

RIN: 2115–AF49

2325. OIL POLLUTION PREVENTION FOR OCEANGOING SHIPS AND CERTAIN VESSELS IN DOMESTIC SERVICE (CGD 97-072)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 3306; 46 USC 3703; 33 USC 1231; 33 USC 1321(j); 33 USC 1903

CFR Citation: 33 CFR 151; 33 CFR 155; 33 CFR 157; 46 CFR 170; 46 CFR 172

Legal Deadline: None

Abstract: This rulemaking concerns oil pollution prevention and the operational discharge of oil from vessels. It will align existing regulations on oil-water separators, operational discharge, damage and intact stability, and term of validity of International Oil Pollution Prevention Certificates with recent amendments under the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL). It will affect U.S.-flagged tank ships of 150 gross tons or more and other U.S.-flagged ships of four hundred gross tons or more. It will eliminate or reduce requirements for shore connections on certain vessels of one hundred gross tons or more. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the amount of oil discharged into United States waters from maritime sources by 20 percent, and the Coast Guard's strategic goals of marine safety and protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LT Diane Kalina, Project Manager, G-M, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0226

RIN: 2115–AF56

DOT—USCG

Proposed Rule Stage

2326. REVISE FEES TO NUMBER UNDOCUMENTED VESSELS IN ALASKA (USCG-98-3386)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 12307

CFR Citation: 33 CFR 173

Legal Deadline: None

Abstract: This rule would revise the current fees the Coast Guard charges for numbering undocumented vessels in Alaska. The fees were promulgated in 1972 and do not reflect the costs that the Coast Guard incurs to issue the vessel numbers. All fees collected go to the Treasury's General Fund. The rule should result in an increased fee that reflects the current costs for the Coast Guard to issue the vessel numbers in Alaska. This rulemaking is required by the Coast Guard Authorization Act of 1996 (Pub. L. 104-324).

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Janice Giles, Project Manager, G-OPB, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0911

RIN: 2115–AF62

2327. DEEP WATER PORTS (CGD 97-050) (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1503

CFR Citation: 33 CFR 148 to 150

Legal Deadline: None

Abstract: The purpose of this rulemaking is to update the Deepwater Port Regulations. Section 502 of the Coast Guard Authorization Act of 1996 prescribes changes to the regulations found in 33 CFR parts 148-150 developed in accordance with the Deepwater Port Act of 1974. These regulations were developed in the 1970's when there were no deepwater ports in the United States. The Coast Guard will be revising the regulations to: remove from the regulations, and place in the license conditions, those requirements which belong in the license conditions; and remove from the regulations those things which can be addressed in an operations manual. The Coast Guard may also consider revising the regulations to address technological advancements and operational experience gained over the last twenty years. In accordance with section 610 of the Regulatory Flexibility Act, the Coast Guard is also reviewing these regulations for their impacts on small businesses and the potential to reduce any such impacts. Public comment on small business impacts is specifically requested. This project supports the Coast Guard's strategic goal of marine safety. This rulemaking will encompass a complete review of the Deepwater Port Regulations.

Timetable:

Action	Date	FR Cite
ANPRM	08/29/97	62 FR 45774
Comment Period End	10/13/97	
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: LT Diane Kalina, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1181

RIN: 2115–AF63

2328. • COMMERCIAL DIVING OPERATIONS (USCG-98-3786) (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1509; 43 USC 1333; 46 USC 3306; 46 USC 3703; 46 USC 6101

CFR Citation: 46 CFR 197; 49 CFR 1.46

Legal Deadline: None

Abstract: This project involves reviewing and updating the commercial diving regulations in 46 CFR 197, subpart B, which are over 20 years old. A review of the commercial diving regulations needs to be done to determine what parts should be updated or changed based on the current standards of safety, technology, and industry practices and, in accordance with 5 U.S.C. 610, to evaluate and minimize any significant economic impact of the rules upon a substantial number of small entities. The project supports the Coast Guard Marine Safety and Environmental Protection Program's goal to reduce deaths and injuries on U.S. commercial vessels and the Coast Guard's strategic goal of safety.

Timetable:

Action	Date	FR Cite
ANPRM	06/26/98	63 FR 34840
ANPRM Comment Period End	09/24/98	
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LT Diane Kalina, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1181

RIN: 2115–AF64

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Final Rule Stage

2329. TANK LEVEL OR PRESSURE MONITORING DEVICES (CGD 90-071)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 32

Legal Deadline:
Final, Statutory, December 1, 1991.

Abstract: The Coast Guard established minimum performance standards for tank level or pressure monitoring devices for single-hull tank vessels that carry oil in bulk as cargo. These standards are effective until April 28, 1999. These devices reduce the size and impact of an oil spill by alerting the tank vessel operator that a level or pressure change has occurred in a cargo tank. The Coast Guard will evaluate the performance and cost effectiveness of any device which meets the standards set in this rule, if that device is submitted to the Coast Guard during the effective period of this rule. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the amount of oil discharged into the marine environment and the Coast Guard's strategic goal of protection of natural resources.

Timetable:

Action	Date	FR Cite
ANPRM	05/07/91	56 FR 21116
Comment Period End	10/04/91	
Notice of Availability Technical Feasibility Study	02/05/93	58 FR 2292
Notice of Public Meeting	11/15/94	59 FR 58810
NPRM	08/21/95	60 FR 43427
Comment Period End	11/20/95	
Temporary Rule	03/28/97	62 FR 14828
Temporary Rule Effective	04/28/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Formerly titled Overfill and Tank Level or Pressure Monitoring Devices.

Agency Contact: Laura Hamman, Project Manager, G-MSE-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0658

RIN: 2115–AD69

2330. REGATTAS AND MARINE PARADES (CGD 95-054)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1233

CFR Citation: 33 CFR 100

Legal Deadline: None

Abstract: In keeping with the National Performance Review and the President's Regulatory Reinvention Initiative, the Coast Guard reviewed its regatta and marine parade permitting regulations and determined that certain revisions are needed to eliminate overly burdensome, unnecessary, and obsolete requirements. The rule establishes various categories of events: those which do not require any notice or a permit because they clearly pose no extra or unusual hazard to safety of life; those which require written notice because they may pose such a hazard; and those which require a permit because they clearly pose such a hazard. This rule eliminates the need for permits, and associated paperwork burden on the public, unless they are necessary to advance the statutory purpose of promoting safety of life during marine events. The effective date has been delayed until the Coast Guard completes the Environmental Assessment and Finding of No Significant Impact. This rulemaking supports the Coast Guard's strategic goal of marine safety and mobility of commercial and recreational vessels.

Timetable:

Action	Date	FR Cite
ANPRM	12/26/95	60 FR 67345
Comment Period End	02/09/96	
NPRM	04/17/96	61 FR 16732
Comment Period End	05/17/96	
Interim Rule	06/28/96	61 FR 33027
Comment Period End	08/27/96	
Interim Rule Delay Effective Date to 01/01/98	11/26/96	61 FR 60027
Interim Rule Delay Effective Date to 01/01/99	12/30/97	62 FR 67570
Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: This rulemaking will benefit small entities, and state and local governments by reducing the number of submitted permits. The rulemaking should reduce the information which is required to be submitted from 3,100 permits to 1,500 notifications, 20 of which may require additional information.

Agency Contact: Carlton Perry, Project Manager, G-OPB-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AF17

2331. LICENSING AND MANNING FOR OFFICERS OF TOWING VESSELS (CGD 94-055)

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 633; 31 USC 9701; 44 USC 3507; 46 USC 2103; 46 USC 7101; 46 USC 7106; 46 USC 7107; 46 USC 7701

CFR Citation: 46 CFR 10; 46 CFR 15

Legal Deadline: None

Abstract: This rulemaking is necessary as part of an overall initiative by the Coast Guard to improve navigational safety for towing vessels. It will help ensure that the mariner piloting a towing vessel has the proper training and qualifications to handle the tug and tow. It will introduce an additional level of license where there has been only two licenses. Each level will require greater experience and proficiency. This will prevent a new operator with minimal experience from commanding the largest flotillas; it will prevent any operator with any experience from commanding the large flotillas until he or she has gained, and shown, the necessary competence. This rulemaking also introduces a requirement for demonstration of proficiency as a prerequisite to being issued a license. This will be in addition to the current requirements for sea service physical examination, drug testing, and successful testing. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the number of casualties, and the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	06/19/96	61 FR 31332
Correction	07/11/96	61 FR 36608
Correction	08/07/96	61 FR 41208
Notice of Meeting	08/26/96	61 FR 43720
Comment Period End	10/17/96	
Notice of Intent	12/18/96	61 FR 66642
SNPRM	10/27/97	62 FR 55548

DOT—USCG

Final Rule Stage

DOT—USCG

Final Rule Stage

Action	Date	FR Cite
Notice of Public Meeting Boston 02/18/98	01/21/98	63 FR 3070
Notice of Public Meeting Houston 02/13/98	01/21/98	63 FR 3070
Notice of Public Meeting Memphis 02/11/98	01/21/98	63 FR 3070
Notice of Public Meeting Seattle 02/24/98	01/21/98	63 FR 3070
Comment Period End	02/24/98	
Interim Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LCDR Don Darcy, Project Manager, G-MSO-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0221

RIN: 2115–AF23

2332. STREAMLINED INSPECTION PROGRAM (CGD 96-055)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703

CFR Citation: 46 CFR 8

Legal Deadline: None

Abstract: This project will establish a Streamlined Inspection Program (SIP). The SIP would allow owners or operators of inspected vessels to have their own personnel perform many of the tests and requirements currently done by Coast Guard marine inspectors. Owners and operators of inspected vessels would work with the Coast Guard to develop written inspection procedures for each of their vessels enrolled in the program. The SIP would be conducted with Coast Guard oversight, and while Coast Guard marine inspectors would still conduct required inspections, their time on board the vessel would be substantially reduced. The SIP will raise the overall level of safety of a vessel by allowing vessels to meet inspection requirements through a combination of: increased participation of the vessel's crew in continuous vessel maintenance; trained and qualified company personnel conducting specific pre-inspection tasks throughout the vessel inspection cycle; and scheduled inspections conducted on board by Coast Guard marine inspectors. This rulemaking supports the Coast Guard's Marine Safety and Environmental goals of increased level of vessel and operational safety and reduced costs of regulatory compliance; and the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	04/08/97	62 FR 17008
Comment Period End	07/07/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LT Paul Arnett, Project Manager, G-MOC-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0498

RIN: 2115–AF37

2333. COAST GUARD VESSEL INSPECTION USER FEES (CGD 96-067)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2110; 46 USC 3317; 14 USC 664; 31 USC 9701

CFR Citation: 46 CFR 2

Legal Deadline: None

Abstract: This project implements the Congressional mandate, contained in the Coast Guard Authorization Act of 1996 (Pub. L. 104-324) to cap fees that may be charged for the inspection or examination of small passenger vessels, and to exempt publicly-owned ferries from vessel inspection user fees. The Act limits annual fees for small passenger vessels less than 65 feet in length to not more than $300, and for small passenger vessels 65 feet or over in length to not more than $600. Fees for vessels in these categories currently range from $450 to $2,585 depending on the length and capacity of the vessel. This rule reduces published fees to the levels established under the caps imposed by the Coast Guard Authorization Act of 1996. This rule also exempts publicly-owned ferries from vessel inspection user fees. Additional revisions to the exemption criteria will expand exemptions in certain instances where it is clearly within the public interest to do so, but which are not included under current regulation.

Timetable:

Action	Date	FR Cite
Interim Rule	04/21/97	62 FR 19229
Interim Rule Effective	04/21/97	
Comment Period End	08/19/97	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: CDR Mark McEwen, Project Manager, G-MRP-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1409

RIN: 2115–AF40

2334. TRAFFIC SEPARATION SCHEME IN THE APPROACHES TO DELAWARE BAY (CGD 97-004)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1223

CFR Citation: 33 CFR 167

Legal Deadline: None

Abstract: This rule amends the Traffic Separation Scheme in approaches to Delaware Bay by shifting eastern approach lanes southward; establishing a two-way route for use by tug and tow traffic; and reconfiguring the precautionary area to exclude shoal areas too shallow for deep draft vessels. This rulemaking supports the Coast Guard's Marine Safety and Environmental Protection goal of reducing the number of collisions, allisions, and groundings, and the Coast Guard's strategic goal of marine safety and protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	05/09/97	62 FR 25576
Comment Period End	08/07/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Diane Schneider, Project Manager, G-MOV-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0352

RIN: 2115–AF42

DOT—USCG

Final Rule Stage

2335. CARRIAGE OF BULK SOLID MATERIALS REQUIRING SPECIAL HANDLING (CGD 97-037)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1321; 46 USC 3306; 46 USC 3703; 46 USC 5111; 46 USC 6101; 49 USC 1804; EO 11735; EO 12234

CFR Citation: 46 CFR 90; 46 CFR 97; 46 CFR 148

Legal Deadline: None

Abstract: This project will add materials carried with Special Permits issued under Coast Guard regulations and other materials contained in the International Maritime Organization Code of Safe Practice for Solid Bulk Cargoes (IMO Bulk Solids Code, or "BC Code"), including coal, to the list of materials permitted under the regulations. The special handling procedures associated with these materials are also included in the new rules. The revisions will harmonize U.S. regulations with recommended international practice, and eliminate the need to apply for Special Permits, except for newly classified hazardous materials. This project supports the Coast Guard's strategic goal of safety and improved service to the United States shipping industry.

Timetable:

Action	Date	FR Cite
Direct Final Rule	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $168,000; Yearly Recurring Cost: $400,000; Base Year for Dollar Estimates: 0000

Additional Information: This project was initiated with an ANPRM (28 April 1989), and further developed in an NPRM (12 April 1994). In prioritizing resources, it was terminated on April 13, 1995. With resources available, it can now be completed as a direct final rule. Based on comments to the docket (previously CGD 87-069), this is a non-controversial and welcome amendment to existing regulations.

Agency Contact: Brian Robinson, Project Manager, G-MSO-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0018

RIN: 2115–AF47

2336. AMENDMENT OF STATE WATERS FOR PRIVATE AIDS TO NAVIGATION IN WISCONSIN AND ALABAMA (USCG-98-3604)

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 83; 14 USC 1333

CFR Citation: 33 CFR 66

Legal Deadline: None

Abstract: The Coast Guard proposes to reestablish Federal jurisdiction over certain waterways in the States of Alabama and Wisconsin for the purposes of private aids to navigation. This action is being taken to implement a request from the State of Alabama and an agreement between the State of Wisconsin and the Coast Guard, and to ensure safe navigation on the affected waterways. This rulemaking supports the Coast Guard's strategic goals of marine safety, and mobility of commercial and recreational vessel traffic.

Timetable:

Action	Date	FR Cite
NPRM	04/15/98	63 FR 18349
NPRM Comment Period End	06/15/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Dan Andrusiak, Project Manager, G-OPN-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0327

RIN: 2115–AF50

2337. ADVANCE NOTICE OF ARRIVALS, VESSELS BOUND FOR PORTS OR PLACES IN THE UNITED STATES (CGD 97-067)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1223

CFR Citation: 33 CFR 160.207

Legal Deadline: None

Abstract: The Coast Guard amended its advance notice of arrival requirements to require vessels subject to the International Safety Management (ISM) Code to provide notice of their compliance with the ISM Code when they enter U.S. waters. This rule was promulgated because certain vessels are required to comply with the ISM Code by July 1, 1998, and the Coast Guard is required by statute to deny vessels entry into U.S. ports if they do not comply with the ISM Code. This rule affects passenger vessels that transport more than 12 passengers internationally, and tank vessels, bulk freight vessels or high speed freight vessels of 500 gross tons or more on foreign voyages. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to eliminate substandard vessels from United States waters, and the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
Interim Rule	12/11/97	62 FR 65203
Comment Period End	01/10/98	
Interim Rule Effective	01/25/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The Coast Guard issued an interim rule in order to begin collecting ISM Code information from the affected vessels well in advance of the ISM Code implementation date of July 1, 1998, for international, safety, and port management concerns. The interim rule provided a 30-day comment period before the rule took effect, to balance the need for public participation with the Coast Guard's need to document compliance with the ISM Code.

Agency Contact: Robert Gauvin, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard,

DOT—USCG

Final Rule Stage

2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1053

RIN: 2115–AF54

2338. IMPLEMENTATION OF THE NATIONAL INVASIVE SPECIES ACT OF 1996 (CGD 97-068)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 4701; 16 USC 4702; 16 USC 4711 to 4714; 16 USC 4721 to 4728; 16 USC 4741; 16 USC 4751

CFR Citation: 33 CFR 151

Legal Deadline:
NPRM, Statutory, October 26, 1997.

Abstract: This project will establish regulations and guidelines to prevent the introduction of nonindigenous species into waters of the United States. Ballast water has been identified as a major pathway for the introduction and spread of Aquatic Nuisance Species (ANS). This rulemaking will establish voluntary ballast water exchange guidelines applicable to all vessels entering U.S. waters, as well as reporting and sampling procedures to monitor compliance. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the volume of untreated ballast water discharged into United States waters, and the Coast Guard's strategic goal of protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	04/10/98	63 FR 17782
NPRM Comment Period End	06/09/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: LT Larry Greene, Project Manager, G-MOR, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0500

RIN: 2115–AF55

2339. FEDERAL PILOTAGE FOR VESSELS IN FOREIGN TRADE IN NORTH CAROLINA (USCG-98-3323)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 8503

CFR Citation: 46 CFR 15

Legal Deadline: None

Abstract: This rule would add a new section to subpart I of 46 CFR part 15. The new section would require foreign-trade vessels to be under the direction and control of federally licensed pilots in designated waters of the Cape Fear River and North Cape Fear River, North Carolina, unless under the direction and control of state-licensed pilots. This would ensure that vessels are navigated by competent qualified persons, knowledgeable in the local area and accountable to either the state or the Coast Guard. This project supports two goals: the strategic goal of the Coast Guard to promote safety, and the goal of its program in Marine Safety and Environmental Protection to reduce the numbers of collisions, allisions, and groundings on the waters of the United States.

Timetable:

Action	Date	FR Cite
NPRM	01/20/98	63 FR 2939
Comment Period End	02/19/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The previous docket number for this rulemaking was CGD 97-073.

Agency Contact: Anthony Murray, Project Manager, National Maritime Center, Department of Transportation, U.S. Coast Guard, 4200 Wilson Blvd., Suite 510, Arlington, VA 22203-1801
Phone: 703 235-1729

RIN: 2115–AF57

2340. MARITIME TRAINING COURSE APPROVAL PROCEDURES (USCG-98-3824)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 9701; 46 USC 2101; 46 USC 2103; 46 USC 2110; 46 USC 7101 et seq; 46 USC 7502; 46 USC 7505; 46 USC 7701

CFR Citation: 46 CFR 10; 49 CFR 1.45; 49 CFR 1.46

Legal Deadline: None

Abstract: This rulemaking will permit the Coast Guard to suspend or revoke its approvals of courses for merchant mariners. Current regulations do not contain provisions to suspend or revoke course approvals. This rulemaking will affect training schools which offer Coast Guard approved courses, when those schools fail to comply with the terms of course approval. By ensuring that schools maintain uniformly high standards, this rulemaking supports the Coast Guard's Marine Safety and Environmental Protection program's goal of reducing injuries and deaths aboard commercial vessels, and reducing the amount of pollution being discharged into the marine environment, and the Coast Guard's strategic goal of protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	05/13/98	63 FR 26566
NPRM Comment Period End	07/13/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Cavo, Project Manager, National Maritime Center, Department of Transportation, U.S. Coast Guard, 4200 Wilson Blvd, Suite 510, Arlington, VA 22203-1801
Phone: 703 235-0011

RIN: 2115–AF58

2341. • +EMERGENCY CONTROL MEASURES FOR TANK BARGES (USCG-98-4443)

Priority: Other Significant

Legal Authority: 46 USC 3719

CFR Citation: 33 CFR 155; 46 CFR 32

Legal Deadline:
NPRM, Statutory, October 1, 1997.

Abstract: This rulemaking will require anchor systems and retrieval systems or measures for all single-hull tank barges operating on the waters listed in the rule (primarily offshore). The purpose of this rulemaking is to reduce oil spills from single-hull, non-self-propelled tank vessels. Drifting oil barges have run aground and spilled their cargoes, causing considerable damage to marine life and the environment. This rulemaking supports the Coast Guard's strategic goals of marine safety and protection of the marine environment.

Timetable:

Action	Date	FR Cite
NPRM (RIN 2115-AF53)	10/06/97	62 FR 52057
NPRM Comment Period End	01/05/98	
Interim Final Rule	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking was one component of the proposed regulations for Towing Vessel Safety (CGD 97-064) (RIN 2115-AF53) concerning tank barges. To expedite the publication of regulations mandated by statute, two of the components for the Towing Vessel Safety rulemaking separated into additional rulemakings. The other former component of the Towing Vessel Safety rulemaking is Fire Protection Measures for Towing Vessels (USCG-98-4443) (RIN 2115-AF66).

Agency Contact: Robert Spears, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1099

RIN: 2115–AF65

DOT—USCG

Final Rule Stage

2342. • +FIRE PROTECTION MEASURES FOR TOWING VESSELS (USCG-98-4445)

Priority: Other Significant

Legal Authority: 46 USC 4102

CFR Citation: 46 CFR 25; 46 CFR 27

Legal Deadline:
NPRM, Statutory, October 1, 1997.

Abstract: This rulemaking will require fire protection measures such as fire detectors, alarms, portable extinguishers, and periodic crew training on towing vessels. The purpose of this rulemaking is to reduce oil spills from single-hull, non-self-propelled tank vessels. Drifting oil barges have run aground and spilled their cargoes, causing considerable damage to marine life and the environment. This rulemaking supports the Coast Guard's strategic goals of marine safety and protection of the marine environment.

Timetable:

Action	Date	FR Cite
NPRM (RIN 2115-AF53)	10/06/97	62 FR 52057
NPRM Comment Period End	01/05/98	
Interim Final Rule	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking was one component of the proposed regulations for Towing Vessel Safety (CGD 97-064) (RIN 2115-AF53) concerning tank barges. To expedite the publication of regulations mandated by statute, two of the components for the Towing Vessel Safety rulemaking separated into additional rulemakings. The other former component of the Towing Vessel Safety rulemaking is Emergency Control Measures for Tank Barges (USCG-98-4443) (RIN 2115-AF65).

Agency Contact: Robert Spears, Project Manager, G-MSR-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1099

RIN: 2115–AF66

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Long-Term Actions

2343. SAFETY/SECURITY ZONE REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 1233; 33 USC 1225

CFR Citation: 33 CFR 100; 33 CFR 165

Legal Deadline: None

Abstract: These routine and frequent regulations establish limited access zones in which the Coast Guard exercises control of all vessels to ensure the safety or security of events, vessels or individuals. They are usually of short duration, ranging from a few hours to a few days. Safety zones are established for events such as fireworks displays, high speed races, or the transit of dangerous cargoes such as explosives or liquefied petroleum gas. Security zones are established for presidential or vice presidential visits, high profile events such as the Olympics, or controversial events such as transport of spent nuclear fuel. Safety and security zones are promulgated by Captains of the Port or District Commanders in response to requests or notifications from appropriate officials. These routine and frequent rulemakings support the Coast Guard's strategic goals of waterways management and marine safety. Total actions expected 10/01/98 to 10/01/99: 250.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Margie Hegy, Project Manager, G-MOV-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0415

RIN: 2115–AA97

2344. SPECIAL ANCHORAGE AREAS/ANCHORAGE GROUNDS REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 471; 33 USC 2030; 33 USC 2035; 33 USC 2071

CFR Citation: 33 CFR 110

Legal Deadline: None

Abstract: These routine and frequent regulations are established where maritime and commercial interests require them for safety of navigation. Special anchorage areas are areas in

which vessels of not more than 65 feet may anchor without displaying the required lights or sound signals. These special anchorage areas are limited geographically, and depending upon the purpose, establish both long and short-term anchorages. Anchorage grounds are limited geographically, delineate the types and size of vessel which may use the anchorage, and may place time and other restrictions on its use. Special anchorage areas and anchorage grounds are promulgated by District Commanders in response to requests from appropriate officials. These routine and frequent rulemakings support the Coast Guard's strategic goal of waterways management and marine safety. Total actions expected 10/01/98 to 10/01/99: 10.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Margie Hegy, Project Manager, G-MOV-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0415

RIN: 2115–AA98

2345. PERMITS FOR THE TRANSPORTATION OF MUNICIPAL AND COMMERCIAL WASTES (CGD 89-014)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2602

CFR Citation: 33 CFR 151

Legal Deadline:
Final, Statutory, June 15, 1989, See discussion in the Abstract.

Abstract: In May 1989, the Coast Guard began a rulemaking to incorporate into regulation certain elements of the Shore Protection Act. Its objective was to help prevent trash, medical debris, and other unsightly and potentially harmful materials from being deposited into the coastal waters of the United States as a result of sloppy waste-handling procedures. This project supported the Coast Guard's Marine Safety and Environmental Protection program goal of reducing discharge of plastics/garbage into the marine environment and the Coast Guard's strategic goal of protection of natural resources.

Timetable:

Action	Date	FR Cite
Interim Rule	05/24/89	54 FR 22546
Correction	06/05/89	54 FR 24078
Comment Period End	08/24/89	54 FR 22546
Notice	12/13/95	60 FR 64001
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This project was formerly known as Implementation of the Shore Protection Act of 1988.

ANALYSIS: Regulatory Evaluation, 05/24/89, 54 FR 22546

Agency Contact: LCDR John Farthing, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6451

RIN: 2115–AD23

2346. +DISCHARGE-REMOVAL EQUIPMENT FOR VESSELS CARRYING OIL (CGD 90-068)

Priority: Other Significant

Legal Authority: 46 USC 4202

CFR Citation: 46 CFR 165

Legal Deadline:
Final, Statutory, August 18, 1992.

Abstract: The Oil Pollution Act of 1990 directed the President by August 18, 1992, to: require periodic inspection of discharge-removal equipment to ensure that it is available in an emergency, and to require carriage of discharge-removal equipment by vessels operating in the navigable waters of the U.S. and carrying oil or hazardous substances. This action implemented those provisions. This project supported the Coast Guard's Marine Safety and Environmental Protection goal to reduce the consequence of pollution incidents and the Coast Guard's strategic goal of protection of natural resources. This project is considered significant because of expected costs and substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	08/30/91	56 FR 43534
Comment Period End	10/16/91	
NPRM	09/29/92	57 FR 44912
Extension of Comment Period	10/26/92	57 FR 48489
Comment Period End	10/29/92	
Comment Period End	11/16/92	
Interim Rule	12/22/93	58 FR 67988
Interim Rule Effective	01/22/94	
Correction	01/26/94	59 FR 3749
Comment Period End	02/22/94	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 12/22/93, 58 FR 67988

Agency Contact: David DuPont, Project Manager, G-MSR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0971

RIN: 2115–AD66

2347. CLAIMS PROCEDURES UNDER THE OIL POLLUTION ACT OF 1990 (CGD 91-035)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2713; 33 USC 2714

CFR Citation: 33 CFR 136

Legal Deadline: None

Abstract: This rulemaking implements section 1013 (Claims Procedures) and section 1014 (Designation of Source and Advertisement) of the Oil Pollution Act of 1990. This rulemaking was designated significant because of anticipated public interest. The interim rule provides the requirements for the filing of claims for uncompensated removal costs or damages resulting from the discharge of oil, for the designation of the sources of the discharge, and for the advertisement of where claims are to be filed. The interim rule also included the processing of natural resource damage (NRD) claims. The NRD claims, however, were not processed until September 25, 1997, when the Department of Justice issued an opinion that the Oil Spill Liability Trust Fund (OSTLF) is available without further appropriation to pay trustee NRD claims under the general claims provisions of the Oil Pollution Act of 1990, 33 U.S.C. 2712(a)(4). Release of the final rule will be delayed until additional experience is gained on the adjudication of these NRD claims. This rulemaking supports the Coast Guard's strategic goal of the protection of natural resources.

Timetable:

Action	Date	FR Cite
Interim Rule	08/12/92	57 FR 36314
Correction Correction	09/09/92	57 FR 41104
Comment Period End	12/10/92	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 08/12/92, 57 FR 36314

Agency Contact: Don Calkin, Project Manager, National Pollution Fund Center, Department of Transportation, U.S. Coast Guard, 4200 Wilson Blvd, Suite 1000, Arlington, VA 22203-1804
Phone: 703 235-4761

RIN: 2115–AD90

2348. +ESCORT VESSELS FOR CERTAIN TANKERS (CGD 91-202)

Priority: Other Significant

Legal Authority: 46 USC 3703

CFR Citation: 33 CFR 168

Legal Deadline: None

Abstract: This rulemaking developed standards which implement section 4116(c) of the Oil Pollution Act of 1990. It addressed the areas of Prince William and Puget Sounds and requires a two-vessel escort for single-hull tankers greater than 5,000 gross tons. On November 1, 1994, the crash stop criteria were suspended because of industry concerns about meeting the criteria. On February 1, 1995, a notice of availability of a two part study assessing the capability of escort tugs to control disabled tankers in Prince William Sound was published. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the amount of oil discharged into the marine environment and the Coast Guard's strategic goal of protecting natural resources. This project is considered significant because of substantial public and State government interest.

Timetable:

Action	Date	FR Cite
NPRM	07/07/92	57 FR 30058
Comment Period End	09/08/92	
Reopening of Comment Period	03/26/93	58 FR 16391
ANPRM	04/27/93	58 FR 25766
Notice of Public Hearings	04/29/93	58 FR 25959
Notice of Public Hearings Correction	05/19/93	58 FR 29157
Comment Period End ANPRM	06/28/93	
Comment Period End NPRM	07/24/93	
Notice of Availability Part 1 of Study	01/10/94	59 FR 1411
Final Action	08/19/94	59 FR 42962
Final Action Partial Suspension Crash Stop Criteria	11/01/94	59 FR 54519
Final Action Effective Partial Suspension	11/17/94	
Notice of Availability Part II of Study	02/01/95	60 FR 6345
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The Coast Guard, in cooperation with the Prince William Sound Regional Citizens' Advisory Council, PWS Tanker Association, and Alaska Pipeline, conducted a disabled-tanker towing study. The result of the study was incorporated into this rulemaking. Tug escort requirements in areas other than Prince William Sound and Puget Sound are addressed in the project listed under RIN 2115-AE56.

ANALYSIS: Regulatory Evaluation, 08/19/94, 59 FR 42962

Agency Contact: LT Michael Roldan, Project Manager, G-MSR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0756

RIN: 2115–AE10

2349. +STATE ACCESS TO THE OIL SPILL LIABILITY TRUST FUND (CGD 92-014)

Priority: Other Significant

Legal Authority: 33 USC 2712

CFR Citation: 33 CFR 133

Legal Deadline:
NPRM, Statutory, February 18, 1991.

Abstract: Pursuant to the Oil Pollution Act of 1990 (OPA 90), this action specifies how the authority to obligate the pollution trust fund for oil spill response and cleanup efforts and to enter into agreements with the States will be exercised. The Coast Guard is evaluating the performance of the interim rule and expects to publish a final rule by December, 1999. This rulemaking supports the Coast Guard's strategic goal of the protection of natural resources. This rulemaking is considered significant because of substantial State interest.

Timetable:

Action	Date	FR Cite
Interim Rule	11/13/92	57 FR 53968
Comment Period End	02/11/93	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 11/13/92, 57 FR 53968

Agency Contact: Al Thuring, Project Manager, National Pollution Fund Center, Department of Transportation, U.S. Coast Guard, 4200 Wilson Blvd, Suite 1000, Arlington, VA 22203-1804
Phone: 703 235-4746

RIN: 2115–AE19

2350. REGATTA REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 1233

CFR Citation: 33 CFR 100

Legal Deadline: None

Abstract: These routine and frequent special local regulations ensure the safety of participants and spectators in regattas and marine parades. They specify such things as separate participant and spectator areas, separation schemes for water craft in the area of the event, and temporary restrictions on waterways to accommodate the event. These rules are short-term, usually applying to a single event not exceeding 8 hours in duration, and usually encompassing only a small portion of a navigable waterway. These rules are promulgated by District Commanders in response to

a request from a sponsoring organization. These routine and frequent rulemakings support the Coast Guard's strategic goal of marine safety, and mobility of commercial and recreational vessel traffic. Total actions expected 10/01/98 to 10/01/99: 75.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Carlton Perry, Project Manager, G-OPB-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AE46

2351. DRAWBRIDGE REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 499

CFR Citation: 33 CFR 117

Legal Deadline: None

Abstract: These routine and frequent regulations establish operating schedules, and notice requirements, for drawbridges across navigable waterways. Drawbridge regulations establish the permanent draw operation schedules for bridges and specify what notice mariners must give to request an opening. Short-term deviations from the permanent schedule may be issued for bridge repairs or to test the effectiveness of a proposed new opening schedule. Drawbridge regulations are promulgated by District Commanders usually at the request of the bridge owner or operator, or of local officials or local Coast Guard bridge administration officials. These routine and frequent rulemakings support the Coast Guard's strategic goals of waterways management, marine safety, and mobility of commercial and recreational vessel traffic. Total actions expected 10/01/98 to 10/01/99: 40.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Alesia Steinberger, Project Manager, G-OPT-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6215

RIN: 2115–AE47

2352. +ESCORT VESSELS IN CERTAIN U.S. WATERS (91-202A)

Priority: Other Significant

Legal Authority: 46 USC 3703

CFR Citation: 33 CFR 168

Legal Deadline: None

Abstract: This regulation would designate those U.S. waters, other than Prince William Sound and Puget Sound, where tankers and other vessels must be escorted by a towing vessel or other appropriate vessel. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the amount of oil discharged into the marine environment and the Coast Guard's strategic goal of protecting natural resources. This action is considered significant because of substantial public and State government interest.

Timetable:

Action	Date	FR Cite
ANPRM	04/27/93	58 FR 25766
Comment Period End	06/28/93	
Notice of Meeting Request for Comments	12/21/94	59 FR 65741
Comment Period End	02/13/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking is a companion to 2115-AE10, which concerns Prince William Sound and Puget Sound.

Agency Contact: LT John White, Project Manager, G-MSR-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6885

RIN: 2115–AE56

2353. REGULATED NAVIGATION AREAS

Priority: Routine and Frequent

Legal Authority: 33 USC 1233; 50 USC 191

CFR Citation: 33 CFR 165

Legal Deadline: None

Abstract: These routine and frequent regulations establish operating requirements for vessels within specified geographic areas to ensure safety on the navigable waters where some special or unusual circumstance exists. Regulated navigation areas are limited areas in which the Coast Guard specifies operational or vessel restrictions such as vessel entry, movement or departure; and vessel size, speed, horsepower, or draft limitations. Regulated navigation areas are promulgated by District Commanders, usually at the request of Coast Guard marine safety or local maritime safety officials. These routine and frequent rulemakings support the Coast Guard's strategic goals of waterways management, marine safety, and mobility of commercial and recreational vessel traffic. Total actions expected 10/01/98 to 10/01/99: 10.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Margie Hegy, Project Manager, G-MOV-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0415

RIN: 2115–AE84

2354. +IMPLEMENTATION OF THE 1995 AMENDMENTS TO THE INTERNATIONAL CONVENTION ON STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING FOR SEAFARERS, 1978 (STCW) (CGD 95-062)

Priority: Other Significant

Legal Authority: 31 USC 9701; 44 USC 3507; 46 USC 2103; 46 USC 7101; 46 USC 7107

CFR Citation: 46 CFR 10; 46 CFR 12; 46 CFR 15

Legal Deadline:
Other, Statutory, February 1, 1997, International Convention deadline.

Abstract: The International Maritime Organization (IMO) comprehensively amended the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), in 1995. The amendments came into force on February 1, 1997. This project is intended to implement them by revising 46 CFR Parts 10, 12, and 15 to ensure that the United States complies with their requirements on: the training of merchant mariners, the documenting of their qualifications, and watch-standing and other arrangements aboard seagoing merchant ships of the United States. This rulemaking is considered significant due to potential impact on industry and potential effect on international interests. This project supports the Coast Guard's strategic goal of safety, and the Coast Guard's Marine Safety and Environmental Protection program's goal of reducing deaths and injuries of crewmembers on domestic merchant vessels and eliminating substandard vessels from the navigable waters of the United States.

Timetable:

Action	Date	FR Cite
Notice of Meeting	08/02/95	60 FR 39306
Comment Period End	09/29/95	
Notice of Inquiry	11/13/95	60 FR 56970
Comment Period End	01/12/96	
NPRM	03/26/96	61 FR 13284
Notice of Public Meetings	04/08/96	61 FR 15438
Comment Period End	07/24/96	
Notice of Intent	02/04/97	62 FR 5197
Interim Rule	06/26/97	62 FR 34505
Interim Rule Effective	07/28/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Christopher Young, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0216

RIN: 2115–AF26

2355. PROPELLER INJURY PREVENTION ABOARD RENTAL BOATS (CGD 95-041)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 4302

CFR Citation: 33 CFR 173; 33 CFR 174; 33 CFR 175; 33 CFR 177; 33 CFR 179; 33 CFR 181; 33 CFR 183; 33 CFR 187

Legal Deadline: None

Abstract: The Coast Guard published a notice of inquiry on this subject on May 11, 1995. It received 1983 comments, most of which were very general. It is clear that two boating accidents involving fatalities caused by propeller strikes on rented houseboats on lake Shasta, Lake Havasu and several instances of crippling injuries in the last several years have generated a great deal of concern. This rulemaking would examine the number and nature of injuries sustained from vessel propellers and help the Coast Guard to determine the need for Federal or State regulation of these vessels, the livery companies leasing these vessels, or the operators of these vessels. Any regulation issued would be implemented to reduce future injuries and fatalities involving rented boats. Future action is partially dependent upon results of a Technology Comparison and testing of propellers, propeller guards, etc. conducted under a Coast Guard grant. This rulemaking supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
Request for Comments	05/11/95	60 FR 25191
Comment Period End	07/10/95	
Reopening of Comment Period	08/09/95	60 FR 40545
Comment Period End	11/07/95	
ANPRM	03/26/96	61 FR 13123
Comment Period End	09/01/96	
Request for Comments	04/28/97	62 FR 22991
Comment Period End	07/28/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Randolph Doubt, Project Manager, G-OPB-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 266-6810

RIN: 2115–AF28

2356. +TOWING VESSEL SAFETY (CGD 97-064)

Priority: Other Significant

Legal Authority: 46 USC 3719; 46 USC 4102

CFR Citation: 33 CFR 155; 46 CFR 25; 46 CFR 32

Legal Deadline:
NPRM, Statutory, October 1, 1997.

Abstract: The Coast Guard proposes requirements for total flooding or other installed systems for suppressing fires on towing vessels and voyage planning. The purpose of this rulemaking is to reduce oil spills from single-hull, non-self-propelled barges. Drifting oil barges have run aground and spilled their cargoes, causing considerable damage to marine life and the environment. This project was developed in cooperation with the Towing Safety Advisory Committee. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the amount of oil discharged into the marine environment, and the Coast Guard's strategic goals of marine safety and protection of the marine environment. This project is significant due to congressional interest.

Timetable:

Action	Date	FR Cite
NPRM	10/06/97	62 FR 52057
Comment Period End	01/05/98	
Notice of Public Meeting	02/27/98	63 FR 9980
Reopening of Comment Period	02/27/98	63 FR 9980
Comment Period End	05/11/98	
SNPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking originally proposed

requirements for three sets of towing vessel safety issues: Fire suppression systems and other measures, Control measures for tank barges, and Fire protection measures for towing vessels. The latter two components have developed into separate rulemakings: Emergency Control Measures for Tank Barges (USCG-98-4443) (RIN 2115-AF65) and Fire Protection Measures for Towing Vessels (USCG-98-4445) (RIN 2115-AF66).

Agency Contact: Robert Spears, Project Manager, G-MSR-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1099

RIN: 2115–AF53

2357. CONSOLIDATION OF RULES FOR PROCEEDINGS AGAINST MERCHANT MARINERS' LICENSES, CERTIFICATES, AND DOCUMENTS (94-111)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 7701; 46 USC 7702; 33 USC 1321; 42 USC 9609

CFR Citation: 33 CFR 20; 46 CFR 5; 46 CFR 4

Legal Deadline: None

Abstract: The Coast Guard maintains two separate sets of procedural rules for administrative adjudications against merchant mariners' license, certificates, and documents, and the adjudication of class II civil penalties. The rules for suspension and revocation, contained in part 5 of title 46 of the Code of Federal Regulations (CFR), date from 1948 and are based on criminal procedure. The rules for class II civil penalties, contained in part 20 of title 33 of the CFR, date from 1994 and are based on the Model Rules of Administrative Procedure and on other modern rules for civil procedure. Neither set implements the authority of the Oil Pollution Act of 1990 (OPA 90): which provides for the temporary suspension of a license, certificate, or document for up to 45 days without a hearing, in certain circumstances, and a hearing within 30 days of any such suspension. This rulemaking would consolidate all procedural rules for administrative adjudications for class II civil penalties, and allow the Coast Guard to implement the OPA 90 authority. This project supports two goals: the strategic goal of the Coast Guard to promote safety, and the goal of its program in Marine Safety and Environmental Protection to reduce injuries and deaths of crewmembers aboard commercial vessels of the United States.

Timetable:

Action	Date	FR Cite
NPRM	04/06/98	63 FR 16731
NPRM Comment Penod End	05/06/98	
Reopening of Comment Period	05/20/98	63 FR 27700
Reopened Comment Period End	06/19/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This rulemaking revises in part the previous docket of CGD 94-101 (RIN 2115-AD94), which was terminated on December 20, 1995.

Agency Contact: George Jordan, Project Manager, G-CJ, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-2940

RIN: 2115–AF59

2358. +SALVAGE AND FIREFIGHTING EQUIPMENT; VESSEL RESPONSE PLANS (USCG-98-3417)

Priority: Other Significant

Legal Authority: 33 USC 1321

CFR Citation: 33 CFR 155

Legal Deadline: None

Abstract: Current vessel response plan regulations require that the owners or operators of vessels carrying groups I through V petroleum oil as a primary cargo identify in their response plans a salvage company with expertise and equipment, and a company with firefighting capability that can be deployed to a port nearest to the vessel's operating area within 24 hours of notification (groups I-IV) or a discovery of a discharge (group V). Numerous requests for clarification revealed widespread misunderstanding and confusion regarding the regulatory language, which will make the implementation of this requirement difficult. Based on comments received after the vessel response plan final rule publication (61 FR 1052; January 12, 1996) and during a Coast Guard hosted workshop, the Coast Guard intends to better define the terms "salvage expertise and equipment" and "vessel firefighting capability" requirements and will reconsider the 24-hour deployment requirement which was scheduled to go into effect on February 18, 1998. Therefore, the Coast Guard suspended the effective dates of the deployment requirements as published in the final rule. The Coast Guard will continue with this project to better define the requirements. This rulemaking supports the Coast Guard's strategic goals of marine safety and protection of the marine environment.

Timetable:

Action	Date	FR Cite
Final Rule: Partial Suspension	02/12/98	63 FR 7069
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Partial suspension of regulations created through the vessel response plan final rule, docket No. 91-034, RIN 2115-AD81

Agency Contact: LCDR Roger Laferriere, Project Manager, G-MOR-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0448

RIN: 2115–AF60

2359. +EMERGENCY RESPONSE PLANS FOR PASSENGER VESSELS (USCG-98-3473)

Priority: Other Significant

Legal Authority: 14 USC 633; 33 USC 1221; 33 USC 1223; 33 USC 1224; 33 USC 1231; 33 USC 1232; 46 USC 3306

CFR Citation: 46 CFR 1; 46 CFR 7 to 10; 46 CFR 199

Legal Deadline: None

Abstract: This rulemaking would require vessel owners or operators operating small passenger vessels and passenger vessels in domestic service to develop, maintain, and exercise emergency response plans. The first step in this process is to publish an advance notice of proposed rulemaking to seek feedback from vessel owners and operators. Emergency response plans would establish a process that initiates and maintains actions to prevent injury and loss of life during collisions, allisions, groundings, fires, and other emergencies. The plans would address issues such as passenger egress, crew training, and available emergency resources both on a vessel and in a vessel's operating area. This rulemaking supports the Coast Guard's strategic goal of national security. This rulemaking is significant due to important Department of Transportation policy and public interest.

Timetable:

Action	Date	FR Cite
ANPRM	02/26/98	63 FR 9916
ANPRM Comment Period End	06/28/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Agency Contact: LT John White, Project Manager, G-MSR-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6885

RIN: 2115–AF61

DEPARTMENT OF TRANSPORTATION (DOT)

U.S. Coast Guard (USCG)

Completed Actions

2360. QUALIFICATIONS FOR TANKERMEN AND FOR PERSONS IN CHARGE OF TRANSFERS OF DANGEROUS LIQUIDS AND LIQUIFIED GASES (CGD 79-116)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3703; 46 USC 7317; 46 USC 8703; 46 USC 9101; 46 USC 9102

CFR Citation: 33 CFR 154; 33 CFR 155; 46 CFR 7; 46 CFR 12; 46 CFR 13; 46 CFR 30; 46 CFR 31; 46 CFR 35; 46 CFR 78; 46 CFR 90; 46 CFR 97; 46 CFR 98; 46 CFR 105; 46 CFR 151; 46 CFR 153

Legal Deadline: None

Abstract: In response to the Port and Waterways Safety Act of 1978, and to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995, this rulemaking established more stringent qualifying criteria for mariners transporting and transferring various oils and other cargoes. This rulemaking supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	12/18/80	45 FR 83268
Comment Period End	03/18/81	
SNPRM	10/17/89	54 FR 42624
Comment Period End	01/16/90	
Interim Rule	04/04/95	60 FR 17134
Comment Period End	06/30/95	
Reopening of Comment Period	03/26/96	61 FR 13098
Comment Period End	05/18/96	
Final Action	05/08/97	62 FR 25115
Partial Suspension Delay of Effective Date	07/11/97	62 FR 37134
Request for Comments Delay of Effective Date	09/17/97	62 FR 48769
Comment Period End	11/17/97	
Final Action	07/01/98	63 FR 35822

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Former title: Qualifications of the Person in Charge of Oil Transfer Operations: Tankerman Requirements (79-116). Public meetings were held during January and February of 1981. Docket 79-116a (RIN 2115-AD18) has been included in this project and will no longer be listed as a separate Regulatory Agenda item.

ANALYSIS: Regulatory Evaluation, 12/18/80, 45 FR 83268

Agency Contact: Mark Gould, Project Manager, G-MSO-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6890

RIN: 2115–AA03

2361. LIFESAVING EQUIPMENT-IMPLEMENTATION OF 1983 AMENDMENTS TO SOLAS 1974 (CGD 84-069)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 31; 46 CFR 33; 46 CFR 35; 46 CFR 70; 46 CFR 71; 46 CFR 75; 46 CFR 78; 46 CFR 91; 46 CFR 94; 46 CFR 97; 46 CFR 107 to 109; 46 CFR 154; 46 CFR 160

Legal Deadline: None

Abstract: As part of the President's Regulatory Review Initiative to remove or revise unnecessary government regulations, this rule removes numerous obsolete sections from the Code of Federal Regulations and eliminates duplication of other provisions by consolidating the lifesaving requirements for most U.S. inspected vessels making them consistent with the substantive provisions of the Safety of Life at Sea (SOLAS) Convention of 1974, to the maximum extent practicable. It not only implements the provisions of chapter III of SOLAS, as amended, but also revises lifesaving regulations for Great Lakes vessels and certain vessels in domestic trade, which are not covered by SOLAS. The rule also replaces many prescriptive regulations with performance-based alternatives. This rule also supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce crew member deaths and injuries on U.S. commercial vessels and the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
ANPRM	12/31/84	49 FR 50745
ANPRM Comment Period End	03/01/85	
NPRM	04/21/89	54 FR 16198
NPRM Comment Period End	08/21/89	
Notice of Public Hearing Seattle 10/17/89	10/05/89	54 FR 41124

DOT—USCG

Completed Actions

Action	Date	FR Cite
Reopening of Comment Period	10/05/89	54 FR 41124
Comment Period End	01/30/90	
Interim Rule	05/20/96	61 FR 25272
Comment Period End	07/31/96	
Notice of Meeting	08/26/96	61 FR 43685
Interim Rule Effective	10/01/96	
Comment Period End	10/31/96	
Interim Rule Partial Suspension	02/19/97	62 FR 7360
Interim Rule Partial Suspension Effective	02/19/97	
Comment Penod End	04/21/97	
Final Action	10/01/98	63 FR 52801
Final Action Effective	11/02/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: CFR CITATION CONT: 46 CFR 30; 46 CFR 90; 46 CFR 112; 46 CFR 125; 46 CFR 133; 46 CFR 161; 46 CFR 167; 46 CFR 168; 46 CFR 188; 46 CFR 192; 46 CFR 196; 46 CFR 199.

To prevent any economic expenditures based on the Interim rule which might not be necessary under the Final rule, the Coast Guard suspended the implementation requirements for certain provisions in the Interim rule. Suspension of section 199.10(i)(1)(i), (ii) and (iii) was effective February 19, 1997.

ANALYSIS: Regulatory Evaluation, 04/21/89, 54 FR 16198

Agency Contact: Bob Markle, Project Manager, G-MSE-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1444

RIN: 2115–AB72

2362. +IMPLEMENTATION OF THE COMMERCIAL FISHING-INDUSTRY VESSEL SAFETY ACT (CGD 88-079)

Priority: Other Significant

Legal Authority: 46 USC 4502; 46 USC 4506; 46 USC 6104(c); 46 USC 10603(b)

CFR Citation: 46 CFR 28

Legal Deadline:
Final, Statutory, January 1, 1993.

Abstract: The Commercial Fishing Industry Vessel Safety Act of 1988 requires the Secretary of Transportation to prescribe regulations for certain safety equipment and vessel operating procedures. A final rule establishing requirements for navigation, radio, firefighting and lifesaving equipment, fuel, ventilation, and electrical systems was published in August, 1991. In August, 1992, an interim rule established immersion suit requirements. In May, 1993, regulations for immersion suits on vessels operating on seasonally cold waters were also proposed. Lifesaving equipment and instructor qualifications were addressed in a separate rule under RIN 2115-AF35. This project supports the Coast Guard's strategic goal of safety. The issues which remain concern damage stability and immersion suits. The Coast Guard has terminated this docket, and intends to create a new docket to resolve the remaining issues.

Timetable:

Action	Date	FR Cite
ANPRM Consolidated RIN 2115-AC34	07/09/87	52 FR 25890
ANPRM Correction of Consolidated RIN 2115-AC34	08/10/87	52 FR 29556
ANPRM	12/29/88	53 FR 52735
Comment Penod End	02/27/89	
Extension of Comment Period	03/02/89	54 FR 8765
NPRM	04/19/90	55 FR 14924
Comment Period End	08/20/90	
Notice of Intent to Publish SNPRM	08/31/90	55 FR 35694
Final Action Except SNPRM Issues	08/14/91	56 FR 40364
Final Action Effective	09/15/91	
Correction	09/20/91	56 FR 47679
Notice of Correcting Amendments	01/06/92	57 FR 363
Interim Rule Immersion Suits	08/03/92	57 FR 34188
SNPRM Stability and Other Small Fishing Vessel Issues	10/27/92	57 FR 48670
Correction	12/03/92	57 FR 57129
Extension of Comment Period	12/18/92	57 FR 60158
Correction	01/06/93	58 FR 630
Comment Period End	02/28/93	
NPRM Seasonally Cold Waters	05/20/93	58 FR 29502
Terminated	07/15/98	63 FR 38141

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The final rule published 08/14/91 addressed most issues raised in the NPRM. A final rule implementing provisions of the Aleutian Trade Act was handled under RIN 2115-AE77. Coast Guard docket 86-024, Uninspected Fish Processing Vessels (RIN 2115-AC34), was incorporated into this project in 1987. A final rule establishing requirements for exemptions, terminations, lifesaving equipment, and training was addressed separately under RIN 2115-AF35.

ANALYSIS: Regulatory Evaluation, 10/27/92, 57 FR 48670

Agency Contact: LCDR Randy Clark, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0386

RIN: 2115–AD12

2363. +SECURITY FOR PASSENGER VESSELS AND PASSENGER TERMINALS (CGD 91-012)

Priority: Other Significant

Legal Authority: 33 USC 1226

CFR Citation: 33 CFR 120; 33 CFR 128

Legal Deadline: None

Abstract: The purpose of this action is to improve security measures on passenger vessels engaged in international voyages of 24 hours or more, and on the port facilities serving these vessels. This rule requires all applicable passenger vessels and passenger terminals to develop security plans for planning and performance standards at three security levels. The plans address normal security (Level I), security when a vessel or terminal may be a terrorist target (Level II), and security when a vessel or terminal is determined to be a terrorist target (Level III). The security plans will be examined by the Coast Guard to ensure they meet the requirements of the regulations and conform to internationally recognized standards. This rulemaking supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the risk of terrorism and of loss of life aboard passenger vessels. This rulemaking also supports the Coast Guard's strategic goal of marine safety. This rulemaking is significant because of substantial public interest and safety implications.

DOT—USCG

Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	03/25/94	59 FR 14290
Comment Period End	06/23/94	
Notice of Public Hearings	09/07/94	59 FR 46211
Reopening of Comment Period	09/07/94	59 FR 46211
Comment Period End	11/30/94	
Interim Rule	07/18/96	61 FR 37648
Comment Period End	09/16/96	
Notice of Policy Clarification	10/03/96	61 FR 51597
Interim Rule Effective	10/16/96	
Final Action	10/06/98	63 FR 53587
Final Action Effective	11/13/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $546,368; Yearly Recurring Cost: $28,000; Base Year for Dollar Estimates: 1996

Additional Information:

ANALYSIS: Regulatory Evaluation, 03/25/94, 59 FR 14290

Agency Contact: LCDR John Farthing, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6451

RIN: 2115–AD75

2364. NOTICE OF HAZARDOUS CONDITIONS (CGD 94-027)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1231

CFR Citation: 33 CFR 160

Legal Deadline: None

Abstract: The Coast Guard requires the reporting of hazardous conditions by vessel owners, masters, agents, or persons in charge. This project added the term operator to the list of those required to report. This project also revised the notification requirement to include hazardous conditions caused by a vessel's operation even when the vessel itself is not effected. This project eliminated the confusion that may exist in determining whether a particular incident is reportable and, if so, by whom. This project supports the Coast Guard's strategic goals of marine safety and protection of natural resources.

Timetable:

Action	Date	FR Cite
Interim Rule	08/03/94	59 FR 39458
Interim Rule Effective	08/03/94	
Comment Period End	12/01/94	
Final Action	04/17/98	63 FR 19190
Final Action Effective	05/18/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 08/03/94, 59 FR 39458

Agency Contact: Kenneth Olson, Project Manager, G-MOA-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1417

RIN: 2115–AE82

2365. IMMEDIATE REPORTING OF CASUALTIES (CGD 94-030)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1231; 43 USC 1333; 46 USC 2103; 46 USC 2306; 46 USC 6101; 46 USC 6301; 46 USC 6305; 50 USC 198

CFR Citation: 46 CFR 4

Legal Deadline: None

Abstract: This project clarified those marine casualties that require immediate notification to the Coast Guard. It specifies when immediate notification was required, who was responsible for providing notice, and to whom notification must was required so that prompt emergency action can be taken as necessary. This rulemaking affects the owners, agents, master, operator, or person in charge of the vessel. This rulemaking supports the Coast Guard's Marine Safety and Environmental Protection program's goal of reducing the number of collisions, allisions, and groundings; and the Coast Guard's strategic goal of marine safety and protection of the marine environment.

Timetable:

Action	Date	FR Cite
Interim Rule	08/03/94	59 FR 39469
Interim Rule Effective	08/03/94	
Comment Period End	11/01/94	
Final Action	04/17/98	63 FR 19190
Final Action Effective	05/18/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kenneth Olson, Project Manager, G-MOA-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1417

RIN: 2115–AE89

2366. CONFORMANCE OF THE UNIFORM STATE WATERWAY MARKING SYSTEM WITH THE UNITED STATES AIDS TO NAVIGATION SYSTEM (USCG-97-3112)

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 83; 14 USC 85; 33 USC 1233; 43 USC 1333

CFR Citation: 33 CFR 62; 33 CFR 66

Legal Deadline: None

Abstract: This rulemaking consolidated the Uniform State Waterway Marking System (USWMS) with the US Aids to Navigation System (USATONS). The consolidation eliminates three differences between the two systems by adopting the markers of the USATONS. There should be no impact on government entities because implementation costs will be linked to replacement cycles for the aids to navigation. This rulemaking supports the Coast Guard's strategic goals of commercial and recreational vessel mobility.

Timetable:

Action	Date	FR Cite
NPRM	12/23/97	62 FR 67031
Comment Period End	02/23/98	
Final Action	06/19/98	63 FR 33570
Final Action Effective	07/20/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: This rulemaking is also identified as CGD 97-018

Agency Contact: Daniel Andrusiak, Project Manager, G-OPN-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0327

RIN: 2115–AF45

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Proposed Rule Stage

2367. REVIEW OF PART 47, AIRCRAFT REGISTRATION, AND PART 49, RECORDING OF AIRCRAFT TITLES AND SECURITY DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113 to 40114; 49 USC 44101 to 44108; 49 USC 44110 to 44111; 49 USC 44713; 49 USC 45302; 49 USC 46104; 49 USC 46301

CFR Citation: 14 CFR 47; 14 CFR 49

Legal Deadline: None

Abstract: This notice would propose to update parts 47 and 49 of the Federal Aviation Regulations to reflect changes in the law, legal interpretations, other recent rulemaking actions, and the FAA's current aircraft registry practices. The intent of these proposed changes is to articulate, modernize, and simplify the existing regulations rather than alter established procedures.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-89-201R.

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: Sharon Ashford, Flight Standards Service, Department of Transportation, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Boulevard, Oklahoma City, Oklahoma 73125
Phone: 405 954-7038

RIN: 2120–AC17

2368. +PART 145 REVIEW: REPAIR STATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701; 49 USC 44702; 49 USC 44703; 49 USC 44705; 49 USC 44707; 49 USC 44709; 49 USC 44710; 49 USC 44711; 49 USC 44713; 49 USC 44717; 49 USC 45102 to 45103; 49 USC 45301 to 45302

CFR Citation: 14 CFR 43; 14 CFR 65; 14 CFR 145

Legal Deadline: None

Abstract: The FAA proposes to update and revise the regulations for repair stations. This action is necessary because many portions of the current repair station regulations do not reflect technical advances in aircraft maintenance practices or aircraft technology. The revisions would reorganize the repair station rules to reduce duplication of regulatory language and eliminate obsolete information. The proposal also would establish new requirements that relate to repair station ratings and classes, manual requirements, recordkeeping, and personnel. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Notice of Public Meetings	07/24/89	54 FR 30866
Notice Correction	08/08/89	54 FR 32563
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-87-045R. This project was formerly entitled Review and Revision of Repair Station Requirements, and Repair Station and Repairmen Certification Rules.

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: Richard Nowak, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-7228

RIN: 2120–AC38

2369. +DRUG ENFORCEMENT ASSISTANCE

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 5121 to 5124; 49 USC 40113 to 40114; 49 USC 44101 to 44108; 49 USC 44110 to 44111; 49 USC 44702 to 44703; 49 USC 44704; 49 USC 44709 to 44710; 49 USC 44713; 49 USC 46101 to 46110; 49 USC 46301 to 46316; 49 USC 46501 to 46502; 49 USC 46504 to 46507; 49 USC 47106; 49 USC 47111

CFR Citation: 14 CFR 13; 14 CFR 47

Legal Deadline:
Final, Statutory, September 18, 1989, FAA Drug Enforcement Assistance Act of 1988.

Abstract: This action would revise certain requirements concerning registration of aircraft, certification of pilots, and penalties associated with registration and certification violations. This notice also announced new procedures for processing major repair and alteration forms which pertain to fuel system modifications. Actions announced in this notice respond to the FAA Drug Enforcement Assistance Act. The requirements and adopted procedures are intended to assist law enforcement agencies in their efforts to stop drug trafficking in general aviation aircraft. This rulemaking is significant because of substantial and public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/12/90	55 FR 9270
NPRM Comment Period End	05/11/90	
Extended NPRM Comment Period End Comment Period End 7/11/90	05/16/90	55 FR 20394
SNPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project No. AFS-89-035R.

ANALYSIS: Regulatory Evaluation, 03/12/90, 55 FR 9270

Agency Contact: Sharon Ashford, Flight Standards Service, Department of Transportation, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 MacArthur Boulevard, Oklahoma City, Oklahoma 73125
Phone: 405 954-7038

RIN: 2120–AD16

2370. +AGING AIRCRAFT SAFETY

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715 to 44717; 49 USC 44722; 49 USC 44901 to 44904; 49 USC 44906

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135; 14 CFR 183

Legal Deadline: Other, Statutory, April 24, 1992.
Aging Aircraft Safety Act of 1991: action must be initiated by 4/24/92.

Abstract: On October 5, 1993, the FAA published an NPRM that proposed to require air carriers of certain aircraft used in air transportation to demonstrate that the aircraft's maintenance has been adequate to ensure the highest degree of safety. After further review, and taking into consideration public comments to the NPRM, the FAA considers it appropriate to withdraw that NPRM. The FAA is developing a new NPRM that would ensure the continuing airworthiness of the most significant aging airplanes operating in air transportation by mandating aging aircraft records reviews and inspections for certain air carriers and certain aircraft and also by applying modern damage-tolerance analyses and inspection techniques to older airplane structures that were certificated before such techniques were available. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/05/93	58 FR 51944
NPRM Comment Period End	02/02/94	
Extended NPRM Comment Period Comment Period End 3/4/94	02/08/94	59 FR 5741
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number AFS-92-029R.

Agency Contact: Frederick Sobeck, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-7355

RIN: 2120–AE42

DOT—FAA

Proposed Rule Stage

2371. +CORROSION CONTROL PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44902

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135

Legal Deadline: None

Abstract: This project would ensure that airplanes used or not used in common carriage in air transportation have a comprehensive corrosion prevention program within their maintenance or inspection programs. In April 1988, a commercial transport airplane experienced an in-flight decompression and separation of approximately 18 feet of the fuselage skin and structure at the top of the airplane. The airplane had been in service for 19 years and had flown almost 90,000 flights. The National Transportation Safety Board concluded that the failure of the airline to detect skin disbonding resulted in corrosion and metal fatigue leading to separation of the airplane's skin structure. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-93-382R

ANALYSIS: Regulatory Evaluation, 01/00/99

Agency Contact: Frederick Sobeck, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-7355

RIN: 2120–AE92

2372. +FLIGHT OPERATIONAL QUALITY ASSURANCE PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This action would codify the Federal Aviation Administration's policy not to use information from voluntary Flight Operational Quality Assurance programs in any enforcement actions taken against operators or pilots. The proposed amendment responds to industry groups that have been reluctant to participate. These programs benefit aviation safety by providing information that can lead to improvements in training and operations. In 1995 the FAA initiated a two-year concept demonstration study in partnership with industry. Based on the study, the FAA will issue an Advisory Circular. The FAA will use the information from the study to determine if it is appropriate to codify in the rules the immunity provisions. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-93-154R

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: Dan Meier, Flight Standards Service, Regulations Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3789

RIN: 2120–AF04

2373. +AIR TOUR STANDARDS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716

CFR Citation: 14 CFR 91; 14 CFR 135

Legal Deadline: None

Abstract: FAA will propose new regulations for air tour and sightseeing operations that are currently allowed to operate under less stringent regulations than those applied to other types of commercial operations. Over the past decade the number of these operations and the number of accidents and incidents associated with these operations have increased. Hot air balloons and gliders would not be included in this amendment. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-91-012R. RIN 2120-AF61 which was proposed as a new item for this agenda was a duplicate of this rulemaking and has been terminated. This rulemaking was previously titled "Sightseeing Operations."

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: Dave Metzbower, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3724

RIN: 2120–AF07

2374. REVISION OF CERTIFICATION REQUIREMENTS: MECHANICS AND REPAIRMEN

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44709 to 44711; 49 USC 45102 to 45103; 49 USC 45301 to 45303

CFR Citation: 14 CFR 65; 14 CFR 66

Legal Deadline: None

Abstract: This action would revise the Federal Aviation Regulations that prescribe the certification and training requirements for mechanics and repairmen. Current regulations prescribing these certification requirements do not reflect the significant technological advances that have occurred in the aviation industry and the enhancements in training and instructional methods that have affected all aviation maintenance personnel. The proposed rule would consolidate and clarify 11 certification, training, experience, and currency requirements for aviation maintenance personnel in a newly established part 66. The proposal would enhance aviation safety by establishing new training programs for aviation maintenance personnel and would decrease the regulatory burden on these personnel by providing alternatives for meeting experience and currency requirements. This is an ARAC project that has 2 phases; phase 1 was addressed in the first NPRM and phase 2 will be addressed in the second NPRM as well as addressing comments received from the first NPRM.

Timetable:

Action	Date	FR Cite
NPRM	08/17/94	59 FR 42430
NPRM Comment Period End	10/17/94	
NPRM	07/09/98	63 FR 37172
Withdrawal of 8/17/94 NPRM	07/09/98	63 FR 37210
NPRM Comment Period End	11/06/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-96-492A. This rulemaking is a recommendation from the Aviation Rulemaking Advisory Committee.

ANALYSIS: Regulatory Evaluation, 08/17/94, 59 FR 42430

Agency Contact: Leslie Vipond, Aircraft Maintenance Service, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3269

RIN: 2120–AF22

2375. +OVERFLIGHTS OF UNITS OF THE NATIONAL PARK SYSTEM

Regulatory Plan: This entry is Seq. No. 85 in Part II of this issue of the Federal Register.

RIN: 2120–AF46

2376. +FLIGHT CREWMEMBER DUTY PERIOD LIMITATIONS, FLIGHT TIME LIMITATIONS, AND REST REQUIREMENTS

Regulatory Plan: This entry is Seq. No. 86 in Part II of this issue of the Federal Register.

RIN: 2120–AF63

2377. +SUBMISSION TO DRUG TESTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 45102 to 45103

CFR Citation: 14 CFR 61; 14 CFR 63; 14 CFR 91

Legal Deadline: None

Abstract: This action would propose amendments to require aircraft crewmembers to submit to tests that show the presence of alcohol, drugs, or drug metabolites when requested by Federal, State, or local law enforcement officers investigating violations of Federal, State, or local law. The proposed amendments are intended to reduce aircraft accidents and incidents attributed to the use of drugs by crewmembers. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AFS-90-082

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: Thomas K. Glista, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8150

RIN: 2120–AF64

2378. +PASSENGER FACILITY CHARGES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40116 to 40117; 49 USC 47111; 49 USC 47114 to 47116

CFR Citation: 14 CFR 158

Legal Deadline: None

Abstract: This action proposes to increase the amount of compensation that a carrier may earn for collecting and remitting a passenger facility charge from eight cents to ten cents. In addition, the NPRM proposes to clarify that monthly remittances must be received by airport public agencies collecting PFCs on the last day of each month. The NPRM also proposes to amend the regulation to reflect the statutory prohibition on collection of PFCs from passengers using frequent flyer bonus awards. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	04/16/96	61 FR 16678
ANPRM Comment Period End	05/16/96	
Extended Comment Period End 8/16/96	05/21/96	61 FR 25420
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Project Number: APP-94-568P.

Agency Contact: Sheryl Scarborough, Airport Financial Assistance Division, Office of Airports Planning and Programming, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8825

RIN: 2120–AF69

2379. BIRD INGESTION STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This action proposes changes to amend the type certification standards for aircraft turbine engines that concern bird ingestion. This proposal updates the current bird ingestion standards to reflect recent analysis defining the actual bird threat encountered by turbine engines. This proposal also harmonizes the FAA's type certification standards on this issue with requirements being drafted by the Joint Aviation Authorities (JAA). The proposed changes, if adopted, would establish one set of common requirements, and thereby reduce the regulatory hardship on the aviation industry by eliminating the need for manufacturers to comply with different sets of standards when seeking type certification from the FAA and validation from the JAA.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANE-93-733A. This is an Aviation Rulemaking Advisory Committee project.

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: John Golinski, Engine and Propeller Directorate, Department of Transportation, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803-5299
Phone: 781 238-7119

RIN: 2120–AF84

2380. REVISION OF CERTIFICATION REQUIREMENTS: AIRCRAFT DISPATCHERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 45102 to 45103; 49 USC 45301 to 45302

CFR Citation: 14 CFR 65

Legal Deadline: None

Abstract: This action proposes to amend the regulations that prescribe the certification and training requirements for aircraft dispatchers. Current regulations prescribing these certification requirements do not reflect the significant technological advances that have occurred in the aviation industry and the enhancements in training and instructional methods that have affected all aircraft dispatchers. The proposal would consolidate and clarify all certification, training, and experience requirements for aircraft dispatchers in newly revised part 65, subpart C, and appendix A of part 65.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-94-171A.

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: Tom Toula, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8166

RIN: 2120–AG04

2381. +DURATION BETWEEN EXAMINATIONS FOR FIRST- AND SECOND-AIRMAN MEDICAL CERTIFICATES

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 45102 to 45103; 49 USC 45301 to 45302

DOT—FAA

Proposed Rule Stage

CFR Citation: 14 CFR 61

Legal Deadline: None

Abstract: This proposed action would reduce the required frequency of medical examinations for many holders of first- and second-class airman medical certifications, based on the age of the airman. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AAM-95-065R.

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: Dennis McEachen, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 493-4075

RIN: 2120–AG06

2382. FEES FOR AEROMEDICAL EDUCATION TRAINING SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 9701; 49 USC 106(g); 49 USC 40104, 49 USC 40105; 49 USC 40109; 49 USC 40113 to 40114; 49 USC 44702; 49 USC 45301 to 45303

CFR Citation: 14 CFR 187

Legal Deadline: None

Abstract: This action would establish (1) a schedule of fees for all aeromedical education training services, (2) the methodology for computing user fees, and (3) a timetable for periodic updates of established fees. The proposal is necessary to permit the FAA to recover the costs incurred in sponsoring aeromedical education training services.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AAM-95-065R.

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: B. J. Hudson, Aeromedical Standards Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 493-4077

RIN: 2120–AG07

2383. +FALSE AND MISLEADING STATEMENTS REGARDING AIRCRAFT PARTS

Priority: Other Significant

Legal Authority: 49 USC 44913

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This action proposes additional rules that would prohibit certain false or misleading statements regarding civil aircraft, airframes, aircraft engines, propellers, appliances, component parts, and materials, including standard parts, that are used, or may be used, on civil aircraft. The proposals would also permit increased inspection by the FAA of records regarding the quality of aircraft parts. The additional rules are needed to help prevent persons from representing parts as suitable for use on civil aircraft when in fact they may not be. The proposals are intended to provide assurance that aircraft owners and operators, and persons who maintain aircraft, have truthful information on which to determine whether a part may be used in a given civil aircraft application. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AGC-94-549R.

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: Mardi Ruth Thompson, Regulations Division, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3073

RIN: 2120–AG08

2384. +SECURITY PROGRAMS OF FOREIGN AIR CARRIERS AND FOREIGN OPERATORS OF U.S. REGISTERED AIR CARRIERS ENGAGED IN COMMON CARRIAGE

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44712; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901 to 44904; 49 USC 44906

CFR Citation: 14 CFR 129

Legal Deadline: None

Abstract: As an action intended to implement the Antiterrorism and Effective Death Penalty Act of 1996 (PL 104-132, 4/14/96), the FAA is proposing to amend existing airplane operator security rules for foreign air carriers and foreign operators of U.S. registered aircraft. The proposed amendment would require the Administrator to accept a foreign air carrier's program only if the Administrator finds that the security program provides for identical security measures to those provided by U.S. air carriers serving the same airport. The proposed rule will establish the obligation to use identical security measures. The actual measures to be used will be identified through changes to the nonpublic security program of the foreign air carriers. This rule is considered significant due to substantial public interest and concern of foreign governments.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ACP-96-363R.

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: Moira Lozada, Civil Aviation Security Division, Office of Civil Aviation Security Policy and Planning, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3373

RIN: 2120–AG13

DOT—FAA

Proposed Rule Stage

2385. +LICENSING OPERATION OF A NON-FEDERAL LAUNCH SITE

Priority: Other Significant

Legal Authority: 49 USC 70101 to 70119

CFR Citation: 14 CFR 415; 14 CFR 417

Legal Deadline: None

Abstract: This action would establish requirements for licensing the operation of a launch site. The law requires anyone who proposes to operate a launch site within the U.S., or a U.S. citizen proposing to operate a launch site outside the U.S., to obtain a license from DOT. This action would govern obtaining a license to operate such a launch site. Currently, commercial rocket launches take place from Federal government installations operated by the Department of Defense and NASA. Licensing requirements for those launches are being developed in a related rulemaking (RIN 2120-AF99). In this action, DOT proposes to implement rules regarding obtaining a license to operate a launch site. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Project Number: AST-96-341R.

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: Randy Repcheck, Licensing and Safety Division, AST-200, Office of Commercial Space, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8379

RIN: 2120–AG15

2386. PROCEDURES FOR PROTESTS AND CONTRACT DISPUTES; AMENDMENT OF EQUAL ACCESS TO JUSTICE ACT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(f)

CFR Citation: 14 CFR 17

Legal Deadline: None

Abstract: This rulemaking would formally establish procedures the FAA will use to settle contract disputes and protests.

The FAA Office of Dispute Resolution (ODR) was established as an organization that has broad discretion to resolve protests and contract disputes, utilize administrative or alternative dispute resolution techniques and provide fair and impartial decisions or recommendations, supported by the facts and law. In order for this office to carry out its function, while providing for appropriate due process, it is necessary that certain of its procedures uniformly have the force and effect of law. This would include matters such as the establishment of filing deadlines; the power to issue subpoenas and protective orders; the power to levy sanctions; and the discretion to establish schedules, and to limit discovery, length of presentations, numbers of exhibits, and other similar matters.

Timetable:

Action	Date	FR Cite
NPRM	08/25/98	63 FR 45372
NPRM Comment Period End	10/26/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: Project Number: AGC-96-353R. This entry was formerly titled, "Dispute Resolution Regulations."

ANALYSIS: Regulatory Evaluation, 08/25/98, 63 FR 45372

Agency Contact: Marie Collins, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6400

RIN: 2120–AG19

2387. +PROHIBITION OF THE TRANSPORTATION OF DEVICES DESIGNED AS CHEMICAL GENERATORS AS CARGO IN AIRCRAFT

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716; 49 USC 44722; 49 USC 46301

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This rulemaking proposes to ban the transportation of devices designed to chemically generate oxygen in certain aircraft, with limited exceptions. This proposed ban applies to newly-manufactured chemical oxygen generators that have never been filled with chemicals. It would also apply to devices designated as chemical oxygen generators that have been discharged (spent) or that are past their expiration dates. The FAA believes that newly-manufactured chemical oxygen generators might be manufactured in one location and transported to another location to be filled. This could lead to human factors errors in determining whether the device designed as a chemical oxygen generator is actually empty.

The Research and Special Programs Administration (RSPA) proposed a ban that applies to "spent" chemical oxygen generators to the extent that such generators have residue chemicals in the canisters. (See RIN 2137-AC92)

This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/27/98	63 FR 45912
Correction	09/24/98	63 FR 51048
NPRM Comment Period End	10/26/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Project Number: AFS-97-065R

ANALYSIS: Regulatory Evaluation, 08/27/98, 63 FR 45912

DOT—FAA

Proposed Rule Stage

Agency Contact: Gary Davis, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3747

RIN: 2120–AG35

2388. +PROTECTION OF VOLUNTARILY SUBMITTED INFORMATION

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Administrator has been tasked, under the Federal Aviation Reauthorization Act of 1996, to develop regulations to protect safety and security related information voluntarily disclosed by industry. The FAA is in the process of determining what voluntarily submitted information should be given protection under the statute. This rulemaking is significant because of substantial industry interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Project Number: ARM-97-040.

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: Mardi Thompson, Regulations Division, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3073

RIN: 2120–AG36

2389. +LICENSING OF LAUNCH FROM NON-FEDERAL LAUNCH SITE

Priority: Other Significant

Legal Authority: 49 USC 70101 to 70119

CFR Citation: 14 CFR 415; 14 CFR 417

Legal Deadline: None

Abstract: This action would establish requirements for licensing the conduct of a launch from a non-Federal launch site. The law requires anyone who proposes to conduct a launch within the U.S., or a U.S. citizen proposing to conduct a launch site outside the U.S., to obtain a license from DOT. This action would govern obtaining a license to conduct such a launch. Currently, commercial rocket launches take place from Federal Government installations operated by the Department of Defense and NASA. Licensing requirements for those launches are being developed in a related licensing rulemaking (RIN 2120-AF99). In this action, DOT proposes to implement rules regarding obtaining a license to conduct a launch from a commercial launch site, where DOT, rather than NASA or the military has primary responsibility. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Project Number: AST-97-088R.

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: Michael Dook, Licensing and Safety Division, Office of Commercial Space, Department of Transportation, Federal Aviation Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-9305

RIN: 2120–AG37

2390. +TERRAIN AWARENESS AND WARNING SYSTEM (TAWS)

Regulatory Plan: This entry is Seq. No. 87 in Part II of this issue of the Federal Register.

RIN: 2120–AG46

2391. CIVIL PENALTIES: STREAMLINED ENFORCEMENT TEST AND EVALUATION PROGRAM; SECURITY; DRUG AND ALCOHOL ABATEMENT

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 18 USC 6002; 49 USC 106(g); 49 USC 5121 to 5124; 49 USC 40113 to 40114; 49 USC 44103 to 44106; 49 USC 44702 to 44703; 49 USC 44709 to 44710; 49 USC 44713; 49 USC 46101 to 46110; 49 USC 46301 to 46316; 49 USC 46501 to 46502; 49 USC 46504 to 46507; 49 USC 47106; 49 USC 47111; 49 USC 47122; ...

CFR Citation: 14 CFR 13

Legal Deadline: None

Abstract: This action proposes to establish a two-year test and evaluation program designed to streamline the procedures used to process certain civil penalty enforcement actions. This program was recommended as a result of the Deputy Administrator's 90-day system safety review.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Brian Reed, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-7158

RIN: 2120–AG49

2392. +HIGH DENSITY AIRPORTS; ALLOCATION OF SLOTS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 46301

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This action proposes to codify the provision of the U.S./Canadian Bilateral Agreement, which was signed on February 24, 1995, with the current provisions of the High Density Rule. The agreement allows for a three-year phase-in period to "Open Skies" between the two countries. Service between the two countries would convert from international service to domestic service. To achieve the mandate, Canadian carriers have been allocated additional slots that would be subject to the restrictions currently mandated for domestic operations of U.S. carriers. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AGC-97-474R.

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: Lorelei Peter, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3134

RIN: 2120–AG50

2393. +SCREENING OF CHECKED BAGGAGE ON FLIGHTS WITHIN THE UNITED STATES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation: 14 CFR 108

Legal Deadline: None

Abstract: The FAA is proposing the screening or bag matching of passenger checked baggage on domestic flights by utilizing an FAA-approved Computer Assisted Passenger Screening (CAPS) system. This is in response to a recommendation from the White House Commission on Aviation Safety and Security (The Commission) "Final Report to President Clinton." The Commission recommended that one of the steps that should be taken to improve airline passenger security is the implementation by the FAA of a computerized system for profiling airline passengers flying out of airports located in the United States. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: Lon M. Siro, Civil Aviation Security Office of Policy and Planning, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3414

RIN: 2120–AG51

2394. PARACHUTE OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113 to 40114; 49 USC 44701 to 44702; 49 USC 44721

CFR Citation: 14 CFR 105

Legal Deadline: None

Abstract: This rulemaking proposes to clarify and update the Federal Aviation Regulations by defining terms applicable to parachute operations and issues concerning coordinating parachute operations with air traffic control, tandem parachute operations, and packing and equipment requirements for foreign parachutists when parachuting in the United States. Also, this proposed action is necessary to reflect recent airspace reclassification and parachuting equipment applications.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Project Number: ATA-91-202R.

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: Ellen Crum, Air Traffic Airspace Management Program, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8194

RIN: 2120–AG52

2395. FLIGHT PLAN REQUIREMENTS FOR HELICOPTER OPERATIONS UNDER INSTRUMENT FLIGHT RULES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306; ...

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This rulemaking is needed because current rules discourage helicopter operations under Instrument Flight Rules (IFR) in marginal weather conditions. This rulemaking would increase safety by allowing helicopter operators access into the IFR system commensurate with the unique flight characteristics of helicopters. This rulemaking project is a recommendation of the Aviation Rulemaking Advisory Committee, forwarded to the FAA on November 18, 1997.

Timetable:

Action	Date	FR Cite
NPRM	09/02/98	63 FR 46834
NPRM Comment Period End	10/02/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 09/02/98, 63 FR 46834

Agency Contact: William H. Wallace, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3771

RIN: 2120–AG53

2396. +POLICY REGARDING AIRPORT RATES AND CHARGES

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: A statement of policy, Policy Regarding Airport Rates and Charges (Policy Statement), which was required

DOT—FAA

Proposed Rule Stage

by Congress as part of the DOT Authorization Act of 1994, was published in the Federal Register (61 FR 31994) on June 21, 1996. That Policy Statement announced DOT and FAA policy on the fees charged by federally assisted airports to air carriers and other aeronautical users. This proposed action requests comments on replacement provisions for the portions of the Policy Statement vacated by the United States Court of Appeals for the District of Columbia Circuit. The Court disallowed a portion of the policy that had to do with historic cost valuation of airport property. DOT and FAA are beginning this proceeding in order to carry out its responsibility to establish reasonableness guidelines for airport fees. This policy is significant due to substantial industry interest.

Timetable:

Action	Date	FR Cite
Advanced Notice of Proposed Policy	08/12/98	63 FR 43228
Comment Period End	10/13/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Cite per reference in Abstract paragraph, United States Court of Appeals for the District of Columbia Circuit in Air Transport Association of America v. Department of Transportation, 119 F.3d 38 (D.C. Cir. 1997), as modified on rehearing, Order of Oct. 15, 1997. Previous RIN for the Policy Statement published in the Federal Register is 2120-AF90.

Agency Contact: Barry Molar, Office of Airport Safety and Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3053

RIN: 2120–AG58

2397. • ROTORCRAFT LOAD COMBINATION SAFETY REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: The FAA proposes to amend the airworthiness standards for rotorcraft load combination (RLC) certification. This proposal would revise the safety requirements for RLC to address advances in technology and to provide an increased improvement in the safety standards for RLC certification and lead to a harmonized international standard.

Timetable:

Action	Date	FR Cite
NPRM	07/13/98	63 FR 37746
NPRM Comment Period End	10/13/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ASW-98-198A.

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: Mike Mathias, Rotorcraft Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 2601 Meacham Boulevard, Fort Worth, TX 76193-0111
Phone: 817 222-5123

RIN: 2120–AG59

2398. • HARMONIZATION OF CRITICAL PARTS ROTORCRAFT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This action proposes to amend the airworthiness standards to define critical parts and to require a critical parts plan. The critical parts plan would establish procedures that would allow for the control of the design, substantiation, manufacture, maintenance, and modification of critical parts.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ASW-98-202A

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: Carroll Wright, Rotorcraft Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 2601 Meacham Boulevard, Fort Worth, TX 76193-0111
Phone: 817 222-5120

RIN: 2120–AG60

2399. • +TRANSPORT AIRPLANE FLEET FUEL TANK IGNITION SOURCE REVIEW

Priority: Other Significant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40105; 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 44713; 49 USC 44715; 49 USC 45303

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: This action will develop a Special Federal Aviation Regulation (SFAR) to require type certificate holders of certain turbojet and turbofan-powered transport category airplanes to conduct a design review of fuel tank systems and develop fuel system inspection and maintenance instructions. It will also allow a certificate holder to submit documentation that the type design of the fuel system of a previously certificated airplane precludes existence of ignition sources within the airplane's fuel tanks. This action is significant because of substantial public interest in the prevention of fire and explosion in airplane fuel tanks.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-98-158R.

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: Mike Dostert, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-2132

RIN: 2120–AG62

2400. • USE OF ELECTRONIC SIGNATURES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40101 to 40103; 49 USC 40105; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44105 to 44106; 49 USC 44111; 49 USC 44701 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903; 49 USC 44904; 49 USC 44906; ...

CFR Citation: 14 CFR 21; 14 CFR 43; 14 CFR 91; 14 CFR 119

Legal Deadline: None

Abstract: This action proposes to amend the regulations to permit the use of electronic signatures to satisfy maintenance, operational, and type certification record preparation and retention requirements. Although this action will encourage the use of electronic recordkeeping systems, it will not discourage the use of paper documents and records to satisfy regulatory requirements. The proposed rule will provide cost savings and regulatory relief to owners, manufacturers, operators and repair stations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AFS-98-226A.

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: Wayne Nutsch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 493-4291

RIN: 2120–AG63

2401. • SPECIAL FEDERAL AVIATION REGULATION NO. 36, DEVELOPMENT OF MAJOR REPAIR DATA

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This proposal will amend and extend Special Federal Aviation Regulation (SFAR) No. 36, which expires January 23, 1999. The SFAR allows certificated domestic repair stations, air carriers, air taxi operators of large aircraft, and commercial operators of large aircraft that have the authority to return products to service to accomplish major repairs using self-developed repair data that have not been specially approved by the FAA. These amendments clarify conditions under which the SFAR authorization can be used. Extension of the regulation continues to provide, for those who qualify, an alternative from the requirement to obtain additional time for the FAA to incorporate the SFAR provisions into the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AIR-98-347R.

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: Carol Martineau, Office of Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9568

RIN: 2120–AG64

2402. • NOISE CERTIFICATION STANDARDS FOR PROPELLER-DRIVEN SMALL AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321; 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44715

CFR Citation: 14 CFR 36

Legal Deadline: None

Abstract: The FAA is proposing changes to the noise certification standards for propeller-driven small airplanes. These proposals are based on the joint effort of the FAA, the European Joint Aviation Authorities (JAA), and Aviation Rulemaking Advisory Committee (ARAC), to harmonize the US noise and certification regulations and the JAR for propeller-driven small airplanes. The proposed changes would provide nearly uniform noise certification standards for airplanes certificated in the US and in the JAA countries. The harmonization of the noise certification standards would simplify airworthiness approvals for import and export purposes.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Project Number: AEE-94-366A.

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: Mehmet Marsan, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-7703

RIN: 2120–AG65

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Final Rule Stage

2403. OBJECTS AFFECTING NAVIGABLE AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113 to 40114; 49 USC 44502; 49 USC 44701; 49 USC 44718; 49 USC 46101 to 46102; 49 USC 46104

CFR Citation: 14 CFR 77

Legal Deadline: None

Abstract: This action would amend the standards, aeronautical studies, scope, and notice provisions concerning objects affecting navigable airspace. The notice consisted primarily of changes required by recent legislation or recommended by a government/industry task group of the National Airspace Review Advisory Committee. This action would also cover electromagnetic interference phenomenon that could create a hazard to air navigation.

Timetable:

Action	Date	FR Cite
Notice of Review	06/19/78	43 FR 26322
Review Conference	12/08/80	
National Airspace Review Begins	07/09/84	
NPRM	08/03/90	55 FR 31722
NPRM Correction	08/13/90	55 FR 32999
NPRM Correction	08/16/90	55 FR 33577
NPRM Correction	08/28/90	55 FR 35152
NPRM Correction	09/10/90	55 FR 37287
NPRM Comment Period End	12/31/90	
SNPRM	10/16/95	60 FR 53680
SNPRM Comment Period End	11/30/95	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ATO-85-015R.

ANALYSIS: Regulatory Evaluation, 08/03/90, 55 FR 31722

Agency Contact: Ellen Crum, Air Traffic Rules Procedures Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8783

RIN: 2120–AA09

2404. MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 5103; 49 USC 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44703; 49 USC 44705; 49 USC 44706; 49 USC 44707; 49 USC 44709; 49 USC 44710; 49 USC 44711; 49 USC 44712

CFR Citation: 14 CFR 21; 14 CFR 65; 14 CFR 107; 14 CFR 121; 14 CFR 135; 14 CFR 145

Legal Deadline: None

Abstract: The FAA is withdrawing a previously published Notice of Proposed Rulemaking (NPRM) that proposed to amend various sections of the regulations. The proposal was to clarify language, correct improper or obsolete references, and to relax certain existing requirements. Since publication of the NPRM, many other completed, in-process, or planned actions have addressed or will address many of the issues involved. The FAA has determined that all unresolved issues should be included in more recent actions dealing with the specific sections of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/03/83	48 FR 45214
NPRM Comment Period End	12/02/83	
To Be Withdrawn	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket No. 23781. Project Number: ARM-81-128R.

ANALYSIS: Regulatory Evaluation, 10/03/83, 48 FR 45214

Agency Contact: Jean Casciano, Office of Rulemaking, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9683

RIN: 2120–AA50

2405. +IMPROVED SURVIVAL EQUIPMENT FOR INADVERTENT WATER LANDINGS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would add new requirements for water survival equipment carried aboard airplanes and rotorcraft. The requirements would apply, after specified dates, to U.S.-certificate holders that conduct common-carriage operations with airplanes and rotorcraft. This action is in response to the Airport and Airway Safety and Capacity Enhancement Act of 1987 (PL 100-223) and relates to safety recommendations by the National Transportation Safety Board. The requirements are intended to increase the likelihood of aircraft passengers surviving a crash landing in water and, thus, this rulemaking is significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	53 FR 24890
NPRM Comment Period End	11/28/88	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AIR-85-265R.

ANALYSIS: Regulatory Evaluation, 06/30/88, 53 FR 24890

Agency Contact: John Petrakis, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9574

RIN: 2120–AC72

2406. +RETROFIT OF IMPROVED SEATS IN AIR CARRIER TRANSPORT CATEGORY AIRPLANES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; ...

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline:
NPRM, Statutory, April 28, 1988, PL 100-223 Sec 303.

Abstract: This action would require that all seats of transport category airplanes used in air carrier operations and transport category airplanes used in scheduled intrastate service comply with improved crashworthiness standards. The Airport and Airways Safety and Capacity Expansion Act of 1987 directs the Secretary of Transportation to initiate a rulemaking proceeding to consider requiring all seats onboard all air carrier aircraft to meet improved crashworthiness standards based upon the best available testing standards. The intended effect of this action is to increase passenger protection and survivability in survivable impact accidents. This rulemaking is considered significant because of its safety implications and statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17650
NPRM Comment Period End	10/14/88	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket 25611. Project Number: AIR-88-136R.

ANALYSIS: Regulatory Evaluation, 05/17/88, 53 FR 17650

Agency Contact: John Petrakis, Aircraft Engineering Division, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9274

RIN: 2120–AC84

2407. +SOLE RADIO NAVIGATION SYSTEM; MINIMUM STANDARDS FOR CERTIFICATION

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation: 14 CFR 91

Legal Deadline:
Final, Statutory, September 30, 1989, Airway Safety and Capacity Expansion Act of 1987 (PL 100-223).

Abstract: The FAA is withdrawing a previously published Advance Notice of Proposed Rulemaking (ANPRM) that proposed to establish minimum standards under which a radio navigation system may be certified as the sole radio navigation system required in an aircraft conducting Instrument Flight Rules en route and terminal area operations, including nonprecision approach, in controlled airspace of the United States. This rulemaking was considered to be significant because of a congressional mandate. However, the provision was repealed in 1994 as part of the recodification of Title 49. The provision was originally enacted as section 310(c) in FAA's 1987 Reauthorization bill, Pub. L. No. 100-123.

Timetable:

Action	Date	FR Cite
ANPRM	01/22/90	55 FR 2206
ANPRM Comment Period End	05/22/90	
To Be Withdrawn	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-89-215R. This project was formerly entitled Sole Means Radio Navigation System.

Agency Contact: James Crowling, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-5215

RIN: 2120–AD26

2408. +AIRCRAFT GROUND DE-ICING AND ANTI-ICING PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action establishes a requirement for part 121 certificate holders to develop an FAA-approved ground deicing/anti-icing program and to comply with that program any time conditions are such that frost, ice, or snow could adhere to the aircraft's wings, control surfaces, or propellers. This action is necessary because several accidents and the recent International Conference on Airplane Ground Deicing indicate that, under present procedures, the pilot in command may be unable to effectively determine whether critical airplane components are free of all frost, ice, or snow prior to attempting a takeoff. The action provides an added level of safety to flight operations in adverse weather conditions, and is considered significant because of its safety implications.

Timetable:

Action	Date	FR Cite
NPRM	07/23/92	57 FR 32846
NPRM Comment Period End	08/07/92	
Interim Final Rule	09/29/92	57 FR 44924
Interim Final Rule Effective	11/01/92	
Interim Final Rule Correction	11/09/92	57 FR 53385
Interim Final Rule Comment Period End	04/15/93	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-92-280-R.

A proposed advisory circular providing guidance on the program elements that should be included in an air carrier's approved ground deicing and anti-icing program was published September 29, 1992, requesting comments (57 FR 44944).

Various documents of this proceeding were erroneously published under RIN 2120-AE51.

ANALYSIS: Regulatory Evaluation, 09/29/92, 57 FR 44924

Agency Contact: James Gardner, Regulations Branch, Flight Standards

DOT—FAA — Final Rule Stage

Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9579

RIN: 2120–AE70

2409. AIR TRAFFIC CONTROL RADAR BEACON SYSTEM AND MODE S TRANSPONDER REQUIREMENTS IN THE NATIONAL AIRSPACE SYSTEM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would revise the Mode S transponder requirement for all aircraft operating under part 135 and certain aircraft operating under part 121 based on the expected availability of operational capabilities of Mode S ground sensors. For part 121 operators, the action would affect only those aircraft not required to have Traffic Alert and Collision Avoidance System II. An aviation rulemaking advisory committee has recommended that the FAA conduct a study of the installed Mode S ground sensor to determine the extent of the benefits derived and the costs involved in equipage. This action is a relieving action made necessary by the fact that ground sensors are not in place to support the requirement. Further, FAA is studying the need for Mode S transponders in part 135 and certain part 121 operations in light of the fact that transponders may not substantially increase ATC ability to view air traffic.

Timetable:

Action	Date	FR Cite
NPRM	05/23/96	61 FR 26036
NPRM Correction	06/17/96	61 FR 30551
NPRM Comment Period End	07/22/96	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-92-297R.

ANALYSIS: Regulatory Evaluation, 05/23/96, 61 FR 26036

Agency Contact: Daniel V. Meier, Jr., Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3749

RIN: 2120–AE81

2410. CIVIL PENALTY ASSESSMENT PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 6002; 49 USC 106(g); 49 USC 5121 to 5124; 49 USC 40113 to 40114; 49 USC 44103 to 44106; 49 USC 44702 to 44703; 49 USC 44709 to 44710; 49 USC 44713; 49 USC 46101 to 46110; 49 USC 46301 to 46316; 49 USC 46501 to 46502; 49 USC 46504 to 46507; 49 USC 47106; 49 USC 47111; 49 USC 47122

CFR Citation: 14 CFR 13

Legal Deadline: None

Abstract: This action would revise the procedures for the assessment of civil penalties for violations of the Federal Aviation Regulations and other provisions. The procedures proposed would implement the requirements of the FAA Civil Penalty Administrative Assessment Act of 1992, as they modify the procedures for adjudicating a civil penalty against a person acting in the capacity of a pilot, flight engineer, mechanic, or repairman.

Timetable:

Action	Date	FR Cite
NPRM	08/05/94	59 FR 40192
NPRM Comment Period End	10/04/94	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ACC-93-076R. This rulemaking was considered significant; however, after receiving only two comments on the NPRM issued in 8/94, and the lack of controversy regarding this rule, the FAA does not consider this a significant rulemaking.

ANALYSIS: Regulatory Evaluation, 08/05/94, 59 FR 40192

Agency Contact: Joyce Redos, Regulations Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-7158

RIN: 2120–AE84

2411. CINCINNATI, OH, CLASS B AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40101; 49 USC 40103; 49 USC 40105; 49 USC 40109; 49 USC 40113; 49 USC 44110; 49 USC 44502; 49 USC 44701 to 44702; 49 USC 44711; 49 USC 46102

CFR Citation: 14 CFR 11

Legal Deadline: None

Abstract: This action would alter the Cincinnati, OH, Terminal Control Area (TCA) to redefine the airspace around the Cincinnati/Northern Kentucky International Airport. The objective of this proposal is to substantially increase safety while accommodating the legitimate concerns of airspace users.

Timetable:

Action	Date	FR Cite
NPRM	02/10/98	63 FR 6818
NPRM Comment Period End	04/13/98	
Reopening of NPRM Comment Period Comment Period End 7/14/98	05/15/98	63 FR 27160
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ATP-93-476T

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: Patricia Crawford, Airspace and Obstruction Evaluation Branch, Airspace Rules & Aeronautical Info Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591

DOT—FAA — Final Rule Stage

Phone: 202 267-9255

RIN: 2120–AE97

2412. FLIGHT ATTENDANT ENGLISH LANGUAGE PROFICIENCY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40119; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: The FAA has reviewed the Aviation Rulemaking Advisory Committee recommendation to proceed with this rulemaking. The FAA has determined that it would be most appropriate to address the flight attendant English language issue in the overall context of crew training. Therefore, because the FAA will incorporate the flight attendant English language issue into the proposed revision of part 121 subpart N and O notice of proposed rulemaking, this rulemaking entry will be withdrawn.

Timetable:

Action	Date	FR Cite
ANPRM	04/18/94	59 FR 18456
ANPRM Comment Period End	07/18/94	
To Be Withdrawn	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AFS-93-745A

Agency Contact: Donell Pollard, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3735

RIN: 2120–AE98

2413. +REVISED ACCESS TO TYPE III EXITS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 25; 14 CFR 121

Legal Deadline: None

Abstract: This action would adjust recently adopted requirements for access to type III emergency exits in transport category airplanes with 60 or more passenger seats. The adjustments would reflect new data from tests conducted at the FAA's Civil Aeromedical Institute and are intended to improve the ability of occupants to evacuate an airplane under emergency conditions. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/30/95	60 FR 5794
NPRM Comment Period End	05/01/95	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-93-005R

Agency Contact: Gary Killion, Regulations Branch, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-2114

RIN: 2120–AF01

2414. +TRAINING AND CHECKING IN GROUND ICING CONDITIONS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44710 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722

CFR Citation: 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This amendment requires parts 125 and 135 certificate holders to provide pilot training or testing in ground deicing/anti-icing procedures and to check the airplane for contamination by frost, ice, or snow during ground icing conditions. The proposal is intended to provide an added level of safety to flight operations in adverse weather conditions under parts 125 and 135. This rulemaking is significant because it affects a substantial portion of the aviation industry.

Timetable:

Action	Date	FR Cite
NPRM	09/21/93	58 FR 49164
NPRM Comment Period End	10/06/93	
Interim Final Rule	12/30/93	58 FR 69620
Advisory Circular Published	12/30/93	58 FR 69631
Interim Final Rule Effective	01/31/94	58 FR 69620
Interim Final Rule Comment Period End	04/15/94	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-93-459R

ANALYSIS: Regulatory Evaluation, 12/30/93, 58 FR 69620

Agency Contact: James Gardner, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9579

RIN: 2120–AF09

2415. LOS ANGELES, CA, CLASS B AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: The FAA is withdrawing a previously published Notice of Proposed Rulemaking (NPRM) that proposed to alter the Los Angeles, CA, Class B airspace area. The proposal would have lowered certain ceilings while raising others to provide more visual flight rules altitudes to circumnavigate the Los Angeles Class B airspace and to provide for better containment of arriving turbojets. This action will be handled as a routine airspace action.

DOT—FAA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/22/94	59 FR 60244
NPRM Comment Period End	01/23/95	
To Be Withdrawn	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ATP-94-035T RIN number 2120-AF38 was inadvertently used when this rulemaking was published in the Federal Register on November 22, 1994. The correct RIN number is 2120-AF16.

ANALYSIS: Regulatory Evaluation, 11/22/94, 59 FR 60244

Agency Contact: William Nelson, Airspace and Obstruction Evaluation Branch, Air Traffic Rules and Procedures Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9295

RIN: 2120–AF16

2416. +SUSPENSION OF CERTAIN AIRCRAFT OPERATIONS FROM THE TRANSPONDER WITH AUTOMATIC PRESSURE ALTITUDE REPORTING CAPABILITY REQUIREMENT

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action would extend and modify SFAR 62, issued December 5, 1990, which suspends the Mode C transponder requirement for operations to and from certain specific airports located within 30 miles of a Class B airspace primary airport. The operations and routings approved under SFAR 62 include routes within 2 nautical miles of the specified airports and at altitudes that were not excluded from the Mode C transponder requirement. Airports that are served primarily by aircraft required to install Traffic Alert and Collision Avoidance Systems are not included in this exception. This rulemaking was accomplished in 1990 because the scheduled radar system upgrades, required to provide Mode C transponder coverage, have not been placed into full service in all Class B sites. The present action would extend the current exclusions to those airports that have not received the improved radar coverage, and amend the exclusions provided airports that have received improved radar coverage through operational verification of the new radar systems. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/25/94	59 FR 43994
NPRM Correction	09/14/94	59 FR 47210
Extended NPRM Comment Period Comment Period End 11/25/94	09/28/94	59 FR 49360
NPRM Comment Period End	10/11/94	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ATP-93-474R. As this action merely involves extension of a suspension of a requirement, it is not a rulemaking requiring OMB review in the context of EO 12866. However, it is significant under DOT's regulatory policies and procedures.

ANALYSIS: Regulatory Evaluation, 08/25/94, 59 FR 43994

Agency Contact: Janet Apple, Air Traffic Branch, Airspace Rules and Aeronautical Info. Div., Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-7698

RIN: 2120–AF30

2417. NORMAL CATEGORY ROTORCRAFT MAXIMUM WEIGHT AND PASSENGER SEAT LIMITATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This rulemaking proposes to amend the airworthiness standards for normal category rotorcraft by increasing the maximum weight limit from 6,000 to 7,000 pounds and add a passenger seat limitation of nine. The increase in maximum weight is proposed to compensate for the increased weight resulting from additional regulatory requirements, particularly recent requirements intended to improve occupant survivability in the event of a crash.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting	02/05/94	59 FR 554
NPRM	06/25/98	63 FR 34610
NPRM Comment Period End	09/23/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ASW-95-218A.

ANALYSIS: Regulatory Evaluation, 06/25/98, 63 FR 34610

Agency Contact: Lance Gant, Rotorcraft Standards Staff, Rotorcraft Directorate, Department of Transportation, Federal Aviation Administration, ASW-110, FAA, Fort Worth, TX 76193-0110
Phone: 817 222-5114

RIN: 2120–AF33

2418. TYPE CERTIFICATION PROCEDURES FOR CHANGED PRODUCTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40101; 49 USC 40103; 49 USC 40105; 49 USC 40109; 49 USC 40113; 49 USC 44110; 49 USC 44502; 49 USC 44701 to 44702; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 44713; 49 USC 44715

CFR Citation: 14 CFR 11; 14 CFR 21; 14 CFR 25

DOT—FAA

Final Rule Stage

Legal Deadline: None

Abstract: This action would amend the procedural regulations for the certification of changes to type certificated products. The amendments are needed to accommodate the trend toward fewer products that are of completely new design and more products with repeated changes of previously approved designs.

Timetable:

Action	Date	FR Cite
NPRM	05/02/97	62 FR 24288
NPRM Comment Period End	09/02/97	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Project Number: AIR-95-053A. This action is the result of an Aviation Rulemaking Advisory Committee recommendation.

ANALYSIS: Regulatory Evaluation, 05/02/97, 62 FR 24288

Agency Contact: Randall Peterson, Office of Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9583

RIN: 2120–AF68

2419. MISCELLANEOUS CABIN SAFETY CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action proposes to revise the airworthiness standards for transport category airplanes relating to flight attendant assist space, flight attendant assist handles, door hold open features, outside viewing means, interior compartment doors and portable oxygen equipment. With one exception, these proposals are not the result of any specific incident or recommendation, but are part of the FAA's continuing effort to upgrade the regulations to improve the overall level of safety in areas where the state-of-the-art and good design practice have indicated that such upgrades are warranted. These proposals would result in both new type design regulations as well as requirements applicable to existing designs implemented via the operating rules.

Timetable:

Action	Date	FR Cite
NPRM	07/24/96	61 FR 38552
NPRM Comment Period End	11/21/96	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-90-016R.

ANALYSIS: Regulatory Evaluation, 07/24/96, 61 FR 38552

Agency Contact: Jeff Gardlin, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-2136

RIN: 2120–AF77

2420. REVISION OF HYDRAULICS SYSTEMS AIRWORTHINESS STANDARDS TO HARMONIZE WITH EUROPEAN AIRWORTHINESS STANDARDS FOR TRANSPORT CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposes to amend the airworthiness standards for transport category airplanes to harmonize hydraulic systems design and test requirements with standards proposed for the European Joint Aviation Requirements. These proposals were developed in cooperation with the Joint Aviation Authorities of Europe and the US and European aviation industries through the Aviation Rulemaking Advisory Committee (ARAC). These changes are intended to benefit the public interest by standardizing certain requirements, concepts, and procedures contained in the airworthiness standards without reducing and potentially enhancing the current level of safety.

Timetable:

Action	Date	FR Cite
NPRM	07/03/96	61 FR 35056
Correction	07/29/96	61 FR 39515
Correction	08/12/96	61 FR 41924
NPRM Comment Period End	10/01/96	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-96-105A. This action is in response to an Aviation Rulemaking Advisory Committee recommendation.

ANALYSIS: Regulatory Evaluation, 07/03/96, 61 FR 35056

Agency Contact: Manhidner Wahi, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-2142
Fax: 206 227-1320

RIN: 2120–AF79

2421. REPAIR ASSESSMENT FOR PRESSURIZED FUSELAGES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40119; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 40711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44912

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 129

Legal Deadline: None

Abstract: This rulemaking would require incorporation of repair assessment guidelines for external fuselage pressure boundary into the FAA-approved maintenance programs of each operator of certain transport category airplane models. The purpose of the repair assessment guidelines is to establish a damage-tolerance based

DOT—FAA

Final Rule Stage

supplemental inspection program for repairs to detect damage, which may develop in a repaired area, before that damage degrades the load carrying capability of the structure below the levels required by the applicable airworthiness standards.

Timetable:

Action	Date	FR Cite
NPRM	01/02/98	63 FR 126
NPRM Comment Period End	04/02/98	
Extended NPRM Comment Period Comment Period End 7/2/98	04/03/98	63 FR 16452
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Project Number: ANM-93-722A. This is an Aviation Rulemaking Advisory Committee project.

ANALYSIS: Regulatory Evaluation, 01/02/98, 63 FR 126

Agency Contact: Dorenda Baker, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056 Phone: 425 227-2109

RIN: 2120–AF81

2422. REVISION OF GATE REQUIREMENTS FOR HIGH-LIFT DEVICE CONTROLS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This rulemaking revises the requirements concerning gated positions on the control used by the pilot to select the position of an airplane's high-lift devices. It would update the current standards to take into account the multiple configurations of the high-lift devices provided on current airplanes to perform landings and go-around maneuvers. This rulemaking also harmonizes these standards with those being proposed for the European Joint Aviation Requirements (JAR).

Timetable:

Action	Date	FR Cite
NPRM	06/09/97	62 FR 31482
Correction	07/10/97	62 FR 37124
NPRM Comment Period End	09/08/97	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-96-284A. This action is in response to an Aviation Rulemaking Advisory Committee recommendation.

ANALYSIS: Regulatory Evaluation, 06/09/97, 62 FR 31482

Agency Contact: Don Stimson, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056 Phone: 425 227-1129

RIN: 2120–AF82

2423. +LICENSING COMMERCIAL SPACE LAUNCH ACTIVITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 70101 to 70119

CFR Citation: 14 CFR 400 to 415

Legal Deadline: None

Abstract: The Commercial Space Launch Act of 1984, as amended, grants the Department of Transportation authority to license and otherwise regulate commercial launches and the commercial operation of launch sites. In accordance with this authority, delegated to the FAA, the Associate Administrator for Commercial Space Transportation (AST) must ensure that commercial space launch activities are conducted in a manner that does not jeopardize public health and safety and the safety of property, without imposing unnecessary regulatory burdens on the commercial launch industry. The industry has grown in size and complexity since the original regulations were published in 1988, and AST's licensing program continues to evolve to reflect these changes. This rulemaking modifies the current regulations to reflect a streamlined and more mature licensing regime developed over the past few years. Such changes would benefit the industry by reducing regulatory burdens, thus reducing costs. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Public Meeting Notice and Request for Comments	10/13/94	59 FR 52020
Extended Comment Period Comment Period End 12/16/94	12/05/94	59 FR 62359
NPRM	03/19/97	62 FR 13216
NPRM Comment Period End	05/19/97	
Correction	05/23/97	62 FR 28391
Reopening of NPRM Comment Period Comment Period End 8/4/97	07/03/97	62 FR 36027
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: This action first appeared in the Agenda under RIN 2105-AB85. However, it was transferred from the Office of the Secretary, Department of Transportation, to the Federal Aviation Administration due to Transfer of Delegations. See 60 FR 62762, December 7, 1995, for information of the delegation.

Project Number: AST-96-142R.

ANALYSIS: Regulatory Evaluation, 03/19/97, 62 FR 13216

Agency Contact: Laura Montgomery, Regulations Division, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3073

RIN: 2120–AF99

2424. +POLICY AND PROCEDURES CONCERNING THE USE OF AIRPORT REVENUE

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: Not yet determined

DOT—FAA

Final Rule Stage

Legal Deadline: None

Abstract: This document proposes a statement of policy and procedures concerning the use of airport revenue. This statement of policy discusses in detail the requirement that revenue at public airports that have received Federal grants generally be used only for airport purposes. A statement of policy is required by the Federal Aviation Administration Authorization Act of 1994. The FAA is issuing a proposed policy and requesting public comment because of substantial public and industry interest in the subject matter.

Timetable:

Action	Date	FR Cite
Notice of Proposed Policy: Comment Period End 04/26/96	02/26/96	61 FR 7134
Final Policy	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: Barry Molar, Manager, Airport Compliance Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3446

RIN: 2120–AG01

2425. REVISED PRECISION APPROACH LANDING SYSTEMS POLICY

Priority: Substantive, Nonsignificant

Legal Authority: Not yet determined

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This statement announces the FAA's proposed policy for acquisition, installation, maintenance, and decommissioning of the instrument landing system (ILS) and the microwave landing system (MLS) during the transition to the global positioning system (GPS). The policy statement of December 1989 announced the transition from the ILS to the MLS for precision approach service in the National Airspace System. Since that time, advancement of GPS-based landing system technology has provided a more economical means of providing approach services.

Timetable:

Action	Date	FR Cite
Policy Statement	12/27/89	54 FR 53231
Policy Statement	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael Wedge, Airway Facilities Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-7848

RIN: 2120–AG16

2426. +FEES FOR AIR TRAFFIC SERVICES FOR CERTAIN FLIGHTS THROUGH U.S.-CONTROLLED AIRSPACE AND FOR AERONAUTICAL STUDIES

Priority: Other Significant

Legal Authority: 49 USC 9701; 49 USC 106 (g); 49 USC 40103; 49 USC 40104 to 40105; 49 USC 40109; 49 USC 40113 to 40114; 49 USC 44502; 49 USC 44701; 49 USC 44702; 49 USC 44718; 49 USC 45301 to 45303; 49 USC 46101 to 46102; 49 USC 46104

CFR Citation: 14 CFR 77; 14 CFR 187

Legal Deadline: None

Abstract: The FAA is amending the regulations to remove the interim rule that established fees and collection procedures for FAA air traffic and related services provided to certain aircraft that transit U.S.-controlled airspace but neither take off from, nor land in, the United States. On January 30, 1998, the United States Court of Appeals for the District of Columbia vacated the FAA's interim final rule and remanded the rule to the FAA for disposition. The FAA intends to comply with its statutory mandate and issue a new rule. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/20/97	62 FR 13496
Correction	04/29/97	62 FR 23295
Correction and Technical Amendment	05/02/97	62 FR 24286
Correction	05/05/97	62 FR 24552
Interim Final Rule Effective	05/19/97	
Interim Final Rule Comment Period End	07/18/97	
Interim Final Rule	10/02/97	62 FR 51736
Interim Final Rule Effective	10/02/97	
Final Rule Effective	07/21/98	
Final Rule	07/24/98	63 FR 40000
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: APO-96-172R.

ANALYSIS: Regulatory Evaluation, 03/20/97, 62 FR 13496

Agency Contact: Tim Lawler, Office of Aviation Policy and Plans, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-7052

RIN: 2120–AG17

2427. +EMPLOYMENT HISTORY, VERIFICATION AND CRIMINAL HISTORY RECORDS CHECK

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44912; 49 USC 44912; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation: 14 CFR 107; 14 CFR 108

Legal Deadline: None

Abstract: This rule would require an employment background investigation for persons who screen passengers and cargo in airports. The employment background investigation would include a fingerprint-based criminal history record check in certain cases, for unescorted access privileges to security areas at airports. The purpose of this rule is to help ensure the integrity and safety of the airport environment. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/19/97	62 FR 13262
Correction	04/08/97	62 FR 16892

DOT—FAA — Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	05/19/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ACP-96-557R.

ANALYSIS: Regulatory Evaluation, 03/19/97, 62 FR 13262

Agency Contact: Linda Valencia, Office of Civil Aviation Security Policy and Planning, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-7158

RIN: 2120–AG32

2428. +AIR TOUR OPERATIONS IN THE STATE OF HAWAII

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44709; 49 USC 44711 to 44713; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation: 14 CFR 91; 14 CFR 135

Legal Deadline: None

Abstract: This rulemaking disposes of comments received in response to the final rule published on September 26, 1994 (59 FR 49138), for certain procedural, operational, and equipment requirements for air tour operations in the State of Hawaii, codified as Special Federal Aviation Regulation (SFAR 71). It also extends SFAR 71 until the FAA publishes a final rule regulating all air tour operations. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	10/26/97	
Interim Final Rule	10/30/97	62 FR 58854
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-94-453R

Agency Contact: David Metzbower, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3724

RIN: 2120–AG44

2429. PART 93 SUBPART D - ANCHORAGE, ALASKA, TERMINAL AREA

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 40113; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 46301

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This action proposes to amend regulations regarding the Anchorage, Alaska, Terminal Area by revising the description of the Anchorage, Alaska, Terminal Area and the communication requirements for operating in the area. The FAA is proposing this action to enhance safety and simplify aircraft operating procedures in the Anchorage, Alaska, Terminal Area.

Timetable:

Action	Date	FR Cite
NPRM	10/01/97	62 FR 51564
NPRM Comment Period End	11/17/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: Joseph White, Office of Air Traffic Airspace Management, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9246

RIN: 2120–AG45

2430. • LICENSING AND TRAINING OF FOREIGN PILOTS, FLIGHT INSTRUCTORS, AND GROUND INSTRUCTORS OUTSIDE THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44707 to 44711; 49 USC 45102 to 45104; 49 USC 45301 to 45303

CFR Citation: 14 CFR 61; 14 CFR 141; 14 CFR 142

Legal Deadline: None

Abstract: The FAA is going to issue a final rule versus an NPRM because the FAA does not believe there is any interest by the public and any delay could be detrimental to U.S. Pilot Schools and Training Centers. This rulemaking is needed to remove language restricting licensing for persons outside the U.S. who are not U.S. citizens and remove language restricting the operation of airmen training institutions outside the U.S. Efforts between the FAA, Joint Aviation Authorities (JAA), and European Civil Aviation Commission have identified these subject areas as obstructionist to harmonization efforts and detrimental to U.S. pilot schools, which seek to continue to train students from the JAA member states. The harmonization working groups, set up by the above organizations, are expected to recommend that the JAA remove similarly restrictive language from its Joint Aviation Regulations.

Timetable:

Action	Date	FR Cite
Final Rule	10/05/98	63 FR 53532
Final Rule Effective	10/05/98	
Final Rule Comment Period End	11/04/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AFS-98-338R.

ANALYSIS: Regulatory Evaluation, 10/00/98

Agency Contact: John Lynch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3844

RIN: 2120–AG66

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA) — Long-Term Actions

2431. +FUEL SYSTEM VENT FIRE PROTECTION

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44721; 49 USC 44722; 49 USC 44901

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for transport category airplanes to require fuel vent system protection during post-crash ground fires. This proposed rule would apply to air carriers, air taxi operators, and commercial operators of transport category airplanes, as well as the manufacturers of such airplanes. This action is considered significant because of substantial public interest and the safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	09/26/84	49 FR 38078
ANPRM Comment Period End	01/25/85	
NPRM	02/02/95	60 FR 6632
NPRM Comment Period End	06/02/95	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket 24251. Formerly entitled Implementation of SAFER Propulsion System Recommendations. Project Number: ANM-82-050R.

ANALYSIS: Regulatory Evaluation, 02/02/95, 60 FR 6632

Agency Contact: Mike McRae, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056 Phone: 425 227-2116

RIN: 2120–AA49

2432. AIRWORTHINESS STANDARDS; CRASH-RESISTANT FUEL SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 40 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action proposes changes to the airworthiness standards to improve the crash resistance of fuel systems on normal, utility, acrobatic, and commuter category airplanes. The FAA has determined that improved crash resistance of these fuel systems is necessary to prevent deaths and injuries due to fire in survivable crashes. The proposed design changes would limit fuel spillage near ignition sources and would provide additional time for the survivors to evacuate the airplane.

Timetable:

Action	Date	FR Cite
ANPRM	03/05/85	50 FR 8948
ANPRM Comment Period End	07/03/85	
NPRM	02/28/90	55 FR 7280
NPRM Comment Period End	06/28/90	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Formerly titled "Amend part 23 To Include Requirements for Crash-Resistant Fuel Systems." Project Number: ACE-82-005R.

ANALYSIS: Regulatory Evaluation, 02/28/90, 55 FR 7280

Agency Contact: Norman Vetter, Standards Office, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106 Phone: 816 426-5688

RIN: 2120–AA57

2433. IFR ALTITUDES; MISCELLANEOUS AMENDMENTS

Priority: Routine and Frequent

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40113; 49 USC 40114; 49 USC 40120; 49 USC 44502; 49 USC 44514; 49 USC 44719; 49 USC 44721

CFR Citation: 14 CFR 95

Legal Deadline: None

Abstract: This is a nonsignificant body of regulations which prescribes altitudes for the operation of aircraft under instrument flight rules (IFR) on Federal airways, jet routes, area navigation low or high routes, or other direct routes for which a minimum en route IFR altitude is designated in 14 CFR part 95. In addition, mountainous areas and changeover points are designated. These regulations are an established body of technical requirements that are issued routinely and frequently to maintain operational efficiency. Total actions expected--400. 10/00/98 - 10/00/99.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Louis C. Cusimano, General Aviation and Commercial Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8212

RIN: 2120–AA63

2434. AIRWORTHINESS DIRECTIVES

Priority: Routine and Frequent

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701

CFR Citation: 14 CFR 39

Legal Deadline: None

Abstract: The FAA issues type certificates for "products," which are aircraft, engines, propellers, and some appliances. The FAA issues a regulation called an "Airworthiness Directive" (AD) to address an unsafe condition in a type certificated product, if that unsafe condition is likely to exist or develop in products of the same type design. Part 39 of title 14 requires each operator of a product affected by an AD to comply with the terms of the AD, in order to operate that product; the AD may mandate operational limitations, maintenance, or alterations for the affected product. The vast majority of routine and frequent

Airworthiness Directives are nonsignificant. Total actions expected--700. 10/00/98 to 10/00/99.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Jack McGrath, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9580

RIN: 2120–AA64

2435. STANDARD INSTRUMENT APPROACH PROCEDURES; MISCELLANEOUS AMENDMENTS

Priority: Routine and Frequent

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40113 to 40114; 49 USC 40120; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 44721 to 44722

CFR Citation: 14 CFR 97

Legal Deadline: None

Abstract: Standard Instrument Approach Procedures (SIAP) provide for instrument letdown to airports in the United States. They are a nonsignificant body of regulations that are complex and technical in nature and require routine and frequent rulemaking to maintain efficiency. The FAA issues, revises, and cancels SIAPs by adopting amendments that are incorporated into 14 CFR part 97. Contemporaneously with publication in the Federal Register, the SIAPs are made available to the Aeronautical Charting and Cartography Office in the Department of Commerce, and other publishers of aeronautical charts where they are published as approach procedure charts or "approach plates". These charts are made available to the members of the aviation community for use by pilots in making instrument approaches. Total actions expected--2,200. 10/00/98 - 10/00/99.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Louis C. Cusimano, General Aviation and Commercial Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8212

RIN: 2120–AA65

2436. AIRSPACE ACTIONS

Priority: Routine and Frequent

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; EO 10854

CFR Citation: 14 CFR 71; 14 CFR 73; 14 CFR 75

Legal Deadline: None

Abstract: This is a nonsignificant body of regulations which designates airspace areas, airways, routes, and reporting points to facilitate safe navigation. These regulations are technical in nature and are issued routinely and frequently to maintain operational efficiency. Total actions expected--330. 10/00/98 through 10/00/99.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Pat Crawford, Manager, Airspace Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9255

RIN: 2120–AA66

2437. LOW FUEL QUANTITY ALERTING SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for transport category airplanes to require a means to alert the flight crew of potentially unsafe low fuel quantities. There have been several fuel depletion incidents involving loss of power or thrust on all engines that could have resulted in forced landings and injury or loss of life. Most of these incidents resulted from improper fuel management techniques. This proposed amendment would require new transport category airplane designs to incorporate a low fuel quantity alert system that would allow for correction of certain fuel management errors or provide the flightcrew the opportunity to make a safe landing prior to engine fuel starvation.

Timetable:

Action	Date	FR Cite
NPRM	05/12/87	52 FR 17890
NPRM Comment Period End	09/09/87	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. 25213. Project Number: ANM-83-039R.

ANALYSIS: Regulatory Evaluation, 05/12/87, 52 FR 17890

Agency Contact: Neil Schalekamp, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056
Phone: 425 227-2112

RIN: 2120–AB46

2438. AIRCRAFT ENGINES: FUEL AND INDUCTION SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This action would add a new section 33.35(f) to the Federal Aviation Regulations which would incorporate a requirement for the fuel mixture and throttle controls to automatically move to a position allowing continued safe flight if either control becomes disconnected.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/86	51 FR 7224
ANPRM Comment Period End	04/29/86	
NPRM	10/20/92	57 FR 47934
NPRM Comment Period End	02/17/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANE-85-002R. Former title: Engine Fuel and Induction Systems.

ANALYSIS: Regulatory Evaluation, 10/20/92, 57 FR 47934

Agency Contact: Locke Easton, Engine and Propeller Standards Staff, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, MA 01803
Phone: 617 273-7088

RIN: 2120–AB76

2439. INSTALLATION OF CRASHWORTHY FUSELAGE FUEL TANKS AND FUEL LINES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline:
NPRM, Statutory, February 3, 1989, Public Law 100-591 Aviation Safety Research Act of 1988.

Abstract: This preliminary action was initiated to determine the feasibility of installing, in all air carrier aircraft, crashworthy fuselage fuel tanks and fuselage fuel lines which are rupture resistant and which disconnect and seal in the event of an accident. This notice solicited public participation in identifying and selecting a regulatory course of action by inviting interested persons to submit specific comments and arguments concerning this proposed regulatory action. Originally this rulemaking was considered significant. However, because there is no substantial public interest, this rulemaking is no longer significant.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/89	54 FR 18824
ANPRM Comment Period End	10/30/89	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-89-005R.

Agency Contact: Mike Dostert, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-2132

RIN: 2120–AC87

2440. AIRPLANE ENGINE COWLING RETENTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for transport category airplanes to require improved cowling retention devices. A review of a number of inflight incidents where engine cowlings were lost revealed that the largest single cause of such losses was improper latching of the cowlings. If adopted, this proposal would provide additional design standards to detect improperly latched cowlings and ensure the integrity of the latching system.

Timetable:

Action	Date	FR Cite
NPRM	09/19/89	54 FR 38610
NPRM Comment Period End	03/19/90	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-87-004R.

Agency Contact: Mike McRae, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-2133

RIN: 2120–AD34

2441. 1-G STALLING SPEED AS A BASIS FOR COMPLIANCE WITH PART 25 OF THE FEDERAL AVIATION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321; 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44715

CFR Citation: 14 CFR 25; 14 CFR 36

Legal Deadline: None

Abstract: This action would amend the Federal Aviation Regulations to redefine the airplane reference stalling speed as the 1-g stalling speed in lieu of the minimum stalling speed. It would: (1) provide for a consistent, repeatable reference stalling speed; (2) ensure consistent and dependable maneuvering margins; (3) clarify the requirement for the use of 1-g stalling speeds in determining structural design speeds; (4) increase the head-on gust structural design requirement; and (5) provide for adjusted multiplying factors to maintain essentially equivalent requirements in areas where the use of minimum stalling speed has proven adequate. These changes are needed since the stalling characteristics of modern jet transports as determined by current methods can result in inconsistent reference stalling speeds. These changes may result in a higher level of safety where current methods have resulted in artificially low reference stalling speeds.

Timetable:

Action	Date	FR Cite
NPRM	01/18/96	61 FR 1260
Correction	02/26/96	61 FR 7157
NPRM Comment Period End	05/17/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-86-041R.

ANALYSIS: Regulatory Evaluation, 01/18/96, 61 FR 1260

Agency Contact: Don Stimson, Flight Test and Systems Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-1320

RIN: 2120–AD40

2442. +REVISION OF PART 108, AIRPLANE OPERATOR SECURITY

Priority: Other Significant

Legal Authority: 40 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation: 14 CFR 108

Legal Deadline: None

Abstract: This action would amend part 108 of the Federal Aviation Regulations to incorporate new requirements in response to worldwide terrorist activity. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/01/97	62 FR 41730
Notice of Public Meeting	09/15/97	62 FR 48190
NPRM Comment Period End	12/01/97	
Notice of Public Meeting	04/21/98	63 FR 19691
Reopening of NPRM Comment Period Comment Period End 6/26/98	04/21/98	63 FR 19691
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ACS-87-107R.

ANALYSIS: Regulatory Evaluation, 08/01/97, 62 FR 41730

Agency Contact: Rhoda Hatmaker, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3946

RIN: 2120–AD45

2443. +REVISION OF PART 107, AIRPORT SECURITY

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44706; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation: 14 CFR 107

Legal Deadline: None

Abstract: This action proposes to amend part 107 of the Federal Aviation Regulations to incorporate new requirements in response to the worldwide terrorist activity. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/01/97	62 FR 41760
Notice of Public Meeting	09/15/97	62 FR 48190
NPRM Comment Period End	12/01/97	
Notice of Public Meeting	04/21/98	63 FR 19691
Reopening of Comment Period Comment Period End 6/26/98	04/21/98	63 FR 19691
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ACS-87-106R.

ANALYSIS: Regulatory Evaluation, 08/01/97, 62 FR 41760

Agency Contact: Bob Comonaroto, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8553

RIN: 2120–AD46

2444. +COST OF SERVICES AND TRANSFER OF FEES TO PART 187 FROM PARTS 47, 49, 61, 63, 65, AND 143

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40109; 49 USC 40113 to 40114; 49 USC 44101 to 44108; 49 USC 44110 to 44111; 49 USC 44701; 49 USC 44702; 49 USC 44703 to 44704; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 45102 to 45103; 49 USC 45106; 49 USC 45301; ...

CFR Citation: 14 CFR 47; 14 CFR 49; 14 CFR 61; 14 CFR 63; 14 CFR 65; 14 CFR 143; 14 CFR 187

Legal Deadline: None

Abstract: This action would assess reasonable charges for certain services provided by the FAA. The charges would be set at a level approximating the cost to the Government to provide these services and would be adjusted periodically as the cost of these services change or as prescribed in the Anti-Drug Abuse Act of 1988. The cost of providing services for aircraft registration and recording and replacement of airmen certificates is not being fully recouped in accordance with the changes reflected in the Consumer Price Index of All Urban Consumers, which was published by the Bureau of Labor Statistics of the Department of Labor, or as set by the Anti-Drug Abuse Act of 1988. This rulemaking would also consolidate all service fees by placing them in part 187 of the Federal Aviation Regulations. This rulemaking is considered significant because of substantial public interest.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-90-347R.

Agency Contact: Sharon Ashford, Registry Modernization Staff, Mike Monroney Aeronautical Center, Department of Transportation, Federal Aviation Administration, 6500 South MacArthur Boulevard, Oklahoma City, Oklahoma 73125-4939

Phone: 405 954-7038

RIN: 2120–AD91

2445. TYPE CERTIFICATES FOR SOME SURPLUS AIRCRAFT OF THE ARMED FORCES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40105; 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 44713; 49 USC 44715; 49 USC 45303

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: Following World War II, a substantial number of surplus military airplanes were offered for sale to the public in order to meet an increased demand for civilian-use aircraft not being met by the civil aircraft industry. The current regulation permits both type and airworthiness certification for surplus military aircraft based on the particular aircraft's safety record and condition. As military aircraft have become increasingly complex and sophisticated, that practice is no longer acceptable. This action would remove the regulations for issuing type certificates for these surplus aircraft and eliminate references to obsolete standards. Surplus military aircraft would still be certificated in the normal, utility, acrobatic, commuter, transport, and restricted categories upon compliance with the applicable regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/21/94	59 FR 19114
NPRM Comment Period End	06/20/94	
Reopening of Comment Period Comment Period End 08/26/94	07/07/94	59 FR 34779
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Project Number: AIR-91-354R.

ANALYSIS: Regulatory Evaluation, 04/21/94, 59 FR 19114

Agency Contact: Brian Yanez, Policy and Procedures Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-6561

RIN: 2120–AE41

2446. +AIRPORT NOISE COMPATIBILITY PLANNING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44715; 49 USC 471-1; 49 USC 47501 to 47504

CFR Citation: 14 CFR 150

Legal Deadline: None

Abstract: This action would revise the requirements for developing noise exposure maps and noise compatibility programs and submitting them for FAA approval. The revisions are intended to expedite and simplify the part 150 process. Under the revised process, the mandatory set of noise abatement measures which are presently required to be considered by each airport sponsor would be limited in scope depending on the characteristics of each airport and its surrounding community. The new process would be supported by appropriate guidance, training, review, standardization, and consultation requirements. This project is considered significant because of substantial public interest.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Project Number: AEE-90-410R.

Agency Contact: Alan V. Trickey, Policy and Regulations Division, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3496

RIN: 2120–AE64

2447. +ANTI-DRUG AND ALCOHOL MISUSE PREVENTION PROGRAMS FOR EMPLOYEES OF FOREIGN AIR CARRIERS ENGAGED IN SPECIFIED AVIATION ACTIVITIES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44902; 49 USC 44903

CFR Citation: 14 CFR 121; 14 CFR 129

Legal Deadline:
Final, Statutory, October 28, 1992.

Abstract: The Omnibus Transportation Employee Testing Act of 1991 directs the FAA Administrator to prescribe regulations that require foreign air carriers to establish drug and alcohol testing programs for employees performing safety-sensitive aviation functions. These regulations must be consistent with the international obligations of the United States and take into consideration any applicable laws and regulations of foreign countries. Comments were invited on a variety of issues related to the application of drug and alcohol testing requirements to employees of foreign air carriers operating within the territory of the United States. This action was taken in lieu of a notice of proposed rulemaking to seek the public's view on a variety of issues and to obtain responses to questions that may arise in addressing drug and alcohol testing by foreign air carriers. This action is considered significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	12/15/92	57 FR 59473
ANPRM Comment Period End	02/16/93	
Extended ANPRM Comment Period Comment Period End 4/1/93	02/18/93	58 FR 8917
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Project Number: AAM-93-173R

Agency Contact: Patrice M. Kelly, Drug Abatement Division, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8442

RIN: 2120–AE79

2448. +REVISION OF EMERGENCY EVACUATION DEMONSTRATION PROCEDURES TO IMPROVE PARTICIPANT SAFETY

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25; 49 CFR 1.47

Legal Deadline: None

Abstract: This action would amend part 25 of the FAR by revising Appendix J, Emergency Evacuation, to allow certain alternative procedures in conducting full-scale emergency evacuation demonstrations for transport category airplanes. This is in response to recommendations from the Aviation Rulemaking Advisory Committee. The changes, which are intended to make full-scale emergency evacuation demonstrations safer for participants and to codify existing practices, would also affect manufacturers and operators of transport category airplanes. This action is considered significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	07/18/95	60 FR 36932
Correction	08/25/95	60 FR 44387
NPRM Comment Period End	10/16/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-94-124A

ANALYSIS: Regulatory Evaluation, 07/18/95, 60 FR 36932

Agency Contact: Franklin Tiangsing, Regulations Branch, ANM-114, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-2121

RIN: 2120–AF21

2449. +CONTROLLED REST ON THE FLIGHT DECK

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This proposal would allow part 121 certificate holders who operate aircraft that require three flight crewmembers, two pilots and a flight engineer, to implement a controlled rest on the flight deck program. Under the program, when cockpit workload permits, one flight crewmember at a time would be given the opportunity to sleep for a brief period of time at his or her duty station during the cruise portion of a flight. Before using the controlled rest concept, however, the certificate holder would have to obtain approval for its program from the FAA. This proposal originated as a recommendation from the Aviation Rulemaking Advisory Committee and responds to industry interest in developing a controlled rest program that is approved by the FAA. This rulemaking is considered significant because of substantial public interest.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-92-764A

Agency Contact: James Gardner, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9579

RIN: 2120–AF54

2450. OPERATIONAL AND STRUCTURAL DIFFICULTY REPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135; 14 CFR 145

Legal Deadline: None

Abstract: This action would amend the reporting requirements for air carrier certificate holders and certificated domestic and foreign repair stations concerning failures, malfunctions, and defects of aircraft, aircraft engines, systems, and components. The proposed rule would clarify and standardize the reporting requirements for the type of information submitted to the FAA, allowing the FAA to identify trends that may affect aviation safety. This action was prompted by an internal FAA review of industry concern over the quality of the data being reported by air carriers. The objective of the proposed rule is to update and improve the reporting system to effectively collect and disseminate clear and concise information, particularly with regard to aging aircraft, to the aviation industry.

Timetable:

Action	Date	FR Cite
NPRM	08/14/95	60 FR 41992
NPRM Comment Period End	11/13/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-95-237A. This is a recommendation from the Aviation Rulemaking Advisory Committee.

ANALYSIS: Regulatory Evaluation, 08/14/95, 60 FR 41992

Agency Contact: Robert Corcoran, Flight Standards Service, Department of Transportation, Federal Aviation Administration, P.O. Box 25082, Oklahoma City, OK 73125
Phone: 405 954-6508

RIN: 2120–AF71

2451. BIRD STRIKE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action proposes to revise the bird strike requirements of part 25 of the Federal Aviation Regulations. These changes are intended to harmonize the bird strike requirement of the FAR and the Joint Aviation Requirements. The proposed changes would revise sections 25.631, 25.571(e), and 25.775(b).

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-93-762A. This is an Aviation Rulemaking Advisory Committee project.

Agency Contact: Bill Perrella, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-2116

RIN: 2120–AF80

2452. HARMONIZATION OF MISCELLANEOUS ROTORCRAFT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: The rule makes changes to the type certification requirements for both normal and transport category rotorcraft to increase the regulatory safety level and standardize terminology. These changes to 14 CFR parts 27 and 29 are harmonized with the European Joint Aviation Requirements (JAR).

Timetable:

Action	Date	FR Cite
NPRM	06/09/97	62 FR 31476
Correction	06/30/97	62 FR 35247
NPRM Comment Period End	08/12/97	
Final Action	08/12/98	63 FR 43282
Final Action Effective	09/11/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ASW-97-031A.

ANALYSIS: Regulatory Evaluation, 06/09/97, 62 FR 31476, Regulatory Evaluation, 08/12/98, 63 FR 43282

Agency Contact: Carroll Wright, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 2601 Meacham Drive, Fort Worth, TX 76137
Phone: 817 222-5120

RIN: 2120–AG23

2453. +NOISE LIMITATIONS FOR AIRCRAFT OPERATIONS IN THE VICINITY OF GRAND CANYON NATIONAL PARK

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 40113; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 46301

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This rulemaking will establish noise limitations for certain aircraft operated in the vicinity of Grand Canyon National Park. This action is one part of an overall strategy to reduce further the impact of aircraft noise on the park environment and to assist the National Park Service (NPS) in achieving its statutory mandate imposed by Public Law 100-91 to provide for the substantial restoration of natural quiet and experience in Grand Canyon National Park. The supplemental amendment removes two sections from the December 31, 1996, notice of proposed rulemaking (NPRM) that proposed to establish a corridor through the National Canyon area as an incentive route for quiet technology aircraft. The FAA and NPS have determined not to proceed with an air tour route in the vicinity of National Canyon and are presently considering alternatives to this route. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/31/96	61 FR 69334
NPRM Comment Period End	03/31/97	
Supplemental Amendment	07/15/98	63 FR 38232
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: A final rule, which was published on 12/31/96 (61 FR 69302), establishes new operating restrictions at Grand Canyon National Park. See RIN 2120-AF93 published elsewhere in this Agenda.

ANALYSIS: Regulatory Evaluation, 12/31/96, 61 FR 69334

Agency Contact: Thomas L. Connor, Office of Environmental and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8933

RIN: 2120–AG34

2454. +REVISED STANDARDS FOR CARGO OR BAGGAGE COMPARTMENTS IN TRANSPORT CATEGORY AIRPLANES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44705; 49 USC 44711 to 44713; 49 USC 44715 to 44717

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action upgrades the fire safety standards for cargo or baggage compartments in certain transport category airplanes by eliminating Class D compartments altogether. Compartments that could no longer be designated as Class D would have to meet the standards for Class C or Class E compartments, as applicable. Certain other transport category airplanes that would not have to meet these new standards for type certification would have to meet them for use in air carrier, commuter, on-demand, or commercial

service. These improved standards are needed to increase protection from possible in-flight fires. This rulemaking is considered significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	06/13/97	62 FR 32412
NPRM Comment Period End	09/11/97	
Final Rule Request for Comments	02/17/98	63 FR 8032
Final Rule Effective	03/19/98	
Final Rule Comment Period End	06/17/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-97-009R

ANALYSIS: Regulatory Evaluation, 06/13/97, 62 FR 32412, Regulatory Evaluation, 02/17/98, 63 FR 8032

Agency Contact: Gary L. Killion, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue, Renton, WA 98055-4056 Phone: 206 227-2117

RIN: 2120–AG42

2455. +CHILD RESTRAINT SYSTEMS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715 to 44718; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46502; ...

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This action sought public comment on issues relating to the use of child restraint systems in aircraft during all phases of flight (i.e., taxi, takeoff, landing, or any other time the seat belt sign is illuminated). Specifically, the agency sought information about existing child restraint systems, the development of new and improved child restraint systems, the ease with which existing or new child restraint systems can be used, and the effectiveness of changing the current child restraint system regulations. The advance notice gathered information in response to a recommendation made by the White House Commission on Aviation Safety and Security (Gore Commission). Approximately 130 comments were received on the ANPRM. This information is needed so that the FAA can determine the best way to ensure the safety of children while on board aircraft. After such a determination is made, the FAA may issue a Notice of Proposed Rulemaking with specific regulatory proposals that respond to the Commission's recommendations regarding the use of child restraint systems. This action is considered significant because of safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	02/18/98	63 FR 8324
ANPRM Comment Period End	06/18/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: Project Number: AFS-97-261R

Agency Contact: Donell Pollard, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3735

RIN: 2120–AG43

2456. REVISION OF AIR CARRIER CREWMEMBER AND TRAINING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 60; 14 CFR 121

Legal Deadline: None

Abstract: This action proposes to revise title 14 of the Code of Federal Regulations part 121 subparts N, O, P, and create part 60. The proposed revision and creation will address Advanced Qualification Programs and additional training programs. The rulemaking is needed to enhance crew resource management training, to permit rapid changes to training and checking requirements for emerging technologies, to improve safety, and to respond to numerous recommendations from various sources.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-97-335R.

ANALYSIS: Regulatory Evaluation, 12/00/99

Agency Contact: Jan Demuth, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8922

RIN: 2120–AG57

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Completed Actions

2457. +IMPROVED STANDARDS FOR DETERMINING REJECTED TAKEOFF AND LANDING PERFORMANCE

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40119; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135; 14 CFR 1; 14 CFR 91

Legal Deadline: None

Abstract: This action amends parts 25, 121, and 135 of the Federal Aviation Regulations and adds new standards for transport category airplanes which would provide for approval of a reduced takeoff decision speed (V1) methodology for takeoff on wet and contaminated runways. As a result of extensive review and due to the increasing emphasis on harmonizing certification standards with the Joint Aviation Authorities (JAA) of Europe, the NPRM of 11/30/87 was withdrawn and a revised one published. This rulemaking is significant because of substantial public interest in both the United States and Europe.

Timetable:

Action	Date	FR Cite
NPRM	11/30/87	52 FR 45578
NPRM Comment Period End	03/30/88	
NPRM Withdrawn	07/02/93	58 FR 36116
Second NPRM	07/08/93	58 FR 36738
Second NPRM Comment Period End	11/05/93	
Final Action	02/18/98	63 FR 8298
Final Action Effective	03/20/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: This project was formerly entitled "Standards for Approval of a Wet Runway Reduced V1 Methodology and Improved Takeoff and Landing Braking Performance." Project Number: ANM-83-030R.

ANALYSIS: Regulatory Evaluation, 07/08/93, 58 FR 36738, Regulatory Evaluation, 02/18/98, 63 FR 8298

Agency Contact: Don Stimson, Airframe and Flightcrew Interface Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056 Phone: 425 227-1129

RIN: 2120–AB17

2458. +AIRWORTHINESS STANDARDS; OCCUPANT PROTECTION STANDARDS FOR COMMUTER CATEGORY AIRPLANES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: In consideration of the comments received regarding the cost benefit analysis and the effect of amendment 2121-151, the FAA has decided to withdraw this rulemaking. This action would have amended the airworthiness standards for normal, utility, acrobatic, and commuter category airplanes by upgrading the requirements for both seat/restraint systems and for flammability standards for seat cushions used in commuter category airplanes. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/14/93	58 FR 38028
NPRM Correction	07/28/93	58 FR 40389
NPRM Comment Period End	11/12/93	
Reopening of Comment Period	11/04/94	59 FR 55225
Action Withdrawn	06/30/98	63 FR 35648

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ACE-87-014R. This project was formerly entitled "Improved Seat Safety Standards for Commuter Category Airplanes."

ANALYSIS: Regulatory Evaluation, 07/14/93, 58 FR 38028

Agency Contact: Michael Downs, Standards Office, Small Airplane Directorate, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106 Phone: 816 426-5688

RIN: 2120–AD27

2459. +FATIGUE EVALUATION OF STRUCTURE

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This rulemaking revises the fatigue requirements for damage-tolerant structures on transport category airplanes to require full-scale fatigue testing and to require that the thresholds for inspections be based on crack growth from initial flaws in the structure. These changes are based on the service history of airplanes evaluated to the current damage tolerance requirements and are intended to ensure that, should serious fatigue damage occur within the operational life of the airplane, the remaining structure can withstand reasonable loads without failure until the damage is detected. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/19/93	58 FR 38642
Notice: Additional Compliance Guidance	10/19/93	58 FR 53987
NPRM Comment Period End	11/16/93	
Final Action	03/31/98	63 FR 15708
Correction	04/28/98	63 FR 23338
Final Action Effective	04/30/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-88-013R.

ANALYSIS: Regulatory Evaluation, 07/19/93, 58 FR 38642, Regulatory Evaluation, 03/31/98, 63 FR 15708

Agency Contact: Rich Yarges, Airframe and Airworthiness Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056

Phone: 425 227-2143

RIN: 2120–AD42

2460. VISUAL DESCENT POINTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This notice would have proposed to incorporate visual descent point (VDP) requirements into part 135 of the Federal Aviation Regulations (FAR). In addition, this notice would have amended the VDP requirements in part 121 of the FAR to be consistent with the VDP requirements in part 135 of the FAR. The FAA is terminating this rulemaking because resources are currently being expended for higher-priority projects.

Timetable:

Action	Date	FR Cite
Action Terminated	07/22/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AFS-91-206R.

Agency Contact: Alberta Brown, Regulations Branch, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8321

RIN: 2120–AE34

2461. AVIATION INSURANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44301 to 44310

CFR Citation: 14 CFR 198

Legal Deadline: None

Abstract: This final rule revises and updates the aviation insurance requirements. This action is being taken to reflect current legislative language, to be current with industry practices, to reflect industry concerns, and to recapture administrative expenses incurred. This action clarifies the language and makes it conform with the current legislative language and intent.

Timetable:

Action	Date	FR Cite
NPRM	04/17/97	62 FR 19008
NPRM Comment Period End	06/02/97	
Final Action	03/20/98	63 FR 13734
Final Action Effective	04/20/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: APO-93-512R

ANALYSIS: Regulatory Evaluation, 04/17/97, 62 FR 19008, Regulatory Evaluation, 03/20/98, 63 FR 13734

Agency Contact: Ellie Eilenberg, Office of Policy, Plans, and Management Analysis, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3090

RIN: 2120–AF23

2462. RAIN AND HAIL INGESTION STANDARDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR-33

Legal Deadline: None

Abstract: This action makes changes to the water and hail ingestion standards for aircraft turbine engines. This rulemaking addresses an engine power-loss instability phenomena attributed to operation in extreme rain or hail that is not adequately addressed by current requirements. This rule also harmonizes with requirements being drafted by the Joint Aviation Authorities (JAA). These changes will establish one set of common requirements, thereby reducing the hardship on the United States and worldwide aviation industry, by eliminating the need for manufacturers to comply with different sets of standards when seeking validation from the FAA and JAA.

Timetable:

Action	Date	FR Cite
NPRM	08/09/96	61 FR 41688
NPRM Comment Period End	11/07/96	
Final Action	03/26/98	63 FR 14794
Final Action Effective	04/30/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANE-93-734A. This action is in response to an Aviation Rulemaking Advisory Committee recommendation.

ANALYSIS: Regulatory Evaluation, 08/09/96, 61 FR 41688, Regulatory Evaluation, 03/26/98, 63 FR 14794

Agency Contact: Thomas Boudreau, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803-5299
Phone: 617 238-7117

RIN: 2120–AF75

2463. BRAKED ROLL CONDITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This rulemaking amends the requirements for landing gear braking on transport category airplanes to require that the airplane be designed to withstand main landing gear maximum braking forces during ground operations. This rule ensures that the landing gear and fuselage are capable of withstanding the dynamic loads associated with the maximum dynamic braking condition, and also relieves a

burden on industry by eliminating differences between the Federal Aviation Regulations (FAR) and European Joint Aviation Requirements (JAR).

Timetable:

Action	Date	FR Cite
NPRM	08/05/96	61 FR 40710
NPRM Comment Period End	11/04/96	
Final Action	05/27/98	63 FR 29070
Final Action Effective	06/26/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-94-462A. This action is in response to an Aviation Rulemaking Advisory Committee recommendation.

ANALYSIS: Regulatory Evaluation, 08/05/96, 61 FR 40710, Regulatory Evaluation, 05/27/98, 63 FR 29070

Agency Contact: Jim Haynes, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-2131

RIN: 2120–AF83

2464. TWO APPROACH CHARTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action proposed to establish a requirement for two sets of approach charts to be available and used by the flight crewmembers during commercial operations under instrument flight rules (IFR). It responds to the National Transportation Safety Board (NTSB) finding (A-93-35) recommending that all pilots operating aircraft under 14 CFR parts 135 and 121 have access to their own set of instrument approach charts and use them during the approach and landing segment of the flight. This notice would have also standardize the requirement and rule language for both parts 121 and 135. The FAA is terminating this rulemaking because resources are currently being expended for higher priority projects.

Timetable:

Action	Date	FR Cite
Action Terminated	07/22/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-95-390R.

Agency Contact: Bernie Busby, Commuter and Air Taxi Branch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8086

RIN: 2120–AF86

2465. NON-FEDERAL AIR TRAFFIC CONTROL FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: Not yet determined

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The FAA was proposing to establish rules governing the minimum operational requirements for those air traffic control facilities not operated by the United States (non-Federal). The FAA was taking this action to ensure that these entities operate at a level equivalent to those facilities presently being operated by the Federal Government. The FAA is terminating this rulemaking because resources are currently being expended for higher priority projects.

Timetable:

Action	Date	FR Cite
Action Terminated	07/22/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ATP-95-021R.

Agency Contact: Joseph C. White, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9246

RIN: 2120–AF91

2466. CRITERIA FOR AN EXPLOSIVE DETECTION SYSTEM (EDS), STANDARDS FOR DETONATOR DETECTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation: None

Legal Deadline: None

Abstract: This final criteria issues a performance standard for the certification of equipment, designed to locate improvised explosive devices through automatic detection of detonators, as an Explosive Detection System (EDS). Establishment of minimum performance requirements is a prerequisite to the testing and ultimate deployment of EDS equipment. This action will include portions of the criteria that do not contain sensitive security information. The final criteria deal only with the standards for the certification of the equipment and any ultimate deployment decision would be the basis for separate rulemaking.

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendment	08/30/96	61 FR 46011
Comment Period End	10/29/96	
Final Action	04/13/98	63 FR 18104
Final Action Effective	05/13/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ACP-95-537R.

Agency Contact: Quint Johnson, Office of Civil Aviation Security, Policy and Planning, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8058

RIN: 2120–AF95

2467. NATIONAL SECURITY AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40120; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action would have proposed to add a new section to part 91 of the Code of Federal Regulations that would address National Security Areas and the associated NOTAM (notice to airmen)-responsibility of the FAA Administrator in issuing temporary flight restrictions governing the operational responsibilities of pilots operating aircraft near national security areas. The FAA is terminating this rulemaking because resources are currently being expended for higher priority projects.

Timetable:

Action	Date	FR Cite
Action Terminated	07/22/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ATA-94-622R.

Agency Contact: Joseph C. White, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8783

RIN: 2120–AF97

2468. +COMMERCIAL SPACE TRANSPORTATION: FINANCIAL RESPONSIBILITY REQUIREMENTS FOR LICENSED LAUNCH ACTIVITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 70101 to 70119

CFR Citation: 14 CFR 440

Legal Deadline: None

Abstract: Persons authorized to conduct commercial launch activities by a license issued by the Office of Commercial Space Transportation (OCST) are required to obtain insurance or demonstrate financial responsibility, in amounts and on terms prescribed by OCST, to protect against third-party or government property damage claims resulting from the licensed activities. Licensees and other launch participants are also required to enter into reciprocal waivers of claims arising out of licensed activities. In addition, persons engaged in commercial launch operations must provide proof of financial responsibility, or offer other assurances, adequate to protect the Government when its property or personnel are involved in such operations. This rulemaking codifies the procedures by which OCST sets appropriate levels and terms of insurance and financial responsibility required to be carried by persons subject to its authority. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	05/07/85	50 FR 19280
ANPRM Comment Period End	07/08/85	
Public Meeting Notice and Request for Comments	10/13/94	59 FR 52020
Extended ANPRM Comment Period Comment Period End 12/16/94	12/05/94	59 FR 62359
NPRM	07/25/96	61 FR 38992
NPRM Comment Period End	09/23/96	
Reopening of NPRM Comment Period Comment Period End 12/2/96	10/02/96	61 FR 51395
NPRM Correction	10/26/96	61 FR 43814
Reopening of NPRM Comment Period Comment Period End 8/4/97	07/03/97	62 FR 36028
Final Action	08/26/98	63 FR 45592
Final Action Effective	10/26/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: The rulemaking entitled Commercial Space Transportation: Reciprocal Waiver of Claims, RIN 2105-AB76, has been consolidated into this rulemaking. This rule was transferred from the Office of the Secretary, Department of Transportation, to the Federal Aviation Administration due to Transfer of Delegations. See 60 FR 62762, December 7, 1995, for information of the delegation.

Project Number: AST-96-142R.

ANALYSIS: Regulatory Evaluation, 08/26/98, 63 FR 45592

Agency Contact: Esta Rosenberg, Attorney Advisor, Department of Transportation, Federal Aviation Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-9305

RIN: 2120–AF98

2469. VFR/IFR FUEL RESERVE REQUIREMENTS: ISLAND DESTINATION AIRPORTS FOR WHICH NO ALTERNATE AIRPORT IS AVAILABLE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709; 49 USC 44711 to 44713; 49 USC 44715 to 44717; 49 USC 44722

CFR Citation: 14 CFR 135

Legal Deadline: None

Abstract: This proposed rule would have established both visual flight rules (VFR) and instrument flight rules (IFR) minimum fuel reserve requirements for airplanes upon arrival at any destination airport located on an island, if no alternate airport is specified. These minimum fuel requirements were not previously mandated in part 135 because they were not envisioned when the current part 135 was issued. This rule was being proposed because of the initiation of this type of operation to such an airport. The FAA is terminating this rulemaking because resources are currently being expended for higher priority projects.

Timetable:

Action	Date	FR Cite
Action Terminated	07/22/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-97-036R

Agency Contact: Mike Coffey, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3750

RIN: 2120–AG29

2470. CERTIFICATION OF SECURITY SCREENING COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation: 14 CFR 108

Legal Deadline: None

Abstract: The FAA sought public comment on proposals to certificate screening companies (other than air carriers) by the FAA, and otherwise enhance the screening by air carriers of passengers and property that will be carried in the cabin of an aircraft, and of checked baggage. This advance notice responded to a recommendation made by the White House Commission on Aviation Safety and Security, and to a requirement in the Federal Aviation Authorization Act of 1996. It is intended to improve the screening of passengers, property, and baggage. The FAA is currently developing, field testing, and evaluating an automated screener testing system which will provide uniform data regarding screener performance. Therefore, the FAA has withdrawn the ANPRM to allow this automated system to be adequately field tested and evaluated before proceeding with rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	03/17/97	62 FR 12724
ANPRM Comment Period End	05/01/97	
Action Withdrawn	05/13/98	63 FR 26706

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ACS-97-029R.

Agency Contact: Penny Anderson, ACP-100, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-5183

RIN: 2120–AG31

2471. +ESTABLISHMENT OF CORRIDORS IN THE GRAND CANYON NATIONAL PARK SPECIAL FLIGHT RULES AREA

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 40113; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 46301

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This action proposed to amend two of the Flight-Free Zones within the Grand Canyon National Park by establishing two corridors: the Bright Angel route would be a route for quiet technology only; the National Canyon route would create a viable air tour route while addressing concerns expressed by Native Americans. The FAA, in consultation with the National Park Service, is withdrawing the May 1997 NPRM because the agencies have determined not to proceed with an air tour route in the vicinity of National Canyon and are presently considering alternatives to this route. The FAA will address all substantive comments filed in response to the NRM in the near future. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/15/97	62 FR 26902
NPRM Comment Period End	06/16/97	
Withdrawn	07/15/98	63 FR 38233

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Metzbower, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3724

RIN: 2120–AG38

2472. COMMERCIAL PASSENGER-CARRYING OPERATIONS IN SINGLE ENGINE AIRCRAFT UNDER INSTRUMENT FLIGHT RULES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709; 49 USC 44711 to 44713; 49 USC 44715 to 44717; 49 USC 44722

CFR Citation: 14 CFR 135

Legal Deadline: None

Abstract: This rule revises and clarifies certain conditions and limitations in part 135 for instrument flight rules (IFR), passenger-carrying operations in single-engine aircraft. The clarification was necessary to resolve ambiguity in the current rule over the requirement for redundant power for gyroscopic instrumentation.

Timetable:

Action	Date	FR Cite
NPRM	02/10/98	63 FR 6826
NPRM Comment Period End	03/12/98	
Final Action Effective	05/04/98	
Final Action	05/08/98	63 FR 25572

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AFS-98-046R.

ANALYSIS: Regulatory Evaluation, 02/10/98, 63 FR 6826, Regulatory Evaluation, 05/04/98, 63 FR 25572

Agency Contact: Kathy Hakala, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8166

RIN: 2120–AG55

2473. +PROHIBITION AGAINST CERTAIN FLIGHTS WITHIN THE TERRITORY AND AIRSPACE OF AFGHANISTAN

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44717; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46502; ...

DOT—FAA

Completed Actions

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: A current Special Federal Aviation Regulation (SFAR 67) was issued on May 13, 1994. This action amends SFAR 67 to extend the prohibition on flight operations within the territory and airspace of Afghanistan until May 10, 2000. This action is taken to prevent an undue hazard to persons and aircraft engaged in such flight operations as a result of the ongoing civil war in Afghanistan. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/01/98	63 FR 16078
NPRM Comment Period End	04/16/98	
Final Rule Effective	05/07/98	
Final Rule	05/13/98	63 FR 26684
Final Action Effective	08/21/98	63 FR 45658
Final Action	08/26/98	63 FR 45658

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AGC-98-123R.

Agency Contact: Mark W. Bury, International Affairs and Legal Policy Staff, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3515

RIN: 2120–AG56

2474. • PROPOSED AIRSPACE AND FLIGHT OPERATIONS REQUIREMENTS FOR THE KODAK ALBUQUERQUE INTERNATIONAL BALLOON FIESTA; ALBUQUERQUE, NM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 1155; 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306; ...

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action establishes a Special Federal Aviation Regulation (SFAR) applicable for the period of October 3 through October 11, 1998, to establish a temporary flight restriction area for the upcoming Kodak Albuquerque International Balloon Fiesta. The FAA is proposing this action to provide for the management of aircraft operating in the vicinity of the Balloon Fiesta and to prevent any unsafe congestion of sightseeing and other aircraft over and around the Balloon Fiesta launch site.

Timetable:

Action	Date	FR Cite
NPRM	07/15/98	63 FR 38236
NPRM Comment Period End	08/31/98	
Final Action	09/28/98	63 FR 51768
Final Action Effective	10/03/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ATA-98-337R.

Agency Contact: Terry Brown, Airspace and Rules Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8783

RIN: 2120–AG61

2475. • +PROHIBITION AGAINST CERTAIN FLIGHTS WITHIN THE TERRITORY AND AIRSPACE OF SUDAN

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44717; 49 USC 44722; 49 USC 46206; 49 USC 46315; 49 USC 46316; 49 USC 46502; ...

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action prohibits flight operations within the territory and airspace of Sudan by any United States air carrier and commercial operator, by any person exercising the privileges of an airman certificate issued by the FAA, or by an operator using an aircraft registered in the United States unless the operator of such aircraft is a foreign air carrier. This action is necessary to prevent an undue hazard to persons and aircraft engaged in such flight operations as a result of increased tensions in Sudan. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Final Action	08/26/98	63 FR 45654

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David Catey, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8166

RIN: 2120–AG67

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Prerule Stage

2476. +ADVANCED TECHNOLOGY IN COMMERCIAL MOTOR VEHICLE OPERATIONS (SECTION 610 REVIEW)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 395

Legal Deadline: None

Abstract: Current Federal Motor Carrier Safety Regulations limit the hours of service of commercial motor vehicle (CMV) drivers in order to reduce fatigue-related accidents. These regulations include substantial recordkeeping requirements to monitor drivers' hours of service. The Federal Highway Administration (FHWA) is considering ways to reduce the recordkeeping burden while maintaining or improving safety. The FHWA will focus on ways to reduce burdens on small entities. As part of this action, a small entities review under 5 USC section 610 will be included. This rulemaking is significant because of the broad industry impacts.

Timetable:

Action	Date	FR Cite
Notice: Request for Information	09/07/95	60 FR 46682
Comment Period End	11/06/95	
Study To Be Completed	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Neill L. Thomas, Chief, Vehicle and Operations, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AD65

2477. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; DEFINITION OF COMMERCIAL MOTOR VEHICLE

Priority: Other Significant

Legal Authority: 49 USC 31132; 49 USC 31136; 49 USC 31502; PL 104-88, sec 104(f)

CFR Citation: 49 CFR 390; 49 CFR 391; 49 CFR 392; 49 CFR 393; 49 CFR 395; 49 CFR 396; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is initiating this action to consider whether to amend the definition of commercial motor vehicle in the Federal Motor Carrier Safety Regulations to make those safety regulations applicable to vehicles designed to transport less than 18 passengers including the driver. The Congress granted the authority to regulate such vehicles in the Interstate Commerce Commission Termination Act of 1995, but did not require the agency to exercise this authority.

Timetable:

Action	Date	FR Cite
ANPRM	08/05/98	63 FR 41766
ANPRM Comment Period End	10/05/98	
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: David Lehrman, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0994

RIN: 2125–AE22

2478. • NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; MUTCD; MINIMUM RETROREFLECTIVITY REQUIREMENTS FOR TRAFFIC SIGNS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101; 23 USC 104; 23 USC 105; 23 USC 109(d); 23 USC 114(a); 23 USC 135; 23 USC 217; 23 USC 307; 23 USC 315; 23 USC 402(a); PL 102-388

CFR Citation: 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: Revisions to the MUTCD are being done in phases due to the voluminous amount of text. This notice of proposed amendment is intended to revise the MUTCD to include a standard for a minimum level of retroreflectivity that must be maintained for traffic signs. This minimum level is to ensure that highway users can detect and read the sign during nighttime conditions. Although the MUTCD states that regulatory and warning signs, and some guide signs, need to reflectorized, no level of retroreflectivity is specified. In recognition of this situation, the United States Congress directed the U.S. Department of Transportation, through the 1993 Department of Transportation Appropriations Act, to revise the MUTCD to include a standard for minimum levels of retroreflectivity that must be maintained.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Ernest D.L. Huckaby, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9064

RIN: 2125–AE39

2479. • +GENERAL REQUIREMENTS; INSPECTION, REPAIR, AND MAINTENANCE; INTERMODAL CONTAINER CHASSIS AND TRAILERS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 49 USC 504; 49 USC 31133; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 1.48; 49 CFR 390; 49 CFR 396

Legal Deadline: None

Abstract: In response to a petition for rulemaking filed by the American Trucking Association, Inc. (ATA) and the ATA Intermodal Conference (the petitioners), the FHWA agreed to consider revisions to the requirements in parts 390 and 396 of the Federal Motor Carrier Safety regulations (FMCSRs) that place upon motor carriers the responsibility for maintaining intermodal container chassis and trailers. These regulations provide the requirements for the inspection, repair and maintenance of commercial motor vehicles. This action is considered significant because of substantial public interest.

DOT—FHWA

Prerule Stage

Timetable:

Action	Date	FR Cite
ANPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Richard H. Singer, Mechanical Engineer, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AE40

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Proposed Rule Stage

2480. ACQUISITION OF REAL PROPERTY FOR RIGHTS-OF-WAY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 315; PL 100-17, sec 126; PL 100-17, sec 146; 42 USC 4601 et seq

CFR Citation: 23 CFR 172; 23 CFR 710; 23 CFR 712; 23 CFR 713; 23 CFR 720; 23 CFR 740; 23 CFR 620; 23 CFR 635; 23 CFR 645

Legal Deadline: None

Abstract: The Federal Highway Administration (FHWA) is proposing to revise and consolidate several right-of-way regulations to improve the organization of the subject matter and update the content. This action will also implement the Right-of-Way portions of Sections 1301 and 1303 of TEA-21.

Timetable:

Action	Date	FR Cite
ANPRM	11/06/95	60 FR 56004
ANPRM Comment Period End	01/05/96	
Interim Final Rule	04/25/96	61 FR 18246
Interim Final Rule Effective	05/28/96	
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Two related rulemaking actions are: (1) a proposed rule entitled "Right-of-Way" which appeared in a prior Agenda under RIN 2125-AB58 and (2) a proposed rule entitled "Property Management; Disposals and Airspace" which appeared in a prior Agenda under RIN 2125-AB60. Those entries have been consolidated into this rulemaking. The FHWA has determined that several right-of-way regulations are duplicated or otherwise covered elsewhere in DOT regulations. Accordingly, the FHWA has decided to remove these provisions from its regulations. RIN 2125-AD87 was completed and changes contemplated in that rulemaking were consolidated into the interim final rule published under this RIN.

ANALYSIS: Regulatory Evaluation

Agency Contact: James E. Ware, Realty Specialist, Office of Real Estate Services, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2019

RIN: 2125–AC17

2481. PERIODIC INSPECTION REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31131; 49 USC 31137; 49 USC 31142

CFR Citation: 49 CFR 396

Legal Deadline: None

Abstract: The FHWA is proposing to amend its periodic inspection requirements for commercial motor vehicles operated in interstate commerce. The periodic inspection final rule was published on December 7, 1988, at 53 FR 49402, and amended on December 8, 1989, at 54 FR 50722. The December 8, 1989, amendment included a request for comments. In response to the comments received and requests for interpretations from the States and industry, the FHWA has determined that the rule should be amended to clarify the requirements for periodic inspection decals; evidence of the inspector's qualifications; the response time for a motor carrier to transmit a copy of a self-inspection report to an authorized Federal, State or local enforcement official; identity of the motor carrier or other entity offering a vehicle for inspection; and documentation of a State periodic inspection, including proof of inspection on vehicles. The FHWA is also proposing amendments concerning the inspection criteria for brake readjustment limits, brake lining thickness, coupling devices, steering mechanism, tires marked "Not for Highway Use", and regrooved tires on steering axles.

Timetable:

Action	Date	FR Cite
Notice: Request for Comments	03/16/89	54 FR 11020
Final Rule: Delay in Compliance Date	12/08/89	54 FR 50722
Notice: State Inspection Programs	12/08/89	54 FR 50726
Petition: Comment Period End 07/02/90	05/02/90	55 FR 18355
Notice: State Inspection Programs	09/23/91	56 FR 47982
Denial of Petition	07/02/92	57 FR 29457
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Larry W. Minor, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2981

RIN: 2125–AC47

DOT—FHWA

Proposed Rule Stage

2482. COMMERCIAL LEARNER PERMITS AND CDL EFFECTIVENESS

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-570; 49 USC 3102; 49 USC 31136

CFR Citation: 49 CFR 383; 49 CFR 384; 49 CFR 386; 49 CFR 395; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA has reviewed the effectiveness and efficiency of the requirements in the Commercial Driver's License (CDL) program. Areas that may be addressed further include: (a) minimum licensing and information system standards for drivers learning to operate a commercial motor vehicle; and (b) increased flexibility in locations where drivers may obtain training and the final CDL. Other general issues under review include treatment of various types of violations (i.e. railroad grade crossings, serious traffic offenses, etc.) , defining terms, responsibilities when hiring new drivers, and processing information related to CDL convictions. Finally, there are issues specifically pertaining to the States under review, such as: (a) flexibility in States sharing test results to assist new drivers in the licensing process; (b) requirements for notification of the licensing State when a driver is convicted; (c) appropriate measures to be taken when a driver is found to be unqualified or disqualified according to Federal standards; and (d) adding a provision for enforcement of violations of an out-of-service order to State responsibilities in 49 CFR 384.

Timetable:

Action	Date	FR Cite
NPRM	08/22/90	55 FR 34478
NPRM Comment Period End	10/22/90	
NPRM Comment Period Extended to 11/30/90	10/23/90	55 FR 42741
SNPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Because other regulatory changes have been made since the NPRM was published in 1990, the FHWA intends to issue a supplemental NPRM to solicit comments on including additional requirements consistent with changes in the CDL program.

ANALYSIS: Regulatory Evaluation, 08/22/90, 55 FR 34478

Agency Contact: David Goettee, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4001

RIN: 2125–AC54

2483. CERTIFICATION OF SIZE AND WEIGHT ENFORCEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 127; 23 USC 141; 23 USC 315

CFR Citation: 23 CFR 657

Legal Deadline: None

Abstract: The FHWA has resumed consideration of changes in the guidance provided to state agencies for preparing the annual size and weight enforcement plans and certifications. Previous efforts in this area were suspended by the agency in 1994 as a result of a commitment by the Federal Highway Administrator to Congress in June 1994 to conduct a comprehensive study of all aspects of the truck size and weight issue. That study is nearly completed. Accordingly, public comment is again requested on the type of information and data that should be submitted by the states in support of their annual certification of enforcement, and how the FHWA should use the information.

Timetable:

Action	Date	FR Cite
ANPRM	12/16/93	58 FR 65830
ANPRM Comment Period Extended to 05/18/94	03/15/94	59 FR 11956
ANPRM Comment Period End	03/16/94	
Supplemental ANPRM	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Kathy Busby, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2976

RIN: 2125–AC60

2484. REVISION OF MEDICAL EXAMINATION FORM AND PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 2505; 49 USC 3102

CFR Citation: 49 CFR 391

Legal Deadline: None

Abstract: Substantial changes in medical technology and the technology, operating practices, and economics of the motor carrier industry have affected the physical and mental demands on commercial motor vehicle (CMV) drivers and in turn, have rendered portions of the current medical examination form used to assess drivers' physical qualifications outdated, difficult to use, or irrelevant. This rulemaking action proposes to redesign the existing medical examination form and to amend the examination procedures to reflect the latest medical and technological advances.

Timetable:

Action	Date	FR Cite
NPRM	08/05/98	63 FR 41769
NPRM Comment Period End	11/03/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: This action was formerly titled "Qualification of Drivers; Medical Examination Form."

Agency Contact: Sandra L. Zywokarte, Health and Welfare Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2981

RIN: 2125–AC63

2485. +MINIMUM TRAINING REQUIREMENTS FOR OPERATORS AND TRAINING INSTRUCTORS OF MULTIPLE TRAILER COMBINATION VEHICLES

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

DOT—FHWA

Proposed Rule Stage

Legal Authority: PL 102-240, sec 4007(b)(2); Intermodal Surface Transportation Efficiency Act (ISTEA)

CFR Citation: 49 CFR 383

Legal Deadline:
Final, Statutory, December 18, 1993.

Abstract: This action will establish minimum training requirements for operators of multiple trailer combination vehicles and the instructors who train these operators. The training would include certification of an operator's proficiency by an instructor who has met the requirements established by the Secretary of Transportation. This action is significant due to public interest.

Timetable:

Action	Date	FR Cite
ANPRM	01/15/93	58 FR 4638
ANPRM Comment Period End	03/16/93	
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Redmond, Transportation Specialist, Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5014

RIN: 2125–AC92

2486. +TRAINING FOR ENTRY-LEVEL DRIVERS OF COMMERCIAL MOTOR VEHICLES

Priority: Other Significant

Legal Authority: PL 102-240, sec 4007

CFR Citation: 49 CFR 383

Legal Deadline:
NPRM, Statutory, December 18, 1992.
Final, Statutory, December 18, 1993.
Other, Statutory, January 18, 1994, Other deadline is for a report to Congress.

Abstract: This action is in response to section 4007 of the Motor Carrier Act of 1991 (title IV of the Intermodal Surface Transportation Efficiency Act of 1991). The Department has initiated a rulemaking on the need to require training of all entry-level drivers of commercial motor vehicles. The agency has submitted a report to Congress (02/05/96) on the effectiveness of private sector efforts to ensure adequate training of all entry-level drivers. This report included a cost-benefit study of requiring training of entry-level drivers. Public comments have been solicited on the report. This rulemaking action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	06/21/93	58 FR 33874
ANPRM Comment Period End	08/20/93	
Report to Congress	02/05/96	
Notice of Availability	04/25/96	61 FR 18355
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The report is available through the National Technical Information Service (Order #PB96-141536). For further information, please call 703-487-4650.

Agency Contact: Ron Finn, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0647

RIN: 2125–AD05

2487. +COMMERCIAL DRIVER PHYSICAL FITNESS AS PART OF THE CDL PROCESS

Priority: Other Significant

Legal Authority: 49 USC 2704(a); 49 USC 2505; 49 USC 3102

CFR Citation: 49 CFR 391; 49 CFR 383; 49 CFR 1.48; 49 CFR 391.11; 49 CFR 391.45

Legal Deadline: None

Abstract: The FHWA is proposing to include the certification of fitness to operate a CMV in the commercial driver's license (CDL) process. Incorporating the commercial driver fitness determination into State--administered CDL procedures could allow elimination of the requirement that CMV drivers carry a separate medical certificate. The CDL would be evidence that the CMV driver is physically fit as well as operationally qualified to operate CMVs safely. This action addresses the driver's physical qualifications as they relate to the CDL process; it does not address whether those standards are correct or should be changed. The FHWA has determined that the negotiated rulemaking process will be used to develop regulations governing the proposed merger of the State-administered CDL procedures and the driver physical qualifications requirements. This action is significant due to anticipated substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	07/15/94	59 FR 36338
ANPRM Comment Period End	11/14/94	
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Please note the following notice publications with respect to the advisory committee: 04/29/96 at 61 FR 18713; 07/26/96 at 61 FR 38133; 08/26/96 at 61 FR 43725; 10/07/96 at 61 FR 52401; 11/05/96 at 61 FR 56936; 12/17/96 at 61 FR 66250; and 02/13/97 at 62 FR 6753.

Agency Contact: Teresa Doggett, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4001

RIN: 2125–AD20

2488. +DEPARTMENT OF TRANSPORTATION (FHWA AND FTA) NEPA AND RELATED PROCEDURES FOR TRANSPORTATION DECISIONMAKING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication. or streamline requirements.

Legal Authority: 42 USC 4321; 23 USC 109; 23 USC 128; 23 USC 138; 23 USC 315; PL 102-240; 49 USC 303(c); 49 USC 1602(d); 49 USC 1604(h); 49 USC 1604(i); 49 USC 1610; 33 USC 401; 33 USC 491 et seq; 33 USC 511 et seq; 33 USC 525 et seq

CFR Citation: 23 CFR 771; 49 CFR 622; 40 CFR 1500 to 1508; 49 CFR 1.48(b); 49 CFR 1.51; 33 CFR 114.05

Legal Deadline: None

Abstract: The Federal Highway Administration and the Federal Transit Administration have a joint

DOT—FHWA

Proposed Rule Stage

environmental regulation at 23 CFR 771, "Environmental Impact and Related Procedures." Nevertheless, each agency's guidance for implementing those regulations is procedurally different. This causes difficulties and inconsistencies for sponsors of transportation projects, particularly where joint FHWA and FTA funds are involved. In the ISTEA, the Congress recognized the importance of providing uniformity and consistency between FHWA and FTA environmental procedures. This is needed to accommodate the increased funding flexibility for surface transportation provided by ISTEA. Because of an increased emphasis on intermodal planning and proposals to advance a high speed rail program, the proposed, new joint regulations will include the Federal Railroad Administration (FRA) and the United States Coast Guard (USCG) bridge permit program. Section 134(h)(4) of title 23, United States Code and section 8(h)(4) of the Federal Transit Act, as amended, direct the Secretary of Transportation to initiate a rulemaking proceeding to conform review requirements for transit projects under the National Environmental Policy Act of 1969 to comparable requirements for highway projects. This action is considered significant because of potential public, congressional and environmental concerns and because it involves several interested departmental modes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Additional Information: Related actions are FTA RIN 2132-AA43 and FRA RIN 2130-AA93.

Agency Contact: Fred Skaer, Office of Environment and Planning, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2058

RIN: 2125–AD32

2489. RULES OF PRACTICE FOR MOTOR CARRIER PROCEEDINGS; INVESTIGATIONS; DISQUALIFICATIONS AND PENALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 104; 49 USC 307

CFR Citation: 49 CFR 301; 49 CFR 302; 49 CFR 303; 49 CFR 304; 49 CFR 385; 49 CFR 386

Legal Deadline: None

Abstract: The FHWA proposes to amend its rules of practice for motor carrier safety, hazardous materials, and other enforcement proceedings, motor carrier safety ratings, driver qualification proceedings and its schedule of penalties for violations of the FMCSRs and the Hazardous Materials Regulations. The FHWA further proposes to add provisions on investigative authority and procedures and general motor carrier responsibilities. These rules would increase the efficiency of the procedures, enhance due process and the awareness of the public and regulated community, and accommodate recent programmatic changes. The rules would apply to all motor carriers, other business entities and individuals involved in motor carrier safety and hazardous materials administrative actions on the effective date of the final rule.

Timetable:

Action	Date	FR Cite
NPRM	04/29/96	61 FR 18866
NPRM Comment Period End	07/29/96	
Extended Comment Period End 9/13/96	08/06/96	61 FR 40781
SNPRM	10/21/96	61 FR 54601
SNPRM Comment Period End	11/20/96	
SNPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: A final rule published on November 6, 1997, (RIN 2125-AC71), incorporated the proposed provision designated as section 362.107 in the April 29 NPRM. This section with minor changes was incorporated as section 385.17. A final rule regarding adjustments to civil penalties due to inflation is being published under a separate rulemaking action (RIN 2105-AC63).

Agency Contact: Paul Brennan, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0834

RIN: 2125–AD64

2490. SAFETY PERFORMANCE HISTORY OF NEW DRIVERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31133; 49 USC 31136; 49 USC 31301 et seq; 49 USC 31502; PL 103-311

CFR Citation: 49 CFR 382; 49 CFR 383; 49 CFR 390; 49 CFR 391; 49 CFR 1.48

Legal Deadline:
NPRM, Statutory, February 1996.

Abstract: This action proposes amending FHWA regulations to specify minimum safety information that new or prospective employers must seek from former employers during the investigation of a driver's employment record. This action also proposes to increase the period of time for which carriers must record accident information in the accident register from one to three years. This proposal was mandated by section 114 of the Hazardous Materials Reauthorization Act of 1994.

Timetable:

Action	Date	FR Cite
NPRM	03/14/96	61 FR 10548
NPRM Comment Period End	05/13/96	
SNPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Valerie Height, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1790

RIN: 2125–AD66

2491. +RAILROAD GRADE CROSSING SAFETY

Priority: Other Significant

Legal Authority: PL 102-240; PL 103-311; 49 USC 5101; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 392; 49 CFR 1.48

Legal Deadline:

Final, Statutory, February 26, 1995. See P.L. 103-311; sec. 112.

Abstract: The FHWA is proposing to prohibit operators of commercial motor vehicles from driving onto a railroad grade crossing unless there is sufficient space to drive completely through the crossing without stopping. The intent of this action is to reduce the incidence of collisions between trains and CMVs. This action is required by the Hazardous Materials Transportation Authorization Act of 1994 (PL 103-311; sec. 112). This action is considered significant because of substantial public interest

Timetable:

Action	Date	FR Cite
NPRM	07/30/98	63 FR 40691
NPRM Comment Period End	11/27/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Lehrman, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0994

RIN: 2125–AD75

2492. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; TELEVISION RECEIVERS AND DATA DISPLAY UNITS

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA proposed to amend the provision of the Federal Motor Carrier Safety Regulations (FMCSRs) concerning television viewers or screens in commercial motor vehicles. The FHWA is concerned that the current restrictions on the locations of such devices may have the unintended effect of discouraging the use of certain Intelligent Transportation System (ITS) technologies such as collision avoidance and traveler information systems which could improve the safety and efficiency of commercial vehicle operations. In response to comments to the April 3, 1993, notice of proposed rulemaking (61 FR 14733) to rescind the regulation concerning television viewers or screens, the FHWA is considering an SNPRM to propose retaining an explicit prohibition against television viewers or screens but revising the regulation to ensure that it does not impede the development and use of ITS-related technologies.

Timetable:

Action	Date	FR Cite
NPRM	04/03/96	61 FR 14733
NPRM Comment Period End	06/03/96	
SNPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AD76

2493. +HOURS OF SERVICE OF DRIVERS (SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 88 in Part II of this issue of the Federal Register.

RIN: 2125–AD93

2494. ELECTRONIC FILING OF SURETY BONDS, TRUST FUND AGREEMENTS, INSURANCE CERTIFICATES; CANCELLATIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-88

CFR Citation: 49 CFR 387

Legal Deadline: None

Abstract: This action proposes requiring all filings of surety bonds, trust fund agreements, insurance certificates and cancellations of these instruments to be accomplished electronically. Optional electronic filing has proven economical and efficient for both the FHWA and for electronic filers. Given this success, cost of processing paper filings can no longer be justified. Mandatory electronic filings should not impose any significant costs or burdens on either the FHWA or the filers.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia A. Burke, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 358-7041

RIN: 2125–AD94

2495. +DEVELOPMENT OF A NORTH AMERICAN STANDARD FOR PROTECTION AGAINST SHIFTING AND FALLING CARGO

Priority: Other Significant

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is considering proposing amendments to its regulations concerning cargo securement requirements for commercial motor vehicles engaged in interstate commerce. The FHWA intends to consider adopting new cargo securement guidelines that will be based upon the results of a multi-year comprehensive research program to evaluate current regulations and industry practices. The FHWA is also requesting comments on the process to be used in developing these preliminary cargo securement guidelines. The FHWA recently completed work on this research program with the Canadian Council of Motor Transport Administrators (CCMTA), State and Provincial agencies responsible for motor carrier safety activities, the Commercial Vehicle Safety Alliance (CVSA), and U.S. and Canadian industry groups.

Timetable:

Action	Date	FR Cite
ANPRM	10/17/96	61 FR 54142
ANPRM Comment Period End	12/16/96	
Notice of Meeting	04/21/97	62 FR 19252
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AE05

2496. +QUALIFICATIONS OF MOTOR CARRIERS TO SELF-INSURE THEIR OPERATIONS AND FEES TO SUPPORT THE APPROVAL AND COMPLIANCE PROCESS

Priority: Other Significant

Legal Authority: 49 USC 31138; 49 USC 31139; 49 USC 13906

CFR Citation: 49 CFR 1043; 49 CFR 387; 49 CFR 1.48

Legal Deadline: None

Abstract: This action proposes to amend the regulations governing qualifications for motor carriers that seek authorization to self-insure their transportation operations. Also, the FHWA is proposing technical amendments necessitated by the ICC Termination Act of 1995 (Pub. L. 104-88), which transferred the ICC's authority to qualify motor carriers as self-insurers to DOT. The agency is also requesting comments regarding the need for additional backup collateral or security to protect the public against uncompensated losses. The FHWA believes that this will be a significant regulatory action because of substantial congressional and public interest in the insurance requirements for motor carriers.

Timetable:

Action	Date	FR Cite
ANPRM	09/23/97	62 FR 49654
Correction	09/29/97	62 FR 50892
ANPRM Comment Period End	11/24/97	
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley M. Braverman, Attorney, Suite 600, Department of Transportation, Federal Highway Administration, 400 VA Avenue SW., Washington, DC 20024
Phone: 202 358-7035

RIN: 2125–AE06

2497. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; HOURS-OF-SERVICE AND CDL EXEMPTIONS

Priority: Other Significant

Legal Authority: PL 104-59, sec 345

CFR Citation: 49 CFR 382; 49 CFR 395

Legal Deadline: None

Abstract: In this action, the FHWA is proposing to clarify its rule incorporating certain exemptions from the hours-of-service and commercial driver's license requirements of the Federal Motor Carrier Safety Regulations, created by section 345 of the National Highway System Designation Act of 1995.

The FHWA is also proposing a monitoring program to measure the safety impact of the exemptions. The FHWA would use information obtained from the monitoring program to determine whether the exemptions granted in the NHS Act should be modified or revoked under the standard provided in the authorizing legislation. The FHWA requests comment on the public interest and safety impacts of the exemptions, as well as in the proposed monitoring program.

The final rule that incorporated the exemptions created by section 345 of the NHS Act was issued under RIN 2125-AD83, 4/3/96 (61 FR 14677).

This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Paul Brennan, Director, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1790

RIN: 2125–AE09

2498. MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MEXICAN MOTOR CARRIERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31138; 49 USC 31139

CFR Citation: 49 CFR 387; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is proposing to amend part 387, Minimum Levels of Financial Responsibility for Motor Carriers to clarify and amend the financial responsibility requirement for Mexican motor carriers.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Peter Chandler, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5763

RIN: 2125–AE14

2499. +APPLICATION OF THE NATIONAL TRANSPORTATION COMMUNICATIONS FOR ITS PROTOCOL (NTCIP) STANDARDS IN ITS PROJECTS

Priority: Other Significant

Legal Authority: 23 USC 109; 23 USC 315; 23 USC 402; PL 102-240

CFR Citation: 23 CFR 625; 23 CFR 655; 49 CFR 1.48

Legal Deadline: None

Abstract: This action is proposing to amend FHWA regulations to require application of Intelligent Transportation System (ITS) Standards for ITS projects using Federal-aid highway funds. In the ISTEA of 1991, Congress directed the Department to develop and implement standards and protocols to promote widespread use of ITS. The proposed regulations will apply ITS standards to ITS systems, subsystems, devices, equipment and software to be acquired with Federal-aid highway funds, including ITS funds. This action is significant because it represents new and changed policy under DOT Order 2100.5.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

DOT—FHWA

Proposed Rule Stage

Agency Contact: William S. Jones, ITS Joint Program Office, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2128

RIN: 2125–AE21

2500. EMERGENCY RELIEF PROGRAM—$500,000 DISASTER ELIGIBILITY THRESHOLD

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101; 23 USC 120(e); 23 USC 125; 23 USC 315

CFR Citation: 23 CFR 668; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: The FHWA has initiated this rulemaking to evaluate the need to revise the FHWA's regulation pertaining to the $500,000 threshold established to distinguish between heavy maintenance or routine emergency repair and serious damage, which is used as one of the criteria to qualify a disaster under the FHWA emergency relief program for repair of Federal-aid highways. The FHWA has published an ANPRM with the intention of generating discussion and comments on the appropriateness of the current threshold value as well as any additional options regarding establishment of a disaster eligibility threshold. An NPRM is scheduled to be published proposing to increase the threshold to $700,000.

Timetable:

Action	Date	FR Cite
ANPRM	02/19/98	63 FR 8377
ANPRM Comment Period End	04/20/98	
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mohan Pillay, Office of Engineering, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4655

RIN: 2125–AE27

2501. COMMERCIAL DRIVER DISQUALIFICATION PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31301; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 383; 49 CFR 1.48

Legal Deadline:
NPRM, Statutory, December 29, 1996.

Abstract: Section 403 of the ICC Termination Act of 1995 (ICCTA) requires the FHWA to issue regulations specifying that commercial motor vehicle drivers who are convicted of violating railroad-highway grade crossing laws or regulations must be disqualified from operating a CMV. The ICCTA also requires that penalties be assessed against employers found to have knowingly allowed, permitted, authorized, or required an employee to operate a CMV in violation of a law or regulation pertaining to railroad-highway grade crossings. This rulemaking proposes disincentives for drivers and motor carriers from engaging in such dangerous operating practices. Such disincentives would include long periods (60 to 120 days) of disqualification from operating CMVs for drivers and monetary fines for employers.

Timetable:

Action	Date	FR Cite
NPRM	03/02/98	63 FR 10180
NPRM Comment Period End	05/04/98	
NPRM Reopening of the Comment Period	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Goettee, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4001

RIN: 2125–AE28

2502. WORK ZONE SAFETY

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 105; 23 USC 106; 23 USC 109; 23 USC 110; 23 USC 115; 23 USC 315; 23 USC 320; PL 102-240, sec 1051; PL 104-59, sec 358

CFR Citation: 23 CFR 630; 23 CFR 636; 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is proposing to amend its regulations on traffic safety in highway and street work zones. Section 1051 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) requires the Secretary of Transportation (Secretary) to develop and implement a highway work zone safety program which would improve work zone safety at highway construction sites. This action is necessary to update the existing regulation, clarify the current policy, and emphasize important issues affecting the safety of highway workers and highway users. This action proposes to transfer and redesignate the regulations currently found in 23 CFR part 630, subpart J, to a new part 636.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charlie L. Sears, Office of Engineering, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2981

RIN: 2125–AE29

2503. TRANSPORTATION OF HOUSEHOLD GOODS; CONSUMER PROTECTION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 49 USC 13301; 49 USC 14104

CFR Citation: 49 CFR 375; 49 CFR 377

Legal Deadline: None

Abstract: The FHWA is proposing to amend the regulations governing the transportation of household goods. These regulations protect consumers who ship household goods by motor vehicle. This action is necessary to implement the ICC Termination Act of 1995, (ICCTA), Pub. L. 104-88, 109 Stat. 803, and to update the regulations. The intended effect of this proposal is to make the regulations easier to read and understand, remove an outdated report, address hostage freight problems (situations where non-binding estimates are lower than actual charges and the carrier refuses to deliver freight even after 110 percent of the estimate is paid at the time of delivery), modify a consumer protection publication, consider industry requests to change the rules, and propose conforming and technical amendments.

Timetable:

Action	Date	FR Cite
NPRM	05/15/98	63 FR 27126
NPRM Comment Period End	07/14/98	
NPRM Extension and Reopening of Comment Period	08/12/98	63 FR 43128
NPRM Comment Period End	10/13/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Miller, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1790

RIN: 2125–AE30

DOT—FHWA

Proposed Rule Stage

2504. +REVISION OF APPLICATION FORM FOR MEXICAN MOTOR CARRIERS: COMMERCIAL ZONES

Priority: Other Significant

Legal Authority: 49 USC 13907

CFR Citation: 49 CFR 368

Legal Deadline: None

Abstract: This action proposes collection of some new information and also proposes revisions to the registration application form filed by one of the two classes of Mexican motor carriers that operate in the U.S. This class of carriers operates in the U.S.-Mexico border commercial zones which existed prior to NAFTA. This action is intended to increase the information available concerning these Mexican property carriers' safety profiles. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley M. Braverman, Office of the Chief Counsel, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 358-7035

RIN: 2125–AE31

2505. +REVISION OF APPLICATION FORM FOR MEXICAN MOTOR CARRIERS: NAFTA

Priority: Other Significant

Legal Authority: 5 USC 553; 5 USC 559; 16 USC 1456; 49 USC 13101; 49 USC 13301; 49 USC 13901 et seq; 49 USC 31138; 49 USC 31144

CFR Citation: 49 CFR 365; 49 CFR 1.48

Legal Deadline: None

Abstract: This action proposes collection of some new information and also proposes revisions to the registration application form filed by one of the two classes of Mexican carriers that operate in the U.S. This class of carriers has operations that go beyond the established border commercial zones. This proposed unified application form would be used by both Mexican property and passenger carriers who provide services pursuant to provisions of NAFTA. This action is intended to increase the information available concerning these Mexican carriers' safety profiles. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley M. Braverman, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 358-7035

RIN: 2125–AE33

2506. +ACCELERATED SAFETY MONITORING SYSTEM AND COMPLIANCE INITIATIVE FOR MEXICAN MOTOR CARRIERS OPERATING IN THE UNITED STATES

Priority: Other Significant

Legal Authority: 49 USC 104; 49 USC 504; 49 USC 521(b)(5)(A); 49 USC 5113; 49 USC 31136; 49 USC 31144; 49 USC 31502

CFR Citation: 49 CFR 385

Legal Deadline: None

Abstract: This action would implement an accelerated safety fitness screen as part of the Motor Carrier Management Information System (MCMIS). A new screening program is being targeted to collect more information on Mexican carriers. The data will be collected and stored using the existing systems and information gathering structures that are used for domestic carriers. The data collected will be used to oversee operations of both classes of Mexican motor carriers, those operating in the U.S.-Mexico border commercial zones and those operating in the U.S. pursuant to the various entry provisions of NAFTA. This action is significant due to anticipated public interest and safety-related issues.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley M. Braverman, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 358-7035

RIN: 2125–AE33

2507. • OUT-OF-SERVICE CRITERIA

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 49 USC 31133; 49 USC 31136; 49 USC 31310; 49 USC 31502; PL 104-59

CFR Citation: 49 CFR 395; 49 CFR 396; 49 CFR 1.48

Legal Deadline: None

Abstract: This action seeks public comment on the "North American Uniform Out-of-Service Criteria" (OOS Criteria). During roadside inspections, Federal, State, and local safety inspectors use the OOS Criteria as a guide in determining whether to place commercial motor vehicles (CMVs), or their drivers, "out of service." Such a status means that the CMVs or drivers are so unsafe that corrections must be undertaken before operations can resume. The FHWA is seeking public comment on the future scope and effect

DOT—FHWA

Proposed Rule Stage

of the OOS Criteria, which are not part of the Federal Motor Carrier Safety Regulations (FMCSRs). In addition, the FHWA is seeking information regarding whether it needs to formalize these guidelines pursuant to a notice and comment rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	07/20/98	63 FR 38791
ANPRM Comment Period End	09/18/98	
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Robert F. Schultz, Jr., Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4009

RIN: 2125–AE35

2508. • SAFETY FITNESS PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 3144

CFR Citation: 49 CFR 385

Legal Deadline: None

Abstract: The FHWA published a final rule of RIN 2125-AC71 at 62 FR 60035 on November 6, 1997, which incorporated the safety fitness rating methodology (SFRM) into 49 CFR 385 as appendix B. In that document the FHWA identified its ultimate goal as creating a more performance-based means of determining the fitness of carriers to conduct commercial motor vehicle (CMV) operations in interstate commerce. The Final Rule announced that the FHWA would publish an ANPRM shortly which would request comments on the future of a rating system that could be used both in making safety fitness determinations and meeting the demands of shippers, insurers and other present and potential users interested in evaluating motor carrier performance. Accordingly, at this time, the FHWA is seeking comments in this action and supporting data on the future of a rating system.

Timetable:

Action	Date	FR Cite
ANPRM	07/20/98	63 FR 38788
ANPRM Comment Period End	09/18/98	
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Willliam Hill, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4009

RIN: 2125–AE37

2509. • REVISION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES; PART II—SIGNS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114 (a); 23 USC 315; 23 USC 402

CFR Citation: 23 CFR 655; 23 CFR 1.32; 23 CFR 1.48

Legal Deadline: None

Abstract: Revision of the MUTCD is being done in phases due to the voluminous amount of text. This notice of proposed amendment represents the third phase of the rewrite effort and embraces proposed changes for part II -- signs. This action is intended to rewrite and reformat the text for clarity of intended meanings; to include metric dimensions and values for the design and installation of traffic control devices; to improve the overall organization and discussion; and to propose changes that will enhance the mobility of all road users, promote uniformity, improve traffic safety by reducing the potential for run-off-road incidents, and incorporate technology advances in traffic control device application.

Timetable:

Action	Date	FR Cite
NPRM	06/11/98	63 FR 31950
Comment Period End	03/11/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Linda Brown, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-2192

RIN: 2125–AE38

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Final Rule Stage

2510. +PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; LIGHTING DEVICES, REFLECTORS, AND ELECTRICAL EQUIPMENT

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is proposing measures for reducing the incidence and severity of collisions with large trailers during conditions of darkness or reduced visibility. Specifically, the agency is proposing requirements for the use of retroreflective sheeting or reflex reflectors for certain trailers manufactured prior to December 1, 1993, the effective date of the National Highway Traffic Safety Administration's final rule on conspicuity for newly manufactured trailers. This action is considered significant due to substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	01/19/94	59 FR 2811
ANPRM Comment Period End	03/21/94	
Notice of Intent To Issue NPRM	08/06/96	61 FR 40781
NPRM	06/19/98	63 FR 33611

DOT—FHWA

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	09/17/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: The FHWA intends to consider carefully the costs and benefits associated with various alternative requirements, including the economic impacts of potential changes on small entities.

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4009

RIN: 2125–AD27

2511. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; MOTOR VEHICLE MARKING

Priority: Other Significant

Legal Authority: 49 USC 104; 49 USC 504; 49 USC 521(b)(5)(A); 49 USC 31502; 49 USC 5113; 49 USC 31136; 49 USC 31144; 49 USC 5113

CFR Citation: 49 CFR 390

Legal Deadline: None

Abstract: The FHWA is proposing to revise its regulations dealing with the identification and marking of commercial motor vehicles (CMVs). Five changes are being proposed which would: (1) Apply the marking requirements to all CMVs operated in interstate commerce, including those common and contract motor carriers of property or passengers formerly authorized by the Interstate Commerce Commission (ICC); (2) require motor carriers to mark both sides of each CMV with a specific legal name or name under which it does business (DBA name); (3) require motor carriers to mark each CMV with the city and State of its principal place of business; (4) require all new motor carriers to file Form MCS-150 before beginning operations; and (5) move sec. 385.23 and the appendix to part 385 to a new section in part 390. The States would also be allowed and encouraged to use United States Department of Transportation (USDOT) identification numbers to identify intrastate motor carriers. The proposed changes would improve the identification of motor carriers and CMVs, aid enforcement, and enhance data collection and analysis.

Timetable:

Action	Date	FR Cite
NPRM	06/16/98	63 FR 32801
NPRM Comment Period End	08/17/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Phillip J. Forjan, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-6817

RIN: 2125–AD49

2512. NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; METRIC CONVERSION

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101(a); 23 USC 104; 23 USC 105; 23 USC 109(d); 23 USC 114(a); 23 USC 135; 23 USC 217; 23 USC 307; 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655; 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: Based on the National Highway System (NHS) Designation Act of 1995, the Federal Highway Administration (FHWA) no longer requires metric legends on highway signs. After FY 1996, if a State desires to install metric legend signs, the FHWA will not restrict the use of Federal-aid funds. The NHS Designation Act also revises the Metric Conversion Policy to extend the compliance date to September 30, 2000, for having plans, specifications, and estimates (PS&Es) in metric units (prior to September 30, 1996). It is the intent of this rulemaking action to assure that those States and other FHWA partners desiring to convert to metric units will have available a source for formulating their plans in a consistent manner. Therefore, the FHWA is adopting the following two American Association of State Highway and Transportation Officials (AASHTO) publications as its policy for metric conversion: "Guide to Metric Conversion" and "Traffic Engineering Metric Conversion Factors." The FHWA has determined that the interim metric values selected by the AASHTO documents are functionally equivalent to English system measurements previously adopted by notice and comment rulemaking.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/11/96	61 FR 29624
Comment Period End	08/11/96	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The FHWA initiated a phased five-year plan to convert its activities and business operations to the metric system of weights and measures as required by the Metric Conversion Act of 1975 (Pub. L. 94-168, 89 Stat. 1007), as amended by sec. 5164 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418, 102 Stat. 1107, 1451).

Agency Contact: Ernest Huckaby, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-9064

RIN: 2125–AD63

2513. STANDARDS FOR CENTER LINE AND EDGE LINE MARKINGS ON STREETS AND HIGHWAYS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a); PL 102-388

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: The Manual on Uniform Traffic Control Devices (MUTCD) is incorporated by reference in 23 CFR part 655, subpart F, and recognized as the national standard for traffic control on all public roads. The DOT and Related Agencies Appropriations Act of 1992, Pub. L. 102-388, sec. 406, requires that the MUTCD include a national standard to define the roads that must have center line or edge line markings or both. The MUTCD amendments proposed in this action

DOT—FHWA

Final Rule Stage

are intended to improve traffic operations and safety, providing national standards and guidance to establish uniform application and use of center line and edge line markings on streets and highways.

Timetable:

Action	Date	FR Cite
NPRM	08/02/96	61 FR 40484
NPRM Comment Period End	05/02/97	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ernest D. L. Huckaby, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9064

RIN: 2125–AD68

2514. FEDERAL-AID HIGHWAY SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 103(b); 23 USC 103(c); 23 USC 315

CFR Citation: 23 CFR 470

Legal Deadline: None

Abstract: This regulatory action amends 23 CFR 470 in accordance with legislation enacted in 1991 and 1995. The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) rescinded the Federal-aid Primary and Secondary and Urban Systems; established an interim National Highway System (NHS); and defined Federal-aid highways. The NHS Designation Act of 1995 (NHS Act) authorized the initial National Highway System and also authorized the Secretary to approve modifications. The action also consolidates in appendices all nonregulatory guidance material issued previously by the FHWA on Federal-aid highway systems.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/19/97	62 FR 33351
Interim Final Rule Effective	07/21/97	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The FHWA issued an interim final rule with an opportunity for public comment. The FHWA believes that prior notice and opportunity for comment were unnecessary within the meaning of 5 U.S.C. 553(b)(3)(B) because this rule amends existing regulations in accordance with the requirements of the ISTEA and the NHS Act and will simplify administrative procedures, minimize regulatory burdens, and provide flexibility for accomplishing required system actions. This rule amends regulations that the states comply with as part of the Federal-aid highway program. The FHWA has worked closely with the States, and the States have operated under the basic policies covered by this regulation for many years. A number of technical revisions may be required as a result of the recodification of 23 U.S.C. 103 in the Transportation Equity Act for the 21st Century.

Agency Contact: George E. Schoener, Chief, Intermodal and Statewide Programs Division, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0233
Fax: 202 493-2198

RIN: 2125–AD74

2515. MITIGATION OF IMPACTS TO WETLANDS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 4321; 23 USC 109(h); 23 USC 138; 23 USC 315(i); 23 USC 133(b); EO 11990

CFR Citation: 23 CFR 777; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: Revision to the existing rule will bring FHWA's wetland mitigation policies and requirements into full agreement with the provisions of ISTEA section 1007(b)(11) and section 1006(1)(13). In addition, the revised rule will reflect recent policy issued by the Corps of Engineers and EPA on wetland mitigation banking. FHWA internal policy development on wetland mitigation is also indicated by the proposed revision.

Timetable:

Action	Date	FR Cite
NPRM	06/17/96	61 FR 30553
NPRM Comment Period End	08/16/96	
SNPRM	06/18/97	62 FR 33047
SNPRM Comment Period End	08/18/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Additional authority DOT Order 5660.1A

Agency Contact: Paul Garrett, Natural and Cultural Resources Team, HEP-40, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2067
Fax: 202 366-3409
Email: pgarrett@intergate.dot.gov

RIN: 2125–AD78

2516. UNIFORM PROCEDURES FOR STATE HIGHWAY SAFETY PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 402

CFR Citation: 23 CFR 1200

Legal Deadline: None

Abstract: In this action, the FHWA proposes to streamline the Sec. 402 grant approval process. In a separate notice (60 FR 47418) the FHWA announced the creation of a pilot highway safety program for FY 1996 State highway programs under 23 USC 402 and the waiver of certain procedures for States that have elected to participate in the pilot program.

DOT—FHWA

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/26/97	62 FR 34397
Interim Final Effective	06/26/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mila Plosky, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6902

RIN: 2125–AD79

2517. RAILROAD HIGHWAY PROJECTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 315; 23 USC 109(e); 23 USC 120(c); 23 USC 130

CFR Citation: 23 CFR 140; 23 CFR 646

Legal Deadline: None

Abstract: The FHWA proposes to amend its regulations on railroad highway projects. The proposed amendments would require railroads to submit final billings within one year following completion of work, delete the requirements of a State's certification that work was completed, increase the ceiling for lump sum agreements from $25,000 to $100,000 and incorporate changes brought about by ISTEA. The FHWA proposes these changes to conform railroad/highway regulations to more recent laws or regulations, and provide State highway agencies clarification and more flexibility in implementing them.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/27/97	62 FR 45326
Comment Period End	10/27/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

2518. REGISTRATION OF FOR-HIRE MOTOR CARRIERS, PROPERTY BROKERS, AND FREIGHT FORWARDERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 5 USC 559; 16 USC 1456; 49 USC 13101; 49 USC 13301; 49 USC 13901 to 13905; 49 USC 14708; 49 USC 31138; 49 USC 31144

CFR Citation: 49 CFR 365; 49 CFR 385

Legal Deadline: None

Abstract: This action governs registration of for-hire motor property and passenger carriers, property brokers, and freight forwarders. This action is required by 49 USC 13901 to 13905, which mandates that a registration system be administered by the Secretary of Transportation to replace the former Interstate Commerce Commission's licensing system for motor carriers, property brokers, and freight forwarders. The registration system prescribed in 49 USC 13901 to 13905 is intended to be a temporary and stand-alone procedure while the FHWA undertakes to design and implement the revised system through the 49 USC 13908 rulemaking mandated by Congress to be completed by January 1, 1998.

Timetable:

Action	Date	FR Cite
NPRM	02/13/98	63 FR 7362
NPRM Comment Period End	04/14/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Burke, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 358-7041

RIN: 2125–AE01

2519. +PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; REAR IMPACT GUARDS AND REAR IMPACT PROTECTION

Priority: Other Significant

Legal Authority: PL 102-240, sec 1041(b); 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: In this action, the FHWA proposes to amend the Federal Motor Carrier Safety Regulations (FMCSRs) to require that certain trailers and semitrailers with a gross vehicle weight rating (GVWR) greater than 10,000 pounds and manufactured on or after January 26, 1998, be equipped with rear impact guards and meet the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 223. This action is intended to ensure that the rear impact protection requirements of the FMCSRs are consistent with the FMVSSs and to improve the safety of operation of commercial motor vehicles by reducing the incidence of underride accidents in which the rear end of the trailer strikes and enters the passenger compartment.

Timetable:

Action	Date	FR Cite
NPRM	05/14/98	63 FR 26759
NPRM Comment Period End	07/13/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

DOT—FHWA

Final Rule Stage

Government Levels Affected: None

Additional Information: This rule is not considered to be significant under Executive Order, but is significant under DOT Order because the FHWA expects that there will be significant public interest in the prevention of rear-underride accidents involving commercial motor vehicles.

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4009

RIN: 2125–AE15

2520. REGULATIONS GOVERNING FEES FOR SERVICES PERFORMED IN CONNECTION WITH MOTOR CARRIER LICENSING AND INSURANCE

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 9701; 49 USC 13908(c)

CFR Citation: 49 CFR 360; 49 CFR 1.48

Legal Deadline: None

Abstract: This final rule adopts filing fees and fee collection regulations for the motor carrier registration and insurance functions transferred to the FHWA as a result of the enactment of the ICC Termination Act of 1995. The FHWA believes that prior notice and opportunity for comment are unnecessary under 5 USC 553(b)(3)(B). The FHWA is not exercising discretion in a way that could be meaningfully affected by public comments. In this action, the ICC's filing fee regulations related to the motor carrier functions transferred to the FHWA are being recodified as FHWA regulations. The FHWA has concluded that it is in the public interest to implement the transfer of the fee regulations as expeditiously as possible to ensure that there is no disruption of the involved motor carrier activities. The effect of this rule is to make these fees and regulations applicable to registration and insurance filings made with the FHWA.

Timetable:

Action	Date	FR Cite
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas T. Vining, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 358-7028

RIN: 2125–AE24

2521. EXEMPTION OF COMMONLY-OWNED MOTOR CARRIERS FROM EQUIPMENT IDENTIFICATION AND RECEIPT REQUIREMENTS APPLICABLE TO LEASED AND INTERCHANGED VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 13301; 49 USC 14102

CFR Citation: 49 CFR 376; 49 CFR 1.48

Legal Deadline: None

Abstract: In this action, the FHWA is proposing to modify its regulations governing the lease and interchange of motor vehicle equipment by exempting commonly-owned and controlled motor carriers from the vehicle identification and exchange of receipt requirements of and the identification of equipment requirement. The FHWA routinely grants waivers from these requirements on an individual basis. The proposed action would eliminate the need for carriers to obtain individual waivers from the FHWA.

Timetable:

Action	Date	FR Cite
NPRM	12/30/97	62 FR 67821
NPRM Comment Period End	03/02/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael J. Falk, Motor Carrier Law Division, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-1384

RIN: 2125–AE26

2522. • UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION REGULATIONS FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-117

CFR Citation: 49 CFR 24

Legal Deadline:
Final, Statutory, November 21, 1998.

Abstract: This action would implement several amendments to the Uniform Relocation Assistance and Real Property Acquisition Policies Act that were made by P.L. 105-117 enacted on November 21, 1997. These amendments provide that an alien not lawfully present in the United States shall not be eligible to receive relocation payments or other assistance unless such ineligibility would result in exceptional and extremely unusual hardship to the alien's spouse, parent, or child and such spouse , parent, or child is a citizen or an alien admitted for permanent residence. The amendments direct DOT to promulgate implementing regulations within one year of their enactment. The Department has delegated this responsibility to the FHWA.

Timetable:

Action	Date	FR Cite
NPRM	06/12/98	63 FR 32175
NPRM Comment Period End	08/11/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Marshall Schy, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-2035

RIN: 2125–AE34

2523. • TRUCK SIZE AND WEIGHT; NATIONAL NETWORK; NORTH DAKOTA

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 127; 23 USC 315; 49 USC 31111 to 31115

CFR Citation: 23 CFR 658; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA proposes to modify the National Network for commercial motor vehicles by adding a route in North Dakota. The National Network was established by a final rule on truck size and weight published on June 5, 1984, as since modified. This rulemaking proposes to add one segment to the National Network as requested by the State of North Dakota.

Timetable:

Action	Date	FR Cite
NPRM	05/18/98	63 FR 27228
NPRM Comment Period End	07/17/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Thomas Klimek, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-2212

RIN: 2125–AE36

DOT—FHWA

Final Rule Stage

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Long-Term Actions

2524. +QUALIFICATION OF DRIVERS; DIABETES

Priority: Other Significant

Legal Authority: 49 USC 3102; 49 USC 2505; 23 USC 315

CFR Citation: 49 CFR 391.41(b)(3)

Legal Deadline: None

Abstract: The FHWA is considering revising the driver qualification requirements to allow certain insulin-using diabetics to operate commercial motor vehicles in interstate commerce. The FHWA issued a final disposition accepting waiver applications under certain conditions. The deadline for submitting applications was April 30, 1994. The waiver program ended March 31, 1996. It was instituted to permit the FHWA to observe and collect data on the driving experience of a group of insulin-using drivers. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/25/87	52 FR 45204
ANPRM Comment Period End	12/28/87	
ANPRM Comment Period Extended to 02/01/88	01/04/88	53 FR 42
NPRM	10/05/90	55 FR 41028
NPRM Comment Period Extended to 01/03/91	11/01/90	55 FR 46080
NPRM Comment Period End	12/04/90	
Notice of Intent To Issue Waivers: Comment Request	10/21/92	57 FR 48011
Final Action To Accept Waivers	07/29/93	58 FR 40690
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Under RIN 2125-AD73, the FHWA adopted a final rule to allow drivers holding valid waivers from both the vision and diabetes standards to continue to operate in interstate commerce after March 31, 1996. See 61 FR 606 (Jan. 8, 1996) (notice of proposed rulemaking); 61 FR 13338 (March 26, 1996) (final rule); 61 FR 17253 (April 19, 1996) (final rule; technical correction). With the closing of the diabetes waiver study (03-31-96), no definitive empirical results were produced. Therefore, the FHWA initiated a retrospective case-referent study to assess the level of risk associated with the operation of commercial motor vehicles by insulin-using diabetic drivers. This is not a waiver study. Further rulemaking on diabetes is deferred until the completion of the retrospective case-referent study (12-31-98).

ANALYSIS: Regulatory Evaluation, 10/05/90, 55 FR 41028

Agency Contact: Sandra L. Zywokarte, Health and Welfare Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-2981

RIN: 2125–AB91

2525. +COMMERCIAL DRIVER'S LICENSE STANDARDS; BIOMETRIC IDENTIFIER

Priority: Other Significant

Legal Authority: PL 100-690, sec 9105

CFR Citation: 49 CFR 383

Legal Deadline:
Final, Statutory, December 31, 1990.

Abstract: This action was initiated to improve identification systems for truck and bus drivers as identified by the Congress in the Truck and Bus Regulatory Reform Act of 1988. Alternatives that were considered included retinal eye scans and advanced fingerprint technologies. After (1) further review, (2) a careful analysis of public comments submitted to the ANPRM, and (3) a review of demonstration project results, the FHWA has determined that current technology has not progressed to the point where an identification system could be established nationwide in a cost-effective manner and still provide the benefits for which a system was intended. Therefore, the FHWA has published an informational notice to summarize the results of the pilot study and the comments to the ANPRM to demonstrate how the technologies studied fall short of the demands in a commercial licensing environment. Additional studies are being conducted to assess the current state of the art of technology in biometric identification systems. The public docket will remain open while this research is being conducted. This project is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	05/15/89	54 FR 20875
ANPRM Comment Period End	07/14/89	
Information Notice	03/08/91	56 FR 9925
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information:

ANALYSIS: Regulatory Evaluation

Agency Contact: Phil Forjan, Transportation Specialist, Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4009

RIN: 2125–AC24

2526. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; PERIODIC REGISTRATION REQUIREMENTS FOR MOTOR CARRIERS

Priority: Other Significant

Legal Authority: 49 USC 31502; 49 USC 31103; 49 USC 31136

CFR Citation: 49 CFR 390

Legal Deadline: None

Abstract: The FHWA is proposing to require all motor carriers subject to the Federal Motor Carrier Safety Regulations (FMCSRs) to periodically update certain company information maintained by the agency in a national interstate motor carrier census file. This proposal delineates the information which motor carriers may be required to update every 2 years, as well as the methods motor carriers may have available to them to provide such information.

Timetable:

Action	Date	FR Cite
ANPRM	07/17/89	54 FR 29912
ANPRM Comment Period End	09/15/89	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Please note that this action (2125-AC28) was previously titled "Federal Motor Carrier Safety Regulations; General; Motor Vehicle Marking." A new RIN has been assigned for this subject. See 2125-AD49 for further information about motor vehicle marking 1992 Agenda.

ANALYSIS: Regulatory Evaluation

Agency Contact: Neill L. Thomas, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5884

RIN: 2125–AC28

2527. TRUCK LENGTH AND WIDTH EXCLUSIVE DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 315; PL 97-424, sec 411; PL 97-424, sec 416

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: The FHWA requested public comment on how, under section 411(h) and 416(b) of the Surface Transportation Act of 1982 (STA) (PL 97-424, 96 Stat. 2097), the Secretary may determine which safety or efficiency-enhancing devices are to be excluded when measuring the length and width of vehicles for compliance with federally mandated dimensions. The present system of employing rulemaking proceedings is too time-consuming and cumbersome to meet the needs of industry and is needlessly burdensome for FHWA. Therefore, a new approach will be proposed.

Timetable:

Action	Date	FR Cite
ANPRM	12/26/89	54 FR 52951
ANPRM Comment Period Extended to 06/01/90	03/21/90	55 FR 10468
ANPRM Comment Period End	03/26/90	
ANPRM Docket Reopened; Comment Period Extended to 08/21/90	06/22/90	55 FR 25673

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Max Pieper, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4029

RIN: 2125–AC30

2528. +QUALIFICATION OF DRIVERS; VISION

Priority: Other Significant

Legal Authority: 49 USC 2505; 49 USC 3102

CFR Citation: 49 CFR 391

Legal Deadline: None

Abstract: As part of a review of the medical qualification standards applicable to interstate CMV drivers, the FHWA requested comments on the need, if any, to amend its driver qualification requirements relating to the vision standard. A temporary waiver program was initiated and was concluded on March 31, 1996, to permit the FHWA to observe and collect data on the driving experience of a group of vision--deficient drivers who meet certain preconditions. Additionally, the FHWA considered further research to develop comprehensive performance-based visual standards for all commercial drivers. Information about the proposed research plan and public hearing on the subject was published in the Federal Register on June 5, 1996, at 61 FR 28547. The FHWA has awarded a contract with a medical center to develop medically-based recommendations for amending the current Federal vision requirements. Recommendations are to be delivered by September, 1998. These recommendations will be evaluated and considered in deciding what, if any, further proposals should be made concerning the vision standard.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/92	57 FR 6793
ANPRM Comment Period End	04/28/92	
Notice Request for Comments	06/05/96	61 FR 28547

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: Under RIN 2125-AD73, the FHWA adopted a final rule to allow drivers holding valid waivers from both the vision and diabetes standards to continue to operate in interstate commerce after March 31, 1996. See 61 FR 606 (Jan. 8, 1996) (notice of proposed rulemaking); 61 FR 13338 (March 26, 1996) (final rule) 61 FR 17253 (April 19, 1996) (final rule; technical correction). (See notices published at 57 FR 6793, February 28, 1992; 57 FR 10295, March 25, 1992; 57 FR 22370, June 3, 1992; 59 FR 50887, October 6, 1994; 59 FR 59386, November 17, 1994.

Agency Contact: Sandra L. Zywokarte, Health and Welfare Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2981

RIN: 2125–AC62

2529. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION: INTERMODAL CARGO CONTAINERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: This rulemaking action addresses the requirements of the Federal Motor Carrier Safety Regulations for securing intermodal cargo containers to trailers.

Timetable:

Action	Date	FR Cite
ANPRM	08/23/93	58 FR 44485
ANPRM Comment Period End	11/22/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2125–AC74

2530. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL TRANSPORTATION OF HAZARDOUS MATERIALS

Priority: Other Significant

Legal Authority: 49 USC 5105; 49 USC 5109

CFR Citation: 49 CFR 390.3; 49 CFR 397; 49 CFR 1.48

Legal Deadline:
Final, Statutory, November 15, 1991.

Abstract: This rulemaking will implement the statutory requirements of 49 USC 5109 and 49 USC 5105. Section 5109 addresses the establishment of motor carrier safety permit regulations for motor carriers transporting Class A or B explosives, liquefied natural gases, hazardous materials designated as extremely toxic by inhalation, or highway route controlled quantity radioactive materials. Section 5105 requires inspection of vehicles transporting those radioactive materials before each trip. The proposed rule will incorporate those provisions into the safety permit regulations. This action is considered significant because of substantial public and congressional interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	06/17/93	58 FR 33418
NPRM Comment Period End	08/16/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:
ANALYSIS: Regulatory Evaluation, 06/17/93, 58 FR 33418

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AC78

2531. +QUALIFICATIONS OF DRIVERS: HEARING DEFICIENCIES

Priority: Other Significant

Legal Authority: 49 USC 3102; 49 USC 2505

CFR Citation: 49 CFR 391; 49 CFR 1.48

Legal Deadline: None

Abstract: FHWA is considering amending its driver qualification requirements relating to the hearing standard found at 49 CFR 391.41(b)(11). FHWA believes that a review of the standard is necessary to assess the effect advances in medical science and technology may have on the standard. Such advances may lead to amending the current standard. The FHWA published an ANPRM (FHWA Docket No. MC-93-30) seeking comment on the hearing standard. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	12/15/93	58 FR 65634
ANPRM Comment Period Extended to 04/05/94	02/04/94	59 FR 5376
ANPRM Comment Period End	02/14/94	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: A related notice regarding possible waivers was published at 58 FR 65638 (Dec. 15, 1993). The FHWA has decided not to issue waivers in light of the recent decision of the U.S. Court of Appeals for the DC Circuit in Advocates for Highway and Auto Safety v. the Federal Highway Administration, No. 92-1411, August 2, 1994. In that case, the FHWA rule allowing commercial drivers with impaired vision in one eye to apply for waivers from the Federal vision standard was struck down because the Court of Appeals held that the agency lacked the data necessary to support its determination that the vision waiver program "is consistent with the safe operation of commercial motor vehicles." The FHWA initiated research in FY 1995 to determine if the hearing requirement is necessary and if so, what criteria it should encompass in relationship to driving tasks. The research was completed in August 1997 and the FHWA is not amending the current hearing standard at this time.

Agency Contact: Albert Alvarez, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4706

RIN: 2125–AD22

2532. HIGHWAY BEAUTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 131; 23 USC 315; 49 USC 1651

CFR Citation: 23 CFR 750

Legal Deadline: None

Abstract: The revision of these subparts will reduce their complexity, recognize the existence of State laws, regulations, and organizations implementing 23 USC 131, and emphasize the position of the State as the initial, primary, and principal focal point regarding the requirement of effective control. Potential costs should be reduced, albeit minimally. The principal benefit will be to give the States greater ability, in the context of the broad requirements of 23 USC 131, to respond to concepts and issues relevant to the States. We have been reviewing these regulations with the intent to focus on changes necessitated by ISTEA. We are continuing this review in order to be able to accommodate additions or changes effected by reauthorization of ISTEA.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: FHWA intends to continue review and analysis of all aspects of the HBA under RIN 2125-AD24 to propose changes to reduce the complexity of the highway beautification regulations and to emphasize the role of the State in its implementation. Intended changes which appeared in a prior Agenda under RIN 2125-AD88 related to the Dire Emergency Supplemental Appropriations Act of 1992 have been suspended and consolidated under this rulemaking.

Agency Contact: Robert A. Johnson, Chief, Program Services Division, Office of Real Estate Services, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington DC 20590
Phone: 202 366-2020

RIN: 2125–AD24

2533. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; SLEEPER BERTHS ON MOTOR COACHES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: Comments have been sought on the suitability of existing driver sleeper berth regulations for motor coaches and possible amendment to account for design differences between trucks and motor coaches.

Timetable:

Action	Date	FR Cite
ANPRM	01/12/94	59 FR 1706
ANPRM Comment Period End	03/14/94	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AD25

2534. MOTOR CARRIER SAFETY ASSISTANCE PROGRAM (MCSAP) ALLOCATION FORMULA

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240, sec 4002

CFR Citation: 49 CFR 350

Legal Deadline: None

Abstract: This action would modify the Motor Carrier Safety Assistance Program (MCSAP) distribution formula to allow States with incompatible intrastate regulations limited participation in the basic grant program beyond October 1, 1994. It does not change the distribution formula pertaining to those States that have achieved compatibility with respect to both interstate and intrastate transportation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/03/94	59 FR 5262
Interim Final Rule Effective	03/07/94	
Interim Final Rule Comment Period End	04/04/94	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Linda Taylor, Office of Motor Carrier Field Operations, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6308

RIN: 2125–AD30

2535. +HOURS OF SERVICE OF DRIVERS; SUPPORTING DOCUMENT RECORDKEEPING

Priority: Other Significant

Legal Authority: PL 103-311

CFR Citation: 49 CFR 395.8

Legal Deadline: NPRM, Statutory, November 5, 1997. Final, Statutory, November 6, 1999.
NPRM, Statutory, August 1995.
Final, Statutory, February 1996.

Abstract: A record of duty status (49 CFR 395.8) is required to be prepared for each day a driver operates a commercial motor vehicle in interstate commerce. All motor carriers are required to maintain the record of duty status for at least 6 months along with all documents that support the accuracy of the record of duty status (sec. 395.8(k)). The Hazardous Materials Transportation Authorization Act of 1994 (Pub. L. 103-311) mandates the Federal Highway Administration (FHWA) to specify what documents must be maintained to support the accuracy of the record of duty status. This rule will implement the statutory mandate that requires the agency to describe the type of supporting documents to be generated and maintained, as well as specify the quantity and length of time to maintain the supporting documents.

Timetable:

Action	Date	FR Cite
NPRM	04/20/98	63 FR 19457
NPRM Comment Period End	06/19/98	
Final Action	01/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Miller, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1790

RIN: 2125–AD52

2536. ADVANCED CONSTRUCTION OF FEDERAL AID PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101(a); 23 USC 104 to 106; 23 USC 109; 23 USC 110; 23 USC 113; 23 USC 115; 23 USC 118; 23 USC 120(e); 23 USC 121(c); 23 USC 125; 23 USC 134; 23 USC 315; 23 USC 320

CFR Citation: 23 CFR 630; 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is amending its regulation on advance construction of Federal-aid highway projects to incorporate changes made by the Dire Emergency Supplemental Appropriations Act, 1992, Pub. L. 102-302, 106 Stat. 248, and to provide more flexible funding arrangements for the States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/19/95	60 FR 36991

Action	Date	FR Cite
Comment Period End	09/18/95	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Max Inman, Office of Budget and Finance, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2853

RIN: 2125–AD59

2537. +TRANSPORTATION OF MIGRANT WORKERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5901 to 5907; 49 USC 31132; 49 USC 31133; 49 USC 31136; 49 USC 31502; 49 USC 31504

CFR Citation: 49 CFR 390; 49 CFR 392; 49 CFR 398; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is considering the continued need, if any, for its specific regulations on the transportation of migrant workers under 49 CFR 398. This action also proposes transferring certain definitions and driving requirements from part 398 to parts 390 and 392. These changes would eliminate redundant regulations in part 398 and enhance the safety of migrant workers transported in interstate commerce. This action is considered significant due to substantial public interest.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Miller, Transportation Specialist, Room 3107, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1790

RIN: 2125–AD81

2538. INSPECTION, REPAIR, AND MAINTENANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31133; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 396

Legal Deadline: None

Abstract: This action involves the use of technology to reduce recordkeeping. The FHWA issued a notice (60 FR 46682) requesting comments from motor carriers, vehicle and component manufacturers, technology vendors and the public on the use of advanced driver, vehicle and inspection technology. The FHWA plans to evaluate existing technologies to determine if they could be used to simplify or automate compliance with any of the FMCSRs without compromising public safety.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2125–AD82

2539. +MOTOR CARRIER REPLACEMENT INFORMATION/REGISTRATION SYSTEM

Priority: Other Significant

Legal Authority: 49 USC 13908

CFR Citation: 49 CFR 36

Legal Deadline:
Final, Statutory, January 1, 1998, See 49 U.S.C. 13908 for more detailed information.

Abstract: This action is in response to the requirements of section 103 of the Interstate Commerce Commission Termination Act of 1995, which added 49 USC 13908. This section requires the Secretary to initiate a rulemaking proceeding to replace the current DOT identification number system, single State registration system, the registration/licensing system, and the financial responsibility system, with a single, on-line Federal system. This action is considered significant due to substantial public interest. Statutory deadline not met due to range and depth of issues involved.

Timetable:

Action	Date	FR Cite
ANPRM	08/26/96	61 FR 43816
ANPRM Comment Period End	10/25/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dixie E. Horton, Office of Motor Carrier Planning and Customer Liaison, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4340

RIN: 2125–AD91

2540. GENERAL JURISDICTION OVER FREIGHT FORWARDER SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 13701; 49 USC 13709; 49 USC 13906; 49 USC 14101; 49 USC 14706

CFR Citation: 49 CFR 373

Legal Deadline: None

Abstract: This action gives notice of the FHWA's general jurisdiction over all segments of the freight forwarding industry (not just household good freight forwarders), in accordance with the ICC Termination Act of 1995, proposes changes to existing regulations to comport with those mandated by Congress, and clarifies the FHWA's jurisdiction over freight forwarders in other areas.

Timetable:

Action	Date	FR Cite
NPRM	01/28/97	62 FR 4096
NPRM Comment Period End	03/31/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor

Carrier Research & Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2125–AE00

2541. TRAFFIC CONTROL DEVICES, MARKINGS, SIGNALS, AND SYSTEMS FOR RAILROAD-HIGHWAY GRADE CROSSINGS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: This document proposes new text for the Manual on Uniform Traffic Control Devices (MUTCD) in part III, markings; in part IV, signals; and in part VIII, traffic control systems for railroad-highway grade crossings. The purpose of these amendments is to include metric dimensions and values for the design and installation of traffic control devices and to improve the organization and discussion of the contents of the MUTCD.

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendments	01/06/97	62 FR 691
Comment Period End	08/30/97	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda L. Brown, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2192

RIN: 2125–AE11

2542. ENGLISH LANGUAGE REQUIREMENT; QUALIFICATIONS OF DRIVERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 504; 49 USC 31133; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 391; 49 CFR 1.48

Legal Deadline: None

Abstract: The current regulation is little changed from the original rule adopted in 1936. The American Civil Liberties Union (ACLU) has written to the Department asserting that the regulation, as written, is overly broad and subject to arbitrary enforcement, causing potential interference with constitutional guarantees of due process and equal protection. The ACLU requested an opportunity to submit a comprehensive analysis of this issue. This ANPRM is intended to provide the ACLU with such an opportunity and to open this issue for public comment. The FHWA seeks to modify its current regulation to require drivers to possess the basic functional communication/comprehension ability necessary to ensure safety, consistent with applicable law.

Timetable:

Action	Date	FR Cite
ANPRM	08/26/97	62 FR 45200
ANPRM Comment Period End	10/27/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard H. Singer, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AE19

2543. REVISION OF MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES; GENERAL PROVISIONS AND TRAFFIC CONTROL FOR SCHOOL AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655; 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: In this action, new text for the MUTCD, part 1, General Provisions and part 7, Traffic Control for School Areas, is proposed. The purpose of such revision is to reformat the text for clarity of intended meanings, to include metric dimensions and values for the design and installation of traffic control devices, and to improve the overall organization and discussion of the contents in the MUTCD. The proposed changes in this action are intended to expedite traffic, promote uniformity, improve safety, and incorporate technology advances in traffic control device applications.

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendments	12/05/97	62 FR 64324
Comment Period End	09/08/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda Brown, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2192

RIN: 2125–AE25

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Completed Actions

2544. TRANSPORTATION OF HAZARDOUS MATERIALS; TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1801 et seq; PL 101-615

CFR Citation: 49 CFR 397; 49 CFR 1.48

Legal Deadline: Final, Statutory, May 16, 1992.

Abstract: This action revises the FHWA's transportation of hazardous materials regulations to update cross-references to the definitions of class 7 (radioactive) materials in the Federal Hazardous Materials Regulations (HMRs) to provide a current publication for routing of non-radioactive hazardous materials (NRHM) in the Federal standards, to update the address to which States and Indian tribes must provide information for routing designations, and to remove obsolete dates, to correct erroneous references, and to clarify the definition of a preferred route. The amendments are necessary to correct minor errors in citations for sections 397.101(b)(1), (b)(2), (d) and (g).

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/24/92	57 FR 44129
Final Action	05/07/96	61 FR 20496
Final Action Effective	05/07/96	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Pursuant to 5 U.S.C. 553(b), requirements for notice and public comment are not applicable since this action involves a matter of agency practice and procedure. Originally, this action contained language incorporating (without substantive change) the RSPA's regulation at 49 CFR 397, subpart E. However, it was determined that this incorporation should be a part of RIN 2125-AC80, "Transportation of Hazardous Materials; Highway Routing." The final rule for RIN 2125-AC80 was published on October 12, 1994, at 59 FR 51824.

ANALYSIS: Regulatory Evaluation, 09/24/92, 57 FR 44129

Agency Contact: Nathan Root, Office of Motor Carriers, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8759

RIN: 2125–AD00

2545. ANTILOCK BRAKE SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA amended the Federal Motor Carrier Safety Regulations (FMCSRs) to require that air-braked truck tractors manufactured on or after March 1, 1997, and air-braked single-unit trucks, buses, trailers, and converter dollies manufactured on or after March 1, 1998, be equipped with antilock brake systems (ABSs) that meet the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 121. The FHWA also required that hydraulic braked trucks and buses manufactured on or after March 1, 1999, be equipped with ABSs that meet the requirements of FMVSS No. 105. This rulemaking ensures that the in-service brake standards of the FMCSRs are consistent with the FMVSSs and to improve the safety of operation of commercial motor vehicles (CMVs) by reducing the incidence of accidents caused by jackknifing and other losses of directional stability and control during braking. With regard to CMVs manufactured prior to the dates previously mentioned, the FHWA is not requiring that motor carriers be required to retrofit such vehicles with ABSs.

Timetable:

Action	Date	FR Cite
Notice of Intent	03/10/95	60 FR 13306
NPRM	07/12/96	61 FR 36691
NPRM Comment Period End	09/10/96	
Final Action	05/04/98	63 FR 24454
Final Action Effective	06/03/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AD42

2546. ZERO-BASE REVIEW OF THE FEDERAL MOTOR CARRIER SAFETY REGULATIONS: REGULATORY REMOVALS AND SUBSTANTIVE AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31502; 49 USC 31101 et seq; 49 USC 31136; 49 USC 322; 49 USC 504; 49 USC 31133; 49 USC 31138; 49 USC 31139; 49 USC 31502; 49 USC 31504

CFR Citation: 49 CFR 383; 49 CFR 387; 49 CFR 390 to 392; 49 CFR 395 to 397

Legal Deadline: None

Abstract: The FHWA requested comments on whether to remove, amend, and redesignate certain regulations on a variety of subjects. (For example: financial responsibility; general applicability and definitions; accident recordkeeping requirements; qualifications of drivers; driving of commercial motor vehicles; hours of service of drivers; and the transportation of hazardous materials.) This action was in response to the FHWA's Zero Base Regulatory Review.

Timetable:

Action	Date	FR Cite
NPRM	01/27/97	62 FR 3855
NPRM Comment Period Extended	03/27/97	62 FR 14662
NPRM Comment Period End	03/28/97	
Extended NPRM Comment Period End	05/12/97	
Final Action	06/18/98	63 FR 33254
Final Action Effective	07/20/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Deborah M. Freund, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5541

RIN: 2125–AD72

2547. NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; PEDESTRIAN, BICYCLE, AND SCHOOL WARNING SIGNS

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: This amendment expedites traffic, improves safety, and provides a more uniform application of highway signs, signals, and markings. Pedestrian-motor vehicle and bicycle-motor vehicle crashes are serious problems in the United States. A total of 5,412 pedestrians were reported killed and another 82,000 were injured in motor vehicle crashes in 1996. An estimated 761 bicyclists were killed and another 59,000 were injured in

DOT—FHWA

Completed Actions

motor vehicle crashes in 1996. The DOT Secretarial Initiative for Pedestrian and Bicycle Safety is a new effort to promote walking and bicycling as safe, healthy, and efficient ways to travel. The Secretarial Initiative will attempt, among other things, to reduce by 10 percent, by the year 2000, the number of injuries and fatalities occurring to pedestrians and bicyclists.

After consideration of all the comments received in response to its notice of proposed amendment, the FHWA believes that the permissive use of fluorescent yellow green color will promote safety while providing to State and local governments the flexibility necessary to enable them to adequately address their own situations. This rulemaking will permit States and local governments to use, as an option, the new color, fluorescent yellow green, that appears to improve the visibility of important warning signs and to improve safety at locations where they are used.

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendments	06/07/96	61 FR 29234
Comment Period Extended	10/17/96	61 FR 54111
Extended Comment Penod End	02/15/97	
Final Action	06/19/98	63 FR 33546
Final Action Effective	06/19/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ernest Huckaby, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9064

RIN: 2125–AD89

2548. • FEDERAL MOTOR CARRIER REGULATIONS; AUTHORITY CORRECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 13101; 49 USC 13301; 49 USC 13701 to 13702; 49 USC 13706 to 13707; 49 USC 14101

CFR Citation: 49 CFR 365; 49 CFR 372; 49 CFR 373; 49 CFR 374; 49 CFR 377; 49 CFR 1.48

Legal Deadline: None

Abstract: This document makes technical amendments to the authority statements for various FHWA motor carrier regulations in order to remove the obsolete authority citations provided in the subparts. This correction is necessary due to changes required by the ICC Termination Act of 1995 (ICCTA) and the transfer of certain regulatory functions to the FHWA from the former Interstate Commerce Commission (ICC). The effect of these amendments is to remove the outdated authority citations listed in the subparts.

Timetable:

Action	Date	FR Cite
Final Action	05/22/98	63 FR 28286

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael J. Falk, Attorney, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1384

RIN: 2125–AE41

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Prerule Stage

2549. REVIEW: LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Standard 108 requires passenger cars sold after October 1, 1985, to be equipped with center high-mounted stop lamps (CHMSLs). NHTSA undertook a staff evaluation of the safety effectiveness, benefits, and cost of CHMSLs. A preliminary report was published in March 1987, an interim report in August 1989, and a final report in April 1998. NHTSA plans to issue a summary of the comments it received on the final report in October 1998.

Timetable:

Action	Date	FR Cite
Preliminary Evaluation Report Published	03/20/87	52 FR 9609
Intenm Evaluation Report Published	08/04/89	54 FR 32153
Interim Evaluation Report Comments Reviewed and Docketed	02/21/90	
Final Evaluation Report	04/07/98	63 FR 17043
Reopen Comment Period End	08/05/98	
Complete Review	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The final evaluation report indicated that cars and light trucks equipped with center high-mounted stop lamps were 4.3 percent less likely to be struck in the rear while braking than cars and light trucks without the lamps.

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AB76

2550. REVIEW: PASSENGER-CAR BACK SEAT OCCUPANT PROTECTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: Federal Motor Vehicle Safety Standard No. 208 requires passenger cars manufactured after December 11, 1989, to have Type 2 (lap-and-shoulder)

DOT—NHTSA

Prerule Stage

belts at the rear outboard seats. The agency will analyze the actual on-the-road experience of vehicles equipped with lap-and-shoulder belts in the rear seats to measure the reduction of fatalities and injuries relative to cars equipped only with lap belts. The regulation was selected for review because of public interest.

Timetable:

Action	Date	FR Cite
Begin Review	07/01/93	
Complete Review	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AE95

2551. REVIEW: ODOMETER FRAUD

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 580

Legal Deadline: None

Abstract: This review involves analysis of the incident rates and costs of odometer fraud and an assessment of State and Federal efforts to combat odometer fraud. To complete this review, the agency has requested permission to collect a sample of odometer readings of registered passenger cars that are less than 10 years old from vehicle dealers, distributors, vehicle title files, and State Department of Motor Vehicle agencies. Congress has directed the agency to conduct this review.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/95	
Request for Comment Collection of Information	09/23/96	61 FR 49809
Comment Period End	11/11/96	
Request for Comment Collection of Information	06/06/97	62 FR 31186
Comment Period End	07/07/97	
Complete Review	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
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RIN: 2127–AF53

2552. REVIEW: THEFT PREVENTION—5-YEAR REPORT TO CONGRESS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33112; 49 USC 33113(b)

CFR Citation: 49 CFR 541

Legal Deadline:
Other, Statutory, October 25, 1997, The Anti Car Theft Act of 1992 was enacted on October 25 1992.

Abstract: The standard requires certain passenger motor vehicles to have identifying numbers or symbols to be placed on major parts to reduce the incidence of motor vehicle thefts by facilitating the tracking and recovering of parts from stolen vehicles. Five years after enactment of the Anti Car Theft Act of 1992, the Secretary of Transportation shall submit to Congress a report on the effects of the standard on motor vehicle thefts and recoveries. The agency seeks public review and comment on this preliminary report prior to its submission to Congress. The report does not contain recommendations at this time. The department will develop recommendations after a review of public comments.

Timetable:

Action	Date	FR Cite
Preliminary Evaluation Report	06/26/97	62 FR 34494
Comment Period End	08/11/97	
Complete Review	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The preliminary report indicated that theft rates, which increased during the 1980's, leveled off or even began to decline after 1989-90. Recovery rates changed little during 1984-95. Preliminary indications are that parts marking and anti-theft devices have had beneficial effects on auto thefts and/or recoveries. The provisions of the 1984 and 1992 Theft Acts along with parts marking and anti-theft devices have given law enforcement tools to deter thefts, trace stolen vehicles and parts, and apprehend and convict thieves.

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AF55

2553. ADD-ON SEAT BELT DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is requesting comments to determine whether it should regulate seat belt positioning devices, such as by a labeling requirement warning consumers regarding the suitability of these devices for a particular height/weight/age of child.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AG49

DOT—NHTSA

Prerule Stage

2554. BOOSTER SEATS FOR OLDER CHILDREN

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: The agency is requesting comments on whether a petition for rulemaking to amend the child restraint standard should be granted. The petition requests an amendment to facilitate the production of lap belt-installed booster seats for children weighing between 18 and 23 kilograms, such as by allowing use of a tether in some of the compliance tests.

Timetable:

Action	Date	FR Cite
Request for Comment	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AH14

DEPARTMENT OF TRANSPORTATION (DOT)

National Highway Traffic Safety Administration (NHTSA)

Proposed Rule Stage

2555. PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321 et seq (National Environmental Policy Act-NEPA)

CFR Citation: 49 CFR 520

Legal Deadline: None

Abstract: NHTSA's regulation will be reviewed and reissued, as necessary, where it conflicts with or is duplicative of the regulations of Council on Environmental Quality (CEQ), 40 CFR parts 1500-1508, and with DOT Order 5610.1C, each of which implements the National Environmental Policy Act (NEPA), 42 USC 4321, et seq.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul Atelsek, Attorney Advisor, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2992

RIN: 2127–AB79

2556. +ROLLOVER PROTECTION

Regulatory Plan: This entry is Seq. No. 89 in Part II of this issue of the Federal Register.

RIN: 2127–AC64

2557. +WHEELCHAIR LIFTS

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: With a Supplemental Notice of Proposed Rulemaking (SNPRM), the agency proposes to establish two new safety standards specifying requirements for platform lifts and for buses and multipurpose passenger vehicles equipped with such lifts. The equipment standard would set minimum platform dimensions and would limit the size of platform protrusions and gaps between the platform and either the vehicle floor or the ground. The standard would also require handrails, warning signals and retaining barriers. The proposed vehicle standard would require vehicle manufacturers to install lifts in accordance with the lift manufacturer's instructions and ensure that specific information is made available to lift users. The standards are intended to prevent injuries and fatalities during lift operation and to promote uniformity of Federal standards and guidelines for platform lifts. This action is considered significant due to substantial public interest in transportation of individuals with disabilities.

Timetable:

Action	Date	FR Cite
NPRM	02/26/93	58 FR 11562
NPRM Comment Period End	04/27/93	
SNPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 02/26/93, 58 FR 11562

Agency Contact: Gayle Dalrymple, Safety Standards Engineer, Office of Crash Avoidance, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6559
Fax: 202 366-4329

RIN: 2127–AD50

2558. RADIATOR SAFETY CAP

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency has requested comments on the feasibility of and necessity for rulemaking to require the installation of thermal locking radiator caps or other devices on motor vehicles with water-cooled engines to prevent scalding injuries. Although the notice referred only to thermal locking radiator caps, comments were solicited on any device or technology designed to prevent such scalding injuries. Petition was granted.

DOT—NHTSA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
Request for Comments	06/10/93	58 FR 32503
Comment Period End	08/09/93	
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AE59

2559. UPGRADE PERFORMANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.301

Legal Deadline: None

Abstract: This action announces the agency's plan to consider upgrading the standard by making the current crash requirements more stringent and by broadening the standard's focus to include mitigation concepts related to fuel system components and environmental and aging tests related to components. This action also requests comments on the agency's plan to explore a three-phase approach to upgrading the standard, data, methods, and strategies which may assist in the agency's regulatory decisions in defining specific requirements and test procedures for upgrading the standard.

Timetable:

Action	Date	FR Cite
Request for Comments	12/14/92	57 FR 59041
Comment Period End	02/12/93	
ANPRM	04/12/95	60 FR 18566
ANPRM Comment Period End	06/12/95	
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: This action will respond to RIN 2127-AE83.

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AF36

2560. ELECTRIC VEHICLE SAFETY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 1.50; 49 CFR 501.8

Legal Deadline: None

Abstract: The agency is proposing to regulate electric vehicles (EVs) with respect to battery electrolyte spillage in a crash or rollover, and electric shock hazard in a crash or rollover, and during repair and maintenance.

Timetable:

Action	Date	FR Cite
Request for Comments	09/30/94	59 FR 49901
Comment Period End	11/29/94	
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AF43

2561. ALTERNATIVE GEOMETRIC VISIBILITY REQUIREMENTS FOR LAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to harmonize the lighting standard's geometric visibility requirements for signal lamps and rear side marker color with those of the ECE. Harmonization of the standard worldwide, without reducing safety, would allow manufacturers to reduce costs by producing to a single world vehicle standard rather than several, thus reducing costs and improving the flow of trade.The agency is issuing additional/alternative proposals.

Timetable:

Action	Date	FR Cite
NPRM	10/26/95	60 FR 54833
NPRM Comment Period End	12/26/95	
Comment Period Extended to 05/16/96	12/27/95	60 FR 66953
SNPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: On February 27, 1997 (62 FR 8883), the agency terminated rulemaking in which the agency had asked for comments on whether the performance and installation of front and rear fog lamps should be regulated. In response to these comments, the SAE has established a Fog Lamp Task Force to develop an internationally-acceptable fog lamp standard, on which a Federal standard could be based. The agency is continuing to review comments on the other issues stated in the October 26, 1995, notice.

ANALYSIS: Regulatory Evaluation, 10/26/95, 60 FR 54833

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
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RIN: 2127–AF75

2562. DOOR LATCH EXEMPTION FOR VEHICLES EQUIPPED WITH WHEELCHAIR LIFTS AND RAMPS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or

duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.206

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to modify the "Door Locks and Door Retention Components" requirements by exempting vehicles with wheelchair ramps and to establish uniform requirements for vehicles with wheelchair lifts and ramps. These modifications are necessary because of changes in the types of vehicles equipped with wheelchair lifts/ramps and changes in lift/ramp structural designs which have come to pass in recent years. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: On 05/31/96 (61 FR 27325), the agency published a grant notice. The agency believes that the suggested changes made by the petitioner merit additional study and research. The agency is currently conducting research to determine if door latch exemptions are still necessary. Simultaneously, the agency is developing a door latch procedure for sliding doors.

Agency Contact: Clarke Harper, Division, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AG16

2563. DEALER NOTIFICATION OF DEFECT OR NONCOMPLIANCE DETERMINATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30102; 49 USC 30103; 49 USC 30111; 49 USC 30112; 49 USC 30115; 49 USC 30116; 49 USC 30118; 49 USC 30119; 49 USC 30120; 49 USC 30163; 49 USC 30165; 49 USC 30166

CFR Citation: 49 CFR 577

Legal Deadline: None

Abstract: The proposed rule would implement an amendment to 49 USC Chapter 301 which prohibits dealers from selling motor vehicles or motor vehicle equipment that have been determined to contain a safety-related defect or noncompliance with a Federal motor vehicle safety standard until the defect or noncompliance is remedied. It would set forth criteria to govern the timing and content of notifications of defects and noncompliances that manufacturers must send to their dealers. Given the length of time that has passed since issuance of the NPRM (9/27/93), the agency is issuing a supplemental notice of proposed rulemaking to provide an opportunity for additional public comment on the most appropriate regulatory scheme for notifying dealers of safety-related defects and noncompliances with Federal motor vehicle safety standards.

Timetable:

Action	Date	FR Cite
NPRM	09/27/93	58 FR 50314
NPRM Comment Period End	10/27/93	
SNPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jonathan D. White, Defects Investigator, Office of Defects Investigation, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5227

RIN: 2127–AG27

2564. MODIFIED VEHICLES TO ACCOMMODATE A PERSON'S DISABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30122(c)

CFR Citation: 49 CFR 595

Legal Deadline: None

Abstract: The agency is proposing to establish new conditions under which a vehicle may be modified to accommodate a person's disability so that the modifier will not be subjected to the statutory prohibition against the "making inoperative" requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/28/98	63 FR 51547
NPRM Comment Period End	12/28/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gayle Dalrymple, Safety Engineer, Rollover and Adapted Vehicle Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5559
Fax: 202 366-4329

RIN: 2127–AG40

2565. CONVEX CROSS VIEW MIRRORS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.111

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is requesting comments on the issue of rear mounted cross view mirrors on light and medium duty trucks for the purpose of eliminating the blind spot directly behind the vehicle. The petitioner requested that these mirrors be mandated to eliminate backing accidents where children could be seriously injured or killed. Petition was granted.

Timetable:

Action	Date	FR Cite
Request for Comments	06/17/96	61 FR 30586
Comment Period End	10/15/96	
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Vanlderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AG41

2566. UPGRADE ROOF CRASHWORTHINESS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.216

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to upgrade the roof crashworthiness particularly since a larger percentage of American vehicles consist of light duty and utility vehicles, a class of vehicles more prone to rollover accidents. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AG51

2567. FIFTH PERCENTILE FEMALE DUMMY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: The agency is proposing to adopt the Hybrid III small female size dummy. The notice will specify instrumentation, calibration test procedures, and calibration performance criteria for the Hybrid III small female.

Timetable:

Action	Date	FR Cite
NPRM	09/03/98	63 FR 46981
NPRM Comment Period End	12/02/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: This rulemaking action is an additional part of the Adverse Side Effects of Air Bags (RIN 2127-AG14).

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG66

2568. +ADVANCED AIR BAGS

Regulatory Plan: This entry is Seq. No. 90 in Part II of this issue of the Federal Register.

RIN: 2127–AG70

2569. ADVANCED AIR BAG DUMMY RULE FOR HYBRID III TYPE 3-YEAR-OLD SIZE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572; 49 CFR 571.208; 49 CFR 571.213

Legal Deadline: None

Abstract: The agency is proposing specifications for a new Hybrid III type 3-year-old size test dummy for possible use in test procedures being proposed in amendments to Federal Motor Vehicle Safety Standard Nos. 208 and 213. The new test dummy and procedures are being proposed to facilitate the development and introduction of new advanced air bags and other types of advanced restraints technologies for crash protection of smaller size children in a variety of automobile crash impacts.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG77

2570. ADVANCED AIR BAG DUMMY RULE FOR CRABI 12-MONTH-OLD SIZE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572; 49 CFR 571.208; 49 CFR 571.213

Legal Deadline: None

Abstract: The agency is proposing specifications for a new CRABI 12-month-old size test dummy for possible use in test procedures being proposed in amendments to Federal Motor Vehicle Safety Standard Nos. 208 and 213. The new test dummy and procedures are being proposed to facilitate the development and introduction of new advanced air bags and other types of advanced forward and rearward facing child restraints technologies, as well as protection of smaller size children in car beds in a variety of automobile crash impacts.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG78

2571. ADVANCED AIR BAG DUMMY RULE FOR HYBRID III 95TH PERCENTILE MALE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

DOT—NHTSA

Proposed Rule Stage

CFR Citation: 49 CFR 572; 49 CFR 571.208

Legal Deadline: None

Abstract: The agency is proposing specifications for a new 95th percentile male Hybrid III size test dummy for possible use in test procedures being proposed in amendments to Federal Motor Vehicle Safety Standard No. 208. The new test dummy and procedures are being proposed to facilitate the development and introduction of new advanced air bags and other types of advanced restraints technologies for crash protection in frontal impacts.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG79

2572. ADMINISTRATIVE REWRITE FOR HEADLAMP REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency is proposing to rewrite the sections relating to headlighting. The rewrite is important because of the standard's age and numerous amendments which have made it difficult to read and interpret. The revised standard should reduce burden especially to small manufacturers because of improved clarity. The reorganization of the sections relating to other lamps will be addressed in a separate rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AG87

2573. SIGNAL LAMPS USED WITH LIGHT EMITTING DIODES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to revise the requirements for signal lamps equipped with 3 or more light emitting diodes (LED). The current requirements have become design restrictive and a service burden for vehicle and signal lamp manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	06/24/98	63 FR 34350
Extension of Comment Period	08/03/98	63 FR 41222
NPRM Comment Period End	10/09/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 06/24/98, 63 FR 34350

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AG88

2574. STATE ISSUED IDENTIFICATION DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, sec 656

CFR Citation: 23 CFR 1325

Legal Deadline:
NPRM, Statutory, September 30, 1997.

Abstract: The agency is proposing to accept, for identification purposes, State-issued drivers licenses or comparable identification documents that meet certain criteria set forth in this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	06/17/98	63 FR 33219
Reopen Comment Period	08/19/98	63 FR 44415
NPRM Comment Period End	10/02/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: William Holden, Division Chief, Driver Register and Traffic Records Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4800
Fax: 202 366-2746

RIN: 2127–AG91

2575. MOTORCYCLE MOUNTED REFLEX REFLECTOR HEIGHT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering allowing a lower minimum mounting height for side reflex reflectors on motorcycles. The intent is to harmonize United States lighting safety standards with European and Asian reflector position regulations and improve the flow of trade by creating "windows of harmonization" that will allow manufacturers to market "common" vehicles in global markets.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

DOT—NHTSA

Proposed Rule Stage

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AG92

2576. UNIFORM TIRE QUALITY GRADING TEST PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30123

CFR Citation: 49 CFR 575.104

Legal Deadline: None

Abstract: The agency is proposing modifications to the test procedures for tire treadwear under the Uniform Tire Quality Grading (UTQG) Standard. This change is intended to stabilize the unwarranted increases in treadwear grades by modifying the procedures for calibrating and selecting course monitoring tires. No change to the existing treadwear grade levels is anticipated.

Timetable:

Action	Date	FR Cite
NPRM	06/05/98	63 FR 30695
Extension of Comment Period	08/04/98	63 FR 41538
NPRM Comment Period End	10/05/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 06/05/98, 63 FR 30695

Agency Contact: Sanjay Patel, Engineer, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0307
Fax: 202 366-4329

RIN: 2127–AG96

2577. +ALLOCATION OF FUEL ECONOMY CREDITS

Priority: Other Significant

Legal Authority: 49 USC 32903

CFR Citation: 49 CFR 534

Legal Deadline: None

Abstract: The agency is proposing rulemaking to clarify the allocation of fuel economy credits between predecessor and successor automobile manufacturers. The use of carry forward or carry back credits will be specified for manufacturers that merge. This action is considered significant because it will affect the treatment of the Corporate Average Fuel Economy (CAFE) penalties.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Orron Kee, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-4329

RIN: 2127–AG97

2578. BUY AMERICAN REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 97-424

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The agency is proposing to exempt certain purchases by grantees from the requirements of the Department of Transportation's Buy American provisions to streamline and improve the grant process. These proposed exemptions will include small purchases not to exceed the current small purchase threshold.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Donaldson, Senior Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1834
Fax: 202 366-3820

RIN: 2127–AG99

2579. POLITICAL SUBDIVISION PARTICIPATION IN STATE HIGHWAY SAFETY PROGRAMS AND STATE HIGHWAY SAFETY AGENCY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 402

CFR Citation: 23 CFR 1250; 23 CFR 1251

Legal Deadline: None

Abstract: In response to the President's Regulatory Reinvention Initiative, the agency is proposing to amend certain provisions concerning the State Highway Safety Programs to streamline them and delete obsolete or unnecessary requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: John Donaldson, Senior Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1834
Fax: 202 366-3820

RIN: 2127–AH00

2580. UNIFORM PROCEDURES FOR STATE HIGHWAY SAFETY PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 402

CFR Citation: 23 CFR 1200

Legal Deadline: None

Abstract: The agency is proposing to amend the regulation for the State Highway Safety Program to change the submission date for the State's Highway Safety Plan documents.

DOT—NHTSA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: John Donaldson, Senior Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1834
Fax: 202 366-3820

RIN: 2127–AH01

2581. PLACEMENT OF WHEELCHAIR RESTRAINTS ON BUSES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.217

Legal Deadline: None

Abstract: To prevent blocking of the emergency exits, the agency is proposing to add a new section to the standard to not allow the placement of wheelchair securement anchorages or other devices that protrude into the aisle of an emergency exit in all buses.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AH03

2582. INCORPORATE THE 1996 REVISION OF THE AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to incorporate the 1996 revision of the American National Standards Institute (ANSI) standard for safety glazing used in motor vehicles and other minor revisions into the agency's current standard for safety glazing used in motor vehicles.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4327

RIN: 2127–AH08

2583. HARMONIZATION OF HEAD RESTRAINTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.202

Legal Deadline: None

Abstract: The agency is proposing to modify the current head restraint height requirements to correspond to the Economic Commission for Europe (ECE) Regulation No. 25 and to propose performance requirements which are intended to assure that the head restraint, if adjusted, will remain locked in specific backseat and height positions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AH09

2584. TIRE IDENTIFICATION SYMBOLS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 574

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to require that the date of manufacture of a tire be expressed in four digits instead of the currently-required three digits. This will bring the agency's tire date code regulation into harmony with the United Nations' Economic Commission for Europe (ECE) regulation and the International Organization for Standardization (ISO). The agency is also proposing to reduce the size of the date code lettering from a minimum of 6 mm to a minimum of 4mm. This will reduce the cost impact to tire manufacturers while still providing a readable date code symbol.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Soodoo, Group Leader, Vehicle Dynamics Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329

RIN: 2127–AH10

DOT—NHTSA

Proposed Rule Stage

2585. TRUCK AIR BRAKING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to modify the air brake requirements for five of the ten recommended modifications. These areas are to provide consistency between table I., Stopping Sequence, item 4(b) and S5.7.3(b); provide wording for single-unit vehicles to prevent single-unit axle overloading; clarify emergency brake requirements for trucks and buses; address the misconceptions about the wheel lock provisions as they apply to vehicles with tandem axles; and correct two minor typographical errors. The other five recommendations will be denied.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Soodoo, Group Leader, Vehicle Dynamics Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329

RIN: 2127–AH11

2586. MOTORCYCLE BRAKING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.122

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering eliminating the requirements for the minimum hand lever force (5 pounds) and the minimum foot pedal force (10 pounds) for fade and water recovery tests.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Soodoo, Group Leader, Vehicle Dynamics Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329

RIN: 2127–AH15

2587. HEAVY VEHICLE ANTILOCK BRAKE SYSTEM (ABS) PERFORMANCE REQUIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105; 49 CFR 571.121

Legal Deadline: None

Abstract: The agency is proposing performance tests for ABS-equipped single unit trucks and buses. ABS equipment requirements became effective for air-braked single unit trucks, buses, and trailers on March 1, 1998, and for hydraulic-braked trucks and buses becomes effective on March 1, 1999. The agency indicated in prior rulemaking notices that it would consider supplementing these ABS equipment requirements with performance requirements after conducting tests to determine if such testings are practicable and repeatable for trucks and buses.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Soodoo, Group Leader, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329

RIN: 2127–AH16

2588. FUNCTIONAL EQUIVALENCE OF HEADLAMP CONCEALMENT WITH EUROPEAN REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether the headlamp concealment requirements of the standard are functionally equivalent from a safety perspective to similar European requirements and determining whether it is possible to permit vehicle manufacturers to certify to either the current US performance or to the current European performance. If this is possible, the standard will be amended to permit such certification.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AH18

2589. FUNCTIONAL EQUIVALENCE OF WINDSHIELD WASHING AND WIPING SYSTEMS WITH EUROPEAN REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.104

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency will determine whether the windshield washing and wiping requirements of the standard are functionally equivalent from a safety perspective to similar European requirements and determine whether it is possible to permit vehicle manufacturers to certify to either the

current US performance or to the current European performance. If this is possible, the standard will be amended to permit such certification.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Vanlderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AH20

2590. FUNCTIONAL EQUIVALENCE OF WINDSHIELD DEFROSTING AND DEFOGGING SYSTEMS WITH EUROPEAN REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.103

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency will determine whether the windshield defrosting and defogging requirements of the standard are functionally equivalent from a safety perspective to similar European requirements and determine whether it is possible to permit vehicle manufacturers to certify to either the current US performance or to the current European performance. If this is possible, the standard will be amended to permit such certification.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AH22

2591. DEFINITION OF COMMUNITY TRANSPORTATION VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 9 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: The agency will amend various sections of part 571 to create a new vehicle type, tentatively called community transportation vehicles, that will have to meet the crashworthiness standards applicable to school buses, but will not have to meet the crash avoidance standards (i.e., stop arms, flashing lights, etc.). This will allow manufacturers to certify vehicles that will be less expensive and as safe as a school bus for transportation of Head Start students because the school bus crash avoidance features are unnecessary when there is no curb-side pickup.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paul Atelsek, Attorney Advisor, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC20590
Phone: 202 366-2992
Fax: 202 366-3820

RIN: 2127–AH23

2592. • METRIC CONVERSION - PHASE III

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166; PL 100-418, sec 5164

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: The agency is amending selected Federal motor vehicle safety standards by converting English measurements in those standards to metric measurements. This rulemaking is the third and final in a series that the agency will undertake to implement the Federal policy that the metric system is the preferred system of weights and measures for U.S. trade and commerce. The conversions are not intended to change the stringency of the affected Federal motor vehicles safety standards.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Noble Bowie, Director, Office of Planning and Consumer Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AH27

2593. • PUBLIC PARTICIPATION IN ACTIVITIES RELATING TO THE AGREEMENT ON GLOBAL TECHNICAL REGULATIONS: STATEMENT OF POLICY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 551

Legal Deadline: None

Abstract: The agency is soliciting public comments on a draft statement of policy concerning procedures for facilitating public participation in the agency's activities relating to the implementation of the pending United Nations/Economic Commission for Europe (UN/ECE) Agreement on Global Technical Regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Julie Abraham, Acting Director, Office of International Harmonization, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1455

RIN: 2127–AH29

2594. • MOTOR VEHICLE CONTENT LABELING CALCULATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32304

CFR Citation: 49 CFR 583

Legal Deadline: None

Abstract: The agency is proposing several changes in its content labeling regulation to implement provisions included in the Transportation Equity Act of the 21st Century. Content calculation procedures to provide vehicle manufacturers added flexibility in making content determinations where outside suppliers have not responded to requests for content information which are now temporary will be made permanent. This flexibility will be available for up to ten percent, by value, of a carline's total parts content from outside suppliers. Outside suppliers of parts will count U.S./Canadian content where it is less than 70 percent. Engine and transmission countries of origin will be determined by including assembly labor. Certain small parts value will be assigned to the country of the assembly plant.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Orron Kee, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-4329

RIN: 2127–AH33

2595. • UPGRADE DOOR RETENTION PERFORMANCE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.206

Legal Deadline: None

Abstract: Based upon annual average estimates from the 1988 through 1996 Fatal Analysis Reporting System (FARS) and the National Automotive Sampling System (NASS), there is an annual average of 2,515 fatalities and 1,882 serious injuries due to door ejections. Side door ejections are the second leading cause of ejections in all crashes, superseded only by ejections through fixed glazing. One of the activities of agency rollover research focuses on reducing injuries and fatalities resulting from side door ejections. This research has led the agency to potential significant solutions to mitigating a substantial number of these fatalities and injuries by improving side door retention performance. Therefore, the agency is proposing to upgrade the door retention requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AH34

2596. • THEFT DATA FOR CALENDAR YEAR 1997

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33104(b)(4)

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: This action will publish the preliminary data on passenger motor vehicles that occurred in calendar year (CY) 1997 for model year (MY) 1997 vehicles. The theft data will indicate the overall vehicles' theft rate in 1997. Publication of this data will fulfill the agency's obligation to periodically obtain accurate and timely data and publish the information for review and comment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Group Leader, Motor Vehicle Theft Prevention Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 493-2739

RIN: 2127–AH35

2597. • ADMINISTRATIVE REWRITE OF THE LIGHTING REQUIREMENTS OTHER THAN HEADLAMPS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to rewrite the reflective devices and associated equipment requirements to make the standard more readable and understandable. The standard has grown over the last 30 years by the incorporation of hundreds of amendments. The document has become unwieldy in use and the agency decided to rewrite it to segregate it into chapters that address each lighting function separately. These sections will state the basic performance necessary for each lighting function and for lamp installation on various vehicle types. The rewrite will continue to reference Society of Automotive Engineers (SAE) and other standards and recommended practices for test procedures if too lengthy to incorporate changes. However, it will codify various agency interpretations of its rules to make the standard more explicit and objective. The administrative rewrite of the headlamp

DOT—NHTSA

Proposed Rule Stage

regulations can be found under RIN 2127-AG87.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Vanlderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AH37

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Final Rule Stage

2598. +SCHOOL BUS BODY JOINT STRENGTH

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.221

Legal Deadline: None

Abstract: In response to NTSB recommendations on body joint strength and maintenance access panels as well as the agency's own analyses, this rulemaking action improves the test requirements and test procedures for the body joints of school buses and limits the number and size of maintenance access panels that are excluded from the requirements of the standard. The agency believes that this rule will prevent 26-35 AIS 3 injuries per year when fully implemented. This rulemaking is considered significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/87	52 FR 23314
ANPRM Comment Period End	08/03/87	
Comment Period Extended to 10/15/87	08/12/87	52 FR 29873
NPRM	03/15/91	56 FR 11142
NPRM Comment Period End	05/14/91	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 03/15/91, 56 FR 11142

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AC19

2599. BRAKE LINING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: Petitions from R. Grabowsky and American Trucking Association (ATA) requested initiation of rulemaking concerning brake linings (all vehicles and aftermarket). Mr. Grabowsky petitioned relative to stability, friction level, fade, wear, and identification of linings. ATA petitioned relative to friction level and identification of linings for heavy vehicles only. Petitions concerned both performance levels and test procedures, and were granted.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Kratzke, Director, Office of Crash Avoidance Standards, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4931
Fax: 202 366-4329

RIN: 2127–AC66

2600. SEATING SYSTEMS PERFORMANCE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.207

Legal Deadline: None

Abstract: Environmental Research and Safety Technologists of Flagstaff, AZ, petitioned the agency to reexamine the seatback performance requirements of the standard in rear impact crashes.

Timetable:

Action	Date	FR Cite
ANPRM	10/04/89	54 FR 40896
ANPRM Comment Period End	12/04/89	
Request for Comments	11/23/92	57 FR 54958
Comment Period End	01/22/93	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Petitions for rulemaking were granted 07/24/89. See a related rulemaking action involving these petitioners under RIN 2127-AC57. The first part of the research is complete. A computer model and a prototype seat were developed. Information on this research is available in the docket along with a report on crash data analysis. The agency is currently evaluating the research results and conducting vehicle seat testing.

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AD08

DOT—NHTSA

Final Rule Stage

2601. SEAT ADJUSTMENT POSITION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.210

Legal Deadline: None

Abstract: The agency solicited comments on a proposal to amend the performance requirements of the standard to provide that the lap belt angle would be measured for rear adjustable seats with the seats in the rearmost adjustment position. This proposal is intended to resolve ambiguities regarding the seat adjustment position for the current requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/04/91	56 FR 63473
Correction	12/17/91	56 FR 65541
NPRM Comment Period End	02/03/92	
To Be Terminated	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 12/04/91, 56 FR 63473

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4931
Fax: 202 366-4329

RIN: 2127–AE22

2602. DRIVING RANGE DETERMINATION FOR DUAL FUEL ELECTRIC PASSENGER AUTOMOBILES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32901; 49 USC 32905; 49 USC 32906

CFR Citation: 49 CFR 538

Legal Deadline: None

Abstract: After reviewing comments received in response to the September 22, 1994 (59 FR 48589) notice, the agency will set the minimum driving range only for dual fueled electric passenger automobiles, otherwise known as hybrid electric vehicles (HEVs), at 7.5 miles on the EPA highway cycle and 10.2 miles on the EPA city cycle when operating on electricity alone. The purpose of establishing the range is to meet a statutory requirement intended to encourage the production of HEVs. An HEV which meets the range requirement would qualify to have its fuel economy calculated according to a special procedure that would facilitate the efforts of its manufacturer to comply with the corporate average fuel economy standard. The agency has also proposed to establish a procedure through which manufacturers of HEVs that do not meet the minimum driving range requirements may petition the agency for relief.

Timetable:

Action	Date	FR Cite
Request for Comments	09/22/94	59 FR 48589
Comment Period End	11/24/94	
NPRM	01/03/97	62 FR 375
NPRM Comment Period End	03/04/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 01/03/97, 62 FR 375

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-4329

RIN: 2127–AF37

2603. TEST DEVICE PLACEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.216

Legal Deadline: None

Abstract: In response to petitions for rulemaking, the agency is revising the test procedures to make them more suitable to testing vehicles with highly sloped roofs or raised roofs. This action is being taken after reviewing the comments the agency received from the published Request for Comments. An NPRM was issued proposing to use a smaller test plate when testing certain vehicles with raised roofs and aligning the leading edge of the plate with the forwardmost point of the roof.

Timetable:

Action	Date	FR Cite
Request for Comments Due 2/10/95	12/27/94	59 FR 66504
NPRM	02/27/97	62 FR 8906
NPRM Comment Period End	04/28/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 02/27/97, 62 FR 8906

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AF40

2604. CYLINDER REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.304

Legal Deadline: None

Abstract: In response to petitions for rulemaking, the agency is deleting the material and manufacturing process requirements for compressed natural gas fuel containers. This amendment is based on the most recent proposed voluntary industry standard. The agency also believes that such an amendment would facilitate technological innovation, without any detriment to safety.

Timetable:

Action	Date	FR Cite
NPRM	05/30/97	62 FR 29323
NPRM Comment Period End	07/14/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

DOT—NHTSA

Final Rule Stage

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 05/30/97, 62 FR 29323

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AF51

2605. POWER-OPERATED WINDOWS: ROOF PANELS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.118

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to amend the test procedure used to demonstrate compliance by adding an alternative testing specification for a non-contact automatic reversal system, in order to provide a more meaningful and realistic method for evaluating the compliance of such systems which do not rely on contact to sense an obstruction. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	06/04/96	61 FR 28124
Correction	06/14/96	61 FR 30209
NPRM Comment Period End	08/05/96	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 06/04/96, 61 FR 28124

Agency Contact: Richard Vanderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF83

2606. AUTOMOTIVE FUEL ECONOMY REPORTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 32907

CFR Citation: 49 CFR 537

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to remove obsolete reporting requirements. These submission requirements include factors such as "breakover angles" for light trucks, which are essentially never used by NHTSA. Revising this part would reduce the costs to the industry of reporting to NHTSA and could be reduced without substantially affecting NHTSA's legitimate data needs.

Timetable:

Action	Date	FR Cite
NPRM	05/13/96	61 FR 22010
NPRM Comment Period End	07/12/96	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 05/13/96, 61 FR 22010

Agency Contact: Orron Kee, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-4329

RIN: 2127–AG00

2607. POWER WINDOW SAFETY SWITCHES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.118

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency proposed to require each power operated window, interior partition, and roof panel in a motor vehicle to be equipped with a switch designed so that contact by a form representing a small child's knee would prevent the window, partition, or panel from closing.

Timetable:

Action	Date	FR Cite
NPRM	11/15/96	61 FR 58504
NPRM Comment Period End	01/14/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 11/15/96, 61 FR 58504

Agency Contact: Richard Vanderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AG36

2608. AUXILIARY SIGNAL LAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency published a request for comments from the driving public on the value of several signal lamp ideas which have been suggested to the agency and on whether the agency should permit auxiliary signal lamps in addition to those required by the standard. The agency also is seeking comments on a policy for the disposition of petitions for rulemaking that request the agency to require or permit safety lighting inventions and which are submitted without proof of their effectiveness.

Timetable:

Action	Date	FR Cite
Request for Comments	12/13/96	61 FR 65510
Comment Period End	03/13/97	
Reopen Comment Period to 11/26/97	10/27/97	62 FR 55562
Final Action	12/00/98	

DOT—NHTSA

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Vanlderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AG38

2609. HYBRID III DUMMY SPECIFICATIONS - CLOTHING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: The agency is clarifying the Hybrid III dummy clothing and shoes specifications that are to be worn during testing, defining an opening in the femur flesh, and the use of the lumbar spine load cell.

Timetable:

Action	Date	FR Cite
NPRM	08/07/97	62 FR 42469
NPRM Comment Period End	10/06/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 08/07/97, 62 FR 42469

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG39

2610. PELVIC RESTRAINTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.209

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to delete the requirement that the lap belt portion of a safety belt system be designed to remain on the pelvis under all conditions. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	07/07/97	62 FR 36251
NPRM Comment Period End	09/05/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 07/07/97, 62 FR 36251

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AG48

2611. +UNIFORM CHILD ANCHORAGES

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: In response to several petitions for rulemaking, the agency is proposing to require that motor vehicles and add-on child restraints be equipped with a means independent of vehicle safety belts for securing the child restraints to vehicle seats. The adoption of the proposal would avoid problems of incompatibility between child restraints and vehicle safety belts and increase the correct installation of child restraints. By reducing allowable head excursion, this proposal would have the effect of requiring child restraints to be equipped with an upper tether strap, and would require vehicles to have two factory-installed, user-ready anchor points for attaching the tether. It would also require vehicles to have a rear vehicle seating position equipped with a specialized lower anchorage system, and require child restraints to be equipped with means of attaching to that system. This action is considered significant because of public interest. Petitions were granted.

Timetable:

Action	Date	FR Cite
Public Workshop: Request for Comments	09/10/96	61 FR 47728
Correction	09/20/96	61 FR 49427
Comment Period End	10/25/96	
NPRM	02/20/97	62 FR 7858
NPRM Comment Period End	05/22/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 02/20/97, 62 FR 7858

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AG50

2612. UTILITY VEHICLE LABEL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 575.105

Legal Deadline: None

Abstract: The agency is proposing to revise the content and format of the utility vehicle label requirements for multipurpose passenger vehicles with a wheelbase of 110 inches or less to improve the effectiveness of the label. The agency may also propose changes

DOT—NHTSA

Final Rule Stage

in the type of vehicles to which the requirement applies.

Timetable:

Action	Date	FR Cite
NPRM	04/13/98	63 FR 17974
NPRM Comment Period End	06/12/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 04/13/98, 63 FR 17974

Agency Contact: Mary Versailles, Office of Planning and Consumer Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2057
Fax: 202 366-4329

RIN: 2127–AG53

2613. CERTIFICATION LABELS FOR MULTIPURPOSE PASSENGER VEHICLES AND LIGHT DUTY TRUCKS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 33101; 49 USC 33102; 49 USC 33103; 49 USC 33104

CFR Citation: 49 CFR 567

Legal Deadline: None

Abstract: The agency is proposing to amend the vehicle certification regulation that specifies the contents of certification labels that manufacturers are required to affix to new motor vehicles. The amendment would require the certification label for multipurpose passenger vehicles and trucks with a gross vehicle weight rating of not more than 6,000 pounds to specify that the vehicle complies with all applicable Federal motor vehicle safety and theft prevention standards. The current regulation only requires a statement of compliance with safety standards. The Anti Car Theft Act of 1992 extended the theft prevention standard to multipurpose passenger vehicles and trucks rated at not more than 6,000 pounds.

Timetable:

Action	Date	FR Cite
NPRM	06/25/98	63 FR 34623
NPRM Comment Period End	08/10/98	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Coleman Sachs, Trial Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5263

RIN: 2127–AG65

2614. CONSUMER INFORMATION ON TIRE GRADING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30123

CFR Citation: 49 CFR 575

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to eliminate the requirement that new car manufacturers provide their dealers consumer information on the tire grading of new car tires. This action will allevlate a paperwork burden on automobile manufacturers and dealers that has little benefit to consumers.

Timetable:

Action	Date	FR Cite
NPRM	05/21/98	63 FR 27911
NPRM Comment Period End	07/20/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 05/21/98, 63 FR 27911

Agency Contact: P. L. Moore, Standards Engineer, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5222
Fax: 202 366-4327

RIN: 2127–AG67

2615. TRANSITION PROCEDURES FROM CURRENT TO NEW NATIONAL DRIVER REGISTER

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 23 USC 401

CFR Citation: 23 CFR 1325

Legal Deadline:
Final, Statutory, February 6, 1997.

Abstract: In response to the President's Regulatory Reinvention Initiative, the agency is removing the regulation on procedures for transition to the National Driver Register (NDR). It is also amending portions of the regulation on participation in the NDR Problem Driver Pointer System (PDPS). These portions pertain to the steps States were to follow to notify the NDR of their interest in participating in the NDR under PDPS. The agency will remove these provisions when the transition to the new NDR has been completed.

Timetable:

Action	Date	FR Cite
NPRM	04/17/96	61 FR 16729
NPRM Comment Period End	06/03/96	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: NPRM incorrectly printed under RIN 2127-AG21.

Agency Contact: William Holden, Division Chief, Driver Register and Traffic Records Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4800
Fax: 202 366-2729

RIN: 2127–AG68

2616. ADVANCED AIR BAG DUMMY RULE FOR HYBRID III TYPE 6-YEAR-OLD SIZE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

DOT—NHTSA

Final Rule Stage

CFR Citation: 49 CFR 572; 49 CFR 571.208; 49 CFR 571.213

Legal Deadline: None

Abstract: The agency is proposing design and performance specifications for a new, more advanced 6-year old child dummy. The agency believes that the new dummy, part of the family of Hybrid III test dummies, is more representative of humans than the existing 6-year old child dummy specified by the agency and allows the assessment of more types of potential injuries. The new dummy is especially needed to evaluate the effects of air bag deployment on children, but would also provide greater and more useful information in a variety of environments to better evaluate child safety.

Timetable:

Action	Date	FR Cite
NPRM	06/29/98	63 FR 35170
Correction	09/03/98	63 FR 46979
NPRM Comment Period End	09/28/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 06/29/98, 63 FR 35170

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG76

2617. GLARE REDUCTION FROM DAYTIME RUNNING LAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency is proposing to amend the lighting standard to reduce glare from daytime running lamps (DRLs). It would do this in three stages. One year after publication of the final rule, DRLs utilizing the upper headlamp beam would not be permitted to exceed 3,000 candela (cd) at any point, thus becoming subject to the maximum candela permitted for DRLs other than headlamps. This same limit would be applied to the upper half of lower beam DRLs two years after publication of the final rule. Finally, four years after publication of the final rule, all DRLs, except lower beam DRLs, would be subject to a flat 1,500 cd limit. Lower beam DRLs would be limited to 1,500 cd at horizontal or above. This action is intended to provide the public with all the conspicuity benefits of DRLs while reducing glare and is based on research that has become available since the final rule establishing DRLs was published in 1993.

Timetable:

Action	Date	FR Cite
NPRM	08/07/98	63 FR 42348
Extension of Comment Period	09/18/98	63 FR 49891
NPRM Comment Period End	09/21/98	
Extended Comment Period End	11/05/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 08/07/98, 63 FR 42348

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AG86

2618. EXTEND PARTICIPATION IN THE NATIONAL DRIVER REGISTER PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 303

CFR Citation: 23 CFR 1327

Legal Deadline: None

Abstract: This interim final rule authorizes the Commandant of the Coast Guard Reserve to request and receive information from the National Driver Register (NDR) regarding the motor vehicle driving records of any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment of any of the foregoing, and any member of a uniformed service who is assigned to the Coast Guard). This interim final rule establishes the procedures for such individuals to request, and for the Commandant to receive, NDR information.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/02/97	62 FR 63655
Interim Final Rule Effective	12/02/97	
Comment Period End	02/02/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: This action was inadvertently published under RIN No. 2127-AG21.

Agency Contact: William Holden, Division Chief, Driver Register and Traffic Records Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4800
Fax: 202 366-2746

RIN: 2127–AG90

2619. +FUEL ECONOMY CALCULATIONS

Priority: Other Significant

Legal Authority: 49 USC 32904

CFR Citation: 49 CFR 531

Legal Deadline: None

Abstract: Provisions of the North American Free Trade Agreement (NAFTA) Implementation Act of 1993 modified the calculation of average fuel economy by permitting Mexican content of passenger cars to be included with United States and Canadian content. This was for assigning passenger cars to domestic or import fleets for computation of corporate average fuel economy (CAFE). The revision of the code permits the declaration of Mexican content to occur during the period January 1, 1997, through January 1, 2004, at the manufacturers' option. This rulemaking provides instructions on making the

DOT—NHTSA

Final Rule Stage

content declaration and relates to the Environmental Protection Agency's regulation at 40 CFR 600.511. This rule is considered significant because it changes the split of the manufacturer's import and domestic passenger car fleets for CAFE credit and penalty computation.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Henrietta Spinner, Program Analyst, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4802
Fax: 202 366-4329

RIN: 2127–AG95

2620. INSURER REPORTING REQUIREMENTS FOR OCTOBER 1998

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33112

CFR Citation: 49 CFR 544

Legal Deadline: None

Abstract: The agency proposes to update its lists in appendices A, B, and C of part 544 of passenger motor vehicle insurers that are required to file reports on their motor vehicle theft loss experience. If these revised appendices are adopted in a final rule, each insurer included in any of these appendices must file a report for the 1995 calendar year not later than October 25, 1998. Further, as long as the insurer remains listed, it must submit reports by each subsequent October 25.

Timetable:

Action	Date	FR Cite
NPRM	05/04/98	63 FR 24519
NPRM Comment Period End	07/06/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Group Leader, Motor Vehicle Theft Prevention Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-2739

RIN: 2127–AH05

2621. DEPOWERING OF AIR BAGS: TECHNICAL AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: The agency is amending the final rule that was published March 19, 1997 (RIN 2127-AG59) that allows the depowering of air bags. This technical amendment clarifies that: (1) the "corridor" defining the permissible range of acceleration with respect to time can itself be shifted with respect to time to contain the time at which the sled acceleration first reaches 0.5 g; (2) the neck injury criteria for flexion bending moment and extension bending moment are intended to be measured by the six axis load cell and corrected to reflect the corresponding values at the occipital condyles; and (3) prior to testing the engine, transmission, axles, exhaust, vehicle frame, and vehicle body should be rigidly secured and adequately attached to the vehicle and/or the sled. Fluids, batteries and unsecured components may be removed.

Timetable:

Action	Date	FR Cite
Technical Amendment	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AH24

2622. • WARNING LIGHT REQUIREMENTS FOR AIR BAG ON-OFF SWITCH

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to amend the location requirement for the telltale warning light provided with air bag on-off switches to relieve a design restriction and allow more flexibility in the placement of the warning light.

Timetable:

Action	Date	FR Cite
NPRM	07/20/98	63 FR 38795
NPRM Comment Period End	09/03/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 07/20/98, 63 FR 38795

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AH25

2623. • LIST OF NONCONFORMING VEHICLES ELIGIBLE FOR IMPORTATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30141

CFR Citation: 49 CFR 593

Legal Deadline: None

Abstract: This final action amends the list of vehicles not originally manufactured to conform to all applicable Federal motor vehicle safety standards that the agency has decided to be eligible for importation. This list is published as an appendix to this regulation which established the procedures through which the agency makes import eligibility decisions. The amendment will add to the list all

DOT—NHTSA

Final Rule Stage

vehicles that the agency has decided to be eligible for importation since the list was last published on October 1, 1997.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Because this rule only furnishes information and imposes no regulatory requirement, the agency has good cause to dispense with a notice of proposed rulemaking to solicit comments on this amendment.

Agency Contact: Coleman R. Sachs, Trial Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5238
Fax: 202 366-3820
Email: csachs@nhtsa.dot.gov

RIN: 2127–AH28

2624. • EXTENSION OF PASSENGER CAR BRAKE SYSTEM STANDARD TO LIGHT TRUCKS AND VANS (LTVS) WITH GROSS VEHICLE WEIGHT RATING BETWEEN 3,500 AND 4,536KG

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.135

Legal Deadline: None

Abstract: In a final rule published September 30, 1997 (62 FR 51064 - RIN 2127-AG35), the agency extended the applicability of Federal Motor Vehicle Safety Standard No. 135, Passenger Car Brake Systems, to light trucks and vans (LTVs) with a gross vehicle weight rating (GVWR) of 3,500 kg or less. The rule also stated that the agency would publish a separate notice addressing the appropriateness of extending the requirements of Standard No. 135 to LTVs with a GVWR between 3,500 and 4,536 kg. After reviewing additional brake test data designed to assess the performance of vehicles with the increased GVWR, however, the agency has decided to withdraw rulemaking. Safety benefits resulting from extending the application of Standard No. 135 to LTVs with GVWRs between 3,501 and 4,536 kg are questionable and would be further limited by substantial costs to manufacturers and by low sales volumes.

Timetable:

Action	Date	FR Cite
To be withdrawn	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Soodoo, Group Leader, Vehicle Dynamics Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329

RIN: 2127–AH30

2625. • THERMAL TEST PROCEDURE FOR PASSENGER CAR BRAKE SYSTEM STANDARD

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.135

Legal Deadline: None

Abstract: The agency granted a petition for rulemaking requesting that three constant deceleration stops be added at the onset of the thermal test sequence for purposes of establishing performance requirements for the subsequent "hot performance" and "recovery performance" test. Based on available information, the agency believes that the practicability testing problems cited by the petitioner will not result in vehicle non-compliance unless a given vehicle's brake system is severely degraded by heating. Therefore, the agency has decided to withdraw further rulemaking on this issue.

Timetable:

Action	Date	FR Cite
To be withdrawn	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Soodoo, Group Leader, Vehicle Dynamics Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329

RIN: 2127–AH31

2626. • HIGH-THEFT LINES FOR MODEL YEAR 2000

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33104

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: This action will list the agency's determination for model year (MY) 2000 high-theft vehicle lines that will be subject to the parts-marking requirements of the Federal motor vehicle theft prevention standard, and the high-theft lines that will be exempted from the parts-marking requirements because the vehicles are equipped with antitheft devices determined to meet certain statutory criteria for MY 2000, pursuant to the statute relating to motor vehicle theft prevention.

Timetable:

Action	Date	FR Cite
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Group Leader, Motor Vehicle Theft Prevention Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
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RIN: 2127–AH36

2627. • +SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: PL 105-178, sec 1403

CFR Citation: 23 CFR 1240

Legal Deadline: None

Abstract: Section 1403 of TEA-21 established a new program of incentive

DOT—NHTSA

Final Rule Stage

grants (under section 157 of chapter 1 of title 23) to encourage States to increase seat belt use rates. This rulemaking action establishes the criteria and procedures to be followed to implement this incentive grant program. A State is eligible for an incentive grant if: (1) The State had a seat belt use rate greater than the national average for the two preceding calendar years, OR (2) The State's seat belt use rate in the previous calendar year was higher than the State's "base seat belt use rate." (The " base seat belt use rate" is defined as the State's highest use rate for any calendar year from 1996 through the calendar year preceding the previous calendar year.) The amount of funding each State is awarded will be based on calculations by the Secretary of the annual savings to the Federal Government in medical costs (including savings under the medicare and medicaid programs). According to the statute, on September 1 of each year, beginning in 1998, the Department will determine which States meet the eligibility criteria, and on October 1 of each year, the Department will allocate the incentive grant funds. This rule sets forth the procedures the agency will use to evaluate seat belt use rates and to allocate funds. Its publication as an interim final rule, with immediate effectiveness, is necessary because the first evaluations of seat belt use information are required on September 1, 1998, and the first allocations of funds are required on October 1, 1998. The statute authorizes a total of $500 million for grants under this section for fiscal years 1999 through 2003. A State may use these grant funds for any project eligible for assistance under title 23. If there are any unallocated funds available in FY 1999, the excess amounts will be apportioned to the states for expenditure on the Surface Transportation Program (STP). If there are any unallocated funds available in FY 2000 through FY 2003, the Secretary is directed to allocate the funds to selected States to carry out innovative projects that promote increased seat belt use rates. States will be selected based on plans submitted to the Secretary.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Joan Tetrault, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH38

2628. • +STATE INCENTIVES TO PREVENT OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS

Priority: Other Significant

Legal Authority: PL 105-178, sec 1404

CFR Citation: 23 CFR 1225

Legal Deadline: None

Abstract: Section 1404 of TEA-21 established a new program of incentive grants (under section 163 of chapter 1 of title 23) to encourage States to establish 0.08 percent blood alcohol concentration (BAC) as the legal limit for drunk driving offenses. This rulemaking action establishes the criteria and procedures to be followed to implement this incentive grant program. Any State that has in effect and is enforcing a 0.08 percent BAC law, before the end of the fiscal year, is eligible to receive incentive funds for that fiscal year. The law must provide that any person with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle in the state shall be deemed to have committed a per se offense of driving while intoxicated (or an equivalent per se offense). A state may use these grant funds for any project eligible for assistance under title 23. The statute authorizes a total of $500 million for grants under this section for fiscal years 1998 through 2003. Available funding each year is apportioned among all eligible States according to the Section 402 formula. This rule must be published as an interim final rule, with immediate effectiveness, because its criteria apply for States seeking to receive FY 1998 funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/03/98	63 FR 46881
Interim Final Rule Effective	09/03/98	
Comment Period End	10/19/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Marlene Markison, Chief, Program Support, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121
Fax: 202 366-7394

RIN: 2127–AH39

2629. • OCCUPANT PROTECTION INCENTIVE GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, sec 2003

CFR Citation: 23 CFR 1345

Legal Deadline: None

Abstract: TEA-21 established a new program of incentive grants to encourage States to adopt and implement effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles. This rulemaking action will establish criteria and procedures to be followed to implement this incentive grant program. A State may become eligible to receive a grant under this section by demonstrating that it has implemented at least four of the following six criteria: 1) a law requiring safety belt use by all front seat passengers (and beginning in FY2001, in any seat in the vehicle); 2) a primary safety belt law; 3) minimum fines or penalty points for belt and child seat violations; 4) a special traffic enforcement program; 5) a child passenger protection education program; and 6) a child passenger protection law - requiring minors to be properly secured. The statute authorizes a total of $68 million for grants under this section over 5 years beginning in fiscal year 1999. Each State that qualifies for a grant receives up to 25 % of its FY1997 section 402 apportionment. This rule is being published as an interim final rule, with immediate effectiveness, because its criteria apply for States seeking to receive funds beginning on October 1, 1998.

DOT—NHTSA

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/01/98	63 FR 52592
Interim Final Rule Comment Period End	11/30/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: John Oates, Chief, Implementation, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121
Fax: 202 366-7394

RIN: 2127–AH40

2630. • OPEN CONTAINER REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-206, 112 Stat 834

CFR Citation: 23 CFR 1230

Legal Deadline: None

Abstract: Section 5 of the TEA-21 Restoration Act established a new program (under section 154 of chapter 1 of title 23) to encourage States to enact Open Container laws. A State which does not have an Open Container law will have certain Federal-aid highway funds transferred to the State's section 402 State and Community Highway Safety grant program. This rulemaking action establishes the criteria and procedures to be followed to implement this transfer program.

Each State shall have in effect an Open Container law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State. On October 1, 2000, and October 1, 2001, if a State has not enacted and is not enforcing an Open Container law, 1-1/2 percent of the Federal-aid highway funds apportioned to the State under paragraphs (1), (3), and (4) of section 104(b) will be transferred to the State's section 402 apportionment. On October 1, 2002, and each October 1 thereafter, if a State has not enacted and is not enforcing an Open Container Law, the transferred amount increases to 3 percent. Funds transferred to section 402 must be used for alcohol-impaired driving countermeasures or enforcement of driving while intoxicated (DWI) or driving under the influence (DUI) and other related laws. A State may elect to use all or part of its transferred funds for activities eligible under the section 152 Hazard Elimination Program. The Federal share of a project funded under this section is 100 percent.

This rule is being published as an interim final rule with immediate effectiveness because some state legislatures are not scheduled to meet in 2000, so they are preparing their legislative agendas now for their 1999 legislative sessions. The states have a need to know what the criteria will be as soon as possible so they can enact conforming legislation and avoid the transfer of funds on October 1, 2000. The agency concludes, therefore, that prior notice and opportunity to comment on the rule is both impracticable and contrary to the public interest and finds good cause to publish an interim final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Marlene Markison, Chief, Program Support, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121
Fax: 202 366-7394

RIN: 2127–AH41

2631. • ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, sec 2004

CFR Citation: 23 CFR 1313

Legal Deadline: None

Abstract: This rulemaking implements changes mandated by TEA 21 to the Section 410 impaired driving countermeasures grant program. New incentive grant programs include incentives for graduated licensing programs, anti-drunk driving programs aimed at young adults, increased sanctions for drivers with high blood alcohol levels, and increased alcohol testing for drivers involved in fatal accidents. The rulemaking will also establish an alternative incentive program in which states may qualify for grants by demonstrating reductions in fatally injured drivers with blood alcohol concentrations above .10. The rulemaking will also provide for supplemental grants for those states qualifying for a basic grant. These supplemental grant programs will add provisions aimed at reducing operation with suspended licenses and improving detection and conviction of drunk drivers. Appropriated for use in this program are the following: $30.6 million for FY 1998, $28.5 million for FY 1999, $29.3 million for FY 2000, $30.1 million for FY 2001, $38.7 million for FY 2002, and $39.8 million for FY 2003. This rule is being published as an interim final rule, with immediate effectiveness, because its criteria apply for States seeking to receive funds beginning on October 1, 1998.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Marlene Markison, Chief, Program Support, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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Fax: 202 366-7394

RIN: 2127–AH42

2632. • STATE HIGHWAY SAFETY DATA IMPROVEMENTS INCENTIVE GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, sec 2005

CFR Citation: 23 CFR 1335

DOT—NHTSA

Final Rule Stage

Legal Deadline: None

Abstract: TEA 21 established a new program of incentive grants to encourage States to adopt and implement programs to improve highway safety data. This rulemaking action will establish criteria and procedures to be followed to implement this incentive grant program to encourage States to adopt and implement effective programs to improve the timeliness, accuracy, completeness, uniformity, and accessibility of State data that is needed to identify priorities for national, State, and local highway and traffic and State programs. A State may become eligible to receive a grant under this section by demonstrating that it has met one of the following three options: 1)establish a multi-disciplinary highway safety data and traffic records coordination committee; complete a highway safety data and traffic records assessment or audit within the last five years and initiate development of a multi-year highway safety data and traffic records strategic plan. Upon completion of this option the State may receive $125,000. 2) certify that the State has met the criteria of option 1 and submit a data and traffic record multi-year plan, identifying goals, performance-based measures, and priorities; and specify how incentive funds will be used. Upon completion of this option the State may receive $250,000. 3) the Secretary may award grants of up to $25,000 for 1 year to any State that does not meet the criteria for option 1. In subsequent years a State must submit or update a data and traffic records multi-year plan, identifying goals, performance-based measures and priorities; and the specifics of how incentive funds will be used. The State must certify that the coordinating committee continues to support the multi-year plan and report annually on the progress made to implement the plan. States meeting these conditions in subsequent years may receive $225,000 or more, based on the population and road mileage in the state. A total of $32,000,000 is authorized for fiscal years 1999 through 2002, and all grant amounts are subject to the availability of funds. This rule is being published as an interim final rule, with immediate effectiveness, because its criteria apply for States seeking to receive funds beginning on October 1, 1998.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: John Oates, Chief, Implementation, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121
Fax: 202 366-7394

RIN: 2127–AH43

2633. • IMPORTATION OF VEHICLES AND EQUIPMENT SUPPLIERS - TECHNICAL AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178; 49 USC 30114

CFR Citation: 49 CFR 591

Legal Deadline: None

Abstract: The agency is amending its regulation on the importation of vehicles that do not comply with applicable safety standards to include vehicles that are imported for "Show or Display" as a category of vehicles the agency may exempt from compliance with the safety standards. The amendment is being made pursuant to a statutory mandate to include the "Show or Display" category and will not otherwise affect the agency's regulatory requirements. The agency concludes, therefore, that prior notice and opportunity to comment on the amendment are unnecessary and finds good cause to publish a direct final rule.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Taylor Vinson, Senior Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5263
Fax: 202 366-3820

RIN: 2127–AH45

2634. • +UNIFORM CRITERIA FOR STATE OBSERVATIONAL SURVEYS OF SEAT BELT USE

Priority: Other Significant

Legal Authority: PL 105-178, sec 1403

CFR Citation: 23 CFR 1340

Legal Deadline:
Final, Statutory, December 8, 1998.

Abstract: This rulemaking action establishes the criteria and procedures to be followed by the States to determine their seat belt use rates. Section 1403 of TEA-21 established a new program of incentive grants (under section 157 of chapter 1 of title 23) that provides funds to States if: (1) The State had a seat belt use rate greater than the national average for the two preceding calendar years, OR (2) The State's seat belt use rate in the previous calendar year was higher than the State's "base seat belt use rate." (The " base seat belt use rate" is defined as the State's highest use rate for any calendar year from 1996 through the calendar year preceding the previous calendar year.) For calendar years 1996 and 1997, the legislation directs the Department to weigh State-submitted use rates to insure national consistency in methods of measurement. For calendar years 1998 and beyond, States must establish their seat belt use rates in accordance with guidelines issued by the Secretary. This rulemaking provides the States with the required guidelines. These uniform criteria replace the "Guidelines for State Observational Surveys of Safety Belt and Motorcycle Helmet Use," published in 1992, and rescinded by this rule. The results of the survey conducted in accordance with this rule will be used in making allocations of a total of $418 million during fiscal years 2000 through 2003. This rule is being published as an interim final rule, with immediate effectiveness, because the criteria apply to surveys that the States must conduct during calendar year 1998. Moreover, most States conduct these types of surveys during the summer/fall months.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/01/98	63 FR 46389
Interim Final Rule Effective	09/01/98	

DOT—NHTSA

Final Rule Stage

Action	Date	FR Cite
Interim Final Rule	01/29/99	
Comment Period End		
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Joan Tetrault, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121
Fax: 202 366-7394

RIN: 2127–AH46

2635. • MINIMUM PENALTIES FOR REPEAT OFFENDERS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-206, 112 Stat 834

CFR Citation: 23 CFR 1235

Legal Deadline: None

Abstract: Section 5 of the TEA-21 Restoration Act established a new program (under section 164 of chapter 1 of title 23) to encourage States to enact Repeat Intoxicated Driver laws. A State which does not have a Repeat Intoxicated Driver law will have certain Federal-aid highway funds transferred to the States section 402 State and Community Highway Safety grant program. This rulemaking action establishes the criteria and procedures to be followed to implement this transfer program.

Each State shall have in effect a Repeat Intoxicated Driver law that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated (DWI) or driving under the influence (DUI) after a previous conviction for that offense shall (A) receive a driver's license suspension for not less than 1 year; (B) be subject to the impoundment or immobilization of each of the individual's motor vehicles or the installation of an ignition interlock system on each of the motor vehicles; (C) receive an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and (D) receive (i) for 2nd offense, not less than 30 days community service or 5 days of imprisonment; and (ii) for 3rd and subsequent offense, not less than 60 days community service or 10 days of imprisonment. On October 1, 2000, and October 1, 2001, if a State has not enacted and is not enforcing a Repeat Intoxicated Driver law, 1-1/2 percent of the Federal-aid highway funds apportioned to the State under paragraphs (1), (3), and (4) of section 104(b) will be transferred to the State's section 402 apportionment. On October 1, 2002, and each October 1 thereafter, if a State has not enacted and is not enforcing a Repeat Intoxicated Driver law, the transferred amount increases to 3 percent. Funds transferred to section 402 must be used for alcohol-impaired driving countermeasures or enforcement of driving while intoxicated (DWI) or driving under the influence (DUI) and other related laws. A State may elect to use all or part of its transferred funds for activities eligible under the section 152 Hazard Elimination Program. The Federal share of a project funded under this section is 100 percent.

This rule is being published as an interim final rule, with immediate effectiveness, because some state legislatures are not scheduled to meet in the year 2000, so they are preparing their legislative agendas now for their 1999 legislative sessions. The states have a need to know what the criteria will be as soon as possible so they can enact conforming legislation and avoid the transfer of funds on October 1, 2000. The agency concludes, therefore, that prior notice and opportunity to comment on the rule is both impracticable and contrary to the public interest and finds good cause to publish an interim final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Marlene Markison, Chief, Program Support, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH47

2636. • ADJUSTMENT OF CIVIL PENALTIES

Priority: Info./Admin./Other

Legal Authority: PL 101-410

CFR Citation: 49 CFR 578

Legal Deadline:
Final, Statutory, January 1, 1999.

Abstract: The agency is adjusting the civil penalty amounts as required at least once every four years to reflect changes in consumer price index due to inflation.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Taylor Vinson, Senior Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH48

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Long-Term Actions

2637. +CRASHWORTHINESS RATINGS

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 5

Legal Deadline: None

Abstract: This action would require manufacturers to disseminate crashworthiness performance information concerning their cars to the public, to provide consumers with comparative information on the crashworthiness performance of new car models. This rulemaking is considered significant because of the impact on manufacturers, the interest shown by consumers, and the potential significant effects on the automotive marketplace. The agency has requested public comments on the National Academy of Sciences (NAS) study titled "Shopping for Safety - Providing Consumer Automotive Safety Information," (TRB Special Report 248) and how that study should be reflected in the agency's decision on whether, and if so, how, to proceed with a crashworthiness rating for automobiles.

Timetable:

Action	Date	FR Cite
NPRM	01/22/81	46 FR 7025
Comment Period Extended to 10/22/81	04/02/81	46 FR 19947
NPRM Comment Period End	04/22/81	46 FR 7025
Request for Comments	05/20/97	62 FR 27648
Comment Period End	08/18/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 01/22/81, 46 FR 7025

Agency Contact: Mary Versailles, Office of Planning and Consumer Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2057
Fax: 202 366-4329

RIN: 2127–AA03

2638. +FLAMMABILITY OF INTERIOR MATERIALS - SCHOOL BUSES

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.302

Legal Deadline: None

Abstract: Advance Notice of Proposed Rulemaking requested comments regarding possible upgrade of Standard 302 to reduce the risk of fire to school bus occupants. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/04/88	53 FR 44627
ANPRM Comment Period End	01/03/89	
Request for Comments	02/26/91	56 FR 7826
Comment Period End	04/29/91	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AA44

2639. CERTIFICATION REQUIREMENTS OF MULTISTAGE VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 567; 49 CFR 568; 49 CFR 1.50

Legal Deadline: None

Abstract: This action amends the certification requirements that apply to incomplete vehicles other than chassis-cabs. Incomplete vehicles are vehicles that include at least a frame and chassis structure, power train, steering system, suspension system, and brake system, but need further manufacturing performed on them to become completed vehicles. This action extends the certification requirements currently applying to chassis-cabs to all types of incomplete vehicles. The agency recognizes that manufacturers who build vehicles in more than one stage are faced with somewhat different problems than manufacturers who build vehicles in a single stage, especially when it comes to certifying vehicles to meet Federal Motor Vehicle Safety Standards. The agency held a public meeting to listen to the views of these groups and others with respect to improving the vehicle certification process, and now seeks to implement the new requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/03/91	56 FR 61392
NPRM Comment Period End	01/31/92	
Comment Period Extended to 03/02/92	02/03/92	57 FR 3983
Announced Public Meeting	11/17/95	60 FR 57694
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 12/03/91, 56 FR 61392

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
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RIN: 2127–AE27

2640. +REVIEW: SIDE IMPACT PROTECTION

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.214

Legal Deadline: None

Abstract: This standard requires passenger cars manufactured after September 1, 1996, to provide occupant protection when impacted in the side by a moving deformable barrier. The agency will compare the actual risk of occupant injury in side impact crashes

DOT—NHTSA

Long-Term Actions

of cars meeting the standard to the risk in pre-standard cars. The cost of the standard will also be estimated. This regulation was selected for review because of its costs, potential benefits, and public interest.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/94	
Complete Review	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AF54

2641. REVIEW: AMERICAN AUTOMOBILE LABELING ACT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32304

CFR Citation: 49 CFR 583

Legal Deadline: None

Abstract: The American Automobile Labeling Act requires new passenger cars and light trucks, beginning October 1, 1994, to bear labels providing information on the extent to which their parts are of domestic origin. The objective of this review is to determine the extent to which new-vehicle buyers know about, understand and use this information, and to estimate the effect of the labels on vehicle production and sales.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/95	
Request for Comment Collection of Information	07/24/97	62 FR 39886
Comment Period End	09/22/97	
Request for Comment Collection of Information	02/18/98	63 FR 8249
Request for Comment Collection of Information	02/26/98	63 FR 9897
Complete Review	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
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RIN: 2127–AG18

2642. REVIEW: HEAVY TRUCK CONSPICUITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency is initiating a study to evaluate the safety effects of the conspicuity systems requirement (section 5.7) of Federal Motor Vehicle Safety Standard No. 108. To carry out the study, the agency is having special motor vehicle crash data collected by the Florida Highway Patrol and the Pennsylvania State Police.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/95	
Request for Comment Collection of Information	07/01/96	61 FR 33891
Comment Period End	08/30/96	
Complete Review	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AG19

2643. REVIEW: CHILD SAFETY SEAT REGISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: This evaluation involves analysis of the effectiveness of registering child safety seats to increase response to reports of faulty seats. This regulation was selected for review because of public interest in child passenger safety.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/97	
Complete Review	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AG93

2644. REVIEW: AIR BAG ON-OFF SWITCHES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 40 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This standard allows passenger vehicles to be equipped with an on-off switch for the right front passenger air bag if the rear seat cannot accommodate a rear-facing infant seat. The standard also enables vehicle owners to obtain an on-off switch for their passenger and/or driver air bag if they transport people who should not be exposed to an air bag deployment. The agency will determine, by observation of vehicles in use, the percentage of on-off switches that are being correctly used. This regulation was selected for review because of its public interest and potential benefit.

Timetable:

Action	Date	FR Cite
Begin Review	04/01/98	
Complete Review	12/00/01	

Regulatory Flexibility Analysis Required: No

DOT—NHTSA

Long-Term Actions

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AH12

2645. REVIEW: DEPOWERED AIR BAGS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This standard was temporarily amended to make the unbelted test for vehicles with air bags less stringent and, in effect, make it easier for manufacturers to quickly depower their air bags. Depowered air bags are likely to benefit out-of-position occupants and reduce drivers' arm injuries, but they might be less effective than earlier air bags for some occupants. This regulation was selected for review because of public interest, potential benefits, and possibility of higher risk for some vehicle occupants.

Timetable:

Action	Date	FR Cite
Begin Review	05/01/98	
Complete Review	12/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AH13

2646. NONTRADITIONAL TRANSMISSION CONTROL LEVERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.102

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to issue a proposal to add requirements for vehicles without conventional mechanical transmission shift levers. The petitioner would like to use new interfaces that do not use the mandated linear sequence of PRNDL for automatic transmission gear selection indicated and to use push button switches, joy stick switches or voice activation as new driver interfaces with the transmission gear selection.

Timetable:

Action	Date	FR Cite
Request for Comments	06/04/98	63 FR 30449
Comment Period End	09/02/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20599
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AH21

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Completed Actions

2647. FILM TRANSMITTANCE OF GLAZING MATERIALS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency proposed to revise the light transmittance requirements to replicate real-world conditions more closely and to measure light transmittance of window glazing in a laboratory test at the angle at which the window is mounted in a vehicle. The proposal also made the light transmittance requirements consistent with passenger cars and light trucks. After reviewing the comments and available information, the agency has decided to withdraw this action because: 1) the cost impacts involved with testing at the installed angle would not be adequately balanced by the potential safety benefits of increased visibility if glazing continues to be installed at current rake angles; 2) the agency believes that practical limits imposed by concerns about visual distortion will prevent rake angles from increasing; and 3) the agency does not want to prohibit the use of the best present solar windshield glazing in order to achieve slight differences in effective light transmittance differences at current rake angles.

Timetable:

Action	Date	FR Cite
ANPRM	07/20/89	54 FR 30427
Petition for Rulemaking Granted	07/20/89	54 FR 30427
ANPRM Comment Period End	09/18/89	54 FR 30427
NPRM	01/22/92	57 FR 2496
NPRM Comment Period End	03/23/92	
Comment Period Extended to 05/22/92	03/25/92	57 FR 10327
Correction	04/09/92	57 FR 12286
Withdrawn	07/14/98	63 FR 37820

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 01/22/92, 57 FR 2496

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AC85

DOT—NHTSA

Completed Actions

2648. TIRES ON NEW TRAILERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.120

Legal Deadline: None

Abstract: In response to a petition for rulemaking, this action solicited comments to assist the agency in determining whether to permit the installation of manufacturer-supplied retreaded tires on new trailers. The current requirement states that used or retreaded tires may be installed on new trucks, buses, and trailers only if owned and provided by the vehicle purchaser. After careful evaluation of the comments, the agency has withdrawn this action because installation of used tires on new vehicles is incompatible with motor vehicle safety and because there are no standards for retreaded tires for vehicles other than passenger cars.

Timetable:

Action	Date	FR Cite
ANPRM	06/01/95	60 FR 28561
ANPRM Comment Period End	09/29/95	
Withdrawn	04/27/98	63 FR 20564

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Soodoo, Group Leader, Vehicle Dynamics Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5274
Fax: 202 366-4329

RIN: 2127–AF05

2649. CONVERSION OF VEHICLES TO COMPRESSED NATURAL GAS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.303

Legal Deadline: None

Abstract: The agency was considering specifications for converting vehicles to run on compressed natural gas. These requirements would have been used in lieu of crash testing, which the standard requires. The agency has not decided whether to take additional action in this area; therefore, rulemaking has been terminated.

Timetable:

Action	Date	FR Cite
Terminated	06/17/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AF50

2650. SEAT BELT EXEMPTION FOR LAW ENFORCEMENT VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency amends the requirements for seat belts at forward-facing rear outboard seating positions of police cars and other law enforcement vehicles to facilitate the transporting of prisoners.

Timetable:

Action	Date	FR Cite
NPRM	06/13/95	60 FR 31132
NPRM Comment Period End	08/14/95	
Final Action	01/26/98	63 FR 3662
Final Action Effective	02/25/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 01/26/98, 63 FR 3662

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AF66

2651. AUTOMATIC DRAIN VALVE FOR AIR RESERVOIR TANKS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 20166

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency proposed to require that each air brake-equipped truck, truck tractor, and bus be equipped with a means of automatically removing moisture and contaminants from the air system. The purpose of this proposal was to improve the safety of air-braked vehicles by improving the reliability and durability of antilock braking system (ABS) modulator valves and pneumatic control valves. The agency is withdrawing this action at this time pending completion of Society of Automotive Engineers development of a performance standard for cleaning and air drying equipment for use in air brake systems.

Timetable:

Action	Date	FR Cite
Request for Comments	07/24/95	60 FR 37864
Correction	08/17/95	60 FR 42830
NPRM	11/04/96	61 FR 56652
NPRM Comment Period End	01/03/97	
Withdrawn	03/26/98	63 FR 14674

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 11/04/96, 61 FR 56652

Agency Contact: George Soodoo, Group Leader, Vehicle Dynamics Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5274
Fax: 202 366-4329

RIN: 2127–AF72

DOT—NHTSA

Completed Actions

2652. SEALED BEAM HEADLAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency was considering to propose removal of certain sealed beam headlamp requirements in the standard. Manufacturers would no longer have to petition for rulemaking to change the specifications of sealed beam lamps. This would have resulted in an administratively restructured and clarified section of the standard dealing exclusively with headlamp requirements. The agency has decided to combine this action with the administrative rewrite (RIN 2127-AG87).

Timetable:

Action	Date	FR Cite
Terminated	07/28/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: In the October 1996 agenda, this action incorrectly indicated that an NPRM had been published.

Agency Contact: Richard Vanlderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF89

2653. VOLUNTARILY INSTALLED SHOULDER BELTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.210

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is permitting an optional test procedure for the anchorages of a voluntarily-installed shoulder belt on a motor vehicle safety belt. Currently, if a shoulder belt is voluntarily-installed, only the lap belt anchorages are subject to a performance test.

Timetable:

Action	Date	FR Cite
NPRM	05/14/96	61 FR 24265
NPRM Comment Penod End	07/15/96	
Final Action	06/12/98	63 FR 32140
Final Action Effective	06/14/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Manufacturers wishing to comply with the requirements of this final rule may do so before the effective date commencing September 10, 1998.

ANALYSIS: Regulatory Evaluation, 06/12/98, 63 FR 32140

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AF91

2654. HEAVY DUTY VEHICLE BRAKE SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105; 49 CFR 571.121

Legal Deadline: None

Abstract: This action responds to petitions for reconsideration of a final rule published December 13, 1995 (60 FR 63965) that amended FMVSS No. 105 and FMVSS No. 121 to require medium duty and heavy duty vehicles to be equipped with an antilock brake system (ABS). The previous action required continuous power for trailer ABSs in place of the dedicated power and separate ground previously required, delayed the implementation date for the in-cab trailer malfunction indicator by four years, and extended by three years the period in which exterior ABS failure indicators are required on trailers. This action permits hydraulically-braked vehicles with GVWR greater than 10,000 pounds but less than 19,501 pounds to be equipped with a single wheel speed sensor in the driveline, and allows motor homes with a GVWR of 22,500 pounds or less to use a single rear drive axle wheel speed sensor if manufactured prior to March 1, 2001.

Timetable:

Action	Date	FR Cite
Final Action	12/13/95	60 FR 63965
Action on Petitions	02/15/96	61 FR 5949
Final Action Effective	03/01/97	
Further Action on Petitions	03/16/98	63 FR 12660
Final Action Effective	03/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: RINs 2127-AF97, AF98, and AF99 are consolidated into this action. Compliance dates: Std. No. 121 antilock malfunction signal - March 1, 2001; Std. No. 121 antilock power circuit for towed vehicles - each truck tractor March 1, 1997, and single unit vehicles March 1, 1998; and Std. No. 121 antilock system power trailers - March 1, 1998. The agency is reviewing an additional petition for reconsideration to amend heavy duty vehicle braking requirements in several areas, including the burnish procedure and test sequence.

ANALYSIS: Regulatory Evaluation, 02/15/96, 61 FR 5949

Agency Contact: George Soodoo, Group Leader, Vehicle Dynamics Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5274
Fax: 202 366-4329

RIN: 2127–AF96

2655. EXEMPTION FROM REARWARD DISPLACEMENT REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.204

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, this action proposed to exempt vehicles under 8,500 pounds gross vehicle weight rating (GVWR) from compliance with the rearward displacement requirements of FMVSS No. 204, if they comply with Standard 208 air bag requirements in a rigid barrier crash test. This exemption was expected to save certification costs. The agency is withdrawing this proposal because the widespread use of the new "sled test" allowed by the depowering rulemaking (62 FR 12960) may have eliminated the basic need for this proposal.

Timetable:

Action	Date	FR Cite
NPRM	11/16/95	60 FR 57565
NPRM Comment Period End	01/16/96	
Withdrawn	07/20/98	63 FR 38799

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 11/16/95, 60 FR 57565

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AG01

2656. FEDERAL MOTOR VEHICLE SAFETY STANDARDS: HEAD IMPACT PROTECTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.201

Legal Deadline: None

Abstract: This rule permits, but not requires, the installation of dynamically deploying upper interior head protection systems currently being developed by some vehicle manufacturers to provide added head protection in lateral crashes. Compliance with these requirements is tested at specified points called "target points." Since compliance is often not practicable at target points located near the places where these dynamic systems are stored before they are deployed, vehicles equipped with the dynamic systems will be allowed to meet slightly reduced requirements at these points. However, these vehicles will also be required to meet new requirements to ensure that these dynamic systems enhance safety. This rule adds procedures and performance requirements for testing the deployment of these systems and their protective capability through a combination of in-vehicle tests and a full scale vehicle crash test. For the specifications and qualification requirements of the anthropomorphic test dummy to be used in compliance testing see RIN 2127-AG74.

Timetable:

Action	Date	FR Cite
ANPRM	03/07/96	61 FR 9136
ANPRM Comment Period End	04/22/96	
NPRM	08/26/97	62 FR 45202
NPRM Comment Period End	10/27/97	
Final Action	08/04/98	63 FR 41451
Final Action Effective	09/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 08/04/98, 63 FR 41451

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AG07

2657. +UPGRADED REQUEST FOR AIRCRAFT-CERTIFIED CHILD SEATS

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: The agency intended to upgrade the requirements for child seats certified for use on aircraft. It would have required child restraints certified for use on aircraft to meet compatibility (fit) requirements and to meet performance criteria when sled tested under conditions more representative of the aircraft environment. This action was considered significant because of the substantial public interest in issues involving child seats on aircraft and because of special interest to another modal Administration. This action will now be initiated by the Federal Aviation Administration.

Timetable:

Action	Date	FR Cite
Terminated	06/17/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Mouchaboir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh St. SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AG12

2658. DUMMY CONTAINMENT DURING COMPLIANCE TESTING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208; 49 CFR 572

Legal Deadline: None

Abstract: NHTSA proposed to amend a provision in the occupant crash protection standard which specifies that, during crash tests, all portions of a test dummy must remain in the vehicle throughout the test. NHTSA considered a range of alternative requirements to ensure that the standard's requirements are practicable. This action resulted from a petition for rulemaking. This action is being withdrawn because problems with containment have been adequately resolved by vehicle manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	08/30/96	61 FR 45927
NPRM Comment Period End	10/29/96	
Withdrawn	04/02/98	63 FR 16215

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 08/30/96, 61 FR 45927

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590

DOT—NHTSA

Completed Actions

Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG17

2659. PLASTIC SPACER-INSERTS FOR TEST DUMMIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.214; 49 CFR 572

Legal Deadline: None

Abstract: The agency has made two amendments to the specifications for the side impact test dummy and the procedure in the side impact protection standard for positioning the dummy in a vehicle for compliance testing purposes. The first amendment added plastic spacers to the dummy's lumbar spine to prevent a metal cable within the spine from contacting other metal parts in the spine ("snapping"). Some manufacturers believe that such contact can generate large spikes in the data obtained from the dummy. The second amendment specified a procedure during the positioning of the dummy to fully extend the damper piston in the dummy's ribcage prior to the side impact test. These changes are intended to reduce to the extent possible any potential problems with the consistency of the data obtained from the dummy in a side impact crash test.

Timetable:

Action	Date	FR Cite
NPRM	09/24/96	61 FR 49992
NPRM Comment Period End	11/25/96	
Final Action	04/02/98	63 FR 16136
Final Action Effective	09/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 04/02/98, 63 FR 16136

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG37

2660. REMOVE OBSOLETE PROVISIONS TO OCCUPANT CRASH STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 20117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: The agency was considering proposing to revise its occupant crash protection standard to remove obsolete provisions and to reorganize the standard. This revision would have substantially clarified and simplified this safety standard without changing any of its substantive requirements. The agency has decided not to proceed with rulemaking on this action until the forthcoming advanced air bag rulemaking is completed.

Timetable:

Action	Date	FR Cite
Terminated	06/17/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Action 2127-AG29 is being combined into this action.

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AG42

2661. METRIC CONVERSION - PHASE II

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166; PL 100-418 sec 5164

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: The agency amended selected Federal Motor Vehicle Safety Standards by converting English measurements in those standards to metric measurements. This rulemaking is the second in a series that NHTSA will undertake to implement the Federal policy that the metric system is the preferred system of weights and measures for U.S. trade and commerce. The conversions are not intended to change the stringency of the affected Federal Motor Vehicle Safety Standards.

This notice responds to petitions for reconsideration and corrects typographical errors in the final rule published on May 27, 1998.

Timetable:

Action	Date	FR Cite
NPRM	04/21/97	62 FR 19253
NPRM Comment Period End	06/20/97	
Final Action	05/27/98	63 FR 28922
Technical Amendment	09/24/98	63 FR 50995
Final Action Effective	05/27/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 05/27/98, 63 FR 28922

Agency Contact: Noble Bowie, Director, Office of Planning and Consumer Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AG55

2662. LOW-SPEED VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.500

Legal Deadline: None

Abstract: The agency established a new category of motor vehicle called "low-speed vehicle." A low-speed vehicle (LSV) is any 4-wheeled motor vehicle, other than a truck, whose top speed is more than 20 but does not exceed 25 mph. Under this new standard, Federal Motor Vehicle Safety Standard No. 500, LSVs will be equipped with certain basic items of motor vehicle safety equipment, such as seat belts, in lieu of complying with the Federal motor vehicle safety and bumper standards that would apply if LSVs were categorized according to existing vehicle types.

DOT—NHTSA

Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	01/08/97	62 FR 1077
NPRM Comment Period End	02/24/97	
Final Action	06/17/98	63 FR 33193
Final Action Effective	06/17/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: This action is in partial response to oral and written comments received from two public meetings held on July 18, 1996, in Palm Desert, CA and on July 25, 1996, in NHTSA Headquarters.

ANALYSIS: Regulatory Evaluation, 06/17/98, 63 FR 33193

Agency Contact: Taylor Vinson, Senior Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5263
Fax: 202 366-3820

RIN: 2127–AG58

2663. DETERMINATION OF FUNCTIONAL EQUIVALENCY ON HARMONIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30111; 49 USC 30118; 49 USC 30162

CFR Citation: 49 CFR 553

Legal Deadline: None

Abstract: The agency has adopted a policy statement concerning the submission and processing of rulemaking for determination of functional equivalency on harmonization of motor vehicle safety standards with those of other countries. The policy statement explains agency procedure for evaluating whether two standards are functionally equivalent. An agency flowchart, explaining the process in detail, is attached to part 553 as an appendix.

Timetable:

Action	Date	FR Cite
Request for Comments	06/17/96	61 FR 30657
Request for Comments	11/14/96	61 FR 58362
Public Workshop	01/16/97	
Final Action	05/13/98	63 FR 26508
Final Action Effective	05/13/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rebecca MacPherson, Attorney Advisor, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2992
Fax: 202 366-3820

RIN: 2127–AG62

2664. MANUFACTURING INCENTIVES FOR ALTERNATIVE FUEL VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32901; 49 USC 32905

CFR Citation: 49 CFR 538

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency denied a request to allow B-20 biodiesel blend as alternative fuels and allow biodiesel alternative fuel vehicles to receive Corporate Average Fuel Economy (CAFE) credits. The basis for the denial was that this blend was not "substantially not petroleum." The petroleum content (80 percent) was to high to be used as an alternative fuel.

Timetable:

Action	Date	FR Cite
Final Action	03/31/98	63 FR 15322

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Henrietta Spinner, Program Analyst, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4902
Fax: 202 366-2739

RIN: 2127–AG63

2665. +LIGHT TRUCK FUEL ECONOMY STANDARDS FOR MODEL YEAR 2000

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 49 USC 329

CFR Citation: 49 CFR 533

Legal Deadline: Final, Statutory, March 31, 1998.

Abstract: The agency has established fuel economy standards for light trucks for Model Year (MY) 2000. At the direction of Congress, the standard is the same as the 20.7 mpg previously established for MY 1999. Therefore, there is no need for a notice of proposed rulemaking. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Final Action	04/06/98	63 FR 16699
Final Action Effective	05/06/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The statute requires that a standard be issued at least 18 months before the start of the affected model year.

Agency Contact: Orron Kee, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 493-2739

RIN: 2127–AG72

2666. ANTHROPOMORPHIC TEST DUMMY FOR HEAD IMPACT PROTECTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: The rules establishes specifications and qualification requirements for a newly developed anthropomorphic test dummy. This dummy will be used in compliance testing for the new upper interior impact protection requirements introducing the dynamically deployed interior head protection system (RIN 2127-AG07).

Timetable:

Action	Date	FR Cite
NPRM	12/08/97	62 FR 64546
NPRM Comment Period End	01/22/98	
Final Action	08/04/98	63 FR 41466
Final Action Effective	09/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 08/04/98, 63 FR 41466

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG74

2667. COMPLIANCE TEST DUMMY MEASUREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30122; 49 USC 30166

CFR Citation: 49 CFR 571.208; 49 CFR 572

Legal Deadline: None

Abstract: In response to the interim final rule, the agency has modified the Hybrid III test dummy, which is specified by the agency for use in compliance testing under Federal Motor Vehicle Safety Standard No. 208. The agency has decided to require a six axis neck transducer, thereby allowing the test dummy to measure neck flexion, extension moments and tension, compression and sheer forces. See RINs 2127-AG80 and 2127-AG94 for related issues.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/20/97	62 FR 27511
Interim Final Rule Effective	05/20/97	
Comment Period End	07/14/97	
Final Action	08/28/98	63 FR 45959
Final Action Effective	09/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 08/28/98, 63 FR 45959

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG75

2668. DEPOWER EXCLUSIONS FROM REQUIREMENTS FOR VEHICLES CERTIFIED TO THE ALTERNATIVE SLED TEST

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: The agency has amended the occupant crash protection standard to ensure that vehicle manufacturers can quickly depower all air bags so that they inflate less aggressively. In response to the interim final rule, the agency has adopted an unbelted sled test protocol to the standard's full scale unbelted barrier crash test. The agency took this action to provide a solution to the problem of the fatalities and injuries that current air bag designs are causing in relatively low speed crashes to small, but growing numbers of children, and occasionally to adult occupants. See RINs 2127-AG75 and 2127-AG94 for related issues.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	05/09/97	
Interim Final Rule	05/14/97	62 FR 26425
Comment Period End	07/14/97	
Final Action	08/28/98	63 FR 45959
Final Action Effective	09/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 08/28/98, 63 FR 45959

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AG80

2669. DIODES USED ON SCHOOL BUS STOP SIGNAL ARMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.131

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is amending the standard with respect to the conspicuity requirements for stop signal arms. Specifically, the amendment permits the use of light emitting diodes (LEDs). This amendment allows States and local jurisdictions to purchase stop signal arms with these types of lamps.

Timetable:

Action	Date	FR Cite
NPRM	08/06/97	62 FR 42226
NPRM Comment Period End	10/06/97	
Final Action	05/28/98	63 FR 29139
Final Action Effective	05/28/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 05/28/98, 63 FR 29139

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AG81

2670. AIR BAG WARNING LABEL FOR REAR-FACING CHILD SEATS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: In response to a request from an automobile manufacturer, the agency issued an interim final rule that amended the warning label requirement for rear-facing child seats that deactivate the air bag. The agency issued its final decision following up on that action. See also "Additional Wording for Warning Labels for Child Restraints," RIN 2127-AH02, for a related action.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/04/97	62 FR 30464
Interim Final Rule Effective	06/04/97	
Request for Comments Due	07/21/97	
Final Action Effective	03/30/98	63 FR 52626
Final Action	10/01/98	63 FR 52626

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 06/04/97, 62 FR 30464

Agency Contact: Mary Versailles, Program Analyst, Planning and Review Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2057
Fax: 202 366-4329

RIN: 2127–AG82

2671. EXEMPTIONS TO ODOMETER DISCLOSURE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-205, sec 332

CFR Citation: 49 CFR 580

Legal Deadline: None

Abstract: The final rule amended 49 CFR 580, Odometer Disclosure Requirements, by establishing a new section, part 580.17, by repromulgating the exemptions for certain categories of vehicles from odometer disclosure requirements now located in part 580.6, and by moving the exemptions to the new part 580.17. The rule also revised the authority citation for part 580 to reflect Public Law 104-205. The repromulgation was necessitated by a recent United States Court of Appeals decision that raised questions about the agency's authority to exempt categories of vehicles from the Federal odometer disclosure requirements. In response to comments received on the interim final rule, the agency promulgated a final rule amending one of the exemptions for vehicles 10 years old or older (Section 580.17(a)(3)) to clarify the scope of the exemption. This final rule also amends the statutory authority for the exemptions to reflect the amendment of PL 105-178, sec 7105.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/11/97	62 FR 47763
Interim Final Rule Effective	09/11/97	
Comment Period End	10/14/97	
Final Action	10/01/98	63 FR 52630
Final Action Effective	10/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Eileen Leahy, Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5263
Fax: 202 366-3820

RIN: 2127–AG83

2672. MOTORCYCLE HEADLAMP LOCATION REQUIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency has amended the lighting standard by removing the design restriction on the location of headlamps if the motorcycle voluntarily is equipped with two headlamps instead of one headlamp.

Timetable:

Action	Date	FR Cite
NPRM	09/09/97	62 FR 47414
NPRM Comment Period End	10/24/97	
Final Action	08/10/98	63 FR 42582
Final Action Effective	09/24/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation, 08/10/98, 63 FR 42582

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AG84

2673. +USE OF UNBELTED AND BELTED TEST DUMMIES

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency requested comments to determine the benefits and disbenefits of eliminating the unbelted dummies test procedure for air bags. This action has been superseded by the Reauthorization Act of 1998 and the rulemaking on improved air bags (RIN 2127-AG70) and no further action will be taken. This rulemaking was considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Request for Comments	02/27/97	62 FR 8917
Comment Period End	03/31/97	
Comment Period Extended to 06/02/97	04/01/97	62 FR 15453
Withdrawn	07/20/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4327

RIN: 2127–AG85

2674. RETARDERS AND STOP LIGHTS OPERATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency had planned to propose rulemaking to require stop lamp illumination during the operation of a retarder system. A retarder is a supplementary braking system that is independent from the service brakes. Retarders are increasingly being used as a wear-free additional braking system

on buses, trucks and heavy-duty vehicles. Currently, there is no requirement that the stop lamps be illuminated to indicate that the vehicle is decelerating as a result of retarder operation. Because of the lack of agency consensus and the absence of conclusive evidence showing a need for this rulemaking, the agency has decided to terminate rulemaking activity on this subject at this time.

Timetable:

Action	Date	FR Cite
Terminated	04/02/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Vanlderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AG89

2675. HEAD IMPACT REQUIREMENTS RELATING TO DEPOWERING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.201; 49 CFR 571.208

Legal Deadline: None

Abstract: Previously, vehicles certified to the unbelted barrier test of the occupant crash protection standard were permitted to comply with a special, less stringent test requirement for head impacts on instrument panels. In response to the interim final rule, vehicles certified to the new alternative sled test procedure will also be permitted to comply with the less stringent head impact test requirement. See RINs 2127-AG75 and 2127-AG80 for related issues.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/26/97	62 FR 45172
Interim Final Rule Effective	08/26/97	
Comment Period End	10/27/97	
Final Action	08/28/98	63 FR 45959
Final Action Effective	09/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information:
ANALYSIS: Regulatory Evaluation, 08/28/98, 63 FR 45959

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AG94

2676. ADDITIONAL WORDING FOR WARNING LABELS FOR CHILD RESTRAINTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: In response to a request from an automobile manufacturer, the agency issued an interim final rule that amended the air bag warning label requirement which rear-facing child seats are required to bear beginning May 27, 1997, to allow for additional wording in the required text of the label. The agency issued its final decision following up on that action. See also "Air Bag Warning Label for Rear Facing Child Seats," RIN 2127-AG82, for a related action.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	04/11/97	
Interim Final Rule	04/17/97	62 FR 18723
Comment Period End	06/02/97	
Final Action	10/01/98	63 FR 52626
Final Action Effective	03/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The interim final rule was published under RIN No. 2127-AG14.

Agency Contact: Mary Versailles, Program Analyst, Planning and Review Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2057
Fax: 202 366-4327

RIN: 2127–AH02

2677. THEFT DATA FOR CALENDAR YEAR 1996

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33104(b)(4)

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: This action publishes the final data on passenger motor vehicles thefts that occurred in calendar year (CY) 1996 for model year (MY) 1996. The data indicate the overall vehicles' theft rate in 1996. Publication of this data fulfills the agency's obligation to periodically obtain accurate and timely data and publish the information.

Timetable:

Action	Date	FR Cite
Request for Comments	02/09/98	63 FR 6603
Comment Period End	04/10/98	
Final Action	07/06/98	63 FR 36478

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Group Leader, Motor Vehicle Theft Prevention Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-0273

RIN: 2127–AH04

2678. HIGH-THEFT LINES FOR MODEL YEAR 1999

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33104

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: This action announced the agency's determination for model year (MY) 1999 high-theft vehicle lines that are subject to the parts-marking requirements of the Federal motor vehicle theft prevention standard, and high-theft lines that are exempted from the parts-marking requirements because the vehicles are equipped with antitheft devices determined to meet certain statutory criteria for MY 1999, pursuant to the statute relating to motor vehicle theft prevention.

Timetable:

Action	Date	FR Cite
Final Action	07/15/98	63 FR 38096

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Group Leader, Motor Vehicle Theft Prevention Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-2739

RIN: 2127–AH06

2679. METRIC CONVERSION - TIRES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166; PL 100-418

CFR Citation: 49 CFR 571.109; 49 CFR 571.117; 49 CFR 571.119

Legal Deadline: None

Abstract: To implement the policy that the metric system is the preferred system of measurement for U.S. trade and commerce, the agency is converting to the metric system from the English system measurements in three Federal motor vehicle safety standards on tires.

Timetable:

Action	Date	FR Cite
NPRM	04/21/97	62 FR 19253
NPRM Comment Period End	06/20/97	
Final Action	05/27/98	63 FR 28912
Final Action Effective	05/27/03	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: This rulemaking was part of the NPRM published on 4/21/97, under RIN 2127-AG55. However, because the tire standards will have a different effective date than the final rule for AG55, the agency has decided to publish a separate final rule for the tire standards.

ANALYSIS: Regulatory Evaluation, 05/27/98, 63 FR 28912

Agency Contact: Noble Bowie, Director, Office of Planning and Consumer Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AH07

2680. EXEMPTION OF MOTOR-DRIVEN CYCLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency has denied a petition for rulemaking which would exclude motor-driven cycles and other motorized bicycles from Department's regulations. The petitioner argued that the vehicle's low speed and small size justified such exclusion. The agency found this conclusion unsupported. Motorized bicycles, which may have a maximum speed of up to 25 miles per hour and are found on the public streets, must be afforded the same level of protection that now exists for their category under the Federal motor vehicle safety standards where they are defined as "motor driven cycles," which are "motorcycles with a motor which produces 5 brake horsepower or less."

Timetable:

Action	Date	FR Cite
Final Action	07/20/98	63 FR 38802

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Vanlderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AH17

2681. FAST ILLUMINATION STOP LAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency denied a petition for rulemaking to add requirements regarding the maximum time for a stop lamp to reach 90 percent of its required illumination. A requirement of this nature could be met using currently-available technology such as light emitting diodes (LEDs), neon lamps, hot filament systems, or shuttered systems. However, the costs associated with such a requirement would be far in excess of its benefits.

Timetable:

Action	Date	FR Cite
Final Action	07/20/98	63 FR 38797

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Vanlderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AH19

2682. • CHANGES IN MOTOR VEHICLE IMPORT FEES FOR FY99

Priority: Info./Admin./Other

Legal Authority: 49 USC 30141(a)(1)(A)

CFR Citation: 49 CFR 594

Legal Deadline:
Final, Statutory, September 30, 1998.

Abstract: Pursuant to the legal authority, the agency is required to periodically adjust the statutory fees by raising and lowering, as appropriate, the existing fees paid by importers and registered importers in the process established for importation of motor vehicles not originally manufactured to comply with Federal motor vehicle safety standards. This notice adopts these fees for Fiscal Year (FY) 1999 and until further notice.

Timetable:

Action	Date	FR Cite
NPRM	06/05/98	63 FR 30700
NPRM Comment Period End	07/20/98	
Final Action	08/25/98	63 FR 45183
Final Action Effective	10/01/98	

Regulatory Flexibility Analysis Required: No

DOT—NHTSA

Completed Actions

Government Levels Affected: None

Agency Contact: Taylor Vinson, Senior Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5263
Fax: 202 366-3820

RIN: 2127–AH26

2683. • REPLACEABLE LIGHT SOURCE DIMENSIONAL INFORMATION DOCKET

Priority: Info./Admin./Other

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 564

Legal Deadline: None

Abstract: In a final rule published January 12, 1993 (58 FR 3856), the agency established NHTSA Docket No. 93-11 as the repository for information on replaceable light sources used in motor vehicle headlighting systems. The rule requires that any new light source information or any proposed modification of previously filed information be submitted to this docket. As a result of the establishment and consolidation of the Department's Docket Management System (DMS), this notice is transfering all information currently filed in NHTSA 93-11 and any future information will be filed in DOT Docket No. 98-3397.

Timetable:

Action	Date	FR Cite
Final Action	08/10/98	63 FR 42586
Final Action Effective	08/10/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AH32

2684. • TEMPORARY EXEMPTION FROM MOTOR VEHICLE SAFETY STANDARDS - TECHNICAL AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30113

CFR Citation: 49 CFR 555

Legal Deadline: None

Abstract: This rulemaking clarifies the existing regulation by adding a cross-reference to part 512, Confidential Business Information, that explains that applicants for hardship exemptions may request confidential treatment of financial information submitted and clarifies information that can be submitted in support of arguments of hardship and good faith efforts to comply.

Timetable:

Action	Date	FR Cite
Final Action	08/18/98	63 FR 44171
Final Action Effective	08/18/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Taylor Vinson, Senior Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5263
Fax: 202 366-3820

RIN: 2127–AH44

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Prerule Stage

2685. +HOURS OF SERVICE ELECTRONIC RECORDKEEPING PROJECT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 228

Legal Deadline: None

Abstract: In 1994, the Federal Railroad Administration (FRA) launched a major project to facilitate maintenance of hours-of-service records and submission of "excess service" reports in an electronic, rather than a paper, format. FRA is proposing a model waiver to railroads interested in maintaining electronic records for train and engine service employees. These employees compose the vast majority of those subject to the statutory limitations on hours of service. This project will eventually lead to the formal revision of 49 CFR 228. This is considered significant due to public interest.

Timetable:

Action	Date	FR Cite
Grant or Deny Waiver Application	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Kasminoff, Trial Attorney, Mail Stop 10, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6043

RIN: 2130–AB04

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Proposed Rule Stage

2686. +WHISTLE BANS AT HIGHWAY-RAIL GRADE CROSSINGS

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 222

Legal Deadline:
Final, Statutory, November 2, 1996.
Final, Statutory, November 2, 1998.

Abstract: This action would govern the use of train whistles at grade crossings. This action is considered significant because of substantial public interest. This action is being taken pursuant to statutory mandate. FRA has issued notice of intent to prepare an environmental impact statement (EIS) for the proposed rule.

Timetable:

Action	Date	FR Cite
Notice of Intent to Prepare EIS	05/26/98	63 FR 28549
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information:

ANALYSIS: Regulatory Evaluation

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6061

RIN: 2130–AA71

2687. QUALIFICATION AND CERTIFICATION OF LOCOMOTIVE ENGINEERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 240

Legal Deadline: None

Abstract: Based on petitions to reconsider several aspects of its previous rules addressing locomotive engineer qualifications, the agency is proposing to revise certain aspects of part 240: (1) the application of this rule to service vehicles; and (2) the process for revoking the certification of locomotive engineers.

Timetable:

Action	Date	FR Cite
NPRM	09/22/98	63 FR 50626
NPRM Comment Period End	11/23/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: On October 31, 1996, FRA tasked the revisions of these qualifications to the Railroad Safety Advisory Committee (RSAC), which the agency established on March 26, 1996 (61 FR 9740). See Notice of RSAC Meeting, 61 FR 54698, Oct. 21, 1996. On May 14, 1998, FRA received the advice and recommendations of the RSAC, which submitted consensus recommendations for issuance of an NPRM.

ANALYSIS: Regulatory Evaluation, 04/09/93, 58 FR 18982

Agency Contact: Alan Nagler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6049

RIN: 2130–AA74

2688. +LOCOMOTIVE CAB WORKING CONDITIONS

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 229

Legal Deadline:
Final, Statutory, March 3, 1995.

Abstract: The agency has proposed to address crew working conditions on locomotives, pursuant to the Rail Safety Enforcement and Review Act (1992). FRA investigated a variety of locomotive working conditions, including sanitation, noise and temperature, and reported its findings to Congress. On October 31, 1996, the Railroad Safety Advisory Committee (RSAC) accepted a preliminary planning task to schedule handling of these issues. The Locomotive Crew Safety Working Group met on January 23, 1997 to develop task statements that were forwarded to the full RSAC and accepted on June 24, 1997. This project is considered significant because of substantial public interest. FRA is awaiting the advice and recommendations of RSAC before taking further regulatory action.

Timetable:

Action	Date	FR Cite
Open Meeting Notice	07/22/94	59 FR 37528
Report to Congress	09/18/96	
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: As originally proposed, this rulemaking addressed both crew working conditions on locomotives and the crashworthiness of locomotives. However, in anticipation of issuing two distinct rulemakings, FRA has separated crashworthiness of locomotives out from the original proposal (RIN 2130-AB23).

Agency Contact: Christine Beyer, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6027

RIN: 2130–AA89

2689. +ENVIRONMENTAL IMPACT AND RELATED PROCEDURES (FRA, FTA, FHWA)

Priority: Other Significant

Legal Authority: 49 USC 322; 42 USC 4332

CFR Citation: 49 CFR 267; 49 CFR 622; 23 CFR 771

Legal Deadline: None

Abstract: The Federal Transit Administration (FTA) and the Federal Highway Administration (FHWA) currently have a joint environmental regulation at 23 CFR 771, "Environmental Impact and Related Procedures," that outlines requirements for complying with the National Environmental Policy Act and related laws and regulations. The Federal Railroad Administration (FRA) has "Procedures for Considering Environmental Impacts" (45 FR 40854, June 16, 1980) which serve the same purposes. FTA and FHWA are revising their regulation to serve program needs. In order to achieve consistency in environmental analysis for surface transportation modes and to update its existing environmental procedures which were issued in 1980, the FRA

will join with FTA and FHWA in developing an environmental regulation that applies to all three modal Administrations. This action is considered significant because of public, congressional, and environmental concerns and because it involves several departmental modes. The FTA RIN is 2132-AA43; the FHWA RIN is 2125-AD32.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Undetermined

Additional Information:

ANALYSIS: Economic Assessment

Agency Contact: William R. Fashouer, Senior Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC. 20590
Phone: 202 493-6033

RIN: 2130–AA93

2690. +POSITIVE TRAIN CONTROL

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 220; 49 CFR 236

Legal Deadline: None

Abstract: FRA is collecting information to determine whether it should initiate a rulemaking addressing Positive Train Control (PTC) systems. In response to Congressional mandate, FRA has continued its commitment to identifying high risk corridors which may better support PTC investment; supporting PTC technology development, testing and compatibility; and promoting deployment of PTC technology on high risk corridors by the year 2000. FRA anticipates its fact finding efforts through the Railroad Safety Advisory Committee (RSAC) Working Group on PTC could result in FRA's decision to proceed to rulemaking. FRA, believing it advantageous to resolve the differences concerning this project in an open forum, formally proposed this rulemaking to RSAC in September, 1997, and is awaiting the advice and recommendations of RSAC. The initial rulemaking will address technical standards for PTC, amending 49 CFR part 236.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: FRA has separated out of this rulemaking its action entitled Radio Communication, which proposes to revise its radio rules for more flexibility and to include requirements for the presence of radios and/or some means of wireless communication (RIN 2130-AB19).

Agency Contact: Cynthia Walters, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6064

RIN: 2130–AA94

2691. REINVENTION OF STEAM LOCOMOTIVE INSPECTION REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20701

CFR Citation: 49 CFR 230

Legal Deadline: None

Abstract: Pursuant to the President's Regulatory Reform Initiative, and at the initiative of several industry members, FRA has undertaken to modernize part 230 to reflect current operating realities and, perhaps, to allow greater flexibility in the steam locomotive inspection waiver process. On July 24-25, 1996, the agency tasked the revision of these standards to the Railroad Safety Advisory Committee (RSAC), established by FRA on March 26, 1996 (61 FR 9740). (See Notice of RSAC Meeting, July 10, 1996, 61 FR 36415.) On February 17, 1998, the RSAC submitted to FRA consensus recommendations for issuance of an NPRM.

Timetable:

Action	Date	FR Cite
NPRM	09/25/98	63 FR 51404
NPRM Comment Period End	11/24/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lawrence Wagner, Deputy Assistant Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6052

RIN: 2130–AB07

2692. +POWER BRAKE REGULATIONS; FREIGHT POWER BRAKE REVISIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 232; 49 CFR 231; 49 CFR 229

Legal Deadline:
Final, Statutory, December 31, 1993.

Abstract: Pursuant to the Federal Railroad Safety Enforcement and Review Act of 1992, FRA is revising the power brake rules. After separating proposed revisions regarding freight power brakes from passenger power brakes, FRA tasked the revision of freight power brake standards on April 1-2, 1996 to the Railroad Safety Advisory Committee (RSAC), established by FRA on March 26, 1996 (61 FR 9740). On June 24, 1997, this task was withdrawn from RSAC and FRA is proceeding on its own initiative. This rulemaking is considered significant because of its potential economic impact and congressional and public interest.

Timetable:

Action	Date	FR Cite
NPRM	09/09/98	63 FR 48294
NPRM Comment Period End	01/15/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: A portion of the task to revise the power brake rules has been completed. FRA revised the existing power brake regulations to mandate the use of two-way end-of-train telemetry devices, RIN 2130-AA73, in a final rule published on January 2, 1997 (62 FR 278). Furthermore, proposals for passenger brake revisions are being developed with the assistance of a passenger equipment standards working group.

Agency Contact: Thomas Herrmann, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6036

RIN: 2130–AB16

2693. +LOCOMOTIVE CRASHWORTHINESS

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 229

Legal Deadline:
Final, Statutory, March 3, 1995.

Abstract: The agency has proposed to address the crashworthiness of locomotives pursuant to the Rail Safety Enforcement and Review Act (1992). FRA investigated locomotive crashworthiness, as well as a variety of locomotive working conditions (See RIN 2130-AA89) and reported its finding to Congress. On October 31, 1996, the Railroad Safety Advisory Committee (RSAC) accepted a preliminary planning task to schedule handling of these issues. The Locomotive Crew Safety Working Group met on January 23, 1997 to develop task statements that were forwarded to the full RSAC and accepted on June 24, 1997. This project is considered significant because of substantial public interest. FRA is awaiting advice and recommendations from RSAC before taking further regulatory action.

Timetable:

Action	Date	FR Cite
Open Meeting Notice	07/22/94	59 FR 37528
Report to Congress	09/18/96	
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: This rulemaking was originally included in RIN 2130-AA89, Locomotive Cab Working Conditions.

Agency Contact: Lawrence Wagner, Deputy Assistant Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6052

RIN: 2130–AB23

2694. • +REGULATIONS ON SAFETY INTEGRATION PLANS GOVERNING RAILROAD CONSOLIDATIONS, MERGERS, ACQUISITIONS OF CONTROL AND START-UP OPERATIONS

Regulatory Plan: This entry is Seq. No. 91 in Part II of this issue of the Federal Register.

RIN: 2130–AB24

2695. • CRANE SAFETY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: In response to a petition for rulemaking, FRA will consider whether to adopt regulations governing functional and design safety of on-track railroad cranes used for track maintenance. Railroad crane safety is currently regulated by the Department of Labor. FRA is awaiting the advice and recommendations of RSAC before taking further regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Edward R. English, Director, Office of Safety Assurance and Compliance, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6321

RIN: 2130–AB27

2696. • ROADWAY MAINTENANCE MACHINE SAFETY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 214

Legal Deadline: None

Abstract: FRA proposes to publish regulations governing operational and design safety of on-track equipment used by railroads for track maintenance. The regulations would cover self-propelled rail-mounted non-highway machines where light weight exceeds 7500 pounds. This rulemaking was requested by the Brotherhood of Maintenance-of-Way Employees (BMWE) as part of the organization's petition requesting revision of the track safety standards. FRA decided to respond to this portion of the BMWE petition in a rulemaking separate from the track safety standards revision. FRA is awaiting the advice and recommendations of RSAC before taking further regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: This rulemaking is an off-shoot of the rulemaking to revise the track safety standards.

Agency Contact: Nancy Lummen Lewis, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6047

RIN: 2130–AB28

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Final Rule Stage

2697. LOCAL RAIL FREIGHT ASSISTANCE TO STATES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 22101

CFR Citation: 49 CFR 266

Legal Deadline: None

Abstract: This action is to revise the procedures and requirements for the receipt of financial assistance contained in part 266. These changes are required to reflect statutory modifications resulting from the Local Rail Service Reauthorization Act of 1989. Although the Local Freight Assistance Program has not been reauthorized after FY 1995, final regulations are necessary because States continue to submit applications for new projects from reprogrammed funds and repaid loan funds.

Timetable:

Action	Date	FR Cite
NPRM	11/30/90	55 FR 49648
NPRM Comment Period End	12/31/90	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Additional Information: While this action was to be terminated in October of 1995, the agency reconsidered and has decided to move forward with a final rule.

ANALYSIS: Regulatory Evaluation, 11/30/90, 55 FR 49648

Agency Contact: JoAnne McGowan, Chief Freight Programs Division, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-3290

RIN: 2130–AA60

2698. +FREIGHT CAR SAFETY STANDARDS: MAINTENANCE-OF-WAY EQUIPMENT

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 215

Legal Deadline: None

Abstract: This action proposes to amend the freight car safety standards to subject all maintenance-of-way vehicles to FRA's safety standards, with the exception of stenciled cars not used in revenue service and restricted to a speed of less than 20 miles per hour. This action is considered significant because of substantial public and industry interest.

Timetable:

Action	Date	FR Cite
NPRM	03/10/94	59 FR 11238
NPRM Comment Period End	02/27/95	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The original NPRM comment period ended on 4/11/94 but was twice extended; first, to 11/28/94 (59 FR 49374) and then to 02/27/95 (59 FR 67266). Due to various contentious issues raised during the NPRM comment period, FRA believes it may be advantageous to resolve differences in an open forum. Therefore, on September 30, 1997, FRA formally proposed this rulemaking as a new task (Task 97-8) for the Railroad Safety Advisory Committee (RSAC). After discussion, the RSAC declined to accept the task at that time. Staff turnover, combined with the press of other business, has slowed further action on this rulemaking.

ANALYSIS: Regulatory Evaluation, 03/10/94, 59 FR 11238

Agency Contact: Billie Stultz, Deputy Assistant Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6053

RIN: 2130–AA68

2699. +PASSENGER EQUIPMENT SAFETY STANDARDS

Regulatory Plan: This entry is Seq. No. 92 in Part II of this issue of the Federal Register.

RIN: 2130–AA95

2700. MAINTENANCE, INSPECTION, AND TESTING OF GRADE-CROSSING SIGNAL SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 234

Legal Deadline:
Final, Statutory, June 22, 1989.

Abstract: FRA is making technical changes and minor amendments to final regulations which were published on September 30, 1994. These regulations require that railroads take specific and timely actions to protect the travelling public and railroad employees from the hazards posed by malfunctioning highway-rail grade crossing warning systems, and that railroads follow specific standards for maintenance, inspection, and testing of those systems. The amendments clarify issues arising from implementation of this new regulatory program. No new costs are expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/20/96	61 FR 31802
Comment Period End	07/22/96	
Interim Final Rule Effective	08/19/96	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Additional Information: The final rule, RIN 2130-AA70, was published 9/30/94 (59 FR 50086), and was effective 1/1/95. In response to a petition for reconsideration, FRA conducted a review, together with rail labor and rail management, to address various implementation issues that had surfaced since the rule was enacted. After meeting with these parties in March 1995, FRA issued an Implementation Manual on April 14, 1995. An interim final rule intended to clarify implementation issues by making minor technical amendments was published on June 20, 1996, effective August 19, 1996. Response to the comments on that interim rule may result in further amendment of the rule.

Agency Contact: Mark H. Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6061

RIN: 2130–AA97

DOT—FRA

Final Rule Stage

2701. STATEMENT OF POLICY REGARDING SAFETY OF RAILROAD BRIDGES

Priority: Info./Admin./Other

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 213

Legal Deadline: None

Abstract: FRA proposes to publish a policy statement containing maintenance guidelines based on certain common, basic principles that characterize effective bridge management practices. The guidelines are meant to be advisory in nature. They will not have the force of regulations under which FRA ordinarily issues violations and assesses civil penalties..

Timetable:

Action	Date	FR Cite
Statement of Interim Policy	04/27/95	60 FR 20654
Comment Period End	06/26/95	
Final Policy Statement	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nancy Lummen Lewis, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6047

RIN: 2130–AA99

2702. REINVENTION OF REGULATIONS ADDRESSING DISCONTINUANCE OR MODIFICATION OF SIGNAL SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20501 to 20505

CFR Citation: 49 CFR 235

Legal Deadline: None

Abstract: Pursuant to the President's Regulatory Reform Initiative, FRA intends to revise part 235 by reducing the list of circumstances for which signal system discontinuance approval is required. The amendments clarify issues arising from implementation of this new regulatory program. No new costs are expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/01/96	61 FR 33871
Comment Period End	07/31/96	
Interim Final Rule Effective	08/30/96	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6061

RIN: 2130–AB06

2703. REINVENTION OF SIGNAL SYSTEM REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20501 to 20505

CFR Citation: 49 CFR 233

Legal Deadline: None

Abstract: Pursuant to the President's Regulatory Reform Initiative, FRA is amending its signal system reporting requirements (part 233) to reduce signal system reporting burdens on the rail industry. The amendments clarify issues arising from implementation of this new regulatory program. No new costs are expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/01/96	61 FR 33871
Comment Period End	07/31/96	
Interim Final Rule Effective	08/30/96	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6061

RIN: 2130–AB06

2704. FLORIDA OVERLAND EXPRESS HIGH SPEED RAIL RULE OF PARTICULAR APPLICABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 243

Legal Deadline: None

Abstract: FRA has published a proposed rule of particular applicability for a high speed rail project in the state of Florida. As proposed, the system will operate from Miami to Tampa via Orlando, and will be modeled on the French TGV. As currently designed, the operation will travel at 200 mph on dedicated rail with no grade crossings, and will be used exclusively for passenger service. Florida anticipates beginning operations in the year 2004. The rule takes a systems approach, covering equipment, track, signals, operating practices, emergency preparedness, personnel qualification requirements, system qualification requirements, and system safety.

Timetable:

Action	Date	FR Cite
NPRM	12/12/97	62 FR 65478
NPRM Comment Period End	02/10/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Christine Beyer, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20593
Phone: 202 493-6027

RIN: 2130–AB14

DOT—FRA

Final Rule Stage

2705. SMALL RAILROADS; POLICY STATEMENT ON ENFORCEMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 601 et seq; PL 104-121; 49 USC 20101 et seq

CFR Citation: 49 CFR 209

Legal Deadline:
Other, Statutory, March 29, 1997, Policy on Small Entities Subject to Railroad Safety Laws.

Abstract: The Small Business Regulatory Enforcement Act (SBREFA) of 1996 requires, among other things, that Federal agencies establish communication and enforcement programs to address the unique concerns and operations of small entities.

Pursuant to SBREFA, FRA published communication and enforcement policies with respect to small entities in a Statement of Agency Policy and undertook an interim definition of "small entity" in this process. Also, FRA invited comment from the public for the purpose of adopting a new definition of "small entity" in the future.

Timetable:

Action	Date	FR Cite
Interim Policy Statement Effective 10/10/97	08/11/97	62 FR 43024
Comment Period End	11/30/97	
Final Policy Statement	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Local

Agency Contact: Christine Beyer, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20593
Phone: 202 493-6027

RIN: 2130–AB15

2706. USE OF REMOTELY CONTROLLED LOCOMOTIVES IN RAIL OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 229.7

Legal Deadline: None

Abstract: Concerned with the complex and immediate safety issues posed by rail operations involving the use of remotely controlled locomotives, FRA proposes to promulgate an interim final rule to conduct a nationwide pilot program on remote control operations. FRA will require all railroads which propose to use remote control locomotives to enroll in a pilot program and agree to conform to the safety conditions set forth by FRA. The purpose of the pilot program is to determine under what conditions, if any, remote control operations can be operated safely.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: An Informal Safety Inquiry concerning a proposal by Wisconsin Central Ltd. to expand its use of remote control operations and one-person crews was held by FRA on December 4 and 5, 1997 (61 FR 58736, November 18, 1996).

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6061

RIN: 2130–AB17

2707. USE OF ONE-PERSON CREWS IN RAIL OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Concerned with the complex and immediate safety issues posed by rail operations involving the use of one-person crews, FRA proposes to promulgate an interim final rule to prohibit, except in carefully controlled instances, the use of one-person operations. FRA will require all railroads which propose to use one-person crew operations to enroll in a pilot program and agree to conform to the safety conditions set forth by FRA. The purpose of the pilot program is to determine under what conditions, if any, one-person crew operations can be safely operated.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: An Informal Safety Inquiry concerning a proposal by Wisconsin Central Ltd. to expand its use of one-person crew and remote control operations was held by FRA on December 4 and 5, 1996 (61 FR 58736, November 18, 1996).

Agency Contact: Lawrence Wagner, Deputy Assistant Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6052

RIN: 2130–AB18

2708. • BRIDGE WORKER SAFETY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 214

Legal Deadline: None

Abstract: In response to a petition for rulemaking, FRA will amend the Bridge Worker Safety Rules through promulgation of an interim final rule. The interim final rule will prohibit the use of safety belts as fall protection and make technical clarifications to the standards. This action is supported by the industry and is consistent with new policies of the Occupational Safety and Health Administration. The need for prompt action is based on data showing an immediate safety concern. FRA is considering issuance of an interim final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gordon Davids, Bridge Engineer, Office of Safety, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6320

RIN: 2130–AB25

DOT—FRA

Final Rule Stage

2709. • AMENDMENT OF REGULATIONS GOVERNING RAILROAD REHABILITATION AND IMPROVEMENT FINANCING

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 821 et seq; PL 105-78

CFR Citation: 49 CFR 260

Legal Deadline: None

Abstract: This action would amend the current regulations prescribing requirements for filing applications for financial assistance for railroad related projects through direct loans and loan guarantees. FRA is considering issuance of an interim final rule to expedite funds availability.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: JoAnne McGowan, Chief, Freight Programs Division, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-3290

RIN: 2130–AB26

2710. • PLANNING ACTIVITIES UNDER THE MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 322

CFR Citation: Not yet determined

Legal Deadline:
Other, Statutory, December 9, 1998, See Additional Information.

Abstract: This action is required by section 1218(a) of the Transportation Equity Act for the 21st Century ("TEA 21"). This section, codified at 23 USC 322, provides a total of $55 million for Fiscal Years 1999 through 2001 for preconstruction planning activities, final design, engineering, and construction activities for the deployment of Magnetic Levitation technology ("Maglev Deployment Program"); $15 million is available in Fiscal Year 1999 and $40 million for Fiscal Years 2000 and 2001. Section 322 requires FRA to establish Project selection criteria, to solicit applications for funding, to select one or more Projects to receive financial assistance for preconstruction planning activities, and after completion of such activities, to select one of the Projects to receive financial assistance for final design, engineering, and construction activities. This Interim Final Rule solicits applications for the initial planning funds under the Maglev Deployment Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: 180 days after enactment of section 322 (12/09/98) the Secretary is to solicit applications from states. 90 days thereafter, (03/09/99) the Secretary is to evaluate applications. Potential grantees must know what is expected of them to start the process and for the Secretary to meet these deadlines.

Agency Contact: Neil E. Moyer, Chief, Program Development Division, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6365

RIN: 2130–AB29

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Long-Term Actions

2711. AMTRAK WASTE DISPOSAL

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-610

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The National and Community Service Act requires the Secretary of Transportation to promulgate such regulations as may be necessary to mitigate the impact of discharge of human waste from railroad passenger cars on areas that may be considered environmentally sensitive.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information:

ANALYSIS: Regulatory Evaluation

Agency Contact: Mark Yachmetz, Department of Transportation, Federal Railroad Administration, Office of Safety, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6289

RIN: 2130–AA84

2712. PROTECTION OF UTILITY EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 218

Legal Deadline: None

Abstract: FRA is in the process of reconsidering amendments to its "Blue Signal" regulations, which prescribe minimum requirements for the protection of railroad employees engaged in the inspection, testing, repair, and servicing of rolling equipment. The original "blue signal" rule did not include train and yard crews in this protection, with limited exceptions. The final rule, intended to redress this problem, allowed augmentation of a crew by using a "utility" employee, which would increase a railroad's efficient use of its employees. Based on petitions to reconsider several aspects of its final rule treating this subject, FRA issued amendments to this rule. Based on comments received, the agency suspended those amendments and reopened the comment period to further develop this proposal.

Timetable:

Action	Date	FR Cite
Final Rule Amendments: Comment Period End 5/1/95	03/01/95	60 FR 11047

DOT—FRA

Long-Term Actions

Action	Date	FR Cite
Final Rule Suspended: Comment Period Reopened	06/09/95	60 FR 30469
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The final rule on utility employees was published August 16, 1993 (58 FR 43287), RIN 2130-AA77.

Agency Contact: Daniel Alpert, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6026

RIN: 2130–AA90

2713. TOURIST AND HISTORIC WORKING GROUP REGULATORY REVIEW

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: None

Legal Deadline: None

Abstract: The Tourist and Historic Working Group of the Railroad Safety Advisory Committee was established to review existing and proposed regulations for their appropriate applicability to one segment of FRA's small business customers, the tourist and historic railroads. In addition, the group is examining FRA's policy with respect to exercise of jurisdiction over railroads off the general system of rail transportation.

Timetable:

Action	Date	FR Cite
Begin Review	04/01/96	
Complete Review	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: This rulemaking represents a long-term effort to review existing and proposed regulations for their appropriate applicability to tourist and historic railroads. The group was created in April of 1996 and met on June 17 - 18, 1996. Thus far, the group has reviewed the Steam Locomotive standards and FRA's Accident/Incident Reporting standards and provided recommendations regarding their applicability to the tourist and historic railroad industry. (See Notice of Meeting, 61 FR 54698.) The group is anticipated to next review the final rules on Track Safety Standards and Rail Passenger Service: Emergency Preparedness.

Agency Contact: Lawrence Wagner, Deputy Assistant Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6052

RIN: 2130–AB12

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Completed Actions

2714. +TRACK SAFETY STANDARDS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20103; 49 USC 20142

CFR Citation: 49 CFR 213

Legal Deadline:
Final, Statutory, September 1, 1995.

Abstract: This action comprehensively revised the track regulations for the first time in over a decade. This revision of FRA's track safety standards was mandated by Congress in the Rail Safety Enforcement and Review Act (PL 102-365) and requested by the Brotherhood of Maintenance-of-Way workers in their petition requesting several modifications of existing track standards. On April 1-2, 1996, FRA tasked the revision of these standards to the Railroad Safety Advisory Committee (RSAC) which the agency established on March 26, 1996 (61 FR 9740). (See Notice of Task Acceptance, 61 FR 29164, June 7, 1996.) After receiving the advice and recommendations of the RSAC, the agency issued these regulations. This action is significant because of substantial public interest and safety implications

Roadway Maintenance Machine Safety (RIN 2130-AB28) and Gage Restraint Measurement Systems (GRMS), both initially discussed as part of the track standards revisions, will be addressed in separate rulemaking actions.

Timetable:

Action	Date	FR Cite
ANPRM	11/16/92	57 FR 54038
ANPRM Comment Period End	03/12/93	
NPRM	07/03/97	62 FR 36138
Correction	08/12/97	62 FR 43201
NPRM Comment Period End	09/15/97	
NPRM Request for Additional Comments	12/12/97	62 FR 65401
Final Action	06/22/98	63 FR 33992
Final Action Effective	09/21/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: A Public Workshop Notice and Schedule was published 01/05/93 (58 FR 338) and subsequently corrected twice, on 1/19/93 (58 FR 4975) and 2/18/93 (58 FR 8928). A Public Hearing on the NPRM was held on 9/4/97 (62 FR 42733).

ANALYSIS: Regulatory Evaluation, 07/03/97, 62 FR 36138

Agency Contact: Nancy Lummen Lewis, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6047

RIN: 2130–AA75

DOT—FRA

Completed Actions

2715. +RAIL PASSENGER SERVICE: EMERGENCY PREPAREDNESS

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 239

Legal Deadline:
NPRM, Statutory, November 2, 1997.
Final, Statutory, November 2, 1997.
Final, Statutory, November 2, 1999.

Abstract: This action establishes minimum emergency preparedness standards to ensure that railroads involved in passenger train operations can effectively and efficiently manage emergencies. This action was taken pursuant to the Federal Railroad Safety Authorization Act of 1994. The rule provides flexibility to each railroad to establish procedures and policies appropriate to its particular operations, subject to review and approval by the FRA. This is considered significant due to public interest.

Timetable:

Action	Date	FR Cite
NPRM	02/24/97	62 FR 8330
Notice of Public Hearing	03/06/97	62 FR 10248
NPRM Comment Period End	04/24/97	
Final Action	05/04/98	63 FR 24630
Final Action Effective	07/06/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David H. Kasminoff, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6043

RIN: 2130–AA96

2716. REINVENTION OF REGULATIONS ADDRESSING RAILROAD USER FEES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 421

CFR Citation: 49 CFR 245

Legal Deadline: None

Abstract: In the Omnibus Budget Reconciliation Act of 1990, Congress had authorized FRA to assess and collect railroad user fees for a 5-year period which ended September 30, 1995. Due to a lack of Congressional action to reauthorize the program, FRA is dropping this item from the Unified Regulatory Agenda. Should Congress act to reinstitute railroad user fees, FRA will take appropriate regulatory action (within the confines of the enabling legislation) to reexamine the burden of the program on small railroads.

Timetable:

Action	Date	FR Cite
End Review	07/22/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Elizabeth Sorrells, Attorney Advisor, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6057

RIN: 2130–AB09

2717. RAILROAD COMMUNICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 220

Legal Deadline: None

Abstract: Based on a Congressionally mandated safety inquiry about radio communications and train control, FRA committed to revise its radio rules for more flexibility and to include requirements for the presence of radios and/or some means of wireless communication for certain trains and roadway workers. On April 1-2, 1996 the agency tasked the revision of these standards to the Railroad Safety Advisory Committee (RSAC), established by FRA on March 26, 1996 (61 FR 9740) (See Notice of Task Acceptance, 61 FR 29164, June 7, 1996.). An NPRM based on RSAC's advice and recommendations was published on June 26, 1997.

Timetable:

Action	Date	FR Cite
NPRM	06/26/97	62 FR 34544
NPRM Comment Period End	08/25/97	
Final Action	09/04/98	63 FR 47182

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: As originally proposed, this rulemaking also encompassed issues involving positive train control (PTC) technology. However, FRA has separated this rulemaking out from the original proposal to revise its radio rules with respect to PTC technology (RIN 2130-AA94).

ANALYSIS: Regulatory Evaluation, 06/26/97, 62 FR 34544

Agency Contact: Patricia V. Sun, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6060

RIN: 2130–AB19

2718. ADVANCED CIVIL SPEED ENFORCEMENT SYSTEM; NORTHEAST CORRIDOR RAILROADS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103; 49 USC 20107; 49 USC 20501 to 20505

CFR Citation: None

Legal Deadline: None

Abstract: FRA issued a proposed order of particular applicability requiring all trains on the north end of the Northeast Corridor (NEC) between Boston, Massachusetts and New York, New York, to be controlled by locomotives equipped to respond to a new advanced civil speed enforcement system (ACSES) in addition to the automatic train control (ATC) system that is currently required on the NEC. The proposed order also contains performance standards for the ACSES systems on the NEC. The order authorizes increases in certain maximum authorized train speed and safety requirements supporting improved rail service.

Timetable:

Action	Date	FR Cite
Proposed Order of Particular Applicability	11/20/97	62 FR 62097
Final Order	07/22/98	63 FR 39343
Final Order effective	08/21/98	

Regulatory Flexibility Analysis Required: No

DOT—FRA

Completed Actions

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia V. Sun, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6060

RIN: 2130–AB20

2719. TWO-WAY END-OF-TRAIN TELEMETRY DEVICES AND CERTAIN PASSENGER TRAIN OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 232; 49 CFR 231; 49 CFR 229

Legal Deadline: None

Abstract: On January 2, 1997, FRA published a final rule amending the regulations governing train and locomotive power braking systems at 49 CFR part 232 to add provisions pertaining to the use and design of two-way end-of-train telemetry devices (EOTs). (See 62 FR 278). The purpose of the revisions was to improve the safety of railroad operations by requiring the use of two-way EOTs on a variety of trains pursuant to 1992 legislation, and by establishing minimum performance and operational standards related to the use and design of the devices. The current regulations regarding two-way EOTs provide an exception from the requirements for "passenger trains with emergency brakes."

In this rulemaking, FRA amended the final rule to specifically encompass certain passenger train operations where multiple express-type equipment, material handling cars, or units of intermodal equipment are part of a train's consist. Trains of this nature are currently being operated by the National Railroad Passenger Corporation and swift action was necessary to clarify and address the applicability of two-way end-of-train requirements to these types of operations.

Timetable:

Action	Date	FR Cite
NPRM	01/16/98	63 FR 2647
NPRM Comment Period End	02/02/98	
Final Action	05/01/98	63 FR 24130
Final Action Effective	05/01/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas Herrmann, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20950
Phone: 202 493-6036

RIN: 2130–AB22

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Transit Administration (FTA)

Prerule Stage

2720. PROPOSED EXPANDED REPORTING OF SAFETY AND SECURITY PORTION OF THE NATIONAL TRANSIT DATABASE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5335

CFR Citation: 49 CFR 630

Legal Deadline: None

Abstract: The FTA is evaluating Form 405, Transit Safety and Security, of the National Transit Database to determine its future direction. In this evaluation, FTA will consider the objectives of the form, the current potential usefulness of the data, and the overall strengths and weaknesses of it. Based on the evaluation, FTA will identify and implement improvements to the collection of Transit Safety and Security data.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: Judy Meade, Director, Office of Safety and Security, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2896

RIN: 2132–AA60

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Transit Administration (FTA)

Proposed Rule Stage

2721. +DEPARTMENT OF TRANSPORTATION (FTA, FHWA, FRA, AND USCG) AND RELATED PROCEDURES FOR TRANSPORTATION DECISIONMAKING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5304(e); 42 USC 4321; 23 USC 109; 23 USC 128; 23 USC 138; 23 USC 315; 49 USC 303(c); 33 USC 401; 33 USC 491 et seq; 33 USC 511 et seq; 33 USC 525 et seq; 33 USC 535

CFR Citation: 49 CFR 622; 23 CFR 771; 40 CFR 1500 to 1508; 49 CFR 1.48(b); 49 CFR 1.51; 33 CFR 114.05

Legal Deadline:
Final, Statutory, May 18, 1992.

Abstract: The Federal Transit Administration and the Federal Highway Administration currently have a joint environmental regulation at 23 CFR 771, "Environmental Impact and Related Procedures." The agencies first issued an environmental regulation together in 1980. The joint regulation was amended in 1987 and again in 1991. Even though FTA and FHWA have joint regulations, each agency's guidance for implementing those regulations is procedurally different. This causes difficulties and inconsistencies for sponsors of transportation projects, particularly where joint FTA and FHWA funds are involved. In the ISTEA, the Congress recognized the importance of providing uniformity and consistency between FTA and FHWA environmental procedures. This is needed to accommodate the increased funding flexibility for surface transportation provided by ISTEA. Because of an increased emphasis on intermodal planning and proposals to advance a high-speed rail program, the proposed, new joint regulations will include the Federal Railroad Administration (FRA) and the United States Coast Guard (USCG) bridge permit program. Further, FTA and FHWA agencies will propose to make changes to conform this rule to the requirements of the Transportation Equity Act for the 21st Century (P.L. 105-178). Most notably, FTA and FHWA will propose to integrate the major investment study of the metropolitan and statewide planning rules with this rule.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: Section 134(h)(4) of title 23, United States Code, and section 8(h)(4) of the Federal Transit Act, as amended (now 49 USC 5304(e)), direct the Secretary of Transportation to initiate a rulemaking proceeding to conform review requirements for transit projects under the National Environmental Policy Act of 1969 to comparable requirements for highway projects. This action is considered significant because of potential public, congressional, and environmental concerns, and because it involves several interested departmental modes.

ANALYSIS: Regulatory Evaluation

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Phone: 202 366-0952

RIN: 2132–AA43

DOT—FTA

Proposed Rule Stage

2722. • BUY AMERICA REQUIREMENTS; AMENDMENT TO ROLLING STOCK AND CERTIFICATION PROCEDURES

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: PL 105-178, sec 3020(b)

CFR Citation: 49 CFR 661.11; 49 CFR 661.13

Legal Deadline: None

Abstract: This action would amend FTA's Buy America regulation, 49 CFR 661 in accordance with section 3020(b) of the Transportation Equity Act of 1998. Section 3020(b) allows a bidder on an FTA-funded contract to correct an incomplete certification or a certification of noncompliance with Buy America resulting from an inadvertent or clerical error.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

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RIN: 2132–AA62

2723. • +MAJOR CAPITAL INVESTMENT PROJECTS

Priority: Other Significant

Legal Authority: 49 USC 5309; PL 105-178, Sec 3009(e)

CFR Citation: 49 CFR 611

Legal Deadline:
NPRM, Statutory, October 7, 1998.
Final, Statutory, December 7, 1998.

Abstract: This rulemaking will establish the criteria by which FTA will evaluate major capital investment mass transportation projects and rate those projects in comparison with one another, based on an analyses of alternatives, justifications for projects, and degrees of local financial commitment. This rulemaking will also codify the procedures applicants for Federal transit capital funding must follow in developing fixed guideway ("New Starts") projects. This action is considered significant because of potential public, congressional, and environmental concerns.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard P. Steinmann, Director, Office of Policy Development, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1739
Fax: 202 366-7116

RIN: 2132–AA63

2724. • PLANNING

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, sec 1309

CFR Citation: 49 CFR 613; 23 CFR 450

Legal Deadline: None

Abstract: FTA and FHWA will be issuing a joint rule implementing the planning requirements of the Transportation Equity Act for the 21st Century (P.L. 105-178). Changing the planning factors, adding illustrative project provisions, addressing consultation requirements with local officials, and integrating the major investment study into the Environmental Impact and Related Procedures rule are among the changes FTA may propose to make. FTA and FHWA will undertake this rule in conjunction with amending the Environmental Impact and Related Procedures rule.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

DOT—FTA

Proposed Rule Stage

Agency Contact: Scott Biehl, Assistant Chief Counsel, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0952

RIN: 2132–AA66

2725. • SCHOOL BUS OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5323(f)

CFR Citation: 49 CFR 605

Legal Deadline: None

Abstract: This rulemaking proposes to amend the definition of "tripper" service, which is mass transit service modified to meet the needs of school students and personnel. The amended definition would prohibit the use of certain signage without the express written permission of the FTA Administrator, and provides that tripper buses must stop only at stops that are marked as available to the public.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

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RIN: 2132–AA67

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Transit Administration (FTA)

Final Rule Stage

2726. +BUS TESTING

Priority: Other Significant

Legal Authority: 49 USC 5323(c)

CFR Citation: 49 CFR 665

Legal Deadline: None

Abstract: This regulation implements a statutory provision that requires any new bus model purchased after September 30, 1989, to be tested at a facility established by the Secretary in Altoona, PA. This regulation is significant because of the large amount of public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/25/89	54 FR 22716
NPRM Comment Period End	07/24/89	
Interim Final Rule	08/23/89	54 FR 35158
Interim Final Rule: Comment Period Reopened	11/30/89	54 FR 49297
Interim Final Rule: Second	10/09/90	55 FR 41174
Interim Final Rule Extending Interim Procedures	09/13/91	56 FR 46572
Interim Final Rule New Vehicle Types	07/28/92	57 FR 33394
Interim Final Rule Partial Effectiveness Postponed	10/13/92	57 FR 46814
Interim Final Rule Comment Period Reopened to 01/29/93	01/07/93	58 FR 2989
Interim Final Rule Partial Effectiveness Postponed	02/23/93	58 FR 10989
Notice of Meeting	02/26/93	58 FR 11549
Interim Final Rule Small Vehicle Testing, Phase-in of Effective Date	11/03/93	58 FR 58732
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Former section 12(h) of the FT Act, as amended (now 49 USC 5302(a)(9)), defines a "new bus model" as a bus model which has not been used in mass transportation service in the United States before the date of production of such model, or a bus model which has been used in such service, but which is being produced with a major change in configuration or components. A third interim final rule, published on 07/28/92, added two new categories of buses required to be tested. On 10/13/92 FTA published a notice postponing the application of the interim final rule for these vehicle types until 02/10/93. The FTA's fourth interim final rule, issued on 11/3/93, established four subcategories of small vehicles to facilitate the phase-in of testing. The final rule will add the two tests mandated by ISTEA, brake performance and emissions, to the seven tests currently performed at the bus testing facility. In addition, the final rule will clarify the partial testing with regard to what constitutes a "major change" on a bus that has been fully tested, but is later produced with a change in configuration or component.

ANALYSIS: Regulatory Evaluation, 07/28/92, 57 FR 33394

Agency Contact: Richard Wong, Attorney-Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1936

RIN: 2132–AA30

2727. PREVENTION OF ALCOHOL MISUSE IN TRANSIT OPERATIONS; PREVENTION OF PROHIBITED DRUG USE IN TRANSIT OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5331

CFR Citation: 49 CFR 653; 49 CFR 654

Legal Deadline: None

Abstract: FTA is proposing to amend its drug and alcohol rules to allow employers to use the results of a drug or alcohol test administered by State and local law enforcement personnel after an accident has occurred. The existing drug and alcohol rule was published on February 15, 1994, and previously reported under RIN 2132-AA37 and 2132-AA38. The change would make FTA's rule parallel with FHWA's and responds to a request from a transit authority.

Timetable:

Action	Date	FR Cite
NPRM	09/30/97	62 FR 51076

DOT—FTA

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	12/01/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Agency Contact: Nancy Zaczek, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4011

RIN: 2132–AA56

2728. CHARTER SERVICES DEMONSTRATION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240, sec 3040

CFR Citation: 49 CFR 604

Legal Deadline:
Final, Statutory, September 18, 1992.

Abstract: This rulemaking presents the results and conclusions drawn from the charter services demonstration program, previously reported under RIN 2132-AA40, which was mandated by section 3040 of the Intermodal Surface Transportation Efficiency Act. That provision directed FTA to conduct a demonstration program in four states to permit public operators to provide needed charter services to certain civic and community groups. In addition to setting forth program results, this rulemaking seeks recommendations regarding improvements to the charter service regulation.

Timetable:

Action	Date	FR Cite
NPRM	06/23/97	62 FR 33793
NPRM Comment Period End	08/22/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Rita Daguillard, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1936

RIN: 2132–AA58

2729. "MAINTENANCE" UNDER DEFINITION OF SAFETY-SENSITIVE FUNCTIONS IN DRUG AND ALCOHOL RULES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5331

CFR Citation: 49 CFR 653; 49 CFR 654

Legal Deadline: None

Abstract: The Federal Transit Administration is proposing to expand its definition of safety-sensitive functions to require drug and alcohol testing of maintenance workers engaged in rebuilding or overhauling engines, revenue service vehicles, and parts. This change would eliminate the distinction between maintenance workers involved in on-going, daily maintenance and repair work and those who, on a routine basis, perform rebuilding and overhauling work.

Timetable:

Action	Date	FR Cite
NPRM	03/02/98	63 FR 10183
NPRM Comment Period End	06/01/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Judy Meade, Director, Office of Safety and Security, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2132–AA61

2730. • CLEAN FUELS FORMULA GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, sec 3008; 49 USC 5308

CFR Citation: 49 CFR 624

Legal Deadline: None

Abstract: Section 3008 of the Transportation Equity Act of the 21st Century amends 49 CFR 5308 to establish the Clean Fuels Formula Grant Program. This grants program will assist transit systems in purchasing or leasing clean fuel programs; constructing clean fuel or electrical re-charging facilities; modifying existing garage facilities to accommodate clean fuel vehicles; re-powering pre-1993 engines with clean fuel technology which meets the current bus emission standards; and retrofitting or rebuilding pre-1993 engines before their half-life for rebuilding. This provision requires the Secretary to issue an implementing regulation that sets forth eligibility requirements and an apportionment formula for eligible projects. Because applications must be submitted to FTA by January 1 of each year, FTA will publish its interim final rule by November 1, 1998, for the applications due January 1, 1999.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local

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RIN: 2132–AA64

2731. • CAPITAL LEASES

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, sec 3003

CFR Citation: 49 CFR 639

Legal Deadline: None

Abstract: Section 3003 of the Transportation Equity Act for the 21st Century (TEA-21) expanded the definition of capital projects to include the leasing of equipment or facilities for use in mass transportation when it is cost-effective to do so. Prior to enactment of TEA-21, the option to lease instead of purchase was available only to recipients of FTA's formula grant program for urbanized areas, section 5307 recipients through the capital lease rule. To implement this expanded definition, which will benefit most of FTA 's recipients, FTA will

DOT—FTA

Final Rule Stage

amend its capital lease rule by expanding it to include all FTA recipients of capital assistance. This rule will then allow all FTA recipients of capital assistance to choose to purchase or lease equipment or facilities depending on which option is more cost-effective. Because this rule is non-controversial and beneficial to all FTA recipients of capital assistance, FTA will issue a direct final rule, thus, quickly implementing the change mandated by TEA-21. The publication of this rule will relieve recipients of capital assistance of an administrative burden they must meet under OMB guidance.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 2132–AA65

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Prerule Stage

2732. HAZARDOUS MATERIALS: REVISION OF REQUIREMENTS FOR CARRIAGE BY AIRCRAFT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 48 USC 5101 to 5127

CFR Citation: 49 CFR 175

Legal Deadline: None

Abstract: Part 175 is being revised and rewritten in order to simplify and clarify the requirements, further align them with the international requirements (ICAO) and eliminate obsolete requirements.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-228.

Agency Contact: Deborah Boothe, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD18

2733. • HAZARDOUS MATERIALS: REVISIONS TO THE INCIDENT REPORTING REGULATIONS AND INCIDENT REPORT FORM 5800.1

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5105 to 5127

CFR Citation: 49 CFR 171

Legal Deadline: None

Abstract: This rulemaking will review the hazardous materials incident reporting regulations in 49 CFR part 171 including the hazardous materials incident report (form 5800.1). The goal of this rulemaking is to simplify, update and review the requirements while enhancing the ability of the Research and Special Programs Administration and the DOT modal administrations to gather information vital to increase safety of transporting hazardous materials.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Additional Information: Docket No. HM-229.

Agency Contact: Paul L. Polydores/Kevin Coburn, Transportation Specialist/Information Systems Manager, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD21

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Proposed Rule Stage

2734. +REQUIREMENTS FOR CYLINDERS (SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 93 in Part II of this issue of the Federal Register.

RIN: 2137–AA92

2735. GAS GATHERING LINE DEFINITION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline:
Final, Statutory, October 24, 1994.

Abstract: The existing definition of "gathering line" would be clearly defined to eliminate confusion in distinguishing these pipelines from transmission lines in rural areas. The costs should be minimal since the definition will conform to prevailing practices in government and industry.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48505
NPRM Comment Period End	11/25/91	
SNPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-122.

ANALYSIS: Regulatory Evaluation, 09/25/91, 56 FR 48505

Agency Contact: L.E. Herrick, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5523

RIN: 2137–AB15

2736. +QUALIFICATION OF PIPELINE PERSONNEL

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking would establish qualification standards for personnel who perform certain operation and maintenance functions on gas or hazardous liquid pipelines. The standards are needed to ensure that pipeline personnel can recognize, and react properly to, dangerous situations. Following withdrawal of an initial NPRM, a negotiated rulemaking committee considered alternatives and, by January 1998, reached consensus on a proposal to require pipeline operators to have and follow a personnel qualification program. A second NPRM will be based on this proposal.

Timetable:

Action	Date	FR Cite
ANPRM	03/23/87	52 FR 9189
ANPRM Comment Period End	05/07/87	
NPRM	08/03/94	59 FR 39506
Extended Comment Period End 10/31/94	09/07/94	59 FR 46219
Notice of Public Hearing	09/07/94	59 FR 46219
NPRM Comment Period End	10/03/94	
Notice of Intent to Form a Negotiated Rulemaking Committee	07/02/96	61 FR 34410
NPRM Withdrawn	07/02/96	61 FR 34413
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. RSPA-98-3783. Formerly Docket No. PS-94, Pipeline Operator Qualifications. The proposals regarding certification of personnel and emergency response in "Proposals for Pipeline Safety," RIN 2137-AB27, have been consolidated into this rulemaking.

ANALYSIS: Regulatory Evaluation, 08/03/94, 59 FR 39506

Agency Contact: Eben Wyman, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0918

RIN: 2137–AB38

2737. DOT 3AL ALUMINUM CYLINDERS; SAFETY PROBLEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 178

Legal Deadline: None

Abstract: Certain DOT 3AL cylinders made of aluminum alloy 6351 have been discovered developing cracks during service, and occasionally leaks developed that resulted in loss of contents. The ANPRM was to alert and inform all persons possessing these cylinders of the problems, identify those cylinders at risk, and suggest steps to minimize risks. The NPRM will address the safety issues.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/87	52 FR 26027
ANPRM Comment Period End	08/10/87	
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: Docket No. HM-176A. This action is being combined with Docket HM-220, RIN 2137-AA92.

ANALYSIS: Regulatory Evaluation

Agency Contact: Ryan Posten, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AB51

2738. UNDERWATER ABANDONED PIPELINE FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline:
Final, Statutory, April 24, 1994.

Abstract: In response to a statutory mandate in the Pipeline Safety Act of 1992, this action will require operators of gas and hazardous liquid pipeline facilities to report certain information about abandoned underwater pipelines, including location, size, date of abandonment, and compliance with applicable laws. The information will be available for use by other Federal agencies and state authorities.

DOT—RSPA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Docket No. RSPA-97-2094.

Agency Contact: L.E. Herrick, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5523

RIN: 2137–AC33

2739. AREAS UNUSUALLY SENSITIVE TO ENVIRONMENTAL DAMAGE (USAS)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195

Legal Deadline:
Final, Statutory, October 24, 1994.

Abstract: In response to a statutory mandate, this action will establish criteria for identifying areas near hazardous liquid pipelines that are unusually sensitive to environmental damage if a pipeline accident occurs. The criteria are being developed in consultation with the Environmental Protection Agency and other agencies. Pipelines located in areas identified under the criteria will be the subject of other rulemaking proceedings: Pipe Inventory (RIN 2137-AB48) and Increased Inspection Requirements (RIN: 2137-AC38).

Timetable:

Action	Date	FR Cite
Notice of Public Meeting and Supplemental Notice	06/22/94	59 FR 32178
Public Meeting Comment Period End	08/01/94	
Extended Comment Period End	06/26/95	
Extended Comment Period End 8/25/95	07/10/95	60 FR 35549
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-140. Was originally Docket PS-130B, "Environmentally Sensitive Areas," for part 194. Changed to address part 195. A series of public workshops were conducted in 1996 and 1997. Additional workshops will be scheduled as necessary.

Agency Contact: Christina Sames, Petroleum Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4561

RIN: 2137–AC34

2740. HAZARDOUS MATERIALS: LABELING REQUIREMENTS FOR POISONOUS MATERIALS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 174 to 177

Legal Deadline: None

Abstract: This action considers changes to certain labeling provisions of the Hazardous Materials Regulations to require the use of a POISON label on packages containing materials meeting the toxicity criteria for poisonous materials in Division 6.1, Packing Group III. This rulemaking is necessary due to elimination of the Keep Away From Food Label by the UN.

Timetable:

Action	Date	FR Cite
ANPRM	11/08/93	58 FR 59224
ANPRM Comment Period End	01/10/94	
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: Docket No. HM-217. This action is being combined with Docket HM-215C, RIN 2137-AD15, 10/98.

ANALYSIS: Regulatory Evaluation

Agency Contact: Helen Engrum, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AC47

2741. REGULATED GAS AND HAZARDOUS LIQUID GATHERING LINES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline:
Final, Statutory, October 24, 1995.

Abstract: This action would establish regulations for gas and hazardous liquid gathering lines in rural areas for which there are at present no safety regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Richard Huriaux, Director, Technology & Regulations, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4565

RIN: 2137–AC53

2742. PERIODIC UNDERWATER INSPECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline:
Final, Statutory, October 24, 1995.

Abstract: This action would require operators of natural gas and hazardous liquid pipelines to conduct periodic underwater inspections of offshore pipelines and those in navigable waterways. This action would also define what constitutes an exposed underwater pipeline and what constitutes a hazard to navigation.

DOT—RSPA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Docket No. RSPA-97-3001.

Agency Contact: L. E. Herrick, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5523

RIN: 2137–AC54

2743. HAZARDOUS MATERIALS: REQUIREMENTS FOR CARGO TANKS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 107; 49 CFR 173; 49 CFR 178; 49 CFR 180

Legal Deadline: None

Abstract: This rulemaking proposes to revise and clarify certain manufacturing, maintenance and use requirements pertaining to cargo tank motor vehicles in the Hazardous Materials Regulations. FHWA inspections have resulted in a preliminary determination that these regulations need to be amended to make them more practical, understandable, and enforceable.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: HM-213.

Agency Contact: Jennifer Karim, Senior Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AC90

2744. +HAZARDOUS MATERIALS: SAFETY STANDARDS FOR UNLOADING CARGO TANK MOTOR VEHICLES IN LIQUEFIED COMPRESSED GAS SERVICE

Regulatory Plan: This entry is Seq. No. 94 in Part II of this issue of the Federal Register.

RIN: 2137–AD07

2745. PIPELINE SAFETY: ADOPTION OF INDUSTRY STANDARDS FOR LIQUEFIED NATURAL GAS FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60128

CFR Citation: 49 CFR 193

Legal Deadline: None

Abstract: This action would replace existing DOT standards governing the siting, design, and construction of liquefied natural gas facilities with an incorporation by reference of the 1996 edition of the National Fire Protection Association document, ANSI/NFPA 59A, "Production, Storage, and Handling of Liquefied Natural Gas." The action, which is based on an NFPA rulemaking petition, is expected to reduce costs to the gas pipeline industry without compromising safety.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. RSPA-97-3002. Notice of public meeting (63 FR 5918;2/5/98)

Agency Contact: Mike Israni, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4571
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RIN: 2137–AD11

2746. HAZARDOUS MATERIALS: INFECTIOUS SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1321; 49 USC 5101 to 5127

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 174; 49 CFR 175; 49 CFR 176; 49 CFR 177; 49 CFR 178

Legal Deadline: None

Abstract: This rulemaking proposes to amend the Hazardous Materials Regulations to provide for the transport of infectious medical waste in bulk packagings, modify the exceptions for transporting biological products and diagnostic specimens without being subject to the regulations, and revise the definition, hazardous communication, and packaging requirements for other infectious substances to make them consistent with international transportation requirements. RSPA plans to hold a public meeting on the rulemaking via the internet.

Timetable:

Action	Date	FR Cite
ANPRM	09/02/98	63 FR 46844
ANPRM Comment Period End	12/01/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-226. DMS Docket No. RSPA 97-3019.

Agency Contact: Eileen Mack, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD13

2747. TRANSPORTATION OF HAZARDOUS MATERIALS; MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 174; 49 CFR 175; 49 CFR 176; 49 CFR 178; 49 CFR 180

Legal Deadline: None

Abstract: RSPA proposes to make routine, technical, and minor miscellaneous amendments to the Hazardous Materials Regulations based on petitions for rulemaking and RSPA

initiative. Because some of the changes are substantive, RSPA will publish an NPRM to obtain public comments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: Docket No. HM-218. This is a continuation of the rulemakings previously published under the miscellaneous HM-166 rulemaking docket series e.g., HM-166Z, Final Rule; 6/2/94 (59 FR 28487).

Agency Contact: Joan McIntyre, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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Email: rules@rspa.dot.gov

RIN: 2137–AD16

2748. +HAZARDOUS MATERIALS TRANSPORTATION: REGISTRATION AND FEE ASSESSMENT PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 107

Legal Deadline: None

Abstract: RSPA proposes to revise the registration fee structure to collect approximately $14.3 million to fund the Emergency Preparedness Grants Program to train responders. This action would double the registration program receipts and thus the monies available for distribution, primarily for State and tribal hazardous materials emergency response training and planning grants. The additional fees could come from existing registrants (certain shippers and carriers of hazardous materials), from newly required registrants, or from both.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-227.

Agency Contact: Paul L. Polydores, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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Email: rules@rspa.dot.gov

RIN: 2137–AD17

2749. HAZARDOUS MATERIALS: REVISION AND CONSOLIDATION OF REQUIREMENTS FOR CARRIAGE BY RAIL CAR AND MOTOR VEHICLE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 174; 49 CFR 177

Legal Deadline: None

Abstract: This rulemaking is based on a joint petition for rulemaking submitted by the American Trucking Associations, Inc. and the Association of American Railroads. This rulemaking proposes to consolidate the Hazardous Materials Regulations (HMR) found in 49 CFR parts 174 and 177 into a new part 174. The intended impact of the rulemaking is to streamline the requirements of parts 174 and 177, enhance compliance with the HMR and to develop a positive impact on the land surface transportation of hazardous materials.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. RSPA-98-3974.

Agency Contact: Nancy E. Machado, Attorney, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD19

2750. • HAZARDOUS MATERIALS: REVISED AND CLARIFIED HAZARDOUS MATERIALS SAFETY RULEMAKING AND PROGRAM PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 106; 49 CFR 107

Legal Deadline: None

Abstract: This rulemaking will make minor substantive changes to Rulemaking Procedures and Hazardous Materials Program Procedures, 49 CFR parts 106 and 107 of the hazardous materials procedural regulations, and will result in a complete re-write of those parts in language that is easier to understand. This action is being taken in order to update RSPA's hazardous materials procedural regulations and to re-write the current requirements in a new question and answer format that will be more user-friendly. These changes are expected to be of interest to those persons and entities subject to the requirements of the hazardous materials regulations (49 CFR parts 171-180).

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: Docket No. RSPA-98-3974.

Agency Contact: Nancy E. Machado, Attorney, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD20

2751. • PIPELINE SAFETY: ENFORCEMENT PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 190.209; 49 CFR 190.213

Legal Deadline: None

Abstract: This action will revise RSPA's pipeline safety enforcement procedures to minimize paperwork in uncontested cases where a person pays a proposed civil penalty or agrees to a proposed compliance order. The procedures will be changed to show that both responses are considered offenses in determining any future civil penalty assessments. These changes will streamline the enforcement process.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket No. RSPA-98-4284. The changes to part 190 modify agency rules of practice and procedure.

Agency Contact: Linda Daugherty, Enforcement Officer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD22

2752. • PIPELINE SAFETY: PERIODIC UPDATES TO PIPELINE SAFETY REGULATIONS (1998)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192 to 195

Legal Deadline: None

Abstract: This rulemaking is designed to update the pipeline safety regulations on an annual basis. It will incorporate by reference the latest editions of consensus standards to allow operators to utilize current technology, materials, and practices. In addition, noncontroversial corrections and clarifications will be made. This annual update process is consistent with the President's goal of regulatory reinvention and improvement of customer service.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: Eben Wyman, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD23

2753. • PIPELINE SAFETY: CORROSION CONTROL ON GAS AND HAZARDOUS LIQUID PIPELINES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: This action addresses the need to revise or supplement the safety standards for gas and hazardous liquid pipelines to further reduce the potential for corrosion-caused accidents. Particular attention will be given to the need to incorporate by reference voluntary standards of recognized standard-setting organizations, and to apply the same corrosion control standards to gas and hazardous liquid pipelines.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: Docket No. RSPA-97-2762. Notice of public meeting 10/29/97 (62 FR 56141).

Agency Contact: Gopala Vinjamuri, Materials Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD24

2754. • PIPELINE SAFETY: GAS PIPELINE REPAIR

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 485; 49 CFR 487; 49 CFR 713

Legal Deadline: None

Abstract: Gas pipe that is generally corroded over a large area to the extent that wall thickness is unsafe must be replaced, unless in the case of transmission pipe, operating pressure is reduced. Similarly, any damage that impairs the serviceability of high-stress transmission pipe must be replaced,

DOT—RSPA

Proposed Rule Stage

unless it is repaired by a full encirclement welded split sleeve. The proposed rule would permit operators to use alternative corrective methods that have been demonstrated to permanently restore the pressure integrity of corroded or damaged pipe. Operators of hazardous liquid pipelines already may use these methods. By allowing the use of less expensive proven technologies, the proposed rule would reduce costs in the gas pipeline industry without reducing safety.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: L.M. Furrow, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD25

2755. • PIPELINE SAFETY: PRESSURE TESTING OLDER PIPELINES IN TERMINALS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195.302

Legal Deadline: None

Abstract: Certain older pipelines in terminals and tank farms must be pressure tested before December 7, 2003. Based on a petition, RSPA is reconsidering this testing requirement in light of the risk and low operating stress of these pipelines. RSPA has stayed enforcement of the testing requirement against pipelines designed not to operate above 20 percent of specified minimum yield strength.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Notice requesting comment 2/10/98 (63 FR 6677) in Docket No. PS-121.

Agency Contact: Mike Israni, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD26

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Final Rule Stage

2756. QUANTITY LIMITATIONS ABOARD AIRCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 175

Legal Deadline: None

Abstract: This action proposed to remove the fifty-pound limit on the quantity of hazardous materials that may be stowed in an inaccessible cargo location on passenger-carrying aircraft. Comments to the NPRM indicated that further evaluation is needed. RSPA has reevaluated this proposal and decided to withdraw it because it could result in safety problems.

Timetable:

Action	Date	FR Cite
ANPRM	04/06/84	49 FR 13717
ANPRM Comment Period End	09/01/84	
NPRM	02/13/85	50 FR 6013
NPRM Comment Period End	05/30/85	
To Be Withdrawn	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: This project was formerly entitled: Limitation Aboard Aircraft. Docket HM-192. A related rulemaking is "Prohibition of Oxidizers Aboard Aircraft," HM-224A, RIN 2127-AC92. The proposal will be considered as part of HM-228, RIN 3217-AD18.

ANALYSIS: Regulatory Evaluation, 02/13/85, 50 FR 6013

Agency Contact: Deborah Boothe, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AA85

2757. DETERMINING THE EXTENT OF CORROSION ON EXPOSED GAS PIPELINES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: To avoid overlooking a potential source of accidents, an NPRM proposed to require that when harmful corrosion is discovered on uncovered gas pipelines, the operators investigate further to determine the extent of corrosion. Comments indicated that most operators already do such further investigations, and that the proposed rule was unclear regarding acceptable methods and extent of investigation. In view of the comments, the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	06/27/89	54 FR 27041
NPRM Comment Period End	09/25/89	
To Be Withdrawn	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-107. The issue addressed by this action may be reconsidered in a separate proceeding dedicated to the review of all corrosion control requirements in 49 CFR parts 192 and 195 (Docket No. RSPA-97-2762; 62 FR 44436; Aug. 21, 1997).

DOT—RSPA

Final Rule Stage

ANALYSIS: Regulatory Evaluation, 06/27/89, 54 FR 27041

Agency Contact: L. M. Furrow, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4559

RIN: 2137–AB50

2758. PASSAGE OF INTERNAL INSPECTION DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking established minimum Federal pipeline safety standards requiring that new and replacement gas transmission and hazardous liquid pipelines be designed to accommodate the passage of internal inspection devices. This rulemaking is mandated by 49 USC 60102(f). In response to petitions for reconsideration of the final rule, an additional NPRM was issued proposing to limit the rule with respect to new and existing offshore gas transmission lines and the replacement of onshore gas transmission lines in rural areas.

Timetable:

Action	Date	FR Cite
NPRM	11/20/92	57 FR 54745
NPRM Comment Period End	01/19/93	
Final Rule	04/12/94	59 FR 17275
NPRM	09/30/94	59 FR 49896
NPRM Correction	10/19/94	59 FR 52863
Limited Suspension of Enforcement	02/07/95	60 FR 7133
NPRM Comment Period End.	10/31/97	59 FR 49896
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-126. The integrity testing proposal in "Proposals for Pipeline Safety," RIN 2137-AB27, was consolidated, in part, into this rulemaking.

ANALYSIS: Regulatory Evaluation, 04/12/94, 59 FR 17275

Agency Contact: A. Garnett, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2036

RIN: 2137–AB71

2759. PIPELINE SAFETY: ADOPTION OF INDUSTRY STANDARDS FOR BREAKOUT TANKS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: This action proposes to incorporate by reference the applicable standards for breakout tank design and construction that are contained in American Petroleum Institute Standard 650-653 and other national standards. These standards are already widely followed in the pipeline industry. In developing this regulation, RSPA has the benefit of a Texas A&M study on breakout tanks.

Timetable:

Action	Date	FR Cite
NPRM	05/21/98	63 FR 27903
Comment Period End	07/20/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. RSPA-97-2095.

ANALYSIS: Regulatory Evaluation, 05/21/98, 63 FR 27908

Agency Contact: A. Garnett, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2036

RIN: 2137–AC11

2760. TANK CARS AND CARGO TANK MOTOR VEHICLES: ATTENDANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 174; 49 CFR 177

Legal Deadline: None

Abstract: This action establishes standards to allow the use of electronic surveillance and monitoring equipment (signalling systems) for unloading tank cars and to revise other unloading requirements for tank cars. This action would recognize recent technological innovations and improve safety during the loading/unloading of bulk quantities of hazardous materials.

Timetable:

Action	Date	FR Cite
NPRM	09/14/92	57 FR 42466
NPRM Comment Period End	12/14/92	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-212.

ANALYSIS: Regulatory Evaluation, 09/14/92, 57 FR 42466

Agency Contact: Susan Gorsky, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
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RIN: 2137–AC24

2761. +RESPONSE PLANS FOR ONSHORE OIL PIPELINES

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 194

Legal Deadline: Final, Statutory, August 18, 1992.

Abstract: The interim final rule established regulations requiring response plans for certain onshore oil pipelines. Those regulations are mandated by the Federal Water Pollution Control Act as amended by the Oil Pollution Act of 1990 (Pub. L. 101-380). The purpose of these requirements is to improve response capabilities and minimize the impact of onshore oil spills from pipelines. This rule is significant because of substantial public and congressional interest.

The operators filed response plans under this interim final rule, and numerous tabletop exercises and area

DOT—RSPA

Final Rule Stage

exercises have been conducted to validate the planning process. Work is proceeding on a "one plan" approach that would allow an operator to file only one oil spill response plan within the various interested agencies.

The final rule in this matter will reflect the experience gained under the interim final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/05/93	58 FR 244
Comment Period End	02/19/93	
Notice of Public Meeting	06/15/94	59 FR 30755
Public Meeting Comment Period End	08/01/94	
Notice of Public Hearing	11/29/96	61 FR 60679
Correction	01/21/97	62 FR 2989
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-130.

ANALYSIS: Regulatory Evaluation, 01/05/93, 58 FR 244

Agency Contact: James Taylor, Response Plans Officer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8860

RIN: 2137–AC30

2762. +RISK-BASED ALTERNATIVE TO PRESSURE TESTING RULE

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking would provide a risk-based alternative to the existing pressure testing rule for older hazardous liquid and carbon dioxide pipelines. On June 7, 1994 (59 FR 29379), RSPA issued a final rule requiring the hydrostatic pressure testing of certain older pipelines (49 CFR 195.302). On June 23, 1995, the American Petroleum Institute (API) filed a petition on behalf of many liquid pipeline operators that recommended a risk-based alternative to the required pressure testing rule. RSPA finds considerable merit in a risk-based approach to pressure testing and thus has postponed the time for compliance with the final rule issued on June 7, 1994, to allow time for evaluation of the API petition. The risk-based alternative would allow operators to elect an approach to evaluating the integrity of these lines that takes into account individual risk factors. This would allow operators to focus resources on higher-risk pipelines and effect a greater reduction in the overall risk from pipeline accidents. This rulemaking is considered significant because of the substantial industry interest.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting	03/08/96	61 FR 9415
NPRM	02/05/98	63 FR 5918
NPRM Comment Period End	04/06/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-144. A final rule issued 10/27/97 (62 FR 54591) (Docket No. PS-121; RIN 2137 AD05) extends time for compliance with the pressure testing final rule issued June 7, 1994 (58 FR 29379).

ANALYSIS: Regulatory Evaluation, 02/05/98, 63 FR 5920

Agency Contact: Mike Israni, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4571

RIN: 2137–AC78

2763. FILLING OF PROPANE CYLINDERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: The ANPRM solicited comments on the merits of a petition for rulemaking to require registration and training of persons who fill propane cylinders, certification of filling equipment operators, and proof of financial responsibility. The petition would also allow filling of propane cylinders by volume rather than by weight, which is currently required by the hazardous material regulations. This notice will terminate rulemaking action in this docket and deny the petition for rulemaking because, based on the comments, there is no safety justification for imposing the costs of a registration, training and financial responsibility program for cylinder fillers.

Timetable:

Action	Date	FR Cite
ANPRM	09/23/96	61 FR 43515
ANPRM Comment Period End	11/21/96	
To Be Withdrawn	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-220C.

Agency Contact: Eileen Mack, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AC86

2764. PIPELINE SAFETY: PERIODIC UPDATES TO PIPELINE SAFETY REGULATIONS (1997)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 193; 49 CFR 195; 49 CFR 1.53

Legal Deadline: None

Abstract: This rulemaking is designed to update the pipeline safety regulations on an annual basis. It incorporated by reference the latest editions of consensus standards to allow operators to utilize current technology, materials, and practices. In addition, noncontroversial corrections and clarifications were made. This annual update process is consistent with the President's goal of regulatory reinvention and improvement of customer service.

Timetable:

Action	Date	FR Cite
Direct Final Rule	02/17/98	63 FR 7721
Direct Final Rule Effective	05/04/98	
Removal of Direct Final Rule Amendment	07/20/98	63 FR 38757
Confirmation of Direct Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No . RSPA-97-2251.

Agency Contact: Eben Wyman, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0918

RIN: 2137–AD03

2765. • HAZARDOUS MATERIALS: EDITORIAL CORRECTIONS AND CLARIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 107; 49 CFR 171 to 173; 49 CFR 175 to 180

Legal Deadline: None

Abstract: This final rule corrects editorial errors, makes non-substantive regulatory changes, and in response to requests for clarification, improves the clarity of certain provisions of the Hazardous Materials Regulations (HMR). This final rule correcting minor errors will not be preceded by a notice of proposed rulemaking because RSPA will make a finding for good cause that notice and public comment are unnecessary under the Administrative Procedure Act.

Timetable:

Action	Date	FR Cite
Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket No. 189-O.

Agency Contact: Charles E. Betts, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590
Phone: 202 366-9553
Fax: 202 366-3012

RIN: 2137–AD27

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Long-Term Actions

2766. +MAPS AND RECORDS OF PIPELINE LOCATIONS AND CHARACTERISTICS; NOTIFICATION OF STATE AGENCIES; PIPE INVENTORY

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline:
Final, Statutory, November 1, 1989, Deadline pertains to pipeline inventory and State agency information.

Abstract: This action proposes to equalize as far as possible the requirements that gas and hazardous liquid pipeline operators keep maps and records to show the location and other characteristics of pipelines. Operators would be required to keep an inventory of pipe and periodically report mileage and other facts. In addition, operators would be required to provide certain information to State agencies upon request. This is a significant action because of congressional and State concerns about the need for appropriate public officials to have pipeline information.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: In furtherance of this rulemaking, the Department of Transportation's Office of Pipeline Safety (OPS) is working with other Federal and State agencies and pipeline industry to create a national pipeline mapping system. This system, when complete, will show the location and selected attributes of the major natural gas and hazardous liquid pipelines and liquefied natural gas facilities operating in the United States. OPS will add additional data layers into the system, including layers on population densities, unusually sensitive areas, natural disaster probability and high consequence areas, hydrography, and transportation networks. OPS will use the system to depict pipelines in relation to the public and the environment, and to work with other government agencies and industry during an incident.

A joint government/industry Mapping Quality Action Team (MQAT II) has drafted national pipeline mapping standards that will be used to create the digital pipeline layer. These include standards for electronic data submissions, paper map submissions, and metadata (data on the data). The team has also drafted standards that will be used by the pipeline mapping repository receiving the pipeline information. The team is currently pilot testing the draft standards and is working to establish relationships with State agencies, industry, and others to exchange data that meets the standards.

Agency Contact: Christina Sames, Petroleum Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4561

RIN: 2137–AB48

2767. +SAFEGUARDING FOOD FROM CONTAMINATION DURING TRANSPORTATION

Priority: Other Significant

Legal Authority: 49 USC 5701 to 5714

CFR Citation: 49 CFR 1

Legal Deadline:
Final, Statutory, August 1, 1991.

Abstract: The Sanitary Food Transportation Act of 1990 (49 USC 5701 et seq.) requires the Secretary of Transportation, in consultation with the Secretaries of Agriculture and Health and Human Services and the Administrator of the Environmental Protection Agency, to issue regulations concerning the transportation of food, food additives, drugs, devices, and cosmetics in motor and rail vehicles also used to transport nonfood products that could pose an unreasonable danger to human or animal health when so transported. This rulemaking will implement the statutory requirements. This rulemaking is significant because of substantial public and congressional interest. RSPA's next action is undetermined because there is pending proposed legislation on this subject.

Timetable:

Action	Date	FR Cite
ANPRM	02/20/91	56 FR 6934
Extended Comment Period End 04/29/91	03/21/91	56 FR 11982
ANPRM Comment Penod End	03/26/91	
NPRM	05/21/93	58 FR 29698
Notice of Public Hearing	05/21/93	58 FR 29698
NPRM Comment Penod End	10/18/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket FS-1. The Department has resubmitted to Congress legislation proposing to significantly change the responsibilities for this action.

ANALYSIS: Regulatory Evaluation, 05/21/93, 58 FR 29698

Agency Contact: Jodi George, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AC00

2768. +INCREASED INSPECTION REQUIREMENTS

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline:
Final, Statutory, October 24, 1995.

Abstract: This rulemaking would address the need for additional periodic inspection of gas and hazardous liquid pipelines in high-density, environmentally sensitive, or navigable waterway areas.The regulations would prescribe circumstances under which such inspections must be conducted by internal inspection devices or equivalent means. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Public Workshop	10/18/95	60 FR 44821
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-141.

Agency Contact: L. M. Furrow, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4559

RIN: 2137–AC38

2769. +EMERGENCY FLOW RESTRICTING DEVICES

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195

Legal Deadline:
Final, Statutory, October 24, 1996.

Abstract: This rulemaking would specify those circumstances under which operators of hazardous liquid pipelines are required to use emergency flow restricting devices (EFRDs) or other procedures, systems, and equipment to detect and locate pipeline ruptures and minimize releases. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	01/19/94	59 FR 2802
ANPRM Comment Period End	04/19/94	
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-133. A public workshop was held on 10/19/95 (60 FR 44822). This action is being coordinated with other rulemakings on onshore oil spill response plans (Docket No. PS-130; RIN 2137-AC30), areas unusually sensitive to environmental damage (Docket No PS-140; RIN 2137-AC34), and pipeline leak detection systems (Docket No. RSPA 97-2362; RIN 2137-AD05). These actions are being pursued in coordination with, and as part of the response to, the EFRD mandate.

First, RSPA has required pipeline operators to develop and carry out onshore oil spill response plans under the Oil Pollution Act of 1990 (Docket No. PS-130; RIN 2137-AC30). The operators have filed response plans under an interim final rule, and numerous tabletop exercises and area exercises have been conducted to validate the planning process. Work is proceeding on a 'one plan' approach that would allow an operator to file only one oil spill response plan with the various interested agencies. A final rule will be directed toward improving operators' accident response capabilities and minimizing accident consequences.

Second, RSPA published a proposed rule to adopt the American Petroleum Institute's (API) pipeline leak detection system technical standard (Standard API 1130, Computational Pipeline Monitoring) to guide industry implementation of computer-based leak detection systems (Docket No. RSPA-97-2362, RIN 2137-AD06). This proposal would require that operators of hazardous liquid pipelines use API 1130 in conjunction with other information in the design, evaluation, operation, maintenance, and testing of their software-based leak detection systems. This will result in a significant advancement toward the acceptance of leak detection technology on hazardous liquid pipelines. This is a necessary precedent to the possible adoption of regulations on emergency flow restricting devices.

Third, RSPA is working with the Environmental Protection Agency, the U.S. Coast Guard, and others to develop a definition of "areas unusually sensitive to environmental damage from pipeline spills" (Docket No. PS-140; RIN 2137-AC34). This effort will define areas that are candidates for the application of EFRDs.

Agency Contact: L. Ulrich, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4556

RIN: 2137–AC39

2770. RETENTION OF SHIPPING PAPERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 174; 49 CFR 175; 49 CFR 176; 49 CFR 177

Legal Deadline: None

Abstract: This action proposes to amend the Hazardous Materials Regulations by requiring shippers and carriers to retain a copy of the hazardous material shipping paper or an electronic image of the shipping paper for a period of one year. Retention of shipping papers is a current requirement as specified in 49 U.S.C. 5110(e). RSPA's next action is undetermined because there is pending proposed legislation on this subject that would clarify the time frame for beginning the one year cycle.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-207B.

Agency Contact: Deborah Boothe, Transportation Regulation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553

RIN: 2137–AC64

2771. APPLICABILITY OF THE HAZARDOUS MATERIALS REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 106 to 107; 49 CFR 171 to 180

Legal Deadline: None

Abstract: This rulemaking proposes to better define the applicability of Federal Hazardous Materials Regulations, 49 CFR parts 171-180, thereby clarifying the relationship among Federal, State, local and tribal agencies in the regulation of hazardous materials transportation. RSPA has held three public hearings on this rulemaking and is evaluating input from those meetings and numerous public comments.

Timetable:

Action	Date	FR Cite
ANPRM	07/29/96	61 FR 39522
Comment Period End	11/30/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: Docket No. HM-223.

Agency Contact: Nancy Machado, Attorney, Room 8407, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4400
Fax: 202 366-7041
Email: rules@rspa.dot.gov

RIN: 2137–AC68

2772. +PROHIBITION OF OXIDIZERS ABOARD AIRCRAFT

Priority: Other Significant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 175

Legal Deadline: None

Abstract: RSPA is amending the Hazardous Materials Regulations to prohibit the carriage of oxidizers, including compressed oxygen, aboard passenger-carrying aircraft. The effect of this prohibition is to limit oxidizers to accessible locations on cargo aircraft. The December 30, 1996, notice of proposed rulemaking analyzed Class D cargo compartments and proposed to add a shipping description to the Hazardous Materials Table for chemical oxygen generators and to require approval of a chemical oxygen generator that is transported with its means of initiation attached. The supplemental proposal specifically analyzes the prohibition of oxidizers in Class B and C cargo compartments. This rulemaking is significant due to congressional and public interest in the hazards presented by these materials when transported as cargo on passenger aircraft.

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68955
NPRM Comment Period End	02/28/97	
SNPRM	08/20/97	62 FR 44374
Comment Period End	10/20/97	
Reopen Comment Period	11/28/97	62 FR 63306
Public Hearing	01/14/98	
Comment Period End	02/13/98	
Final Rule	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: HM-224A. See related actions, Prohibition of Oxygen Generators as Cargo in Passenger Aircraft (RIN 2137-AC89), and Hazardous Materials; Shipping Description and Packaging of Oxygen Generators (RIN 2127-AD02).

Agency Contact: Diane LaValle, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AC92

2773. FURTHER REGULATORY REVIEW; GAS PIPELINE SAFETY STANDARDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in

DOT—RSPA

Long-Term Actions

the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: This action would change miscellaneous gas pipeline safety standards to provide clarity, eliminate unnecessary or overly burdensome requirements, and foster economic change. Some of the proposed changes result from RSPA's further review of the standards following its 1995-1996 review under the President's Regulatory Reinvention Initiative. Other changes are based on recommendations by the National Association of Pipeline Safety Representatives (NAPSR) in its November 1992 report on the standards. The proposed changes would reduce costs in the pipeline industry without compromising safety.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-124. The NAPSR report was published November 9, 1993, at 58 FR 59431, as part of the earlier review of the standards.

Agency Contact: Richard Huriaux, Director, Office of Technology and Regulations, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4565

RIN: 2137–AD01

2774. +PIPELINE SAFETY: RECOMMENDATIONS TO CHANGE HAZARDOUS LIQUID PIPELINE SAFETY STANDARDS

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 49 USC 60101 to 60128

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: In 1995, the National Association of Pipeline Safety Representatives (NAPSR) completed its review of the hazardous liquid pipeline safety regulations. NAPSR provided RSPA with 28 recommendations for changes to 49 CFR part 195, the hazardous liquid pipeline regulations. NAPSR's recommendations are aimed at making the regulations more explicit, understandable, and enforceable. This action would address the need to change Part 195 as NAPSR recommended. This action is considered significant because it involves matters of substantial public and state interest.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. RSPA-97-2717.

Agency Contact: L.M. Furrow, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4559
Fax: 202 366-4566

RIN: 2137–AD10

2775. 1998 HARMONIZATION OF HAZARDOUS MATERIALS REGULATIONS WITH INTERNATIONAL STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171 to 180

Legal Deadline: None

Abstract: This rulemaking is an ongoing effort to maintain harmonization of the Hazardous Materials Regulations with international standards. The last completed final rule to maintain alignment with corresponding provisions of international standards was issued by RSPA on May 7, 1997 (Docket HM-215B; 62 FR 24690) RIN 2127-AC82.

Because of recent changes to the International Maritime Dangerous Goods Code, the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air and the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations), these proposed revisions are necessary to facilitate the transport of hazardous materials in international commerce.

Timetable:

Action	Date	FR Cite
NPRM	08/18/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-215C

ANALYSIS: Regulatory Evaluation, 04/00/98

Agency Contact: Joan McIntyre, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
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RIN: 2137–AD15

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Completed Actions

2776. HAZARDOUS MATERIALS; MISCELLANEOUS AMENDMENTS AND CORRECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171 to 178

Legal Deadline: None

Abstract: This rulemaking makes minor changes to the Hazardous Materials Regulations. This periodic (usually annual) rulemaking makes updates and corrections to noncontroversial and technical requirements in response to petitions for rulemaking, industry complaints, technological developments and RSPA's enforcement experience. In this final rule, RSPA is making a variety of changes, such as updating incorporations by reference, responding to petitions for rulemaking, clarifying requirements and providing regulatory relief. Because some of the changes are substantive, RSPA published an NPRM to obtain public comments.

Timetable:

Action	Date	FR Cite
NPRM	09/24/97	62 FR 50222
NPRM Comment Period End	11/24/97	
Final Action	07/10/98	63 FR 37454
Final Action Effective	10/01/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-166Y.

Agency Contact: Joan McIntyre, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AC41

2777. CONTROL OF FOREIGN DRUG USE AND ALCOHOL MISUSE IN NATURAL GAS, LIQUEFIED NATURAL GAS, AND HAZARDOUS LIQUID PIPELINE OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 199

Legal Deadline: None

Abstract: This amendment alleviated the burden on pipeline operators located outside the U.S. of having to drug test employees that perform a covered function. There are a small number of pipeline operators with covered employees that are located in Canada performing a covered function. It is not cost effective to require these foreign employees to comply with the drug testing regulation. RSPA does not have sufficient resources to inspect these foreign-located employees for compliance with part 199. RSPA does not impose any other safety regulations on any pipeline operator that is located outside the U.S.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/24/97	62 FR 67293
Confirmation of Direct Final Rule	03/24/98	63 FR 1404
Direct Final Rule Effective	04/15/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-102.

Agency Contact: Catrina Pavlik, Drug and Alcohol Program Analyst, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6199

RIN: 2137–AC67

2778. DRUG AND ALCOHOL TESTING: SUBSTANCE ABUSE PROFESSIONAL EVALUATION FOR DRUG USE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 199

Legal Deadline: None

Abstract: This action results from the need to make the RSPA drug testing regulations conform with those of the other Departmental operating administrations that fall under the Omnibus Transportation Employee Testing Act of 1991. It would make drug testing among the operating administrations as consistent as possible and simplify the drug testing process for pipeline operations. It would require that an employee who tests positive for drugs be evaluated by a substance abuse professional prior to returning to performing his/her covered function.

Timetable:

Action	Date	FR Cite
NPRM	08/20/97	62 FR 44250
NPRM Comment Period End	10/20/97	63 FR 44250
Final Action	03/18/98	63 FR 12998
Final Rule Correction	07/08/98	63 FR 36862
Final Action Effective	07/08/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-128.

Agency Contact: Catrina Pavlik, Drug and Alcohol Program Analyst, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6199
Fax: 202 366-4566

RIN: 2137–AC84

2779. LOW-STRESS HAZARDOUS LIQUID PIPELINES SERVING PLANTS AND TERMINALS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: RSPA's hazardous liquid pipeline safety regulations originally did not apply to steel pipelines that operate at 20 percent or less of specified minimum yield strength. A final rule (59 FR 35465; July 12, 1994) extended the regulations to three groups of these pipelines: 1) pipelines that transport highly volatile liquids (HVL), 2) pipelines or pipeline segments in populated areas, and 3) pipelines or pipeline segments located offshore or in commercially navigable waterways. Accidents showed that regulating these pipelines or pipeline segments would be in the interest of public safety. Moreover, 49 USC 60102(k) provides that DOT may not exclude hazardous liquid pipelines from regulation based solely on operation at low internal stress. The

final rule responded to the statutory prohibition and reduced hazardous liquid pipeline risks.

Subsequently, various pipeline companies expressed difficulty in meeting the regulations on certain short lines. In view of these difficulties and the low risk of the lines involved, RSPA stayed enforcement of the regulations against plant and terminal transfer lines that are less than one mile long and do not cross offshore or commercially navigable waterways, or that come under the U.S. Coast Guard safety regulations (61 FR 24244; May 14, 1996). After further review, RSPA revised the regulations to except these lines from the regulations. RSPA's hazardous liquid pipeline safety advisory committee has participated in the decision making process on this action.

Timetable:

Action	Date	FR Cite
Direct Final Rule	06/09/97	62 FR 31364
Withdrawn	10/08/97	62 FR 31364
NPRM	02/27/98	63 FR 9993
NPRM Comment Period End	04/28/98	
Final Action	09/02/98	63 FR 46692
Final Action Effective	10/02/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The final rule on hazardous liquid pipelines was issued 7/12/94 (59 FR 35465) under RIN 2137-AB86. Docket No. PS-117.

ANALYSIS: Regulatory Evaluation, 02/27/98, 63 FR 9995

Agency Contact: L. M. Furrow, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4559

RIN: 2137–AC87

2780. METRICATION OF PIPELINE SAFETY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60125 to 60125

CFR Citation: 49 CFR 192; 49 CFR 193; 49 CFR 194; 49 CFR 195

Legal Deadline: None

Abstract: As required by E.O. 12770, "Metric Usage in Federal Government Programs," this action would provide metric equivalents for English units of measurement in the DOT pipeline safety regulations. The metric equivalents are for informational purposes only and will not affect compliance with the regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/29/97	62 FR 67602
NPRM Comment Period End	02/27/98	
Final Action	07/13/98	63 FR 37500
Final Action Effective	07/13/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-153. Public Meeting on Metrication (Houston, Texas), 1/10/97.

ANALYSIS: Regulatory Evaluation, 12/29/97, 62 FR 67603

Agency Contact: Marvin Fell, Economist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6205
Fax: 202 366-4566

RIN: 2137–AC98

2781. REGULATIONS IMPLEMENTING MEMORANDUM OF UNDERSTANDING WITH THE DEPARTMENT OF THE INTERIOR

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: In December 1996 the Secretary of Transportation and the Secretary of the Interior signed a new Memorandum of Understanding (MOU) on the sharing of regulatory responsibilities for Outer Continental Shelf (OCS) pipelines between the Office of Pipeline Safety (OPS) and the Minerals Management Service (MMS). This new agreement replaces a 1976 MOU. The new MOU allows MMS to perform routine inspections of DOT-subject facilities located on offshore platforms, with referral of enforcement actions to OPS. It also sets up a coordinated program of offshore operator inspections. This Direct Final Rule is designed to update the pipeline safety regulations to reflect features of the new MOU regarding the boundary between MMS and OPS regulatory oversight.

Timetable:

Action	Date	FR Cite
Direct Final Rule	11/19/97	62 FR 61692
Confirmation of Direct Final Rule	03/16/98	63 FR 1265
Direct Final Rule Effective	03/19/98	62 FR 61692

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. RSPA-97-2096.

Agency Contact: L. E. Herrick, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5523

RIN: 2137–AC99

2782. PIPELINE SAFETY: INCORPORATION BY REFERENCE OF INDUSTRY STANDARD ON LEAK DETECTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 et seq

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking would incorporate by reference in the hazardous liquid pipeline regulations an industry publication for leak detection, API 1130, "Computational Pipeline Monitoring," published by the American Petroleum Institute (API). This proposal would require that operators of hazardous liquid pipelines use API 1130 in conjunction with other information in the design, evaluation, operation, maintenance, and testing of software-based leak detection systems. This will result in a significant advancement toward the acceptance of leak detection technology on hazardous liquid pipelines. However, RSPA is not proposing to require operators to install such systems.

Timetable:

Action	Date	FR Cite
NPRM	10/29/97	62 FR 56141

Action	Date	FR Cite
NPRM Comment Period End	12/29/97	
Final Action	07/06/98	63 FR 36373
Final Action Effective	07/06/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. RSPA-97-2362.

ANALYSIS: Regulatory Evaluation, 10/29/97, 62 FR 56144

Agency Contact: Lloyd Ulrich, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4556

RIN: 2137–AD06

2783. PIPELINE SAFETY: CHANGE IN RESPONSE PLAN REVIEW CYCLE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 60101 to 60128

CFR Citation: 49 CFR 194

Legal Deadline: None

Abstract: This direct final rule changes the period for submitting response plans for review from every 3 years to every 5 years. This change eases the burden on the regulated pipeline industry and ensures consistency between RSPA's requirements and those of the other Federal agencies with responsibilities under the Oil Pollution Act of 1990.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/24/97	62 FR 67292
Direct Final Rule Effective	02/23/98	
Confirmation of Direct Final Rule	03/03/98	63 FR 10347

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-130. The 5 year plan review cycle is used by all other agencies involved in onshore oil spill response planning. There were no adverse comments to the Direct Final Rule.

Agency Contact: James Taylor, Response Plans Officer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8860
Fax: 202 366-4566

RIN: 2137–AD12

2784. HAZARDOUS MATERIALS: RADIATION PROTECTION PROGRAM REQUIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 174; 49 CFR 175; 49 CFR 176; 49 CFR 177

Legal Deadline: None

Abstract: RSPA withdrew its requirements for formal preparation Radiation Protection Program (RPP), adopted in a September 28, 1995 final rule (60 FR 50292), because of questions and problems raised since issuance of that final rule. Examples of the effect on activities presenting very small exposure to radiation convinced RSPA that it should reconsider this requirement.

RSPA previously attempted to withdraw the RPP requirements in a September 2, 1997, direct final rule (62 FR 46214), RIN 2127-AD08, but received two adverse comments. Accordingly, RSPA issued a rulemaking document revoking the direct final rule, a rulemaking to extend the compliance date, and a notice of proposed rulemaking to withdraw the RPP document. RPP requirements may be reconsidered at a later date, in a separate, future rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	12/22/97	62 FR 66903
Extension of Compliance Date	12/22/97	62 FR 66900
Revocation of Direct Final Rule	12/22/97	62 FR 66898
Comment Period End	02/13/98	
Final Action	09/10/98	63 FR 48566
Final Action Effective	09/10/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket RSPA97-2850 (HM 169B). The September 28, 1995 final rule was issued under docket HM-169A (RIN 2137-AB60).

Agency Contact: Charles E. Betts, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 336-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD14

DEPARTMENT OF TRANSPORTATION (DOT)

Prerule Stage

Maritime Administration (MARAD)

2785. • APPROVAL OF UNDERWRITERS FOR MARINE HULL INSURANCE

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC app 1114

CFR Citation: 49 CFR 249; 49 CFR 1.66

Legal Deadline: None

Abstract: The Maritime Administration is soliciting comments from interested persons concerning the need to amend the existing regulations governing the placement of marine hull insurance on subsidized and title XI program vessels. The existing regulations provide, among other things, the criteria and procedures for certain foreign underwriters to participate in the writing of hull insurance on program vessels. The possible need to amend the existing regulations stems from the planned merger of two London-based marine insurance underwriters. The Maritime Administration is seeking comments on how to deal with certain

DOT—MARAD

Prerule Stage

existing underwriter companies after the merger.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Edmond J. Fitzgerald, Director, Office of Subsidy and Insurance, Room 8117, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2400

RIN: 2133–AB36

DEPARTMENT OF TRANSPORTATION (DOT)
Maritime Administration (MARAD)

Proposed Rule Stage

2786. APPROVAL OF CERTAIN TRANSACTIONS BEFORE VESSEL DOCUMENTATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 104-324

CFR Citation: 46 CFR 221

Legal Deadline: None

Abstract: This action would implement section 1136(b) of the Coast Guard Authorization Act of 1996, which gives MARAD the discretion to grant approval of foreign transfer of vessels before they are actually documented under U.S. flag. This should encourage expansion of the U.S. fleet.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Edmund T. Sommer, Jr., Chief, Division of General and International Law, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5181
Fax: 202 366-7485

RIN: 2133–AB30

2787. PUTTING CUSTOMERS FIRST IN THE TITLE XI PROGRAM: SHIP FINANCING GUARANTEES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 app USC 1114(b); 46 app USC 1271 et seq

CFR Citation: 46 CFR 298; 49 CFR 1.66

Legal Deadline: None

Abstract: MARAD is proposing to amend existing regulations and simplify existing administrative practices governing the following areas: 1) the ship financing guarantee process; 2) standards for evaluation and approval of applications; and 3) the process and documentation for closing of commitments to guarantee obligations issued under these regulations. These changes should make the entire process easier for prospective applicants.

Timetable:

Action	Date	FR Cite
ANPRM	02/17/98	63 FR 7745
ANPRM Comment Period End	03/19/98	
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mitchell D. Lax, Director, Office of Ship Finance, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1891

RIN: 2133–AB32

DEPARTMENT OF TRANSPORTATION (DOT)
Maritime Administration (MARAD)

Final Rule Stage

2788. • USE OF BROKERAGE FIRMS AS DEPOSITORIES UNDER THE CAPITAL CONSTRUCTION FUND PROGRAM

Priority: Info./Admin./Other

Legal Authority: 46 app USC 1114(b)

CFR Citation: 46 CFR 351; 49 CFR 1.66

Legal Deadline: None

Abstract: MARAD regulations provide the qualifications for approval of depositories under several maritime programs, including the Capital Construction Fund Program (CCF). The CCF statute allows CCF fund holders to invest CCF funds in various securities, under certain conditions, but the relevant regulations do not allow for the use of brokerage firms. The Maritime Administration therefore is amending its existing regulations to approve brokerage firms, under certain conditions, as acceptable depositories under the CCF program and bring the regulations up to date with the CCF program.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This action is exempt from the notice requirements of the Administrative Procedure Act because it is a matter relating solely to agency management.

Agency Contact: Philip Budwick, Attorney Advisor, Office of Chief Counsel, Room 7228, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5167

RIN: 2133–AB35

DOT—MARAD

Final Rule Stage

DEPARTMENT OF TRANSPORTATION (DOT)
Maritime Administration (MARAD)

Completed Actions

2789. • TRANSFER OF MARINE EQUIPMENT TO SHIP OPERATORS AND SHIPYARDS: REMOVAL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 1114(b)

CFR Citation: 46 CFR 360

Legal Deadline: None

Abstract: MARAD review of this regulation indicated that it was obsolete, as the equipment on board vessels of the National Defense Reserve Fleet is now commercially outdated and cannot be used by current U.S. Flag merchant ships. This provision was removed.

Timetable:

Action	Date	FR Cite
Final Action	05/27/98	63 FR 28911
Final Action Effective	05/27/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: MARAD determined that this rulemaking presented no substantive issue which it could reasonably have expected to produce meaningful public comment. For this reason, no public comment was requested.

Agency Contact: Michael Delpercio, Director of Ship Operations, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1875

RIN: 2133–AB34

DEPARTMENT OF TRANSPORTATION (DOT)
Bureau of Transportation Statistics (BTS)

Prerule Stage

2790. MODERNIZING THE PASSENGER ORIGIN-DESTINATION SURVEY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41708; 49 USC 41709

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: Historically, the source document for the Passenger Origin-Destination Survey was the auditor's coupon of the ticket. Until recently, these coupons provided all the information that was needed for the Survey. In the last few years, the carriers have begun using trip passes in conjunction with the tickets, thereby eliminating some of the data that is required to be reported in the Survey. Other innovations used by the industry, such as change-of-gauge flights and code-sharing, have impacted the Survey and obscured some of the data that is required to be reported, such as change of planes and junction points. This rulemaking will explore whether there are alternative sources for the data and modernize the collection system to keep pace with the industry.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This action is related to and may be affected by RIN 2105-AC71. It is now being administered by the Bureau of Transportation Statistics (BTS) since the Office of Aviation Information has been transferred to BTS from RSPA. (Formerly RIN 2137-AB92)

Agency Contact: M. Clay Moritz, Jr., Acting Chief, Regulations Division, Office of Airline Information, K-25, Department of Transportation, Bureau of Transportation Statistics, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4385

RIN: 2139–AA01

DEPARTMENT OF TRANSPORTATION (DOT)
Bureau of Transportation Statistics (BTS)

Proposed Rule Stage

2791. MODERNIZING THE MOTOR CARRIERS OF PROPERTY FINANCIAL DATA COLLECTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 14122 to 14123

CFR Citation: 49 CFR 1249

Legal Deadline: None

Abstract: The motor carriers of property financial data collection program was transferred to DOT from the Interstate Commerce Commission by the ICC Termination Act of 1995, which went into effect 1/1/96. The Secretary of Transportation has delegated responsibility for this program to BTS. BTS plans to conduct a rulemaking to review and revise the current program. Revision is necessary because the laws governing data

DOT—BTS

Proposed Rule Stage

collection were changed slightly by the Act. Also, the data needs of the public and private sectors have changed, and the technology to collect, process, and disseminate data has been vastly improved. Finally, Congress has explicitly called on DOT to streamline and simplify reporting requirements to the maximum extent practicable.

Timetable:

Action	Date	FR Cite
Notice: Negotiated Rulemaking	12/09/96	61 FR 64849
Comment Period Extended	01/23/97	62 FR 3492
Comment Period Extended	02/07/97	62 FR 5792
NPRM and Decision on Rulemaking Committee	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BTS proposed the establishment of a negotiated rulemaking advisory committee in December 1996. However, BTS has determined that this process would not provide a significant advantage over conventional rulemaking, and plans to proceed with an NPRM.

Agency Contact: David Mednick, K-2, Department of Transportation, Bureau of Transportation Statistics, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8871
Fax: 202 366-3640

RIN: 2139–AA05

DEPARTMENT OF TRANSPORTATION (DOT)
Bureau of Transportation Statistics (BTS)

Final Rule Stage

2792. +AMENDMENTS TO THE ON-TIME DISCLOSURE RULE

Priority: Other Significant

Legal Authority: 49 USC 40101; 49 USC 40114; 49 USC 41702; 49 USC 41708; 49 USC 41712; 5 USC 553(e)

CFR Citation: 14 CFR 234; 14 CFR 302.38

Legal Deadline: None

Abstract: This action proposes to reinstate the exclusion of flights delayed or cancelled because of mechanical problems from air carriers' on-time flight reports.

Timetable:

Action	Date	FR Cite
NPRM	06/05/95	60 FR 29514
NPRM Comment Period End	07/05/95	
Extended Comment Period End 8/5/95	07/06/95	60 FR 35158
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The NPRM was published under RSPA RIN 2137-AC67. However, since BTS is now separate from RSPA this new RIN 2139-AA00 has been assigned and will be used for future actions. This rule is significant under DOT regulatory policies and procedures due to the potential impact on safety. However, it is not considered significant under EO 12866.

Agency Contact: Bernie Stankus, Systems Accountant, Department of Transportation, Bureau of Transportation Statistics, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4387
Fax: 202 366-3383

RIN: 2139–AA00

DEPARTMENT OF TRANSPORTATION (DOT)
Bureau of Transportation Statistics (BTS)

Completed Actions

2793. • MOTOR CARRIER TRANSPORTATION; REDESIGNATION OF REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 14123; 49 USC 72(a); 49 USC 111

CFR Citation: 49 CFR 1249

Legal Deadline: None

Abstract: This action transfers and redesignates certain motor carrier transportation regulations relating to reporting requirements. The regulations are currently found in 49 CFR chapter X and are being transferred to chapter XI. The ICC Termination Act of 1995 abolished the Interstate Commerce Commission (ICC) and transferred certain functions to the Department of Transportation. The Secretary of Transportation delegated the motor carrier financial and operating data collection provisions of the former ICC to the Bureau of Transportation Statistics (BTS). This action makes no substantive changes to the motor carrier financial and operating data collection regulations. It simply provides notice to the public that the regulations are being moved.

Timetable:

Action	Date	FR Cite
Final Action	09/30/98	63 FR 52192
Final Action Effective	09/30/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David Mednick, K-2, Department of Transportation, Bureau of Transportation Statistics, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8871

RIN: 2139–AA06

[FR Doc. 98-27578 Filed 11-06-98; 8:45 am]
BILLING CODE 4910-62-F

Monday
November 9, 1998

Part XV

Department of the Treasury

Semiannual Regulatory Agenda

DEPARTMENT OF THE TREASURY (TREAS)

DEPARTMENT OF THE TREASURY

31 CFR Subtitle A, Chs. I and II

Semiannual Agenda and Fiscal Year 1999 Regulatory Plan

AGENCY: Department of the Treasury.

ACTION: Semiannual regulatory agenda and fiscal year 1999 regulatory plan.

SUMMARY: This notice is given pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, September 19, 1980) and Executive Order (E.O.) 12866 ("Regulatory Planning and Review," September 30, 1993), which require the publication by the Department of a semiannual agenda of regulations. E.O. 12866 also requires the publication by the Department of a regulatory plan for fiscal year 1999.

FOR FURTHER INFORMATION CONTACT: For additional information about a specific entry in the agenda or plan, contact the "Agency Contact" identified in the item relating to that regulation.

SUPPLEMENTARY INFORMATION: The semiannual agenda of the Department of the Treasury conforms to the Unified Agenda format developed by the Regulatory Information Service Center (RISC). For this edition of the regulatory agenda, the regulatory priorities of the Department of the Treasury are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**.

Dated: September 15, 1998.

Neal Comstock,

Executive Secretary.

Departmental Offices—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2794	12 CFR 1805 (New) Community Development Financial Institutions Program; Bank Enterprise Award Program Regulations	1505-AA71

Financial Crimes Enforcement Network—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2795	31 CFR 103 Amendments to the Bank Secrecy Act Regulations - Suspicious Activity Reporting—Broker/Dealers	1506-AA21

Financial Crimes Enforcement Network—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2796	31 CFR 103 Amendment to the Bank Secrecy Act Regulations - Registration Requirement for Certain Non-Bank Financial Institutions—Money Services Businesses (MSBs)	1506-AA09
2797	31 CFR 103 Amendment to the Bank Secrecy Act Regulations Regarding Reporting of Cross-Border Transportation of Certain Monetary Instruments	1506-AA15
2798	31 CFR 103 Amendments to the Bank Secrecy Act Regulations—Special Reporting and Recordkeeping Requirements—Money Services Businesses (MSBs)	1506-AA19
2799	31 CFR 103 Amendments to the Bank Secrecy Act Regulations - Suspicious Activity Reporting—Money Services Businesses (MSBs)	1506-AA20
2800	31 CFR 103 Amendments to the Bank Secrecy Act Regulations - Suspicious Activity Reporting—Casinos	1506-AA22

Financial Crimes Enforcement Network—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2801	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Requirement That Financial Institutions Carry Out Anti-Money-Laundering Programs	1506-AA05
2802	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Delegation of Authority To Assess Civil Money Penalties on Depository Institutions	1506-AA08

TREAS

Financial Crimes Enforcement Network—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2803	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Discretionary Exemption of Certain Transactions From Currency Transaction Reporting Requirements	1506-AA12

Financial Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2804	31 CFR 205 Rules and Procedures for Funds Transfers	1510-AA38
2805	31 CFR 240 Indorsement and Payment of Checks Drawn on the United States Treasury	1510-AA45
2806	31 CFR 245 Claims on Account of Treasury Checks	1510-AA51
2807	31 CFR 285.5 Offset of Federal Payments (Other Than Tax Refund and Federal Benefit Payments) To Collect Past-Due, Legally Enforceable Nontax Debt	1510-AA65

Financial Management Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2808	31 CFR 210 Federal Government Participation in the Automated Clearing House	1510-AA17
2809	31 CFR 225 Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds With Sureties	1510-AA36
2810	31 CFR 281 Foreign Exchange Operations	1510-AA48
2811	31 CFR 900 to 904 Federal Claims Collection Standards	1510-AA57
2812	31 CFR 285.3 Offset of Tax Refund Payments To Collect Past-Due Support	1510-AA63
2813	31 CFR 285.12 Transfer of Debts to Treasury for Collection	1510-AA68
2814	31 CFR 285.7 Matching of Federal Employee Records for Salary Offset	1510-AA70
2815	31 CFR 285.13 Barring Delinquent Debtors From Obtaining Federal Financial Assistance in the Form of Loans or Loan Guarantees	1510-AA71
2816	31 CFR 202 Depositaries and Financial Agents of the Federal Government	1510-AA75
2817	31 CFR 203 Payment of Federal Taxes and the Treasury Tax and Loan Program	1510-AA76
2818	31 CFR 225 Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds With Sureties	1510-AA77

Financial Management Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2819	31 CFR 203 Treasury Tax and Loan Depositaries and Payment of Federal Taxes	1510-AA37
2820	31 CFR 256 Payments Under Judgment and Private Relief Acts	1510-AA52
2821	31 CFR 285.4 Offset of Federal Benefit Payments	1510-AA64
2822	31 CFR 285.6 Offset of Federal Payments (Other Than Tax Refund and Federal Benefit Payments) to Collect Past-Due Debts Owed to States (Other Than Child Support)	1510-AA66
2823	31 CFR 285.14 Public Dissemination of Identity of Delinquent Debtors	1510-AA72
2824	31 CFR 285.4 Offset of Federal Benefit Payments	1510-AA74

Financial Management Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2825	31 CFR 208 Management of Federal Agency Disbursements	1510-AA56
2826	31 CFR 285.1 Collection of Past-Due Support by Administrative Offset	1510-AA58
2827	31 CFR 207 Electronic Benefits Transfer; Selection and Designation of Financial Institutions as Financial Agents	1510-AA59
2828	31 CFR 212 Taxpayer Identifying Number Requirement	1510-AA61
2829	31 CFR 285.2 Offset of Tax Refund Payments To Collect Past-Due, Legally Enforceable Nontax Debt	1510-AA62

TREAS

Financial Management Service—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2830	31 CFR 285.11 Administrative Wage Garnishment	1510-AA67
2831	31 CFR 285.15 Obtaining Taxpayer Identifying Numbers From Persons Doing Business With the Government	1510-AA69
2832	31 CFR 285.16 Debt Sales	1510-AA73

Bureau of Alcohol, Tobacco and Firearms—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2833	27 CFR 9 American Viticultural Areas	1512-AA07
2834	27 CFR 5 Country of Origin Statements on Distilled Spirits Labels	1512-AB72

Bureau of Alcohol, Tobacco and Firearms—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2835	27 CFR 252 Exportation of Liquors	1512-AA98
2836	27 CFR 7 Revision of Brewery Regulations and Issuance of Regulations for Taverns on Brewery Premises (Brewpubs) **(Reg Plan Seq. No. 95)**	1512-AB37
2837	27 CFR 19.11 Distilled Spirits Plant Regulatory Initiative Proposal	1512-AB58
2838	27 CFR 4 Net Contents Statement on Wine Labels	1512-AB70
2839	27 CFR 24.66 Implementation of Public Law 105-34, Section 1416 Relating to Refund of Tax for Domestic Wine Returned to Bond Regardless of Merchantability - (Taxpayer Relief Act of 1997)	1512-AB74
2840	27 CFR 24 Implementation of Public Law 105-34, Sections 1421 and 1422	1512-AB75
2841	27 CFR 55 Commerce in Explosives (Including Explosives in the Fireworks Industry) **(Reg Plan Seq. No. 96)**	1512-AB48
2842	27 CFR 55 Implementation of Public Law 104-208, the Omnibus Consolidated Appropriations Act of 1997, Relating to the Establishment of a National Repository for Arson and Explosives Information	1512-AB73

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Bureau of Alcohol, Tobacco and Firearms—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2843	27 CFR 4.40 Procedures for Revoking Previously Approved Certificates of Label Approval, Exemptions From Label Approval, or Distinctive Liquor Bottle Approvals	1512-AB34
2844	27 CFR 5 Labeling of Unaged Grape Brandy	1512-AB46
2845	27 CFR 21.3 Formulas for Denatured Alcohol and Rum	1512-AB60
2846	27 CFR 24.278 Implementation of Wine Credit Provisions of Public Law 104-188	1512-AB65
2847	27 CFR 55 Commerce in Explosives	1512-AB55
2848	27 CFR 47 Implementation of Public Law 104-132, the Antiterrorism and Effective Death Penalty Act of 1996, Relating to the Marking of Plastic Explosives for the Purpose of Detection	1512-AB63
2849	27 CFR 53.61(b) Firearms and Ammunition Excise Taxes Parts and Accessories	1512-AB49
2850	27 CFR 178 Commerce in Firearms and Ammunition (Omnibus Consolidated Appropriations Act of 1997)	1512-AB64
2851	27 CFR 178 Residency Requirement for Persons Acquiring Firearms	1512-AB66
2852	27 CFR 178 Brady Bill Regulations—Permanent Provision	1512-AB67
2853	27 CFR 178 Posting of Signs and Written Notifications to Purchasers of Handguns	1512-AB68
2854	27 CFR 70 Recodification of Statement of Procedural Rules	1512-AB54

TREAS

Bureau of Alcohol, Tobacco and Firearms—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2855	27 CFR 7 Alcoholic Content Labeling for Malt Beverages	1512-AB17
2856	27 CFR 22.21 Distribution and Use of Tax-Free Alcohol	1512-AB51
2857	27 CFR 20 Distribution of Denatured Alcohol and Rum	1512-AB57
2858	27 CFR 18.56 Production of Volatile Fruit Flavored Concentrate	1512-AB59
2859	27 CFR 4 Implementation of Public Law 105-34, Sections 908, 910 and 1415, Related To Hard Cider, Semi-generic Wine Designations and Wholesale Liquor Dealer's Signs	1512-AB71
2860	27 CFR 4 Alteration of Labels on Containers of Distilled Spirits, Wine and Beer	1512-AB76
2861	27 CFR 290 Exportation of Tobacco Products and Cigarette Papers and Tubes, Without Payment of Tax, or With Drawback of Tax	1512-AB03

Bureau of Alcohol, Tobacco and Firearms—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2862	27 CFR 53 Firearms and Ammunition Excise Taxes	1512-AB33
2863	27 CFR 70.511 to 70.526 27 CFR Part 70—Conference and Practice Requirements for the Bureau of Alcohol, Tobacco, and Firearms	1512-AB11

Bureau of the Public Debt—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2864	31 CFR 380 (New) Regulations Governing Correlate Acceptability and Valuation	1535-AA00
2865	17 CFR 405 Amendments to the Government Securities Act Regulations: Reports To Be Made by Specialized Government Securities Broker-Dealers Regarding Year 2000 Readiness	1535-AA01

Comptroller of the Currency—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2866	12 CFR 19 Uniform Rules of Practice and Procedure; Regulation Review	1557-AB43
2867	12 CFR 26 Management Official Interlocks	1557-AB60
2868	12 CFR 7.4001 Interpretive Rulings	1557-AB61
2869	12 CFR 21.21 Bank Secrecy Act Compliance: "Know Your Customer" Requirements	1557-AB66
2870	12 CFR 9 Year 2000 Readiness Reports for Transfer Agent Activities	1557-AB68

Comptroller of the Currency—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2871	12 CFR 3 Capital Rules	1557-AB14
2872	12 CFR 4 Expanded Examination Cycle for Certain Small Financial Institutions	1557-AB56
2873	12 CFR 4 Organization and Functions, Availability and Release of Information, Contracting Outreach Program	1557-AB65
2874	12 CFR 30 app B Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness	1557-AB67

TREAS

Comptroller of the Currency—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2875	12 CFR 12 Qualification Requirements for Transactions in Certain Securities	1557-AB54
2876	00 CFR Not yet determined Treatment of Financial Contracts by OCC-Appointed Receivers and Conservators for Uninsured Financial Institutions	1557-AB59

Comptroller of the Currency—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2877	12 CFR 28 International Lending Supervision	1557-AB58
2878	12 CFR 10 Municipal Securities Dealers	1557-AB62

United States Customs Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2879	19 CFR 159 Liquidation; Extension; Suspension	1515-AB66
2880	19 CFR 12 Detention, Seizure, and Forfeiture of "Bootleg" Sound Recording and Music Videos of Live Musical Performances	1515-AB74
2881	19 CFR 142 Reconciliation	1515-AB85
2882	19 CFR 171 Guidelines for the Imposition and Mitigation of Penalties for Violation of 19 USC 1592	1515-AC08
2883	19 CFR 141 Customs Entry Documentation Pursuant to Anticounterfeiting Consumer Protection Act	1515-AC15
2884	19 CFR 162 Penalties for False Drawback Claims	1515-AC21
2885	19 CFR 102 NAFTA Preference Override	1515-AC25
2886	19 CFR 4 Foreign Repairs to American Vessels	1515-AC30
2887	19 CFR 134 Country of Origin Marking	1515-AC32
2888	19 CFR 111 Customs Brokers	1515-AC34
2889	19 CFR 4 Vessel Equipment Temporarily Landed for Repair	1515-AC35
2890	19 CFR 12 Forced or Indentured Child Labor	1515-AC36

United States Customs Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2891	19 CFR 133 Parallel Imports and Other Trademarked Goods	1515-AB49
2892	19 CFR 151 Accreditation of Commercial Testing Laboratories; Approval of Commercial Gaugers	1515-AB60
2893	19 CFR 134 Country-of-Origin Marking Requirements for Frozen Produce Packages	1515-AB61
2894	19 CFR 10 Warehouse Withdrawals; Aircraft Fuel Supplies; Pipeline Transportation in Bond of Merchandise	1515-AB67
2895	19 CFR 151 Detention of Merchandise	1515-AB75
2896	19 CFR 24 Interest on Underpayments and Overpayments of Customs Duties Fees and Interest	1515-AB76
2897	19 CFR 181 North American Free Trade Agreement (NAFTA)—Implementation of Duty-Deferral Program Provisions	1515-AB87
2898	19 CFR 123 Foreign-Based Commercial Motor Vehicles in International Traffic	1515-AB88
2899	19 CFR 103 Electronic Requests for Confidential Treatment of Export Manifest Data	1515-AB89
2900	19 CFR 12 Entry of Softwood Lumber Shipments From Canada	1515-AB97
2901	19 CFR 171 Petitions for Relief; Seizures, Penalties, and Liquidated Damages	1515-AC01
2902	19 CFR 12 Importation of Chemicals Subject to the Toxic Substances Control Act	1515-AC04
2903	19 CFR 123 Designated Land Border Crossing Locations for Certain Conveyances	1515-AC12
2904	19 CFR 123 Land Border Carrier Initiative Program	1515-AC16
2905	19 CFR 192 Exportation of Used Motor Vehicles	1515-AC19
2906	19 CFR 24 Automated Clearinghouse Credit	1515-AC26
2907	19 CFR 4 Boarding of Vessels in the United States	1515-AC29
2908	19 CFR 162 Mandatory Seizure of Certain Plastic Explosives	1515-AC33

TREAS

United States Customs Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2909	19 CFR 4 Harbor Maintenance Fee	1515-AA57
2910	19 CFR 24 Donated Cargo Exemption From Harbor Maintenance Fee	1515-AA87
2911	19 CFR 102 (New) Rules of Origin	1515-AB19
2912	19 CFR 113 Automated Surety Interface	1515-AB25
2913	19 CFR 24 Fees Assessed for Defaulted Payments	1515-AB38
2914	19 CFR 12 Textiles and Textile Products Subject to Textile Trade Agreements	1515-AB54
2915	19 CFR 134 Country-of-Origin Marking for Watches	1515-AB68
2916	19 CFR 148 Treatment of Merchandise Imported by Foreign Governments or Designated International Organizations	1515-AB92
2917	19 CFR 12 Determination of the Country of Origin of Textiles and Textile Products	1515-AC00
2918	19 CFR 146 Weekly Entry Procedure for Foreign Trade Zones	1515-AC05
2919	19 CFR 103 Public Disclosure of Aircraft Manifests	1515-AC13
2920	19 CFR 12 Elimination of Certification Requirement for Film Importers	1515-AC20
2921	19 CFR 111 Remote Location Filing	1515-AC23

United States Customs Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2922	19 CFR 10 Andean Trade Preference	1515-AB59
2923	19 CFR 162 Recordkeeping Requirements	1515-AB77
2924	19 CFR 162 Prior Disclosure	1515-AB98
2925	19 CFR 4 Lay Order Period: General Order: Penalties	1515-AB99
2926	19 CFR 133 Anticounterfeiting Consumer Protection Act: Disposition of Merchandise Bearing Counterfeit American Trademarks; Civil Penalties	1515-AC10
2927	19 CFR 10 Procedural Change Regarding American Shooks and Staves	1515-AC18
2928	19 CFR 12 Emissions Standards for Imported Nonroad Engines	1515-AC28
2929	19 CFR 24 Exporters Not Liable for Harbor Maintenance Fee	1515-AC31

Internal Revenue Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2930	Section 79, Table I, Update	1545-AN54
2931	Definition of Contribution in Aid of Construction Under Subsection 118(c)(3)(A)	1545-AW17
2932	Continuity of Interest	1545-AW45
2933	Guidance Under Section 30 and 179A	1545-AR66
2934	Purchase Price Allocation	1545-AV58
2935	Guidance Under Section 355(d)	1545-AW71
2936	Roth IRAs	1545-AW62
2937	Accounting for Long-Term Contracts	1545-AQ30
2938	Escrow Funds and Other Similar Funds	1545-AR82
2939	Mark-to-Market for Securities Dealers; Application of Held for Investment Exemption to Consolidated Groups	1545-AU87
2940	Mark-to-Market Accounting for Dealers in Commodities and Traders in Securities and Commodities	1545-AW06
2941	Qualified State Tuition Programs	1545-AV18
2942	Separate Share Rules/Estates	1545-AW57
2943	Capital Gain Guidance Relating to CRTs	1545-AW35
2944	Foreign Grantor Trusts	1545-AO75
2945	Source of Income for Space and Certain Ocean Activities and for International Communications Income	1545-AW50
2946	Income Tax—Reciprocal Exemptions for Certain Transportation Income	1545-AJ57
2947	New Lines of Business Prohibited Under Section 936(j)(9)(B)	1545-AV68
2948	Coordination of Pre-1987 Deemed Paid Taxes	1545-AT85
2949	Definition of the Term "Marketable Stock" Under Section 1296(e)(1)(A)(iii)	1545-AW69
2950	Electing Small Business Trust	1545-AU76
2951	Tax Period After Acquisition of S Corporation	1545-AW32

TREAS

Internal Revenue Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2952	Effective Date of Section 1.1502-9T	1545-AW51
2953	Partnership Returns Required on Magnetic Media	1545-AW14
2954	Adequate Disclosure of Gifts	1545-AW20
2955	GRAT and Notes	1545-AW25
2956	Exception From Supplemental Tax	1545-AT56
2957	Retailers Tax/Tires	1545-AW66
2958	Prepaid Telephone Cards	1545-AV63
2959	Clarification of 4958 Excise Taxes	1545-AV60
2960	Purchasing and Reporting	1545-AV49
2961	Middleman Regulation Under Sections 6041 and 6045	1545-AW48
2962	Reporting of Payments to Attorney	1545-AW72
2963	Corporate Tax Shelter Registration	1545-AW26
2964	Taxpayer Relief Act of 1997 TEFRA Changes	1545-AW23
2965	Electronic Funds Transfers of Federal Deposits	1545-AV96
2966	Electronic Fund Transfers of Federal Deposits	1545-AW41
2967	Payment by Credit Card and Debit Card	1545-AW37
2968	Revision of Tax Refund Offset Program	1545-AV50
2969	Due Diligence for EIC (Earned Income Credit)	1545-AW03
2970	Retention of Paid Preparers' Signatures	1545-AW52
2971	Preparer Due Diligence Requirements in Determining Eligibility for the Earned Income Tax Credit	1545-AW73
2972	Passthrough of Items to Shareholders	1545-AT52
2973	Reporting Requirements for Widely Held Fixed Investment Trusts	1545-AU15
2974	Usufruct; Nonresident Alien Shareholder; S Corporation Stock	1545-AU18
2975	Payment From the Presidential Primary Matching Payment Account	1545-AU57
2976	Disclosure of Certain Returns and Return Information by Other Federal Agencies	1545-AU83
2977	Special Rules Applicable to Sales of Debt Instrument Between Record Dates and the End of Accrual Periods	1545-AU95
2978	Legending of REMIC Certificates	1545-AU96
2979	Withdrawal of Notice of Federal Tax Lien	1545-AV00
2980	Return of Levied Property in Certain Cases	1545-AV01
2981	Research Credit II	1545-AV14
2982	Cash Advances of Compensation to Service Providers	1545-AV21
2983	Section 42 Miscellaneous Compliance	1545-AV44
2984	Marital Deduction (Estate of Hubert)	1545-AV45
2985	HIPAA Newborns' and Mothers' Health Protection Act	1545-AV52
2986	Section 707 Disguised Sales of Partnership Interest	1545-AV66
2987	Section 6038 Information Reporting Requirements for Foreign Partnerships	1545-AV69
2988	Section 6038B Information Reporting Requirements for Transfers to Foreign Partnerships	1545-AV70
2989	Disclosure of Return Information to the Bureau of the Census	1545-AV84
2990	Substantiation of Business Expenses—Use of Mileage Rates to Substantiate Automobile Expenses	1545-AV87
2991	Substantiation of Business Expenses—Use of Mileage Rates To Substantiate Automobile Expenses	1545-AV89
2992	Section 411(d)(6) Protected Benefits (Taxpayer Relief Act of 1997)	1545-AV94
2993	Merchandise	1545-AW00
2994	Interest on Education Loans	1545-AW01
2995	HIPAA Nondiscrimination Rules	1545-AW02
2996	Averaging of Farm Income	1545-AW04
2997	Averaging of Farm Income	1545-AW05
2998	Capital Gains and Partnership Provisions	1545-AW22
2999	Section 411(d)(6); Protected Benefits Exceptions	1545-AW27
3000	Intercompany Obligations	1545-AW30
3001	Disregarded Entities	1545-AW36
3002	Conversion to the Euro	1545-AW43
3003	Section 148—Clarification of the Treatment of Prepayments	1545-AW44
3004	Capital Gains—Installment Sales	1545-AW47
3005	Guidance Under Section 1032	1545-AW53
3006	Modification of Section 263A Regulations	1545-AW54
3007	Modification of the Solely-for-Voting Stock Requirement in Certain Corporate Reorganizations	1545-AW55
3008	Increase in Cashout Limit Under Sections 411(a)(7), 411(a)(11), and 417(e)(1)	1545-AW59
3009	Merchandise Regulation - NPRM	1545-AW61
3010	Education Credits	1545-AW65

TREAS

Internal Revenue Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3011	Section 809—Stock Life Subsidiary of a Mutual Holding Company	1545-AW70
3012	Section 411(d)(6) Protected Benefits (Taxpayer Relief Act of 1997)	1545-AV95
3013	Disaster Relief Regulations	1545-AV92

Internal Revenue Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3014	Statement of Procedural Rules—Part 601.702 Appendix B - Internal Revenue Service - 31 CFR Part 1	1545-AR99
3015	Loans Treated as Distributions	1545-AE41
3016	Removal of Temporary Regulations	1545-AV36
3017	Arbitrage Restrictions on Tax Exempt Bonds	1545-AU39
3018	Rules for Property Produced in a Farming Business	1545-AQ91
3019	Certain Asset Transfers to a Tax-Exempt Entity	1545-AN21
3020	Warrants and Nonqualified Preferred Stock	1545-AV86
3021	Section 467 Rental Agreements	1545-AU11
3022	Guidance Regarding Charitable Remainder Trust	1545-AU25
3023	Adjustments Following Sales of Partnership Interests	1545-AS39
3024	Determination of Earned Premiums	1545-AU60
3025	FASIT - Consolidated Groups/Transitional/Start-Up	1545-AV59
3026	Classification of Certain Transactions Involving Computer Programs	1545-AU70
3027	Source of Income From Sales of Inventory Partly From Sources Within a Possession of the United States	1545-AU79
3028	Income Tax—Taxpayer's Obligation To File a Notice of Redetermination of Foreign Tax and Civil Penalties for Failure to File	1545-AC09
3029	New Lines of Business Prohibited Under Section 936(j)(9)(B)	1545-AV67
3030	Inflation-Indexed Securities	1545-AU45
3031	Consolidated Returns—Limitations on the Use of Certain Losses and Credits	1545-AV88
3032	Consolidated Returns—Limitations on the Use of Certain Losses and Credits	1545-AV99
3033	FICA Taxation of Certain Deferred Compensation and Salary Reduction Arrangements	1545-AF97
3034	FUTA Taxation of Amounts Under Employee Benefit Plans	1545-AT99
3035	Prepaid Telephone Cards	1545-AV64
3036	Continuation Coverage Requirements of Group Health Plans	1545-AI93
3037	Voice Signatures	1545-AQ68
3038	Public Disclosure of Material Relating to Tax-Exempt Organizations	1545-AV13
3039	Electronic Funds Transfers of Federal Deposits	1545-AW40
3040	Payment by Credit Card and Debit Card	1545-AW38
3041	Abatement of Interest	1545-AV32
3042	Definition of Reasonable Basis	1545-AU38
3043	Preparer Due Diligence Requirements in Determining Eligibility for the Earned Income Tax Credit	1545-AW74
3044	Rewards for Information Relating to Violations of Internal Revenue Laws	1545-AU85
3045	Treatment of Obligation-Shifting Transactions	1545-AU19
3046	Residence of Trusts and Estates—7701	1545-AU74
3047	Intangible Asset Amortization	1545-AS77
3048	Start-Up Expenditures	1545-AT71
3049	ERISA Section 204(h) Notice	1545-AT78
3050	Timing of Notice and Consent Requirements	1545-AU05
3051	Contingent 'nterest Under Section 2056(b)(7)	1545-AU27
3052	Civil Cause of Action for Certain Unlawful Collection Actions	1545-AU68
3053	Tax Attribute Reduction	1545-AU71
3054	Disclosure of Certain Returns and Return Information by Other Federal Agencies	1545-AU84
3055	Agreements for Payment of Tax Liabilities in Installments	1545-AU97
3056	Return of Partnership Income—Section 6031	1545-AU99
3057	Deposits of Excise Taxes	1545-AV02
3058	Regulations Under Sections 871, 881, and 894 Regarding Payments to Partnerships, and Other Transparent Arrangements	1545-AV10
3059	Certain Investment Income—7704	1545-AV15
3060	Treatment of Elective Entity Classification Changes—7701	1545-AV16

TREAS

Internal Revenue Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3061	Removal of Temporary Regulations That Provide Rules for Substantiating Travel Expense Deductions for Members of Congress	1545-AV55
3062	Qualified Long-Term Care Services and Insurance	1545-AV56
3063	Kerosene Tax; Aviation Fuel Tax; Tax on Heavy Trucks and Trailers	1545-AV71
3064	Required Distributions From Qualified Plans and Individual Retirement Plans	1545-AV82
3065	Disclosure of Return Information to the Bureau of the Census	1545-AV83
3066	Travel and Tour Activity of Tax-Exempt Organization	1545-AW10
3067	Removal of Regulation Providing Guidance Under Subpart F Relating to Partnerships and Branches	1545-AW49
3068	Increase in Cashout Limit Under Sections 411(a)(7), 411(a)(11), and 417(e)(1)	1545-AW58

Internal Revenue Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3069	Research and Computation of Research Credit Under Section 41 of the Code, After 1986, 1989 and 1993 Acts	1545-AO51
3070	The Treatment of Accelerated Death Benefits Under Sections 101, 7702 and 7702A of the Internal Revenue Code	1545-AQ70
3071	Qualified Lessee Construction Allowances for Short-Term Leases	1545-AW16
3072	Exclusion From Income of Certain Cost-Sharing Payments Under Government Programs	1545-AT73
3073	Definition of "Private Activity Bonds"	1545-AU98
3074	Private Activity Bond Rules for Output Facilities	1545-AV47
3075	Earnings Stripping Payments	1545-AO24
3076	Section 5f.163-1(B)(2)	1545-AP33
3077	Production of Creative Property	1545-AQ92
3078	Substantiation of Expenses—Receipt Threshold	1545-AT97
3079	Golden Parachute Payments	1545-AH49
3080	Guidance in Notice 89-37, Which Treats the Receipt of a Corporate Partner's Stock by the Corporate Partner as a Circumvention of General Utilities Repeal	1545-AP52
3081	Corporate Inversion Transactions	1545-AS91
3082	Income Tax—Part 1—Stock Transfer Rules	1545-AI32
3083	Amendment of the Income Tax Regulations Under Section 367 of the Code (Transfers to Foreign Corporations) To Reflect Section 131 of the Tax Reform Act of 1984 (P.L. 98-369)	1545-AK74
3084	Section 361 Outbound Transfers of Property to Foreign Corporations	1545-AM97
3085	Treatment of Section 355 Distribution by U.S. Corporations to Foreign Persons	1545-AU22
3086	Regulations Under Section 382	1545-AU33
3087	Income Tax—Deduction for Certain Foreign Deferred Compensation Plans	1545-AD81
3088	Allocation of Accrued Benefits Between Employer and Employee Contributions	1545-AT82
3089	Revising the Definition of the Full Funding Limitation for Purposes of the Minimum Funding Requirement for Pension Plans	1545-AL53
3090	Definition of "Highly Compensated Employee"	1545-AQ74
3091	Treatment of Funded Welfare Benefit Plans	1545-AG14
3092	Guidance—Interest Other Than of Creditor	1545-AO32
3093	Limitations on Passive Activity Losses and Credits—Self-Charged Items	1545-AN64
3094	Mark-to-Market Upon Disposition	1545-AS85
3095	Taxation of Global Trading	1545-AP01
3096	Intercompany Transfer Pricing for Services	1545-AR32
3097	Section 501(c)(4) Regulation Changes Regarding Taxpayer Bill of Rights 2	1545-AV57
3098	Application of Attribution Rules to Foreign Trusts	1545-AU91
3099	Inbound Grantor Trusts With Foreign Grantors	1545-AU90
3100	Section 736—LLC Members	1545-AT31
3101	Foreign Insurance Companies	1545-AL82
3102	Extension of Time for Real Estate Mortgage Investment Conduits To Provide Reporting Information	1545-AP73
3103	FASIT-Consolidated Groups/Transitional Start-up	1545-AU94
3104	Fringe Benefit Sourcing Under Section 861	1545-AO72
3105	Charitable Contributions	1545-AP30
3106	Transportation Income Source Rules	1545-AJ68
3107	Source Rules for Payments Made Pursuant to Certain Swap Arrangements	1545-AU89

TREAS

Internal Revenue Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3108	Treatment of Related Person Factoring Income; Certain Investments in United States Property; and Stock Redemptions Through Related Corporations	1545-AH85
3109	Allocation and Apportionment of Interest Expense and Certain Other Expenses	1545-AM20
3110	Integrated Financial Transaction	1545-AR20
3111	Stocks and Securities Safe Harbor Exception	1545-AW13
3112	Source Rules for Personal Property Sales	1545-AJ83
3113	Allocation of Loss on Disposition of Stock	1545-AT41
3114	Allocation of Loss on Disposition of Personal Property	1545-AW09
3115	Proposed Regulation Under Sections 882 and 884	1545-AT96
3116	Income of Foreign Governments and International Organizations	1545-AL93
3117	Nonrecognition of Corporate Distributions and Reorganizations Under the Foreign Investment in Real Property Tax Act	1545-AK79
3118	Conforming Taxable Years of CFCs and FPHCs: 1989 Change	1545-AO22
3119	Foreign Tax Credit Anti-Abuse Regulation	1545-AV97
3120	Clarification of Treatment of Separate Limitation Losses	1545-AM11
3121	Application of Section 904 to Income Subject to Separate Limitations and Section 864(e) Affiliated Group Expense Allocation Rules	1545-AQ43
3122	FSC Transfer Pricing Rules, Distributions, Dividends Received, Deduction, and Other Special Rules for FSC	1545-AI16
3123	Source and Grouping Rules for Foreign Sales Corporation Transfer Pricing	1545-AV90
3124	Sourcing Rules for Foreign Sales Corporation Transfer Pricing	1545-AW11
3125	Sourcing Rules for Foreign Sales Corporation Transfer Pricing	1545-AW12
3126	Income Tax—Definition of Qualified Possession Source Investment Income for Purposes of Puerto Rico and Possession Tax Credit	1545-AC10
3127	CBI Investments of Section 936 Funds	1545-AM91
3128	Insurance Income	1545-AJ70
3129	Foreign Insurance Company—Domestic Election	1545-AO25
3130	Guidance Under Subpart F Relating to Partnerships	1545-AV11
3131	Earnings and Profits of Controlled Foreign Corporations	1545-AM90
3132	Use of GAAP Earnings as E&P of Foreign Corporations	1545-AQ55
3133	Computation of a Branch's Taxable Income; Taxation of Exchange Gain or Loss on Branch Remittances	1545-AM12
3134	Mark-to-Market Method of Accounting Under Section 988	1545-AP78
3135	Section 988—Contingent Debt Instrument	1545-AW33
3136	Income Tax—Tax Reform Act of 1984 Relating to Interest Charge DISCs	1545-AG71
3137	Equity Options Without Standard Terms	1545-AV48
3138	General Rules for Making and Maintaining Qualified Electing Fund Elections	1545-AV39
3139	Passive Foreign Investment Companies—Special Rules for Foreign Banks and Securities Dealers	1545-AS46
3140	S Corporation Subsidiaries	1545-AU77
3141	Qualified Zone Academy Bonds	1545-AV75
3142	Regulations Under Section 1441 Regarding the Electronic Transmission of Withholding Certificates	1545-AV27
3143	Regulations Under Section 1441 Regarding Withholding on Sales of Debt Obligations Between Interest Payment Dates	1545-AV41
3144	Final 1441 Regulation—Technical Corrections	1545-AW39
3145	Withholding Tax on Payments From Partnerships to Foreign Partners	1545-AL32
3146	Consolidated Alternative Minimum Tax	1545-AN73
3147	Regulations Under Section 1502	1545-AU32
3148	Consideration of Repeal of Old 1.1502-13	1545-AV54
3149	Consolidated Overall Foreign Loss and Separate Limitation Loss Accounts	1545-AW08
3150	Applications of Section 1503(d) to Partnerships and Other Items	1545-AR26
3151	Valuation of Certain Farm, Real Property, Etc	1545-AT66
3152	Treatment of Real Estate Agents and Direct Sellers as Nonemployees for Employment Tax Purposes—Reporting Requirements With Respect to Direct Sellers	1545-AE62
3153	Luxury Tax Regulations—Revenue Reconsideration Act of 1990	1545-AP24
3154	Application of Grantor Trust Rules to Nonexempt Employees' Trust	1545-AU29
3155	Diesel Fuel Excise Tax; Dye Injection Systems and Markers	1545-AT18
3156	Information Reporting and Record Maintenance Under Section 6038C	1545-AP10
3157	Information From Passport and Immigration Applicants	1545-AJ93
3158	6046A—Returns as to Interests in Foreign Partnerships	1545-AK75
3159	Section 6048 Regulations	1545-AR25
3160	Interest-Free Adjustments	1545-AQ61

TREAS

Internal Revenue Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3161	Railroad Unemployment Repayment Tax	1545-AN40
3162	Federal Employment Tax Deposits De Minimis Rule	1545-AW28
3163	Special Rules for S Corps Under Section 301.7701(b)-7	1545-AS88
3164	Extension of Statute of Limitations in John Doe Summons Disputes	1545-AM67
3165	Suspension of Running of Period of Limitations During Proceeding To Enforce Designated Summons	1545-AQ01
3166	Straddles—Miscellaneous Issues	1545-AT46
3167	Effect of the Family and Medical Leave Act on the Operation of Cafeteria Plans	1545-AT47
3168	Amortization-Goodwill Intangibles 197	1545-AT70
3169	Relief From Disqualification for Plans Accepting Rollovers	1545-AU46
3170	Recomputation of Life Insurance Reserves	1545-AU49
3171	Treatment of Conduit Financing Using Fast Pay Preferred Stock	1545-AV07
3172	Taxpayer Identification Numbers (TINs) for Adopted Children	1545-AV08
3173	Remedial Amendment Period	1545-AV22
3174	Electronic Tip Reporting	1545-AV28
3175	Taxpayer Bill of Rights 2 Changes to Section 7805(b)	1545-AV42
3176	EITC Recertification Requirements	1545-AV61
3177	Continuity of Interest	1545-AV81
3178	Transportation of Persons and Property by Air—Sections 4261 and 4271	1545-AW18
3179	Transportation of Persons and Property by Air—Sections 4261 and 4271	1545-AW19
3180	Estate Tax Deduction for Qualified Family-Owned Business Interests (QFBI)	1545-AW21
3181	Guidance Under Subpart F Relating to Certain Hybrid Transactions	1545-AW63
3182	Relief From Joint and Several Liability on Joint Return	1545-AW64
3183	Information Reporting Requirements of Interest Received on Education Loans	1545-AW67
3184	Election To Treat Trust As Estate—Section 645	1545-AW24
3185	Taxpayer Assistance Orders	1545-AU01
3186	Regulations on Income Tax Under the Tax Reform Act of 1984, Relating to Below-Market Loans	1545-AH72

Internal Revenue Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3187	Foreign Taxpayers	1545-AQ93
3188	Transfers of Stock or Securities by U.S. Persons to Foreign Corporations	1545-AP81
3189	Withdrawal of Proposed Regulations	1545-AV35
3190	Valuation of Plan Distribution	1545-AT27
3191	Source and Grouping Rules for Foreign Sales Corporation Transfer Pricing	1545-AV91
3192	Guidance Under Subpart S Relating to Partnerships and Branches	1545-AW07
3193	Rules for a QBU Changing From the Profit-and-Loss Method to DASTM	1545-AR28
3194	Change From the Dollar Approximate Separate Transactions Method (DASTM) to the Profit-and-Loss Method of Accounting	1545-AS68
3195	Conversion to the Euro	1545-AW34
3196	QEF Shareholder Election - Special Preferred Stock Election	1545-AM41
3197	Consolidated Returns—Limitations on the Use of Certain Losses and Credits	1545-AV98
3198	Communications Tax Issues	1545-AU86
3199	Electing Large Partnership Items and Adjustments	1545-AV76
3200	Electing Large Partnership Items and Adjustments	1545-AV77
3201	Federal Employment Tax Deposits—De Minimis Rule	1545-AW29
3202	Technical Corrections for Chapter 14	1545-AR49
3203	Excise Tax on Heavy Trucks, Truck Trailers and Semitrailers, and Tractors	1545-AT63
3204	Magnetic Media Filing Requirements	1545-AU08
3205	LLC Recourse Debt and Qualified Nonrecourse Financing	1545-AV17
3206	Permitted Elimination of Pre-Retirement Optional Forms of Benefit	1545-AV26
3207	EITC Recertification Requirements	1545-AV62
3208	Election Not To Apply Look-Back Method to Qualified Long-Term Contracts	1545-AV79
3209	Kerosene Tax; Aviation Fuel Tax; Tax on Heavy Trucks and Trailers	1545-AW15

TREAS

Office of Thrift Supervision—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3210	12 CFR 563f Management Official Interlocks	1550-AB07
3211	12 CFR 567 Capital Rules	1550-AB11
3212	12 CFR 516 Application Processing	1550-AB14
3213	12 CFR 563 Know Your Customer	1550-AB15
3214	12 CFR 545 Types of Offices	1550-AB18
3215	12 CFR 545 Directors and Officers	1550-AB19
3216	12 CFR 502 Assessments	1550-AB20
3217	12 CFR 545 Letters of Credit, Suretyship and Guaranty	1550-AB21
3218	12 CFR 545 Non-Deposit Investment Products	1550-AB22
3219	12 CFR 528 Nondiscrimination	1550-AB23
3220	12 CFR 563b Conversions	1550-AB24
3221	12 CFR 590 Due on Sale and Usury Preemption	1550-AB25
3222	12 CFR 584 Exempt Savings and Loan Holding Companies	1550-AB26
3223	12 CFR 561 Consumer Credit Classified as a Loss, Slow Consumer Credit and Slow Loans	1550-AB28

Office of Thrift Supervision—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3224	12 CFR 563 Capital Distributions	1550-AA72
3225	12 CFR 545 Electronic Operations	1550-AB00
3226	12 CFR 563 Financial Management Policies; Derivative Instruments	1550-AB13
3227	12 CFR 570 Year 2000 Safety and Soundness Guidelines	1550-AB27

Office of Thrift Supervision—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3228	12 CFR 563 Agency Disapproval of Directors and Senior Executive Officers	1550-AB10
3229	12 CFR 560 Disclosures for Adjustable-rate Mortgage Loans, Adjustment Notices, and Interest-rate Caps	1550-AB12
3230	12 CFR 563 Transactions With Affiliates; Reverse Repurchase Agreements	1550-AB16
3231	12 CFR 544 Charter and Bylaws; One Member, One Vote	1550-AB17

DEPARTMENT OF THE TREASURY (TREAS)

Final Rule Stage

Departmental Offices (DO)

2794. COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS PROGRAM; BANK ENTERPRISE AWARD PROGRAM REGULATIONS

Priority: Other Significant

Legal Authority: 12 USC 4703; 12 USC 4713; PL 104-19; 42 USC 4332

CFR Citation: 12 CFR 1805 (New); 12 CFR 1806 (New); 12 CFR 1815 (New)

Legal Deadline: None

Abstract: The Department of the Treasury has issued a revision of a temporary rule for public comment to implement two programs that will be administered by the Community Development Financial Institutions (CDFI) Fund: the CDFI Program and the Bank Enterprise Award (BEA) Program. These programs were authorized by the Community Development Banking and Financial Institutions Act of 1994. The CDFI Program's core component provides direct assistance to CDFIs that serve their target markets through loans, investments and other activities. The CDFI Program's intermediary component provides financial assistance to CDFIs that provide financing primarily to other CDFIs and/or support the information of CDFIs. The CDFI Program's new technical assistance component provides technical assistance to CDFIs to enhance their capacity through training and/or development. The BEA Program encourages insured depository institutions to engage in certain development and service activities within distressed communities and to make investments in CDFIs. The regulations establish eligibility criteria and application procedures for financial assistance through these programs. The regulations also establish the appropriate environmental review procedures for these two programs.

TREAS—DO

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/19/95	60 FR 54110
Interim Final Rule Comment Period End	01/15/96	
Extended Comment Period End	03/15/96	61 FR 1699
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeffrey C. Berg, Legal Counsel, Department of the Treasury, CDFI Fund, 601 13th St. NW., Suite 200-South, Washington, DC 20005
Phone: 202 622-8530
Fax: 202 622-7754

RIN: 1505–AA71

BILLING CODE 4810-25-F

DEPARTMENT OF THE TREASURY (TREAS)
Financial Crimes Enforcement Network (FINCEN)

Proposed Rule Stage

2795. AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS - SUSPICIOUS ACTIVITY REPORTING—BROKER/DEALERS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5318(g)

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This NPRM will propose to require suspicious activity reporting by broker/dealers.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Stephen R. Kroll, Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182
Phone: 703 905-3590

RIN: 1506–AA21

DEPARTMENT OF THE TREASURY (TREAS)
Financial Crimes Enforcement Network (FINCEN)

Final Rule Stage

2796. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS - REGISTRATION REQUIREMENT FOR CERTAIN NON-BANK FINANCIAL INSTITUTIONS—MONEY SERVICES BUSINESSES (MSBS)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5330

CFR Citation: 31 CFR 103

Legal Deadline: NPRM, Statutory, March 23, 1995.
Section 408 of PL 103-325 requires money transmitting businesses to register by March 23, 1995.

Abstract: This rule will identify money-transmitting and other businesses that must register with the Secretary, and will prescribe procedures for registration.

Timetable:

Action	Date	FR Cite
NPRM	05/21/97	62 FR 27890
NPRM Comment Period End	09/30/97	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Stephen R. Kroll, Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182
Phone: 703 905-3590

RIN: 1506–AA09

2797. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS REGARDING REPORTING OF CROSS-BORDER TRANSPORTATION OF CERTAIN MONETARY INSTRUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5312(a)(3) Bank Secrecy Act

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This rule will require reporting of cross-border transportation of certain negotiable instruments.

Timetable:

Action	Date	FR Cite
NPRM	01/22/97	62 FR 3249
NPRM Comment Period End	04/22/97	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen R. Kroll, Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182
Phone: 703 905-3590

RIN: 1506–AA15

2798. AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS—SPECIAL REPORTING AND RECORDKEEPING REQUIREMENTS—MONEY SERVICES BUSINESSES (MSBS)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5313; 31 USC 5318

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This rule will propose to require special currency transaction reporting and recordkeeping by certain classes of businesses.

Timetable:

Action	Date	FR Cite
NPRM	05/21/97	62 FR 27909
NPRM Comment Period End	09/30/97	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

TREAS—FINCEN

Final Rule Stage

Government Levels Affected: None

Agency Contact: Stephen R. Kroll, Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182
Phone: 703 905-3590

RIN: 1506–AA19

2799. AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS - SUSPICIOUS ACTIVITY REPORTING—MONEY SERVICES BUSINESSES (MSBS)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5318(g)

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This rule will propose to require suspicious activity reporting by certain classes of businesses.

Timetable:

Action	Date	FR Cite
NPRM	05/21/97	62 FR 27900
NPRM Comment Period End	09/30/97	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Stephen R. Kroll, Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182
Phone: 703 905-3590

RIN: 1506–AA20

2800. AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS - SUSPICIOUS ACTIVITY REPORTING—CASINOS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5318(g)

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This NPRM will propose to require suspicious activity reporting by casinos.

Timetable:

Action	Date	FR Cite
NPRM	05/18/98	63 FR 27230
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stephen R. Kroll, Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182
Phone: 703 905-3590

RIN: 1506–AA22

DEPARTMENT OF THE TREASURY (TREAS)
Financial Crimes Enforcement Network (FINCEN)

Long-Term Actions

2801. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—REQUIREMENT THAT FINANCIAL INSTITUTIONS CARRY OUT ANTI-MONEY-LAUNDERING PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 103

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Stephen R. Kroll
Phone: 703 905-3590

RIN: 1506–AA05

2802. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—DELEGATION OF AUTHORITY TO ASSESS CIVIL MONEY PENALTIES ON DEPOSITORY INSTITUTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 103

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Stephen R. Kroll
Phone: 703 905-3590

RIN: 1506–AA08

DEPARTMENT OF THE TREASURY (TREAS)
Financial Crimes Enforcement Network (FINCEN)

Completed Actions

2803. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—DISCRETIONARY EXEMPTION OF CERTAIN TRANSACTIONS FROM CURRENCY TRANSACTION REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 31 CFR 103

Completed:

Reason	Date	FR Cite
Final Action	09/21/98	63 FR 50147

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen R. Kroll
Phone: 703 905-3590

RIN: 1506–AA12

BILLING CODE 4820-02-F

DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS)

Proposed Rule Stage

2804. RULES AND PROCEDURES FOR FUNDS TRANSFERS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 31 USC 321; 31 USC 3335; 31 USC 6501; 31 USC 6503

CFR Citation: 31 CFR 205

Legal Deadline: None

Abstract: This regulation governs the transfer of Federal assistance funds to State governments and implements the Cash Management Improvement Act of 1990, as amended. Revisions to the regulation will address concerns raised by both States and Federal agencies about intergovernmental financing. Rules and procedures for funds transfers will be revised to provide more options and greater flexibility.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Cynthia Johnson, Director, Cash Management Policy & Planning Division, Department of the Treasury, Financial Management Service, Room 420, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6590

RIN: 1510–AA38

2805. INDORSEMENT AND PAYMENT OF CHECKS DRAWN ON THE UNITED STATES TREASURY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 12 USC 391; 31 USC 321; 31 USC 3328; 31 USC 3331; 31 USC 3343; 31 USC 3711; 31 USC 3716; 31 USC 3717; 31 USC 3334; 31 USC 3712; 31 USC 3327; 31 USC 3702 note; 31 USC 363

CFR Citation: 31 CFR 240

Legal Deadline: None

Abstract: The first notice of proposed rulemaking (NPRM I) is a reissuance of the NPRM published on 9/21/95. The 9/21/95 notice proposed to fix the time by which Treasury can decline payment on Treasury checks, provide financial institutions with a date certain for final payments, and provide greater clarity by defining previously undefined terms. Finally, that notice proposed that the Department of the Treasury may instruct Federal Reserve Banks to intercept benefit payment checks to deceased payees and to return, unpaid, those checks. NPRM I will announce the Department of the Treasury's intent that this regulation supersede Federal common law regarding the risk of loss on checks containing forged disbursing officer signatures, such as counterfeits. The second notice of proposed rulemaking (NPRM II) will further amend this regulation to implement provisions of the Debt Collection Improvement Act of 1996 authorizing the collection of debts owed by presenting banks through Treasury Check Offset. Among other things, NPRM II will broaden the use of powers of attorney for purposes of negotiating Treasury checks.

Timetable:

Action	Date	FR Cite
NPRM	09/21/95	60 FR 48940
NPRM Comment Period End	11/06/95	
NPRM I	05/30/97	62 FR 29314
Final Rule (NPRM I)	04/00/99	
NPRM II	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Ronald Brooks, Senior Program Analyst, Financial Information, Department of the Treasury, Financial Management Service, Room 725-D, 3700 East-West Highway, Hyattsville, MD 20782
Phone: 202 874-7573
Fax: 202 874-7534
Email: ronald.brooks@fms.sprint.com

RIN: 1510–AA45

2806. CLAIMS ON ACCOUNT OF TREASURY CHECKS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 321; 31 USC 3328; 31 USC 3331; 31 USC 3343; 31 USC 3702; 31 USC 3712

CFR Citation: 31 CFR 245

Legal Deadline: None

Abstract: 31 CFR part 245 governs the issuance of replacement checks for checks drawn on the United States Treasury when (1) the original check has been lost, stolen, destroyed or mutilated or defaced to such an extent that it is rendered non-negotiable; (2) the original check has been negotiated and paid on a forged or unauthorized indorsement; and (3) the original check has been cancelled pursuant to 31 CFR part 240. The regulation is being revised to update the regulation's definitions to make them consistent with the language of the proposed revisions to the definitions in 31 CFR part 240. Other revisions will govern the use of the Check Forgery Insurance Fund (Fund). The Fund is a revolving fund established to settle payee claims of non-receipt where the original check has been fraudulently negotiated. The Fund will ensure that innocent payees, whose Treasury checks have been fraudulently cashed, will receive replacement checks in a timely manner.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Ella White, Customer Liaison Specialist, Department of the Treasury, Financial Management Service, 3700 East-West Highway, Room 8A26, Hyattsville, MD 20782
Phone: 202 874-7475

RIN: 1510–AA51

2807. OFFSET OF FEDERAL PAYMENTS (OTHER THAN TAX REFUND AND FEDERAL BENEFIT PAYMENTS) TO COLLECT PAST-DUE, LEGALLY ENFORCEABLE NONTAX DEBT

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3716; 31 USC 321

CFR Citation: 31 CFR 285.5

TREAS—FMS

Proposed Rule Stage

Legal Deadline: None

Abstract: This rule governs administrative offset of Federal payments by disbursing officials of the United States.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6859

RIN: 1510–AA65

DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS)

Final Rule Stage

2808. FEDERAL GOVERNMENT PARTICIPATION IN THE AUTOMATED CLEARING HOUSE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 3720; 31 USC 3335; 31 USC 321; 5 USC 5525; 31 USC 3332; 31 USC 3321; 31 USC 3301; 31 USC 3302; 12 USC 391

CFR Citation: 31 CFR 210

Legal Deadline: None

Abstract: This revision of 31 CFR part 210 will reconcile Government Automated Clearing House (ACH) regulations and private industry rules as set forth by the National Automated Clearing House Association, by incorporating certain industry rules into Federal law. The revision will broaden the use of the ACH and thereby further Treasury's requirement to disburse public funds solely by means of electronic funds transfer by 1999.

Timetable:

Action	Date	FR Cite
NPRM	09/30/94	59 FR 50112
Extension of Comment Period	11/25/94	59 FR 60576
NPRM Comment Period End	01/03/95	59 FR 60576
NPRM	02/02/98	63 FR 5426
NPRM Comment Period End	05/04/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Cynthia L. Johnson, Director, Cash Management Policy & Planning Division, Department of the Treasury, Financial Management Service, Room 420, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6590

RIN: 1510–AA17

2809. ACCEPTANCE OF BONDS SECURED BY GOVERNMENT OBLIGATIONS IN LIEU OF BONDS WITH SURETIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 321; 31 USC 9301; 31 USC 9303; 12 USC 391

CFR Citation: 31 CFR 225

Legal Deadline: None

Abstract: This regulation was last updated in 1969. Since that time, several significant changes have taken place in pledging securities. The most significant has been the advent of book-entry securities. This revision will provide Federal agencies with the flexibility to design operating procedures that consider the unique characteristics of their operations, systems, policies, legislation, regulations and expectations of their customers and programs. In addition, this revision provides that in the event of a default, the proceeds from the sale of pledged Government obligations will be available to satisfy any claim of the United States. This is an expansion of the current rule which limits the application of the proceeds to damages arising out of the default. Also, notice is provided of the role of the Bureau of Public Debt in collateral valuation.

Timetable:

Action	Date	FR Cite
NPRM	11/15/96	61 FR 58493
NPRM Comment Period End	12/16/96	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Cynthia Johnson, Director, Cash Management Policy & Planning Division, Department of the Treasury, Financial Management Service, Room 420, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6590

RIN: 1510–AA36

2810. FOREIGN EXCHANGE OPERATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 3513; EO 10488; EO 10900; 22 USC 2363

CFR Citation: 31 CFR 281

Legal Deadline: None

Abstract: This regulation governs the administration of the purchase, custody, deposit, transfer, sale and reporting of foreign exchange (including credits and currencies) by executive departments and agencies. Currently, this regulation allows the purchase of foreign currency to an amount which, together with the balance on hand in the bank, may not exceed estimated requirements for a 30-day period. The revised rule allows the purchase of foreign currency to a balance "commensurate with immediate disbursing requirements."

TREAS—FMS

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/29/96	61 FR 2750
NPRM Comment Period End	02/28/96	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Maria Guido, Senior Advisor, International Funds Branch, Department of the Treasury, Financial Management Service, Room 5A30, PGCII, 3700 East-West Highway, Hyattsville, MD 20782
Phone: 202 874-8943

RIN: 1510–AA48

2811. FEDERAL CLAIMS COLLECTION STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3701; 31 USC 3711; 31 USC 3717; 31 USC 3718; 31 USC 3720B; 31 USC 3716

CFR Citation: 31 CFR 900 to 904

Legal Deadline: None

Abstract: The Federal Claims Collection Standards prescribe basic standards for Federal agencies for collection of non-tax claims. The current standards originally were published in 1984 jointly by the Department of Justice and the General Accounting Office at 4 CFR parts 101-105. The Department of the Treasury has been added as a co-signor by the Debt Collection Improvement Act of 1996 (Act) and the General Accounting Office was removed as a co-signor by the General Accounting Office Act of 1996. This revision, which will move the standards to 31 CFR parts 900-904, is being made to simplify the language of the current standards and to incorporate changes made by the Act concerning such topics as disbursing official offset, cross-servicing of debts, interest and penalties on claims, and contracts for collection services.

Timetable:

Action	Date	FR Cite
NPRM	12/31/97	62 FR 68476
NPRM Comment Period End	03/02/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th St. SW., Room 151, Washington, DC 20227
Phone: 202 874-6859

RIN: 1510–AA57

2812. OFFSET OF TAX REFUND PAYMENTS TO COLLECT PAST-DUE SUPPORT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6402; 31 USC 321; 42 USC 664; EO 13019

CFR Citation: 31 CFR 285.3

Legal Deadline: None

Abstract: Effective January 1, 1999, the Department of the Treasury will merge the Tax Refund Offset Program for the collection of past-due child support with the centralized Administrative Offset Program operated by the Financial Management Service, a Bureau of the Department of the Treasury. This merger of the two offset programs is intended to maximize and improve the collection of past-due child support.

Timetable:

Action	Date	FR Cite
NPRM	08/04/98	63 FR 41688
NPRM Comment Period End	09/04/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6859

RIN: 1510–AA63

2813. TRANSFER OF DEBTS TO TREASURY FOR COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3711; 31 USC 321

CFR Citation: 31 CFR 285.12

Legal Deadline: None

Abstract: This rule describes procedures for Federal agencies to transfer all debts, with certain exemptions, which are over 180-days delinquent to Treasury or Treasury-designated debt collection centers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/02/98	63 FR 16354
Interim Final Rule Comment Period End	05/04/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6859

RIN: 1510–AA68

2814. MATCHING OF FEDERAL EMPLOYEE RECORDS FOR SALARY OFFSET

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5514

CFR Citation: 31 CFR 285.7

Legal Deadline: None

Abstract: This rule governs the centralized computer matching of Federal Employee Records for purposes of salary offset to collect non-tax delinquent debt owed the Federal Government.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/28/98	63 FR 23353
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227
Phone: 202 873-6859

RIN: 1510–AA70

TREAS—FMS

Final Rule Stage

2815. BARRING DELINQUENT DEBTORS FROM OBTAINING FEDERAL FINANCIAL ASSISTANCE IN THE FORM OF LOANS OR LOAN GUARANTEES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3720B; 31 USC 321

CFR Citation: 31 CFR 285.13

Legal Deadline: None

Abstract: The Debt Collection Improvement Act requires agencies to deny loans and loan guarantees to persons with delinquent Federal debts. This rule establishes standards for determining whether a debtor is in delinquent status and when the delinquency is resolved.

Timetable:

Action	Date	FR Cite
NPRM	04/22/98	63 FR 20006
NPRM Comment Period End	05/22/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6859

RIN: 1510–AA71

2816. • DEPOSITARIES AND FINANCIAL AGENTS OF THE FEDERAL GOVERNMENT

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 90; 12 USC 265; 12 USC 266; 12 USC 391; 12 USC 1452(d); 12 USC 1464(k); 12 USC 1789a; 12 USC 2013; 12 USC 2122; 12 USC 3101; 12 USC 3102; 12 USC 3303; 12 USC 3336

CFR Citation: 31 CFR 202; 31 CFR 380

Legal Deadline: None

Abstract: The revision will direct readers to a new Bureau of the Public Debt regulation at 31 CFR part 380 that addresses the eligibility and valuation of (1) collateral securing deposits of public money, including, but not limited to, Federal Tax Payments, and (2) collateral security provided by persons permitted by Federal law to give agencies Government obligations in lieu of surety bonds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Cynthia L. Johnson, Director, Cash Management Policy & Planning, Division, Department of the Treasury, Financial Management Service, 401 14th Street SW., Room 420, Washington, DC 20227
Phone: 202 874-6657
Fax: 202 874-6965

RIN: 1510–AA75

2817. • PAYMENT OF FEDERAL TAXES AND THE TREASURY TAX AND LOAN PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 90; 12 USC 265; 12 USC 266; 12 USC 332; 12 USC 391; 12 USC 1452(d); 12 USC 1464(k); 12 USC 1767; 12 USC 1789(a); 12 USC 2013; 12 USC 2122; 12 USC 3102; 12 USC 6302; 12 USC 321; 12 USC 323

CFR Citation: 31 CFR 203; 31 CFR 380

Legal Deadline: None

Abstract: The revision will direct readers to a new Bureau of the Public Debt regulation at 31 CFR part 380 that addresses the eligibility and valuation of (1) collateral securing deposits of public money, including, but not limited to, Federal Tax Payments, and (2) collateral security provided by persons permitted by Federal law to give agencies Government obligations in lieu of surety bonds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: Additional Legal Authorities 31 USC 3301; 31 USC 3302; 31 USC 3303; 31 USC 3304

Agency Contact: Cynthia L. Johnson, Director, Cash Management Policy & Planning, Division, Department of the Treasury, Financial Management Service, 401 14th Street SW., Room 420, Washington, DC 20227
Phone: 202 874-6657
Fax: 202 874-6965

RIN: 1510–AA76

2818. • ACCEPTANCE OF BONDS SECURED BY GOVERNMENT OBLIGATIONS IN LIEU OF BONDS WITH SURETIES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 321; 31 USC 9301; 31 USC 9303; 12 USC 391

CFR Citation: 31 CFR 225; 31 CFR 380

Legal Deadline: None

Abstract: The revision will direct readers to a new Bureau of the Public Debt regulation at 31 CFR part 380 that addresses the eligibility and valuation of (1) collateral securing deposits of public money, including, but not limited to, Federal Tax Payments, and (2) collateral security provided by persons permitted by Federal law to give agencies Government obligations in lieu of surety bonds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Cynthia L. Johnson, Director, Cash Management Policy & Planning, Division, Department of the Treasury, Financial Management Service, 401 14th Street SW., Room 420, Washington, DC 20227
Phone: 202 874-6657
Fax: 202 874-6965

RIN: 1510–AA77

DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS)

Long-Term Actions

2819. TREASURY TAX AND LOAN DEPOSITARIES AND PAYMENT OF FEDERAL TAXES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 31 CFR 203

Timetable:

Action	Date	FR Cite
NPRM	09/30/96	61 FR 51186
NPRM Comment Period End	01/13/97	61 FR 59211

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Dressler
Phone: 202 874-7106

RIN: 1510–AA37

2820. PAYMENTS UNDER JUDGMENT AND PRIVATE RELIEF ACTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 31 CFR 256

Timetable:

Action	Date	FR Cite
NPRM	01/08/96	61 FR 552
NPRM Comment Period End	02/07/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Wanda Rogers
Phone: 202 874-6664
Fax: 202 874-9522
Email: wanda.rogers@fms.sprint.com

RIN: 1510–AA52

2821. OFFSET OF FEDERAL BENEFIT PAYMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 285.4

Timetable:

Action	Date	FR Cite
ANPRM	08/21/98	63 FR 44991
ANPRM Comment Period End	09/21/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg
Phone: 202 874-6859

RIN: 1510–AA64

2822. OFFSET OF FEDERAL PAYMENTS (OTHER THAN TAX REFUND AND FEDERAL BENEFIT PAYMENTS) TO COLLECT PAST-DUE DEBTS OWED TO STATES (OTHER THAN CHILD SUPPORT)

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 285.6

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Gerry Isenberg
Phone: 202 874-6859

RIN: 1510–AA66

2823. PUBLIC DISSEMINATION OF IDENTITY OF DELINQUENT DEBTORS

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 285.14

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg
Phone: 202 874-6859

RIN: 1510–AA72

2824. • OFFSET OF FEDERAL BENEFIT PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3716; 31 USC 321

CFR Citation: 31 CFR 285.4

Legal Deadline: None

Abstract: This rule establishes the rules governing the administrative offset of benefit payments issued under the Social Security Act (other than Supplemental Security Income (SSI)), part B of the Black Lung Benefits Act, and any law administered by the Railroad Retirement Board (other than tier 2 benefit payments).

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/21/98	63 FR 44986
Interim Final Rule Effective	08/21/98	
Interim Final Rule Comment Period End	09/21/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: A notice of proposed rulemaking under RIN 1510-AA64 will be published simultaneously with this interim final rule and will cross-reference this rule.

Agency Contact: Ellen Neubauer, Senior Attorney, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-0778
Fax: 202 874-6627

RIN: 1510–AA74

DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS)

Completed Actions

2825. MANAGEMENT OF FEDERAL AGENCY DISBURSEMENTS

Priority: Other Significant

Legal Authority: 5 USC 301; 31 USC 321; 31 USC 3301-2; 31 USC 3321; 31 USC 3325; 31 USC 3327-8; 31 USC 3332; 31 USC 3335; 31 USC 6503

CFR Citation: 31 CFR 208

Legal Deadline: Final, Statutory, January 1999.

Abstract: Public Law 104-134 amended 31 USC 3332 to require Federal agencies to convert all Federal payments (other than payments under the Internal Revenue Code) from checks to electronic funds transfer (EFT) in two phases. First, persons who become eligible for Federal payments on or after July 26, 1996, are to receive those payments by EFT unless they certify in writing that they do not have an account with a financial institution. The first phase was implemented by interim regulations published that date. Second, beginning January 2, 1999, all Federal payments (except payments under the Internal Revenue Code) must be made by EFT unless waived by the Secretary of Treausry. A notice of proposed rulemaking to implement phase two was published on September 16, 1997.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/26/96	61 FR 39254
Interim Rule Comment Period End	11/25/96	
NPRM	09/16/97	62 FR 48714
NPRM Comment Period End	12/16/97	
Final Action	09/25/98	63 FR 51490

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Cynthia L. Johnson, Director, Cash Management Policy and Planning Division, Department of the Treasury, Financial Management Service, 401 14th Street SW., Room 420, Washington, DC 20227
Phone: 202 874-6590

RIN: 1510–AA56

2826. COLLECTION OF PAST-DUE SUPPORT BY ADMINISTRATIVE OFFSET

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 285.1

Completed:

Reason	Date	FR Cite
Final Action	08/28/98	63 FR 46141

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Gerry Isenberg
Phone: 202 874-6859

RIN: 1510–AA58

2827. ELECTRONIC BENEFITS TRANSFER; SELECTION AND DESIGNATION OF FINANCIAL INSTITUTIONS AS FINANCIAL AGENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 90; 12 USC 265 to 266; 12 USC 391; 12 USC 1452(d); 12 USC 1767; 12 USC 1789a; 12 USC 2013; 12 USC 2122; 31 USC 321; 31 USC 3122; 31 USC 3303; 31 USC 3321; 31 USC 3327; 31 USC 3332; 31 USC 3335 to 3336

CFR Citation: 31 CFR 207

Legal Deadline: None

Abstract: 31 CFR part 207 is being withdrawn. Those provisions of proposed rule 31 CFR part 207 that relate to the statutory authority of the Secretary of Treasury to designate financial institutions to provide EBT services, including the offering of Treasury-designated accounts, as Treasury's financial agents have been modified and incorporated into final rule 31 CFR part 208.

Timetable:

Action	Date	FR Cite
NPRM	05/09/97	62 FR 25572
NPRM Comment Period End	07/08/97	
Withdrawn	09/25/98	63 FR 51490

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cindy Johnson, Director, Cash Management Policy, Department of the Treasury, Financial Management Service, 401 14th St. SW., Washington, DC 20227
Phone: 202 874-6657

RIN: 1510–AA59

2828. TAXPAYER IDENTIFYING NUMBER REQUIREMENT

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 212

Completed:

Reason	Date	FR Cite
Final Action	10/09/98	63 FR 54426

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Sally Phillips
Phone: 202 874-6749

RIN: 1510–AA61

2829. OFFSET OF TAX REFUND PAYMENTS TO COLLECT PAST-DUE, LEGALLY ENFORCEABLE NONTAX DEBT

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 285.2

Completed:

Reason	Date	FR Cite
Final Action	08/28/98	63 FR 46139

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg
Phone: 202 874-6859

RIN: 1510–AA62

2830. ADMINISTRATIVE WAGE GARNISHMENT

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 285.11

Completed:

Reason	Date	FR Cite
Final Action	05/06/98	63 FR 25136
Final Action Effective	06/05/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Gerry Isenberg
Phone: 202 874-6859

RIN: 1510–AA67

2831. OBTAINING TAXPAYER IDENTIFYING NUMBERS FROM PERSONS DOING BUSINESS WITH THE GOVERNMENT

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 285.15

TREAS—FMS

Completed Actions

Completed:

Reason	Date	FR Cite
Withdrawn	10/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg
Phone: 202 874-6859

RIN: 1510–AA69

2832. DEBT SALES

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 285.16

Completed:

Reason	Date	FR Cite
Withdrawn	10/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg
Phone: 202 874-6859

RIN: 1510–AA73

BILLING CODE 4810-35-F

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Prerule Stage

ALCOHOL

2833. AMERICAN VITICULTURAL AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 9

Legal Deadline: None

Abstract: This rule establishes grape-growing regions as American viticultural areas for purposes of labeling and advertising of wine.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/98	
California Coastal, CA (David Brokaw)		
ANPRM 11/00/98		
Chiles Valley, CA (contact Thomas Busey)		
NPRM 03/20/98 (63 FR 13583)		
Comment Period End 05/19/98		
Final Rule 11/00/98		
Diablo Grande, CA (contact David Brokaw)		
NPRM 06/24/97 (62 FR 34027)		
Comment Period End 08/25/97		
Final Rule 06/22/98 (63 FR 33850)		
Oak Knoll District, CA (Joyce Drake)		
NPRM 11/00/98		
San Francisco Bay, CA (contact David Brokaw)		
NPRM 10/20/97 (62 FR 54399)		
Comment Period End 01/20/98		
Final Rule 11/00/98		
Yorkville Highlands & Realignment of Mendocino, CA (Marj Ruhf)		
NPRM 07/25/97 (62 FR 39984)		
NPRM Comment Period End 09/23/97		
Final Rule 04/07/98 (63 FR 16902)		
Final Rule 04/07/98 (63 FR 16902)		
Yountville, CA (contact Thomas Busey)		
NPRM 08/26/98 (63 FR 45427)		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: See Timetable, American Viticultural Areas, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AA07

2834. • COUNTRY OF ORIGIN STATEMENTS ON DISTILLED SPIRITS LABELS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 1304; 27 USC 205

CFR Citation: 27 CFR 5

Legal Deadline: None

Abstract: ATF plans to issue an advance notice to obtain comments from consumers and industry members regarding the labeling of distilled spirits products. Specifically, ATF is requesting comments regarding how the requirement to identify the country of origin, found at 27 CFR 5.36(e) should be applied to mixtures of imported and domestic spirits.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Daniel J. Hiland, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB72

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Proposed Rule Stage

ALCOHOL

2835. EXPORTATION OF LIQUORS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 252

Legal Deadline: None

Abstract: ATF is proposing recodification of 27 CFR part 252 to eliminate obsolete or unnecessary rules and forms and streamline export processing, while providing adequate protection for the revenue.

TREAS—BATF

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	09/08/92	57 FR 40887
ANPRM Comment Period End	10/08/92	
ANPRM Comment Period Extended	10/15/92	57 FR 47320
ANPRM Comment Period Extended End	12/07/92	
ANPRM	08/09/96	61 FR 41500
ANPRM Comment Period End	12/10/96	
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie Ruhf, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AA98

2836. REVISION OF BREWERY REGULATIONS AND ISSUANCE OF REGULATIONS FOR TAVERNS ON BREWERY PREMISES (BREWPUBS)

Regulatory Plan: This entry is Seq. No. 95 in Part II of this issue of the Federal Register.

RIN: 1512–AB37

2837. DISTILLED SPIRITS PLANT REGULATORY INITIATIVE PROPOSAL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 19.11; 27 CFR 19.49; 27 CFR 19.153; 27 CFR 19.201 to 206; 27 CFR 19.311; 27 CFR 19.454; 27 CFR 19.605; 27 CFR 19.770; 27 CFR 19.1001; 27 CFR 19.1003; 27 CFR 19.1010

Legal Deadline: None

Abstract: ATF is proposing changes to the distilled spirits plant regulations to implement the Administration's Reinventing Government effort to reduce the regulatory burden and streamline requirements. ATF believes these proposed changes will benefit distilled spirits plant proprietors and other industry members by enabling them to operate more easily and with less regulatory oversight from the Government. ATF is also requesting comments on the possibility of revising the distilled spirits plant recordkeeping requirements to accomplish the Government's goals through a system that would be based, as much as possible, on proprietors' own recordkeeping methods.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steve Simon, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB58

2838. NET CONTENTS STATEMENT ON WINE LABELS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: Based on a petition it has received, the Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing to amend the regulations to provide that the net contents statement for wine in containers of less than 1 liter may be expressed on the label in centiliters (cl) as an alternative to milliliters (ml).

Timetable:

Action	Date	FR Cite
NPRM	05/15/98	63 FR 27017
NPRM Comment Period End	08/13/98	
NPRM Comment Period Reopened	09/18/98	63 FR 49883
NPRM Comment Period Extended to	10/19/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 301 927-8230
Fax: 202 927-8602

RIN: 1512–AB70

2839. • IMPLEMENTATION OF PUBLIC LAW 105-34, SECTION 1416 RELATING TO REFUND OF TAX FOR DOMESTIC WINE RETURNED TO BOND REGARDLESS OF MERCHANTABILITY - (TAXPAYER RELIEF ACT OF 1997)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 5044; 26 USC 5361; 26 USC 5367; 26 USC 5371

CFR Citation: 27 CFR 24.66; 27 CFR 24.295; 27 CFR 24.312

Legal Deadline: None

Abstract: ATF is issuing three changes to the wine regulations as a result of the enactment of the Taxpayer Relief Act of 1997. This amendment informs interested parties of a change by the act that provides for a refund of the tax for all domestic wine returned to bond, rather than, exclusively for un-merchantable wine returned to bond.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary A. Wood, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washingtonc DC 20226
Phone: 202 927-8185
Fax: 202 927-8602

RIN: 1512–AB74

TREAS—BATF

Proposed Rule Stage

2840. • IMPLEMENTATION OF PUBLIC LAW 105-34, SECTIONS 1421 AND 1422

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 24; 27 CFR 25; 27 CFR 250; 27 CFR 251

Legal Deadline: None

Abstract: This notice implements section 1421 and 1422 of the Taxpayer Relief Act of 1997. This will permit importation in bond of bulk containers of wine and beer.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marjorie Ruhf, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8202
Fax: 202 927-8602
Email: mdruhf@atfhq.atf.treas.gov

RIN: 1512–AB75

FIREARMS

2841. COMMERCE IN EXPLOSIVES (INCLUDING EXPLOSIVES IN THE FIREWORKS INDUSTRY)

Regulatory Plan: This entry is Seq. No. 96 in Part II of this issue of the Federal Register.

RIN: 1512–AB48

2842. • IMPLEMENTATION OF PUBLIC LAW 104-208, THE OMNIBUS CONSOLIDATED APPROPRIATIONS ACT OF 1997, RELATING TO THE ESTABLISHMENT OF A NATIONAL REPOSITORY FOR ARSON AND EXPLOSIVES INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 846(b)

CFR Citation: 27 CFR 55

Legal Deadline: None

Abstract: ATF is issuing this temporary rule to implement certain provisions of Public Law 104-208, the Omnibus Consolidated Appropriations Act of 1997 (the Act), enacted September 30, 1996. The Act amended the Federal explosives laws in title 18, United States Code, chapter 40, to require all Federal agencies to report to ATF any information involving arson or the suspected criminal misuse of explosives. The Act also authorizes ATF to establish a repository for this information. In addition, the law provides that such repository will contain information on incidents voluntarily reported to ATF by State and local authorities.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB73

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Final Rule Stage

ALCOHOL

2843. PROCEDURES FOR REVOKING PREVIOUSLY APPROVED CERTIFICATES OF LABEL APPROVAL, EXEMPTIONS FROM LABEL APPROVAL, OR DISTINCTIVE LIQUOR BOTTLE APPROVALS

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205; 26 USC 5301; 26 USC 7805

CFR Citation: 27 CFR 4.40; 27 CFR 4.50; 27 CFR 5.56; 27 CFR 5.51; 27 CFR 5.55; 27 CFR 7.31; 27 CFR 7.41; 27 CFR 13 (New); 27 CFR 19.633; 27 CFR 19.641

Legal Deadline: None

Abstract: This notice of proposed rulemaking proposes to establish regulatory procedures to revoke previously approved certificates of label approval, exemptions from label approval, or distinctive liquor bottle approvals. These revocation procedures are necessary where label approvals, etc., have been made in error. Adoption of these procedures will allow ATF to revoke, in an orderly and efficient manner, label approvals, exemptions from label approval, or distinctive liquor bottle approvals which have been made in error and will provide for appeals by industry members.

Timetable:

Action	Date	FR Cite
NPRM	09/13/95	60 FR 47506
NPRM Comment Period End	12/12/95	
Reopening of Comment Period	01/22/96	61 FR 1545
Reopening of Comment Period End	02/21/96	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marj Ruhf, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB34

2844. LABELING OF UNAGED GRAPE BRANDY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 5

Legal Deadline: None

Abstract: ATF is proposing to amend the regulations to permit the use of the word "unaged" as an alternative to "immature," to describe grape brandy which has not been stored in oak containers.

Timetable:

Action	Date	FR Cite
NPRM	06/13/96	61 FR 30015
NPRM Comment Period End	09/11/96	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James Ficaretta, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB46

TREAS—BATF

Final Rule Stage

2845. FORMULAS FOR DENATURED ALCOHOL AND RUM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552(a); 26 USC 5242; 26 USC 7805

CFR Citation: 27 CFR 21.3; 27 CFR 21.6; 27 CFR 21.11; 27 CFR 21.21; 27 CFR 21.31 to 21.34; 27 CFR 21.56; 27 CFR 21.65; 27 CFR 21.76; 27 CFR 21.91; 27 CFR 21.95 to 21.97

Legal Deadline: None

Abstract: This document proposes to amend part 21 to incorporate denaturants that have been approved pursuant to applications but not yet published in this part, as well as to clarify the regulations where necessary. Additionally, this document proposes to make a minor technical correction.

Timetable:

Action	Date	FR Cite
NPRM	07/31/96	61 FR 39929
NPRM Comment Period End	09/30/96	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Wood, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8185
Fax: 202 927-8602

RIN: 1512–AB60

2846. IMPLEMENTATION OF WINE CREDIT PROVISIONS OF PUBLIC LAW 104-188

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552(a); 26 USC 5041

CFR Citation: 27 CFR 24.278; 27 CFR 24.279

Legal Deadline: None

Abstract: ATF is amending wine regulations to implement a law change which allows certain transferees in bond to deduct small wine producers tax credit. Changes to bond calculation are also included in this regulation.

Timetable:

Action	Date	FR Cite
NPRM	06/02/97	62 FR 29681
Interim Final Rule	06/02/97	62 FR 29663
NPRM Comment Period End	08/01/97	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie Ruhf, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB65

EXPLOSIVES

2847. COMMERCE IN EXPLOSIVES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 18 USC 842; 18 USC 846; 18 USC 847

CFR Citation: 27 CFR 55

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms proposes to amend the regulations in 27 CFR part 55 to: (1) require the explosives industry to notify the chief law enforcement officer and fire marshal of sites where explosives are stored; (2) increase license and permit fees; (3) eliminate the manufacturer limited license; (4) amend the definitions of "fireworks", "fireworks nonprocess building", "highway", etc.; and (5) amend the American table of distances to conform with the explosive industry's latest revisions.

Timetable:

Action	Date	FR Cite
NPRM	10/15/96	61 FR 53688
NPRM Comment Period End	01/13/97	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mark Waller, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8310
Fax: 202 927-7488

RIN: 1512–AB55

2848. IMPLEMENTATION OF PUBLIC LAW 104-132, THE ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996, RELATING TO THE MARKING OF PLASTIC EXPLOSIVES FOR THE PURPOSE OF DETECTION

Priority: Other Significant

Legal Authority: 18 USC 847; 22 USC 2778

CFR Citation: 27 CFR 47; 27 CFR 55

Legal Deadline: Other, Statutory, April 24, 1997.
Provisions of the law will become effective 4/24/97.

Abstract: This temporary rule implements certain provisions of the Antiterrorism and Effective Death Penalty Act of 1996 (Public law 104-132). These regulations implement the law by requiring detection agents for plastic explosives. The temporary rule also authorizes the use of four specific detection agents to mark plastic

explosives and provides for the designation of other detection agents.

Timetable:

Action	Date	FR Cite
NPRM	02/25/97	62 FR 8412
Interim Final Rule	02/25/97	62 FR 8374
NPRM Comment Period End	05/27/97	62 FR 8374
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB63

FIREARMS

2849. FIREARMS AND AMMUNITION EXCISE TAXES PARTS AND ACCESSORIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 4181

CFR Citation: 27 CFR 53.61(b)

Legal Deadline: None

Abstract: This notice proposes regulations to clarify which parts and accessories must be included in the sale price when calculating the tax on firearms. More precise definitions should help taxpayers accurately compute their taxes and avoid underpayments, penalties and interest.

Timetable:

Action	Date	FR Cite
NPRM	08/29/96	61 FR 45377
NPRM Comment Period End	11/27/96	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marsha Baker, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB49

2850. COMMERCE IN FIREARMS AND AMMUNITION (OMNIBUS CONSOLIDATED APPROPRIATIONS ACT OF 1997)

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 847; 18 USC 921 to 930

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: The Omnibus Consolidated Appropriations Act of 1997 contains amendments to the Gun Control Act of 1986 (18 U.S.C. chapter 44). These amendments add to the category of "prohibited persons" anyone convicted of a "misdemeanor crime of domestic violence". The amendments require individuals acquiring handguns from Federal firearms licenses to certify (in accordance with the Brady Law) that they have not been convicted of such a crime. The amendments also provide for sales between Federal firearms licensees of curio and relic firearms away from their licensed premises.

Timetable:

Action	Date	FR Cite
NPRM	06/30/98	63 FR 35551
Interim Final Rule	06/30/98	63 FR 35520
NPRM Comment Period End	09/28/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Barry Fields, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB64

2851. RESIDENCY REQUIREMENT FOR PERSONS ACQUIRING FIREARMS

Priority: Other Significant

Legal Authority: 5 USC 552(a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504(h)

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: The temporary rule amends the regulations to provide for a firearms purchaser's affirmative statement of his or her State of residence on ATF Form 4473 (Firearms Transaction Record) and ATF Form 5300.35 (Statement of Intent to Obtain a Handgun) in acquiring a firearm from a Federal firearms licensee. The temporary rule also amends the regulations to require that aliens purchasing a firearm provide proof of residency through the use of substantiating documentation, such as utility bills or a lease agreement. In addition, the regulations are being amended to require that licensees examine a photo identification document from aliens purchasing firearms. These regulations implement President Clinton's March 5, 1997, announcement of firearms initiatives intended to protect the American public from gun violence.

Timetable:

Action	Date	FR Cite
NPRM	04/21/97	62 FR 19446
Interim Final Rule	04/21/97	62 FR 19442
NPRM Comment Period End	07/21/97	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB66

2852. BRADY BILL REGULATIONS—PERMANENT PROVISION

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 552(a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504(h)

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: This proposed rule implements the provisions of Public Law 103-159, relating to the permanent instant background check provision of the Brady Handgun Violence Prevention Act. The proposed regulations implement the law by requiring a licensed firearms importer, manufacturer, or dealer to contact the national instant criminal background check system (NICS) before transferring any firearm to a nonlicensed individual.

Timetable:

Action	Date	FR Cite
NPRM	02/19/98	63 FR 8379
NPRM Comment Period End	05/20/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: James Ficaretta, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB67

2853. POSTING OF SIGNS AND WRITTEN NOTIFICATIONS TO PURCHASERS OF HANDGUNS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 522(a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504(h)

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms is proposing to amend the regulations to require that signs be posted on the premises of Federal firearms licensees and that written notifications be issued with each handgun sold advising of the Youth Handgun Safety Act, 18 USC 922(x).

Timetable:

Action	Date	FR Cite
NPRM	08/27/97	62 FR 45364
NPRM Comment Period End	11/25/97	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marsha Baker, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB68

PROCEDURAL

2854. RECODIFICATION OF STATEMENT OF PROCEDURAL RULES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 18 USC 847; 18 USC 926; 26 USC 7805; 27 USC 201 to 219(a)

CFR Citation: 27 CFR 70

Legal Deadline: None

Abstract: ATF is proposing to revise and recodify the statement of procedural rules for ease of use.

Timetable:

Action	Date	FR Cite
NPRM	06/13/96	61 FR 30013
NPRM Comment Period End	08/12/96	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie Ruhf, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB54

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Long-Term Actions

ALCOHOL

2855. ALCOHOLIC CONTENT LABELING FOR MALT BEVERAGES

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 7

Timetable:

Action	Date	FR Cite
NPRM	04/19/93	58 FR 21233
Interim Final Rule	04/19/93	58 FR 21228
NPRM Comment Period End	07/19/93	
NPRM Comment Period Extended	07/19/93	58 FR 38543
NPRM Comment Period Extended End	09/17/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Bacon
Phone: 202 927-8230
Fax: 202 927-8602
Email: cnbacon@atfhq.atf.treas.gov

RIN: 1512–AB17

2856. DISTRIBUTION AND USE OF TAX-FREE ALCOHOL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 27 CFR 22.21; 27 CFR 22.25 to 22.27; 27 CFR 22.43; 27 CFR 22.59; 27 CFR 22.60; 27 CFR 22.62; 27 CFR 22.63; 27 CFR 22.68; 27 CFR 22.152

Timetable:

Action	Date	FR Cite
NPRM	06/13/96	61 FR 30019

Action	Date	FR Cite
NPRM Comment Period End	08/12/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Wood
Phone: 202 927-8185
Fax: 202 927-8602

RIN: 1512–AB51

2857. DISTRIBUTION OF DENATURED ALCOHOL AND RUM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 27 CFR 20

Timetable:

Action	Date	FR Cite
ANPRM	06/13/96	61 FR 30019
ANPRM Comment Period End	08/12/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Mary Wood
Phone: 202 927-8185
Fax: 202 927-8602

RIN: 1512–AB57

2858. PRODUCTION OF VOLATILE FRUIT FLAVORED CONCENTRATE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 27 CFR 18.56

Timetable:

Action	Date	FR Cite
NPRM	06/13/96	61 FR 30017
NPRM Comment Period End	08/12/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Wood
Phone: 202 927-8185
Fax: 202 927-8602

RIN: 1512–AB59

2859. • IMPLEMENTATION OF PUBLIC LAW 105-34, SECTIONS 908, 910 AND 1415, RELATED TO HARD CIDER, SEMI-GENERIC WINE DESIGNATIONS AND WHOLESALE LIQUOR DEALER'S SIGNS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 4; 27 CFR 19; 27 CFR 24; 27 CFR 194; 27 CFR 250; 27 CFR 251

Legal Deadline: None

Abstract: This temporary rule implements some of the provisions of the Taxpayer Relief Act of 1997. The new law made changes in the excise tax on hard cider, clarified the authority to use semi-generic designations on wine labels, and repealed the requirement for wholesale dealers in liquors to post signs. The wine regulations are amended to incorporate the new hard cider tax rate and to recognize the labeling changes relative to the description to hard cider. These regulations are also amended to incorporate the semi-generic wine designations, and the liquor dealers' regulations are amended to eliminate the requirement for posting a sign.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marjorie Ruhf, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Fax: 202 927-8602
Email: mdruhf@atfhq.atf.treas.gov

RIN: 1512–AB71

2860. • ALTERATION OF LABELS ON CONTAINERS OF DISTILLED SPIRITS, WINE AND BEER

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 5301; 26 USC 7805; 27 USC 205

CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 7

Legal Deadline: None

Abstract: ATF is proposing to amend the regulations in 27 CFR parts 4, 5, and 7. The proposed amendments to the regulations will require that a lot identification code be placed on the label or container of all wine, malt beverage and distilled spirits products. The lot identification code will be mandatory item of information and it will be illegal to remove or alter the codes.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Daniel Hiland, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB76

TOBACCO PRODUCTS

2861. EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 27 CFR 290

Timetable:

Action	Date	FR Cite
ANPRM	09/08/92	57 FR 40889
ANPRM Comment Period End	10/08/92	
ANPRM Comment Period Extended	01/08/93	58 FR 3247
ANPRM Comment Period Extended End	03/09/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie Ruhf
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB03

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Completed Actions

2862. FIREARMS AND AMMUNITION EXCISE TAXES

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 53

Completed:

Reason	Date	FR Cite
Final Action	10/01/98	63 FR 52601

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marsha Baker
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB33

2863. 27 CFR PART 70—CONFERENCE AND PRACTICE REQUIREMENTS FOR THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 70.511 to 70.526

Completed:

Reason	Date	FR Cite
Withdrawn - Further Study Required	05/29/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marsha Baker
Phone: 202 927-8220
Fax: 202 927-8602

RIN: 1512–AB11

BILLING CODE 4810-31-F

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of the Public Debt (BPD)

Proposed Rule Stage

2864. • REGULATIONS GOVERNING CORRELATE ACCEPTABILITY AND VALUATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 90; 12 USC 265 to 266; 12 USC 332; 12 USC 391; 12 USC 1452(d); 12 USC 1464(k); 12 USC 1789a; 12 USC 2013; 12 USC 2122; 26 USC 6302; 31 USC 321; 31 USC 323; 31 USC 3301 to 3303; 31 USC 9301; 31 USC 9303

CFR Citation: 31 CFR 380 (New)

Legal Deadline: None

Abstract: The proposal will only address the eligibility and valuation of required collateral for the payment of certain Federal taxes through Treasury Tax and Loan accounts, to secure deposits of public monies under the control of public officials and to secure an obligation in lieu of a surety bond.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kurt Eidemiller, Government Securities Specialist, Department of the Treasury, Bureau of the Public Debt, Government Securities Pegulations Staff, Bureau of Public Debt, Room 515, 999 E Street NW., Washington, DC 20239-0001
Phone: 202 219-3632
Email: govsecreg@bpd.treas.gov

RIN: 1535–AA00

2865. • AMENDMENTS TO THE GOVERNMENT SECURITIES ACT REGULATIONS: REPORTS TO BE MADE BY SPECIALIZED GOVERNMENT SECURITIES BROKER-DEALERS REGARDING YEAR 2000 READINESS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78o-5(b)

CFR Citation: 17 CFR 405

Legal Deadline: None

Abstract: The proposal would require registered Government securities brokers and dealers to file reports regarding their year 2000 readiness. The reports will increase these firms' awareness that they should be taking specific steps now to prepare for the year 2000 and will help regulators monitor the actions these firms are taking to manage and avoid year 2000 problems. These proposed rules will parallel the Securities and Exchange Commission's final rules amending 17 CFR 240.17a-5, issued on July 13, 1998 (63 FR 37668).

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chuck Andreatta, Government Securities Specialist, Department of the Treasury, Bureau of the Public Debt, Government Securities Regulation Staff, Room 515, 999 E Street NW., Washington, DC 20239-0001
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RIN: 1535–AA01

BILLING CODE 4830-01-F

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Proposed Rule Stage

2866. UNIFORM RULES OF PRACTICE AND PROCEDURE; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504; 5 USC 554 to 557; 12 USC 93(b); 12 USC 164; 12 USC 505; 12 USC 1817; 12 USC 1818; 12 USC 1820; 12 USC 1831o; 12 USC 1972; 12 USC 3102; 12 USC 3108; 12 USC 3909

CFR Citation: 12 CFR 19

Legal Deadline: None

Abstract: The OCC is considering what regulatory actions may be necessary to implement section 112(g)(4) of the Federal Deposit Insurance Corporation Improvement Act of 1991 to develop joint agency procedures for the suspension and debarment of accountants, upon a showing of good cause, from performing certain audit services.

Timetable:

Action	Date	FR Cite
NPRM - Suspension and Debarment of Accountants	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ursula Pfeil, Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities, Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889
Email: ursula.pfeil@occ.treas.gov

RIN: 1557–AB43

2867. MANAGEMENT OFFICIAL INTERLOCKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 3201 et seq

CFR Citation: 12 CFR 26

Legal Deadline: None

Abstract: The rulemaking will amend the current regulations of the OCC and the other Federal banking agencies to conform the regulations to recent changes made to the Depository Institutions Management Interlocks Act (DIMIA). DIMIA was amended to raise the asset threshold for the prohibition against interlocks involving an institution with at least $1 billion in total assets and an institution with at least $500 million in total assets. DIMIA also was amended to expand the exemptive authority of the OCC and other Federal banking agencies.

Timetable:

Action	Date	FR Cite
NPRM	08/11/98	63 FR 43051
NPRM Comment Period End	10/13/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark Tenhundfeld, Assistant Director, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090
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Email: mark.tenhundfeld@occ.treas.gov

RIN: 1557–AB60

2868. INTERPRETIVE RULINGS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1 et seq; 12 USC 93a

CFR Citation: 12 CFR 7.4001; 12 CFR 7.1012; 12 CFR 7.1017; 12 CFR 7.2005; 12 CFR 7.2008; 12 CFR 7.2020; 12 CFR 7.3000

Legal Deadline: None

Abstract: The OCC would clarify 12 CFR 7.4001(a) regarding the term "not sufficient funds (NSF) fees." The OCC also would amend other interpretations and add new ones to reflect recent developments or otherwise clarify provisions in the current rule that have prompted questions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jacqueline Lussier, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889
Email: jacqueline.lussier@occ.treas.gov

RIN: 1557–AB61

2869. • BANK SECRECY ACT COMPLIANCE: "KNOW YOUR CUSTOMER" REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 1818; 12 USC 1881 to 1884; 12 USC 3401 to 3422; 31 USC 5318

CFR Citation: 12 CFR 21.21

Legal Deadline: None

Abstract: The OCC is proposing to issue regulations requiring each national bank to develop and maintain a "Know Your Customer" program that is designed to identify its customers, determine their sources of funds, and monitor their transactions for suspicious activities. These regulations are intended to reduce the likelihood that banks will become unwitting participants in money laundering and other illicit activities of their customers.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark Tenhundfeld, Assistant Director, Department of the Treasury, Comptroller of the Currency, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889
Email: mark.tenhundfeld@occ.treas.gov

RIN: 1557–AB66

2870. • YEAR 2000 READINESS REPORTS FOR TRANSFER AGENT ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 24(Seventh); 12 USC 93a

CFR Citation: 12 CFR 9

Legal Deadline: None

Abstract: The OCC is considering proposing to require national banks that are registered transfer agents to file reports regarding their Year 2000 readiness with respect to their transfer agent activities. The Securities and Exchange Commission (SEC) recently adopted year 2000 readiness requirements for nonbank transfer agents. This proposal would incorporate the SEC's rule with certain modifications to apply those requirements to national bank transfer agents.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stuart Feldstein, Assistant Director, Department of the Treasury, Comptroller of the Currency, 250 E Street SW., Washington, DC 20219
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Email: stuart.feldstein@occ.treas.gov

RIN: 1557–AB68

TREAS—OCC

Proposed Rule Stage

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Final Rule Stage

2871. CAPITAL RULES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 161; 12 USC 1828 Note; 12 USC 1828(n); 12 USC 1831n Note; 12 USC 1835; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 3

Legal Deadline: None

Abstract: As part of the OCC's ongoing efforts to develop and refine capital standards to ensure the safety and soundness of the national banking system and to implement statutory requirements, the OCC is amending various provisions of the capital rules for national banks. Specifically, these changes include: (1) collateralized transactions; (2) servicing assets; (3) recourse arrangements and direct credit substitutes; (4) technical and conforming amendments under section 303 of the Riegle Community Development and Improvement Act of 1994, Pub. L. 103-325 (Sept. 23, 1994) (CDRI section 303); (5) unrealized revaluation gains on certain equity securities; (6) market risk (specific risk); and (7) claims on securities firms. The OCC is conducting all but the market risk rulemaking jointly with the other Federal banking agencies. The market risk regulation is being done jointly with the FDIC and the FRB.

Timetable:

Claims on Securities Firms		
Interim Rule w/Request for Comments	11/00/98	
Collateralized Transactions		
NPRM	08/16/96	61 FR 42565
Final Rule	12/00/98	
CDRI Section 303 Capital Amendments		
NPRM	10/27/97	62 FR 55686
Final Rule	12/00/98	
Market Risk (Specific Risk)		
Interim Rule	12/30/97	62 FR 68064
Final Rule	12/00/98	
Recourse: Recourse and Direct Credit Substitutes		
ANPRM/NPRM	05/25/94	59 FR 27116
NPRM	11/05/97	62 FR 59944
NPRM	00/00/00	
Servicing Assets		
Interim Rule	08/01/95	60 FR 39226
NPRM	08/04/97	62 FR 42006
Final Rule	08/10/98	63 FR 42667
Unrealized Revaluation Gains on Certain Equity Securities		
NPRM	10/27/97	62 FR 55682
Final Rule	09/01/98	63 FR 46517

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Roger Tufts, Senior Economic Advisor, Capital Policy Division, (202) 874-5070, fax (202) 874-5417, 250 E Street SW., Washington, DC 20219.

Agency Contact: Ronald Shimabukuro, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities, Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889
Email: ron.shimabukuro@occ.treas.gov

RIN: 1557–AB14

2872. EXPANDED EXAMINATION CYCLE FOR CERTAIN SMALL FINANCIAL INSTITUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1820(d)(8)

CFR Citation: 12 CFR 4

Legal Deadline: None

Abstract: The OCC and the other Federal banking agencies have implemented section 306 of the Riegle Community Development and Improvement Act of 1994, Pub. L. 103-325 (Sept. 23, 1994) (CDRI section 306). CDRI section 306 permits the agencies to raise the asset threshold for institutions eligible for an expanded, 18-month examination schedule. Certain small financial institutions are eligible for an examination every 18 months rather than every 12 months.

Timetable:

18-Month Exam Cycle for Federal Branches and Federal Agencies		
Interim Rule w/Request for Comments	08/28/98	63 FR 46117
Interim Rule Effective	08/28/98	
Final Rule	06/00/99	
18-Month Exam Cycle for National Banks		
Interim Rule w/Request for Comments	02/12/97	62 FR 6449
Interim Rule Effective	02/12/97	
Final Rule	04/02/98	63 FR 16378
Final Rule Effective	04/02/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark Tenhundfeld, Assistant Director, Department of the Treasury, Comptroller of the Currency, 250 E Street SW., Washington, DC 20219
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Fax: 202 874-4889
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RIN: 1557–AB56

2873. ORGANIZATION AND FUNCTIONS, AVAILABILITY AND RELEASE OF INFORMATION, CONTRACTING OUTREACH PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 481; 12 USC 1820(d)(6); 12 USC 1867

CFR Citation: 12 CFR 4

Legal Deadline: None

Abstract: Current regulations set forth procedures for the OCC to disclose information upon receipt of a request for information. The interim rule amends the OCC's regulations to permit the OCC to disclose confidential information to a supervised entity or other persons, when in the OCC's judgment it is necessary or appropriate.

Timetable:

Action	Date	FR Cite
Interim Rule	11/00/98	

TREAS—OCC

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stuart Feldstein, Assistant Director, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Division, 250 E Street SW., Washington, DC 20219
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RIN: 1557–AB65

2874. • INTERAGENCY GUIDELINES ESTABLISHING YEAR 2000 STANDARDS FOR SAFETY AND SOUNDNESS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 1831p-1

CFR Citation: 12 CFR 30 app B

Legal Deadline: None

Abstract: The guidelines establish Year 2000 safety and soundness standards under section 39 of the Federal Deposit Insurance Act (12 USC 1831p-1) to address the Year 2000 problem. Under the auspices of the Federal Financial Institutions Examination Council (FFIEC), the agencies have already issued several statements providing guidance on important aspects of Year 2000 readiness. The guidelines complement those statements by establishing minimum safety and soundness standards for achieving Year 2000 readiness.

Timetable:

Action	Date	FR Cite
Interim Rule Effective Date	10/15/98	63 FR 55480
Interim Rule With Request for Comments	10/15/98	63 FR 55480
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ursula Pfeil, Attorney, Department of the Treasury, Comptroller of the Currency, 250 E Street SW., Washington, DC 20219
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Email: ursula.pfeil@occ.treas.gov

RIN: 1557–AB67

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Long-Term Actions

2875. QUALIFICATION REQUIREMENTS FOR TRANSACTIONS IN CERTAIN SECURITIES

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 12

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68823
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark Tenhundfeld
Phone: 202 874-5090
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RIN: 1557–AB54

2876. TREATMENT OF FINANCIAL CONTRACTS BY OCC-APPOINTED RECEIVERS AND CONSERVATORS FOR UNINSURED FINANCIAL INSTITUTIONS

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Michaleski
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RIN: 1557–AB59

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Completed Actions

2877. INTERNATIONAL LENDING SUPERVISION

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 28

Completed:

Reason	Date	FR Cite
Final Action	10/26/98	63 FR 57047
Final Action Effective	01/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark Tenhundfeld
Phone: 202 874-5090
Fax: 202 874-4889
Email: mark.tenhundfeld@occ.treas.gov

RIN: 1557–AB58

2878. MUNICIPAL SECURITIES DEALERS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 10

Completed:

Reason	Date	FR Cite
Final Action	05/28/98	63 FR 29092
Final Action Effective	06/29/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ursula Pfeil
Phone: 202 874-5090
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RIN: 1557–AB62

BILLING CODE 4810-33-F

TREAS—OCC

Completed Actions

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Proposed Rule Stage

2879. LIQUIDATION; EXTENSION; SUSPENSION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1500; 19 USC 1504; 19 USC 1624

CFR Citation: 19 CFR 159

Legal Deadline: None

Abstract: Document would amend the Customs Regulations to implement amendments to section 504 of the Tariff Act of 1930, as amended, which pertains to limitations on the liquidation of entries, that were contained in the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act. Amendments would allow the reconciliation of entries to be treated as if they were entry summaries, subject to normal liquidation requirements; authorize the electronic transmittal of notices of extension and suspension of liquidation; extend the time period in which customs must liquidate a suspended entry after the suspension is removed; remove the application of the four-year limitation to suspended entries; and provide that Customs must also inform sureties when an entry is suspended or extended.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Rosoff, Branch Chief, Duty Refund and Determination Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2077

RIN: 1515–AB66

2880. DETENTION, SEIZURE, AND FORFEITURE OF "BOOTLEG" SOUND RECORDING AND MUSIC VIDEOS OF LIVE MUSICAL PERFORMANCES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 66; 17 USC 101; 17 USC 601; 17 USC 602; 17 USC 603; 31 USC 9701

CFR Citation: 19 CFR 12; 19 CFR 24; 19 CFR 133

Legal Deadline: None

Abstract: Amendment to provide for the detention, seizure, and forfeiture of unauthorized (bootleg) copies of sound recordings and music videos of live musical performances recorded outside of and imported into the United States, as provided by section 513(a) of the Uruguay Round Agreements Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Atwood, Branch Chief, Intellectual Property Rights Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2330

RIN: 1515–AB74

2881. RECONCILIATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1484; 19 USC 1500; 19 USC 1624

CFR Citation: 19 CFR 142; 19 CFR 159

Legal Deadline: None

Abstract: Amendment to allow those elements of an entry, other than those elements relating to the admissibility of the merchandise, that are undetermined at the time an entry summary or an import activity summary is required to be submitted, to be provided to Customs at a later date.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Durant, Director, Commercial Rulings Division, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2244

RIN: 1515–AB85

2882. GUIDELINES FOR THE IMPOSITION AND MITIGATION OF PENALTIES FOR VIOLATION OF 19 USC 1592

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1592; 19 USC 1624

CFR Citation: 19 CFR 171

Legal Deadline: None

Abstract: Revision of guidelines for remitting and mitigating penalties relating to violations of section 592 of the Tariff Act of 1930, as amended. A violation of 592 involves the entry or introduction or attempted entry or introduction of merchandise into the United States by fraud, gross negligence or negligence.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Pisani, Attorney, Penalties Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Ave. NW., Washington, DC 20229
Phone: 202 927-1203

RIN: 1515–AC08

2883. CUSTOMS ENTRY DOCUMENTATION PURSUANT TO ANTICOUNTERFEITING CONSUMER PROTECTION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624

CFR Citation: 19 CFR 141

Legal Deadline: Final, Statutory, January 2, 1997.

Abstract: Document implements section 12 of the Anticounterfeiting Consumer Protection Act of 1996 (ACPA) which was enacted by Congress to protect consumers and American businesses from counterfeit copyrighted and trademarked products. Section 12 of the ACPA concerns the content of entry documentation required by Customs to determine whether the imported merchandise or its packaging bears an infringing trademark. Amendment requires importers to provide on the invoice a listing of all trademarks appearing on imported merchandise and its packaging.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Millie Gleason, Customs Officer, Cargo Control and Entry Operations, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0625

RIN: 1515–AC15

2884. PENALTIES FOR FALSE DRAWBACK CLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1592; 19 USC 1593a; 19 USC 1618; 19 USC 1624

CFR Citation: 19 CFR 162; 19 CFR 171

Legal Deadline: None

Abstract: Amendment sets forth the procedures to be followed when false drawback claims are filed and penalties are thereby incurred. Amendment implements section 622 of the Customs modernization provisions of the North American Free Trade Agreement Implementation Act. Provisions track, to the greatest extent possible, the procedures which have been set forth for section 592 of the Tariff Act of 1930, as amended.

Timetable:

Action	Date	FR Cite
NPRM	09/29/98	63 FR 51868
NPRM Comment Period End	11/30/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Ressin, Branch Chief, Penalties Branch, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2344

RIN: 1515–AC21

2885. NAFTA PREFERENCE OVERRIDE

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 3314; 19 USC 3592

CFR Citation: 19 CFR 102

Legal Deadline: None

Abstract: Amendment concerns the North American Free Trade Agreement (NAFTA) preference override provision within the NAFTA Marking Rules set forth in part 102 of the Customs Regulations. Amendment would eliminate unintended origin and duty consequences under certain circumstances where the regulation is applied as a result of a claim for NAFTA preference.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Burton Schlissel, Attorney Advisor, Special Classification and Marking Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2310

RIN: 1515–AC25

2886. • FOREIGN REPAIRS TO AMERICAN VESSELS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1431; 19 USC 1433; 19 USC 1434; 19 USC 1466; 19 USC 1498; 19 USC 1624; 46 USC app 3; 46 USC app 91

CFR Citation: 19 CFR 4; 19 CFR 159

Legal Deadline: None

Abstract: Amendment to revise the Customs Regulations regarding the declaration, entry, assessment of duty and processing of petitions for relief from duty for vessels of the United States which undergo foreign shipyard operations. Amendment reflects underlying statutory authority, as well as legal and policy determinations made as a result of judicial decisions and administrative enforcement experience.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Larry L. Burton, Attorney, Entry Procedures and Carriers Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1287

RIN: 1515–AC30

2887. • COUNTRY OF ORIGIN MARKING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1304; 19 USC 1624

CFR Citation: 19 CFR 134

Legal Deadline: None

Abstract: Amendments clarify the country of origin marking rules set forth in part 134 of the Customs Regulations. Amendments promote the concept of informed compliance by the trade and proper field administration of the statutory requirement.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sandra L. Bell, Chief, Special Classification and Marking Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2310

RIN: 1515–AC32

2888. • CUSTOMS BROKERS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 1641; 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 1484; 19 USC 1498

CFR Citation: 19 CFR 111

Legal Deadline: None

Abstract: Amendment revises Customs Regulations governing the licensing and conduct of Customs brokers in the performance of Customs business on behalf of others. Revision includes changes to reflect amendments to the underlying statutory authority enacted as part of the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act as well as changes to reflect the recent reorganization of Customs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Laderberg, Chief, Entry Procedures and Carriers Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2320

RIN: 1515–AC34

2889. • VESSEL EQUIPMENT TEMPORARILY LANDED FOR REPAIR

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1431; 19 USC 1433; 19 USC 1434; 19 USC 1446; 19 USC 1624; 46 USC app 3; 46 USC app 91

CFR Citation: 19 CFR 4

Legal Deadline: None

Abstract: Amendment provides for the temporary landing in the United States of vessel equipment in need of repair, without requiring entry of that equipment under a Temporary Importation Bond (TIB). Such equipment would be permitted to be landed for repair and relading aboard the same vessel, subject to Customs issuance of a special permit or license for the landed equipment under an International Carrier Bond.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Larry Burton, Attorney, Entry Procedures and Carriers Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Ave. NW., Washington, DC 20229
Phone: 202 027-1287

RIN: 1515–AC35

2890. • FORCED OR INDENTURED CHILD LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1307; 19 USC 1624

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amendment of Customs Regulations to provide for the seizure and forfeiture of merchandise that is found to be a prohibited importation under applicable Customs law concerning products of convict labor, forced labor, or indentured labor under penal sanctions. Amendment makes clear that nothing in the regulations precludes Customs from seizing for forfeiture merchandise imported in violation of applicable Federal criminal law dealing with prison-labor goods. Amendment is intended to stop illegal shipments of products of forced or indentured child labor and to punish violators.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Glen E. Vereb, Attorney, Entry Procedures and Carriers Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2320

RIN: 1515–AC36

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Final Rule Stage

2891. PARALLEL IMPORTS AND OTHER TRADEMARKED GOODS

Priority: Substantive, Nonsignificant

Legal Authority: 17 USC 101; 17 USC 601; 17 USC 602; 17 USC 603; 19 USC 66; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 133

Legal Deadline: None

Abstract: Amendment to provide for restrictions on the importation of certain foreign-made articles bearing genuine trademarks identical to or substantially indistinguishable from a valid, recorded U.S. trademark where the imported articles and the articles bearing the authorized U.S. trademark are materially and physically different.

Timetable:

Action	Date	FR Cite
NPRM	03/26/98	63 FR 14662
NPRM Comment Period End	05/26/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael L. Smith, Attorney, Intellectual Property Rights Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2326

RIN: 1515–AB49

2892. ACCREDITATION OF COMMERCIAL TESTING LABORATORIES; APPROVAL OF COMMERCIAL GAUGERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1499; 19 USC 1624

CFR Citation: 19 CFR 151; 19 CFR 113

Legal Deadline: None

Abstract: Amendment to set forth procedures for the accreditation of commercial laboratories and the approval of commercial gaugers and the suspension and revocation of such accreditations and the approvals. Amendments are pursuant to authority of the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act.

Timetable:

Action	Date	FR Cite
NPRM	06/09/98	63 FR 31385
NPRM Comment Period End	08/10/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ira Reese, Chief, Technical Branch, Office of Laboratories & Scientific Services, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1060

RIN: 1515–AB60

2893. COUNTRY-OF-ORIGIN MARKING REQUIREMENTS FOR FROZEN PRODUCE PACKAGES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1304; 19 USC 1624

CFR Citation: 19 CFR 134

Legal Deadline: None

Abstract: Requires that the country of origin of imported produce be marked on the front panel of packages of frozen produce in order for the marking to comply with the statutory requirement that marking be in a "conspicuous place."

Timetable:

Action	Date	FR Cite
ANPRM	02/02/95	60 FR 6464
ANPRM Comment Period End	03/20/95	
NPRM	07/23/96	61 FR 38119
NPRM Comment Period End	10/17/97	62 FR 43958
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Cohen, Attorney, Special Classification and Marking Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1725

RIN: 1515–AB61

2894. WAREHOUSE WITHDRAWALS; AIRCRAFT FUEL SUPPLIES; PIPELINE TRANSPORTATION IN BOND OF MERCHANDISE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1321; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624; 19 USC 1557; 19 USC 1551; 19 USC 1552; 19 USC 1553; 19 USC 1553a

CFR Citation: 19 CFR 10; 19 CFR 18

Legal Deadline: None

Abstract: Document implements certain statutory amendments to the Customs laws regarding recordkeeping for merchandise transported by pipeline and duty-free withdrawals from Customs bonded warehouses of aircraft turbine fuel. These statutory amendments are contained in the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act. The document also clarifies the procedures applicable to aircraft turbine fuel which is withdrawn from a Customs bonded warehouse for certain duty-free use and is commingled with other lots of fuel before being so used.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/22/96	61 FR 6772
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Craig Clark, Attorney, Entry Procedures and Carriers Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2317

RIN: 1515–AB67

2895. DETENTION OF MERCHANDISE

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1499; 19 USC 1624

CFR Citation: 19 CFR 151

Legal Deadline: None

Abstract: Amendment to provide for procedures regarding the detention of merchandise that is undergoing Customs examination. Amendment will reflect Customs Modernization Act.

Timetable:

Action	Date	FR Cite
NPRM	06/05/96	61 FR 28522
NPRM Comment Period End	08/05/96	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeremy Baskin, Attorney-Advisor, Penalties Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington DC 20229
Phone: 202 927-1176

RIN: 1515–AB75

2896. INTEREST ON UNDERPAYMENTS AND OVERPAYMENTS OF CUSTOMS DUTIES FEES AND INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 1202; 19 USC 1505; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 24; 19 CFR 159

Legal Deadline: None

Abstract: Amendment to reflect the provisions of section 505 of the Tariff Act of 1930 as amended by section 642(a) of the North American Free Trade Agreement Implementation Act, regarding the assessment of interest due to underpayments or overpayments to Customs of duties and fees pertaining to imported merchandise, including interest thereon.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda Lloyd, Financial Officer, Financial Policy Division, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0119

RIN: 1515–AB76

2897. NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA)—IMPLEMENTATION OF DUTY-DEFERRAL PROGRAM PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1481; 19 USC 1484; 19 USC 1202; 19 USC 1315; 19 USC 1624; 19 USC 3314

CFR Citation: 19 CFR 181; 19 CFR 113; 19 CFR 141; 19 CFR 144; 19 CFR 10

Legal Deadline: Final, Statutory, January 1, 1996.

Abstract: Document amends regulations to establish procedural and other requirements that apply to the collection, waiver, and reduction of duties under the duty-deferral program provisions of the North American Free Trade Agreement. The document prescribes the documentary and other requirements that must be followed when merchandise is withdrawn from a U.S. duty-deferral program either for exportation to another NAFTA country or for entry into a duty-deferral program of another NAFTA country, the procedures that must be followed in filing a claim for a waiver or reduction of duties collected on such merchandise, and the procedures for finalization of duty collections and duty waiver or reduction claims.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/30/96	61 FR 2908
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Shawn Filion, Commercial Program Specialist, Department of the Treasury, United States Customs Service, Office of Field Operations, North Star Commercial, P.O. Box 400, Buffalo, New York 14225
Phone: 202 927-1082

RIN: 1515–AB87

2898. FOREIGN-BASED COMMERCIAL MOTOR VEHICLES IN INTERNATIONAL TRAFFIC

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1431; 19 USC 1433; 19 USC 1322; 19 USC 1624

CFR Citation: 19 CFR 123

Legal Deadline: None

Abstract: Document would amend the Customs Regulations to allow certain foreign-based commercial motor vehicles, which are admitted to the United States as instruments of international traffic, to engage in the transportation of merchandise between points in the United States where such transportation is incidental to the immediately prior or subsequent engagement of such trucks in international traffic. Any movement of these vehicles in the general direction of an export move or as part of the return movement of the vehicles in their base country shall be considered incidental to the international movement.

Timetable:

Action	Date	FR Cite
NPRM	05/19/98	63 FR 27533
NPRM Comment Period End	07/20/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Glen Vereb, Attorney-Advisor, Entry Procedures and Carriers Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2320

Eileen Kastava, Operations Officer, Office of Field Operations, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0983

RIN: 1515–AB88

2899. ELECTRONIC REQUESTS FOR CONFIDENTIAL TREATMENT OF EXPORT MANIFEST DATA

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 552; 5 USC 552a; 19 USC 66; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 103

Legal Deadline: None

Abstract: Document would amend Customs Regulations concerning export manifest data to enable shippers to request confidential treatment of their name and address information on the Automated Export System.

Timetable:

Action	Date	FR Cite
NPRM	09/12/96	61 FR 48098
NPRM Comment Period End	11/12/96	
Final Action	05/00/99	

TREAS—CUSTOMS

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carla Brooks, Automated Export System Team, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2246

RIN: 1515–AB89

2900. ENTRY OF SOFTWOOD LUMBER SHIPMENTS FROM CANADA

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 2416; 19 USC 2171

CFR Citation: 19 CFR 12; 19 CFR 113

Legal Deadline: None

Abstract: Document sets forth amendments establishing additional entry requirements applicable to shipments of softwood lumber from Canada. Amendment involves the collection of certain additional information for purposes of monitoring and enforcing a recent agreement between the Governments of the United States and Canada regarding trade in softwood lumber.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/97	62 FR 8620
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joyce Metzger, Office of Field Operations, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0792

RIN: 1515–AB97

2901. PETITIONS FOR RELIEF; SEIZURES, PENALTIES, AND LIQUIDATED DAMAGES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1592; 19 USC 1618; 19 USC 1624; 19 USC 1623

CFR Citation: 19 CFR 171; 19 CFR 172; 19 CFR 18; 19 CFR 24; 19 CFR 111; 19 CFR 113; 19 CFR 114; 19 CFR 125; 19 CFR 145; 19 CFR 162; 19 CFR 10; 19 CFR 12

Legal Deadline: None

Abstract: Amendments relating to the filing of petitions in penalty, liquidated damages and seizure cases. Amendments are designed to allow more flexibility and useful contact with Government officials in an effort to administer cases in the most efficient way possible. Amendments promote a more customer-friendly atmosphere and eliminate needless or redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	02/02/98	63 FR 5329
NPRM Comment Period End	04/03/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeremy Baskin, Attorney, Penalties Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1176

RIN: 1515–AC01

2902. IMPORTATION OF CHEMICALS SUBJECT TO THE TOXIC SUBSTANCES CONTROL ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 15 USC 2601 et seq; 19 USC 66; 19 USC 1202; 19 USC 1624

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amendment to the Customs Regulations regarding submission of an importer's certification in connection with the importation of chemical substances subject to the Toxic Substances Control Act. Amendment permits use of a blanket certification for each individual shipment.

Timetable:

Action	Date	FR Cite
NPRM	01/09/90	55 FR 738
NPRM Comment Period End	03/12/90	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brad Lund, Operations Officer, Office of Field Operations, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0192

RIN: 1515–AC04

2903. DESIGNATED LAND BORDER CROSSING LOCATIONS FOR CERTAIN CONVEYANCES

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1431; 19 USC 1433; 19 USC 1459; 19 USC 1624

CFR Citation: 19 CFR 123

Legal Deadline: None

Abstract: Amendment would allow Customs to designate land border crossing locations for certain traffic and merchandise. At ports of entry with multiple crossing points, port directors would have express authority to require by local instructions that certain trucks and other commercial conveyances enter the United States at specific land border crossing locations within the port of entry designated for the processing and clearance of those conveyances.

Timetable:

Action	Date	FR Cite
NPRM	11/17/97	62 FR 61251
NPRM Comment Period End	01/16/98	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ed Schack, Customs Officer, Office of Field Operations, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0251

RIN: 1515–AC12

TREAS—CUSTOMS

Final Rule Stage

2904. LAND BORDER CARRIER INITIATIVE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1431; 19 USC 1433; 19 USC 1448; 19 USC 1484; 19 USC 1624

CFR Citation: 19 CFR 123; 19 CFR 142

Legal Deadline: None

Abstract: Document provides for the Land Border Carrier Initiative Program, a program designed to prevent smugglers of illicit drugs from utilizing commercial land conveyances for their contraband. The program provides for agreements between carriers and Customs in which the carrier agrees to increase its security measures and cooperate more closely with Customs and Customs agrees to apply special administrative provisions pertaining to penalty amounts and expedited processing of penalty actions if illegal drugs are found on a conveyance belonging to the participating carrier. Further, at certain high risk locations along the land border, an importer's use of the Line Release method of the processing of entries of merchandise by Customs is conditioned on the carriers and drivers carrying that merchandise participating in the Land Border Carrier Initiative Program.

Timetable:

Action	Date	FR Cite
NPRM	12/30/97	62 FR 67765
NPRM Comment Period End	03/02/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jim Kelly, Customs officer, Anti-Smuggling Division, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0458

RIN: 1515–AC16

2905. EXPORTATION OF USED MOTOR VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1624; 19 USC 1627a; 19 USC 1646a; 19 USC 1646c

CFR Citation: 19 CFR 192

Legal Deadline: None

Abstract: Amendment to clarify the intent of Customs Regulations relating to the exportation of used self-propelled vehicles. Goal of amendments is to provide for uniformity and standardized procedures and to more efficiently and effectively deter the export of stolen vehicles.

Timetable:

Action	Date	FR Cite
NPRM	10/28/97	62 FR 55764
NPRM Comment Period End	12/29/97	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hugh Austin, Customs Officer, Outbound Process, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-3735

RIN: 1515–AC19

2906. AUTOMATED CLEARINGHOUSE CREDIT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 66; 19 USC 1202; 19 USC 1450; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 24

Legal Deadline: None

Abstract: Amendment to provide for payments of funds to Customs by Automated Clearinghouse (ACH) credit. Under ACH credit, a payer will be able to transmit its daily statement, deferred tax, or bill payments electronically through its financial institution directly to a Customs account maintained by the Department of the Treasury.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/28/98	63 FR 29122
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ben Robbin, Accountant, Financial Systems Division, Department of the Treasury, United States Customs Service, Office of Finance, 6026 Lakeside Boulevard, Indianapolis, IN 46278
Phone: 317 298-1520

RIN: 1515–AC26

2907. • BOARDING OF VESSELS IN THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1431; 19 USC 1433; 19 USC 1434; 19 USC 1624; 19 USC 1581(a); 19 USC 288; 19 USC 1441; 19 USC 1448; 19 USC 1446; 19 USC 1486; 46 USC app 3; 46 USC app 91; 46 USC app 883

CFR Citation: 19 CFR 4

Legal Deadline: None

Abstract: Amendment regarding the boarding of vessels arriving in ports of the United States. Amendment reflects and implements amendments to the underlying statutory authority, enacted as part of the Customs Modernization Act, as well as policy determinations necessitated as a result of those amendments.

Timetable:

Action	Date	FR Cite
NPRM	07/06/98	63 FR 36379
NPRM Comment Period End	09/04/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Larry Burton, Attorney, Entry Procedures and Carriers Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1287

William Scopa, Operations Officer, Office of Field Operations, Department

TREAS—CUSTOMS — Final Rule Stage

of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-3112

RIN: 1515–AC29

Abstract: Amendment reflects an addition to the statutory list of merchandise required to be seized and forfeited if introduced or attempted to be introduced into the United States contrary to law set forth in 19 U.S.C. 1595a(c). Plastic explosives not containing a detection agent was added to the list by the Anti-terrorism and Effective Death Penalty Act of 1996. The Customs Regulations are amended to conform to the statutory change.

Timetable:

Action	Date	FR Cite
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Todd Schneider, Attorney, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Ave. NW., Washington, DC 20229
Phone: 202 927-1694

RIN: 1515–AC33

2908. • MANDATORY SEIZURE OF CERTAIN PLASTIC EXPLOSIVES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1595a(c); 19 USC 1624

CFR Citation: 19 CFR 162

Legal Deadline: None

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS) — Long-Term Actions

2909. HARBOR MAINTENANCE FEE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 4; 19 CFR 24; 19 CFR 146; 19 CFR 178

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/30/87	52 FR 10198
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Barbare
Phone: 202 927-0034

RIN: 1515–AA57

2910. DONATED CARGO EXEMPTION FROM HARBOR MAINTENANCE FEE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 24

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/08/92	57 FR 607
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Barbare
Phone: 202 927-0034

RIN: 1515–AA87

2911. RULES OF ORIGIN

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 102 (New); 19 CFR 4.80b(a); 19 CFR 10.12(e); 19 CFR 10.14(b); 19 CFR 10.171(c); 19 CFR 10.191(b)(3); 19 CFR 134.1; 19 CFR 134.35; 19 CFR 177.22(a)

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48448
NPRM Comment Period End	01/09/92	56 FR 61214
NPRM Revising Initial Proposal	05/05/95	60 FR 22312
NPRM Additionally Revising Proposal	07/12/95	60 FR 35878
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sandra Bell
Phone: 202 927-2310

RIN: 1515–AB19

2912. AUTOMATED SURETY INTERFACE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 113

Timetable:

Action	Date	FR Cite
NPRM	01/22/93	58 FR 5680
NPRM Comment Period End	04/22/93	58 FR 16632
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diane Hundertmark
Phone: 202 927-0355

RIN: 1515–AB25

2913. FEES ASSESSED FOR DEFAULTED PAYMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 24

Timetable:

Action	Date	FR Cite
NPRM	03/23/94	59 FR 13664
NPRM Comment Period End	05/23/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Baker
Phone: 202 927-0620

RIN: 1515–AB38

2914. TEXTILES AND TEXTILE PRODUCTS SUBJECT TO TEXTILE TRADE AGREEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 12

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dick Crichton
Phone: 202 927-0162

RIN: 1515–AB54

2915. COUNTRY-OF-ORIGIN MARKING FOR WATCHES

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 134

TREAS—CUSTOMS — Long-Term Actions

Timetable:

Action	Date	FR Cite
ANPRM	03/20/95	60 FR 14705
ANPRM Comment Period End	05/04/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Burton Schlissel
Phone: 202 927-1034

RIN: 1515–AB68

2916. TREATMENT OF MERCHANDISE IMPORTED BY FOREIGN GOVERNMENTS OR DESIGNATED INTERNATIONAL ORGANIZATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 19 CFR 148

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dennis Sequeira
Phone: 202 927-1480

RIN: 1515–AB92

2917. DETERMINATION OF THE COUNTRY OF ORIGIN OF TEXTILES AND TEXTILE PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 12

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dick Crichton
Phone: 202 927-0162

RIN: 1515–AC00

2918. WEEKLY ENTRY PROCEDURE FOR FOREIGN TRADE ZONES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 19 CFR 146

Timetable:

Action	Date	FR Cite
NPRM	03/14/97	62 FR 12129
NPRM Comment Period End	04/14/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marsha Malbrough
Phone: 202 927-0457

RIN: 1515–AC05

2919. PUBLIC DISCLOSURE OF AIRCRAFT MANIFESTS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 103

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lee Kramer
Phone: 202 927-1251

RIN: 1515–AC13

2920. ELIMINATION OF CERTIFICATION REQUIREMENT FOR FILM IMPORTERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 19 CFR 12

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kathy Dapkins
Phone: 202 927-0333

RIN: 1515–AC20

2921. REMOTE LOCATION FILING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 19 CFR 111; 19 CFR 113; 19 CFR 141; 19 CFR 143

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Durant
Phone: 202 927-2244

RIN: 1515–AC23

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS) — Completed Actions

2922. ANDEAN TRADE PREFERENCE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 10

Completed:

Reason	Date	FR Cite
Final Action	09/25/98	63 FR 51291
Final Action Effective	10/26/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tony Mazzoccoli
Phone: 202 927-0564

RIN: 1515–AB59

2923. RECORDKEEPING REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

TREAS—CUSTOMS

Completed Actions

CFR Citation: 19 CFR 162; 19 CFR 163 (New)

Completed:

Reason	Date	FR Cite
Final Action	06/16/98	63 FR 32916
Final Action Effective	07/16/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stan Hodziewich
Phone: 202 927-0999

RIN: 1515–AB77

2924. PRIOR DISCLOSURE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 19 CFR 162

Completed:

Reason	Date	FR Cite
Final Action	05/28/98	63 FR 29126
Final Action Effective	06/29/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Pisani
Phone: 202 927-1203

RIN: 1515–AB98

2925. LAY ORDER PERIOD: GENERAL ORDER: PENALTIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 19 CFR 4; 19 CFR 122; 19 CFR 123; 19 CFR 148; 19 CFR 192

Completed:

Reason	Date	FR Cite
Final Action	09/25/98	63 FR 51283
Final Action Effective	10/26/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeremy Baskin
Phone: 202 927-1176

RIN: 1515–AB99

2926. ANTICOUNTERFEITING CONSUMER PROTECTION ACT: DISPOSITION OF MERCHANDISE BEARING COUNTERFEIT AMERICAN TRADEMARKS; CIVIL PENALTIES

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 133

Completed:

Reason	Date	FR Cite
Final Action	09/25/98	63 FR 51296
Final Action Effective	10/26/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Ressin
Phone: 202 927-2344
John Atwood
Phone: 202 927-2330

RIN: 1515–AC10

2927. PROCEDURAL CHANGE REGARDING AMERICAN SHOOKS AND STAVES

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 10

Completed:

Reason	Date	FR Cite
Final Action	06/02/98	63 FR 29953
Final Action Effective	07/02/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas Wygant
Phone: 202 927-1167

RIN: 1515–AC18

2928. EMISSIONS STANDARDS FOR IMPORTED NONROAD ENGINES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 19 CFR 12

Completed:

Reason	Date	FR Cite
Final Action	05/28/98	63 FR 29121
Final Action Effective	05/28/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brad Lund
Phone: 202 927-0192

RIN: 1515–AC28

2929. • EXPORTERS NOT LIABLE FOR HARBOR MAINTENANCE FEE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 66; 26 USC 4461; 26 USC 4462; 31 USC 9701

CFR Citation: 19 CFR 24

Legal Deadline: Final, Judicial, April 25, 1998.

Abstract: Amendment of the Customs Regulations to remove the requirement that an exporter of cargo is liable for payment of the Harbor Maintenance Fee when cargo is loaded for export at a fee subject to the Harbor Maintenance Fee. The change is required pursuant to a Supreme Court decision finding that the Harbor Maintenance Fee for exporters was in violation of the Export Clause of the Constitution of the United States.

Timetable:

Action	Date	FR Cite
Final Action	07/31/98	63 FR 40822
Final Action Effective	07/31/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Barbare, Operations Management Specialist, Budget Division, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0310

RIN: 1515–AC31

BILLING CODE 4820-02-F

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Proposed Rule Stage

2930. SECTION 79, TABLE I, UPDATE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 79

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulation will update the table used to determine the cost amount of group-term life insurance to be included in gross income.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209103-89 (EE-82-89)

Drafting attorney: Betty Clary (202) 622-6070.

Reviewing attorney: James Brokaw (202) 622-6070.

CC:EBEO

Agency Contact: Betty Clary, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6070

RIN: 1545–AN54

2931. • DEFINITION OF CONTRIBUTION IN AID OF CONSTRUCTION UNDER SUBSECTION 118(C)(3)(A)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 118

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations to provide guidance on the definition of contributions in aid of construction within the meaning of section 118(c)(3)(A).

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106012-94

Drafting attorney: Paul Handleman (202) 622-3040.

Reviewing attorney: Kathleen Reed (202) 622-3040.

Treasury attorney: Christine Turgeon (202) 622-0865.

CC:DOM:P&SI

Agency Contact: Paul Handleman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constiution Avenue NW., Washington, DC 20224
Phone: 202 622-3040
Fax: 202 622-4779

RIN: 1545–AW17

2932. • CONTINUITY OF INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Revising example 2 of section 1.368-1(e)(6) to remove any implication that guidance was being provided under section 338.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-252231-96

Drafting attorney: Phoebe Bennett (202) 622-7750.

Reviewing attorney: William Alexander (202) 622-7710.

Treasury attorney: Kevin Anderson (202) 622-1981.

CC:DOM:CORP

Agency Contact: Phoebe Bennett, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7750
Fax: 202 622-6834

RIN: 1545–AW45

2933. GUIDANCE UNDER SECTION 30 AND 179A

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 179A; 26 USC 30

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations will assist taxpayers in determining what costs are eligible for the section 30 credit and for the section 179A deduction and how to compute this credit and this deduction.

Timetable:

Action	Date	FR Cite
ANPRM	06/09/93	58 FR 32317
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-209645-93 (PS-43-93)

Drafting attorney: Winston Douglas (202) 622-3110.

Reviewing attorney: David Haglund (202) 622-3110.

CC:DOM:P&SI

Agency Contact: Winston Douglas, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3110

RIN: 1545–AR66

2934. PURCHASE PRICE ALLOCATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805; 26 USC 338; 26 USC 1060

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This proposed regulation revises the rules governing purchase price allocations in certain asset acquisitions under section 1060 and deemed asset acquisitions under section 338. They also revise other rules under these sections.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-107069-97

Drafting attorney: Richard Starke (202) 622-7790.

Reviewing attorney: Victor Penico (202) 622-7790.

Treasury attorney: Kevin Anderson (202) 622-1981.

CC:DOM:CORP

REG-209168-86 (CO-191-82) and REG-209161-86 (CO-119-86) were merged with this project.

Agency Contact: Richard Starke, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7790

RIN: 1545–AV58

2935. • GUIDANCE UNDER SECTION 355(D)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0355

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance as transactions under section 355(d).

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106004-98

Drafting attorney: Phoebe Bennett: (202) 722-7740.

Reviewing attorney: Robert Hawkes: (202) 622-7530.

Treasury attorney: Karen Gilbreath: (202) 622-1788.

CC:DOM:CORP

Agency Contact: Phoebe Bennett, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7750
Fax: 202 622-6834

RIN: 1545–AW71

2936. • ROTH IRAS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 408A; 26 USC 3405

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides guidance on Roth IRAs. Roth IRAs are a new type of IRA that individuals can use beginning in 1998. Roth IRAs are described in section 408A.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-115393-98

Drafting attorney: Cathy A. Vohs (202) 622-6030.

Reviewing attorney: Marjorie Hoffman (202) 622-6030.

Treasury attorney: Michael Doran (202) 622-1341.

CC:EBEO

Agency Contact: Cathy A. Vohs, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AW62

2937. ACCOUNTING FOR LONG-TERM CONTRACTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805; 26 USC 460

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: Section 460 requires a taxpayer to use the percentage-of-completion method of accounting for long-term contracts. The proposed regulations will provide general guidelines for determining whether a manufactured item is "unique" or normally requires more than 12 months to complete. In addition, the proposed regulations will provide general rules for long-term contracts, including special accounting rules for exempt construction contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-208156-91 (IA-58-91)

Drafting attorney: Leo F. Nolan II (202) 622-4960.

Reviewing attorney: Robert M. Casey (202) 622-4960.

Treasury attorney: Annette Smith (202) 622-0868.

Treasury attorney: Cristy Turgeon (202) 622-0865.

CC:DOM:IT&A

Agency Contact: Leo F. Nolan II, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4960
Fax: 202 622-6316

RIN: 1545–AQ30

2938. ESCROW FUNDS AND OTHER SIMILAR FUNDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 0468B

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Further guidance relating to certain escrow funds and other similar funds.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209619-93 (IA-17-93)

Drafting attorney: Michael L. Gompertz (202) 622-4910.

Reviewing attorney: Linda Kroening (202) 622-4800.

Treasury attorney: Kevin Anderson (202) 622-1981.

CC:DOM:IT&A

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Phone: 202 622-4910

RIN: 1545–AR82

2939. MARK-TO-MARKET FOR SECURITIES DEALERS; APPLICATION OF HELD FOR INVESTMENT EXEMPTION TO CONSOLIDATED GROUPS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 475(g)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Guidance on the application of the held for investment exemption from mark to market treatment in the consolidated group context.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-253307-96

Drafting attorney: Jo Lynn Ricks (202) 622-3411.

Reviewing attorney: Al Kraft (202) 622-3920.

Treasury attorney: Paul Crispino (202) 622-0224.

CC:DOM:FI&P

Agency Contact: JoLynn Ricks, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3411

RIN: 1545–AU87

2940. • MARK-TO-MARKET ACCOUNTING FOR DEALERS IN COMMODITIES AND TRADERS IN SECURITIES AND COMMODITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 475(g); 26 USC 7805(a)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Guidance concerning mark-to-market accounting for securities traders and commodities dealers and traders.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-104924-98

Drafting attorney: Jo Lynn Ricks (202) 622-3920.

Reviewing attorney: Al Kraft (202) 622-3920.

Treasury attorney: Paul Crispino (202) 622-0224.

CC:DOM:FI&P

Agency Contact: Jo Lynn Ricks, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3920

RIN: 1545–AW06

2941. QUALIFIED STATE TUITION PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 529

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide guidance regarding certain reporting requirements and transition rules applicable to qualified state tuition programs (QSTPs). QSTPs must satisfy requirements relating to contributions, refunds, and maintenance of separate accounts for each designated beneficiary in the program. In addition, QSTPs must prohibit investment direction, the use of any interest in the program as security for a loan, excess contributions. The regulations also provide guidance concerning these requirements.

Timetable:

Action	Date	FR Cite
Hearing	01/06/98	63 FR 45019
NPRM	08/24/98	63 FR 45019
NPRM Comment Period End	11/23/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: REG-106177-97

Drafting attorney: Monice Rosenbaum (202) 622-6070.

Reviewing attorney: James Brokaw (202) 622-6070.

Reviewing attorney: Paul Feinberg (202) 622-6000.

Treasury attorney: Catherine Livingston (202) 622-1343.

CC:EBEO

Agency Contact: Monice Rosenbaum, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6070

RIN: 1545–AV18

2942. • SEPARATE SHARE RULES/ESTATES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 663(c); 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will amend section 1.633(c) by adding rules concerning whether a surviving spouse's elective share of the estate of a decedent and a revocable trust treated as part of an estate constitute separate shares of an estate.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-114841-98

Drafting attorney: Laura Howell (202) 622-3060.

Reviewing attorney: J. Tom Hines (202) 622-3060.

Treasury attorney: Beth Kaufman (202) 622-1766.

CC:DOM:P&SI

Agency Contact: Laura Howell, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3060

RIN: 1545–AW57

2943. • CAPITAL GAIN GUIDANCE RELATING TO CRTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1(h)(11); 26 USC 664

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide capital gain guidance relating to charitable remainder trusts in light of the changes made to section 1(h) of the Internal Revenue Code by the Taxpayer Relief Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-110896-98

Drafting attorney: Mary Beth Collins (202) 622-3080.

Drafting attorney: Jeff Erickson (202) 622-3090.

Reviewing attorney: Fran Schaffer (202) 622-3090.

Treasury attorney: Beth Kaufman (202) 622-1755.

CC:DOM:P&SI

Agency Contact: Mary Beth Collins, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3070

RIN: 1545–AW35

2944. FOREIGN GRANTOR TRUSTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 679

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance to taxpayers concerning the income tax treatment of transfers by U.S. persons to foreign trusts having U.S. beneficiaries. The amendments will conform to changes made by section 1013 of the Tax Reform Act of 1976.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209038-89 (INTL-243-89)

Drafting attorney: Willard Yates (202) 622-3880.

Reviewing attorney: Elizabeth Karzon (202) 622-3880.

Completed in error in the October 1995 Unified Agenda.

CC:INTL

Agency Contact: Willard Yates, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880
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RIN: 1545–AO75

2945. • SOURCE OF INCOME FOR SPACE AND CERTAIN OCEAN ACTIVITIES AND FOR INTERNATIONAL COMMUNICATIONS INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 863

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations to provide source rules for income from space and certain ocean activities under section 863(d). Also, regulations to provide source rules for international communications income under section 863(e).

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106030-98

Drafting attorney: Anne Shelburne (202) 622-3880.

Reviewing attorney: Steven Musher (202) 622-3880.

Treasury attorney: Michael Mundaca (202) 622-1752.

CC:INTL

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Phone: 202 622-3880
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RIN: 1545–AW50

2946. INCOME TAX—RECIPROCAL EXEMPTIONS FOR CERTAIN TRANSPORTATION INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 883; 26 USC 872

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules with respect to whether a foreign country will be considered to grant a reciprocal Aircraft/Shipping exemption to U.S. corporations for purposes of section 883 of the Code, or to U.S. citizens for purposes of section 872 of the Code. This regulation will also provide rules with respect to whether a foreign corporation satisfies the ownership requirements of section 883(c) and the activity requirements of section 883(a).

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208280-86 (INTL-948-86)

Drafting attorney: Patricia A. Bray (202) 622-3880.

Reviewing attorney: Elizabeth Karzon (202) 622-3880.

Treasury attorney: Michael Mundaca (202) 622-1752.

CC:INTL

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Phone: 202 622-3880
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RIN: 1545–AJ57

2947. NEW LINES OF BUSINESS PROHIBITED UNDER SECTION 936(J)(9)(B)

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide guidance for application of section 936(j)(9)(B) and to clarify the meaning of "substantial new line of business".

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-115446-97

Drafting attorney: Patricia Bray (202) 622-3880.

Reviewing attorney: Jacob Feldman (202) 622-3810.

Treasury attorney: Michael Mundaca (202 622-1752.

CC:INTL

Agency Contact: Patricia Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4408

RIN: 1545–AV68

2948. COORDINATION OF PRE-1987 DEEMED PAID TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will state coordination rules for computing deemed paid taxes on distributions and deemed distributions of foreign corporations' earnings and profits from the same pre-1987 year.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209786-95 (INTL-037-95)

Drafting attorney: Anne Devereaux (202) 622-3850.

Reviewing attorney: Barbara Felker (202) 622-3850.

CC:INTL

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Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AT85

2949. • DEFINITION OF THE TERM "MARKETABLE STOCK" UNDER SECTION 1296(E)(1)(A)(III)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1296; 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 1296

Legal Deadline: None

Abstract: Section 1296 allows US persons that hold "marketable stock" in a PFIC to elect to mark such stock to market at the close of each taxable year. Marketable stock includes any stock that is regularly traded on a US securities exchange or "any exchange or market which the Secretary determines has rules adequate to carry out the purposes of this part." These regulations will define those exchanges and markets, including those overseas, which will qualify for this election.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INTL-113744-98

Drafting attorney: Kate Hwa (202) 622-3880.

Reviewing attorney: Philip Garlett (202) 622-3880.

CC:INTL

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RIN: 1545–AW69

2950. ELECTING SMALL BUSINESS TRUST

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 26 USC 7805; 26 USC 1361; 26 USC 641

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides necessary guidance for defining and treating electing small business trusts which are now eligible shareholders of S corporation stock as provided by the Small Business Job Protection Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-251701-96

Drafting attorney: Steven R. Schneider (202) 622-3060.

Reviewing attorney: J. Thomas Hines (202) 622-3060.

Treasury attorney: Kevin Anderson (202) 622-1981.

CC:DOM:PS&I

Agency Contact: Steven R. Schneider, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3060
Fax: 202 622-4513

RIN: 1545–AU76

2951. • TAX PERIOD AFTER ACQUISITION OF S CORPORATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1502

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address the one-day year that arises when an affiliated group of corporations filing a consolidated return acquires over 80 percent of the stock of an S corporation. The new regulation will prevent taxpayers from being required to file a tax return for the day of the acquisition.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-106219-98

Drafting attorney: Jeffrey L. Vogel (202) 622-7770.

Reviewing attorney: Lewis K. Brickates (202) 622-7770.

Treasury attorney: Karen Gilbreath (202) 622-1788.

CC:DOM:CORP

Agency Contact: Jeffrey L. Vogel, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7770

RIN: 1545–AW32

2952. • EFFECTIVE DATE OF SECTION 1.1502-9T

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will amend the effective date of section 1.1502-9T.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-114635-98

Drafting attorney: Seth Goldstein (202) 622-3810.

Reviewing attorney: Jack Feldman (202) 622-3810.

Treasury attorney: Will Morris (202) 622-1779.

CC:INTL

Agency Contact: Seth Goldstein, Technical Adviser to Assistant CC (International), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3810
Fax: 202 622-4476

RIN: 1545–AW51

2953. • PARTNERSHIP RETURNS REQUIRED ON MAGNETIC MEDIA

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6011(e)(2); 26 USC 6721

CFR Citation: 26 CFR 301; 26 CFR 1

Legal Deadline: None

Abstract: This document will mandate the magnetic media filing of partnership tax returns for partnerships having more than 100 partners under 26 USC 6011(e)(2).

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Additional Information: REG-102023-98

Drafting Attorney: Bridget Finkenaur (202) 622-4940.

Treasury attorney: James Sowell (202) 622-5721.

Agency Contact: Bridget E. Finkenaur, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AW14

2954. • ADEQUATE DISCLOSURE OF GIFTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 2001; 26 USC 2504

CFR Citation: 26 CFR 20; 26 CFR 25; 26 CFR 301

Legal Deadline: None

Abstract: Provide the definition of adequate disclosure that prevents the revolution of a gift for purposes of determining estate tax.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106177-98

Drafting attorney: William L. Blodgett (202) 622-3090.

Reviewing attorney: George Masnik (202) 622-3090.

Treasury attorney: Beth Kaufman (202) 622-1766.

CC:DOM:P&SI

Agency Contact: William L. Blodgett, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3090
Fax: 202 622-4524

RIN: 1545–AW20

2955. • GRAT AND NOTES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 2702

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance under section 2702(b) regarding the use of notes to satisfy the annuity or unitrust payment obligation of a grantor retained annuity trust.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-108287-98

Drafting attorney: James Hogan (202) 622-3090.

Reviewing attorney: George L. Masnik (202) 622-3090.

Treasury attorney: Beth Kaufman (202) 622-1766.

CC:DOM:P&SI

Agency Contact: James F. Hogan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3090

RIN: 1545–AW25

2956. EXCEPTION FROM SUPPLEMENTAL TAX

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The regulations will provide guidance to railroad employers in applying the exception to supplemental annuity tax with respect to employees covered by a supplemental pension plan.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209769-95 (EE-22-95)

Drafting attorney: Linda Marshall (202) 622-6030.

Reviewing attorney: Paul C. Feinberg (202) 622-6000.

Treasury attorney: Kevin Knopf (202) 622-2329.

CC:EBEO

Agency Contact: Linda Marshall, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AT56

2957. • RETAILERS TAX/TIRES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: Amend regulations under section 4051 to provide for inclusion of tires in the tax base because of amendment to section 4051 by section 1402 of the Taxpayer Relief Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-115753-98

Drafting attorney: Bernard H. Weberman (202) 622-3130.

Reviewing attorney: Richard A. Kocak (202) 622-3130.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:P&SI

Agency Contact: Bernard H. Weberman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3130

RIN: 1545–AW66

2958. PREPAID TELEPHONE CARDS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 4251

CFR Citation: 26 CFR 49

Legal Deadline: None

Abstract: Regulations implementation section 1034 of the Taxpayer Relief Act of 1997 pertaining to the application of the communications excise tax to prepaid telephone calls.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-118620-97

Drafting attorney: Bernard H. Weberman (202) 622-3667.

Reviewing attorney: Ruth Hoffman (202) 622-3130.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:P&SI

Agency Contact: Bernard H. Weberman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3667

RIN: 1545–AV63

2959. CLARIFICATION OF 4958 EXCISE TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 4958

CFR Citation: 26 CFR 53; 26 CFR 301

Legal Deadline: None

Abstract: 26 USC 4958 was enacted in section 1311 of Taxpayer Bill of Rights 2, P.L. 104-168, 110 Stat. 1452, July 30, 1996. This section 4958, taxes on excess benefits transactions, is effective for transactions occurring after September 13, 1995. The regulations will clarify certain definitions and rules contained in section 4958.

Timetable:

Action	Date	FR Cite
NPRM	08/04/98	63 FR 41486
NPRM Comment Period End	11/02/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Additional Information: REG-246256-96

Drafting attorney: Phyllis D. Haney (202) 622-4290.

Reviewing attorney: Paul G. Accettura (202) 622-6070.

Reviewing attorney: Paul C. Feinberg (202) 622-6000.

Treasury attorney: Catherine E. Livingston (202) 622-1343.

CC:EBEO

Agency Contact: Phyllis Haney, Attorney-Advisor, Department of the

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Phone: 202 622-4290

RIN: 1545–AV60

2960. PURCHASING AND REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 3406; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will address the information reporting and backup withholding requirements for purchases made through a purchasing card.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-105298-97

Drafting attorney: Donna Welch (202) 622-4910.

Reviewing attorney: John Coulter, Jr. (202) 622-4910.

CC:DOM:IT&A

Agency Contact: Donna Welch, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–AV49

2961. • MIDDLEMAN REGULATION UNDER SECTIONS 6041 AND 6045

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6045

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide guidance on the legal obligation to file information returns by (1) an intermediary or middleman who makes payments on behalf of another person, and (2) and investment advisor.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: REG-246249-96

Drafting attorney: Donna Crisalli (202) 622-4920.

Reviewing attorney: Robert Berkovsky (202) 622-4920.

Treasury attorney: Jeffrey Maddrey (202) 622-1339.

CC:DOM:IT&A

Agency Contact: Donna M. Crisalli, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4920
Fax: 202 622-6316

RIN: 1545–AW48

2962. • REPORTING OF PAYMENTS TO ATTORNEY

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6045

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Information reporting requirements for payments of gross proceeds made in the course of a trade or business to attorneys in connection with legal services.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-105312-98

Drafting attorney: Katherine Kiss (202) 622-4920.

Reviewing attorney: John Coulter (202) 622-4910.

Treasury attorney: Christopher Rizek (202) 622-1338.

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Phone: 202 622-4920
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RIN: 1545–AW72

2963. • CORPORATE TAX SHELTER REGISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6111

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This regulation project provides guidance on the registration requirements for confidential corporate tax shelters under section 6111(d) of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-110311-98

Drafting attorney: Mary Beth Collins/Jeff Erickson

(202) 622-3080.

Reviewing attorney: Donna Young (202) 622-3070.

Treasury attorney: Christopher Rizek (202) 622-1338.

CC:DOM:P&SI

Agency Contact: Mary Beth Collins/Jeff Erickson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3070

RIN: 1545–AW26

2964. • TAXPAYER RELIEF ACT OF 1997 TEFRA CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6230

CFR Citation: 26 CFR 301

Legal Deadline: NPRM, Statutory, January 1, 1999.
1998 Business Plan Item

Abstract: The regulations will provide guidance concerning the changes made to the partnership unified audit procedures by the Taxpayer Relief Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-106564-98

Drafting attorney: Robert Honigman (202) 622-3050.

Reviewing attorney: Dianna Miosi (202) 622-3050.

Treasury attorney: James B. Sowell (202) 622-5721.

CC:DOM:P&SI

Agency Contact: Robert Honigman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3050

RIN: 1545–AW23

2965. ELECTRONIC FUNDS TRANSFERS OF FEDERAL DEPOSITS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 26 USC 6302

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: To provide rules governing electronic funds transfers of Federal deposits for after 1999.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: REG-100729-98

Drafting attorney: Vincent Surabian (202) 622-4940.

Reviewing attorney: Judith Wall (202) 622-4940.

Treasury attorney: John Parcell (202) 622-2578.

Agency Contact: Vincent Surabian, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington DC 20224
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AW96

2966. • ELECTRONIC FUND TRANSFERS OF FEDERAL DEPOSITS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6302(h)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To set forth the rules for requiring transfers to begin depositing Federal taxes by electronic funds transfer after 1999.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Additional Information: REG-100729-98

Drafting attorney: Vincent Surabian (202) 622-4940.

Reviewing attorney: Judith Wall (202) 622-4940.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:IT&A

Agency Contact: Vincent Surabian, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AW41

2967. • PAYMENT BY CREDIT CARD AND DEBIT CARD

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6311

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The purpose of this regulation is to authorize the Secretary of the Treasury to accept payment of taxes by credit cards and debit cards pursuant to section 6311 of title 26, as amended by the Tax Relief Act of 1997. The current regulation only permits payments by check and money orders. The goal of this regulation is to authorize payments by credit cards and debit cards in addition to checks and money orders.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-111435-98

Drafting attorney: Mitchel S. Hyman (202) 622-3620.

Treasury attorney: John Parcell (202) 622-2578.

CC:EL:GL

Agency Contact: Mitchel S. Hyman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3620
Fax: 202 622-9137

RIN: 1545–AW37

2968. REVISION OF TAX REFUND OFFSET PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 6402

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Revise the regulations under section 6402 to reflect the administration of the tax refund offset program by the financial management service.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-104565-97

Drafting attorney: John J. McGreevy (202) 622-4910.

Reviewing attorney: John Coulter (202) 622-4910.

CC:DOM:IT&A

Agency Contact: John J. McGreevey, Tax Law Specialist, Department of the

Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–AV50

2969. DUE DILIGENCE FOR EIC (EARNED INCOME CREDIT)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6695

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, December 31, 1998.

Abstract: The regulations will set forth the due diligence requirements that paid preparers of Federal income tax returns or claims for refund that involve the Earned Income Credit must meet to avoid imposition of the penalty under section 6695 of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-120168-97

Drafting Attorney: Celia Gabrysh, (202) 622-4940.

CC:DOM:IT&A

Agency Contact: Celia Gabrysh, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AW03

2970. • RETENTION OF PAID PREPARERS' SIGNATURES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6695

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document will propose an alternative to the requirement that an income tax return preparer must keep a manually signed (by the preparer) copy of a return if the preparer presented to the taxpayer for signature a return with a copy of the preparer's signature.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-106836-98

Drafting attorney: Celia Gabrysh (202) 622-4940.

Reviewing attorney: Peter Frederick (202) 622-4940.

Treasury attorney: Jeffrey Maddrey (202) 622-1339.

CC:DOM:IT&A

Agency Contact: Celia Gabrysh, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AW52

2971. • PREPARER DUE DILIGENCE REQUIREMENTS IN DETERMINING ELIGIBILITY FOR THE EARNED INCOME TAX CREDIT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6695

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document will set forth due diligence requirements that income tax return preparers who prepare returns or claims for refunds involving the earned income tax credit must meet to avoid imposition of the penalty under section 6695(g) of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-120168-97

Drafting attorney: Marc C. Porter (202) 622-4940.

Reviewing attorney: Rochelle Hodes (202) 622-4940.

Treasury attorney: Mark Hoffenberg (202) 622-0869.

Agency Contact: Marc C. Porter, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
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Fax: 202 622-6316

RIN: 1545–AW73

2972. PASSTHROUGH OF ITEMS TO SHAREHOLDERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation deals with the pass through of items of an S corporation to its shareholders, the character of those items, and the basis limitation on losses and deductions taken into account by the shareholders.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: REG-209446-82 (PS-261-82)

Drafting attorney: Terri Belanger (202) 622-3080.

Reviewing attorney: Donna Young (202) 622-3080.

Treasury attorney: Kevin Anderson (202) 622-1981.

CC:DOM:P&SI

Agency Contact: Terri Belanger, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3080

RIN: 1545–AT52

2973. REPORTING REQUIREMENTS FOR WIDELY HELD FIXED INVESTMENT TRUSTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 671; 26 USC 6034A; 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: Proposed regulations on the reporting requirements for widely held fixed investment trusts.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209813-96 (PS-6-96)

Drafting attorney: Faith Colson (202) 622-3060.

Reviewing attorney: H. Grace Kim (202) 622-3060.

Treasury attorney: Paul Crispino (202) 622-0224.

CC:DOM:P&SI

Agency Contact: Faith Colson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3060
Fax: 202 622-4513

RIN: 1545–AU15

2974. USUFRUCT; NONRESIDENT ALIEN SHAREHOLDER; S CORPORATION STOCK

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will provide rules for a corporation having a share holder who (1) has an usufruct interest in the stock of the corporation and (2) is a nonresident alien who is treated as a resident under either section 6013(g) or section 6013(h) as of the effective date of the corporation is S election or the date the alien receives the stock, which ever occurs first.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209810-96 (PS-3-96)

Drafting attorney: Laura Howell (202) 622-3060.

Reviewing attorney: J..Thomas Hines (202) 622-3060.

Treasury attorney: Kevin Anderson (202) 622-1335.

CC:DOM:P&SI

Agency Contact: Laura Howell, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3060
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RIN: 1545–AU18

2975. PAYMENT FROM THE PRESIDENTIAL PRIMARY MATCHING PAYMENT ACCOUNT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Presidential Election Campaign Fund regulations will be revised to require, when the Presidential Primary matching payment account is in a shortfall position, that the Secretary make an additional payment, between regular payment dates, to Presidential primary candidates certified by the Federal Election Commission. The regulations will set forth a method for determining the amount of the additional payment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: REG-209815-96 (IA-8-96)

Drafting attorney: Paul E. Tellier (202) 622-4930.

Reviewing attorney: Michael D. Finley (202) 622-4930.

CC:DOM:IT&A

Agency Contact: Paul E. Tellier, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4930

RIN: 1545–AU57

2976. DISCLOSURE OF CERTAIN RETURNS AND RETURN INFORMATION BY OTHER FEDERAL AGENCIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6103

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These proposed regulations relate to the disclosure of certain returns and return information by Federal agencies other than the Service. The amendments would permit the Service to authorize other Federal agencies to which returns and return information have been disclosed to further disclose such returns and return information to other authorized recipients with the Commissioner's authorization.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: REG-251725-96

Drafting attorney: Julie Schwartz (202) 622-4570.

Reviewing attorney: Joseph J. Urban (202) 622-4570.

Treasury attorney: Chris Rizek (202) 622-1338.

CC:EL:DL

Agency Contact: Julie C. Schwartz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4570
Fax: 202 622-9888

RIN: 1545–AU83

2977. SPECIAL RULES APPLICABLE TO SALES OF DEBT INSTRUMENT BETWEEN RECORD DATES AND THE END OF ACCRUAL PERIODS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provides rules to calculate allocation of interest and amount of sale price when debt instrument is sold between a record date and a payment date (so that seller receives first distribution of interest and principal following sale).

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-242919-96

Drafting attorney: Kenneth Christman (202) 622-3950.

Reviewing attorney: Marshall Feiring (202) 622-3960.

Treasury attorney: Clarissa Potter (202) 622-0999.

CC:DOM:FI&P

Agency Contact: Kenneth Christman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3950

RIN: 1545–AU95

2978. LEGENDING OF REMIC CERTIFICATES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6049

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Rescind requirements that issuers of REMICs and Collateralized Debt Obligations provide certain information related to accrual of original issue discount on face of certificate; possibly will require information to be provided by other means.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-100905-97

Drafting attorney: Kenneth Christman (202) 622-3950.

Reviewing attorney: Marshall Feiring (202) 622-3960.

Treasury attorney: Clarissa Potter (202) 622-0999.

CC:DOM:FI&P

Agency Contact: Kenneth Christman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3950

RIN: 1545–AU96

2979. WITHDRAWAL OF NOTICE OF FEDERAL TAX LIEN

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Section 501 of the Taxpayer Bill of Rights 2 amends section 6323 of the Internal Revenue Code to authorize the Secretary to withdraw a notice of Federal tax lien in four enumerated circumstances. Section 501 also provides that upon written request by the taxpayer, the Secretary shall make reasonable efforts to notify any credit reporting agencies and any financial institution or creditor identified by the taxpayer of the withdrawal. The regulations set forth the circumstances in which the Secretary may withdraw a notice of lien and procedures for requesting the Secretary to notify creditors of the withdrawal.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-101519-97

Drafting attorney: Kevin Connelly (202) 622-3640.

Reviewing attorney: Robert Miller (202) 622-3640.

CC:EL:GL

Agency Contact: Kevin Connelly, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3630
Fax: 202 622-3766

RIN: 1545–AV00

2980. RETURN OF LEVIED PROPERTY IN CERTAIN CASES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Section 501(b) of the Taxpayer Bill of Rights 2 amended section 6343 of the Internal Revenue Code to authorize the Secretary to return levied upon property in four enumerated circumstances. The regulations set forth the circumstances in which the Secretary may return property and procedures to implement section 501(b).

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-101520-97

Drafting attorney: Kevin Connelly (202) 622-3640.

Reviewing attorney: Robert Miller (202) 622-3640.

CC:EL:GL

Agency Contact: Kevin Connelly, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3630
Fax: 202 622-3766

RIN: 1545–AV01

2981. RESEARCH CREDIT II

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 41

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This notice of proposed rulemaking provides rules relating to the proper definition of gross receipts to be used in computing the research credit and rules relating to the definition of qualified research under section 41(d). Further this notice of proposed rulemaking provides rules for election and revoking the election of the alternative incremental credit under section 41(c)(4).

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-105170-97

Drafting attorney: Lisa Shuman (202) 622-3120.

Reviewing attorney: Christine Ellison (202) 622-3120.

Treasury attorney: Mark Hoffenberg (202) 622-0869.

CC:DOM:P&SI

Agency Contact: Lisa Shuman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3120
Fax: 202 622-4743

RIN: 1545–AV14

2982. CASH ADVANCES OF COMPENSATION TO SERVICE PROVIDERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 451

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations provide rules for distinguishing cash advances of compensation, which are includible in the gross income of the service provider at the time the cash advances are received, from loans, which are excludible from the income of the service provider. The regulations provide that cash advances will be includible in the service provider's gross income even if they must be repaid upon the happening of a condition subsequent. Further, the regulations provide a method for service providers to change the method of accounting for cash advances, and provide that any section 481(a) adjustment that results from the change in method may be included in gross income by the service provider over a 4-year spread period if the service provider complies with this method.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-103332-97

Drafting attorney: Edward C. Schwartz (202) 622-4960.

Reviewing attorney: William A. Jackson (202) 622-4960.

Treasury attorney: Louise Epstein (202) 622-1778.

CC:DOM:IT&A

Agency Contact: Edward C. Schwartz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4960

RIN: 1545–AV21

2983. SECTION 42 MISCELLANEOUS COMPLIANCE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 42

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address certain compliance issues and amend existing administrative error regulations under section 1.42-13.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: REG-114664-97

Drafting attorney: Paul Handleman (202) 622-3040.

Treasury attorney: Edwin Oswald (202) 622-1335.

Reviewing attorney: Susan Reaman (202) 622-3040.

CC:DOM:P&SI

Agency Contact: Paul Handleman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3040
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RIN: 1545–AV44

2984. MARITAL DEDUCTION (ESTATE OF HUBERT)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 721

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Valuation of property passing to surviving spouse.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-114663-97

Drafting attorney: Deborah Ryan (202) 622-3090.

Reviewing attorney: Katherine Mellody (202) 622-3090.

Treasury attorney: Beth Kaufman (202) 622-1776.

CC:DOM:P&SI

Agency Contact: Deborah Ryan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3090

RIN: 1545–AV45

2985. HIPAA NEWBORNS' AND MOTHERS' HEALTH PROTECTION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 9833

CFR Citation: 26 CFR 54

Legal Deadline: None

Abstract: These regulations provide guidance to group health plans with maternity benefits and to the employers maintaining such plans relating to the obligation to provide benefits for a minimum length of hospital stay following the birth of a child.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-109708-97

Drafting attorney: Russell Weinheimer (202) 622-6060.

Reviewing attorney: Alan Tawshunsky (202) 622-6000.

Treasury attorney: Kevin Knopf (202) 622-2329.

CC:EBEO

These regulations are related to temporary regulations previously published in the Federal Register on April 8, 1997 (REG-253578-96, RIN 1545-AV05).

Agency Contact: Russell Weinheimer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
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Fax: 202 622-6834

RIN: 1545–AV52

2986. SECTION 707 DISGUISED SALES OF PARTNERSHIP INTEREST

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 707

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The application of section 707 to the transfer of partnership interests.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-118971-97

Drafting attorney: Robert Honigman (202) 622-3050.

Reviewing attorney: Daniel J. Coburn (202) 622-3050.

CC:DOM:P&SI

Agency Contact: Robert Honigman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3050

RIN: 1545–AV66

2987. SECTION 6038 INFORMATION REPORTING REQUIREMENTS FOR FOREIGN PARTNERSHIPS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6038; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Information reporting requirements of 10 percent U.S. partners of controlled foreign partnerships.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-118966-97

Drafting attorney: Victoria L. Scotto (202) 622-3860.

Reviewing attorney: Maura A. Sullivan (202) 622-3860.

Treasury attorney: William Morris (202) 622-1779.

CC:INTL

Agency Contact: Victoria L. Scotto, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860

RIN: 1545–AV69

2988. SECTION 6038B INFORMATION REPORTING REQUIREMENTS FOR TRANSFERS TO FOREIGN PARTNERSHIPS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6038B; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Information reporting requirements of U.S. taxpayers that contribute property to a foreign partnership under section 721 or other provision.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-118926-97

Drafting attorney: Christopher Kelley (202) 622-3860.

Reviewing attorney: Maura A. Sullivan (202) 622-3860.

Treasury attorney: William Morris (202) 622-1779.

CC:INTL

Agency Contact: Christopher Kelley, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860

RIN: 1545–AV70

2989. DISCLOSURE OF RETURN INFORMATION TO THE BUREAU OF THE CENSUS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6103

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Notice of proposed rulemaking to update the items of return information to be disclosed by Internal Revenue Service personnel to the Bureau of the Census. The text of these proposed regulations will be the same as the text of temporary regulations to be published concurrently.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-121806-97

Drafting attorney: Douglas Giblen (202) 622-4570.

Reviewing attorney: Joe Urban (202) 622-4570.

Treasury attorney: Chris Rizek (202) 622-1338.

CC:EL:D

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Phone: 202 622-4570
Fax: 202 622-9888

RIN: 1545–AV84

2990. SUBSTANTIATION OF BUSINESS EXPENSES—USE OF MILEAGE RATES TO SUBSTANTIATE AUTOMOBILE EXPENSES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 274(d)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Clarifies the Commissioner's authority to establish a method under which a taxpayer may elect to use mileage rates to determine the amount of expenses for the business use of an automobile.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-122488-97

Drafting attorney: Donna M. Crisalli (202) 622-4920.

Reviewing attorney: George Baker (202) 622-4920.

Treasury attorney: Annette Smith (202) 622-0868.

CC:DOM:IT&A

Agency Contact: Donna M. Crisalli, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4920
Fax: 202 622-6316

RIN: 1545–AV87

2991. SUBSTANTIATION OF BUSINESS EXPENSES—USE OF MILEAGE RATES TO SUBSTANTIATE AUTOMOBILE EXPENSES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 274(d)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Removes the provisions in section 1.274(d)-1(a)(3) that limits the use of mileage rates to substantiate the business use of an automobile to the owner of the automobile. Clarifies the Commissioner's authority to establish a method under which a taxpayer may elect to use mileage rates to determine the amount of expenses for the business use of an automobile.

Timetable:

Action	Date	FR Cite
Temporary Regulations	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-122488-97

Drafting attorney: Donna M. Crisalli (202) 622-4920.

Reviewing attorney: George Baker (202) 622-4920.

Treasury attorney: Annette Smith (202) 622-0868.

CC:DOM:IT&A

Agency Contact: Donna M. Crisalli, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4920
Fax: 202 622-6316

RIN: 1545–AV89

2992. SECTION 411(D)(6) PROTECTED BENEFITS (TAXPAYER RELIEF ACT OF 1997)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations will change the existing regulations to conform with certain changes made by the Taxpayer Relief Act of 1997. The proposed regulations will provide rules regarding in kind distributions for employee stock ownership plans, and regarding the time for making certain plan amendments.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-101363-98

Drafting attorney: Linda Marshall (202) 622-6030.

Reviewing attorney: Marjorie Hoffman (202) 622-6030.

Treasury attorney: Don Wellington (202) 622-1332.

Agency Contact: Linda Marshall, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AV94

2993. MERCHANDISE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Define merchandise. Explain need to use inventory accounts.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-122333-97

Drafting attorney: Jan Skelton (202) 622-4970.

CC:DOM:IT&A

Agency Contact: Jan Skelton, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4970

Fax: 202 622-6316

RIN: 1545–AW00

2994. INTEREST ON EDUCATION LOANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 221; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides guidance on the deduction of interest on education loans under section 221.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-116826-97

Drafting attorney: John Moriarty (202)622-4950.

Reviewing attorney: David Crawford (202) 622-4950.

Treasury attorney: Cathy Livingston (202)622-1343.

CC:DOM:IT&A

Agency Contact: John Moriarty, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 627-4950

RIN: 1545–AW01

2995. HIPAA NONDISCRIMINATION RULES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 9833

CFR Citation: 26 CFR 54

Legal Deadline: None

Abstract: These regulations provide guidance to group health plans and to the employers maintaining them regarding the prohibition on discriminating against individuals on the basis of a health status related factor in eligibility or premiums.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-109707-97

Drafting attorney: Russell Weinheimer (202) 622-4695.

Reviewing attorney: Alan Tawshunsky (202) 622-6000.

Treasury attorney: Bill Bortz (202) 622-1352. CC:EBEO

These regulations are related to temporary regulations previously published in the Federal Register on April 8, 1997 (REG-253578-96, RIN 1545-AV05).

CC:EBEO

Agency Contact: Russell Weinheimer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4695

RIN: 1545–AW02

2996. • AVERAGING OF FARM INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: An individual may elect to "income average" any amount of farm income by adding 1/3 of such elected farm income and calculating the increase in tax for the prior years. The taxable income of the current year is reduced by the elected farm income and the increase in tax liability for the prior three years is added to the current years tax liability.

Timetable:

Action	Date	FR Cite
Temporary Regulations	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-121063-97

Drafting attorney: John Moran (202) 622-7072.

Treasury attorney: Kevin Anderson (202) 622-1981.

CC:DOM:IT&A

Agency Contact: John Moran, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7072
Fax: 202 622-6316

RIN: 1545–AW04

2997. • AVERAGING OF FARM INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: An individual may elect to "income average" any amount of farm income by adding 1/3 of such elected farm income to each of the three prior years' taxable income and calculating the increase in tax for the prior years. The taxable income of the current year is reduced by the elected farm income and the increase in tax liability for the prior three years is added to the current years tax liability.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-121063-97

Drafting attorney: John Moran (202) 622-7072.

Treasury attorney: Kevin Anderson (202) 622-1981.

CC:DOM:IT&A

Agency Contact: John Moran, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7072
Fax: 202 622-6316

RIN: 1545–AW05

2998. • CAPITAL GAINS AND PARTNERSHIP PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1(h)(11)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Guidance regarding the application of the partnership provisions to capital gains

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106527-98

Drafting attorney: Jeanne Sullivan (202) 622-3050.

Reviewing attorney: Daniel Coburn (202) 622-3050.

Treasury attorney: James B. Sowell (202) 622-5721.

CC:DOM:P&SI

Agency Contact: Jeanne Sullivan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3050

RIN: 1545–AW22

2999. • SECTION 411(D)(6); PROTECTED BENEFITS EXCEPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 411(d)(6)(B)(ii)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations will permit certain amendments to qualified retirement plans to be made even though otherwise protected forms of benefit would be affected by the amendments.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-109101-98

Drafting attorney: Linda Marshall (202) 622-6030.

Reviewing attorney: Alan Tawshunsky (202) 622-6000.

Treasury attorney: William Bortz (202) 622-1352.

CC:EBEO

Agency Contact: Linda Marshall, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AW27

3000. • INTERCOMPANY OBLIGATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1502; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide clarification of the tax treatment of certain transfers of intercompany obligations by or to a member of a consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-105964-98

Drafting attorney: Theresa Abell (202) 622-7790.

Reviewing attorney: Ken Cohen (202) 622-7790.

Treasury attorney: Karen Gilbreath (202) 622-1788.

CC:DOM:CORP

Agency Contact: Theresa Abell, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7790
Fax: 202 622-6834

RIN: 1545–AW30

3001. • DISREGARDED ENTITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Guidance under section 368 regarding corporate transactions involving disregarded entities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106186-98

Drafting attorney: Reggie Mombrun (202) 622-7750.

Reviewing attorney: Mark Jennings (202) 622-7740.

Treasury attorney: Karen Gilbreath (202) 622-1788.

CC:DOM:CORP

Agency Contact: Reggie Mombrun, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7750
Fax: 202 622-6834

RIN: 1545–AW36

3002. • CONVERSION TO THE EURO

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Guidance relating to U.S. taxpayers operating, investing or otherwise conducting business in the currency converting to euro.

Timetable:

Action	Date	FR Cite
NPRM	07/29/98	63 FR 40383
NPRM Comment Period End	10/01/98	
Hearing	10/20/98	63 FR 40383
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-110332-98

Drafting attorney: Howard Wiener (202) 622-3870.

Reviewing attorney: Jeffrey Dorfman (202) 622-3870.

CC:INTL

Agency Contact: Howard Wiener, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AW43

3003. • SECTION 148—CLARIFICATION OF THE TREATMENT OF PREPAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 148(i)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Modify section 148 regulations to clarify that prepayments are subject to the yield restriction and rebate rules.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-113526-98

Drafting attorney: Larry Salva (202) 622-3980.

Reviewing attorney: Rebecca Harrigal (202) 622-3980.

Treasury attorney: Edwin Oswald (202) 622-1335.

CC:DOM:FI&P

Agency Contact: Larry Salva, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3980

RIN: 1545–AW44

3004. • CAPITAL GAINS—INSTALLMENT SALES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 453; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules and guidance regarding how to allocate unrecaptured section 1250 gain when the gain is reported on the installment method.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-110524-98

Drafting attorney: Robert Laudeman (202) 622-4930.

Reviewing attorney: Andrew Irving (202) 622-4930.

Treasury attorney: Kevin Anderson (202) 622-1981.

CC:DOM:IT&A

Agency Contact: Robert Laudeman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4930
Fax: 202 622-6316

RIN: 1545–AW47

3005. • GUIDANCE UNDER SECTION 1032

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These proposed regulations relate to the treatment of a disposition by a corporation of the stock of another corporation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106221-98

Drafting attorney: Lee A. Dean (202) 622-7550.

Agency Contact: Lee A. Dean, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20020
Phone: 202 655-7550

RIN: 1545–AW53

3006. • MODIFICATION OF SECTION 263A REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 263A; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Amend the section 263A regulations to address selected issues.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-113910-98

Drafting attorney: Jennifer Nuding (202) 622-4970.

Agency Contact: Jennifer Nuding, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4970
Fax: 202 622-6316

RIN: 1545–AW54

3007. • MODIFICATION OF THE SOLELY-FOR-VOTING STOCK REQUIREMENT IN CERTAIN CORPORATE REORGANIZATIONS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 0368

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These proposed regulations relate to the solely-for-voting stock requirement of a "C" reorganization in certain transactions in which the acquiring corporation is an historic shareholder of the target corporation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-115086-98

Drafting attorney: Marnie Rapaport (202) 622-7550.

Reviewing attorney: Charles Whedbee (202) 622-7550.

Treasury attorney: Karen Gilbreath (202) 622-1788.

CC:DOM:CORP

Agency Contact: Marnie Rapaport, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7550

Fax: 202 622-6834

RIN: 1545–AW55

3008. • INCREASE IN CASHOUT LIMIT UNDER SECTIONS 411(A)(7), 411(A)(11), AND 417(E)(1)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide guidance relating to the increase from $ 3,500 to $ 5,000 of the limit on distributions from qualified plans that can be made without participant consent, as amended by the Taxpayer Relief Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-113694-98

Drafting attorney: Michael Karlan (202) 622-6030.

CC:EBEO

Agency Contact: Michael Karlon, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AW59

3009. • MERCHANDISE REGULATION - NPRM

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 471; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Clarify when the requirement to use inventory accounting applies. Clarify the definition of merchandise and provide guidance with respect to when merchandise will be regarded as an income producing factor in a taxpayer's business.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-122333-97

Drafting attorney: Jan Skelton (202) 622-4970.

Treasury attorney: Christine Turgeon (202) 622-0865.

CC:DOM:IT&A

Agency Contact: Jan Skelton, Assistant to the Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4970
Fax: 202 622-6316

RIN: 1545–AW61

3010. • EDUCATION CREDITS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 25A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide individual taxpayers with guidance on the Hope Scholarship Credit and the Lifetime Learning Credits.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106388-98

Drafting attorney: Donna Welch (202) 622-4910.

CC:DOM:IT&A

Agency Contact: Donna Welch, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–AW65

3011. • SECTION 809—STOCK LIFE SUBSIDIARY OF A MUTUAL HOLDING COMPANY

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 809

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Guidance under section 809 regarding a stock life subsidiary of a mutual holding company.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-107196-98

Drafting attorney: Melissa Luxner (202) 622-3142.

Reviewing attorney: Don Dress (202) 622-3970

Treasury attorney: Louise Epstein (202) 622-1778.

CC:DOM:FI&P

Agency Contact: Melissa Luxner, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3970

RIN: 1545–AW70

3012. SECTION 411(D)(6) PROTECTED BENEFITS (TAXPAYER RELIEF ACT OF 1997)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The temporary regulations will change the existing regulations to conform with certain changes made by the Taxpayer Relief Act of 1997. The temporary regulations will provide rules regarding in-kind distributions for employee stock ownership plans, and regarding the time for making certain plan amendments.

TREAS—IRS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
Temporary Regulations	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-101363-98

Drafting attorney: Linda Marshall (202) 622-6030.

Reviewing attorney: Marjorie Hoffman (202) 622-6030.

Treasury attorney: Don Wellington (202) 622-1332.

CC:EBEO

Agency Contact: Linda Marshall, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AV95

3013. DISASTER RELIEF REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 26 USC 7508A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Guidance giving taxpayers and the service in the presidentially declared disaster areas up to 90 additional days to perform certain acts.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-101492-98

Drafting attorney: Margaret A. Owens (202) 622-4940.

Reviewing attorney: Rochelle Hodes (202) 622-4940.

Treasury attorney: Bill Fant (202) 622-1442.

CC:DOM:IT&A

Agency Contact: Margaret A. Owens, Attorney-Advisor (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AV92

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Final Rule Stage

3014. STATEMENT OF PROCEDURAL RULES—PART 601.702 APPENDIX B - INTERNAL REVENUE SERVICE - 31 CFR PART 1

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 5 USC 301

CFR Citation: 26 CFR 601; 31 CFR 1

Legal Deadline: Other, Statutory, October 2, 1997.
Most provisions of the Electronic FOIA Amendments take effect 180 days from enactments, i.e. 3/31/97. Sections 7 & 8 take effect 1 year after the date of enactment, i.e. 10/2/97.

Abstract: The document contains final rules amending the Statement of Procedural Rules (SPR) (26 CFR 601.702). Some amendments reflect procedures heretofore only made available to the public in the Internal Revenue Manual, which is maintained in Internal Revenue Service reading rooms. The SPR also reflects changes in the title and nomenclature and changes of addresses to be contacted for Freedom of Information requests. The rules affect persons requesting records from the Internal Revenue Service. The document also contains proposed rules amending 31 CFR part 1 appendix B, Disclosure of Records, Freedom of Information Act, Internal Revenue Service Rules, to reflect changes mandated by the Electronic Freedom of Information Act Amendments of 1996, Pub. L. No. 104-231 (October 2, 1996).

Timetable:

Action	Date	FR Cite
Statement of Procedural Rules	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209791-95 (DL-41-95)

Drafting attorney: Lori Creswell (202) 622-4580.

CC:EL:DL

Agency Contact: Lori Creswell, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4580
Fax: 202 622-6279

RIN: 1545–AR99

3015. LOANS TREATED AS DISTRIBUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 72

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on the application of rules for determining the income tax treatment to be accorded loans to participants or beneficiaries from qualified employer plans. The loan rules are provided in section 72(p) of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/21/95	60 FR 66233
NPRM Comment Period End	03/20/96	
Hearing	06/28/96	61 FR 20766
Second NPRM	01/02/98	63 FR 42
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209476-82 (EE-106-82)

Drafting tax law Specialist: Vernon S. Carter (202) 622-6070.

TREAS—IRS

Final Rule Stage

Reviewing attorney: Alan Tawshunsky (202) 622-6000.

Treasury attorney: William Bortz (202) 622-1352.

CC:EBEO

Agency Contact: Vernon S. Carter, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6070
Fax: 202 622-3912

RIN: 1545–AE41

3016. REMOVAL OF TEMPORARY REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 5c

Legal Deadline: None

Abstract: This document removes obsolete temporary regulations as part of the President's Regulatory Reinvention Initiative.

Timetable:

Action	Date	FR Cite
Temporary Regulations	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-112648-97

Drafting attorney: Beverly A. Baughman (202) 622-4940.

CC:DOM:IT&A

Agency Contact: Beverly A. Baughman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AV36

3017. ARBITRAGE RESTRICTIONS ON TAX EXEMPT BONDS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 148

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations amend the Income Tax Regulations (26 CFR Part 1) by providing and clarifying rules relating to establishing fair market value of non purpose investments under section 148. These revisions include additions to the existing regulations under section 1.148-5 (d) and (e) providing (1) a solicitation for a guaranteed investment contract will be rebuttably presumed to be bona fide if certain requirements are met, (2) a rebuttable presumption for establishing fair market value for Treasury obligations purchased other than directly from the United States Treasury and (3) a special rule to determine qualified administrative costs for Treasury obligations purchased other than directly from the United States Treasury.

Timetable:

Action	Date	FR Cite
NPRM	06/27/96	61 FR 33405
NPRM Comment Period End	09/25/96	
Hearing	10/24/96	61 FR 33405
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal

Additional Information: REG-110586-97

Drafting attorney: David White (202) 622-3980.

Reviewing attorney: Rebecca Harrigal (202) 622-3980.

CC:DOM:FI&P

REG-209836-96 (FI-28-96) was inadvertently closed. It was reopened as REG-110586-97.

Agency Contact: David White, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20024
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AU39

3018. RULES FOR PROPERTY PRODUCED IN A FARMING BUSINESS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 263A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The rules provide general rules regarding the application of the uniform capitalization rules to taxpayers engaged in farming.

Timetable:

Action	Date	FR Cite
NPRM	08/22/97	62 FR 44607
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208151-91 (IA-65-91)

Drafting attorney: Jan Skelton (202) 622-4970.

Reviewing attorney: Tom Luxner (202) 622-4970.

Treasury attorney: Annette Smith (202) 622-0868.

CC:DOM:IT&A

NPRMs were issued in 1987 dealing with 263A. The regulations project was split into several projects. Since substantial changes are being made, another NPRM will be issued with another RIN and project number.

Agency Contact: Jan Skelton, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AQ91

3019. CERTAIN ASSET TRANSFERS TO A TAX-EXEMPT ENTITY

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 337

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Tax Reform Act of 1986 (the "Act") repealed the last vestiges of the General Utilities doctrine ("GU repeal"), and corporations must recognize gain, in most cases, upon the distribution of appreciated property to their shareholders. The Act granted the Secretary authority to promulgate regulations necessary to carry out the purposes of the Act. This project will develop regulations to prevent the circumvention of GU repeal by

conversion of for-profit corporations to tax-exempt entities and by other transactions involving tax-exempt entities.

Timetable:

Action	Date	FR Cite
NPRM	01/15/97	62 FR 2064
NPRM Comment Period End	04/15/97	
Hearing	05/06/97	62 FR 2064
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Additional Information: REG-209121-89 (CO-14-89)

Drafting attorney: Stephen R. Cleary (202) 622-7530.

Reviewing attorney: Mark S. Jennings (202) 622-7750.

Treasury attorney: Catherine Livingston (202) 622-1343.

CC:DOM:CORP

Agency Contact: Stephen R. Cleary, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-7530
Fax: 202 622-6834

RIN: 1545–AN21

3020. WARRANTS AND NONQUALIFIED PREFERRED STOCK

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0721

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation is intended to prevent avoidance of the special rule for nonqualified preferred stock under section 1014 of the Tax Relief Act of 1997. Section 1.356-3 of the Income Tax Regulations is amended to provide that, as a general rule, the term "stock or securities" does not include nonqualified preferred stock, or a right to acquire such preferred stock, where the stock or right is received in exchange for stock or a right to acquire stock.

Timetable:

Action	Date	FR Cite
NPRM	01/06/98	63 FR 453
NPRM Comment Period End	04/06/98	
Hearing	05/05/98	63 FR 453
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-121755-97

Drafting attorney: Michael Danbury (202) 622-7978.

Reviewing attorney: Bernita Thigpen (202) 622-7720.

CC:DOM:CORP

Agency Contact: Michael Danbury, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7750

RIN: 1545–AV86

3021. SECTION 467 RENTAL AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 467; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations amend the Income Tax Regulations relating to section 467 of the Internal Revenue Code. In general, section 467 requires parties to certain rental agreements to accrue rent and interest in accordance with section 467. The regulations provide guidance regarding the applicability of section 467 and the amount of rent and interest required to be accrued under section 467.

Timetable:

Action	Date	FR Cite
NPRM	06/03/96	61 FR 27834
NPRM Comment Period End	09/03/96	
Hearing	09/25/96	61 FR 27834
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-209350-84 (IA-292-84)

Drafting attorney: Forest Boone (202) 622-4960.

Reviewing attorney: Steve Toomey (202) 622-4960.

Treasury attorney: Kevin Anderson (202) 622-1981.

CC:DOM:IT&A

Agency Contact: Forest Boone, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4960

RIN: 1545–AU11

3022. GUIDANCE REGARDING CHARITABLE REMAINDER TRUST

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 664

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will provide additional guidance on charitable remainder trusts.

Timetable:

Action	Date	FR Cite
NPRM	04/18/97	62 FR 19072
NPRM Comment Period End	08/19/97	
Hearing	11/18/97	62 FR 53588
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209823-96 (PS-16-96)

Drafting attorney: Jeffrey Erickson (202) 622-3070.

Drafting attorney: Mary Beth Collins (202) 622-3070.

Treasury attorney: Beth Kaufman (202) 622-1766.

CC:DOM:P&SI

Agency Contact: Mary Beth Collins/Jeff Erickson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3070

RIN: 1545–AU25

3023. ADJUSTMENTS FOLLOWING SALES OF PARTNERSHIP INTERESTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 743; 26 USC 751; 26 USC 755; 26 USC 734; 26 USC 732; 26 USC 1017

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide guidance with respect to adjustments relating to book/tax disparities when partnership interests are sold, the calculation of gain or loss following the sale of a partner's basis in its partnership interest to distributed property.

Timetable:

Action	Date	FR Cite
NPRM	01/29/98	63 FR 4408
NPRM Comment Period End	04/29/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Additional Information: REG-209682-94 (PS-2-94)

Drafting attorney: Matthew Lay (202) 622-3080.

Reviewing attorney: David Haglund (202) 622-3050.

Treasury attorney: Jim Sowell (202) 622-5721.

CC:DOM:P&SI

Agency Contact: Matthew Lay, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3050

RIN: 1545–AS39

3024. DETERMINATION OF EARNED PREMIUMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 832

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will address the treatment of certain items for purposes of determining gross written premiums and unearned premiums under section 832(b)(4), including advance premiums. Retrospective premium adjustments, and the determination of written premiums with respect to certain policies with variable exposures.

Timetable:

Action	Date	FR Cite
NPRM	01/02/97	62 FR 72
Hearing	04/30/97	62 FR 72
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209839-96 (FI-31-96)

Drafting attorney: Gary Geisler (202) 622-3623.

Reviewing attorney: Stephen Hooe (202) 622-3762.

Treasury attorney: Louise Epstein (202) 622-1778.

CC:DOM:FI&P

Agency Contact: Gary Geisler, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3623

RIN: 1545–AU60

3025. FASIT - CONSOLIDATED GROUPS/TRANSITIONAL/START-UP

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 8602; 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These regulations will address issues concerning rules applicable to start-up of financial securitization investment trusts and transitional rules for existing securitization entities.

Timetable:

Action	Date	FR Cite
NPRM	11/04/96	61 FR 56648
NPRM Comment Period End	12/31/96	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-100276-97

Drafting attorney: David L. Meyer (202) 622-3960.

Reviewing attorney: Marshall Feiring (202) 622-3940.

Treasury attorney: Paul Crispino (202) 622-0224.

CC:DOM:FI&P

Agency Contact: David L. Meyer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3960
Fax: 202 622-4451

RIN: 1545–AV59

3026. CLASSIFICATION OF CERTAIN TRANSACTIONS INVOLVING COMPUTER PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Tax treatment of certain transactions involving the transfer of computer programs. Regulations will provide rules for classifying such transactions as sales, licenses, leases, or the provision of services or of know-how under certain international provisions of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	11/13/96	61 FR 58152
Hearing	03/19/97	61 FR 58152
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-251520-96

Drafting attorney: Anne Shelburne (202) 622-3880.

Reviewing attorney: Steven Musher (202) 622-3880.

Treasury attorney: Mike Mundaca (202) 622-1752.

CC:INTL

Agency Contact: Anne Shelburne, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4408

RIN: 1545–AU70

TREAS—IRS

Final Rule Stage

3027. SOURCE OF INCOME FROM SALES OF INVENTORY PARTLY FROM SOURCES WITHIN A POSSESSION OF THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 863; 26 USC 936(h)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will provide rules for determining the source of income for property produced (in whole or in part) in the United States and sold in a possession of the United States, or produced (in whole or in part) in a possession of the United States and sold in the United States, as well as rules for determining the source of income for property purchased in a possession and sold in the United States.

Timetable:

Action	Date	FR Cite
NPRM	10/10/97	62 FR 52953
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-251985-96

Drafting attorney: Anne Shelburne (202) 622-3880.

Reviewing attorney: Steven Musher (202) 622-3880.

Treasury attorney: Mike Mundaca (202) 622-1752.

CC:INTL

Agency Contact: Anne Shelburne, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AU79

3028. INCOME TAX—TAXPAYER'S OBLIGATION TO FILE A NOTICE OF REDETERMINATION OF FOREIGN TAX AND CIVIL PENALTIES FOR FAILURE TO FILE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 905; 26 USC 6689

CFR Citation: 26 CFR 1; 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: The regulations will establish procedures for taxpayers by which they must notify the Service of a change in foreign tax liability for a taxable year for which they claimed the foreign tax credit. The regulations provide special rules for redetermining the taxpayer's United States tax liability when the dollar value of the foreign currency fluctuates between the time for which the foreign tax credit is originally claimed and the time for which the foreign tax credit is redetermined. In addition, the regulations set forth deadlines for compliance with the notification requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/23/88	53 FR 23659
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209020-86 (INTL-061-86)

Drafting attorney: Joan Thomsen (202) 622-3850.

Reviewing attorney: Barbara A. Felker (202) 622-3850.

CC:INTL

Agency Contact: Joan Thomsen, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AC09

3029. NEW LINES OF BUSINESS PROHIBITED UNDER SECTION 936(J)(9)(B)

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide guidance for application of section 936(j)(9)(B) and to clarify the meaning of "substantial new line of business".

Timetable:

Action	Date	FR Cite
Temporary Regulations	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-242996-96

Reviewing attorney: William E. Blanchard (202) 622-3950.

Treasury attorney: Jeffrey W. Maddrey (202) 622-1339.

CC:DOM:FI&P

Agency Contact: William E. Blanchard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3950

RIN: 1545–AU45

3030. INFLATION-INDEXED SECURITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1275; 26 USC 1286

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance on the tax treatment of inflation indexed-bonds.

Timetable:

Action	Date	FR Cite
NPRM	01/06/97	62 FR 694
Hearing	04/30/97	62 FR 694
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-115446-97

Drafting attorney: Patricia Bray (202) 622-3880.

Reviewing attorney: Jacob Feldman (202) 622-4464.

Treasury attorney: Michael Mundaca (202) 622-1752.

CC:INTL

Agency Contact: Patricia Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4408

RIN: 1545–AV67

TREAS—IRS

Final Rule Stage

3031. CONSOLIDATED RETURNS—LIMITATIONS ON THE USE OF CERTAIN LOSSES AND CREDITS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1502; 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: The regulations govern the use of certain tax credits and losses of a consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	01/12/98	63 FR 1803
NPRM Comment Period End	04/13/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-104062-97

Drafting attorney: Roy Hirschhorn (202) 622-7770.

Reviewing attorney: Charles Whedbee (202) 622-7550.

Treasury attorney: Karen Gilbreath (202) 622-1788.

CC:DOM:CORP

Agency Contact: Roy Hirschhorn, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7770
Fax: 202 622-6834

RIN: 1545–AV88

3032. CONSOLIDATED RETURNS—LIMITATIONS ON THE USE OF CERTAIN LOSSES AND CREDITS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1502; 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: This document contains a notice of proposed rulemaking with a cross reference to a temporary regulation amending an earlier notice of proposed rulemaking. The amendments amend the effective dates of the prior notice of proposed rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	03/06/98	63 FR 12717
NPRM Comment Period End	05/07/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-104005-98

Drafting attorney: Roy Hirschhorn (202) 622-7770.

Reviewing attorney: Charles Whedbee (202) 622-7550.

Treasury attorney: Karen Gilbreath (202) 622-1788.

CC:DOM:CORP

Agency Contact: Roy Hirschhorn, Attorney-advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave NW., Washington, DC 20224
Phone: 202 622-7770
Fax: 202 622-6834

RIN: 1545–AV99

3033. FICA TAXATION OF CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6302

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: Regulations will provide rules concerning the treatment of certain deferred compensation arrangements under section 3121(v) of the Internal Revenue Code of 1986, thereby giving needed guidance to the public on how the Internal Revenue Service intends to interpret that section of the Code relating to the FICA tax.

Timetable:

Action	Date	FR Cite
NPRM	01/25/96	61 FR 2194
NPRM Comment Period End	04/24/96	
Hearing	06/24/96	61 FR 20767
Second NPRM	12/24/97	62 FR 67304
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209484-87 (EE-142-87)

Reviewing attorney: Alan Tawshunsky (202) 622-6000.

Treasury attorney: William Bortz (202) 622-1352.

CC:EBEO

Agency Contact: Janine Cook, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6040

RIN: 1545–AF97

3034. FUTA TAXATION OF AMOUNTS UNDER EMPLOYEE BENEFIT PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: Regulations would provide rules, by cross-reference to regulations under section 3121(v) of the Internal Revenue Code, of 1986 concerning the treatment of certain deferred compensation arrangements under section 3306(r) of the Code, thereby giving needed guidance to the public on how the Internal Revenue Service intends to interpret that section of the Code relating to the FUTA tax.

Timetable:

Action	Date	FR Cite
NPRM	01/25/96	61 FR 2214
NPRM Comment Period End	04/24/96	
Hearing	06/24/96	61 FR 2214
Second NPRM	12/24/97	62 FR 67304
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209807-95 (EE-55-95)

Reviewing attorney: Alan Tawshunsky (202) 622-6000.

Treasury attorney: William Bortz (202) 622-1352.

CC:EBEO

Agency Contact: Janine Cook, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6040

RIN: 1545–AT99

TREAS—IRS

Final Rule Stage

3035. PREPAID TELEPHONE CARDS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 4251

CFR Citation: 26 CFR 49

Legal Deadline: None

Abstract: Regulations section 1034 of the Taxpayer Relief Act of 1997 pertaining to the application of the communications excise tax to prepaid telephone cards.

Timetable:

Action	Date	FR Cite
Temporary Regulations	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-118620-97

Drafting attorney: Bernard H. Weberman (202) 622-3665.

Reviewing attorney: Richard A. Kocak (202) 622-3130.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:P&SI

Agency Contact: Bernard H. Weberman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3667

RIN: 1545–AV64

3036. CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 106; 26 USC 162; 26 USC 4980B

CFR Citation: 26 CFR 1; 26 CFR 54

Legal Deadline: None

Abstract: These regulations will provide guidance relating to the requirement that a group health plan provide continuation coverage to individuals who would otherwise lose coverage as a result of certain events.

Timetable:

Action	Date	FR Cite
NPRM	06/15/87	52 FR 22716
NPRM Comment Period End	08/14/87	
Hearing	11/04/87	52 FR 22716
Second NPRM	01/07/98	63 FR 708
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209485-86 (EE-143-86)

Drafting attorney: Russell Weinheimer (202) 622-6060.

Review attorney: Mark Schwimmer (202) 622-6060.

Treasury attorney: Michael Doran (202) 622-1341.

CC:EBEO

Agency Contact: Russell Weinheimer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6060

RIN: 1545–AI93

3037. VOICE SIGNATURES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6061; 26 USC 6012

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will enable the Service to accept a voice signature in lieu of a handwritten signature. This will allow the Service to test the feasibility of voice signatures for one year with certain taxpayers who live in the geographic area of the Cincinnati district office. The regulations also address the effect of a taxpayer using a voice signature.

Timetable:

Action	Date	FR Cite
NPRM	01/13/93	58 FR 4125
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209789-95 (IA-39-95)

Drafting attorney: Beverly A. Baughman (202) 622-4940.

Reviewing attorney: Peter Frederick (202) 622-4940.

CC:DOM:IT&A

Agency Contact: Beverly A. Baughman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AQ68

3038. PUBLIC DISCLOSURE OF MATERIAL RELATING TO TAX-EXEMPT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6104

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations affect tax-exempt organizations, and generally require a tax-exempt organization to make its annual information returns and its application for tax-exemption available for public inspection. In addition, the regulations require tax-exempt organizations to comply with requests made in writing or in person from individuals who seek a copy of those documents.

Timetable:

Action	Date	FR Cite
NPRM	09/26/97	62 FR 50533
NPRM Comment Period End	12/26/97	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Additional Information: REG-246250-96

Drafting attorney: Michael Blumenfeld (202) 622-6070.

Reviewing attorney: Paul Feinberg (202) 622-6000.

Treasury attorney: Catherine E. Livingston (202) 622-1343.

CC:EBEO

Agency Contact: Michael Blumenfeld, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6070
Fax: 202 622-3912

RIN: 1545–AV13

TREAS—IRS

Final Rule Stage

3039. • ELECTRONIC FUNDS TRANSFERS OF FEDERAL DEPOSITS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6302(h)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To set forth the rules for requiring taxpayers to begin depositing taxes by electronic funds transfer after 1999.

Timetable:

Action	Date	FR Cite
Temporary Regulations	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Additional Information: REG-100729-98

Drafting attorney: Vincent Surabian (202) 622-4940.

Reviewing attorney: Judith Wall (202) 622-4940.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:IT&A

Agency Contact: Vincent Surabian, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AW40

3040. • PAYMENT BY CREDIT CARD AND DEBIT CARD

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6311

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The purpose of this regulation is to authorize the Secretary of the Treasury to accept payment of taxes by credit cards and debit cards pursuant to section 6311 of title 26, as amended by the Tax Relief Act of 1997. The current regulation only permits payments by checks and money orders. The goal of this regulation is to authorize payments by credit cards and debit cards in addition to checks and money orders.

Timetable:

Action	Date	FR Cite
Temporary Regulations	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-111435-98

Drafting attorney: Mitchel S. Hyman (202) 622-3620.

Treasury attorney: John Parcell (202) 622-2578.

CC:EL:GL

Agency Contact: Mitchel S. Hyman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3620
Fax: 202 622-9137

RIN: 1545–AW38

3041. ABATEMENT OF INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations relate to the abatement of interest attributable to unreasonable errors or delays by an officer or employee of the Internal Revenue Service in performing a ministerial or managerial act.

Timetable:

Action	Date	FR Cite
NPRM	01/08/98	63 FR 1086
NPRM Comment Period End	04/08/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209276-87

Drafting attorney: Michael Gompertz (202) 622-4910.

Reviewing attorney: John Coulten (202) 622-4910.

Treasury attorney: Chris Rizek (202) 622-1338.

CC:DOM:IT&A

Agency Contact: David Auclair, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–AV32

3042. DEFINITION OF REASONABLE BASIS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6662

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulation relates to the accuracy related penalty. This regulation provides a definition of reasonable basis and provides corrections to the final regulations relating to the accuracy-related penalty.

Timetable:

Action	Date	FR Cite
NPRM	11/12/96	61 FR 58020
NPRM Comment Period End	02/04/97	
Hearing	02/25/97	61 FR 58020
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: REG-209792-95 (IA-42-95)

Drafting attorney: Beverly Baughman (202) 622-4940.

Reviewing attorney: Peter Frederick (202) 622-4940.

Treasury attorney: Christopher Rizek (202) 622-1338.

CC:DOM:IT&A

Agency Contact: Beverly Baughman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AU38

3043. • PREPARER DUE DILIGENCE REQUIREMENTS IN DETERMINING ELIGIBILITY FOR THE EARNED INCOME TAX CREDIT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6695

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document will set forth due diligence requirements that income

tax return preparers who prepare returns or claims for refunds involving the earned income tax credit must meet to avoid imposition of the penalty under section 6695(g) of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-120168-97

Drafting attorney: Marc C. Porter (202) 622-4940.

Reviewing attorney: Rochelle Hodes (202) 622-4940.

Treasury attorney: Mark Hoffenberg (202) 622-0869.

Agency Contact: Marc C. Porter, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20220
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AW74

3044. REWARDS FOR INFORMATION RELATING TO VIOLATIONS OF INTERNAL REVENUE LAWS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations relate to rewards for information that leads to detection and punishment of violations of civil and criminal Internal Revenue Laws. They also reflect changes to relevant laws made by TBOR2 and regulate rewards for information that leads to the detection and punishment of violations of civil and criminal Internal Revenue Laws.

Timetable:

Action	Date	FR Cite
NPRM	10/14/97	62 FR 53274
NPRM Comment Period End	01/12/98	62 FR 53230
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-252936-96

Drafting attorney: Judith Lintz (202) 622-4940.

Reviewing attorney: Judy Wall (202) 622-4940.

Treasury attorney: Chris Rizek (202) 622-1338.

CC:DOM:IT&A

Agency Contact: Judith A. Lintz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AU85

3045. TREATMENT OF OBLIGATION-SHIFTING TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7701

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations recharacterize obligation-shifting transactions. Obligation-shifting transactions are transactions in which the transferee assumes obligations or acquires property subject to obligations under existing lease or similar agreement and the transferor or any other party has already received or retains the right to receive amounts that are allocable to periods after the transfer by recharacterizing obligation-shifting transactions in a manner that clearly reflects the parties' income, the regulators prevent tax avoidance.

Timetable:

Action	Date	FR Cite
NPRM	12/27/96	61 FR 68175
NPRM Comment Period End	04/08/97	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209817-96 (FI-10-96)

Drafting attorney: Jonathan Zelnik (202) 622-3940.

Reviewing attorney: Bill Coppersmith (202) 622-3930.

Treasury attorney: Kevin Anderson (202) 622-1991.

CC:DOM:FI&P

Agency Contact: Jonathan Zelnik, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3940
Fax: 202 622-4425

RIN: 1545–AU19

3046. RESIDENCE OF TRUSTS AND ESTATES—7701

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7701

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These regulations will provide guidance for the application of the terms "domestic trust" and "foreign trust" for Federal tax purposes.

Timetable:

Action	Date	FR Cite
NPRM	06/05/97	62 FR 30796
NPRM Comment Penod End	08/04/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-251703-96

Drafting attorney: James A. Quinn (202) 622-3060.

Drafting attorney: Eliana Dolgoff (202) 622-3060.

Reviewing attorney: J. Thomas Hines (202) 622-3060.

Treasury attorney: Beth Kaufman (202) 622-1766.

CC:DOM:P&SI

Agency Contact: James A. Quinn, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3060
Fax: 202 622-4513

RIN: 1545–AU74

3047. INTANGIBLE ASSET AMORTIZATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; PL 103-66

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations under section 197 and section 167 relating to the amortization of goodwill and certain other intangibles.

Timetable:

Action	Date	FR Cite
ANPRM	06/24/94	59 FR 32670
ANPRM Comment Period End	08/23/94	
NPRM	01/16/97	62 FR 2336
Hearing	05/15/97	62 FR 2336
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209709-94 (PS-29-94)

Drafting attorney: John Huffman (202) 622-3110.

Reviewing attorney: Susan Reaman (202) 622-3110.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:P&SI

Agency Contact: John Huffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3110

RIN: 1545–AS77

3048. START-UP EXPENDITURES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance to taxpayers electing to amortize start-up expenditures relating to the creation or acquisition of an active trade or business.

Timetable:

Action	Date	FR Cite
NPRM	01/13/98	63 FR 1933
NPRM Comment Period End	06/02/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: REG-209373-81 (PS-36-81)

Drafting attorney: David Selig (202) 622-3040.

Reviewing attorney: Walter Woo (202) 622-3040.

Treasury attorney: Paul Crispino (202) 622-0224.

CC:DOM:P&SI

Agency Contact: David Selig, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3040
Fax: 202 622-4524

RIN: 1545–AT71

3049. ERISA SECTION 204(H) NOTICE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide guidance on the requirement of section 204(h) of ERISA that advance notice be given to qualified plan participants of an amendment that provides for a significant reduction in the rate of future benefit accruals.

Timetable:

Action	Date	FR Cite
NPRM	12/15/95	60 FR 64401
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209782-95 (EE-34-95)

Drafting attorney: Betty Clary (202) 622-6070.

Reviewing attorney: Alan Tawshunsky (202) 622-6000.

CC:EBEO

Agency Contact: Betty Clary, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6070

RIN: 1545–AT78

3050. TIMING OF NOTICE AND CONSENT REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provides relief to employers on timing of notice and consent requirements under sections 411(a) and 417.

Timetable:

Action	Date	FR Cite
NPRM	09/22/95	60 FR 49236
NPRM Comment Period End	12/30/95	
Hearing	04/24/96	61 FR 9659
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209626-93 (EE-24-93)

Drafting attorney: Robert Walsh (202) 622-6090.

Reviewing attorney: Marjorie Hoffman (202) 622-6030.

CC:EBEO

Agency Contact: Cathy Vohs, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constituition Ave. NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AU05

3051. CONTINGENT INTEREST UNDER SECTION 2056(B)(7)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 20

Legal Deadline: None

Abstract: This regulation relates to the final estate tax marital deduction regulations that were published on March 1, 1994, in the Federal Register (59 FR 9642). The changes are made to conform the final estate tax regulations to recent court decisions in Estate of Clayton v Commissioner 97 T.C. 327 (1991), rev'd 976 F. 2d 1986 (5th Cir. 1992), Estate of Roberston v Commissioner, 98 T.C. 678 (1992), rev'd 15 F. 3d 779 (8th Cir. 1994), Estate of Spencer v Commissioner, T.C. Memo 1992-579, rev'd, 43 F. 3d 226

(6th Cir. 1995) and Estate of Clack v Commissioner, 106 T.C. 131 (1996).

Timetable:

Action	Date	FR Cite
NPRM	02/18/97	62 FR 7188
Hearing	06/03/97	62 FR 7188
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: REG-209830-96 (PS-23-96)

Drafting attorney: Susan B. Hurwitz (202) 622-3090.

Reviewing attorney: Katherine A. Mellody (202) 622-3090.

Treasury attorney: Beth Kaufman (202) 622-1766.

CC:DOM:P&SI

Agency Contact: Susan Hurwitz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3090
Fax: 202 622-4743

RIN: 1545–AU27

3052. CIVIL CAUSE OF ACTION FOR CERTAIN UNLAWFUL COLLECTION ACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations raise the cap on damages under section 7433 from $100,000 to $1,000,000 and provide that if a taxpayer fails to exhaust the administrative remedies available before the Internal Revenue Service, the court may reduce the award of damages.

Timetable:

Action	Date	FR Cite
NPRM	12/31/97	62 FR 68242
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-251502-96

Drafting attorney: Kevin B. Connelly (202) 622-3630.

Reviewing attorney: Robert A. Miller (202) 622-3640.

CC:EL:GL

Agency Contact: Kevin B. Connelly, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3630

RIN: 1545–AU68

3053. TAX ATTRIBUTE REDUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 108; 26 USC 1017

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: The regulations provide ordering rules for the reduction of bases of property under sections 108 and 1017 of the Internal Revenue Code of 1986. The regulations will affect certain taxpayers that exclude discharge of indebtedness from gross income under section 108.

Timetable:

Action	Date	FR Cite
NPRM	01/07/97	62 FR 955
Hearing	05/29/97	62 FR 12582
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-208172-91

Drafting attorney: Sharon Hall (202) 622-4930.

Reviewing attorney: Christopher F. Kane (202) 622-4930.

Reviewing attorney: Linda Kroening (202) 622-4800.

Treasury attorney: Jim Sowell (202) 622-5721.

CC:DOM:IT&A

Agency Contact: Sharon Hall, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4930
Fax: 202 622-6316

RIN: 1545–AU71

3054. DISCLOSURE OF CERTAIN RETURNS AND RETURN INFORMATION BY OTHER FEDERAL AGENCIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6103

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These temporary regulations relate to the disclosure of certain returns and return information by Federal agencies other than the Service. The amendments would permit the Service to authorize other Federal agencies to which returns and return information have been disclosed to further disclose such return information to other authorized recipients with the Commissioner's authorization.

Timetable:

Action	Date	FR Cite
Temporary Regulations	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: REG-251725-96

Drafting attorney: Julie Schwartz (202) 622-4570.

Reviewing attorney: Joseph J. Urban (202) 622-4570.

Treasury attorney: Chris Rizek (202) 622-1338.

CC:EL:DL

Agency Contact: Julie Schwartz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4570

RIN: 1545–AU84

3055. AGREEMENTS FOR PAYMENT OF TAX LIABILITIES IN INSTALLMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations reflect the amendment of IRC section 6159 section 202 of the Taxpayer Bill of Rights 2, which provides that upon request by a taxpayer the Secretary shall provide an independent review of the termination of an installment agreement.

Timetable:

Action	Date	FR Cite
NPRM	12/31/97	62 FR 68241
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-100841-97

Drafting attorney: Kevin Connelly (202) 622-3630.

Reviewing attorney: Robert Miller (202) 622-3640.

CC:EL:GL

Agency Contact: Kevin Connelly, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3630

RIN: 1545–AU97

3056. RETURN OF PARTNERSHIP INCOME—SECTION 6031

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide guidance regarding partnership returns, to revise exceptions to partnership filing requirement, especially as it applies to foreign partnerships.

Timetable:

Action	Date	FR Cite
NPRM	01/26/98	63 FR 3677
NPRM Comment Period End	04/27/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209322-82

Drafting attorney: Martin Schaffer (202) 622-3080.

Drafting attorney: Christopher Kelley (202) 622-3080.

Reviewing attorney: William O'Shea (202) 622-3070.

Treasury attorney: James Sowell (202) 622-5721.

CC:DOM:P&SI

Agency Contact: Martin Schaffer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3080

RIN: 1545–AU99

3057. DEPOSITS OF EXCISE TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6302

CFR Citation: 26 CFR 40

Legal Deadline: None

Abstract: Amendment of 26 CFR 40.6302(c)-1 to limit availability of safe harbor based on look-back quarter liability in certain cases.

Timetable:

Action	Date	FR Cite
NPRM	12/29/97	62 FR 67589
NPRM Comment Period End	03/30/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-102894-97

Drafting attorney: Ruth Hoffman (202) 622-3130.

Reviewing attorney: Richard Kocak (202) 622-3130.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:P&SI

Agency Contact: Ruth Hoffman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3130

RIN: 1545–AV02

3058. REGULATIONS UNDER SECTIONS 871, 881, AND 894 REGARDING PAYMENTS TO PARTNERSHIPS, AND OTHER TRANSPARENT ARRANGEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 871; 26 USC 881; 26 USC 894

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Guidance for imposing tax liability on foreign persons deriving US source income through partnerships or other transparent arrangements.

Timetable:

Action	Date	FR Cite
NPRM	07/02/97	62 FR 35755
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-104893-97

Drafting attorney: M. Grace Fleeman (202) 622-3880.

Reviewing attorney: Elizabeth Karzon (202) 622-3880.

Treasury attorney: Stuart Leblang (202) 622-1755.

CC:INTL

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Phone: 202 622-3850
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RIN: 1545–AV10

3059. CERTAIN INVESTMENT INCOME—7704

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7704; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provides guidance on the definition of "qualifying income" for purposes of section 7704.

Timetable:

Action	Date	FR Cite
NPRM	12/19/97	62 FR 66575
NPRM Comment Period End	03/19/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-105163-97

Drafting attorney: Terri Belanger (202) 622-3080.

Reviewing attorney: William O'Shea (202) 622-3070.

Treasury attorney: James Sowell (202) 622-5721).

CC:DOM:P&SI

Agency Contact: Terri Belanger, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3080

RIN: 1545–AV15

3060. TREATMENT OF ELECTIVE ENTITY CLASSIFICATION CHANGES—7701

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7701

CFR Citation: 26 CFR 1; 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: This regulation describes the treatment of conversions by election from partnership to corporation and from corporation to partnership.

Timetable:

Action	Date	FR Cite
NPRM	10/28/97	62 FR 55768
NPRM Comment Period End	01/26/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-105162-97

Drafting attorney: Jeff Erickson (202) 622-3080.

Reviewing attorney: William P. O'Shea (202) 622-3070.

Treasury attorney: Jim Sowell (202) 622-0685.

CC:DOM:P&SI

Agency Contact: Jeff Erickson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3070

RIN: 1545–AV16

3061. REMOVAL OF TEMPORARY REGULATIONS THAT PROVIDE RULES FOR SUBSTANTIATING TRAVEL EXPENSE DEDUCTIONS FOR MEMBERS OF CONGRESS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 5

Legal Deadline: None

Abstract: This project will remove temporary income tax regulations section 5e.274-8 (published as TD 7802 in 47 FR 2986). The regulations provide rules for the substantiation of Congress members' travel expenses, and they are currently obsolete.

Timetable:

Action	Date	FR Cite
Temporary Regulations	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-105513-97

Drafting attorney: Edwin B. Cleverdon (202) 622-4920.

Reviewing attorney: Robert A. Berkovsky (202) 622-4920.

Reviewing attorney: Linda Kroening (202) 622-4800.

CC:DOM:IT&A

Agency Contact: Edwin B. Cleverdon, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4920

RIN: 1545–AV55

3062. QUALIFIED LONG-TERM CARE SERVICES AND INSURANCE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 213; 26 USC 7702B

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will provide guidance relating to the excludability from income of proceeds received under a qualified long-term care insurance contract and the deductibility of qualified long-term care expenses.

Timetable:

Action	Date	FR Cite
NPRM	01/02/98	63 FR 35
NPRM Comment Period End	04/02/98	
Hearing	05/13/98	63 FR 35
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-109333-97

Drafting attorney: Katherine A. Hossofsky (202) 622-3970.

Reviewing attorney: Mark Smith (202) 622-3970.

Treasury attorney: William Bortz (202) 622-1352.

CC:DOM:FI&P

Agency Contact: Katherine A. Hossofsky, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3970

RIN: 1545–AV56

3063. KEROSENE TAX; AVIATION FUEL TAX; TAX ON HEAVY TRUCKS AND TRAILERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 4082; 26 USC 4091; 26 USC 6427; 24 USC 4052

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The regulations will describe the kerosene tax and exemptions, credits and refunds relating to the Kerosene tax. The regulations will also describe a special rule for refunds of the aviation fuel tax and a special registration rule for certain sellers of heavy vehicles.

Timetable:

Action	Date	FR Cite
NPRM	07/01/98	63 FR 35893
NPRM Comment Period End	09/29/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-119227-97

Drafting attorney: Frank Boland (202) 622-3130.

Reviewing attorney: Richard Kocak (202) 622-3130.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:P&SI

Agency Contact: Frank Boland, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224

Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AV71

3064. REQUIRED DISTRIBUTIONS FROM QUALIFIED PLANS AND INDIVIDUAL RETIREMENT PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document contains technical changes and clarifications made to the existing proposed regulations relating to the requirements which must be satisfied when a trust is named as a beneficiary under a plan under the proposed regulations as required distributions from qualified plans under section 401(a)(9) of the Code.

Timetable:

Action	Date	FR Cite
NPRM	12/30/97	62 FR 67780
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: REG-209463-82

Drafting attorney: Cheryl Press (202) 622-6030.

Reviewing attorney: Marjorie Hoffman (202) 622-6030.

Treasury attorney: Mark Hamelburg (202) 622-1341.

CC:EBEO

Agency Contact: Cheryl Press, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6030
Fax: 202 622-4631

RIN: 1545–AV82

3065. DISCLOSURE OF RETURN INFORMATION TO THE BUREAU OF THE CENSUS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6103

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Temporary regulations updating the items of return information to be disclosed by Internal Revenue Service personnel to the Bureau of the Census. The text of the temporary regulations also will serve as the text of cross-referenced proposed regulations.

Timetable:

Action	Date	FR Cite
Temporary Regulations	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-121806-97

Drafting attorney: Douglas Giblen (202) 622-4570.

Reviewing attorney: Joe Urban (202) 622-4570.

Treasury attorney: Chris Rizek (202) 622-1338.

CC:EL:D

Agency Contact: Douglas Giblen, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4570
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RIN: 1545–AV83

3066. • TRAVEL AND TOUR ACTIVITY OF TAX-EXEMPT ORGANIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 513

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document contains regulations clarifying when the travel and tour activities of tax-exempt organizations are substantially related to purposes for which exemption was granted.

Timetable:

Action	Date	FR Cite
NPRM	04/23/98	63 FR 20156
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-121268-97

Drafting attorney: Robin Erenberg (202) 622-6080.

Reviewing attorney: Regina Oldak (202) 622-6080.

Treasury attorney: Cathy Livingston (202) 622-1343.

CC:EBEO

Agency Contact: Robin Ehrenberg, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave NW., Washington, DC 20224
Phone: 202 622-6080

RIN: 1545–AW10

3067. • REMOVAL OF REGULATION PROVIDING GUIDANCE UNDER SUBPART F RELATING TO PARTNERSHIPS AND BRANCHES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation removes TD 8767, temporary regulations relating to the treatment under subpart F of certain payments involving branches of a CFC that are treated as separate entities for foreign tax purposes.

Timetable:

Action	Date	FR Cite
Temporary Regulations	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-104537-97

Drafting attorney: Valerie Mark (202) 622-3840.

Reviewing attorney: Phyllis Marcus (202) 622-3840.

Treasury attorney: William Morris (202) 622-1779.

CC:INTL

Agency Contact: Valerie Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AW49

TREAS—IRS

Final Rule Stage

3068. • INCREASE IN CASHOUT LIMIT UNDER SECTIONS 411(A)(7), 411(A)(11), AND 417(E)(1)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Those regulations provide guidance relating to the increase from $3,500 to $5,000 of the limit on the distributions from qualified plans that can be made without participants consent, as amended by the Taxpayer Relief Act of 1997.

Timetable:

Action	Date	FR Cite
Temporary Regulations	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-113694-98

Drafting attorney: Michael Karlan (202) 622-6030.

CC:EBEO

Agency Contact: Micheal J. Karlon, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AW58

DEPARTMENT OF THE TREASURY (TREAS)

Internal Revenue Service (IRS)

Long-Term Actions

3069. RESEARCH AND COMPUTATION OF RESEARCH CREDIT UNDER SECTION 41 OF THE CODE, AFTER 1986, 1989 AND 1993 ACTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 602; 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/02/97	62 FR 81
NPRM Comment Period End	04/22/97	
Hearing	05/13/97	62 FR 81
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Leslie Finlow
Phone: 202 622-3120
Fax: 202 622-4743

RIN: 1545–AO51

3070. THE TREATMENT OF ACCELERATED DEATH BENEFITS UNDER SECTIONS 101, 7702 AND 7702A OF THE INTERNAL REVENUE CODE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59319
NPRM Comment Period End	02/26/93	57 FR 59324
Hearing	03/19/93	57 FR 59324

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ann H. Logan
Phone: 202 622-3970
Fax: 202 622-4451

RIN: 1545–AQ70

3071. • QUALIFIED LESSEE CONSTRUCTION ALLOWANCES FOR SHORT-TERM LEASES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 110

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulation describing the information required to be furnished to the secretary by lessees and lessors involved with construction allowances for short-term leases.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106010-98

Drafting attorney: Paul Handleman (202) 622-3040.

Reviewing attorney: Walter Woo (202) 622-3040.

Treasury attorney: Christine Turgeon (202) 622-0865.

CC:DOM:P&SI

Agency Contact: Paul Handleman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3040
Fax: 202 622-4779

RIN: 1545–AW16

3072. EXCLUSION FROM INCOME OF CERTAIN COST-SHARING PAYMENTS UNDER GOVERNMENT PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/21/81	46 FR 27723
NPRM Comment Period End	07/20/81	
Hearing	12/01/81	46 FR 50808

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: A. Michael Santoro
Phone: 202 622-3120

RIN: 1545–AT73

3073. DEFINITION OF "PRIVATE ACTIVITY BONDS"

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/30/94	59 FR 67658
NPRM Comment Period End	05/01/95	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Rebecca Harrigal

TREAS—IRS

Long-Term Actions

Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AU98

3074. PRIVATE ACTIVITY BOND RULES FOR OUTPUT FACILITIES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/22/98	63 FR 3296
NPRM Comment Period End	04/22/98	
Final Action	01/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Allan B. Seller
Phone: 202 622-3421

RIN: 1545–AV47

3075. EARNINGS STRIPPING PAYMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	06/18/91	56 FR 27907
Hearing	09/25/91	56 FR 27927
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Milton M. Cahn
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AO24

3076. SECTION 5F.163-1(B)(2)

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 5f

Timetable:

Action	Date	FR Cite
NPRM	01/21/93	58 FR 5316
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carl M. Cooper
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AP33

3077. PRODUCTION OF CREATIVE PROPERTY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jan Skelton
Phone: 202 622-4970

RIN: 1545–AQ92

3078. SUBSTANTIATION OF EXPENSES—RECEIPT THRESHOLD

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	03/25/97	62 FR 14051
NPRM Comment Period End	06/23/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donna M. Crisalli
Phone: 202 622-4920
Fax: 202 622-6316

RIN: 1545–AT97

3079. GOLDEN PARACHUTE PAYMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/05/89	54 FR 19390
NPRM Comment Period End	07/05/89	
Hearing	11/21/89	54 FR 39548

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Misner
Phone: 202 622-6060

RIN: 1545–AH49

3080. GUIDANCE IN NOTICE 89-37, WHICH TREATS THE RECEIPT OF A CORPORATE PARTNER'S STOCK BY THE CORPORATE PARTNER AS A CIRCUMVENTION OF GENERAL UTILITIES REPEAL

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59324
NPRM Comment Period End	01/20/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Keith E. Stanley
Phone: 202 622-7530

RIN: 1545–AP52

3081. CORPORATE INVERSION TRANSACTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Kenneth Cohen
Phone: 202 622-7790
Fax: 202 622-6834

RIN: 1545–AS91

3082. INCOME TAX—PART 1—STOCK TRANSFER RULES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	08/26/91	56 FR 41993
NPRM Comment Period End	10/25/91	
Hearing	11/22/91	56 FR 41992
Amendment to NPRM	06/19/98	63 FR 33595
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Philip Tretiak
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AI32

3083. AMENDMENT OF THE INCOME TAX REGULATIONS UNDER SECTION 367 OF THE CODE (TRANSFERS TO FOREIGN CORPORATIONS) TO REFLECT SECTION 131 OF THE TAX REFORM ACT OF 1984 (P.L. 98-369)

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/16/86	51 FR 17990
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Philip Tretiak
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AK74

3084. SECTION 361 OUTBOUND TRANSFERS OF PROPERTY TO FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip Tretiak
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AM97

3085. TREATMENT OF SECTION 355 DISTRIBUTION BY U.S. CORPORATIONS TO FOREIGN PERSONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	08/14/96	61 FR 42217
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip L. Tretiak
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AU22

3086. REGULATIONS UNDER SECTION 382

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	06/27/96	61 FR 33391
NPRM Comment Period End	09/26/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Whedbee
Phone: 202 622-7550
Fax: 202 622-6834

RIN: 1545–AU33

3087. INCOME TAX—DEDUCTION FOR CERTAIN FOREIGN DEFERRED COMPENSATION PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/07/93	58 FR 27219
NPRM Comment Period End	05/07/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robin Ehrenberg
Phone: 202 622-6080

RIN: 1545–AD81

3088. ALLOCATION OF ACCRUED BENEFITS BETWEEN EMPLOYER AND EMPLOYEE CONTRIBUTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/22/95	60 FR 66532
NPRM Comment Period End	03/21/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janet Laufer
Phone: 202 622-6060
Fax: 202 622-4617

RIN: 1545–AT82

3089. REVISING THE DEFINITION OF THE FULL FUNDING LIMITATION FOR PURPOSES OF THE MINIMUM FUNDING REQUIREMENT FOR PENSION PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda Marshall
Phone: 202 622-6030

RIN: 1545–AL53

3090. DEFINITION OF "HIGHLY COMPENSATED EMPLOYEE"

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	02/19/88	53 FR 4999
NPRM Comment Period End	04/19/88	
Partially Closed by TD 8548	06/27/94	59 FR 32911
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Cathy Vohs
Phone: 202 622-6030

RIN: 1545–AQ74

3091. TREATMENT OF FUNDED WELFARE BENEFIT PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	07/03/85	50 FR 27456
NPRM Comment Period End	09/03/85	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janet Laufer
Phone: 202 622-6060

RIN: 1545–AG14

3092. GUIDANCE—INTEREST OTHER THAN OF CREDITOR

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeffrey Erickson
Phone: 202 622-3080

RIN: 1545–AO32

3093. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS—SELF-CHARGED ITEMS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	04/05/91	56 FR 14034
Hearing	09/06/91	56 FR 14040
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Martin Schaffer
Phone: 202 622-3070
Fax: 202 622-4524

RIN: 1545–AN64

3094. MARK-TO-MARKET UPON DISPOSITION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/04/95	60 FR 397
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Williams
Phone: 202 622-3960
Fax: 202 622-4425

RIN: 1545–AS85

3095. TAXATION OF GLOBAL TRADING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
ANPRM	08/28/90	55 FR 35152
NPRM	03/06/98	63 FR 11177
NPRM Comment Period End	06/04/98	
Hearing	07/14/98	63 FR 11177
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ginny Y. Chung
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AP01

3096. INTERCOMPANY TRANSFER PRICING FOR SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lisa G. Sams
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AR32

3097. SECTION 501(C)(4) REGULATION CHANGES REGARDING TAXPAYER BILL OF RIGHTS 2

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Cynthia Morton
Phone: 202 622-6070

RIN: 1545–AV57

3098. APPLICATION OF ATTRIBUTION RULES TO FOREIGN TRUSTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth G. Beck
Phone: 202 622-3880
Fax: 202 622-4408

RIN: 1545–AU91

3099. INBOUND GRANTOR TRUSTS WITH FOREIGN GRANTORS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	06/05/97	62 FR 30785
NPRM Comment Period End	08/04/97	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: M. Grace Fleeman
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AU90

3100. SECTION 736—LLC MEMBERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Terri A. Belanger
Phone: 202 622-3080

RIN: 1545–AT31

3101. FOREIGN INSURANCE COMPANIES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roger Brown
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AL82

3102. EXTENSION OF TIME FOR REAL ESTATE MORTGAGE INVESTMENT CONDUITS TO PROVIDE REPORTING INFORMATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	09/30/91	56 FR 49525
Hearing	12/05/91	56 FR 49526
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth P. Christman
Phone: 202 622-3950
Fax: 202 622-4425

RIN: 1545–AP73

3103. FASIT-CONSOLIDATED GROUPS/TRANSITIONAL START-UP

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301; 26 CFR 1

Timetable:

Action	Date	FR Cite
ANPRM	11/04/96	61 FR 56648
ANPRM Comment Period End	12/31/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David L. Meyer
Phone: 202 622-3960
Fax: 202 622-4451

RIN: 1545–AU94

3104. FRINGE BENEFIT SOURCING UNDER SECTION 861

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Bergkuist
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AO72

3105. CHARITABLE CONTRIBUTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	03/12/91	56 FR 10395
Hearing	08/01/91	56 FR 23823
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carl M. Cooper
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Fax: 202 622-4476

RIN: 1545–AP30

3106. TRANSPORTATION INCOME SOURCE RULES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia A. Bray
Phone: 202 622-3880
Fax: 202 622-4408

RIN: 1545–AJ68

3107. SOURCE RULES FOR PAYMENTS MADE PURSUANT TO CERTAIN SWAP ARRANGEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Milton Cahn
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AU89

3108. TREATMENT OF RELATED PERSON FACTORING INCOME; CERTAIN INVESTMENTS IN UNITED STATES PROPERTY; AND STOCK REDEMPTIONS THROUGH RELATED CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	06/14/88	53 FR 22186
NPRM Comment Period End	08/15/88	
Hearing	02/09/89	53 FR 49895
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jeffrey L. Vinnik
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AH85

3109. ALLOCATION AND APPORTIONMENT OF INTEREST EXPENSE AND CERTAIN OTHER EXPENSES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	03/12/91	56 FR 10397
Hearing	06/21/91	56 FR 21640
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David F. Bergkuist
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AM20

3110. INTEGRATED FINANCIAL TRANSACTION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roger Brown
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AR20

3111. • STOCKS AND SECURITIES SAFE HARBOR EXCEPTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulatory action will amend 26 CFR 1 to clarify and update the safe harbor that one is not engaged in a trade or business as a result of trading in stocks and securities. The amendment will provide additional guidance regarding the definitions of stocks and securities.

Timetable:

Action	Date	FR Cite
NPRM	06/12/98	63 FR 32164
Hearing	09/09/98	63 FR 32164
NPRM Comment Period End	09/10/98	63 FR 32164
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106031-98

Drafting attorney: Milton Cahn (202) 622-3870.

Reviewing attorney: Paul Epstein (202) 622-3870.

Treasury attorney: Je Young Baik (202) 622-1773.

CC:INTL

Agency Contact: Milton Cahn, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870

RIN: 1545–AW13

3112. SOURCE RULES FOR PERSONAL PROPERTY SALES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Seth B. Goldstein
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AJ83

3113. ALLOCATION OF LOSS ON DISPOSITION OF STOCK

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	07/08/96	61 FR 35696
NPRM Comment Period End	10/07/96	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Seth Goldstein
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AT41

3114. • ALLOCATION OF LOSS ON DISPOSITION OF PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 865(j)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules for the allocation of loss on the sale of personal property other than stock.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106905-98

Drafting attorney: Seth Goldstein (202) 622-3810.

Reviewing attorney: Barbara Felker (202) 622-3850.

Treasury attorney: Je Young Baik (202) 622-1773.

CC:INTL

Agency Contact: Seth Goldstein, Technical Advisor to Assistant Chief Counsel, (International), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3810

RIN: 1545–AW09

3115. PROPOSED REGULATION UNDER SECTIONS 882 AND 884

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Howard Wiener
Phone: 202 622-3870

Fax: 202 622-4476

RIN: 1545–AT96

3116. INCOME OF FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	06/27/88	53 FR 24100
NPRM Comment Period End	08/26/88	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David A. Juster
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AL93

3117. NONRECOGNITION OF CORPORATE DISTRIBUTIONS AND REORGANIZATIONS UNDER THE FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/05/88	53 FR 16233
Hearing	03/01/89	54 FR 1189
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rogert Lorence
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AK79

3118. CONFORMING TAXABLE YEARS OF CFCS AND FPHCS: 1989 CHANGE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/05/93	58 FR 290
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeffrey Vinnik
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AO22

3119. FOREIGN TAX CREDIT ANTI-ABUSE REGULATION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rebecca I. Rosenberg
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AV97

3120. CLARIFICATION OF TREATMENT OF SEPARATE LIMITATION LOSSES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joan Thomsen
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AM11

3121. APPLICATION OF SECTION 904 TO INCOME SUBJECT TO SEPARATE LIMITATIONS AND SECTION 864(E) AFFILIATED GROUP EXPENSE ALLOCATION RULES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/14/92	57 FR 20660
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Seth B. Goldstein
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AQ43

3122. FSC TRANSFER PRICING RULES, DISTRIBUTIONS, DIVIDENDS RECEIVED, DEDUCTION, AND OTHER SPECIAL RULES FOR FSC

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	03/03/87	52 FR 6467
NPRM Comment Period End	05/02/87	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth G. Beck
Phone: 202 622-3880
Fax: 202 622-4408

RIN: 1545–AI16

3123. SOURCE AND GROUPING RULES FOR FOREIGN SALES CORPORATION TRANSFER PRICING

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	03/03/98	63 FR 10351
NPRM Comment Period End	06/01/98	
Hearing	06/24/98	63 FR 10361
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth G. Beck
Phone: 202 622-3880
Fax: 202 622-4408

RIN: 1545–AV90

3124. • SOURCING RULES FOR FOREIGN SALES CORPORATION TRANSFER PRICING

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 927(e)(1)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides rules to clarify the special sourcing rules under section 927(e)(1) for corporations that have elected to be treated as foreign sales corporations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-108618-98

Drafting attorney: Elizabeth Beck (202) 622-3880.

Reviewing attorney: Steven Muscher (202) 622-3880.

Treasury attorney: Ann Fisher (202) 622-1755.

CC:INTL

Agency Contact: Elizabeth Beck, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4408

RIN: 1545–AW11

3125. • SOURCING RULES FOR FOREIGN SALES CORPORATION TRANSFER PRICING

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 927(e)(1)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides rules to clarify the special sourcing rules under section 927(e)(1) for corporations that have elected to be treated as foreign sales corporation.

Timetable:

Action	Date	FR Cite
Temporary Regulations	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-108618-98

Drafting attorney: Elizabeth Beck (202) 622-3880.

Reviewing attorney: Steven Musher (202) 622-3880.

Treasury attorney: Ann Fisher (202) 622-1755.

CC:INTL

Agency Contact: Elizabeth Beck, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4408

RIN: 1545–AW12

3126. INCOME TAX—DEFINITION OF QUALIFIED POSSESSION SOURCE INVESTMENT INCOME FOR PURPOSES OF PUERTO RICO AND POSSESSION TAX CREDIT

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/21/86	51 FR 2726

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: W. Edward Williams
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AC10

3127. CBI INVESTMENTS OF SECTION 936 FUNDS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/13/91	56 FR 21963
Hearing	07/12/91	56 FR 21963

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: W. Edward Williams
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AM91

3128. INSURANCE INCOME

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	04/17/91	56 FR 15540
Hearing	06/21/91	56 FR 15570

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Valerie A. Mark
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AJ70

3129. FOREIGN INSURANCE COMPANY—DOMESTIC ELECTION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Valerie A. Mark
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AO25

3130. GUIDANCE UNDER SUBPART F RELATING TO PARTNERSHIPS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	03/26/98	63 FR 14669

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Valerie Mark
Phone: 202 622-3840
Fax: 202 622-4408

RIN: 1545–AV11

3131. EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/25/90	55 FR 2535
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anne Devereaux
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AM90

3132. USE OF GAAP EARNINGS AS E&P OF FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	07/01/92	57 FR 29246
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Anne Devereaux
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AQ55

3133. COMPUTATION OF A BRANCH'S TAXABLE INCOME; TAXATION OF EXCHANGE GAIN OR LOSS ON BRANCH REMITTANCES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48457
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Howard Wiener
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AM12

3134. MARK-TO-MARKET METHOD OF ACCOUNTING UNDER SECTION 988

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	03/17/92	57 FR 9217
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Roger Brown
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AP78

3135. • SECTION 988—CONTINGENT DEBT INSTRUMENT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 988

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will prescribe the tax treatment of section 988 debt instruments that provide for contingent payments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106486-98

Drafting attorney: Howard Wiener (202) 622-3870.

Reviewing attorney: Jeffrey Dorfman (202) 622-3870.

Treasury attorney: Je Young Baik (202) 622-1773.

CC:INTL

Agency Contact: Howard Weiner, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870

RIN: 1545–AW33

3136. INCOME TAX—TAX REFORM ACT OF 1984 RELATING TO INTEREST CHARGE DISCS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	02/02/87	52 FR 3256
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Bergkuist
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AG71

3137. EQUITY OPTIONS WITHOUT STANDARD TERMS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	06/25/98	63 FR 34616
NPRM Comment Period End	09/23/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Pamela Lew
Phone: 202 622-3950
Fax: 202 622-4425

RIN: 1545–AV48

3138. GENERAL RULES FOR MAKING AND MAINTAINING QUALIFIED ELECTING FUND ELECTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/02/98	63 FR 39
NPRM Comment Period End	04/02/98	63 FR 41
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margaret Fung
Phone: 202 622-3880

RIN: 1545–AV39

3139. PASSIVE FOREIGN INVESTMENT COMPANIES—SPECIAL RULES FOR FOREIGN BANKS AND SECURITIES DEALERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	04/28/95	60 FR 20922
Hearing	09/11/95	60 FR 39902
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Margaret Fung
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AS46

3140. S CORPORATION SUBSIDIARIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

CFR Citation: 26 CFR 601

Timetable:

Action	Date	FR Cite
NPRM	04/21/98	63 FR 19864
NPRM Comment Period End	07/21/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Deanna Walton
Phone: 202 622-3050
Fax: 202 622-4524

RIN: 1545–AU77

3141. QUALIFIED ZONE ACADEMY BONDS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/07/98	63 FR 707
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: Timothy Jones
Phone: 202 622-3980

RIN: 1545–AV75

3142. REGULATIONS UNDER SECTION 1441 REGARDING THE ELECTRONIC TRANSMISSION OF WITHHOLDING CERTIFICATES

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	10/14/97	62 FR 53504
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lilo Hester
Phone: 202 622-3840
Fax: 202 622-4408

RIN: 1545–AV27

3143. REGULATIONS UNDER SECTION 1441 REGARDING WITHHOLDING ON SALES OF DEBT OBLIGATIONS BETWEEN INTEREST PAYMENT DATES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	10/14/97	62 FR 53503
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lilo Hester
Phone: 202 622-3840

RIN: 1545–AV41

3144. • FINAL 1441 REGULATION—TECHNICAL CORRECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1441

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Technical corrections to TD 8734.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-112552-98

Drafting attorney: Lilo Hester (202) 622-3840.

Reviewing attorney: Philip Garlett (202) 622-3840.

Treasury attorney: Philip West (202) 622-1762.

CC:INTL

Agency Contact: Lilo Hester, Attorney-Adviser, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 522-4476

RIN: 1545–AW39

3145. WITHHOLDING TAX ON PAYMENTS FROM PARTNERSHIPS TO FOREIGN PARTNERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jeffrey Vinnik
Phone: 202 622-3840
Fax: 202 622-4408

RIN: 1545–AL32

3146. CONSOLIDATED ALTERNATIVE MINIMUM TAX

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/30/92	57 FR 62251
NPRM Comment Period End	03/01/93	
Hearing	04/06/93	57 FR 62251
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Martin Scully
Phone: 202 622-4960

RIN: 1545–AN73

3147. REGULATIONS UNDER SECTION 1502

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	06/27/96	61 FR 33395
NPRM Comment Period End	09/26/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Whedbee
Phone: 202 622-7550
Fax: 202 622-6834

RIN: 1545–AU32

3148. CONSIDERATION OF REPEAL OF OLD 1.1502-13

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeffrey L. Vogel
Phone: 202 622-7770
Fax: 202 622-6834

RIN: 1545–AV54

3149. • CONSOLIDATED OVERALL FOREIGN LOSS AND SEPARATE LIMITATION LOSS ACCOUNTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1502; 26 USC 904(f)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance on the computation of section 904(f) overall foreign loss accounts and separate limitation loss accounts and the apportionment of there accounts to members leaving a consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106902-98

Drafting attorney: Seth Goldstein (202) 622-3810.

Reviewing attorney: Jack Feldman (202) 622-3810.

Treasury attorney: William Morris (202) 622-1779.

CC:INTL

Agency Contact: Seth Goldstein, Technical Advisor to the Assistant Chief, Counsel (International), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3810

RIN: 1545–AW08

3150. APPLICATIONS OF SECTION 1503(D) TO PARTNERSHIPS AND OTHER ITEMS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth Allison
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Fax: 202 622-4476

RIN: 1545–AR26

3151. VALUATION OF CERTAIN FARM, REAL PROPERTY, ETC

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 20; 26 CFR 25

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Deborah Ryan
Phone: 202 622-3090
Fax: 202 622-4524

RIN: 1545–AT66

3152. TREATMENT OF REAL ESTATE AGENTS AND DIRECT SELLERS AS NONEMPLOYEES FOR EMPLOYMENT TAX PURPOSES—REPORTING REQUIREMENTS WITH RESPECT TO DIRECT SELLERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 31

Timetable:

Action	Date	FR Cite
NPRM	01/07/86	51 FR 619
NPRM Comment Period End	03/10/86	
Hearing	06/18/86	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Alfred Kelley
Phone: 202 622-6040
Fax: 202 622-4631

RIN: 1545–AE62

3153. LUXURY TAX REGULATIONS—REVENUE RECONSIDERATION ACT OF 1990

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 48

Timetable:

Action	Date	FR Cite
NPRM	01/02/91	56 FR 36
NPRM Comment Period End	03/04/91	
Hearing	04/29/91	56 FR 11979
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bernard H. Weberman
Phone: 202 622-3667
Fax: 202 622-4537

RIN: 1545–AP24

3154. APPLICATION OF GRANTOR TRUST RULES TO NONEXEMPT EMPLOYEES' TRUST

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	09/27/96	61 FR 50778
NPRM Comment Period End	12/26/96	
Hearing	01/15/97	61 FR 50778
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James A. Quinn
Phone: 202 622-3060
Fax: 202 622-4513

RIN: 1545–AU29

3155. DIESEL FUEL EXCISE TAX; DYE INJECTION SYSTEMS AND MARKERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 48

Timetable:

Action	Date	FR Cite
NPRM	03/14/96	61 FR 10490
NPRM Comment Period End	06/12/96	
Hearing	06/20/96	61 FR 10490
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Frank K. Boland
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AT18

3156. INFORMATION REPORTING AND RECORD MAINTENANCE UNDER SECTION 6038C

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Ginny Y. Chung
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AP10

3157. INFORMATION FROM PASSPORT AND IMMIGRATION APPLICANTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Timetable:

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61373
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ricardo A. Cadenas
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AJ93

3158. 6046A—RETURNS AS TO INTERESTS IN FOREIGN PARTNERSHIPS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher Kelley
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AK75

3159. SECTION 6048 REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Allison Wielobob
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AR25

3160. INTEREST-FREE ADJUSTMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 31

Timetable:

Action	Date	FR Cite
NPRM	12/10/92	57 FR 58423
NPRM Comment Period End	02/08/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karin Loverud
Phone: 202 622-6060

RIN: 1545–AQ61

3161. RAILROAD UNEMPLOYMENT REPAYMENT TAX

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 31

Timetable:

Action	Date	FR Cite
NPRM	05/13/93	58 FR 28374
NPRM Comment Period End	07/12/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jean Casey
Phone: 202 622-6060

RIN: 1545–AN40

3162. • FEDERAL EMPLOYMENT TAX DEPOSITS DE MINIMIS RULE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6302(a)

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: Increase the de minimis deposit threshold in section 31.6302-1 (f)(4) from $500 to $1,000 per return period.

Timetable:

Action	Date	FR Cite
NPRM	06/16/98	63 FR 32774
NPRM Comment Period End	09/14/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: REG-110403-98

Drafting attorney: Vincent Surabian (202) 622-4940.

Reviewing attorney: Linda Kroening (202) 622-4800.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:IT&A

Agency Contact: Vincent Surabian, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AW28

3163. SPECIAL RULES FOR S CORPS UNDER SECTION 301.7701(B)-7

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301; 26 CFR 602

Timetable:

Action	Date	FR Cite
NPRM	04/27/92	57 FR 15272
NPRM Comment Period End	06/26/92	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David A. Juster
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AS88

3164. EXTENSION OF STATUTE OF LIMITATIONS IN JOHN DOE SUMMONS DISPUTES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerome D. Sekula
Phone: 202 622-3610

RIN: 1545–AM67

3165. SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS DURING PROCEEDING TO ENFORCE DESIGNATED SUMMONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jerome D. Sekula
Phone: 202 622-3610

RIN: 1545–AQ01

3166. STRADDLES—MISCELLANEOUS ISSUES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/02/95	60 FR 21482

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Williams
Phone: 202 622-3960
Fax: 202 622-4425

RIN: 1545–AT46

3167. EFFECT OF THE FAMILY AND MEDICAL LEAVE ACT ON THE OPERATION OF CAFETERIA PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/21/95	60 FR 66229

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharon Cohen
Phone: 202 622-6080
Fax: 202 622-3912

RIN: 1545–AT47

3168. AMORTIZATION-GOODWILL INTANGIBLES 197

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	03/15/94	59 FR 11957

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Huffman
Phone: 202 622-3110

RIN: 1545–AT70

3169. RELIEF FROM DISQUALIFICATION FOR PLANS ACCEPTING ROLLOVERS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	09/19/96	61 FR 49279
NPRM Comment Period End	12/18/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Pamela R. Kinard
Phone: 202 622-6030

RIN: 1545–AU46

3170. RECOMPUTATION OF LIFE INSURANCE RESERVES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/02/97	62 FR 71

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann Cammack
Phone: 202 622-3970
Fax: 202 622-4451

RIN: 1545–AU49

3171. TREATMENT OF CONDUIT FINANCING USING FAST PAY PREFERRED STOCK

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jonathan Zelnik
Phone: 202 622-3940
Fax: 202 622-4425

RIN: 1545–AV07

3172. TAXPAYER IDENTIFICATION NUMBERS (TINS) FOR ADOPTED CHILDREN

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Timetable:

Action	Date	FR Cite
NPRM	11/24/97	62 FR 62538

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Michael L. Gompertz
Phone: 202 622-4910

RIN: 1545–AV08

3173. REMEDIAL AMENDMENT PERIOD

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	08/01/97	62 FR 41322
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Linda S. F. Marshall
Phone: 202 622-6030

RIN: 1545–AV22

3174. ELECTRONIC TIP REPORTING

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 31

Timetable:

Action	Date	FR Cite
NPRM	01/26/98	63 FR 3680
NPRM Comment Period End	04/27/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karin Loverud
Phone: 202 622-6060

RIN: 1545–AV28

3175. TAXPAYER BILL OF RIGHTS 2 CHANGES TO SECTION 7805(B)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cheryl Peterson
Phone: 202 622-7790
Fax: 202 622-6834

RIN: 1545–AV42

3176. EITC RECERTIFICATION REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	06/25/98	63 FR 34615
NPRM Comment Period End	09/23/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karin Loverud
Phone: 202 622-6060

RIN: 1545–AV61

3177. CONTINUITY OF INTEREST

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/23/98	63 FR 4204
NPRM Comment Period End	05/05/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Phoebe Bennett
Phone: 202 622-7750
Fax: 202 622-6834

RIN: 1545–AV81

3178. • TRANSPORTATION OF PERSONS AND PROPERTY BY AIR—SECTIONS 4261 AND 4271

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 721

CFR Citation: 26 CFR 49

Legal Deadline: None

Abstract: Guidance concerning the excise taxes imposed on the amounts paid for the transportation of persons and property by air.

Timetable:

Action	Date	FR Cite
Temporary Regulations	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106167-98

Drafting attorney: Patrick Kirwan (202) 622-3130.

Reviewing attorney: Richard Kocak (202) 622-3130.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:P&SI

Agency Contact: Patrick S. Kirwan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3130

RIN: 1545–AW18

3179. • TRANSPORTATION OF PERSONS AND PROPERTY BY AIR—SECTIONS 4261 AND 4271

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 721

CFR Citation: 26 CFR 49

Legal Deadline: None

Abstract: Guidance concerning the excise taxes imposed on the amounts paid for the transportation of persons and property by air.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106167-98

Drafting attorney: Patrick Kirwan (202) 622-3130.

Reviewing attorney: Richard Kocak (202) 622-3130.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:P&SI

Agency Contact: Patrick S. Kirwan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3130

RIN: 1545–AW19

3180. • ESTATE TAX DEDUCTION FOR QUALIFIED FAMILY-OWNED BUSINESS INTERESTS (QFBI)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations will address the estate deduction for certain qualified family-owned business interests.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106430-98

Drafting attorney: Melissa Liquerman (202) 622-3120.

Reviewing attorney: Christine Ellison ()202) 622-3120.

Treasury attorney: Beth Kaufman (202) 622-1766.

CC:DOM:P&SI

Agency Contact: Melissa Liquerman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3120

RIN: 1545–AW21

3181. • GUIDANCE UNDER SUBPART F RELATING TO CERTAIN HYBRID TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide guidance on the treatment under subpart F of certain payments involving branches of a CFC that are treated as separate entities for foreign tax purposes or partnerships in which CFCs are partners.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-113909-98

Drafting attorney: Valerie Mark (202) 622-3840.

Reviewing attorney: Phyllis Marcus (202) 622-3840.

Treasury attorney: Will Morris (202) 622-1779.

CC:INTL

Agency Contact: Valerie Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AW63

3182. • RELIEF FROM JOINT AND SEVERAL LIABILITY ON JOINT RETURN

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 26 USC 6015

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document will provide procedures as are necessary to carry out the provisions of section 6015 including (1) methods for allocation of items other than the methods under section 6015(d)(3) and (2) providing the opportunity for an individual to have notice of, and an opportunity to participate in, any administrative proceeding with respect to an election made under section 6015(b) or section 6015(c), by the other individual filing the joint return.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Additional Information: REG-106446-98

Drafting attorney: Bridget Finkenaur (202) 622-7606.

Reviewing attorney: Judith Wall (202) 622-4940.

Treasury attorney: Chris Rizek (202) 622-1338.

CC:DOM:IT&A

Agency Contact: Bridget E. Finkenaur, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AW64

3183. • INFORMATION REPORTING REQUIREMENTS OF INTEREST RECEIVED ON EDUCATION LOANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6050s

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: The regulations related to the requirements for filing information returns for interest received on qualified education loans. The regulations prescribe magnetic media filing requirements for these information returns.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-105316-98

Drafting Tax Law Specialist: John J. McGreevy (202) 622-4910.

Reviewing attorney: John M. Coulter (202) 622-4910.

CC:DOM:IT&A

Agency Contact: John J. McGreevy, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4910
Fax: 202 622-6316

RIN: 1545–AW67

3184. • ELECTION TO TREAT TRUST AS ESTATE—SECTION 645

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 645; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance regarding the operation of section 646.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106542-98

Drafting attorney: Eliana Dolgoff (202) 622-3060.

Reviewing attorney: Arthur Ernst (202) 622-3060.

Treasury attorney: Beth Kaufman (202) 622-1766.

CC:DOM:P&SI

Agency Contact: Eliana Dolgoff, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3060

RIN: 1545–AW24

3185. TAXPAYER ASSISTANCE ORDERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Robert Miller
Phone: 202 622-3640

RIN: 1545–AU01

3186. REGULATIONS ON INCOME TAX UNDER THE TAX REFORM ACT OF 1984, RELATING TO BELOW-MARKET LOANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	08/20/85	50 FR 33553
NPRM Comment Period End	10/20/85	
Hearing	01/09/86	50 FR 46460
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David B. Silber
Phone: 202 622-3930
Fax: 202 622-4425

RIN: 1545–AH72

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Completed Actions

3187. FOREIGN TAXPAYERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	01/31/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeffery G. Mitchell
Phone: 202 622-4970

RIN: 1545–AQ93

3188. TRANSFERS OF STOCK OR SECURITIES BY U.S. PERSONS TO FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8770	06/19/98	63 FR 33550

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip Tretiak
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AP81

3189. WITHDRAWAL OF PROPOSED REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn	08/26/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Basso
Phone: 202 622-4940

RIN: 1545–AV35

3190. VALUATION OF PLAN DISTRIBUTION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8768	04/07/98	63 FR 16895

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda Marshall
Phone: 202 622-6030

RIN: 1545–AT27

3191. SOURCE AND GROUPING RULES FOR FOREIGN SALES CORPORATION TRANSFER PRICING

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8764	03/03/98	63 FR 10305

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth G. Beck
Phone: 202 622-3880
Fax: 202 622-4408

RIN: 1545–AV91

3192. • GUIDANCE UNDER SUBPART S RELATING TO PARTNERSHIPS AND BRANCHES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance under subpart F relating to the treatment of fiscally transparent entities.

Timetable:

Action	Date	FR Cite
Final Action - TD 8767	03/26/98	63 FR 14613

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-104537-97

Drafting attorney: Valerie Mark (202) 622-3840.

CC:INTL

Agency Contact: Valerie Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4408

RIN: 1545–AW07

3193. RULES FOR A QBU CHANGING FROM THE PROFIT-AND-LOSS METHOD TO DASTM

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8765	03/05/98	63 FR 10772

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Howard Wiener
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AR28

3194. CHANGE FROM THE DOLLAR APPROXIMATE SEPARATE TRANSACTIONS METHOD (DASTM) TO THE PROFIT-AND-LOSS METHOD OF ACCOUNTING

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8765	03/05/98	63 FR 10772

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Howard Wiener
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AS68

3195. • CONVERSION TO THE EURO

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance to taxpayer regarding the change of certain European Counties' occurrences to the Euro.

Timetable:

Action	Date	FR Cite
Final Action - TD 8776	07/29/98	63 FR 40366

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-110332-98

Drafting attorney: Howard Weiner (202) 622-3870.

Reviewing attorney: Jeffrey Dorfman (202) 622-3870.

Treasury attorney: Je Young Baik (202) 622-1773.

CC:INTL

Agency Contact: Howard Weiner, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870

RIN: 1545–AW34

3196. QEF SHAREHOLDER ELECTION - SPECIAL PREFERRED STOCK ELECTION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	04/23/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margaret Fung
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AM41

3197. CONSOLIDATED RETURNS—LIMITATIONS ON THE USE OF CERTAIN LOSSES AND CREDITS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 602

Completed:

Reason	Date	FR Cite
Final Action - TD 8766	03/16/98	63 FR 12641

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roy Hirschhorn
Phone: 202 622-7770
Fax: 202 622-6834

RIN: 1545–AV98

3198. COMMUNICATIONS TAX ISSUES

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

CFR Citation: 26 CFR 49

Completed:

Reason	Date	FR Cite
Closed without regulations	02/05/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bernard H. Weberman
Phone: 202 622-3667
Fax: 202 622-4537

RIN: 1545–AU86

3199. ELECTING LARGE PARTNERSHIP ITEMS AND ADJUSTMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Closed without regulations	04/03/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Honigman
Phone: 202 622-3050

RIN: 1545–AV76

3200. ELECTING LARGE PARTNERSHIP ITEMS AND ADJUSTMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Closed without regulations	04/03/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Honigman
Phone: 202 622-3050

RIN: 1545–AV77

3201. • FEDERAL EMPLOYMENT TAX DEPOSITS—DE MINIMIS RULE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6302

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: Increases the de minimis deposit threshold in section 31.6302-1 (f)(4) from $500 to $1,000 per return period.

Timetable:

Action	Date	FR Cite
Final Action - TD 8771	06/16/98	63 FR 32735

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: REG-110403-98

Drafting attorney: Vincent Surabian (202) 622-4940.

Reviewing attorney: Linda Kroening (202) 622-4800.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:IT&A

Agency Contact: Vincent Surabian, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AW29

3202. TECHNICAL CORRECTIONS FOR CHAPTER 14

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 25

Completed:

Reason	Date	FR Cite
Closed without regulations	03/31/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lane Damazo
Phone: 202 622-3090

RIN: 1545–AR49

3203. EXCISE TAX ON HEAVY TRUCKS, TRUCK TRAILERS AND SEMITRAILERS, AND TRACTORS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 48

Completed:

Reason	Date	FR Cite
Closed without regulations	03/31/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bernard H. Weberman
Phone: 202 622-3667
Fax: 202 622-4537

RIN: 1545–AT63

3204. MAGNETIC MEDIA FILING REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301; 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8772	06/30/98	63 FR 35517

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donna Welch
Phone: 202 622-4910

RIN: 1545–AU08

3205. LLC RECOURSE DEBT AND QUALIFIED NONRECOURSE FINANCING

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8777	08/04/98	63 FR 41420

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeffrey A. Erickson
Phone: 202 622-3070

RIN: 1545–AV17

3206. PERMITTED ELIMINATION OF PRE-RETIREMENT OPTIONAL FORMS OF BENEFIT

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 602

Completed:

Reason	Date	FR Cite
Final Action - TD 8769	06/05/98	63 FR 30621

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cheryl Press
Phone: 202 622-6030
Fax: 202 622-4631

RIN: 1545–AV26

TREAS—IRS

Completed Actions

3207. EITC RECERTIFICATION REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action - TD 8773	06/25/98	63 FR 34594

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karin Loverud
Phone: 202 622-6060

RIN: 1545–AV62

3208. ELECTION NOT TO APPLY LOOK-BACK METHOD TO QUALIFIED LONG-TERM CONTRACTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 602

Completed:

Reason	Date	FR Cite
Final Action - TD 8775	07/02/98	63 FR 36180
Final Action Effective	07/02/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Leo F. Nolan II
Phone: 202 622-4960

RIN: 1545–AV79

3209. • KEROSENE TAX; AVIATION FUEL TAX; TAX ON HEAVY TRUCKS AND TRAILERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 4082; 26 USC 4091; 26 USC 4052

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The temporary regulations implement the provisions of the Taxpayer Relief Act of 1997 with regard to kerosene and certain refund claims compensation fuel tax.

Timetable:

Action	Date	FR Cite
Final Action - TD 8774	07/01/98	63 FR 35799
Final Action Effective	07/01/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-119227-97

Drafting attorney: Frank Boland (202) 622-3130.

Reviewing attorney: Dick Kocak (202) 622-3130.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:P&SI

Agency Contact: Frank Boland, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3130

RIN: 1545–AW15

BILLING CODE 4830-01-F

DEPARTMENT OF THE TREASURY (TREAS)
Office of Thrift Supervision (OTS)

Proposed Rule Stage

3210. MANAGEMENT OFFICIAL INTERLOCKS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 3208 to 3208

CFR Citation: 12 CFR 563f

Legal Deadline: None

Abstract: The Federal banking agencies have issued a notice of proposed rulemaking to revise their rules regarding management interlocks to conform them to recent statutory changes, modernize and clarify them, and reduce unnecessary regulatory burden where feasible.

Timetable:

Action	Date	FR Cite
NPRM	08/11/98	63 FR 43052
NPRM Comment Period End	10/13/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Bristol, Senior Attorney, Business Transactions Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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Phone: 202 906-5741

RIN: 1550–AB07

3211. CAPITAL RULES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1835; 12 USC 1848; 12 USC 4808

CFR Citation: 12 CFR 567

Legal Deadline: None

Abstract: OTS currently has underway a number of regulatory amendments to its capital standards for savings associations. These amendments will serve to implement section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRIA), as well as standards such as those of the Financial Accounting Standards Board. CDRIA requires the Federal banking agencies to make their capital rules and other rules more uniform.

These regulatory changes include a recourse rule that would vary the risk-based capital requirement for traded and non-traded positions in securitized asset transactions according to relative risk exposure.

Interagency capital projects are also underway to address (i) leverage capital and risk-based standards for certain loans involving residential properties and investment in mutual funds, (ii) risk-based capital standards for collateralized transactions, and (iii) risk-weight of claims on securities firms.

Timetable:

Action	Date	FR Cite
Claims on Securities Firms		
NPRM	11/00/98	
Collateralized Transactions		
NPRM	08/16/96	(61 FR 42565)
Final Rule	12/00/98	
CDRIA Section 303 Capital Amendments		
NPRM	10/27/97	(62 FR 55686)
NPRM Comment Period End	12/26/97	
Final Rule	12/00/98	
Recourse: Recourse Arrangements and Direct Credit Substitutes		
ANPRM	05/25/94	(59 FR 27116)
NPRM	05/25/94	(59 FR 27116)
NPRM	11/05/97	(62 FR 59944)
NPRM Correction	11/20/97	(62 FR 62234)
NPRM Comment Period End	02/03/98	(62 FR 59944)
NPRM	00/00/00	
Servicing Assets		
NPRM	08/04/97	(62 FR 42006)
NPRM Comment Period End	10/03/97	
Final Rule	08/10/98	(63 FR 42668)
Unrealized Gains on Equity Securities		
NPRM	10/27/97	(62 FR 55682)
NPRM Comment Period End	12/26/97	
Final Rule	09/01/98	(63 FR 46518)

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Additional Agency Contacts: Collateralized Transactions, Servicing Assets, Unrealized Gains on Equity Securities, Risk-weight of Claims on Securities Firms, and CDRIA section 303 Capital Amendments: Vern McKinley, Senior Attorney, Regulations & Legislation Division, (202) 906-6241. Recourse Arrangements and Direct Credit Substitutes: Richard Bennett, Counsel (Banking and Finance), Regulations & Legislation Division, (202) 906-7409.

Agency Contact: Michael D. Solomon, Senior Program Manager for Capital Policy, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5654

RIN: 1550–AB11

TREAS—OTS

Proposed Rule Stage

3212. APPLICATION PROCESSING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 559; 12 USC 1462a; 12 USC 1463; 12 USC 1464

CFR Citation: 12 CFR 516

Legal Deadline: None

Abstract: OTS has taken under consideration the issuance of a notice of proposed rulemaking to revise its regulations setting forth the procedures for savings associations to submit certain applications, notices, and other filings to OTS. OTS will draft the new rule in the "plain English" format, thus making it more understandable and workable for both the public and OTS.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Catherine Shepard, Senior Attorney, Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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Phone: 202 906-5683

RIN: 1550–AB14

3213. • KNOW YOUR CUSTOMER

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 375b; 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1817; 12 USC 1820; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 563

Legal Deadline: None

Abstract: OTS, in conjunction with the other Federal banking agencies, intends to issue regulations requiring savings associations to develop and maintain "know your customer" programs that are designed to reduce the likelihood that they will become unwitting participants in money laundering and other illicit activities of their customers.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry Clark, Senior Manager, Compliance and Trust Programs, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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Christine Harrington, Counsel (Banking and Finance), Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-7957

RIN: 1550–AB15

3214. • TYPES OF OFFICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1828

CFR Citation: 12 CFR 545; 12 CFR 561

Legal Deadline: None

Abstract: OTS has taken under consideration the adoption of a notice of proposed rulemaking to amend its definitions of home, branch and agency office, and the related regulations containing notice or application requirements for relocation or redesignation of offices. These provisions are under review in order to ensure that they meet the modern challenges of how institutions conduct their businesses.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paul Reymann, Policy Analyst, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5645

Raynette Gutrick, Attorney, Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6265

RIN: 1550–AB18

3215. • DIRECTORS AND OFFICERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1817; 12 USC 1820; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 545; 12 CFR 563

Legal Deadline: None

Abstract: OTS has taken under consideration the adoption of a notice of proposed rulemaking to reorganize, revise and streamline its regulations concerning indemnification, savings association boards of directors, compensation, employment contracts, extension of credit to outsiders, conflicts of interest, and corporate opportunity.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Francis E. Raue, Program Analyst, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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Ellen J. Sazzman, Counsel (Banking and Finance), Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-7133

RIN: 1550–AB19

3216. • ASSESSMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462a; 12 USC 1463; 12 USC 1467; 12 USC 1467a

CFR Citation: 12 CFR 502

Legal Deadline: None

Abstract: OTS has issued a notice of proposed rulemaking that would amend its regulations to more equitably impose assessments on savings associations.

Timetable:

Action	Date	FR Cite
NPRM	08/14/98	63 FR 43642
NPRM Comment Period End	10/13/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Eric Hirschhorn, Principal Financial Economist, Research & Analysis, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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Christine Harrington, Counsel (Banking and Finance), Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-7957

RIN: 1550–AB20

3217. • LETTERS OF CREDIT, SURETYSHIP AND GUARANTY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1701j-3; 12 USC 3803; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 545; 12 CFR 560

Legal Deadline: None

Abstract: OTS has issued a notice of proposed rulemaking to amend its regulations to clarify that a Federal savings association may act as guarantor and may issue letters of credit, subject to specified restrictions. The rule would also revise the restrictions on the authority of Federal savings associations to act as surety, and request comment on the existing regulations governing the escrow authority of Federal savings associations.

Timetable:

Action	Date	FR Cite
NPRM	09/18/98	63 FR 49877
NPRM Comment Period End	11/17/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William J. Magrini, Senior Project Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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Phone: 202 906-6265

RIN: 1550–AB21

3218. • NON-DEPOSIT INVESTMENT PRODUCTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1817; 12 USC 1820; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 545; 12 CFR 563

Legal Deadline: None

Abstract: OTS has taken under consideration the issuance of a notice of proposed rulemaking to consolidate, simplify, and update its regulations regarding the sale of non-deposit investment products.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robyn Dennis, Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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Phone: 202 906-6798

RIN: 1550–AB22

3219. • NONDISCRIMINATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 559; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 2810; 12 USC 2901; 15 USC 1691; 42 USC 1981; 42 USC 1982; 42 USC 3601 TO 3619

CFR Citation: 12 CFR 528; 12 CFR 571

Legal Deadline: None

Abstract: OTS has taken under consideration the issuance of a notice of proposed rulemaking that would revise and streamline its nondiscrimination regulations to increase clarity and reduce redundancy.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard Riese, Project Manager, Compliance Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6134

Richard Bennett, Counsel (Banking and Finance), Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-7409

RIN: 1550–AB23

3220. • CONVERSIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 2901; 15 USC 78c; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78w

CFR Citation: 12 CFR 563b

Legal Deadline: None

Abstract: OTS has taken under consideration the issuance of a notice of proposed rulemaking to rewrite its mutual to stock conversion regulations in the "plain English" format.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robyn Dennis, Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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Phone: 202 906-7299

RIN: 1550–AB24

3221. • DUE ON SALE AND USURY PREEMPTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1464; 12 USC 1701j-3; 12 USC 1735f-7a

CFR Citation: 12 CFR 590; 12 CFR 591

Legal Deadline: None

Abstract: OTS has taken under consideration the adoption of a notice of proposed rulemaking to amend 12 CFR parts 590 and 591 to convert them into "plain English."

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William J. Magrini, Senior Project Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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Phone: 202 906-7957

RIN: 1550–AB25

3222. • EXEMPT SAVINGS AND LOAN HOLDING COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468

CFR Citation: 12 CFR 584

TREAS—OTS — Proposed Rule Stage

Legal Deadline: None

Abstract: OTS has taken under consideration the adoption of a notice of proposed rulemaking that would amend its regulations to clarify the circumstances under which certain multiple savings and loan holding companies are able to engage in the same activities as unitary holding companies.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard L. Little, Senior Counsel (Banking and Finance), Business Transactions Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6447

RIN: 1550–AB26

3223. • CONSUMER CREDIT CLASSIFIED AS A LOSS, SLOW CONSUMER CREDIT AND SLOW LOANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a

CFR Citation: 12 CFR 561

Legal Deadline: None

Abstract: OTS has issued a notice of proposed rulemaking that would remove its regulatory definitions of "consumer credit classified as a loss," "slow consumer credit," and "slow loans." These definitions are not necessary for the interpretation of any OTS regulation and may conflict with proposed guidance recently issued by the Federal Financial Institutions Examination Council.

Timetable:

Action	Date	FR Cite
NPRM	09/25/98	63 FR 51305
NPRM Comment Period End	10/26/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William J. Magrini, Senior Project Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5744

Vern McKinley, Senior Attorney, Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6241

RIN: 1550–AB28

DEPARTMENT OF THE TREASURY (TREAS)
Office of Thrift Supervision (OTS) — Final Rule Stage

3224. CAPITAL DISTRIBUTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1817; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 563

Legal Deadline: None

Abstract: In December 1994, OTS issued a notice of proposed rulemaking to simplify and streamline its capital distributions regulation to reflect the implementation of the system of prompt corrective action established under the Federal Deposit Insurance Corporation Improvement Act of 1991.

In January 1998, OTS issued a second notice of proposed rulemaking in this area to conform OTS's rules to those of the other banking agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/05/94	59 FR 62356
NPRM Comment Period End	02/03/95	
NPRM	01/07/98	63 FR 1044
NPRM Comment Period End	03/09/98	
Final Rule	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Edward J. O'Connell, Project Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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Phone: 202 906-7052

RIN: 1550–AA72

3225. ELECTRONIC OPERATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1828

CFR Citation: 12 CFR 545; 12 CFR 555

Legal Deadline: None

Abstract: OTS has issued a notice of proposed rulemaking to streamline and update its regulations relating to electronic operations. The proposal addresses advances in technology and would permit innovation for the use of emerging technology by Federal savings associations. In addition, a supplemental notice of rulemaking seeking comment on a requirement to file a notice notice with OTS prior to establishing a transactional web site has been issued.

TREAS—OTS — Final Rule Stage

Timetable:

Electronic Operations
ANPRM 04/02/97 (62 FR 15626)
ANPRM Comment Period End 06/02/97
NPRM 10/03/97 (62 FR 51817)
NPRM Comment Period End 12/02/97
Supplemental NPRM (SNPRM) 08/13/98 (63 FR 43327)
SNPRM Comment Period End 09/14/98 (63 FR 43327)
Final Rule 11/00/98

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard Bennett, Counsel (Banking and Finance), Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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Phone: 202 906-5645

RIN: 1550–AB00

3226. FINANCIAL MANAGEMENT POLICIES; DERIVATIVE INSTRUMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 375b; 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1817; 12 USC 1820; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 563

Legal Deadline: None

Abstract: OTS has issued a notice of proposed rulemaking to amend its regulations on forward commitments, futures transactions, and financial options transactions. The rule would replace the existing regulation with a regulation applicable to all derivative instruments.

Timetable:

Action	Date	FR Cite
NPRM	04/23/98	63 FR 20252
NPRM Comment Period End	06/22/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Anthony Cornyn, Director, Risk Management, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5727

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RIN: 1550–AB13

3227. • YEAR 2000 SAFETY AND SOUNDNESS GUIDELINES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1831p-1

CFR Citation: 12 CFR 570

Legal Deadline: None

Abstract: OTS, in conjunction with the other Federal banking agencies, has issued safety and soundness guidelines pursuant to section 39 of the Federal Deposit Insurance Act to address the Year 2000 problem.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/15/98	63 FR 55480
Interim Final Rule Comment Period End	12/14/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jennifer Dickerson, Sr. Manager, Information Systems Examination, Compliance Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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Phone: 202 906-7152

RIN: 1550–AB27

DEPARTMENT OF THE TREASURY (TREAS)
Office of Thrift Supervision (OTS) — Completed Actions

3228. AGENCY DISAPPROVAL OF DIRECTORS AND SENIOR EXECUTIVE OFFICERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 563; 12 CFR 574

Completed:

Reason	Date	FR Cite
Final Action	09/25/98	63 FR 51272
Final Action Effective	09/25/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Frances Augello
Phone: 202 906-6151
Mary Jo Johnson
Phone: 202 906-5739

RIN: 1550–AB10

3229. DISCLOSURES FOR ADJUSTABLE-RATE MORTGAGE LOANS, ADJUSTMENT NOTICES, AND INTEREST-RATE CAPS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or

duplication, or streamline requirements.

CFR Citation: 12 CFR 560

Completed:

Reason	Date	FR Cite
Final Action	07/17/98	63 FR 38461
Final Action Effective	07/17/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Susan P. Miles, Senior Attorney
Phone: 202 906-6798

RIN: 1550–AB12

3230. • TRANSACTIONS WITH AFFILIATES; REVERSE REPURCHASE AGREEMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 375b; 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1817; 12 USC 1820; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 563

Legal Deadline: None

Abstract: OTS has issued a final rule regarding transactions with affiliates. The rule clarifies that reverse repurchase agreements are to be treated, with one limited exception, as loans or other extensions of credit for purposes of section 11(a)(1)(A) of the Home Owners' Loan Act.

Timetable:

Action	Date	FR Cite
NPRM	04/13/98	63 FR 17966
NPRM Comment Period End	06/12/98	
Final Action	08/13/98	63 FR 43292
Final Action Effective	10/01/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Donna Deale, Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-7488

Valerie J. Lithotomos, Counsel (Banking and Finance), Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6439

RIN: 1550–AB16

3231. • CHARTER AND BYLAWS; ONE MEMBER, ONE VOTE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 2901

CFR Citation: 12 CFR 544

Legal Deadline: None

Abstract: OTS has issued a final rule amending its regulations on Federal mutual savings association charters to expand the range of votes a Federal mutual savings association may allow a member to cast on issues requiring action by the members of the association. The current 50 to 1000 votes is increased to 1 to 1000 votes per member.

Timetable:

Action	Date	FR Cite
NPRM	04/14/98	63 FR 18149
NPRM Comment Period End	06/15/98	
Final Action	08/31/98	63 FR 46159
Final Action Effective	08/31/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Diana Garmus, Director, Corporate Activities Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5683

David Permut, Counsel (Banking and Finance), Business Transactions Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-7505

RIN: 1550–AB17

[FR Doc. 98-25579 Filed 11-06-98; 8:45 am]
BILLING CODE 6720-01-F

federal register

Monday
November 9, 1998

Part XVI

Department of Veterans Affairs

Semiannual Regulatory Agenda

DEPARTMENT OF VETERANS AFFAIRS (VA)

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Ch. I

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of Veterans Affairs.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations that the Department of Veterans Affairs (VA) will have under development or review during the 12-month period beginning October 1998. The purpose in publishing the Department's regulatory agenda is to allow all interested persons the opportunity to participate in VA's regulatory planning.

ADDRESSES: Interested persons are invited to comment on the entries listed in the agenda by contacting the individual agency contact listed for each entry or by writing to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Gloria Armstrong at (202) 273-8605.

SUPPLEMENTARY INFORMATION: This document is issued pursuant to Executive Order 12866 "Regulatory Planning and Review" (and implementing guidance) and the Regulatory Flexibility Act, which require that executive agencies semiannually publish in the **Federal Register** an agenda of regulations that VA will have under development or review. For this edition of VA's regulatory agenda, we have concluded that we do not have any regulatory submissions for the October 1998 Regulatory Plan. However, the Agency's Statement of Regulatory Priorities does appear in this issue of the **Federal Register**.

Thomas O. Gessel,

Director, Office of Regulations Management.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3232	Well Grounded Claims/Duty to Assist	2900-AJ44

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3233	Per Diem for Nursing Home Care of Veterans in State Homes	2900-AE87
3234	Exemption From Pharmacy Copay	2900-AJ12
3235	Definition of Adjunct Conditions for Reimbursement Purposes	2900-AJ20
3236	Clothing Allowance	2900-AJ21
3237	Provision of Aids to the Blind	2900-AJ22
3238	Medical Care Collection or Recovery	2900-AJ30
3239	Priorities for State Home Grants for Construction, Acquisition or Renovation	2900-AJ43
3240	Schedule for Rating Disabilities—Digestive System	2900-AF24
3241	Individual Unemployability	2900-AH21
3242	Evidence on File at Date of Death	2900-AH42
3243	Vision	2900-AH43
3244	New Eligibility Criteria for the Montgomery GI Bill—Active Duty, Other Miscellaneous Issues	2900-AI63
3245	New Criteria for Approval of Courses for Educational Assistance Programs	2900-AI67
3246	Veterans Education: Reporting and Recordkeeping Requirements at Flight Schools	2900-AJ23
3247	Dependents Education: Verification of Pursuit and Continued Enrollment	2900-AJ41
3248	Schedule for Rating Disabilities: Disabilities of the Liver	2900-AJ46
3249	Revised Criteria for Monetary Allowance for a Child Born With Spina Bifida Who is a Child of a Vietnam Veteran	2900-AJ51
3250	Purchase Card/Electronic Data Interchange	2900-AI41
3251	Transportation: VAAR Part 847	2900-AI56
3252	Department of Veterans Affairs Acquisition Regulation— Simplified Acquisition Procedures for Health Care Resources	2900-AI71
3253	Contractor Qualifications	2900-AJ05
3254	VA Acquisition Regulations: Simplified Acquisition Procedures	2900-AJ16
3255	VA Acquisition Regulation: Taxes	2900-AJ32
3256	VA Acquisition Regulations Part 819 Small Business and Small Disadvantage Business Concern	2900-AJ36
3257	Universal Product Numbers (UPNS)	2900-AJ45
3258	Headstone and Marker Inscription Policy	2900-AH45
3259	State Cemetery Grants: Aid to States for Establishment, Expansion and Improvement of Veterans Cemeteries	2900-AH46
3260	Eligibility for Burial of Dependent Adult Children of Eligible Veterans	2900-AI95
3261	Use of the Secretary's Authority as Provided by 38 USC 2402(6)	2900-AJ48
3262	Outer Burial Receptacles	2900-AJ49
3263	Release of Information From Department of Veterans Affairs Records	2900-AH98

VA

Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3264	Recognition of Organizations and Accreditation of Representatives	2900-AI93
3265	Entities Authorized To Receive and Distribute Department of Defense Surplus Food	2900-AI82

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3266	CHAMPVA Regulations	2900-AE64
3267	Reconsideration of Denied Claims	2900-AJ03
3268	Medication Prescribing Authority	2900-AJ07
3269	Enrollment and Provisions of Hospital Care and Medical Services	2900-AJ18
3270	Provision of Drugs and Medicines to Certain Veterans in State Nursing Homes	2900-AJ34
3271	Schedule for Rating Disabilities—Diseases of the Ear and Other Sense Organs	2900-AF22
3272	Fibromyalgia	2900-AH05
3273	Service Connection for Dental Conditions for Treatment Purposes	2900-AH41
3274	Veterans Education: Effective Date for the Award of Educational Assistance	2900-AH76
3275	Election of Education Benefits	2900-AH88
3276	Intervertebral Disc Syndrome	2900-AI22
3277	Veterans Education: Advanced Payments & Lump Sum Payments for Educational Assistance	2900-AI31
3278	Reservist Education: Monthly Verification of Enrollment and Other Reports	2900-AI68
3279	Veterans Training: Increase in Rates Payable Under 38 USC Chapter 31	2900-AI74
3280	Amended Criteria for Approval of Flight Training Courses	2900-AI76
3281	Loan Guaranty: Requirements for Interest Rate Reduction Refinancing Loans	2900-AI92
3282	Use of Facilities To Provide Training or Work Experience for Veterans	2900-AJ01
3283	Eligibility Reporting Requirements	2900-AJ09
3284	Minimum Income Annuity	2900-AJ17
3285	Dependents Education: Eligibility and Entitlement Standards	2900-AJ19
3286	Veterans' Benefits Act of 1997	2900-AJ25
3287	National Service Life Insurance	2900-AJ35
3288	Veterans and Dependents Education: Increase in Educational Assistance Rates	2900-AJ37
3289	Reservist Education: Increase in Educational Rates	2900-AJ38
3290	Veterans Education: Effective Date for Discontinuing Educational Assistance	2900-AJ39
3291	Veterans Education: Increased Allowances for the Educational Assistance Test Program	2900-AJ40
3292	Dependents Education: Increase in Educational Assistance Rates	2900-AJ42
3293	Balance Budget Act of 1997	2900-AJ50
3294	Exclusions From Income	2900-AJ52
3295	Reinstatement of Benefits Eligibility Based Upon Terminated Marital Relationships	2900-AJ53
3296	VA Acquisition Regulations Part 801, Legal/Technical Review Requirements	2900-AI96
3297	Sealed Bidding and Competitive Proposals	2900-AI99
3298	VAAR Part 803—Improper Business Practices and Personal Conflict of Interest, and Part 852—Solicitation Provisions in Contract Clauses	2900-AJ06
3299	VA Acquisition Regulations; Part 802, Definition of "Head of Contracting Activity"	2900-AJ26
3300	VA Acquisition Regulation: Title and Reference Updates	2900-AJ29
3301	VA Acquisition Regulations: Part 801, VA Contracting Officer Certification Program	2900-AJ33
3302	VA Acquisition Regulations: Bonds and Insurance	2900-AJ47
3303	Board of Veterans Appeals—Rules of Practice—Attorney Fee Matters	2900-AI98
3304	Delegations of Authority; Federal Tort Claims; Military Personnel and Civilian Employees	2900-AJ31

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3305	Protection of Human Subjects	2900-AJ08
3306	Provision of Drugs and Medicines Prescribed by Non-VA Physicians	2900-AJ24
3307	Advanced Health Care Planning	2900-AJ28

VA

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3308	Loan Guaranty: Title Evidence Requirements and Occupancy Requirements for Conveyance of Properties to VA	2900-AE20
3309	Acceptance of Partial Payments; Indemnification of Default	2900-AE60
3310	Schedule for Rating Disabilities—The Orthopedic System	2900-AE91
3311	Schedule for Rating Disabilities—The Skin	2900-AF00
3312	Schedule for Rating Disabilities—Neurological Conditions and Convulsive Disorders	2900-AF23
3313	Amendments to Training and Rehabilitation Programs	2900-AG00
3314	Revised Definition of Net Value and Revised Criteria for Pre-Foreclosure Debt Waivers	2900-AG20
3315	Delegation of Authority To Provide Relief on Account of Administrative Error	2900-AH19
3316	Medical Evidence That a Disability Has Improved	2900-AH82
3317	Computation of Income	2900-AH94
3318	Child Custody	2900-AI10
3319	Fiduciary Activities; Miscellaneous	2900-AI14
3320	Claims Based on Aggravation of Nonservice-Connected Disability	2900-AI42
3321	Ankylosis and Limitation of Motion of Digits of the Hands	2900-AI44
3322	Revision of Decision	2900-AI64
3323	Diseases Subject to Presumptive Service Connection	2900-AI81
3324	Direct Service Connection (Post-Traumatic Stress Disorder)	2900-AI97
3325	Additional Requirements for Interest Rate Reduction Refinancing Loans	2900-AJ02
3326	Appeals Regulations; Rules of Practice	2900-AE78
3327	Rules of Practice; Hearings	2900-AG07
3328	Rules of Practice: Medical Opinions; Appeal Processing and Submission of Additional Evidence	2900-AG90
3329	Board of Veterans' Appeals: Rules of Practice—Revision of Decisions on Grounds of Clear and Unmistakable Error	2900-AJ15
3330	Nondiscrimination on the Basis of Sex Under Federally Assisted Education Programs and Activities	2900-AB51
3331	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefitting from Federal Financial Assistance	2900-AJ11
3332	Operation of Child Care Centers at VA Facilities	2900-AD48

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3333	Payment for Non-VA Outpatient Office Visits and Payment for Inpatient Non-VA Physician Services	2900-AH66
3334	Informed Consent for Patient Care	2900-AH72
3335	Reporting Health Care Professionals to State Licensing Boards	2900-AI78
3336	Veterans Education; Suspension and Discontinuance of Payments	2900-AF85
3337	Claims Based on Exposure to Ionizing Radiation (Prostate Cancer and Any Other Cancer)	2900-AI00
3338	Cold Injuries	2900-AI46
3339	Veterans Training: Time Limits for Submitting Certifications Under Service Members Occupational Conversion and Training Acts	2900-AI85
3340	Veterans Education: Effective Date for Awards of Educational Assistance to Veterans Who Were Voluntarily Discharged	2900-AI88
3341	Additional Disability or Death Due to Hospital Care, Medical or Surgical Treatment, Examination, or Training and Rehabilitation Services	2900-AJ04
3342	Veterans Education: Increase in Rates Payable for Cooperative Training Under the Montgomery GI Bill - Active Duty	2900-AJ10
3343	VAAR: Commercial Items	2900-AI05
3344	Definitions and Terms for Part 802	2900-AI49
3345	VA Acquisition Regulations: Title Update	2900-AI62
3346	Rules of Practice: Oral Argument in Filing Appellate Briefs	2900-AI18
3347	Rules of Practice: Continuation of Representation Following Death of a Claimant or Appellant	2900-AI87
3348	Fee to Trace Vendors' VA-Issued Checks	2900-AI38
3349	Delegation of Authority for Certain Ethics Matters	2900-AJ27

DEPARTMENT OF VETERANS AFFAIRS (VA)

Prerule Stage

VETERANS BENEFITS ADMINISTRATION

3232. • WELL GROUNDED CLAIMS/DUTY TO ASSIST

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.159

Legal Deadline: None

Abstract: This document clarifies VA's policy regarding what action, if any, VA should take to develop information pertaining to benefit claims in adjudication proceedings when presented with claims that are not well grounded.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset, Jr., Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AJ44

DEPARTMENT OF VETERANS AFFAIRS (VA)

Proposed Rule Stage

VETERANS HEALTH ADMINISTRATION

3233. PER DIEM FOR NURSING HOME CARE OF VETERANS IN STATE HOMES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1741; 38 USC 1742; 38 USC 1743; 38 USC 8131; 38 USC 8132; 38 USC 8133; 38 USC 8134; 38 USC 8135; 38 USC 8136; 38 USC 8137

CFR Citation: 38 CFR 17.190 to 17.222

Legal Deadline: None

Abstract: This document proposes to establish a new part 51 setting forth a mechanism for paying per diem to State homes providing nursing home care to eligible veterans. Under the proposal, VA would pay per diem to a State for providing nursing home care to eligible veterans in a facility if the Under Secretary for Health recognizes the facility as a State home based on a current VA certification that the facility meets the standards set forth in proposed subpart D. This new part would cover material currently in manuals. Also, it should supersede the regulations currently contained in 38 CFR 17.190 through 17.199 that pertain to payment of per diem for nursing home care in State homes. The standards in proposed subpart D are patterned after the standards of the the Department of Health and Human Services that nursing homes must meet to participate in the Medicare and Medicaid programs (see 42 CFR 483). The standards are intended to set forth minimum requirements necessary to ensure that VA pays per diem for eligible veterans only if the State home provide high quality care. The proposed regulations include application and inspection provisions. the Life Safety Code requires updating to the 1993 edition and various other technical and editorial changes need to be made.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: L. Nan Stout, Chief, State Per Diem Program (114), Department of Veterans Affairs, Veterans Health Administration (114B), 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8538
Fax: 202 273-9131

RIN: 2900–AE87

3234. EXEMPTION FROM PHARMACY COPAY

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1521; 38 USC 1721

CFR Citation: 38 CFR 17.96

Legal Deadline: None

Abstract: This action clearly establishes the base pension rate adjustment for number of dependents as the income threshold as a means to determine exemption from medication copayment.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Rhoades, Director, Field Support, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8205
Fax: 202 273-6485
Email: d.rhoades@mail.va.gov

RIN: 2900–AJ12

3235. DEFINITION OF ADJUNCT CONDITIONS FOR REIMBURSEMENT PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1729

CFR Citation: 38 CFR 17.101

Legal Deadline: None

Abstract: To provide a definition of adjunct conditions as it relates to VA's interpretation of provisions regarding authority to seek reimbursement from health insurance carriers for the treatment of nonservice-connected conditions. The definition seeks to establish uniformly that adjunct

VA

Proposed Rule Stage

conditions are nonservice-connected conditions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Howard, Senior Program Analyst, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8198

RIN: 2900–AJ20

3236. CLOTHING ALLOWANCE

Priority: Info./Admin./Other

Legal Authority: 38 USC 1162

CFR Citation: 38 CFR 3.810

Legal Deadline: None

Abstract: The regulatory action needs to be amended to contain specific language that submission of torn, worn, damaged clothing is not a specific condition for approving clothing allowances.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Clements, Acting Chief, Consultant, Prosthetic and Sensory Aids Strategic Healthcare Group, Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8515
Fax: 202 273-9110

RIN: 2900–AJ21

3237. PROVISION OF AIDS TO THE BLIND

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1162; 38 USC 1710; 38 USC 1714(b)

CFR Citation: 38 CFR 3.810

Legal Deadline: None

Abstract: The regulatory action needs to be amended to contain specific language for furnishing aids for the Blind as part of prosthetic services to veterans receiving VA care under the authority of 38 U.S.C. section 1710, as amended by Public Law 104-262 and to those veterans eligible under the authority of 38 U.S.C. 1714(b).

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Clements, Acting Chief, Consultant, Prosthetic and Sensory Aids Strategic Healthcare Group, Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8515
Fax: 202 273-9110

RIN: 2900–AJ22

3238. • MEDICAL CARE COLLECTION OR RECOVERY

Priority: Other Significant

Legal Authority: 38 USC 101; 38 USC 501; 38 USC 1701; 38 USC 1705; 38 USC 1710; 38 USC 1721; 38 USC 1722; 38 USC 1729

CFR Citation: 38 CFR 17.101; 38 CFR 17.102

Legal Deadline: None

Abstract: This document proposes to amend VA's medical regulations concerning collection or recovery by VA for medical care or services provided or furnished to a veteran: For a non-service connected disability for which the veteran is entitled to care (or the payment of expenses of care) under a health-plan contract; For a non-service connected disability incurred incident to the veteran's employment and covered under a worker's compensation law or plan that provides reimbursement or indemnification for such care and services; or for a non-service connected disability incurred as a result of a motor vehicle accident in a State that require automobile accident reparations insurance.

Timetable:

Action	Date	FR Cite
NPRM	10/13/98	63 FR 54756
NPRM Comment Period End	12/14/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Sverha, Medical Care Cost Recovery (174), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8209
Fax: 202 273-6485

RIN: 2900–AJ30

3239. • PRIORITIES FOR STATE HOME GRANTS FOR CONSTRUCTION, ACQUISITION OR RENOVATION

Priority: Other Significant

Legal Authority: 38 USC 501; 38 USC 1721

CFR Citation: 38 CFR 17.216; 38 CFR 17.222

Legal Deadline: None

Abstract: This rule proposes to amend the Department of Veterans Affairs regulations concerning State homes. VA provides funds to States for projects for the construction, acquisition, or renovation of State veterans nursing homes and State veterans domiciliaries. VA also provides funds for projects for renovating existing State veterans hospital facilities provided that the renovations would not expand a State's capacity to furnish hospital care. This advance note of proposed rulemaking requests comments regarding what regulations should be established with respect to the priorities for awarding State home grants for construction, acquisition, or renovation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Kathleen Greve, Chief, State Home Construction Program (114), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8536
Fax: 202 273-9131
Email: kathleen.greve@hg.med.va.gov

RIN: 2900–AJ43

VA

Proposed Rule Stage

VETERANS BENEFITS ADMINISTRATION

3240. SCHEDULE FOR RATING DISABILITIES—DIGESTIVE SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.114

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the digestive system.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20168
ANPRM Comment Period End	07/01/91	
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AF24

3241. INDIVIDUAL UNEMPLOYABILITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.16

Legal Deadline: None

Abstract: This action will amend the Schedule for Rating Disabilities as it addressed the issue of individual unemployability, in order to establish a more objective standard for making unemployability determinations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lorna Weston, Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH21

3242. EVIDENCE ON FILE AT DATE OF DEATH

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.1000

Legal Deadline: None

Abstract: This action will clarify the definition of "medical evidence on file at time of death" (Hayes v. Brown).

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lorna Weston, Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH42

3243. VISION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.75

Legal Deadline: None

Abstract: This action will amend the vision portion of the rating schedule to provide current medical terminology, clarify ambiguous evaluation criteria, and add medical conditions not presently in the rating schedule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH43

3244. NEW ELIGIBILITY CRITERIA FOR THE MONTGOMERY GI BILL—ACTIVE DUTY, OTHER MISCELLANEOUS ISSUES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3002; 38 USC 3011; 38 USC 3012; 38 USC 3018; 38 USC 3018C; 38 USC 3452; 38 USC 3680A; PL 104-275, sec 107

CFR Citation: 38 CFR 21.4135; 38 CFR 21.5021; 38 CFR 21.5058; 38 CFR 21.5130; 38 CFR 21.7020; 38 CFR 21.7042; 38 CFR 21.7045; 38 CFR 21.7050; 38 CFR 21.7520

Legal Deadline: None

Abstract: This proposed rule will implement various provisions of the National Defense Authorization Act for Fiscal Year 1997, and the Veterans Benefits Improvement Act of 1996. It will set forth new eligibility criteria that will allow additional individuals to establish eligibility for educational assistance under the Montgomery GI Bill - Active Duty; make permanent certain provisions concerning the approval of courses leading to alternative teacher certification; and make other modifications for the purpose of clarification.

VA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: William G. Susling, Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
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Email: vaedusvc@patriot.net

RIN: 2900–AI63

3245. NEW CRITERIA FOR APPROVAL OF COURSES FOR EDUCATIONAL ASSISTANCE PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3680A

CFR Citation: 38 CFR 21.4251; 38 CFR 21.4252; 38 CFR 21.4253; 38 CFR 21.7122; 38 CFR 21.7622

Legal Deadline: None

Abstract: This rule will bring various regulations into agreement with the Veterans Benefits Improvements Act of 1996. It will include new criteria for use in approving courses for the educational programs VA administers; it will include new criteria for VA to use in approving enrollments in courses. It will make other changes for the purposes of clarification.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: William G. Susling, Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
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Email: vaedusvc@patriot.net

RIN: 2900–AI67

3246. VETERANS EDUCATION: REPORTING AND RECORDKEEPING REQUIREMENTS AT FLIGHT SCHOOLS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 16136; 38 USC 3002; 38 USC 3034; 38 USC 3202; 38 USC 3241; 38 USC 3452; 38 USC 3471; 38 USC 5101

CFR Citation: 38 CFR 21.4235; 38 CFR 21.4263

Legal Deadline: None

Abstract: Veterans are required by statute to apply for any benefit the Department of Veterans Affairs administers. This proposal will describe the information to be included in an application for educational assistance for the pursuit of flight training. VA believes that in order to comply with various statutory requirements connected with the educational programs VA administers, flight schools with courses approved for VA training will have to keep some records beyond those required by the Federal Aviation Administration. This proposal will state those recordkeeping requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Education Advisor, Veterans Benefits Administration (225c), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
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Email: vaedusvc@patroit,net

RIN: 2900–AJ23

3247. • DEPENDENTS EDUCATION: VERIFICATION OF PURSUIT AND CONTINUED ENROLLMENT

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3680; 38 USC 5113

CFR Citation: 38 CFR 21.4135; 38 CFR 21.4138; 38 CFR 21.4204; 38 CFR 21.5130; 38 CFR 21.5131; 38 CFR 21.5133; 38 CFR 21.5200

Legal Deadline: None

Abstract: VA will propose revising the effective dates of reductions in payments of Survivors' and Dependents' Educational Assistance (DEA) and will propose revising the effective dates of reductions in payment of educational assistance under the Post-Vietnam Era Veterans Educational Assistance Program (VEAP). VA also will propose to remove the requirement that an individual must verify his or her continued enrollment in and pursuit of a program of education leading to a standard college degree before VA will make the monthly payment of educational assistance under either DEA or VEAP.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Education Advisor (225C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
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Email: vaedusvc@patriot.net

RIN: 2900–AJ41

3248. • SCHEDULE FOR RATING DISABILITIES: DISABILITIES OF THE LIVER

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.114

Legal Deadline: None

Abstract: To expedite updating of diagnostic codes and evaluation criteria for liver diseases, particularly hepatitis C.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AJ46

VA

Proposed Rule Stage

3249. • REVISED CRITERIA FOR MONETARY ALLOWANCE FOR A CHILD BORN WITH SPINA BIFIDA WHO IS A CHILD OF A VIETNAM VETERAN

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1805

CFR Citation: 38 CFR 3.814

Legal Deadline: None

Abstract: To revise criteria for evaluation of spina bifida by clarifying them and making the more objective.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AJ51

OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT

3250. PURCHASE CARD/ELECTRONIC DATA INTERCHANGE

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 40 USC 486(c); 42 USC 7254

CFR Citation: 48 CFR 812; 48 CFR 832; 48 CFR 852

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is proposing to amend its acquisition regulations to require contractors to accept the Governmentwide commercial purchase card for payment of goods and/or services valued below the simplified acquisition threshold (SAT) and/or to use electronic data interchange (EDI) for both ordering and billing purposes. Requiring the use of purchase cards and/or EDI will be at the option of the contracting officer, if determined to be in the best interest of the Government.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher (95A), Senior Procurement Analyst, Office of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8819
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Email: donald.kaliher@mail.va.gov

RIN: 2900–AI41

3251. TRANSPORTATION: VAAR PART 847

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 847

Legal Deadline: None

Abstract: This change will update VA Acquisition Regulation chapters 47 and 52 and remove obsolete material.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John A. Corso, Senior Procurement Analyst (95A), Acquisition Policy Team, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
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Email: john.corso@mail.va.gov

RIN: 2900–AI56

3252. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION—SIMPLIFIED ACQUISITION PROCEDURES FOR HEALTH CARE RESOURCES

Priority: Info./Admin./Other

Legal Authority: 38 USC 8153

CFR Citation: 48 CFR 801; 48 CFR 806; 48 CFR 812; 48 CFR 837; 48 CFR 852; 48 CFR 873

Legal Deadline: None

Abstract: Section 301 of Pub. L. 104-262, the Veterans' Health Care Eligibility Reform Act of 1996, authorizes the Secretary of Veterans Affairs to establish simplified acquisition procedures for the purchase of commercial health care services and for the use of medical equipment or space. These acquisition procedures will help maximize the efficiency of the acquisition process and strengthen the medical programs of the Department of Veterans Affairs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Ofc of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
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RIN: 2900–AI71

3253. CONTRACTOR QUALIFICATIONS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing

Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 38 USC 486(c)

CFR Citation: 48 CFR 809

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) proposes to amend VA Acquisition Regulations to update VA debarment and suspension procedures, remove a certification requirement regarding conflict of interest, add a standard provision for use by contracting officers to collect currently required information, update references and titles, delegate authority, reorganize material and delete obsolete material.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Acquisition and Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
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RIN: 2900–AJ05

3254. VA ACQUISITION REGULATIONS: SIMPLIFIED ACQUISITION PROCEDURES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 813; 48 CFR 852; 48 CFR 853

Legal Deadline: None

Abstract: This rule proposes to amend the Department of Veterans Affairs Acquisition Regulation (VAAR) concerning simplified acquisition procedures. It proposes to amend the VAAR to conform to the Federal Acquisition Regulation, to update references and section titles, to reorganize material, and to remove obsolete material. This rule proposes to add a VAAR provision for use by contracting officers when complying with the requirements of FAR 52.102(c)(1) and (c)(2). The rule also proposes to require the use of a FAR provision or a FAR clause when incorporating VAAR provisions or clauses by reference and to provide the Internet addresses where FAR or VAAR provisions and clauses may be accessed electronically.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Donald Kaliher, Senior Procurement Analyst (95A), Acquisition and Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
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RIN: 2900–AJ16

3255. • VA ACQUISITION REGULATION: TAXES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 50 USC 486(c)

CFR Citation: 48 CFR 829

Legal Deadline: None

Abstract: This rule proposes to amend the Department of Veterans Affairs Acquisition Regulation (VAAR) by deleting provisions pertaining to the acquisition of tax-free alcohol products. The provisions proposed for deletion are internal Department of Veterans Affairs (VA) guidance to contracting officers and are not required to be in the Code of Federal Regulations. In addition, the rule proposes to delete procedures and controls prescribed in the VAAR for facilities or institutions owned or controlled by State Governments, territories, and the District of Columbia to obtain tax-free tobacco products for gratuitous distribution to present and former members of the Armed Forces of the United States. VA policy is to not provide tobacco products to VA patients. This proposed change would be an extension of that policy. By deleting these provisions and controls, VA would no longer assist State Governments, territories, and the District of Columbia in obtaining tax-free tobacco products.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Donald Kaliher, Senior Procurement Analyst (95A), Office of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
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RIN: 2900–AJ32

3256. • VA ACQUISITION REGULATIONS PART 819 SMALL BUSINESS AND SMALL DISADVANTAGE BUSINESS CONCERN

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 819

Legal Deadline: None

Abstract: The rule proposes to amend the Department of Veterans Affairs Acquisition Regulation (VA) at 48 CFR 819 to change the title to reflect the current title of FAR part 19, and to amend paragraph 819.202-70(d) which currently requires contracting officers to use the Small Business Administration's (SBA) Procurement Automated Source System (PASS). SBA has replaced the PASS system with a new system called PRO-NET. The paragraph language has also been revised to clarify.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Rita Williams, Senior Procurement Analyst (95A), Office of Acquisition & Material Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
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RIN: 2900–AJ36

3257. • UNIVERSAL PRODUCT NUMBERS (UPNS)

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 811; 48 CFR 852

Legal Deadline: None

Abstract: This rulemaking action would provide new contract clauses whereby Department of Veterans Affairs contracting officers could require contractors to furnish products marked at the case, box, and unit of use levels with Universal Product Numbers (UPNs) for scanning using bar code readers.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Donald Kaliher, Senior Procurement Analyst (95A), Office of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
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RIN: 2900–AJ45

NATIONAL CEMETERY SYSTEM

3258. HEADSTONE AND MARKER INSCRIPTION POLICY

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501; 38 USC 2306

CFR Citation: 38 CFR 1.630; 38 CFR 1.632

Legal Deadline: None

Abstract: The proposed rule revises 38 CFR, section 1.630 to implement Department of Veterans Affairs (VA) regulations on its inscription policy for use on Government-provided headstones or markers. The amendment formalizes and updates previous and current policies to reflect changes in VA's Simplified Inscription Policy based on inscription information authorized at Government expense, such as specific valor awards or other items paid for at private expense. The rule is published as proposed in the Federal Register to provide information to the public on specific changes to VA's inscription policy for Government-furnished headstones and markers. A 60-day public comment period is provided. This action is subject to the requirements of the Administrative Procedures Act and E.O. 12866 as the rule is a statute as approved by the then-Administrator now Secretary of Veterans Affairs in 1974. The proposed rule will not have a significant economic impact on a substantial number of small entities and only individual VA beneficiaries could be directly affected.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sonja McCombs, Program Analyst (402B1), NCS Communications Division, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5183
Fax: 202 273-6697

RIN: 2900–AH45

3259. STATE CEMETERY GRANTS: AID TO STATES FOR ESTABLISHMENT, EXPANSION AND IMPROVEMENT OF VETERANS CEMETERIES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 2408

CFR Citation: 38 CFR 39.1; 38 CFR 39.2; 38 CFR 39.3; 38 CFR 39.7; 38 CFR 39.8; 38 CFR 39.9 (New)

Legal Deadline: None

Abstract: The proposed rule revises 38 CFR, part 39, to amend Department of Veterans Affairs (VA) regulations for the State Cemetery Grants Program to implement and update information on program requirements and the application process for participants. The amendment formalizes new standards and provides guidance on how States may obtain funding for grants to expand, establish, or improve State veterans cemeteries. The rule is published as proposed in the Federal Register to provide information to the public on how to apply for Federal funding for State veterans cemeteries. A 60-day public comment period is provided. It is subject to the requirements of the Administrative Procedures Act and E.O. 12866 because the rule is an interpretation of statute. The proposed rule will not have a significant economic impact on a substantial number of small entities; only those States that apply for funding may be direct beneficiaries.

VA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Ken Greenberg, Program Analyst (402B1), NCS Communications Division, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5179
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RIN: 2900–AH46

3260. ELIGIBILITY FOR BURIAL OF DEPENDENT ADULT CHILDREN OF ELIGIBLE VETERANS

Priority: Other Significant

Legal Authority: 38 USC 2402(5)

CFR Citation: 38 CFR 1.620(c)

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) proposes to amend regulations to specify that the eligibility of veterans' adult children for burial in a national cemetery is only for those who have became permanently incapable of self support before attaining the age of 21 years due to a physical or mental disability. Current regulations do not clearly express this requirement.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sonja McCombs, Program Analyst (402B1), NCS Communications Division, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5183
Fax: 202 273-6695

RIN: 2900–AI95

3261. • USE OF THE SECRETARY'S AUTHORITY AS PROVIDED BY 38 USC 2402(6)

Priority: Other Significant

Legal Authority: 38 USC 2402(6)

CFR Citation: 38 CFR 1.620(d)

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is issuing a proposed rule to define individuals and groups of individuals, who are otherwise not eligible for burial in a VA national cemetery, that would be considered under the Secretary's authority in 38 USC 2402(6). These new regulations establish a consistent basis for VA to determine those individuals or groups of individuals that VA may consider for eligibility under 38 USC 2402(6).

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ken Greenberg, Program Analyst (402B1), NCS Communications Division, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5179
Fax: 202 273-6697

RIN: 2900–AJ48

3262. • OUTER BURIAL RECEPTACLES

Priority: Other Significant

Legal Authority: 38 USC 501(a); PL 104-275

CFR Citation: 38 CFR 1.629

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is issuing a proposed rule to implement the provisions of Public Law 104-275 regarding outer burial receptacles. The proposal establishes new regulations to notify individuals that they may choose to privately purchase an outer burial receptacle in lieu of using a Government-provided graveliner in VA national cemeteries, where such graveliners are authorized. VA will provide a monetary allowance for the privately purchased outer burial receptacle. The proposed rule establishes the requirements for the allowance to be paid and the manner in which it will be paid.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ken Greenberg, Program Analyst (402B1), NCS Communications Division, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5179
Fax: 202 273-6697

RIN: 2900–AJ49

OFFICE OF THE GENERAL COUNSEL

3263. RELEASE OF INFORMATION FROM DEPARTMENT OF VETERANS AFFAIRS RECORDS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 552a; 38 USC 5701

CFR Citation: 38 CFR 1.500 to 1.584

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs regulations governing the confidentiality and release of VA records subject to the Privacy Act, 5 USC 552a, the Freedom of Information Act (FOIA), 5 USC 552, and the veterans' records confidentiality statute (section 5701), 38 USC 5701. The amendments will implement court decisions and Executive Branch guidance issued since the regulations were originally published. The amendment is part of the Administration's effort to simplify, clarify, and modernize Federal regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/10/98	63 FR 48455
NPRM Comment Period End	11/09/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lorraine M. Johnson, Deputy Assistant General Counsel, Office of General Counsel, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-6381

RIN: 2900–AH98

VA

Proposed Rule Stage

3264. RECOGNITION OF ORGANIZATIONS AND ACCREDITATION OF REPRESENTATIVES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 38 USC 501(a); 38 USC 5901 to 5905

CFR Citation: 38 CFR 14.626 to 14.635

Legal Deadline: None

Abstract: The Department of Veterans Affairs proposes to revise and clarify existing procedures and requirements regarding certification or recognition of service organizations and their representatives, and other individuals, agents and attorneys representing claimants for benefits administered by VA. The revisions are designed to improve VA's ability to assure high quality representation of claimants.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Richard J. Hipolit (022A), Deputy Assistant General Counsel, Office of the General Counsel, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-6329
Fax: 202 273-6404

RIN: 2900–AI93

OFFICE OF INTERGOVERNMENTAL AFFAIRS

3265. ENTITIES AUTHORIZED TO RECEIVE AND DISTRIBUTE DEPARTMENT OF DEFENSE SURPLUS FOOD

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 2485; 38 USC 501

CFR Citation: 38 CFR 17.1000(New)

Legal Deadline: None

Abstract: This document proposes to amend the Department of Veterans Affairs (VA) regulations by setting forth procedures for VA to designate entities as authorized for receipt and distribution of surplus food donated by the Department of Defense (DOD). This is necessary to implement a statutory mandate. This document also proposes to obtain approval of collection of information provisions concerning entities seeking designation by VA as authorized to receive and distribute the surplus food donated by DOD.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peter Dougherty, Program Analyst (075), Intergovernmental Affairs, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5774

RIN: 2900–AI82

DEPARTMENT OF VETERANS AFFAIRS (VA)

Final Rule Stage

VETERANS HEALTH ADMINISTRATION

3266. CHAMPVA REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1713

CFR Citation: 38 CFR 17.84

Legal Deadline: None

Abstract: Title 38 CFR part 17, section 17.84, sets forth the basic policies and procedures governing the administration of the CHAMPVA program. This proposed revision to 38 CFR 17.54 would incorporate revised CHAMPVA claims-processing procedures and define benefits and services for this program. These proposed regulations will not have an effect on the economy, State or local government agencies or geographic regions, and will not increases in costs, because the monetary impact would be insignificant. This regulatory action is important because current regulations describe the CHAMPVA program in terms of the initial agreement between VA and DOD (since modified) and do not address the program changes initiated by VA to centralize all CHAMPVA activities. The proposed regulations address the CHAMPVA Center's new role in program administration, including absorption of the previously contracted-out claims-processing activities.

Timetable:

Action	Date	FR Cite
NPRM	11/01/96	61 FR 56486
NPRM Comment Period End	12/31/96	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Susan K. Schmetzer, Chief, Policy and Strategic Planning, Health Administration Center, Department of Veterans Affairs, 300 South Jackson Street, Denver, CO 80209
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RIN: 2900–AE64

3267. RECONSIDERATION OF DENIED CLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1712

CFR Citation: 38 CFR 17.133

Legal Deadline: None

Abstract: This document proposes to amend the Department of Veterans Affairs medical regulations by adding a new section 17.133 to set forth reconsideration procedures available if requested by an individual or entity who made a claim for benefits administered by the Veterans Health Administration and who disagrees with the initial decision denying the claim.

VA

Final Rule Stage

It is anticipated that these procedures would not only allow for more reflective decisions at the local level but would allow some disputes to be resolve without the need for further appeal to the Board of Veterans Appeals.

Timetable:

Action	Date	FR Cite
NPRM	02/27/98	63 FR 9990
NPRM Comment Period End	04/28/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Troy Baxley, Program Specialist (10C3), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, Washington, DC 20420
Phone: 202 273-8301

RIN: 2900–AJ03

3268. MEDICATION PRESCRIBING AUTHORITY

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 553

CFR Citation: 38 CFR 17

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs medical regulations to state the delegations of authority for issuance of prescriptions for medication. The delegations have been determined to be appropriate to ensure that medications are prescribed only by those who are capable to do so.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ronald J. Gebhart, Chief Consultant Primary and Ambulatory Care, Veterans Health Administration (112), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8558
Fax: 202 273-9148

RIN: 2900–AJ07

3269. ENROLLMENT AND PROVISIONS OF HOSPITAL CARE AND MEDICAL SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1721

CFR Citation: 38 CFR 1710

Legal Deadline: NPRM, Statutory, October 1, 1998. Final, Statutory, October 1, 1998.

Abstract: This document amends the Department of Veterans Affairs medical regulations to implement the requirement that certain veterans enroll in a VA healthcare enrollment system as a condition for receiving hospital care and medical services.

Timetable:

Action	Date	FR Cite
NPRM	07/10/98	63 FR 37299
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roscoe Butler, Program Specialist, Veterans Health Administration (10C3), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8302

RIN: 2900–AJ18

3270. • PROVISION OF DRUGS AND MEDICINES TO CERTAIN VETERANS IN STATE NURSING HOMES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1721

CFR Citation: 38 CFR 17.96

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs medical regulations concerning the provision of drugs and medicines prescribed by non-VA physicians for certain veterans who are permanently housebound or in need of regular aid and attendance. The regulations are amended to allow prescriptions to be filled by non-VA pharmacies in state homes under contract with VA for filling prescriptions for patients in state homes. This is consistent with VA's special relationship with state home. It will eliminate duplication in services and will help improve timeliness for filling prescriptions in state homes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/14/98	63 FR 37941
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jeff Ramirez, Pharmacy Service (119), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8428

RIN: 2900–AJ34

VETERANS BENEFITS ADMINISTRATION

3271. SCHEDULE FOR RATING DISABILITIES—DISEASES OF THE EAR AND OTHER SENSE ORGANS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.75; 38 CFR 4.76; 38 CFR 4.77; 38 CFR 4.78; 38 CFR 4.79; 38 CFR 4.80; 38 CFR 4.83; 38 CFR 4.84; 38 CFR 4.85; 38 CFR 4.86; 38 CFR 4.87

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate impairments of the eye, ear, and other sense organs.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20170
ANPRM Comment Period End	07/01/91	
NPRM	04/12/94	59 FR 17295
NPRM Comment Period End	06/13/94	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

VA

Final Rule Stage

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AF22

3272. FIBROMYALGIA

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71(a)

Legal Deadline: None

Abstract: This action will add a diagnostic code and criteria for a rheumatologic condition characterized by pain and tender points.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/07/96	61 FR 20438
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Caroll McBrine, Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 272-7210

RIN: 2900–AH05

3273. SERVICE CONNECTION FOR DENTAL CONDITIONS FOR TREATMENT PURPOSES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.381

Legal Deadline: None

Abstract: This action will clarify the term "reasonable period of service" (Manio v. Brown).

Timetable:

Action	Date	FR Cite
NPRM	02/24/97	62 FR 8201
NPRM Comment Period End	04/25/97	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lorna Weston, Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH41

3274. VETERANS EDUCATION: EFFECTIVE DATE FOR THE AWARD OF EDUCATIONAL ASSISTANCE

Priority: Info./Admin./Other

Legal Authority: 38 USC 3018B

CFR Citation: 38 CFR 21.7131

Legal Deadline: None

Abstract: The provisions of 38 U.S.C. allow a veteran who was voluntarily separated from active military, naval, or air service under either 10 U.S.C. 1174a or 1175 before October 23, 1992, to elect to receive educational assistance under the Montgomery GI Bill, Active Duty. He or she was given until October 23, 1993, to make the election. The provisions of 38 U.S.C. 3018B also require the veteran to submit $1,200 to the Department of Veterans Affairs (VA) as a condition of receiving the educational assistance. The statute does not contain a deadline for paying the $1,200. This document amends the VA's Vocational Rehabilitation and Education regulations to explain that an individual who made the election before October 23, 1993, must still submit the $1,200 to VA as a condition of receiving educational assistance under the Montgomery GI Bill, Active Duty.

Timetable:

Action	Date	FR Cite
NPRM	04/29/98	63 FR 23408
NPRM Comment Period End	06/29/98	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636
Email: vaedusvc@patriot.net

RIN: 2900–AH76

3275. ELECTION OF EDUCATION BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3562; 38 USC 3221; 38 USC 3033; 10 USC 16132

CFR Citation: 38 CFR 21.3023; 38 CFR 21.5041; 38 CFR 21.7040; 38 CFR 21.7540

Legal Deadline: None

Abstract: An individual may be eligible for educational assistance under more than one of the education programs VA administers. Often the individual must elect which benefit she or he wants. Current regulations state that these elections are final once the individual negotiates a check issued under the program he or she has chosen. These regulations must be revised to allow for a different method of determining when an election is final because VA will soon begin converting from paying educational assistance with paper checks to paying these benefits electronically.

Timetable:

Action	Date	FR Cite
NPRM	11/25/97	62 FR 62736
NPRM Comment Period End	01/26/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420

VA

Final Rule Stage

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RIN: 2900–AH88

3276. INTERVERTEBRAL DISC SYNDROME

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71(a)

Legal Deadline: None

Abstract: This action ensures that veterans diagnosed with intervertebral disc syndrome meet uniform criteria and receive consistent evaluations.

Timetable:

Action	Date	FR Cite
NPRM	02/24/97	62 FR 8204
NPRM Comment Period End	04/25/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AI22

3277. VETERANS EDUCATION: ADVANCED PAYMENTS & LUMP SUM PAYMENTS FOR EDUCATIONAL ASSISTANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 16136; 38 USC 3034; 38 USC 3680

CFR Citation: 38 CFR 21.4138; 38 CFR 21.7140

Legal Deadline: None

Abstract: The regulations governing advance payments and lump sum payments of educational assistance have accumulated obsolete provisions over the years. This proposal will remove obsolete provisions and make other clarifying changes.

Timetable:

Action	Date	FR Cite
NPRM	05/20/98	63 FR 27701
NPRM Comment Period End	07/20/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 725-2636
Email: vaedusvc@patriot.net

RIN: 2900–AI31

3278. RESERVIST EDUCATION: MONTHLY VERIFICATION OF ENROLLMENT AND OTHER REPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 16136(b); 38 USC 3680(g); 38 USC 3684; 38 USC 5113

CFR Citation: 38 CFR 21.7635; 38 CFR 21.7654; 38 CFR 21.7656

Legal Deadline: None

Abstract: This rule will expand the current requirement that some reservists receiving educational assistance under the Montgomery GI Bill - Selected Reserve verify their pursuit of a program of education monthly to include those reservists who are pursuing a standard college degree. At the same time the number of reports VA receives from educational institutions will be reduced. This will be a cost-effective way to reduce overpayments.

Timetable:

Action	Date	FR Cite
NPRM	03/31/98	63 FR 15341
NPRM Comment Period End	06/01/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
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Email: vaedusvc@patriot.net

RIN: 2900–AI68

3279. VETERANS TRAINING: INCREASE IN RATES PAYABLE UNDER 38 USC CHAPTER 31

Priority: Routine and Frequent

Legal Authority: 38 USC 3108; 38 USC 3462(e); PL 101-237

CFR Citation: 38 CFR 21.260(b)

Legal Deadline: None

Abstract: By statute, the monthly rates of basic subsistence allowance payable under 38 U.S.C. chapter 31 must be adjusted each fiscal year. In accordance with the statutory formula, the regulations governing rates of basic subsistence allowance payable under 38 U.S.C. chapter 31 for fiscal year 1996 are changed to show a 2.9 increase in these rates.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Graffam, Veterans Claims Examiner (28), Vocational Rehabilitation & Counseling Svc, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7413
Fax: 202 275-5122

RIN: 2900–AI74

3280. AMENDED CRITERIA FOR APPROVAL OF FLIGHT TRAINING COURSES

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 16131(g); 38 USC 101(20); 38 USC 3032; 38 USC 3231; 38 USC 3680(g); 38 USC 3690

CFR Citation: 38 CFR 21.4200; 38 CFR 21.4263

Legal Deadline: None

VA

Final Rule Stage

Abstract: This proposal will amend the regulations governing the approval of flight training courses for VA training. It will bring these regulations into agreement with the current two-year operation requirement that VA is required by statute to apply to approval of enrollments. It will also permit approval of courses offered pursuant to 14 CFR part 142.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/23/98	63 FR 34127
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
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RIN: 2900–AI76

3281. LOAN GUARANTY: REQUIREMENTS FOR INTEREST RATE REDUCTION REFINANCING LOANS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 36.4306a

Legal Deadline: None

Abstract: Interest rate reduction refinancing loans assist veterans by allowing them to refinance an outstanding VA guaranteed loan that bears interest at a high rate with a new loan at a loan rate. The law allows the veteran to do so without having to pay any expenses out-of-pocket. The revised regulations will limit these loans in most cases to instances where the veteran's monthly mortgage payment will decrease. They will also limit the maximum loan amount, and generally require that the loans being refinanced be current in their payments.

Timetable:

Action	Date	FR Cite
NPRM	06/03/98	63 FR 30162
NPRM Comment Period End	08/03/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Finneran, Acting Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7368

RIN: 2900–AI92

3282. USE OF FACILITIES TO PROVIDE TRAINING OR WORK EXPERIENCE FOR VETERANS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-446

CFR Citation: 38 CFR 21.299

Legal Deadline: None

Abstract: The Veterans Benefits Improvement Act of 1994 authorized the Secretary to use any federally recognized Indian tribe to provide training or work experience as part or all of a veteran's vocational rehabilitation program without pay or for nominal pay. This change to VA regulations implements this Act.

Timetable:

Action	Date	FR Cite
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Robert Lawson, Counseling Psychologist (28), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7773

RIN: 2900–AJ01

3283. ELIGIBILITY REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-271

CFR Citation: 38 CFR 3.256

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs adjudication regulations concerning eligibility verification reports (EVRs) for recipients of pension under programs in effect prior to January 1, 1979. The amendment reduces the number of circumstances under which VA requires such pensioners to furnish annual EVRs. The intended effect of this amendment is to reduce the reporting burden on these beneficiaries, reduce the workload at VA regional offices, and enable VA to use its resources more effectively.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/06/98	63 FR 53593
Interim Final Rule Comment Period End	12/07/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jack Bisset, Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AJ09

3284. MINIMUM INCOME ANNUITY

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-85, sec 645

CFR Citation: 38 CFR 3.811

Legal Deadline: None

Abstract: To amend VA regulations to reflect statutory changes contained in the National Defense Authorization Act for Fiscal Year 1998 that transfers the responsibility for paying a certain gratuitous annuity from the Department of Defense to VA.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset, Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810

VA

Final Rule Stage

Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AJ17

3285. DEPENDENTS EDUCATION: ELIGIBILITY AND ENTITLEMENT STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: PL 90-631, sec 2; PL 97-377, sec 156; 38 USC 501(a); 38 USC 3482; 38 USC 3501; 38 USC 3511; 38 USC 3512; 38 USC 3532; 38 USC 3533; 38 USC 3541; 38 USC 3562; 38 USC 3681; 38 USC 3686; 38 USC 3687; 38 USC 5304

CFR Citation: 38 CFR 3.503; 38 CFR 3.667; 38 CFR 3.707; 38 CFR 3.807; 38 CFR 21.3020; 38 CFR 21.3021; 38 CFR 21.3023; 38 CFR 21.3040; 38 CFR 21.3041; 38 CFR 21.3042; 38 CFR 21.3043; 38 CFR 21.3044; 38 CFR 21.3045; 30 CFR 21.3046; 30 CFR 21.3047; ...

Legal Deadline: None

Abstract: This document will amend Department of Veterans Affairs education regulations to provide a new interpretation of when the eligibility period ends for children eligible for Survivors' and Dependents' Educational Assistance. It will also make changes to clarify many of these regulations and other changes to make the regulations easier to use.

Timetable:

Action	Date	FR Cite
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling, Education Advisor (225C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636
Email: vaedusvc@patriot.net

RIN: 2900–AJ19

3286. VETERANS' BENEFITS ACT OF 1997

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-114, sec 404

CFR Citation: 38 CFR 3.29; 38 CFR 3.31; 38 CFR 3.114; 38 CFR 3.216; 38 CFR 3.814

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs adjudication regulations concerning the monetary allowance for children suffering from spina bifida who are children of Vietnam veterans. This amendment is necessary to implement statutory changes contained in the Veterans' Benefits Act of 1997.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jack Bisset, Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AJ25

3287. • NATIONAL SERVICE LIFE INSURANCE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1906

CFR Citation: 38 CFR 8.14(a); 38 CFR 8.18

Legal Deadline: None

Abstract: National Service Life Insurance regulations are being amended to provide for the payment of cash value for all current and future term capped policies, either by lump sum cash payment or by the purchase of paid-up additions (PUA), or a combination of the two. Under current law, policyholders whose policies lapse prior to age 96 do not receive any value reserved to their policies. Providing the options of cash values for individuals who no longer need insurance or paid-up additions for policyholders who want to retain insurance coverage without incurring further expense, enables policyholders to choose what is best for them.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Poole, Chief, Program Administration and Oversight Staff (Insurance Service), Department of Veterans Affairs, P.O. 8079, Philadelphia, PA 19101
Phone: 215 842-2000

RIN: 2900–AJ35

3288. • VETERANS AND DEPENDENTS EDUCATION: INCREASE IN EDUCATIONAL ASSISTANCE RATES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3015

CFR Citation: 38 CFR 21.7136; 38 CFR 21.7137

Legal Deadline: None

Abstract: By statute the monthly rates of basic educational assistance payable to veterans and servicemembers under the Montgomery GI Bill--Active Duty must be adjusted each year in accordance with a statutory formula. The Veterans Benefits Assistance Act of 1998 provides an increase of approximately 20 percent that supersedes the otherwise applicable statutory increase for fiscal year 1999 (October 1, 1998 through September 30, 1999). The regulations governing rates of basic educational assistance payable under the Montgomery GI Bill--Active Duty will be changed to show the rates indicated in the Act.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Sussling, Jr., Education Advisor (225C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636
Email: vaedusvc@patriot.net

RIN: 2900–AJ37

3289. • RESERVIST EDUCATION: INCREASE IN EDUCATIONAL RATES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 512; 10 USC ch 1606

VA

Final Rule Stage

CFR Citation: 38 CFR 21.7636

Legal Deadline: None

Abstract: By statute the monthly rates of basic educational assistance payable to veterans and servicemembers under the Montgomery GI Bill--Selected Reserve must be adjusted each fiscal year in accordance with a statutory formula. The Veterans Benefits Act of 1998 provides a rate increase of approximately 20 percent that supersedes the otherwise applicable statutory annual adjustment Fiscal Year 1999 (October 1, 1998 through September 30, 1999). The regulations governing rates of basic educational assistance payable under the Montgomery GI Bill--Selected Reserve are changed to show the rates indicated in the Act for Fiscal Year 1999.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Educational Advisor (225C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187

RIN: 2900–AJ38

3290. • VETERANS EDUCATION: EFFECTIVE DATE FOR DISCONTINUING EDUCATIONAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3034; 38 USC 3680; 38 USC 5113

CFR Citation: 38 CFR 21.7135

Legal Deadline: None

Abstract: VA is permitted by statute to require veterans and eligible persons to certify their continued pursuit of a program of education before they may receive their monthly payment of educational assistance. VA has required this by regulation for individuals receiving educational assistance under the Montgomery GI Bill--Active Duty. By statute, any adjustment in the individual's training time resulting from these certifications must be made as of the date of the occurrence. The regulation governing the reduction of benefits will be revised to reflect the statutory requirement.

Timetable:

Action	Date	FR Cite
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Education Advisor (225C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
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RIN: 2900–AJ39

3291. • VETERANS EDUCATION: INCREASED ALLOWANCES FOR THE EDUCATIONAL ASSISTANCE TEST PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 16131;.10 USC 2144

CFR Citation: 38 CFR 21.7636; 38 CFR 21.5822

Legal Deadline: None

Abstract: By statute, the monthly rates of basic educational assistance payable to reservists under the Montgomery GI Bill--Selected Reserve must be adjusted each fiscal year in accordance with a statutory formula. The Veterans Benefits Act of 1998 provides an increase of approximately 20 percent that supersedes the otherwise applicable statutory increase for fiscal year 1999 (October 1, 1998, through September 30, 1999). The regulations governing rates of basic educational assistance payable under the Montgomery GI Bill--Selected Reserve will be changed to show the rates indicated in the Act. rates will be revised accordingly.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Education Advisor (225C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
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RIN: 2900–AJ40

3292. • DEPENDENTS EDUCATION: INCREASE IN EDUCATIONAL ASSISTANCE RATES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3532; 38 USC 3542; 38 USC 3687

CFR Citation: 38 CFR 21.3045; 38 CFR 21.3131; 38 CFR 21.3300; 38 CFR 21.3333

Legal Deadline: None

Abstract: A provision of the Internal Revenue Service Restructuring and Reform Act of 1998 provides for an increase of approximately 20 percent in educational assistance rates payable under Survivors' and Dependents' Educational Assistance effective October 1, 1998. The regulations governing those rates will be changed to show the rates indicated in the Act.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Susling, Jr., Education Advisor (225C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
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Email: vaedusvc@patriot.net

RIN: 2900–AJ42

3293. • BALANCE BUDGET ACT OF 1997

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 5503

CFR Citation: 38 CFR 3.551

Legal Deadline: None

Abstract: To extend the date through VA will limit the pension benefits of veterans and surviving spouses receiving Medicaid covered under nursing home care to $90 per month.

VA

Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jack Bisset, Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AJ50

3294. • EXCLUSIONS FROM INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 10602(c)

CFR Citation: 38 CFR 3.261; 38 CFR 3.262; 38 CFR 3.272

Legal Deadline: None

Abstract: To exclude from countable income for VA purposes amounts received under the Victims of Crime Act of 1984.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jack Bisset, Consultant, Regulations Staff (211A), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AJ52

3295. • REINSTATEMENT OF BENEFITS ELIGIBILITY BASED UPON TERMINATED MARITAL RELATIONSHIPS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1311(e)

CFR Citation: 38 CFR 3.55

Legal Deadline: None

Abstract: To provide that the remarried surviving spouse of a veteran is not barred from receiving dependency and indemnity compensation.

Timetable:

Action	Date	FR Cite
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jack Bisset, Consultant, Regulations Staff (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AJ53

OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT

3296. VA ACQUISITION REGULATIONS PART 801, LEGAL/TECHNICAL REVIEW REQUIREMENTS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 801.602-70; 48 CFR 801.602-71; 48 CFR 801.602-72; 48 CFR 801.602-73; 48 CFR 801.602-74; 48 CFR 801.602-75; 48 CFR 815.805-4; 48 CFR 816.102(a); 48 CFR 817.102-1; 48 CFR 817.402; 48 CFR 819.801; 48 CFR 842.000; 48 CFR 842.102; 48 CFR 842.202; 48 CFR 842.1203; ...

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is amending the Veterans Affairs Acquisition Regulations (VAAR) to remove requirements from the Code of Federal Regulations that have been determined to be VA internal procedures that do not affect the public.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Donald Kaliher, Senior Procurement Analyst (95A), Office of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8819
Fax: 202 273-9302
Email: donald.kaliher@mail.va.gov

RIN: 2900–AI96

3297. SEALED BIDDING AND COMPETITIVE PROPOSALS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 806

Legal Deadline: None

Abstract: The Department of Veterans Affairs is amending its Acquisition Regulations. Section 806.401 is amended to remove material which conflicts with the Federal Acquisition Regulation.

Timetable:

Action	Date	FR Cite
NPRM	03/11/98	63 FR 11865
NPRM Comment Period End	05/11/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Acquisition and Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8819
Fax: 202 273-9302
Email: donald.kaliher@mail.va.gov

RIN: 2900–AI99

VA

Final Rule Stage

3298. VAAR PART 803—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICT OF INTEREST, AND PART 852—SOLICITATION PROVISIONS IN CONTRACT CLAUSES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 38 USC 486(c)

CFR Citation: 48 CFR 803; 48 CFR 852

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs Acquisition Regulation (VAAR) concerning the requirement to include an Ethics in Government Act certification in solicitations. This amendment is necessary to delete this requirement pursuant to the Clinger-Cohen Act, section 4301, which stipulates that all certification requirements not required by law be eliminated from agency supplemental acquisition regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/07/98	63 FR 16955
NPRM Comment Period End	06/08/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Rita Williams, Senior Procurement Analyst (95A), Acquisition and Material Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8774
Fax: 202 273-9302
Email: rita.williams@mail.va.gov

RIN: 2900–AJ06

3299. • VA ACQUISITION REGULATIONS; PART 802, DEFINITION OF "HEAD OF CONTRACTING ACTIVITY"

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 802

Legal Deadline: None

Abstract: This rule amends the Department of Veterans Affairs Acquisition Regulations (VAAR) concerning the definition of "Head of the Contracting Activity" (HCA). This amendment is necessary to ensure that the VAAR provides a single, consistent definition of HCA in order to unambiguously designate such individuals within the agency, by specifying that such individuals be appointed in writing by the Procurement Executive, and by amending the definition at 802.100(a) which specifics HCAs by position title.

Timetable:

Action	Date	FR Cite
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Rita Williams, Senior Procurement Analyst (95A), Office of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8774
Fax: 202 273-9302
Email: rita.williams@mail.va.gov

RIN: 2900–AJ26

3300. • VA ACQUISITION REGULATION: TITLE AND REFERENCE UPDATES

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 801; 48 CFR 803; 48 CFR 805; 48 CFR 806; 48 CFR 808; 48 CFR 814; 48 CFR 817; 48 CFR 819; 48 CFR 822; 48 CFR 825; 48 CFR 828; 48 CFR 831; 48 CFR 832; 48 CFR 833; 48 CFR 836

Legal Deadline: None

Abstract: This rule amends the Department of Veterans Affairs Acquisition Regulation (VAAR) to: update office names and job titles due to administrative changes within the Department; correct references and typographical errors; deletes obsolete material; delete material which duplicates material in the Federal Acquisition Regulation (FAR); and to revise and update section numbers and titles to correspond with the FAR.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Donald Kaliher, Senior Procurement Analyst (95A), Office of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8819
Fax: 202 273-9302
Email: donald.kaliher@mail.va.gov

RIN: 2900–AJ29

3301. • VA ACQUISITION REGULATIONS: PART 801, VA CONTRACTING OFFICER CERTIFICATION PROGRAM

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 801

Legal Deadline: None

Abstract: This rule amends the Department of Veterans Affairs Acquisition Regulations (VAAR) concerning the VA Contracting Officer Certification Program (COCP). This amendment is necessary to delete information appropriate to an internal directive from the codified regulations. The amendment directs the reader's attention to a specific agency directive for information on the COCP.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

VA

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Rita Williams, Senior Procurement Analyst (95A), Office of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8774
Fax: 202 273-9302
Email: rita.williams@mail.va.gov

RIN: 2900–AJ33

3302. • VA ACQUISITION REGULATIONS: BONDS AND INSURANCE

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 828; 48 CFR 852

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs Acquisition Regulation (VAAR) to: revise and update section numbers and titles to correspond with the FAR; make minor grammatical corrections and revisions; and to designate the Deputy Assistant Secretary for Acquisition and Materiel Management as the Department's designee, referenced in Federal Acquisition Regulation 28.203-7, for excluding individuals from acting as surety on bonds and for making determinations to accept bonds from individuals named on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Donald Kaliher, Senior Procurement Analyst (95A), Office of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20240
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Email: donald.kaliher@mail.va.gov

RIN: 2900–AJ47

BOARD OF VETERANS APPEALS

3303. BOARD OF VETERANS APPEALS—RULES OF PRACTICE—ATTORNEY FEE MATTERS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 5902; 38 USC 5904; 38 USC 5905

CFR Citation: 38 CFR 20.3; 38 CFR 20.609; 38 CFR 20.610

Legal Deadline: None

Abstract: The Board of Veterans Appeals is proposing to amend its rules of practice to end the practice of paying attorney fees from past-due benefits, establish safeguards in case of "disinterested third-party" payees who are individuals, and simplify certain notice procedures. These changes are necessary to permit VA to focus on activities more directly benefiting veterans and their families, i.e., deciding claims and coordinating benefit payments to veterans and their families, and to clarify the situations in which third parties may pay a claimants' legal fees.

Timetable:

Action	Date	FR Cite
NPRM	12/09/97	62 FR 64770
NPRM Comment Period End	02/09/98	62 FR 64790
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Chief Counsel (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-5978

RIN: 2900–AI98

OFFICE OF THE GENERAL COUNSEL

3304. • DELEGATIONS OF AUTHORITY; FEDERAL TORT CLAIMS; MILITARY PERSONNEL AND CIVILIAN EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 1346; 28 USC 2671; 28 USC 2680

CFR Citation: 38 CFR 2; 38 CFR 2.6; 38 CFR 14; 38 CFR 14.601; 38 CFR 14.604

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is amending its regulations to delegate to the Under Secretary for Health along with Veterans Integrated Service Network Directors (VISN) and VA Medical facilities Directors, the authority to adjust, determine, compromise, and settle a claim under the Federal Tort Claims Act where the amount of settlement is $2,500 or less. This authority was granted to the Secretary of the Department of Veterans Affairs pursuant to 28 USC 2672. Prior authority was delegated to the General Counsel encompassing higher limits that remain unchanged. This amendment will facilitate processing of claims under the Federal Tort Claims Act in a more timely manner. The Under Secretary for Health, VISN Directors, and VA Medical Facilities Directors are also given authority pursuant to the provisions of the Military Personnel and Civilian Employees' Claim Act of 1964, 31 USC 3721, as amended to settle and pay a claim for $2,500 or less made by a civilian officer or employee of the Department of Veterans Affairs for damage to, or loss of, personal property incident to his or her service.

Timetable:

Action	Date	FR Cite
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: E. Douglas Bradshaw, Jr., Assistant General Counsel (021), Office of the General Counsel, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-6481

RIN: 2900–AJ31

DEPARTMENT OF VETERANS AFFAIRS (VA)

Long-Term Actions

VETERANS HEALTH ADMINISTRATION

3305. PROTECTION OF HUMAN SUBJECTS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 16

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Timothy Gerrity
Phone: 202 273-8284
Fax: 202 273-6526

RIN: 2900–AJ08

3306. PROVISION OF DRUGS AND MEDICINES PRESCRIBED BY NON-VA PHYSICIANS

Priority: Info./Admin./Other

CFR Citation: 38 CFR 17.96

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roscoe Butler
Phone: 202 273-8302

RIN: 2900–AJ24

3307. • ADVANCED HEALTH CARE PLANNING

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1721

CFR Citation: 38 CFR 17.32

Legal Deadline: None

Abstract: This document proposes to amend the VA medical regulations to codify VA policy regarding advance healthcare planning. The proposed rule sets forth a mechanism for the use of written advance directives, i.e., a VA Living Will, a VA durable power of attorney for health care, and a state-authorized advance directive. The proposed rule also sets forth a mechanism for honoring verbal or nonverbal instructions from a patient when the patient is admitted to care when critically ill and loss of capacity may be imminent and the patient is not physically able to sign an advance directive form, or the appropriate form is not readily available. This is intended to help ensure that VA acts in compliance with patients' wishes concerning future healthcare.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ruth-Ann Phelps, Ph.D, Health Science Specialist (10AE), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8473

RIN: 2900–AJ28

VETERANS BENEFITS ADMINISTRATION

3308. LOAN GUARANTY: TITLE EVIDENCE REQUIREMENTS AND OCCUPANCY REQUIREMENTS FOR CONVEYANCE OF PROPERTIES TO VA

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 36.4320

Timetable:

Action	Date	FR Cite
NPRM	08/06/90	55 FR 31847
NPRM Comment Period End	10/05/90	
NPRM Comment Period Extended	10/05/90	55 FR 35325
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carl Wasson
Phone: 202 273-7344

RIN: 2900–AE20

3309. ACCEPTANCE OF PARTIAL PAYMENTS; INDEMNIFICATION OF DEFAULT

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 4202; 38 CFR 4275; 38 CFR 4301; 38 CFR 4315; 38 CFR 4323

Timetable:

Action	Date	FR Cite
NPRM	03/02/94	59 FR 9944
NPRM Comment Period End	05/02/94	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carl Wasson
Phone: 202 273-7344

RIN: 2900–AE60

3310. SCHEDULE FOR RATING DISABILITIES—THE ORTHOPEDIC SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 38 CFR 4.71(a)

Timetable:

Action	Date	FR Cite
ANPRM	12/28/90	55 FR 53315
ANPRM Comment Period End	02/26/91	
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D.
Phone: 202 273-7210

RIN: 2900–AE91

3311. SCHEDULE FOR RATING DISABILITIES—THE SKIN

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 38 CFR 4.118

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20171
ANPRM Comment Period End	07/01/91	
NPRM	01/19/93	58 FR 4969
NPRM Comment Period End	03/22/93	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D.
Phone: 202 273-7210

RIN: 2900–AF00

3312. SCHEDULE FOR RATING DISABILITIES—NEUROLOGICAL CONDITIONS AND CONVULSIVE DISORDERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 38 CFR 4.120; 38 CFR 4.121; 38 CFR 4.122; 38 CFR 4.123; 38 CFR 4.124; 38 CFR 4.124a

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20169
ANPRM Comment Period End	07/01/91	
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Caroll McBrine, MD
Phone: 202 273-7210

RIN: 2900–AF23

3313. AMENDMENTS TO TRAINING AND REHABILITATION PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 38 CFR 21.40; 38 CFR 21.260; 38 CFR 21.6005; 38 CFR 21.6042; 38 CFR 21.6050; 38 CFR 21.6052; 38 CFR 21.6054; 38 CFR 21.6056; 38 CFR 21.6058; 38 CFR 21.6420; 38 CFR 21.6501; 38 CFR 21.6503; 38 CFR 21.6505; 38 CFR 21.6507; 38 CFR 21.6523; ...

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carl Wasson
Phone: 202 273-7344

RIN: 2900–AG00

3314. REVISED DEFINITION OF NET VALUE AND REVISED CRITERIA FOR PRE-FORECLOSURE DEBT WAIVERS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 36.4301; 38 CFR 36.4323

Timetable:

Action	Date	FR Cite
NPRM	09/22/93	58 FR 49251
NPRM Comment Period End	10/22/93	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carl Wasson
Phone: 202 273-7344

RIN: 2900–AG20

3315. DELEGATION OF AUTHORITY TO PROVIDE RELIEF ON ACCOUNT OF ADMINISTRATIVE ERROR

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 2.7

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Trowbridge
Phone: 202 273-7210

RIN: 2900–AH19

3316. MEDICAL EVIDENCE THAT A DISABILITY HAS IMPROVED

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.344

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Larry Freiheit
Phone: 202 273-7210

RIN: 2900–AH82

3317. COMPUTATION OF INCOME

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 38 CFR 3.260

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Trowbridge
Phone: 202 273-7210

RIN: 2900–AH94

3318. CHILD CUSTODY

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.24(b); 38 CFR 3.24(c); 38 CFR 3.57(d)

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Trowbridge
Phone: 202 273-7210

RIN: 2900–AI10

3319. FIDUCIARY ACTIVITIES; MISCELLANEOUS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 38 CFR 13.2; 38 CFR 13.3; 38 CFR 13.55; 38 CFR 13.56; 38 CFR 13.58; 38 CFR 13.59; 38 CFR 13.61; 38 CFR 13.64; 38 CFR 13.69; 38 CFR 13.74; 38 CFR 13.75; 38 CFR 13.76; 38 CFR 13.100; 38 CFR 13.108; 38 CFR 13.109; ...

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Douglas L. Bragg
Phone: 202 273-7210

RIN: 2900–AI14

3320. CLAIMS BASED ON AGGRAVATION OF NONSERVICE-CONNECTED DISABILITY

Priority: Other Significant

CFR Citation: 38 CFR 3.310

Timetable:

Action	Date	FR Cite
NPRM	06/04/97	62 FR 30547
NPRM Comment Period End	08/04/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Judy Veres
Phone: 202 273-7210

RIN: 2900–AI42

3321. ANKYLOSIS AND LIMITATION OF MOTION OF DIGITS OF THE HANDS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 4.71a

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D.
Phone: 202 273-7230

RIN: 2900–AI44

3322. REVISION OF DECISION

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.7; 38 CFR 3.103(a); 38 CFR 3.105(b); 38 CFR 3.321; 38 CFR 3.400; 38 CFR 3.401; 38 CFR 3.800

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jack Bisset
Phone: 202 273-7210

RIN: 2900–AI64

3323. DISEASES SUBJECT TO PRESUMPTIVE SERVICE CONNECTION

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.309(a)

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bradley Flohr
Phone: 202 273-7210

RIN: 2900–AI81

3324. DIRECT SERVICE CONNECTION (POST-TRAUMATIC STRESS DISORDER)

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.304(f)

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jack Bisset
Phone: 202 273-7210

RIN: 2900–AI97

3325. ADDITIONAL REQUIREMENTS FOR INTEREST RATE REDUCTION REFINANCING LOANS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 36.4306a

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Finneran
Phone: 202 273-7368

RIN: 2900–AJ02

BOARD OF VETERANS APPEALS

3326. APPEALS REGULATIONS; RULES OF PRACTICE

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 19.3 (Revision); 38 CFR 19.10; 38 CFR 19.15 (Revision; 38 CFR 19.39; 38 CFR 20.3; 38 CFR 20.101 (Revision); 38 CFR 20.102 (Revision); 38 CFR 20.201 (Revision); 38 CFR 20.605 (Revision); 38 CFR 20.609 (Revision); 38 CFR 20.903 (Revision); 38 CFR 20.1000; 38 CFR 20.1001; 38 CFR 20.1002; 38 CFR 20.1100 (Revision); ...

Timetable:

Action	Date	FR Cite
NPRM	02/03/92	57 FR 4131
NPRM Comment Period End	03/04/92	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AE78

3327. RULES OF PRACTICE; HEARINGS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 20.702; 38 CFR 20.703; 38 CFR 20.704; 38 CFR 20.707; 38 CFR 20.711; 38 CFR 20.714; 38 CFR 20.716; 38 CFR 20.717; 38 CFR 20.1003; 38 CFR 2.1; 38 CFR 19.75

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AG07

3328. RULES OF PRACTICE: MEDICAL OPINIONS; APPEAL PROCESSING AND SUBMISSION OF ADDITIONAL EVIDENCE

Priority: Other Significant

CFR Citation: 38 CFR 19.36; 38 CFR 20.800; 38 CFR 20.801; 38 CFR 20.802; 38 CFR 20.901; 38 CFR 20.1304

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AG90

VA

Long-Term Actions

3329. BOARD OF VETERANS' APPEALS: RULES OF PRACTICE—REVISION OF DECISIONS ON GROUNDS OF CLEAR AND UNMISTAKABLE ERROR

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 20.609; 38 CFR 20.1000; 38 CFR 20.1001; 38 CFR 20.1400 New; 38 CFR 20.1401 New; 38 CFR 20.1402 New; 38 CFR 20.1403 New; 38 CFR 20.1404 New; 38 CFR 20.1405 New; 38 CFR 20.1406 New; 38 CFR 20.1407 New; 38 CFR 20.1408 New; 38 CFR 20.1409 New

Timetable:

Action	Date	FR Cite
NPRM	05/19/98	63 FR 27534
NPRM Comment Period End	07/20/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve L. Keller
Phone: 205 565-5978

RIN: 2900–AJ15

OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

3330. NONDISCRIMINATION ON THE BASIS OF SEX UNDER FEDERALLY ASSISTED EDUCATION PROGRAMS AND ACTIVITIES

Priority: Other Significant

CFR Citation: 38 CFR 18

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ellis Jones Hodges
Phone: 202 273-7632
Fax: 202 273-6537

RIN: 2900–AB51

3331. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITTING FROM FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 23

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ellis Jones Hodges
Phone: 202 273-7632
Fax: 202 273-6537

RIN: 2900–AJ11

OFFICE OF THE ASSISTANT SECRETARY FOR ACQUISITION AND FACILITIES

3332. OPERATION OF CHILD CARE CENTERS AT VA FACILITIES

Priority: Info./Admin./Other

CFR Citation: 38 CFR 17

Timetable:

Action	Date	FR Cite
NPRM	12/27/89	54 FR 53078
NPRM Comment Period End	01/26/90	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Renee Bruce
Phone: 410 605-7388
Fax: 410 605-7900

RIN: 2900–AD48

DEPARTMENT OF VETERANS AFFAIRS (VA)

Completed Actions

3333. PAYMENT FOR NON-VA OUTPATIENT OFFICE VISITS AND PAYMENT FOR INPATIENT NON-VA PHYSICIAN SERVICES

Priority: Economically Significant

CFR Citation: 38 CFR 17.55; 38 CFR 17.56; 38 CFR 17.128; 38 CFR 17.50f(h)

Completed:

Reason	Date	FR Cite
Final Action	08/22/98	63 FR 39514

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Abby O'Donnell
Phone: 202 273-8307
Fax: 202 273-9609

RIN: 2900–AH66

3334. INFORMED CONSENT FOR PATIENT CARE

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 17.32

Completed:

Reason	Date	FR Cite
Final Action	10/17/97	62 FR 53960
Final Action Effective	11/17/97	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ruth-Ann Phelps, Ph.D.
Phone: 202 273-8473

RIN: 2900–AH72

3335. REPORTING HEALTH CARE PROFESSIONALS TO STATE LICENSING BOARDS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 47.1; 38 CFR 47.2; 38 CFR 47.3

Completed:

Reason	Date	FR Cite
Final Action	04/30/98	63 FR 23664
Final Action Effective	06/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ruth-Ann Phelps, Ph.D.
Phone: 202 273-8473

RIN: 2900–AI78

VA

Completed Actions

3336. VETERANS EDUCATION; SUSPENSION AND DISCONTINUANCE OF PAYMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.4133; 38 CFR 21.4134; 38 CFR 21.4135; 38 CFR 21.4146; 38 CFR 21.4152; 38 CFR 21.4202; 38 CFR 21.4207; 38 CFR 21.4208; 38 CFR 21.4210; 38 CFR 21.4211; 38 CFR 21.4212; 38 CFR 21.4213; 38 CFR 21.4214; 38 CFR 21.4215; 38 CFR 21.4216; ...

Completed:

Reason	Date	FR Cite
Final Action	07/01/98	63 FR 35830
Final Action Effective	07/31/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William G. Susling, Jr.
Phone: 202 273-7187
Fax: 202 275-2636
Email: vaedusvc@patriot.net

RIN: 2900–AF85

3337. CLAIMS BASED ON EXPOSURE TO IONIZING RADIATION (PROSTATE CANCER AND ANY OTHER CANCER)

Priority: Other Significant

CFR Citation: 38 CFR 3.311(b)(2)

Completed:

Reason	Date	FR Cite
Final Action	09/24/98	63 FR 50993
Final Action Effective	09/24/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jack Bisset
Phone: 202 273-7210

RIN: 2900–AI00

3338. COLD INJURIES

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 4.104

Completed:

Reason	Date	FR Cite
Final Action	07/14/98	63 FR 37778
Final Action Effective	08/13/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D.
Phone: 202 273-7210

RIN: 2900–AI46

3339. VETERANS TRAINING: TIME LIMITS FOR SUBMITTING CERTIFICATIONS UNDER SERVICE MEMBERS OCCUPATIONAL CONVERSION AND TRAINING ACTS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.4832

Completed:

Reason	Date	FR Cite
Final Action	05/13/98	63 FR 26455
Final Action Effective	07/13/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling, Jr.
Phone: 202 273-7187
Fax: 202 275-2636
Email: vaedusvc@patriot.net

RIN: 2900–AI85

3340. VETERANS EDUCATION: EFFECTIVE DATE FOR AWARDS OF EDUCATIONAL ASSISTANCE TO VETERANS WHO WERE VOLUNTARILY DISCHARGED

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.7131

Completed:

Reason	Date	FR Cite
Final Action	06/23/98	63 FR 34131
Final Action Effective	07/23/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling, Jr.
Phone: 202 273-7187
Fax: 202 273-2636
Email: vaedusvc@patriot.net

RIN: 2900–AI88

3341. ADDITIONAL DISABILITY OR DEATH DUE TO HOSPITAL CARE, MEDICAL OR SURGICAL TREATMENT, EXAMINATION, OR TRAINING AND REHABILITATION SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.358; 38 CFR 3.361; 38 CFR 3.362; 38 CFR 3.363; 38 CFR 3.800

Completed:

Reason	Date	FR Cite
Final Action	08/24/98	63 FR 45004
Final Action Effective	10/01/97	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jack Bisset
Phone: 202 273-7210

RIN: 2900–AJ04

3342. VETERANS EDUCATION: INCREASE IN RATES PAYABLE FOR COOPERATIVE TRAINING UNDER THE MONTGOMERY GI BILL - ACTIVE DUTY

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.7137

Completed:

Reason	Date	FR Cite
Final Action	05/21/98	63 FR 27853
Final Action Effective	10/09/96	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling, Jr.
Phone: 202 273-7187
Fax: 202 275-2636
Email: vaedusvc@patriot.net

RIN: 2900–AJ10

3343. VAAR: COMMERCIAL ITEMS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 801; 48 CFR 810; 48 CFR 811; 48 CFR 812; 48 CFR 836; 48 CFR 852; 48 CFR 870

VA

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	04/09/98	63 FR 17334
Final Action Effective	05/11/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher
Phone: 202 273-8819
Fax: 202 273-9302
Email: donald.kaliher@mail.va.gov

RIN: 2900–AI05

8344. DEFINITIONS AND TERMS FOR PART 802

Priority: Routine and Frequent

CFR Citation: 48 CFR ch 8

Completed:

Reason	Date	FR Cite
Withdrawn - Superseded by RIN 2900-AJ26	07/19/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John A. Corso (95A)
Phone: 202 273-8754
Fax: 202 273-9302
Email: john.corso@mail.va.gov

RIN: 2900–AI49

3345. VA ACQUISITION REGULATIONS: TITLE UPDATE

Priority: Info./Admin./Other

CFR Citation: 48 CFR ch 8

Completed:

Reason	Date	FR Cite
Withdrawn - Superseded by RIN 2900-AJ29	07/09/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher
Phone: 202 273-8819
Fax: 202 273-9302
Email: donald.kaliher@mail.va.gov

RIN: 2900–AI62

3346. RULES OF PRACTICE: ORAL ARGUMENT IN FILING APPELLATE BRIEFS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 20.700; 38 CFR 20.718

Completed:

Reason	Date	FR Cite
Withdrawn - Due to Changed Circumstances	05/05/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AI18

3347. RULES OF PRACTICE: CONTINUATION OF REPRESENTATION FOLLOWING DEATH OF A CLAIMANT OR APPELLANT

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 20.611

Completed:

Reason	Date	FR Cite
Final Action	06/19/98	63 FR 33579

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AI87

3348. FEE TO TRACE VENDORS' VA-ISSUED CHECKS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

CFR Citation: 38 CFR 1.585

Completed:

Reason	Date	FR Cite
Withdrawn - Need for Inquiries Reduced	07/21/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charlene Bah
Phone: 202 273-6651

RIN: 2900–AI38

3349. • DELEGATION OF AUTHORITY FOR CERTAIN ETHICS MATTERS

Priority: Info./Admin./Other

Legal Authority: 38 USC 301; 38 USC 501

CFR Citation: 38 CFR 0.725-2

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs regulations captioned "Standards of Ethical Conduct and Related Responsibilities." It removes material regarding certain ethics determinations for agency employees. This material is not required to be published in the Code of Federal Regulations because it does not affect the public. It affects only internal VA practices.

Timetable:

Action	Date	FR Cite
Final Action	06/19/98	63 FR 33579
Final Action Effective	07/20/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Walter A. Hall, Assistant General Counsel (023)., and Designated Agency Ethics Official, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-6334
Fax: 202 273-6403
Email: walter.hall@mail.va.gov

RIN: 2900–AJ27

[FR Doc. 98-24579 Filed 11-06-98; 8:45 am]
BILLING CODE 8320-01-F

Federal Register

Monday
November 9, 1998

Part XVII

Advisory Council on Historic Preservation

Semiannual Regulatory Agenda

ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP)

ADVISORY COUNCIL ON HISTORIC PRESERVATION

36 CFR Ch. VIII

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Advisory Council on Historic Preservation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following Advisory Council on Historic Preservation regulations are scheduled for development. They are submitted herein for publication in the Unified Agenda of Federal Regulatory and Deregulatory Actions.

FOR FURTHER INFORMATION CONTACT: See person listed below for specific agenda information.

Advisory Council on Historic Preservation.

Dated: September 16, 1998.

John M. Fowler,

Executive Director.

ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP) — Final Rule Stage

3350. PROTECTION OF HISTORIC PROPERTIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 470

CFR Citation: 36 CFR 800

Legal Deadline: None

Abstract: The Advisory Council is in the process of revising its regulations in light of its responsibilities under 16 USC 470 and the 1992 amendments to the National Historic Preservation Act, PL 102-575, and in accordance with the National Performance Review's streamlining initiative.

Timetable:

Action	Date	FR Cite
NPRM	10/03/94	59 FR 50396
NPRM Comment Period End	01/03/95	
Second NPRM	09/13/96	61 FR 48580
Second NPRM Comment Period End	11/12/96	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Agency Contact: John Fowler, Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue NW., Suite 809, Washington, DC 20004
Phone: 202 606-8596
Fax: 202 606-8672

RIN: 3010–AA04

[FR Doc. 98-25580 Filed 11-06-98; 8:45 am]

BILLING CODE 4310-10-F

federal register

Monday
November 9, 1998

Part XVIII

Agency for International Development

Semiannual Regulatory Agenda

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID)

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

U.S. Agency for International Development

22 CFR Ch. II

Federal Regulations; USAID Regulatory Agenda Semiannual Summary

AGENCY: United States Agency for International Development, IDCA.

ACTION: Semiannual regulatory agenda.

SUMMARY: The U.S. Agency for International Development (USAID) is publishing this agenda as required by Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735, October 4, 1993) and the Regulatory Flexibility Act. This agenda reports the status of those regulations currently under review and gives USAID's plan for the issuance of proposed regulations during the next 12 months. It is expected that the information provided in this agenda will enable the public to be more aware of and to participate more effectively in USAID's regulatory process.

FOR FURTHER INFORMATION CONTACT:

General: For further information on the agenda or the review list in general, contact: Willette Smith, Chief, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Washington, DC 20523; telephone (202) 712-5027, e-mail address wsmith@usaid.gov.

Specific: For further information about any particular item on the agenda, contact the individual listed as the contact for that item.

SUPPLEMENTARY INFORMATION: Executive Order 12866 and the Regulatory Flexibility Act require the semiannual publication in the **Federal Register** of an agenda of regulations. The Regulatory Flexibility Act applies only to regulations for which a notice of proposed rulemaking was issued on or after September 19, 1980. USAID is required to publish an agenda listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities." The Executive order became effective on September 30, 1993, and it is required that USAID publish a listing of all the regulations it expects to have under active consideration for proposal or review during the coming 1-year period.

Dated: August 28, 1998.

Margaret H. Thome,

Director, Bureau for Management, Office of Administrative Services.

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID) — Proposed Rule Stage

3351. MISCELLANEOUS AMENDMENTS TO THE AIDAR (AIDAR NOTICE 98-2)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 2381

CFR Citation: 48 CFR 712; 48 CFR 727; 48 CFR 742; 48 CFR 752; 48 CFR ch 7, app I

Legal Deadline: None

Abstract: The USAID Acquisition Regulation will be amended to establish an Agency policy regarding contract clauses to clarify withholding requirements under IQC contracts, revise reporting requirements, revise the Agency's academic publications policy in appendix I to coordinate with the FAR's Rights in Data coverage, and clarify USAID policy on the use of Government facilities and personnel in commercial contracts.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	01/00/99	
Final Action Effective	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Additional Information: The final rule published in the Federal Register on July 29, 1997, at 62 FR 40462 (FR Doc. 97-18603) mistakenly cited this RIN number. It should have used RIN 0412-AA32.

Agency Contact: Diane M. Howard, Senior Procurement Analyst, Agency for International Development, M/OP/P, Room 7.08-082U, 1300 Pennsylvania Avenue NW., Washington, DC 20523-7801
Phone: 202 712-0206
Fax: 202 216-3395
Email: dhoward@usaid.gov

RIN: 0412–AA30

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID) — Final Rule Stage

3352. ADMINISTRATION OF GRANTS AND COOPERATIVE AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 226

Legal Deadline: None

Abstract: This regulation will implement the Governmentwide uniform administrative requirements for grants and agreements with institutions of higher education, hospitals, and other nonprofit organizations issued by the Office of Management and Budget.

AID — Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/19/95	60 FR 3743
Final Action	11/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Kathleen O'Hara, Chief, Policy Division, Office of Procurement, Agency for International Development, Room 7.08-092 RRB, 1300 Pennsylvania Avenue NW., Washington, DC 20523-7801
Phone: 202 712-4759
Fax: 202 216-3395
Email: kohara@usaid.gov

RIN: 0412–AA21

3353. ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 226

Legal Deadline: None

Abstract: USAID Regulation 26 (22 CFR part 226) is being amended to reflect the enactment of the Single Audit Act by incorporating the revised OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations" by reference.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Interim Final Rule Effective	09/29/97	
Interim Final Rule Comment Period End	10/28/97	
Final Action	10/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Esposito, Senior Procurement Analyst, Agency for International Development, M/OP/P, Room 7.08-104, 1300 Pennsylvania Avenue NW., Washington, DC 20523-7801
Phone: 202 712-4163
Fax: 202 216-3395

RIN: 0412–AA36

3354. MISCELLANEOUS AMENDMENTS TO THE AIDAR (AIDAR NOTICE 98-1)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 2381

CFR Citation: 48 CFR 703; 48 CFR 709; 48 CFR 715; 48 CFR 752

Legal Deadline: None

Abstract: The AID Acquisition Regulation (AIDAR) is being amended to add an additional reporting level for violations to be in accordance with Federal Acquisition Regulation (FAR) subpart 3.104; to reflect changes in FAR part 9.5; and to reflect changes in FAR part 15. The AIDAR is also being amended to add a requirement to part 715 for a justification document to support the decision to reject all proposals and cancel the RFPP and to add a provision to part 752 on salary supplements for host government employees.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Frances M. Maki, Senior Procurement Analyst, Agency for International Development, M/OP/P, Room 7.08-094, 1300 Pennsylvania Avenue NW., Washington, DC 20523-7801
Phone: 202 712-0610
Fax: 202 216-3395
Email: fmaki@usaid.gov

RIN: 0412–AA38

3355. • MISCELLANEOUS AMENDMENTS TO THE AIDAR (AIDAR NOTICE 98-3)

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 48 CFR 705; 48 CFR 709; 48 CFR 716; 48 CFR 722; 48 CFR 731; 48 CFR 732; 48 CFR 745; 48 CFR 747; 48 CFR 752

Legal Deadline: None

Abstract: The USAID Acquisition Regulation (AIDAR) is being amended to bring its organizational conflicts of interest coverage into conformance with the FAR; to implement the August 19, 1997, revisions to Office of Federal Contract Compliance Programs (OFCCP) regulations (41 CFR parts 60-1, 60-60) prohibiting employment discrimination and establishing affirmative action requirements for nonexempt Federal contractors and subcontractors; to allow for advances to for-profit organizations who are awarding grants under their contracts; to clarify the application of USAID's salary policy to fixed-price contractors; and to update corresponding clauses in part 752, as amended. The AIDAR is also being amended to incorporate provisions of various Contract Information Bulletins (CIBs) issued in the past few years that established contracting policies or procedures and to make administrative changes or corrections.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Diane M. Howard, Senior Procurement Analyst, Agency for International Development, M/OP/P, Room 7.08-082U, 1300 Pennsylvania Avenue NW., Washington, DC 20523-7801
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Email: dhoward@usaid.gov

RIN: 0412–AA39

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID) — Completed Actions

3356. RULES AND PROCEDURES APPLICABLE TO COMMODITY TRANSACTIONS (AID REGULATION 1): INSPECTION AND PRICE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 201.01; 22 CFR 201.21; 22 CFR 201.31; 22 CFR 201.48; 22 CFR 201.52; 22 CFR 201.60; 22 CFR 201.61; 22 CFR 201.63; 22 CFR 201.64

Legal Deadline: None

Abstract: AID Regulation 1 is being amended to provide for the possibility of preshipment inspection and to simplify the rules on maximum prices for commodities. The purpose of preshipment inspection is to complete price review of transactions prior to shipment, rather than after-the-fact, and when determined necessary, to require a physical inspection. The purpose of the amendments to the price rules is to make them easier for suppliers to understand and bring them into line with commercial practices used by preshipment inspection firms that will be contracted with to carry out the preshipment inspection program.

EXPLANATION: A proposed rule to amend USAID Regulation 1 was issued in the Federal Register on August 8, 1997 (62 FR 42712). USAID planned to change the procedure used to assure that prices paid to suppliers for transactions financed under Commodity Import Programs (CIPs) are fair and reasonable by implementing a preshipment review process. However, USAID has since determined that the CIP will be managed by the USAID Mission in Egypt rather than by USAID/Washington. The Mission in Egypt will not implement a preshipment review program; therefore, the proposed rule has been withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	08/08/97	62 FR 42712
NPRM Comment Period End	10/07/97	
Withdrawn	09/17/98	63 FR 49682

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kathleen O'Hara, Chief, Policy Division, Office of Procurement, Agency for International Development, M/OP/P, Room 7.08-092 RRB, 1300 Pennsylvania Avenue NW., Washington, DC 20523-7801
Phone: 202 712-4759
Fax: 202 216-3395
Email: kohara@usaid.gov

RIN: 0412–AA34

3357. MISCELLANEOUS AMENDMENTS; 22 CFR PART 228

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 228.11; 22 CFR 228.21; 22 CFR 228.51; 22 CFR 228.53

Legal Deadline: None

Abstract: USAID proposes to amend its regulation on source, origin, and nationality by revising the rule on systems determination for commodities, revising the rule on ocean freight eligibility, and clarifying waiver provisions. The change in systems determinations will allow commodities to be shipped directly from their source rather than being shipped through an authorized country if the system is being assembled in the recipient country. The ocean freight rule change would require approval by USAID before a transshipment from a U.S. flag vessel to a foreign flag vessel would be eligible for USAID financing.

Timetable:

Action	Date	FR Cite
NPRM	01/23/98	63 FR 3506
NPRM Comment Period End	03/24/98	
Final Action	07/20/98	63 FR 38751
Final Action Effective	09/18/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kathleen O'Hara, Chief, Policy Division, Office of Procurement, Agency for International Development, M/OP/P, Room 7.08-092 RRB, 1300 Pennsylvania Avenue NW., Washington, DC 20523-7801
Phone: 202 712-4759
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RIN: 0412–AA37

[FR Doc. 98-24580 Filed 11-06-98; 8:45 am]
BILLING CODE 6116-01-F

federal register

Monday
November 9, 1998

Part XIX

Architectural and Transportation Barriers Compliance Board

Semiannual Regulatory Agenda

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Ch. XI

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Architectural and Transportation Barriers Compliance Board submits the following agenda of proposed regulatory activities which may be conducted by the Agency during the next 12 months. This regulatory agenda may be revised by the Agency during the coming months as a result of action taken by the Board.

ADDRESSES: Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111.

FOR FURTHER INFORMATION CONTACT: For information concerning Board regulations and proposed actions, contact James J. Raggio, General Counsel, (202) 272-5434 (voice) or (202) 272-5449 (TDD).

Lawrence W. Roffee,

Executive Director, Architectural and Transportation Barriers Compliance Board.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Proposed Rule Stage

3358. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: RECREATION FACILITIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act (ADA) Accessibility Guidelines to include requirements for recreational facilities.

Timetable:

Action	Date	FR Cite
Notice of Intent To Form Advisory Committee	02/03/93	58 FR 6949
Notice of Appointment of Advisory Committee Members	06/10/93	58 FR 32511
ANPRM	09/21/94	59 FR 48542
ANPRM Comment Period End	12/20/94	
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434
TDD: 202 272-5449
Fax: 202 272-5447
Email: raggio@access-board.gov

RIN: 3014–AA16

3359. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: This regulation will revise and update the Americans with Disabilities Act (ADA) Accessibility Guidelines.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish Advisory Committee	04/06/94	59 FR 16175
Establishment of Advisory Committee	09/14/94	59 FR 47165
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434
TDD: 202 272-5449
Fax: 202 272-5447
Email: raggio@access-board.gov

RIN: 3014–AA25

3360. • STANDARDS FOR ACCESSIBLE ELECTRONIC AND INFORMATION TECHNOLOGY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 105-220, sec 508

CFR Citation: 36 CFR 1194

Legal Deadline: Final, Statutory, February 7, 2000.

Abstract: This regulation will establish standards for accessible electronic and information technology for Federal agencies.

Timetable:

Action	Date	FR Cite
Notice of Intent To Form Advisory Committee	08/24/98	63 FR 45041
Establishment of Advisory Committee	09/29/98	63 FR 51891
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434
TDD: 202 272-5449
Fax: 202 272-5447
Email: raggio@access-board.gov

RIN: 3014–AA20

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Final Rule Stage

3361. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: PLAY AREAS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: This regulation will amend the Americans with Disabilities Act (ADA) Accessibility Guidelines to include requirements for play areas.

Timetable:

Action	Date	FR Cite
Notice of Intent to Conduct Regulatory Negotiation	12/22/95	60 FR 66537
Establishment of Regulatory Negotiation Committee	02/14/96	61 FR 5723
NPRM	04/30/98	63 FR 24080
NPRM Comment Period End	07/29/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434
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Email: raggio@access-board.gov

RIN: 3014–AA21

3362. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: DETECTABLE WARNINGS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: This regulation will continue the suspension of the requirements for detectable warnings at curb ramps, hazardous vehicular areas, and reflecting pools until July 26, 2001.

Timetable:

Action	Date	FR Cite
NPRM	06/01/98	63 FR 29924
NPRM Comment Period End	07/01/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434
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Email: raggio@access-board.gov

RIN: 3014–AA24

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Long-Term Actions

3363. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR TRANSPORTATION VEHICLES: PASSENGER VESSELS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1192

Legal Deadline: None

Abstract: This regulation will amend The Americans with Disabilities Act (ADA) Accessibility Guidelines for Transportation Vehicles to include additional requirements for ferries, excursion boats, and other passenger vessels.

Timetable:

Action	Date	FR Cite
Notice of Intent To Establish Advisory Committee	03/30/98	63 FR 15175
Establishment of Advisory Committee	08/12/98	63 FR 43136
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434
TDD: 202 272-5449
Fax: 202 272-5447
Email: raggio@access-board.gov

RIN: 3014–AA11

3364. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities to include additional requirements for boat and ferry docks.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434
TDD: 202 272-5449
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Email: raggio@access-board.gov

RIN: 3014–AA12

ATBCB

Long-Term Actions

3365. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: OUTDOOR DEVELOPED AREAS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: This regulation will amend the Americans with Disabilities Act (ADA) Accessibility Guidelines to include requirements for outdoor developed areas.

Timetable:

Action	Date	FR Cite
Notice of Intent to Conduct Regulatory Negotiation	04/18/97	62 FR 19084
Establishment of Regulatory Negotiation Committee	06/04/97	62 FR 30546
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434
TDD: 202 272-5449
Fax: 202 272-5447
Email: raggio@access-board.gov

RIN: 3014–AA22

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

Completed Actions

3366. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR TRANSPORTATION VEHICLES: OVER-THE-ROAD BUSES

Priority: Other Significant

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1192

Legal Deadline: Final, Statutory, May 16, 1994.

Abstract: This regulation will amend the Americans with Disabilities Act (ADA) Accessibility Guidelines for Transportation Vehicles to include technical specifications for lifts, ramps, wheelchair securement devices, and accessible restrooms on over-the-road buses.

Timetable:

Action	Date	FR Cite
NPRM	03/25/98	63 FR 14571
NPRM Comment Period End	05/26/98	
Final Action	09/28/98	63 FR 51694

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434
TDD: 202 272-5449
Fax: 202 272-5447
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RIN: 3014–AA23

[FR Doc. 98-23543 Filed 11-06-98; 8:45 am]
BILLING CODE 8150-01-F

federal register

Monday
November 9, 1998

Part XX

Commission on Civil Rights

Semiannual Regulatory Agenda

COMMISSION ON CIVIL RIGHTS (CCR)

COMMISSION ON CIVIL RIGHTS

45 CFR Ch. VII

Semiannual Agenda of Regulations

AGENCY: Commission on Civil Rights.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations the U.S. Commission on Civil Rights will have under development during the 6-month period from October 1, 1998, through March 30, 1999. The purpose for publishing this agenda is to give notice of any regulatory activity by the Commission in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: For further information on any items in the agenda, contact Stephanie Y. Moore, General Counsel, U.S. Commission on Civil Rights, Room 620, 624 Ninth Street NW., Washington, DC 20425, (202) 376-8351.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. 605), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

The regulations being considered by the Commission are not "significant" rules within the meaning of E:O. 12866, and no regulatory impact analysis is required. The Commission has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public nor will the regulations have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory analysis is required.

Stephanie Y. Moore,

General Counsel.

COMMISSION ON CIVIL RIGHTS (CCR)

Long-Term Actions

3367. COMMISSION ON CIVIL RIGHTS—UPDATE AND REVISION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1975 to 1975f; 5 USC 552(a); 5 USC 552(b)

CFR Citation: 45 CFR 701; 45 CFR 702; 45 CFR 703

Legal Deadline: None

Abstract: The regulation updates and revises most of the Commission's current regulations, specifically 45 CFR 701, 702, 703. 45 CFR 701 identifies the organization and functions of the Commission. 45 CFR 702 specifies the rules on hearings, reports, and meetings of the Commission. 45 CFR 703 identifies the operations and functions of the Commission's State Advisory Committees.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephanie Y. Moore, General Counsel, Commission on Civil Rights, 624 Ninth Street NW., Suite 620, Washington, DC 20425
Phone: 202 376-8351

RIN: 3035–AA02

[FR Doc. 98-23544 Filed 11-06-98; 8:45 am]

BILLING CODE 6335-01-F

federal register

Monday
November 9, 1998

Part XXI

Corporation for National and Community Service

Semiannual Regulatory Agenda

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS)

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Ch. XXV

Executive Order 12866 "Regulatory Planning and Review"; Semiannual Agenda of Regulations

AGENCY: Corporation for National and Community Service.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations that the Corporation will have under development, revision, or review during the next year. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to provide the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the agency official listed for the particular agenda item. For other information concerning Corporation regulations or this semiannual agenda, contact Kenneth L. Klothen, General Counsel, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525, (202) 606-5000, ext. 290.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. 601), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

The Corporation for National and Community Service has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public and that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory analysis is required under 5 U.S.C. 602.

Dated: August 27, 1998.

Wendy Zenker,

Chief Operating Officer.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS) — Proposed Rule Stage

3368. • SENIOR COMPANION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12501 et seq

CFR Citation: 45 CFR 1207; 45 CFR 2551

Legal Deadline: None

Abstract: The Senior Companion Program provides grants to eligible agencies and organizations to engage older persons, particularly those with limited incomes, in volunteer service to meet critical community needs. Program funds are used to support Senior Companions in providing supportive, individualized services to help adults with special needs maintain their dignity and independence. The program uses the skills and experiences of individuals age 60 and over as a resource to address local needs, and seeks to enrich the lives of older people through their participation in community service.

Timetable:

Action	Date	FR Cite
NPRM	09/03/98	63 FR 46954
NPRM Comment Period End	11/02/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Rey Tejada, National Senior Corps Program Officer, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525
Phone: 202 606-5000
Fax: 202 565-2743
Email: rtejada@cns.gov

RIN: 3045–AA17

3369. • FOSTER GRANDPARENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12501 et seq

CFR Citation: 45 CFR 1208; 45 CFR 2552

Legal Deadline: None

Abstract: The Foster Grandparent Program provides grants to qualified agencies and organizations to engage older persons, particularly those with limited incomes, in volunteer service to meet critical community needs. Program funds are used to support Foster Grandparents in providing supportive, person to person service to children with exceptional or special needs. The program uses the skills and experiences of individuals age 60 and over as a resource to address local needs, and seeks to enrich the lives of older persons through their participation in community service.

Timetable:

Action	Date	FR Cite
NPRM	09/03/98	63 FR 46923
NPRM Comment Period End	11/02/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Rey Tejada, National Senior Corps Program Officer, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525
Phone: 202 606-5000
Fax: 202 565-2743
Email: rtejada@cns.gov

RIN: 3045–AA17

3370. • RETIRED AND SENIOR VOLUNTEER PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12501 et seq

CFR Citation: 45 CFR 1209; 45 CFR 2553

Legal Deadline: None

Abstract: The Retired and Senior Volunteer Program provides grants to qualified agencies and organizations to engage persons age 55 and older in volunteer service roles, matching their skills and personal interests to help meet significant community needs.

Timetable:

Action	Date	FR Cite
NPRM	09/03/98	63 FR 46972
NPRM Comment Period End	11/02/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Rey Tejada, National Senior Corps Program Officer, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525
Phone: 202 606-5000
Fax: 202 565-2743
Email: rtejada@cns.gov

RIN: 3045–AA18

CNCS — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	11/02/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Rey Tejada, National Senior Corps Program Officer, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525
Phone: 202 606-5000
Fax: 202 565-2743
Email: rtejada@cns.gov

RIN: 3045–AA19

3371. • CLAIMS COLLECTION

Priority: Info./Admin./Other

Legal Authority: 31 USC 3711; 31 USC 3716; 31 USC 3720A; 42 USC 12651f

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Corporation for National and Community Service will be publishing regulations to govern the collection of debts owed to the Corporation. The regulations to be promulgated will be issued under the Federal Claims Collection Act of 1966, the Debt Collection Act of 1982, the Debt Collection Improvement Act of 1996, and will be consistent with the Federal Claims Collection Standards, and the Office of Personnel Management guidelines on offsets against Federal employee salaries.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	
Interim Final Rule	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Douglas H. Hilton, Assistant General Counsel, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525
Phone: 202 606-5000
Fax: 202 565-2796
Email: dhilton@cns.gov

RIN: 3045–AA20

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS) — Long-Term Actions

3372. NATIONAL SERVICE TRUST

Priority: Info./Admin./Other

CFR Citation: 45 CFR 2525 to 2529

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/15/94	59 FR 30709
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: David Spevacek
Phone: 202 606-5000
Email: dspevacek@cns.gov

RIN: 3045–AA09

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS) — Completed Actions

3373. FREEDOM OF INFORMATION ACT REGULATION AND IMPLEMENTATION OF ELECTRONIC FREEDOM OF INFORMATION ACT AMENDMENTS OF 1996

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12501 et seq

CFR Citation: 45 CFR 2507

Legal Deadline: None

Abstract: The Corporation for National and Community Service revises its regulations under the Freedom of Information Act (FOIA) by redesignating the existing regulations under former ACTION's CFR chapters as updated regulations under the Corporation's CFR chapters. The Corporation expects this proposed rule will promote consistency in its processing of FOIA requests.

Timetable:

Action	Date	FR Cite
NPRM	03/13/98	63 FR 12068
NPRM Comment Period End	04/13/98	
Final Action	05/13/98	63 FR 26488
Final Action Effective	06/12/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bill Hudson, Law Office Manager, General Counsel Office, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525
Phone: 202 606-5000
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Email: whudson@cns.gov

RIN: 3045–AA16

[FR Doc. 98-23917 Filed 11-06-98; 8:45 am]

BILLING CODE 6050-28-F

Printed on recycled paper

11–9–98
Vol. 63 No. 216

federal register

Monday
November 9, 1998

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11–9–98
Vol. 63 No. 216

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Pages 62347–62918

federal register

Monday, November 9, 1998
Book 4 of 4 Books

The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions

62348 XXII—Environmental Protection Agency
62480 XXIII—Equal Employment Opportunity Commission
62486 XXIV—Federal Emergency Management Agency
62494 XXV—Federal Mediation and Conciliation Service
62496 XXVI—General Services Administration
62510 XXVII—National Aeronautics and Space Administration
62514 XXVIII—National Archives and Records Administration
62522 XXIX—NFAH—Institute of Museum and Library Services
62524 XXX—NFAH—National Endowment for the Arts
62528 XXXI—NFAH—National Endowment for the Humanities
62530 XXXII—National Science Foundation
62534 XXXIII—Office of Federal Housing Enterprise Oversight
62538 XXXIV—Office of Government Ethics
62546 XXXV—Office of Management and Budget
62552 XXXVI—Office of Personnel Management
62576 XXXVII—Office of Special Counsel
62578 XXXVIII—Overseas Private Investment Corporation
62580 XXXIX—Panama Canal Commission
62584 XL—Peace Corps
62588 XLI—Pension Benefit Guaranty Corporation
62594 XLII—Railroad Retirement Board
62600 XLIII—Selective Service System
62602 XLIV—Small Business Administration
62610 XLV—Social Security Administration
62630 XLVI—Tennessee Valley Authority
62632 XLVII—United States Information Agency
62634 XLVIII—Department of Defense/General Services Administration/National Aeronautics and Space Administration
62648 XLIX—Commodity Futures Trading Commission
62654 L—Consumer Product Safety Commission
62662 LI—Farm Credit Administration
62668 LII—Farm Credit System Insurance Corporation
62670 LIII—Federal Communications Commission
62698 LIV—Federal Deposit Insurance Corporation
62708 LV—Federal Energy Regulatory Commission
62714 LVI—Federal Housing Finance Board
62720 LVII—Federal Maritime Commission
62724 LVIII—Federal Reserve System
62738 LIX—Federal Trade Commission
62748 LX—National Credit Union Administration
62754 LXI—National Indian Gaming Commission
62760 LXII—Nuclear Regulatory Commission
62782 LXIII—Securities and Exchange Commission
62808 LXIV—Surface Transportation Board
62813 Regulatory Flexibility Analysis Index
62823 Small Entities Index (Regulatory Flexibility Analysis Not Required)
62831 Government Levels Index
62857 Regulatory Flexibility Act Section 610 Review Index
62859 Subject Index

Federal Register

Monday
November 9, 1998

Part XXII

Environmental Protection Agency

Semiannual Regulatory Agenda

ENVIRONMENTAL PROTECTION AGENCY (EPA)

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL-6161-5]

October 1998 Agenda of Regulatory and Deregulatory Actions

AGENCY: Environmental Protection Agency.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Environmental Protection Agency (EPA) publishes the Semiannual Agenda of Regulatory and Deregulatory Actions to update the public about our:

- Regulations currently under development,
- Reviews of existing regulations, and
- Rulemakings completed or canceled since the last Agenda.

EPA believes that, if the people affected by rules participate in developing them, we will wind up with rules that are clearer, less burdensome, and more effective.

ADDRESSES TO BE PLACED ON THE AGENDA MAILING LIST: If you would like to receive copies of future Agendas, please send a note with your mailing address to one of the following:

- By Mail to USEPA/NCEPI at P.O. Box 42419, Cincinnati, Ohio 45242,
- By Fax to (513) 489-8695, or
- By E-mail to ncepi.mail@epamail.epa.gov.

There is no charge for the Agenda.

FOR FURTHER INFORMATION CONTACT: We welcome your comments and suggestions. If you have general comments or questions about EPA's rulemaking process, please direct them to: Philip Schwartz (2136), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; phone: (202) 260-5493, fax: (202) 260-5478, e-mail: Schwartz.Philip@epa.gov.

If you have questions or comments about a particular rule, please communicate directly with the agency contact listed for that rule.

You can also get information on current EPA rulemakings from our Internet site on environmental regulations that we update every day. This site includes the text of proposed and final environmental rules issued by the EPA and by other agencies. It also includes an electronic version of this Agenda and EPA's regulatory plan published in part 2 of this issue of the **Federal Register**. The site is located at http://www.epa.gov/epahome/rules.html and is part of EPA's large agencywide Internet site which we invite you to visit at http://www.epa.gov.

We expect that the EPA net site will be an increasingly important means of communication between EPA and the public. We inaugurated this site about 4 years ago, and it has more than 100,000 documents and files currently available on-line. The site receives more than 30 million requests monthly.

SUPPLEMENTARY INFORMATION:

The Rulemaking Process

Congress has established a number of requirements that agencies must meet when they issue regulations. These requirements are designed to support the development of quality regulations and protect the rights of people affected by agencies' rules. These requirements are contained in the Administrative Procedure Act, the Regulatory Flexibility Act as amended by the Small Business Regulatory Enforcement Fairness Act, the Unfunded Mandates Reform Act, the Paperwork Reduction Act, the National Technology Transfer and Advancement Act, and the Congressional Review Act. An Internet site that contains information on Federal statutes is http://www.law.cornell.edu/uscode/.

President Clinton also established requirements that executive agencies must meet when developing regulations. Of particular significance for EPA rulemakings are Executive Orders 12866 (Regulatory Planning and Review), 12875 (Enhancing the Intergovernmental Partnership), 13045 (Children's Health Protection), and 13084 (Consultation and Coordination with Indian Tribal Governments). An Internet site that contains information on Executive orders is http://library.whitehouse.gov/.

We encourage you to participate in the rulemaking process to make your views known and help us develop rules that:

- Protect human health,
- Preserve and enhance the environment, and
- Meet environmental goals without being unnecessarily burdensome.

You can do this by getting in touch with the contact person for a particular rule and asking them about what opportunities are available to participate in developing the rule. You also can comment on proposed rules that we publish in the **Federal Register** and post on our Internet site. We will consider your comments and address them before issuing a final rule. To be most effective, comments should contain information and data which support your position, and you should explain why we should incorporate your suggestion in the final rule.

If you are interested in a particular rulemaking listed in the Agenda, contact the individual listed in the Agenda entry. Areas in which we are initiating regulatory action are listed in the Proposed Rules sections of this Agenda. Areas under consideration for regulatory action are listed in the Prerule sections.

In addition to rules, we also have included in this Agenda some of our more important guidance documents. While these documents do not have the force and effect of law because they are not legally binding on EPA or outside parties, they will guide our thinking in major policy areas, and we also invite you to participate in developing these documents.

EPA's Regulatory Philosophy and Priorities

EPA's efforts to develop a system that works better and costs less are focused on five areas: Greater public access to information, more regulatory flexibility to obtain better results, stronger partnerships with States and industries, more compliance assistance, and less paperwork and red tape. To learn more about what we are accomplishing in these areas, please refer to the "Statement of Regulatory Priorities" contained in EPA's regulatory plan in part 2 of this issue of the **Federal Register**.

What Actions Are Included in the Agenda?

EPA includes regulations and certain major policy documents in the Agenda. We do not generally include minor amendments or the following categories of actions in the Agenda:

- Under the Clean Air Act: Revisions to State Implementation Plans; Equivalent Methods for Ambient Air Quality Monitoring; Deletions from the New Source Performance Standards source categories list; Delegations of Authority to States; Area Designations for Air Quality Planning Purposes.
- Under the Federal Insecticide, Fungicide, and Rodenticide Act: Actions regarding pesticide tolerances and food additive regulations; decision documents defining and establishing registration standards; decision documents and termination decisions for the Rebuttable Presumption Against Registration process; and data call-in requests made under section 3(c)(2)(B).
- Under the Resource Conservation and Recovery Act: Authorization of State solid waste management plans; hazardous waste delisting petitions.
- Under the Clean Water Act: State Water Quality Standards; Deletions from the section 307(a) list of toxic pollutants; Suspensions of toxic testing requirements under the National Pollutant Discharge Elimination System (NPDES); Delegations of NPDES authority to States.
- Under the Safe Drinking Water Act: Actions on State underground injection control programs.

The Office of Management and Budget has exempted most of these actions from the Executive Order 12866 review procedures. There is no legal significance to the omission of an item from the Agenda.

How the Agenda Is Organized and the Relationship Between the Regulatory Agenda and Regulatory Plan

In accordance with E.O. 12866, we publish the EPA Agenda of Regulatory and Deregulatory Actions in April and October of each year as part of the Unified Agenda of Federal Regulatory and Deregulatory Actions. Also, in accordance with E.O. 12866, we publish the Regulatory Plan as part of the October Agenda. Entries in the Plan contain all of the information that is included in the Agenda entries, as well as some additional information on risks, costs, and benefits. Rules included in the Plan are the most significant rules that we expect to publish between October 1, 1998, and September 30, 1999. The Agenda contains information on actions that are less significant than the rules that are covered in the Plan. The Agenda also includes a list of rules that we will publish after September 30, 1999.

We have organized both the Agenda and the Plan:

- First, by the law that would authorize a particular regulation;
- Second, by the current stage of development (proposal, final, etc.); and
- Third, by the section number of the statute which requires or authorizes the rule.

The following 13 sections deal with 12 laws that EPA administers and a thirteenth broader section called "General" that includes cross-cutting actions, such as general acquisition rules and rules authorized by multiple statutes:

1. General
2. The Clean Air Act (CAA)
3. The Atomic Energy Act (AEA)
4. The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)
5. The Toxic Substances Control Act (TSCA)
6. The Emergency Planning and Community Right-to-Know Act (EPCRA)
7. The Resource Conservation and Recovery Act (RCRA)
8. The Oil Pollution Act (OPA)
9. The Comprehensive Environmental Response, Compensation, and Liability Act [Superfund] (CERCLA)
10. The Clean Water Act (CWA)
11. The Safe Drinking Water Act (SDWA)
12. The Marine Protection, Research, and Sanctuaries Act (MPRSA)
13. The Shore Protection Act (SPA)

In each of these 13 sections there are up to five headings covering the following stages of rulemaking:

1. Prerulemakings—Prerulemaking actions are intended to determine whether EPA should initiate rulemaking. Prerulemakings may include anything that influences or leads to rulemaking, such as advance notices of proposed rulemaking (ANPRMs), significant studies or analyses of the possible need for regulatory action, requests for public comment on the need for regulatory action, or important preregulatory policy proposals. Finally, we also announce our intent to review certain existing regulations under section 610 of the Regulatory Flexibility Act in this section of the Agenda.
2. Proposed Rules—This section includes EPA rulemaking actions that are within a year of proposal (publication of Notices of Proposed Rulemakings (NPRMs)).
3. Final Rules—This section includes rules that are within a year of final promulgation.
4. Long-Term Actions—This section includes prerulemakings, proposed, and final rules with expected publication dates beyond the next 12 months.
5. Completed Actions—This section contains actions that have been promulgated and published in the **Federal Register** since publication of the April 1998 Agenda. It also includes actions that we are no longer considering. If an action appears in the completed section, it will not appear in future Agendas unless we decide to initiate action again, in which case it will appear as a new entry. EPA also announces the results of our Regultory Flexibility Act section 610 reviews in this section of the Agenda.

Agenda Entries

Agenda entries include the following information, where applicable:

Sequence Number: This indicates where the entry appears in the Agenda.

Title: Titles for new entries (those that haven't appeared in previous Agendas) are preceded by a bullet ("•"). The notation "Section 610 Review" follows the title if we are reviewing the rule as part of our periodic review of existing rules under section 610 of the Regulatory Flexibility Act (5 U.S.C. 610).

Priority: Entries are placed into one of five categories described below.

Economically Significant: As defined in Executive Order 12866, a rulemaking action that will have an annual effect on the economy of $100 million or more or will adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

Other Significant: A rulemaking that is not economically significant but is considered significant by the agency. This category includes rules that are an EPA priority and rules that EPA anticipates will be reviewed by the Office of Management and Budget under E.O. 12866 because they are likely to:

- create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of recipients; or

• raise novel legal or policy issues.

Substantive, Nonsignificant: A rulemaking that has substantive impacts but is neither Significant, nor Routine and Frequent, nor Informational/Administrative/Other.

Routine and Frequent: A rulemaking that is a specific case of a multiple recurring application of a regulatory program in the Code of Federal Regulations and that does not alter the body of the regulation.

Informational/Administrative/Other: A rulemaking that is primarily informational or pertains to agency matters not central to accomplishing the agency's regulatory mandate but that the agency places in the Agenda to inform the public of the activity.

Also, if we believe that a rule may be "major" as defined in section 804 of the congressional review provisions of the Small Business Regulatory Enforcement Fairness Act (SBREFA) (5 U.S.C. 804; Pub.L. 104-121) because it is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in this law, we indicate this under the "Priority" heading with the statement "Major under 5 U.S.C. 801".

Legal Authority: The sections of the United States Code (U.S.C.), Public Law (P.L.), Executive Order (E.O.), or common name of the law that authorizes the regulatory action.

CFR Citation: The sections of the Code of Federal Regulations that will be affected by the action.

Legal Deadline: An indication of whether the rule is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to a Notice of Proposed Rulemaking, a Final Action, or some other action.

Abstract: A brief description of the problem the regulation will address.

Timetable: The dates (and citations) that documents for this action were published in the **Federal Register** and, where possible, a projected date for the next step. Projected publication dates frequently change during the course of a rule development. The projections in the Agenda are our best estimates as of the date we submit the Agenda for publication. If a date appears in this section as 00/00/00, the date of the action is currently undetermined. "Undetermined" indicates we are very uncertain about the date of completion of the action we will take next. Dates in 2000 or later are printed in the same form as other dates, using the last two digits of the year.

Regulatory Flexibility Analysis Required: Indicates whether EPA has prepared or anticipates that it will be preparing a regulatory flexibility analysis under section 603 or 604 of the Regulatory Flexibility Act. Generally, such an analysis is required for proposed or final rules that EPA believes may have a significant impact on a substantial number of small entities.

Small Entities Affected: Indicates which small entities (businesses, governmental jurisdictions, or organizations), if any, may be affected by the rule.

Government Levels Affected: Indicates whether the rule is expected to affect levels of government and, if so, whether the governments are State, local, tribal, or Federal.

Unfunded Mandates: Section 202 of the Unfunded Mandates Reform Act requires an assessment of anticipated costs and benefits if a rule includes a mandate that may result in expenditures of more than $100 million in any 1 year by State, local, and tribal governments, in the aggregate, or by the private sector. If the section 202 threshold is expected to be exceeded, we note that in this section.

Reinventing Government: If an action is part of the President's Reinventing Government Initiative, we indicate it in this section.

Agency Contact: The name, address, phone number, and e-mail address, if available, of a person who is knowledgeable about the regulation.

SAN Number: A code number that EPA uses to identify and track rulemakings.

RIN: The Regulatory Identifier Number is a code number that OMB uses to identify and track rulemakings.

Plan Entries

The Plan, which includes a Statement of Regulatory Priorities and information about the most significant actions that we will publish between October 1, 1998, and September 30, 1999, is published in part 2 of today's **Federal Register**. Plan entries include all of the Agenda data fields described above, plus up to five other types of information: Statement of Need, Summary of the Legal Basis, Alternatives, Anticipated Costs and Benefits, and a discussion of Risks.

Regulatory Flexibility Act Considerations

The Regulatory Flexibility Act (RFA) requires that an agency prepare a Regulatory Flexibility Analysis for any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a "significant economic impact on a substantial number of small entities" (i.e., small governments, small businesses, and small nonprofit organizations). A Regulatory Flexibility Analysis must, among other items specified in the RFA, identify the extent to which small entities will be subject to the rule's requirements and describe any significant alternatives to the rule which accomplish the objectives of applicable statutes and which minimize any significant economic impacts on small entities. We have listed in the first index at the end of the Agenda all rules under development that we expect will require a Regulatory Flexibility Analysis.

In the "Small Entities Affected" section, we say whether we expect the action will have an impact on small entities that is less than a significant impact on a substantial number of small entities. All of the actions so identified are listed in the second index at the end of the Agenda.

Section 610 of the RFA requires that an agency review within 10 years of promulgation those regulations that have or will have a significant economic impact on a substantial number of small entities. We undertake these reviews to decide whether we should continue the rule unchanged, amend it, or withdraw it. We encourage small entities to provide comments on the need to change these rules, as these comments will factor into the Agency's determination to continue or amend the rules. In the "Prerule" sections of this Agenda, we report on two ongoing and one new 610 reviews. These entries have "Section 610 Review" after the title of the action. We also report on the status of nine previously initiated section 610 reviews in the "Completed Actions" sections of the Agenda. One rule previously identified as needing a 610 review, Importation of Nonconforming Vehicles, upon closer inspection turned out not to require one.

Dated: September 4, 1998.

David Gardiner,

Assistant Administrator, Office of Policy.

General—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3374	SAN No. 4056 Utilization of Small, Minority and Women's Business Enterprises in Procurement Under Assistance Agreements	2020-AA39
3375	SAN No. 4180 Rewriting of EPA Regulations Implementing the Freedom of Information Act	2020-AA40
3376	SAN No. 3736 Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (State) Grant Regulation **(Reg Plan Seq. No. 98)**	2030-AA55
3377	SAN No. 4128 Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (Tribal) Grant Rule **(Reg Plan Seq. No. 99)**	2030-AA56
3378	SAN No. 4184 Contracting by Negotiation	2030-AA59
3379	SAN No. 4186 EPAAR Coverage on Contractor Performance Evaluations	2030-AA61
3380	SAN No. 4187 EPAAR Coverage on Local Hiring and Training	2030-AA62
3381	SAN No. 4188 Service Contracting—Avoiding Improper Personal Services Relationships	2030-AA63
3382	SAN No. 4191 Revision to EPAAR 1552.211-73, Level of Effort	2030-AA64
3383	SAN No. 3580 Incorporation of Class Deviation Into EPAAR	2030-AA37
3384	SAN No. 3629 EPA Mentor-Protege Program	2030-AA40
3385	SAN No. 3876 Incrementally Funding Fixed Price Contracts	2030-AA50
3386	SAN No. 3874 Revision of EPA Acquisition Regulations for Quality Systems for Environmental Programs	2030-AA51
3387	SAN No. 3817 Implementation of Changes to 40 CFR Part 32	2030-AA48
3388	SAN No. 3807 Consolidation of Good Laboratory Practice Standards (GLPS) Regulations Currently Under TSCA and FIFRA Into One Rule	2020-AA26

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

General—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3389	SAN No. 4185 Electronic Funds Transfer	2030-AA57
3390	SAN No. 4183 Agency Protest Solicitation Notification	2030-AA58
3391	SAN No. 3671 Guidelines for Carcinogen Risk Assessment	2080-AA06
3392	SAN No. 2662 Amendments to Part 22 Consolidated Procedural Rules	2020-AA13
3393	SAN No. 3240 Public Information and Confidentiality Regulations	2020-AA21
3394	SAN No. 3933 Environmental Impact Assessment of Nongovernmental Activities in Antarctica	2020-AA34

General—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3395	SAN No. 2939 Regulations Governing Awards Under Section 113(f) of the Clean Air Act	2020-AA31

General—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3396	SAN No. 4021 Nondiscrimination on the Basis of Sex in Educational Programs Receiving Federal Assistance	2020-AA36
3397	SAN No. 4189 Quick-Closeout Procedures	2030-AA60
3398	SAN No. 3624 Guidelines for Neurotoxicity Risk Assessment	2080-AA08
3399	SAN No. 3854 Value Engineering	2030-AA49

EPA

Clean Air Act (CAA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3400	SAN No. 3986 Consolidated Emission Reporting Rule	2060-AH25
3401	SAN No. 4120 Protection of Stratospheric Ozone: Allowance System for Controlling HCFC Production, Import and Export	2060-AH67
3402	SAN No. 4136 Standards of Performance for New Stationary Sources; New Residential Wood Heaters **(Section 610 Review)**	2060-AI05

Clean Air Act (CAA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3403	SAN No. 4159 Redefinition of Glycol Ethers Listed as HAPs Under the Clean Air Act, and Hazardous Substances Under CERCLA	2060-AI08
3404	SAN No. 4043 Control of Emissions of Air Pollution From 2004 and Later Model Year Highway Heavy-Duty Diesel Engines	2060-AI12
3405	SAN No. 4148 Conformity Pilot	2060-AI14
3406	SAN No. 3263 Performance Warranty and Inspection/Maintenance Test Procedures	2060-AE20
3407	SAN No. 3262 Inspection/Maintenance Recall Requirements	2060-AE22
3408	SAN No. 3380 NSPS: Synthetic Organic Chemicals Manufacturing Industry - Wastewater	2060-AE94
3409	SAN No. 3407 Method 301: Field Validation of Pollution Measurement Methods for Various Media; Revisions	2060-AF00
3410	SAN No. 3549 NESHAP: Petroleum Refineries - FCC Units, Reformers and Sulfur Plants	2060-AF28
3411	SAN No. 3553 Implementation of Ozone and Particulate Matter (PM) National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations **(Reg Plan Seq. No. 100)**	2060-AF34
3412	SAN No. 3516 Comprehensive Radiation Waste Management Regulation	2060-AF41
3413	SAN No. 3569 Federal Implementation Plan To Control Emissions From Two Power Stations Located on Navajo Nation Lands	2060-AF42
3414	SAN No. 3637 Federal Implementation Plan (FIP) To Control Emissions From Sources Located on the Fort Hall Indian Reservation	2060-AF84
3415	SAN No. 3568 Environmental Radiation Protection Standards for Yucca Mountain, Nevada **(Reg Plan Seq. No. 101)**	2060-AG14
3416	SAN No. 3744 Amendment to Standards of Performance for New Stationary Sources; Monitoring Requirements (PS-1)	2060-AG22
3417	SAN No. 3748 Consolidated Federal Air Rule for the Synthetic Organic Chemical Manufacturing Industry **(Reg Plan Seq. No. 102)**	2060-AG28
3418	SAN No. 3819 NSPS: Sewage Sludge Incinerators	2060-AG50
3419	SAN No. 3966 Storage Tank Rule Revisions	2060-AH15
3420	SAN No. 3917 Transportation Conformity Rule Amendment: Clarification of Trading Provisions	2060-AH31
3421	SAN No. 3910 Streamlined Evaporative Test Procedures	2060-AH34
3422	SAN No. 3975 Review of Minor New Sources and Modifications in Indian Country	2060-AH37
3423	SAN No. 3977 Revisions to Clarify the Permit Content Requirements for State Operating Permits	2060-AH46
3424	SAN No. 4046 Revisions to New Source Review (NSR) Regulations to Implement the New National Ambient Air Quality Standards (NAAQS) for Ozone	2060-AH53
3425	SAN No. 4022 NESHAP: Coke Ovens: Pushing, Quenching, and Battery Stacks	2060-AH55
3426	SAN No. 4067 Acid Rain Program: Determination on Section 75.7 (EPA Study of Bias Test) and Section 75.8 (Relative Accuracy and Availability Analysis)	2060-AH64
3427	SAN No. 4106 Final Rule To Amend the National Emission Standards for Magnetic Tape Manufacturing Operations	2060-AH71
3428	SAN No. 4103 NESHAP: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) & Other Processes Subject to the Negotiated Regulation for Equipment	2060-AH81
3429	SAN No. 4119 Performance Specification 16 - Specifications and Test Procedures for Predictive Emission Monitoring Systems in Stationary Sources	2060-AH84
3430	SAN No. 4096 Federal Implementation Plans To Reduce the Regional Transport of Ozone in the Eastern United States; Proposed Rules	2060-AH87
3431	SAN No. 4095 Findings of Significant Contribution and Rulemaking on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport	2060-AH88
3432	SAN No. 4082 Wet-formed Fiberglass Mat Production NESHAP	2060-AH89
3433	SAN No. 4003 Technical Change to Dose Methodology for 40 CFR 191, Subpart A	2060-AH90

EPA

Clean Air Act (CAA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3434	SAN No. 4073 Revisions to the Pollutant Standards Index and Significant Harm Level Programs for Ozone and Particulate Matter	2060-AH92
3435	SAN No. 4070 General Conformity Regulations; Revisions	2060-AH93
3436	SAN No. 3893 Review of Operating Permits Issued by Indian Tribes	2060-AH98
3437	SAN No. 4077 Protection of Stratospheric Ozone: Reconsideration on the 610 Nonessential Products Ban	2060-AH99
3438	SAN No. 3951 Control of Emissions From New Nonroad Spark-Ignition Engines At or Below 19 Kilowatts, Minor Amendments to the Phase I Emission Standards	2060-AI02
3439	SAN No. 4129 Notice of Temporary Stay, Notice of Proposed Compliance Extension; Equivalency Determination-National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent	2060-AI04
3440	SAN No. 4078 Control of Emissions of Air Pollution From New Marine Diesel Engines at or above 37 Kilowatts	2060-AI17
3441	SAN No. 4211 Tier II Light-Duty Vehicle, Light-Duty Truck, and Heavy-Duty Gasoline Vehicle Emission Standards and Gasoline Sulfur Standards **(Reg Plan Seq. No. 103)**	2060-AI23
3442	SAN No. 1002 NAAQS: Sulfur Dioxide (Review and Implementation) **(Reg Plan Seq. No. 104)**	2060-AA61
3443	SAN No. 3470 Revision of Appendix W to 40 CFR Part 51	2060-AF01
3444	SAN No. 3228 NESHAP for the Manufacturing of Amino and Phenolic Resins (Polymers and Resins Group III)	2060-AE36
3445	SAN No. 3078 NESHAP: Secondary Aluminum Industry	2060-AE77
3446	SAN No. 3378 NESHAP: Acrylic/Modacrylic Fibers Manufacturing	2060-AF06
3447	SAN No. 3465 NESHAP: Polycarbonates Production	2060-AF09
3448	SAN No. 3377 NESHAP: Publicly Owned Treatment Works (POTW)	2060-AF26
3449	SAN No. 3550 NESHAP: Manufacturing of Nutritional Yeast	2060-AF30
3450	SAN No. 3551 Amendments to General Provisions Subpart A and B for 40 CFR 63	2060-AF31
3451	SAN No. 3821 NESHAP: Ethylene Processes	2060-AG53
3452	SAN No. 3829 Revisions to the Regulation for Approval of State Programs and Delegation of Federal Authorities 112(l)	2060-AG60
3453	SAN No. 3651 NESHAP: Lime Manufacturing	2060-AG72
3454	SAN No. 3901 Generic MACT for Source Categories (Acrylic Modacrylic Fibers, Polycarbonates, Hydrogen Fluoride, and Acetal Resins)	2060-AG91
3455	SAN No. 3902 NESHAP: Semiconductor Production	2060-AG93
3456	SAN No. 3654 NESHAP: Hydrogen Fluoride Production	2060-AG94
3457	SAN No. 2841 NESHAP: Chromium Electroplating Amendment	2060-AH08
3458	SAN No. 3959 National Strategy for Urban Area Sources of Toxic Air Emissions	2060-AH21
3459	SAN No. 3973 NESHAP: Flexible Polyurethane Foam Fabrication Operations	2060-AH42
3460	SAN No. 3939 NESHAP: Group I Polymers and Resins and Group IV Polymers and Resins and Group IV Polymers and Resins	2060-AH47
3461	SAN No. 3479 Amendments to Parts 51, 52, 63, 70 and 71 Regarding the Provisions for Determining Potential To Emit	2060-AI01
3462	SAN No. 3979 Review of Federal Test Procedures for Emissions From Motor Vehicles; Test Procedure Adjustments to Fuel Economy and Emission Test Results	2060-AH38
3463	SAN No. 3091 Specification of Substantially Similar Definition for Diesel Fuels	2060-AD77
3464	SAN No. 3673 Protection of Stratospheric Ozone: Reconsideration of Section 608 Sales Restriction	2060-AG20
3465	SAN No. 3983 Servicing of Motor Vehicle Air Conditioners: Standards for Equipment That Recovers and Recycles Refrigerants Other Than CFC-12 and HFC-134a	2060-AH29
3466	SAN No. 3640 Supplemental Rule To Require Certain Products Made With HCFCs To Bear Warning Label	2060-AF93

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Clean Air Act (CAA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3467	SAN No. 4115 NESHAP: Chromium Electroplating Amendment	2060-AH69
3468	SAN No. 3898 1998 Revision of Acid Rain Allowance Allocations	2060-AG86
3469	SAN No. 3259 New Source Review (NSR) Reform **(Reg Plan Seq. No. 126)**	2060-AE11
3470	SAN No. 3082 NESHAP: Ferroalloy Production	2060-AF29
3471	SAN No. 3573 Acid Rain Program: Deletion of Certain Units	2060-AF46
3472	SAN No. 3412 Operating Permits: Revisions (Part 70) **(Reg Plan Seq. No. 127)**	2060-AF70
3473	SAN No. 2915 Methods for Measurement of Visible Emissions - Addition of Methods 203A, 203B, and 203C to Appendix M of Part 51	2060-AF83

EPA

Clean Air Act (CAA)—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3474	SAN No. 3643 Sales Volume Limit Provisions for Small-Volume Manufacture Certification for Clean Fuel and Conventional Vehicle Conversions and Related Provisions	2060-AF87
3475	SAN No. 3741 Service Information Availability	2060-AG13
3476	SAN No. 3743 Amendments to Part 60, Part 61, and Part 63 and Addition of Method 14A to Part 60	2060-AG21
3477	SAN No. 3750 Regulation Review/Burden Reduction	2060-AG30
3478	SAN No. 3808 Acid Rain Program: Continuous Emission Monitoring (CEM) Rule Revisions	2060-AG46
3479	SAN No. 3835 Amendment to the User Fees for Radon Proficiency Programs Rule	2060-AG64
3480	SAN No. 3900 Addition of Method 207 to Appendix M of 40 CFR Part 51 - Method for Measuring Isocyanates in Stationary Source Emissions	2060-AG88
3481	SAN No. 3868 Federal Operating Permits Program in Indian Country	2060-AG90
3482	SAN No. 3913 Revision to the Light-Duty Vehicle Emission Compliance Procedure	2060-AH05
3483	SAN No. 3945 Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group (OTAG) Region for Purposes of Reducing Regional Transport of Ozone	2060-AH10
3484	SAN No. 3958 Addition of Opacity Method to Appendix M of 40 CFR Part 51 (Method 203)	2060-AH23
3485	SAN No. 4030 Expanded Definitions for Alternative-Fueled Vehicles and Engines Meeting Low-Emission Vehicle Exhaust Emission Standards	2060-AH52
3486	SAN No. 4052 Revisions to the Permits and Sulfur Dioxide Allowance System Regulations Under Title IV of the Clean Air Act	2060-AH60
3487	SAN No. 4126 NESHAP: Wood Furniture Manufacturing Operations, Amendments	2060-AH66
3488	SAN No. 4123 National Emission Standards for Hazardous Air Pollutants for Source Category: Pulp and Paper Production; Amendments to the Promulgated Rule	2060-AH74
3489	SAN No. 4076 Supplemental Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone	2060-AH91
3490	SAN No. 4125 Electric Arc Furnace NSPS Amendment	2060-AH95
3491	SAN No. 4108 NESHAP: Off-Site Waste and Recovery Operations; Final Rule—Settlement Agreement; and NESHAP for Off-Site Waste and Recovery Operations for Technical Amendments	2060-AH96
3492	SAN No. 4130 Acid Rain Program: Proposed Revision of Test Method 1, 2, and 2F for Measuring Volumetric Flow in Stacks	2060-AH97
3493	SAN No. 4165 Optional Certification Streamlining Procedures for LDVs, LDTs, and HDEs	2060-AI15
3494	SAN No. 3740 Transportation Conformity Rule Amendments: Flexibility and Streamlining	2060-AI16
3495	SAN No. 3105 Amendments—Integrated NESHAP and Effluent Guidelines: Pulp and Paper **(Reg Plan Seq. No. 128)**	2060-AD03
3496	SAN No. 3461 NESHAP: Mineral Wool Production Industry	2060-AE08
3497	SAN No. 3229 NESHAP: Oil and Natural Gas Production and Natural Gas Transmission and Storage	2060-AE34
3498	SAN No. 3303 NESHAP: Phosphoric Acid Manufacturing	2060-AE40
3499	SAN No. 3345 NESHAP: Steel Pickling, HC1 Process	2060-AE41
3500	SAN No. 3304 NESHAP: Phosphate Fertilizers Production	2060-AE44
3501	SAN No. 3340 NESHAP: Primary Copper Smelting	2060-AE46
3502	SAN No. 3123 NESHAP: Wool Fiberglass Manufacturing Industry	2060-AE75
3503	SAN No. 3079 NESHAP: Portland Cement Manufacturing	2060-AE78
3504	SAN No. 3408 NESHAP: Polyether Polyols Production	2060-AE81
3505	SAN No. 3450 NESHAP: Pesticide Active Ingredient Production (Production of Agricultural Chemicals)	2060-AE84
3506	SAN No. 3338 NESHAP: Flexible Polyurethane Foam Production	2060-AE86
3507	SAN No. 3467 NESHAP: Primary Lead Smelters	2060-AE97
3508	SAN No. 2547 NESHAP: Radon Emissions From Phosphogypsum Stacks	2060-AF04
3509	SAN No. 3836 NESHAP: Aerospace Technical Amendments	2060-AG65
3510	SAN No. 4162 NESHAP: Oil and Natural Gas Production and NESHAP: Natural Gas Transmission and Storage , Amendments to Proposed Rule	2060-AI13
3511	SAN No. 2937 Field Citation Program	2020-AA32
3512	SAN No. 3604 Standards for Reformulated and Conventional Gasoline, Individual Baseline Fuel Adjustments	2060-AG80
3513	SAN No. 3610 Transportation Conformity Rule Amendment and Solicitation for Participation in the Pilot Program	2060-AG79
3514	SAN No. 3281 National VOC Emission Standards for Automobile Refinish Coatings	2060-AE35
3515	SAN No. 3351 VOC Regulation for Architectural Coatings **(Reg Plan Seq. No. 129)**	2060-AE55
3516	SAN No. 3658 National VOC Emission Standards for Consumer Products **(Reg Plan Seq. No. 130)**	2060-AF62
3517	SAN No. 3828 Reduction of Volatile Organic Compound (VOC) Emissions From Coatings Used in the Aerospace, Wood Furniture, and Shipbuilding Industries Under Clean Air Act Section 183(e)	2060-AG59
3518	SAN No. 3645 Control of Emissions of Air Pollution From Highway Heavy-Duty Engines and Diesel Engines **(Reg Plan Seq. No. 131)**	2060-AF76
3519	SAN No. 2665 Importation of Nonconforming Vehicles; Amendments to Regulations	2060-AI03

EPA

Clean Air Act (CAA)—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3520	SAN No. 3843 Revision to the Covered Areas Provision for Reformulated Gasoline	2060-AG77
3521	SAN No. 3842 Applicability of On-Highway Heavy-Duty Certified Engines for Use in Nonroad Heavy-Duty Vehicles and Equipment; Amendment	2060-AG78
3522	SAN No. 3361 Nonroad Spark-Ignition Engines At or Below 19 Kilowatts (25 Horsepower) (Phase 2) **(Reg Plan Seq. No. 132)**	2060-AE29
3523	SAN No. 3352 NSPS: Nitrogen Oxide Emissions From Fossil-Fuel Fired Steam Generating Units—Revision	2060-AE56
3524	SAN No. 3556 Protection of Stratospheric Ozone: Supplemental Rule Regarding a Recycling Standard Under Section 608	2060-AF36
3525	SAN No. 3560 Refrigerant Recycling Rule Amendment To Include Substitute Refrigerants	2060-AF37
3526	SAN No. 3525 Update of the Substitutes List Under the Significant New Alternatives Policy (SNAP) Program	2060-AG12
3527	SAN No. 3792 Technical Amendments to Hazardous Waste TSDF & Hazardous Waste Generators: Organic Air Emission Standards for Tanks, Surface Impoundments & Containers	2060-AG44

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Clean Air Act (CAA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3528	SAN No. 4105 NESHAP: Carbon Black Production	2060-AH68
3529	SAN No. 4110 Alumina Processing NESHAP	2060-AH70
3530	SAN No. 4154 Control of Emissions From Nonroad Spark-Ignition Engines Rated Over 19 kW	2060-AI11
3531	SAN No. 3341 NESHAP: Cyanide Chemical Manufacturing	2060-AE45
3532	SAN No. 3346 NESHAP: Integrated Iron and Steel	2060-AE48
3533	SAN No. 3649 Amendments to Method 24 (Water-Based Coatings)	2060-AF72
3534	SAN No. 3820 NESHAP: Plywood and Particleboard Manufacturing	2060-AG52
3535	SAN No. 3922 Revised Permit Revision Procedures for the Federal Operating Permits Program	2060-AG92
3536	SAN No. 3970 NESHAP: Miscellaneous Cellulose Production	2060-AH11
3537	SAN No. 3969 NESHAP: Municipal Solid Waste Landfills	2060-AH13
3538	SAN No. 4045 Rulemaking To Modify the List of Source Categories From Which Fugitive Emissions Are Considered in Major Source Determinations	2060-AH58
3539	SAN No. 4111 NESHAP: Fumed Silica Production	2060-AH72
3540	SAN No. 4102 NESHAP: Taconite Iron Ore Processing	2060-AH73
3541	SAN No. 4104 National Emission Standards for Hazardous Air Pollutants for the Hydrochloric Acid Production	2060-AH75
3542	SAN No. 4116 NESHAP: Ammonium Sulphate Production (Caprolactam By-Product)	2060-AH77
3543	SAN No. 4107 NESHAP: Asphalt/Coal Tar Application on Metal Pipes	2060-AH78
3544	SAN No. 4113 NESHAP: Clay Products Manufacturing	2060-AH79
3545	SAN No. 4112 NESHAP: Hydrogen Chloride Production	2060-AH80
3546	SAN No. 4114 NESHAP: Polyvinyl Chloride Production	2060-AH82
3547	SAN No. 4098 NESHAP: Uranium Hexafluoride Production	2060-AH83
3548	SAN No. 3656 NESHAP/NSPS: Reciprocating Internal Combustion Engine	2060-AG63
3549	SAN No. 3657 NESHAP/NSPS: Combustion Turbine	2060-AG67
3550	SAN No. 3343 NESHAP: Iron Foundries and Steel Foundries	2060-AE43
3551	SAN No. 3326 NESHAP: Reinforced Plastic Composites Production	2060-AE79
3552	SAN No. 3452 NESHAP: Miscellaneous Organic Chemical Production and Processes	2060-AE82
3553	SAN No. 3449 NESHAP: Chlorine Production	2060-AE85
3554	SAN No. 3746 NESHAP: Paint Stripping Operations	2060-AG26
3555	SAN No. 3747 NESHAP: Boat Manufacturing	2060-AG27
3556	SAN No. 3749 NESHAP: Tire Manufacturing	2060-AG29
3557	SAN No. 3754 Petroleum Solvent Dry Cleaners Maximum Achievable Control Technology (MACT) Standard	2060-AG34
3558	SAN No. 3823 Large Appliance (Surface Coating) NESHAP/VOC Reductions	2060-AG54
3559	SAN No. 3655 NESHAP: Asphalt Roofing and Processing	2060-AG66
3560	SAN No. 3652 NESHAP: Refractories Manufacturing	2060-AG68
3561	SAN No. 3837 NESHAP: Industrial, Commercial and Institutional Boilers and Process Heaters	2060-AG69
3562	SAN No. 3872 Industrial Combustion Coordinated Rulemaking - ICCR Project	2060-AG84
3563	SAN No. 3899 NESHAP: Friction Products Manufacturing	2060-AG87
3564	SAN No. 3906 NESHAP: Metal Can (Surface Coating) Industry	2060-AG96
3565	SAN No. 3905 NESHAP: Metal Coil (Surface Coating) Industry	2060-AG97

EPA

Clean Air Act (CAA)—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3566	SAN No. 3909 NESHAP: Fabric Printing, Coating and Dyeing	2060-AG98
3567	SAN No. 3907 Automobile and Light-Duty Truck Manufacturing (Surface Coating) NESHAP/VOC Reductions	2060-AG99
3568	SAN No. 3908 Offset Lithographic Printing National VOC Rule	2060-AH00
3569	SAN No. 3924 NESHAP: Primary Magnesium Refining	2060-AH03
3570	SAN No. 3968 NESHAP: Site Remediation	2060-AH12
3571	SAN No. 3967 NESHAP: Spandex Production	2060-AH14
3572	SAN No. 3964 NESHAP: Leather Tanning and Finishing Operations	2060-AH17
3573	SAN No. 3962 NESHAP: Manufacture of Carbon Black	2060-AH19
3574	SAN No. 3903 NESHAP: Vegetable Oil Production	2060-AH22
3575	SAN No. 3972 NESHAP: Rocket Engine Test Firing/Engine Test Facilities	2060-AH35
3576	SAN No. 3971 NESHAP: Organic Liquid Distribution	2060-AH41
3577	SAN No. 3613 NSPS: New Source Performance Standards and Emission Guidelines for Industrial and Commercial Waste Incinerators	2060-AF91
3578	SAN No. 3751 NSPS: New Source Performance Standards and Emission Guidelines for Other Solid Waste Incinerators	2060-AG31
3579	SAN No. 3919 Prevention of Significant Deterioration of Air Quality: Permit Application Review Procedures for Non-Federal Class I Areas	2060-AH01
3580	SAN No. 3824 Metal Furniture (Surface Coatings) NESHAP/VOC Reductions	2060-AG55
3581	SAN No. 3825 NESHAP/VOC Reductions Miscellaneous Metal Parts and Products (Surface Coating)	2060-AG56
3582	SAN No. 3826 Plastic Parts (Surface Coating) NESHAP/VOC Reductions	2060-AG57
3583	SAN No. 3827 Paper and Other Web Coating Reductions NESHAP/ VOC Rule	2060-AG58
3584	SAN No. 3904 Wood Building Products (Surface Coating) NESHAP/VOC Reductions	2060-AH02
3585	SAN No. 3139 Location of Selective Enforcement Audits of Foreign Manufactured Vehicles and Engines; Amendment	2060-AD90

Clean Air Act (CAA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3586	SAN No. 4042 Clean Fuel Fleet Program; Rule Amendment	2060-AH56
3587	SAN No. 4140 Protection of Stratospheric Ozone: Halon Recycling and Recovery Equipment Certification	2060-AI07
3588	SAN No. 4151 Industrial Process Cooling Tower NESHAP Amendment	2060-AI10
3589	SAN No. 4038 Federal Implementation Plan for a Fifteen Percent Reduction in Volatile Organic Compounds in the District of Columbia	2060-AH51
3590	SAN No. 2961 Locomotive Emission Standards	2060-AD33
3591	SAN No. 3638 Revision of EPA's Radiological Emergency Response Plan	2060-AF85
3592	SAN No. 3598 Amendment of Enhanced Inspection/Maintenance Performance Standard	2060-AG07
3593	SAN No. 3810 Protection of Stratospheric Ozone: Reconsideration of Petition Criteria and Incorporation of Montreal Protocol Decisions	2060-AG48
3594	SAN No. 3812 Environmental Radiation Protection Standards for Scrap Metal from Nuclear Facilities	2060-AG51
3595	SAN No. 3873 Waste Isolation Pilot Plant (WIPP) Compliance Certification Rulemaking	2060-AG85
3596	SAN No. 3911 Tier II (Phase II) Study to Assess Further Reductions in Light-Duty Vehicles and Light-Duty Trucks Tailpipe Emission Standards	2060-AH04
3597	SAN No. 3912 Emission Regulations for 1978 and Later New Motorcycles— Proposed Changes to the Definition of Weight Limitations for Motorcycles	2060-AH06
3598	SAN No. 3982 Protection of Stratospheric Ozone: Control of Methyl Bromide Emissions Through Use of Tarps	2060-AH26
3599	SAN No. 3943 Revision of Definition of Volatile Organic Compounds - Exclusion of Methyl Acetate	2060-AH27
3600	SAN No. 3978 Revisions to Service Information Availability Requirements	2060-AH28
3601	SAN No. 3915 Control of Emissions: Technical Amendments for Non-Road Compression Ignition Engines	2060-AH33
3602	SAN No. 3981 Revisions for Opting Into the Acid Rain Program	2060-AH36
3603	SAN No. 3984 Protection of Stratospheric Ozone: Manufacture of Halon Blends, Intentional Release of Halons, Technician Training and Disposal of Halon and Halon-Containing Equipment	2060-AH44
3604	SAN No. 3916 Urban Bus Retrofit/Rebuild Program Regulations Amendment	2060-AH45
3605	SAN No. 4078 Control of Emissions of Air Pollution From New Marine Diesel Engines at or Above 37 Kilowatts	2060-AH50
3606	SAN No. 4035 Protection of Stratospheric Ozone: Interpretation of Methyl Bromide Labeling Requirements	2060-AH54
3607	SAN No. 4032 Transportation Conformity for Transitional Ozone Areas	2060-AH59

EPA

Clean Air Act (CAA)—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3608	SAN No. 4033 Inspection/Maintenance (I/M) Program Requirement - On-Board Diagnostic Checks; Amendment to the Final Rule	2060-AH62
3609	SAN No. 4127 Alternative Flare Specifications for Hydrogen Fueled Flares	2060-AH94
3610	SAN No. 3168 NESHAP: Petroleum Refineries - Amendments to Final Rule	2060-AI00
3611	SAN No. 4197 Lead Phasedown **(Section 610 Review)**	2060-AI18
3612	SAN No. 4199 NSPS for Industrial Surface Coating: Metal Coils **(Section 610 Review)**	2060-AI19
3613	SAN No. 4200 NSPS for Industrial Surface Coating: Metal Furniture **(Section 610 Review)**	2060-AI20
3614	SAN No. 4198 NSPS for Industrial Surface Coating: Large Appliances **(Section 610 Review)**	2060-AI21
3615	SAN No. 4137 Arizona FIP: Moderate Area PM-10 Plan for Phoenix	2060-AI22
3616	SAN No. 4150 Amendments to Municipal Solid Waste Landfills	2060-AI09
3617	SAN No. 3451 NESHAP: Pharmaceuticals Production	2060-AE83
3618	SAN No. 3469 NESHAP: Manufacture of Tetrahydrobenzaldehyde	2060-AE99
3619	SAN No. 3791 Revision of List of Categories of Sources and Schedule for Standards Under Section 112 of the Clean Air Act	2060-AG42
3620	SAN No. 2965 NESHAP: Wood Furniture Manufacturing Operations; Technical Corrections and Clarifications	2060-AG95
3621	SAN No. 3960 Specific Pollutants: List of Categories Emitting Seven Specified Hazardous Air Pollutants	2060-AH20
3622	SAN No. 3660 Open-Market Trading Guidance	2060-AF60
3623	SAN No. 3300 Revised Carbon Monoxide (CO) Standard for Class I and II Nonhandheld New Nonroad Phase I Small Spark-Ignited Engines	2060-AG81

Atomic Energy Act (AEA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3624	SAN No. 4054 Radiation Waste Management Regulation	2060-AH63

Atomic Energy Act (AEA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3625	SAN No. 3602 Protective Action Guidance for Drinking Water	2060-AF39

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3626	SAN No. 4170 Pesticides; Procedures for Registration Review Program	2070-AD29

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3627	SAN No. 4175 Pesticide Tolerance Reassessment Program **(Reg Plan Seq. No. 105)**	2070-AD24
3628	SAN No. 4143 Endocrine Disruptor Screening and Testing Program **(Reg Plan Seq. No. 106)**	2070-AD26
3629	SAN No. 3890 Tolerances for Pesticide Emergency Exemptions	2070-AD15
3630	SAN No. 3735 The 10-Acre Limitation for Pesticide Small-Scale Field Testing	2070-AC99
3631	SAN No. 3892 Antimicrobial Pesticide Products; Other Pesticide Regulatory Changes	2070-AD14
3632	SAN No. 4026 Exemption of Certain Pesticide Substances From FIFRA Requirements	2070-AD21
3633	SAN No. 4027 Pesticides; Tolerance Processing Fees	2070-AD23
3634	SAN No. 2687 Data Requirements for Pesticide Registration (Revision)	2070-AC12
3635	SAN No. 1640 WPS; Pesticide Worker Protection Standards; Pesticide Hazard Communication	2070-AC34

EPA

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3636	SAN No. 4173 Data Requirements for Antimicrobial Registrations	2070-AD30
3637	SAN No. 2659 Pesticide Management and Disposal; Standards for Pesticide Containers and Containment	2070-AB95

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3638	SAN No. 3731 WPS; Pesticide Worker Protection Standard; Glove Amendment	2070-AC93
3639	SAN No. 2684 Regulation of Plant-Produced Pesticides Under FIFRA and FFDCA	2070-AC02
3640	SAN No. 3222 Ground Water and Pesticide Management Plan **(Reg Plan Seq. No. 133)**	2070-AC46
3641	SAN No. 3432 Pesticide Management and Disposal	2020-AA33

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3642	SAN No. 2720 Policy or Procedures for Notification to the Agency of Stored Pesticides With Cancelled or Suspended Registration	2020-AA29

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3643	SAN No. 2444 Pesticide Tolerances; Portion of Food Commodities To Be Analyzed for Pesticide Residues	2070-AC45
3644	SAN No. 4025 Exemption of Certain Inert Ingredients From the Definition of Pesticide Chemical Residue Under FFDCA	2070-AD20
3645	SAN No. 3135 Pesticide Flammability Labeling Requirements for Total Release Foggers	2070-AC60
3646	SAN No. 2371 Restricted Use Criteria for Pesticides in Groundwater	2070-AB60
3647	SAN No. 3636 Pesticide Labeling Claims	2070-AC85
3648	SAN No. 2725 FIFRA Books and Records of Pesticide Production and Distribution (Revision)	2020-AA28

Toxic Substances Control Act (TSCA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3649	SAN No. 4176 Chemical Right-to-Know Initiative **(Reg Plan Seq. No. 107)**	2070-AD25
3650	SAN No. 4174 TSCA Section 4 Enforceable Consent Agreement for Certain Oxygenated Fuel Additives	2070-AD28
3651	SAN No. 2425 TRI; Responses to Petitions Received To Add or Delete Chemicals From the Toxic Release Inventory	2070-AC00
3652	SAN No. 3148 Asbestos Model Accreditation Plan Revisions	2070-AC51
3653	SAN No. 3301 TSCA Inventory Update Rule Amendments **(Reg Plan Seq. No. 108)**	2070-AC61
3654	SAN No. 3244 Lead-Based Paint Activities Rules; Training, Accreditation, and Certification Rule and Model State Plan Rule	2070-AC64
3655	SAN No. 3508 Lead; TSCA Requirements for the Disposal of Lead-Based Paint Debris	2070-AC72
3656	SAN No. 3243 Lead; Rulemakings Under TSCA Section 402, Lead-Based Paint Activities **(Reg Plan Seq. No. 109)**	2070-AD06
3657	SAN No. 3990 Multi-Chemical Test Rule; High Production Volume Chemicals	2070-AD16
3658	SAN No. 3494 Test Rules; Generic Entry for Proposed Decisions	2070-AB07
3659	SAN No. 2563 Test Rule; ATSDR Substances	2070-AB79

EPA

Toxic Substances Control Act (TSCA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3660	SAN No. 2865 Multi-Chemical Test Rule; Children's Health	2070-AC27
3661	SAN No. 3882 Test Rule for Certain Metals	2070-AD10
3662	SAN No. 1923 Follow-Up Rules on Existing Chemicals	2070-AA58
3663	SAN No. 3894 TSCA Biotechnology Follow-Up Rules	2070-AD13
3664	SAN No. 3047 Asbestos; Amendments to the Asbestos-Containing Materials in Schools Rule, Model Accreditation Plan, and Worker Protection Rule **(Reg Plan Seq. No. 110)**	2070-AC62
3665	SAN No. 2249 Asbestos Worker Protection Rule; Amendments	2070-AC66
3666	SAN No. 4179 PCBs; Polychlorinated Biphenyl; Use Authorizations **(Reg Plan Seq. No. 111)**	2070-AD27
3667	SAN No. 3557 Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling	2070-AC83
3668	SAN No. 4172 Lead-Based Paint; Notification of Commencement of Abatement Activities	2070-AD31

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Toxic Substances Control Act (TSCA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3669	SAN No. 3243 Lead; TSCA Section 403; Identification of Dangerous Levels of Lead **(Reg Plan Seq. No. 134)**	2070-AC63
3670	SAN No. 3480 Development of Guidance as Mandated by Executive Order 12873, Section 503 on Environmentally Preferable Products	2070-AC78
3671	SAN No. 3493 Test Rules; Generic Entry for Final Decisions	2070-AB94
3672	SAN No. 3487 Test Rule; Hazardous Air Pollutants (HAPs)	2070-AC76
3673	SAN No. 1976 Follow-Up Rules on Non-5(e) New Chemical Substances	2070-AA59
3674	SAN No. 3495 Chemical-Specific Significant New Use Rules (SNURs) To Extend Provisions of Section 5(e) Orders	2070-AB27
3675	SAN No. 2150 PCBs; Polychlorinated Biphenyls; Exemptions From the Prohibitions against Manufacturing, Processing, and Distribution in Commerce	2070-AB20
3676	SAN No. 3528 Refractory Ceramic Fibers; Significant New Use Rules on National Program Chemicals	2070-AC37
3677	SAN No. 3021 PCBs; Polychlorinated Biphenyls (PCBs) Transformer Reclassification Rule	2070-AC39
3678	SAN No. 2178 TSCA Section 8(a) Preliminary Assessment Information Rules	2070-AB08
3679	SAN No. 1139 TSCA Section 8(d) Health and Safety Data Reporting Rules	2070-AB11
3680	SAN No. 2779 Use of Acrylamide for Grouting	2070-AC17
3681	SAN No. 3118 TSCA Section 8(e) Policy; Notice of Clarification	2070-AC80
3682	SAN No. 3559 Notice of TSCA Section 4 Reimbursement Period and TSCA Section 12(b) Export Notification Period Sunset Dates for TSCA Section 4 Substances	2070-AC84
3683	SAN No. 3881 Lead-Based Paint; Fees for Accreditation and Certification Activities	2070-AD11

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Toxic Substances Control Act (TSCA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3684	SAN No. 3877 TRI; Data Expansion Amendments; Toxic Chemical Release Reporting; Community Right-to-Know	2070-AD08
3685	SAN No. 2245 Test Rules; Negotiated Consent Order and Test Rule Procedures	2070-AB30
3686	SAN No. 3252 Lead; Regulatory Investigation Under the Toxic Substances Control Act (TSCA) To Reduce Lead (Pb) Consumption and Use	2070-AC21

Toxic Substances Control Act (TSCA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3687	SAN No. 4202 Polychlorinated Biphenyls (PCBs) Disposal Amendments **(Section 610 Review)**	2070-AD32
3688	SAN No. 4203 Asbestos Worker Protection Rule **(Section 610 Review)**	2070-AD33

EPA

Toxic Substances Control Act (TSCA)—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3689	SAN No. 4204 Amendments to the Asbestos Containing Materials in Schools Rule (Section 610 Rule)	2070-AD34
3690	SAN No. 4205 Asbestos Model Accreditation Plan **(Section 610 Review)**	2070-AD35
3691	SAN No. 3242 Lead-Based Paint; Disclosure Requirements at Renovation of Target Housing	2070-AC65
3692	SAN No. 2146 Regulatory Investigation of Formaldehyde	2070-AB14
3693	SAN No. 2844 Regulatory Investigation of Dioxin in Pulp and Paper Mill Sludge	2070-AC05
3694	SAN No. 2878 PCBs; Polychlorinated Biphenyls (PCBs) Disposal Amendments	2070-AD04
3695	SAN No. 3834 TSCA Section 8(d) Health and Safety Data Model Reporting Rule Amendments	2070-AD17

Emergency Planning and Community Right-to-Know Act (EPCRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3696	SAN No. 2847 TRI; Pollution Prevention Act Information Requirements **(Reg Plan Seq. No. 112)**	2070-AC24
3697	SAN No. 3007 TRI; Chemical Expansion; Finalization of Deferred Chemicals **(Reg Plan Seq. No. 113)**	2070-AC47
3698	SAN No. 3880 TRI; Reporting Threshold Amendment; Toxic Chemicals Release Reporting; Community Right-to-Know **(Reg Plan Seq. No. 114)**	2070-AD09
3699	SAN No. 4015 TRI; Review of Chemicals on the Original TRI List **(Reg Plan Seq. No. 115)**	2070-AD18
3700	SAN No. 4023 TRI; Addition of Oil and Gas Exploration and Production to the Toxic Release Inventory **(Reg Plan Seq. No. 116)**	2070-AD19

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Emergency Planning and Community Right-to-Know Act (EPCRA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3701	SAN No. 4163 Emergency Planning and Community Right-to-Know Programs; Amendments to Hazardous Chemical Reporting Thresholds for Gasoline and Diesel Fuel at Retail Gas Stations	2050-AE58
3702	SAN No. 4029 Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act, Section 112(r)(7): Amendment	2050-AE46

Emergency Planning and Community Right-to-Know Act (EPCRA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3703	SAN No. 3215 Emergency Planning and Community Right-to-Know Act: Amendments and Streamlining Rule	2050-AE17
3704	SAN No. 3994 Modification of the Extremely Hazardous Substance (EHS) List	2050-AE42
3705	SAN No. 3993 Modification of Threshold Planning Quantity for Isophorone Diisocyanate	2050-AE43

Resource Conservation and Recovery Act (RCRA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3706	SAN No. 4017 Hazardous Waste Storage and Disposal Regulation Related to Low Level Mixed Waste; Proposed Modifications **(Reg Plan Seq. No. 97)**	2050-AE45
3707	SAN No. 4093 Reinventing the Land Disposal Restrictions Program	2050-AE53
3708	SAN No. 4094 Land Disposal Restrictions; Potential Revisions for Mercury Listed and Characteristic Wastes; ANPRM	2050-AE54
3709	SAN No. 3886 Review of Toxicity Characteristic Level for Silver Under the Resource Conservation Recovery Act (RCRA)	2050-AE37
3710	SAN No. 4084 RCRA Reporting and Recordkeeping Burden Reduction; ANPRM	2050-AE50
3711	SAN No. 4090 RCRA Appendix VIII Streamlining; ANPRM	2050-AE55

EPA

Resource Conservation and Recovery Act (RCRA)—Prerule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3712	SAN No. 3201 Regulatory Determination on Remaining Wastes From the Combustion of Fossil Fuels	2050-AD91

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Resource Conservation and Recovery Act (RCRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3713	SAN No. 4091 Modifications to RCRA Rules Associated With Solvent-Contaminated Shop Towels and Wipers	2050-AE51
3714	SAN No. 4092 Glass-to-Glass Recycling of Cathode Ray Tubes (CRTs): Changes to Hazardous Waste Regulations	2050-AE52
3715	SAN No. 4028 Standardized Permit for RCRA Hazardous Waste Management Facilities **(Reg Plan Seq. No. 117)**	2050-AE44
3716	SAN No. 3147 Hazardous Waste Manifest Regulation **(Reg Plan Seq. No. 118)**	2050-AE21
3717	SAN No. 3989 Removal of Requirement To Use SW-846 Methods (Test Methods for Evaluating Solid Waste: Physical/Chemical Methods)	2050-AE41
3718	SAN No. 2872 Modifications to the Definition of Solid Waste and Regulations of Hazardous Waste Recycling: General	2050-AD18
3719	SAN No. 3151 Chlorinated Aliphatics Listing Determination	2050-AD85
3720	SAN No. 3066 Listing Determination of Wastes Generated During the Manufacture of Azo, Anthraquinone, and Triarylmethane Dyes and Pigments	2050-AD80
3721	SAN No. 3545 Revisions to the Comprehensive Guideline for Procurement of Products Containing Recovered Materials	2050-AE23
3722	SAN No. 3856 Management of Cement Kiln Dust (CKD) **(Reg Plan Seq. No. 119)**	2050-AE34

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Resource Conservation and Recovery Act (RCRA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3723	SAN No. 3333 Revised Standards for Hazardous Waste Combustion Facilities **(Reg Plan Seq. No. 135)**	2050-AE01
3724	SAN No. 3888 Mercury-Containing and Rechargeable Battery Management Act; Codification of Waste Management Provisions	2050-AE39
3725	SAN No. 4088 Recycled Used Oil Containing PCBs	2050-AE47
3726	SAN No. 3042 Hazardous Waste Management System: Post-Closure Requirements	2050-AD55
3727	SAN No. 3134 Spent Solvents Listing Determination	2050-AD84
3728	SAN No. 3237 Hazardous Waste Management System; Modification of the Hazardous Waste Program; Mercury-Containing Lamps	2050-AD93
3729	SAN No. 2982 Hazardous Remediation Waste Management Requirements (Commonly Referred to as Hazardous Waste Identification Rule for Contaminated Media or HWIR-Media)	2050-AE22
3730	SAN No. 2647 RCRA Subtitle C Financial Test Criteria (Revision)	2050-AC71
3731	SAN No. 2751 RCRA Subtitle D Solid Waste Facilities; State Permit Program— Determination of Adequacy (State Implementation Rule)	2050-AD03

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Resource Conservation and Recovery Act (RCRA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3732	SAN No. 3428 Hazardous Waste Management System: Slag Residues Derived From High Temperature Metals Recovery (HTMR) Treatment of KO61, KO62 and F0006 Wastes	2050-AE15
3733	SAN No. 3668 Hazardous Waste Identification; Recycled Used Oil Management Standards	2050-AE28
3734	SAN No. 3805 Paint Manufacturing Wastes Listing: Hazardous Waste Management System: Identification and Listing of Hazardous Waste	2050-AE32

EPA

Resource Conservation and Recovery Act (RCRA)—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3735	SAN No. 4083 Identification and Listing of Hazardous Waste; Inorganic Chemical Industry Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities	2050-AE49
3736	SAN No. 4158 Interim Emergency Rule Revising Land Disposal Restriction Treatment Standards for Aluminum Potliners—K088 Waste	2050-AE59
3737	SAN No. 3328 Hazardous Waste Identification Rule (HWIR): Identification and Listing of Hazardous Wastes	2050-AE07
3738	SAN No. 3189 Final Determination of the Applicability of the Toxicity Characteristic Rule to Underground Storage Tanks, Contaminated Media, and Debris	2050-AD69
3739	SAN No. 2390 Corrective Action for Solid Waste Management Units (SWMUs) at Hazardous Waste Management Facilities	2050-AB80

Resource Conservation and Recovery Act (RCRA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3740	SAN No. 3050 Deletion of Saccharin From the List of Hazardous Wastes Under RCRA and the List of Hazardous Substances Under CERCLA	2050-AD45
3741	SAN No. 4134 Final Rule on Land Disposal Restrictions for First Third Scheduled Wastes **(Section 610 Review)**	2050-AE56
3742	SAN No. 4139 Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks **(Section 610 Review)**	2050-AE57
3743	SAN No. 3065 Listing Determination for Hazardous Wastes—Organobromines Chemical Industry	2050-AD79
3744	SAN No. 3064 Identification and Listing of Hazardous Waste: Petroleum Refining Process Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation	2050-AD88
3745	SAN No. 3366 Land Disposal Restrictions Phase IV: Treatment Standards for Metal Wastes and Mineral Processing wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues	2050-AE05
3746	SAN No. 3433 Underground Storage Tanks Containing Hazardous Substances— Financial Responsibility Requirements	2050-AC15

Oil Pollution Act (OPA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3747	SAN No. 2634 Oil Pollution Prevention Regulation: Revisions	2050-AC62

Oil Pollution Act (OPA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3748	SAN No. 3425 Facility Response Planning for Delegated Offshore Facilities	2050-AE18

Comprehensive Environmental Response, Compensation and Liability Act—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3749	SAN No. 3885 Streamlining the Preauthorization Mixed Funding for Application and Implementation of Claims Against Superfund	2050-AE38
3750	SAN No. 3806 Grants for Technical Assistance Rule Reform—40 CFR Part 35 Subpart M	2050-AE33
3751	SAN No. 3423 Reportable Quantity Adjustments for Carbamates	2050-AE12
3752	SAN No. 3439 National Priorities List for Uncontrolled Hazardous Waste Sites: Proposed and Final Rules	2050-AD75

EPA

Comprehensive Environmental Response, Compensation and Liability Act—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3753	SAN No. 4075 Revocation of Caprolactam's Designation as a Hazardous Substance Under CERCLA	2050-AE48

Comprehensive Environmental Response, Compensation and Liability Act—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3754	SAN No. 2394 Reporting Exemptions for Federally Permitted Releases of Hazardous Substances	2050-AB82

Comprehensive Environmental Response, Compensation and Liability Act—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3755	SAN No. 3424 Reportable Quantity Adjustment for Radon-222	2050-AE20

Clean Water Act (CWA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3756	SAN No. 4133 Effluent Guidelines and Standards for the Ore Mining and Dressing Point Source Category, Gold Placer Mine Subcategory **(Section 610 Review)**	2040-AD13

Clean Water Act (CWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3757	SAN No. 4145 Total Maximum Daily Load (TMDL) Program Regulations Revisions	2040-AD22
3758	SAN No. 4086 Revisions to Effluent Guidelines and Standards for the Oil and Gas Extraction Point Source Category	2040-AD14
3759	SAN No. 2805 Effluent Guidelines and Standards for the Centralized Waste Treatment Industry	2040-AB78
3760	SAN No. 3767 Reformatting of Effluent Guidelines and Standards in 40 CFR Parts 405 through 471	2040-AC79
3761	SAN No. 3804 Streamlining 301(h) Waiver Renewal Requirements	2040-AC89
3762	SAN No. 3833 Effluent Guidelines and Standards for Iron and Steel Manufacturing Point Source Category	2040-AC90
3763	SAN No. 3702 Guidelines Establishing Test Procedures for the Analysis of Trace Metals Under the Clean Water Act	2040-AC75
3764	SAN No. 3444 Best Technology Available (BTA) for Cooling Water Intake Structures Under Section 316(b) of the Clean Water Act **(Reg Plan Seq. No. 120)**	2040-AC34
3765	SAN No. 3234 Revision of NPDES Industrial Permit Application Requirements and Form 2C—Wastewater Discharge Information **(Reg Plan Seq. No. 121)**	2040-AC26
3766	SAN No. 3663 Streamlining the General Pretreatment Regulations for Existing and New Sources of Pollution **(Reg Plan Seq. No. 122)**	2040-AC58
3767	SAN No. 3999 Revisions to NPDES Requirements for Compliance Reporting and Collection System Discharges	2040-AD02
3768	SAN No. 4051 Establishment of Electronic Reporting for NPDES Permittees	2040-AD11
3769	SAN No. 2804 Clean Water Act Definition of the Waters of the United States	2040-AB74
3770	SAN No. 4207 Amendments to Round I Final Sewage Sludge Use or Disposal Rule —Phase Two	2040-AC53
3771	SAN No. 4047 Test Procedures for the Analysis of Cryptosporidium and Giardia Under the Safe Drinking Water and Clean Water Acts	2040-AD08

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

EPA

Clean Water Act (CWA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3772	SAN No. 4195 Water Quality Standards for Alabama	2040-AD25
3773	SAN No. 4193 Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance—Revision of Polychlorinated Biphenyls (PCBs) Criteria	2040-AD27
3774	SAN No. 3762 NPDES Streamlining Rule—Round II **(Reg Plan Seq. No. 136)**	2040-AC70
3775	SAN No. 4039 Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category; Incentives Amendment	2040-AD05
3776	SAN No. 3504 Establishment of Numeric Criteria for Priority Toxic Pollutants for the State of California	2040-AC44
3777	SAN No. 3617 Guidelines Establishing Oil and Grease Test Procedures for the Analysis of Pollutants Under the Clean Water Act	2040-AC63
3778	SAN No. 3701 Guidelines Establishing Test Procedures for the Analysis of Cyanide Under the Clean Water Act	2040-AC76
3779	SAN No. 3714 Increased Method Flexibility for Test Procedures Approved for Clean Water Act Compliance Monitoring Under 40 CFR Part 136	2040-AC92
3780	SAN No. 3713 Performance Based Measurement System (PBMS) Procedures and Guidance for Test Procedures at 40 CFR Part 136	2040-AC93
3781	SAN No. 3155 Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase One	2040-AC95
3782	SAN No. 4048 Test Procedures for the Analysis of Mercury Under the Clean Water Act	2040-AD07
3783	SAN No. 3209 Effluent Guidelines and Standards for the Industrial Laundries Point Source Category **(Reg Plan Seq. No. 137)**	2040-AB97
3784	SAN No. 3925 Uniform National Discharge Standards for Armed Forces Vessels - Phase I	2040-AC96
3785	SAN No. 2501 NPDES Wastewater Permit Application Forms and Regulatory Revisions for Municipal Discharges and Sewage Sludge Use or Disposal **(Reg Plan Seq. No. 138)**	2040-AB39
3786	SAN No. 3785 NPDES Comprehensive Stormwater Phase II Regulations **(Reg Plan Seq. No. 139)**	2040-AC82
3787	SAN No. 3288 Comparison of Dredged Material to Reference Sediment	2040-AC14
3788	SAN No. 3497 Amendments to Round I Final Sewage Sludge Use or Disposal Rule—Phase One	2040-AC29

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register.**

Clean Water Act (CWA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3789	SAN No. 4153 Effluent Limitations, Guidelines, and Standards for the Feedlots Point Source Category, Swine and Poultry Subcategories, and NPDES Regulation for Concentrated Animal Feeding Operations	2040-AD19
3790	SAN No. 4167 Effluent Limitations Guidelines and Standards for the Feedlots Point Source Category, Dairy and Beef Cattle Subcategories	2040-AD21
3791	SAN No. 4168 Revisions to Effluent Guidelines and Standards for the Coal Mining Point Source Category	2040-AD24
3792	SAN No. 3661 Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance	2040-AC55
3793	SAN No. 3921 Selenium Criterion Maximum Concentration for Water Quality Guidance for the Great Lakes System	2040-AC97
3794	SAN No. 2806 Effluent Guidelines and Standards for the Metal Products and Machinery Category, Phases 1 and 2	2040-AB79
3795	SAN No. 3204 Effluent Guidelines and Standards for the Transportation Equipment Cleaning Category	2040-AB98
3796	SAN No. 3489 Effluent Guidelines and Standards for Landfills	2040-AC23
3797	SAN No. 4041 Effluent Guidelines and Standards for Industrial Waste Combustors	2040-AD03
3798	SAN No. 4050 Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category, Phase II	2040-AD10
3799	SAN No. 4192 Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category; Monitoring Amendment	2040-AD23
3800	SAN No. 3662 Water Quality Standards Regulation—Revision	2040-AC56
3801	SAN No. 3618 Guidelines Establishing Whole Effluent Toxicity West Coast Test Procedures for the Analysis of Pollutants Under the Clean Water Act	2040-AC54
3802	SAN No. 4049 Test Procedures for the Analysis of Co-Planar and Mono-Ortho-Substituted Polychlorinated Biphenyls (PCBs) Under the Clean Water Act	2040-AD09
3803	SAN No. 4089 Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase Two	2040-AD12
3804	SAN No. 3786 NPDES Streamlining Rule—Round III	2040-AC84

EPA

Clean Water Act (CWA)—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3805	SAN No. 3488 Standards for the Use or Disposal of Sewage Sludge (Round II)	2040-AC25

Clean Water Act (CWA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3806	SAN No. 4124 1998 Effluent Guidelines Plan	2040-AD16
3807	SAN No. 1427 Effluent Guidelines and Standards for the Pharmaceutical Manufacturing Category	2040-AA13
3808	SAN No. 3995 Effluent Guidelines and Standards for the Pesticide Chemicals Manufacturing Amendment; Pretreatment Standards; New and Existing Sources	2040-AD01
3809	SAN No. 3700 Streamlining Revisions to the Water Quality Planning and Management Regulations	2040-AC65
3810	SAN No. 3788 Streamlining the State Sewage Sludge Management Regulations	2040-AC87

Safe Drinking Water Act (SDWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3811	SAN No. 4131 Drinking Water Unregulated Contaminant Monitoring Program	2040-AD15
3812	SAN No. 2281 National Primary Drinking Water Regulations: Radon **(Reg Plan Seq. No. 123)**	2040-AA94
3813	SAN No. 2340 National Primary Drinking Water Regulations: Ground Water Rule **(Reg Plan Seq. No. 124)**	2040-AA97
3814	SAN No. 4009 Public Water System Public Notification Regulation **(Reg Plan Seq. No. 125)**	2040-AD06

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register.**

Safe Drinking Water Act (SDWA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3815	SAN No. 4044 National Primary and Secondary Drinking Water Regulations: Analytical Methods for Certain Pesticides and Microbial Contaminants	2040-AD04
3816	SAN No. 2772 National Primary Drinking Water Regulations: Stage I Disinfectant/Disinfection By-Products Rule **(Reg Plan Seq. No. 140)**	2040-AB82
3817	SAN No. 3440 National Primary Drinking Water Regulations for Lead and Copper	2040-AC27
3818	SAN No. 3563 Reformatting of Drinking Water Regulations	2040-AC41
3819	SAN No. 2304 National Primary Drinking Water Regulations: Interim Enhanced Surface Water Treatment Rule **(Reg Plan Seq. No. 141)**	2040-AC91
3820	SAN No. 2778 Management of Class V Injection Wells Under Part C of the Safe Drinking Water Act	2040-AB83

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register.**

Safe Drinking Water Act (SDWA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3821	SAN No. 4146 Filter Backwash Recycling Regulation	2040-AD17
3822	SAN No. 4147 Long Term 1 Enhanced Surface Water Treatment Rule	2040-AD18
3823	SAN No. 4152 Drinking Water State Revolving Fund Regulations	2040-AD20
3824	SAN No. 2807 National Primary Drinking Water Regulations: Arsenic	2040-AB75
3825	SAN No. 3176 National Primary Drinking Water Regulations: Sulfate	2040-AC07
3826	SAN No. 3238 National Primary Drinking Water Standards for Aldicarb	2040-AC13
3827	SAN No. 3992 National Primary Drinking Water Regulations: Radium, Uranium, Alpha, Beta and Photon Emitters	2040-AC98
3828	SAN No. 3761 Streamlining Drinking Water Monitoring Requirements	2040-AC73

EPA

Safe Drinking Water Act (SDWA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3829	SAN No. 4040 Revision of Existing Variances and Exemptions Regulation To Comply With Requirements of the Safe Drinking Water Act	2020-AA37
3830	SAN No. 3996 Revisions to State Primacy Requirements To Implement Federal Drinking Water Regulations	2040-AD00
3831	SAN No. 3726 National Primary and Secondary Drinking Water Regulations: Analytic Methods for Organic, Inorganic and Microbiological Contaminants and Pesticides	2040-AC77
3832	SAN No. 3947 Drinking Water Consumer Confidence Report Regulations	2040-AC99
3833	SAN No. 3936 Safe Drinking Water Public Water Supply System Program: Citizen Collection Action; Notice of Complaint Seeking Review of Penalty Order	2020-AA35

Marine Protection Research and Sanctuary Act (MPRSA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3834	SAN No. 2737 Revisions to Ocean Dumping Regulations for Dredged Material	2040-AB62

Shore Protection Act (SPA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3835	SAN No. 2820 Shore Protection Act, Section 4103(b) Regulations	2040-AB85

ENVIRONMENTAL PROTECTION AGENCY (EPA)

General

Proposed Rule Stage

3374. UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES IN PROCUREMENT UNDER ASSISTANCE AGREEMENTS

Priority: Other Significant

Legal Authority: PL 101-507; PL 102-389; PL 101-549 sec 1001; 42 USC 9605(f); PL 100-590; EO 12432; EO 12138; EO 11625

CFR Citation: 40 CFR 33

Legal Deadline: None

Abstract: The regulation will codify revisions to the Agency's program for the utilization of Small, Minority and Women's Business Enterprises in procurements under assistance agreements (i.e., grants and cooperative agreements awarded by EPA as well as grants and cooperative agreements awarded by other agencies under interagency agreements with EPA). The revisions are necessary to ensure consistency with the Supreme Court's decision in Adarand Constructors, Inc. v. Pena, 115 S.Ct. 2097 (1995), and were identified as part of the Administration's recent review of affirmative action programs. They include: 1) placing greater emphasis on requiring assistance agreement recipients to submit documentation supporting proposed fair share procurement objectives for Minority Business Enterprises (MBEs) and Women's Business Enterprises (WBEs) based on the availability of qualified MBEs and WBEs in the relevant geographic market; 2) authorizing or requiring recipients and their prime contractors to take reasonable race/gender-conscious measures (e.g. bidding credits) in the event that race/gender-neutral efforts prove inadequate to meet fair share objectives; and 3) administering statutory MBE/WBE objectives as a national goal, allowing smaller or larger fair share objectives for particular grants or cooperative agreements based on the availability standard.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4056

Agency Contact: Mark Gordon, Environmental Protection Agency, Office of Small and Disadvantaged Business Utilization, 1230, Washington, DC 20460
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Rebecca Neer, Environmental Protection Agency, Office of Small and Disadvantaged Business Utilization, 1230, Washington, DC 20460
Phone: 202 280-4841

RIN: 2020–AA39

EPA—GENERAL

Proposed Rule Stage

3375. • REWRITING OF EPA REGULATIONS IMPLEMENTING THE FREEDOM OF INFORMATION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 40 CFR 2

Legal Deadline: None

Abstract: This document sets forth proposed revisions to the Agency's regulations under the Freedom of Information Act (FOIA). The FOIA regulations have been streamlined and condensed, in accordance with the principles of the National Performance Review, with more "user-friendly" language wherever possible. These revisions also reflect the principles established by President Clinton and Attorney General Reno in their FOIA Policy Memoranda of October 4, 1993. Additionally, the regulations have been updated to reflect developments in the case law and to include updated cost figures to be used in calculating and charging fees. These proposed revisions also contain new provisions implementing the Electronic Freedom of Information Act Amendments of 1996. These revisions will simplify and expedite responses to FOIA requests.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: SAN No. 4180

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RIN: 2020–AA40

3376. REVISION TO 40 CFR 35 SUBPART A AND PROMULGATION OF PERFORMANCE PARTNERSHIP (STATE) GRANT REGULATION

Regulatory Plan: This entry is Seq. No. 98 in Part II of this issue of the Federal Register.

RIN: 2030–AA55

3377. REVISION TO 40 CFR 35 SUBPART A AND PROMULGATION OF PERFORMANCE PARTNERSHIP (TRIBAL) GRANT RULE

Regulatory Plan: This entry is Seq. No. 99 in Part II of this issue of the Federal Register.

RIN: 2030–AA56

3378. • CONTRACTING BY NEGOTIATION

Priority: Other Significant

Legal Authority: 5 USC 301 sec 205(c); 63 Stat 390 as amended

CFR Citation: 48 CFR 1503; 48 CFR 1515; 48 CFR 1552

Legal Deadline: None

Abstract: This rule is being promulgated to redesignate EPAAR subparts and sections for structural conformance with the FAR part 15 rewrite as published on September 30, 1997, and EPA implemented on December 19, 1997. The EPAAR is in substantive compliance, but requires extensive redesignation for structural conformance to the FAR. Also, EPAAR 1515 is of critical importance to the effective and efficient accomplishment of EPA acquisitions. The substance of EPAAR 1515 was published previously for public comment.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4184

Agency Contact: Louise Senzel, Environmental Protection Agency, Administration and Resources Management, 3802R, Washington, DC 20460
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Email: senzel.louise@epamail.epa.gov

RIN: 2030–AA59

3379. • EPAAR COVERAGE ON CONTRACTOR PERFORMANCE EVALUATIONS

Priority: Other Significant

Legal Authority: 5 USC 301 Sec 205(c); 63 Stat 390 as amended

CFR Citation: 48 CFR 1509; 48 CFR 1552

Legal Deadline: None

Abstract: This rule will establish a solicitation provision and contract clause in the EPA Acquisition Regulation to be used when evaluating contractor performance. The rule provides a uniform method for determining and recording the effectiveness of contractors in meeting contractual obligations. It also provides a systematic approach for identifying and maintaining records of contractors' performance histories. This rule will satisfy the Federal Acquisition Regulation requirements pertaining to the establishment of a past performance evaluation system.

Timetable:

Action	Date	FR Cite
NPRM	09/16/98	63 FR 49530
Final	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4186

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RIN: 2030–AA61

EPA—GENERAL

Proposed Rule Stage

3380. • EPAAR COVERAGE ON LOCAL HIRING AND TRAINING

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301 sec 205(c); 63 Stat 390 as amended

CFR Citation: 48 CFR 1526; 48 CFR 1552

Legal Deadline: None

Abstract: This rule will amend the EPA Acquisition Regulation (EPAAR) to include part 1526, Other Socioeconomic Programs, and to revise part 1552, Solicitation Provisions and Contract Clauses. The purpose is to provide an incentive for prime contractors to utilize local hiring and provide training to local hires in specific geographical locations where contractual requirements will be performed and to support economic development in areas where underemployment is high and jobs are scarce.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4187

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RIN: 2030–AA62

3381. • SERVICE CONTRACTING—AVOIDING IMPROPER PERSONAL SERVICES RELATIONSHIPS

Priority: Other Significant

Legal Authority: 5 USC 301 sec 205(c); 63 Stat 390 as amended

CFR Citation: 48 CFR 1537; 48 CFR 1552

Legal Deadline: None

Abstract: This rule is being promulgated to amend the EPAAR to highlight the proper relationship between the Government and its contractors in nonpersonal services contracts. The Agency recognizes that regardless of the express terms of its contracts, if a contract is administered improperly, an improper personal services relationship may be the result. Accordingly, the Agency will use this rule to state the manner in which nonpersonal services contracts must be administered to avoid creating an improper employer-employee relationship.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4188

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RIN: 2030–AA63

3382. • REVISION TO EPAAR 1552.211-73, LEVEL OF EFFORT

Priority: Info./Admin./Other

Legal Authority: 5 USC 301 Sec 205(c); 63 Stat 390 as amended

CFR Citation: 48 CFR 1552

Legal Deadline: None

Abstract: This rule will revise EPAAR 1552.211-73, Level of Effort, to define more concisely the services being acquired, and to more accurately reflect the relationship between services provided and fee payments.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4191

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RIN: 2030–AA64

3383. INCORPORATION OF CLASS DEVIATION INTO EPAAR

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1537; 48 CFR 1552

Legal Deadline: None

Abstract: The Agency has approved a number of class deviations (e.g. changes to reporting requirements and monthly progress reports) to the EPAAR since its promulgation in April 1994. This proposed rule would incorporate most of the class deviations to the EPAAR.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 3580

Agency Contact: Frances Smith, Environmental Protection Agency, Administration and Resources Management, 3802R, Washington, DC 20460
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RIN: 2030–AA37

EPA—GENERAL

Proposed Rule Stage

3384. EPA MENTOR-PROTEGE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1544; 48 CFR 1552

Legal Deadline: None

Abstract: This proposed rule will amend EPA's Acquisition Regulation (EPAAR) to establish a Mentor-Protege Program. Participating prime contractors serving as mentors will provide technical and managerial support to protege small disadvantaged business subcontractors.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3629

Agency Contact: Frances Smith, Environmental Protection Agency, Administration and Resources Management, 3802R, Washington, DC 20460
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RIN: 2030–AA40

3385. INCREMENTALLY FUNDING FIXED PRICE CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486 (c)

CFR Citation: 48 CFR 1532

Legal Deadline: None

Abstract: This proposed rule will add subpart 1532.7, Contract Funding, to the Environmental Protection Agency's Acquisition Regulation (EPAAR). It also will revise part 1552 of the EPAAR to include a clause for incrementally funding fixed price contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3876

Agency Contact: Frances Smith, Environmental Protection Agency, Administration and Resources Management, 3802R, Washington, DC 20460
Phone: 260 564-4368
Fax: 202 565-2475

RIN: 2030–AA50

3386. REVISION OF EPA ACQUISITION REGULATIONS FOR QUALITY SYSTEMS FOR ENVIRONMENTAL PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1546.2

Legal Deadline: None

Abstract: EPA is updating the quality assurance requirements in its Acquisition Regulation (EPAAR). The Agency relies on environmental measurement data in many of its activities, including regulatory development, the application of regulations (e.g., permitting, enforcement actions), and research programs. The Agency must be ensured that the data are of appropriate type and quality to support the proposed use (that data meet the needs for rulemaking, enforcement action, etc.). The extramural community has been using the existing EPAAR QA requirements since 1984 and recognizes the need to update these requirements to reflect the current understanding of quality systems.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Additional Information: SAN No. 3874

Agency Contact: Linda Avellar, Environmental Protection Agency, Administration and Resources Management, 3802R, Washington, DC 20460
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RIN: 2030–AA51

3387. IMPLEMENTATION OF CHANGES TO 40 CFR PART 32

Priority: Info./Admin./Other

Legal Authority: EO 12549; EO 12689 and FASA

CFR Citation: 40 CFR 32

Legal Deadline: None

Abstract: Periodically OMB amends the Governmentwide Common Rule for suspension and debarment of contractors and assistance participants who threaten the integrity of Federal programs because of criminal misconduct or poor performance. All agencies must issue changes to their individual codified versions to conform to the Common Rule. Recently, the Interagency Suspension and Debarment Coordinating Committee prepared recommendations for comprehensive changes to the Common Rule to conform to changes made in the Federal Acquisition Regulation (FAR) as a result of the Federal Acquisition Streamlining Act (FASA). In addition, several other proposals to improve or change the rule were recommended by various agencies. In December, 1996, OMB declined to implement the changes at this time due to differences with some agencies about some changes unrelated to those occasioned by FASA.

Among other things, FASA replaced the small purchase threshold ($25,000) with the simplified acquisition amount ($100,000). That change unintentionally exposed certain EPA programs to participation by contractors who may have been debarred for serious misconduct already. OMB has agreed to permit agencies to amend the coverage section of their individual agency rules to reduce or eliminate exposure to suspended or debarred persons.

EPA intends to issue a notice of proposed rulemaking to amend 40 CFR

EPA—GENERAL

Proposed Rule Stage

32.110 to reduce EPA exposure to such consequences.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3817

This is an assistance-related statutory requirement. There is no paperwork burden associated with this action.

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RIN: 2030–AA48

3388. CONSOLIDATION OF GOOD LABORATORY PRACTICE STANDARDS (GLPS) REGULATIONS CURRENTLY UNDER TSCA AND FIFRA INTO ONE RULE

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136 et seq; 15 USC 2601 et seq

CFR Citation: 40 CFR 160; 40 CFR 792

Legal Deadline: None

Abstract: On November 29, 1983, EPA published Good Laboratory Practice Standards (GLPS) regulations intended to help ensure data integrity for studies required to support marketing and research permits under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Toxic Substances Control Act (TSCA). These rules were last amended on August 17, 1989. GLPS data integrity measures can be applied to a wide variety of scientific studies. Although the TSCA and FIFRA GLPS contain identical provisions, they were published as separate rules to account for statutory and program differences between TSCA and FIFRA, such as differences in records retention requirements. EPA believes it will be able to address the differences between TSCA and FIFRA, such as differences in records retention requirements. EPA believes it will be able to address the differences of those programs without duplicating the entire GLP standard in two places.

This action is intended to consolidate EPA's GLPS into one rule. Program-specific requirements will be addressed in either separate sections of the consolidated rule, or in separate rules as is determined appropriate. This action is not intended to change the requirements, applicability, or enforceability of GLPS with respect to any statute.

EPA has received comments from stakeholders regarding the understandability of many aspects of the GLPS, and over the years has issued numerous clarifications. EPA believes that some clarifications, if included directly in the rule, would make the rule easier to understand and enhance compliance. Therefore, EPA intends to include such clarifications where appropriate in this rulemaking. Finally, in the interest of maintaining consistency between EPA's and Food and Drug Administration's regulations, EPA will determine any modifications that have occurred to the FDA GLP rule and consider incorporation of such changes into the EPA rule. This action will serve to reduce the total regulatory text in the Code of Federal Regulations by an estimated 10 pages, by consolidating 23 pages of text to approximately 13. In the process it will provide a generic GLP rule that may be used by other programs in the Agency.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3807

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RIN: 2020–AA26

ENVIRONMENTAL PROTECTION AGENCY (EPA)

General

Final Rule Stage

3389. • ELECTRONIC FUNDS TRANSFER

Priority: Other Significant

Legal Authority: 5 USC 301 Sec 205(c); 63 Stat 390 as amended

CFR Citation: 48 CFR 1532.11

Legal Deadline: None

Abstract: This rule complies with the revised Federal Acquisition Regulations (FAR) coverage regarding implementation of the Debt Collection Improvement Act. Because the revised FAR offers choices in implementation, each agency must communicate with its vendor community its choices. This rule will let our vendor community know that EPA will require the use of FAR Clause 52.232-34, Payment by Electronic Funds Transfer (Non-CCR), as prescribed in FAR 32.1105(a)(2). Within the Clause, under (c) "the payment office" shall be inserted as the prescribed designated office. Further inserted shall be that the required EFT information shall be provided "no later than 15 days prior to submission of the first request for payment."

Timetable:

Action	Date	FR Cite
Direct Final Rule	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4185

EPA—GENERAL

Final Rule Stage

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RIN: 2030–AA57

3390. • AGENCY PROTEST SOLICITATION NOTIFICATION

Priority: Other Significant

Legal Authority: 5 USC 301 Sec. 205(c); 63 Stat 390 as amended

CFR Citation: 48 CFR 1533; 48 CFR 1552

Legal Deadline: None

Abstract: This rule will establish a solicitation notice regarding Agency protests in the EPA Acquisition Regulation. All solicitations currently contain a notice on how to protest an acquisition to the Agency. This notification is to be published in the EPAAR, since it affects parties outside the Agency.

Timetable:

Action	Date	FR Cite
Direct Final Rule	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4183

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RIN: 2030–AA58

3391. GUIDELINES FOR CARCINOGEN RISK ASSESSMENT

Priority: Info./Admin./Other

Legal Authority: Not applicable

CFR Citation: None

Legal Deadline: None

Abstract: The Agency will use these guidelines to evaluate suspect carcinogens in line with the policies and procedures established in the statutes administered by the EPA. These guidelines revise and replace EPA Guidelines for Carcinogen Risk Assessment published at 51 FR 33992, September 24, 1986. These guidelines provide EPA staff and decision-makers with the directions and perspectives necessary to develop and use risk assessments. The guidelines also provide the general public with basic information about the Agency's approaches to risk assessment.

To develop guidelines the Agency must find a balance between consistency and innovation. Consistent risk assessments provide consistent bases to support regulatory decision-making. On the other hand, innovation is necessary so the Agency will base its decisions on current scientific thinking. In balancing these and other science policies, the Agency relies on input from the general scientific community through established scientific peer review processes. The guidelines incorporate basic principles and science policies based on evaluation of the currently available information. The revisions place increased emphasis on the role of carcinogenic mechanisms in risk assessment and clearer explication of underlying assumptions in risk assessment.

These guidelines will have minimal to no impact on small businesses or State, local, and tribal governments.

Timetable:

Action	Date	FR Cite
Reproposed Guidelines	04/23/96	61 FR 17960
Implementation Policy	06/25/96	61 FR 32799
Final Guidelines	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3671

Agency Contact: William Wood, Environmental Protection Agency, Office of Research and Development, 8103, Washington, DC 20460
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RIN: 2080–AA06

3392. AMENDMENTS TO PART 22 CONSOLIDATED PROCEDURAL RULES

Priority: Info./Admin./Other

Legal Authority: 7 USC 136l; 15 USC 2615(a); 15 USC 2647; 33 USC 1319(g); 33 USC 1415(a); 33 USC 1418; 42 USC 6912; 42 USC 7413(d)(1); 42 USC 7601; 42 USC 7607(a); 42 USC 9609; 42 USC 11045; 42 USC 300g-3(b)

CFR Citation: 40 CFR 22

Legal Deadline: None

Abstract: The Agency has proposed (February 25, 1998) amendments to the Consolidated Rules of Practice under 40 CFR part 22 which are the procedural rules used in administrative hearings and practice. These amendments will include technical corrections as well as substantive amendments. The proposed substantive amendments pertain to the handling and use of Confidential Business Information, burdens of proof, motion practice, cross appeals, and more.

Timetable:

Action	Date	FR Cite
NPRM	02/25/98	63 FR 9465
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 2662

Agency Contact: Scott Garrison, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, 2248A, Washington, DC 20460
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RIN: 2020–AA13

3393. PUBLIC INFORMATION AND CONFIDENTIALITY REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 7 USC 136 et seq; 33 USC 1251 et seq; 42 USC 300f et seq; 42 USC 6901 et seq; 42 USC 7401 et seq; 42 USC 9601 et seq; 42 USC 11001 et seq; 15 USC 2601 et seq; 42 USC 4912; 33 USC 1414; 21 USC 346; 15 USC 2005

CFR Citation: 40 CFR 2; 40 CFR 57; 40 CFR 122; 40 CFR 123; 40 CFR 145; 40 CFR 233; 40 CFR 260; 40 CFR 270; 40 CFR 271; 40 CFR 281; 40 CFR 350; 40 CFR 403; 40 CFR 85; 40 CFR 86

EPA—GENERAL — Final Rule Stage

Legal Deadline: None

Abstract: EPA regulations at 40 CFR part 2, subpart B, provide procedures for handling and disclosing information claimed as CBI. Although these regulations have succeeded in protecting business information, changes in Agency workload, practice, and statutory authority have outstripped the ability of these regulations to cut down on unnecessary procedures, expedite activities involving confidential business information, and simplify the regulations. In addition, EPA would consolidate confidentiality provisions from other parts of 40 CFR.

Timetable:

Action	Date	FR Cite
NPRM	11/23/94	59 FR 60446
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3240

Agency Contact: Alan Margolis, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, 2379, Washington, DC 20460
Phone: 202 260-5459

RIN: 2020–AA21

3394. ENVIRONMENTAL IMPACT ASSESSMENT OF NONGOVERNMENTAL ACTIVITIES IN ANTARCTICA

Priority: Other Significant

Legal Authority: 16 USC 2401 et seq as amended, 16 USC 2403a; PL 104-227

CFR Citation: 40 CFR 8

Legal Deadline:
Final, Statutory, October 2, 1998, See additional information.

Abstract: The purpose of this action is to develop regulations for: (1) the environmental impact assessment of nongovernmental activities, including tourism, for which the United States is required to give advance notice under paragraph 5 of Article VII of the Antarctic Treaty and (2) coordination of the review of information regarding environmental impact assessment received by the United States from other parties under the Protocol on Environmental Protection. The Office of Federal Activities (OECA/OFA) will use the decisionmaking process of the National Environmental Policy Act (NEPA) to analyze the environmental setting; the types of nongovernmental activities, including tourism, to be addressed by the regulations; their potential for impact; and the alternatives available under rulemaking for environmental impact assessments for nongovernmental activities. An interim final rule, 40 CFR part 8, promulgated April 30, 1997, and on July 15, 1998 extended through the 2000-2001 austral summer, will be replaced by a final rule. The interim final rule was effective immediately so that the U.S. could ratify the Protocol and implement its obligations under the Protocol as soon as it entered into force. These rules are being developed in coordination with other Federal agencies with specific interests in and expertise with Antarctica including the Department of State, National Science Foundation, National Oceanic and Atmospheric Administration, U.S. Coast Guard, Marine Mammal Commission, Department of Justice, and the Council on Environmental Quality.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/30/97	62 FR 23538
Extension of Effective Date Interim Rule	04/15/98	63 FR 18323
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: SAN No. 3933

Legal Description: The Interim Final Rule, effective 7/14/98, through the year 2000-2001 austral summer.

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RIN: 2020–AA34

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Long-Term Actions

General

3395. REGULATIONS GOVERNING AWARDS UNDER SECTION 113(F) OF THE CLEAN AIR ACT

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 65

Timetable:

Action	Date	FR Cite
NPRM	05/03/94	59 FR 22795
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Cary Secrest
Phone: 202 564-8661

RIN: 2020–AA31

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Completed Actions

General

3396. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATIONAL PROGRAMS RECEIVING FEDERAL ASSISTANCE

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR F

Completed:

Reason	Date	FR Cite
Withdrawn - Merged into RIN 1190-AA28 of the Dept. of Justice.	08/25/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Ann Goode
Phone: 202 260-4581

RIN: 2020–AA36

3397. • QUICK-CLOSEOUT PROCEDURES

Priority: Info./Admin./Other

Legal Authority: 5 USC 301, sec 205(c); 63 Stat 390, as amended

CFR Citation: 48 CFR 1542; 48 CFR 1552

Legal Deadline: None

Abstract: This rule will eliminate EPAAR coverage which duplicates FAR coverage; it will also make several administrative changes to EPAAR 1552.209-71 (Organizational Conflicts of Interest), EPAAR 1552.216-74 (Payment of Fee), and EPAAR 1552.211.70 (Reports of Work). The administrative changes involve adding an Alternate I to 1552.209-71, revising the OMB clearance expiration date to 1552.211-70, and revising the cite reference to 1552.212-70.

Timetable:

Action	Date	FR Cite
Final Action	09/03/98	63 FR 46898

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4189

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RIN: 2030–AA60

3398. GUIDELINES FOR NEUROTOXICITY RISK ASSESSMENT

Priority: Other Significant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Guidelines - Completed in February, 1998	05/14/98	63 FR 26926

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William Wood
Phone: 202 564-3358

RIN: 2080–AA08

3399. VALUE ENGINEERING

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 1548; 48 CFR 1552

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency plans no further action.	08/12/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 2030–AA49

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Prerule Stage

Clean Air Act (CAA)

3400. CONSOLIDATED EMISSION REPORTING RULE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410(a)(2)

CFR Citation: 12 CFR 120.2(d)(4); 40 CFR 51.321 to 51.323

Legal Deadline: None

Abstract: Three sections of the Clean Air Act and its amendments require State agencies to report emission estimates to EPA. Some of these sections contain obsolete wording, inconsistent instructions, and duplicate reporting requirements. This rule will consolidate the requirements into one area, eliminate obsolete wording, eliminate duplicate reporting requirements, and provide options for collecting and reporting data. There will be no impact on small businesses. State agencies will continue to report the same or reduced amounts of data to EPA. The rule will provide for flexibility in collecting and reporting data. There will be no affect on local agencies.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/98	
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3986

Agency Contact: Steven Bromberg, Environmental Protection Agency, Air and Radiation, MD-14, Research Triangle Park, NC 27711

EPA—CAA — Prerule Stage

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RIN: 2060–AH25

3401. PROTECTION OF STRATOSPHERIC OZONE: ALLOWANCE SYSTEM FOR CONTROLLING HCFC PRODUCTION, IMPORT AND EXPORT

Priority: Info./Admin./Other

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 82.8

Legal Deadline: None

Abstract: This action will begin with development of an ANPRM which will outline a variety of options under which the Stratospheric Protection Division could develop and implement an allowance distribution system for HCFCs, and request comment on which options would be most appropriate. SPD currently oversees an allowance allocation system for the class I ozone-depleting substances. A class II allowance distribution system had not been required, because of the early estimates that the U.S. would not reach its HCFC production and consumption cap imposed by the Montreal Protocol in the near future. As people phase out of class I substances, the demand for HCFCs has increased, as has the production and importation to meet that demand. As a consequence, EPA is exploring potential options for an allowance distribution system that would ensure that the U.S. does not violate its HCFC cap under the Montreal Protocol.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/98	
NPRM	04/00/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 4120

Additional deadline: Montreal Protocol. The Protocol requires compliance with a formulary cap of all Parties' consumption of HCFCs.

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RIN: 2060–AH67

3402. STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES; NEW RESIDENTIAL WOOD HEATERS (SECTION 610 REVIEW)

Priority: Info./Admin./Other

Legal Authority: 5 USC 610; Clean Air Act sec 112

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: On February 26, 1988, EPA promulgated standards of performance limiting emissions of particulate matter (PM) from new residential wood heaters. Wood heaters were determined to cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. EPA performed a Regulatory Flexibility Analysis for this rule and determined that it would have a significant impact on a substantial number of small entities.

EPA is initiating a review of this rule under section 610 of the Regulatory Flexibility Act to determine if the rule should be continued without change, or should be amended or rescinded, to minimize adverse economic impacts on small entities. EPA will consider, and solicits comment on, the following factors: (1) the continued need for the rule; (2) the nature of complaints or comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal, State, or local government rules; and (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

This rule is also being separately reviewed as part of a process to reduce unnecessary recordkeeping and reporting requirements. (See RIN 2060-AG30)

Timetable:

Action	Date	FR Cite
Complete Review	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 4136

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RIN: 2060–AI05

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Clean Air Act (CAA) — Proposed Rule Stage

3403. • REDEFINITION OF GLYCOL ETHERS LISTED AS HAPS UNDER THE CLEAN AIR ACT, AND HAZARDOUS SUBSTANCES UNDER CERCLA

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq; 42 USC 9602; 33 USC 1321 and 1361

CFR Citation: 40 CFR 63 (Revision); 40 CFR 302 (Revision)

Legal Deadline: None

Abstract: The proposed action will redefine the glycol ethers category of hazardous air pollutants (HAPs) regulated under the Clean Air Act and hazardous substances under the Comprehensive Emergency Response, Compensation, and Liability Act. The new definition will omit specific compounds of high molecular weight used as surfactants by the soap and detergent industry. These compounds have low volatility, so only minor amounts are emitted during manufacture and use of soaps and detergents. The compounds also have low toxicity, so the small amounts that are released are extremely unlikely to cause any harm to health or the environment. The proposal will reduce the burden of environmental regulations on soap and detergent manufacturers, and will have no adverse environmental impact.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Sectors Affected: 325611 Soap and Other Detergent Manufacturing

Additional Information: SAN No. 4159

Development, implementation, and enforcement of emission standards by Federal and State government for the soap and detergent industry will be somewhat simplified by the omission of compounds of high molecular weight and low volatility.

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RIN: 2060–AI08

3404. • CONTROL OF EMISSIONS OF AIR POLLUTION FROM 2004 AND LATER MODEL YEAR HIGHWAY HEAVY-DUTY DIESEL ENGINES

Priority: Other Significant

Legal Authority: 42 USC 7401 to 7601; 42 USC 7521

CFR Citation: 40 CFR 86; 40 CFR 88

Legal Deadline: None

Abstract: This action will focus on the emission standards and related requirements for control of air pollution from 2004 and later model year highway heavy-duty engines. It will include an assessment of the feasibility of the requirements for these engines promulgated in 1997 plus further consideration of a number of issues left open in the rule including potential diesel fuel changes, diesel particulate control, and other initiatives to control emissions in use.

EPA—CAA — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 4043

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RIN: 2060–AI12

3405. • CONFORMITY PILOT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401; 42 USC 7671g

CFR Citation: 40 CFR 51; 40 CFR 93

Legal Deadline: None

Abstract: This action would approve the conformity procedures developed by an area that has been selected to participate in the transportation conformity pilot program. Because EPA may select up to six areas to participate in the pilot program, there may be six separate approval actions. These approval actions will be in the form of conformity SIP approvals.

The purpose and anticipated impact of the pilot program itself were discussed in the rulemaking that established the pilot program. See "Transportation Conformity Rule Amendment and Solicitation for Participation in the Conformity Pilot Program."

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4148

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RIN: 2060–AI14

3406. PERFORMANCE WARRANTY AND INSPECTION/MAINTENANCE TEST PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7541; 42 USC 7601

CFR Citation: 40 CFR 51; 40 CFR 85

Legal Deadline: None

Abstract: This action establishes a new short test procedure for use in I/M programs required by the Clean Air Act Amendments of 1990. Vehicles that are tested and failed using this procedure and that meet eligibility requirements established by the act would be eligible for free warranty repair from the manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3263

Agency Contact: Eugene Tierney, Environmental Protection Agency, Air and Radiation, NFEVL, Ann Arbor, MI 48105
Phone: 734 214-4456

RIN: 2060–AE20

3407. INSPECTION/MAINTENANCE RECALL REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7511(A)(2)(b); 42 USC 7511(A)(2)(b)(2)

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This action specifies requirements for enhanced I/M programs to establish a program to ensure compliance with recall notices. This is pursuant to the Clean Air Act Amendments of 1990.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3262

Agency Contact: Eugene Tierney, Environmental Protection Agency, Air and Radiation, NFEVL, Ann Arbor, MI 48105
Phone: 734 214-4456

RIN: 2060–AE22

3408. NSPS: SYNTHETIC ORGANIC CHEMICALS MANUFACTURING INDUSTRY - WASTEWATER

Priority: Other Significant

Legal Authority: Clean Air Act Amendments of 1990

CFR Citation: 40 CFR 60

Legal Deadline:
NPRM, Judicial, August 31, 1994.

Abstract: This rule will develop a new source performance standard to control air emissions of volatile organic compounds from wastewater treatment operations at the synthetic chemical manufacturing industry.

Timetable:

Action	Date	FR Cite
NPRM	09/12/94	59 FR 46780
Supplemental NPRM (First)	10/11/95	60 FR 52889
Supplemental NPRM (Second)	10/00/98	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3380

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RIN: 2060–AE94

3409. METHOD 301: FIELD VALIDATION OF POLLUTION MEASUREMENT METHODS FOR VARIOUS MEDIA; REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq as amended by PL 101-549; 42 USC 7410 et seq as amended by PL 101-549

CFR Citation: 40 CFR 60; 40 CFR 63

Legal Deadline: None

Abstract: After promulgation of Method 301, questions were raised about the statistical calculations and the procedure for determining the quality of the data. This rule will clarify those rule provisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Additional Information: SAN No. 3407

Agency Contact: Gary McAlister, Environmental Protection Agency, Air and Radiation, MD-19, Research Triangle Park, NC 27711
Phone: 919 541-1062

RIN: 2060–AF00

3410. NESHAP: PETROLEUM REFINERIES - FCC UNITS, REFORMERS AND SULFUR PLANTS

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq as amended by PL 101-549 104 Stat. 2399

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: Title III of the Clean Air Act amendments of 1990 requires EPA to develop national emission standards for hazardous air pollutants (NESHAPs). EPA promulgated NESHAP rules for petroleum refineries on August 18, 1995 (RIN 2060-AD94). This action covers three process vents not covered under RIN 2060-AD94. These are the catalyst regeneration vents from fluid catalytic cracking units (FCCU) and catalytic reformers and the tail gas vents from sulfur recovery plants.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 32411 Petroleum Refineries

Additional Information: SAN No. 3549

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RIN: 2060–AF28

3411. IMPLEMENTATION OF OZONE AND PARTICULATE MATTER (PM) NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS) AND REGIONAL HAZE REGULATIONS

Regulatory Plan: This entry is Seq. No. 100 in Part II of this issue of the Federal Register.

RIN: 2060–AF34

3412. COMPREHENSIVE RADIATION WASTE MANAGEMENT REGULATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 2011 to 2296; 5 USC app 1; 15 USC 2601 to 2671

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The proper management (i.e., storage, treatment and disposal) of radioactive wastes depends on a number of factors. These include the type and quantity of waste, the availability of storage, treatment and disposal facilities, and the cost of management of these wastes. Another rulemaking, EPA's radiation site cleanup rule, will be concerned with the cleanup standards for sites contaminated with radioactivity. As contaminated sites are cleaned up, a tremendous quantity of radiation contaminated waste, including mixed waste, will be generated. The Agency intends that the comprehensive radiation waste management rule will promote consistent, protective, and cost-effective management of such wastes at Federal facilities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3516

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RIN: 2060–AF41

3413. FEDERAL IMPLEMENTATION PLAN TO CONTROL EMISSIONS FROM TWO POWER STATIONS LOCATED ON NAVAJO NATION LANDS

Priority: Other Significant

Legal Authority: 42 USC 1740

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA proposes to federalize standards from the Arizona and New Mexico State Implementation Plans (SIPS) applicable to the Navajo generating station and the Four Corners Plant, respectively. Where necessary, EPA's proposed emission standards modify the standards extracted from the States' regulatory programs to ensure comprehensive emission control and Federal consistency.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 3569

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RIN: 2060–AF42

3414. FEDERAL IMPLEMENTATION PLAN (FIP) TO CONTROL EMISSIONS FROM SOURCES LOCATED ON THE FORT HALL INDIAN RESERVATION

Priority: Other Significant

Legal Authority: Clean Air Act, title I

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: EPA will propose Federal rulemaking for sources located on the Reservation to implement the intent of the Clean Air Act (CAA) title I program to bring about attainment of the PM-10 NAAQS both on and off the Fort Hall Indian Reservation.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 3637

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RIN: 2060–AF84

3415. ENVIRONMENTAL RADIATION PROTECTION STANDARDS FOR YUCCA MOUNTAIN, NEVADA

Regulatory Plan: This entry is Seq. No. 101 in Part II of this issue of the Federal Register.

RIN: 2060–AG14

3416. AMENDMENT TO STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES; MONITORING REQUIREMENTS (PS-1)

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act sec 407

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: This action proposes to clarify and update requirements for source owners and operators who must install and use continuous stack or duct opacity monitoring equipment. This action also proposes amendments regarding design and performance validation requirements for continuous opacity monitoring system (COMS) equipment in appendix B, PS-1. These amendments to subpart A and PS-1 will not change the affected facilities' applicable emission standards or requirement to monitor. The amendments will: (1) clarify owner and operator and monitor vender obligations, (2) reaffirm and update COMS design and performance requirements, and (3) provide EPA and affected facilities with equipment assurances for carrying out effective monitoring. The specifications shall apply to all COMS's installed or replaced after the date of promulgation. Following promulgation, a source owner, operator, or manufacturer will be subject to these performance specifications if installing a new COMS, relocating a COMS, replacing a COMS, recertifying a COMS that has undergone substantial refurbishing, or has been specifically required to recertify the COMS with these revisions.

Timetable:

Action	Date	FR Cite
NPRM	11/24/94	59 FR 60585
Supplemental NPRM	10/00/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3744

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RIN: 2060–AG22

3417. CONSOLIDATED FEDERAL AIR RULE FOR THE SYNTHETIC ORGANIC CHEMICAL MANUFACTURING INDUSTRY

Regulatory Plan: This entry is Seq. No. 102 in Part II of this issue of the Federal Register.

RIN: 2060–AG28

3418. NSPS: SEWAGE SLUDGE INCINERATORS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing

Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7401 to 7626

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: Section 129 of the Clean Air Act, as amended November 1990, requires the Administrator to establish new source performance standards and emission guidelines for new and existing solid waste incineration units including units that incinerate municipal sewage sludge. The standards and guidelines are to specify numerical emission limitations for the following substances: particulate matter (total and fine), opacity (as appropriate), sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans. In addition, the standards and guidelines are to include requirements for emissions and parameter monitoring and provisions for operator training and certification.

Timetable:

Action	Date	FR Cite
ANPRM	01/14/97	62 FR 1868
NPRM	08/00/99	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Sectors Affected: 22132 Sewage Treatment Facilities

Additional Information: SAN No. 3819

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RIN: 2060–AG50

3419. STORAGE TANK RULE REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 to 7671

CFR Citation: 40 CFR 60 (Revision); 40 CFR 61 (Revision); 40 CFR 63 (Revision); 40 CFR 264 (Revision); 40 CFR 265 (Revision)

Legal Deadline: None

Abstract: The purpose of this action is to revise storage tank air regulations in several parts of title 40 of the CFR. Such revisions include rule corrections, the addition of test methods, and the elimination of some recordkeeping requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Sectors Affected: 32411 Petroleum Refineries; 32511 Petrochemical Manufacturing; 325193 Ethyl Alcohol Manufacturing

Additional Information: SAN No. 3966

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RIN: 2060–AH15

3420. TRANSPORTATION CONFORMITY RULE AMENDMENT: CLARIFICATION OF TRADING PROVISIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7401 to 7671 Clean Air Act sec 176(c)

CFR Citation: 40 CFR 51; 40 CFR 93

Legal Deadline: None

Abstract: The transportation conformity rule, promulgated in November 1993, ensures that transportation and air quality planning are consistent with Clean Air Act air quality standards. The Open Market Trading Guidance provides guidance to states for establishing a method to quantify emissions reductions (called discrete emissions reductions or DERs) that can be traded among parties and how such trading should occur. This action will amend the transportation conformity rule to clarify how emissions trading could be reconciled in the conformity process.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3917

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RIN: 2060–AH31

3421. STREAMLINED EVAPORATIVE TEST PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7521(m)

CFR Citation: 40 CFR 86 (Revision)

Legal Deadline: None

Abstract: This action will streamline the test procedure used to establish compliance with evaporative emission requirements for light duty vehicles and trucks. The current test procedure requires both two and three day diurnal emission tests; as well as running lost testing. The revisions will delete the three day requirement and add flexibilities for running loss compliance. This will enable manufacturers to save significant resources without any loss in environmental benefits.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3910

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RIN: 2060–AH34

3422. REVIEW OF MINOR NEW SOURCES AND MODIFICATIONS IN INDIAN COUNTRY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 51.165; 40 CFR 51.166; 40 CFR 52.10; 40 CFR 52.21

Legal Deadline: None

Abstract: Consistent with its trust responsibility to Indian tribes, EPA proposes to develop a permit program that would extend to Indian country some of the same protections that States afford their citizens through minor new source review and non-attainment major new source review programs. The proposed rule would require that stationary air sources located in Indian country obtain a permit prior to construction or undergoing modification, in certain cases. Permits would be required of minor sources that exceed a specified emissions threshold if they propose to construct or make a modification that will increase emissions from the source. The proposed rule would allow existing stationary sources to accept federally enforceable limits in order to be considered as minor sources for the applicability of other source requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Local, Tribal, Federal

Additional Information: SAN No. 3975

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RIN: 2060–AH37

3423. REVISIONS TO CLARIFY THE PERMIT CONTENT REQUIREMENTS FOR STATE OPERATING PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 7661 et seq

CFR Citation: 40 CFR 70.6

Legal Deadline: None

Abstract: The proposed rule will revise the permit content requirements for State operating permit programs to clarify EPA's existing regulations and policy that require all applicable requirements to be included in title V operating permits. This action will also require a few approved State programs that are inconsistent with this policy and that EPA did not identify as such during program approval actions to be revised. In addition, this action will take comment on allowing an exemption from permit content requirements for insignificant activities that are subject to certain applicable requirements that are found only in State Implementation Plans and will finalize such provisions if it is convinced by comments that such a policy is appropriate. The benefit of the proposed action is that it will clarify existing permit content requirements. There is no anticipated impact on small businesses as this rulemaking only clarifies existing requirements and takes comment on exemptions that may further streamline permits. Impact on State or local governments is limited to a small number of State programs where certain applicable requirements are exempt from permit content requirements in conflict with existing EPA requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Tribal

Additional Information: SAN No. 3977

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RIN: 2060–AH46

3424. REVISIONS TO NEW SOURCE REVIEW (NSR) REGULATIONS TO IMPLEMENT THE NEW NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS) FOR OZONE

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 51.160 to 51.166; 40 CFR 52.21; 40 CFR 52.24

Legal Deadline: None

Abstract: The Clean Air Act requires that construction permit programs for new or modified major stationary sources of air pollution be established for areas not attaining the NAAQS. Regulations setting forth requirements for State and Federal permitting programs are found at 40 CFR 51.160-166 and 52.21 and 52.24, respectively.

The proposed regulations implement preconstruction permit requirements for new and modified major stationary sources locating in areas that do not meet the new, 8-hour NAAQS for ozone, but do meet the 1-hour ozone standard. The rules are intended to implement the major NSR provisions in a flexible, common sense, cost-effective, and non-burdensome manner by allowing States with these nonattainment areas to make minimal changes to their existing major preconstructed permit programs in their State implementation plans. The EPA will continue to work with other Federal agencies, State and local governments, small businesses, industry, and environmental and public health groups to develop the requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4046

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RIN: 2060–AH53

3425. NESHAP: COKE OVENS: PUSHING, QUENCHING, AND BATTERY STACKS

Priority: Other Significant

Legal Authority: 42 USC 7412

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: There are currently 25 active domestic coke plants, 20 of which are furnace coke plants and 5 of which are foundry coke plants. Coke oven batteries used to produce metallurgical coke at these plants emit hazardous air pollutants (HAPs) such as coke oven emissions and polycylic organic matter listed in section 112 of the Clean Air Act (CAA).

This action will establish a National Emission Standard for Hazardous Air Pollutants (NESHAP) for three specific operations associated with coke ovens, namely pushing, quenching, and battery stacks.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
Final	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Sectors Affected: 324199 All Other Petroleum and Coal Products Manufacturing; 331111 Iron and Steel Mills

Additional Information: SAN No. 4022

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RIN: 2060–AH55

3426. ACID RAIN PROGRAM: DETERMINATION ON SECTION 75.7 (EPA STUDY OF BIAS TEST) AND SECTION 75.8 (RELATIVE ACCURACY AND AVAILABILITY ANALYSIS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7651 et seq

CFR Citation: 40 CFR 75 (Revision)

Legal Deadline: None

Abstract: On January 11, 1993, EPA promulgated the final core acid rain rules, including the Continuous Emission Monitoring (CEM) regulation at 40 CFR part 75. Since the rule was promulgated, the 263 Phase I and 783 Phase II utility units have already begun to comply with this regulation by installing and completing certification testing by the January 1, 1995 statutory deadline.

As part of the original acid rain rulemaking and subsequent settlements with industry and environment groups, the Agency agreed to undertake field studies and analyze performance data to determine if current bias test requirement should be tightened (environmental group request). The regulatory requirements that were originally at issue have been shown to be workable and effective and are now generally accepted as integral parts of the acid rain regulations. In particular, through the field tests and analysis of 3 years' worth of performance test data, the Agency is in a position to allay industry's concern that the bias test is arbitrary and environmentalists' concern that the relative accuracy test and availability trigger condition are insufficiently stringent.

Timetable:

Action	Date	FR Cite
Notice of Proposed Determinations	05/21/98	63 FR 28195
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Sectors Affected: 221111 Hydroelectric Power Generation

Additional Information: SAN No. 4067

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RIN: 2060–AH64

3427. FINAL RULE TO AMEND THE NATIONAL EMISSION STANDARDS FOR MAGNETIC TAPE MANUFACTURING OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63.703(c)(4); 40 CFR 63.705

Legal Deadline: None

Abstract: The EPA is amending the promulgated emission standards for Magnetic Tape Manufacturing to include an additional compliance option for facilities that choose to control their coatings operation to a hazardous air pollutant (HAP) reduction efficiency greater than 95% by weight. In the currently promulgated standard, compliance options are provided whereby a facility operator may choose to control HAP emissions from all coating operations by an overall HAP control efficiency of at least 97%, 98% or 98%, in lieu of controlling 10, 15, or 20 HAP solvent storage tanks, respectively. This amendment would provide a further option that a facility operator controlling the coating operations by one of those higher control efficiencies could choose to leave uncontrolled certain combinations of storage tanks and/or pieces of mix preparation equipment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4106

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RIN: 2060–AH71

3428. NESHAP: ORGANIC HAZARDOUS AIR POLLUTANTS FROM THE SYNTHETIC ORGANIC CHEMICAL MANUFACTURING INDUSTRY (SOCMI) & OTHER PROCESSES SUBJECT TO THE NEGOTIATED REGULATION FOR EQUIPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63.100 to 63.152

Legal Deadline: None

Abstract: The actions will amend the HON that was first promulgated on April 22, 1994, to clarify applicability of process vent requirements. The changes to the rule will clarify the EPA's intent regarding the meaning of the term process vent and address the way these provisions are to be implemented through the permit rule. The need for this action became apparent recently when it was learned that industry was interpreting the definition more narrowly than we intended, and thus, not identifying all process vents subject to the HON. These amendments will clarify the rule to ensure consistent interpretations of the term process vent while preserving the intended applicability of the requirements. These clarifications will not increase or lower or otherwise affect emissions or environmental protection. Additionally, the actions may clarify additional sections of the HON and correct any typographical errors noted. These actions may contain guidance as well as amended rule language.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4103

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RIN: 2060–AH81

3429. PERFORMANCE SPECIFICATION 16 - SPECIFICATIONS AND TEST PROCEDURES FOR PREDICTIVE EMISSION MONITORING SYSTEMS IN STATIONARY SOURCES

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act section 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: Performance Specification 16 is being proposed to provide performance criteria for predictive emission monitoring systems. Predictive systems represent a new technology that uses process information or parameters to predict pollutant emissions instead of directly measuring them. The Agency is allowing their use in recently-promulgated rules and they are being considered by a number of regulated facilities. The specification lists the requirements for acceptable systems that are met by passing tests that compare the monitoring system with standardized methods and audit gases to determine system accuracy and stability. Performance Specification 16 will primarily apply to facilities whose emissions can be predicted from process parameters such as combustion processes (including gas turbines and internal combustion engines).

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Sectors Affected: 33241 Power Boiler and Heat Exchanger Manufacturing; 333611 Turbine and Turbine Generator Set Unit Manufacturing; 336399 All Other Motor Vehicle Parts Manufacturing; 333618 Other Engine Equipment Manufacturing

Additional Information: SAN No. 4119

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RIN: 2060–AH84

3430. FEDERAL IMPLEMENTATION PLANS TO REDUCE THE REGIONAL TRANSPORT OF OZONE IN THE EASTERN UNITED STATES; PROPOSED RULES

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 52; 40 CFR 97; 40 CFR 98

Legal Deadline:
Final, Statutory, See additional information.

Abstract: This action proposes to require emissions decreases in 22 States and the District of Columbia. The intended effect is to reduce the transport of ozone (smog) pollution and one of its main precursors--emissions of nitrogen oxides (NOx)--across State boundaries in the eastern half of the United States. The emission sources affected by this action are in the Ozone Transport Assessment Group (OTAG) Region.

On November 7, 1997, EPA proposed to find that the transport of ozone from certain States in the OTAG region (the 37 eastern most States and the District of Columbia) contribute significantly to nonattainment of the ozone national ambient air quality standards (NAAQS), or interfere with maintenance of the NAAQS, in downwind States. Further, EPA proposed the appropriate levels of NOx emissions that each of the affected States will be required to achieve. That proposal allows States 12 months to develop, adopt, and submit revisions to their State implementation plans (SIPs) in response to the final rulemaking.

The Administrator is required to promulgate a Federal implementation plan (FIP) within 2 years of: (1) finding that a State has failed to make a required submittal or (2) finding that a submittal is not complete or (3) disapproving a SIP submittal. Although the Clean Air Act allows EPA up to 2 years after the finding to promulgate a FIP, EPA intends to expedite the FIP

promulgation to help assure that the downwind States realize the air quality benefits of regional NOx reductions as soon as practicable. Therefore, EPA is proposing FIPs at the same time as final action is taken on the November 7, 1997, proposal. Furthermore, EPA intends to make a finding and promulgate a FIP immediately after the SIP submittal due date for each upwind State that fails to submit a SIP.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, Tribal, Federal

Additional Information: SAN No. 4096

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RIN: 2060–AH87

3431. FINDINGS OF SIGNIFICANT CONTRIBUTION AND RULEMAKING ON SECTION 126 PETITIONS FOR PURPOSES OF REDUCING INTERSTATE OZONE TRANSPORT

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 7426

CFR Citation: 40 CFR 52; 40 CFR 75; 40 CFR 97

Legal Deadline:
Other, Statutory, April 30, 1998, See additional information.

Abstract: In August 1997, eight northeastern States (Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Pennsylvania, and Vermont) submitted individual petitions to EPA under section 126 of the Clean Air Act. Each petition requests that EPA make a finding that certain major stationary sources in upwind States contribute significantly to ozone nonattainment problems in the petitioning State. The petitions target sources in the eastern half of the United States. If EPA grants the requested findings, EPA must establish Federal emission control requirements for the affected sources. Sources would have to comply with the emissions limits within three years from the finding. These sources may also subjected to State-adopted emission limitations and control schedules in response to a separate EPA rulemaking action on regional ozone transport that EPA proposed in October 1997. In this related action, EPA made a proposed finding that emissions from 22 eastern States and the District of Columbia significantly contribute to nonattainment problems in downwind States. EPA proposed that these States and DC must revise their State implementation plans to include provisions that will reduce State-wide nitrogen oxide emissions (an ozone precursor) to a specified level. Because this ozone transport rulemaking overlaps considerably with the section 126 petition process, EPA believes it is important to coordinate the two actions as much as possible. On December 17, 1997, EPA signed a memorandum of agreement with the eight petitioning States concerning the schedule for EPA action on the petitions. The agreement provides EPA with additional time beyond the statutory deadline for analyzing the technical merits of the petitions and carrying out the rulemaking process. The agreement is designed to ensure that EPA will take timely action on the petitions while recognizing that EPA is simultaneously examining ozone transport through a State-based process.

Timetable:

Action	Date	FR Cite
ANPRM	04/30/98	63 FR 24058
NPRM	10/00/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, Federal

Sectors Affected: 221112 Fossil Fuel Electric Power Generation

Additional Information: SAN No. 4095

Legal Deadline continued:
Memorandum of Agreement: The section 126 petitions request EPA to establish emission limitations and compliance schedules for groups of stationary sources that may also be subject to emissions limitations in State implementation plans submitted in response to an ozone transport rulemaking that EPA proposed in October 1997. The Clean Air Act establishes deadlines for taking final action on section 126 petitions. However EPA has negotiated and signed a memorandum of agreement with the petitioning States on a schedule for taking action on the petitions which goes beyond the statutory timeframe. The memorandum of agreement is designed to ensure that EPA will take timely action on the petitions while recognizing that EPA is simultaneously examining regional ozone transport in a separate rulemaking. The memorandum of agreement requires EPA to meet the following schedule:

ANPRM: publish in Federal Register by April 30, 1998.

NPRM: publish in Federal Register by September 30, 1998.

Final action by April 30, 1999.

The petitioning States have sued EPA for missing the statutory deadline for action and they intend to submit to the court a proposed consent decree that incorporates the terms of the memorandum of agreement.

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RIN: 2060–AH88

3432. WET-FORMED FIBERGLASS MAT PRODUCTION NESHAP

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 5 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The CAA required the EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112(b) of the CAA and to establish and meet dates for promulgation of emission standards for each of the listed categories of HAP emissions sources. The wet-formed fiberglass mat production industry is not included in the initial list of categories for standards development but information available to the Administrator suggests that the industry is a major source of HAP emissions and, as such, emission standards shall be developed for this industry. The standards are to be technology-based and are to require the maximum degree of reduction determined to be achievable by the Administrator. The EPA has determined that the wet-formed fiberglass mat production industry may be reasonably expected to emit one of the pollutants listed in section 112(b) of the CAA. The purpose of this action is to include the industry in the source category list and to pursue a regulatory development program such that emission standards may be proposed and promulgated for this industry.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 4082

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RIN: 2060–AH89

3433. TECHNICAL CHANGE TO DOSE METHODOLOGY FOR 40 CFR 191, SUBPART A

Priority: Routine and Frequent

Legal Authority: Atomic Energy Act of 1954; Reorganization Plan No. 3 of 1970; Nuclear Waste Policy Act of 1982

CFR Citation: 40 CFR 191(A)

Legal Deadline: None

Abstract: This action is a technical change to the dose methodology for subpart A, Environmental Standards for Management and Storage, of 40 CFR 191, Environmental Radiation Protection Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes. The current methodology is outdated. The new method, which would be employed as a result of this action, is consistent with recent radiation protection standards as well as Federal Guidance reports issued by EPA. No significant impacts from this action are anticipated.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 4003

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RIN: 2060–AH90

3434. REVISIONS TO THE POLLUTANT STANDARDS INDEX AND SIGNIFICANT HARM LEVEL PROGRAMS FOR OZONE AND PARTICULATE MATTER

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This regulation will update the Pollutant Standards Index (PSI) and the Significant Harm Level (SHL) Programs to reflect revisions to the NAAQS for ozone and particulate matter. The PSI program is codified in section 58.50 and appendix G to part 58, and the SHL program is codified in sections 51.150 to 51.153 and appendix L to part 51, of the CFR. Also included in this regulatory package is the deletion of the last sentence in section 51.115(e) of the CFR.

Section 58.50 and appendix G to part 58 require that States report to the public an air quality index, the Pollutant Standards Index, which translates ambient concentrations of five of the criteria pollutants to a uniform, numerical index, ranging from 0 to 500. The scale of the PSI is based on human health effects information. Revisions will be made to the ambient concentrations which specify the breakpoints between the PSI categories (i.e., the good, moderate, unhealthful, very unhealthful, and hazardous categories) and associated example health advisories.

Sections 51.150-51.153 of the CFR require that States have contingency plans to prevent air pollution emergency episodes from reaching the significant harm level. Appendix L provides example guidance to the States on appropriate courses of action that should be taken at each stage of the episode (i.e., alert, warning and emergency) to ensure the SHL is not reached.

Section 51.115(e) reads: In developing an ozone control strategy for a particular area, background ozone concentrations and ozone transported into an area must be considered. States may assume that the ozone standard will be attained in the upwind areas. Because of the increase in knowledge about transport and because of action taken in the NOx State Implementation Plan (SIP) call, the second sentence of this section is now inconsistent with the current requirements for SIP development and needs to be removed.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4073

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RIN: 2060–AH92

3435. GENERAL CONFORMITY REGULATIONS; REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 to 7671

CFR Citation: 40 CFR 51.850 to 860; 40 CFR 93.150 to 160

Legal Deadline: None

Abstract: Section 176(c)of the Clean Air Act prohibits Federal entities from taking actions which do not conform to the State implementation plan (SIP) for the attainment and maintenance of the national ambient air quality standards (NAAQS). In November 1993, EPA promulgated two sets of regulations to implement section 176(c). First, on November 24, EPA promulgated the Transportation Conformity Regulations to establish the criteria and procedures for determining that transportation plans, programs, and projects which are funded under title 23 U.S.C. or the Federal Transit Act conform with the SIP. Then, on November 30, EPA promulgated regulations, know as the General Conformity Regulations, to ensure that other Federal actions also conformed to the SIPs. Since 1993, EPA has amended the transportation conformity rule three times in response to stakeholders' requests. The EPA is working on a separate revision to address transportation conformity in transitional areas which will be final by December 1998. The EPA has not reviewed or revised the General Conformity Regulations since their 1993 promulgation. Several Federal agencies have identified concerns over the implementation of the General Conformity Regulations, including the requirements for areas designated nonattainment for the newly promulgated NAAQS. In conjunction with an ad hoc work group of representatives from several Federal agencies, EPA will review the implementation of the General Conformity Regulations. The EPA will then propose and promulgate any appropriate revision to those regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Federal

Additional Information: SAN No. 4070

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RIN: 2060–AH93

3436. REVIEW OF OPERATING PERMITS ISSUED BY INDIAN TRIBES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7661 et seq

CFR Citation: 40 CFR 70.4

Legal Deadline: None

Abstract: The current regulation that sets forth minimum standards for State operating permits programs does not require that citizens be allowed to appeal permit decisions made by tribal permitting authorities. The proposed rule would require that tribes allow for judicial review or that they develop alternative options for citizen recourse. The benefit of the proposed action is that citizens would be able to hold those responsible for issuing permits accountable for their actions. There is no anticipated impact on small businesses. Tribal governments that develop operating permits programs will need to provide citizens an opportunity to challenge permitting actions in order to obtain EPA approval of their permits programs.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Tribal, Federal

Additional Information: SAN No. 3893

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RIN: 2060–AH98

3437. PROTECTION OF STRATOSPHERIC OZONE: RECONSIDERATION ON THE 610 NONESSENTIAL PRODUCTS BAN

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7414; 42 USC 7601; 42 USC 7671 to 7671(q)

CFR Citation: 40 CFR 82(C)

Legal Deadline: None

Abstract: This action would propose to extend the current class I and class II bans on the sale and distribution of nonessential uses of ozone-depleting substances where sufficient substitutes are already readily available. As part of the initial 1993 rulemaking, EPA banned the use of ozone-depleting substances in aerosols, pressurized dispensers, and foams where substitutes were available. Since that rulemaking was issued, the phaseout of production and consumption of class I substances has become effective and the Significant New Alternatives Policy (SNAP) Program under section 612 has been promulgated. The phaseout of newly manufactured class I substances and the identification of new acceptable substitutes for both class I and class II applications provide compelling reasons to reconsider the initial decisions regarding both product-specific exemptions and the decision to limit the ban's effect on major sectors that traditionally used ozone-depleting substances. Most domestic manufacturers have already incorporated the non-ozone-depleting substances in their products. The continued availability and use of ozone-depleting substances in parts and products manufactured abroad, which are sold or incorporated into larger products that are then sold into interstate commerce in the United States, negatively affects the competitiveness of domestic manufacturers who use substitute substances in their production. Therefore, it is appropriate to reconsider the applicability of the class I ban to both specific products and product categories. Amending these requirements would limit the potential use of ozone-depleting substances in applications where substitutes are available and thus, further protect the stratospheric ozone layer.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4077

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RIN: 2060–AH99

3438. CONTROL OF EMISSIONS FROM NEW NONROAD SPARK-IGNITION ENGINES AT OR BELOW 19 KILOWATTS, MINOR AMENDMENTS TO THE PHASE I EMISSION STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7547; 42 USC 7601(a)

CFR Citation: 40 CFR 90

Legal Deadline: None

Abstract: This direct final rule revises the existing new nonroad Phase 1 small spark-ignited (SI) engine regulations. Although no adverse comments are anticipated, EPA will simultaneously propose this action.

Subsequent to the July 3, 1995, Federal Register publication of the Phase 1 small spark-ignited (SI) engine final rule, several typographical errors and incorrect figure references have been identified. In addition, corrections need to be made to a handful of minor test procedure issues. Representatives of the small SI engine industry have been requesting that EPA make these corrections to the final Phase 1 small SI engine rulemaking in order that they may certify their 1997 model year engines without making unnecessary alternative test procedure demonstrations. In addition, finalization of this Phase 1 amendment package will decrease the complexity of the development of court-ordered Phase 2 regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 336399 All Other Motor Vehicle Parts Manufacturing

Additional Information: SAN No. 3951

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RIN: 2060–AI02

3439. NOTICE OF TEMPORARY STAY, NOTICE OF PROPOSED COMPLIANCE EXTENSION; EQUIVALENCY DETERMINATION-NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS: HALOGENATED SOLVENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: Halogenated solvent cleaning emissions include: 1,1,1 trichloroethane, perchloroethylene, methylene chloride, trichloroethylene, carbon tetrachloride, and chloroform. This rule was promulgated on December 2, 1994 and codified at 40 CFR part 63, subpart T. This action will announce a temporary 3-month stay for good cause and a proposed compliance extension for continuous web cleaning machines. This action will also amend the final halogenated solvent cleaning NESHAP to include equivalency determinations for different control equipment for batch vapor cleaners to those required by the rule. These equivalency determinations have been requested by a halogenated solvent cleaning machine manufacturer.

Timetable:

Action	Date	FR Cite
NPRM	11/29/93	58 FR 62566
Final Rule	12/02/94	59 FR 61801
Correction Notice	12/30/94	59 FR 67750
Correction Notice	06/05/95	60 FR 29484
NPRM - Equivalency Determination	05/05/98	63 FR 24765
Notice - Temporary Stay	05/05/98	63 FR 24749
NPRM - Equivalency Determination, Batch Cleaners	10/00/98	
Final Rule - Compliance Extension	10/00/98	
NPRM - Equivalency Determination, Continuous Web Cleaners	03/00/99	
Final Rule - Equivalency Determination, Batch Cleaners	03/00/99	
Final Rule - Equivalency Determination, Continuous Web Cleaners	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Sectors Affected: 332 Fabricated Metal Product Manufacturing

Additional Information: SAN No. 4129

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RIN: 2060–AI04

3440. • CONTROL OF EMISSIONS OF AIR POLLUTION FROM NEW MARINE DIESEL ENGINES AT OR ABOVE 37 KILOWATTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7547(a)

CFR Citation: 40 CFR 89

Legal Deadline:
NPRM, Judicial, November 25, 1998, Consent Decree.
Final, Judicial, November 26, 1999, Consent Decree.

Abstract: The ANPRM notifies and invites comments from the public on EPA's plans to propose stringent standards for control of emissions of oxides of nitrogen, hydrocarbons, and particulate matter from diesel marine engines at or above 37 kilowatts. The ANPRM contains a broad outline of

EPA's plans for defining a national emission control program for these engines, including engine categories to be covered, emission standard levels being considered, and potential compliance programs. Results of a Nonroad Engine and Vehicle Emission Study conducted by EPA indicated the need for regulation of categories or classes of new nonroad engines and vehicles that are significant contributors to ozone or CO in NAAQS nonattainment areas. Such a finding led to control of emissions from various nonroad sources. This action outlines a strategy to control emissions from one nonroad source: diesel marine engines. If the emission control program discussed in the ANPRM is implemented, EPA would expect to see NOx and PM reductions comparable to their land-based counterparts on a per engine basis, for marine engines which are derivatives of land-based engines.

Timetable:

Action	Date	FR Cite
ANPRM	05/22/98	63 FR 28309
NPRM	11/00/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 336399 All Other Motor Vehicle Parts Manufacturing; 335312 Motor and Generator Manufacturing

Additional Information: SAN No. 4078

This was previously listed as RIN 2060-AH65.

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RIN: 2060–AI17

3441. • TIER II LIGHT-DUTY VEHICLE, LIGHT-DUTY TRUCK, AND HEAVY-DUTY GASOLINE VEHICLE EMISSION STANDARDS AND GASOLINE SULFUR STANDARDS

Regulatory Plan: This entry is Seq. No. 103 in Part II of this issue of the Federal Register.

RIN: 2060–AI23

3442. NAAQS: SULFUR DIOXIDE (REVIEW AND IMPLEMENTATION)

Regulatory Plan: This entry is Seq. No. 104 in Part II of this issue of the Federal Register.

RIN: 2060–AA61

3443. REVISION OF APPENDIX W TO 40 CFR PART 51

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990 sec 110(a)(2); Clean Air Act Amendments of 1990 sec 165(e); Clean Air Act Amendments of 1990 sec 172(a); Clean Air Act Amendments of 1990 sec 172(c); Clean Air Act Amendments of 1990 sec 301(a)(1); Clean Air Act Amendments of 1990 sec 320

CFR Citation: 40 CFR 51.112; 40 CFR 51.160; 40 CFR 51.166; 40 CFR 52.21

Legal Deadline: None

Abstract: This action proposes revisions to the Guideline on Air Quality Models, published as appendix W to 40 CFR part 51. Such models are used to predict ambient concentrations of pollutants for programs ranging from Prevention of Significant Deterioration (PSD) to State Implementation Plans (SIPs) for controlling air pollution sources. Appendix W to 40 CFR part 51 fulfills a Clean Air Act mandate for EPA to specify models for air management purposes. This proposed rulemaking enhances appendix W with new and/or improved techniques.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Federal

Additional Information: SAN No. 3470

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RIN: 2060–AF01

3444. NESHAP FOR THE MANUFACTURING OF AMINO AND PHENOLIC RESINS (POLYMERS AND RESINS GROUP III)

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990 sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: Title III of the amended Clean Air Act requires development of emission standards for all major sources, and selected area sources, emitting any of the 188 hazardous air pollutants identified in section 112(b) of the Act. Amino, and phenelic resins productions have been listed as categories of major sources based on documented emissions of phenol and/or formaldehyde. The purpose of the NESHAP for the Manufacturing of Amino and Phenolic Resins (Polymers and Resins Group III) project is to initiate the regulatory process for sources engaged in the production of amino, and phenolic resins, and to ultimately develop a NESHAP based on candidate Maximum Achievable Control Technology.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: 325211 Plastics Material and Resin Manufacturing

Additional Information: SAN No. 3228

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RIN: 2060–AE36

3445. NESHAP: SECONDARY ALUMINUM INDUSTRY

Priority: Other Significant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 5 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: The Act requires EPA to publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in section 112(b) of the Act, to promulgate a schedule establishing a date for the promulgation of emission standards for each of the listed categories of HAP emission sources, and develop emission standards for each source of HAPs such that the schedule is met. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the secondary aluminum industry may reasonably be anticipated to emit several of the 189 HAPs listed in section 112(b) of the Act. As a consequence, the source category is included on the initial list of HAP emitting categories and is on the list of categories scheduled for standards promulgation within seven years of enactment of the Act. The purpose of this action is to pursue a regulatory development program that would help to ensure that emission standards may be proposed and promulgated.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3078

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RIN: 2060–AE77

3446. NESHAP: ACRYLIC/MODACRYLIC FIBERS MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990 sec 112 (d)

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: This NESHAP will control hazardous air pollutant emissions from existing and new facilities that manufacture or produce as an interim process acrylic or modacrylic fibers. Principal pollutants identified are vinyl acetate and acrylonitrile. The majority of emissions occur during the polymerization reaction and spinning process. There are only three major sources in the United States that will be affected by this regulation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3378

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RIN: 2060–AF06

3447. NESHAP: POLYCARBONATES PRODUCTION

Priority: Other Significant

Legal Authority: 42 USC 7401 Clean Air Act sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: This NESHAP will control hazardous air pollutant (HAP) emissions from the production of polycarbonate resins. This source category is being included in the General MACT Standard. The schedule below reflects the schedule of that rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3465

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RIN: 2060–AF09

3448. NESHAP: PUBLICLY OWNED TREATMENT WORKS (POTW)

Priority: Other Significant

Legal Authority: Clean Air Act Amendments of 1990 sec 112(e)(5); Clean Air Act Amendments of 1990 sec 112(n)(3)

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1995.

Abstract: This rule will specify maximum achievable control technology for publicly owned treatment works (POTW), also known as sewage/wastewater treatment plants, or water reclamation facilities. Hazardous air pollutant emissions from the headworks, primary and secondary treatment, solids handling, and other operations will be considered in developing the rule.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: SAN No. 3377

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RIN: 2060–AF26

3449. NESHAP: MANUFACTURING OF NUTRITIONAL YEAST

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act sec 112 (d)

CFR Citation: 40 CFR 63

Legal Deadline:
NPRM, Statutory, November 14, 2000.
Final, Statutory, November 15, 2000.

Abstract: Section 112 of the Act requires major sources of hazardous air pollutants to achieve a maximum degree of emission reduction based on the maximum achievable control technology (MACT). This regulatory action will establish this level of control for both new and existing sources in the baker's yeast manufacturing industry. This industry is currently comprised of 11 sources of 5 different manufacturers located in 8 different states. The only known HAP emission from this source is acetaldehyde. It is produced as a by-product during the fermentation process. It is likely that regulatory options will set maximum emission limits of acetaldehyde, which will be achievable by improved process control to reduce formation of this by-product.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Sectors Affected: 311999 All Other Miscellaneous Food Manufacturing

Additional Information: SAN No. 3550

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RIN: 2060–AF30

3450. AMENDMENTS TO GENERAL PROVISIONS SUBPART A AND B FOR 40 CFR 63

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-549; 42 USC 7401 Clean Air Act sec 112

CFR Citation: 40 CFR 63.1; 40 CFR 63.51

Legal Deadline: None

Abstract: The General Provisions (subpart A) were promulgated on March 16, 1994 (59 FR 12408). The General Provisions create the technical and administrative framework and establish general procedures and criteria for implementing MACT standards. On May 16, 1994, six litigants filed petitions for EPA to review certain provisions of the General Provisions. Subpart B, the procedures for implementing section 112(j), were promulgated on May 26, 1994. In June, 1994 litigants filed petitions for EPA to review the promulgated procedures. As a result of the litigation, it is anticipated that a number of technical and administrative amendments to subpart A and B will be proposed.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3551

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RIN: 2060–AF31

3451. NESHAP: ETHYLENE PROCESSES

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
NPRM, Statutory, November 15, 2000.
Final, Statutory, November 20, 2000.

Abstract: Title III of the Clean Air Act requires development of emission standards for all major sources emitting any of the 188 hazardous air pollutants (HAPs) identified in section 112(b) of the CAA. Ethylene Processes is listed as a category of major sources based on process knowledge emissions of benzene and butadiene. This action will explore alternatives controlling the release of HAPs from the following process areas located at ethylene process facilities: process streams, storage, equipment leaks and other fugitive sources, and wastewater operations. There are no anticipated impacts on small businesses.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
Final	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Sectors Affected: 325193 Ethyl Alcohol Manufacturing

Additional Information: SAN No. 3821

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RIN: 2060–AG53

3452. REVISIONS TO THE REGULATION FOR APPROVAL OF STATE PROGRAMS AND DELEGATION OF FEDERAL AUTHORITIES 112(L)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Clean Air Act sec 112(l)

CFR Citation: 40 CFR 63(E)

Legal Deadline: None

Abstract: Guidance in the form of rulemaking is being developed in accordance with the requirements of section 112(l) of the Clean Air Act Amendments of 1990 for the approval of State air toxic programs and the delegation of Federal authorities to the States for the implementation and enforcement of section 112 emission standards and other requirements. This regulatory document will provide some flexibility to States in the following areas: minimum requirements for EPA approval of State air toxics regulations that are equivalent to or more stringent than the Federal standards and minimum requirements for EPA approval of State air toxics programs that are equivalent to or more stringent than the Federal program. Specific issues that will be addressed include: alternative work practice standards; alternative monitoring, recordkeeping, and reporting; alternative test method approval process; equivalency by permits; and mechanisms and requirements for approval of State air toxics programs. Additionally, the Partial Approval and Delegable Authorities rulemakings will be added to this rulemaking. The Partial Approval language will provide flexibility to States by allowing States to accept delegation of parts of standards. This will allow them to implement and enforce these provisions on a smaller scale. The delegable authorities rulemaking will clarify what authorities EPA has delegated to States when the part 63, subpart A, general provisions have been delegated. Due to a lack of clear guidance, the EPA Regions have not been consistent in the delegation of general provisions to States.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3829

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RIN: 2060–AG60

3453. NESHAP: LIME MANUFACTURING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7401 Clean Air Act sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: Title III of the Clean Air Act Amendments of 1990 requires the EPA to develop emission standards for each major source category of hazardous air pollutants (HAPs). The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of the EPA. The EPA has determined that some lime manufacturing plants may be major sources for one or more HAPs. As a consequence, a regulation (emission standards) is being developed for the lime manufacturing industry.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3651

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RIN: 2060–AG72

3454. GENERIC MACT FOR SOURCE CATEGORIES (ACRYLIC MODACRYLIC FIBERS, POLYCARBONATES, HYDROGEN FLUORIDE, AND ACETAL RESINS)

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act sec 112

CFR Citation: Not yet determined

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: Several of the source categories that are subject to MACT (maximum available control technology) standards contain only a few sources (e.g., less than five). For such source categories, EPA plans to develop the underlying information through its MACT Partnership Program and then allow the affected sources and states to develop the detailed MACT requirements. To do this, EPA needs to develop a generic MACT standard for these source categories. This reinvention to the MACT standards development process will allow for proper participation by all stakeholders. Given the relatively few affected sources caught by the generic standard, the overall cost and environmental effects of this action are expected to be small, nationally.

The MACT program addresses hazardous air pollutants. This action will only affect major sources of these HAPs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3901

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RIN: 2060–AG91

3455. NESHAP: SEMICONDUCTOR PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: This rule will either establish MACT (maximum available control technology) for semiconductor production facilities. There are currently 6 major sources that would be affected by the NESHAP. This action will result in little or no additional emission reduction but will establish a Federal MACT level for large facilities. It is anticipated that no major sources subject to the rule at time of promulgation.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3902

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RIN: 2060–AG93

3456. NESHAP: HYDROGEN FLUORIDE PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: This rule will establish maximum achievable control technology (MACT) for hydrogen fluoride (HF) production facilities. The rule will affect one HF production facility, which is currently well-controlled. This action will result in little or no additional emission reduction but will establish a Federal MACT level for this plant. The rule is being proposed as part of the so-called generic MACT rule.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3654

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RIN: 2060–AG94

3457. NESHAP: CHROMIUM ELECTROPLATING AMENDMENT

Priority: Other Significant

Legal Authority: 42 USC 7402 CAA 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: Final standards under section 112(d) for chromium emissions from hard and decorative chromium electroplating and chromium anodizing tanks (40 CFR 63, subpart N) were promulgated on January 25, 1995. Since promulgation, the Agency has determined that a class of chromium electroplating operations were inadvertently excluded from regulation. Specifically, the final standards do not apply to sources engaged in continuous chromium electroplating of steel sheet used to make cans and other containers. It is the Agency's intent to regulate all facilities engaged in chromium electroplating. Therefore, the Agency plans to amend the chromium electroplating rule to extend its applicability to continuous chromium electroplating operations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 2841

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RIN: 2060–AH08

3458. NATIONAL STRATEGY FOR URBAN AREA SOURCES OF TOXIC AIR EMISSIONS

Priority: Other Significant

Legal Authority: 42 USC 7412(k) Clean Air Act sec 112(k); 42 USC 7412(c)(3) Clean Air Act sec 112(c)(3)

CFR Citation: Not yet determined

Legal Deadline:
Final, Statutory, November 15, 1995.
Final, Judicial, August 31, 1998.

Abstract: Congress directed EPA in the 1990 Amendments to the Clean Air Act to study the nature and magnitude of air toxic emissions, exposures and risks in U.S. cities. This was in response to growing evidence that an urban soup existed that was causing cancer and other effects, and which may not adequately be addressed by the MACT program on major sources. The 1990 Amendments call for EPA to appraise the sources and pollutants which contribute most to the urban soup phenomenon, and to publish a national strategy by 1995 that summarizes these findings and identifies actions to mitigate the problem. This strategy will contain (1) general and specific recommendations for additional research, (2) an accounting of actions and measures undertaken by the EPA and state and local agencies that reduce emissions of the hazardous substances of particular concern, and (3) a call for additional measures needed to complete sufficient mitigation of the problem. This action is not considered deregulatory. This action has no direct impacts on small businesses; however, as the strategy is subsequently implemented through later actions and specific rules, some small businesses may be regulated as a consequence of carrying out the regulatory recommendations in the strategy.

Timetable:

Action	Date	FR Cite
Announcement	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 3959

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RIN: 2060–AH21

3459. NESHAP: FLEXIBLE POLYURETHANE FOAM FABRICATION OPERATIONS

Priority: Info./Admin./Other

Legal Authority: 42 USC 7412 Clean Air Act Amendments of 1990, section 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act (CAA) requires development of emission standards for sources emitting any of the hazardous air pollutants HAP listed in section 112(b) of the CAA. Flexible Polyurethane Foam Fabrication Operations is listed as a category of major sources based on documented emissions of the following HAP: methylene chloride, trichlorethane, hydrogen cyanide, and hydrogen chloride. This source category covers emissions from various polyurethane foam bonding operations, including foam gluing and flame lamination. This action will explore alternatives for reducing HAP emissions from the following emission sources located at foam fabrication plants: process vents, raw material storage and transfer operations, and equipment leaks. Ultimately, a NESHAP for this source category will be developed based on Maximum Achievable Control Technology.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final	09/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 326299 All Other Rubber Product Manufacturing; 326199 All Other Plastics Product Manufacturing

Additional Information: SAN No. 3973

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RIN: 2060–AH42

3460. NESHAP: GROUP I POLYMERS AND RESINS AND GROUP IV POLYMERS AND RESINS AND GROUP IV POLYMERS AND RESINS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63.480 to 506 (Revision); 40 CFR 63.1310 to 1335 (Revision)

Legal Deadline: None

Abstract: During the development of the National Emission Standard for Hazardous Air Pollutants (NESHAP) for elastomers (Group I Polymers and resins) and thermoplastics (Group IV polymers and resins) (RINs 2060-AD56 and 2060-AE37), many of the provisions contained in the Hazardous Organic NESHAP (HON) were referenced directly by these polymers and resins regulations due to similarities in processes, emission characteristics, and control technologies. On January 17, 1997 the EPA promulgated changes to the HON to remove ambiguity, to clearly convey EPA intent, and to make the rule easier to understand and implement in response to industry petitions. It is necessary to make parallel changes to the polymers and resins NESHAP, otherwise inconsistencies will exist for NESHAPs regulating similar source categories. An ANPR, was published in the Federal Register on 11/25/96 (61 FR 59849), to explain the nature of changes planned.

Subsequently, six litigants have petitioned for review of the elastomers and thermoplastics regulations. Four companies have petitioned EPA to reconsider specific provisions in the thermoplastics regulation. Revisions will be proposed to parallel HON changes and to resolve petitioners issues. There are no impacts anticipated for small businesses or State/local/tribal governments.

Timetable:

Action	Date	FR Cite
ANPRM	11/25/96	61 FR 59849
NPRM	10/00/98	
Final	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 325211 Plastics Material and Resin Manufacturing

Additional Information: SAN No. 3939

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RIN: 2060–AH47

3461. AMENDMENTS TO PARTS 51, 52, 63, 70 AND 71 REGARDING THE PROVISIONS FOR DETERMINING POTENTIAL TO EMIT

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq

EPA—CAA — Proposed Rule Stage

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: This action proposes to amend regulations already established to implement the new Federal air toxics program under section 112, including the General Provisions, the Federal operating permit program under title V, and the major source preconstruction programs under parts C and D of title I.

The proposed rule will address issues related to the determination of a stationary source's potential to emit in response to three court decisions.

This action resulted from splitting of RINs 2060-AC98 and 2060-AC63.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3479

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RIN: 2060–AI01

3462. REVIEW OF FEDERAL TEST PROCEDURES FOR EMISSIONS FROM MOTOR VEHICLES; TEST PROCEDURE ADJUSTMENTS TO FUEL ECONOMY AND EMISSION TEST RESULTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-549

CFR Citation: 40 CFR 86; 40 CFR 600

Legal Deadline: None

Abstract: This action considers potential adjustments to fuel economy and emission test results to compensate for test procedure changes previously adopted; it applies to light-duty vehicles and light-duty trucks. This aspect of the previous rulemaking (SAN-3323, RIN 2060-AE27) was deferred.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3979

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RIN: 2060–AH38

3463. SPECIFICATION OF SUBSTANTIALLY SIMILAR DEFINITION FOR DIESEL FUELS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7545 Clean Air Act sec 211(f)

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: EPA is proposing a definition of the term "substantially similar," as used in section 211(f)(1)(B) of the Clean Air Act (CAA), with respect to diesel fuel and fuel additives. The prohibitions of section 211(f)(1)(A) apply to fuels and fuel additives which are not substantially similar to fuels or additives used to certify vehicles to emissions standards. This definition will enable manufacturers to determine whether their diesel fuels and additives are covered by, or excluded from, the section 211(f)(1)(B) prohibitions. This definition will also reduce potential burdens on manufacturers and EPA for processing waivers for fuels and additives under 211(f)(4).

Timetable:

Action	Date	FR Cite
ANPRM	05/30/91	56 FR 24362
NPRM	10/00/98	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3091

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RIN: 2060–AD77

3464. PROTECTION OF STRATOSPHERIC OZONE: RECONSIDERATION OF SECTION 608 SALES RESTRICTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq Clean Air Act sec 608

CFR Citation: 40 CFR 82(F)

Legal Deadline: None

Abstract: The rule will include the reconsideration of the sales restriction as it relates to split systems. The Agency was petitioned to reconsider the part of the sales restriction that included the sale of pre-charged split systems. It restricted such sales to certified technicians. Since then, EPA stayed that portion of the sales restriction in response to the petition. This rule will include the determination of the Agency related to the reconsideration. It addresses environmental problems of ozone depletion resulting from emissions of chlorofluorocarbons, hydrochlorofluorocarbons, and other ozone-depleting substances. Through restricting sales of certain pre-charged items to persons certified as technicians, emissions to the atmosphere are decreased. The impact on small businesses and governments would be negligible, since persons can become certified if the EPA determination is a full restriction. Most businesses and governments will have at least one certified technician on board. This action has no impact on small business and State, local, and tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3673

This action is combined with RIN 2060-AG47, SAN 3809.

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RIN: 2060–AG20

EPA—CAA — Proposed Rule Stage

3465. SERVICING OF MOTOR VEHICLE AIR CONDITIONERS: STANDARDS FOR EQUIPMENT THAT RECOVERS AND RECYCLES REFRIGERANTS OTHER THAN CFC-12 AND HFC-134A

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7671

CFR Citation: 40 CFR 82(B) (Revision)

Legal Deadline: None

Abstract: This rule serves to amend the regulations initially promulgated on July 14, 1992, under section 609 of the CAA. Specifically, this rule fulfills the statutory mandate set forth in section 609 requiring the Administrator to promulgate regulations for the proper recycling in motor vehicle air conditioners (MVACs) of any refrigerants that substitute for CFC-12. Specifically, section 609 requires EPA to establish standards for refrigerant recycling equipment and for the proper use of such equipment. This rule will provide flexibility for service technicians to meet section 609 requirements, because in addition to using equipment that recovers and recycles CFC-12 and HFC-134a refrigerants, technicians will now be permitted to use equipment that recovers and recycles other substitute refrigerants listed as acceptable under EPA's SNAP program.

This rule will affect, although not adversely affect, those small entities such as independent repair shops, service station, truck fleet shops, collision repair shops, new car and truck dealers, car and truck rental shops, and radiator repair shops that choose to service vehicles that contain refrigerants other than CFC-12 or HFC-134a that are listed as acceptable under EPA's SNAP program. Specifically, it will allow them to use equipment to recycle these refrigerants.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3983

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RIN: 2060–AH29

3466. SUPPLEMENTAL RULE TO REQUIRE CERTAIN PRODUCTS MADE WITH HCFCS TO BEAR WARNING LABEL

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq Clean Air Act sec 611

CFR Citation: 40 CFR 82(F)

Legal Deadline: None

Abstract: Friends of the Earth submitted and withdrew a petition to expand EPA's labeling requirements to include products containing or manufactured with HCFCs. EPA anticipates that Friends of the Earth will submit a revised petition later this year. We are bound by statute to respond by 180 days. If EPA grants the petition, the proposed rulemaking will be the response.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 3640

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RIN: 2060–AF93

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Final Rule Stage

Clean Air Act (CAA)

3467. NESHAP: CHROMIUM ELECTROPLATING AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63 (Revision)

Legal Deadline: None

Abstract: Since the promulgation of the chromium electroplating NESHAP we have been informed of several sources that are experiencing difficulty in complying with the concentration limit for new sources even though they have installed and operate composite mesh pad scrubber technology similar or identical to that used as the basis for the MACT emission limit. These sources operate new state-of-the-art plating tanks not encountered during rule development which feature enclosing hoods that completely cover the surface of the plating tank. This covered tank design allows for effective capture and ventilation at substantially lower exhaust air flow rates than otherwise encountered with more conventional exterior hooding. Although these sources exceed the new source standard concentration limit of 0.015 mg/dscm, actual mass rate emissions are more than 50 percent lower than would otherwise be achieved with more conventional hooding and higher ventilation rates. The chromium electroplating standard will be amended to include this alternative type of control system.

Timetable:

Action	Date	FR Cite
Direct Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Sectors Affected: 332813 Electroplating, Plating, Polishing, Anodizing and Coloring

Additional Information: SAN No. 4115

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EPA—CAA — Final Rule Stage

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RIN: 2060–AH69

3468. 1998 REVISION OF ACID RAIN ALLOWANCE ALLOCATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7651 et seq

CFR Citation: 40 CFR 73

Legal Deadline:
Final, Statutory, June 1, 1998.

Abstract: Title IV of the Clean Air Act directs the EPA to establish an acid rain program to reduce adverse effects of acidic deposition. The centerpiece of this control program is allocation of allowances, or authorizations to emit SO2, that are distributed by the Administrator in limited quantities to utility units and must be held by all affected units to cover their SO2 emissions. In 1993, EPA finalized the allowance allocations and provided, in the regulation, the methodology for revising the allocations in 1998 based on several statutory provisions. This rulemaking will implement that methodology, eliminate unaffected units, and eliminate unnecessary sections of regulation. This rulemaking will affect only utility units affected by the acid rain program requirements and does not affect small businesses or government entities.

Timetable:

Action	Date	FR Cite
NPRM	01/07/98	63 FR 714
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: 221111 Hydroelectric Power Generation; 221119 Other Electric Power Generation; 221121 Electric Bulk Power Transmission and Control; 221122 Electric Power Distribution

Additional Information: SAN No. 3898

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RIN: 2060–AG86

3469. NEW SOURCE REVIEW (NSR) REFORM

Regulatory Plan: This entry is Seq. No. 126 in Part II of this issue of the Federal Register.

RIN: 2060–AE11

3470. NESHAP: FERROALLOY PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 5 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline:
NPRM, Statutory, November 15, 1997.

Abstract: The Clean Air Act, as amended November 1990, requires the EPA to develop emission standards for each major source category of hazardous air pollutants. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of EPA. The EPA has determined that two plants in the ferroalloy production industry are major sources for one or more hazardous air pollutants. As a consequence, production facilities are among the HAP-emitting source categories selected for regulation.

Timetable:

Action	Date	FR Cite
NPRM	08/04/98	63 FR 41508
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: SAN No. 3082

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RIN: 2060–AF29

3471. ACID RAIN PROGRAM: DELETION OF CERTAIN UNITS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7651 et seq

CFR Citation: 40 CFR 73.10

Legal Deadline: None

Abstract: The Acid Rain Program requires affected utility units to hold allowances sufficient to cover emissions of SO2, have an Acid Rain Permit under part 72, and meet appropriate monitoring requirements under part 75. Many affected units are listed in 40 CFR 73.10 tables 2 and 3. In the process of implementing the Acid Rain Program, EPA has learned that several units listed in the tables should not be affected by the Acid Rain Program requirements. This action would delete specific named units from the tables.

Timetable:

Action	Date	FR Cite
NPRM	12/27/96	61 FR 68340
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: 221111 Hydroelectric Power Generation

Additional Information: SAN No. 3573

This rule is linked to Revision of Acid Rain Allowance Allocation Rule, RIN 2060-AG86.

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RIN: 2060–AF46

3472. OPERATING PERMITS: REVISIONS (PART 70)

Regulatory Plan: This entry is Seq. No. 127 in Part II of this issue of the Federal Register.

RIN: 2060–AF70

EPA—CAA — Final Rule Stage

3473. METHODS FOR MEASUREMENT OF VISIBLE EMISSIONS - ADDITION OF METHODS 203A, 203B, AND 203C TO APPENDIX M OF PART 51

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401(b)(1); 42 USC 7410; 42 USC 7470 to 7479; 42 USC 7501 to 7508; 42 USC 7601(a)

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This rulemaking adds Test Methods 203A, 203B, and 203C to 40 CFR part 51, appendix M (entitled Example Test Methods for State Implementation Plans). These methods describe procedures for estimating the opacity of visible emissions. States have requested that EPA promulgate these methods so that they can use them in State Implementation Plans in enforcing visible emissions regulations from Stationary Sources.

Timetable:

Action	Date	FR Cite
NPRM	11/22/93	58 FR 61639
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 2915

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RIN: 2060–AF83

3474. SALES VOLUME LIMIT PROVISIONS FOR SMALL-VOLUME MANUFACTURE CERTIFICATION FOR CLEAN FUEL AND CONVENTIONAL VEHICLE CONVERSIONS AND RELATED PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act sec 202; Clean Air Act sec 203; Clean Air Act sec 247; Clean Air Act sec 301(a)

CFR Citation: 40 CFR 85; 40 CFR 86; 40 CFR 88

Legal Deadline: None

Abstract: This action will temporarily raise the 10,000 vehicle sales volume limit for vehicle converters seeking certification under the small-volume manufacturers provisions. In addition, this action will adopt provisions to provide flexibility in assigned deterioration factors for alternative fuel vehicles.

Timetable:

Action	Date	FR Cite
NPRM	01/03/96	61 FR 140
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3643

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RIN: 2060–AF87

3475. SERVICE INFORMATION AVAILABILITY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7521(m)

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This rule will require manufacturers of automobiles to provide necessary information needed to make use of emission control diagnostic systems as well as that needed to make emission-related diagnosis and repairs by any person engaged in the repairing or servicing of motor vehicles or motor vehicle engines. This will allow independent service repair garages, individual owners, parts manufacturers, etc., to have access to emission control information to better service automobiles and ensure clean air compliance requirements.

Timetable:

Action	Date	FR Cite
Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3741

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RIN: 2060–AG13

3476. AMENDMENTS TO PART 60, PART 61, AND PART 63 AND ADDITION OF METHOD 14A TO PART 60

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401; 42 USC 7410 to 7412; 42 USC 7414; 42 USC 7416

CFR Citation: 40 CFR 60; 40 CFR 61; 40 CFR 63

Legal Deadline: None

Abstract: This rulemaking will amend the emission test methods and performance specifications in appendices A and B of part 60, appendix B of part 61, and appendix A of part 63 by revising the method format to conform with Environmental Monitoring Management Council (EMMC) guidelines. Conformance to the guidelines will promote consistency among inter-program methods. In addition, minor technical and printing errors in the methods will be corrected. Similar errors in various subparts of part 60 will also be corrected. Performance specification 15 is also being proposed in this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	08/27/97	62 FR 45369
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3743

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RIN: 2060–AG21

3477. REGULATION REVIEW/BURDEN REDUCTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or

duplication, or streamline requirements.

Legal Authority: Clean Air Act sec 407

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: On March 16, 1995, President Clinton issued a report entitled, Reinventing Environmental Regulation, that identified 25 initiatives to improve the current regulatory system. This action is part of the regulatory review process to reduce unnecessary recordkeeping and reporting requirements. Existing rules are being reviewed for excess and/or duplicative requirements. The Agency will publish a list of those regulations that will be revised or amended to reduce unnecessary recordkeeping and reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/11/96	61 FR 47840
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3750

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RIN: 2060–AG30

3478. ACID RAIN PROGRAM: CONTINUOUS EMISSION MONITORING (CEM) RULE REVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7651 et seq

CFR Citation: 40 CFR 75 (Revision)

Legal Deadline: None

Abstract: On January 11, 1993, EPA promulgated the final core acid rain rules, including the CEM regulation at 40 CFR part 75. Since the rule was promulgated, the 263 Phase I and 783 Phase II utility units have already begun to comply with this regulation by installing and completing certification testing by the January 1, 1995, statutory deadline.

As a result of on-going internal and external assessment of the Acid Rain Program monitoring and reporting requirements, EPA, State environmental agencies, and affected utilities have identified areas of the part 75 CEM regulations which would benefit from revision or clarification. Many of the suggested revisions will add increased flexibility to the utility industry in implementing and complying with the requirements of part 75. Other revisions will clarify existing provisions in an effort to make the regulation more understandable. Still other revisions will provide increased quality assurance of the Acid Rain Program CEM data. These issues include allowing reduced monitoring and reporting requirements for low emitting units, more effective and economical quality assurance requirements, greater flexibility for fuel sampling and fuel flowmeter testing procedures under appendix D, clarification of span/range equipment specifications, greater flexibility for monitoring controlled emissions, and greater flexibility for using backup monitors during malfunction of the primary monitor. This action is necessary because of the experience and additional information both EPA and industry have gained from 1993 to the present. Industry views this action as positive because it provides industry with more implementation flexibility.

Timetable:

Action	Date	FR Cite
NPRM	05/21/98	63 FR 28032
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 3808

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RIN: 2060–AG46

3479. AMENDMENT TO THE USER FEES FOR RADON PROFICIENCY PROGRAMS RULE

Priority: Other Significant

Legal Authority: 15 USC 2661 to 2665

CFR Citation: 40 CFR 195; 40 CFR 700 (Revision)

Legal Deadline: None

Abstract: The User Fees for Radon Proficiency Programs Final Rule established fees in 1994 that EPA will collect annually to support its voluntary Radon Proficiency Programs. The rule requires individuals and organizations applying to or participating in the Radon Proficiency Program (RPP) to pay annual fees. The final rule states that EPA shall adjust the fees over the next year to a level that will ultimately be sufficient to recover the full annual costs of the program. Through this technical amendment, EPA will revise its fee schedule to collect a larger percentage of its annual (FY 97) operating costs. The annual fees will also reflect changes in the proficiency programs, participation, inflation, etc. In the calculation of the annual fees, the Agency will take into consideration the impact of the fourth year of fee collection on the radon industry.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Sectors Affected: 23511 Plumbing, Heating and Air-Conditioning Contractors

Additional Information: SAN No. 3835

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RIN: 2060–AG64

3480. ADDITION OF METHOD 207 TO APPENDIX M OF 40 CFR PART 51 - METHOD FOR MEASURING ISOCYANATES IN STATIONARY SOURCE EMISSIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: The Clean Air Act Amendments of 1990 listed certain isocyanate compounds as hazardous air pollutants (HAPs). The Agency does not have any published test methods that would measure air emissions of these isocyanate compounds from stationary sources. This action would add a validated test method to measure isocyanate emissions to appendix M of part 51. Test methods in part 51 can be adopted by any State for use in any regulation that requires the measurement of any of the isocyanate compounds on the HAP list. This action would not impose any new regulatory requirements that do not already exist. It should benefit State governments by providing them with a validated test procedure for measuring the emissions of isocyanate compounds.

Timetable:

Action	Date	FR Cite
NPRM	12/08/97	62 FR 64532
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3900

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RIN: 2060–AG88

3481. FEDERAL OPERATING PERMITS PROGRAM IN INDIAN COUNTRY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7661a(d)(3)

CFR Citation: 40 CFR 71.4

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: Recognizing its trust responsibilities to Indian tribes, EPA plans to exercise its regulatory authority to issue permits to sources of air pollution in Indian country where sources are not regulated by Indian tribes. The Federal operating permits program for stationary air sources should extend to all of Indian country, but the regulation that created the program inadvertently created a regulatory gap. A change in regulations is needed to assure that each major source in Indian country is subject to either a State, tribal, or Federal permit program.

The regulatory change would create a level playing field for industry. Also, the regulatory change would assure that EPA can regulate sources that create air pollution problems in Indian country or that are located in Indian country and generate air pollution problems for other areas.

There are no anticipated impacts on small businesses or State or local governments. The regulatory change would eliminate a burden on tribal governments. They would not need to demonstrate their jurisdiction over an area in order for EPA to administer a permit program for the area.

Timetable:

Action	Date	FR Cite
NPRM	03/21/97	62 FR 13748
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3868

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RIN: 2060–AG90

3482. REVISION TO THE LIGHT-DUTY VEHICLE EMISSION COMPLIANCE PROCEDURE

Priority: Other Significant

Legal Authority: Clean Air Act

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The purpose of this NPRM is to propose changes to the emissions compliance procedures for light-duty vehicles. These proposed changes will streamline the current process beginning with model year 2000. These proposed changes will improve in-use emissions with a potential decrease in the net burden on auto manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	07/15/98	63 FR 39653
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3913

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RIN: 2060–AH05

3483. FINDING OF SIGNIFICANT CONTRIBUTION AND RULEMAKING FOR CERTAIN STATES IN THE OZONE TRANSPORT ASSESSMENT GROUP (OTAG) REGION FOR PURPOSES OF REDUCING REGIONAL TRANSPORT OF OZONE

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 7410(a)(2)(D); 42 USC 7410(k)(5)

CFR Citation: 40 CFR 51; 40 CFR 52(a)

Legal Deadline: None

Abstract: Ozone and ozone precursors are transported across the northeastern United States. The Ozone Transport Assessment Group (OTAG) was formed in 1995 to document the amount and extent of this transport and to develop control recommendations. The OTAG was a collaborative process conducted by the affected States. This action builds on the work of the OTAG. Controls are intended to reduce the

ozone and ozone precursors "blowing into" the nonattainment areas and allow the impacted States to design local control programs that they can consider in their strategies. This action proposed to find that 22 States and DC in the OTAG Region significantly contribute to nonattainment of the ozone NAAQS or interferes with maintenance of the NAAQS. EPA proposed appropriate levels of NOx emissions that each of the affected States will be required to achieve.

Timetable:

Action	Date	FR Cite
Notice of Intent	01/10/97	62 FR 1422
NPRM	10/10/97	62 FR 60318
NPRM Supplemental	05/18/98	63 FR 25902
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 3945

Litigation on ozone nonattainment plans for serious and severe nonattainment areas. Sect. 126 petitions involved as are dates contained in Mary Nichols' Memorandum entitled "Ozone Attainment Demonstrations" 3/2/95.

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RIN: 2060–AH10

3484. ADDITION OF OPACITY METHOD TO APPENDIX M OF 40 CFR PART 51 (METHOD 203)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This rulemaking proposes to add a method, Method 203, for the measurement of opacity from stationary sources, to appendix M (Example Test Methods for State Implementation Plans) in 40 CFR part 51. This action provides States with an instrumental test method which can be used in determining, on a continuous basis, compliance with stationary source opacity emission limitations.

Timetable:

Action	Date	FR Cite
NPRM	10/07/92	57 FR 46114
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3958

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RIN: 2060–AH23

3485. EXPANDED DEFINITIONS FOR ALTERNATIVE-FUELED VEHICLES AND ENGINES MEETING LOW-EMISSION VEHICLE EXHAUST EMISSION STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2001; 15 USC 2002; 15 USC 2003; 15 USC 2005; 15 USC 2006; 15 USC 213; 42 USC 7521; 42 USC 7522; 42 USC 7524; 42 USC 7525; 42 USC 7541; 42 USC 7542; 42 USC 7549; 42 USC 7550; 42 USC 7552

CFR Citation: 40 CFR 86; 40 CFR 88

Legal Deadline: None

Abstract: This action will ease the burden of certification for both Original Equipment Manufacturers (OEMs) and after-market conversion entities. This action will, for vehicles and engines meeting LEV emission standards, broaden the definition of the term dedicated fuel system, broaden the criteria for engine families, and provide an exemption from certification fees. This action is not a deregulatory action. This action will provide another means for small business to remain active entities in supplying alternatively fueled vehicles to the market place. The above three changes are intended to reduce the cost of complying with the requirements of certification, and small business will benefit from these changes. This action will enhance the ability for the regulated industry to provide alternatively fueled vehicles to the consumer in support of the Executive Order 13031.

Timetable:

Action	Date	FR Cite
NPRM	07/20/98	63 FR 38767
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4030

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RIN: 2060–AH52

3486. REVISIONS TO THE PERMITS AND SULFUR DIOXIDE ALLOWANCE SYSTEM REGULATIONS UNDER TITLE IV OF THE CLEAN AIR ACT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7601; 42 USC 7651 et seq

CFR Citation: 40 CFR 72; 40 CFR 73

Legal Deadline: None

Abstract: This rulemaking would amend certain provisions in the Permits and Sulfur Dioxide Allowance Rules under title IV of the Clean Air Act to improve the operation of the Allowance Tracking System and the allowance market. The revisions are proposed in light of the Agency's experience in implementing the acid rain rules (first promulgated in 1993) and would result in a small extension of the allowance transfer deadline, allowing a limited number of allowances to be held for a unit outside the unit's account, and the deletion of one of the signature requirements on allowance transfer requests.

Timetable:

Action	Date	FR Cite
NPRM	08/03/98	63 FR 41357
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Sectors Affected: 221122 Electric Power Distribution; 221121 Electric Bulk Power Transmission and Control

Additional Information: SAN No. 4052

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RIN: 2060–AH60

3487. NESHAP: WOOD FURNITURE MANUFACTURING OPERATIONS, AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
NPRM, Judicial, June 18, 1998, Proposed amendments based on settlement agreements.
Final, Judicial, December 18, 1998, Final amendments based on settlement agreements.

Abstract: This action will amend the final Wood Furniture Manufacturing Operations NESHAP which was promulgated on December 7, 1995 (60 FR 62930). This action will address litigation issues, as well as propose resolution to these issues as agreed with the litigants.

Timetable:

Action	Date	FR Cite
NPRM	06/24/98	63 FR 34336
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: 337122 Nonupholstered Wood Household Furniture Manufacturing; 337121 Upholstered Household Furniture Manufacturing; 337127 Institutional Furniture Manufacturing

Additional Information: SAN No. 4126

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RIN: 2060–AH66

3488. NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORY: PULP AND PAPER PRODUCTION; AMENDMENTS TO THE PROMULGATED RULE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63.440 to 63.459 (Revision)

Legal Deadline: None

Abstract: The purpose of this action is to clarify sections of the promulgated pulp and paper industry maximum achievable control technology (MACT) standards where commenters have indicated that the wording is confusing. This action will also correct any typographical errors noted. This action will contain guidance and amended rule language.

Timetable:

Action	Date	FR Cite
Correction Notice	10/00/98	
Direct Final Rule Amendment	10/00/98	
Final Rule - Interpretations and Technical Amendment	10/00/98	
Final Action - Interpretations and Technical Amendment	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4123

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RIN: 2060–AH74

3489. SUPPLEMENTAL RULEMAKING FOR CERTAIN STATES IN THE OZONE TRANSPORT ASSESSMENT GROUP REGION FOR PURPOSES OF REDUCING REGIONAL TRANSPORT OF OZONE

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 7410(a)(2)(D); 42 USC 7410(k)(5)

CFR Citation: 40 CFR 51(G); 40 CFR 51; 40 CFR 52(A); 40 CFR 76; 40 CFR 96

Legal Deadline: None

Abstract: On October 10, 1997, the Administrator signed a proposed rule making a finding of significant contribution and assigning Statewide NOx emission budgets to 22 States and the District of Columbia for purposes of reducing regional transport of ozone. The Agency has several follow-up items resulting from discussions with OMB and management within EPA that need to be proposed as part of the effort to reduce transport. This supplemental proposal includes the rule language for the NOx emission budgets, a model cap-and-trade rule, air quality analyses of the proposed emission budgets, emissions reporting requirements, a discussion of the interaction with the title IV NOx rule, and alternative approaches to the proposed emission budgets.

Timetable:

Action	Date	FR Cite
Supplemental NPRM	05/11/98	63 FR 25902
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

Sectors Affected: 336111 Automobile Manufacturing; 336112 Light Truck and Utility Vehicle Manufacturing; 33612 Heavy Duty Truck Manufacturing

Additional Information: SAN No. 4076

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RIN: 2060–AH91

3490. ELECTRIC ARC FURNACE NSPS AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: Not yet determined

CFR Citation: 40 CFR 60 (Revision)

Legal Deadline: None

Abstract: The NSPS currently requires monitoring of the furnace pressure by installing a pressure sensor in the furnace or in the duct connected to the furnace. Maintaining an operating pressure sensor under these conditions of extreme temperatures is difficult. The NSPS will be amended to allow daily observations of visible emissions from the shop in conjunction with monitoring of primary and secondary emission control system parameters, in lieu of monitoring internal furnace pressure. This amendment was recommended by the iron and steel common sense initiative.

Timetable:

Action	Date	FR Cite
Direct Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4125

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RIN: 2060–AH95

3491. NESHAP: OFF-SITE WASTE AND RECOVERY OPERATIONS; FINAL RULE—SETTLEMENT AGREEMENT; AND NESHAP FOR OFF-SITE WASTE AND RECOVERY OPERATIONS FOR TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: The actions will amend the Off-site Waste and Recovery Operations rule that was promulgated on July 1, 1996, based on the settlement agreement with the Chemical Manufacturers Association, the Hazardous Waste Management Association, and the Environmental Technology Council. The changes to the rule will clarify the EPA's intent and do not increase or lower or otherwise affect emissions or environmental protection. Additionally, the actions will clarify sections of the promulgated off-site waste and recovery operations regulation and correct any typographical errors noted. These actions will contain guidance and amended rule language.

Timetable:

Action	Date	FR Cite
Direct Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Sectors Affected: 32411 Petroleum Refineries; 325412 Pharmaceutical Preparation Manufacturing

Additional Information: SAN No. 4108

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RIN: 2060–AH96

3492. ACID RAIN PROGRAM: PROPOSED REVISION OF TEST METHOD 1, 2, AND 2F FOR MEASURING VOLUMETRIC FLOW IN STACKS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401; 42 USC 7411; 42 USC 7414; 42 USC 7416; 42 USC 7429; 42 USC 7601

CFR Citation: 40 CFR 60; 40 CFR 60, app A "Test Methods 1 and 2"; 40 CFR 75

Legal Deadline:
Other, Statutory, December 31, 1998, Voluntary.

Abstract: EPA Test Methods are Agency-approved procedures used by test teams to accurately determine emissions from sources; e.g., power plants. The proposed revisions to Test Methods 1, 2, and 2F will improve the accuracy of the determination of volumetric flow measurements in utility stacks. These revisions will affect electric utilities and other sources covered by EPA's Acid Rain Program and possibly by other air quality control regulations; e.g., New Source Performance Standards, Prevention of Significant Deterioration, and State emission limits. Currently, the Test Methods do not allow yaw or pitch angles or wall effects to be considered in calculating volumetric flow. In the Acid Rain Program and in other programs requiring reporting of mass emission rates, e.g., lbs SO2/hour, not allowing these parameters in the calculation of volumetric flow may cause overreporting of pollutant emissions in some situations. The Test Method revisions are also expected to help reduce such overreporting as well as the disparity between stack-measured power plant heat rate and combustion-calculated heat rate. Heat rate is important to power plants because it affects, e.g., electric rates, and limitations on plant operations in State permits.

Timetable:

Action	Date	FR Cite
Direct Final Rule	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4130

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RIN: 2060–AH97

3493. • OPTIONAL CERTIFICATION STREAMLINING PROCEDURES FOR LDVS, LDTS, AND HDES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2001; 15 USC 2002; 15 USC 2003; 15 USC 2005; 15 USC 2006; 15 USC 213; 42 USC 7521; 42 USC 7522; 42 USC 7524; 42 USC 7525; 42 USC 7541; 42 USC 7542; 42 USC 7549; 42 USC 7550; 42 USC 7552

CFR Citation: 40 CFR 86; 40 CFR 88

Legal Deadline: None

Abstract: This action will ease the burden of certification for both Original Equipment Manufacturers (OEMs) and after-market conversion entities that meet Clean-Fuel Vehicle requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/20/98	63 FR 38767
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4165

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RIN: 2060–AI15

3494. • TRANSPORTATION CONFORMITY RULE AMENDMENTS: FLEXIBILITY AND STREAMLINING

Priority: Economically Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7521(a); Clean Air Act sec 176(c)

CFR Citation: 40 CFR 51; 40 CFR 93

Legal Deadline: None

Abstract: The Clean Air Act Amendments (CAAA) of 1990 recognized that transportation planning and air quality planning must be coordinated towards achieving the National Ambient Air Quality Standards (NAAQS). The transportation conformity rule was promulgated in November of 1993, in response to CAAA concerns. Conformity ensures that transportation planning does not (a) produce new air quality violations, (b) worsen existing violations, and (c) delay timely attainment of the NAAQS. This rulemaking is the third in a series of amendments to the original transportation conformity rule. This rulemaking will streamline the original rule to simplify the conformity process in response to conformity stakeholder concerns. Flexibility will be added for rural nonattainment areas. Difficulties associated with the build/no-build test and adding transportation projects to plans will be resolved, and non-Federal projects will have additional flexibility through these amendments.

Timetable:

Action	Date	FR Cite
NPRM	07/09/96	61 FR 36112
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3740

This rule was previously listed as RIN 2060-AG16.

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RIN: 2060–AI16

3495. AMENDMENTS—INTEGRATED NESHAP AND EFFLUENT GUIDELINES: PULP AND PAPER

Regulatory Plan: This entry is Seq. No. 128 in Part II of this issue of the Federal Register.

RIN: 2060–AD03

3496. NESHAP: MINERAL WOOL PRODUCTION INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 4 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: The Clean Air Act, as amended in 1990, requires the EPA to (1) publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in section 112(b) of the CAA, (2) promulgate a schedule establishing a date for the promulgation of emissions standards for each of the listed categories of HAPs emission sources, and (3) develop emission standards for each source of HAPs. These standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the mineral wool production industry emits several of the 188 HAPs listed in section 112(b) of the CAA. As a consequence, a regulatory development program is being pursued for the mineral wool production industry to promulgate emission standards.

Timetable:

Action	Date	FR Cite
NPRM	05/08/97	62 FR 25370
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3461

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RIN: 2060–AE08

3497. NESHAP: OIL AND NATURAL GAS PRODUCTION AND NATURAL GAS TRANSMISSION AND STORAGE

Priority: Other Significant

Legal Authority: Clean Air Act sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: Hazardous air pollutants (HAPs) known to be emitted from oil

EPA—CAA

Final Rule Stage

and gas production, storage, and transmission facilities include benzene, toluene, ethyl benzene, and xylene isomers (collectively referred to as BTEX), along with 2,2,4-trimethylpentane and n-hexane. Potential HAP emission sources are glycol dehydrator reboilers (stand-alone and co-located); condensate storage vessels; and equipment leaks at natural gas processing plants.

Timetable:

Action	Date	FR Cite
NPRM	02/06/98	63 FR 6288
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3229

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RIN: 2060–AE34

3498. NESHAP: PHOSPHORIC ACID MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990 sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997, Clean Air Act Amendments of 1990.

Abstract: The CAAA required EPA to publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in section 112(b) of the CAAA and to establish dates for the promulgation of emission standards for each of the listed categories of HAP emission sources and develop emission standards for each source of HAPs so that the schedule is met. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the phosphoric acid manufacturing industry emits several of the 189 HAPs listed in section 112(b) of the CAAA. The purpose of this action is to pursue a regulatory development program that would ensure that emission standards may be proposed and promulgated for this industry.

Timetable:

Action	Date	FR Cite
NPRM	12/27/96	61 FR 68430
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 3303

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RIN: 2060–AE40

3499. NESHAP: STEEL PICKLING, HC1 PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990 sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: Hydrochloric acid (HC1) and chlorine are among the pollutants listed as hazardous air pollutants in section 112 of the Clean Air Act, as amended in November of 1990. Steel pickling processes that use HC1 solution and HC1 regeneration processes have been identified by the EPA as potentially significant sources of HC1 and chlorine air emissions and, as such, a source category for which national emission standards may be warranted.

Timetable:

Action	Date	FR Cite
NPRM	09/18/97	62 FR 49052
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3345

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RIN: 2060–AE41

3500. NESHAP: PHOSPHATE FERTILIZERS PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990 sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997, Clean Air Act Amendments of 1990.

Abstract: EPA is required to publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in section 112(b) of the CAAA and, to establish dates for the promulgation of emission standards for each of the listed categories of HAP emission sources and develop emission standards for each source of HAPs so that the schedule is met. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the phosphate fertilizer production industry emits several of the 189 HAPs listed in section 112(b) of the CAAA. The purpose of this action is to pursue a regulatory development program that would ensure that emission standards may be proposed and promulgated for this industry.

Timetable:

Action	Date	FR Cite
NPRM	12/27/96	61 FR 68430
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3304

EPA—CAA

Final Rule Stage

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RIN: 2060–AE44

3501. NESHAP: PRIMARY COPPER SMELTING

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990 sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: The primary copper smelting industry is known to emit a number of the hazardous air pollutants listed in section 112 of the Clean Air Act. The industry is comprised of seven smelters located in four states. All have extensive control systems for oxides of sulfur and HAPs. However, fugitive emissions may cause several smelters to exceed major source levels.

Timetable:

Action	Date	FR Cite
NPRM	04/20/98	63 FR 19582
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3340

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RIN: 2060–AE46

3502. NESHAP: WOOL FIBERGLASS MANUFACTURING INDUSTRY

Priority: Other Significant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 4 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: The Clean Air Act (CAA), as amended in 1990, requires the EPA to (1) publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in Section 112(b) of the CAA, (2) promulgate a schedule establishing a date for the promulgation of emissions standards for each of the listed categories of HAPs emission sources, and (3) develop emission standards for each source of HAPs. These standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the wool fiberglass manufacturing industry may reasonably be anticipated to emit several of the 189 HAPs listed in section 112(b) of the CAA. As a consequence, a regulatory development program is being pursued for the wool fiberglass manufacturing industry to promulgate emission standards.

Timetable:

Action	Date	FR Cite
NPRM	03/31/97	62 FR 15228
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Sectors Affected: 32742 Gypsum and Gypsum Product Manufacturing

Additional Information: SAN No. 3123

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RIN: 2060–AE75

3503. NESHAP: PORTLAND CEMENT MANUFACTURING

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 5 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: Title III of the Clean Air Act Amendments of 1990 requires the EPA to develop emission standards for each major source category of hazardous air pollutants. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of EPA. The EPA has determined that most plants in the Portland cement manufacturing industry source category are major sources of hazardous air pollutants. A regulation (emission standards) is being developed for the Portland cement manufacturing industry. Cement kilns which burn RCRA hazardous waste are subject to a separate rule that has been proposed by the EPA Office of Solid Waste.

Timetable:

Action	Date	FR Cite
NPRM	03/24/98	63 FR 14182
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Sectors Affected: 32731 Cement Manufacturing

Additional Information: SAN No. 3079

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RIN: 2060–AE78

EPA—CAA

Final Rule Stage

3504. NESHAP: POLYETHER POLYOLS PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990 sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: Title III of the CAA requires development of emission standards for all major sources emitting any of the hazardous air pollutants (HAPs) identified in section 112(b) of the CAA. Polyether Polyol Production is listed as a category of major sources based on documented emissions of propylene oxide and ethylene oxide. This action will regulate the release of HAPs from the following process areas located at polyether polyol manufacturing facilities: process vents (e.g., reactors), storage, equipment leaks and other fugitive sources, and wastewater operations.

Timetable:

Action	Date	FR Cite
NPRM	09/04/97	62 FR 46804
Correction Notice	10/20/97	62 FR 54410
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3408

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RIN: 2060–AE81

3505. NESHAP: PESTICIDE ACTIVE INGREDIENT PRODUCTION (PRODUCTION OF AGRICULTURAL CHEMICALS)

Priority: Other Significant

Legal Authority: Clean Air Act sec 112

CFR Citation: Not yet determined

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: The following ten source categories (which are all pesticide active ingredients) are listed under the Production of Agricultural Chemicals (PAC) industry group: 1) 2,4-D Salts and Esters Production; 2) 4-Chloro-2-Methylphenoxyacetic Acid Production; 3) 4, 6-Dinitro-o-Cresol Production; 4) Captafol Production; 5) Captan Production; 6) Chloroneb Production; 7) Chlorothalonil Production; 8) Dacthal (tm) Production; 9) Sodium Pentachlorophenate Production; 10) Tordon (tm) Acid Production.

On November 10, 1997, the EPA proposed standards for all pesticide active ingredient producers including the 10 categories listed above. Any other pesticide active ingredient production plant which produces or uses any of the 188 listed hazardous air pollutants was also included. A variety of HAPs are emitted including, toluene, methyl chloride, methanol, chlorinated compounds, etc.

Timetable:

Action	Date	FR Cite
NPRM	11/10/97	62 FR 60565
Final Rule	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3450

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RIN: 2060–AE84

3506. NESHAP: FLEXIBLE POLYURETHANE FOAM PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990 sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: Title III of the amended Clean Air Act (CAA) requires development of emission standards for all major sources, and selected area sources, emitting any of the hazardous air pollutants (HAP) identified in section 112(b) of the CAA. Flexible Polyurethane Foam Production is listed as a category of major sources based on documented emissions of methylene chloride and 2,4-toluene diisocyanate. This action will regulate the release of HAP from the following emission sources located at slabstock, rebond, and molded polyurethane foam production facilities: process vents, storage, equipment leaks and other fugitive sources, and transfer operations. This action, however, will not cover emissions from foam fabrication (i.e., gluing and flame lamination). In June 1996 the Agency added a separate source category to address HAP from fabrication operations.

Timetable:

Action	Date	FR Cite
NPRM	12/27/96	61 FR 68406
Correction Notice	02/03/97	62 FR 05074
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 32615 Urethane and Other Foam Product (except Polystyrene) Manufacturing

Additional Information: SAN No. 3338

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RIN: 2060–AE86

3507. NESHAP: PRIMARY LEAD SMELTERS

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997, Statutory Section 112 of the CAA.

Abstract: Primary lead smelters are a major source category of hazardous air pollutants. Potential emissions include compounds of lead, and other metallic HAPs as well as organic HAPs. Emission standards would establish maximum achievable control technology requirements for affected process units and fugitive dust sources. This industry is comprised of two companies which operate three smelters in two states.

EPA—CAA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/17/98	63 FR 19200
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Sectors Affected: 331419 Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum)

Additional Information: SAN No. 3467

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RIN: 2060–AE97

3508. NESHAP: RADON EMISSIONS FROM PHOSPHOGYPSUM STACKS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 Clean Air Act sec 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: EPA has granted a petition for reconsideration for the portion of the rule which regulates phosphogypsum for research and development uses. This regulatory proceeding would result in a final rule which may increase the limit and reduce the certification requirements for that use.

Timetable:

Action	Date	FR Cite
NPRM	05/08/96	61 FR 20775
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 2547

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RIN: 2060–AF04

3509. NESHAP: AEROSPACE TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act sec 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: The NESHAP for Aerospace Manufacturing and Rework Facilities was promulgated in September of 1995. Afterwards, EPA discovered a few problems with the rule and needed to publish the Control Techniques Guideline (CTG) for this industry. This final rule (63 FR 15006) corrected these problems and announced the final CTG. An additional set of amendments was proposed (63 FR 15034) at the same time, which addressed issues with General Aviation.

Timetable:

Action	Date	FR Cite
NPRM	10/29/96	61 FR 55842
NPRM Technical Correction	03/27/98	63 FR 15034
Final Action Control Techniques Guideline (CTG)	03/27/98	63 FR 15006
Final Action Technical Correction	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: 336411 Aircraft Manufacturing

Additional Information: SAN No. 3836

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RIN: 2060–AG65

3510. • NESHAP: OIL AND NATURAL GAS PRODUCTION AND NESHAP: NATURAL GAS TRANSMISSION AND STORAGE , AMENDMENTS TO PROPOSED RULE

Priority: Other Significant

Legal Authority: Clean Air Act sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: Hazardous air pollutants (HAPs) known to be emitted from oil and gas production, storage, and transmission facilities include benzene, toluene, ethyl benzene, and xylene isomers (collectively referred to as BTEX), along with 2,2,4-trimethylpentane and n-hexane. Potential HAP emission sources are glycol dehydrator reboilers (stand-alone and co-located); condensate storage vessels; and equipment leaks at natural gas processing plants.

Timetable:

Action	Date	FR Cite
NPRM	02/02/98	63 FR 6288
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 4162

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RIN: 2060–AI13

3511. FIELD CITATION PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 7413(d) Clean Air Act sec 113(d)

CFR Citation: 40 CFR 59

Legal Deadline: None

Abstract: The Clean Air Act Amendments give EPA the authority to issue on-the-spot field citations for minor violations of the Clean Air Act, with penalties of up to $5,000 per day of violation. Section 113(d) of the Act requires the field citation program to be implemented through regulations which provide the informal hearing procedures. These hearing procedures are not required to be as rigorous as those imposed by the Administrative Procedures Act (APA), but nevertheless must provide due process. Agency guidance providing appropriate penalties for specific minor violations will be prepared for EPA employees and made available to the regulated community. Training on the issuance of field citations will also be developed.

Timetable:

Action	Date	FR Cite
NPRM	05/03/94	59 FR 22776
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 2937

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RIN: 2020–AA32

3512. STANDARDS FOR REFORMULATED AND CONVENTIONAL GASOLINE, INDIVIDUAL BASELINE FUEL ADJUSTMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7414 Clean Air Act sec 114; 42 USC 7545(c) Clean Air Act sec 211(c); 42 USC 7601 Clean Air Act sec 301

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: This rule would establish criteria by which a refiner could receive an adjustment to its baseline under certain circumstances. Baseline adjustments reduce the cost of compliance (primarily with the antidumping requirements of the reformulated gasoline program) for those refiners which would otherwise be extremely burdened.

Baseline adjustments under certain circumstances were provided for in the December 1993 final Reformulated Gasoline and Anti-Dumping rule. However, baseline adjustments are only allowed under certain narrowly defined circumstances; broad adjustments are beyond EPA's discretion. The circumstances for which baseline adjustments would be allowed under this rule are as follows: (1) production of JP-4 in 1990; (2) use of an extremely low-sulfur crude in 1990; and (3) having extremely low baseline values for sulfur and olefins. Refiners must meet specific criteria in order to order to qualify for one or more of these adjustments.

Timetable:

Action	Date	FR Cite
NPRM	08/04/95	60 FR 40009
Final Rule	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3604

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RIN: 2060–AG80

3513. TRANSPORTATION CONFORMITY RULE AMENDMENT AND SOLICITATION FOR PARTICIPATION IN THE PILOT PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7401 to 7671, Clean Air Act sec 176

CFR Citation: 40 CFR 51; 40 CFR 93

Legal Deadline: None

Abstract: The Transportation Conformity rule promulgated in November 1993 ensures that transportation and air quality planning are consistent with Clean Air Act air quality standards. This action is part of an Agency effort to streamline the existing conformity regulation and offer flexibility in the conformity process. This action would amend the conformity regulation to allow EPA to create and implement a conformity pilot program.

The rule amendment would allow EPA to exempt up to six areas from certain requirements of the conformity rule. The main objective of the pilot program is to offer State and local air and transportation agencies the flexibility to identify the conformity procedures that work best for their area. This action will enable EPA to test out innovative methods of streamlining the conformity regulation's requirements while ensuring that Clean Air Act objectives are met. In addition to the rule amendment, this action also includes the pilot program's proposed eligibility and application requirements, selection criteria, and implementation procedures.

Timetable:

Action	Date	FR Cite
NPRM	07/09/96	61 FR 35994
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3610

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RIN: 2060–AG79

3514. NATIONAL VOC EMISSION STANDARDS FOR AUTOMOBILE REFINISH COATINGS

Priority: Other Significant

Legal Authority: Clean Air Act Amendments of 1990 sec 183(e)

CFR Citation: 40 CFR 59

Legal Deadline:
Final, Judicial, August 15, 1998.

Abstract: Section 183(e) requires EPA to study the emissions of volatile organic compounds (VOC) from consumer and commercial products, list those categories of products that account for at least 80 percent of the total VOC emissions from consumer and commercial products in areas classified as nonattainment for ozone, divide the list into four groups, and regulate one group every 2 years using best available controls (BAC). Based on the criteria described in the consumer and commercial product study (March 1995), and category listing (March 1995), EPA has determined that VOC emissions from automobile refinish coatings should be regulated. Automobile refinish coatings can be generally classified as primers and topcoats, each consisting of several different types. The proposed rule divides automobile refinish coatings into 6 categories, and contains VOC content limits for each category. Automobile refinish coatings are used by body shops and by do-it-yourselfers. However, the proposed rule does not directly affect these small businesses. Rather, the rule would apply to coating manufacturers and importers, and would limit the VOC content of coatings that are produced for sale in the United States.

Timetable:

Action	Date	FR Cite
NPRM	04/30/96	61 FR 19005
Supplemental NPRM	12/30/97	62 FR 67784
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3281

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RIN: 2060–AE35

3515. VOC REGULATION FOR ARCHITECTURAL COATINGS

Regulatory Plan: This entry is Seq. No. 129 in Part II of this issue of the Federal Register.

RIN: 2060–AE55

3516. NATIONAL VOC EMISSION STANDARDS FOR CONSUMER PRODUCTS

Regulatory Plan: This entry is Seq. No. 130 in Part II of this issue of the Federal Register.

RIN: 2060–AF62

3517. REDUCTION OF VOLATILE ORGANIC COMPOUND (VOC) EMISSIONS FROM COATINGS USED IN THE AEROSPACE, WOOD FURNITURE, AND SHIPBUILDING INDUSTRIES UNDER CLEAN AIR ACT SECTION 183(E)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 59

Legal Deadline: None

Abstract: This action would result in the reduction of volatile organic compound (VOC) emissions from the coatings used by the Aerospace, Wood Furniture and Shipbuilding industries. The Agency will study the various VOC pollutants contained in these coatings and will evaluate pollution prevention and control techniques which can reduce these emissions; Control Techniques Guidelines can be issued in lieu of regulations if they are substantially as effective in reducing VOC emissions from the use of these coatings in ozone nonattainment areas. This rulemaking will be conducted in accordance with statutory requirements for VOC emission reduction under section 183(e) of the Clean Air Act. Data recently gathered for the development of National Emission Standards for Hazardous Air Pollutants (NESHAP) for these industries will be used to maximize resources and avoid duplication of data gathering efforts.

Timetable:

Action	Date	FR Cite
NPRM	08/22/97	62 FR 44672
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3828

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RIN: 2060–AG59

3518. CONTROL OF EMISSIONS OF AIR POLLUTION FROM HIGHWAY HEAVY-DUTY ENGINES AND DIESEL ENGINES

Regulatory Plan: This entry is Seq. No. 131 in Part II of this issue of the Federal Register.

RIN: 2060–AF76

3519. IMPORTATION OF NONCONFORMING VEHICLES; AMENDMENTS TO REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7522 Clean Air Act sec 203; 42 USC 7525 Clean Air Act sec 206; 42 USC 7541 Clean Air Act sec 207; 42 USC 7542 Clean Air Act sec 208; 42 USC 7601 Clean Air Act sec 301; 42 USC 7550 Clean Air Act sec 216

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: This action will amend the regulations in 40 CFR part 85, subpart P to allow entry into the U.S. of vehicles which are originally sold in Canada and which are identical to their U.S. counterparts, without obtaining a certificate of conformity from EPA. This action is in response to a petition for review of import rules. The final rule also will address certain other issues in part 85, subpart P and subpart R, including: 1) formalizing a longstanding EPA policy regarding the importation of owned vehicles that are proven to be identical to a vehicle certified for sale in the U.S., 2) establishing new emission standards applicable to imported nonconforming vehicles, 3) clarifying the regulatory language that concerns exclusions and exemptions from meeting Federal emission requirements, and 4) providing several minor clarifications to the existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/24/94	59 FR 13912
Supplemental NPRM	02/12/96	61 FR 5840
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 2665

Agency Contact: Len Lazarus, Environmental Protection Agency, Air

EPA—CAA

Final Rule Stage

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RIN: 2060–AI03

3520. REVISION TO THE COVERED AREAS PROVISION FOR REFORMULATED GASOLINE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7545 Clean Air Act sec 211

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: Under authority of the Clean Air Act as amended in 1990, EPA promulgated regulations to require a cleaner burning reformulated gasoline (RFG) in nine mandated areas of the country with the worst ozone air pollution problems. These areas are designated as covered areas (e.g., areas in which non-RFG (conventional gasoline) is prohibited from being sold or dispensed to the ultimate consumers of the gasoline).

The RFG regulations also include a provision which allows a State, upon petition by the Governor, to have other areas designated as nonattainment for ozone included as covered areas under the Federal RFG program (the opt-in provision).

This action will expand the opt-in provision to include areas that formerly were in nonattainment for ozone as well as areas presently in nonattainment for ozone. This action will give States the flexibility to use the RFG program in their maintenance plans and as contingency measures for those areas that have been redesignated to attainment status but are in need of ozone controls to maintain that status.

Timetable:

Action	Date	FR Cite
NPRM	03/26/97	62 FR 25074
Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3843

Agency Contact: Karen Smith, Environmental Protection Agency, Air and Radiation, 6406J, Washington, DC 20460
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RIN: 2060–AG77

3521. APPLICABILITY OF ON-HIGHWAY HEAVY-DUTY CERTIFIED ENGINES FOR USE IN NONROAD HEAVY-DUTY VEHICLES AND EQUIPMENT; AMENDMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7521; 42 USC 7522; 42 USC 7523; 42 USC 7524; 42 USC 7525; 42 USC 7541; 42 USC 7542; 42 USC 7543; 42 USC 7547

CFR Citation: 40 CFR 9; 40 CFR 89

Legal Deadline: None

Abstract: This action would consider an amendment to the existing regulations to allow the use of on-highway heavy-duty certified engines in nonroad heavy-duty vehicles and equipment. This will eliminate hardships caused by the imposition of nonroad heavy-duty rules on specialty vehicles and equipment that have historically elected to use cleaner on-highway heavy-duty engines.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 3842

Agency Contact: John Guy, Environmental Protection Agency, Air and Radiation, 6403J, Washington, DC 20460
Phone: 202 564-9276

RIN: 2060–AG78

3522. NONROAD SPARK-IGNITION ENGINES AT OR BELOW 19 KILOWATTS (25 HORSEPOWER) (PHASE 2)

Regulatory Plan: This entry is Seq. No. 132 in Part II of this issue of the Federal Register.

RIN: 2060–AE29

3523. NSPS: NITROGEN OXIDE EMISSIONS FROM FOSSIL-FUEL FIRED STEAM GENERATING UNITS—REVISION

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: Clean Air Act Amendments of 1990 sec 407(c)

CFR Citation: 40 CFR 60.40

Legal Deadline:
Final, Judicial, September 3, 1998, Deadlines may be revised.

Abstract: The current NSPS for electric utility and nonutility steam generating units were promulgated in 1979 and 1986, respectively. A major feature of the NSPS is NOx control through the use of low NOx burners or overfired air. Section 407 of the Clean Air Act requires the EPA to revise existing NSPS for NOx emissions from fossil-fuel fired steam generating units, including both electric utility and nonutility units. These revised standards are to reflect improvements in methods for the reduction of NOx emissions. The proposed revisions are based on the performance of selective catalytic reduction(SCR).

Timetable:

Action	Date	FR Cite
NPRM	07/09/97	62 FR 36948
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: 221112 Fossil Fuel Electric Power Generation

Additional Information: SAN No. 3352

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RIN: 2060–AE56

EPA—CAA

Final Rule Stage

3524. PROTECTION OF STRATOSPHERIC OZONE: SUPPLEMENTAL RULE REGARDING A RECYCLING STANDARD UNDER SECTION 608

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq Clean Air Act sec 608

CFR Citation: 40 CFR 82(F)

Legal Deadline: None

Abstract: This rule will amend the recordkeeping aspects of the technician certification program, clarify aspects of a sales restriction, and adopt an updated version of ARI standard 740. The rule will also clarify the distinction between major and non-major repairs and amend several definitions including small appliances. The rule also addresses the transfers of unreclaimed refrigerant between majority-owned and majority-controlled subsidiaries.

Timetable:

Action	Date	FR Cite
NPRM 1	02/29/96	61 FR 7858
NPRM	11/01/96	61 FR 56493
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3556

Additional SANs 3895, 3896

This rule will be a reproposal. This rule will address a potential adoption of a more flexible method for cleaning refrigerants for refrigerant transferred between appliances with different ownership with a potential adoption of a 3rd party certification program for labs.

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RIN: 2060–AF36

3525. REFRIGERANT RECYCLING RULE AMENDMENT TO INCLUDE SUBSTITUTE REFRIGERANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-54; 42 USC 7671(g) Clean Air Act sec 608; 42 USC 7401 et seq

CFR Citation: 40 CFR 82(F)

Legal Deadline:
Final, Statutory, November 15, 1995.

Abstract: This action would facilitate fulfillment of the statutory mandate to apply the venting prohibition to substitute refrigerants. The action would provide regulations covering recovery/recycling equipment, recovery/recycling practices, and applicable certifications that would be required to accomplish compliance with the venting prohibition. Requirements would parallel those of the current section 608 regulations, expanding applicability, where appropriate, to substitute refrigerants.

Timetable:

Action	Date	FR Cite
NPRM	06/11/98	63 FR 32044
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 3560

Agency Contact: Deborah Ottinger, Environmental Protection Agency, Air and Radiation, 6205J, Washington, DC 20460
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RIN: 2060–AF37

3526. UPDATE OF THE SUBSTITUTES LIST UNDER THE SIGNIFICANT NEW ALTERNATIVES POLICY (SNAP) PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 7414; 42 USC 7601; 42 USC 7671k Clean Air Act sec 612

CFR Citation: 40 CFR 9; 40 CFR 82

Legal Deadline: None

Abstract: Section 612 of the Clean Air Act requires EPA to identify alternatives to Class I and II ozone depleting substances and to publish lists of acceptable and unacceptable substitutes. Producers of substitutes must notify EPA at least 90 days before alternatives are introduced into interstate commerce. Unlike acceptable alternatives (see Notices), substitutes which are deemed by EPA to be unacceptable or acceptable subject to use restrictions must go through notice and comment rulemaking. Substitute lists are updated intermittently depending on the volume of notifications.

Timetable:

Action	Date	FR Cite
ANPRM	01/16/92	57 FR 1984
NPRM	05/12/93	58 FR 28094
Final Rule	03/18/94	59 FR 13044
Notice 1	08/26/94	59 FR 44240
NPRM 1	09/26/94	59 FR 49108
Notice 2	01/13/95	60 FR 3318
Final Rule	06/13/95	60 FR 31092
Notice 3	07/28/95	60 FR 38729
NPRM 2	10/02/95	60 FR 51383
Notice 4	02/08/96	61 FR 4736
Final Rule	05/22/96	61 FR 25585
NPRM 3	05/22/96	61 FR 25604
Notice 5	09/05/96	61 FR 47012
Final Rule	10/16/96	61 FR 54030
Notice 6	03/10/97	62 FR 10700
NPRM 4	05/21/97	62 FR 27874
Notice 7	06/03/97	62 FR 30275
NPRM	02/03/98	63 FR 5491
Notice 8	02/24/98	63 FR 9151
Notice 9	05/22/98	63 FR 28251
Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 3525

(Generic SAN)

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RIN: 2060–AG12

3527. TECHNICAL AMENDMENTS TO HAZARDOUS WASTE TSDF & HAZARDOUS WASTE GENERATORS: ORGANIC AIR EMISSION STANDARDS FOR TANKS, SURFACE IMPOUNDMENTS & CONTAINERS

Priority: Substantive, Nonsignificant

Legal Authority: Resource Conservation Recovery Act sec 3002; Resource Conservation Recovery Act sec 3004

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 270

Legal Deadline: None

Abstract: These standards were promulgated on December 6, 1994, and were effective on December 6, 1996.

EPA—CAA — Final Rule Stage

The final standards control organic air emissions from hazardous waste TSDF and generator sites. These emissions have been shown to contribute greatly to ground-level ozone formation and to cancer incidence among exposed populations.

Following promulgation, the EPA identified certain provisions for which the intended emission reductions can be achieved with less burdensome standards. The EPA amended the final rule on 11/25/96 to include several revised provisions, including the following: certain fixed-roof tanks may be equipped with pressure relief devices that vent to the atmosphere; containers may be vented during loading and emptying operations; a facility may comply with the final rule using an implementation schedule in several different circumstances; and the frequency of monitoring for certain equipment shall be semiannual rather than annual. An additional amendment was promulgated 12/8/97 to clarify the intent and effect of a few amendment provisions which were not clear in the 11/25/96 amendment notice. EPA had been considering an additional amendment to show facilities to vent emissions from tank enclosures to non-combustion devices. After reviewing relevant information, EPA has decided to not add such a provision. EPA will publish an amendment to correct minor wording errors, in the early fall of 1998.

Timetable:

Action	Date	FR Cite
NPRM	08/14/95	60 FR 41870
Technical Amendments	02/09/96	61 FR 4903
Final	11/25/96	61 FR 59931
Technical Amendments	12/08/97	62 FR 64636
Technical Amendment	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3792

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RIN: 2060–AG44

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Long-Term Actions

Clean Air Act (CAA)

3528. NESHAP: CARBON BLACK PRODUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 2060–AH68

3529. ALUMINA PROCESSING NESHAP

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

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RIN: 2060–AH70

3530. • CONTROL OF EMISSIONS FROM NONROAD SPARK-IGNITION ENGINES RATED OVER 19 KW

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7401 to 7671q

CFR Citation: 40 CFR 94

Legal Deadline:
NPRM, Judicial, September 30, 2000.
Final, Judicial, December 31, 2001.

Abstract: Emissions from large spark-ignition engines are currently unregulated. EPA and CARB are cooperating in an effort to set emission standards for these engines to substantially reduce their contribution to the emission inventory.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: 333924 Industrial Truck, Tractor, Trailer and Stacker Machinery Manufacturing; 42183 Industrial Machinery and Equipment Wholesalers; 335312 Motor and Generator Manufacturing

Additional Information: SAN No. 4154

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RIN: 2060–AI11

3531. NESHAP: CYANIDE CHEMICAL MANUFACTURING

Priority: Other Significant

CFR Citation: 40 CFR 63

EPA—CAA — Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

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RIN: 2060–AE45

3532. NESHAP: INTEGRATED IRON AND STEEL

Priority: Economically Significant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Rule	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

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RIN: 2060–AE48

3533. AMENDMENTS TO METHOD 24 (WATER-BASED COATINGS)

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 60

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Candace Sorrell
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RIN: 2060–AF72

3534. NESHAP: PLYWOOD AND PARTICLEBOARD MANUFACTURING

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

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RIN: 2060–AG52

3535. REVISED PERMIT REVISION PROCEDURES FOR THE FEDERAL OPERATING PERMITS PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 71.1

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2060–AG92

3536. NESHAP: MISCELLANEOUS CELLULOSE PRODUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 2060–AH11

3537. NESHAP: MUNICIPAL SOLID WASTE LANDFILLS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Agency Contact: Michele Laur
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RIN: 2060–AH13

3538. RULEMAKING TO MODIFY THE LIST OF SOURCE CATEGORIES FROM WHICH FUGITIVE EMISSIONS ARE CONSIDERED IN MAJOR SOURCE DETERMINATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 51; 40 CFR 52; 40 CFR 70; 40 CFR 71

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
Final Action	02/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Steve Hitte
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RIN: 2060–AH58

3539. NESHAP: FUMED SILICA PRODUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Rule	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 2060–AH72

3540. NESHAP: TACONITE IRON ORE PROCESSING

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
Final Rule	03/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2060–AH73

3541. NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR THE HYDROCHLORIC ACID PRODUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 2060–AH75

3542. NESHAP: AMMONIUM SULPHATE PRODUCTION (CAPROLACTAM BY-PRODUCT)

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Rule	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Federal

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RIN: 2060–AH77

3543. NESHAP: ASPHALT/COAL TAR APPLICATION ON METAL PIPES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 2060–AH78

3544. NESHAP: CLAY PRODUCTS MANUFACTURING

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 2060–AH79

3545. NESHAP: HYDROGEN CHLORIDE PRODUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/00	
Final Rule	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

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RIN: 2060–AH80

3546. NESHAP: POLYVINYL CHLORIDE PRODUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Rule	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

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RIN: 2060–AH82

3547. NESHAP: URANIUM HEXAFLUORIDE PRODUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Federal

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RIN: 2060–AH83

3548. NESHAP/NSPS: RECIPROCATING INTERNAL COMBUSTION ENGINE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 40 CFR 60; 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

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RIN: 2060–AG63

3549. NESHAP/NSPS: COMBUSTION TURBINE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 44 CFR 60

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 2060–AG67

3550. NESHAP: IRON FOUNDRIES AND STEEL FOUNDRIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Federal

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Al Vervaert
Phone: 919 541-5602

RIN: 2060–AE43

3551. NESHAP: REINFORCED PLASTIC COMPOSITES PRODUCTION

Priority: Other Significant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Madeleine Strum
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Trish Koman
Phone: 919 541-4120
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Email: koman.trish@epa.gov

RIN: 2060–AE79

3552. NESHAP: MISCELLANEOUS ORGANIC CHEMICAL PRODUCTION AND PROCESSES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Rule	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Randy McDonald
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RIN: 2060–AE82

3553. NESHAP: CHLORINE PRODUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Iliam Rosario
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Al Vervaert
Phone: 919 541-5602

RIN: 2060–AE85

3554. NESHAP: PAINT STRIPPING OPERATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Rule	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

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RIN: 2060–AG26

3555. NESHAP: BOAT MANUFACTURING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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Email: koman.trish@epa.gov

RIN: 2060–AG27

3556. NESHAP: TIRE MANUFACTURING

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

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RIN: 2060–AG29

3557. PETROLEUM SOLVENT DRY CLEANERS MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY (MACT) STANDARD

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal

Agency Contact: Mohamed Serageldin
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Trish Koman
Phone: 919 541-4120

RIN: 2060–AG54

3559. NESHAP: ASPHALT ROOFING AND PROCESSING

Priority: Other Significant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
Interim Final Rule	10/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Agency Contact: Juan Santiago
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Jim Crowder
Phone: 919 541-5596

RIN: 2060–AG66

3560. NESHAP: REFRACTORIES MANUFACTURING

Priority: Other Significant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Susan Zapata
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Jim Crowder
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RIN: 2060–AG68

3561. NESHAP: INDUSTRIAL, COMMERCIAL AND INSTITUTIONAL BOILERS AND PROCESS HEATERS

Priority: Economically Significant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Rule	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James Eddinger
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Doug Bell
Phone: 919 541-5568

RIN: 2060–AG69

3562. INDUSTRIAL COMBUSTION COORDINATED RULEMAKING - ICCR PROJECT

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

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RIN: 2060–AG84

3563. NESHAP: FRICTION PRODUCTS MANUFACTURING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Susan Zapata
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Jim Crowder
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RIN: 2060–AG87

3564. NESHAP: METAL CAN (SURFACE COATING) INDUSTRY

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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Trish Koman
Phone: 919 541-4120

RIN: 2060–AG96

3565. NESHAP: METAL COIL (SURFACE COATING) INDUSTRY

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

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Trish Koman
Phone: 919 541-4120

RIN: 2060–AG97

3566. NESHAP: FABRIC PRINTING, COATING AND DYEING

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

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RIN: 2060–AG98

3567. AUTOMOBILE AND LIGHT-DUTY TRUCK MANUFACTURING (SURFACE COATING) NESHAP/VOC REDUCTIONS

Priority: Economically Significant

CFR Citation: 40 CFR 63; 40 CFR 59

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

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RIN: 2060–AG99

3568. OFFSET LITHOGRAPHIC PRINTING NATIONAL VOC RULE

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 59

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
Final Action	03/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

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RIN: 2060–AH00

3569. NESHAP: PRIMARY MAGNESIUM REFINING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 40 CFR 60

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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Al Vervaert
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RIN: 2060–AH03

3570. NESHAP: SITE REMEDIATION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
Final Rule	03/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bob Lucas
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RIN: 2060–AH12

3571. NESHAP: SPANDEX PRODUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Agency Contact: Mary Kissell
Phone: 919 541-4516
Fax: 919 541-0246
K.C. Hustvedt
Phone: 919 541-5395

RIN: 2060–AH14

3572. NESHAP: LEATHER TANNING AND FINISHING OPERATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: William Schrock
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RIN: 2060–AH17

3573. NESHAP: MANUFACTURE OF CARBON BLACK

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: John Schaefer
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RIN: 2060–AH19

3574. NESHAP: VEGETABLE OIL PRODUCTION

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Rule	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: James Durham
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Fax: 919 541-0246
K.C. Hustvedt
Phone: 919 541-5395

RIN: 2060–AH22

3575. NESHAP: ROCKET ENGINE TEST FIRING/ENGINE TEST FACILITIES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: George F. Smith
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Doug Bell
Phone: 919 541-5568

RIN: 2060–AH35

3576. NESHAP: ORGANIC LIQUID DISTRIBUTION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 2060–AH41

3577. NSPS: NEW SOURCE PERFORMANCE STANDARDS AND EMISSION GUIDELINES FOR INDUSTRIAL AND COMMERCIAL WASTE INCINERATORS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 40 CFR 60

Timetable:

Action	Date	FR Cite
ANPRM Comment Period End	12/28/94	59 FR 66850
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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Email: bell.doug@epa.gov

RIN: 2060–AF91

3578. NSPS: NEW SOURCE PERFORMANCE STANDARDS AND EMISSION GUIDELINES FOR OTHER SOLID WASTE INCINERATORS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 40 CFR 60

Timetable:

Action	Date	FR Cite
ANPRM	12/28/94	59 FR 66850
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 2060–AG31

3579. PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY: PERMIT APPLICATION REVIEW PROCEDURES FOR NON-FEDERAL CLASS I AREAS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 40 CFR sec 51.166; 40 CFR sec 52.21

Timetable:

Action	Date	FR Cite
ANPRM	05/16/97	62 FR 27158
NPRM	10/00/99	
Final Rule	10/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

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RIN: 2060–AH01

3580. METAL FURNITURE (SURFACE COATINGS) NESHAP/VOC REDUCTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 40 CFR 63; 40 CFR 59

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

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Trish Koman
Phone: 919 541-4120

RIN: 2060–AG55

3581. NESHAP/VOC REDUCTIONS MISCELLANEOUS METAL PARTS AND PRODUCTS (SURFACE COATING)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 40 CFR 63; 40 CFR 59

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
Final	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

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RIN: 2060–AG56

3582. PLASTIC PARTS (SURFACE COATING) NESHAP/VOC REDUCTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 40 CFR 59; 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

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Trish Koman
Phone: 919 541-4021
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RIN: 2060–AG57

3583. PAPER AND OTHER WEB COATING REDUCTIONS NESHAP/ VOC RULE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 40 CFR 63; 40 CFR 59

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

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RIN: 2060–AG58

3584. WOOD BUILDING PRODUCTS (SURFACE COATING) NESHAP/VOC REDUCTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2060–AH02

EPA—CAA

Long-Term Actions

3585. LOCATION OF SELECTIVE ENFORCEMENT AUDITS OF FOREIGN MANUFACTURED VEHICLES AND ENGINES; AMENDMENT

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 86G (Revision); 40 CFR 86K (Revision)

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard Gezelle
Phone: 202 564-9267

RIN: 2060–AD90

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Clean Air Act (CAA)

Completed Actions

3586. CLEAN FUEL FLEET PROGRAM; RULE AMENDMENT

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 88

Completed:

Reason	Date	FR Cite
Direct Final	04/23/98	63 FR 20103

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sally Newstead
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RIN: 2060–AH56

3587. • PROTECTION OF STRATOSPHERIC OZONE: HALON RECYCLING AND RECOVERY EQUIPMENT CERTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 40 CFR 82

CFR Citation: 40 CFR 82

Legal Deadline:
NPRM, Judicial, The settlement agreement requires signature by 7/31/98.

Abstract: This action regards a potential need to, in the interest of reducing unnecessary emissions of halons (a group of Class I ozone depleting substances), require the certification of halon recycling and recovery equipment and allowing halon removal only through the use of certified equipment. This proposed action is in response to a lawsuit filed by the Sierra Club. In a consent decree between EPA and the Sierra Club (notice of which was published on September 17, 1996, in the Federal Register at 61 FR 48950) the Agency agreed to, among other things, by May 29, 1998 either (1) issue a proposed rule requiring the certification of recycling and recovery equipment for halons and allowing the removal of halons only through use of certified equipment; or (2) issue a direct final determination that no such rule is either necessary or appropriate under section 608(a)(2) of the Clean Air Act. If EPA issues a proposed rule under (1) or receives adverse comment on the direct final determination under (2), the Administrator shall take final action no later than January 29, 1999.

Timetable:

Action	Date	FR Cite
Proposed Determination	08/11/98	63 FR 42791
Direct Final Determination	08/11/98	63 FR 42728

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4140

Agency Contact: Lisa Chang, Environmental Protection Agency, Air and Radiation, 6205J, Washington, DC 20460
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Fax: 202 565-2096
Email: chang.lisa@epa.gov

RIN: 2060–AI07

3588. • INDUSTRIAL PROCESS COOLING TOWER NESHAP AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63 (Revision)

Legal Deadline:
Other, Statutory, June 13, 1998, Settlement Agreement.

Abstract: As the result of a settlement agreement with Libbey-Owens-Ford Company, the Industrial Process Cooling Tower NESHAP is being amended to allow facilities to maintain records indicating chromium-based water treatment chemicals are no longer used as an alternative means of demonstrating compliance.

Timetable:

Action	Date	FR Cite
Direct Final Rule	07/23/98	63 FR 39517

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal

Sectors Affected: 32411 Petroleum Refineries

Additional Information: SAN No. 4151

Agency Contact: Phil Mulrine, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5289

RIN: 2060–AI10

3589. FEDERAL IMPLEMENTATION PLAN FOR A FIFTEEN PERCENT REDUCTION IN VOLATILE ORGANIC COMPOUNDS IN THE DISTRICT OF COLUMBIA

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 52

Completed:

Reason	Date	FR Cite
Withdrawn - D.C. has issued final rules. Therefore no FIP is required	08/24/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Sally Brooks
Phone: 215 814-2056

RIN: 2060–AH51

EPA—CAA

Completed Actions

3590. LOCOMOTIVE EMISSION STANDARDS

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 40 CFR 92

Completed:

Reason	Date	FR Cite
Final Rule	04/16/98	63 FR 18977

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Charles Moulis
Phone: 734 214-4826

RIN: 2060–AD33

3591. REVISION OF EPA'S RADIOLOGICAL EMERGENCY RESPONSE PLAN

Priority: Other Significant

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency plans no further regulatory action.	08/25/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Craig Conklin
Phone: 202 564-9222

RIN: 2060–AF85

3592. AMENDMENT OF ENHANCED INSPECTION/MAINTENANCE PERFORMANCE STANDARD

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 51(s)

Completed:

Reason	Date	FR Cite
Direct Final Rule	02/10/98	63 FR 6645

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Eugene Tierney
Phone: 734 214-4456

RIN: 2060–AG07

3593. PROTECTION OF STRATOSPHERIC OZONE: RECONSIDERATION OF PETITION CRITERIA AND INCORPORATION OF MONTREAL PROTOCOL DECISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 82

Completed:

Reason	Date	FR Cite
Direct Final Rule	08/04/98	63 FR 41625

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Land
Phone: 202 564-9185
Fax: 202 565-2093
Email: land.tom@epamail.epa.gov

RIN: 2060–AG48

3594. ENVIRONMENTAL RADIATION PROTECTION STANDARDS FOR SCRAP METAL FROM NUCLEAR FACILITIES

Priority: Other Significant

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency plans no further action on this rule.	08/25/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: John Karhnak
Phone: 202 564-9280
Fax: 202 565-2042
Email: karhnak.john@epamail.epa.gov

RIN: 2060–AG51

3595. WASTE ISOLATION PILOT PLANT (WIPP) COMPLIANCE CERTIFICATION RULEMAKING

Priority: Other Significant

CFR Citation: 40 CFR 194

Completed:

Reason	Date	FR Cite
Final Action	05/18/98	63 FR 27353

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Mary Kruger
Phone: 202 564-9310

RIN: 2060–AG85

3596. TIER II (PHASE II) STUDY TO ASSESS FURTHER REDUCTIONS IN LIGHT-DUTY VEHICLES AND LIGHT-DUTY TRUCKS TAILPIPE EMISSION STANDARDS

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 40 CFR 86

Completed:

Reason	Date	FR Cite
Withdrawn - Merged Into RIN 2060-AI23, SAN No. 4211.	10/20/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karl Simon
Phone: 202 260-3623
Fax: 202 260-6011

RIN: 2060–AH04

3597. EMISSION REGULATIONS FOR 1978 AND LATER NEW MOTORCYCLES—PROPOSED CHANGES TO THE DEFINITION OF WEIGHT LIMITATIONS FOR MOTORCYCLES

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Final Action	03/11/98	63 FR 11847

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Linda Hormes
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RIN: 2060–AH06

3598. PROTECTION OF STRATOSPHERIC OZONE: CONTROL OF METHYL BROMIDE EMISSIONS THROUGH USE OF TARPS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 82

Completed:

Reason	Date	FR Cite
Direct Final	02/05/98	63 FR 6008

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Carol Weisner
Phone: 202 564-9193
Fax: 202 565-2096
Email: weisner.carol@epamail.epa.gov

RIN: 2060–AH26

3599. REVISION OF DEFINITION OF VOLATILE ORGANIC COMPOUNDS - EXCLUSION OF METHYL ACETATE

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 51.100(s)

Completed:

Reason	Date	FR Cite
Final Action	04/09/98	63 FR 17331

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: William L. Johnson
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Fax: 919 541-0824
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RIN: 2060–AH27

3600. REVISIONS TO SERVICE INFORMATION AVAILABILITY REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 9; 40 CFR 86

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency plans no further action.	08/04/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Cheryl Adelman
Phone: 313 668-4434
Fax: 313 741-7869

RIN: 2060–AH28

3601. CONTROL OF EMISSIONS: TECHNICAL AMENDMENTS FOR NON-ROAD COMPRESSION IGNITION ENGINES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 89

Completed:

Reason	Date	FR Cite
Merged With RIN 2060-AF76, SAN 3645	08/20/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gregory Orehowsky
Phone: 202 233-9292
Fax: 202 233-9596

RIN: 2060–AH33

3602. REVISIONS FOR OPTING INTO THE ACID RAIN PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 74.4

Completed:

Reason	Date	FR Cite
Final Action	04/16/98	63 FR 18837

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kathy Barylski
Phone: 202 564-9074
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RIN: 2060–AH36

3603. PROTECTION OF STRATOSPHERIC OZONE: MANUFACTURE OF HALON BLENDS, INTENTIONAL RELEASE OF HALONS, TECHNICIAN TRAINING AND DISPOSAL OF HALON AND HALON-CONTAINING EQUIPMENT

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 82

Completed:

Reason	Date	FR Cite
Final Action	03/05/98	63 FR 11084

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lisa Chang
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Fax: 202 565-2096
Email: chang.lisa@epa.gov

RIN: 2060–AH44

3604. URBAN BUS RETROFIT/REBUILD PROGRAM REGULATIONS AMENDMENT

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 85 (O)

Completed:

Reason	Date	FR Cite
Final Action	03/26/98	63 FR 14626

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Stricker
Phone: 202 564-9322

RIN: 2060–AH45

3605. CONTROL OF EMISSIONS OF AIR POLLUTION FROM NEW MARINE DIESEL ENGINES AT OR ABOVE 37 KILOWATTS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 89

Completed:

Reason	Date	FR Cite
Merged With RIN 2060-AF76	08/11/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Alan Stout
Phone: 313 741-7805
Fax: 313 741-7816
Paul Machiele
Phone: 313 668-4264

RIN: 2060–AH50

3606. PROTECTION OF STRATOSPHERIC OZONE: INTERPRETATION OF METHYL BROMIDE LABELING REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 82

Completed:

Reason	Date	FR Cite
Notice of Clarification	05/15/98	63 FR 26983

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Carol Weisner
Phone: 202 564-9193
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RIN: 2060–AH54

3607. TRANSPORTATION CONFORMITY FOR TRANSITIONAL OZONE AREAS

Priority: Other Significant

CFR Citation: 40 CFR 93

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency plans no further action.	08/04/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Agency Contact: Kathryn Sargeant
Phone: 313 668-4441
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Email: sargeant.kathryn@epamail.epa.gov

RIN: 2060–AH59

3608. INSPECTION/MAINTENANCE (I/M) PROGRAM REQUIREMENT - ON-BOARD DIAGNOSTIC CHECKS; AMENDMENT TO THE FINAL RULE

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 51; 40 CFR 85

Completed:

Reason	Date	FR Cite
Final Rule	04/27/98	63 FR 24429

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Buddy Polovick
Phone: 734 214-3928
Email: polovick.buddy@epamail.epa.gov

RIN: 2060–AH62

3609. ALTERNATIVE FLARE SPECIFICATIONS FOR HYDROGEN FUELED FLARES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 60.18 (Revision); 40 CFR 63.11 (Revision

Completed:

Reason	Date	FR Cite
Direct Final Rule	05/04/98	63 FR 24436

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Robert Rosensteel
Phone: 919 541-5608

RIN: 2060–AH94

3610. NESHAP: PETROLEUM REFINERIES - AMENDMENTS TO FINAL RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 63.640; 40 CFR 63.641; 40 CFR 63.644; 40 CFR 63.645; 40 CFR 63.648; 40 CFR 63.654

Completed:

Reason	Date	FR Cite
Direct Final Rule	06/09/98	63 FR 31358

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Agency Contact: James Durham
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RIN: 2060–AI00

3611. • LEAD PHASEDOWN (SECTION 610 REVIEW)

Priority: Info./Admin./Other

Legal Authority: 42 USC 7545

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: In 1996, as part of a program to reduce regulatory burden, EPA promulgated a final rule to reduce the recordkeeping and reporting burden of the Lead Phasedown rule (61 FR 3872, 2/2/96). Subsequently, in the April 25, 1997 issue of the Regulatory Agenda (62 FR 22297), EPA announced the review of this rule under Section 610 of the Regulatory Flexibility Act, and solicited public comment on whether additional changes to that rule would further reduce impacts on small entities while still accomplishing the objectives of the statute authorizing the rule. No public comments were received, and EPA has not found additional changes that would benefit small entities beyond those announced in the 1995 rule cited above. EPA has also determined that this rule continues to be necessary to maintain the ban on lead in gasoline under the Clean Air Act. Therefore, EPA intends to continue the Lead Phasedown rule in its present form and with this notice, EPA hereby concludes its section 610 review of this rule.

Timetable:

Action	Date	FR Cite
End Review - Decision to leave rule unchanged at this time.	08/28/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4197

Agency Contact: Thomas Eagles, Environmental Protection Agency, Air and Radiation, 6103, Washington, DC 20460
Phone: 202 260-5585

RIN: 2060–AI18

3612. • NSPS FOR INDUSTRIAL SURFACE COATING: METAL COILS (SECTION 610 REVIEW)

Priority: Info./Admin./Other

Legal Authority: 42 USC 7411

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: In 1996, as part of a program to reduce regulatory burden, EPA promulgated a final rule to reduce the recordkeeping and reporting burden of the Metal Coils rule (61 FR 47840, 9/11/96). Subsequently, in the April 25, 1997 issue of the Regulatory Agenda (62 FR 22297), EPA announced the review of this rule under Section 610 of the Regulatory Flexibility Act, and solicited public comment on whether additional changes to that rule would further reduce impacts on small entities while still accomplishing the objectives of the statute authorizing the rule. No

public comments were received, and EPA has not found additional changes that would benefit small entities beyond those announced in the 1996 rule cited above. EPA has also determined that this rule continues to be necessary to reduce emissions of smog-causing volatile organic compounds as required by the Clean Air Act. Therefore, EPA intends to continue the Metal Coils rule in its present form and with this notice, EPA hereby concludes its section 610 review of this rule.

Timetable:

Action	Date	FR Cite
End Review - Decision to leave rule unchanged at this time	08/28/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4199

Agency Contact: Thomas Eagles, Environmental Protection Agency, Air and Radiation, 6103, Washington, DC 20460
Phone: 202 260-5585

RIN: 2060–AI19

3613. • NSPS FOR INDUSTRIAL SURFACE COATING: METAL FURNITURE (SECTION 610 REVIEW)

Priority: Info./Admin./Other

Legal Authority: 42 USC 7411

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: In 1996, as part of a program to reduce regulatory burden, EPA promulgated a final rule to reduce the recordkeeping and reporting burden of the Metal Furniture rule (61 FR 47840, 9/11/96). Subsequently, in the April 25, 1997 issue of the Regulatory Agenda (62 FR 22297), EPA announced the review of this rule under section 610 of the Regulatory Flexibility Act, and solicited public comment on whether additional changes to that rule would further reduce impacts on small entities while still accomplishing the objectives of the statute authorizing the rule. No public comments were received, and EPA has not found additional changes that would benefit small entities beyond those announced in the 1996 rule cited above. EPA has also determined that this rule continues to be necessary to reduce emissions of smog-causing volatile organic compounds as required by the Clean Air Act. Therefore EPA intends to continue the Metal Furniture rule in its present form, and with this notice EPA hereby concludes its section 610 review of this rule.

Timetable:

Action	Date	FR Cite
End Review - Decision To Leave Rule Unchanged at This Time	08/28/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4200

Agency Contact: Thomas Eagles, Environmental Protection Agency, Air and Radiation, 6103, Washington, DC 20460
Phone: 202 260-5585

RIN: 2060–AI20

3614. • NSPS FOR INDUSTRIAL SURFACE COATING: LARGE APPLIANCES (SECTION 610 REVIEW)

Priority: Info./Admin./Other

Legal Authority: 42 USC 7411

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: In 1996, as part of a program to reduce regulatory burden, EPA promulgated a final rule to reduce the recordkeeping and reporting burden of the Large Appliances rule (61 FR 47840, 9/11/96). Subsequently, in the April 25, 1997 issue of the Regulatory Agenda (62 FR 22297), EPA announced the review of this rule under section 610 of the Regulatory Flexibility Act, and solicited public comment on whether additional changes to that rule would further reduce impacts on small entities while still accomplishing the objectives of the statute authorizing the rule. No public comments were received, and EPA has not found additional changes that would benefit small entities beyond those announced in the 1996 rule cited above. EPA has also determined that this rule continues to be necessary to reduce emissions of smog-causing volatile organic compounds as required by the Clean Air Act. Therefore, EPA intends to continue the Large Appliances rule in its present form, and with this notice, EPA hereby concludes its section 610 review of this rule.

Timetable:

Action	Date	FR Cite
End Review - Decision To Leave Rule Unchanged at This Time	08/28/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4198

Agency Contact: Thomas Eagles, Environmental Protection Agency, Air and Radiation, 6103, Washington, DC 20460
Phone: 202 260-5585

RIN: 2060–AI21

3615. • ARIZONA FIP: MODERATE AREA PM-10 PLAN FOR PHOENIX

Priority: Other Significant

Legal Authority: Clean Air Act sec 110(c)

CFR Citation: 40 CFR 52.123; 40 CFR 52.124; 40 CFR 52.127; 40 CFR 52.128

Legal Deadline: NPRM, Judicial, March 20, 1998. Final, Judicial, July 18, 1998.

Abstract: EPA promulgated a Federal implementation plan (FIP) to address the moderate area PM-10 requirements for the Phoenix PM-10 nonattainment area. Specifically, for both the annual and 24-hour PM-10 standards, EPA is promulgating a demonstration that reasonably available control measures (RACM) will be implemented as soon as possible, a demonstration that it is impracticable for the area to attain the standards by the statutory attainment deadline, and a demonstration that reasonable further progress (RFP) is being met.

As part of the FIP, EPA is promulgating a fugitive dust rule to control PM-10 emissions from vacant lots, unpaved parking lots, and unpaved roads, and is also promulgating an enforceable commitment to ensure that RACM for agricultural sources will be proposed by September 1999, finalized by April 2000, and implemented by June 2000.

In addition, EPA made its disapproval of the Arizona moderate area plan's RACM, RFP, and impracticability demonstrations final, because those demonstrations do not adequately address the Act's moderate area PM-10 requirements.

EPA recently established a new standard for PM-2.5 and also revised the PM-10 standards; however, this action does not address those standards.

Timetable:

Action	Date	FR Cite
NPRM	04/01/98	63 FR 15920
Final Action	08/03/98	63 FR 41325

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 4137

Agency Contact: Doris Lo, Environmental Protection Agency, Air and Radiation
Phone: 415 744-1287

RIN: 2060–AI22

3616. • AMENDMENTS TO MUNICIPAL SOLID WASTE LANDFILLS

Priority: Economically Significant

Legal Authority: 42 USC 7411 Clean Air Act sec 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: The purpose of this action is to develop standards for regulating non-methane organic compounds (NMOC) emissions from new and modified municipal solid waste (MSW) landfills under Section 111(b). Section 111(d) requires States to develop emission standards for existing landfills based on EPA guidelines. The intended effect of the standards and guidelines is to require certain municipal solid waste landfills to control emissions to the level achievable by the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

EPA has worked with landfill owners and operators, including local governments and private owners, to produce a regulation based on common-sense techniques, providing maximum flexibility for owners and operators, and achieving the desired emissions reductions in the most cost-effective way. The rule focuses on only the largest sources of emissions, thereby avoiding regulation of small landfills where controls would be inefficient and onerous. The rule also provides complete flexibility to design a control system based on the particular, site-specific conditions at each landfill.

Timetable:

Action	Date	FR Cite
NPRM	06/16/98	63 FR 32783
Direct Final Rule	06/16/98	63 FR 32743

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: SAN No. 4150

Agency Contact: Martha Smith, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-2421

RIN: 2060–AI09

3617. NESHAP: PHARMACEUTICALS PRODUCTION

Priority: Other Significant

CFR Citation: 40 CFR 63(G)

Completed:

Reason	Date	FR Cite
Final Action	09/21/98	63 FR 50280

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Randy McDonald
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RIN: 2060–AE83

3618. NESHAP: MANUFACTURE OF TETRAHYDROBENZALDEHYDE

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63(F); 40 CFR 63(G); 49 CFR 63(H)

Completed:

Reason	Date	FR Cite
Final Action	05/12/98	63 FR 26078

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: John Schaefer
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RIN: 2060–AE99

3619. REVISION OF LIST OF CATEGORIES OF SOURCES AND SCHEDULE FOR STANDARDS UNDER SECTION 112 OF THE CLEAN AIR ACT

Priority: Info./Admin./Other

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Notice of Revision - Second Notice	02/12/98	63 FR 07155

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David Svendsgaard
Phone: 919 541-2380
Fax: 919 541-3470

RIN: 2060–AG42

3620. NESHAP: WOOD FURNITURE MANUFACTURING OPERATIONS; TECHNICAL CORRECTIONS AND CLARIFICATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63(JJ)

Completed:

Reason	Date	FR Cite
Direct Final Rule	06/09/97	62 FR 31361

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paul Almodovar
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Trish Koman
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RIN: 2060–AG95

3621. SPECIFIC POLLUTANTS: LIST OF CATEGORIES EMITTING SEVEN SPECIFIED HAZARDOUS AIR POLLUTANTS

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

EPA—CAA

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	04/10/98	63 FR 17338

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Laurel Driver
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Fax: 919 541-7690

RIN: 2060–AH20

3622. OPEN-MARKET TRADING GUIDANCE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 40 CFR 51

Completed:

Reason	Date	FR Cite
Withdrawn - Included in EPA's Incentive Program Guidance-Due in Spring	08/07/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Nancy Mayer
Phone: 919 541-5390
Fax: 919 541-0839

RIN: 2060–AF60

3623. REVISED CARBON MONOXIDE (CO) STANDARD FOR CLASS I AND II NONHANDHELD NEW NONROAD PHASE I SMALL SPARK-IGNITED ENGINES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 90

Completed:

Reason	Date	FR Cite
Final Action	11/13/97	62 FR 58300

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Cheryl Caffrey
Phone: 734 214-4849

RIN: 2060–AG81

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Atomic Energy Act (AEA)

Proposed Rule Stage

3624. RADIATION WASTE MANAGEMENT REGULATION

Priority: Other Significant

Legal Authority: Atomic Energy Act of 1954; Reorganization Plan No. 3 of 1970; Waste Policy Act of 1982

CFR Citation: 40 CFR 193

Legal Deadline: None

Abstract: This action is directed to the disposal of low-activity radioactive wastes in disposal facilities that meet the design requirements for RCRA-C disposal cells. The wastes to be disposed of in these cells are intended to be mixed wastes, consisting of a chemically hazardous component and low levels of radioactivity. These wastes are anticipated to arise in the commercial sector from various sources. The rule is intended to increase disposal options for these wastes and offer a streamline regulatory process which melds hazardous chemical protection and radioactivity protection requirements while protecting public health and safety. The rule is permissive in the sense that the disposal method proposed is not a mandated disposal method, but rather an alternative to existing disposal methods. The U.S. Nuclear Regulatory Commission is anticipated to be the implementing Agency for the application of this rule.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4054

Agency Contact: Mary Kruger, Environmental Protection Agency, Air and Radiation, 6602J, Washington, DC 20460
Phone: 202 564-9310
Fax: 202 565-2062
Email: kruger.mary@epa.gov

RIN: 2060–AH63

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Atomic Energy Act (AEA)

Long-Term Actions

3625. PROTECTIVE ACTION GUIDANCE FOR DRINKING WATER

Priority: Other Significant

CFR Citation: 41 CFR 351

Timetable:

Action	Date	FR Cite
Notice of Availability	04/00/00	
Notice of Submission to FRPCC for Endorsement	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles Blue
Phone: 202 564-9488

RIN: 2060–AF39

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Prerule Stage

3626. • PESTICIDES; PROCEDURES FOR REGISTRATION REVIEW PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136a(g)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Agency is establishing procedures to implement section 3(g) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) which provides for periodic review of pesticide registrations. The goal of these regulations is to review a pesticide's registration every 15 years. However, pesticides cannot be canceled as a result of registration review. For cancellations, EPA must continue to follow the procedures specified in FIFRA section 6. EPA will use authority in FIFRA section 3(c)(2)(B) to require submission of data needed for registration review. FIFRA sections 3(c)(1), 3(c)(2)(B) and 3(c)(2)(D) will apply to data submission, compensation and exemption for data required for registration review.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Additional Information: SAN No. 4170

Agency Contact: Vivian Prunier, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
Phone: 703 308-9341
Fax: 703 308-5884
Email: prunier.vivian@epamail.epa.gov

RIN: 2070–AD29

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Proposed Rule Stage

3627. • PESTICIDE TOLERANCE REASSESSMENT PROGRAM

Regulatory Plan: This entry is Seq. No. 105 in Part II of this issue of the Federal Register.

RIN: 2070–AD24

3628. • ENDOCRINE DISRUPTOR SCREENING AND TESTING PROGRAM

Regulatory Plan: This entry is Seq. No. 106 in Part II of this issue of the Federal Register.

RIN: 2070–AD26

3629. TOLERANCES FOR PESTICIDE EMERGENCY EXEMPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 346a

CFR Citation: 40 CFR 176

Legal Deadline:
Other, Statutory, Statutory.
Final, Statutory, August 3, 1997.

Abstract: This regulation will set out policies and procedures under which EPA will establish food tolerances associated with the use of pesticides under emergency exemptions. Emergency exemptions are issued for temporary use of pesticides in States where emergency conditions exist. Under the Federal Food, Drug and Cosmetic Act, as amended by the Food Quality Protection Act, EPA must establish time-limited tolerances for such pesticides if the use is likely to result in residues in food. EPA expects to describe the procedures to be used, and the criteria for establishing tolerances.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing

Additional Information: SAN No. 3890

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RIN: 2070–AD15

3630. THE 10-ACRE LIMITATION FOR PESTICIDE SMALL-SCALE FIELD TESTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136c

CFR Citation: 40 CFR 172

Legal Deadline: None

Abstract: EPA will propose a modification to its pesticide experimental use permit (EUP) regulations that will permit field testing of new pesticides or existing pesticides for new uses on a greater number of acres without an experimental use permit. Currently such testing is limited to 10 acres cumulative total per pesticide under a presumption that this limited testing poses no adverse effects, and therefore does not warrant the Agency's oversight under the EUP program. This action would reduce burdens on pesticide producers who currently must obtain an experimental use permit for greater than 10 acres testing. Little impact would be expected on small businesses, because they rarely engage in pesticide field testing of new chemicals or new uses.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal

Additional Information: SAN No. 3735

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RIN: 2070–AC99

3631. ANTIMICROBIAL PESTICIDE PRODUCTS; OTHER PESTICIDE REGULATORY CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136a(h); 7 USC 136w

CFR Citation: 40 CFR 152; 40 CFR 156

Legal Deadline:
NPRM, Statutory, May 1, 1997.

Abstract: This regulation will specify antimicrobial registration reforms that will reduce to the extent possible the review time for antimicrobial pesticides. The regulation will clarify criteria for completeness of applications, and will specify or refer to a definition of the various classes of antimicrobial pesticide use patterns and the associated data and labeling requirements that would be consistent with the degree and type of risk presented by each class. EPA will evaluate the feasibility and cost-effectiveness of various registration process reforms, including registrant certification, and expansion of the current notification procedures. This regulation will also implement some general provisions of FIFRA pertaining to all pesticides, including labeling requirements and notification procedures.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: SAN No. 3892

Agency Contact: Jean Frane, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
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RIN: 2070–AD14

3632. EXEMPTION OF CERTAIN PESTICIDE SUBSTANCES FROM FIFRA REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: FIFRA 25(b)

CFR Citation: 40 CFR 152.25(g)(1)

Legal Deadline: None

Abstract: This proposed rule would exempt from regulation under section 25(b)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) certain substances when used, sold or distributed as pesticide active ingredients. EPA believes regulation of these substances is not necessary to prevent unreasonable adverse effects on the environment, and these substances are not of a character necessary to be subject to FIFRA in order to carry out its purposes. Substances exempted are pesticides and would continue to be distributed and sold as pesticides after promulgation of a final rule. If exemptions are established, false claims and advertising would still be subject to jurisdiction of the Federal Trade Commission or could result in civil liabilities for the manufacturer and distributor. This proposal, and any subsequent final rule, would not establish or alter exemptions or tolerances for the listed substance under provisions of the Federal Food, Drug and Cosmetic Act.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing

Additional Information: SAN No. 4026

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RIN: 2070–AD21

3633. PESTICIDES; TOLERANCE PROCESSING FEES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 346a

CFR Citation: 40 CFR 180.33

Legal Deadline: None

Abstract: In 1996, the Food Quality Protection Act amended the Federal Food, Drug, and Cosmetic Act to require EPA to charge tolerance fees that, in the aggregate, will cover all costs associated with processing tolerance actions, including filing a tolerance petition, and establishing, modifying, leaving in effect, or revoking a tolerance or tolerance exemption. Since 1983 (the last time a cost analysis was conducted), factors such as expanded data requirements, changes in risk assessment methods, improvements in data base management and tracking systems, and the increasing complexity of scientific review of petitions have resulted in costs substantially exceeding the fees currently charged. This proposed rule will adjust the fee structure and fee amounts for tolerance actions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing

Additional Information: SAN No. 4027

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RIN: 2070–AD23

3634. DATA REQUIREMENTS FOR PESTICIDE REGISTRATION (REVISION)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136a to 136y

CFR Citation: 40 CFR 158

Legal Deadline: None

Abstract: EPA will update the data requirements specifically necessary for the Agency to evaluate the registrability of pesticide products. The revisions will clarify all data requirements to reflect current practice. Procedural and explanatory sections of the current regulations will be amended to make them consistent with the revised data requirements and new use indexing.

Timetable:

Action	Date	FR Cite
NPRM 40 CFR 158	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 2687

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RIN: 2070–AC12

3635. WPS; PESTICIDE WORKER PROTECTION STANDARDS; PESTICIDE HAZARD COMMUNICATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 7 USC 136w; Federal Insecticide, Fungicide, and Rodenticide Act sec 25

CFR Citation: 40 CFR 170

Legal Deadline: None

Abstract: In 1992, EPA proposed to require the provision of hazard information to agricultural workers covered by the Worker Protection Standard. The requirements as proposed were designed to be substantially equivalent to the Hazard Communication Standard promulgated by the Occupational Safety and Health Administration. Specific hazard information would be made available to agricultural workers and pesticide handlers concerning the pesticides to which they are exposed. EPA is reconsidering the specifics of the proposal. During 1998, EPA plans to hold discussions on options with various stakeholders.

Timetable:

Action	Date	FR Cite
NPRM	08/21/92	57 FR 38167
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 1640

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RIN: 2070–AC34

3636. • DATA REQUIREMENTS FOR ANTIMICROBIAL REGISTRATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136a to 136y

CFR Citation: 40 CFR 158

Legal Deadline: None

Abstract: EPA will update and revise its pesticide data requirements for antimicrobial products. The data requirements specify the data that is required for EPA to evaluate the registrability of a pesticide product. The revisions will clarify all data requirements to reflect current practice. Procedural and explanatory sections of the current regulations will be amended to make them consistent with the revised data requirements and new use indexing.

Timetable:

Action	Date	FR Cite
NPRM - 40 CFR 158, subpart W	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 4173

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RIN: 2070–AD30

3637. PESTICIDE MANAGEMENT AND DISPOSAL: STANDARDS FOR PESTICIDE CONTAINERS AND CONTAINMENT

Priority: Other Significant

Legal Authority: 7 USC 136q FIFRA sec 19; 7 USC 136a FIFRA sec 3; 7 USC 136w FIFRA sec 25

CFR Citation: 40 CFR 165; 40 CFR 156

Legal Deadline:
Final, Statutory, December 24, 1991.

Abstract: The 1988 amendments to FIFRA section 19 significantly expanded and strengthened EPA's authority to regulate the management of pesticides and their containers, including storage, transportation and disposal. As proposed, this rule would establish standards for removal of pesticides from containers and for rinsing containers; facilitate the safe use, refill, reuse, and disposal of pesticide containers by establishing standards for container design, labeling and refilling; and establish requirements for containment of stationary bulk containers and for containment of pesticide dispensing areas.

Timetable:

Action	Date	FR Cite
NPRM - Container Design & Residue Removal & Bulk Containment	02/11/94	59 FR 6712
Supplemental NPRM	11/00/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 2659

EPA—FIFRA

Proposed Rule Stage

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RIN: 2070–AB95

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Final Rule Stage

3638. WPS; PESTICIDE WORKER PROTECTION STANDARD; GLOVE AMENDMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136w

CFR Citation: 40 CFR 170

Legal Deadline: None

Abstract: Since the issuance of the 1992 WPS and the January 1, 1995 implementation, farmworker groups have expressed an interest in enhancing specific protection measures, while grower groups, the National Association of State Departments of Agriculture and others have expressed an interest in addressing practical, operational concerns. The Agency received various requests and comments in the form of letters, petitions, and individual and public meetings to address the concerns with the WPS. As a result, there may be a need to make further changes of a minor nature to the WPS rule. EPA will take such actions as rules, policy statements or other documents as appropriate, and provide Regulatory Agenda entries when actions are planned.

Timetable:

Action	Date	FR Cite
NPRM	09/09/97	62 FR 47544
Final	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3731

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RIN: 2070–AC93

3639. REGULATION OF PLANT-PRODUCED PESTICIDES UNDER FIFRA AND FFDCA

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136 et seq; 21 USC 346a et seq

CFR Citation: 40 CFR 152.20; 40 CFR 174

Legal Deadline: None

Abstract: Substances that plants produce to protect themselves against pests are pesticides under FIFRA. The Agency designates these substances, along with the genetic material necessary to produce them, plant-pesticides. This rulemaking will exempt several categories of plant-pesticides from FIFRA and FFDCA regulations; confirms that plants used as biological control agents are exempt from regulation under FIFRA, and establishes a new part in title 40 of the CFR, part 174, which consolidates regulations specific for plant-pesticides in one part of the CFR. The proposed consolidation is expected to benefit the public by providing greater focus, enhanced clarity and ease of use. These actions will reduce burden on both the regulated community and EPA.

Timetable:

Action	Date	FR Cite
NPRM	11/23/94	59 FR 60496
Supplemental NPRM	07/22/96	61 FR 37891
Supplemental NPRM	05/16/97	62 FR 27132
Final Rule	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 2684

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RIN: 2070–AC02

3640. GROUND WATER AND PESTICIDE MANAGEMENT PLAN

Regulatory Plan: This entry is Seq. No. 133 in Part II of this issue of the Federal Register.

RIN: 2070–AC46

3641. PESTICIDE MANAGEMENT AND DISPOSAL

Priority: Other Significant

Legal Authority: 7 USC 136 et seq

CFR Citation: 40 CFR 165

Legal Deadline: None

Abstract: This action develops procedures for mandatory and voluntary recall actions under section 19(b) of FIFRA and would establish criteria for acceptable storage and disposal plans which registrants may submit to this Agency to become eligible for reimbursement of storage costs. This action establishes procedures for indemnification of owners of suspended and canceled pesticides for disposal.

Timetable:

Action	Date	FR Cite
NPRM	05/05/93	58 FR 26856
Final	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3432

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RIN: 2020–AA33

EPA—FIFRA

Final Rule Stage

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Long-Term Actions

3642. POLICY OR PROCEDURES FOR NOTIFICATION TO THE AGENCY OF STORED PESTICIDES WITH CANCELLED OR SUSPENDED REGISTRATION

Priority: Other Significant

CFR Citation: 40 CFR 168

Timetable:

Action	Date	FR Cite
NPRM	03/28/91	56 FR 13042
Final	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: David Stangel
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RIN: 2020–AA29

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Completed Actions

3643. PESTICIDE TOLERANCES; PORTION OF FOOD COMMODITIES TO BE ANALYZED FOR PESTICIDE RESIDUES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 180

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency plans no further action at this time.	07/24/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jean Frane
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RIN: 2070–AC45

3644. EXEMPTION OF CERTAIN INERT INGREDIENTS FROM THE DEFINITION OF PESTICIDE CHEMICAL RESIDUE UNDER FFDCA

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 180

Completed:

Reason	Date	FR Cite
Direct Final Rule	03/04/98	63 FR 10718

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

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RIN: 2070–AD20

3645. PESTICIDE FLAMMABILITY LABELING REQUIREMENTS FOR TOTAL RELEASE FOGGERS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 156.10

Completed:

Reason	Date	FR Cite
Direct Final Rule	02/23/98	63 FR 9078

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jim Downing
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RIN: 2070–AC60

3646. RESTRICTED USE CRITERIA FOR PESTICIDES IN GROUNDWATER

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 152.170

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency Plans To Do This As a Nonregulatory Action.	07/24/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joe Hogue
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RIN: 2070–AB60

3647. PESTICIDE LABELING CLAIMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 156.10

Completed:

Reason	Date	FR Cite
Withdrawn - No Further Regulatory Action Is Planned.	07/24/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Melissa Chun
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RIN: 2070–AC85

3648. FIFRA BOOKS AND RECORDS OF PESTICIDE PRODUCTION AND DISTRIBUTION (REVISION)

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 169

EPA—FIFRA

Completed Actions

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency plans no further action.	08/25/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Steve Howie
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RIN: 2020–AA28

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Toxic Substances Control Act (TSCA)

Proposed Rule Stage

3649. • CHEMICAL RIGHT-TO-KNOW INITIATIVE

Regulatory Plan: This entry is Seq. No. 107 in Part II of this issue of the Federal Register.

RIN: 2070–AD25

3650. • TSCA SECTION 4 ENFORCEABLE CONSENT AGREEMENT FOR CERTAIN OXYGENATED FUEL ADDITIVES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603; 15 USC 2611; 15 USC 2625

CFR Citation: 40 CFR 790; 40 CFR 799

Legal Deadline: None

Abstract: Methyl tertiary butyl ether (MTBE) alcohol is commonly found at concentrations above the current EPA draft lifetime health advisory for drinking water at many point source-gasoline release sites. MTBE is significantly more persistent than benzene, toluene, ethyl-benzene and xylenes (BTEX) in the subsurface. Releases of fuel oxygenates occur during manufacture, distribution, storage, and use, particularly from point sources such as underground storage tanks, pipelines and refueling facilities. The Toxic Release Inventory (TRI) estimates that MTBE releases in the United States exceeded 3.3 million pounds in 1994. EPA has not established water quality criteria for fuel oxygenates for protection of freshwater or marine aquatic life. The American Petroleum Institute (API) has recently completed a search and evaluation of extant literature on the acute and chronic toxicity of oxygenates for aquatic organisms and has provided the results to EPA. From the data gaps identified through that effort, testing to fill critical needs is expected to be conducted within a year of the API submission. Current actions should provide an appropriate basis for later determining whether additional effects testing or research is needed. Most of the testing and research on the toxicity of oxygenates has been concerned with the effects of inhaled MTBE in laboratory and human volunteers. Virtually no information exists on the effects of ingested oxygenates on humans, with the notable exception of the extensive database on the health effects of ingested alcohol. The lack of a more substantial health effects database has made it difficult to develop a final drinking water Health Advisory or derive an oral Reference Dose (RfD) for MTBE and other oxygenates. Further subchronic and chronic data are necessary to develop a final Health Advisory. This action, which would reflect a cooperative effort between EPA and Industry to develop a testing program, would serve as a mechanism to develop the needed data.

Timetable:

Action	Date	FR Cite
Notice To Solicit Interested Parties	10/00/98	
Notice Announcing ECA	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4174

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RIN: 2070–AD28

3651. TRI; RESPONSES TO PETITIONS RECEIVED TO ADD OR DELETE CHEMICALS FROM THE TOXIC RELEASE INVENTORY

Priority: Routine and Frequent

Legal Authority: 42 USC 11013 EPCRA sec 313

CFR Citation: 40 CFR 372

Legal Deadline:
Other, Statutory, Agency must respond to the petition within 180 days of receipt.

Abstract: These actions grant or deny petitions received to add or delete chemicals from the list of toxic chemicals under section 313 of the Emergency Planning and Community Right to Know Act, EPCRA. The actions cover individual chemicals or groups of chemicals for which petitions have been received.

Timetable:

Action	Date	FR Cite
Notice -DBNPA (Request To Delete)	10/27/95	60 FR 54949
Response -Dioxin & Dioxin-Like Compounds (Furans & PCBs) (Req. To Add)	05/07/97	62 FR 24887
Notice of Denial -Phosphoric Acid (Request To Delete)	01/23/98	63 FR 3566
Notice of Denial -Methyl Ethyl Ketone (MEK) (Request To Delete)	03/30/98	63 FR 15195
Response -Acetonitrile (Request to Delete)	10/00/98	
Response -Chromite Ore (Request To Delete)	10/00/98	
Response -Methyl Isobutyl Ketone (MIBK) (Request To Delete)	10/00/98	
Final Response -DBNPA (Request To Delete)	11/00/98	

EPA—TSCA

Proposed Rule Stage

Action	Date	FR Cite
Reponse -Di(2-ethylhexyl) Phthalate (DEHP) (Request To Delete)	12/00/98	
Response -Alloys—Chrominum & Nickel & and Copper Alloys (Req. To Modify)	03/00/99	
Final Response -Dioxin & Dioxin-Like Compounds (Furans & PCBs)(Req. To Add)	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 2425

Statutory deadline: Within 180 days of receipt the Agency must either initiate rulemaking or explain why not in the Federal Register. Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and, Solvent Recovery Services (SIC code 7389).

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RIN: 2070–AC00

3652. ASBESTOS MODEL ACCREDITATION PLAN REVISIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2646

CFR Citation: 40 CFR 763

Legal Deadline:
Final, Statutory, November 28, 1992.

Abstract: The Asbestos School Hazard Abatement Reauthorization Act (ASHARA) amended TSCA to require that EPA revise its asbestos model accreditation plan to extend training and accreditation requirements to include persons performing certain asbestos-related work in public and commercial buildings, to increase the minimum number of training hours required for accreditation purposes and to effect other changes necessary to implement the amendments. The upcoming notice of proposed rulemaking (NPRM) will improve harmony with the Occupational Safety and Health Administration's regulations and provide clarifications.

Timetable:

Action	Date	FR Cite
NPRM	05/13/92	57 FR 20438
Interim Final Rule	02/03/94	59 FR 5236
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3148

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RIN: 2070–AC51

3653. TSCA INVENTORY UPDATE RULE AMENDMENTS

Regulatory Plan: This entry is Seq. No. 108 in Part II of this issue of the Federal Register.

RIN: 2070–AC61

3654. LEAD-BASED PAINT ACTIVITIES RULES; TRAINING, ACCREDITATION, AND CERTIFICATION RULE AND MODEL STATE PLAN RULE

Priority: Economically Significant

Legal Authority: PL 102-550 sec 402; PL 102-550 sec 404; 15 USC 2603 TSCA title IV

CFR Citation: 40 CFR 745

Legal Deadline:
Final, Statutory, April 28, 1994.

Abstract: The Residential Lead-based Paint Hazard Reduction Act of 1992 mandates EPA to promulgate regulations governing lead-based paint activities to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that contractors engaged in such activities are certified. In addition, EPA must promulgate a Model State program which may be adopted by any State which seeks to administer and enforce a State Program.

Timetable:

Action	Date	FR Cite
NPRM 1 (Residential)	09/02/94	59 FR 45872
Final Action 1 (Residential)	08/29/96	61 FR 45778
Interim Final Rule - Minor Amendment to Grant Provisions	08/04/98	63 FR 41430
NPRM 2 (Buildings & Structures)	09/00/99	
Final Action 2 (Buildings & Structures)	09/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3244

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RIN: 2070–AC64

3655. LEAD; TSCA REQUIREMENTS FOR THE DISPOSAL OF LEAD-BASED PAINT DEBRIS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 2601 to 2671; 42 USC 6901 to 6992

CFR Citation: 40 CFR 745

Legal Deadline: None

Abstract: Currently, waste derived from lead-based paint (LBP) abatements is managed under the Resource Conservation and Recovery Act (RCRA)

hazardous waste regulations. Other Federal agencies (Department of Housing and Urban Development, Department of Health and Human Services) and several States and advocacy groups have expressed concern that the costs associated with the disposal of large volume architectural components (e.g., doors and windows) may interfere with abatement activities. EPA's Office of Prevention, Pesticides and Toxic Substances and the Office of Solid Waste have initiated a joint rulemaking to address the disposal of these architectural components. This rulemaking would develop disposal standards for these components under the Toxic Substances Control Act (TSCA) title IV, (the definition of abatement under TSCA title IV, section 401(1)(B), includes disposal). The TSCA regulations would establish appropriate disposal standards for LBP architectural components and identify recycling and incineration activities that would be controlled or prohibited. To minimize duplication of waste management requirements, EPA is developing a companion RCRA rule to suspend temporarily hazardous waste management regulations applicable to lead-based paint debris which will be subject to the new TSCA standards.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3508

This SAN and RIN includes RCRA companion rule: Temporary Suspension of Toxicity Characteristic Rule for Specified Lead-Based Paint Debris.

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RIN: 2070–AC72

3656. LEAD; RULEMAKINGS UNDER TSCA SECTION 402, LEAD-BASED PAINT ACTIVITIES

Regulatory Plan: This entry is Seq. No. 109 in Part II of this issue of the Federal Register.

RIN: 2070–AD06

3657. MULTI-CHEMICAL TEST RULE; HIGH PRODUCTION VOLUME CHEMICALS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603

CFR Citation: 40 CFR 799

Legal Deadline: None

Abstract: This action is related to Vice President Gore's challenge to industry on the eve of Earth Day, April 21, 1998, to come forward quickly with needed test data on high production volume (HPV) chemicals. This challenge encompasses approximately 3,000 chemicals which are manufactured (including imported) in the aggregate at more than 1 million pounds on an annual basis. The data needed on these chemicals are: acute toxicity, repeat dose toxicity, developmental and reproductive toxicity; mutagenicity; ecotoxicity and environmental fate. This rule will require testing and recordkeeping requirements for those chemicals for which industry does not voluntarily agree to provide testing in a timely manner. The action is part of the Chemical Right-to-Know Initiative, which is described in the Regulatory Plan.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: 32411 Petroleum Refineries

Additional Information: SAN No. 3990

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RIN: 2070–AD16

3658. TEST RULES; GENERIC ENTRY FOR PROPOSED DECISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603 TSCA 4

CFR Citation: 40 CFR 799

Legal Deadline: NPRM, Statutory. NPRM must be published within one year of ITC designation.

Abstract: EPA is proposing to require testing, or will obtain testing through negotiated enforceable consent agreements (ECAs) or publish a notice which provides the reasons for not doing so. These chemicals have been designated for priority testing consideration by the ITC, recommended for testing consideration (for which the 12-month statutory requirement does not apply), or they have been identified for testing consideration by other EPA program offices and through EPA review processes.

Timetable:

Action	Date	FR Cite
NPRM - ITC II Chemicals (ITC List 28)	12/00/98	
NPRM - OSHA Chemicals with Insuf. Skin Absorption Data (ITC List 32)	12/00/98	
NPRM - OSHA Chemicals with No Skin Absorption Data (ITC List 31)	12/00/98	
NPRM - OSHA Chemicals with No Skin Absorption Data (ITC List 35)	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 3494

NPRM must be published within one year of ITC designation.

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RIN: 2070–AB07

3659. TEST RULE; ATSDR SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603 TSCA 4; 42 USC 9604(i) CERCLA 104(i); 15 USC 2611

CFR Citation: 40 CFR 795 to 799

Legal Deadline: None

Abstract: EPA is proposing a test rule under section 4(a) of the Toxic Substances Control Act (TSCA) requiring manufacturers and processors of eight chemicals (benzene, chloroethane, methylene chloride, perchloroethylene, hydrogen cyanide, sodium cyanide, toluene, and trichloroethylene) to fulfill data needs identified by the Agency for Toxic Substances and Disease Registry (ATSDR), the National Toxicology Program (NTP), and EPA pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) section 104(i).

Under CERCLA, the Agency for Toxic Substances and Disease Registry (ATSDR) is to establish a list of priority hazardous substances found at superfund sites, develop toxicological profiles for the hazardous substances, identify priority data needs, and establish a research program obtaining the necessary data. This action is a component of ATSDR's research program.

Data from this action would provide specific information about the substances for the public and scientific community. The information would be used in conducting comprehensive public health assessments of populations living near hazardous waste sites. Scientific data improves the quality of risk assessments used by EPA, other Federal agencies, and State and local governments. The risk assessments affect standards, guidelines, listing/delisting, and other decisions affecting public health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 2563

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RIN: 2070–AB79

3660. MULTI-CHEMICAL TEST RULE; CHILDREN'S HEALTH

Priority: Other Significant

Legal Authority: 15 USC 2603 TSCA 4

CFR Citation: 40 CFR 799

Legal Deadline: None

Abstract: A multi-chemical test rule will propose the testing of chemicals to which the general population, including children, have potentially high exposure. The chemical selection criteria will include high production volume, indoor air pollutant present in consumer products, presence with high frequency in consumer products, TRI chemical with annual release to environment of more than 1 million pounds, pesticide inert, unregulated drinking water contaminant, presence in breast milk, and nominations from other government agencies. The test battery will include acute and subchronic toxicity, developmental neurotoxicity, 2-generation reproductive toxicity, mutagenicity, oncogenicity, and pharmacokinetics. This Children's Health test rule will focus on chemicals with a high potential for exposure; future test rules may also consider chemicals with suggestive, but not fully characterized, evidence of toxicity. The purpose of this and future Children's Health test rules is to improve our understanding of the risks posed to children's health by chemicals to which they may be exposed in the home, school, and the environment.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 2865

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RIN: 2070–AC27

3661. TEST RULE FOR CERTAIN METALS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603 TSCA 4; 15 USC 2611; 15 USC 2625; 42 USC 9604(i) CERCLA

CFR Citation: 40 CFR 795 to 799

Legal Deadline: None

Abstract: EPA is proposing a test rule under section 4(a) of the Toxic Substances Control Act (TSCA) requiring manufacturers and processors of certain metals (beryllium, chromium, manganese, mercury, nickel, and selenium) to fulfill data needs identified by the Agency for Toxic Substances and Disease Registry (ATSDR), the National Toxicology Program (NTP), and EPA pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) section 104(I).

Under CERCLA, the Agency for Toxic Substances and Disease Registry (ATSDR) is to establish a list of priority hazardous substances found at superfund sites, develop toxicological profiles for the hazardous substances, identify priority data needs, and establish a research program obtaining the necessary data. This action is a component of ATSDR's research program.

Data from this action would provide specific information about the substances for the public and scientific community. The information would be used in conducting comprehensive public health assessments of populations living near hazardous waste sites. Scientific data improves the quality of risk assessments used by EPA, other Federal agencies, and State and local governments. The risk assessments affect standards, guidelines, listing/delisting, and other decisions affecting public health and the environment.

The metals listed here, including cadmium, are also hazardous air pollutants (HAPs) under the Clean Air Act (CAA) section 112. Data from this

action would also be used to implement several provisions of section 112 of the CAA, including determining risks remaining after the application of technology based on standards under section 112(d) of the CAA, estimating the risks associated with accidental releases, and determining whether or not substances should be removed from the CAA section (b)(1) list of HAPs (delisting).

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3882

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RIN: 2070–AD10

3662. FOLLOW-UP RULES ON EXISTING CHEMICALS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2604 TSCA 5; 15 USC 2607 TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has established a program to monitor the commercial development of existing chemicals of concern and/or to gather information to support planned or ongoing risk assessments on such chemicals. As these chemicals are identified, EPA will initiate rulemakings under the Toxic Substances Control Act (TSCA) sections 5 and/or 8 to require reporting of appropriate needed information by the manufacturers, importers and/or processors of these chemicals. Individual proposed or final rules will be published on at least the chemicals listed below.

Timetable:

Action	Date	FR Cite
NPRM - 2 & 4-Pentanedione SNUR	09/27/89	54 FR 39548
NPRM - Chloranil	05/12/93	58 FR 27980
NPRM - Benzidine-Based Chemical Substances	08/30/95	60 FR 45119
Final Action - Benzidine-Based Chemical Substances	10/07/96	61 FR 52287
NPRM - Certain Chemical Substances No Longer in Production SNUR	10/00/98	
NPRM - Heavy Metal-Based Pigments in Aerosol Spray Paints SNUR	10/00/98	
Final Action - Final Chloranil SNUR	10/00/98	
NPRM - Amendment to Benzidine-Based Chemical Substances SNUR	12/00/98	
NPRM - Flame-Retardant Chemicals	12/00/98	
NPRM - Methylcyclopentane SNUR	12/00/98	
NPRM -o-Tolidine & o-Dianisidine-Based Dyes (Benzidine Congener Dyes)	12/00/98	
NPRM -p-Aminophenol & Bromochloro-methane 8(a) Chemical-Specific Rule	12/00/98	
NPRM - 2 & 4-Pentanedione SNUR (Reproposal)	05/00/99	
NPRM - 2-Ethoxyethanol & 2-Methoxyethanol & 2-Methoxyethanol Acetate	05/00/99	
Final Action - Amendment to Benzidine-Based Chemical Substances SNUR	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 1923

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RIN: 2070–AA58

3663. TSCA BIOTECHNOLOGY FOLLOW-UP RULES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2604 TSCA 5(a)

CFR Citation: 40 CFR 720; 40 CFR 725 (Revision)

Legal Deadline: None

Abstract: As a follow-up to the final Biotechnology rule under the Toxic Substances Control Act (TSCA), EPA plans to address the following actions: 1) Intergeneric Scope of Oversight: OPPT currently defines new microorganisms which are subject to reporting under TSCA section 5 as those resulting from the deliberate combination of genetic material originally isolated from microorganisms classified in different taxonomic genera. Such microorganisms are referred to as intergeneric microorganisms. EPA indicated in its 1994 proposed biotechnology regulations that it may reconsider its interpretation of "new" microorganism in a later rulemaking, based on the more current state of scientific knowledge about the manner in which genetic material is exchanged among microorganisms in the environment. 2) TSCA Oversight of Transgenic Plants. Certain transgenic plants which express products or which are used for purposes subject to EPA jurisdiction under TSCA may be used for commercial purposes in the United States without oversight by EPA. Such uses include: plants used as intermediates to produce industrial grade oils; and plants used for phytoremediation (clean-up of contaminated soils). Section 5 of TSCA requires that new chemical substances be reviewed by the Agency prior to their introduction into commerce. In its proposed rule, 59 FR 45526 (September 1, 1994), EPA stated that it was reserving jurisdiction over certain transgenic plants and animals: "Plants and animals could also be chemical substances under TSCA....EPA is reserving authority under TSCA to screen transgenic plants and animals in the future as needed," 59 FR 45526, 45527 (September 1, 1994). This action will address whether EPA should exercise jurisdiction under TCSA over products produced by transgenic plants, and/or certain plants.

Timetable:

Action	Date	FR Cite
Policy Statement (2) TSCA Plants Oversight Policy	01/00/99	
NPRM (1) Intergeneric Scope of Oversight	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Sectors Affected: 212393 Other Chemical and Fertilizer Mineral Mining; 32551 Paint and Coating Manufacturing

Additional Information: SAN No. 3894

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RIN: 2070–AD13

3664. ASBESTOS; AMENDMENTS TO THE ASBESTOS-CONTAINING MATERIALS IN SCHOOLS RULE, MODEL ACCREDITATION PLAN, AND WORKER PROTECTION RULE

Regulatory Plan: This entry is Seq. No. 110 in Part II of this issue of the Federal Register.

RIN: 2070–AC62

3665. ASBESTOS WORKER PROTECTION RULE; AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2604 TSCA sec 6

CFR Citation: 40 CFR 763

Legal Deadline: None

Abstract: EPA is proposing to amend the Asbestos Abatement Projects, Worker Protection Rule (WPR), by incorporating certain revisions to the Occupational Safety and Health Administration (OSHA) asbestos workplace standards issued since EPA's WPR was promulgated in 1987. The proposal would generally extend the coverage provided under the OSHA Asbestos Standard for Construction to State and local government employees who are not covered by OSHA or EPA-approved State plans. It would also extend coverage provided under OSHA's Asbestos Standard for general industry for brake and clutch repair to such employees, and would clarify that they include prisoners and students employed by the State and/or local government. EPA also proposes to delegate authority to grant or deny State exclusions under the WPR to EPA Regional Administrators and to add compliance and enforcement requirements for State exclusions. In addition, EPA is proposing to amend the Asbestos-Containing Materials in Schools Rule by relocating certain worker protection provisions in the WPR. EPA plans to further update this rule to make it consistent with the most recent OSHA rule.

Timetable:

Action	Date	FR Cite
NPRM (1)	11/01/94	59 FR 54746
NPRM (2)	06/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 2249

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RIN: 2070–AC66

3666. • PCBS; POLYCHLORINATED BIPHENYL; USE AUTHORIZATIONS

Regulatory Plan: This entry is Seq. No. 111 in Part II of this issue of the Federal Register.

RIN: 2070–AD27

3667. LEAD-BASED PAINT ACTIVITIES; TRAINING AND CERTIFICATION FOR RENOVATION AND REMODELING

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 102-550 Sec 402(c)(3)

CFR Citation: 40 CFR 745

Legal Deadline:
Final, Statutory, October 31, 1996.

Abstract: Under section 402(c)(2) of TSCA title IV, EPA is currently conducting a study of the extent to which persons engaged in renovation and remodeling activities in target housing are exposed to lead in the conduct of such activities or disturb lead and create a lead-based paint hazard. EPA must use the results of this study and consult with interested parties to determine which categories of renovation and remodeling activities require training and certification. EPA must then revise the training and certification regulations originally developed for individuals performing lead-based paint abatement under section 402(c)(a) of TSCA title IV to apply them to the renovation and remodeling categories. If EPA determines that any category does not require certification, EPA must publish an explanation of the basis for that determination.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
Final	09/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3557

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RIN: 2070–AC83

EPA—TSCA

Proposed Rule Stage

3668. • LEAD-BASED PAINT; NOTIFICATION OF COMMENCEMENT OF ABATEMENT ACTIVITIES

Priority: Info./Admin./Other

Legal Authority: PL 102-550; 15 USC 2603 TSCA 4

CFR Citation: 40 CFR 745

Legal Deadline: None

Abstract: Section 402 of TSCA directs EPA to establish regulations containing standards for performing lead-based paint activities, one of the standards EPA developed, codified at 40 CFR section 745.227 (e)(4) requires notification to EPA of the commencement of lead-based paint abatement activities in a residential dwelling or child-occupied facility or as a result of a Federal State, or local order.

This rule establishes requirements for the notification of commencement of lead-based paint abatement activities. These provisions include uniform procedures to notify the Agency of routine and emergency lead-based paint abatement activities. The rule will also prohibit lead-based paint abatement activities from starting on any date other than the one contained in the notification. This information is necessary to provide enforcement personnel with information for compliance activities and to prioritize inspections.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 4172

This action has been split off from the action "Fees for Accreditation and Certification of Lead-Based Paint Activities." (SAN 3881; 2070-AD11).

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RIN: 2070–AD31

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Toxic Substances Control Act (TSCA)

Final Rule Stage

3669. LEAD; TSCA SECTION 403; IDENTIFICATION OF DANGEROUS LEVELS OF LEAD

Regulatory Plan: This entry is Seq. No. 134 in Part II of this issue of the Federal Register.

RIN: 2070–AC63

3670. DEVELOPMENT OF GUIDANCE AS MANDATED BY EXECUTIVE ORDER 12873, SECTION 503 ON ENVIRONMENTALLY PREFERABLE PRODUCTS

Priority: Other Significant

Legal Authority: EO 12873

CFR Citation: None

Legal Deadline: None

Abstract: As mandated by Executive Order 12873, OPPTS is developing guidance to direct Federal agencies in their procurement of Environmentally Preferable Products.

Timetable:

Action	Date	FR Cite
NPRM	09/29/95	60 FR 50722
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3480

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RIN: 2070–AC78

3671. TEST RULES; GENERIC ENTRY FOR FINAL DECISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603 TSCA sec 4

CFR Citation: 40 CFR 799

Legal Deadline: None

Abstract: EPA is requiring testing via rules, or will obtain testing through enforceable consent agreements (ECAs) or publish a notice which provides the reasons for not doing so for chemicals listed herein. These chemicals have been designated for priority testing consideration by the ITC or recommended for testing consideration (for which the 12-month statutory requirement does not apply). The list also includes chemicals or categories of chemicals which have been identified for testing consideration by other Federal or other EPA offices through EPA review processes.

Timetable:

Action	Date	FR Cite
ANPRM.- Aryl Phosphates (ITC List 2)	12/29/83	48 FR 57452
NPRM - Brominated Flame Retardants	06/25/91	56 FR 29140
NPRM - Aryl Phosphates (ITC List 2)	01/17/92	57 FR 2138
Final Rule (ECA) - Aryl Phosphates (ITC List 2)	10/00/98	
Final Rule (ECA) - DiBasic Esters (CPSC)	10/00/98	
Final Rule - ITC II Chemicals (ITC List 28)	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3493

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EPA—TSCA

Final Rule Stage

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RIN: 2070–AB94

3672. TEST RULE; HAZARDOUS AIR POLLUTANTS (HAPS)

Priority: Other Significant

Legal Authority: 15 USC 2603 TSCA 4; 42 USC 7412 CAA 112; 42 USC 7403 CAA 103

CFR Citation: 40 CFR 789 to 795

Legal Deadline: None

Abstract: EPA is proposing health effects testing under TSCA section 4 in support of programs and activities required under section 112 of the Clean Air Act (CAA), governing Hazardous Air Pollutants (HAPs). Section 112 of the CAA directs EPA to determine the risk to health and the environment remaining after application of a technology-based standard to major and area sources. Section 112 also sets forth a mechanism for revising and modifying the statutory list of 189 HAPs under section 112(b), and requirements for an accidental release control program. These data will also be important for the right-to-know program given the large release of these chemicals to the atmosphere. In order to implement these and other programs and requirements under section 112, EPA must identify the health and environment effects of potential concern from exposure to HAPs, ascertain the minimum data needed to adequately characterize those health and environmental effects, and assess the risks posed by HAPs. In addition, under section 103(d), EPA is required to conduct a research program on the short- and long-term effects of air pollutants on human health, ascertain the minimum data needed to adequately characterize those health and environmental effects, and assess the risks posed by HAPs.

Timetable:

Action	Date	FR Cite
NPRM	06/26/96	61 FR 33178
Supplemental NPRM	12/24/97	62 FR 67466
Supplemental NPRM	04/21/98	63 FR 19694
Final	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3487

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RIN: 2070–AC76

3673. FOLLOW-UP RULES ON NON-5(E) NEW CHEMICAL SUBSTANCES

Priority: Routine and Frequent

Legal Authority: 15 USC 2604 TSCA sec 5

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA regulates the commercial development of new chemicals that have completed premanufacture notice (PMN) review, where activities described in the PMN did not present an unreasonable risk but uncontrolled manufacture, import, processing, distribution, use, or disposal outside the activities described in the PMN may present an unreasonable risk. EPA will issue Significant New Use Rules (SNURs) requiring 90-day notification to EPA from any manufacturer, importer, or processor who would engage in activities that are designated as significant new uses. Under the Expedited Follow-up Rule (EFUR) which became effective on October 12, 1989, EPA will identify such new chemicals and publish them in a batch SNUR 3-4 times per year. Chemicals that were subject to a proposed SNUR before the effective date of the EFUR or do not qualify under the EFUR, may be regulated individually by notice and comment rulemaking and are listed below.

Timetable:

Action	Date	FR Cite
NPRM - Alkyl & Sulfonic Acid & Ammonium Salt (84-1056)	06/11/86	51 FR 21199
NPRM - 1-Decanimine-N-Decyl-N-Methyl-N-Oxide (86-566)	12/08/87	52 FR 46496
NPRM - Diphenyl-2&4&6-Trimethylbenzol Phosphine Oxide (87-586)	02/02/88	53 FR 2857
NPRM - Aluminum Cross-linked Sodium Carboxy-methylcellulose	06/11/93	58 FR 32628
NPRM - Certain Chemical Substances (95-1584, 96-1674/75, and 97-267)	08/13/97	62 FR 43297
Final Action - Certain Chemical Substances (95-1584, 96-1674/75, and 97-267)	10/00/98	
Final Action - Alkyl & Sulfonic Acid & Ammonium Salt (84-1056)	02/00/99	
Final Action - Aluminum Cross-linked Sodium Carboxy-methylcellulose	02/00/99	
Final Action - Diphenyl-2&4&6-Trimethylbenzol Phosphine Oxide (87-586)	02/00/99	
Final Action - 1-Decanimine-N-Decyl-N-Methyl-N-Oxide (86-566)	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 1976

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RIN: 2070–AA59

3674. CHEMICAL-SPECIFIC SIGNIFICANT NEW USE RULES (SNURS) TO EXTEND PROVISIONS OF SECTION 5(E) ORDERS

Priority: Routine and Frequent

Legal Authority: 15 USC 2604 TSCA sec 5

CFR Citation: 40 CFR 721

Legal Deadline: None

Abstract: When the Agency determines that uncontrolled manufacture, import, processing, distribution, use or disposal of a premanufacture notification (PMN) substance may present an unreasonable risk, it may issue a section 5(e) consent order to limit these activities. However, such orders apply only to the PMN submitter. Once the new substance is

entered on the Toxic Substances Control Act (TSCA) chemical inventory, others can manufacture, import or process the substance without controls. Therefore, EPA extends the controls to apply to others by designating manufacture, import or processing of the substances for uses without the specified controls as significant new uses. Under the Expedited Follow-Up Rule, which became effective on October 10, 1989 (54 FR 31314), EPA routinely publishes batch SNURs containing routine section 5(e) and non-5(e) SNURs. However, certain activities, such as modifications, withdrawals, revocations, and SNURs upon which comments are received in the direct final publication process, are subject to notice and comment rulemaking and are listed below.

Timetable:

Action	Date	FR Cite
NPRM - Batch SNUR: 84-660/-704 & 84-105/-106/-107 & 85-433	05/27/93	58 FR 30744
NPRM - Aromatic Amino Ether (P90-1840)	06/06/94	59 FR 29255
NPRM - Alkenyl Ether of Alkanetriol Polymer (93-458)	12/19/94	59 FR 65289
NPRM - Organotin Lithium Compound (93-1119)	06/07/95	60 FR 30050
NPRM - Certain Chemical Substances (91-1299/95-1667 91-1298 91-1297)	06/26/97	62 FR 34421
NPRM -Butanamide 2 2'-(3' 3-dichloro)1 1'-biphenyl 4 4'-diyl) bisazob	06/26/97	62 FR 34424
NPRM -Substituted Phenol (89-1125 L91-87 P92-41 92-511 94-1527 etc.)	06/26/97	62 FR 34427
Final - Organotin Lithium Compound (93-1119)	02/25/98	63 FR 9449
Final - Alkenyl Ether of Alkanetriol Polymer (93-458)	12/00/98	
Final - Aromatic Amino Ether (P90-1840)	12/00/98	
Final - Batch SNUR: 84-660/-704 & 84-105/-106/-107 & 85-433	12/00/98	
Final - Certain Chemical Substances (91-1299/95-1667 91-1298 91-1297)	12/00/98	
Final -Butanamide 2 2'-(3' 3-dichloro)1 1'-biphenyl 4 4'-diyl) bisazob	12/00/98	
Final -Substituted Phenol (89-1125 L91-87 P92-41 92-511 94-1527 etc.)	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3495

Agency Contact: James Alwood, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
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RIN: 2070–AB27

3675. PCBS; POLYCHLORINATED BIPHENYLS; EXEMPTIONS FROM THE PROHIBITIONS AGAINST MANUFACTURING, PROCESSING, AND DISTRIBUTION IN COMMERCE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2605 TSCA sec 6(e)(3)(B)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: Section 6(e)(3)(B) of the Toxic Substances Control Act (TSCA) provides that the Administrator may grant, by rule, exemptions from the prohibitions against manufacturing, processing and distribution in commerce of PCBs upon finding that 1) no unreasonable risk to health or the environment will occur, and 2) good faith efforts have been made by the petitioner to develop a substitute for PCB which does not pose an unreasonable risk of injury to health or the environment. In addition, the Interim Procedural Rules were amended to require certain petitioners to reapply for EPA approval to continue PCB activities previously approved by EPA.

Timetable:

Action	Date	FR Cite
NPRM (1) - Group I	12/06/94	59 FR 62875
NPRM (2) - Group II	06/00/99	
Final Action - Group I	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 2150

Agency Contact: Peter Gimlin, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
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RIN: 2070–AB20

3676. REFRACTORY CERAMIC FIBERS; SIGNIFICANT NEW USE RULES ON NATIONAL PROGRAM CHEMICALS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2604 TSCA 5; 15 USC 2605 TSCA 6

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has instituted a program to monitor the commercial development of existing chemicals of concern and/or to gather information to support risk assessments on such chemicals. As these chemicals are identified, EPA will initiate rulemakings under the Toxic Substances Control Act (TSCA) sections 5 and/or 8 to require reporting by the manufacturers, importers and/or processors of these chemicals. Proposed rules may be published on at least the chemicals listed on the timetable below.

Timetable:

Action	Date	FR Cite
NPRM - Refractory Ceramic Fiber	03/21/94	59 FR 13294
Final Action - Refractory Ceramic Fiber	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3528

Agency Contact: Peter Gimlin, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
Phone: 202 260-3933
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RIN: 2070–AC37

3677. PCBS; POLYCHLORINATED BIPHENYLS (PCBS) TRANSFORMER RECLASSIFICATION RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2605 TSCA sec 6(e)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: This rule would relax the regulatory requirements for reclassifying PCB transformers to a lower regulatory status by modifying the current reclassification requirements of 50 degree centigrade temperature and 90-day testing. Results of a preliminary analysis indicate that many transformers never reach the required temperature, but still reduce PCB concentrations and that safety risks to employees and to the general public occur in mandating the continued adherence to the current regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/18/93	58 FR 60970
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3021

Agency Contact: Tom Simons, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
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RIN: 2070–AC39

3678. TSCA SECTION 8(A) PRELIMINARY ASSESSMENT INFORMATION RULES

Priority: Routine and Frequent

Legal Authority: 15 USC 2607(a) TSCA sec 8(a)

CFR Citation: 40 CFR 712

Legal Deadline: None

Abstract: These rules add chemicals to the list of chemicals and designated mixtures subject to the requirements of the Toxic Substances Control Act section 8(a) Preliminary Assessment Information Rule (40 CFR part 712). These chemicals have been identified by the Office of Pollution Prevention and Toxics, other EPA offices, and other Federal agencies, as well as recommended for testing consideration by the Interagency Testing Committee. Manufacturers and importers are required to submit exposure-related data (EPA Form No. 7710-35) on the chemicals. These data will be used to monitor the levels of production, import and/or processing of these substances and the avenues of human and environmental exposure to these substances. These data will also support risk assessment and test rule decisions.

Timetable:

Action	Date	FR Cite
Final Action - 37th ITC List	02/28/96	61 FR 7421
Final Action - 38th ITC List	10/29/96	61 FR 55871
Final Action - 38th ITC List - Stay	12/11/96	61 FR 65186
Final Action - 38th ITC List - Stay/Technical Amendments	01/07/98	63 FR 684
Final Action - 38th ITC List - Revocation	10/00/98	
Final Action - 39th ITC List	10/00/98	
Final Action - 41st ITC List	10/00/98	
Final Action - 42nd ITC List	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 2178

Agency Contact: David R. Williams, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-3468
Email: williams.daver@epa.gov

RIN: 2070–AB08

3679. TSCA SECTION 8(D) HEALTH AND SAFETY DATA REPORTING RULES

Priority: Routine and Frequent

Legal Authority: 15 USC 2607(d) TSCA sec 8(d)

CFR Citation: 40 CFR 716

Legal Deadline: None

Abstract: These rules require manufacturers, importers and processors to submit unpublished health and safety data on chemicals added to the requirements of the Toxic Substances Control Act section 8(d) Health and Safety Data Reporting Rule (40 CFR part 716). These chemicals have been identified by the Office of Pollution Prevention and Toxics, other EPA offices, and other Federal agencies, as well as recommended for testing consideration by the Interagency Testing Committee.

Timetable:

Action	Date	FR Cite
Final - 38th ITC List	10/29/96	61 FR 55871
Final - 38th ITC List - Stay	12/11/96	61 FR 65186
Final - 38th ITC List - Stay/Technical Amendment	01/07/98	63 FR 684
Final - 38th ITC List - Revocation	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 1139

Agency Contact: David R. Williams, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-3468
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RIN: 2070–AB11

3680. USE OF ACRYLAMIDE FOR GROUTING

Priority: Other Significant

Legal Authority: 15 USC 2605 TSCA sec 6; TSCA sec 8

CFR Citation: 40 CFR 764

Legal Deadline: None

Abstract: On October 2, 1991, EPA proposed a regulation of acrylamide and NMA grouts based on the unreasonable risk associated with their usage. EPA's rule would prohibit the manufacture, distribution in commerce, and use of acrylamide grout. In February 1996, EPA reopened the record for 30 days to take additional comments, specifically to seek data on the durability of acrylamide and NMA grouts. The Agency has reviewed the

comments and expects to promulgate the final rule in fall 1998.

Timetable:

Action	Date	FR Cite
NPRM	10/02/91	56 FR 49863
Notice Reopening Record for Comments on Durability of NMA	02/28/96	61 FR 7454
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Additional Information: SAN No. 2779

Agency Contact: Edward Brooks, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
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RIN: 2070–AC17

3681. TSCA SECTION 8(E) POLICY; NOTICE OF CLARIFICATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2607(e) TSCA sec 8(e)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The TSCA section 8(e) Notice of Clarification and Solicitation of Public Comment would amend certain aspects of the 1978 TSCA section 8(e) Statement of Interpretation and Enforcement Policy (1978 Policy Statement). The 1978 Policy Statement describes the types of information that EPA considers reportable under section 8(e), the substantial risk reporting provision of TSCA, and describes the procedures for reporting such information to EPA. This clarification effort derives from a review of the existing section 8(e) guidance done in the context of questions raised by companies considering participating in the section 8(e) Compliance Audit Program (CAP). As a result of this review, EPA determined that parts of the 1978 Policy Statement concerning the reportability of information on widespread and previously unsuspected distribution in environmental media and emergency incidents of environmental contamination needed some refinement. The subject Federal Register action solicited comment on refined reporting guidance concerning widespread and previously unsuspected distribution in environmental media and provides additional circumstances where information is not reportable because it is considered known to the Administrator. Finally, the notice solicited comments on changes to the section 8(e) reporting deadline and reaffirmed the standards for claims of confidentiality for information contained in a notice of substantial risk under section 8(e).

Timetable:

Action	Date	FR Cite
NPRM	07/13/93	58 FR 37735
Final Rule	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3118

Agency Contact: Richard Hefter, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7403, Washington, DC 20460
Phone: 202 260-3470
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RIN: 2070–AC80

3682. NOTICE OF TSCA SECTION 4 REIMBURSEMENT PERIOD AND TSCA SECTION 12(B) EXPORT NOTIFICATION PERIOD SUNSET DATES FOR TSCA SECTION 4 SUBSTANCES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2603 TSCA sec 4; 15 USC 2611 TSCA sec 12

CFR Citation: 40 CFR 707; 40 CFR 790; 40 CFR 791; 40 CFR 799

Legal Deadline: None

Abstract: EPA is developing a list of substances that are or have been subject to TSCA section 4 testing actions which required testing under rules or Enforceable Consent Orders. EPA will identify sunset, or termination dates that will identify: (1) the end of section 4 reporting requirements (40 CFR 790); (2) the end of the reimbursement period under which persons subject to test rules are subject to an obligation to reimburse test sponsors (40 CFR 791); and (3) the end of the period during which export notification requirements under TSCA section 12(b) are triggered.

Timetable:

Action	Date	FR Cite
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3559

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-8130
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RIN: 2070–AC84

3683. LEAD-BASED PAINT; FEES FOR ACCREDITATION AND CERTIFICATION ACTIVITIES

Priority: Info./Admin./Other

Legal Authority: PL 102-550; 15 USC 2603 TSCA 4

CFR Citation: 40 CFR 745

Legal Deadline: Other, Statutory, August 31, 1998, See additional information.

Abstract: This rule is mandated by section 402(a) of the Toxic Substances Control Act (TSCA) for the purpose of implementing a fee schedule for lead-based paint activities that were addressed in the TSCA section 402 rule, 40 CFR part 745, Lead Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities, which published on August 28, 1996. The fee schedule will establish a framework for States to process applications for training providers of lead-based paint training courses and for certification of workers engaged in lead-based paint activities in the five disciplines delineated in the section 402 rule.

The fee rule in concert with the section 402 rule is intended to ensure that individuals conducting lead-based paint inspections, risk assessments, and abatement in target housing and child-occupied facilities are properly trained and certified and that training programs providing instruction in such activities are accredited. This rule is also intended to ensure that these activities are conducted according to reliable, effective, and safe work practice standards and to provide the availability of a trained and qualified workforce to identify and address lead-based paint hazards. By promoting the establishment of this workforce the Agency will help to ensure that individuals and firms conducting lead-based paint (LBP) activities in target housing and child-occupied facilities will do so in a way that safeguards the environment and protects the health of building occupants, especially children aged six years and younger.

Regarding the anticipated impact on small business, section 402(a) does not require or mandate the abatement of lead-based paint, nor require that any particular enterprise participate in the lead-based paint field. However, if firms choose to participate, compliance costs consist of two components that may impact small businesses: (1) accreditation and training costs for workers and supervisors, as well as certification fees that this rule will establish and (2) incremental costs of work practice standards for abatement procedures. The "Notification of Commencement of Lead-Based Paint Abatement Activities" portion has been split off as a separate rule.

Timetable:

Action	Date	FR Cite
NPRM	09/02/98	63 FR 46734
Direct Final Rule	09/02/98	63 FR 46668
Withdraw Direct Final Rule	10/16/98	63 FR 55547
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3881

Legal Deadlines continued: Applicants start submitting applications for which fee is required by statute. Need Fees schedule in place in order to enable applicants to comply.

Agency Contact: Ellie Clark, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
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RIN: 2070–AD11

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Long-Term Actions

Toxic Substances Control Act (TSCA)

3684. TRI; DATA EXPANSION AMENDMENTS; TOXIC CHEMICAL RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 11013 EPCRA; 42 USC 11023; 42 USC 11048; 42 USC 11076

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: The original Toxics Release Inventory (TRI) required reporting from manufacturing facilities on the releases and other waste management activities including waste treatment and disposal methods. This requirement was imposed under the Emergency Planning and Community Right-to-Know Act (EPCRA) section 313(g). Information on waste management practices, including recycling, energy recovery, and source reduction activities, were added to TRI pursuant to the 1990 passage of the Pollution Prevention Act. EPA is currently considering whether additional data elements related to a mass balance/materials accounting program should be considered for incorporation into the TRI database. The additional data elements included for consideration include: quantity brought on site; quantity produced on site; quantity consumed on site; quantity contained in or as product; quantity stored on site as waste, and beginning and ending raw materials inventory. The issue of collecting mass balance/materials accounting information has been debated for over a decade. Congress, in enacting EPCRA, directed the National Academy of Sciences (NAS) to study this issue further. NAS recommended that the issue of adding materials accounting data merited further analysis. Because of competing priorities, this project is currently on-hold. No activities are planned for 1999.

Timetable:

Action	Date	FR Cite
NPRM	10/01/96	61 FR 51322
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Additional Information: SAN No. 3877

SECTORS AFFECTED: Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and, Solvent Recovery Services (SIC code 7389).

Agency Contact: Susan Hazen, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7408, Washington, DC 20460
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RIN: 2070–AD08

EPA—TSCA

Long-Term Actions

3685. TEST RULES; NEGOTIATED CONSENT ORDER AND TEST RULE PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 790

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/17/85	50 FR 20652
Interim Final Rule	06/30/86	51 FR 23706
Interim Final Rule - Technical Modification	09/01/89	54 FR 36311
NPRM	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank Kover
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Email: kover.frank@epa.gov

RIN: 2070–AB30

3686. LEAD; REGULATORY INVESTIGATION UNDER THE TOXIC SUBSTANCES CONTROL ACT (TSCA) TO REDUCE LEAD (PB) CONSUMPTION AND USE

Priority: Other Significant

CFR Citation: 40 CFR 721; 40 CFR 750; 40 CFR 745

Timetable:

Action	Date	FR Cite
ANPRM	05/13/91	56 FR 22096
NPRM Proposed Ban of Fishing Sinkers	03/09/94	59 FR 11122
Final Action Fishing Sinkers	12/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ellie Clark
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RIN: 2070–AC21

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Toxic Substances Control Act (TSCA)

Completed Actions

3687. • POLYCHLORINATED BIPHENYLS (PCBS) DISPOSAL AMENDMENTS (SECTION 610 REVIEW)

Priority: Info./Admin./Other

Legal Authority: 15 USC 2605(e)TSCA sec 6(e)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: In the April 25, 1997, issue of the Regulatory Agenda (62 FR 22297), EPA announced the review of the requirements for Polychlorinated Biphenyls (PCBs) Disposal (see RIN 2070-AD04) under section 610 of the Regulatory Flexibility Act, and solicited public comment on whether additional changes to that rule would further reduce impacts on small entities while still accomplishing the objectives of the statute authorizing the rule. We did not receive any comments in response to this request. On June 29, 1998, (63 FR 35384) EPA issued the final PCB Disposal Amendments which are anticipated to provide significant cost savings to the regulated community including small entities. EPA has also determined that this rule continues to be necessary to provide options for the safe disposal of PCB and to protect human health and the environment from potential unreasonable risks associated with exposure to PCBs as required by the Toxic Substances Control Act. With this notice, EPA hereby concludes its section 610 review of this rule.

Timetable:

Action	Date	FR Cite
End Review	06/29/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 4202

Agency Contact: Sandy Zavolta, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7503W, Washington, DC 20460
Phone: 202 260-2303

RIN: 2070–AD32

3688. • ASBESTOS WORKER PROTECTION RULE (SECTION 610 REVIEW)

Priority: Info./Admin./Other

Legal Authority: 15 USC 2604 TSCA sec 6

CFR Citation: 40 CFR 763

Legal Deadline: None

Abstract: In the April 25, 1997, issue of the Regulatory Agenda (62 FR 22297), EPA announced the review of the Asbestos Worker Protection Rule (see RIN 2070-AC66), the Amendments to the Asbestos Containing Materials in Schools Rule (see RIN 2070-AC62), and the Asbestos Model Accreditation Plan (see RIN 2070-AC51) under section 610 of the Regulatory Flexibility Act, and solicited public comment on whether additional changes to these rules would further reduce impacts on small entities while still accomplishing the objectives of the statute authorizing the rule. We received a few comments on the rules and EPA intends to propose streamlining amendments for these actions. Each action is identified separately in the Regulatory Agency. EPA also determined that this rule continues to be necessary to protect human health and the environment from potential unreasonable risks associated with exposure to asbestos. With this notice, EPA hereby concludes its section 610 review of these rules.

Timetable:

Action	Date	FR Cite
End Review	09/02/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 4203

Agency Contact: Sandy Zavolta, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7503W, Washington, DC 20460
Phone: 202 260-2303

RIN: 2070–AD33

EPA—TSCA

Completed Actions

3689. • AMENDMENTS TO THE ASBESTOS CONTAINING MATERIALS IN SCHOOLS RULE (SECTION 610 RULE)

Priority: Info./Admin./Other

Legal Authority: 15 USC 2605 TSCA sec 6; 15 USC 2607 TSCA sec8; 15 USC 2647 TSCA sec 7

CFR Citation: 40 CFR 763

Legal Deadline: None

Abstract: In the April 25, 1997, issue of the Regulatory Agenda (62 FR 22297), EPA announced the review of the Asbestos Worker Protection Rule (see RIN 2070-AC66), the Amendments to the Asbestos Containing Materials in Schools Rule (see RIN 2070-AC62), and the Asbestos Model Accreditation Plan (see RIN 2070-AC51) under section 610 of the Regulatory Flexibility Act, and solicited public comment on whether additional changes to these rules would further reduce impacts on small entities while still accomplishing the objectives of the statute authorizing the rule. We received a few public comments on the rules and EPA intends to propose streamlining amendments for these actions. Each action is identified separately in the Regulatory Agency. EPA also determined that this rule continues to be necessary to protect human health and the environment from potential unreasonable risks associated with exposure to asbestos. With this notice, EPA hereby concludes its section 610 review of these rules.

Timetable:

Action	Date	FR Cite
End Review	09/02/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 4204

Agency Contact: Sandy Zavolta, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7503W, Washington, DC 20460
Phone: 202 260-2303

RIN: 2070–AD34

3690. • ASBESTOS MODEL ACCREDITATION PLAN (SECTION 610 REVIEW)

Priority: Info./Admin./Other

Legal Authority: 15 USC 2646 TSCA sec 6

CFR Citation: 40 CFR 763

Legal Deadline: None

Abstract: In the April 25, 1997, issue of the Regulatory Agenda (62 FR 22297), EPA announced the review of the Asbestos Worker Protection Rule (see RIN 2070-AC66), the Amendments to the Asbestos Containing Materials in Schools Rule (see RIN 2070-AC62), and the Asbestos Model Accreditation Plan (see RIN 2070-AC51) under section 610 of the Regulatory Flexibility Act, and solicited public comment on whether additional changes to these rules would further reduce impacts on small entities while still accomplishing the objectives of the statute authorizing the rule. We received a few comments on the rules and EPA intends to propose streamlining amendments for these actions. Each action is identified separately in the Regulatory Agency. EPA also determined that this rule continues to be necessary to protect human health and the environment from potential unreasonable risks associated with exposure to asbestos. With this notice, EPA hereby concludes its section 610 review of these rules.

Timetable:

Action	Date	FR Cite
End Review	09/02/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 4205

Agency Contact: Sandy Zavolta, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7503W, Washington, DC 20460
Phone: 202 260-2303

RIN: 2070–AD35

3691. LEAD-BASED PAINT; DISCLOSURE REQUIREMENTS AT RENOVATION OF TARGET HOUSING

Priority: Other Significant

CFR Citation: 40 CFR 745; 24 CFR 35

Completed:

Reason	Date	FR Cite
Final Action	06/01/98	63 FR 29908

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Ellie Clark
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RIN: 2070–AC65

3692. REGULATORY INVESTIGATION OF FORMALDEHYDE

Priority: Info./Admin./Other

CFR Citation: 40 CFR 765

Completed:

Reason	Date	FR Cite
Withdrawn - No further regulatory action.	08/14/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank Kover
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RIN: 2070–AB14

3693. REGULATORY INVESTIGATION OF DIOXIN IN PULP AND PAPER MILL SLUDGE

Priority: Other Significant

CFR Citation: 40 CFR 744

Completed:

Reason	Date	FR Cite
Withdrawn - No further regulatory action planned.	08/10/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Barbara Leczynski
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RIN: 2070–AC05

3694. PCBS; POLYCHLORINATED BIPHENYLS (PCBS) DISPOSAL AMENDMENTS

Priority: Economically Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 761

EPA—TSCA

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action - PCB Disposal Provisions	06/29/98	63 FR 35384

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Tony Baney
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RIN: 2070–AD04

3695. TSCA SECTION 8(D) HEALTH AND SAFETY DATA MODEL REPORTING RULE AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 716

Completed:

Reason	Date	FR Cite
Direct Final Rule	04/01/98	63 FR 15765

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2070–AD17

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Emergency Planning and Community Right-to-Know Act (EPCRA)

Proposed Rule Stage

3696. TRI; POLLUTION PREVENTION ACT INFORMATION REQUIREMENTS

Regulatory Plan: This entry is Seq. No. 112 in Part II of this issue of the Federal Register.

RIN: 2070–AC24

3697. TRI; CHEMICAL EXPANSION; FINALIZATION OF DEFERRED CHEMICALS

Regulatory Plan: This entry is Seq. No. 113 in Part II of this issue of the Federal Register.

RIN: 2070–AC47

3698. TRI; REPORTING THRESHOLD AMENDMENT; TOXIC CHEMICALS RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW

Regulatory Plan: This entry is Seq. No. 114 in Part II of this issue of the Federal Register.

RIN: 2070–AD09

3699. TRI; REVIEW OF CHEMICALS ON THE ORIGINAL TRI LIST

Regulatory Plan: This entry is Seq. No. 115 in Part II of this issue of the Federal Register.

RIN: 2070–AD18

3700. TRI; ADDITION OF OIL AND GAS EXPLORATION AND PRODUCTION TO THE TOXIC RELEASE INVENTORY

Regulatory Plan: This entry is Seq. No. 116 in Part II of this issue of the Federal Register.

RIN: 2070–AD19

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Emergency Planning and Community Right-to-Know Act (EPCRA)

Final Rule Stage

3701. • EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW PROGRAMS; AMENDMENTS TO HAZARDOUS CHEMICAL REPORTING THRESHOLDS FOR GASOLINE AND DIESEL FUEL AT RETAIL GAS STATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 99-499

CFR Citation: 40 CFR 370

Legal Deadline: None

Abstract: On June 8, 1998, EPA proposed a series of modifications to section 302 through 312 of EPCRA. These proposed modifications included raising the threshold for gasoline and diesel fuel at retail gas stations when stored entirely underground, and in compliance with Underground Storage Tank Regulation; raising the threshold under sections 311 and 312 for sand, gravel, rock salt and other chemicals that pose minimal risk and minimal hazards to the community; revising existing regulations to put them in a Plain English format; and providing other regulatory changes and draft guidance. However, in this rule, the Agency is finalizing only the new thresholds for gasoline and diesel fuel at retail gas stations when stored entirely underground, and in compliance with Underground Storage Tank Regulation. The other proposals will be finalized in a separate, later rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	06/08/98	63 FR 31268
Final Rule	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 4163

Agency Contact: Vanessa Rodriguez, Environmental Protection Agency, Solid Waste and Emergency Response, 5104, Washington, DC 20460
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EPA—EPCRA

Final Rule Stage

Meg Victor, Environmental Protection Agency, Solid Waste and Emergency Response, 5104, Washington, DC 20460
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RIN: 2050–AE58

3702. ACCIDENTAL RELEASE PREVENTION REQUIREMENTS: RISK MANAGEMENT PROGRAMS UNDER THE CLEAN AIR ACT, SECTION 112(R)(7): AMENDMENT

Priority: Other Significant

Legal Authority: 42 USC 7412(r); 42 USC 7601(a)(1)

CFR Citation: 40 CFR 68

Legal Deadline: None

Abstract: The Clean Air Act section 112(r) required EPA to publish regulations focusing on the prevention of chemical accidents, building on the chemical safety work begun under the Emergency Planning and Community Right-to-Know Act (EPCRA). On June 20, 1996, EPA published the final rule for Risk Management Programs. An estimated 66,000 facilities are subject to this regulation based on the quantity of regulated substances they have on-site. These facilities will be required to implement a Risk Management Program and submit a summary of the program (the risk management plan, or RMP) to a central location specified by EPA. The RMP data will assist State and local government entities responsible for chemical emergency preparedness and prevention. It will also be useful to environmental and community organizations and the public in understanding the chemical risks in their communities. EPA will use the RMP data to set priorities, target resources, and measure the success of the Risk Management Program in accordance with the Government Performance and Results Act (GPRA). In addition, EPA hopes the availability of this information will stimulate a dialogue between industry and the public to improve accident prevention and emergency response practices at the local level.

EPA proposed the following modifications to the RMP final rule: (1) clarify how Confidential Business Information (CBI) should be submitted to EPA; (2) add 4 required and 5 optional data elements to the previous requirements; and (3) replace Standard Industrial Classification (SIC) codes with the North American Industry Classification System (NAICS).

Timetable:

Action	Date	FR Cite
NPRM	04/17/98	63 FR 19216
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4029

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John Ferris, Environmental Protection Agency, Solid Waste and Emergency Response, 5104, Washington, DC 20460
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RIN: 2050–AE46

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Emergency Planning and Community Right-to-Know Act (EPCRA)

Long-Term Actions

3703. EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT: AMENDMENTS AND STREAMLINING RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 355; 40 CFR 370

Timetable:

Action	Date	FR Cite
NPRM	06/08/98	63 FR 31268
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Vanessa Rodriguez
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Meg Victor
Phone: 202 260-1379

RIN: 2050–AE17

3704. MODIFICATION OF THE EXTREMELY HAZARDOUS SUBSTANCE (EHS) LIST

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 355

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: John Ferris
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RIN: 2050–AE42

3705. MODIFICATION OF THRESHOLD PLANNING QUANTITY FOR ISOPHORONE DIISOCYANATE

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 355

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Ferris
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RIN: 2050–AE43

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Resource Conservation and Recovery Act (RCRA)

Prerule Stage

3706. HAZARDOUS WASTE STORAGE AND DISPOSAL REGULATION RELATED TO LOW LEVEL MIXED WASTE; PROPOSED MODIFICATIONS

Regulatory Plan: This entry is Seq. No. 97 in Part II of this issue of the Federal Register.

RIN: 2050–AE45

3707. REINVENTING THE LAND DISPOSAL RESTRICTIONS PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6924

CFR Citation: 40 CFR 268

Legal Deadline: None

Abstract: The Land Disposal Restrictions (LDR) program was established to minimize threats posed by the land disposal of untreated hazardous wastes. The program has been in place for a number of years and now regulates all but the most recently listed hazardous wastes. The Agency is now examining the LDR program, exploring past accomplishments, current issues, and future possibilities. The goals of the examination are to make the LDR program cheaper, smarter, cleaner, and more flexible. The Agency will develop an Advance Notice of Proposed Rulemaking (ANPRM) to present initial thinking and the results of some activities taken as part of the ongoing LDR Reinvention Project so that the public will have an opportunity to comment. A proposed and final rule will follow.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/99	
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: 325 Chemical Manufacturing; 331 Primary Metal Manufacturing; 2122 Metal Ore Mining; 32411 Petroleum Refineries

Additional Information: SAN No. 4093

Agency Contact: Sue Slotnick, Environmental Protection Agency, Solid Waste and Emergency Response, 5302W, Washington, DC 20460
Phone: 703 308-8462

RIN: 2050–AE53

3708. LAND DISPOSAL RESTRICTIONS; POTENTIAL REVISIONS FOR MERCURY LISTED AND CHARACTERISTIC WASTES; ANPRM

Priority: Other Significant

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6924

CFR Citation: 40 CFR 268

Legal Deadline: None

Abstract: This Advance Notice of Proposed Rulemaking (ANPRM) will solicit data and comments on treatment data that the Agency has gathered on the treatment of mercury wastes. Some forms of mercury wastes are now required to be treated by either incineration or retorting. Both of these forms of treatment have the potential to emit mercury via air emissions. Also, some information suggests that certain waste types which are required to be retorted are not amenable to that form of treatment. There also is a shrinking demand for mercury, which brings up concerns about requiring recovery of mercury wastes. The data and information gathered by this ANPRM process are intended to be used to propose revised treatment standards for some forms of mercury hazardous wastes in a future rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: 3353 Electrical Equipment Manufacturing; 325181 Alkalies and Chlorine Manufacturing; 32551 Paint and Coating Manufacturing; 3254 Pharmaceutical and Medicine Manufacturing

Additional Information: SAN No. 4094

Agency Contact: Mary Cunningham, Environmental Protection Agency, Solid Waste and Emergency Response, 5302W, Washington, DC 20460
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RIN: 2050–AE54

3709. REVIEW OF TOXICITY CHARACTERISTIC LEVEL FOR SILVER UNDER THE RESOURCE CONSERVATION RECOVERY ACT (RCRA)

Priority: Info./Admin./Other

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6938

CFR Citation: 40 CFR 261; 40 CFR 268

Legal Deadline: None

Abstract: This action initiates a technical review of the possible risks associated with management of silver-bearing wastes, which is being conducted in response to petitions submitted to the Agency to delete the toxicity characteristic level for silver. EPA will address all potential pathways for risks from silver-bearing wastes, including possible ecological effects.

Silver is on the toxicity characteristic list because it was a regulated drinking water contaminant. In January 1991, the Agency deleted the primary drinking water maximum contaminant level (MCL) for silver because the Agency concluded that silver causes no adverse human health effects. The petitioners, users of silver materials and silver waste generators, petitioned the Agency to delete silver from the TC list on the basis of the Agency's conclusions regarding silver toxicity to humans in deleting the MCL.

The Agency believes that before a decision can be made to delete or modify the toxicity characteristic level for silver, a more complete assessment of risks posed by management of silver-bearing wastes must be conducted, including a review of possible ecological risks.

Pending the outcome of this review, the Agency may revise or delete the TC level for silver, if warranted.

Timetable:

Action	Date	FR Cite
Initial Study Complete	06/30/97	
Peer Review Expected Completion Date	10/00/98	
Final Study	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 3886

Agency Contact: Jan Young, Environmental Protection Agency,

EPA—RCRA

Prerule Stage

Solid Waste and Emergency Response, 5307W, Washington, DC 20460
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RIN: 2050–AE37

3710. RCRA REPORTING AND RECORDKEEPING BURDEN REDUCTION; ANPRM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 104-13; 42 USC 6907; 42 USC 6912(a); 42 USC 6921 to 6927; 42 USC 6930; 42 USC 6934; 42 USC 6935; 42 USC 6937 to 6939; 42 USC 6944; 42 USC 6949a; 42 USC 6974

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: To comply with the requirements of the Paperwork Reduction Act of 1995, EPA must reduce the information collection burden associated with the reporting and recordkeeping requirements imposed on the regulated community by the Agency's regulatory programs. Information Collection Requests (ICRs) approved by the Office of Management and Budget provide a measure of the reporting and recordkeeping requirements associated with a particular regulation. The Office of Solid Waste (OSW) is conducting a review of RCRA ICRs and developing options for reducing the associated burden. OSW will solicit comment on these ideas in either an Advance Notice of Proposed Rulemaking or a proposed rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/99	
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Sectors Affected: 323 Printing and Related Support Activities; 324 Petroleum and Coal Products Manufacturing; 325 Chemical Manufacturing; 326 Plastics and Rubber Products Manufacturing; 331 Primary Metal Manufacturing; 332 Fabricated Metal Product Manufacturing; 334 Computer and Electronic Product Manufacturing; 562 Waste Management and Remediation Services

Additional Information: SAN No. 4084

Agency Contact: Laurie Solomon, Environmental Protection Agency, Solid Waste and Emergency Response, 5302W, Washington, DC 20460
Phone: 703 308-8443

Robert Burchard, Environmental Protection Agency, Solid Waste and Emergency Response, 5302W, Washington, DC 20460
Phone: 703 308-8450

RIN: 2050–AE50

3711. RCRA APPENDIX VIII STREAMLINING; ANPRM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6938

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: This action will propose to modify the list of chemicals found in Appendix VIII of 40 CFR part 261 by: (1) adding new chemicals which have been found to be toxic to humans and/or wildlife when they are managed in commerce, stockpiled, or discarded, and (2) deleting those chemicals for which the potential for exposure no longer exists, or for which analytical methods do not exist.

Timetable:

Action	Date	FR Cite
ANPRM	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 4090

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RIN: 2050–AE55

3712. REGULATORY DETERMINATION ON REMAINING WASTES FROM THE COMBUSTION OF FOSSIL FUELS

Priority: Other Significant

Legal Authority: 42 USC 6921(b)(3)(C); RCRA sec 3001(b)(3)(C)

CFR Citation: Not yet determined

Legal Deadline:
Final, Judicial, April 1, 1999, The Agency is seeking a 6 month extension to the legal deadline.

Abstract: On December 1, 1992, the Agency determined that additional study of four large-volume wastes -- fly ash, bottom ash, boiler slag and flue gas emission control wastes -- from the combustion of coal by electric utility power plants was not necessary. A Final Regulatory Determination on these wastes was signed on August 2, 1993 and published in the Federal Register on August 9, 1993. The Agency also determined that for the remaining fossil-fuel combustion wastes, additional data collection is necessary to make a Regulatory Determination on these wastes and a Final Regulatory Determination will be made by April 1, 1999. These remaining wastes include: (1) fly ash, bottom ash, boiler slag, and flue gas emission control wastes from the combustion of coal by electric utility power plants when such wastes are mixed with, co-disposed, co-treated, or otherwise co-managed with other wastes generated in conjunction with the combustion of coal or other fossil fuels, and (2) any other wastes subject to section 8002(n) of RCRA other than those subject to the August 1993 regulatory determination referenced above. The Agency is seeking a six-month extension to the legal deadline for the Phase II regulatory determination.

Timetable:

Action	Date	FR Cite
Notice of Availability	02/12/93	58 FR 8273
Regulatory Determination (Phase I Four Fossil Fuel Wastes)	08/09/93	58 FR 42466
Regulatory Determination (Phase II Remaining Wastes)	04/00/99	

EPA—RCRA

Prerule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 3201

Agency Contact: Dennis Ruddy, Environmental Protection Agency, Solid Waste and Emergency Response, 5306W, Washington, DC 20460
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RIN: 2050–AD91

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Resource Conservation and Recovery Act (RCRA)

Proposed Rule Stage

3713. MODIFICATIONS TO RCRA RULES ASSOCIATED WITH SOLVENT-CONTAMINATED SHOP TOWELS AND WIPERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6921

CFR Citation: 40 CFR 261; 40 CFR 273

Legal Deadline: None

Abstract: This action would modify RCRA rules that impact the management of solvent-contaminated shop towels and wipers. Solvent contaminated shop towels and wipers are used throughout industry for equipment cleaning and other related facility operations. Many times the spent shop towels and wipers are a hazardous waste because the solvent used is either a characteristic or listed solvent. An examination of industry use and management practices reveals that many facilities may use only small amounts of solvent on their disposable wipers, and use small numbers of wipers daily -- suggesting that these materials, particularly if listed solvents are being used, may pose little or no risk to human health and the environment if disposed in municipal landfills. Similarly, situations exist where both disposable wipers and reusable shop towels are not being managed according to prescribed Federal and States rules and policies. Problems with this issue have persisted since the late 1980s.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Sectors Affected: 323 Printing and Related Support Activities; 325 Chemical Manufacturing; 332 Fabricated Metal Product Manufacturing; 333 Machinery Manufacturing; 334 Computer and Electronic Product Manufacturing; 336 Transportation Equipment Manufacturing; 337 Furniture and Related Product Manufacturing; 441 Motor Vehicle and Parts Dealers; 811 Repair and Maintenance; 812 Personal and Laundry Services

Additional Information: SAN No. 4091

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RIN: 2050–AE51

3714. GLASS-TO-GLASS RECYCLING OF CATHODE RAY TUBES (CRTS): CHANGES TO HAZARDOUS WASTE REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6923; 42 USC 6924; 42 USC 6925

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This action will revise the existing Federal hazardous waste regulations to remove unnecessary regulatory barriers to glass-to-glass recycling of Cathode Ray Tubes (CRTs). A CRT is the main component of a television or computer monitor. A CRT is made largely of specialized glasses, some of which contain lead to protect the user from X-rays inside the CRT. Due to the lead, when they are disposed of or reclaimed, some CRTs are hazardous wastes under the Federal Resource Conservation and Recovery Act (RCRA) regulations. Glass-to-glass recycling involves the return of used CRT glass to manufacturing of new CRTs.

This action is planned in response to a June 9, 1998 recommendation on CRT recycling from the Common Sense Initiative (CSI) to the Environmental Protection Agency (EPA). CSI is a consensus-based process for developing cleaner, cheaper, smarter environmental improvements that includes representatives of: industry; environmental groups; community groups; environmental justice groups; labor; and, Federal, State, local, and tribal governments. The recommendation involves minimizing RCRA requirements for glass-to-glass recycling while retaining appropriate controls to ensure protection of human health and the environment. The goal of the recommendation is to facilitate an increase in glass-to-glass recycling, thereby minimizing disposal of lead, increasing resource recovery, and enhancing protection of human health and the environment. The recommendation was developed by the Workgroup on Overcoming Barriers to Pollution Prevention, Product Stewardship, and Recycling of the Computers and Electronics CSI Subcommittee. The Workgroup's process for developing the recommendation on CRT recycling included information gathering, analysis, and discussion to reach consensus. The Workgroup started evaluating CRT recycling in general, and then agreed to limit the first phase of the project to glass-to-glass recycling. Other recycling processes will be evaluated in subsequent phases.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: No

EPA—RCRA

Proposed Rule Stage

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 334411 Electron Tube Manufacturing

Additional Information: SAN No. 4092

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RIN: 2050–AE52

3715. STANDARDIZED PERMIT FOR RCRA HAZARDOUS WASTE MANAGEMENT FACILITIES

Regulatory Plan: This entry is Seq. No. 117 in Part II of this issue of the Federal Register.

RIN: 2050–AE44

3716. HAZARDOUS WASTE MANIFEST REGULATION

Regulatory Plan: This entry is Seq. No. 118 in Part II of this issue of the Federal Register.

RIN: 2050–AE21

3717. REMOVAL OF REQUIREMENT TO USE SW-846 METHODS (TEST METHODS FOR EVALUATING SOLID WASTE: PHYSICAL/CHEMICAL METHODS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921 to 6927; 42 USC 6930; 42 USC 6934 to 6939; 42 USC 6974; 42 USC 9601(37); 42 USC 9614(c)

CFR Citation: 40 CFR 258; 40 CFR 260; 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 270; 40 CFR 279

Legal Deadline: None

Abstract: The EPA Office of Solid Waste (OSW) has been actively working to break down the barriers that the environmental monitoring community faces when trying to use new monitoring techniques. As a first step, OSW has accelerated its review process for new methods by eliminating several unnecessary internal review steps, and by streamlining the internal approval process for each new method. However, there are currently 32 citations in title 40 of the Code of Federal Regulations (CFR) where the use of SW-846 methods is required. As a second step for speeding up the approval process, OSW plans to remove the requirements to use SW-846 methods for other than method defined parameters (i.e., where the method defines the regulations, such as the Toxicity Characteristic Leaching Procedure) from 40 CFR. This will likely lead to an even more streamlined approval process since SW-846 will then be able to be handled strictly as guidance and not need the regulatory process for approval. This additional streamlining will permit new, more cost-effective methods to attain public and regulatory authority acceptance in much less time, allowing required monitoring to be done more cheaply, faster and, in some cases, more accurately.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3989

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RIN: 2050–AE41

3718. MODIFICATIONS TO THE DEFINITION OF SOLID WASTE AND REGULATIONS OF HAZARDOUS WASTE RECYCLING: GENERAL

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6905 Resource Conservation Recovery Act sec 1004; 42 USC 6921 to 6928; Resource Conservation Recovery Act sec 3001 to 3008

CFR Citation: 40 CFR 261; 40 CFR 266

Legal Deadline: None

Abstract: Recycling of hazardous waste is governed by the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations. The portion of these regulations known as the Definition of Solid Waste specifies whether hazardous materials that are recycled are subject to RCRA regulatory jurisdiction or not. Other parts of the regulations set forth requirements for managing recycled hazardous waste. This regulatory action will revise the hazardous waste recycling regulations to respond partially to concerns that they are overly complex, difficult to understand, and that they pose a barrier to safe hazardous waste recycling.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 2872

Agency Contact: Charlotte Mooney, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-7025

RIN: 2050–AD18

3719. CHLORINATED ALIPHATICS LISTING DETERMINATION

Priority: Other Significant

Legal Authority: 42 USC 6921 Resource Conservation Recovery Act sec 3001; 42 USC 9602 Superfund (CERCLA) sec 102

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline:
NPRM, Judicial, July 31, 1999.
Final, Judicial, September 30, 2000.

Abstract: This action addresses the potential risks posed by wastes from the production of chlorinated aliphatics, and determines whether these wastes should be listed as hazardous wastes under RCRA to control any potentially unacceptable risks. Any wastes newly listed as hazardous also will be added to the CERCLA list of hazardous substances. This action will be implemented by EPA and States authorized under RCRA. Impacts on local governments

are not expected, and small business impacts are undetermined.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3151

Agency Contact: Wanda Levine, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-0438

RIN: 2050–AD85

3720. LISTING DETERMINATION OF WASTES GENERATED DURING THE MANUFACTURE OF AZO, ANTHRAQUINONE, AND TRIARYLMETHANE DYES AND PIGMENTS

Priority: Other Significant

Legal Authority: 42 USC 6921 Resource Conservation Recovery Act sec 3001; 42 USC 9602 Superfund (CERCLA) sec 102

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline:
Other, Judicial, November 1, 1998, Dyes I Notice of Data Availability.
NPRM, Judicial, March 31, 1999, Dyes II (deferred wastes). Deadline for Dyes II final rule is 03/31/00.
Final, Judicial, November 1, 1999, Dyes I.

Abstract: This action addresses the potential human health and environmental risks posed by wastes from the manufacture of dyes and pigments, and determines whether these wastes should be listed as hazardous wastes under RCRA to control any potentially unacceptable risks. If listed under RCRA, these wastes would also be added to the CERCLA list of hazardous substances. This action will be implemented by EPA and States authorized under RCRA. Impacts on local governments are not expected, and small business impacts are undetermined at this time. Three waste streams (filter aids, triarylmethane, and anthraquinone) are subject to separate deadlines for proposed and final action (Dyes II rulemaking). The deadlines are based on recent settlement discussions with plaintiffs in EDF v. Browner, Civil Action No. 89-0598 D.D.C.

Timetable:

Action	Date	FR Cite
NPRM Dyes I	12/22/94	59 FR 66072
Notice Dyes I (Notice of Data Availability)	11/00/98	
NPRM Dyes II (Deferred Wastes)	03/00/99	
Final Action Dyes I	11/00/99	
Final Action Dyes II (Deferred Wastes)	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3066

Agency Contact: Katharine Fredriksen, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-8285

RIN: 2050–AD80

3721. REVISIONS TO THE COMPREHENSIVE GUIDELINE FOR PROCUREMENT OF PRODUCTS CONTAINING RECOVERED MATERIALS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6912(a) Resource Conservation Recovery Act sec 6002(e)

CFR Citation: 40 CFR 247

Legal Deadline: None

Abstract: RCRA section 6002 requires EPA to issue guidelines which designate items that are or can be made with recovered materials and to recommend practices for government procurement of these materials. Once designated, procuring agencies are required to purchase these items with the highest percentage of recovered materials practicable. Government procurement of EPA-designated items containing recovered materials fosters markets for those materials and, thereby, closes the recycling loop. On May 1, 1995, under the authority of RCRA and in compliance with Executive Order (E.O.) 12873, Federal Acquisition, Recycling, and Waste Prevention, EPA designated 19 items in a Comprehensive Procurement Guideline (CPG) (60 FR 21370). EPA also issued purchasing recommendations in a related Recovered Materials Advisory Notice (RMAN) (60 FR 21386). The E.O. requires EPA to update the CPG and issue RMANs annually. On November 13, 1997, EPA issued the first update to the CPG (CPG2), in which 12 additional items were designated; additional recommendations are discussed in RMAN II. The new actions would: (1) propose the second update to the CPG (CPG3), including recommendations in RMANs, and (2) propose the third update to the CPG (CPG4). In addition, EPA will issue a revision to the Paper Products RMAN to incorporate E.O. 12873 requirements to buy printing and writing grade papers with 30% post-consumer content starting 12/31/98. EPA will also revise its RMAN I to include recommendations for purchasing recycled content carpet and plastic batt building insulation.

Timetable:

Action	Date	FR Cite
Notice – Paper Products Recovered Materials Advisory Notice	06/08/98	63 FR 31214
Notice – Recovered Materials Advisory Notice I Update	06/08/98	63 FR 31217
NPRM (CPG3)	08/26/98	63 FR 45558
NPRM (CPG4)	12/00/98	
Final (CPG3)	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3545

Agency Contact: Terry Grist, Environmental Protection Agency, Solid Waste and Emergency Response, 5306W, Washington, DC 20460
Phone: 703 308-7257

RIN: 2050–AE23

3722. MANAGEMENT OF CEMENT KILN DUST (CKD)

Regulatory Plan: This entry is Seq. No. 119 in Part II of this issue of the Federal Register.

RIN: 2050–AE34

3723. REVISED STANDARDS FOR HAZARDOUS WASTE COMBUSTION FACILITIES

Regulatory Plan: This entry is Seq. No. 135 in Part II of this issue of the Federal Register.

RIN: 2050–AE01

3724. MERCURY-CONTAINING AND RECHARGEABLE BATTERY MANAGEMENT ACT; CODIFICATION OF WASTE MANAGEMENT PROVISIONS

Priority: Other Significant

Legal Authority: 42 USC 14303

CFR Citation: 40 CFR 271; 40 CFR 273

Legal Deadline: None

Abstract: The purpose of this rule is to codify into the Code of Federal Regulations certain provisions of the Mercury-Containing and Rechargeable Battery Management Act that impact the May 11, 1995 Universal Waste Rule (60 FR 25492). The Act was signed by the President on May 13, 1996 and became immediately effective nationwide on the date of signature. Specifically, one provision of the law requires the collection, storage, and transportation of the following types of batteries be managed according to standards established in the Universal Waste rule: used rechargeable batteries, lead-acid batteries not covered by 40 CFR part 266 or the equivalent requirements of an approved state program, rechargeable alkaline batteries, certain mercury-containing batteries banned from domestic sale, and used consumer products containing rechargeable batteries that are not easily removable. The law prohibits State imposed requirements that are not identical to those found in the final Federal universal waste rule, but allows States to adopt and enforce identical standards and to implement and enforce collection, storage, and transport requirements identical to those included in the universal waste rule if the standards are approved by the EPA Administrator.

The costs of this action should be minimal to the regulated industry since the community regulated by the law -- battery manufacturers, industries that use batteries in their consumer products, and the retail industry -- all support the law. In addition, the regulated community has rechargeable battery recycling programs already in place and such recycling programs are in compliance with the labeling and management provisions of the law. Second, most States have state rechargeable battery recycling statutes in place but their recycling programs vary to some degree with respect to labeling and management requirements. Therefore, modifications to State statutes for rechargeable battery recycling will be necessary, but not costly.

Timetable:

Action	Date	FR Cite
Direct Final Rule	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: SAN No. 3888

Agency Contact: Bryan Groce, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-8750
Fax: 703 308-0522

RIN: 2050–AE39

3725. RECYCLED USED OIL CONTAINING PCBS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9601(37); 42 USC 9614(c); 42 USC 6905; 42 USC 6912(a); 42 USC 6921 to 6927; 42 USC 6930; 42 USC 6934; 42 USC 6974

CFR Citation: 40 CFR 261; 40 CFR 279

Legal Deadline: None

Abstract: The direct final rule, published May 6, 1998, eliminates errors and clarifies ambiguities in the used oil management standards. Specifically, the rule clarifies (1) when used oil contaminated with polychlorinated biphenyls (PCBs) is regulated under the used oil management standards and when it is not, (2) that the requirements applicable to releases of used oil apply in States that are not authorized for the RCRA base program, (3) that mixtures of conditionally exempt small quantity generator (CESQG) wastes and used oil are subject to the used oil management standards irrespective of how that mixture is to be recycled, and (4) that the initial marketer of used oil that meets the used oil fuel specification need only keep a record of a shipment of used oil to the facility to which the initial marketer delivers the used oil. This rule also amends three incorrect references to the pre-1992 used oil specifications in the provisions which address hazardous waste fuel produced from, or oil reclaimed from, oil bearing hazardous wastes from petroleum refining operations.

EPA received relevant adverse comments on three of the amendments included in the May 6, 1998 direct final rule: the amendments to 40 CFR 261.5(j) (mixtures of conditionally exempt small quantity generator waste and used oil), 40 CFR 279.10(i) (applicability of the used oil management standards to used oil contaminated with polychlorinated biphenyls (PCBs)), and 40 CFR 279.74(b) (recordkeeping requirements for marketers of used oil that meets the used oil fuel specification). On July 14, 1998, the Agency removed these three amendments and reinstated the regulatory text that existed prior to the May 6, 1998 direct final rule. EPA will promulgate a final rule addressing the comments received and finalizing the three amendments, as appropriate.

Timetable:

Action	Date	FR Cite
NPRM	05/06/98	63 FR 25006
Direct Final Rule	05/06/98	63 FR 24963
Removal of Three Amendments	07/14/98	63 FR 37780
Final Rule	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4088

Agency Contact: Tom Rinehart, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-4309

RIN: 2050–AE47

3726. HAZARDOUS WASTE MANAGEMENT SYSTEM: POST-CLOSURE REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6926 Resource Conservation Recovery Act sec 3006; 42 USC 6912(a) Resource Conservation Recovery Act sec 2002(a); 42 USC 6924 Resource Conservation Recovery Act sec 3004; 42 USC 6925 Resource Conservation Recovery Act sec 3005

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 270; 40 CFR 124

Legal Deadline: None

Abstract: Under the current RCRA regulations, a facility that needs post-closure care must obtain a permit. In many cases, the post-closure permit is an appropriate mechanism for the regulatory agency to use to address the environmental needs at the facility. In other cases, however, a permit may not be appropriate. And, in some cases, the facility's post-closure care needs may have already been addressed through other legal mechanisms, such as enforcement actions or Superfund actions. In these cases, subsequent issuance of a post-closure permit would not provide any environmental benefit, although, under the current regulations, it is still required. This rule would remove the requirements to issue a permit to address post-closure care in all cases. A permit would remain an option, but EPA Regions and authorized States would be able to use other mechanisms as well, depending on the circumstances at the facility.

Timetable:

Action	Date	FR Cite
NPRM	06/08/94	59 FR 55778
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3042

Agency Contact: Barbara Foster, Environmental Protection Agency, Solid Waste and Emergency Response, 5303W, Washington, DC 20460
Phone: 703 308-7057

RIN: 2050–AD55

3727. SPENT SOLVENTS LISTING DETERMINATION

Priority: Other Significant

Legal Authority: 42 USC 6921 Resource Conservation Recovery Act sec 3001; 42 USC 9602 Superfund (CERCLA) sec 102

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline:
Final, Judicial, October 31, 1998.

Abstract: This action addresses the potential human health and environmental risks posed by certain used solvents and wastes from their use, and determines whether or not these wastes should be listed as hazardous wastes under RCRA. If listed under RCRA these wastes would also be added to the CERCLA list of hazardous substances. The spent solvents currently under this listing determination are: cumene, phenol, isophorone, acetonitrile, fufural, epichlorohydrin, methyl chloride, ethylene dibromide, benzyl chloride, p-dichlorobenzene, 2-methoxyethanol, 2-ethoxyethanol, 2-ethoxyethanol acetate, and cyclohexanol. On August 14, 1996, the Agency proposed not to list these spent solvents.

Timetable:

Action	Date	FR Cite
NPRM	08/14/96	61 FR 42318
Final	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3134

Agency Contact: Ron Josephson, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-0442

RIN: 2050–AD84

3728. HAZARDOUS WASTE MANAGEMENT SYSTEM; MODIFICATION OF THE HAZARDOUS WASTE PROGRAM; MERCURY-CONTAINING LAMPS

Priority: Other Significant

Legal Authority: 42 USC 6905; 42 USC 6912; 42 USC 6921; 42 USC 6922; 42 USC 6923; 42 USC 6930; 42 USC 6938

CFR Citation: 40 CFR 273

Legal Deadline: None

Abstract: This final rulemaking addresses the management of spent mercury-containing lamps. The rulemaking is based on data which indicate that mercury-containing lamps may be safely managed outside of the full subtitle C requirements of the RCRA hazardous waste system, using a streamlined regulatory structure under RCRA. The rule would have positive impacts on small businesses and State, local and tribal governments interested in collecting and managing lamps.

Timetable:

Action	Date	FR Cite
NPRM	07/27/94	59 FR 38288
Final	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3237

Agency Contact: Marilyn Goode, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-8800

RIN: 2050–AD93

3729. HAZARDOUS REMEDIATION WASTE MANAGEMENT REQUIREMENTS (COMMONLY REFERRED TO AS HAZARDOUS WASTE IDENTIFICATION RULE FOR CONTAMINATED MEDIA OR HWIR-MEDIA)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6905 Resource Conservation Recovery Act (RCRA) sec 1006; 42 USC 6906 RCRA sec 1007; 42 USC 6912 RCRA sec 2002; 42 USC 6912(a) RCRA sec 2002(a); 42 USC 6921 RCRA sec 3001; 42 USC 6922 RCRA sec 3002; 42 USC 6923 RCRA sec 3003; 42 USC 6924 RCRA sec 3004; 42 USC 6925 RCRA sec 3005; 42 USC 6926 RCRA sec 3006; 42 USC 6927 RCRA sec 3007; 42 USC 6935 RCRA sec 3014; 42 USC 6936 RCRA sec 3015; 42 USC 6937 RCRA sec 3016; 42 USC 6974 RCRA sec 7004

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 268; 40 CFR 270; 40 CFR 271

Legal Deadline: None

Abstract: The Agency's goal for the HWIR-media proposal was to provide significant relief from administrative and substantive obstacles for the management of remediation wastes, so that states and EPA could base waste management decisions on actual site conditions and waste characteristics, according to their professional judgment instead of strict national requirements that are not uniformly appropriate at all cleanup sites. The Agency wanted to reduce the overlap between RCRA and the Clean Water Act (CWA) or Marine Protection, Research and Sanctuaries Act (MPRSA) for dredging operations, and EPA was considering withdrawing the regulations for Corrective Action Management Units (CAMUs). Finally, an additional goal was to streamline state authorization.

The Agency has decided on the general framework for finalization of the HWIR-media rule. The Agency plans to promulgate only targeted elements of the proposal rather than go forward with a more comprehensive approach. EPA plans to complement the targeted elements by leaving the CAMU regulations in place, rather than withdrawing these regulations as proposed. Targeted elements EPA plans to include are: streamlined permitting for cleanup sites that would eliminate the requirements for facility-wide corrective action at cleanup-only sites; options for remediation piles that resolve issues raised in the public comments; and a RCRA exclusion for dredged materials managed under CWA or MPRSA permits. EPA is also planning to include streamlined procedures for state authorization of minor or routine RCRA rules. EPA is withdrawing the portions of the proposal which would have distinguished between lower- and higher-risk contaminated media and would have given regulatory agencies the flexibility to exempt lower-risk contaminated media from RCRA requirements. The Agency has finalized the alternative land disposal restriction treatment standards for hazardous contaminated soil as part of the Land Disposal Restrictions Phase IV rulemaking (63 FR 28556, May 26, 1998).

Timetable:

Action	Date	FR Cite
NPRM	05/20/92	57 FR 21450
NPRM Withdrawn	10/30/92	57 FR 49280
NPRM	04/29/96	61 FR 18780
Final	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 2982

Agency Contact: Carolyn Hoskinson, Environmental Protection Agency, Solid Waste and Emergency Response, 5303W, Washington, DC 20460
Phone: 703 308-8626

RIN: 2050–AE22

3730. RCRA SUBTITLE C FINANCIAL TEST CRITERIA (REVISION)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6912(a) Resource Conservation Recovery Act sec 2002(a); 42 USC 6924 Resource Conservation Recovery Act sec 3004; 42 USC 6925 Resource Conservation Recovery Act sec 3005; 42 USC 6926 Resource Conservation Recovery Act sec 3006

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 280; 40 CFR 761

Legal Deadline: None

Abstract: The revised financial responsibility test is intended to improve the current test in predicting which firms will enter bankruptcy and not be able to cover their financial obligations for liability and closure costs of hazardous waste treatment, storage and disposal facilities. A bankrupt firm may be unable to afford the proper closure of a facility which would require the government to incur response costs at the facility. The rule would also qualify owners and operators of RCRA Treatment, Storage, and Disposal Facilities which must currently use more expensive ways, such as surety bonds or letters of credit, of demonstrating financial assurance, to use the less expensive corporate financial responsibility test for more of their obligations. The combined savings from screening out riskier firms and making the test more available to viable firms would be approximately $19 million annually in public and private costs. These regulatory amendments would have no effect on local or tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	07/01/91	56 FR 30201
NPRM	10/12/94	59 FR 51523
Notice of Data Availability	11/00/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 2647

Agency Contact: Dale Ruhter, Environmental Protection Agency, Solid Waste and Emergency Response, 5303W, Washington, DC 20460
Phone: 703 308-8192

RIN: 2050–AC71

3731. RCRA SUBTITLE D SOLID WASTE FACILITIES; STATE PERMIT PROGRAM—DETERMINATION OF ADEQUACY (STATE IMPLEMENTATION RULE)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6945 Resource Conservation Recovery Act sec 4005; 42 USC 6912 Resource Conservation Recovery Act sec 2002

CFR Citation: 40 CFR 239

Legal Deadline: None

Abstract: This rule will establish criteria and procedures for EPA to use to determine whether State municipal solid waste (MSW) landfill permit programs and State permit programs relating to non-municipal, non-hazardous waste disposal units that receive conditionally exempt small quantity generator (CESQG) waste are adequate to ensure compliance with the Federal revised criteria in 40 CFR parts 258 and 257, subpart B, respectively. While the Federal revised criteria apply to all MSW landfills and non-municipal, non-hazardous waste disposal units receiving CESQG waste, States with permit programs deemed adequate under this rule can provide some flexibility on certain requirements to owners and operators who meet the revised criteria's performance standards. In providing this flexibility, this action offers an opportunity to reduce the regulatory burden on State and local governments and on landfill owners and operators.

EPA—RCRA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/26/96	61 FR 2584
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 2751

Agency Contact: Karen Rudek, Environmental Protection Agency, Solid Waste and Emergency Response, 5306W, Washington, DC 20460
Phone: 703 308-1682

RIN: 2050–AD03

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Resource Conservation and Recovery Act (RCRA)

Long-Term Actions

3732. HAZARDOUS WASTE MANAGEMENT SYSTEM: SLAG RESIDUES DERIVED FROM HIGH TEMPERATURE METALS RECOVERY (HTMR) TREATMENT OF KO61, KO62 AND F0006 WASTES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 261; 40 CFR 266

Timetable:

Action	Date	FR Cite
NPRM	12/29/94	59 FR 67256
Final	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Narendra Chaudhari
Phone: 703 308-0454

RIN: 2050–AE15

3733. HAZARDOUS WASTE IDENTIFICATION; RECYCLED USED OIL MANAGEMENT STANDARDS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 279

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Tom Rinehart
Phone: 703 308-4309

RIN: 2050–AE28

3734. PAINT MANUFACTURING WASTES LISTING: HAZARDOUS WASTE MANAGEMENT SYSTEM: IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 40 CFR 261; 40 CFR 271; 40 CFR 302

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Tribal, Federal

Agency Contact: Cate Jenkins
Phone: 703 308-0453
Fax: 703 308-0514

RIN: 2050–AE32

3735. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE; INORGANIC CHEMICAL INDUSTRY WASTES; AND CERCLA HAZARDOUS SUBSTANCE DESIGNATION AND REPORTABLE QUANTITIES

Priority: Other Significant

CFR Citation: 40 CFR 261; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 268; 40 CFR 271; 40 CFR 302

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Anthony Carrell
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Fax: 703 308-0522
Email: carrell.anthony@epamail.epa.gov
Max Diaz
Phone: 703 308-0439

RIN: 2050–AE49

3736. • INTERIM EMERGENCY RULE REVISING LAND DISPOSAL RESTRICTION TREATMENT STANDARDS FOR ALUMINUM POTLINERS—K088 WASTE

Priority: Other Significant

Legal Authority: 42 USC 6924, RCRA 3004m

CFR Citation: 40 CFR 268; 40 CFR 271

Legal Deadline: Final, Judicial, September 24, 1998.
Interim Final Rule

Abstract: EPA is promulgating treatment standards for spent potliners from primary aluminum reduction (EPA hazardous waste: K088) under its Land Disposal Restrictions (LDR) program. The purpose of the LDR program, authorized by the Resource Conservation and Recovery Act (RCRA), is to minimize threats to human health and the environment due to land disposal of hazardous wastes. As a result of this rule, spent potliners will be prohibited from land disposal unless the wastes have been treated in compliance with the numerical standards contained in the rule. These treatment standards are necessary to minimize threats to human health and the environment from exposure to hazardous constituents which may potentially leach from landfills to groundwater.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/24/98	63 FR 51254
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4158

Agency Contact: Elaine Eby, Environmental Protection Agency, Solid Waste and Emergency Response, 5302W, Washington, DC 20460
Phone: 703 308-8449

RIN: 2050–AE59

EPA—RCRA

Long-Term Actions

3737. HAZARDOUS WASTE IDENTIFICATION RULE (HWIR): IDENTIFICATION AND LISTING OF HAZARDOUS WASTES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 268

Timetable:

Action	Date	FR Cite
NPRM	05/20/92	57 FR 21450
NPRM Withdrawn	10/30/92	57 FR 49280
NPRM Reproposal	12/21/95	60 FR 66344
NPRM Reproposal	10/00/99	
Final	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Tracy Atagi
Phone: 703 308-8672

RIN: 2050–AE07

3738. FINAL DETERMINATION OF THE APPLICABILITY OF THE TOXICITY CHARACTERISTIC RULE TO UNDERGROUND STORAGE TANKS, CONTAMINATED MEDIA, AND DEBRIS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 261

Timetable:

Action	Date	FR Cite
NPRM	02/12/93	58 FR 8504
Final	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Sammy Ng
Phone: 703 603-9900

RIN: 2050–AD69

3739. CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS (SWMUS) AT HAZARDOUS WASTE MANAGEMENT FACILITIES

Priority: Economically Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 264; 40 CFR 270

Timetable:

Action	Date	FR Cite
NPRM	07/27/90	55 FR 30798
Final Rule (Phase I)	02/16/93	58 FR 8658
ANPRM	05/01/96	61 FR 19432
Final	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Hugh Davis
Phone: 703 308-8633

RIN: 2050–AB80

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Resource Conservation and Recovery Act (RCRA)

Completed Actions

3740. DELETION OF SACCHARIN FROM THE LIST OF HAZARDOUS WASTES UNDER RCRA AND THE LIST OF HAZARDOUS SUBSTANCES UNDER CERCLA

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 261; 40 CFR 302.4

Completed:

Reason	Date	FR Cite
Withdrawn - No regulatory action is planned at this time.	08/18/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Wanda Levine
Phone: 703 308-0438

RIN: 2050–AD45

3741. FINAL RULE ON LAND DISPOSAL RESTRICTIONS FOR FIRST THIRD SCHEDULED WASTES (SECTION 610 REVIEW)

Priority: Info./Admin./Other

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 268; 40 CFR 271

Completed:

Reason	Date	FR Cite
End Review - Decision To Leave Rule Unchanged	08/17/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rhonda Minnick
Phone: 703 308-8771

RIN: 2050–AE56

3742. TECHNICAL STANDARDS AND CORRECTIVE ACTION REQUIREMENTS FOR OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS (SECTION 610 REVIEW)

Priority: Info./Admin./Other

CFR Citation: 40 CFR 280

Completed:

Reason	Date	FR Cite
End Review - Decision To Leave Rule Unchanged at This Time	09/23/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sammy Ng
Phone: 703 603-9900

RIN: 2050–AE57

EPA—RCRA

Completed Actions

3743. LISTING DETERMINATION FOR HAZARDOUS WASTES—ORGANOBROMINES CHEMICAL INDUSTRY

Priority: Other Significant

CFR Citation: 40 CFR 148; 40 CFR 261; 40 CFR 268; 40 CFR 271; 40 CFR 302

Completed:

Reason	Date	FR Cite
Final Action	05/04/98	63 FR 24595

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Agency Contact: Anthony Carrell
Phone: 703 308-0458

RIN: 2050–AD79

3744. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE: PETROLEUM REFINING PROCESS WASTES; LAND DISPOSAL RESTRICTIONS FOR NEWLY IDENTIFIED WASTES; AND CERCLA HAZARDOUS SUBSTANCE DESIGNATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 148; 40 CFR 261; 40 CFR 266; 40 CFR 268; 40 CFR 271; 40 CFR 302

Completed:

Reason	Date	FR Cite
Final Action	08/06/98	63 FR 42110

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Maximo Diaz, Jr.
Phone: 703 308-0439

RIN: 2050–AD88

3745. LAND DISPOSAL RESTRICTIONS PHASE IV: TREATMENT STANDARDS FOR METAL WASTES AND MINERAL PROCESSING WASTES; MINERAL PROCESSING SECONDARY MATERIALS AND BEVILL EXCLUSION ISSUES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 148; 40 CFR 261; 40 CFR 266; 40 CFR 268; 40 CFR 271

Completed:

Reason	Date	FR Cite
Final Action - (Mineral Processing and Characteristic Metal Wastes)	05/26/98	63 FR 28556

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Sue Slotnick
Phone: 703 308-8462

RIN: 2050–AE05

3746. UNDERGROUND STORAGE TANKS CONTAINING HAZARDOUS SUBSTANCES—FINANCIAL RESPONSIBILITY REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 280

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency does not plan any further action	08/21/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Barolo
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RIN: 2050–AC15

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Oil Pollution Act (OPA)

Final Rule Stage

3747. OIL POLLUTION PREVENTION REGULATION: REVISIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1321 Clean Water Act sec 311(j)(1)(C)

CFR Citation: 40 CFR 112

Legal Deadline: None

Abstract: Following a major inland oil spill with substantial environmental impacts (i.e., Ashland Oil in Floreffe, PA, in January 1988), an interagency task force recommended steps to improve EPA's oil spill prevention program (40 CFR part 112). This program requires oil storage facilities to prevent and contain discharges that could reach waters of the United States. On October 22, 1991, the Agency proposed revisions to implement some of the task force recommendations and on February 17, 1993, the Agency proposed further clarifications and technical changes to the spill prevention regulations. This action supplements the 1991 and 1993 proposed revisions, and proposes to reduce burdens associated with the rule by reducing the recordkeeping provisions or exempting some facilities from some recordkeeping requirements. In proposing these burden reductions, EPA will consider available data on how factors, such as facility type, size, throughput, and location, may affect the threat of discharging oil to waters of the United States.

Timetable:

Action	Date	FR Cite
NPRM	10/22/91	56 FR 54612
NPRM	02/17/93	58 FR 8824
Supplemental NPRM	12/02/97	62 FR 63812
Final	09/00/99	

EPA—OPA

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 2634

Agency Contact: Hugo Fleischman, Environmental Protection Agency, Solid Waste and Emergency Response, 5203G, Washington, DC 20460
Phone: 703 603-8769

RIN: 2050–AC62

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Oil Pollution Act (OPA)

Completed Actions

3748. FACILITY RESPONSE PLANNING FOR DELEGATED OFFSHORE FACILITIES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 112

Completed:

Reason	Date	FR Cite
Withdrawn - No further regulatory action is planned at this time.	08/18/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dana Stalcup
Phone: 703 603-8735

RIN: 2050–AE18

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Comprehensive Environmental Response, Compensation and Liability Act

Proposed Rule Stage

3749. STREAMLINING THE PREAUTHORIZATION MIXED FUNDING FOR APPLICATION AND IMPLEMENTATION OF CLAIMS AGAINST SUPERFUND

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 9601

CFR Citation: 40 CFR 307

Legal Deadline: None

Abstract: Current regulations at 40 CFR part 307 provide for the preauthorization of claims against the Superfund in instances where the Agency makes a determination that mixed funding is appropriate. This process has been labeled by many stakeholders as overly burdensome. The Agency has reviewed the current process in order to identify areas in which burdens may be lessened and requirements may be streamlined. As a result, the Agency is considering a proposal to amend the current regulation to: streamline the application process by eliminating duplicative information requirements; minimize the requirements related to management, oversight, and reporting of the cleanup, by removing the requirement to be guided by the Federal Acquisition Requirements, and replacing the requirement of maximum free and open competition with a bright-line standard; allow claimants to provide independent certification of claims and supporting documentation; streamline the actual payment process by taking advantage of the electronic funds transfer process; ensure that cost recovery concerns are addressed by requiring claimants, within a settlement document, to reimburse the Fund for costs not recovered (only in the event cost recovery is initiated), due to claimants' failure to provide adequate documentary support or upon a determination that response costs expended (and claimed) were not reasonable or not incurred consistent with the NCP; and ensure proper accounting by requiring offsets for funds owed to the Agency by claimants.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3885

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RIN: 2050–AE38

3750. GRANTS FOR TECHNICAL ASSISTANCE RULE REFORM—40 CFR PART 35 SUBPART M

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 9617(e) Superfund (CERCLA) sec 117

CFR Citation: 40 CFR 35

Legal Deadline: None

Abstract: The proposed revisions to the Technical Assistance Grants (TAG) Rule are intended to simplify the application and administrative processes. The new TAG Rule would eliminate the requirement that budget periods may not exceed 3 years. Budget periods would be negotiated with TAG applicants so that they have flexibility to synchronize the period of time during which the recipient anticipates having a technical advisor involved with the schedule of work at a site. In addition, the new rule would eliminate the 20 percent ceiling for administrative costs of a grant so that recipients do not need to differentiate between programmatic and administrative cost. The Agency is also proposing to eliminate the distinction between sole and multiple applicants under the rule, since both must meet identical criteria. The requirement that the applicant demonstrate that there is an actual or potential health threat

EPA—CERCLA — Proposed Rule Stage

posed to group members by the site would also be deleted since EPA believes that there is a potential health threat at all Superfund sites. EPA also believes that all Superfund sites pose potential economic and recreational threats to adjacent communities, and that there is no need for the applicant to provide evidence of those threats. Furthermore, EPA may already have sufficient information from various sources concerning the potential health, economic, and recreational threats posed by Superfund sites. This proposed rule also includes a new provision that allows communities to receive cash advances of up to $5,000.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3806

Agency Contact: Lois Gartner, Environmental Protection Agency, Solid Waste and Emergency Response, 5204G, Washington, DC 20460 Phone: 703 603-8889

RIN: 2050–AE33

3751. REPORTABLE QUANTITY ADJUSTMENTS FOR CARBAMATES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 96-510 Sec 102(a); PL 99-499

CFR Citation: 40 CFR 302

Legal Deadline: None

Abstract: EPA has listed carbamate waste streams as hazardous wastes under the Resource Conservation and Recovery Act (RCRA). RCRA listed wastes, by statute, automatically become hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and are assigned a one pound statutory reportable quantity (RQ) unless EPA adjusts them. These substances also become subject to reporting requirements under the Emergency Planning and Community Right-to-Know Act (EPCRA) with a one pound threshold. EPA, in this action, will propose RQ adjustments for the carbamates. Most RQ adjustments are expected to be greater than one pound. Raising the RQs for these substances would decrease the burden on 1) the regulated community for complying with the reporting requirements under CERCLA and EPCRA; 2) Federal, State, and local authorities for program implementation; and 3) Federal, State, or local authorities, if they release hazardous substances at the RQ level or greater.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3423

Agency Contact: Frank Avvisato, Environmental Protection Agency, Solid Waste and Emergency Response, 5202G, Washington, DC 20460 Phone: 703 603-8949

RIN: 2050–AE12

3752. NATIONAL PRIORITIES LIST FOR UNCONTROLLED HAZARDOUS WASTE SITES: PROPOSED AND FINAL RULES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9605 Superfund (CERCLA) sec 105

CFR Citation: 40 CFR 300.425

Legal Deadline: None

Abstract: This action proposes to revise the sites included on the National Priorities List (NPL) of uncontrolled waste sites in the National Contingency Plan (NCP). CERCLA requires that the Agency revise the NPL at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substance releases and to delete sites that have been cleaned up.

Timetable:

Action	Date	FR Cite
NPRM 24	03/06/98	63 FR 11340
Final 20	03/06/98	63 FR 11332
NPRM 25	07/28/98	63 FR 40247
Final 21	07/28/98	63 FR 40182
Final (Tex-Tin Corp.)	09/18/98	63 FR 49855
NPRM 26	09/29/98	63 FR 51882
Final 22	09/29/98	63 FR 51848
NPRM 27	01/00/99	
Final 23	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3439

Agency Contact: Terry Keidan, Environmental Protection Agency, Solid Waste and Emergency Response, 5204G, Washington, DC 20460 Phone: 703 603-8852

RIN: 2050–AD75

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Final Rule Stage

Comprehensive Environmental Response, Compensation and Liability Act

3753. REVOCATION OF CAPROLACTAM'S DESIGNATION AS A HAZARDOUS SUBSTANCE UNDER CERCLA

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9602,et seq

CFR Citation: 40 CFR 302.4

Legal Deadline: None

Abstract: The purpose of this rulemaking is to give notice that caprolactam is no longer a designated CERCLA hazardous substance. When the Clean Air Act (CAA) section 112 listed caprolactam as a hazardous air pollutant, caprolactam became designated as a CERCLA hazardous substance under section 101(14) and 40 CFR 302.4(a). In response to a petition filed by Allied Signal, Inc., BASF Corporation, and DSM Chemicals North America, the Agency made a determination pursuant to CAA section 112(b)(3)(C) that there are adequate data on the health and environmental effects of caprolactam to determine that emissions, ambient concentrations, bioaccumulation, or deposition of the compound may not be reasonably anticipated to cause adverse human health or environmental effects. Caprolactam is no longer listed as a CAA section 112 hazardous air pollutant and also does not appear in any regulations designating as hazardous substances referred to in section 101(14) of CERCLA (exclusive of section 101(14)(B)). In this regulation, the Agency is revoking caprolactam's designation as a hazardous substance under CERCLA.

Timetable:

Action	Date	FR Cite
Direct Final Rule	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4075

Agency Contact: Lynn M. Beasley, Environmental Protection Agency, Solid Waste and Emergency Response, 5204G, Washington, DC 20460 Phone: 703 603-9086

RIN: 2050–AE48

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Long-Term Actions

Comprehensive Environmental Response, Compensation and Liability Act

3754. REPORTING EXEMPTIONS FOR FEDERALLY PERMITTED RELEASES OF HAZARDOUS SUBSTANCES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 117; 40 CFR 302; 40 CFR 355

Timetable:

Action	Date	FR Cite
NPRM	07/19/88	53 FR 27268
Supplemental Notice	07/11/89	54 FR 29306
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lynn Beasley Phone: 703 603-9086

RIN: 2050–AB82

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Completed Actions

Comprehensive Environmental Response, Compensation and Liability Act

3755. REPORTABLE QUANTITY ADJUSTMENT FOR RADON-222

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 302

Completed:

Reason	Date	FR Cite
Withdrawn - No regulatory action is planned at this time.	08/18/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lynn Beasley Phone: 703 603-9086

RIN: 2050–AE20

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Prerule Stage

Clean Water Act (CWA)

3756. EFFLUENT GUIDELINES AND STANDARDS FOR THE ORE MINING AND DRESSING POINT SOURCE CATEGORY, GOLD PLACER MINE SUBCATEGORY (SECTION 610 REVIEW)

Priority: Info./Admin./Other

Legal Authority: 5 USC 610

CFR Citation: 40 CFR 440

Legal Deadline: None

Abstract: On May 24, 1988, EPA issued final effluent guidelines for the Gold Placer Mine Subcategory (40 CFR part 440)under the authority of sections 301; 304(b), (c), and (e); 306; 307; and 501 of the Clean Water Act. In the 1988 promulgation notice, EPA noted that the effluent limitations were economically achievable for facilities of all sizes. Due to the large number of small entities covered by the final rule and EPA's concern about the economic impact on the small facilities, the final rule included a request for comments concerning the impact on small mines. After evaluating all of the comments and data submitted during this comment period, the Agency reaffirmed the conclusions regarding economic achievability. In January 1989, EPA published a notice of the Agency's response to the comments and the Agency's conclusion not to modify the final rule.

This new action is a review of the final rule as required by section 610 of the Regulatory Flexibility Act. The purpose of the review is to determine whether the Placer Mine effluent guidelines should be continued without change, or should be amended or rescinded, to minimize economic impacts on small entities while still complying with the provisions of the Clean Water Act. In reviewing this final rule to minimize any significant economic impacts, EPA will consider the following factors: (1) the continued need for the rule; (2) the nature of complaints or comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates or conflicts with other Federal, State, or local government rules; and (5) the degree to which technology, economic

EPA—CWA — Prerule Stage

conditions, or other factors have changed in the area affected by the rule. EPA invites public comment on the rule.

EPA continues to view the effluent guidelines for the Gold Placer Mine Subcategory as a necessary component of the comprehensive program to restore and maintain the quality of our Nation's waters. Unless and until the Agency modifies the rule, the discharges described in 40 CFR 440.140 remain subject to the final rule.

Timetable:

Action	Date	FR Cite
Complete Review	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: 212221 Gold Ore Mining

Additional Information: SAN No. 4133

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RIN: 2040–AD13

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Proposed Rule Stage

Clean Water Act (CWA)

3757. • TOTAL MAXIMUM DAILY LOAD (TMDL) PROGRAM REGULATIONS REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1313

CFR Citation: 40 CFR 130.7

Legal Deadline: None

Abstract: The Office of Water will be proposing changes to the existing regulations for implementing the Total Maximum Daily Load (TMDL) program under the Clean Water Act. The TMDL program is a key component of watershed management. It requires States to identify water quality-limited segments still in need of TMDLs for these waters. EPA is required to approve or disapprove State lists and TMDLs, and to establish lists of waters and TMDLs when it disapproves the State action.

In 1996, EPA convened a Federal Advisory Committee to provide comprehensive recommendations for improving the TMDL program, with a particular emphasis on the following issues: listing waters needing TMDLs; criteria for EPA approval of TMDLs; State and Federal program oversight; and science and tools for TMDL development. On July 28, 1998 the Committee submitted its recommendations to the EPA Administrator in the spring of 1998. EPA will carefully consider the Committee's recommendations and then propose changes to the existing TMDL program regulations. The ultimate purpose of these changes is to improve water quality by providing States with clear direction regarding listing of impaired waterbodies and the development of TMDLs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 4145

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RIN: 2040–AD22

3758. REVISIONS TO EFFLUENT GUIDELINES AND STANDARDS FOR THE OIL AND GAS EXTRACTION POINT SOURCE CATEGORY

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311; 33 USC 1314; 33 USC 1316; 33 USC 1317; 33 USC 1318; 33 USC 1361

CFR Citation: 40 CFR 435

Legal Deadline:
NPRM, Judicial, December 31, 1998.
Final, Judicial, December 31, 2000.

Abstract: This regulatory action will establish effluent limitations for the use of synthetic-based drilling fluids (SBF). Oil and Gas Extraction is covered by existing effluent guidelines at 40 CFR part 435. However, the SBFs are a new technology not addressed in the guidelines, and applying the existing regulations which were developed for water-based and oil-based drilling fluids is not appropriate. The use of SBFs presents an opportunity for environmental gain. On a drilling performance basis, SBFs replace oil-based drilling fluids, but unlike oil-based drilling fluids, SBFs are free of aromatic hydrocarbon priority pollutants, exhibit greatly reduced toxicity, biodegrade relatively rapidly, and do not bioaccumulate. Compared to water-based drilling fluids, SBFs have reduced aquatic toxicity and lower discharge volumes resulting in lower toxic metals discharge. To realize the potential environmental gain, new guidelines specific to the SBFs are necessary to minimize the wastestream volume and control potential contaminants, toxicity, biodegradation, and bioaccumulation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Sectors Affected: 211111 Crude Petroleum and Natural Gas Extraction

Additional Information: SAN No. 4086

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RIN: 2040–AD14

EPA—CWA — Proposed Rule Stage

3759. EFFLUENT GUIDELINES AND STANDARDS FOR THE CENTRALIZED WASTE TREATMENT INDUSTRY

Priority: Other Significant

Legal Authority: 33 USC 1311 Clean Water Act sec 301; 33 USC 1314 Clean Water Act sec 304; 33 USC 1316 Clean Water Act sec 306; 33 USC 1317 Clean Water Act sec 307; 33 USC 1361 Clean Water Act sec 501

CFR Citation: 40 CFR 437

Legal Deadline:
Final, Judicial, August 15, 1999.

Abstract: Centralized Waste Treatment (CWT) facilities receive hazardous and non-hazardous waste from off-site for treatment or recovery (excluding solvent recovery). EPA is developing effluent limitations based on Best Available Technology (BAT), Best Practicable Control Technology (BPT), New Source Performance Standards (NSPS), Pretreatment Standards for Existing Sources (PSES), and Pretreatment Standards for New Sources (PSNS). This rule was formerly titled Waste Treatment, Phase I.

Timetable:

Action	Date	FR Cite
NPRM	01/27/95	60 FR 5464
Reproposal	11/00/98	
Final	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 2805

Agency Contact: Jan Matuszko, Environmental Protection Agency, Water, 4303, Washington, DC 20460
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RIN: 2040–AB78

3760. REFORMATTING OF EFFLUENT GUIDELINES AND STANDARDS IN 40 CFR PARTS 405 THROUGH 471

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1251; 33 USC 1313 Clean Water Act sec 101; 33 USC 1311 Clean Water Act sec 301; 33 USC 1314 Clean Water Act sec 304; 33 USC 1316 Clean Water Act sec 306; 33 USC 1317 Clean Water Act sec 307

CFR Citation: 40 CFR 405 to 471 (Revision)

Legal Deadline: None

Abstract: This regulatory action would reformat the existing Effluent Limitation Guidelines and Standards found in 40 CFR parts 405 through 471 without making any changes to the requirements therein. The purpose of this action is to streamline the CFR and establish a format that is easier for Federal, State, and local regulators and the regulated community to read and understand. This action does not require State, local, or tribal governments or the regulated community to do anything beyond what is currently required. This rule, will, therefore, not impose any economic burden.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3767

Agency Contact: Hugh Wise, Environmental Protection Agency, Water, 4303, Washington, DC 20460
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RIN: 2040–AC79

3761. STREAMLINING 301(H) WAIVER RENEWAL REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC

CFR Citation: 40 CFR 125(g)

Legal Deadline: None

Abstract: EPA is proposing an amendment to the regulations contained in 40 CFR part 125, subpart G. These regulations implement Section 301(h) of the Clean Water Act, 33 USC section 1311(h). Section 301(h) provides publicly owned treatment works (POTWs) discharging to marine waters an opportunity to obtain a modification of secondary treatment requirements if they demonstrate to EPA that they comply with a number of criteria aimed at protecting the marine environment. This proposal is designed to streamline the renewal process for POTWs with 301(h) modified permits. The action would eliminate unnecessary paperwork. It would specify that a completed application would not be required for renewals in cases where EPA already has the required information. Additional information would only be required as necessary to determine ongoing compliance with the 301(h) criteria. This regulation should reduce paperwork submissions from municipalities, which should save time and resources.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	
Final	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Undetermined

Additional Information: SAN No. 3804

Agency Contact: John Lishmar, Environmental Protection Agency, Water, 4504F, Washington, DC 20460
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RIN: 2040–AC89

3762. EFFLUENT GUIDELINES AND STANDARDS FOR IRON AND STEEL MANUFACTURING POINT SOURCE CATEGORY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 33 USC 1311 Clean Water Act sec 301; 33 USC 1314 Clean Water Act sec 304; 33 USC 1316 Clean Water Act sec 306; 33 USC 1317 Clean Water Act sec 307; 33 USC 1362 Clean Water Act sec 502

CFR Citation: 40 CFR 420

Legal Deadline:
NPRM, Judicial, December 31, 1998.
Final, Judicial, December 31, 2000, EPA plans to file an unopposed motion to extend these deadlines.

Abstract: EPA will propose amendments to the effluent limitations

guidelines for the Iron and Steel Manufacturing Point Source Category to reflect significant industry changes related to consolidation and modernization within the U.S. steelmaking industry as well as advances in manufacturing technologies, in process pollution prevention, water conservation practices, and end-of-pipe wastewater treatment. EPA is negotiating an extension to the judicial deadline for this rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3833

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RIN: 2040–AC90

3763. GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF TRACE METALS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) Clean Water Act sec 304(h); 33 USC 1361(a) Clean Water Act sec 501

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action would propose to amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR 136 to approve new EPA methods for the determination of trace metals at EPA's water quality criteria levels. These methods are necessary for the implementation of water quality-based permits under the National Pollutant Discharge Elimination System (NPDES) of the CWA. Water quality-based permits are necessary when technology-based controls do not allow a particular water body to meet the State's designated water quality standard. Because the methods currently approved under 40 CFR 136 were designed to support primarily technology-based permitting needs, and because these technology-based levels are as much as 280 times higher than water quality-based criteria for metals, approval of new EPA test procedures is necessary.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3702

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RIN: 2040–AC75

3764. BEST TECHNOLOGY AVAILABLE (BTA) FOR COOLING WATER INTAKE STRUCTURES UNDER SECTION 316(B) OF THE CLEAN WATER ACT

Regulatory Plan: This entry is Seq. No. 120 in Part II of this issue of the Federal Register.

RIN: 2040–AC34

3765. REVISION OF NPDES INDUSTRIAL PERMIT APPLICATION REQUIREMENTS AND FORM 2C—WASTEWATER DISCHARGE INFORMATION

Regulatory Plan: This entry is Seq. No. 121 in Part II of this issue of the Federal Register.

RIN: 2040–AC26

3766. STREAMLINING THE GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

Regulatory Plan: This entry is Seq. No. 122 in Part II of this issue of the Federal Register.

RIN: 2040–AC58

3767. REVISIONS TO NPDES REQUIREMENTS FOR COMPLIANCE REPORTING AND COLLECTION SYSTEM DISCHARGES

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311 Clean Water Act sec 301; 33 USC 1318 Clean Water Act sec 308; 33 USC 1342 Clean Water Act sec 402; 33 USC 1361 Clean Water Act sec 501(a)

CFR Citation: 40 CFR 122.41

Legal Deadline: None

Abstract: EPA is proposing revisions to the NPDES regulations. The proposed revisions would clarify how standard noncompliance reporting requirements and prohibition/defense provisions in NPDES permits apply to discharges from sanitary sewer and combined sewer collection systems owned and operated by municipal entities. These proposed revisions respond to recommendations made by a FACA Subcommittee (under the Urban Wet Weather Federal Advisory Committee) that was convened by U.S. EPA to provide recommendations for improving NPDES program implementation efforts which address sanitary sewer overflows (SSOs) and sanitary sewer operation, management, and maintenance. The proposed revisions would address combined sewers as well as separate sanitary sewers in order to avoid confusion among the regulatory community. Failures in sewer collection systems can result in discharges of wastewater containing raw sewage to surface waters. Pathogens and other pollutants in these discharges can create significant health and environmental risks. The SSO FACA Subcommittee identified inconsistent application of several key NPDES provisions to SSOs as a major implementation problem. There is substantial agreement among the SSO FACA Subcommittee that EPA should modify the NPDES regulations to clarify how noncompliance reporting and prohibition/defense provisions apply to dischargers to waters of the U.S. from a sanitary sewer collection system.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3999

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RIN: 2040–AD02

3768. ESTABLISHMENT OF ELECTRONIC REPORTING FOR NPDES PERMITTEES

Priority: Substantive, Nonsignificant

Legal Authority: CWA 301; CWA 304(i); CWA 308; CWA 402; CWA 501

CFR Citation: 40 CFR 122.22; 40 CFR 122.41(k); 40 CFR 122.41(j); 40 CFR 122.41(l); 40 CFR 122.63

Legal Deadline: None

Abstract: EPA is proposing changes to its NPDES regulations to allow reports and other information to be submitted electronically. When EPA promulgated the current NPDES regulations, the Agency did not anticipate the need or technologies for electronic reporting. Consequently, the current regulations do not specifically address use of electronic reporting technologies. The proposed rule would establish criteria for electronic reporting and a specific process and conditions for electronic reporting of discharge monitoring reports (DMR) to EPA that are intended to achieve reliable and secure electronic reporting in the NPDES program. The proposal addresses electronic signature, certification, and record keeping requirements that permittees would follow when submitting forms to EPA electronically.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4051

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RIN: 2040–AD11

3769. CLEAN WATER ACT DEFINITION OF THE WATERS OF THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1361; 33 USC 1362; Clean Water Act sec 501; Clean Water Act sec 502

CFR Citation: 40 CFR 232

Legal Deadline: None

Abstract: This joint action by EPA and Department of Army (Army) likely will address two aspects of the regulatory definition of waters of the United States under the Clean Water Act (CWA). First, the proposal would clarify CWA jurisdiction over isolated waters and wetlands, the use, degradation, or destruction of which would or could affect interstate commerce. This would include addressing the issues raised with regard to such waters by the May 1998 decision of the United States Court of Appeals for the Fourth Circuit in U.S. v. Wilson, 133 F.3d 251. Second, the proposal would clarify what specific categories of artificial waters created out of dry land are generally not considered to be waters of the United States and, therefore, not subject to permit requirements. The proposal would appropriately reflect existing agency guidance interpreting the regulatory definition of waters of the United States as is currently applied to CWA regulatory programs. The purpose of this action is to update and clarify regulatory definitions in light of existing guidance and program developments.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
Final	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 2804

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RIN: 2040–AB74

3770. AMENDMENTS TO ROUND I FINAL SEWAGE SLUDGE USE OR DISPOSAL RULE —PHASE TWO

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1251 Clean Water Act sec 101; 33 USC 1345 Clean Water Act sec 405

CFR Citation: 40 CFR 503

Legal Deadline: None

Abstract: EPA is amending the Round I Final Sewage Sludge Use or Disposal Regulation in two phases (i.e., Phase One and Phase Two). Phase Two will address issues presented by judicial remand of specific requirements in the final rule (part 503) and requests for reconsideration and will modify certain technical requirements. The proposed changes will impact Federal, State, local and tribal governments, as well as small businesses and small governmental jurisdictions. EPA expects that these changes will increase flexibility and thus reduce the regulatory burden.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4207

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RIN: 2040–AC53

3771. TEST PROCEDURES FOR THE ANALYSIS OF CRYPTOSPORIDIUM AND GIARDIA UNDER THE SAFE DRINKING WATER AND CLEAN WATER ACTS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251 et seq Clean Water Act sec 304 (h); 33 USC 1314(h) Clean Water Act sec 501 (a);

EPA—CWA — Proposed Rule Stage

33 USC 1361 SDWA1401; 42 USC 300f SDWA sec 1412; 42 USC 300g-1 SDWA sec 1413; 42 USC 300g-2 SDWA sec 1414; 42 USC 300g-3 SDWA sec 1415; 42 USC 300g-4 SDWA sec 1416; 42 USC 300g-5 SDWA sec 1445; 42 USC 300j-4 SDWA sec 1450; 42 USC 300j-9

CFR Citation: 40 CFR 136; 40 CFR 141

Legal Deadline: None

Abstract: This regulatory action would propose to amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR 136 and the analytical methods under 40 CFR 141 to approve EPA Method 1622 for the detection of Cryptosporidium and Giardia in ambient waters and finished drinking water by filtration of a 10-L sample in laboratory, separation of target organisms from other debris using immunomagnetic separation, and detection of the organisms using immunofluorescence assay and differential interference contrast microscopy and confirmation examination of the organisms using vital dye stains. This method would be used by public water systems to collect occurrence and treatment data to characterize Cryptosporidium and Giardia in drinking water articulated in a National Primary Drinking Water Regulation. EPA expects that EPA Method 1622 would increase recovery and would provide better precision than the method included in an earlier EPA rulemaking that collected occurrence data on these contaminants, thus providing for more reliable data.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4047

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RIN: 2040–AD08

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Clean Water Act (CWA) — Final Rule Stage

3772. • WATER QUALITY STANDARDS FOR ALABAMA

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1313; CWA 303

CFR Citation: 40 CFR 131

Legal Deadline:
Final, Statutory, June 3, 1998, EPA is required to promulgate rule 90 days after proposal.

Abstract: Under the CWA, States have primary authority in developing water quality standards for waters within their jurisdiction. EPA maintains oversight authority in that States must submit their water quality standards to EPA for review and approval or disapproval. If a State's water quality standards are not consistent with the requirements of the CWA and its supporting regulations, and are subsequently disapproved by EPA, the State must revise the disapproved water quality standards. If the State does not revise the disapproved water quality standards, the CWA authorizes the EPA Administrator to promulgate Federal water quality standards to supersede those disapproved provisions in the water quality standards.

On March 5, 1998, EPA proposed water quality standards applicable to nine stream segments to replace those provisions in Alabama's water quality standards that were disapproved in 1986 and in 1991. Specifically, EPA proposed use designations consistent with those specified in section 101(a) of the CWA to replace the State's assigned Agricultural and Industrial Water Supply use. The effect of the proposed standards is to replace the State-adopted water quality criteria, which protect only for fish survival, with water quality criteria based on protection of propagation of fish, aquatic life, and wildlife.

Timetable:

Action	Date	FR Cite
NPRM	03/05/98	63 FR 10799
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4195

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RIN: 2040–AD25

3773. • WATER QUALITY STANDARDS; ESTABLISHMENT OF NUMERIC CRITERIA FOR PRIORITY TOXIC POLLUTANTS; STATES' COMPLIANCE—REVISION OF POLYCHLORINATED BIPHENYLS (PCBS) CRITERIA

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251

CFR Citation: 40 CFR 131

Legal Deadline:
Other, Judicial, September 27, 1999, Settlement Agreement for publication of final rule.

Abstract: EPA is revising the rule promulgated on December 22, 1992, (National Toxics Rule or NTR) that established water quality criteria for twelve States and the District of Columbia and Puerto Rico, that has not adopted sufficient chemical-specific numeric criteria for toxic pollutants necessary to comply with the Clean Water Act. Among the criteria promulgated in the NTR were human health criteria for polychlorinated biphenyls (PCBs). EPA has proposed and taken comments on revisions to the human health criteria for PCBs in the NTR, based on the Agency's reassessment of the cancer potency of PCBs.

EPA—CWA — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/02/98	63 FR 16182
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4193

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RIN: 2040–AD27

3774. NPDES STREAMLINING RULE—ROUND II

Regulatory Plan: This entry is Seq. No. 136 in Part II of this issue of the Federal Register.

RIN: 2040–AC70

3775. EFFLUENT GUIDELINES AND STANDARDS FOR THE PULP, PAPER, AND PAPERBOARD CATEGORY; INCENTIVES AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311 Clean Water Act sec 301; 33 USC 1314 Clean Water Act sec 304; 33 USC 1316 Clean Water Act sec 306; 33 USC 1317 Clean Water Act sec 307; 33 USC 1361 Clean Water Act sec 501; 33 USC 1318 Clean Water Act sec 308

CFR Citation: 40 CFR 430

Legal Deadline: None

Abstract: This amendment would require those mills that choose to enroll in the Voluntary Advanced Technology Incentives Program in 40 CFR 430.24(b) to submit a plan (called a Milestone Plan) specifying research, construction, and other activities leading to achievement of the advanced technology effluent limits, with accompanying dates for achieving these milestones.

Timetable:

Action	Date	FR Cite
NPRM	04/15/98	63 FR 18795
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4039

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RIN: 2040–AD05

3776. ESTABLISHMENT OF NUMERIC CRITERIA FOR PRIORITY TOXIC POLLUTANTS FOR THE STATE OF CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1313 CWA 303

CFR Citation: 40 CFR 131

Legal Deadline:
Final, Statutory, November 3, 1997, EPA is required to promulgate 90 days after proposal.

Abstract: Several municipal entities and one industry in California sued the California State Water Resources Control Board (SWRCB) in State court over whether the SWRCB's water quality control plans for inland surface waters and enclosed bays and estuaries were adopted in compliance with authorizing State law. The court issued its final decision in March 1994; the Court agreed with the plaintiffs and found that the plans could not remain in effect. The SWRCB was ordered to rescind its plans which contain the State's numeric criteria for priority toxic pollutants. In the absence of State criteria, the Clean Water Act requires the Administrator to promulgate water quality criteria for priority toxic pollutants where EPA has issued section 304(a) criteria guidance when the discharge of such pollutants could reasonably be expected to interfere with the State's designated uses.

Timetable:

Action	Date	FR Cite
NPRM	08/05/97	62 FR 42160
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3504

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RIN: 2040–AC44

3777. GUIDELINES ESTABLISHING OIL AND GREASE TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) Clean Water Act sec 304(h); 33 USC 1361(a) Clean Water Act sec 501(a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulation will amend the Guidelines establishing Test Procedures for the Analysis of Pollutants under section 304(h) of the Clean Water Act to replace existing gravimetric test procedures for the conventional pollutants, Oil and Grease (40 CFR 401.16) with EPA Method 1664 consistent with the Chlorofluorocarbon (CFC) phaseout requirements of the Clean Air Act Amendments of 1990. Method 1664 uses normal hexane (n-hexane) as the extraction solvent in place of 1,1,2-trichloro-1,2, 2-trifluoroethane (CFC-113; Freon-113), which is used in current 40 CFR 136 approved methods for the determination of oil and grease. Presently approved methods are EPA Method 413.1 in Methods for Chemical Analysis of Water and Wastes (EPA-600/4-79-020) and Method 5520B in Standard Methods for the Examination of Water and Wastewater, 18th edition.

Timetable:

Action	Date	FR Cite
NPRM	01/23/96	61 FR 1730
Notice of Data Availability	10/02/97	62 FR 51621
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3617

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RIN: 2040–AC63

EPA—CWA

Final Rule Stage

3778. GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF CYANIDE UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) Clean Water Act sec 304(h); 33 USC 1361(a) Clean Water Act sec 501(a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action would amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR Part 136 to approve new procedures for the analysis of cyanide under the Clean Water Act.

"Cyanides" is a toxic pollutant as defined in the Clean Water Act section 307 and "total cyanide" is a priority pollutant listed at 40 CFR part 423, appendix A. The term total cyanide refers to all forms of cyanide, including those forms that are readily bioavailable such as free and weakly bound cyanide and those forms that are less bioavailable because the cyanide is strongly bound to a metal ion. EPA Method 335.1, Cyanides Amenable to Chlorination (CATC), is currently approved for the measurement of free and weakly complexed forms of cyanides. EPA Methods 335.2 and 335.3 are currently approved for measurement of total cyanides.

EPA Methods 335.1 and 335.3 call for hour-long distillation, chlorination requiring an hour, and two separate aliquots of a given sample distilled and analyzed independently to determine the CATC levels. In order to improve the accuracy and reduce the cost of cyanide measurements, EPA proposed new test procedures for the determination of cyanides.

Timetable:

Action	Date	FR Cite
NPRM	07/07/98	63 FR 36809
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3701

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RIN: 2040–AC76

3779. INCREASED METHOD FLEXIBILITY FOR TEST PROCEDURES APPROVED FOR CLEAN WATER ACT COMPLIANCE MONITORING UNDER 40 CFR PART 136

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) Clean Water Act sec 304 (h); 33 USC 1361(a) Clean Water Act sec 501 (a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action would highlight the flexibility already contained in the 600 and 1600 series of EPA Methods that are currently approved for Clean Water Act compliance monitoring under 40 CFR part 136, "Guidelines Establishing Test Procedures for the Analysis of Pollutants." These methods typically contain a statement that "In recognition of advances that are occurring in analytical technology, and to allow the analyst to overcome sample matrix interferences, the analyst is permitted certain options to improve separations or lower the costs of measurements. These options include alternate extraction, concentration, cleanup procedures, and changes in columns and detectors ...." The methods further require the analyst to demonstrate that the method modifications will not adversely affect the quality of data by generating quality control results that meet the specifications contained in the method. Despite this stated flexibility, the Agency has found that many NPDES and pretreatment permitting authorities are not aware of this flexibility when issuing or enforcing NPDES and pretreatment permits. Therefore, this regulatory action will highlight the existing method flexibility and clarify EPA's position regarding its application. This action will also extend this flexibility to other methods currently approved under 40 CFR part 136. The purpose of extending this flexibility to other methods is to (1) increase consistency between methods, (2) provide for increased recognition of advances in analytical technology, and (3) reduce costs associated with analytical measurements.

Timetable:

Action	Date	FR Cite
Direct Final Rule	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3714

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RIN: 2040–AC92

3780. PERFORMANCE BASED MEASUREMENT SYSTEM (PBMS) PROCEDURES AND GUIDANCE FOR TEST PROCEDURES AT 40 CFR PART 136

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) Clean Water Act sec 304 (h); 33 USC 1361(a) Clean Water Act sec 501 (a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action will establish the use of performance- based measurement procedures and guidance for incorporation of third party-developed test methods for use in Clean Water Act compliance monitoring under 40 CFR part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants. The new procedures would include guidance concerning the format, content, QA/QC, and data validation requirements for methods submitted for consideration. This regulatory action would also describe increased program guidance in the form of a clearinghouse, technical bulletins, and/or guidance documents geared towards clarifying technical and policy issues associated with the use of test methods approved for use in the program.

Timetable:

Action	Date	FR Cite
NPRM	03/28/97	62 FR 14975
Final Action	12/00/98	

EPA—CWA

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3713

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RIN: 2040–AC93

3781. GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF MISCELLANEOUS METALS, ANIONS, AND VOLATILE ORGANICS UNDER THE CLEAN WATER ACT, PHASE ONE

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) Clean Water Act sec 304(h); 33 USC 1361(a) Clean Water Act sec 501(a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action will amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR 136 to approve new procedures for the analysis of miscellaneous metals, anions, and volatile organics under the Clean Water Act (CWA). These methods are used for implementing water quality based permits under the National Pollutant Discharge Elimination System (NPDES) of the CWA. This action will not have a significant economic impact on State, local, or tribal governments, or small businesses. This regulation will approve test procedures to be used in measuring this group of compounds under the NPDES Program unless the Regional Administrator approves an alternative procedure. EPA plans to segment the rulemaking into two phases to accommodate different amounts of data for the long list of compounds.

Timetable:

Action	Date	FR Cite
NPRM	10/18/95	60 FR 53988
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3155

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RIN: 2040–AC95

3782. TEST PROCEDURES FOR THE ANALYSIS OF MERCURY UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251 et seq Clean Water Act sec 304 (h); 33 USC 1314(h) Clean Water Act sec 501 (a); 33 USC 1361(a)

CFR Citation: 40 CFR 136

Legal Deadline:
NPRM, Judicial, February 18, 1999, Judicial settlement Agreement in NDRC v EPA- No. 92-1415 (D.C. Cir.).

Abstract: This regulatory action would amend the "Guidelines Establishing Test Procedures for the Analysis of Pollutants" under 40 CFR 136 to approve EPA Method 1631 for the determination of mercury at EPA's recommended water quality criteria levels. This method is necessary for the implementation of water quality-based permits under the National Pollutant Discharge Elimination System (NPDES) of the Clean Water Act. Water quality-based permits are necessary when technology-based controls do not allow a particular water body to meet the State's designated water quality standard. Because the methods currently approved under 40 CFR part 136 were designed primarily to support technology-based permitting needs, and because these technology-based levels are as much as two orders of magnitude higher than water quality-based criteria for metals, approval of new EPA test procedures is necessary.

Timetable:

Action	Date	FR Cite
NPRM	05/26/98	63 FR 28867
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: SAN No. 4048

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RIN: 2040–AD07

3783. EFFLUENT GUIDELINES AND STANDARDS FOR THE INDUSTRIAL LAUNDRIES POINT SOURCE CATEGORY

Regulatory Plan: This entry is Seq. No. 137 in Part II of this issue of the Federal Register.

RIN: 2040–AB97

3784. UNIFORM NATIONAL DISCHARGE STANDARDS FOR ARMED FORCES VESSELS - PHASE I

Priority: Substantive, Nonsignificant

Legal Authority: Clean Water Act sec 312(n) as amended

CFR Citation: 40 CFR 139

Legal Deadline:
Final, Statutory, February 10, 1998.

Abstract: Section 312 of the CWA, as amended by the 1996 Defense Authorization Act, requires EPA and the Department of Defense, in consultation with other Federal agencies and affected States, to develop Uniform National Discharge Standards (UNDS) for discharges from armed forces vessels. These regulations will enable the Navy to design vessels to one protective uniform standard, instead of attempting to conform to diverse State standards. Promulgation of uniform standards may result in innovative waste management technologies that can be transferred to the private sector. The first phase of the legislation requires promulgation of joint regulations that specify which discharges require regulation, which

EPA—CWA — Final Rule Stage

entail the use of marine pollution control devices, as well as those which will not require regulation. Marine pollution control devices may be a piece of equipment designed to control a particular waste stream, or a management practice that would reduce the impacts of a discharge. The Navy and EPA will determine the nature and environmental effects of vessel discharges, as well as the practicability of installing marine pollution control devices for those discharges that require regulation. This regulation applies only to vessels of the armed forces, and therefore will have no impact on small businesses. State governments will be involved in the rulemaking process as this rule may impact State standards, if any exist, by taking precedence over those standards for vessels of the armed forces. The uniform national standards proposed by this action will regulate those liquid vessel discharges that would have adverse impacts on the marine environment. If there is new information that suggests the standard should be changed, a State may submit a petition for review to EPA and DoD concerning any standard promulgated under this action.

Timetable:

Action	Date	FR Cite
NPRM	08/25/98	63 FR 45297
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 3925

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RIN: 2040–AC96

3785. NPDES WASTEWATER PERMIT APPLICATION FORMS AND REGULATORY REVISIONS FOR MUNICIPAL DISCHARGES AND SEWAGE SLUDGE USE OR DISPOSAL

Regulatory Plan: This entry is Seq. No. 138 in Part II of this issue of the Federal Register.

RIN: 2040–AB39

3786. NPDES COMPREHENSIVE STORMWATER PHASE II REGULATIONS

Regulatory Plan: This entry is Seq. No. 139 in Part II of this issue of the Federal Register.

RIN: 2040–AC82

3787. COMPARISON OF DREDGED MATERIAL TO REFERENCE SEDIMENT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1344 Clean Water Act sec 404

CFR Citation: 40 CFR 230

Legal Deadline: None

Abstract: This action would revise the testing provisions of the Clean Water Act section 404(b)(1) Guidelines to provide for comparisons between dredged material proposed for discharge and reference sediment. Reference sediment would be defined as sediment that reflects conditions at the disposal site had no dredged material disposal ever occurred there. Because the disposal site itself is currently used as the point of comparison, this action would make a technical improvement in assessing cumulative impacts and help make dredged material testing under section 404 more consistent with that conducted for ocean disposal, which currently employs a reference sediment approach. This action is not expected to have a significant impact on state, local, or tribal governments or small business, as the action will be limited to Corps projects and permit applications for which dredged material testing is necessary, and because the effect of the action will be limited to changing the location of an otherwise collected sample.

Timetable:

Action	Date	FR Cite
NPRM	01/04/95	60 FR 419
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 3288

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Phone: 202 260-9910

RIN: 2040–AC14

3788. AMENDMENTS TO ROUND I FINAL SEWAGE SLUDGE USE OR DISPOSAL RULE—PHASE ONE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1251 Clean Water Act sec 101; 33 USC 1345 Clean Water Act sec 405

CFR Citation: 40 CFR 503

Legal Deadline: None

Abstract: EPA is amending the Round I Final Sewage Sludge Use or Disposal Regulation in two phases (i.e., Phase One and Phase Two). Phase I will respond to minor comments received on the Final Sewage Sludge Use or Disposal Round I Rule (part 503), correct some publication errors, and include some technical amendments. This action will modify the existing regulation to make the requirements for sewage sludge incinerators self-implementing and provide the regulated community flexibility in meeting other Part 503 requirements. The changes should not have any adverse impact on State, local, or tribal government or small businesses because no additional requirements are being imposed.

Timetable:

Action	Date	FR Cite
NPRM	10/25/95	60 FR 54771
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3497

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RIN: 2040–AC29

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Long-Term Actions

Clean Water Act (CWA)

3789. • EFFLUENT LIMITATIONS, GUIDELINES, AND STANDARDS FOR THE FEEDLOTS POINT SOURCE CATEGORY, SWINE AND POULTRY SUBCATEGORIES, AND NPDES REGULATION FOR CONCENTRATED ANIMAL FEEDING OPERATIONS

Priority: Other Significant

Legal Authority: 33 USC 1311; 33 USC 1314; 33 USC 1316; 33 USC 1317; 33 USC 1318; 33 USC 1361

CFR Citation: 40 CFR 412; 40 CFR 122.23

Legal Deadline:
NPRM, Judicial, December 31, 1999, Effluent Guideline.
Final, Judicial, December 31, 2001, Effluent Guideline.

Abstract: Feedlot operations are covered by existing effluent guidelines at 40 CFR part 412 and concentrated animal feeding operations (CAFOs) are covered by regulations at 40 CFR part 122.23. This action will revise the existing regulations for two of the effluent guidelines subcategories to address swine and poultry operations and the NPDES regulation for concentrated animal feeding operations. The existing regulations, which require the largest confined animal feeding operations to achieve zero discharge of wastes to surface waters except for certain storm related discharges, have not been sufficient to resolve water quality impairment from feedlot operations. Swine and poultry operations have been identified as substantial contributors of nutrients in surface waters that have severe anoxia (low levels of dissolved oxygen) and problem algae blooms.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 11221 Hog and Pig Farming; 11232 Broilers and Other Meat Type Chicken Production; 11231 Chicken Egg Production; 112112 Cattle Feedlots

Additional Information: SAN No. 4153

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RIN: 2040–AD19

3790. • EFFLUENT LIMITATIONS GUIDELINES AND STANDARDS FOR THE FEEDLOTS POINT SOURCE CATEGORY, DAIRY AND BEEF CATTLE SUBCATEGORIES

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 33 USC 1211; 33 USC 1214; 33 USC 1317; 33 USC 1318; 33 USC 1361

CFR Citation: 40 CFR 412

Legal Deadline:
NPRM, Judicial, December 31, 2000.
Final, Judicial, December 31, 2002.

Abstract: Feedlot operations are covered by existing effluent guidelines at 40 CFR part 412. This new regulatory action will revise the existing regulations for two of the subcategories--dairy and beef cattle operations. The existing regulations, which require the largest confined animal feeding operations to achieve zero discharge of wastes to surface waters except for certain storm related discharges, have not been sufficient to resolve water quality impairment from feedlot operations. Beef and dairy cattle operations represent a large segment of the feedlot industry and have been identified as substantial contributors of nutrients in surface waters that have severe anoxia (low levels of dissolved oxygen) and affect drinking water sources in the western and central regions of the country.

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4167

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RIN: 2040–AD21

3791. • REVISIONS TO EFFLUENT GUIDELINES AND STANDARDS FOR THE COAL MINING POINT SOURCE CATEGORY

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311; 33 USC 1314; 33 USC 1316; 33 USC 1317; 33 USC 1361

CFR Citation: 40 CFR 434

Legal Deadline:
NPRM, Judicial, December 31, 1999.
Final, Judicial, December 31, 2001.

Abstract: Coal mining discharges are covered by existing effluent guidelines at 40 CFR part 434. This new regulatory action will revise the existing regulations to address two new subcategories: coal remining and Western coal mining. The existing regulations do not cover remining operations, which, when appropriately planned and regulated, will improve effluent quality from abandoned mine lands while reclaiming them and prevent disturbance of unexploited lands. Advances in treatment technologies and Best Management Practices pertinent to coal mines in the arid West show promise of being more protective of water quality.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4168

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RIN: 2040–AD24

3792. WATER QUALITY STANDARDS; ESTABLISHMENT OF NUMERIC CRITERIA FOR PRIORITY TOXIC POLLUTANTS; STATES' COMPLIANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 131

Timetable:

Action	Date	FR Cite
Interim Final	05/04/95	60 FR 22229
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Cindy Roberts
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RIN: 2040–AC55

3793. SELENIUM CRITERION MAXIMUM CONCENTRATION FOR WATER QUALITY GUIDANCE FOR THE GREAT LAKES SYSTEM

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 132

Timetable:

Action	Date	FR Cite
NPRM	11/14/96	61 FR 58444
NPRM	12/16/96	61 FR 66007
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Mark Morris
Phone: 202 260-0312

RIN: 2040–AC97

3794. EFFLUENT GUIDELINES AND STANDARDS FOR THE METAL PRODUCTS AND MACHINERY CATEGORY, PHASES 1 AND 2

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 40 CFR 438

Timetable:

Action	Date	FR Cite
NPRM (Phase 1)	05/30/95	60 FR 28210
NPRM (Consolidated Phase 1 and 2)	10/00/00	
Final	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

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RIN: 2040–AB79

3795. EFFLUENT GUIDELINES AND STANDARDS FOR THE TRANSPORTATION EQUIPMENT CLEANING CATEGORY

Priority: Other Significant

CFR Citation: 40 CFR 442

Timetable:

Action	Date	FR Cite
NPRM	06/25/98	63 FR 34685
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

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RIN: 2040–AB98

3796. EFFLUENT GUIDELINES AND STANDARDS FOR LANDFILLS

Priority: Other Significant

CFR Citation: 40 CFR 445

Timetable:

Action	Date	FR Cite
NPRM	02/06/98	63 FR 6425
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

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RIN: 2040–AC23

3797. EFFLUENT GUIDELINES AND STANDARDS FOR INDUSTRIAL WASTE COMBUSTORS

Priority: Other Significant

CFR Citation: 40 CFR 444

Timetable:

Action	Date	FR Cite
NPRM	02/06/98	63 FR 6391
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Samantha Hopkins
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RIN: 2040–AD03

3798. EFFLUENT GUIDELINES AND STANDARDS FOR THE PULP, PAPER, AND PAPERBOARD CATEGORY, PHASE II

Priority: Other Significant

CFR Citation: 40 CFR 430

Timetable:

Action	Date	FR Cite
NPRM	12/17/93	58 FR 66078
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: J. Troy Swackhammer
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RIN: 2040–AD10

3799. • EFFLUENT GUIDELINES AND STANDARDS FOR THE PULP, PAPER, AND PAPERBOARD CATEGORY; MONITORING AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311 Clean Water Act sec 301; 33 USC 1314 Clean Water Act sec 304; 33 USC 1316 Clean Water Act sec 306; 33 USC 1317 Clean Water Act sec 307; 33 USC 1361 Clean Water Act sec 501; 33 USC 1318 Clean Water Act sec 308

CFR Citation: 40 CFR 430

Legal Deadline: None

Abstract: This amendment would provide for a certification in lieu of monitoring for one pollutant, chloroform, for mills using certain processes, which are specified. Basically, this amendment would apply to elemental chlorine-free mills, allowing them to submit a certification based on process changes and operational controls to demonstrate compliance with the chloroform limitation.

Timetable:

Action	Date	FR Cite
NPRM	04/15/98	63 FR 18796
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4192

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RIN: 2040–AD23

3800. WATER QUALITY STANDARDS REGULATION—REVISION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 131

Timetable:

Action	Date	FR Cite
ANPRM	07/07/98	63 FR 36741
NPRM	01/00/00	
Final Action	01/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Robert Wood
Phone: 202 260-9536

RIN: 2040–AC56

3801. GUIDELINES ESTABLISHING WHOLE EFFLUENT TOXICITY WEST COAST TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 136

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 2040–AC54

3802. TEST PROCEDURES FOR THE ANALYSIS OF CO-PLANAR AND MONO-ORTHO-SUBSTITUTED POLYCHLORINATED BIPHENYLS (PCBS) UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 136; 40 CFR 503

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

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RIN: 2040–AD09

3803. GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF MISCELLANEOUS METALS, ANIONS, AND VOLATILE ORGANICS UNDER THE CLEAN WATER ACT, PHASE TWO

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 136

Timetable:

Action	Date	FR Cite
NPRM	10/18/95	60 FR 53988
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 2040–AD12

3804. NPDES STREAMLINING RULE—ROUND III

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Thomas Charlton
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RIN: 2040–AC84

EPA—CWA — Long-Term Actions

3805. STANDARDS FOR THE USE OR DISPOSAL OF SEWAGE SLUDGE (ROUND II)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 40 CFR 503

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Federal

Agency Contact: Alan B. Rubin
Phone: 202 260-7589

RIN: 2040–AC25

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Completed Actions

Clean Water Act (CWA)

3806. 1998 EFFLUENT GUIDELINES PLAN

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Final Action	09/04/98	63 FR 47285

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2040–AD16

3807. EFFLUENT GUIDELINES AND STANDARDS FOR THE PHARMACEUTICAL MANUFACTURING CATEGORY

Priority: Other Significant

CFR Citation: 40 CFR 439

Completed:

Reason	Date	FR Cite
Final Action	09/21/98	63 FR 50387

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Agency Contact: Frank Hund
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RIN: 2040–AA13

3808. EFFLUENT GUIDELINES AND STANDARDS FOR THE PESTICIDE CHEMICALS MANUFACTURING AMENDMENT; PRETREATMENT STANDARDS; NEW AND EXISTING SOURCES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 455

Completed:

Reason	Date	FR Cite
Direct Final Rule	07/22/98	63 FR 39439

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Shari Zuskin
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RIN: 2040–AD01

3809. STREAMLINING REVISIONS TO THE WATER QUALITY PLANNING AND MANAGEMENT REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 130

Completed:

Reason	Date	FR Cite
Withdrawn - Superseded by RIN 2040-AD22, SAN No. 4145.	08/25/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Agency Contact: Amy Josin
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RIN: 2040–AC65

3810. STREAMLINING THE STATE SEWAGE SLUDGE MANAGEMENT REGULATIONS

Priority: Other Significant

CFR Citation: 40 CFR 123; 40 CFR 501

Completed:

Reason	Date	FR Cite
Final Action	08/24/98	63 FR 45113

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Wendy Bell
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RIN: 2040–AC87

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Proposed Rule Stage

Safe Drinking Water Act (SDWA)

3811. DRINKING WATER UNREGULATED CONTAMINANT MONITORING PROGRAM

Priority: Other Significant

Legal Authority: 43 USC 300(f) et seq; PL 104-182

CFR Citation: 40 CFR 141.35(a) to (d); 40 CFR 141.40(a) to (n)

Legal Deadline:
NPRM, Statutory, August 6, 1999, See Additional Information.

Abstract: The Unregulated Contaminant Regulation is required by the Safe Drinking Water Act as amended in 1996. Under these amendments EPA is required to publish a list of not more than 30 unregulated contaminants which public water supply systems are to monitor to determine, on a national basis, the location, concentration and related information regarding the occurrence of these contaminants and their potential for migrating to sources of public drinking water. The Amendments further require EPA to issue regulations which establish criteria for listing contaminants and for carrying out the Unregulated Contaminant Monitoring Program.

The results of the unregulated contaminant monitoring data are to be used by the Agency in determining which contaminants pose the greatest risks to human health and, if necessary, in setting priorities for their regulation. Conversely, contaminants that potentially pose risk to human health but are not found in drinking water supplies may be removed from consideration for regulation under the Safe Drinking Water Act.

The requirement to monitor for unregulated contaminants was first established by the 1986 Amendments to the Safe Drinking Water Act. Under the 1986 Amendments, the Agency required by regulation as many as 48 contaminants to be monitored. In addition, only public water systems serving 500 persons or fewer were exempt from monitoring provided that they made their facilities available for the States to monitor. Furthermore, repeat monitoring was required every 5 years.

The 1996 Amendments reduce the burden upon public water systems in several ways. First, the Amendments limit the number of contaminants that can be on the unregulated contaminant monitoring list to 30 or fewer. Second, instead of requiring all systems to monitor for unregulated contaminants, the amendments require that only a representative sample of systems serving 10,000 persons monitor. The SDWA Amendments authorize the States to develop the representative sample monitoring plans. Finally, the SDWA Amendments authorize EPA to pay for the reasonable cost of sample analysis for the small public water systems if funds are appropriated.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Rule	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 22131 Water Supply and Irrigation Systems

Additional Information: SAN No. 4131

Legal Description: Statutory deadline for list of 30 or fewer unregulated contaminants to be issued.

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RIN: 2040–AD15

3812. NATIONAL PRIMARY DRINKING WATER REGULATIONS: RADON

Regulatory Plan: This entry is Seq. No. 123 in Part II of this issue of the Federal Register.

RIN: 2040–AA94

3813. NATIONAL PRIMARY DRINKING WATER REGULATIONS: GROUND WATER RULE

Regulatory Plan: This entry is Seq. No. 124 in Part II of this issue of the Federal Register.

RIN: 2040–AA97

3814. PUBLIC WATER SYSTEM PUBLIC NOTIFICATION REGULATION

Regulatory Plan: This entry is Seq. No. 125 in Part II of this issue of the Federal Register.

RIN: 2040–AD06

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Final Rule Stage

Safe Drinking Water Act (SDWA)

3815. NATIONAL PRIMARY AND SECONDARY DRINKING WATER REGULATIONS: ANALYTICAL METHODS FOR CERTAIN PESTICIDES AND MICROBIAL CONTAMINANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300f Safe Drinking Water Act sec 1401; 42 USC 300g-1 Safe Drinking Water Act sec 1412

CFR Citation: 40 CFR 141; 40 CFR 143

Legal Deadline: None

Abstract: In promulgating National Primary Drinking Water Regulations, EPA includes analytical methods for determination of regulated drinking water contaminants. EPA approved methods include EPA methods, Standard Methods (methods evaluated and recommended for use by the America Public Health Association (APHA)), American Society for Testing and Materials (ASTM) Methods, United States Geological Survey (USGS) Methods and others. Periodically, the Agency updates and revises methods to incorporate newer technologies. Standard setting organizations such as APHA, ASTM, and USGS also routinely revise and update methods.

In this regulatory effort, EPA proposes to approve new methods or newer versions of existing methods for total coliforms, E. coli, and acid herbicides. At the same time, the Agency will

withdraw approval of selected outdated methods.

Timetable:

Action	Date	FR Cite
NPRM	07/31/98	63 FR 41133
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4044

This regulation was split from RIN 2040-AC77, SAN 3726.

Agency Contact: Jeanne Campbell, Environmental Protection Agency, Water, 4603, Washington, DC 20460 Phone: 202 260-7770

RIN: 2040–AD04

3816. NATIONAL PRIMARY DRINKING WATER REGULATIONS: STAGE I DISINFECTANT/DISINFECTION BY-PRODUCTS RULE

Regulatory Plan: This entry is Seq. No. 140 in Part II of this issue of the Federal Register.

RIN: 2040–AB82

3817. NATIONAL PRIMARY DRINKING WATER REGULATIONS FOR LEAD AND COPPER

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300g-1 Safe Drinking Water Act sec 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: None

Abstract: EPA will promulgate revisions to the National Primary Drinking Water Regulations for Lead and Copper published June 7, 1991. The basic lead and copper regulations will remain intact; however, EPA will promulgate minor revisions to refine specific requirements and improve implementation of the rule. Some of these revisions are deregulatory in nature, in that they will lessen monitoring requirements for public water systems which have consistently shown very low levels of lead and copper at the tap. EPA also plans to promulgate changes that will provide many community water systems more flexibility in the delivery of lead public education requirements, and allow States to invalidate inappropriate samples. Other revisions would promote consistent national implementation by clarifying the monitoring requirements that apply in different circumstances. Finally, EPA plans to respond to a remand in American Water Works Association v. EPA, 40 F.3D 1266 (DC Circuit 1994), on portions of the Lead and Copper regulation by promulgating a revised definition of control as it applies to lead service line replacement and to address the current exemption of transient non-community water systems from coverage under the rule. Nationally, EPA estimates the changes will not affect the cost or benefits of the Lead and Copper Rule significantly. State governments may experience a minor increase in costs as a result of these revisions. Many local and tribal governments and small businesses that operate public water systems should experience a small decrease in annual costs.

Timetable:

Action	Date	FR Cite
NPRM	04/12/96	61 FR 16348
NOA	04/22/98	63 FR 20038
NOA	08/18/98	63 FR 44214
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3440

Agency Contact: Judy Lebowich, Environmental Protection Agency, Water, 4607, Washington, DC 20460 Phone: 202 260-7595

RIN: 2040–AC27

3818. REFORMATTING OF DRINKING WATER REGULATIONS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 300g-1 Safe Drinking Water Act sec 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: None

Abstract: This rule reformats the current drinking water regulations to make them easier to understand and follow. This rule is not intended to change any of the regulatory requirements. The rule affects State, local and tribal governments in that it makes the rules easier to implement and thus facilitates their jobs.

Timetable:

Action	Date	FR Cite
Direct Final Rule	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3563

Agency Contact: Carl Kessler, Environmental Protection Agency, Water, 4603, Washington, DC 20460 Phone: 202 260-3995

RIN: 2040–AC41

3819. NATIONAL PRIMARY DRINKING WATER REGULATIONS: INTERIM ENHANCED SURFACE WATER TREATMENT RULE

Regulatory Plan: This entry is Seq. No. 141 in Part II of this issue of the Federal Register.

RIN: 2040–AC91

3820. MANAGEMENT OF CLASS V INJECTION WELLS UNDER PART C OF THE SAFE DRINKING WATER ACT

Priority: Other Significant

Legal Authority: 42 USC 300h Safe Drinking Water Act 1421 to 1425

CFR Citation: 40 CFR 144; 40 CFR 145; 40 CFR 146

Legal Deadline:
NPRM, Judicial, July 18, 1998.
Final, Statutory, August 30, 1999.

Abstract: The EPA proposed changes to the Class V Underground Injection Control (UIC) regulations that would add new requirements for three categories of Class V wells that pose a high risk when located in ground water-based source water protection areas being delineated by States under the 1996 Amendments to the Safe Drinking Water Act (SDWA). EPA proposed these new requirements to address three categories of wells that it has identified as posing a high risk of ground water contamination based on available information. Class V wells that would be impacted by the proposed regulation include motor vehicle waste disposal wells, industrial waste disposal wells, and cesspools in ground water-based source water protection areas. Targeting the requirements to those wells will achieve substantial protection of underground sources of drinking water.

Timetable:

Action	Date	FR Cite
NPRM	08/28/95	60 FR 44652
Reproposal	07/29/98	63 FR 40585
Final	08/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 2778

Agency Contact: Robin Delehanty, Environmental Protection Agency, Water, 4606, Washington, DC 20460 Phone: 202 260-1993

RIN: 2040–AB83

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Safe Drinking Water Act (SDWA)

Long-Term Actions

3821. • FILTER BACKWASH RECYCLING REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: Safe Drinking Water Act

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: None

Abstract: The regulation will control the recycle, or reintroduction, of filter backwash and other waste water streams into the influent (untreated source waters entering the treatment plant) of public utilities. The regulation is required by the 1996 amendments to the Safe Drinking Water Act. The regulation is necessary to protect against outbreaks of waterborne microbial disease that can occur during normal treatment plant operation, operational upsets, or times of poor source water quality. The regulation will provide another barrier to prevent occurrence of microbial pathogens in finished drinking water supplies,

Systems of all sizes, including package plants, will be covered by the regulation. Conventional, direct, and in-line filtration plants, as well as absorption clarification plants, will be covered by the final rule.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Local

Additional Information: SAN No. 4146

Agency Contact: William Hamele, Environmental Protection Agency, Water, 4607, Washington, DC 20460 Phone: 202 260-2584

RIN: 2040–AD17

3822. • LONG TERM 1 ENHANCED SURFACE WATER TREATMENT RULE

Priority: Substantive, Nonsignificant

Legal Authority: Safe Drinking Water Act

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: None

Abstract: The 1996 amendments to the Safe Drinking Water Act (SDWA) require the Environmental Protection Agency (EPA) to establish National Primary Drinking Water Regulations for contaminants that may have an adverse public health effect and that present a meaningful opportunity for health risk reduction. The Agency's goal in the Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR) is to reduce the risk from microbial contaminants in public surface water systems that serve 10,000 people or less. In order to accomplish this, the rule will focus on turbidity reduction through filtration optimization, and continued microbial protection through the disinfection benchmark (i.e. a measurement of current Giardia inactivation). In November 1998, EPA will promulgate an Interim Enhanced Surface Water Treatment Rule (IESWTR) , which focuses on these same public health goals and is applicable to public surface water systems serving greater than 10,000 people. Also, like the IESWTR, the LT1ESWTR will reflect the fundamental principle that new standards for control of disinfection byproducts (i.e. compliance with the Stage 1 DBP rule) must not result in significant increases in microbial risk.

To develop the LT1ESWTR, EPA will use the template of the Interim Enhanced Surface Water Treatment Rule (IESWTR) as a starting point. EPA will then determine if the unit costs and principles for reduction in turbidity used to develop the IESWTR will be appropriate for the LT1ESWTR.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Local

Additional Information: SAN No. 4147

Agency Contact: Valerie Blank, Environmental Protection Agency, Water, 4607, Washington, DC 20460 Phone: 202 260-8376 Email: blank.valerie@epa.gov
Steve Potts, Environmental Protection Agency, Water Phone: 202 260-5015 Email: potts.steve@epa.gov

RIN: 2040–AD18

3823. • DRINKING WATER STATE REVOLVING FUND REGULATIONS

Priority: Other Significant

Legal Authority: 42 USC 300 et seq SDWA 1452 (g)(3)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Safe Drinking Water Act (SDWA) Amendments of 1996 (Pub. L. 104-182) authorize a Drinking Water State Revolving Fund (DWSRF) to assist public water systems in financing the costs of infrastructure needed to achieve or maintain compliance with SDWA requirements and to further the public health objectives of the Act. Section 1452(a)(1) authorizes the Administrator of the U.S. Environmental Protection Agency (EPA) to award capitalization grants to States, which in turn provide low cost loans

EPA—SDWA — Long-Term Actions

and other types of assistance to eligible systems. A State determines the portion of the funds from the capitalization grant to conduct set-aside activities and the remaining grant monies are deposited into the project Fund to finance infrastructure projects.

Each State has considerable flexibility, with minimum Federal requirements imposed, to determine the design of its DWSRF program and to direct funding toward its most pressing compliance and public health needs. This regulation is intended to codify the DWSRF Final Guidelines published in February, 1997 which explain: what States must do to receive a DWSRF capitalization grant; what States may do with Federal capitalization grant funds; what States may do with funds the law intends for activities other than project construction (set-asides); and the roles of both the States and EPA in managing and administering the program.

The DWSRF program helps to ensure that the nation's drinking water supplies remain safe and affordable, that drinking water systems that receive funding are properly operated and maintained, and that permanent institutions exist in each State to provide financial support for drinking water needs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/99	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Additional Information: SAN No. 4152

Agency Contact: Kimberley Roy, Environmental Protection Agency, Water, 4606, Washington, DC 20460
Phone: 202 260-2794
Fax: 202 260-4656
Email: roy.kimberley@epamail.epa.gov

RIN: 2040–AD20

3824. NATIONAL PRIMARY DRINKING WATER REGULATIONS: ARSENIC

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
Plan Arsenic Study	12/24/96	61 FR 67800
NPRM	01/00/00	
Final Action	01/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Irene Dooley
Phone: 202 260-9531
Fax: 202 260-3762
Email: dooley.irene@epamail.epa.gov

RIN: 2040–AB75

3825. NATIONAL PRIMARY DRINKING WATER REGULATIONS: SULFATE

Priority: Other Significant

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
NPRM	12/20/94	59 FR 65578
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: James Taft
Phone: 202 260-5519

RIN: 2040–AC13

3826. NATIONAL PRIMARY DRINKING WATER STANDARDS FOR ALDICARB

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: James Taft

3827. NATIONAL PRIMARY DRINKING WATER REGULATIONS: RADIUM, URANIUM, ALPHA, BETA AND PHOTON EMITTERS

Priority: Other Significant

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
ANPRM	09/30/86	51 FR 34836
NPRM	07/18/91	56 FR 33050
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: David Huber
Phone: 202 260-9566

RIN: 2040–AC98

3828. STREAMLINING DRINKING WATER MONITORING REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 141

Timetable:

Action	Date	FR Cite
ANPRM	07/03/97	62 FR 36099
Noticeol Review	07/30/98	63 FR 40709
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Ed Thomas
Phone: 202 260-0910
Fax: 202 260-4656

RIN: 2040–AC73

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Completed Actions
Safe Drinking Water Act (SDWA)

3829. REVISION OF EXISTING VARIANCES AND EXEMPTIONS REGULATION TO COMPLY WITH REQUIREMENTS OF THE SAFE DRINKING WATER ACT

Priority: Other Significant

CFR Citation: 40 CFR 141; 40 CFR 142

Completed:

Reason	Date	FR Cite
Final Action	08/14/98	63 FR 43833

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Andrew J. Hudock
Phone: 202 564-6032
Fax: 202 564-0024

RIN: 2020–AA37

3830. REVISIONS TO STATE PRIMACY REQUIREMENTS TO IMPLEMENT FEDERAL DRINKING WATER REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 142.10; 40 CFR 142.11; 40 CFR 142.12; 40 CFR 141.2; 40 CFR 142.2

Completed:

Reason	Date	FR Cite
Final Action	04/28/98	63 FR 23362

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal, Federal

Agency Contact: Jennifer Melch
Phone: 202 260-7035
Fax: 202 260-0732

RIN: 2040–AD00

3831. NATIONAL PRIMARY AND SECONDARY DRINKING WATER REGULATIONS: ANALYTIC METHODS FOR ORGANIC, INORGANIC AND MICROBIOLOGICAL CONTAMINANTS AND PESTICIDES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 141; 40 CFR 143

Completed:

Reason	Date	FR Cite
Direct Final Rule	09/03/98	63 FR 47097

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Jitendra Saxena
Phone: 202 260-9579

RIN: 2040–AC77

3832. DRINKING WATER CONSUMER CONFIDENCE REPORT REGULATIONS

Priority: Other Significant

CFR Citation: 40 CFR 141; 40 CFR 142.10; 40 CFR 142.16; 40 CFR 142.72; 40 CFR 142.78

Completed:

Reason	Date	FR Cite
Final Action	08/19/98	63 FR 44512

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Francoise Brasier
Phone: 202 260-5668
Fax: 202 260-0732
Email: brasier.francoise@epa.gov

RIN: 2040–AC99

3833. SAFE DRINKING WATER PUBLIC WATER SUPPLY SYSTEM PROGRAM: CITIZEN COLLECTION ACTION; NOTICE OF COMPLAINT SEEKING REVIEW OF PENALTY ORDER

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 135

Completed:

Reason	Date	FR Cite
Direct Final Rule	09/08/98	63 FR 48075

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: David Drelich
Phone: 202 564-2949

RIN: 2020–AA35

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Long-Term Actions
Marine Protection Research and Sanctuary Act (MPRSA)

3834. REVISIONS TO OCEAN DUMPING REGULATIONS FOR DREDGED MATERIAL

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 225; 40 CFR 227; 40 CFR 228

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: David Redford
Phone: 202 260-9179

RIN: 2040–AB62

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Final Rule Stage
Shore Protection Act (SPA)

3835. SHORE PROTECTION ACT, SECTION 4103(B) REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2601 Shore Protection Act of 1988; PL 100-688 sec 4103(b)

CFR Citation: 40 CFR 237

Legal Deadline: None

Abstract: This rule will implement the Shore Protection Act (SPA) and is designed to prevent the deposit of municipal and commercial waste into U.S. Coastal Waters. This rule establishes minimum waste handling practices for vessels and waste handling facilities involved in the transport of municipal or commercial wastes in the coastal waters of the U.S. The rule may require certain vessels and waste handling facilities to develop an operation and maintenance manual that identifies procedures to prevent, report, and clean up deposits of waste into coastal waters. State and local governments and businesses involved with the vessel transportation and shore side handling of these wastes would be affected by this rule.

Currently no tribes are known to be involved in waste handling of this type; therefore none would be affected by this rule. In regards to small businesses, EPA has provided guidance on development of operation-and maintenance manuals and encourages the use and documentation of existing industry practices that meet or exceed the EPA proposed minimum waste handling standards. All indications are that this regulation as proposed would have a minimal economic impact. This regulation will result in reduction of municipal and commercial wastes deposited in coastal waters.

Timetable:

Action	Date	FR Cite
NPRM	08/30/94	59 FR 44798
Final	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: SAN No. 2820

Agency Contact: Deborah Lebow, Environmental Protection Agency, Water, 4504F, Washington, DC 20460 Phone: 202 260-6419

RIN: 2040–AB85

[FR Doc. 98-25581 Filed 11-06-98; 8:45 am]
BILLING CODE 6560-50-F

federal register

Monday
November 9, 1998

Part XXIII

Equal Employment Opportunity Commission

Semiannual Regulatory Agenda

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Semiannual Regulatory Agenda

AGENCY: Equal Employment Opportunity Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Equal Employment Opportunity Commission (EEOC or Commission) is publishing its semiannual regulatory agenda pursuant to Executive Order 12866, 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. chapter 6. The agenda lists all regulations that are scheduled for review or development during the next 12 months or that have been finalized since the publication of the last agenda.

For this edition of EEOC's regulatory agenda, the most important significant regulatory action is included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entry is listed in the table of contents below and is denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

FOR FURTHER INFORMATION CONTACT: Ellen J. Vargyas, Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507; telephone (202) 663-7197.

SUPPLEMENTARY INFORMATION: The Commission has identified 10 items for inclusion in this regulatory agenda. Nine of these items are currently under development or review by Commission staff, and one item is final.

Signed in Washington, DC, this 2nd day of September 1998.

For the Commission.

Paul M. Igasaki,

Chairman.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3836	Procedures for Complaints of Employment Discrimination by Previously Exempt State and Local Government Employees	3046-AA56
3837	Procedures for Collection of Debts by Administrative Offset	3046-AA65
3838	Federal Sector Equal Employment Opportunity Procedures **(Reg Plan Seq. No. 142)**	3046-AA66
3839	Availability of Records	3046-AA67

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3840	Procedures—The Age Discrimination in Employment Act	3046-AA54
3841	Federal Sector Equal Employment Opportunity	3046-AA57
3842	Disparate Impact Under the Age Discrimination in Employment Act (ADEA)	3046-AA64
3843	Waivers of Rights and Claims: Status of Consideration	3046-AA68
3844	Coordination of Functions; Memorandum of Understanding Between EEOC and Department of Labor, Office of Federal Contract Compliance Programs	3046-AA69

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3845	Regulations Interpreting Title II of the Older Workers Benefit Protection Act of 1990 (OWBPA)	3046-AA58

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Final Rule Stage

3836. PROCEDURES FOR COMPLAINTS OF EMPLOYMENT DISCRIMINATION BY PREVIOUSLY EXEMPT STATE AND LOCAL GOVERNMENT EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 2 USC 1220, sec 321 of Government Employee Rights Act of 1991; 42 USC 2000e et seq, title VII of the Civil Rights Act; 29 USC 621 et seq, Age Discrimination in Employment Act; 42 USC 12101 et seq, Americans with Disabilities Act

CFR Citation: 29 CFR 1603

Legal Deadline: None

Abstract: Under title VII of the Civil Rights Act of 1964, the ADEA, and the ADA, certain staff members of State and local elected officials were exempt from protection against employment discrimination. Section 321 of the Government Employee Rights Act of 1991 extends employment discrimination protections to the employment of persons who have been chosen or appointed by a State or local elected public official to serve on his or her personal staff, to serve the elected official on the policymaking level, or to serve as an immediate advisor with respect to the exercise of the constitutional or legal powers of the official's office.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/10/97	62 FR 17542
Interim Final Rule Comment Period End	06/09/97	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4669
TDD: 202 663-7026
Fax: 202 663-4639

RIN: 3046–AA56

3837. PROCEDURES FOR COLLECTION OF DEBTS BY ADMINISTRATIVE OFFSET

Priority: Info./Admin./Other

Legal Authority: 5 USC 5514; 31 USC 3716; 31 USC 3720A; 5 CFR 550.1101

CFR Citation: 29 CFR 1650

Legal Deadline: None

Abstract: As required by the Debt Collection Improvement Act of 1996, the Commission is issuing regulations for the collection of debts by administrative offset.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/17/97	62 FR 32685
Interim Final Rule Comment Period End	08/18/97	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4669
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Fax: 202 663-4639

RIN: 3046–AA65

3838. FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY PROCEDURES

Regulatory Plan: This entry is Seq. No. 142 in Part II of this issue of the **Federal Register**.

RIN: 3046–AA66

3839. AVAILABILITY OF RECORDS

Priority: Info./Admin./Other

Legal Authority: 5 USC 552; PL 105-231

CFR Citation: 29 CFR 1610

Legal Deadline: None

Abstract: The Commission is revising its Freedom of Information Act regulations to comply with the Electronic Freedom of Information Act Amendments of 1996, to implement a delegation of Regional Attorney's FOIA responsibilities, to update office addresses, and to correct typographical errors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/09/98	63 FR 1339
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4669
TDD: 202 663-7026
Fax: 202 663-4639

RIN: 3046–AA67

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Long-Term Actions

3840. PROCEDURES—THE AGE DISCRIMINATION IN EMPLOYMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 628, sec 115, Civil Rights Act of 1991

CFR Citation: 29 CFR 1626

Legal Deadline: None

Abstract: Section 115 of the Civil Rights Act of 1991 deleted references to the Portal to Portal Act from the private suit provisions of the Age Discrimination in Employment Act (ADEA) and replaced them with a requirement that suit be filed no later than 90 days after termination of proceedings or dismissal of a charge by EEOC. Accordingly, section 1626.7(a) is being deleted and section 1626.15(b) is being revised because they were both based upon the Portal to Portal Act. New sections are being added concerning termination of EEOC

proceedings and the issuance of notices of the new 90-day limitation period.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4669
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RIN: 3046–AA54

3841. FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-569, The Rehabilitation Act Amendments of 1992; 42 USC 2000e-16; 29 USC 633a; 29 USC 794a

CFR Citation: 29 CFR 1614

Legal Deadline: None

Abstract: The proposed amendments to this regulation implement the Rehabilitation Act Amendments of 1992. Those amendments provide that the standards used to determine if title I of the Americans With Disabilities Act has been violated will apply to complaints of nonaffirmative action employment discrimination under the Rehabilitation Act.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4669
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Fax: 202 663-4639

RIN: 3046–AA57

3842. DISPARATE IMPACT UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 628

CFR Citation: 29 CFR 1625.7 (Revision); 29 CFR 1625.23 (New)

Legal Deadline: None

Abstract: The Commission proposes to issue legislative regulations to reaffirm and clarify its long-standing interpretive rule regarding the availability of the disparate impact theory under the ADEA. The proposed rule also would set forth the nature and order of proof in such disparate impact cases.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4647
TDD: 202 663-7026
Fax: 202 663-4639

RIN: 3046–AA64

3843. WAIVERS OF RIGHTS AND CLAIMS: STATUS OF CONSIDERATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 29 USC 628; 42 USC 2000e; 42 USC 12101; 29 USC 206(d)

CFR Citation: 29 CFR 1625

Legal Deadline: None

Abstract: Following the United States Supreme Court's decision in Oubre v. Entergy Operations, Inc., No. 96-1291, 1998 WL 23157 (U.S., Jan. 26, 1998), the Commission intends to develop guidance on the status of consideration paid for a waiver of rights and claims under the laws it enforces.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol R. Miaskoff, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4689
TDD: 202 663-7026
Fax: 202 663-4639

RIN: 3046–AA68

3844. • COORDINATION OF FUNCTIONS; MEMORANDUM OF UNDERSTANDING BETWEEN EEOC AND DEPARTMENT OF LABOR, OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2000e-12(a); 42 USC 2000e-14; 42 USC 2000e-4(g); EO 12067

CFR Citation: None

Legal Deadline: None

Abstract: The existing 1981 Memorandum of Understanding (MOU) between EEOC and OFCCP sets forth complaint processing and information sharing procedures to coordinate enforcement under title VII and EO 11246. The changes contemplated for the MOU would authorize OFCCP to act as EEOC's agent to process and resolve the title VII component of dual-filed EO 11246/title VII complaints retained by OFCCP under existing procedures. The contemplated changes also would add new language about confidentiality.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carol R. Miaskoff, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4689
TDD: 202 663-7026
Fax: 202 663-4639

RIN: 3046–AA69

3845. REGULATIONS INTERPRETING TITLE II OF THE OLDER WORKERS BENEFIT PROTECTION ACT OF 1990 (OWBPA)

Priority: Other Significant

CFR Citation: 29 CFR 1625

Completed:

Reason	Date	FR Cite
Final Action	06/05/98	63 FR 30624
Final Action Effective	07/06/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Joseph N. Cleary
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RIN: 3046–AA58

[FR Doc. 98-24581 Filed 11-06-98; 8:45 am]
BILLING CODE 6570-01-F

federal register

Monday
November 9, 1998

Part XXIV

Federal Emergency Management Agency

Semiannual Regulatory Agenda

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Emergency Management Agency publishes its semiannual regulatory agenda in April and October to inform interested parties of progress on FEMA regulations. The agenda lists regulations that will be under development or review during the period October 1, 1998, to April 30, 1999.

ADDRESSES: For information about specific regulations, please contact the person listed as the agency contact in the agenda.

FOR FURTHER INFORMATION CONTACT: For general information of FEMA's regulatory agenda, contact H. Crane Miller, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-3340, FAX (202) 646-4536, or e-mail Crane.Miller@fema.gov.

SUPPLEMENTARY INFORMATION: Executive Order 12866 "Regulatory Planning and Review" directs each executive agency to publish only such regulations the law requires, are necessary to interpret the law, or are necessary by compelling public need. We and other Federal departments and agencies publish an agenda of regulations semiannually in order to give you adequate notice of agency rulemaking activities. We also publish a regulatory agenda of rules likely to be significant regulatory actions when that is appropriate; presently, none of our regulatory actions fall in the "significant regulatory action" category.

To fulfill the requirements of Executive Order 12866, this agenda describes current and projected regulatory actions and rules that will be under review or development from October 1, 1998, to April 30, 1999. This agenda also contains information of regulations on which we completed action since the last FEMA semiannual agenda was published Monday, April 27, 1998, at 63 FR 22752 to 22757.

We invite your comments on the agenda, including comments by State and local governments. Comments should be submitted to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472; FAX (202) 646-4536, or e-mail *rules@fema.gov*. Please refer to the title of the rule that you are inquiring about or commenting on and to the rule's Regulation Identifier Number (RIN) found at the end of each agenda entry.

The agenda is not limited to significant regulatory actions and it contains information about FEMA regulations to be developed, reviewed, or published in the next 12 months, except for routine flood elevation determinations, listings of eligible communities under the National Flood Insurance Program, listings of suspended communities and similar designations under the National Flood Insurance Program, and FEMA organizational and management matters.

Dated: September 18, 1998.

Ernest B. Abbott,

General Counsel.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3846	Production or Disclosure of Information	3067-AC75

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3847	Group Flood Insurance Policy for Individual and Family Grant Program	3067-AC35
3848	Flood Mitigation Assistance Program	3067-AC45
3849	Criminal and Civil Penalties Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act	3067-AC61
3850	National Dam Safety Program; Assistance for State Programs	3067-AC64
3851	Organization, Functions and Delegation of Authorities	3067-AC66
3852	Disaster Assistance; Fire Suppression Assistance	3067-AC68
3853	Disaster Assistance; Hazard Mitigation Grant Program	3067-AC69
3854	Enforcement Under Title IX of the Education Amendments of 1972	3067-AC71
3855	Disaster Assistance; Declaration Process	3067-AC72
3856	Taxpayer Identification Numbers	3067-AC76
3857	Debt Collection	3067-AC77
3858	National Earthquake Hazards Reduction Program	3067-AC78
3859	National Flood Insurance Program: Inspection of Insured Structures by Communities	3067-AC79
3860	Extensions of Application Period for Temporary Housing Assistance	3067-AC82
3861	Conduct at the Mount Weather Emergency Assistance Center and at the National Emergency Training Center	3067-AC83
3862	Debt Collection	3067-AC84
3863	National Flood Insurance Program; Write-Your-Own Expense Allowance	3067-AC86

FEMA

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3864	Fee for Services to Support FEMA's Offsite Radiological Emergency Preparedness Program	3067-AC87

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3865	Disaster Assistance; Individual Assistance Programs	3067-AC51
3866	Disaster Assistance; Allowable Cost	3067-AC59
3867	Disaster Assistance; Public Assistance Program Administration; Hazard Mitigation Grant Program	3067-AC67
3868	Government Grants Management Requirements	3067-AC70
3869	National Flood Insurance Program: Removal of Form	3067-AC81
3870	National Flood Insurance Program; Assistance to Private Sector Property Insurers	3067-AC85

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Proposed Rule Stage

3846. PRODUCTION OR DISCLOSURE OF INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-231

CFR Citation: 44 CFR 5

Legal Deadline: None

Abstract: This proposed rule would give the public access to Government information and records maintained in an electronic format, provide for expedited processing of certain requests, establish an "electronic reading room," require redacted material to be estimated or indicated in an agency's delay in processing requests, and require FEMA to make an agency reference guide on the Freedom of Information Act (FOIA) available.

Timetable:

Action	Date	FR Cite
NPRM	08/28/98	63 FR 45982
NPRM Comment Period End	10/27/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sandra Jackson, Federal Emergency Management Agency, 500 C Street SW.
Phone: 202 646-3840
Fax: 202 646-4536

RIN: 3067–AC75

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Long-Term Actions

3847. GROUP FLOOD INSURANCE POLICY FOR INDIVIDUAL AND FAMILY GRANT PROGRAM

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 5174; 42 USC 5178

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This interim final rule establishes a Group Flood Insurance Policy to be issued by the National Flood Insurance Program when Federal disaster assistance for flood damage to real or personal property, or both, is provided under the Individual and Family Grant Program following a major disaster declaration by the President.

Timetable:

Action	Date	FR Cite
NPRM	03/15/95	60 FR 13945
Interim Final Rule	05/01/96	61 FR 19197
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laurence W. Zensinger, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-4262

RIN: 3067–AC35

3848. FLOOD MITIGATION ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4104c; 42 USC 4104d

CFR Citation: 44 CFR 78

Legal Deadline: None

Abstract: This interim final rule implements secs. 553 and 554 of the National Flood Insurance Reform Act of 1994 to provide grants under the National Flood Mitigation Fund to States and communities for planning assistance and for mitigation projects that reduce the risk of flood damages to structures covered under contracts for flood insurance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/20/97	62 FR 13346
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Gil Jamieson, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-4090

RIN: 3067–AC45

3849. CRIMINAL AND CIVIL PENALTIES UNDER THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5157(d); PL 101-410; 28 USC 2461; PL 104-134, sec 31001(s)

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would increase the maximum civil penalty under the Robert T. Stafford Disaster Relief and Emergency Assistance Act from $5,000 to $5,500.

Timetable:

Action	Date	FR Cite
NPRM	02/10/97	62 FR 5957
NPRM Comment Period End	04/11/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard S. Buck, IV, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-4091

RIN: 3067–AC61

3850. NATIONAL DAM SAFETY PROGRAM; ASSISTANCE FOR STATE PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-303

CFR Citation: 44 CFR 145

Legal Deadline: None

Abstract: This proposed rule would provide direction and guidance for financial assistance to State dam safety programs to improve and enhance the safety of dams throughout the United States.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Harold Andress, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-2801

RIN: 3067–AC64

3851. ORGANIZATION, FUNCTIONS AND DELEGATION OF AUTHORITIES

Priority: Info./Admin./Other

Legal Authority: 5 USC 552

CFR Citation: 44 CFR 2

Legal Deadline: None

Abstract: This final rule revises FEMA regulations on Organization, Functions and Delegations of Authority to reflect the creation of a new Directorate, the Information Technology Services Directorate, and to reflect reassignment of certain responsibilities within existing directorates.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Joseph Flynn, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-4102
Fax: 202 646-4536

RIN: 3067–AC66

3852. DISASTER ASSISTANCE; FIRE SUPPRESSION ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq; 42 USC 5187

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would simplify the fire eligibility process from three thresholds to one threshold and would change the Federal cost share to 75 percent for fire suppression grants.

Timetable:

Action	Date	FR Cite
NPRM	11/24/97	62 FR 62542
NPRM Comment Period End	01/23/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Curtis Carleton, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-4535

RIN: 3067–AC68

3853. DISASTER ASSISTANCE; HAZARD MITIGATION GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would revise the categories of projects eligible for funding under the Hazard Mitigation Grant Program. It emphasizes nonstructural flood mitigation measures to reduce the number of floodprone structures and clarifies that major structural flood control projects will not be considered for funding under the grant program.

Timetable:

Action	Date	FR Cite
NPRM	05/01/98	63 FR 24143
NPRM Comment Period End	07/01/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert F. Shea, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-3619
Fax: 202 646-3104

RIN: 3067–AC69

3854. ENFORCEMENT UNDER TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 900 et seq

CFR Citation: 44 CFR 19

Legal Deadline: None

Abstract: This proposed joint rule would enforce title IX of the Education Amendments of 1972 applicable to training programs of FEMA.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Pauline C. Campbell, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-4122

RIN: 3067–AC71

3855. DISASTER ASSISTANCE; DECLARATION PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would establish the financial criteria under which a cost-share adjustment would be granted for permanent restorative work and for emergency work unless otherwise adjusted and caps that cost-share at 90 percent Federal. Secondly, it would phase in the threshold for granting cost-share adjustments to current dollars over a two-year period, and would allow that threshold to be adjusted annually for inflation.

Timetable:

Action	Date	FR Cite
NPRM	03/05/98	63 FR 10816
NPRM Comment Period End	05/04/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Patricia Stahlschmidt, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-4066
Fax: 202 646-4060

RIN: 3067–AC72

3856. TAXPAYER IDENTIFICATION NUMBERS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 7701(c)

CFR Citation: 44 CFR 6

Legal Deadline: None

Abstract: This proposed rule would implement the Debt Collection Improvement Act requirement that any person doing business with a Federal agency must provide the agency with the person's taxpayer identification number.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard S. Buck, IV, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-4091

RIN: 3067–AC76

3857. DEBT COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3720A

CFR Citation: 44 CFR 11

Legal Deadline: None

Abstract: Under this rule FEMA will refer delinquent debts owed to this Agency to the Department of the Treasury for collection under the Governmentwide Treasury Offset Program and for tax refund offsets at the same time. FEMA amends its administrative offset regulations to allow administrative offset against delinquent debtor States and units of general local government. FEMA also amends its regulations to change the method for calculating interest, penalty and administrative charged assessed on delinquent debts and to make States and units of general local government subject to such changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/08/98	63 FR 1063
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Richard S. Buck, IV, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-4091

RIN: 3067–AC77

3858. • NATIONAL EARTHQUAKE HAZARDS REDUCTION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7701 et seq

CFR Citation: 44 CFR 361

Legal Deadline: None

Abstract: This proposed rule would remove portions of and amend 44 CFR 361, National Earthquake Hazards Reduction Assistance to State and Local Governments, to make the Earthquake Hazards Reduction Assistance Program consistent with FEMA's Performance Partnership Agreement/Cooperative Agreement (PPA/CA) process.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Theodore J. Litty, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-4286
Email: ted.litty@fema.gov

RIN: 3067–AC78

3859. • NATIONAL FLOOD INSURANCE PROGRAM: INSPECTION OF INSURED STRUCTURES BY COMMUNITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 61

Legal Deadline: None

Abstract: This rule would establish a pilot program for voluntary inspections to verify that structures comply with the community and floodplain management ordinance, and to verify that NFIP-insured structures are properly rated.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles M. Plaxico, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-3422
Email: charles.plaxico@fema.gov

RIN: 3067–AC79

3860. • EXTENSIONS OF APPLICATION PERIOD FOR TEMPORARY HOUSING ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would authorize the Associate Director/Executive Associate Director for Response and Recovery to extend beyond the standard 60-day limit the application period provided under the Disaster Housing Program.

Timetable:

Action	Date	FR Cite
NPRM	05/06/98	63 FR 25010
NPRM Comment Period End	07/06/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Laurence W. Zensinger, Response & Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-3642
Fax: 202 646-2730
Email: larry.zensinger@fema.gov

RIN: 3067–AC82

3861. • CONDUCT AT THE MOUNT WEATHER EMERGENCY ASSISTANCE CENTER AND AT THE NATIONAL EMERGENCY TRAINING CENTER

Priority: Substantive, Nonsignificant

Legal Authority: EO 12148

CFR Citation: 44 CFR 15

Legal Deadline: None

Abstract: This rule makes technical amendments to 44 CFR part 15 to reflect the name change of the Special Facility to Mt. Weather Emergency Assistance Center, to update certain authority citations and cited documents, and for other purposes.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John L. Matticks, Mt. Weather Management Division, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 540 542-2001
Fax: 540 542-2005
Email: john.matticks@fema.gov

RIN: 3067–AC83

3862. • DEBT COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3720A

CFR Citation: 44 CFR 11

Legal Deadline: None

Abstract: This rule would implement policies used by FEMA to collect debts under the Debt Collection Act of 1982, including measures to collect and to compromise or terminate collection action.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard S. Buck, IV, Office of Financial Management, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-4091

RIN: 3067–AC84

3863. • NATIONAL FLOOD INSURANCE PROGRAM; WRITE-YOUR-OWN EXPENSE ALLOWANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 62

Legal Deadline: None

Abstract: FEMA intends to propose changes to its methods for establishing the Write-Your-Own (WYO) expense allowance percentage to years beginning on or after October 1, 1999. FEMA invites advice and comments from WYO companies, consumers, and other interested parties.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Claudia I. Murphy, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-2775
Fax: 202 646-3445
Email: claudia.murphy@fema.gov

RIN: 3067–AC86

3864. • FEE FOR SERVICES TO SUPPORT FEMA'S OFFSITE RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-65

CFR Citation: 44 CFR 354

Legal Deadline: None

Abstract: This rule revises 44 CFR 354 to establish the policies and administrative basis for FEMA to assess fees on NRC licensees to recover the full amount of the funds obligated by FEMA to provide services for offsite radiological emergency planning and preparedness beginning in FY 1999.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Vanessa E. Quinn, PTE Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington DC 2042
Phone: 202 646-3664
Fax: 202 646-3508
Email: vanessa.quinn@fema.gov

RIN: 3067–AC87

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) Completed Actions

3865. DISASTER ASSISTANCE; INDIVIDUAL ASSISTANCE PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 206

Completed:

Reason	Date	FR Cite
Withdrawn - No Action Taken	08/31/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen J. Keefer
Phone: 202 646-3658
Fax: 202 646-2723

RIN: 3067–AC51

3866. DISASTER ASSISTANCE; ALLOWABLE COST

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 206

Completed:

Reason	Date	FR Cite
Withdrawn - No Action Taken	08/31/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Melissa M. Howard
Phone: 202 646-3053

RIN: 3067–AC59

3867. DISASTER ASSISTANCE; PUBLIC ASSISTANCE PROGRAM ADMINISTRATION; HAZARD MITIGATION GRANT PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 206

Completed:

Reason	Date	FR Cite
Final Action - (Correction to Final Rule: 5/6/98, 63 FR 24969)	04/08/98	63 FR 17108
Final Action Effective	05/08/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Melissa M. Howard
Phone: 202 646-3053
Fax: 202 646-3304

RIN: 3067–AC67

3868. GOVERNMENT GRANTS MANAGEMENT REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 13

Completed:

Reason	Date	FR Cite
No Further Action Required	10/28/97	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Charles F. McNulty
Phone: 202 646-2976

RIN: 3067–AC70

3869. • NATIONAL FLOOD INSURANCE PROGRAM: REMOVAL OF FORM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 65

Legal Deadline: None

Abstract: This rule removes appendix A from 44 CFR 65.

Timetable:

Action	Date	FR Cite
Final Action	05/21/98	63 FR 27856
Final Action Effective	05/21/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Matthew B. Miller, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-3461
Fax: 202 646-4596
Email: matt.miller@fema.gov

RIN: 3067–AC81

3870. • NATIONAL FLOOD INSURANCE PROGRAM; ASSISTANCE TO PRIVATE SECTOR PROPERTY INSURERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 62

Legal Deadline: None

Abstract: This rule changes the effective date of the arrangement between FEMA and Write-Your-Own (WYO) insurance companies.

Timetable:

Action	Date	FR Cite
Final Action	06/16/98	63 FR 32761
Final Action Effective	07/16/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Edward T. Pasterick, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-3343
Fax: 202 646-3445
Email: edward.pasterick@fema.gov

RIN: 3067–AC85

[FR Doc. 98-26715 Filed 11-06-98; 8:45 am]
BILLING CODE 6718-01-F

federal register

Monday
November 9, 1998

Part XXV

Federal Mediation and Conciliation Service

Semiannual Regulatory Agenda

FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS)

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Ch. XII

Semiannual Regulatory Agenda

AGENCY: Federal Mediation and Conciliation Service (FMCS).

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Federal Mediation and Conciliation Service's (FMCS) regulatory agenda issued under Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists regulations that are currently under development or review or that FMCS expects to have under development or review during the next 12 months. The effect of this agenda is to advise the public of FMCS' current and future regulatory activities.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Jane A. Lorber, General Counsel, Office of the General Counsel, Federal Mediation and Conciliation Service, at (202) 606-5444. For information about a specific regulation project listed on the agenda, contact the person designated in the agenda for that regulation.

SUPPLEMENTARY INFORMATION: Under the President's order on Regulatory Planning and Review, Executive Order 12866 (58 FR 51735, October 4, 1993), each agency is required to prepare an agenda of all regulations under development or review. The Regulatory Flexibility Act, Public Law 98-354, has a similar agenda requirement (5 U.S.C. 602). Under the law, the agenda must list any regulation that is likely to have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has issued guidelines prescribing the form and content of the regulatory agenda. Under those guidelines, the agenda must list all regulatory activities being conducted or reviewed in the next 12 months and provide certain specified information on each regulation. All of the items on this agenda are current or projected rulemakings.

Vella Traynham,

Deputy Director, Federal Mediation and Conciliation Service.

FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS) — Prerule Stage

3871. • PUBLIC INFORMATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 552 et seq

CFR Citation: 29 CFR 1401 (Revision)

Legal Deadline: None

Abstract: The proposed revision to FMCS' Public Information regulations is intended to incorporate the recent Amendments to the Freedom of Information Act into FMCS' portion of the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/98	
ANPRM Comment Period End	02/00/99	
NPRM	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Jane Lorber, General Counsel, Federal Mediation and Conciliation Service, 2100 K Street NW., Washington, DC 20427
Phone: 202 606-5444
Fax: 202 606-5345
Email: jlorber@fmcs.gov

RIN: 3076–AA06

[FR Doc. 98-23953 Filed 11-06-98; 8:45 am]
BILLING CODE 6732-01-F

federal register

Monday
November 9, 1998

Part XXVI

General Services Administration

Semiannual Regulatory Agenda

GENERAL SERVICES ADMINISTRATION (GSA)

GENERAL SERVICES ADMINISTRATION

41 CFR Chs. 1, 101, 105, 301, 302, 303, and 304

October 1998 Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: General Services Administration (GSA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the proposed regulatory actions that GSA plans for the next 12 months and those that were completed since April 1998. This agenda was developed under the guidelines in an Office of Management and Budget memorandum dated July 8, 1998. GSA's purpose in publishing this agenda is to allow interested persons an opportunity to participate in the rulemaking process. GSA also invites interested persons to recommend existing significant regulations for review to determine whether they should be modified or eliminated.

FOR FURTHER INFORMATION CONTACT: Sharon A. Kiser, Federal Acquisition Policy Division, (202) 501-4755.

SUPPLEMENTARY INFORMATION:

GSA's Regulatory Plan

For this edition of GSA's regulatory plan, the Statement of Regulatory and Deregulatory Priorities is included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**.

Dated: August 28, 1998.

John G. Sindelar,

Acting Associate Administrator, Office of Governmentwide Policy.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3872	Nondiscrimination on the Basis of Sex and Education for Individuals Receiving or Benefiting from Federal Financial Assistance	3090-AG58
3873	Federal Advisory Committee Management	3090-AG49
3874	Annual Real Property Inventories	3090-AG55
3875	User Fees; Network Registration Services	3090-AG79
3876	Federal Property Management Regulations, Part 101-17, Assignment and Utilization of Space	3090-AG31
3877	Federal Property Management Regulations, Part 101-20, Management of Buildings and Grounds	3090-AG32
3878	Federal Property Management Regulations, Part 101-21, Federal Buildings Fund	3090-AG33
3879	Increase Smoke Development Rating	3090-AG69

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3880	Reissuance of the General Services Administration Acquisition Regulation (GSAR)	3090-AE90
3881	Federal Property Management Regulations, Part 101-16, Governmentwide Real Property Policy	3090-AF95
3882	Relocation of FIRMR Provisions Relating To Use of Government Telephone Systems and GSA Services and Assistance	3090-AG03
3883	Motor Vehicle Management	3090-AG12
3884	Negotiation Procedures for Acquisition of Leasehold Interests in Real Property; CHGE 79	3090-AG70
3885	FTR Amendment; Fly American	3090-AG73
3886	Donation Requirements for Firearms	3090-AG80
3887	Streamlining Administration of Federal Supply Service (FSS) Multiple Award Schedule (MAS) Contracts	3090-AG81
3888	The Composition of the Evaluation Board for Architect-Engineer Procurements	3090-AG82
3889	Federal Property and Administrative Services Regulation	3090-AG83
3890	Public Availability of Agency Records and Informational Materials	3090-AG78
3891	Federal Building Fund, Billing Procedures for Reimbursable Charges	3090-AG35
3892	Utilization and Disposal of Real Property	3090-AG39
3893	Utilization and Disposal of Real Property	3090-AG53

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3894	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Assisted Programs	3090-AE32
3895	FTR Amendment (Unassigned); Acceptance of Payment From a Non-Federal Source for Travel Expenses	3090-AE19
3896	FTR Interim Rule 6, Last Move Home Benefits for Certain Individuals	3090-AF63

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3897	Relocation of FIRMR Provisions Relating to GSA's Role in Records Management	3090-AG02
3898	Federal Travel Regulations	3090-AG11
3899	Donation of Federal Surplus Personal Property to Nonprofit Providers of Assistance for Impoverished Families and Individuals	3090-AG63
3900	FTR Amendment (Unassigned); Payment of Expenses Connected With Death	3090-AG76
3901	Donations to Service Educational Activities	3090-AG77
3902	Location of Federal Facilities in Urban Areas	3090-AF94
3903	Disposals of Surplus Real Property for Housing Assistance (PL 105-50)	3090-AG60

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3904	Office Copying Machines	3090-AF08
3905	Update of Transportation Documentation and Audit Regulations	3090-AE77
3906	FTR Amendment (Unassigned); Use of Government Aircraft and Government-Negotiated Rental Agreement Automobiles	3090-AE82
3907	Relocation of FIRMR Provisions Relating to GSA's Role in the Disposal of Excess and Exchange/Sale Information Technology Equipment	3090-AG01
3908	General Services Administration Acquisition Regulation; Revision of GSAR Clauses	3090-AG08
3909	Accident and Incident Reporting and Investigation	3090-AG13
3910	Transportation and Traffic Management Regulations	3090-AG34
3911	10-Day Payment Clause for Federal Supply Service Contracts Under the FSS-19 Procurement System	3090-AG47
3912	Management, Use, and Disposal of Aircraft	3090-AG56
3913	GSA Agency Protest Procedures	3090-AG57
3914	Change to the Disposal Condition Codes for Reporting Excess Personal Property	3090-AG64
3915	Requesting Debriefings at GSA; Electronic Sales Reporting; Schedule for Submission of Reports; Fees for Industrial Funding	3090-AG71
3916	FTR Amendment 72; Maximum Per Diem Rates	3090-AG72
3917	Disposal of Excess and Exchange Sale IT Equipment	3090-AG74
3918	FTR Amendment No. (Unassigned); Privately Owned Vehicle Mileage Reimbursement	3090-AG75
3919	FPMR 101-20, Smoking Policy	3090-AG61
3920	Disposals of Surplus Real Property for Public Safety Purposes (PL 105-119)	3090-AG67

GENERAL SERVICES ADMINISTRATION (GSA)

Proposed Rule Stage

OFFICE OF GENERAL COUNSEL

3872. NONDISCRIMINATION ON THE BASIS OF SEX AND EDUCATION FOR INDIVIDUALS RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Priority: Other Significant

Legal Authority: 40 USC 476; 42 USC 2000d-1; 20 USC 1681

CFR Citation: 41 CFR 101-6

Legal Deadline: None

Abstract: This rule enforces title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of the sex and education of an individual receiving or benefiting from Federal financial assistance.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James M. Taylor, Acting Associate Administrator, Office of Equal Employment Opportunity, General Services Administration, Washington, DC 20405

Phone: 202 501-3852

RIN: 3090–AG58

OFFICE OF GOVERNMENTWIDE POLICY

3873. FEDERAL ADVISORY COMMITTEE MANAGEMENT

Priority: Other Significant

Legal Authority: 5 USC app; EO 12024

CFR Citation: 41 CFR 101-6

Legal Deadline: None

Abstract: GSA is revising its regulations which implement its

GSA — Proposed Rule Stage

responsibilities under the Federal Advisory Committee Act. These regulations have not been revised since 1989 and have become outdated as a result of significant decisions issued by the Supreme Court and other Federal Courts. In addition, the revised issuance is expected to provide more comprehensive and effective guidance for agency personnel in their attempts to involve the public in Federal decisionmaking consistent with the principles contained in the Act.

Timetable:

Action	Date	FR Cite
ANPRM	06/10/97	62 FR 31550
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: James L. Dean, Director, Committee Mgt. Secretariat (MC), Office of Governmentwide Policy, General Services Administration, Washington, DC 20405
Phone: 202 273-3565
Fax: 202 273-3559
Email: james.dean@gsa.gov

RIN: 3090–AG49

3874. ANNUAL REAL PROPERTY INVENTORIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-3

Legal Deadline: None

Abstract: FPMR part 101-3 will be rewritten into the plain language format. In addition, during the rewriting process, changes will be made to the content (such as dollar thresholds) to reflect the most efficient way of managing Federal real property assets.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Stanley C. Langfeld, Director, Real Property Policy Div. (MPR), Office of Governmentwide Policy, General Services Administration, Washington, DC 20405
Phone: 202 501-1737

RIN: 3090–AG55

3875. • USER FEES; NETWORK REGISTRATION SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 31 USC 9701

CFR Citation: 41 CFR 101-37

Legal Deadline: None

Abstract: This proposed rule establishes fees for registration services provided by GSA to Government agencies and commercial organizations in order to provide and maintain unique global names and network addresses for X.400 Private Management Domains and the X.500 Organizational Units, Administrative Authority Identifiers, and Internet .GOV Domain names.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Jack Finley, Director, Central for Electronic Messaging Technologies (TOT), General Services Administration, Washington, DC 20405
Phone: 202 501-3932
Email: jack.finley@fed.gov

RIN: 3090–AG79

PUBLIC BUILDINGS SERVICE

3876. FEDERAL PROPERTY MANAGEMENT REGULATIONS, PART 101-17, ASSIGNMENT AND UTILIZATION OF SPACE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-17

Legal Deadline: None

Abstract: This proposed rule revises the methods by which GSA-controlled space is identified and measured, eliminates the specific physical description of the components of standard level alterations, and substitutes budget guidelines for alterations, thereby providing tenant agencies flexibility in designing space to meet their mission needs. It also introduces new guidelines for establishing the funding responsibilities of both GSA and tenant agencies associated with moves. The regulation also revises coverage related to location of Federal facilities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Pamela M. Wessling, Assistant Commissioner, Office of Portfolio Management (PT), General Services Administration, Public Buildings Service, Washington, DC 20405
Phone: 202 501-0638
Fax: 202 501-3421
Email: pamela.wessling@gsa.gov

RIN: 3090–AG31

3877. FEDERAL PROPERTY MANAGEMENT REGULATIONS, PART 101-20, MANAGEMENT OF BUILDINGS AND GROUNDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-20

Legal Deadline: None

Abstract: New procedures for establishing rent charges were recently developed as part of GSA's reinvention efforts. This proposed rule revises part 101-20 to support the implementation of GSA's new space and related services pricing practices included in part 101-21.

GSA — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Henry Singer, Director, Business Guidance and Practices Division, General Services Administration, Public Buildings Service, Washington, DC 20405
Phone: 202 501-1447
Fax: 202 501-3296
Email: henry.singer@gsa.gov

RIN: 3090–AG32

3878. FEDERAL PROPERTY MANAGEMENT REGULATIONS, PART 101-21, FEDERAL BUILDINGS FUND

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-21

Legal Deadline: None

Abstract: Part 101-21 of the FPMR prescribes policies and procedures applicable to the furnishing of, and charges for, space and services by GSA in Government-owned and leased buildings. New procedures for establishing these charges were recently developed as part of GSA's reinvention efforts. The purpose of this proposed rule is to implement these new procedures.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Pamela M. Wessling, Assistant Commissioner, Office of Portfolio Management (PT), General Services Administration, Public Buildings Service, Washington, DC 20405
Phone: 202 501-0638
Fax: 202 501-3421
Email: pamela.wessling@gsa.gov

RIN: 3090–AG33

3879. • INCREASE SMOKE DEVELOPMENT RATING

Priority: Other Significant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-20

Legal Deadline: None

Abstract: This proposed rule will amend the Federal Property Management Regulations to increase the allowable smoke development rating to 450 and eliminate the flame resistant requirement. The increased smoke development rating will bring this requirement into agreement with the three model building codes and the Life Safety Code as well as the proposed International Building Code.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stewart Levy, Senior Fire Engineer, Public Buildings Service, General Services Administration, Washington, DC 20405
Phone: 202 501-4077
Fax: 202 501-3296
Email: stewart.levy@gsa.gov

RIN: 3090–AG69

GENERAL SERVICES ADMINISTRATION (GSA) — Final Rule Stage

OFFICE OF GOVERNMENTWIDE POLICY

3880. REISSUANCE OF THE GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 501 to 570

Legal Deadline: None

Abstract: GSA plans to publish those aspects of the GSAR for public comment that have a significant cost or administrative impact on contractors or offerors, or significant effect beyond the internal operating procedures of the agency. After consideration of public comments, the entire regulation will be reissued in final form. The regulation will redefine the objectives of the procurement system and its regulatory base, establish very narrow standards for the scope and nature of the regulation, and reduce the overall volume of the regulation by at least 50 percent. The General Services Administration (GSA) plans to revise and reissue chapter 5, 48 CFR, in its entirety. The reissuance will represent the culmination of the Total Quality Management project to review GSA's acquisition regulation/directive system.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Sectors Affected: All

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AE90

GSA

Final Rule Stage

3881. FEDERAL PROPERTY MANAGEMENT REGULATIONS, PART 101-16, GOVERNMENTWIDE REAL PROPERTY POLICY

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-16

Legal Deadline: None

Abstract: This rulemaking describes the current real property policies applicable to GSA and Federal agencies to whom GSA real property operations have been delegated. The policies contained in this final rule have been separated from their procedural components and reflect the way that real property operations are currently conducted.

Timetable:

Action	Date	FR Cite
NPRM	08/07/97	62 FR 42444
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Stanley C. Langfeld, Director, Real Property Policy Div. (MPR), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-1737
Fax: 202 219-0104

RIN: 3090–AF95

3882. RELOCATION OF FIRMR PROVISIONS RELATING TO USE OF GOVERNMENT TELEPHONE SYSTEMS AND GSA SERVICES AND ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 40 USC 1424(b)

CFR Citation: 41 CFR 101-35

Legal Deadline: None

Abstract: This final rule reestablishes Federal Information Resources Management Regulations telecommunications provisions in the Federal Property Management Regulations. This action was caused by the passage of the Information Technology Management Reform Act of 1996 which effectively disestablished the FIRMR on 8/8/96.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/07/96	61 FR 41003
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: James Cademartori, Configuration Manager, Federal Telecommunications Service, General Services Administration, 7980 Boeing Court, Third Floor, Vienna, VA 22182-3988
Phone: 703 760-7545
Fax: 703 760-7583
Email: james.cademartori@gsa.gov

RIN: 3090–AG03

3883. MOTOR VEHICLE MANAGEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-38

Legal Deadline: None

Abstract: This regulation changes 41 CFR 101-38 to remove the obsolete passenger vehicle classification "IA-Small," changes the requirement to acquire compact or smaller sedans to midsize or smaller sedans, and removes the certification requirement to GSA when sedans larger than compact are acquired by Federal agencies. FPMR 101-38 will further be changed to address the new fleet credit card, remove references to the obsolete fleet credit cards (SFs 149 and 149A), and reference the Home-to-Work vehicle use provisions in 41 CFR 101-6.4. The regulation will also address the seat belt use provisions in EO 13043 and revised light truck fuel economy standards issued by the Secretary of Transportation.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Director, Federal Vehicle Policy Div. (MTV), Office of Governmentwide Policy, General Services Administration, Washington, DC 20405
Phone: 202 208-7631
Fax: 202 501-6742
Email: bill.rivers@gsa.gov

RIN: 3090–AG12

3884. • NEGOTIATION PROCEDURES FOR ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY; CHGE 79

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 503; 48 CFR 515; 48 CFR 552; 48 CFR 570

Legal Deadline: None

Abstract: This final rule will amend the GSAR to update negotiation procedures for acquisitions of leasehold interests in real property. The changes made GSAR part 570 consistent, where applicable, with Federal Acquisition Regulation part 15, as revised by Federal Acquisition Circular 97-02. The changes also updated GSAR provisions and clauses applicable to acquisitions of leasehold interests in real property.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/16/98	63 FR 8843
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405

GSA

Final Rule Stage

Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AG70

3885. • FTR AMENDMENT; FLY AMERICAN

Priority: Other Significant

Legal Authority: 5 USC 5701; 49 USC 40118

CFR Citation: 41 CFR 301

Legal Deadline: None

Abstract: This amendment implements the requirement of 49 U.S.C. 40118 commonly referred to as the Fly America Act. The amendment revises current FTR into plain language question and answer format.

Timetable:

Action	Date	FR Cite
NPRM	04/07/98	63 FR 16936
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Jim Harte, Program Analyst (Leader-Facilitator), General Services Administration, Office of Governmentwide Policy (MTT), 1800 F Street NW., Washington, DC 20405
Phone: 202 501-0483
Fax: 202 501-0349

RIN: 3090–AG73

3886. • DONATION REQUIREMENTS FOR FIREARMS

Priority: Other Significant

Legal Authority: 40 USC 486(c),sec 205(c),63 stat 390

CFR Citation: 41 CFR 101-42

Legal Deadline: None

Abstract: This final rule makes Federal surplus firearms available to State and local law enforcement activities through the State Agencies for Surplus Property.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Martha Caswell, Director, Personal Property Mgt. Policy Div., General Services Administration, Office of Governmentwide Policy (MTP), 1800 F Street NW., Washington, DC 20405
Phone: 202 501-3828
Fax: 202 501-6742
Email: martha.caswell@gsa.gov

RIN: 3090–AG80

3887. • STREAMLINING ADMINISTRATION OF FEDERAL SUPPLY SERVICE (FSS) MULTIPLE AWARD SCHEDULE (MAS) CONTRACTS

Priority: Other Significant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 552

Legal Deadline: None

Abstract: This interim final rule will update the use of "maximum order" in GSAR 552.238-6, Price Reductions; remove the requirement for contracting officer pre-approval of item deletions under Federal Supply Service (FSS) Multiple Award Schedules (MAS); revise the requirement that FSS MAS contractors publish paper copies of modifications to their MAS price lists within 15 days to instead allow electronic posting of modifications and quarterly publication of paper supplements; and allow procuring contracting officers in FSS to authorize administrative contracting officers to issue show cause or cure notices.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3822
Fax: 202 501-3441

RIN: 3090–AG81

3888. • THE COMPOSITION OF THE EVALUATION BOARD FOR ARCHITECT-ENGINEER PROCUREMENTS

Priority: Other Significant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 536

Legal Deadline: None

Abstract: This final rule amends the General Services Administration Acquisition Regulation to clarify the Federal Acquisition Regulation language regarding the qualifications of individuals to be appointed to the evaluation board for architect-engineer procurements.

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AG82

3889. • FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES REGULATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101; 41 CFR 102

Legal Deadline: None

Abstract: This interim rule establishes the Federal Property and Administrative Services Regulation (FPASR) as a replacement for the Federal Property Management Regulations (FPMR). The FPASR is

written in plain language and appears in a question and answer format to make the regulation easier to understand and use. Non-regulatory material that had been in the FPMR will not be in the FPASR. Such material will become available in customer service guides issued by responsible offices within GSA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Rodney P. Lantier, Director, Regulatory Secretariat (MVRS), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-2647
Fax: 202 501-4067

RIN: 3090–AG83

OFFICE OF MANAGEMENT AND WORKPLACE SERVICES

3890. • PUBLIC AVAILABILITY OF AGENCY RECORDS AND INFORMATIONAL MATERIALS

Priority: Other Significant

Legal Authority: 5 USC 301 and 552; 40 USC 486(c)

CFR Citation: 41 CFR 105-60

Legal Deadline: None

Abstract: This final rule revises GSA's regulations which implement the Freedom of Information Act to incorporate the requirements of the Electronic Freedom of Information Act Amendments of 1996, 5 U.S.C. 552, as amended by Public Law 104-231.

Timetable:

Action	Date	FR Cite
NPRM	06/17/98	63 FR 33023
NPRM Comment Period End	07/17/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Cunningham, GSA Freedom of Information Act Officer, General Services Administration, Washington, DC 20405
Phone: 202 501-3415

RIN: 3090–AG78

PUBLIC BUILDINGS SERVICE

3891. FEDERAL BUILDING FUND, BILLING PROCEDURES FOR REIMBURSABLE CHARGES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-21

Legal Deadline: None

Abstract: This rulemaking modifies the Public Buildings Service (PBS) pricing practices for Reimbursable Work Authorizations (RWA). Currently, customer agencies are billed the actual costs for supplies, materials, labor, contract costs, and overhead related to the RWA. This interim final rule established a fixed price for an RWA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/22/97	62 FR 27972
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Henry Singer, Director, Business Guidance and Practices Division, General Services Administration, Public Buildings Service, Washington, DC 20405
Phone: 202 501-1447
Fax: 202 501-3296
Email: henry.singer@gsa.gov

RIN: 3090–AG35

3892. UTILIZATION AND DISPOSAL OF REAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47

Legal Deadline: None

Abstract: This final rule amends the FPMR regarding responsibilities of Federal agencies with respect to appraisals. This amendment helps to ensure the reliability of the estimate of fair market value by allowing the appraiser to consider the effect of historic covenants on fair market values for properties eligible for inclusion or that are on the National Register of Historic Places. Additionally, this revision adds a provision for appraisal confidentiality.

Timetable:

Action	Date	FR Cite
NPRM	05/05/97	62 FR 24383
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: John Q. Martin, Director, Redeployment Services Div. (PRD), Public Buildings Service, General Services Administration, Washington, DC 20405
Phone: 202 501-0084
Fax: 202 501-2520

RIN: 3090–AG39

3893. UTILIZATION AND DISPOSAL OF REAL PROPERTY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47

Legal Deadline: None

Abstract: This rulemaking amends the FPMR pertaining to the disposal of Government-owned improvements and improvements that agencies may dispose of through abandonment, destruction, or donation without prior GSA concurrence. It also bases the determination on a current estimate of value instead of original acquisition cost.

Timetable:

Action	Date	FR Cite
NPRM	06/20/97	62 FR 33580
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: John Q. Martin, Director, Redeployment Services Div. (PRD), General Services Administration, Public Buildings Service, Washington, DC 20405
Phone: 202 501-0084
Fax: 202 501-2520

RIN: 3090–AG53

OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

3894. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 794

CFR Citation: 41 CFR 101-8.3

Legal Deadline: None

Abstract: The General Services Administration (GSA) proposes this regulation to implement the above-cited law. This regulation would amend GSA's regulation for enforcement of section 504 of the Rehabilitation Act of 1973, as amended, in federally assisted programs or activities to include a cross-reference to the Uniform Federal Accessibility Standards.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: James M. Taylor, Program Manager, Office of Equal Employment Opportunity, General Services Administration, 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-0767

RIN: 3090–AE32

OFFICE OF GOVERNMENTWIDE POLICY

3895. FTR AMENDMENT (UNASSIGNED); ACCEPTANCE OF PAYMENT FROM A NON-FEDERAL SOURCE FOR TRAVEL EXPENSES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5701 to 5709; 31 USC 1353; 40 USC 486(c)

CFR Citation: 41 CFR 301-1; 41 CFR 304-1

Legal Deadline: None

Abstract: This amendment finalizes the interim rule governing the acceptance of payment for travel, subsistence, and related expenses from a non-Federal source. This rule supersedes Interim Rule 4, published at 57 FR 53283, November 9, 1992, with request for comments. The economic impact of this amendment is favorable on all Federal agencies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/09/92	57 FR 53283
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Acting Director, Travel and Trans. Mgt. Pol. Div. (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-1538
Fax: 202 501-0349
Email: bill.rivers@gsa.gov

RIN: 3090–AE19

3896. FTR INTERIM RULE 6, LAST MOVE HOME BENEFITS FOR CERTAIN INDIVIDUALS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5701 to 5709; 5 USC 5721 to 5734; 5 USC 5741 to 5742; 20 USC 905(a); 31 USC 1353; 40 USC 486(c); EO 11609, 36 FR 13747, 3 CFR, 1971 to 1975 Comp, p 586; EO 12466, 49 FR 7349, 3 CFR, 1984 Comp, p 165; EO 12522, 50 FR 26337, 3 CFR, 1985 Comp, p 375

CFR Citation: 41 CFR 301-1; 41 CFR 301-3; 41 CFR 302-1; 41 CFR 302-6; 41 CFR 303

Legal Deadline: None

Abstract: This amendment implements provisions of the Jerry Litton Post Office Building Act (PL 103-338), October 6, 1994, which provides "last move home" benefits to members of the immediate family of a Senior Executive Service (SES) career appointee who dies while in service and would otherwise have been eligible for "last move home" benefits. The Act also provides "last move home" benefits for Veterans Affairs medical center directors who are now SES career appointees, but who transferred prior to November 18, 1988, when medical center directors were not in the SES. This amendment also revises FTR provisions to clarify that personal funds and personal frequent flyer mileage may be used to upgrade to first-class transportation accommodations. The estimated annual economic impact of this amendment on all Federal agencies has not been determined to date.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/13/97	62 FR 26374
Interim Final Rule Effective	05/13/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Acting Director, Travel & Trans. Mgt. Pol. Div. (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-1538
Fax: 202 501-0349
Email: bill.rivers@gsa.gov

RIN: 3090–AF63

3897. RELOCATION OF FIRMR PROVISIONS RELATING TO GSA'S ROLE IN RECORDS MANAGEMENT

Priority: Other Significant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-11

Legal Deadline: None

Abstract: This rule establishes certain Federal Information Resources Management Regulations provisions regarding records management in the Federal Property Management Regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/07/96	61 FR 41000
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Stewart Randall, Program Analyst, IT Management Practices Division (MKM), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
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Email: stewart.randall@gsa.gov

RIN: 3090–AG02

3898. FEDERAL TRAVEL REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 5707; 5 USC 5738; EO 11609, 36 FR 13747, 3 CFR, 1971 to 1975 Comp, p 586

CFR Citation: 41 CFR 301-1; 41 CFR 301-11; 41 CFR 301-15; 41 CFR 302-1; 41 CFR 302-10

Legal Deadline: None

Abstract: GSA proposes to amend the FTR to implement statutory and regulatory changes as a result of Joint Financial Management Improvement Program (JFMIP) recommendations and the Federal Employee Travel Reform Act of 1996.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: See RIN 3090-AF88, 3090-AF96, and 3090-AF98 for completed actions.

Agency Contact: William T. Rivers, Acting Director, Travel & Trans. Mgt. Pol. Div. (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-1538
Fax: 202 501-0349
Email: bill.rivers@gsa.gov

RIN: 3090–AG11

3899. DONATION OF FEDERAL SURPLUS PERSONAL PROPERTY TO NONPROFIT PROVIDERS OF ASSISTANCE FOR IMPOVERISHED FAMILIES AND INDIVIDUALS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-44

Legal Deadline: None

Abstract: This regulation establishes policies and procedures for donating Federal surplus personal property to nonprofit organizations that provide food, clothing, housing, or other assistance to families or individuals with incomes below the poverty line.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/19/98	63 FR 8351
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Martha Caswell, Director, Pers. Prop. Mgt. Pol. Div. (MTP), Office of Governmentwide Policy, General Services Administration, Washington, DC 20405
Phone: 202 501-3828
Fax: 202 501-6742

RIN: 3090–AG63

3900. • FTR AMENDMENT (UNASSIGNED); PAYMENT OF EXPENSES CONNECTED WITH DEATH

Priority: Other Significant

Legal Authority: 5 USC 5741; 5 USC 5742

CFR Citation: 41 CFR 303

Legal Deadline: None

Abstract: This rule revises current FTR into plain language--question and answer format.

Timetable:

Action	Date	FR Cite
NPRM	08/27/98	63 FR 26488
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Jim Harte, Program Analyst (Leader-Facilitator), General Services Administration, Office of Governmentwide Policy (MTT), 1800 F Street NW., Washington, DC 20405
Phone: 202 501-0483
Fax: 202 501-0349
Email: jim.harte@gsa.gov

RIN: 3090–AG76

3901. • DONATIONS TO SERVICE EDUCATIONAL ACTIVITIES

Priority: Other Significant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-44

Legal Deadline: None

Abstract: This rule would amend the regulation issued by GSA for donations to educational activities of special interest to the armed services. Under this rule, State agencies for surplus property (SASPs) will assume certain responsibilities that were previously performed by the Defense Department. The changes are necessary to comply with subsection 203(j)(2) of the Federal Property Act, which requires all donations of surplus property under the control of the Department of Defense to service educational activities to be made through SASPs.

Timetable:

Action	Date	FR Cite
NPRM	08/07/98	63 FR 42310
NPRM Comment Period End	09/08/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Audrey L. Harris, Program Analyst, General Services Administration, Office of Governmentwide Policy (MTT), 1800 F Street NW., Washington, DC 20405
Phone: 202 501-0712
Fax: 202 501-6742

RIN: 3090–AG77

PUBLIC BUILDINGS SERVICE

3902. LOCATION OF FEDERAL FACILITIES IN URBAN AREAS

Priority: Other Significant

Legal Authority: 40 USC 481; 40 USC 6017; 7 USC 1924; 40 USC 490; 40 USC 531; 42 USC 3601; 42 USC 4321; 42 USC 4201; EO 12072; EO 12411; EO 12512; PL 100-678; EO 13005; EO 13006

CFR Citation: 41 CFR 101-17

Legal Deadline: None

Abstract: This interim final rule provides new guidance in Federal Property Management Regulations (FPMR) 101-17 concerning the location of Federal facilities in urban areas.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/07/96	61 FR 9110
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Henry Singer, Director, Business Guidance and Practices Division, General Services Administration, Public Buildings Service, Washington, DC 20405
Phone: 202 501-1447
Fax: 202 501-3296
Email: henry.singer@gsa.gov

RIN: 3090–AF94

3903. DISPOSALS OF SURPLUS REAL PROPERTY FOR HOUSING ASSISTANCE (PL 105-50)

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47

Legal Deadline: None

Abstract: This rule updates the FPMR public benefit conveyance regulations for utilization and disposal of real property.

Timetable:

Action	Date	FR Cite
NPRM	08/11/98	63 FR 42792
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Nichelle Shoats, Realty Specialist, Office of Property Disposal, General Services Administration, Public Buildings Service, Washington, DC 20405
Phone: 202 501-2183

RIN: 3090–AG60

GENERAL SERVICES ADMINISTRATION (GSA) Completed Actions

3904. OFFICE COPYING MACHINES

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 101-25

Completed:

Reason	Date	FR Cite
Withdrawn	07/14/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Nicholas Economou
Phone: 703 305-6936

RIN: 3090–AF08

3905. UPDATE OF TRANSPORTATION DOCUMENTATION AND AUDIT REGULATIONS

Priority: Info./Admin./Other

CFR Citation: 41 CFR 101-41

Completed:

Reason	Date	FR Cite
Withdrawn	08/13/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William T. Rivers
Phone: 202 501-1538
Fax: 202 501-0349
Email: bill.rivers@gsa.gov

RIN: 3090–AE77

3906. FTR AMENDMENT (UNASSIGNED); USE OF GOVERNMENT AIRCRAFT AND GOVERNMENT-NEGOTIATED RENTAL AGREEMENT AUTOMOBILES

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 301-1; 41 CFR 301-2; 41 CFR 301-3

Completed:

Reason	Date	FR Cite
Final Action	04/01/98	63 FR 15949

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers
Phone: 202 501-1538
Fax: 202 501-0349
Email: bill.rivers@gsa.gov

RIN: 3090–AE82

3907. RELOCATION OF FIRMR PROVISIONS RELATING TO GSA'S ROLE IN THE DISPOSAL OF EXCESS AND EXCHANGE/SALE INFORMATION TECHNOLOGY EQUIPMENT

Priority: Other Significant

CFR Citation: 41 CFR 101-43

Completed:

Reason	Date	FR Cite
Incorporated into RIN 3090-AG74	08/04/98	63 FR 41432

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Martha Caswell
Phone: 202 501-3828
TDD: 202 501-0657
Fax: 202 501-2149
Email: martha.caswell@gsa.gov.

RIN: 3090–AG01

3908. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION; REVISION OF GSAR CLAUSES

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 552

Completed:

Reason	Date	FR Cite
Withdrawn	08/05/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AG08

3909. ACCIDENT AND INCIDENT REPORTING AND INVESTIGATION

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 101-37

GSA

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	08/14/98	63 FR 43638

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Pete Zuidema
Phone: 202 219-1377
Fax: 202 501-2149

RIN: 3090–AG13

3910. TRANSPORTATION AND TRAFFIC MANAGEMENT REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 101-40

Completed:

Reason	Date	FR Cite
Withdrawn	08/13/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers
Phone: 202 501-1538
Fax: 202 501-0349
Email: bill.rivers@gsa.gov

RIN: 3090–AG34

3911. 10-DAY PAYMENT CLAUSE FOR FEDERAL SUPPLY SERVICE CONTRACTS UNDER THE FSS-19 PROCUREMENT SYSTEM

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 532; 48 CFR 552

Completed:

Reason	Date	FR Cite
Final Action	07/16/98	63 FR 38330

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AG47

3912. MANAGEMENT, USE, AND DISPOSAL OF AIRCRAFT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 41 CFR 101-37.7

Completed:

Reason	Date	FR Cite
Withdrawn	08/08/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Peter Zuidema
Phone: 202 219-1377
Fax: 202 501-2149

RIN: 3090–AG56

3913. GSA AGENCY PROTEST PROCEDURES

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 533

Completed:

Reason	Date	FR Cite
Incorporated into RIN 3090-AE90	08/05/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AG57

3914. CHANGE TO THE DISPOSAL CONDITION CODES FOR REPORTING EXCESS PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 41 CFR 101-43

Completed:

Reason	Date	FR Cite
Final Action	07/27/98	63 FR 40058

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Martha Caswell
Phone: 202 501-3828
Fax: 202 501-6742

RIN: 3090–AG64

3915. • REQUESTING DEBRIEFINGS AT GSA; ELECTRONIC SALES REPORTING; SCHEDULE FOR SUBMISSION OF REPORTS; FEES FOR INDUSTRIAL FUNDING

Priority: Other Significant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 501; 48 CFR 515; 48 CFR 538; 48 CFR 552

Legal Deadline: None

Abstract: This rule amended the GSAR by providing for electronic reporting of sales under the Federal Supply Service Schedule program and by requiring reporting of sales and payment of the industrial funding fee on a calendar quarter basis. The rule also amended the GSAR to define GSA's business hours for purposes of requesting postaward debriefings.

Timetable:

Action	Date	FR Cite
Final Action	04/17/98	63 FR 19193

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3822
Fax: 202 501-3822

RIN: 3090–AG71

3916. • FTR AMENDMENT 72; MAXIMUM PER DIEM RATES

Priority: Other Significant

Legal Authority: 5 USC 5701 to 5709

GSA

Completed Actions

CFR Citation: 41 CFR 301

Legal Deadline: None

Abstract: This final rule amended the Federal Travel Regulation (FTR) to change the maximum per diem rate prescribed in FTR Amendment 68 (62 FR 63798, December 2, 1997) for El Paso (El Paso County), Texas.

Timetable:

Action	Date	FR Cite
Final Action	05/13/98	63 FR 26488

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Jim Harte, Program Analyst (Leader-Facilitator), General Services Administration, Office of Governmentwide Policy (MTT), 1800 F Street NW., Washington, DC 20405
Phone: 202 501-0483
Fax: 202 501-0349

RIN: 3090–AG72

3917. • DISPOSAL OF EXCESS AND EXCHANGE SALE IT EQUIPMENT

Priority: Other Significant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-43

Legal Deadline: None

Abstract: This final rule removed provisions from the Federal Property Management Regulations regarding disposal of information technology (IT) equipment. Removal of this regulation means that IT equipment will now be disposed of under the normal FPMR provisions for disposal of personal property.

Timetable:

Action	Date	FR Cite
Final Action	08/04/98	63 FR 41432

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Martha Caswell, Director, Personal Property Mgt. Policy Division, General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3828
Fax: 202 501-2149
Email: martha.caswell@gsa.gov

RIN: 3090–AG74

3918. • FTR AMENDMENT NO. (UNASSIGNED); PRIVATELY OWNED VEHICLE MILEAGE REIMBURSEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5704; 5 USC 5707

CFR Citation: 41 CFR 301

Legal Deadline: None

Abstract: This rule increases the mileage reimbursement rates for use of a privately owned vehicle (POV) on official business travel to reflect current costs of operation as determined in cost studies conducted by the General Services Administration (GSA). Based on preliminary findings, we anticipate the new rates will be: 32.5 cents per mile for use of a privately owned automobile, 88 cents per mile for use of a privately owned airplane, and 26 cents per mile for use of a privately owned motorcycle.

Timetable:

Action	Date	FR Cite
Final Action	09/08/98	63 FR 47438

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Jim Harte, Program Analyst (Leader-Facilitator), General Services Administration, Office of Governmentwide Policy (MTT), 1800 F Street NW., Washington, DC 20405
Phone: 202 501-0483
Fax: 202 501-0349
Email: jim.harte@gsa.gov

RIN: 3090–AG75

3919. FPMR 101-20, SMOKING POLICY

Priority: Other Significant

CFR Citation: 41 CFR 101-20

Completed:

Reason	Date	FR Cite
Final Action	07/01/98	63 FR 35846

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph Gerber
Phone: 202 501-1563
Fax: 202 219-2310

RIN: 3090–AG61

3920. DISPOSALS OF SURPLUS REAL PROPERTY FOR PUBLIC SAFETY PURPOSES (PL 105-119)

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 101-47

Completed:

Reason	Date	FR Cite
Incorporated into RIN 3090-AG60	08/11/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Q. Martin
Phone: 202 501-0084
Fax: 202 501-2520

RIN: 3090–AG67

[FR Doc. 98-23918 Filed 11-06-98; 8:45 am]
BILLING CODE 6820-34-F

federal register

Monday
November 9, 1998

Part XXVII

National Aeronautics and Space Administration

Semiannual Regulatory Agenda

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Ch. V

Regulatory Agenda

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Semiannual regulatory agenda.

SUMMARY: NASA's regulatory agenda describes those regulations being considered for development or amendment by NASA, the need and legal basis for the actions being considered, the name and telephone number of the knowledgeable official, whether a regulatory analysis is required, and the status of regulations previously reported.

ADDRESSES: Director, Management Assessment Division (Code JM), Office of Management Systems and Facilities, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: June Flickinger, (202) 358-2876.

SUPPLEMENTARY INFORMATION: OMB guidelines dated July 8, 1998, "October 1998 Unified Agenda of Federal Regulatory and Deregulatory Actions," and Executive Order 12866 "Regulatory Planning and Review" require a regulatory agenda of those regulations under development and review be published in the **Federal Register** each April and October.

This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. NASA's Statement of Regulatory Priorities is included in part II.

Dated: August 25, 1998.

Danalee Green,

Director, Management Assessment Division.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3921	Meritorious Claims Arising From The Conduct of NASA Functions Under 42 USC 2473 (c) (13)	2700-AC35

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3922	Cross-Waiver of Liability	2700-AB51

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3923	Tracking and Data Relay Satellite System; Use and Reimbursement Policy for Non-U.S. Government Users	2700-AA29
3924	Uniform Administrative Requirements for Grants and Cooperative Agreements	2700-AA95
3925	New Restrictions on Lobbying	2700-AB06
3926	Miscellaneous Administrative Changes to the NASA Federal Acquisition Regulation Supplement (NFS)	2700-AC33
3927	Grant and Cooperative Agreement Handbook	2700-AC34

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3928	Minor Clarifying Changes to Existing Award Fee Coverage	2700-AB92
3929	Contracting and Subcontracting Policies and Procedures To Achieve Goals for Small Disadvantaged Businesses	2700-AB94
3930	Contract Financing	2700-AC20
3931	Equitable Adjustments	2700-AC32

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Proposed Rule Stage

3921. • MERITORIOUS CLAIMS ARISING FROM THE CONDUCT OF NASA FUNCTIONS UNDER 42 USC 2473 (C) (13)

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

Legal Authority: 42 USC 2473; 31 USC 3104

CFR Citation: 14 CFR 1267

Legal Deadline: None

Abstract: This proposed rule would establish NASA policies and procedures for meritorious claims, other than Federal Tort Claims Act claims or claims otherwise covered under 14 CFR part 1261, arising from the conduct of NASA functions and pursuant to 203(c)(13) of the National Aeronautics and Space Act of 1958, as amended (42 USC 2473 (c) (13)).

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Bernard J. Roan, Senior Attorney, National Aeronautics and Space Administration, Office of Associate General Counsel, (Contracts), Washington, DC 20546
Phone: 202 358-2072
Fax: 202 358-4355

RIN: 2700–AC35

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Final Rule Stage

3922. CROSS-WAIVER OF LIABILITY

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

Legal Authority: 42 USC 2473(c)(1); 42 USC 2473(c)(5)

CFR Citation: 14 CFR 1266

Legal Deadline: None

Abstract: This provides technical amendments to refine and clarify the contractual cross-waiver of liability in NASA agreements involving launch services.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jay Steptoe, Deputy Assoc. General Counsel, National Aeronautics and Space Administration, Office of General Counsel, Code G, Washington, DC 20546
Phone: 202 358-2432

RIN: 2700–AB51

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Long-Term Actions

3923. TRACKING AND DATA RELAY SATELLITE SYSTEM; USE AND REIMBURSEMENT POLICY FOR NON-U.S. GOVERNMENT USERS

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

CFR Citation: 14 CFR 1215

Timetable:

Action	Date	FR Cite
Final Action for CY 1993 Rate Change	05/15/92	57 FR 20746
Final Action for CY 1994 Rate Change	09/28/93	58 FR 50515
Final Action for CY 1995 Rate Change	10/31/94	59 FR 54385
Final Action for CY 1997 Rate Change	05/15/95	60 FR 25843

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph LaCurto
Phone: 202 358-2044

RIN: 2700–AA29

3924. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

CFR Citation: 14 CFR 1270

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 214
Begin Review	04/01/91	
Second NPRM	07/23/96	61 FR 38058

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Steve Miley
Phone: 202 358-0493

RIN: 2700–AA95

3925. NEW RESTRICTIONS ON LOBBYING

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

CFR Citation: 14 CFR 1271

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6748

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

NASA

Long-Term Actions

Agency Contact: Paul Brundage
Phone: 202 358-0481

RIN: 2700–AB06

3926. MISCELLANEOUS ADMINISTRATIVE CHANGES TO THE NASA FEDERAL ACQUISITION REGULATION SUPPLEMENT (NFS)

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

CFR Citation: 48 CFR 1801 to 1872

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Tom O'Toole
Phone: 202 358-0478
Fax: 202 358-3220
Email: thomas.otoole@hq.nasa.gov

RIN: 2700–AC33

3927. • GRANT AND COOPERATIVE AGREEMENT HANDBOOK

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2473 the Space Act

CFR Citation: 14 CFR 1260; 14 CFR 1274

Legal Deadline: None

Abstract: This change will rewrite the Grants and Cooperative Agreement Handbook to incorporate various improvements and streamlining initiatives.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Steven Miley, Procurement Analyst, National Aeronautics and Space Administration, Washington, DC 20546
Phone: 202 358-0493

RIN: 2700–AC34

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

Completed Actions

3928. MINOR CLARIFYING CHANGES TO EXISTING AWARD FEE COVERAGE

Priority: Info./Admin./Other

CFR Citation: 48 CFR 1816

Completed:

Reason	Date	FR Cite
Final Action	03/08/98	63 FR 13133

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Anne Guenther
Phone: 202 358-0447

RIN: 2700–AB92

3929. CONTRACTING AND SUBCONTRACTING POLICIES AND PROCEDURES TO ACHIEVE GOALS FOR SMALL DISADVANTAGED BUSINESSES

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 1815; 48 CFR 1819; 48 CFR 1852; 48 CFR 1870

Completed:

Reason	Date	FR Cite
Withdrawn	08/11/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Chris Jedrey
Phone: 202 358-0483

RIN: 2700–AB94

3930. CONTRACT FINANCING

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 1832; 48 CFR 1852

Completed:

Reason	Date	FR Cite
Final Action	03/24/98	63 FR 14039

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joseph Le Cren
Phone: 202 358-0444

RIN: 2700–AC20

3931. EQUITABLE ADJUSTMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 1843.205-70; 48 CFR 1852.243-72

Completed:

Reason	Date	FR Cite
Final Action	04/19/98	63 FR 17339

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Joseph LeCren
Phone: 202 358-0444
Fax: 202 358-3220

RIN: 2700–AC32

[FR Doc. 98-23545 Filed 11-06-98; 8:45 am]
BILLING CODE 7510-01-F

federal register

Monday
November 9, 1998

Part XXVIII

National Archives and Records Administration

Semiannual Regulatory Agenda

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Ch. XII

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: National Archives and Records Administration.

ACTION: Regulatory plan and semiannual regulatory agenda.

SUMMARY: This agenda announces the proposed regulatory actions that the National Archives and Records Administration (NARA) plans for the next 12 months and those actions that have been completed since April 1998.

This agenda was developed under the guidelines in OMB's Memorandum for Regulatory Policy Officers at Executive Departments and Agencies and Managing and Executive Directors of Certain Agencies and Commissions, dated July 8, 1998. NARA's purpose in publishing this agenda is to allow interested persons an opportunity to have more comprehensive documentation of NARA's regulatory plans and to participate in the rulemaking process. Some of the regulations listed in the agenda are considered significant under Executive Order 12866 "Regulatory Planning and Review."

FOR FURTHER INFORMATION CONTACT: Nancy Allard, Regulatory Contact, Policy and Communications Staff, (301) 713-7360, ext. 226.

SUPPLEMENTARY INFORMATION: For this edition of the NARA's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Dated: August 27, 1998.

John W. Carlin,

Archivist of the United States.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3932	NARA Facilities	3095-AA06
3933	Records Services Centers	3095-AA27
3934	Creation and Maintenance of Federal Records	3095-AA61
3935	NARA Privacy Act	3095-AA66
3936	Records Declassification	3095-AA67
3937	Researcher Registration and Research Room Procedures	3095-AA69
3938	NARA Freedom of Information Act Regulations	3095-AA72
3939	Limitations on Testimony by NARA Employees	3095-AA75
3940	Collection of Debts Owed to the United States by NARA Employees	3095-AA76
3941	Storage of Nonpaper Records and Artifacts	3095-AA80
3942	Agency Records Centers **(Reg Plan Seq. No. 143)**	3095-AA81
3943	Presidential Library Facilities	3095-AA82
3944	Records Center Facilities Reimbursable Program **(Reg Plan Seq. No. 144)**	3095-AA86
3945	NARA Reproduction Fees	3095-AA87
3946	Standards for Agency Recordkeeping Requirements **(Reg Plan Seq. No. 145)**	3095-AA88

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3947	Debt Collection	3095-AA77

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3948	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments	3095-AA78

NARA

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3949	NARA Federal Acquisition Regulation Supplement; Drug and Alcohol-Free Work Force	3095-AA84
3950	Technical Amendments to Record Management Regulations	3095-AA85

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Proposed Rule Stage

3932. NARA FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(a); 44 USC 2110

CFR Citation: 36 CFR 1280

Legal Deadline: None

Abstract: NARA is updating its regulations on the use of NARA facilities and property to remove obsolete material and to clarify existing provisions, and to add provisions for the new facility in College Park, Maryland (Archives II).

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	
Final Action	01/00/99	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Stephen E. Hannestad, Director, Space and Security Management Division, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6750
Fax: 301 713-7389
Email: stephen.hannestad@arch2.nara.gov

RIN: 3095–AA06

3933. RECORDS SERVICES CENTERS

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2907; 44 USC 3103

CFR Citation: 36 CFR 1228

Legal Deadline: None

Abstract: NARA is updating regulations in subpart I of part 1228 to clarify provisions for the transfer of records to records centers. NARA is also adding a new procedure that new accessions of Top Secret records will only be accepted at the Washington National Records Center. The new policy also will identify which records centers will accept records with other levels of security classification. The new policy for security classified records will reduce NARA costs associated with storing and servicing Top Secret records.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	
Final Action	01/00/99	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gregory A. Pomicter, Assistant for Customer Service/Operations, Office of Regional Records Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7210
Fax: 301 713-7205
Email: gregory.pomicter@arch2.nara.gov

RIN: 3095–AA27

3934. CREATION AND MAINTENANCE OF FEDERAL RECORDS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 44 USC 2904; 44 USC 2905; 44 USC 3101; 44 USC 3102; 44 USC 3301; 44 USC 3314

CFR Citation: 36 CFR 1222

Legal Deadline: None

Abstract: This regulation expands the guidance on personal papers and adds a requirement for agencies to protect against the removal of Federal records by issuing written procedures for removal of nonrecord and personal materials.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	
Final Action	02/00/99	
Final Action Effective	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Michael Miller, Director, Modern Records Programs, National Archives and Records Administration, The National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7110
Fax: 301 713-6850
Email: michael.miller@arch2.nara.gov

RIN: 3095–AA61

3935. NARA PRIVACY ACT

Priority: Info./Admin./Other

Legal Authority: 44 USC 2104(a); 5 USC 552(a)

CFR Citation: 36 CFR 1202

Legal Deadline: None

Abstract: NARA is updating its Privacy Act regulations governing NARA-created (administrative) records to reflect organizational and procedural changes.

Timetable:

Action	Date	FR Cite
NPRM	08/26/98	63 FR 45433
NPRM Comment Period End	10/26/98	
Final Action	11/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher Runkel, Deputy General Counsel, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6025
Fax: 301 713-6040
Email: christopher.runkel@arch2.nara.gov

RIN: 3095–AA66

3936. RECORDS DECLASSIFICATION

Priority: Other Significant

Legal Authority: 44 USC 2101 to 2118; 5 USC 552; EO 12600; EO 12958; EO 12356

CFR Citation: 36 CFR 1254; 36 CFR 1260

Legal Deadline: None

Abstract: NARA plans to revise its regulations on mandatory review and declassification of its archival holdings to reflect the provision of EO 12958, Classified National Security Information. The revised regulations will affect Federal agencies as well as the public.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
NPRM Comment Period End	05/00/99	
Final Action	06/00/99	
Final Action Effective	07/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, Policy and Communications Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Fax: 301 713-7270
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA67

3937. RESEARCHER REGISTRATION AND RESEARCH ROOM PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2111

CFR Citation: 36 CFR 1254

Legal Deadline: None

Abstract: NARA is updating its regulations to lower the age at which a student may be granted full research privileges from 16 years old to 14 years old; to extend the valid period of researcher cards issued by the automated application system from 2 years to 3 years; to revise the list of equipment permitted in research rooms; and to revise provisions relating to private microfilming projects.

Timetable:

Action	Date	FR Cite
NPRM	08/11/98	63 FR 42776
NPRM Comment Period End	10/13/98	
Final Action	11/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Allard, Regulatory Contact, Policy & Communications Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Fax: 301 713-7270
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA69

3938. NARA FREEDOM OF INFORMATION ACT REGULATIONS

Priority: Info./Admin./Other

Legal Authority: 5 USC 552; 44 USC 2101 to 2118; EO 12600

CFR Citation: 36 CFR 1250; 36 CFR 1254

Legal Deadline: None

Abstract: NARA is updating its FOIA regulations governing NARA-created (administrative) records and records accessioned into the National Archives of the United States to reflect organizational and procedural changes.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	01/00/99	
Final Action	02/00/99	
Final Action Effective	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: NARA has decided to issue revised Privacy Act and FOIA regulations in separate rulemakings.

Agency Contact: Christopher Runkel, Deputy General Counsel, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6025
Fax: 301 713-6040
Email: christopher.runkel@arch2.nara.gov

RIN: 3095–AA72

3939. LIMITATIONS ON TESTIMONY BY NARA EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 44 USC 2104; 44 USC 2108 to 2109; 44 USC 2112; 44 USC 2201 to 2207

CFR Citation: 36 CFR 1201; 36 CFR 1250; 36 CFR 1254

Legal Deadline: None

Abstract: This regulation will establish NARA's policies and procedures with respect to testimony by NARA staff and/or production of information and records in legal proceedings not involving the United States or NARA as a named party.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	
Final Action	01/00/99	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Christopher M. Runkel, Deputy General Counsel, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
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Fax: 301 713-6040
Email: christopher.runkel@arch2.nara.gov

RIN: 3095–AA75

3940. COLLECTION OF DEBTS OWED TO THE UNITED STATES BY NARA EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: 5 USC 5514; 31 USC 3701 to 3719; PL 104-134, sec 31001 Debt Collection Improvement Act of 1996

CFR Citation: 36 CFR 1201

Legal Deadline: None

Abstract: This regulation will establish NARA's policies and procedures for handling collection, compromise, and terminations of debts owed to the United States by NARA employees, including by salary and administrative offset. The regulation implements the Federal Claims Collection Act as amended by the Debt Collection Improvement Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	
Final Action	03/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Christopher M. Runkel, Deputy General Counsel, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6025
Fax: 301 713-6040
Email: christopher.runkel@arch2.nara.gov

RIN: 3095–AA76

3941. STORAGE OF NONPAPER RECORDS AND ARTIFACTS

Priority: Other Significant

Legal Authority: 44 USC 2104 (a)

CFR Citation: 36 CFR 1228; 36 CFR 1230; 36 CFR 1232; 36 CFR 1234

Legal Deadline: None

Abstract: NARA is revising records management regulations and policies concerning storage of non-paper records and non-documentary materials (e.g., three-dimensional artifacts and exhibits that are related to a case file) at the Washington National Records Center and regional NARA facilities that provide temporary storage for Federal records. Agencies are responsible for ensuring that all of their records are maintained properly so that they are accessible throughout their scheduled retention period. NARA is concerned about the storage of non-paper records in facilities that do not provide appropriate environmental conditions. Such storage may contribute to deterioration of the records. Past practice has been inconsistent, and current regulations do not adequately address the issue.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	
Final Action	01/00/99	
Final Action Effective	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, 8601 Adelphi Road (NPOL), College Park, MD 20740-6001
Phone: 301 713-7360
Fax: 301 713-7270
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA80

3942. AGENCY RECORDS CENTERS

Regulatory Plan: This entry is Seq. No. 143 in Part II of this issue of the **Federal Register**.

RIN: 3095–AA81

3943. PRESIDENTIAL LIBRARY FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(a); 44 USC 2112

CFR Citation: 36 CFR 1281

Legal Deadline: None

Abstract: NARA is issuing regulations relating to the acceptance of a Presidential library facility by the Archivist of the United States from a non-Federal group or institution. The regulations will address requirements in the Presidential Libraries Act of 1986 for architectural and design standards, certifications, and reporting to Congress.

Timetable:

Action	Date	FR Cite
NPRM	08/25/98	63 FR 45203
NPRM Comment Period End	10/26/98	
Final Action	11/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Allard, Regulatory Contact, Policy and Communications Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Fax: 301 713-7270
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA82

3944. • RECORDS CENTER FACILITIES REIMBURSABLE PROGRAM

Regulatory Plan: This entry is Seq. No. 144 in Part II of this issue of the **Federal Register**.

RIN: 3095–AA86

3945. • NARA REPRODUCTION FEES

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104 (a); 44 USC 2118 (c)

CFR Citation: 36 CFR 1258

Legal Deadline: None

Abstract: NARA proposes to revise its schedule of fees for reproduction of records created by other Federal agencies and transferred to the custody of the Archivist of the United States; donated historical materials; Presidential records and Presidential historical materials transferred to the custody of the Archivist; and records filed with the Office of the Federal Register. The fees are being changed to reflect current costs of providing the reproductions. This rule will affect members of the public and Federal agencies who order reproductions from NARA.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
NPRM Comment Period End	05/00/99	
Final Action	08/00/99	
Final Action Effective	09/00/99	

NARA

Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kathryn Yeager, Management and Program Analyst, National Archives and Records Administration, 8601 Adelphi Road (NAT), College Park, MD 20740-6001
Phone: 301 713-6405
Fax: 301 713-7311
Email: kathryn.yeager@arch2.nara.gov

RIN: 3095–AA87

3946. • STANDARDS FOR AGENCY RECORDKEEPING REQUIREMENTS

Regulatory Plan: This entry is Seq. No. 145 in Part II of this issue of the Federal Register.

RIN: 3095–AA88

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

Final Rule Stage

3947. DEBT COLLECTION

Priority: Info./Admin./Other

Legal Authority: 5 USC 5514; 31 USC 3701 to 3719; PL 104-134, sec 31001

CFR Citation: 36 CFR 1201

Legal Deadline: None

Abstract: This regulation will establish NARA's policies and procedures for implementing the Debt Collection Improvement Act of 1996. It provides for the collection, compromise, or termination of debts owed to the United States and NARA by adopting the Federal Claims Collection Standards promulgated by the General Accounting Office and Department of Justice.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Christopher M. Runkel, Deputy General Counsel, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6025
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Email: christopher.runkel@arch2.nara.gov

RIN: 3095–AA77

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

Long-Term Actions

3948. ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 44 USC 2104 (a)

CFR Citation: 36 CFR 1207; 36 CFR 1210

Legal Deadline: None

Abstract: This interim final revision to the agencies' grants management common rule, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," and the agencies' codification of Office of Management and Budget (OMB) Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," is issued to implement the Single Audit Act Amendments of 1996 and the June 24, 1997, revision of OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." The agencies' rules provide uniform fiscal and administrative requirements applicable to all types of grants and cooperative agreements to State and local governments, institutions of higher education, hospitals, and other non-profit organizations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Interim Final Rule Effective	09/29/97	
Interim Final Rule Comment Period End	10/28/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Policy and Communications Staff (NPOL), 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Fax: 301 713-7270

RIN: 3095–AA78

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

Completed Actions

3949. NARA FEDERAL ACQUISITION REGULATION SUPPLEMENT; DRUG AND ALCOHOL-FREE WORK FORCE

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

CFR Citation: 48 CFR ch 27

Completed:

Reason	Date	FR Cite
Withdrawn - NARA has determined that the regulation is not necessary.	08/24/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Nancy Allard
Phone: 301 713-7360
Fax: 301 713-7270
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA84

3950. • TECHNICAL AMENDMENTS TO RECORD MANAGEMENT REGULATIONS

Priority: Info./Admin./Other

Legal Authority: 44 USC 2104

CFR Citation: 36 CFR 1220; 36 CFR 1222; 36 CFR 1228; 36 CFR 1230; 36 CFR 1234; 36 CFR 1238

Legal Deadline: None

Abstract: The regulation updates organizations titles and locations.

Timetable:

Action	Date	FR Cite
Final Action	07/01/98	63 FR 35829
Final Action Effective	07/01/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, 8601 Adelphi Road (NPOL), College Park, MD 20740-6001
Phone: 301 713-7360
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RIN: 3095–AA85

[FR Doc. 98-23919 Filed 11-06-98; 8:45 am]
BILLING CODE 7515-01-F

federal register

Monday
November 9, 1998

Part XXIX

National Foundation on the Arts and the Humanities

Institute of Museum and Library Services

Semiannual Regulatory Agenda

INSTITUTE OF MUSEUM AND LIBRARY SERVICES (IMLS)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

45 CFR Ch. XI

Regulatory Agenda

AGENCY: Institute of Museum and Library Services, NFAH.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to Executive Order 12866 and the Regulatory Flexibility Act, the Institute of Museum and Library Services publishes this regulatory agenda describing agency regulations under development or review.

FOR FURTHER INFORMATION CONTACT: Ms. Mamie Bittner, Director, Public and Legislative Affairs, Institute of Museum and Library Services, 1100 Pennsylvania Avenue NW., Washington, DC 20506, or call (202) 606-8339.

Mamie Bittner,

Director of Public and Legislative Affairs.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES (IMLS) — Long-Term Actions

3951. NATIONAL LEADERSHIP DEMONSTRATION GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, sec 262, Museum and Library Services Act

CFR Citation: 45 CFR 1180

Legal Deadline: None

Abstract: Regulations will be published to provide guidelines on IMLS National Demonstration Leadership Grants to enhance quality of library services nationwide and to provide coordination between museums and libraries.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Mamie Bittner, Director of Legislative and Public Affairs, Institute of Museum and Library Services, 1100 Pennsylvania Ave. NW., Room 510, Washington, DC 20506
Phone: 202 606-4648
TDD: 202 606-8636
Fax: 202 606-8591
Email: mbittner@imls.fed.us

RIN: 3137–AA08

[FR Doc. 98-26716 Filed 11-06-98; 8:45 am]
BILLING CODE 7036-01-F

federal register

Monday
November 9, 1998

Part XXX

National Foundation on the Arts and the Humanities

National Endowment for the Arts

Semiannual Regulatory Agenda

NATIONAL ENDOWMENT FOR THE ARTS (NEA)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Ch. XI

Semiannual Regulatory Agenda

AGENCY: National Endowment for the Arts, NFAH.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to the Regulatory Flexibility Act (5 U.S.C. 605) and Executive Order 12866, the National Endowment for the Arts publishes this regulatory agenda describing agency regulations under development or review.

FOR FURTHER INFORMATION CONTACT: Ms. Hope O'Keeffe, Acting General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, or call (202) 682-5418.

L. Hope O'Keeffe,

Acting General Counsel.

NATIONAL ENDOWMENT FOR THE ARTS (NEA) — Long-Term Actions

3952. COLLECTION OF CLAIMS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 45 CFR 1150

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hope O'Keeffe
Phone: 202 682-5418

RIN: 3135–AA01

3953. COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hope O'Keeffe
Phone: 202 682-5418

RIN: 3135–AA08

3954. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES; EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 45 CFR 1140

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	
ANPRM Comment Period End	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hope O'Keeffe
Phone: 202 682-5418

RIN: 3135–AA10

3955. STANDARDS OF CONDUCT OF EMPLOYEES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1105

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	
ANPRM Comment Period End	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Weiss
Phone: 202 606-8322
TDD: 202 606-8282
Fax: 202 606-8600
Email: nweiss@neh.fed.us

RIN: 3135–AA13

NEA — Long-Term Actions

3956. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES—IMPLEMENTATION OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Priority: Other Significant

CFR Citation: 45 CFR 1155

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Hope O'Keeffe
Phone: 202 682-5418
TDD: 202 682-5496
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RIN: 3135–AA15

[FR Doc. 98-23920 Filed 11-06-98; 8:45 am]
BILLING CODE 7537-01-F

federal register

Monday
November 9, 1998

Part XXXI

National Foundation on the Arts and the Humanities

National Endowment for the Humanities

Semiannual Regulatory Agenda

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

45 CFR Ch. XI

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601-612, and Executive Order 12866 "Regulatory Planning and Review," dated September 30, 1993, the National Endowment for the Humanities is required to publish, in April and October of each year, an agenda of proposed regulations that the Endowment has issued or expects to issue and current rules that are under agency review.

FOR FURTHER INFORMATION CONTACT: Nancy E. Weiss, Acting General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Washington, DC 20506, (202) 606-8322.

Juan E. Mestas,

Deputy Chairman, National Endowment for the Humanities.

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Long-Term Actions

3957. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1110; 45 CFR 1173

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Willie McGhee
Phone: 202 606-8233
TDD: 202 606-8282
Fax: 202 606-8243
Email: wmcghee@neh.fed.us

RIN: 3136–AA11

3958. IMPLEMENTATION OF TITLE IX OF THE EDUCATION ACT AMENDMENTS OF 1972

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 1171

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Willie McGhee
Phone: 202 606-8233
TDD: 202 606-8282
Fax: 202 606-8243
Email: wmcghee@neh.fed.us

RIN: 3136–AA14

3959. POST-EMPLOYMENT RESTRICTIONS FOR EMPLOYEES OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy E. Weiss
Phone: 202 606-8322
Fax: 202 606-8600
Email: nweiss@neh.fed.us

RIN: 3136–AA16

3960. PRIVACY ACT REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1115

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Nancy E. Weiss
Phone: 202 606-8322
Fax: 202 606-8600
Email: nweiss@neh.fed.us

RIN: 3136–AA18

3961. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 8501

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy E. Weiss
Phone: 202 606-8322
Fax: 202 606-8600
Email: nweiss@neh.fed.us

RIN: 3136–AA21

3962. STANDARDS OF CONDUCT OF EMPLOYEES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1105

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy E. Weiss
Phone: 202 606-8322
TDD: 202 606-8282
Fax: 202 606-8600
Email: nweiss@neh.fed.us

RIN: 3136–AA22

[FR Doc. 98-23546 Filed 11-06-98; 8:45 am]
BILLING CODE 7536-01-F

federal register

Monday
November 9, 1998

Part XXXII

National Science Foundation

Semiannual Regulatory Agenda

NATIONAL SCIENCE FOUNDATION (NSF)

NATIONAL SCIENCE FOUNDATION

45 CFR Ch. VI

Regulatory Agenda

AGENCY: National Science Foundation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The National Science Foundation is publishing its October 1998 regulatory agenda pursuant to Executive Order 12866 "Regulatory Planning and Review" (3 CFR 1993 Comp., p. 638), the Regulatory Flexibility Act (5 U.S.C. 601-612), and the Office of Management and Budget Memorandum for Regulatory Policy Officers at Executive Departments and Agencies and Managing and Executive Directors of Certain Agencies and Commissions (July 8, 1998).

FOR FURTHER INFORMATION CONTACT: For further information on a particular item, call or write the individual identified as agency contact. General comments or inquiries about this agenda may be directed to Leslie Crawford, Office of the General Counsel, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306-1060.

Dated: August 20, 1998.

Leslie Crawford,

Legal Analyst.

NATIONAL SCIENCE FOUNDATION (NSF) — Proposed Rule Stage

3963. AVAILABILITY OF RECORDS AND INFORMATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 552 Freedom of Information Act

CFR Citation: 45 CFR 612

Legal Deadline: Other, Statutory, October 2, 1997.
Other deadline is for compliance with new Electronics Freedom of Information Act.

Abstract: The agency is updating rules to incorporate changes made by Electronic FOI Amendments of 1996.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: D. Matthew Powell, Assistant General Counsel, National Science Foundation, Office of the General Counsel, 4201 Wilson Boulevard, Room 1265, Arlington, VA 22230
Phone: 703 306-1060
Fax: 703 306-0149

RIN: 3145–AA31

3964. PRIVACY ACT REGULATIONS

Priority: Info./Admin./Other

Legal Authority: 5 USC 552a Privacy Act

CFR Citation: 45 CFR 613

Legal Deadline: None

Abstract: This is a review of agency Privacy Act regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: D. Matthew Powell, Assistant General Counsel, National Science Foundation, 4201 Wilson Boulevard, Room 485, Arlington, VA 22230
Phone: 703 306-1060

RIN: 3145–AA32

NATIONAL SCIENCE FOUNDATION (NSF) — Final Rule Stage

3965. CONSERVATION OF ANTARCTIC ANIMALS AND PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-227, Antarctic Conservation Act of 1978; 16 USC 2401 et seq as amended

CFR Citation: 45 CFR 670

Legal Deadline: Final, Statutory, October 2, 1998.

Abstract: Amendments will be made to regulation to implement Antarctic Conservation Act of 1978 as amended by the Antarctic Science, Tourism and Conservation Act of 1996 (PL 104-227).

Timetable:

Action	Date	FR Cite
NPRM	06/02/98	63 FR 29963
NPRM Comment Period End	08/03/98	
Interim Final Rule	10/00/98	
Interim Final Rule Effective	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anita Eisenstadt, Assistant General Counsel, National Science Foundation, Office of the General Counsel, 4201 Wilson Boulevard, Room 1265, Arlington, VA 22230
Phone: 703 306-1060
Fax: 703 306-0149

RIN: 3145–AA34

3966. ENFORCEMENT AND HEARING PROCEDURES; TOURISM GUIDELINES

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-227, Antarctic Science, Tourism and Conserv. Act of 1996

CFR Citation: 45 CFR 673

Legal Deadline: Final, Statutory, October 2, 1998.

Abstract: This regulation implements Antarctic Science, Tourism and Conservation Act of 1996 requirements for U.S. tour operators organizing expeditions to Antarctica on non-U.S. flag vessels.

Timetable:

Action	Date	FR Cite
NPRM	06/04/98	63 FR 30438
NPRM Comment Period End	08/03/98	
Interim Final Rule	10/00/98	
Interim Final Rule Effective	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anita Eisenstadt, Assistant General Counsel, National Science Foundation, Office of the General Counsel, 4201 Wilson Boulevard, Room 1265, Arlington, VA 22230
Phone: 703 306-1060
Fax: 703 306-0149

RIN: 3145–AA36

NATIONAL SCIENCE FOUNDATION (NSF) — Long-Term Actions

3967. ENVIRONMENTAL ASSESSMENT PROCEDURES FOR PROPOSED NATIONAL SCIENCE FOUNDATION ACTIONS IN ANTARCTICA

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 641

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anita Eisenstadt
Phone: 703 306-1060
Fax: 703 306-0149

RIN: 3145–AA33

[FR Doc. 98-23547 Filed 11-06-98; 8:45 am]
BILLING CODE 7555-01-F

Federal Register

Monday
November 9, 1998

Part XXXIII

Office of Federal Housing Enterprise Oversight

Semiannual Regulatory Agenda

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO)

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

12 CFR Ch. XVII

Semiannual Agenda

AGENCY: Office of Federal Housing Enterprise Oversight.

ACTION: Semiannual regulatory agenda.

SUMMARY: This notice is given pursuant to the requirements of the "Regulatory Flexibility Act" (Pub. L. 96-354, September 19, 1980) and Executive Order 12866 ("Regulatory Planning and Review," September 30, 1993), which require the publication of a semiannual agenda of regulations.

FOR FURTHER INFORMATION CONTACT: Gary L. Norton, Deputy General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552.

Dated: September 1, 1998.

Mark A. Kinsey,

Acting Director, Office of Federal Housing Enterprise Oversight.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO) — Proposed Rule Stage

3968. RULES OF PRACTICE AND PROCEDURE

Priority: Info./Admin./Other

Legal Authority: 12 USC 4513(b)(1); 12 USC 4631 to 4641

CFR Citation: 12 CFR 1780

Legal Deadline: None

Abstract: The Office of Federal Housing Enterprise Oversight (OFHEO) issued a final regulation setting forth rules of practice and procedure related to OFHEO's statutory enforcement provisions found in subtitle C of title XIII of the Housing and Community Development Act of 1992, known as the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, 12 U.S.C. 4501 et seq. The proposed regulation will describe procedures for answering notices of charges, filing and service of papers, the designation of a presiding officer, the conduct of formal hearings, access to agency process of parties afforded a hearing, and various time requirements. In addition, the final regulation sets rules of practice, including debarment, suspension and other sanctions, for persons who practice before OFHEO.

Timetable:

Action	Date	FR Cite
NPRM	09/24/98	63 FR 51031
NPRM Comment Period End	11/23/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anne E. Dewey, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552 Phone: 202 414-3800

RIN: 2550–AA04

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO) — Final Rule Stage

3969. RELEASING INFORMATION

Priority: Other Significant

Legal Authority: 5 USC 552; 12 USC 4513; 12 USC 4522; 12 USC 4526; 12 USC 4639; EO 12600

CFR Citation: 12 CFR 1710

Legal Deadline: None

Abstract: The Office of Federal Housing Enterprise Oversight (OFHEO) issued a proposed rule to set forth the basic policies of OFHEO regarding information it maintains and the procedures for obtaining access to such information. The rule contains regulations of OFHEO implementing the Freedom of Information Act (FOIA) and establishes a schedule of fees that will be charged for the processing of document requests under the FOIA. In addition, the proposed rule sets forth procedures to be followed with respect to testimony and the production of documents in legal proceedings in which OFHEO is not a named party as well as procedures for service of process upon OFHEO in any legal proceeding. After reviewing and considering public comments, OFHEO intends to issue a final rule in 1998.

Timetable:

Action	Date	FR Cite
NPRM	05/11/95	60 FR 25162
NPRM Comment Period End	07/10/95	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anne E. Dewey, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552 Phone: 202 414-3800

RIN: 2550–AA01

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO) — Long-Term Actions

3970. RISK-BASED CAPITAL

Priority: Other Significant

Legal Authority: 12 USC 4611; 12 USC 4513(b)(1)

CFR Citation: 12 CFR 1750

Legal Deadline: Final, Statutory, December 1, 1994.

Abstract: Title XIII of the Housing and Community Development Act of 1992, Pub. L. No. 102-550, known as the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, 12 U.S.C. 4501 et seq., gives the Office of Federal Housing Enterprise Oversight (OFHEO) the responsibility for developing a risk-based capital regulation for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (collectively, the Enterprises). To discharge this responsibility, OFHEO must develop and implement a risk-based capital "stress test" that determines the amount of capital that an Enterprise must hold initially to maintain positive capital throughout a 10-year period of economic stress (stress period). A notice of proposed rulemaking was published on June 11, 1996, with a 90-day comment period. The comment period was later extended to October 24, 1996. The proposed regulation includes a discussion of the basis for identifying the benchmark loss experience which will provide the basis for calculating credit losses during the stress period. The proposed regulation also discusses OFHEO's housing price index which is proposed to be used to calculate the seasoning of mortgages. A subsequent second proposed regulation will include the details of all other aspects of the risk-based capital stress test.

Timetable:

Action	Date	FR Cite
ANPRM	02/08/95	60 FR 7468
ANPRM Comment Period End	05/09/95	
NPRM	06/11/96	61 FR 29592
NPRM Comment Period Extended	08/19/96	61 FR 42824
NPRM Comment Period Extended to	10/24/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anne E. Dewey, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552 Phone: 202 414-3800

RIN: 2550–AA02

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO) — Completed Actions

3971. IMPLEMENTATION OF THE PRIVACY ACT OF 1974

Priority: Other Significant

Legal Authority: 5 USC 552a

CFR Citation: 12 CFR 1720

Legal Deadline: None

Abstract: The final regulation implements the Privacy Act of 1974 (5 U.S.C. 552a). The Privacy Act is a records management statute designed to balance the Government's need to maintain information about individuals with the rights of individuals to be protected against unwarranted invasions of their privacy. The final regulation applies to all records that are contained in systems of records maintained by the Office of Federal Housing Enterprise Oversight. The final regulation informs individuals how to obtain and amend non-exempt records indexed under their names. The regulation also places restrictions on the release of covered information.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/23/98	63 FR 8840
Final Action	05/12/98	63 FR 26063

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Anne E. Dewey, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552 Phone: 202 414-3800

RIN: 2550–AA05

[FR Doc. 98-25582 Filed 11-06-98; 8:45 am]

BILLING CODE 4220-~~33~~-F

federal register

Monday
November 9, 1998

Part XXXIV

Office of Government Ethics

Semiannual Regulatory Agenda

OFFICE OF GOVERNMENT ETHICS (OGE)

OFFICE OF GOVERNMENT ETHICS

5 CFR Ch. XVI

Semiannual Regulatory Agenda, October 1998

AGENCY: Office of Government Ethics.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following Office of Government Ethics (OGE) substantive and procedural regulations are scheduled for development or review during the period from October 1, 1998, through September 30, 1999. This agenda fulfills OGE's responsibility to publish a semiannual regulatory agenda under Executive Order 12866 "Regulatory Planning and Review" and has been prepared in accordance with guidance received from the Office of Management and Budget. None of the OGE regulations in this October 1998 agenda will have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. chapter 6. In addition, none of the listed OGE regulatory actions is procurement-related. Furthermore, the Office of Government Ethics rulemakings are not included in The Regulatory Plan.

This publication in the **Federal Register** does not impose a binding obligation on the Office of Government Ethics with respect to any particular item on its agenda. The dates shown for the future steps of each action are estimates and not commitments to act by the date shown. Moreover, other OGE regulatory actions, in addition to the entries listed, are not precluded.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917; telephone: 202-208-8000, extension 1110; TDD: 202-208-8025; FAX: 202-208-8037.

Approved: August 31, 1998.

F. Gary Davis,

Deputy Director, Office of Government Ethics.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3972	Office of Government Ethics Gift Acceptance Authority and Organizational Update	3209-AA21
3973	Office of Government Ethics Electronic Freedom of Information Act Updating Amendments	3209-AA22
3974	Privacy Act Rules of the Office of Government Ethics	3209-AA18
3975	Office of Government Ethics Procedures on Requests for Testimony by OGE Employees and Documentary Production Relating to Official Information and Records	3209-AA23
3976	Interpretation of 18 USC 209, the Constraint Against Private Supplementation of Salaries of Executive Branch Officials and Employees	3209-AA12
3977	Interpretation, Exemptions, and Waiver Guidance Concerning 18 USC 208 (Acts Affecting a Personal Financial Interest)	3209-AA09

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3978	Financial Disclosure, Qualified Trusts, and Certificates of Divestiture for Executive Branch Employees	3209-AA00
3979	Standards of Ethical Conduct for Employees of the Executive Branch	3209-AA04
3980	Limitations on Outside Employment; Confidential Reporting of Payments to Charities in Lieu of Honoraria	3209-AA13
3981	Post-Employment Conflict of Interest Restrictions	3209-AA14

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3982	Executive Agency Supplemental Standards of Ethical Conduct Regulations Issued Jointly With the Concurrence of the Office of Government Ethics	3209-AA15
3983	Executive Agency Ethics Training Programs	3209-AA07

OFFICE OF GOVERNMENT ETHICS (OGE) — Proposed Rule Stage

3972. OFFICE OF GOVERNMENT ETHICS GIFT ACCEPTANCE AUTHORITY AND ORGANIZATIONAL UPDATE

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978)

CFR Citation: 5 CFR 2600

Legal Deadline: None

Abstract: This regulation will implement the new agency gift acceptance authority of the Office of Government Ethics as set forth in the 1996 OGE Authorization Act. In addition, various provisions of OGE's part 2600 organization and functions regulations will be updated to reflect recent changes in OGE's organizational structure.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: James P. O'Sullivan, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 208-8000
TDD: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA21

3973. OFFICE OF GOVERNMENT ETHICS ELECTRONIC FREEDOM OF INFORMATION ACT UPDATING AMENDMENTS

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC app (Ethics in Government Act of 1978)

CFR Citation: 5 CFR 2604

Legal Deadline: None

Abstract: This proposed amendatory rule would implement for OGE the changes made to the Freedom of Information Act (FOIA) by the 1996 Electronic FOIA Amendments as well as propose certain other updating revisions to the OGE FOIA regulation.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William E. Gressman, Associate General Counsel, Office of Government Ethics, 1201 New York Avenue NW., Suite 500, Washington, DC 20005-3917
Phone: 202 208-8000
TDD: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA22

3974. PRIVACY ACT RULES OF THE OFFICE OF GOVERNMENT ETHICS

Priority: Other Significant

Legal Authority: 5 USC 552a; 5 USC app (Ethics in Government Act of 1978)

CFR Citation: 5 CFR 2606 (New)

Legal Deadline: None

Abstract: This proposed rule would establish for the Office of Government Ethics (OGE) regulatory procedures to implement the Privacy Act of 1974, including requests for access and amendment and appeals, and would reference certain OGE systems of records (which will also be updated and revised).

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William E. Gressman, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 208-8000
TDD: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA18

3975. OFFICE OF GOVERNMENT ETHICS PROCEDURES ON REQUESTS FOR TESTIMONY BY OGE EMPLOYEES AND DOCUMENTARY PRODUCTION RELATING TO OFFICIAL INFORMATION AND RECORDS

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978)

CFR Citation: 5 CFR 2608 (New)

Legal Deadline: None

Abstract: This proposed rule would set forth proposed OGE procedures for responding to subpoenas and other requests and demands for testimony by OGE employees and documentary production relating to official OGE information and records (Touhy regulations).

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	
NPRM Comment Period End	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Karen Kimball, Attorney Advisor, Office of Government Ethics, 1201 New York Avenue NW., Suite 500, Washington, DC 20005-3917
Phone: 202 208-8000
TDD: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA23

3976. INTERPRETATION OF 18 USC 209, THE CONSTRAINT AGAINST PRIVATE SUPPLEMENTATION OF SALARIES OF EXECUTIVE BRANCH OFFICIALS AND EMPLOYEES

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2639 (New)

Legal Deadline: None

Abstract: Proposed regulation to interpret section 209 of title 18, U.S.C., prohibiting the private supplementation of the Government salary of executive branch officers and employees.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

OGE

Proposed Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Arielle H. Grill, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 208-8000
TDD: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA12

3977. INTERPRETATION, EXEMPTIONS, AND WAIVER GUIDANCE CONCERNING 18 USC 208 (ACTS AFFECTING A PERSONAL FINANCIAL INTEREST)

Priority: Other Significant

Legal Authority: 18 USC 208; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2640 (New)

Legal Deadline: None

Abstract: This regulation (a proposed rule was published in 1995) interprets section 208(a) of title 18, USC, which prohibits officers and employees of the executive branch from officially participating personally and substantially in a particular matter in which there is a personal financial interest or a financial interest of a related person or organization (absent a waiver under 18 USC 208(b)). It also lists and describes interests considered too remote or too inconsequential to affect the integrity of the services of executive branch officers or employees, in accordance with 18 USC 208(b)(2). Such interests are exempt from the restrictions of 18 USC 208(a), generally requiring disqualification. The regulation also provides guidance to executive branch agencies as to the kinds of interests that are not so substantial as to be deemed likely to affect the integrity of the services the Government may expect from an employee and which, therefore, may be waived from the general rule of disqualification under 18 USC 208(a) pursuant to 18 USC 208(b)(1). In addition, guidance is provided concerning the issuance of waivers to special Government employee advisory committee members pursuant to 18 USC 208(b)(3). A separate interim final rule, published in 1995 exempting certain financial interests arising from Federal Government executive branch employment as well as from Social Security or veterans' benefits from the general prohibition in section 208(a), was incorporated in the overall final rule.

Timetable:

Action	Date	FR Cite
Govt. Interests and Social Security or Veterans' Benefits Exemptions	08/28/95	60 FR 44706
NPRM	09/11/95	60 FR 47208
NPRM Comment Period End	11/13/95	
Final Rule	12/18/96	61 FR 66830
Correction	01/09/97	62 FR 1361
Final Rule Effective	01/17/97	
Correction	04/29/97	62 FR 23127
Proposed Exemption Amendments	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Judy H. Mann, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 208-8000
TDD: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA09

OFFICE OF GOVERNMENT ETHICS (OGE)

Final Rule Stage

3978. FINANCIAL DISCLOSURE, QUALIFIED TRUSTS, AND CERTIFICATES OF DIVESTITURE FOR EXECUTIVE BRANCH EMPLOYEES

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); 26 USC 1043; EO 12674; EO 12731

CFR Citation: 5 CFR 2634

Legal Deadline: None

Abstract: Regulation revising the executive branch public and confidential financial disclosure report systems for high-level officials and certain mid-level employees, respectively, in light of the changes to the Ethics in Government Act effected by the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. These disclosure provisions apply to public reports filed since January 1, 1991. Subpart I of the regulation, effective October 5, 1992, superseded prior executive branchwide and agency-specific regulations and established a revised system of confidential reporting, modeled generally on the public reporting system, for executive branch agency mid-level employees with sensitive duties and special Government employees. This regulation also has a subpart dealing with certificates of divestiture.

Timetable:

Action	Date	FR Cite
NPRM	12/02/86	51 FR 43359
Interim Final Rule	04/07/92	57 FR 11800
Correction	05/22/92	57 FR 21854
Correction	12/31/92	57 FR 62605
Revised Interim Final Rule	07/21/93	58 FR 38911
Proposed Amendment to Interim Final Rule	09/01/93	58 FR 46096
Technical Amendments to Interim Final Rule	11/30/93	58 FR 63023
Technical (Paperwork) Amendments to Interim Final Rule	07/07/94	59 FR 34755
Proposed Amendments – Certificates of No New Interests for Confidential Filers	01/15/97	62 FR 2048
Final Amendment – Certificates of No New Interests for Confidential Filers	06/24/97	62 FR 33972
Updating Amendment to Part 2634	09/17/97	62 FR 48746
Clarifying Amendment to Section 2634.906	03/31/98	63 FR 15273

OGE

Final Rule Stage

Action	Date	FR Cite
Minor Amdt. to Part 2634 (Transfer of Inactive in Lieu of Honoraria Charitable Paymts. Reporting)	08/12/98	63 FR 43067
Inflation Adjustments to Civil Monetary Penalties As Reflected in Part 2634	10/00/98	
Paperwork Revisions to Appendixes A, B, and C	10/00/98	
Technical Corrections to Part 2634	03/00/99	
Certificates of Divestiture Revisions (Subpart J)	12/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: G. Sid Smith, Senior Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 208-8000
TDD: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA00

3979. STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH

Priority: Other Significant

Legal Authority: 5 USC 7301; 5 USC 7351; 5 USC 7353; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2635

Legal Deadline: None

Abstract: Regulation implementing certain provisions of Executive Order 12674 on Principles of Ethical Conduct, as modified by EO 12731, and the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. Effective February 3, 1993, this ethical conduct standards regulation generally superseded executive branch employee conduct and gifts rules, as well as pertinent portions of agency-specific conduct regulations issued thereunder. For certain existing agency regulatory standards setting forth financial interest prohibitions and prior approval for outside employment/activities, an extended grace period was in effect until November 1, 1996, or until individual concerned agencies issued supplemental regulations, with Office of Government Ethics concurrence.

Timetable:

Action	Date	FR Cite
NPRM	07/23/91	56 FR 33778
NPRM Comment Period End	09/20/91	
Final Overall Regulation on Standards of Ethical Conduct	08/07/92	57 FR 35006
Correction	10/27/92	57 FR 48557
Correction	11/04/92	57 FR 52583
5 CFR 2635.403(a) and 2635.803 Grace Period Extension	02/02/94	59 FR 4779
Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	02/02/95	60 FR 6390
NPRM on Widely Attended Gatherings	06/15/95	60 FR 31415
Minor Correction to One Citation	10/03/95	60 FR 51667
Further 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	12/27/95	60 FR 66857
Further Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	08/07/96	61 FR 40950
Final Rule on Widely Attended Gatherings	08/20/96	61 FR 42965
Correction to Final Rule on Widely Attended Gatherings	09/16/96	61 FR 48733
Interim Rule on Gifts From Political Organizations	09/27/96	61 FR 50689
Final Rule on Gifts From Political Organizations	03/17/97	62 FR 12531
Updating Amendments to Part 2635	09/17/97	62 FR 48746
Proposed Amendments Re: Gifts	08/04/98	63 FR 41476
Further Minor Amendments to Part 2635/Seeking Employment and Outside Activities	08/26/98	63 FR 45415
Technical Corrections to Part 2635	03/00/99	
Interim Rule on Travel Expenses for Certain Unofficial Teaching, Speaking, and Writing	04/00/99	
NPRM on Participation in Professional Associations	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: G. Sid Smith, Senior Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
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RIN: 3209–AA04

3980. LIMITATIONS ON OUTSIDE EMPLOYMENT; CONFIDENTIAL REPORTING OF PAYMENTS TO CHARITIES IN LIEU OF HONORARIA

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2636

Legal Deadline: None

Abstract: The regulation had, in pertinent part, implemented, effective January 1, 1991, the prohibition on honoraria (now declared unconstitutional by the courts as to most rank and file executive branch employees and hence determined to be eviscerated as to all other Federal employees by the Office of Legal Counsel of the Justice Department). In addition, the regulation continues to implement the limitation on outside employment as provided in the 1989 Ethics Reform Act revisions to the Ethics in Government Act, as amended. The regulation has now been amended in light of the above-noted litigation and other pertinent developments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/17/91	56 FR 1721
Deferral of Effective Date of 5 CFR 2636.205	05/10/91	56 FR 21589
Deferral of Effective Date of 5 CFR 2636.205	10/11/91	56 FR 51319

OGE

Final Rule Stage

Action	Date	FR Cite
Revision of Honorarium Definition in 5 CFR 2636.203(a)	01/08/92	57 FR 601
Deferral of Effective Date of 5 CFR 2636.205	02/14/92	57 FR 5369
Technical Correction to Interim Final Rule	12/30/93	58 FR 69176
Technical (Paperwork) Amendments to Interim Final Rule	07/07/94	59 FR 34755
Removal of Subpart B of Part 2636	08/12/98	63 FR 43067
Inflation Adjustment to Civil Monetary Penalty As Reflected in Part 2636	10/00/98	
Technical Corrections to Part 2636	03/00/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 3209–AA13

3981. POST-EMPLOYMENT CONFLICT OF INTEREST RESTRICTIONS

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); 18 USC 207; EO 12674; EO 12731

CFR Citation: 5 CFR 2641; 5 CFR 2637 (Continuation)

Legal Deadline: None

Abstract: Interpretive regulation giving guidance for the executive branch on the various substantive restrictions of the current version of the post-Government employment conflict of interest statute 18 U.S.C. 207, which became effective January 1, 1991, pursuant to title I of the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. Parts of the regulation, dealing with procedures for waivers by the Office of Government Ethics of certain senior official constraints (based on executive agency hardship), designated senior employees, and separate agency designations, have already been published in the Federal Register; such designations are periodically updated by the Office of Government Ethics. The Office of Government Ethics also has continued to publish in the CFR the interpretive regulation, 5 CFR part 2637 (but now without the no-longer-effective former Senior Employee and old agency component designation listings), under the lifetime bar of the prior version of the post-employment law which still applies to executive branch employees who left the Government before January 1, 1991. Once a complete current post-employment law regulation is published, the old part 2637 regulation will be removed from the CFR.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/01/91	56 FR 3951
Designation of Senior Employees and Separate Agency Components	01/28/92	57 FR 3115
Designation of Additional Separate Agency Component	04/07/92	57 FR 11673
Amendment to Prior Post-Employment Regulation (Part 2637)	12/31/92	57 FR 62467
Amendment to Interim Final Rule (Part 2641)	06/21/93	58 FR 33755
Technical Amendment to Authority Citation of 5 CFR Part 2637	12/30/93	58 FR 69176
Technical Amendments to Interim Final Rule	07/07/94	59 FR 34755
Exempted Senior Employee and Agency Separate Component Designation Update	05/16/97	62 FR 26915
Correction: Post-Employment Reg. Update	06/11/97	62 FR 31865
Exempted Senior Employee and Agency Separate Component Designation Update	02/00/99	
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 3209–AA14

OFFICE OF GOVERNMENT ETHICS (OGE)

Long-Term Actions

3982. EXECUTIVE AGENCY SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT REGULATIONS ISSUED JOINTLY WITH THE CONCURRENCE OF THE OFFICE OF GOVERNMENT ETHICS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 7301; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731; 5 CFR 2635.105

CFR Citation: 5 CFR 2635; 5 CFR ch XXI et seq

Legal Deadline: None

Abstract: The supplemental executive agency standards of ethical conduct regulations, once issued jointly with the concurrence of the Office of Government Ethics (OGE) at agency expense in new chapters at the end of 5 CFR, after OGE approval, supplement for each individual agency concerned the new OGE executive branch standards of ethical conduct, as codified at 5 CFR part 2635. The supplemental regulations, as they are issued in accordance with section 201(a) and 301(a) of EO 12674, as modified by EO 12731, set forth those agency-specific provisions under applicable law and regulation, such as regulatory restrictions on holding certain financial interests and designation of departmental subunits, which are needed for certain agencies to round out the executive branchwide

OGE

Long-Term Actions

ethical standards for employees of particular departments and agencies.

Timetable:

Action	Date	FR Cite
FTC Employees (5 CFR Ch. XLVII) Interim Final Rule	05/27/93	58 FR 30695
OPIC Employees (5 CFR Ch. XXXIII) Interim Final Rule	06/17/93	58 FR 33319
Treasury Employees (5 CFR Ch. XXI) NPRM	08/03/93	58 FR 41193
ICC Employees (5 CFR Ch. XL) Final Rule	08/06/93	58 FR 41989
PRC Employees (5 CFR Ch. XLVI) Final Rule	08/12/93	58 FR 42839
DoD Employees (5 CFR Ch. XXVI) Interim Final Rule	09/10/93	58 FR 47619
CFTC Employees (5 CFR Ch. XLI) Final Rule	10/12/93	58 FR 52637
IAF Employees (5 CFR Ch. LXIII) Final Rule	01/27/94	59 FR 3771
5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	02/02/94	59 FR 4779
NRC Employees (5 CFR Ch. XLVIII) Final Rule	04/13/94	59 FR 17457
FDIC Employees (5 CFR Ch. XXII) NPRM	07/12/94	59 FR 35480
NASA Employees (5 CFR Ch. LIX)	09/28/94	59 FR 49335
FRTIB Employees (5 CFR Ch. LXXXIV)	10/06/94	59 FR 50816
Education Employees (5 CFR Ch. LIII)	01/30/95	60 FR 5816
Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	02/02/95	60 FR 6390
OMB Employees (5 CFR Ch. LXXVII) Final Rule	03/07/95	60 FR 12396
USPS Employees (5 CFR Ch. LX)	03/27/95	60 FR 15700
Eximbank Employees (5 CFR Ch. LII)	04/07/95	60 FR 17625
FDIC Employees (5 CFR Ch. XXII)	04/25/95	60 FR 20171
Treasury Employees (5 CFR Ch. XXI) Final Rule	05/05/95	60 FR 22249
FCA Employees (5 CFR Ch. XXXI)	06/12/95	60 FR 30778
FCSIC Employees (5 CFR Ch. XXX)	06/12/95	60 FR 30773
HUD Employees (5 CFR Ch. LXV)	06/30/95	60 FR 34420
OPIC Employees (5 CFR Ch. XXXIII) Final Rule	07/21/95	60 FR 37555
USPS Employees (5 CFR Ch. LX) Final Rule	09/11/95	60 FR 47240
FCA Employees (5 CFR Ch. XXXI) Final Rule	09/13/95	60 FR 47453
OGE Concurrence in FCA Employees (5 CFR Ch. XXXI) Final Rule	12/06/95	60 FR 62319
BGFRS Employees (5 CFR Ch. LVIII)	12/19/95	60 FR 65249
Further 5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	12/27/95	60 FR 66857
FCSIC Employees (5 CFR Ch. XXX) Final Rule	02/06/96	61 FR 4349
EEOC Employees (5 CFR Ch. LXII)	02/26/96	61 FR 7065
TVA Employees (15 CFR Ch. LXIX)	05/06/96	61 FR 20117
DOE Employees (5 CFR Ch. XXIII)	07/05/96	61 FR 35085
FDIC Employees (5 CFR Ch. XXII) Amendment	07/09/96	61 FR 35915
HUD Employees (5 CFR Ch. LXV)	07/09/96	61 FR 36246
OPM Employees (5 CFR Ch. XXXV)	07/16/96	61 FR 36993
HHS Employees (5 CFR Ch. XLV)	07/30/96	61 FR 39756
DOT Employees (5 CFR Ch. L)	07/31/96	61 FR 39901
FMSHRC Employees (5 CFR Ch. LXXIV)	07/31/96	61 FR 39869
EPA Employees (5 CFR Ch. LIV)	08/02/96	61 FR 40500
NARA Employees (5 CFR Ch. LXVI)	08/05/96	61 FR 40505
Further Additional (5 CFR 2635.403(a) and 2635.803) Grace Period Extension (by OGE)	08/07/96	61 FR 40950
FERC Employees (5 CFR Ch. XXIV)	08/23/96	61 FR 43411
BGFRS Employees (5 CFR Ch. LVIII) Final Rule	10/16/96	61 FR 53827
FCC Employees (5 CFR Ch. XXIX)	10/31/96	61 FR 56109
GSA Employees (5 CFR Ch. LVII)	11/01/96	61 FR 56399
DOL Employees (5 CFR Ch. XLII)	11/06/96	61 FR 57281
DOJ Employees (5 CFR Ch. XXVIII)	11/25/96	61 FR 59811
NSF Employees (5 CFR Ch. XLIII)	11/25/96	61 FR 59815
CPSC Employees (5 CFR Ch. LXXI)	12/13/96	61 FR 65457
FDIC Employees (5 CFR Ch. XXII) Amendment	01/27/97	62 FR 3771
NLRB Employees (5 CFR Ch. LXI)	02/12/97	62 FR 6445
DOJ Employees (5 CFR Ch. XXVIII) Final Rule	05/02/97	62 FR 23941
DOJ Employees (5 CFR Ch. XXVIII) Final Rule Correction	06/11/97	62 FR 31865
OPM Employees (5 CFR Ch. XXXV) Interim Rule Correction	06/17/97	62 FR 32859
EEOC Employees (5 CFR Ch. LXII) Final Rule	07/08/97	62 FR 36447
OPM Employees (5 CFR Ch. XXXV) Final Rule	08/11/97	62 FR 42897
DOI Employees (5 CFR Ch. XXV)	10/16/97	62 FR 53713
DOI Employees (5 CFR Ch. XXV) Interim Final Rule Correction	04/15/98	63 FR 18501
DOI Employees (5 CFR Ch. XXV) Interim Final Rule Correction	04/24/98	63 FR 20447
DOI Employees (5 CFR Ch. XXV) Final Rule	06/24/98	63 FR 32458
FTC Employees (5 CFR Ch. XLVII) Final Rule Amendments	08/12/98	63 FR 43069
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 3209–AA15

3983. EXECUTIVE AGENCY ETHICS TRAINING PROGRAMS

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2638.701 to 2638.704

OGE

Long-Term Actions

Legal Deadline: None

Abstract: Regulation specifying the responsibilities of executive branch agencies and their designated agency ethics officials to develop and implement orientation and annual ethics training courses and to distribute appropriate guidance materials to their employees under sections 301(b) and (c) of E.O. 12674, as modified by E.O. 12731.

Timetable:

Action	Date	FR Cite
NPRM	09/18/90	55 FR 38335
NPRM Comment Period End	11/17/90	
Final Rule on Executive Agency Ethics Training Programs	04/07/92	57 FR 11886
Correction	04/27/92	57 FR 15219
Amendment	12/10/92	57 FR 58399
Correction	12/28/92	57 FR 61612
Interim Amendments to Liberalize Certain Training Requirements	03/16/94	59 FR 12145
Interim Final Rule Comment Period End	05/16/94	59 FR 12145
Interim Amendments To Refine Certain Training Requirements	03/12/97	62 FR 11307
Correction to Interim Training Reg. Amendments	03/19/97	62 FR 13213
Correction to Interim Training Reg. Amendments	03/27/97	62 FR 14737
Interim Amendments To Refine Certain Training Requirements Comment Period End	04/11/97	62 FR 11307
Most Interim Amendments To Refine Certain Training Requirements Effective	06/10/97	62 FR 13213
Final Amendment to Refine Certain Training Requirements	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: John C. Condray, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
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RIN: 3209–AA07

[FR Doc. 98-24582 Filed 11-06-98; 8:45 am]
BILLING CODE 6345-01-F

federal register

Monday
November 9, 1998

Part XXXV

Office of Management and Budget

Semiannual Regulatory Agenda

OFFICE OF MANAGEMENT AND BUDGET (OMB)

OFFICE OF MANAGEMENT AND BUDGET

5 CFR Ch. III and 48 CFR Ch. 99

Federal Regulations; OMB Circulars, OFPP Policy Letters, and CASB Cost Accounting Standards Included in the Semiannual Agenda of Federal Activities

AGENCY: Office of Management and Budget.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Office of Management and Budget (OMB) is publishing its semiannual agenda of upcoming activities for OMB Circulars, Office of Federal Procurement Policy (OFPP) Policy Letters, and Cost Accounting Standards Board (CASB) Cost Accounting Standards.

OMB Circulars and OFPP Policy Letters are published in accordance with OMB's internal procedures for implementing Executive Order No. 12866 (October 4, 1993; 58 FR 51735). OMB policy guidelines are issued under authority derived from several sources including: Subtitles I, II, and V of title 31, United States Code; Executive Order No. 11541; and other specific authority as cited. OMB Circulars and OFPP Policy Letters communicate guidance, instructions, and information of a continuing nature to executive branch agencies. As such, most OMB Circulars and OFPP Policy Letters are not regulations. Nonetheless, because these issuances are typically of public interest, they are generally published in the **Federal Register** in both proposed (for public comment) and final stages. For this reason, they are presented below in the standard format of "prerule," "proposed rule," and "final rule" stages.

CASB Cost Accounting Standards are issued under authority derived from 41 U.S.C. 422. Cost Accounting Standards are rules governing the measurement, assignment, and allocation of costs to contracts with the United States Government.

For purposes of this agenda, we have excluded directives that outline procedures to be followed in connection with the President's budget and legislative programs and directives that affect only the internal functions, management, or personnel of Federal agencies.

FOR FURTHER INFORMATION CONTACT: See agency person listed for each entry in the agenda, c/o Office of Management and Budget, Washington, DC 20503. On the overall agenda, contact Clarence C. Crawford, (202) 395-3060, at the above address.

Dated: October 23, 1998.

Clarence C. Crawford,

Associate Director for Administration.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3984	Revision of OMB Circular A-127 To Implement the Federal Financial Management Improvement Act (FFMIA) and To Reflect Updated Financial Management Policies	0348-AB46
3985	Policies on Management of Federal Information Resources (Circular No. A-130)	0348-AB36
3986	Subcontracting Plans	0348-AB31

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3987	Cost Principles for Educational Institutions (OMB Circular A-21)	0348-AB39
3988	Revision to OMB Circular No. A-125, "Prompt Pay"	0348-AB47
3989	Reconciliation and Appeal Processes for the Census 2000 Address List	0348-AB48
3990	Extending the Coverage of Energy Statistical Programs Under the Federal Statistical Confidentiality Order	0348-AB45

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3991	Cost Accounting Standards Administration	0348-AB25

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3992	Cost Principles for Nonprofit Organizations (Circular No. A-122)	0348-AB01
3993	Freedom of Information Act	0348-AB42

OMB

Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3994	Revision of OMB Circular A-110 To Implement the Single Audit Act Amendments of 1996 and the Revised OMB Circular A-133	0348-AB44

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Proposed Rule Stage

3984. REVISION OF OMB CIRCULAR A-127 TO IMPLEMENT THE FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT (FFMIA) AND TO REFLECT UPDATED FINANCIAL MANAGEMENT POLICIES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503 et seq, CFOs Act; PL 104-208, Federal Financial Mgmt. Improvement Act of 1996; 31 USC 3111

CFR Citation: None

Legal Deadline: None

Abstract: The Federal Financial Management Improvement Act (FFMIA) of 1996 requires that financial management systems at each Federal agency covered by the CFOs Act, substantially comply with Federal financial management systems requirements, applicable Federal accounting standards, and the U.S. Government Standard General Ledger at the transaction level. The revisions are to incorporate this and other policy updates since the 1993 issuance of the last revision to A-127.

Timetable:

Action	Date	FR Cite
Proposed Revision	11/00/98	
Final Revision	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Jean Holcombe, Office of Federal Financial Management, Office of Management and Budget, 725 17th Street NW., Room 6025, NEOB, Washington, DC 20503
Phone: 202 395-5048
Fax: 202 395-3952
Email: holcombe_j@a1.eop.gov

RIN: 0348–AB46

3985. POLICIES ON MANAGEMENT OF FEDERAL INFORMATION RESOURCES (CIRCULAR NO. A-130)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-106

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular A-130, Management of Federal Information Resources, establishes policies for the management of Federal information resources and provides certain procedures and analytical guidelines for implementing specific aspects of these policies. OMB is reviewing the Circular for consistency with the Information Technology Management Reform Act (ITMRA) of 1996, P.L. 104-106. This proposed revision is consistent with the National Performance Reviews reinventing government efforts.

Timetable:

Action	Date	FR Cite
Proposed Revision	12/00/98	
Final Revision	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jasmeet Seehra, Senior Policy Analyst, Office of Management and Budget, Room 10236, NEOB, 725 17th St. NW., Washington, DC 20503
Phone: 202 395-3785
Fax: 202 395-5167

RIN: 0348–AB36

3986. SUBCONTRACTING PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 637(d); PL 103-355, sec 1091; 41 USC 405

CFR Citation: 48 CFR 19.7

Legal Deadline: None

Abstract: OFPP proposes to issue a Policy Letter that covers subcontracting plans. This Policy Letter supersedes and cancels OFPP Policy Letter 80-1, 80-2, Supplement No. 1 to 80-2, and 80-4.

Timetable:

Action	Date	FR Cite
Proposed Policy Letter	09/26/95	60 FR 49644
Second Proposed Policy Letter	12/00/98	
Final Policy Letter	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Linda Williams, Deputy Associate Administrator, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503
Phone: 202 395-3302
Fax: 202 395-5105

RIN: 0348–AB31

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Final Rule Stage

3987. COST PRINCIPLES FOR EDUCATIONAL INSTITUTIONS (OMB CIRCULAR A-21)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503 et seq, CFOs Act; 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: These revisions address benchmarks for facility costs; an alternate methodology for the recovery of utility costs; and allowance of trustee travel expenses.

Timetable:

Action	Date	FR Cite
Proposed Revision	09/10/97	62 FR 47722
Final Revision	06/01/98	63 FR 29786
Second Revision - Interim Final	06/01/98	63 FR 29786
Second Revision - Final	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gilbert Tran, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503
Phone: 202 395-3993
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Email: tran__h@a1.eop.gov

RIN: 0348–AB39

3988. REVISION TO OMB CIRCULAR NO. A-125, "PROMPT PAY"

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC ch 39

CFR Citation: None

Legal Deadline: None

Abstract: Circular A-125 prescribes policy for the Executive departments and agencies in paying for goods and services pursuant to the Prompt Payment Act of 1982 as amended. These revisions will incorporate provisions of the Debt Collection Improvement Act of 1996. This proposed revision is consistent with the National Performance Reviews reinventing government efforts.

Timetable:

Action	Date	FR Cite
Proposed Revision	06/17/98	63 FR 33000
Comments Due	08/17/98	
Final Revision	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Tom Stack, Office of Management and Budget, 725 17th Street NW., Room 9201, NEOB, Washington, DC 20503
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RIN: 0348–AB47

3989. RECONCILIATION AND APPEAL PROCESSES FOR THE CENSUS 2000 ADDRESS LIST

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-430 The Census Address List Improvement Act of 1994

CFR Citation: None

Legal Deadline: None

Abstract: The Office of Management and Budget and the Bureau of the Census are requesting public comment on proposed processes for developing the address information that will be used in conducting the Census 2000.

Timetable:

Action	Date	FR Cite
Proposed	03/27/98	63 FR 14978
Final	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, Tribal, Federal

Agency Contact: Katherine Wallman, Chief Statistician, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC
Phone: 202 395-3093
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Email: wallman__k@a1.eop.gov

RIN: 0348–AB48

3990. EXTENDING THE COVERAGE OF ENERGY STATISTICAL PROGRAMS UNDER THE FEDERAL STATISTICAL CONFIDENTIALITY ORDER

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 1104(d); EO 10253; 44 USC ch 35

CFR Citation: None

Legal Deadline: None

Abstract: This proposal extends the coverage of energy statistical programs under the Federal Statistical Confidentiality Order.

Timetable:

Action	Date	FR Cite
Proposed Revision	06/27/97	62 FR 35049
Final	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Katherine Wallman, Chief, Statistical Policy Branch, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Room 10201 NEOB, Washington, DC 20503
Phone: 202 395-3093
Fax: 202 395-7245

RIN: 0348–AB45

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Long-Term Actions

3991. COST ACCOUNTING STANDARDS ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 422

CFR Citation: 48 CFR 99

Legal Deadline: None

Abstract: The Cost Accounting Standards Board is proposing to revise its rules concerning cost accounting practice changes.

OMB — Long-Term Actions

Timetable:

Action	Date	FR Cite
ANPRM	04/25/95	60 FR 20252
ANPRM Comment Period End	07/10/95	
NPRM	09/18/96	61 FR 49196
NPRM Comment Period End	12/02/96	
NPRM Comment Period Extended to 09/12/97	07/14/97	62 FR 37654

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Rudolph Schuhbauer, Project Director, Cost Accounting Standards Board, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503
Phone: 202 395-3254

RIN: 0348–AB25

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Completed Actions

3992. COST PRINCIPLES FOR NONPROFIT ORGANIZATIONS (CIRCULAR NO. A-122)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503 et seq, CFOs Act; 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: This circular establishes cost principles for non-profit organizations.

Timetable:

Action	Date	FR Cite
Proposed Revision	09/26/94	59 FR 49090
Final Revision	10/06/95	60 FR 52516
Second Proposed Revision	10/06/95	60 FR 52522
Final Revision of Second Proposal	06/01/98	63 FR 29794

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gilbert Tran, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503
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RIN: 0348–AB01

3993. FREEDOM OF INFORMATION ACT

Priority: Info./Admin./Other

Legal Authority: 5 USC 552 Electronic FOIA Amendments of 1996

CFR Citation: 5 CFR 1303

Legal Deadline: None

Abstract: OMB's revised regulations under the Freedom of Information Act were effective May 27, 1998.

Timetable:

Action	Date	FR Cite
Proposed Revision	10/09/97	62 FR 52668
Final Revision	04/27/98	63 FR 20513
Final Revision Effective	05/27/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Darrell A. Johnson, Office of Management and Budget, 725 17th Street NW., Room 6025, NEOB, Washington, DC 20503
Phone: 202 395-5715

RIN: 0348–AB42

3994. REVISION OF OMB CIRCULAR A-110 TO IMPLEMENT THE SINGLE AUDIT ACT AMENDMENTS OF 1996 AND THE REVISED OMB CIRCULAR A-133

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503,et seq, CFOs Act; PL 104-156, The Single Audit Act Amendments of 1996; 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: The Single Audit Act Amendments of 1996 and the June 24, 1997 revision of OMB Circular A-133 apply to audits of fiscal years beginning after June 30, 1996. The revisions are to implement this Act and the revised Circular A-133.

Timetable:

Action	Date	FR Cite
Interim Final Revision of A-110	08/29/97	62 FR 45934
Final Revision of A-110	08/10/98	63 FR 42645

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: F. James Charney, Office of Federal Financial Management, Office of Management and Budget, 6025 New Executive Office Building, 725 17th Street NW., Washington, DC 20503
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Fax: 202 395-3952
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RIN: 0348–AB44

[FR Doc. 98-29179 Filed 11-06-98; 8:45 am]
BILLING CODE 3110-01-F

federal register

Monday
November 9, 1998

Part XXXVI

Office of Personnel Management

Semiannual Regulatory Agenda

OFFICE OF PERSONNEL MANAGEMENT (OPM)

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Ch. I

Regulatory Agenda

AGENCY: Office of Personnel Management.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following Office of Personnel Management (OPM) regulations are scheduled for development or review from October 1, 1998, through September 30, 1999. This agenda carries out OPM's responsibilities to publish a semiannual agenda under E.O. 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. chapter 6). This publication in the **Federal Register** does not impose a binding obligation on the Office of Personnel Management with regard to any specific item on the agenda. Regulatory action in addition to the items listed is not precluded.

FOR FURTHER INFORMATION CONTACT: Jacquline D. Carter, (202) 606-1973.

SUPPLEMENTARY INFORMATION: For this edition of OPM's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3995	Availability of Official Information	3206-AG92

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3996	Personnel Records	3206-AH24
3997	Employment in the Excepted Service	3206-AH83
3998	Career and Career-Conditional Appointment Under Special Authorities	3206-AG90
3999	Noncompetitive Appointment of Former Peace Corps and Vista Volunteers	3206-AI18
4000	Probation on Initial Appointment to a Competitive Position **(Reg Plan Seq. No. 146)**	3206-AI47
4001	Merit Promotion and Internal Placement **(Reg Plan Seq. No. 147)**	3206-AI20
4002	Taper Employment - Specific Authority for Worker Trainee **(Reg Plan Seq. No. 148)**	3206-AI45
4003	Clarification of Various Staffing Provisions	3206-AH49
4004	Interagency Placement Program	3206-AI24
4005	Reemployment Priority List **(Reg Plan Seq. No. 149)**	3206-AI34
4006	Career Transition Assistance for Surplus and Displaced Federal Employees	3206-AI39
4007	Clarification of Hiring Authorities **(Reg Plan Seq. No. 150)**	3206-AI46
4008	Other Than Full-Time Employment (Part-Time, Seasonal, Intermittent)	3206-AI22
4009	Re-Employment Rights	3206-AI19
4010	Demonstration Project Authority	3206-AI40
4011	Classification Appeals of General Schedule Employees	3206-AH38
4012	Superior Qualifications Appointments	3206-AI00
4013	Miscellaneous Changes in Compensation Regulations	3206-AH11
4014	Prevailing Rate Systems; Changing the Helper (Trades) WG-5 Survey Job from Required to Optional	3206-AH81
4015	Prevailing Rate Systems; Environmental Differential Pay for Working at High Altitudes	3206-AI36
4016	Job Grading Reviews and Appeals of Federal Wage System Employees	3206-AI14
4017	Severance Pay: Miscellaneous	3206-AH12
4018	Pay Administration Under the Fair Labor Standards Act (FLSA)	3206-AI15
4019	Reemployment of Military and Civilian Retirees To Meet Exceptional Employment Needs	3206-AI32
4020	Agency Determinations on Payment of Relocation Costs	3206-AH50
4021	Miscellaneous Leave Regulations	3206-AI44
4022	Family and Medical Leave	3206-AI35
4023	Federal Equal Opportunity Recruitment Program (FEORP)	3206-AH98
4024	Disabled Veterans Affirmative Action Program (DVAAP)	3206-AH99
4025	Federal Employees' Health and Counseling Programs	3206-AI07
4026	Retirement; CSRS and FERS Amendments Relating to Health Care Professionals	3206-AG57
4027	Retirement; Credit for Military Service	3206-AG58
4028	Retirement; Determinations of Marital Status for Survivor Annuities	3206-AG60
4029	Retirement; National Guard Technicians: Adjustments to Annuity	3206-AI42

OPM

Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4030	Retirement; Service Credit	3206-AH37
4031	Retirement; Waiver of Military Retired Pay to Enhance Civil Service Retirement Annuity	3206-AH74
4032	Retirement; Elimination of the Hearing Requirement During Enforcement of Statutory Bar to Annuity After Conviction of Certain Offenses	3206-AH76
4033	Retirement; State Income Tax Withholding Instrumentalities	3206-AH62
4034	Retirement; Debt Collection	3206-AE72
4035	Retirement; Court Orders Awarding Survivor Annuities; Correcting or Supplementing the First Order Dividing Marital Property	3206-AG28
4036	Federal Employee's Group Life Insurance Program: Miscellaneous Changes and Clarifications	3206-AG63

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4037	Student Educational Employment Program	3206-AH82
4038	Appointment of Non-Status Employees (USERRA)	3206-AI23
4039	Time-in-Grade Restrictions	3206-AG06
4040	Temporary and Term Employment	3206-AH47
4041	Promotion and Internal Placement; Accelerated Qualifications	3206-AG19
4042	Moratorium on Involuntary SES Reassignments	3206-AH92
4043	Job Listings; Full Consideration of Displaced Defense Employees	3206-AF36
4044	Federal Employment Priority Consideration for DC Employees	3206-AI28
4045	Reduction in Force and Vacant Positions	3206-AH95
4046	Reduction in Force Service Credit; Retention Records	3206-AI09
4047	Restoration to Duty From Military Service or Compensable Injury	3206-AG02
4048	Official Duty Station Determinations for Pay Purposes	3206-AH84
4049	Prevailing Rate Systems; Redefinition of the Norfolk, MA, Nonappropriated Fund Wage Area	3206-AH58
4050	Prevailing Rate Systems; Redefinition of the Marion, IN, Nonappropriated Fund Wage Area	3206-AH60
4051	Holiday and Premium Pay	3206-AH86
4052	Prevailing Rate Systems; Abolishment of Lubbock Nonappropriated Fund Wage Area	3206-AH88
4053	Prevailing Rate Systems: Abolishment of the Orlando, FL, Appropriated Fund Wage Area	3206-AI04
4054	Prevailing Rate Systems; Removal of Umatilla County, OR, From Spokane, WA, Nonappropriated Fund Wage Area	3206-AI10
4055	Prevailing Rate Systems; Abolishment of Kansas City, MO, Special Wage Schedule for Printing Positions	3206-AI11
4056	Prevailing Rate Systems; Redefinition of the Orlando, FL, Appropriated Fund Wage Area	3206-AI13
4057	Prevailing Rate Systems; Redefinition of Philadelphia, PA, and New York, NY, Appropriated Fund Wage Areas	3206-AI30
4058	Voluntary Separation Incentive Repayment Waivers	3206-AG20
4059	Lump-Sum Payments for Annual Leave	3206-AF38
4060	Hazardous Duty Pay	3206-AI29
4061	Pay Administration (General); Collection by Offset From Indebted Government Employees	3206-AH63
4062	Retention Allowances	3206-AI31
4063	Cost-of-Living Allowance in Nonforeign Areas: Survey Results	3206-AH07
4064	Cost-of-Living Allowances in Nonforeign Areas: Survey Results	3206-AI38
4065	Emergency Leave Transfer Program	3206-AI03
4066	Retirement; Coverage—Nonappropriated Fund Instrumentalities	3206-AH57
4067	Coverage for Certain Employees of DC	3206-AI02
4068	Retirement Coverage for DC Financial Control Board Employees	3206-AG78
4069	Retirement; Law Enforcement Officers and Firefighters	3206-AI41
4070	Retirement; FERS Basic Annuity	3206-AE73
4071	Retirement; FERS Elections of Coverage	3206-AG96
4072	Federal Employees Health Benefits Program: Payment of Premiums for Periods of Leave Without Pay or Insufficient Pay	3206-AG66
4073	Federal Employees Health Benefits Program: Disenrollment	3206-AH61
4074	Federal Employees Health Benefits Program: Contributions and Withholding	3206-AI33
4075	Federal Employees Health Benefits Program: Effective Dates	3206-AI37
4076	Appointment, Pay, and Removal of Administrative Law Judges	3206-AI08

OPM

Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4077	Prohibition of "Gag Clauses" in the Federal Employees Health Benefits Program	3206-AI27

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4078	Noncompetitive Appointments of Corporation for National Service Employees	3206-AH48
4079	Performance Management Reform	3206-AF57
4080	Pay Administration; Availability Pay for Criminal Investigators	3206-AG47
4081	Suitability	3206-AC19
4082	Personnel Security and Related Programs	3206-AC21
4083	Investigations	3206-AB92
4084	Voluntary Early Retirement Authority	3206-AI25
4085	Debarments, Civil Monetary Penalties, and Assessments Imposed Against Providers	3206-AD76

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4086	Claims Collections Standards; Debt Collection Act of 1982; Salary Offset	3206-AG64
4087	Appointment of Noncitizens in the Excepted Service	3206-AH52
4088	Merit Promotion and Internal Placement	3206-AI21
4089	Reduction in Force; Retreat Rights	3206-AG77
4090	Reduction in Force and Mandatory Temporary Exceptions	3206-AH64
4091	Training	3206-AH94
4092	Performance Ratings	3206-AH77
4093	Revised Application Procedures for Disability Retirement Under CSRS and FERS	3206-AH68
4094	FEHBP: Removal of Minimum Salary Requirement	3206-AI05
4095	Federal Employees Health Benefits Program; Improving Carrier Performance; Conforming Changes	3206-AI16

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Prerule Stage

3995. AVAILABILITY OF OFFICIAL INFORMATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 552 Freedom of Information Act

CFR Citation: 5 CFR 294

Legal Deadline: None

Abstract: The proposed rulemaking will make minor changes to subpart A of 5 CFR 294, Availability of Official Information Act. The rulemaking will provide additional information on the definition of terms used in the search and review process, update office addresses , and clarify that any written request that meets the specified marking and content requirements will be recognized as an official FOIA request. These changes are designed to benefit the public by providing updated information on where to direct FOIA requests, and improve the wording of the regulation to fully and accurately meet the provisions of the FOIA. There will be no significant change to the existing operational procedures in place at OPM.

Timetable:

Action	Date	FR Cite
ANPRM	02/00/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary Beth Smith-Toomey, Office of Information Technology, Office of Chief Information Officer, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415-0001
Phone: 202 606-8358
Fax: 202 418-3251
Email: mbtoomey@opm.gov

RIN: 3206–AG92

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Proposed Rule Stage

3996. PERSONNEL RECORDS

Priority: Info./Admin./Other

Legal Authority: 5 USC 552; 5 USC 4315; EO 12107; 5 USC 1103; 5 USC 1104; 5 USC 1302; EO 9830; 5 USC 2951; 5 USC 3301

CFR Citation: 5 CFR 293

Legal Deadline: None

Abstract: The regulatory changes will update the requirements for maintaining employee personnel records and clarify requirements for maintaining employee medical records.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda Brick, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, Personnel Records and Systems, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-1126
Fax: 202 606-1719
Email: lmbrick@opm.gov

RIN: 3206–AH24

3997. EMPLOYMENT IN THE EXCEPTED SERVICE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 8151; EO 10577

CFR Citation: 5 CFR 302

Legal Deadline: None

Abstract: The revised regulations will make it easier for agencies to understand how to run the excepted service employment system, and thus create better and more efficient employment procedures.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tina Vay, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-0390

RIN: 3206–AH83

3998. CAREER AND CAREER-CONDITIONAL APPOINTMENT UNDER SPECIAL AUTHORITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 3304(d); 5 USC 8151; 5 USC 11219; EO 10577; EO 12034; EO 12721; 22 USC 2506; 22 USC 3651; 22 USC 3652

CFR Citation: 5 CFR 315

Legal Deadline: None

Abstract: Revises a group of special appointment authorities to clarify requirements and to eliminate obsolete provisions. Also adds authorities for specific noncompetitive appointments authorities by law.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diane Tyrrell, Employment Service, Office of Personnel Management, Staffing Reinvention Office, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AG90

3999. NONCOMPETITIVE APPOINTMENT OF FORMER PEACE CORPS AND VISTA VOLUNTEERS

Priority: Substantive, Nonsignificant

Legal Authority: EO 11103; 42 USC 5055

CFR Citation: 5 CFR 315

Legal Deadline: None

Abstract: Updates authority that grants former Peace Corps and Vista volunteers an eligibility for noncompetitive appointment to the Federal Competitive Service. Eliminates reference to the abolished ACTION agency.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mike Carmichael, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-2329

RIN: 3206–AI18

4000. • PROBATION ON INITIAL APPOINTMENT TO A COMPETITIVE POSITION

Regulatory Plan: This entry is Seq. No. 146 in Part II of this issue of the Federal Register.

RIN: 3206–AI47

4001. MERIT PROMOTION AND INTERNAL PLACEMENT

Regulatory Plan: This entry is Seq. No. 147 in Part II of this issue of the Federal Register.

RIN: 3206–AI20

4002. • TAPER EMPLOYMENT - SPECIFIC AUTHORITY FOR WORKER TRAINEE

Regulatory Plan: This entry is Seq. No. 148 in Part II of this issue of the Federal Register.

RIN: 3206–AI45

4003. CLARIFICATION OF VARIOUS STAFFING PROVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 1202; 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 330.403; 5 CFR 213.103(a); 5 CFR 300.501; 5 CFR 315.603(a); 5 CFR 315.608; 5 CFR 332.301; 5 CFR 338.202(3)

Legal Deadline: None

Abstract: Revises several appointing authorities to make them clearer and to delete references to the former Federal Personnel Manual and other obsolete provisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Jacobs, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AH49

4004. INTERAGENCY PLACEMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302; 5 USC 3310; 5 USC 3315

CFR Citation: 5 CFR 330; 5 CFR 351; 5 CFR 332

Legal Deadline: None

Abstract: Implemented Interagency Placement Program, which superseded Displaced Employee Program and Interagency Placement Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/27/94	59 FR 32871
NPRM	10/00/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tim Firlie, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AI24

4005. • REEMPLOYMENT PRIORITY LIST

Regulatory Plan: This entry is Seq. No. 149 in Part II of this issue of the Federal Register.

RIN: 3206–AI34

4006. • CAREER TRANSITION ASSISTANCE FOR SURPLUS AND DISPLACED FEDERAL EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 330

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing interim regulations to make permanent the Government's current career transition assistance programs which assist Federal employees displaced from their jobs by downsizing.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: C. C. Christakos, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AI39

4007. • CLARIFICATION OF HIRING AUTHORITIES

Regulatory Plan: This entry is Seq. No. 150 in Part II of this issue of the Federal Register.

RIN: 3206–AI46

4008. OTHER THAN FULL-TIME EMPLOYMENT (PART-TIME, SEASONAL, INTERMITTENT)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301

CFR Citation: 5 CFR 340; 5 CFR 110

Legal Deadline: None

Abstract: Grants agencies and employees more flexibility by clarifying agency authority to schedule part-time employees on a pay period, rather than weekly, basis; define job sharing; modify seasonal employment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diane Tyrrell, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AI22

4009. RE-EMPLOYMENT RIGHTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3582; 5 USC 3301; PL 103-296

CFR Citation: 5 CFR 352

Legal Deadline: None

Abstract: Updates provisions to conform to law allowing employees assigned to international organizations under certain conditions to maintain FERS and FICA retirement coverage; current regulations only mention CSRS retirement.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mike Mahoney, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-2329

RIN: 3206–AI19

4010. • DEMONSTRATION PROJECT AUTHORITY

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 47

CFR Citation: 5 CFR 470

Legal Deadline: None

Abstract: The regulatory changes will streamline the demonstration project process in the area of project development and evaluation, and will address recent legislatively mandated permanent demonstration projects.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joan Jorgenson, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, 1900 E St. NW., Washington 20415
Phone: 202 606-1315
Fax: 202 606-3577
Email: jmjorgen@opm.gov

RIN: 3206–AI40

4011. CLASSIFICATION APPEALS OF GENERAL SCHEDULE EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: 5 USC 5112

CFR Citation: 5 CFR 511, subparts F and G

Legal Deadline: None

Abstract: The position classification appeals regulations require updating to reflect current organization nomenclature following a reorganization within OPM.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeffrey D. Miller, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2530
Fax: 202 606-2663

RIN: 3206–AH38

4012. SUPERIOR QUALIFICATIONS APPOINTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5333

CFR Citation: 5 CFR 531

Legal Deadline: None

Abstract: Revises regulations concerning the appointment of superior candidates above the minimum rate of pay for General Schedule positions. Clarifies and modifies what agencies should consider when making these superior qualifications appointments.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tina Vay, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-0390

RIN: 3206–AI00

4013. MISCELLANEOUS CHANGES IN COMPENSATION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5304; 5 USC 5365; 5 USC 5753; 5 USC 5527; 5 USC 5596; 5 USC 5941; 5 USC 5754; 5 USC 5307; 5 USC 5338; 5 USC 5548; 5 USC 5595; 5 USC 6101; Fair Labor Standards Act of 1938 (as amended), section 4(f); 5 USC 5941

CFR Citation: 5 CFR 530; 5 CFR 531; 5 CFR 536; 5 CFR 550; 5 CFR 551; 5 CFR 575; 5 CFR 610; 5 CFR 591

Legal Deadline: None

Abstract: This proposed regulation would correct or clarify various regulatory provisions dealing with the compensation of Federal employees.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: D. Bryce Baker, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AH11

4014. PREVAILING RATE SYSTEMS; CHANGING THE HELPER (TRADES) WG-5 SURVEY JOB FROM REQUIRED TO OPTIONAL

Priority: Info./Admin./Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: OPM plans regulatory actions to remove the Helper (Trades) WG-5 Federal Wage System (FWS) appropriated fund survey job from the list of required FWS survey jobs and add it to the list of optional FWS survey jobs. This change was recommended by the Federal Prevailing Rate Advisory Committee.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Allen, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2848
Fax: 202 606-4264
Email: payleave@opm.gov

RIN: 3206–AH81

4015. • PREVAILING RATE SYSTEMS; ENVIRONMENTAL DIFFERENTIAL PAY FOR WORKING AT HIGH ALTITUDES

Priority: Info./Admin./Other

Legal Authority: 5 USC 5343

OPM

Proposed Rule Stage

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The Office of Personnel Management (OPM) is proposing regulation to establish an 8 percent environmental differential pay (EDP) category for Federal Wage System (FWS) employees who work at land-based worksites located at more than 3900 (12,795) meters in altitude, provided such employees are required to commute to their worksites on the same day from a substantially lower altitude under circumstances in which the rapid change in altitude may result in acclimation problems. OPM is creating this new EDP category so that Federal agencies may provide additional compensation to FWS employees who are exposed to unusual health risks by these working conditions.

Timetable:

Action	Date	FR Cite
NPRM	10/13/98	63 FR 54616
NPRM Comment Period End	11/12/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Allen, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2848
Fax: 202 606-4264
Email: payleave@opm.gov

RIN: 3206–AI36

4016. JOB GRADING REVIEWS AND APPEALS OF FEDERAL WAGE SYSTEM EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: 5 USC 5112

CFR Citation: 5 CFR 532, subpart G

Legal Deadline: None

Abstract: The job grading reviews and appeals regulations require updating to reflect current organization nomenclature following a reorganization within OPM.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jeffrey D. Miller, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2530
Fax: 202 606-2663

RIN: 3206–AI14

4017. SEVERANCE PAY: MISCELLANEOUS

Priority: Other Significant

Legal Authority: 5 USC 5595

CFR Citation: 5 CFR 550, subpart G

Legal Deadline: None

Abstract: The proposed regulation would clarify or revise the severance pay rules relating to such issues as the creditability of service and the definition of "involuntary separation."

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: D. Bryce Baker, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E St. NW., Washington, DC 20415
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Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AH12

4018. PAY ADMINISTRATION UNDER THE FAIR LABOR STANDARDS ACT (FLSA)

Priority: Info./Admin./Other

Legal Authority: 5 USC 5112

CFR Citation: 5 CFR 551, subparts A, B, C

Legal Deadline: None

Abstract: The FLSA regulations require revision to correct minor inconsistencies in terminology and phrasing, one incomplete citation, and one incorrect reference.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeffrey D. Miller, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2530
Fax: 202 606-2663

RIN: 3206–AI15

4019. • REEMPLOYMENT OF MILITARY AND CIVILIAN RETIREES TO MEET EXCEPTIONAL EMPLOYMENT NEEDS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5532; 5 USC 8344; 5 USC 8643

CFR Citation: 5 CFR 553

Legal Deadline: None

Abstract: Establishes criteria for granting exceptions for key positions in temporary organizations established by law or Executive order. This rule will also expand and clarify the criteria used in exercising this authority.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Larry Lorenz, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0390

RIN: 3206–AI32

OPM

Proposed Rule Stage

4020. AGENCY DETERMINATIONS ON PAYMENT OF RELOCATION COSTS

Priority: Other Significant

Legal Authority: 5 USC 1103

CFR Citation: 5 CFR 572

Legal Deadline: None

Abstract: Provides criteria under which agencies may determine that relocation expenses will not be paid. Encourages as broad a competition for hiring as possible and expands employment opportunities for displaced Federal employees.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mike Carmichael, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AH50

4021. • MISCELLANEOUS LEAVE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 6311

CFR Citation: 5 CFR 630

Legal Deadline: None

Abstract: The Office of Personnel Management is proposing miscellaneous changes to the leave regulations in 5 CFR part 630. The proposed changes will include clarifying provisions on the Federal leave sharing program, home leave and transfer of leave from/to the U.S. Postal Service; updating regulations to comply with new legislation requiring a lump-sum payment for annual leave for employees transferring from a Department of Defense (DOD) base that is closing to another position; clarifying leave entitlements for employees who are under 90-day appointments or assigned part-time and intermittent work schedules; and other miscellaneous changes.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jo Ann Perrini, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AI44

4022. • FAMILY AND MEDICAL LEAVE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 6381 to 6387

CFR Citation: 5 CFR 630, subpart L

Legal Deadline: None

Abstract: Under the Family and Medical Leave Act of 1993 (FMLA) most Federal employees are entitled to a total of 12 workweeks of unpaid leave during any 12-month period for certain family and medical needs. These regulations clarify the requirements of the FMLA and ensure that both employees' and agencies' rights are protected and their responsibilities fulfilled.

Timetable:

Action	Date	FR Cite
NPRM	08/13/98	63 FR 43325
NPRM Comment Period End	10/13/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jo Ann Perrini, Workforce Compensation and Personnel Service, 1900 E St. NW., Office of Personnel Management, Office of Compensation Administration, 1900 E St. NW., Washington, DC 20415
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Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AI35

4023. FEDERAL EQUAL OPPORTUNITY RECRUITMENT PROGRAM (FEORP)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 4214

CFR Citation: 5 CFR 720

Legal Deadline: None

Abstract: Updates and simplifies reporting requirements to conform to court interpretations of law and to policy changes. Also takes advantage of improved technology.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Armando Rodriguez, Employment Service, Diversity Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AH98

4024. DISABLED VETERANS AFFIRMATIVE ACTION PROGRAM (DVAAP)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 4214

CFR Citation: 5 CFR 720

Legal Deadline: None

Abstract: Adjusts regulations to conform to latest revision in law and clarifies technical issues.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Armando Rodriguez, Employment Service, Diversity Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AH99

4025. FEDERAL EMPLOYEES' HEALTH AND COUNSELING PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 7361; 5 USC 7362

CFR Citation: 5 CFR 792

Legal Deadline: None

Abstract: OPM is proposing to remove the following sentence which appears

in this part, "If an employee fails to participate in any rehabilitative program or, having participated, the employee fails to bring conduct or performance up to a satisfactory level, the agency shall evaluate the employee accordingly and initiate the appropriate performance-based or adverse action." This sentence confuses or misleads agency management in dealing with employees who have an alcohol or drug abuse problem and whose job performance or conduct is affected as a result of their problem. Some agency officials believe that this sentence guarantees Federal employees, with these problems, two chances to avoid disciplinary and/or corrective action. We also propose to add a new section to this part which provides for the confidentiality of Employee Assistance Program (EAP) records and conversations between the counselor and the client. There are regulations which provide confidentiality of alcohol and drug abuse patient records; however, there is no such regulation for other personal problems which affect Federal employees such as family, financial, marital, etc. Without this regulation, agency EAP administrators and counselors are not protected when they refuse to disclose information without the signed written consent of the EAP client.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank T. Cavanaugh, Office of Workforce Relations, Employee Health Services Branch, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-1166
Fax: 202 606-0967

RIN: 3206–AI07

4026. RETIREMENT; CSRS AND FERS AMENDMENTS RELATING TO HEALTH CARE PROFESSIONALS

Priority: Info./Admin./Other

Legal Authority: 5 USC 8347(a); 5 USC 8461(g)

CFR Citation: 5 CFR 831; 5 CFR 841; 5 CFR 842

Legal Deadline: None

Abstract: These regulations implement the special retirement provisions applicable to certain health care professionals employed by the Veterans Health Service and other designated agencies.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cynthia Reinhold, Retirement and Insurance Service, Office of Retirement Policy Development, Office of Personnel Management, 1900 E St. NW., Washington DC 20415
Phone: 202 606-0299
Fax: 202 606-1108
Email: combox@opm.gov

RIN: 3206–AG57

4027. RETIREMENT; CREDIT FOR MILITARY SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347(a); 5 USC 8461(g); 38 USC 4331

CFR Citation: 5 CFR 8347(a); 5 CFR 8461(g); 5 CFR 842.306; 5 CFR 842.307

Legal Deadline: None

Abstract: These regulations implement changes in the treatment of certain military service under CSRS and FERS required under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher H. Ziebarth, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0299
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Email: combox@opm.gov

RIN: 3206–AG58

4028. RETIREMENT; DETERMINATIONS OF MARITAL STATUS FOR SURVIVOR ANNUITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 831; 5 CFR 842; 5 CFR 843

Legal Deadline: None

Abstract: These regulations would establish the standards of evidence that OPM will require to prove entitlement to a survivor annuity as the surviving spouse of a deceased employee or retiree.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0299
Fax: 202 606-1108
Email: combox@opm.gov

RIN: 3206–AG60

4029. • RETIREMENT; NATIONAL GUARD TECHNICIANS: ADJUSTMENTS TO ANNUITY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8345(g)

CFR Citation: 5 CFR 831

Legal Deadline: None

Abstract: These regulations will amend the Civil Service Retirement System (CSRS) regulations to simplify the method of adjustment for the offset required for State benefits payable based on service as a National Guard Technician.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0299
Fax: 202 606-1108
Email: combox@opm.gov

RIN: 3206–AI42

4030. RETIREMENT; SERVICE CREDIT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, subpart C

Legal Deadline: None

Abstract: These regulations would provide that no retirement credit could be granted for periods of service for which retirement deductions were refunded and not repaid even when the refund was paid based on an erroneous separation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0299
Fax: 202 606-1108
Email: combox@opm.gov

RIN: 3206–AH37

4031. RETIREMENT; WAIVER OF MILITARY RETIRED PAY TO ENHANCE CIVIL SERVICE RETIREMENT ANNUITY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8332(c)(4); 5 USC 8347(a); 5 USC 8411(c)(5)

CFR Citation: 5 CFR 831, subpart C; 5 CFR 842, subpart C

Legal Deadline: None

Abstract: These regulations implement provisions of the National Defense Authorization Act for Fiscal Year 1997. The Act changed the statutory requirements for allowing credit under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS) for military service in certain situations. CSRS or FERS credit based on a waiver of military retired pay after January 1, 1997 is no longer permitted to adversely affect a former spouse with a court order on file affecting the military retired pay.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harold Siegelman, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0299
Fax: 202 606-1108
Email: combox@opm.gov

RIN: 3206–AH74

4032. RETIREMENT; ELIMINATION OF THE HEARING REQUIREMENT DURING ENFORCEMENT OF STATUTORY BAR TO ANNUITY AFTER CONVICTION OF CERTAIN OFFENSES

Priority: Info./Admin./Other

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 831, subpart K

Legal Deadline: None

Abstract: These regulations will eliminate the requirement that OPM conduct a hearing before applying the statutory bar to annuity when an individual has been convicted of certain offenses.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patrick Jennings, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AH76

4033. RETIREMENT; STATE INCOME TAX WITHHOLDING INSTRUMENTALITIES

Priority: Info./Admin./Other

Legal Authority: 5 USC 8345; 5 USC 8347; 5 USC 8461; 5 USC 8469

CFR Citation: 5 CFR 831, subpart S; 5 CFR 841, subpart J

Legal Deadline: None

Abstract: These regulations modify existing regulations to reflect changes designed to expand and streamline the process of withholding State income tax from CSRS and FERS annuities.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0299
Fax: 202 606-1108
Email: combox@opm.gov

RIN: 3206–AH62

4034. RETIREMENT; DEBT COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 835(e)

Legal Deadline: None

Abstract: These regulations will amend the Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS) regulations by consolidating and updating existing regulations in three different subparts of the CSRS regulations and 5 CFR 845 in the FERS regulations to eliminate duplication of the provisions governing debt collection. This item is for subpart E of the new part 835, which will address collections of Government claims from payments made by OPM.

Timetable:

Action	Date	FR Cite
NPRM	10/05/92	57 FR 45753
NPRM	12/00/98	
Final Action	06/00/99	

OPM — Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
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Email: combox@opm.gov

RIN: 3206–AE72

4035. RETIREMENT; COURT ORDERS AWARDING SURVIVOR ANNUITIES; CORRECTING OR SUPPLEMENTING THE FIRST ORDER DIVIDING MARITAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 838

Legal Deadline: None

Abstract: These regulations would establish standards for determining which supplemental or correcting court orders are not "modifications" and the procedures applicable to such orders. They also provide for the continuation of the former spouse's survivor coverage and the reduction in the retiree's annuity until the State court decides the extent of the former spouse's rights to retirement benefits.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Retirement and Insurance Group, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0299
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Email: combox@opm.gov

RIN: 3206–AG28

4036. FEDERAL EMPLOYEE'S GROUP LIFE INSURANCE PROGRAM: MISCELLANEOUS CHANGES AND CLARIFICATIONS

Priority: Info./Admin./Other

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870

Legal Deadline: None

Abstract: These regulations include a group of changes to FEGLI regulations that will clarify procedures for signing and witnessing designations of beneficiary, accepting designations of beneficiary by facsimile, accepting DNA evidence to establish paternity, etc.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Leibach, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633
Email: kleibach@opm.gov

RIN: 3206–AG63

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Final Rule Stage

4037. STUDENT EDUCATIONAL EMPLOYMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: EO 13024; 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 213; 5 CFR 315; 5 CFR 316

Legal Deadline: None

Abstract: OPM is issuing interim regulations permitting students participating in the Student Career Experience Program to be noncompetitively converted to term appointments and subsequent career/career-conditional appointments to implement E.O. 13024. These regulations will also reorganize the current information on the student programs and clarify a few related issues.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/02/97	62 FR 63627
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mike Mahoney, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AH82

4038. APPOINTMENT OF NON-STATUS EMPLOYEES (USERRA)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 213

Legal Deadline: None

Abstract: To permit Schedule A appointments of excepted service employees who are entitled to placement in a different agency if their original employing agency cannot reemploy them following uniformed service. Implements Pub. L. 103-353 (Uniformed Services Employment and Reemployment Rights Act of 1994).

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/95	60 FR 55173
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Raleigh Neville, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AI23

OPM — Final Rule Stage

4039. TIME-IN-GRADE RESTRICTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 3301; 5 USC 3302; EO 10577

CFR Citation: 5 CFR 300

Legal Deadline: None

Abstract: Eliminates requirement that employees serve 1 year in grade to be eligible for promotion above the GS-5 level. This is separate from the qualifications requirement for 1 year experience at the next lowest grade or equivalent for promotion.

Timetable:

Action	Date	FR Cite
NPRM	06/15/94	59 FR 30717
NPRM Comment Period End	01/10/95	60 FR 2546
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tina Vay, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 292 606-0390

RIN: 3206–AG06

4040. TEMPORARY AND TERM EMPLOYMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301; 5 USC 3302; EO 10577

CFR Citation: 5 CFR 316

Legal Deadline: None

Abstract: Changes non-permanent appointment types and procedures to be consistent with newly expanded delegation of examining authority to agencies.

Timetable:

Action	Date	FR Cite
NPRM	09/09/96	61 FR 47450
NPRM Comment Period End	12/31/96	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diane Tyrrell, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AH47

4041. PROMOTION AND INTERNAL PLACEMENT; ACCELERATED QUALIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 3329

CFR Citation: 5 CFR 316; 5 CFR 335; 5 CFR 338

Legal Deadline: None

Abstract: OPM will issue final regulations on Accelerated Qualifications only to authorize agencies to establish intensive training programs for acquiring qualifications at an accelerated rate. A new regulatory proposal on Merit Promotion will be developed.

Timetable:

Action	Date	FR Cite
NPRM	02/20/96	61 FR 6324
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Jacobs, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AG19

4042. MORATORIUM ON INVOLUNTARY SES REASSIGNMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3395

CFR Citation: 5 CFR 317

Legal Deadline: None

Abstract: The interim regulations will clarify the existing regulatory provision at 5 CFR 317.901 covering the statutory 120-day moratorium on involuntary reassignments of SES career appointees following the appointment of a new agency head or noncareer supervisor. As agency transitions began to get underway after January 20, 1997, agency questions revealed that the moratorium regulations could be subject to an interpretation not intended by the statute. The interim regulations will make it clear that an agency may effect an involuntary reassignment, based on an unsatisfactory rating issued before the appointment that initiates the moratorium, as an exception to the moratorium.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/24/98	63 FR 34257
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bede Bender, Office of Executive Resources, Office of Personnel Management, 1900 E St. NW., Room 6484, Washington, DC 20415
Phone: 202 606-1784
Fax: 202 606-2126

RIN: 3206–AH92

4043. JOB LISTINGS; FULL CONSIDERATION OF DISPLACED DEFENSE EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3329; PL 102-484, sec 4432

CFR Citation: 5 CFR 330; 5 CFR 335

Legal Deadline: None

Abstract: Requires agencies to report to OPM announcements of vacancies for which they will accept applications from outside their own work forces. Requires agencies to give full consideration to displaced DOD employees, Pub. L. 102-484, 5 U.S.C. 3329.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/93	58 FR 18139
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ed McHugh, Employment Service, Office of

OPM — Final Rule Stage

Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AF36

4044. • FEDERAL EMPLOYMENT PRIORITY CONSIDERATION FOR DC EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-33

CFR Citation: 5 CFR 330

Legal Deadline: None

Abstract: Requires agencies to accord priority consideration to displaced District of Columbia, Department of Corrections employees separated as a result of the closure of the Lorton Correctional complex.

Timetable:

Action	Date	FR Cite
NPRM	08/04/98	63 FR 41387
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tim Firlie, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AI28

4045. REDUCTION IN FORCE AND VACANT POSITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302

CFR Citation: 5 CFR 351

Legal Deadline: None

Abstract: Clarifies agency policy on reduction in force offers of assignment to vacant positions to satisfy an employee's assignment right under section 5 CFR 351.701 or in lieu of separation by reduction in force.

Timetable:

Action	Date	FR Cite
NPRM	05/13/98	63 FR 26531
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas A. Glennon, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AH95

4046. REDUCTION IN FORCE SERVICE CREDIT; RETENTION RECORDS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3502a

CFR Citation: 5 CFR 351

Legal Deadline: None

Abstract: Covers service credit for retention purposes, and access to retention records by employees and their representatives.

Timetable:

Action	Date	FR Cite
NPRM	08/14/98	63 FR 43640
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas A. Glennon, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AI09

4047. RESTORATION TO DUTY FROM MILITARY SERVICE OR COMPENSABLE INJURY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8151; 38 USC 4301

CFR Citation: 5 CFR 353

Legal Deadline: None

Abstract: Restoration rights of Federal employees who leave employment to perform duty with the uniformed services, implementing the USERRA of 1994, 48 USC chapter 43.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/01/95	60 FR 45650
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3206–AG02

4048. OFFICIAL DUTY STATION DETERMINATIONS FOR PAY PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5305; 5 USC 5304; 5 USC 5941; EO 10000; PL 101-509, sec 404

CFR Citation: 5 CFR 530; 5 CFR 531; 5 CFR 591

Legal Deadline: None

Abstract: These regulations clarify the location-based pay entitlements of Federal employees who are detailed or temporarily assigned to work at a new location. In particular, the regulations provide that, for employees receiving limited relocation allowances under 5 U.S.C. 5737 during temporary assignments, the new location is the official duty station for pay purposes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/09/97	62 FR 25423
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3206–AH84

4049. PREVAILING RATE SYSTEMS; REDEFINITION OF THE NORFOLK, MA, NONAPPROPRIATED FUND WAGE AREA

Priority: Info./Admin./Other

Legal Authority: 5 USC 5343

OPM — Final Rule Stage

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: OPM plans regulatory actions to abolish the Norfolk, MA, nonappropriated fund (NAF) wage area and to redefine (1) Norfolk, Plymouth, and Suffolk Counties in MA to the Middlesex, MA, NAF wage area and (2) Barnstable and Nantucket Counties in MA to the Newport, RI, wage area. This change is necessary because the closing of the wage area host activity, Naval Air Station, South Weymouth, MA, left Norfolk County without an activity having the capability to conduct a wage survey.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/23/96	61 FR 49649
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Allen, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AH58

4050. PREVAILING RATE SYSTEMS; REDEFINITION OF THE MARION, IN, NONAPPROPRIATED FUND WAGE AREA

Priority: Info./Admin./Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: OPM plans regulatory actions to abolish the Marion, IN, nonappropriated fund (NAF) wage area and to redefine (1) Grant, Miami, Allen and Marion Counties, IN, to the Greenville-Montgomery, OH, NAF wage area (2) Martin County, IL; to the Hardin-Jefferson, KY, NAF wage area and (3) Vermilion County, IL, to the Lake County, IL, NAF wage area. This change is necessary because the closing of the wage area host activity, Ft. Benjamin Harrison, left Marion County without an activity having the capability to conduct a wage survey.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/10/96	61 FR 47661
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Allen, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AH60

4051. HOLIDAY AND PREMIUM PAY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5548; 5 USC 6133; 29 USC 204(f)

CFR Citation: 5 CFR 523; 5 CFR 550; 5 CFR 551; 5 CFR 610

Legal Deadline: None

Abstract: The regulations implement recent changes in law which provide authority for compensatory time off for prevailing rate (wage) employees in lieu of overtime pay and agency flexibility in determining the "in lieu of" holiday for employees on compressed work schedules when the actual holiday for the employee is on a nonworkday. A current regulation is also corrected to comply with a provision of law authorizing use of alternative work schedules for civilian nonappropriated fund employees of the Armed Services.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/23/97	62 FR 2835
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3206–AH86

4052. PREVAILING RATE SYSTEMS; ABOLISHMENT OF LUBBOCK NONAPPROPRIATED FUND WAGE AREA

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing an interim rule to abolish the Lubbock, Texas, nonappropriated fund (NAF) Federal Wage System (FWS) wage area and to establish a new Curry, New Mexico, NAF wage area.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/27/97	62 FR 28978
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Allen, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AH88

4053. PREVAILING RATE SYSTEMS: ABOLISHMENT OF THE ORLANDO, FL, APPROPRIATED FUND WAGE AREA

Priority: Info./Admin./Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing an interim rule to remove the requirement that a full-scale wage survey be conducted in the Orlando, Florida, Federal Wage System appropriated fund wage area in September 1997.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/03/97	62 FR 51759
Final Action	01/00/99	

OPM

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Allen, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AI04

4054. PREVAILING RATE SYSTEMS; REMOVAL OF UMATILLA COUNTY, OR, FROM SPOKANE, WA, NONAPPROPRIATED FUND WAGE AREA

Priority: Info./Admin./Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing an interim rule to remove Umatilla County, Oregon, from the area of application of the Spokane, Washington, nonappropriated fund Federal Wage System wage area.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/23/97	62 FR 66973
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Allen, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AI10

4055. PREVAILING RATE SYSTEMS; ABOLISHMENT OF KANSAS CITY, MO, SPECIAL WAGE SCHEDULE FOR PRINTING POSITIONS

Priority: Info./Admin./Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing an interim rule to abolish the Federal Wage System Special Wage schedule for printing positions in the Kansas City, Missouri, wage area. Printing and lithographic employees in Kansas City will now be paid rates from the regular Kansas City wage schedule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/24/97	62 FR 67258
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Allen, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AI11

4056. PREVAILING RATE SYSTEMS; REDEFINITION OF THE ORLANDO, FL, APPROPRIATED FUND WAGE AREA

Priority: Info./Admin./Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The Office of Personnel Management (OPM) is issuing an interim rule to redefine Orange, Osceola, Seminole, and Volusia Counties, FL, from the Orlando wage area to the area of application of the Jacksonville, FL, Federal Wage System (FWS) wage area.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/09/98	63 FR 6471
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark A. Allen, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AI13

4057. • PREVAILING RATE SYSTEMS; REDEFINITION OF PHILADELPHIA, PA, AND NEW YORK, NY, APPROPRIATED FUND WAGE AREAS

Priority: Info./Admin./Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing a proposed rule to redefine Ocean County, NJ, from the Philadelphia, PA, appropriated fund Federal Wage System wage area to the New York, NY wage area.

Timetable:

Action	Date	FR Cite
NPRM	06/23/98	63 FR 34134
Interim Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Allen, Workforce Compensation and Performance Service, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AI30

4058. VOLUNTARY SEPARATION INCENTIVE REPAYMENT WAIVERS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-226

CFR Citation: 5 CFR 550

Legal Deadline: None

Abstract: Public Law 103-226 authorizes OPM to waive repayment of a voluntary separation incentive payment if a former employee who accepted the incentive payment is reemployed by an executive agency of the U.S. within 5 years of separation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/09/94	59 FR 55807
Final Action	10/00/98	

OPM

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Greg Keller, Employment Service, Federal Workforce Restructuring Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AG20

4059. LUMP-SUM PAYMENTS FOR ANNUAL LEAVE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5553

CFR Citation: 5 CFR 550, subpart L

Legal Deadline: None

Abstract: The Technical and Miscellaneous Civil Service Amendments Act of 1992 (Pub. L. 102-378, October 2, 1992) created a new provision, 5 U.S.C. 5553, to provide OPM with regulatory authority for administering lump-sum payments for annual leave.

Timetable:

Action	Date	FR Cite
NPRM	07/29/97	62 FR 40475
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: JoAnn Perrini, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AF38

4060. • HAZARDOUS DUTY PAY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5545(d); 5 USC 5548(b)

CFR Citation: 5 CFR 550, subpart I

Legal Deadline: None

Abstract: These regulations establish a new 8 percent hazard pay differential category for General Schedule employees who commute daily to a worksite more than 3900 meters in altitude from their residences at a substantially lower altitude.

Timetable:

Action	Date	FR Cite
NPRM	06/30/98	63 FR 35543
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3206–AI29

4061. PAY ADMINISTRATION (GENERAL); COLLECTION BY OFFSET FROM INDEBTED GOVERNMENT EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5514

CFR Citation: 5 CFR 550, subpart K

Legal Deadline: None

Abstract: OPM plans regulatory changes to salary offset regulations which are needed to comply with changes required by or resulting from Public Law 103-134

Timetable:

Action	Date	FR Cite
NPRM	04/16/98	63 FR 18850
NPRM Comment Period End	06/15/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Shields, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AH63

4062. • RETENTION ALLOWANCES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5754

CFR Citation: 5 CFR 575

Legal Deadline: None

Abstract: These regulations provide agencies with discretionary authority to pay retention allowances of up to 10 percent of an employee's rate of basic pay (or up to 25 percent with OPM approval) to a group or category of employees in certain limited circumstances.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/23/98	63 FR 34119
NPRM Comment Period End	08/24/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Shields, Workforce Compensation and Performance Service, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AI31

4063. COST-OF-LIVING ALLOWANCE IN NONFOREIGN AREAS: SURVEY RESULTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5941

CFR Citation: 5 CFR 591

Legal Deadline: None

Abstract: The Office of Personnel Management will issue regulations implementing any increases in nonforeign area cost-of-living allowance (COLA) rates indicated by COLA survey results. Section 5941 of title 5, United States Code, provides for the payment of nonforeign area cost-of-living allowances (COLA's) in Alaska, Hawaii, and other nonforeign overseas areas. The Office of Personnel Management conducts living-cost surveys to set COLA rates. Reductions in nonforeign area COLA rates are prohibited by the Treasury, Postal Service, and General Government Appropriations Act, 1992, as amended, through December 31,

OPM

Final Rule Stage

2000, and will not be proposed during the restricted period.

Timetable:

Action	Date	FR Cite
Winter 1995 Report	02/02/96	61 FR 4070
Interim Final Rule	03/25/97	62 FR 14188
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3206–AH07

4064. • COST-OF-LIVING ALLOWANCES IN NONFOREIGN AREAS: SURVEY RESULTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5941

CFR Citation: 5 CFR 591

Legal Deadline: None

Abstract: The Office of Personnel Management will issue regulations implementing any increases in nonforeign area cost-of-living allowance (COLA) rates indicated by COLA survey results. Section 5941 of title 5, United States Code, provides for the payment of nonforeign area cost-of-living allowances (COLA's) in Alaska, Hawaii, and other nonforeign overseas areas. The Office of Personnel Management conducts living-cost surveys to set COLA rates. Reductions in nonforeign area COLA rates are prohibited by the Treasury, Postal Service, and General Government Appropriations Act, 1992, as amended, through December 31, 2000, and will not be proposed during the restricted period. OPM is also broadening the composition of the Miscellaneous Expense Category to allow the addition of other types of expenses to that category.

Timetable:

Action	Date	FR Cite
Winter 1995 Report	02/02/96	61 FR 4070
Interim Final Rule	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kurt Springmann, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AI38

4065. EMERGENCY LEAVE TRANSFER PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 6391

CFR Citation: 5 CFR 630, subpart K

Legal Deadline: None

Abstract: Section 9004 of Pub. L. 105-18, June 12, 1997, added section 6391 to title 5, United States Code, to provide that in the event of a major disaster or emergency, as declared by the President, that results in severe adverse effects for a substantial number of employees, the President may direct the Office of Personnel Management (OPM) to establish an emergency leave transfer program under which an employee in any Executive agency may donate annual leave for transfer to employees of his or her agency or to employees in other agencies who are adversely affected by such disaster or emergency. The Act also permits agency leave banks established under 5 U.S.C. 6362 to donate leave under an emergency leave transfer program established by OPM.

Timetable:

Action	Date	FR Cite
NPRM	11/03/97	62 FR 59301
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jo Ann Perrini, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Commpensation Administration, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AI03

4066. RETIREMENT; COVERAGE—NONAPPROPRIATED FUND INSTRUMENTALITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831; 5 CFR 837; 5 CFR 841; 5 CFR 842; 5 CFR 843; 5 CFR 844; 5 CFR 847

Legal Deadline: Final, Statutory, August 9, 1996.

Abstract: These regulations implement the provisions of Pub. L. 104-106 which allow certain employees who have been employed by non-appropriated fund instrumentalities under the jurisdiction of the armed forces to obtain retirement credit under limited circumstances.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/09/96	61 FR 41714
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cynthia Reinhold, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 204415
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RIN: 3206–AH57

4067. COVERAGE FOR CERTAIN EMPLOYEES OF DC

Priority: Info./Admin./Other

Legal Authority: 5 USC 8347(a); 5 USC 8361(g); PL 105-33, sec 11202(f), 11232(e), 11246(b)

CFR Citation: 5 CFR 831; 5 CFR 837; 5 CFR 842; 5 CFR 846; 5 CFR 870; 5 CFR 890

Legal Deadline: None

Abstract: These regulations implement provisions of the National Capital Revitalization and Self-Government Improvement Act of 1997 that require that nonjudicial employees of the District of Columbia Courts, and under certain conditions, the District of Columbia Corrections Trustee and the District of Columbia Pretrial Services, Defense Service, Parole, Adult Probation and Offender Supervision Trustee and their respective employees be considered Federal employees for

OPM

Final Rule Stage

purposes of Federal retirement, health, and life insurance coverage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/30/97	62 FR 50995
Comment Period End	12/01/97	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patrick Jennings, Retirement and Insurance Service, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415-0001
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RIN: 3206–AI02

4068. RETIREMENT COVERAGE FOR DC FINANCIAL CONTROL BOARD EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-8

CFR Citation: 5 CFR 831; 5 CFR 842

Legal Deadline: None

Abstract: These regulations implement the District of Columbia Financial Responsibility and Management Assistance Act of 1995. They establish standards by which some former Federal employees may carry civil service retirement coverage to employment with the DC Financial Control Board.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/15/96	61 FR 58457
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patrick Jennings, Retirement and Insurance Service, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415-0001
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RIN: 3206–AG78

4069. • RETIREMENT; LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 831, subpart I; 5 CFR 842, subpart H

Legal Deadline: None

Abstract: These interim regulations will amend the CSRS Law Enforcement Officer and Firefighter regulations and the FERS Law Enforcement Officer, Firefighter, and Air Traffic Controller regulations governing agency and OPM law enforcement officer and firefighter retirement coverage and service credit determinations. These interim regulations will clarify that the authority of an agency head to deny law enforcement officer and firefighter retirement coverage may be delegated to any level within the agency.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patrick Jennings, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AI41

4070. RETIREMENT; FERS BASIC ANNUITY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8461

CFR Citation: 5 CFR 842, subparts B, C, D, E, F, G

Legal Deadline: None

Abstract: These final regulations will amend FERS Basic Annuity regulations governing Eligibility (subpart B), Credit for Service (subpart C), Computations (subpart F), and Alternative Forms of Annuity (subpart G). These regulations have been published at various times in interim final form, and have been affected by statutory changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/16/87	52 FR 2061
Interim Final Rule	01/16/87	52 FR 2067
Interim Final Rule	02/11/87	52 FR 4473
Interim Final Rule	02/11/87	52 FR 4479
Interim Final Rule	05/14/87	52 FR 18193
Interim Final Rule	04/08/88	53 FR 11635
Interim Final Rule	02/09/90	55 FR 4598
Final Rule	12/27/90	55 FR 53136
Interim Final Rule	02/19/91	56 FR 6549
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AE73

4071. RETIREMENT; FERS ELECTIONS OF COVERAGE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347(a); 5 USC 8461(g); PL 99-335, sec 301(d)(3)

CFR Citation: 5 CFR 846

Legal Deadline: None

Abstract: These regulations implement title III of the Federal Employees Retirement System (FERS) Act of 1986, as amended, dealing with the election of FERS coverage by employees under the Civil Service Retirement System and certain other employees. The regulations contain regulatory and interpretative rules concerning employees' eligibility to elect FERS coverage, procedures for electing FERS coverage, and basic benefits based on the service for employees who elect FERS coverage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/21/87	52 FR 19235
Interim Final Rule	09/13/93	58 FR 47821
Interim Final Rule	06/18/98	63 FR 33231
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415-0001
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OPM — Final Rule Stage

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RIN: 3206–AG96

4072. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM: PAYMENT OF PREMIUMS FOR PERIODS OF LEAVE WITHOUT PAY OR INSUFFICIENT PAY

Priority: Info./Admin./Other

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations that establish a requirement that Federal agencies counsel employees entering nonpay status, or whose pay is insufficient to cover their FEHB premium payments, of the options of continuing or terminating their FEHB coverage, and if continuing, of paying premiums directly on a current basis or incurring a debt to be withheld from future salary. These regulations are intended to ensure employees are fully aware of these alternatives.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/22/96	61 FR 37807
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth A. Lease, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, Office of Insurance Programs, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AG66

4073. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM: DISENROLLMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations authorizing FEHB carriers to disenroll an enrollee when the enrollment reconciliation process results in an unresolved discrepancy between the carrier and the employing office records, and in other circumstances. Enrollees would have the right to request reconsideration of the carrier action from the employing office.

Timetable:

Action	Date	FR Cite
NPRM	11/28/97	62 FR 63282
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jay Fritz, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, Office of Insurance Programs, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AH61

4074. • FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM: CONTRIBUTIONS AND WITHHOLDING

Priority: Info./Admin./Other

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: This interim rule explains implementation of the new Government contribution formula under the Federal Employees Health Benefits Program which becomes effective with the contract year beginning in January 1999, pursuant to the Balanced Budget Act of 1997.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bonnie Rose, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633
Email: brrose@opm.gov

RIN: 3206–AI33

4075. • FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM: EFFECTIVE DATES

Priority: Info./Admin./Other

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: This proposed regulation would adopt January 1st as the effective date for all open season new enrollment in the Federal Employees Health Benefits Program.

Timetable:

Action	Date	FR Cite
NPRM	08/31/98	63 FR 46180
NPRM Comment Period End	09/30/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jay D. Fritz, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633
Email: jayfritz@opm.gov

RIN: 3206–AI37

4076. APPOINTMENT, PAY, AND REMOVAL OF ADMINISTRATIVE LAW JUDGES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1104(a)(2); 5 USC 1305; 5 USC 3105; 5 USC 3323(b); 5 USC 3344; 5 USC 4301(2)(D); 5 USC 5372; 5 USC 7521

CFR Citation: 5 CFR 930

Legal Deadline: None

Abstract: Revises several areas pertaining to the appointment, pay, and removal of ALJ's.

Timetable:

Action	Date	FR Cite
NPRM	02/23/98	63 FR 8874
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol Bullock, Employment Service, Office of

OPM — Final Rule Stage

Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0810
TDD: 202 606-0023
Fax: 202 606-0584

RIN: 3206–AI08

4077. • PROHIBITION OF "GAG CLAUSES" IN THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Priority: Info./Admin./Other

Legal Authority: 5 USC 8913

CFR Citation: 48 CFR 1609

Legal Deadline: None

Abstract: This regulation prohibits FEHB carriers from placing provisions or financial incentives in their contracts with health care providers, provider groups, or health care workers that would limit providers' or health care workers' ability to discuss medically necessary treatment options with Federal enrollees.

Timetable:

Action	Date	FR Cite
NPRM	05/21/98	63 FR 27902
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mike Kazynski, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633
Email: mwkaszyn@opm.gov

RIN: 3206–AI27

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Long-Term Actions

4078. NONCOMPETITIVE APPOINTMENTS OF CORPORATION FOR NATIONAL SERVICE EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12651f

CFR Citation: 5 CFR 315; 5 CFR 316

Legal Deadline: None

Abstract: Permits permanent and indefinite employees of the Corporation for National Service to receive noncompetitive appointments in the competitive service. Implements National and Community Service Trust Act of 1993.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Carmichael, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AH48

4079. PERFORMANCE MANAGEMENT REFORM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 43; 5 USC 45

CFR Citation: 5 CFR 430; 5 CFR 451

Legal Deadline: None

Abstract: Regulatory changes to comply with legislative reforms in support of the National Performance Review (NPR) recommendations that decentralize performance management and incentive awards programs to the agencies.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Barbara Colchao, Workforce Compensation and Performance Service, Office of Personnel Management, Performance Management and Incentive Awards Division, OPCSD, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2720
Fax: 202 606-2395
Email: dlhausse@opm.gov

RIN: 3206–AF57

4080. PAY ADMINISTRATION; AVAILABILITY PAY FOR CRIMINAL INVESTIGATORS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5545a(h); 5 USC 5548

CFR Citation: 5 CFR 550

Legal Deadline: None

Abstract: Regulations on implementation of availability pay, a new form of premium pay for criminal investigators who are required to work, or be available to work substantial amounts of unscheduled overtime duty based on the needs of the employing agency.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/23/94	59 FR 66149
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kevin Kitchelt, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AG47

4081. SUITABILITY

Priority: Other Significant

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7301; EO 10577; EO 11222

CFR Citation: 5 CFR 731

Legal Deadline: None

Abstract: With the abolishment in December 1993 of the Federal Personnel Manual (FPM), certain policies and procedures enunciated in the FPM must be considered for publication in another format. Since these policies and procedures are important to continued program operations, they will be incorporated in

the Code of Federal Regulations. The Office of Management and Budget (OMB) has determined that these regulations are significant and require OMB review prior to publication. However, we foresee no significant issues arising from implementation of these changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/91	56 FR 18650
Interim Final Rule	09/16/94	59 FR 47527
NPRM	01/05/96	61 FR 394
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard A. Ferris, Associate Director, Investigations Service, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415-4000
Phone: 202 606-1042
Fax: 202 606-2390

RIN: 3206–AC19

4082. PERSONNEL SECURITY AND RELATED PROGRAMS

Priority: Other Significant

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7312; 50 USC 403; EO 10450; EO 10577

CFR Citation: 5 CFR 732

Legal Deadline: None

Abstract: With the abolishment in December 1993 of the Federal Personnel Manual (FPM), certain policies and procedures enunciated in the FPM must be considered for publication in another format. Since all of these policies and procedures are important to continued program operations, they will be incorporated in the Code of Federal Regulations. The Office of Management and Budget (OMB) has determined that these regulations are significant and require OMB review prior to publication. However, we see no significant issues arising from implementation of these changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/91	56 FR 18650
Interim Final Rule	09/16/94	59 FR 47527
Interim Final Rule Effective Date	10/17/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard A. Ferris, Associate Director, Investigations Service, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415-4000
Phone: 202 606-1042
Fax: 202 606-2390

RIN: 3206–AC21

4083. INVESTIGATIONS

Priority: Other Significant

Legal Authority: PL 93-579; 5 USC 552a

CFR Citation: 5 CFR 736

Legal Deadline: None

Abstract: With the abolishment in December 1993 of the Federal Personnel Manual (FPM), certain policies and procedures enunciated in the FPM must be considered for publication in another format. Since all of these policies and procedures are important to continued program operations, they will be incorporated in the Code of Federal Regulations. The Office of Management and Budget (OMB) has determined that these regulations are significant and require OMB review prior to publication. However, we foresee no significant issues arising from implementation of these changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/91	56 FR 18650
Begin Review	10/01/93	
Interim Final Rule	09/16/94	59 FR 47527
Interim Final Rule Effective Date	10/17/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard A. Ferris, Associate Director, Investigations Service, Office of Personnel Management, 1900 E St. NW., Washington, DC 20514-4000
Phone: 202 606-1042
Fax: 202 606-2390

RIN: 3206–AB92

4084. • VOLUNTARY EARLY RETIREMENT AUTHORITY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8336(d); 5 USC 814(b)(1)(B)

CFR Citation: 5 CFR 831; 5 CFR 842

Legal Deadline: None

Abstract: Section 7001 of Public Law 105-174, the Supplemental Appropriations and Rescissions Act, FY 1998, provided authority for OPM and agencies to apply special provisions affecting the manner in which voluntary early retirements may be administered and approved for the period from May 1, 1998, through September 30, 1999. The law allows OPM to prescribe regulations which permit the agency, after OPM approval, to determine the scope of voluntary early retirement offers on the basis of one or more organizational units; one or more occupational series or levels; one or more geographic locations; other similar nonpersonal factors; or any appropriate combination of such factors. These regulations implement the temporary provisions of Public Law 105-174.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/15/98	63 FR 32595
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas Glennon, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AI25

4085. DEBARMENTS, CIVIL MONETARY PENALTIES, AND ASSESSMENTS IMPOSED AGAINST PROVIDERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8902a

CFR Citation: 5 CFR 890, subpart J

Legal Deadline: None

Abstract: These regulations will implement amendments to 5 U.S.C. section 8902a, which authorize OPM to debar health care providers who have committed certain types of legal offenses or program-related violations, from participation in the Federal Employees Health Benefits Program (FEHBP) and to levy monetary penalties and assessments against individuals who have improperly obtained payments of FEHBP funds. Passage of the proposed legislation will remove unnecessary administrative constraints on the agency, provide more flexible and less time consuming procedures, and improve OPM's administration of sanctions against unfit health care providers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/89	54 FR 43939
NPRM	02/04/93	58 FR 7052
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: J. David Cope, Chief, Administrative Sanctions Branch, Office of the Inspector General, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2851
Fax: 202 606-2153
Email: jdcope@opm.gov

RIN: 3206–AD76

OFFICE OF PERSONNEL MANAGEMENT (OPM) Completed Actions

4086. CLAIMS COLLECTIONS STANDARDS; DEBT COLLECTION ACT OF 1982; SALARY OFFSET

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 179

Completed:

Reason	Date	FR Cite
Withdrawn	08/06/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bob Loring
Phone: 202 606-5028

RIN: 3206–AG64

4087. APPOINTMENT OF NONCITIZENS IN THE EXCEPTED SERVICE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 5 CFR 213.3102(bb)

Completed:

Reason	Date	FR Cite
Withdrawn	08/04/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sylvia Cole
Phone: 202 606-1386
Fax: 202 606-2329

RIN: 3206–AH52

4088. MERIT PROMOTION AND INTERNAL PLACEMENT

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 316; 5 CFR 335; 5 CFR 338

Completed:

Reason	Date	FR Cite
Withdrawn	08/13/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Jacobs
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AI21

4089. REDUCTION IN FORCE; RETREAT RIGHTS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 351

Completed:

Reason	Date	FR Cite
Final Action	06/15/98	63 FR 32593
Final Action Effective	07/15/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Thomas A. Glennon
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AG77

4090. REDUCTION IN FORCE AND MANDATORY TEMPORARY EXCEPTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 351

Completed:

Reason	Date	FR Cite
Final Action	05/13/98	63 FR 26421
Final Action Effective	06/12/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas Glennon
Phone: 202 606-0960
TDD: 202 606-2329
Fax: 202 606-0023

RIN: 3206–AH64

4091. TRAINING

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 410

Completed:

Reason	Date	FR Cite
Final Action	08/17/98	63 FR 43867
Final Action Effective	09/16/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Judith Lombard
Phone: 202 606-2431
Fax: 202 606-2394
Email: jmlombar@opm.gov

RIN: 3206–AH94

4092. PERFORMANCE RATINGS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 430; 5 CFR 534

OPM

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	10/05/98	63 FR 53275
Final Action Effective	11/04/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Barbara Colchao
Phone: 202 606-2720
Fax: 202 606-2395
Email: bwcolcha@opm.gov

RIN: 3206–AH77

4093. REVISED APPLICATION PROCEDURES FOR DISABILITY RETIREMENT UNDER CSRS AND FERS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 831; 5 CFR 844

Completed:

Reason	Date	FR Cite
Final Action	04/08/98	63 FR 17049
Final Action Effective	05/08/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Girouard
Phone: 202 606-0299
Fax: 202 606-1108
Email: combox@opm.gov

RIN: 3206–AH68

4094. FEHBP: REMOVAL OF MINIMUM SALARY REQUIREMENT

Priority: Info./Admin./Other

CFR Citation: 5 CFR 890

Completed:

Reason	Date	FR Cite
Final Action	05/27/98	63 FR 28891
Final Action Effective	06/26/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth A. Lease
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AI05

4095. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; IMPROVING CARRIER PERFORMANCE; CONFORMING CHANGES

Priority: Info./Admin./Other

CFR Citation: 48 CFR 1609; 48 CFR 1632; 48 CFR 1652

Completed:

Reason	Date	FR Cite
Final Action	10/15/98	63 FR 55336
Final Action Effective	11/16/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mary Ann Mercer
Phone: 202 606-0004
Fax: 202 606-0633
Email: mamercer@opm.gov

RIN: 3206–AI16

[FR Doc. 98-25583 Filed 11-06-98; 8:45 am]
BILLING CODE 6325-01-F

federal register

Monday
November 9, 1998

Part XXXVII

Office of Special Counsel

Semiannual Regulatory Agenda

OFFICE OF SPECIAL COUNSEL (OSC)

OFFICE OF SPECIAL COUNSEL

5 CFR Ch. VIII

Semiannual Regulatory Agenda

AGENCY: U.S. Office of Special Counsel.

ACTION: Semiannual regulatory agenda.

SUMMARY: The U.S. Office of Special Counsel is publishing its October 1998 regulatory agenda pursuant to Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735; October 4, 1993) and the Regulatory Flexibility Act (5 U.S.C. 601-612). The agenda lists all regulations scheduled for review or development from October 1, 1998, through September 30, 1999.

FOR FURTHER INFORMATION CONTACT: Frederick N. Ottie, (202) 653-8971.

Dated: August 26, 1998.

Elaine D. Kaplan,

Special Counsel.

OFFICE OF SPECIAL COUNSEL (OSC)

Proposed Rule Stage

4096. • PUBLIC INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 5 CFR 1820 (Revision)

Legal Deadline: Final, Statutory, October 2, 1997.

Abstract: OSC will revise its regulation governing the disclosure of information under the Freedom of Information Act (FOIA) to incorporate changes required by the Electronic Freedom of Information Act Amendments of 1996 (E-FOIA).

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frederick N. Ottie, Attorney, Office of Special Counsel, 1730 M Street NW., Suite 300, Washington, DC 20036-4505 Phone: 202 653-8971

RIN: 3255–AA01

[FR Doc. 98-25584 Filed 11-06-98; 8:45 am]

BILLING CODE 7405-01-F

federal register

Monday
November 9, 1998

Part XXXVIII

Overseas Private Investment Corporation

Semiannual Regulatory Agenda

OVERSEAS PRIVATE INVESTMENT CORPORATION (OPIC)

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Overseas Private Investment Corporation

22 CFR Ch. VII

Federal Regulations; OPIC Regulatory Agenda Semiannual Summary

AGENCY: Overseas Private Investment Corporation, IDCA.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Overseas Private Investment Corporation (OPIC) is publishing this agenda as required by Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735, October 4, 1993) and the Regulatory Flexibility Act. This agenda gives OPIC's plan for the issuance of proposed regulations during the next 12 months. It is expected that the information provided in this agenda will enable the public to be more aware of and to participate more effectively in OPIC's regulatory process.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda contact: Michael Cushing, Managing Director for Administration, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527; telephone (202) 336-8520, e-mail address mcush@opic.gov.

Dated: August 14, 1998.

Michael Cushing,

Managing Director for Administration.

OVERSEAS PRIVATE INVESTMENT CORPORATION (OPIC) — Long-Term Actions

4097. FREEDOM OF INFORMATION ACT REGULATIONS

Priority: Info./Admin./Other

Legal Authority: 5 USC 552; PL 96-231, Electronic Freedom of Information Act Amdts. of 1996

CFR Citation: 22 CFR 706

Legal Deadline: None

Abstract: OPIC is updating its FOIA regulations to reflect organizational and procedural changes and to incorporate statutory requirements contained in the Electronic Freedom of Information Act Amendments of 1996.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laura A. Naide, Senior Counsel for Administrative Affairs, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527
Phone: 202 336-8426
Fax: 202 408-0297
Email: lnaid@opic.gov

RIN: 3420–AA01

4098. • PRODUCTION OF NONPUBLIC RECORDS AND TESTIMONY OF OPIC EMPLOYEES IN LEGAL PROCEEDINGS

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 5 USC 552; 18 USC 641; 22 USC 2199(d); 31 USC 9701

CFR Citation: 22 CFR 706; 22 CFR 713 (New)

Legal Deadline: None

Abstract: OPIC is setting procedures for securing testimony of OPIC employees or OPIC documents for use in litigation to which the United States is not a party.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mitchel Neurock, Administrative Counsel, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527
Phone: 202 336-8435
Fax: 202 408-0297
Email: mneur@opic.gov

RIN: 3420–AA02

[FR Doc. 98-23548 Filed 11-06-98; 8:45 am]
BILLING CODE 3201-01-F

federal register

Monday
November 9, 1998

Part XXXIX

Panama Canal Commission

Semiannual Regulatory Agenda

PANAMA CANAL COMMISSION (PANAMA)

PANAMA CANAL COMMISSION

35 CFR Ch. I

Semiannual Regulatory Agenda, October 1998

AGENCY: Panama Canal Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The purpose of this agenda is to report the rulemaking activities of the Panama Canal Commission.

FOR FURTHER INFORMATION CONTACT: For information about a particular regulatory project, contact the person listed in the subheading "Agency Contact" for that project. For general information, contact John A. Mills, Secretary, Panama Canal Commission, International Square, 1825 I Street NW., Suite 1050, Washington, DC 20006-5402, (202) 634-6441 TDD or e-mail pancanalwo@aol.com; or John L. Haines, Jr., Esquire, General Counsel, Panama Canal Commission, Unit 2300, APO AA 34011-2300, 011/507-272-7511.

SUPPLEMENTARY INFORMATION: Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, require that executive agencies publish in the **Federal Register** a semiannual notice of regulations which are under development or review or for which action has been completed. The Panama Canal Commission agenda contains certain regulations which are limited in public impact, but they are included to increase public awareness of Commission activities and to allow for increased public participation in the Agency's regulatory review and development process. This agenda was prepared pursuant to guidelines established by the Office of Management and Budget.

Dated: August 13, 1998.

John A. Mills,

Secretary, Panama Canal Commission.

PANAMA CANAL COMMISSION (PANAMA) — Proposed Rule Stage

4099. PANAMA CANAL COMMISSION ACQUISITION REGULATION

Priority: Other Significant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 35

Legal Deadline: Final, Statutory, January 1, 1999.

Abstract: Publication of a revised Panama Canal Commission Acquisition Regulation to become the sole, comprehensive and autonomous procurement regulation applicable to the Panama Canal Commission suitable for adoption and uninterrupted use by the Government of Panama after Canal transfer on December 31, 1999.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Action	03/00/99	
Final Action Effective	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Theodore G. Lucas, Procurement Executive, Office of General Counsel, Panama Canal Commission, Unit 2300, APO AA 34011-2300
Phone: 507 272-2755
Fax: 507 272-3748
Email: tglucas@pancanal.com

RIN: 3207–AA44

PANAMA CANAL COMMISSION (PANAMA) — Completed Actions

4100. DANGEROUS CARGOES; RADIO COMMUNICATION

Priority: Other Significant

CFR Citation: 35 CFR 113.49(b); 35 CFR 115.2

Completed:

Reason	Date	FR Cite
Final Action	04/16/98	63 FR 18836
Final Action Effective	04/16/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rene Van Hoorde
Phone: 202 634-6441
Fax: 202 634-6439
Email: pancanalwo@aol.com

RIN: 3207–AA26

4101. TOLLS FOR USE OF CANAL; RULES FOR MEASUREMENT OF VESSELS

Priority: Substantive, Nonsignificant

CFR Citation: 35 CFR 133.1; 35 CFR 135.1; 35 CFR 135.32

Completed:

Reason	Date	FR Cite
Final Action	04/28/98	63 FR 23220
Final Action Effective	04/28/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Chan
Phone: 507 272-3137
Fax: 507 272-3433

RIN: 3207–AA43

4102. • TOLLS FOR USE OF CANAL

Priority: Info./Admin./Other

Legal Authority: 22 USC 3791 to 3792; 22 USC 3794

CFR Citation: 35 CFR 133

Legal Deadline: None

Abstract: The Panama Canal Commission is revising its method of payment of tolls and other vessel charges to allow certain small vessels paying a toll of not more than $1,500 to have the option to pay tolls and fees for other ancillary services by using commercial credit cards under conditions established by the Commission.

PANAMA — Completed Actions

Timetable:

Action	Date	FR Cite
Final Action	06/01/98	63 FR 29613
Final Action Effective	06/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John A. Mills, Secretary, Panama Canal Commission, 1825 I Street NW., Suite 1050, Washington, DC 20006
Phone: 202 634-6441
Fax: 202 634-6439
Email: pancanalwo@aol.com

RIN: 3207–AA46

4103. • BOARD OF LOCAL INSPECTION AND COMPOSITION FUNCTION

Priority: Info./Admin./Other

Legal Authority: 22 USC 3778; EO 12215

CFR Citation: 35 CFR 115

Legal Deadline: None

Abstract: The Panama Canal Commission published in the Federal Register a document which changed the title of the Marine Director to Maritime Operations Director. Inadvertently, section 115.2 was incorrectly amended. This document corrects that amendment.

Timetable:

Action	Date	FR Cite
Final Action	06/22/98	63 FR 33853
Final Action Effective	06/22/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John L. Haines, Jr., General Counsel, Panama Canal Commission, Unit 2300, Attn: GC, APO AA 34011-2300
Phone: 202 634-6441
Fax: 202 634-6439
Email: jhaines@pancanal.com

RIN: 3207–AA47

[FR Doc. 98-23549 Filed 11-06-98; 8:45 am]
BILLING CODE 3640-04-F

federal register

Monday
November 9, 1998

Part XL

Peace Corps

Semiannual Regulatory Agenda

PEACE CORPS (PEACE)

PEACE CORPS

22 CFR Ch. III

Regulatory Agenda

AGENCY: Peace Corps.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations the Peace Corps will have under development during the 12-month period from October 1, 1998, through September 30, 1999. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the agency official listed for the particular agenda item. For other information concerning Peace Corps' regulations or this semiannual agenda, contact Nancy H. Hendry, General Counsel, Peace Corps, 1111 L Street NW., Washington, DC 20526, (202) 692-2150.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 entitled "Regulatory Planning and Review" and the Regulatory Flexibility Act, 5 U.S.C. 601-612, executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year. The regulations being considered by the Peace Corps are not "significant" rules within the meaning of Executive Order 12866, and no regulatory impact analysis is required. In addition, the Peace Corps has determined, under the Regulatory Flexibility Act, that the regulations under consideration will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Flexibility Analysis is required. The Agency has also determined that the regulations will not impose compliance costs or reporting burdens on the public.

Dated: August 28, 1998.

Nancy H. Hendry,

General Counsel.

PEACE CORPS (PEACE) — Long-Term Actions

4104. IMPLEMENTATION OF REHABILITATION ACT OF 1973, PART 504—HANDICAPPED DISCRIMINATION PROHIBITION

Priority: Info./Admin./Other

Legal Authority: 29 USC 794

CFR Citation: 22 CFR 312

Legal Deadline: None

Abstract: The regulation implements section 504 of the Rehabilitation Act of 1973 (29 USC 794), which prohibits discrimination on the basis of handicap in programs or activities conducted by executive agencies or the Postal Service.

Timetable:

Action	Date	FR Cite
NPRM	10/08/91	56 FR 50684
NPRM Comment Period End	12/09/91	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy H. Hendry, General Counsel, Peace Corps, Office of General Counsel, Suite 8300, 1990 K Street NW., Washington, DC 20526
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA03

4105. SUPPLEMENTAL STANDARDS OF CONDUCT FOR PEACE CORPS EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: EO 12674; 5 CFR 2635.105

CFR Citation: 22 CFR 307; 5 CFR 67 (New)

Legal Deadline: None

Abstract: The Office of Government Ethics has issued Governmentwide standards of conduct which pertain to all executive branch employees, including Peace Corps employees. The Peace Corps, pursuant to section 2635.105, plans to issue its own Supplemental Agency Regulations.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy H. Hendry, General Counsel, Peace Corps, Office of General Counsel, Suite 8300, 1990 K Street NW., Washington, DC 20526
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA09

4106. ELIGIBILITY AND STANDARDS FOR PEACE CORPS VOLUNTEER SERVICE RE: PROCEDURES—APPEALS

Priority: Substantive, Nonsignificant

Legal Authority: 75 Stat 612, secs 4(b), 5(a), and 22; 22 USC 2504; EO 12137, May 16, 1979; International Security & Development Coop. Act of 1981, sec 601; 95 Stat 1519 and 1540; 42 USC 5057(c)(1) Domestic Volunteer Service Act, sec 417(c)(1)

CFR Citation: 22 CFR 305

Legal Deadline: None

Abstract: The Peace Corps is reviewing its Eligibility and Standards for Peace Corps Service, specifically with regard to establishing and publishing an appeals procedure for administrative and medical deselection.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy H. Hendry, General Counsel, Peace Corps, Office of General Counsel, Suite 8300, 1990 K Street NW., Washington, DC 20526
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA10

PEACE — Long-Term Actions

4107. VOLUNTEER DISCRIMINATION COMPLAINT PROCEDURE

Priority: Info./Admin./Other

Legal Authority: 22 USC 2503; 5 USC 553 and 554

CFR Citation: 22 CFR 306; 45 CFR 1225

Legal Deadline: None

Abstract: The Peace Corps is promulgating its own regulations regarding the Volunteer Discrimination Complaint Procedure to replace the current cross-reference to ACTION's regulations applicable to Peace Corps Volunteers, which appear in 45 CFR part 1225.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy H. Hendry, General Counsel, Peace Corps, Office of General Counsel, Suite 8300, 1990 K Street NW., Washington, DC 20526
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA11

4108. RESPONSIBILITIES AND ETHICAL STANDARDS FOR PEACE CORPS EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: 5 USC 7301; 5 USC app Ethics in Government Act of 1978; EO 12674; 5 CFR 2635.105; 5 CFR 2635.403; 5 CFR 2635.803

CFR Citation: 22 CFR 307

Legal Deadline: None

Abstract: The Peace Corps, in compliance with the Office of Government Ethics, is issuing its own agency-specific regulations for employees of the Peace Corps. These regulations are in addition to the Supplemental Standards of Ethical Conduct for Peace Corps Employees, which supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by the Office of Government Ethics.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy H. Hendry, General Counsel, Peace Corps, Office of General Counsel, Suite 8300, 1990 K Street NW., Washington, DC 20526
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA12

[FR Doc. 98-24583 Filed 11-06-98; 8:45 am]

BILLING CODE 6051-01-F

Federal Register

Monday
November 9, 1998

Part XLI

Pension Benefit Guaranty Corporation

Semiannual Regulatory Agenda

PENSION BENEFIT GUARANTY CORPORATION (PBGC)

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Ch. XXVI

Agenda of Regulations Under Development

AGENCY: Pension Benefit Guaranty Corporation (PBGC).

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Pension Benefit Guaranty Corporation's regulatory agenda issued under Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists regulations that are currently under development or review or that PBGC expects to have under development or review during the next 12 months. The effect of this agenda is to advise the public of PBGC's current and future regulatory activities.

ADDRESSES: Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, (202) 326-4024. For information about a specific regulation project listed on the agenda, contact the person designated in the agenda for that regulation.

SUPPLEMENTARY INFORMATION: Under the President's order on Regulatory Planning and Review, Executive Order 12866 (58 FR 51735, October 4, 1993), each agency is required to prepare an agenda of all regulations under development or review. The Regulatory Flexibility Act, Public Law 98-354, 5 U.S.C. 601, has a similar agenda requirement. Under that law, the agenda must list any regulation that is likely to have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has issued guidelines prescribing the form and content of the regulatory agenda. Under those guidelines, the agenda must list all regulatory activities being conducted or reviewed in the next 12 months and provide certain specified information on each regulation. All of the items on this agenda are current or projected rulemakings. This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Pension Benefit Guaranty Corporation's Statement of Regulatory Priorities is included in part II.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4109	Lump Sum Payment Assumptions	1212-AA92

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4110	Filing Rules	1212-AA89
4111	Valuation of Benefits; Use of Single Set of Assumptions for All Benefits	1212-AA91
4112	Payment of Benefits in PBGC-Trusteed Plans	1212-AA35
4113	Calculation and Payment of Unfunded Nonguaranteed Benefits	1212-AA54
4114	Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets **(Reg Plan Seq. No. 151)**	1212-AA55
4115	Treatment of Substantial Cessation of Operations	1212-AA84

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4116	Payment of Premiums	1212-AA58
4117	Miscellaneous Statutory Amendments	1212-AA79

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4118	Mergers and Transfers Between Multiemployer Plans	1212-AA69
4119	PBGC Recoupment and Reimbursement of Benefit Overpayments and Underpayments	1212-AA87

PBGC

Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4120	Valuation and Payment of Lump Sum Benefits	1212-AA88

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Prerule Stage

4109. • LUMP SUM PAYMENT ASSUMPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302; 29 USC 1322; 29 USC 1341; 29 USC 1344; 29 USC 1362; 29 USC 1301(a)

CFR Citation: 29 CFR 4022; 29 CFR 4044

Legal Deadline: None

Abstract: The PBGC is considering: (1) Discontinuing use of its existing lump sum assumptions for payment purposes and replacing them with a modified version of its existing annuity assumptions, effective sometime after December 2000, and (2) discontinuing calculation and publication of its existing lump sum interest rates at, or sometime after, the time the PBGC discontinues their use.

Timetable:

Action	Date	FR Cite
Notice of Intent To Propose Rulemaking	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James L. Beller, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA92

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Proposed Rule Stage

4110. • FILING RULES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1301 et seq

CFR Citation: 29 CFR 4000

Legal Deadline: None

Abstract: The PBGC's rules governing the date of filing vary, depending on the regulation involved and the method of filing used (e.g., mail postmarked by the United States Postal Service, metered mail, commercial delivery service, facsimile). The PBGC intends to clarify and simplify its filing rules and to provide greater flexibility in methods of filing (including by electronic means).

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Catherine B. Klion, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4024
Phone: 202 326-4024
TDD: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA89

4111. • VALUATION OF BENEFITS; USE OF SINGLE SET OF ASSUMPTIONS FOR ALL BENEFITS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1301(a); 29 USC 1302; 29 USC 1322; 29 USC 1341; 29 USC 1344; 29 USC 1350; 29 USC 1362

CFR Citation: 29 CFR 4022; 29 CFR 4044; 29 CFR 4050; 29 CFR 4281

Legal Deadline: None

Abstract: The Pension Benefit Guaranty Corporation is proposing to amend its regulations to provide for the use of a single set of valuation assumptions--those currently used by the PBGC to value benefits to be paid as annuities--for purposes of allocating assets to benefits under section 4044 of ERISA.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James L. Beller, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 2005-4024
Phone: 202 326-4024
TDD: 800 877-8339

Fax: 202 326-4112

RIN: 1212–AA91

4112. PAYMENT OF BENEFITS IN PBGC-TRUSTEED PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1322; 29 USC 1342

CFR Citation: 29 CFR 4022

Legal Deadline: None

Abstract: When the PBGC assumes trusteeship of a terminated pension plan pursuant to sections 4041 and 4042 of ERISA, it pays benefits to participants pursuant to plan provisions and section 4022 of ERISA. This regulation will fill gaps in the rules and otherwise clarify matters that had been handled on a case-by-case basis in the past.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	
NPRM Comment Period End	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Catherine B. Klion, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA35

4113. CALCULATION AND PAYMENT OF UNFUNDED NONGUARANTEED BENEFITS

Priority: Other Significant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1322(c)

CFR Citation: 29 CFR 4022 subpart C

Legal Deadline: None

Abstract: Under ERISA section 4022(c), plan participants and beneficiaries may receive a portion of their unfunded nonguaranteed benefits (UNBs). The PBGC's claim for employer liability covers both its shortfall (unfunded guaranteed benefits) and participants' losses (UNBs). In turn, the PBGC uses a portion of its employer liability recoveries to pay a portion of UNBs to participants and beneficiaries. Section 4022(c) contains several ambiguities and also leaves to the PBGC the development of specific rules and procedures necessary to make this system work.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	
NPRM Comment Period End	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peter H. Gould, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4020
TDD: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA54

4114. ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS; VALUATION OF BENEFITS AND ASSETS

Regulatory Plan: This entry is Seq. No. 151 in Part II of this issue of the Federal Register.

RIN: 1212–AA55

4115. TREATMENT OF SUBSTANTIAL CESSATION OF OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1362; 29 USC 1363; 29 USC 1364; 29 USC 1365

CFR Citation: 29 CFR 4062

Legal Deadline: None

Abstract: Section 4062(e) of ERISA imposes a contingent liability upon an employer in the case of certain cessations of operations at a facility. This rulemaking will address certain issues that may arise under this section.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Beller, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA84

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Long-Term Actions

4116. PAYMENT OF PREMIUMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 29 CFR 4006; 29 CFR 4007

Timetable:

Action	Date	FR Cite
NPRM	04/10/92	57 FR 12666
NPRM Comment Period End	05/26/92	
NPRM Comment Period Extended to 11/16/92	09/17/92	57 FR 42910
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Deborah Murphy
Phone: 202 326-4024
TDD: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA58

4117. MISCELLANEOUS STATUTORY AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 29 CFR 4000 et seq

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marc L. Jordan
Phone: 202 326-4024
TDD: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA79

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Completed Actions

4118. MERGERS AND TRANSFERS BETWEEN MULTIEMPLOYER PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1411

CFR Citation: 29 CFR 4231

Legal Deadline: None

Abstract: ERISA section 4231 sets basic guidelines for mergers and transfers between multiemployer plans, including a provision for a 120-day notice to the PBGC. The PBGC's regulation on Mergers and Transfers Between Multiemployer Plans contains implementing rules. Neither the statute nor the regulation makes clear whether or how the merger and transfer rules apply where one or more of the plans involved is terminated. This rule amends 29 CFR part 4231 to clarify its application to mergers and transfers involving one or more terminated multiemployer plans and to specify the criteria that a merger or transfer involving terminated plans must satisfy in order to protect participants and beneficiaries in the affected plans, as well as the PBGC, from risk of loss as a result of the merger or transfer. The rule also liberalizes the 120-day notice requirement for all multiemployer mergers and transfers so that such transactions can proceed more expeditiously.

Timetable:

Action	Date	FR Cite
NPRM	05/01/97	62 FR 23700
NPRM Comment Period End	06/30/97	
Final Action	05/04/98	63 FR 24421
Final Action Effective	06/03/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Deborah C. Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA69

4119. PBGC RECOUPMENT AND REIMBURSEMENT OF BENEFIT OVERPAYMENTS AND UNDERPAYMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1302; 29 USC 1322; 29 USC 1322b; 29 USC 1341(c)(3)(D); 29 USC 1344

CFR Citation: 29 CFR 4022

Legal Deadline: None

Abstract: Under the PBGC regulation on recoupment of benefit overpayments, unless the participant elects to repay the overpayment in a lump sum, the PBGC recoups the overpayment through an actuarial reduction of all future monthly benefit payments. This amendment provides that recoupment will stop when the total amount collected equals the amount of the overpayment and makes other related changes.

Timetable:

Action	Date	FR Cite
NPRM	12/18/97	62 FR 66319
NPRM Comment Period End	01/20/98	
Final Action	05/29/98	63 FR 29353
Final Action Effective	05/29/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Beller, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA87

4120. VALUATION AND PAYMENT OF LUMP SUM BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302; 29 USC 1311; 29 USC 1322; 29 USC 1341a; 29 USC 1350; 29 USC 1441

CFR Citation: 29 CFR 4022

Legal Deadline: None

Abstract: The Taxpayer Relief Act of 1997 increased the maximum amount private pension plans may pay to a participant or surviving spouse in a lump sum (i.e., payment in a single installment) without the participant's consent (effective for plan years beginning after August 5, 1997). To reflect this change, the PBGC is amending its regulations to increase from $3,500 to $5,000 the maximum value of benefits that the PBGC may pay in lump sum form.

Timetable:

Action	Date	FR Cite
NPRM	04/30/98	63 FR 23693
NPRM Comment Period End	06/01/98	
Final Action	07/16/98	63 FR 38305
Final Action Effective	07/16/98	
Certain Amendments Effective	08/17/98	63 FR 38305

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marc L. Jordan, Attorney, Pension Benefit Guaranty Corporation, Office of the General

PBGC — Completed Actions

Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA88

[FR Doc. 98-24584 Filed 11-06-98; 8:45 am]
BILLING CODE 7708-01-F

federal register

Monday
November 9, 1998

Part XLII

Railroad Retirement Board

Semiannual Regulatory Agenda

RAILROAD RETIREMENT BOARD (RRB)

RAILROAD RETIREMENT BOARD

20 CFR Ch. II

Semiannual Agenda of Regulations Under Development or Review

AGENCY: Railroad Retirement Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda contains lists of regulations that the Board is developing or proposes to develop in the next 12 months and regulations that are scheduled to be reviewed in that period.

ADDRESSES: 844 North Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, (312) 751-4513, FAX (312) 751-7102, TDD (312) 751-4701.

SUPPLEMENTARY INFORMATION: No Regulatory Plan entries have been included for this edition of the Railroad Retirement Board's semiannual regulatory agenda. Current regulations that are proposed to be modified based on a completed review of the regulations are listed in the agenda.

Dated: August 27, 1998.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4121	General Administration	3220-AB35
4122	Plan of Operation During a National Emergency	3220-AB36
4123	Remuneration	3220-AB38
4124	Registration for Railroad Unemployment Benefits; Determination of Daily Benefit Rate; Sickness Benefits; Duration of Normal and Extended Benefits	3220-AB39

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4125	Employers Under the Railroad Retirement Act; Employers Under the Railroad Unemployment Insurance Act	3220-AA51
4126	Employees Under the Railroad Retirement Act	3220-AA52
4127	Reduction and Non-Payment of Annuities by Reason of Work	3220-AA61
4128	Voluntary Quit	3220-AA75
4129	Determining Disability	3220-AA99
4130	Requests for Reconsideration and Appeals Within the Board	3220-AB03
4131	Creditable Railroad Compensation	3220-AB23
4132	Finality of Decisions Regarding Unemployment and Sickness Insurance Benefits	3220-AB25
4133	Determining Disability	3220-AB37

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4134	Railroad Employers' Reports and Responsibilities	3220-AB21
4135	Eligibility for an Annuity	3220-AB27
4136	Availability of Information to the Public	3220-AB33
4137	Recovery of Overpayments	3220-AB34

RAILROAD RETIREMENT BOARD (RRB) — Proposed Rule Stage

4121. GENERAL ADMINISTRATION

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 45 USC 231f(b)(5); 45 USC 362(l)

CFR Citation: 20 CFR 200

Legal Deadline: None

Abstract: The Board proposes to amend its regulations which describe its organization and general course of operations to reflect recent reorganizations.

RRB — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
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RIN: 3220–AB35

4122. PLAN OF OPERATION DURING A NATIONAL EMERGENCY

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 375

Legal Deadline: None

Abstract: The Board proposes to update its plan of operation during a national emergency to reflect recent reorganizations within the Board.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB36

4123. • REMUNERATION

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 322

Legal Deadline: None

Abstract: The Railroad Retirement Board is amending part 322 of its regulations to reflect statutory changes that may affect the payment of unemployment or sickness benefits to railroad employees under the Railroad Unemployment Insurance Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701

RIN: 3220–AB39

4124. • REGISTRATION FOR RAILROAD UNEMPLOYMENT BENEFITS; DETERMINATION OF DAILY BENEFIT RATE; SICKNESS BENEFITS; DURATION OF NORMAL AND EXTENDED BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 322(i); 45 USC [illegible](l)

CFR Citation: 20 CFR 325; 20 CFR 330; 20 CFR 335; 20 CFR 336

Legal Deadline: None

Abstract: The Board amends its regulations to incorporate amendments made to the Railroad Unemployment Insurance Act by Public Law 104-251.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB38

RAILROAD RETIREMENT BOARD (RRB) — Long-Term Actions

4125. EMPLOYERS UNDER THE RAILROAD RETIREMENT ACT; EMPLOYERS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT

Priority: Other Significant

Legal Authority: 45 USC 231f(b)(5); 45 USC 362(l)

CFR Citation: 20 CFR 202; 20 CFR 301

Legal Deadline: None

Abstract: The Board is considering revisions to existing parts 202 and 301 of the RRB's regulations defining entities covered as employers under the Railroad Retirement and Railroad Unemployment Insurance Acts to reflect case-by-case adjudications that have occurred since the regulations were originally adopted. The Board will seek input from rail employers and rail labor on the need to revise the regulations as well as on the revisions to be made. In addition, any revisions will be referred for review and comment to the Internal Revenue Service, which administers a companion statute, the Railroad Retirement Tax Act.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Sectors Affected:

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA51

4126. EMPLOYEES UNDER THE RAILROAD RETIREMENT ACT

Priority: Other Significant

Legal Authority: 45 USC 231f(b)(5); 45 USC 362(l)

CFR Citation: 20 CFR 203

Legal Deadline: None

Abstract: The Board is considering revising existing part 203 of the RRB's regulations defining individuals covered as employees under the Railroad Retirement Act to reflect case-by-case adjudications that have occurred since the regulations were originally adopted. The Board will seek input from rail employers and rail labor on the need to revise the regulations as well as on the revisions to be made. In addition, any revisions will be referred for review and comment to the Internal Revenue Service, which administers a companion statute, the Railroad Retirement Tax Act.

Timetable:

Action	Date	FR Cite
NPRM	01/05/89	54 FR 318
NPRM Comment Period End	02/06/89	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Sectors Affected:

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA52

4127. REDUCTION AND NON-PAYMENT OF ANNUITIES BY REASON OF WORK

Priority: Other Significant

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 230

Legal Deadline: None

Abstract: The Railroad Retirement Board (Board) amends 20 CFR part 230 to explain how annuity deductions on account of work are assessed in accordance with current law.

Timetable:

Action	Date	FR Cite
NPRM	08/16/95	60 FR 42482
NPRM Comment Period End	09/25/95	60 FR 43999
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA61

4128. VOLUNTARY QUIT

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 328

Legal Deadline: None

Abstract: A new part 328 is added to explain when unemployment insurance benefits are not payable because the employee voluntarily left employment.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA75

4129. DETERMINING DISABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231a; 45 USC 231f

CFR Citation: 20 CFR 220.114

Legal Deadline: None

Abstract: Section 114 of part 220 is being amended to expand the Board's description of the manner in which symptoms, including pain, are evaluated for purposes of determining disability.

Timetable:

Action	Date	FR Cite
NPRM	09/11/95	60 FR 47122
NPRM Comment Period End	11/13/95	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA99

4130. REQUESTS FOR RECONSIDERATION AND APPEALS WITHIN THE BOARD

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 45 USC 231f(b)(5); 45 USC 231g; 45 USC 355

CFR Citation: 20 CFR 260

Legal Deadline: None

Abstract: The RRB is amending its regulations to provide for its field offices to make timeliness determinations on requests for reconsideration of decisions of the RRB's various adjudicating units.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB03

4131. CREDITABLE RAILROAD COMPENSATION

Priority: Other Significant

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 211.3

Legal Deadline: None

Abstract: The RRB amends its regulations regarding the creditability of pay for time lost to prohibit the crediting of pay for time lost beyond the date of a judgment or settlement, or in the absence of a judgment or settlement, beyond the date of payment. The Labor Member of the RRB dissents from this proposal and recommends allowing the crediting of pay for time lost in these circumstances when the accompanying railroad retirement taxes are paid on the compensation.

Timetable:

Action	Date	FR Cite
NPRM	12/04/97	62 FR 61488
NPRM Comment Period End	02/02/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB23

4132. FINALITY OF DECISIONS REGARDING UNEMPLOYMENT AND SICKNESS INSURANCE BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 355; 45 USC 361(l)

CFR Citation: 20 CFR 349

Legal Deadline: None

Abstract: This new part explains when the RRB will reopen a final determination on a claim for benefits under the Railroad Unemployment Insurance Act.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB25

4133. DETERMINING DISABILITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 45 USC 231a; 45 USC 231f(b)(5)

CFR Citation: 20 CFR 220

Legal Deadline: None

Abstract: The Board proposes to amend its disability regulations to eliminate continuing disability review of disability annuitants in cases where medical improvement is not expected.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB37

RAILROAD RETIREMENT BOARD (RRB) Completed Actions

4134. RAILROAD EMPLOYERS' REPORTS AND RESPONSIBILITIES

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 209

Completed:

Reason	Date	FR Cite
Final Action	06/15/98	63 FR 32612
Final Action Effective	07/15/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB21

4135. ELIGIBILITY FOR AN ANNUITY

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 216

Completed:

Reason	Date	FR Cite
Final Action	04/09/98	63 FR 17326
Final Action Effective	05/11/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB27

4136. AVAILABILITY OF INFORMATION TO THE PUBLIC

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 200.3

Completed:

Reason	Date	FR Cite
Final Action	04/09/98	63 FR 17325
Final Action Effective	05/11/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

RRB — Completed Actions

Agency Contact: Thomas W. Sadler
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102
RIN: 3220–AB33

4137. RECOVERY OF OVERPAYMENTS

Priority: Substantive, Nonsignificant
CFR Citation: 20 CFR 255.8

Completed:

Reason	Date	FR Cite
Final Action	06/01/98	63 FR 29547
Final Action Effective	07/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB34

[FR Doc. 98-23921 Filed 11-06-98; 8:45 am]
BILLING CODE 7905-01-F

federal register

Monday
November 9, 1998

Part XLIII

Selective Service System

Semiannual Regulatory Agenda

SELECTIVE SERVICE SYSTEM (SSS)

SELECTIVE SERVICE SYSTEM

32 CFR Ch. XVI

Regulatory Agenda

AGENCY: Selective Service System.

ACTION: Semiannual regulatory agenda.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Selective Service System that might affect the processing of registrants under the Military Selective Service Act (50 U.S.C. app. 451 *et seq.*). This information will allow the public to participate in the System's decisionmaking at an early stage.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, 1515 Wilson Boulevard, Arlington, Virginia 22209-2425; telephone (703) 605-4012; FAX (703) 605-4006.

SUPPLEMENTARY INFORMATION: The agenda is published in accord with the requirements of E.O. 12866. Selective Service regulations appear in 32 CFR chapter XVI.

Dated: August 24, 1998.

Gil Coronado,

Director of Selective Service.

SELECTIVE SERVICE SYSTEM (SSS) — Long-Term Actions

4138. SELECTIVE SERVICE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 451 et seq, Military Selective Service Act

CFR Citation: 32 CFR ch XVI

Legal Deadline: None

Abstract: Various sections of 32 CFR chapter XVI will be revised to increase clarity of expression or change procedures for registrant processing.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Henry N. Williams, General Counsel, Selective Service System, 1515 Wilson Boulevard, Arlington, VA 22209-2425
Phone: 703 605-4012
Fax: 703 605-4006

RIN: 3240–AA01

[FR Doc. 98-23922 Filed 11-06-98; 8:45 am]
BILLING CODE 8015-01-F

federal register

Monday
November 9, 1998

Part XLIV

Small Business Administration

Semiannual Regulatory Agenda

SMALL BUSINESS ADMINISTRATION (SBA)

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Improving Government Regulations; Semiannual Agenda

AGENCY: Small Business Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: The entries below represent the Small Business Administration's (SBA) 39th semiannual regulatory agenda. Although not a regulatory agency, the SBA drafted the agenda to meet both the criteria and the spirit of the regulatory review process. The SBA publishes this agenda pursuant to Executive Order 12866 and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

FOR FURTHER INFORMATION CONTACT: For further information on agenda items, the SBA encourages the public to contact the individual agency official referenced in each entry.

For information concerning the SBA's overall Regulatory Review and Development Program or general semiannual agenda questions, contact Mark K. Stephens, Deputy General Counsel, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416, (202) 205-6642.

SUPPLEMENTARY INFORMATION: The SBA agenda is designed to increase public knowledge of all anticipated SBA regulatory activities. Publication may encourage increased public participation in the review and development process.

The SBA's agenda is divided into three parts. Part I, Proposed Rules, includes those rules which likely will be proposed during the next 12 months. Part II, Final Rules, includes proposed rules which probably will be finalized during the agenda period. Part III, Completed Actions, includes regulations completed or withdrawn and reviews completed since the preceding agenda.

Publication of the agenda does not impose any binding obligation on the SBA with regard to any specific item in the agenda. Further, regulatory action not listed on the agenda is not precluded.

For this edition of SBA's regulatory agenda, the most important significant regulatory action is included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entry is listed in the table of contents below and is denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Finally, the SBA regulations are developed in a manner that promotes economic growth without imposing unnecessary regulatory burdens on the public. The SBA continues its vigorous program of streamlining all its regulatory activity so that only absolutely necessary regulations are promulgated.

Dated: September 16, 1998.

Aida Alvarez,

Administrator.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4139	Surety Bond Guarantee	3245-AE13

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4140	Supplemental Standards of Ethical Conduct for Employees of the Small Business Administration	3245-AC96
4141	Amendment to SBA's Regulations Regarding Administrative Offset	3245-AD90
4142	Microloan Grants for Welfare-to-Work Initiative	3245-AE00
4143	Record Disclosure and Privacy Regulations	3245-AE03
4144	Contract Bundling Procurement Strategy	3245-AE04
4145	Small Business Development Center Program Revisions	3245-AE05
4146	Small Business Size Standards; Health Care Industries	3245-AE06
4147	Small Business Size Standards; North American Industry Classification System	3245-AE07
4148	SBIC Program Reform	3245-AE08
4149	PLP Lenders' Responsibilities for Servicing and Liquidating Loans	3245-AE09
4150	Servicing of Guaranteed Loans	3245-AE10
4151	Small Business Lending Company Expansion and Oversight Regulations **(Reg Plan Seq. No. 152)**	3245-AE14

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4152	Business Loan Policy: Unguaranteed Portions of Loans, Securitization, Sales, and Pledges	3245-AD84

SBA

Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4153	Small Business Size Standards; Engineering Services, Architectural Services, and Surveying and Mapping Services	3245-AD89
4154	Revisions to 504 Program Regulations	3245-AD99
4155	Revisions to PCLP Regulations	3245-AE11

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4156	Small Business Size Standards for Natural Gas Distribution	3245-AB94
4157	8(a) Business Development/Small Disadvantaged Business Status Determinations	3245-AD83
4158	Revisions to the Disaster Loan Program	3245-AD88
4159	Disaster Loan Program (Loan Increases)	3245-AD97
4160	Disaster Loan Program (Assistance to Non-Agricultural Portions of Businesses)	3245-AD98
4161	Small Business Regulations and Government Contracting Assistance Regulations; Very Small Business Concerns	3245-AE01
4162	HUBZone Program	3245-AE02
4163	Small Business Size Regulation 8(a) Business Development/Small Disadvantaged Business Status Determinations; Rules of Procedure Governing Cases Before the Office of Hearings and Appeals	3245-AE12

SMALL BUSINESS ADMINISTRATION (SBA) — Prerule Stage

4139. • SURETY BOND GUARANTEE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC app.3; 15 USC 687b, 687c, 694a, 694b; PL 105-135

CFR Citation: 13 CFR 115

Legal Deadline: None

Abstract: Program Regulations will be revised to include policy and procedural modifications. Planned regulatory changes pertain to both the prior approval and the preferred surety bond programs.

Timetable:

Action	Date	FR Cite
ANPRM	03/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert J. Moffitt, AA/Office of Surety Guarantees, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6540
Fax: 202 205-7600

RIN: 3245–AE13

SMALL BUSINESS ADMINISTRATION (SBA) — Proposed Rule Stage

4140. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE SMALL BUSINESS ADMINISTRATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 684; 15 USC 637(a)(18); 15 USC 637(a)(19); EO 12674

CFR Citation: 5 CFR 5400

Legal Deadline: None

Abstract: This rule is part of SBA's regulatory streamlining effort. The SBA and the Office of Government Ethics are jointly issuing this rule which is designed to establish uniform standards of ethical conduct for the officers and employees of the SBA. The rule will be published at 5 CFR ch XLIV and will supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by the Office of Government Ethics (57 FR 35006; Aug. 7, 1992). The rule is necessary to supplement the standards issued by OGE because it addresses ethical issues which are unique to SBA.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Robinson S. Nunn, Chief Counsel for Ethics, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416

SBA

Proposed Rule Stage

Phone: 202 205-6642

RIN: 3245–AC96

4141. AMENDMENT TO SBA'S REGULATIONS REGARDING ADMINISTRATIVE OFFSET

Priority: Info./Admin./Other

Legal Authority: 31 USC 3711; 31 USC 3720; 5 USC 5574; 31 USC 3716; 15 USC 634(b)(6)

CFR Citation: 13 CFR 140

Legal Deadline: None

Abstract: SBA intends to amend its regulations to include references to administrative offset and other remedies that the Treasury Department may use on behalf of SBA to collect debt pursuant to the Debt Collection Improvement Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Arnold Rosenthal, Assistant Administrator for Borrowers and Lender Servicing, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6481

RIN: 3245–AD90

4142. MICROLOAN GRANTS FOR WELFARE-TO-WORK INITIATIVE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(m)

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: This proposed regulation provides additional grants to microloan intermediates to fund child care and transportation costs to eligible microloan participants. It also broadens the scope of possible fund recipients.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LeAnn Oliver, Director, Office of Financial Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6485

RIN: 3245–AE00

4143. RECORD DISCLOSURE AND PRIVACY REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-231; 5 USC 552

CFR Citation: 13 CFR 102

Legal Deadline: None

Abstract: This proposed regulation will amend 13 CFR section 102 part A, governing disclosure of information, to implement the Electronic Freedom of Information Act Amendments of 1996.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	01/00/99	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Beverly Linden, Chief, Freedom of Information Act Office, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 401-8200

RIN: 3245–AE03

4144. CONTRACT BUNDLING PROCUREMENT STRATEGY

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-135

CFR Citation: 13 CFR 121; 13 CFR 125

Legal Deadline: None

Abstract: This regulation will implement new statutory authority regarding duties and responsibilities of contracting officers and SBA in cases of bundled contracts.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
NPRM Comment Period End	12/00/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Calvin Jenkins, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6412

RIN: 3245–AE04

4145. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6); 15 USC 648

CFR Citation: 13 CFR 130

Legal Deadline: None

Abstract: SBA is revising its SBDC regulations to reflect programmatic changes contained in P.L. 105-305.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Johnnie Albertson, AA/SBDCs, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6766

RIN: 3245–AE05

4146. SMALL BUSINESS SIZE STANDARDS; HEALTH CARE INDUSTRIES

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This regulation proposes changes to SBA's size standards for the construction and health care industries.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Yes

SBA

Proposed Rule Stage

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Gary Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE06

4147. SMALL BUSINESS SIZE STANDARDS; NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM

Priority: Economically Significant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This proposed regulation will amend our current regulations to convert SBA's size standards from the Standard Industrial Classification system to conform with OMB's new North American Industry Classification system.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE07

4148. SBIC PROGRAM REFORM

Priority: Economically Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 661 et seq; 15 USC 6833; 15 USC 687; PL 105-135

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: This proposed rule would increase the maximum leverage amount for SBICs based on changes in the Consumer Price Index, permit SBICs with participating securities to make quarterly tax distributions, establish regulatory guidelines for Limited Liability Companies, make minor changes in the definition of private capital, and other technical changes.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Leonard Fagan, Investment Division, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6510

RIN: 3245–AE08

4149. PLP LENDERS' RESPONSIBILITIES FOR SERVICING AND LIQUIDATING LOANS

Priority: Economically Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 634(b)(7)

CFR Citation: 13 CFR 120.453

Legal Deadline: None

Abstract: SBA is amending 13 CFR to provide PLP lenders guidance on submitting liquidation plans.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jane Palsgrove Butler, Acting Associate Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6498

RIN: 3245–AE09

4150. SERVICING OF GUARANTEED LOANS

Priority: Economically Significant

Legal Authority: 15 USC 634(b); 15 USC 634(b)(7)

CFR Citation: 13 CFR 120.512

Legal Deadline: None

Abstract: SBA is amending 13 CFR section 120.512 to require a lender, after SBA honors its guarantee, to service and liquidate the loan and continue to hold the loan instruments. SBA is also amending this regulation for other technical changes.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jane Palsgrove Butler, Acting Associate Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6498

RIN: 3245–AE10

4151. • SMALL BUSINESS LENDING COMPANY EXPANSION AND OVERSIGHT REGULATIONS

Regulatory Plan: This entry is Seq. No. 152 in Part II of this issue of the Federal Register.

RIN: 3245–AE14

SMALL BUSINESS ADMINISTRATION (SBA) — Final Rule Stage

4152. BUSINESS LOAN POLICY: UNGUARANTEED PORTIONS OF LOANS, SECURITIZATION, SALES, AND PLEDGES

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a)

CFR Citation: 13 CFR 120.420

Legal Deadline: Final, Statutory, March 31, 1997.
PL 104-208.

Abstract: This rule modifies present regulations to permit depository as well as nondepository lenders to borrow against and securitize the unguaranteed portion of SBA guaranteed loans.

Timetable:

Action	Date	FR Cite
ANPRM	11/29/96	61 FR 60649
ANPRM Comment Period End	12/29/96	
NPRM	02/26/97	62 FR 8640
NPRM Comment Period End	03/28/97	
Interim Final Rule	04/02/97	62 FR 15601
Interim Final Rule Effective	04/02/97	
Public Hearing (05/28/97)	05/12/97	62 FR 25874
Second NPRM	05/18/98	63 FR 27219
Second NPRM Comment Period End Comment Period End	07/17/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James Hammersley, Director for Secondary Market Sales, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6490

RIN: 3245–AD84

4153. SMALL BUSINESS SIZE STANDARDS; ENGINEERING SERVICES, ARCHITECTURAL SERVICES, AND SURVEYING AND MAPPING SERVICES

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 644(c); PL 104-486, sec 108; 15 USC 637(a)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to increase small business size standards in the Engineering Services, Architectural Services, and Surveying and Mapping Services industries. The proposed revisions are being made to better define the size of business in those industries the SBA believes should be eligible for Federal small business assistance programs.

Timetable:

Action	Date	FR Cite
NPRM	02/03/98	63 FR 5480
NPRM Comment Period End	04/06/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary M. Jackson, Assistant Administrator on Size Standards, Small Business Administration, 409 3rd Street SW., Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AD89

4154. REVISIONS TO 504 PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); PL 105-135

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: This proposed regulation will amend the 504 program in many respects including lifting the restriction on the number of premier certified lenders, permitting borrowers to finance attorney fees up to $2500 with loan proceeds, and other amendments.

Timetable:

Action	Date	FR Cite
NPRM	05/05/98	63 FR 24753
NPRM Comment Period End	09/14/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LeAnn Oliver, Director, Office of Financial Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6485

RIN: 3245–AD99

4155. • REVISIONS TO PCLP REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-135; 15 USC 601 et seq

CFR Citation: 13 CFR part 120

Legal Deadline: Final, Statutory, May 2, 1998.

Abstract: This interim final rule implements Pub L. 105-135, enacted on December 2, 1997, with respect to SBA financing in the pilot Premier Certified Lenders Program (PCLP). The interim final rule extends the pilot to October 1, 2000, and expands the authority of a Certified Development Company (CDC) participating in the PCLP (Premier CDC).

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/05/98	63 FR 24739
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: LeAnn M. Oliver, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6485

RIN: 3245–AE11

SMALL BUSINESS ADMINISTRATION (SBA) — Completed Actions

4156. SMALL BUSINESS SIZE STANDARDS FOR NATURAL GAS DISTRIBUTION

Priority: Economically Significant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); PL 99-591; PL 99-661

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: In 1988, SBA imposed a size standard of 500 employees for the recently deregulated natural gas distribution industry firms which now compete for Federal natural gas contracts. This action confirms that the interim rule has been finalized.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/25/88	53 FR 47663
Withdrawn - No Further Action Anticipated	08/28/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AB94

4157. 8(A) BUSINESS DEVELOPMENT/SMALL DISADVANTAGED BUSINESS STATUS DETERMINATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(6); 15 USC 637(a); 15 USC 636(j)

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: In response to the Department of Justice's review of Federal procurement affirmative action programs and amendments to the Federal Acquisition Regulation to implement a government-wide small disadvantaged business (SDB) program. The Small Business Administration issues this final rule establishing the procedural framework for certifying firms as SDBs and for processing protests challenging the disadvantaged status of a firm claiming to be an SDB.

Timetable:

Action	Date	FR Cite
NPRM	08/14/97	62 FR 43584
NPRM Comment Period End	10/13/97	
Final Action	06/30/98	63 FR 35767

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal, Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John W. Klein, Chief Counsel for Special Programs, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6645

RIN: 3245–AD83

4158. REVISIONS TO THE DISASTER LOAN PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(b); 15 USC 636(c); 15 USC 636(f); PL 102-395, 106 Stat 1828 and 1864; PL 103-75, 107 Stat 739

CFR Citation: 13 CFR 123.301(a); 13 CFR 123.101; 13 CFR 123.202(a)

Legal Deadline: None

Abstract: The Disaster Loan Program is being revised to make Economic Injury ineligible criteria consistent with that found in 13 CFR 120.110.

Timetable:

Action	Date	FR Cite
NPRM	04/23/98	63 FR 20140
Final Action	09/02/98	63 FR 46643

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernard Kulik, Associate Administrator for Disaster Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6734

RIN: 3245–AD88

4159. DISASTER LOAN PROGRAM (LOAN INCREASES)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 636(b)

CFR Citation: 13 CFR 123

Legal Deadline: None

Abstract: This regulation imposes a two year time limit in which the borrower of a disaster loan could request an increase in the loan amount.

Timetable:

Action	Date	FR Cite
Final Action	03/30/98	63 FR 15072
Final Action Effective	03/30/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernard Kulik, Associate Administrator for Disaster Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6734

RIN: 3245–AD97

4160. DISASTER LOAN PROGRAM (ASSISTANCE TO NON-AGRICULTURAL PORTIONS OF BUSINESSES)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 631(e)

CFR Citation: 13 CFR 123

Legal Deadline: None

Abstract: This regulation allows SBA to provide disaster assistance to the non-agricultural portion of a business entity engaged in both agricultural and non-agricultural operations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/01/97	62 FR 35337
Final Action	09/02/98	63 FR 46644

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernard Kulik, Associate Administrator for Disaster Assistance, Small Business

Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6734

RIN: 3245–AD98

4161. SMALL BUSINESS REGULATIONS AND GOVERNMENT CONTRACTING ASSISTANCE REGULATIONS; VERY SMALL BUSINESS CONCERNS

Priority: Other Significant

Legal Authority: 15 USC 632; 15 USC 637(a); 15 USC 644(c); PL 103-403

CFR Citation: 13 CFR 121; 13 CFR 125

Legal Deadline: None

Abstract: This regulation amends SBA's size and government contracting assistance regulations to provide for SBA's very small business program and a definition of a very small business for SBA's small business set aside program.

Timetable:

Action	Date	FR Cite
NPRM	01/21/97	62 FR 2979
Final Action	09/02/98	63 FR 46640

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Judith Roussel, AA/Government Contracting, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6460

RIN: 3245–AE01

4162. HUBZONE PROGRAM

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: PL 105-135

CFR Citation: 13 CFR 126

Legal Deadline: Final, Statutory, June 2, 1998.

Abstract: SBA will be publishing regulations to implement SBA's HUBZone program. The regulations will set forth program requirements for qualification as a HUBZone small business concern, the Federal contracting assistance available to qualified HUBZone small business concerns, and other aspects of the program.

Timetable:

Action	Date	FR Cite
NPRM	04/02/98	63 FR 16148
NPRM Comment Period End	05/04/98	
Final Action	06/11/98	63 FR 31896
Final Action Effective	06/11/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Michael McHale, Assistant Administrator, Procurement Policy & Liaison, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6465

RIN: 3245–AE02

4163. • SMALL BUSINESS SIZE REGULATION 8(A) BUSINESS DEVELOPMENT/SMALL DISADVANTAGED BUSINESS STATUS DETERMINATIONS; RULES OF PROCEDURE GOVERNING CASES BEFORE THE OFFICE OF HEARINGS AND APPEALS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(6); 15 USC 637(a); 15 USC 636(j)

CFR Citation: 13 CFR 121; 13 CFR 124; 13 CFR 134

Legal Deadline: None

Abstract: In response to President Clinton's government-wide regulatory reform initiative, the Small Business Administration (SBA) amends both the eligibility requirements for, and contractual assistance provisions within the SBA's 8(a) Business Development 8(a) BD program. This final rule changes the name of the program from the Minority Small Business and Capital Ownership Development program to the 8(a) BD program to better reflect the purpose of the program. This rule streamlines the operation of the 8(a) BD program, eases certain restrictions perceived to be burdensome on Program Participants, clarifies certain eligibility requirements, and deletes obsolete regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/14/97	62 FR 43584
NPRM Comment Period End	10/13/97	
Final Action	06/30/98	63 FR 35726
Final Action Effective	06/30/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal, Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John W. Klein, Chief Counsel for Special Programs, Office of General Counsel, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6645
Fax: 202 205-6846

RIN: 3245–AE12

[FR Doc. 98-25586 Filed 11-06-98; 8:45 am]
BILLING CODE 8025-01-F

federal register

Monday
November 9, 1998

Part XLV

Social Security Administration

Semiannual Regulatory Agenda

SOCIAL SECURITY ADMINISTRATION (SSA)

SOCIAL SECURITY ADMINISTRATION

Office of the Commissioner

20 CFR Ch. III

Semiannual Unified Regulatory Agenda

AGENCY: Social Security Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: Executive Order 12866 entitled "Regulatory Planning and Review," issued September 30, 1993, and the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) require each Federal agency to publish semiannually a brief description of all regulatory actions then under development or review, expected to be under development or review for the next 12 months, or completed since the previous publication of the agenda. Our last agenda of regulations was published on April 27, 1998.

FOR FURTHER INFORMATION CONTACT: For further information about a specific regulatory action, contact the person identified as the agency contact for that action. Comments or inquiries of a general nature should be directed to Georgia E. Myers, Regulations Officer, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235; telephone (410) 965-3632.

SUPPLEMENTARY INFORMATION: For this edition of the Social Security Administration's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

The Social Security Administration (SSA) has responsibility for the old-age, survivors, and disability insurance programs under title II of the Social Security Act (the Act) and the supplemental security income program under title XVI of the Act. We are not a regulatory agency. For the most part, our regulations do not impose burdens on the private sector or on State, local, or tribal governments. Our regulations document the rules under which we make eligibility determinations and set forth both the responsibilities of the Agency toward the public and beneficiary's rights and responsibilities under the programs we administer.

Our regulatory efforts can be placed into one of the following three categories: 1) Legislative implementation; 2) program improvements to provide better service to SSA customers; and 3) improvements or clarifications to fulfill commitments made as part of the President's Regulatory Reinvention Initiative.

We continue to seek legislative improvements for the programs we administer. However, because of the complexity of our programs, statutory language is rarely detailed enough to govern the actions of agency adjudicative decisionmakers. Supporting regulations are often required. In some instances, the Congress directs SSA to issue implementing regulations. For other legislative provisions, SSA regulations provide program information to applicants for benefits, current beneficiaries, and their legal counsels.

One of our agenda items will amend our regulations to provide more choices for people with disabilities who seek return-to-work services so that they may become self-sufficient. These proposed regulations parallel provisions of legislation, The Work Incentives Improvement Act of 1998, presently pending in Congress.

An area in which we are working hard to deliver high quality service is our disability determination process. Several of our agenda items support improvements to disability program administration.

Two of our agenda items implement elements of a major Agency initiative known as "process unification." Process unification is designed to produce one set of adjudicative standards for all levels of disability review within SSA. Weight of Disability Determination Service (DDS) Medical Consultant Opinions will define the weight to be given to opinion evidence from State agency medical and psychological consultants, other program physicians and psychologists, and medical experts in claims at the hearing level for disability benefits under titles II and XVI of the Social Security Act. Assessment of Residual Functional Capacity will clarify the guidelines in our regulations used in determining whether an individual under age 50 lacks the capacity to perform less than a full range of sedentary work.

Depending on results of tests currently underway, we may proceed with implementation of other regulations to streamline the disability claims process. These may include Prehearing Procedures and Decisions by Adjudication Officers, which will provide for the use of an Adjudication Officer as the focal point for all prehearing activities when a request for a hearing before an Administrative Law Judge is filed, and/or regulations which will modify the disability determination procedures we use to make determinations of disability under titles II and XVI of the Social Security Act to provide that, after appropriate medical or psychological consultation, a single decisionmaker will make determinations of eligibility for benefits based on disability.

One of our agenda items—Permit Department of State and the Immigration and Naturalization Service to Collect Information Needed to Assign Social Security Numbers to Aliens—supports the President's Reinventing Government (REGO II) initiative to create a Federal Government that works better and costs less.

Also in this agenda are proposed revisions to our rules on Administrative Res Judicata, proposed rules updating our procedures for access to and disclosure of personally identifiable information, and proposed rules that will provide us with debt collection tools authorized by recent legislation.

Consistent with the President's Regulatory Reinvention Initiative, we are working diligently to improve our program benefit regulations and to develop partnerships with large segments of the community of stakeholders interested in Social Security programs. The remainder of our Unified Agenda items are such improvements and clarifications.

The October 1998 regulatory agenda for the Social Security Administration follows.

Dated: September 9, 1998.

Georgia E. Myers,

SSA Regulations Officer.

SSA

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4164	Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income, Medical and Other Evidence of Your Impairment(s) (469P)	0960-AD91
4165	Administrative Review Process; Administrative Res Judicata and Related Rules (526P) **(Reg Plan Seq. No. 153)**	0960-AE11
4166	Supplemental Security Income; Plans for Achieving Self-Support (506P)	0960-AE17
4167	Supplemental Standards for Ethical Conduct for Employees of the Social Security Administration (601P)	0960-AE48
4168	Implementing Modifications to Prehearing Procedures and Decisions by Adjudication Officers (616P)	0960-AE55
4169	Effective Date of Application for Supplemental Security Income (SSI) Benefits (642F)	0960-AE71
4170	Privacy and Disclosure of Official Records and Information (711P)	0960-AE88
4171	Federal Salary Offset (Withholding a Portion of a Federal Employee's Salary to Collect A Delinquent Debt Owed to the Social Security Administration) (721P) **(Reg Plan Seq. No. 154)**	0960-AE89
4172	Private Collection Agencies (Using Private Collection Agencies to Help SSA Collect Delinquent Title II Debts Owed by Former Beneficiaries) (722P) **(Reg Plan Seq. No. 155)**	0960-AE90
4173	Charging Interest (Charging Interest on Delinquent Debts) (723P) **(Reg Plan Seq. No. 156)**	0960-AE91
4174	Administrative Wage Garnishment (To Repay a Debt Owed to the Social Security Administration) (724P) **(Reg Plan Seq. No. 157)**	0960-AE92
4175	Self-Sufficiency Incentives for Title II and Title XVI Program Beneficiaries (725P) **(Reg Plan Seq. No. 158)**	0960-AE93

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4176	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Musculoskeletal System (143F)	0960-AB01
4177	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs, Determining Disability and Blindness; Substantial Gainful Activity Guides (147F)	0960-AB73
4178	Benefits for Spouses, Mothers, Fathers and Children (455F)	0960-AD83
4179	Application of State Law in Determining Child Relationship (557F)	0960-AE30
4180	Permit Department of State and the Immigration and Naturalization Service To Collect Information Needed To Assign Social Security Numbers to Aliens (569F) **(Reg Plan Seq. No. 159)**	0960-AE36
4181	Federal Old-Age, Survivors, and Disability Insurance; Determining Disability and Blindness; Revision to Medical-Vocational Guidelines (599F) **(Reg Plan Seq. No. 160)**	0960-AE42
4182	Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind and Disabled; Evaluating Opinion Evidence (624F) **(Reg Plan Seq. No. 161)**	0960-AE56
4183	Revised Medical Criteria for Determination of Disability, Deletion of Obesity Listing (620F)	0960-AE65
4184	Listening-In to or Recording Telephone Conversations (626P)	0960-AE66
4185	Denial of SSI Benefits for Fugitive Felons and Probation and Parole Violators (660F)	0960-AE77

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4186	Old-Age, Survivors, and Disability Insurance Program; Medical Criteria for Evaluating Mental Disorders for Adults (222F)	0960-AC74
4187	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Representative Payment Under Title II & XVI of the Social Security Act (295F)	0960-AD22
4188	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Fees for Representation of Claimants (296P)	0960-AD23
4189	Procedure To Review Complaints of Alleged Misconduct on the Part of Administrative Law Judges (341P)	0960-AD54
4190	Election of Benefits Based on Age by Disabled Widow, Widower, and Surviving Divorced Spouse Beneficiaries (343P)	0960-AD56
4191	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Hemic and Lymphatic System, and Malignant Neoplastic Diseases (399P)	0960-AD67

SSA

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4192	Revised Medical Criteria for Determination of Disability, Endocrine System and Obesity and Related Criteria (436P)	0960-AD78
4193	Old-Age, Survivors, and Disability Insurance Program; Contributions for Support (475P)	0960-AD92
4194	Computation of SSI Benefits for the First Three Months of Payment (476P)	0960-AD93
4195	Definition of "Largest Benefit Amount" for Simultaneous Entitlement to Child's Benefits (481P)	0960-AD95
4196	Federal OASDI and SSI for the Aged, Blind, and Disabled; Benefit Reforms for Individuals Disabled Based on Drug Addiction or Alcoholism (496F)	0960-AD96
4197	Repeal of Facility of Payment Provision (508F)	0960-AE02
4198	Maximum Family Benefits in Guarantee Cases (510F)	0960-AE03
4199	Modification of Private Printing and Prescribed Applications and Other Forms (530P)	0960-AE15
4200	OASDI; Nonpayment of Benefits to Incarcerated Individuals and Individuals Confined in Criminal Cases, Pursuant to Conviction or by Court Order Based on Findings of Insanity (531P)	0960-AE16
4201	Old-Age, Survivors, and Disability Insurance Benefits; Replacing Social Security Number Cards (543F)	0960-AE18
4202	Requirements for Awards and Subawards to Institutions of Higher Education; Certain Grants and Agreements With States, Local, and Indian Tribal Governments (547P)	0960-AE25
4203	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants) (554F)	0960-AE27
4204	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and Indian Tribal Governments (555F)	0960-AE28
4205	Restrictions on Lobbying in Connection With the Award of Grants, Contracts, and Cooperative Agreements (556F)	0960-AE29
4206	Reduction of Disability Benefits—Workers' Compensation/Public Disability Benefits (567F)	0960-AE35
4207	Elimination of Rounding Distortion in the Calculation of the Contribution and Benefit Base and Earnings Test Exempt Amounts (512F)	0960-AE40
4208	Determining Disability and Blindness; Eliminating the Lower Substantial Gainful Activity Earnings Guideline Amounts (603P)	0960-AE49
4209	Deeming of Income From an Ineligible Spouse to an Eligible Individual and an Eligible Child (606P)	0960-AE50
4210	Dedicated Accounts and Installment Payments for Certain Past Due SSI Benefits (622F)	0960-AE59
4211	Effectuation of Title VI of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, in Programs Receiving Financial Assistance by SSA (617F)	0960-AE63
4212	Availability of Information and Records to the Public—Charging Fees for Providing Personal Information (618P)	0960-AE64
4213	Coverage of Employees of State and Local Governments; Office of Management and Budget (OMB) Control Number (280F)	0960-AE69
4214	Determining Disability and Blindness; Providing for Use of a Single Decisionmaker To Make Determinations of Disability Under Titles II and XVI of the Social Security Act (668P)	0960-AE73
4215	Reflect a Requirement of the Social Security Act That the Commissioner Disregard Evidence in Certain Situations Involving Fraud or Similar Fault Under Titles II or XVI of the Act (671P)	0960-AE75
4216	Nondiscrimination on the Basis of Disability (661P)	0960-AE78
4217	Adding New SSI Income and Resource Exclusion (VA Payments to Certain Vietnam Veterans' Children with Spina Bifida) to Lists of Exclusions Provided by Other Federal Statutes (664F)	0960-AE79
4218	Standards of Conduct 20 CFR Part 430—Personnel (672F)	0960-AE81
4219	Employer ID Numbers for State and Local Government Employment (691P)	0960-AE84
4220	Old-Age, Survivors & Disability Insurance; Calculating Benefits for Auxiliaries or Survivors When There is a Dually-Entitled Beneficiary (692P)	0960-AE85

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4221	Standards of Conduct for Claimant Representatives (431F)	0960-AD73
4222	Valuation of Certain In-Kind Support and Maintenance (ISM) Where There Is a Cost-of-Living Adjustment in SSI Benefits (454F)	0960-AD82
4223	Federal OASDI and SSI for the Aged, Blind, and Disabled; Representative Payment Provisions for Individuals Disabled Based on Drug Addiction or Alcoholism (507P)	0960-AD98
4224	SSI Eligibility for Students Temporarily Abroad (505P)	0960-AE01
4225	Supplemental Security Income for the Aged, Blind, and Disabled; Income and Resources, Deeming of Parental Income and Resources When Children Are Hospitalized (522P)	0960-AE08

SSA

Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4226	Identification and Referral of Cases for Quality Review Under the Appeals Council's Authority To Review Cases on Its Own Motion (623F)	0960-AE53
4227	Supplemental Security Income; Determining Disability for a Child Under Age 18 (625F)	0960-AE57
4228	Electronic Freedom of Information Act Amendments (640F)	0960-AE68
4229	Application of Circuit Court Law—Strengthening the Acquiescence Process and Furthering National Uniformity in Program Administration (669F)	0960-AE74
4230	Charging Administration Fees for Making State Supplementary Payments (679F)	0960-AE82
4231	Federal Old-Age, Survivors and Disability Insurance; Determining Disability and Blindness; Extension of Expiration Dates for Several Body System Listings (702F)	0960-AE83
4232	Final Rules to Extend the Expiration Date of the Authority for Prehearing Proceedings and Decisions by Attorney Advisors (705F)	0960-AE86
4233	Charging Administration Fees for Making State Supplementary Payments (679F)	0960-AE87

SOCIAL SECURITY ADMINISTRATION (SSA) — Proposed Rule Stage

4164. FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME, MEDICAL AND OTHER EVIDENCE OF YOUR IMPAIRMENT(S) (469P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 902(a)(5); 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.1512; 20 CFR 404.1513; 20 CFR 416.912; 20 CFR 416.913

Legal Deadline: None

Abstract: We propose to add speech and language pathologists to the list of acceptable medical sources in our current regulations. These sources will assist us in establishing the existence of speech and language impairments. We also propose to make other changes in our regulations to clarify what we mean by an acceptable medical source.

Timetable:

Action	Date	FR Cite
NPRM	10/09/98	63 FR 54417
NPRM Comment Period End	12/08/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5121

RIN: 0960–AD91

4165. ADMINISTRATIVE REVIEW PROCESS; ADMINISTRATIVE RES JUDICATA AND RELATED RULES (526P)

Regulatory Plan: This entry is Seq. No. 153 in Part II of this issue of the Federal Register.

RIN: 0960–AE11

4166. SUPPLEMENTAL SECURITY INCOME; PLANS FOR ACHIEVING SELF-SUPPORT (506P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-296, sec 203; 42 USC 1383b(d)

CFR Citation: 20 CFR 416.1180; 20 CFR 416.1181; 20 CFR 416.1182; 20 CFR 416.1224; 20 CFR 416.1225; 20 CFR 416.1226

Legal Deadline: None

Abstract: These regulations revise our rules on plans to achieve self-support (PASS) to take into account the time period an individual will need for completion of his or her PASS and other factors determined to be appropriate.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Secuarity Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE17

4167. SUPPLEMENTAL STANDARDS FOR ETHICAL CONDUCT FOR EMPLOYEES OF THE SOCIAL SECURITY ADMINISTRATION (601P)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); 5 USC 7301; 5 USC 7353

CFR Citation: 5 CFR ch LXXXI (New)

Legal Deadline: None

Abstract: The Social Security Administration (SSA), with the concurrence of the Office of Government Ethics (OGE), proposes to issue regulations for officers and employees of SSA that supplement the

OGE Standards of Ethical Conduct for Employees of the Executive Branch, which became effective February 3, 1993. The proposed rule specifies procedural and substantive requirements that are necessary to address ethical issues unique to SSA. There were no alternatives considered for these proposed rules. The proposed changes addressed have already been implemented. Any costs or savings will be insignificant.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stuart M. Besser, Attorney, Social Security Administration, Office of the General Counsel, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-3194

RIN: 0960–AE48

4168. IMPLEMENTING MODIFICATIONS TO PREHEARING PROCEDURES AND DECISIONS BY ADJUDICATION OFFICERS (616P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 3720A; 42 USC 401(j); 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 421(d); 42 USC 425; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.943 (New); 20 CFR 416.1443 (New)

Legal Deadline: None

Abstract: We are amending our rules to implement use of an adjudication officer, who, under the Plan for a New Disability Claim Process approved by the Commissioner of Social Security in September 1994 (the disability redesign plan), would be the focal point for all prehearing activities when a request for a hearing before an administrative law judge (ALJ) is filed. The adjudication officer position is an integral part of the disability redesign plan. These proposed rules will add several new sections setting out the responsibilities of the adjudication officer in connection with a claim for Social Security or Supplemental Security Income (SSI) benefits based on disability.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE55

4169. EFFECTIVE DATE OF APPLICATION FOR SUPPLEMENTAL SECURITY INCOME (SSI) BENEFITS (642F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 42 USC 1310(b); 42 USC 1381; 42 USC 1381a; 42 USC 1382; 42 USC 1382c; 42 USC 1382d(c); 42 USC 1382h(a); 42 USC 1383; 42 USC 1383c; PL 93-66; PL 94-241; PL 99-643; 48 USC 1681 note; 42 USC 1382(a) to 1382(c); ...

CFR Citation: 20 CFR 416.211; 20 CFR 416.305; 20 CFR 416.315; 20 CFR 416.330; 20 CFR 416.335; 20 CFR 416.420; 20 CFR 416.421; 20 CFR 416.501; 20 CFR 416.502; 20 CFR 416.520; 20 CFR 416.1801; 20 CFR 416.200; 20 CFR 416.203; 20 CFR 416.1335; 20 CFR 416.1902; ...

Legal Deadline: None

Abstract: These proposed regulations reflect and implement section 204 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Section 204 changed the date a supplemental security income (SSI) application is effective so that the earliest month for which benefits can be paid is the month following the month in which the application is filed. Section 204 also made related changes concerning emergency advance payments (EAP), interim assistance reimbursements (IAR) and in the definition of "eligible spouse".

Timetable:

Action	Date	FR Cite
NPRM	08/10/98	63 FR 42601
NPRM Comment Period End	10/09/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Loretta Tabacca, Program Policy Specialist, Social Security Administration, Office of Program Benefits Policy, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AE71

4170. • PRIVACY AND DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION (711P)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 5 USC 552a; 42 USC 1306(a); 42 USC 902(a)(5)

CFR Citation: 20 CFR 401.30; 20 CFR 401.45; 20 CFR 401.55; 20 CFR 401.150; 20 CFR 401.180

Legal Deadline: None

Abstract: We propose to revise our privacy and disclosure rules to describe the role and function of the Privacy Officer; describe safeguards against inappropriate disclosure of personal information by electronic means (e.g., through the Internet); revise our special procedures on access to medical records; permit disclosures to certain government agencies for various administrative purposes related to income-maintenance and health-maintenance programs; permit disclosures of Social Security number information to government agencies under specific circumstances; and clarify our rules on disclosure under legal process from courts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Tom Price, Social Insurance Specialist, Social Security Administration, Office of Disclosure Policy, 6401 Security Boulevard, Baltimore, MD 21235

Phone: 410 965-6011

RIN: 0960–AE88

4171. • FEDERAL SALARY OFFSET (WITHHOLDING A PORTION OF A FEDERAL EMPLOYEE'S SALARY TO COLLECT A DELINQUENT DEBT OWED TO THE SOCIAL SECURITY ADMINISTRATION) (721P)

Regulatory Plan: This entry is Seq. No. 154 in Part II of this issue of the Federal Register.

RIN: 0960–AE89

4172. • PRIVATE COLLECTION AGENCIES (USING PRIVATE COLLECTION AGENCIES TO HELP SSA COLLECT DELINQUENT TITLE II DEBTS OWED BY FORMER BENEFICIARIES) (722P)

Regulatory Plan: This entry is Seq. No. 155 in Part II of this issue of the Federal Register.

RIN: 0960–AE90

4173. • CHARGING INTEREST (CHARGING INTEREST ON DELINQUENT DEBTS) (723P)

Regulatory Plan: This entry is Seq. No. 156 in Part II of this issue of the Federal Register.

RIN: 0960–AE91

4174. • ADMINISTRATIVE WAGE GARNISHMENT (TO REPAY A DEBT OWED TO THE SOCIAL SECURITY ADMINISTRATION) (724P)

Regulatory Plan: This entry is Seq. No. 157 in Part II of this issue of the Federal Register.

RIN: 0960–AE92

4175. • SELF-SUFFICIENCY INCENTIVES FOR TITLE II AND TITLE XVI PROGRAM BENEFICIARIES (725P)

Regulatory Plan: This entry is Seq. No. 158 in Part II of this issue of the Federal Register.

RIN: 0960–AE93

SOCIAL SECURITY ADMINISTRATION (SSA) Final Rule Stage

4176. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; MUSCULOSKELETAL SYSTEM (143F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 902(a)(5); 42 USC 405; 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: Listings 1.00 and 101.00 of appendix 1 to the disability regulations at 20 CFR 404.1501 through 404.1599 describe those musculoskeletal impairments which are considered severe enough to prevent a person from doing any gainful activity or, for an individual under age 18 under the SSI program, an impairment(s) causing "marked and severe functional limitations." Comprehensive revisions to these listings are being made to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medicine. The SSI program incorporates by reference and uses the same medical criteria as the old-age, survivors, and disability insurance program.

Timetable:

Action	Date	FR Cite
NPRM	12/21/93	58 FR 67574
NPRM Comment Period End	02/22/94	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard M. Bresnick, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AB01

4177. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS, DETERMINING DISABILITY AND BLINDNESS; SUBSTANTIAL GAINFUL ACTIVITY GUIDES (147F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 98-460, sec 10; PL 99-643; PL 100-203; PL 101-508; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404; 20 CFR 416

Legal Deadline: None

Abstract: These final regulations will clarify how the Social Security Administration evaluates a person's work activity to determine whether work is substantial gainful activity and whether an individual is entitled to a trial work period. These regulations also reflect statutory changes with respect to the trial work period and the re-entitlement period.

Timetable:

Action	Date	FR Cite
NPRM	03/06/95	60 FR 12166
NPRM Comment Period End	05/15/95	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard M. Bresnick, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AB73

4178. BENEFITS FOR SPOUSES, MOTHERS, FATHERS AND CHILDREN (455F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 403(a); 42 USC 403(b); 42 USC 405(a); 42 USC 416; 42 USC 423; 42 USC 425;

42 USC 428(a) to 428(e); 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.332; 20 CFR 404.341; 20 CFR 404.357; 20 CFR 404.361; 20 CFR 404.366

Legal Deadline: None

Abstract: These final regulations make several clarifying technical changes to correct language incorporated into the regulations when they were recodified on June 15, 1979, which could potentially result in confusion regarding the applicable law and SSA policy. They also make a technical change to one section to reflect a longstanding SSA policy.

Timetable:

Action	Date	FR Cite
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AD83

4179. APPLICATION OF STATE LAW IN DETERMINING CHILD RELATIONSHIP (557F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 403(a); 42 USC 403(b); 42 USC 405(a); 42 USC 416; 42 USC 423; 42 USC 428(a) to 428(e); 42 USC 902(a)(5); 42 USC 425

CFR Citation: 20 CFR 404.354; 20 CFR 404.355; 20 CFR 404.356

Legal Deadline: None

Abstract: These final regulations revise our rules on determining whether a natural child has inheritance rights under appropriate State law and therefore may be entitled to Social Security benefits as the child of an insured worker. Specifically, they revise our rules to explain which version of State law we will apply, depending on whether the insured is living or deceased, how we will apply State law requirements on time limits for determining inheritance rights, and how we will apply State law requirements for a court determination of paternity. They also clarify our current rule on determining an applicant's status as a legally adopted child of an insured individual.

Timetable:

Action	Date	FR Cite
NPRM	01/30/97	62 FR 4494
NPRM Comment Period End	03/31/97	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Lois A. Berg, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AE30

4180. PERMIT DEPARTMENT OF STATE AND THE IMMIGRATION AND NATURALIZATION SERVICE TO COLLECT INFORMATION NEEDED TO ASSIGN SOCIAL SECURITY NUMBERS TO ALIENS (569F)

Regulatory Plan: This entry is Seq. No. 159 in Part II of this issue of the Federal Register.

RIN: 0960–AE36

4181. FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE; DETERMINING DISABILITY AND BLINDNESS; REVISION TO MEDICAL-VOCATIONAL GUIDELINES (599F)

Regulatory Plan: This entry is Seq. No. 160 in Part II of this issue of the Federal Register.

RIN: 0960–AE42

4182. FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND AND DISABLED; EVALUATING OPINION EVIDENCE (624F)

Regulatory Plan: This entry is Seq. No. 161 in Part II of this issue of the Federal Register.

RIN: 0960–AE56

4183. REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY, DELETION OF OBESITY LISTING (620F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: This rule will eliminate "Obesity" from the Listing of Impairments in appendix 1 of subpart P of 20 CFR part 404. Current medical and vocational research demonstrates that obesity, viewed alone, is not determinative of an individual's inability to engage in any gainful activity. Instead, individuals with obesity would have their cases reviewed under the listing for (an) affected body system(s) or, on a case-by-case basis, at the remaining steps of the sequential evaluation process.

Timetable:

Action	Date	FR Cite
NPRM	03/11/98	63 FR 11854
NPRM Comment Period End	05/11/98	
Comment Period Extended to 7/13/98	06/10/98	63 FR 31680
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5121

RIN: 0960–AE65

4184. LISTENING-IN TO OR RECORDING TELEPHONE CONVERSATIONS (626P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 902(a)(5)

CFR Citation: 20 CFR 422.701 (New); 20 CFR 422.705 (New); 20 CFR 422.710 (New)

Legal Deadline: None

Abstract: These final rules add regulations relating to the use of SSA's telephone lines. In the new regulations, we describe the limited circumstances under which SSA employees may listen-in to or record telephone conversations and the procedures we will follow in connection with this activity.

Timetable:

Action	Date	FR Cite
NPRM	03/11/98	63 FR 11856
NPRM Comment Period End	05/11/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lois A. Berg, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AE66

4185. DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS (660F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 42 USC 1382; 42 USC 1383

CFR Citation: 20 CFR 416.202; 20 CFR 416.708; 20 CFR 416.1331

Legal Deadline: None

Abstract: These proposed regulations, carry out section 202(a) of P.L. 104-193 which prohibits payment of SSI benefits to individuals who are fleeing to avoid prosecution for a crime which is a felony; or fleeing to avoid custody or confinement after conviction for a crime which is a felony; or violating a condition of probation or parole imposed under Federal or State law.

Timetable:

Action	Date	FR Cite
NPRM	06/12/98	63 FR 32161
NPRM Comment Period End	08/11/98	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 212334
Phone: 410 965-6243

RIN: 0960–AE77

SOCIAL SECURITY ADMINISTRATION (SSA) Long-Term Actions

4186. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; MEDICAL CRITERIA FOR EVALUATING MENTAL DISORDERS FOR ADULTS (222F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405; 42 USC 1382c; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.1500, app 1; 20 CFR 404.1520a; 20 CFR 404.1528; 20 CFR 416.920a; 20 CFR 416.928

Legal Deadline: None

Abstract: These amendments revise the medical evaluation criteria for mental disorders for the Social Security and Supplemental Security Income disability programs. The revisions will reflect advances in medical treatment and in methods of evaluating certain mental impairments and will provide up-to-date medical criteria for use in the evaluation of disability claims based on mental disorders.

Timetable:

Action	Date	FR Cite
NPRM	07/18/91	56 FR 33130
NPRM Comment Period End	09/18/91	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard M. Bresnick, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AC74

4187. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; REPRESENTATIVE PAYMENT UNDER TITLE II & XVI OF THE SOCIAL SECURITY ACT (295F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 401(j); 42 USC 404(f); 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 405(j); 42 USC 405(k); 42 USC 421; 42 USC 425; 42 USC 902(a)(5); 42 USC 405 note; 42 USC 421 note; 42 USC 1383(a)(2); 42 USC 1383(d)(1)

CFR Citation: 20 CFR 404.902; 20 CFR 404.2011; 20 CFR 404.2022; 20 CFR 404.2024; 20 CFR 404.2025; 20 CFR 404.2030; 20 CFR 404.2041; 20 CFR 404.2050; 20 CFR 416.611; 20 CFR 416.622; 20 CFR 416.624; 20 CFR 416.625; 20 CFR 416.630

Legal Deadline: None

Abstract: Effective stewardship at SSA programs requires mechanisms to assure that benefits are used to meet the needs of beneficiaries who are not able to manage their own benefits due to legal incompetence or medical infirmity. Congress determined that improvements to the representative payment procedures were needed to assure program integrity as part of P.L. 101-508. Any costs associated with these regulations are reflected in the President's budget as part of legislative implementation. These regulations are required to further our program integrity efforts.

Timetable:

Action	Date	FR Cite
NPRM	03/15/94	59 FR 11949
NPRM Comment Period End	05/16/94	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Craig Street, Program Policy Specialist, Social Security Administration, Office of Program

Benefits Policy, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-9793

RIN: 0960–AD22

4188. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; FEES FOR REPRESENTATION OF CLAIMANTS (296P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 101-508, Sec 5106

CFR Citation: 20 CFR 404.1703; 20 CFR 404.1713; 20 CFR 404.1720; 20 CFR 404.1715 to 404.1717; 20 CFR 404.1725; 20 CFR 416.1503; 20 CFR 416.1513; 20 CFR 416.1520; 20 CFR 416.1515 to 416.1517; 20 CFR 416.1525

Legal Deadline: None

Abstract: We propose to amend the regulations to reflect section 5106(a) of Pub. L. 101-508 which modifies the manner in which past-due benefits are calculated and the process by which SSA approves fees charged by persons representing claimants before the Agency.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-5995

RIN: 0960–AD23

4189. PROCEDURE TO REVIEW COMPLAINTS OF ALLEGED MISCONDUCT ON THE PART OF ADMINISTRATIVE LAW JUDGES (341P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: EO 12674 as modified by EO 12731; 42 USC 405

CFR Citation: 20 CFR 422.700 to 713 (New)

Legal Deadline: None

Abstract: These proposed regulations would establish a procedure to review complaints of alleged misconduct on the part of Administrative Law Judges.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Legal Assistant, Office of Process and Innovation Management, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5121

RIN: 0960–AD54

4190. ELECTION OF BENEFITS BASED ON AGE BY DISABLED WIDOW, WIDOWER, AND SURVIVING DIVORCED SPOUSE BENEFICIARIES (343P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405

CFR Citation: 20 CFR 404.335; 20 CFR 404.336; 20 CFR 404.337

Legal Deadline: None

Abstract: We propose to amend our regulations to permit the election of benefits based on age by widows, widowers and surviving divorced spouses (hereinafter, collectively widows) who are at least age 60 and who are already entitled to widow's benefits based on disability. This proposal would allow the widow to choose which of the two types of widow's benefits is more advantageous. The estimated increase in benefit payments is less than $500,000 per year for fiscal years 1992-1995.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Office of Process and Innovation Management, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-5995

RIN: 0960–AD56

4191. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; HEMIC AND LYMPHATIC SYSTEM, AND MALIGNANT NEOPLASTIC DISEASES (399P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: Sections 7.00 and 107.00 (hemic and lymphatic system), and 13.00 and 113.00 (malignant neoplastic diseases) of appendix 1 to subpart P of part 404 of the Disability Regulations (404.1501 through 404.1599) describe those impairments which are considered severe enough to prevent a person from engaging in any gainful activity, or in the case of a child under age 18, age-appropriate activities. We are proposing revisions to these sections to ensure that the medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge and treatment. The Supplemental Security Income program incorporates and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AD67

4192. REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY, ENDOCRINE SYSTEM AND OBESITY AND RELATED CRITERIA (436P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: Sections 9.00 and 109.00 of appendix 1 to subpart P of part 404 of the Disability Regulations (404.1501 through 404.1599) describe those impairments which are considered severe enough to prevent a person from engaging in any gainful activity, or in the case of a child under age 18, age-appropriate activities. We are proposing to revise the criteria in these sections to reflect advances in medical knowledge, treatment, and methods of evaluating endocrine impairments. The Supplemental Security Income program incorporates and uses the same medical criteria as the Old-Age, Survivors and Disability Insurance program.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5121

RIN: 0960–AD78

4193. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; CONTRIBUTIONS FOR SUPPORT (475P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 403(a); 42 USC 403(b); 42 USC 405(a); 42 USC 416; 42 USC 423; 42 USC 425; 42 USC 428(a) to 428(e); 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.366

Legal Deadline: None

Abstract: To provide more uniformity in our decision making, we are proposing to amend our rules on the contributions for support that must be provided by the insured to certain categories of claimants for child's benefits.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AD92

4194. COMPUTATION OF SSI BENEFITS FOR THE FIRST THREE MONTHS OF PAYMENT (476P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 416.320

Legal Deadline: None

Abstract: SSI eligibility and payment are calculated by taking into account income received by the applicant/recipient. Two calculations must be made for each month. The first is the eligibility computation and is based on the current (payment) month's income. The second is the payment computation, which, under retrospective monthly accounting, is based (usually) on the income of a prior month called the budget month. Generally the budget month is 2 months prior to the payment month. The transitional computation for the first 3 months of SSI payment is an exception to the general rule described above. While the eligibility computation continues to apply to the current month's income, the budget month on which each of the first 3 months' payments are based is the first month of eligibility. This policy was intended to facilitate the transition into the 2 month retrospective accounting cycle and to avoid penalizing the recipient for income received prior to initial SSI eligibility. However, the policy also has the effect of counting income which is only received in one month more than one time. In Jones v. Shalala the Ninth Circuit Court of Appeals ruled that SSA's transitional computation for the first 3 months of eligibility is not permissible because it will result in the triple counting of nonrecurring income received only in the first month of eligibility. The proposed policy addresses the triple counting of nonrecurring income.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AD93

4195. DEFINITION OF "LARGEST BENEFIT AMOUNT" FOR SIMULTANEOUS ENTITLEMENT TO CHILD'S BENEFITS (481P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 403; 42 USC 403(a); 42 USC 403(b); 42 USC 404(a); 42 USC 404(e); 42 USC 405(a); 42 USC 405(c); 42 USC 416; 42 USC 422(b); 42 USC 423; 42 USC 424a; 42 USC 428(a) to 428(e); 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.304; 20 CFR 404.353b; 20 CFR 404.407d

Legal Deadline: None

Abstract: Section 202(k)(2)(A) of the Act (42 U.S.C. 402(k)(2)(A)) contains the statutory requirements for determining the earnings record on which SSA will pay a person, who is simultaneously entitled to child's insurance benefits on the earnings records of more than one worker. Generally, the child's benefits will be paid on the earnings record that yields the highest primary insurance amount (PIA). However, under certain circumstances, the child's benefits will be paid on the earnings record that yields a lower PIA if that record produces the "largest benefit" to which the child could be entitled under section 202(d) without the application of the reduction under the "family maximum" provisions. In implementing section 202(k)(2)(A), SSA has determined the "largest benefit" under section 202(k)(2)(A) by comparing the original benefit amount (i.e., 50 percent of the PIA of a living worker and 75 percent of the PIA of a deceased worker) calculated on the dependent and/or survivor claim of the child on the earnings record of each worker without applying any reductions or deductions. The United States District Court for the Northern District of Alabama in Agee v. Sullivan rejected this interpretation and held that SSA must compare the amounts payable to the child under each earnings record after considering all applicable deductions and reductions other than the reduction under the family maximum provisions. Legal support for both interpretations can be found in the statutory language and legislative history of section 202(k)(2)(A). We have found current regulations implementing section 202(k)(2)(A) to be ambiguous. We propose to amend these regulations to reflect the longstanding SSA interpretation, rather than the interpretation adopted by the district court in the Agee decision.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AD95

4196. FEDERAL OASDI AND SSI FOR THE AGED, BLIND, AND DISABLED; BENEFIT REFORMS FOR INDIVIDUALS DISABLED BASED ON DRUG ADDICTION OR ALCOHOLISM (496F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 902(a)(5); 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.315; 20 CFR 404.316; 20 CFR 404.321; 20 CFR 404.332; 20 CFR 404.335; 20 CFR 404.337; 20 CFR 404.350; 20 CFR 404.352; 20 CFR 404.402; 20 CFR 404.470; 20 CFR 404.480; 20 CFR 404.902; 20 CFR 404.1535; 20 CFR 404.1536; 20 CFR 404.1537; ...

Legal Deadline: Final, Statutory, February 11, 1995.
Section 201 of Public Law 103-296.

Abstract: The Social Security Independence and Program Improvements Act of 1994 (Public Law 103-296) contains provisions affecting the payment of benefits under titles II and XVI of the Social Security Act to individuals whose drug addiction or alcoholism is a contributing factor material to the determination of disability. These final rules implement certain provisions related to limitations on benefit payments and the nonpayment and termination of benefits to these individuals.

Timetable:

Action	Date	FR Cite
Notice of Intent With Request for Comments	10/17/94	59 FR 52380
Interim Final Rule	02/10/95	60 FR 8140
Interim Final Rule Comment Period End	04/11/95	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard M. Bresnick, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AD96

4197. REPEAL OF FACILITY OF PAYMENT PROVISION (508F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 403

CFR Citation: 20 CFR 404.402(b); 20 CFR 404.458

Legal Deadline: None

Abstract: This regulation will reflect section 309 of P.L. 103-296 which repeals the facility of payment provision under which Social Security benefits subject to the family maximum would not be redistributed in certain cases and provides that the reduction for the family maximum will be made prior to a temporary suspension for work when the non-working auxiliary resides in a separate household from the working auxiliary.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5995

RIN: 0960–AE02

4198. MAXIMUM FAMILY BENEFITS IN GUARANTEE CASES (510F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 403; 42 USC 404(a); 42 USC 404(e); 42 USC 405(a); 42 USC 405(c); 42 USC 422(b); 42 USC 423(e); 42 USC 424a; 42 USC 425; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.403

Legal Deadline: None

Abstract: This regulation will reflect section 310 of P.L. 103-296 which

provides that the guaranteed primary insurance amount is to be used in establishing the maximum family benefit for workers who had previously been entitled to disability insurance benefits and became reentitled to retirement or disability benefits on or after December 1995.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bill Hilton, Social Insurance Analyst, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-2468

RIN: 0960–AE03

4199. MODIFICATION OF PRIVATE PRINTING AND PRESCRIBED APPLICATIONS AND OTHER FORMS (530P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-296, sec 312

CFR Citation: 20 CFR 422.527

Legal Deadline: None

Abstract: This regulation will implement section 312 of P.L. 103-296 which expands prohibitions on the use of certain letters and symbols and also the reproduction for a fee of forms and publications of SSA and HHS.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Suzanne DiMarino, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1769

RIN: 0960–AE15

4200. OASDI; NONPAYMENT OF BENEFITS TO INCARCERATED INDIVIDUALS AND INDIVIDUALS CONFINED IN CRIMINAL CASES, PURSUANT TO CONVICTION OR BY COURT ORDER BASED ON FINDINGS OF INSANITY (531P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 402(x); 42 USC 405; 42 USC 902

CFR Citation: 20 CFR 404.468

Legal Deadline: None

Abstract: The regulation will implement section 4 of P.L. 103-387 which modifies and expands the current prisoner nonpayment provisions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5995

RIN: 0960–AE16

4201. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS; REPLACING SOCIAL SECURITY NUMBER CARDS (543F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405

CFR Citation: 20 CFR 422.103

Legal Deadline: None

Abstract: These final rules will support our pilot test for replacing social security number cards when we receive a request by telephone. We will test replacing the card based on information furnished by telephone, without requiring additional documentation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/22/95	60 FR 32444
Interim Final Rule Comment Period End	08/21/95	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel T. Bridgewater, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-3298

RIN: 0960–AE18

4202. REQUIREMENTS FOR AWARDS AND SUBAWARDS TO INSTITUTIONS OF HIGHER EDUCATION; CERTAIN GRANTS AND AGREEMENTS WITH STATES, LOCAL, AND INDIAN TRIBAL GOVERNMENTS (547P)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 31 USC 7505; 41 USC 403(11)

CFR Citation: 20 CFR 435.000

Legal Deadline: None

Abstract: These proposed regulations migrates the HHS grants regulation at 45 CFR part 74 into a new SSA regulation at 20 CFR 435 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE25

4203. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS) (554F)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 41 USC 403(11); 41 USC 701 et seq

CFR Citation: 20 CFR 436.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 76 into a new SSA regulation at 20 CFR part 436 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE27

4204. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS AND INDIAN TRIBAL GOVERNMENTS (555F)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 41 USC 403(ii)

CFR Citation: 20 CFR 437.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 92 into a new SSA regulation at 20 CFR part 437 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE28

4205. RESTRICTIONS ON LOBBYING IN CONNECTION WITH THE AWARD OF GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS (556F)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 31 USC 1352

CFR Citation: 20 CFR 438.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 93 into a new SSA regulation at 20 CFR part 438 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE29

4206. REDUCTION OF DISABILITY BENEFITS—WORKERS' COMPENSATION/PUBLIC DISABILITY BENEFITS (567F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 402 to 405; 42 USC 424a; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.408

Legal Deadline: None

Abstract: We propose to revise our rules on reduction of Social Security benefits based on disability on account of receipt of workers' compensation and/or public disability benefits and payments provided under Federal (other than Social Security), State, or local laws or plans to clarify our existing policies. We also propose to adopt a uniform method for proration of workers' compensation and public disability benefit/payment settlements. In addition, we propose to incorporate into our rules certain policy interpretations established previously in relevant Social Security Rulings (SSRs). Finally, we propose to update provisions that have not been changed since 1984.

Timetable:

Action	Date	FR Cite
NPRM	09/04/97	62 FR 46682
Extension of Public Comment Period	11/10/97	62 FR 60672
NPRM Comment Period End	01/05/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel T. Bridgewater, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-3298

RIN: 0960–AE35

4207. ELIMINATION OF ROUNDING DISTORTION IN THE CALCULATION OF THE CONTRIBUTION AND BENEFIT BASE AND EARNINGS TEST EXEMPT AMOUNTS (512F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.211(c); 20 CFR 404.430(c); 20 CFR 404.1047 to 1048; 20 CFR 404, subpart C, app 1; 20 CFR 404.403(d); 20 CFR 404.408ff; 20 CFR 404.1048(c); 20 CFR 404.1918(b)

Legal Deadline: None

Abstract: Section 321(g) of Pub. L. 103-296 designates 1994 as the base year to be used in calculating increases in the OASDI contribution and benefit base and earnings test exempt amounts for all years after 1994. (Increases in these amounts will no longer be based on the rounded amounts applicable in the previous year, which can distort the base and exempt amounts over time.) The provision is effective for the contribution and benefit base beginning in 1995 and for earnings test exempt amounts for taxable years ending after 1994.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5995

RIN: 0960–AE40

4208. DETERMINING DISABILITY AND BLINDNESS; ELIMINATING THE LOWER SUBSTANTIAL GAINFUL ACTIVITY EARNINGS GUIDELINE AMOUNTS (603P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 423(d)(4); 42 USC 1382c (a)(3)(D); 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.1574; 20 CFR 416.974

Legal Deadline: None

Abstract: These proposed rules would eliminate the lower substantial gainful activity earnings guideline amounts to simplify the evaluation of work activity in claims for disability benefits under titles II and XVI of the Social Security Act. This reflects a recommendation of the Disability Reengineering Project Proposal published in the Federal Register on April 15, 1994 (59 FR 18188).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard M. Bresnick, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AE49

4209. DEEMING OF INCOME FROM AN INELIGIBLE SPOUSE TO AN ELIGIBLE INDIVIDUAL AND AN ELIGIBLE CHILD (606P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 42 USC 1381a; 42 USC 1382; 42 USC 1382a; 42 USC 1382c(f); 42 USC 1383; 42 USC 1382b; 42 USC 1382j

CFR Citation: 20 CFR 416.1160 (c)(3)(iii); 20 CFR 416.1165 (g)(1); 20 CFR 416.1166

Legal Deadline: None

Abstract: This rule would revise the method used under the SSI program to determine income for a child who lives with both parents where one parent is ineligible for SSI because of income deemed from an ineligible spouse. Instead of deeming any excess income from the ineligible spouse to the child, referred to as "pass-through deeming," we would deem income to the child using the method we use where neither parent files for SSI. Under current rules, "pass-through" deeming has had the unintended effect of deeming more income than would have been deemed if the regular rules for deeming from ineligible parents who do not file for SSI are used.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Robert J. Augustine, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5121

RIN: 0960–AE50

4210. DEDICATED ACCOUNTS AND INSTALLMENT PAYMENTS FOR CERTAIN PAST DUE SSI BENEFITS (622F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 42 USC 1381; 42 USC 1381a; 42 USC 1382; 42 USC 1382a; 42 USC 1382b; 42 USC 1382c(f); 42 USC 1382j; 42 USC 1383

CFR Citation: 20 CFR 416.535; 20 CFR 416.538; 20 CFR 416.542; 20 CFR 416.545; 20 CFR 416.546; 20 CFR 416.570; 20 CFR 416.640; 20 CFR 416.1124; 20 CFR 416.1210; 20 CFR 416.1247

Legal Deadline: Final, Statutory, November 22, 1996.

Abstract: These regulations reflect amendments to the Social Security Act made by sections 213 and 221 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Section 213 requires the establishment of accounts in financial institutions for the payment of past-due SSI benefits after reimbursement to a State for Interim Assistance Reimbursement exceeding 6 months' benefits to representative payees on behalf of children under age 18. These accounts will be dedicated for certain purposes by restrictions on the use of such past-due benefits.

Section 221 requires past-due SSI benefits after reimbursement to a State for Interim Assistance Reimbursement which equals or exceeds 12 months' benefits to be paid in installments, with certain exceptions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/20/96	61 FR 67203
Interim Final Rule Comment Period End	02/18/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Richard M. Bresnick, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AE59

4211. EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, THE REHABILITATION ACT OF 1973, AND THE AGE DISCRIMINATION ACT OF 1975, IN PROGRAMS RECEIVING FINANCIAL ASSISTANCE BY SSA (617F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 5 USC 301; 20 USC 1405; 21 USC 1174; 29 USC 794; 42 USC 290dd-2; 42 USC 2000d-1; 42 USC 6101

CFR Citation: 20 CFR 431

Legal Deadline: None

Abstract: Prior to March 31, 1995, SSA was an operating component of HHS and the general regulatory authority for SSA programs and administration was vested in the Secretary of Health and Human Services (the Secretary) based on section 1102 of the Social Security Act (the Act) (42 U.S.C. 1302). The SSIPIA established SSA as an independent agency in the Executive Branch of the Federal Government effective March 31, 1995, and vested general regulatory authority in the Commissioner of Social Security (the Commissioner). Under section 106(b) of SSIPIA, HHS regulations in effect immediately prior to March 31, 1995, which relate to functions now vested in the Commissioner by reason of SSA's independence, continue to apply to SSA until such time as they are modified, suspended, terminated or repealed by the Commissioner. SSA is promulgating regulations at 20 CFR part 431 which are based in large measure upon the HHS regulations at 45 CFR parts 80, 81, 84, 85, 90, and 91. These SSA regulations reflect changes necessary to adapt the HHS regulations to SSA procedures.

Upon SSA's rules becoming final regulations, the HHS regulations will cease to have application to SSA in accordance with section 106(b) of SSIPIA.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Suzanne DiMarino, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1769

RIN: 0960–AE63

4212. AVAILABILITY OF INFORMATION AND RECORDS TO THE PUBLIC—CHARGING FEES FOR PROVIDING PERSONAL INFORMATION (618P)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1360; 18 USC 1905; 26 USC 6103; 30 USC 923(b); 31 USC 9701; 42 USC 405; 42 USC 902(a)(5); 42 USC 1306

CFR Citation: 20 CFR 402

Legal Deadline: None

Abstract: These proposed rules will, in general, provide that SSA will not charge fees for personal information if it is to be used for a publicly administered program whose purpose is compatible with a Social Security Act program.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE64

4213. COVERAGE OF EMPLOYEES OF STATE AND LOCAL GOVERNMENTS; OFFICE OF MANAGEMENT AND BUDGET (OMB) CONTROL NUMBER (280F)

Priority: Info./Admin./Other

Legal Authority: 42 USC 405; 42 USC 410; 42 USC 418; 42 USC 902(a)(5); 42 USC 418 note

CFR Citation: 20 CFR 404.1215; 20 CFR 404.1203; 20 CFR 404.1204; 20 CFR 404.1214; 20 CFR 404.1216; 20 CFR 404.1220; 20 CFR 404.1225; 20 CFR 404.1237; 20 CFR 404.1239; 20 CFR 404.1242; 20 CFR 404.1243; 20 CFR 404.1247; 20 CFR 404.1249; 20 CFR 404.1251; 20 CFR 404.1265; ...

Legal Deadline: None

Abstract: SSA regulations providing Social Security coverage for the services of employees of State and local governments and interstate instrumentalities, were published in the Federal Register on August 29, 1988 (53 FR 32972). Those regulations included sections which contained information collection and recordkeeping requirements which were not effective until they were approved by OMB. This document notifies the public that the information collection and recordkeeping requirements were approved by OMB and provides the OMB control number. This document also adds an OMB approval number to section 404.1215.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lois A. Berg, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AE69

4214. DETERMINING DISABILITY AND BLINDNESS; PROVIDING FOR USE OF A SINGLE DECISIONMAKER TO MAKE DETERMINATIONS OF DISABILITY UNDER TITLES II AND XVI OF THE SOCIAL SECURITY ACT (668P)

Priority: Other Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 421; 42 USC 405(a); 42 USC 405(b); 42 USC 902(a); 42 USC 1382c; 42 USC 1383b

CFR Citation: 20 CFR 404.1546; 20 CFR 404.1615; 20 CFR 416.946; 20 CFR 416.1015

Legal Deadline: None

Abstract: We propose to amend our rules to provide for a single decisionmaker who will make determinations of disability under title II and title XVI of the act after consultation with a medical or psychological consultant, as appropriate. The decisionmaker would have the authority to request, review, and evaluate evidence and make the disability determination without having the medical consultant sign the disability determination forms.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AE73

4215. REFLECT A REQUIREMENT OF THE SOCIAL SECURITY ACT THAT THE COMMISSIONER DISREGARD EVIDENCE IN CERTAIN SITUATIONS INVOLVING FRAUD OR SIMILAR FAULT UNDER TITLES II OR XVI OF THE ACT (671P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 1383

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This regulation would reflect amendments to the Social Security Act by P.L. 103-296 concerning program fraud. Those amendments specify that SSA, when redetermining the entitlement, or making an initial determination of entitlement of an individual, will disregard evidence if there is reason to believe that fraud or similar fault was involved in the providing of such evidence. The regulation will include definitions of key terms to be used by SSA or the State disability determination services in making a fraud or similar fault finding.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE75

4216. NONDISCRIMINATION ON THE BASIS OF DISABILITY (661P)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 42 USC 902(a)(5); 42 USC 1302; PL 103-296

CFR Citation: 20 CFR 431.100; 20 CFR 431.105; 20 CFR 431.110; 20 CFR 431.115; 20 CFR 431.120; 20 CFR 431.125; 20 CFR 431.200; 20 CFR 431.205; 20 CFR 431.210; 20 CFR 431.215; 20 CFR 431.220; 20 CFR 431.225; 20 CFR 431.230; 20 CFR 431.235; 20 CFR 431.240; ...

Legal Deadline: None

Abstract: These proposed regulations are intended to ensure that individuals are not subjected to discrimination on the basis of disability, race, color, national origin, sex, age, or religion in any program or activity conducted by SSA.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE78

4217. ADDING NEW SSI INCOME AND RESOURCE EXCLUSION (VA PAYMENTS TO CERTAIN VIETNAM VETERANS' CHILDREN WITH SPINA BIFIDA) TO LISTS OF EXCLUSIONS PROVIDED BY OTHER FEDERAL STATUTES (664F)

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1805(d)

CFR Citation: 20 CFR 416.1182, app; 20 CFR 416.1236

Legal Deadline: None

Abstract: P.L. 104-204 provides that a Department of Veterans Affairs monthly allowance paid to children of Vietnam veterans for disabilities resulting from spina bifida will not be considered income or resources in determining eligibility for or the amount of benefits under any Federal or federally assisted program. These regulations update the lists of exclusions from income and resources under the SSI program that are in statutes other than the Social Security Act.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 212335
Phone: 410 966-5121

RIN: 0960–AE79

4218. STANDARDS OF CONDUCT 20 CFR PART 430—PERSONNEL (672F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 42 USC 1302

CFR Citation: 20 CFR 430.201; 20 CFR 430.202; 45 CFR 73

Legal Deadline: None

Abstract: These final rules establish policy for standards of conduct for SSA employees. They adopt, with certain minor changes, the same policy prescribed in 45 CFR part 73, sections 73.735-301, 73.735-302, 73.735-305, 73.735-306, 73.735-802, 73.735-805, 73.735-1201 and 73.735-1301 through 73.735-1304 that was applicable to SSA when it was a component of HHS and that has remained applicable to SSA since March 31, 1995 by virtue of section 106(b) of the SSIPIA that continues certain HHS regulations in effect for SSA until such time as they are set aside. These are the provisions that were not superseded by the Office of Government Ethics Standards of Ethical Conduct for employees of the Executive Branch.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Suzanne DiMarino, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1769

RIN: 0960–AE81

4219. • EMPLOYER ID NUMBERS FOR STATE AND LOCAL GOVERNMENT EMPLOYMENT (691P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405(c)(2)(A); 42 USC 418; 42 USC 432; 42 USC 902(a)(5)

SSA — Long-Term Actions

CFR Citation: 20 CFR 404.1220; 20 CFR 422.112

Legal Deadline: None

Abstract: We propose to revise our rules dealing with the special ID numbers we issued to States that submit modifications to their voluntary Social Security coverage group agreements pursuant to section 218 of the Social Security Act. Under the proposed revision, we would issue special ID numbers only in cases where a modification extends coverage to periods prior to 1987.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paul Guillet, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-7882

RIN: 0960–AE84

4220. • OLD-AGE, SURVIVORS & DISABILITY INSURANCE; CALCULATING BENEFITS FOR AUXILIARIES OR SURVIVORS WHEN THERE IS A DUALLY-ENTITLED BENEFICIARY (692P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 403; 42 USC 404(a); 42 USC 404(e); 42 USC 405(a); 42 USC 405(c); 42 USC 422(b); 42 USC 423(e); 42 USC 424a; 42 USC 425; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.402; 20 CFR 404.403

Legal Deadline: None

Abstract: We propose to revise our regulation to reflect the adoption by the Social Security Administration of the holding in Parisi by Cooney v. Chater as national policy. This policy has been an Acquiescence Ruling which applied in the First Circuit. The policy is that, when determining the benefits for auxiliaries or survivors after reduction for the family maximum, dually entitled beneficiaries will be considered only to the extent that such persons actually receive a benefit. In Parisi, a child's benefits had been lowered due to the entitlement of another auxiliary on that Social Security number (SSN), even though the other auxiliary did not receive benefits on that same SSN but rather received benefits on another SSN.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bill Hilton, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-2468

RIN: 0960–AE85

SOCIAL SECURITY ADMINISTRATION (SSA) — Completed Actions

4221. STANDARDS OF CONDUCT FOR CLAIMANT REPRESENTATIVES (431F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 404.1700ff; 20 CFR 416.1500ff

Completed:

Reason	Date	FR Cite
Final Action	08/04/98	63 FR 41404
Final Action Effective	09/03/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard M. Bresnick
Phone: 410 965-1758

RIN: 0960–AD73

4222. VALUATION OF CERTAIN IN-KIND SUPPORT AND MAINTENANCE (ISM) WHERE THERE IS A COST-OF-LIVING ADJUSTMENT IN SSI BENEFITS (454F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 416.420; 20 CFR 416.1130(a)

Completed:

Reason	Date	FR Cite
Final Action	06/19/98	63 FR 33543
Final Action Effective	07/20/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel T. Bridgewater
Phone: 410 965-3298

RIN: 0960–AD82

4223. FEDERAL OASDI AND SSI FOR THE AGED, BLIND, AND DISABLED; REPRESENTATIVE PAYMENT PROVISIONS FOR INDIVIDUALS DISABLED BASED ON DRUG ADDICTION OR ALCOHOLISM (507P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 404.2001; 20 CFR 404.2010; 20 CFR 404.2021; 20 CFR 404.2040; 20 CFR 404.2040a; 20 CFR 404.2053; 20 CFR 416.621; 20 CFR 416.640; 20 CFR 416.640a; 20 CFR 416.655

Completed:

Reason	Date	FR Cite
No Further Action Planned	08/10/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

SSA — Completed Actions

Government Levels Affected: State

Agency Contact: Harry J. Short
Phone: 410 965-6243

RIN: 0960–AD98

4224. SSI ELIGIBILITY FOR STUDENTS TEMPORARILY ABROAD (505P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 416.202; 20 CFR 416.270 (New)

Completed:

Reason	Date	FR Cite
No Further Action Planned	08/10/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Henry D. Lerner
Phone: 410 965-1762

RIN: 0960–AE01

4225. SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; INCOME AND RESOURCES, DEEMING OF PARENTAL INCOME AND RESOURCES WHEN CHILDREN ARE HOSPITALIZED (522P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 416.1165; 20 CFR 416.1167; 20 CFR 416.1202

Completed:

Reason	Date	FR Cite
No Further Action Planned	08/10/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar
Phone: 410 966-5995

RIN: 0960–AE08

4226. IDENTIFICATION AND REFERRAL OF CASES FOR QUALITY REVIEW UNDER THE APPEALS COUNCIL'S AUTHORITY TO REVIEW CASES ON ITS OWN MOTION (623F)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 404.900ff; 20 CFR 416.1400ff

Completed:

Reason	Date	FR Cite
Final Action	07/07/98	63 FR 36560
Final Action Effective	08/06/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Harry J. Short
Phone: 410 965-6243

RIN: 0960–AE53

4227. SUPPLEMENTAL SECURITY INCOME; DETERMINING DISABILITY FOR A CHILD UNDER AGE 18 (625F)

Priority: Economically Significant

CFR Citation: 20 CFR 404.1500 app 1; 20 CFR 416.901; 20 CFR 416.906; 20 CFR 416.911; 20 CFR 416.912; 20 CFR 416.913; 20 CFR 416.919a; 20 CFR 416.919n; 20 CFR 416.924; 20 CFR 416.924a to 416.924e; 20 CFR 416.925; 20 CFR 416.926a; 20 CFR 416.927; 20 CFR 416.929; 20 CFR 416.987 (New); ...

Completed:

Reason	Date	FR Cite
No Further Action Planned	08/26/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Daniel T. Bridgewater
Phone: 410 965-3298

RIN: 0960–AE57

4228. ELECTRONIC FREEDOM OF INFORMATION ACT AMENDMENTS (640F)

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 402.30; 20 CFR 402.35; 20 CFR 402.40; 20 CFR 402.45; 20 CFR 402.100; 20 CFR 402.130; 20 CFR 402.140; 20 CFR 402.145; 20 CFR 402.150; 20 CFR 402.160

Completed:

Reason	Date	FR Cite
Final Action	06/29/98	63 FR 35130
Final Action Effective	07/29/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Henry D. Lerner
Phone: 410 965-1762

RIN: 0960–AE68

4229. APPLICATION OF CIRCUIT COURT LAW—STRENGTHENING THE ACQUIESCENCE PROCESS AND FURTHERING NATIONAL UNIFORMITY IN PROGRAM ADMINISTRATION (669F)

Priority: Other Significant. Major under 5 USC 801.

CFR Citation: 20 CFR 404.985; 20 CFR 416.1485

Completed:

Reason	Date	FR Cite
Final Action	05/06/98	63 FR 24927
Final Action Effective	06/05/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Harry J. Short
Phone: 410 965-6243

RIN: 0960–AE74

4230. CHARGING ADMINISTRATION FEES FOR MAKING STATE SUPPLEMENTARY PAYMENTS (679F)

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 416.2010

Completed:

Reason	Date	FR Cite
Published as RIN 0960-AE87	06/22/98	63 FR 33849

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gareth Dence

Phone: 410 965-9872

RIN: 0960–AE82

4231. • FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE; DETERMINING DISABILITY AND BLINDNESS; EXTENSION OF EXPIRATION DATES FOR SEVERAL BODY SYSTEM LISTINGS (702F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 416(i); 42 USC 421(a); 42 USC 421(i); 42 USC 422(c); 42 USC 423; 42 USC 425

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: The Social Security Administration adjudicates claims at the third step of its sequential process for evaluating disability using the Listing of Impairments (the listings) under the Social Security and supplemental security income programs. This rule extends the dates on which several body system listings will no longer be effective. We have made no revisions to the medical criteria i n these listings; they remain the same as they now appear in the Code of Federal Regulations. These extensions will ensure that we continue to have medical evaluation criteria in the listings t o adjudicate claims for disability based on impairments in these body systems at step three of our sequential evaluation process.

Timetable:

Action	Date	FR Cite
Final Action	06/04/98	63 FR 30410
Final Action Effective	06/04/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Georgia E. Myers, Acting SSA Regulations Officer, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-3632

RIN: 0960–AE83

4232. • FINAL RULES TO EXTEND THE EXPIRATION DATE OF THE AUTHORITY FOR PREHEARING PROCEEDINGS AND DECISIONS BY ATTORNEY ADVISORS (705F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 401(j); 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 902(a)(5); 42 USC 1383; 42 USC 1383b

CFR Citation: 20 CFR 404.942; 20 CFR 416.1442

Legal Deadline: None

Abstract: These final rules extend the time period set out in our regulations during which attorney advisors in our Office of Hearings and Appeals (OHA) may conduct certain prehearing proceedings and, where the documentary record developed as a result of these proceedings warrants, issue decisions that are wholly favorable to the parties to the hearing in claims for Social Security or Supplemental Security Income (SSI) benefits based on disability. We are extending the date at which these rules will no longer be effective from July 1, 1998, until April 1, 1999.

Timetable:

Action	Date	FR Cite
Final Action	06/30/98	63 FR 35515
Final Action Effective	06/30/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE86

4233. • CHARGING ADMINISTRATION FEES FOR MAKING STATE SUPPLEMENTARY PAYMENTS (679F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1382 note

CFR Citation: 20 CFR 416.2010

Legal Deadline: None

Abstract: We are revising our rules to reflect statutory changes that require the Social Security Administration (SSA) to increase the administration fees it charges States for making supplementary payments on behalf of States.

Timetable:

Action	Date	FR Cite
Final Action	06/22/98	63 FR 33849
Final Action Effective	06/22/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Gareth Dence, Social Insurance Specialist, Social Security Administration, Division of Payment Policy, Office of Program Benefits Policy, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-9872

RIN: 0960–AE87

[FR Doc. 98-25585 Filed 11-06-98; 8:45 am]
BILLING CODE 4190-29-F

Federal Register

Monday
November 9, 1998

Part XLVI

Tennessee Valley Authority

Semiannual Regulatory Agenda

TENNESSEE VALLEY AUTHORITY (TVA)

TENNESSEE VALLEY AUTHORITY

18 CFR Ch. XIII

Regulatory Agenda

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Semiannual regulatory agenda.

SUMMARY: As a nonregulatory agency, TVA originates few regulations. TVA will submit a proposed regulation which would revise the requirements applicable to the construction and maintenance of obstructions in the Tennessee River system and codify policies related to management of shoreline land under the jurisdiction of TVA. TVA is therefore publishing a regulatory agenda in voluntary compliance with Executive Order 12866.

FOR FURTHER INFORMATION CONTACT: For further information, please contact the persons listed.

Edward S. Christenbury,

General Counsel.

TENNESSEE VALLEY AUTHORITY (TVA) — Long-Term Actions

4234. APPROVAL OF CONSTRUCTION AND REGULATION OF STRUCTURES IN THE TENNESSEE RIVER SYSTEM AND SHORELINE MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 831 to 831dd

CFR Citation: 18 CFR 1304 (Revision)

Legal Deadline: None

Abstract: This action would revise the requirements applicable to construction and maintenance of obstructions in the Tennessee River System to better describe the types of facilities that would be considered for approval. It also would codify policies related to management of certain shoreline lands under the jurisdiction, custody, and control of TVA.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Teresa C. McDonough, Specialist-Land Policy, Land Management, Tennessee Valley Authority, 17 Ridgeway Road, Norris, TN 37828
Phone: 423 632-1542

RIN: 3316–AA19

[FR Doc. 98-23550 Filed 11-06-98; 8:45 am]
BILLING CODE 8120-08-F

federal register

Monday
November 9, 1998

Part XLVII

United States Information Agency

Semiannual Regulatory Agenda

UNITED STATES INFORMATION AGENCY (USIA)

UNITED STATES INFORMATION AGENCY

22 CFR Ch. V

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: United States Information Agency.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the proposed regulatory actions that the United States Information Agency (USIA) plans for the next 12 months. USIA's purpose in publishing this agenda is to allow interested persons an opportunity to have more comprehensive documentation of USIA's regulatory plans and to provide a systematic means of monitoring regulatory activity in USIA. None of the regulations listed in the agenda are considered major under Executive Order 12866 "Regulatory Planning and Review."

FOR FURTHER INFORMATION CONTACT: Stanley S. Colvin, Assistant General Counsel, Office of General Counsel, (202) 619-6531.

Stanley S. Colvin,

Assistant General Counsel.

UNITED STATES INFORMATION AGENCY (USIA) — Long-Term Actions

4235. PRIVACY ACT POLICIES AND PROCEDURES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552

CFR Citation: 22 CFR 505

Legal Deadline: None

Abstract: This document updates and replaces the Agency's prior regulation implementing the Privacy Act of 1974, as amended. The update and replacement were made necessary by changes during USIA's reorganization and realignment of functions and responsibilities when the Agency changed names and again when the Agency began to reinvent itself in response to Government downsizing.

The Agency's regulation had not been updated since 1975 and changes in nomenclature and differences in processing Privacy Act requests necessitated these changes. The changes primarily update the definitions, the processes for receiving and handling requests, and to whom to send requests for Privacy Act records. It also better explains the exemptions that the U.S. Information Agency is allowed to use and routine uses.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/01/97	62 FR 10630
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lola Secora, FOI/PA Officer, United States Information Agency, 301 4th Street SW., Washington, DC 20547
Phone: 202 619-5499
Fax: 202 205-0374

RIN: 3116–AA10

[FR Doc. 98-23923 Filed 11-06-98; 8:45 am]

BILLING CODE 8230-01-F

federal register

Monday
November 9, 1998

Part XLVIII

Department of Defense
General Services Administration
National Aeronautics and Space Administration

Federal Acquisition Regulation; Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 1

Semiannual Regulatory Agenda

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in compliance with Executive Order 12866 "Regulatory Planning and Review." This agenda is being published to allow interested persons an opportunity to participate in the rulemaking process. The Federal Acquisition Regulation (FAR) Secretariat has attempted to list all regulations pending at the time of publication, except for minor and routine or repetitive actions; however, unanticipated requirements may result in the issuance of regulations that are not included in this agenda. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the dates shown.

FOR FURTHER INFORMATION CONTACT: Ms. Laurie Duarte, FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501-4755.

SUPPLEMENTARY INFORMATION: DoD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the FAR through periodic issuance of Federal Acquisition Circulars (FACs).

Dated: August 26, 1998.

Jeremy F. Olson,

Acting Director, Federal Acquisition Policy Division.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4236	FAR Case 97-024, Foreign Acquisition	9000-AH30
4237	FAR Case 97-031, Value Engineering Change Proposals	9000-AH84
4238	FAR Case 97-040, Business Class Air Fare	9000-AH98
4239	FAR Case 98-001, Recruitment Costs Principle	9000-AI06
4240	FAR Case 97-038, Evaluation of Proposals for Professional Services	9000-AI07
4241	FAR Case 98-007, Competition Under Multiple Award Task and Delivery Order Contracts	9000-AI08

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4242	FAR Case 89-12, Pay-As-You-Go Pension Costs	9000-AC90
4243	FAR Case 89-093, Implementation of the Anti-Lobbying Statute	9000-AD76
4244	FAR Case 91-078, Small Business Subcontracting Reporting	9000-AG04
4245	FAR Case 94-753, Travel Costs	9000-AG27
4246	FAR Case 91-118, Payment by Electronic Fund Transfer	9000-AG49
4247	FAR Case 95-020, Costs Related to Legal/Other Proceedings	9000-AH05
4248	FAR Case 96-308, Implementation of Commercially Available Off-the-Shelf Item Acquisition Provisions of the Federal Acquisition Reform Act	9000-AH25
4249	FAR Case 96-011, No-Cost Value Engineering Change Proposals	9000-AH37
4250	FAR Case 97-603, Empowerment Contracting	9000-AH58
4251	FAR Cases 97-004A and 97-004B, Reform of Affirmative Action in Federal Procurement	9000-AH59
4252	FAR Case 95-013, Government Property	9000-AH60
4253	FAR Case 96-009, Contract Quality Requirements	9000-AH61
4254	FAR Case 94-610, EO 12933, Nondisplacement of Qualified Workers Under Certain Contracts	9000-AH62
4255	FAR Case 96-023, Clause Flowdown-Commercial Items	9000-AH69
4256	Federal Acquisition Regulation; Progress Payments	9000-AH70
4257	FAR Case 97-015, Alternative Dispute Resolution—1996	9000-AH72
4258	FAR Case 97-011, Evidence of Shipment in Electronic Data Interchange Transactions	9000-AH73
4259	FAR Case 97-016, Contractor Purchasing System Review Exclusions	9000-AH82
4260	FAR Case 96-018, Use of Brand Name Item Descriptions	9000-AH85
4261	FAR Case 97-303, Limitation on Allowability of Compensation for Certain Contractor Personnel	9000-AH90
4262	FAR Case 97-027, Mandatory Government Source Inspection	9000-AH94
4263	FAR Case 97-036, Civil Defense Costs	9000-AH95
4264	FAR Case 97-032, Relocation Costs	9000-AH96

FAR

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4265	FAR Case 96-013, Review of FAR Representation	9000-AH97
4266	FAR Case 96-610, Rehabilitation Act, Workers With Disabilities	9000-AH99

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4267	FAR Case 89-042, Liquidated Damages	9000-AD20
4268	FAR Case 97-300, Liquidated Damages	9000-AH53
4269	FAR Case 95-011, Subcontract Consent	9000-AH57
4270	FAR Case 97-010, Taxes Associated With Divested Segments	9000-AH71
4271	FAR Case 97-007, Travel Reimbursement	9000-AH76
4272	FAR Case 97-014, Part 30 Deviations	9000-AH77
4273	FAR Case 97-034, Availability of Specifications	9000-AI00
4274	FAR Case 97-042, Limits on Fee for Cost-Plus-Incentive Fee and Cost-Plus-Award Fee Contracts	9000-AI01
4275	FAR Case 97-044, Trade Agreements Thresholds	9000-AI02
4276	FAR Case 97-301, Restrictions on Purchases From Sudan	9000-AI03
4277	FAR Case 97-614, Software Copyrights	9000-AI04

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Proposed Rule Stage

4236. FAR CASE 97-024, FOREIGN ACQUISITION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 15.106-1; 48 CFR 25; 48 CFR 52.225-1 to 52.225-18

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to rewrite guidance and clauses on foreign acquisition. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	09/28/98	63 FR 51642
NPRM Comment Period End	11/27/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH30

4237. FAR CASE 97-031, VALUE ENGINEERING CHANGE PROPOSALS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 48; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to change the sharing periods and rates that contracting officers may establish for individual value engineering change proposals. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	06/12/98	63 FR 43236
NPRM Comment Period End	10/13/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH84

4238. • FAR CASE 97-040, BUSINESS CLASS AIR FARE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 31

FAR

Proposed Rule Stage

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to revise the "travel costs" cost principle to allow, in certain situations, business class airfare costs for flights lasting more than 14 hours. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	08/12/98	63 FR 43239
NPRM Comment Period End	10/13/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AH98

4239. • FAR CASE 98-001, RECRUITMENT COSTS PRINCIPLE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to revise the recruitment costs and the "public relations and advertising cost" cost principles for streamlining purposes. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993 and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	08/12/98	63 FR 43238
NPRM Comment Period End	10/13/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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RIN: 9000–AI06

4240. • FAR CASE 97-038, EVALUATION OF PROPOSALS FOR PROFESSIONAL SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 15.305; 48 CFR 37.115

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to provide guidance on the evaluation of proposals that include uncompensated overtime hours. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	08/24/98	63 FR 45112
NPRM Comment Period End	10/23/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI07

4241. • FAR CASE 98-007, COMPETITION UNDER MULTIPLE AWARD TASK AND DELIVERY ORDER CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 16

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation to clarify the procedures governing placement of orders under multiple award indefinite delivery contracts. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	09/09/98	63 FR 48416
NPRM Comment Period End	11/09/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI08

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Long-Term Actions

4242. FAR CASE 89-12, PAY-AS-YOU-GO PENSION COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 30; 48 CFR 31

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to revise the cost allowability criteria for pension costs. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/89	54 FR 13022
NPRM	09/23/97	62 FR 49900
NPRM Comment Period End	11/24/97	
Interim Final Rule - 2nd Publication	00/00/00	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AC90

4243. FAR CASE 89-093, IMPLEMENTATION OF THE ANTI-LOBBYING STATUTE

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-121, Sec 319

CFR Citation: 48 CFR 3; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement section 319 of PL 101-121, which added a new section 1352 to title 31 USC entitled "Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions." Section 319 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, or cooperative agreement, in excess of $100,000, or a loan or Federal commitment to insure or guarantee a loan, in excess of $150,000, must disclose lobbying with other than appropriated funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/30/90	55 FR 3190
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AD76

4244. FAR CASE 91-078, SMALL BUSINESS SUBCONTRACTING REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 53.219

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend FAR 53.219 to authorize the addition of a column to the Standard Form 295, Summary Subcontract Report, to report the number of subcontracts awarded to small business concerns, small disadvantaged business concerns, and women-owned small business enterprises. This regulatory action was not subject to Office of Management review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	09/26/94	59 FR 49037
NPRM Comment Period End	11/25/94	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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RIN: 9000–AG04

4245. FAR CASE 94-753, TRAVEL COSTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355

CFR Citation: 48 CFR 31.205-46

Legal Deadline: Final, Statutory, October 1, 1995.
The Federal Acquisition Streamlining Act eliminated the statutory requirement to the travel cost principle concerning the Federal Travel Regulations. No regulatory implementation was required.

Abstract: This rule is issued pursuant to the Federal Acquisition Streamlining Act of 1994, Public Law 103-355 (the Act). The Federal Acquisition Regulatory Council is considering amending the Federal Acquisition Regulation (FAR) as a result of changes to 41 USC 22 by section 2191 of the Act. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. However, the proposed rule would

permit contractors to propose alternative rates to those prescribed in the FTR/JTR.

Timetable:

Action	Date	FR Cite
NPRM	12/14/94	59 FR 64542
NPRM Comment Period End	02/13/95	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AG27

4246. FAR CASE 91-118, PAYMENT BY ELECTRONIC FUND TRANSFER

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 32.9; 48 CFR 52.232

Legal Deadline: None

Abstract: This rule amends subpart 32.9 and adds solicitation provisions and contract clauses at 52.232 to implement guidance to address the use of electronic fund transfers for Federal contract payments. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	10/03/95	60 FR 51766
NPRM Comment Period End	12/04/95	
Interim Final Rule	08/29/96	61 FR 45770
2nd NPRM	07/06/98	63 FR 36522
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AG49

4247. FAR CASE 95-020, COSTS RELATED TO LEGAL/OTHER PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31.205-47(b); 48 CFR 31.205-47(c); 48 CFR 31.205-47(e)(3)

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to revise the cost principle governing the allowability of costs related to litigation. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AH05

4248. FAR CASE 96-308, IMPLEMENTATION OF COMMERCIALLY AVAILABLE OFF-THE-SHELF ITEM ACQUISITION PROVISIONS OF THE FEDERAL ACQUISITION REFORM ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 104-106, sec 4203

CFR Citation: 48 CFR 2.101; 48 CFR 3.104-10(c); 48 CFR 3.503; 48 CFR 12.301; 48 CFR 12.7; 48 CFR 15.106-1; 48 CFR 19.508; 48 CFR 25.605; 48 CFR 27.409; 48 CFR 52.212-4; 48 CFR 52.212-00

Legal Deadline: NPRM, Statutory, September 7, 1996.

Abstract: The Federal Acquisition Regulatory Council solicited comments regarding the implementation of section 4203 of the Federal Acquisition Reform Act (Pub. L. 104-106)(the Act) with respect to Commercially Available Off-the-Shelf Item Acquisitions. The Act requires the FAR to list provisions of law that are inapplicable to contracts for the acquisition of commercially available off-the-shelf items. Certain laws have already been determined to be inapplicable to all commercial items as a result of the implementation of the Federal Acquisition Streamlining Act of 1994 (see FAR 12.503).

Timetable:

Action	Date	FR Cite
ANPRM	05/13/96	61 FR 22010
ANPRM Comment Period End	06/28/96	
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

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RIN: 9000–AH25

4249. FAR CASE 96-011, NO-COST VALUE ENGINEERING CHANGE PROPOSALS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 48.104-3

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to clarify that the no-cost VECP guidance at FAR 48.104-3 permits the use of no-cost settlements when the Contracting Officer has balanced the administrative costs of negotiating a settlement against the anticipated savings and when, in the Contracting Officer's judgment, reliance on other VECP approaches likely would not be more cost effective and the no-cost settlement would provide adequate consideration to the Government. The no-cost VECP alternatives were not intended for use when significant cost savings are anticipated on the instant contract. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/22/98	63 FR 34078
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AH37

4250. FAR CASE 97-603, EMPOWERMENT CONTRACTING

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 12.301; 48 CFR 14.206; 48 CFR 15.605; 48 CFR 26.3; 48 CFR 36.602; 48 CFR 52.226

Legal Deadline: None

Abstract: The Federal Acquisition Regulatory Council is proposing amendments to the Federal Acquisition Regulation (FAR) to establish phase one of an Empowerment Contracting Program that provides procurement incentives to both large and small businesses to encourage their activity in areas of general and severe economic distress. This action is being taken to implement Presidential Executive Order 13005 of May 21, 1996, entitled "Empowerment Contracting." On September 13, 1996, the Department of Commerce (DOC) published in the Federal Register proposed guidelines for implementing Executive Order 13005 in the FAR. The proposed amendments to the FAR that are being published here are largely based on those guidelines. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	04/18/97	62 FR 19200
NPRM Comment Period End	06/17/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Tribal, Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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RIN: 9000–AH58

4251. FAR CASES 97-004A AND 97-004B, REFORM OF AFFIRMATIVE ACTION IN FEDERAL PROCUREMENT

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: PL 103-355, sec 7102

CFR Citation: 48 CFR 5.207; 48 CFR 6.203; 48 CFR 12.303; 48 CFR 14.206; 48 CFR 15.605; 48 CFR 15.608; 48 CFR 15.1002; 48 CFR 19; 48 CFR 52.219; 48 CFR 53; 48 CFR 1.106; 48 CFR 15.3; 48 CFR 52.212; 48 CFR 53.219; 48 CFR 53.302-312

Legal Deadline: None

Abstract: These interim rules have been issued to conform to a Department of Justice (DOJ) proposal to reform affirmative action in Federal procurement. DOJ's proposal is designed to ensure compliance with the constitutional standards established by the Supreme Court in Adarand Constructors, Inc. v. Pena. 115 S.Ct. 2097 (1995). The FAR proposed rule would establish three procurement mechanisms benefiting small disadvantaged businesses (SDBs): (a) The first mechanism is a price evaluation adjustment of up to ten percent in certain two-digit Standard Industrial Classification (SIC) Major Groups authorized by the Administrator of the Office of Federal Procurement Policy (OFPP), this mechanism is effective October 1, 1998; (b) The second mechanism is a source selection evaluation factor or subfactor for planned SDB participation, primarily at the subcontract level, in the performance of a contract in the SIC Major Groups; (c) The third mechanism provides for a monetary incentive for subcontracting with SDBs. The last two mechanisms become effective January 1, 1999. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	05/09/97	62 FR 25786
NPRM Comment Period End	07/08/97	
Interim Final Rule 97-004A	06/30/98	63 FR 35719
Interim Final Rule 97-004B	07/01/98	63 FR 36120

Action	Date	FR Cite
Interim Final Rule 97-004C	09/30/98	63 FR 52426
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Tribal, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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RIN: 9000–AH59

4252. FAR CASE 95-013, GOVERNMENT PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 45; 48 CFR 52

Legal Deadline: None

Abstract: The rule amends the Federal Acquisition Regulation (FAR) to simplify procedures and eliminate requirements related to the management and disposition of Government property in the possession of contractors. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	06/02/97	62 FR 30186
NPRM Comment Period End	08/15/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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RIN: 9000–AH60

4253. FAR CASE 96-009, CONTRACT QUALITY REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 46; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to reflect a preference for commercial contract quality requirements rather than Federal or military specifications. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	07/02/97	62 FR 35891
NPRM Comment Period End	09/02/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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RIN: 9000–AH61

4254. FAR CASE 94-610, EO 12933, NONDISPLACEMENT OF QUALIFIED WORKERS UNDER CERTAIN CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: EO 12933

CFR Citation: 48 CFR 22; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the FAR to implement EO 12933 regarding right of refusal for certain service employees. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1998, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/22/97	62 FR 44823
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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RIN: 9000–AH62

4255. FAR CASE 96-023, CLAUSE FLOWDOWN-COMMERCIAL ITEMS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52.244-6

Legal Deadline: None

Abstract: This rule proposes amendments to the clause at FAR 52.244-6, Subcontracts for Commercial Items and Commercial Comments, to clarify that contractors are required to include, in subcontracts at any tier for commercial items or commercial components, the FAR clauses and provisions listed in the clause at FAR 52.244-6 and such other clauses and provisions as may be required by addenda, to the extent they are applicable or necessary to establish the reasonableness of prices under FAR part 15. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	09/23/97	62 FR 49903
NPRM Comment Period End	11/24/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AH69

4256. FEDERAL ACQUISITION REGULATION; PROGRESS PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 137

CFR Citation: 48 CFR 32; 48 CFR 52

Legal Deadline: None

Abstract: The Director of Defense Procurement, Department of Defense, has established a special interagency team with participants from the OUSD (Comptroller), the Military Departments, the DLA, the DCAA, the DFAS, the DOE, and the NASA, that will review and rewrite FAR part 32 and part 52 provisions regarding Progress Payments to make them easier to understand and to minimize the burdens imposed on contractors and contracting officers. The Director of Defense Procurement will provide a forum for an exchange of ideas and information with government and industry personnel by holding at least one public meeting, soliciting public comments, and publishing notices of public meetings in the Federal Register. Discussion will focus on draft revisions of FAR part 32, subpart 32.5, Progress Payments Based on Costs, and associated contract clauses and forms.

Timetable:

Action	Date	FR Cite
ANPRM	05/01/97	62 FR 23740
ANPRM Comment Period End	05/30/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michele P. Peterson, Executive Editor, Defense Acquisition Regulations Council, DOD/GSA/NASA (FAR), DOD(PDUSD(A&T)DP/CPF, Room 3C800, Defense Pentagon, Washington, DC 20301-3060
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RIN: 9000–AH70

4257. FAR CASE 97-015, ALTERNATIVE DISPUTE RESOLUTION—1996

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 6.302-3; 48 CFR 24.202; 48 CFR 33.201; 48 CFR 33.204; 48 CFR 33.207; 48 CFR 33.214; 48 CFR 52.233-1

Legal Deadline: None

Abstract: The rule amends the FAR to implement the Administrative Dispute Resolution Act of 1996 (Pub. L. 104-320) and section 4321(a)(7) of the Clinger-Cohen Act of 1996 (Pub. L. 104-106). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	10/27/97	62 FR 55678
NPRM Comment Period End	12/26/97	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH72

4258. FAR CASE 97-011, EVIDENCE OF SHIPMENT IN ELECTRONIC DATA INTERCHANGE TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52.247-48

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to revise the use of electronic data interchange transactions and to streamline the payment process when supplies are purchased free onboard destination with inspection and acceptance of origin. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	01/27/98	63 FR 4074
NPRM Comment Period End	03/30/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH73

4259. FAR CASE 97-016, CONTRACTOR PURCHASING SYSTEM REVIEW EXCLUSIONS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 44.302; 48 CFR 44.303

Legal Deadline: None

Abstract: This rule amends (1) FAR 44.302 to exclude competitively awarded firm-fixed-price and competitively awarded fixed-price with economic price adjustment contracts for the dollar amount used to determine

if a contractor's level of sales to the Government warrants the conduct of a CPSR; and (2) FAR 44.303 to exclude subcontracts awarded by a contractor exclusively in support of competitively awarded firm-fixed-price and competitively awarded fixed-price with economic price adjustment contracts from evaluation during a CPSR. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	01/06/98	63 FR 649
NPRM Comment Period End	03/09/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH82

4260. FAR CASE 96-018, USE OF BRAND NAME ITEM DESCRIPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 11.104; 48 CFR 11.104-1; 48 CFR 11.104-2; 48 CFR 11.106; 48 CFR 13.106-2; 48 CFR 13.602; 48 CFR 52.211

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) parts 11 and 52 to provide for the use of brand name purchase descriptions, including "brand name or equal," "brand name-no substitute," and "brand name as target"; and to add two new related solicitation provisions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH85

4261. FAR CASE 97-303, LIMITATION ON ALLOWABILITY OF COMPENSATION FOR CERTAIN CONTRACTOR PERSONNEL

Priority: Other Significant

Legal Authority: PL 105-85

CFR Citation: 48 CFR 31.205-6

Legal Deadline: Other, Statutory, November 18, 1997.
RIN pertains to the interim rulemaking.

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement section 808 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105-85) by limiting the allowable compensation costs for senior executives of contractors to the benchmark compensation amount determined applicable for each fiscal year by the Administrator for Federal Procurement Policy. This regulatory action was subject to Office of Management and Budget Review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/23/98	63 FR 9066
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH90

4262. FAR CASE 97-027, MANDATORY GOVERNMENT SOURCE INSPECTION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 46

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to facilitate the elimination of unnecessary Government contract quality assurance requirements at source. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	03/20/98	63 FR 13770
NPRM Comment Period End	05/19/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH94

4263. FAR CASE 97-036, CIVIL DEFENSE COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to delete the civil defense cost principle. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	03/20/98	63 FR 13771
NPRM Comment Period End	05/19/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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Fax: 202 501-4067

RIN: 9000–AH95

4264. • FAR CASE 97-032, RELOCATION COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 00 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to remove the ceilings imposed on certain types of relocation costs; to permit reimbursement of relocation costs on an appropriate lump-sum basis; make allowable payments for spouse employment assistance and payments for increase employee income and social security taxes incident to allowable reimbursed relocation. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and this is not a major rule under 5 U.S.C. 804

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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Fax: 202 501-4067

RIN: 9000–AH96

4265. • FAR CASE 96-013, REVIEW OF FAR REPRESENTATION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 1; 48 CFR 4; 48 CFR 12; 48 CFR 14; 48 CFR 19; 48 CFR 26; 48 CFR 27; 48 CFR 32; 48 CFR 41; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to remove or reduce certain requirements for representations and other statements from offerors and contractors. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	05/07/98	
NPRM Comment Period End	07/06/98	63 FR 25382
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH97

4266. • FAR CASE 96-610, REHABILITATION ACT, WORKERS WITH DISABILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 793 sec 503

CFR Citation: 48 CFR 22; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends FAR subpart 22.14 and the clauses at 52.212-5 and 52.222-36 to implement revised Department of Labor (DOL) regulations regarding affirmative action to employ and advance in employment qualified individuals with disabilities. The dollar threshold for use of the clause at 52.222-6 has been increased from $2,500 to $10,000. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/22/98	63 FR 34073
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH99

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Completed Actions

4267. FAR CASE 89-042, LIQUIDATED DAMAGES

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 11.501; 48 CFR 19; 48 CFR 52; 48 CFR 53.219

Completed:

Reason	Date	FR Cite
Final Action	06/22/98	63 FR 34064
Final Action Effective	08/21/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AD20

4268. FAR CASE 97-300, LIQUIDATED DAMAGES

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 11.501; 48 CFR 19; 48 CFR 52; 48 CFR 53

Completed:

Reason	Date	FR Cite
Final Action	06/22/98	63 FR 34064
Final Action Effective	08/21/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH53

4269. FAR CASE 95-011, SUBCONTRACT CONSENT

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 4.705-3; 48 CFR 22.810; 48 CFR 35.009; 48 CFR 36.606; 48 CFR 44; 48 CFR 52.244-1 to 52.244-5

Completed:

Reason	Date	FR Cite
Final Action	06/22/98	63 FR 34059
Final Action Effective	08/21/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH57

4270. FAR CASE 97-010, TAXES ASSOCIATED WITH DIVESTED SEGMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 31.205-41

Completed:

Reason	Date	FR Cite
Withdrawn	08/12/98	63 FR 43127

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH71

4271. FAR CASE 97-007, TRAVEL REIMBURSEMENT

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 31.205-46

Completed:

Reason	Date	FR Cite
Final Action	06/22/98	63 FR 34078
Final Action Effective	08/21/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH76

4272. FAR CASE 97-014, PART 30 DEVIATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 1.402

Completed:

Reason	Date	FR Cite
Final Action	12/09/97	62 FR 64913
Final Action Effective	02/09/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH77

4273. • FAR CASE 97-034, AVAILABILITY OF SPECIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9.203; 48 CFR 11.102; 48 CFR 52.211-1; 48 CFR 52.211-2; 48 CFR 52.212-1

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to update information regarding the availability of specifications, standards, and item descriptions cited in Government solicitations and contracts. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Final Action	06/22/98	63 FR 34062
Final Action Effective	08/21/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AI00

FAR

Completed Actions

4274. • FAR CASE 97-042, LIMITS ON FEE FOR COST-PLUS-INCENTIVE FEE AND COST-PLUS-AWARD FEE CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 16.301-3; 48 CFR 16.306; 48 CFR 16.405-2

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to clarify fee limitations pertaining to cost-reimbursement contracts. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Final Action	06/22/98	63 FR 34073
Final Action Effective	08/21/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AI01

4275. • FAR CASE 97-044, TRADE AGREEMENTS THRESHOLDS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 25

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement revised thresholds for application of the Trade Agreements Act and the North American Free Trade Agreement. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Final Action	06/22/98	63 FR 34075
Final Action Effective	08/21/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AI02

4276. • FAR CASE 97-301, RESTRICTIONS ON PURCHASES FROM SUDAN

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 25.701; 48 CFR 52.213-4; 48 CFR 52.225-11

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to add Sudan to the list of countries from which Government acquisition of supplies and services is restricted. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Final Action	06/22/98	63 FR 34076
Final Action Effective	08/21/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AI03

4277. • FAR CASE 97-614, SOFTWARE COPYRIGHTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 27.405

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to clarify that computer software produced under Government contracts may be special works to which the Government may obtain copyright. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Final Action	06/22/98	63 FR 34077
Final Action Effective	08/21/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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RIN: 9000–AI04

[FR Doc. 98-23551 Filed 11-06-98; 8:45 am]

BILLING CODE 6820-EP-F

federal register

Monday
November 9, 1998

Part XLIX

Commodity Futures Trading Commission

Semiannual Regulatory Agenda

COMMODITY FUTURES TRADING COMMISSION (CFTC)

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Regulatory Flexibility Agenda

AGENCY: Commodity Futures Trading Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Commodity Futures Trading Commission, in accordance with the Regulatory Flexibility Act, is publishing a semiannual agenda of significant rules which the Commission expects to propose or promulgate over the next year. For this edition of the Commission's agenda, the most important and significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II. The Commission welcomes comments from small entities and others.

ADDRESSES: Comments should be sent to Gerald P. Smith, Special Assistant to the Executive Director, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581, (202) 418-5160.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), sets forth a number of requirements for agency rulemaking. Among other things, 602 of the RFA requires that:

(a) During the months of October and April of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda that shall contain:

(1) A brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable about the items listed in paragraph (1). 5 U.S.C. 602(a).

The Commission has prepared an agenda of significant rules that it presently expects may be considered during the course of the next year. The listing of a rule in this regulatory flexibility agenda is not a determination that a rule will require a regulatory flexibility analysis. By publishing all significant rules, regardless of their potential impact on small entities, the Commission hopes to provide the public with an early and meaningful opportunity to participate in and comment on the formulation of new or revised regulations. In addition to publishing the regulatory flexibility agenda, the Commission makes information on regulatory matters available through its monthly calendar, weekly advisory, and website (www.cftc.gov). Pursuant to 602 of the Regulatory Flexibility Act, nothing "precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda."

The Commission's October 1998 regulatory flexibility agenda is set forth below.

issued in Washington, DC, on September 3, 1998, by the Commission.

Jean A. Webb,

Secretary to the Commission.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4278	Procedures for Involuntary Bulk Transfers or Liquidations of Customer Accounts	3038-AA77
4279	Concept Release Concerning Foreign Computer Terminal Placement in the United States **(Reg Plan Seq. No. 162)**	3038-AB30
4280	Denomination of Customer Funds and Location of Depositories	3038-AB31
4281	Revision of Federal Speculative Position Limits and Associated Rules **(Reg Plan Seq. No. 163)**	3038-AB32

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4282	Prohibition on Voting by Interested Members **(Reg Plan Seq. No. 164)**	3038-AB03
4283	Requests for Exemptive, No-Action and Interpretative Letters	3038-AB28
4284	Economic and Public Interest Requirements for Contract Market Designation **(Reg Plan Seq. No. 165)**	3038-AB33

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

CFTC

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4285	Account Identification for Orders Submitted on Behalf of Multiple Customer Accounts	3038-AB08
4286	Trade Options on the Agricultural Commodities Enumerated in the Commodity Exchange Act	3038-AB23
4287	Futures-Style Margining of Commodity Options	3038-AB25
4288	Orders Eligible for Post-Execution Allocation	3038-AB26
4289	Maintenance of Minimum Financial Requirements by Futures Commission Merchants and Introducing Brokers	3038-AB27

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Proposed Rule Stage

4278. PROCEDURES FOR INVOLUNTARY BULK TRANSFERS OR LIQUIDATIONS OF CUSTOMER ACCOUNTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6d; 7 USC 6f; 7 USC 6g; 7 USC 6k; 7 USC 12a

CFR Citation: 17 CFR 1.68

Legal Deadline: None

Abstract: The CFTC will undertake a rulemaking proceeding to establish requirements concerning procedures to be followed by futures commission merchants and introducing brokers when bulk transfers or liquidations of customer accounts are made due to cessation or suspension of business or other special circumstances affecting the registrant. Issues to be addressed include whether commissions or fees can be charged to customers if their accounts are transferred other than at their request.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	
NPRM Comment Period End	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581
Phone: 202 418-5439
Fax: 202 418-5536
Email: lpatent@cftc.gov

RIN: 3038–AA77

4279. • CONCEPT RELEASE CONCERNING FOREIGN COMPUTER TERMINAL PLACEMENT IN THE UNITED STATES

Regulatory Plan: This entry is Seq. No. 162 in Part II of this issue of the **Federal Register**.

RIN: 3038–AB30

4280. • DENOMINATION OF CUSTOMER FUNDS AND LOCATION OF DEPOSITORIES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1a; 7 USC 2; 7 USC 2a; 7 USC 4; 7 USC 4a; 7 USC 6; 7 USC 6a; 7 USC 6b; 7 USC 6c; 7 USC 6d; 7 USC 6e; 7 USC 6f; 7 USC 6g; 7 USC 6h; 7 USC 6l

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Commission published a Concept Release requesting public comment on how to address the risks relating to holding segregated funds offshore or in foreign currencies.

Timetable:

Action	Date	FR Cite
Concept Release	12/30/97	62 FR 67841
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: France Maca, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20851
Phone: 202 418-5482
Fax: 202 418-5536
Email: fmaca@cftc.gov

RIN: 3038–AB31

4281. • REVISION OF FEDERAL SPECULATIVE POSITION LIMITS AND ASSOCIATED RULES

Regulatory Plan: This entry is Seq. No. 163 in Part II of this issue of the **Federal Register**.

RIN: 3038–AB32

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Final Rule Stage

4282. PROHIBITION ON VOTING BY INTERESTED MEMBERS

Regulatory Plan: This entry is Seq. No. 164 in Part II of this issue of the Federal Register.

RIN: 3038–AB03

4283. REQUESTS FOR EXEMPTIVE, NO-ACTION AND INTERPRETATIVE LETTERS

Priority: Info./Admin./Other

Legal Authority: 7 USC 7a(j); 7 USC 12a

CFR Citation: 17 CFR 140.99

Legal Deadline: None

Abstract: The Commission has proposed a rule to establish procedures for requesting issuance by Commission staff of exemptive, no-action and interpretative letters. The proposed rule would require all such requests to be in writing, setting forth all material facts, relevant authorities and public policy bases for the relief or guidance requested. Requestors would certify to accuracy of the facts and undertake to update following material changes. No requests based on hypothetical circumstances or made on behalf of unnamed persons would be granted. Commission staff would have discretion to grant or deny requests without explanation.

Timetable:

Action	Date	FR Cite
NPRM	01/22/98	63 FR 3285
NPRM Comment Period End	04/22/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Christopher W. Cummings, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581
Phone: 202 418-5545
Fax: 202 418-5547
Email: ccummings@cftc.gov

RIN: 3038–AB28

4284. • ECONOMIC AND PUBLIC INTEREST REQUIREMENTS FOR CONTRACT MARKET DESIGNATION

Regulatory Plan: This entry is Seq. No. 165 in Part II of this issue of the Federal Register.

RIN: 3038–AB33

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Completed Actions

4285. ACCOUNT IDENTIFICATION FOR ORDERS SUBMITTED ON BEHALF OF MULTIPLE CUSTOMER ACCOUNTS

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 1.35

Completed:

Reason	Date	FR Cite
Withdrawn	06/09/97	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Duane C. Andresen
Phone: 202 418-5492
Fax: 202 418-5536
Email: dandresen@cftc.gov

RIN: 3038–AB08

4286. TRADE OPTIONS ON THE AGRICULTURAL COMMODITIES ENUMERATED IN THE COMMODITY EXCHANGE ACT

Priority: Other Significant

CFR Citation: 17 CFR 3; 17 CFR 32; 17 CFR 33

Completed:

Reason	Date	FR Cite
Interim Final Rule - (Effective Date 06/15/98)	04/16/98	63 FR 18821

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul M. Architzel
Phone: 202 418-5260
Fax: 202 418-5527
Email: parchitzel@cftc.gov

RIN: 3038–AB23

4287. FUTURES-STYLE MARGINING OF COMMODITY OPTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 1.55; 17 CFR 33.7; 17 CFR 33.4(a)(2)

Completed:

Reason	Date	FR Cite
Final Action	06/16/98	63 FR 32726

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas Smith
Phone: 202 418-5495
Fax: 202 418-5536
Email: tsmith@cftc.gov

RIN: 3038–AB25

4288. ORDERS ELIGIBLE FOR POST-EXECUTION ALLOCATION

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 1.35

Completed:

Reason	Date	FR Cite
Final Action	08/27/98	63 FR 45699
Final Action Effective	10/26/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Duane C. Andresen
Phone: 202 418-5490
Fax: 202 418-5536
Email: dandresen@cftc.gov

RIN: 3038–AB26

4289. MAINTENANCE OF MINIMUM FINANCIAL REQUIREMENTS BY FUTURES COMMISSION MERCHANTS AND INTRODUCING BROKERS

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 1.12

Completed:

Reason	Date	FR Cite
Final Action	08/27/98	63 FR 45711
Final Action Effective	09/28/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence B. Patent
Phone: 202 418-5439
Fax: 202 418-5536

CFTC — Completed Actions

Email: lpatent@cftc.gov

RIN: 3038–AB27

[FR Doc. 98-24585 Filed 11-06-98; 8:45 am]
BILLING CODE 6351-01-F

federal register

Monday
November 9, 1998

Part L

Consumer Product Safety Commission

Semiannual Regulatory Agenda

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Regulatory Flexibility Act; Semiannual Regulatory Flexibility and Unified Agendas

AGENCY: Consumer Product Safety Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: In this document, the Commission publishes its semiannual regulatory flexibility agenda. In addition, this document includes an agenda of regulatory actions the Commission expects to be under development or review by the agency during the next year. This document meets the requirements of the Regulatory Flexibility Act and Executive Order 12866.

DATES: The Commission welcomes comments on each subject area of the agenda, particularly from small entities. Written comments concerning the agenda should be received in the Office of the Secretary by December 31, 1998.

ADDRESSES: Comments on the regulatory flexibility agenda should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 504-0800, or delivered to the Office of the Secretary, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Comments may also be sent to the Office of the Secretary by facsimile at (301) 504-0127 or by e-mail at cpsc-os@cpsc.gov. Comments should be captioned "Regulatory Flexibility Agenda."

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Stephen Lemberg, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0980, ext. 2218. For further information regarding a particular item on the agenda, consult the individual listed in the column headed "Contact" for that particular item.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small businesses, small governmental organizations, and other small entities. Section 602 of the RFA (5 U.S.C. 602) requires each agency to publish, twice each year, a regulatory flexibility agenda containing a brief description of the subject area of any rule expected to be proposed or promulgated that is likely to have a "significant economic impact" on a "substantial number" of small entities. The agency must also provide a summary of the nature of the rule and a schedule for acting on each rule for which the agency has issued a notice of proposed rulemaking.

The regulatory flexibility agenda is also required to contain the name and address of the agency official knowledgeable about the items listed. Further, agencies are required to provide notice of their agendas to small entities and to solicit their comments by direct notification or by inclusion in publications likely to be obtained by such entities.

Additionally, Executive Order 12866 requires each agency to publish, twice each year, a regulatory agenda of regulations under development or review during the next year and states that such an agenda may be combined with the agenda published in accordance with the RFA. The regulatory flexibility agenda published below lists the regulatory activities expected to be under development or review during the next 12 months. It includes all such activities, whether or not they may have a significant economic impact on a substantial number of small entities.

The agenda contains a brief description and summary of each regulatory activity, including the objectives and legal basis for each; an approximate schedule of target dates, subject to revision, for the development or completion of each activity; and the name and telephone number of a knowledgeable agency official concerning particular items on the agenda. All agency contacts have the same address: Consumer Product Safety Commission, Washington, DC 20207.

For this edition of the Commission's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Dated: August 20, 1998.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4290	Petition HP 93-1 Requesting Development of a Rule To Ban Certain Backyard Playsets	3041-AB47
4291	Amendment of the Standard for the Flammability of Clothing Textiles	3041-AB68
4292	Petition CP 97-1 Requesting Development of a Safety Standard for Escalators	3041-AB70
4293	Child Resistant Packaging of Consumer Products Containing Methacrylic Acid	3041-AB78

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4294	Flammability Standard for Upholstered Furniture **(Reg Plan Seq. No. 166)**	3041-AB35

CPSC

Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4295	Requirements for Child-Resistant Packaging of Household Products Containing Petroleum Distillates	3041-AB57
4296	Requirements for Child-Resistance of Multi-Purpose Lighters **(Reg Plan Seq. No. 167)**	3041-AB66
4297	Amendment of Laundering Procedures in Flammability Standards for Children's Sleepwear, Carpets and Rugs, and Mattress Pads	3041-AB69

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4298	Requirements for Child-Resistant Packaging of Minoxidil	3041-AB72
4299	Petition To Exempt Sucraid TM From Special Packaging Requirements Under the Poison Prevention Packaging Act	3041-AB73
4300	Amendments to Clarify Portions of the Standards for the Flammability of Children's Sleepwear	3041-AB74

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4301	Baby Walkers	3041-AB40
4302	Amendment of Safety Regulations for Cribs	3041-AB67
4303	Requirements for Bunk Beds	3041-AB75

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4304	Requirements for Child-Resistant Packaging; Household Products and Oral Prescription Drugs With Fluoride	3041-AB76

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Prerule Stage

4290. PETITION HP 93-1 REQUESTING DEVELOPMENT OF A RULE TO BAN CERTAIN BACKYARD PLAYSETS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1261 Federal Hazardous Substances Act

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: A petition from the New York City Department of Consumer Affairs requests the Commission to develop a rule to ban certain backyard playsets. The petition asserts that backyard playsets present unreasonable risks of injury to children if they do not meet the requirements of a voluntary standard for home playground equipment published by ASTM (formerly the American Society for Testing and Materials); are not accompanied with adequate information about ground surfacing; or lack specific features described in the petition. On May 21, 1996, the Commission denied those parts of the petition requesting issuance of a rule to ban any backyard playset that does not conform to all requirements of the ASTM voluntary standard; that has an accessible height that exceeds six feet above protective surfacing; that does not have adequate fall zones under climbing structures; or that does not provide adequate space between any item of swinging equipment and any other item of swinging or stationary equipment. The Commission deferred a decision on those parts of the petition requesting a rule to ban backyard playsets that are not accompanied with instructions to use and maintain specified ground surfacing; that do not have handrails on all platforms that are 30 inches or higher above protective surfacing; that have swing seats made of wood, metal, plastic, or other hard material capable of inflicting serious injury to the head; that have free-swinging ropes; and that are unanchored playsets with swings. In

CPSC

Prerule Stage

1998, the staff is scheduled to transmit additional information to the Commission concerning revisions of the voluntary standard. The Commission will then decide whether to grant, deny, or continue to defer the remaining requests in the petition.

Timetable:

Action	Date	FR Cite
Partial Denial of Petition	05/21/96	
Additional Information Is Sent by Staff to the Commission	10/00/98	
Commission Decision	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Preston, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
Phone: 301 504-0494

RIN: 3041–AB47

4291. AMENDMENT OF THE STANDARD FOR THE FLAMMABILITY OF CLOTHING TEXTILES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1191 Flammable Fabrics Act

CFR Citation: 16 CFR 1610

Legal Deadline: None

Abstract: The Standard for the Flammability of Clothing Textiles prohibits the manufacture, importation, or sale of clothing, and fabrics and related materials intended for use in clothing, which are dangerously flammable because of rapid and intense burning. The standard prescribes the apparatus, procedure, and criteria to be used for testing to determine compliance with that standard. The standard was made mandatory by the Flammable Fabrics Act of 1953 (Pub. L. 83-88, 67 Stat. 111; June 30, 1953). Some of the equipment and procedures specified by the standard, particularly those for laundering and cleaning of test specimens, have become obsolete, unavailable, or unrepresentative of current practices. The staff is preparing a briefing package describing modifications of the standard that may be needed to assure that the test in the standard is conducted with equipment and procedures representative of conditions to which garments currently are exposed. After consideration of the briefing package, the Commission will decide whether to begin a proceeding for amendment of the standard.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	10/00/98	
Commission Decision	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Margaret Neily, Project Manager, Consumer Product Safety Commission, Dir. for Engineering Sciences, Washington, DC 20207
Phone: 301 504-0508

RIN: 3041–AB68

4292. PETITION CP 97-1 REQUESTING DEVELOPMENT OF A SAFETY STANDARD FOR ESCALATORS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 2051 Consumer Product Safety Act

CFR Citation: None

Legal Deadline: None

Abstract: A petition from Scott and Diana Anderson requests development of a safety standard for escalators. The petition asserts that escalators are associated with unreasonable risks of serious injuries resulting from entrapment of feet, toes, and other body parts in openings between the moving stairs and the sides of the escalators. On May 22, 1997, the Commission published a notice in the Federal Register to solicit comments on the petition from all interested persons. The staff is preparing a briefing package for consideration by the Commission.

Timetable:

Action	Date	FR Cite
Notice to Solicit Comments on Petition	05/22/97	62 FR 28005
Comment Period End	07/21/97	
Staff Sends Briefing Package to Commission	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Deborah Tinsworth, Project Manager, Consumer Product Safety Commission, Dir. for Epidemiology & Health Sciences
Phone: 301 504-0470

RIN: 3041–AB70

4293. • CHILD RESISTANT PACKAGING OF CONSUMER PRODUCTS CONTAINING METHACRYLIC ACID

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1471 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: Under section 2(b) of the Poison Prevention Packaging Act, the Commission can require a special packaging standard for cosmetics for home use. Methacrylic acid is a chemical used as a primer for cleaning and etching fingernails prior to applying artificial nails. Methacrylic acid is associated with severe corrosive injury on contact with skin, eyes, and mucous membranes. The staff is reviewing the medical literature and available injury records to determine if serious injury or illness to children less than 5-years-old results from household use of this product. The staff will transmit a briefing package for the Commission's consideration in November 1998.

Timetable:

Action	Date	FR Cite
Staff Sends Option Package to Commission	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Susan Aitken, Project Manager, Consumer Product Safety Commission, Directorate for Epidemiology & Health Sciences
Phone: 301 504-0477

RIN: 3041–AB78

CPSC

Prerule Stage

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Proposed Rule Stage

4294. FLAMMABILITY STANDARD FOR UPHOLSTERED FURNITURE

Regulatory Plan: This entry is Seq. No. 166 in Part II of this issue of the **Federal Register**.

RIN: 3041–AB35

4295. REQUIREMENTS FOR CHILD-RESISTANT PACKAGING OF HOUSEHOLD PRODUCTS CONTAINING PETROLEUM DISTILLATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1471 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14(a)

Legal Deadline: None

Abstract: Some household products containing ten percent or more by weight of petroleum distillates are subject to requirements for child-resistant packaging by regulations issued under the Poison Prevention Packaging Act and codified at 16 CFR 1700.14(a). These products include liquid furniture polish (section 1700.14(a)(2)), lighter fluid (section 1700.14(a)(7)), and prepackaged solvents for paint (section 1700.14(a)(15)). However, many other household products containing petroleum distillates are not required to be in child-resistant packaging. On February 26, 1997, the Commission published an advance notice of proposed rulemaking (ANPRM) to initiate a proceeding which may result in mandatory requirements for child-resistant packaging of other household products containing petroleum distillates or other hydrocarbons. On April 28, 1997, the Commission extended the period for receipt of written comments on the ANPRM until July 11, 1997. In the Federal Register of July 21, 1997, the Commission reopened the comment period through September 1, 1997. The Commission will consider comments received in response to the ANPRM before deciding whether to propose requirements for child-resistant packaging of additional household products containing petroleum distillates or other hydrocarbons.

Timetable:

Action	Date	FR Cite
ANPRM	02/26/97	62 FR 8659
Extension of ANPRM Comment Period	04/28/97	62 FR 22897
ANPRM Comment Period End	05/12/97	62 FR 8659
Comment Period End	07/11/97	62 FR 22897
Reopening of ANPRM Comment Period	07/21/97	62 FR 38948
Comment Period End	09/01/97	
Staff Sends Briefing Package to Commission	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Suzanne Barone, Project Manager, Consumer Product Safety Commission, Dir. for Epidemiology & Health Sciences, Washington, DC
Phone: 301 504-0477

RIN: 3041–AB57

4296. REQUIREMENTS FOR CHILD-RESISTANCE OF MULTI-PURPOSE LIGHTERS

Regulatory Plan: This entry is Seq. No. 167 in Part II of this issue of the **Federal Register**.

RIN: 3041–AB66

4297. AMENDMENT OF LAUNDERING PROCEDURES IN FLAMMABILITY STANDARDS FOR CHILDREN'S SLEEPWEAR, CARPETS AND RUGS, AND MATTRESS PADS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1191 Flammable Fabrics Act

CFR Citation: 16 CFR 1615; 16 CFR 1616; 16 CFR 1630; 16 CFR 1631; 16 CFR 1632

Legal Deadline: None

Abstract: Flammability standards for children's sleepwear, carpets and rugs, and mattress pads contain procedures for washing and drying specimens before testing to assure that flame retardants used in these products will not be removed by repeated laundering or cleaning. The laundering procedures in all of these standards currently require use of a detergent and washing methods that are no longer representative of those used for home laundering. The staff is preparing a briefing package concerning the laundering procedures in these standards and modifications that may be needed to assure that the effect of laundering on the flammability of the products covered by these standards is assessed with equipment and methods currently used by consumers. After consideration of the briefing package, the Commission will decide whether to begin proceedings for amendment of the standards to revise their laundering procedures.

Timetable:

Action	Date	FR Cite
Briefing Package to Commission	10/00/98	
Commission Decision	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Margaret Neily, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
Phone: 301 504-0508

RIN: 3041–AB69

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Final Rule Stage

4298. REQUIREMENTS FOR CHILD-RESISTANT PACKAGING OF MINOXIDIL

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1471 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: Regulations implementing the Poison Prevention Packaging Act (PPPA) require all prescription drugs in oral dosage form that are intended for human use to be in child-resistant packaging. Topical minoxidil is a liquid medication that can be applied to the scalp to stimulate regrowth of hair. However, if ingested, minoxidil is a potent vasodilator capable of producing serious cardiovascular effects. In 1996, the Food and Drug Administration acted to permit the sale of topical minoxidil as an over-the-counter drug, thereby expanding its potential availability to consumers. On March 17, 1998, the Commission published a notice of proposed rulemaking (NPRM) to require child-resistant packaging for minoxidil preparations containing more than 14 mg of minoxidil in a single package. The Commission will consider the comments in response to the NPRM before deciding whether to issue a final rule.

Timetable:

Action	Date	FR Cite
NPRM	03/17/98	63 FR 13019
NPRM Comment Period End	06/01/98	
Staff Sends Briefing Package to Commission	10/09/98	
Commission Decision	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Suzanne Barone, Ph.D, Project Manager, Consumer Product Safety Commission, Dir. for Health Sciences and Epidemiology, Washington, DC 20207
Phone: 301 504-0477

RIN: 3041–AB72

4299. PETITION TO EXEMPT SUCRAID TM FROM SPECIAL PACKAGING REQUIREMENTS UNDER THE POISON PREVENTION PACKAGING ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 1471 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: Orphan Medical petitioned the Commission to exempt Sucraid TM, an oral solution of the enzyme sacrosidase, from special packaging requirements for oral prescription drugs under the Poison Prevention Packaging Act. Sucraid TM is an orphan drug that is the only available treatment for congenital sucrase-isomaltase deficiency. The Commission issued a notice of proposed rulemaking (NPRM) to exempt Sucraid TM on June 12, 1998. The staff will prepare a briefing package for consideration by the Commission after the comment period closes.

Timetable:

Action	Date	FR Cite
NPRM	06/12/98	63 FR 32159
NPRM Comment Period End	08/26/98	
Briefing Package to Commission	11/00/98	
Commission Decision	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Jacqueline Ferrante, Project Manager, Consumer Product Safety Commission, Dir. for Epidemiology & Health Sciences
Phone: 301 504-0477

RIN: 3041–AB73

4300. AMENDMENTS TO CLARIFY PORTIONS OF THE STANDARDS FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 1191 Flammable Fabrics Act

CFR Citation: 16 CFR 1615; 16 CFR 1616

Legal Deadline: None

Abstract: The Standards for the Flammability of Children's Sleepwear were amended September 9, 1996, to allow the marketing of certain sleepwear garments that do not meet the flammability test requirements. These garments, termed "tight-" or "snug-fitting" must not exceed maximum dimensions specified for each garment size. Several technical amendments are needed to clarify provisions of the standards, especially how the specified dimensions are to be measured on these garments. A Notice of Proposed Rulemaking (NPRM) was published on May 21, 1998. In November the staff will provide the Commission with the review of comments on the NPRM and with a recommendation as to whether the Commission should proceed to publish a final rule.

Timetable:

Action	Date	FR Cite
NPRM	05/21/98	63 FR 27877
NPRM Comment Period End	08/04/98	
Briefing Package to Commission	11/00/98	
Commission Decision	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Margaret Neily, Project Manager, Directorate For Engineering Sciences, Consumer Product Safety Commission
Phone: 301 504-0508

RIN: 3041–AB74

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Long-Term Actions

4301. BABY WALKERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1262 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500

Legal Deadline: None

Abstract: On August 2, 1994, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding that may result in the issuance of mandatory design or performance requirements for baby walkers. A baby walker is a device that supports a child so that the child can use his or her feet to move about before or while learning to walk. Typically, a baby walker consists of a fabric seat that has leg openings and is mounted to a rigid plastic deck. The deck is attached to a base that is mounted on wheels to allow mobility. In 1994, an estimated 25,500 children younger than 15 months of age were treated in hospital emergency rooms for injuries associated with baby walkers. Among the options under consideration by the Commission are mandatory performance or design requirements to reduce risks of injury associated with baby walkers, particularly those resulting to children from falls down stairs. The majority of these injuries resulted from falls down stairs. In response to the Commission's work in this area, the industry approved revisions to the voluntary standard for baby walkers in 1996 to address the hazard of falling down stairs. The staff is developing information concerning the extent of industry conformance with that voluntary standard, designated "Standard Consumer Safety Specification for Infant Walkers," SF 977-96, published by ASTM (formerly the American Society for Testing and Materials). The ASTM standard contains performance requirements to address risks of injury to children from falls down stairs associated with baby walkers. The staff will send that information to the Commission together with options for Commission action, including withdrawal of the ANPRM or further regulatory proceedings.

Timetable:

Action	Date	FR Cite
ANPRM	08/02/94	59 FR 39309
ANPRM Comment Period End	10/03/94	
Staff Sends Briefing Package to the Commission	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Barbara Jacobson, Project Manager, Consumer Product Safety Commission, Dir. for Epidemiology & Health Sciences, Washington, DC 20207
Phone: 301 504-0477

RIN: 3041–AB40

4302. AMENDMENT OF SAFETY REGULATIONS FOR CRIBS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553 Administrative Procedure Act; 15 USC 1261 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1508; 16 CFR 1509

Legal Deadline: None

Abstract: On December 16, 1996, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding that may result in amendment of the safety regulations for full-size and non-full-size cribs, 16 CFR parts 1508 and 1509. Among the regulatory alternatives under consideration is amendment of the regulations to add tests to assure that slats will not disengage from the side panels of cribs. The Commission began this proceeding after considering information about incidents in which crib slats disengaged from the side panels of cribs, creating a risk that children may become entrapped between the remaining slats or fall out of the crib. The Commission will consider written comments received in response to the ANPRM and assess progress toward amending the voluntary standard before deciding whether to continue the proceeding by publication of a notice of proposed rulemaking (NPRM) or terminate further proceedings in reliance on the voluntary standard.

Timetable:

Action	Date	FR Cite
ANPRM	12/16/96	61 FR 65996
ANPRM Comment Period End	02/14/97	
Staff Sends Briefing Package To Commission	00/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Deborah Tinsworth, Project Manager, Consumer Product Safety Commission, Dir. for Epidemiology & Health Sciences, Washington, DC 20207
Phone: 301 504-0470

RIN: 3041–AB67

4303. REQUIREMENTS FOR BUNK BEDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 2051 Consumer Product Safety Act; 15 USC 1261 Federal Hazardous Substances Act

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: On January 22, 1998, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding for development of a standard to address risks of injury and death that may be associated with bunk beds constructed so that children can become entrapped in the beds' structure or become wedged between the bed and a wall. This ANPRM was issued after the staff briefed the Commission on the incident data, the adequacy of an existing ASTM voluntary standard, whether there is substantial compliance with that voluntary standard, and other matters. The Commission's staff will review comments received in response to the ANPRM, prepare additional information, and report to the Commission with its recommendation on whether to proceed with the rulemaking by publishing a notice of proposed rulemaking (NPRM).

Timetable:

Action	Date	FR Cite
ANPRM	01/22/98	63 FR 3280
ANPRM Comment Period End	04/07/98	
Staff Sends Briefing Package To Commission	00/00/00	

CPSC — Long-Term Actions

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John D. Preston, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences

Phone: 301 504-0494

RIN: 3041–AB75

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Completed Actions

4304. REQUIREMENTS FOR CHILD-RESISTANT PACKAGING; HOUSEHOLD PRODUCTS AND ORAL PRESCRIPTION DRUGS WITH FLUORIDE

Priority: Substantive, Nonsignificant

CFR Citation: 16 CFR 1700.14

Completed:

Reason	Date	FR Cite
Final Action	06/02/98	63 FR 29949
Final Action Effective	03/02/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jacqueline Ferrante

Phone: 301 504-0477

RIN: 3041–AB76

[FR Doc. 98-23552 Filed 11-06-98; 8:45 am]
BILLING CODE 6355-01-F

federal register

Monday
November 9, 1998

Part LI

Farm Credit Administration

Semiannual Regulatory Agenda

FARM CREDIT ADMINISTRATION (FCA)

FARM CREDIT ADMINISTRATION

12 CFR Ch. VI

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Farm Credit Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Farm Credit Administration (FCA), as an independent regulatory agency in compliance with Executive Order 12866, sets forth the following agenda of regulations which it will have under development and review during the period of October 1998 through April 1999.

FOR FURTHER INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, (703) 883-4498, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small entities. FCA regulations, which apply to Farm Credit banks and associations and certain other federally chartered entities, generally do not and will not have a substantial impact on "small entities" as that term is defined in the Regulatory Flexibility Act.

The FCA, as an independent regulatory agency, is exempt from certain provisions of Executive Order 12866. It participates in this joint publication to further the public interest by including the FCA in a single source of information concerning current and projected rulemaking and reviews of existing regulations, pursuant to section 4 of the Executive Order 12866.

Dated: August 28, 1998.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4305	Federal Agricultural Mortgage Corporation Risk-Based Capital Regulation	3052-AB56
4306	Leasing Authorities	3052-AB63
4307	Loan Policies and Operations (Comprehensive Borrower Rights)	3052-AB69
4308	Organization (FCS Board Compensation Limits)	3052-AB79
4309	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (FCB Assistance to Associations)	3052-AB80
4310	Releasing Information	3052-AB84

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4311	Organization (Balloting and Stockholder Reconsideration Issues)	3052-AB71
4312	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (Investment Management)	3052-AB76

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4313	Organization and Functions (FCA Organization)	3052-AB82
4314	Statement on Regulatory Burden	3052-AB85
4315	Organization (Reorganization Authorities for System Institutions)	3052-AB86

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4316	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (Capital—Phase III)	3052-AB58
4317	Loan Policies and Operations; Lending Authorities (Secondary Market Participations)	3052-AB59
4318	Loan Policies and Operations (Other Financing Institutions)	3052-AB67
4319	Assessment and Apportionment of Administrative Expenses (Technical Change)	3052-AB83

FARM CREDIT ADMINISTRATION (FCA)

Proposed Rule Stage

4305. FEDERAL AGRICULTURAL MORTGAGE CORPORATION RISK-BASED CAPITAL REGULATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 2279bb-1; 12 USC 2279aa-11(a)(1)(B)(ii)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This regulation will establish a risk-based capital requirement for the Federal Agricultural Mortgage Corporation (also known as Farmer Mac). The law says this regulatory requirement will be the amount of capital needed to survive a 10-year period of unfavorable conditions. The conditions include both (a) high loan defaults and losses and (b) very large changes in interest rates. The law includes some additional details on the level of unfavorable conditions to be included in the test.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation and Policy Division, Office and Policy and and Analysis, 703-883-4498, nicholsonc@fca.gov

FOR FURTHER INFORMATION: http://www.fca.gov

EMAIL: info-line@fca.gov

Agency Contact: George D. Irwin, Director, Office of Secondary Market Oversight, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4280
TDD: 703 883-4444
Fax: 703 734-5784
Email: irwing@fca.gov

RIN: 3052–AB56

4306. LEASING AUTHORITIES

Priority: Other Significant

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2019; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2097

CFR Citation: 12 CFR 616

Legal Deadline: None

Abstract: Would develop comprehensive leasing regulations for all Farm Credit System institutions.

Timetable:

Action	Date	FR Cite
NPRM	10/15/97	62 FR 53581
NPRM Comment Period End	12/15/97	
Second NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

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Agency Contact: John Hays, Policy Analyst, Office of Policy Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
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TDD: 703 883-4444
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Email: haysj@fca.gov

RIN: 3052–AB63

4307. LOAN POLICIES AND OPERATIONS (COMPREHENSIVE BORROWER RIGHTS)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: Would revise borrower rights regulations to provide clarification and remove unnecessary burdens.

Timetable:

Action	Date	FR Cite
NPRM	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov. FOR FURTHER INFORMATION:http://www.fca.gov EMAIL:info-line@fca.gov

Agency Contact: Gaylon Dykstra, Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
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Email: dykstrag@fca.gov

RIN: 3052–AB69

4308. ORGANIZATION (FCS BOARD COMPENSATION LIMITS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2011; 12 USC 2021; 12 USC 2071; 12 USC 2091; 12 USC 2121; 12 USC 2142; 12 USC 2183; 12 USC 2203; 12 USC 2209; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2279a to 2279f-1; 12 USC 2279aa-5(e)

CFR Citation: 12 CFR 611

Legal Deadline: None

Abstract: Would remove Agency prior approval for certain instances in which bank director compensation can exceed the adjusted maximum.

Timetable:

Action	Date	FR Cite
NPRM	09/15/98	63 FR 49305
NPRM Comment Period End	10/15/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

FCA — Proposed Rule Stage

FOR FURTHER INFORMATION:
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Agency Contact: Alan Markowitz, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
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Email: markowitza@fca.gov

RIN: 3052–AB79

4309. FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (FCB ASSISTANCE TO ASSOCIATIONS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2013; 12 USC 2015; 12 USC 2018; 12 USC 2019; 12 USC 2020; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2076; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2132; 12 USC 2146; 12 USC 2154

CFR Citation: 12 CFR 615

Legal Deadline: None

Abstract: Would clarify when Agency prior approval is needed for approval of financial assistance provided to associations by Farm Credit Banks and agricultural credit banks.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

FOR FURTHER INFORMATION:
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Agency Contact: Dennis K. Carpenter, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444
Fax: 703 734-5784
Email: carpenterd@fca.gov

RIN: 3052–AB80

4310. • RELEASING INFORMATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 552; 12 USC 2243; 12 USC 2252; EO 12600

CFR Citation: 12 CFR 602

Legal Deadline: None

Abstract: Would conform FCA regulations to Department of Justice guidance and clarify procedures for processing requests for exempt information.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

FOR FURTHER INFORMATION:
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Agency Contact: John J. Hays, Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
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RIN: 3052–AB84

FARM CREDIT ADMINISTRATION (FCA) — Final Rule Stage

4311. ORGANIZATION (BALLOTING AND STOCKHOLDER RECONSIDERATION ISSUES)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2011; 12 USC 2021; 12 USC 2071; 12 USC 2091; 12 USC 2121; 12 USC 2142; 12 USC 2183; 12 USC 2203; 12 USC 2209; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2279a to 2279f-1; 12 USC 2279aa-5(e)

CFR Citation: 12 CFR 611

Legal Deadline: None

Abstract: Would address regulatory burden issues concerning balloting and voter reconsideration when FCS institutions engage in corporate restructuring activities (i.e., mergers).

Timetable:

Action	Date	FR Cite
NPRM	03/20/98	63 FR 13564
NPRM Comment Period End	04/20/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

FOR FURTHER INFORMATION:
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Agency Contact: Alan Markowitz, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444
Fax: 703 734-5784
Email: markowitza@fca.gov

RIN: 3052–AB71

FCA — Final Rule Stage

4312. FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (INVESTMENT MANAGEMENT)

Priority: Other Significant

Legal Authority: 12 USC 2013; 12 USC 2015; 12 USC 2018; 12 USC 2019; 12 USC 2020; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2076; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2132; 12 USC 2146; 12 USC 2154

CFR Citation: 12 CFR 615

Legal Deadline: None

Abstract: Would clarify and revise the current investment management regulations taking into consideration petitions received to amend the regulations, safety and soundness and similar regulations established by other financial institution regulators.

Timetable:

Action	Date	FR Cite
NPRM	06/18/98	63 FR 33281
NPRM Comment Period End	08/17/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

FOR FURTHER INFORMATION:
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EMAIL: info-line@fca.gov

Agency Contact: Laurie A. Rea, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444
Fax: 703 734-5784
Email: real@fca.gov

RIN: 3052–AB76

FARM CREDIT ADMINISTRATION (FCA) — Long-Term Actions

4313. ORGANIZATION AND FUNCTIONS (FCA ORGANIZATION)

Priority: Info./Admin./Other

CFR Citation: 12 CFR 600

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia DiMuzio
Phone: 703 883-4498
TDD: 703 883-4444
Fax: 703 734-5784
Email: dimuziop@fca.gov

RIN: 3052–AB82

4314. • STATEMENT ON REGULATORY BURDEN

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2252; EO 12866

CFR Citation: 12 CFR 600 to 650

Legal Deadline: None

Abstract: The FCA is requesting commenters to identify regulations and policies that duplicate other requirements, are ineffective, or impose burdens that are greater than the benefits received. The FCA is committed to continually updating its regulations and policies so they remain useful to the Farm Credit System and the public without sacrificing safety and soundness.

Timetable:

Action	Date	FR Cite
Notice of Intent for Regulatory Burden	08/18/98	63 FR 44176
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

FOR FURTHER INFORMATION:
http://www.fca.gov

EMAIL: info-line@fca.gov

Agency Contact: S. Robert Coleman, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444
Fax: 703 734-5784
Email: colemanr@fca.gov

RIN: 3052–AB85

4315. • ORGANIZATION (REORGANIZATION AUTHORITIES FOR SYSTEM INSTITUTIONS)

Priority: Other Significant

Legal Authority: 12 USC 2011; 12 USC 2021; 12 USC 2071; 12 USC 2091; 12 USC 2121; 12 USC 2142; 12 USC 2183; 12 USC 2203; 12 USC 2209; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2279a to 2279f-1; 12 USC 2279aa5(e)

CFR Citation: 12 CFR 611

Legal Deadline: None

Abstract: Would establish regulations under which a bank or large association within the Farm Credit System can terminate its charter as provided for in the Farm Credit Act of 1971, as amended.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

FOR FURTHER INFORMATION:
http://www.fca.gov

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FCA — Long-Term Actions

Agency Contact: S. Robert Coleman, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
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Email: colemanr@fca.gov

RIN: 3052–AB86

FARM CREDIT ADMINISTRATION (FCA) — Completed Actions

4316. FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (CAPITAL—PHASE III)

Priority: Other Significant

CFR Citation: 12 CFR 615

Completed:

Reason	Date	FR Cite
Final Action	07/22/98	63 FR 39219
Final Action Effective	09/14/98	63 FR 49265

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dennis K. Carpenter
Phone: 703 883-4498
TDD: 703 883-4444
Fax: 703 734-5784
Email: carpenterd@fca.gov

RIN: 3052–AB58

4317. LOAN POLICIES AND OPERATIONS; LENDING AUTHORITIES (SECONDARY MARKET PARTICIPATIONS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 614.4000; 12 CFR 614.4010; 12 CFR 614.4030; 12 CFR 614.4040; 12 CFR 614.4050

Completed:

Reason	Date	FR Cite
Withdrawn - No Action Anticipated in Next 12 Months	07/22/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Eric Howard
Phone: 703 883-4498
TDD: 703 883-4444
Fax: 703 734-5784
Email: howarde@fca.gov

RIN: 3052–AB59

4318. LOAN POLICIES AND OPERATIONS (OTHER FINANCING INSTITUTIONS)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 614

Completed:

Reason	Date	FR Cite
Final Action	07/07/98	63 FR 36541
Final Action Effective	08/06/98	63 FR 41958

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Eric Howard
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TDD: 703 883-4444
Fax: 703 734-5784
Email: howarde@fca.gov

RIN: 3052–AB67

4319. ASSESSMENT AND APPORTIONMENT OF ADMINISTRATIVE EXPENSES (TECHNICAL CHANGE)

Priority: Info./Admin./Other

CFR Citation: 12 CFR 607

Completed:

Reason	Date	FR Cite
Final Action	06/24/98	63 FR 34267
Final Action Effective	08/03/98	63 FR 41184

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew D. Jacob
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RIN: 3052–AB83

[FR Doc. 98-23924 Filed 11-06-98; 8:45 am]
BILLING CODE 6705-01-F

federal register

Monday
November 9, 1998

Part LII

Farm Credit System Insurance Corporation

Semiannual Regulatory Agenda

FARM CREDIT SYSTEM INSURANCE CORPORATION (FCSIC)

FARM CREDIT SYSTEM INSURANCE CORPORATION

12 CFR Ch. XIV

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Farm Credit System Insurance Corporation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Farm Credit System Insurance Corporation (Corporation), in compliance with Executive Order 12866, sets forth the following agenda of regulations which it will have under development and review during the period of October 1998 through April 1999.

FOR FURTHER INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, Virginia 22102, (703) 883-4498, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small entities. Corporation regulations, which apply to Farm Credit banks and associations, generally do not and will not have a substantial impact on "small entities" as that term is defined in the Regulatory Flexibility Act.

The Corporation, as an independent regulatory agency, is exempt from certain provisions of Executive Order 12866. It participates in this joint publication to further the public interest by including the Corporation in a single source of information concerning current and projected rulemaking and reviews of existing regulations, pursuant to section 4 of the Executive Order 12866.

Dated: August 28, 1998.

Floyd Fithian,

Secretary, Farm Credit System Insurance Corporation Board.

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4320	Enforcement of Nondiscrimination on the Basis of Handicap	3055-AA01
4321	Referral of Known and Suspected Criminal Violations	3055-AA02
4322	Farm Credit System Reform Act of 1996	3055-AA04

4320. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 1406

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dorothy L. Nichols
Phone: 703 883-4380
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Email: nicholsd@fca.gov

RIN: 3055–AA01

4321. REFERRAL OF KNOWN AND SUSPECTED CRIMINAL VIOLATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 1417

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dorothy L. Nichols
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Email: nicholsd@fca.gov

RIN: 3055–AA02

4322. FARM CREDIT SYSTEM REFORM ACT OF 1996

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 12 CFR 1400 to 1410

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dorothy L. Nichols
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RIN: 3055–AA04

[FR Doc. 98-23925 Filed 11-06-98; 8:45 am]
BILLING CODE 6710-01-F

federal register

Monday
November 9, 1998

Part LIII

Federal Communications Commission

Semiannual Regulatory Agenda

FEDERAL COMMUNICATIONS COMMISSION (FCC)

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

Unified Agenda of Federal Regulatory and Deregulatory Actions; October 1998

AGENCY: Federal Communications Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: Twice a year, the Commission publishes a list in the Unified Agenda of those major items and other significant proceedings under development or review that pertain to the Regulatory Flexibility Act. See 5 U.S.C. 602. The Agenda also provides the CFR citations and legal authorities which govern these proceedings. The Agenda will be published in the **Federal Register** in April and October of each year.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Belford Lawson, Attorney-Adviser, Office of Communications Business Opportunities, FCC, Room 644E, 1919 M Street NW., Washington, DC 20554, (202) 418-7264.

SUPPLEMENTARY INFORMATION:

Unified Agenda of Major and Other Significant Proceedings

The Commission encourages public participation in the FCC rulemaking process. To help keep the public informed of significant rulemaking proceedings, the Commission has prepared an agenda of important proceedings now in progress. OMB will publish the Unified Agenda in the **Federal Register** in April and October of each year.

The following terms may be helpful in understanding the status of the proceedings included in this report:

Docket Number—assigned to a proceeding if the Commission has issued either a Notice of Proposed Rulemaking or a Notice of Inquiry concerning the matter under consideration. The Commission has used docket numbers since January 1, 1978. Docket numbers consist of the last two digits of the calendar year in which the docket was established, plus a sequential number, which begins at 1 with the first docket initiated during a calendar year (e.g., Docket No. 80-1 or Docket No. 83-1). The abbreviation for the responsible Bureau usually precedes the docket number, as in "MM Docket No. 79-164," which indicates that the responsible Bureau is the Mass Media Bureau. A docket number consisting of only five digits (e.g., Docket No. 29622) indicates that the docket was established before January 1, 1978.

Notice of Inquiry (NOI)—issued by the Commission when it is seeking information on a broad subject or trying to generate ideas on a given topic. A comment period is specified during which all interested parties may submit comments.

Notice of Proposed Rulemaking (NPRM)—issued by the Commission when it is proposing a specific change to the FCC Rules and Regulations. Before any changes are actually made, interested parties may submit written comments on the proposals.

Further Notice of Proposed Rulemaking (FNPRM)

Memorandum Opinion and Order (MO&O)—issued by the Commission to deny a petition for rulemaking, conclude an inquiry, modify a decision, or deny a petition for reconsideration of a decision.

Rulemaking (RM) Number—assigned to a proceeding after the appropriate Bureau/Office has reviewed a petition for rulemaking but before the Commission has taken action on the petition.

Report and Order (R&O)—issued by the Commission to state a new or amended rule or state that the FCC Rules will not be changed.

Magalie Roman Salas,
Secretary,
Federal Communications Commission.

CABLE SERVICES BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4323	Cable Television Rate Regulation	3060-AF41
4324	Cable Television Rate Regulation: Cost of Service	3060-AF48
4325	Customer Service Standards	3060-AF69
4326	Cable Home Wiring	3060-AG02
4327	Over-the-Air Reception Devices	3060-AG24
4328	Closed Captioning	3060-AG26
4329	Cable Act Reform	3060-AG27
4330	Competitive Availability of Navigation Devices	3060-AG28
4331	Implementation of Section 551 of the Telecommunications Act of 1996, Parental Choice in Television Programming	3060-AG59
4332	Telecommunications Act of 1996, Pole Attachment Provisions	3060-AG71
4333	Digital Must Carry	3060-AG91

FCC

CABLE SERVICES BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4334	Small Systems	3060-AF71

COMMON CARRIER BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4335	Rules and Policies Regarding Calling Number Identification Services (CC Docket 91-281)	3060-AF07
4336	Administration of the North American Numbering Plan	3060-AF50
4337	Use of N11 Codes and Other Abbreviated Dialing Arrangements	3060-AF51
4338	In the Matter of Billed Party Preference for 0+ InterLATA Calls	3060-AF60
4339	Implementation of the Universal Service Portions of the 1996 Telecommunications Act	3060-AF85
4340	Integrated Services Digital Network (ISDN)	3060-AG08
4341	Toll Free Service Access Codes, Fourth Report and Order and Memorandum Opinion and Order	3060-AG11
4342	Implementation of Section 273 of the Telecommunications Act of 1996; Notice of Proposed Rulemaking	3060-AG36
4343	Implementation of Non-Accounting Safeguards, Sec. 271 & 272 of Communications Act of 1996 & Regulatory Treatment of LEC Provisions of Interexchange Svcs. Orig. in LEC Local Exch. Area	3060-AG37
4344	Policies and Rules Governing Interstate Pay-Per-Call and Other Information Services Pursuant to the Telecommunications Act of 1996	3060-AG42
4345	Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information	3060-AG43
4346	Telemessaging, Electronic Publishing, and Alarm Monitoring Services	3060-AG44
4347	Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, As Amended	3060-AG45
4348	Implementation of the Subscriber Selection Changes Provision of the Telecommunications Act of 1996	3060-AG46
4349	Implementation of Section 402(b)(1)(a) of the Telecommunications Act of 1996 (LEC Tariff Streamlining Provisions)	3060-AG47
4350	Regulatory Treatment of LEC Provision of Interexchange Service Originating in the LEC's Local Exchange Area	3060-AG48
4351	Access Charge Reform	3060-AG49
4352	Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order	3060-AG50
4353	Enhanced 911 Services for Wireline	3060-AG60
4354	Administration of the North American Numbering Plan, Carrier Identification Codes (CICs)	3060-AG61
4355	Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996	3060-AG62
4356	In the Matter of Inside Wire, Third Report and Order	3060-AG63
4357	Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996 (Second Report and Order)	3060-AG64
4358	Amendment of Rules Governing Procedures To Be Followed When Formal Complaints Are Filed Against Common Carriers	3060-AG65
4359	Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services	3060-AG72
4360	Notice of Proposed Rulemaking Regarding Detariffing of Interstate Exchange Access Services for Non-Incumbent Local Exchange Carriers	3060-AG73
4361	In the Matter of the Communications Assistance for Law Enforcement Act (CALEA), Notice of Proposed Rulemaking	3060-AG74
4362	In the Matter of the Telecommunications Relay Services, the Americans With Disabilities Act of 1990, and the Telecommunications Act of 1996	3060-AG75
4363	In the Matter of Telecommunications Relay Services, the Americans With Disabilities Act of 1990, and the Telecommunications Act of 1996	3060-AG76
4364	Toll Fraud	3060-AG77
4365	1998 Biennial Regulatory Review/Review of Accounting and Cost Allocation Requirements	3060-AG98
4366	Biennial Review of ARMIS Reporting requirements	3060-AG99
4367	Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, Operator Services, and Directory Assistance	3060-AH00
4368	Access Charge Reform for Rate-Of-Return Local Exchange Carriers	3060-AH01
4369	Deployment of Wireline Services Offering Advanced Telecommunications Capability	3060-AH03
4370	Elimination of Part 41: Telegraph and Telephone Franks	3060-AH04
4371	Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans/Pursuant to Section 706 of the 1996 Telecom Act	3060-AH05
4372	Streamlined Contributor Reporting Requirements	3060-AH06

FCC

COMMON CARRIER BUREAU—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4373	In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing Disabilities	3060-AH08

COMPLIANCE AND INFORMATION BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4374	In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Alert System	3060-AF21
4375	In the Matter of the Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules To Incorporate the Forfeiture Guidelines	3060-AF65
4376	In the Matter of Amendment of the Commission's Rules Concerning the Inspection of Radio Installations on Large Cargo and Small Passenger Ships	3060-AG13
4377	Amendment of Part 2, Subpart K of the FCC's Rules Regarding the Importation of Radio Frequency Devices Capable of Causing Harmful Interference	3060-AH07

OFFICE OF ENGINEERING AND TECHNOLOGY—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4378	Revision of Marketing and Authorization Process	3060-AF29
4379	RF Exposure Standard	3060-AF32
4380	Cable System Compatibility With TV Receivers and VCRs	3060-AF38
4381	Wind Profiler Radar Systems	3060-AF45
4382	Millimeter Wave Spectrum Allocation	3060-AF61
4383	Digital Equipment Deregulation	3060-AF73
4384	MSS Spectrum Allocation	3060-AF75
4385	Arecibo Coordination Zone	3060-AG15
4386	Medical Care Telemetry Devices	3060-AG18
4387	Unlicensed NII at 5 GHz	3060-AG19
4388	Revision of the Experimental Radio Service Regulations	3060-AG55
4389	Reallocation of TV Channels 60-69	3060-AG69
4390	Streamline the Equipment Authorization Process	3060-AG70
4391	Allocation of 455-456 MHz and 459-460 MHz	3060-AG89
4392	V-Chip Technical Requirements	3060-AG90
4393	Dedicated Short Range Communications of Intelligent Transportation Services	3060-AG94
4394	Regulations for RF Lighting Devices	3060-AG95
4395	Equipment Authorization Streamline II/Mutual Recognition Agreements and the GMPCS MOU	3060-AG96
4396	Uniden Scanners/Cellular Radio Signals	3060-AG97

OFFICE OF ENGINEERING AND TECHNOLOGY—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4397	Standards for ISM Equipment	3060-AE97
4398	Spread Spectrum Rules	3060-AG17

FCC

OFFICE OF GENERAL COUNSEL—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4399	Amendment of the Commission's Ex Parte Rules in Joint Board Proceedings	3060-AH02

INTERNATIONAL BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4400	Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures	3060-AD70
4401	Satellite Communications—NGO MSS	3060-AF42
4402	Establishing Rules and Policies for the Use of Spectrum for Mobile Satellite Service in the L-Band	3060-AF89
4403	Preemption of Local Zoning Regulation of Satellite Earth Stations	3060-AF92
4404	Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band	3060-AF93
4405	Redesignation of the 27.5-29.5 GHz Frequency Band	3060-AF94
4406	Amendment of Policy To Allow Non-U.S. Licensed Space Stations To Provide Service in the United States	3060-AG31
4407	Streamlining Regulations Related to International Common Carriers	3060-AG84

INTERNATIONAL BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4408	Rules and Policies on Foreign Participation in the U.S. Telecommunications Market	3060-AG67

MASS MEDIA BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4409	Advanced Television Service (MM Docket 87-268)	3060-AE24
4410	Transfer of Control of Non-Stock Entities MM Docket 89-77	3060-AE31
4411	Local Television Ownership Rule (MM Docket No. 91-221)	3060-AF79
4412	Filing of Television Network Affiliation Contracts (MM Docket No. 95-40)	3060-AF80
4413	Rules Governing Broadcast Television Advertising (MM Docket No. 95-90)	3060-AF81
4414	Attribution of Broadcast Interests (MM Docket Nos. 94-150, 92-51, 87-154)	3060-AF82
4415	EEO Streamlining Proposals (MMB Docket No. 96-16)	3060-AG29
4416	Minor Modifications of Broadcast Licenses Without Prior Construction Permit	3060-AG30
4417	Newspaper/Broadcast Cross-Ownership	3060-AG53
4418	National Television Ownership Rules (MM Docket Nos. 96-222, 91-221, 87-8)	3060-AG54
4419	Main Studio/Public File Requirements for Broadcasters (MMB Docket 97-138)	3060-AG68
4420	Competitive Bidding for Broadcast Services	3060-AG78
4421	1998 Biennial Review of Broadcast Ownership	3060-AG79
4422	1998 Biennial Review-Streamlining of Mass Media Applications, Rules, and Processes	3060-AG80
4423	Review of Technical Rules in Parts 73 and 74	3060-AG81

OFFICE OF MANAGING DIRECTOR—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4424	Assessment and Collection of Regulatory Fees for FY 1998	3060-AG66
4425	Assessment and Collection of Regulatory Fees for FY 1999	3060-AG92

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WIRELESS TELECOMMUNICATIONS BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4426	Amendment to Part 27 of the FCC's Rules To Revise Rules for Services in the 2.3GHz Band and To Include Licensing of Services in the 47 Ghz Band	3060-AG93

WIRELESS TELECOMMUNICATIONS BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4427	Amendment of Part 80 of the Commission's Rules Concerning VHF Maritime Operations	3060-AF14
4428	Rulemaking to Amend Part 1 and Part 21 to Redesignate the 27.5-29.5 GHz Band and To Establish Rules and Policies for Local Multi-Point Distribution Service	3060-AF26
4429	Reframing	3060-AF35
4430	Future Development of 800 MHz SMR; Competitive Bidding Wide Area	3060-AF47
4431	Interconnection Obligations Pertaining to Commercial Mobile Radio Services	3060-AF58
4432	Implementation of Section 309(j) of the Communications Act, Competitive Bidding; Narrowband PCS Competitive Bidding Rules	3060-AF99
4433	Implementation of Section 309(j) of the Communications Act, Competitive Bidding; IVDS Competitive Bidding Rules	3060-AG00
4434	39 GHz Channel Plan	3060-AG16
4435	Implementation of Section 309(j) of the Communications Act, Competitive Bidding Broadband PCS F Block Rules	3060-AG21
4436	Amendment of Part 90 of the FCC's Rules To Provide for the Use of the 220-222 MHz Band	3060-AG23
4437	Revision of the Commission's Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems	3060-AG34
4438	Wireless Communications Services	3060-AG56
4439	Implementation of Section 225 of the Telecommunications Act of 1996; Access to Telecommunication Services and Equipment, and Customer Premise Equipment, for Persons With Disabilities	3060-AG58
4440	Development of Operational, Technical, and Spectrum Requirements for Public Safety Communications Requirements	3060-AG85
4441	Multiple Access Systems	3060-AG86
4442	Amendment of Part I of the Commission's Rules—Competitive Bidding Procedures	3060-AG87
4443	Amendment of the Commission's Rules Regarding Installment Payment Financing Payment for Personal Communications Services (PCS) Licensees	3060-AG88

FEDERAL COMMUNICATIONS COMMISSION (FCC)
CABLE SERVICES BUREAU

Long-Term Actions

4323. CABLE TELEVISION RATE REGULATION

Priority: Other Significant

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
NPRM	01/04/93	58 FR 48
R&O and FNPRM	05/21/93	58 FR 29736
MO&O and FNPRM	08/18/93	58 FR 43816
3rd R&O	11/30/93	58 FR 63087
Order on Recon, 4th R&O, and 5th NPRM	04/15/94	59 FR 17943
3rd Order on Recon	04/15/94	59 FR 17961
5th Order on Recon and FNPRM	10/13/94	59 FR 51869
4th Order on Recon	10/21/94	59 FR 53113
6th Order on Recon, 5th R&O, and 7th NPRM	12/06/94	59 FR 62614
7th Order on Recon	01/25/95	60 FR 4863
9th Order on Recon	02/27/95	60 FR 10512
8th Order on Recon	03/17/95	60 FR 14373
6th R&O and 11th Order on Recon	07/12/95	60 FR 35854
13th Order on Recon	10/05/95	60 FR 52106
12th Order on Recon	10/26/95	60 FR 54815
10th Order on Recon	04/08/96	61 FR 15388
Order on Recon of the 1st R&O and Further NPRM	04/15/96	61 FR 16447
MO&O	02/12/97	62 FR 6491
Report on Cable Industry Prices	02/24/97	62 FR 8245
R&O	03/31/97	62 FR 15118
14th Order on Recon	10/15/97	62 FR 53572

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Nancy Stevenson
Phone: 202 418-7039
TDD: 202 418-7172

RIN: 3060–AF41

FCC—CABLE

Long-Term Actions

4324. CABLE TELEVISION RATE REGULATION: COST OF SERVICE

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
NPRM	07/30/93	58 FR 40762
R&O	04/15/94	59 FR 17975
2nd NPRM	04/15/94	59 FR 18066
MO&O	10/14/94	59 FR 52087
2nd R&O/1st Order on Recon/FNPRM	03/08/96	61 FR 9361
R&O	03/02/93	58 FR 11970
NPRM	02/01/95	61 FR 3657
1st Order on Recon & FNPRM	02/16/96	61 FR 6210
FNRPM	09/03/97	62 FR 46453
R&O and 2d FNPRM	11/14/97	62 FR 60165

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Nancy Stevenson
Phone: 202 418-7039
TDD: 202 418-7172

RIN: 3060–AF48

4325. CUSTOMER SERVICE STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
NPRM	12/23/92	57 FR 61038
R&O	04/19/93	58 FR 21107

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Nancy Stevenson
Phone: 202 418-7039
TDD: 202 418-7172

RIN: 3060–AF69

4326. CABLE HOME WIRING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
NPRM	11/17/92	57 FR 54209
R&O	03/02/93	58 FR 11970
NPRM	02/01/96	61 FR 3657
1st Order on Recon & FNPRM	02/16/96	61 FR 6210
FNRPM	09/03/97	62 FR 46453
R&O and 2d FNPRM	11/14/97	62 FR 60165

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Claire Blue
Phone: 202 418-7043
TDD: 202 418-7172

RIN: 3060–AG02

4327. OVER-THE-AIR RECEPTION DEVICES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 25; 47 CFR 1

Timetable:

Action	Date	FR Cite
R&O & FNPRM	03/15/96	61 FR 10710
NPRM	04/18/96	61 FR 16890
R&O, MO&O, FNPRM	09/04/96	61 FR 46557

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Darryl Cooper
Phone: 202 418-1039
TDD: 202 418-7172

RIN: 3060–AG24

4328. CLOSED CAPTIONING

Priority: Other Significant

CFR Citation: 47 CFR 79

Timetable:

Action	Date	FR Cite
NOI	12/15/95	60 FR 65052
Order	01/29/96	61 FR 2781
Order	03/12/96	61 FR 9963
Report	08/14/96	61 FR 42249
NPRM	02/03/97	62 FR 4959
Order	03/24/97	62 FR 13853
R&O	09/16/97	62 FR 48487
FNRPM	01/21/98	63 FR 3070

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marcia Glauberman
Phone: 202 418-7046
TDD: 202 418-7172

RIN: 3060–AG26

4329. CABLE ACT REFORM

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
Order & NPRM	04/30/96	61 FR 19013

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Nancy Stevenson
Phone: 202 418-7039
TDD: 202 418-7172

RIN: 3060–AG27

4330. COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
NPRM	03/05/97	62 FR 10011
R&O	07/15/98	63 FR 38089

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Thomas Horan
Phone: 202 418-2486
TDD: 202 418-7172

RIN: 3060–AG28

4331. IMPLEMENTATION OF SECTION 551 OF THE TELECOMMUNICATIONS ACT OF 1996, PARENTAL CHOICE IN TELEVISION PROGRAMMING

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
Public Notice	04/23/97	62 FR 24654
Public Notice	05/27/97	62 FR 28703
Public Notice	07/16/97	62 FR 38090
Public Notice	09/15/97	62 FR 48281

Next Action Undetermined

FCC—CABLE

Long-Term Actions

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Nancy Stevenson
Phone: 202 418-7039

RIN: 3060–AG59

4332. TELECOMMUNICATIONS ACT OF 1996, POLE ATTACHMENT PROVISIONS

Priority: Other Significant

CFR Citation: 47 CFR 1.1401 to 1.1416

Timetable:

Action	Date	FR Cite
NPRM	08/18/97	62 FR 43963
R&O	03/12/98	63 FR 12013

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Libby Beaty
Phone: 202 418-2294
TDD: 202 418-7172

RIN: 3060–AG71

4333. DIGITAL MUST CARRY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	08/07/98	63 FR 42330

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ben Golant
Phone: 202 418-7111
TDD: 202 418-7172

RIN: 3060–AG91

FEDERAL COMMUNICATIONS COMMISSION (FCC)
CABLE SERVICES BUREAU

Completed Actions

4334. SMALL SYSTEMS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 76

Completed:

Reason	Date	FR Cite
Final Action	10/15/97	62 FR 53572

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Claire Blue
Phone: 202 418-7043
TDD: 202 418-7172

RIN: 3060–AF71

FEDERAL COMMUNICATIONS COMMISSION (FCC)
COMMON CARRIER BUREAU

Long-Term Actions

4335. RULES AND POLICIES REGARDING CALLING NUMBER IDENTIFICATION SERVICES (CC DOCKET 91-281)

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 64.1600 to 64.1604

Timetable:

Action	Date	FR Cite
NPRM	09/26/91	56 FR 57300
FNPRM	04/18/94	59 FR 18349
R&O	04/18/94	59 FR 18318
Second R&O and Third NPRM	06/02/95	60 FR 28775
Order	10/30/95	
Order	11/30/95	
Order & Fourth NPRM	11/30/95	60 FR 63491
Third R&O	06/23/97	62 FR 34015

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jared Carlson
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RIN: 3060–AF07

4336. ADMINISTRATION OF THE NORTH AMERICAN NUMBERING PLAN

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 151; 47 CFR 154; 47 CFR 201 to 205; 47 CFR 403; 47 CFR 52.1 to 52.99

Timetable:

Action	Date	FR Cite
NOI	11/10/92	57 FR 53462
NPRM	05/10/94	59 FR 24103
R&O	07/28/95	60 FR 58737
2d R&O	09/06/96	61 FR 47284
3rd R&O	10/09/97	62 FR 55179

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kris Monteith
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Email: kmonteith@fcc.gov

RIN: 3060–AF50

4337. USE OF N11 CODES AND OTHER ABBREVIATED DIALING ARRANGEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	05/29/92	57 FR 22681
First R&O	02/26/97	62 FR 8633

FCC—CCB

Long-Term Actions

Action	Date	FR Cite
FNPRM	02/26/97	62 FR 8671

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Judy Albert
Phone: 202 418-2378
Fax: 202 418-2345
Email: jalbert@fcc.gov

RIN: 3060–AF51

4338. IN THE MATTER OF BILLED PARTY PREFERENCE FOR 0+ INTERLATA CALLS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 64.703; 47 CFR 64.703(a)(4); 47 CFR 64.709; 47 CFR 64.710

Timetable:

Action	Date	FR Cite
NPRM	05/08/92	57 FR 24574
NPRM Comment Period End	08/27/92	
FNPRM	06/06/94	59 FR 30754
FNPRM Comment Period End	09/14/94	
2nd FNPRM	06/06/96	
FNPRM Comment Period End	08/16/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Adrien Auger
Phone: 202 418-0960
Fax: 202 418-0236

RIN: 3060–AF60

4339. IMPLEMENTATION OF THE UNIVERSAL SERVICE PORTIONS OF THE 1996 TELECOMMUNICATIONS ACT

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 54

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	03/08/96	61 FR 10499
Recommended Decision Federal-State Joint Board, Universal Service	11/08/96	61 FR 63778
First R&O Implement Schools/Libraries Admin. Prov., S.254, 1996 Act	05/08/97	62 FR 32862
Second R&O Implement of Universal Service Provisions of 1996 Telecom Act	05/08/97	62 FR 32862
Order on Recon	07/10/97	62 FR 40742
R&O & 2d Order on Recon	07/18/97	62 FR 41294
Order on Recon, 2d R&O, & FNRPM	08/15/97	62 FR 47404
3rd R&O	10/14/97	62 FR 56118
2d Order on Recon, CC Docket 97-21	11/26/97	62 FR 65036
4th Order on Recon	12/30/97	62 FR 2093
Final Order Changes to the Board of Directors of NECA	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Agency Contact: Lisa Gelb
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Email: lgelb@fcc.gov

RIN: 3060–AF85

4340. INTEGRATED SERVICES DIGITAL NETWORK (ISDN)

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 69

Timetable:

Action	Date	FR Cite
NPRM	05/30/95	60 FR 21274
First R&O	06/11/97	62 FR 31868

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Aaron Goldshmidt
Phone: 202 418-7146

RIN: 3060–AG08

4341. TOLL FREE SERVICE ACCESS CODES, FOURTH REPORT AND ORDER AND MEMORANDUM OPINION AND ORDER

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	10/05/95	60 FR 57157
Second R&O	04/25/97	62 FR 20126
Fourth R&O and MO&O	03/30/98	63 FR 16440

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Mart Schwimmer
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RIN: 3060–AG11

4342. IMPLEMENTATION OF SECTION 273 OF THE TELECOMMUNICATIONS ACT OF 1996; NOTICE OF PROPOSED RULEMAKING

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	12/11/96	62 FR 3638
NPRM Comment Period End	01/24/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Gregory Cooke
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RIN: 3060–AG36

4343. IMPLEMENTATION OF NON-ACCOUNTING SAFEGUARDS, SEC. 271 & 272 OF COMMUNICATIONS ACT OF 1996 & REGULATORY TREATMENT OF LEC PROVISIONS OF INTEREXCHANGE SVCS. ORIG. IN LEC LOCAL EXCH. AREA

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 61.41; 47 CFR 61.58; 47 CFR 63.71; 47 CFR 64.702; 47 CFR 1.720; 47 CFR 1.721; 47 CFR 1.735

Timetable:

Action	Date	FR Cite
NPRM	07/29/96	61 FR 39392
FNPRM	01/21/97	62 FR 2991
1st R&O	01/21/97	62 FR 2927
2nd Order on Recon.	07/07/97	62 FR 36216
Order	04/06/98	63 FR 16696
Second R&O	04/24/98	63 FR 20326

Action	Date	FR Cite
Erratum	06/25/98	63 FR 34603

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lisa Choi
Phone: 202 418-1580

RIN: 3060–AG37

4344. POLICIES AND RULES GOVERNING INTERSTATE PAY-PER-CALL AND OTHER INFORMATION SERVICES PURSUANT TO THE TELECOMMUNICATIONS ACT OF 1996

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 64.1501; 47 CFR 64.1504; 47 CFR 64.1510

Timetable:

Action	Date	FR Cite
NPRM	06/20/96	61 FR 31481
NPRM Comment Period End	09/16/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mary Romano
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RIN: 3060–AG42

4345. TELECOMMUNICATIONS CARRIERS' USE OF CUSTOMER PROPRIETARY NETWORK INFORMATION AND OTHER CUSTOMER INFORMATION

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	05/28/96	61 FR 26483
Public Notice	02/25/97	62 FR 8414
FNPRM	02/27/98	
2d R&O	02/27/98	
FNPRM	04/28/98	63 FR 20364
2d R&O	04/28/98	63 FR 20326

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tonya Rutherford
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RIN: 3060–AG43

4346. TELEMESSAGING, ELECTRONIC PUBLISHING, AND ALARM MONITORING SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 64; 47 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	07/29/96	61 FR 39385
FNPRM	02/20/97	62 FR 7744
1st R&O	02/20/97	62 FR 7690
2nd R&O	04/04/97	62 FR 16093

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Pryor
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Wendy Lader
Phone: 202 418-1381

RIN: 3060–AG44

4347. POLICY AND RULES CONCERNING THE INTERSTATE, INTEREXCHANGE MARKETPLACE; IMPLEMENTATION OF SECTION 254(G) OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 64.702(e); 47 CFR 61

Timetable:

Action	Date	FR Cite
NPRM	04/03/96	61 FR 14717
R&O, Sec. 254(g) Requirements of Communications Act	08/16/96	61 FR 42558
2nd R&O	11/22/96	61 FR 59340
Order	11/04/97	62 FR 59583

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Susan Launer
Phone: 202 418-1580
Fax: 202 418-1413

RIN: 3060–AG45

4348. IMPLEMENTATION OF THE SUBSCRIBER SELECTION CHANGES PROVISION OF THE TELECOMMUNICATIONS ACT OF 1996

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 64.1150; 47 CFR 64.1100

Timetable:

Action	Date	FR Cite
FNPRM	08/14/97	62 FR 43493
MO&O on Recon.	08/14/97.	62 FR 43493
FNPRM Comment Period End	09/30/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Anita Cheng
Phone: 202 418-0960
Fax: 202 418-0236

RIN: 3060–AG46

4349. IMPLEMENTATION OF SECTION 402(B)(1)(A) OF THE TELECOMMUNICATIONS ACT OF 1996 (LEC TARIFF STREAMLINING PROVISIONS)

Priority: Other Significant

CFR Citation: 47 CFR 1.773(a); 47 CFR 61.58

Timetable:

Action	Date	FR Cite
NPRM	09/24/96	61 FR 49987
NPRM Comment Period End	10/24/96	
R&O	02/07/97	62 FR 5757

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dan Abeyta
Phone: 202 418-1520
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RIN: 3060–AG47

4350. REGULATORY TREATMENT OF LEC PROVISION OF INTEREXCHANGE SERVICE ORIGINATING IN THE LEC'S LOCAL EXCHANGE AREA

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 61.3(o); 47 CFR 61.3(t)

Timetable:

Action	Date	FR Cite
NPRM	07/29/96	61 FR 39379
Order on Recon	07/03/97	62 FR 35974
2nd R&O	07/03/97	62 FR 35974
Order	04/06/98	63 FR 16696

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brent Olson
Phone: 202 418-1580

RIN: 3060–AG48

4351. ACCESS CHARGE REFORM

Priority: Economically Significant

CFR Citation: 47 CFR 61.41 to 61.49; 47 CFR 69

Timetable:

Action	Date	FR Cite
NPRM	01/31/97	62 FR 04670
NPRM Comment Period End	02/13/97	
FNPRM	06/06/97	62 FR 31040
R&O	06/11/97	62 FR 31868

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Tamara Preiss
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Fax: 202 418-1567

RIN: 3060–AG49

4352. IMPLEMENTATION OF THE LOCAL COMPETITION PROVISIONS OF THE TELECOMMUNICATIONS ACT OF 1996, SECOND REPORT AND ORDER AND MEMORANDUM OPINION AND ORDER

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 51; 47 CFR 52

Timetable:

Action	Date	FR Cite
NPRM	04/25/96	61 FR 18311
NPRM Comment Period End	06/03/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Gregory Cooke
Phone: 202 418-2320
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RIN: 3060–AG50

4353. ENHANCED 911 SERVICES FOR WIRELINE

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 64.706; 47 CFR 64.708; 47 CFR 68.228; 47 CFR 68.2; 47 CFR 68.3; 47 CFR 68.3(a); 47 CFR 68.308; 47 CFR 68.310

Timetable:

Action	Date	FR Cite
NPRM	10/11/94	59 FR 54878

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Alan Thomas
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RIN: 3060–AG60

4354. ADMINISTRATION OF THE NORTH AMERICAN NUMBERING PLAN, CARRIER IDENTIFICATION CODES (CICS)

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
2d R&O	04/18/97	62 FR 19056
FNPRM	10/22/97	62 FR 54817
Order on Recon	10/28/97	62 FR 55762

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Ward
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Email: doward@fcc.gov

RIN: 3060–AG61

4355. IMPLEMENTATION OF SECTION 402(B)(2)(A) OF THE TELECOMMUNICATIONS ACT OF 1996

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	01/13/97	62 FR 4965
NPRM Comment Period End	03/17/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Martin Schwimmer
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RIN: 3060–AG62

4356. IN THE MATTER OF INSIDE WIRE, THIRD REPORT AND ORDER

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 68.3; 47 CFR 68.213(c)

Timetable:

Action	Date	FR Cite
NPRM	06/17/97	62 FR 36476
NPRM Comment Period End	08/01/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Vincent Paladini
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RIN: 3060–AG63

4357. IMPLEMENTATION OF THE PAY TELEPHONE RECLASSIFICATION AND COMPENSATION PROVISIONS OF THE TELECOMMUNICATIONS ACT OF 1996 (SECOND REPORT AND ORDER)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

CFR Citation: 47 CFR 64.1301

Timetable:

Action	Date	FR Cite
Public Notice	08/15/97	62 FR 43686
NPRM Comment Period End	09/09/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Greg Lipscomb
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RIN: 3060–AG64

4358. AMENDMENT OF RULES GOVERNING PROCEDURES TO BE FOLLOWED WHEN FORMAL COMPLAINTS ARE FILED AGAINST COMMON CARRIERS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 0.291; 47 CFR 1.47; 47 CFR 1.720 to 1.736

Timetable:

Action	Date	FR Cite
NPRM	12/26/96	61 FR 67978
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Anita Cheng
Phone: 202 418-0960

RIN: 3060–AG65

4359. COMPUTER III FURTHER REMAND PROCEEDINGS: BELL OPERATING COMPANY PROVISION OF ENHANCED SERVICES

Priority: Other Significant

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 51; 47 CFR 53; 47 CFR 64

Timetable:

Action	Date	FR Cite
NPRM	02/26/98	63 FR 9749
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Staci Pies
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Fax: 202 418-1413

RIN: 3060–AG72

4360. NOTICE OF PROPOSED RULEMAKING REGARDING DETARIFFING OF INTERSTATE EXCHANGE ACCESS SERVICES FOR NON-INCUMBENT LOCAL EXCHANGE CARRIERS

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	06/19/97	62 FR 38244
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: David Hunt
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RIN: 3060–AG73

4361. IN THE MATTER OF THE COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT (CALEA), NOTICE OF PROPOSED RULEMAKING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	10/10/97	62 FR 63302
NPRM Comment Period End	02/12/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paul D'Ari
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RIN: 3060–AG74

4362. IN THE MATTER OF THE TELECOMMUNICATIONS RELAY SERVICES, THE AMERICANS WITH DISABILITIES ACT OF 1990, AND THE TELECOMMUNICATIONS ACT OF 1996

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 64.604

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Helene Schrier Nankin
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RIN: 3060–AG75

4363. IN THE MATTER OF TELECOMMUNICATIONS RELAY SERVICES, THE AMERICANS WITH DISABILITIES ACT OF 1990, AND THE TELECOMMUNICATIONS ACT OF 1996

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 64.601; 47 CFR 64.603; 47 CFR 64.604; 47 CFR 64.605

Timetable:

Action	Date	FR Cite
NPRM	06/16/98	63 FR 32798
NPRM Comment Period End	09/14/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Agency Contact: Andy Firth
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RIN: 3060–AG76

4364. TOLL FRAUD

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 64.1900; 47 CFR 68.200

Timetable:

Action	Date	FR Cite
NPRM	12/02/93	58 FR 65163
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: David Ward
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RIN: 3060–AG77

4365. • 1998 BIENNIAL REGULATORY REVIEW/REVIEW OF ACCOUNTING AND COST ALLOCATION REQUIREMENTS

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 220; 47 USC 152; 47 USC 161

CFR Citation: 47 CFR 32.11; 47 CFR 64.903; 47 CFR 904; 47 CFR 32.2114; 47 CFR 32.2115; 47 CFR 32.2116; 47 CFR 32.6114; 47 CFR 32.6115; 47 CFR 32.6116; 47 CFR 32.5280; 47 CFR 32.16; 47 CFR 32.2000(b)

Legal Deadline: Final, Statutory, December 31, 1998.

Abstract: This NPRM proposes to modify the FCC's cost allocation and accounting rules as part of the biennial review process. Specifically, it proposes (1) to raise the threshold significantly for Class A accountings, thus allowing mid-sized carriers currently required to use Class A accounts to use the more streamlined Class B accounts; (2) to establish less burdensome cost allocation (CAM) procedures for the mid-sized incumbent local exchange carriers (LECs) and to reduce the frequency with which independent audits of the cost allocations are required; and (3) to make several changes to the uniform system of accounts to reduce accounting requirements and to eliminate or consolidate accounts.

Timetable:

Action	Date	FR Cite
NPRM	06/17/98	63 FR 45208
NPRM Comment Period End	09/04/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Warren Firschein, Attorney, Federal Communications Commission, 2000 L Street NW., Suite 200, Washington, DC 20054
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RIN: 3060–AG98

4366. • BIENNIAL REVIEW OF ARMIS REPORTING REQUIREMENTS

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 47 USC 219; 47 USC 220; 47 USC 151; 47 USC 154; 47 USC 161; 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 215; 47 USC 218; 47 USC 403

CFR Citation: 47 CFR 43.21

Legal Deadline: Final, Statutory, December 31, 1998.

Abstract: The FCC proposes as part of its biennial regulatory review to reduce reporting requirement for incumbent local exchange carriers with annual operating revenues in excess of the annual indexed revenue threshold, currently $109 million. These modifications are designed to minimize the reporting burden on carriers, improve the quality and use of the reported financial and operating data, and reduce the costs of collection, verification, and distribution of the data. Eliminating the existing requirement to file paper reports and distribute ARMIS data by electronic means are two additional goals of this proposal.

Timetable:

Action	Date	FR Cite
ANPRM	07/17/98	63 FR 44220
ANPRM Comment Period End	09/04/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Anthony Dale, Attorney, Federal Communications Commission, 2000 L Street, Suite 201, Washington, DC 20554
Phone: 202 418-2260

RIN: 3060–AG99

4367. • PERFORMANCE MEASUREMENTS AND REPORTING REQUIREMENTS FOR OPERATIONS SUPPORT SYSTEMS, INTERCONNECTION, OPERATOR SERVICES, AND DIRECTORY ASSISTANCE

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 154; 47 USC 201; 47 USC 202; 47 USC 251; 47 USC 303

CFR Citation: None

Legal Deadline: None

Abstract: On April 17, 1998, the FCC released an NPRM seeking comment on a set of model performance measurements and reporting requirements for OSS, interconnection, and access to operator services and to directory assistance.

Timetable:

Action	Date	FR Cite
NPRM	04/17/98	63 FR 27021
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Bill Agee, Attorney-Adviser, Federal Communications Commission, 1919 M St., N.W. Room 544, Wash., DC 20554
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RIN: 3060–AH00

4368. • ACCESS CHARGE REFORM FOR RATE-OF-RETURN LOCAL EXCHANGE CARRIERS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 553; 47 USC 151; 47 USC 154; 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 254(b)(3); 47 USC 254(g); 47 USC 403

CFR Citation: 47 CFR 61.1; 47 CFR 69.2; 47 CFR 69.4; 47 CFR 69.110; 47 CFR 69.110; 47 CFR 69.112; 47 CFR 69.120; 47 CFR 69.125; 47 CFR 69.153(c); 47 CFR 69307(c)

Legal Deadline: None

Abstract: In order to make the access charge rules compatible with a competitive marketplace as envisioned by the Telecommunications Act of 1996, the FCC on May 26, 1998, initiated a rulemaking to revise interstate access charge rules applicable to incumbent local exchange carriers subject to rate-of-return regulation. The NPRM seeks comment on proposals to allow presubscribed interexchange carrier charges on special access lines and to adjust the allocation of General Support Facilities costs recovered through interstate access charges to ensure that regulated access rates do not recover costs related to nonregulated services. The NPRM proposes that rate-of-return local exchange carriers recover marketing costs allocated to the interstate jurisdiction from end users on a per-line basis. In addition, to establish a new switched access rate element to accommodate a new service offering, the streamlined petition provisions of section 69.4(g) are proposed.

Timetable:

Action	Date	FR Cite
NPRM	06/20/98	63 FR 38774

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Lynne Milne, Attorney, Federal Communications Commission, CCB-Competitive Pricing Division, 1919 M Street, N.W. #518, Washington, DC 20054
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RIN: 3060–AH01

4369. • DEPLOYMENT OF WIRELINE SERVICES OFFERING ADVANCED TELECOMMUNICATIONS CAPABILITY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 153; 47 USC 154; 47 USC 201; 47 USC 202; 47 USC 271; 47 USC 272; 47 USC 303(r); 47 USC 160

CFR Citation: None

Legal Deadline: None

Abstract: In a Memorandum Opinion and Order, we clarified that sections 251 and 252 apply to advanced telecommunications facilities and services offered by an incumbent local exchange carrier (LEC) and that the facilities and equipment used by incumbent LECs to provide advanced services are network elements and subject to Section 251(c). We denied requests to forbear from application of Sections 251(c) and/or 271, and we denied requests for large-scale changes in LATA boundaries. We have taken these steps to meet one of the fundamental goals of the Telecommunication Act of 1996 to promote innovation and investment by all participants in the telecommunications marketplace. In the NPRM, the FCC sought comment on whether we should modify our rules to promote the deployment of advanced telecommunications capabilities in a competitive manner.

Timetable:

Action	Date	FR Cite
NPRM	08/07/98	63 FR 45140
Order	08/07/98	63 FR 45134

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jordan Goldstein, Attorney-Advisor, Federal Communications Commission, CCB-FCC, 1919 M Street NW., Washington, DC 20554
Phone: 202 418-1580
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Fax: 202 418-1413

RIN: 3060–AH03

4370. • ELIMINATION OF PART 41: TELEGRAPH AND TELEPHONE FRANKS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 47 USC 11; 47 USC 201; 47 USC 210; 47 USC 218

CFR Citation: 47 CFR 41

Legal Deadline: None

Abstract: In an NPRM, the FCC has proposed to eliminate part 41 of the FCC's rules. Part 41 governs the issuance of franks for interstate and foreign telegraph and telephone service by communications common carriers. The Commission tentatively concluded that competition among service providers renders part 41's restrictions unnecessary to protect competitors or consumers. The NPRM is part of the FCC's 1998 Biennial Review of its regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/21/98	63 FR 4157
NPRM Comment Period End	09/10/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Scott Bergmann, Attorney-Adviser, Federal Communications Commission, Industry Analysis Division-CCB, 2033 M Street, N.W. #500, Washington, DC 20554
Phone: 202 418-0940
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RIN: 3060–AH04

4371. • INQUIRY CONCERNING THE DEPLOYMENT OF ADVANCED TELECOMMUNICATIONS CAPABILITY TO ALL AMERICANS/PURSUANT TO SECTION 706 OF THE 1996 TELECOM ACT

Priority: Other Significant

Legal Authority: PL 104-104, sec 706

CFR Citation: None

Legal Deadline: Other, Statutory, August 8, 1998.
Section 706 directs the FCC to begin this inquiry within 30 months of the enactment of the 1996 Act. The FCC is directed to complete the inquiry within 180 days of its initiation.

Abstract: The FCC has issued a Notice of Inquiry to begin the inquiry called for by section 706 of the Telecommunications Act of 1996. Section 706(b) directs the FCC to conduct an inquiry to determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion.

Timetable:

Action	Date	FR Cite
NOI	08/07/98	63 FR 43178

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Berresford, Senior Antitrust Attorney, Federal Communications Commission, Industry Analysis Division-CCB, 2033 M Street, N.W. #500, Washington, DC 20554
Phone: 202 418-0940
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RIN: 3060–AH05

4372. • STREAMLINED CONTRIBUTOR REPORTING REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 11; 47 USC 201; 47 USC 218; 47 USC 225; 47 USC 251; 47 USC 254

CFR Citation: 47 CFR 1.47; 47 CFR 52.16; 47 CFR 52.17; 47 CFR 52.32; 47 CFR 54.705; 47 CFR 54.709; 47 CFR 54.711; 47 CFR 54.713

Legal Deadline: None

Abstract: The FCC may issue an NPRM proposing to simplify the filing requirements associated with the Telecommunications Relay Services Fund, Federal universal service support mechanisms, the cost recovery mechanism for the North American Numbering Plan administration, and the cost mechanism for long-term local number portability administration. This NPRM is part of the FCC's 1998 Biennial Review of its regulations.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH06

4373. • IN THE MATTER OF TELECOMMUNICATIONS RELAY SERVICES AND SPEECH-TO-SPEECH SERVICES FOR INDIVIDUALS WITH HEARING DISABILITIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 225; 47 USC 225; 47 USC 255; 47 USC 610

CFR Citation: 47 CFR 64.601; 47 CFR 64.603; 47 CFR 64.604; 47 CFR 64.605

Legal Deadline: None

Abstract: This system will address the effectiveness of the current rules governing telecommunications relay services for the hearing and speech impaired. It will also address the new technologies and possible rule changes that could improve telecommunications relay services.

Timetable:

Action	Date	FR Cite
NPRM	05/20/98	63 FR 32798
NPRM Comment Period End	09/14/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

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RIN: 3060–AH08

FEDERAL COMMUNICATIONS COMMISSION (FCC) COMPLIANCE AND INFORMATION BUREAU

Long-Term Actions

4374. IN THE MATTER OF AMENDMENT OF PART 73, SUBPART G, OF THE COMMISSION'S RULES REGARDING THE EMERGENCY ALERT SYSTEM

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 11; 47 CFR 73; 47 CFR 76

Timetable:

Action	Date	FR Cite
NPRM	10/09/91	
NPRM/FNPRM	09/17/92	57 FR 53874
FNPRM	12/28/94	59 FR 67104
R&O	12/28/94	59 FR 67090
MO&O	11/06/95	60 FR 55996
Second FNPRM	03/04/98	63 FR 15306
Second R&O	09/24/98	63 FR 29660

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Frank Lucia
Phone: 202 418-1220

RIN: 3060–AF21

4375. IN THE MATTER OF THE COMMISSION'S FORFEITURE POLICY STATEMENT AND AMENDMENT OF SECTION 1.80 OF THE RULES TO INCORPORATE THE FORFEITURE GUIDELINES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	02/23/95	60 FR 10056
NPRM Comment Period End	03/17/95	
R&O Adopted, Recon. Pending	06/19/97	62 FR 43474

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Magalie Salas
Phone: 202 418-1150

RIN: 3060–AF65

4376. IN THE MATTER OF AMENDMENT OF THE COMMISSION'S RULES CONCERNING THE INSPECTION OF RADIO INSTALLATIONS ON LARGE CARGO AND SMALL PASSENGER SHIPS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 80; 47 CFR 0

Timetable:

Action	Date	FR Cite
Order Comment Period Extended to 7/1/96	06/04/95	60 FR 28122
NOI	06/20/95	
NPRM	05/09/96	61 FR 21151
NPRM Comment Period End	06/09/96	
R&O	04/20/98	63 FR 29656

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George R. Dillon
Phone: 202 418-1113

RIN: 3060–AG13

4377. • AMENDMENT OF PART 2, SUBPART K OF THE FCC'S RULES REGARDING THE IMPORTATION OF RADIO FREQUENCY DEVICES CAPABLE OF CAUSING HARMFUL INTERFERENCE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); 47 USC 154(j); 47 USC 157(a); 47 USC 302; 47 USC 303(b); 47 USC 303(f); 47 USC 303(g); 47 USC 303(r)

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: The FCC adopted an Order and Notice of Proposed Rule Making which changes from the Compliance and Information Bureau to the Office of Engineering and Technology the responsibility for reviewing and deciding upon waiver requests regarding imported uncertified devices. Importers will now seek a waiver of the limit on uncertified devices that can be brought into the U.S. for demos, sales, and sales conventions. The Order and NPRM seek comments on proposals that would (1) eliminate the requirement that parties importing radio frequency devices file a copy of the form 740 with the FCC, and (2) eliminate a loophole in one of the FCC's "import conditions rules" that allow the importation and sale in the U.S. of uncertified equipment if the buyer promises not to use it in the United States.

Timetable:

Action	Date	FR Cite
NPRM	07/01/98	63 FR 35901

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Dan Emrick, Chief, Investigative Branch, Compliance, Division, Federal Communications Commission, Complaints and Information Bureau, Washington, DC 20554
Phone: 202 418-1170
Email: demrick@fcc.gov

RIN: 3060–AH07

FEDERAL COMMUNICATIONS COMMISSION (FCC)
OFFICE OF ENGINEERING AND TECHNOLOGY

Long-Term Actions

4378. REVISION OF MARKETING AND AUTHORIZATION PROCESS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	06/09/94	59 FR 31966
R&O	03/07/97	62 FR 10466
MO&O	06/10/98	63 FR 31645

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: John Reed
Phone: 202 418-2455
Email: jreed@fcc.gov

RIN: 3060–AF29

4379. RF EXPOSURE STANDARD

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	04/08/93	58 FR 19393
R&O	08/06/96	61 FR 41006

Action	Date	FR Cite
First MO&O	01/22/97	62 FR 3232
Public Notice on Recon	03/11/97	62 FR 11195
2d MO&O	09/12/97	62 FR 47960

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Local

Agency Contact: Robert Cleveland
Phone: 202 418-2422

RIN: 3060–AF32

4380. CABLE SYSTEM COMPATIBILITY WITH TV RECEIVERS AND VCRS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
NOI	01/29/93	58 FR 7205
Technical Report	10/31/93	
NPRM	12/01/93	58 FR 65153
R&O	05/04/94	59 FR 25339

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Alan Stillwell
Phone: 202 418-2925

RIN: 3060–AF38

4381. WIND PROFILER RADAR SYSTEMS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	04/01/93	58 FR 19644

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Sean White
Phone: 202 418-2453

RIN: 3060–AF45

4382. MILLIMETER WAVE SPECTRUM ALLOCATION

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 47 CFR 2; 47 CFR 15; 47 CFR 21

Timetable:

Action	Date	FR Cite
NPRM	11/08/94	59 FR 61304
Public Notice	06/23/95	60 FR 35166
2nd NPRM	03/29/96	61 FR 14041
1st R&O	04/02/96	61 FR 14500
Comment Period End	05/28/96	
Reply Comments	06/27/96	
2nd R&O	08/02/97	62 FR 43116
MO&O	08/27/97	62 FR 45330
4th NPRM	08/27/97	62 FR 45380
Public Notice on Recon	10/02/97	62 FR 51661
MO&O	08/07/98	63 FR 42276

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: John Reed
Phone: 202 418-2455
Email: jreed@fcc.gov

RIN: 3060–AF61

4383. DIGITAL EQUIPMENT DEREGULATION

Priority: Economically Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 15

Timetable:

Action	Date	FR Cite
NPRM	02/07/95	60 FR 15116
R&O	05/14/96	61 FR 31044
Order	06/19/97	62 FR 33368
MO&O	08/04/97	62 FR 41879

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Anthony Serafini
Phone: 202 418-2456
Email: tserafini@fcc.gov

RIN: 3060–AF73

4384. MSS SPECTRUM ALLOCATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 47 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	01/31/95	60 FR 11644
Order	03/08/95	60 FR 13687
R&O and FNPRM	04/22/97	62 FR 19538
1st R&O	04/22/97	62 FR 19509

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sean White
Phone: 202 418-2453

RIN: 3060–AF75

4385. ARECIBO COORDINATION ZONE

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 5; 47 CFR 21 to 23; 47 CFR 25; 47 CFR 73 to 74; 47 CFR 80; 47 CFR 87; 47 CFR 90; 47 CFR 94 to 95; 47 CFR 97

Timetable:

Action	Date	FR Cite
NPRM	02/08/96	61 FR 10709
NPRM Comment Period End	04/01/96	
Reply Comments	04/16/96	
R&O	10/27/97	62 FR 55525
MO&O	08/03/98	63 FR 41201

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Tom Derenge
Phone: 202 418-2451
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RIN: 3060–AG15

4386. MEDICAL CARE TELEMETRY DEVICES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 15

Timetable:

Action	Date	FR Cite
NPRM	01/25/96	61 FR 3367
NPRM Comment Period End	04/16/96	

Action	Date	FR Cite
Reply Comments	05/16/96	
R&O	10/30/97	62 FR 58656

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Anthony Serafini
Phone: 202 418-2456
Email: tserafini@fcc.gov

RIN: 3060–AG18

4387. UNLICENSED NII AT 5 GHZ

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 47 CFR 2; 47 CFR 15

Timetable:

Action	Date	FR Cite
NPRM	05/06/96	61 FR 24749
R&O	01/31/97	62 FR 4649
Public Notice	03/17/97	62 FR 12641
MO&O	07/31/98	63 FR 40831

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Tom Derenge
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Email: tderenge@fcc.gov

RIN: 3060–AG19

4388. REVISION OF THE EXPERIMENTAL RADIO SERVICE REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 5; 47 CFR 90

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68698
NPRM Comment Period End	02/28/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rodney Small
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Email: rsmall@fcc.gov

RIN: 3060–AG55

4389. REALLOCATION OF TV CHANNELS 60-69

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

CFR Citation: 47 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	07/31/97	62 FR 41012
NPRM Comment Period End	10/14/97	
R&O	02/10/98	63 FR 6669

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Sean White
Phone: 202 418-2453
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RIN: 3060–AG69

4390. STREAMLINE THE EQUIPMENT AUTHORIZATION PROCESS

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 2; 47 CFR 15

Timetable:

Action	Date	FR Cite
NPRM	05/05/97	62 FR 24383
NPRM Comment Period End	08/18/97	
R&O	07/07/98	63 FR 36591

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Julius P. Knapp
Phone: 202 418-2468

RIN: 3060–AG70

4391. ALLOCATION OF 455-456 MHZ AND 459-460 MHZ

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 2; 47 CFR 25

Timetable:

Action	Date	FR Cite
NPRM	10/31/97	62 FR 58932

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Tom Derenge
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RIN: 3060–AG89

4392. V-CHIP TECHNICAL REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 15; 47 CFR 73; 47 CFR 74; 47 CFR 76

Timetable:

Action	Date	FR Cite
NPRM	10/09/97	62 FR 52677
R&O	04/23/98	63 FR 20131

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Neal McNeil
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RIN: 3060–AG90

4393. • DEDICATED SHORT RANGE COMMUNICATIONS OF INTELLIGENT TRANSPORTATION SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 157; 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 90

Legal Deadline: None

Abstract: The FCC proposes to allocate 75 megahertz of spectrum for use by Dedicated Short Range Communications of Intelligent Transportation Systems (ITS). DSRC systems are being designed that require a short range, wireless link to transfer information between vehicles and roadside systems. ITS services are expected to improve traveler safety, decrease traffic congestion, and facilitate reduction of air pollution and conservation of fossil fuels. This action furthers the goal of the U.S. Congress, the Department of Transportation, and the ITS industry to improve the efficiency of the nation's transportation infrastructure and facilitate the growth of the ITS industry. See ET Docket 98-95.

Timetable:

Action	Date	FR Cite
ANPRM	06/30/98	63 FR 35558

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Derenge, Federal Communications Commission, OET-FCC, Washington, DC 20554
Phone: 202 418-2451
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RIN: 3060–AG94

4394. • REGULATIONS FOR RF LIGHTING DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 18

Legal Deadline: None

Abstract: The FCC proposes to update the regulations for RF lighting devices. This action is taken in response to new developments in RF lighting technology. Recent developments and advances in RF lighting technology offer potential economic and environmental benefits for consumers and industry. The current FCC rules do not easily accommodate these advancements, and thus hinder the further development and implementation of these promising new products. See ET Docket No. 98-42

Timetable:

Action	Date	FR Cite
ANPRM	04/24/98	63 FR 20362
R&O	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Anthony Serafini, Federal Communications Commission, OET-FCC, Washington, DC 20554
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RIN: 3060–AG95

4395. • EQUIPMENT AUTHORIZATION STREAMLINE II/MUTUAL RECOGNITION AGREEMENTS AND THE GMPCS MOU

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 154; 47 CFR 25; 47 CFR 682

Legal Deadline: None

Abstract: The Commission proposes to amend the rules to provide the option of private sector approval of equipment that currently requires an approval by the Commission. It also proposes rule changes to implement a mutual recognition agreement (MRA) for product approvals with the European Community (EC) and to allow for similar agreements with other foreign trade parties. These actions are intended to eliminate the need for manufacturers to wait for approval from the FCC before marketing equipment in the United States, thereby reducing the time needed to bring a product to market.

Timetable:

Action	Date	FR Cite
NPRM	06/10/98	63 FR 31685

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: GEN Docket No 98-68

Agency Contact: Hugh L. Van Tuyl, Federal Communications Commission, OET-FCC, Washington, DC 20554
Phone: 202 418-7506

RIN: 3060–AG96

4396. • UNIDEN SCANNERS/CELLULAR RADIO SIGNALS

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 2; 47 CFR 15

Legal Deadline: None

Abstract: The FCC proposes to amend the rules to further prevent scanning receivers from receiving radio telephone calls.

Timetable:

Action	Date	FR Cite
ANPRM	06/10/98	63 FR 31684

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Rodney P. Conway, Federal Communications Commission, OET-FCC, Washington, DC 20554
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RIN: 3060–AG97

FEDERAL COMMUNICATIONS COMMISSION (FCC)
OFFICE OF ENGINEERING AND TECHNOLOGY

Completed Actions

4397. STANDARDS FOR ISM EQUIPMENT

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 18

Completed:

Reason	Date	FR Cite
Final Action	08/25/98	63 FR 50547

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Karen Rackley
Phone: 202 418-2431

RIN: 3060–AE97

4398. SPREAD SPECTRUM RULES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 15

Completed:

Reason	Date	FR Cite
Final Action	05/13/97	62 FR 26329
Final Action Effective	06/12/97	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Reed
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Email: jreed@fcc.gov

RIN: 3060–AG17

FEDERAL COMMUNICATIONS COMMISSION (FCC)
OFFICE OF GENERAL COUNSEL

Long-Term Actions

4399. • AMENDMENT OF THE COMMISSION'S EX PARTE RULES IN JOINT BOARD PROCEEDINGS

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

Legal Authority: 47 USC 154(i); 47 USC 154(j); 47 USC 303(r); 47 USC 403

CFR Citation: 47 CFR 1.1206

Legal Deadline: None

Abstract: The FCC proposes to amend its ex parte rules to facilitate communications by the states in Joint Board proceedings and proceedings before the FCC involving a recommendation from a Joint Board.

Timetable:

Action	Date	FR Cite
NPRM	07/15/98	63 FR 38142
NPRM Comment Period End	08/31/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David Senzel, Attorney-Advisor, Federal Communications Commission, FCC-OGC, 1919 M Street NW., Washington, DC 20554
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Fax: 202 418-7540

RIN: 3060–AH02

FEDERAL COMMUNICATIONS COMMISSION (FCC)
INTERNATIONAL BUREAU

Long-Term Actions

4400. STREAMLINING THE COMMISSION'S RULES AND REGULATIONS FOR SATELLITE APPLICATION AND LICENSING PROCEDURES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 47 CFR 25

Timetable:

Action	Date	FR Cite
NPRM	09/09/95	60 FR 46252
R&O, Recon Pending	02/10/97	62 FR 5924
Public Notice/Petitions For Recon	03/26/97	62 FR 14430
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Frank Peace
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Email: fpeace@fcc.gov

RIN: 3060–AD70

4401. SATELLITE COMMUNICATIONS—NGO MSS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 47 CFR 25; 47 CFR 93; 47 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	01/19/94	
NPRM Comment Period End	06/06/94	
R&O	10/14/94	59 FR 53294
Begin Review	12/01/94	
First Recon Order	02/15/96	61 FR 9944
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Bell
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Fax: 202 418-7270
Email: bbell@fcc.gov

RIN: 3060–AF42

4402. ESTABLISHING RULES AND POLICIES FOR THE USE OF SPECTRUM FOR MOBILE SATELLITE SERVICE IN THE L-BAND

Priority: Routine and Frequent

Major: Undetermined

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
ANPRM Comment Period End	06/18/96	61 FR 40772
NPRM	09/13/96	61 FR 40772
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Carrie Mann
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Email: cmann@fcc.gov

RIN: 3060–AF89

4403. PREEMPTION OF LOCAL ZONING REGULATION OF SATELLITE EARTH STATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

CFR Citation: 47 CFR 25.104; 47 CFR 1.4000

Timetable:

Action	Date	FR Cite
ANPRM	05/15/95	60 FR 28077
ANPRM Comment Period End	08/15/95	
FNPRM	03/05/96	61 FR 70710
R&O, Recon Pending	03/08/96	61 FR 10896
R&O, Recon Pending	09/04/96	61 FR 46559
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Selina Khan
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Email: skhan@fcc.gov

RIN: 3060–AF92

4404. ESTABLISHMENT OF RULES AND POLICIES FOR THE DIGITAL AUDIO RADIO SATELLITE SERVICE IN THE 2310-2360 MHZ FREQUENCY BAND

Priority: Routine and Frequent

Major: Undetermined

CFR Citation: 47 CFR 25.144

Timetable:

Action	Date	FR Cite
ANPRM	06/15/95	60 FR 35166
R&O, Recon Pending	03/11/97	62 FR 11083
FNPRM Terrestrial Repeater Licensing	04/11/97	62 FR 19095
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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Alex Royblatt
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RIN: 3060–AF93

4405. REDESIGNATION OF THE 27.5-29.5 GHZ FREQUENCY BAND

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 47 CFR 25; 47 CFR 21; 47 CFR 1; 47 CFR 2

Timetable:

Action	Date	FR Cite
ANPRM	07/13/95	60 FR 43740
ANPRM Comment Period End	09/07/95	
R&O Band Plan	08/28/96	61 FR 44177
3rd R&O	11/18/97	62 FR 61488
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jennifer M. Gilsenan
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RIN: 3060–AF94

4406. AMENDMENT OF POLICY TO ALLOW NON-U.S. LICENSED SPACE STATIONS TO PROVIDE SERVICE IN THE UNITED STATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

CFR Citation: 47 CFR 25.113; 47 CFR 25.115; 47 CFR 25.130; 47 CFR 25.131; 47 CFR 25.137

Timetable:

Action	Date	FR Cite
NPRM	05/14/96	61 FR 32398
NPRM Comment Period End	08/16/96	
FNPRM	07/29/97	62 FR 40494
R&O	11/26/97	
Petitions For Recon	01/05/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Linda Haller
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Fax: 202 418-7270

RIN: 3060–AG31

4407. STREAMLINING REGULATIONS RELATED TO INTERNATIONAL COMMON CARRIERS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 43; 47 CFR 63; 47 CFR 64

Timetable:

Action	Date	FR Cite
NPRM	07/24/98	63 FR 39793
NPRM Comment Period End	08/24/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Doug Klein
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Fax: 202 418-2824
Email: daklein@fcc.gov

RIN: 3060–AG84

FEDERAL COMMUNICATIONS COMMISSION (FCC)
INTERNATIONAL BUREAU

Completed Actions

4408. RULES AND POLICIES ON FOREIGN PARTICIPATION IN THE U.S. TELECOMMUNICATIONS MARKET

Priority: Other Significant. Major under 5 USC 801.

CFR Citation: 43 CFR 51; 43 CFR 61; 47 CFR 43; 47 CFR 63; 47 CFR 64

Completed:

Reason	Date	FR Cite
Final Action	02/04/98	63 FR 5743

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Doug Klein
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Fax: 202 418-2824
Email: daklein@fcc.gov

RIN: 3060–AG67

FEDERAL COMMUNICATIONS COMMISSION (FCC)
MASS MEDIA BUREAU

Long-Term Actions

4409. ADVANCED TELEVISION SERVICE (MM DOCKET 87-268)

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 73

Timetable:

Action	Date	FR Cite
Tentative Decision/Further NOI	09/01/88	53 FR 38747
R&O	08/24/90	55 FR 39275
FNPRM	10/24/91	56 FR 58207
Second R&O & FNPRM	04/09/92	57 FR 21744
Third R&O & FNPRM	09/17/92	57 FR 53588
Fourth FNPRM and Third NOI	07/28/95	60 FR 42130
Fifth FNPRM	05/29/96	61 FR 26864
Sixth FNPRM	08/21/96	61 FR 43209
Fourth R&O	03/25/97	62 FR 14006
Sixth R&O	05/14/97	62 FR 26884
Fifth R&O	05/16/97	62 FR 26996
Recon	07/11/97	62 FR 37145
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Maria Baghdadi
Phone: 202 418-2130
Email: mbaghda@fcc.gov

RIN: 3060–AE24

4410. TRANSFER OF CONTROL OF NON-STOCK ENTITIES MM DOCKET 89-77

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 73

Timetable:

Action	Date	FR Cite
NOI	03/16/89	54 FR 15957
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Maria Baghdadi
Phone: 202 418-2130
Email: mbaghda@fcc.gov

RIN: 3060–AE31

4411. LOCAL TELEVISION OWNERSHIP RULE (MM DOCKET NO. 91-221)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 73.3555

Timetable:

Action	Date	FR Cite
NOI	07/11/91	56 FR 40847
NPRM	06/24/92	57 FR 28163
FNPRM	02/02/95	60 FR 6490
R&O	03/27/95	60 FR 15688
2nd FNPRM	12/19/96	61 FR 66978
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kim Matthews
Phone: 202 418-2130
Email: kmatthew@fcc.gov

RIN: 3060–AF79

4412. FILING OF TELEVISION NETWORK AFFILIATION CONTRACTS (MM DOCKET NO. 95-40)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 73.3613(a)

Timetable:

Action	Date	FR Cite
NPRM	04/19/95	60 FR 19564
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Robert Kieschnick
Phone: 202 418-2170
Email: rkieschn@fcc.gov

RIN: 3060–AF80

4413. RULES GOVERNING BROADCAST TELEVISION ADVERTISING (MM DOCKET NO. 95-90)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 73.658(h); 47 CFR 73.658(i)

FCC—MMB

Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	07/05/95	60 FR 34959
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paul Gordon
Phone: 202 418-2130
Email: pgordon@fcc.gov

RIN: 3060–AF81

4414. ATTRIBUTION OF BROADCAST INTERESTS (MM DOCKET NOS. 94-150, 92-51, 87-154)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 73.3555

Timetable:

Action	Date	FR Cite
NPRM	02/02/95	60 FR 6483
FNPRM	12/20/96	61 FR 67275
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Maria Baghdadi
Phone: 202 418-2130

RIN: 3060–AF82

4415. EEO STREAMLINING PROPOSALS (MMB DOCKET NO. 96-16)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 73

Timetable:

Action	Date	FR Cite
NPRM	03/12/96	61 FR 9964
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Hope Cooper
Phone: 202 418-1450
Email: hcooper@fcc.gov

RIN: 3060–AG29

4416. MINOR MODIFICATIONS OF BROADCAST LICENSES WITHOUT PRIOR CONSTRUCTION PERMIT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 73

Timetable:

Action	Date	FR Cite
NPRM	04/08/96	61 FR 15439
R&O	09/30/97	62 FR 51052
Action on Petitions for Recon	00/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dale Bickel
Phone: 202 418-2720

RIN: 3060–AG30

4417. NEWSPAPER/BROADCAST CROSS-OWNERSHIP

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 73

Timetable:

Action	Date	FR Cite
NOI	10/15/96	61 FR 53694
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Roger Holberg
Phone: 202 418-2130

RIN: 3060–AG53

4418. NATIONAL TELEVISION OWNERSHIP RULES (MM DOCKET NOS. 96-222, 91-221, 87-8)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 41 CFR 73

Timetable:

Action	Date	FR Cite
NPRM	12/19/96	61 FR 66987
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paul Gordon
Phone: 202 418-2130
Email: pgordon@fcc.gov

RIN: 3060–AG54

4419. MAIN STUDIO/PUBLIC FILE REQUIREMENTS FOR BROADCASTERS (MMB DOCKET 97-138)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 73.1125; 47 CFR 73.3526; 47 CFR 73.3527

Timetable:

Action	Date	FR Cite
NPRM	06/12/97	62 FR 32061
R&O	07/28/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Victoria McCauley
Phone: 202 418-2130
Email: vmccaule@fcc.gov

RIN: 3060–AG68

4420. COMPETITIVE BIDDING FOR BROADCAST SERVICES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 73; 47 CFR 74

FCC—MMB

Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	12/12/97	62 FR 65392
NPRM Comment Period End	01/26/98	
NOI	03/31/98	63 FR 15353
R&O	08/18/98	63 FR 48615

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Jerianne Timmerman
Phone: 202 418-1600
Email: jtimmerm@fcc.gov

RIN: 3060–AG78

4421. 1998 BIENNIAL REVIEW OF BROADCAST OWNERSHIP

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 73

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Roger Holberg
Phone: 202 418-2120
Email: rholberg@fcc.gov

RIN: 3060–AG79

4422. 1998 BIENNIAL REVIEW-STREAMLINING OF MASS MEDIA APPLICATIONS, RULES, AND PROCESSES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 73; 47 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	04/17/98	63 FR 19226

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Maria Baghdadi
Phone: 202 418-2130
Email: mbaghda@fcc.gov

RIN: 3060–AG80

4423. REVIEW OF TECHNICAL RULES IN PARTS 73 AND 74

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 73; 47 CFR 74

Timetable:

Action	Date	FR Cite
NPRM	06/22/98	63 FR 33892

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Dale Bickel
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Email: dbickel@fcc.gov

RIN: 3060–AG81

FEDERAL COMMUNICATIONS COMMISSION (FCC)
OFFICE OF MANAGING DIRECTOR

Long-Term Actions

4424. ASSESSMENT AND COLLECTION OF REGULATORY FEES FOR FY 1998

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 47 CFR 1.1151 et seq

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Terry Johnson
Phone: 202 418-0445
Fax: 202 418-2826
Email: tjohnson@fcc.gov

RIN: 3060–AG66

4425. • ASSESSMENT AND COLLECTION OF REGULATORY FEES FOR FY 1999

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 47 USC 159

CFR Citation: 47 CFR 1.1151 et seq

Legal Deadline: None

Abstract: Section 9 of the Communications Act of 1934, as amended, 47 U.S.C 159, requires the FCC to recover the costs of its activities by assessing and collecting annual regulatory fees from beneficiaries of these activities. The Commission will issue a Notice of Inquiry to address key unresolved issues. It will issue a Notice of Proposed Rulemaking to address how the fee plans will implement the fee requirements for FY 1999. Finally, the FCC will issue a Report and Order implementing the FY 1999 Regulatory Fee Schedule. When released, the NOI and NPRM will provide the public with the opportunity to file comments in response to unresolved issues and proposed fee implementation for FY 1999.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Terry Johnson, Federal Communications Commission, Office of Managing Director
Phone: 202 418-0445
Fax: 202 418-2826
Email: tjohnson@fcc.gov

RIN: 3060–AG92

FEDERAL COMMUNICATIONS COMMISSION (FCC)
WIRELESS TELECOMMUNICATIONS BUREAU

Proposed Rule Stage

4426. • AMENDMENT TO PART 27 OF THE FCC'S RULES TO REVISE RULES FOR SERVICES IN THE 2.3GHZ BAND AND TO INCLUDE LICENSING OF SERVICES IN THE 47 GHZ BAND

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 157; 47 USC 160; 47 USC 201; 47 USC 202; 47 USC 208; 47 USC 214; 47 USC 301; 47 USC 303; 47 USC 309; 47 USC 310; 47 USC 368

CFR Citation: 47 CFR 27

Legal Deadline: None

Abstract: This Notice of Proposed Rulemaking proposes service, licensing, and competitive bidding rules for the 47.2-48.2 GHz band. The FCC proposes to amend the part 27 Rules to include rules for the 47.2-48.2 band and to codify and conform certain rules for the 2.3 GHz band to provide for consistent regulation of part 27 services.

Timetable:

Action	Date	FR Cite
NPRM	06/30/98	63 FR 44822
NPRM Comment Period End	10/13/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Eli Johnson, Attorney, Federal Communications Commission, 2025 M Steet NW., Room 7002, Washington, DC 20554
Phone: 202 418-1310

RIN: 3060–AG93

FEDERAL COMMUNICATIONS COMMISSION (FCC)
WIRELESS TELECOMMUNICATIONS BUREAU

Long-Term Actions

4427. AMENDMENT OF PART 80 OF THE COMMISSION'S RULES CONCERNING VHF MARITIME OPERATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 80

Timetable:

Action	Date	FR Cite
NOI/NPRM	11/05/92	57 FR 57717
First R&O	04/26/95	60 FR 34198
FNPRM	04/26/95	60 FR 35507
Second FNPRM	06/17/97	62 FR 37533
Second R&O	06/17/97	62 FR 40281
3rd R&O & MO&O	07/06/98	63 FR 40059

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Scott Stone
Phone: 202 418-0680

RIN: 3060–AF14

4428. RULEMAKING TO AMEND PART 1 AND PART 21 TO REDESIGNATE THE 27.5-29.5 GHZ BAND AND TO ESTABLISH RULES AND POLICIES FOR LOCAL MULTI-POINT DISTRIBUTION SERVICE

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

CFR Citation: 47 CFR 25; 47 CFR 21; 47 CFR 101

Timetable:

Action	Date	FR Cite
NPRM	12/10/92	58 FR 6400
NPRM Comment Period End	04/15/93	
Third NPRM	07/13/95	60 FR 43740
1st R&O & 4th NPRM	07/29/96	61 FR 39425
Fifth NPRM	03/11/97	62 FR 16514
Second R&O	03/11/97	62 FR 23148
Third Order On Recon	03/03/98	63 FR 9443

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Barbara Reideler
Phone: 202 418-1310
Jay Whaley
Phone: 202 418-1310

RIN: 3060–AF26

4429. REFARMING

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 90

Timetable:

Action	Date	FR Cite
NPRM	01/08/92	57 FR 54034
R&O	06/15/95	60 FR 37152
MO&O	12/23/96	62 FR 2027
Second R&O	02/20/97	62 FR 18834

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Ira Keltz
Phone: 202 418-0680

RIN: 3060–AF35

4430. FUTURE DEVELOPMENT OF 800 MHZ SMR; COMPETITIVE BIDDING WIDE AREA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 47 CFR 90

Timetable:

Action	Date	FR Cite
NPRM	05/13/93	58 FR 33062
FNPRM	10/20/94	59 FR 6011
Eighth R&O	12/15/95	
First R&O	12/15/95	
FNPRM	12/15/95	
Second FNPRM	12/15/95	
MO&O	06/23/97	62 FR 41225
Second R&O	06/23/97	62 FR 41190

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Yanic Thomas
Phone: 202 418-7440
Email: wnixon@fcc.gov

RIN: 3060–AF47

4431. INTERCONNECTION OBLIGATIONS PERTAINING TO COMMERCIAL MOBILE RADIO SERVICES

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

CFR Citation: 47 CFR 20; 47 CFR 22

Timetable:

Action	Date	FR Cite
NPRM	06/09/94	59 FR 35664
NOI	07/01/94	
NPRM Comment Period End	09/29/94	
ANPRM	04/04/95	60 FR 20949
ANPRM Comment Period End	07/14/95	
First R&O	07/12/96	61 FR 38399
Second R&O and Third NPRM	08/15/96	61 FR 44026

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Janice Jamison
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Jane Phillips
Phone: 202 418-1761

RIN: 3060–AF58

4432. IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT, COMPETITIVE BIDDING; NARROWBAND PCS COMPETITIVE BIDDING RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 47 CFR 24

Timetable:

Action	Date	FR Cite
3rd MO&O	08/16/94	59 FR 44058
FNPRM	04/23/97	62 FR 27569
R&O	04/23/97	62 FR 27507

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ramona Nelson
Phone: 202 418-7240

RIN: 3060–AF99

4433. IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT, COMPETITIVE BIDDING; IVDS COMPETITIVE BIDDING RULES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 95

Timetable:

Action	Date	FR Cite
R&O	04/25/94	59 FR 24947
FNPRM	08/06/96	61 FR 49103
R&O	11/15/96	61 FR 60198

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Amy Zoslov
Phone: 202 418-1159
Fax: 202 418-0890
Mark Bollinger
Phone: 202 418-1159
Fax: 202 418-0890

RIN: 3060–AG00

4434. 39 GHZ CHANNEL PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 2; 47 CFR 1; 47 CFR 101

Timetable:

Action	Date	FR Cite
NPRM	01/26/96	61 FR 2465
NPRM Comment Period End	02/12/96	
Order	02/22/96	61 FR 6809
Reply Comments	02/27/96	
Order	05/01/96	61 FR 19236
2d NPRM	01/21/98	63 FR 3075
R&O	02/06/98	63 FR 6079

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Jennifer Burton
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Christina Clearwater
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Email: cclearwa@fcc.gov

RIN: 3060–AG16

4435. IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT, COMPETITIVE BIDDING BROADBAND PCS F BLOCK RULES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 24

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mark Bollinger
Phone: 202 418-0660
Fax: 202 418-1159

RIN: 3060–AG21

4436. AMENDMENT OF PART 90 OF THE FCC'S RULES TO PROVIDE FOR THE USE OF THE 220-222 MHZ BAND

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

CFR Citation: 47 CFR 90

Timetable:

Action	Date	FR Cite
ANPRM	11/28/89	55 FR 328
ANPRM Comment Period End	03/15/90	
R&O	03/14/91	56 FR 19598
NPRM	01/12/92	57 FR 4180
NPRM Comment Period End	03/02/92	
FNPRM	08/28/95	60 FR 46566
Fifth NPRM	04/03/97	62 FR 16004
Third R&O	04/03/97	62 FR 15978
MO&O	05/14/98	63 FR 32580

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Marty Liebman
Phone: 202 418-1310

RIN: 3060–AG23

4437. REVISION OF THE COMMISSION'S RULES TO ENSURE COMPATIBILITY WITH ENHANCED 911 EMERGENCY CALLING SYSTEMS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

CFR Citation: 47 CFR 20

Timetable:

Action	Date	FR Cite
FNPRM	07/26/96	61 FR 40374
R&O	07/26/96	61 FR 40348
MO&O	01/16/98	63 FR 2631

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Dan Grosh
Phone: 202 418-1310
Won Kim
Phone: 202 418-1310

RIN: 3060–AG34

4438. WIRELESS COMMUNICATIONS SERVICES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 47 CFR 1; 47 CFR 2; 47 CFR 27; 47 CFR 97

Timetable:

Action	Date	FR Cite
NPRM	11/20/96	61 FR 59048
NPRM Comment Period End	12/16/96	
R&O	03/03/97	62 FR 9636
Public Notice	03/13/97	62 FR 12959

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tejal Mehta
Phone: 202 418-7397
Julie Buchanan
Phone: 202 418-0660
Fax: 202 418-1159

RIN: 3060–AG56

4439. IMPLEMENTATION OF SECTION 225 OF THE TELECOMMUNICATIONS ACT OF 1996; ACCESS TO TELECOMMUNICATION SERVICES AND EQUIPMENT, AND CUSTOMER PREMISE EQUIPMENT, FOR PERSONS WITH DISABILITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
ANPRM	09/17/96	61 FR 50465
NPRM	04/02/98	63 FR 28456
NPRM Comment Period End	08/14/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: John Spencer
Phone: 202 418-1310
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Email: jspencer@fcc.gov
Susan Kimmel
Phone: 202 418-1310

RIN: 3060–AG58

4440. DEVELOPMENT OF OPERATIONAL, TECHNICAL, AND SPECTRUM REQUIREMENTS FOR PUBLIC SAFETY COMMUNICATIONS REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 90

Timetable:

Action	Date	FR Cite
NPRM	10/09/97	62 FR 60199
First R&O and 3rd NPRM	08/06/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: John Clarke
Phone: 202 418-0680

RIN: 3060–AG85

4441. MULTIPLE ACCESS SYSTEMS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 101

Timetable:

Action	Date	FR Cite
NPRM	01/19/97	62 FR 11407

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Shellie Blakeney
Phone: 202 418-0680

RIN: 3060–AG86

4442. AMENDMENT OF PART I OF THE COMMISSION'S RULES—COMPETITIVE BIDDING PROCEDURES

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 1; 47 CFR 21; 47 CFR 24; 47 CFR 24; 47 CFR 27; 47 CFR 90; 47 CFR 95

Timetable:

Action	Date	FR Cite
NPRM	03/21/97	62 FR 13570
NPRM Comment Period End	04/16/97	
2d FNPRM	01/07/98	63 FR 770
3d R&O	01/15/98	63 FR 2315

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Josh Roland
Phone: 202 418-2078
Fax: 202 418-0990

RIN: 3060–AG87

4443. AMENDMENT OF THE COMMISSION'S RULES REGARDING INSTALLMENT PAYMENT FINANCING PAYMENT FOR PERSONAL COMMUNICATIONS SERVICES (PCS) LICENSEES

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

CFR Citation: 47 CFR 1; 47 CFR 24

Timetable:

Action	Date	FR Cite
NPRM	03/02/97	62 FR 13570
NPRM Comment Period End	04/16/97	
FNPRM	10/16/97	62 FR 55375

FCC—WTB

Long-Term Actions

Action	Date	FR Cite
Order on Recon	04/08/98	63 FR 17111

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Audrey Bashkin
Phone: 202 418-1159
Fax: 202 418-0890
Email: abashkin@fcc.gov

RIN: 3060–AG88
[FR Doc. 98-27383 Filed 11-06-98; 8:45 am]
BILLING CODE 6712-01-F

federal register

Monday
November 9, 1998

Part LIV

Federal Deposit Insurance Corporation

Semiannual Regulatory Agenda

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Ch. III

Semiannual Agenda of Regulations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is hereby publishing items for the October 1998 regulatory agenda. The agenda contains information about FDIC's current and projected rulemakings, existing regulations under review, and completed rulemakings.

FOR FURTHER INFORMATION CONTACT: Persons identified under regulations listed in the agenda. Unless otherwise noted, the address for all FDIC staff identified in the agenda is Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Twice each year, the FDIC publishes an agenda of regulations to inform the public of its regulatory actions and to enhance public participation in the rulemaking process. Publication of the agenda is in accordance with both the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and the FDIC statement of policy entitled "Development and Review of FDIC Rules and Regulations." This policy was revised recently (63 FR 25157, May 7, 1998) to focus it more sharply on the FDIC's approach to regulatory reform.

The FDIC amends its regulations under the general rulemaking authority prescribed in section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and under specific authority granted by the Act and other statutes.

The Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI) contains reforms that significantly restructure the regulation of financial institutions. As a consequence, many of the regulations included in this agenda are in response to CDRI. The FDIC is continuing to develop regulations implementing the most recent legislative requirements. These include the requirement in section 303 of CDRI that the Federal banking regulators conduct a review of all their regulations and written policies to streamline them, remove inconsistencies, improve efficiency, reduce unnecessary costs, and make uniform all regulations and guidelines implementing common statutory or supervisory policies. Changes to the FDIC's regulations as a result of CDRI will be noted in this and future semiannual agendas as they emerge from these reviews.

The Federal banking regulators are the FDIC, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRS), and the Office of Thrift Supervision (OTS). In some cases, the FDIC also coordinates with the National Credit Union Administration (NCUA).

Interested persons may petition the FDIC for the issuance, amendment, or repeal of any regulation by submitting a written petition to the Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429. Petitioners should include complete and concise statements of their interest in the subject matter and reasons why the petitions should be granted.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4444	12 CFR 340 Restrictions on Sale of Assets by the FDIC	3064-AB37
4445	12 CFR 308 Program Fraud Civil Remedies	3064-AB41
4446	12 CFR 360 Receivership Rules	3064-AB92
4447	12 CFR 348 Management Interlocks Act	3064-AC08
4448	12 CFR 330 Deposit Insurance Regulations; Joint Accounts and "Payable on Death" Accounts	3064-AC16
4449	12 CFR 326 "Know Your Customer" Requirements	3064-AC19
4450	12 CFR 362 Activities of Insured State Banks and Insured Savings Associations	3064-AC20

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4451	12 CFR 325 Capital Maintenance—Recourse Arrangements and Direct Credit Substitutes	3064-AB31
4452	12 CFR 325 Capital Maintenance—Collateralized Transactions	3064-AB78
4453	12 CFR 342 Qualification Requirements for the Recommendation or Sale of Certain Securities	3064-AB85
4454	12 CFR 307 Notification of Changes of Insured Status	3064-AB88
4455	12 CFR 361 Formal Minority- and Women-Owned Business and Law Firm Certification Program	3064-AB95
4456	12 CFR 325 Capital Maintenance—Elimination of Interagency Differences	3064-AB96
4457	12 CFR 328 Advertisement of Membership	3064-AB99
4458	12 CFR 343 Insured State Nonmember Banks Which Are Municipal Securities Dealers	3064-AC04
4459	12 CFR 362 Activities of Insured State Banks and Insured Savings Associations	3064-AC12
4460	12 CFR 347 Foreign Activities of Insured State Nonmember Banks	3064-AC15
4461	12 CFR 325 Risk-Based Capital Standards: Claims on Securities Firms	3064-AC17

FDIC

Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4462	12 CFR 364 Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness	3064-AC18

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4463	12 CFR 308 Censure, Suspension, and Debarment of Independent Public Accountants	3064-AA64
4464	12 CFR 327 Assessments—Assessment Base	3064-AB46

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4465	12 CFR 330 Simplification of Deposit Insurance Rules	3064-AB73
4466	12 CFR 360 Receivership Rules—Security Interests of Federal Home Loan Banks	3064-AC00
4467	12 CFR 303 Applications, Requests, Submittals, Delegations of Authority, and Notices Required To Be Filed by Statute or Regulation	3064-AC02
4468	12 CFR 325 Capital Maintenance—Treatment of Servicing Assets	3064-AC07
4469	12 CFR 325 Risk-Based Capital Standards; Unrealized Revaluation Gains on Certain Equity Securities	3064-AC11

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Proposed Rule Stage

4444. RESTRICTIONS ON SALE OF ASSETS BY THE FDIC

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819; PL 103-204

CFR Citation: 12 CFR 340

Legal Deadline: None

Abstract: This regulatory action implements provisions in the Resolution Trust Corporation Completion Act of 1993 that require assets held by the FDIC in the course of liquidating federally insured depository institutions not to be sold to persons who, in ways specified in the Act, contributed to the demise of the institution.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Trout, Division of Resolutions and Receiverships, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 416-4231

RIN: 3064–AB37

4445. PROGRAM FRAUD CIVIL REMEDIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819; PL 103-204

CFR Citation: 12 CFR 308

Legal Deadline: None

Abstract: The Program Fraud Civil Remedies Act (PFCRA) requires specified Federal agencies to follow certain procedures to recover penalties and assessments against persons who file false claims and statements. The Resolution Trust Corporation Completion Act of 1993 subjects the FDIC to the requirements of the PFCRA. An interagency task force was established by the President's Council on Integrity and Efficiency to develop model regulations for implementing the PFCRA. This regulatory action adopts, with minor variations, the model regulations set forth by the Council's task force.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark A. Mellon, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-3854

RIN: 3064–AB41

4446. RECEIVERSHIP RULES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819 to 1821

CFR Citation: 12 CFR 360

Legal Deadline: None

Abstract: This rulemaking establishes uniform rules governing the payment and priority of post-insolvency interest payments from all receiverships administered by the FDIC and makes

FDIC

Proposed Rule Stage

other technical and clarifying changes to part 360.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mitchell Glassman, Deputy Director, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6525

RIN: 3064–AB92

4447. MANAGEMENT INTERLOCKS ACT

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 3201 to 3208

CFR Citation: 12 CFR 348

Legal Deadline: None

Abstract: This rulemaking is sponsored jointly by the OCC, the FRS, the OTS and the FDIC. It conforms the management interlocks rules to recent statutory changes, modernizes and clarifies the rules, and reduces unnecessary regulatory burdens where feasible, consistent with statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/11/98	63 FR 43052
NPRM Comment Period End	10/13/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Curtis Vaughn, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6759

RIN: 3064–AC08

4448. • DEPOSIT INSURANCE REGULATIONS; JOINT ACCOUNTS AND "PAYABLE ON DEATH" ACCOUNTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1813(l); 12 USC 1813(m); 12 USC 1817(i); 12 USC 1818(q); 12 USC 1819(Tenth); 12 USC 1820(f); 12 USC 1821(a); 12 USC 1822(c)

CFR Citation: 12 CFR 330

Legal Deadline: None

Abstract: This rulemaking proposes to amend regulations governing the insurance coverage of joint ownership accounts and revocable trust (or payable-on-death) accounts.

Timetable:

Action	Date	FR Cite
NPRM	07/17/98	63 FR 38521
NPRM Comment Period End	10/15/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joseph DiNuzzo, Senior Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-7349

RIN: 3064–AC16

4449. • "KNOW YOUR CUSTOMER" REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1813; 12 USC 1815; 12 USC 1817; 12 USC 1818; 12 USC 1819 (Tenth); 12 USC 1881 to 1883; 31 USC 5318; 42 USC 4012a; 42 USC 4104b; 42 USC 4106

CFR Citation: 12 CFR 326

Legal Deadline: None

Abstract: This rulemaking proposes to issue regulations requiring insured nonmember banks to develop and maintain "Know Your Customer" programs. As proposed, the regulations would require each institution to develop a program designed to determine the identity of its customers, determine its customers' source of funds; determine the normal and expected transactions of its customers; monitor account activity for transactions that are inconsistent with those normal and expected transactions; and report any transactions of its customers that are determined to be suspicious, in accordance with the FDIC's existing suspicious activity reporting regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol A. Mesheske, Chief, Special Activities Section, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6750

RIN: 3064–AC19

4450. • ACTIVITIES OF INSURED STATE BANKS AND INSURED SAVINGS ASSOCIATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 375a(4); 12 USC 375b; 12 USC 1816; 12 USC 1818(a); 12 USC 1818(b); 12 USC 1819; 12 USC 1820(d)(10); 12 USC 1821(f); 12 USC 1818; 12 USC 1819 (Tenth); 12 USC 1828(m); 12 USC 1831a; 12 USC 1831e

CFR Citation: 12 CFR 362; 12 CFR 337

Legal Deadline: None

Abstract: This rulemaking proposes to add safety and soundness standards to govern insured State nonmember banks that engage in the public sale, distribution or underwriting of stocks, bonds, debentures, notes or other securities through a subsidiary if those activities are permissible for a national bank subsidiary but are not permissible for the national bank itself. In addition, the rulemaking proposes to require that insured State nonmember banks file a notice before commencing any activities permissible for the parent national bank itself. The rulemaking also proposes to remove and reserve the provisions addressing "Securities Activites of Subsidiaries of Insured State Banks: Bank Transactions with Affiliated Securities Companies."

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Curtis Vaughn, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429

FDIC

Proposed Rule Stage

Phone: 202 898-6759

RIN: 3064–AC20

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

Final Rule Stage

4451. CAPITAL MAINTENANCE—RECOURSE ARRANGEMENTS AND DIRECT CREDIT SUBSTITUTES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1831; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: The FDIC, the FRS, the OCC, and the OTS (Agencies) are revising their risk-based capital standards to address the regulatory capital treatment of recourse arrangements and direct credit substitutes that expose banks, bank holding companies, and thrifts to credit risk. One portion of the NPRM addressing the risk-based capital treatment of low-level recourse transactions is required to be published as a separate final rule by CDRI.

In addition, the Agencies published, in an ANPRM, a preliminary proposal to use credit ratings to match the risk-based capital assessment more closely to an institution's relative risk of loss in certain asset securitizations. The Agencies are also seeking comment on the need for a similar system for unrated asset securitizations and on how such a system would be designed. The Agencies intend that any final rules adopted in connection with these regulatory actions that result in increased risk-based capital requirements would apply only to transactions that are consummated after the effective dates of such final rules.

A second NPRM combining the issues raised in the ANPRM on credit ratings, and the NPRM on recourse and direct credit substitutes was published in November 1997 (62 FR 59944).

Timetable:

Action	Date	FR Cite
Final Action	01/00/99	
Credit Ratings		
ANPRM 05/25/94 (59 FR 27116)		
Recourse/Direct Credit Substitutes		
NPRM 05/25/94 (59 FR 27116)		
Synthesis of Credit Ratings/Recourse/Direct Credit Substitutes		
NPRM 11/05/97 (62 FR 59944)		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert F. Storch, Chief, Accounting Section, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8906

RIN: 3064–AB31

4452. CAPITAL MAINTENANCE—COLLATERALIZED TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1831; 12 USC 3907; 12 USC 3909; 12 USC 4808; PL 102-233; PL 102-242

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This rule was developed in consultation with the OCC, the FRS, and the OTS (Agencies). It amends FDIC's risk-based capital standards to make the standards uniform with the Agencies' treatments for transactions supported by collateral. The effect of the proposal is to allow banks to hold less capital for certain transactions collateralized by cash or qualifying securities.

This action is the result of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	08/16/96	61 FR 42565
NPRM Comment Period End	10/15/96	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8904

RIN: 3064–AB78

4453. QUALIFICATION REQUIREMENTS FOR THE RECOMMENDATION OR SALE OF CERTAIN SECURITIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1818; 12 USC 1831

CFR Citation: 12 CFR 342

Legal Deadline: None

Abstract: This rulemaking is sponsored jointly by the OCC, the FRS, and the FDIC. It establishes qualifications for those banks that sell certain securities directly to retail customers through their employees without having to register as a broker under the Securities Exchange Act. More particularly, this action establishes filing requirements for banks, and registration, testing, and continuing education requirements for bank securities representatives consistent with the professional qualification requirements for broker-dealers and registered representatives under the Securities Exchange Act and rules thereunder, and the rules of the securities self-regulatory organizations.

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68824
NPRM Comment Period End	02/28/97	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William A. Stark, Assistant Director, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6972

RIN: 3064–AB85

FDIC

Final Rule Stage

4454. NOTIFICATION OF CHANGES OF INSURED STATUS

Priority: Info./Admin./Other

Legal Authority: 12 USC 1818; 12 USC 1819

CFR Citation: 12 CFR 307

Legal Deadline: None

Abstract: This rulemaking clarifies reporting and disclosure requirements already applicable to insured depository institutions. It implements the results of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	05/14/97	62 FR 26431
NPRM Comment Period End	07/14/97	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rodney D. Ray, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-3556

RIN: 3064–AB88

4455. FORMAL MINORITY- AND WOMEN-OWNED BUSINESS AND LAW FIRM CERTIFICATION PROGRAM

Priority: Info./Admin./Other

Legal Authority: 12 USC 1819; 12 USC 1822

CFR Citation: 12 CFR 361

Legal Deadline: None

Abstract: This rulemaking replaces the self-certification program for minority- and women-owned businesses wishing to do business with the FDIC, with a more formal program for certification. The rulemaking is the result of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	04/14/97	62 FR 18059
NPRM Comment Period End	06/13/97	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Judith M. Wood, Chief, MWOP, Office of Diversity and Economic Opportunity, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 416-2456

RIN: 3064–AB95

4456. CAPITAL MAINTENANCE—ELIMINATION OF INTERAGENCY DIFFERENCES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1831; 12 USC 1835; 12 USC 3907; 12 USC 3909; 12 USC 4808; PL 102-242

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This rulemaking, jointly sponsored by the FDIC, the FRS, the OCC, and the OTS, resolves differences among the agencies with regard to the capital treatment of construction loans on presold residential properties, real estate loans secured by junior liens on 1-4 family residential properties, investments in mutual funds, and the minimum Tier 1 leverage capital standard. This rule is the result of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	10/27/97	62 FR 55686
NPRM Comment Period End	12/26/97	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8904

RIN: 3064–AB96

4457. ADVERTISEMENT OF MEMBERSHIP

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1818; 12 USC 1819; 12 USC 1828

CFR Citation: 12 CFR 328

Legal Deadline: None

Abstract: This regulatory action consolidates provisions relating to display of official signs; extends the official advertising statement that is currently required for insured banks to all insured depository institutions; streamlines exceptions to the use of the statement; prohibits use of the statement in advertisements concerning nondeposit investment products; and delegates authority to approve translations of the statement to certain FDIC officials. In addition, this action solicits comment on issues relating to advertisement of membership in the FDIC over a computer network such as the Internet. This action is the result of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	02/11/97	62 FR 06142
NPRM Comment Period End	04/14/97	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marc J. Goldstrom, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8807

RIN: 3064–AB99

4458. INSURED STATE NONMEMBER BANKS WHICH ARE MUNICIPAL SECURITIES DEALERS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4803(a)

CFR Citation: 12 CFR 343

Legal Deadline: None

Abstract: This rulemaking proposes to rescind the regulation that requires insured state nonmember banks which are municipal securities dealers to file with the FDIC certain information about those persons who are or seek to be associated with these dealers as municipal securities principals or municipal securities representatives. This action is the result of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	05/16/97	62 FR 26994
NPRM Comment Period End	07/15/97	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

FDIC

Final Rule Stage

Agency Contact: Dennis Olson, Senior Financial Analyst, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-7212

RIN: 3064–AC04

4459. ACTIVITIES OF INSURED STATE BANKS AND INSURED SAVINGS ASSOCIATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 378; 12 USC 1813; 12 USC 1815; 12 USC 1816; 12 USC 1817(j); 12 USC 1818; 12 USC 1819 (Seventh and Tenth); 12 USC 1828; 12 USC 1831e; 12 USC 1831o; 12 USC 1831p-1; 15 USC 1607

CFR Citation: 12 CFR 362; 12 CFR 337; 12 CFR 303

Legal Deadline: None

Abstract: This rulemaking withdraws a proposed rule published August 23, 1996, in the Federal Register at 61 FR 43486 (RIN 3064-AB75) to amend the FDIC's regulations governing the activities and investments of insured State banks, and replaces it with a more comprehensive rule.

The more comprehensive rulemaking combines the FDIC's regulations governing the activities and investments of insured State banks (presently found in 12 CFR part 362) with those governing insured savings associations (presently found at 12 CFR 303.12) into a revised part 362. In addition, the rule moves the FDIC's regulations governing safety and soundness of securities activities of subsidiaries and affiliates of insured State nonmember banks (currently at 12 CFR 337.4) into part 362. The intention is to modernize this group of regulations and harmonize the provisions of part 362 governing activities that are not permissible for national banks with those governing the securities activities of State nonmember banks.

Timetable:

Action	Date	FR Cite
NPRM	09/12/97	62 FR 47969
NPRM Comment Period End	12/11/97	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Curtis Vaughn, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6759

RIN: 3064–AC12

4460. • FOREIGN ACTIVITIES OF INSURED STATE NONMEMBER BANKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1813; 12 USC 1815; 12 USC 1817; 12 USC 1819; 12 USC 1820; 12 USC 1828; 12 USC 3103; 12 USC 3104; 12 USC 3105; 12 USC 3108; PL 98-181

CFR Citation: 12 CFR 347

Legal Deadline: None

Abstract: This rulemaking is sponsored jointly by the OCC, the FRS, and the FDIC. It implements the provisions related to an extended examination cycle for U.S. branches and agencies of foreign banks set out in section 2214 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA).

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/28/98	63 FR 46118
Interim Final Rule Comment Period End	10/27/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Walter, Chief, International Branch, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-3540

RIN: 3064–AC15

4461. • RISK-BASED CAPITAL STANDARDS: CLAIMS ON SECURITIES FIRMS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815(a); 12 USC 1815(b); 12 USC 1816; 12 USC 1818(a); 12 USC 1818(b); 12 USC 1818(c); 12 USC 1818(t); 12 USC 1819 (Tenth); 12 USC 1828(c); 12 USC 1828(d); 12 USC 1828(i); 12 USC 1828(n); 12 USC 1828(o); 12 USC 1831o; 12 USC 1835

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This rulemaking is sponsored jointly by the OCC, the FRS, the FDIC and OTS. This interim rule would revise the FDIC's risk-based capital standards set forth in the Basle Accord. This revision would permit claims on certain securities firms to receive the same preferential risk-weighting that is applied to claims on banks.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steve Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8904

RIN: 3064–AC17

4462. • INTERAGENCY GUIDELINES ESTABLISHING YEAR 2000 STANDARDS FOR SAFETY AND SOUNDNESS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819 (Tenth); 12 USC 1831p-1

CFR Citation: 12 CFR 364

Legal Deadline: None

Abstract: This rulemaking is sponsored jointly by the OCC, the FRS, the OTS, and the FDIC. It provides interim guidelines establishing Year 2000 safety and soundness standards for insured depository institutuions pursuant to section 39 of the Federal Deposit Insurance Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/15/98	63 FR 55480
Interim Final Rule Comment Period End	12/14/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank Hartigan, Year 2000 Project Manager, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6867

RIN: 3064–AC18

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

Long-Term Actions

4463. CENSURE, SUSPENSION, AND DEBARMENT OF INDEPENDENT PUBLIC ACCOUNTANTS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 308

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Doris L. Marsh
Phone: 202 898-8905

RIN: 3064–AA64

4464. ASSESSMENTS—ASSESSMENT BASE

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 327

Timetable:

Action	Date	FR Cite
ANPRM	10/05/94	59 FR 50710
ANPRM Comment Period End	02/02/95	
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen Ledbetter
Phone: 202 898-8658

RIN: 3064–AB46

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

Completed Actions

4465. SIMPLIFICATION OF DEPOSIT INSURANCE RULES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1813; 12 USC 1817 to 1822

CFR Citation: 12 CFR 330

Legal Deadline: None

Abstract: One of the FDIC's projects in its Strategic Plan is to simplify the deposit insurance rules to promote public understanding of deposit insurance. This rulemaking furthers that goal. It is also intended to reduce regulatory burden and improve efficiency pursuant to the provisions of section 303(a) of CDRI.

Timetable:

Action	Date	FR Cite
ANPRM	05/22/96	61 FR 25596
ANPRM Comment Period End	08/20/96	
NPRM	05/14/97	62 FR 26435
NPRM Comment Period End	08/12/97	
Final Action	05/11/98	63 FR 25750
Final Action Effective	07/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph A. DiNuzzo, Senior Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-7349

RIN: 3064–AB73

4466. RECEIVERSHIP RULES—SECURITY INTERESTS OF FEDERAL HOME LOAN BANKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1821(d)(1); 12 USC 1819; 12 USC 1823(c)(4)

CFR Citation: 12 CFR 360

Legal Deadline: None

Abstract: This regulatory action addresses least-cost resolutions and the security interests of Federal Home Loan Banks in FDIC-administered receiverships. This action is the result of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	02/20/97	62 FR 07725
NPRM Comment Period End	04/21/97	
Final Action	07/14/98	63 FR 37760
Final Action Effective	08/13/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mitchell Glassman, Deputy Director, Division of Resolutions and Receiverships, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6525

RIN: 3064–AC00

4467. APPLICATIONS, REQUESTS, SUBMITTALS, DELEGATIONS OF AUTHORITY, AND NOTICES REQUIRED TO BE FILED BY STATUTE OR REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 378; 12 USC 1813; 12 USC 1815; 12 USC 1816; 12 USC 1817(j); 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1831(e); 12 USC 1831(o); 12 USC 1831(p-1); 15 USC 1607

CFR Citation: 12 CFR 303

Legal Deadline: None

Abstract: This rulemaking streamlines and updates the FDIC's regulations governing application procedures and delegations of authority. It implements the results of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	10/09/97	62 FR 52809
NPRM Comment Period End	01/07/98	
Final Action	08/20/98	63 FR 44686
Final Action Effective	10/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marion Thickson, Assistant Regional Director, Division of Supervision, Federal Deposit Insurance Corporation
Phone: 312 382-7558

RIN: 3064–AC02

4468. CAPITAL MAINTENANCE—TREATMENT OF SERVICING ASSETS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815(a); 12 USC 1815(b); 12 USC 1816; 12 USC 1818(a); 12 USC 1818(b); 12 USC 1818(c); 12 USC 1818(t); 12 USC 1819 (Tenth); 12 USC 1828(c); 12 USC 1828(d); 12 USC 1828(i); 12 USC 1828(o); 12 USC 1828(n); 12 USC 1831o; 12 USC 3907

FDIC

Completed Actions

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This rulemaking is sponsored jointly by the OCC, the FRS, OTS and the FDIC. The agencies propose to amend their capital adequacy standards for banks, bank holding companies, and savings associations (banking organizations) to address the treatment of servicing assets on both mortgage assets and financial assets other than mortgages (non-mortgages).

Timetable:

Action	Date	FR Cite
NPRM	08/04/97	62 FR 42005
NPRM Comment Period End	10/03/97	
Final Action	08/10/98	63 FR 42668
Final Action Effective	10/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8904

RIN: 3064–AC07

4469. RISK-BASED CAPITAL STANDARDS; UNREALIZED REVALUATION GAINS ON CERTAIN EQUITY SECURITIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815(a); 12 USC 1815(b); 12 USC 1816; 12 USC 1818(a); 12 USC 1818(b); 12 USC 1818(c); 12 USC 1818(t); 12 USC 1819 (Tenth); 12 USC 1828(c); 12 USC 1828(d); 12 USC 1828(i); 12 USC 1828(n); 12 USC 1828(o); 12 USC 1835

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This rulemaking establishes uniform interagency rules enabling institutions to include in supplementary (Tier 2) capital up to 45 percent of unrealized gains on certain available-for-sale equity securities.

Timetable:

Action	Date	FR Cite
NPRM	10/27/97	62 FR 55681
NPRM Comment Period End	12/26/97	
Final Action	09/01/98	63 FR 46518
Final Action Effective	10/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8904

RIN: 3064–AC11

[FR Doc. 98-23553 Filed 11-06-98; 8:45 am]
BILLING CODE 6714-01-F

federal register

Monday
November 9, 1998

Part LV

Federal Energy Regulatory Commission

Semiannual Regulatory Agenda

FEDERAL ENERGY REGULATORY COMMISSION (FERC)

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Semiannual regulatory agenda.

SUMMARY: In accordance with guidance issued by the Office of Management and Budget (OMB), the Federal Energy Regulatory Commission voluntarily submits information about rulemakings under development. Of the 12 rulemakings listed, 6 are current or projected rulemakings, and 6 are completed actions.

DATES: The dates provided represent goals, not commitments, and may be revised due to shifts in workload, changes in priorities, or extensive public comments. See the various dates listed for each specific rulemaking.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Person listed for each specific rulemaking.

Linwood A. Watson, Jr.,
Acting Secretary.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4470	Regulation of Short-Term Natural Gas Transportation Services	1902-AB74
4471	Complaint Procedures	1902-AB75
4472	Regulation of Interstate Natural Gas Transportation Services	1902-AB76

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4473	Administrative Determination of Full Avoided Costs, Sales of Power to Qualifying Facilities and Interconnection Facilities	1902-AB00
4474	Revision of Fuel Cost-Adjustment Clause Regulation Relating to Fuel Purchases From Company-Owned or Controlled Source	1902-AB58

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4475	Treatment of Responses to FERC Form No. 580 Interrogatories	1902-AB57
4476	Revised Filing Requirements Under Part 33 of the Commission's Regulations	1902-AB73

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4477	Elimination of Unneeded Pages in the FERC Form No. 1	1902-AB33
4478	Elimination of Unnecessary Filing Requirements From the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees	1902-AB35
4479	Alternative Power Pooling Institutions Under the Federal Power Act	1902-AB59
4480	Secondary Market Transactions on Interstate Natural Gas Pipelines	1902-AB68
4481	Capacity Reservation Open Access Transmission Tariffs	1902-AB69

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Proposed Rule Stage

4470. • REGULATION OF SHORT-TERM NATURAL GAS TRANSPORTATION SERVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 717 et seq; 15 USC 3301 to 3432; 42 USC 7101 to 7532; 43 USC 1331 to 1356

CFR Citation: 18 CFR 161; 18 CFR 250; 18 CFR 284

Legal Deadline: None

Abstract: The Commission is proposing an integrated package of revisions to its regulations governing interstate natural gas pipelines to reflect the changes in the market for short-term transportation services on pipelines. (Docket No. RM98-10-000.)

Timetable:

Action	Date	FR Cite
NPRM	08/11/98	63 FR 42982
NPRM Comment Period End	11/09/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Goldenberg, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426
Phone: 202 208-2294

RIN: 1902–AB74

4471. • COMPLAINT PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 551 to 583; 15 USC 717 et seq; 16 USC 791a et seq; 31 USC 9701; 42 USC 7101 to 7352; 49 USC 60502; 49 USC app 1 to 85; EO 12009

CFR Citation: 18 CFR 1b; 18 CFR 343; 18 CFR 385

Legal Deadline: None

Abstract: The Commission is proposing to revise its regulations governing complaints filed under the Interstate Commerce Act, the Federal Power Act, the Natural Gas Act, the Natural Gas Policy Act, and the Public Utility Regulatory Policies Act of 1978 to encourage and support consensual resolution of complaints, and to organize the complaint procedures so that all complaints are handled in a timely and fair manner. (Docket No. RM98-13-000.)

Timetable:

Action	Date	FR Cite
NPRM	08/06/98	63 FR 41982
NPRM Comment Period End	10/05/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Faerberg, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426
Phone: 202 208-2087

RIN: 1902–AB75

4472. • REGULATION OF INTERSTATE NATURAL GAS TRANSPORTATION SERVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 717 et seq; 15 USC 3301 to 3432; 42 USC 7101 to 7532; 43 USC 1331 to 1356

CFR Citation: 18 CFR ch 1

Legal Deadline: None

Abstract: The Commission is seeking comments on its regulatory policies for interstate natural gas transportation services in view of the changes that have taken place in the natural gas industry in recent years. (Docket No. RM98-12-000.)

Timetable:

Action	Date	FR Cite
Notice of Inquiry	08/11/98	63 FR 42974
Comment Period End	11/09/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ingrid Olson, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426
Phone: 202 208-2015

RIN: 1902–AB76

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Final Rule Stage

4473. ADMINISTRATIVE DETERMINATION OF FULL AVOIDED COSTS, SALES OF POWER TO QUALIFYING FACILITIES AND INTERCONNECTION FACILITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 791a to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: 18 CFR 292

Legal Deadline: None

Abstract: The Commission has proposed to amend its regulations governing purchases and sales of electricity between electric utilities and qualifying cogeneration facilities and qualifying small power production facilities. (Docket No. RM88-6-000.)

Timetable:

Action	Date	FR Cite
NPRM	03/22/88	53 FR 9331
NPRM Comment Period End	06/14/88	
To Be Withdrawn	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

FERC

Final Rule Stage

Agency Contact: Daniel L. Larcamp, Assistant General Counsel, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426
Phone: 202 208-2088

RIN: 1902–AB00

4474. REVISION OF FUEL COST-ADJUSTMENT CLAUSE REGULATION RELATING TO FUEL PURCHASES FROM COMPANY-OWNED OR CONTROLLED SOURCE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 791a to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: 18 CFR 35

Legal Deadline: None

Abstract: The Commission proposes to amend its regulations to state that where a regulatory body has jurisdiction over the price of fuel from a company-owned or company-controlled source, and exercises that jurisdiction to approve such price, the Commission will presume, subject to rebuttal, that the cost of fuel so purchased is reasonable and includable in the fuel adjustment clause. (Docket No. RM93-24-000.)

Timetable:

Action	Date	FR Cite
NPRM	10/01/93	58 FR 51259
NPRM Comment Period End	11/01/93	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Wayne W. Miller, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426
Phone: 202 208-0466

RIN: 1902–AB58

FEDERAL ENERGY REGULATORY COMMISSION (FERC)

Long-Term Actions

4475. TREATMENT OF RESPONSES TO FERC FORM NO. 580 INTERROGATORIES

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 5 USC 301 to 305; 5 USC 551 to 557; 15 USC 79; 16 USC 791a to 828c; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: 18 CFR 141; 18 CFR 388

Legal Deadline: None

Abstract: The Commission proposes to: codify an existing requirement for certain public utilities to file responses to FERC Form No. 580 interrogatories; provide for the filing of both hard copy and electronic copy; and provide that responses will not qualify for claims of privilege. (Docket No. RM94-5-000.)

Timetable:

Action	Date	FR Cite
NPRM	12/01/93	58 FR 63312
NPRM Comment Period End	03/04/94	59 FR 1690
Final Rule	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary Cohen, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426
Phone: 202 208-2046

RIN: 1902–AB57

4476. • REVISED FILING REQUIREMENTS UNDER PART 33 OF THE COMMISSION'S REGULATIONS

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 16 USC 791a to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: 18 CFR 33

Legal Deadline: None

Abstract: The Commission has proposed to amend 18 CFR part 33 to update the filing requirements for applications under part 33, including applications for public utility mergers. (Docket No. RM98-4-000.)

Timetable:

Action	Date	FR Cite
NPRM	04/24/98	63 FR 20340
NPRM Comment Period End	08/24/98	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kimberly D. Bose, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426
Phone: 202 208-2294

RIN: 1902–AB73

FEDERAL ENERGY REGULATORY COMMISSION (FERC)

Completed Actions

4477. ELIMINATION OF UNNEEDED PAGES IN THE FERC FORM NO. 1

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 18 CFR 141

Completed:

Reason	Date	FR Cite
Withdrawn	08/28/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Audrey C. Wong
Phone: 202 219-3017

RIN: 1902–AB33

4478. ELIMINATION OF UNNECESSARY FILING REQUIREMENTS FROM THE COMMISSION'S UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 18 CFR 101

Completed:

Reason	Date	FR Cite
Withdrawn	08/28/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James G. Baird
Phone: 202 219-2613

RIN: 1902–AB35

4479. ALTERNATIVE POWER POOLING INSTITUTIONS UNDER THE FEDERAL POWER ACT

Priority: Info./Admin./Other

Major: Undetermined

CFR Citation: 18 CFR ch 1

Completed:

Reason	Date	FR Cite
Withdrawn	08/28/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Janice MacPherson
Phone: 202 208-0921

RIN: 1902–AB59

4480. SECONDARY MARKET TRANSACTIONS ON INTERSTATE NATURAL GAS PIPELINES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 18 CFR 284

Completed:

Reason	Date	FR Cite
Withdrawn - See RIN 1902-AB74	08/28/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Goldenberg
Phone: 202 208-2294

RIN: 1902–AB68

4481. CAPACITY RESERVATION OPEN ACCESS TRANSMISSION TARIFFS

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

CFR Citation: 18 CFR 35

Completed:

Reason	Date	FR Cite
Withdrawn	08/28/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dave Withnell
Phone: 202 208-2063

RIN: 1902–AB69

[FR Doc. 98-24586 Filed 11-06-98; 8:45 am]
BILLING CODE 6717-01-F

federal register

Monday
November 9, 1998

Part LVI

Federal Housing Finance Board

Semiannual Regulatory Agenda

FEDERAL HOUSING FINANCE BOARD (FHFB)

FEDERAL HOUSING FINANCE BOARD

12 CFR Ch. IX

Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Federal Housing Finance Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Housing Finance Board (Finance Board) hereby publishes items for the Unified Agenda of Federal Regulatory and Deregulatory Actions, as required by section 4 of Executive Order 12866. These items reflect the status of the regulatory agenda of the Finance Board as of October 1, 1998. The Finance Board is an independent agency in the executive branch of the Government that is charged by statute with supervising and regulating the Nation's Federal Home Loan Bank (FHLBank) System and the Financing Corporation (FICO). The FHLBank System consists of: Twelve regional FHLBanks that are each owned by their member financial institutions and that provide wholesale credit to members and certain nonmembers to be used for mortgage lending and related activities and the Office of Finance (OF), which issues FHLBank System consolidated obligations. FICO is a corporate entity separate from the FHLBank System that oversees outstanding debt issued to assist in resolving the savings and loan crisis of the 1980s. The Finance Board has an ongoing need to adopt various regulations dealing with the Agency's internal administration and with FHLBank System and FICO issues.

For this edition of the Finance Board's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

ADDRESSES: Executive Secretariat, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, (202) 408-2837.

FOR FURTHER INFORMATION CONTACT: Eric M. Raudenbush, Attorney-Advisor, Office of General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, (202) 408-2932.

By the Federal Housing Finance Board.

Elaine L. Baker,

Executive Secretary.

FEDERAL HOUSING FINANCE BOARD (FHFB) — Proposed Rule Stage

4482. FHLBANK FINANCIAL MANAGEMENT

Regulatory Plan: This entry is Seq. No. 168 in Part II of this issue of the **Federal Register**.

RIN: 3069–AA50

4483. DEVOLUTION OF GOVERNANCE AUTHORITIES TO THE FHLBANKS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1422b; 12 USC 1432(a)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Finance Board intends to publish one or more proposed rules to amend its regulations to devolve corporate governance authority with respect to certain matters from the Finance Board to the FHLBanks and to set forth guidelines regarding the exercise of these authorities.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	
NPRM Comment Period End	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Deborah F. Silberman, General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2570
Fax: 202 408-2580

RIN: 3069–AA64

4484. • COLLATERAL ELIGIBLE TO SECURE FHLBANK ADVANCES

Regulatory Plan: This entry is Seq. No. 169 in Part II of this issue of the **Federal Register**.

RIN: 3069–AA77

4485. • JOINT AND SEVERAL LIABILITY OF THE FHLBANKS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1431

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Finance Board plans to issue a proposed rule to codify guidelines implementing statutory requirements regarding the joint and several liability of the FHLBanks for System debt.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
NPRM Comment Period End	02/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Neil R. Crowley, Deputy General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2990
Fax: 202 408-2580

RIN: 3069–AA78

FEDERAL HOUSING FINANCE BOARD (FHFB) — Final Rule Stage

4486. ELECTION OF FHLBANK DIRECTORS

Priority: Other Significant

Legal Authority: 12 USC 1422b(a); 12 USC 1427

CFR Citation: 12 CFR 932

Legal Deadline: None

Abstract: The Finance Board plans to finalize its proposed rule to amend its regulation on the election and appointment of FHLBank directors to address procedural issues that have arisen since the adoption of the regulation and to set guidelines for the operation of the election process by the FHLBanks themselves.

Timetable:

Action	Date	FR Cite
NPRM	05/13/98	63 FR 26532
Final Action	11/00/98	
Final Action Effective	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Neil R. Crowley, Deputy General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2990
Fax: 202 408-2580

RIN: 3069–AA55

4487. FHLBANK LETTER OF CREDIT ISSUANCE

Regulatory Plan: This entry is Seq. No. 170 in Part II of this issue of the **Federal Register**.

RIN: 3069–AA61

4488. REVISIONS TO THE FREEDOM OF INFORMATION ACT REGULATION

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552

CFR Citation: 12 CFR 904

Legal Deadline: None

Abstract: The Finance Board is revising its Freedom of Information Act Regulation to comply with new statutory requirements and to reorganize and streamline the regulation to clarify the Finance Board's practices and procedures in responding to requests for information.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/13/98	63 FR 37483
Interim Final Rule Comment Period End	09/11/98	
Final Action	03/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janice A. Kaye, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2505
Fax: 202 408-2580

RIN: 3069–AA71

4489. TECHNICAL AMENDMENTS TO AFFORDABLE HOUSING PROGRAM REGULATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1430(j)

CFR Citation: 12 CFR 960

Legal Deadline: None

Abstract: The Finance Board intends to finalize an interim final rule that made technical and other amendments to its Affordable Housing Program regulation to resolve several minor issues that had arisen since its promulgation in 1997.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/20/98	63 FR 27668
Final Action	12/00/98	
Final Action Effective	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sharon B. Like, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930
Fax: 202 408-2580

RIN: 3069–AA73

4490. • COMMUNITY INVESTMENT CASH ADVANCE PROGRAMS

Regulatory Plan: This entry is Seq. No. 171 in Part II of this issue of the **Federal Register**.

RIN: 3069–AA75

FEDERAL HOUSING FINANCE BOARD (FHFB) — Long-Term Actions

4491. COMPENSATION OF FHLBANK AND OFFICE OF FINANCE OFFICERS AND EMPLOYEES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 932; 12 CFR 941

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David A. Guy
Phone: 202 408-2536
Fax: 202 408-2580

RIN: 3069–AA62

4492. FHLBANK SYSTEM MISSION REGULATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 12 CFR 937

Timetable:

Action	Date	FR Cite
ANPRM	04/09/97	62 FR 17108

FHFB

Long-Term Actions

Action	Date	FR Cite
ANPRM Comment Period End	06/09/97	62 FR 25563

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Deborah F. Silberman
Phone: 202 408-2570
Fax: 202 408-2580

RIN: 3069–AA65

4493. CAPS ON BASE SALARIES OF FHLBANK PRESIDENTS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 932

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Deborah F. Silberman
Phone: 202 408-2570
Fax: 202 408-2580

RIN: 3069–AA74

FEDERAL HOUSING FINANCE BOARD (FHFB)

Completed Actions

4494. TECHNICAL AMENDMENTS TO MEMBERSHIP REGULATION

Priority: Info./Admin./Other

Legal Authority: 12 USC 1422a; 12 USC 1424

CFR Citation: 12 CFR 933

Legal Deadline: None

Abstract: The Finance Board published a final rule amending its Membership Regulation to resolve several minor issues that had arisen since its promulgation in 1996.

Timetable:

Action	Date	FR Cite
NPRM	02/19/98	63 FR 8364
NPRM Comment Period End	03/23/98	
Final Action	07/27/98	63 FR 40018
Final Action Effective	08/26/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharon B. Like, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930
Fax: 202 408-2580

RIN: 3069–AA67

4495. ELIGIBILITY OF RURAL BANKS FOR MEMBERSHIP AND ADVANCES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1424; 12 USC 1426; 12 USC 1430; 12 USC 1432

CFR Citation: 12 CFR 933; 12 CFR 935

Legal Deadline: None

Abstract: The Finance Board issued a final rule amending its regulations relating to combination business or farm properties on which a residence is located to assist smaller depository institutions, located in rural areas, to qualify for FHLBank membership and, once admitted, to provide the collateral necessary to obtain advances.

Timetable:

Action	Date	FR Cite
NPRM	10/14/97	62 FR 53251
NPRM Comment Period End	11/13/97	
Final Action	06/29/98	63 FR 35117
Final Action Effective	07/29/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharon B. Like, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930
Fax: 202 408-2580

RIN: 3069–AA69

4496. AUTHORITY TO APPROVE FHLBANK BYLAWS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1431(g); 12 USC 1432(a); 12 USC 1442

CFR Citation: 12 CFR 934

Legal Deadline: None

Abstract: The Finance Board published a final rule adding a new provision to its regulation on FHLBank Operations to devolve responsibility for approving FHLBank bylaws or amendments thereto, subject to certain conditions, from the Finance Board to the boards of directors of the FHLBanks.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/11/97	62 FR 65197
Interim Final Rule Comment Period End	01/12/98	
Interim Final Rule Effective	01/12/98	
Final Action	07/24/98	63 FR 39702
Final Action Effective	08/24/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janice A. Kaye Attorney-Advisor Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2505
Fax: 202 408-2580

RIN: 3069–AA70

4497. FINANCIAL DISCLOSURE BY FHLBANKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1426; 12 USC 1431; 12 USC 1440

CFR Citation: 12 CFR 937

Legal Deadline: None

Abstract: The Finance Board published a final rule amending its regulations to add a requirement that the FHLBanks provide annual audited financial statements, and quarterly unaudited financial statements, to their members, both in conformance with the requirements promulgated by the Securities and Exchange Commission.

FHFB

Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	02/02/98	63 FR 5315
NPRM Comment Period End	03/19/98	
Final Action	07/24/98	63 FR 39702
Final Action Effective	08/24/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph A. McKenzie, Director, Financial Reporting and, Analysis Div., Office of Policy, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2845
Fax: 202 408-2915

RIN: 3069–AA72

4498. • COMPENSATION AND CONFLICTS-OF-INTEREST RULES FOR FHLBANK EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1426; 12 USC 1427; 12 USC 1432

CFR Citation: 12 CFR 932

Legal Deadline: None

Abstract: The Finance Board published a final rule amending its regulation on Compensation of FHLBank Employees to lift certain restrictions on incentive payments and bonuses. The final rule also amended the Finance Board's regulation on Conflicts of Interest of FHLBank Employees by adding an exception for non-exempt hourly FHLBank employees.

Timetable:

Action	Date	FR Cite
Final Action	06/05/98	63 FR 30584
Final Action Effective	06/05/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David A. Guy, Deputy General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2536
Fax: 202 408-2580

RIN: 3069–AA76

[FR Doc. 98-27063 Filed 11-06-98; 8:45 am]
BILLING CODE 6725-01-F

federal register

Monday
November 9, 1998

Part LVII

Federal Maritime Commission

Semiannual Regulatory Agenda

FEDERAL MARITIME COMMISSION (FMC)

FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

Regulatory Plan and Unified Agenda

AGENCY: Federal Maritime Commission.

ACTION: Regulatory plan and semiannual regulatory agenda.

SUMMARY: Pursuant to section 4(b) of E.O. 12866 and the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Commission anticipates having under consideration, during the period from October 1, 1998, to September 30, 1999, actions in the areas listed below.

FOR FURTHER INFORMATION CONTACT: For further information concerning Commission rulemaking proceedings or the status of any matter listed below, contact: Joseph C. Polking, Secretary, 800 North Capitol Street NW., Washington, DC 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: Section 602 of the Regulatory Flexibility Act (5 U.S.C. 602) requires the publication of an agenda of items for which regulatory agencies may propose or promulgate a rule which is likely to have a significant economic impact on a substantial number of small entities. Section 4(b) of Executive Order 12866 also requires agencies to publish a regulatory agenda. The agendas include information on regulatory activities being conducted or reviewed during the succeeding 12 months by the Commission.

The following is the Commission's unified regulatory agenda. The agenda does not necessarily include all petitions for rulemakings which are under staff review.

In addition, the Commission maintains a compilation of the status of pending rulemaking proceedings and a listing of rules that have become final since the publication of the most recent regulatory agenda. This will be made available to the public, including the press and interested persons.

The Commission currently has no actions under consideration that constitute "significant regulatory actions" under the definition in Executive Order 12866. This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Federal Maritime Commission's Statement of Regulatory Priorities is included in part II.

Joseph C. Polking,

Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4499	Inquiry Into Automated Tariff Filing Systems as Proposed by the Pending Ocean Shipping Reform Act of 1998 (Docket No. 98-10)	3072-AC00

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4500	Coloading Practices and Possible Section 16 Exemption for Coloading (Docket Nos. 93-22 and 94-26)	3072-AB75
4501	Financial Responsibility Requirements for Nonperformance of Transportation and Inquiry Into Alternative Forms (Docket No. 94-06; Further Notice of Proposed Rulemaking)	3072-AB80
4502	Port Restrictions and Requirements in the United States/Japan Trade (Docket No. 96-20)	3072-AB97

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4503	Update of Existing and Addition of New Filing and Service Fees (Docket No. 98-09)	3072-AB99
4504	Availability of Records to the Public—Electronic Freedom of Information Act (Docket No. 98-11)	3072-AC01

FEDERAL MARITIME COMMISSION (FMC)

Prerule Stage

4499. • INQUIRY INTO AUTOMATED TARIFF FILING SYSTEMS AS PROPOSED BY THE PENDING OCEAN SHIPPING REFORM ACT OF 1998 (DOCKET NO. 98-10)

Priority: Other Significant

Legal Authority: 46 USC app 1701 et seq

CFR Citation: 46 CFR 514

Legal Deadline: None

Abstract: The purposes of the Inquiry are to determine an approach that will produce private automated tariff publication systems that best comport with the directives of S.414, the Ocean Shipping Reform Act of 1998, and its legislative history and to determine whether ocean common carriers should be required to file service contracts electronically. Comments are solicited on the possible requirements for such tariff filing systems and on the electronic filing of service contracts and publication of essential terms.

Timetable:

Action	Date	FR Cite
Notice of Inquiry (Comments Due 08/10/98)	07/09/98	63 FR 37088
Extension of Time (Comments to 08/25/98)	08/11/98	63 FR 42801
End Review	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bryant L. VanBrakle, Director, Bureau of Tariffs, Certification, and Licensing, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5796
Fax: 202 523-5830
Email: bryant@fmc.gov

RIN: 3072–AC00

FEDERAL MARITIME COMMISSION (FMC)

Long-Term Actions

4500. COLOADING PRACTICES AND POSSIBLE SECTION 16 EXEMPTION FOR COLOADING (DOCKET NOS. 93-22 AND 94-26)

Priority: Substantive, Nonsignificant

CFR Citation: 46 CFR 514.15; 46 CFR 580.5; 46 CFR 581.1; 46 CFR 581.3

Timetable:

Action	Date	FR Cite
NPRM	11/24/93	58 FR 62077
NPRM Comment Period End	03/11/94	59 FR 5974
Notice of Inquiry (Docket No. 94-26)	11/09/94	59 FR 55826
Comment Period End for NOI (Docket No. 94-26)	12/27/94	
NOI Comment Period Extended to 01/23/95	12/28/94	59 FR 66880
Final Action	00/00/00	
Final Action Effective	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Panebianco
Phone: 202 523-5740
Fax: 202 523-5738
Email: thomas_p@fmc.gov

RIN: 3072–AB75

4501. FINANCIAL RESPONSIBILITY REQUIREMENTS FOR NONPERFORMANCE OF TRANSPORTATION AND INQUIRY INTO ALTERNATIVE FORMS (DOCKET NO. 94-06; FURTHER NOTICE OF PROPOSED RULEMAKING)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 46 CFR 540.5; 46 CFR 540.9

Timetable:

Action	Date	FR Cite
NPRM	03/31/94	59 FR 15149
NPRM Comment Period End	05/02/94	
Comment Period Extended to	06/10/94	59 FR 23182
Comment Period Extended to	06/24/94	59 FR 30567
Notice of Inquiry (Docket No. 94-21)	10/14/94	59 FR 52133
Clarification of Notice of Inquiry	11/02/94	59 FR 54878
Comment Period End for Notice of Inquiry	11/28/94	59 FR 52133
Further NPRM (Docket No. 94-06)	06/26/96	61 FR 33059
Discontinuance of Proceeding for Docket No. 94-21	07/03/96	61 FR 39940
Further NPRM Comment Period End	08/26/96	61 FR 33059
Comment Period Extended to	09/25/96	61 FR 43209
Comment Period Extended to	10/15/96	61 FR 50265
Final Action	00/00/00	
Final Action Effective	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bryant L. VanBrakle
Phone: 202 523-5796
Fax: 202 523-5830
Email: bryant@fmc.gov

RIN: 3072–AB80

4502. PORT RESTRICTIONS AND REQUIREMENTS IN THE UNITED STATES/JAPAN TRADE (DOCKET NO. 96-20)

Priority: Other Significant

CFR Citation: 46 CFR 586

Timetable:

Action	Date	FR Cite
NPRM	11/13/96	61 FR 58160
Comment Period Extended to 01/20/97	12/27/96	61 FR 68200
NPRM Comment Period End	01/13/97	
Final Rule	03/04/97	62 FR 9696
Final Rule Effective	04/14/97	
Amendment to Final Rule	04/16/97	62 FR 18532

FMC

Long-Term Actions

Action	Date	FR Cite
Final Rule Effectiveness Extended to 09/04/97	04/16/97	62 FR 18533
Status Reports and Comments Due 07/01/97	04/16/97	62 FR 18533
Status Reports and Comments Due 08/05/97	04/16/97	62 FR 18433
Amendment to Final Rule - Denial of Petition	10/20/97	62 FR 54396
Final Rule Effectiveness Suspended 11/13/97	11/19/97	62 FR 61648
Final Action	00/00/00	
Final Action Effective	00/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Panebianco
Phone: 202 523-5740
Fax: 202 523-5738
Email: thomas__p@fmc.gov

RIN: 3072–AB97

FEDERAL MARITIME COMMISSION (FMC)

Completed Actions

4503. • UPDATE OF EXISTING AND ADDITION OF NEW FILING AND SERVICE FEES (DOCKET NO. 98-09)

Priority: Info./Admin./Other

Legal Authority: 5 USC 553; 31 USC 9701; 46 USC app 1716

CFR Citation: 46 CFR 502; 46 CFR 503; 46 CFR 510; 46 CFR 514; 46 CFR 540; 46 CFR 572; 46 CFR 585; 46 CFR 587; 46 CFR 588

Legal Deadline: None

Abstract: The FMC proposes to revise its existing fees for: Filing petitions, complaints, special docket applications, freight forwarder applications, vessel performance and casualty certification applications, and agreements; various public information services; and various ATFI-related services. The proposal will update existing fees to reflect current costs to the Commission. In addition, the FMC proposes to add three new fees for the publication of the Regulated Persons Index on diskette; the application to amend a passenger vessel operator's Certification of Financial Responsibility for Indemnification of Passengers; and the Agency's review of corrections of clerical errors in service contracts.

Timetable:

Action	Date	FR Cite
NPRM	07/01/98	63 FR 35896
NPRM Comment Period End	07/31/98	
Final Action	09/22/98	63 FR 50534
Final Action Effective	11/02/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sandra L. Kusumoto, Director, Bureau of Administration, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5866
Fax: 202 523-3782
Email: sandrak@fmc.gov

RIN: 3072–AB99

4504. • AVAILABILITY OF RECORDS TO THE PUBLIC—ELECTRONIC FREEDOM OF INFORMATION ACT (DOCKET NO. 98-11)

Priority: Info./Admin./Other

Legal Authority: 5 USC 552 to 553; 31 USC 9701; EO 12958; PL 104-231

CFR Citation: 46 CFR 503

Legal Deadline: None

Abstract: The FMC proposes to revise its regulations on public access to Commission records, materials, and information in order to clarify existing rules, provide information concerning the electronic availability of information and records, and to incorporate the requirements of the Electronic Freedom of Information Act Amendments of 1996.

Timetable:

Action	Date	FR Cite
NPRM	07/22/98	63 FR 39263
Correction to Notice of Proposed Rulemaking	07/29/98	63 FR 40387
NPRM Comment Period End	08/21/98	
Final Action	10/05/98	63 FR 53308
Final Action Effective	11/04/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5725
Fax: 202 523-0014
Email: josephp@fmc.gov

RIN: 3072–AC01

[FR Doc. 98-23554 Filed 11-06-98; 8:45 am]
BILLING CODE 6730-01-F

federal register

Monday
November 9, 1998

Part LVIII

Federal Reserve System

Semiannual Regulatory Agenda

FEDERAL RESERVE SYSTEM (FRS)

FEDERAL RESERVE SYSTEM

12 CFR Ch. II

Semiannual Regulatory Flexibility Agenda

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Board is issuing this agenda under the Regulatory Flexibility Act and the Board's Statement of Policy Regarding Expanded Rulemaking Procedures. The Board anticipates having under consideration regulatory matters as indicated below during the period October 1, 1998, through April 1, 1999. The next agenda will be published in April 1999.

DATES: Comments about the form or content of the agenda may be submitted any time during the next 6 months.

ADDRESSES: Comments should be addressed to Jennifer J. Johnson, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, DC 20551.

FOR FURTHER INFORMATION CONTACT: A staff contact for each item is indicated with the regulatory description below.

SUPPLEMENTARY INFORMATION: The Board is publishing its October 1998 agenda as part of the October 1998 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget under Executive Order 12866. The agenda also identifies rules the Board has selected for review under section 610(c) of the Regulatory Flexibility Act, and public comment is invited on those entries. Participation by the Board in the Unified Agenda is on a voluntary basis.

The Board's agenda is divided into three sections. The first, Proposed Rule Stage, reports on matters the Board may consider for public comment during the next 6 months. The second section, Final Rule Stage, reports on matters that have been proposed and are under Board consideration. A third section, Completed Actions, reports on regulatory matters the Board has completed or is not expected to consider further. Matters begun and completed between issues of the agenda have not been included.

A dot (•) preceding an entry indicates a new matter that was not a part of the Board's previous agenda and which the Board has not completed.

Barbara R. Lowrey,

Associate Secretary of the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4505	Regulation: B—Equal Credit Opportunity (Docket Number: R-1008)**(Section 610 Review)**	7100-AC54
4506	Regulation: C—Home Mortgage Disclosure (Docket Number: R-1001)	7100-AC51
4507	Regulation: J—Collection of Checks and Other Items by Federal Reserve Banks; and Regulation: CC—Availability of Funds and Collection of Checks (Docket Number: R-1009)	7100-AC50
4508	Regulation: T—Credit by Brokers and Dealers; Regulation: U— Credit by Banks; and Regulation: X—Borrowers of Securities Credit (Docket Number: R-0995)	7100-AC45
4509	Section 303 Regulatory Review **(Section 610 Review)**	7100-AC09

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4510	Regulation: B—Equal Credit Opportunity; and Regulation: Z— Truth in Lending (Docket Numbers: R-1006 and R-1005)	7100-AC46
4511	Regulation: D—Reserve Requirements of Depository Institutions (Docket Number: R-0956)	7100-AC11
4512	Regulation: E—Electronic Fund Transfers (Docket Numbers: R-0919 and R-1002)	7100-AC06
4513	Regulation: E—Electronic Fund Transfers (Docket Number: R-1007)	7100-AC55
4514	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System (Docket Number: R-0950)	7100-AC14
4515	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket Number: R-0930)	7100-AC13
4516	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket No: R-0947 & R-0948)	7100-AC29
4517	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket Number: R-0982)	7100-AC39
4518	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket Number: R-0985)	7100-AB77
4519	Regulation: K—International Banking Operations (Docket Number: R-0994)	7100-AC47
4520	Regulation: L—Management Official Interlocks (Docket Number: R-1013)	7100-AC56
4521	Regulation: M—Consumer Leasing (Docket Number: R-1004)	7100-AC53
4522	Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket Number: R-0990)	7100-AC49
4523	Regulation: DD—Truth in Savings (Docket Number: R-1003)	7100-AC34

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FRS

Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4524	Applicability of Sections 23A and 23B of the Federal Reserve Act to Transactions Between a Member Bank and Its Subsidiaries (Docket Number: R-0977)	7100-AC42
4525	Applicability of Section 23A to the Purchase of Securities From Certain Affiliates and to Loans and Extensions of Credit Made by a Member Bank to a Third Party (Docket Nos.: R-1015 & R-1016)	7100-AC52
4526	Rules Regarding Availability of Information (Docket Number: R-0917)	7100-AC22

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4527	Regulation: B—Equal Credit Opportunity (Docket Number: R-0978)	7100-AC35
4528	Regulation: D—Reserve Requirements of Depository Institutions (Docket Number: R-0988)	7100-AC48
4529	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System (Docket Number: R-0964)	7100-AC37
4530	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control	7100-AB39
4531	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket Number: R-0976)	7100-AC38
4532	Regulation: I—Issue and Cancellation of Capital Stock of Federal Reserve Banks (Docket Number: R-0966)	7100-AC40
4533	Regulation: DD—Truth in Savings (Docket Numbers: R-0836 and R-0869)	7100-AB80
4534	Policy Statement on Privately Operated Multilateral Settlement Systems (Docket Number: R-0987)	7100-AC44

FEDERAL RESERVE SYSTEM (FRS) — Proposed Rule Stage

4505. • REGULATION: B—EQUAL CREDIT OPPORTUNITY (DOCKET NUMBER: R-1008)(SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1691

CFR Citation: 12 CFR 202

Legal Deadline: None

Abstract: In March 1998, pursuant to requirements of section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, section 610(c) of the Regulatory Flexibility Act of 1994, and section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996, the Board approved issuing for public comment an advance notice of proposed rulemaking for Regulation B (63 FR 12326, March 12, 1998) which implements the Equal Credit Opportunity Act (the ECOA). The ECOA makes it unlawful for creditors to discriminate against an applicant in any aspect of a credit transaction on the basis of race, color, religion, national origin, sex, marital status, age, and other specified bases. The review will determine whether Regulation B should be revised to address technological and other developments; better balance consumer protections and industry burden, and delete obsolete provisions. To gather information necessary for this review and to ensure the participation of interested parties, the Board solicited comment on several specific issues, including preapplication marketing practices, inquiry versus application, data collection for nonmortgage credit products, and creditor liability. The Board also solicited comment generally on potential revisions to the regulation.

Following review of the public comments, the Board is expected to issue a proposed rule within the next six months. Specific proposals will take into account the economic impact on small entities subject to the Board's regulation.

Timetable:

Action	Date	FR Cite
Board requested comment	03/12/98	63 FR 12326
Further Board action by	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Natalie E. Taylor, Staff Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC54

4506. • REGULATION: C—HOME MORTGAGE DISCLOSURE (DOCKET NUMBER: R-1001)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2801

CFR Citation: 12 CFR 203

Legal Deadline: None

Abstract: In March 1998, pursuant to requirements of section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 and section 2222 of the Economic

FRS — Proposed Rule Stage

Growth and Regulatory Paperwork Reduction Act of 1996, the Board approved issuing for public comment an advance notice of proposed rulemaking for Regulation C which implements the Home Mortgage Disclosure Act (HMDA) (63 FR 12329, March 12, 1998). Regulation C requires most mortgage lenders located in metropolitan statistical areas to report annually to Federal agencies and disclose to the public information about their home purchase and home improvement lending activity. The review will determine whether Regulation C should be revised to address technological and other developments; better balance consumer protections and industry burden; and delete obsolete provisions. To gather information necessary for this review and to ensure the participation of interested parties, the Board is soliciting comment on several specific issues, while also soliciting comment generally on potential revisions to the regulation.

It is not anticipated that any proposed notice of rulemaking will have a significant economic impact on a substantial number of small entities subject to the Board's regulation. Following review of the public comments, the Board is expected to take further action by year-end.

Timetable:

Action	Date	FR Cite
Board requested comment	03/12/98	63 FR 12329
Further Board action by	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jane Jensen Gell, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-3667

RIN: 7100–AC51

4507. • REGULATION: J—COLLECTION OF CHECKS AND OTHER ITEMS BY FEDERAL RESERVE BANKS; AND REGULATION: CC—AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (DOCKET NUMBER: R-1009)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 248(i); 12 USC 248(j); 12 USC 248(o); 12 USC 342; 12 USC 360; 12 USC 464; 12 USC 4001 et seq

CFR Citation: 12 CFR 210; 12 CFR 229

Legal Deadline: None

Abstract: In March 1998, the Board approved issuing for public comment an advance notice of proposed rulemaking regarding the benefits and drawbacks associated with the provisions of Regulation CC that require a paying bank to settle with a presenting bank for checks on the same day the checks are presented, as long as the checks are presented by 8:00 a.m. local time at specified locations (63 FR 12700, March 16, 1998). The Board also requested comment on the effects of additional changes to Regulations J and CC to reduce the legal disparities between the Federal Reserve Banks and private-sector banks in the presentment and settlement of checks. The objective of such rule changes would be to promote competition in check collection services, which should promote efficiencies and spur innovation.

It is not anticipated that any proposed notice of rulemaking will have a significant economic impact on small institutions. Following review of the public comments, the Board is expected to take further action by year-end.

Timetable:

Action	Date	FR Cite
Board requested comment	03/16/98	63 FR 12700
Further Board action by	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Stephanie Martin, Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3198

RIN: 7100–AC50

4508. REGULATION: T—CREDIT BY BROKERS AND DEALERS; REGULATION: U—CREDIT BY BANKS; AND REGULATION: X—BORROWERS OF SECURITIES CREDIT (DOCKET NUMBER: R-0995)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78G, Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 220; 12 CFR 221; 12 CFR 224

Legal Deadline: None

Abstract: As part of the regular review of its regulations and in accordance with requirements of section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 and section 610(c) of the Regulatory Flexibility Act of 1994, the Board is conducting a review of its margin regulations. In order to complete this review, the Board approved issuing for public comment an advance notice of proposed rulemaking and request for comment in December 1997 (63 FR 2840, January 16, 1998). The advance notice highlights issues raised by commenters in response to previous requests for comment that had not been addressed by the Board in the course of its periodic review. It also provides an opportunity to further harmonize the treatment of bank and nonbank lenders under the revised Regulation U adopted by the Board at the same time as the advance notice. The advance notice also invites comment on all areas of the regulations.

Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	01/16/98	63 FR 2840
Further Board action by	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Scott Holz, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-2966

RIN: 7100–AC45

FRS — Proposed Rule Stage

4509. SECTION 303 REGULATORY REVIEW (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4803(a)(1); 5 USC 610

CFR Citation: 12 CFR ch II

Legal Deadline:
Other, Statutory, September 23, 1996, Progress Report due to Congress.

Abstract: In response to the requirements of section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, the Board is reviewing its regulations for purposes of streamlining, improving efficiency, reducing unnecessary costs, and removing inconsistencies and outmoded/duplicative requirements. The Board is also working jointly with the other banking agencies to make uniform regulations and guidelines implementing common statutory and supervisory policies. A regulatory review timetable was published in the Federal Register in October 1995 (60 FR 53546 October 16, 1995). A progress report was sent to the Congress in September 1996.

Items below indicated with an asterisk are also being reviewed by the Board in accordance with the periodic review requirements of section 610(c) of the Regulatory Flexibility Act.

Within the next twelve months, it is expected that the Board will seek public comment during the course of the reviews of the following regulations/policy statements/other regulatory guidance. Reviews already proposed for public comment appear elsewhere in the Agenda.

Regulations H and Y, Appendices, Capital Adequacy Guidelines.

*Regulation Z, Truth in Lending.

*Regulation DD, Truth in Savings.

Timetable:

Action	Date	FR Cite
Board action expected during the next twelve months	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Barbara R. Lowrey, Associate Secretary, Federal Reserve System, Office of the Secretary
Phone: 202 452-3742

RIN: 7100–AC09

FEDERAL RESERVE SYSTEM (FRS) — Final Rule Stage

4510. REGULATION: B—EQUAL CREDIT OPPORTUNITY; AND REGULATION: Z—TRUTH IN LENDING (DOCKET NUMBERS: R-1006 AND R-1005)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1601 et seq; 12 USC 4301 et seq

CFR Citation: 12 CFR 202; 12 CFR 213; 12 CFR 226; 12 CFR 230

Legal Deadline: None

Abstract: In March 1998, the Board issued for public comment proposals to amend its consumer regulations, B (Equal Credit Opportunity), and Z (Truth in Lending), to permit electronic communications to substitute generally for oral or written disclosures, documentation, and notices required under the individual regulations (63 FR 14548, March 25, 1998). Comment was also requested on similar amendments to Regulations M (Consumer Leasing) and DD (Truth in Savings) described in separate entries in the Agenda (see Docket Numbers R-1004 and R-1003). At the same time, similar amendments to Regulation E, proposed as part of the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, were adopted as an interim rule (Docket Number: R-0919; RIN: 7100-AC06). The Board identified the use of electronic communication between consumers and financial institutions as an area that offered an opportunity to reduce regulatory compliance burden without adversely affecting consumer protections.

It is not expected that the proposals would have a significant economic impact on small institutions. Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	03/25/98	63 FR 14548
Further Board action by	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Hentrel, Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC46

4511. REGULATION: D—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (DOCKET NUMBER: R-0956)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 248(a); 12 USC 248(c); 12 USC 371a; 12 USC 461; 12 USC 601; 12 USC 611; 12 USC 3105

CFR Citation: 12 CFR 208

Legal Deadline: None

Abstract: In December 1996, the Board issued for public comment a proposed rule that would revise and clarify the definition of "savings deposit" consistent with comments received in connection with the Board's June 1996 proposal to simplify Regulation D. The proposal would also make conforming changes to the definition of "transaction account" (61 FR 96054, December 31, 1996). No substantive change in the regulation is intended. It is not expected that the proposal will have a significant adverse impact upon a substantial number of small entities. Following review of the public comments, the Board is expected to take further action during the next year.

Timetable:

Action	Date	FR Cite
Board requested comment	12/31/96	61 FR 69054
Further Board action by	07/00/99	

FRS

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rick Heyke, Staff Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3688

RIN: 7100–AC11

4512. REGULATION: E—ELECTRONIC FUND TRANSFERS (DOCKET NUMBERS: R-0919 AND R-1002)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1693 et seq

CFR Citation: 12 CFR 205

Legal Deadline: None

Abstract: In May 1996, the Board issued for public comment proposed amendments to Regulation E imposing modified requirements on stored-value products in systems that track individual transactions, cards, or consumers and providing an exemption for cards on which a maximum value of $100 can be stored (Docket No. R-0919; 61 FR 19696, May 2, 1996).

The Board also proposed extending the error resolution time limits for new accounts and permitting electronic communications to substitute generally for orel or written disclosures documentation, and notices required under Regulation E.

The proposals are part of the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 and section 610(c) of the Regulatory Flexibility Act of 1994. It is not expected that the proposals would have a significant economic impact on small institutions.

In March 1998, following review of the public comments, the Board issued an interim rule, with request for comments, to permit electronic communications to substitute for disclosures, documentation, and notices under regulation E (Docket No. R-1002; 63 FR 14528, March 25, 1998). It is anticipated that the Board will take further action on the electronic communications rule, as well as on the new account proposal, within the next two months. Action on the stored-value card amendment is expected by year-end.

Timetable:

Action	Date	FR Cite
Board requested comment	05/02/96	61 FR 19696
Board adopted interim rule	03/25/98	63 FR 14528
Further Board action by	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John C. Wood, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC06

4513. • REGULATION: E—ELECTRONIC FUND TRANSFERS (DOCKET NUMBER: R-1007)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1693 et seq

CFR Citation: 12 CFR 205

Legal Deadline: None

Abstract: In March 1998, the Board issued for public comment proposed amendments to Regulation E to eliminate the extended time periods for investigating error claims involving point-of-sale (POS) debit card and foreign-initiated electronic fund transfers (63 FR 14555, March 25, 1998). Under Regulation E, financial institutions generally have 10 business days to provisionally credit an account and up to 45 calendar days to complete an investigation of a claimed error involving an electronic fund transfer to or from a consumer account. For POS and foreign transactions, institutions have up to 20 business days to provisionally credit an account and up to 90 calendar days to complete the investigation. The proposed rule also contains a technical amendment to a model form.

It is not expected that the proposals will have a significant economic impact on a substantial number of small institutions. It is anticipated that the Board will take further action on the proposals within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	03/25/98	63 FR 14555
Further Board action by	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John C. Wood, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC55

4514. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (DOCKET NUMBER: R-0950)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1818; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831o; 12 USC 1831p-1; ...

CFR Citation: 12 CFR 208

Legal Deadline: None

Abstract: In December 1996, the Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency jointly published for comment a proposed regulation establishing a professional qualification program for banks that engage in retail recommendations and sales of certain securities using their own employees (61 FR 68824, December 30, 1996). The proposed regulation will establish qualification testing registration, and continuing education requirements for bank employees that act in the capacity of bank securities representatives. The proposed requirements will be based on the professional qualification rules of the securities self-regulatory organizations. It is not anticipated that the proposal will have a significant economic impact on a substantial number of small banks.

Following review of the public comments and coordination with the other agencies, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	12/30/96	61 FR 68824
Further Board action by	10/00/98	

FRS

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Angela Desmond, Senior Counsel, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-3497

RIN: 7100–AC14

4515. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0930)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831(o); 12 USC 1831p-1; 12 USC 3105; ...

CFR Citation: 12 CFR 208 app A

Legal Deadline: None

Abstract: In August 1996, the Board issued for public comment a proposal to revise the risk-based capital treatment for certain collateralized transactions (61 FR 42565, August 16, 1996). Under the Board's existing risk-based capital treatment, the portion of a transaction that is supported by qualifying collateral (that is, cash or OECD government securities) is risk-weighted at 20 percent. Transactions that are fully supported by collateral with a positive margin may be eligible for a zero percent risk weight. Generally, the proposal would permit a portion of a transaction that is fully supported with a positive margin of collateral to be eligible for a zero percent risk weight. The portion that is to be continuously collateralized must be specified by the parties.

This proposal was developed on an interagency basis and, if adopted, would eliminate one of the substantive differences among the agencies with regard to the risk-based capital treatment for collateralized transactions. It would implement part of the Riegle Community Development and Regulatory Improvement Act of 1994, which requires the agencies to make uniform regulations and guidelines implementing common supervisory policies. The effect of the proposal would be to allow institutions to hold less capital for certain collateralized transactions. It is not expected to have a significant economic impact on a substantial number of small entities.

Following review of the public comments, the Board is expected to take further action by year-end.

Timetable:

Action	Date	FR Cite
Board requested comment	08/16/96	61 FR 42565
Further Board action by	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Connolly, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-3621

RIN: 7100–AC13

4516. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NO: R-0947 & R-0948)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1816; 12 USC 1818; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831o; ...

CFR Citation: 12 CFR 208 app A; 12 CFR 208 app B; 12 CFR 225 app A; 12 CFR 225 app D

Legal Deadline: None

Abstract: In October 1997, the Board issued for public comment proposals to revise the Federal Reserve's risk-based capital treatment for junior liens on 1- to 4-family residential properties and for investments in mutual funds (62 FR 55686, October 27, 1997). The proposals also simplify the Federal Reserve's leverage capital guidelines for banks and make the leverage capital guidelines for bank holding companies consistent with the definition of a well-capitalized bank holding company for expedited applications purposes. The proposals were issued on an interagency basis as part of the efforts under section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 to make interagency guidelines uniform. In June 1998, following review of the public comments, the Board adopted the proposed revisions to the bank holding company leverage ratio (63 FR 30369, June 4, 1998). Action by the Board and other agencies on the proposals for banks and thrifts is expected within the next two months. The proposed changes will not have a significant economic impact on a substantial number of small entities subject to the Board's regulation.

Timetable:

Action	Date	FR Cite
Board requested comment	10/27/97	62 FR 55686
Board adopted bank holding company proposal	06/04/98	63 FR 30369
Further Board action by	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kirk Odegard, Senior Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 530-6225

RIN: 7100–AC29

4517. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0982)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1816; 12 USC 1818; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831o; ...

CFR Citation: 12 CFR 208 app A; 12 CFR 225 app A

Legal Deadline: None

Abstract: In October 1997, as part of a joint interagency proposal, the Board requested public comment on revisions to the Federal Reserve's risk-based capital guidelines to permit certain

FRS — Final Rule Stage

revaluation gains on equity securities in Tier 2 capital (62 FR 55682, October 27, 1997). Under the proposal an institution would be permitted to include in Tier 2 capital up to 45 percent of its unrealized revaluation gains on prudently valued equity securities. This treatment is consistent with the Basel Accord.

Following review of the public comments, the Board is expected to take further action within the next two months. It is not expected that the proposal, if adopted as a final rule, would have a significant economic impact on a substantial number of small entities subject to the Board's regulation.

Timetable:

Action	Date	FR Cite
Board requested comment	10/27/97	62 FR 55682
Further Board action by	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Barbara Bouchard, Manager, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-3072

RIN: 7100–AC39

4518. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0985)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1817(j)(13); 12 USC 1818; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831i

CFR Citation: 12 CFR 208 app A; 12 CFR 225 app A

Legal Deadline: None

Abstract: In May 1994, the Board issued for public comment two proposals on the capital treatment of recourse arrangements and direct credit substitutes. The first proposal: (1) formally defines recourse and direct credit substitutes; (2) reduces the risk-based capital charge for low-level recourse arrangements to the maximum amount of possible loss under the recourse obligation up to the effective capital charge; and (3) requires the same risk-based capital charge for first-loss direct credit substitutes as is currently applied to recourse transactions (59 FR 27115, May 25, 1994). The second proposal, an advance notice of proposed rulemaking, sought public comment on an approach to assessing risk-based capital on banking organizations' risk exposures associated with certain asset securitizations. Under this approach, the capital charge would be based upon the relative risk of loss.

Subsequent to the issuance of this proposal, the Board issued a regulation limiting the amount of risk-based capital an insured depository institution is required to hold for assets transferred with recourse to the maximum amount of recourse for which the institution is contractually liable (60 FR 8177, February 13, 1995).

In November 1997, the Board requested public comment on a revised proposal that sets forth the definitions and capital treatments discussed above (62 FR 59944, November 5, 1997). In addition, the proposal requests comment on several alternative approaches to assessing capital against asset securitizations including the use of internal bank information.

Small entities would be affected by the final rule and the two proposals only to the extent that they engage in extending recourse arrangements and direct credit substitutes or purchasing asset-backed securities. It is not expected that the proposals will have a significant economic impact on small institutions. Following review of the public comments, the Board is expected to take further action by year-end.

Timetable:

Action	Date	FR Cite
Board requested comment	05/25/94	59 FR 27115
Board adopted one aspect of the proposal	02/13/95	60 FR 8177
Board requested comment	11/05/97	62 FR 59944
Further Board action by	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas R. Boemio, Senior Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2982

RIN: 7100–AB77

4519. REGULATION: K—INTERNATIONAL BANKING OPERATIONS (DOCKET NUMBER: R-0994)

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 12 USC 221 et seq; 12 USC 248(i); 12 USC 248(k); 12 USC 1818; 12 USC 1835a; 12 USC 1841 et seq; 12 USC 3101 et seq; 12 USC 3109 et seq

CFR Citation: 12 CFR 211

Legal Deadline: None

Abstract: In December 1997, consistent with section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, the International Banking Act of 1978, and section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996, the Board reviewed and proposed for public comment a number of changes to Regulation K which governs international banking operations (62 FR 68424 December 31, 1997). Subpart A of Regulation K governs the foreign investments and activities of all member banks. The proposed amendments include streamlined foreign branching procedures for U.S. banking organizations, authorization of expanded activities in foreign branches of U.S. banks, and expansion of the authority of U.S. banking organizations to engage in equity dealing and underwriting and to make venture capital investments outside the United States. Subpart B of Regulation K governs the U.S. activities of foreign banking organizations. The proposed amendments include revisions aimed at streamlining the applications procedures applicable to foreign banks seeking to expand operations in the United States, changes to provisions regarding the qualification of certain foreign banking organizations for exemption from the nonbanking prohibitions of section 4 of the Bank Holding Company Act, and implementation of provisions of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 that affect foreign banks. In addition, a number of technical and clarifying amendments to subparts A and B, as well as to subpart C which governs export trading companies, and certain amendments to the Board's Rules Regarding Delegation of Authority have been proposed.

The proposed amendments are not expected to have a significant economic impact on a substantial number of small entities. Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	12/31/97	62 FR 68424
Further Board action by	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kathleen M. O'Day, Associate General Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3786

RIN: 7100–AC47

4520. • REGULATION: L—MANAGEMENT OFFICIAL INTERLOCKS (DOCKET NUMBER: R-1013)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 3201 et seq

CFR Citation: 12 CFR 212

Legal Deadline: None

Abstract: In August 1998, the Board, along with the other Federal depository institution regulatory agencies, approved issuing for public comment a proposal to amend regulations, including the Board's Regulation L, governing depository institution management interlocks to reflect certain statutory changes (63 FR 43051, August 11, 1998). In addition to implementing these statutory changes, the agencies also proposed a small market share exemption for institutions that, on a combined basis, control less than 20 percent of the deposits in a community or relevant metropolitan statistical area. The exemption is intended to enlarge the pool of management talent upon which depository institutions may draw and thereby enhance the competitiveness of these institutions.

It is not anticipated that the proposal will have a significant impact on a substantial number of small entities subject to the Board's regulation. Following review of the public comments, the Board is expected to take further action within the next six months.

Timetable:

Action	Date	FR Cite
Board requested comment	08/11/98	63 FR 43051
Further Board action by	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas Corsi, Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3275

RIN: 7100–AC56

4521. • REGULATION: M—CONSUMER LEASING (DOCKET NUMBER: R-1004)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1667

CFR Citation: 12 CFR 213

Legal Deadline: None

Abstract: As part of the Board's overall review of its regulations under section 610(c) of the Regulatory Flexibility Act of 1994 and section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, the Board determined that the use of electronic communications to deliver information to consumers that is required by Federal consumer financial services and fair lending laws could effectively reduce regulatory compliance burden without adversely affecting consumer protections. In March 1998, the Board approved issuing for public comment a proposal to amend Regulation M that would allow lessors to deliver by electronic communication the disclosures required by the act and regulation, if the consumer agrees to such delivery (63 FR 14538, March 25, 1998). In addition, the proposal contains several technical amendments that would be made to the regulation and commentary.

It is not anticipated that the proposal will have any significant economic impact on small entities. The proposed rule would relieve compliance burden and give lessors flexibility in providing disclosures. Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	03/25/98	63 FR 14538
Further Board action by	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Obrea O. Poindexter, Staff Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC53

4522. REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0990)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1817(j)(13); 12 USC 1818; 12 USC 1828o; 12 USC 1831i; 12 USC 1831p-1; 12 USC 1843(c)(8); 12 USC 1844(b); 12 USC 1972(1); 12 USC 3106; 12 USC 3108; 12 USC 3310; 12 USC 3331 to 3351; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 225

Legal Deadline: None

Abstract: In December 1997, the Board approved issuing for public comment a proposal to exempt any transaction involving the underwriting or dealing of mortgage-backed securities from the Board's appraisal requirements (62 FR 64997, December 9, 1997). This amendment would permit a nonbank subsidiary of a bank holding company engaged in underwriting and dealing in securities (a so-called section 20 subsidiary) to underwrite and deal in mortgage-backed securities without demonstrating that the loans underlying the securities are supported by appraisals that meet the Board's appraisal requirements. As the proposal notes, the Board believes the public rating or due diligence that the market requires for mortgage-backed securities provides information that is at least as sufficient for assessing risks as new appraisals for the underlying loans. The Board proposed this amendment to

FRS — Final Rule Stage

FRS — Final Rule Stage

address concerns raised by bank holding companies regarding the inability of section 20 subsidiaries to actively participate in the commercial mortgage-backed securities market due to the appraisal restrictions of subpart G.

It is not anticipated that the proposal will have a significant economic impact on a substantial number of small entities subject to the Board's regulation. Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	12/09/97	62 FR 64997
Further Board action by	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark E. Van Der Weide, Attorney, Federal Reserve System, Legal Division
Phone: 202 452-2263

RIN: 7100–AC49

4523. REGULATION: DD—TRUTH IN SAVINGS (DOCKET NUMBER: R-1003)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4301 et seq

CFR Citation: 12 CFR 230

Legal Deadline: None

Abstract: Sections 261 to 275 of the Federal Deposit Insurance Corporation Improvement Act of 1991 require depository institutions to provide a schedule of terms, rates, and fees for deposit accounts offered by the institution. The law also sets forth rules for advertisements for deposit accounts.

In September 1996, the Congress amended the Truth in Savings Act as a part of the Economic Growth and Regulatory Paperwork Reduction Act of 1996. The amendments repeal the definition of "indoor lobby sign," eliminate any disclosure requirements for nonrenewing time accounts with terms less than 30 days, and exempt certain credit unions from coverage. In March 1998, the Board issued for public comment a proposal that would implement the statutory changes (63 FR 14533, March 25, 1998). The proposal would also allow depository institutions to deliver by electronic communication disclosures required by the act and regulation, if the consumer agrees to such delivery.

It is not expected that there will be a significant economic impact on small institutions. Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	03/25/98	63 FR 14533
Further Board action by	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Obrea O. Poindexter, Staff Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC34

4524. APPLICABILITY OF SECTIONS 23A AND 23B OF THE FEDERAL RESERVE ACT TO TRANSACTIONS BETWEEN A MEMBER BANK AND ITS SUBSIDIARIES (DOCKET NUMBER: R-0977)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 371c(b)(1)(E)

CFR Citation: 12 CFR 250.243

Legal Deadline: None

Abstract: Sections 23A and 23B of the Federal Reserve Act restrict the ability of a member bank to fund an affiliate through direct investment, loans, or other transactions. In July 1997, the Board issued for public comment a proposal to apply sections 23A and 23B to transactions between a member bank and any subsidiary that engages in activities that are impermissible for the bank itself and that Congress has not previously exempted from coverage by section 23A (62 FR 37744, July 15, 1997). The proposed treatment is largely consistent with the existing treatment of these subsidiaries by the other banking agencies, which have applied sections 23A and 23B in some form to transactions between a bank and such subsidiaries. The issuance of the proposals will avoid the application of sections 23A and 23B on an ad hoc basis by different agencies, which could result in confusion and inconsistencies.

The proposal is not expected to have a significant economic impact on a substantial number of small businesses. Following review of the public comments, the Board is expected to take further action during the next six months.

Timetable:

Action	Date	FR Cite
Board requested comment	07/15/97	62 FR 37744
Further Board action by	02/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Pamela G. Nardolilli, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3289

RIN: 7100–AC42

4525. • APPLICABILITY OF SECTION 23A TO THE PURCHASE OF SECURITIES FROM CERTAIN AFFILIATES AND TO LOANS AND EXTENSIONS OF CREDIT MADE BY A MEMBER BANK TO A THIRD PARTY (DOCKET NOS.: R-1015 & R-1016)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 371c

CFR Citation: 12 CFR 250

Legal Deadline: None

Abstract: In June 1998, the Board issued for public comment two proposed rules to exempt certain transactions from the restrictions of section 23A of the Federal Reserve Act (63 FR 32766, June 16, 1998). Section 23A restricts the ability of a member bank to fund its affiliates through direct investment, loans, or certain other transactions (covered transactions). These proposals are in response to concerns raised by organizations when the Board earlier proposed removal of certain firewalls between insured depository institutions and their section 20 securities affiliates. Several petitioners stated then that although the removal of the firewalls was welcomed, section 23A continued to limit certain transactions with their section 20 subsidiaries that do not raise significant safety and soundness issues and impeded the efficient operation of the insured depository institutions.

In Docket Number R-1015, the Board is proposing to expand the kind of assets that may be eligible for the (d)(6) exemption to include securities that, although not so widely traded as to warrant publication of their activity in publications of general circulation, are actively traded and whose price can be obtained from independent reliable sources, if the securities are purchased from a registered broker-dealer.

In Docket Number R-1016, the Board is proposing to grant two exemptions from section 23A for certain loans and extension of credit made by an insured depository institution to customers that use the proceeds to purchase certain securities from or through the depository institution's registered broker-dealer affiliate. The first exemption would apply when the affiliate is acting solely as a broker or riskless principal in the securities transaction. The second exemption would apply when the extension of credit is made pursuant to a pre-existing line of credit that was not established for the purposes of buying securities from or through an affiliate.

Following review of the public comments, the Board is expected to take further action within the next three months. It is not anticipated that the proposals will have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
Board requested comment	06/16/98	63 FR 32766
Further Board action by	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Pamela Nardolilli, Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3289

RIN: 7100–AC52

4526. RULES REGARDING AVAILABILITY OF INFORMATION (DOCKET NUMBER: R-0917)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 12 USC 248(i); 12 USC 248(k); 12 USC 321 et seq; 12 USC 611 et seq; 12 USC 1442; 12 USC 1817(a)(2)(A); 12 USC 1817(a)(8); 12 USC 1818(u); 12 USC 1818(v); 12 USC 1821(o); 12 USC 1821(t); 12 USC 1830; 12 USC 1844; 12 USC 1951 et seq; ...

CFR Citation: 12 CFR 261

Legal Deadline: None

Abstract: In February 1996, the Board issued for public comment proposed amendments to its Rules Regarding Availability of Information (61 FR 7436, February 28, 1996). The proposed amendments, although primarily technical in nature, are intended to improve the Board's efficiency in processing requests for the disclosure of publicly available information as well as confidential supervisory information. It is not anticipated that the proposed amendments will have a significant economic impact on a substantial number of small entities subject to the regulation.

In light of the passage of time since the Board's February 1996 proposal was issued for public comment, the Board will make changes in that proposal based on the comments received and will reissue revised proposed amendments for further comment. The February 1996 proposal deals primarily with the discretionary authority of the Board's General Counsel to produce information. These amendments are part of the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994. Further Board action on the remainder of the regulation is expected by year-end.

Timetable:

Action	Date	FR Cite
Board requested comment	02/28/96	61 FR 7436
Further Board action by	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Appelbaum, Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3389

RIN: 7100–AC22

FEDERAL RESERVE SYSTEM (FRS) — Completed Actions

4527. REGULATION: B—EQUAL CREDIT OPPORTUNITY (DOCKET NUMBER: R-0978)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1691

CFR Citation: 12 CFR 202

Legal Deadline: None

Abstract: Regulation B requires creditors to provide a consumer with a notice of action taken if an application for credit is denied, an account is terminated, or the terms of an account are unfavorably changed. The Fair Credit Reporting Act (FCRA) requires creditors that take adverse action against a consumer, such as denying an application for credit, to provide the consumer with certain disclosures if the action is based on a credit report provided by a consumer reporting agency or information obtained from a third party. Creditors have the option of including the FCRA disclosures with the notice of action taken required under Regulation B; appendix C to Regulation B provides model forms that combine the current FCRA and Equal Credit Opportunity Act disclosures.

The Economic Growth and Regulatory Paperwork Reduction Act of 1996 made extensive changes to the FCRA, including a requirement that additional disclosures be given to consumers who are denied credit. In July 1997, the Board requested public comment on proposed changes to the FCRA portion of Regulation B's model forms C-1 through C-5 and to the general instructions for these forms (62 FR 37166, July 11, 1997). In April 1998, following review of the public comments, the Board adopted final amended model forms to ease compliance for creditors that choose to

use the forms (63 FR 16392, April 3, 1998). The Board deferred final action on which disclosures should be provided when adverse action is based on information in a consumer report obtained from an affiliate. The Board determined that this issue merits further consideration and would be more appropriately addressed in an interpretation of the FCRA, likely issued jointly with the Federal Trade Commission. The proposals are not expected to have a significant economic impact on small entities.

Timetable:

Action	Date	FR Cite
Board requested comment	07/11/97	62 FR 37166
Board took final action	04/03/98	63 FR 16392

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jane Gell, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-3667

RIN: 7100–AC35

4528. REGULATION: D—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (DOCKET NUMBER: R-0988)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 461

CFR Citation: 12 CFR 4

Legal Deadline: None

Abstract: In November 1997, the Board approved issuing for public comment a proposal to move from the current system of contemporaneous reserve maintenance for institutions that are weekly reporters to a system under which reserves are maintained on a lagged basis by such institutions (62 FR 60671, November 12, 1997). Under a lagged maintenance system, the reserve maintenance period for a weekly reporter will begin 30 days after the beginning of a reserve computation period. Under the current system, the reserve maintenance period begins two days after the beginning of the computation period. The Board is considering this action to improve the ability of the Federal Reserve to estimate accurately the need for reserves on a timely basis to ensure greater effectiveness of the Federal Reserve's open market operations. The proposal will affect only those institutions that are weekly deposit reporters, which generally include depository institutions that have total deposits of $75 million or greater as these are the only institutions currently required to maintain contemporaneous reserves on a contemporaneous basis. For those institutions that are weekly reporters, the proposed amendments generally would simplify compliance with reserve requirements for these institutions.

In March 1998, following review of the public comments, the Board adopted the amendments substantially as proposed (63 FR 15069, March 30, 1998). The proposal is not expected to have a significant economic impact on small institutions.

Timetable:

Action	Date	FR Cite
Board requested comment	11/12/97	62 FR 60671
Board adopted proposal	03/30/98	63 FR 15069

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Oliver Ireland, Associate General Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3625

RIN: 7100–AC48

4529. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (DOCKET NUMBER: R-0964)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 24; 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1816; 12 USC 1818; 12 USC 1820(d)(9); 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831(o); ...

CFR Citation: 12 CFR 208

Legal Deadline: None

Abstract: In March 1997, the Board issued for public comment proposed amendments to subpart A of Regulation H regarding the general provisions for membership in the Federal Reserve System and subpart E, Interpretations of Regulation H (62 FR 15272, March 31, 1997). The proposed amendments reduce regulatory burden and simplify and update requirements of Regulation H.

The amended subpart A of Regulation H will, when fully effective, replace the existing subpart A in its entirety; it will also eliminate several obsolete interpretations. Also, as part of the revisions, the Board is rescinding Regulation P Security Procedures, and incorporating its provisions into Regulation H (Docket Number R-0965). The proposal to modernize subpart A of Regulation H is in accordance with the Board's review of regulations under section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994. Consistent with the objectives of the Regulatory Flexibility Act, it is expected that the proposed changes will reduce the time and costs associated with complying with Regulation H, thereby improving the ability of small banks to conduct business on a more cost-efficient basis.

In June 1998, following review of the public comments, the Board adopted the proposals substantially as proposed (63 FR 37630, July 13, 1998).

Timetable:

Action	Date	FR Cite
Board requested comment on Regulations H and P	03/31/97	62 FR 15272
Board adopted proposals	07/13/98	63 FR 37630

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jean Anderson, Staff Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3707

RIN: 7100–AC37

4530. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1831m

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline:
Final, Statutory, January 3, 1993.

Abstract: During 1992, the Board's staff consulted with the other Federal banking agencies regarding the implementation of section 112, the bank auditing requirements, of the Federal Deposit Insurance Corporation Improvement Act of 1991. The section includes requirements for insured commercial banks to receive audits of their annual reports by independent public accountants requirements for banks and their auditors to report certain information to the Board, and requirements for independent audit committees for banks. In some cases, these requirements can be satisfied by comparable arrangements at the bank holding company level. The Act generally exempts insured depository institutions from these requirements when their total assets are less than $150 million, unless a higher threshold is chosen by the Federal Deposit Insurance Corporation (FDIC).

The FDIC, the agency with primary responsibility for implementing this mandate through regulations, finalized its regulation in May 1993, which applied to all FDIC-insured banks and thrifts. The FDIC's regulation applied these requirements to depository institutions with total assets of $500 million or more. Subsequently in February 1996, the FDIC approved amendments to its rules implementing section 112 that were largely required by the Riegle Community Development and Regulatory Improvement Act of 1994. These amendments expand opportunities for holding companies to file a single report covering multiple subsidiary banking organizations, conform the rule's references to the Federal Reserve's Regulation O, and make other technical revisions.

The Board has joint rulemaking authority with the other banking agencies regarding the enforcement provisions of section 112. The Board and the other agencies will issue a notice of proposed rulemaking for public comment when interagency agreement is reached. Further action is not expected within the next six months.

Timetable:

Action	Date	FR Cite
Action is not expected within the - next six months	08/21/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard A. Small, Assistant Director, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-5235

RIN: 7100–AB39

4531. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0976)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 24; 12 USC 36; 12 USC 92(a); 12 USC 93(a); 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1816; 12 USC 1818; ...

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: None

Abstract: In July 1997, the Board approved issuing for public comment a proposal to revise the risk-based and Tier 1 leverage capital adequacy guidelines for State member banks and bank holding companies to address the treatment of servicing assets on both mortgage assets and financial assets other than mortgages (non-mortgages) (62 FR 42006, August 4, 1997). The proposed rule was developed in response to a recent Financial Accounting Standards Board accounting standard that affects servicing assets; that is, Statement of Financial Accounting Standards No. 125, "Accounting For Transfers and Servicing of Financial Assets and Extinguishments of Liabilities" issued in June 1996. Under this proposed rule, the limitation on the amount of mortgage servicing assets (and purchased credit card relationships) that can be recognized as a percent of Tier 1 capital would be increased from 50 to 100 percent. Also, all non-mortgage servicing assets would be fully deducted from Tier 1 capital. This proposal is a joint proposal of the Board, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision.

It is not anticipated that the proposal will have a significant economic impact on a substantial number of small entities subject to the Board's regulation. In August 1998, following review of the public comments, the Board adopted the proposal with the following changes: (1) all interest-only strips receivable will be included in Tier 1 capital on an unlimited basis; (2) non-mortgage servicing assets will be subject to the same 100 percent of Tier 1 capital limitation as mortgage servicing assets and purchased credit card relationships (PCCRs); (3) non-mortgage servicing assets will be also subject to a further sublimit of 25 percent of Tier 1 capital, the same sublimit as PCCRs; and (4) the 90 percent of fair value limitation, which is currently applied to mortgage servicing assets and PCCRs, will be extended to non-mortgage servicing assets (63 FR 42667, August 10, 1998).

Timetable:

Action	Date	FR Cite
Board requested comment	08/04/97	62 FR 42006
Board adopted proposal	08/10/98	63 FR 42667

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Arleen Lustig, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2987

RIN: 7100–AC38

4532. REGULATION: I—ISSUE AND CANCELLATION OF CAPITAL STOCK OF FEDERAL RESERVE BANKS (DOCKET NUMBER: R-0966)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 222; 12 USC 282; 12 USC 286 to 288; 12 USC 321; 12 USC 323; 12 USC 327 to 328; 12 USC 333

CFR Citation: 12 CFR 209

Legal Deadline: None

Abstract: In March 1997, the Board issued for public comment proposed amendments to Regulation I to reduce regulatory burden and simplify and update the regulation (62 FR 15297, March 31, 1997). The proposals are a part of the Board's overall review of its regulations under section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994. In general, the amendments condense the regulation and reflect the

replacement of share certificates by a book-entry system. The proposal also codifies Board and staff interpretations. Finally, the amendments delete references to specific obsolete forms or forms which no longer have the same identification numbers.

The proposal would apply to all Federal Reserve Banks and member banks regardless of size and, as consistent with the objectives of the Regulatory Flexibility Act, would be burden-reducing. Therefore, the proposal would not have a significant adverse economic impact on a substantial number of small entities. In July 1998, following review of the public comments, the Board adopted the revisions substantially as proposed (63 FR 37659, July 13, 1998).

Timetable:

Action	Date	FR Cite
Board requested comment	03/31/97	62 FR 15297
Board adopted proposal	07/13/98	63 FR 37659

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rick Heyke, Staff Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3688

RIN: 7100–AC40

4533. REGULATION: DD—TRUTH IN SAVINGS (DOCKET NUMBERS: R-0836 AND R-0869)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4301 et seq

CFR Citation: 12 CFR 230

Legal Deadline: None

Abstract: Sections 261 to 275 of the Federal Deposit Insurance Corporation Improvement Act of 1991 require depository institutions to provide a schedule of terms, rates, and fees for deposit accounts offered by the institution. The law also sets forth rules for advertisements for deposit accounts.

In January 1995, the Board issued for public comment proposed amendments to Regulation DD that would produce an annual percentage yield (APY) that reflects the timing of interest payments as well as the timing of compounding. The proposal also solicits comment on an alternative method of calculating the APY (an internal rate of return formula) (60 FR 5142, January 26, 1995). The January 1995 proposal is an outgrowth of a May 1994 proposal that would have affected institutions' compounding and crediting practices in addition to changing the APY (59 FR 24378 May 11, 1994). The Board also adopted in January 1995 an interim rule that permits institutions and deposit brokers advertising noncompounding multiyear time accounts that require interest payouts at least annually to disclose an APY equal to the interest rate (60 FR 5128, January 26, 1995; Docket Number R-0836). Public comment on the approach was solicited in a July 1994 notice extending the comment period for the May 1994 proposal (59 FR 35271, July 11, 1994). In July 1998, following review of the public comments, the Board amended Regulation DD to make the interim rule final (63 FR 40635, July 30, 1998).

The amendments, which provide institutions an alternative method for calculating and disclosing the annual percentage yield for certain time accounts, are not likely to have a significant impact on institutions' costs, including the costs to small institutions.

Timetable:

Action	Date	FR Cite
Board requested comment	05/11/94	59 FR 24378
Board extended comment period	07/11/94	59 FR 35271
Board adopted an interim rule	01/26/95	60 FR 5128
Board requested further comment	01/26/95	60 FR 5142
Board adopted interim rule in final	07/30/98	63 FR 40635

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Obrea O. Poindexter, Staff Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AB80

4534. POLICY STATEMENT ON PRIVATELY OPERATED MULTILATERAL SETTLEMENT SYSTEMS (DOCKET NUMBER: R-0987)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 221 et seq

CFR Citation: None

Legal Deadline: None

Abstract: In November 1997, the Board requested comment on a proposed policy statement on privately operated multilateral settlement systems to integrate current policy statements and new provisions (62 FR 60713, November 12, 1997). The policy would require privately operated multilateral settlement systems for U.S. dollar payments to address material credit, liquidity operational, legal, and systemic risks, thereby enhancing the safety and soundness of the payments system. In June 1998, following review of the public comments, the Board adopted a revised version of its proposed policy (63 FR 34888, June 26, 1998). The policy largely retains the risk criteria of the proposal but applies only to large systems that settle payments with an aggregate gross value of more than $5 billion on any day.

The policy is designed to minimize regulatory burden on small arrangements that do not raise material risks and will not have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
Board requested comment	11/12/97	62 FR 60713
Board adopted policy	06/26/98	63 FR 34888

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul Bettge, Assistant Director, Federal Reserve System, Division of Reserve Bank Operations and Payment Systems
Phone: 202 452-3174

RIN: 7100–AC44

[FR Doc. 98-23555 Filed 11-06-98; 8:45 am]
BILLING CODE 6210-01-F

federal register

Monday
November 9, 1998

Part LIX

Federal Trade Commission

Semiannual Regulatory Agenda

FEDERAL TRADE COMMISSION (FTC)

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Trade Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following agenda of Commission proceedings is published in accordance with section 22(d)(1) of the Federal Trade Commission Act, 15 U.S.C. 57b-3(d)(1), and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, title II of Public Law 104-121, 110 Stat. 847. The Commission's agenda observes guidelines and procedures issued July 8, 1998, by the Office of Management and Budget in accordance with the provisions of President Clinton's Executive Order No. 12866 "Regulatory Planning and Review" of September 30, 1993 (58 FR 51735; October 4, 1993).

The Commission completed its Regulatory Flexibility Act section 610 review of the rules and regulations under the Hobby Protection Act. The Commission has responded to the optional information requirement to identify rulemakings that are likely to have some impact on small entities but are not subject to the requirements of the Regulatory Flexibility Act. The current rulemakings that are likely to have some impact on small entities include: (1) The regulations under the Smokeless Tobacco Health Education Act of 1986, 16 CFR part 307; (2) the Trade Regulation Rule pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992, 16 CFR part 308; (3) the Trade Regulation Rule on Care Labeling of Textile Wearing Apparel and Certain Piece Goods, as amended, 16 CFR part 423; (4) the Trade Regulation Rule on Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures, 16 CFR part 436; (5) the Trade Regulation Rule on Ophthalmic Practice Rules, 16 CFR part 456; (6) the Trade Regulation Rule on Labeling and Advertising of Home Insulation, 16 CFR part 460; (7) the Disclosure of Written Consumer Product Warranty Terms and Conditions, 16 CFR part 701; and (8) the Pre-Sale Availability of Written Warranty Terms, 16 CFR part 702. The Agency also is conducting a review of the 900-Number Rule as required by the Rule itself. Most of the other reviews listed on the following agenda are being conducted as part of the Commission's plan, begun in 1992, to review and seek information about all of its regulations and guides, including their costs and benefits, and regulatory and economic impact, every 10 years. These reviews incorporate and expand upon the review required by the Regulatory Flexibility Act. The Commission's 10-year program is also consistent with the President's March 4, 1995, Regulatory Reform Initiative, directing agencies to conduct a review of all regulations and eliminate or revise those that are outdated or otherwise in need of reform.

Except for notice of completed actions, the information in this agenda represents the judgment of Commission staff based upon information now available. Each projected date of action reflects an assessment by the FTC staff of the likelihood that the specified event will occur during the coming year. No final determination by the staff or the Commission respecting the need for or the substance of a trade regulation rule or any other procedural option should be inferred from the notation of projected events in this agenda. In most instances, the dates of future events are listed by month, not by a specific day. The acquisition of new information, changes of circumstances, or changes in the law may alter this information.

FOR FURTHER INFORMATION CONTACT: For information about specific regulatory actions listed in the agenda, contact the contact person listed for each particular proceeding. Comments or inquiries of a general nature about the agenda should be directed to Sandra M. Vidas, Staff Attorney, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, DC 20580; telephone (202) 326-2456; e-mail: svidas@ftc.gov.

This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The FTC's Statement of Regulatory Priorities is included in part II.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4535	Trade Regulation Rule Concerning Power Output Claims for Amplifiers Utilized in Home Entertainment Products	3084-AA81
4536	Trade Regulation Rule on Funeral Industry Practices	3084-AA82

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4537	Premerger Notification Rules and Report Form	3084-AA23
4538	Regulatory Review	3084-AA47
4539	Regulations Under the Comprehensive Smokeless Tobacco Health Education Act of 1986	3084-AA48
4540	The Care Labeling Rule	3084-AA54
4541	Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation	3084-AA60
4542	Trade Regulation Rule on Franchising and Business Opportunity Ventures	3084-AA63
4543	Rule Governing Disclosure of Written Consumer Product Warranty Terms and Conditions	3084-AA72

FTC

Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4544	Rule Governing the Pre-Sale Availability of Written Warranty Terms	3084-AA73
4545	Rule Governing Informal Dispute Settlement Procedures	3084-AA75
4546	Trade Regulation Rule on Ophthalmic Practice Rules	3084-AA80

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4547	Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992	3084-AA78

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4548	Amended Federal Deposit Insurance Corporation Improvement Act	3084-AA44

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4549	Trade Regulation Rule Concerning the Use of Negative Option Plans by Sellers in Commerce	3084-AA76
4550	Rules and Regulations Under the Hobby Protection Act **(Section 610 Review)**	3084-AA79

FEDERAL TRADE COMMISSION (FTC) — Prerule Stage

4535. TRADE REGULATION RULE CONCERNING POWER OUTPUT CLAIMS FOR AMPLIFIERS UTILIZED IN HOME ENTERTAINMENT PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 432

Legal Deadline: None

Abstract: The Trade Regulation Rule Concerning Power Output Claims for Amplifiers Utilized in Home Entertainment Products ("Amplifier Rule" or "Rule") was promulgated in 1974 to assist consumers in purchasing power amplification equipment for home entertainment purposes by standardizing the measurement and disclosure of various performance characteristics of the equipment. The Amplifier Rule establishes uniform test standards and disclosures so that consumers can make more meaningful comparisons of performance attributes. The Rule makes it an unfair or deceptive act or practice for manufacturers and sellers of sound power amplification equipment for home entertainment purposes to fail to disclose certain performance information in connection with direct or indirect representations of power output, power band, frequency or distortion characteristics. The Rule also sets out standard test conditions for performing the measurements that support the required performance disclosures. Further, the Rule prohibits representations of performance characteristics if they are not obtainable when the equipment is operated by the consumer in the usual and ordinary manner without the use of extraneous aids.

As part of its systematic review of all Commission rules and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for, this Rule; possible conflict between the Rule and State, local and other Federal laws; and the effect on the Rule of any technological, economic, or other industry changes. In reviewing the Rule, the Commission tentatively determined that the Rule applies to self-powered speakers for use with home computers and home sound systems, as well as other amplification equipment for home computers, but asked for comments on whether such products should be outside the Rule's scope. The Commission also requested comments on whether the Rule's provisions should be extended to automobile sound systems and whether existing testing and disclosure requirements need to be modified for use with automotive sound amplification.

Based upon the record in this proceeding, the Commission has determined that the Rule applies to self-powered speakers for use with home computers and home sound systems but that the Rule should not be extended to automobile sound systems. The Commission also determined to issue an Advance Notice of Proposed Rulemaking relating to testing procedures and required disclosures in advertisements. The comment period for the ANPRM ended on September 8, 1998.

Timetable:

Action	Date	FR Cite
Request for Comments	04/07/97	62 FR 16500
Comment Period End	06/06/97	
Recommendation to Commission	05/08/98	
ANPRM	07/09/98	63 FR 37238
Final Rule (Nonsubstantive Technical Changes)	07/09/98	63 FR 37234
Comment Period End	09/08/98	
Recommendation to Commission	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Neil Blickman, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3038
Email: nblickman@ftc.gov

RIN: 3084–AA81

4536. • TRADE REGULATION RULE ON FUNERAL INDUSTRY PRACTICES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 45; 15 USC 46(g); 15 USC 57(a)

CFR Citation: 16 CFR 453

Legal Deadline: None

Abstract: The Funeral Industry Practices Rule, which became effective in 1984, requires sellers of funeral goods and services to give price lists to consumers who visit a funeral home, and to disclose price and other information to callers who request it over the telephone. The Rule enables consumers to select and purchase only the goods and services they want, and requires funeral providers to seek authority before performing some services such as embalming. The Rule also requires funeral providers to make disclosures regarding any required purchases and prohibits misrepresentations regarding requirements and other aspects of funeral goods and services. In its 1994 review of the Rule, the Commission determined to retain the Rule and amended it to prohibit funeral providers from charging a "casket handling fee" in addition to any non-declinable basic-services fee and deleted certain affirmative telephone disclosure requirements. The Commission also determined to schedule a "notice and comment" review of the Rule in 1999 in accordance with its ten-year schedule for reviewing all rules and guides. However, the Commission is responding to requests to address emerging issues in the funeral industry by beginning to review the Rule in 1998, instead of 1999, as previously scheduled. Staff is preparing a memorandum to the Commission concerning the scope of the review and the issues to be addressed in an ANPRM.

Timetable:

Action	Date	FR Cite
Recommendation to Commission	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Laurie Meehan, Attorney, Federal Trade Commission, Division of Marketing Practices, Bureau of Consumer Protection, Washington, DC 20580
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RIN: 3084–AA82

FEDERAL TRADE COMMISSION (FTC) — Proposed Rule Stage

4537. PREMERGER NOTIFICATION RULES AND REPORT FORM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 18a Clayton Act

CFR Citation: 16 CFR 801 to 803

Legal Deadline: None

Abstract: The Premerger Notification Rules and the Antitrust Improvements Act Notification and Report Form were adopted pursuant to Section 7A of the Clayton Act. Section 7A requires firms of a certain size contemplating mergers or acquisitions of a specified size to file notification with the Federal Trade Commission (FTC) and the Department of Justice (DOJ) and to wait a designated period before consummating the transaction. It also requires the FTC, with the concurrence of the Assistant Attorney General for Antitrust, to promulgate rules requiring that notification be in a form and contain information necessary to enable the FTC and DOJ to determine whether the proposed acquisition may, if consummated, violate the antitrust laws. These rules are continually reviewed in order to improve the program's effectiveness and reduce the paperwork burden on the business community. The Commission proposed modifications to the Premerger Notification and Report form during fiscal year 1994. In March 1996, the Commission promulgated rules amending the Rule's treatment of acquisitions of goods or realty made in the ordinary course of business and adding new exemptions for acquisitions of realty and carbon-based mineral reserves. In addition, on August 9, 1995, the Commission published a final rule that removed 16 CFR part 800, the transitional rule addressing the treatment of acquisitions consummated before, and notification filed on or before September 5, 1978. On June 25, 1998, the Commission issued a Final Rule with a request for comments amending Rule 802.70, Acquisitions subject to order. This amendment reduces the burden on parties by exempting from the HSR filing requirements divestitures included in consent agreements that have been accepted by the Commission for public comment, or filed by the Commission or the Department of Justice with the District Court and that are subject to public comment but are not final orders. The comment period ended July 27, 1998.

Timetable:

Action	Date	FR Cite
Begin Review	09/30/81	
NPRM (Ordinary Course)	09/24/85	50 FR 38742
NPRM (HSR Form Changes)	06/14/94	59 FR 30545
NPRM (Ordinary Course)	07/28/95	60 FR 38930
Part 800 Repealed	08/09/95	60 FR 40704
Final Rule (Ordinary Course)	03/28/96	61 FR 13666
Final Rule Effective (Ordinary Course)	04/29/96	
Comment Period End	07/27/97	
Final Rule with Request for Comments (802.70)	06/25/98	63 FR 34592
NPRM (HSR Form Changes)	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Melea Epps, Staff Attorney, Pre-Merger Notification Office, Federal Trade Commission, Bureau of Competition, Washington, DC 20580
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RIN: 3084–AA23

4538. REGULATORY REVIEW

Priority: Other Significant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 1 et seq

Legal Deadline: None

Abstract: The Commission is conducting a revolving ten-year review of current rules and guides to identify any that should be modified or rescinded. At the beginning of 1998, the Commission published a notice in the Federal Register listing the rules, guides, and exemption procedures to be reviewed during 1998. Early next year, the Commission will publish a list of additional rules and guides it will review in 1999. During 1998, the Commission published separate notices in the Federal Register for each rule or guide, soliciting comments about its costs and benefits and regulatory and economic impact. Where rulemaking timetables have been established for rules being reviewed, they are included in this Agenda. However, no determination about whether to modify or rescind a rule, regulation, guide or interpretation or any other procedural option should be inferred from the Commission's decision to publish a request for comments. In certain instances, the reviews also will address other specific matters or issues, such as reviews mandated by the Regulatory Flexibility Act, 5 U.S.C. 601 et seq.

Timetable:

Action	Date	FR Cite
Notice of Rules and Guides to Review in 1998	01/12/98	63 FR 1802
Notice of Rules and Guides to Review in 1999	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3084–AA47

4539. REGULATIONS UNDER THE COMPREHENSIVE SMOKELESS TOBACCO HEALTH EDUCATION ACT OF 1986

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 4401

CFR Citation: 16 CFR 307

Legal Deadline: None

Abstract: The Comprehensive Smokeless Tobacco Health Education Act of 1986 requires health warnings on all packages and advertising for smokeless tobacco. The Commission published an NPRM on February 14, 1995, seeking public comment on whether the regulations governing the rotation schedule for utilitarian objects should be amended. The 60-day comment period expired on April 14, 1995. The Commission amended the smokeless tobacco regulations to permit rotation of the mandated health warnings on utilitarian items and promotional materials based on either the date the item or material is ordered from a supplier or the date it is disseminated to the public, provided the production of such items is carried out in a manner consistent with ordinary business practices. On a separate point, the Coalition on Smoking or Health petitioned the Commission to enforce the Smokeless Tobacco Act by requiring smokeless tobacco health warnings on sponsored racing cars, banners, flags, and other related objects bearing smokeless tobacco product brand names, logos, or selling messages. On October 26, 1993, the Commission issued an NPRM and proposed a requirement that sponsored auto racing vehicles and all other event-related objects that bear the brand name or selling message of smokeless tobacco products display health warning labels. Staff is reviewing the impact of the final Food and Drug Administration Rule on tobacco products and the State Attorneys' General omnibus settlement as applicable to event and team sponsorship. This review will be included in the rule review scheduled to begin in 1999.

Timetable:

Action	Date	FR Cite
NPRM (Promotional Items)	01/15/93	58 FR 4875
NPRM (Racing Cars)	11/04/93	58 FR 58810
Comment Period End (Racing Cars)	02/01/94	
NPRM (Utilitarian Items)	02/14/95	60 FR 8312
Comment Period End (Utilitarian Items)	04/14/95	
Final Staff Recommendation (Promotional Items)	05/17/96	
Final Staff Recommendations (Utilitarian Items)	05/17/96	
Final Action (Promotional Items)	08/30/96	61 FR 45883
Final Action (Utilitarian Items)	08/30/96	61 FR 45883
Begin Rule Review	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA48

4540. THE CARE LABELING RULE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing

Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 423

Legal Deadline: None

Abstract: The Care Labeling Rule requires manufacturers and importers of textile wearing apparel to attach cleaning instructions stating what regular care is needed for the ordinary use of the product. If dry cleaning is recommended, the label must state at least one type of solvent that may be used (unless all commercially available types of solvent can be used), and must contain a warning against the use of any part of the normal dry cleaning procedure that would harm the product. The Rule also requires that the manufacturer or importer possess, prior to sale, a reasonable basis for the care instructions. It also states that "any appropriate symbols may be used on care labels or care instructions, in addition to the required appropriate terms so long as the terms fulfill the requirements of this regulation." Although the Rule does not specifically state that the instructions must be in English, they usually are. On February 6, 1997, the Commission granted a Conditional Exemption with request for public comments. The Conditional Exemption, which became effective on July 1, 1997, allows the use of the symbol system developed by the American Society for Testing and Materials on care labels. The symbols, which show consumers how to safely launder or clean their clothing, will be permitted on care labels so long as the manufacturers include with the garments a written explanation of what the symbols mean for the first 18 months they are in use. When it granted the industry permission to use symbols on care labels instead of written words, the FTC launched a national campaign to help consumers in the transition to symbols by making sure they have easy access to additional descriptive information regarding how to care for their clothing. In addition, the Commission is conducting a substantive review of the Rule's requirements. An ANPRM relating to possible substantive changes in connection with methods of cleaning that can or should be listed on the care label, reasonable basis requirements, and definitions of water temperatures was published on December 28, 1995. An NPRM relating to these possible substantive changes was published on May 8, 1998; the comment period ended on July 27, 1998. The NPRM proposes that the Rule be amended as follows: "If an item of textile wearing apparel can be successfully washed and finished by a consumer at home, the label must provide an instruction for washing." The NPRM also proposes that the Rule be amended to allow for labeling for the relatively new process known as "professional wet cleaning." Finally, the NPRM proposes a change in the definition of "reasonable basis" in the Rule, and in the definitions of water temperature.

Timetable:

Action	Date	FR Cite
Begin Reg Review	06/15/94	59 FR 30733
Comment Period End	10/15/94	
Recommendation to Commission	10/17/95	
Request for Comment/ Exemption	11/16/95	60 FR 57552
ANPRM	12/28/95	60 FR 67102
Comment Period End/Exemption	01/31/96	
ANPRM Comment Period End	03/13/96	
Recommendation to Commission/ Exemption	11/15/96	
Interim Conditional Exemption	02/06/97	62 FR 5724
Comment Period End	03/10/97	
Final Conditional Exemption	05/29/97	62 FR 29006
Recommendation to Commission/NPRM	01/23/98	
NPRM	05/08/98	63 FR 25417
Comment Period End	07/27/98	
Recommendation to Commission	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA54

4541. TRADE REGULATION RULE CONCERNING THE LABELING AND ADVERTISING OF HOME INSULATION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 460

Legal Deadline: None

Abstract: The Federal Trade Commission's Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation (R-Value Rule) became effective on September 29, 1980. The Rule is designed to assist consumers in evaluating and comparing the thermal performance characteristics of competing home insulation products. Specifically, the Rule requires manufacturers of home insulation products to provide information about the product's degree of resistance to the flow of heat (R-Value). The Rule also establishes uniform standards for testing, information disclosure and substantiation of product performance claims. As part of its systematic review of all Commission rules and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for, this Rule, possible conflicts between the Rule and state, local and other Federal laws, and the effect on the Rule of any technological, economic, or other industry changes. At the same time, in response to a petition, the Commission proposed adopting a non-substantive amendment to the Rule that would allow, but not require, the use of an additional test procedure for measuring R-value, and solicited comments on the proposed amendment. The Commission is considering the comments in two parts. In part I, on March 28, 1996, the Commission reviewed the comments that addressed the current benefits, burdens and need for the Rule and determined to retain the Rule. The Commission also adopted non-substantive amendments that: (1) allow the optional use of the additional R-value test procedure; and (2) require use in the future of revised, current versions of other test procedures cited in the Rule. In part II, the Commission will consider the comments recommending that the Commission adopt substantive revisions to the Rule.

Timetable:

Action	Date	FR Cite
Request for Comments	04/06/95	60 FR 17492

Action	Date	FR Cite
Comment Period End	06/06/95	
Commission Action/Part I	03/28/96	61 FR 13659
Recommendation to Commission/Part II	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA60

4542. TRADE REGULATION RULE ON FRANCHISING AND BUSINESS OPPORTUNITY VENTURES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 to 58

CFR Citation: 16 CFR 436

Legal Deadline: None

Abstract: The Federal Trade Commission's Trade Regulation Rule on Franchising and Business Opportunity Ventures (Franchise Rule) became effective on October 21, 1979. The Rule is designed to reduce deceptive and unfair practices in the sale of franchises and business opportunities by requiring the pre-sale disclosure of material information about the franchise. For example, the Rule requires franchisors to disclose their business background and litigation history, as well as the number of failed and terminated franchise units. The Rule also requires the disclosure of material terms of the franchise relationship, such as recurring fees and termination and renewal rights. The Rule further requires the franchisor to provide an audited financial statement for the past three fiscal years. Finally, the Rule requires any franchisor who makes earnings representations to provide the prospective franchisee with an earnings claims document that substantiates those claims. As part of its systematic review of all Commission rules and guides, the Commission requested comments about the overall costs and benefits of the Rule and what effects, if any, have changes in relevant technology, economic conditions, and industry practices had on the Rule. Two public workshops have been held, one on September 12, 1995, and the other on March 11, 1996. On February 28, 1997, the Commission published an Advance Notice of Proposed Rulemaking (ANPRM) contemplating amendments to the Rule. The Commission is interested in ensuring that the Rule addresses new technologies and market practices and at the same time reduces any unnecessary regulatory burden. Specifically, the Commission requested comments on whether to revise the Rule to more closely align Federal and State disclosure requirements governing franchise sales, and to address changes in the marketing of franchises, such as the sale of franchises internationally and through the Internet. In the same ANPRM, the Commission announced that it would hold six public workshops in five cities during 1997 to: promote discussions about the issues; allow the public to make statements on the record; and assist Commission staff in drafting a proposed amended Rule. The Commission extended the comment period to December 31, 1997. The ANPRM procedure has been completed and staff is working on a recommendation to the Commission.

Timetable:

Action	Date	FR Cite
Request for Comments	04/17/95	60 FR 17656
Comment Period End	08/11/95	
Public Workshop	09/12/95	60 FR 34485
Public Workshop	03/11/96	61 FR 5969
ANPRM	02/28/97	62 FR 9115
Comment Period End	12/31/97	62 FR 28824
Recommendation to Commission	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

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RIN: 3084–AA63

4543. RULE GOVERNING DISCLOSURE OF WRITTEN CONSUMER PRODUCT WARRANTY TERMS AND CONDITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 701

Legal Deadline: None

Abstract: The Rule Governing the Disclosure of Written Consumer Product Warranty Terms and Conditions (Rule 701) requires warrantors to disclose the terms and conditions of written warranties on consumer products actually costing the consumer more than $15.00. Rule 701 specifies the information that must appear in the written warranty, as well as the exact language that must be used for certain items. Under Rule 701, the information must be disclosed in simple, easily understood, and concise language in a single document. In addition to specifying the information that must appear in a written warranty, Rule 701 also requires that, in instances where the warrantor uses a warranty registration or owner registration card, the warranty must disclose whether that registration card is a condition precedent to warranty coverage. Finally, it provides that, in connection with "seal of approval" programs, the disclosures do not have to be given in the actual seal itself, if they are made in a general circulation publication. As part of its systematic review of all Commission regulations and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for the Rule, possible conflict between the Rule and State, local, and other Federal laws, and the effect on the Rule of any technological, economic, or other industry changes. The comment period has ended and staff is preparing a recommendation to the Commission.

Timetable:

Action	Date	FR Cite
Begin Review	04/03/96	61 FR 14688
Comment Period End	06/03/96	
Recommendation to Commission	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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FTC — Proposed Rule Stage

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RIN: 3084–AA72

4544. RULE GOVERNING THE PRE-SALE AVAILABILITY OF WRITTEN WARRANTY TERMS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 702

Legal Deadline: None

Abstract: The Rule Governing the Pre-Sale Availability of Written Warranty Terms, 16 CFR part 702 (Rule 702) published as a final rule in 1975 and amended in 1987, is being reviewed under the Commission's procedures. Section 102(b)(1)(A) of the Magnuson-Moss Warranty Act, 15 U.S.C. 2301 et seq., directed the Commission to prescribe rules requiring that the terms of any written warranty on a consumer product be made available to the prospective purchaser prior to the sale of the product. Accordingly, the Commission issued Rule 702, which requires sellers and warrantors to make the terms of a written warranty available to the consumer prior to sale. Among other things, the Rule requires sellers to make warranty information readily available by either (1) displaying it in close proximity to the product, or (2) furnishing it on request and posting signs in prominent locations advising consumers that warranty information is available. The Rule requires warrantors to provide materials to enable sellers to comply with the Rule's requirements. It also sets out the methods by which warranty information can be made available prior to the sale of the product in instances where the product is sold through catalogs, mail order, or door-to-door. As part of its systematic review of all Commission regulations and guides, the Commission has determined to seek comments on, among other things, the economic impact of, and the continuing need for the rule, possible conflict between the rule and State, local, and other Federal laws and the effect on the rule of any technological, economic, or other industry changes. The comment period has ended and staff is preparing a recommendation to the Commission.

Timetable:

Action	Date	FR Cite
Begin Review	04/03/96	61 FR 14688
Comment Period End	06/03/96	
Recommendation to Commission	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA73

4545. RULE GOVERNING INFORMAL DISPUTE SETTLEMENT PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 703

Legal Deadline: None

Abstract: The Rule Governing Informal Dispute Settlement Procedures (Rule 703) establishes minimum requirements for those informal settlement mechanisms (IDSM) that are incorporated by the warrantor into its consumer product warranty. By incorporating the IDSM into the warranty, the warrantor requires the consumer to use the IDSM before pursuing any legal remedies in court. Among other things, the Rule sets out the member qualifications, general operating procedures, and recordkeeping requirements of such IDSMs. The Rule also prescribes the duties of the warrantor in making consumers aware of the IDSM and how to use it, as well as the warrantor's duties to comply with the IDSM's requests and decisions. The Rule also requires IDSMs that operate under Rule 703 to submit annual audits to the Federal Trade Commission to determine their compliance with the Rule. As part of its systematic review of all Commission regulations and guides, the Commission has requested comments on, among other things, the economic impact of, and the continuing need for, the Rule; whether there are changes that might be made to the Rule that would increase consumer benefits or which might minimize cost to firms subject to its requirements; the degree to which it may conflict with other State, local, and other Federal laws; and the effect on the rules of any technological, economic, or other industry changes. The comment period has ended and staff is preparing a recommendation to the Commission.

Timetable:

Action	Date	FR Cite
Begin Review	01/01/97	
Request for Comments	04/02/97	62 FR 15636
Comment Period Extended	06/13/97	62 FR 32338
Comment Period End	08/01/97	
Recommendation to Commission	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3084–AA75

4546. TRADE REGULATION RULE ON OPHTHALMIC PRACTICE RULES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 456

Legal Deadline: None

Abstract: The Trade Regulation Rule on Ophthalmic Practice Rules, also known as the "Prescription Release Rule," provides that an optometrist or ophthalmologist must give to the patient a copy of the patient's eyeglass prescription immediately after the eye examination is completed at no extra cost. The Prescription Release Rule prohibits optometrists and ophthalmologists from conditioning the availability of an eye examination, as defined by the Rule, on a requirement that the patient agrees to purchase ophthalmic goods from the optometrist or ophthalmologist, and from placing on the prescription, or delivering to the patient, certain disclaimers or waivers of liability. The Rule does not require an optometrist or ophthalmologist to release a contact lens prescription to a patient after an eye exam. As part of its systematic review of all Commission rules and guides, the Commission requested comments on the economic impact of, and the continuing need for, this Rule, possible conflict between the Rule and State, local, or other Federal laws, and the effect on the Rule of any technological, economic, or other industry changes. Staff is preparing a memorandum to the Commission summarizing the comments received and making recommendations as to whether the Commission should revise, repeal, or retain the rule.

FTC — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
Request for Comments	04/03/97	62 FR 15865
Notice of Comment Period Extension	05/29/97	62 FR 29088
Comment Period End	06/02/97	
Comment Period End	09/02/97	
Recommendation to Commission	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA80

FEDERAL TRADE COMMISSION (FTC) — Final Rule Stage

4547. TRADE REGULATION RULE PURSUANT TO THE TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT OF 1992

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 5701 et seq

CFR Citation: 16 CFR 308

Legal Deadline: None

Abstract: Congress enacted the Telephone Disclosure and Dispute Resolution Act of 1992 (TDDRA) to curtail certain unfair and deceptive practices perpetrated by some pay-per-call businesses, and to encourage the growth of the legitimate pay-per-call industry. TDDRA granted the Commission limited jurisdiction over common carriers for purposes of the 900-Number Rule, which became effective November 1, 1993. The Rule requires that advertisements for 900-Numbers contain certain disclosures; that anyone who calls a 900-Number service be given the opportunity to hang up at the conclusion of the preamble without incurring any charge for the call; and establishes procedures for resolving billing disputes for 900-Number calls and other telephone-billed purchases. Under the terms of the rule itself, a review of the Rule is required to be initiated by the Commission prior to November 1997. As part of this review, the Commission published a notice in the Federal Register on March 12, 1997, requesting comments on, among other things, the economic impact of, and the continuing need for, the 900-Number Rule and the effect on the Rule of any technological or industry changes. The Commission also sought comments, pursuant to authority granted under the Telecommunications Act of 1996, on whether to expand the Rule to govern other similar audio information and entertainment services. Staff held a workshop-conference on June 19-20, 1997, during which members of the industry discussed issues raised in the comments, including billing and collection issues and possible ways to expand the definition of "pay-per-call services." Staff is preparing a recommendation to the Commission.

Timetable:

Action	Date	FR Cite
Request for Comments	03/12/97	62 FR 11750
Comment Period End	05/12/97	
Public Workshop	06/19/97	
Public Workshop	06/20/97	
Recommendation to Commission	09/08/98	
Commission Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA78

FEDERAL TRADE COMMISSION (FTC) — Long-Term Actions

4548. AMENDED FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

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RIN: 3084–AA44

FEDERAL TRADE COMMISSION (FTC) — Completed Actions

4549. TRADE REGULATION RULE CONCERNING THE USE OF NEGATIVE OPTION PLANS BY SELLERS IN COMMERCE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 425

Legal Deadline: None

Abstract: The Trade Regulation Rule Concerning the Use of Negative Option Plans by Sellers in Commerce (Negative Option Rule) governs a type of selling technique known as a prenotification negative option plan. Under such a plan, a seller and a subscriber enter into a contractual agreement whereby the seller will periodically sell merchandise to the subscriber by shipping merchandise to the subscriber even though the subscriber has not affirmatively ordered the merchandise. The Negative Option Rule requires sellers who use prenotification negative option plans to disclose the material terms of the plans clearly and conspicuously in their promotional materials. The Rule requires, in part, that the seller send to the subscriber an announcement, which identifies the merchandise the seller intends to send to the subscriber. The seller will then send the merchandise and bill the subscriber for it, unless the subscriber instructs the seller by a certain date not to send the merchandise. A negative option plan will often require a subscriber to purchase a minimum quantity of merchandise, after which the subscriber may cancel the membership. As part of its systematic review of Commission rules and guides, the Commission has completed its review of this Rule. The Commission decided to retain the Rule in its present form with minor technical changes.

Timetable:

Action	Date	FR Cite
Request for Comments	03/31/97	62 FR 15135
Comment Period End	06/02/97	
Recommendation to Commission	06/29/98	
Final Action	08/20/98	63 FR 44555

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3084–AA76

4550. RULES AND REGULATIONS UNDER THE HOBBY PROTECTION ACT (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 304

Legal Deadline: None

Abstract: The Rules and Regulations under the Hobby Protection Act require that all imitation numismatic and imitation political items sold in, or imported into, the United States be marked with the word "Copy" or the year of manufacture. An amendment to the Rule in 1988 permits manufacturers of miniature numismatic items to mark the word "Copy" in smaller dimensions than those required under the previous Rule. The Commission determined, at that time, that the amendment would facilitate compliance with the Rule and eliminate potential costs, in both time and resources, to industry and the Commission from individual variance applications for miniature numismatic items.

The Commission has conducted a review of this Rule under the Regulatory Flexibility Act, 5 USC 601 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act of 1996. At the same time, and as part of its systematic review of all Commission rules and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for, this Rule, possible conflict between the Rule and State, local and other Federal laws, and the effect on the Rule of any technological, economic, or other industry changes, with particular emphasis on the effect on small businesses.

Based on the record in this proceeding, the Commission has determined that the Rules successfully protect consumers from those who would try to pass off reproductions as originals and that the costs of compliance are not significant to either small entities or others.

Timetable:

Action	Date	FR Cite
Request for Comments	03/25/97	62 FR 14049
Comment Period End	05/27/97	
Recommendation to Commission	06/03/98	
Final Action	07/07/98	63 FR 36555
Final Action Effective	07/07/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA79

[FR Doc. 98-23556 Filed 11-06-98; 8:45 am]
BILLING CODE 6750-01-F

federal register

Monday
November 9, 1998

Part LX

National Credit Union Administration

Semiannual Regulatory Agenda

NATIONAL CREDIT UNION ADMINISTRATION (NCUA)

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

Semiannual Regulatory Agenda

AGENCY: National Credit Union Administration (NCUA).

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to its ongoing policy of reviewing regulations, NCUA is publishing a list of current and projected rulemakings, reviews of existing regulations, and completed actions as of August 7, 1998. NCUA will also include this agenda in the Unified Agenda of Federal Regulatory and Deregulatory Actions.

DATES: This information is current as of August 7, 1998.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

FOR FURTHER INFORMATION CONTACT: For each regulation listed, the person(s) named in the listing at the above address, unless otherwise noted, or listed telephone number.

SUPPLEMENTARY INFORMATION: The purpose of this agenda is to enable credit unions and the public to follow regulatory development and review at NCUA and participate in that process more effectively. The agenda is divided into three parts: (1) Actions completed since the last agenda; (2) actions proposed but not completed; and (3) actions planned but not yet proposed by the NCUA Board.

The agenda is published pursuant to NCUA Interpretive Ruling and Policy Statement Number 87-2 ("Developing and Reviewing Government Regulations," 54 FR 35231; September 18, 1987). Executive Order 12866, signed by President Clinton on September 30, 1993, requires independent executive agencies such as NCUA to publish a regulatory agenda. This agenda will be included in the next publication of the Unified Agenda of Federal Regulatory and Deregulatory Actions.

Approved by the NCUA Board on August 18, 1998.

Becky Baker,

Secretary of the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4551	Federal Credit Union Ownership of Fixed Assets	3133-AB90
4552	Management Official Interlocks	3133-AB93
4553	Federal Credit Union Bylaws	3133-AB94
4554	Federal Credit Union Chartering, Field of Membership Modifications, and Conversions	3133-AC02
4555	Change in Official or Senior Executive Officer in Credit Unions That Are Newly Chartered or Are in Troubled Condition	3133-AC03
4556	Fidelity Bond and Insurance Coverage of Federal Credit Unions	3133-AC04
4557	Purchase, Sale and Pledge of Eligible Obligations	3133-AC05
4558	Loans to Members and Lines of Credit to Members	3133-AC10

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4559	Member Business Loans	3133-AB91
4560	Organization and Operations of Federal Credit Unions; Trustees and Custodians of Pension Plans	3133-AC09

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4561	Involuntary Liquidation of Federal Credit Unions and Adjudication of Creditor Claims Involving Federally Insured Credit Unions in Liquidation	3133-AC06
4562	Federal Credit Union Insurance and Group Purchasing Activities	3133-AC07

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4563	Golden Parachute and Indemnification Payments	3133-AB28

NCUA

Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4564	Investment and Deposit Activities	3133-AC01

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Proposed Rule Stage

4551. FEDERAL CREDIT UNION OWNERSHIP OF FIXED ASSETS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1754(4)

CFR Citation: 12 CFR 701.36

Legal Deadline: None

Abstract: The current rule establishes a specific limitation on an FCU's investment in fixed assets at 5 percent of shares and retained earnings when an FCU's assets exceed $1 million. The proposal anticipates using a new fixed asset threshold based on an FCU's net capital. In addition, fixed asset waiver requests would need to be documented more fully than at present.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael J. McKenna, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569
Email: ogc@ncua.gov

RIN: 3133–AB90

4552. MANAGEMENT OFFICIAL INTERLOCKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 3201 et seq; 12 USC 1757

CFR Citation: 12 CFR 711

Legal Deadline: None

Abstract: The current regulation will need to be amended to conform it to recent changes made to the Depository Institutions Management Interlocks Act (the Interlocks Act). The Interlocks Act was amended to raise the asset threshold for the prohibition against interlocks involving an institution with at least $1 billion in total assets and an institution with at least $500 million in total assets. The Interlocks Act also was amended to expand the exemptive authority of the OCC and other Federal banking agencies.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dianne M. Salva, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569
Email: ogc@ncua.gov

RIN: 3133–AB93

4553. FEDERAL CREDIT UNION BYLAWS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1758

CFR Citation: None

Legal Deadline: None

Abstract: The request for comments was issued to help guide the preparation of a proposed rule which would clarify, revise, and reorganize existing FCU bylaws and eliminate bylaws that are obsolete.

Timetable:

Action	Date	FR Cite
ANPRM	03/13/97	62 FR 11778
ANPRM Comment Period End	06/12/97	62 FR 19702
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Mary F. Rupp, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569
Email: ogc@ncua.gov

RIN: 3133–AB94

4554. FEDERAL CREDIT UNION CHARTERING, FIELD OF MEMBERSHIP MODIFICATIONS, AND CONVERSIONS

Priority: Info./Admin./Other

Legal Authority: 12 USC 1752(5), 12 USC 1755; 12 USC 1756; 12 USC 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766; 12 USC 1767; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701.1

Legal Deadline: None

Abstract: NCUA staff is currently working on a proposed Interpretive Ruling and Policy Statement to update completely our chartering and field of membership policies.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

NCUA

Proposed Rule Stage

Agency Contact: Michael J. McKenna, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569
Email: ogc@ncua.gov

RIN: 3133–AC02

4555. CHANGE IN OFFICIAL OR SENIOR EXECUTIVE OFFICER IN CREDIT UNIONS THAT ARE NEWLY CHARTERED OR ARE IN TROUBLED CONDITION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1752(5); 12 USC 1755; 12 USC 1756; 12 USC 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766; 12 USC 1767; 12 USC 1782; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701.14

Legal Deadline: None

Abstract: This regulation was implemented in 1990. It sets forth the condition under which a newly chartered or troubled credit union must notify NCUA of any changes in its board of directors, committee members, or senior executive staff. The provisions relating to when the notice period begins for NCUA's review and the definition of a troubled federally insured state credit union have created some problems for NCUA staff. NCUA intends to clarify the notice provision and to define a federally insured State credit union as troubled if it receives a 4 or 5 CAMEL rating from NCUA or State Supervisory Authority.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margaret McPartlin, Trial Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569
Email: ogc@ncua.gov

RIN: 3133–AC03

4556. FIDELITY BOND AND INSURANCE COVERAGE OF FEDERAL CREDIT UNIONS

Priority: Info./Admin./Other

Legal Authority: 12 USC 1752(5); 12 USC 1755; 12 USC 1756; 12 USC 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766; 12 USC 1767; 12 USC 1782; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701.20

Legal Deadline: None

Abstract: This regulation sets out the requirements for fidelity bonds and other insurance coverage. The revision will clarify and update it by identifying additional bonds that have been approved.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Allan Meltzer, Associate General Counsel, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569
Email: ogc@ncua.gov

RIN: 3133–AC04

4557. PURCHASE, SALE AND PLEDGE OF ELIGIBLE OBLIGATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1752(5); 12 USC 1755; 12 USC 1756; 12 USC 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766; 12 USC 1767; 12 USC 1782; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701.23

Legal Deadline: None

Abstract: The regulation sets forth the requirements that a Federal credit union may purchase real estate loans from any source if it is granting real estate loans on an ongoing basis and the purchase will facilitate the packaging of a pool of loans for sale on the secondary market. The proposal clarifies that a pool must include a substantial portion of the Federal credit union loans and must be sold promptly. Further, the proposed rule explains when the purchase of a member loan is not the purchase of an eligible obligation, but rather the making of a direct loan.

Timetable:

Action	Date	FR Cite
NPRM	08/06/98	63 FR 41976
NPRM Comment Period End	10/05/98	
Interim Final Rule	12/00/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary F. Rupp, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569
Email: ogc@ncua.gov

RIN: 3133–AC05

4558. • LOANS TO MEMBERS AND LINES OF CREDIT TO MEMBERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 12 USC 1752(5); 12 USC 1755 to 1757; 12 USC 1759; 12 USC 1761a to 1761b; 12 USC 1766 to 1767; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701.21(g)

Legal Deadline: None

Abstract: The NCUA is proposing to incorporate into its regulations the agency's longstanding interpretation that Federal credit unions can permit a nonmember to assume a member's residential real estate loan in conjunction with the nonmember's purchase of the member's principal residence.

Timetable:

Action	Date	FR Cite
NPRM	08/06/98	63 FR 41978
NPRM Comment Period End	10/05/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael J. McKenna, Staff Attorney, National Credit Union Administration

NCUA

Proposed Rule Stage

Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AC10

NATIONAL CREDIT UNION ADMINISTRATION (NCUA)

Final Rule Stage

4559. MEMBER BUSINESS LOANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1752(5); 12 USC 1755; 12 USC 1756; 12 USC 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766; 12 USC 1767; 12 USC 1782; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701.21(h)

Legal Deadline: None

Abstract: NCUA proposes to update, clarify, and streamline its existing rules concerning member business loans and appraisals for federally insured credit unions. The intended effect of the proposal is to reduce regulatory burden, maintain safety and soundness, and expand the number and type of business loans a Federal credit union may grant its members.

Timetable:

Action	Date	FR Cite
NPRM	08/01/97	62 FR 41313
NPRM Comment Period End	09/30/97	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael J. McKenna, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314
Phone: 703 518-6540
Fax: 703 518-6569
Email: ogc@ncua.gov

RIN: 3133–AB91

4560. • ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS; TRUSTEES AND CUSTODIANS OF PENSION PLANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 12 USC 1752(5); 12 USC 1755 to 1757; 12 USC 1759; 12 USC 1761a to 1761b; 12 USC 1766 to 1767; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701; 12 CFR 724

Legal Deadline: None

Abstract: The interim final rule corrects references in NCUA regulations regarding share insurance coverage on member accounts established as Education IRAs, ROTH IRAs, Savings Incentive Match Plan for Employees and Medical Savings Accounts. The rule also makes a conforming amendment to the rule regarding retirement benefits for Federal credit union employees.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/24/98	63 FR 14025
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank Kressman, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AC09

NATIONAL CREDIT UNION ADMINISTRATION (NCUA)

Long-Term Actions

4561. INVOLUNTARY LIQUIDATION OF FEDERAL CREDIT UNIONS AND ADJUDICATION OF CREDITOR CLAIMS INVOLVING FEDERALLY INSURED CREDIT UNIONS IN LIQUIDATION

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 709

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Allan Meltzer
Phone: 703 518-6540
Fax: 703 518-6569
Email: ogc@ncua.gov

RIN: 3133–AC06

4562. FEDERAL CREDIT UNION INSURANCE AND GROUP PURCHASING ACTIVITIES

Priority: Info./Admin./Other

CFR Citation: 12 CFR 721

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael J. McKenna
Phone: 703 518-6540
Fax: 703 518-6569
Email: ogc@ncua.gov

RIN: 3133–AC07

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Completed Actions

4563. GOLDEN PARACHUTE AND INDEMNIFICATION PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1786(t)

CFR Citation: 12 CFR 701.34

Legal Deadline: None

Abstract: The NCUA Board has determined not to issue a regulation at this time.

Timetable:

Action	Date	FR Cite
Withdrawn	08/07/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Allan Meltzer, Associate General Counsel, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569
Email: ogc@ncua.gov

RIN: 3133–AB28

4564. INVESTMENT AND DEPOSIT ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1757(7); 12 USC 1757(8); 12 USC 1757(15)

CFR Citation: 12 CFR 703

Legal Deadline: None

Abstract: NCUA is adopting as final the interim final amendments to the investment regulation as issued last year. The final amendments revise the broker-dealer and safekeeping provisions. NCUA is also deleting the references to the High Risk Securities Test for Collateralized Mortgage Obligations and Real Estate Mortgage Investment in its regulations on investments and corporate credit unions. These amendments will clarify certain procedures related to credit unions' involvement with broker-dealers and safekeeping of securities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/04/97	62 FR 64146
Interim Final Rule Effective Date	01/01/98	
Interim Final Rule Comment Period End	02/02/98	
Final Action	05/01/98	63 FR 24103
Final Action Effective	05/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel Gordon, Senior Investment Officer, Office of Investment Services, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6620
Fax: 703 518-6499
Email: oei@ncua.gov
Kim Iverson, Program Officer, Office of Examination and Insurance, National Credit Union Administration
Phone: 703 518-6360
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Email: ois@ncua.gov

RIN: 3133–AC01

[FR Doc. 98-24587 Filed 11-06-98; 8:45 am]
BILLING CODE 7535-01-F

federal register

Monday
November 9, 1998

Part LXI

National Indian Gaming Commission

Semiannual Regulatory Agenda

NATIONAL INDIAN GAMING COMMISSION (NIGC)

NATIONAL INDIAN GAMING COMMISSION

25 CFR Ch. III

Semiannual Regulatory Agenda

AGENCY: National Indian Gaming Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The National Indian Gaming Commission today is publishing an agenda of its open and anticipated rulemaking actions. The agenda is a general announcement to the public intended to provide notice of rulemaking actions in which the public may wish to participate. In the near future, the Commission intends to issue Notices of Proposed Rulemaking or Advance Notices of Proposed Rulemaking for rules concerning practice before the Commission; rules concerning hearings and appeals procedures; rules concerning enforcement; rules concerning definitions; rules revising the scope and review of management contracts; rules concerning net gaming revenue; rules revising tribal background investigation submission requirements and timing; rules concerning administrative fees; rules concerning public health and safety compliance; rules concerning compulsory process and testimony of employees; rules revising Freedom of Information Act Procedures; rules concerning gaming facility licensing standards; and rules concerning technical amendments to the Minimum Internal Control Standards. The Commission invites questions and public comment on individual agenda items.

FOR FURTHER INFORMATION CONTACT: Penny J. Coleman, National Indian Gaming Commission, 1441 L Street NW., 9th Floor, Washington, DC 20005, (202) 632-7003 (not a toll-free number).

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act, 5 U.S.C. 605, executive agencies are required to publish semiannual regulatory agendas in the **Federal Register** in April and October of each year.

The regulations being considered by the Commission are not "significant" rules within the meaning of E.O. 12866, and no regulatory impact analysis is required. The Commission also has determined, under the Regulatory Flexibility Act, that the regulations under consideration will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Flexibility Analysis is required. The proposed rules are not covered under section 202 of the Unfunded Mandates Reform Act (Pub. L. 104-4), as they are not Federal mandates that may result in an expenditure of $100 million or more in any 1 year by State, local, or tribal governments, in the aggregate, or the private sector. Further, these proposed rules are not considered major under 5 U.S.C. 801 enacted by Public Law 104-121 and, therefore, are not subject to section 801's 60-day deferral requirement.

For this edition of the Commission's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Tadd M. Johnson,

Chairman of the National Indian Gaming Commission.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4565	Game Classification **(Reg Plan Seq. No. 172)**	3141-AA12
4566	Self-Regulation Certification for Class III Gaming Operations **(Reg Plan Seq. No. 173)**	3141-AA22
4567	Gaming Facility Licensing Standards	3141-AA23

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4568	Minimum Internal Control Standards for Tribal Gaming Operations **(Reg Plan Seq. No. 174)**	3141-AA11

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4569	Practice Before the Commission	3141-AA07
4570	Hearings and Appeals Procedure	3141-AA08
4571	Enforcement	3141-AA09
4572	Definitions	3141-AA10

NIGC

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4573	Management Contracts	3141-AA13
4574	Net Gaming Revenue	3141-AA14
4575	Tribal Background Investigation Submission Requirements and Timing	3141-AA15
4576	Administrative Fees	3141-AA16
4577	Public Health and Safety Compliance	3141-AA17
4578	Compulsory Process and Testimony of Employees	3141-AA20
4579	Freedom of Information Act Procedures (Amendments)	3141-AA21
4580	Technical Amendments to the Minimum Internal Control Standards	3141-AA24

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4581	Issuance of Certificates of Self-Regulation to Tribes	3141-AA04

NATIONAL INDIAN GAMING COMMISSION (NIGC) — Proposed Rule Stage

4565. GAME CLASSIFICATION

Regulatory Plan: This entry is Seq. No. 172 in Part II of this issue of the **Federal Register**.

RIN: 3141–AA12

4566. SELF-REGULATION CERTIFICATION FOR CLASS III GAMING OPERATIONS

Regulatory Plan: This entry is Seq. No. 173 in Part II of this issue of the **Federal Register**.

RIN: 3141–AA22

4567. GAMING FACILITY LICENSING STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 2706(b)(10); 25 USC 2710(b); 25 USC 2710(d)

CFR Citation: 25 CFR 522.4(b)(6); 25 CFR 522.6(b)

Legal Deadline: None

Abstract: This rule establishes minimum standards which tribes will adopt when they license gaming facilities within their reservations pursuant to 25 USC 2710(b) and their tribal gaming ordinances.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
NPRM Comment Period End	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Tribal

Agency Contact: Mai Dinh, Staff Attorney, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA23

NATIONAL INDIAN GAMING COMMISSION (NIGC) — Final Rule Stage

4568. MINIMUM INTERNAL CONTROL STANDARDS FOR TRIBAL GAMING OPERATIONS

Regulatory Plan: This entry is Seq. No. 174 in Part II of this issue of the **Federal Register**.

RIN: 3141–AA11

NATIONAL INDIAN GAMING COMMISSION (NIGC) — Long-Term Actions

4569. PRACTICE BEFORE THE COMMISSION

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA07

4570. HEARINGS AND APPEALS PROCEDURE

Priority: Other Significant

CFR Citation: 25 CFR 522; 25 CFR 523; 25 CFR 524; 25 CFR 533; 25 CFR 535; 25 CFR 539; 25 CFR 573; 25 CFR 575; 25 CFR 577

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA08

4571. ENFORCEMENT

Priority: Other Significant

CFR Citation: 25 CFR 573

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA09

4572. DEFINITIONS

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 502

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA10

4573. MANAGEMENT CONTRACTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 25 CFR 531; 25 CFR 533; 25 CFR 536

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA13

4574. NET GAMING REVENUE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 25 CFR 571; 25 CFR 573

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA14

4575. TRIBAL BACKGROUND INVESTIGATION SUBMISSION REQUIREMENTS AND TIMING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 25 CFR 556; 25 CFR 558

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA15

4576. ADMINISTRATIVE FEES

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 514

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA16

4577. PUBLIC HEALTH AND SAFETY COMPLIANCE

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 573

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA17

NIGC — Long-Term Actions

4578. COMPULSORY PROCESS AND TESTIMONY OF EMPLOYEES

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA20

4579. FREEDOM OF INFORMATION ACT PROCEDURES (AMENDMENTS)

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 517.3; 25 CFR 517.6; 25 CFR 517.8

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeanne McLaughlin
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA21

4580. • TECHNICAL AMENDMENTS TO THE MINIMUM INTERNAL CONTROL STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 2702; 25 USC 2706(b)(10)

CFR Citation: 25 CFR 542

Legal Deadline: None

Abstract: The National Indian Gaming Commission anticipates that there will be a need to make technical changes to the minimum internal control standards to respond to changes in technology and the gaming industry. Because these standards are established by Federal regulation, it is necessary to make the changes to the current standards. The benefit is better internal control standards and the anticipated costs are minimal.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Mai Dinh, Staff Attorney, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005
Phone: 202 632-7003
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RIN: 3141–AA24

NATIONAL INDIAN GAMING COMMISSION (NIGC) — Completed Actions

4581. ISSUANCE OF CERTIFICATES OF SELF-REGULATION TO TRIBES

Priority: Other Significant

Legal Authority: 25 USC 2701 et seq; 25 USC 2710(c); 25 USC 2717(a)

CFR Citation: 25 CFR 581

Legal Deadline: None

Abstract: This rule will provide procedures for a tribe to petition the Commission for a certificate of self-regulation of class II and class III gaming. The rule will implement the statutory standards that must be met in order for the Commission to grant such a petition. The rule also will implement the Commission's authority to remove a certificate of self-regulation for just cause.

Timetable:

Action	Date	FR Cite
NPRM	03/12/98	63 FR 12319
NPRM Comment Period End	05/11/98	
Final Action	08/06/98	63 FR 41960
Final Action Effective	09/08/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Maria Getoff, Staff Attorney, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005
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RIN: 3141–AA04

[FR Doc. 98-24588 Filed 11-06-98; 8:45 am]
BILLING CODE 7565-01-F

Federal Register

Monday
November 9, 1998

Part LXII

Nuclear Regulatory Commission

Semiannual Regulatory Agenda

NUCLEAR REGULATORY COMMISSION (NRC)

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Nuclear Regulatory Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing its semiannual regulatory agenda in accordance with Public Law 96-354 "The Regulatory Flexibility Act" and Executive Order 12866 "Regulatory Planning and Review." The agenda is a compilation of all rules on which the NRC has recently completed action or has proposed or is considering action. This issuance updates any action occurring on rules since publication of the last semiannual agenda on April 27, 1998 (63 FR 23040).

ADDRESSES: Comments on any rule in the agenda may be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff. Comments may also be hand delivered to the One White Flint North Building, 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m., Federal workdays. Comments received on rules for which the comment period has closed will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closure dates specified in the agenda.

The agenda and any comments received on any rule listed in the agenda are available for public inspection and copying for a fee at the Nuclear Regulatory Commission's Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20555-0001. Single copies of the NRC agenda can be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082. Customers may call (202) 512-2249.

FOR FURTHER INFORMATION CONTACT: For further information concerning NRC rulemaking procedures or the status of any rule listed in this agenda, contact David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone (301) 415-7162, e-mail dlm1@nrc.gov. Persons outside the Washington, DC, metropolitan area may call, toll-free: (800) 368-5642. For further information on the substantive content of any rule listed in the agenda, contact the individual listed under the heading "Agency Contact" for that rule.

SUPPLEMENTARY INFORMATION: The information contained in this semiannual publication is updated to reflect any action which has occurred on rules since publication of the last NRC semiannual agenda on April 27, 1998 (63 FR 23040). Within each group, the rules are ordered according to the Regulation Identifier Number (RIN).

The information in this agenda has been updated through August 28, 1998. The date for the next scheduled action under the heading "Timetable" is the date the rule is scheduled to be published in the **Federal Register**. The date is considered tentative and is not binding on the Commission or its staff. The agenda is intended to provide the public early notice and opportunity to participate in the NRC rulemaking process. However, the NRC may consider or act on any rulemaking even though it is not included in the agenda.

Rulemakings Approved by the Executive Director for Operations (EDO)

The EDO initiated a procedure for review of the regulations being prepared by staff offices that report to him to ensure that staff resources are allocated most effectively to achieve NRC's regulatory priorities. This procedure requires EDO approval before staff resources may be expended on the development of any new rulemaking. Furthermore, all existing rules must receive EDO approval prior to the commitment of additional resources.

The NRC agenda lists rulemaking actions. Of these, one rulemaking item is considered to be priority or major as defined in section 3(f) of Executive Order 12866. Seven rules potentially will have a "significant economic impact on a substantial number of small entities" as defined in the Regulatory Flexibility Act.

For this edition of NRC's regulatory agenda, the most important significant regulatory action is included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entry is listed in the table of contents below and is denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Dated at Rockville, Maryland, this 27th day of August 1998.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Rules and Directives Branch, Division of Administrative Services, Office of Administration.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4582	Domestic Licensing of Special Nuclear Material—Revision	3150-AF22
4583	Nuclear Regulatory Commission Acquisition Regulation	3150-AF52
4584	Medical Uses of Byproduct Material	3150-AF74
4585	Certification Amendment Process	3150-AF85
4586	Criticality Accident Requirements	3150-AF87
4587	Emergency Planning Requirements for Permanently Shutdown Nuclear Power Plant Sites	3150-AF92
4588	Expand Applicability To Include Certificate Holders and Applicants and Their Contractors and Subcontractors	3150-AF93
4589	Changes, Tests, and Experiments	3150-AF94
4590	Requirements for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants	3150-AF95
4591	Conformance to National Policies for Access to and Protection of Classified Information	3150-AF97

NRC

Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4592	Elimination of Reporting Requirement and 30-Day Hold in Loading Spent Fuel After Preoperational Testing of Independent Spent Fuel or Monitored Retrievable Storage Installations	3150-AG02
4593	Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material	3150-AG03
4594	Disposal of High-Level Radioactive Waste in a Proposed Geologic Repository at Yucca Mountain, Nevada	3150-AG04
4595	Environmental Impacts of High-Level Waste Transportation	3150-AG05
4596	Requirements for the Possession of Industrial Devices Containing Byproduct Material	3150-AG06
4597	Availability of Public Records at NRC Public Document Rooms	3150-AG07
4598	Revision of Fee Schedules; 100 Percent Fee Recovery, FY 1999 **(Reg Plan Seq. No. 175)**	3150-AG08
4599	Streamlined Hearing Process for NRC Approval of License Transfers	3150-AG09

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4600	Elimination of Inconsistencies Between NRC Regulations and EPA HLW Standards	3150-AC03
4601	Requirements for Possession of Industrial Devices Containing Byproduct Material	3150-AD34
4602	Industry Codes and Standards; Amended Requirements	3150-AE26
4603	Clarification of Assessment Requirements for Siting Criteria and Performance Objectives	3150-AE40
4604	Fitness for Duty	3150-AF12
4605	Reporting Reliability and Availability Information for Risk-Significant Systems and Equipment	3150-AF33
4606	Initial Licensed Operator Examination Requirements	3150-AF62
4607	Audit Frequency for Emergency Planning and Security	3150-AF63
4608	Financial Protection Requirements for Permanently Shutdown Nuclear Power Reactors	3150-AF79
4609	Miscellaneous Changes	3150-AF80
4610	Respiratory Protection and Controls to Restrict Internal Exposure, Subpart H and Appendix A	3150-AF81
4611	Procedures Applicable to Proceedings for the Issuance of Licensees for the Receipt of High-Level Radioactive Waste at a Geologic Repository	3150-AF88
4612	Codes and Standards; IEEE National Consensus Standard	3150-AF96

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4613	Addition of Radon-222 and Technetium-99 Values to Table S-3 and Revisions Resulting From Consideration of Higher-Burnup Fuel	3150-AA31
4614	Criteria for an Extraordinary Nuclear Occurrence	3150-AB01
4615	Availability of Official Records	3150-AC07
4616	Comprehensive Quality Assurance in Medical Use and a Standard of Care	3150-AC42
4617	Requirements Concerning the Accessible Air Gap for Generally Licensed Devices	3150-AD82
4618	Standardized Plant Designs, Early Review of Site Suitability Issues; Clarifying Amendments	3150-AE25
4619	Distribution of Source and Byproduct Material: Licensing and Reporting Requirements	3150-AE33
4620	Disposal by Release Into Sanitary Sewerage	3150-AE90
4621	Shutdown and Fuel Storage Pool Operation at Nuclear Power Plants	3150-AE97
4622	Steam Generator Tube Integrity for Operating Nuclear Power Plants	3150-AF04
4623	Performance-Oriented Requirements for Fire Protection of Nuclear Power Facilities	3150-AF29
4624	Revision to Nuclear Power Reactor Decommissioning Cost Requirements	3150-AF40
4625	Submittal Procedures for Documents	3150-AF61
4626	Modification to Event Reporting Requirements for Power Reactors	3150-AF98

NRC

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4627	Fitness for Duty (Scope Change)	3150-AF13
4628	Physical Protection for Spent Nuclear Fuel and High-Level Radioactive Waste	3150-AF32
4629	Revision to Nuclear Power Reactor Decommissioning Financial Assurance Implementation Requirements	3150-AF41
4630	Minor Corrections and Clarifying Changes and a Minor Policy Change	3150-AF46
4631	Criteria and Procedures for Determining Eligibility for Access to Restricted Data or National Security Information or an Employment Clearance	3150-AF48
4632	Requirements for Shipping Packages Used to Transport Vitrified Wastes Containing Plutonium	3150-AF59
4633	Self-Guarantee of Decommissioning Funding by Non-Profit and Non-Bond Issuing Licensees	3150-AF64
4634	Codes and Standards; IEEE National Consensus Standard	3150-AF73
4635	Revision of Prototype Testing Requirements for Dials, Hands, and Pointers Containing Tritium	3150-AF76
4636	License Term for Medical Licenses	3150-AF77
4637	Access to Secret Restricted Data	3150-AF82
4638	Revision of Fee Schedules; 100 Percent Fee Recovery, FY 1998	3150-AF83
4639	Adoption of Part 20 Dose Limits and Dose Calculational Methodology in Part 72	3150-AF84
4640	Access Authorization Fee Schedule for Licensee Personnel	3150-AF90
4641	Revision of Dose Limit for Members of the Public Exposed to Hospitalized Radiation Patients	3150-AF91
4642	Transfer for Disposal and Manifests; Minor Technical Conforming Amendment	3150-AF99
4643	Physical Protection for Spent Nuclear Fuel and High-Level Radioactive Waste: Corrective Amendment	3150-AG00
4644	Financial Protection Requirements and Indemnity Agreements	3150-AG01

NUCLEAR REGULATORY COMMISSION (NRC) — Proposed Rule Stage

4582. DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL—REVISION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 2282

CFR Citation: 10 CFR 70

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to provide a risk-informed performance-based regulation for certain licensees authorized to possess a critical mass of special nuclear material. Concurrent with this amendment, companion support guidance documents are being developed for issuance. The proposed rule would require affected licensees to conduct an integrated safety analysis to identify potential accidents at the facility and the items relied on for safety. While the NRC believes that fuel facilities operate with an adequate degree of safety, the safety bases for licensing and inspection may have significant uncertainties.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard Milstein, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-8149
Email: rim@nrc.gov

RIN: 3150–AF22

4583. NUCLEAR REGULATORY COMMISSION ACQUISITION REGULATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 251 note; 42 USC 251 note; 40 USC 1401 note

CFR Citation: 48 CFR 20

Legal Deadline: None

Abstract: The proposed rule would amend the Nuclear Regulatory Commission Acquisition Regulation (NRCAR) for the procurement of goods and services within the NRC to satisfy the particular needs of the agency. The proposed rule would incorporate streamlining and simplification methods identified under the NRC's Procurement Reinvention Laboratory (PRL) and legislated under the Federal Acquisition Streamlining Act of 1994 (FASA), the Federal Acquisition Reform Act of 1996 (FARA), and the Information Technology Management Reform Act (ITMRA) of 1996. The intent of the FASA, FARA, and ITMRA is to streamline procurement processes within the Federal Government. Implementing instructions are needed for some of these processes. In addition, the NRC's PRL will require the NRC to streamline and simplify procedures in the NRCAR wherever possible.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

NRC — Proposed Rule Stage

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mary Lynn Scott, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555-0001
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RIN: 3150–AF52

4584. MEDICAL USES OF BYPRODUCT MATERIAL

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 5841

CFR Citation: 10 CFR 35

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations for the use of radionuclides in medicine. The process started with NRC's 1993 internal senior management review report; continued with the 1996 independent external review by the National Academy of Sciences, Institute of Medicine; and culminated with NRC's Strategic Assessment process, which addressed medical oversight. As a result of these actions, the Commission directed the staff to restructure part 35 into a more risk-oriented, performance-based regulation that focuses on those procedures that pose the highest risk. Alternative regulatory oversights will be considered for those diagnostic procedures that are consistent with the lower overall risk of these procedures. Other issues to be considered during the rulemaking include: the best way to capture not only relevant safety-significant events, but also precursor events; revision of the quality management program to focus on those requirements that are essential for patient safety; the viability of using or referencing available industry and training and experience for authorized users, radiation safety officers, and medical physicists. Public input on regulatory alternatives for these and other crosscutting issues were solicited via the Internet, Federal Register notices, and public workshops.

Timetable:

Action	Date	FR Cite
ANPRM	08/06/97	62 FR 42219
ANPRM Comment Period End	03/01/98	
NPRM	08/13/98	63 FR 43516
NPRM Comment Period End	11/12/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cathy Haney, Nuclear Regulatory Commission, Office of Nuclear Material Safety and, Safeguards, Washington, DC 20555-0001
Phone: 301 415-6825
Email: cxh@nrc.gov

RIN: 3150–AF74

4585. CERTIFICATION AMENDMENT PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 2297b-11; 42 USC 2297f; 42 USC 5841; 42 USC 5842; 42 USC 5845; 42 USC 5846; 42 USC 2243(a); 42 USC 5851; 42 USC 2243(f); 42 USC 2152

CFR Citation: 10 CFR 76

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations that apply to gaseous diffusion plants. In 1994, these regulations established the process by which the NRC would assume regulatory authority for the Paducah and Portsmouth Gaseous Diffusion Plants. These plants first came under NRC oversight on March 3, 1997. While implementing the initial certification and amendment processes specified in the 1994 regulations, the NRC staff identified several areas in these processes that should be revised and improved so that they are more effective and efficient. This proposed rulemaking would modify the process for certificate renewals, establish a process for certificate amendment comparable to the process currently used to amend a fuel cycle license, revise the appeal process for amendments, eliminate the significant designation for amendments, simplify the criteria for persons who are eligible to file a petition for review of an amendment action, remove references to the initial application because the initial certificates have been issued, and lengthen the time periods associated with filing a petition for review.

Timetable:

Action	Date	FR Cite
NPRM	09/15/98	63 FR 49301
NPRM Comment Period End	11/16/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Telford, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6229
Email: jlt@nrc.gov

RIN: 3150–AF85

4586. CRITICALITY ACCIDENT REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2132; 42 USC 2133; 42 USC 2134; 42 USC 2135; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2236; 42 USC 2239; 42 USC 2282

CFR Citation: 10 CFR 50; 10 CFR 70

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to provide light-water nuclear power reactor licensees with greater flexibility in meeting the requirement that licensees authorized to possess more than a small amount of special nuclear material maintain a criticality monitoring system in each area where the material is handled, used, or stored. This action is taken as a result of the experience gained in processing and evaluating a number of exemption requests from power reactor licensees and NRC's safety assessments in response to these requests that

NRC

Proposed Rule Stage

concluded that the likelihood of criticality was negligible.

Timetable:

Action	Date	FR Cite
Final Rule	12/03/97	62 FR 63825
Final Rule Effective	02/17/98	
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: This rulemaking was incorrectly reported as a completion in the April 1998 Unified Agenda.

Agency Contact: Stan Turel, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-6324
Email: spt@nrc.gov

RIN: 3150–AF87

4587. EMERGENCY PLANNING REQUIREMENTS FOR PERMANENTLY SHUTDOWN NUCLEAR POWER PLANT SITES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by providing relief from emergency planning requirements for permanently shutdown nuclear power plant sites based on the reduced risks associated with the configuration of the stored fuel and the passage of time since power operation. These factors, under specified conditions, result in significantly reduced accident risk and consequences, therefore, not warranting emergency plans devised for full power operations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George J. Mencinsky, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-6206
Email: gjm@nrc.gov

RIN: 3150–AF92

4588. EXPAND APPLICABILITY TO INCLUDE CERTIFICATE HOLDERS AND APPLICANTS AND THEIR CONTRACTORS AND SUBCONTRACTORS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by placing appropriate requirements on certificate holders, and applicants, as well as their contractors and subcontractors. This should enhance the staff's capability to take enforcement action in the form of Notice of Violations (NOV) rather than administrative action in the form of Notice of Non-Conformance (NNC) when acceptable requirements are violated. The staff believes that issuance of NOVs will clearly identify that a violation of a legally binding requirement has occurred.

Timetable:

Action	Date	FR Cite
NPRM	07/23/98	63 FR 39526
NPRM Comment Period End	10/06/98	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Tony DiPalo, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6191
Email: ajd@nrc.gov

RIN: 3150–AF93

4589. CHANGES, TESTS, AND EXPERIMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations concerning authority of licensees for production or utilization facilities to make changes to their facilities or procedures, without prior NRC approval. The proposed rule would clarify the criteria that determine when prior approval is needed. The purpose of this rulemaking is to resolve differences in interpretation of requirements within the nuclear community so that changes which might affect the basis for licensing are reviewed before implementation, without also subjecting less significant changes to the license amendment review process. In an SRM dated April 25, 1997, the Commission directed the staff to develop a rulemaking plan that would allow changes involving small or negligible increases in probability of occurrence or consequences of accidents or malfunctions not to require prior approval. The staff recommended rulemaking on this issue in SECY-97-205, dated September 10, 1997, and is awaiting Commission direction.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Eileen McKenna, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
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RIN: 3150–AF94

4590. REQUIREMENTS FOR MONITORING THE EFFECTIVENESS OF MAINTENANCE AT NUCLEAR POWER PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

NRC

Proposed Rule Stage

Abstract: The Commission has directed the staff to prepare a modification to the maintenance rule to require that safety assessments be taken into account before performing maintenance activities. Currently, the rule recommends (vs requires) that safety assessment be performed for preventive maintenance activities. The intent of this part of the rule is to assure that the cumulative impact of out-of-service equipment on the performance of safety functions does not result in the plant being placed in risk-significant configurations. Results of the staff's maintenance rule baseline inspections indicated that many licensee's processes for conducting safety assessment are inadequate and in some cases, implementation of these processes were not followed during preventive maintenance activities and resulted in undesirable plant configurations. The proposed amendment would be designated as section 50.65(a)(4). Additionally, the rule would be changed to add that the requirements are applicable during all conditions of plant operation, including normal shutdown conditions.

Timetable:

Action	Date	FR Cite
NPRM	09/30/98	63 FR 52201
NPRM Comment Period End	12/14/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Correia, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-1009
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RIN: 3150–AF95

4591. • CONFORMANCE TO NATIONAL POLICIES FOR ACCESS TO AND PROTECTION OF CLASSIFIED INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2165; 42 USC 220; 42 USC 2273; 42 USC 5841; EO 12829; EO 12958; EO 10865

CFR Citation: 10 CFR 10; 10 CFR 11; 10 CFR 25; 10 CFR 95

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by conforming NRC regulations to national requirements for the protection of and access to classified National Security Information and Restricted Data, including revised personnel security due process procedures; a new requirement for a facility clearance for those licensees or others who require access to classified information at a facility other than their own; additional information on the scope and reporting requirements for the Foreign Ownership, Control or Influence (FOCI) program; a requirement for a foreign visitor control program; a change to the period between reinvestigations for "L" and "R" access authorizations from five years to ten years; a change in the investigative requirements for "Q", "L", "U", and "R" access authorizations; changes to the security classification markings to conform to Executive Order 12958; and greater specificity as to when particular reports are required. Also, the proposed rule would include administrative matters such as modified definitions to reflect a change in responsibility for certain decisions from the Executive Director for Operations to the Deputy Executive Director for Management Services and revisions to a number of definitions in all four parts to reflect a change in the name of the Division of Security to the Division of Facilities and Security.

Additionally, the proposed rule republishes for additional public comment sections 25.15 and 95.35, which address the personnel security investigative requirements for access to Secret Restricted Data. These proposed changes were originally published as a proposed rulemaking on August 5, 1996 (61 FR 40555), and would have permitted access to most Secret Restricted Data, other than that defined as "Critical Secret Restricted Data" (that term is no longer used but the concept continues to be used for selected types of Secret Restricted Data) in the NISPOM and its supplement, with an "L" clearance based on a National Agency Check with Law and Credit investigation. This republication now provides interested parties an equal opportunity to address the issues and provide supporting rationale for their recommendations and comments.

Timetable:

Action	Date	FR Cite
NPRM	08/03/98	63 FR 41206
NPRM Comment Period End	10/29/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Duane G. Kidd, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555-0001
Phone: 301 415-7403
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RIN: 3150–AF97

4592. • ELIMINATION OF REPORTING REQUIREMENT AND 30-DAY HOLD IN LOADING SPENT FUEL AFTER PREOPERATIONAL TESTING OF INDEPENDENT SPENT FUEL OR MONITORED RETRIEVABLE STORAGE INSTALLATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 072

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by eliminating a reporting requirement and 30-day hold in loading spent reactor fuel into an Independent Spent Fuel Storage Installation (ISFSI) following completion of preoperational testing. The staff considers the reporting requirements and hold period unnecessary because the NRC has an extensive oversight presence during preoperational testing looking at the acceptance criteria and test results in real time. The NRC staff proposes to remove these requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/14/98	63 FR 49046
NPRM Comment Period End	11/30/98	
Final Action	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gordon Gundersen, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6195

Email: geg1@nrc.gov

RIN: 3150–AG02

4593. • REQUIREMENTS FOR CERTAIN GENERALLY LICENSED INDUSTRIAL DEVICES CONTAINING BYPRODUCT MATERIAL

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 30; 10 CFR 31; 10 CFR 32; 10 CFR 170; 10 CFR 171

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations for certain industrial devices containing byproduct material to include more specific provisions for a registration and accounting program including associated annual fees and modification of the quarterly transfer reporting requirements for manufacturers and initial distributors of these industrial devices. The rule would also consider other recommendations made by an NRC Agreement State Working Group in NUREG-1551, such as additional labeling requirements. The proposed rule is intended to ensure that general licensees are aware of and understand the requirements for the possession of devices containing byproduct material and allow NRC to account for devices which have been distributed for use under the general license. Better awareness on the part of general licensees of their responsibilities would help to ensure that the general licensees comply with the requirements for proper handling and disposal of generally licensed devices and should help reduce the potential for incidents that could result in unnecessary radiation exposure to the public as well as contamination of property.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Catherine R. Mattsen, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
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RIN: 3150–AG03

4594. • DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE IN A PROPOSED GEOLOGIC REPOSITORY AT YUCCA MOUNTAIN, NEVADA

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 063

Legal Deadline: None

Abstract: In a Staff Requirements Memorandum dated March 6, 1998, the Commission directed the staff to pursue development of new, site-specific regulations for Yucca Mountain, consistent with the Energy Policy Act of 1992 and the 1995 findings and recommendations of the National Academy of Sciences. The proposed rule would focus on the identification of a single, overall performance measure for Yucca Mountain that is either risk- or dose-based. The level of protection provided to the public by such a measure may be more easily communicated to the public than the limit on cumulative release upon which current NRC generic regulations at part 60 are based. The staff's strategy for preparing the Yucca Mountain-specific regulations is described in SECY-97-300, dated December 24, 1997.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tim McCartin, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
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Email: tjm3@nrc.gov

RIN: 3150–AG04

4595. • ENVIRONMENTAL IMPACTS OF HIGH-LEVEL WASTE TRANSPORTATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 051

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to reflect the generic and cumulative environmental impacts of transportation of high-level waste (HLW) in the vicinity of a HLW repository. This rulemaking would address the environmental impacts of the use of higher burn-up fuel. Further, the impact of plant associated traffic on local highway service levels during the renewal term would be changed from Category 1 to Category 2 as it should have been designated in the initial license renewal rulemaking, based on the analysis described in NUREG-1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants" (May 1996).

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	08/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donald P. Cleary, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
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RIN: 3150–AG05

4596. • REQUIREMENTS FOR THE POSSESSION OF INDUSTRIAL DEVICES CONTAINING BYPRODUCT MATERIAL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 031

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations governing the use of byproduct material in certain measuring, gauging, or controlling devices to explicitly require general licensees who possess these devices to provide the NRC with information concerning the devices. The NRC intends to use this provision to provide legal basis to request information from licensees regarding accountability of devices containing certain quantities of specific radionuclides that present a higher risk (compared to other generally licensed devices) of exposure to the public or property damage if a device were lost and initiate an annual registration program. The rule is intended to ensure that general licensees are aware of and understand the requirements for the possession of devices containing byproduct material and can account for their devices. Better awareness on the part of these licensees of their responsibilities would help to ensure that they comply with the requirements for proper handling and disposal of generally licensed devices and should help reduce the potential for incidents that could result in unnecessary radiation exposure to the public as well as contamination of property.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Catherine R. Mattsen, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
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RIN: 3150–AG06

4597. • AVAILABILITY OF PUBLIC RECORDS AT NRC PUBLIC DOCUMENT ROOMS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2073; 42 USC 2167; 42 USC 2201; 42 USC 2297f; 42 USC 5841; 42 USC 5844

CFR Citation: 10 CFR 001; 10 CFR 002; 10 CFR 007; 10 CFR 009; 10 CFR 050; 10 CFR 051; 10 CFR 052; 10 CFR 060; 10 CFR 062; 10 CFR 072; 10 CFR 075; 10 CFR 076; 10 CFR 100; 10 CFR 110

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations regarding public availability of NRC records. The NRC is establishing an Agencywide Documents Access and Management System (ADAMS) that will allow for the electronic submission, storage, and retrieval of NRC official records. After ADAMS becomes operational, NRC will discontinue furnishing paper and microfiche copies of its publicly available records to the NRC Public Document Room (PDR) and Local Public Document Rooms (LPDRs). ADAMS will enable the NRC to make its documents publicly available electronically on the NRC Internet website, http://www.nrc.gov. When the public is able to obtain paper copies of the new electronic records by printing them from the NRC website, or by ordering them from the NRC PDR directly from the NRC website, or by e-mail, fax, or telephone, the NRC LPDR program will be discontinued. The projected date for making NRC documents available electronically through the NRC website is July 1, 1999.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donnie Grimsley, Nuclear Regulatory Commission, Office of the Chief Information Officer, Washington, DC 20555-0001
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RIN: 3150–AG07

4598. • REVISION OF FEE SCHEDULES; 100 PERCENT FEE RECOVERY, FY 1999

Regulatory Plan: This entry is Seq. No. 175 in Part II of this issue of the Federal Register.

RIN: 3150–AG08

4599. • STREAMLINED HEARING PROCESS FOR NRC APPROVAL OF LICENSE TRANSFERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 002; 10 CFR 051

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations that would provide specific uniform procedures and rules of practice for handling requests for hearings associated with license transfer applications involving both material and reactor licensees. Conforming amendments are also made to certain other parts of the Commission's regulations. This new provision would provide for public participation and opportunity for an informal hearing on matters relating to license transfers, specifies procedures for filing and docketing applications for license transfers, and assigns appropriate authorities for issuance of administrative amendments to reflect approved license transfers. This rulemaking would also add a categorical exclusion that would permit processing of transfer applications without preparation of Environmental Assessments.

Timetable:

Action	Date	FR Cite
NPRM	09/11/98	63 FR 48644
NPRM Comment Period End	10/13/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph R. Gray, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555-0001
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RIN: 3150–AG09

NUCLEAR REGULATORY COMMISSION (NRC) — Final Rule Stage

4600. ELIMINATION OF INCONSISTENCIES BETWEEN NRC REGULATIONS AND EPA HLW STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 60

Legal Deadline: None

Abstract: The proposed rule would have eliminated several inconsistencies with the generic EPA standards to be developed for the disposal of HLW in deep geologic repositories. The Nuclear Waste Policy Act of 1982 (NWPA) directs the NRC to issue criteria for the licensing of HLW geologic repositories. Section 121(c) of this Act states that the criteria for the licensing of HLW geologic repositories must be consistent with these standards.

The proposed rule was necessary to eliminate several inconsistencies with the EPA standards, thus fulfilling the statutory requirement. However, most recently, Congress passed the Energy Policy Act of 1992 (EnPA), which requires EPA to issue radiation standards for the proposed geologic repository at Yucca Mountain, based on and consistent with the 1995 findings and recommendations of the National Academy of Sciences (NAS). Under EnPA, NRC is also required to develop site-specific disposal regulations that would apply solely to geologic repository at Yucca Mountain. NAS published its findings and recommendations in 1995. At present, the NRC staff has proposed and is implementing a strategy for developing site-specific disposal regulations that would apply solely to the proposed geologic repository at Yucca Mountain, consistent with the 1995 NAS findings and recommendations, and is deferring the updating/revising of 10 CFR part 60 generic requirements to a later date. The NRC staff's strategy for developing the site-specific disposal regulations for Yucca Mountain can be found in a Commission paper, designated SECY-97-300, dated December 24, 1997. This strategy was approved by the Commission in a Staff Requirements Memorandum dated March 6, 1998. Because the NRC is developing site-specific disposal regulations for Yucca Mountain, Nevada, consistent with the Energy Policy Act of 1992, the staff is planning to withdraw this proposed rulemaking. These site-specific disposal regulations will be addressed in another rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	06/19/86	51 FR 22288
NPRM Comment Period End	08/18/86	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tim McCartin, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
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RIN: 3150–AC03

4601. REQUIREMENTS FOR POSSESSION OF INDUSTRIAL DEVICES CONTAINING BYPRODUCT MATERIAL

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2111; 42 USC 2114; 42 USC 2201

CFR Citation: 10 CFR 31; 10 CFR 32

Legal Deadline: None

Abstract: The proposed rule would have amended the Commission's regulations for the possession of industrial devices containing byproduct material to require device users to report to the NRC initially and then on a periodic basis. The Commission has reconsidered these issues with the help of an NRC-Agreement State Working Group. The subject matter of this rulemaking will be addressed by another rulemaking with the same title, which is scheduled to be published in November 1998. A subsequent, more comprehensive rulemaking in this area is also planned. Therefore, this proposed rule is going to be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	12/27/91	56 FR 67011
NPRM Comment Period End	03/12/92	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3150–AD34

4602. INDUSTRY CODES AND STANDARDS; AMENDED REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations that mandate use of section III of the ASME Boiler and Pressure Vessel Code (ASME BPV Code) for construction of Class 1, 2, and 3 components in nuclear power plants, and use of section XI of the ASME BPV Code for inservice inspection (ISI) and inservice testing (IST) of those components. Section 50.55a requires that each licensee update its ISI and IST programs every 120 months to conform to the latest edition of the ASME BPV Code endorsed by the NRC in that section of the regulations. The rulemaking would also include expedited implementation of section XI appendix VIII, Performance Demonstration for Ultrasonic Examination Systems. In addition, the proposed rule would incorporate by reference the ASME Operation and Maintenance (OM) Code to replace the section XI requirements for IST. The latter action is made necessary by the ASME Code changes that transferred all responsibility for IST from section XI to the ASME Operation and Maintenance Committee.

Timetable:

Action	Date	FR Cite
NPRM	12/03/97	62 FR 63892
NPRM Comment Period End	03/03/98	
NPRM Comment Period Extended to	04/03/98	63 FR 3673
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

NRC — Final Rule Stage

Government Levels Affected: None

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RIN: 3150–AE26

4603. CLARIFICATION OF ASSESSMENT REQUIREMENTS FOR SITING CRITERIA AND PERFORMANCE OBJECTIVES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 10101; PL 97-425

CFR Citation: 10 CFR 60

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations concerning regulatory requirements for licensing of high-level waste geologic repositories. A June 30, 1995, Staff Requirements Memorandum, SECY-95-019, disapproved issuance of the proposed final amendments at this time because of significant Congressional activity with regard to the Nuclear Waste Policy Act, and directed staff to reconsider the need for the amendments or guidance upon determining that the legislative situation has stabilized. Because Congressional activity in this area is ongoing and because the NRC is developing site-specific disposal regulations for Yucca Mountain, Nevada, consistent with the Energy Policy Act of 1992, the staff is planning to withdraw this proposed rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	07/09/93	58 FR 36902
NPRM Comment Period End	10/07/93	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AE40

4604. FITNESS FOR DUTY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 26

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's fitness-for-duty regulations. This proposed rule would also address the petition for rulemaking submitted by Virginia Electric and Power Company (VEPCO) (PRM-26-1), and address the Regulatory Review Group items on audit frequency and annual submittal of data. VEPCO requested that the Commission amend its fitness-for-duty regulations to change the frequency that licensees are required to audit their fitness-for-duty programs from annually to biennially. The Commission and the EDO approved the staff proposals in SECY-92-308, but asked that the staff resubmit the proposed rule to address a backfit analysis. The staff proposals were submitted to the Commission in SECY-95-262 in October 1995, and were published in the Federal Register on May 9, 1996 (61 FR 21105). The public comment period closed on August 7, 1996. Approximately 1000 comments were received from public meetings and from 37 individuals. The staff met with the Advisory Committee on Reactor Safeguards (ACRS) in July 1997 to discuss the revised rule. The staff is preparing an analysis of the application of the backfit rule to each proposed change to facilitate Commission understanding of the issues. The staff also plans to meet with the ACRS to review generic requirements before submitting the rulemaking package to the EDO in October 1998.

Timetable:

Action	Date	FR Cite
NPRM	05/09/96	61 FR 21105
NPRM Comment Period End	08/07/96	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Loren Bush, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
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RIN: 3150–AF12

4605. REPORTING RELIABILITY AND AVAILABILITY INFORMATION FOR RISK-SIGNIFICANT SYSTEMS AND EQUIPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would have amended the Commission's regulations to require that licensees for commercial nuclear power reactors report summary reliability and availability data for risk-significant systems and equipment to the NRC. The proposed rule would also have required licensees to maintain onsite, and to make available for NRC inspection, records and documentation that provide the basis for the summary data reported to the NRC. The Commission has decided to accept industry's proposed voluntary alternative to the rule, and plans to withdraw this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	02/12/96	61 FR 5318
NPRM Comment Period End	06/11/96	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dennis Allison, Nuclear Regulatory Commission, Office for Analysis and Evaluation of Operational Data, Washington, DC 20555-0001
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RIN: 3150–AF33

4606. INITIAL LICENSED OPERATOR EXAMINATION REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in

the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 55

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to require power reactor facility licensees to prepare the written examinations and operating tests, and to proctor and grade the written examinations, that the NRC uses to license operators and senior operators at those facilities. The rule will also require the NRC to review and approve each examination and test before it is given and preserve the NRC's authority to prepare the examinations and tests, as necessary, to maintain examination quality and staff proficiency. This rule is not expected to affect reactor safety.

Although a 1994 industry proposal to implement such a program on a voluntary basis was rejected by the NRC, subsequent budget reductions prompted the NRC to reconsider its position. In 1995, the Commission approved a voluntary pilot program to evaluate the revised examination process and, in 1996, directed the staff to initiate the subject rulemaking. The results of the pilot examinations conducted through the end of FY 1997 are consistent with results of NRC-prepared examinations conducted before and since initiating the pilot program, and voluntary participation in the program has allowed the NRC to eliminate approximately $3 million per year in contractor support for the operator licensing programs. This rule will enable facility licensees to exercise more control over the cost of licensing operators at their facilities. Some licensees have saved money during the pilot program, but others have had more costly examinations, largely because the examinations they submitted for NRC review and approval required extensive revisions to achieve NRC standards for quality and level of difficulty.

Timetable:

Action	Date	FR Cite
NPRM	08/07/97	62 FR 42426
NPRM Comment Period End	10/21/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Siegfried Guenther, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
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RIN: 3150–AF62

4607. AUDIT FREQUENCY FOR EMERGENCY PLANNING AND SECURITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by changing the frequency with which licensees conduct independent reviews, and audits of their safeguard contingency plans, security programs and emergency preparedness programs. The regulations would be revised to require that licensees conduct program reviews and audits at least every 24 months. The proposed rule would also clarify that the necessity for more frequent, focused audits be based on an assessment by the licensee against performance indicators or a significant change in personnel, procedures, equipment, or facilities. The proposed changes would promote performance-based, rather than compliance-based, review and audit activities. Also, the proposed changes would clarify that programs must be reviewed and audited following a significant change in personnel, procedures, or equipment as soon as reasonably practicable, but no later than 12 months after the changes. The purpose of these focused audits would be to ensure that changes have not adversely affected the operation of the particular program element or function in question. This proposed rule also addresses PRM-50-59 and PRM-50-60 submitted by Virginia Electric and Power Company.

Timetable:

Action	Date	FR Cite
NPRM	07/31/97	62 FR 40978
NPRM Comment Period End	10/14/97	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sandra D. Frattali, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
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RIN: 3150–AF63

4608. FINANCIAL PROTECTION REQUIREMENTS FOR PERMANENTLY SHUTDOWN NUCLEAR POWER REACTORS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50; 10 CFR 140

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to allow nuclear reactor licensees to reduce onsite and offsite liability coverage during permanent shutdown of the reactors if they meet specified reactor configurations. This proposed amendment would reduce the level of insurance coverage commensurate with the risk reduction after the appropriate spent fuel cooling period following permanent shutdown of the reactor. This rule will also address a petition for rulemaking submitted by the North Carolina Public Utility Commission (PRM-50-57).

Timetable:

Action	Date	FR Cite
NPRM	10/30/97	62 FR 58690
NPRM Comment Period End	01/13/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Mencinsky, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
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RIN: 3150–AF79

4609. MISCELLANEOUS CHANGES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to correct a number of inconsistencies and clarify the applicability of several sections of part 72. The proposed rule would differentiate the requirements for the storage of spent fuel under wet and dry conditions, clarify requirements for the content and submission of various reports and specify that quality assurance records must be maintained as permanent records. Also, the Purpose and Scope would be amended to reference the spent fuel storage cask approval process and to delete obsolete information.

Timetable:

Action	Date	FR Cite
NPRM	06/09/98	63 FR 31364
NPRM Comment Period End	08/24/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark L. Au, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
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RIN: 3150–AF80

4610. RESPIRATORY PROTECTION AND CONTROLS TO RESTRICT INTERNAL EXPOSURE, SUBPART H AND APPENDIX A

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2095; 42 USC 2111; 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232; 42 USC 2236

CFR Citation: 10 CFR 20

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to incorporate into part 20 an industry standard developed by the American National Standards Institute (ANSI) standard Z88.2-1992, "American National Standard Practice for Respiratory Protection." The proposed changes would eliminate the unnecessary and detrimental use of respirators by applying ALARA principles to the sum of the Deep Dose Equivalent and the Committed Effective Dose Equivalent, or the Total Effective Dose Equivalent. The use of process or engineering controls, decontamination of work areas, access control, and other procedures are stressed instead of the automatic use of respiratory protection devices, which tend to increase external dose and stress.

Also, the proposed rulemaking would allow the use of new respiratory protection devices that have been proven effective, discourage the use of other devices that are now considered less effective, adopt new Assigned Protection Factors based on ANSI determinations and revise respiratory protection procedures such as fit testing to reflect current industry good practice.

Timetable:

Action	Date	FR Cite
NPRM	07/17/98	63 FR 38511
NPRM Comment Period End	09/30/98	
Final Action	03/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Alan K. Roecklein, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
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RIN: 3150–AF81

4611. PROCEDURES APPLICABLE TO PROCEEDINGS FOR THE ISSUANCE OF LICENSEES FOR THE RECEIPT OF HIGH-LEVEL RADIOACTIVE WASTE AT A GEOLOGIC REPOSITORY

Priority: Other Significant

Legal Authority: 42 USC 2201; 42 USC 5841; 5 USC 552

CFR Citation: 10 CFR 2

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations regarding the licensing proceeding on the disposal of high-level radioactive waste at a geologic repository (HLW proceeding). The proposed amendments are intended to allow application of technological developments that have occurred since the original rule was adopted in 1989, while achieving the original goals of facilitating the Commission's ability to comply with the schedule for decision on the construction authorization for the repository contained in section 114(d) of the Nuclear Waste Policy Act, and providing for a thorough technical review of the license application and equitable access to information for the parties to the hearing.

Timetable:

Action	Date	FR Cite
NPRM	11/13/97	62 FR 60789
NPRM Comment Period End	03/30/98	63 FR 5315
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kathryn L. Winsorg, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555-0001
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RIN: 3150–AF88

NRC

Final Rule Stage

4612. • CODES AND STANDARDS; IEEE NATIONAL CONSENSUS STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to incorporate by reference IEEE Std. 603-1991, "Criteria for Safety Systems for Nuclear Power Generating Stations," a national consensus standard for power, instrumentation, and control portions of safety systems in nuclear power plants. This action is necessary to endorse the latest version of this national consensus standard in NRC's regulations. The Commission published a direct final rule on October 17, 1997 (62 FR 53933). However, the direct final rule was withdrawn due to the significant number of adverse comments received and has been revised. Because the rule was significantly revised, it is being reissued as a proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	04/23/98	63 FR 20136
NPRM Comment Period End	05/26/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Satish K. Aggarwal, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555-0001
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RIN: 3150–AF96

NUCLEAR REGULATORY COMMISSION (NRC)

Long-Term Actions

4613. ADDITION OF RADON-222 AND TECHNETIUM-99 VALUES TO TABLE S-3 AND REVISIONS RESULTING FROM CONSIDERATION OF HIGHER-BURNUP FUEL

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 51

Timetable:

Action	Date	FR Cite
NPRM	03/04/81	46 FR 15154
NPRM Comment Period End	05/04/81	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sandra Frattali
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RIN: 3150–AA31

4614. CRITERIA FOR AN EXTRAORDINARY NUCLEAR OCCURRENCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 140

Timetable:

Action	Date	FR Cite
NPRM	04/09/85	50 FR 13978
NPRM Comment Period End	09/06/85	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry Tovmassian
Phone: 301 415-3092
Email: hst@nrc.gov

RIN: 3150–AB01

4615. AVAILABILITY OF OFFICIAL RECORDS

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	12/23/92	57 FR 61013
NPRM Comment Period End	03/08/93	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Catherine M. Holzle
Phone: 301 415-1560
Email: cmh@nrc.gov

RIN: 3150–AC07

4616. COMPREHENSIVE QUALITY ASSURANCE IN MEDICAL USE AND A STANDARD OF CARE

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 35

Timetable:

Action	Date	FR Cite
ANPRM	10/02/87	52 FR 36949
ANPRM Comment Period End	12/31/87	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jayne M. McCausland
Phone: 301 415-6219
Email: jmm2@nrc.gov

RIN: 3150–AC42

4617. REQUIREMENTS CONCERNING THE ACCESSIBLE AIR GAP FOR GENERALLY LICENSED DEVICES

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 31; 10 CFR 32

Timetable:

Action	Date	FR Cite
NPRM	11/27/92	57 FR 56287
NPRM Comment Period End	03/29/93	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jayne McCausland
Phone: 301 415-6219
Email: jmm2@nrc.gov

RIN: 3150–AD82

NRC

Long-Term Actions

4618. STANDARDIZED PLANT DESIGNS, EARLY REVIEW OF SITE SUITABILITY ISSUES; CLARIFYING AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 50; 10 CFR 52; 10 CFR 140

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Geary S. Mizuno
Phone: 301 415-1639
Email: gsm@nrc.gov

RIN: 3150–AE25

4619. DISTRIBUTION OF SOURCE AND BYPRODUCT MATERIAL: LICENSING AND REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 32; 10 CFR 40

Timetable:

Action	Date	FR Cite
ANPRM	10/28/92	57 FR 48749
ANPRM Comment Period End	01/26/93	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Catherine R. Mattsen
Phone: 301 415-6264
Email: crm@nrc.gov

RIN: 3150–AE33

4620. DISPOSAL BY RELEASE INTO SANITARY SEWERAGE

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 20

Timetable:

Action	Date	FR Cite
ANPRM	02/25/94	59 FR 9146
ANPRM Comment Period End	05/26/94	
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anthony M. Huffert
Phone: 301 415-6416
Email: amh1@nrc.gov

RIN: 3150–AE90

4621. SHUTDOWN AND FUEL STORAGE POOL OPERATION AT NUCLEAR POWER PLANTS

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 50

Timetable:

Action	Date	FR Cite
NPRM	10/19/94	59 FR 52707
NPRM Comment Period End	02/03/95	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tim Collins
Phone: 301 415-2895
Email: tec@nrc.gov

RIN: 3150–AE97

4622. STEAM GENERATOR TUBE INTEGRITY FOR OPERATING NUCLEAR POWER PLANTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 50

Timetable:

Action	Date	FR Cite
ANPRM	09/19/94	59 FR 47817
ANPRM Comment Period End	12/05/94	
Final Action	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tim Reed
Phone: 301 415-1462
Email: tar@nrc.gov

RIN: 3150–AF04

4623. PERFORMANCE-ORIENTED REQUIREMENTS FOR FIRE PROTECTION OF NUCLEAR POWER FACILITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 50

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ed Connell
Phone: 301 415-2838
Email: eac@nrc.gov

RIN: 3150–AF29

4624. REVISION TO NUCLEAR POWER REACTOR DECOMMISSIONING COST REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 50

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brian J. Richter
Phone: 301 415-6221
Email: bjr@nrc.gov

RIN: 3150–AF40

4625. SUBMITTAL PROCEDURES FOR DOCUMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

NRC

Long-Term Actions

CFR Citation: 10 CFR 19; 10 CFR 20; 10 CFR 30; 10 CFR 31; 10 CFR 32; 10 CFR 34; 10 CFR 35; 10 CFR 36; 10 CFR 39; 10 CFR 40; 10 CFR 50; 10 CFR 51; 10 CFR 52; 10 CFR 55; 10 CFR 60; ...

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	
Final Action	02/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Agency Contact: Michael D. Collins
Phone: 301 415-2488
Email: mdc1@nrc.gov

RIN: 3150–AF61

4626. • MODIFICATION TO EVENT REPORTING REQUIREMENTS FOR POWER REACTORS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) was published to request public comment on the Commission's event reporting requirements for nuclear power reactors contained in sections 50.72 and 50.73. The rulemaking would reduce or eliminate the reporting burden associated with events of little or no safety significance, and better align the rules with the NRC's current needs, including revising reporting requirements based on importance to risk and extending the required reporting items consistent with the need for prompt NRC action.

Timetable:

Action	Date	FR Cite
ANPRM	07/23/98	63 FR 39522
ANPRM Comment Period End	09/21/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dennis P. Allison, Nuclear Regulatory Commission, Office for Analysis and Evaluation of Operational Data, Washington, DC 20555-0001
Phone: 301 415-6835
Email: dpa@nrc.gov

RIN: 3150–AF98

NUCLEAR REGULATORY COMMISSION (NRC)

Completed Actions

4627. FITNESS FOR DUTY (SCOPE CHANGE)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 26

Legal Deadline: None

Abstract: The proposed rule would have amended the Commission's regulations by changing the scope of the random drug testing requirements. The Commission has determined that this rule is unnecessary and is terminating the rulemaking.

Timetable:

Action	Date	FR Cite
Withdrawn	06/30/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Hendren, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-3209
Email: chh@nrc.gov

RIN: 3150–AF13

4628. PHYSICAL PROTECTION FOR SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 60; 10 CFR 72; 10 CFR 73; 10 CFR 75

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to clarify physical protection requirements for spent nuclear fuel or high-level radioactive waste stored at independent spent fuel storage installations, power reactors that have permanently ceased reactor operations, monitored retrievable storage installations, and geologic repository operations areas. This rule allows general licensees the option of implementing the proposed physical protection requirements for spent nuclear fuel stored in approved casks at operating power reactor sites. This action is necessary to reduce the regulatory uncertainty regarding the physical protection requirements for the storage of spent nuclear fuel and high-level radioactive waste without reducing the level of protection for public health and safety.

Timetable:

Action	Date	FR Cite
Final Action	05/15/98	63 FR 26955
Final Action Effective	11/12/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Priscilla Dwyer, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-8110
Email: pad@nrc.gov

RIN: 3150–AF32

4629. REVISION TO NUCLEAR POWER REACTOR DECOMMISSIONING FINANCIAL ASSURANCE IMPLEMENTATION REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to modify the financial assurance requirements for the decommissioning of nuclear power plants. The impact of deregulation of the power generating industry has created uncertainty with respect to the availability of decommissioning funds and would likely require a modification of the financial mechanism required by the NRC to provide decommissioning funds when needed. The amendment also requires power reactor licensees to report periodically on the status of their decommissioning trust funds during an extended safe storage period.

Timetable:

Action	Date	FR Cite
ANPRM	04/08/96	61 FR 15427
ANPRM Comment Period End	06/24/96	
NPRM	09/10/97	62 FR 47588
NPRM Comment Period End	11/24/97	
Final Action	09/22/98	63 FR 50465
Final Action Effective	11/23/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brian J. Richter, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-6221
Email: bjr@nrc.gov

RIN: 3150–AF41

4630. MINOR CORRECTIONS AND CLARIFYING CHANGES AND A MINOR POLICY CHANGE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 2282

CFR Citation: 10 CFR 20; 10 CFR 32; 10 CFR 35; 10 CFR 36; 10 CFR 39

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to incorporate minor corrections and clarifying changes to 10 CFR part 20 and also make conforming changes to 10 CFR parts 32, 35, 36, and 39. In addition, a minor policy change is made that revises the monitoring criterion for minors and for declared pregnant women.

Timetable:

Action	Date	FR Cite
Final Action	07/23/98	63 FR 39477
Final Action Effective	10/26/98	63 FR 45393

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jayne M. McCausland, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6219
Email: jmm2@nrc.gov

RIN: 3150–AF46

4631. CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO RESTRICTED DATA OR NATIONAL SECURITY INFORMATION OR AN EMPLOYMENT CLEARANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2165; 42 USC 2201; 42 USC 5841; EO 12958; EO 12968; EO 10865; EO 10450

CFR Citation: 10 CFR 10

Legal Deadline: None

Abstract: The proposed rule would have amended the Commission's regulations conforming NRC policy for access to and protection of National Security Information and Restricted Data to new national policies for the protection of this type of information. The existing regulations were issued before the October 31, 1994, approval of the National Industrial Security Program Operating Manual (NISPOM) by the Deputy Secretary of Defense and the April 17, 1995 and August 2, 1995, signature of Executive Orders 12958, "Classified National Security Information," and 12968, "Access to Classified Information," by the President. The NISPOM establishes a uniform Government policy for the protection of classified National Security Information and Restricted Data within industrial facilities under a contractual or other (e.g., license) legal relationship with the Government. Executive Order 12958 revises the Governmentwide requirements for classification and protection of National Security Information, and Executive Order 12968 revises the Governmentwide requirements for access to National Security Information. The current 10 CFR part 10 is not fully compliant with the requirement of the NISPOM and the new Executive orders. Some areas of inconsistency are the NRC Criteria for Determining Eligibility for Access to Restricted Data or National Security Information or an Employment Clearance and the NRC Due Process Appeal Procedures. 10 CFR part 10 must be amended to ensure its consistency with established national policy for the protection of classified information and due process. This rule has been subsumed by the proposed rule entitled "Conformance to National Policies for Access to and Protection of Classified Information" (RIN 3150-AF97), and has been incorporated into that rule.

Timetable:

Action	Date	FR Cite
Incorporated into RIN 3150-AF97	06/30/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Duane G. Kidd, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555-0001
Phone: 301 415-7403
Email: dgk@nrc.gov

RIN: 3150–AF48

4632. REQUIREMENTS FOR SHIPPING PACKAGES USED TO TRANSPORT VITRIFIED WASTES CONTAINING PLUTONIUM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 71

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations by exempting canisters containing vitrified waste containing plutonium from the package requirement for double containment.

NRC

Completed Actions

This final rule responds to a petition for rulemaking (PRM-71-11) submitted by the Department of Energy (DOE). This final rule reduces the regulatory requirements for certain DOE plutonium shipments, and therefore cost less, while having no significant reduction in health and safety. The primary purpose for double containment is to ensure that any respirable plutonium will not leak into the atmosphere. The NRC staff believes that vitrified waste containing plutonium is essentially nonrespirable. Therefore, the packaging requirement for double containment is unnecessary. This final rule also makes minor corrections to the usage of units to be consistent with existing NRC policy.

Timetable:

Action	Date	FR Cite
Final Action	06/15/98	63 FR 32600
Final Action Effective	07/15/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark Haisfield, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6196
Email: mfh@nrc.gov

RIN: 3150–AF59

4633. SELF-GUARANTEE OF DECOMMISSIONING FUNDING BY NON-PROFIT AND NON-BOND ISSUING LICENSEES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 30; 10 CFR 40; 10 CFR 50; 10 CFR 70; 10 CFR 72

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to establish criteria that allows nonprofit entities and non-bond-issuing business corporations to use self-guarantee as an additional mechanism for financial assurance. The overall objective is to reduce the licensee's cost burden without causing adverse effects on public health and safety.

Timetable:

Action	Date	FR Cite
Final Action	06/01/98	63 FR 29535
Final Action Effective	07/01/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Clark Prichard, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6203
Email: cwp@nrc.gov

RIN: 3150–AF64

4634. CODES AND STANDARDS; IEEE NATIONAL CONSENSUS STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The direct final rule would have amended the Commission's regulations to incorporate by reference a national consensus standard for power, instrumentation, and control portions of safety systems in nuclear power plants issued by the Institute of Electric and Electronics Engineers (IEEE Std. 603-1991). This final rule was withdrawn due to the significant number of adverse comments received and has been revised. Because the rule was significantly revised, it is being reissued as a proposed rule (see Codes and Standards; IEEE National Consensus Standard; RIN 3150-AF96).

Timetable:

Action	Date	FR Cite
Withdrawn	12/23/97	62 FR 66977

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Satish K. Aggarwal, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-6005
Email: ska@nrc.gov

RIN: 3150–AF73

4635. REVISION OF PROTOTYPE TESTING REQUIREMENTS FOR DIALS, HANDS, AND POINTERS CONTAINING TRITIUM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 32

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to permit timepieces containing gaseous tritium light sources to be treated on the same regulatory basis as those containing tritium paint with regard to their distribution. The proposed rule would remove from the regulations the specific requirements for prototype testing of these products containing tritium, while the specifics for prototype testing would be provided in a separate document. The final rule simplifies the licensing process and allows the use of a new technology in self-illuminated timepieces. This action was taken in response to a petition for rulemaking (PRM-32-4) submitted by mb-microtec, Inc.

Timetable:

Action	Date	FR Cite
Final Action	06/17/98	63 FR 32969
Final Action Effective	08/17/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donald Nellis, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6257
Email: don@nrc.gov

RIN: 3150–AF76

4636. LICENSE TERM FOR MEDICAL LICENSES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 5841

CFR Citation: 10 CFR 35

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations regarding license term limits for medical use licenses. Medical use license terms will be set by policy up to ten years, the same as license terms for other materials licenses. The NRC may issue some licenses for shorter terms if warranted by the circumstances of license applicants. The revision reduces the administrative burden of license renewals for both NRC and licensees, and supports NRC's goal of streamlining the licensing process.

Timetable:

Action	Date	FR Cite
Final Action	06/10/98	63 FR 31604
Final Action Effective	07/10/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jayne M. McCausland, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6219
Email: jmm2@nrc.gov

RIN: 3150–AF77

4637. ACCESS TO SECRET RESTRICTED DATA

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 220; 42 USC 2165; 42 USC 2273; 42 USC 5841; EO 12829; EO 12958; EO 10865; EO 12968

CFR Citation: 10 CFR 25; 10 CFR 95

Legal Deadline: None

Abstract: The proposed rule would have amended the Commission's regulations conforming NRC policy for access to Secret Restricted Data to new national policies for access to this type of information. This change was originally proposed, along with numerous other changes to parts 25 and 95, in the proposed rulemaking, "Access to and Protection of Classified Information" (August 5, 1996; 61 FR 40555). While most of the changes were generally accepted by commenters, DOE's comments concerning the level of background investigation required for access to Secret Restricted Data were significant and posed a dilemma for NRC. Because of DOE's statutory responsibilities for the protection of Restricted Data, NRC did not want to ignore their comments without further evaluation. The NRC could not simply adopt them because, if adopted the comments would subject licensees and/or certificate holders to additional expenses. The DOE position also appears to exceed the requirements of the current national policy (the NISPOM) for the protection of such information. It was decided that this issue could not be resolved without giving affected parties additional opportunity to comment. Therefore, a proposed rule resubmitting sections 21.15 and 95.35 of the original August 5, 1996, proposed rule for public comment is being developed. However, the need for additional changes to these rules resulted in the preparation of a new proposed regulatory initiative, which has been forwarded to the EDO. The initiative will incorporate this rulemaking and the rulemaking entitled "Criteria and Procedures for Determining Eligibility for Access to Restricted Data or National Security Information or an Employment Clearance" into a single new, expanded rulemaking. This rule has been subsumed by the proposed rule entitled, "Conformance to National Policies for Access to and Protection of Classified Information" (RIN 3150-AF97), and has been incorporated into that rule.

Timetable:

Action	Date	FR Cite
Incorporated into RIN 3150-AF97	06/30/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Duane G. Kidd, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555-0001
Phone: 301 415-7403
Email: dgk@nrc.gov

RIN: 3150–AF82

4638. REVISION OF FEE SCHEDULES; 100 PERCENT FEE RECOVERY, FY 1998

Priority: Economically Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 170; 10 CFR 171

Legal Deadline: Other, Statutory, September 30, 1998.
Omnibus Budget Reconciliation Act of 1990

Abstract: The final rule amends the licensing, inspection and annual fees charged to NRC licensees and applicants for an NRC license. The amendments are necessary to recover approximately 100 percent of the NRC budget authority for Fiscal Year 1998 less the amounts appropriated from the Nuclear Waste Fund and the General Fund. The Omnibus Budget Reconciliation Act of 1990, as amended (OBRA-90), requires that the NRC accomplish the 100 percent recovery through the assessment of fees. The dollar amount to be recovered for FY 1998 is $454.8 million. The Act requires that the fees for FY 1998 must be collected by September 30, 1998. Therefore, the final rule is to become effective by August 10, 1998.

Timetable:

Action	Date	FR Cite
Final Action	06/10/98	63 FR 31840
Final Action Effective	08/10/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Glenda C. Jackson, Nuclear Regulatory Commission, Office of the Chief Financial Officer, Washington, DC 20555
Phone: 301 415-6057
Email: gcj@nrc.gov

RIN: 3150–AF83

4639. ADOPTION OF PART 20 DOSE LIMITS AND DOSE CALCULATIONAL METHODOLOGY IN PART 72

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations by updating the criteria for radioactive releases from independent spent fuel storage installations (ISFSI) and monitored retrievable storage installations (MRS).

Timetable:

Action	Date	FR Cite
NPRM	03/19/98	63 FR 13372
NPRM Comment Period End	05/04/98	
Final Action	10/13/98	63 FR 54559
Final Action Effective	11/12/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Naiem Tanious, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6103
Email: nst@nrc.gov

RIN: 3150–AF84

4640. ACCESS AUTHORIZATION FEE SCHEDULE FOR LICENSEE PERSONNEL

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841; 5 USC 552

CFR Citation: 10 CFR 11; 10 CFR 25

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to revise the fee schedule for background investigations of licensee personnel who require access to National Security Information and/or Restricted Data and access to or control over Special Nuclear Material. These amendments comply with current regulations that provide that the NRC will publish fee adjustments upon notification of any changes in the rate charged the NRC by the Office of Personnel Management for conducting investigations.

Timetable:

Action	Date	FR Cite
Final Action	05/07/98	63 FR 25156
Final Action Effective	05/07/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Beth Bradshaw, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555-0001
Phone: 301 415-6540
Email: mbb1@nrc.gov

RIN: 3150–AF90

4641. REVISION OF DOSE LIMIT FOR MEMBERS OF THE PUBLIC EXPOSED TO HOSPITALIZED RADIATION PATIENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2095; 42 USC 2111; 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2236; 42 USC 2297F

CFR Citation: 10 CFR 20; 10 CFR 35

Legal Deadline: None

Abstract: The proposed rule would have amended the Commission's regulations to allow licensees the discretion to permit consenting visitors of hospitalized radiation patients to receive up to 0.5 rem (5 mSv) in a year as a result of their exposure to these patients. Also, the amendments would have responded to a petition for rulemaking from the University of Cincinnati (PRM-20-24). The petitioner requested that the NRC amend its regulations to revise the dose limit for members of the public exposed to hospitalized radiation patients. This rule has been subsumed by the proposed rule entitled, "Medical Uses of Byproduct Material," (RIN 3150-AF74), and has been incorporated into that rule.

Timetable:

Action	Date	FR Cite
Incorporated into RIN 3150-AF74	06/30/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cathy Haney, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6825
Email: cxh@nrc.gov

RIN: 3150–AF91

4642. • TRANSFER FOR DISPOSAL AND MANIFESTS; MINOR TECHNICAL CONFORMING AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 020

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations concerning low-level waste shipment manifest information. The use of new manifesting requirements, which were issued on March 27, 1995, became mandatory on March 1, 1998. Therefore, this action is necessary to remove expired provisions from the regulations. An additional correction is being made to the scope section of this part to rectify an inadvertent change.

Timetable:

Action	Date	FR Cite
Final Action	09/21/98	63 FR 50127
Final Action Effective	11/20/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark Haisfield, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-6196
Email: mfh@nrc.gov

RIN: 3150–AF99

4643. • PHYSICAL PROTECTION FOR SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE: CORRECTIVE AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 073

Legal Deadline: None

Abstract: The direct final rule amends a final rule appearing in the Federal Register on May 15, 1998 (63 FR 26955), that clarifies physical protection requirements for spent nuclear fuel and high-level radioactive waste stored at independent spent fuel storage installations, monitored-retrievable storage installations, and geologic repository operating areas. The action is necessary to correct the inappropriate placement of the phrase "...including illumination systems..." within the requirement for tamper indication and line supervision. The only anticipated impact of this rulemaking is to eliminate an unnecessary and inadvertently placed requirement on affected licensees.

Timetable:

Action	Date	FR Cite
Final Action	09/16/98	63 FR 49413
Final Action Effective	11/12/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Priscilla Dwyer, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-8110
Email: pad@nrc.gov

RIN: 3150–AG00

4644. • FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 140

Legal Deadline: Other, Statutory, August 20, 1988.
Price-Anderson Amendments Act of 1988

Abstract: The final rule amends the Commission's regulations to increase the retrospective deferred premium based on inflation. Specifically, the rule amends section 140.11(a)(4) to increase this premium to $83.9M/reactor/accident (but not to exceed $10M in any one year) based on the aggregate percentage change since 1993 in the Consumer Price Index for all urban consumers published by the Secretary of Labor. This inflation adjustment is required by the Price-Anderson Amendments Act of 1988 to be made at least once each 5 years.

Timetable:

Action	Date	FR Cite
Final Action	07/21/98	63 FR 39015
Final Action Effective	08/20/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ira Dinitz, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-1289
Email: ipd1@nrc.gov

RIN: 3150–AG01

[FR Doc. 98-23926 Filed 11-06-98; 8:45 am]
BILLING CODE 7590-01-F

federal register

Monday
November 9, 1998

Part LXIII

Securities and Exchange Commission

Semiannual Regulatory Agenda

SECURITIES AND EXCHANGE COMMISSION (SEC)

SECURITIES AND EXCHANGE COMMISSION

17 CFR Ch. II

[Release Nos. 33-7567, 34-40371, 35-26911, 39-2368, IC-23415, IA-1748, File No. S7-24-98]

Regulatory Flexibility Agenda

AGENCY: Securities and Exchange Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Securities and Exchange Commission is publishing an agenda of its rulemaking actions pursuant to the Regulatory Flexibility Act. Information in the agenda was accurate on August 27, 1998, the date on which the Commission's staff completed compilation of the data. To the extent possible, rulemaking actions by the Commission since that date have been reflected in the agenda. The Commission invites questions and public comment on the agenda and on the individual agenda entries.

DATES: Public comments are due by December 30, 1998.

ADDRESSES: Persons wishing to submit written comments should file three copies of their comments with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street NW., Room 6184, Stop 6-9, Washington, DC 20549. All submissions should refer to File No. S7-24-98 and will be available for public inspection and copying at the Commission's Public Reference Room, Room 1026, at the same address.

FOR FURTHER INFORMATION CONTACT: Anne H. Sullivan, Office of the General Counsel, 202-942-0954.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA) (Pub. L. No. 96-354, 94 Stat. 1164 (September 19, 1980)) requires each Federal agency, during April and October of each year, to publish in the **Federal Register** an agenda identifying rules which the agency expects to propose or adopt that are likely to have a significant economic impact on a substantial number of small entities (5 U.S.C. 602(a)). The RFA specifically provides that publication of the agenda does not preclude an agency from considering or acting on any matter not included in the agenda and that an agency is not required to consider or act on any matter which is included in the agenda (5 U.S.C. 602(d)). The agenda includes new entries, entries carried over from previous publications, and rulemaking actions which have been completed (or withdrawn) since publication of the last agenda. As described in the Introduction to the Unified Agenda, information in the October 1998 agenda on whether small entities are affected by the rule is displayed in a modified format. The agenda now reports whether a regulatory flexibility analysis is required by existing law; if it is not required, the agenda reports whether the rule nonetheless is likely to have some effect on small entities.

The following abbreviations for the acts administered by the Commission are used throughout the agenda:

"Securities Act" - Securities Act of 1933

"Exchange Act" - Securities Exchange Act of 1934

"PUHCA" - Public Utility Holding Company Act of 1935

"Investment Company Act" - Investment Company Act of 1940

"Investment Advisers Act" - Investment Advisers Act of 1940

The Commission's regulatory flexibility agenda is set forth below. The Commission invites public comment on the agenda and on the individual agenda entries.

Dated: August 27, 1998.

By the Commission.

Jonathan G. Katz,

Secretary.

DIVISION OF CORPORATION FINANCE—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4645	Asset-Backed Securities Disclosure	3235-AF74
4646	Company Registration and Regulation of Capital Formation	3235-AG83
4647	Financial Statements and Periodic Reports for Related Issuer Guarantors	3235-AH52
4648	Regulation of Extraordinary Corporate Transactions	3235-AG84
4649	Definitions for Purposes of the Private Litigation Reform Act of 1995	3235-AG89
4650	Definition of "Qualified Purchaser"	3235-AH15
4651	Exemptions for International Tender and Exchange Offers	3235-AD97

DIVISION OF CORPORATION FINANCE—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4652	Streamlining Rule 144	3235-AH13
4653	Rule 504 of Regulation D	3235-AH35
4654	Conforming Segment Reporting With Generally Accepted Accounting Principles	3235-AH43
4655	Addressing Abuses of Form S-8 by Companies Using Consultants to Raise Capital	3235-AG94
4656	Revisions to Rules Governing Options Disclosure Document	3235-AH31
4657	Delayed Pricing for Companies Not Eligible for Form S-3	3235-AG86

SEC

DIVISION OF CORPORATION FINANCE—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4658	Increase in Dollar Amounts in Rule 701, the Exemption for Offers and Sales by Certain Compensatory Benefit Plans	3235-AH21

DIVISION OF CORPORATION FINANCE—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4659	Amendments to the Shareholder Proposal Rule	3235-AH20
4660	Plain Vanilla Treatment of Election Contest Proxies/Shareholder Communications	3235-AG91

DIVISION OF INVESTMENT MANAGEMENT—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4661	Form ADV Uniform Application for Investment Adviser Registration	3235-AD21
4662	Books and Records To Be Maintained by Investment Advisers	3235-AH24
4663	Custody or Possession of Funds or Securities of Clients	3235-AH26
4664	Form ADV-W Notice of Withdrawal From Registration as Investment Adviser	3235-AH27
4665	Principal Transactions With Investment Advisory Clients	3235-AH34
4666	Shareholder Report and Financial Statement Revisions	3235-AG64
4667	Exemption for Subsidiaries Organized To Finance Operations of Domestic or Foreign Companies; Certain Prima Facie Investment Companies	3235-AE95
4668	Deposits of Securities in Securities Depositories	3235-AG71
4669	Proposed Amendments in Investment Company Advertising Rules	3235-AH19
4670	Transactions in Certain Canadian Retirement Plans	3235-AH32
4671	Reports of Significant Events	3235-AH50
4672	Custody of Investment Company Assets Outside the United States	3235-AH55
4673	Acquisition by Investment Company of Interest in Repurchase Agreement or Refunded Security To Be Treated as Acquisition of Underlying Securities	3235-AH56
4674	Exemption for the Acquisition of Securities During the Existence of an Underwriting Syndicate	3235-AH57
4675	Amendments to Form N-SAR, Semiannual Report of Registered Investment Companies	3235-AF93
4676	Amendments to Rule 8f-1 and Deregistration Form N-8F, and Rule 101 of Regulation S-T	3235-AG29
4677	Amendments to the Cash Solicitation Rule	3235-AH33

DIVISION OF INVESTMENT MANAGEMENT—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4678	Electronic Filing of Institutional Investment Manager Reports on Form 13F	3235-AG97
4679	Temporary Exemption for Certain Investment Advisers	3235-AH02
4680	Investment Company Names	3235-AH11
4681	Requirements Relating to Codes of Ethics With Respect to Registered Investment Companies; Records To Be Maintained by Investment Advisers	3235-AG27
4682	Delivery of Disclosure Documents to Households	3235-AG98
4683	Insurance Products: New Form N-6 for Registration of Separate Accounts Offering Variable Life Insurance Contracts	3235-AG37
4684	PUHCA: Exemption for Certain Acquisitions of Foreign Utility Companies	3235-AF78
4685	Status of Subsidiary Companies Formed To Hold Interests in Foreign Utility Companies	3235-AF79

SEC

DIVISION OF INVESTMENT MANAGEMENT—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4686	Unit Investment Trusts: Simplification of Registration Statements	3235-AA47
4687	Performance Advertising by Unit Investment Trusts	3235-AG63
4688	Mergers of Certain Affiliated Investment Companies	3235-AG31
4689	Insurance Products: Equity Index Insurance Products Concept Release	3235-AH23

DIVISION OF INVESTMENT MANAGEMENT—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4690	Exemption for Investment Advisers Operating in Multiple States; Revisions to Rules Implementing Amendments to the Investment Advisers Act of 1940; Colorado and Iowa Investment Advisers	3235-AH22
4691	Exemption From the Compensation Prohibition of Section 205(a)(1) for Investment Advisers	3235-AH25
4692	Investment Adviser Year 2000 Reports	3235-AH45
4693	Small Entities for Purposes of the Regulatory Flexibility Act as Applied to the Investment Company Act and the Investment Advisers Act	3235-AG62
4694	Exemption of Certain Purchase or Sale Transactions Between an Investment Company and Certain Affiliated Persons	3235-AG57
4695	Bonding of Officers and Employees of Registered Management Investment Companies	3235-AG58

DIVISION OF MARKET REGULATION—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4696	Amendments to Rules 17a-3 and 17a-4 Under the Securities Exchange Act of 1934	3235-AH04
4697	Net Capital Rule: Customer Protection Rule	3235-AH05
4698	Risk Assessment Recordkeeping and Reporting Requirement	3235-AH06
4699	Exemption of Certain Foreign Brokers and Dealers	3235-AH17
4700	Purchases of Certain Equity Securities by the Issuer and Others	3235-AH48
4701	Untimely Announcement of Record Dates	3235-AH38
4702	Form TA-2, Form To Be Used by Transfer Agents Registered Pursuant to Section 17A of the Securities Exchange of 1934 for the Annual Report of Transfer Agent Activities	3235-AH44
4703	Purchases of Certain Equity Securities by the Issuers and Others	3235-AH37
4704	Tender and Reorganization Agents	3235-AH53
4705	Exemption From Exchange Act Section 11(d)(1) for Securities of Foreign Issuers Sold on an Installment Basis	3235-AH58
4706	Net Capital Rule Concept Release	3235-AH29
4707	Destruction of Cancelled Securities Certificates	3235-AH54

DIVISION OF MARKET REGULATION—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4708	Net Capital Requirements for Brokers or Dealers	3235-AD79
4709	Market Risk Haircuts for Instruments Subject to Interest Rate Risk	3235-AG18
4710	OTC Derivatives Dealers	3235-AH16
4711	Proposed Amendments to Transfer Agent Rules	3235-AG24
4712	Expanding the Scope of Self-Regulatory Organization Matters That Do Not Constitute Proposed Rule Changes Pursuant to Rule 19b-4	3235-AH39
4713	Exemption of the Securities of the Kingdom of Belgium Under the Securities Exchange Act of 1934 for Purposes of Trading Futures Contracts on Those Securities	3235-AH46
4714	Proposed Amendments to the Intermarket Trading System (ITS) Plan To Expand the ITS/Computer Assisted Execution System Linkage to All Listed Securities and Eliminate the Unanimous Vote	3235-AH49
4715	Proposed Amendments to National Market System Plan	3235-AH51
4716	Regulation of Alternative Trading Systems and National Securities Exchanges	3235-AH41

SEC

DIVISION OF MARKET REGULATION—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4717	Net Capital Requirements for Brokers or Dealers—Definition of the Term Nationally Recognized Statistical Rating Organization	3235-AH28
4718	Amendment to Rule 9b-1 Under the Securities Exchange Act Relating to the Options Disclosure Document	3235-AH30
4719	Reports To Be Made by Certain Brokers and Dealers	3235-AH36
4720	Initiation or Resumption of Quotations Without Specified Information	3235-AH40
4721	Year 2000 Readiness Reports To Be Made by Transfer Agents	3235-AH42

DIVISION OF MARKET REGULATION—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4722	Amendment to Form BDW and Amendment to Exchange Act Rule 15b6-1 and Amendments to Rules 15b1-1, 15b3-1, 15Ba2-2, 15Ca1-1, and 15Ca2-1	3235-AG69
4723	Amendment to Rule 11Ac1-1	3235-AH00
4724	Large Trader Reporting System	3235-AE42

DIVISION OF MARKET REGULATION—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4725	Nationally Recognized Statistical Rating Organizations	3235-AG41
4726	Definitions of "Small Business" or "Small Organization" Under the Securities Exchange Act of 1934	3235-AH01

OFFICES AND OTHER PROGRAMS—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4727	Proposed Amendment to Rule 102(e) of the Commission's Rules of Practice	3235-AH47

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF CORPORATION FINANCE

Proposed Rule Stage

4645. ASSET-BACKED SECURITIES DISCLOSURE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77e; 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w

CFR Citation: 17 CFR 229; 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 249

Legal Deadline: None

Abstract: The Division of Corporation Finance is considering whether to recommend to the Commission amendments to revise rules and forms which would specify disclosure requirements for asset-backed securities transactions.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Green, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-1940
Fax: 202 942-9635

RIN: 3235–AF74

4646. COMPANY REGISTRATION AND REGULATION OF CAPITAL FORMATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 249

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission

SEC—DIVISION OF CORPORATION FINANCE — Proposed Rule Stage

propose rules that would reform the registration of the capital formation process while maintaining or enhancing investor protection. The Division is considering a number of approaches to reform, including: the implementation of a "company registration" approach; modifications to the shelf registration system; liberalization of the treatment of unregistered securities; and the deregulation of offers.

Timetable:

Action	Date	FR Cite
Notice With Request for Comments	07/31/96	61 FR 40044
Notice Comment Period End	09/30/96	
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Anita T. Klein, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2950
Fax: 202 942-9525

RIN: 3235–AG83

4647. • FINANCIAL STATEMENTS AND PERIODIC REPORTS FOR RELATED ISSUER GUARANTORS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 210; 17 CFR 240

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose rules that would specify the financial statements and periodic reports for related issuers and guarantors. The proposals would largely reflect staff interpretations under SAB 53.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Hyatt, Office of Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900
Fax: 202 942-9525

RIN: 3235–AH52

4648. REGULATION OF EXTRAORDINARY CORPORATE TRANSACTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78n

CFR Citation: 17 CFR 240

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose rules designed to adapt the regulatory scheme applicable to extraordinary corporate transactions such as mergers, tender offers and going private transactions to the realities of today's securities marketplace, as well as promote uniform disclosure in connection with such transactions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: P.J. Himelfarb, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900
Fax: 202 942-9525

RIN: 3235–AG84

4649. DEFINITIONS FOR PURPOSES OF THE PRIVATE LITIGATION REFORM ACT OF 1995

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 230.177(New); 17 CFR 230.178(New); 17 CFR 230.17a(New); 17 CFR 240.3b-12(New); 17 CFR 240.3b-13(New)

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission issue proposed rules that will define the terms "outside director," "limited liability company," "partnership," and "direct participation investment program." These definitions are deemed necessary in view of changes to the Securities Act and Exchange Act made in the Private Securities Litigation Reform Act of 1995.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Elliot B. Staffin, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2829
Fax: 202 942-9525

RIN: 3235–AG89

4650. DEFINITION OF "QUALIFIED PURCHASER"

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose a definition of the term "qualified purchaser" as used in section 18 of the Securities Act of 1933. Under that section, securities offered or sold to "qualified purchasers" are "covered securities," and thus, exempt from state regulation.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Reynolds, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2950
Fax: 202 942-9516

RIN: 3235–AH15

SEC—DIVISION OF CORPORATION FINANCE — Proposed Rule Stage

4651. EXEMPTIONS FOR INTERNATIONAL TENDER AND EXCHANGE OFFERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77b; 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 77sss; 15 USC 78c; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w; 15 USC 79t; 15 USC 80a-37

CFR Citation: 17 CFR 200; 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 260

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission repropose amendments to facilitate the extension of international tender offers to U.S. holders. The proposed rules would provide exemptions from the tender offer rules, securities registration and reporting requirements, and trust indenture provisions.

Timetable:

Action	Date	FR Cite
ANPRM	06/12/90	55 FR 23751
ANPRM Comment Period End	09/21/90	
NPRM	06/14/91	56 FR 27582
NPRM Comment Period End	09/09/91	
Reproposal	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Laurie Green, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2920
Fax: 202 942-9638

RIN: 3235–AD97

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF CORPORATION FINANCE — Final Rule Stage

4652. STREAMLINING RULE 144

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.144

Legal Deadline: None

Abstract: The Commission has proposed revisions to Rule 144, Rule 145 and Form 144 to make the rules and form easier to understand and apply. The proposed amendments would, among other things, add a bright line test to the Rule 144 definition of affiliate, eliminate the Rule 144 manner of sale requirements, increase the Form 144 filing thresholds, and codify certain interpretive positions. The proposals also would eliminate the presumptive underwriter provisions of Rule 145.

Timetable:

Action	Date	FR Cite
NPRM	02/20/97	62 FR 9246
NPRM Comment Period End	04/29/97	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Elizabeth Murphy, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900
Fax: 202 942-9525

RIN: 3235–AH13

4653. RULE 504 OF REGULATION D

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.504

Legal Deadline: None

Abstract: The Commission proposed amendments to Rule 504 of Regulation D to address possible abuses that may be occurring under claim of that exemption.

Timetable:

Action	Date	FR Cite
NPRM	05/28/98	63 FR 29168
NPRM Comment Period End	07/27/98	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Barbara C. Jacobs, Division of Corporation Finance, Securities and Exchange Commission
Phone: 703 942-2950
Fax: 703 942-9516

RIN: 3235–AH35

4654. CONFORMING SEGMENT REPORTING WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 210.3-03; 17 CFR 210.12-16; 17 CFR 229.101; 17 CFR 229.102; 17 CFR 249.220f

Legal Deadline: None

Abstract: The Commission proposed amendments to its disclosure requirements relating to segment reporting to conform them with the recently revised segment reporting requirements of Generally Accepted Accounting Principles established by the Financial Accounting Standards Board.

Timetable:

Action	Date	FR Cite
NPRM	07/01/98	63 FR 35886
NPRM Comment Period End	07/31/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James R. Budge, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2950
Fax: 202 942-9516

RIN: 3235–AH43

SEC—DIVISION OF CORPORATION FINANCE

Final Rule Stage

4655. ADDRESSING ABUSES OF FORM S-8 BY COMPANIES USING CONSULTANTS TO RAISE CAPITAL

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.428; 17 CFR 239.16b

Legal Deadline: None

Abstract: The Commission proposed rules to address abuses of Form S-8 by companies using consultants to raise capital.

Timetable:

Action	Date	FR Cite
NPRM	02/25/98	63 FR 9648
NPRM Comment Period End	04/27/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Anne Krauskopf, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900
Fax: 202 942-9525

RIN: 3235–AG94

4656. REVISIONS TO RULES GOVERNING OPTIONS DISCLOSURE DOCUMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.135b

Legal Deadline: None

Abstract: The Commission proposed amendments to provide that an options disclosure document prepared in accordance with Rule 9b-1 under the Exchange Act is not a prospectus and accordingly will not be subject to civil liability under section 12(a)(2) of the Securities Act.

Timetable:

Action	Date	FR Cite
NPRM	07/01/98	63 FR 36136
ANPRM Comment Period End	07/31/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David Lavan, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900
Fax: 202 942-9525

RIN: 3235–AH31

4657. DELAYED PRICING FOR COMPANIES NOT ELIGIBLE FOR FORM S-3

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.415; 17 CFR 230.424; 17 CFR 230.430A

Legal Deadline: None

Abstract: The Commission proposed amendments to Rule 430A, which would permit small or less seasoned companies to price primary offerings of securities on a delayed basis, provided certain conditions are satisfied.

Timetable:

Action	Date	FR Cite
NPRM	02/20/97	62 FR 9276
NPRM Comment Period End	04/29/97	
Final Action	09/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Barbara C. Jacobs, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2950
Fax: 202 942-9516

RIN: 3235–AG86

4658. INCREASE IN DOLLAR AMOUNTS IN RULE 701, THE EXEMPTION FOR OFFERS AND SALES BY CERTAIN COMPENSATORY BENEFIT PLANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c(b); 15 USC 77s

CFR Citation: 17 CFR 230.701

Legal Deadline: None

Abstract: The Commission proposed amendments to increase the available exemptive amounts provided by Rule 701 in connection with certain offers and sales by compensatory benefit plans.

Timetable:

Action	Date	FR Cite
NPRM	03/02/98	63 FR 10785
NPRM Comment Period End	05/04/98	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard K. Wulff, Office of Small Business, Division of Corporation Finance, Securities and Exchange Commission
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Fax: 202 942-9516

RIN: 3235–AH21

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF CORPORATION FINANCE

Completed Actions

4659. AMENDMENTS TO THE SHAREHOLDER PROPOSAL RULE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78n; 15 USC 78w

CFR Citation: 17 CFR 240.14a-4(c); 17 CFR 240.15a-8

Legal Deadline: None

Abstract: The Commission adopted amendments to Rule 14a-8, the shareholder proposal rule, and Rule 14a-4, the rule that governs the availability of discretionary voting authority.

Timetable:

Action	Date	FR Cite
NPRM	09/18/97	62 FR 50682

SEC—DIVISION OF CORPORATION FINANCE

Completed Actions

Action	Date	FR Cite
NPRM Comment Period End	11/25/97	
Comment Period Extended to 01/02/98	11/25/97	62 FR 62732
Final Action	05/28/98	63 FR 29106
Final Action Effective	06/29/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sanjay M. Shirodkar, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900
Fax: 202 942-9525

RIN: 3235–AH20

4660. PLAIN VANILLA TREATMENT OF ELECTION CONTEST PROXIES/SHAREHOLDER COMMUNICATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78n

CFR Citation: 17 CFR 240.14a-6

Legal Deadline: None

Abstract: The Commission is withdrawing this item from the Unified Agenda because the Commission does not expect to consider the item within the next 12 months, but the Commission may consider the item further at a later date.

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Laura Badian, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2920
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RIN: 3235–AG91

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF INVESTMENT MANAGEMENT

Proposed Rule Stage

4661. FORM ADV UNIFORM APPLICATION FOR INVESTMENT ADVISER REGISTRATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-3(c)(1); 15 USC 80b-4

CFR Citation: 17 CFR 275.203-1; 17 CFR 275.204-1; 17 CFR 279.1

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending revising Form ADV and related rules to: (1) improve disclosure of information on advisers' disciplinary history; and (2) enhance disclosure of information about the advisory relationship provided to clients and prospective clients.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lori Hamilton Price, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0531

RIN: 3235–AD21

4662. BOOKS AND RECORDS TO BE MAINTAINED BY INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-4; 15 USC 80b-6(4); 15 USC 80b-11(a)

CFR Citation: 17 CFR 275.204-2

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending that the Commission update the books and records requirements for investment advisers.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jeffrey Himstreet, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0533

RIN: 3235–AH24

4663. CUSTODY OR POSSESSION OF FUNDS OR SECURITIES OF CLIENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-6; 15 USC 80b-4; 15 USC 80b-11

CFR Citation: 17 CFR 275.206(4)-2

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending a proposal to the Commission to revise the custody rule under the Investment Advisers Act of 1940.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Arthur Laby, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0523

RIN: 3235–AH26

4664. FORM ADV-W NOTICE OF WITHDRAWAL FROM REGISTRATION AS INVESTMENT ADVISER

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-3; 15 USC 80b-11

CFR Citation: 17 CFR 279.2

Legal Deadline: None

Abstract: The Division of Investment Management is considering revising Form ADV-W to reflect amendments to the Investment Advisers Act of 1940 enacted as part of the Investment Advisers Supervision Coordination Act, title III of the National Securities Markets Improvement Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lori Hamilton Price, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0531

RIN: 3235–AH27

4665. PRINCIPAL TRANSACTIONS WITH INVESTMENT ADVISORY CLIENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-6a

CFR Citation: 17 CFR 275

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering recommending that the Commission permit investment advisers to enter into principal transactions with their clients under certain circumstances.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Karen Goldstein, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0646

RIN: 3235–AH34

4666. SHAREHOLDER REPORT AND FINANCIAL STATEMENT REVISIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77f; 15 USC 77j; 15 USC 80a-29

CFR Citation: 17 CFR 210; 17 CFR 270.30d-1

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend that the Commission propose revisions to the shareholder report and financial statement requirements for investment companies to improve the quality of updates and simplify investment company financial statement presentation.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Markian Melnyk, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AG64

4667. EXEMPTION FOR SUBSIDIARIES ORGANIZED TO FINANCE OPERATIONS OF DOMESTIC OR FOREIGN COMPANIES; CERTAIN PRIMA FACIE INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a); 15 USC 77s; 15 USC 78w

CFR Citation: 17 CFR 270.3a-5; 17 CFR 270.3a-1; 17 CFR 230.489; 17 CFR 239.43

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend that the Commission propose amendments to expand rule 3a-5 to permit, among other things, finance subsidiaries of U.S. banks and insurance companies to rely on the rule. The staff also is considering whether to recommend that the Commission propose amendments to rule 3a-1 to eliminate a requirement that has prevented certain holding companies of foreign banks and foreign insurance companies from relying on that rule.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Cynthia G. Pugh, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0673

RIN: 3235–AE95

4668. DEPOSITS OF SECURITIES IN SECURITIES DEPOSITORIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-17(f); 15 USC 80a-06(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17f-4

Legal Deadline: None

Abstract: Rule 17f-4 governs the use of securities depositories as custodians of the assets of management investment companies. The staff of the Division of Investment Management is considering whether to recommend that the Commission propose amendments that would, among other things, expand the types of entities that may be used as securities depositories and permit investment company officers to authorize depository arrangements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas M. J. Kerwin, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AG71

4669. PROPOSED AMENDMENTS IN INVESTMENT COMPANY ADVERTISING RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77e; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 80a-8; 15 USC 80a-22; 15 USC 80a-24(g); 15 USC 80a-29; 15 USC 80a-37

CFR Citation: 17 CFR 230.482

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose to amend Rule 482, to permit advertisements that are not subject to restrictions limiting the content to information "the substance of which" is in a fund's prospectus.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dore VanSlyke, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0723

RIN: 3235–AH19

4670. TRANSACTIONS IN CERTAIN CANADIAN RETIREMENT PLANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-1 et seq; 15 USC 77a et seq

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is evaluating whether to recommend that the Commission provide exemptions from the Securities Act and the Investment Company Act for issuers of securities that are purchased through certain Canadian retirement plans, such as Registered Retirement Savings Plans, Registered Retirement Income Funds, or similar plans.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Cynthia Pugh, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH32

4671. • REPORTS OF SIGNIFICANT EVENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq; 15 USC 80a-1 et seq

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose a rule that requires registered investment companies to file reports about significant events.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Annette M. Capretta, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0624

RIN: 3235–AH50

4672. • CUSTODY OF INVESTMENT COMPANY ASSETS OUTSIDE THE UNITED STATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-17(f); 15 USC 80a-06(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17f-5

Legal Deadline: None

Abstract: Rule 17f-5 governs the custody of the assets of registered management investment companies outside the United States. The staff of the Division of Investment Management is considering whether to recommend that the Commission propose amendments to the rule.

Timetable:

Action	Date	FR Cite
NPRM	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Thomas M.J. Kerwin, Office of Regulatory Policy, Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH55

4673. • ACQUISITION BY INVESTMENT COMPANY OF INTEREST IN REPURCHASE AGREEMENT OR REFUNDED SECURITY TO BE TREATED AS ACQUISITION OF UNDERLYING SECURITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.2a-7; 17 CFR 270.12d3-1

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend that the Commission propose a new rule that would permit investment companies to "look through" specific repurchase agreements to the securities that collateralize them, and to "look through" specific pre-refunded bonds to escrowed securities, for certain purposes under the Investment Company Act. The staff is also considering whether to recommend conforming amendments to rule 2a-7 and rule 12d3-1.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

SEC—DIVISION OF INVESTMENT MANAGEMENT — Proposed Rule Stage

Government Levels Affected: None

Agency Contact: Thomas M.J. Kerwin, Office of Regulatory Policy, Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH56

4674. • EXEMPTION FOR THE ACQUISITION OF SECURITIES DURING THE EXISTENCE OF AN UNDERWRITING SYNDICATE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-10(f); 15 USC 80a-30(a); 15 USC 80a-37(a); 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.10f-3; 17 CFR 270.17a-10 (New)

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend that the Commission propose amendments to rule 10f-3 under the Investment Company Act to permit investment companies to 1) purchase government securities from a non-affiliated underwriter in syndicates involving an underwriter affiliated with the investment company's investment adviser and 2) acquire municipal securities from underwriting syndicates in "group sales."

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Curtis A. Young, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0590

RIN: 3235–AH57

4675. AMENDMENTS TO FORM N-SAR, SEMIANNUAL REPORT OF REGISTERED INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a); 15 USC 80a-8; 15 USC 80a-29; 15 USC 80a-37

CFR Citation: 17 CFR 249.330; 17 CFR 274.101

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission amend Form N-SAR, the semiannual report for registered investment companies, to update the items of the form.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carolyn Miller, Office of Financial Analysis, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0510

RIN: 3235–AF93

4676. AMENDMENTS TO RULE 8F-1 AND DEREGISTRATION FORM N-8F, AND RULE 101 OF REGULATION S-T

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-37(a)

CFR Citation: 17 CFR 274.218; 17 CFR 270.8F-1; 17 CFR 232.101

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering recommending to the Commission amendments to rule 8f-1 and Form N-8F under the Investment Company Act. Rule 8f-1 and Form N-8F prescribe the form that certain registered investment companies must use to apply for an order to deregister under section 8(f). The proposed amendments to rule 8f-1 would expand the categories of funds eligible to use Form N-8F. The proposed amendments to Form N-8F are designed to simplify and expedite the deregistration process for investment companies by, among other things, requiring that the form be filed on the Commission's Data Gathering, Analysis,and Retrieval (EDGAR) system. In system. In connection with the proposal to require that the form be filed on EDGAR, the staff is considering recommending amending rule 101 of the Commission's Regulation S-T.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robin S. Gross, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0640

RIN: 3235–AG29

4677. AMENDMENTS TO THE CASH SOLICITATION RULE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-4; 15 USC 80b-6; 15 USC 80-11(a)

CFR Citation: 17 CFR 275.206(4)-3

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend revisions to the cash solicitation rule.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carolyn-Gail Gilheany, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0529

RIN: 3235–AH33

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF INVESTMENT MANAGEMENT — Final Rule Stage

4678. ELECTRONIC FILING OF INSTITUTIONAL INVESTMENT MANAGER REPORTS ON FORM 13F

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78c; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a); 15 USC 78ll

CFR Citation: 17 CFR 232.101; 17 CFR 240.13f-1; 17 CFR 240.13f-2; 17 CFR 249.325; 17 CFR 249.326

Legal Deadline: None

Abstract: The Commission has proposed a rule that would make electronic filing of Form 13F reports mandatory instead of optional. It would also eliminate special formatting requirements for the electronic version of those reports and the related requirement that they be submitted on magnetic tape. Form 13F reports are filed quarterly by institutional investment managers having more than $100,000,000 worth of equity securities in accounts under management to report the equity securities holdings of those accounts.

Timetable:

Action	Date	FR Cite
NPRM	07/01/97	62 FR 36467
NPRM Comment Period End	08/07/97	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ruth Armfield Sanders, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0633

RIN: 3235–AG97

4679. TEMPORARY EXEMPTION FOR CERTAIN INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-37; 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.15a-4

Legal Deadline: None

Abstract: The Commission proposed amendments to Rule 15a-4 under the Investment Company Act. The rule permits a person, under certain circumstances, to serve temporarily as an investment adviser to an investment company under a contract that the investment company's shareholders have not approved. The amendments would, among other things, expand the exemption provided under the rule to include new advisory contracts entered into as a result of a merger or similar business combination.

Timetable:

Action	Date	FR Cite
NPRM	07/28/98	63 FR 40231
NPRM Comment Period End	09/30/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marilyn Mann, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH02

4680. INVESTMENT COMPANY NAMES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 104-290, sec 208

CFR Citation: 17 CFR 270.35d-1 (New)

Legal Deadline: None

Abstract: The Commission has proposed a rule that would require a registered investment company with a name that suggests certain investments to invest at least 80 percent of its assets in the types of investments suggested by its name.

Timetable:

Action	Date	FR Cite
NPRM	02/27/97	62 FR 10955
NPRM Comment Period End	06/09/97	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Anu Dubey, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0687

RIN: 3235–AH11

4681. REQUIREMENTS RELATING TO CODES OF ETHICS WITH RESPECT TO REGISTERED INVESTMENT COMPANIES; RECORDS TO BE MAINTAINED BY INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-17(j); 15 USC 80a-37; 15 USC 80b-4; 15 USC 80b-6(4); 15 USC 80b-11(a); 15 USC 80a-6(c); 15 USC 80a-39; 15 USC 80b-2(a)(17); 15 USC 80b-3; 15 USC 80b-5(e); 15 USC 80b-3a; 15 USC 80b-6a

CFR Citation: 17 CFR 270.17j-1; 17 CFR 275.204-2

Legal Deadline: None

Abstract: The Commission has proposed amendments to rule 17j-1 under the Investment Company Act, rule 204-2 under the Investment Advisers Act, and investment company registration forms under the Investment Company Act and the Securities Act. The amendments to rule 17j-1 would enhance oversight of personal investment activities of investment company personnel by boards of directors and would require access persons to report to their employers all securities owned by them at the time they become access persons. Additional amendments would make the scope of the rule more consistent with its purpose. Amendments to rule 204-2 under the Investment Advisers Act would expand the list of securities exempt from the recordkeeping requirements of that rule. The amendments to fund registration forms would require investment companies to provide disclosure in their registration statements relating to codes of ethics and to file copies of their codes of ethics with the Commission as exhibits to their registration statements.

Timetable:

Action	Date	FR Cite
NPRM	09/14/95	60 FR 47844
NPRM Comment Period End	11/13/95	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Penelope Saltzman, Office of Regulatory Policy, Division of

Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AG27

4682. DELIVERY OF DISCLOSURE DOCUMENTS TO HOUSEHOLDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-37; 15 USC 80a-29(e); 15 USC 77s(a); 15 USC 78l; 15 USC 78n; 15 USC 78w(a)

CFR Citation: 17 CFR 270.30d-1; 17 CFR 270.30d-2; 17 CFR 240.14a-3; 17 CFR 240.14c-3; 17 CFR 240.14c-7

Legal Deadline: None

Abstract: The Commission proposed for public comment a new rule under the Securities Act of 1933 to allow issuers and broker-dealers to satisfy the Act's prospectus delivery requirements, for two or more investors sharing the same address, by sending a single prospectus, subject to certain conditions. The Commission proposed similar amendments to the rules under the Securities Exchange Act of 1934 and the Investment Company Act of 1940 that govern the delivery of annual and (in the case of investment companies) semiannual reports to shareholders. The proposed rule and rule amendments are intended to reduce the waste and inconvenience of duplicate documents sent to investor households and to save costs for issuers.

Timetable:

Action	Date	FR Cite
NPRM	11/13/97	62 FR 61933
NPRM Comment Period End	02/02/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marilyn Mann, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AG98

4683. INSURANCE PRODUCTS: NEW FORM N-6 FOR REGISTRATION OF SEPARATE ACCOUNTS OFFERING VARIABLE LIFE INSURANCE CONTRACTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 80a-8; 15 USC 80a-29; 15 USC 80a-37

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Commission proposed a new Form N-6 to be used for separate accounts offering variable life insurance contracts to register under both the Investment Company Act and the Securities Act. Currently, most insurance company separate accounts are organized as unit investment trusts (UITs) and register their interests on Form S-6. Form S-6 was developed for UITs generally, and not specifically for insurance company separate accounts that offer interests in variable life insurance contracts.

Timetable:

Action	Date	FR Cite
NPRM	03/13/98	63 FR 13988
NPRM Comment Period End	07/01/98	
Final Action	01/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Kevin M. Kirchoff, Office of Insurance Products, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0672

RIN: 3235–AG37

4684. PUHCA: EXEMPTION FOR CERTAIN ACQUISITIONS OF FOREIGN UTILITY COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 79c; 15 USC 79c(b); 15 USC 79(c)(3); 15 USC 79(t); 15 USC 79(n); 15 USC 79z-5b(b)

CFR Citation: 17 CFR 250.55; 17 CFR 259.5so (Revision)

Legal Deadline: None

Abstract: The proposed rule is intended to provide a safe harbor for the acquisition of one or more foreign utility companies by a registered holding company.

Timetable:

Action	Date	FR Cite
NPRM	03/08/93	58 FR 13719
NPRM Comment Period End	04/14/93	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David LaRoche, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0559

RIN: 3235–AF78

4685. STATUS OF SUBSIDIARY COMPANIES FORMED TO HOLD INTERESTS IN FOREIGN UTILITY COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 79(t)

CFR Citation: 17 CFR 250.56 (New)

Legal Deadline: None

Abstract: The proposed rule clarifies that a subsidiary of a registered holding company that is engaged exclusively in the business of owning an interest in one or more foreign utility companies will be deemed to be a foreign utility company.

Timetable:

Action	Date	FR Cite
NPRM	03/08/93	58 FR 13719
NPRM Comment Period End	04/14/93	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David LaRoche, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0559

RIN: 3235–AF79

4686. UNIT INVESTMENT TRUSTS: SIMPLIFICATION OF REGISTRATION STATEMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-8; 15 USC 77g; 15 USC 77j

CFR Citation: 17 CFR 239.16; 17 CFR 274.12

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission repropose for public comment Form N-7, a new form for registering unit investment trusts (UITs) and their securities under the Investment Company Act and the Securities Act. Adoption of Form N-7 would: (1) codify the disclosure requirements for UITs into one form; (2) codify the disclosure standards that have been developed for UITs; and (3) shorten and simplify the prospectus used in connection with the sale of units in both the initial offering and in the secondary market maintained by the sponsor. The requirement for audited financial statements would be eliminated under certain circumstances. Under the reproposal, the requirement that registrants include certain third-party financial statements in the registration statement would be extended to insurers as well as guarantors of portfolio securities of the trust.

Timetable:

Action	Date	FR Cite
NPRM	03/17/87	52 FR 82682
NPRM Comment Period End	05/15/87	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Markian Melnyk, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AA47

4687. PERFORMANCE ADVERTISING BY UNIT INVESTMENT TRUSTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 230.482; 17 CFR 239.16; 17 CFR 270.34b-1

Legal Deadline: None

Abstract: On November 22, 1995 the Commission published a request for public comment on a proposal that would standardize yields advertised by certain unit investment trusts (UITs). The proposal would amend Form S-6, the form used by UITs to register under the Securities Act, Rule 482 under the 1933 Act, which governs investment company sales materials not accompanied or preceded by a prospectus (advertisements), and Rule 34b-1 under the Investment Company Act which governs sales materials that accompany or follow the delivery of a statutory prospectus (sales literature). The proposal would require UITs to use a standardized formula for calculating yield in their prospectuses, advertisements, and sales literature.

Timetable:

Action	Date	FR Cite
NPRM	11/22/95	60 FR 61454
Extension of Comment Period	01/11/96	61 FR 1312
NPRM Comment Period End	01/29/96	
Extended Comment Period End	03/29/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: This item was previously part of item 3235-AA47, Unit Investment Trusts: Simplification of Registration Statements.

Agency Contact: Markian Melnyk, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AG63

4688. MERGERS OF CERTAIN AFFILIATED INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-17(a); 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17a-8

Legal Deadline: None

Abstract: Rule 17a-8 currently allows a merger or similar transaction to occur between two affiliated registered investment companies if the affiliations are limited to sharing a common investment adviser, common directors, and/or common officers. The staff of the Division of Investment Management is considering whether to recommend to the Commission that it expand the applicability of the rule to other affiliate relationships.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas M. J. Kerwin, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AG31

4689. INSURANCE PRODUCTS: EQUITY INDEX INSURANCE PRODUCTS CONCEPT RELEASE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.151

Legal Deadline: None

Abstract: The Commission issued a release requesting public comment on the structure of equity index insurance products, the manner in which they are marketed, and any other matters the Commission should consider in addressing Federal securities law issues raised by equity index insurance products.

Timetable:

Action	Date	FR Cite
ANPRM	08/20/97	62 FR 45359
Next Action Undetermined		

SEC—DIVISION OF INVESTMENT MANAGEMENT

Long-Term Actions

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Kevin M. Kirchoff, Office of Insurance Products, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0672

RIN: 3235–AH23

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF INVESTMENT MANAGEMENT

Completed Actions

4690. EXEMPTION FOR INVESTMENT ADVISERS OPERATING IN MULTIPLE STATES; REVISIONS TO RULES IMPLEMENTING AMENDMENTS TO THE INVESTMENT ADVISERS ACT OF 1940; COLORADO AND IOWA INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80b-3; 15 USC 80b-11; 15 USC 80b-2(a)(17); 15 USC 80b-4; 15 USC 80b-4; 15 USC 80b-6a

CFR Citation: 17 CFR 275; 17 CFR 279

Legal Deadline: None

Abstract: The Commission adopted amendments to rules under the Investment Advisers Act of 1940 that exempt from the prohibition on Commission registration certain investment advisers operating in multiple states and revise the definition of investment adviser representative. The Commission also adopted amendments to Schedule I to Form ADV to reflect the enactment of investment adviser statues in Colorado and Iowa.

Timetable:

Action	Date	FR Cite
NPRM	11/19/97	62 FR 61866
NPRM Comment Period End	01/20/98	
Final Action	07/24/98	63 FR 39708
Final Action Effective	08/31/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Carolyn-Gail Gilheany, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0529

RIN: 3235–AH22

4691. EXEMPTION FROM THE COMPENSATION PROHIBITION OF SECTION 205(A)(1) FOR INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80b-5(e)

CFR Citation: 17 CFR 275

Legal Deadline: None

Abstract: The Commission simplified and updated the exemption from the compensation prohibition in section 205(a)(1) for investment advisers.

Timetable:

Action	Date	FR Cite
NPRM	11/19/97	62 FR 61882
NPRM Comment Period End	01/20/98	
Final Action	07/21/98	63 FR 39022
Final Action Effective	08/20/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Arthur Laby, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0523

RIN: 3235–AH25

4692. • INVESTMENT ADVISER YEAR 2000 REPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80b-4; 15 USC 80b-11

CFR Citation: 17 CFR 275; 17 CFR 279

Legal Deadline: None

Abstract: The Securities and Exchange Commission adopted a rule to require most registered investment advisers to submit reports on their preparations, as well as the preparation of any registered investment companies they advise, for the Year 2000 computer problem.

Timetable:

Action	Date	FR Cite
NPRM	07/07/98	63 FR 36632
NPRM Comment Period End	08/10/98	
Final Action	10/08/98	63 FR 54308
Final Action Effective	11/13/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Arthur Laby, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0523

RIN: 3235–AH45

4693. SMALL ENTITIES FOR PURPOSES OF THE REGULATORY FLEXIBILITY ACT AS APPLIED TO THE INVESTMENT COMPANY ACT AND THE INVESTMENT ADVISERS ACT

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-37; 15 USC 80b-11

CFR Citation: 17 CFR 270.0-10; 17 CFR 275.0-7

Legal Deadline: None

Abstract: The Commission issued a release that adopted amendments to rule 0-10 under the Investment Company Act and to rule 0-7 under the Investment Advisers Act. The amendments modify the definition of the terms "small business" and "small organization" as applied to an investment company and an investment adviser for purposes of the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite
NPRM	01/28/97	62 FR 4106
NPRM Comment Period End	02/27/97	
Extension of Comment Period	03/20/97	62 FR 13356

SEC—DIVISION OF INVESTMENT MANAGEMENT

Completed Actions

Action	Date	FR Cite
Final Action	06/24/98	63 FR 35508
Final Action Effective	07/30/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: A related rulemaking was published in the Federal Register under the RIN 3235-AH01.

Agency Contact: Thomas M. J. Kerwin, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AG62

4694. EXEMPTION OF CERTAIN PURCHASE OR SALE TRANSACTIONS BETWEEN AN INVESTMENT COMPANY AND CERTAIN AFFILIATED PERSONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-37; 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.17a-7

Legal Deadline: None

Abstract: Rule 17a-7 permits purchase and sale transactions of portfolio securities among affiliated funds. The staff of the Division of Investment Management was evaluating whether to recommend that the Commission propose amendments to refine the conditions under which exchanges can be made under the rule. The Commission is withdrawing this item from the Unified Agenda because the Commission does not expect to consider the item within the next 12 months, but the Commission may consider the item further at a later date.

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marilyn Mann, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AG57

4695. BONDING OF OFFICERS AND EMPLOYEES OF REGISTERED MANAGEMENT INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-17(g); 15 USC 80a-6(c); 15 USC 80a-37

CFR Citation: 17 CFR 270.17g-1

Legal Deadline: None

Abstract: The staff of the Division of Investment Management was considering whether to recommend that the Commission propose amendments to modernize and clarify the provisions of rule 17g-1, which governs the bonding of officers and employees of registered management investment companies. The Commission is withdrawing this item from the Unified Agenda because the Commission does not expect to consider the item within the next 12 months, but the Commission may consider the item further at a later date.

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Penelope W. Saltzman, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AG58

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF MARKET REGULATION

Proposed Rule Stage

4696. AMENDMENTS TO RULES 17A-3 AND 17A-4 UNDER THE SECURITIES EXCHANGE ACT OF 1934

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78f; 15 USC 78i; 15 USC 78j; ...

CFR Citation: 17 CFR 240 (Revision)

Legal Deadline: None

Abstract: The Commission reproposed for comment amendments to the books and records rules which will take into consideration the comments received in response to the proposing release.

Timetable:

Action	Date	FR Cite
NPRM	10/28/96	61 FR 55593
NPRM Comment Period End	03/31/97	
Reproposed	10/09/98	63 FR 54404
Comment Period End	11/09/98	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas K. McGowan, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH04

4697. NET CAPITAL RULE: CUSTOMER PROTECTION RULE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78h; 15 USC 78g

CFR Citation: 12 CFR 220; 17 CFR 240.3a12-11; 17 CFR 240.15c2-5; 17 CFR 240.15c3-1; 17 CFR 240.15c3-3

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose amendments to Rules 3a12-11, 15c2-5, 15c3-1 and 15c3-3 under the Exchange Act reflecting changes to section 8 of the Act and to Regulation T under the Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas K. McGowan, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH05

4698. RISK ASSESSMENT RECORDKEEPING AND REPORTING REQUIREMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78a(h)

CFR Citation: 17 CFR 240.17h-1T; 17 CFR 240.17h-2T

Legal Deadline: None

Abstract: The Risk Assessment Recordkeeping and Reporting Requirements, which became effective September 30, 1992 following notice and comment, were adopted as temporary rules pursuant to the Market Reform Act of 1990. These rules contain recordkeeping and reporting requirements with regard to material associated persons of broker-dealers. The Commission plans to propose final rules replacing the temporary rules during 1999.

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Lester Shapiro, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH06

4699. EXEMPTION OF CERTAIN FOREIGN BROKERS AND DEALERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78c; 15 USC 78j; 15 USC 78o; 15 USC 78q; 15 USC 78u

CFR Citation: 17 CFR 240.15a-6

Legal Deadline: None

Abstract: Exchange Act Rule 15a-6, which was adopted to exempt conditionally foreign broker-dealers from registration in response to the internationalization of the securities markets, is premised in large part on the willingness of U.S. broker-dealers to take responsibility for resulting trades. The Commission is considering revising the rule to focus instead on the types of securities that are sold by foreign broker-dealers, to allow institutional customers to take advantage of the efficiencies of foreign markets.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Shillman, Office of the Chief Counsel, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH17

4700. • PURCHASES OF CERTAIN EQUITY SECURITIES BY THE ISSUER AND OTHERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78i(a)(2); 15 USC 78j(b)

CFR Citation: 17 CFR 240.10b-18

Legal Deadline: None

Abstract: In response to a petition for rulemaking filed by the New York Stock Exchange Inc., the Division is proposing to modify the timing condition in current Rule 10b-18 to extend the manipulation safe harbor to issuer bids for and purchase of its common stock: (1) that are effected either (i) at the reopening of trading and during the last half-hour prior to the scheduled close of trading during the trading session immediately following, and on the same day as, a market-wide trading suspension, or (ii) at the next day's opening, if the market-wide trading suspension is in effect at the scheduled close of trading; and (2) that comply with the manner, pricing and volume conditions in Rule 10b-18.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Denise Landers, Office of Risk Management and Control, Securities and Exchange Commission
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RIN: 3235–AH48

4701. UNTIMELY ANNOUNCEMENT OF RECORD DATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78j; 15 USC 78w

CFR Citation: 17 CFR 240.10b-17

Legal Deadline: None

Abstract: Pursuant to a petition of the NASD, the staff is considering recommending that the Commission consider amending Exchange Act Rule 10b-17 to clarify that it applies to distributions made to holders of direct participation program interests.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Barbara Ferrara, Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH38

4702. • FORM TA-2, FORM TO BE USED BY TRANSFER AGENTS REGISTERED PURSUANT TO SECTION 17A OF THE SECURITIES EXCHANGE OF 1934 FOR THE ANNUAL REPORT OF TRANSFER AGENT ACTIVITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78g-l

CFR Citation: 17 CFR 240.17Ac2-2; 17 CFR 240.17a-24; 17 CFR 249b.102

Legal Deadline: None

Abstract: As part of the Commission's continuing efforts to improve and simplify forms and rules, the Commission proposes to amend Form TA-2 and its enabling Rule 17Ac2-2. In addition, the Commission is proposing to rescind Rule 17a-24 and to amend Rule 17Ac-2 and Form TA-2 to elicit more comprehensive information on lost securityholders.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lori Bucci, Office of Clearance and Settlement, Division Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH44

4703. PURCHASES OF CERTAIN EQUITY SECURITIES BY THE ISSUERS AND OTHERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78b; 15 USC 78c; 15 USC 78i(a)(6); 15 USC 78j(b); 15 USC 78m(e); 15 USC 78o(c); 15 USC 78w(a)

CFR Citation: 17 CFR 240.10b-18

Legal Deadline: None

Abstract: The Commission will be proposing to update Rule 10b-18 to reflect market development since its adoption. Rule 10b-18 is a safe harbor from liability under the anti-manipulation provisions of section 9(a)(2) of the Exchange Act and Rule 10b-5 thereunder for issuer purchases of its common stock made in accordance with the Rule 10b-18 conditions. Rule 10b-18 conditions govern the manner, timing, price and volume of market purchases made by the issuer.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Denise Landers, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH37

4704. • TENDER AND REORGANIZATION AGENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78b; 15 USC 78k-1(a)(1)(B); 15 USC 78n(d)(4); 15 USC 78o(c)(3); 15 USC 78o(c)(6); 15 USC 78q-1(a); 15 USC 78q-1(d)(1); 15 USC 78w(a)

CFR Citation: 17 CFR 240.17Ad-14

Legal Deadline: None

Abstract: The Commission proposed amendments to rule 17Ad-14 under the Securities Exchange Act of 1934. The amendments would require the establishment of book-entry accounts in connection with reorganization events and would provide securities depositories with three business days after the expiration of a tender offer, exchange offer, or reorganization event in which to deliver physical securities certificates.

Timetable:

Action	Date	FR Cite
NPRM	09/04/98	63 FR 47209
NPRM Comment Period End	11/03/98	
Final Action	06/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Theodore R. Lazo, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH53

4705. • EXEMPTION FROM EXCHANGE ACT SECTION 11(D)(1) FOR SECURITIES OF FOREIGN ISSUERS SOLD ON AN INSTALLMENT BASIS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78a et seq; 15 USC 78c; 15 USC 78k; 15 USC 78w; 15 USC 78jj

CFR Citation: 17 CFR 240.11d1-3

Legal Deadline: None

Abstract: The proposed rule sets forth a uniform set of conditions that, if met, would provide an automatic exemption from section 11(d)(1) of the Securities Exchange Act of 1934, for international offerings of foreign issuers done on an installment basis. The draft rule would also permit, under certain circumstances, the extension of credit through installment sales to the public in a non-privatization offering.

Timetable:

Action	Date	FR Cite
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: George Lavdas, Office of the Chief Counsel, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH58

SEC—DIVISION OF MARKET REGULATION — Proposed Rule Stage

4706. NET CAPITAL RULE CONCEPT RELEASE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78o(c)(3); 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: As part of its comprehensive review of Exchange Act Rule 15c3-1, the net capital rule, the Commission published a concept release soliciting comments on how the net capital rule may incorporate statistical models to calculate net capital requirements. This concept release also solicited comments and ideas on how the net capital rule could be further modified.

Timetable:

Action	Date	FR Cite
ANPRM	12/30/97	62 FR 68011
ANPRM Comment Period End	03/30/98	
Extension of Comment Period to	05/04/98	63 FR 11173
NPRM	03/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas K. McGowan, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH29

4707. • DESTRUCTION OF CANCELLED SECURITIES CERTIFICATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78q-1

CFR Citation: 17 CFR 240.17Ad-19

Legal Deadline: None

Abstract: The Commission is considering proposing Rule 17Ad-19 to establish regulations for the destruction of securities certificates and to require each transfer agent to establish written procedures for the storage and destruction of cancelled securities certificates.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Thomas C. Etter, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH54

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF MARKET REGULATION — Final Rule Stage

4708. NET CAPITAL REQUIREMENTS FOR BROKERS OR DEALERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78o(c)(3); 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: The Commission has proposed amendments to Exchange Act Rule 15c3-1, the net capital rule, that could raise the minimum net capital requirement for certain introducing broker-dealers, for other classes of broker-dealers that never receive customer securities, and for broker-dealers that make markets in securities.

Timetable:

Action	Date	FR Cite
NPRM	12/02/92	57 FR 57027
Interim Final Rule	12/02/92	57 FR 56973
NPRM Comment Period End	02/05/93	
Final Action	04/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas K. McGowan, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AD79

4709. MARKET RISK HAIRCUTS FOR INSTRUMENTS SUBJECT TO INTEREST RATE RISK

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78o(c)(3); 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: As part of its comprehensive review of Exchange Act Rule 15c3-1, the net capital rule, the Commission proposed for comment an amendment to the net capital rule revising the percentage deductions from net worth, and haircuts, applicable to investment rate products when calculating net capital. Under the proposal, haircuts on government securities, investment grade corporate securities, certain mortgage-backed securities, interest rate swaps, and other interest rate-related derivative instruments would be determined by treating these instruments as part of a single portfolio.

Timetable:

Action	Date	FR Cite
ANPRM	05/04/93	58 FR 27486
ANPRM Comment Period End	12/12/93	
NPRM	12/30/97	62 FR 67996
NPRM Comment Period End	03/30/98	
Extension of Comment Period to	05/04/98	63 FR 11173
Interim Final Rule	04/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas K. McGowan, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
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SEC—DIVISION OF MARKET REGULATION — Final Rule Stage

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RIN: 3235–AG18

4710. OTC DERIVATIVES DEALERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77j; 15 USC 77g; 15 USC 77s; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78f; 15 USC 78j; 15 USC 78i

CFR Citation: 17 CFR 200.30-3 (Revision); 17 CFR 240.8c-1 (Revision); 17 CFR 240.15b1-1 (Revision); 17 CFR 240.15c2-1 (Revision); 17 CFR 240.15c3-1 (Revision); 17 CFR 240.15c3-3 (Revision); 17 CFR 240.17a-3 (Revision); 17 CFR 240.17a-4 (Revision); 17 CFR 240.17a-11 (Revision); 17 CFR 240.3b-12; 17 CFR 240.3b-13; 17 CFR 240.3b-14; 17 CFR 240.3b-15; 17 CFR 240.3b-16; 17 CFR 240.15a-1; ...

Legal Deadline: None

Abstract: The Commission proposed for comment proposed rules and rule amendments under the Securities Exchange Act of 1934 that would tailor capital, margin and other broker-dealer regulatory requirements to a class of registered dealers called OTC derivatives dealers active in over-the-counter derivatives markets. Registration as an OTC derivatives dealer under the proposed rules would be an alternative to registration as a fully-regulated broker-dealer, and would be available only to entities acting primarily as counterparties in privately negotiated over-the-counter derivatives transactions.

Timetable:

Action	Date	FR Cite
NPRM	12/17/97	62 FR 67940
NPRM Comment Period End	03/02/98	
Extension of Comment Period to	04/06/98	63 FR 11173
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3235–AH16

4711. PROPOSED AMENDMENTS TO TRANSFER AGENT RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78q-1

CFR Citation: 17 CFR 240.17Ad-2(a); 17 CFR 240.17Ad-2(c); 17 CFR 240.17Ad-2(e)(1); 17 CFR 240.17Ad-2(e)(2); 17 CFR 240.17Ad-10; 17 CFR 240.17Ad-12

Legal Deadline: None

Abstract: The Commission has proposed amendments to certain transfer agent rules regarding turnaround time, recordkeeping, and safekeeping of funds. The proposed amendments to the transfer agent rules are designed to minimize disruptions, particularly in the National Clearance and Settlement System for securities, that may be caused by poor turnaround performance, substandard or inaccurate recordkeeping practices, and inadequate safekeeping procedures.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 63662
NPRM Comment Period End	02/04/95	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3235–AG24

4712. EXPANDING THE SCOPE OF SELF-REGULATORY ORGANIZATION MATTERS THAT DO NOT CONSTITUTE PROPOSED RULE CHANGES PURSUANT TO RULE 19B-4

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78a et seq; 15 USC 78s; 15 USC 78mm

CFR Citation: 17 CFR 240.19b-4

Legal Deadline: None

Abstract: The Commission proposed new paragraph (e) of Rule 19b-4 to expand the scope of SRO matters that do not constitute proposed rule changes, to include the listing and trading of new derivative securities products. This proposal is intended to reduce record keeping and reporting requirements on the SROs by eliminating the requirement of filing a complete proposed rule change for Commission review prior to trading a new derivative securities product.

Timetable:

Action	Date	FR Cite
NPRM	04/29/98	63 FR 23584
NPRM Comment Period End	05/29/98	
Interim Final Rule	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3235–AH39

4713. • EXEMPTION OF THE SECURITIES OF THE KINGDOM OF BELGIUM UNDER THE SECURITIES EXCHANGE ACT OF 1934 FOR PURPOSES OF TRADING FUTURES CONTRACTS ON THOSE SECURITIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77z-2; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78f; 15 USC 78i; ...

CFR Citation: 17 CFR 240.3a12-8

SEC—DIVISION OF MARKET REGULATION — Final Rule Stage

Legal Deadline: None

Abstract: The Commission proposed for comment an amendment to Rule 3a12-8 that would designate debt obligations issued by the Kingdom of Belgium as "exempted securities" for the purpose of marketing and trading of futures contracts on those securities in the United States. This amendment is intended to permit futures Trading on the sovereign debt of Belgium.

Timetable:

Action	Date	FR Cite
NPRM	06/08/98	63 FR 32628
NPRM Comment Period End	07/15/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3235–AH46

4714. • PROPOSED AMENDMENTS TO THE INTERMARKET TRADING SYSTEM (ITS) PLAN TO EXPAND THE ITS/COMPUTER ASSISTED EXECUTION SYSTEM LINKAGE TO ALL LISTED SECURITIES AND ELIMINATE THE UNANIMOUS VOTE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78K-1(a)(3)(B)

CFR Citation: None

Legal Deadline: None

Abstract: The Securities and Exchange Commission is proposing amendments to the Plan governing the operation of the Intermarket Trading System (ITS Plan) to expand the ITS/Computer Assisted Execution System (CAES) linkage to all listed securities, including non-Rule 19c-3 securities. The amendments would also eliminate the requirement that amendments to the ITS Plan be approved by a unanimous vote of all participants; instead, a two-thirds supermajority of the participants would be required for amendments.

Timetable:

Action	Date	FR Cite
NPRM	07/30/98	63 FR 40748
NPRM Comment Period End	08/31/98	
Final Action	12/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3235–AH49

4715. • PROPOSED AMENDMENTS TO NATIONAL MARKET SYSTEM PLAN

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78k-1(a)(3)

CFR Citation: None

Legal Deadline: None

Abstract: The Commission proposed for public comment on its own initiative alternative amendments to the plan governing the operation of the Intermarket Trading System. The proposed amendments provide for the linkage of the Pacific Exchange Inc. ("PCX") Application of the Optimark System to the ITS system, and were prepared by the Pacific Exchange and the New York Stock Exchange.

Timetable:

Action	Date	FR Cite
NPRM	07/22/98	63 FR 39306
NPRM Comment Period End	08/21/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3235–AH51

4716. REGULATION OF ALTERNATIVE TRADING SYSTEMS AND NATIONAL SECURITIES EXCHANGES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78a et seq; 15 USC 78mm

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Commission is considering proposals that would create a new regulatory framework for alternative trading systems and would relieve national securities exchanges of certain rule filing requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/29/98	63 FR 23504
NPRM Comment Period End	07/28/98	
Final Rule	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3235–AH41

4717. NET CAPITAL REQUIREMENTS FOR BROKERS OR DEALERS—DEFINITION OF THE TERM NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78c; 15 USC 78o; 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: The Commission issued a release proposing amendments to the net capital rule that would define the term Nationally Recognized Statistical Rating Organization (NRSRO) for purposes of the net capital rule and set forth the process for applying for NRSRO designation.

SEC—DIVISION OF MARKET REGULATION — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/30/97	62 FR 68018
NPRM Comment Period End	03/02/98	
Final Action	02/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Additional Information: This proposal was based in part on comments received in response to a concept release (RIN 3235-AG41 (RIN 3235-AG41; 59 FR 46314), which is now combined in this rulemaking.

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RIN: 3235–AH28

4718. AMENDMENT TO RULE 9B-1 UNDER THE SECURITIES EXCHANGE ACT RELATING TO THE OPTIONS DISCLOSURE DOCUMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78i; 15 USC 78w

CFR Citation: 17 CFR 240.9b-1

Legal Deadline: None

Abstract: The Commission is proposing to amend Exchange Act Rule 9b-1, which requires that an Options Disclosure Document (ODD) be sent to a customer opening an options account. The proposed amendment would refine certain language of the Rule so that it more clearly reflects the regulatory standards it was designed to establish. In paragraph (a)(3) of the Rule, the definition of "Options Disclosure Document" will be amended to explicitly state that amendments and supplements to the ODD are included as part of the ODD. Paragraphs (c)(2) and (c)(3) will be amended to better reflect the type of information appropriately included in the ODD. Paragraphs (c)(4) and (c)(7) will be similarly amended.

Timetable:

Action	Date	FR Cite
NPRM	07/01/98	63 FR 36136
NPRM Comment Period End	07/31/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

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RIN: 3235–AH30

4719. REPORTS TO BE MADE BY CERTAIN BROKERS AND DEALERS

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 15 USC 80o(c)(3); 15 USC 78w

CFR Citation: 17 CFR 240.17a-5

Legal Deadline: None

Abstract: On July 13, 1998, the Commission adopted a rule that would require broker-dealers to file with the Commission and their designated examining authority certain reports regarding their Year 2000 readiness (63 FR 37688). The Commission reopened the comment period with respect to its proposal that would have required broker-dealers to engage an independent public accountant to attest to specific assertions included in the broker-dealer's report on Year 2000 compliance. The attestation by independent public accountants was one amendment to Rule 17a-5 under the Exchange Act proposed by the Commission in Release No. 34-39724 which was published in the Federal Register on March 12, 1998 (63 FR 12056).

Timetable:

Action	Date	FR Cite
NPRM	03/12/98	63 FR 12056
NPRM Comment Period End	04/29/98	
Final Action (Reports)	07/13/98	63 FR 37688
SNPRM (Attestation)	07/13/98	63 FR 37709
SNPRM Comment Period End	08/12/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3235–AH36

4720. INITIATION OR RESUMPTION OF QUOTATIONS WITHOUT SPECIFIED INFORMATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78b; 15 USC 78c; 15 USC 78j(b); 15 USC 78o(q); 15 USC 78q(a); 15 USC 78w(a)

CFR Citation: 17 CFR 240.15c2-11

Legal Deadline: None

Abstract: As part of its efforts to respond to fraud in the microcap securities market, the Commission proposed for comment amendments to Rule 15c2-11. These amendments would require broker-dealers to: have more issuer information before publishing quotations; review updated information periodically when publishing priced quotations; and make issuer information more widely available. The amendments also would expand the issuer's information that a broker-dealer must review for a non-reporting issuer.

Timetable:

Action	Date	FR Cite
NPRM	02/25/98	63 FR 9661
NPRM Comment Period End	04/27/98	
Final Action	11/00/98	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3235–AH40

SEC—DIVISION OF MARKET REGULATION

Final Rule Stage

4721. YEAR 2000 READINESS REPORTS TO BE MADE BY TRANSFER AGENTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78q-16(i); 15 USC 78w

CFR Citation: 17 CFR 240.17Ad-18

Legal Deadline: None

Abstract: On July 13, 1998, the Commission adopted a rule that would require non-bank transfer agents to file with the Commission certain reports regarding their Year 2000 readiness (63 FR 37668). The Commission reopened the comment period with respect to its proposal that would have required certain transfer agents to engage an independent public accountant to attest to specific assertions included in the transfer agent's report on Year 2000 compliance. The requirement for an attestation by independent public accountants was part of a proposal published in the Federal Register on March 12, 1998 (63 FR 12062).

Timetable:

Action	Date	FR Cite
NPRM	03/12/98	63 FR 12062
NPRM Comment Period End	04/13/98	
Final Action (reports)	07/13/98	63 FR 37668
SNPRM (Attestation)	07/13/98	63 FR 37709
SNPRM Comment Period End	08/12/98	
Final Action	10/00/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3235–AH42

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF MARKET REGULATION

Long-Term Actions

4722. AMENDMENT TO FORM BDW AND AMENDMENT TO EXCHANGE ACT RULE 15B6-1 AND AMENDMENTS TO RULES 15B1-1, 15B3-1, 15BA2-2, 15CA1-1, AND 15CA2-1

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77S; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78i; 15 USC 78j; 15 USC 78l

CFR Citation: 17 CFR 240; 17 CFR 249; 17 CFR 249.501a

Legal Deadline: None

Abstract: The Commission proposed amendments to Form BDW, the uniform request for withdrawal from broker-dealer registration under the Securities Exchange Act. The proposed amendments are designed to implement recommended changes to the Central Registration Depository System, a computer system operated by the National Association of Securities Dealers, Inc. that maintains registration information regarding registered broker-dealers and their registered personnel for use by the Commission, the self-regulatory organizations, and state securities regulators. The amendments include certain clarifying amendments to Form BDW, including new instructions for filing Form BDW electronically with the Central Registration Depository. The Commission also has proposed revisions to rules governing the withdrawal of broker-dealer registration under the Securities Exchange Act. Specifically, the revisions would permit broker-dealers that are withdrawing from registration to consent to an extension of the effective date of their withdrawal. The proposed revisions also would permit the Commission to extend the effective date for such periods as the Commission may determine. In addition, the Division has recommended revisions to the rules governing the filing of Form BD and Form BDW to provide for electronic filing of these forms.

Timetable:

Action	Date	FR Cite
NPRM	07/09/96	61 FR 37701
NPRM Comment Period End	08/19/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: LEGAL AUTHORITY CONTINUED: 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78p; 15 USC 78q; 15 USC 78s; 15 USC 78w; 15 USC 78x; 15 USC 78ll(d); 15 USC 79g; 15 USC 79t; 15 USC 80a-20; 15 USC 80a-23; 15 USC 80a-29; 15 USC 80a-37; 15 USC 80b-3; 15 USC 80b-4; 15 USC 80b-11

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RIN: 3235–AG69

4723. AMENDMENT TO RULE 11AC1-1

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78f; 15 USC 78i; 15 USC 78j; 15 USC 78k; ...

CFR Citation: 17 CFR 240.11Ac1-1(a)(25)

Legal Deadline: None

Abstract: The Commission proposed amendments to Rule 11Ac1-1 under the Exchange Act to require both exchange and over-the-counter market makers to provide continuous two-sided quotations when they account for more than 1 percent of the aggregate trading volume of a security included on the NASDAQ Stock Market.

Timetable:

Action	Date	FR Cite
NPRM	08/29/96	61 FR 48333
NPRM Comment Period End	10/29/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3235–AH00

SEC—DIVISION OF MARKET REGULATION

Long-Term Actions

4724. LARGE TRADER REPORTING SYSTEM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c to 77d; 15 USC 77s; 15 USC 77ttt; 15 USC 78c to 78d; 15 USC 78i to 78j; 15 USC 78l to 78p; 15 USC 78s; 15 USC 78w; 15 USC 78x; 15 USC 79q; 15 USC 79t; 15 USC 80a-29; 15 USC 80a-37

CFR Citation: 17 CFR 240.13h-1

Legal Deadline: None

Abstract: The Commission has published for comment reproposed Exchange Act Rule 13h-1, which would require large traders to disclose accounts to the Commission, and would require broker-dealers to maintain and report large trader transaction records to the Commission.

Timetable:

Action	Date	FR Cite
NPRM	02/17/94	59 FR 7917
NPRM Comment Period End	04/18/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

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RIN: 3235–AE42

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF MARKET REGULATION

Completed Actions

4725. NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78o

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: This concept release will be combined with the resulting proposed rulemaking of RIN 3235-AH28.

Timetable:

Action	Date	FR Cite
ANPRM	08/31/94	59 FR 46314
ANPRM Comment Period End	12/06/94	
NPRM	12/30/97	62 FR 68018
NPRM Comment Period End	03/02/98	
Final Action	10/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The Commission issued a release proposing amendments to the net capital rule that would define the term Nationally Recognized Statistical Rating Organization (NRSRO) for purposes of the net capital rule and set forth the process for applying for NRSRO designation. See RIN 3235-AH28. This release was based in part on comments received in response to the concept release.

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RIN: 3235–AG41

4726. DEFINITIONS OF "SMALL BUSINESS" OR "SMALL ORGANIZATION" UNDER THE SECURITIES EXCHANGE ACT OF 1934

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 75s; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78i; 15 USC 78j; 15 USC 78l; ...

CFR Citation: 17 CFR 240.0-10

Legal Deadline: None

Abstract: The Commission amended the definitions of the terms "small business" and "small organization" contained in Rule 0-10 under the Securities Exchange Act of 1934.

Timetable:

Action	Date	FR Cite
NPRM	01/28/97	62 FR 4106
Extension of Comment Period	03/20/97	62 FR 13356
NPRM Comment Period End	04/30/97	
Final Action	06/30/98	63 FR 35508
Final Action Effective	07/30/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3235–AH01

SECURITIES AND EXCHANGE COMMISSION (SEC)
OFFICES AND OTHER PROGRAMS

Completed Actions

4727. • PROPOSED AMENDMENT TO RULE 102(E) OF THE COMMISSION'S RULES OF PRACTICE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77s; 15 USC 78w; 15 USC 79t; 15 USC 77sss; 15 USC 80b-11; 15 USC 80a-37

CFR Citation: 17 CFR 201.102(e)(1)

Legal Deadline: None

Abstract: The Securities and Exchange Commission adopted an amendment to Rule 102(e), The Commission can censure, suspend or bar persons who appear or practice before it. The amendment clarifies the Commission's standard for determining when accountants engage in "improper professional conduct" under Rule 102(e)(1)(ii).

Timetable:

Action	Date	FR Cite
NPRM	07/21/98	63 FR 39054
NPRM Comment Period End	08/20/98	
Final Action	10/26/98	63 FR 57164
Final Action Effective	11/25/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael J. Kigin, Associate Chief Accountant, Securities and Exchange Commission
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RIN: 3235–AH47

[FR Doc. 98-23927 Filed 11-06-98; 8:45 am]
BILLING CODE 8010-01-F

federal register

Monday
November 9, 1998

Part LXIV

Surface Transportation Board

Semiannual Regulatory Agenda

SURFACE TRANSPORTATION BOARD (STB)

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Ch. X

[STB Ex Parte No. 536; Sub-No. 5]

Semiannual Regulatory Agenda

AGENCY: Surface Transportation Board, DOT.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Surface Transportation Board, in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of: (1) Current and projected rulemakings and (2) existing regulations being reviewed to determine whether to propose modifications through rulemaking. Listed below are the regulatory actions to be developed or reviewed during the next 12 months. Following each rule identified is a brief description of the rule including its purpose and legal basis.

FOR FURTHER INFORMATION CONTACT: A contact person is identified for each of the rules listed below.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that, during the months of April and October of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda, which shall contain:

(1) A brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

Accordingly, a list of proceedings appears below containing information about subject areas in which the Board is currently conducting rulemaking proceedings or may institute such proceedings in the near future. It also contains information about existing regulations being reviewed to determine whether to propose modifications through rulemaking.

The agenda represents the Board's best estimate of rules which will be considered over the next 12 months. However, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda."

The Board is publishing its October 1998 regulatory flexibility agenda as part of the Unified Agenda of Federal Regulatory and Deregulatory Actions. The Unified Agenda of Federal Regulatory and Deregulatory Actions is coordinated by the Office of Management and Budget pursuant to Executive Order 12866. The Board is participating in the program voluntarily to assist OMB.

Decided: August 21, 1998.
By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,
Secretary.

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4728	Railroad Consolidation Procedures: Class Exemption for Transactions Subject to the Statutory Consolidation Provision, Ex Parte No. 282 (Sub-No. 15)	2140-AA03
4729	Safe Implementation of Board-Approved Transactions, STB Ex Parte No. 574	2140-AA50
4730	Market Dominance Determination—Product and Geographic Competition, STB Ex Parte No. 627	2140-AA51
4731	Expedited Relief for Service Inadequacies, STB Ex Parte No. 628	2140-AA52

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4732	Rail General Exemption Authority—Exemption of Paints, Enamels, Lacquers, Shellacs, etc., Ex Parte No. 346 (Sub-No. 33)	2140-AA05
4733	Revisions to Regulations Governing Finance Applications Involving Motor Passenger Carriers, STB Ex Parte No. 559	2140-AA37
4734	Rail General Exemption Authority—Nonferrous Recyclables, STB Ex Parte No. 561	2140-AA39
4735	Rail Service Continuation Subsidy Standards, STB Ex Parte No. 566	2140-AA43

4728. RAILROAD CONSOLIDATION PROCEDURES: CLASS EXEMPTION FOR TRANSACTIONS SUBJECT TO THE STATUTORY CONSOLIDATION PROVISION, EX PARTE NO. 282 (SUB-NO. 15)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 11341; 49 USC 11343 to 11346; 11 USC 1172; 45 USC 904; 45 USC 915; 5 USC 553; 5 USC 559

CFR Citation: 49 CFR 1180

Legal Deadline: None

Abstract: The Board is considering whether to expand the "nonconnecting carrier" class exemption to embrace all transactions subject to the statutory consolidation provision, except (1) transactions involving the merger or control of at least two class I railroads; (2) transactions involving a reduction in the number of noncommonly controlled railroads serving any two points; (3) transactions involving a reduction from three to two in the number of noncommonly controlled railroads serving any interchange points.

Timetable:

Action	Date	FR Cite
NPRM	07/14/92	57 FR 31165
NPRM Comment Period End	08/30/92	
Internal Review of Comments	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Statutory references to title 49 of the United States Code are prior to their amendment by the ICC Termination Act of 1995, Pub. L. 104-88, 109 Stat. 803, which became effective on January 1, 1996.

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RIN: 2140–AA03

4729. SAFE IMPLEMENTATION OF BOARD-APPROVED TRANSACTIONS, STB EX PARTE NO. 574

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 10101

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Surface Transportation Board has decided to proceed in a coordinated way with the United States Department of Transportation/Federal Railroad Administration to develop a notice of proposed rulemaking addressing procedures for the safe implementation of Board-approved transactions.

Timetable:

Action	Date	FR Cite
ANPRM	12/04/97	62 FR 64193
ANPRM Comment Period End	02/19/98	
Internal Review of Comments	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2140–AA50

4730. • MARKET DOMINANCE DETERMINATION—PRODUCT AND GEOGRAPHIC COMPETITION, STB EX PARTE NO. 627

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 721; 49 USC 10707

CFR Citation: None

Legal Deadline: None

Abstract: The Surface Transportation Board is considering removing product and geographic competition as factors in market dominance determinations in railroad rate proceedings.

Timetable:

Action	Date	FR Cite
NPRM	04/29/98	63 FR 24588
NPRM Comment Period End	06/29/98	
Comments Under Review	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2140–AA51

4731. • EXPEDITED RELIEF FOR SERVICE INADEQUACIES, STB EX PARTE NO. 628

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 721; 49 USC 11102; 49 USC 11123; 49 USC 10705

CFR Citation: 49 CFR 1146

Legal Deadline: None

Abstract: The Surface Transportation Board proposes revised rules that would establish expedited procedures for shippers to obtain alternative service from another rail carrier when the incumbent carrier cannot properly serve shippers.

Timetable:

Action	Date	FR Cite
NPRM	05/12/98	63 FR 27253
NPRM Comment Period End	07/15/98	
Comments Under Review	00/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2140–AA52

SURFACE TRANSPORTATION BOARD (STB) — Completed Actions

4732. RAIL GENERAL EXEMPTION AUTHORITY—EXEMPTION OF PAINTS, ENAMELS, LACQUERS, SHELLACS, ETC., EX PARTE NO. 346 (SUB-NO. 33)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 10708; 49 USC 10762; 49 USC 11105; 5 USC 553

CFR Citation: 49 CFR 1039

Legal Deadline: None

Abstract: The Surface Transportation Board has decided not to exempt from regulation the rail transportation of paints, enamels, lacquers, shellacs, and other commodities included within Standard Transportation Commodity Code (STCC) No. 285.

Timetable:

Action	Date	FR Cite
NPRM	10/21/93	58 FR 54318
NPRM Comment Period End	11/22/93	
Withdrawn	04/20/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: This proceeding was discontinued by decision served April 20, 1998. Notice of the decision was not published in the Federal Register.

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RIN: 2140–AA05

4733. REVISIONS TO REGULATIONS GOVERNING FINANCE APPLICATIONS INVOLVING MOTOR PASSENGER CARRIERS, STB EX PARTE NO. 559

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552(a)(4)(A); 5 USC 553; 31 USC 9701; 49 USC 721(a); 49 USC 14303

CFR Citation: 49 CFR 1002.2(f)(2); 49 CFR 1002.2(f)(5); 49 CFR 1182; 49 CFR 1187; 49 CFR 1188

Legal Deadline: None

Abstract: The Surface Transportation Board has revised the procedures governing finance applications involving motor passenger carriers filed under 49 USC 14303. The regulations at 49 CFR parts 1187 and 1188 were removed and replaced by new provisions incorporated at 49 CFR part 1182.

Timetable:

Action	Date	FR Cite
NPRM	07/08/97	62 FR 36477
NPRM Comment Period End	08/07/97	
Final Action	09/01/98	63 FR 46394
Final Action Effective	10/01/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2140–AA37

4734. RAIL GENERAL EXEMPTION AUTHORITY—NONFERROUS RECYCLABLES, STB EX PARTE NO. 561

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 553; 49 USC 10502; 49 USC 13301

CFR Citation: 49 CFR 1039

Legal Deadline: None

Abstract: The Surface Transportation Board has exempted from regulation the rail transportation of 29 nonferrous recyclables.

Timetable:

Action	Date	FR Cite
NPRM	05/16/97	62 FR 27003
NPRM Comment Period End	07/15/97	
Final Action	04/21/98	63 FR 19663
Final Action Effective	05/21/98	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: This rulemaking embraces and expands the proposed rulemaking in Ex Parte No. 346 (Sub-No. 36), which was issued by the former Interstate Commerce Commission. That proceeding was discontinued on May 5, 1997.

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RIN: 2140–AA39

4735. RAIL SERVICE CONTINUATION SUBSIDY STANDARDS, STB EX PARTE NO. 566

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 721(a)

CFR Citation: 49 CFR 1155

Legal Deadline: None

Abstract: The Surface Transportation Board has removed from the Code of Federal Regulations rules concerning standards for determining subsidies for the continuation of rail service on rail properties not transferred to Consolidated Rail Corporation under the Final System Plan pursuant to the Rail Reorganization Act of 1973. Regulations concerning offers of financial assistance were also amended to provide rules for the purchase or subsidization of rail lines that have been continuously subsidized since the inception of the Final System Plan.

Timetable:

Action	Date	FR Cite
NPRM	08/08/97	62 FR 42734
NPRM Comment Period End	09/08/97	
Final Action	05/22/98	63 FR 28287
Final Action Effective	06/21/98	

Regulatory Flexibility Analysis Required: No

STB — Completed Actions

Government Levels Affected: None

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RIN: 2140–AA43

[FR Doc. 98-23557 Filed 11-06-98; 8:45 am]
BILLING CODE 4915-00-F

INDEX TO ENTRIES FOR WHICH A REGULATORY FLEXIBILITY ANALYSIS IS REQUIRED

The Regulatory Flexibility Act (5 U.S.C. 601) requires that agencies publish regulatory agendas identifying those rules that may have a significant economic impact on a substantial number of small entities. Agencies meet that requirement by including the information in their submissions for The Regulatory Plan and the Unified Agenda.

The following index lists the regulatory actions in this publication for which agencies believe that the Act may require a Regulatory Flexibility Analysis because the rule is likely to have such effects on small businesses, small governmental jurisdictions, or small organizations. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to The Regulatory Plan and the Unified Agenda in Part II of this issue.

Small Businesses

Seq. No.	Title
	USDA
4	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Delivery Systems Integrity
11	Elimination of Requirements for Partial Quality Control Programs
12	Performance Standards for Certain Meat Products and Poultry Products
13	Rules of Practice
14	Sanitation Requirements for Official Meat and Poultry Establishments
176	National Organic Program
180	Federal Milk Order Consolidation and Reform **(Section 610 Review)**
182	Revision of Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products
183	Federal Meat Grading and Certification Services – 1997 User Fees
204	Farmer Credit Program Account Servicing Policies for Section 1816 and Other Related Sections for the 1990 FACT Act
205	Implement Section 1818 (Borrower Training) of the Food, Agriculture, Conservation, and Trade Act of 1990 (FACT Act)
206	Implementation of Certified Lender Program
209	The Agricultural Credit Improvement Act of 1992
211	Acquisition and Management of Real and Chattel Property
237	Lender Buyback of Repurchased Guaranteed Loans
257	Loans to Indian Tribes and Tribal Corporations
258	Disaster Assistance
259	Revisions to the Direct Farm Ownership Loan Regulation (1943-A) Outreach Program for Members of Socially Disadvantaged Groups
260	Socially Disadvantaged Outreach Program
261	Permit FSA To Sell or Assign Farm Loan Mortgages and Notes
293	Karnal Bunt
294	Restrictions on the Importation of Ruminants, Meat and Meat Products From Ruminants, and Certain Other Ruminant Products
316	Guaranteed Rural Housing Loan Single Family
318	Denying Credit to Applicants Delinquent on Any Federal Debt
325	National Flood Insurance Regulations
422	FSP: Collection of Delinquent Retailer Debts: Administrative Offset
448	Substances Approved for Use in the Preparation of Meat and Poultry Products
449	Nutrition Labeling of Ground Beef and Hamburger
454	Ante-Mortem and Post-Mortem Inspection of Livestock and Poultry
455	Requirements for Disposition and Disposal of Inspected Raw Meat and Poultry Products
457	Food Standards: Requirements for Processed Meat and Poultry Products Named by Use of an Expressed Nutrient Content Claim and a Standardized Term
458	Nutrition Labeling: Health Claims on Meat and Poultry Products
460	Continuous Chilling of Split Poultry Portions
470	Performance Standards for the Production of Certain Meat and Poultry Products
473	Export Sales Reporting Requirement
481	Dairy Tariff Rate Import Quota Licensing
488	Species Surplus to Domestic Manufacturing Needs
489	Collection of Reimbursable Costs for Processing Special-Use Applications and Administration of Special-Use Authorizations
490	Appeal of Decisions Relating to Occupancy and Use of National Forest System Lands
491	Sale and Disposal of National Forest System Timber; Extension of Timber Sale Contracts To Permit Urgent Removal of Other Timber
509	Sale and Disposal of National Forest Timber; Market-Related Contract Term Additions
515	Direct Business and Industry Direct Loan Program
518	Rural Business Enterprise Grants and Television Demonstration Grants
521	Affirmative Fair Housing Marketing Plan
522	Business and Industry Guaranteed Loan Program–Financing Cooperative Stock
545	RUS Approval of Additions and Extensions to Electric Plants
	DOC
589	Administration of State Log Exports Ban
634	Amendment to the Observer Program
637	Regulatory Amendment To Extend California Gillnet Regulations to the EEZ
642	Regulatory Amendment To Establish a Program for the Collection and Use of Fees in the Individual Fishing Quota Program
648	Fisheries Obligation Guarantee Program–Statutory Amendments To Establish "Central Title and Lien Registry for Limited Access Permits"
651	Amendment 9 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic
652	Rulemaking To Establish the North Pacific Loan Program
655	FMP Amendments for the Groundfish Fishery of the Bering Sea and Aleutian Islands and for the Groundfish of the Gulf of Alaska
665	Modification of Harvest Guideline System for Hawaiian Lobster Fishery
670	Fishing Capacity Reduction Program
673	Regulatory Amendment To Initiate Control for the Harvest of Bottomfish in the Exclusive Economic Zone Around the Main Hawaiian Islands
681	Amend the Bluefin Statistical Document To Allow for the Attachment of Re-export Certificates
682	Regulatory Amendment to Change the Limited Entry, Sablefish Fishery Season Structure Fixed Gear
687	Amendment 45 to the Fishery Management Plan for the Bering Sea and Aleutian Islands Area
702	Implementation of Amendment 8 to the Northern Anchovy Fishery Management Plan
704	Regulatory Amendment To Allow "Stacking" of Multiple Limited Entry Permits in the Pacific Coast Groundfish Fisheries
705	Amendment 14 to the Pacific Coast Salmon Plan
711	Regulatory Amendment To Allocate Certain Groundfish Species Between the Trawl and Fixed Gear Commercial Groundfish Fisheries
724	Sea Turtle Monitoring and Conservation Measures for Nonshrimp Fisheries
725	Taking and Importing of Marine Mammals: Tuna Purse Seine Vessel Observer Expenses
757	Interim Rule To Certify Three Bycatch Reduction Devices (BRDs) Under Amendment 9 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico

Small Businesses—Cont.

Seq. No.	Title
758	Interim Rule To Require Shrimp Trawl Vessel Observers, Logbooks, and Monitoring Systems in the Exclusive Economic Zone of the Gulf of Mexico
763	1999-2000 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California
764	Regulatory Amendment To Implement a Limited Access Program That Requires Species Endorsements To Participate in Fisheries Targeting Certain Groundfish Species
765	Regulatory Amendment To Allow Limited Entry Trawlers To Retain Groundfish Taken In Excess of Cumulative Trip Limits
766	Regulatory Amendment To Allocate Lingcod and Bocaccio Rockfish Between Commercial and Recreational Groundfish Fisheries
779	Draft Policies for Safe Harbor and Candidate Species Conservation (CCA) Agreements
788	Regulatory Amendment To Implement Permit, Reporting, and Recordkeeping Requirements for Processing Vessels Over 125 Feet and Their Catcher Vessels: Pacific Coast Groundfish
792	Amendment 10 to the Pacific Coast Groundfish FMP Regarding Salmon Bycatch in Groundfish Trawl
793	Regulatory Amendment To Implement Bycatch Reduction Measures
798	Regulatory Amendment To Implement Observer Requirements for Processing Vessels Over 125 Feet: Pacific Coast Groundfish
799	Observer Funding Policy
800	Regulatory Amendment To Fund Purchase of Limited Entry Trawl Permits To Reduce Excess Capacity in Pacific Coast Groundfish Fleet
803	Proposed Rule To Require Certain Fish From Mexico To Retain Heads and Tails Intact in Order To Protect the Endangered Totoaba
807	Final Rule To Amend Marine Mammal Regulations To Authorize Incidental Takings of Marine Mammals by Harassment as Authorized by Public Law 103-238
809	Shrimp Vessel Registration Requirement
810	Sea Turtle Conservation; Shrimp Trawling Requirements
817	Amendment 8 to the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP)
820	Amendment 9 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico
824	Regulatory Amendment To Establish Total Allowable Catch Limits for the Atlantic and Gulf of Mexico Groups of King and Spanish Mackerel for the 1997-98 Fishing Year
826	Regulatory Amendment To Restrict Frequency of Limited Entry Permit Transfers and Require the Sorting of Catch by Species and the Retention of Fish Tickets
845	1998-1999 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California
846	Regulatory Amendment To Implement 1998 Nontrawl Sablefish Harvest Regime
852	Implementation of Amendment 3 to Fishery Management Plan for Precious Corals Fisheries of Western Pacific Region
861	Establish Rules To Compensate Pacific Coast Groundfish Fishermen for Assistance in Resources Assessments
872	Halibut and Sablefish Quota-Share Loan Program
873	Establishment of Bank/Area-Specific Harvest Guidelines for the 1998 Northwestern Hawaiian Islands Lobster Fishery
	DOD
916	Implementation of the Wildfire Suppression Aircraft Transfer Act of 1996 (Pub. L. 104-307)
919	DLA Acquisition Regulation; Small Business and Small Disadvantaged Business Concerns
	HHS
22	Hearing Aids; Professional and Patient Labeling; Conditions for Sale
23	Labeling for Human Prescription Drugs; Revised Format
24	Current Good Manufacturing Practices for Blood and Blood Components: Notification of Consignees Receiving Blood and Blood Components at Increased Risk for Transmitting HCV Infection
25	Fruit and Vegetable Juices: Development of HACCP and Label Warning Statements for Juices
26	Over-the-Counter Human Drugs; Labeling Requirements
27	Establishment Registration and Listing of Human Cellular and Tissue-Based Products
1163	Registration of Foreign Establishments and Product Listing
1167	Suitability Determination for Donors of Human Cellular and Tissue-Based Products
1168	Current Good Tissue Practice for Manufacturers of Human Cellular and Tissue-Based Products
1186	Food Labeling: Trans Fatty Acids in Nutrition Labeling and Nutrient Content Claims
1194	New Animal Drug Approval Process; Implementation of Title I of the Generic Animal Drug and Patent Term Restoration Act (GADPTRA)
1195	Prescription Drug Marketing Act of 1987; Policy Information, Guidance, and Clarifications
1196	Biological Products: Reporting of Errors and Accidents in Manufacturing
1197	Tamper-Evident Packaging Requirements for Over-the-Counter Human Drug Products
1198	Prescription Drug Product Labeling; Medication Guide
1200	Current Good Manufacturing Practice; Amendment of Certain Requirements for Finished Pharmaceuticals
1211	Regulations Requiring Manufacturers To Assess the Safety and Effectiveness of New Drugs and Biological Products in Pediatric Patients
1222	Infant Formula: Good Manufacturing Practice, Quality Control Procedures, Quality Factors, Notification Requirements, and Records and Reports
1223	Food Labeling Review
1224	Medical Foods
1228	Reinventing FDA Food Regulations
1229	Dietary Supplement Regulations in Response to DSHEA
1240	Reinvention of Administrative Procedures Regulations
1271	Public Health Service Standards for the Protection of Research Misconduct Whistleblowers
1274	Liability for Third Parties To Pay for Care and Services (MB-080-P)
1277	Supplier Participation Agreements and Limits on Actual Charges of Nonparticipating Physicians (HCFA-1862-P)
1280	Disclosure of Peer Review Organization Information in Response to Beneficiary Complaints (HCFA-3241-P)
1281	Medicaid Program; Amendment to the Preadmission Screening and Annual Resident Review Program (HCFA-2107-P)
1290	Omnibus Nursing Home Reform Requirements (HCFA-3488-F)
1303	CLIA Program: Categorization of Waived Tests (HCFA-2225-FC)
1306	CLIA Program: Cytology Proficiency Testing (HCFA-2233-N)
1309	Changes to the Hospital Inpatient Prospective Payment System and Fiscal Year 1998 Rates (HCFA-1878-F)
1310	Utilization Control and Discontinued Review Activities; Medicaid (MB-101-FC)
1319	Health Insurance Reform: Parity in the Application of Certain Limits to Mental Health Benefits (HCFA-2891-IFC)
1324	GME: Incentive Payments Under Plans for Voluntary Reduction in Number of Residents (HCFA-1001-IFC)
1327	Medicare Program: Payments for Teleconsultations in Rural Health Professional Shortage Areas (HCFA-1906-F)
1351	Alternative Sanctions for Psychiatric Hospitals (HCFA-2191-P)
1356	Rural Health Clinics: Amendments to Participation Requirements and Payment Provisions and Establishment of a Quality Assessment and Performance Improvement Program (HCFA-1910-P)
1360	Revision of Medicare/Medicaid Hospital Conditions of Participation (HCFA-3745-F)
1361	Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships–Expanded to Designated Health Services (HCFA-1809-F)
1367	Definition of Skilled Nursing Facility (SNF) for Coverage of Durable Medical Equipment (DME) and Home Health (HCFA-1834-P)
1381	Waiver of Staffing Requirements for End Stage Renal Disease (ESRD) Facilities Participating in an Experiment (HCFA-2236-GNC)
1382	Provider and Supplier Enrollment Periodic Renewal of Eligibility Requirements (HCFA-1023-P)
1383	Update of Ratesetting Methodology, Payment Rates and the List of Covered Surgical Procedures for Ambulatory Surgical Centers Effective for Calendar Year 1998 (HCFA-1885-P)
1384	Revisions to Conditions for Coverage for Ambulatory Surgical Centers (HCFA-3887-P)
1386	Medicaid Program; Coverage and Payment for Federally Qualified Health Center Services (HCFA-2043-P)
1392	Medicaid: Medical Child Support (HCFA-2081-P)

Small Businesses—Cont.

Seq. No.	Title
1395	Children's Health Insurance: Program Implementations; State Plan Approval; State Payment; Coordination With State Medicaid Program (HCFA-2006-P)
1400	Surety Bond Requirements for Comprehensive Outpatient Rehab. Facilities, Rehab. Agencies, Community Mental Health Centers, and Independent Diagnostic Testing Facilities (HCFA-1026-P)
1414	Medicare Program; Advertising Costs (HCFA-1880-P)
1446	Medicare Program: Update of Ambulatory Surgical Center Payment Rates Effective for Services On or Before October 1, 1997 (HCFA-1897-N)
1479	Grants for State and Community Programs on Aging, Intrastate Funding Formulas; Training, Research and Discretionary Programs; Vulnerable Elder Rights; and Grants to Indians & Native Hawaiians
	HUD
1570	Public Housing Development Regulations (FR-3569)
	DOI
46	Valuation of Oil From Federal Mineral Leases
47	Valuation of Oil From Indian Leases
1596	Migratory Bird Hunting; Nontoxic Shot; Approval of Tin Shot as Nontoxic for Waterfowl and Coot Shooting
1597	Migratory Bird Hunting; Nontoxic Shot; Approval of Molyshot as Nontoxic for Waterfowl and Coot Hunting
1599	Migratory Bird Hunting; Reduction of the Mid-Continent Lesser Snow Goose Population
1626	Migratory Bird Permits; Federal Falconry Standards; Determination That Vermont and West Virginia Meet or Exceed Federal Falconry Standards
1643	Export of American Ginseng Harvested in 1994-1996
1652	Revision of Migratory Bird Hunting Regulations, 50 CFR Part 20
1664	Reclassification of Yacare Caiman From Endangered to Threatened With Special Rule
1676	Proposed Approval of Selected State Programs Allowing the Export of Ginseng Harvested in 1997-1999
1677	Proposed Special Rule With the Reclassification of the Vicuna From Endangered to Threatened
1680	Announcement of CITES Action Concerning Changes to Appendices to Listed Species; Service Announcement Concerning Reservations
1712	Eagle Permits; Permits for Falconry Purposes; Permits To Take Golden Eagle Nests
1713	Migratory Bird Permits; Specific Permit Provisions; Import and Export Permits; Banding or Marking Permits; and Scientific Collecting Permits
1714	Migratory Bird Permits; Introduction, General Requirements and Exceptions
1739	Standards for the Humane and Healthful Transport of Wild Reptiles and Amphibians to the United States
1751	Migratory Bird Hunting; Proposed 1997-98 Migratory Game Bird Hunting Regulations (Preliminary) With Requests for Indian Tribal Proposals
1820	Refunds and Recoupment of Overpayments on OCS
1821	Takes vs. Entitlements Reporting
1822	Accounting Relief for Marginal Properties
1824	Chronic Erroneous Reporting
1834	Valuation of Gas From Indian Leases
1838	Electronic Reporting
1840	Credit Adjustments
1845	Suspension of Orders or Decisions Pending Appeal To Allow for Self-Bonding Based Upon Financial Solvency
1863	Recovering the Value of Rights of Use and Related Administrative Costs
1865	Central Valley Project of California – Purposes, Uses, and Allocation of Water Supplies
1894	Location of Mining Claims; Assessment Work; Public Law 359 - Mining in Powersite Withdrawals
	DOJ
53	Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements **(Section 610 Review)**
1952	Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities
1993	Filing Factual Statements About Alien Prostitutes
2066	Nonimmigrant Classes; Diplomat and Government Representatives; Transits; Requirements for Admission, Extension and Maintenance of Status
2074	Examinations Fee Account Schedule
2080	Implementation of Sections 104 and 109 of the Communications Assistance for Law Enforcement Act
2082	Foreign Agents Registration Act; Regulations Revised and Clarified To Reflect Changes in the Law
2103	Bullet Proof Vest Partnership Grant Act of 1998
2104	Private Sector/Prison Industry Enhancement Certification
	DOL
56	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H)
67	Occupational Exposure to Coal Mine Dust (Lowering Exposure Limit)
68	Diesel Particulate (Underground Coal)
69	X-Ray Surveillance Program for Surface Coal Miners
70	Diesel Particulate (Underground Metal and Nonmetal Mines)
71	Verification of Dust Control Plan
72	Noise Standard
75	Steel Erection (Part 1926) (Safety Protection for Ironworkers)
76	Prevention of Work-Related Musculoskeletal Disorders
77	Safety and Health Programs (for General Industry and the Maritime Industries)
78	Occupational Exposure to Tuberculosis
81	Requirement To Pay for Personal Protective Equipment
82	Recording and Reporting Occupational Injuries and Illnesses (Simplified Injury/Illness Recordkeeping Requirements)
2106	Equal Access to Justice Act
2161	Limitation of Liability for Insurers and Others Under Part 4 of Title I of Erisa and Section 4975 of the Internal Revenue Code
2172	Training and Retraining of Miners
2174	Air Quality, Chemical Substances, and Respiratory Protection Standards
2176	Belt Entry Use As Intake Aircourses To Ventilate Working Sections
2177	Metal/Nonmetal Impoundments
2178	Surface Haulage
2179	Safety Standards for the Use of Roof-Bolting Machines
2180	Safety Standard Revisions for Underground Anthracite Mines
2181	Electrical Standards for Metal and Nonmetal Mines
2182	Self-Contained Self-Rescue Devices in Underground Metal and Nonmetal Mines
2186	Training and Retraining of Miners: Supervisor Training
2187	Hazard Communication
2189	Longwall Equipment (Including High-Voltage)
2190	Independent Laboratory Testing
2191	Requirements for Approval of Flame-Resistant Conveyor Belts
2192	Improving and Eliminating Regulations
2193	Safety Standards for Underground Coal Mine Ventilation
2194	Confined Spaces
2195	Carbon Monoxide Monitor Approval
2197	Respirable Crystalline Silica Standard
2198	Coal Mine Dust
2199	Safety Standards for Roof Bolts in Metal and Nonmetal Mines and Underground Coal Mines
2200	Criteria and Procedures for Proposed Assessment of Civil Penalties
2201	Observation of Operator Noise Monitoring
2202	Experienced Miner and Supervisor Training
2203	Safety Standards for Reporting Daily Inspections of Surface Coal Mines
2209	Department of Labor Acquisition Regulation
	DOT
86	Flight Crewmember Duty Period Limitations, Flight Time Limitations, and Rest Requirements
87	Terrain Awareness and Warning System (TAWS)
88	Hours of Service of Drivers **(Section 610 Review)**
93	Requirements for Cylinders **(Section 610 Review)**
2278	Fees and Charges for Special Services: Reinvention
2279	Update of Drug and Alcohol Procedural Rules **(Section 610 Review)**
2302	Policy Statement on Airline Preemption
2308	Domestic Passenger Manifest Information
2312	Transportation for Individuals With Disabilities (Over the Road Buses)
2333	Coast Guard Vessel Inspection User Fees (CGD 96-067)
2386	Procedures for Protests and Contract Disputes; Amendment of Equal Access to Justice Act Regulations
2393	Screening of Checked Baggage on Flights Within the United States
2406	Retrofit of Improved Seats in Air Carrier Transport Category Airplanes
2428	Air Tour Operations in the State of Hawaii

Small Businesses—Cont.

Seq. No.	Title
2454	Revised Standards for Cargo or Baggage Compartments in Transport Category Airplanes
2497	Federal Motor Carrier Safety Regulations; Hours-of-Service and CDL Exemptions
2511	Federal Motor Carrier Safety Regulations; General; Motor Vehicle Marking
2517	Railroad Highway Projects
2535	Hours of Service of Drivers; Supporting Document Recordkeeping
2537	Transportation of Migrant Workers
2591	Definition of Community Transportation Vehicles
2611	Uniform Child Anchorages
2639	Certification Requirements of Multistage Vehicles
2685	Hours of Service Electronic Recordkeeping Project
2698	Freight Car Safety Standards: Maintenance-of-Way Equipment
2705	Small Railroads; Policy Statement on Enforcement Program
2708	Bridge Worker Safety Standards
2712	Protection of Utility Employees
2714	Track Safety Standards
2717	Railroad Communications
	TREAS
95	Revision of Brewery Regulations and Issuance of Regulations for Taverns on Brewery Premises (Brewpubs)
96	Commerce in Explosives (Including Explosives in the Fireworks Industry)
2837	Distilled Spirits Plant Regulatory Initiative Proposal
2847	Commerce in Explosives
2937	Accounting for Long-Term Contracts
2950	Electing Small Business Trust
2961	Middleman Regulation Under Sections 6041 and 6045
2964	Taxpayer Relief Act of 1997 TEFRA Changes
2966	Electronic Fund Transfers of Federal Deposits
2970	Retention of Paid Preparers' Signatures
2972	Passthrough of Items to Shareholders
2996	Averaging of Farm Income
2997	Averaging of Farm Income
3021	Section 467 Rental Agreements
3039	Electronic Funds Transfers of Federal Deposits
3042	Definition of Reasonable Basis
3048	Start-Up Expenditures
3053	Tax Attribute Reduction
3057	Deposits of Excise Taxes
3063	Kerosene Tax; Aviation Fuel Tax; Tax on Heavy Trucks and Trailers
3090	Definition of "Highly Compensated Employee"
3113	Allocation of Loss on Disposition of Stock
3115	Proposed Regulation Under Sections 882 and 884
3130	Guidance Under Subpart F Relating to Partnerships
3134	Mark-to-Market Method of Accounting Under Section 988
3140	S Corporation Subsidiaries
3148	Consolidated Alternative Minimum Tax
3155	Diesel Fuel Excise Tax; Dye Injection Systems and Markers
3162	Federal Employment Tax Deposits De Minimis Rule
3168	Amortization-Goodwill Intangibles 197
3193	Rules for a QBU Changing From the Profit-and-Loss Method to DASTM
3194	Change From the Dollar Approximate Separate Transactions Method (DASTM) to the Profit-and-Loss Method of Accounting
3199	Electing Large Partnership Items and Adjustments
3200	Electing Large Partnership Items and Adjustments
3201	Federal Employment Tax Deposits–De Minimis Rule
3208	Election Not To Apply Look-Back Method to Qualified Long-Term Contracts
3209	Kerosene Tax; Aviation Fuel Tax; Tax on Heavy Trucks and Trailers
3210	Management Official Interlocks
3211	Capital Rules
3212	Application Processing
3213	Know Your Customer
3214	Types of Offices
3215	Directors and Officers
3216	Assessments
3217	Letters of Credit, Suretyship and Guaranty
3218	Non-Deposit Investment Products
3219	Nondiscrimination
3220	Conversions
3221	Due on Sale and Usury Preemption
3222	Exempt Savings and Loan Holding Companies
3223	Consumer Credit Classified as a Loss, Slow Consumer Credit and Slow Loans
3224	Capital Distributions
3225	Electronic Operations
3226	Financial Management Policies; Derivative Instruments
3227	Year 2000 Safety and Soundness Guidelines
3228	Agency Disapproval of Directors and Senior Executive Officers
3229	Disclosures for Adjustable-rate Mortgage Loans, Adjustment Notices, and Interest-rate Caps
3230	Transactions With Affiliates; Reverse Repurchase Agreements
3231	Charter and Bylaws: One Member, One Vote
	VA
3244	New Eligibility Criteria for the Montgomery GI Bill – Active Duty, Other Miscellaneous Issues
3245	New Criteria for Approval of Courses for Educational Assistance Programs
3246	Veterans Education: Reporting and Recordkeeping Requirements at Flight Schools
3278	Reservist Education: Monthly Verification of Enrollment and Other Reports
3280	Amended Criteria for Approval of Flight Training Courses
3336	Veterans Education; Suspension and Discontinuance of Payments
	ATBCB
3358	Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Recreation Facilities
3361	Americans With Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Play Areas
3366	Americans with Disabilities Act (ADA) Accessibility Guidelines for Transportation Vehicles: Over-the-Road Buses
	EPA
116	TRI; Addition of Oil and Gas Exploration and Production to the Toxic Release Inventory
123	National Primary Drinking Water Regulations: Radon
124	National Primary Drinking Water Regulations: Ground Water Rule
129	VOC Regulation for Architectural Coatings
133	Ground Water and Pesticide Management Plan
134	Lead; TSCA Section 403; Identification of Dangerous Levels of Lead
137	Effluent Guidelines and Standards for the Industrial Laundries Point Source Category
140	National Primary Drinking Water Regulations: Stage I Disinfectant/Disinfection By-Products Rule
3430	Federal Implementation Plans To Reduce the Regional Transport of Ozone in the Eastern United States; Proposed Rules
3431	Findings of Significant Contribution and Rulemaking on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport
3482	Revision to the Light-Duty Vehicle Emission Compliance Procedure
3605	Control of Emissions of Air Pollution From New Marine Diesel Engines at or Above 37 Kilowatts
3635	WPS; Pesticide Worker Protection Standards; Pesticide Hazard Communication
3652	Asbestos Model Accreditation Plan Revisions
3654	Lead-Based Paint Activities Rules; Training, Accreditation, and Certification Rule and Model State Plan Rule
3655	Lead; TSCA Requirements for the Disposal of Lead-Based Paint Debris
3686	Lead; Regulatory Investigation Under the Toxic Substances Control Act (TSCA) To Reduce Lead (Pb) Consumption and Use
3789	Effluent Limitations, Guidelines, and Standards for the Feedlots Point Source Category, Swine and Poultry Subcategories, and NPDES Regulation for Concentrated Animal Feeding Operations
3795	Effluent Guidelines and Standards for the Transportation Equipment Cleaning Category
3820	Management of Class V Injection Wells Under Part C of the Safe Drinking Water Act
	EEOC
3839	Availability of Records
3840	Procedures–The Age Discrimination in Employment Act
	GSA
3880	Reissuance of the General Services Administration Acquisition Regulation (GSAR)
3894	Enforcement of Nondiscrimination on the Basis of Handicap In Federally Assisted Programs

Small Businesses—Cont.

Seq. No.	Title
	NASA
3929	Contracting and Subcontracting Policies and Procedures To Achieve Goals for Small Disadvantaged Businesses
	NARA
3949	NARA Federal Acquisition Regulation Supplement; Drug and Alcohol-Free Work Force
	OMB
3986	Subcontracting Plans
	SBA
4139	Surety Bond Guarantee
4141	Amendment to SBA's Regulations Regarding Administrative Offset
4142	Microloan Grants for Welfare-to-Work Initiative
4144	Contract Bundling Procurement Strategy
4146	Small Business Size Standards; Health Care Industries
4147	Small Business Size Standards; North American Industry Classification System
4148	SBIC Program Reform
4149	PLP Lenders' Responsibilities for Servicing and Liquidating Loans
4150	Servicing of Guaranteed Loans
4152	Business Loan Policy: Unguaranteed Portions of Loans, Securitization, Sales, and Pledges
4153	Small Business Size Standards; Engineering Services, Architectural Services, and Surveying and Mapping Services
4154	Revisions to 504 Program Regulations
4156	Small Business Size Standards for Natural Gas Distribution
4157	8(a) Business Development/Small Disadvantaged Business Status Determinations
4158	Revisions to the Disaster Loan Program
4159	Disaster Loan Program (Loan Increases)
4160	Disaster Loan Program (Assistance to Non-Agricultural Portions of Businesses)
4161	Small Business Regulations and Government Contracting Assistance Regulations; Very Small Business Concerns
4162	HUBZone Program
4163	Small Business Size Regulation 8(a) Business Development/Small Disadvantaged Business Status Determinations; Rules of Procedure Governing Cases Before the Office of Hearings and Appeals
	FAR
4243	FAR Case 89-093, Implementation of the Anti-Lobbying Statute
4244	FAR Case 91-078, Small Business Subcontracting Reporting
4246	FAR Case 91-118, Payment by Electronic Fund Transfer
4248	FAR Case 96-308, Implementation of Commercially Available Off-the-Shelf Item Acquisition Provisions of the Federal Acquisition Reform Act
4249	FAR Case 96-011, No-Cost Value Engineering Change Proposals
4250	FAR Case 97-603, Empowerment Contracting
4251	FAR Cases 97-004A and 97-004B, Reform of Affirmative Action in Federal Procurement
4260	FAR Case 96-018, Use of Brand Name Item Descriptions
4262	FAR Case 97-027, Mandatory Government Source Inspection
	CFTC
4283	Requests for Exemptive, No-Action and Interpretative Letters
	FCC
4323	Cable Television Rate Regulation
4324	Cable Television Rate Regulation: Cost of Service
4325	Customer Service Standards
4326	Cable Home Wiring
4328	Closed Captioning
4329	Cable Act Reform
4331	Implementation of Section 551 of the Telecommunications Act of 1996, Parental Choice in Television Programming
4332	Telecommunications Act of 1996, Pole Attachment Provisions
4334	Small Systems
4338	In the Matter of Billed Party Preference for 0+ InterLATA Calls
4339	Implementation of the Universal Service Portions of the 1996 Telecommunications Act
4344	Policies and Rules Governing Interstate Pay-Per-Call and Other Information Services Pursuant to the Telecommunications Act of 1996
4348	Implementation of the Subscriber Selection Changes Provision of the Telecommunications Act of 1996
4349	Implementation of Section 402(b)(1)(a) of the Telecommunications Act of 1996 (LEC Tariff Streamlining Provisions)
4352	Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order
4353	Enhanced 911 Services for Wireline
4356	In the Matter of Inside Wire, Third Report and Order
4357	Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996 (Second Report and Order)
4358	Amendment of Rules Governing Procedures To Be Followed When Formal Complaints Are Filed Against Common Carriers
4360	Notice of Proposed Rulemaking Regarding Detariffing of Interstate Exchange Access Services for Non-Incumbent Local Exchange Carriers
4368	Access Charge Reform for Rate-Of-Return Local Exchange Carriers
4370	Elimination of Part 41: Telegraph and Telephone Franks
4374	In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Alert System
4375	In the Matter of the Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules To Incorporate the Forfeiture Guidelines
4377	Amendment of Part 2, Subpart K of the FCC's Rules Regarding the Importation of Radio Frequency Devices Capable of Causing Harmful Interference
4378	Revision of Marketing and Authorization Process
4379	RF Exposure Standard
4380	Cable System Compatibility With TV Receivers and VCRs
4381	Wind Profiler Radar Systems
4382	Millimeter Wave Spectrum Allocation
4383	Digital Equipment Deregulation
4384	MSS Spectrum Allocation
4385	Arecibo Coordination Zone
4386	Medical Care Telemetry Devices
4387	Unlicensed NII at 5 GHz
4389	Reallocation of TV Channels 60-69
4390	Streamline the Equipment Authorization Process
4392	V-Chip Technical Requirements
4394	Regulations for RF Lighting Devices
4395	Equipment Authorization Streamline II/Mutual Recognition Agreements and the GMPCS MOU
4396	Uniden Scanners/Cellular Radio Signals
4397	Standards for ISM Equipment
4398	Spread Spectrum Rules
4400	Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures
4401	Satellite Communications – NGO MSS
4402	Establishing Rules and Policies for the Use of Spectrum for Mobile Satellite Service in the L-Band
4406	Amendment of Policy To Allow Non-U.S. Licensed Space Stations To Provide Service in the United States
4409	Advanced Television Service (MM Docket 87-268)
4410	Transfer of Control of Non-Stock Entities MM Docket 89-77
4411	Local Television Ownership Rule (MM Docket No. 91-221)
4412	Filing of Television Network Affiliation Contracts (MM Docket No. 95-40)
4413	Rules Governing Broadcast Television Advertising (MM Docket No. 95-90)
4414	Attribution of Broadcast Interests (MM Docket Nos. 94-150, 92-51, 87-154)
4415	EEO Streamlining Proposals (MMB Docket No. 96-16)
4416	Minor Modifications of Broadcast Licenses Without Prior Construction Permit
4417	Newspaper/Broadcast Cross-Ownership
4418	National Television Ownership Rules (MM Docket Nos. 96-222, 91-221, 87-8)
4419	Main Studio/Public File Requirements for Broadcasters (MMB Docket 97-138)
4420	Competitive Bidding for Broadcast Services
4421	1998 Biennial Review of Broadcast Ownership
4422	1998 Biennial Review-Streamlining of Mass Media Applications, Rules, and Processes
4424	Assessment and Collection of Regulatory Fees for FY 1998
4425	Assessment and Collection of Regulatory Fees for FY 1999
4426	Amendment to Part 27 of the FCC's Rules To Revise Rules for Services in the 2.3GHz Band and To Include Licensing of Services in the 47 Ghz Band
4427	Amendment of Part 80 of the Commission's Rules Concerning VHF Maritime Operations
4428	Rulemaking to Amend Part 1 and Part 21 to Redesignate the 27.5-29.5 GHz Band and To Establish Rules and Policies for Local Multi-Point Distribution Service
4429	Refarming
4430	Future Development of 800 MHz SMR; Competitive Bidding Wide Area
4431	Interconnection Obligations Pertaining to Commercial Mobile Radio Services

Small Businesses—Cont.

Seq. No.	Title
4432	Implementation of Section 309(j) of the Communications Act, Competitive Bidding; Narrowband PCS Competitive Bidding Rules
4433	Implementation of Section 309(j) of the Communications Act, Competitive Bidding; IVDS Competitive Bidding Rules
4434	39 GHz Channel Plan
4435	Implementation of Section 309(j) of the Communications Act, Competitive Bidding Broadband PCS F Block Rules
4436	Amendment of Part 90 of the FCC's Rules To Provide for the Use of the 220-222 MHz Band
4437	Revision of the Commission's Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems
4439	Implementation of Section 225 of the Telecommunications Act of 1996; Access to Telecommunication Services and Equipment, and Customer Premise Equipment, for Persons With Disabilities
4440	Development of Operational, Technical, and Spectrum Requirements for Public Safety Communications Requirements
4441	Multiple Access Systems
4442	Amendment of Part I of the Commission's Rules—Competitive Bidding Procedures
4443	Amendment of the Commission's Rules Regarding Installment Payment Financing Payment for Personal Communications Services (PCS) Licensees
	FRS
4529	Regulation: H – Membership of State Banking Institutions in the Federal Reserve System (Docket Number: R-0964)
4533	Regulation: DD – Truth in Savings (Docket Numbers: R-0836 and R-0869)
	FTC
4550	Rules and Regulations Under the Hobby Protection Act **(Section 610 Review)**
	NRC
175	Revision of Fee Schedules; 100 Percent Fee Recovery, FY 1999
4582	Domestic Licensing of Special Nuclear Material – Revision
4583	Nuclear Regulatory Commission Acquisition Regulation
4588	Expand Applicability To Include Certificate Holders and Applicants and Their Contractors and Subcontractors
4601	Requirements for Possession of Industrial Devices Containing Byproduct Material
4625	Submittal Procedures for Documents
4633	Self-Guarantee of Decommissioning Funding by Non-Profit and Non-Bond Issuing Licensees
4638	Revision of Fee Schedules; 100 Percent Fee Recovery, FY 1998
	SEC
4646	Company Registration and Regulation of Capital Formation
4648	Regulation of Extraordinary Corporate Transactions
4649	Definitions for Purposes of the Private Litigation Reform Act of 1995
4650	Definition of "Qualified Purchaser"
4652	Streamlining Rule 144
4653	Rule 504 of Regulation D
4654	Conforming Segment Reporting With Generally Accepted Accounting Principles
4657	Delayed Pricing for Companies Not Eligible for Form S-3
4658	Increase in Dollar Amounts in Rule 701, the Exemption for Offers and Sales by Certain Compensatory Benefit Plans
4659	Amendments to the Shareholder Proposal Rule
4660	Plain Vanilla Treatment of Election Contest Proxies/Shareholder Communications
4680	Investment Company Names
4681	Requirements Relating to Codes of Ethics With Respect to Registered Investment Companies; Records To Be Maintained by Investment Advisers
4682	Delivery of Disclosure Documents to Households
4686	Unit Investment Trusts: Simplification of Registration Statements
4687	Performance Advertising by Unit Investment Trusts
4690	Exemption for Investment Advisers Operating in Multiple States; Revisions to Rules Implementing Amendments to the Investment Advisers Act of 1940; Colorado and Iowa Investment Advisers
4691	Exemption From the Compensation Prohibition of Section 205(a)(1) for Investment Advisers
4708	Net Capital Requirements for Brokers or Dealers
4711	Proposed Amendments to Transfer Agent Rules
4719	Reports To Be Made by Certain Brokers and Dealers
4722	Amendment to Form BDW and Amendment to Exchange Act Rule 15b6-1 and Amendments to Rules 15b1-1, 15b3-1, 15Ba2-2, 15Ca1-1, and 15Ca2-1

Small Governmental Jurisdictions

Seq. No.	Title
	USDA
257	Loans to Indian Tribes and Tribal Corporations
325	National Flood Insurance Regulations
515	Direct Business and Industry Direct Loan Program
518	Rural Business Enterprise Grants and Television Demonstration Grants
541	Community Facility Loans – Timber-Dependent Communities
542	Solid Waste Management Grants
543	Technical Assistance and Training Grants
	DOC
705	Amendment 14 to the Pacific Coast Salmon Plan
779	Draft Policies for Safe Harbor and Candidate Species Conservation (CCA) Agreements
807	Final Rule To Amend Marine Mammal Regulations To Authorize Incidental Takings of Marine Mammals by Harassment as Authorized by Public Law 103-238
	DOD
916	Implementation of the Wildfire Suppression Aircraft Transfer Act of 1996 (Pub. L. 104-307)
	HHS
1142	Block Grants for Prevention and Treatment of Substance Abuse
1240	Reinvention of Administrative Procedures Regulations
1271	Public Health Service Standards for the Protection of Research Misconduct Whistleblowers
1281	Medicaid Program; Amendment to the Preadmission Screening and Annual Resident Review Program (HCFA-2107-P)
1319	Health Insurance Reform: Parity in the Application of Certain Limits to Mental Health Benefits (HCFA-2891-IFC)
1325	Medicare+Choice Program; Regulatory Program to Implement Certain Medicare Provisions of the Balanced Budget Act of 1997 (HCFA-1030-F)
1378	Medicaid Hospice Care (HCFA-2016-P)
1386	Medicaid Program; Coverage and Payment for Federally Qualified Health Center Services (HCFA-2043-P)
1392	Medicaid: Medical Child Support (HCFA-2081-P)
1395	Children's Health Insurance: Program Implementations; State Plan Approval; State Payment; Coordination With State Medicaid Program (HCFA-2006-P)
1399	Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities. (HCFA-1913-IFC)
1479	Grants for State and Community Programs on Aging, Intrastate Funding Formulas; Training, Research and Discretionary Programs; Vulnerable Elder Rights; and Grants to Indians & Native Hawaiians
	HUD
1575	Section 8 Rental Voucher and Certificate Programs—Section 8 Management Assessment Program (SEMAP) (FR-3986)
	DOI
45	Tribal Self-Governance
46	Valuation of Oil From Federal Mineral Leases
47	Valuation of Oil From Indian Leases
1596	Migratory Bird Hunting; Nontoxic Shot; Approval of Tin Shot as Nontoxic for Waterfowl and Coot Shooting
1597	Migratory Bird Hunting; Nontoxic Shot; Approval of Molyshot as Nontoxic for Waterfowl and Coot Hunting
1599	Migratory Bird Hunting; Reduction of the Mid-Continent Lesser Snow Goose Population
1626	Migratory Bird Permits; Federal Falconry Standards; Determination That Vermont and West Virginia Meet or Exceed Federal Falconry Standards
1676	Proposed Approval of Selected State Programs Allowing the Export of Ginseng Harvested in 1997-1999

Small Governmental Jurisdictions—Cont.

Seq. No.	Title
1680	Announcement of CITES Action Concerning Changes to Appendices to Listed Species; Service Announcement Concerning Reservations
1681	Revisions to the Federal Aid Administrative Requirements
1712	Eagle Permits; Permits for Falconry Purposes; Permits To Take Golden Eagle Nests
1713	Migratory Bird Permits; Specific Permit Provisions; Import and Export Permits; Banding or Marking Permits; and Scientific Collecting Permits
1714	Migratory Bird Permits; Introduction, General Requirements and Exceptions
1845	Suspension of Orders or Decisions Pending Appeal To Allow for Self-Bonding Based Upon Financial Solvency
1865	Central Valley Project of California – Purposes, Uses, and Allocation of Water Supplies
	DOJ
53	Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements **(Section 610 Review)**
2033	Petitioning Requirements for the H Nonimmigrant Classification
2071	Effect of Parole of Cuban and Haitian Nationals on Resettlement Assistance Eligibility
2095	Violent Crime and Drug Emergency Areas
	DOL
56	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H)
76	Prevention of Work-Related Musculoskeletal Disorders
78	Occupational Exposure to Tuberculosis
2133	Disaster Unemployment Assistance Program, Amendment to Regulations
2172	Training and Retraining of Miners
2186	Training and Retraining of Miners: Supervisor Training
	STATE
2268	Establishing of Registry in State Department for Information About Execution of International Wills
	DOT
88	Hours of Service of Drivers **(Section 610 Review)**
2279	Update of Drug and Alcohol Procedural Rules **(Section 610 Review)**
2302	Policy Statement on Airline Preemption
2333	Coast Guard Vessel Inspection User Fees (CGD 96-067)
2488	Department of Transportation (FHWA and FTA) NEPA and Related Procedures for Transportation Decisionmaking
2517	Railroad Highway Projects
2689	Environmental Impact and Related Procedures (FRA, FTA, FHWA)
2721	Department of Transportation (FTA, FHWA, FRA, and USCG) and Related Procedures for Transportation Decisionmaking
	TREAS
2965	Electronic Funds Transfers of Federal Deposits
2966	Electronic Fund Transfers of Federal Deposits
3039	Electronic Funds Transfers of Federal Deposits
3074	Private Activity Bond Rules for Output Facilities
3090	Definition of "Highly Compensated Employee"
3141	Qualified Zone Academy Bonds
	ATBCB
3358	Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Recreation Facilities
3361	Americans With Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Play Areas
	EPA
116	TRI; Addition of Oil and Gas Exploration and Production to the Toxic Release Inventory
123	National Primary Drinking Water Regulations: Radon
124	National Primary Drinking Water Regulations: Ground Water Rule
133	Ground Water and Pesticide Management Plan
134	Lead; TSCA Section 403; Identification of Dangerous Levels of Lead
140	National Primary Drinking Water Regulations: Stage I Disinfectant/Disinfection By-Products Rule
3430	Federal Implementation Plans To Reduce the Regional Transport of Ozone in the Eastern United States; Proposed Rules
3431	Findings of Significant Contribution and Rulemaking on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport
3652	Asbestos Model Accreditation Plan Revisions
3654	Lead-Based Paint Activities Rules; Training, Accreditation, and Certification Rule and Model State Plan Rule
3655	Lead; TSCA Requirements for the Disposal of Lead-Based Paint Debris
3665	Asbestos Worker Protection Rule; Amendments
	EEOC
3836	Procedures for Complaints of Employment Discrimination by Previously Exempt State and Local Government Employees
3839	Availability of Records
3840	Procedures—The Age Discrimination in Employment Act
	GSA
3894	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Assisted Programs
	NARA
3948	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments
	NEA
3956	Nondiscrimination on the Basis of Sex in Federally Assisted Programs and Activities – Implementation of Title IX of the Education Amendments of 1972
	OMB
3986	Subcontracting Plans
3989	Reconciliation and Appeal Processes for the Census 2000 Address List
	SSA
4223	Federal OASDI and SSI for the Aged, Blind, and Disabled; Representative Payment Provisions for Individuals Disabled Based on Drug Addiction or Alcoholism (507P)
	FAR
4243	FAR Case 89-093, Implementation of the Anti-Lobbying Statute
4250	FAR Case 97-603, Empowerment Contracting
4251	FAR Cases 97-004A and 97-004B, Reform of Affirmative Action in Federal Procurement
	FCC
4323	Cable Television Rate Regulation
4324	Cable Television Rate Regulation: Cost of Service
4325	Customer Service Standards
4327	Over-the-Air Reception Devices
4329	Cable Act Reform
4334	Small Systems
4338	In the Matter of Billed Party Preference for 0+ InterLATA Calls
4339	Implementation of the Universal Service Portions of the 1996 Telecommunications Act
4353	Enhanced 911 Services for Wireline
4358	Amendment of Rules Governing Procedures To Be Followed When Formal Complaints Are Filed Against Common Carriers
4374	In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Alert System
4375	In the Matter of the Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules To Incorporate the Forfeiture Guidelines
4377	Amendment of Part 2, Subpart K of the FCC's Rules Regarding the Importation of Radio Frequency Devices Capable of Causing Harmful Interference
4394	Regulations for RF Lighting Devices

Small Governmental Jurisdictions—Cont.

Seq. No.	Title
4422	1998 Biennial Review-Streamlining of Mass Media Applications, Rules, and Processes
4428	Rulemaking to Amend Part 1 and Part 21 to Redesignate the 27.5-29.5 GHz Band and To Establish Rules and Policies for Local Multi-Point Distribution Service
4430	Future Development of 800 MHz SMR; Competitive Bidding Wide Area
4437	Revision of the Commission's Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems
4439	Implementation of Section 225 of the Telecommunications Act of 1996; Access to Telecommunication Services and Equipment, and Customer Premise Equipment, for Persons With Disabilities
4440	Development of Operational, Technical, and Spectrum Requirements for Public Safety Communications Requirements
	NRC
175	Revision of Fee Schedules; 100 Percent Fee Recovery, FY 1999
4588	Expand Applicability To Include Certificate Holders and Applicants and Their Contractors and Subcontractors
4625	Submittal Procedures for Documents
4638	Revision of Fee Schedules; 100 Percent Fee Recovery, FY 1998

Small Organizations

Seq. No.	Title
	USDA
180	Federal Milk Order Consolidation and Reform (**Section 610 Review**)
212	Small Farmer Outreach Training and Technical Assistance Program
257	Loans to Indian Tribes and Tribal Corporations
318	Denying Credit to Applicants Delinquent on Any Federal Debt
325	National Flood Insurance Regulations
489	Collection of Reimbursable Costs for Processing Special-Use Applications and Administration of Special-Use Authorizations
515	Direct Business and Industry Direct Loan Program
518	Rural Business Enterprise Grants and Television Demonstration Grants
522	Business and Industry Guaranteed Loan Program—Financing Cooperative Stock
542	Solid Waste Management Grants
543	Technical Assistance and Training Grants
	DOC
674	Amendment 13 to the Pacific Coast Salmon Plan
705	Amendment 14 to the Pacific Coast Salmon Plan
763	1999-2000 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California
779	Draft Policies for Safe Harbor and Candidate Species Conservation (CCA) Agreements
845	1998-1999 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California
	DOD
909	National Security Education Program (NSEP) Grants to Institutions of Higher Education (DoD Instruction 1025.5)
918	Implementation of the Wildfire Suppression Aircraft Transfer Act of 1996 (Pub. L. 104-307)
931	Private Organizations on DoD Installations (DoD Instruction 1000.15)
	HHS
1142	Block Grants for Prevention and Treatment of Substance Abuse
1195	Prescription Drug Marketing Act of 1987; Policy Information, Guidance, and Clarifications
1196	Biological Products: Reporting of Errors and Accidents in Manufacturing
1240	Reinvention of Administrative Procedures Regulations
1271	Public Health Service Standards for the Protection of Research Misconduct Whistleblowers
1309	Changes to the Hospital Inpatient Prospective Payment System and Fiscal Year 1998 Rates (HCFA-1878-F)
1319	Health Insurance Reform: Parity in the Application of Certain Limits to Mental Health Benefits (HCFA-2891-IFC)
1325	Medicare+Choice Program; Regulatory Program to Implement Certain Medicare Provisions of the Balanced Budget Act of 1997 (HCFA-1030-F)
1349	Requirements for Certain Health Insuring Organizations and OBRA '90 Technical Amendments (HCFA-1018-F)
1351	Alternative Sanctions for Psychiatric Hospitals (HCFA-2191-P)
1356	Rural Health Clinics: Amendments to Participation Requirements and Payment Provisions and Establishment of a Quality Assessment and Performance Improvement Program (HCFA-1910-P)
1360	Revision of Medicare/Medicaid Hospital Conditions of Participation (HCFA-3745-F)
1378	Medicaid Hospice Care (HCFA-2016-P)
1395	Children's Health Insurance: Program Implementations; State Plan Approval; State Payment; Coordination With State Medicaid Program (HCFA-2006-P)
1422	Recognition of the American Association for Accreditation of Ambulatory Surgery Facilities Inc., for Ambulatory Surgical Centers Program (HCFA-2008-PN)
	DOI
1596	Migratory Bird Hunting; Nontoxic Shot; Approval of Tin Shot as Nontoxic for Waterfowl and Coot Shooting
1597	Migratory Bird Hunting; Nontoxic Shot; Approval of Molyshot as Nontoxic for Waterfowl and Coot Hunting
1599	Migratory Bird Hunting; Reduction of the Mid-Continent Lesser Snow Goose Population
1626	Migratory Bird Permits; Federal Falconry Standards; Determination That Vermont and West Virginia Meet or Exceed Federal Falconry Standards
1664	Reclassification of Yacare Caiman From Endangered to Threatened With Special Rule
1680	Announcement of CITES Action Concerning Changes to Appendices to Listed Species; Service Announcement Concerning Reservations
1712	Eagle Permits; Permits for Falconry Purposes; Permits To Take Golden Eagle Nests
1713	Migratory Bird Permits; Specific Permit Provisions; Import and Export Permits; Banding or Marking Permits; and Scientific Collecting Permits
1714	Migratory Bird Permits; Introduction, General Requirements and Exceptions
1865	Central Valley Project of California – Purposes, Uses, and Allocation of Water Supplies
1894	Location of Mining Claims; Assessment Work; Public Law 359 - Mining in Powersite Withdrawals
	DOJ
53	Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements (**Section 610 Review**)
1952	Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities
2020	Fees for Participation in Dedicated Commuter Lanes at Selected Ports of Entry; Collection of Fees Under the Dedicated Commuter Lane Program
2033	Petitioning Requirements for the H Nonimmigrant Classification
2070	"Master Exhibits" Currently Available
2071	Effect of Parole of Cuban and Haitian Nationals on Resettlement Assistance Eligibility
2082	Foreign Agents Registration Act; Regulations Revised and Clarified To Reflect Changes in the Law
	DOL
56	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H)
76	Prevention of Work-Related Musculoskeletal Disorders
78	Occupational Exposure to Tuberculosis
82	Recording and Reporting Occupational Injuries and Illnesses (Simplified Injury/Illness Recordkeeping Requirements)
2106	Equal Access to Justice Act
	DOT
87	Terrain Awareness and Warning System (TAWS)
88	Hours of Service of Drivers (**Section 610 Review**)
2333	Coast Guard Vessel Inspection User Fees (CGD 96-067)
2511	Federal Motor Carrier Safety Regulations; General; Motor Vehicle Marking
	TREAS
2959	Clarification of 4958 Excise Taxes
2961	Middleman Regulation Under Sections 6041 and 6045

Small Organizations—Cont.

Seq. No.	Title
2966	Electronic Fund Transfers of Federal Deposits
3038	Public Disclosure of Material Relating to Tax-Exempt Organizations
3039	Electronic Funds Transfers of Federal Deposits
3162	Federal Employment Tax Deposits De Minimis Rule
3201	Federal Employment Tax Deposits–De Minimis Rule
	ATBCB
3358	Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Recreation Facilities
3361	Americans With Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Play Areas
	EPA
123	National Primary Drinking Water Regulations: Radon
124	National Primary Drinking Water Regulations: Ground Water Rule
134	Lead; TSCA Section 403; Identification of Dangerous Levels of Lead
3654	Lead-Based Paint Activities Rules; Training, Accreditation, and Certification Rule and Model State Plan Rule
3655	Lead; TSCA Requirements for the Disposal of Lead-Based Paint Debris
	EEOC
3839	Availability of Records
3840	Procedures–The Age Discrimination In Employment Act
	GSA
3880	Reissuance of the General Services Administration Acquisition Regulation (GSAR)
	IMLS
3951	National Leadership Demonstration Grants
	NEA
3956	Nondiscrimination on the Basis of Sex in Federally Assisted Programs and Activities – Implementation of Title IX of the Education Amendments of 1972
	OMB
3986	Subcontracting Plans
	SSA
4223	Federal OASDI and SSI for the Aged, Blind, and Disabled; Representative Payment Provisions for Individuals Disabled Based on Drug Addiction or Alcoholism (507P)
	FAR
4243	FAR Case 89-093, Implementation of the Anti-Lobbying Statute
4244	FAR Case 91-078, Small Business Subcontracting Reporting
4248	FAR Case 96-308, Implementation of Commercially Available Off-the-Shelf Item Acquisition Provisions of the Federal Acquisition Reform Act
4250	FAR Case 97-603, Empowerment Contracting
4251	FAR Cases 97-004A and 97-004B, Reform of Affirmative Action in Federal Procurement
	FCC
4353	Enhanced 911 Services for Wireline
4358	Amendment of Rules Governing Procedures To Be Followed When Formal Complaints Are Filed Against Common Carriers
4374	In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Alert System
4375	In the Matter of the Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules To Incorporate the Forfeiture Guidelines
4389	Reallocation of TV Channels 60-69
4390	Streamline the Equipment Authorization Process
4394	Regulations for RF Lighting Devices
4410	Transfer of Control of Non-Stock Entities MM Docket 89-77
4422	1998 Biennial Review-Streamlining of Mass Media Applications, Rules, and Processes
4424	Assessment and Collection of Regulatory Fees for FY 1998
4425	Assessment and Collection of Regulatory Fees for FY 1999
4437	Revision of the Commission's Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems
4439	Implementation of Section 225 of the Telecommunications Act of 1996; Access to Telecommunication Services and Equipment, and Customer Premise Equipment, for Persons With Disabilities
	NRC
175	Revision of Fee Schedules; 100 Percent Fee Recovery, FY 1999
4588	Expand Applicability To Include Certificate Holders and Applicants and Their Contractors and Subcontractors
4625	Submittal Procedures for Documents
4638	Revision of Fee Schedules; 100 Percent Fee Recovery, FY 1998

INDEX TO ENTRIES THAT MAY AFFECT SMALL ENTITIES WHEN A REGULATORY FLEXIBILITY ANALYSIS IS NOT REQUIRED

The Regulatory Flexibility Act (5 U.S.C. 601) requires that agencies publish regulatory agendas identifying those rules that may have a significant economic impact on a substantial number of small entities. Agencies meet that requirement by including the information in their submissions for The Regulatory Plan and the Unified Agenda. Some agencies have chosen to identify additional regulatory actions that may have some impact on small entities even though a Regulatory Flexibility Analysis may not be required.

The following index lists the regulatory actions in this publication for which agencies have chosen to indicate that some impact on small entities is likely even though a Regulatory Flexibility Analysis may not be required. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to The Regulatory Plan and the Unified Agenda in Part II of this issue.

Small Businesses

Seq. No.	Title
	USDA
5	Food Stamp Program: Revisions to the Retail Food Store Definition and Program Authorization Guidance
8	FSP: Nondiscretionary Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
354	Regulations Under Packers and Stockyards Act (Price Reporting)
357	Regulations Issued Under Packers and Stockyards Act (Feed Weight)
369	Food Distribution Programs – Implementation of 1990 Farm Bill
371	Food Stamp Program: Retailer Application Processing
381	Part 240, Cash In Lieu of Donated Foods and Part 250, Food Distribution Regulations
397	WIC: Requirements for and Evaluation of WIC Program Requests for Bids for Infant Formula Rebate Contracts
413	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Cost Containment Requirements
418	Food Stamp Program: Retailer Integrity, Fraud Reduction and Penalties
420	WIC Farmers Market Nutrition Program (FMNP): Expansion Funds Allocation Formula
442	Reworking of Meat and Poultry Carcasses Accidentally Contaminated During Evisceration
516	Rural Venture Capital Demonstration Program
517	Rural Business Opportunity Grants
523	Rural and Rural Area Under the Rural Community Advancement Program
558	Agriculture Acquisition Regulation (AGAR); Contractor Employment of Migrant and Seasonal Agricultural Workers
559	New Restrictions on Lobbying
	DOC
690	Management of U.S. Purse Seine Fishery in the Eastern Pacific Ocean
733	Section 4(d) of ESA Protective Regulations for Johnson Seagrass, a Threatened Species
784	Pacific Offshore Cetacean Take Reduction Plan
801	Regulatory Amendment To Establish Program for Collection and Use of Fees in Community Development Quota Program
	DOD
936	Contracting for Commercial Construction (DFARS Case 98-D013)
939	Antiterrorism Training (DFARS Case 96-D016)
940	Streamlined R&D Test Results (DFARS Case 97-D002)
951	Commercial Ball or Roller Bearings–Components of Noncommercial Items (DFARS Case 97-D028)
953	Veterans Employment Emphasis (DFARS Case 97-D314)
954	List of Firms Not Eligible for Defense Contracts (DFARS Case 97-D325)
970	Incremental Funding, Fixed Price Contracts (DAR Case 90-037)
976	DD Form 2631, Performance Evaluation (A-E) (DFARS Case 97-D035)
977	Contractor Use of Nonimmigrant Aliens–Guam (DFARS Case 97-D318)
978	Uniform Procurement Instrument Identification (DFARS Case 97-D033)
984	Electronic Funds Transfer (DFARS Case 98-D012)
987	Finance (DFARS Case 95-D710)
989	Multiyear and Other Miscellaneous Provisions (DFARS Case 95-D703)
990	Earned Value Management Systems (DFARS Case 96-D024)
993	Central Contractor Registration (DFARS Case 97-D005)
995	Certificate of Requests for Equitable Adjustment (DFARS Case 97-D302)
997	Buy American Act Waiver for Information Technology Products (DFARS Case 97-D022)
998	Architect-Engineer Selection Process (DFARS Case 97-D015)
999	Specialty Metals–Agreements With Qualifying Countries (DFARS Case 97-D007)
	HHS
29	Medicare Program; Prospective Payment System for Hospital Outpatient (HCFA-1005-P)
31	Expanded Coverage for Diabetes Outpatient Self-Management Training Services HCFA-3002-P
32	Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 1999 (HCFA-1006-FC) (HCFA-1006-P)
33	Home Health Prospective Payment System (HCFA-1102-FC)
1275	Medicare Coverage of Heart, Liver, and Lung Transplantation (HCFA-3835-PN)
1279	Elimination of Certain Requirements for Peer Review Organizations in the Utilization and Quality Review Process and a Change in the Length of Peer Review Organization Contracts (HCFA-3235-FC)
1288	Participation in CHAMPUS and CHAMPVA, Hospital Admissions for Veterans, Discharge Rights Notice, and Hospital Responsibility for Emergency Care (HCFA-1393-IFC)
1291	Revisions to Regulations Implementing CLIA (HCFA-2226-F)
1294	Medicaid Payment for Covered Outpatient Drugs Under Rebate Agreements (HCFA-2046-FC)
1296	Payment for Preadmission Services (HCFA-1731-F)
1302	Clinical Laboratory Improvement Amendment (CLIA) Fee Schedule Revision (HCFA-3219-GNC)
1304	Ambulance Services (HCFA-1813-F)
1311	Individual Market Health Ins. Reform Portability From Group to Indiv. Coverage; Federal Rules for Access in the Indiv. Market; State Alternative Mechanisms to Federal Rules (HCFA-2882-F)
1320	Portability and Nondiscrimination in the Group Health Insurance Market (HCFA-2890-F)
1331	Medicare Program; Definition of Provider-Sponsored Organization and Related Requirements (HCFA-1027-IFC)
1336	Reporting Outcome and Assessment Information Set (OASIS) Data as Part of the Conditions of Participation for Home Health Agencies (HCFA-3006-IFC)
1344	Survey Requirements and Alternative Sanctions for Home Health Agencies (HCFA-2169-F)
1362	Home Health Agency (HHA) Conditions of Participation (HCFA-3819-F)
1363	End Stage Renal Disease (ESRD) Conditions for Coverage (HCFA-3818-P)
1364	Distinct Part Requirements for Nursing Homes and Prohibition of Financial Screening of Applicants for Nursing Home Admission (HCFA-3815-P)
1368	Additional Supplier Standards (HCFA-1864-F)

Small Businesses—Cont.

Seq. No.	Title
1371	Hospice Care—Conditions of Participation (HCFA-3844-P)
1376	Revision to Accrual Basis of Accounting Policy (HCFA-1876-P)
1379	Provider and Supplier Billing When Medicare Is Secondary Payor to Liability Insurance (HCFA-1848-P)
1380	Determination of Substandard Care in SNFs and NFs (HCFA-2240-P)
1393	Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1999 Rates (HCFA-1003-P)
1425	Medicaid, Medicare CLIA Program; Extension of Certain Effective Dates for Clinical Laboratory Requirements Under CLIA (HCFA 2024-IFC)
1426	Hospital Conditions of Participation, Identification of Potential Organ, Tissue, and Eye Donor and Transplant Hospitals Provisions of Transplant Related Data (HCFA-3005-F)
1429	Replacement of Reasonable Charge Methodology by Fee Schedules (HCFA-1010-P)
1430	Notice Announcing Revised Positron Emission Tomography (PET) Policy (HCFA-3008-NC)
1431	Medicare Program; Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 1999 (HCFA-8001-N)
1432	Medicare Program; Part A Premium for 1999 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement (HCFA-8000-N)
1436	Comprehensive Assessment and Use of OASIS as Part of Conditions of Participation for Home Health Agencies (HCFA-3007-F)
1439	Rural Health Clinics: Amendments to Participation Requirements and Payment Provisions, and Establishment of a Quality Assessment and Improvement Program (HCFA-1910-P)
1441	Recognition of the Commission for Accreditation of Rehabilitation Facilities (HCFA-2036-NC)
1444	Change in Provider Agreement Regulations Related to Federal Employee Health Benefits (HCFA-1748-F)
	DOI
1608	Listing of U.S. Species in Appendix III to CITES
	DOJ
1969	Implementation of the MCA; Regulation of Pseudoephedrine, Phenylpropanolamine, and Combination Ephedrine Drug Products and Reports of Certain Transactions to Nonregulated Persons
	DOT
83	Facility Response Plans for Hazardous Substances (CGD 94-048)
84	Tank Vessel Response Plans for Hazardous Substances (CGD 94-032)
85	Overflights of Units of the National Park System
86	Flight Crewmember Duty Period Limitations, Flight Time Limitations, and Rest Requirements
87	Terrain Awareness and Warning System (TAWS)
92	Passenger Equipment Safety Standards
94	Hazardous Materials: Safety Standards for Unloading Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service
2276	Aviation Data Requirements Review and Modernization Program
2278	Fees and Charges for Special Services: Reinvention
2279	Update of Drug and Alcohol Procedural Rules **(Section 610 Review)**
2280	Computer Reservations System Regulations Comprehensive Review **(Section 610 Review)**
2290	New Restrictions on Lobbying
2292	Disadvantaged Business Enterprise (DBE) Regulation; General Update
2293	Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations
2294	Disclosure of Code-Sharing Arrangements and Long-Term Wet Leases
2296	Disclosure of Change-of-Gauge Services
2302	Policy Statement on Airline Preemption
2305	Accessibility of Passenger Vessels to Individuals With Disabilities
2308	Domestic Passenger Manifest Information
2312	Transportation for Individuals With Disabilities (Over the Road Buses)
2316	Handling of Explosives or Other Dangerous Cargoes Within or Contiguous to Waterfront Facilities (CGD 92-026)
2317	Amendments to Hull Identification Number Regulations (CGD 92-065)
2320	Numbering of Undocumented Barges (CGD 93-091)
2321	Limited Service Domestic Voyage Load Lines for River Barges on Lake Michigan (CGD 95-015)
2325	Oil Pollution Prevention for Oceangoing Ships and Certain Vessels in Domestic Service (CGD 97-072)
2326	Revise Fees to Number Undocumented Vessels in Alaska (USCG-98-3386)
2328	Commercial Diving Operations (USCG-98-3786) **(Section 610 Review)**
2329	Tank Level or Pressure Monitoring Devices (CGD 90-071)
2330	Regattas and Marine Parades (CGD 95-054)
2331	Licensing and Manning for Officers of Towing Vessels (CGD 94-055)
2332	Streamlined Inspection Program (CGD 96-055)
2333	Coast Guard Vessel Inspection User Fees (CGD 96-067)
2335	Carriage of Bulk Solid Materials Requiring Special Handling (CGD 97-037)
2338	Implementation of the National Invasive Species Act of 1996 (CGD 97-068)
2341	Emergency Control Measures for Tank Barges (USCG-98-4443)
2342	Fire Protection Measures for Towing Vessels (USCG-98-4445)
2345	Permits for the Transportation of Municipal and Commercial Wastes (CGD 89-014)
2346	Discharge-Removal Equipment for Vessels Carrying Oil (CGD 90-068)
2347	Claims Procedures Under the Oil Pollution Act of 1990 (CGD 91-035)
2348	Escort Vessels for Certain Tankers (CGD 91-202)
2350	Regatta Regulations
2351	Drawbridge Regulations
2352	Escort Vessels In Certain U.S. Waters (91-202a)
2355	Propeller Injury Prevention Aboard Rental Boats (CGD 95-041)
2356	Towing Vessel Safety (CGD 97-064)
2358	Salvage and Firefighting Equipment; Vessel Response Plans (USCG-98-3417)
2359	Emergency Response Plans for Passenger Vessels (USCG-98-3473)
2360	Qualifications for Tankermen and for Persons in Charge of Transfers of Dangerous Liquids and Liquified Gases (CGD 79-116)
2361	Lifesaving Equipment-Implementation of 1983 Amendments to SOLAS 1974 (CGD 84-069)
2363	Security for Passenger Vessels and Passenger Terminals (CGD 91-012)
2367	Review of Part 47, Aircraft Registration, and Part 49, Recording of Aircraft Titles and Security Documents
2368	Part 145 Review: Repair Stations
2369	Drug Enforcement Assistance
2370	Aging Aircraft Safety
2371	Corrosion Control Program
2372	Flight Operational Quality Assurance Program
2373	Air Tour Standards
2374	Revision of Certification Requirements: Mechanics and Repairmen
2379	Bird Ingestion Standards
2380	Revision of Certification Requirements: Aircraft Dispatchers
2381	Duration Between Examinations for First- and Second-Airman Medical Certificates
2382	Fees for Aeromedical Education Training Services
2383	False and Misleading Statements Regarding Aircraft Parts
2385	Licensing Operation of a Non-Federal Launch Site
2386	Procedures for Protests and Contract Disputes; Amendment of Equal Access to Justice Act Regulations
2391	Civil Penalties: Streamlined Enforcement Test and Evaluation Program; Security; Drug and Alcohol Abatement
2393	Screening of Checked Baggage on Flights Within the United States
2394	Parachute Operations
2395	Flight Plan Requirements for Helicopter Operations Under Instrument Flight Rules
2397	Rotorcraft Load Combination Safety Requirements
2399	Transport Airplane Fleet Fuel Tank Ignition Source Review
2401	Special Federal Aviation Regulation No. 36, Development of Major Repair Data
2403	Objects Affecting Navigable Airspace
2405	Improved Survival Equipment for Inadvertent Water Landings
2406	Retrofit of Improved Seats in Air Carrier Transport Category Airplanes
2407	Sole Radio Navigation System; Minimum Standards for Certification
2408	Aircraft Ground De-Icing and Anti-Icing Program
2409	Air Traffic Control Radar Beacon System and Mode S Transponder Requirements in the National Airspace System
2414	Training and Checking in Ground Icing Conditions
2416	Suspension of Certain Aircraft Operations From the Transponder With Automatic Pressure Altitude Reporting Capability Requirement
2418	Type Certification Procedures for Changed Products
2419	Miscellaneous Cabin Safety Changes

Small Businesses—Cont.

Seq. No.	Title
2420	Revision of Hydraulics Systems Airworthiness Standards To Harmonize With European Airworthiness Standards for Transport Category Airplanes
2423	Licensing Commercial Space Launch Activities
2427	Employment History, Verification and Criminal History Records Check
2428	Air Tour Operations in the State of Hawaii
2431	Fuel System Vent Fire Protection
2432	Airworthiness Standards; Crash-Resistant Fuel Systems
2434	Airworthiness Directives:
2437	Low Fuel Quantity Alerting System
2438	Aircraft Engines: Fuel and Induction Systems
2439	Installation of Crashworthy Fuselage Fuel Tanks and Fuel Lines
2442	Revision of Part 108, Airplane Operator Security
2443	Revision of Part 107, Airport Security
2444	Cost of Services and Transfer of Fees to Part 187 From Parts 47, 49, 61, 63, 65, and 143
2445	Type Certificates for Some Surplus Aircraft of the Armed Forces
2447	Anti-Drug and Alcohol Misuse Prevention Programs for Employees of Foreign Air Carriers Engaged in Specified Aviation Activities
2449	Controlled Rest on the Flight Deck
2450	Operational and Structural Difficulty Reports
2451	Bird Strike
2452	Harmonization of Miscellaneous Rotorcraft Regulations
2453	Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park
2454	Revised Standards for Cargo or Baggage Compartments in Transport Category Airplanes
2456	Revision of Air Carrier Crewmember and Training Regulations
2457	Improved Standards for Determining Rejected Takeoff and Landing Performance
2458	Airworthiness Standards; Occupant Protection Standards for Commuter Category Airplanes
2459	Fatigue Evaluation of Structure
2461	Aviation Insurance
2462	Rain and Hail Ingestion Standards
2464	Two Approach Charts
2465	Non-Federal Air Traffic Control Facilities
2468	Commercial Space Transportation: Financial Responsibility Requirements for Licensed Launch Activities
2469	VFR/IFR Fuel Reserve Requirements: Island Destination Airports for Which No Alternate Airport Is Available
2470	Certification of Security Screening Companies
2471	Establishment of Corridors in the Grand Canyon National Park Special Flight Rules Area
2479	General Requirements; Inspection, Repair, and Maintenance; Intermodal Container Chassis and Trailers
2507	Out-of-Service Criteria
2508	Safety Fitness Procedures
2523	Truck Size and Weight; National Network; North Dakota
2562	Door Latch Exemption for Vehicles Equipped With Wheelchair Lifts and Ramps
2566	Upgrade Roof Crashworthiness
2603	Test Device Placement
2639	Certification Requirements of Multistage Vehicles
2685	Hours of Service Electronic Recordkeeping Project
2686	Whistle Bans at Highway-Rail Grade Crossings
2687	Qualification and Certification of Locomotive Engineers
2688	Locomotive Cab Working Conditions
2690	Positive Train Control
2691	Reinvention of Steam Locomotive Inspection Regulations
2692	Power Brake Regulations: Freight Power Brake Revisions
2693	Locomotive Crashworthiness
2695	Crane Safety Standards
2696	Roadway Maintenance Machine Safety
2698	Freight Car Safety Standards: Maintenance-of-Way Equipment
2700	Maintenance, Inspection, and Testing of Grade-Crossing Signal Systems
2702	Reinvention of Regulations Addressing Discontinuance or Modification of Signal Systems
2703	Reinvention of Signal System Reporting Requirements
2705	Small Railroads; Policy Statement on Enforcement Program
2706	Use of Remotely Controlled Locomotives in Rail Operations
2707	Use of One-Person Crews in Rail Operations
2708	Bridge Worker Safety Standards
2712	Protection of Utility Employees
2713	Tourist and Historic Working Group Regulatory Review
2714	Track Safety Standards
2716	Reinvention of Regulations Addressing Railroad User Fees
2717	Railroad Communications
2718	Advanced Civil Speed Enforcement System; Northeast Corridor Railroads
2722	Buy America Requirements; Amendment to Rolling Stock and Certification Procedures
2724	Planning
2726	Bus Testing
2727	Prevention of Alcohol Misuse in Transit Operations; Prevention of Prohibited Drug Use in Transit Operations
2728	Charter Services Demonstration Program
2731	Capital Leases
2732	Hazardous Materials: Revision of Requirements for Carriage by Aircraft
2733	Hazardous Materials: Revisions to the Incident Reporting Regulations and Incident Report Form 5800.1
2735	Gas Gathering Line Definition
2736	Qualification of Pipeline Personnel
2737	DOT 3AL Aluminum Cylinders; Safety Problems
2738	Underwater Abandoned Pipeline Facilities
2739	Areas Unusually Sensitive to Environmental Damage (USAs)
2740	Hazardous Materials: Labeling Requirements for Poisonous Materials
2741	Regulated Gas and Hazardous Liquid Gathering Lines
2742	Periodic Underwater Inspections
2743	Hazardous Materials: Requirements for Cargo Tanks
2745	Pipeline Safety: Adoption of Industry Standards for Liquefied Natural Gas Facilities
2746	Hazardous Materials: Infectious Substances
2747	Transportation of Hazardous Materials; Miscellaneous Amendments
2748	Hazardous Materials Transportation: Registration and Fee Assessment Program
2749	Hazardous Materials: Revision and Consolidation of Requirements for Carriage by Rail Car and Motor Vehicle
2750	Hazardous Materials: Revised and Clarified Hazardous Materials Safety Rulemaking and Program Procedures
2756	Quantity Limitations Aboard Aircraft
2757	Determining the Extent of Corrosion on Exposed Gas Pipelines
2758	Passage of Internal Inspection Devices
2759	Pipeline Safety: Adoption of Industry Standards for Breakout Tanks
2760	Tank Cars and Cargo Tank Motor Vehicles: Attendance Requirements
2761	Response Plans for Onshore Oil Pipelines
2762	Risk-based Alternative to Pressure Testing Rule
2763	Filling of Propane Cylinders
2764	Pipeline Safety: Periodic Updates to Pipeline Safety Regulations (1997)
2766	Maps and Records of Pipeline Locations and Characteristics; Notification of State Agencies; Pipe Inventory
2767	Safeguarding Food From Contamination During Transportation
2768	Increased Inspection Requirements
2769	Emergency Flow Restricting Devices
2770	Retention of Shipping Papers
2771	Applicability of the Hazardous Materials Regulations
2772	Prohibition of Oxidizers Aboard Aircraft
2773	Further Regulatory Review; Gas Pipeline Safety Standards
2774	Pipeline Safety: Recommendations to Change Hazardous Liquid Pipeline Safety Standards
2775	1998 Harmonization of Hazardous Materials Regulations with International Standards
2776	Hazardous Materials; Miscellaneous Amendments and Corrections
2777	Control of Foreign Drug Use and Alcohol Misuse in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations
2778	Drug and Alcohol Testing: Substance Abuse Professional Evaluation for Drug Use
2779	Low-Stress Hazardous Liquid Pipelines Serving Plants and Terminals
2780	Metrication of Pipeline Safety Standards
2781	Regulations Implementing Memorandum of Understanding With the Department of the Interior
2782	Pipeline Safety: Incorporation by Reference of Industry Standard on Leak Detection
2783	Pipeline Safety: Change in Response Plan Review Cycle
2784	Hazardous Materials: Radiation Protection Program Requirement
2791	Modernizing the Motor Carriers of Property Financial Data Collections
	TREAS
3006	Modification of Section 263A Regulations
	EPA
105	Pesticide Tolerance Reassessment Program
107	Chemical Right-to-Know Initiative
108	TSCA Inventory Update Rule Amendments
109	Lead; Rulemakings Under TSCA Section 402, Lead-Based Paint Activities

Small Businesses—Cont.

Seq. No.	Title
110	Asbestos; Amendments to the Asbestos-Containing Materials in Schools Rule, Model Accreditation Plan, and Worker Protection Rule
111	PCBs; Polychlorinated Biphenyl; Use Authorizations
112	TRI; Pollution Prevention Act Information Requirements
113	TRI; Chemical Expansion; Finalization of Deferred Chemicals
114	TRI; Reporting Threshold Amendment; Toxic Chemicals Release Reporting; Community Right-to-Know
115	TRI; Review of Chemicals on the Original TRI List
120	Best Technology Available (BTA) for Cooling Water Intake Structures Under Section 316(b) of the Clean Water Act
121	Revision of NPDES Industrial Permit Application Requirements and Form 2C—Wastewater Discharge Information
122	Streamlining the General Pretreatment Regulations for Existing and New Sources of Pollution
125	Public Water System Public Notification Regulation
128	Amendments—Integrated NESHAP and Effluent Guidelines: Pulp and Paper
130	National VOC Emission Standards for Consumer Products
131	Control of Emissions of Air Pollution From Highway Heavy-Duty Engines and Diesel Engines
132	Nonroad Spark-Ignition Engines At or Below 19 Kilowatts (25 Horsepower) (Phase 2)
135	Revised Standards for Hazardous Waste Combustion Facilities
136	NPDES Streamlining Rule – Round II
138	NPDES Wastewater Permit Application Forms and Regulatory Revisions for Municipal Discharges and Sewage Sludge Use or Disposal
139	NPDES Comprehensive Stormwater Phase II Regulations
3374	Utilization of Small, Minority and Women's Business Enterprises in Procurement Under Assistance Agreements
3375	Rewriting of EPA Regulations Implementing the Freedom of Information Act
3378	Contracting by Negotiation
3379	EPAAR Coverage on Contractor Performance Evaluations
3381	Service Contracting—Avoiding Improper Personal Services Relationships
3382	Revision to EPAAR 1552.211-73, Level of Effort
3384	EPA Mentor-Protege Program
3386	Revision of EPA Acquisition Regulations for Quality Systems for Environmental Programs
3389	Electronic Funds Transfer
3390	Agency Protest Solicitation Notification
3393	Public Information and Confidentiality Regulations
3394	Environmental Impact Assessment of Nongovernmental Activities in Antarctica
3396	Nondiscrimination on the Basis of Sex in Educational Programs Receiving Federal Assistance
3399	Value Engineering
3406	Performance Warranty and Inspection/Maintenance Test Procedures
3407	Inspection/Maintenance Recall Requirements
3408	NSPS: Synthetic Organic Chemicals Manufacturing Industry - Wastewater
3410	NESHAP: Petroleum Refineries - FCC Units, Reformers and Sulfur Plants
3422	Review of Minor New Sources and Modifications in Indian Country
3424	Revisions to New Source Review (NSR) Regulations to Implement the New National Ambient Air Quality Standards (NAAQS) for Ozone
3428	NESHAP: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) & Other Processes Subject to the Negotiated Regulation for Equipment
3432	Wet-formed Fiberglass Mat Production NESHAP
3437	Protection of Stratospheric Ozone: Reconsideration on the 610 Nonessential Products Ban
3438	Control of Emissions From New Nonroad Spark-Ignition Engines At or Below 19 Kilowatts, Minor Amendments to the Phase I Emission Standards
3439	Notice of Temporary Stay, Notice of Proposed Compliance Extension; Equivalency Determination-National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent
3440	Control of Emissions of Air Pollution From New Marine Diesel Engines at or above 37 Kilowatts
3450	Amendments to General Provisions Subpart A and B for 40 CFR 63
3452	Revisions to the Regulation for Approval of State Programs and Delegation of Federal Authorities 112(l)
3453	NESHAP: Lime Manufacturing
3454	Generic MACT for Source Categories (Acrylic Modacrylic Fibers, Polycarbonates, Hydrogen Fluoride, and Acetal Resins)
3457	NESHAP: Chromium Electroplating Amendment
3459	NESHAP: Flexible Polyurethane Foam Fabrication Operations
3463	Specification of Substantially Similar Definition for Diesel Fuels
3465	Servicing of Motor Vehicle Air Conditioners: Standards for Equipment That Recovers and Recycles Refrigerants Other Than CFC-12 and HFC-134a
3467	NESHAP: Chromium Electroplating Amendment
3479	Amendment to the User Fees for Radon Proficiency Programs Rule
3486	Revisions to the Permits and Sulfur Dioxide Allowance System Regulations Under Title IV of the Clean Air Act
3496	NESHAP: Mineral Wool Production Industry
3497	NESHAP: Oil and Natural Gas Production and Natural Gas Transmission and Storage
3500	NESHAP: Phosphate Fertilizers Production
3503	NESHAP: Portland Cement Manufacturing
3504	NESHAP: Polyether Polyols Production
3506	NESHAP: Flexible Polyurethane Foam Production
3507	NESHAP: Primary Lead Smelters
3510	NESHAP: Oil and Natural Gas Production and NESHAP: Natural Gas Transmission and Storage , Amendments to Proposed Rule
3512	Standards for Reformulated and Conventional Gasoline, Individual Baseline Fuel Adjustments
3514	National VOC Emission Standards for Automobile Refinish Coatings
3517	Reduction of Volatile Organic Compound (VOC) Emissions From Coatings Used in the Aerospace, Wood Furniture, and Shipbuilding Industries Under Clean Air Act Section 183(e)
3534	NESHAP: Plywood and Particleboard Manufacturing
3548	NESHAP/NSPS: Reciprocating Internal Combustion Engine
3557	Petroleum Solvent Dry Cleaners Maximum Achievable Control Technology (MACT) Standard
3558	Large Appliance (Surface Coating) NESHAP/VOC Reductions
3562	Industrial Combustion Coordinated Rulemaking - ICCR Project
3563	NESHAP: Friction Products Manufacturing
3566	NESHAP: Fabric Printing, Coating and Dyeing
3567	Automobile and Light-Duty Truck Manufacturing (Surface Coating) NESHAP/VOC Reductions
3574	NESHAP: Vegetable Oil Production
3580	Metal Furniture (Surface Coatings) NESHAP/VOC Reductions
3581	NESHAP/VOC Reductions Miscellaneous Metal Parts and Products (Surface Coating)
3582	Plastic Parts (Surface Coating) NESHAP/VOC Reductions
3583	Paper and Other Web Coating Reductions NESHAP/ VOC Rule
3584	Wood Building Products (Surface Coating) NESHAP/VOC Reductions
3587	Protection of Stratospheric Ozone: Halon Recycling and Recovery Equipment Certification
3600	Revisions to Service Information Availability Requirements
3603	Protection of Stratospheric Ozone: Manufacture of Halon Blends, Intentional Release of Halons, Technician Training and Disposal of Halon and Halon-Containing Equipment
3610	NESHAP: Petroleum Refineries - Amendments to Final Rule
3617	NESHAP: Pharmaceuticals Production
3620	NESHAP: Wood Furniture Manufacturing Operations; Technical Corrections and Clarifications
3634	Data Requirements for Pesticide Registration (Revision)
3636	Data Requirements for Antimicrobial Registrations
3637	Pesticide Management and Disposal; Standards for Pesticide Containers and Containment
3638	WPS; Pesticide Worker Protection Standard; Glove Amendment
3639	Regulation of Plant-Produced Pesticides Under FIFRA and FFDCA
3641	Pesticide Management and Disposal
3645	Pesticide Flammability Labeling Requirements for Total Release Foggers
3648	FIFRA Books and Records of Pesticide Production and Distribution (Revision)
3660	Multi-Chemical Test Rule; Children's Health
3661	Test Rule for Certain Metals
3663	TSCA Biotechnology Follow-Up Rules
3667	Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling
3668	Lead-Based Paint; Notification of Commencement of Abatement Activities
3672	Test Rule; Hazardous Air Pollutants (HAPs)

Small Businesses—Cont.

Seq. No.	Title
3675	PCBs; Polychlorinated Biphenyls; Exemptions From the Prohibitions against Manufacturing, Processing, and Distribution in Commerce
3676	Refractory Ceramic Fibers; Significant New Use Rules on National Program Chemicals
3678	TSCA Section 8(a) Preliminary Assessment Information Rules
3679	TSCA Section 8(d) Health and Safety Data Reporting Rules
3680	Use of Acrylamide for Grouting
3681	TSCA Section 8(e) Policy; Notice of Clarification
3682	Notice of TSCA Section 4 Reimbursement Period and TSCA Section 12(b) Export Notification Period Sunset Dates for TSCA Section 4 Substances
3683	Lead-Based Paint; Fees for Accreditation and Certification Activities
3684	TRI; Data Expansion Amendments; Toxic Chemical Release Reporting; Community Right-to-Know
3691	Lead-Based Paint; Disclosure Requirements at Renovation of Target Housing
3694	PCBs; Polychlorinated Biphenyls (PCBs) Disposal Amendments
3695	TSCA Section 8(d) Health and Safety Data Model Reporting Rule Amendments
3702	Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act, Section 112(r)(7): Amendment
3744	Identification and Listing of Hazardous Waste: Petroleum Refining Process Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation
3745	Land Disposal Restrictions Phase IV: Treatment Standards for Metal Wastes and Mineral Processing wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues
3759	Effluent Guidelines and Standards for the Centralized Waste Treatment Industry
3763	Guidelines Establishing Test Procedures for the Analysis of Trace Metals Under the Clean Water Act
3770	Amendments to Round I Final Sewage Sludge Use or Disposal Rule –Phase Two
3771	Test Procedures for the Analysis of Cryptosporidium and Giardia Under the Safe Drinking Water and Clean Water Acts
3775	Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category; Incentives Amendment
3777	Guidelines Establishing Oil and Grease Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3778	Guidelines Establishing Test Procedures for the Analysis of Cyanide Under the Clean Water Act
3779	Increased Method Flexibility for Test Procedures Approved for Clean Water Act Compliance Monitoring Under 40 CFR Part 136
3780	Performance Based Measurement System (PBMS) Procedures and Guidance for Test Procedures at 40 CFR Part 136
3781	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase One
3782	Test Procedures for the Analysis of Mercury Under the Clean Water Act
3788	Amendments to Round I Final Sewage Sludge Use or Disposal Rule—Phase One
3790	Effluent Limitations Guidelines and Standards for the Feedlots Point Source Category, Dairy and Beef Cattle Subcategories
3791	Revisions to Effluent Guidelines and Standards for the Coal Mining Point Source Category
3794	Effluent Guidelines and Standards for the Metal Products and Machinery Category, Phases 1 and 2
3796	Effluent Guidelines and Standards for Landfills
3798	Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category, Phase II
3799	Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category; Monitoring Amendment
3801	Guidelines Establishing Whole Effluent Toxicity West Coast Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3802	Test Procedures for the Analysis of Co-Planar and Mono-Ortho-Substituted Polychlorinated Biphenyls (PCBs) Under the Clean Water Act
3803	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase Two
3804	NPDES Streamlining Rule – Round III
3811	Drinking Water Unregulated Contaminant Monitoring Program
3815	National Primary and Secondary Drinking Water Regulations: Analytical Methods for Certain Pesticides and Microbial Contaminants
3817	National Primary Drinking Water Regulations for Lead and Copper
3823	Drinking Water State Revolving Fund Regulations
3824	National Primary Drinking Water Regulations: Arsenic
3825	National Primary Drinking Water Regulations: Sulfate
3826	National Primary Drinking Water Standards for Aldicarb
3827	National Primary Drinking Water Regulations: Radium, Uranium, Alpha, Beta and Photon Emitters
3828	Streamlining Drinking Water Monitoring Requirements
3829	Revision of Existing Variances and Exemptions Regulation To Comply With Requirements of the Safe Drinking Water Act
3831	National Primary and Secondary Drinking Water Regulations: Analytic Methods for Organic, Inorganic and Microbiological Contaminants and Pesticides
3832	Drinking Water Consumer Confidence Report Regulations
3833	Safe Drinking Water Public Water Supply System Program: Citizen Collection Action; Notice of Complaint Seeking Review of Penalty Order
3835	Shore Protection Act, Section 4103(b) Regulations

FAR

Seq. No.	Title
4242	FAR Case 89-12, Pay-As-You-Go Pension Costs
4245	FAR Case 94-753, Travel Costs

FCC

Seq. No.	Title
4371	Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans/Pursuant to Section 706 of the 1996 Telecom Act
4372	Streamlined Contributor Reporting Requirements

FHFB

Seq. No.	Title
171	Community Investment Cash Advance Programs

FMC

Seq. No.	Title
4499	Inquiry Into Automated Tariff Filing Systems as Proposed by the Pending Ocean Shipping Reform Act of 1998 (Docket No. 98-10)
4500	Coloading Practices and Possible Section 16 Exemption for Coloading (Docket Nos. 93-22 and 94-26)
4501	Financial Responsibility Requirements for Nonperformance of Transportation and Inquiry Into Alternative Forms (Docket No. 94-06; Further Notice of Proposed Rulemaking)
4502	Port Restrictions and Requirements in the United States/Japan Trade (Docket No. 96-20)
4503	Update of Existing and Addition of New Filing and Service Fees (Docket No. 98-09)

FRS

Seq. No.	Title
4513	Regulation: E – Electronic Fund Transfers (Docket Number: R-1007)
4523	Regulation: DD – Truth in Savings (Docket Number: R-1003)
4528	Regulation: D – Reserve Requirements of Depository Institutions (Docket Number: R-0988)

FTC

Seq. No.	Title
4536	Trade Regulation Rule on Funeral Industry Practices
4539	Regulations Under the Comprehensive Smokeless Tobacco Health Education Act of 1986
4540	The Care Labeling Rule
4541	Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation
4542	Trade Regulation Rule on Franchising and Business Opportunity Ventures
4543	Rule Governing Disclosure of Written Consumer Product Warranty Terms and Conditions
4544	Rule Governing the Pre-Sale Availability of Written Warranty Terms
4546	Trade Regulation Rule on Ophthalmic Practice Rules
4547	Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992

SEC

Seq. No.	Title
4678	Electronic Filing of Institutional Investment Manager Reports on Form 13F

Small Businesses—Cont.

Seq. No.	Title
4679	Temporary Exemption for Certain Investment Advisers
4689	Insurance Products: Equity Index Insurance Products Concept Release
4692	Investment Adviser Year 2000 Reports
4721	Year 2000 Readiness Reports To Be Made by Transfer Agents

Small Governmental Jurisdictions

Seq. No.	Title
	USDA
369	Food Distribution Programs – Implementation of 1990 Farm Bill
397	WIC: Requirements for and Evaluation of WIC Program Requests for Bids for Infant Formula Rebate Contracts
420	WIC Farmers Market Nutrition Program (FMNP): Expansion Funds Allocation Formula
559	New Restrictions on Lobbying
	DOC
733	Section 4(d) of ESA Protective Regulations for Johnson Seagrass, a Threatened Species
	HHS
1311	Individual Market Health Ins. Reform Portability From Group to Indiv. Coverage; Federal Rules for Access in the Indiv. Market; State Alternative Mechanisms to Federal Rules (HCFA-2882-F)
1344	Survey Requirements and Alternative Sanctions for Home Health Agencies (HCFA-2169-F)
1380	Determination of Substandard Care in SNFs and NFs (HCFA-2240-P)
1404	State Plan Requirements for Durable Medical Equipment Providers (HCFA-2007-P)
1405	Child Health Insurance Allotments FY 1999 (HCFA-2014-N)
1406	State Children's Health Insurance Program Allotments and Payments to States (HCFA-2114-FC)
1425	Medicaid, Medicare CLIA Program; Extension of Certain Effective Dates for Clinical Laboratory Requirements Under CLIA (HCFA 2024-IFC)
1430	Notice Announcing Revised Positron Emission Tomography (PET) Policy (HCFA-3008-NC)
1451	Construction of Head Start Facilities
1458	Family Child Care Program Option for Head Start Programs
1469	Head Start Appeal Timelines
1477	Child Abuse and Neglect Prevention and Treatment
	HUD
1517	Real Estate Procedures Settlement Act (RESPA): Escrow Account Statement Itemization of Charges (FR-4390)
1554	Certification and Funding of State and Local Fair Housing Enforcement Agencies (FR-4392)
1566	Section 8 Management Assessment Program (SEMAP) New Performance Indicators (FR-4388)
1569	Public Housing Assessment System (FR-4313)
	DOJ
51	Nondiscrimination on the Basis of Disability in State and Local Government Services; Public Accommodations and Commercial Facilities; Accessibility Standards
2102	Grants Program for Indian Tribes
	DOT
94	Hazardous Materials: Safety Standards for Unloading Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service
2276	Aviation Data Requirements Review and Modernization Program
2279	Update of Drug and Alcohol Procedural Rules **(Section 610 Review)**
2292	Disadvantaged Business Enterprise (DBE) Regulation; General Update
2302	Policy Statement on Airline Preemption
2317	Amendments to Hull Identification Number Regulations (CGD 92-065)
2330	Regattas and Marine Parades (CGD 95-054)
2333	Coast Guard Vessel Inspection User Fees (CGD 96-067)
2347	Claims Procedures Under the Oil Pollution Act of 1990 (CGD 91-035)
2350	Regatta Regulations
2351	Drawbridge Regulations
2359	Emergency Response Plans for Passenger Vessels (USCG-98-3473)
2361	Lifesaving Equipment-Implementation of 1983 Amendments to SOLAS 1974 (CGD 84-069)
2378	Passenger Facility Charges
2385	Licensing Operation of a Non-Federal Launch Site
2396	Policy Regarding Airport Rates and Charges
2418	Type Certification Procedures for Changed Products
2424	Policy and Procedures Concerning the Use of Airport Revenue
2434	Airworthiness Directives:
2445	Type Certificates for Some Surplus Aircraft of the Armed Forces
2448	Airport Noise Compatibility Planning
2457	Improved Standards for Determining Rejected Takeoff and Landing Performance
2478	National Standards for Traffic Control Devices; MUTCD; Minimum Retroreflectivity Requirements for Traffic Signs
2509	Revision of the Manual on Uniform Traffic Control Devices; Part II – Signs
2522	Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs
2686	Whistle Bans at Highway-Rail Grade Crossings
2689	Environmental Impact and Related Procedures (FRA, FTA, FHWA)
2697	Local Rail Freight Assistance to States
2721	Department of Transportation (FTA, FHWA, FRA, and USCG) and Related Procedures for Transportation Decisionmaking
2722	Buy America Requirements; Amendment to Rolling Stock and Certification Procedures
2724	Planning
2725	School Bus Operations
2726	Bus Testing
2727	Prevention of Alcohol Misuse in Transit Operations; Prevention of Prohibited Drug Use in Transit Operations
2728	Charter Services Demonstration Program
2731	Capital Leases
2732	Hazardous Materials: Revision of Requirements for Carriage by Aircraft
2733	Hazardous Materials: Revisions to the Incident Reporting Regulations and Incident Report Form 5800.1
2737	DOT 3AL Aluminum Cylinders; Safety Problems
2740	Hazardous Materials: Labeling Requirements for Poisonous Materials
2743	Hazardous Materials: Requirements for Cargo Tanks
2746	Hazardous Materials: Infectious Substances
2747	Transportation of Hazardous Materials; Miscellaneous Amendments
2748	Hazardous Materials Transportation: Registration and Fee Assessment Program
2749	Hazardous Materials: Revision and Consolidation of Requirements for Carriage by Rail Car and Motor Vehicle
2750	Hazardous Materials: Revised and Clarified Hazardous Materials Safety Rulemaking and Program Procedures
2756	Quantity Limitations Aboard Aircraft
2760	Tank Cars and Cargo Tank Motor Vehicles: Attendance Requirements
2763	Filling of Propane Cylinders
2767	Safeguarding Food From Contamination During Transportation
2770	Retention of Shipping Papers
2771	Applicability of the Hazardous Materials Regulations
2772	Prohibition of Oxidizers Aboard Aircraft
2775	1998 Harmonization of Hazardous Materials Regulations with International Standards
2776	Hazardous Materials; Miscellaneous Amendments and Corrections
2784	Hazardous Materials: Radiation Protection Program Requirement
	CNCS
3371	Claims Collection
	EPA
98	Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (State) Grant Regulation
99	Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (Tribal) Grant Rule
107	Chemical Right-to-Know Initiative
109	Lead; Rulemakings Under TSCA Section 402, Lead-Based Paint Activities
110	Asbestos; Amendments to the Asbestos-Containing Materials in Schools Rule, Model Accreditation Plan, and Worker Protection Rule
111	PCBs; Polychlorinated Biphenyl; Use Authorizations
112	TRI; Pollution Prevention Act Information Requirements
113	TRI; Chemical Expansion; Finalization of Deferred Chemicals

Small Governmental Jurisdictions—Cont.

Seq. No.	Title
114	TRI; Reporting . Threshold Amendment; Toxic Chemicals Release Reporting; Community Right-to-Know
115	TRI; Review of Chemicals on the Original TRI List
122	Streamlining the General Pretreatment Regulations for Existing and New Sources of Pollution
125	Public Water System Public Notification Regulation
136	NPDES Streamlining Rule – Round II
138	NPDES Wastewater Permit Application Forms and Regulatory Revisions for Municipal Discharges and Sewage Sludge Use or Disposal
139	NPDES Comprehensive Stormwater Phase II Regulations
3374	Utilization of Small, Minority and Women's Business Enterprises in Procurement Under Assistance Agreements
3375	Rewriting of EPA Regulations Implementing the Freedom of Information Act
3396	Nondiscrimination on the Basis of Sex in Educational Programs Receiving Federal Assistance
3409	Method 301: Field Validation of Pollution Measurement Methods for Various Media; Revisions
3418	NSPS: Sewage Sludge Incinerators
3423	Revisions to Clarify the Permit Content Requirements for State Operating Permits
3436	Review of Operating Permits Issued by Indian Tribes
3443	Revision of Appendix W to 40 CFR Part 51
3448	NESHAP: Publicly Owned Treatment Works (POTW)
3479	Amendment to the User Fees for Radon Proficiency Programs Rule
3486	Revisions to the Permits and Sulfur Dioxide Allowance System Regulations Under Title IV of the Clean Air Act
3494	Transportation Conformity Rule Amendments: Flexibility and Streamlining
3537	NESHAP: Municipal Solid Waste Landfills
3548	NESHAP/NSPS: Reciprocating Internal Combustion Engine
3562	Industrial Combustion Coordinated Rulemaking - ICCR Project
3637	Pesticide Management and Disposal: Standards for Pesticide Containers and Containment
3667	Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling
3668	Lead-Based Paint; Notification of Commencement of Abatement Activities
3683	Lead-Based Paint; Fees for Accreditation and Certification Activities
3684	TRI; Data Expansion Amendments; Toxic Chemical Release Reporting; Community Right-to-Know
3691	Lead-Based Paint; Disclosure Requirements at Renovation of Target Housing
3694	PCBs; Polychlorinated Biphenyls (PCBs) Disposal Amendments
3761	Streamlining 301(h) Waiver Renewal Requirements
3763	Guidelines Establishing Test Procedures for the Analysis of Trace Metals Under the Clean Water Act
3767	Revisions to NPDES Requirements for Compliance Reporting and Collection System Discharges
3770	Amendments to Round I Final Sewage Sludge Use or Disposal Rule –Phase Two
3771	Test Procedures for the Analysis of Cryptosporidium and Giardia Under the Safe Drinking Water and Clean Water Acts
3777	Guidelines Establishing Oil and Grease Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3778	Guidelines Establishing Test Procedures for the Analysis of Cyanide Under the Clean Water Act
3779	Increased Method Flexibility for Test Procedures Approved for Clean Water Act Compliance Monitoring Under 40 CFR Part 136
3780	Performance Based Measurement System (PBMS) Procedures and Guidance for Test Procedures at 40 CFR Part 136
3781	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase One
3782 - 3788	Test Procedures for the Analysis of Mercury Under the Clean Water Act Amendments to Round I Final Sewage Sludge Use or Disposal Rule–Phase One
3794	Effluent Guidelines and Standards for the Metal Products and Machinery Category, Phases 1 and 2
3797	Effluent Guidelines and Standards for Industrial Waste Combustors
3801	Guidelines Establishing Whole Effluent Toxicity West Coast Test Procedures for the Analysis of Poliutants Under the Clean Water Act
3802	Test Procedures for the Analysis of Co-Planar and Mono-Ortho-Substituted Polychlorinated Biphonyls (PCBs) Under the Clean Water Act
3803	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase Two
3804	NPDES Streamlining Rule – Round III
3811	Drinking Water Unregulated Contaminant Monitoring Program
3815	National Primary and Secondary Drinking Water Regulations: Analytical Methods for Certain Pesticides and Microbial Contaminants
3817	National Primary Drinking Water Regulations for Lead and Copper
3818	Reformatting of Drinking Water Regulations
3823	Drinking Water State Revolving Fund Regulations
3824	National Primary Drinking Water Regulations: Arsenic
3825	National Primary Drinking Water Regulations: Sulfate
3826	National Primary Drinking Water Standards for Aldicarb
3827	National Primary Drinking Water Regulations: Radium, Uranium, Alpha, Beta and Photon Emitters
3328	Streamlining Drinking Water Monitoring Requirements
3829	Revision of Existing Variances and Exemptions Regulation To Comply With Requirements of the Safe Drinking Water Act
3831	National Primary and Secondary Drinking Water Regulations: Analytic Methods for Organic, Inorganic and Microbiological Contaminants and Pesticides
3832	Drinking Water Consumer Confidence Report Regulations
3833	Safe Drinking Water Public Water Supply System Program: Citizen Collection Action; Notice of Complaint Seeking Review of Penalty Order
3835	Shore Protection Act, Section 4103(b) Regulations

Small Organizations

Seq. No.	Title
	USDA
369	Food Distribution Programs – Implementation of 1990 Farm Bill
517	Rural Business Opportunity Grants
559	New Restrictions on Lobbying
	DOD
978	Uniform Procurement Instrument Identification (DFARS Case 97-D033)
	HHS
31	Expanded Coverage for Diabetes Outpatient Self-Management Training Services HCFA-3002-P
33	Home Health Prospective Payment System (HCFA-1102-FC)
1302	Clinical Laboratory Improvement Amendment (CLIA) Fee Schedule Revision (HCFA-3219-GNC)
1311	Individual Market Health Ins. Reform Portability From Group to Indiv. Coverage; Federal Rules for Access in the Indiv. Market; State Alternative Mechanisms to Federal Rules (HCFA-2882-F)
1331	Medicare Program; Definition of Provider-Sponsored Organization and Related Requirements (HCFA-1027-IFC)
1362	Home Health Agency (HHA) Conditions of Participation (HCFA-3819-F)
1363	End Stage Renal Disease (ESRD) Conditions for Coverage (HCFA-3818-P)
1371	Hospice Care–Conditions of Participation (HCFA-3844-P)
1380	Determination of Substandard Care in SNFs and NFs (HCFA-2240-P)
1393	Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1999 Rates (HCFA-1003-P)
1425	Medicaid, Medicare CLIA Program; Extension of Certain Effective Dates for Clinical Laboratory Requirements Under CLIA (HCFA 2024-IFC)
1430	Notice Announcing Revised Positron Emission Tomography (PET) Policy (HCFA-3008-NC)
1441	Recognition of the Commission for Accreditation of Rehabilitation Facilities (HCFA-2036-NC)
1444	Change in Provider Agreement Regulations Related to Federal Employee Health Benefits (HCFA-1748-F)
1451	Construction of Head Start Facilities
1458	Family Child Care Program Option for Head Start Programs
1469	Head Start Appeal Timelines
1472	Designation of Alternative Agency To Serve Indian Tribal Children
	DOT
87	Terrain Awareness and Warning System (TAWS)

Small Organizations—Cont.

Seq. No.	Title
94	Hazardous Materials: Safety Standards for Unloading Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service
2276	Aviation Data Requirements Review and Modernization Program
2279	Update of Drug and Alcohol Procedural Rules **(Section 610 Review)**
2317	Amendments to Hull Identification Number Regulations (CGD 92-065)
2321	Limited Service Domestic Voyage Load Lines for River Barges on Lake Michigan (CGD 95-015)
2330	Regattas and Marine Parades (CGD 95-054)
2350	Regatta Regulations
2418	Type Certification Procedures for Changed Products
2434	Airworthiness Directives:
2445	Type Certificates for Some Surplus Aircraft of the Armed Forces
2457	Improved Standards for Determining Rejected Takeoff and Landing Performance
2728	Charter Services Demonstration Program
2732	Hazardous Materials: Revision of Requirements for Carriage by Aircraft
2733	Hazardous Materials: Revisions to the Incident Reporting Regulations and Incident Report Form 5800.1
2737	DOT 3AL Aluminum Cylinders; Safety Problems
2740	Hazardous Materials: Labeling Requirements for Poisonous Materials
2743	Hazardous Materials: Requirements for Cargo Tanks
2746	Hazardous Materials: Infectious Substances
2747	Transportation of Hazardous Materials; Miscellaneous Amendments
2748	Hazardous Materials Transportation: Registration and Fee Assessment Program
2749	Hazardous Materials: Revision and Consolidation of Requirements for Carriage by Rail Car and Motor Vehicle
2750	Hazardous Materials: Revised and Clarified Hazardous Materials Safety Rulemaking and Program Procedures
2756	Quantity Limitations Aboard Aircraft
2760	Tank Cars and Cargo Tank Motor Vehicles: Attendance Requirements
2763	Filling of Propane Cylinders
2767	Safeguarding Food From Contamination During Transportation
2770	Retention of Shipping Papers
2771	Applicability of the Hazardous Materials Regulations
2772	Prohibition of Oxidizers Aboard Aircraft
2775	1998 Harmonization of Hazardous Materials Regulations with International Standards
2776	Hazardous Materials; Miscellaneous Amendments and Corrections
2784	Hazardous Materials: Radiation Protection Program Requirement

AID

3352	Administration of Grants and Cooperative Agreements

CNCS

3371	Claims Collection

EPA

98	Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (State) Grant Regulation
99	Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (Tribal) Grant Rule
109	Lead; Rulemakings Under TSCA Section 402, Lead-Based Paint Activities
125	Public Water System Public Notification Regulation
136	NPDES Streamlining Rule – Round II
139	NPDES Comprehensive Stormwater Phase II Regulations
3374	Utilization of Small, Minority and Women's Business Enterprises in Procurement Under Assistance Agreements
3375	Rewriting of EPA Regulations Implementing the Freedom of Information Act
3394	Environmental Impact Assessment of Nongovernmental Activities in Antarctica
3396	Nondiscrimination on the Basis of Sex in Educational Programs Receiving Federal Assistance
3479	Amendment to the User Fees for Radon Proficiency Programs Rule
3663	TSCA Biotechnology Follow-Up Rules
3667	Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling
3668	Lead-Based Paint; Notification of Commencement of Abatement Activities
3683	Lead-Based Paint; Fees for Accreditation and Certification Activities
3691	Lead-Based Paint; Disclosure Requirements at Renovation of Target Housing
3763	Guidelines Establishing Test Procedures for the Analysis of Trace Metals Under the Clean Water Act
3771	Test Procedures for the Analysis of Cryptosporidium and Giardia Under the Safe Drinking Water and Clean Water Acts
3777	Guidelines Establishing Oil and Grease Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3778	Guidelines Establishing Test Procedures for the Analysis of Cyanide Under the Clean Water Act
3779	Increased Method Flexibility for Test Procedures Approved for Clean Water Act Compliance Monitoring Under 40 CFR Part 136
3780	Performance Based Measurement System (PBMS) Procedures and Guidance for Test Procedures at 40 CFR Part 136
3781	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase One
3782	Test Procedures for the Analysis of Mercury Under the Clean Water Act
3801	Guidelines Establishing Whole Effluent Toxicity West Coast Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3802	Test Procedures for the Analysis of Co-Planar and Mono-Ortho-Substituted Polychlorinated Biphenyls (PCBs) Under the Clean Water Act
3803	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase Two
3811	Drinking Water Unregulated Contaminant Monitoring Program
3815	National Primary and Secondary Drinking Water Regulations: Analytical Methods for Certain Pesticides and Microbial Contaminants
3817	National Primary Drinking Water Regulations for Lead and Copper
3823	Drinking Water State Revolving Fund Regulations
3824	National Primary Drinking Water Regulations: Arsenic
3825	National Primary Drinking Water Regulations: Sulfate
3826	National Primary Drinking Water Standards for Aldicarb
3827	National Primary Drinking Water Regulations: Radium, Uranium, Alpha, Beta and Photon Emitters
3828	Streamlining Drinking Water Monitoring Requirements
3829	Revision of Existing Variances and Exemptions Regulation To Comply With Requirements of the Safe Drinking Water Act
3831	National Primary and Secondary Drinking Water Regulations: Analytic Methods for Organic, Inorganic and Microbiological Contaminants and Pesticides
3832	Drinking Water Consumer Confidence Report Regulations
3833	Safe Drinking Water Public Water Supply System Program: Citizen Collection Action; Notice of Complaint Seeking Review of Penalty Order

INDEX TO ENTRIES THAT MAY AFFECT GOVERNMENT LEVELS

Executive Order 12866 entitled "Regulatory Planning and Review" (October 4, 1993; 58 FR 51735) and the Unfunded Mandates Reform Act of 1995 (P.L. 104-4) direct agencies to assess the effects of Federal regulations on State, local, and tribal governments. In addition, Executive Order 12875 entitled "Enhancing the Intergovernmental Partnership" (October 26, 1993; 58 FR 58093) directs agencies to reduce the imposition of unfunded mandates upon State, local, and tribal governments. In keeping with these efforts, agencies include in their submissions for The Regulatory Plan and the Unified Agenda information on whether their regulatory actions have an effect on various levels of government.

The following index lists the regulatory actions in this joint publication that agencies believe may have effects on State, local, tribal, or Federal levels of government. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to The Regulatory Plan and the Unified Agenda in Part II of this issue.

State Government

Seq. No.	Title
	USDA
4	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Delivery Systems Integrity
6	FSP: Personal Responsibility Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
7	FSP: State Flexibility and Certification Provisions of Public Law 104-193
8	FSP: Nondiscretionary Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
9	Food Stamp Program: Work Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
10	Food Stamp Program: Food Stamp Recipient Claim Establishment and Collection Standards
11	Elimination of Requirements for Partial Quality Control Programs
176	National Organic Program
180	Federal Milk Order Consolidation and Reform **(Section 610 Review)**
212	Small Farmer Outreach Training and Technical Assistance Program
213	Part 1946 Mediation; Subpart A–Agricultural Loan Mediation Program
258	Disaster Assistance
293	Karnal Bunt
316	Guaranteed Rural Housing Loan Single Family
325	National Flood Insurance Regulations
369	Food Distribution Programs – Implementation of 1990 Farm Bill
372	Summer Food Service Program: Program Meal Service During the School Year
373	Consolidation of National School Lunch Program, School Breakfast Program and Summer Food Service Program Into a Comprehensive School Meal Program
374	Disclosure of Free and Reduced Price Eligibility Information Under the School Nutrition and Child and Adult Care Food Programs
375	Food Stamp Program: Welfare Reform and Regulatory Review of Program Management
376	Improving Management and Program Integrity in the Child and Adult Care Food Program
377	Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools: Provision 2 and Provision 3
378	Food Stamp Program Regulatory Review: Certification of Eligible Households
379	WIC: Food Package Adjustments and Corrections
380	WIC: Bloodwork Requirements
381	Part 240, Cash In Lieu of Donated Foods and Part 250, Food Distribution Regulations
383	National School Lunch Program and School Breakfast Program: Additional Menu Planning Alternatives
387	Electronic Benefit Transfer (EBT) Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
390	Food Distribution Program: Regulatory Implementation of Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PL 104-193, 110 Stat 2105)
391	Food Distributions Programs: Commodity Acceptability Report
392	WIC: Food and Nutrition Services and Administration (NSA) Funding Formula Rule
393	Food Distribution Program on Indian Reservations: Disqualification Penalties for Intentional Program Violations
394	Commodity Supplemental Food Program: Program Streamlining, Flexibility, and Miscellaneous Amendments
395	Child and Adult Care Food Program: Authority To Collect Overclaims
396	Food Stamp Program: 1995 Quality Control Technical Amendments
397	WIC: Requirements for and Evaluation of WIC Program Requests for Bids for Infant Formula Rebate Contracts
398	Food Distribution Program on Indian Reservations – Oklahoma Waiver Authority
399	Food Stamp Program: Anticipating Income and Reporting Changes
400	Food Stamp Program: Payment of Certain Administrative Costs of State Agencies
401	Food Distribution Program on Indian Reservations: Definition of Indian Tribal Household
402	Amendments to the Infant Meal Pattern
404	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Implementation of WIC Mandates of the Healthy Meals for Healthy Americans Act of 1994
405	Child and Adult Care Food Program: Child Nutrition and WIC Reauthorization Act Amendments and Healthy Meals for Healthy Americans Act of 1994
406	Implementation of Legislative Reforms in the Summer Food Service Program
407	Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Disqualification of WIC Vendors Who Are Disqualified From the Food Stamp Program
408	Special Supplemental Nutrition Program for WIC: Implementation of WIC-Related Provisions of PL 104-193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996
409	Implementation of Legislative Changes in the Child and Adult Care Food Program
411	Food Stamp Provisions of the Balanced Budget Act of 1997
412	Special Supplemental Food Program for Women, Infants, and Children (WIC): Miscellaneous Provisions
413	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Cost Containment Requirements
414	Permanent Agreements/Direct Certification in National School Lunch, School Breakfast, and Special Milk Programs
415	Provisions of Computer Matching and Privacy Protection Act of 1988, Amendments of 1990, and Implementation of the Disqualified Recipient Subsystem
416	School Nutrition Programs: Technical and Nondiscretionary Amendments
419	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Soy-Base Beverages (Soymilk) in WIC
420	WIC Farmers Market Nutrition Program (FMNP): Expansion Funds Allocation Formula
421	Food Stamp Program: Quality Control Provisions of the Mickey Leland Childhood Hunger Relief Act
425	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Accommodation of Cultural Food Preferences in the WIC Program
427	Food Stamp Program: Simplified Food Stamp Program Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
428	WIC: Evaluation of WIC Program Infant Formula Rebate Contracts

State Government—Cont.

Seq. No.	Title
430	Definition of Federal Means-Tested Public Benefit
454	Ante-Mortem and Post-Mortem Inspection of Livestock and Poultry
455	Requirements for Disposition and Disposal of Inspected Raw Meat and Poultry Products
510	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
518	Rural Business Enterprise Grants and Television Demonstration Grants
559	New Restrictions on Lobbying
	DOC
578	Regulations To Implement the Economic Development Administration Reform Act of 1998
580	Trade Act–Adjustment Assistance for Communities
589	Administration of State Log Exports Ban
637	Regulatory Amendment To Extend California Gillnet Regulations to the EEZ
643	Implementation of Pacific Insular Area Fishing Agreement Provisions of the Magnuson-Stevens Act
674	Amendment 13 to the Pacific Coast Salmon Plan
702	Implementation of Amendment 8 to the Northern Anchovy Fishery Management Plan
705	Amendment 14 to the Pacific Coast Salmon Plan
711	Regulatory Amendment To Allocate Certain Groundfish Species Between the Trawl and Fixed Gear Commercial Groundfish Fisheries
735	Revision of Federal Consistency Regulations Under the Coastal Zone Management Act
740	Policies and Procedures Regarding Program Evaluation and Competitive Funding Requirements Within the Office of Oceanic and Atmospheric Research
763	1999-2000 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California
765	Regulatory Amendment To Allow Limited Entry Trawlers To Retain Groundfish Taken in Excess of Cumulative Trip Limits
766	Regulatory Amendment To Allocate Lingcod and Bocaccio Rockfish Between Commercial and Recreational Groundfish Fisheries
776	General Authorization for Scientific Research Involving Level B Harassment
779	Draft Policies for Safe Harbor and Candidate Species Conservation (CCA) Agreements
807	Final Rule To Amend Marine Mammal Regulations To Authorize Incidental Takings of Marine Mammals by Harassment as Authorized by Public Law 103-238
845	1998-1999 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California
	DOD
921	Military Assistance for Civil Disturbances (MACDIS) (DoD Directive 3025.12)
925	Closed, Transferred, and Transferring Ranges Containing Military Munitions
929	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments; Amendment
1020	Radiation Sources on Army Land
	DOE
18	Energy Efficiency Standards Rulemakings and Determinations for High Priority Consumer Products and Commercial Equipment
1067	Energy Efficiency Standards for Central Air Conditioners and Heat Pumps
1070	Energy Efficiency Standards for Lamp Ballasts
1071	Energy Efficiency Standards for Water Heaters
1079	State and Local Incentives Program: Alternative Fuels
1082	Alternative Fuel Transportation Program: P-Series Fuels
1084	Energy Efficiency Standards for Residential Furnaces, Boilers, and Mobile Home Furnaces
1087	Energy Efficiency Standards for Clothes Dryers and Dishwashers
1088	Energy Efficiency Standards for Pool Heaters and Direct Heating Equipment
1090	Energy Efficiency Standards for Fluorescent and Incandescent Lamps
1091	Energy Efficiency Standards for Electric Cooking Appliances
1097	The Office of Energy Research Financial Assistance Program
1098	Payments for Special Burdens and in Lieu of Taxes
1105	Annotation of Land Records for Remediated Properties in the Uranium Mill Tailings Remedial Action Project (UMTRA)
1123	Agency Implementation of Revised OMB Circular A-133
	HHS
22	Hearing Aids; Professional and Patient Labeling; Conditions for Sale
30	Medicaid Managed Care; Regulatory Program to Implement Certain Medicaid Provisions of the Balanced Budget Act of 1997 (HCFA-2001-P)
34	Temporary Assistance for Needy Families (TANF)
1142	Block Grants for Prevention and Treatment of Substance Abuse
1149	Review of Warnings, Use Instructions, and Precautionary Information Under Section 314 of the National Childhood Vaccine Injury Act of 1986
1195	Prescription Drug Marketing Act of 1987; Policy Information, Guidance, and Clarifications
1198	Prescription Drug Product Labeling; Medication Guide
1223	Food Labeling Review
1224	Medical Foods
1228	Reinventing FDA Food Regulations
1229	Dietary Supplement Regulations in Response to DSHEA
1236	Exemption From Preemption of State and Local Cigarette and Smokeless Tobacco Requirements; Applications for Exemption Submitted by Various State Governments; Group 1; Group 2
1240	Reinvention of Administrative Procedures Regulations
1270	Standards of Compliance for Abortion-Related Services in Family Planning Service Projects
1271	Public Health Service Standards for the Protection of Research Misconduct Whistleblowers
1273	Medicaid: Optional Coverage of TB-Related Services for Individuals Infected With Tuberculosis (HCFA-2082-P)
1274	Liability for Third Parties To Pay for Care and Services (MB-080-P)
1281	Medicaid Program; Amendment to the Preadmission Screening and Annual Resident Review Program (HCFA-2107-P)
1287	Deduction of Incurred Medical Expenses (Spenddown) (HCFA-2020-F)
1294	Medicaid Payment for Covered Outpatient Drugs Under Rebate Agreements (HCFA-2046-FC)
1297	Revised Medicaid Management Information Systems (HCFA-2038-FN)
1309	Changes to the Hospital Inpatient Prospective Payment System and Fiscal Year 1998 Rates (HCFA-1878-F)
1310	Utilization Control and Discontinued Review Activities; Medicaid (MB-101-FC)
1311	Individual Market Health Ins. Reform Portability From Group to Indiv. Coverage; Federal Rules for Access in the Indiv. Market; State Alternative Mechanisms to Federal Rules (HCFA-2882-F)
1312	Medicaid Program; Redeterminations of Medicaid Eligibility Due to Welfare Reform (HCFA-2105-IFC)
1314	Allocation of Enhanced Federal Matching Funds for Increased Administrative Costs (MB-103-N)
1315	Medically Needy Determinations Under Welfare Reform (HCFA-2109-IFC)
1316	Final Limitations on Aggregate Payments to Disproportionate Share Hospitals: Federal Fiscal Year 1998 (HCFA-2110-N)
1317	Revision to the Definition of an Unemployed Parent (HCFA-2106-FC)
1319	Health Insurance Reform: Parity in the Application of Certain Limits to Mental Health Benefits (HCFA-2891-IFC)
1324	GME: Incentive Payments Under Plans for Voluntary Reduction in Number of Residents (HCFA-1001-IFC)
1325	Medicare+Choice Program; Regulatory Program to Implement Certain Medicare Provisions of the Balanced Budget Act of 1997 (HCFA-1030-F)
1332	Medicare and Medicaid Programs; Surety Bond Requirements for Home Health Agencies (HCFA-1038-NC)
1336	Reporting Outcome and Assessment Information Set (OASIS) Data as Part of the Conditions of Participation for Home Health Agencies (HCFA-3006-IFC)
1343	Protection of Income and Resources for Community Spouses of Institutionalized Individuals (HCFA-2023-P)
1344	Survey Requirements and Alternative Sanctions for Home Health Agencies (HCFA-2169-F)
1345	Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Services (MB-28-F)
1348	Case Management (HCFA-2027-F)
1351	Alternative Sanctions for Psychiatric Hospitals (HCFA-2191-P)
1352	Referral to Child Support Enforcement Agencies of Medicaid Families (HCFA-2051-F)

State Government—Cont.

Seq. No.	Title
1353	Medicaid: Outstationed Intake Locations for Certain Low-Income Pregnant Women, Infants, and Children Under Age 19 (HCFA-2052-F)
1361	Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships–Expanded to Designated Health Services (HCFA-1809-F)
1377	Medicaid; Estate Recoveries (HCFA-2083-P)
1378	Medicaid Hospice Care (HCFA-2016-P)
1380	Determination of Substandard Care in SNFs and NFs (HCFA-2240-P)
1386	Medicaid Program; Coverage and Payment for Federally Qualified Health Center Services (HCFA-2043-P)
1392	Medicaid: Medical Child Support (HCFA-2081-P)
1395	Children's Health Insurance: Program Implementations; State Plan Approval; State Payment; Coordination With State Medicaid Program (HCFA-2006-P)
1397	Medicaid Program; State Allotments for Payment of Medicare Part B Premiums for Qualified Individuals: Federal Fiscal Year 1998 (HCFA-2005-NC)
1402	Review and Payment for Claims Filed on Behalf of Medicare/Medicaid Dually Eligible Beneficiaries (HCFA-2097-3)
1404	State Plan Requirements for Durable Medical Equipment Providers (HCFA-2007-P)
1405	Child Health Insurance Allotments FY 1999 (HCFA-2014-N)
1406	State Children's Health Insurance Program Allotments and Payments to States (HCFA-2114-FC)
1407	DSH Payments - Institution for Mental Disease (HCFA-2012-N)
1408	Medicaid Program; Home and Community-Based Services (HCFA-2010-FC)
1411	Elimination of Application of Federal Financial Participation Limits (HCFA-2111-IFC)
1416	State Allotments for Additional Federal Funding of Emergency Health Services Furnished to Undocumented Aliens: Federal Fiscal Years 1998 Through (HCFA-2001-N)
1417	Medicaid Program; Extension of Waiver To Extend Medicaid Eligibility Timeframes (HCFA-2009-N)
1425	Medicaid, Medicare CLIA Program; Extension of Certain Effective Dates for Clinical Laboratory Requirements Under CLIA (HCFA 2024-IFC)
1426	Hospital Conditions of Participation, Identification of Potential Organ, Tissue, and Eye Donor and Transplant Hospitals Provisions of Transplant Related Data (HCFA-3005-F)
1430	Notice Announcing Revised Positron Emission Tomography (PET) Policy (HCFA-3008-NC)
1434	External Quality Review of Medicaid Managed Care Organizations (HCFA-2015-P)
1448	Medicare/Medicaid Program: Surety Bond Requirements for Home Health Agencies (HCFA-1152-2-F)
1450	Title IV-E Foster Care Eligibility Reviews and Child and Family Services State Plan Reviews, MEPA Implementation, ASFA Implementation, and Basic State Grant Program
1452	Methodology for Determining Whether an Increase in a State's Child Poverty Rate Is the Result of the TANF Program
1453	Bonus To Reward High Performance States Under the Temporary Assistance for Needy Families Block Grant
1454	Child Support Enforcement for Indian Tribes
1455	Requirements for the Tribal Programs
1456	Refugee Resettlement Program: Responding to TANF Replacing AFDC
1457	Child Support Penalties and Incentives
1458	Family Child Care Program Option for Head Start Programs
1459	Implementation of Remaining Provisions of the Adoption and Safe Families Act of 1997 and Other Title IV-B/IV-E Regulatory Amendments, AFCARS Penalties, and CAPTA Amendments
1460	State Self Assessments of State Plan Requirements To Determine Compliance With Federal Regulations
1463	State Law Concerning Paternity Establishment
1464	Grants to States for Access and Visitation Programs
1466	Bonus to Reward Decrease in Illegitimacy Ratio
1467	Child Support Enforcement Program Omnibus Conforming Regulation
1468	Case Closure
1469	Head Start Appeal Timelines
1470	Welfare-to-Work Data Collection
1471	National Medical Support Notice
1473	Quarterly Wage and Unemployment Compensation Claims Reporting to the National Directory of New Hires
1474	Automated Data Processing Requirements/State Case Registry
1475	Automated Data Processing Funding Limitation
1476	Child Care and Development Fund
1477	Child Abuse and Neglect Prevention and Treatment
1478	Title IV-E Training
1479	Grants for State and Community Programs on Aging, Intrastate Funding Formulas; Training, Research and Discretionary Programs; Vulnerable Elder Rights; and Grants to Indians & Native Hawaiians
	HUD
35	Sanctions for Underreporting of Income in the Assisted Housing Programs (FR-4334)
36	Lead-Based Paint Poisoning Prevention in Certain Residential Structures (FR-3482)
37	Multifamily Housing Mortgage and Housing Assistance Restructuring Program (Mark to Market) and Renewal of Expiring Section 8 Project-Based Assistance (FR-4298)
39	RESPA: Disclosure of Fees Paid to Retail Lenders (Brokers) (FR-3780)
40	CDBG Slum/Blight National Objective Rule (FR-4260)
42	Fair Housing Planning Performance Standard (FR-4133)
43	Public Housing Admission and Occupancy Reforms and Streamlining (FR-4084)
44	Assessment of the Reasonable Revitalization Potential of Certain Public Housing Required by Law (FR-4120)
1480	Common Rule: Nondiscrimination in Educational Activities (FR-4301)
1485	Limited Denial of Participation in HUD Programs; Clarifying Amendments (FR-3975)
1489	Regulations Governing the Environmental Review Procedures for Entities Assuming HUD's Environmental Responsibilities; Miscellaneous Amendments (FR-4326)
1494	Nondiscrimination in HUD Programs and Activities Receiving Assistance Under Title I of the Housing and Community Development Act of 1974 (FR-4092)
1498	Floodplain Management and Protection of Wetlands (FR-4142)
1499	Clarifying Amendments to Consolidated Submission for Community Planning and Development Programs (FR-4333)
1505	Site and Neighborhood Standards for Development of HUD-Assisted Rental Housing (FR-3826)
1517	Real Estate Procedures Settlement Act (RESPA): Escrow Account Statement Itemization of Charges (FR-4390)
1538	Multifamily Housing Mortgage and Housing Assistance Restructuring Program (Mark to Market) and Renewal of Expiring Section 8 Project-Based Assistance (FR-4298)
1550	New Empowerment Zones (FR-4281)
1554	Certification and Funding of State and Local Fair Housing Enforcement Agencies (FR-4392)
1556	Economic Opportunities for Low- and Very-Low-Income Persons (FR-2898)
1566	Section 8 Management Assessment Program (SEMAP) New Performance Indicators (FR-4388)
1569	Public Housing Assessment System (FR-4313)
1570	Public Housing Development Regulations (FR-3569)
1573	Replacement Housing Factor in Modernization Funding (FR-4125)
1575	Section 8 Rental Voucher and Certificate Programs–Section 8 Management Assessment Program (SEMAP) (FR-3986)
	DOI
46	Valuation of Oil From Federal Mineral Leases
48	Oil and Gas Leasing and Operations
49	Surface Management (Locatable Minerals)
1584	Nondiscrimination on the Basis of Sex in Federally Assisted Education Programs or Activities
1587	Revised Statute 2477 Rights-of-Way
1588	Administrative and Audit Requirements and Cost Principles for Assistance Programs; Buy American Act
1589	Administrative and Audit Requirements and Cost Principles for Assistance Programs, Seat Belt Usage
1592	Special Deposits
1596	Migratory Bird Hunting; Nontoxic Shot; Approval of Tin Shot as Nontoxic for Waterfowl and Coot Shooting
1597	Migratory Bird Hunting; Nontoxic Shot; Approval of Molyshot as Nontoxic for Waterfowl and Coot Hunting
1599	Migratory Bird Hunting; Reduction of the Mid-Continent Lesser Snow Goose Population
1622	Migratory Bird Special Purpose Canada Goose Permit
1626	Migratory Bird Permits; Federal Falconry Standards; Determination That Vermont and West Virginia Meet or Exceed Federal Falconry Standards

State Government—Cont.

Seq. No.	Title
1635	Endangered and Threatened Wildlife and Plants
1638	Endangered and Threatened Wildlife and Plants
1639	Endangered and Threatened Wildlife and Plants: San Xavier Talussnail
1640	Endangered and Threatened Wildlife and Plants; Reclassification of the Loch Lomond Coyote Thistle
1641	Endangered and Threatened Wildlife and Plants: Parish's Alkali Grass
1642	Endangered and Threatened Species: Sacramento Splittail
1643	Export of American Ginseng Harvested in 1994-1996
1645	Endangered and Threatened Wildlife and Plants: Arkansas River Shiner
1646	Endangered and Threatened Wildlife and Plants: Tropical Birds
1647	Endangered and Threatened Wildlife and Plants: Four Southwestern California Plants
1648	Seizure and Forfeiture Procedures
1649	Critical Habitat Designation for the Lost River and Shortnose Suckers
1650	Endangered and Threatened Wildlife and Plants: Least Chub
1651	Endangered and Threatened Wildlife and Plants: Ten Plants From the California Sierra Nevada Mountains Foothills
1652	Revision of Migratory Bird Hunting Regulations, 50 CFR Part 20
1653	Endangered and Threatened Wildlife and Plants: Critical Habitat Designation for the Western Snowy Plover
1658	Critical Habitat Proposal for Virgin River Fishes
1659	Seven Plants From the Mountains of Southern California
1660	Endangered and Threatened Wildlife and Plants: Four Southwestern California Plants
1661	Endangered and Threatened Wildlife and Plants: Four Plants From Interior Chaparral of Southwestern California and Northwestern Baja California, Mexico
1672	Endangered and Threatened Wildlife and Plants; Proposed Establishment of a Nonessential Experimental Population of Black-Footed Ferrets in Northwestern Colorado and Northeastern UT
1673	Endangered and Threatened Wildlife and Plants; Proposed Reintroduction of a Nonessential Experimental Population of Grizzly Bears in Idaho and Montana
1676	Proposed Approval of Selected State Programs Allowing the Export of Ginseng Harvested in 1997-1999
1679	Export of American Alligator for the 1998-2000 Harvest Seasons
1680	Announcement of CITES Action Concerning Changes to Appendices to Listed Species; Service Announcement Concerning Reservations
1681	Revisions to the Federal Aid Administrative Requirements
1682	Endangered and Threatened Wildlife and Plants: Proposed Endangered Status for Blackburn's Sphinx Moth from the Hawaiian Islands
1712	Eagle Permits; Permits for Falconry Purposes; Permits To Take Golden Eagle Nests
1713	Migratory Bird Permits; Specific Permit Provisions; Import and Export Permits; Banding or Marking Permits; and Scientific Collecting Permits
1714	Migratory Bird Permits; Introduction, General Requirements and Exceptions
1715	Importation, Exportation and Transportation of Wildlife Concerning International Mail, Pet Birds, Border Ports, Shellfish and Fishery Products Exemption
1736	Endangered and Threatened Wildlife and Plants: California Plants and the Black Legless Lizard
1737	Endangered and Threatened Wildlife and Plants: Pallid Manzanita
1738	Export of River Otters Taken in Missouri in 1996-97 and Subsequent Seasons
1761	Land and Water Conservation Fund of Assistance to States; Post-Completion Compliance Responsibilities
1769	Procedures for State, Tribal, and Local Government Historic Preservation Programs
1821	Takes vs. Entitlements Reporting
1822	Accounting Relief for Marginal Properties
1823	Prepayment of Royalties
1824	Chronic Erroneous Reporting
1826	Reviewing Exploration Plans and Development and Production Plans for Coastal Zone Consistency
1854	Dam Safety Rules
1857	Definition and Criteria for Valid Existing Rights
1859	Enhancing AML Reclamation
1860	Applicant/Violator System Permit Information
1861	Alluvial Valley Floors
1865	Central Valley Project of California – Purposes, Uses, and Allocation of Water Supplies
1876	Land Classification

DOJ

Seq. No.	Title
50	Nondiscrimination on the Basis of Sex in Federally Assisted Programs and Activities–Implementation of Title IX of the Education Amendments of 1972
51	Nondiscrimination on the Basis of Disability in State and Local Government Services; Public Accommodations and Commercial Facilities; Accessibility Standards
53	Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements **(Section 610 Review)**
1954	Nondiscrimination on the Basis of Disability in State and Local Government Services
1959	Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups
1960	Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, as Amended
1986	Nonimmigrant Classes; S Classification; Law Enforcement Initiatives; Alien Witnesses
1990	Judicial Review of Decisions of the Executive Office for Immigration Review and the Immigration and Naturalization Service
1997	Use of Parole for Humanitarian Reason or Significant Public Benefit and Report to Congress
1999	Delegation of Immigration Enforcement Authority
2003	Proceedings to Determine Deportability of Aliens in the United States: Apprehension, Custody, Hearing, and Appeal
2004	Control of Aliens Departing From the United States
2012	Delegation of the Adjudication of Certain H-2A Petions to the Department of Labor
2028	Regulations Pertaining to Adjudcations Processing
2032	Definition of the Term "Lawfully Present" for Purposes of Applying for Title II Benefits Under the Social Security Act
2045	Verification of Eligibility for Public Benefits
2048	Fingerprinting Applicants and Petitioners for Immigration Benefits; Establishing a Fee for Fingerprinting by the Service
2064	Nonimmigrant Visa Exemption for Nationals of the British Virgin Islands Entering the United States Through St. Thomas, United States Virgin Islands
2071	Effect of Parole of Cuban and Haitian Nationals on Resettlement Assistance Eligibility
2083	Implementation of the Pam Lychner Sexual Offender Tracking and Identification Act
2085	FBI Criminal Justice Information Systems: Access by Contractors and International Law Enforcement Agencies
2087	Federal Claims Collection Standards (FCCS)
2090	Guidelines for Megan's Law and the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act
2091	Operation of the National Instant Criminal Background Check System
2095	Violent Crime and Drug Emergency Areas
2097	Federal Convicted Offender DNA Database Program
2103	Bullet Proof Vest Partnership Grant Act of 1998
2104	Private Sector/Prison Industry Enhancement Certification

DOL

Seq. No.	Title
56	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H)
57	Procedures for Predetermination of Wage Rates (29 CFR Part 1) and Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5)
58	Welfare-to-Work (WTW) Grants
59	Workforce Investment Act of 1998
72	Noise Standard
77	Safety and Health Programs (for General Industry and the Maritime Industries)
78	Occupational Exposure to Tuberculosis
81	Requirement To Pay for Personal Protective Equipment
2113	Application of the Fair Labor Standards Act to Domestic Service
2115	Regulations To Implement the Federal Acquisition Streamlining Act of 1994, 29 CFR Parts 4 and 5, 41 CFR Parts 50-201 and 50-206
2116	Records To Be Kept by Employers Under the Fair Labor Standards Act
2119	Exemptions Applicable to Agriculture, Processing of Agricultural Commodities, and Related Subjects Under the Fair Labor Standards Act
2120	Implementation of the 1996 Amendments to the Fair Labor Standards Act
2121	Minimum Wage and Overtime Violations–Civil Money Penalties (29 CFR 578); Child Labor Violations–Civil Money Penalties (29 CFR 579); Adjustment of Civil Money Penalties for Inflation

State Government—Cont.

Seq. No.	Title
2122	Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5) Definition of "Site of the Work" Under the Davis-Bacon Act
2133	Disaster Unemployment Assistance Program, Amendment to Regulations
2134	Federal-State Unemployment Compensation Program; Unemployment Insurance Performance System
2135	Airline Deregulation: Employee Benefit Program
2140	Federal-State Unemployment Compensation Program; Confidentiality and Disclosure of State Records
2142	Services to Migrant and Seasonal Farmworkers, Job Service Complaint System, Monitoring, and Enforcement
2143	Labor Certification Process for the Permanent Employment of Aliens in the United States
2144	Establishment of Fees for Immigration Programs Administered by the Employment and Training Administration
2148	Amendments to the Labor Certification Process for Temporary Agricultural Employment in the United States (H-2A)
2172	Training and Retraining of Miners
2174	Air Quality, Chemical Substances, and Respiratory Protection Standards
2186	Training and Retraining of Miners: Supervisor Training
2205	Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting From Federal Financial Assistance
2206	Implementation of the Nondiscrimination and Equal Opportunity Requirements of the Workforce Investment Act of 1998
2207	Audits of States, Local Governments, and Nonprofit Organizations
2208	Audit Requirements for Grants, Contracts, and Other Agreements
2210	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments
2237	Respiratory Protection (Proper Use of Modern Respirators)

STATE

Seq. No.	Title
2271	Hague Intercountry Adoption Convention Implementation

DOT

Seq. No.	Title
88	Hours of Service of Drivers **(Section 610 Review)**
2279	Update of Drug and Alcohol Procedural Rules **(Section 610 Review)**
2290	New Restrictions on Lobbying
2292	Disadvantaged Business Enterprise (DBE) Regulation; General Update
2293	Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations
2302	Policy Statement on Airline Preemption
2333	Coast Guard Vessel Inspection User Fees (CGD 96-067)
2361	Lifesaving Equipment-Implementation of 1983 Amendments to SOLAS 1974 (CGD 84-069)
2366	Conformance of the Uniform State Waterway Marking System With the United States Aids to Navigation System (USCG-97-3112)
2478	National Standards for Traffic Control Devices; MUTCD; Minimum Retroreflectivity Requirements for Traffic Signs
2480	Acquisition of Real Property for Rights-of-Way
2484	Revision of Medical Examination Form and Procedures
2488	Department of Transportation (FHWA and FTA) NEPA and Related Procedures for Transportation Decisionmaking
2509	Revision of the Manual on Uniform Traffic Control Devices; Part II – Signs
2517	Railroad Highway Projects
2522	Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs
2523	Truck Size and Weight; National Network; North Dakota
2525	Commercial Driver's License Standards; Biometric Identifier
2527	Truck Length and Width Exclusive Devices
2536	Advanced Construction of Federal Aid Projects
2574	State Issued Identification Documents
2579	Political Subdivision Participation in State Highway Safety Programs and State Highway Safety Agency
2580	Uniform Procedures for State Highway Safety Programs
2615	Transition Procedures From Current to New National Driver Register
2618	Extend Participation in the National Driver Register Program
2627	Safety Incentive Grants for Use of Seat Belts
2628	State Incentives to Prevent Operation of Motor Vehicles by Intoxicated Persons
2629	Occupant Protection Incentive Grants
2630	Open Container Requirements
2631	Alcohol-Impaired Driving Countermeasures Incentive Grants
2632	State Highway Safety Data Improvements Incentive Grants
2634	Uniform Criteria for State Observational Surveys of Seat Belt Use
2635	Minimum Penalties for Repeat Offenders
2686	Whistle Bans at Highway-Rail Grade Crossings
2700	Maintenance, Inspection, and Testing of Grade-Crossing Signal Systems
2710	Planning Activities Under the Magnetic Levitation Transportation Technology Deployment Program
2720	Proposed Expanded Reporting of Safety and Security Portion of the National Transit Database
2721	Department of Transportation (FTA, FHWA, FRA, and USCG) and Related Procedures for Transportation Decisionmaking
2722	Buy America Requirements; Amendment to Rolling Stock and Certification Procedures
2724	Planning
2725	School Bus Operations
2727	Prevention of Alcohol Misuse in Transit Operations; Prevention of Prohibited Drug Use in Transit Operations
2729	"Maintenance" Under Definition of Safety-Sensitive Functions in Drug and Alcohol Rules
2731	Capital Leases
2752	Pipeline Safety: Periodic Updates to Pipeline Safety Regulations (1998)
2753	Pipeline Safety: Corrosion Control on Gas and Hazardous Liquid Pipelines
2771	Applicability of the Hazardous Materials Regulations

TREAS

Seq. No.	Title
2804	Rules and Procedures for Funds Transfers
2812	Offset of Tax Refund Payments To Collect Past-Due Support
2822	Offset of Federal Payments (Other Than Tax Refund and Federal Benefit Payments) to Collect Past-Due Debts Owed to States (Other Than Child Support)
2826	Collection of Past-Due Support by Administrative Offset
2830	Administrative Wage Garnishment
2941	Qualified State Tuition Programs
2965	Electronic Funds Transfers of Federal Deposits
2966	Electronic Fund Transfers of Federal Deposits
2983	Section 42 Miscellaneous Compliance
3017	Arbitrage Restrictions on Tax Exempt Bonds
3019	Certain Asset Transfers to a Tax-Exempt Entity
3039	Electronic Funds Transfers of Federal Deposits
3073	Definition of "Private Activity Bonds"
3074	Private Activity Bond Rules for Output Facilities
3090	Definition of "Highly Compensated Employee"
3173	Remedial Amendment Period

VA

Seq. No.	Title
3233	Per Diem for Nursing Home Care of Veterans in State Homes
3239	Priorities for State Home Grants for Construction, Acquisition or Renovation
3244	New Eligibility Criteria for the Montgomery GI Bill – Active Duty, Other Miscellaneous Issues
3245	New Criteria for Approval of Courses for Educational Assistance Programs
3255	VA Acquisition Regulation: Taxes
3259	State Cemetery Grants: Aid to States for Establishment, Expansion and Improvement of Veterans Cemeteries
3264	Recognition of Organizations and Accreditation of Representatives

ACHP

Seq. No.	Title
3350	Protection of Historic Properties

ATBCB

Seq. No.	Title
3358	Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Recreation Facilities
3361	Americans With Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Play Areas

CNCS

Seq. No.	Title
3371	Claims Collection

State Government—Cont.

Seq. No.	Title
	EPA
97	Hazardous Waste Storage and Disposal Regulation Related to Low Level Mixed Waste; Proposed Modifications
98	Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (State) Grant Regulation
100	Implementation of Ozone and Particulate Matter (PM) National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations
102	Consolidated Federal Air Rule for the Synthetic Organic Chemical Manufacturing Industry
103	Tier II Light-Duty Vehicle, Light-Duty Truck, and Heavy-Duty Gasoline Vehicle Emission Standards and Gasoline Sulfur Standards
104	NAAQS: Sulfur Dioxide (Review and Implementation)
109	Lead; Rulemakings Under TSCA Section 402, Lead-Based Paint Activities
110	Asbestos; Amendments to the Asbestos-Containing Materials in Schools Rule, Model Accreditation Plan, and Worker Protection Rule
111	PCBs; Polychlorinated Biphenyl; Use Authorizations
112	TRI; Pollution Prevention Act Information Requirements
113	TRI; Chemical Expansion; Finalization of Deferred Chemicals
114	TRI; Reporting Threshold Amendment; Toxic Chemicals Release Reporting; Community Right-to-Know
115	TRI; Review of Chemicals on the Original TRI List
116	TRI; Addition of Oil and Gas Exploration and Production to the Toxic Release Inventory
117	Standardized Permit for RCRA Hazardous Waste Management Facilities
118	Hazardous Waste Manifest Regulation
119	Management of Cement Kiln Dust (CKD)
120	Best Technology Available (BTA) for Cooling Water Intake Structures Under Section 316(b) of the Clean Water Act
121	Revision of NPDES Industrial Permit Application Requirements and Form 2C—Wastewater Discharge Information
122	Streamlining the General Pretreatment Regulations for Existing and New Sources of Pollution
123	National Primary Drinking Water Regulations: Radon
124	National Primary Drinking Water Regulations: Ground Water Rule
125	Public Water System Public Notification Regulation
126	New Source Review (NSR) Reform
127	Operating Permits: Revisions (Part 70)
128	Amendments—Integrated NESHAP and Effluent Guidelines: Pulp and Paper
129	VOC Regulation for Architectural Coatings
130	National VOC Emission Standards for Consumer Products
133	Ground Water and Pesticide Management Plan
134	Lead; TSCA Section 403; Identification of Dangerous Levels of Lead
135	Revised Standards for Hazardous Waste Combustion Facilities
136	NPDES Streamlining Rule – Round II
137	Effluent Guidelines and Standards for the Industrial Laundries Point Source Category
138	NPDES Wastewater Permit Application Forms and Regulatory Revisions for Municipal Discharges and Sewage Sludge Use or Disposal
139	NPDES Comprehensive Stormwater Phase II Regulations
140	National Primary Drinking Water Regulations: Stage I Disinfectant/Disinfection By-Products Rule
141	National Primary Drinking Water Regulations: Interim Enhanced Surface Water Treatment Rule
3374	Utilization of Small, Minority and Women's Business Enterprises in Procurement Under Assistance Agreements
3396	Nondiscrimination on the Basis of Sex In Educational Programs Receiving Federal Assistance
3400	Consolidated Emission Reporting Rule
3403	Redefinition of Glycol Ethers Listed as HAPs Under the Clean Air Act, and Hazardous Substances Under CERCLA
3406	Performance Warranty and Inspection/Maintenance Test Procedures
3408	NSPS: Synthetic Organic Chemicals Manufacturing Industry - Wastewater
3409	Method 301: Field Validation of Pollution Measurement Methods for Various Media; Revisions
3418	NSPS: Sewage Sludge Incinerators
3419	Storage Tank Rule Revisions
3423	Revisions to Clarify the Permit Content Requirements for State Operating Permits
3424	Revisions to New Source Review (NSR) Regulations to Implement the New National Ambient Air Quality Standards (NAAQS) for Ozone
3425	NESHAP: Coke Ovens: Pushing, Quenching, and Battery Stacks
3428	NESHAP: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) & Other Processes Subject to the Negotiated Regulation for Equipment
3429	Performance Specification 16 - Specifications and Test Procedures for Predictive Emission Monitoring Systems in Stationary Sources
3432	Wet-formed Fiberglass Mat Production NESHAP
3434	Revisions to the Pollutant Standards Index and Significant Harm Level Programs for Ozone and Particulate Matter
3435	General Conformity Regulations; Revisions
3439	Notice of Temporary Stay, Notice of Proposed Compliance Extension; Equivalency Determination-National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent
3443	Revision of Appendix W to 40 CFR Part 51
3445	NESHAP: Secondary Aluminum Industry
3446	NESHAP: Acrylic/Modacrylic Fibers Manufacturing
3448	NESHAP: Publicly Owned Treatment Works (POTW)
3449	NESHAP: Manufacturing of Nutritional Yeast
3450	Amendments to General Provisions Subpart A and B for 40 CFR 63
3452	Revisions to the Regulation for Approval of State Programs and Delegation of Federal Authorities 112(l)
3453	NESHAP: Lime Manufacturing
3455	NESHAP: Semiconductor Production
3456	NESHAP: Hydrogen Fluoride Production
3457	NESHAP: Chromium Electroplating Amendment
3459	NESHAP: Flexible Polyurethane Foam Fabrication Operations
3460	NESHAP: Group I Polymers and Resins and Group IV Polymers and Resins and Group IV Polymers and Resins
3465	Servicing of Motor Vehicle Air Conditioners: Standards for Equipment That Recovers and Recycles Refrigerants Other Than CFC-12 and HFC-134a
3467	NESHAP: Chromium Electroplating Amendment
3470	NESHAP: Ferroalloy Production
3479	Amendment to the User Fees for Radon Proficiency Programs Rule
3483	Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group (OTAG) Region for Purposes of Reducing Regional Transport of Ozone
3484	Addition of Opacity Method to Appendix M of 40 CFR Part 51 (Method 203)
3486	Revisions to the Permits and Sulfur Dioxide Allowance System Regulations Under Title IV of the Clean Air Act
3488	National Emission Standards for Hazardous Air Pollutants for Source Category: Pulp and Paper Production; Amendments to the Promulgated Rule
3489	Supplemental Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone
3490	Electric Arc Furnace NSPS Amendment
3491	NESHAP: Off-Site Waste and Recovery Operations; Final Rule–Settlement Agreement; and NESHAP for Off-Site Waste and Recovery Operations for Technical Amendments
3492	Acid Rain Program: Proposed Revision of Test Method 1, 2, and 2F for Measuring Volumetric Flow in Stacks
3494	Transportation Conformity Rule Amendments: Flexibility and Streamlining
3496	NESHAP: Mineral Wool Production Industry
3497	NESHAP: Oil and Natural Gas Production and Natural Gas Transmission and Storage
3498	NESHAP: Phosphoric Acid Manufacturing
3499	NESHAP: Steel Pickling, HCl Process
3500	NESHAP: Phosphate Fertilizers Production
3501	NESHAP: Primary Copper Smelting
3502	NESHAP: Wool Fiberglass Manufacturing Industry
3503	NESHAP: Portland Cement Manufacturing
3504	NESHAP: Polyether Polyols Production
3506	NESHAP: Flexible Polyurethane Foam Production
3507	NESHAP: Primary Lead Smelters
3510	NESHAP: Oil and Natural Gas Production and NESHAP: Natural Gas Transmission and Storage , Amendments to Proposed Rule
3513	Transportation Conformity Rule Amendment and Solicitation for Participation in the Pilot Program
3514	National VOC Emission Standards for Automobile Refinish Coatings
3517	Reduction of Volatile Organic Compound (VOC) Emissions From Coatings Used in the Aerospace, Wood Furniture, and Shipbuilding Industries Under Clean Air Act Section 183(e)
3520	Revision to the Covered Areas Provision for Reformulated Gasoline
3525	Refrigerant Recycling Rule Amendment To Include Substitute Refrigerants

State Government—Cont.

Seq. No.	Title
3526	Update of the Substitutes List Under the Significant New Alternatives Policy (SNAP) Program
3529	Alumina Processing NESHAP
3531	NESHAP: Cyanide Chemical Manufacturing
3532	NESHAP: Integrated Iron and Steel
3534	NESHAP: Plywood and Particleboard Manufacturing
3536	NESHAP: Miscellaneous Cellulose Production
3537	NESHAP: Municipal Solid Waste Landfills
3538	Rulemaking To Modify the List of Source Categories From Which Fugitive Emissions Are Considered in Major Source Determinations
3541	National Emission Standards for Hazardous Air Pollutants for the Hydrochloric Acid Production
3542	NESHAP: Ammonium Sulphate Production (Caprolactam By-Product)
3543	NESHAP: Asphalt/Coal Tar Application on Metal Pipes
3544	NESHAP: Clay Products Manufacturing
3545	NESHAP: Hydrogen Chloride Production
3546	NESHAP: Polyvinyl Chloride Production
3547	NESHAP: Uranium Hexafluoride Production
3548	NESHAP/NSPS: Reciprocating Internal Combustion Engine
3550	NESHAP: Iron Foundries and Steel Foundries
3551	NESHAP: Reinforced Plastic Composites Production
3553	NESHAP: Chlorine Production
3554	NESHAP: Paint Stripping Operations
3556	NESHAP: Tire Manufacturing
3557	Petroleum Solvent Dry Cleaners Maximum Achievable Control Technology (MACT) Standard
3558	Large Appliance (Surface Coating) NESHAP/VOC Reductions
3559	NESHAP: Asphalt Roofing and Processing
3562	Industrial Combustion Coordinated Rulemaking - ICCR Project
3565	NESHAP: Metal Coil (Surface Coating) Industry
3566	NESHAP: Fabric Printing, Coating and Dyeing
3567	Automobile and Light-Duty Truck Manufacturing (Surface Coating) NESHAP/VOC Reductions
3568	Offset Lithographic Printing National VOC Rule
3571	NESHAP: Spandex Production
3572	NESHAP: Leather Tanning and Finishing Operations
3573	NESHAP: Manufacture of Carbon Black
3574	NESHAP: Vegetable Oil Production
3576	NESHAP: Organic Liquid Distribution
3579	Prevention of Significant Deterioration of Air Quality: Permit Application Review Procedures for Non-Federal Class I Areas
3580	Metal Furniture (Surface Coatings) NESHAP/VOC Reductions
3581	NESHAP/VOC Reductions Miscellaneous Metal Parts and Products (Surface Coating)
3582	Plastic Parts (Surface Coating) NESHAP/VOC Reductions
3583	Paper and Other Web Coating Reductions NESHAP/ VOC Rule
3588	Industrial Process Cooling Tower NESHAP Amendment
3589	Federal Implementation Plan for a Fifteen Percent Reduction in Volatile Organic Compounds in the District of Columbia
3594	Environmental Radiation Protection Standards for Scrap Metal from Nuclear Facilities
3599	Revision of Definition of Volatile Organic Compounds - Exclusion of Methyl Acetate
3607	Transportation Conformity for Transitional Ozone Areas
3609	Alternative Flare Specifications for Hydrogen Fueled Flares
3610	NESHAP: Petroleum Refineries - Amendments to Final Rule
3616	Amendments to Municipal Solid Waste Landfills
3618	NESHAP: Manufacture of Tetrahydrobenzaldehyde
3622	Open-Market Trading Guidance
3629	Tolerances for Pesticide Emergency Exemptions
3630	The 10-Acre Limitation for Pesticide Small-Scale Field Testing
3635	WPS; Pesticide Worker Protection Standards; Pesticide Hazard Communication
3637	Pesticide Management and Disposal: Standards for Pesticide Containers and Containment
3639	Regulation of Plant-Produced Pesticides Under FIFRA and FFDCA
3641	Pesticide Management and Disposal
3642	Policy or Procedures for Notification to the Agency of Stored Pesticides With Cancelled or Suspended Registration
3652	Asbestos Model Accreditation Plan Revisions
3654	Lead-Based Paint Activities Rules; Training, Accreditation, and Certification Rule and Model State Plan Rule
3655	Lead; TSCA Requirements for the Disposal of Lead-Based Paint Debris
3665	Asbestos Worker Protection Rule; Amendments
3667	Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling
3668	Lead-Based Paint; Notification of Commencement of Abatement Activities
3680	Use of Acrylamide for Grouting
3683	Lead-Based Paint; Fees for Accreditation and Certification Activities
3684	TRI; Data Expansion Amendments; Toxic Chemical Release Reporting; Community Right-to-Know
3691	Lead-Based Paint; Disclosure Requirements at Renovation of Target Housing
3694	PCBs; Polychlorinated Biphenyls (PCBs) Disposal Amendments
3701	Emergency Planning and Community Right-to-Know Programs; Amendments to Hazardous Chemical Reporting Thresholds for Gasoline and Diesel Fuel at Retail Gas Stations
3702	Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act, Section 112(r)(7): Amendment
3703	Emergency Planning and Community Right-to-Know Act: Amendments and Streamlining Rule
3710	RCRA Reporting and Recordkeeping Burden Reduction; ANPRM
3713	Modifications to RCRA Rules Associated With Solvent-Contaminated Shop Towels and Wipers
3714	Glass-to-Glass Recycling of Cathode Ray Tubes (CRTs): Changes to Hazardous Waste Regulations
3717	Removal of Requirement To Use SW-846 Methods (Test Methods for Evaluating Solid Waste: Physical/Chemical Methods)
3718	Modifications to the Definition of Solid Waste and Regulations of Hazardous Waste Recycling: General
3719	Chlorinated Aliphatics Listing Determination
3720	Listing Determination of Wastes Generated During the Manufacture of Azo, Anthraquinone, and Triarylmethane Dyes and Pigments
3721	Revisions to the Comprehensive Guideline for Procurement of Products Containing Recovered Materials
3724	Mercury-Containing and Rechargeable Battery Management Act; Codification of Waste Management Provisions
3725	Recycled Used Oil Containing PCBs
3727	Spent Solvents Listing Determination
3728	Hazardous Waste Management System; Modification of the Hazardous Waste Program; Mercury-Containing Lamps
3729	Hazardous Remediation Waste Management Requirements (Commonly Referred to as Hazardous Waste Identification Rule for Contaminated Media or HWIR-Media)
3731	RCRA Subtitle D Solid Waste Facilities; State Permit Program – Determination of Adequacy (State Implementation Rule)
3733	Hazardous Waste Identification; Recycled Used Oil Management Standards
3734	Paint Manufacturing Wastes Listing: Hazardous Waste Management System: Identification and Listing of Hazardous Waste
3735	Identification and Listing of Hazardous Waste; Inorganic Chemical Industry Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities
3737	Hazardous Waste Identification Rule (HWIR): Identification and Listing of Hazardous Wastes
3739	Corrective Action for Solid Waste Management Units (SWMUs) at Hazardous Waste Management Facilities
3743	Listing Determination for Hazardous Wastes—Organobromines Chemical Industry
3744	Identification and Listing of Hazardous Waste: Petroleum Refining Process Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation
3745	Land Disposal Restrictions Phase IV: Treatment Standards for Metal Wastes and Mineral Processing wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues
3747	Oil Pollution Prevention Regulation: Revisions
3750	Grants for Technical Assistance Rule Reform—40 CFR Part 35 Subpart M
3751	Reportable Quantity Adjustments for Carbamates
3752	National Priorities List for Uncontrolled Hazardous Waste Sites: Proposed and Final Rules
3757	Total Maximum Daily Load (TMDL) Program Regulations Revisions
3758	Revisions to Effluent Guidelines and Standards for the Oil and Gas Extraction Point Source Category
3759	Effluent Guidelines and Standards for the Centralized Waste Treatment Industry
3762	Effluent Guidelines and Standards for Iron and Steel Manufacturing Point Source Category

State Government—Cont.

Seq. No.	Title
3763	Guidelines Establishing Test Procedures for the Analysis of Trace Metals Under the Clean Water Act
3767	Revisions to NPDES Requirements for Compliance Reporting and Collection System Discharges
3770	Amendments to Round I Final Sewage Sludge Use or Disposal Rule –Phase Two
3771	Test Procedures for the Analysis of Cryptosporidium and Giardia Under the Safe Drinking Water and Clean Water Acts
3772	Water Quality Standards for Alabama
3773	Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance – Revision of Polychlorinated Biphenyls (PCBs) Criteria
3775	Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category; Incentives Amendment
3776	Establishment of Numeric Criteria for Priority Toxic Pollutants for the State of California
3777	Guidelines Establishing Oil and Grease Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3778	Guidelines Establishing Test Procedures for the Analysis of Cyanide Under the Clean Water Act
3779	Increased Method Flexibility for Test Procedures Approved for Clean Water Act Compliance Monitoring Under 40 CFR Part 136
3780	Performance Based Measurement System (PBMS) Procedures and Guidance for Test Procedures at 40 CFR Part 136
3781	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase One
3784	Uniform National Discharge Standards for Armed Forces Vessels - Phase I
3788	Amendments to Round I Final Sewage Sludge Use or Disposal Rule–Phase One
3789	Effluent Limitations, Guidelines, and Standards for the Feedlots Point Source Category, Swine and Poultry Subcategories, and NPDES Regulation for Concentrated Animal Feeding Operations
3790	Effluent Limitations Guidelines and Standards for the Feedlots Point Source Category, Dairy and Beef Cattle Subcategories
3791	Revisions to Effluent Guidelines and Standards for the Coal Mining Point Source Category
3792	Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance
3793	Selenium Criterion Maximum Concentration for Water Quality Guidance for the Great Lakes System
3794	Effluent Guidelines and Standards for the Metal Products and Machinery Category, Phases 1 and 2
3795	Effluent Guidelines and Standards for the Transportation Equipment Cleaning Category
3796	Effluent Guidelines and Standards for Landfills
3797	Effluent Guidelines and Standards for Industrial Waste Combustors
3798	Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category, Phase II
3799	Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category; Monitoring Amendment
3800	Water Quality Standards Regulation – Revision
3801	Guidelines Establishing Whole Effluent Toxicity West Coast Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3803	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase Two
3804	NPDES Streamlining Rule – Round III
3805	Standards for the Use or Disposal of Sewage Sludge (Round II)
3807	Effluent Guidelines and Standards for the Pharmaceutical Manufacturing Category
3808	Effluent Guidelines and Standards for the Pesticide Chemicals Manufacturing Amendment; Pretreatment Standards; New and Existing Sources
3809	Streamlining Revisions to the Water Quality Planning and Management Regulations
3810	Streamlining the State Sewage Sludge Management Regulations
3811	Drinking Water Unregulated Contaminant Monitoring Program
3815	National Primary and Secondary Drinking Water Regulations: Analytical Methods for Certain Pesticides and Microbial Contaminants
3817	National Primary Drinking Water Regulations for Lead and Copper
3818	Reformatting of Drinking Water Regulations
3820	Management of Class V Injection Wells Under Part C of the Safe Drinking Water Act
3823	Drinking Water State Revolving Fund Regulations
3824	National Primary Drinking Water Regulations: Arsenic
3825	National Primary Drinking Water Regulations: Sulfate
3826	National Primary Drinking Water Standards for Aldicarb
3827	National Primary Drinking Water Regulations: Radium, Uranium, Alpha, Beta and Photon Emitters
3828	Streamlining Drinking Water Monitoring Requirements
3829	Revision of Existing Variances and Exemptions Regulation To Comply With Requirements of the Safe Drinking Water Act.
3830	Revisions to State Primacy Requirements To Implement Federal Drinking Water Regulations
3831	National Primary and Secondary Drinking Water Regulations: Analytic Methods for Organic, Inorganic and Microbiological Contaminants and Pesticides
3832	Drinking Water Consumer Confidence Report Regulations
3833	Safe Drinking Water Public Water Supply System Program: Citizen Collection Action; Notice of Complaint Seeking Review of Penalty Order
3835	Shore Protection Act, Section 4103(b) Regulations

Seq. No.	Title
	EEOC
3836	Procedures for Complaints of Employment Discrimination by Previously Exempt State and Local Government Employees
3839	Availability of Records
3840	Procedures–The Age Discrimination in Employment Act
3845	Regulations Interpreting Title II of the Older Workers Benefit Protection Act of 1990 (OWBPA)
	FEMA
3848	Flood Mitigation Assistance Program
3850	National Dam Safety Program; Assistance for State Programs
3852	Disaster Assistance; Fire Suppression Assistance
3855	Disaster Assistance; Declaration Process
3857	Debt Collection
	GSA
3886	Donation Requirements for Firearms
3894	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Assisted Programs
3901	Donations to Service Educational Activities
3903	Disposals of Surplus Real Property for Housing Assistance (PL 105-50)
3912	Management, Use, and Disposal of Aircraft
	NASA
3924	Uniform Administrative Requirements for Grants and Cooperative Agreements
3925	New Restrictions on Lobbying
	NARA
3939	Limitations on Testimony by NARA Employees
3948	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments
	NEA
3956	Nondiscrimination on the Basis of Sex In Federally Assisted Programs and Activities – Implementation of Title IX of the Education Amendments of 1972
	OMB
3994	Revision of OMB Circular A-110 To Implement the Single Audit Act Amendments of 1996 and the Revised OMB Circular A-133
	RRB
4126	Employees Under the Railroad Retirement Act
	SBA
4157	8(a) Business Development/Small Disadvantaged Business Status Determinations

State Government—Cont.

Seq. No.	Title
4163	Small Business Size Regulation 8(a) Business Development/Small Disadvantaged Business Status Determinations; Rules of Procedure Governing Cases Before the Office of Hearings and Appeals
	SSA
157	Administrative Wage Garnishment (To Repay a Debt Owed to the Social Security Administration) (724P)
158	Self-Sufficiency Incentives for Title II and Title XVI Program Beneficiaries (725P)
4170	Privacy and Disclosure of Official Records and Information (711P)
4202	Requirements for Awards and Subawards to Institutions of Higher Education; Certain Grants and Agreements With States, Local, and Indian Tribal Governments (547P)
4214	Determining Disability and Blindness; Providing for Use of a Single Decisionmaker To Make Determinations of Disability Under Titles II and XVI of the Social Security Act (668P)
4215	Reflect a Requirement of the Social Security Act That the Commissioner Disregard Evidence in Certain Situations Involving Fraud or Similar Fault Under Titles II or XVI of the Act (671P)
4223	Federal OASDI and SSI for the Aged, Blind, and Disabled; Representative Payment Provisions for Individuals Disabled Based on Drug Addiction or Alcoholism (507P)
4230	Charging Administration Fees for Making State Supplementary Payments (679F)
4233	Charging Administration Fees for Making State Supplementary Payments (679F)
	FCC
4323	Cable Television Rate Regulation
4324	Cable Television Rate Regulation: Cost of Service
4325	Customer Service Standards
4327	Over-the-Air Reception Devices
4329	Cable Act Reform
4332	Telecommunications Act of 1996, Pole Attachment Provisions
4334	Small Systems
4338	In the Matter of Billed Party Preference for 0+ InterLATA Calls
4352	Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order
4353	Enhanced 911 Services for Wireline
4357	Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996 (Second Report and Order)
4363	In the Matter of Telecommunications Relay Services, the Americans With Disabilities Act of 1990, and the Telecommunications Act of 1996
4368	Access Charge Reform for Rate-Of-Return Local Exchange Carriers
4373	In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing Disabilities
4374	In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Alert System
4375	In the Matter of the Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules To Incorporate the Forfeiture Guidelines
4377	Amendment of Part 2, Subpart K of the FCC's Rules Regarding the Importation of Radio Frequency Devices Capable of Causing Harmful Interference
4386	Medical Care Telemetry Devices
4391	Allocation of 455-456 MHz and 459-460 MHz
4395	Equipment Authorization Streamline II/Mutual Recognition Agreements and the GMPCS MOU
4400	Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures
4409	Advanced Television Service (MM Docket 87-268)
4422	1998 Biennial Review-Streamlining of Mass Media Applications, Rules, and Processes
4428	Rulemaking to Amend Part 1 and Part 21 to Redesignate the 27.5-29.5 GHz Band and To Establish Rules and Policies for Local Multi-Point Distribution Service
4429	Refarming
4430	Future Development of 800 MHz SMR; Competitive Bidding Wide Area
4431	Interconnection Obligations Pertaining to Commercial Mobile Radio Services
4437	Revision of the Commission's Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems
4439	Implementation of Section 225 of the Telecommunications Act of 1996; Access to Telecommunication Services and Equipment, and Customer Premise Equipment, for Persons With Disabilities
4440	Development of Operational, Technical, and Spectrum Requirements for Public Safety Communications Requirements
	FRS
4524	Applicability of Sections 23A and 23B of the Federal Reserve Act to Transactions Between a Member Bank and Its Subsidiaries (Docket Number: R-0977)
	FTC
4542	Trade Regulation Rule on Franchising and Business Opportunity Ventures
4548	Amended Federal Deposit Insurance Corporation Improvement Act
	NIGC
172	Game Classification
	NRC
175	Revision of Fee Schedules; 100 Percent Fee Recovery, FY 1999
	SEC
4690	Exemption for Investment Advisers Operating in Multiple States; Revisions to Rules Implementing Amendments to the Investment Advisers Act of 1940; Colorado and Iowa Investment Advisers

Local Government

Seq. No.	Title
	USDA
4	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Delivery Systems Integrity
6	FSP: Personal Responsibility Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
7	FSP: State Flexibility and Certification Provisions of Public Law 104-193
8	FSP: Nondiscretionary Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
9	Food Stamp Program: Work Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
10	Food Stamp Program: Food Stamp Recipient Claim Establishment and Collection Standards
180	Federal Milk Order Consolidation and Reform **(Section 610 Review)**
316	Guaranteed Rural Housing Loan Single Family
318	Denying Credit to Applicants Delinquent on Any Federal Debt
325	National Flood Insurance Regulations
369	Food Distribution Programs – Implementation of 1990 Farm Bill
372	Summer Food Service Program: Program Meal Service During the School Year
373	Consolidation of National School Lunch Program, School Breakfast Program and Summer Food Service Program Into a Comprehensive School Meal Program
374	Disclosure of Free and Reduced Price Eligibility Information Under the School Nutrition and Child and Adult Care Food Programs
375	Food Stamp Program: Welfare Reform and Regulatory Review of Program Management
376	Improving Management and Program Integrity in the Child and Adult Care Food Program
377	Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools: Provision 2 and Provision 3
378	Food Stamp Program Regulatory Review: Certification of Eligible Households
379	WIC: Food Package Adjustments and Corrections
380	WIC: Bloodwork Requirements
383	National School Lunch Program and School Breakfast Program: Additional Menu Planning Alternatives
391	Food Distributions Programs: Commodity Acceptability Report
392	WIC: Food and Nutrition Services and Administration (NSA) Funding Formula Rule
394	Commodity Supplemental Food Program: Program Streamlining, Flexibility, and Miscellaneous Amendments
397	WIC: Requirements for and Evaluation of WIC Program Requests for Bids for Infant Formula Rebate Contracts
399	Food Stamp Program: Anticipating Income and Reporting Changes
400	Food Stamp Program: Payment of Certain Administrative Costs of State Agencies
404	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Implementation of WIC Mandates of the Healthy Meals for Healthy Americans Act of 1994

Local Government—Cont.

Seq. No.	Title
405	Child and Adult Care Food Program: Child Nutrition and WIC Reauthorization Act Amendments and Healthy Meals for Healthy Americans Act of 1994
407	Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Disqualification of WIC Vendors Who Are Disqualified From the Food Stamp Program
408	Special Supplemental Nutrition Program for WIC: Implementation of WIC-Related Provisions of PL 104-193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996
409	Implementation of Legislative Changes in the Child and Adult Care Food Program
411	Food Stamp Provisions of the Balanced Budget Act of 1997
412	Special Supplemental Food Program for Women, Infants, and Children (WIC): Miscellaneous Provisions
413	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Cost Containment Requirements
414	Permanent Agreements/Direct Certification in National School Lunch, School Breakfast, and Special Milk Programs
415	Provisions of Computer Matching and Privacy Protection Act of 1988, Amendments of 1990, and Implementation of the Disqualified Recipient Subsystem
416	School Nutrition Programs: Technical and Nondiscretionary Amendments
419	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Soy-Base Beverages (Soymilk) in WIC
420	WIC Farmers Market Nutrition Program (FMNP): Expansion Funds Allocation Formula
421	Food Stamp Program: Quality Control Provisions of the Mickey Leland Childhood Hunger Relief Act
425	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Accommodation of Cultural Food Preferences in the WIC Program
427	Food Stamp Program: Simplified Food Stamp Program Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
428	WIC: Evaluation of WIC Program Infant Formula Rebate Contracts
430	Definition of Federal Means-Tested Public Benefit
510	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
515	Direct Business and Industry Direct Loan Program
517	Rural Business Opportunity Grants
518	Rural Business Enterprise Grants and Television Demonstration Grants
523	Rural and Rural Area Under the Rural Community Advancement Program
541	Community Facility Loans – Timber-Dependent Communities
542	Solid Waste Management Grants
543	Technical Assistance and Training Grants
559	New Restrictions on Lobbying

DOC

Seq. No.	Title
578	Regulations To Implement the Economic Development Administration Reform Act of 1998
580	Trade Act–Adjustment Assistance for Communities
589	Administration of State Log Exports Ban
674	Amendment 13 to the Pacific Coast Salmon Plan
705	Amendment 14 to the Pacific Coast Salmon Plan
763	1999-2000 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California
779	Draft Policies for Safe Harbor and Candidate Species Conservation (CCA) Agreements
807	Final Rule To Amend Marine Mammal Regulations To Authorize Incidental Takings of Marine Mammals by Harassment as Authorized by Public Law 103-238
845	1998-1999 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California

DOD

Seq. No.	Title
921	Military Assistance for Civil Disturbances (MACDIS) (DoD Directive 3025.12)
929	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments; Amendment
1020	Radiation Sources on Army Land

DOE

Seq. No.	Title
18	Energy Efficiency Standards Rulemakings and Determinations for High Priority Consumer Products and Commercial Equipment
1067	Energy Efficiency Standards for Central Air Conditioners and Heat Pumps
1070	Energy Efficiency Standards for Lamp Ballasts
1071	Energy Efficiency Standards for Water Heaters
1076	Alternate Fueled Vehicle Acquisition Requirements for Private and Local Government Fleets
1079	State and Local Incentives Program: Alternative Fuels
1084	Energy Efficiency Standards for Residential Furnaces, Boilers, and Mobile Home Furnaces
1087	Energy Efficiency Standards for Clothes Dryers and Dishwashers
1088	Energy Efficiency Standards for Pool Heaters and Direct Heating Equipment
1090	Energy Efficiency Standards for Fluorescent and Incandescent Lamps
1091	Energy Efficiency Standards for Electric Cooking Appliances
1097	The Office of Energy Research Financial Assistance Program
1098	Payments for Special Burdens and in Lieu of Taxes
1123	Agency Implementation of Revised OMB Circular A-133

HHS

Seq. No.	Title
1236	Exemption From Preemption of State and Local Cigarette and Smokeless Tobacco Requirements; Applications for Exemption Submitted by Various State Governments; Group 1; Group 2
1240	Reinvention of Administrative Procedures Regulations
1273	Medicaid: Optional Coverage of TB-Related Services for Individuals Infected With Tuberculosis (HCFA-2082-P)
1311	Individual Market Health Ins. Reform Portability From Group to Indiv. Coverage; Federal Rules for Access in the Indiv. Market; State Alternative Mechanisms to Federal Rules (HCFA-2882-F)
1319	Health Insurance Reform: Parity in the Application of Certain Limits to Mental Health Benefits (HCFA-2891-IFC)
1324	GME: Incentive Payments Under Plans for Voluntary Reduction in Number of Residents (HCFA-1001-IFC)
1343	Protection of Income and Resources for Community Spouses of Institutionalized Individuals (HCFA-2023-P)
1344	Survey Requirements and Alternative Sanctions for Home Health Agencies (HCFA-2169-F)
1345	Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Services (MB-28-F)
1348	Case Management (HCFA-2027-F)
1378	Medicaid Hospice Care (HCFA-2016-P)
1380	Determination of Substandard Care in SNFs and NFs (HCFA-2240-P)
1395	Children's Health Insurance: Program Implementations; State Plan Approval; State Payment; Coordination With State Medicaid Program (HCFA-2006-P)
1425	Medicaid, Medicare CLIA Program; Extension of Certain Effective Dates for Clinical Laboratory Requirements Under CLIA (HCFA 2024-IFC)
1430	Notice Announcing Revised Positron Emission Tomography (PET) Policy (HCFA-3008-NC)
1451	Construction of Head Start Facilities
1458	Family Child Care Program Option for Head Start Programs
1461	Standards for Safe Transportation
1462	Standards for Purchase of Facilities
1463	State Law Concerning Paternity Establishment
1468	Case Closure
1469	Head Start Appeal Timelines
1471	National Medical Support Notice

HUD

Seq. No.	Title
35	Sanctions for Underreporting of Income in the Assisted Housing Programs (FR-4334)
36	Lead-Based Paint Poisoning Prevention in Certain Residential Structures (FR-3482)
37	Multifamily Housing Mortgage and Housing Assistance Restructuring Program (Mark to Market) and Renewal of Expiring Section 8 Project-Based Assistance (FR-4298)
40	CDBG Slum/Blight National Objective Rule (FR-4260)
41	Clarification of the Nature of Required CDBG Expenditure Documentation (FR-4261)
42	Fair Housing Planning Performance Standard (FR-4133)
43	Public Housing Admission and Occupancy Reforms and Streamlining (FR-4084)
44	Assessment of the Reasonable Revitalization Potential of Certain Public Housing Required by Law (FR-4120)
1480	Common Rule: Nondiscrimination in Educational Activities (FR-4301)
1485	Limited Denial of Participation In HUD Programs; Clarifying Amendments (FR-3975)

Local Government—Cont.

Seq. No.	Title
1489	Regulations Governing the Environmental Review Procedures for Entities Assuming HUD's Environmental Responsibilities; Miscellaneous Amendments (FR-4326)
1498	Floodplain Management and Protection of Wetlands (FR-4142)
1499	Clarifying Amendments to Consolidated Submission for Community Planning and Development Programs (FR-4333)
1505	Site and Neighborhood Standards for Development of HUD-Assisted Rental Housing (FR-3826)
1517	Real Estate Procedures Settlement Act (RESPA): Escrow Account Statement Itemization of Charges (FR-4390)
1525	Mortgage Insurance Premium Reduction in Central Cities (FR-4284)
1537	Suspension of New Leases Under the Single-Family Property Disposition Homeless Program (FR-4275)
1538	Multifamily Housing Mortgage and Housing Assistance Restructuring Program (Mark to Market) and Renewal of Expiring Section 8 Project-Based Assistance (FR-4298)
1541	Community Development Block Grant Program; National Objective and Streamlining Changes (FR-4144)
1548	Emergency Shelter Grants Program (FR-4330)
1550	New Empowerment Zones (FR-4281)
1554	Certification and Funding of State and Local Fair Housing Enforcement Agencies (FR-4392)
1556	Economic Opportunities for Low- and Very-Low-Income Persons (FR-2898)
1566	Section 8 Management Assessment Program (SEMAP) New Performance Indicators (FR-4388)
1569	Public Housing Assessment System (FR-4313)
1570	Public Housing Development Regulations (FR-3569)
1573	Replacement Housing Factor in Modernization Funding (FR-4125)
1575	Section 8 Rental Voucher and Certificate Programs–Section 8 Management Assessment Program (SEMAP) (FR-3986)

DOI

Seq. No.	Title
48	Oil and Gas Leasing and Operations
49	Surface Management (Locatable Minerals)
1584	Nondiscrimination on the Basis of Sex in Federally Assisted Education Programs or Activities
1587	Revised Statute 2477 Rights-of-Way
1588	Administrative and Audit Requirements and Cost Principles for Assistance Programs; Buy American Act
1589	Administrative and Audit Requirements and Cost Principles for Assistance Programs, Seat Belt Usage
1592	Special Deposits
1596	Migratory Bird Hunting; Nontoxic Shot; Approval of Tin Shot as Nontoxic for Waterfowl and Coot Shooting
1597	Migratory Bird Hunting; Nontoxic Shot; Approval of Molyshot as Nontoxic for Waterfowl and Coot Hunting
1599	Migratory Bird Hunting; Reduction of the Mid-Continent Lesser Snow Goose Population
1622	Migratory Bird Special Purpose Canada Goose Permit
1626	Migratory Bird Permits; Federal Falconry Standards; Determination That Vermont and West Virginia Meet or Exceed Federal Falconry Standards
1657	Taxonomic Change From Subspecies to Vertebrate Population Segment for the Virgin River Chub
1672	Endangered and Threatened Wildlife and Plants; Proposed Establishment of a Nonessential Experimental Population of Black-Footed Ferrets in Northwestern Colorado and Northeastern UT
1673	Endangered and Threatened Wildlife and Plants; Proposed Reintroduction of a Nonessential Experimental Population of Grizzly Bears in Idaho and Montana
1712	Eagle Permits; Permits for Falconry Purposes; Permits To Take Golden Eagle Nests
1713	Migratory Bird Permits; Specific Permit Provisions; Import and Export Permits; Banding or Marking Permits; and Scientific Collecting Permits
1714	Migratory Bird Permits; Introduction, General Requirements and Exceptions
1769	Procedures for State, Tribal, and Local Government Historic Preservation Programs
1865	Central Valley Project of California – Purposes, Uses, and Allocation of Water Supplies

DOJ

Seq. No.	Title
50	Nondiscrimination on the Basis of Sex in Federally Assisted Programs and Activities–Implementation of Title IX of the Education Amendments of 1972
51	Nondiscrimination on the Basis of Disability in State and Local Government Services; Public Accommodations and Commercial Facilities; Accessibility Standards
53	Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements **(Section 610 Review)**
1954	Nondiscrimination on the Basis of Disability in State and Local Government Services
1959	Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups
1960	Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, as Amended
1986	Nonimmigrant Classes; S Classification; Law Enforcement Initiatives; Alien Witnesses
1990	Judicial Review of Decisions of the Executive Office for Immigration Review and the Immigration and Naturalization Service
1997	Use of Parole for Humanitarian Reason or Significant Public Benefit and Report to Congress
1999	Delegation of Immigration Enforcement Authority
2004	Control of Aliens Departing From the United States
2012	Delegation of the Adjudication of Certain H-2A Petions to the Department of Labor
2045	Verification of Eligibility for Public Benefits
2048	Fingerprinting Applicants and Petitioners for Immigration Benefits; Establishing a Fee for Fingerprinting by the Service
2064	Nonimmigrant Visa Exemption for Nationals of the British Virgin Islands Entering the United States Through St. Thomas, United States Virgin Islands
2071	Effect of Parole of Cuban and Haitian Nationals on Resettlement Assistance Eligibility
2083	Implementation of the Pam Lychner Sexual Offender Tracking and Identification Act
2085	FBI Criminal Justice Information Systems: Access by Contractors and International Law Enforcement Agencies
2090	Guidelines for Megan's Law and the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act
2095	Violent Crime and Drug Emergency Areas
2103	Bullet Proof Vest Partnership Grant Act of 1998
2104	Private Sector/Prison Industry Enhancement Certification

DOL

Seq. No.	Title
56	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or "Professional Capacity" (ESA/W-H)
57	Procedures for Predetermination of Wage Rates (29 CFR Part 1) and Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5)
58	Welfare-to-Work (WTW) Grants
59	Workforce Investment Act of 1998
72	Noise Standard
78	Occupational Exposure to Tuberculosis
81	Requirement To Pay for Personal Protective Equipment
2113	Application of the Fair Labor Standards Act to Domestic Service
2115	Regulations To Implement the Federal Acquisition Streamlining Act of 1994, 29 CFR Parts 4 and 5, 41 CFR Parts 50-201 and 50-206
2116	Records To Be Kept by Employers Under the Fair Labor Standards Act
2120	Implementation of the 1996 Amendments to the Fair Labor Standards Act
2121	Minimum Wage and Overtime Violations–Civil Money Penalties (29 CFR 578); Child Labor Violations–Civil Money Penalties (29 CFR 579); Adjustment of Civil Money Penalties for Inflation
2122	Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5) Definition of "Site of the Work" Under the Davis-Bacon Act
2142	Services to Migrant and Seasonal Farmworkers, Job Service Complaint System, Monitoring, and Enforcement
2144	Establishment of Fees for Immigration Programs Administered by the Employment and Training Administration
2172	Training and Retraining of Miners
2174	Air Quality, Chemical Substances, and Respiratory Protection Standards
2186	Training and Retraining of Miners; Supervisor Training
2205	Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting From Federal Financial Assistance
2206	Implementation of the Nondiscrimination and Equal Opportunity Requirements of the Workforce Investment Act of 1998
2207	Audits of States, Local Governments, and Nonprofit Organizations

Local Government—Cont.

Seq. No.	Title
2208	Audit Requirements for Grants, Contracts, and Other Agreements
2210	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments
2237	Respiratory Protection (Proper Use of Modern Respirators)
	STATE
2271	Hague Intercountry Adoption Convention Implementation
	DOT
2279	Update of Drug and Alcohol Procedural Rules (**Section 610 Review**)
2290	New Restrictions on Lobbying
2292	Disadvantaged Business Enterprise (DBE) Regulation; General Update
2293	Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations
2302	Policy Statement on Airline Preemption
2333	Coast Guard Vessel Inspection User Fees (CGD 96-067)
2361	Lifesaving Equipment-Implementation of 1983 Amendments to SOLAS 1974 (CGD 84-069)
2478	National Standards for Traffic Control Devices; MUTCD; Minimum Retroreflectivity Requirements for Traffic Signs
2480	Acquisition of Real Property for Rights-of-Way
2509	Revision of the Manual on Uniform Traffic Control Devices; Part II – Signs
2517	Railroad Highway Projects
2522	Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs
2579	Political Subdivision Participation in State Highway Safety Programs and State Highway Safety Agency
2580	Uniform Procedures for State Highway Safety Programs
2686	Whistle Bans at Highway-Rail Grade Crossings
2700	Maintenance, Inspection, and Testing of Grade-Crossing Signal Systems
2705	Small Railroads; Policy Statement on Enforcement Program
2720	Proposed Expanded Reporting of Safety and Security Portion of the National Transit Database
2721	Department of Transportation (FTA, FHWA, FRA, and USCG) and Related Procedures for Transportation Decisionmaking
2722	Buy America Requirements; Amendment to Rolling Stock and Certification Procedures
2724	Planning
2725	School Bus Operations
2727	Prevention of Alcohol Misuse in Transit Operations; Prevention of Prohibited Drug Use in Transit Operations
2729	"Maintenance" Under Definition of Safety-Sensitive Functions in Drug and Alcohol Rules
2730	Clean Fuels Formula Grant Program
2731	Capital Leases
2752	Pipeline Safety: Periodic Updates to Pipeline Safety Regulations (1998)
2753	Pipeline Safety: Corrosion Control on Gas and Hazardous Liquid Pipelines
2771	Applicability of the Hazardous Materials Regulations
	TREAS
2830	Administrative Wage Garnishment
2965	Electronic Funds Transfers of Federal Deposits
2966	Electronic Fund Transfers of Federal Deposits
2983	Section 42 Miscellaneous Compliance
3017	Arbitrage Restrictions on Tax Exempt Bonds
3019	Certain Asset Transfers to a Tax-Exempt Entity
3039	Electronic Funds Transfers of Federal Deposits
3073	Definition of "Private Activity Bonds"
3074	Private Activity Bond Rules for Output Facilities
3090	Definition of "Highly Compensated Employee"
3141	Qualified Zone Academy Bonds
3173	Remedial Amendment Period
	VA
3233	Per Diem for Nursing Home Care of Veterans in State Homes
3255	VA Acquisition Regulation: Taxes
	ATBCB
3358	Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Recreation Facilities
3361	Americans With Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Play Areas
	CNCS
3371	Claims Collection
	EPA
98	Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (State) Grant Regulation
103	Tier II Light-Duty Vehicle, Light-Duty Truck, and Heavy-Duty Gasoline Vehicle Emission Standards and Gasoline Sulfur Standards
104	NAAQS: Sulfur Dioxide (Review and Implementation)
109	Lead; Rulemakings Under TSCA Section 402, Lead-Based Paint Activities
110	Asbestos; Amendments to the Asbestos-Containing Materials in Schools Rule, Model Accreditation Plan, and Worker Protection Rule
111	PCBs; Polychlorinated Biphenyl; Use Authorizations
120	Best Technology Available (BTA) for Cooling Water Intake Structures Under Section 316(b) of the Clean Water Act
121	Revision of NPDES Industrial Permit Application Requirements and Form 2C–Wastewater Discharge Information
122	Streamlining the General Pretreatment Regulations for Existing and New Sources of Pollution
123	National Primary Drinking Water Regulations: Radon
124	National Primary Drinking Water Regulations: Ground Water Rule
125	Public Water System Public Notification Regulation
128	Amendments–Integrated NESHAP and Effluent Guidelines: Pulp and Paper
129	VOC Regulation for Architectural Coatings
130	National VOC Emission Standards for Consumer Products
133	Ground Water and Pesticide Management Plan
134	Lead; TSCA Section 403; Identification of Dangerous Levels of Lead
136	NPDES Streamlining Rule – Round II
137	Effluent Guidelines and Standards for the Industrial Laundries Point Source Category
138	NPDES Wastewater Permit Application Forms and Regulatory Revisions for Municipal Discharges and Sewage Sludge Use or Disposal
139	NPDES Comprehensive Stormwater Phase II Regulations
140	National Primary Drinking Water Regulations: Stage I Disinfectant/Disinfection By-Products Rule
141	National Primary Drinking Water Regulations: Interim Enhanced Surface Water Treatment Rule
3374	Utilization of Small, Minority and Women's Business Enterprises in Procurement Under Assistance Agreements
3396	Nondiscrimination on the Basis of Sex in Educational Programs Receiving Federal Assistance
3403	Redefinition of Glycol Ethers Listed as HAPs Under the Clean Air Act, and Hazardous Substances Under CERCLA
3406	Performance Warranty and Inspection/Maintenance Test Procedures
3418	NSPS: Sewage Sludge Incinerators
3422	Review of Minor New Sources and Modifications in Indian Country
3424	Revisions to New Source Review (NSR) Regulations to Implement the New National Ambient Air Quality Standards (NAAQS) for Ozone
3428	NESHAP: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) & Other Processes Subject to the Negotiated Regulation for Equipment
3430	Federal Implementation Plans To Reduce the Regional Transport of Ozone in the Eastern United States; Proposed Rules
3431	Findings of Significant Contribution and Rulemaking on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport
3434	Revisions to the Pollutant Standards Index and Significant Harm Level Programs for Ozone and Particulate Matter
3448	NESHAP: Publicly Owned Treatment Works (POTW)
3453	NESHAP: Lime Manufacturing
3459	NESHAP: Flexible Polyurethane Foam Fabrication Operations
3460	NESHAP: Group I Polymers and Resins and Group IV Polymers and Resins and Group IV Polymers and Resins
3465	Servicing of Motor Vehicle Air Conditioners: Standards for Equipment That Recovers and Recycles Refrigerants Other Than CFC-12 and HFC-134a
3479	Amendment to the User Fees for Radon Proficiency Programs Rule

Local Government—Cont.

Seq. No.	Title
3483	Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group (OTAG) Region for Purposes of Reducing Regional Transport of Ozone
3484	Addition of Opacity Method to Appendix M of 40 CFR Part 51 (Method 203)
3486	Revisions to the Permits and Sulfur Dioxide Allowance System Regulations Under Title IV of the Clean Air Act
3488	National Emission Standards for Hazardous Air Pollutants for Source Category: Pulp and Paper Production; Amendments to the Promulgated Rule
3489	Supplemental Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone
3490	Electric Arc Furnace NSPS Amendment
3491	NESHAP: Off-Site Waste and Recovery Operations; Final Rule–Settlement Agreement; and NESHAP for Off-Site Waste and Recovery Operations for Technical Amendments
3492	Acid Rain Program: Proposed Revision of Test Method 1, 2, and 2F for Measuring Volumetric Flow in Stacks
3494	Transportation Conformity Rule Amendments: Flexibility and Streamlining
3496	NESHAP: Mineral Wool Production Industry
3501	NESHAP: Primary Copper Smelting
3502	NESHAP: Wool Fiberglass Manufacturing Industry
3504	NESHAP: Polyether Polyols Production
3506	NESHAP: Flexible Polyurethane Foam Production
3513	Transportation Conformity Rule Amendment and Solicitation for Participation in the Pilot Program
3529	Alumina Processing NESHAP
3531	NESHAP: Cyanide Chemical Manufacturing
3534	NESHAP: Plywood and Particleboard Manufacturing
3536	NESHAP: Miscellaneous Cellulose Production
3537	NESHAP: Municipal Solid Waste Landfills
3538	Rulemaking To Modify the List of Source Categories From Which Fugitive Emissions Are Considered in Major Source Determinations
3541	National Emission Standards for Hazardous Air Pollutants for the Hydrochloric Acid Production
3543	NESHAP: Asphalt/Coal Tar Application on Metal Pipes
3544	NESHAP: Clay Products Manufacturing
3548	NESHAP/NSPS: Reciprocating Internal Combustion Engine
3550	NESHAP: Iron Foundries and Steel Foundries
3572	NESHAP: Leather Tanning and Finishing Operations
3576	NESHAP: Organic Liquid Distribution
3589	Federal Implementation Plan for a Fifteen Percent Reduction in Volatile Organic Compounds in the District of Columbia
3607	Transportation Conformity for Transitional Ozone Areas
3609	Alternative Flare Specifications for Hydrogen Fueled Flares
3610	NESHAP: Petroleum Refineries - Amendments to Final Rule
3616	Amendments to Municipal Solid Waste Landfills
3622	Open-Market Trading Guidance
3637	Pesticide Management and Disposal: Standards for Pesticide Containers and Containment
3652	Asbestos Model Accreditation Plan Revisions
3655	Lead; TSCA Requirements for the Disposal of Lead-Based Paint Debris
3665	Asbestos Worker Protection Rule; Amendments
3667	Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling
3680	Use of Acrylamide for Grouting
3683	Lead-Based Paint; Fees for Accreditation and Certification Activities
3691	Lead-Based Paint; Disclosure Requirements at Renovation of Target Housing
3694	PCBs; Polychlorinated Biphenyls (PCBs) Disposal Amendments
3701	Emergency Planning and Community Right-to-Know Programs; Amendments to Hazardous Chemical Reporting Thresholds for Gasoline and Diesel Fuel at Retail Gas Stations
3702	Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act, Section 112(r)(7): Amendment
3703	Emergency Planning and Community Right-to-Know Act: Amendments and Streamlining Rule
3714	Glass-to-Glass Recycling of Cathode Ray Tubes (CRTs): Changes to Hazardous Waste Regulations
3717	Removal of Requirement To Use SW-846 Methods (Test Methods for Evaluating Solid Waste: Physical/Chemical Methods)
3721	Revisions to the Comprehensive Guideline for Procurement of Products Containing Recovered Materials
3724	Mercury-Containing and Rechargeable Battery Management Act; Codification of Waste Management Provisions
3728	Hazardous Waste Management System; Modification of the Hazardous Waste Program; Mercury-Containing Lamps
3735	Identification and Listing of Hazardous Waste; Inorganic Chemical Industry Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities
3743	Listing Determination for Hazardous Wastes–Organobromines Chemical Industry
3744	Identification and Listing of Hazardous Waste: Petroleum Refining Process Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation
3747	Oil Pollution Prevention Regulation: Revisions
3750	Grants for Technical Assistance Rule Reform–40 CFR Part 35 Subpart M
3751	Reportable Quantity Adjustments for Carbamates
3752	National Priorities List for Uncontrolled Hazardous Waste Sites: Proposed and Final Rules
3759	Effluent Guidelines and Standards for the Centralized Waste Treatment Industry
3762	Effluent Guidelines and Standards for Iron and Steel Manufacturing Point Source Category
3763	Guidelines Establishing Test Procedures for the Analysis of Trace Metals Under the Clean Water Act
3767	Revisions to NPDES Requirements for Compliance Reporting and Collection System Discharges
3770	Amendments to Round I Final Sewage Sludge Use or Disposal Rule –Phase Two
3771	Test Procedures for the Analysis of Cryptosporidium and Giardia Under the Safe Drinking Water and Clean Water Acts
3772	Water Quality Standards for Alabama
3775	Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category; Incentives Amendment
3776	Establishment of Numeric Criteria for Priority Toxic Pollutants for the State of California
3777	Guidelines Establishing Oil and Grease Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3778	Guidelines Establishing Test Procedures for the Analysis of Cyanide Under the Clean Water Act
3779	Increased Method Flexibility for Test Procedures Approved for Clean Water Act Compliance Monitoring Under 40 CFR Part 136
3780	Performance Based Measurement System (PBMS) Procedures and Guidance for Test Procedures at 40 CFR Part 136
3781	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase One
3788	Amendments to Round I Final Sewage Sludge Use or Disposal Rule–Phase One
3789	Effluent Limitations, Guidelines, and Standards for the Feedlots Point Source Category, Swine and Poultry Subcategories, and NPDES Regulation for Concentrated Animal Feeding Operations
3790	Effluent Limitations Guidelines and Standards for the Feedlots Point Source Category, Dairy and Beef Cattle Subcategories
3791	Revisions to Effluent Guidelines and Standards for the Coal Mining Point Source Category
3794	Effluent Guidelines and Standards for the Metal Products and Machinery Category, Phases 1 and 2
3795	Effluent Guidelines and Standards for the Transportation Equipment Cleaning Category
3796	Effluent Guidelines and Standards for Landfills
3797	Effluent Guidelines and Standards for Industrial Waste Combustors
3798	Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category, Phase II
3799	Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category; Monitoring Amendment
3800	Water Quality Standards Regulation – Revision
3801	Guidelines Establishing Whole Effluent Toxicity West Coast Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3803	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase Two
3804	NPDES Streamlining Rule – Round III
3805	Standards for the Use or Disposal of Sewage Sludge (Round II)
3807	Effluent Guidelines and Standards for the Pharmaceutical Manufacturing Category
3810	Streamlining the State Sewage Sludge Management Regulations

Local Government—Cont.

Seq. No.	Title
3811	Drinking Water Unregulated Contaminant Monitoring Program
3815	National Primary and Secondary Drinking Water Regulations: Analytical Methods for Certain Pesticides and Microbial Contaminants
3817	National Primary Drinking Water Regulations for Lead and Copper
3818	Reformatting of Drinking Water Regulations
3820	Management of Class V Injection Wells Under Part C of the Safe Drinking Water Act
3821	Filter Backwash Recycling Regulation
3822	Long Term 1 Enhanced Surface Water Treatment Rule
3823	Drinking Water State Revolving Fund Regulations
3824	National Primary Drinking Water Regulations: Arsenic
3825	National Primary Drinking Water Regulations: Sulfate
3826	National Primary Drinking Water Standards for Aldicarb
3827	National Primary Drinking Water Regulations: Radium, Uranium, Alpha, Beta and Photon Emitters
3828	Streamlining Drinking Water Monitoring Requirements
3829	Revision of Existing Variances and Exemptions Regulation To Comply With Requirements of the Safe Drinking Water Act
3831	National Primary and Secondary Drinking Water Regulations: Analytic Methods for Organic, Inorganic and Microbiological Contaminants and Pesticides
3832	Drinking Water Consumer Confidence Report Regulations
3833	Safe Drinking Water Public Water Supply System Program: Citizen Collection Action; Notice of Complaint Seeking Review of Penalty Order
3835	Shore Protection Act, Section 4103(b) Regulations
	EEOC
3838	Procedures for Complaints of Employment Discrimination by Previously Exempt State and Local Government Employees
3839	Availability of Records
3840	Procedures–The Age Discrimination In Employment Act
3845	Regulations Interpreting Title II of the Older Workers Benefit Protection Act of 1990 (OWBPA)
	FEMA
3848	Flood Mitigation Assistance Program
3855	Disaster Assistance; Declaration Process
3857	Debt Collection
	GSA
3903	Disposals of Surplus Real Property for Housing Assistance (PL 105-50)
3912	Management, Use, and Disposal of Aircraft
	NASA
3924	Uniform Administrative Requirements for Grants and Cooperative Agreements
3925	New Restrictions on Lobbying
	NARA
3939	Limitations on Testimony by NARA Employees
3948	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments
	NEA
3956	Nondiscrimination on the Basis of Sex in Federally Assisted Programs and Activities – Implementation of Title IX of the Education Amendments of 1972
	OMB
3989	Reconciliation and Appeal Processes for the Census 2000 Address List
3994	Revision of OMB Circular A-110 To Implement the Single Audit Act Amendments of 1996 and the Revised OMB Circular A-133
	SSA
157	Administrative Wage Garnishment (To Repay a Debt Owed to the Social Security Administration) (724P)
4170	Privacy and Disclosure of Official Records and Information (711P)
4202	Requirements for Awards and Subawards to Institutions of Higher Education; Certain Grants and Agreements With States, Local, and Indian Tribal Governments (547P)
	FCC
4323	Cable Television Rate Regulation
4324	Cable Television Rate Regulation: Cost of Service
4325	Customer Service Standards
4327	Over-the-Air Reception Devices
4329	Cable Act Reform
4334	Small Systems
4338	In the Matter of Billed Party Preference for 0+ InterLATA Calls
4353	Enhanced 911 Services for Wireline
4374	In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Alert System
4375	In the Matter of the Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules To Incorporate the Forfeiture Guidelines
4377	Amendment of Part 2, Subpart K of the FCC's Rules Regarding the Importation of Radio Frequency Devices Capable of Causing Harmful Interference
4379	RF Exposure Standard
4386	Medical Care Telemetry Devices
4400	Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures
4422	1998 Biennial Review-Streamlining of Mass Media Applications, Rules, and Processes
4428	Rulemaking to Amend Part 1 and Part 21 to Redesignate the 27.5-29.5 GHz Band and To Establish Rules and Policies for Local Multi-Point Distribution Service
4429	Refarming
4430	Future Development of 800 MHz SMR; Competitive Bidding Wide Area
4437	Revision of the Commission's Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems
4439	Implementation of Section 225 of the Telecommunications Act of 1996; Access to Telecommunication Services and Equipment, and Customer Premise Equipment, for Persons With Disabilities
4440	Development of Operational, Technical, and Spectrum Requirements for Public Safety Communications Requirements
	NRC
175	Revision of Fee Schedules; 100 Percent Fee Recovery, FY 1999

Tribal Government

Seq. No.	Title
	USDA
4	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Delivery Systems Integrity
176	National Organic Program
211	Acquisition and Management of Real and Chattel Property
257	Loans to Indian Tribes and Tribal Corporations
258	Disaster Assistance
318	Denying Credit to Applicants Delinquent on Any Federal Debt
325	National Flood Insurance Regulations
379	WIC: Food Package Adjustments and Corrections
380	WIC: Bloodwork Requirements
391	Food Distributions Programs: Commodity Acceptability Report
392	WIC: Food and Nutrition Services and Administration (NSA) Funding Formula Rule
393	Food Distribution Program on Indian Reservations: Disqualification Penalties for Intentional Program Violations
394	Commodity Supplemental Food Program: Program Streamlining, Flexibility, and Miscellaneous Amendments
397	WIC: Requirements for and Evaluation of WIC Program Requests for Bids for Infant Formula Rebate Contracts
398	Food Distribution Program on Indian Reservations – Oklahoma Waiver Authority
401	Food Distribution Program on Indian Reservations: Definition of Indian Tribal Household
404	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Implementation of WIC Mandates of the Healthy Meals for Healthy Americans Act of 1994
407	Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Disqualification of WIC Vendors Who Are Disqualified From the Food Stamp Program

Tribal Government—Cont.

Seq. No.	Title
408	Special Supplemental Nutrition Program for WIC: Implementation of WIC-Related Provisions of PL 104-193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996
412	Special Supplemental Food Program for Women, Infants, and Children (WIC): Miscellaneous Provisions
413	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Cost Containment Requirements
419	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Soy-Base Beverages (Soymilk) in WIC
420	WIC Farmers Market Nutrition Program (FMNP): Expansion Funds Allocation Formula
425	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Accommodation of Cultural Food Preferences in the WIC Program
427	Food Stamp Program: Simplified Food Stamp Program Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
428	WIC: Evaluation of WIC Program Infant Formula Rebate Contracts
510	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
515	Direct Business and Industry Direct Loan Program
518	Rural Business Enterprise Grants and Television Demonstration Grants
	DOC
578	Regulations To Implement the Economic Development Administration Reform Act of 1998
580	Trade Act–Adjustment Assistance for Communities
674	Amendment 13 to the Pacific Coast Salmon Plan
705	Amendment 14 to the Pacific Coast Salmon Plan
763	1999-2000 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California
779	Draft Policies for Safe Harbor and Candidate Species Conservation (CCA) Agreements
845	1998-1999 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California
	DOD
925	Closed, Transferred, and Transferring Ranges Containing Military Munitions
	HHS
34	Temporary Assistance for Needy Families (TANF)
1142	Block Grants for Prevention and Treatment of Substance Abuse
1240	Reinvention of Administrative Procedures Regulations
1254	Indian Child Protection and Family Violence Prevention Act Minimum Standards of Character
1255	Currently Effective Indian Health Service Eligibility Regulations
1256	Acquisition Under the Buy Indian Act
1332	Medicare and Medicaid Programs; Surety Bond Requirements for Home Health Agencies (HCFA-1038-NC)
1386	Medicaid Program; Coverage and Payment for Federally Qualified Health Center Services (HCFA-2043-P)
1402	Review and Payment for Claims Filed on Behalf of Medicare/Medicaid Dually Eligible Beneficiaries (HCFA-2097-3)
1448	Medicare/Medicaid Program: Surety Bond Requirements for Home Health Agencies (HCFA-1152-2-F)
1451	Construction of Head Start Facilities
1454	Child Support Enforcement for Indian Tribes
1455	Requirements for the Tribal Programs
1458	Family Child Care Program Option for Head Start Programs
1461	Standards for Safe Transportation
1462	Standards for Purchase of Facilities
1468	Case Closure
1469	Head Start Appeal Timelines
1471	National Medical Support Notice
1472	Designation of Alternative Agency To Serve Indian Tribal Children
1476	Child Care and Development Fund
1479	Grants for State and Community Programs on Aging, Intrastate Funding Formulas; Training, Research and Discretionary Programs; Vulnerable Elder Rights; and Grants to Indians & Native Hawaiians
	HUD
1524	Suspension of FHA Single-Family Mortgage Insurance Program for Mortgages on Indian Reservations Insured Pursuant to Section 248 of the National Housing Act (FR-4251)
1550	New Empowerment Zones (FR-4281)
	DOI
45	Tribal Self-Governance
47	Valuation of Oil From Indian Leases
1584	Nondiscrimination on the Basis of Sex in Federally Assisted Education Programs or Activities
1592	Special Deposits
1596	Migratory Bird Hunting; Nontoxic Shot; Approval of Tin Shot as Nontoxic for Waterfowl and Coot Shooting
1597	Migratory Bird Hunting; Nontoxic Shot; Approval of Molyshot as Nontoxic for Waterfowl and Coot Hunting
1599	Migratory Bird Hunting; Reduction of the Mid-Continent Lesser Snow Goose Population
1626	Migratory Bird Permits; Federal Falconry Standards; Determination That Vermont and West Virginia Meet or Exceed Federal Falconry Standards
1672	Endangered and Threatened Wildlife and Plants; Proposed Establishment of a Nonessential Experimental Population of Black-Footed Ferrets in Northwestern Colorado and Northeastern UT
1673	Endangered and Threatened Wildlife and Plants; Proposed Reintroduction of a Nonessential Experimental Population of Grizzly Bears in Idaho and Montana
1678	Importation, Exportation, Transportation of Wildlife
1681	Revisions to the Federal Aid Administrative Requirements
1693	Exportation of Marine Mammal Products for Cultural Exchange
1712	Eagle Permits; Permits for Falconry Purposes; Permits To Take Golden Eagle Nests
1713	Migratory Bird Permits; Specific Permit Provisions; Import and Export Permits; Banding or Marking Permits; and Scientific Collecting Permits
1714	Migratory Bird Permits; Introduction, General Requirements and Exceptions
1769	Procedures for State, Tribal, and Local Government Historic Preservation Programs
1784	Arrangement With States, Territories, or Other Agencies for Social Welfare and Relief of Distress of Indians
1789	Certificates of Degree of Indian Blood
1795	Preference in Employment
1797	Indian Tribal Justice Support
1812	Administration of the Higher Education Program
1813	Administration of the Indian Adult Education Programs
1814	Roads of the Bureau of Indian Affairs
1816	Housing Improvement Program
1834	Valuation of Gas From Indian Leases
1845	Suspension of Orders or Decisions Pending Appeal To Allow for Self-Bonding Based Upon Financial Solvency
1853	Indian Lands
	DOJ
53	Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements **(Section 610 Review)**
1986	Nonimmigrant Classes; S Classification; Law Enforcement Initiatives; Alien Witnesses
1997	Use of Parole for Humanitarian Reason or Significant Public Benefit and Report to Congress
1999	Delegation of Immigration Enforcement Authority
2083	Implementation of the Pam Lychner Sexual Offender Tracking and Identification Act
2085	FBI Criminal Justice Information Systems: Access by Contractors and International Law Enforcement Agencies
2091	Operation of the National Instant Criminal Background Check System
2095	Violent Crime and Drug Emergency Areas
2097	Federal Convicted Offender DNA Database Program
2102	Grants Program for Indian Tribes
2103	Bullet Proof Vest Partnership Grant Act of 1998
	DOL
57	Procedures for Predetermination of Wage Rates (29 CFR Part 1) and Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5)
58	Welfare-to-Work (WTW) Grants
59	Workforce Investment Act of 1998
72	Noise Standard
78	Occupational Exposure to Tuberculosis
2121	Minimum Wage and Overtime Violations–Civil Money Penalties (29 CFR 578); Child Labor Violations–Civil Money Penalties (29 CFR 579); Adjustment of Civil Money Penalties for Inflation
2145	Indian and Native American Welfare-to-Work Program

Tribal Government—Cont.

Seq. No.	Title
2146	Job Training Partnership Act: Indian and Native American Programs
2172	Training and Retraining of Miners
2174	Air Quality, Chemical Substances, and Respiratory Protection Standards
2205	Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting From Federal Financial Assistance
2206	Implementation of the Nondiscrimination and Equal Opportunity Requirements of the Workforce Investment Act of 1998
2237	Respiratory Protection (Proper Use of Modern Respirators)
	STATE
2271	Hague Intercountry Adoption Convention Implementation
	DOT
2279	Update of Drug and Alcohol Procedural Rules (**Section 610 Review**)
2579	Political Subdivision Participation in State Highway Safety Programs and State Highway Safety Agency
2580	Uniform Procedures for State Highway Safety Programs
2628	State Incentives to Prevent Operation of Motor Vehicles by Intoxicated Persons
2629	Occupant Protection Incentive Grants
2631	Alcohol-Impaired Driving Countermeasures Incentive Grants
2632	State Highway Safety Data Improvements Incentive Grants
2727	Prevention of Alcohol Misuse in Transit Operations; Prevention of Prohibited Drug Use in Transit Operations
2729	"Maintenance" Under Definition of Safety-Sensitive Functions in Drug and Alcohol Rules
2771	Applicability of the Hazardous Materials Regulations
	TREAS
2965	Electronic Funds Transfers of Federal Deposits
2966	Electronic Fund Transfers of Federal Deposits
3017	Arbitrage Restrictions on Tax Exempt Bonds
3019	Certain Asset Transfers to a Tax-Exempt Entity
3039	Electronic Funds Transfers of Federal Deposits
3073	Definition of "Private Activity Bonds"
3173	Remedial Amendment Period
	VA
3282	Use of Facilities To Provide Training or Work Experience for Veterans
	ACHP
3350	Protection of Historic Properties
	ATBCB
3358	Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Recreation Facilities
3361	Americans With Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Play Areas
	CNCS
3371	Claims Collection
	EPA
99	Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (Tribal) Grant Rule
103	Tier II Light-Duty Vehicle, Light-Duty Truck, and Heavy-Duty Gasoline Vehicle Emission Standards and Gasoline Sulfur Standards
109	Lead; Rulemakings Under TSCA Section 402, Lead-Based Paint Activities
110	Asbestos; Amendments to the Asbestos-Containing Materials in Schools Rule, Model Accreditation Plan, and Worker Protection Rule
111	PCBs; Polychlorinated Biphenyl; Use Authorizations
118	Hazardous Waste Manifest Regulation
121	Revision of NPDES Industrial Permit Application Requirements and Form 2C—Wastewater Discharge Information
122	Streamlining the General Pretreatment Regulations for Existing and New Sources of Pollution
123	National Primary Drinking Water Regulations: Radon
124	National Primary Drinking Water Regulations: Ground Water Rule
125	Public Water System Public Notification Regulation
130	National VOC Emission Standards for Consumer Products
133	Ground Water and Pesticide Management Plan
134	Lead; TSCA Section 403; Identification of Dangerous Levels of Lead
136	NPDES Streamlining Rule – Round II
138	NPDES Wastewater Permit Application Forms and Regulatory Revisions for Municipal Discharges and Sewage Sludge Use or Disposal
139	NPDES Comprehensive Stormwater Phase II Regulations
140	National Primary Drinking Water Regulations: Stage I Disinfectant/Disinfection By-Products Rule
141	National Primary Drinking Water Regulations: Interim Enhanced Surface Water Treatment Rule
3374	Utilization of Small, Minority and Women's Business Enterprises in Procurement Under Assistance Agreements
3396	Nondiscrimination on the Basis of Sex in Educational Programs Receiving Federal Assistance
3422	Review of Minor New Sources and Modifications in Indian Country
3423	Revisions to Clarify the Permit Content Requirements for State Operating Permits
3424	Revisions to New Source Review (NSR) Regulations to Implement the New National Ambient Air Quality Standards (NAAQS) for Ozone
3430	Federal Implementation Plans To Reduce the Regional Transport of Ozone in the Eastern United States; Proposed Rules
3434	Revisions to the Pollutant Standards Index and Significant Harm Level Programs for Ozone and Particulate Matter
3436	Review of Operating Permits Issued by Indian Tribes
3459	NESHAP: Flexible Polyurethane Foam Fabrication Operations
3460	NESHAP: Group I Polymers and Resins and Group IV Polymers and Resins and Group IV Polymers and Resins
3465	Servicing of Motor Vehicle Air Conditioners: Standards for Equipment That Recovers and Recycles Refrigerants Other Than CFC-12 and HFC-134a
3479	Amendment to the User Fees for Radon Proficiency Programs Rule
3483	Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group (OTAG) Region for Purposes of Reducing Regional Transport of Ozone
3484	Addition of Opacity Method to Appendix M of 40 CFR Part 51 (Method 203)
3489	Supplemental Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone
3490	Electric Arc Furnace NSPS Amendment
3492	Acid Rain Program: Proposed Revision of Test Method 1, 2, and 2F for Measuring Volumetric Flow in Stacks
3494	Transportation Conformity Rule Amendments: Flexibility and Streamlining
3504	NESHAP: Polyether Polyols Production
3506	NESHAP: Flexible Polyurethane Foam Production
3529	Alumina Processing NESHAP
3536	NESHAP: Miscellaneous Cellulose Production
3537	NESHAP: Municipal Solid Waste Landfills
3538	Rulemaking To Modify the List of Source Categories From Which Fugitive Emissions Are Considered in Major Source Determinations
3541	National Emission Standards for Hazardous Air Pollutants for the Hydrochloric Acid Production
3543	NESHAP: Asphalt/Coal Tar Application on Metal Pipes
3544	NESHAP: Clay Products Manufacturing
3548	NESHAP/NSPS: Reciprocating Internal Combustion Engine
3558	Large Appliance (Surface Coating) NESHAP/VOC Reductions
3572	NESHAP: Leather Tanning and Finishing Operations
3576	NESHAP: Organic Liquid Distribution
3579	Prevention of Significant Deterioration of Air Quality: Permit Application Review Procedures for Non-Federal Class I Areas
3580	Metal Furniture (Surface Coatings) NESHAP/VOC Reductions
3588	Industrial Process Cooling Tower NESHAP Amendment
3589	Federal Implementation Plan for a Fifteen Percent Reduction in Volatile Organic Compounds in the District of Columbia
3609	Alternative Flare Specifications for Hydrogen Fueled Flares
3622	Open-Market Trading Guidance
3630	The 10-Acre Limitation for Pesticide Small-Scale Field Testing
3635	WPS; Pesticide Worker Protection Standards; Pesticide Hazard Communication
3652	Asbestos Model Accreditation Plan Revisions
3654	Lead-Based Paint Activities Rules; Training, Accreditation, and Certification Rule and Model State Plan Rule
3655	Lead; TSCA Requirements for the Disposal of Lead-Based Paint Debris

Tribal Government—Cont.

Seq. No.	Title
3665	Asbestos Worker Protection Rule; Amendments
3667	Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling
3668	Lead-Based Paint; Notification of Commencement of Abatement Activities
3683	Lead-Based Paint; Fees for Accreditation and Certification Activities
3691	Lead-Based Paint; Disclosure Requirements at Renovation of Target Housing
3694	PCBs; Polychlorinated Biphenyls (PCBs) Disposal Amendments
3701	Emergency Planning and Community Right-to-Know Programs; Amendments to Hazardous Chemical Reporting Thresholds for Gasoline and Diesel Fuel at Retail Gas Stations
3702	Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act, Section 112(r)(7): Amendment
3703	Emergency Planning and Community Right-to-Know Act: Amendments and Streamlining Rule
3710	RCRA Reporting and Recordkeeping Burden Reduction; ANPRM
3714	Glass-to-Glass Recycling of Cathode Ray Tubes (CRTs): Changes to Hazardous Waste Regulations
3717	Removal of Requirement To Use SW-846 Methods (Test Methods for Evaluating Solid Waste: Physical/Chemical Methods)
3718	Modifications to the Definition of Solid Waste and Regulations of Hazardous Waste Recycling: General
3719	Chlorinated Aliphatics Listing Determination
3720	Listing Determination of Wastes Generated During the Manufacture of Azo, Anthraquinone, and Triarylmethane Dyes and Pigments
3727	Spent Solvents Listing Determination
3728	Hazardous Waste Management System; Modification of the Hazardous Waste Program; Mercury-Containing Lamps
3734	Paint Manufacturing Wastes Listing: Hazardous Waste Management System: Identification and Listing of Hazardous Waste
3735	Identification and Listing of Hazardous Waste; Inorganic Chemical Industry Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities
3744	Identification and Listing of Hazardous Waste: Petroleum Refining Process Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation
3750	Grants for Technical Assistance Rule Reform—40 CFR Part 35 Subpart M
3757	Total Maximum Daily Load (TMDL) Program Regulations Revisions
3763	Guidelines Establishing Test Procedures for the Analysis of Trace Metals Under the Clean Water Act
3770	Amendments to Round I Final Sewage Sludge Use or Disposal Rule –Phase Two
3771	Test Procedures for the Analysis of Cryptosporidium and Giardia Under the Safe Drinking Water and Clean Water Acts
3777	Guidelines Establishing Oil and Grease Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3778	Guidelines Establishing Test Procedures for the Analysis of Cyanide Under the Clean Water Act
3779	Increased Method Flexibility for Test Procedures Approved for Clean Water Act Compliance Monitoring Under 40 CFR Part 136
3780	Performance Based Measurement System (PBMS) Procedures and Guidance for Test Procedures at 40 CFR Part 136
3781	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase One
3788	Amendments to Round I Final Sewage Sludge Use or Disposal Rule–Phase One
3789	Effluent Limitations, Guidelines, and Standards for the Feedlots Point Source Category, Swine and Poultry Subcategories, and NPDES Regulation for Concentrated Animal Feeding Operations
3790	Effluent Limitations Guidelines and Standards for the Feedlots Point Source Category, Dairy and Beef Cattle Subcategories
3791	Revisions to Effluent Guidelines and Standards for the Coal Mining Point Source Category
3798	Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category, Phase II
3801	Guidelines Establishing Whole Effluent Toxicity West Coast Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3803	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase Two
3804	NPDES Streamlining Rule – Round III
3809	Streamlining Revisions to the Water Quality Planning and Management Regulations
3810	Streamlining the State Sewage Sludge Management Regulations
3811	Drinking Water Unregulated Contaminant Monitoring Program
3815	National Primary and Secondary Drinking Water Regulations: Analytical Methods for Certain Pesticides and Microbial Contaminants
3817	National Primary Drinking Water Regulations for Lead and Copper
3818	Reformatting of Drinking Water Regulations
3820	Management of Class V Injection Wells Under Part C of the Safe Drinking Water Act
3824	National Primary Drinking Water Regulations: Arsenic
3825	National Primary Drinking Water Regulations: Sulfate
3826	National Primary Drinking Water Standards for Aldicarb
3827	National Primary Drinking Water Regulations: Radium, Uranium, Alpha, Beta and Photon Emitters
3828	Streamlining Drinking Water Monitoring Requirements
3829	Revision of Existing Variances and Exemptions Regulation To Comply With Requirements of the Safe Drinking Water Act
3830	Revisions to State Primacy Requirements To Implement Federal Drinking Water Regulations
3831	National Primary and Secondary Drinking Water Regulations: Analytic Methods for Organic, Inorganic and Microbiological Contaminants and Pesticides
3832	Drinking Water Consumer Confidence Report Regulations
3833	Safe Drinking Water Public Water Supply System Program: Citizen Collection Action; Notice of Complaint Seeking Review of Penalty Order
	EEOC
3839	Availability of Records
	FEMA
3848	Flood Mitigation Assistance Program
	NASA
3925	New Restrictions on Lobbying
	NARA
3948	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments
	NEA
3956	Nondiscrimination on the Basis of Sex in Federally Assisted Programs and Activities – Implementation of Title IX of the Education Amendments of 1972
	OMB
3989	Reconciliation and Appeal Processes for the Census 2000 Address List
3994	Revision of OMB Circular A-110 To Implement the Single Audit Act Amendments of 1996 and the Revised OMB Circular A-133
	SBA
4157	8(a) Business Development/Small Disadvantaged Business Status Determinations
4163	Small Business Size Regulation 8(a) Business Development/Small Disadvantaged Business Status Determinations; Rules of Procedure Governing Cases Before the Office of Hearings and Appeals
	SSA
157	Administrative Wage Garnishment (To Repay a Debt Owed to the Social Security Administration) (724P)
4170	Privacy and Disclosure of Official Records and Information (711P)
4202	Requirements for Awards and Subawards to Institutions of Higher Education; Certain Grants and Agreements With States, Local, and Indian Tribal Governments (547P)

Tribal Government—Cont.

Seq. No.	Title
	FAR
4250	FAR Case 97-603, Empowerment Contracting
4251	FAR Cases 97-004A and 97-004B, Reform of Affirmative Action in Federal Procurement
	FCC
4353	Enhanced 911 Services for Wireline
	NIGC
172	Game Classification
173	Self-Regulation Certification for Class III Gaming Operations
174	Minimum Internal Control Standards for Tribal Gaming Operations
4567	Gaming Facility Licensing Standards
4569	Practice Before the Commission
4570	Hearings and Appeals Procedure
4571	Enforcement
4572	Definitions
4573	Management Contracts
4574	Net Gaming Revenue
4575	Tribal Background Investigation Submission Requirements and Timing
4576	Administrative Fees
4577	Public Health and Safety Compliance
4580	Technical Amendments to the Minimum Internal Control Standards
4581	Issuance of Certificates of Self-Regulation to Tribes

Federal Government

Seq. No.	Title
	USDA
8	FSP: Personal Responsibility Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
7	FSP: State Flexibility and Certification Provisions of Public Law 104-193
11	Elimination of Requirements for Partial Quality Control Programs
14	Sanitation Requirements for Official Meat and Poultry Establishments
182	Revision of Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products
204	Farmer Credit Program Account Servicing Policies for Section 1816 and Other Related Sections for the 1990 FACT Act
205	Implement Section 1818 (Borrower Training) of the Food, Agriculture, Conservation, and Trade Act of 1990 (FACT Act)
206	Implementation of Certified Lender Program
207	Insured and Guaranteed Operating and Farm Ownership Loan and Related Instructions To Implement Sections 4, 5, 7, 8, 9, and 19 of the Agricultural Credit Improvement Act of 1992
209	The Agricultural Credit Improvement Act of 1992
210	Implement Sections 11 and 13 of the Agriculture Credit Improvement Act of 1992 (Application Processing Timeframe)
259	Revisions to the Direct Farm Ownership Loan Regulation (1943-A) Outreach Program for Members of Socially Disadvantaged Groups
260	Socially Disadvantaged Outreach Program
261	Permit FSA To Sell or Assign Farm Loan Mortgages and Notes
318	Denying Credit to Applicants Delinquent on Any Federal Debt
325	National Flood Insurance Regulations
375	Food Stamp Program: Welfare Reform and Regulatory Review of Program Management
387	Electronic Benefit Transfer (EBT) Provisions of the Personal Responsibility and Work Opportunity Reconcilation Act of 1996
392	WIC: Food and Nutrition Services and Administration (NSA) Funding Formula Rule
396	Food Stamp Program: 1995 Quality Control Technical Amendments
399	Food Stamp Program: Anticipating Income and Reporting Changes
407	Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Disqualification of WIC Vendors Who Are Disqualified From the Food Stamp Program
408	Special Supplemental Nutrition Program for WIC: Implementation of WIC-Related Provisions of PL 104-193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996
427	Food Stamp Program: Simplified Food Stamp Program Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
428	WIC: Evaluation of WIC Program Infant Formula Rebate Contracts
470	Performance Standards for the Production of Certain Meat and Poultry Products
475	Sugar Import Licensing
488	Species Surplus to Domestic Manufacturing Needs
490	Appeal of Decisions Relating to Occupancy and Use of National Forest System Lands
491	Sale and Disposal of National Forest System Timber; Extension of Timber Sale Contracts To Permit Urgent Removal of Other Timber
492	Disposal of National Forest Timber: Timber Sale Contract Revisions
509	Sale and Disposal of National Forest Timber; Market-Related Contract Term Additions
518	Rural Business Enterprise Grants and Television Demonstration Grants
	DOC
16	Licensing of Private Commercial Remote-Sensing Satellite Systems
567	Changes to the Foreign Trade Statistical Regulations To Include Provisions and Requirements for the Electronic Reporting of Export Data Via the Automated Export System (AES)
573	Reporting Value on Shipper's Export Declaration for Inland Freight and Insurance Charges
574	Reporting the Value of Repairs and Replacement Parts on the Shipper's Export Declaration
575	Notation of the Shipper's Export Declaration Filing Exemption Statement on Manifest Documents
577	Revision to the Foreign Trade Statistics Regulations; Shipper's Export Declaration Requirement for Exports Valued at Less Than $2500
637	Regulatory Amendment To Extend California Gillnet Regulations to the EEZ
674	Amendment 13 to the Pacific Coast Salmon Plan
682	Regulatory Amendment to Change the Limited Entry, Sablefish Fishery Season Structure Fixed Gear
704	Regulatory Amendment To Allow "Stocking" of Multiple Limited Entry Permits in the Pacific Coast Groundfish Fisheries
705	Amendment 14 to the Pacific Coast Salmon Plan
711	Regulatory Amendment To Allocate Certain Groundfish Species Between the Trawl and Fixed Gear Commercial Groundfish Fisheries
735	Revision of Federal Consistency Regulations Under the Coastal Zone Management Act
740	Policies and Procedures Regarding Program Evaluation and Competitive Funding Requirements Within the Office of Oceanic and Atmospheric Research
742	Financial Disclosure of Fishery Management Council Nominees, Members, and Executive Directors
763	1999-2000 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California
764	Regulatory Amendment To Implement a Limited Access Program That Requires Species Endorsements To Participate in Fisheries Targeting Certain Groundfish Species
765	Regulatory Amendment To Allow Limited Entry Trawlers To Retain Groundfish Taken in Excess of Cumulative Trip Limits
766	Regulatory Amendment To Allocate Lingcod and Bocaccio Rockfish Between Commercial and Recreational Groundfish Fisheries
772	Take of Marine Mammals by the U.S. Navy Incidental to Military Activities in the South Atlantic of the United States
773	Designated Critical Habitat; Central California Coast and Southern Oregon/Northern California Coast Coho Salmon
776	General Authorization for Scientific Research Involving Level B Harassment
777	Designated Critical Habitat; Green and Hawksbill Sea Turtle
779	Draft Policies for Safe Harbor and Candidate Species Conservation (CCA) Agreements
788	Regulatory Amendment To Implement Permit, Reporting, and Recordkeeping Requirements for Processing Vessels Over 125 Feet and Their Catcher Vessels: Pacific Coast Groundfish
792	Amendment 10 to the Pacific Coast Groundfish FMP Regarding Salmon Bycatch in Groundfish Trawl
798	Regulatory Amendment To Implement Observer Requirements for Processing Vessels Over 125 Feet: Pacific Coast Groundfish
800	Regulatory Amendment To Fund Purchase of Limited Entry Trawl Permits To Reduce Excess Capacity in Pacific Coast Groundfish Fleet
804	Taking of Marine Mammals Incidental to Fisheries-Related Research

Federal Government—Cont.

Seq. No.	Title
807	Final Rule To Amend Marine Mammal Regulations To Authorize Incidental Takings of Marine Mammals by Harassment as Authorized by Public Law 103-238
810	Sea Turtle Conservation; Shrimp Trawling Requirements
826	Regulatory Amendment To Restrict Frequency of Limited Entry Permit Transfers and Require the Sorting of Catch by Species and the Retention of Fish Tickets
831	Magnuson-Stevens Act Provisions; National Standards Guidelines
845	1998-1999 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California
846	Regulatory Amendment To Implement 1998 Nontrawl Sablefish Harvest Regime
873	Establishment of Bank/Area-Specific Harvest Guidelines for the 1998 Northwestern Hawaiian Islands Lobster Fishery
882	Policies and Procedures Regarding Use of the NOAA-Based Data Collection Systems
900	Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements
901	Acquisition and Protection of Foreign Rights in Inventions
	DOD
905	Personnel and General Claims
906	Screening the Ready Reserve (DoD Directive 1200.7)
911	Collection From Third Party Payers of Reasonable Costs of Healthcare Services
912	Personnel Security Policies for Granting Access to Classified Information
913	National Policy on Reciprocity of Facilities and Guidelines for Implementation of Reciprocity
914	National Policy on Technical Surveillance Countermeasures
916	Implementation of the Wildfire Suppression Aircraft Transfer Act of 1996 (Pub. L. 104-307)
919	DLA Acquisition Regulation; Small Business and Small Disadvantaged Business Concerns
920	DLA Acquisition Regulation; Fuel Allocation Procedures
921	Military Assistance for Civil Disturbances (MACDIS) (DoD Directive 3025.12)
924	Restoration Advisory Board (RABs)
925	Closed, Transferred, and Transferring Ranges Containing Military Munitions
930	Collection From Third Party Payers of Reasonable Costs of Healthcare Services
936	Contracting for Commercial Construction (DFARS Case 98-D013)
937	Cargo Preference—Subcontracts for Commercial Items (DFARS Case 98-D014)
938	IR&D/B&P Costs for FY96 and Beyond (DFARS Case 95-D040)
939	Antiterrorism Training (DFARS Case 96-D016)
940	Streamlined R&D Test Results (DFARS Case 97-D002)
941	DD Form 1155 (DFARS Case 97-D024)
942	DFARS Part 215 Rewrite (DFARS Case 97-D018)
943	FAR Part 30 Deviations (DFARS Case 97-D016)
944	Single Process Initiative (DFARS Case 97-D014)
945	Employment Prohibition on Persons Convicted of Fraud (DFARS Case 97-D020)
946	Weighted Guidelines—Federally Funded Research and Development Centers (DFARS Case 97-D025)
947	Contract Administration and Audit Services (DFARS Case 98-D003)
948	Quality Assurance Among North Atlantic Treaty Organization Countries (DFARS Case 97-D038)
949	Compliance With Spanish Laws and Insurance (DFARS Case 98-D002)
950	Construction in Foreign Countries (DFARS Case 97-D307)
951	Commercial Ball or Roller Bearings—Components of Noncommercial Items (DFARS Case 97-D028)
952	Short Form Research Contract (DFARS Case 97-D030)
953	Veterans Employment Emphasis (DFARS Case 97-D314)
954	List of Firms Not Eligible for Defense Contracts (DFARS Case 97-D325)
955	Service Contracts That Cross Fiscal Years (DFARS Case 97-D328)
956	Comprehensive Subcontracting Plans (DFARS Case 97-D323)
957	Multiyear Contracting (DFARS Case 97-D308)
958	Waiver Authority to Humanitarian or Peacekeeping Operations (DFARS Case 97-D319)
959	Requirement Under Competition Exception for International Agreements (DFARS Case 97-D324)
960	Allowability of Costs for Restructuring Bonuses (DFARS Case 97-D312)
961	Restructuring Costs (DFARS Case 97-D313)
962	Electronic Signature on Receiving Reports (DFARS Case 98-D001)
963	Reform of Affirmative Action in Federal Government Procurement (DFARS Case 98-D007)
964	Television-Audio Support Activity (T-ASA) (DFARS Case 98-D008)
965	Contract Action Reporting—1998 (DFARS Case 98-D009)
966	E-Mail/Internet Addresses on Contracts and Modifications (DFARS Case 98-D010)
967	Letter of Offer and Acceptance (DFARS Case 98-D015)
968	Waiver of 10 USC 2534—United Kingdom (DFARS Case 98-D016)
969	Hazardous Waste Disposal (DFARS Case 98-D301)
970	Incremental Funding, Fixed Price Contracts (DAR Case 90-037)
971	Demilitarization (DFARS Case 92-D024)
972	Acquisition of Commercial Items (DFARS Case 95-D712)
973	DFARS Commercially Available Off-the-Shelf Items (DFARS Case 96-D316)
974	Distribution of Contract Financing Payment (DFARS Case 97-D011)
975	DFARS Part 213 Rewrite (DFARS Case 97-D306)
976	DD Form 2631, Performance Evaluation (A-E) (DFARS Case 97-D035)
977	Contractor Use of Nonimmigrant Aliens—Guam (DFARS Case 97-D318)
978	Uniform Procurement Instrument Identification (DFARS Case 97-D033)
979	DD Forms 350 and 1057 Changes to Capture FSS Orders (DFARS Case 98-D017)
980	Direct Award of 8(a) Contracts (DFARS Case 98-D011)
981	Revisions to DD Form 1707, Instructions to Offerors or Quoters (DFARS Case 98-D020)
982	DD Form 350 Changes Supporting Reform of Affirmative Action (DFARS Case 98-D018)
983	Flexible Progress Payments (DFARS Case 98-D400)
984	Electronic Funds Transfer (DFARS Case 98-D012)
985	Restructuring Savings Repricing Clause (DFARS Case 98-D018)
986	Reform of Affirmative Action in Federal Procurement DFARS—Phase II (DFARS Case 98-D021)
987	Finance (DFARS Case 95-D710)
988	Cost Reimbursement Rules for Indirect Costs – Private Sector Work of Defense Contractor (DFARS Case 96-D303)
989	Multiyear and Other Miscellaneous Provisions (DFARS Case 95-D703)
990	Earned Value Management Systems (DFARS Case 96-D024)
991	Duty-Free Entry (DFARS Case 96-D020)
992	Sales Commissions and Contingent Fees--FMS (DFARS Case 96-D021)
993	Central Contractor Registration (DFARS Case 97-D005)
994	Binding Arbitration in Alternative Dispute Resolution (DFARS Case 97-D304)
995	Certificate of Requests for Equitable Adjustment (DFARS Case 97-D302)
996	Approval of Nonstatutory Certification Requirements (DFARS Case 97-D301)
997	Buy American Act Waiver for Information Technology Products (DFARS Case 97-D022)
998	Architect-Engineer Selection Process (DFARS Case 97-D015)
999	Specialty Metals—Agreements With Qualifying Countries (DFARS Case 97-D007)
1000	Contractor Insurance/Pension Review (DFARS Case 97-D012)
1001	ITMRA—Telecommunications Services (DFARS Case 97-D305)
1002	Research and Development Definitions (DFARS Case 97-D021)
1003	Report of 10-Year-Term Contracts (DFARS Case 97-D303)
1004	Title to Government Property (DFARS Case 97-D027)
1005	Use of Auctions, Spot Bids, or Retail Sales of Surplus Contractor Inventory by the Contractor (DFARS Case 98-D004)
1006	Waivers of Domestic Source Limitation (DFARS Case 97-D321)
1007	Reporting of Contract Performance Outside the United States (DFARS Case 97-D029)
1008	Overseas Architect-Engineer Services (DFARS Case 97-D034)
1009	NAFTA Threshold (DFARS Case 97-D040)
1010	Industrial Plant Equipment (DFARS Case 98-D005)
1011	Recovered Material Certification (DFARS Case 97-D031)
1012	Uncompensated Overtime (DFARS Case 97-D037)
1013	Subcontracting Plans—Indian Incentives (DFARS Case 97-D309)
1014	Qualified Nonprofit Agencies for the Blind or Other Severely Handicapped (DFARS Case 97-D310)

Federal Government—Cont.

Seq. No.	Title
1015	Extension of Pilot Mentor-Protege Program (DFARS Case 97-D322)
1018	Streamlined Micro-Purchase Procedures (DFARS Case 97-D327)
1017	Contract Distribution to DFAS Accounting Offices (DFARS Case 97-D039)
1018	Limitation of Allowability of Compensation for Certain Contractor Personnel Under Defense Contracts (DFARS Case 97-D320)
1020	Radiation Sources on Army Land
	DOE
21	Radiation Protection of the Public and the Environment
1078	Energy Efficiency Code for New Federal Residential Low Rise Buildings
1080	Energy Code for New Federal Commercial and Multi-Family High Rise Residential Buildings
1105	Annotation of Land Records for Remediated Properties in the Uranium Mill Tailings Remedial Action Project (UMTRA)
1106	Occupational Radiation Protection—Amendment
1111	General Guidelines for the Recommendation of Sites for Nuclear Waste Repository
	HHS
25	Fruit and Vegetable Juices: Development of HACCP and Label Warning Statements for Juices
30	Medicaid Managed Care; Regulatory Program to Implement Certain Medicaid Provisions of the Balanced Budget Act of 1997 (HCFA-2001-P)
34	Temporary Assistance for Needy Families (TANF)
1138	Senior Biomedical Research Service
1195	Prescription Drug Marketing Act of 1987; Policy Information, Guidance, and Clarifications
1197	Tamper-Evident Packaging Requirements for Over-the-Counter Human Drug Products
1198	Prescription Drug Product Labeling; Medication Guide
1200	Current Good Manufacturing Practice; Amendment of Certain Requirements for Finished Pharmaceuticals
1221	Mutual Recog. of Pharmaceutical Good Manufacturing Inspection Rpts., Med. Device Quality Sys. Audit Rpts., and Certain Medical Device Product Eval. Rpts.; the U.S. and the European Community
1223	Food Labeling Review
1224	Medical Foods
1229	Dietary Supplement Regulations in Response to DSHEA
1238	Citizen Petitions; Actions That Can Be Requested by Petition; Summary Denial; and Referral for Other Administrative Action
1240	Reinvention of Administrative Procedures Regulations
1274	Liability for Third Parties To Pay for Care and Services (MB-080-P)
1309	Changes to the Hospital Inpatient Prospective Payment System and Fiscal Year 1998 Rates (HCFA-1878-F)
1311	Individual Market Health Ins. Reform Portability From Group to Indiv. Coverage; Federal Rules for Access in the Indiv. Market; State Alternative Mechanisms to Federal Rules (HCFA-2882-F)
1319	Health Insurance Reform: Parity in the Application of Certain Limits to Mental Health Benefits (HCFA-2891-IFC)
1320	Portability and Nondiscrimination in the Group Health Insurance Market (HCFA-2890-F)
1324	GME: Incentive Payments Under Plans for Voluntary Reduction in Number of Residents (HCFA-1001-IFC)
1344	Survey Requirements and Alternative Sanctions for Home Health Agencies (HCFA-2169-F)
1351	Alternative Sanctions for Psychiatric Hospitals (HCFA-2191-P)
1380	Determination of Substandard Care in SNFs and NFs (HCFA-2240-P)
1393	Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1999 Rates (HCFA-1003-P)
1395	Children's Health Insurance: Program Implementations; State Plan Approval; State Payment; Coordination With State Medicaid Program (HCFA-2006-P)
1397	Medicaid Program; State Allotments for Payment of Medicare Part B Premiums for Qualified Individuals: Federal Fiscal Year 1998 (HCFA-2005-NC)
1399	Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities. (HCFA-1913-IFC)
1406	State Children's Health Insurance Program Allotments and Payments to States (HCFA-2114-FC)
1416	State Allotments for Additional Federal Funding of Emergency Health Services Furnished to Undocumented Aliens: Federal Fiscal Years 1998 Through (HCFA-2001-N)
1425	Medicaid, Medicare CLIA Program; Extension of Certain Effective Dates for Clinical Laboratory Requirements Under CLIA (HCFA 2024-IFC)
1430	Notice Announcing Revised Positron Emission Tomography (PET) Policy (HCFA-3008-NC)
1431	Medicare Program; Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 1999 (HCFA-8001-N)
1432	Medicare Program; Part A Premium for 1999 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement (HCFA-8000-N)
1439	Rural Health Clinics: Amendments to Participation Requirements and Payment Provisions, and Establishment of a Quality Assessment and Improvement Program (HCFA-1910-P)
1455	Requirements for the Tribal Programs
1473	Quarterly Wage and Unemployment Compensation Claims Reporting to the National Directory of New Hires
	HUD
36	Lead-Based Paint Poisoning Prevention in Certain Residential Structures (FR-3482)
39	RESPA: Disclosure of Fees Paid to Retail Lenders (Brokers) (FR-3780)
1494	Nondiscrimination in HUD Programs and Activities Receiving Assistance Under Title I of the Housing and Community Development Act of 1974 (FR-4092)
1520	Update of the Model Energy Code (MEC) (FR-4272)
1556	Economic Opportunities for Low- and Very-Low-Income Persons (FR-2898)
	DOI
45	Tribal Self-Governance
48	Oil and Gas Leasing and Operations
49	Surface Management (Locatable Minerals)
1584	Nondiscrimination on the Basis of Sex in Federally Assisted Education Programs or Activities
1593	Appealing Administrative Actions of the Office of the Special Trustee
1596	Migratory Bird Hunting; Nontoxic Shot; Approval of Tin Shot as Nontoxic for Waterfowl and Coot Shooting
1597	Migratory Bird Hunting; Nontoxic Shot; Approval of Molyshot as Nontoxic for Waterfowl and Coot Hunting
1599	Migratory Bird Hunting; Reduction of the Mid-Continent Lesser Snow Goose Population
1626	Migratory Bird Permits; Federal Falconry Standards; Determination That Vermont and West Virginia Meet or Exceed Federal Falconry Standards
1648	Seizure and Forfeiture Procedures
1664	Reclassification of Yacare Caiman From Endangered to Threatened With Special Rule
1672	Endangered and Threatened Wildlife and Plants; Proposed Establishment of a Nonessential Experimental Population of Black-Footed Ferrets in Northwestern Colorado and Northeastern UT
1676	Proposed Approval of Selected State Programs Allowing the Export of Ginseng Harvested in 1997-1999
1677	Proposed Special Rule With the Reclassification of the Vicuna From Endangered to Threatened
1680	Announcement of CITES Action Concerning Changes to Appendices to Listed Species; Service Announcement Concerning Reservations
1712	Eagle Permits; Permits for Falconry Purposes; Permits To Take Golden Eagle Nests
1713	Migratory Bird Permits; Specific Permit Provisions; Import and Export Permits; Banding or Marking Permits; and Scientific Collecting Permits
1714	Migratory Bird Permits; Introduction, General Requirements and Exceptions
1759	Hydroelectric Power Projects in the National Park System
1769	Procedures for State, Tribal, and Local Government Historic Preservation Programs
1812	Administration of the Higher Education Program
1816	Housing Improvement Program
1821	Takes vs. Entitlements Reporting
1822	Accounting Relief for Marginal Properties
1823	Prepayment of Royalties
1824	Chronic Erroneous Reporting
1826	Reviewing Exploration Plans and Development and Production Plans for Coastal Zone Consistency
1845	Suspension of Orders or Decisions Pending Appeal To Allow for Self-Bonding Based Upon Financial Solvency
1854	Dam Safety Rules

Federal Government—Cont.

Seq. No.	Title
1857	Definition and Criteria for Valid Existing Rights
1860	Applicant/Violator System Permit Information
1861	Alluvial Valley Floors
1865	Central Valley Project of California – Purposes, Uses, and Allocation of Water Supplies
1902	Coalbed Methane Development
1918	Wild and Scenic Rivers
	DOJ
52	Revised Grounds of Inadmissibility, Waivers for Immigrants and Nonimmigrants, and Exceptions
53	Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements **(Section 610 Review)**
1957	Amendment to Nondiscrimination in Federally Assisted Programs and Activities—Implementation of Title VI of the Civil Rights Act of 1964
1958	Amendment to Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs—Implementation of Title VI of the Civil Rights Act of 1964
1963	Sale by Federal Departments or Agencies of Chemicals Usable to Manufacture a Controlled Substance
1975	Rules Concerning Conditional Permanent Residence for Alien Entrepreneurs in Deportation Proceedings
1976	Discipline of Attorneys and Representatives
1977	Conditional Grants of Suspension of Deportation and Cancellation of Removal
1979	Board of Immigration Appeals: Temporary Board Members and En Banc Procedures
1984	F, J, and M Nonimmigrant Student Requirements for Admission, Tracking, Maintenance of Status and for Employment Authorization
1985	Inspection of Persons Applying for Admission
1986	Nonimmigrant Classes; S Classification; Law Enforcement Initiatives; Alien Witnesses
1987	Update to Transit Without Visa (TWOV) Listing
1988	Employment Authorization Document Applications and Process
1989	Inspection of Persons Applying for Admission; Transit Without Visa (TWOV) and International-to-International Agreements Liquidated Damages
1990	Judicial Review of Decisions of the Executive Office for Immigration Review and the Immigration and Naturalization Service
1992	Suspension of Privilege To Transport Aliens to the United States
1993	Filing Factual Statements About Alien Prostitutes
1997	Use of Parole for Humanitarian Reason or Significant Public Benefit and Report to Congress
1999	Delegation of Immigration Enforcement Authority
2003	Proceedings to Determine Deportability of Aliens in the United States: Apprehension, Custody, Hearing, and Appeal
2012	Delegation of the Adjudication of Certain H-2A Petions to the Department of Labor
2015	Visa Waiver Pilot Program
2016	Adjustment of Status to That of Person Admitted for Permanent Residence: Conditional Residents and Fiance(e)s
2017	Nonimmigrant Classes; B Visitor for Business or Pleasure
2019	Admission of Certain Nurses Seeking Nonimmigrant Classification Under the H-1A Category
2020	Fees for Participation in Dedicated Commuter Lanes at Selected Ports of Entry; Collection of Fees Under the Dedicated Commuter Lane Program
2021	Adjustment of Status to That of Person Admitted for Permanent Residence; Temporary Removal of Certain Restrictions on Eligibility
2022	90-Day Modified Inspection of Alien Crew Members
2023	Petition To Classify Alien as Immediate Relative of a U.S. Citizen or as a Preference Immigrant; Self-Petitioning for Certain Battered or Abused Alien Spouses and Children
2024	Miscellaneous Modifications to Naturalization Regulations
2026	Employer Sanctions Modifications
2028	Regulations Pertaining to Adjudications Processing
2029	Orphan Petitions; Petitions To Classify Alien as Immediate Relative of a United States Citizen or Preference Immigrant; Change in Definition of Child
2032	Definition of the Term "Lawfully Present" for Purposes of Applying for Title II Benefits Under the Social Security Act
2045	Verification of Eligibility for Public Benefits
2055	Suspension of Deportation and Special Rule Cancellation of Removal for Certain Nationals of Guatemala, El Salvador, and Former Soviet Bloc Countries
2056	Authorizing Suspension of Employment Authorization Requirements on the Basis of Severe Economic Hardship for F-1 Students and Emergent Circumstances
2060	Filing of Proposals for Designation as a Regional Center Approved To Participate in the Immigrant Investor Pilot Program
2061	Nonimmigrant Classes; NATO-1, 2, 3, 4, 5, 6, and 7; Control of Employment of Aliens (Special Requirement for Admission, Extension and Maintenance of Status; NATO)
2062	Expansion of Direct Mail Program
2064	Nonimmigrant Visa Exemption for Nationals of the British Virgin Islands Entering the United States Through St. Thomas, United States Virgin Islands
2065	Field Officers; Powers and Duties; Subpoena
2066	Nonimmigrant Classes; Diplomat and Government Representatives; Transits; Requirements for Admission, Extension and Maintenance of Status
2067	Executing Final Order of Exclusion or Deportation; Conforming 72-Hour Notice Provisions
2068	Screening Requirements of Carriers for Reduction, Refund, or Waiver of Fines
2069	Notice of Policy Regarding Fines Imposed on Carriers Who Bring Aliens to the United States Without Proper Documentation
2070	"Master Exhibits" Currently Available
2071	Effect of Parole of Cuban and Haitian Nationals on Resettlement Assistance Eligibility
2072	Eligibility of Persons for Refugee Status and Withholding of Deportation
2073	Contracts With Transportation Lines; Limiting Transfers of Transit Without Visa Aliens in the United States to One Electronic Ticketing
2074	Examinations Fee Account Schedule
2084	Revision of 28 CFR Part 15 Pertaining to the Defense of Certain Suits Against Federal Employees To Conform to the Federal Employees Liability Reform and Tort Compensation Act
2085	FBI Criminal Justice Information Systems: Access by Contractors and International Law Enforcement Agencies
2087	Federal Claims Collection Standards (FCCS)
2089	Radiation Exposure Compensation Act: Evidentiary Requirements; Definitions and Number of Times Claims May Be Filed
2090	Guidelines for Megan's Law and the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act
2091	Operation of the National Instant Criminal Background Check System
2093	Whistleblower Protection for Federal Bureau of Investigation Employees
2095	Violent Crime and Drug Emergency Areas
2096	False Claims Amendments Act of 1986—Civil Investigative Demands
2097	Federal Convicted Offender DNA Database Program
2098	Production or Disclosure of Material or Information
2100	Justice Acquisition Regulations Streamlining
	DOL
56	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H)
57	Procedures for Predetermination of Wage Rates (29 CFR Part 1) and Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5)
59	Workforce Investment Act of 1998
78	Occupational Exposure to Tuberculosis
81	Requirement To Pay for Personal Protective Equipment
2107	Supplemental Standards of Ethical Conduct for Employees of the Department of Labor
2113	Application of the Fair Labor Standards Act to Domestic Service
2115	Regulations To Implement the Federal Acquisition Streamlining Act of 1994, 29 CFR Parts 4 and 5, 41 CFR Parts 50-201 and 50-206
2116	Records To Be Kept by Employers Under the Fair Labor Standards Act
2118	Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas In Specialty Occupations and as Fashion Models
2119	Exemptions Applicable to Agriculture, Processing of Agricultural Commodities, and Related Subjects Under the Fair Labor Standards Act
2120	Implementation of the 1996 Amendments to the Fair Labor Standards Act

Federal Government—Cont.

Seq. No.	Title
2121	Minimum Wage and Overtime Violations—Civil Money Penalties (29 CFR 578); Child Labor Violations—Civil Money Penalties (29 CFR 579); Adjustment of Civil Money Penalties for Inflation
2122	Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5) Definition of "Site of the Work" Under the Davis-Bacon Act
2127	Federal Employees' Compensation Act; Claims for Compensation for Work-Related Injury/Death
2129	Enforcement of Contractual Obligations for Temporary Alien Agricultural Workers Admitted Under Section 216 of the Immigration and Nationality Act
2133	Disaster Unemployment Assistance Program, Amendment to Regulations
2135	Airline Deregulation: Employee Benefit Program
2142	Services to Migrant and Seasonal Farmworkers, Job Service Complaint System, Monitoring, and Enforcement
2143	Labor Certification Process for the Permanent Employment of Aliens in the United States
2148	Amendments to the Labor Certification Process for Temporary Agricultural Employment in the United States (H-2A)
2174	Air Quality, Chemical Substances, and Respiratory Protection Standards
2190	Independent Laboratory Testing
2237	Respiratory Protection (Proper Use of Modern Respirators)
	STATE
2271	Hague Intercountry Adoption Convention Implementation
	DOT
2278	Fees and Charges for Special Services: Reinvention
2279	Update of Drug and Alcohol Procedural Rules **(Section 610 Review)**
2302	Policy Statement on Airline Preemption
2338	Implementation of the National Invasive Species Act of 1996 (CGD 97-068)
2366	Conformance of the Uniform State Waterway Marking System With the United States Aids to Navigation System (USCG-97-3112)
2386	Procedures for Protests and Contract Disputes; Amendment of Equal Access to Justice Act Regulations
2423	Licensing Commercial Space Launch Activities
2468	Commercial Space Transportation: Financial Responsibility Requirements for Licensed Launch Activities
2522	Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs
2574	State Issued Identification Documents
2618	Extend Participation in the National Driver Register Program
2714	Track Safety Standards
2733	Hazardous Materials: Revisions to the Incident Reporting Regulations and Incident Report Form 5800.1
2771	Applicability of the Hazardous Materials Regulations

Seq. No.	Title
	TREAS
2802	Amendment to the Bank Secrecy Act Regulations—Delegation of Authority To Assess Civil Money Penalties on Depository Institutions
2804	Rules and Procedures for Funds Transfers
2805	Indorsement and Payment of Checks Drawn on the United States Treasury
2806	Claims on Account of Treasury Checks
2807	Offset of Federal Payments (Other Than Tax Refund and Federal Benefit Payments) To Collect Past-Due, Legally Enforceable Nontax Debt
2809	Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds With Sureties
2810	Foreign Exchange Operations
2811	Federal Claims Collection Standards
2812	Offset of Tax Refund Payments To Collect Past-Due Support
2813	Transfer of Debts to Treasury for Collection
2814	Matching of Federal Employee Records for Salary Offset
2815	Barring Delinquent Debtors From Obtaining Federal Financial Assistance in the Form of Loans or Loan Guarantees
2816	Depositaries and Financial Agents of the Federal Government
2817	Payment of Federal Taxes and the Treasury Tax and Loan Program
2818	Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds With Sureties
2820	Payments Under Judgment and Private Relief Acts
2821	Offset of Federal Benefit Payments
2823	Public Dissemination of Identity of Delinquent Debtors
2824	Offset of Federal Benefit Payments
2825	Management of Federal Agency Disbursements
2826	Collection of Past-Due Support by Administrative Offset
2828	Taxpayer Identifying Number Requirement
2829	Offset of Tax Refund Payments To Collect Past-Due, Legally Enforceable Nontax Debt
2830	Administrative Wage Garnishment
2831	Obtaining Taxpayer Identifying Numbers From Persons Doing Business With the Government
2832	Debt Sales
2864	Regulations Governing Correlate Acceptability and Valuation
2965	Electronic Funds Transfers of Federal Deposits
2975	Payment From the Presidential Primary Matching Payment Account
2978	Disclosure of Certain Returns and Return Information by Other Federal Agencies
3023	Adjustments Following Sales of Partnership Interests
3054	Disclosure of Certain Returns and Return Information by Other Federal Agencies
3073	Definition of "Private Activity Bonds"
3082	Income Tax—Part 1—Stock Transfer Rules
3173	Remedial Amendment Period
	ACHP
3350	Protection of Historic Properties
	EPA
97	Hazardous Waste Storage and Disposal Regulation Related to Low Level Mixed Waste; Proposed Modifications
98	Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (State) Grant Regulation
99	Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (Tribal) Grant Rule
101	Environmental Radiation Protection Standards for Yucca Mountain, Nevada
102	Consolidated Federal Air Rule for the Synthetic Organic Chemical Manufacturing Industry
103	Tier II Light-Duty Vehicle, Light-Duty Truck, and Heavy-Duty Gasoline Vehicle Emission Standards and Gasoline Sulfur Standards
104	NAAQS: Sulfur Dioxide (Review and Implementation)
105	Pesticide Tolerance Reassessment Program
106	Endocrine Disruptor Screening and Testing Program
108	TSCA Inventory Update Rule Amendments
109	Lead; Rulemakings Under TSCA Section 402, Lead-Based Paint Activities
110	Asbestos; Amendments to the Asbestos-Containing Materials in Schools Rule, Model Accreditation Plan, and Worker Protection Rule
111	PCBs; Polychlorinated Biphenyl; Use Authorizations
112	TRI; Pollution Prevention Act Information Requirements
113	TRI; Chemical Expansion; Finalization of Deferred Chemicals
114	TRI; Reporting Threshold Amendment; Toxic Chemicals Release Reporting; Community Right-to-Know
115	TRI; Review of Chemicals on the Original TRI List
116	TRI; Addition of Oil and Gas Exploration and Production to the Toxic Release Inventory
117	Standardized Permit for RCRA Hazardous Waste Management Facilities
118	Hazardous Waste Manifest Regulation
119	Management of Cement Kiln Dust (CKD)
120	Best Technology Available (BTA) for Cooling Water Intake Structures Under Section 316(b) of the Clean Water Act
121	Revision of NPDES Industrial Permit Application Requirements and Form 2C—Wastewater Discharge Information
122	Streamlining the General Pretreatment Regulations for Existing and New Sources of Pollution
123	National Primary Drinking Water Regulations: Radon
124	National Primary Drinking Water Regulations: Ground Water Rule
125	Public Water System Public Notification Regulation
126	Amendments—Integrated NESHAP and Effluent Guidelines: Pulp and Paper
132	Nonroad Spark-Ignition Engines At or Below 19 Kilowatts (25 Horsepower) (Phase 2)
133	Ground Water and Pesticide Management Plan
134	Lead; TSCA Section 403; Identification of Dangerous Levels of Lead
136	NPDES Streamlining Rule – Round II
137	Effluent Guidelines and Standards for the Industrial Laundries Point Source Category
138	NPDES Wastewater Permit Application Forms and Regulatory Revisions for Municipal Discharges and Sewage Sludge Use or Disposal

Federal Government—Cont.

Seq. No.	Title
139	NPDES Comprehensive Stormwater Phase II Regulations
140	National Primary Drinking Water Regulations: Stage I Disinfectant/Disinfection By-Products Rule
141	National Primary Drinking Water Regulations: Interim Enhanced Surface Water Treatment Rule
3374	Utilization of Small, Minority and Women's Business Enterprises in Procurement Under Assistance Agreements
3392	Amendments to Part 22 Consolidated Procedural Rules
3396	Nondiscrimination on the Basis of Sex in Educational Programs Receiving Federal Assistance
3406	Performance Warranty and Inspection/Maintenance Test Procedures
3407	Inspection/Maintenance Recall Requirements
3414	Federal Implementation Plan (FIP) To Control Emissions From Sources Located on the Fort Hall Indian Reservation
3422	Review of Minor New Sources and Modifications in Indian Country
3424	Revisions to New Source Review (NSR) Regulations to Implement the New National Ambient Air Quality Standards (NAAQS) for Ozone
3425	NESHAP: Coke Ovens: Pushing, Quenching, and Battery Stacks
3426	Acid Rain Program: Determination on Section 75.7 (EPA Study of Bias Test) and Section 75.8 (Relative Accuracy and Availability Analysis)
3428	NESHAP: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) & Other Processes Subject to the Negotiated Regulation for Equipment
3430	Federal Implementation Plans To Reduce the Regional Transport of Ozone in the Eastern United States; Proposed Rules
3431	Findings of Significant Contribution and Rulemaking on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport
3434	Revisions to the Pollutant Standards Index and Significant Harm Level Programs for Ozone and Particulate Matter
3435	General Conformity Regulations; Revisions
3436	Review of Operating Permits Issued by Indian Tribes
3443	Revision of Appendix W to 40 CFR Part 51
3453	NESHAP: Lime Manufacturing
3459	NESHAP: Flexible Polyurethane Foam Fabrication Operations
3460	NESHAP: Group I Polymers and Resins and Group IV Polymers and Resins and Group IV Polymers and Resins
3465	Servicing of Motor Vehicle Air Conditioners: Standards for Equipment That Recovers and Recycles Refrigerants Other Than CFC-12 and HFC-134a
3466	Supplemental Rule To Require Certain Products Made With HCFCs To Bear Warning Label
3478	Acid Rain Program: Continuous Emission Monitoring (CEM) Rule Revisions
3484	Addition of Opacity Method to Appendix M of 40 CFR Part 51 (Method 203)
3486	Revisions to the Permits and Sulfur Dioxide Allowance System Regulations Under Title IV of the Clean Air Act
3488	National Emission Standards for Hazardous Air Pollutants for Source Category: Pulp and Paper Production; Amendments to the Promulgated Rule
3490	Electric Arc Furnace NSPS Amendment
3492	Acid Rain Program: Proposed Revision of Test Method 1, 2, and 2F for Measuring Volumetric Flow in Stacks
3494	Transportation Conformity Rule Amendments: Flexibility and Streamlining
3496	NESHAP: Mineral Wool Production Industry
3498	NESHAP: Phosphoric Acid Manufacturing
3500	NESHAP: Phosphate Fertilizers Production
3501	NESHAP: Primary Copper Smelting
3502	NESHAP: Wool Fiberglass Manufacturing Industry
3504	NESHAP: Polyether Polyols Production
3506	NESHAP: Flexible Polyurethane Foam Production
3511	Field Citation Program
3513	Transportation Conformity Rule Amendment and Solicitation for Participation in the Pilot Program
3514	National VOC Emission Standards for Automobile Refinish Coatings
3519	Importation of Nonconforming Vehicles; Amendments to Regulations
3525	Refrigerant Recycling Rule Amendment To Include Substitute Refrigerants
3526	Update of the Substitutes List Under the Significant New Alternatives Policy (SNAP) Program
3531	NESHAP: Cyanide Chemical Manufacturing
3534	NESHAP: Plywood and Particleboard Manufacturing
3536	NESHAP: Miscellaneous Cellulose Production
3538	Rulemaking To Modify the List of Source Categories From Which Fugitive Emissions Are Considered in Major Source Determinations
3541	National Emission Standards for Hazardous Air Pollutants for the Hydrochloric Acid Production
3542	NESHAP: Ammonium Sulphate Production (Caprolactam By-Product)
3543	NESHAP: Asphalt/Coal Tar Application on Metal Pipes
3544	NESHAP: Clay Products Manufacturing
3547	NESHAP: Uranium Hexafluoride Production
3550	NESHAP: Iron Foundries and Steel Foundries
3572	NESHAP: Leather Tanning and Finishing Operations
3576	NESHAP: Organic Liquid Distribution
3579	Prevention of Significant Deterioration of Air Quality: Permit Application Review Procedures for Non-Federal Class I Areas
3589	Federal Implementation Plan for a Fifteen Percent Reduction in Volatile Organic Compounds in the District of Columbia
3590	Locomotive Emission Standards
3594	Environmental Radiation Protection Standards for Scrap Metal from Nuclear Facilities
3595	Waste Isolation Pilot Plant (WIPP) Compliance Certification Rulemaking
3605	Control of Emissions of Air Pollution From New Marine Diesel Engines at or Above 37 Kilowatts
3607	Transportation Conformity for Transitional Ozone Areas
3609	Alternative Flare Specifications for Hydrogen Fueled Flares
3610	NESHAP: Petroleum Refineries - Amendments to Final Rule
3622	Open-Market Trading Guidance
3624	Radiation Waste Management Regulation
3626	Pesticides; Procedures for Registration Review Program
3629	Tolerances for Pesticide Emergency Exemptions
3631	Antimicrobial Pesticide Products; Other Pesticide Regulatory Changes
3632	Exemption of Certain Pesticide Substances From FIFRA Requirements
3633	Pesticides; Tolerance Processing Fees
3635	WPS; Pesticide Worker Protection Standards; Pesticide Hazard Communication
3636	Data Requirements for Antimicrobial Registrations
3637	Pesticide Management and Disposal; Standards for Pesticide Containers and Containment
3639	Regulation of Plant-Produced Pesticides Under FIFRA and FFDCA
3641	Pesticide Management and Disposal
3642	Policy or Procedures for Notification to the Agency of Stored Pesticides With Cancelled or Suspended Registration
3644	Exemption of Certain Inert Ingredients From the Definition of Pesticide Chemical Residue Under FFDCA
3648	FIFRA Books and Records of Pesticide Production and Distribution (Revision)
3652	Asbestos Model Accreditation Plan Revisions
3654	Lead-Based Paint Activities Rules; Training, Accreditation, and Certification Rule and Model State Plan Rule
3655	Lead; TSCA Requirements for the Disposal of Lead-Based Paint Debris
3663	TSCA Biotechnology Follow-Up Rules
3667	Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling
3668	Lead-Based Paint; Notification of Commencement of Abatement Activities
3670	Development of Guidance as Mandated by Executive Order 12873, Section 503 on Environmentally Preferable Products
3683	Lead-Based Paint; Fees for Accreditation and Certification Activities
3684	TRI; Data Expansion Amendments; Toxic Chemical Release Reporting; Community Right-to-Know
3691	Lead-Based Paint; Disclosure Requirements at Renovation of Target Housing
3694	PCBs; Polychlorinated Biphenyls (PCBs) Disposal Amendments
3702	Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act, Section 112(r)(7): Amendment
3710	RCRA Reporting and Recordkeeping Burden Reduction; ANPRM
3714	Glass-to-Glass Recycling of Cathode Ray Tubes (CRTs): Changes to Hazardous Waste Regulations
3717	Removal of Requirement To Use SW-846 Methods (Test Methods for Evaluating Solid Waste: Physical/Chemical Methods)
3718	Modifications to the Definition of Solid Waste and Regulations of Hazardous Waste Recycling: General
3719	Chlorinated Aliphatics Listing Determination
3720	Listing Determination of Wastes Generated During the Manufacture of Azo, Anthraquinone, and Triarylmethane Dyes and Pigments

Federal Government—Cont.

Seq. No.	Title
3721	Revisions to the Comprehensive Guideline for Procurement of Products Containing Recovered Materials
3727	Spent Solvents Listing Determination
3728	Hazardous Waste Management System; Modification of the Hazardous Waste Program; Mercury-Containing Lamps
3729	Hazardous Remediation Waste Management Requirements (Commonly Referred to as Hazardous Waste Identification Rule for Contaminated Media or HWIR-Media)
3734	Paint Manufacturing Wastes Listing: Hazardous Waste Management System: Identification and Listing of Hazardous Waste
3735	Identification and Listing of Hazardous Waste; Inorganic Chemical Industry Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities
3737	Hazardous Waste Identification Rule (HWIR): Identification and Listing of Hazardous Wastes
3739	Corrective Action for Solid Waste Management Units (SWMUs) at Hazardous Waste Management Facilities
3743	Listing Determination for Hazardous Wastes—Organobromines Chemical Industry
3744	Identification and Listing of Hazardous Waste: Petroleum Refining Process Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation
3745	Land Disposal Restrictions Phase IV: Treatment Standards for Metal Wastes and Mineral Processing wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues
3747	Oil Pollution Prevention Regulation: Revisions
3750	Grants for Technical Assistance Rule Reform—40 CFR Part 35 Subpart M
3751	Reportable Quantity Adjustments for Carbamates
3752	National Priorities List for Uncontrolled Hazardous Waste Sites: Proposed and Final Rules
3757	Total Maximum Daily Load (TMDL) Program Regulations Revisions
3758	Revisions to Effluent Guidelines and Standards for the Oil and Gas Extraction Point Source Category
3759	Effluent Guidelines and Standards for the Centralized Waste Treatment Industry
3762	Effluent Guidelines and Standards for Iron and Steel Manufacturing Point Source Category
3763	Guidelines Establishing Test Procedures for the Analysis of Trace Metals Under the Clean Water Act
3767	Revisions to NPDES Requirements for Compliance Reporting and Collection System Discharges
3770	Amendments to Round I Final Sewage Sludge Use or Disposal Rule —Phase Two
3771	Test Procedures for the Analysis of Cryptosporidium and Giardia Under the Safe Drinking Water and Clean Water Acts
3772	Water Quality Standards for Alabama
3775	Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category; Incentives Amendment
3776	Establishment of Numeric Criteria for Priority Toxic Pollutants for the State of California
3777	Guidelines Establishing Oil and Grease Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3778	Guidelines Establishing Test Procedures for the Analysis of Cyanide Under the Clean Water Act
3779	Increased Method Flexibility for Test Procedures Approved for Clean Water Act Compliance Monitoring Under 40 CFR Part 136
3780	Performance Based Measurement System (PBMS) Procedures and Guidance for Test Procedures at 40 CFR Part 136
3781	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase One
3784	Uniform National Discharge Standards for Armed Forces Vessels - Phase I
3787	Comparison of Dredged Material to Reference Sediment
3788	Amendments to Round I Final Sewage Sludge Use or Disposal Rule—Phase One
3789	Effluent Limitations, Guidelines, and Standards for the Feedlots Point Source Category, Swine and Poultry Subcategories, and NPDES Regulation for Concentrated Animal Feeding Operations
3790	Effluent Limitations Guidelines and Standards for the Feedlots Point Source Category, Dairy and Beef Cattle Subcategories
3791	Revisions to Effluent Guidelines and Standards for the Coal Mining Point Source Category
3794	Effluent Guidelines and Standards for the Metal Products and Machinery Category, Phases 1 and 2
3795	Effluent Guidelines and Standards for the Transportation Equipment Cleaning Category
3796	Effluent Guidelines and Standards for Landfills
3797	Effluent Guidelines and Standards for Industrial Waste Combustors
3798	Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category, Phase II
3799	Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category; Monitoring Amendment
3800	Water Quality Standards Regulation — Revision
3801	Guidelines Establishing Whole Effluent Toxicity West Coast Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3803	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase Two
3804	NPDES Streamlining Rule — Round III
3805	Standards for the Use or Disposal of Sewage Sludge (Round II)
3807	Effluent Guidelines and Standards for the Pharmaceutical Manufacturing Category
3809	Streamlining Revisions to the Water Quality Planning and Management Regulations
3810	Streamlining the State Sewage Sludge Management Regulations
3811	Drinking Water Unregulated Contaminant Monitoring Program
3815	National Primary and Secondary Drinking Water Regulations: Analytical Methods for Certain Pesticides and Microbial Contaminants
3817	National Primary Drinking Water Regulations for Lead and Copper
3818	Reformatting of Drinking Water Regulations
3820	Management of Class V Injection Wells Under Part C of the Safe Drinking Water Act
3824	National Primary Drinking Water Regulations: Arsenic
3825	National Primary Drinking Water Regulations: Sulfate
3826	National Primary Drinking Water Standards for Aldicarb
3827	National Primary Drinking Water Regulations: Radium, Uranium, Alpha, Beta and Photon Emitters
3828	Streamlining Drinking Water Monitoring Requirements
3829	Revision of Existing Variances and Exemptions Regulation To Comply With Requirements of the Safe Drinking Water Act
3830	Revisions to State Primacy Requirements To Implement Federal Drinking Water Regulations
3831	National Primary and Secondary Drinking Water Regulations: Analytic Methods for Organic, Inorganic and Microbiological Contaminants and Pesticides
3832	Drinking Water Consumer Confidence Report Regulations
3833	Safe Drinking Water Public Water Supply System Program: Citizen Collection Action; Notice of Complaint Seeking Review of Penalty Order
3834	Revisions to Ocean Dumping Regulations for Dredged Material

EEOC

Seq. No.	Title
142	Federal Sector Equal Employment Opportunity Procedures
3841	Federal Sector Equal Employment Opportunity
3845	Regulations Interpreting Title II of the Older Workers Benefit Protection Act of 1990 (OWBPA)

GSA

Seq. No.	Title
3873	Federal Advisory Committee Management
3874	Annual Real Property Inventories
3875	User Fees; Network Registration Services
3876	Federal Property Management Regulations, Part 101-17, Assignment and Utilization of Space
3877	Federal Property Management Regulations, Part 101-20, Management of Buildings and Grounds
3878	Federal Property Management Regulations, Part 101-21, Federal Buildings Fund
3881	Federal Property Management Regulations, Part 101-16, Governmentwide Real Property Policy
3882	Relocation of FIRMR Provisions Relating To Use of Government Telephone Systems and GSA Services and Assistance
3883	Motor Vehicle Management
3884	Negotiation Procedures for Acquisition of Leasehold Interests in Real Property; CHGE 79
3885	FTR Amendment; Fly American
3886	Donation Requirements for Firearms

Federal Government—Cont.

Seq. No.	Title
3887	Streamlining Administration of Federal Supply Service (FSS) Multiple Award Schedule (MAS) Contracts
3888	The Composition of the Evaluation Board for Architect-Engineer Procurements
3889	Federal Property and Administrative Services Regulation
3891	Federal Building Fund, Billing Procedures for Reimbursable Charges
3892	Utilization and Disposal of Real Property
3893	Utilization and Disposal of Real Property
3894	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Assisted Programs
3895	FTR Amendment (Unassigned); Acceptance of Payment From a Non-Federal Source for Travel Expenses
3896	FTR Interim Rule 8, Last Move Home Benefits for Certain Individuals
3897	Relocation of FIRMR Provisions Relating to GSA's Role in Records Management
3898	Federal Travel Regulations
3899	Donation of Federal Surplus Personal Property to Nonprofit Providers of Assistance for Impoverished Families and Individuals
3900	FTR Amendment (Unassigned); Payment of Expenses Connected With Death
3901	Donations to Service Educational Activities
3902	Location of Federal Facilities in Urban Areas
3904	Office Copying Machines
3906	FTR Amendment (Unassigned); Use of Government Aircraft and Government-Negotiated Rental Agreement Automobiles
3907	Relocation of FIRMR Provisions Relating to GSA's Role in the Disposal of Excess and Exchange/Sale Information Technology Equipment
3909	Accident and Incident Reporting and Investigation
3910	Transportation and Traffic Management Regulations
3911	10-Day Payment Clause for Federal Supply Service Contracts Under the FSS-19 Procurement System
3912	Management, Use, and Disposal of Aircraft
3914	Change to the Disposal Condition Codes for Reporting Excess Personal Property
3915	Requesting Debriefings at GSA; Electronic Sales Reporting; Schedule for Submission of Reports; Fees for Industrial Funding
3916	FTR Amendment 72; Maximum Per Diem Rates
3917	Disposal of Excess and Exchange Sale IT Equipment
3918	FTR Amendment No. (Unassigned); Privately Owned Vehicle Mileage Reimbursement

NARA

Seq. No.	Title
143	Agency Records Centers
144	Records Center Facilities Reimbursable Program
145	Standards for Agency Recordkeeping Requirements
3933	Records Services Centers
3934	Creation and Maintenance of Federal Records
3936	Records Declassification
3939	Limitations on Testimony by NARA Employees
3940	Collection of Debts Owed to the United States by NARA Employees
3941	Storage of Nonpaper Records and Artifacts
3947	Debt Collection
3948	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments

OGE

Seq. No.	Title
3972	Office of Government Ethics Gift Acceptance Authority and Organizational Update
3973	Office of Government Ethics Electronic Freedom of Information Act Updating Amendments
3974	Privacy Act Rules of the Office of Government Ethics
3975	Office of Government Ethics Procedures on Requests for Testimony by OGE Employees and Documentary Production Relating to Official Information and Records
3976	Interpretation of 18 USC 209, the Constraint Against Private Supplementation of Salaries of Executive Branch Officials and Employees
3977	Interpretation, Exemptions, and Waiver Guidance Concerning 18 USC 208 (Acts Affecting a Personal Financial Interest)
3978	Financial Disclosure, Qualified Trusts, and Certificates of Divestiture for Executive Branch Employees
3979	Standards of Ethical Conduct for Employees of the Executive Branch
3980	Limitations on Outside Employment; Confidential Reporting of Payments to Charities in Lieu of Honoraria
3981	Post-Employment Conflict of Interest Restrictions
3982	Executive Agency Supplemental Standards of Ethical Conduct Regulations Issued Jointly With the Concurrence of the Office of Government Ethics
3983	Executive Agency Ethics Training Programs

OMB

Seq. No.	Title
3984	Revision of OMB Circular A-127 To Implement the Federal Financial Management Improvement Act (FFMIA) and To Reflect Updated Financial Management Policies
3988	Revision to OMB Circular No. A-125, "Prompt Pay"
3989	Reconciliation and Appeal Processes for the Census 2000 Address List
3990	Extending the Coverage of Energy Statistical Programs Under the Federal Statistical Confidentiality Order

OPM

Seq. No.	Title
4089	Reduction in Force; Retreat Rights

PEACE

Seq. No.	Title
4104	Implementation of Rehabilitation Act of 1973, Part 504 — Handicapped Discrimination Prohibition
4105	Supplemental Standards of Conduct for Peace Corps Employees
4106	Eligibility and Standards for Peace Corps Volunteer Service Re: Procedures — Appeals
4107	Volunteer Discrimination Complaint Procedure
4108	Responsibilities and Ethical Standards for Peace Corps Employees

RRB

Seq. No.	Title
4123	Remuneration
4124	Registration for Railroad Unemployment Benefits; Determination of Daily Benefit Rate; Sickness Benefits; Duration of Normal and Extended Benefits
4125	Employers Under the Railroad Retirement Act; Employers Under the Railroad Unemployment Insurance Act
4126	Employees Under the Railroad Retirement Act
4130	Requests for Reconsideration and Appeals Within the Board
4131	Creditable Railroad Compensation
4132	Finality of Decisions Regarding Unemployment and Sickness Insurance Benefits
4134	Railroad Employers' Reports and Responsibilities
4135	Eligibility for an Annuity
4136	Availability of Information to the Public
4137	Recovery of Overpayments

SSS

Seq. No.	Title
4138	Selective Service Regulations

SBA

Seq. No.	Title
4140	Supplemental Standards of Ethical Conduct for Employees of the Small Business Administration
4143	Record Disclosure and Privacy Regulations
4156	Small Business Size Standards for Natural Gas Distribution
4157	8(a) Business Development/Small Disadvantaged Business Status Determinations
4163	Small Business Size Regulation 8(a) Business Development/Small Disadvantaged Business Status Determinations; Rules of Procedure Governing Cases Before the Office of Hearings and Appeals

SSA

Seq. No.	Title
153	Administrative Review Process; Administrative Res Judicata and Related Rules (526P)
154	Federal Salary Offset (Withholding a Portion of a Federal Employee's Salary to Collect A Delinquent Debt Owed to the Social Security Administration) (721P)
155	Private Collection Agencies (Using Private Collection Agencies to Help SSA Collect Delinquent Title II Debts Owed by Former Beneficiaries) (722P)
156	Charging Interest (Charging Interest on Delinquent Debts) (723P)
157	Administrative Wage Garnishment (To Repay a Debt Owed to the Social Security Administration) (724P)
158	Self-Sufficiency Incentives for Title II and Title XVI Program Beneficiaries (725P)
159	Permit Department of State and the Immigration and Naturalization Service To Collect Information Needed To Assign Social Security Numbers to Aliens (569F)

Seq. No.	Federal Government—Cont. Title
160	Federal Old-Age, Survivors, and Disability Insurance; Determining Disability and Blindness; Revision to Medical-Vocational Guidelines (599F)
161	Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind and Disabled; Evaluating Opinion Evidence (624F)
4168	Implementing Modifications to Prehearing Procedures and Decisions by Adjudication Officers (616P)
4170	Privacy and Disclosure of Official Records and Information (711P)
4179	Application of State Law in Determining Child Relationship (557F)
4210	Dedicated Accounts and Installment Payments for Certain Past Due SSI Benefits (622F)
4214	Determining Disability and Blindness; Providing for Use of a Single Decisionmaker To Make Determinations of Disability Under Titles II and XVI of the Social Security Act (668P)
4215	Reflect a Requirement of the Social Security Act That the Commissioner Disregard Evidence in Certain Situations Involving Fraud or Similar Fault Under Titles II or XVI of the Act (671P)
4226	Identification and Referral of Cases for Quality Review Under the Appeals Council's Authority To Review Cases on Its Own Motion (623F)
4227	Supplemental Security Income; Determining Disability for a Child Under Age 18 (625F)
4229	Application of Circuit Court Law—Strengthening the Acquiescence Process and Furthering National Uniformity in Program Administration (669F)
4232	Final Rules to Extend the Expiration Date of the Authority for Prehearing Proceedings and Decisions by Attorney Advisors (705F)
	FAR
4236	FAR Case 97-024, Foreign Acquisition
4237	FAR Case 97-031, Value Engineering Change Proposals
4238	FAR Case 97-040, Business Class Air Fare
4239	FAR Case 98-001, Recruitment Costs Principle
4240	FAR Case 97-038, Evaluation of Proposals for Professional Services
4241	FAR Case 98-007, Competition Under Multiple Award Task and Delivery Order Contracts
4242	FAR Case 89-12, Pay-As-You-Go Pension Costs
4243	FAR Case 89-093, Implementation of the Anti-Lobbying Statute
4244	FAR Case 91-078, Small Business Subcontracting Reporting
4245	FAR Case 94-753, Travel Costs
4248	FAR Case 91-118, Payment by Electronic Fund Transfer
4247	FAR Case 95-020, Costs Related to Legal/Other Proceedings
4248	FAR Case 96-308, Implementation of Commercially Available Off-the-Shelf Item Acquisition Provisions of the Federal Acquisition Reform Act
4249	FAR Case 96-011, No-Cost Value Engineering Change Proposals
4250	FAR Case 97-603, Empowerment Contracting
4251	FAR Cases 97-004A and 97-004B, Reform of Affirmative Action in Federal Procurement
4252	FAR Case 95-013, Government Property
4253	FAR Case 96-009, Contract Quality Requirements
4254	FAR Case 94-610, EO 12933, Nondisplacement of Qualified Workers Under Certain Contracts
4255	FAR Case 96-023, Clause Flowdown-Commercial Items
4256	Federal Acquisition Regulation; Progress Payments
4257	FAR Case 97-015, Alternative Dispute Resolution—1996
4258	FAR Case 97-011, Evidence of Shipment in Electronic Data Interchange Transactions
4259	FAR Case 97-016, Contractor Purchasing System Review Exclusions
4260	FAR Case 96-018, Use of Brand Name Item Descriptions
4261	FAR Case 97-303, Limitation on Allowability of Compensation for Certain Contractor Personnel
4262	FAR Case 97-027, Mandatory Government Source Inspection
4263	FAR Case 97-036, Civil Defense Costs
4264	FAR Case 97-032, Relocation Costs
4266	FAR Case 96-610, Rehabilitation Act, Workers With Disabilities
4267	FAR Case 89-042, Liquidated Damages
4268	FAR Case 97-300, Liquidated Damages
4269	FAR Case 95-011, Subcontract Consent
4270	FAR Case 97-010, Taxes Associated With Divested Segments
4271	FAR Case 97-007, Travel Reimbursement
4274	FAR Case 97-042, Limits on Fee for Cost-Plus-Incentive Fee and Cost-Plus-Award Fee Contracts
4275	FAR Case 97-044, Trade Agreements Thresholds
4276	FAR Case 97-301, Restrictions on Purchases From Sudan
4277	FAR Case 97-614, Software Copyrights
	FCC
4352	Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order
4353	Enhanced 911 Services for Wireline
4368	Access Charge Reform for Rate-Of-Return Local Exchange Carriers
4374	In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Alert System
4377	Amendment of Part 2, Subpart K of the FCC's Rules Regarding the Importation of Radio Frequency Devices Capable of Causing Harmful Interference
4381	Wind Profiler Radar Systems
4395	Equipment Authorization Streamline II/Mutual Recognition Agreements and the GMPCS MOU
4400	Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures
4401	Satellite Communications – NGO MSS
4402	Establishing Rules and Policies for the Use of Spectrum for Mobile Satellite Service in the L-Band
4406	Amendment of Policy To Allow Non-U.S. Licensed Space Stations To Provide Service in the United States
4409	Advanced Television Service (MM Docket 87-268)
4412	Filing of Television Network Affiliation Contracts (MM Docket No. 95-40)
4420	Competitive Bidding for Broadcast Services
4426	Amendment to Part 27 of the FCC's Rules To Revise Rules for Services in the 2.3GHz Band and To Include Licensing of Services in the 47 Ghz Band
4431	Interconnection Obligations Pertaining to Commercial Mobile Radio Services
4439	Implementation of Section 225 of the Telecommunications Act of 1996; Access to Telecommunication Services and Equipment, and Customer Premise Equipment, for Persons With Disabilities
	FRS
4524	Applicability of Sections 23A and 23B of the Federal Reserve Act to Transactions Between a Member Bank and Its Subsidiaries (Docket Number: R-0977)
	SEC
4686	Unit Investment Trusts: Simplification of Registration Statements
4687	Performance Advertising by Unit Investment Trusts

INDEX TO ENTRIES THAT AGENCIES HAVE DESIGNATED FOR SECTION 610 REVIEW

Section 610(c) of the Regulatory Flexibility Act (5 U.S.C. 601) requires each agency to have a plan for the periodic review of its rules that have significant economic impact on a substantial number of small entities. Each agency must publish annually in the **Federal Register** a list of the rules that it plans to review in the next year. Some agencies use The Regulatory Plan and the Unified Agenda to fulfill this requirement. Those agencies indicate such entries by appending "(Section 610 Review)" to the titles.

The following index lists the regulatory actions for which agencies included this designation. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to The Regulatory Plan and the Unified Agenda in Part II of this issue.

Seq. No.	Title
	USDA
180	Federal Milk Order Consolidation and Reform **(Section 610 Review)**
	ED
17	Assistance for Education of All Children With Disabilities **(Section 610 Review)**
1064	Early Intervention Program for Infants and Toddlers With Disabilities **(Section 610 Review)**
	DOJ
53	Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements **(Section 610 Review)**
	DOL
54	Government Contractors: Nondiscrimination and Affirmative Action Obligations, Executive Order 11246 (ESA/OFCCP) **(Section 610 Review)**
2212	Control of Hazardous Energy Sources (Lockout/Tagout)**(Section 610 Review)**
2213	Occupational Exposure to Ethylene Oxide **(Section 610 Review)**
2218	Grain Handling Facilities **(Section 610 Review)**
2219	Cotton Dust **(Section 610 Review)**
	DOT
88	Hours of Service of Drivers **(Section 610 Review)**
93	Requirements for Cylinders **(Section 610 Review)**
2279	Update of Drug and Alcohol Procedural Rules **(Section 610 Review)**
2280	Computer Reservations System Regulations Comprehensive Review **(Section 610 Review)**
2327	Deep Water Ports (CGD 97-050) **(Section 610 Review)**
2328	Commercial Diving Operations (USCG-98-3786) **(Section 610 Review)**
2476	Advanced Technology in Commercial Motor Vehicle Operations **(Section 610 Review)**
	EPA
3402	Standards of Performance for New Stationary Sources; New Residential Wood Heaters **(Section 610 Review)**
3611	Lead Phasedown **(Section 610 Review)**
3612	NSPS for Industrial Surface Coating: Metal Coils **(Section 610 Review)**
3613	NSPS for Industrial Surface Coating: Metal Furniture **(Section 610 Review)**
3614	NSPS for Industrial Surface Coating: Large Appliances **(Section 610 Review)**
3687	Polychlorinated Biphenyls (PCBs) Disposal Amendments **(Section 610 Review)**
3688	Asbestos Worker Protection Rule **(Section 610 Review)**
3690	Asbestos Model Accreditation Plan **(Section 610 Review)**
3741	Final Rule on Land Disposal Restrictions for First Third Scheduled Wastes **(Section 610 Review)**
3742	Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks **(Section 610 Review)**
3756	Effluent Guidelines and Standards for the Ore Mining and Dressing Point Source Category, Gold Placer Mine Subcategory **(Section 610 Review)**
	FRS
4505	Regulation: B – Equal Credit Opportunity (Docket Number: R-1008)**(Section 610 Review)**
4509	Section 303 Regulatory Review **(Section 610 Review)**
	FTC
4550	Rules and Regulations Under the Hobby Protection Act **(Section 610 Review)**

SUBJECT INDEX TO REGULATORY PLAN AND UNIFIED AGENDA ENTRIES

Seq. No.

A

Accidents:
See Safety
Accountants:
Debarment and suspension 2866, 4463
SEC rules of practice amendments 4727
Accounting:
Audits of state and local governments and non-profit institutions 326, 929, 1123, 1124, 1492, 1497, 2207, 2210, 2301, 3353, 3868, 3948, 3994
Change in method 3193
Cost accounting standards 2080, 3991
Cost allowability criteria:
Travel and per diem costs 3898
Cost principles 938, 3987
Litigation costs 4247
Customs Service fees and interest 2896
DEA 1966
DFARS contract administration and audit services 947
Disaster assistance allowable costs 3866
DOD contracts 988
DOI cost recovery 1873, 1874, 1910
Educational institutions 3987
FCC cost allocation and accounting rules 4365
FMS claims 2806, 2820
Foreign exchange operations 2810
Funds transfers to State governments 2804
Ginnie Mae financial reporting 1552
Government payments:
Taxpayer identification numbers 2828
INS examinations fee account schedule 2074
Mark-to-market 2940
Mark-to-market method 3094, 3134
Medicare program 1372
NASA contracts 3930
NRC decommissioning costs 4624, 4629
OASDI calculations of the contribution and benefit base and earnings test exempt amounts 4207
PBGC calculation and payment of benefits 4113
Profit-and-loss method 3194
Retirement obligations 2160
Revision of OMB Circular A-127 3984
Sales of partnerships 3023
Securities 4654
SSI computation of benefits 4222
VA 3317
Acquisition regulations:
See Government procurement
Additives:
See Color additives
Food additives
Fuel additives
Adjustment assistance:
See Trade adjustment assistance
Administrative practice and procedure:
See also Claims
Environmental impact statements
Equal access to justice
Freedom of information
Privacy
Advisory committees 1890
Aviation economic proceedings rules of practice 2310
BATF procedures 2854, 2863
BLM procedures 1878, 1901, 1916
Board of Veterans' Appeals:
Clear and unmistakable error 3329
Code of Conduct 4189
Communications 4378
DOI 1588, 1589, 1810
DOJ:
Federal Convicted Offender DNA Database 2097
National Instant Criminal Background Check System 2091
DOJ bankruptcy and trustee oversight 2099
Economic Development Administration 582
EEOC 3844
EPA 3641, 3642
EPA State operating permits 3423
Equal Access to Justice Act 1143
Farm Credit Administration 4314
FCC rule 102(e) amendment 4727
FCC's ex parte rules in Joint Board proceedings 4399
FDA 1233
Citizen petitions 1238
FDA advisory opinions and guidelines 1234
FDIC 4467
Federal Advisory Committee Act 3873
FERC 4471
FTC regulatory review 4538
FWS seizure and forfeiture procedures 1648
GSA 3910
Hearing and appeal procedures:
Administrative law judges 1972
Adverse actions against Head Start agencies 1469
Army Corps of Engineers 1022
Aviation economic proceedings 2278, 2298
BIA 1803
Board of Immigration Appeals 1974, 1979, 1981
Bureau of Land Management 1881
Death of veteran during appeal 3347
DOL 2126
FCIC procedures 340
General rules 1591
HHS 1369
Immigration proceedings 1972, 2067
Medicaid State Plan amendments 1370
Medicare claims appeal 1389
Medicare enrollment 1401
Minerals Management Service 1819, 1845
National Forest System 507
National Indian Gaming Commission 4569, 4570
NRC 4599
Office of Federal Housing Enterprise Oversight 3968, 3969
Office of Government Ethics 3974
Office of Personnel Management 4011, 4032
Office of the Special Trustee 1593
Office of Trust Funds Management 1593
Peace Corps 4106
Public lands cases 1585
Reclamation Bureau 1863
RRB 4130
SBA 4163
Social Security Administration 153, 4168, 4226, 4232
Trademark Trial and Appeal Board 887
Transportation proceedings 2489
Treasury Department 2866
USDA 214, 503
Veterans Affairs 3322, 3326, 3346
INS 2003
INS decisions 1990
IRS 3014, 3055
MARAD 2787
National Credit Union Administration 4559
NHTSA global technical regulations statement of policy 2593

Seq. No.

Administrative practice and procedure—Continued
NIGC:
Compulsory process and testimony of employees....4578
NOAA civil procedure regulations....769
NRC....4625
OPIC....4098
OPM....4035
OTS....3215, 3219
Panama Canal Commission reorganization....4103
Peace Corps volunteer discrimination complaints....4107
Registration of drug producers....1227
Research and Special Programs Administration....2750
Rulemaking:
DOT....2295
Social Security Administration....4184
Subpoena issuance and service....2065
Telephone service observation....4184
Transportation documentation....3905
USIA....4235
Adoption and foster care:
Adoption and Safe Families Act....1459
Intercountry adoption....2271
Social security status determination....4179
State performance requirements....1450
Adult education:
Indian programs....1813
Ineligibility of F-1 foreign students....1995
Advertising:
Air carriers, prices....2289
Direct-to-consumer promotion....1156
Home insulation....4541
Investment companies....4669, 4687
Smokeless tobacco health warnings....4539
Television....4413
Unfair or deceptive practices....4535, 4547
Affirmative action plans:
See Equal employment opportunity
Aged:
See also Medicaid
Medicare
Public assistance programs
Supplemental Security Income (SSI)
AOA rules revisions....1479
Food assistance programs....7, 405
Foster Grandparent Program....3369
Housing....1505, 1530
Nondiscrimination:
Air travel....2283
DOL programs....2204
Employment....3840, 3842, 3845
Retired and Senior Volunteer Program....3370
Senior Companion Program....3368
Agricultural commodities:
See also specific commodities
Commodity futures
Crop insurance
Fruits
Grains
Marketing quotas
Price support programs
Vegetables
CCC Export Credit Guarantee Program....474
Exports....482, 483
Fair Labor Standards Act exemptions....2119
Financing of commercial sales....477
Foreign donations....478
Inspection....3356
Inspection service contractors....362
Kiwifruit....178
Mark-to-market accounting....2940
Noninsured crop disaster assistance program....254
Ocean transport....479
Overseas market development....480
Speculative limits for futures contracts....163

Seq. No.

Agricultural commodities—Continued
Sugarcane....202
Trade options....4286
Warehouses for CCC storage contracts....218
Agricultural research:
Administrative provisions....306
Animal embryos and semen....297
Biotechnology Risk Assessment Research Grants Program administrative provisions....310
Agriculture:
See also Agricultural commodities
Agricultural research
Food assistance programs
Foods
Forests and forest products
Irrigation
Migrant labor
Pesticides and pests
Range management
Rural areas
Acquisition regulations....557, 558
Aerial photographic reproduction fees....191
ASCS program ineligibility....201
Certified Lender Program....206
CFSA state and county committees....215
Clear title for farm product purchasers....360
Conservation Farm Option....554
Cooperative marketing associations....247
Disaster assistance....228, 232, 258
Farm ownership loans....207, 209, 259, 260
Farm reconstitution regulations....250
Farm Service Agency:
Direct line of credit program....262
Income taxes....3018
Indian farmlands....1815
Labor certification for temporary workers....2148
Nondiscrimination in USDA-conducted programs and activities....513
Ozone depletion....3598
Seasonal farmworkers....2146
Socially disadvantaged outreach program....259, 260
Soil and Water Loans Program....209
State mediation programs....213
Technical assistance and training....517, 518, 543
USDA lobbying restrictions....559
Water bank....555
Worker protection standards....2108, 3635, 3638
Year 2000 compliance....550
Aid to Families with Dependent Children:
See also Public assistance programs
Temporary Assistance for Needy Families....34, 1317, 1456
Unemployed parent....1317
AIDS:
NIH AIDS Research Loan Program....1257
Air carriers:
See also Air rates and fares
Charter flights
Airline deregulation benefit provisions....2135
Anti-drug and alcohol misuse prevention programs....2447
Aviation data requirements....2276
Aviation exemption procedures....2286
Baggage liability....2277, 2287
Cargo limit....2756
Code-sharing arrangement disclosure....2294
Commuter airlines:
Seat restraint systems....2458
Competitiveness....2280, 2302, 2311
Computer Assisted Passenger Screening (CAPS) system....2393
Computer reservations system....2280
Direct flight, definition....2284
Fees charged by airports....2396
Flight diversions within metropolitan areas....2285
INS fines....2068, 2069

Seq. No.

Air carriers—Continued
Interstate authority....2302
Non-age discrimination....2283
On-time flight reports....2792
Overbooking of flights....2297
Passengers:
Airline counter notices....2288
Aliens with fraudulent documents....1992
Change-of-gauge services notification....2296
Facility charges....2378
Ground travel expense when diverted....2285
Manifest information....1989, 2308
Oxygen use....2307
Passenger Origin-Destination Survey....2790
Pilots:
National Driver Register records....2615
Price advertising....2289
Repair station requirements....2368, 2450
Safety and security-related information....2388
Seats, crashworthiness standards....2406
Security measures....2384
Smoking ban....2304
Tariff filing requirements....2300
Air fares:
See Air rates and fares
Air pollution control....4540
See also Motor vehicle pollution
Acid rain....3426, 3471, 3478
Allowance allocations....3468
Acid Rain Program....3602
Acrylic/modacrylic fiber manufacturing....3446
Aerospace industry....3509, 3517
Aerospace manufacturing and rework facilities....3509
Agricultural chemicals....3505
Air quality modeling....3443
Air quality resources:
Class I area designations....3579
Air quality standards....104
Air storage tanks....3419
Aluminum industry....3445
Asphalt roofing and processing....3559
Awards....3395
Baker's yeast manufacturing industry....3449
Boat manufacturing industry....3555
Boilers....3561
Caprolactam....3753
Carbon monoxide....3623
Chemicals....102, 3552, 3553
Chlorofluorocarbons (CFCs)....1159, 3465
Chromium emissions....3457, 3560
Clean Air Act....3435, 3480, 3496, 3524, 3525, 3577, 3619
Clean fuel fleet vehicles....3586
Clean fuels formula grant program....2730
Consumer products....130
Copper smelters....3501
Cyanide chemical manufacturing....3531
Dioxin emission measurement....3409
District of Columbia VOC control measures....3589
Dry cleaners....3557
Electric arc furnaces....3490
Electric utility steam generating facilities....3523
Emission control diagnostic systems....3475, 3621
Emission standards....3422, 3459, 3482, 3536, 3537, 3570, 3571, 3572, 3596, 3597
Coke ovens....3425
Halogenated solvents....3439
Hydrogen fluoride production....3456
Non-road spark-ignition engines....3438
Potential to emit....3461
Semiconductor facilities....3455
Emissions monitoring....3421, 3462, 3608
Emissions monitoring program....3416, 3458, 3476, 3478, 3484, 3574
Emissions reporting....3400

Seq. No.

Air pollution control—Continued
Emissions standards:
New marine engines....3440
Non-road spark-ignition engines....3530
Emissions trades....3420, 3622
Essential uses....1159
Ethylene processing....3451
Fabric printing, coating and dyeing industry....3566
Federal implementation plan for Phoenix, AZ....3615
Ferroalloy industry....3470
Fugitive emissions....3538
Gas turbines....3549
General provisions amendments....3450
Glycol ethers....3403
Halons....3587, 3603
Hazardous air pollutants....128, 132, 3445, 3446, 3447, 3451, 3453, 3458, 3459, 3460, 3483, 3497, 3502, 3503, 3504, 3505, 3506, 3507, 3509, 3517, 3527, 3534, 3536, 3537, 3548, 3549, 3551, 3552, 3553, 3554, 3555, 3556, 3557, 3558, 3559, 3560, 3561, 3562, 3570, 3571, 3572, 3573, 3574, 3575, 3576, 3580, 3581, 3582, 3583, 3603, 3617, 3618, 3619, 3672
Hazardous air pollutants source categories....3454, 3575, 3619, 3621
Hazardous waste combustion facilities....135
Hazardous waste TDSF and generator sites....3527
HCFC allowance distribution system....3401
Hydrogen fueled flares....3609
Indian reservations....3414
Industrial Combustion Coordinated Rulemaking....3562
Industrial surface coating:
Large appliances....3614
Metal coils....3612
Metal furniture....3613
Inspection/maintenance programs....3407, 3608
Internal combustion engines....3548
Iron and steel industry....3532, 3550
Large appliance coating industry....3558
Lead....3611
Lead smelters....3507
Lime manufacturing industry....3453
Locomotive emissions....3590
MACT standards....3454, 3455, 3456, 3459, 3536, 3537, 3570, 3571, 3573, 3576
Measurement regulation....3409
Metal parts and products coating industry....3564, 3565, 3580, 3581
Mineral wool production industry standards....3496
Municipal landfills....3537
National Strategy for Urban Area Sources of Toxic Air Emissions....3458
Navajo nation lands....3413
NESHAP:
Alumina processing....3529
Ammonium sulphate production....3542
Asphalt/coal tar application....3543
Carbon black....3528, 3573
Cellulose production....3536
Chromium electroplating....3467
Chromium emissions....3457
Clay products manufacturing....3544
Elastomers....3460
Fabric printing, coating and dyeing industry....3566
Fumed silica production....3539
Hydrochloric acid production....3541
Hydrogen chloride production....3545
Iron and steel industry....3540
Leather tanning....3572
Magnetic tape manufacturing....3427
Metal parts and products coating industry....3564, 3565
Metal pipes....3543
Natural gas production....3510
Non-metallic minerals processing....3569
Off-site waste and recovery operations....3491

Seq. No.

Air pollution control—Continued
NESHAP—Continued
Oil production....3510
Organic liquids....3576
Petroleum refineries....3610
Polyurethane foam production....3459
Polyvinyl chloride production....3546
Predictive emission monitoring....3429
Pulp and paper production....3488
Site remediation....3570
Spandex....3571
Synthetic organic chemical manufacturing industry....3428
Thermoplastics....3460
Uranium hexafluoride production....3547
Vegetable oil production....3574
Wet-formed fiberglass mat production....3432
Wood furniture industry....3487, 3620
New source performance standards....3562, 3578
New source review....126
New stationary sources....3416, 3422
Non-metallic minerals processing....3569
Non-road compression ignition engines....3601
Non-road spark-ignition engines....2928
Nonhandheld engines....3623
Opacity measurement of emissions....3473, 3484
Operating permits....127, 3535
Indian reservations....3481
Operating permits programs....3436
Ozone....100, 130, 3464, 3517, 3520, 3524, 3525, 3526, 3558, 3580, 3581, 3582, 3583, 3593, 3622
Ozone and ozone precursors:
Attainment and nonattainment areas....3483
National ambient air quality standards....3424, 3607
Pollutant standards index....3434
Significant harm level programs....3434
Transport....3430, 3431, 3483, 3489
Paint stripper users....3554
Paper, film and foil coating industry....3583
Particulates....100
PCB manufacturing....3675
Penalties for violations....3511
Petroleum refineries....3410, 3497, 3610
Pharmaceuticals industry....3617
Phosphate fertilizer production....3500
Phosphogypsum stacks....3508
Phosphoric acid manufacturing....3498
Plastic composites manufacturing....3551
Plastic parts industry....3582
Plywood and particle board manufacturing....3534
Polycarbonates....3447
Polyether polyol production....3504
Polymers and resins....3444
Polyurethane foam production....3506
Portland cement manufacturing....3503
Power plants....3492
Process heaters....3561
Publically owned treatment works study....3448
Pulp and paper mills....128
Radon....3479, 3508
Reporting and recordkeeping requirements....3477, 3593
Residential wood heaters....3402
Sewage sludge incinerators....3418
Shipbuilding industry....3517
Solid waste incinerators....3578
State implementation plans....100, 126, 3413, 3452, 3513, 3622
Steel pickling processes....3499
Stratospheric ozone protection....3401, 3437, 3587, 3606
Sulfur dioxide....3486
Sulfur oxides....104, 3471
Synthetic organic chemicals manufacturing....3408
Test rules....3492
Tetrahydrobenzaldehyde manufacturing....3618
Tire manufacturing....3556
Transportation conformity for transitional ozone areas....3607

Seq. No.

Air pollution control—Continued
Transportation Conformity Pilot Program....3405, 3494
Urban Bus Retrofit/Rebuild Program....3604
Volatile organic compounds....129, 130, 3408, 3514, 3517, 3558, 3567, 3568, 3580, 3581, 3582, 3583, 3584, 3589, 3599, 3622
Waste incinerators performance standards....3577
Wood furniture industry....3517, 3584, 3620
Wool fiberglass manufacturing industry....3502
Air rates and fares:
Aviation data requirements....2276
Rebating international fares....2303
Air safety:
See Aviation safety
Air tariffs:
See Air rates and fares
Air traffic control:
Non-Federal facilities....2465
Air transportation:
See also Air carriers
Air rates and fares
Air traffic control
Aircraft
Airmen
Airports
Airspace
Aviation safety
Charter flights
Navigation (air)
Aviation economics....2278, 2298
Aviation insurance....2461
Excise taxes....3178, 3179
Hazardous substances....2732
Inspection of stopover passengers....2011
Unfair exclusionary conduct....2309
Aircraft:
Aircraft parts....2383, 3912
Airworthiness directives and standards....2404, 2419, 2431, 2432, 2433, 2434, 2435, 2437, 2438
Bird ingestion standards....2379
Bird strike requirements....2451
Cargo restrictions:
Oxidizers and organic peroxides....2772
Child restraint systems....2455, 2657
Corrosion control program....2371
Deicing and anti-icing program....2408
Dispatcher certification....2380
Emergency exits....2413
Energy management regulations....1121
Enhanced ground proximity warning system....87
FAA registration fees....2444
Fire safety standards for cargo/baggage compartments....2454
Gate requirements for high-lift device controls....2422
Government employee use....3906
Improved seats retrofit....2406
Maintenance:
Aging aircraft....2370, 2450
Certification of mechanics and repairmen....2374
Repair assessments....2421
Manifests public disclosure....2919
Noise control....2402
Non-DOD aircraft use of Navy aviation facilities....1026
Parachutes....2394
Registration....2367
Rocket engines....3575
Rotorcraft:
Airworthiness standards....2397, 2398
Flight plan requirements....2395
Maximum gross weight limitation....2417
Rating and certification....2452
Single-engine aircraft:
Instrument flight rules....2472
Snowplanes....1768
Surplus military....2445

Seq. No.

Aircraft—Continued
Titles and security documents....2367
Transponders....2409, 2416
Transport category:
Airworthiness directives and standards....2420
Braked roll conditions....2463
Emergency evacuation demonstration procedures....2448
Engine cowling retention devices....2440
Fuel tank ignition source review....2399
Low speed stall....2441
Repair assessments....2421
Turbine-powered and turboprop:
Bird ingestion standards....2379
Water and hail ingestion standards....2462
Type certification procedures....2418
Voyageurs National Park operations....1767
Water landing survival equipment....2405
Wildfire Suppression Aircraft Transfer Act....916
Aircraft pilots:
See Airmen
Airlines:
See Air carriers
Airmen:
Aeromedical education training services....2382
Approach chart availability....2464
Civil penalty assessment procedures....2410
Controlled rest on the flight deck....2449
Drug abuse....2369
Drug and alcohol testing....2377
FAA certification fees....2444
Flight attendants:
English language proficiency....2412
Flight operational quality assurance program participation....2372
Ground deicing/anti-icing procedures....2414
Medical examinations....2381
National Driver Register records....2615
National Security Areas....2467
Rest and duty requirements....86
Training and certification....2414, 2430, 2456
Airplanes:
See Aircraft
Airports:
Allocation of slots....2392
Anchorage, Alaska, terminal area....2429
Elimination of overbooking signs....2297
Fees charged to air carriers....2396
Island airports....2469
Land use compatibility planning....2446
Landing systems....2425
Revenue policy....2424
Security....2443, 2470
Takeoffs on wet or contaminated runways....2457
Transponder requirement suspension....2416
Airspace:
Afghanistan....2473
Air traffic services and aeronautical studies:
Fees....2426
Cincinnati TCA....2411
Kodak Albuquerque International Balloon Fiesta....2474
Landing systems....2425
Los Angeles, CA....2415
National Park Service overflights:
Grand Canyon National Park....2453, 2471
NOAA overflight regulation....736
Objects affecting navigable airspace....2403
Regulations, routine issue of....2436
Sudan....2475
Airways:
See Airspace
Airworthiness directives and standards:
See Aircraft
Alaska Natives:
See Indians

Seq. No.

Alcohol abuse:
See also Alcoholism
Air carrier employees....2447
Alcohol-free workplace....1095
Drug-free workplace....3949
SSA representative payee reforms....4223
Substance abuse block grants....1142
Substance abuse programs, DOE sites....1120
Transit operations....2727
Transportation industry....2279, 2299, 2377, 2778
Alcohol and alcoholic beverages:
See also Beer
Gasohol
Liquors
Wine
Country of origin statements....2834
Denatured alcohol and rum:
Distribution and use....2857
Formulas and technical amendments....2845
Distilled spirits plants regulatory streamlining....2837
Tax-free alcohol....2856
Veterans Affairs acquisition regulations....3255
Wine....2846
Alcoholism:
Medicaid program....1312
Aliens:
See also Citizenship and naturalization
Immigration
Migrant labor
Refugees
Adjustment of status....1978, 2016, 2021, 2044, 2049
Age requirements for fingerprinting....2063
Alien registration card name change....2046
Alien registration card replacement....2077
Arrival/departure management system....2004
Arriving aliens definition....2042
Asylum....2043, 2058
Battered and abused spouses and children....2000, 2023
Bonding pilot program....2001
Border crossing identification documents....2059, 2079
Cancellation of removal....1977
Charitable activities:
Waiver of fees....2263
Criminal and terrorist....2076
Criminal convictions....2003, 2030
Cuban....2049
Cuban nationals....2071, 2072
Deportation proceedings....2003, 2031
Entrepreneurs....1975
Executing a final exclusion order....2067
Motion to reopen....1980
Suspension....1977, 2055
Withholding of deportation....2072
Emergency medical services....1416
Employment....53, 1988, 2012, 2026, 2061, 2066
Use on government contract projects....977
Expedited exclusion procedures....2030
F-1 foreign students....1995
Family Unity Program....2038
Fingerprinting....2048
Foreign group health plans....1374
Habitual residence....2036
Haitian nationals....2071
Health care workers....2039
Hungarian parolees....2040
Immigrant investors....1991
Inadmissability....52, 2259
Income taxes....3187
IR status....2264
Juveniles....2050, 2052
Labor certification process....2143, 2144
Mail order brides....2000
Mariel Cubans....2072
Nicaraguan....2049

Seq. No.

Aliens—Continued
Nonimmigrant classes:
Admission into the U.S. 2033, 2061, 2064
Corporate reorganizations 1982
Diplomats and government representatives 2066
Disclosure of information 2025
Documentation 2261, 2275
Law enforcement initiatives 1986
Overstay of nonimmigrant status 1994
Temporary workers 2118, 2136
Visa Waiver Pilot Program 2256
Visitors for business 2017
Orphan petitions 2029
Parent-child relationships 2029
Permanent residence 1978
Permanent resident card name change 2046
Permanent resident status 2040, 2044, 2049
Polish parolees 2040
Prostitution 1993
Public assistance programs 390, 1493, 2045
Food Stamp Program 7
Housing 2522
Medicaid 1312
Sponsor reimbursement 2035
Refugee status 2072
Religious workers 2053
Removal orders 2002
Resettlement assistance 2071
SSA regulations 159, 2032
Student employment 1984, 2009, 2056
Temporary protected status 2027
Temporary workers 2019, 2129
Transit without visa 2073, 2255
Withholding of removal 2043
Amateur radio service:
See Radio
American Indians:
See Indians
Ammunition:
See Arms and munitions
Animal biologics:
Direct-to-consumer promotion 1156
Animal diseases:
Bovine tuberculosis 291
Scrapie 288
Animal drugs:
See also Animal biologics
Animal Drug Availability Act 1233
Approval process 1144, 1194
Direct-to-consumer promotion 1156
Feed directives 1161, 1210
Import tolerance levels 1190
Investigational use 1233
New drug applications 1189
Presubmission conferences for applicants 1188
Registration of foreign establishments and product listing 1183
Substantial evidence definition 1208
Supplemental manufacturing changes 1177
Animal welfare:
Animal auction standards 304
Dogs and cats 288
Import requirements:
Humane and healthful transport 1739
Inspection, licensing, and procurement 302
Marine mammals 283
Animals:
See also specific animals
Animal diseases
Animal drugs
Animal welfare
Livestock
Wildlife
Imports 297, 298, 303

Seq. No.

Annuities:
See Pensions
Antidumping:
Duties 15
Protective order violations 587
Reformulated gasoline program requirements 3512
Sunset reviews 585
Antiquities:
See Historic preservation
Appeal procedures:
See Administrative practice and procedure
Appliances:
See Household appliances
Apprenticeship programs:
See Manpower training programs
Archaeology:
See Historic preservation
Architectural barriers:
See Individuals with disabilities
Archives and records:
See also Classified information
Freedom of information
Health records
Privacy
Reporting and recordkeeping requirements
Facilities 3932
Federal records centers 3933
Researcher registration 3937
Armed forces:
See also Armed forces reserves
Federal buildings and facilities
Military personnel
Selective Service System
Air Force:
Academy nominations and appointments 1031
Environmental impact analysis process 1029
Professional conduct and standards for criminal justice 1030
Army Corps of Engineers:
Administrative appeals process 1022
Environmental quality requirements 1025
ESA scope of analysis 1021
Permit regulations 1023
Wetland Delineator Certification Program 1024
CHAMPUS 1033, 1034, 1035, 1036, 1037
Coast Guard:
Access to National Driver Register 2618
Advance notice of arrivals 2337
Child development services 2323
Commercial diving operations 2328
Deep water ports 2327
Escort requirements for vessels in U.S. waters 2352
Facility response plans for hazardous substances 83
Fees for undocumented vessel numbering 2326
Hazardous conditions notification 2364
Marine casualty reporting 2365
Marine Safety and Environmental Protection 2325, 2337, 2338, 2339, 2340, 2356, 2357
Merchant mariners 2340, 2354, 2357
Numbering of undocumented barges 2320
Propeller injury prevention 2355
Regatta and parade permits 2330
Regulated navigation areas 2353
Tank barge emergency control measures 2341
Tank vessel response plans for hazardous substances 84
Towing vessel fire protection measures 2342
Towing vessel operators 2331
Vessel design, inspection, and classification requirements 2332, 2333
Donations of surplus property 3901
Navy:
Incidental taking of marine mammals 772
Non-DOD aircraft use of Navy aviation facilities 1026

Seq. No.

Armed forces—Continued
Reemployment 4019
Selective service regulation 4138
Surplus aircraft 2445
Armed forces reserves:
National Guard technicians:
Retirement 4029
Ready Reserve 906
Arms and munitions 595
Brady Bill regulations 2850, 2852
Curio and relic 2850
Dual-use items 605
Enhanced Proliferation Control Initiative 608
Excise taxes 2849, 2862
Explosives safety 925
Export controls 595, 606, 607
Federal surplus donation requirements 3886
Handguns 2850, 2853
International traffic 2266
National Instant Criminal Background Check System 2091
Persons prohibited from receiving firearms 2850
Residency requirements for purchasers 2851
Yugoslavia international arms embargo 617
Asbestos:
Model accreditation plan 3652
Asylum:
See Immigration
Atomic energy:
See Nuclear energy
Attorneys:
See Lawyers
Auditing:
See Accounting
Authority delegations:
Banks 2802
BIA 1803
Civil penalty issuance 1973
Commerce Department 830
DOJ 2096
DOL 2117
EPA revisions 3452
FDIC 4467
FEMA 3851
FWS enforcement 1683
HHS:
OIG 1132, 1139, 1141
HUD 1518
Immigration judges 1973
INS 1999, 2047, 2267
IRS 2976, 3054, 3185
Personnel and general claims settlement 905
Radiation sources on Army land 1020
Surface Transportation Board 4729
VA 3268, 3304, 3315, 3349
Automatic data processing:
See Computer technology
Automobiles:
See Motor vehicles
Aviation safety:
Aging aircraft 2370
Air tour and sightseeing operations 2428
Aircraft improved seats retrofit 2406
Airplane operator security 2442
Airspace system, exemption of regulations 2404
Airworthiness directives and standards 2419, 2420, 2434
Alcohol misuse prevention program 2447
Anti-drug programs 2447
Bird ingestion standards 2379
Bird strike requirements 2451
Braked roll conditions 2463
Civil penalty assessment procedures 2410
Commission on Aviation Safety and Security 2308, 2470
Corrosion control program 2371
Crash-resistant fuel systems 2432

Seq. No.

Aviation safety—Continued
Crashworthy fuel tanks and lines 2439
Deicing and anti-icing program 2408
Emergency evacuation demonstration procedures 2448
Engine fuel and induction systems 2438
Enhanced ground proximity warning system 87
Explosive Detection System 2466
Fatigue evaluation and testing 2459
Flight operational quality assurance program information 2372
Flight rules 2433, 2435, 2469
Foreign air carriers:
Security programs 2384
Freight:
Passenger aircraft cargo 2387
Fuel tank ignition source review 2399
Fuel tank vent protection 2431
Gate requirements for high-lift device controls 2422
Hazards to air navigation 2403
Information and records disclosed by industry 2388
Low-fuel-quantity alerting system 2437
Maintenance personnel certification 2374
Major repair data 2401
Oxygen use by air carrier passengers 2307
Parachute operations 2394
Pilot rest and duty requirements 86, 2449
Repair assessments 2421
Reporting and recordkeeping requirements 2388, 2450, 3909
Rotorcraft 2397, 2398, 2452
Rotorcraft weight limitation 2417
Seat restraint systems 2458
Security personnel 2427
Security screening 2470
Transponder requirement 2409
Turboprop and turbine-powered aircraft 2462
Type certification procedures 2418
Visual descent points 2460
Water landing survival equipment 2405
Wet and contaminated runways 2457

B

Baggage:
See Freight
Balloons:
See Aircraft
Bank deposit insurance:
Assessments 4464
Capital maintenance 4456, 4468
DIMIA compliance 3210, 4447
FDIC:
Advertisement of membership 4457
FDIC contractors:
Women- and minority-owned businesses 4455
Investment rules 4459
Joint accounts 4448
Nonmember banks 4458, 4460, 4548
Notice of insured status 4454
Program fraud civil remedies 4445
Receivership rules 4446
Revocable trust accounts 4448
Risk-based capital standards 4451, 4461, 4469
Simplification of regulations 4465
Year 2000 safety and soundness guidelines 4462
Bankruptcy:
Group health plans 1374
Post-bankruptcy notices 263
RCRA financial responsibility 3730
Trustee oversight 2099

Seq. No.

Banks, banking:
See also Bank deposit insurance
Credit
Electronic funds transfers
Federal home loan banks
Federal Reserve System
Foreign banking
National banks
Savings associations
Anti-money laundering programs....2801
Automated Clearing House Method....2808
Bank holding companies....4522, 4530
Bank Secrecy Act....2795, 2796, 2797, 2798, 2799, 2802, 2803
Capital distributions regulations....3224
Casino reporting....2800
Charters of Farm Credit System....4315
Checks drawn on the U.S. Treasury....2805
Collateral eligibility and valuation....2816, 2817, 2818, 2864
Community Development Financial Institution Fund....2794
Consumer regulations review....4510
Conversions....3220
Cross-border transportation of negotiable instruments....2797
Currency transaction reporting....2803
Deposit accounts....4523
Deposits and electronic banking....3225
Derivative instruments....3226
DIMIA compliance....3210, 4447
Due on sale....3221
Electronic benefit transfer systems....2827
Farm credit:
Agricultural secondary market regulations....4317
Borrower rights....4307
CAMEL term replacement with FCARS....4319
Capital regulations revisions....4316
Election of directors....4311
Farm Credit System Reform Act....4322
FCB assistance to associations....4309
FCS board compensation limits....4308
FCSIC nondiscrimination enforcement....4320
FCSIC referral of criminal violations....4321
Federal Agricultural Mortgage Corporation risk-based capital regulation....4305
Funding relationship with other institutions....4318
Leasing regulation....4306
Financial institutions:
Examination cycle for small financial institutions....2872
Financial services transactions survey....564
Foreign investments....4519
Foreign subsidiary exemptions....4667
Information disclosure....2873
International banks....4519
Investment management....4312
Know Your Customer programs....4449
Leveraged capital....4516
Management interlocks....2867, 4520
Minimum capital ratios....2871
Non-bank financial institutions....2796
Non-deposit investment products....2875, 3218
Non-sufficient funds (NSF)....2868
Nondiscrimination....3219
Recourse arrangements and direct credit substitutes....4518
Regulation D....4653
Regulation DD....4523
Regulation H....4516
Regulation U....4508
Regulation Y....4516
Reserve requirements....4528
Restrictions on sale of assets....4444
Risk-based capital requirements....3970, 4518
Risk-based capital standards....4452, 4469, 4515, 4516
Securities brokers and dealers:
Qualifications for banks and securities representatives....4453
Securities of nonmember banks....4458

Seq. No.

Banks, banking—Continued
State banks:
Permitted activities and investments....4459
Time accounts....4523
Types of offices....3214
Underwriting of mortgage-backed securities....4522
Usury preemption....3221
Year 2000 safety and soundness guidelines....2870, 2874, 3227, 4462
Barges:
See Cargo vessels
Barrels:
See Packaging and containers
Beef:
See Livestock
Meat and meat products
Beer:
Brewery regulations....95
Exports....2835
Imports....2840
Labeling....2860
Malt beverage labeling....2855
Bicycles:
Use in Delaware Water Gap NRA....1771
Biologics:
See also Animal biologics
Blood
Adverse experience reporting....1158
Cellular therapy products....1216
Direct-to-consumer promotion....1156
General safety test exceptions....1216
Informed consent regulations....1155
Labeling....1146, 1176, 1198
Licensing....1213
Registration of foreign establishments and product listing....1163
Unapproved new uses information....28
Vaccine information....1149, 1253
Vaccines for Children Program....1323
Birds:
See Wildlife
Birth control:
See Family planning
Black lung benefits:
Offset of Federal benefit payments....2821, 2824
Blind:
See also Medicaid
Public assistance programs
Supplemental Security Income (SSI)
Aids to blind veterans....3237
Blood:
Current good manufacturing practices....24
Errors and accidents reporting....1196
Hepatitis C virus....24
Safety standards....1166, 1196
Boats and boating safety:
See Marine safety
Navigation (water)
Bonding:
See Surety bonds
Bonds:
Private activity....3073, 3074
Qualified zone academy....3141
Secured by government obligations....2818
Borders:
See International boundaries
Boycotts:
Foreign boycott provisions....604
Bridges:
Drawbridge operation....2351
Railroad safety regulations....2701
Worker safety standards....2708
Broadcasting:
See Radio
Television

Seq. No.

Brokers:
Large trader records....4724
Net capital requirements....4708, 4717
Quotation requirements....4720
Reporting and recordkeeping requirements....4719, 4722
Buildings:
See also Federal buildings and facilities
Access for individuals with disabilities....51, 1954, 1955, 3358, 3362, 3364
Asbestos....3652
CDBG funds documentation....41
Indoor air quality....2245
Slum/blight prevention and elimination....40
Buses:
See also Motor carriers
Motor vehicles
Accessibility of over-the-road buses....2312, 3366
Antilock brakes....2587
Brake systems....2585
EPA Urban Bus Retrofit/Rebuild Program....3604
School:
Body joint strength....2598
Flammability of interior materials....2638
Sleeper berths on motor coaches....2533
Testing guidelines....2726
Wheelchair restraints....2581
Business and industry....3794
See also specific industries
Accounting
Advertising
Bankruptcy
Competitiveness
Confidential business information
Holding companies
Indians-business and finance
Labeling
Labor
Minority businesses
Packaging and containers
Relocation assistance
Small businesses
Taxes
Trade adjustment assistance
Trade practices
Trademarks
Warranties
Acrylic/modacrylic fiber manufacturing:
Air pollution control....3446
Aerospace industry:
Air pollution control....3509, 3517
Alcohol:
Wine....2846
Aluminum industry:
Air pollution control....3445
Asphalt roofing and processing industry:
Air pollution control....3559
Baker's yeast manufacturing:
Air pollution control....3449
Boat manufacturing industry:
Air pollution control....3555
Cellulose manufacturing....3536
Cement manufacturing:
Air pollution control....3503
Chemicals:
Air pollution control....3408, 3505, 3552, 3553
Control of PMNs....3674
Hazardous wastes listing....3719, 3720, 3727
Manufacture....102, 108, 3562, 3662, 3673, 3678, 3679
Pollution standards....3675
Polychlorinated biphenyls....111
Construction....2214
DOT disadvantaged business enterprise program....2292
Dry cleaning....4540
Air pollution control....3557

Seq. No.

Business and industry—Continued
Effluent guidelines....137
Economic development....578
Effluent guidelines....137, 3762, 3794, 3795, 3796
EPA operating permits....127
Equipment standards....4397
Ethylene processing:
Air pollution control....3451
Explosives....96
Fastener Quality Act....621
Ferroalloy industry:
Air pollution control....3470
Financial services transactions survey....564
Financing cooperative stock....522
Foreign investments in the U.S....563, 566
Franchising and business opportunity ventures....4542
Friction products....3563
Health products....1147
Human cellular and tissue-based products....1167, 1168
Mutual recognition....1221
Housing....1556
Industrial disposal wells....3820
Industrial laundries:
Effluent guidelines....137
Industrial technology partnerships....902
Iron manufacturing:
Effluent guidelines....3762
Large appliance coating industry:
Air pollution control....3558
Leather tanning and finishing....3572
Lime manufacturing industry:
Air pollution control....34[illegible]3
Manufacturing....3562
Mergers....4688
Metal parts and products coating industry:
Air pollution control....3580, 3581
Metal products and machinery:
Effluent guidelines....3794
Motor vehicle manufacturing:
Air bags....90
Air pollution control....3475, 3567
Clean fuel fleet vehicles....3586
Consumer information....2613, 2614, 3600
Content labeling calculation....2594
Emission standards....132, 3482, 3596, 3597
Fuel economy....2664
Fuel economy credits....2577
Metric conversion....2592
Sales volume limit provisions....3474
National Pollutant Discharge Elimination System permits....121
National Type Evaluation Program....622
Paint manufacturing:
Hazardous waste management....3734
Paper, film and foil coating industry:
Air pollution control....3583
Pharmaceuticals:
Air pollution control....3617
Discontinuation of life-saving products....1147
Manufacturing changes....1183
Pollution standards....3807
Radiopharmaceuticals....1185
Plastic parts industry:
Air pollution control....3582
Plywood and particle board manufacturing:
Air pollution control....3534
Polyether polyol production:
Air pollution control....3504
Polyurethane foam production....3459
Air pollution control....3506
Preventing suffocation/explosions in confined spaces....2240
Printing/publishing....3568
Pulp, paper and paperboard....128
Self regulation....884

Seq. No.

Business and industry—Continued
Spandex....3571
Steel manufacturing:
Effluent guidelines....3762
Tax credit for increasing research activities....2981
Tetrahydrobenzaldehyde manufacturing:
Air pollution control....3618
Tires....3573
Manufacture....3556
Transportation equipment cleaning:
Effluent guidelines....3795
Travel expenses for brand participants....476
Vegetable oil production....3574
Wood furniture industry:
Air pollution control....3517
Wool fiberglass manufacturing:
Air pollution control....3502

C

Cable television:
Cable Act reform....4329
Cost of service....4324
Customer service standards....4325
Digital must carry....4333
Home wiring rights....4326
Pole attachments....4332
Rates....4323, 4334
Small systems....4334
TV and VCR compatibility....4380
Cancer:
See also specific hazardous substances
Carcinogen risk assessment....3391
NCI Clinical Cancer Education Program....1262
Cargo:
See Freight
Cargo vessels:
See also Maritime carriers
Barges....2321
Numbering of undocumented barges....2320
Carriage of bulk solid materials requiring special handling....2335
Handling of explosive and other dangerous cargoes....2316
Overfill and tank monitoring devices....2329
Tank vessels:
Escorts....2348
Foreign....2315
Oil pollution prevention....2348
Qualifications of personnel....2360
Response plans....84
Towing vessel safety measures....2356
Cemeteries:
VA burial benefits....3258, 3259, 3261, 3262
Census data:
Census 2000 address list....3989
Correction....570
Release authorizations....571
Special services and studies....569, 572
Cereals (commodity):
See Grains
Cereals (food):
WIC sugar limits....429
CHAMPUS:
Active Duty Dependents Dental Plan in oversees areas....1038
Dual compensation/conflict of interest program....1040
State Victims of Crime Compensation Programs....1041
TRICARE Program:
Eligibility requirements revisions....1032
Nonavailability statement....1044
Prime balance billing....1042
Prime enrollment....1043
Reimbursement....1039
Voice prostheses....1041
Waiver of collection of payments....1045

Seq. No.

Charter buses:
See Buses
Motor carriers
Motor vehicles
Charter flights:
Charter operators....2311
Passengers stranded by....2282
Checks:
See Banks, banking
Chemicals:
See also specific chemicals
Drugs
Hazardous substances
Pesticides and pests
Acrylamide....3680
Air pollution control....102, 3408
Arsenic in drinking water....3824
Assessment information rule....3678
Chemical inventory reporting....3703
Chromium-based water treatment chemicals....3588
Controlled chemicals exports....616
Domestic Chemical Diversion Act....1961
Drinking water regulations....3826
Endocrine Disruptor Screening and Testing Program....106
Exports....616
Formaldehyde....3692
Health and safety reporting rule....3679
High-production-volume (HPV) chemicals....3657
Hydrogen chloride....1971
Neurotoxicity risk assessment....3398
New use rules for PMNs....3674
Ozone depleting....3598
Aerosol products or other pressurized dispensers....1241
Refrigerant recycling....3465, 3524, 3525
Sales restrictions....3464
Substitutes....3526
Polychlorinated biphenyls....111, 3675, 3687, 3773
Polymers and resins....3460
Right-to-Know initiative....107
Screening Information Data Set (SIDS)....3657
Special surveillance list of chemicals, products, materials, and equipment....1964
Test rules....3658, 3660, 3671, 3676, 3682
Toxic substances....3651, 3662, 3711
Toxic substances in new chemicals....3673
Toxicity profiles....3659
Toxics Release Inventory....112, 113
Traceable Reference Materials Program....623
Use inventory rule....108
Used in manufacture of controlled substances....1963
Child abuse:
See Child welfare
Child care:
See Day care
Child labor:
Forced or indentured....2890
Hazardous occupations....55
Schooling, health, and well-being....55
Violation penalties....2121
Child support:
Automated data processing funding limitation....1475
Automated data processing requirements....1474
Case closure....1468
Debt collection by tax refund offset....2812
Eligibility for Food Stamp Program....6
Health care coverage....66
Medicaid referrals....1352
National medical support notice....1471
Non-performance TANF penalty....1457
Passport denial for nonpayment....2274
Paternity establishment services:
Requirements for voluntary entities....1463
Payments to Indian tribes....1454
Personal Responsibility and Work Opportunity Reconciliation Act....1467

Seq. No.

Child support—Continued
State Directory of New Hires....1473
Child welfare:
See also Adoption and foster care
Aid to Families with Dependent Children
Child labor
Child support
Day care
Absent parent access and visitation....1464
Adverse actions against Head Start agencies....1469
Child abuse and neglect prevention and treatment....1477
Child poverty rate:
State determination methodology....1452
Databases of convicted offenders....2090
Head Start services for Indian tribal children....1472
Illegitimacy rate reduction bonus for grants....1466
Indian child protection programs....1254
Medical child support....1392
Personal Responsibility and Work Opportunity Reconciliation Act....1476
SSA benefits....4193, 4195
State performance requirements....1450
Temporary Assistance for Needy Families....58
High performance bonus....1453
Work requirements....34
Title IV-D compliance....1460
Title IV-E training....1478
Children:
See Infants and children
Cigars and cigarettes:
See also Smoking
Cigarette lighter safety standards....167
Sale and distribution requirements....1235
State and local requirement exemptions....1236
Citizens band radio service:
See Radio
Citizenship and naturalization:
See also Aliens
Immigration
Adjustment of status and removal of eligibility restrictions....2021
Age requirements for fingerprinting....2063
Civil defense:
See also Disaster assistance
Military assistance to civil agencies....921
Civil rights:
See also Equal educational opportunity
Equal employment opportunity
Fair housing
Commission on Civil Rights regulations update....3367
Economic Development Administration guidelines....579
Education....3958
Equal Credit Opportunity Act....4505
Language minority groups....1959
Nondiscrimination....536, 2204, 2283, 4107
Activities assisted by the NEA....3954
Activities assisted by the NEH....3954, 3957
Farm Credit System Insurance Corporation....4320
Federally assisted programs....50, 1480, 1957, 1958, 2205, 3331, 4216
HIPAA rules....2995
Housing....1482, 1494
Individuals with disabilities....51, 1954, 1955, 3894, 4104, 4216
USDA-conducted programs and activities....513
Older individuals....1479
Peace Corps Volunteer Discrimination Complaint Procedure....4107
Persons with life-threatening illnesses....1204
Civil service system:
See Government employees
Claims:
Collection by HUD....1484
Collection by the NEA....3952
Collection by the OPM....4086

Seq. No.

Claims—Continued
Corporation for National and Community Service debt collection....3371
Debt Collection Improvement Act....2811, 2826
EEOC....3843
False Claims Amendments Act of 1986....2096
False drawback....2884
Federal Claims Collection Standards....2087, 2811
Federal Employees' Compensation Act....2127, 2131
Federal tort claims....562, 3304
FMS payments....2806, 2820
Food Stamp Program....10
Government employees....4052
HUD....1558
Medical care benefits....64
Medicare suppliers....1368
Meritorious....3921
Public land rights-of-way....1587
Third-party....2468
Veterans....3232, 3304, 3315
Attorney fees....3303
Classified information:
Access....912, 1093
Conformance to national policies for access and protection....4591
Military acquisitions....926
NARA records declassification....3936
NRC compliance with NISPOM....4631
Nuclear material....1093
OMB policies....3985
Storage....913
Uniform system for national security information....1115
Clean Air Act:
See Air pollution control
Clean Water Act:
See Water pollution control
Coal:
Abandoned refuse sites....1851
Coal management....1885, 1891
Coalbed methane development....1902
Regulation streamlining....1885
Coal mines:
See Mine safety and health
Mines
Surface mining
Underground mining
Coastal Zone:
See also Continental shelf
Flood plains
Administrative appeals process....1022
Biological test methods for pollutants....3801
Coastal Zone Pollution Control Program....737
Development and production plans....1826
Exploration plans....1826
Fees for appeals....735
Financial assistance awards....880
Shore protection....2345
TVA shoreline management....4234
Waste deposit prevention....3835
Wetlands:
Conservation program....219
Privately owned....2515
Coins:
See Currency
Collective bargaining:
See Labor management relations
Colleges and universities:
See also Medical and dental schools
Community college Hispanic enrollment....1561
DOD support of historically black colleges, universities, and institutions....908
DOD University Research Initiative Support Program....923
DOT grants....2293
Grants administration....583

Seq. No.

Colleges and universities—Continued
Grants to Indian colleges....1796
Military recruiting access....910
Multicultural Scholars Program....312
ROTC program access....910
Color additives:
Certification program fees....1239
Commercial fisheries:
See Fisheries
Commodities:
See Agricultural commodities
Commodity futures:
Account identification for eligible bunched orders....4288
Bulk transfers or liquidations....4278
Commodity option premium payments....4287
Consolidated orders....4285
Contract market designation....165
Denomination of customer funds....4280
Exemptive, no-action, and interpretive letters....4283
Foreign boards of trade in the U.S.....162
Location of depositories....4280
Minimum financial requirements....4289
Speculative limits for contracts....163
Voting prohibitions....164
Common carriers:
See also Air carriers
Communications common carriers
Maritime carriers
Motor carriers
Railroads
Coloading practices by NVOCCs....4500
DOT registration system....2518
Freight forwarders:
FHWA general jurisdiction....2540
Communicable diseases:
Correctional management....1929
Medicaid coverage of tuberculosis-related services....1273
Communications:
See also Communications common carriers
News media
Telecommunications
Attribution of broadcast interests....4414
Broadcast station construction permits....4416
Channelization of 37.0-38.6 GHz band....4434
Competitive bidding for broadband PCS....4435
Competitive bidding for IVDS....4433
Competitive bidding for narrowband PCS....4432
Competitive bidding process....4442
Digital audio broadcasting....4438
Digital equipment deregulation....4383
Emergency Broadcast System....4374
Equal employment opportunity....4415
Equipment authorization process....4378
FCC cost allocation and accounting rules....4365
Forfeitures for violations....4375
International common carriers....4407
Maritime....4427
Mutual recognition agreement for product approvals....4395
North American Numbering Plan administration....4336
Private Land Mobile Services....4429
Reallocation of 28 GHz band....4428
Redesignation of 27.5-29.5 GHz band....4405
Relocation of base stations for 200 MHz licenses....4436
Revision of 47.2-48.2 GHz band rules....4426
RF lighting devices....4394
Satellite:
Dedicated Short Range Communications of Intelligent Transportation Systems....4393
Digital audio radio service....4404
Earth stations....4403
MSS spectrum allocation....4384, 4402
Sharing of 27.5-29.5 GHz band....4405
Spacing and applications....4400
Tracking and data relay....3923

Seq. No.

Communications—Continued
Satellite—Continued
Voice and data mobile satellite service....4401
Spectrum allocation....4393
Spread spectrum rules....4398
Tax liability of communications services....3198
Transfer of control of non-stock entities....4410
TV:
Advanced systems....4409
Advertising practices....4413
Cable Act....4324, 4329
Cable television rates....4323
Competitive availability of navigation devices....4330
Filing of network affiliation contracts....4412
Medical care telemetry devices....4386
Over-the-air reception devices....4327
Station ownership....4411, 4418
Video programming accessibility....4328
Wide area SMR licensing....4430
Wind Profiler Radar Systems....4381
Communications common carriers:
Application of subscriber line charges to ISDN service....4340
Toll free service access codes....4341
Communist countries:
Export controls....1678
Community action programs:
Community transition program....1102, 1534
Empowerment Zones and Enterprise Communities....511, 1550
Community antenna television systems:
See Cable television
Community colleges:
See Colleges and universities
Community development:
See also Community action programs
Grant programs-housing and community development
CDBG funds documentation....41
Combining other government assistance with CPD assistance....1549
Community Development Financial Institution Fund....2794
Environmental regulations....324
Financial assistance....581
Fisheries....642
Hispanic-serving educational institutions....1561
Rural venture capital demonstration....516
Small financial institutions:
Examination cycle....2872
Compensation:
See Unemployment compensation
Wages
Workers' compensation
Competitiveness:
Agricultural commodities competitive markets....482
Air carriers....2302, 2311
American Automobile Labeling Act....2641
Cable television companies....4326
Communications Act....4432, 4433, 4435
Government research....814
GSA regulations....3880
Medical plans....1134
North American Free Trade Agreement....2272
Sugar imports....475
Telecommunications marketplace....4382
Television marketplace....4323, 4330, 4409
Trade adjustment assistance....2137, 2138
Comprehensive Employment and Training Act:
See Manpower training programs
Computer technology:
Accessible electronic and information technology standards....3360
Automated surety interface....2912
Cytology specimens....1306
De minimis exclusion for technology and software....614
Digital equipment deregulation....4383

Seq. No.

Computer technology—Continued
Electronic filing....2921, 4678
Electronic filing of bonds, agreements, certificates and cancellations....2494
Electronic filing of tax returns....3204
Electronic records....2685, 3934
Electronic requests for confidential treatment of export manifest data....2899
Electronic submission of adverse drug reaction reports....1145
Electronic submission of documents....4625
Electronic submission of fisheries reports....633
Electronic ticketing of passengers....2073
Electronic transactions standards for health plans....1329
Encryption software....590
Evidence of shipments in EDI procurement transactions....4258
Exports....597, 602
Income taxes....3026
Internet....4457
Domain Name System....883, 3875
MMS electronic reporting....1838
NOAA's GOES Data Collection System....882
Sale, exchange or disposal of excess equipment....3907
Software classification....1226
Stored-value cards....4512
Condominiums:
Mortgages....1527
Conduct standards:
See Conflict of interests
Confidential business information:
Customs regulations....2899
EPA regulations....3393
FDA communications with State and foreign government officials....1164
PTO regulations....890
Conflict of interests:
See also Political activities (Government employees)
CFTC voting prohibition....164
CHAMPUS requirements....1040
Ethical conduct....1128, 3959, 3961, 3982
DOL employees....2107
Ethics programs....3983
Exemptions....3977
Federal home loan bank employees....4498
Financial disclosure....3978
Investment companies....4681
Joint ethics....933
Judges....4189
OGE Privacy Act rules....3974
Physician referrals....1361
Post-government employment....3981
Regional Fishery Management Councils....742
Salary supplementation....3976
Standards of conduct....561, 928, 932, 1590, 3979, 4105, 4108, 4218
Congressional elections:
See Elections
Conservation:
See Energy conservation
Natural resources
Construction industry....1516
Confined spaces for construction....2226
Hazardous energy control....2250
Material bulletins....1508
Safety and health programs....2249
Safety standards....75
Scaffold safety standards....2216
Consumer protection:
See also Labeling
Trade practices
Air transportation....2311
Baby walkers....4301
Backyard play sets standard....4290

Seq. No.

Consumer protection—Continued
Bunk bed requirements....4303
Cable home wiring rights....4326
Child-resistant packaging....4293, 4295, 4304
Cigarette lighters....167
Crib safety standards....4302
Disclosures....4535, 4547, 4549
Flammability standards....4297
Children's sleepwear....4300
Clothing textiles....4291
Upholstered furniture....166
Household goods transportation....2503
Infant formula quality control....1222
Informal Dispute Settlement Mechanisms (IDSM)....4545
Lead-based paint....36, 109, 134, 3668
Meat and meat products....456
Medical devices....1230
Notices to passengers....2288
Over-the-counter drugs....26, 1148, 1197
Premerger notification....4537
Product warranties....4543, 4544
RESPA amendments....39, 1532
Truth-in-Savings....4533
Water supply....3832
Contagious diseases:
See Communicable diseases
Containers:
See Packaging and containers
Continental shelf:
Exploration or development and production plans....1818
Filing fees for required records....1828
Leasing....1830
Memorandum of understanding between DOT and DOI....1848
Minerals prospecting....1829
Offshore structures....2781
Oil spill prevention and response....3748
Seismic reassessment of California platforms....1843
Oil and gas worker training....1825
Oil, gas and sulphur operations....1830, 1837, 1849, 1850
Continuing education:
See Adult education
Contracts:
See Government contracts
Controlled substances:
See Drug abuse
Drug traffic control
Cooperative agreements:
See Grant programs
Copper:
Drinking water regulations....3817
Corn:
Common Crop Insurance....352
Official testing service....367
Corporations:
See Business and industry
Cotton:
Crop insurance....329
Production flexibility contract....281
Upland Cotton User Marketing Certificate Program....246
Countervailing duties:
Administrative procedures....15
Protective order violations....587
Sunset reviews....585
Courts:
Damage awards....3052
Immigration proceedings....1976
Crafts:
See Indians-arts and crafts
Credit:
See also Banks, banking
Credit unions
Mortgages
Capital treatment of recourse arrangements and direct credit substitutes....4451

Seq. No.

Credit—Continued
Consumer credit....3223
Debt collection....2830, 3857, 3952, 4086
Administrative offsets....1484, 2807, 2822
Administrative offsets by EEOC....3837
Administrative offsets by the SBA....4141
Debt Collection Improvement Act....3947
FEMA....3862
Matching of Federal employee records for salary offset....2814
Tax refund offsets....422, 1484, 2829, 2968
Transfer of referral of delinquent nontax debts....2813
Debt sales....2832
Delinquent debtors....2815
Public dissemination of identity....2823
Direct line of credit....225
Disaster Set-Aside program....228
DOD acquisition regulations....987
Equal credit opportunity....4505, 4527
Farm Credit System charter termination....4315
Partners and partnership....3115
Qualified nonrecourse financing....3205
Rating organizations....4725
Recourse debt....3205
Reverse repurchase agreements....3230
Credit unions:
Business loans:
Streamlining....4559
Bylaws revisions....4553
Change in official or senior executive officer....4555
Chartering and field of membership policies....4554
Creditor claims....4561
DIMIA compliance....4552
Fidelity bond requirements....4556
Golden parachute payments....4563
Indemnification....4563
Insurance and group purchasing activities....4562
Insurance coverage....4556
Investment and deposit activities....4564
Liquidations....4561
Loan assumption by nonmembers....4558
Loan purchase, sale, and pledge....4557
Newly chartered....4555
Organization and operations....4560
Ownership of fixed assets....4551
Pension plans....4560
Troubled condition....4555
Crime:
See also Drug abuse
Fraud
Juvenile delinquency
Aliens:
In-transit passengers....1989
Arson reporting....2842
Criminal and terrorist aliens....2076
Criminal fine collection....2094
Criminal history record information....2085
Databases of convicted offenders....2090, 2091, 2097
Denial of SSI benefits to felons and probation and parole violators....4185
Domestic violence....2850
FCSIC referral of criminal violations....4321
Financial institution reporting requirements....2801
Forest System lands....485
Motor vehicle theft....2552
Prostitution....1993
Seizure and forfeiture of conveyances....2013
Sex offender registration programs....2083
Violent crime and drug emergency areas....2095
Critical habitat:
See Endangered and threatened species
Crop insurance:
Administrative regulations....1, 2, 3, 339, 340, 341
Application for....328

Seq. No.

Crop insurance—Continued
Basic provisions....332
Civil penalties....336
Conservation program appeals procedures....214
Cotton....329
Grains....330, 331
Group Risk Plan....337
High risk land....327
Highly erodible land and wetlands....342, 343
Insurance by written agreement....338
Movement or assumption of policies....334
Nonstandard classification system....1
Nursery crop....353
Peanuts....349
Popcorn corn....352
Premiums....333
Reinsurance agreements....335
Rice....350
Tobacco....348, 351
Wheat....330
Crops:
See Agricultural commodities
Crude oil:
See Petroleum
Crystalline fructose:
Marketing allotment program....202
Crystalline silica:
Occupational exposure....74, 2197
Cultural exchange programs....1678
Currency:
See also Foreign currencies
Reporting exemptions....2803
Customs duties and inspection:
See also Antidumping
Countervailing duties
Imports
Accreditation of commercial testing laboratories....2892
Aircraft manifests....2919
Andean trade preference....2922
Automated Clearinghouse credit....2906
Commercial gaugers approval....2892
Counterfeited trademarks....2883, 2926
Country of origin determinations....2911
Country of origin marking....2887, 2893, 2915, 2917
Cultural property regulations....2896
Customs brokers....2888
Detention of merchandise....2895
Duty-free insular watches....588
Duty-free treatment for imports from foreign governments....2916
Electronic filing of entries of merchandise....2921
Excluded goods:
Disposition....2926
Export manifest data....2899
Fee and interest....2896
Fees assessed for defaulted payments....2913
Foreign-based commercial motor vehicles....2898
Harbor maintenance fees....2909, 2910
Illegal entry:
Penalties....2882
Inventory accounts....2993
Land Border Carrier Initiative Program....2904
Merchandise definition....2993
North American Free Trade Agreement....2885, 2897, 2923
Ports of entry....2903
Prior disclosure of violations....2924
Products of forced or indentured child labor....2890
Reconciliation regulation....2881
Recordkeeping requirements....2894, 2923
Seizures, penalties and liquidated damages....2901
Shooks and staves....2927
Tariffs:
Filing requirements....2300
Liquidation of entries....2879

Seq. No.

Customs duties and inspection—Continued
Toxic substances....2902
Unauthorized sound recordings and music videos....2880
Unentered merchandise....2925

D

Dairy products:
See also specific dairy products
Dairy Options Pilot Program....344
Disaster assistance....253
Grading and inspection....182
Quotas....472
Recourse loans....193
Transportation and storage....432
Dangerous cargo:
See Hazardous materials transportation
Data processing:
See Computer technology
Day care:
Food program....395
VA facilities....3332
Deaf:
See Individuals with disabilities
Debarment and suspension:
Accountants....2866
EPA changes....3387
Social Security Administration....4203
Debts:
See Credit
Declassification:
See Classified information
Deepwater ports:
See Harbors
Defense:
See National defense
Defense acquisition regulations:
See Government procurement
Defense contracts:
See Government contracts
Government procurement
Delinquency:
See Juvenile delinquency
Dental health:
Active Duty Dependents Dental Plan....1038
Amalgam ingredient labeling....1225
Veterans' disability rating....3273
Dental schools:
See Medical and dental schools
Deportation:
See Aliens
Deposit insurance:
See Bank deposit insurance
Desegregation in education:
See Equal educational opportunity
Diabetes:
Medicare coverage for blood glucose monitors and test strips....1419
Outpatient self-management training services....31
Qualification of diabetic truck drivers....2524
Disability benefits:
See also Old-age, Survivors, and Disability Insurance
Railroad retirement
Workers' compensation
Reduction of Social Security benefits based on workers' compensation....4206
Disabled:
See Disability benefits
Individuals with disabilities
Medicaid
Medicare
Old-age, Survivors, and Disability Insurance
Public assistance programs
Supplemental Security Income (SSI)

Seq. No.

Disaster assistance:
See also Civil defense
Emergency medical services
Allowable costs....3866
American Indian livestock feed assistance....244
Appeals procedures....3867
Cost-share adjustments....3855
Dairy production....253
Declaration process....3855
Eligible forage crops....239
Farmers....232, 258, 338, 341, 351, 352
Fire suppression assistance....3852
Fisheries....756
Floods....1488, 3847, 3848
Disaster Reserve Flood Compensation Program....200
Hazard Mitigation Grant Program....3853, 3867
Individual assistance programs:
Robert T. Stafford Disaster Relief and Emergency Assistance Act....3849, 3865
Livestock production....253
Mount Weather Emergency Assistance Center....3861
National Emergency Training Center....3861
National Flood Insurance Program:
Expense allowance....3863
Inspections....3859
Property insurers....3870
Removal of form....3869
Noninsured crop disaster assistance program....254
Public lands damage repairs....1893
Tax relief....3013
Temporary housing assistance....3860
Tree assistance program....253
Unemployment assistance....2133
Write-Your-Own expense allowance....3863
Write-Your-Own insurance company assistance....3870
Discrimination:
See Civil rights
Discrimination against aged:
See Aged
Discrimination against handicapped:
See Individuals with disabilities
Discrimination in education:
See Equal educational opportunity
Discrimination in employment:
See Equal employment opportunity
Discrimination in housing:
See Fair housing
Diseases:
See specific diseases
Animal diseases
Communicable diseases
Plant diseases and pests
Distilled spirits:
See Liquors
Doctors:
See Health professions
Domestic animals:
See Livestock
Draft:
See Selective Service System
Drawbridges:
See Bridges
Drinking water:
See Water supply
Drought assistance:
See Disaster assistance
Drug abuse:
See also Alcohol abuse
Drug-free workplace....1095, 3949, 4203
Medicaid program....1312
Narcotic addict treatment....1152
SSA representative payee reforms....4223
Substance abuse block grants....1142
Transit operations....2727

Seq. No.

Drug abuse—Continued
Violent crime and drug emergency areas....2095
Drug testing:
NRC rule....4627
Transportation personnel....2279, 2291, 2377, 2447, 2729, 2777, 2778
Drug traffic control:
Controlled substances:
Disposer definition and registration....1965
Freight forwarding facilities....1967
Diversion control fee account....1966
Domestic Chemical Diversion Act....1961
FAA regulations....2369
Hydrochloric gas thresholds....1968
Iodine thresholds....1968
Land Border Carrier Initiative Program....2904
Drugs:
See also specific drugs
Animal drugs
Biologics
Over-the-counter drugs
Prescription drugs
Adverse drug experiences....1205
Adverse drug reaction reports....1145, 1158
Aluminum containing....1201
Bioavailability and bioequivalence requirements....1151
Bulk drug substances....1180
Chemicals used in manufacture of controlled substances....1963
Comprehensive Methamphetamine Control Act....1969
Contraceptive drugs....1230
Current good manufacturing practice....1200, 1206
Debarment certification regulations....1231
Dispute resolution....1219
Drug manufacturer safety and effectiveness assessment....1211
Drug Master File....1202
Drug Pricing Program....1251
Drugs for life-threatening illnesses....1204
Habit-forming drugs....1173
Informed consent regulations....1155
Inhalation solution products....1205
Insulin certification....1239, 1244
Insulin-containing products....1175
Investigational new drugs....1153, 1172, 1204, 1232
Labeling....1179, 1206, 1245
Life-saving products....1147
Manufacturing changes....1183
Medicaid drug rebate program....1294
Minoxidil....4298
Narcotic addict treatment....1152
New drug applications....1171, 1187, 1202, 1220
Patent holder notification for new drugs....1209
Pediatric....1211
Pediatric studies....1184
Pharmacy compounding....1174, 1180, 1181, 1182
Phenylpropanolamine....1970
Progestational....1176
Providing controlled substances to ocean vessels....1962
Pseudoephedrine....1970
Radiopharmaceuticals....1160, 1185, 1217
Registration for distributors....1970
Registration of foreign establishments and product listing....1163
Registration of producers....1227
Rubber-containing....1179, 1245
Unapproved new uses information....28
Withdrawn or removed from the market....1174

E

Earthquakes:
See Disaster assistance
Ecology:
See Environmental protection

Seq. No.

Economic statistics:
Foreign Trade Statistical Regulations changes....567, 568, 573, 574, 575, 576, 577, 619
Economics:
See Economic statistics
Price controls
Education:
See also Adult education
Colleges and universities
Education of disadvantaged
Education of individuals with disabilities
Educational facilities
Educational research
Elementary and secondary education
Equal educational opportunity
Indians-education
Libraries
School breakfast and lunch programs
Schools
Students
Teachers
Acquisition and transfer of excess personal property....512
Administrative regulations....1050
Aeromedical education....2382
Direct grant programs....1050
ED general administrative regulations....1049
National Security Education Program....909
National Service Trust....3372
NIH Clinical Research Loan Repayment Program....1266
NIH scholarships....1258
NIH service payback obligation....1261
Nondiscrimination....3330
Prison postsecondary education programs....1919
Qualified state tuition programs....2941
Records exempted from the Privacy Act....1048
Removal of regulations....1065
Training programs....3854
USDA program....306
Veterans....3245
Advanced and lump sum payments....3277
Election of benefits....3275
Flight training....3246, 3280
Montgomery G.I. Bill....3244, 3274, 3288, 3342
Payment suspension and discontinuation....3290, 3336
Reservists....3278, 3289, 3291
Survivors and dependents....3247, 3285, 3292
Education of disadvantaged:
Disadvantaged children....1052
Head Start program:
Facilities construction and renovation....1451
Family care as an option....1458
Indian tribal children....1472
Safe transportation of children....1461
Standards for purchase of facilities....1462
Education of individuals with disabilities:
Children....17, 1061, 1063
Rehabilitation services....1059
Educational facilities:
Authorization to enroll F-1 students....1995
DOE contractors....1112
FmHA programs....212
Grants administration....3352
Educational research:
Human subjects protection....1046, 1268
OERI conduct standards....1051
Eggs and egg products:
Grading fees....181
HACCP programs....468
Inspection....451
Performance standards:
Foodborne pathogens....468
Refrigeration and labeling....461, 1169
Safe handling labelling statements....1169
Salmonella enteritidis....441, 468, 1169

Seq. No.

Eggs and egg products—Continued
Transportation and storage....432
Elderly:
See Aged
Elections:
See also Political activities (Government employees)
Voting rights
Indian tribal governments....1779, 1780
Electric power:
See also Electric power plants
Electric utilities
Alternative power pooling institutions....4479
Export authorization....1109
Rural electrification....525, 526, 527, 535, 536, 538, 539, 540, 547, 548
Worker safety....2248
Electric power plants:
Additions and extensions....545
Emissions....3492
Electric utilities:
Additions and extensions....545
FERC Form No. 1 changes....4477
Indian electric power utilities....1802
National Forest System....484
Private activity bond rules....3074
Purchases and sales....4473
Standards and specifications....534, 2181
Steam generating facilities....3523
Electronic data processing:
See Computer technology
Electronic funds transfers:
Defense contract payments....984
Electronic benefit transfer systems....387, 2827
Federal agency disbursements....2825, 3389
Federal Supply Service contracts....3911
Federal tax payments....2819, 2965, 2966, 3039
FRS Regulation E revision....4512, 4513
Interstate Land Sales Registration Act fees....1539
Regulatory streamlining....3225
Elementary and secondary education:
Ineligibility of F-1 foreign students....1995
Emergency medical services:
Medicare requirements....1288, 1304
Undocumented aliens....1416
Emergency mobilization:
See Civil defense
Employee benefit plans:
See also Pensions
Cafeteria plans....3167
Claims....64
Collective bargaining agreement definition....2149
Defined contribution plans....2171
Electronic disclosure....2156
Family and medical leave....3167
Increase in exemptive dollar amounts....4658
Plan documents filing penalties....2154
Plan documents filing requirements....2152
Plan documents requested by Secretary of Labor....2153
Reporting and recordkeeping requirements....60, 2151, 2171
Taxation....3034, 3190
Employee management relations:
See Labor management relations
Employee Retirement Income Security Act:
See Pensions
Employment:
See also Equal employment opportunity
Government employees
Aliens....53, 1988, 1996, 2009, 2012, 2026, 2037, 2056, 2061, 2118, 2136, 2143
BIA regulations elimination....1783
Community transition program....1102
Definitions for salary basis....56
Domestic services....2113
Federal Acquisition Streamlining Act amendments....2115

Seq. No.

Employment—Continued
Lower income persons....1556
Verification of employment....1996, 2037
Work provisions of Personal Responsibility and Work Opportunity Reconciliation Act....9
Workforce investment systems....59, 2206
Employment taxes:
De minimis rule....3162, 3201
Real estate agents....3152
Unemployment repayment....3161
Endangered and threatened species:
See also Marine mammals
Addresses for submissions of permit applications....1594
Alabama sturgeon....1730
Aquatic snails....1696
Arkansas River shiner....1645
Armored snail....1610
Army Corps of Engineers scope of analysis....1021
Black legless lizard....1736
Blackburn's sphinx moth....1682
Bull trout....1689, 1727
California plants....1660
Canada lynx....1728
Captive breeding....1634
Cheetah....1717
CITES decisions....1668
CITES meetings....1680
Coho salmon....747
Conservation activities....779
Convention on International Trade in Endangered Species of Wild Flora and Fauna....1662, 1738
Cowhead Lake tui chub....1721
Critical habitat....726, 734, 773, 777, 1638, 1649, 1653, 1658, 1740, 1753
Dismal Swamp southeastern shrew....1603
Eagles....1615, 1637
Ferrets....1672
Florida panther....1621
Freshwater mussels....1601
Freshwater snails....1601
Gray wolf....1614, 1704
Green iguana....1607
Grizzly bears....1673, 1734
Hawaiian damselflies....1612
Hawaiian pomace flies....1611
Illinois cave amphipod....1691
Incidental take regulations....779
Intercross progeny policy and definitions....1621
Johnson seagrass....733, 734
Kauai Cave amphipod....1698
Kauai Cave wolf spider....1698
Koala....1702
Least chub....1650
List, reclassify, or delist....1635, 1638, 1639, 1640, 1641, 1657, 1663, 1664, 1729
Listing of U.S. species in CITES Appendix III....1608
Loch Lomond coyote thistle....1640
Lost River suckers....1649
Manatees....1743
Mariana fruit bat....1719
Morelet's crocodile....1609
Mussels....1674
Newcomb's snail....1688
NOAA incidental take regulations....806
Northern Idaho ground squirrel....1720
Northern spotted owl....1656
Oahu elepaio....1706
Pallid manzanita....1737
Parish's alkali grass....1641
Pecos pupfish....1708
Peregrine falcon....1605, 1750
Permit requirements and exemptions....1671
Plants:
Bigleaf mahogany....1726, 1752

Seq. No.

Endangered and threatened species—Continued
Plants—Continued
Blumer's dock 1631
California plants 1647, 1651, 1659, 1661, 1736
Camatta Canyon amole 1628
Catesbaea melanocarpa 1705
Colorado butterfly plant 1723
Desert milk vetch 1709
Devil's River minnow 1722
Fender's blue butterfly 1623
Gaviota tarplant 1748
Gentner's fritilaria 1718
Goodding's onion 1733
Hawaii 1684
Howell's spectacular thelypody 1707
Ione buckwheat 1686
Ione manzanita 1686
Keck's sidalcea 1690
Kincaid's lupine 1623
Kneeland prairie penny cress 1625
LaGraciosa thistle 1746
Larkspurs 1685
Lloyd's hedgehog cactus, removal 1669
Lompoc yerba santa 1747
Mexican plants 1661
Nipomo Mesa lupine 1629
Pariette cactus 1732
Puzzle sunflower 1724
Rough popcornflower 1703
Santa Cruz tarplant 1749
Virginia sneezeweed 1697
Wenatchee Mountains checker-mallow 1692
Wilamette daisy 1623
Yreka phlox 1630
Zapata bladderpod 1624
Preble's Meadow Jumping Mouse 1740
Regulations consolidation 750, 780
Riparian brush rabbit 1699
Riparian woodrat 1699
Sacramento splittail 1642
Safe harbors 1671
San Bernadino kangaroo rat 1744
San Xavier talussnail 1639
Scalesbelled mussel 1731
Sea turtles 724, 777
Short-tailed albatross 1600
Shortnose suckers 1649
Slender campeloma 1610
Snake River chinook salmon 805
St. Andrew beach mouse 1700
Topeka shiner 1701
Tropical birds 1646
Vicuna 1677
Virgin River fishes 1657, 1658
West Coast steelhead 1725
Western snowy plover 1653
Wet Canyon talussnail 1613
Yacare caiman 1664
Energy:
See also Coal
Electric power
Energy conservation
Fuel economy
Geothermal energy
Natural gas
Nuclear energy
Petroleum
Pipelines
Alternative fuels 1076, 1077, 1079, 1082, 3485
Capacity reservations 4481
Conduct of DOE employees 1126
DEAR amendments 1113
Rights in data 1122
DOD fuel allocation procedures 920

Seq. No.

Energy—Continued
Extension of coverage of energy statistical programs 3990
FERC fuel cost adjustment clause 4474
FERC reporting requirements 4475
Fluorescent lamps exemption from Hazardous Waste Management 3728
Fuel excise taxes 3155
Part 33 filing requirements 4476
Privacy Act regulations 1099
Research grants 1097
Transmission tariff filings 4481
Uranium mill sites 1105
Wastes from fossil fuel combustion 3712
Energy conservation:
See also Fuel economy
Appliance efficiency standards 1067, 1070, 1071, 1084
Efficiency standards:
Central air conditioners 18
Clothes dryers 1087
Clothes washers 18
Direct heating equipment 1088
Dishwashers 1087
Electric motors, 200 hp 1089
Fluorescent and incandescent lamps 1090
Fluorescent lamp ballasts 18
Heat pumps 18
High intensity discharge lamps 1085
Major residential appliances 1091
Pool heaters 1088
Water heaters 18
Electric motor vehicles 1068
Electric motors 1081
Federal buildings 1078, 1080
Model Energy Code update 1520
Residential energy-efficiency rating guidelines 1083
Test procedures 1069
Testing requirements:
Commercial air conditioning equipment 1075
Commercial heating equipment 1074
Commercial water heaters 1073
Electric motors, small 1086
Electronic distribution transformers 1072
High intensity discharge lamps 1085
Water heaters 1092
Environmental impact statements:
Antarctic impact assessment 3394
Department of Transportation regulations 2689
DOT regulations 2330, 2488, 2515
Hazardous materials transportation 4595
Environmental protection:
See also Air pollution control
Environmental impact statements
Natural resources
Noise control
Pesticides and pests
Reclamation
Waste treatment and disposal
Water pollution control
Antarctic Science, Tourism and Conservation Act 3965, 3966, 3967
Antarctic Treaty 3394
Chemicals 108, 3657, 3660, 3676
Class deviations incorporation into EPAAR 3383
Coastal waste deposit prevention 3835
Content requirements for state operating permits 3423
Environmental impact analysis process 1029
EPA acquisition regulations 3387
Farm Service Agency 278, 279
Federal water resource development 1025
Grant programs 98
Grants administration 1100
HUD 1489
Locatable mineral mining 49
National Environmental Policy Act 493, 741, 3953

Seq. No.

Environmental protection—Continued
National Forest System 492, 498
National Science Foundation 3967
NOAA Climate and Global Change Program 881
Pesticides 3634
Protocol on Environmental Protection 3394
Radon 4613
Restoration of DOD facilities 924
Rural areas 529
Rural economic development 324
Transit projects 2721
Equal access to justice:
DOL 2106
HHS 1143
Equal credit opportunity:
See Credit
Equal educational opportunity:
DOD support of historically black colleges, universities, and institutions 908
Education Act Amendments of 1972 3958
Federally assisted education programs 50, 560, 1584, 3396, 3872, 3956
Equal employment opportunity:
Aged 3840, 3845
Complaint processing 3841
Coordination of functions in complaint processing 3844
Discrimination complaint procedures 3836, 3840
Disparate impact theory 3842
Government contractors 54
Government employees 3836, 3841, 4415
Indians 1795
Individuals with disabilities 3841, 4266
Waiver of rights and claims 3843
Workforce Investment Act 2206
Eskimos:
See Indians
Estate taxes:
Adequate disclosure of gifts 2954
Farms 3151
Qualified family-owned business interests 3180
Estuaries:
See Coastal zone
Ethical conduct:
See Conflict of interests
Ex parte communications:
See Administrative practice and procedure
Exchange visitor program:
See Cultural exchange programs
Excise taxes:
Alcohol 2846, 2859
Arms and munitions 2849, 2862
Deposits 3057
Diesel fuel 3155
Excess benefits transactions 2959
Fuels 3209
Kerosene 3063, 3209
Luxury items 3153
Prepaid telephone cards 2958, 3035
Tires 2957
Transportation of persons and property by air 3178, 3179
Vehicles 3203
Wine 2839
Explosives:
See also Hazardous materials transportation
Hazardous substances
Criminal misuse reporting 2842
Explosive Detection System 2466
Export controls 595
Exports and reexports 603
Fireworks 96, 2847
Handling at waterfront facilities 2316
Manufacturer licensing 2847
Military munitions 925
Plastic explosives 2848, 2908

Seq. No.

Explosives—Continued
Storage sites 2847
Table of distances 2847
Exports:
Administration regulations 592
Agricultural commodities 473, 482, 483
Alligator skins 1679
American ginseng 1643
Ammunition 595
Antiterrorism controls 593, 618
Automated Export System 567
Bluefin tuna re-export certificates 681
CCC Export Credit Guarantee Program 474
Chemical Weapons Convention 594, 606
Chemicals 3682
Commerce Control List 592, 607, 610
Communication intercepting devices 610
Computer technology 592
Controlled chemicals 616
Country group revisions 600
De minimis exclusion for technology and software 614
Distilled spirits, wine, and beer 2835
Encryption software 590
Enhanced Proliferation Control Initiative 608
Explosives 595, 603
Exporter definition 568
Firearms 595
Foreign boycott provisions 604
Foreign military sales designator 576
Ginseng 1676
High-performance computers 597, 602
Humanitarian donations 611
India 597
Investigational new drugs 1153
Libya 609
License exceptions 611
Licensing 613
Manifest data 2899
Marine mammal products 1678, 1693
Missile technology controls 599
North Korea 2281
Nuclear equipment and materials 591, 597
OETCA regulations update 586
Pakistan 597
Reexports 598, 603, 609
Reporting and recordkeeping requirements 473, 1162
River otters 1616, 1738
Satellites 607
Shipper's export declaration 573, 574, 575, 577, 619
Shooks and staves 2927
Sugar 475
Technology 594
Terrorist-supporting countries 600
Timber from western states 589
Tobacco 2861
Used motor vehicles 2905
Veterinary user fees 285
Wassenaar Arrangement List of Dual-Use Items 596, 601, 618
Wildlife 1662, 1715
Yugoslavia 617
Extension and continuing education:
See Adult education

F

Fabrics:
See Textiles
Fair housing:
Civil penalties for violations 1557
Compliance requirements 313, 521
Performance standards 42
Enforcement agency certification and funding 1554
Housing for Older Persons Act 1555
Occupancy standards 43
Family planning:
Abortion-related services compliance standards 1270

Seq. No.

Family planning—Continued
Illegitimacy rate reduction bonus....1466
FAR (Federal Acquisition Regulation):
See Government procurement
Farmers:
See Agriculture
Federal acquisition regulations:
See Government procurement
Federal aid programs:
See Grant programs
Loan programs
Price support programs
Technical assistance
Federal buildings and facilities:
Access for individuals with disabilities....51, 1954, 1955, 3359
Outdoor developed areas....3365
Play areas....3361
Conduct on the Pentagon reservation....928
Energy performance standards....1078, 1080
GSA regulations....3876, 3877, 3878, 3891
Military range assessment....925
Presidential library facilities....3943
Private organizations on DoD installations....931
Property management....3902
Smoking policy....3919
Federal employees:
See Government employees
Federal home loan banks:
Advances collateral....169
Appointment and election of Directors....4486
Authority to approve bylaws....4496
Community investment cash advance programs....171
Disclosure requirements....4497
Eligible collateral....169
Employee compensation and conflicts of interest....4498
Employee selection and compensation....4491
Financial management policy....168
Freedom of Information Act....4488
Joint and several liability of banks....4485
Letters of credit....170
Membership regulation technical amendments....4494
Mission fulfillment....4492
President base salary caps....4493
Rural banks....4495
Securities....4466
Federal property management regulations:
See Government property management
Federal Reserve System:
Affiliate funding....4525
Bank holding companies....4517, 4531
Capital:
Leveraged....4516
Risk-based....4516
Capital stock....4532
Check collection....4507
Consumer regulations review....4510, 4521
Electronic funds transfers....4512
Equal credit opportunity....4505, 4527
Margin regulations review....4508
Membership....4517, 4529, 4531
Privately operated multilateral settlement systems....4534
Public availability of information....4526
Reserve requirements:
Depository institutions....4511
Depository requirements....4528
Securities brokers and dealers:
Qualifications for banks and securities representatives....4514
State banks....4515, 4530
Streamlining regulations....4509
Transaction between a member bank and its subsidiaries....4524
Truth-in-savings....4533
Year 2000 safety and soundness guidelines....4462

Seq. No.

Federal-State relations:
See intergovernmental relations
Feed grains....361
Production flexibility contract....281
Scales and weighing....357
Fellowships:
See Scholarships and fellowships
Finance:
See Banks, banking
Credit
Currency
Indians-business and finance
Investments
Loan programs
Mortgages
Trusts and trustees
Fines and penalties:
See Penalties
Fire prevention:
Aircraft:
Cargo/baggage compartments....2454
Crash-resistant fuel systems....2432
Fuel tank vent protection....2431
Fuel tanks and lines....2439
Nuclear power plants....4623
Towing vessels....2342
Underground coal mines....2189
Firearms:
See Arms and munitions
Firefighters:
Retirement....4069
Fish:
See also Fisheries
Seafood
Catch limits....858
Definition of harm....783
Endangered and threatened....731, 747, 753, 754, 783, 803, 850, 1645, 1649, 1650, 1657, 1658, 1689, 1701, 1708, 1721, 1722, 1725, 1727, 1730
FWS permit applications....1633
Halibut Donation Program....836
Listing of U.S. species in CITES Appendix III....1608
Restoration programs....828, 1681
Size limits....661, 755, 858
Fisheries:
Alaska....633, 664, 791
Amberjack....866
American lobster....630
Anchovy....844
Atlantic billfish....626, 755
Atlantic bluefish....631
Atlantic Coast:
Exclusive Economic Zone (EEZ)....637
Atlantic herring....635
Atlantic highly migratory species....822
Atlantic mackerel....672
Atlantic Ocean....625
Atlantic sea scallop....639
Atlantic sharks....821, 832
Atlantic sturgeon....696
Atlantic surf clams....816
Atlantic tuna....644, 645
Bering Sea/Aleutian Islands....667, 684, 743
Black grouper....866
Black sea bass....858
Bottomfish....673
Butterfish....715
Capacity reduction program....670
Classification and listing....732
Corals and coral reefs....629, 658, 852
Critical habitat....726, 773, 777
Crustacean....712
Disaster relief....756
Dolphin encirclement prohibition....774

Seq. No.

Fisheries—Continued
Dolphin mortality limit....771, 878
Eastern Tropical Pacific....730
Flounder....724, 858
Gag....866
Golden crab....752
Groundfish....624, 633, 667, 668, 673, 684, 704, 711, 743, 764, 765, 766, 791, 792, 800, 819, 826, 836, 851, 855, 861
Gulf of Alaska....667, 684, 819
Gulf of Mexico....632, 757, 758, 810, 817, 820
Halibut....796, 842
Hawaiian Islands....665
Incidental take regulations....725, 774, 775, 778, 804, 806, 878
King crabs....743
King mackerel....824
Lobster....638, 665, 762, 794, 833, 834, 860, 873
Mackerel....691, 715
Mahogany clams....816
Marine mammal deterrence....775
Marine mammal programs....727, 728, 746, 808, 877
Marine Mammal Protection Act....730, 778
Migratory species....646
Monkfish....640
National Undersea Research Program....814
No surprises policy....1742
North Pacific....634
Ocean quahogs....816
Pacific Coast....763, 790
Pelagic....627, 636, 654, 817, 824
Pollock....692, 854
Puerto Rico....628, 629
Red porgy....866
Red snapper....678, 864, 867
Reef fish....628, 659, 678, 679, 825, 864
Regional Fishery Management Council disclosures....742
Regulation consolidation....822
Research reserves....861
Rockfish....790, 840
Sablefish....653, 682, 846
Salmon....674, 731, 753, 754, 845, 850
Scallops....830
Scientific research....776
Scup....858
Sea turtle conservation....810
Shrimp....632, 660, 749, 757, 809, 810, 820
Snapper-grouper....680, 818, 865, 866
South Atlantic....817, 818
Spanish mackerel....824
Spotter aircraft use....876
Squid....715
Stone crab....638, 662
Swordfish....661, 677, 815
Tanner crabs....743, 792
Tilefish....625
Tuna....681, 718, 725, 774, 853, 862, 876, 878
U.S. Virgin Islands....628, 629
Western Pacific region....627, 712
Yellowfin tuna....730
Fishery management plans:
Administrative:
Bycatch reduction measures....660, 692, 749, 757, 758, 793
Compliance....841
Essential fish habitats....697, 709, 721, 745
Fishery Management Councils....643, 649, 748, 831
Gulf of Mexico....659
List of gear and fisheries....663
National standards....831
Redefinition of terms....641, 745
Alaska....697, 830
Atlantic....639, 672, 719, 768
Atlantic Coast....646, 794, 833
South Atlantic....638, 699, 700
Atlantic mackerel....707
Atlantic surf clams....708

Seq. No.

Fishery management plans—Continued
Bering Sea/Aleutian Islands....655, 668, 687, 829, 840
Black sea bass....709
Butterfish....707
Calico scallop....717
Caribbean....723
Exclusive Economic Zones (EEZ)....643, 834
Flounder....709
Gulf of Alaska....655, 668, 669, 829, 855
Gulf of Mexico....638, 660, 662, 676, 678, 679, 710, 719, 720, 824, 825, 847, 864, 867
Hawaiian Islands....673, 843, 860, 873
Herring....694
Highly migratory species....663, 751, 863
Monkfish....694
North Pacific....792
North right whales....781
Northeast multispecies....640, 689, 693, 694, 767, 837, 839, 848, 857, 875
Northeast Region....859
Northern anchovy....702
Ocean quahogs....708
Pacific Coast....674, 705, 706, 845
Pacific Insular Area Fishing Agreements....643
Scup....709
Sea scallop....694, 768, 870
Sitka Sound halibut....683
South Atlantic....651, 676, 717, 721, 722, 749, 752, 824
Spiny dogfish....671
Squid....707
Tuna....690
Vessel moratorium....685
Western Pacific....636, 654, 657, 658, 703, 762, 851, 852, 860
Fishing:
Bycatch reduction measures....793
Catch limits....679, 713, 714, 866, 867
Coastal Zone Management Act....735, 737
Compensatory fishing....675, 868
Conservation programs....643, 647, 669, 670, 673, 674, 681, 745, 832, 851, 852, 863, 864, 865
Data collection program....788
Gillnets....637
Glacier Bay National Park....1765
Management measures....713, 720, 763, 767
North Pacific Loan Program....652
Permit requirements and exemptions....643, 647, 648, 779
Quotas....667, 862
Anchovy....844
Atlantic surf clams....716
Community Development Quota Program fees....801
Halibut....664, 686, 872
Individual fishing quota definition....856
Ocean quahogs....716
Red snapper....761
Sablefish....664, 872
Swordfish....871
Tuna....718
Quotas and harvest guidelines....642, 762
Landing notices....827
Recreational measures....714
Reporting and recordkeeping....688
Snake River chinook salmon....805
Sport fishing:
Sport Fish Restoration Program....1667
Tournaments....755
Subsistence management regulations....1598, 1741
Fishing vessels:
American Samoa boundaries....698
Charter boats....797
Compensatory fishing....675, 868
Days at sea....639
Foreign vessels....643
Framework adjustment....839
Gear preemption issues....840

Seq. No.

Fishing vessels—Continued
High Seas Fishing Compliance Act 744
Inshore/offshore reallocation 795
Licenses 666
Limited entry permits 643, 648, 704, 764, 800, 826
Longline vessels 627, 823
Moratorium vessel permit 685, 874
Observer policy 634, 725, 758, 798, 799, 823, 835
Ownership requirements 656
Pacific offshore cetacean take reduction plan 784
Permit consistency 695
Reporting and recordkeeping requirements 849
Safety equipment and operating procedures 835, 2362
Scallop vessels 768
Shrimp vessel registration 809
Stand-down requirement 759
Standard definitions 789
Transfer, replacement, and upgrade 859
Trawl mesh size 837, 848
Trawlers 765, 820
Tuna vessels 770
Vessel Monitoring System 677, 760
Flammable materials:
Flammability standards 4291, 4297
Pesticide foggers 3645
Upholstered furniture 166
Flood control:
Flood Risk Reduction Program 240
Impoundment regulations 2177
Flood insurance:
Contracts 3848
Group Flood Insurance Policy 3847
HUD programs 1488, 1507
National Flood Insurance Act of 1994 325
Flood plains:
Administrative appeals process 1022
Wetlands 1498
Conservation program 216
Privately owned 2515
Wetlands Reserve Program 219
Floods:
See Disaster assistance
Follow Through Program:
See Education of disadvantaged
Food additives:
See also Color additives
Cured pork products 450
Flavoring agents:
Volatile fruit flavored concentrates 2858
Regulatory reinvention 1228
Food assistance programs:
See also Food stamps
School breakfast and lunch programs
Child and adult care 376, 395, 402, 405
Personal Responsibility and Work Opportunity Reconciliation Act 409
Commodity Supplemental Food Program 394
DOD surplus food distribution 3265
Farm Bill implementation 369
Food delivery systems 4
Fraud deterrence 424
Funding formula 392
Halibut Donation Program 836
Indian reservations 393, 398, 401
National School Lunch Program 381, 414, 426
Older individuals 1479
Paperwork reduction 391
Soy-base beverages 419
State Technical Committees 552
Summer Food Service Program 372, 406
TEFAP 390
Vegetable protein products 423
Women, infants, and children 397, 404, 412, 413
Cultural food preferences 425

Seq. No.

Food assistance programs—Continued
Disqualification of vendors 407
Eligibility 380
Farmers Market Nutrition Program 420
Food delivery systems 4
Food packaging 379
Personal Responsibility and Work Opportunity Reconciliation Act 408
Soy-base beverages 419
Food ingredients:
See Food additives
Food labeling:
Eggs 461
Fruit and vegetable juices 25
Health claims 458
Meat and poultry 449, 457, 458, 459
Medical foods 1224
Ovine carcasses 453
Review of regulations 1223
Trans fatty acids 1186
Food stamps:
Balanced Budget Act provisions 411
Claims establishment and collection 10
Computer matching 415
Disqualifiers and noncompliance penalties 6
Electronic benefits transfer system 382, 387, 410
Eligibility provisions 8
Alignment with Temporary Assistance for Needy Families 427
Income standards 7
Employment and training programs 411
Employment and training requirements 9
Failure to comply with Federal, State, or local work program 6
Mickey Leland Childhood Hunger Relief Act 421
Minimum and maximum allotments 8
Monthly reporting and retrospective budgeting 399
Noncitizen eligibility 7
Personal Responsibility and Work Opportunity Reconciliation Act 6, 7, 8, 9, 58, 427
Program revisions and eliminations 389
Quality control 396, 421
Regulatory review 375, 378
Reporting provisions 399
Retail food stores 5
Retailer application processing 371
Retailer delinquent debt collection 422
Retailer integrity, fraud reduction, and penalties 418
State agencies administrative and management requirements 7, 375, 378, 382
State agencies reimbursement 400
Wholesale food concerns 5
Foods:
See also specific foods
Cereals (food)
Dairy products
Fish
Food additives
Food assistance programs
Food labeling
Frozen foods
Fruits
Meat and meat products
Nutrition
Poultry and poultry products
Seafood
Sugar
Vegetables
Fruit and vegetable juices 25
HACCP programs 25
Infant formula quality control 1222
Organic 176
Pesticide residues 105, 3643, 3644
Regulatory reinvention 1228

Seq. No.

Foods—Continued
Transportation in vehicles used for nonfood products 2767
Foreign air carriers:
See Air carriers
Foreign banking:
Foreign activities of insured state nonmember banks 4460
Income taxation 3139
Foreign currencies:
Acquisition regulations 2810
Foreign exchange:
See Currency
Foreign currencies
Foreign investments in U.S.:
Income taxation 2948, 3163
Reporting requirements for BE-13/BE-14 566
Reporting requirements for BE-15 563
Foreign officials:
Employment 2066
Foreign persons:
See Aliens
Foreign relations:
See also specific countries
Citizenship and naturalization
Cultural exchange programs
Foreign trade
Immigration
International boundaries
Passports and visas
Treaties
Duty-free treatment for imports from foreign governments 2916
Fishery regulations 643, 877
Foreign-based commercial vehicles 2898
International wills registry 2268
Organization for Economic Cooperation and Development (OECD) 3657
Streamlining legislation implementation 2273
USML revisions 2258
Foreign trade:
See also Competitiveness
Customs duties and inspection
Exports
Imports
Maritime carriers
Trade adjustment assistance
Trade agreements
Antidumping duties 15
Boycott provisions 604
Canada:
Softwood lumber 2900
Countervailing duties 15
Earnings and profits 3132
Entry procedures 2918
Federal employee foreign rights in inventions 901
Filing of informational materials 2082
Financial services transactions survey 564
Foreign boards of trade computer terminals in the U.S. 162
Foreign Trade Statistical Regulations changes 567, 568, 573, 574, 575, 576, 577, 619
Motor vehicles 3585
Port restrictions:
Japanese vessels 4502
Textile labeling 4540
Trade zones 2918
Forests and forest products:
See also National forests
Assistance to timber-dependent communities 541
Disaster assistance 253
Environmental analysis policy and procedure revisions 493
Forestry Incentive Program 551
Imported wood packing materials 282
Indian allotments 497

Seq. No.

Forests and forest products—Continued
Management planning 487
Migrant and seasonal workers 558
Mineral fractions, sale 486
Softwood lumber from Canada 2900
Stewardship Incentive Program 499
Sustained yield forest units:
Removal of regulations 1912
Timber sales 503
Cancellation 498
Contracts 491, 492
Export controls 589
Noncompetitive sale 496
Surplus species 488
Forfeitures:
See Seizures and forfeitures
Foster care:
See Adoption and foster care
Fraud:
Civil remedies 4445
Debarment of health care providers 4085
Fraudulent commercial driver's licenses 2525
Government procurement employment prohibitions 945
Health care fraud and abuse 1129, 1252
Microcap securities market 4720
OASDI 4215
Odometer fraud 2551
OIG 1139
Payments for information 1313
Title I property insurance 38
Toll fraud 4364
Freedom of information:
See also Confidential business information
Amendments 4579
Chemical inventory reporting 3703
Corporation for National and Community Service 3373
Department of the Army 1019
DOD 907
DOE 1096
DOI 1583
DOJ 2098
DOL 2105
EEOC records 3839
Electronic communication 2105, 4228
Electronic Freedom of Enformation Act 3890
Electronic Freedom of Information Act 915, 1483, 2313, 3375, 3839, 3846, 3963, 3993, 4097, 4143, 4504
EPA 3375
Farm Credit Administration 4310
Federal home loan banks 4488
FEMA 3846
FMCS 3871
GSA 3890
IRS 3014
Mineral resources 1905
NARA organizational and procedural changes 3935, 3938
NRC public document rooms 4597
Office of Federal Housing Enterprise Oversight 3969
Office of the Special Counsel 4096
OGE electronic amendments 3973
OPIC electronic amendments 4097
OPM 3995
Public information 4615
Regulations revision 1583
RRB 4136
Sex offender registration programs 2083
Social Security Administration 4212
Tax-exempt organization information 3038
Veterans Affairs 3263
Freight:
See also Hazardous materials transportation
Air carrier baggage liability limit 2277
Ocean 3357
Passenger aircraft cargo:
Oxygen generators 2387

Seq. No.

Freight—Continued
Protection against shifting and falling cargo....2495
Frozen foods:
Country of origin marking....2893
Fruits:
See also specific fruits
Grain-fruit products....417
Import restrictions....287, 296, 301
Inspection fees....184
Irradiation phytosanitary treatment....290
Fuel:
See Energy
Fuel additives:
Oxygenated....3650
Fuel economy:
Calculations....2619
Corporate Average Fuel Economy credits....2664
Fuel economy credits....2577
Light trucks and light duty trucks....2665
Light trucks and light duty vehicles....3462
Reporting requirements....2606
Standards for model years....2665
Funeral industry:
Practices rule....4536

G

Gambling:
Indian Gaming Regulatory Act....4581
NIGC definitions....4572
NIGC hearings and appeals....4569, 4570
Garnishment of wages:
See Wages
Gas exploration:
See Oil and gas exploration
Gas reserves:
See Oil and gas reserves
Gas utilities:
See Natural gas
Gases:
See also Natural gas
Coalbed methane development....1902
Gasohol:
Motor vehicle use....1079
Generally Recognized as Safe (GRAS) food ingredients:
See Food additives
Geothermal energy:
Leasing requirements....1915
Regulation simplification....1884
Gifts to Government:
See Government property
Goats:
Interstate movement....286
Government buildings:
See Federal buildings and facilities
Government contracts:
See also Government procurement
Acquisition regulations:
USAID....3351, 3355
Affirmative action....54, 986, 2123, 2128
Audits....2208
Bundled contracts....4144
Buy American Act....1588
Civil defense costs....4263
Commercial contract quality requirements....4253
Commodity Credit Corporation storage contracts....218
Commodity Credit Corporation suspension and debarment....194
Competition exception for international agreements....959
Construction....54, 57, 949, 950, 3931
Contract financing payments....974
Contract reform....1117
Contracting Action Data System....965
Contractors:
Applicants and employees with disabilities....2128

Seq. No.

Government contracts—Continued
Contractors—Continued
Compensation costs for senior executives....4261
Compensation for certain personnel....1018
Contractor insurance/pension review....1000
Criminal history record information access....2085
DOD placement assistance program....918
DOE contract security personnel....1094
DOE employee protection program....1107
DOE nuclear activities....1112
Government property management and disposition....4252
Legal services....1558
Local hiring and training....3380
Performance evaluations....3379
Project management....1114
Qualifications....3253
Restructuring costs reimbursement....960, 961
Sale of surplus inventory....1005
Training....939
Travel reimbursement....4271
Use of nonimmigrant aliens....977
Veterans employment report....953
Waivers....2125
Cost reimbursement rules....988, 4274
DD form revisions....979, 981, 982
DD Form 2631 Performance Evaluation revision....976
DEAR amendments....1113
Debarment and suspension....194, 3387
Defense contracts:
Commercial construction....936
Contracting officer electronic addresses....966
Electronic funds transfers....984
Firms not eligible....954
Demilitarization requirements....971
Dispute resolution....994
FAA procedures....2386
Federal Acquisition Regulation....4257
Distribution to DFAS Accounting offices....1017
DOD certificate of request for equitable adjustment....995
DOD certification requirements....996
DOD support of historically black colleges, universities, and institutions....908
DOE nuclear weapons facilities worker training....1110
Electronic signature on receiving reports....962
Empowerment contracting....4250
EPA acquisition regulations....3387
EPA Mentor-Protege Program....3384
EPA protest solicitation notification....3390
Equitable adjustments....3931
FAR representation....4265
Farm Service Agency....220
Federal Acquisition Streamlining Act....989, 2115
Fees and incentives....1117
Finance rules....983, 987
Fixed price....970, 4259
Foreign military sales....967
Fraud....945
Guarantees of performance....1116
Indians....1013, 1782, 1853
Inspection service contractors....362
Labor standards....57
Lobbying restrictions....559, 2290, 3925
Military construction contracts:
Foreign countries....950
Multiple award indefinite delivery contracts....4241
Multiyear contracting....957, 989
NAFTA threshold....1009
NARA supplements....3949
NASA policies....3930
NATO entities....948
Negotiation....3378
Nondiscrimination....54, 2123
Nondisplacement of qualified workers....4254
Nuclear safety management....21

Seq. No.

Government contracts—Continued
Overseas architect-engineer services....1008
Penalty payments....3392
Petroleum sales....1108
Pilot Mentor-Protege Program....1015
Price adjustments to shipbuilding contracts....1028
Professional services....4240
Progress payments....4256
Quality assurance requirements elimination....4262
Quick-closeout procedures....3397
Recruitment cost principle....4239
Repricing clause....985
Research and development....940, 1267
Rights to inventions....900
Shipbuilding capability preservation agreements....1027
Short form research contracts....952
Site of work wages....2122
Software copyrights....4277
Spain....949
Specifications availability....4273
Subcontracting....956, 987
Commercial items....937
Nonprofit agencies for the blind or severely disabled....1014
Outside the United States....1007
Subcontractors....4255, 4269
Substance abuse....1120
Taxes associated with divested segments....4270
Taxpayer identification numbers....2831, 3856
Technical amendments....1119
Ten-year-term contracts reporting requirements....1003
Trade agreements thresholds....4275
Uncompensated overtime....1012, 4240
Very small business program....4161
8(a) purchase order awards....980
Government employees:
See also Conflict of interests
Military personnel
Political activities (Government employees)
Absence and leave:
Annual leave....4021, 4022, 4059, 4090
Administrative law judges....4076
Appeals....4016
Availability of official information....3995
Benefits for DC employees....4067
Career and career conditional employment....3998
Career transition assistance....4006
Child care at VA facilities....3332
Clarification of staffing provisions....4003
Classification appeals....4011
Compensatory time off....4051
Contractors:
Fees for background investigations....4640
Corporation for National Service:
Noncompetitive appointments....4078
Cost-of-living allowances....4063
Nonforeign areas....4064
Criminal investigators....4080
Debt collection....4086
Defense of tort suits....2084
Defense personnel....918, 4043
Disabled Veterans Affirmative Action Program....4024
Emergency leave transfer program....4065
Employment discrimination....3836, 3841, 4415
Employment priority for displaced employees....4044
Excepted service:
Appointment of noncitizens....4087
Operational procedures....3997
Family and medical leave....4022
Federal Competitive Service appointments of volunteers....3999
Federal Employees' Compensation Act....2127, 2131
Federal Equal Opportunity Recruitment Program....4023
FEHBP contract performance....4095

Seq. No.

Government employees—Continued
Financial disclosure requirements....3978
Foreign rights in inventions....901
Gift acceptance authority of OGE....3972
Health and counseling program....4025
Health benefits....4090, 4095
Contributions and withholding....4074
Debarment of health care providers....4085
Effective dates....4075
Enrollment....4073
FEHBP changes....4072, 4077
Hospital insurance benefits....1444
Hiring authorities....150
Holiday and premium pay....4051
Interagency placement program....4004
Intermittent....4008
Investigations....4083
Job grading reviews....4016
Life insurance....4036
Merit promotion and internal placement....147, 4088
Minimum salary requirements....4094
NARA recordkeeping requirements....3934
Nondiscrimination in USDA-conducted programs and activities....513
Occupational radiation protection....1106
Part-time....4008
Pay administration....4013, 4080
Pay rates:
Administration....4018
Appropriated fund wage areas....4053, 4056, 4057
Environmental differential pay....4015
Federal Wage System (FWS) survey jobs....4014
Hazardous duty pay....4060
Nonappropriated fund wage areas....4049, 4050, 4052, 4054
Official duty station determinations....4048
Printing positions....4055
Superior qualifications appointments....4012
Performance appraisal....142, 4092
Performance Management and Recognition System....4079
Personnel records....3996
Probation on initial appointment to competitive position....146
Promotion and internal placement....148, 4041
Re-employment....4038
Reduction in force....4045, 4089, 4090
Reduction in force service credit....4046
Reemployment....149, 4019
Relocation costs....4020, 4048, 4264
Restoration to duty....4047
Retention allowances....4062
Retention records....4046
Retirement....4009, 4090
Bar of benefits after conviction....4032
Court orders awarding survivor annuities....4035
Coverage for non-appropriated fund instrumentalities....4066
Credit for military service....4027, 4031
D.C. Financial Control Board employees....4068
Debt collection....4034
Determinations of marital status for survivor annuities....4028
Disability....4093
Divorced spouses....4031
FERS basic annuity....4070
FERS coverage elections....4071
Health care professionals....4026
Service credit....4030
State income tax withholding....4033
Voluntary early retirement....4084
Salary offset for claims collection....3940, 4061
Salary offset for debt collection....154, 157, 2814
Salary supplementation....3976
Seasonal....4008
Security standards....4082
Senior Executive Service:
Last move home benefit....3896

Seq. No.

Government employees—Continued
Senior Executive Service—Continued
Moratorium on involuntary reassignments 4042
Severance pay 4017
Standards of conduct....561, 928, 1126, 1590, 3955, 3959, 3961, 3962, 3979, 3980, 3983, 4105, 4108, 4140, 4167
Student Educational Employment Program 4037
Subpoenas 3975
Substance abuse 1095
Suitability standards 4081
Surplus or displaced 4006, 4044
Temporary change of station 4048
Temporary employees 4040
Testimony 3939, 3975, 4098
Time-in-grade restrictions 4039
Training 3854, 4091
Travel regulations 3895, 3896, 3898, 3906
Vacant positions 4045
Voluntary separation incentive repayment waivers 4058
Government procurement:
See also Government contracts
Acquisition regulations 939, 989, 2269, 3908, 4583
Commercial items 3343
Commercially available off-the-shelf items 4248
DOD 940, 990, 991, 992, 993
DOE 1118
DOJ 2100
Earned Value Management Systems 990
EPA protest solicitation notification 3390
Foreign acquisitions 4236, 4276
HUD 1559
NASA 3926
Panama Canal Commission 4099
Purchase cards and electronic data interchange 3250
Quality of environmental data 3386
Real property policies 3881
USAID 3351, 3354
Value engineering 3399
Veterans Affairs 3251, 3252, 3254, 3255, 3256, 3257, 3296, 3297, 3298, 3299, 3300, 3301, 3302, 3345
Affirmative action 4237, 4251
Affirmative action reform 963
Architect-engineer services 998, 3888
Ball and roller bearings 951
Brand name purchase descriptions 4260
Buy American Act 997, 1588
Buy Indian Act 1256
Central Contractor Registration 993
Civil defense costs 4263
Commercial items acquisition 972, 973
Contingent fees 992
Contractors:
Compensation for certain personnel 1125
Liquidated damages payments 4267, 4268
Local hiring and training 3380
Performance evaluations 3379
Travel reimbursement 4271
Women- and minority-owned businesses 4455
Contracts:
Incrementally funding fixed price contracts 3385
Modification of existing contracts 4249
Multiple Award Schedule 3887
NASA contracts 3929
Negotiation 3378
NFS contracts 491, 492, 498
Payments 3908, 4246
Personal services 3381
Specifications availability 4273
Cost comparison guidance 904
Costs:
Cost principles 938
Pension costs 4242
Travel 4245
DD Form 1155 modifications 941

Seq. No.

Government procurement—Continued
Demilitarization requirements 971
DOL 2209
Domestic source restrictions 968, 1006
Electronic funds transfers 4246
Environmentally preferable products 3670
FAR representation 4265
Fixed price contracts 4259
Foreign currency use 2810
Fuel 920
GSA regulations 3880, 3881, 3905, 3908
Helium contracts 1904
Industrial plant equipment 1010
Information technology products 997
Level of effort 3382
Limitations on service contracts that cross fiscal years 955
Lobbying restrictions 4243
Micro-purchase procedures 1016
Military acquisitions 926
Multiple award indefinite delivery contracts 4241
NAFTA threshold 1009
NASA award fee coverage 3928
Office copying machines 3904
Part 15 rewrite 942
Part 213 rewrite 975
Part 30 deviations 943, 4272
Prompt payment 3988
Protests 3390, 3913
Quality assurance requirements elimination 4262
Quick-closeout procedures 3397
Recovered material certification 1011
Recycled products 3721
Research and development 946, 1002
Shipments in electronic data interchange transactions 4258
Single process initiative 944
Small business subcontracting 4244
Small businesses 919, 3929, 4251
Small, minority, and women's business utilization 3374
Specialty metals 999
State Department regulations 2269
Streamlining legislation implementation 4245
Subcontracting 3986, 4244
Taxpayer identification numbers 2831, 3856
Telecommunications 1001
Television-audio support activity 964
Ten-day payment clause 3911
Trade agreements thresholds 4275
Uniform Procurement Instrument Identification numbers 978
Universal product numbers 3257
Waiver authority to humanitarian or peacekeeping operations 958
Weighted guidelines 946
Government property:
See also Federal buildings and facilities
Government property management
Computer technology equipment:
Exchange/sale and disposal of excess 3907, 3917
Disposal condition codes 3914
Disposals of surplus real property for public safety purposes 3920
DoD contractors in possession of 1004
Donation of surplus personal property 3899
Donation requirements for firearms 3886
Donations to service educational activities 3901
Motor vehicles 3883
Office copying machines 3904
Regulations replacement 3889
Sale 916
Telephone systems 3882
Government property management:
Contribution in aid of construction 2931
Federal facilities in urban areas 3902

Seq. No.

Government property management—Continued
ITMRA telecommunications services 1001
Negotiation procedures for leasehold interests acquisition 3884
Qualified lessee construction allowances for short-term leases 3071
Real property 3874, 3892, 3893
Regulations replacement 3889
Smoke development rating increase 3879
Space and related services:
Alterations 3876, 3891
Assignment 3876
Rents and leases 3877, 3878
Utilization 3876
Utilization and disposal of personal property 3912
Government publications:
Nonprofit organizations 3992
Prohibitions against reproduction 1131
Grains:
See also specific grains
Feed grains
Added substances 366
Crop insurance 330, 331
Divider tolerances 359
Grain-fruit products 417
Inspection 358, 364
Moisture meters 365
Reinspection or appeal inspection for grade 356
Weighing services 358, 363, 364
Grant programs:
Absent parent access and visitation 1464
Block grants:
Child care and development 1476
Temporary Assistance for Needy Families 34, 58, 1453
Community Food Project 308
DOI 1589
Energy research 1097
Grant and Cooperative Agreement Handbook revision 3927
Highway safety incentive grants 2632
Illegitimacy rate reduction bonus requirements 1466
Juvenile Accountability Incentive Block Grant program 2101
Library services 3951
Microloans for Welfare-to-Work participants 4142
Motor vehicle safety incentive grants 2627, 2628, 2629, 2630, 2631, 2634
National Dam Safety Program 3850
National Earthquake Hazard Reduction Program 3858
Research grants 1267
Rights to inventions 900
Single Audit Act Amendments 326, 929, 1123, 1497, 2210, 2301, 3353, 3868, 3948, 3994
Small Business Innovation Research Program administrative provisions 309
State cemetery grants 3259
Welfare-to-Work Grants Program 58
Grant programs-agriculture:
Administrative provisions and requirements 306, 308, 311, 510
Biotechnology Risk Assessment Research Grants Program administrative provisions 310
Community facility grants 541
Lobbying restrictions 559
Rural economic development 514
Technical assistance and training 212, 517, 518, 543
Water and waste disposal programs 544
Grant programs-economic development:
Excess capacity 581
Grant programs-education:
Acquisition and transfer of excess personal property 512
Administrative regulations 1049
Community Development Work-Study Program 1562
DOD University Research Initiative Support Program 923
Evaluation of recipients, grantees and contractors 1051
FmHA programs 212

Seq. No.

Grant programs-education—Continued
Head Start program funding 1451
Hispanic programs 307
Indian colleges 1796
Indian grant policies and procedures 1812
Multicultural Scholars Program 312
National Leadership Demonstration Grants 3951
National Security Education Program 909
Projects with industry 1062
Grant programs-environmental protection:
Drinking Water State Revolving Fund 3823
Environmental management program 1100
EPA technical assistance grants 3750
Flood mitigation assistance programs 3848
Performance Partnership Grants 98, 99
Solid waste management grants 542
Grant programs-health:
AOA rules revisions 1479
Substance abuse block grants 1142
Grant programs-housing and community development:
Community development block grants:
CDBG sanctions 1545
Community revitalization strategy 1544
Program income 1547
Streamlining 1541
Community Development Work-Study Program 1562
Consolidated Plan 1499
Emergency Shelter Grants Program 1548
HUD-owned multifamily properties 1513
Slum/blight prevention and elimination 40
State homes for veterans 3239
Grant programs-Indians:
BIA regulations revision 1783
Construction of jails 2102
Education grant policies and procedures 1812
Grant programs-national defense:
Administrative provisions and requirements 927
Grant programs-natural resources:
Carey Act grants 1877
Marine mammal protection:
Rescission of administrative procedures 1670
National Undersea Research Program 814
Railroad grants 1875
Wildlife Restoration Programs 1681
Grant programs-science and technology:
NCI construction grants 1265
Grant programs-transportation:
Approval process 2516
Buy American Act 2578
Capital Construction Fund Program depositories 2788
Clean fuels formula grant program 2730
Motor Carrier Safety Assistance Program 2534
Uniform administrative requirements 2293
Grants administration:
Audit requirements 2208
Demonstration project authority 4010
Lobbying restrictions 2290, 3925
National Research Initiative Competitive Grants Program 311
Social Security Administration 4202, 4203, 4204, 4205
Uniform administrative requirements 583, 2293, 3352, 3924, 4204
Grazing lands:
Alaska grazing administration 1908
Alaska reindeer 1914
Classifications 1876
Indian land 1793
National Forest System 497
Guaranteed loans:
See Loan programs
Guarantees:
See Warranties
Guns:
See Arms and munitions

Seq. No.

H

Handicapped:
See Individuals with disabilities
Harbors:
Handling and transfer of oil or hazardous liquids 2360
Handling of explosive and other dangerous cargoes....2316
Maintenance fees 2909, 2929
Hatch Act:
See Political activities (Government employees)
Hawaiian Natives:
Grants for services provided to older individuals....1479
Hazardous materials transportation:
See also Pipeline safety
Aircraft carriage 2732
Cargo tank requirements 94, 2743
Coast Guard regulations 83, 84, 2341
Environmental impacts 4595
Hazardous Waste Manifest rule 118
High-level waste 4595
Incident reporting 2733
Intergovernmental relations 2771
Liquefied compressed gas 94
Mercury-containing and rechargeable batteries....3724
Miscellaneous amendments....2747, 2776
Motor carriers 2489, 2530, 2535, 2749
Oxidizers and organic peroxides 2772
Pipeline safety standards 2779
Poisonous materials labeling....2740
Preemption determination 2544
Rail transport 2749
Registration and fee assessment program....2748
Shipping papers retention....2770
Tank cars....2760
Tankerman requirements and qualifications 2360
Train responders....2748
Hazardous substances:
See also Explosives
Flammable materials
Hazardous materials transportation
Hazardous waste
Poison prevention
Radioactive materials
Air pollutants ...79, 128, 132, 3410, 3418, 3444, 3445, 3446, 3447, 3448, 3449, 3451, 3453, 3454, 3457, 3458, 3459, 3460, 3468, 3470, 3483, 3496, 3497, 3498, 3499, 3500, 3501, 3502, 3503, 3504, 3505, 3506, 3507, 3509, 3517, 3527, 3531, 3532, 3534, 3536, 3537, 3548, 3549, 3550, 3551, 3552, 3554, 3555, 3556, 3557, 3558, 3559, 3560, 3561, 3562, 3563, 3564, 3565, 3566, 3567, 3569, 3570, 3571, 3572, 3573, 3574, 3576, 3578, 3580, 3581, 3582, 3583, 3584, 3603, 3617, 3618, 3619, 3621, 3672, 4540
Aluminum cylinders safety problems....2737
Asbestos....110, 3652, 3665, 3688, 3689, 3690
Beryllium....19
Caprolactam 3753
Carbon monoxide....3623
Carcinogen risk assessment....3391
Chemical test rules....3671, 3672, 3682
Chemicals....2215, 3651, 3659, 3684
Import of toxic chemicals....2902
Child-resistant packaging....4304
Chromium 2224, 3560
Crystalline silica....74, 2197
Drinking water regulations....3831
Editorial corrections and clarifications 2765
Energy sources 2212
Environmentally preferable products guidelines....3670
Ethylene oxide 2213
Exposure limits for air contaminants 79
Extremely Hazardous Substances List 3702, 3704, 3705
Federally permitted releases 3754
Flammable and combustible liquids 2231
Formaldehyde 3692
Glycol ethers 3403

Seq. No.

Hazardous substances—Continued
High-pressure seamless cylinders....93
International standards....2775
Isocyanates....3480, 3702, 3705
Lead....36, 109, 134, 3507, 3654, 3667, 3668, 3683, 3691, 3817
Mercury-containing and rechargeable batteries....3724
Metals 3661
Metalworking fluids 73
Method 24 amendment 3533
Microorganisms....3663
MSHA protection standards....2174
Neurotoxicity risk assessment....3398
Nitrogen oxides....131
Oxygen use by air carrier passengers 2307
Ozone and ozone precursors....3483, 3622
Ozone depleting substances....3598
Pesticides....3629, 3631, 3637, 3646, 3685
EPA consolidation of GLPS regulations 3388
Field testing....3630
Labeling program 3647
Produced by transgenic plants 3639
Worker protection standards....3638
Pipeline safety operations....2777
Pipeline safety standards....2741, 2742, 2757, 2762, 2766, 2768, 2769
Polychlorinated biphenyls....3677, 3694
Procedural and rulemaking changes....2750
Propane cylinders:
Requirements for filing equipment operators....2763
Radon 123, 3479, 3508, 3755
Reporting and recordkeeping requirements....3681
Saccharin....3740
Sulfur oxides....104
Surface coatings 3533
Toxic Release Inventory:
Chemicals....113, 114, 115, 116, 3684
Toxicological profiles:
Metals....3661
Toxics Release Inventory:
Chemicals 112
Underground storage tanks....3701, 3742, 3746
Water pollution control....3763, 3776, 3778
Hazardous waste:
Carbamates 3751
Cathode ray tubes 3714
Cement kiln dust 119
Cleanups....3729, 3750
Dioxin/furan contaminated sludge....3693
Disposal....969
Disposal facilities:
Combustion facilities 135
Low level mixed waste 97
Radioactive waste 3595, 3624, 4611
Effluent limitation guidelines 3759
Geologic repositories 4600
Groundwater contamination 3570, 3820
Identification and listing 3729, 3733, 3734, 3735, 3737
Land disposal:
Post-closure requirements 3726
Restrictions 3708, 3732, 3736, 3741, 3745
Lead 3655
Manifest regulations 118, 4642
Medical waste 2746
Mercury 3708
Mineral processing wastes 3745
Organobromines....3743
Paint manufacturing 3734
Permit program 117
Petroleum refining process 3744
Polychlorinated biphenyls....3694, 3725
Radioactive waste 4620
Dose methodology....3433
Low-level waste shipment manifests....4642
Material dose limits and dose calculation methods 4639

Seq. No.

Hazardous waste—Continued
Physical protection requirements....4643
Recycling of scrap metals 3594
Site recommendation 1111
Waste Isolation Pilot Plant 3595
Waste management rules 3412
Yucca Mountain, NV 101, 4594
Recycled used oil....3725, 3733
Recycling....3714, 3718
Saccharin....3740
Silver-bearing waste 3709
Solid waste....3718
Solvents....3713, 3727
Spent solvents....3733
Technical standards for corrective action for cleanup....3739
Toxic waste site 3659
Toxicity characteristic metals 3745
Toxicity characteristic rule 3738
Training programs accreditation....2244
Treatment and disposal:
Fluorescent lamps 3728
Treatment, storage, and disposal facilities and generators 3527
Triarylmethane dye and pigments....3720
Uncontrolled sites on the NPL....3752
Wood preserving wastes....3745
Head Start Program:
See Education of disadvantaged
Health care:
See also Emergency medical services
Medicaid
Medicare
Advisory opinions of the OIG on State programs 1140
Anti-kickback provisions 1133
Cancer patients 1262
CLIA fee schedules....1302
Clinical laboratories regulation....1291, 1445
Fraud and abuse 1129, 1252
Home and community-based services....1136
Home health agencies 1136, 1362
Medicare conditions of participation 1336, 1436
Human cellular and tissue-based products 27, 1167, 1168
Indian Health Service eligibility regulations 1255
Lather brushes....1242
National Practitioner Data Bank 1249
New and pending demonstration project proposals....1410
Patient rights....3334
Positron emission tomography uses 1430
Prepayment plans 1355
Reporting health care professionals to state licensing boards 3335
Revised OIG sanction authorities 1141
Risk-sharing arrangements 1133
Rural services....1356
State self assessments for compliance....1460
Underserved areas 1248
Veterans 3252, 3266, 3307, 3316
Health facilities:
See also Hospitals
Nursing homes
Ambulatory surgical centers (ASCs)....1383, 1384
Community mental health centers....1375
Federally Qualified Health Centers (FQHC) 1386
Long-term care 1347
Payments of claims on insured mortgages....1512
Physician referrals for health services....1361
Rehabilitation facilities accreditation....1441
Renal dialysis facilities....1357
Schedule of per-beneficiary limitations 1334
Skilled nursing facilities 1418
Surety bond requirements 1332, 1400, 1448, 1449
Health insurance:
See also Black lung benefits
Medicare

Seq. No.

Health insurance—Continued
Access:
Employees of firms with less than 51 employees....1311
Individual coverage after loss of group coverage....1311
Pre-existing condition exclusions 1311
CHAMPUS:
Coverage of transplants....1036
Payment for ambulatory care 1034
Programs 1037
State Victims of Crime Compensation Programs 1041
TRICARE Prime balance billing 1042
TRICARE Prime enrollment 1043
Voice prostheses....1041
Waiver of collection of payments 1045
Child health insurance....1405, 1406, 1471
COBRA continuation coverage 1307
Continuing coverage notice....2169
Electronic signatures 1403
Electronic transactions standards for health plans....1329
Employer based group health plans....1307, 2169
Employer identification number....1330
Exemption from State regulation....2149
Government employees....4072, 4074, 4075, 4077
Health Insurance Portability and Accountability Act....62, 63, 1318, 1385, 1388
Minimum requirements for group health plans....1320
OIG penalties....1132
Health plan identifiers 1385
HIPAA nondiscrimination rules 2995
Medicare supplemental insurance....1335
Mental health benefits....1319, 1407
Multiple employer welfare arrangements 2151
Portability....1311, 1391
Provider identifiers....1318
Retiree benefits 2160
Retroactive enrollment 1295
Security of individual health information 1403
Small Business Job Protection Act:
Limitation of liability....2161
State Children's Health Insurance Program....1395, 1442
Summary plan description regulations 61
Third Party Collection Program....911, 930
Universal health care identifier....1423
Health insurance for aged:
See Medicare
Health maintenance organizations (HMOs):
Health care prepayment plans....1355
Medicaid requirements....1349
Medicare contract eligibility....1325
Physician incentive plans 1134
Third party liability....1274
Health professions:
Alien health care workers 2039
Audiologists 1276
CHAMPUS provider certification requirements....1035
Cytology proficiency testing 1306
Education:
Nursing and allied health science programs....1346
National Practitioner Data Bank....1246, 1247, 1249
NIH traineeships 1259
Nurse-midwives 1387
Nurses:
Anesthetists 1346
Nonimmigrant aliens 2019
Optometrists and ophthalmologists....4546
Pathologists 1276
Penalties, sanctions and exclusions 1139
Physician assistants 1443
Physicians:
Health services referrals 1361
Hearing evaluation performance....22
Incentive plans....1134
Limits on charges of nonparticipating physicians....1277
VA medical opinions rules....3328

Seq. No.

Health professions—Continued
Professional shortage areas 1248
Provider identifiers 1318
Psychologists 1293
Retirement provisions 4026
Health records:
Disclosure of confidential PRO information for research 1358
Health and Safety Data Model Reporting 3695
OPM recordkeeping requirements 3996
Prescription Release Rule 4546
Privacy and disclosure of SSA records and information 4170
Universal health care identifier 1423
Hearing and appeal procedures:
See Administrative practice and procedure
Heart disease:
CHAMPUS coverage of transplants 1036
Congestive heart failure care management 1394
Helicopters:
See Aircraft
Heliports:
See Airports
Hepatitis C virus:
Blood donors and recipients 24
Herbicides:
See Pesticides and pests
Higher education:
See Colleges and universities
Highway safety:
Accident reporting requirements 2490
Diabetic interstate truck drivers 2524
Highway safety data improvements incentive grants 2632
Highway-rail grade crossings 2491, 2541
Motor carrier regulations 2476, 2489, 2492, 2511, 2538, 2545, 2546, 2642
Powered industrial truck operator training 2239
State programs 2516, 2579, 2580
Traffic control devices:
Manual revision 2509
Pedestrian, bicycle and school warning signs 2547
School areas 2543
Traffic signs 2478
Work zone safety 2502
Highways and roads:
See also Bridges
Highway safety
Motor carriers
Motor vehicle safety
Motor vehicles
Beautification costs 2532
Construction on Indian lands 1814
Emergency relief program disaster eligibility threshold 2500
Environmental impact and related procedures 2488, 2515, 2555, 2721
Federal aid projects 2499, 2514, 2536
Funding 2513
Intelligent Transportation System 2499
National Highway System 2514
Railroad highway projects 2517
Right-of-way regulations 2480
Snowmobile and snowplane routes 1768
Traffic surveillance and control 2512
Transborder traffic controls and fees 2020
Historic preservation:
National parks 1769
Paleontological resources 1883
Regulatory revisions 3350
Historical records:
See Archives and records
Hobbies:
Numismatic and political items 4550
Holding companies:
Exemption for certain acquisitions 4684

Seq. No.

Holding companies—Continued
Exemption for subsidiary companies 4685
Multiple savings and loan holding companies 3222
Stock life subsidiary 3011
Homeless:
Food Stamp Program 8
Single-Family Property Disposition Homeless Program 1537
Women, infants, and children 408
Homesteads:
Disposal of reserved minerals 1871
Hospice care:
Medicare conditions of participation 1371
Medicare payments 1415
Wage index notice 1420
Hospitals:
See also Peer Review Organizations (PROs)
CHAMPUS payment for ambulatory care 1034
Clinical diagnostic laboratory services 1339, 1424
Diagnostic procedures 1308
DOT grants 2293
Emergency medical care 1288
Grants administration 583, 3352
Length of hospital stay after birth of child 65, 2985
Medicaid payment 1316
Medicare conditions of participation 1360
Medicare payment 1309
Mortgages 1529
Organ procurement and transplantation rules 1250, 1426
Outpatient services 1308
Payments of claims on insured mortgages 1512
Physician incentive plans prohibition 1134
Preadmission services 1296
Psychiatric 1351
Voluntary reduction in number of residents 1324
Hours of work:
See Wages
Household appliances:
Amplifiers 4535
Energy efficiency 18, 1067, 1070, 1071, 1084
Surface coating of large appliance products and parts 3558
Housing:
See also Condominiums
Fair housing
Homeless
Housing standards
Low and moderate income housing
Manufactured homes
Mortgage insurance
Mortgages
Public housing
Relocation assistance
Aged 1530
CDBG funds documentation 41
Employment opportunities 1556
Energy-efficiency rating guidelines 1083
Environmental review procedures 1504
HOME Investment Partnerships Program 1491, 1541
Streamlining 1500
Indians 211, 257, 1551, 1575, 1577, 1816
Individuals with disabilities 1530
Lead-based paint 36, 3655, 3691
Limited denial of participation in HUD programs 1485
Loan Guarantee Program 1546
Model Energy Code update 1520
Multifamily:
Multifamily Assisted Housing Reform Act program violations 1486
Multifamily Housing Reform Act program violations 1495
Nondiscrimination based on disability 1482
Nondiscrimination 1494
OFHEO information regulation 3968, 3969
Quality assurance review of independent public auditors 1564
Rent regulations 1505

Seq. No.

Housing—Continued
Rental agreements 3021
Replacement housing:
Modernization factor 1573
Resident survey information privacy requirements 1563
Rural:
Farm labor housing 315, 317
Loan policies 204, 319
Loans and grants 315, 316, 318, 322, 324
Multiple-family housing 315
Rental housing 315, 322
Single-family:
Property disposition 1523
Site and neighborhood standards 1505
Streamlining regulations 315, 1579
Title I property insurance 38, 1522
Turnkey III program 1579
Housing assistance payments:
See Housing
Rent subsidies
Housing standards:
Manufactured Home Construction and Safety Standards program 1506, 1514, 1515
Material bulletins 1508, 1519
Metal roofing interpretative bulletin 1540
Physical inspection requirements 1502
Uniform physical condition standards 1502
Human research subjects:
In vitro fertilization 1260
Protection of human subjects 1046, 1268, 3305
Student rights 1047
Humane treatment of animals:
See Animal welfare
Hunting:
Migratory birds 1652, 1666
Pig frogs 1770
Subsistence management regulations 1741
Hydroelectric power:
See Electric power

I

Immigration:
See also Aliens
Citizenship and naturalization
Adjudication processing 2028
Administrative finality of decisions 1990
Application for benefits submitted with incorrect fees 2006
Asylum procedures 1997
Border crossing identification documents 2059, 2079
Carrier fines 2068, 2069
Check points within the U.S. 2041
Debt collection 2051
Direct mail program 2062
Discipline of attorneys in immigration proceedings 1976
Employer sanctions fines 2057
Examination fees schedule 2008, 2074
Fee payment methods 2007
Immigrant Investor Pilot Program 2060
Immigration and Nationality Technical Amendments Act of 1994 provisions 2024
In-transit passengers 1989
Inadmissability 52
INS reorganization 2054
Inspection of stopover passengers 2011
Jurisdictional changes 2058
Local law enforcement officer enforcement 2010
Master Exhibits availability 2070
Overtime liability for inspection services 1985
Petitions for employment based immigrants 2018
Preinspected automated lanes (PAL) 2041
Promises of benefits 2031
Regulation changes regarding Soviet Union, Czechoslovakia, Germany, and Vietnam 1987
Seizure and forfeiture of conveyances 2013

Seq. No.

Immigration—Continued
Sponsor obligations and penalties 2035, 2260
Subpoena service authority 2065
Transfers of transit without visa aliens 2073
User fees 2078
Immunization:
Vaccine information 1149
Imports:
See also Antidumping
Countervailing duties
Customs duties and inspection
Trade adjustment assistance
Animal embryos and semen 297
Animals for slaughter 456
APHIS user fees 298, 303
Beer and wine 2840
Blood products 1165
Chemicals 3662, 3678, 3679
Blanket certifications 2902
Control of PMN chemicals 3674
Dairy product quotas 472, 481
Duty-free entry 991
Duty-free treatment for imports from foreign governments 2916
Export Reform and Enhancement Act 1165
Film 2920
Fish 803
Forests and forest products 299
Fruits and vegetables 287, 290, 296, 301
Imitation goods:
Labeling 4550
Marine mammal products 729
Mexican pork 300
Mexican poultry products 289, 444
Motor vehicles 2633, 3519
Import fees 2682
List of nonconforming vehicles eligible 2623
Nonroad engines 2928
Obscene or immoral matter 2920
Ozone-depleting substances 3593
Parallel imports and other trademarked goods 2891
Plants 295
Polar bear trophies 1687
Radio frequency devices 4377
Registration and product listing 1163
Ruminants 294
Softwood lumber from Canada 2900
Sugar 475
Textiles 2914
Tobacco 197
Veterinary user fees 285
Wildlife 1715
Wood packing materials 282
Income taxes:
Accelerated death benefits 3070
Accounting:
Change in method 3193, 3194
Mark-to-market method 3134
Partnerships 3023
Accuracy related penalty 3042
Acquisitions 2934
Affiliated groups 3121
Alternative minimum tax 3146
Annuities 2956
Arbitrage restrictions 3017
Asset ownership 3154
Backup withholding 2960
Below-market loans 3186
Bonds:
Inflation-indexed 3030
Private activity 3073
Tax-exempt 3017
Branch remittances 3133
Branches 3192

Seq. No.

Income taxes—Continued
- Foreign taxes ... 3067
- Hybrid transactions ... 3181
- Business expenses ... 2990, 2991
- Capital gains ... 3004
- Capitalization ... 3018, 3077, 3187
- Caribbean Basin countries ... 3127
- Cash advances to service providers ... 2982
- Charitable contributions ... 3105
- Collections ... 3052
  - Installment agreements ... 3055
  - Levied property ... 2980
  - Liens ... 2979
- Communications services ... 3198
- Computer technology ... 3026
- Consolidated returns ... 3031, 3032, 3148, 3197
  - Intercompany obligations ... 3000
  - Losses and deductions ... 3147, 3149
- Continuity of interest ... 2932
- Controlled groups ... 3086
- Conversion to the Euro ... 3002, 3195
- Corporate acquisitions:
  - Tax period after acquisition of S corporation ... 2951
- Corporate income tax ... 3146
- Corporate inversion transactions ... 3081
- Corporations ... 3085, 3092
  - C corporations ... 3007, 3140
  - Continuity of interest requirement ... 3177
  - Disposition of stock of another corporation ... 3005
  - Disregarded entitites ... 3001
  - S corporations ... 2950, 3140
  - Stock ownership after a merger ... 3086
  - Tax shelter registration ... 2963
- Cost sharing regulations ... 3072
- Creative property ... 3077
- Debt:
  - Collateralized debt obligations ... 2978
- Debt instruments ... 2977, 3135
- Deemed paid taxes ... 2948
- Deferred compensation ... 3034
- Deferred compensation and salary reduction ... 3033
- Disaster relief ... 3013
- Disclosure of return information ... 2976, 3054
- Due diligence requirements for EIC ... 2969
- Earned income credit ... 2969
- Earned income tax credit eligibility ... 2971, 3043
- Earned income tax credit recertification requirements ... 3176, 3207
- Education credits ... 3010
- Elective entity classification changes ... 3060
- Electronic funds transfers ... 2965, 2966, 3039
- Electronic tip reporting ... 3174
- Electronic transmissions ... 3142
- Employee benefits:
  - Cafeteria plans ... 3167
  - Funded welfare benefit plans ... 3091
  - Loans treated as distributions ... 3015
  - Valuation of plan distribution ... 3190
- Employee stock ownership plans ... 2992, 3012
- Equity options without standard terms ... 3137
- Errors or delays by IRS officers or employees ... 3041
- Escrow funds ... 2938
- Estates ... 2942, 3051
- Expenditures documentation ... 3078
- Farm income ... 2997
- Farming businesses ... 2996
- Foreign corporations ... 2948, 3083, 3084, 3108, 3118, 3131
  - Earnings and profits ... 3132
  - Stock transfers ... 3188
- Foreign deferred compensation plans ... 3087
- Foreign governments ... 3116
- Foreign grantor trusts ... 2944, 3099
- Foreign insurance companies ... 3101, 3129
- Foreign investment companies ... 3138, 3139

Seq. No.

Income taxes—Continued
- Foreign Investment in Real Property Act ... 3117
- Foreign partnerships ... 2987, 2988, 3158
- Foreign sales corporation transfer pricing ... 3123, 3124, 3125, 3191
- Foreign tax credit ... 3028, 3119, 3121, 3122
- Fringe benefit income allocation ... 3104
- Functional currency ... 3131
- FUTA tax ... 3034
- General utilities repeal ... 3080
- Golden parachute payments ... 3079
- Grantor trust rules ... 2955, 3154
- Group health plans, continuation coverage ... 3036
- Highly compensated employee ... 3090
- Income:
  - Gross income ... 2930, 3053
  - Source of income ... 3027
- Income averaging ... 2996, 2997
- Income from ocean and space activities ... 2945
- Information disclosure ... 2989, 3065
- Insurance income ... 3128
- Intangible amortization ... 3047, 3168
- Intercompany transfer pricing ... 3096
- Interest:
  - Contingent interest ... 3051
  - Educational loans ... 3183
- Interest abatement ... 3041
- Interest charges ... 3136
- Interest deductions ... 3075
- Interest expense ... 3109
- Interest-free adjustments ... 3160
- International communications income ... 2945
- International organizations ... 3116
- International tax ... 3082
- Inventory accounting ... 3009
- Joint returns ... 3182
- Long-term contracts ... 2937, 3208
- Losses:
  - Disposition of personal property ... 3114
  - Separate limitation ... 3120
  - Stocks ... 3113
- Magnetic media filing requirements ... 3204
- Marketable stock ... 2949
- Middleman payments ... 2961
- Mileage rates ... 2990, 2991
- Multiple party financing ... 3045
- Notice and consent requirements ... 3050
- Offset programs ... 2807, 2812, 2822, 2829, 2968
- Partnerships ... 3056, 3130, 3192, 3199, 3200
  - Capital gains ... 2998
  - Foreign investments ... 3058
  - Foreign taxes ... 3067
  - Hybrid transactions ... 3181
  - Returns required on magnetic media ... 2953
  - Sales of interests ... 2986, 3023
  - Section 1503(d) applications ... 3150
  - Unified audit procedures ... 2964
  - Withholding ... 3145
- Payments:
  - Credit and debit cards ... 2967, 3040
  - Middleman payments ... 2961
  - Prepayments ... 3003
  - Source of payments ... 3107
- Payments to attorneys ... 2962
- Pensions:
  - Minimum funding ... 3089
- Personal property sales ... 3112
- Preferred stock ... 3020
- Premiums ... 3024
- Preparer due diligence requirements ... 2971, 3043
- Presidential election campaign fund:
  - Payments to candidates ... 2975
- Procedure and administration ... 3014, 3076
- Property:
  - Basis ... 3053

Seq. No.

Income taxes—Continued
- Purchase price allocation ... 2934
- Purchasing reporting requirements ... 2960
- Qualified long-term care services and insurance proceeds ... 3062
- Qualified plans ... 3169
  - Cashout limits ... 3008, 3068
  - Protected benefits exceptions ... 2999
- Qualifying income ... 3059
- Real estate mortgage investment conduits ... 2978
- Reasonable basis ... 3042
- Receipts for expenditures ... 3078
- Reconsideration of Rev. Rule 69-302 ... 3170
- Refund offsets ... 422
- Relocation allowance payments for government employees ... 4264
- Remedial amendment period ... 3173
- Removal of temporary regulations ... 3016
- Rental agreements ... 3021
- Reporting and recordkeeping requirements ... 3156
- Research credit ... 3069
- Resident status ... 3157
- Retention of paid preparers' signatures ... 2970
- Retirement plans ... 3049, 3064, 3088
- Rewards for information ... 3044
- Rollover contributions ... 3169
- Roth individual retirement accounts ... 2936
- S corporations ... 2972, 2974, 3163
- Sale of debt obligations ... 3143
- Section 1.1502-9T ... 2952
- Section 1361(a)(1) ... 3163
- Section 1441 ... 3144
- Section 1502 ... 3147
- Section 179A deduction ... 2933
- Section 197 regulations ... 3047
- Section 2056(b)(7) ... 3051
- Section 263A ... 3006
- Section 30 credit ... 2933
- Section 355 distributions ... 3085
- Section 355(d) ... 2935
- Section 382 ... 3086
- Section 42 ... 2983
- Section 501(c)(4) changes ... 3097
- Section 6048 regulations ... 3159
- Section 6159 ... 3055
- Section 6323 ... 2979
- Section 6343 ... 2980
- Section 736 regulations ... 3100
- Section 7805(b) ... 3175
- Section 882 ... 3115
- Section 884 ... 3115
- Securities ... 3094, 3110
- Shareholder election, QEF ... 3196
- Shareholders ... 3081, 3163
- Short taxable years ... 3086
- Start-up expenditures ... 3048
- Stocks ... 2974
- Straddles:
  - Miscellaneous issues ... 3166
- Stripping transactions ... 3045
- Substantial new line of business ... 2947, 3029
- Supplemental tax exemptions ... 2956
- Swap transactions ... 3107
- Tax credits:
  - Puerto Rico ... 3126
- Tax treaties ... 2946
- Tax-exempt organizations:
  - Public disclosure of information ... 3038
  - Travel and tour activity ... 3066
- Taxpayer assistance ... 3185
- Taxpayer Bill of Rights ... 2979, 2980, 3055
- Taxpayer identification numbers ... 2831, 3172
- Technical corrections ... 3202
- Transportation income ... 3106

Seq. No.

Income taxes—Continued
- Travel expenses for members of Congress ... 3061
- Trusts ... 3064
  - Charitable remainder trusts ... 2943, 3022
  - Financial asset securitization investment trusts (FASIT) ... 3025, 3103
  - Foreign trusts ... 3098, 3099
  - Grantor trusts ... 3099
  - Non-exempt employees ... 3154
- Trusts and estates ... 2950, 2973, 3046, 3184
- US possessions:
  - Production and sale of property ... 3027
- Utilities repeal ... 3019
- Valuation of property passing to surviving spouse ... 2984
- Violations of IRS law ... 3044
- Voice signatures ... 3037
- Withdrawal of proposed regulations ... 3189
- Withholding certificates ... 3142

Indians:
- *See also* Indians-arts and crafts
  - Indians-business and finance
  - Indians-education
  - Indians-lands
  - Indians-law
  - Indians-tribal government
- Appealing administrative actions of the Office of the Special Trustee ... 1593
- Certificates of degree of Indian blood ... 1789
- Child support enforcement ... 1454
- Cultural exchange of marine mammal products between Natives ... 1693
- Eagle permits ... 1637
- Electric power utilities ... 1802
- Enrollment application process ... 1811
- Fishing management ... 748, 805
- Food assistance programs ... 390, 393, 398, 401
- Head Start services for children ... 1472
- Housing ... 211, 257, 1524, 1575, 1577, 1578, 1816
- Indian Child Protection and Family Violence Prevention Act ... 1254
- Indian Gaming Regulatory Act ... 4581
- Indian Health Service eligibility regulations ... 1255
- Job training programs ... 2146
- National Indian Gaming Commission ... 172, 173, 174, 4573, 4574, 4575, 4576, 4577, 4578, 4579, 4580
- Native American Housing Assistance and Self Determination Act ... 1551
- NIGC definitions ... 4572
- Preference in employment ... 1795
- Social welfare and relief of distress ... 1784
- Treaty fishing rights:
  - Columbia River access sites ... 1807
- Welfare reform:
  - Financial assistance and social services ... 1792
  - Tribal program requirements ... 1455
  - Welfare-to-Work Program ... 2145
- Whaling quotas ... 869

Indians-arts and crafts:
- Importation of marine mammal products ... 729

Indians-business and finance:
- Buy Indian Act ... 1256
- Gaming authorizations ... 4574
- Gaming operations ... 172, 173, 174, 1809, 4567, 4580
- Indian Business Development Program discontinuation ... 1804
- Indian incentive payments ... 1013
- Indian monies and BIA special deposits ... 1592
- Loans, grants, and employment assistance ... 1783, 1787, 1788
- Tribal revenue allocation ... 1805

Indians-education:
- Academic and dormitory standards ... 1781
- Adult education programs ... 1813
- Adult vocational training ... 1786
- Contracts under the Johnson-O'Malley Act ... 1782
- Facilities construction ... 1817

Seq. No.

Indians-education—Continued
Grant policies and procedures....1812
Grants to colleges....1796
School construction contracts....1785
School improvement program....1776
Indians-land:
Debt settlement for tribal land acquisition loans....188
Indians-lands:
Acquisitions....211, 1791
Air pollution control implementation....3413, 3414, 3481, 3579
Alaska Native selections....1909
Allotments....1900
American Indian agricultural rangeland management....1815
EPA new source reviews....3422
Fishing sites on Columbia River....1808
Grazing permits....1793, 1794
Indian Land Acquisition loans....257
Irrigation projects....1801
Lead and zinc mining operations, Oklahoma....1800
Migratory bird hunting....1617, 1751
Mining leases....1777, 1799, 1840
Mining regulations....1853
Mortgages and deeds of trust....1790
Municipal solid waste landfills....3731
National Forest System lands....497
Native American Graves Protection and Repatriation Act....1757, 1775
Oil and gas leasing....47
Road construction on....1814
Surface exploration, mining, and reclamation of lands....1778
Water pollution control requirements....3827
Indians-law:
Construction of jails....2102
Courts of Indian Offenses....1806
Hearings and appeals....1586, 1803, 4569, 4570
Indian Tribal Justice Act....1797
NIGC enforcement regulations....4571
Indians-tribal government....226
Adoptions....1459
Election procedures....1779, 1780
Grants for services provided to older individuals....1479
Historic preservation programs....1769
Indian Tribal Justice Act....1797
Operating permits programs....3436
Performance Partnership Grants....99
Self-determination....1782
Self-governance program procedures....45
Tribal background investigations....4575
Individuals with disabilities:
See also Blind
Disability benefits
Education of individuals with disabilities
Medicaid
Medicare
Public assistance programs
Supplemental Security Income (SSI)
Vocational rehabilitation
Accessibility guidelines for buildings and facilities....51, 1954, 1955, 3358, 3359, 3364
Detectable warnings....1956, 3362
Outdoor developed areas....3365
Play areas....3361
Public accommodations and commercial facilities....1952, 1956
Accessibility guidelines for children's environments....1955
Accessibility guidelines for telecommunications equipment and customer premises equipment....4439
Affirmative action....4266
Contractor and subcontractor affirmative action obligations....2123, 2124, 2128
Early intervention program for infants and toddlers with disabilities....1064

Seq. No.

Individuals with disabilities—Continued
Employment discrimination complaints....3841
Housing....1482, 1505, 1530, 1581
Motor vehicle modifications....2564
Motor vehicle wheelchair lifts and ramps....2557, 2562
Nondiscrimination....3894, 4104, 4216
Farm Credit System Insurance Corporation....4320
Federally assisted programs....2205
Public accommodations and commercial facilities....1952, 1956
Passenger vessel access....2305, 3363
Schedule for rating disabilities....3240, 3271, 3312
Telecommunications relay services....4362, 4363, 4373
Transportation....1776, 2306, 2312
Video programming accessibility....4328
Widow's benefits....4190
Industrial safety:
See Occupational safety and health
Industry:
See Business and industry
Infants and children:
See also Adoption and foster care
Aid to Families with Dependent Children
Child welfare
Youth
Adopted children....3172
Air bag warning labels for child seating....2670, 2676
Air bags....90
Aircraft child restraints....2455, 2657
Baby walker safety requirements....4301
Backyard play sets standard....4290
Bunk bed requirements....4303
Child nutrition programs....416
Cigarette lighter safety standards....167
Crib safety standards....4302
Early intervention program for infants and toddlers with disabilities....1064
Flammability of children's sleepwear....4300
Food assistance programs....4, 376, 402, 404, 405, 414, 419, 423, 428
Food stamp program....375, 421
Household chemicals, child-resistant packaging....4295
Individuals with disabilities....17, 1061, 1063, 1955
Infant formula....1222
Lead poisoning....36, 109, 134, 3668, 3683
Length of hospital stay after birth of child....65, 1282, 1391, 2985
Medicaid program....1312, 1345
Nutrition education participant contacts....412
Pediatric drug assessment....1211
School breakfast and lunch programs....374
SSA disability determinations....4225
Sulfate in drinking water....3825
Summer Food Service Program....372
Supplemental food program....413
Taxpayer identification numbers....3172
VA pensions for veteran or surviving spouse....3318
Vaccines for Children Program....1323
Welfare services....1450
Information:
See Archives and records
Classified information
Confidential business information
Freedom of information
Government publications
Privacy
Reporting and recordkeeping requirements
Inland waters:
See Waterways
Insecticides:
See Pesticides and pests

Seq. No.

Insurance:
See also Bank deposit insurance
Crop insurance
Flood insurance
Health insurance
Insurance companies
Life insurance
Mortgage insurance
Surety bonds
Unemployment compensation
Aviation insurance....2461
Commercial space transportation....2468
Equity index insurance products....4689
FCSIC regulation....4322
Marine hull insurance....2785
Motor vehicle verification procedures....2081
Passenger vessel operators....4501
Insurance companies:
Foreign subsidiary exemptions....4667
Insured loans:
See Loan programs
Intelligence:
See Classified information
Intergovernmental relations:
See also Grant programs
Administration of grants and cooperative agreements....504, 1050
Advisory opinions of the OIG regarding health care programs....1140
Air carrier regulation....2302
Air pollution control implementation....100, 126, 127, 3413, 3452, 3513, 3622
Alternative fuels incentives program....1079
BIA arrangement for social welfare and relief of distress....1784
BIA schools....1781
Child support non-performance TANF penalty....1457
Databases of convicted offenders....2090
Education programs....307
Employee benefit plan exemption from State regulation....2149
Employer-based group health plans....1307
EPA effluent guidelines and standards....3760
EPA Hazardous Waste Manifest rule....118
EPA State implementation plans (SIPs)....3423, 3483, 3484
EPA State sewage sludge management....3810
EPA water monitoring requirements....3828
EPA water quality standards....3763, 3809
EPA water regulations streamlining....3804
EPA-California water quality standards....3776
Federal Assistance Funds transfers to State governments....2804
Federal funding of emergency health services for undocumented aliens....1416
Federal payments to State veterans homes....3233
Federal-State Unemployment Compensation Program....2134
Flood assistance program....3848
Food assistance programs....4, 376, 405, 406, 416, 419, 420
Sharing information with INS....408
Food Security Act....552
Food stamps....7, 10, 375
Hazardous materials transportation....2771
HCFA State Plan Amendment reconsideration process....1370
Highway management....2532
Highway projects....2513, 2514, 2536
Highway safety data improvements incentive grants....2632
Highway safety programs....2516, 2579, 2580
INS programs....1999
Local rail freight assistance....2697
Medicaid....30, 1411, 1412, 1417
Administrative costs....1314
Eligibility....1315
Motor vehicle safety incentive grants....2627, 2628, 2629, 2630, 2631, 2634
National Dam Safety Program....3850

Seq. No.

Intergovernmental relations—Continued
National Earthquake Hazard Reduction Program....3858
National Instant Criminal Background Check System....2091
National Park System exchanges....1907
National Practitioner Data Bank....1247
Nuclear accident protection....3625
Oil spill response....2349
Payments to State and local governments....1888
Performance Partnership Grants....98, 99
Prison made goods....2104
Railroad highway projects....2517
Reporting health care professionals to state licensing boards....3335
Social Security payments....4230
State agencies for surplus property....3901
State and local historic preservation programs....1769
State Children's Health Insurance Program....1395, 1405, 1406, 1442
State habitat conservation strategies....779, 1671
State irrigation districts regulation....1906
State issued identification documents....2574
USDA:
Entitlement programs....510
State mediation programs....213
Water supply....3827, 3830, 3832
Wildlife refuge exchanges....1907
Intermodal transportation:
Charter services....2728
Environmental impact and related procedures....2488
International agreements:
See Treaties
International boundaries:
Border boat landing program:
Landing cards....2034
Dedicated commuter lanes....1998, 2020
Ports of entry....1998
International trade:
See Foreign trade
Inventions and patents:
Continued prosecution application practice changes....899
Fees....888, 898
Foreign rights in inventions....901
Licensing government-owned inventions....903
Mineral patent applications....1895
New drug patent holder notification....1209
New drugs....1220
Nonprofit organizations....900
Patent applications....886, 889, 890, 892
Patent business goals....885
Patent practitioners....893
Patent process reengineering....897
PTO rule simplification and elimination:
Nucleotide and amino acid sequence listing....896
Small businesses....900
Third-party participation....891
Investigations:
Civil investigative demands....2096
Customs:
Illegal importation of merchandise....2924
Government personnel....4083
Investigating and remediating releases at RCRA facilities....3739
Investment advisers:
See Securities
Investment companies:
Advertising by unit investment trusts....4687
Advertising rules....4669
Bonding of officers and employees....4695
Codes of ethics....4681
Custody of assets outside the U.S....4672
Deregistration form....4676
Disclosure requirements....4666
Exemption of certain transactions....4694
Form N-SAR....4675

Seq. No.

Investment companies—Continued
- Mergers 4688
- Multi-state investment advisers exemption 4690
- Names 4680
- Private investment companies 4650
- Registration form 4675
- Repurchase agreements 4673
- Securities acquisition 4674
- Securities depositories as custodians of assets 4668
- Small entity definition 4693
- Taxation 3139

Investments:
- *See also* Brokers
  - Commodity futures
  - Foreign investments in U.S.
  - Investment companies
  - Securities
  - United States investments abroad
- Advertising rules 4686
- Canadian 4670
- Cash solicitation rule 4677
- Economic development 578
- Financial services transactions survey 564
- Investment advisers 4665
- Non-deposit investment products 2875
- Non-mortgage investments by GSEs 1490
- Registration 4686
- Registration forms 4661
- Taxation 3081
- U.S. direct investment abroad survey 565

Irrigation:
- Project operation and maintenance 1801

J

Job Training Partnership Act:
- *See* Manpower training programs

Juices:
- Food safety assessment programs 25

Juvenile delinquency 2101
- Family Unity Program 2038

K

Kidney diseases:
- CHAMPUS coverage of transplants 1036
- Dialysis services 1357
- Medicare eligibility 1304, 1363

L

Labeling:
- *See also* Food labeling
  - Packaging and containers
- Air bag warning labels for child seating 2670, 2676
- Amalgam ingredients 1225
- American Automobile Labeling Act 2641
- Animal drugs 1208
- Beer 2860
- Building materials 1519
- Contraceptive drugs 1230
- Country of origin statements 2834
- Dietary supplements 1229
- Distilled spirits 2834, 2843, 2860
- Dolphin-safe tuna 802
- Drugs 23, 1198, 1211
- Electric motors 1081
- HCFCs 3466
- Hearing aids 22
- Home insulation 4541
- Imitation numismatic and political items 4550
- Insulin-containing products 1175
- Malt beverages 2855
- Methyl bromide 3606
- Motor vehicle content calculations 2594
- Over-the-counter drugs 26
- Parenteral drug products containing aluminum 1201

Seq. No.

Labeling—Continued
- Pesticides 3637, 3645, 3647
- Poisonous materials 2740
- Pregnancy labeling category for prescription drugs 1146, 1176
- Prescription drugs 1173
- Rubber-containing drugs 1179, 1245
- Surgeon and patient examination gloves 1192
- Textiles 4540
- Travel expenses for brand participants 476
- Unaged grape brandy 2844
- Wine 2838, 2860

Labor:
- *See also* Child labor
  - Employee benefit plans
  - Employment
  - Equal employment opportunity
  - Labor management relations
  - Migrant labor
  - Occupational safety and health
  - Retirement
  - Unemployment compensation
  - Wages
- Certification for temporary agricultural employment 2148
- Davis-Bacon helper regulations 57
- DOL user fees 2117
- Fair Labor Standards Act:
  - Exemptions 2119
- Small Business Job Protection Act 2120
- Trade adjustment assistance 2137, 2138

Labor management relations:
- Collective bargaining agreement definition 2149
- Reporting by labor relations consultants and others 2130
- Standards of conduct 2132
- Technical amendments 2132

Laboratories:
- Accreditation 177, 292, 2892
- CLIA fee schedules 1302
- Clinical laboratories regulation 1291, 1303, 1339, 1365, 1425, 1445
- Cytology proficiency testing 1306
- EPA consolidation of GLPS regulations 3388
- Special surveillance list of chemicals, products, materials, and equipment 1964
- Testing of mining equipment 2190

Land:
- *See* Grazing lands
  - Indians-lands
  - Public lands
  - Rights-of-way

Law:
- *See also* Administrative practice and procedure
  - Courts
  - Indians-law
  - Lawyers
- International wills registry 2268
- Judges, Code of Conduct 4189
- Suits against Federal agencies 3833
- Suits against Federal employees 2084
- Third party suits:
  - Underground storage of hazardous materials 3746

Law enforcement:
- *See also* Drug traffic control
- Armor vest purchase 2103
- Communications Assistance for Law Enforcement Act 2080, 4361
- Criminal fine collection 2094
- Criminal history record information 2085
- Fish and Wildlife Service 1648
- Forest Service 494
- Immigration 1999, 2010
- Motor vehicle theft 2081
- National Indian Gaming Commission 4571
- National Instant Criminal Background Check System 2091
- Police Recruitment Program guidelines 2092

Seq. No.

Law enforcement—Continued
- Retirement 4069
- Seat belt exemption for law enforcement vehicles 2650
- Sex offender registration programs 2083
- U.S. Marshals Service fees 2086
- Use of aliens in critical initiatives 1986

Lawyers:
- Debarment 1231
- Disciplinary procedures 1976
- Practice before the National Indian Gaming Commission 4569

Lead poisoning:
- Hazard abatement 109
- Paint 36, 109, 134, 3654, 3655, 3667, 3668, 3683, 3691
- Reducing lead consumption and use 3686

Libraries:
- FDA 1187
- National Agricultural Library fee schedule 186
- Presidential library facilities 3943

Life insurance:
- Accelerated death benefits 3070
- Government employees 4036
- Variable life insurance contracts 4683
- Veterans 3287

Liquor:
- Dealer signs 2859
- Labeling 2860

Liquors:
- Exports 2835
- Labeling 2843
- Unaged grape brandy 2844

Livestock:
- *See also specific animals*
  - Grazing lands
  - Meat and meat products
  - Meat inspection
  - Poultry and poultry products
- Animal drug residue levels 1190
- Current good manufacturing practice for medicated feeds 1237
- Disaster assistance 253
- Emergency assistance 221
- Free choice medicated feed 1178
- Liquid medicated feed 1178
- Livestock feed assistance 244
- Price reporting 354

Loan programs:
- Delinquent debtors 2815
- Lobbying restrictions 2290
- Treasury taxes and loans 2819

Loan programs-agriculture:
- Account service and loan making 205
- Account servicing 217
- Application processing timeframe 210
- Business and Industry Guaranteed Loan Program 515, 520, 522
- Buyback of repurchased guaranteed loans 237
- Certified Lender Program 206
- Civil rights of borrowers 536
- Community facility loans 541
- Community programs 321, 323
- Cotton 251
- Debt settlement 238
- Depreciation rates and procedures 538
- Disaster assistance 258
- Farm Credit Administration:
  - Agriculture secondary market regulations 4317
  - Borrower rights 4307
  - Capital regulations revisions 4316
  - Election of directors 4311
  - Federal Agricultural Mortgage Corporation risk-based capital regulation 4305
  - Funding relationship with other institutions 4318
  - Leasing regulations 4306
- Farm Credit Program:
  - Delinquent accounts 224, 266, 270

Seq. No.

Loan programs-agriculture—Continued
- Farm Credit Program—Continued
  - Inventory property management 223
  - Loanmaking 222, 272, 273, 274, 275, 276, 277, 280
  - Management and disposal of acquired property 265, 269
  - Regulatory consolidation and deletion 264, 267, 268, 271, 278
- Farm loan mortgages and notes 261
- Farm Loan Program:
  - Collection activities 248
  - Debt settlement 255
- Farm ownership loans 207, 259, 260
- FCSIC regulation 4322
- FSA five-year direct line of credit program 262
- Housing 521
- Interest subsidy for guaranteed borrowers 249
- Loan assessment and market placement 208
- Loan changes 318
- Loan deficiency payment programs 251
- Loan liquidation 549
- Loans secured by real estate and property 198
- Lobbying restrictions 559
- Monitoring liquid accounts 256
- Preferred Lender Program 187
- Regulation streamlining 529
- Rural areas 529
- Rural economic development 324, 514
- Rural electrification 525, 526, 527, 533, 535, 539, 540, 547, 548
- Rural housing 319, 322
- Rural telephone system 525, 532, 537
- Security property 549
- Soil and Water Loans Program 209
- State mediation programs 213
- Warehouse receipt requirements 251
- Water and waste disposal programs 544

Loan programs-business:
- Fishermen 652
- Rural areas 523
- Rural electric borrowers 546

Loan programs-education:
- Federal Family Education Loan Program 1055, 1057
- Federal Pell Grant Program 1053
- Federal Perkins Loan Program 1057
- Interest 2994
- Medical research 1263, 1264
- Repayment arrangements 1057
- Student Assistance General Provisions 1053
- William D. Ford Federal Direct Loan Program 1054, 1057, 1058

Loan programs-health:
- NIH AIDS Research Loan Program 1257
- NIH Clinical Research Loan Repayment Program 1266

Loan programs-housing and community development:
- Indians 1524
- Loan Guarantee Program 1546
- Loan policy changes 204
- Modernization funding 1573
- Rural areas 316
- Title I property insurance programs 38, 1522

Loan programs-Indians:
- BIA program elimination 1783
- Housing loan guarantees 1577
- Indian Land Acquisition loans 257
- Indian Lands Acquisition loans 188
- Mortgage loans 1524, 1551

Loan programs-veterans:
- Acceptance of partial payments 3309
- Loan refinancing 3325
- Property improvements definition 3314
- Title evidence requirements 3308

Lobbying:
- Filing of informational materials 2082
- Foreign Agents Registration Act 2082
- Nonprofit organizations 3992
- Restrictions 559, 1588, 2290, 3925, 4205

Seq. No.

Longshore and harbor workers:
Foreign prohibitions 2254
Safety and health regulations....2241
Low and moderate income housing:
See also Public housing
Rent subsidies
Affordable Housing Program amendments 4489
Disposals of surplus real property for housing assistance 3903
Section 8 ....37, 1538, 1568, 1581
Management assessment program 1566
Rents 1580
Special housing types 1580
Lumber:
See Forests and forest products
Lung diseases:
See also Black lung benefits
Tuberculosis
Black lung 2198
CHAMPUS coverage of transplants 1036
Diesel particulate 68
Silicosis 2198

M

Manpower training programs:
Migrant and seasonal farmworkers 2147
Nondiscrimination 2204
Workforce investment systems 59
Manufactured homes:
Construction and safety 314, 1515, 1516
Metal roofing 1540
Marine engineering:
See Vessels
Marine mammals:
See also Endangered and threatened species
Animal welfare standards 283
Captive holding and transport 727
Dolphins 771, 774, 802, 878
Exports of products for cultural exchange 1693
Foreign nations' marine mammal programs 877
Incidental taking....650, 725, 772, 774, 775, 778, 782, 804, 806, 807, 878, 1604, 1654
Level B harrassment 1619
Marine mammal products created by Alaskan natives 729
Marine Mammal Protection Act....730, 746, 771, 778, 1654, 1655
North right whales....781, 808
Permits for activities otherwise prohibited 1716
Photography permits 728
Research authorization 776
Serious injury definition 701
Steller sea lion conservation 691
Whaling quotas 869
Marine pollution:
See Water pollution control
Marine resources:
See also Fisheries
Competitive funding requirements 740
Conservation and management measures 838
Criteria for water quality 3793
Critical habitat 753, 754, 1753
Endangered and threatened species 733, 734
Florida Keys National Marine Sanctuary 786
Florida offshore SMZ 680
Gulf of the Farallones National Marine Sanctuary 811
Marine Mammal Protection Act:
Rescission of administrative procedures 1670
Monterey Bay National Marine Sanctuary 812, 879
National Environmental Policy Act 741
National Marine Sanctuaries Act 738
NOAA overflight regulation 736
Olympic Coast National Marine Sanctuary 739
Program evaluation 740
Regulations consolidation 780
Research program 813

Seq. No.

Marine resources—Continued
South Carolina coast 680
Thunder Bay National Marine Sanctuary 785
Marine safety:
See also Vessels
Casualty reporting 2315
Coast Guard regulations 2364
FCC inspection of radio installations on ships 4376
Federal pilotage 2339
Houseboats 2355
Lifesaving equipment regulations 2361
Maritime training course approval procedures 2340
Safety/security zone regulations 2343
Salvage and firefighting equipment 2358
Towing vessels 2331, 2356
Maritime carriers:
See also Cargo vessels
Passenger vessels
Seamen
Vessels
Automated tariff filing systems 4499
Communications 4427
Electronic freedom of information 4504
Fees 4503
Foreign transfer of vessels 2786
Great Lakes load line certificate 2321
Japanese vessels 4502
Merchant mariners 2354
Non-vessel-operating common carriers 4500
Transfer of marine equipment to ship operators and shipyards 2789
USCG user fees 2324
Marketing quotas:
Crystalline fructose 202
Peanuts 242
Sugar 202
Tobacco 190, 195, 196, 203, 234, 235, 236, 241
Mass transportation:
Bus testing guidelines 2726
Capital leases 2731
Drug and alcohol testing 2727
Major capital investment mass transportation projects 2723
School bus operations 2725
Measurement standards:
See also Metric system
Gaseous fuels:
Propane cylinders 2763
Meat and meat products:
See also Meat inspection
Advanced meat/bone separation machinery 447
Cured pork products 450, 463
Disposition and disposal requirements 455
Export sales reporting 473
HACCP regulations for rendered products 1191
Irradiation 440
Labeling 449, 452, 453, 458, 459
Meat recovery systems 447
Performance standards 470
Prior approval requirements 469
Ruminant imports 294
Sanitation requirements 14
Transportation and storage 432
Meat inspection:
Ante-mortem and post-mortem inspection 454
Contaminated 442
Food additives 448
Foreign country import certification 456
GRAS substances 448
HACCP programs 433, 467
Labeling 435, 462
Partial quality control programs 11
Performance standards 435
Bacon 439
Contamination 466

Seq. No.

Meat inspection—Continued
Processing procedures 12, 464, 467
Ready-to-eat products 437, 438
Thermal processing 465
Residue chemistry analyses 431
Rules of practice 13
Standards of identity and composition 457
User fees 183
Medicaid:
See also Peer Review Organizations (PROs)
Public assistance programs
Ambulatory surgical center accreditation 1422
Ambulatory surgical centers (ASCs) 1383
Case management services 1348
Clinical laboratories regulation 1425, 1445
Contract With America Advancement Act 1312
Disproportionate share hospitals 1316
Drug rebate program 1137, 1294
Early and Periodic Screening, Diagnostic, and Treatment services 1345
Eligibility 1287
AFDC children 1317
Children 1417
Medically needy 1315
Non-U.S. citizens 1412, 1417
Redeterminations 1312
Employer-based group health plans 1307
Estate recoveries 1377
Federal financial participation income limits 1411
Federally Qualified Health Centers (FQHC) 1386
Health insuring organizations 1349
Health maintenance organizations 1349
Home and community-based services 1408
Hospice care 1378
Low-income pregnant women 1353
Managed care 30, 1434
Medicaid Management Information System 1297
Medical child support 1392
Nursing facilities:
Substandard care 1380
Nursing home benefits 1290
Organ procurement and transplantation rules 1250, 1426
Outstation intake locations 1353
Penalties, sanctions and exclusions 1132, 1139
Personal Responsibility and Work Opportunity Reconciliation Act 1312, 1314
Psychiatric hospital sanctions 1351
Quarterly listing 1437
Referral to child support enforcement agencies 1352
Skilled nursing facilities 1347
Spenddown 1287
State allotments 1397
State Children's Health Insurance Program 1395, 1442
State plan requirements:
Plans of care 1310
Surety bond requirements 1332, 1449
Third party liability 1274
Tuberculosis-related services 1273
Vaccines for Children Program 1323
Medical and dental schools:
NIH scholarships 1258
Medical assistance program:
See Medicaid
Medical care:
See Health care
Medical devices:
Computer software programs 1226
Dispute resolution 1219
Hearing aids 22
Intermittent positive pressure machine 1299
Intraocular lenses 1366
Investigational device exemptions 1218
Liability limitations 1373
Long-term 1230

Seq. No.

Medical devices—Continued
Medical care telemetry devices 4386
Medicare coverage 1305, 1367
Mutual recognition 1221
Restricted devices promotion 1156
Standards 4397
Surety bond requirements 1400, 1404
Surgeon and patient examination gloves 1192
Unapproved new uses information 28
Medical facilities:
See Health facilities
Medical personnel:
See Health professions
Medical records:
See Health records
Medical research:
Classification of sheep as minor species 1189
Clinical research streamlining 1215
Contraception and infertility 1263, 1264
Disclosure of confidential PRO information for research 1358
National Research Service Awards 1261
NCI construction grants 1265
NIH Clinical Research Loan Repayment Program 1266
NIH service payback obligation 1261
Peer review 1267
Radiopharmaceuticals 1160
Senior Biomedical Research Service 1138
Medicare:
See also Peer Review Organizations (PROs)
Additional supplier standards 1368
Advanced refunding of debt 1413
Advertising costs 1414
Advisory opinions of the OIG 1140
Allowable costs:
FICA and other payroll taxes 1376
Ambulance services 1304
Ambulatory surgical center accreditation 1422
Ambulatory surgical centers (ASCs) 1383, 1384, 1446
Anti-kickback safe harbor provisions 1130
Appeals:
Coverage 1389
Payment determinations 1301
Audiologists 1276
Blood glucose monitors and test strips 1419
Bone mass measurements 1421
Catastrophic Coverage Act 1343
CHAMPUS benefits 1033
Claims filing 1402
Clinical diagnostic laboratory services 1424
Clinical laboratories regulation 1425, 1445
Coinsurance amounts 1431
Community mental health centers:
Conditions of participation 1375
Competitive medical plans:
Appeal protections 1389
Computer errors, recovery of overpayments 1342
Congestive heart failure care management 1394
Consolidated billing 1399
Contract eligibility 1325
Contract performance evaluation 1298
Contractors 1326
Integrity Program 1388
Millennium compliance 1438
Cost reports 1372
Deductibles:
Inpatient hospital services 1431
Part A 1322
Dialysis services 1357, 1363
Disabled active individuals 1289, 1321
Disabled individuals with exhausted entitlements 1432
Durable medical equipment:
Fee schedules 1278
Electrostimulation of salivary glands for xerostomia 1300

Seq. No.

Medicare—Continued
End-stage renal disease:
Demonstration waivers 1381
Erythropoietin/Epoietin payments 1440
Fee schedules:
Ambulance services 1272
Durable medical equipment 1278
Physicians 1409
Reasonable charge methodology 1429
Fraud and abuse 1313
Health care prepayment plans 1355
Appeal protections 1389
Health maintenance organizations:
Appeal protections 1389
Home health agencies:
Conditions of participation 1336, 1436
Costs 1334
Definition 1367
Participation requirements 1362
Prospective Payment System 33
Surety bond requirements 1449
Survey and sanctions 1344
Hospice care 1371, 1415
Hospital conditions of participation 1360
Hospital emergency care 1288
Hospital Inpatient Prospective Payment System 1393
Hospital outpatient services 29
Income protection for community spouse 1343
Integrity Program 1388
Liability insurance 1379
Limits on charges of nonparticipating physicians 1277
Loan repayments 1413
Medical devices 1305
Medical equipment 1299
Medical services coverage decisions 1340
Medicare+Choice plans 1326, 1331, 1333, 1337
Medigap policies 1135
Mentally ill or retarded persons 1281
Negotieted rulemaking committee formation 1447
Nurse-midwives 1387
Occupational therapy 1443
Organ procurement and transplantation rules 1250, 1275, 1426
Outpatient self-management training services 31
Ownership changes 1359
Payment policy revisions 32
Penalties and sanctions 1135
Penalties, sanctions and exclusions 1132, 1139
Penalties, sanctions and overpayments 1359
Physician assistant services 1443
Physicians 1443
Fee schedules 32, 1390
Sustainable growth rate of increase 1435
Volume performance standard rates of increase 1390
Physicians' referrals 1361, 1396
Positron emission tomography uses 1430
Premiums:
Medicare Supplementary Insurance Program 1427
Part A 1321, 1432
Prospective Payment System 29, 33, 1309, 1399, 1444
Provider agreement and supplier participation:
Billing numbers 1382
Provider reimbursement disbursement and appeals 1350
Provider-sponsored organization definition 1331
Provider-sponsored organizations solvency standards 1333
Psychiatric hospital sanctions 1351
Psychiatric services 1433
Psychologist services 1293
Quarterly listing 1437
Rehabilitation facilities 1441
Religious non-medical health care institutions coverage 1285
Resource based practice expense payments 32
Rural health clinics 1356, 1439
Rural health professional shortage areas 1327

Seq. No.

Medicare—Continued
Screening Pap smears 1292
Secondary payer 1289, 1354, 1374, 1379
Skilled nursing facilities 1281, 1347, 1364, 1367
Cost limits 1418
Prospective Payment System 1399
Substandard care 1380
Social workers 1293
Solvency standards 1447
Speech-language pathologists 1276
State allotments 1397
Surety bond requirements 1332, 1400, 1404, 1448, 1449
Teleconsultations 1327
Telephone request for payment determinations review 1301
Uninsured aged 1321, 1432
User fees 1326, 1398
Vision care 1366, 1443
Mental health programs:
Accreditation of hospitals and health care facilities 1433
DSH payments 1407
Group health plan benefit parity 1282, 2170
Group health plan limits 1319
Medicaid and Medicare sanctions for psychiatric hospitals 1351
Merchant marine:
See Maritime carriers
Seamen
Metals:
See also specific metals
Emission standards for ferroalloy industry 3470
EPA trace metal analysis 3763
High temperature metal recovery residues 3732
Lead and zinc mining, Oklahoma 1800
Radiation protection standards for scrap metals 3594
Metric system:
Conversion 2512
Motor vehicle safety standards 2592, 2661
Pipeline safety standards 2780
Migrant labor:
Forestry service contracts 558
Job service complaint system 2142
Job training programs 2146, 2147
Labor standards 2129
Transportation of workers 2537
Migratory birds:
See Wildlife
Military arms sales:
See Arms and munitions
Military installations:
See Federal buildings and facilities
Military personnel:
See also Armed forces
Armed forces reserves
Administrative separation of enlisted members 917
Appointment of non-status employees 4038
Claims settlement 905
Former spouse payments from retired pay 922
Informed consent for human drugs and biologics 1155
Reemployment 4019
Restoration to duty 4047
Retirement regulations 4027
Milk:
See also Milk marketing orders
Child and adult care food program 402
Import quotas 481
Minimum basic formula price 185
Milk marketing orders:
Consolidation and reform 180
Mine safety and health:
See also Black lung benefits
Air quality standards 2174
Belt entry 2176
Coal Mine Workers' Compensation regulations 2126
Confined-space hazards 2194

Seq. No.

Mine safety and health—Continued
Crystalline silica 2197
Experienced miner definitions 2202
Hazard communication 2187
Metal and nonmetal mines:
Electrical standards 2181
Metal/nonmetal impoundments 2177
Methane safety standards 2196
Noise control standard 72
Noise monitoring 2201
Regulation elimination and improvement 2192
Respirable coal dust 67, 2198
Roof and rock bolts and accessories 2199
Supervisor training 2186
Surface haulage equipment 2178
Testing of equipment by independent laboratories 2190
Training of miners 2172, 2202
Underground coal mines:
Carbon monoxide monitoring 2195
Diesel particulate 68
Dust control plan verification 71
Flame-resistant conveyor belts 2191
High-voltage longwall equipment 2189
Roof-bolting machines 2179
Safety standard revisions 2180
Ventilation 2193
Underground mines:
Diesel particulate 70
Self-contained self-rescue devices 2182
X-ray surveillance program 69
Mineral resources:
See also Coal
Metals
Oil and gas reserves
Public lands-mineral resources
Coal:
Coal management 1885
Disposal of mineral materials 1892
Fractions sale 486
Management of solid minerals other than coal 1897
Mineral patent applications 1895
Mining leases on Indian lands 1777, 1840
Public information 1905
Surface exploration, mining, and reclamation of Indian lands 1778
Mineral royalties:
Credit adjustments 1840
Indian lands, Osage Reservation 1799
Interest and late payments 1820
Offsets, recoupments, and refunds 1820, 1833
Reporting standards 1844
Miners:
See Mine safety and health
Mines:
See also Mine safety and health
Reclamation
Surface mining
Underground mining
Abandoned 1851
Backfilling and grading 1852
Indian lands 1777, 1799
Lead and zinc mining, Oklahoma 1800
Locatable minerals 49
Recordation and annual fee collection procedures 1894
Water pollution control 3791
Minimum wages 2120
Records to be kept by employers 2116
Violation penalties 2121
Minority businesses:
Reorganization of rules 4157
Minority groups:
See Civil rights
Minority businesses
Mobile homes:
See Manufactured homes

Seq. No.

Mobile offshore drilling units:
See Vessels
Money:
See Currency
Mortgage insurance:
Home Equity Conversion Mortgage program 1527, 1528
Indian housing 1524
Mortgage Insurance Certificates 1518
Premium reduction 1525
Single-family 1518
Direct endorsement and automated underwriting 1526
Floodplains 1507
Statements of policy 1533
Mortgages:
See also Mortgage insurance
Broker disclosure requirements 39
Builder warranty for high ratio mortgages 1510
Escrow account statement itemization 1517
Farm loan mortgages and notes 261
Federal home loan bank advance collateral 169
GNMA 1551
Home mortgage disclosure 3229, 4506
Hospitals 1529
Indian lands 1790
Low-income borrowers 1535
Model Energy Code update 1520
Multifamily housing 37, 1521, 1538
Real estate mortgage investment conduits 3102
RESPA amendments 39
Payments for referrals 1532
Risk-based capital regulation 3970
Single-family appraisal assessment 1511
Single-family mortgagee's origination approval agreements 1536
Motor carriers:
See also Buses
Authority corrections 2548
Brake systems 2585, 2651, 2654
Commercial vehicles:
Antilock brake systems 2545, 2587
Definition 2477
Duty status records 2535
Inspection, repair, and maintenance 2479
Intermodal container chassis and trailers 2479
Marking requirements 2511
Safety fitness procedures 2508
Data display units 2492
Drivers:
Diabetic 2524
Disqualification 2501
Hours of service regulations 88, 2497
Licensing 2482, 2497, 2525
Qualification requirements 2484, 2485, 2487, 2528, 2531
Safety performance history 2490
Training 2486
Electronic filing of bonds, agreements, certificates and cancellations 2494
English language requirement 2542
Excise taxes 3203
FAA compliance activities:
Fees 2496
Federal safety regulations:
Administrative actions 2489
Recordkeeping requirements 2476
Regulations review 2546
Finance applications 4733
Financial data collections 2791
Hazardous materials transportation 2489, 2530, 2749
Heavy truck conspicuity 2642
Household goods transportation 2503
Information, licensing and registration systems:
Development of a single, on-line Federal system 2539
Inspection, repair, and maintenance 2538
Insurance 2496

Seq. No.

Motor carriers—Continued
Intermodal cargo containers....2529
Leased and interchanged vehicles....2521
Licensing and insurance fees....2520
Marking of vehicles....2526
Medical examinations....2484
Mexican....2504, 2505, 2506, 2619
Migrant workers transportation....2537
Motor Carrier Safety Assistance Program....2534
National Network....2523
Out-of-service criteria....2507
Periodic inspections....2481
Powered industrial truck operator training....2239
Railroad grade crossing safety....2491
Rear underride protection....2519
Reporting and recordkeeping requirements....2793
Retarders and stop lights operation....2674
Tank cars:
Manufacturing, maintenance and use requirements....2743
Television receivers....2492
Transport of foods, drugs, and cosmetics....2767
Truck length and width....2527
Truck size and weight....2483, 2523
Motor vehicle pollution:
After-market conversion entities certification....3493
Alternative fuels....1079
Emissions control....131
Emissions from refinishing coatings....3514
Emissions standards....103, 132, 3404, 3463
Emissions testing....3585
Gasoline:
Reformulated....3512, 3520
Imported vehicles emissions standards....3519
Inspection/maintenance programs....3406, 3592
Low emission vehicles program....3485
Nitrogen oxides....131
Non-road diesel engines....3605
On-highway heavy-duty certified engines in nonroad heavy-duty vehicles and equipment....3521
Original equipment manufacturers certification....3493
Particulate matter standards....131
Motor vehicle safety:
See also Highway safety
Add-on devices....2553, 2611
Brake systems:
Air brakes....2585, 2651
Antilock brakes....2545, 2654
Light vehicles....2624
Linings....2599
Motorcycles....2586
Thermal test procedure....2625
Certifications:
New vehicles....2613
Child restraint systems....2554, 2611, 2643, 2670, 2676
Community transportation vehicles....2591
Conversion of standards to metric measurements....2661
Crashworthiness ratings....2637
Drunk driving prevention....2628, 2630, 2631, 2635
Electric vehicles....2560
Financial responsibility....2498
Fire performance requirements....2559
Foreign vehicles....2498
Foreign vehicles and standards:
Compliance with Federal safety standards....2663
Glazing materials:
Film transmittance....2647
Hardship exemption....2684
Lamps and reflective devices:
Administrative rewrite of requirements....2597
Center high-mounted stop lamps....2549
Daytime running lamps....2617
European regulations....2588
Geometric visibility requirements for lamps....2561
Large trailers....2510

Seq. No.

Motor vehicle safety—Continued
Lamps and reflective devices—Continued
Motor-driven cycles....2680
Motorcycles....2575, 2672
Performance and test requirement modifications....2572
Replaceable light sources....2683
Retarders and stop lights operation....2674
School bus stop signal arms....2669
Sealed beam headlamps....2652
Signal lamp inventions....2608
Signal lamps....2573
Stop lamps....2681
Low speed vehicles....2662
Mining industry....2178
Mirrors:
Convex cross view mirrors....2565
Motor Carrier Safety Assistance Program....2534
National Highway System Designation Act....2497
NHTSA global technical regulations statement of policy....2593
Occupant crash protection:
Air bags....90, 2569, 2570, 2571, 2616, 2621, 2622, 2644, 2645, 2655, 2668, 2673, 2675
Door retention....2595
Dummy containment area....2658
Head/neck protection....2583, 2675
Interior impact tests....2656
Removal of regulations....2660
Safety incentive grants....2629
Side impact protection....2640
Pelvic restraints....2610
Power window switches....2607
Power-operated windows compliance testing....2605
Radiator safety cap....2558
Rollover protection....89
Roof crashworthiness....2566
Roof crush compliance testing....2603
Safety fitness procedures....2508
Safety glazing....2582
School buses:
Body joint strength....2598
Flammability of interior materials....2638
Stop signal arms....2669
Seat belts....2553
Exemption for law enforcement vehicles....2650
Rear seats....2550
Safety incentive grants....2627
Seat adjustment position....2601
Use surveys....2634
Voluntarily-installed shoulder belts....2653
Seating systems:
Performance....2600
Shifting and falling cargo....2495
Sleeper berths on motor coaches....2533
Test dummies....2666
Child dummies....2569, 2570, 2616
CRABI 12-month size....2570
Hybrid III....2567, 2569, 2571, 2616, 2667
Improvements....2609, 2659
Use of unbelted and belted....2673
Tires:
Identification symbols....2584
Metric conversion....2679
Retreads....2648
Test procedures....2576
Traffic control for school areas....2543
Trailer conspicuity....2510
Transmission control levers....2646
Transporting Head Start participants....1461
Wheelchair lifts....2557
Windshield defrosting and defogging systems:
European regulations....2590
Windshield wiping and washing systems:
European regulations....2589

Seq. No.

Motor vehicles:
See also Buses
Fuel economy
Motor carriers
Motor vehicle safety
Air conditioning system....3465
Alternatively fueled vehicles....2664, 3485
American Automobile Labeling Act....2641
Cargo tank motor vehicles....2760
Certification requirements of multistage vehicles....2639
Clean fuel fleet vehicles....3586
Community transportation vehicles....2591
Compressed natural gas use....2649
Cylinder material requirements....2604
Dealer notification by manufacturer....2563
Defects....2563
Domestic origin of parts....2641
Driver training....2485
Dual energy....2602
Electric....1068, 2602
Energy management regulations....1121
Export of used vehicles....2905
Foreign-based commercial vehicles....2898
Imports....2623, 2633, 2682, 3519
Insurance:
Insurer's reporting requirements....2620
Leasing....3906
Light trucks....3421
Low speed vehicles....2662
Modifications for individuals with disabilities....2564
National Driver Register....2618
National Stolen Passenger Motor Vehicle Information System....2081
Odometer disclosure requirement exemptions....2671
Odometer fraud....2551
Open alcohol containers....2630
Sales volume limit provisions....3474
Seizure and forfeiture of conveyances....2013
Snowmobiles....1768
State issued identification documents....2574
Theft data....2596, 2620, 2677
Theft prevention....2552, 2613, 2626, 2678
Utility vehicles:
Label requirements....2612
Wheelchair lifts and ramps....2562
Motorcycles:
See Motor vehicles
Munitions:
See Arms and munitions
Musculoskeletal disorders:
Ergonomic protection standards....76, 4176
Music:
Unauthorized sound recordings and music videos....2880

N

Narcotics:
See Drug traffic control
National banks:
Capital regulations....2871
International lending supervision....2877
Know Your Customer programs....2869
Safety and soundness standards....4450
Treatment of financial contracts by receivers....2876
Uniform rules of practice and procedure....2866
Year 2000 safety and soundness guidelines....2870, 4462
National cemeteries:
See Cemeteries
National defense:
See also Armed forces
Arms and munitions
Civil defense
Classified information
Foreign military sales....576, 967
Technical surveillance countermeasures....914

Seq. No.

National defense contracts:
See Government contracts
Government procurement
National forests:
Crime prevention....485
Damaged timber removal....509
Employee appeals....507
Fire prevention....485
Forest plan implementation....508
Grazing permits....502
Hydroelectric uses....484
Land exchanges:
Removal of regulations....1913
Ski area permit actions....505
Small business land use....490
Special use authorizations....489, 500
Transportation system....495, 506
Visitor services....501
National guard:
See Armed forces reserves
National parks:
Aircraft overflights....85, 2453, 2471
Alaska:
Glacier Bay National Park....1765
Appalachian National Scenic Trail....1773
Big Cypress National Preserve:
Frogging....1770
Delaware Water Gap NRA Bicycle Trail....1771
Denali National Park....1758
Grand Teton National Park:
Snowmobiles and snowplanes....1768
Historic preservation programs....1769
Hydroelectric power projects....1759
Information collection activities....1774
John D. Rockefeller, Jr. Memorial Parkway:
Snowmobiles and snowplanes....1768
Kaloko-Honokohou National Historic Park....1772
National Natural Landmarks Program....1764
Native American Graves Protection and Repatriation Act....1775
Park police insignia....1754
Personal watercraft use....1760
Public nudity....1772
Resource protection....1755, 1756
Rights-of-way....1766
Snowmobile use....1768, 1773
Solid waste sites....1763
State exchanges....1907
Vehicles and traffic safety....1762
Visitor use....1755
Voyageurs National Park:
Aircraft operations....1767
National Register of Historic Places:
See Historic preservation
National security information:
See Classified information
National Wildlife Refuge System:
See Wildlife refuges
Nationality:
See Citizenship and naturalization
Native Americans:
See Hawaiian Natives
Indians
Natural gas:
See also Oil and gas exploration
Oil and gas reserves
Pipelines
Distribution industry size standards....4156
Liquefied natural gas:
Safety standards....2745
Motor vehicle fuel....1079, 2649
Private activity bond rules....3074
Reformulated gasoline....3512, 3520, 3623

Seq. No.

Natural resources:
See also Coastal zone
Continental shelf
Energy
Environmental protection
Fish
Forests and forest products
Marine resources
Mineral resources
National forests
Public lands
Reclamation
Recreation and recreation areas
Soil conservation
Water resources
Wildlife
Antarctic Science, Tourism and Conservation Act 3965, 3966
Conservation Farm Option 554
Damage assessments 1582
National Natural Landmarks Program 1764
Water bank 555
Wetlands 1498
Naturalization:
See Citizenship and naturalization
Naval stores:
See Forests and forest products
Navigable waters:
See Waterways
Navigation (air):
Airspace regulations 736, 2415, 2436
Airspace system, exemption of regulations 2404
Cincinnati TCA 2411
Instrument flight rules 2433, 2464
Objects affecting navigable airspace 2403
Sole Means Radio Navigation System 2407
Standard instrument approach procedures 2435
Transponder requirement 2409, 2416
Navigation (water):
Conformance of the USWMS with the USATONS (CGD 97-018) 2366
Delaware Bay 2334
North Carolina rivers 2339
Offshore pipeline hazards 2742
Prince William Sound 2348
Private aids to navigation 2336
Puget Sound 2348
Regulated navigation areas 2353
News media:
See also Radio
Television
Newspapers:
Radio cross-ownership 4417
Noise control:
Airports 2446
Mining industry 72
Overflights of national parks 85, 2453, 2471
Small airplanes 2402
Nondiscrimination:
See Civil rights
Nonprofit organizations:
Cultural property regulations 2896
DOT grants 2293
Food assistance programs 406
Grants administration 583, 3352
Lobbying 3992
Rights to inventions 900
Nuclear energy:
See also Nuclear materials
Nuclear power plants and reactors
DOE nuclear activities 1112
Fees for background investigations of licensees 4640
NRC compliance with NISPOM 4631
NRC document control and distribution 4625
NRC fee schedule 4638

Seq. No.

Nuclear energy—Continued
NRC policy for access to secret restricted data 4637
NRC regulation amendments 4630
Payments for special burdens and in lieu of taxes 1098
Prior approval procedures 4589
Requirements for certificate holders, applicants, contractors, and subcontractors 4588
Nuclear materials:
Emergency response worker training 1110
Export controls 591, 597
Industrial device user report 4601
Industrial devices containing byproducts 4593, 4596
Licensing 4582
Medical license terms 4636
Nuclear fuel 4613
Source material licensing 4619
Spent fuel 1111, 4592, 4643
Timepieces with tritium 4635
Transfer for disposal and manifests 4642
Vitrified waste containing plutonium 4632
Nuclear power plants and reactors:
ASME codes and standards 4602
Criticality accident requirements 4586
Decommissioning:
Cost requirements 4624
Financial assurance requirements 4608, 4629
Design and site suitability 4618
Emergency planning requirements for shutdown sites 4587
Emergency preparedness 4607
Emissions 3492
Fee schedules 175
Gaseous diffusion plants 4585
IEEE National Consensus Standard 4612, 4634
Insurance 4644
License transfer applications 4599
Licensing 4603, 4625, 4633
Low-power operations 4621
Maintenance activities 4590
Nuclear occurrence 4614
Operator examinations 4606
Personnel:
Fitness-for-Duty Program 4604, 4627
Radiation safety requirements 4617
Reporting requirements 4605, 4626
Safety assessments 4590
Safety regulations 20, 21, 1106, 4623
Shutdown 4621
Spent fuel storage 4592, 4628
Steam generator tube integrity 4622
Three Mile Island 4614
Waste disposal 4620
Nuclear safety:
See Radiation protection
Nursing homes:
See also Health facilities
Medicare and Medicaid benefits 1290, 1364
Mentally ill or retarded residents 1281
Skilled nursing facility definition 1367
Veterans 3239
Nursing schools:
See Medical and dental schools
Nutrition:
See also Food assistance programs
Foods
Dietary supplement labeling 1229
Education 426
Food labeling 449, 457, 458, 459, 1223
Medical food labeling 1224
Parenteral drug products containing aluminum 1201
School meals 416

O

Occupational safety and health:
See also Mine safety and health
Workers' compensation

Seq. No.

Occupational safety and health—Continued
Agricultural pesticides 3635
Air quality 79, 2245
Beryllium exposure 19, 2251
Cargo handling 2241
Chemicals 2215
Child labor regulations 55
Construction industry 2226
Consultation agreements 2236
Cotton dust 2219
Crystalline silica exposure 74
Electric power 2248
Energy sources 2212
Ergonomic standards 76
Ethylene oxide 2213
Fall protection 75, 2214, 2252
Fire brigades 2247
Flammable and combustible liquids 2231
Formaldehyde exposure 3692
Glycol ethers 2243
Grain handling facilities 2218
Hazardous energy sources (lockout/tagout) 2250
Hazardous waste handling 2244, 2247
Hexavalent chromium exposure 2224
Metalworking fluids 73
Nationally Recognized Testing Laboratories Program: Fees 2230
Personal protective equipment 81
Plain language revision of existing standards 80
Power tool standards 2233
Preventing suffocation/explosions in confined spaces 2240
Radiation exposure 1106, 4379
Regulation elimination and improvement 2253
Reporting and recordkeeping requirements 82, 2232, 2235
Respiration protection 2237
Safety and health management program 77
Scaffolds 2242
Shipyard standards 2221, 2227, 2242, 2246
Steel erection activities 75
Tuberculosis exposure 78
Walking working surfaces 2252
Occupational training:
See Manpower training programs
Ocean dumping:
See Water pollution control
Ocean resources:
See Marine resources
Offshore structures:
See Continental shelf
Oil and gas exploration:
Addition to Toxic Release Inventory 116
Drilling operations 1827
Leasing 1886, 1903
Leasing and operations regulations 48
Oil valuation 46
Operations within national parks 1756
State audit functions 1831
Offshore facilities:
Deep water emergency well control operations 1842
Oil spill financial responsibility 1846
Outer Continental Shelf 1825, 1843, 2322
Production rates 1841
Reporting and recordkeeping requirements 1821, 1824
Royalty in kind for oil and gas 1832
Royalty relief 1823
Royalty reporting standards 1822, 1823, 1844, 1845
Testing requirements 1847
Worker training 1825
Oil and gas reserves:
Alaska petroleum reserve 1886
Regulation clarification 1837
Oil pollution:
Discharge-removal equipment 2346
Oil spill financial liability 1846

Seq. No.

Oil pollution—Continued
Oil spill response 83, 2341, 2347, 2349, 2761, 3748
Prevention 2325, 3747
Tank vessels 2348
Old-age, Survivors, and Disability Insurance:
Acceptable medical sources 4164
Calculation of the contribution and benefit base and earnings test exempt amounts 4207
Disability determinations 4183
Adjudication officers 4168
Childhood disability 4227
Residual functional capacity 160
Single decisionmaker 4214
Drug addiction or alcoholism 4196
Fees for representation of claimants 4188
Fraud 4215
Hemic and lymphatic system, disability criteria 4191
Incarcerated individuals and individuals confined in criminal cases 4200
Malignant neoplastic diseases, disability criteria 4191
Mental disorders, evaluation criteria 4186
Musculoskeletal system, disability criteria 4176
Program administration 4229
Replacing social security number cards 4201
Representative payee reforms 4187, 4223
Speech and language impairments 4164
Substantial gainful activity 4177, 4208
Organization and functions:
Advisory committees 1890
Consolidated Farm Service Agency 215
Farm Credit Administration 4313
Federal Advisory Committee Act 3873
Federal Housing Finance Board 4483
FEMA 3851
INS 2054
OCC 2873
OIG system of records 1560
Organ Procurement and Transplantation Network 1250
Panama Canal Commission reorganization 4103
Public housing agencies 1570
RRB 4121
Outer continental shelf:
See Continental shelf
Over-the-counter drugs:
Adverse experience reporting 1154
Child-resistant packaging 4298
Ephedrine drug products 1969
Labeling requirements 26
Safety 1148
Tamper-resistant packaging 1197
Overseas private investment:
See United States investments abroad
Overtime pay:
See Wages

P

Packaging and containers:
See also Labeling
Child-resistant 4293, 4295, 4298
Country of origin marking 2893, 2915
Hazardous materials 4632
Ozone-depleting aerosol products or other pressurized dispensers 1241
Smokeless tobacco health warnings 4539
Sucraid 4299
Tamper-resistant 1197
Travel expenses for brand participants 476
Paint:
See Lead poisoning
Paperwork requirements:
See Reporting and recordkeeping requirements
Parachutes:
See Aircraft
Parks:
See National parks

Seq. No.

Passenger vessels:
See also Maritime carriers
Access for individuals with disabilities....2305, 3363
Emergency response plans....2359
Financial responsibility requirements....4501
INS fines....2068, 2069
Inspection of alien crew members....2005, 2022
Security standards....2363
Passports and visas:
Authority to issue....2267
B visas....2257
Denial for nonpayment of child support....2274
F-1 foreign students....1995
NAFTA professionals....2272
Nonimmigrant visas:
Alien witnesses and informants....2262
Exemptions....2064
Photographs....2265
Voiding and cancellation....1994
Transit without visa....2255
Visa Waiver Pilot Program....2015, 2256
Countries eligible....2270
Patents:
See Inventions and patents
Pay:
See Wages
Peanuts:
Aflatoxin....199, 252
Common Crop Insurance....349
Contracting additional peanuts by type and segregation....243
Marketing quotas....242
Poundage quota and price support....189
Regulation clarification....231
Peer Review Organizations (PROs):
Beneficiary complaints....1280
Contracts....1428
Medicare regulations changes....1279, 1298, 1341, 1358
Penalties:
See also Seizures and forfeitures
Air pollution control....3511
Civil...769, 1134, 1135, 1136, 1137, 1369, 1775, 2167, 2410, 2705, 2802, 3849
Inflation adjustment....2075, 2088, 2200
Test and evaluation program....2391
Criminal fine collection....2094
Customs duties and inspection....2882, 2926
EPA....3833
False drawback claims....2884
FHA program violations....1495
FHA violations....1557
Food Stamp Program....6, 418
Immigration....1973
Inflation adjustment....2121
Labor Department....2121, 2154
Marketing quotas....241, 242
Nuclear weapons contractors....1110
OIG....1132
Pensions:
See also Railroad retirement
Social security
Adequate consideration definition....2166
Audit requirements....2157
Civil penalties for breach of fiduciary duties....2167
Disclosure requirements....2168
Elimination of pre-retirement optional forms....3206
Employer liability....4113
ERISA:
Cessation of operations....4115
Employee benefit plans....2161
Health Insurance Portability and Accountability Act....63
Filing and issuance rules....4110
GATT provisions affecting accrued benefits....3088
Lump sum benefits....4109, 4120

Seq. No.

Pensions—Continued
Medication copayments....3234
Multiemployer plans:
Mergers and transfers....4118
Overpayments....4119
Payroll deduction programs for contribution to individual retirement accounts....2164
Premium payments....4116
Reduction in future accrual rates....3049
Reporting and notification requirements....60, 4117
Retirement benefits....2160
Retirement obligations....2160
Single-employer plans:
Premium payments....4117
Valuation....151
Trusteed plans, payment of benefits....4112
Trustees and custodians....4560
Valuation of plan benefits....151, 4111
Veterans....3283, 3293, 3317
Pesticides and pests:
See also Plant diseases and pests
Antimicrobial pesticides....3629, 3631, 3636
Boll Weevil Eradication Program....201, 229
Canceled or suspended....3641, 3642
Data requirements....3634
Disposal and storage guidelines....3637, 3641, 3642
Effluent guidelines and standards....3808
Endocrine Disruptor Screening and Testing Program....106
Field testing....3630
FIFRA exemptions....3632
Forests and forest products....299
Groundwater protection....133, 3646
Importation of non-indigenous organisms....284
Labeling requirements:
Flammability....3645
Permitted statements....3647
National Laboratory Accreditation Program....177
Negotiated consent/procedural test rule....3685
Pesticide tolerance reassessment program....105
Production and distribution records....3648
Registration review program....3626
Residue in agricultural products....3643, 3644
Emergency exemptions....3629
Scientific research....3388
Storage and disposal....3637, 3641, 3642
Tolerance fees....3633
Transgenic plants....3639
Worker protection standards....3635, 3638
Petroleum:
See also Fuel additives
Oil and gas exploration
Oil and gas reserves
Oil pollution
Pipelines
Air pollution from petroleum solvent dry cleaners....3557
Air pollution from production facilities....3497
DOD contracting....919
Electrical standards update for facilities....1839
Gas valuation....1834
Oil valuation....46, 47
Onshore oil pipelines....2761
Refineries....3410, 3610
Refining process wastes....3744
Reserves sales....1108
Thresholds for gas and diesel at retail gas stations....3701
Toxicity characteristic rule....3738
Underground storage tanks....3742
Physically handicapped:
See Individuals with disabilities
Physicians:
See Health professions
Pilots:
See Airmen
Pipeline safety:
Aluminum cylinders....2737

Seq. No.

Pipeline safety—Continued
Breakout tanks....2759
Corrosion control....2753
Corrosion determinations....2757
Drug testing of pipeline safety operations personnel....2777
Emergency flow restricting devices....2769
Enforcement procedures....2751
Environmentally-sensitive and high-density population areas....2739
Gas gathering lines....2735, 2741
Gas pipeline repair....2754
Hazardous liquid pipelines....2774
Hazardous liquids gathering lines....2741
Increased inspection requirements....2768
Inspection devices....2758
Leak detection....2782
Liquefied natural gas....2745
Maps and records of location....2766
Metric measurements....2780
Operator qualifications....2736
Periodic updates to regulations....2752, 2764
Permanent underwater inspections....2742
Pressure testing....2755, 2762
Regulatory review....2773
Response plan review cycle....2783
Transportation of hazardous liquids....2779
Pipelines:
See also Natural gas
Pipeline safety
Customs regulations....2894
Natural Gas Transportation System....4470, 4472
Onshore oil pipelines....2761
Outer continental shelf....1848, 2781
Secondary market transactions....4480
Underwater abandoned pipeline facilities....2738
Plant diseases and pests....293
Accreditation of private seed laboratories....292
Wheat....305
Plants:
See also Plant diseases and pests
Seeds
Endangered and threatened....1623, 1624, 1625, 1628, 1629, 1630, 1631, 1647, 1651, 1659, 1660, 1661, 1663, 1684, 1685, 1686, 1690, 1692, 1697, 1703, 1705, 1707, 1709, 1718, 1723, 1724, 1726, 1732, 1733, 1736, 1737, 1746, 1747, 1748, 1749, 1752
Exports....1643
Imports....295
Listing of U.S. species in CITES Appendix III....1608
Plastics materials and synthetics:
Air pollution control regulations....3551
Pneumoconiosis:
See Black lung benefits
Poison prevention:
See also Lead poisoning
Child-resistant packaging....4293, 4295
Labeling regulations....2740
Political activities (Government employees):
Honoraria donated to charities....3980
Pollution:
See Environmental protection
Population census:
See Census data
Population control:
See Family planning
Ports:
See Harbors
Poultry and poultry products:
Continuous chilling of split turkey portions....460
Disposition and disposal requirements....455
Food additives....448
Grading fees....181
HACCP regulations for rendered products....1191
Labeling....458, 459

Seq. No.

Poultry and poultry products—Continued
Mexican imports....289, 444
Performance standards....470
Prior approval requirements....469
Sanitation requirements....14
Standards of identity and composition....457
Transportation and storage....432
Poultry inspection:
Ante-mortem and post-mortem inspection....454
Contaminated....442
E. coli testing....471
HACCP programs....433
Labeling....435, 462
Partial quality control programs....11
Performance standards....361, 435, 465
Contamination....466
Processing procedures....12, 434, 464
Ready-to-eat products....437, 438
Regulation clarification....355
Residue chemistry analyses....431
Rules of practice....13
User fees....355
Poverty:
See Community action programs
Food assistance programs
Public assistance programs
Power resources:
See Energy
Practice and procedure:
See Administrative practice and procedure
Prescription drugs:
Antibiotics....1170, 1171, 1214, 1243
Certification program fees....1239
Child-resistant packaging....4304
Direct-to-consumer promotion....1156
Drug rebate program....1137
Labeling....23, 1146, 1173, 1176, 1198
PDMA policy information, guidance, and clarifications....1195
Prescribed for veterans by non-VA physicians....3270, 3306
Sucraid....4299
Presidential elections:
See Elections
Presidential records:
See Archives and records
Price controls:
FCC....4323
FERC....4474
Price support programs:
Peanuts....189
Tobacco....190, 195, 196, 234, 236
Prisoners:
Administrative remedy program....1921
Drug abuse treatment....1937
Early release considerations....1937
Eligibility for FPI work program....1934
Good conduct time....1935
Intensive confinement center programs....1937
Legal activities....1946
Literacy program....1931
Military prisoners....1945
Nondiscrimination....1949
Nudity and sexually explicit material or information....1948
OASDI benefits....4200
Over-the-counter medications....1925
Personal property of inmates....1932
Program review participation....1936
Prohibited acts....1923
Psychiatric treatment and medication....1945
Restraint systems in law enforcement vehicles....2650
Special mail procedures....1920, 1939
Telephone regulations and financial responsibility....1947
Victim and/or witness notification in State custody transfers....1944
Visitors....1922, 1938

Seq. No.

Prisoners—Continued
Volunteer community service projects....1927
Prisons:
Acceptance of donations....1940
Commissary privileges....1933
Cost of incarceration fee....1942
Employment priority for displaced employees....4044
Federal Prison Industries standards and procedures....1926
Federal Prison Industries work program....1934
Funding of elective abortions....1930
Incoming publications....1946
Infectious disease management....1929
Inmate recreation programs and manuscripts....1943
Inmate work and performance pay....1941
Intensive confinement centers....1928
List revisions....1950
Nondiscrimination toward inmates....1949
Postsecondary education programs....1919
Prison made goods....2104
Smoking/no smoking areas....1924
Telephone privileges....1933
Privacy:
See also Confidential business information
Databases of convicted offenders....2090, 2091, 2097
Defense Logistics Agency Privacy Program....934
Department of the Navy....935
Education Department records exclusions....1048
Federal-State Unemployment Compensation program records....2140
Food Stamp Program....415
Income tax returns....2976, 3054
Office of Federal Housing Enterprise Oversight....3971
Peer Review Organizations (PROs)....1280
Privacy Act....3964
Crop insurance....328
DOE records....1099
DOJ implementation....2098
Inspector General investigative files....3960
NARA procedures....3935
OGE procedures....3974
Resident survey information....1563
Review of regulations....2109
School breakfast and lunch programs....374
Self regulatory regimes for businesses....884
Social security records and information....4170
USIA....4235
Procurement:
See Government procurement
Prosthetic devices:
See Medical devices
Public assistance programs:
See also Aid to Families with Dependent Children
Child welfare
Food assistance programs
Medicaid
Supplemental Security Income (SSI)
Aliens....2045
BIA arrangement for social welfare and relief of distress....1784
Eligibility of immigrants....2035
Federal means-tests public benefit definition....430
Personal Responsibility and Work Opportunity Reconciliation Act....6, 7, 8, 58, 390
Temporary Assistance for Needy Families....34
Welfare reform:
Tribal program requirements....1455
Welfare-to-Work microloans....4142
Welfare-to-Work Program....1470, 2145
Public buildings:
See Federal buildings and facilities
Public health:
See also Immunization
Meat inspection
Waste treatment and disposal

Seq. No.

Public health—Continued
Air pollution effects....3672
Blood and blood products....1196
Carcinogen risk assessment....3391
Parenteral drug products containing aluminum....1201
Regulation reinvention....1240
Safeguarding food during transport....2767
Toxic Substances Control Act....3695
Water contamination....106, 124, 140, 3822
Public housing:
See also Low and moderate income housing
Rent subsidies
Admission and occupancy....43, 1568
Community transition program....1534
Designated housing regulations....1565
Development regulations revisions....1570
Eligibility....1568
Noncitizens....1493
Indians....1578
Management assessment program....1575
Mixed finance partnership development:
Streamlining....1571
Performance Funding System....1576
PHMAP assessment consolidation....1569
Rents....1567
Revitalization potential....44
Tenant income reporting....35
Uniform financial reporting standards....1503
Public lands:
See also Grazing lands
Homesteads
National forests
National parks
Public lands-classification
Public lands-grants
Public lands-mineral resources
Public lands-rights-of-way
Public lands-sales
Public lands-withdrawal
Reclamation
Alaska....1665, 1909
BLM application procedures....1901
BLM authorities....1916
BLM resource planning....1911
Color of title and omitted lands:
Regulatory simplification....1882
Conveyances, disclaimers, and correction documents....1878
Damage repairs....1893
Definitions....1899
Desert land entries....1870
Highway discretionary funds....2513
Indian allotments....1900
Land and Water Conservation Fund....1761
Leases....1868
Management framework plans....1911
Payments to State and local governments....1888
Permit and easements....1868
Policy and management....1665, 1868, 1869
Recreational use permits....1889
Revenues management....1864
Ski area permit actions....505
State irrigation districts....1906
Subsistence hunting and fishing....1598
Subsistence management regulations....1741
Wilderness area management....1896
Public lands-classification:
Regulations removal and updating....1876
Public lands-grants:
Carey Act grants....1877
Railroad grants....1875
Public lands-mineral resources:
Coalbed methane development....1902
Disposal of mineral materials....1892, 1898
Disposal of reserved minerals....1871

Seq. No.

Public lands-mineral resources—Continued
Leasing....1840
Management of solid minerals other than coal....1897
Mining operations....49
Oil and gas leasing....1903
Performance standards....48
Valuation of oil....46, 47
Public information....1905
Seismic reassessment of California platforms....1843
User fees....1873
Public lands-rights-of-way:
Administrative process and standards....1587
Regulations removal....1874, 1910
Public lands-sales:
Segregation and opening of lands....1879
Public lands-withdrawal:
Streamlining of operations....1872
Public utilities:
See Electric utilities
Natural gas
Utilities
Water supply
Publications:
See Government publications

R

Radiation protection:
See also Radioactive materials
Contractors and subcontractors....21
Dose limits and dose calculation methods....4639
Dose methodology....3433
Drinking water....3625
Industrial device user report....4601
Medical byproduct use....4584
Medical license terms....4636
Occupational radiation protection....1106, 4610
Offsite Radiological Emergency Preparedness Program fees....3864
Radiation Protection Program....2784
Radiological Emergency Response Plan....3591
Reactor siting criteria:
Assessment requirements clarification....4603
Scrap metal standards....3594
Spent fuel storage....4628
Steam generator tube integrity....4622
Visitors of hospitalized radiation patients....4641
Yucca Mountain, NV....101, 4594
Radio:
See also Communications
Allocation of 455-456 MHz and 459-460 MHz....4391
Arecibo radio astronomy coordination zone....4385
Broadcast ownership....4421
Competitive bidding for narrowband PCS....4432
Competitive bidding process....4420, 4442
Digital audio radio service in the 2310-2360 MH band....4404
Equipment authorization process....4390
Experimental radio service....4388
FM radio....4423
Imports of radio frequency devices....4377
Inspection of radio installations on ships....4376
Interconnection obligations of CMRS....4431
Main Studio/Public File Requirements for Broadcasters....4419
Mass media applications, rules, processes....4422
Millimeter wave technology....4382
Multiple access systems....4441
Newspaper cross-ownership....4417
Personal Communications Services payments....4443
Public safety communications requirements....4440
Railroad standards and procedures....2690, 2717
Reallocation of 28 GHz band....4428
Redesignation of 27.5-29.5 GHz band....4405
Sole Means Radio Navigation System....2407

Seq. No.

Radio—Continued
Specialized Mobile Radio Systems....4430
Station ownership....4411
Uniden scanners and cellular radio signals interference....4396
Wireless information networks....4387, 4438
Radioactive materials:
See also Nuclear materials
Radiation protection
Army authority delegations....1020
Medical byproduct use....4616
Medical use....1160, 4641
Radiation exposure....4379
Entitlement to compensation payments....2089
Waste storage....4628
Radioactive waste:
See Hazardous waste
Railroad employees:
See also Railroad retirement
Railroad unemployment insurance
Locomotive engineers....2687
Safety regulations....2712
Railroad retirement:
Annuity:
Children's annuities....4135
Deductions by reason of work....4127
Exemption from supplemental tax....2956
Creditability of pay....4131
Disability determination....4129, 4130, 4133
Eligibility:
Children and stepchildren....4135
Employee status....4126
Employer status....4125
Employers' reports....4134
National emergency plan....4122
Offset of Federal benefit payments....2821, 2824
Overpayment recovery....4137
Remuneration....4123
RRB general administration....4121
Trial work period, redefined....4129
Railroad safety:
Advanced civil speed enforcement system....2718
Brakes....2692
Bridge maintenance guidelines....2701
Bridge worker safety standards....2708
Consolidations, mergers, acquisitions of control and start-up operations....91
Crane safety standards....2695
Emergency preparedness....2715
Freight cars....2692, 2698
Grade crossing and signal systems....2491, 2541, 2700
High speed rail....2704
Hours of service recordkeeping....2685
Locomotives:
Cab working conditions....2688
Crashworthiness....2693
Remotely controlled....2706
Steam locomotives....2691
Passenger equipment standards....92
Pilot programs:
One-person crews....2707
Remotely controlled locomotives....2706
Radio communications and train control....2690
Safety integration plans....91
Signal systems....2702, 2703
Track maintenance....2696
Track standards....2714
Two-way end-of-train telemetry devices....2719
Utility employee protection....2712
Whistle bans at grade crossings....2686
Railroad unemployment insurance:
Benefits amendments....4124
Employee status....4126
Employer status....4125

Seq. No.

Railroad unemployment insurance—Continued
Finality of decisions 4132
Repayment tax 3161
Voluntary quit 4128
Railroads:
See also Railroad employees
Railroad retirement
Railroad safety
Railroad unemployment insurance
Assistance to States 2697
BLM railroad grants 1875
Commuter rail service continuation subsidies and discontinuances 4735
Consolidation procedures 4728
Environmental impact and related procedures 2488, 2689
Exemption from regulation:
Non-ferrous recyclables 4734
Paints, enamels, lacquers, shellacs, and other commodities transportation 4732
Expedited relief for service inadequacies 4731
Finance applications 4733
Hazardous materials transportation 2749
Locomotive emissions 3590
Magnetic levitation transportation technology deployment program 2710
Overtime liability for immigration inspections 1985
Radio communications 2717
Railroad highway projects 2517
Rates and fares 4730
Rehabilitation and improvement financing 2709
Small businesses or entities 2705
STB authority 4729
Tank cars 2760
Tourist and historic railroads:
Regulatory review 2713
Transport of foods, drugs, and cosmetics 2767
User fees 2716
Waste disposal on AMTRAK 2711
Range management:
Indian rangelands 1815
Rates and fares:
See Air rates and fares
Communications common carriers
Maritime carriers
Motor carriers
Natural gas
Railroads
Real property acquisition:
Estate tax valuation of farm property 3151
Farm real estate 207
Highway construction 2480
Reclamation:
See also Mines
Surface mining
Acreage limitation 1866
Backfilling and grading 1852
Financing 1859
Indian lands 1778
Permits 1860
Record retention:
See Reporting and recordkeeping requirements
Records:
See Archives and records
Freedom of information
Health records
Privacy
Reporting and recordkeeping requirements
Recreation and recreation areas:
See also Fishing
Hunting
National forests
National parks
Rivers
Access for individuals with disabilities 3364

Seq. No.

Recreation and recreation areas—Continued
Wildlife refuges 1675
Recreational fishing:
See Fishing
Recycling:
Cathode ray tubes 3714
Government purchase of recovered materials 3721
Hazardous waste 3718
Refrigerant 3465, 3524, 3525
Scrap metal 3594
Refugees:
See also Aliens
Admission procedures 1997
Refugee Resettlement Program 1456
Relocation assistance:
Cost ceiling 4264
Streamlining 1487
Renal diseases:
See Kidney diseases
Rent subsidies 1567
Tenant income reporting 35
Repatriation:
See Citizenship and naturalization
Reporting and recordkeeping requirements:
Adverse experience reporting 1158
Air carriers 2308, 2370, 2450, 2792
ARMIS reporting requirements 4366
Automotive fuel economy reports 2606
Bank Secrecy Act implementation 2795, 2796, 2797, 2798, 2799, 2801
Blood and blood products 1196
Broker-dealers 4719
Carbamates 3751
Casinos 2800
CDBG funds documentation 41
Chemical inventory reporting 108, 3703
Criminal databases:
Criminal offenses against minors 2090
Federal Convicted Offender DNA Database 2097
National Instant Criminal Background Check System 2091
Sex offender registration systems 2090
Currency transactions 2803
Customs regulations 2894, 2923
DEA 1961, 1965
Debt Collection Improvement Act 2828
Defense contractors, controlled materials program 615
Defined contribution plans 2171
DOD research and development 1003
DOI 1821, 1823, 1824
DOL 2116, 2130
DOT 2538
Electronic records management 145
Electronic signatures 962, 2400
Employee benefit plan administrators 2168
EPA 3383, 3477
EPA emissions reporting requirements 3400
Excess government property 3914
Export information 568, 576
Export Reform and Enhancement Act 1165
Exports 1162
FAA 2383
FCC 4412
FDA 27
FDA adverse drug experiences 1154
Federal aircraft accidents 3909
Federal Supply Service Schedule 3915
FERC 4475
Fisheries 633, 829, 849
Fishing 688, 794, 827
Food assistance programs 406
Food Stamp Program 371, 399
GSA's role in records management 3897
Hazardous material releases 3754
Hazardous materials incident reporting 2733

Seq. No.

Reporting and recordkeeping requirements—Continued
Hazardous materials transportation 2770
Hazardous substances 3681
Health care fraud and abuse 1129, 1252
Helium contracts 1904
Honoraria donated to charities 3980
HUD housing programs 1503
HUD multifamily mortgages 1521
Human cellular and tissue-based products 27, 1168
Infant formula testing 1222
Information collection requests 3710
Investment advisers 4662
Investment companies 4666, 4671, 4676, 4681
IRS 3078
Marine casualty reporting 2365
MMS electronic reporting 1838
Mortgage broker fees 39
Motor carriers 2476, 2490, 2535, 2793
Multiple employer welfare arrangements 2151
NARA facility standards for records centers 143
NARA non-paper records and artifacts 3941
NARA records center 144
NARA reproduction fees 3945
National Practitioner Data Bank 1246, 1247
NOAA 727
NPDES permittee reporting 3768
Nuclear power plants 4605, 4626
Occupational injuries and illnesses 82
Occupational safety and health 2235
Office of Federal Housing Enterprise Oversight 3971
Office of the Inspector General records consolidation 1560
Organizations titles and locations 3950
OSHA:
Employer certifications 2232
Outcome and Assessment Information Set data 1336
Ozone-depleting substances importation 3593
Paperwork reduction 205, 391
Pension plans 60, 4117
Personnel records 3996
Pesticides 3388, 3642, 3648
Purchases made with purchasing card 2960
Radon 3755
Railroad employees 2685, 2703
RCRA 3710
Real estate mortgage investment conduits 3102
Records, nonrecord materials, and personal papers 3934
RRB 4134
RRB information available to public 4136
Rural electrification loans 526
Securities 4645
Broker-dealers 4696, 4698, 4722
Large trader reporting system 4724
Life insurance contracts 4683
Related issuers and guarantors 4647
Transfer agent services 4702, 4711
Subcontracts performed outside the United States 1007
Sugar 245
Sugar and crystalline fructose marketing allotment 202
Telecommunications operations support systems 4367
Telecommunications Relay Services contributors 4372
Tenant income reporting 35
Tobacco exports 2861
Toxic chemical test rules 3682
Toxic Release Inventory 114, 115, 116
Toxic Substances Control Act 3695
Toxics Release Inventory 112, 113
U.S. partners of controlled foreign partnerships 2987
Underwater abandoned pipeline facilities 2738
Uranium mill sites 1105
VA 3246, 3278
Vessel numbering system 2320
Wassenaar arrangement 596, 601
Water systems 3832
Water treatment chemicals 3588

Seq. No.

Reporting and recordkeeping requirements—Continued
Welfare-to-Work Program 1470
Research:
See also Agricultural research
Educational research
Human research subjects
Medical research
Biotechnology 3663
Credit for increasing research activities 2981
DOD University Research Initiative Support Program 923
EPA consolidation of GLPS regulations 3388
Incidental taking of marine mammals 804
Marine mammals 776
Marine resources 740, 813
Misconduct 1271
NARA registration requirement 3937
National Undersea Research Program 814
NOAA Climate and Global Change Program 881
North Pacific Fisheries Research Plan 634
Short form research contracts 952
Reserve forces:
See Armed forces reserves
Respiratory and pulmonary diseases:
See Lung diseases
Retirement:
See also Pensions
Railroad retirement
Social security
Canadian 4670
Firefighters 4069
Government employees 4026, 4027, 4028, 4035, 4068, 4071, 4084
Law enforcement officers 4069
National Guard technicians 4029
Uniformed Services Former Spouses' Protection Act 922
Rice:
Common Crop Insurance 350
Production flexibility contract 281
Rights-of-way:
See also Public lands-rights-of-way
Acquisition of real property for 2480
Regulation revision 1766
Rivers:
Colorado River Basin Salinity Control Program 219
National Wild and Scenic Rivers System 1918
Tennessee River System 4234
Roads:
See Highways and roads
Rockets:
See Aircraft
Rodenticides:
See Pesticides and pests
Rotorcraft:
See Aircraft
Royalties:
See Mineral royalties
Rubber and rubber products:
See Tires
Rural areas:
Business and industrial loan programs 514, 523
Business enterprise grants 518
Community development:
Rural venture capital demonstration 516
Community facility loans 320, 541
Economic development loans and grants 324
Electric borrowers 539, 540, 545, 546
Electric loans 525, 526, 527, 533, 535, 536, 538, 548
Electrification 547
Empowerment zones 511
Farm labor housing 317
Health care services 1356
Housing:
Manufactured housing 314
Housing loans, grants, and programs 315, 316, 319

Seq. No.

Rural areas—Continued
Loan and grant programs 549
Pipeline safety standards 2741
Regulation streamlining 315
Small farmer outreach training 212
Special equipment contract 531
Technical assistance grants and programs 212, 517
Telecommunications program Year 2000 compliance 550
Telecommunications system construction policies ...524, 528, 530
Telephones 525, 532
Television demonstration grants 518
Water and waste disposal loans and grants 544

S

Safety:
See also Aviation safety
Consumer protection
Fire prevention
Hazardous substances
Highway safety
Marine safety
Mine safety and health
Motor vehicle safety
Occupational safety and health
Pipeline safety
Poison prevention
Radiation protection
Railroad safety
Air tour and sightseeing operations 2373
Escalator safety standard 4292
Outer continental shelf platforms 1843, 2322
Over-the-counter drugs 1148, 1197
Space launch activities 2423
Salaries:
See Wages
Sanitation:
See Public health
Waste treatment and disposal
Satellites:
See also Space transportation and exploration
Communications:
Allocation of 455-456 MHz and 459-460 MHz 4391
Dedicated Short Range Communications of Intelligent Transportation Systems 4393
Digital audio radio service 4404
Earth stations 4403
MSS spectrum allocation 4384, 4402
Sharing of 27.5-29.5 GHz band 4405
Voice and data mobile satellite service 4401
Export controls 607
Licensing 16
Savings associations:
Agency disapproval of directors and senior officers 3228
Application processing 3212
Assessments 3216
Capital standards 3211
Charter and bylaw amendments 3231
Exempt holding companies 3222
Know Your Customer programs 3213
Letters of credit, suretyship, and guaranty 3217
One member, one vote 3231
Permitted activities 4459
Safety and soundness standards 4450
Year 2000 safety and soundness guidelines 4462
Savings bonds:
See Bonds
Scholarships and fellowships:
Fulbright-Hays fellowships 1056
National Institutes of Health 1258
Service fellowships 1269
School breakfast and lunch programs:
Amendments 416
Consolidation of programs 373
Eligibility 377

Seq. No.

School breakfast and lunch programs—Continued
Formulated grain-fruit products 417
Menu planning 383
Release of eligibility information 374
School integration:
See Equal educational opportunity
Schools:
See also Colleges and universities
Educational facilities
Asbestos 110, 3665, 3688, 3689, 3690
Asbestos model accreditation plan 3652
Indian School Equalization Program 1776
Science and technology:
Advanced Technology Program amendments 620
Arecibo radio astronomy coordination zone 4385
De minimis exclusion for technology and software 614
Deemed export rule 612
DOD support of historically black colleges, universities, and institutions 908
DOT monitoring of motor carriers 2476
Private sector industrial technology partnerships 902
Rights to inventions 900
Service fellowships 1269
Technology exports 594
Scientific equipment:
See also Medical devices
Standards 4397
Seafood:
See also Fish
Fisheries
Import regulations 803
Transportation and storage 432
Seals:
See Marine mammals
Seamen:
Merchant marine training, certification, and watchkeeping 2354
Seaplanes:
See Aircraft
Secondary education:
See Elementary and secondary education
Securities:
See also Bonds
Alternative trading systems 4716
Broker-dealers 4696, 4699, 4710
Foreign 4699
Quotation requirements 4720
Reporting and recordkeeping requirements 4719
Year 2000 readiness 2865
Cancelled security certificate destruction 4707
Company registration and regulation of capital formation 4646, 4655
Conduit financing transactions 3171
Conforming segment reporting with generally accepted accounting principles 4654
Credit 4725
Custody or possession of funds or securities 4663
Customer Protection Rule 4697
Delayed offerings:
S-1 and SB-2 companies 4657
Depositories 4668
Deregistration form amendments 4676
Direct participation program interests 4701
Disclosure requirements 4645, 4666
Extraordinary corporate transactions 4648
Electronic filing:
Institutional investment manager reports 4678
Equity securities 4700, 4703
Foreign markets 4716
Form S-8 4655
Form 13F 4678
Haircuts on 4709
Holding companies 4684, 4685
Income taxation 3094

Seq. No.

Securities—Continued
Insurance products 4683
Integrated financial transactions 3110
Intermarket Trading System Plan 4714, 4715
International transactions 4705
Investment advisers 4662, 4664, 4665, 4679, 4690, 4691, 4692
Investment companies 4666, 4668, 4671, 4676, 4680, 4681, 4688, 4693, 4694, 4695
Kingdom of Belgium exemptions 4713
Large trader reporting system 4724
Loss determination 3113
Margin regulations review 4508
Mark-to-market accounting 2940
Mark-to-market for dealers 2939
Marketable stock 2949
Mortgage-backed securities 4522
Multijurisdictional tender offers 4651
Municipal securities 2878
National bank subsidiary activities 4450
National securities exchanges 4716
Nationally recognized statistical rating organizations 4725
Net capital requirements 4706, 4708, 4717
Options disclosure document 4656, 4718
OTC products 4710
Preferred stock 3020, 3171
Private Securities Litigation Reform Act:
Definition of terms 4649
Proxies 4660
Qualified purchaser 4650
Registration 4683
Registration form amendments 4722
Regulation T 4697
Related issuers and guarantors 4647
Reorganization events 4704
Reporting and recordkeeping requirements 4696, 4698, 4711
Annual reports and prospectuses 4682
Rule 0-10 4726
Rule 11Ac1-1 4723
Rule 15a-4 4679
Rule 15c2-5, 15c3-1, 15c3-3 4697
Rule 17a-3 and 17a-4 4696
Rule 3a12-11 4697
Rule 430A 4657
Rules 30d-1 and 30d-2 4682
Safe harbor:
Exceptions 3111
Section 8 4697
Shareholder proposal rule amendments 4659
Small business or organization:
Definitions 4726
SRO matters that do not constitute rule changes 4712
Streamlining 4652
Tender and reorganization agents 4704
Transfer agent services 4702, 4711
Transfer to foreign corporations 3188
Two-sided quotations 4723
Year 2000 readiness reports 2865, 4692, 4721
Security information:
See Classified information
Security measures:
See also Classified information
Aviation 2467
Classified national security information 1115
Conduct on the Pentagon reservation 928
DOE contractors 1094
Explosive Detection System 2466
Passenger vessels and terminals 2363
Private Remote Sensing Space Systems 16
Technical surveillance countermeasures 914
Terrorist activity:
Airplanes 2442
Airports 2443
Seeds:
Accreditation of private seed laboratories 292

Seq. No.

Seeds—Continued
Testing and certification 179
Segregation in education:
See Equal educational opportunity
Seizures and forfeitures:
Customs regulations 2880, 2901
FCC regulations 4375
Selective Service System 4138
Senior citizens:
See Aged
Serums:
See Biologics
Sewage disposal:
Incinerator emissions standards 3418
Sewer collection systems 3767
Sludge use and disposal 3770, 3788, 3805
Sex discrimination:
Federally assisted programs 50, 560, 1480, 1584, 3330, 3331, 3396, 3872, 3956
Sheep:
Interstate movement 286
Medical research classifications 1189
Sheep Industry Improvement Center 519
Shipbuilding industry:
Air pollution control 3517
Safety and health regulations 2227, 2246
Shipping:
See Air carriers
Maritime carriers
Motor carriers
Railroads
Ships:
See Vessels
Sirup:
See Sugar
Small business:
Lending company expansion and oversight 152
Premier Certified Lenders Program 4155
Size standards:
8(a) business development 4163
Small businesses:
See also Minority businesses
Administrative offset by SBA 4141
Bundled contracts 4144
Construction businesses 4146
DOD contracting 919, 980
Economic development 578
Government contracts 956, 1014, 3929
Government procurement:
Affirmative action reform 4237
Government subcontracting 4244
Guaranteed loans servicing 4150
Health care industries 4146
HUBZone program 4162
Liquidation plans 4149
Loans 4158
Disaster Loan Program 4159, 4160
SBA guaranty 4152
National forest land use 490
North American Industry Classification System 4147
Penalties 2705
Privacy regulations 4143
Record disclosure 4143
Revisions to 504 program regulations 4154
Rights to inventions 900
SBA standards of conduct 4140
SBIC Program reform 4148
Size standards 4146, 4147
Architecture and engineering 4153
Construction 4153
Natural gas distribution 4156
Refuse systems 4153
Small Business Development Center Program revisions 4145
Small Business Innovation Research Program administrative provisions 309

Seq. No.

Small businesses—Continued
Timber sales 503
Trusts 2950
Very small business program 4161
Smoking:
Air carrier prohibition 2304
Federal buildings and facilities 3919
Workplace air quality 2245
Social security:
See also Aid to Families with Dependent Children
Child welfare
Medicaid
Medicare
Public assistance programs
Unemployment compensation
Administration 4230
Adopted child's status 4179
Alien applicants 159, 2032
Canadian citizens' obtaining of social security numbers 4134
Contributions for support 4193
Coverage:
Employees of State and local governments 4213
Debarment and suspension 4203
Debt collection 154, 155, 157
Disability determinations:
Body system listing expiration dates 4231
Endocrine system and obesity 4183
Medical consultants' opinions 161
Drug-free workplace requirements 4203
Dually entitled beneficiaries 4220
Earnings records determinations 4195
Employer ID numbers for State and local government employment 4219
Facility of payment provision 4197
Fees for State supplementary payments 4233
Freedom of information regulations 4212, 4228
Grants administration 4202, 4203, 4204, 4205
HHS regulation migration to SSA 4202, 4203, 4204, 4205, 4211
Interest and penalties on debts 156
Maximum family benefit 4197, 4198
Medical equipment liability 1373
Misuse of symbols, emblems, or names 4199
Offset of Federal benefit payments 2821, 2824
Prehearing proceedings and decisions by attorney advisors 4232
Publications:
Prohibitions against reproduction 1131
Reduction of disability benefits 4206
Regulations corrections 4178
Replacing social security number cards 4201
Representative payees 4221
Review process 153
Self-sufficiency incentives 158
SSA employees:
Ethical conduct 4167
State supplementary payments 4230, 4233
Third Party Collection Program 911, 930
Widow's benefits 4190
Soil conservation:
Conservation Reserve Program 220
Highly erodible land and wetlands 216, 553
Solid waste disposal:
See Waste treatment and disposal
Soybeans:
Vegetable protein products 423
Space transportation and exploration:
Acquisition regulations 3928
Commercial launch activities 2423
DOT licenses 2385, 2389
Contracts 3929, 3930
Cross-waiver of liability 3922
Insurance for commercial launches 2468
Licenses 2423

Seq. No.

Space transportation and exploration—Continued
Non-U.S. licensed space stations 4406
Tracking and data relay satellite system:
Non-government users 3923
Sport fishing:
See Fishing
Stamp taxes:
See Excise taxes
State-Federal relations:
See Intergovernmental relations
Sterilization:
See Family planning
Stocks:
See Securities
Strip mining:
See Surface mining
Students:
SSI eligibility while temporarily abroad 4224
Student rights in research, experimental programs, and testing 1047
Subsidies:
See Grant programs
Rent subsidies
Sugar:
Import licensing programs 475
Marketing allotment program 202
Reporting and recordkeeping requirements 245
Superfund:
Claims application streamlining 3749
Grants for technical assistance 3750
Reportable quantity adjustments for carbamates 3751
Supplemental Security Income (SSI):
Acceptable medical sources 4164
Computation of benefits 4194, 4222
Denial of benefits 4185
Disability determinations:
Childhood disability 4227
Drug abuse or alcoholism 4196
Endocrine system and obesity 4183, 4192
Medical consultants' opinions 161
Effective date of application for benefits 4169
Eligibility:
Children 1417
Non-U.S. citizens 1412, 1417
Fees for representation of claimants 4188
Income:
Children of Vietnam veterans 4217
Deeming from ineligible parents 4209
Deeming of parental income when children are hospitalized 4225
Payment of past-due benefits 4210
Personal Responsibility and Work Opportunity Reconciliation Act 4169
Plans to achieve self-support 4166
Prehearing proceedings and decisions by attorney advisors 4232
Regulations corrections 4178
Representative payee reforms 4187, 4223
Speech and language impairments 4164
Students temporarily abroad 4224
Substantial gainful activity 4177
Surety bonds:
Automated surety interface 2912
BLM bonding requirements 1898
Health facilities 1332, 1400, 1448
Home health agency requirements 1449
Medical device suppliers 1400, 1404
SBA policy and procedure modifications 4139
Security on penal bonds 2809
Surface mining:
See also Coal
Mine safety and health
Coal:
Abandoned coal refuse sites 1851

Seq. No.

Surface mining—Continued
Coal—Continued
Alluvial valley floors 1861
Audits 1862
Backfilling and grading 1852
Dam safety rules 1854
Rights 1857
Safety standard for reporting daily inspections 2203
Subsidence resulting from underground mining 1858
X-ray surveillance program 69
Electronic forms filing 1856
Farmland 556
Indian lands 1778, 1853
NRCS specifications 556
Ownership and control 1855
Permit rights 1860
Reclamation 1859
Synthetics:
See Plastics materials and synthetics
Syrup:
See Sugar

T

Tank vessels:
See Cargo vessels
Tariffs:
See Customs duties and inspection
Taxes:
See also Customs duties and inspection
Employment taxes
Estate taxes
Excise taxes
Income taxes
Breweries 95
Collateral eligibility and valuation 2817
DOE policy on making payments in lieu of taxes 1098
Escrow funds 2938
Foreign trade 3095
Passive activity losses and credits 3093
Procedure and administration:
John Doe summons disputes 3164
Statement 3014
Statute of limitations 3164, 3165
Treasury taxes and loans 2819
Teachers:
DOD placement assistance program 918
Technical assistance:
Community Development Financial Institution Fund 2794
Environmental Protection Agency grants 3750
Technology:
See Science and technology
Telecommunications:
See also Radio
Satellites
Telephone
Television
Advanced telecommunications facilities and services 4369, 4371
Application of subscriber line charges to ISDN service 4340
ARMIS reporting requirements 4366
Bell Operating Companies and affiliates:
Enhanced services 4359
Equipment manufacture 4342
Telemessaging, electronic publishing and alarm 4346
Carrier identification codes 4354
Communication intercepting devices 610
Communications Assistance for Law Enforcement Act 2080, 4361
Complaint procedures 4358
Detariffing of interstate exchange access services 4360
Equipment manufacture 4342
Fee assessment and collection 4424
Foreign participation in U.S. telecommunications market 4408

Seq. No.

Telecommunications—Continued
North American Numbering Plan 4354
Out-of-region interstate, interexchange services:
Tariff filing requirements 4347
Performance measurements and reporting requirements 4367
Pole attachments 4332
Regulatory fee assessment and collection 4425
Relay services 4362, 4363
Rural areas 524, 528
Special equipment contract 531
Telecommunications Act:
Access charge reform 4351
Access charge return 4368
Customer proprietary network information (CPNI) 4345
Individuals with disabilities 4439
Interstate pay-per-call and other information services 4344
LEC provision of interexchange services 4350
Local competition provisions 4352
Non-accounting safeguards 4343
Parental choice 4331
Review of policies and rules 4347
Streamlining requirements 4349
Telemessaging, electronic publishing and alarm monitoring 4346
Telecommunications relay services 4373
Telecommunications Relay Services contributor reporting requirements 4372
Unauthorized changes of long distance carriers 4348
Uniden scanners and cellular radio signals interference 4396
USDA program 306
Wireless information networks 4387
Telephone:
Advertising 4547
Billed party preference 4338
Caller ID standards 4335
Dial Equipment Minutes Weighting Program 4339
Enhanced 911 emergency calling systems 4353, 4437
Equipment authorization process 4390
Inside wiring 4356
LEC definition and exemptions from Section 214 4355
Part 41 elimination 4370
Pay telephones 4357
Rural 532
Rural Telephone Bank 537
Telecommunications system construction policies 530
Toll free service access codes 4341
Uniden scanners and cellular radio signals interference 4396
Universal Service Fund 4339
900-number service 4547
911 codes and other abbreviated dialing arrangements 4337
Television:
See also Cable television
Advanced systems 4409
Advertising 4413
Broadcast ownership 4421
Competitive availability of navigation devices 4330
Equipment authorization process 4390
Filing of network affiliation contracts 4412
Main Studio/Public File Requirements for Broadcasters 4419
Mass media applications, rules, processes 4422
Medical care telemetry devices 4386
Over-the-air reception devices 4327
Reallocation of channels 60-69 4389
Station ownership 4411, 4418
V-chip technical requirements 4392
Video programming:
Accessibility 4328
Parental blocks 4392
Rating 4331
Terrorism:
Antiterrorism and Effective Death Penalty Act 2848

Seq. No.

Terrorism—Continued
Contractor training....939
Export controls....618
Textiles:
Customs regulations....2914, 2917
Flammability standards....4291, 4297
Labeling....4540
Timber:
See Forests and forest products
Tires:
Retreads....2648
Uniform tire quality grading....2614
Tobacco:
See also Cigars and cigarettes
Common Crop Insurance....348, 351
Exports....2861
Importer assessment....197
Marketing quotas....190, 195, 196, 227, 235
Price support programs....190, 195, 196
Regulation clarification....230
Smokeless tobacco health warnings....4539
Smokeless tobacco sale and distribution requirements....1235
Smokeless tobacco state and local requirement exemptions....1236
Veterans Affairs acquisition regulations....3255
Warehouse regulations....203
Tort claims:
See Claims
Tourist trade:
See Travel
Toxic substances:
See Hazardous substances
Poison prevention
Toxins:
See Biologics
Trade adjustment assistance:
Communities....580
TAA program amendments....2137
Workers transitional adjustment assistance....2138
Trade agreements:
Endangered species....1662, 1738
Market development....480
North American Free Trade Agreement....1009, 2138, 2272, 2885, 2897, 2923
Telecommunications....4408
Textile trade agreements....2914
Trade practices:
Consumer product warranties....4543, 4544
Franchising and business opportunity ventures....4542
Negative option plans....4549
Telephone service....4547
Trademarks:
Fees....888, 898
Parallel imports and other trademarked goods....2891
Registration to practice before the PTO in patent cases....894
Trademark Law Treaty....895
Trademark Trial and Appeal Board....887
Training programs:
See Manpower training programs
Transportation:
See also Air transportation
Bridges
Common carriers
Freight
Highways and roads
Intermodal transportation
Mass transportation
Noise control
Pipelines
Railroads
Space transportation and exploration
Vessels
Air pollution control conformity....3513

Seq. No.

Transportation—Continued
Buy America requirements....2722
Civil penalties....2636
Conformity for transitional ozone areas....3607
Dedicated Short Range Communications of Intelligent Transportation Systems....4393
Disadvantaged business enterprise program....2292
DOT rulemaking procedure....2295
Drug and alcohol testing....2727
Drug testing of transportation personnel....2279, 2291, 2729, 2777, 2778
Environmental review....2721, 3420
Head Start participants....1461
Individuals with disabilities....2306, 2312, 3363
National Transit Database....2720
Planning....2724
Pre-employment alcohol testing....2299
Traffic management....3910
Transfers of transit without visa aliens....2073
Transportation Conformity Pilot Program....3405, 3494
Wildlife....1715
Travel:
See also Passports and visas
Travel and transportation expenses
Air tour and sightseeing operations....2373
Travel and transportation expenses:
Business class air fare....4238
Deductions for members of Congress....3061
Expenses connected with death....3900
Fly America Act....3885
Government employees....3896, 3906, 4245
Maximum per diem rates....3916
Mileage reimbursement rates....3918
Non-government employees....1127
Treaties:
See also Trade agreements
Antarctic Treaty....3394
Chemical Weapons Convention....606
Compacts of Free Association....2036
Montreal Protocol....3593
Trucks:
See Motor carriers
Motor vehicles
Trusts and trustees:
Unit investment trusts....4687
Tuberculosis:
Correctional management....1273, 1929
Occupational exposure....78
Turpentine:
See Forests and forest products

U

Underground mining:
See also Mine safety and health
Subsidence resulting from....1858
Ventilation....71, 2193
Unemployment:
See Community development
Manpower training programs
Unemployment compensation
Unemployment compensation:
See also Railroad unemployment insurance
Confidentiality and disclosure of State records....2140
Disaster unemployment assistance....2133
Performance system....2134
United States investments abroad:
Foreign utilities....4684, 4685
Universities:
See Colleges and universities
Upward Bound Program:
See Education of disadvantaged
Uranium:
Mill sites....1105, 4613
NRC regulations amendments....4609

Seq. No.

Utilities:
See also Electric utilities
Natural gas
Water supply
Exemption for certain acquisitions....4684
Exemption for subsidiary companies....4685
Filing of responses to FERC Form No. 580 interrogatories....4475
Unnecessary filing requirements, elimination....4478

V

Vaccines:
See Biologics
Vegetables:
See also specific vegetables
Import restrictions....296
Inspection fees....184
Irradiation phytosanitary treatment....290
Vegetable protein products....423
Venereal diseases:
Correctional management....1929
Vessels:
See also Cargo vessels
Fishing vessels
Marine safety
Maritime carriers
Navigation (water)
Passenger vessels
Anchorage and moorage....786
Anchorage area regulations....2344
Armed forces vessels:
Uniform national discharge standards....3784
Ballast water exchange guidelines....2338
Boarding....2907
Certificates of origin....2317
Coast Guard escort requirements....2352
Commercial diving operations....2328
Controlled substances....1962
Discharge-removal equipment....2346
Energy management regulations....1121
Foreign repairs to American vessels....2886
Government contracting....2115
Inspection requirements....2332, 2333
Marine hull insurance....2785
Measurement rules....4101
Outer continental shelf....2322
Overtime liability for immigration inspections....1985
Panama Canal:
Dangerous cargo....4100
Tolls....4101, 4102
Port restrictions and fees:
Japanese vessels....4502
Regatta and parade permits....2330
Regattas and marine parades....2350
Safety/security zone regulations....2343
Salvage and firefighting equipment....2358
Ship financing guarantees....2787
Temporarily landed for repair....2889
Towing vessel operators....2331
Vessel identification system....2314, 2317
Veterans:
Acquisition regulations....3251, 3252, 3255, 3256, 3296, 3299, 3300, 3301, 3302, 3345
Purchase cards and electronic data interchange....3250
Additional disability or death benefits....3341
Advanced health care planning....3307
Allowance for children with spinal bifida....3249
Appeals regulations....3303, 3322, 3326, 3327
Blind....3237
Burial benefits....3258, 3259, 3260, 3261, 3262
Checks:
Tracing fees....3348
Child care centers....3332
Children's benefits....3286, 4217

Seq. No.

Veterans—Continued
Claims based on aggravation of nonservice-connected disability....3320
Claims based on ionizing radiation....3337
Clothing allowance....3236
Contractor and subcontractor obligations....2124
Custody of school age or adult disabled children....3318
Death of appellant during appeal....3347
Denial of claims....3315
Reconsiderations....3267
Disability rating:
Dental disabilities....3273
Digestive system....3240
Eye, ear, and other sense organs....3243, 3271
Fibromyalgia....3272
Individual unemployability....3241
Liver diseases....3248
Medical evidence of improvement....3316
Neurological conditions and convulsive disorders....3312
Orthopedic system....3310
Skin conditions....3311
Systemic conditions....3273
Total disability....3313
Disabled Veterans Affirmative Action Program....4024
Diseases subject to presumptive service connection....3323
Education:
Advanced and lump sum payments....3277
Course approval requirements....3244, 3245, 3280
Election of education benefit....3275
Flight training....3246, 3280
Montgomery G.I. Bill....3244, 3274, 3288, 3342
Payment suspension and discontinuation....3336
Reservists....3278, 3289, 3291
Survivors and dependents....3247, 3285, 3292
Education entitlement repayment to VA....3340
Emergency medical care....1288
Evidence requirements....3242
Fiduciary activities....3319
Food assistance programs....3265
Freedom of Information Act....3263
Hearings and appeals....3346
Income exclusions....3294
Informed consent for patient care....3334
Insurance....3287
Loan guaranty:
Acceptance of partial payments....3309
Conveyance of property to the VA....3308
Interest rate reduction refinancing loans....3281
Property improvements definition....3314
Loan refinancing....3325
Medical benefits:
Adjunct conditions definition....3235
Drugs and medicines....3270, 3306
Enrollment and provisions of hospital care and medical services....3269
Medical benefits for dependents and survivors....3266
Medical care collection or recovery....3238
Medical evaluations:
Ankylosis....3321
Cold injuries....3338
Intervertebral disc syndrome....3276
Limitation in hand movement....3321
Medical opinions rules....3328
Medication copayments....3234
Medication prescribing authority....3268
Minimum income annuity....3284
Miscellaneous changes....3344
Outpatient medical services....3333
Pensions....3283, 3293, 3317, 3318
Post-traumatic stress disorder....3324
Prosthetic services....3237
Radiation exposure....3337
Recognition of organizations and accreditation of representatives for claimants....3264

Seq. No.

Veterans—Continued
Rehabilitation programs 3313
Service Members Occupational Conversion and Training Act 3339
State homes 3233, 3239
Survivor benefits 3295
Training 3339
Veterans employment report 953
Vocational training programs 3279, 3282
Well grounded claims/duty to assist 3232
Viruses:
See Biologics
Visas:
See Passports and visas
Vocational rehabilitation:
Self-sufficiency incentives 158
State programs 1059
Veterans 3282
Volunteers:
DOL regulation 2115
Foster Grandparent Program 3369
National Service Trust 3372
Peace Corps 3999, 4106, 4107, 4108
Prison inmate community service projects 1927
Retired and Senior Volunteer Program 3370
Senior Companion Program 3368
Vista 3999
Voting rights:
Minority language guidelines 1959
Procedural changes for Section 5 1960

W

Wages:
See also Employee benefit plans
Minimum wages
Appropriated fund wage areas 4053, 4058, 4057
Cost-of-living allowances 4063
Domestic services 2113
Federal Acquisition Streamlining Act amendments 2115
Federal construction contracts 57
Garnishments 2830
Government printing positions 4055
Hazardous duty pay 4015, 4060
Hospice wage index notice 1420
Hourly compensation:
Computer-related occupations 2120
Nonappropriated fund wage areas 4054
Overtime 2116
Pay and leave administration 4013, 4080
Salary basis 56
Severance pay 4017
Site of work 2122
Tipped employees 2120
Warehouses:
Commodity Credit Corporation storage 218
Cotton 192, 233
Customs regulation 2894
Tobacco auction warehouses 203, 241
Warranties:
Disclosure of terms and conditions 4543
Informal Dispute Settlement Mechanisms (IDSM) 4545
Pre-sale availability of written warranty terms 4544
Waste treatment and disposal:
See also Hazardous waste
Recycling
Sewage disposal
Armed forces vessels 3784
Chromium-based water treatment chemicals 3588
Effluent guidelines 3759, 3775, 3796, 3797, 3798
Financial test criteria 3730
Fossil fuel combustion wastes 3712
Iron and steel manufacturing 3762
Land disposal:
Restrictions 3707, 3732, 3741, 3745

Seq. No.

Waste treatment and disposal—Continued
Metal machinery and equipment wastewater 3794
Mineral processing wastes 3745
Nuclear waste disposal 4620
Ocean dumping 3834
Passenger vehicle waste discharge 2711
Permit applications 121, 138
Radioactive waste 101
Recoverable metals criteria 3792
Rural loans and grants 544
Sewer grouting 3680
Shore Protection Act 3835
Solid waste disposal:
Grant programs 542
Hazardous waste recycling 3718
Landfills and incinerators 3578, 3796
Municipal landfills 3537, 3616
Physical/chemical evaluation methods 3717
Technical standards for corrective action 3739
State programs 3731
Streamlining regulations 136
Toxic Release Inventory 3684
Toxicity characteristic metals 3745
Underground storage tanks:
Toxicity characteristic rule 3738
Uniform national discharge standards 3784
Vessels transporting waste 2345
Wood preserving wastes 3745
Water carriers:
See Maritime carriers
Water pollution control:
See also Oil pollution
Waste treatment and disposal
Biological test methods 3801
Clean Water Act 3761, 3763, 3769, 3777, 3778, 3787, 3792, 3801, 3809
Test procedures 3779, 3780, 3781, 3803
Cyanide criteria 3778
Effluent guidelines:
Animal feeding operations 3789, 3790
Coal mining 3791
Effluent Guidelines Plan for 1998 3806
industrial waste combustors 3797
Industrial wastewater 137, 3794
Iron and steel manufacturing 3762
Landfills and incinerators 3796
Mining 3756
Oil and gas extraction 3758
Pharmaceuticals 3807
Pulp, paper and paperboard 128, 3775, 3798, 3799
Regulations reformatting 3760
Transportation equipment cleaning 3795
Great Lakes 3793
Marine pollution:
Discharge-removal equipment carriage and inspection 2346
Emergency control measures for tank barges 2341
Facility response plans for hazardous substances 83
Ocean dumping 3834
Oil or hazardous substances 2347, 2349
Tank monitoring devices 2329
Tank vessels 84
NPDES permits 3767, 3804
NPDES permittee reporting 3768
Oil and grease test procedures 3777
Permit applications 121, 138
Pretreatment regulations 122, 3808
Publicly owned treatment works renewal process 3761
Radon 123
Recoverable metals criteria 3792
Sewer collection systems 3767
Sludge management programs 3719, 3788, 3805, 3810
Stormwater runoff 139
Test procedures for the analysis of pollutants 3771, 3782, 3802

Seq. No.

Water pollution control—Continued
Total maximum daily loads 3757, 3809
Trace metals criteria 3763
Water quality standards 3773, 3776, 3779, 3780, 3781, 3800, 3809
Alabama 3772
Criteria for acute aquatic life 3793
Water resources:
See also Water supply
Army Corps of Engineers environmental quality requirements 1025
Best technology available for cooling water intake structures 120
Colorado River Basin 219, 1867
Land and Water Conservation Fund 1761
National Invasive Species Act 2338
Water Bank Program 219
Water supply:
See also Irrigation
Carcinogen risk assessment 3391
Central Valley Project of California 1865
Colorado River Basin 1867
Drinking water 3833
Aldicarb and atrazine 3826
Analyzing regulated drinking water contaminants 3831
Arsenic 3824
Consumer confidence reports 3832
Contaminant level goals (MCLGs) 3827
Contaminants 123, 3625, 3815, 3822
Copper 3817
Disinfectants 124, 140, 141
Endocrine Disruptor Screening and Testing Program 106
Filter backwash recycling 3821
Injection wells 3820
Lead 3817
Monitoring requirements 3828
Oxygenated fuel additives 3650
Public notification requirements 125
Radionuclides 3827
Regulations reformatting 3818
Safe Drinking Water Act 3829, 3830
State revolving fund 3823
Sulfate 3825
Surface water treatment rule 141
Unregulated contaminant monitoring program 3811
Groundwater protection 133, 3646
Storage and marketing 1867
Water transportation:
See Harbors
Marine safety
Maritime carriers
Navigation (water)
Vessels
Waterways
Waterfowl:
See Wildlife
Waterfront facilities:
See Harbors
Waterways:
See also Bridges
Harbors
Rivers
Conformance of the USWMS with the USATONS (CGD 97-018) 2366
Facility response plans for hazardous substances 83
Private aids to navigation 2336
Weapons:
See Arms and munitions
Weather:
Wind Profiler Radar Systems 4381
Weights and measures:
See Measurement standards
Welfare programs:
See Public assistance programs

Seq. No.

Wetlands:
See Coastal zone
Flood plains
Whales:
See Marine mammals
Wheat:
Crop insurance 330
Diseases 293
Karnal bunt 305
Production flexibility contract 281
Whistleblowing:
DOE contract costs 1118
FBI employees 2093
Research misconduct 1271
Wildlife:
See also Marine mammals
Wildlife refuges
Adoption of wild horses and burros by power of attorney 1917
Albatross 1600
Aviation bird encounter regulations 2379, 2451
Brush-tailed possum 1694
Captive bred 1634
Eagles 1615, 1637, 1712
Endangered and threatened 1646, 1653, 1656, 1657, 1658, 1663, 1664, 1688, 1691, 1736, 1738
Falcons 1626, 1712, 1750
FWS permit applications 1633
Importation 1687
Injurious 1694
Management and protection 1654, 1655
Marine sanctuary program 785, 1743
Migratory birds:
Canada goose permits 1622
Harvest Information Program 1632
Hunting regulations 1617, 1618, 1652, 1666, 1751
Lesser snow goose 1599
List revision 1636
Molyshot 1597
Permits 1606, 1626, 1713, 1714, 1735
Tin shot 1596
Tungsten-iron shot 1745
Tungsten-polymer shot 1695, 1745
No surprises policy 1742
Permit procedures 1644
Restoration programs 1681
River otter exports 1616
Seabirds 739
Transport standards for reptiles and amphibians 1620
Wildlife refuges:
Administrative and visitor facility sites 1683
Alaska 1711
Disturbance regulations 1595
Hunting and fishing regulations 1627
Kenai National Wildlife Refuge seasonal closure 1710
National Wildlife Refuge System 1602
Public entry and use 1675, 1711, 1896
State exchange 1907
Wine:
Exports 2835
Imports 2840
Labeling 2838, 2859, 2860
Tax refund 2839
Viticultural areas 2833
Women:
See also Minority businesses
Sex discrimination
In vitro fertilization 1260
Length of hospital stay after birth of child 65, 1282, 1391, 2985
Nutrition education participant contacts 412
Women-owned businesses:
Government subcontracting 4244
Women, infants, and children:
Funding formula 392

Seq. No.

Women, infants, and children—Continued
Supplemental food program 413
Administrative requirement changes 408
Cereals sugar limit 429
Cultural food preferences 425
Food delivery systems 4
Food packaging 379
Infant formula rebate contracts 428
Soy-base beverages 419
Wood:
See Forests and forest products

Seq. No.

Workers' compensation:
Coal miners 2126
Reduction of Social Security benefits 4206
Third Party Collection Program 911

Y

Youth:
See also Infants and children
Juvenile delinquency
AmeriCorps participants 3372



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